From: Ronald Kwan
To: Scott Thompson (CAB)
Subject: Accepted: DM Briefing | OPG Trust Exemption

From: Ronald Kwan
To: Sriram Subrahmanyan (MOF)
Subject: Accepted: Ontario"s Fair Hydro Plan / OPG / PILs

From:	Colleen.Waddell@ontario.ca on behalf of Nelms, Scott (MOF)
To:	john.s.lee@opg.com; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF); Sriram Subrahmanyan (MOF); Montgomery, Kaitlin (MOF); Colleen Waddell (ENERGY); Gavin He
Subject:	Conference Call MOF, OPG and Torys | Fair Hydro Plan

---

-PILs Exemptions

From:	Waddell, Colleen (MOF)
To:	john.s.lee@opg.com; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF); Sriram Subrahmanyan (MOF)
Cc:	Scott Nelms (ENERGY); Montgomery, Kaitlin (MOF)
Subject:	Conference Call | Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Wednesday, June 07, 2017 3:06:39 PM

Hello Everyone,

Scott has asked that we set time for a conference call next week. We are aiming to have the call take place on Monday June 12th at 11:00 am. Can you please make yourself or a delegate available for this call.

I will be placing a hold in all of your calendars.

Thank you

Colleen

Colleen Waddell | Executive Assistant
Electricity Investment and Governance Secretariat
Ministry of Finance
7th Floor | 375 University Ave| Toronto, ON| M5G 2J5
W: 416-326-5526
colleen.waddell@ontario.ca

From:	Jamille.Clarke-Darshanand@ontario.ca on behalf of Thompson, Scott (MOF)
To:	Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Robin Lewis (MOF); Michael Waterston (MOF); Douglas Roy (MOF); Ronald Kwan; Jamille Clarke-Darshanand (MOF); Jonathan Tekle (CAB); David McLean (MOF)
Subject:	DM Briefing | OPG Trust Exemption

To brief and seek the DM's approval of the Minister's regulation under the Electricity Act.

From:	Jonathan.Tekle@ontario.ca on behalf of Thompson, Scott (MOF)
To:	Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Robin Lewis (MOF); Michael Waterston (MOF); Douglas Roy (MOF); Ronald Kwan; Jamille Clarke-Darshanand (MOF); Jonathan Tekle (CAB); David McLean (MOF); Patel, Lesley (MOF)
Cc:	Usman Zahid; Marianne Nguyen (MCYS); Daniela Klassen (MOF)
Subject:	DM Briefing | OPG Trust Exemption

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To:	Patel, Lesley (MOF); Thiru, Kaj (MOF); Jamille Clarke-Darshanand (MOF); Ann Langleben (MOF); Mike Weir (MOHLTC); Jayne Harten (ENE); Michael Waterston (MOF); Douglas Roy (MOF); Ronald Kwan; Marianne Nguyen (MCYS); Robin Lewis (MOF)
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Subject:	DMO/MO Bi-Weekly Meeting
Attachments:	_reg2017.0609.e05.edi_seal.pdf 2017_12_11 OFHP PILs Relief Proposed Amendment.docx 2017-12-12 DMO-MO Bi-Weekly Meeting Agenda.docx

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Rescheduled due to conflict

** Updated with Attachments **

Bi-weekly beginning Tuesday November 28th, 2017.

Office of
Legislative Counsel

Suite 3600, Whitney Block
99 Wellesley Street West
Queen's Park
Toronto Ontario M7A 1A2

Tel (416) 326-2841
Fax (416) 326-2806

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Bureau 3600, Édifice Whitney
99, rue Wellesley ouest
Queen's Park
Toronto (Ontario) M7A 1A2

Tél. (416) 326-2841
Télécopieur (416) 326-2806

Ontario

Date : December 7, 2017

Re : MOF
Proposed regulation under the Electricity Act, 1998
Amending - O. Reg. 207/99
PAYMENTS IN LIEU OF CORPORATE TAXES
reg2017.0609.e05.edi

This proposed regulation has been sealed under the authority of the Registrar of Regulations.

REGISTRAR OF REGULATIONS

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REG2017.0609.e
5.EDI-AR

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 207/99

(PAYMENTS IN LIEU OF CORPORATE TAXES)

1. Sections 3 and 6 of Ontario Regulation 207/99 are amended by striking out "16.1" at the end and substituting "16.2".

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Commencement

3. This Regulation comes into force on the day it is filed.

Made by:

……
Signature (in blue ink)

Minister of Finance

Date made: ……

ONTARIO FAIR HYDRO PLAN

PILS (TAX) RELIEF

MINISTER'S REGULATION

Confidential Draft for Discussion Purposes Only

ONTARIO FAIR HYDRO PLAN - PILS (TAX) RELIEF

PURPOSE

- A Minister's regulation under the *Electricity Act, 1998* is necessary to exempt Ontario Power Generation (OPG) from tax that may arise because of the financing arrangements for the Fair Hydro Plan (Plan).

- Providing a tax exemption to OPG would:

    - remove tax as a cost that must be passed on to consumers;

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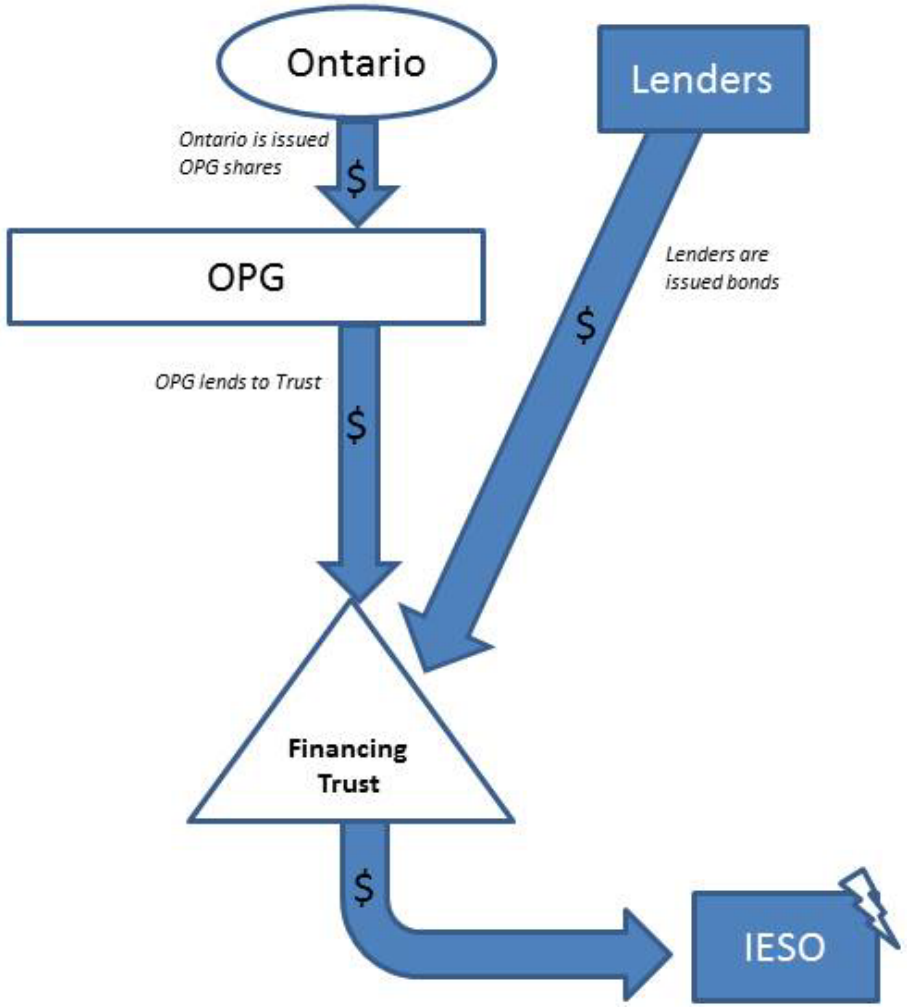

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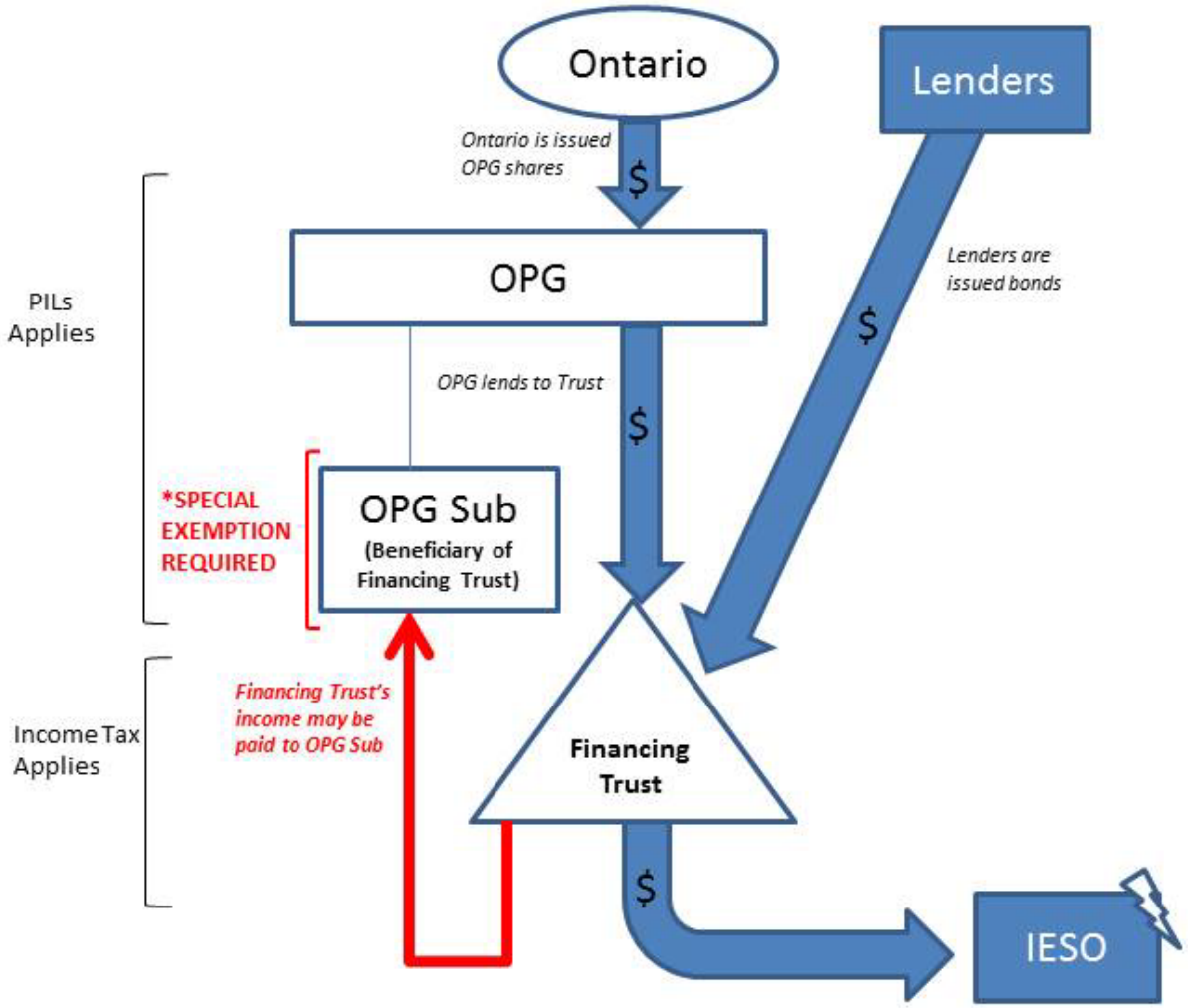

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OVERVIEW OF THE ONTARIO FAIR HYDRO PLAN

- The government intends to lower consumer electricity bills by 25% for five years.

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STRUCTURE OF THE PLAN

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FUTURE FINANCING ACTIONS

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TAXATION OF THE FINANCING ENTITY

- Generally, a trust is subject to regular federal and provincial taxation and not PILs. A trust is entitled to deduct from its income for tax purposes any income paid or payable to a beneficiary of the trust.

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DMO/MO Bi-Weekly Meeting

December 12, 2017
1:20 PM – 2:20 PM
FS-466 or Teleconference

1. PILS/OPG Reg

Teleconference:
Local: 416-212-8010
Toll Free: 1-866-602-5423
Conference ID: 4722642

From:	Melissa.Navarro@ontario.ca on behalf of Subrahmanyan, Sriram (MOF)
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Ontario

Date : December 7, 2017

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Signature (in blue ink)

Minister of Finance

Date made: ……

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PILS (TAX) RELIEF

MINISTER'S REGULATION

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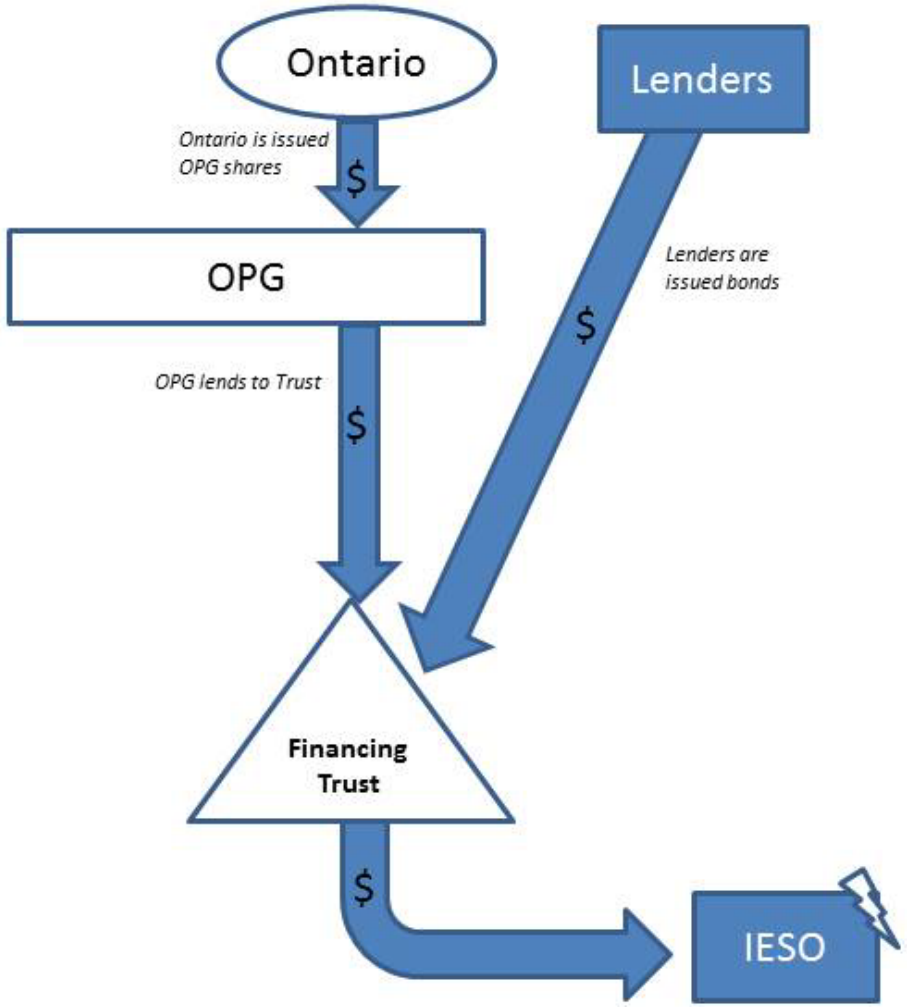

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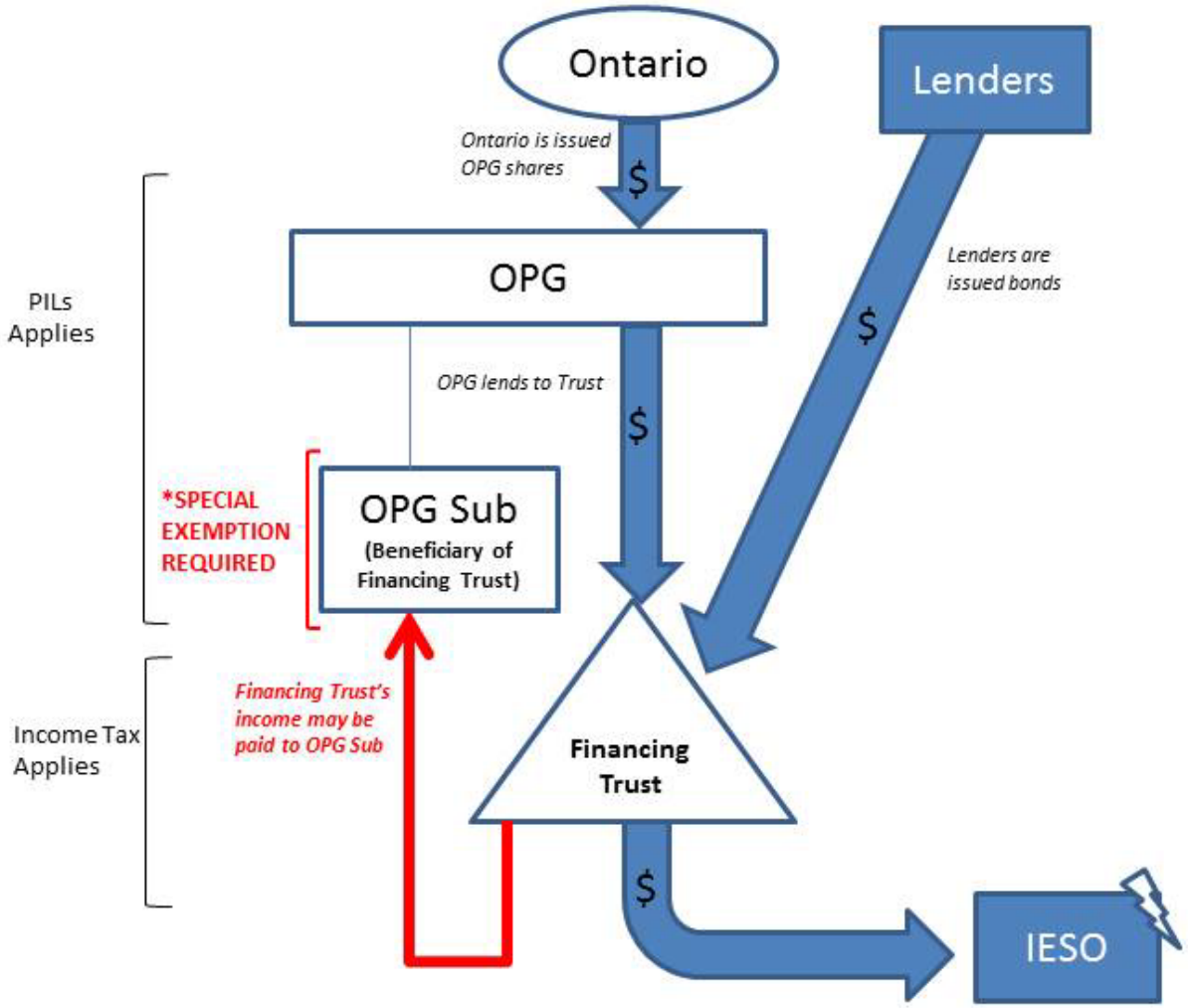

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December 12, 2017
1:00 PM – 2:00 PM
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1. PILS/OPG Reg

Teleconference:
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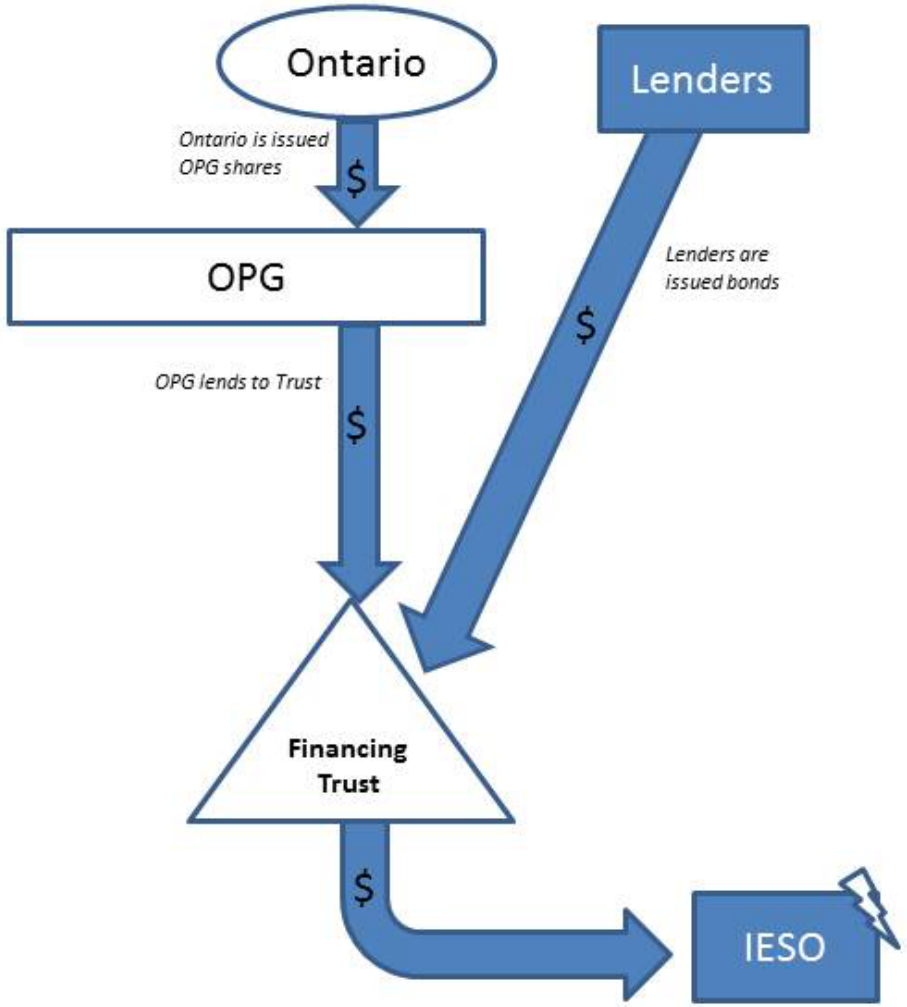

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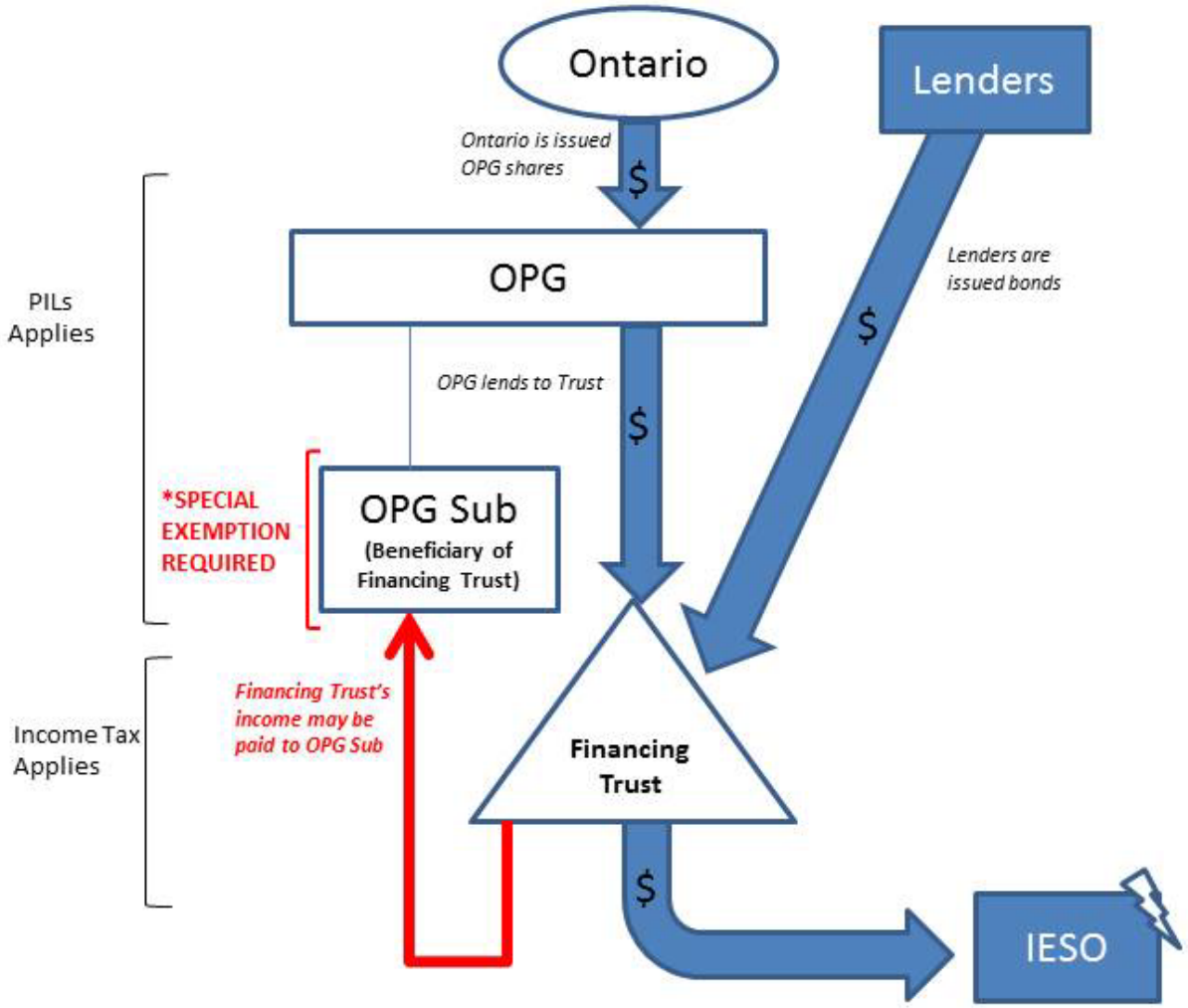

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From: Usman Zahid
To: Ronald Kwan
Subject: FW:
Date: Wednesday, December 13, 2017 5:05:39 PM
Attachments: _reg2017.0609.e06.edi_seal.pdf

Hi Ron,

FYI, attached is the updated Reg. for the PIL exemption for the financing entity trustee.

Regards,
Usman

From: Tekle, Jonathan (MOF) [mailto:Jonathan.Tekle@ontario.ca]
Sent: Wednesday, December 13, 2017 2:56 PM
To: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: FW:

FYI

From: Clarke-Darshanand, Jamille (MOF)
Sent: December 13, 2017 2:56 PM
To: Tekle, Jonathan (MOF)
Subject: FW:

From: Roy, Douglas (MOF)
Sent: December 13, 2017 1:50 PM
To: Clarke-Darshanand, Jamille (MOF)
Cc: Lewis, Robin (MOF); Langleben, Ann (MOF); Waterston, Michael (MOF)
Subject:

Hi Jamille

The drafts attached.

Sent from my BlackBerry 10 smartphone on the Rogers network.

Office of
Legislative Counsel

Suite 3600, Whitney Block
99 Wellesley Street West
Queen's Park
Toronto Ontario M7A 1A2

Tel (416) 326-2841
Fax (416) 326-2806

Bureau des
conseillers législatifs

Bureau 3600, Édifice Whitney
99, rue Wellesley ouest
Queen's Park
Toronto (Ontario) M7A 1A2

Tél. (416) 326-2841
Télécopieur (416) 326-2806

Ontario

Date : December 13, 2017

Re : MOF
Proposed regulation under the Electricity Act, 1998
Amending - O. Reg. 207/99
PAYMENTS IN LIEU OF CORPORATE TAXES
reg2017.0609.e06.edi

This proposed regulation has been sealed under the authority of the Registrar of Regulations.

REGISTRAR OF REGULATIONS

CONFIDENTIAL **REG2017.0609.e**
Until filed with the **6.EDI-AR**
Registrar of Regulations

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 207/99

(PAYMENTS IN LIEU OF CORPORATE TAXES)

1. Sections 3 and 6 of Ontario Regulation 207/99 are amended by striking out "16.1" at the end and substituting "16.2".

2. Subparagraph 1 ii of section 6.1 of the Regulation is amended by striking out "16.1" and substituting "16.2".

3. The Regulation is amended by adding the following section immediately before the heading "Returns and Payments":

16.2 (1) For the purposes of determining the amount of any payment required for a taxation year from a specified corporation under sections 89 and 90 of the Act, the method of calculating the amount of the payment is modified by the following rules:

1. Any income or loss or taxable capital gain or allowable capital loss in respect of property held by a specified trust that would be income or a loss or a taxable capital gain or allowable capital loss of the specified corporation under subsection 75 (2) of the Federal Act is deemed to be nil.

2. Any amount paid or payable to the specified corporation in the taxation year by a specified trust that would be included in computing the income of the specified corporation for the year under subsection 104 (13) or (16) of the Federal Act is deemed to be nil.

3. Any benefits to the specified corporation from or under a specified trust that would be included in computing the specified corporation's income for the taxation year under subsection 105 (1) of the Federal Act are deemed to be nil.

4. Any amounts that would be included in computing the specified corporation's income for the taxation year in respect of the disposition of an income interest in a specified trust under subsection 106 (2) of the Federal Act are deemed to be nil.

5. Any proceeds of disposition in respect of a disposition of all or any part of the specified corporation's capital interest in a specified trust in the taxation year are deemed to be equal to the adjusted cost base of the interest as determined under the Federal Act.

(2) The following corporations are specified corporations for the purposes of subsection (1):

1. FHP2017 Inc.

(3) The following financing entities, as defined in subsection 1 (1) of the *Ontario Fair Hydro Plan Act, 2017*, are specified trusts for the purposes of subsection (1):

1. Fair Hydro Trust.

Commencement

4. This Regulation comes into force on the day it is filed.

Made by:

……..
Signature (in blue ink)

Minister of Finance

Date made: ……

From: Ronald Kwan
To: Bruno Amara
Cc: Usman Zahid; John Kim
Subject: FW: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 3:17:14 PM
Attachments: 2017_12_11 OFHP PILs Relief Proposed Amendment.docx

---

Hi,

Any comments?

Thanks,
Ron

From: Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
Sent: December-11-17 15:15
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi Ron and Usman,

Our deck is attached. We've also included it in both the invites for tomorrow around this matter.

Cheers,
Lesley

From: Subrahmanyan, Sriram (MOF)
Sent: December 11, 2017 3:06 PM
To: Kwan, Ronald (OFA)
Cc: Patel, Lesley (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

Lesley will send you our deck - it goes right back to OPG's proposed structure. Is the Minister familiar enough with the overall plan that he won't need more context, or can you send us a few slides?

Thanks

Sriram

From: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Date: Monday, Dec 11, 2017, 2:52 PM
To: Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>, Waterston, Michael (MOF) <Michael.Waterston@ontario.ca>
Cc: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca>, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca>, Klassen, Daniela (MOF) <Daniela.Klassen@ontario.ca>, Roy, Douglas (MOF) <Douglas.Roy1@ontario.ca>
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ONTARIO FAIR HYDRO PLAN

PILS (TAX) RELIEF

MINISTER'S REGULATION

Confidential Draft for Discussion Purposes Only

ONTARIO FAIR HYDRO PLAN - PILS (TAX) RELIEF

PURPOSE

- A Minister's regulation under the *Electricity Act, 1998* is necessary to exempt Ontario Power Generation (OPG) from tax that may arise because of the financing arrangements for the Fair Hydro Plan (Plan).

- Providing a tax exemption to OPG would:

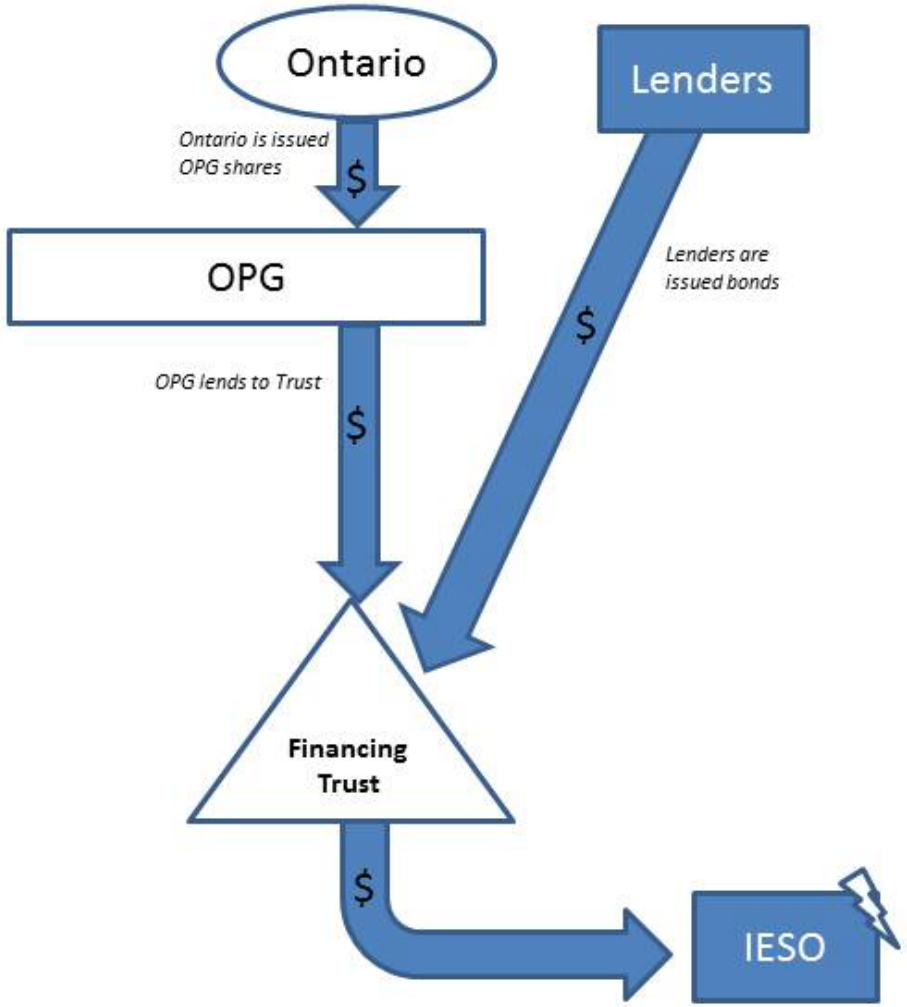
    - remove tax as a cost that must be passed on to consumers;

    - provide greater comfort to lenders that the loan will be repaid; and

    - be consistent with taxing only commercial activities.

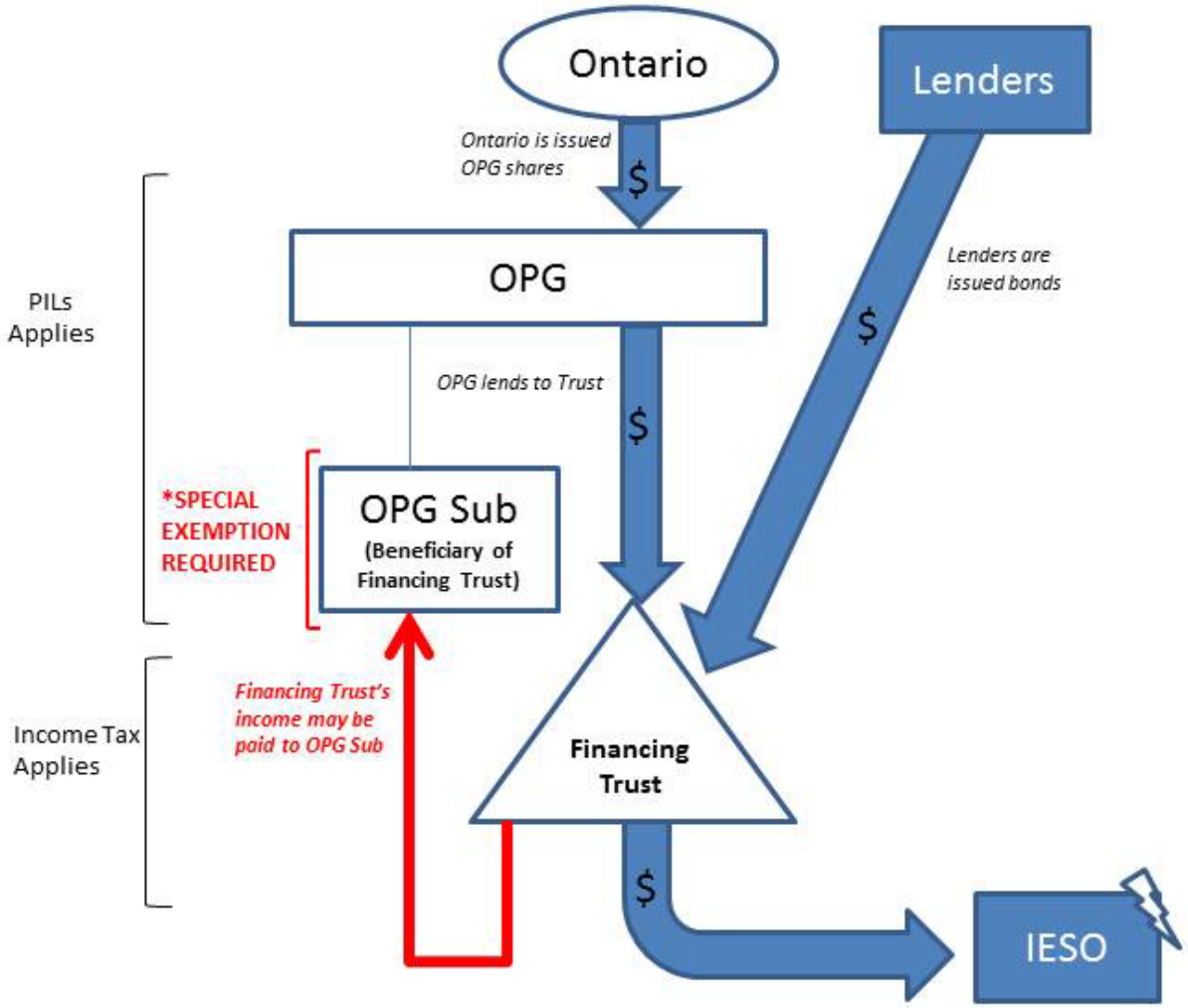
Confidential Draft for Discussion Purposes Only

BASIC ILLUSTRATION OF THE FINANCING ARRANGEMENTS



Confidential Draft for Discussion Purposes Only

BASIC ILLUSTRATION OF THE PROPOSED TAX EXEMPTION FOR OPG



Confidential Draft for Discussion Purposes Only

APPENDIX A

OVERVIEW OF THE ONTARIO FAIR HYDRO PLAN

- The government intends to lower consumer electricity bills by 25% for five years.

- The resulting decrease in revenue will reduce the amounts available to pay electricity generators. The shortfall will be corrected with money from a "financing entity" established under the Plan.

STRUCTURE OF THE PLAN

- OPG will establish a financing entity (or entities) for the purposes of the Plan.

- The first financing entity that will be established by OPG will be a trust (Trust).

- The Trust will be capitalized with funds from the Province and from capital market borrowing.

- The Trust will purchase a "regulatory asset" from the Independent Electricity System Operator (IESO). The regulatory asset will be the right to collect amounts from electricity consumers.

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APPENDIX

LOAN REPAYMENT AFTER THE 5-YEAR "HOLIDAY"

- After the end of the 5-year holiday, the Trust would invoke the rights under the regulatory asset and begin to collect amounts from electricity consumers equal to the borrowed money, interest and other costs. The collected amounts would be used to repay lenders.

- After the end of the 5-year holiday, consumers' electricity bills would increase to reflect the full cost of generating electricity plus the cost of paying for the regulatory asset.

FUTURE FINANCING ACTIONS

- In the future, the financing actions described above may be repeated by the Trust, or by other financing entities that may be established under the Plan.

APPENDIX B

TAXATION OF THE FINANCING ENTITY

- Generally, a trust is subject to regular federal and provincial taxation and not PILs. A trust is entitled to deduct from its income for tax purposes any income paid or payable to a beneficiary of the trust.

- For purposes of the Plan, OPG or a subsidiary of OPG would be the beneficiary of the Trust.

- Amounts paid to OPG or to an OPG subsidiary would allow the Trust to minimize or eliminate the regular federal and provincial income tax the Trust would otherwise have to pay.

- OPG or an OPG subsidiary would be subject to PILs on amounts received from the Trust.

- The proposed regulation would exempt OPG or an OPG subsidiary from having to pay PILs on the amounts received or receivable from the Trust.

APPENDIX C

INCOME OF THE FINANCING ENTITY

- The financing entity (initially, the Trust) is not anticipated to have significant taxable income over the financing period.

- However, the timing of the Trust's income and expenses may not match. This could result in significant income in some years that would be subject to federal and provincial tax.

BACKGROUND - PILS

- PILs tax is equivalent to regular federal and provincial income tax.

- PILs is paid by entities in the electricity industry that would otherwise be exempt from taxation, e.g., OPG and subsidiaries of OPG.

- PILs is intended to put such entities on a level playing field with private sector entities in the electricity industry.

From: Ronald Kwan
To: Anna Strathy
Subject: FW: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 2:46:02 PM

Hi Anna,

See below. Would there be an additional briefing time on the Protection Agreement, or just a signing meeting?

Thanks,
Ron

From: Ronald Kwan
Sent: December-11-17 14:45
To: 'Patel, Lesley (MOF)' <Lesley.Patel@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
Cc: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>
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From: Ronald Kwan
To: Gadi Mayman
Subject: FW: Briefing re PILs exemption / OPG reg
Date: Tuesday, December 12, 2017 10:52:42 AM
Attachments: 2017_12_11 OFHP PILs Relief Proposed Amendment.docx

---

Hi Gadi,

FYI.

Ron

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ONTARIO FAIR HYDRO PLAN

PILS (TAX) RELIEF

MINISTER'S REGULATION

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- Providing a tax exemption to OPG would:

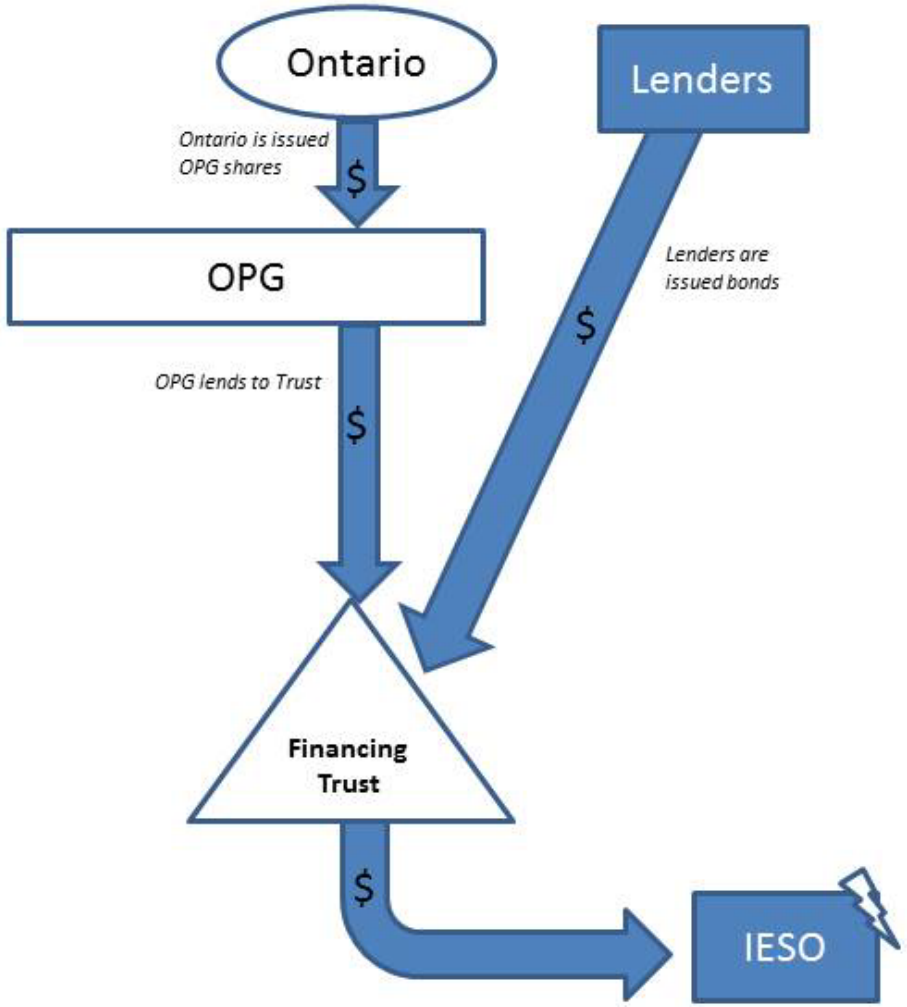
    - remove tax as a cost that must be passed on to consumers;

    - provide greater comfort to lenders that the loan will be repaid; and

    - be consistent with taxing only commercial activities.

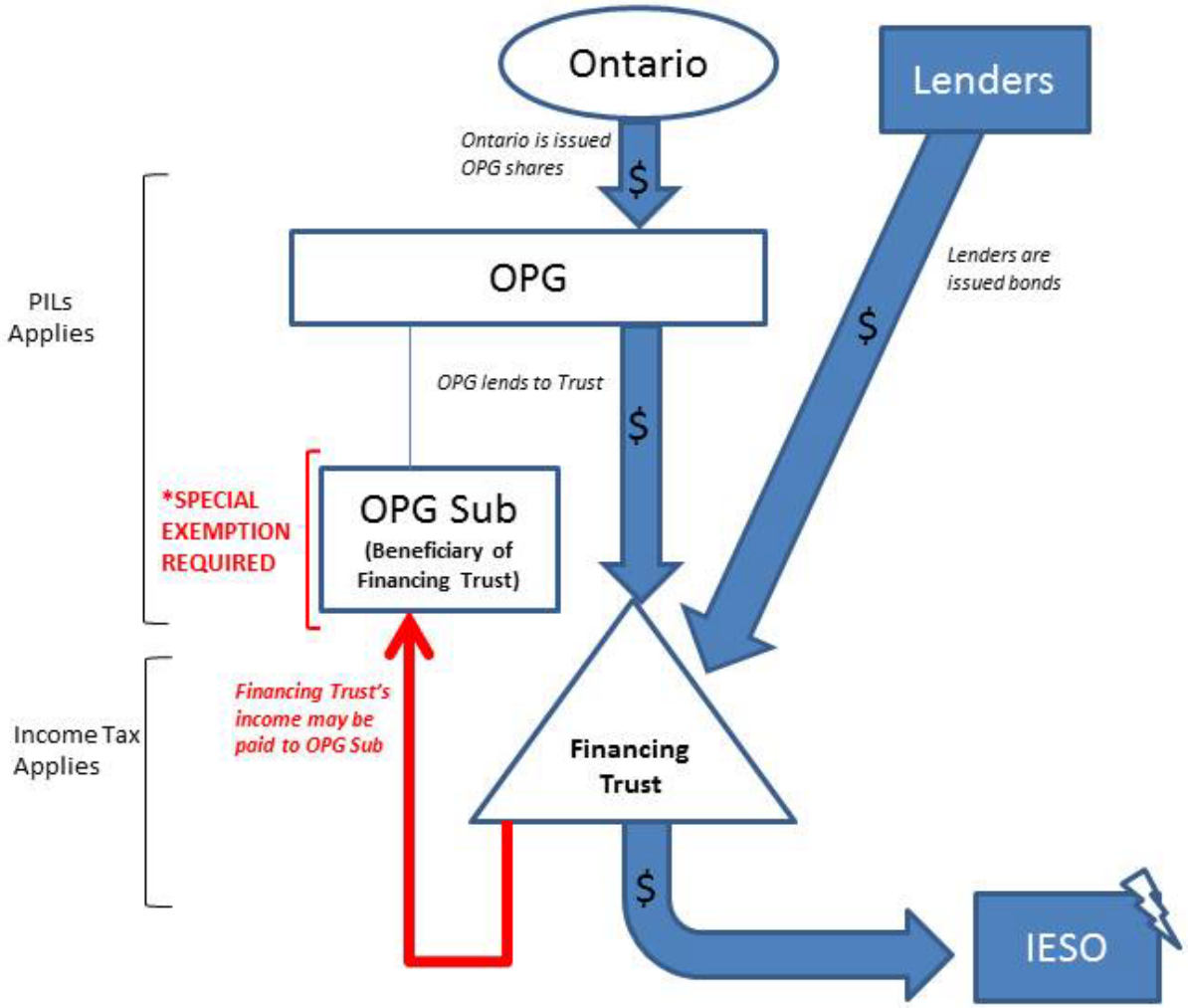
Confidential Draft for Discussion Purposes Only

BASIC ILLUSTRATION OF THE FINANCING ARRANGEMENTS



Confidential Draft for Discussion Purposes Only

BASIC ILLUSTRATION OF THE PROPOSED TAX EXEMPTION FOR OPG



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APPENDIX A

OVERVIEW OF THE ONTARIO FAIR HYDRO PLAN

- The government intends to lower consumer electricity bills by 25% for five years.

- The resulting decrease in revenue will reduce the amounts available to pay electricity generators. The shortfall will be corrected with money from a "financing entity" established under the Plan.

STRUCTURE OF THE PLAN

- OPG will establish a financing entity (or entities) for the purposes of the Plan.

- The first financing entity that will be established by OPG will be a trust (Trust).

- The Trust will be capitalized with funds from the Province and from capital market borrowing.

- The Trust will purchase a "regulatory asset" from the Independent Electricity System Operator (IESO). The regulatory asset will be the right to collect amounts from electricity consumers.

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APPENDIX

LOAN REPAYMENT AFTER THE 5-YEAR "HOLIDAY"

- After the end of the 5-year holiday, the Trust would invoke the rights under the regulatory asset and begin to collect amounts from electricity consumers equal to the borrowed money, interest and other costs. The collected amounts would be used to repay lenders.

- After the end of the 5-year holiday, consumers' electricity bills would increase to reflect the full cost of generating electricity plus the cost of paying for the regulatory asset.

FUTURE FINANCING ACTIONS

- In the future, the financing actions described above may be repeated by the Trust, or by other financing entities that may be established under the Plan.

APPENDIX B

TAXATION OF THE FINANCING ENTITY

- Generally, a trust is subject to regular federal and provincial taxation and not PILs. A trust is entitled to deduct from its income for tax purposes any income paid or payable to a beneficiary of the trust.

- For purposes of the Plan, OPG or a subsidiary of OPG would be the beneficiary of the Trust.

- Amounts paid to OPG or to an OPG subsidiary would allow the Trust to minimize or eliminate the regular federal and provincial income tax the Trust would otherwise have to pay.

- OPG or an OPG subsidiary would be subject to PILs on amounts received from the Trust.

- The proposed regulation would exempt OPG or an OPG subsidiary from having to pay PILs on the amounts received or receivable from the Trust.

APPENDIX C

INCOME OF THE FINANCING ENTITY

- The financing entity (initially, the Trust) is not anticipated to have significant taxable income over the financing period.

- However, the timing of the Trust's income and expenses may not match. This could result in significant income in some years that would be subject to federal and provincial tax.

BACKGROUND - PILS

- PILs tax is equivalent to regular federal and provincial income tax.

- PILs is paid by entities in the electricity industry that would otherwise be exempt from taxation, e.g., OPG and subsidiaries of OPG.

- PILs is intended to put such entities on a level playing field with private sector entities in the electricity industry.

From: Langleben, Ann (MOF)
To: Michael Waterston (MOF); Ronald Kwan
Cc: Robin Lewis (MOF); Daniela Klassen (MOF)
Subject: FW: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date: Monday, June 12, 2017 2:55:57 PM

Hi Michael, not sure if this has been forwarded to you or someone in your Branch. I just wanted you to be aware.

CCTB involvement in this issue relates to a potential exemption for the entity. We are hindered in our ability to create one, since the structure has not been finalized and the options are still quite broad.

Ron, we met with Sriram and he has asked me to contact you about whether a "comfort letter" regarding the tax issue would be sufficient for the credit rating agencies. If you have a minute later today, perhaps we can connect by phone (unless there is a straightforward answer).

From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
Sent: June-12-17 12:22 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA); MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
Subject: RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan

During today's call there was a general reference to potential credit rating agency concerns. That concern may not have come across clearly enough and here is some perspective on the specific concern. Given that this structure is very unique in the Canadian environment the credit rating agency will likely request a legal opinion – tax neutrality or run flat for tax – establishing that any activity of the financing entity will not result in a tax liability that would rank ahead of security holders.

-----Original Appointment-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, June 07, 2017 3:09 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
Subject: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
When: Monday, June 12, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 416-212-8013 Passcode 4075747# (SN MC 6665#)

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-PILs Exemptions

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From: Nelms, Scott (MOF)
To: Ronald Kwan; Gadi Mayman
Subject: FW: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Sunday, April 16, 2017 4:25:06 PM

Hi Ron, Gadi,

I hope you are enjoying the long weekend.

As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.

Thanks,
Scott

-----Original Message-----
From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
Sent: April-15-17 1:16 PM
To: Nelms, Scott (MOF)
Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Scott,
It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
Thanks,
Ken

-----Original Message-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Thursday, April 13, 2017 8:19 PM
To: RYFA Ken -TREASURY
Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi Ryan,

I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>

Date: Thursday, Apr 13, 2017, 6:50 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.
Thanks,
Ken

_____

_____

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From: Patel, Lesley (MOF)
To: Ronald Kwan; Usman Zahid
Subject: FW: Electricity PILs Reg
Date: Wednesday, December 27, 2017 8:52:42 AM
Attachments: Scan 001.pdf
_reg2017.0609.e06.edi_seal.pdf

Hi Ron and Usman,

I'm catching up on emails, and I'm not sure if the scanned copies of the filed regs had been shared with you as yet. They are attached. We also shared them with Energy.

Cheers,

Lesley

-----Original Message-----

From: Patel, Lesley (MOF)

Sent: December 22, 2017 10:46 AM

To: Cox, Hilary (ENERGY)

Subject: Electricity PILs Reg

Hi Hilary,

Electricity PILs regulation has been filed. Attached are the scanned copies.

Jiyoung on behalf of Lesley

-----Original Message-----

From: Roy, Douglas (MOF)

Sent: December 22, 2017 10:32 AM

To: Lewis, Robin (MOF)

Cc: Klassen, Daniela (MOF); Winfield, Lloyd (MOF); Dzikowski, Camilla (MOF); Waterston, Michael (MOF)

Subject: FW: Scan from a Xerox WorkCentre

Hi Rob

The reg has been filed. Attached is scanned copy of the first page the filed reg with the stamp showing that the reg has been filed.

I've also attached a version the sealed reg that was filed.

If you need anything further, please let me know.

Thanks

Douglas Roy

Counsel

Ontario Ministry of the Attorney General Legal Services Branch, Ministry of Finance

416-212-4204

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-----Original Message-----

From: ONP2F00885365@Ontario.ca [mailto:ONP2F00885365@Ontario.ca]

Sent: December-22-17 10:27 AM

To: Roy, Douglas (MOF)

Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre. For more information on Xerox products and solutions, please visit https://urldefense.proofpoint.com/v2/url?u=http-3A__www.xerox.com&d=DwIGaQ&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=B_6Tjl9vLeDmXAORjyjyonzkCNBKEMICh1soVjaz0DM&s=U_A34eZxsg-wAthPA5yPR1naw_xutd4oN_j4rNCSN3Y&e= .

CONFIDENTIAL
Until filed with the
Registrar of Regulations

Filed with the Registrar of Regulations
Déposé auprès du registrateur des règlements

DEC 22 2017

Number (O. Reg.)
Numéro (Règl. de l'Ont.) 586/17

MK **REG2017.0609.e**
6.EDI-AR

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 207/99

(PAYMENTS IN LIEU OF CORPORATE TAXES)

1. Sections 3 and 6 of Ontario Regulation 207/99 are amended by striking out "16.1" at the end and substituting "16.2".

2. Subparagraph 1 ii of section 6.1 of the Regulation is amended by striking out "16.1" and substituting "16.2".

3. The Regulation is amended by adding the following section immediately before the heading "Returns and Payments":

16.2 (1) For the purposes of determining the amount of any payment required for a taxation year from a specified corporation under sections 89 and 90 of the Act, the method of calculating the amount of the payment is modified by the following rules:

1. Any income or loss or taxable capital gain or allowable capital loss in respect of property held by a specified trust that would be income or a loss or a taxable capital gain or allowable capital loss of the specified corporation under subsection 75 (2) of the Federal Act is deemed to be nil.

2. Any amount paid or payable to the specified corporation in the taxation year by a specified trust that would be included in computing the income of the specified corporation for the year under subsection 104 (13) or (16) of the Federal Act is deemed to be nil.

Office of
Legislative Counsel

Suite 3600, Whitney Block
99 Wellesley Street West
Queen's Park
Toronto Ontario M7A 1A2

Tel (416) 326-2841
Fax (416) 326-2806

Bureau des
conseillers législatifs

Bureau 3600, Édifice Whitney
99, rue Wellesley ouest
Queen's Park
Toronto (Ontario) M7A 1A2

Tél. (416) 326-2841
Télécopieur (416) 326-2806

Ontario

Date : December 13, 2017

Re : MOF
Proposed regulation under the Electricity Act, 1998
Amending - O. Reg. 207/99
PAYMENTS IN LIEU OF CORPORATE TAXES
reg2017.0609.e06.edi

This proposed regulation has been sealed under the authority of the Registrar of Regulations.

REGISTRAR OF REGULATIONS

CONFIDENTIAL **REG2017.0609.e**
Until filed with the **6.EDI-AR**
Registrar of Regulations

ONTARIO REGULATION

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1. Any income or loss or taxable capital gain or allowable capital loss in respect of property held by a specified trust that would be income or a loss or a taxable capital gain or allowable capital loss of the specified corporation under subsection 75 (2) of the Federal Act is deemed to be nil.

2. Any amount paid or payable to the specified corporation in the taxation year by a specified trust that would be included in computing the income of the specified corporation for the year under subsection 104 (13) or (16) of the Federal Act is deemed to be nil.

3. Any benefits to the specified corporation from or under a specified trust that would be included in computing the specified corporation's income for the taxation year under subsection 105 (1) of the Federal Act are deemed to be nil.

4. Any amounts that would be included in computing the specified corporation's income for the taxation year in respect of the disposition of an income interest in a specified trust under subsection 106 (2) of the Federal Act are deemed to be nil.

5. Any proceeds of disposition in respect of a disposition of all or any part of the specified corporation's capital interest in a specified trust in the taxation year are deemed to be equal to the adjusted cost base of the interest as determined under the Federal Act.

(2) The following corporations are specified corporations for the purposes of subsection (1):

1. FHP2017 Inc.

(3) The following financing entities, as defined in subsection 1 (1) of the *Ontario Fair Hydro Plan Act, 2017*, are specified trusts for the purposes of subsection (1):

1. Fair Hydro Trust.

Commencement

4. This Regulation comes into force on the day it is filed.

Made by:

……..
Signature (in blue ink)

Minister of Finance

Date made: ……

From: Subrahmanyan, Sriram (MOF)
To: Ronald Kwan
Cc: Robin Lewis (MOF); Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, November 23, 2017 1:40:26 PM

See below. We'll try to expedite this.

Sriram

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
Date: Thursday, Nov 23, 2017, 1:04 PM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram,

We had hoped to have the regulation finalized almost three weeks ago. Legislative counsel changed the draft significantly.

We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.

I will follow up with Doug and see where we are now.

Regards,

Rob

From: Subrahmanyan, Sriram (MOF)
Sent: November 23, 2017 12:15 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram
From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Thursday, Nov 23, 2017, 9:18 AM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.

My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

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From:	Ronald Kwan
To:	Bruno Amara
Cc:	Gavin He; John Kim
Subject:	FW: OPG SPV
Date:	Wednesday, August 09, 2017 1:52:01 PM
Attachments:	Draft Comfort Letter OPG SPV v2.docx

Hi Bruno,

Please review.

Thanks,
Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-09-17 13:43
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
Subject: OPG SPV

Ron,

Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.

Regards,

Daniela Klassen
Senior Legislation Design Specialist, Corporate Tax Design Unit
Taxation Policy Division
Ministry of Finance
P: (416) 327-0275
E: daniela.klassen@ontario.ca

August [date], 2017

TO: Ontario Power Generation (OPG)

Thank you for your query and memorandum from your advisors, Torys LLP, dated May 17, 2017, regarding the Fair Hydro Plan and certain tax implications arising under the *Electricity Act, 1998* (EA) for OPG and a financing entity.

OPG has been given a mandate under the Fair Hydro Plan to acquire certain regulatory rights from the Independent Electricity System Operator (IESO). The *Ontario Fair Hydro Plan Act, 2017* (FHPA) has given OPG the right to create a "financing entity" to facilitate its objectives under the Fair Hydro Plan.

I understand that OPG will create a trust (Trust) as a financing entity under the FHPA to facilitate OPG's mandate under the Fair Hydro Plan. The Trust would be subject to tax under the *Income Tax Act* (Canada) (ITA) and the Ontario *Taxation Act, 2007* (TA). Further, I understand that the beneficiary of the Trust will be a special purpose vehicle (SPV) that will be a corporation wholly-owned by OPG. The SPV would be exempt from Canadian federal income tax under section 149 of the ITA and under section 27 of the TA. The SPV would be subject to payments-in-lieu of tax (PILs) under Part VI of the EA.

A recommendation will be made to the Minister of Finance to make a regulation under the EA to ensure that amounts allocated by the Trust to the SPV will not be included in the income of the SPV for purposes of calculating PILs under the EA.

_____

Name / Signature

From: Lesley.Patel@ontario.ca on behalf of Subrahmanyan, Sriram (MOF)
To: Ronald Kwan
Subject: FW: Ontario"s Fair Hydro Plan / OPG / PILs

Hi Ron – this is the call that Sriram mentioned.

-----Original Appointment-----
From: Navarro, Melissa (MOF) On Behalf Of Subrahmanyan, Sriram (MOF)
Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF)
Subject: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

From: Ronald Kwan
To: John Kim; Bruno Amara
Subject: FW: Ontario"s Fair Hydro Plan / OPG / PILs
Date: Friday, December 08, 2017 12:27:12 PM
Attachments: _reg2017.0609.e05.edi_seal.pdf

Hi,

Any comments?

Thanks,
Ron

-----Original Message-----
From: Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
Sent: December-08-17 08:09
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

Hi Ron,

The draft reg is attached. I'll keep you posted if there are further briefing materials and be sure to share them.

Best,
Lesley

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Ronald Kwan
Sent: Thursday, December 7, 2017 5:06 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

And are there materials to discuss, such as a draft reg and approval / briefing materials?

Thanks again.

Ron

From: Ronald Kwan
Sent: December 7, 2017 5:04 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

Thanks Lesley.

Ron

From: Lesley.Patel@ontario.ca <Lesley.Patel@ontario.ca> on behalf of Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>
Sent: December 7, 2017 5:02 PM
To: Ronald Kwan
Subject: FW: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM.
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

Hi Ron – this is the call that Sriram mentioned.
-----Original Appointment-----
From: Navarro, Melissa (MOF) On Behalf Of Subrahmanyan, Sriram (MOF)
Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF)
Subject: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

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Office of
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Tel (416) 326-2841
Fax (416) 326-2806

Bureau des
conseillers législatifs

Bureau 3600, Édifice Whitney
99, rue Wellesley ouest
Queen's Park
Toronto (Ontario) M7A 1A2

Tél. (416) 326-2841
Télécopieur (416) 326-2806

Ontario

Date : December 7, 2017

Re : MOF
Proposed regulation under the Electricity Act, 1998
Amending - O. Reg. 207/99
PAYMENTS IN LIEU OF CORPORATE TAXES
reg2017.0609.e05.edi

This proposed regulation has been sealed under the authority of the Registrar of Regulations.

REGISTRAR OF REGULATIONS

CONFIDENTIAL
Until filed with the
Registrar of Regulations

REG2017.0609.e
5.EDI-AR

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 207/99

(PAYMENTS IN LIEU OF CORPORATE TAXES)

1. Sections 3 and 6 of Ontario Regulation 207/99 are amended by striking out "16.1" at the end and substituting "16.2".

2. The Regulation is amended by adding the following section immediately before the heading "Returns and Payments":

16.2 (1) For the purposes of determining the amount of any payment required for a taxation year from a specified corporation under sections 89 and 90 of the Act, the method of calculating the amount of the payment is modified by the following rules:

1. Any income or loss or taxable capital gain or allowable capital loss in respect of property held by a specified trust that would be income or a loss or a taxable capital gain or allowable capital loss of the specified corporation under subsection 75 (2) of the Federal Act is deemed to be nil.

2. Any amount paid or payable to the specified corporation in the taxation year by a specified trust that would be included in computing the income of the specified corporation for the year under subsection 104 (13) of the Federal Act is deemed to be nil.

3. Any benefits to the specified corporation from or under a specified trust that would be included in computing the specified corporation's income for the taxation year under subsection 105 (1) of the Federal Act are deemed to be nil.

4. Any amounts that would be included in computing the specified corporation's income for the taxation year in respect of the disposition of an income interest in a specified trust under subsection 106 (2) of the Federal Act are deemed to be nil.

5. Any proceeds of disposition in respect of a disposition of all or any part of the specified corporation's capital interest in a specified trust in the taxation year are deemed to be equal to the adjusted cost base of the interest as determined under the Federal Act.

(2) The following corporations are specified corporations for the purposes of subsection (1):

1. FHP2017 Inc.

(3) The following financing entities, as defined in subsection 1 (1) of the *Ontario Fair Hydro Plan Act, 2017*, are specified trusts for the purposes of subsection (1):

1. The Fair Hydro Trust.

Commencement

3. This Regulation comes into force on the day it is filed.

Made by:

……
Signature (in blue ink)

Minister of Finance

Date made: ……

From: Ronald Kwan
To: John Kim
Subject: FW: PILs Exemptions
Date: Tuesday, April 25, 2017 4:30:03 PM

Hi John,

Please connect with TPD.

Thanks,
Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: April-25-17 15:49
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: PILs Exemptions

Hi Ron, John,

I wanted to keep you apprised of where we are with Tax Policy on OPG's request for specific PILs exemptions as part of OFHP. See below for details – we are hoping to punt to regulations.

Thanks,
Scott

From: Nelms, Scott (MOF)
Sent: April 25, 2017 3:25 PM
To: 'Hill, Krista'; john.s.lee@opg.com
Cc: RYFA Ken -TREASURY; WONG Leslie -LAWDIV; Wortsman, Jerald; Watson, Gwen; Feldman, Michael; Calwell, Carolyn (ENERGY/MEDEI/MRI); Rehob, James (ENERGY)
Subject: RE: Comments

Hi Krista, John,

We shared your ask with Finance Tax Policy and they have been mulling this over for the past few days. We had a conversation this morning and I wanted to provide a synopsis of that call:

- Tax Policy is of the view that if this is structured as a Trust will be a taxable entity under the Income Tax Act. However, because OPG is the beneficiary of the Trust, it will not pay any taxes. For greater certainty, Tax Policy suggested seeking a ruling from CRA. If necessary, we could seek an exemption from CRA (there is precedent with the Nuclear Funds Trust). Please let me know whether that is consistent with your assessment.
- Since all income from the Trust will flow to OPG, all revenues would be subject to PILs (unless we take action to make specific exemptions).
- As we discussed last week, we have proposed the language that you provided with PILs exemptions for specific earning streams from the trust.

- Tax Policy has a number of questions about how to define those exempted revenue streams and the rationale for those exemptions. They want considerably more detail and more time to consider this issue.
- According to Tax Policy, existing Legislation (James I will leave it to you to describe) provides authority to set out PILs exemptions in regulations. Therefore they suggest we do not need to add anything in to the OFHP legislation at this time. That will provide time to more fully consider the issue and discuss the need for these exemptions.
- I suggested I was generally comfortable with this approach, subject to input from OPG and Torys. I think it is better for us to have more time and the flexibility to include these provisions in regulations. Given where we are in the process, I think we are out of time to settle legislative language that will work for Tax Policy.

James, please feel free to add / modify if I missed anything. Please let us know ASAP if you have concerns.

Scott

From: Ronald Kwan
To: John Kim; Bruno Amara
Cc: Gavin He
Subject: FW: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date: Friday, June 02, 2017 5:54:05 PM

FYI.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: June-02-17 17:49
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Thanks Sriram. I have reached back to OPG to determine whether a structure has been or is close to final. I will circle back with those details along with some of the other points you raise below.

From: Subrahmanyan, Sriram (MOF)
Sent: June 2, 2017 3:39 PM
To: Nelms, Scott (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Scott,

Thank you for sharing the Torys Memorandum, dated May 17, 2017, with us.

The structure was not finalized at the time we first reviewed the proposal. Based on the Memorandum, it appears that the type of structure is still being determined. If there has been progress in this regard, we would be happy to conference with Torys and OPG to discuss the appropriate next steps.

As the PILs relief sought appears to be appropriate given the policy objective, we would probably recommend amendments to ensure the structure is not subject to PILs. However, we would suggest that a ruling from the tax administration division may be appropriate in this case, provided the final structure is not subject to regular federal tax and if authority can be found in the existing legislation and regulations.

Our recommendation would depend on the type of structure that is ultimately selected and on other particulars such as the types of income that would be earned in the special purpose vehicle.

Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

Thanks,
Scott

Scott Nelms
Electricity Investment and Governance Secretariat | Ministry of Finance
7th Floor | 375 University ave. | Toronto, ON
w: (416) 212-6469 | c: (647) 330-2681
scott.nelms@ontario.ca

From:	Ronald Kwan
To:	John Kim; Bruno Amara
Cc:	Gavin He
Subject:	FW: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Wednesday, May 31, 2017 1:15:09 PM
Attachments:	Memo re PILs Exemption.DOCX

Hi,

Just saw this.

Please review.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: May-31-17 13:10
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

Thanks,
Scott

Scott Nelms
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scott.nelms@ontario.ca

TORYS LLP

MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

To	Ontario Power Generation Inc.	**Date**	May 17, 2017
From	Torys LLP, Toronto Tax		
Re	Fair Hydro Plan – PILs Exemption		

As part of the Fair Hydro Plan (the "Plan"), it is expected that Ontario Power Generation Inc. will act as the financial services manager and that Ontario Power Generation Inc., or a wholly-owned corporate subsidiary of Ontario Power Generation Inc. (in either case, "OPG"), will establish one or more new financing entities that will raise debt to acquire "investment assets" from the IESO. A Bill to implement the Plan has been introduced to the Provincial Legislature [1] and there is flexibility under the Bill for the new financing entity to be a corporation, a trust, a limited partnership or a partnership.

We understand that the Province would like to minimize, to the extent possible, Federal and Provincial taxes and "payments in lieu of taxes" ("PILs") under the *Electricity Act, 1998* (Ontario) (the "OEA") payable by a financing entity as the costs of any of those taxes payable by a financing entity will be passed on to ratepayers through the collection of the clean energy adjustment under the Bill and the associated regulations. Accordingly, we understand that the Province is considering the possibility of making regulation changes to exempt the income arising as a consequence of the Plan from PILs. In order to assist the Province in their consideration of this regulation change, including the scope of any such amendment, we have set out below a summary of: (i) the tax treatment of the income of the financing entity under the *Income Tax Act* (Canada) (the "ITA"), the *Taxation Act, 2007* (Ontario) (the "OTA"), and the OEA, (ii) certain matters relating to the computation of the financing entity's income for tax purposes, and (iii) our recommendations with respect to how the Province can ensure that PILs arising from the Plan are minimized.

It is also important to note that Ontario Power Generation Inc. will not bear any of the tax costs arising as a consequence of participating in the Plan. If there are any tax costs, they will be borne by ratepayers through the clean energy adjustment.

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[1] Bill 132, *An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998*, 2nd Sess, 41st Leg, Ontario, 2017 (first reading May 11, 2017).

Tax Treatment of Income of Financing Entity

As noted above, there is flexibility in the draft legislation to implement the Plan relating to the form of a financing entity. What follows is a summary of the tax treatment of the income of the financing entity if it is a corporation, a trust or a limited partnership/partnership, as well as the tax treatment of amounts paid or allocated to OPG as a shareholder, beneficiary or a partner, respectively, of the financing entity:

Form of Financing Entity / OPG	Treatment of Income under ITA/OTA	Income Subject to PILs
Corporation	-Income of the corporation should be exempt from tax	Yes
OPG as shareholder of corporation[2]	-Dividends paid to OPG should be exempt from tax	Yes
Trust	-Income should be subject to tax, although the trust can reduce its income by the amount of its income which is paid or made payable to its beneficiaries	No
OPG as beneficiary of trust	-Trust income paid or made payable to OPG as a beneficiary should be exempt from tax	Yes
Limited Partnership/Partnership	-Limited Partnership/Partnership is not generally a "taxpayer" although income is computed at the partnership level and allocated to partners for tax purposes	No
OPG as partner of limited partnership/partnership	-Partnership income allocated to OPG as a partner should be exempt from tax	Yes

As summarized, if the financing entity is a corporation, the income of this corporation would be subject to PILs, and further, any amounts paid or allocated by the financing entity to OPG, as a shareholder, beneficiary or limited partner/partner of the financing entity, would similarly be subject to PILs. Consequently, any regulation change to exempt the income of the financing entity from PILs under the OEA should be broad enough to accommodate the three possible forms of financing entity and address PILs at both the financing entity level (in the case of a corporation) and the shareholder, beneficiary and limited partner/partner level.

[2] We note that corporations are generally entitled to claim a deduction under section 112 of the ITA (and any OTA equivalent) equal to the amount of taxable dividends received from another Canadian corporation, with the result that taxable dividends are generally not subject to tax under Part I of the ITA (and any OTA equivalent). To illustrate the scope of the PILs exemption under consideration by the Province, we have ignored this deduction in preparing this chart.

Income Computation Matters

As part of the Plan, it is expected that the financing entity will raise debt and acquire "investment assets" from the IESO. The investment assets do not appear to be debt instruments from a commercial perspective on the date they are acquired, but rather seem to be intangible assets. Given the unique nature of the investment assets, the tax analysis that is generally relied on by a financing entity in a typical securitization transaction (which involves interest-bearing debt obligations) is not applicable. There are no specific rules in the ITA or OTA which govern the manner which the investments assets should be treated for tax purposes, such that further analysis will need to be conducted in order to determine whether the investment assets are on income or capital account to the financing entity, and that the "cost" of the investment assets are appropriately recognized as a deduction or offset in computing the income of the financing entity.

In addition to the tax implications relating to the investments assets, the following additional matters, among others, are relevant in computing the income of the financing entity:

- In order to be deductible, an expense must satisfy the requisite income earning purpose test;

- Expenses which are owing to a non-arm's length person must be paid in a timely fashion so that the expense does not give rise to an income inclusion;

- Capital losses may generally only be offset against capital gains, such that consideration must be given to the character of the assets and liabilities of the financing entity to ensure there are no mismatches;

- If the financing entity incurs foreign-currency denominated debt, any related foreign currency hedging instrument will need to be sufficiently "linked" to the underlying debt to ensure capital treatment of the hedge; for example, if the period of the hedge does l not match the period of the related debt, the financing entity will realize gains or losses on the hedge that will not be offset with realized losses or gains on the debt; and

- If the financing entity is a trust, it will be necessary for interests in the trust to "vest indefeasibly" or be structured as units where at least 95% of the units, by fair market value, are redeemable on demand by the holder to ensure that the trust is not deemed to dispose of any capital property under the "21 year" rule.

Recommendations

In order to ensure that the taxes arising under the Plan are minimized so that the overall cost of the Plan (over its 30 or more years of existence) to ratepayers is minimized and to ensure that Ontario Power Generation Inc. is kept whole from tax costs arising as a consequence of participating in the Plan, the following exemptions from PILs are required:

1) If the financing entity is a trust: Any income paid or made payable to OPG by the trust should be exempt from PILs. If this PILs exemption is not promulgated, the income will

not be distributed out of the trust, tax will be payable by the trust on the income and the costs of that tax payable will be passed on to ratepayers through the clean energy adjustment. This will be a significant cost.

2) If the financing entity is a corporation: The corporate financing entity should be exempt from PILs and any dividends paid to OPG should be exempt from PILs. Again, if these PILs exemptions are not promulgated, no dividends will be paid to OPG and the costs of all PILs paid by the financing entity will be passed on to ratepayers through the clean energy adjustment. This will be a significant cost.

3) If the financing entity is a partnership or limited partnership, any income allocated to OPG should be exempt from PILs.

4) If the financing entity is any other form of special purpose vehicle, the income of such entity should be exempt from PILs and any income from such special purpose vehicle allocated, paid or taxable in the hands of OPG should be exempt from PILs.

From:	Ronald Kwan
To:	John Kim; Bruno Amara
Subject:	FW: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Tuesday, June 06, 2017 6:10:12 PM

Hi,

Please review.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: June-06-17 18:03
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram,

I received the following responses to your question on structure and types of potential income:

1) OPG is planning for the initial financing entity to be a trust. However, the Fair Hydro Plan Act allows for flexibility on the types of structures that can be used (trusts, corporations, partnerships, limited partnerships, other special purpose entities). Because the Fair Hydro Plan envisions a 30 year program, it is important that the PILs exemptions be broad enough to cover all of the various types of entities in the event that a different form is used for one or more future financing entities.

2) The memo we sent addressed types of income that might arise in a trust. As you'll have seen from the memo, it is strongly recommended that a PILs exemption be promulgated which would exempt from PILs any income distributed by a trust financing entity to OPG as beneficiary. This would allow the trust to flush its income to OPG as beneficiary. If a corporation is used as a financing entity, it is important that any income earned in that corporation be exempt from PILs. If a partnership or limited partnership is used as a financing entity, it is important that any income distributed to OPG (or any of its subsidiaries) as a partner or limited partner be exempt from PILs.

OPG is keen to move forward on these regulations. Without the regulations and the PILs exemptions, any taxes payable by a financing entity (whether it's a trust, corporation or otherwise), will be collected from ratepayers which will eat up part of the fair allocation amounts. In addition, the costs of the Fair Hydro Plan will increase as the rating may be affected and the capacity available from the debt markets will decrease as the lenders add a contingency for future taxes that may be collectible at some point in the future from ratepayers.

I would suggest we set up a call to further discuss, perhaps next week.

Please let me know if that makes sense,
Scott

From: Subrahmanyan, Sriram (MOF)
Sent: June 2, 2017 3:39 PM
To: Nelms, Scott (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Scott,

Thank you for sharing the Torys Memorandum, dated May 17, 2017, with us.

The structure was not finalized at the time we first reviewed the proposal. Based on the Memorandum, it appears that the type of structure is still being determined. If there has been progress in this regard, we would be happy to conference with Torys and OPG to discuss the appropriate next steps.

As the PILs relief sought appears to be appropriate given the policy objective, we would probably recommend amendments to ensure the structure is not subject to PILs. However, we would suggest that a ruling from the tax administration division may be appropriate in this case, provided the final structure is not subject to regular federal tax and if authority can be found in the existing legislation and regulations.

Our recommendation would depend on the type of structure that is ultimately selected and on other particulars such as the types of income that would be earned in the special purpose vehicle.

Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have

questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

Thanks,
Scott

Scott Nelms
Electricity Investment and Governance Secretariat | Ministry of Finance
7th Floor | 375 University ave. | Toronto, ON
w: (416) 212-6469 | c: (647) 330-2681
scott.nelms@ontario.ca

From: Ronald Kwan
To: Sriram Subrahmanyan (MOF)
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, November 23, 2017 9:18:34 AM

Hi Sriram,

Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.

My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

From: Ronald Kwan
To: John Kim
Subject: Fwd: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date: Monday, June 12, 2017 3:09:07 PM

Hi John,

FYI, ands any view on a comfort letter vis-a-vis rating agencies?

Ron

Begin forwarded message:

> **From:** "Langleben, Ann (MOF)" <Ann.Langleben@ontario.ca>
> **Date:** June 12, 2017 at 2:55:39 PM EDT
> **To:** "Waterston, Michael (MOF)" <Michael.Waterston@ontario.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Cc:** "Lewis, Robin (MOF)" <Robin.Lewis@ontario.ca>, "Klassen, Daniela (MOF)" <Daniela.Klassen@ontario.ca>
> **Subject: FW: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan**
>
> Hi Michael, not sure if this has been forwarded to you or someone in your Branch. I just wanted you to be aware.
>
> CCTB involvement in this issue relates to a potential exemption for the entity. We are hindered in our ability to create one, since the structure has not been finalized and the options are still quite broad.
>
> Ron, we met with Sriram and he has asked me to contact you about whether a "comfort letter" regarding the tax issue would be sufficient for the credit rating agencies. If you have a minute later today, perhaps we can connect by phone (unless there is a straightforward answer).
>
> ---
>
> **From:** RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> **Sent:** June-12-17 12:22 PM
> **To:** Nelms, Scott (MOF); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA); MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
> **Subject:** RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
>
> During today's call there was a general reference to potential credit rating agency concerns. That concern may not have come across clearly enough and here is some perspective on the specific concern. Given that this structure is very unique in the Canadian environment the credit rating agency will likely request a legal opinion – tax

neutrality or run flat for tax – establishing that any activity of the financing entity will not result in a tax liability that would rank ahead of security holders.

-----Original Appointment-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, June 07, 2017 3:09 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie - LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
Subject: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
When: Monday, June 12, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 416-212-8013 Passcode 4075747# (SN MC 6665#)

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

-PILs Exemptions

THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

From: Ronald Kwan
To: Sriram Subrahmanyan (MOF)
Cc: Scott Nelms (ENERGY)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Monday, April 17, 2017 10:44:41 AM

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com)
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> > On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
> >
> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
> > > Hi Ron, Gadi,
> > >
> > > I hope you are enjoying the long weekend.
> > >
> > > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> > >
> > > Thanks,
> > >
> > > Scott
> > >
> > > -----Original Message-----
> > >
> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > >
> > > Sent: April-15-17 1:16 PM
> > >
> > > To: Nelms, Scott (MOF)
> > >
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > >
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Scott,
> > >
> > > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > >
> > > Thanks,
> > >
> > > Ken
> > >
> > > -----Original Message-----
> > >
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > >
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > >
> > > To: RYFA Ken -TREASURY
> > >
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > >
> > > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi Ryan,

I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?

Thanks,

Scott

Sent with BlackBerry Work (www.blackberry.com<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>

Date: Thursday, Apr 13, 2017, 6:50 PM

To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>

Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.

Thanks,

Ken

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From: Gadi Mayman
To: Ronald Kwan; Ken Kandeepan; Mike Manning
Cc: Anna Strathy; Gavin He
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 9:41:41 AM

Begin forwarded message:

From: "Subrahmanyan, Sriram (MOF)" <Sriram.Subrahmanyan@ontario.ca>
Date: April 20, 2017 at 9:07:11 AM EDT
To: "Mayman, Gadi (OFA)" <Gadi.Mayman@ofina.on.ca>
Subject: FW: EXTERNAL - RE: Fair Hydro Plan - question on taxation

---

From: Lewis, Robin (MOF)
Sent: April 20, 2017 8:47 AM
To: Nelms, Scott (MOF); Kim, John (OFA); Bruno Amara
Cc: Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Scott,

The proposal appears to have some characteristics of a tax avoidance scheme.

The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.

I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.

We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.

This matter ought to be the subject of a ruling request.

Regards,

Rob Lewis

From: Nelms, Scott (MOF)
Sent: April 19, 2017 5:48 PM
To: Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
Cc: Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Rob, John Bruno,

Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.

Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.

Thanks very much and apologies for the short notice,
Scott

Scott Nelms
Electricity Investment and Governance Secretariat | Ministry of Finance
7th Floor | 375 University ave. | Toronto, ON
w: (416) 212-6469 | c: (647) 330-2681
scott.nelms@ontario.ca

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: April 18, 2017 9:24 AM
To: Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi,

Please loop in John and Bruno too.

Thanks,
Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: April-17-17 12:53 PM
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Certainly. Will do.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:52 PM
To: Nelms, Scott (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
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> > >
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> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > > Sent: April-15-17 1:16 PM
> > > To: Nelms, Scott (MOF)
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
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> > > Ken
> > >
> > > -----Original Message-----
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***
> > >
> > > Hi Ryan,
> > >
> > > I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?
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> > > Thanks,
> > > Scott
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> > > Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYquIJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN088&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)
> > >
> > > From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
> > > Date: Thursday, Apr 13, 2017, 6:50 PM
> > > To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> > > Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

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Hope this helps.
Thanks,
Ken

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From: Ronald Kwan
To: John Kim
Subject: Fwd: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, November 23, 2017 1:14:35 PM

Hi John,

Would you ask Rob (or Ann) about this as well.

Thanks,
Ron

Begin forwarded message:

> **From:** <Ronald.Kwan@ofina.on.ca>
> **Date:** November 23, 2017 at 9:18:31 AM EST
> **To:** "Sriram Subrahmanyan (MOF)" <Sriram.Subrahmanyan@ontario.ca>
> **Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg**
>
> Hi Sriram,
>
> Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.
>
> My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.
>
> Thanks,
> Ron

From: Ronald Kwan
To: John Kim
Subject: Fwd: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, November 23, 2017 1:49:55 PM

Hi John,

FYI. Please check with Rob on the LRC vs Minister's reg point, potential timing, and if you can get a draft.

Thanks,
Ron

Begin forwarded message:

> **From:** "Subrahmanyan, Sriram (MOF)" <Sriram.Subrahmanyan@ontario.ca>
> **Date:** November 23, 2017 at 1:40:06 PM EST
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Cc:** "Lewis, Robin (MOF)" <Robin.Lewis@ontario.ca>, "Waterston, Michael (MOF)" <Michael.Waterston@ontario.ca>, "Roy, Douglas (MOF)" <Douglas.Roy1@ontario.ca>, "Patel, Lesley (MOF)" <Lesley.Patel@ontario.ca>
> **Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg**
>
> See below. We'll try to expedite this.
>
> Sriram
>
> From: Lewis, Robin (MOF)
> <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
> Date: Thursday, Nov 23, 2017, 1:04 PM
> To: Subrahmanyan, Sriram (MOF)
> <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
> Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> Sriram,
>
> We had hoped to have the regulation finalized almost three weeks ago.
> Legislative counsel changed the draft significantly.
>
> We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.
>
> I will follow up with Doug and see where we are now.
>
> Regards,
>
> Rob

From: Subrahmanyan, Sriram (MOF)
Sent: November 23, 2017 12:15 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram
From: Ronald Kwan
<Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Thursday, Nov 23, 2017, 9:18 AM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.

My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

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From: Klassen, Daniela (MOF)
To: Ronald Kwan
Cc: Robin Lewis (MOF); Ann Langleben (MOF)
Subject: OPG SPV
Date: Wednesday, August 09, 2017 1:42:35 PM
Attachments: Draft Comfort Letter OPG SPV v2.docx

Ron,

Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.

Regards,

Daniela Klassen
Senior Legislation Design Specialist, Corporate Tax Design Unit
Taxation Policy Division
Ministry of Finance
P: (416) 327-0275
E: daniela.klassen@ontario.ca

August [date], 2017

TO: Ontario Power Generation (OPG)

Thank you for your query and memorandum from your advisors, Torys LLP, dated May 17, 2017, regarding the Fair Hydro Plan and certain tax implications arising under the *Electricity Act, 1998* (EA) for OPG and a financing entity.

OPG has been given a mandate under the Fair Hydro Plan to acquire certain regulatory rights from the Independent Electricity System Operator (IESO). The *Ontario Fair Hydro Plan Act, 2017* (FHPA) has given OPG the right to create a "financing entity" to facilitate its objectives under the Fair Hydro Plan.

I understand that OPG will create a trust (Trust) as a financing entity under the FHPA to facilitate OPG's mandate under the Fair Hydro Plan. The Trust would be subject to tax under the *Income Tax Act* (Canada) (ITA) and the Ontario *Taxation Act, 2007* (TA). Further, I understand that the beneficiary of the Trust will be a special purpose vehicle (SPV) that will be a corporation wholly-owned by OPG. The SPV would be exempt from Canadian federal income tax under section 149 of the ITA and under section 27 of the TA. The SPV would be subject to payments-in-lieu of tax (PILs) under Part VI of the EA.

A recommendation will be made to the Minister of Finance to make a regulation under the EA to ensure that amounts allocated by the Trust to the SPV will not be included in the income of the SPV for purposes of calculating PILs under the EA.

_____

Name / Signature

From:	Melissa.Navarro@ontario.ca on behalf of Subrahmanyan, Sriram (MOF)
To:	Steen Hume (CAB); Hilary Cox (ENE); Robin Lewis (MOF); Ann Langleben (MOF); Patel, Lesley (MOF); Daniela Klassen (MOF); Ronald Kwan
Subject:	Ontario"s Fair Hydro Plan / OPG / PILs
Attachments:	_reg2017.0609.e05.edi_seal.pdf 2017_12_11 OFHP PILs Relief Proposed Amendment.docx

** Updated with Attachments **

Office of
Legislative Counsel

Suite 3600, Whitney Block
99 Wellesley Street West
Queen's Park
Toronto Ontario M7A 1A2

Tel (416) 326-2841
Fax (416) 326-2806

Bureau des
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Queen's Park
Toronto (Ontario) M7A 1A2

Tél. (416) 326-2841
Télécopieur (416) 326-2806

Ontario

Date : December 7, 2017

Re : MOF
Proposed regulation under the Electricity Act, 1998
Amending - O. Reg. 207/99
PAYMENTS IN LIEU OF CORPORATE TAXES
reg2017.0609.e05.edi

This proposed regulation has been sealed under the authority of the Registrar of Regulations.

REGISTRAR OF REGULATIONS

CONFIDENTIAL
Until filed with the
Registrar of Regulations

REG2017.0609.e
5.EDI-AR

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 207/99

(PAYMENTS IN LIEU OF CORPORATE TAXES)

1. Sections 3 and 6 of Ontario Regulation 207/99 are amended by striking out "16.1" at the end and substituting "16.2".

2. The Regulation is amended by adding the following section immediately before the heading "Returns and Payments":

16.2 (1) For the purposes of determining the amount of any payment required for a taxation year from a specified corporation under sections 89 and 90 of the Act, the method of calculating the amount of the payment is modified by the following rules:

1. Any income or loss or taxable capital gain or allowable capital loss in respect of property held by a specified trust that would be income or a loss or a taxable capital gain or allowable capital loss of the specified corporation under subsection 75 (2) of the Federal Act is deemed to be nil.

2. Any amount paid or payable to the specified corporation in the taxation year by a specified trust that would be included in computing the income of the specified corporation for the year under subsection 104 (13) of the Federal Act is deemed to be nil.

3. Any benefits to the specified corporation from or under a specified trust that would be included in computing the specified corporation's income for the taxation year under subsection 105 (1) of the Federal Act are deemed to be nil.

4. Any amounts that would be included in computing the specified corporation's income for the taxation year in respect of the disposition of an income interest in a specified trust under subsection 106 (2) of the Federal Act are deemed to be nil.

5. Any proceeds of disposition in respect of a disposition of all or any part of the specified corporation's capital interest in a specified trust in the taxation year are deemed to be equal to the adjusted cost base of the interest as determined under the Federal Act.

(2) The following corporations are specified corporations for the purposes of subsection (1):

1. FHP2017 Inc.

(3) The following financing entities, as defined in subsection 1 (1) of the *Ontario Fair Hydro Plan Act, 2017*, are specified trusts for the purposes of subsection (1):

1. The Fair Hydro Trust.

Commencement

3. This Regulation comes into force on the day it is filed.

Made by:

……
Signature (in blue ink)

Minister of Finance

Date made: ……

ONTARIO FAIR HYDRO PLAN

PILS (TAX) RELIEF

MINISTER'S REGULATION

Confidential Draft for Discussion Purposes Only

ONTARIO FAIR HYDRO PLAN - PILS (TAX) RELIEF

PURPOSE

- A Minister's regulation under the *Electricity Act, 1998* is necessary to exempt Ontario Power Generation (OPG) from tax that may arise because of the financing arrangements for the Fair Hydro Plan (Plan).

- Providing a tax exemption to OPG would:

    - remove tax as a cost that must be passed on to consumers;

    - provide greater comfort to lenders that the loan will be repaid; and

    - be consistent with taxing only commercial activities.

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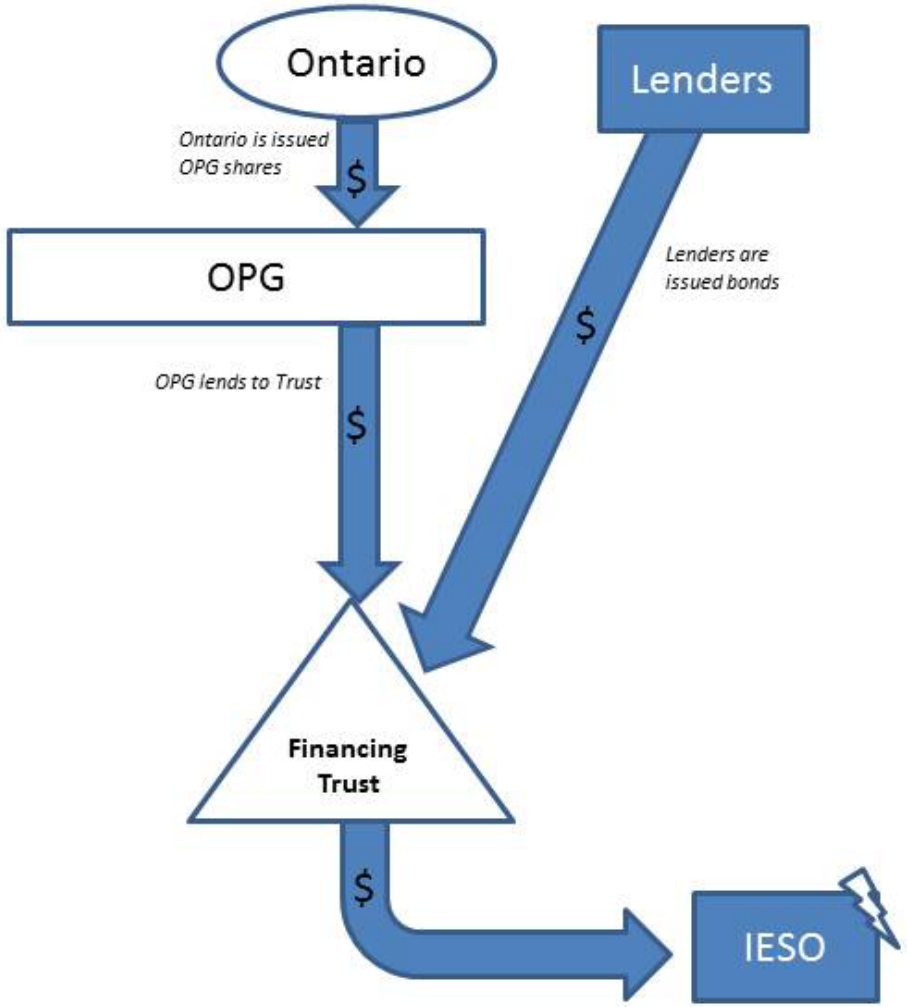
BASIC ILLUSTRATION OF THE FINANCING ARRANGEMENTS



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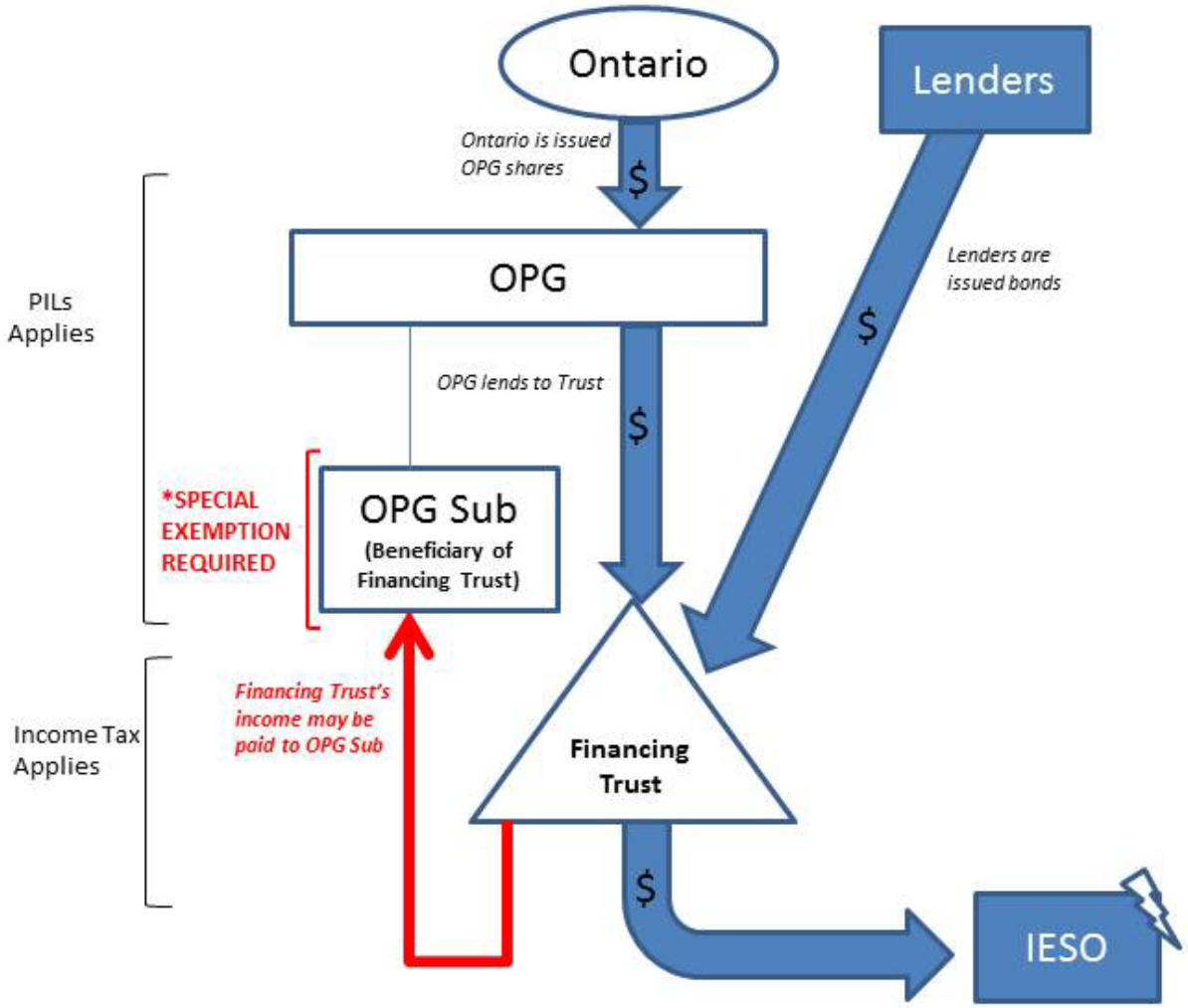
BASIC ILLUSTRATION OF THE PROPOSED TAX EXEMPTION FOR OPG



Confidential Draft for Discussion Purposes Only

APPENDIX A

OVERVIEW OF THE ONTARIO FAIR HYDRO PLAN

- The government intends to lower consumer electricity bills by 25% for five years.

- The resulting decrease in revenue will reduce the amounts available to pay electricity generators. The shortfall will be corrected with money from a "financing entity" established under the Plan.

STRUCTURE OF THE PLAN

- OPG will establish a financing entity (or entities) for the purposes of the Plan.

- The first financing entity that will be established by OPG will be a trust (Trust).

- The Trust will be capitalized with funds from the Province and from capital market borrowing.

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- After the end of the 5-year holiday, the Trust would invoke the rights under the regulatory asset and begin to collect amounts from electricity consumers equal to the borrowed money, interest and other costs. The collected amounts would be used to repay lenders.

- After the end of the 5-year holiday, consumers' electricity bills would increase to reflect the full cost of generating electricity plus the cost of paying for the regulatory asset.

FUTURE FINANCING ACTIONS

- In the future, the financing actions described above may be repeated by the Trust, or by other financing entities that may be established under the Plan.

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TAXATION OF THE FINANCING ENTITY

- Generally, a trust is subject to regular federal and provincial taxation and not PILs. A trust is entitled to deduct from its income for tax purposes any income paid or payable to a beneficiary of the trust.

- For purposes of the Plan, OPG or a subsidiary of OPG would be the beneficiary of the Trust.

- Amounts paid to OPG or to an OPG subsidiary would allow the Trust to minimize or eliminate the regular federal and provincial income tax the Trust would otherwise have to pay.

- OPG or an OPG subsidiary would be subject to PILs on amounts received from the Trust.

- The proposed regulation would exempt OPG or an OPG subsidiary from having to pay PILs on the amounts received or receivable from the Trust.

APPENDIX C

INCOME OF THE FINANCING ENTITY

- The financing entity (initially, the Trust) is not anticipated to have significant taxable income over the financing period.

- However, the timing of the Trust's income and expenses may not match. This could result in significant income in some years that would be subject to federal and provincial tax.

BACKGROUND - PILS

- PILs tax is equivalent to regular federal and provincial income tax.

- PILs is paid by entities in the electricity industry that would otherwise be exempt from taxation, e.g., OPG and subsidiaries of OPG.

- PILs is intended to put such entities on a level playing field with private sector entities in the electricity industry.

From: Nelms, Scott (MOF)
To: Ronald Kwan; John Kim
Subject: PILs Exemptions
Date: Tuesday, April 25, 2017 3:49:19 PM

Hi Ron, John,

I wanted to keep you apprised of where we are with Tax Policy on OPG's request for specific PILs exemptions as part of OFHP. See below for details – we are hoping to punt to regulations.

Thanks,
Scott

From: Nelms, Scott (MOF)
Sent: April 25, 2017 3:25 PM
To: 'Hill, Krista'; john.s.lee@opg.com
Cc: RYFA Ken -TREASURY; WONG Leslie -LAWDIV; Wortsman, Jerald; Watson, Gwen; Feldman, Michael; Calwell, Carolyn (ENERGY/MEDEI/MRI); Rehob, James (ENERGY)
Subject: RE: Comments

Hi Krista, John,

We shared your ask with Finance Tax Policy and they have been mulling this over for the past few days. We had a conversation this morning and I wanted to provide a synopsis of that call:

- Tax Policy is of the view that if this is structured as a Trust will be a taxable entity under the Income Tax Act. However, because OPG is the beneficiary of the Trust, it will not pay any taxes. For greater certainty, Tax Policy suggested seeking a ruling from CRA. If necessary, we could seek an exemption from CRA (there is precedent with the Nuclear Funds Trust). Please let me know whether that is consistent with your assessment.
- Since all income from the Trust will flow to OPG, all revenues would be subject to PILs (unless we take action to make specific exemptions).
- As we discussed last week, we have proposed the language that you provided with PILs exemptions for specific earning streams from the trust.
- Tax Policy has a number of questions about how to define those exempted revenue streams and the rationale for those exemptions. They want considerably more detail and more time to consider this issue.
- According to Tax Policy, existing Legislation (James I will leave it to you to describe) provides authority to set out PILs exemptions in regulations. Therefore they suggest we do not need to add anything in to the OFHP legislation at this time. That will provide time to more fully consider the issue and discuss the need for these exemptions.
- I suggested I was generally comfortable with this approach, subject to input from OPG and Torys. I think it is better for us to have more time and the flexibility to include these provisions in regulations. Given where we are in the process, I think we are out of time to settle legislative language that will work for Tax Policy.

James, please feel free to add / modify if I missed anything. Please let us know ASAP if you have concerns.

Scott

From:	Nelms, Scott (MOF)
To:	Sriram Subrahmanyan (MOF); Ronald Kwan; Robin Lewis (MOF); John Kim
Subject:	Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Wednesday, May 31, 2017 1:10:33 PM
Attachments:	Memo re_ PILs Exemption.DOCX

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

Thanks,
Scott

Scott Nelms
Electricity Investment and Governance Secretariat | Ministry of Finance
7th Floor | 375 University ave. | Toronto, ON
w: (416) 212-6469 | c: (647) 330-2681
scott.nelms@ontario.ca

TORYS LLP

MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

To	Ontario Power Generation Inc.	**Date**	May 17, 2017
From	Torys LLP, Toronto Tax		
Re	Fair Hydro Plan – PILs Exemption		

As part of the Fair Hydro Plan (the "Plan"), it is expected that Ontario Power Generation Inc. will act as the financial services manager and that Ontario Power Generation Inc., or a wholly-owned corporate subsidiary of Ontario Power Generation Inc. (in either case, "OPG"), will establish one or more new financing entities that will raise debt to acquire "investment assets" from the IESO. A Bill to implement the Plan has been introduced to the Provincial Legislature [1] and there is flexibility under the Bill for the new financing entity to be a corporation, a trust, a limited partnership or a partnership.

We understand that the Province would like to minimize, to the extent possible, Federal and Provincial taxes and "payments in lieu of taxes" ("PILs") under the *Electricity Act, 1998* (Ontario) (the "OEA") payable by a financing entity as the costs of any of those taxes payable by a financing entity will be passed on to ratepayers through the collection of the clean energy adjustment under the Bill and the associated regulations. Accordingly, we understand that the Province is considering the possibility of making regulation changes to exempt the income arising as a consequence of the Plan from PILs. In order to assist the Province in their consideration of this regulation change, including the scope of any such amendment, we have set out below a summary of: (i) the tax treatment of the income of the financing entity under the *Income Tax Act* (Canada) (the "ITA"), the *Taxation Act, 2007* (Ontario) (the "OTA"), and the OEA, (ii) certain matters relating to the computation of the financing entity's income for tax purposes, and (iii) our recommendations with respect to how the Province can ensure that PILs arising from the Plan are minimized.

It is also important to note that Ontario Power Generation Inc. will not bear any of the tax costs arising as a consequence of participating in the Plan. If there are any tax costs, they will be borne by ratepayers through the clean energy adjustment.

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[1] Bill 132, *An Act to enact the Ontario Fair Hydro Plan Act, 2017 and to make amendments to the Electricity Act, 1998 and the Ontario Energy Board Act, 1998*, 2nd Sess, 41st Leg, Ontario, 2017 (first reading May 11, 2017).

Tax Treatment of Income of Financing Entity

As noted above, there is flexibility in the draft legislation to implement the Plan relating to the form of a financing entity. What follows is a summary of the tax treatment of the income of the financing entity if it is a corporation, a trust or a limited partnership/partnership, as well as the tax treatment of amounts paid or allocated to OPG as a shareholder, beneficiary or a partner, respectively, of the financing entity:

Form of Financing Entity / OPG	Treatment of Income under ITA/OTA	Income Subject to PILs
Corporation	-Income of the corporation should be exempt from tax	Yes
OPG as shareholder of corporation[2]	-Dividends paid to OPG should be exempt from tax	Yes
Trust	-Income should be subject to tax, although the trust can reduce its income by the amount of its income which is paid or made payable to its beneficiaries	No
OPG as beneficiary of trust	-Trust income paid or made payable to OPG as a beneficiary should be exempt from tax	Yes
Limited Partnership/Partnership	-Limited Partnership/Partnership is not generally a "taxpayer" although income is computed at the partnership level and allocated to partners for tax purposes	No
OPG as partner of limited partnership/partnership	-Partnership income allocated to OPG as a partner should be exempt from tax	Yes

As summarized, if the financing entity is a corporation, the income of this corporation would be subject to PILs, and further, any amounts paid or allocated by the financing entity to OPG, as a shareholder, beneficiary or limited partner/partner of the financing entity, would similarly be subject to PILs. Consequently, any regulation change to exempt the income of the financing entity from PILs under the OEA should be broad enough to accommodate the three possible forms of financing entity and address PILs at both the financing entity level (in the case of a corporation) and the shareholder, beneficiary and limited partner/partner level.

[2] We note that corporations are generally entitled to claim a deduction under section 112 of the ITA (and any OTA equivalent) equal to the amount of taxable dividends received from another Canadian corporation, with the result that taxable dividends are generally not subject to tax under Part I of the ITA (and any OTA equivalent). To illustrate the scope of the PILs exemption under consideration by the Province, we have ignored this deduction in preparing this chart.

Income Computation Matters

As part of the Plan, it is expected that the financing entity will raise debt and acquire "investment assets" from the IESO. The investment assets do not appear to be debt instruments from a commercial perspective on the date they are acquired, but rather seem to be intangible assets. Given the unique nature of the investment assets, the tax analysis that is generally relied on by a financing entity in a typical securitization transaction (which involves interest-bearing debt obligations) is not applicable. There are no specific rules in the ITA or OTA which govern the manner which the investments assets should be treated for tax purposes, such that further analysis will need to be conducted in order to determine whether the investment assets are on income or capital account to the financing entity, and that the "cost" of the investment assets are appropriately recognized as a deduction or offset in computing the income of the financing entity.

In addition to the tax implications relating to the investments assets, the following additional matters, among others, are relevant in computing the income of the financing entity:

- In order to be deductible, an expense must satisfy the requisite income earning purpose test;

- Expenses which are owing to a non-arm's length person must be paid in a timely fashion so that the expense does not give rise to an income inclusion;

- Capital losses may generally only be offset against capital gains, such that consideration must be given to the character of the assets and liabilities of the financing entity to ensure there are no mismatches;

- If the financing entity incurs foreign-currency denominated debt, any related foreign currency hedging instrument will need to be sufficiently "linked" to the underlying debt to ensure capital treatment of the hedge; for example, if the period of the hedge does l not match the period of the related debt, the financing entity will realize gains or losses on the hedge that will not be offset with realized losses or gains on the debt; and

- If the financing entity is a trust, it will be necessary for interests in the trust to "vest indefeasibly" or be structured as units where at least 95% of the units, by fair market value, are redeemable on demand by the holder to ensure that the trust is not deemed to dispose of any capital property under the "21 year" rule.

Recommendations

In order to ensure that the taxes arising under the Plan are minimized so that the overall cost of the Plan (over its 30 or more years of existence) to ratepayers is minimized and to ensure that Ontario Power Generation Inc. is kept whole from tax costs arising as a consequence of participating in the Plan, the following exemptions from PILs are required:

1) If the financing entity is a trust: Any income paid or made payable to OPG by the trust should be exempt from PILs. If this PILs exemption is not promulgated, the income will

not be distributed out of the trust, tax will be payable by the trust on the income and the costs of that tax payable will be passed on to ratepayers through the clean energy adjustment. This will be a significant cost.

2) If the financing entity is a corporation: The corporate financing entity should be exempt from PILs and any dividends paid to OPG should be exempt from PILs. Again, if these PILs exemptions are not promulgated, no dividends will be paid to OPG and the costs of all PILs paid by the financing entity will be passed on to ratepayers through the clean energy adjustment. This will be a significant cost.

3) If the financing entity is a partnership or limited partnership, any income allocated to OPG should be exempt from PILs.

4) If the financing entity is any other form of special purpose vehicle, the income of such entity should be exempt from PILs and any income from such special purpose vehicle allocated, paid or taxable in the hands of OPG should be exempt from PILs.

From: Patel, Lesley (MOF)
To: Ronald Kwan; Usman Zahid
Subject: RE: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 3:14:59 PM
Attachments: 2017_12_11 OFHP PILs Relief Proposed Amendment.docx

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Hi Ron and Usman,

Our deck is attached. We've also included it in both the invites for tomorrow around this matter.

Cheers,
Lesley

From: Subrahmanyan, Sriram (MOF)
Sent: December 11, 2017 3:06 PM
To: Kwan, Ronald (OFA)
Cc: Patel, Lesley (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

Lesley will send you our deck - it goes right back to OPG's proposed structure. Is the Minister familiar enough with the overall plan that he won't need more context, or can you send us a few slides?

Thanks

Sriram

From: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Date: Monday, Dec 11, 2017, 2:52 PM
To: Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>, Waterston, Michael (MOF) <Michael.Waterston@ontario.ca>
Cc: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca>, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca>, Klassen, Daniela (MOF) <Daniela.Klassen@ontario.ca>, Roy, Douglas (MOF) <Douglas.Roy1@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi,

It's also Gadi's office's understanding that given the briefing on the guarantee a couple weeks ago, there is no additional briefing planned on that for our Minister.

Ron

From: Ronald Kwan
Sent: December-11-17 14:45
To: 'Patel, Lesley (MOF)' <Lesley.Patel@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
Cc: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF)

<Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi Lesley, Michael,

I believe the Ministers briefing on the "guarantee" (aka "Protection Agreement") that occurred two weeks ago may mean that once the final signing versions are available that there may just be separate signing meetings, not an additional briefing time. I can see if that's the case, but that would leave open when a PILs briefing could occur.

Ron

From: Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
Sent: December-11-17 14:02
To: Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi Michael and Ron,

Tagging on to an existing Fair Hydro briefing would be our preferred approach. Do we know if there are any briefings coming up?

We will also add this item to our DM/MO agenda for tomorrow to walk Kaj and Jamille through. We've included Marianne as well. We will forward the invite and provide a teleconference number as well – the meeting is currently scheduled for 1pm.

Best,
Lesley

From: Waterston, Michael (MOF)
Sent: December 7, 2017 3:26 PM
To: Patel, Lesley (MOF); Lewis, Robin (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

The DMO and MO may have already scheduled other briefings already re the Fair Hydro Plan, as I think the Minister is being asked to sign a guarantee. Maybe the PILs reg could be added to one of those briefings.

Michael

From: Patel, Lesley (MOF)
Sent: December 7, 2017 12:53 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

So this would be a joint briefing with Energy? It was not clear from the email.

If it's a joint briefing, then I think we would have to have an entirely separate meeting and a more formal briefing with DM/MO and yes, it would make sense to raise it on the call with them first.

From: Lewis, Robin (MOF)
Sent: December 7, 2017 12:47 PM
To: Patel, Lesley (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

Lesley,

I think we need to ask Energy if next Tuesday meets their timeline.

Perhaps this issue can be raised in the Sriram's call with Energy?

Regards,

Rob

From: Patel, Lesley (MOF)
Sent: December 7, 2017 12:24 PM
To: Langleben, Ann (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

We have our bi-weekly DM/MO briefing scheduled for next Tuesday – will that work? If so, I'll add it to the agenda.

Michael/Douglas, I can send you the invite and we can add a teleconference number. It's currently scheduled for Tuesday at 1pm.

From: Langleben, Ann (MOF)
Sent: December 7, 2017 10:48 AM
To: Patel, Lesley (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: Briefing re PILs exemption / OPG reg

Hi Lesley,

There were a few emails on this issue this morning. We should get some DMO / MO briefing time and invite those on this cc list.

I think the regulation, despite drafting issues, should be ready soon.

Rob / Daniela, we will need a briefing note that describes the proposed change, the rationale and considerations.

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ONTARIO FAIR HYDRO PLAN

PILS (TAX) RELIEF

MINISTER'S REGULATION

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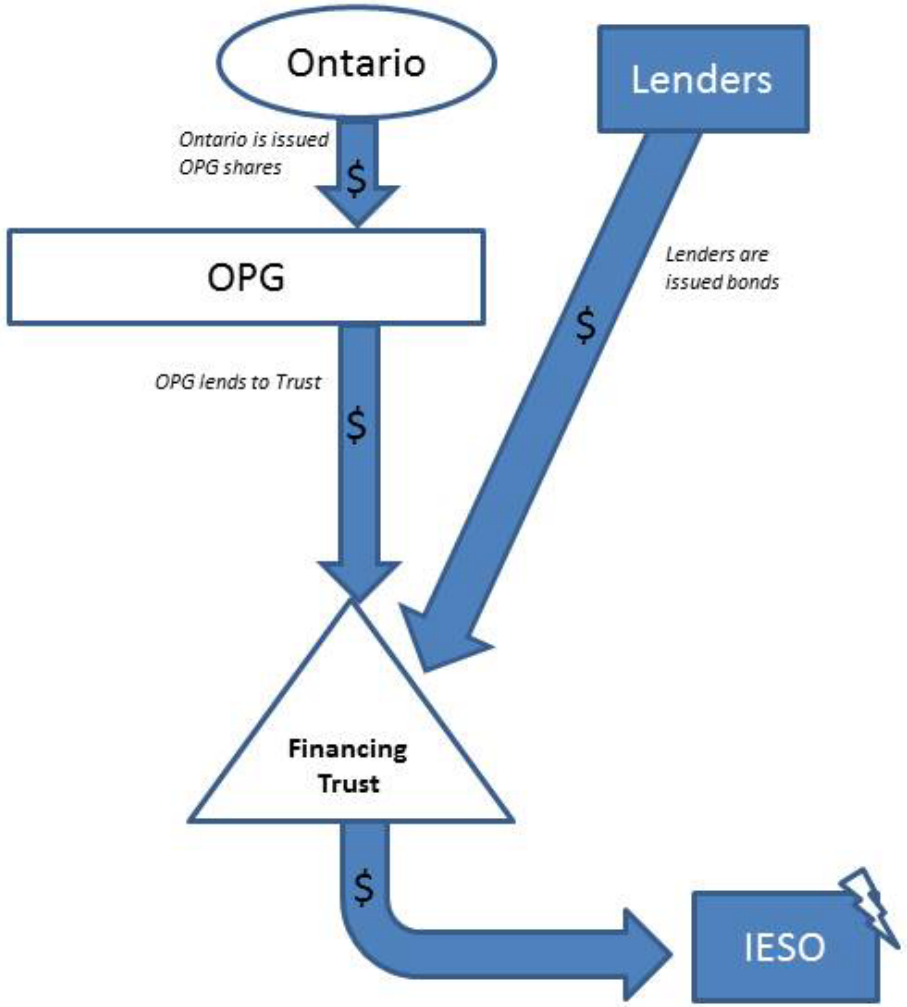

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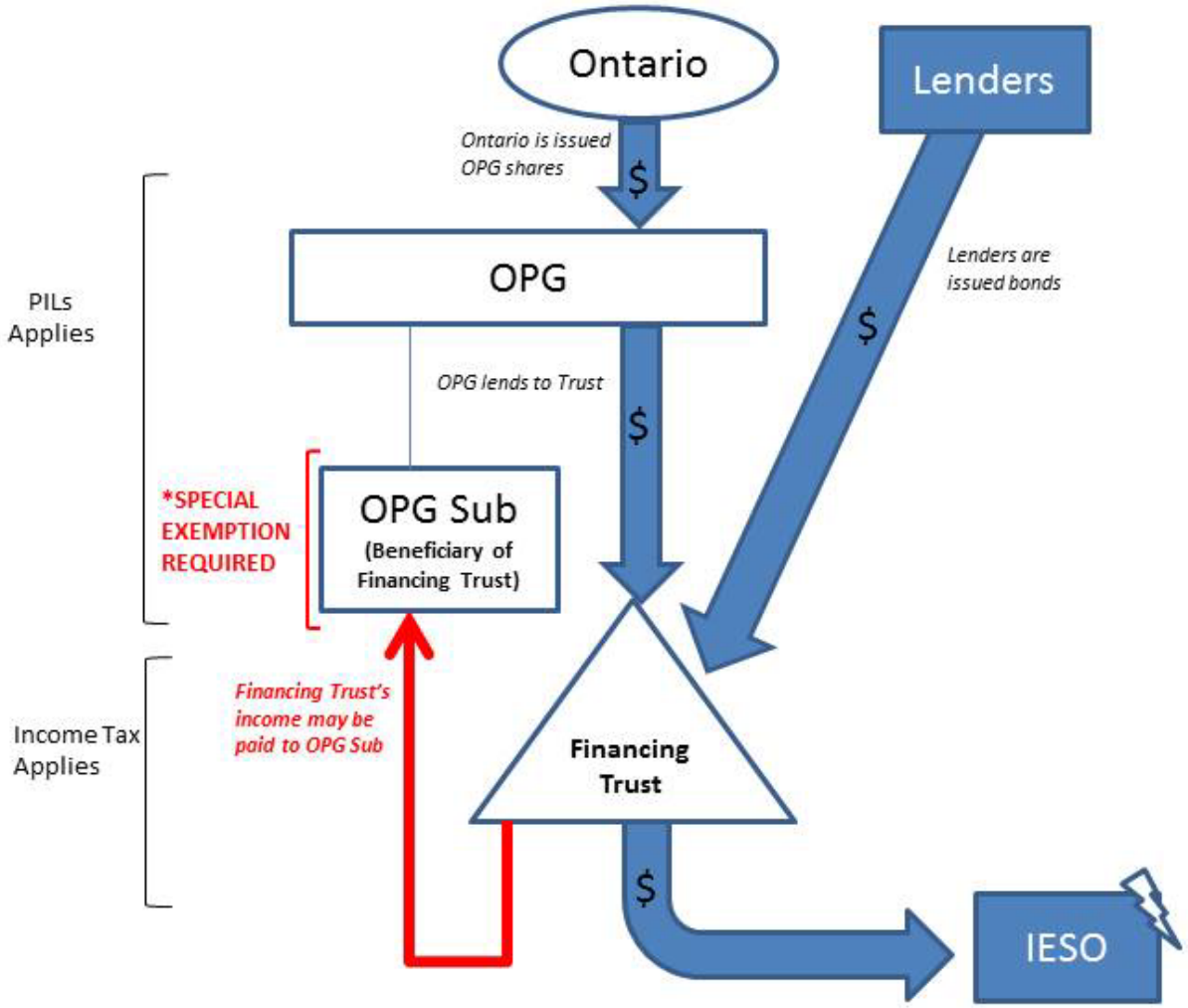

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- PILs is intended to put such entities on a level playing field with private sector entities in the electricity industry.

From: Ronald Kwan
To: Sriram Subrahmanyan (MOF)
Cc: Patel, Lesley (MOF); Usman Zahid
Subject: RE: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 3:12:29 PM

Hi Sriram,

I would say that the Minister is familiar with the overall Fair Hydro Plan, as he has had a number of briefings on it going back to last winter, as well as various briefing on implementation issues over the past number of months.

Aside from the Protection Agreement briefing that has already happened, we are trying to brief the Minister on another Fair Hydro Plan issue with respect to OEFC and NUG contracts. I believe Jonathan in the DMO has been trying to schedule that (it would just be with our Minister, not Energy). CC'ing Usman, should he have an update on trying to schedule that.

Ron

-----Original Message-----
From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
Sent: December-11-17 15:06
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Lesley will send you our deck - it goes right back to OPG's proposed structure. Is the Minister familiar enough with the overall plan that he won't need more context, or can you send us a few slides?

Thanks

Sriram

From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Monday, Dec 11, 2017, 2:52 PM
To: Patel, Lesley (MOF) <Lesley.Patel@ontario.ca<mailto:Lesley.Patel@ontario.ca>>, Waterston, Michael (MOF) <Michael.Waterston@ontario.ca<mailto:Michael.Waterston@ontario.ca>>
Cc: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca<mailto:Ann.Langleben@ontario.ca>>, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>, Klassen, Daniela (MOF) <Daniela.Klassen@ontario.ca<mailto:Daniela.Klassen@ontario.ca>>, Roy, Douglas (MOF) <Douglas.Roy1@ontario.ca<mailto:Douglas.Roy1@ontario.ca>>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi,

It's also Gadi's office's understanding that given the briefing on the guarantee a couple weeks ago, there is no additional briefing planned on that for our Minister.

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From: Ronald Kwan
Sent: December-11-17 14:45
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Cc: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>
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To: Patel, Lesley (MOF); Lewis, Robin (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Subrahmanyan, Sriram (MOF)
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To: Ronald Kwan
Cc: Patel, Lesley (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 3:06:19 PM

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To:	"Patel, Lesley (MOF)"; Michael Waterston (MOF)
Cc:	Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Robin Lewis (MOF); Daniela Klassen (MOF); Douglas Roy (MOF)
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Date:	Monday, December 11, 2017 2:52:45 PM

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Subject:	RE: Briefing re PILs exemption / OPG reg
Date:	Monday, December 11, 2017 2:44:58 PM

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Subject:	RE: Briefing re PILs exemption / OPG reg
Date:	Monday, December 11, 2017 2:01:42 PM

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To: Patel, Lesley (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: Briefing re PILs exemption / OPG reg

Hi Lesley,

There were a few emails on this issue this morning. We should get some DMO / MO briefing time and invite those on this cc list.

I think the regulation, despite drafting issues, should be ready soon.

Rob / Daniela, we will need a briefing note that describes the proposed change, the rationale and considerations.

From: Bruno Amara
To: Ronald Kwan
Cc: Usman Zahid; John Kim
Subject: RE: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 3:44:12 PM
Attachments: 2017_12_11 OFHP PILs Relief Proposed Amendment.docx

---

Hi Ron

I don't have any issues with this. The idea is to exempt the OPG subsidiary from PILs in order to minimize ratepayer costs (i.e., PILs costs would have to be recovered from ratepayers). That would be consistent with the aim of the FHP.

I did have a question with respect to statements on pages 6 and 7 in regard to taxation of the financing entity – as opposed to the OPG subsidiary. It is unclear (to me) whether there is a possible exception where the Trust may be subject to significant tax and, if so, what the implications are for ratepayers.

(see red highlight) Page 6 suggests the Trust ability to minimize tax liability through payments of income to OPG or the subsidiary. Slide 7 talks about a possible income and expense mismatch in some years due to timing resulting in Trust income subject to tax. But can't the Trust still minimize tax liability in this case through payments to OPG or subsidiary?

Thanks
Bruno

From: Ronald Kwan
Sent: Monday, December 11, 2017 3:17 PM
To: Bruno Amara <Bruno.Amara@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: FW: Briefing re PILs exemption / OPG reg

Hi,

Any comments?

Thanks,
Ron

From: Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
Sent: December-11-17 15:15
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>

Subject: RE: Briefing re PILs exemption / OPG reg

Hi Ron and Usman,

Our deck is attached. We've also included it in both the invites for tomorrow around this matter.

Cheers,
Lesley

From: Subrahmanyan, Sriram (MOF)
Sent: December 11, 2017 3:06 PM
To: Kwan, Ronald (OFA)
Cc: Patel, Lesley (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

Lesley will send you our deck - it goes right back to OPG's proposed structure. Is the Minister familiar enough with the overall plan that he won't need more context, or can you send us a few slides?

Thanks

Sriram

From: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Date: Monday, Dec 11, 2017, 2:52 PM
To: Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>, Waterston, Michael (MOF) <Michael.Waterston@ontario.ca>
Cc: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca>, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca>, Klassen, Daniela (MOF) <Daniela.Klassen@ontario.ca>, Roy, Douglas (MOF) <Douglas.Roy1@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi,

It's also Gadi's office's understanding that given the briefing on the guarantee a couple weeks ago, there is no additional briefing planned on that for our Minister.

Ron

From: Ronald Kwan
Sent: December-11-17 14:45
To: 'Patel, Lesley (MOF)' <Lesley.Patel@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
Cc: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi Lesley, Michael,

I believe the Ministers briefing on the "guarantee" (aka "Protection Agreement") that occurred two weeks ago may mean that once the final signing versions are available that there may just be separate signing meetings, not an additional briefing time. I can see if that's the case, but that would leave open when a PILs briefing could occur.

Ron

From: Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
Sent: December-11-17 14:02
To: Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi Michael and Ron,

Tagging on to an existing Fair Hydro briefing would be our preferred approach. Do we know if there are any briefings coming up?

We will also add this item to our DM/MO agenda for tomorrow to walk Kaj and Jamille through. We've included Marianne as well. We will forward the invite and provide a teleconference number as well – the meeting is currently scheduled for 1pm.

Best,
Lesley

From: Waterston, Michael (MOF)
Sent: December 7, 2017 3:26 PM
To: Patel, Lesley (MOF); Lewis, Robin (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

The DMO and MO may have already scheduled other briefings already re the Fair Hydro Plan, as I think the Minister is being asked to sign a guarantee. Maybe the PILs reg could be added to one of those briefings.

Michael

From: Patel, Lesley (MOF)
Sent: December 7, 2017 12:53 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF)

Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

So this would be a joint briefing with Energy? It was not clear from the email.

If it's a joint briefing, then I think we would have to have an entirely separate meeting and a more formal briefing with DM/MO and yes, it would make sense to raise it on the call with them first.

From: Lewis, Robin (MOF)
Sent: December 7, 2017 12:47 PM
To: Patel, Lesley (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

Lesley,

I think we need to ask Energy if next Tuesday meets their timeline.

Perhaps this issue can be raised in the Sriram's call with Energy?

Regards,

Rob

From: Patel, Lesley (MOF)
Sent: December 7, 2017 12:24 PM
To: Langleben, Ann (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

We have our bi-weekly DM/MO briefing scheduled for next Tuesday – will that work? If so, I'll add it to the agenda.

Michael/Douglas, I can send you the invite and we can add a teleconference number. It's currently scheduled for Tuesday at 1pm.

From: Langleben, Ann (MOF)
Sent: December 7, 2017 10:48 AM
To: Patel, Lesley (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: Briefing re PILs exemption / OPG reg

Hi Lesley,

There were a few emails on this issue this morning. We should get some DMO / MO briefing time and invite those on this cc list.

I think the regulation, despite drafting issues, should be ready soon.

Rob / Daniela, we will need a briefing note that describes the proposed change, the rationale and considerations.

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ONTARIO FAIR HYDRO PLAN

PILS (TAX) RELIEF

MINISTER'S REGULATION

Confidential Draft for Discussion Purposes Only

ONTARIO FAIR HYDRO PLAN - PILS (TAX) RELIEF

PURPOSE

- A Minister's regulation under the *Electricity Act, 1998* is necessary to exempt Ontario Power Generation (OPG) from tax that may arise because of the financing arrangements for the Fair Hydro Plan (Plan).

- Providing a tax exemption to OPG would:

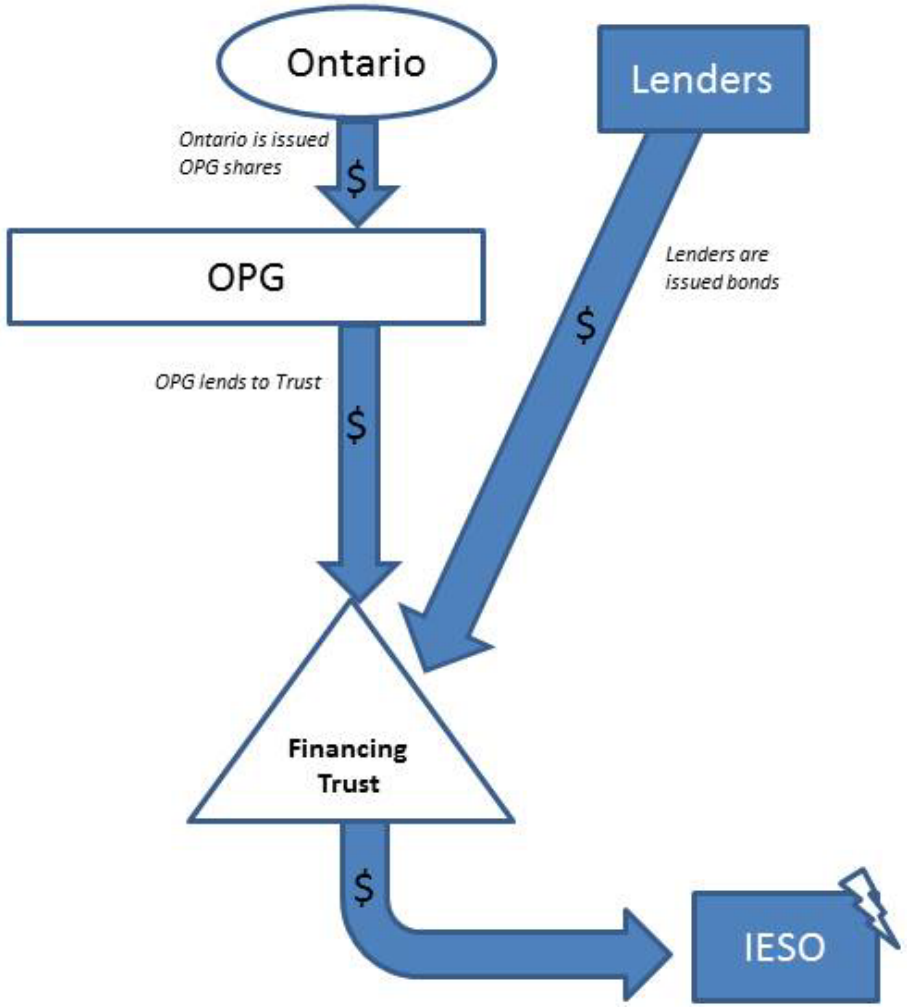
    - remove tax as a cost that must be passed on to consumers;

    - provide greater comfort to lenders that the loan will be repaid; and

    - be consistent with taxing only commercial activities.

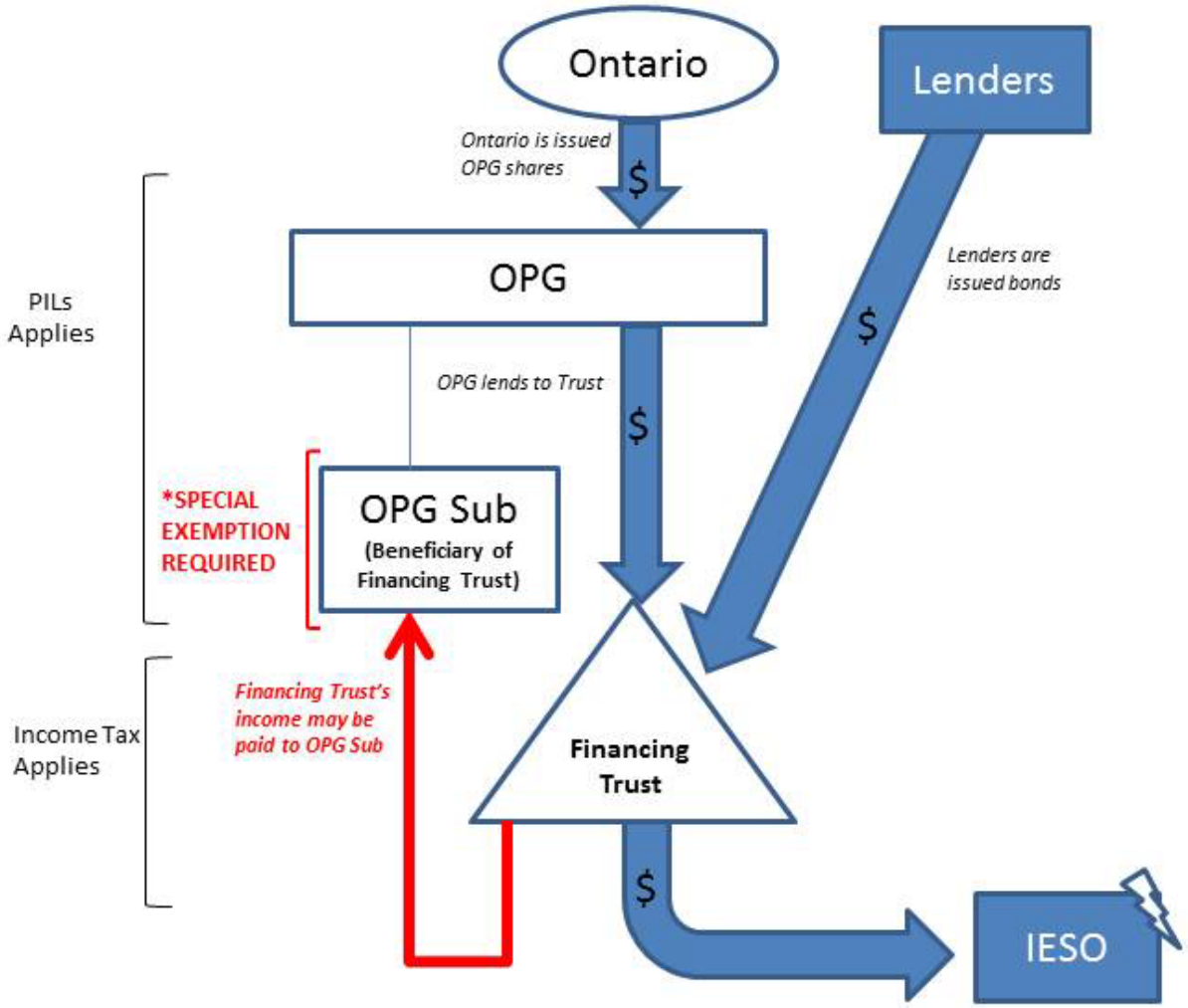
Confidential Draft for Discussion Purposes Only

BASIC ILLUSTRATION OF THE FINANCING ARRANGEMENTS



Confidential Draft for Discussion Purposes Only

BASIC ILLUSTRATION OF THE PROPOSED TAX EXEMPTION FOR OPG



Confidential Draft for Discussion Purposes Only

APPENDIX A

OVERVIEW OF THE ONTARIO FAIR HYDRO PLAN

- The government intends to lower consumer electricity bills by 25% for five years.

- The resulting decrease in revenue will reduce the amounts available to pay electricity generators. The shortfall will be corrected with money from a "financing entity" established under the Plan.

STRUCTURE OF THE PLAN

- OPG will establish a financing entity (or entities) for the purposes of the Plan.

- The first financing entity that will be established by OPG will be a trust (Trust).

- The Trust will be capitalized with funds from the Province and from capital market borrowing.

- The Trust will purchase a "regulatory asset" from the Independent Electricity System Operator (IESO). The regulatory asset will be the right to collect amounts from electricity consumers.

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APPENDIX

LOAN REPAYMENT AFTER THE 5-YEAR "HOLIDAY"

- After the end of the 5-year holiday, the Trust would invoke the rights under the regulatory asset and begin to collect amounts from electricity consumers equal to the borrowed money, interest and other costs. The collected amounts would be used to repay lenders.

- After the end of the 5-year holiday, consumers' electricity bills would increase to reflect the full cost of generating electricity plus the cost of paying for the regulatory asset.

FUTURE FINANCING ACTIONS

- In the future, the financing actions described above may be repeated by the Trust, or by other financing entities that may be established under the Plan.

APPENDIX B

TAXATION OF THE FINANCING ENTITY

- Generally, a trust is subject to regular federal and provincial taxation and not PILs. A trust is entitled to deduct from its income for tax purposes any income paid or payable to a beneficiary of the trust.

- For purposes of the Plan, OPG or a subsidiary of OPG would be the beneficiary of the Trust.

- Amounts paid to OPG or to an OPG subsidiary would allow the Trust to minimize or eliminate the regular federal and provincial income tax the Trust would otherwise have to pay.

- OPG or an OPG subsidiary would be subject to PILs on amounts received from the Trust.

- The proposed regulation would exempt OPG or an OPG subsidiary from having to pay PILs on the amounts received or receivable from the Trust.

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APPENDIX C

INCOME OF THE FINANCING ENTITY

- The financing entity (initially, the Trust) is not anticipated to have significant taxable income over the financing period.

- However, the timing of the Trust's income and expenses may not match. This could result in significant income in some years that would be subject to federal and provincial tax.

BACKGROUND - PILS

- PILs tax is equivalent to regular federal and provincial income tax.

- PILs is paid by entities in the electricity industry that would otherwise be exempt from taxation, e.g., OPG and subsidiaries of OPG.

- PILs is intended to put such entities on a level playing field with private sector entities in the electricity industry.

Confidential Draft for Discussion Purposes Only

From: Subrahmanyan, Sriram (MOF)
To: Ronald Kwan
Cc: Patel, Lesley (MOF); Robin Lewis (MOF); Ann Langleben (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan
Date: Tuesday, June 27, 2017 10:22:38 AM

No comments, thanks. Rob will attend. thanks

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 26, 2017 11:44 PM
To: Subrahmanyan, Sriram (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Hi Sriram,

Would you have any comments, particularly on the PILs slide? And will you be able to attend on Wednesday?

Ron

-----Original Message-----
From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
Sent: June-23-17 7:34 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Thanks, Ron.

From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Friday, Jun 23, 2017, 6:34 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>, Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Hi Scott,

As discussed, staff have been working on a briefing deck. It's still draft. Your comments would be most welcome. Looping in Sriram too, as there's a PILs slide, and comments on that would be welcome too.

Ron

From: Skoberne, Vivienne (MOF)
Sent: June 19, 2017 10:44 AM
To: Young, Gwendolynne (MOF)
Subject: DM/M briefing request - Ontario Fair Hydro Plan

Hi Gwen,

Please find below a request for a joint DM and Minister briefing on the Ontario Fair Hydro Plan implementation.

Meeting name and purpose:

Deputy and Minister Briefing: Ontario Fair Hydro Plan To provide a status update on the Fair Hydro Plan implementation, including items tracking to LRC June 27th.

Proposed meeting date:

June 22/23rd

Proposed meeting length:

30 Minutes

Internal attendees:

Minister Sousa
Marianne Nguyen
Scott Thompson
Dave McLean
Gwen Young
Nancy Kennedy
Vivienne Skoberne
Scott Nelms
Kaitlin Montgomery
Ron Kwan
Gavin He
John Kim
Gadi Mayman
Anna Strathy
Malle Hanslep
Tobias Whitfield

External attendees:

Materials (to be included in the request or to follow at a later date):

Deck (will follow at a later date)

Thanks.

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From: Nelms, Scott (MOF)
To: Ronald Kwan; Sriram Subrahmanyan (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan
Date: Sunday, June 25, 2017 10:05:06 PM

Hi Ron,

Thanks for passing this along. This looks good - lots of solid detail. I wonder about the sub-debt pricing and whether we could include anything from Capital Markets on that (may not be possible given timing).

In terms of format and structure, it sounds like the product is still evolving. I might would suggest streamlining some of the upfront context in order to allow for time to get in to the immediate decision points, as well as some of the issues that will come back shortly. I think we only at 30 min so might be difficult to get through everything.

Thanks again,
Scott

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June-23-17 6:35 PM
To: Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Hi Scott,

As discussed, staff have been working on a briefing deck. It's still draft. Your comments would be most welcome. Looping in Sriram too, as there's a PILs slide, and comments on that would be welcome too.

Ron

From: Skoberne, Vivienne (MOF)
Sent: June 19, 2017 10:44 AM
To: Young, Gwendolynne (MOF)
Subject: DM/M briefing request - Ontario Fair Hydro Plan

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Proposed meeting date:	June 22/23rd
Proposed meeting length:	30 Minutes
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External attendees:	
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From: Subrahmanyan, Sriram (MOF)
To: Ronald Kwan; Scott Nelms (ENERGY)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan
Date: Friday, June 23, 2017 7:34:08 PM

Thanks, Ron.

From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Friday, Jun 23, 2017, 6:34 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>, Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
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Hi Scott,

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Ron

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Sent: June 19, 2017 10:44 AM
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From:	Nelms, Scott (MOF)
To:	Ronald Kwan
Subject:	RE: DM/M briefing request - Ontario Fair Hydro Plan
Date:	Thursday, June 22, 2017 5:23:16 PM

Seems like a lot of time to spend for one slide, but they are more than welcome from my perspective.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 22, 2017 5:20 PM
To: Nelms, Scott (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Hi Scott,

Staff were seeking TPD input on a slide that talked about the PILs exemption request, and TPD has asked if they can attend.

Any issues with that on your end?

Ron

From: Ronald Kwan
Sent: June-20-17 10:09
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Hi Scott,

We had the deck for the OFA ARMC, which I believe you had discussed as being converted to a Minister's briefing deck, with a lot more on the decision points and issues for MOF. I believe staff are working on that, but I would think they would be looking for input from EIGS staff on certain topics.

Has a time been set yet?

Gwen should likely check in with Jonathan on the status of the OIC submission to LRC to enable borrowing room for the OFA to create a credit facility for IESO. I had understood that as of yesterday it was with the MO for signature.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: June-20-17 08:39
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>

Subject: FW: DM/M briefing request - Ontario Fair Hydro Plan

Hi Ron,

Per message below, is there anything the Minister needs to sign for OFHP LRC next week? I didn't think so, but you may be closer to this than I.

Also wanted to confirm your team is pulling together a product to brief the Minister. I heard that was the case, but thought I would double check.

Thanks,
Scott

From: Skoberne, Vivienne (MOF)
Sent: June 20, 2017 8:34 AM
To: Montgomery, Kaitlin (MOF)
Cc: Nelms, Scott (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Good morning – bringing this question back to the top of your inbox.

Vivienne

Vivienne Skoberne
Office of Government Business Enterprises & Strategic Initiatives I Associate Deputy Minister's Office I Ministry of Finance
T:416-212-8063 | C:647-629-8351
vivienne.skoberne@ontario.ca

From: Skoberne, Vivienne (MOF)
Sent: June-19-17 11:19 AM
To: Montgomery, Kaitlin (MOF)
Cc: Nelms, Scott (MOF)
Subject: FW: DM/M briefing request - Ontario Fair Hydro Plan

Hello – the DMO is asking what items are tracking to LRC and if DM or Minister approval of these items is required.

Vivienne

Vivienne Skoberne
Office of Government Business Enterprises & Strategic Initiatives I Associate Deputy Minister's Office I Ministry of Finance
T:416-212-8063 | C:647-629-8351
vivienne.skoberne@ontario.ca

From: Young, Gwendolynne (MOF)
Sent: June-19-17 11:17 AM

To: Skoberne, Vivienne (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Hi Vivienne,

What is tracking to LRC and does the Minister or DM need to sign off?

Gwen Young
p: 416.325.0741 | bb: 647.982.2419

From: Skoberne, Vivienne (MOF)
Sent: June 19, 2017 10:44 AM
To: Young, Gwendolynne (MOF)
Subject: DM/M briefing request - Ontario Fair Hydro Plan

Hi Gwen,

Please find below a request for a joint DM and Minister briefing on the Ontario Fair Hydro Plan implementation.

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	Tobias Whitfield
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From: Lewis, Robin (MOF)
To: Ronald Kwan
Cc: Patel, Lesley (MOF); Ann Langleben (MOF); Sriram Subrahmanyan (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan
Date: Tuesday, June 27, 2017 10:29:37 AM

Ron,

Can you send me a meeting invite?

Regards,

Rob

-----Original Message-----
From: Subrahmanyan, Sriram (MOF)
Sent: June 27, 2017 10:22 AM
To: Kwan, Ronald (OFA)
Cc: Patel, Lesley (MOF); Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

No comments, thanks. Rob will attend. thanks

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 26, 2017 11:44 PM
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Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

Thanks, Ron.

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Date: Friday, Jun 23, 2017, 6:34 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>, Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: DM/M briefing request - Ontario Fair Hydro Plan

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Please find below a request for a joint DM and Minister briefing on the Ontario Fair Hydro Plan implementation.

Meeting name and purpose:

Deputy and Minister Briefing: Ontario Fair Hydro Plan To provide a status update on the Fair Hydro Plan implementation, including items tracking to LRC June 27th.

Proposed meeting date:

June 22/23rd

Proposed meeting length:

30 Minutes

Internal attendees:

Minister Sousa
Marianne Nguyen
Scott Thompson
Dave McLean
Gwen Young
Nancy Kennedy
Vivienne Skoberne
Scott Nelms
Kaitlin Montgomery
Ron Kwan
Gavin He
John Kim
Gadi Mayman
Anna Strathy
Malle Hanslep
Tobias Whitfield

External attendees:

Materials (to be included in the request or to follow at a later date):

Deck (will follow at a later date)

Thanks.

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From: John Kim
To: Ronald Kwan
Subject: RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date: Monday, June 12, 2017 3:14:21 PM

Hi Ron,

A comfort letter would be a significant step in my view. While not a certainty, a TPD letter providing comfort [establishing that no activity would result in tax liability ranking ahead of security holders] would be material to ratings agencies. Just not sure how that is done but if TPD can assure them that without putting those changes in place or motion.

John

From: Ronald Kwan
Sent: Monday, June 12, 2017 3:09 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Fwd: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan

Hi John,

FYI, ands any view on a comfort letter vis-a-vis rating agencies?

Ron

Begin forwarded message:

> **From:** "Langleben, Ann (MOF)" <Ann.Langleben@ontario.ca>
> **Date:** June 12, 2017 at 2:55:39 PM EDT
> **To:** "Waterston, Michael (MOF)" <Michael.Waterston@ontario.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Cc:** "Lewis, Robin (MOF)" <Robin.Lewis@ontario.ca>, "Klassen, Daniela (MOF)" <Daniela.Klassen@ontario.ca>
> **Subject: FW: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan**
>
> Hi Michael, not sure if this has been forwarded to you or someone in your Branch. I just wanted you to be aware.
>
> CCTB involvement in this issue relates to a potential exemption for the entity. We are hindered in our ability to create one, since the structure has not been finalized and the options are still quite broad.
>
> Ron, we met with Sriram and he has asked me to contact you about whether a "comfort letter" regarding the tax issue would be sufficient for the credit rating agencies. If you have a minute later today, perhaps we can connect by phone (unless there is a straightforward answer).

From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
Sent: June-12-17 12:22 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA); MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
Subject: RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan

During today's call there was a general reference to potential credit rating agency concerns. That concern may not have come across clearly enough and here is some perspective on the specific concern. Given that this structure is very unique in the Canadian environment the credit rating agency will likely request a legal opinion – tax neutrality or run flat for tax – establishing that any activity of the financing entity will not result in a tax liability that would rank ahead of security holders.

-----Original Appointment-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, June 07, 2017 3:09 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
Subject: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
When: Monday, June 12, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 416-212-8013 Passcode 4075747# (SN MC 6665#)

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From:	RYFA Ken -TREASURY
To:	Scott Nelms (ENERGY); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF); Sriram Subrahmanyan (MOF); Montgomery, Kaitlin (MOF); Colleen Waddell (ENERGY); Gavin He; MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
Subject:	RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date:	Monday, June 12, 2017 12:22:00 PM

During today's call there was a general reference to potential credit rating agency concerns. That concern may not have come across clearly enough and here is some perspective on the specific concern. Given that this structure is very unique in the Canadian environment the credit rating agency will likely request a legal opinion – tax neutrality or run flat for tax – establishing that any activity of the financing entity will not result in a tax liability that would rank ahead of security holders.

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Sent: Wednesday, June 07, 2017 3:09 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
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From:	Waterston, Michael (MOF)
To:	Ronald Kwan; Ann Langleben (MOF)
Cc:	Robin Lewis (MOF); Daniela Klassen (MOF); John Kim
Subject:	RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date:	Monday, June 12, 2017 3:19:44 PM

Thanks Ann. It appears from the emails below that external legal counsel will be asked to provide a legal opinion on the application of the PILs regime.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 12, 2017 3:13 PM
To: Langleben, Ann (MOF)
Cc: Waterston, Michael (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA)
Subject: Re: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan

Hi Ann,

I'm in a meeting right now. Not sure about a comfort letter's impact. I'd need to consult. And the view and experience of our IR folks may not reflect the particularities of this planned financing entity.

Ron

On Jun 12, 2017, at 2:55 PM, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca> wrote:

> Hi Michael, not sure if this has been forwarded to you or someone in your Branch. I just wanted you to be aware.
>
> CCTB involvement in this issue relates to a potential exemption for the entity. We are hindered in our ability to create one, since the structure has not been finalized and the options are still quite broad.
>
> Ron, we met with Sriram and he has asked me to contact you about whether a "comfort letter" regarding the tax issue would be sufficient for the credit rating agencies. If you have a minute later today, perhaps we can connect by phone (unless there is a straightforward answer).
>
> **From:** RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> **Sent:** June-12-17 12:22 PM
> **To:** Nelms, Scott (MOF); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA); MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
> **Subject:** RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
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To: Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie - LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
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From: John Kim
To: Scott Nelms (ENERGY); Ronald Kwan; Robin Lewis (MOF)
Cc: Bruno Amara; Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 11:38:33 AM

Hi Rob,

I will give you a call this afternoon.

John

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Thursday, April 20, 2017 11:26 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

My day is jammed so please go ahead and chat as soon as possible. Include us on the invite and we will try to make it. If helpful we can also have a follow on with ENE, OPG, Torys.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: April 20, 2017 9:21 AM
To: Lewis, Robin (MOF)
Cc: Nelms, Scott (MOF); Kim, John (OFA); Bruno Amara; Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Scott, Rob,

Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?

Scott, if you're busy, staff here could provide Rob some context if you're not available.

Ron

On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Scott,
>
> The proposal appears to have some characteristics of a tax avoidance scheme.
>
> The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
>
> I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.
>
> We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
>
> This matter ought to be the subject of a ruling request.
>
> Regards,
>
> Rob Lewis
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 19, 2017 5:48 PM
> **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Rob, John Bruno,
>
> Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
>
> Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
>
> Thanks very much and apologies for the short notice,
> Scott
>
> Scott Nelms
> Electricity Investment and Governance Secretariat | Ministry of Finance
> 7th Floor | 375 University ave. | Toronto, ON
> w: (416) 212-6469 | c: (647) 330-2681
> scott.nelms@ontario.ca
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** April 18, 2017 9:24 AM
> **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi,
>
> Please loop in John and Bruno too.
>
> Thanks,
> Ron
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** April-17-17 12:53 PM
> **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Certainly. Will do.
>
> ---
>
> **From:** Subrahmanyan, Sriram (MOF)
> **Sent:** April-17-17 12:52 PM
> **To:** Nelms, Scott (MOF); Kwan, Ronald (OFA)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Could you include Rob in your discussions, so we know exactly what they're proposing?
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 17, 2017 12:50 PM
> **To:** Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)

Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
> > > Hi Ron, Gadi,
> > >
> > > I hope you are enjoying the long weekend.
> > >
> > > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> > >
> > > Thanks,
> > > Scott
> > >
> > > -----Original Message-----
> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > > Sent: April-15-17 1:16 PM
> > > To: Nelms, Scott (MOF)
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Scott,
> > > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > > Thanks,
> > > Ken
> > >
> > > -----Original Message-----
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***
> > >
> > > Hi Ryan,
> > >
> > > I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?
> > >
> > > Thanks,
> > > Scott

Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFl0Cr1_eykjn9FtiQ&r=lYquIJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>

Date: Thursday, Apr 13, 2017, 6:50 PM

To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>

Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.

Thanks,

Ken

_____

_____

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From: Subrahmanyan, Sriram (MOF)
To: Scott Nelms (ENERGY); Ronald Kwan
Cc: Ann Langleben (MOF); Robin Lewis (MOF); Daniela Klassen (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Monday, April 17, 2017 12:52:19 PM

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

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Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
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Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

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> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
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> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
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> > Sent: Thursday, April 13, 2017 8:19 PM
> > To: RYFA Ken -TREASURY

Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV

Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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Date: Thursday, Apr 13, 2017, 6:50 PM

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Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

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Cc: Ann Langleben (MOF); Robin Lewis (MOF); Daniela Klassen (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Monday, April 17, 2017 12:50:39 PM

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From: Nelms, Scott (MOF)
To: Ronald Kwan; Robin Lewis (MOF)
Cc: John Kim; Bruno Amara; Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 11:26:11 AM

My day is jammed so please go ahead and chat as soon as possible. Include us on the invite and we will try to make it. If helpful we can also have a follow on with ENE, OPG, Torys.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: April 20, 2017 9:21 AM
To: Lewis, Robin (MOF)
Cc: Nelms, Scott (MOF); Kim, John (OFA); Bruno Amara; Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Scott, Rob,

Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?

Scott, if you're busy, staff here could provide Rob some context if you're not available.

Ron

On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Scott,
>
> The proposal appears to have some characteristics of a tax avoidance scheme.
>
> The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
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> I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.
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> We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
>
> This matter ought to be the subject of a ruling request.
>
> Regards,
>
> Rob Lewis
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 19, 2017 5:48 PM
> **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Rob, John Bruno,
>
> Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
>
> Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
>
> Thanks very much and apologies for the short notice,
> Scott
>
> Scott Nelms
> Electricity Investment and Governance Secretariat | Ministry of Finance
> 7th Floor | 375 University ave. | Toronto, ON
> w: (416) 212-6469 | c: (647) 330-2681
> scott.nelms@ontario.ca
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** April 18, 2017 9:24 AM
> **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi,
>
> Please loop in John and Bruno too.
>
> Thanks,
> Ron
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** April-17-17 12:53 PM
> **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Certainly. Will do.
>
> ---
>
> **From:** Subrahmanyan, Sriram (MOF)
> **Sent:** April-17-17 12:52 PM
> **To:** Nelms, Scott (MOF); Kwan, Ronald (OFA)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Could you include Rob in your discussions, so we know exactly what they're proposing?
>
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> **From:** Nelms, Scott (MOF)
> **Sent:** April 17, 2017 12:50 PM
> **To:** Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
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> Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.
>
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> **From:** Subrahmanyan, Sriram (MOF)
> **Sent:** April-17-17 12:11 PM
> **To:** Kwan, Ronald (OFA)
> **Cc:** Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
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> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
> > > Hi Ron, Gadi,
> > >
> > > I hope you are enjoying the long weekend.
> > >
> > > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> > >
> > > Thanks,
> > > Scott
> > >
> > > -----Original Message-----
> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > > Sent: April-15-17 1:16 PM
> > > To: Nelms, Scott (MOF)
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Scott,
> > > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > > Thanks,
> > > Ken
> > >
> > > -----Original Message-----
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***
> > >
> > > Hi Ryan,
> > >
> > > I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?
> > >
> > > Thanks,
> > > Scott
> > >
> > > Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBApRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYquIJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN088&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)
> > >
> > > From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
> > > Date: Thursday, Apr 13, 2017, 6:50 PM
> > > To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> > > Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
> > > Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.

Thanks,

Ken

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From: John Kim
To: Ronald Kwan
Cc: Bruno Amara
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 9:30:51 AM

Thanks, we want to weigh in on this, if possible, and given that Rob L. essentially having requested more info buys us time.

From: Ronald Kwan
Sent: Thursday, April 20, 2017 9:30 AM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi John,

Understood.

Ron

From: John Kim
Sent: April-20-17 09:22
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Ron,

Fyi, we are a bit jammed too…..later this afternoon would potentially work.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, April 20, 2017 9:21 AM
To: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Scott, Rob,

Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?

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> Rob Lewis
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> **Sent:** April 19, 2017 5:48 PM
> **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
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> Ron
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> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** April-17-17 12:53 PM
> **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>

Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Certainly. Will do.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:52 PM
To: Nelms, Scott (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

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Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

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Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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Would Ann and Rob be the right people to loop in on this?

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> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
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> > >
> > > Thanks,
> > > Scott
> > >
> > > -----Original Message-----
> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > > Sent: April-15-17 1:16 PM
> > > To: Nelms, Scott (MOF)
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Scott,
> > > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > > Thanks,
> > > Ken
> > >
> > > -----Original Message-----
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY

Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi Ryan,

I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYquIJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
Date: Thursday, Apr 13, 2017, 6:50 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
Subject: Fair Hydro Plan - question on taxation

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I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.
Thanks,
Ken

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From: Ronald Kwan
To: John Kim
Cc: Bruno Amara
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 9:29:31 AM

Hi John,

Understood.

Ron

From: John Kim
Sent: April-20-17 09:22
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Ron,

Fyi, we are a bit jammed too…..later this afternoon would potentially work.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, April 20, 2017 9:21 AM
To: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Scott, Rob,

Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?

Scott, if you're busy, staff here could provide Rob some context if you're not available.

Ron

On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Scott,
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> The proposal appears to have some characteristics of a tax avoidance scheme.
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> The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
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> We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
>
> This matter ought to be the subject of a ruling request.
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> Regards,
>
> Rob Lewis
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 19, 2017 5:48 PM
> **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Rob, John Bruno,
>
> Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
>
> Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
>
> Thanks very much and apologies for the short notice,
> Scott
>
> Scott Nelms
> Electricity Investment and Governance Secretariat | Ministry of Finance
> 7th Floor | 375 University ave. | Toronto, ON
> w: (416) 212-6469 | c: (647) 330-2681
> scott.nelms@ontario.ca
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** April 18, 2017 9:24 AM
> **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
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> Hi,
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> Please loop in John and Bruno too.
>
> Thanks,
> Ron
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** April-17-17 12:53 PM
> **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Certainly. Will do.
>
> ---
>
> **From:** Subrahmanyan, Sriram (MOF)
> **Sent:** April-17-17 12:52 PM
> **To:** Nelms, Scott (MOF); Kwan, Ronald (OFA)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
> > > Hi Ron, Gadi,
> > >
> > > I hope you are enjoying the long weekend.
> > >
> > > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
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> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
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Date: Thursday, Apr 13, 2017, 6:50 PM
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Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
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From: John Kim
To: Ronald Kwan
Cc: Bruno Amara
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 9:22:10 AM

Hi Ron,

Fyi, we are a bit jammed too…..later this afternoon would potentially work.

Thanks,

John

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Sent: Thursday, April 20, 2017 9:21 AM
To: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Scott, Rob,

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Scott, if you're busy, staff here could provide Rob some context if you're not available.

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> **Sent:** April 19, 2017 5:49 PM
> **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
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> Electricity Investment and Governance Secretariat | Ministry of Finance
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> w: (416) 212-6469 | c: (647) 330-2681
> scott.nelms@ontario.ca
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> **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
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Sent: April-17-17 12:11 PM
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Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

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Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

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> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
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> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
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> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
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From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>

Date: Thursday, Apr 13, 2017, 6:50 PM

To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>

Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

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Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.

Thanks,

Ken

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From: Lewis, Robin (MOF)
To: Scott Nelms (ENERGY); John Kim; Bruno Amara
Cc: Ronald Kwan; Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 8:46:48 AM

Scott,

The proposal appears to have some characteristics of a tax avoidance scheme.

The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.

I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.

We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.

This matter ought to be the subject of a ruling request.

Regards,

Rob Lewis

From: Nelms, Scott (MOF)
Sent: April 19, 2017 5:48 PM
To: Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
Cc: Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Rob, John Bruno,

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Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.

Thanks very much and apologies for the short notice,
Scott

Scott Nelms
Electricity Investment and Governance Secretariat | Ministry of Finance
7th Floor | 375 University ave. | Toronto, ON
w: (416) 212-6469 | c: (647) 330-2681
scott.nelms@ontario.ca

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Sent: April 18, 2017 9:24 AM
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Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
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Please loop in John and Bruno too.

Thanks,
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To: Robin Lewis (MOF); John Kim; Bruno Amara
Cc: Ronald Kwan; Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Wednesday, April 19, 2017 5:47:48 PM
Attachments: 23344385_4.docx
Blackline_23344385v1 - 23344385_4.pdf

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Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,

I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.

Ron

On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:

> Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
>
> > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> >
> > Hi Ron, Gadi,
> >
> > I hope you are enjoying the long weekend.
> >
> > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> >
> > Thanks,
> > Scott
> >
> > -----Original Message-----
> > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > Sent: April-15-17 1:16 PM
> > To: Nelms, Scott (MOF)
> > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Scott,
> > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > Thanks,
> > Ken
> >
> > -----Original Message-----
> > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > Sent: Thursday, April 13, 2017 8:19 PM
> > To: RYFA Ken -TREASURY
> > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***
> >
> > Hi Ryan,
> >
> > I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?
> >
> > Thanks,
> > Scott
> >
> > Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znl7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)
> >
> > From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
> > Date: Thursday, Apr 13, 2017, 6:50 PM
> > To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> > Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
> > Subject: Fair Hydro Plan - question on taxation
> >
> > Scott,
> >
> > I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):
> >
> > 4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.
> >
> > Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.
> >
> > Hope this helps.
> > Thanks,
> > Ken
> >
> > _____
> >
> > _____
> >
> > THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

Version 2

Section 12(3) of the Version 2 Draft Legislation needs to be amended as follows:

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, Ontario Power Generation Inc., the Ontario Energy Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

Part VII[1]
amendments to other Acts

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the [Fair Hydro Act];

(q.1) to enter into agreements or arrangements with for the purposes of the FHA;

(q.2) to engage in activities related to making payments to and receiving payments as contemplated under the FHA and to engage in related settlement activities;

(q.3) to engage in activities related to the creation, transfer and administration of the regulatory asset created under the FHA, which activities may include,

(i) incurring liabilities in relation to the regulatory asset

(ii) transferring the regulatory asset for consideration;

(q.4) acting as a recovery agent under the FHA;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

[1] FLS: These amendments are drawn from previous drafting contained in gov2016.146.e05 (which was drafted as amendments to the EA, 1998).

Same, [FHA]

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include the following, in addition to any other objects, relating to the FHA:

1. Exercising the powers and rights and performing the duties and obligations assigned to it under that Act.

2. Providing services on behalf of a [**Financing Entity**][2], subject to the right to be paid by the Financing Entity for services, including the following services **[NTD: see further changes to OEB Act below regarding review of OPG costs]**:

   (i) the purchase and administration of investment assets on behalf of a Financing Entity and the negotiation, execution and delivery of any related agreements;

   (ii) the negotiation, execution and delivery on behalf of a Financing Entity of constating documents, financial services agreements, administrative services agreements, purchase and sale agreements, trust indentures, hedging agreements, credit enhancement agreements, servicing agreements, loan agreements, subordinated loan agreements, security agreements, underwriting agreements, agency agreements and any similar agreements;

   (iii) the negotiation, execution and delivery of any documents relating to a sale or offering of securities by a Financing Entity;

   (iv) the implementation and administration of any agreements to which a Financing Entity is a party;

   (v) the acquisition, administration and sale of any other investments that may from time to time be made by a Financing Entity;

   (vi) the borrowing of money by a Financing Entity;

   (vi) administering the activities of a Financing Entity and preparing reports on behalf of a Financing Entity;

   (vii) enforcing the rights of a Financing Entity;

[2] Note – we have used the term "Financing Entity" throughout. The final term chosen for the legislation will need to be used throughout.

(vii) engaging or employing any persons to assist it in providing services to a Financing Entity and delegating its powers and duties to such persons; and

(vii) performing any activities incidental to the foregoing.

3. Exercising the powers and performing the duties of the Financial Services Manager under that Act.

4. Providing equity contributions and loans to a Financing Entity.

[NTD: Given the detailed list of objects in Section 53.1(1.1), OPG is considering whether the objects listed in Section 53.1(1) need to be similarly expanded.]

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts, partnerships or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

Deemed assets, entity

(1.3) Despite any other provision of this Act or the *Business Corporations Act* or any other laws, the assets and liabilities of a Financing Entity shall not form part of the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries (other than, if applicable, the Financing Entity) in any proceeding and the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries (other than, if applicable, a Financing Entity) shall not form part of the assets and liabilities of a Financing Entity in any proceeding.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply:

1. In respect of any income, gain or profit of Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of or by virtue of:

(A) where a Financing Entity established is a corporation, acquiring, holding or disposing of any equity interest in the Financing Entity, including in respect of any dividends or other distributions paid or payable or otherwise accrued to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. in respect of any such equity, or

(B) where a Financing Entity is a trust, acquiring, holding or disposing of any beneficial interest in the Financing Entity, including in respect of any amounts paid or payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a beneficiary of such entity, or

2. To a Financing Entity that is a subsidiary of Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc.

203x. Section 90 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply:

1. In respect of any income, gain or profit of Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of or by virtue of:

(A) where a Financing Entity established is a corporation, acquiring, holding or disposing of any equity interest in the Financing Entity, including in respect of any dividends or other distributions paid or payable or otherwise accrued to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. in respect of any such equity, or

(B) where a Financing Entity is a trust, acquiring, holding or disposing of any beneficial interest in the Financing Entity, including in respect of any amounts paid or payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a beneficiary of such entity, or

2. To a Financing Entity that is a subsidiary of Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc.

[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

Add new consequential amendments to Ontario Energy Board Act, 1998 as follows:

Subsection 78.1(4) of the *Ontario Energy Board Act, 1998* would be amended as follows:

Board orders

(4) Subject to subsection (4.1), the Board shall make an order under this section in accordance with the rules prescribed by the regulations and may include in the order conditions, classifications or practices, including rules respecting the calculation of the amount of the payment.

Section 78.1 of the *Ontario Energy Board Act, 1998* would be amended by adding the following subsection:

(4.1) In making an order under this section in respect of Ontario Power Generation Inc., any activities, roles or circumstances whatsoever relating to Ontario Power Generation Inc. under or in relation to the *Intergenerational Fairness in Hydro Rates Act, 2017*, including, without limitation, its appointment as the Financial Services Manager under that Act, any fees charged for performing its duties as the Financial Services Manager under that Act, any cost consequences of being the Financial Services Manager under that Act, and any consequences of consolidating the assets and liabilities for accounting purposes of any special purpose financing entities established under and for purposes established under that Act are not related to a prescribed generation facility or the output therefrom and the Board shall not consider the aforementioned when making an order under this section.

Version 2

Section 12(3) of the Version 2 Draft Legislation needs to be amended as follows:

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, **Ontario Power Generation Inc.,** the Ontario Energy Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

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200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the [Fair Hydro Act];

(q.1) to enter into agreements or arrangements with for the purposes of the FHA;

(q.2) to engage in activities related to making payments to and receiving payments as contemplated under the FHA and to engage in related settlement activities;

(q.3) to engage in activities related to the creation, transfer and administration of the regulatory asset created under the FHA, which activities may include,

(i) incurring liabilities in relation to the regulatory asset

(ii) transferring the regulatory asset for consideration;

(q.4) acting as a recovery agent under the FHA;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

[1] FLS: These amendments are drawn from previous drafting contained in gov2016.146.e05 (which was drafted as amendments to the EA, 1998).

Same, [FHA]

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include the following, in addition to any other objects, relating to the FHA:

1. Exercising the powers and rights and performing the duties and obligations assigned to it under that Act.

2. ~~Entering into contracts and undertakings on behalf of special purpose financing entities, including pre-formation contracts and undertakings and as principal in relation to matters permitted by that Act subject to the right of reimbursement from amounts available to the financing entity.~~**Providing services on behalf of a [Financing Entity][2], subject to the right to be paid by the Financing Entity for services, including the following services [NTD: see further changes to OEB Act below regarding review of OPG costs]:**

   (i) the purchase and administration of investment assets on behalf of a Financing Entity and the negotiation, execution and delivery of any related agreements;

   (ii) the negotiation, execution and delivery on behalf of a Financing Entity of constating documents, financial services agreements, administrative services agreements, purchase and sale agreements, trust indentures, hedging agreements, credit enhancement agreements, servicing agreements, loan agreements, subordinated loan agreements, security agreements, underwriting agreements, agency agreements and any similar agreements;

   (iii) the negotiation, execution and delivery of any documents relating to a sale or offering of securities by a Financing Entity;

   (iv) the implementation and administration of any agreements to which a Financing Entity is a party;

   (v) the acquisition, administration and sale of any other investments that may from time to time be made by a Financing Entity;

   (vi) the borrowing of money by a Financing Entity;

   ~~3.~~ ~~Preparing~~**(vi) administering the activities of a Financing Entity and preparing** reports on behalf of ~~the financing entity.~~**a Financing Entity;**

[2] Note – we have used the term "Financing Entity" throughout. The final term chosen for the legislation will need to be used throughout.

(vii) enforcing the rights of a Financing Entity;

~~4. Enforcing the rights of the financing entity.~~

(vii) engaging or employing any persons to assist it in providing services to a Financing Entity and delegating its powers and duties to such persons; and

~~5. Signing offering documents as sponsor or otherwise on behalf of the financing entity~~

(vii) performing any activities incidental to the foregoing.

~~6.~~ **3.** Exercising the powers and performing the duties of the Financial Services Manager under that Act.

4. Providing equity contributions and loans to a Financing Entity.

[NTD: Given the detailed list of objects in Section 53.1(1.1), OPG is considering whether the objects listed in Section 53.1(1) need to be similarly expanded.]

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts**,** **partnerships** or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

Deemed assets, entity

(1.3) Despite any other provision of this Act or the *Business Corporations Act* or any other laws, the assets and liabilities of a Financing Entity shall not form part of the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries (other than, if applicable, the Financing Entity) in any proceeding and the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries (other than, if applicable, a Financing Entity) shall not form part of the assets and liabilities of a Financing Entity in any proceeding.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply ~~in~~**:**

1. In respect of ~~amounts payable to~~**any income, gain or profit of** Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of ~~its functions as the Financial Services Manager under [new Act].~~**or by virtue of:**

(A) where a Financing Entity established is a corporation, acquiring, holding or disposing of any equity interest in the Financing Entity, including in respect of any dividends or other distributions paid or payable or otherwise accrued to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. in respect of any such equity, or

(B) where a Financing Entity is a trust, acquiring, holding or disposing of any beneficial interest in the Financing Entity, including in respect of any amounts paid or payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a beneficiary of such entity, or

2. To a Financing Entity that is a subsidiary of Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc.

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1. In respect of ~~amounts payable to~~**any income, gain or profit of** Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of ~~its functions as the Financial Services Manager under the FHA.~~**or by virtue of:**

(A) where a Financing Entity established is a corporation, acquiring, holding or disposing of any equity interest in the Financing Entity, including in respect of any dividends or other distributions paid or payable or otherwise accrued to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. in respect of any such equity, or

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2. To a Financing Entity that is a subsidiary of Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc.

[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

Add new consequential amendments to Ontario Energy Board Act, 1998 as follows:

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Document comparison by Workshare Compare on April-19-17 10:16:27 AM

Input:	
Document 1 ID	interwovenSite://INVENTORYS1/TorysAtWork/23344385/1
Description	#23344385v1<TorysAtWork> - Fair Hydro Act (April 17 2017) Consultationv5 (002)ASEN
Document 2 ID	C:\NRPortbl\TorysAtWork\KHILL\23344385_4.docx
Description	C:\NRPortbl\TorysAtWork\KHILL\23344385_4.docx
Rendering set	Firm_Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	45
Deletions	15
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	62

From: Ronald Kwan
To: Scott Nelms (ENERGY); Sriram Subrahmanyan (MOF)
Cc: Ann Langleben (MOF); Robin Lewis (MOF); Daniela Klassen (MOF); John Kim; Bruno Amara
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Tuesday, April 18, 2017 9:23:52 AM

Hi,

Please loop in John and Bruno too.

Thanks,
Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: April-17-17 12:53 PM
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Certainly. Will do.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:52 PM
To: Nelms, Scott (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

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Sent: Monday, April 17, 2017 10:44 AM
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Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

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> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
>> Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
>>
>> On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
>>
>> Hi Ron, Gadi,
>>
>> I hope you are enjoying the long weekend.
>>
>> As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
>>
>> Thanks,
>> Scott
>>
>> -----Original Message-----

From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
Sent: April-15-17 1:16 PM
To: Nelms, Scott (MOF)
Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Scott,
It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
Thanks,
Ken

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Sent: Thursday, April 13, 2017 8:19 PM
To: RYFA Ken -TREASURY
Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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Hi Ryan,

I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
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Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
Subject: Fair Hydro Plan - question on taxation

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Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.
Thanks,
Ken

_____

_____

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From: Nelms, Scott (MOF)
To: Sriram Subrahmanyan (MOF); Ronald Kwan
Cc: Ann Langleben (MOF); Robin Lewis (MOF); Daniela Klassen (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Monday, April 17, 2017 12:53:13 PM

Certainly. Will do.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:52 PM
To: Nelms, Scott (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

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Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
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Sent: Thursday, April 13, 2017 8:19 PM

To: RYFA Ken -TREASURY

Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV

Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>

Date: Thursday, Apr 13, 2017, 6:50 PM

To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>

Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

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Hope this helps.

Thanks,

Ken

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From: John Kim
To: Ronald Kwan
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Friday, April 21, 2017 10:52:23 AM

It was fine but it'd be up to Rob to put something down on paper. Both Kaitlin and I have offered to help if he had further questions.

We're too jammed today to try to help Rob by actually starting to draft something….

From: Ronald Kwan
Sent: Friday, April 21, 2017 10:44 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi,

How did your call go? Does Rob better understand the context, structure and planned nature of the Trust (e.g., non-contributory and not intended as a tax avoidance vehicle)?

Is a discussion with OPG tax folks needed?

Ron

On Apr 20, 2017, at 11:38 AM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Rob,
>
> I will give you a call this afternoon.
>
> John
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** Thursday, April 20, 2017 11:26 AM
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
> **Cc:** John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> My day is jammed so please go ahead and chat as soon as possible. Include us on the invite and we will try to make it. If helpful we can also have a follow on with ENE, OPG, Torys.
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** April 20, 2017 9:21 AM
> **To:** Lewis, Robin (MOF)
> **Cc:** Nelms, Scott (MOF); Kim, John (OFA); Bruno Amara; Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Scott, Rob,
>
> Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?
>
> Scott, if you're busy, staff here could provide Rob some context if you're not available.
>
> Ron
>
> On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:
>
> > Scott,
> >
> > The proposal appears to have some characteristics of a tax avoidance scheme.
> >
> > The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
> >
> > I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.
> >
> > We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
> >
> > This matter ought to be the subject of a ruling request.
> >
> > Regards,
> >
> > Rob Lewis
> >
> > ---
> >
> > **From:** Nelms, Scott (MOF)
> > **Sent:** April 19, 2017 5:48 PM
> > **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> > **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Hi Rob, John Bruno,
> >
> > Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
> >
> > Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
> >
> > Thanks very much and apologies for the short notice,
> > Scott
> >
> > Scott Nelms
> > Electricity Investment and Governance Secretariat | Ministry of Finance
> > 7th Floor | 375 University ave. | Toronto, ON
> > w: (416) 212-6469 | c: (647) 330-2681
> > scott.nelms@ontario.ca
> >
> > ---
> >
> > **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> > **Sent:** April 18, 2017 9:24 AM
> > **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> > **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Hi,
> >
> > Please loop in John and Bruno too.
> >
> > Thanks,
> > Ron
> >
> > ---
> >
> > **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > **Sent:** April-17-17 12:53 PM
> > **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> > **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>

Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Certainly. Will do.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:52 PM
To: Nelms, Scott (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
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Could you include Rob in your discussions, so we know exactly what they're proposing?

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To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
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Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

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> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
> > > Hi Ron, Gadi,
> > >
> > > I hope you are enjoying the long weekend.
> > >
> > > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> > >
> > > Thanks,
> > > Scott
> > >
> > > -----Original Message-----
> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > > Sent: April-15-17 1:16 PM
> > > To: Nelms, Scott (MOF)
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Scott,
> > > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > > Thanks,
> > > Ken
> > >
> > > -----Original Message-----
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi Ryan,

I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
Date: Thursday, Apr 13, 2017, 6:50 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.
Thanks,
Ken

_____

_____

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_____

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From:	Ronald Kwan
To:	John Kim
Subject:	RE: Energy"s PRRT
Date:	Wednesday, October 18, 2017 12:55:42 PM

Hi John,

Please get an update from Anthony on where the IESO, including IESO Legal, is on this, and any updates he has on OPG's position, and details on what he meant by amending the credit facilities if they accommodate OPG's ask.

Thanks,
Ron

From: John Kim
Sent: October-18-17 10:20
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Energy's PRRT

Fyi

From: Ken Kandeepan
Sent: Wednesday, October 18, 2017 9:59 AM
To: John Kim <John.Kim@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

My meeting with Gadi on this and other issues has been rescheduled to 4PM today so will get back to you immediately after that.

Thanks

Ken k

From: John Kim
Sent: Wednesday, October 18, 2017 9:57 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Ok, thanks….all along this group had recommended the exemption directive option. That said, my

advice would be to leave both options open but pls. let us know. I have spoken to Ron as well and he is onside with either approach.

From: Ken Kandeepan
Sent: Wednesday, October 18, 2017 9:46 AM
To: John Kim <John.Kim@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Will confirm this AM.

Thanks

Ken k

From: John Kim
Sent: Wednesday, October 18, 2017 9:45 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Absolutely it is Gadi. Do we have his instruction?

From: Ken Kandeepan
Sent: Wednesday, October 18, 2017 9:44 AM
To: John Kim <John.Kim@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Thanks John, who is making this decision and shouldn't that be Gadi

Let me know
Ken k

From: John Kim
Sent: Tuesday, October 17, 2017 1:57 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah

Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Hi Ken,

From the start, the exemption had been the advocated path. I will keep this interception option open until the decision is made to pursue Minister's directive or when we have that directive signed. We can always walk away from this option.

Thanks,

John

From: Ken Kandeepan
Sent: Tuesday, October 17, 2017 1:44 PM
To: John Kim <John.Kim@ofina.on.ca>; Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Hi John

Based on a conversation with Gadi, any solution that continues with the intercept provision will most likely be unacceptable from OPG's perspective. They are concerned that despite the intercept being toothless on a practical basis it may send the wrong message to DBRS as it assess the credit-worthiness of the OFHP debt.

It appears that the only solution is have the Minister sign an exemption and we should focus on getting that in place.

Thanks

Ken k

From: John Kim
Sent: Tuesday, October 17, 2017 1:37 PM
To: Lisa Stein <Lisa.Stein@ofina.on.ca>
Cc: Sarah Neville <Sarah.Neville@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Sarah Harris <Sarah.Harris@ofina.on.ca>; William Tan <William.Tan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>

Subject: FW: Energy's PRRT

Hi Lisa and everyone,

Along with comments from Ken over the weekend, just circling everyone in on the latest information from TBS. Pls. advise if your assessment changes but to me, TBS appears to be advising that Green ON Fund is not IESO's operation expense/allocation but allocation from MOECC to Green ON Fund.

Also, IESO staff have thus far signalled positively on the letter agreement. We are potentially looking about 2 days to conclude the process.

One caveat is that OPG is requesting that the trust be given first priority/security over all IESO assets. While the issue is still being discussed, if this is to proceed, the IESO will have to amend its current facilities. I would consider this almost as a separate issue in that if the scenario plays out, then we would need to look at and potentially open up all existing facilities.

John

From: Strang, James (TBS) [mailto:James.Strang@ontario.ca]
Sent: Tuesday, October 17, 2017 11:18 AM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Chris Skubel (MGS) <Chris.Skubel@ontario.ca>; Afshin Malekzadeh (MOHLTC) <Afshin.Malekzadeh@ontario.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: Energy's PRRT

John, I checked with our MOECC analyst, Green ON Fund is an agency of MOECC and is flowing funding to IESO.

James

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: October 13, 2017 4:49 PM
To: Strang, James (TBS)
Cc: Skubel, Chris (TBS); Malekzadeh, Afshin (TBS); Bruno Amara; He, Gavin (OFA)
Subject: RE: Energy's PRRT

Hi James,

The Green ON Fund…am I correct to think that this is also not part of IESO's operating expense/allocation? As for the items below (for Energy), it is a program expense facilitated through the IESO?

Thanks,

John

From: Strang, James (TBS) [mailto:James.Strang@ontario.ca]
Sent: Friday, August 18, 2017 1:29 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Chris Skubel (MGS) <Chris.Skubel@ontario.ca>; Afshin Malekzadeh (MOHLTC) <Afshin.Malekzadeh@ontario.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

You are correct.

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 18, 2017 1:28 PM
To: Strang, James (TBS)
Cc: Skubel, Chris (TBS); Malekzadeh, Afshin (TBS); Bruno Amara
Subject: RE: Energy's PRRT

Thanks. OREC is not IESO's operating expense/allocation, right? It's a program expense facilitated through the IESO.

Agree?

From: Strang, James (TBS) [mailto:James.Strang@ontario.ca]
Sent: Friday, August 18, 2017 1:19 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Chris Skubel (MGS) <Chris.Skubel@ontario.ca>; Afshin Malekzadeh (MOHLTC) <Afshin.Malekzadeh@ontario.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

Sorry for the delay, had to dig in the email archives.

There is no IESO allocation in Printed Estimates. There is an OREC transfer payment. In the 17-18 PRRT workbook for OREC is the following:

- Electricity utilities are reimbursed by submitting and receiving claims which are netted against their other monthly transactions from the IESO, and the IESO submits and receives one monthly amount from the Ontario Financing Authority on behalf of the Ministry of Energy – this process is streamlined and leverages an already existing reimbursement process, thereby minimizing costs.

The second attachment, email, contains the consolidation worksheet from OPCD. For IESO, I don't see any Transfer Payment flows in from the Province.

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 18, 2017 12:57 PM
To: Strang, James (TBS)
Subject: RE: Energy's PRRT

Is there a way to quickly see if any allocations were made for the IESO? Whichever way is good. We just want to confirm there is no appropriation for the IESO's operation or operating expense.

From: Strang, James (TBS) [mailto:James.Strang@ontario.ca]
Sent: Friday, August 18, 2017 12:55 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: Energy's PRRT

So do you want the final minutes, their submission, the assessment note?

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 18, 2017 12:55 PM
To: Strang, James (TBS)
Cc: Bruno Amara
Subject: RE: Energy's PRRT

Last year's?

From: Strang, James (TBS) [mailto:James.Strang@ontario.ca]
Sent: Friday, August 18, 2017 12:54 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Energy's PRRT

20-18-19 PRRT hasn't started as yet.

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 18, 2017 12:53 PM
To: Strang, James (TBS)
Cc: Bruno Amara
Subject: Energy's PRRT

Hi James,

Hope all's well.

Can you share Energy's approved PRRT? Have some urgent stuff we are dealing with.

Thanks,

John

Y. John Kim
Director, Electricity Finance Branch
Ontario Financing Authority
e-mail: john.kim@ofina.on.ca
Ph: 416-212-6996

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From:	Lewis, Robin (MOF)
To:	Ronald Kwan
Cc:	Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF); Sriram Subrahmanyan (MOF)
Subject:	RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date:	Thursday, December 07, 2017 11:02:42 AM

Ron,

Generally, Minister's regulations need not go to LRC and this is a Minister's reg.

Only cabinet regs go to LRC.

Regards,

Rob

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: December 6, 2017 6:38 PM
To: Subrahmanyan, Sriram (MOF)
Cc: Lewis, Robin (MOF); Waterston, Michael (MOF); Roy, Douglas (MOF); Patel, Lesley (MOF)
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Any updates?

And, by the way, Energy still seems to think that this needs to go to LRC. As a Minister's reg., that wouldn't be the case, would it?

Thanks,
Ron

-----Original Message-----
From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
Sent: November-23-17 13:40
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

See below. We'll try to expedite this.

Sriram

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
Date: Thursday, Nov 23, 2017, 1:04 PM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram,

We had hoped to have the regulation finalized almost three weeks ago. Legislative counsel changed the draft

significantly.

We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.

I will follow up with Doug and see where we are now.

Regards,

Rob

From: Subrahmanyan, Sriram (MOF)
Sent: November 23, 2017 12:15 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram
From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Thursday, Nov 23, 2017, 9:18 AM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.

My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

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From: Ronald Kwan
To: Sriram Subrahmanyan (MOF)
Cc: Robin Lewis (MOF); Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF)
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Wednesday, December 06, 2017 6:37:51 PM

Hi Sriram,

Any updates?

And, by the way, Energy still seems to think that this needs to go to LRC. As a Minister's reg., that wouldn't be the case, would it?

Thanks,
Ron

-----Original Message-----
From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
Sent: November-23-17 13:40
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

See below. We'll try to expedite this.

Sriram

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
Date: Thursday, Nov 23, 2017, 1:04 PM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram,

We had hoped to have the regulation finalized almost three weeks ago. Legislative counsel changed the draft significantly.

We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.

I will follow up with Doug and see where we are now.

Regards,

Rob

From: Subrahmanyan, Sriram (MOF)
Sent: November 23, 2017 12:15 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram
From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Thursday, Nov 23, 2017, 9:18 AM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.

My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

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From: John Kim
To: Ronald Kwan
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, November 23, 2017 1:56:21 PM

I did that as well.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, November 23, 2017 1:50 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Fwd: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi John,

FYI. Please check with Rob on the LRC vs Minister's reg point, potential timing, and if you can get a draft.

Thanks,
Ron

Begin forwarded message:

> **From:** "Subrahmanyan, Sriram (MOF)" <Sriram.Subrahmanyan@ontario.ca>
> **Date:** November 23, 2017 at 1:40:06 PM EST
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Cc:** "Lewis, Robin (MOF)" <Robin.Lewis@ontario.ca>, "Waterston, Michael (MOF)" <Michael.Waterston@ontario.ca>, "Roy, Douglas (MOF)" <Douglas.Roy1@ontario.ca>, "Patel, Lesley (MOF)" <Lesley.Patel@ontario.ca>
> **Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg**
>
> See below. We'll try to expedite this.
>
> Sriram
>
> From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
> Date: Thursday, Nov 23, 2017, 1:04 PM
> To: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
> Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> Sriram,

We had hoped to have the regulation finalized almost three weeks ago. Legislative counsel changed the draft significantly.

We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.

I will follow up with Doug and see where we are now.

Regards,

Rob

From: Subrahmanyan, Sriram (MOF)
Sent: November 23, 2017 12:15 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram
From: Ronald Kwan
<Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Thursday, Nov 23, 2017, 9:18 AM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.

My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

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Thank you.

From: John Kim
To: Ronald Kwan
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, November 23, 2017 1:51:58 PM

Hi Ron,

Just did….will let you know if they respond.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, November 23, 2017 1:15 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Fwd: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi John,

Would you ask Rob (or Ann) about this as well.

Thanks,
Ron

Begin forwarded message:

> **From:** <Ronald.Kwan@ofina.on.ca>
> **Date:** November 23, 2017 at 9:18:31 AM EST
> **To:** "Sriram Subrahmanyan (MOF)" <Sriram.Subrahmanyan@ontario.ca>
> **Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg**
>
> Hi Sriram,
>
> Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.
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> Ron

From: Subrahmanyan, Sriram (MOF)
To: Robin Lewis (MOF); Ronald Kwan
Cc: Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF)
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, December 07, 2017 11:05:19 AM

Also, Steen contacted me. We've set up a call. You're welcome to join.

Sriram

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
Date: Thursday, Dec 07, 2017, 11:02 AM
To: Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Cc: Waterston, Michael (MOF) <Michael.Waterston@ontario.ca<mailto:Michael.Waterston@ontario.ca>>, Roy, Douglas (MOF) <Douglas.Roy1@ontario.ca<mailto:Douglas.Roy1@ontario.ca>>, Patel, Lesley (MOF) <Lesley.Patel@ontario.ca<mailto:Lesley.Patel@ontario.ca>>, Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Ron,

Generally, Minister's regulations need not go to LRC and this is a Minister's reg.

Only cabinet regs go to LRC.

Regards,

Rob

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: December 6, 2017 6:38 PM
To: Subrahmanyan, Sriram (MOF)
Cc: Lewis, Robin (MOF); Waterston, Michael (MOF); Roy, Douglas (MOF); Patel, Lesley (MOF)
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Any updates?

And, by the way, Energy still seems to think that this needs to go to LRC. As a Minister's reg., that wouldn't be the case, would it?

Thanks,
Ron

-----Original Message-----
From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
Sent: November-23-17 13:40
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

See below. We'll try to expedite this.

Sriram

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
Date: Thursday, Nov 23, 2017, 1:04 PM
To: Subrahmanyan, Sriram (MOF)
<Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

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by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From:	Ken Kandeepan
To:	Mike Manning; Ronald Kwan
Cc:	Gavin He
Subject:	RE: OFA : IESO
Date:	Thursday, April 13, 2017 11:22:06 AM
Attachments:	image001.png

How about the morning, I can make myself available from 8 Am onwards

Thanks

Ken k

From: Mike Manning
Sent: Thursday, April 13, 2017 11:17 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Sorry, 3:00 or 3:30 don't work for me.
Mike

From: Ronald Kwan
Sent: Thursday, April 13, 2017 11:14 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Hi Mike,

Are you available? You had stated a preference for 2:30.

Ron

From: Ken Kandeepan
Sent: April-13-17 11:13
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Thanks Ron, I have IDLC at Frost from 2 to 3Pm is it possible to move this to 3 or 3.30PM.

Thanks again and sorry for the hassle.

Ken k

From: Ronald Kwan
Sent: Thursday, April 13, 2017 11:07 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Hi Ken,

Sure. IESO is setting up a call for Tuesday afternoon, likely 2:30.

Ron

From: Ken Kandeepan
Sent: April-13-17 10:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
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Thanks

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From: Gadi Mayman
Sent: Thursday, April 13, 2017 10:47 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
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I'm sure Scott will send out his fuller synopsis later today, and that'll also cover what happened in the last hour, after I'd left.

Gadi

From: Ronald Kwan
Sent: Thursday, April 13, 2017 8:37:54 AM
To: Gadi Mayman
Cc: Mike Manning; Anna Strathy; Gavin He
Subject: Re: OFA : IESO

Hi Gadi,

Will do.

Ron

On Apr 13, 2017, at 8:00 AM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:

> Hi Mike and Ron, could one of you please get back to Anthony and handle this?
>
> Thanks,
> Gadi
>
> ---
>
> **From:** Anthony Martinello <Anthony.Martinello@ieso.ca>
> **Sent:** Thursday, April 13, 2017 7:41 AM
> **To:** Gadi Mayman
> **Cc:** Kim Marshall; Michael Boll
> **Subject:** OFA : IESO

Mr. Mayman,

Kim and I would like to set up a 30min call with you to discuss the proposed Fair Hydro rollout and the potential impact on the IESO credit needs.

Would you be available next week/preferred date? Let me know and I will send out a meeting invite.

Regards

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From:	Mike Manning
To:	Ronald Kwan; Ken Kandeepan
Cc:	Gavin He
Subject:	RE: OFA : IESO
Date:	Thursday, April 13, 2017 11:17:28 AM
Attachments:	image001.png

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To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
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From:	Ken Kandeepan
To:	Ronald Kwan
Cc:	Mike Manning; Gavin He
Subject:	RE: OFA : IESO
Date:	Thursday, April 13, 2017 11:13:12 AM
Attachments:	image001.png

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From: Ken Kandeepan
To: Ronald Kwan
Cc: Mike Manning; Anna Strathy; Gavin He; Gadi Mayman
Subject: RE: OFA : IESO
Date: Thursday, April 13, 2017 10:53:33 AM
Attachments: image001.png

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> Regards
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message or any files transmitted with it is strictly prohibited. If you have received this message in error, or are not the named recipient(s), please notify the sender immediately and delete this e-mail message.

From:	Mike Manning
To:	Ken Kandeepan; Ronald Kwan
Cc:	Gavin He
Subject:	RE: OFA : IESO
Date:	Thursday, April 13, 2017 11:24:17 AM
Attachments:	image001.png

Good from 8:30 to 10:30.
Mike

From: Ken Kandeepan
Sent: Thursday, April 13, 2017 11:22 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

How about the morning, I can make myself available from 8 Am onwards

Thanks

Ken k

From: Mike Manning
Sent: Thursday, April 13, 2017 11:17 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Sorry, 3:00 or 3:30 don't work for me.
Mike

From: Ronald Kwan
Sent: Thursday, April 13, 2017 11:14 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Hi Mike,

Are you available? You had stated a preference for 2:30.

Ron

From: Ken Kandeepan
Sent: April-13-17 11:13
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>

Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Thanks Ron, I have IDLC at Frost from 2 to 3Pm is it possible to move this to 3 or 3.30PM.

Thanks again and sorry for the hassle.

Ken k

From: Ronald Kwan
Sent: Thursday, April 13, 2017 11:07 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OFA : IESO

Hi Ken,

Sure. IESO is setting up a call for Tuesday afternoon, likely 2:30.

Ron

From: Ken Kandeepan
Sent: April-13-17 10:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: OFA : IESO

Thanks, Ron, can you pls include me in the IESO credit needs meeting, since Cindy and I are having a number of discussions, with and without OPG, on developing a comprehensive accounting model for the GA smoothing, I need to be aware of all potential impacts to the model.

Thanks

Ken K

From: Gadi Mayman
Sent: Thursday, April 13, 2017 10:47 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: Re: OFA : IESO

Thanks, this came up at this morning's rate mitigation meeting, and the IESO people were happy to hear that we're on this, as they're a little nervous about how they're going to finance the regulatory asset until OPG is set up to take it on and pay for it.

I'm adding Ken to close the loop on the exchange that we had last night about the OPG letter - I asked Serge to add in the OFA, and he instructed Steen to do so, and, yes, the letter will be posted, at some point, on OPG's website.

In the half hour that I was able to attend the meeting, the discussion was around the legislation. The biggest point of contention was about OPG's need to have a direct recourse to ratepayers, and the legislative need for a thread directly from individual ratepayers to the lenders to the GA smoothing. The OEB doesn't like that concept at all. The other point that is of interest to us is that they are not looking at putting the guarantee mechanism into the legislation - although there will be some description in the legislation about what, I think they called indemnification will be needed, and then they will leave the guarantee to a commercial one. No surprise that OPG's dealer advisors are saying they need a full provincial guarantee, which OPG is pushing back on, and saying that the guarantee can only be if a future government changes the value of the regulatory asset (this is where the indemnification language in the legislation is necessary). Cindy, of course, as well as me for different reasons, is fussed about the nature of that guarantee, so we asked if they could sort that out with the dealers before the legislation is tabled. We don't want to end up with the dealers holding OPG hostage six months from now - not that they'd ever do that, would they Mike ?

I'm sure Scott will send out his fuller synopsis later today, and that'll also cover what happened in the last hour, after I'd left.

Gadi

From: Ronald Kwan
Sent: Thursday, April 13, 2017 8:37:54 AM
To: Gadi Mayman
Cc: Mike Manning; Anna Strathy; Gavin He
Subject: Re: OFA : IESO

Hi Gadi,

Will do.

Ron

On Apr 13, 2017, at 8:00 AM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:

Hi Mike and Ron, could one of you please get back to Anthony and handle this?

Thanks,
Gadi

From: Anthony Martinello <Anthony.Martinello@ieso.ca>
Sent: Thursday, April 13, 2017 7:41 AM
To: Gadi Mayman
Cc: Kim Marshall; Michael Boll
Subject: OFA : IESO

Mr. Mayman,

Kim and I would like to set up a 30min call with you to discuss the proposed Fair Hydro rollout and the potential impact on the IESO credit needs.

Would you be available next week/preferred date? Let me know and I will send out a meeting invite.

Regards

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From:	Klassen, Daniela (MOF)
To:	Ronald Kwan
Cc:	Ann Langleben (MOF); Robin Lewis (MOF)
Subject:	RE: OPG SPV
Date:	Friday, September 08, 2017 12:42:12 PM

Ron,

We have shared the draft Comfort Letter and proposed draft regulation amendment with Kaitlin Montgomery, Senior Manager, Electricity Investment Governance Sec., Office of Regulatory Policy and Agency Relations. We assume that the material is being shared with others who are involved, such as Scott Nelms. We have asked Kaitlin to obtain comments on the drafts from OPG.

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: September 7, 2017 5:28 PM
To: Klassen, Daniela (MOF)
Subject: RE: OPG SPV

Hi Daniela,

Has Scott Nelms been looped into the review of the draft yet?

Thanks,
Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-28-17 17:11
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Thank you Ron. Much appreciated.

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 24, 2017 8:00 AM
To: Klassen, Daniela (MOF)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF)
Subject: RE: OPG SPV

Hi Daniela,

A few comments, as attached.

Thanks for your patience.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-22-17 10:50 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Hello Ron,

Do you have any comments on the draft Comfort Letter?

Thanks,

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:16 AM
To: Lewis, Robin (MOF)
Cc: Langleben, Ann (MOF); Klassen, Daniela (MOF)
Subject: Re: OPG SPV

Hi Robin,

Sure.

Ron

On Aug 10, 2017, at 9:11 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Ron,
>
> We are trying to develop wording we are comfortable with first. We will send to Scott as soon as we have a working draft.
>
> Regards,
>
> Rob
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** August 10, 2017 9:09 AM
> **To:** Klassen, Daniela (MOF)

Cc: Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: Re: OPG SPV

Hi Daniela,

Are you looping in Scott Nelms separately or afterwards, or would you like me to coordinate comments with him?

Ron

On Aug 9, 2017, at 1:52 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks Daniela.
>
> We'll take a look.
>
> Ron
>
> ---
>
> **From:** Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
> **Sent:** August-09-17 13:43
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
> **Subject:** OPG SPV
>
> Ron,
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> Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.
>
> Regards,
>
> **Daniela Klassen**
> Senior Legislation Design Specialist, Corporate Tax Design Unit
> Taxation Policy Division
> Ministry of Finance
> P: (416) 327-0275
> E: daniela.klassen@ontario.ca

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From:	Ronald Kwan
To:	Daniela Klassen (MOF)
Subject:	RE: OPG SPV
Date:	Thursday, September 07, 2017 5:27:38 PM

Hi Daniela,

Has Scott Nelms been looped into the review of the draft yet?

Thanks,
Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-28-17 17:11
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Thank you Ron. Much appreciated.

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 24, 2017 8:00 AM
To: Klassen, Daniela (MOF)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF)
Subject: RE: OPG SPV

Hi Daniela,

A few comments, as attached.

Thanks for your patience.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-22-17 10:50 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
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Thanks,

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Sent: August 10, 2017 9:16 AM
To: Lewis, Robin (MOF)
Cc: Langleben, Ann (MOF); Klassen, Daniela (MOF)
Subject: Re: OPG SPV

Hi Robin,

Sure.

Ron

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We'll take a look.

Ron

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Sent: August-09-17 13:43
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
Subject: OPG SPV

Ron,

Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.

Regards,

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Senior Legislation Design Specialist, Corporate Tax Design Unit
Taxation Policy Division
Ministry of Finance
P: (416) 327-0275
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From:	Klassen, Daniela (MOF)
To:	Ronald Kwan
Cc:	Ann Langleben (MOF); Robin Lewis (MOF)
Subject:	RE: OPG SPV
Date:	Monday, August 28, 2017 5:10:49 PM

Thank you Ron. Much appreciated.

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 24, 2017 8:00 AM
To: Klassen, Daniela (MOF)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF)
Subject: RE: OPG SPV

Hi Daniela,

A few comments, as attached.

Thanks for your patience.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-22-17 10:50 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Hello Ron,

Do you have any comments on the draft Comfort Letter?

Thanks,

Daniela

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Sent: August 10, 2017 9:16 AM
To: Lewis, Robin (MOF)
Cc: Langleben, Ann (MOF); Klassen, Daniela (MOF)
Subject: Re: OPG SPV

Hi Robin,

Sure.

Ron

On Aug 10, 2017, at 9:11 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Ron,
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> We are trying to develop wording we are comfortable with first. We will send to Scott as soon as we have a working draft.
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> Rob

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:09 AM
To: Klassen, Daniela (MOF)
Cc: Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: Re: OPG SPV

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Senior Legislation Design Specialist, Corporate Tax Design Unit
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P: (416) 327-0275
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From:	Ronald Kwan
To:	Daniela Klassen (MOF)
Cc:	Ann Langleben (MOF); Robin Lewis (MOF)
Subject:	RE: OPG SPV
Date:	Thursday, August 24, 2017 7:59:41 AM
Attachments:	Draft Comfort Letter OPG SPV v2_Markup.docx

Hi Daniela,

A few comments, as attached.

Thanks for your patience.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-22-17 10:50 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
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Sure.

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To: Klassen, Daniela (MOF)
Cc: Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: Re: OPG SPV

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> **Subject:** OPG SPV
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> **Daniela Klassen**
> Senior Legislation Design Specialist, Corporate Tax Design Unit
> Taxation Policy Division

Ministry of Finance
P: (416) 327-0275
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August [date], 2017

TO: Ontario Power Generation (OPG)

Thank you for your query and memorandum from your advisors, Torys LLP, dated May 17, 2017, regarding the Fair Hydro Plan and certain tax implications arising under the *Electricity Act, 1998* (EA) for OPG and a financing entity.

A financing entity or entities to be established by OPG has been given a mandate under the Fair Hydro Plan to acquire certain regulatory assets~~rights~~ from the Independent Electricity System Operator (IESO). The *Ontario Fair Hydro Plan Act, 2017* (FHPA) has given OPG the right to create a "financing entity" to facilitate its objectives under the Fair Hydro Plan.

I understand that OPG will create a trust (Trust) as a financing entity under the FHPA to facilitate OPG's mandate under the Fair Hydro Plan. The Trust would be subject to tax under the *Income Tax Act* (Canada) (ITA) and the Ontario *Taxation Act, 2007* (TA). Further, I understand that the beneficiary of the Trust will be a special purpose vehicle (SPV) that will be a corporation wholly-owned by OPG. The SPV would be exempt from Canadian federal income tax under section 149 of the ITA and under section 27 of the TA. The SPV would be subject to payments-in-lieu of tax (PILs) under Part VI of the EA.

Commented [RK1]: I thought OPG's memo (or Tory's for OPG) had OPG as the beneficiary.

A recommendation will be made to the Minister of Finance to make a regulation under the EA to ensure that amounts allocated by the Trust to the SPV will not be included in the income of the SPV for purposes of calculating PILs under the EA.

_____

Name / Signature

From: Klassen, Daniela (MOF)
To: Ronald Kwan
Cc: Ann Langleben (MOF); Robin Lewis (MOF)
Subject: RE: OPG SPV
Date: Tuesday, August 22, 2017 10:49:49 AM
Attachments: Draft Comfort Letter OPG SPV v2.docx

Hello Ron,

Do you have any comments on the draft Comfort Letter?

Thanks,

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:16 AM
To: Lewis, Robin (MOF)
Cc: Langleben, Ann (MOF); Klassen, Daniela (MOF)
Subject: Re: OPG SPV

Hi Robin,

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Ron

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> **Sent:** August 10, 2017 9:09 AM
> **To:** Klassen, Daniela (MOF)
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> **Daniela Klassen**
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> P: (416) 327-0275
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A recommendation will be made to the Minister of Finance to make a regulation under the EA to ensure that amounts allocated by the Trust to the SPV will not be included in the income of the SPV for purposes of calculating PILs under the EA.

_____

Name / Signature

From: Bruno Amara
To: Ronald Kwan
Cc: Gavin He; John Kim
Subject: RE: OPG SPV
Date: Thursday, August 10, 2017 9:46:19 AM

Hi Ron

I have reviewed the comfort letter in regard to recommending to the Minister exemption the SPV income from PILs. It looks fine to me and I have no comments.

Bruno

From: Ronald Kwan
Sent: Wednesday, August 09, 2017 1:52 PM
To: Bruno Amara <Bruno.Amara@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: FW: OPG SPV

Hi Bruno,

Please review.

Thanks,
Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-09-17 13:43
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
Subject: OPG SPV

Ron,

Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.

Regards,

Daniela Klassen
Senior Legislation Design Specialist, Corporate Tax Design Unit
Taxation Policy Division
Ministry of Finance
P: (416) 327-0275
E: daniela.klassen@ontario.ca

From: Lewis, Robin (MOF)
To: Ronald Kwan
Cc: Ann Langleben (MOF); Daniela Klassen (MOF)
Subject: RE: OPG SPV
Date: Thursday, August 10, 2017 9:11:45 AM

Ron,

We are trying to develop wording we are comfortable with first. We will send to Scott as soon as we have a working draft.

Regards,

Rob

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:09 AM
To: Klassen, Daniela (MOF)
Cc: Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: Re: OPG SPV

Hi Daniela,

Are you looping in Scott Nelms separately or afterwards, or would you like me to coordinate comments with him?

Ron

On Aug 9, 2017, at 1:52 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks Daniela.
>
> We'll take a look.
>
> Ron
>
> ---
>
> **From:** Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
> **Sent:** August-09-17 13:43
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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> **Subject:** OPG SPV
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From: Ronald Kwan
To: Daniela Klassen (MOF)
Cc: Robin Lewis (MOF); Ann Langleben (MOF)
Subject: RE: OPG SPV
Date: Wednesday, August 09, 2017 1:52:44 PM

Thanks Daniela.

We'll take a look.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-09-17 13:43
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
Subject: OPG SPV

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Regards,

Daniela Klassen
Senior Legislation Design Specialist, Corporate Tax Design Unit
Taxation Policy Division
Ministry of Finance
P: (416) 327-0275
E: daniela.klassen@ontario.ca

From:	Ronald Kwan
To:	Daniela Klassen (MOF)
Cc:	Ann Langleben (MOF); Robin Lewis (MOF); John Kim
Subject:	RE: OPG SPV
Date:	Friday, September 08, 2017 12:44:34 PM

Thanks Daniela.

Would you keep John Kim in EFB in the loop as well.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: September-08-17 12:42
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Ron,

We have shared the draft Comfort Letter and proposed draft regulation amendment with Kaitlin Montgomery, Senior Manager, Electricity Investment Governance Sec., Office of Regulatory Policy and Agency Relations. We assume that the material is being shared with others who are involved, such as Scott Nelms. We have asked Kaitlin to obtain comments on the drafts from OPG.

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: September 7, 2017 5:28 PM
To: Klassen, Daniela (MOF)
Subject: RE: OPG SPV

Hi Daniela,

Has Scott Nelms been looped into the review of the draft yet?

Thanks,
Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-28-17 17:11
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Thank you Ron. Much appreciated.

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 24, 2017 8:00 AM
To: Klassen, Daniela (MOF)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF)
Subject: RE: OPG SPV

Hi Daniela,

A few comments, as attached.

Thanks for your patience.

Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
Sent: August-22-17 10:50 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
Subject: RE: OPG SPV

Hello Ron,

Do you have any comments on the draft Comfort Letter?

Thanks,

Daniela

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:16 AM
To: Lewis, Robin (MOF)
Cc: Langleben, Ann (MOF); Klassen, Daniela (MOF)
Subject: Re: OPG SPV

Hi Robin,

Sure.

Ron

On Aug 10, 2017, at 9:11 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

Ron,

We are trying to develop wording we are comfortable with first. We will send to Scott as soon as we have a working draft.

Regards,

Rob

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:09 AM
To: Klassen, Daniela (MOF)
Cc: Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: Re: OPG SPV

Hi Daniela,

Are you looping in Scott Nelms separately or afterwards, or would you like me to coordinate comments with him?

Ron

On Aug 9, 2017, at 1:52 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks Daniela.
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> Ron
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> **From:** Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
> **Sent:** August-09-17 13:43
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
> **Subject:** OPG SPV
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> Ron,
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From: Ronald Kwan
To: John Kim
Subject: RE: OPG Trust Financing
Date: Thursday, March 16, 2017 5:16:05 PM

Hi John,

Did you send me anything?

Ron

From: John Kim
Sent: March-10-17 15:50
To: Francisco Chinchon <Francisco.Chinchon@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>
Subject: RE: OPG Trust Financing

Hi Ron, Francisco,

We will add to this. Hopefully soon.

Thanks,

John.

From: Francisco Chinchon
Sent: Friday, March 10, 2017 3:14 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>
Subject: OPG Trust Financing

Hi Ron, John,

Arie and Wentao put together a note that explains what we need to do and the challenges/questions we will probably face. Is intended to map the road, we can expand as we have more clarity.

All comments are welcome.

Francisco

From: Arie Jarczyn
Sent: Friday, March 10, 2017 2:14 PM

To: Francisco Chinchon <Francisco.Chinchon@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>; Wentao Shi <Wentao.Shi@ofina.on.ca>
Subject: RE: OPG Trust Financing

Hi looks good to us, just a few edits.

Thanks,
Arie

From: Francisco Chinchon
Sent: Friday, March 10, 2017 1:41 PM
To: Arie Jarczyn <Arie.Jarczyn@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>; Wentao Shi <Wentao.Shi@ofina.on.ca>
Subject: RE: OPG Trust Financing

Looks good. I added a bit, please review.

From: Arie Jarczyn
Sent: Friday, March 10, 2017 9:56 AM
To: Francisco Chinchon <Francisco.Chinchon@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>; Wentao Shi <Wentao.Shi@ofina.on.ca>
Subject: OPG Trust Financing

Hi Francisco,

Please find for review a draft that Darren, Wentao and I worked on, on the mechanics on funding the OPG Trust

Saved here

Arie Jarczyn
Senior Advisor
Strategic Investment and Finance Branch
Ontario Financing Authority
Tel: 416-325-1585
e-mail: arie.jarczyn@ofina.on.ca

From: John Kim
To: Ronald Kwan
Cc: Bruno Amara
Subject: RE: Ontario"s Fair Hydro Plan / OPG / PILs
Date: Friday, December 08, 2017 1:33:13 PM
Attachments: I-3.3.pdf

Hi Ron,

So it seems for the purpose of PILs, the draft regulation makes NIL for a specified corporation's earnings as they related to the Federal Income Tax Act in the following categories: 75 Trust, 104(13) Income of Beneficiary and 105(1) Benefits under trust.

One concern would be whether these categories cover all scenarios but we should assume experts dealt with that concern.

John

-----Original Message-----
From: Ronald Kwan
Sent: Friday, December 08, 2017 12:27 PM
To: John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: FW: Ontario's Fair Hydro Plan / OPG / PILs

Hi,

Any comments?

Thanks,
Ron

-----Original Message-----
From: Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
Sent: December-08-17 08:09
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

Hi Ron,

The draft reg is attached. I'll keep you posted if there are further briefing materials and be sure to share them.

Best,
Lesley

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Ronald Kwan
Sent: Thursday, December 7, 2017 5:06 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

And are there materials to discuss, such as a draft reg and approval / briefing materials?

Thanks again.

Ron

From: Ronald Kwan
Sent: December 7, 2017 5:04 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

Thanks Lesley.

Ron

From: Lesley.Patel@ontario.ca <Lesley.Patel@ontario.ca> on behalf of Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>
Sent: December 7, 2017 5:02 PM
To: Ronald Kwan
Subject: FW: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM.
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

Hi Ron – this is the call that Sriram mentioned.
-----Original Appointment-----
From: Navarro, Melissa (MOF) On Behalf Of Subrahmanyan, Sriram (MOF)
Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF)
Subject: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

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CANADA

CONSOLIDATION

CODIFICATION

Income Tax Act

Loi de l'impôt sur le revenu

R.S.C. 1985, c. 1 (5th Supp.)

S.R.C. 1985, ch. 1 (5e suppl.)

NOTE

Application provisions are not included in the consolidated text; see relevant amending Acts.

NOTE

Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées.

Current to November 20, 2017

Last amended on July 1, 2017

À jour au 20 novembre 2017

Dernière modification le 1 juillet 2017

Published by the Minister of Justice at the following address:
http://laws-lois.justice.gc.ca

Publié par le ministre de la Justice à l'adresse suivante :
http://lois-laws.justice.gc.ca

OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence
31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

Inconsistencies in Acts
(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

NOTE

This consolidation is current to November 20, 2017. The last amendments came into force on July 1, 2017. Any amendments that were not in force as of November 20, 2017 are set out at the end of this document under the heading "Amendments Not in Force".

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1er juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve
31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Incompatibilité — lois
(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

NOTE

Cette codification est à jour au 20 novembre 2017. Les dernières modifications sont entrées en vigueur le 1 juillet 2017. Toutes modifications qui n'étaient pas en vigueur au 20 novembre 2017 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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[Repealed, 2016, c. 7, s. 32]

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R.S.C. 1985, c. 1 (5th Supp.)

An Act respecting income taxes

Short Title

Short Title

1 This Act may be cited as the *Income Tax Act*.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S.C. 1952, c. 148, s. 1.

PART I

Income Tax

DIVISION A

Liability for Tax

Tax payable by persons resident in Canada

2 (1) An income tax shall be paid, as required by this Act, on the taxable income for each taxation year of every person resident in Canada at any time in the year.

Taxable income

(2) The taxable income of a taxpayer for a taxation year is the taxpayer's income for the year plus the additions and minus the deductions permitted by Division C.

Tax payable by non-resident persons

(3) Where a person who is not taxable under subsection 2(1) for a taxation year

(a) was employed in Canada,

(b) carried on a business in Canada, or

(c) disposed of a taxable Canadian property,

at any time in the year or a previous year, an income tax shall be paid, as required by this Act, on the person's

S.R.C. 1985, ch. 1 (5e suppl.)

Loi concernant les impôts sur le revenu

Titre abrégé

Titre abrégé

1 *Loi de l'impôt sur le revenu*.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. S.R.C. 1952, ch. 148, art. 1.

PARTIE I

Impôt sur le revenu

SECTION A

Assujettissement à l'impôt

Impôt payable par les personnes résidant au Canada

2 (1) Un impôt sur le revenu doit être payé, ainsi qu'il est prévu par la présente loi, pour chaque année d'imposition, sur le revenu imposable de toute personne résidant au Canada à un moment donné au cours de l'année.

Revenu imposable

(2) Le revenu imposable d'un contribuable pour une année d'imposition est son revenu pour l'année plus les ajouts prévus à la section C et moins les déductions qui y sont permises.

Impôt payable par les non-résidents

(3) Un impôt sur le revenu doit être payé, ainsi qu'il est prévu par la présente loi, sur son revenu imposable gagné au Canada pour l'année, déterminé conformément à la section D, par la personne non imposable en vertu du paragraphe (1) pour une année d'imposition et qui, à un moment donné de l'année ou d'une année antérieure, a :

a) soit été employée au Canada;

b) soit exploité une entreprise au Canada;

taxable income earned in Canada for the year determined in accordance with Division D.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "2"; 1984, c. 1, s.1; 1985, c. 45, s. 1.

c) soit disposé d'un bien canadien imposable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 2 »; 1984, ch. 1, art. 1; 1985, ch. 45, art. 1.

DIVISION B

Computation of Income

Basic Rules

Income for taxation year

3 The income of a taxpayer for a taxation year for the purposes of this Part is the taxpayer's income for the year determined by the following rules:

(a) determine the total of all amounts each of which is the taxpayer's income for the year (other than a taxable capital gain from the disposition of a property) from a source inside or outside Canada, including, without restricting the generality of the foregoing, the taxpayer's income for the year from each office, employment, business and property,

(b) determine the amount, if any, by which

(i) the total of

(A) all of the taxpayer's taxable capital gains for the year from dispositions of property other than listed personal property, and

(B) the taxpayer's taxable net gain for the year from dispositions of listed personal property,

exceeds

(ii) the amount, if any, by which the taxpayer's allowable capital losses for the year from dispositions of property other than listed personal property exceed the taxpayer's allowable business investment losses for the year,

(c) determine the amount, if any, by which the total determined under paragraph (a) plus the amount determined under paragraph (b) exceeds the total of the deductions permitted by subdivision e in computing the taxpayer's income for the year (except to the extent that those deductions, if any, have been taken into account in determining the total referred to in paragraph (a), and

(d) determine the amount, if any, by which the amount determined under paragraph (c) exceeds the total of all amounts each of which is the taxpayer's loss for the year from an office, employment, business or

SECTION B

Calcul du revenu

Règles fondamentales

Revenu pour l'année d'imposition

3 Pour déterminer le revenu d'un contribuable pour une année d'imposition, pour l'application de la présente partie, les calculs suivants sont à effectuer :

a) le calcul du total des sommes qui constituent chacune le revenu du contribuable pour l'année (autre qu'un gain en capital imposable résultant de la disposition d'un bien) dont la source se situe au Canada ou à l'étranger, y compris, sans que soit limitée la portée générale de ce qui précède, le revenu tiré de chaque charge, emploi, entreprise et bien;

b) le calcul de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants suivants :

(A) ses gains en capital imposables pour l'année tirés de la disposition de biens, autres que des biens meubles déterminés,

(B) son gain net imposable pour l'année tiré de la disposition de biens meubles déterminés,

(ii) l'excédent éventuel de ses pertes en capital déductibles pour l'année, résultant de la disposition de biens autres que des biens meubles déterminés sur les pertes déductibles au titre d'un placement d'entreprise pour l'année, subies par le contribuable;

c) le calcul de l'excédent éventuel du total établi selon l'alinéa a) plus le montant établi selon l'alinéa b) sur le total des déductions permises par la sous-section e dans le calcul du revenu du contribuable pour l'année (sauf dans la mesure où il a été tenu compte de ces déductions dans le calcul du total visé à l'alinéa a));

d) le calcul de l'excédent éventuel de l'excédent calculé selon l'alinéa c) sur le total des pertes subies par le contribuable pour l'année qui résultent d'une charge, d'un emploi, d'une entreprise ou d'un bien et des

property or the taxpayer's allowable business investment loss for the year,

and for the purposes of this Part,

(e) where an amount is determined under paragraph (d) for the year in respect of the taxpayer, the taxpayer's income for the year is the amount so determined, and

(f) in any other case, the taxpayer shall be deemed to have income for the year in an amount equal to zero.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 3; 1994, c. 7, Sch. II, s. 1.

pertes déductibles au titre d'un placement d'entreprise subies par le contribuable pour l'année;

Pour l'application de la présente partie, les règles suivantes s'appliquent :

e) si un montant est calculé selon l'alinéa d) à l'égard du contribuable pour l'année, le revenu du contribuable pour l'année correspond à ce montant;

f) sinon, le revenu du contribuable pour l'année est réputé égal à zéro.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 3; 1994, ch. 7, ann. II, art. 1.

Income or loss from a source or from sources in a place

4 (1) For the purposes of this Act,

(a) a taxpayer's income or loss for a taxation year from an office, employment, business, property or other source, or from sources in a particular place, is the taxpayer's income or loss, as the case may be, computed in accordance with this Act on the assumption that the taxpayer had during the taxation year no income or loss except from that source or no income or loss except from those sources, as the case may be, and was allowed no deductions in computing the taxpayer's income for the taxation year except such deductions as may reasonably be regarded as wholly applicable to that source or to those sources, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto; and

(b) where the business carried on by a taxpayer or the duties of the office or employment performed by a taxpayer was carried on or were performed, as the case may be, partly in one place and partly in another place, the taxpayer's income or loss for the taxation year from the business carried on, or the duties performed, by the taxpayer in a particular place is the taxpayer's income or loss, as the case may be, computed in accordance with this Act on the assumption that the taxpayer had during the taxation year no income or loss except from the part of the business that was carried on in that particular place or no income or loss except from the part of those duties that were performed in that particular place, as the case may be, and was allowed no deductions in computing the taxpayer's income for the taxation year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or to those duties, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto.

Revenu ou perte provenant d'une source déterminée ou de sources situées dans un endroit déterminé

4 (1) Les règles suivants s'appliquent à la présente loi :

a) le revenu ou la perte d'un contribuable pour une année d'imposition provenant d'une charge, d'un emploi, d'une entreprise, de biens ou d'une autre source, ou de sources situées dans un endroit déterminé, s'entend du revenu ou de la perte, selon le cas, du contribuable, calculés conformément à la présente loi, à supposer que ce contribuable n'ait eu, durant l'année d'imposition, aucun revenu ni perte, sauf ce qui provenait de cette source, ni aucun revenu ou perte, sauf ce qui provenait de ces sources, selon le cas, et qu'il n'ait eu droit à aucune déduction dans le calcul de son revenu pour l'année d'imposition à l'exception des déductions qu'il est raisonnable de considérer comme entièrement applicables à cette source ou à ces sources, selon le cas, et à l'exception de la partie de toutes autres déductions qu'il est raisonnable de considérer comme applicable à cette source ou à ces sources;

b) lorsque l'entreprise exploitée par un contribuable l'a été, ou que les fonctions de la charge ou de l'emploi remplies par ce dernier l'ont été, selon le cas, en partie dans un endroit et en partie dans un autre endroit, le revenu ou la perte du contribuable pour l'année d'imposition provenant de l'entreprise qu'il a exploitée ou des fonctions qu'il a remplies dans un endroit déterminé est, selon le cas, le revenu ou la perte du contribuable, calculés conformément à la présente loi, à supposer qu'il n'ait eu durant l'année d'imposition aucun revenu ni perte, sauf ce qui provenait de la partie de l'entreprise exploitée dans cet endroit déterminé, ni aucun revenu ou perte, sauf ce qui provenait de la partie des fonctions remplies dans cet endroit déterminé, selon le cas, et qu'il n'ait eu droit à aucune déduction dans le calcul de son revenu pour l'année d'imposition, à l'exception des déductions qu'il est raisonnable de considérer comme entièrement applicables à cette partie de l'entreprise ou à ces fonctions, selon le cas, et

Idem

(2) Subject to subsection 4(3), in applying subsection 4(1) for the purposes of this Part, no deductions permitted by sections 60 to 64 apply either wholly or in part to a particular source or to sources in a particular place.

Deductions applicable

(3) In applying subsection 4(1) for the purposes of subsections 104(22) and 104(22.1) and sections 115 and 126,

(a) subject to paragraph (b), all deductions permitted in computing a taxpayer's income for a taxation year for the purposes of this Part, except any deduction permitted by any of paragraphs 60(b) to (o), (p), (r) and (v) to (z), apply either wholly or in part to a particular source or to sources in a particular place; and

(b) any deduction permitted by subsection 104(6) or 104(12) shall not apply either wholly or in part to a source in a country other than Canada.

(4) [Repealed, 1996, c. 21, s. 2(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 4; 1994, c. 7, Sch. II, s. 2, c. 21, s. 1; 1996, c. 21, s. 2; 2007, c. 35, s. 101; 2013, c. 34, s. 169.

à l'exception de la partie de toutes autres déductions, qu'il est raisonnable de considérer comme applicable à cette partie de l'entreprise ou à ces fonctions.

Idem

(2) Sous réserve du paragraphe (3) et pour l'application du paragraphe (1) dans le cadre de la présente partie, les déductions autorisées par les articles 60 à 64 ne s'appliquent, ni en totalité ni en partie, à une source déterminée ou à des sources situées dans un endroit déterminé.

Éléments déductibles

(3) Pour l'application du paragraphe (1) dans le cadre des paragraphes 104(22) et (22.1) et des articles 115 et 126:

a) sous réserve de l'alinéa b), les déductions permises dans le calcul du revenu d'un contribuable pour une année d'imposition dans le cadre de la présente partie, sauf celles permises par l'un des alinéas 60b) à o), p), r) et v) à z), s'appliquent, en totalité ou en partie, à une source déterminée ou à des sources situées dans un endroit déterminé;

b) les déductions permises par les paragraphes 104(6) ou (12) ne s'appliquent, ni en totalité ni en partie, à une source située dans un pays étranger.

(4) [Abrogé, 1996, ch. 21, art. 2]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 4; 1994, ch. 7, ann. II, art. 2, ch. 21, art. 1; 1996, ch. 21, art. 2; 2007, ch. 35, art. 101; 2013, ch. 34, art. 169.

SUBDIVISION A

Income or Loss from an Office or Employment

Basic Rules

Income from office or employment

5 (1) Subject to this Part, a taxpayer's income for a taxation year from an office or employment is the salary, wages and other remuneration, including gratuities, received by the taxpayer in the year.

Loss from office or employment

(2) A taxpayer's loss for a taxation year from an office or employment is the amount of the taxpayer's loss, if any,

SOUS-SECTION A

Revenu ou perte provenant d'une charge ou d'un emploi

Règles fondamentales

Revenu tiré d'une charge ou d'un emploi

5 (1) Sous réserve des autres dispositions de la présente partie, le revenu d'un contribuable, pour une année d'imposition, tiré d'une charge ou d'un emploi est le traitement, le salaire et toute autre rémunération, y compris les gratifications, que le contribuable a reçus au cours de l'année.

Perte résultant d'une charge ou d'un emploi

(2) La perte subie par un contribuable au cours d'une année d'imposition au titre d'une charge ou d'un emploi est constituée par le montant de sa perte subie au cours de cette année au titre de cette charge ou de cet emploi, calculée par l'application, avec les adaptations nécessaires,

for the taxation year from that source computed by applying, with such modifications as the circumstances require, the provisions of this Act respecting the computation of income from that source.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"5".

des dispositions de la présente loi afférentes au calcul du revenu tiré de cette charge ou de cet emploi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 5 ».

Inclusions

Amounts to be included as income from office or employment

6 (1) There shall be included in computing the income of a taxpayer for a taxation year as income from an office or employment such of the following amounts as are applicable

Value of benefits

(a) the value of board, lodging and other benefits of any kind whatever received or enjoyed by the taxpayer, or by a person who does not deal at arm's length with the taxpayer, in the year in respect of, in the course of, or by virtue of the taxpayer's office or employment, except any benefit

(i) derived from the contributions of the taxpayer's employer to or under a deferred profit sharing plan, an employee life and health trust, a group sickness or accident insurance plan, a group term life insurance policy, a pooled registered pension plan, a private health services plan, a registered pension plan or a supplementary unemployment benefit plan,

(ii) under a retirement compensation arrangement, an employee benefit plan or an employee trust,

(iii) that was a benefit in respect of the use of an automobile,

(iv) derived from counselling services in respect of

(A) the mental or physical health of the taxpayer or an individual related to the taxpayer, other than a benefit attributable to an outlay or expense to which paragraph 18(1)(l) applies, or

(B) the re-employment or retirement of the taxpayer,

(v) under a salary deferral arrangement, except to the extent that the benefit is included under this paragraph because of subsection (11), or

(vi) that is received or enjoyed by an individual other than the taxpayer under a program provided by the taxpayer's employer that is designed to assist individuals to further their education, if the taxpayer deals with the employer at arm's length and it is

Éléments à inclure

Éléments à inclure à titre de revenu tiré d'une charge ou d'un emploi

6 (1) Sont à inclure dans le calcul du revenu d'un contribuable tiré, pour une année d'imposition, d'une charge ou d'un emploi, ceux des éléments suivants qui sont applicables :

Valeur des avantages

a) la valeur de la pension, du logement et de tout autre avantage que reçoit ou dont jouit le contribuable, ou une personne avec laquelle il a un lien de dépendance, au cours de l'année au titre, dans le cadre ou en raison de la charge ou de l'emploi du contribuable, à l'exception des avantages suivants :

(i) ceux qui résultent des cotisations que l'employeur du contribuable verse dans le cadre d'une fiducie de soins de santé au bénéfice d'employés, d'une police collective d'assurance temporaire sur la vie, d'un régime d'assurance collective contre la maladie ou les accidents, d'un régime de participation différée aux bénéfices, d'un régime de pension agréé, d'un régime de pension agréé collectif, d'un régime de prestations supplémentaires de chômage ou d'un régime privé d'assurance-maladie,

(ii) ceux qui découlent d'une convention de retraite, d'un régime de prestations aux employés ou d'une fiducie d'employés,

(iii) ceux qui étaient des avantages relatifs à l'usage d'une automobile,

(iv) ceux qui découlent de la prestation de services d'aide concernant :

(A) soit la santé physique ou mentale du contribuable ou d'un particulier qui lui est lié, à l'exclusion d'un avantage imputable à une dépense à laquelle l'alinéa 18(1)l) s'applique,

(B) soit le réemploi ou la retraite du contribuable,

reasonable to conclude that the benefit is not a substitute for salary, wages or other remuneration of the taxpayer;

Personal or living expenses

(b) all amounts received by the taxpayer in the year as an allowance for personal or living expenses or as an allowance for any other purpose, except

(i) travel, personal or living expense allowances

(A) expressly fixed in an Act of Parliament, or

(B) paid under the authority of the Treasury Board to a person who was appointed or whose services were engaged pursuant to the *Inquiries Act*, in respect of the discharge of the person's duties relating to the appointment or engagement,

(ii) travel and separation allowances received under service regulations as a member of the Canadian Forces,

(iii) representation or other special allowances received in respect of a period of absence from Canada as a person described in paragraph 250(1)(b), 250(1)(c), 250(1)(d) or (d.1),

(iv) representation or other special allowances received by a person who is an agent-general of a province in respect of a period while the person was in Ottawa as the agent-general of the province,

(v) reasonable allowances for travel expenses received by an employee from the employee's employer in respect of a period when the employee was employed in connection with the selling of property or negotiating of contracts for the employee's employer,

(v.1) allowances for board and lodging of the taxpayer, to a maximum total of $300 for each month of the year, if

(A) the taxpayer is, in that month, a registered participant with, or member of, a sports team or recreation program of the employer in respect of which membership or participation is restricted to persons under 21 years of age,

(B) the allowance is in respect of the taxpayer's participation or membership and is not attributable to services of the taxpayer as a coach, instructor trainer, referee, administrator or other similar occupation,

(v) ceux qui sont prévus par une entente d'échelonnement du traitement, sauf dans la mesure où l'avantage est visé au présent alinéa par l'effet du paragraphe (11),

(vi) ceux que reçoit ou dont jouit un particulier autre que le contribuable dans le cadre d'un programme offert par l'employeur de celui-ci qui vise à aider des particuliers à poursuivre leurs études, à condition que le contribuable n'ait aucun lien de dépendance avec l'employeur et qu'il soit raisonnable de conclure que l'avantage n'est pas accordé en remplacement d'un salaire, d'un traitement ou d'autre rémunération du contribuable;

Frais personnels ou de subsistance

b) les sommes qu'il a reçues au cours de l'année à titre d'allocations pour frais personnels ou de subsistance ou à titre d'allocations à toute autre fin, sauf :

(i) les allocations pour frais de déplacement ou frais personnels ou de subsistance :

(A) soit expressément fixées par une loi fédérale,

(B) soit payées en vertu d'une autorisation du Conseil du Trésor à une personne nommée, ou dont les services étaient retenus, conformément à la *Loi sur les enquêtes*, relativement à l'accomplissement des fonctions afférentes à sa nomination ou à son engagement,

(ii) les allocations de déplacement et les indemnités d'absence du foyer reçues en vertu de règlements militaires à titre de membre des Forces canadiennes,

(iii) les allocations de représentation ou autres allocations spéciales reçues et afférentes à une période d'absence du Canada, à titre de personne visée à l'alinéa 250(1)b), c), d) ou d.1),

(iv) les allocations de représentation ou autres allocations spéciales reçues par un agent général d'une province et afférentes à une période pendant laquelle il était à Ottawa en qualité d'agent général de la province,

(v) les allocations raisonnables pour frais de déplacement reçues de son employeur par un employé et afférentes à une période pendant laquelle son emploi était lié à la vente de biens ou à la négociation de contrats pour son employeur,

(v.1) les allocations pour pension et logement du contribuable, jusqu'à concurrence de 300 $ pour chaque mois de l'année, si, à la fois :

(C) the employer is a registered charity or a non-profit organization described in paragraph 149(1)(l), and

(D) the allowance is reasonably attribut- able to the cost to the taxpayer of living away from the place where the employee would, but for the employment, ordinarily reside,

(vi) reasonable allowances received by a minister or clergyman in charge of or ministering to a diocese, parish or congregation for expenses for transportation incident to the discharge of the duties of that office or employment,

(vii) reasonable allowances for travel expenses (other than allowances for the use of a motor vehicle) received by an employee (other than an employee employed in connection with the selling of property or the negotiating of contracts for the employer) from the employer for travelling away from

(A) the municipality where the employer's establishment at which the employee ordinarily worked or to which the employee ordinarily reported was located, and

(B) the metropolitan area, if there is one, where that establishment was located,

in the performance of the duties of the employee's office or employment,

(vii.1) reasonable allowances for the use of a motor vehicle received by an employee (other than an employee employed in connection with the selling of property or the negotiating of contracts for the employer) from the employer for travelling in the performance of the duties of the office or employment,

(viii) [Repealed, 1999, c. 22, s. 2]

(ix) allowances (not in excess of reasonable amounts) received by an employee from the employee's employer in respect of any child of the employee living away from the employee's domestic establishment in the place where the employee is required by reason of the employee's employment to live and in full-time attendance at a school in which the language primarily used for instruction is the official language of Canada primarily used by the employee if

(A) a school suitable for that child primarily using that language of instruction is not available in the place where the employee is so required to live, and

(A) le contribuable est, au cours du mois en cause, inscrit à une équipe sportive ou à un programme récréatif de l'employeur à titre de participant ou de membre, et la participation ou l'adhésion à l'équipe ou au programme est réservée aux personnes de moins de 21 ans,

(B) l'allocation a trait à la participation ou à l'adhésion du contribuable et n'est pas attribuable à des services qu'il rend à titre d'entraîneur, d'instructeur, de moniteur, d'arbitre, d'administrateur ou d'une autre occupation semblable,

(C) l'employeur est un organisme de bienfaisance enregistré ou une organisation à but non lucratif visée à l'alinéa 149(1)l),

(D) il est raisonnable d'attribuer l'allocation au coût pour le contribuable du fait de vivre à l'extérieur du lieu où il résiderait habituellement si ce n'était l'emploi,

(vi) les allocations raisonnables reçues par un ministre du culte ou un membre du clergé desservant un diocèse, une paroisse ou une congrégation, ou en ayant la charge, pour les frais de transport qu'a entraînés l'accomplissement des fonctions de sa charge ou de son emploi,

(vii) les allocations raisonnables pour frais de déplacement, à l'exception des allocations pour l'usage d'un véhicule à moteur, qu'un employé — dont l'emploi n'est pas lié à la vente de biens ou à la négociation de contrats pour son employeur — a reçues de son employeur pour voyager, dans l'accomplissement des fonctions de sa charge ou de son emploi, à l'extérieur :

(A) de la municipalité où était situé l'établissement de l'employeur dans lequel l'employé travaillait habituellement ou auquel il adressait ordinairement ses rapports,

(B) en outre, le cas échéant, de la région métropolitaine où était situé cet établissement,

(vii.1) les allocations raisonnables pour l'usage d'un véhicule à moteur qu'un employé — dont l'emploi n'est pas lié à la vente de biens ou à la négociation de contrats pour son employeur — a reçues de son employeur pour voyager dans l'accomplissement des fonctions de sa charge ou de son emploi,

(viii) [Abrogé, 1999, ch. 22, art. 2]

(B) the school the child attends primarily uses that language for instruction and is not farther from that place than the community nearest to that place in which there is such a school having suitable boarding facilities,

and for the purposes of subparagraphs 6(1)(b)(v), 6(1)(b)(vi) and 6(1)(b)(vii.1), an allowance received in a taxation year by a taxpayer for the use of a motor vehicle in connection with or in the course of the taxpayer's office or employment shall be deemed not to be a reasonable allowance

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

(xi) where the taxpayer both receives an allowance in respect of that use and is reimbursed in whole or in part for expenses in respect of that use (except where the reimbursement is in respect of supplementary business insurance or toll or ferry charges and the amount of the allowance was determined without reference to those reimbursed expenses);

Director's or other fees

(c) director's or other fees received by the taxpayer in the year in respect of, in the course of, or by virtue of an office or employment;

Allocations, etc., under profit sharing plan

(d) amounts allocated to the taxpayer in the year by a trustee under an employees profit sharing plan as provided by section 144 except subsection 144(4), and amounts required by subsection 144(7) to be included in computing the taxpayer's income for the year;

Standby charge for automobile

(e) where the taxpayer's employer or a person related to the employer made an automobile available to the taxpayer, or to a person related to the taxpayer, in the year, the amount, if any, by which

(i) an amount that is a reasonable standby charge for the automobile for the total number of days in the year during which it was made so available

exceeds

(ii) the total of all amounts, each of which is an amount (other than an expense related to the operation of the automobile) paid in the year to the employer or the person related to the employer by the

(ix) les allocations — n'excédant pas des montants raisonnables — qu'un employé a reçues de son employeur pour un enfant de l'employé vivant à l'extérieur du domicile de ce dernier au lieu où il est obligé de demeurer en raison de son emploi et fréquentant à plein temps un établissement scolaire dans lequel la langue principale d'enseignement est celle des langues officielles du Canada qui est la langue première de l'employé, si les conditions suivantes sont réunies :

(A) aucun établissement scolaire convenant à l'enfant et utilisant principalement cette langue dans l'enseignement n'est accessible au lieu où l'employé est tenu de demeurer,

(B) l'établissement scolaire fréquenté par l'enfant a cette langue pour langue principale d'enseignement et n'est pas plus éloigné de ce lieu que l'agglomération la plus proche de ce lieu où un établissement scolaire semblable offre des installations suffisantes pour le logement et les repas;

pour l'application des sous-alinéas (v), (vi) et (vii.1), une allocation reçue au cours de l'année par le contribuable pour l'usage d'un véhicule à moteur dans l'accomplissement des fonctions de sa charge ou de son emploi est réputée ne pas être raisonnable dans les cas suivants :

(x) l'usage du véhicule n'est pas, pour la fixation de l'allocation, uniquement évalué en fonction du nombre de kilomètres parcourus par celui-ci dans l'accomplissement des fonctions de la charge ou de l'emploi,

(xi) le contribuable, à la fois, reçoit une allocation pour cet usage et est remboursé de tout ou partie de ses dépenses pour le même usage (sauf s'il s'agit d'un remboursement pour frais d'assurance-automobile commerciale supplémentaire, frais de péage routier ou frais de traversier et si l'allocation a été déterminée compte non tenu des dépenses ainsi remboursées);

Jetons de présence ou autres honoraires

c) les jetons de présence d'administrateur ou autres honoraires qu'il a reçus au cours de l'année au titre, dans l'occupation ou en vertu d'une charge ou d'un emploi;

Régime de participation aux bénéfices

d) les sommes qu'un fiduciaire lui attribue au cours de l'année dans le cadre d'un régime de participation des employés aux bénéfices, comme le prévoit l'article

taxpayer or the person related to the taxpayer for the use of the automobile;

Group sickness or accident insurance plans

(e.1) the total of all amounts contributed in the year in respect of the taxpayer by the taxpayer's employer to a group sickness or accident insurance plan, except to the extent that the contributions are attributable to benefits under the plan that, if received by the taxpayer, would be included in the taxpayer's income under paragraph (f) in the year the benefits are received if that paragraph were read without regard to its subparagraph (v);

Employment insurance benefits

(f) the total of all amounts received by the taxpayer in the year that were payable to the taxpayer on a periodic basis in respect of the loss of all or any part of the taxpayer's income from an office or employment, pursuant to

(i) a sickness or accident insurance plan,

(ii) a disability insurance plan,

(iii) an income maintenance insurance plan, or

(iii.1) a plan described in any of subparagraphs (i) to (iii) that is administered or provided by an employee life and health trust,

to or under which the taxpayer's employer has made a contribution, not exceeding the amount, if any, by which

(iv) the total of all such amounts received by the taxpayer pursuant to the plan before the end of the year and

(A) where there was a preceding taxation year ending after 1971 in which any such amount was, by virtue of this paragraph, included in computing the taxpayer's income, after the last such year, and

(B) in any other case, after 1971,

exceeds

(v) the total of the contributions made by the taxpayer under the plan before the end of the year and

(A) where there was a preceding taxation year described in clause (iv)(A), after the last such year, and

(B) in any other case, after 1967;

144, exception faite du paragraphe 144(4), et les montants à inclure en application du paragraphe 144(7) dans le calcul de son revenu pour l'année;

Frais pour droit d'usage d'une automobile

e) lorsque son employeur ou une personne liée à son employeur a mis au cours de l'année une automobile à sa disposition (ou à la disposition d'une personne qui lui est liée), l'excédent éventuel de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) la somme qui représente les frais raisonnables pour droit d'usage de l'automobile pendant le nombre de jours de l'année où elle était ainsi à sa disposition,

(ii) le total des sommes dont chacune représente une somme (autre qu'une dépense liée au fonctionnement de l'automobile) payée au cours de l'année à l'employeur ou à la personne liée à l'employeur par le contribuable ou par la personne qui lui est liée pour l'usage de l'automobile;

Régimes d'assurance collective contre la maladie ou les accidents

e.1) le total des sommes que son employeur a versées à son égard au cours de l'année à un régime d'assurance collective contre la maladie ou les accidents, sauf dans la mesure où elles sont attribuables à des prestations prévues par le régime qui, si le contribuable les recevait et que l'alinéa f) s'appliquait compte non tenu de son sous-alinéa (v), seraient incluses dans le revenu du contribuable en application de cet alinéa pour l'année de leur réception;

Prestations d'assurance contre la maladie, etc.

f) le total des sommes qu'il a reçues au cours de l'année, à titre d'indemnité payable périodiquement pour la perte totale ou partielle du revenu afférent à une charge ou à un emploi, en vertu de l'un des régimes suivants dans le cadre duquel son employeur a contribué :

(i) un régime d'assurance contre la maladie ou les accidents,

(ii) un régime d'assurance invalidité,

(iii) un régime d'assurance de sécurité du revenu,

(iii.1) un régime visé à l'un des sous-alinéas (i) à (iii) qui est administré ou offert par une fiducie de soins de santé au bénéfice d'employés,

Canadian Forces members and veterans income replacement benefits

(f.1) the total of all amounts received by the taxpayer in the year on account of an earnings loss benefit, a supplementary retirement benefit or a career impact allowance payable to the taxpayer under Part 2 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*;

Employee benefit plan benefits

(g) the total of all amounts each of which is an amount received by the taxpayer in the year out of or under an employee benefit plan or from the disposition of any interest in any such plan, other than the portion thereof that is

(i) a death benefit or an amount that would, but for the deduction provided in the definition of that term in subsection 248(1), be a death benefit,

(ii) a return of amounts contributed to the plan by the taxpayer or a deceased employee of whom the taxpayer is an heir or legal representative, to the extent that the amounts were not deducted in computing the taxable income of the taxpayer or the deceased employee for any taxation year,

(iii) a superannuation or pension benefit attributable to services rendered by a person in a period throughout which the person was not resident in Canada, or

(iv) a designated employee benefit (as defined in subsection 144.1(1));

Employee trust

(h) amounts allocated to the taxpayer for the year by a trustee under an employee trust;

Salary deferral arrangement payments

(i) the amount, if any, by which the total of all amounts received by any person as benefits (other than amounts received by or from a trust governed by a salary deferral arrangement) in the year out of or under a salary deferral arrangement in respect of the taxpayer exceeds the amount, if any, by which

(i) the total of all deferred amounts under the arrangement that were included under paragraph 6(1)(a) as benefits in computing the taxpayer's income for preceding taxation years

exceeds

(ii) the total of

le total ne peut toutefois dépasser l'excédent éventuel du total visé au sous-alinéa (iv) sur le total visé au sous-alinéa (v) :

(iv) le total des sommes qu'il a ainsi reçues avant la fin de l'année et :

(A) lorsqu'une de ces sommes a été, en vertu du présent alinéa, incluse dans le calcul de son revenu pour une année d'imposition antérieure se terminant après 1971, après cette année,

(B) sinon, après 1971,

(v) le total des cotisations versées par le contribuable dans le cadre du régime avant la fin de l'année et :

(A) lorsqu'il y a eu une année d'imposition antérieure, visée à la division (iv)(A), après cette année,

(B) sinon, après 1967;

Prestations de remplacement du revenu des militaires et vétérans des Forces canadiennes

f.1) le total des sommes qu'il a reçues au cours de l'année au titre d'une allocation pour perte de revenus, d'une prestation de retraite supplémentaire ou d'une allocation pour incidence sur la carrière qui lui est payable en vertu de la partie 2 de la *Loi sur les mesures de réinsertion et d'indemnisation des militaires et vétérans des Forces canadiennes*;

Prestations d'un régime de prestations aux employés

g) le total des sommes dont chacune représente un montant reçu par lui au cours de l'année dans le cadre d'un régime de prestations aux employés ou de la disposition d'une participation dans un tel régime, à l'exclusion de la partie de ce montant qui constitue :

(i) une prestation consécutive au décès ou une somme qui serait une telle prestation sans la déduction prévue à la définition de cette expression au paragraphe 248(1),

(ii) un remboursement des sommes versées au régime par le contribuable ou par un employé décédé dont il est l'héritier ou le représentant légal, dans la mesure où elles n'ont pas été déduites dans le calcul de leur revenu imposable pour une année d'imposition quelconque,

(iii) une prestation de retraite ou de pension imputable aux services rendus par une personne au cours d'une période tout au long de laquelle elle ne résidait pas au Canada,

(A) all deferred amounts received by any person in preceding taxation years out of or under the arrangement, and

(B) all deferred amounts under the arrangement that were deducted under paragraph 8(1)(o) in computing the taxpayer's income for the year or preceding taxation years;

Reimbursements and awards

(j) amounts received by the taxpayer in the year as an award or reimbursement in respect of an amount that would, if the taxpayer were entitled to no reimbursements or awards, be deductible under subsection 8(1) in computing the income of the taxpayer, except to the extent that the amounts so received

(i) are otherwise included in computing the income of the taxpayer for the year, or

(ii) are taken into account in computing the amount that is claimed under subsection 8(1) by the taxpayer for the year or a preceding taxation year;

Automobile operating expense benefit

(k) where

(i) an amount is determined under subparagraph 6(1)(e)(i) in respect of an automobile in computing the taxpayer's income for the year,

(ii) amounts related to the operation (otherwise than in connection with or in the course of the taxpayer's office or employment) of the automobile for the period or periods in the year during which the automobile was made available to the taxpayer or a person related to the taxpayer are paid or payable by the taxpayer's employer or a person related to the taxpayer's employer (each of whom is in this paragraph referred to as the "payor"), and

(iii) the total of the amounts so paid or payable is not paid in the year or within 45 days after the end of the year to the payor by the taxpayer or by the person related to the taxpayer,

the amount in respect of the operation of the automobile determined by the formula

A - B

where

A is

(iv) where the automobile is used primarily in the performance of the duties of the taxpayer's office or employment during the period or

(iv) une prestation désignée au sens du paragraphe 144.1(1);

Fiducie d'employés

h) les sommes qu'un fiduciaire lui attribue dans le cadre d'une fiducie d'employés;

Versements dans le cadre d'une entente d'échelonnement du traitement

i) l'excédent éventuel du total des montants reçus comme avantages par toute personne au cours de l'année dans le cadre d'une entente d'échelonnement du traitement applicable au contribuable — à l'exclusion des montants reçus par une fiducie régissant une entente d'échelonnement du traitement et des montants reçus d'une telle fiducie — sur l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des montants différés dans le cadre de l'entente et ajoutés comme avantages en vertu de l'alinéa a) dans le calcul du revenu du contribuable pour les années d'imposition antérieures,

(ii) le total des montants différés et reçus par toute personne au cours des années d'imposition antérieures dans le cadre de l'entente et des montants différés dans le cadre de l'entente et déduits en vertu de l'alinéa 8(1)o) dans le calcul du revenu du contribuable pour l'année ou pour les années d'imposition antérieures;

Sommes accordées ou remboursées

j) les sommes reçues par le contribuable au cours de l'année et qui lui ont été accordées ou remboursées au titre d'un montant qui serait déductible en application du paragraphe 8(1) dans le calcul de son revenu s'il n'avait droit à aucune somme accordée ou remboursée, sauf dans la mesure où ces sommes sont :

(i) soit incluses par ailleurs dans le calcul de son revenu pour l'année,

(ii) soit prises en compte dans le calcul du montant qu'il déduit en application du paragraphe 8(1) pour l'année ou pour une année d'imposition antérieure;

Avantage relatif au fonctionnement d'une automobile

k) lorsqu'une somme est déterminée en application du sous-alinéa e)(i) relativement à une automobile dans le calcul du revenu du contribuable pour l'année, qu'un montant au titre du fonctionnement de l'automobile (autrement que dans l'accomplissement des fonctions de la charge ou de l'emploi du contribuable) pour la ou les périodes de l'année au cours desquelles

periods referred to in subparagraph (ii) and the taxpayer notifies the employer in writing before the end of the year of the taxpayer's intention to have this subparagraph apply, 1/2 of the amount determined under subparagraph 6(1)(e)(i) in respect of the automobile in computing the taxpayer's income for the year, and

(v) in any other case, the amount equal to the product obtained when the amount prescribed for the year is multiplied by the total number of kilometres that the automobile is driven (otherwise than in connection with or in the course of the taxpayer's office or employment) during the period or periods referred to in subparagraph 6(1)(k)(ii), and

B is the total of all amounts in respect of the operation of the automobile in the year paid in the year or within 45 days after the end of the year to the payor by the taxpayer or by the person related to the taxpayer; and

Where standby charge does not apply

(I) the value of a benefit in respect of the operation of an automobile (other than a benefit to which paragraph (k) applies or would apply but for subparagraph (k)(iii)) received or enjoyed by the taxpayer, or by a person related to the taxpayer, in the year in respect of, in the course of or because of, the taxpayer's office or employment.

l'automobile a été mise à sa disposition ou à la disposition d'une personne qui lui est liée est payé ou payable par l'employeur du contribuable ou par une personne liée à cet employeur (l'employeur et cette personne étant appelés « payeur » au présent alinéa) et que le total des montants ainsi payés ou payables n'est pas versé au payeur, au cours de l'année ou des 45 jours suivant la fin de l'année, par le contribuable ou par la personne qui lui est liée, le montant lié au fonctionnement de l'automobile, qui correspond au résultat du calcul suivant :

A - B

où :

A représente :

(i) dans le cas où l'automobile sert principalement dans l'accomplissement des fonctions de la charge ou de l'emploi du contribuable au cours de la ou des périodes en question et où le contribuable avise son employeur, par écrit, avant la fin de l'année de son intention de se prévaloir du présent sous-alinéa, la moitié de la somme déterminée en application du sous-alinéa e)(i) relativement à l'automobile dans le calcul du revenu du contribuable pour l'année,

(ii) dans les autres cas, le produit de la multiplication du montant prescrit pour l'année par le nombre total de kilomètres parcourus par l'automobile (autrement que dans l'accomplissement des fonctions de la charge ou de l'emploi du contribuable) au cours de la ou des périodes en question;

B le total des montants relatifs au fonctionnement de l'automobile au cours de l'année versés au payeur, au cours de l'année ou des 45 jours suivant la fin de l'année, par le contribuable ou par la personne qui lui est liée;

Frais pour droit d'usage — exception

I) le montant représentant la valeur des avantages relatifs au fonctionnement d'une automobile (sauf un avantage auquel l'alinéa k) s'applique ou s'appliquerait en l'absence de la troisième condition énoncée dans le passage de cet alinéa qui précède la formule) que reçoit ou dont jouit le contribuable, ou une personne qui lui est liée, au cours de l'année au titre, dans le cadre ou en raison de la charge ou de l'emploi du contribuable.

Parking cost

(1.1) For the purposes of this section, an amount or a benefit in respect of the use of a motor vehicle by a taxpayer does not include any amount or benefit related to the parking of the vehicle.

Deeming rule — amount received

(1.2) For the purposes of paragraph (1)(g), an amount received by an individual out of or under an employee benefit plan is deemed to have been received by a taxpayer and not by the individual if

(a) the individual does not deal at arm's length with the taxpayer;

(b) the amount is received in respect of an office or employment of the taxpayer; and

(c) the taxpayer is living at the time the amount is received by the individual.

Reasonable standby charge

(2) For the purposes of paragraph 6(1)(e), a reasonable standby charge for an automobile for the total number of days (in this subsection referred to as the "total available days") in a taxation year during which the automobile is made available to a taxpayer or to a person related to the taxpayer by the employer of the taxpayer or by a person related to the employer (both of whom are in this subsection referred to as the "employer") shall be deemed to be the amount determined by the formula

A/B × [2% × (C × D) + 2/3 × (E - F)]

where

A is

(a) the lesser of the total kilometres that the automobile is driven (otherwise than in connection with or in the course of the taxpayer's office or employment) during the total available days and the value determined for the description of B for the year in respect of the standby charge for the automobile during the total available days, if

(i) the taxpayer is required by the employer to use the automobile in connection with or in the course of the office or employment, and

(ii) the distance travelled by the automobile in the total available days is primarily in connection with or in the course of the office or employment, and

Frais de stationnement

(1.1) Pour l'application du présent article, ne sont pas compris parmi les avantages ou montants relatifs à l'usage d'un véhicule à moteur par un contribuable les avantages ou montants relatifs au stationnement de ce véhicule.

Réattribution d'une somme reçue

(1.2) Pour l'application de l'alinéa (1)g), toute somme reçue par un particulier dans le cadre d'un régime de prestations aux employés est réputée avoir été reçue par un contribuable et non par le particulier si les conditions ci-après sont réunies :

a) le particulier a un lien de dépendance avec le contribuable;

b) la somme est reçue au titre de la charge ou de l'emploi du contribuable;

c) le contribuable est vivant au moment où le particulier reçoit la somme.

Frais raisonnables pour droit d'usage d'une automobile

(2) Pour l'application de l'alinéa (1)e), la somme qui représente les frais raisonnables pour droit d'usage d'une automobile pendant le nombre total de jours d'une année d'imposition durant lesquels l'employeur d'un contribuable ou une personne liée à l'employeur a mis l'automobile à la disposition du contribuable ou d'une personne qui lui est liée est réputée égale au montant calculé selon la formule suivante :

A/B × [2 % × (C × D) + 2/3 × (E - F)]

où :

A représente :

a) le nombre de kilomètres parcourus par l'automobile, autrement que dans l'accomplissement des fonctions de la charge ou de l'emploi du contribuable, pendant le nombre de jours ci-dessus ou, s'il est moins élevé, le montant représenté par l'élément B, si, à la fois :

(i) l'employeur ou la personne liée à celui-ci exige du contribuable qu'il utilise l'automobile dans l'accomplissement des fonctions de sa charge ou de son emploi,

(ii) la distance parcourue par l'automobile pendant le nombre de jours ci-dessus est parcourue principalement dans l'accomplissement de ces fonctions;

b) le montant représenté par l'élément B, dans les autres cas;

(b) the value determined for the description of B for the year in respect of the standby charge for the automobile during the total available days, in any other case;

B is the product obtained when 1.667 is multiplied by the quotient obtained by dividing the total available days by 30 and, if the quotient so obtained is not a whole number and exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower of those two numbers;

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

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

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

F is the part of the amount determined for E that may reasonably be regarded as having been payable to the lessor in respect of all or part of the cost to the lessor of insuring against

(a) loss of, or damage to, the automobile, or

(b) liability resulting from the use or operation of the automobile.

B le produit de 1,667 par le quotient de la division, par 30, du nombre de jours ci-dessus, ce quotient étant, s'il est supérieur à un, arrondi, le cas échéant, au nombre entier le plus proche, les résultats ayant cinq au plus en première décimale l'étant à l'entier inférieur;

C le coût de l'automobile pour l'employeur ou pour la personne qui lui est liée si l'un ou l'autre est propriétaire de l'automobile à un moment de l'année;

D le quotient de la division, par 30, du nombre de jours où l'employeur ou la personne qui lui est liée est propriétaire de l'automobile, compris dans le nombre total de jours ci-dessus, ce quotient étant, s'il est supérieur à un, arrondi, le cas échéant, au nombre entier le plus proche, les résultats ayant cinq au plus en première décimale l'étant à l'entier inférieur;

E le total des montants qu'il est raisonnable de considérer comme payables à un bailleur par l'employeur ou par la personne qui lui est liée, pour la location de l'automobile, pendant le nombre de jours où l'automobile est louée à l'employeur ou à la personne qui lui est liée, compris dans le nombre total de jours ci-dessus;

F la partie du total représenté par l'élément E qu'il est raisonnable de considérer comme payable au bailleur au titre de tout ou partie du coût, pour celui-ci, de l'assurance :

a) contre la perte de l'automobile ou les dommages à celle-ci;

b) pour la responsabilité qui peut découler de son utilisation ou de son fonctionnement.

Automobile salesperson

(2.1) Where in a taxation year

(a) a taxpayer was employed principally in selling or leasing automobiles,

(b) an automobile owned by the taxpayer's employer was made available by the employer to the taxpayer or to a person related to the taxpayer, and

(c) the employer has acquired one or more automobiles,

the amount that would otherwise be determined under subsection 6(2) as a reasonable standby charge shall, at the option of the employer, be computed as if

Vendeur d'automobiles

(2.1) Lorsque, au cours d'une année d'imposition, l'emploi d'un contribuable consiste principalement à vendre ou à louer des automobiles et que l'employeur du contribuable a mis au cours de l'année à la disposition du contribuable ou d'une personne liée à celui-ci une automobile lui appartenant, et enfin que l'employeur a acquis une ou plusieurs automobiles au cours de l'année, la somme qui représente les frais raisonnables pour droit d'usage de l'automobile est, au choix de l'employeur et malgré le paragraphe (2), calculée comme si :

a) d'une part, le pourcentage « 2 % » qui figure à ce paragraphe était remplacé par le pourcentage « 1 1/2 % »;

(d) the reference in the formula in subsection 6(2) to "2%" were read as a reference to "1 1/2%", and

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

(i) the quotient obtained by dividing

(A) the cost to the employer of all new automobiles acquired by the employer in the year for sale or lease in the course of the employer's business

by

(B) the number of automobiles described in clause 6(2.1)(e)(i)(A), and

(ii) the quotient obtained by dividing

(A) the cost to the employer of all automobiles acquired by the employer in the year for sale or lease in the course of the employer's business

by

(B) the number of automobiles described in clause 6(2.1)(e)(ii)(A).

b) d'autre part, le coût, pour l'employeur, de l'automobile était le plus élevé des montants suivants :

(i) le quotient de la division, par le nombre d'automobiles neuves que l'employeur a acquises au cours de l'année en vue de les vendre ou de les louer dans le cours des activités de son entreprise, du coût de ces automobiles neuves pour l'employeur,

(ii) le quotient de la division, par le nombre d'automobiles que l'employeur a acquises au cours de l'année en vue de les vendre ou de les louer dans le cours des activités de son entreprise, du coût de ces automobiles pour l'employeur.

(2.2) [Repealed, 1994, c. 21, s. 2]

(2.2) [Abrogé, 1994, ch. 21, art. 2]

Payments by employer to employee

(3) An amount received by one person from another

(a) during a period while the payee was an officer of, or in the employment of, the payer, or

(b) on account, in lieu of payment or in satisfaction of an obligation arising out of an agreement made by the payer with the payee immediately prior to, during or immediately after a period that the payee was an officer of, or in the employment of, the payer,

shall be deemed, for the purposes of section 5, to be remuneration for the payee's services rendered as an officer or during the period of employment, unless it is established that, irrespective of when the agreement, if any, under which the amount was received was made or the form or legal effect thereof, it cannot reasonably be regarded as having been received

(c) as consideration or partial consideration for accepting the office or entering into the contract of employment,

(d) as remuneration or partial remuneration for services as an officer or under the contract of employment, or

Paiements faits par l'employeur à l'employé

(3) La somme qu'une personne a reçue d'une autre personne :

a) soit pendant une période où le bénéficiaire était un cadre du payeur ou un employé de ce dernier;

b) soit au titre ou en paiement intégral ou partiel d'une obligation découlant d'une convention intervenue entre le payeur et le bénéficiaire immédiatement avant, pendant ou immédiatement après une période où ce bénéficiaire était un cadre du payeur ou un employé de ce dernier,

est réputée être, pour l'application de l'article 5, une rémunération des services que le bénéficiaire a rendus à titre de cadre ou pendant sa période d'emploi, sauf s'il est établi que, indépendamment de la date où a été conclue l'éventuelle convention en vertu de laquelle cette somme a été reçue ou de la forme ou des effets juridiques de cette convention, il n'est pas raisonnable de considérer cette somme comme ayant été reçue, selon le cas :

c) à titre de contrepartie totale ou partielle de l'acceptation de la charge ou de la conclusion du contrat d'emploi;

(e) in consideration or partial consideration for a covenant with reference to what the officer or employee is, or is not, to do before or after the termination of the employment.

d) à titre de rémunération totale ou partielle des services rendus comme cadre ou conformément au contrat d'emploi;

e) à titre de contrepartie totale ou partielle d'un engagement prévoyant ce que le cadre ou l'employé doit faire, ou ne peut faire, avant ou après la cessation de l'emploi.

Amount receivable for covenant

(3.1) If an amount (other than an amount to which paragraph (1)(a) applies because of subsection (11)) is receivable at the end of a taxation year by a taxpayer in respect of a covenant, agreed to by the taxpayer more than 36 months before the end of that taxation year, with reference to what the taxpayer is, or is not, to do, and the amount would be included in the taxpayer's income for the year under this subdivision if it were received by the taxpayer in the year, the amount

(a) is deemed to be received by the taxpayer at the end of the taxation year for services rendered as an officer or during the period of employment; and

(b) is deemed not to be received at any other time.

Somme à recevoir au titre d'un engagement

(3.1) La somme, sauf celle à laquelle l'alinéa (1)a) s'applique par l'effet du paragraphe (11), qui, d'une part, est à recevoir par un contribuable à la fin d'une année d'imposition au titre d'un engagement de faire ou de ne pas faire quelque chose qu'il a pris plus de 36 mois avant la fin de cette année et, d'autre part, serait incluse dans son revenu pour l'année en vertu de la présente sous-section s'il la recevait au cours de cette année, est réputée, à la fois :

a) être reçue par lui à la fin de l'année pour des services rendus en qualité de cadre ou pendant la période d'emploi;

b) n'être reçue à aucun autre moment.

Group term life insurance

(4) Where at any time in a taxation year a taxpayer's life is insured under a group term life insurance policy, there shall be included in computing the taxpayer's income for the year from an office or employment the amount, if any, prescribed for the year in respect of the insurance.

Assurance-vie collective temporaire

(4) Est à inclure dans le calcul du revenu tiré d'une charge ou d'un emploi, pour une année d'imposition, d'un contribuable dont la vie est assurée au cours de l'année aux termes d'une police d'assurance-vie collective temporaire le montant déterminé par règlement pour l'année au titre de l'assurance.

(5) [Repealed, 1995, c. 3, s. 1]

(5) [Abrogé, 1995, ch. 3, art. 1]

Employment at special work site or remote location

(6) Notwithstanding subsection 6(1), in computing the income of a taxpayer for a taxation year from an office or employment, there shall not be included any amount received or enjoyed by the taxpayer in respect of, in the course or by virtue of the office or employment that is the value of, or an allowance (not in excess of a reasonable amount) in respect of expenses the taxpayer has incurred for,

(a) the taxpayer's board and lodging for a period at

(i) a special work site, being a location at which the duties performed by the taxpayer were of a temporary nature, if the taxpayer maintained at another location a self-contained domestic establishment as the taxpayer's principal place of residence

Emploi sur un chantier particulier ou en un endroit éloigné

(6) Malgré le paragraphe (1), un contribuable n'inclut, dans le calcul de son revenu tiré, pour une année d'imposition, d'une charge ou d'un emploi, aucun montant qu'il a reçu, ou dont il a joui, au titre, dans l'occupation ou en vertu de sa charge ou de son emploi et qui représente la valeur des frais — ou une allocation (n'excédant pas un montant raisonnable) se rapportant aux frais — qu'il a supportés pour :

a) sa pension et son logement, pendant une période donnée :

(i) soit sur un chantier particulier qui est un endroit où le travail accompli par lui était un travail de nature temporaire, alors qu'il tenait ailleurs et comme lieu principal de résidence, un établissement domestique autonome :

(A) that was, throughout the period, available for the taxpayer's occupancy and not rented by the taxpayer to any other person, and

(B) to which, by reason of distance, the taxpayer could not reasonably be expected to have returned daily from the special work site, or

(ii) a location at which, by virtue of its remoteness from any established community, the taxpayer could not reasonably be expected to establish and maintain a self-contained domestic establishment,

if the period during which the taxpayer was required by the taxpayer's duties to be away from the taxpayer's principal place of residence, or to be at the special work site or location, was not less than 36 hours; or

(b) transportation between

(i) the principal place of residence and the special work site referred to in subparagraph 6(6)(a)(i), or

(ii) the location referred to in subparagraph 6(6)(a)(ii) and a location in Canada or a location in the country in which the taxpayer is employed,

in respect of a period described in paragraph 6(6)(a) during which the taxpayer received board and lodging, or a reasonable allowance in respect of board and lodging, from the taxpayer's employer.

(A) d'une part, qui est resté à sa disposition pendant toute la période et qu'il n'a pas loué à une autre personne,

(B) d'autre part, où on ne pouvait raisonnablement s'attendre à ce qu'il retourne quotidiennement étant donné la distance entre l'établissement et le chantier,

(ii) soit à un endroit où on ne pouvait raisonnablement s'attendre à ce qu'il établisse et tienne un établissement domestique autonome, étant donné l'éloignement de cet endroit de toute agglomération,

si la période au cours de laquelle son travail l'a obligé à s'absenter de son lieu principal de résidence ou à être sur ce chantier ou à cet endroit était d'au moins 36 heures;

b) le transport, au titre d'une période visée à l'alinéa a) pendant laquelle il a reçu de son employeur la pension et le logement ou une allocation raisonnable au titre de la pension et du logement, entre :

(i) soit son lieu principal de résidence et le chantier particulier visés au sous-alinéa a)(i),

(ii) soit l'endroit mentionné au sous-alinéa a)(ii) et un endroit au Canada ou un endroit dans un pays où le contribuable est employé.

Cost of property or service

(7) To the extent that the cost to a person of purchasing a property or service or an amount payable by a person for the purpose of leasing property is taken into account in determining an amount required under this section to be included in computing a taxpayer's income for a taxation year, that cost or amount payable, as the case may be, shall include any tax that was payable by the person in respect of the property or service or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the property or service is to be put.

Coût d'un bien ou d'un service

(7) Dans la mesure où il entre dans le calcul de la somme à inclure, en application du présent article, dans le calcul du revenu d'un contribuable pour une année d'imposition, le coût d'achat d'un bien ou d'un service pour une personne ou un montant payable par elle pour la location d'un bien comprend la taxe qui était payable par la personne relativement au bien ou au service ou qui aurait été ainsi payable si elle n'avait pas été exonérée du paiement de cette taxe en raison de sa qualité ou de l'usage auquel le bien ou le service est destiné.

GST rebates re costs of property or service

(8) If

(a) an amount in respect of an outlay or expense is deducted under section 8 in computing the income of a taxpayer for a taxation year from an office or employment, or

Remboursement de TPS — coût d'un bien ou d'un service

(8) Le montant payé à un contribuable au cours d'une année d'imposition donnée à titre de remboursement aux termes de la *Loi sur la taxe d'accise* relativement à la taxe sur les produits et services incluse soit dans le montant d'une dépense engagée ou effectuée et déduite en application de l'article 8 dans le calcul du revenu du contribuable tiré d'une charge ou d'un emploi pour une année d'imposition, soit dans un montant inclus dans le coût en

(b) an amount is included in the capital cost to a taxpayer of a property described in subparagraph 8(1)(j)(ii) or 8(1)(p)(ii),

and a particular amount is paid to the taxpayer in a particular taxation year as a rebate under the *Excise Tax Act* in respect of any goods and services tax included in the amount of the outlay or expense, or the capital cost of the property, as the case may be, the particular amount

(c) to the extent that it relates to an outlay or expense referred to in paragraph (a), shall be included in computing the taxpayer's income from an office or employment for the particular taxation year, and

(d) to the extent that it relates to the capital cost of property referred to in paragraph (b), is deemed, for the purposes of subsection 13(7.1), to have been received by the taxpayer in the particular taxation year as assistance from a government for the acquisition of the property.

capital pour le contribuable d'un bien visé au sous-alinéa 8(1)j)(ii) ou p)(ii) est :

a) dans la mesure où il se rapporte à cette dépense, inclus dans le calcul du revenu du contribuable tiré d'une charge ou d'un emploi pour l'année donnée;

b) dans la mesure où il se rapporte à ce coût en capital, réputé, pour l'application du paragraphe 13(7.1), reçu par le contribuable au cours de l'année donnée à titre d'aide d'un gouvernement en vue de l'acquisition du bien.

Amount in respect of interest on employee debt

(9) Where an amount in respect of a loan or debt is deemed by subsection 80.4(1) to be a benefit received in a taxation year by an individual, the amount of the benefit shall be included in computing the income of the individual for the year as income from an office or employment.

Intérêts sur une dette d'un employé

(9) La somme à l'égard d'un prêt ou d'une dette qui est réputée, en vertu du paragraphe 80.4(1), être un avantage qu'un particulier reçoit au cours d'une année d'imposition est à inclure dans le calcul de son revenu pour l'année à titre de revenu tiré d'une charge ou d'un emploi.

Contributions to an employee benefit plan

(10) For the purposes of subparagraph 6(1)(g)(ii),

(a) an amount included in the income of an individual in respect of an employee benefit plan for a taxation year preceding the year in which it was paid out of the plan shall be deemed to be an amount contributed to the plan by the individual; and

(b) where an amount is received in a taxation year by an individual from an employee benefit plan that was in a preceding year an employee trust, such portion of the amount so received by the individual as does not exceed the amount, if any, by which the lesser of

(i) the amount, if any, by which

(A) the total of all amounts allocated to the individual or a deceased person of whom the individual is an heir or legal representative by the trustee of the plan at a time when it was an employee trust

exceeds

(B) the total of all amounts previously paid out of the plan to or for the benefit of the individual

Cotisations à un régime de prestations aux employés

(10) Pour l'application du sous-alinéa (1)g)(ii) :

a) le montant inclus dans le revenu d'un particulier à l'égard d'un régime de prestations aux employés pour une année d'imposition antérieure au cours de laquelle il a été payé au titre du régime est réputé être un montant versé au régime par le particulier;

b) lorsqu'un montant est reçu au cours d'une année d'imposition par un particulier d'un régime de prestations aux employés qui était, au cours d'une année antérieure, une fiducie d'employés, est réputée être le remboursement de sommes versées au régime par le particulier la partie de la somme ainsi reçue par lui qui ne dépasse pas l'excédent éventuel du moindre des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B) :

(A) le total des sommes attribuées au particulier, ou à une personne décédée dont il est l'héritier ou le représentant légal, par le fiduciaire du régime à un moment où ce régime était une fiducie d'employés,

or the deceased person at a time when the plan was an employee trust, and

(ii) the portion of the amount, if any, by which the cost amount to the plan of its property immediately before it ceased to be an employee trust exceeds its liabilities at that time that

(A) the amount determined under subparagraph 6(10)(b)(i) in respect of the individual

is of

(B) the total of amounts determined under subparagraph 6(10)(b)(i) in respect of all individuals who were beneficiaries under the plan immediately before it ceased to be an employee trust

exceeds

(iii) the total of all amounts previously received out of the plan by the individual or a deceased person of whom the individual is an heir or legal representative at a time when the plan was an employee benefit plan to the extent that the amounts were deemed by this paragraph to be a return of amounts contributed to the plan

shall be deemed to be the return of an amount contributed to the plan by the individual.

(B) le total des montants antérieurement payés au titre du régime au particulier, ou pour son compte, ou celui de la personne décédée, à un moment où le régime était une fiducie d'employés,

(ii) la fraction de l'excédent éventuel du coût pour le régime de ses biens immédiatement avant qu'il cesse d'être une fiducie d'employés sur son passif à ce moment représentée par le rapport entre :

(A) d'une part, la somme déterminée en vertu du sous-alinéa (i) à l'égard du particulier,

(B) d'autre part, le total des sommes déterminées en vertu du sous-alinéa (i) à l'égard de tous les particuliers qui étaient bénéficiaires en vertu du régime immédiatement avant qu'il ne cesse d'être une fiducie d'employés,

sur :

(iii) le total des sommes reçues antérieurement du régime par le particulier ou par une personne décédée dont il est l'héritier ou le représentant légal, à un moment où le régime était un régime de prestations aux employés, dans la mesure où les sommes sont réputées, en vertu du présent alinéa, être un remboursement de sommes versées au régime.

Salary deferral arrangement

(11) Where at the end of a taxation year any person has a right under a salary deferral arrangement in respect of a taxpayer to receive a deferred amount, an amount equal to the deferred amount shall be deemed, for the purposes only of paragraph 6(1)(a), to have been received by the taxpayer as a benefit in the year, to the extent that the amount was not otherwise included in computing the taxpayer's income for the year or any preceding taxation year.

Idem

(12) Where at the end of a taxation year any person has a right under a salary deferral arrangement (other than a trust governed by a salary deferral arrangement) in respect of a taxpayer to receive a deferred amount, an amount equal to any interest or other additional amount that accrued to, or for the benefit of, that person to the end of the year in respect of the deferred amount shall be deemed at the end of the year, for the purposes only of subsection 6(11), to be a deferred amount that the person has a right to receive under the arrangement.

Entente d'échelonnement du traitement

(11) Tout montant différé que, à la fin d'une année d'imposition, une personne a le droit de recevoir dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable est réputé, pour l'application du seul alinéa (1)a), reçu par ce contribuable comme avantage au cours de l'année, dans la mesure où il n'est pas par ailleurs ajouté dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure.

Intérêts sur les montants différés

(12) Pour l'application du seul paragraphe (11), lorsque, à la fin d'une année d'imposition, une personne a le droit dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable — sauf si l'entente est régie par une fiducie — de recevoir un montant différé, la somme correspondant aux intérêts ou autres suppléments courus à la fin de l'année au profit de la personne sur le montant différé est réputée, à la fin de l'année, être un montant différé que la personne a le droit de recevoir dans le cadre de l'entente.

Application

(13) Subsection 6(11) does not apply in respect of a deferred amount under a salary deferral arrangement in respect of a taxpayer that was established primarily for the benefit of one or more non-resident employees in respect of services to be rendered in a country other than Canada, to the extent that the deferred amount

(a) was in respect of services rendered by an employee who

(i) was not resident in Canada at the time the services were rendered, or

(ii) was resident in Canada for a period (in this subsection referred to as an "excluded period") of not more than 36 of the 72 months preceding the time the services were rendered and was an employee to whom the arrangement applied before the employee became resident in Canada; and

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

Part of plan or arrangement

(14) Where deferred amounts under a salary deferral arrangement in respect of a taxpayer (in this subsection referred to as "that arrangement") are required to be included as benefits under paragraph 6(1)(a) in computing the taxpayer's income and that arrangement is part of a plan or arrangement (in this subsection referred to as the "plan") under which amounts or benefits not related to the deferred amounts are payable or provided, for the purposes of this Act, other than this subsection,

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

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

(i) the total of all deferred amounts under that arrangement that were included under paragraph 6(1)(a) as benefits in computing the taxpayer's income for taxation years ending before that time

exceeds

(ii) the total of

Par. (11) inapplicable aux non-résidents

(13) Le paragraphe (11) ne s'applique pas à un montant différé dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable faite principalement au profit d'un ou de plusieurs employés non-résidents pour des services à rendre dans un pays étranger, dans la mesure où le montant différé répond aux conditions suivantes :

a) il correspond à des services rendus par un employé :

(i) soit qui ne réside pas au Canada au moment où il rend ces services,

(ii) soit qui a résidé au Canada pendant une période d'au maximum 36 des 72 mois précédant le moment où il rend ces services et était un employé auquel l'entente s'appliquait avant qu'il ne commence à résider au Canada;

b) on ne peut raisonnablement le considérer comme correspondant à des services rendus ou à rendre pendant une autre période — où l'employé réside au Canada — que celle visée au sous-alinéa a)(ii).

Entente faisant partie d'un régime ou arrangement

(14) Pour l'application de la présente loi, lorsque des montants différés dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable doivent être ajoutés comme avantages en vertu de l'alinéa (1)a) dans le calcul du revenu du contribuable et que cette entente fait partie d'un régime ou arrangement prévoyant le paiement de montants ou l'obtention d'avantages, sans rapport avec les montants différés, les présomptions suivantes s'appliquent :

a) l'entente est réputée distincte et indépendante des autres parties du régime ou de l'arrangement;

b) un montant reçu comme avantage à un moment donné dans le cadre du régime ou de l'arrangement par une personne qui a droit à un montant différé dans le cadre de l'entente est réputé reçu dans le cadre de l'entente, jusqu'à concurrence de l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des montants différés dans le cadre de l'entente qui sont ajoutés comme avantages en vertu de l'alinéa (1)a) dans le calcul du revenu du contribuable pour les années d'imposition se terminant avant ce moment,

(ii) le total des montants suivants :

(A) all deferred amounts received by any person before that time out of or under the plan that were deemed by this paragraph to have been received out of or under that arrangement, and

(B) all deferred amounts under that arrangement that were deducted under paragraph 8(1)(o) in computing the taxpayer's income for the year or preceding taxation years.

(A) les montants différés reçus par une personne avant ce moment dans le cadre du régime ou de l'arrangement et réputés par le présent alinéa reçus dans le cadre de l'entente,

(B) les montants différés dans le cadre de l'entente déduits en vertu de l'alinéa 8(1)o) dans le calcul du revenu du contribuable pour l'année ou pour les années d'imposition antérieures.

Forgiveness of employee debt

(15) For the purpose of paragraph 6(1)(a),

(a) a benefit shall be deemed to have been enjoyed by a taxpayer at any time an obligation issued by any debtor (including the taxpayer) is settled or extinguished; and

(b) the value of that benefit shall be deemed to be the forgiven amount at that time in respect of the obligation.

Remise de dette — valeur de l'avantage

(15) Pour l'application de l'alinéa (1)a) :

a) un contribuable est réputé avoir bénéficié d'un avantage lorsqu'une dette émise par un débiteur, y compris le contribuable, est réglée ou éteinte;

b) la valeur de l'avantage est réputée correspondre au montant remis sur la dette au moment de son règlement ou de son extinction.

Forgiven amount

(15.1) For the purpose of subsection 6(15), the *forgiven amount* at any time in respect of an obligation issued by a debtor has the meaning that would be assigned by subsection 80(1) if

(a) the obligation were a commercial obligation (within the meaning assigned by subsection 80(1)) issued by the debtor;

(b) no amount included in computing income because of the obligation being settled or extinguished at that time were taken into account;

(c) the definition *forgiven amount* in subsection 80(1) were read without reference to paragraphs (f) and (h) of the description of B in that definition; and

(d) section 80 were read without reference to paragraphs (2)(b) and (q) of that section.

Montant remis

(15.1) Pour l'application du paragraphe (15), le *montant remis* à un moment donné sur une dette émise par un débiteur s'entend au sens qui serait donné à cette expression par le paragraphe 80(1) si, à la fois :

a) la dette était une dette commerciale, au sens du paragraphe 80(1), émise par le débiteur;

b) il n'était pas tenu compte d'un montant inclus dans le calcul du revenu en raison du règlement ou de l'extinction de la dette à ce moment;

c) il n'était pas tenu compte des alinéas f) et h) de l'élément B de la formule figurant à la définition de *montant remis* au paragraphe 80(1);

d) il n'était pas tenu compte des alinéas 80(2)b) et q).

Disability-related employment benefits

(16) Notwithstanding subsection 6(1), in computing an individual's income for a taxation year from an office or employment, there shall not be included any amount received or enjoyed by the individual in respect of, in the course of or because of the individual's office or employment that is the value of a benefit relating to, or an allowance (not in excess of a reasonable amount) in respect of expenses incurred by the individual for,

(a) the transportation of the individual between the individual's ordinary place of residence and the

Avantage au titre d'un emploi accordé à une personne handicapée

(16) Malgré le paragraphe (1), est exclu du calcul du revenu qu'un particulier tire d'une charge ou d'un emploi pour une année d'imposition le montant qu'il a reçu, ou dont il a joui, dans le cadre ou au titre de sa charge ou de son emploi, qui représente la valeur d'un avantage, ou une allocation (ne dépassant pas un montant raisonnable) se rapportant aux frais qu'il a engagés, relativement :

a) soit au transport du particulier entre son lieu habituel de résidence et son lieu de travail (y compris le

individual's work location (including parking near that location) if the individual is blind or is a person in respect of whom an amount is deductible, or would but for paragraph 118.3(1)(c) be deductible, because of the individual's mobility impairment, under section 118.3 in computing a taxpayer's tax payable under this Part for the year; or

(b) an attendant to assist the individual in the performance of the individual's duties if the individual is a person in respect of whom an amount is deductible, or would but for paragraph 118.3(1)(c) be deductible, under section 118.3 in computing a taxpayer's tax payable under this Part for the year.

Definitions

(17) The definitions in this subsection apply in this subsection and subsection 6(18).

disability policy means a group disability insurance policy that provides for periodic payments to individuals in respect of the loss of remuneration from an office or employment. (*police d'assurance-invalidité*)

employer of an individual includes a former employer of the individual. (*employeur*)

top-up disability payment in respect of an individual means a payment made by an employer of the individual as a consequence of the insolvency of an insurer that was obligated to make payments to the individual under a disability policy where

(a) the payment is made to an insurer so that periodic payments made to the individual under the policy will not be reduced because of the insolvency, or will be reduced by a lesser amount, or

(b) the following conditions are satisfied:

(i) the payment is made to the individual to replace, in whole or in part, periodic payments that would have been made under the policy to the individual but for the insolvency, and

(ii) the payment is made under an arrangement by which the individual is required to reimburse the payment to the extent that the individual subsequently receives an amount from an insurer in respect of the portion of the periodic payments that the payment was intended to replace.

For the purposes of paragraphs (a) and (b), an insurance policy that replaces a disability policy is deemed to be the

stationnement situé près de ce lieu), si le particulier est aveugle ou a un handicap moteur au titre duquel un montant est déductible en application de l'article 118.3, ou le serait sans l'alinéa 118.3(1)c), dans le calcul de l'impôt payable par un contribuable en vertu de la présente partie pour l'année;

b) soit à un préposé aux soins du particulier, chargé d'aider celui-ci à exercer ses fonctions, si le particulier est quelqu'un pour qui un montant est déductible en application de l'article 118.3, ou le serait sans l'alinéa 118.3(1)c), dans le calcul de l'impôt payable par un contribuable en vertu de la présente partie pour l'année.

Définitions

(17) Les définitions qui suivent s'appliquent au présent paragraphe et au paragraphe (18).

employeur Est assimilé à l'employeur l'ancien employeur. (*employer*)

paiement compensatoire pour invalidité Quant à un particulier, paiement que l'employeur de celui-ci fait en raison de l'insolvabilité d'un assureur qui était tenu de verser des sommes au particulier dans le cadre d'une police d'assurance-invalidité, lorsque, selon le cas :

a) le paiement est fait à un assureur afin que les sommes versées périodiquement au particulier dans le cadre de la police ne soient pas réduites en raison de l'insolvabilité ou soient réduites dans une moindre mesure qu'elles le seraient par ailleurs;

b) les conditions suivantes sont réunies :

(i) le paiement est fait au particulier afin de remplacer, en tout ou en partie, les sommes qui lui auraient été versées périodiquement dans le cadre de la police n'eût été l'insolvabilité,

(ii) le paiement est fait en conformité avec un arrangement selon lequel le particulier est tenu de rembourser le paiement dans la mesure où il reçoit par la suite d'un assureur un montant au titre de la partie des versements périodiques que le paiement était censé remplacer.

Pour l'application des alinéas a) et b), une police d'assurance qui remplace une police d'assurance-invalidité est réputée être la même police que la police d'assurance-invalidité qui a été remplacée et en être la continuation. (*top-up disability payment*)

police d'assurance-invalidité Police d'assurance-invalidité collective qui prévoit des versements périodiques à

same policy as, and a continuation of, the disability policy that was replaced. (*paiement compensatoire pour invalidité*)

Group disability benefits — insolvent insurer

(18) Where an employer of an individual makes a top-up disability payment in respect of the individual,

(a) the payment is, for the purpose of paragraph 6(1)(a), deemed not to be a benefit received or enjoyed by the individual;

(b) the payment is, for the purpose of paragraph 6(1)(f), deemed not to be a contribution made by the employer to or under the disability insurance plan of which the disability policy in respect of which the payment is made is or was a part; and

(c) if the payment is made to the individual, it is, for the purpose of paragraph 6(1)(f), deemed to be an amount payable to the individual pursuant to the plan.

Benefit re housing loss

(19) For the purpose of paragraph (1)(a), an amount paid at any time in respect of a housing loss (other than an eligible housing loss) to or on behalf of a taxpayer or a person who does not deal at arm's length with the taxpayer in respect of, in the course of or because of, an office or employment is deemed to be a benefit received by the taxpayer at that time because of the office or employment.

Benefit re eligible housing loss

(20) For the purpose of paragraph (1)(a), an amount paid at any time in a taxation year in respect of an eligible housing loss to or on behalf of a taxpayer or a person who does not deal at arm's length with the taxpayer in respect of, in the course of or because of, an office or employment is deemed to be a benefit received by the taxpayer at that time because of the office or employment to the extent of the amount, if any, by which

(a) one half of the amount, if any, by which the total of all amounts each of which is so paid in the year or in a preceding taxation year exceeds $15,000

exceeds

(b) the total of all amounts each of which is an amount included in computing the taxpayer's income because of this subsection for a preceding taxation year in respect of the loss.

des particuliers pour perte de rémunération provenant d'une charge ou d'un emploi. (*disability policy*)

Prestations d'assurance-invalidité collective — assureur insolvable

(18) Dans le cas où un employeur fait un paiement compensatoire pour invalidité quant à l'un de ses employés, les présomptions suivantes s'appliquent :

a) pour l'application de l'alinéa (1)a), le paiement est réputé ne pas être un avantage que l'employé a reçu ou dont il a joui;

b) pour l'application de l'alinéa (1)f), le paiement est réputé ne pas être une cotisation versée par l'employeur dans le cadre du régime d'assurance-invalidité dont fait ou faisait partie la police d'assurance-invalidité relativement à laquelle le paiement est fait;

c) pour l'application de l'alinéa (1)f), le paiement, s'il est fait à l'employé, est réputé être un montant payable à celui-ci en conformité avec le régime.

Avantage — perte relative au logement

(19) Pour l'application de l'alinéa (1)a), le montant payé au titre d'une perte relative au logement (sauf une perte admissible relative au logement) à un contribuable ou à une personne avec laquelle il a un lien de dépendance, ou pour le compte de l'un ou l'autre, relativement à une charge ou à un emploi, ou dans le cadre ou en raison d'une charge ou d'un emploi, est réputé être un avantage que le contribuable a reçu au moment du paiement en raison de la charge ou de l'emploi.

Avantage — perte admissible relative au logement

(20) Pour l'application de l'alinéa (1)a), le montant payé au cours d'une année d'imposition au titre d'une perte admissible relative au logement à un contribuable ou à une personne avec laquelle il a un lien de dépendance, ou pour le compte de l'un ou l'autre, relativement à une charge ou à un emploi, ou dans le cadre ou en raison d'une charge ou d'un emploi, est réputé être un avantage reçu par le contribuable au moment du paiement en raison de la charge ou de l'emploi, jusqu'à concurrence de l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) :

a) la moitié de l'excédent éventuel, sur 15 000 $, du total des montants ainsi payés au cours de l'année ou d'une année d'imposition antérieure;

b) le total des montants dont chacun est inclus dans le calcul du revenu du contribuable au titre de la perte

Housing loss

(21) In this section, ***housing loss*** at any time in respect of a residence of a taxpayer means the amount, if any, by which the greater of

(a) the adjusted cost base of the residence at that time to the taxpayer or to another person who does not deal at arm's length with the taxpayer, and

(b) the highest fair market value of the residence within the six-month period that ends at that time exceeds

(c) if the residence is disposed of by the taxpayer or the other person before the end of the first taxation year that begins after that time, the lesser of

(i) the proceeds of disposition of the residence, and

(ii) the fair market value of the residence at that time, and

(d) in any other case, the fair market value of the residence at that time.

Eligible housing loss

(22) In this section, ***eligible housing loss*** in respect of a residence designated by a taxpayer means a housing loss in respect of an eligible relocation of the taxpayer or a person who does not deal at arm's length with the taxpayer and, for these purposes, no more than one residence may be so designated in respect of an eligible relocation.

Employer-provided housing subsidies

(23) For greater certainty, an amount paid or the value of assistance provided by any person in respect of, in the course of or because of, an individual's office or employment in respect of the cost of, the financing of, the use of or the right to use, a residence is, for the purposes of this section, a benefit received by the individual because of the office or employment.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 6; 1994, c. 7, Sch. II, s. 3, Sch. VIII, s. 1, c. 21, s. 2; 1995, c. 3, s. 1, c. 21, s. 1; 1997, c. 10, s. 267; 1998, c. 19, s. 68; 1999, c. 22, s. 2; 2002, c. 9, s. 20; 2003, c. 15, s. 69; 2005, c. 21, s. 101; 2007, c. 16, s. 1; 2009, c. 2, s. 2; 2010, c. 25, s. 2; 2012, c. 31, s. 2; 2013, c. 34, ss. 170, 426; 2016, c. 7, s. 114.

par l'effet du présent paragraphe pour une année d'imposition antérieure.

Perte relative au logement

(21) Au présent article, ***perte relative au logement*** quant à la résidence d'un contribuable à un moment donné s'entend de l'excédent éventuel du plus élevé des montants suivants :

a) le prix de base rajusté de la résidence à ce moment pour le contribuable ou pour une autre personne avec laquelle il a un lien de dépendance,

b) la juste valeur marchande la plus élevée de la résidence au cours de la période de six mois se terminant à ce moment,

sur le montant applicable suivant :

c) si le contribuable ou l'autre personne dispose de la résidence avant la fin de la première année d'imposition commençant après ce moment, le moins élevé des montants suivants :

(i) le produit de disposition de la résidence,

(ii) la juste valeur marchande de la résidence à ce moment;

d) dans les autres cas, la juste valeur marchande de la résidence à ce moment.

Perte admissible relative au logement

(22) Au présent article, ***perte admissible relative au logement*** quant à une résidence désignée par un contribuable s'entend d'une perte relative au logement se rapportant à une réinstallation admissible du contribuable ou d'une personne avec laquelle il a un lien de dépendance. À cette fin, le contribuable ne peut désigner plus d'une résidence relativement à une réinstallation admissible.

Subvention au logement reçue de l'employeur

(23) Il est entendu que le montant payé ou la valeur de l'aide fournie par une personne relativement à la charge ou à l'emploi d'un particulier, ou dans le cadre ou en raison de cette charge ou de cet emploi, au titre du coût, du financement ou de l'utilisation d'une résidence, ou du droit de l'utiliser, constitue, pour l'application du présent article, un avantage reçu par le particulier en raison de la charge ou de l'emploi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 6; 1994, ch. 7, ann. II, art. 3, ann. VIII, art. 1, ch. 21, art. 2; 1995, ch. 3, art. 1, ch. 21, art. 1; 1997, ch. 10, art. 267; 1998, ch. 19, art. 68; 1999, ch. 22, art. 2; 2002, ch. 9, art. 20; 2003, ch. 15, art. 69; 2005, ch. 21, art. 101; 2007, ch. 16, art. 1; 2009, ch. 2, art. 2; 2010, ch. 25, art. 2; 2012, ch. 31, art. 2; 2013, ch. 34, art. 170 et 426; 2016, ch. 7, art. 114.

Agreement to issue securities to employees

7 (1) Subject to subsection (1.1), where a particular qualifying person has agreed to sell or issue securities of the particular qualifying person (or of a qualifying person with which the particular qualifying person does not deal at arm's length) to an employee of the particular qualifying person (or of a qualifying person with which the particular qualifying person does not deal at arm's length),

(a) if the employee has acquired securities under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the securities at the time the employee acquired them

exceeds the total of

(ii) the amount paid or to be paid to the particular qualifying person by the employee for the securities, and

(iii) the amount, if any, paid by the employee to acquire the right to acquire the securities

is deemed to have been received, in the taxation year in which the employee acquired the securities, by the employee because of the employee's employment;

(b) if the employee has transferred or otherwise disposed of rights under the agreement in respect of some or all of the securities to a person with whom the employee was dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition

exceeds

(ii) the amount, if any, paid by the employee to acquire those rights

shall be deemed to have been received, in the taxation year in which the employee made the disposition, by the employee because of the employee's employment;

(b.1) if the employee has transferred or otherwise disposed of rights under the agreement in respect of some or all of the securities to the particular qualifying person (or a qualifying person with which the particular qualifying person does not deal at arm's length) with whom the employee was not dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition

exceeds

Émission de titres en faveur d'employés

7 (1) Sous réserve du paragraphe (1.1), lorsqu'une personne admissible donnée est convenue d'émettre ou de vendre de ses titres, ou des titres d'une personne admissible avec laquelle elle a un lien de dépendance, à l'un de ses employés ou à un employé d'une personne admissible avec laquelle elle a un lien de dépendance, les règles suivantes s'appliquent :

a) l'employé qui a acquis des titres en vertu de la convention est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition où il a acquis les titres, un avantage égal à l'excédent éventuel de la valeur des titres au moment où il les a acquis sur le total de la somme qu'il a payée ou doit payer à la personne admissible donnée pour ces titres et de la somme qu'il a payée pour acquérir le droit d'acquérir les titres;

b) l'employé qui a transféré des droits prévus par la convention, afférents à tout ou partie des titres, à une personne avec qui il n'avait aucun lien de dépendance, ou en a par ailleurs disposé en faveur de cette personne, est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition où il a effectué la disposition, un avantage égal à l'excédent éventuel de la valeur de la contrepartie de la disposition sur la somme qu'il a payée pour acquérir ces droits;

b.1) dans le cas où l'employé a transféré des droits prévus par la convention afférents à tout ou partie des titres à une personne avec laquelle il a un lien de dépendance qui est la personne admissible donnée ou une personne admissible avec laquelle celle-ci a un lien de dépendance, ou a autrement disposé de ces droits en faveur d'une telle personne, il est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition où il a effectué la disposition, un avantage égal à l'excédent de la valeur visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) la valeur de la contrepartie de la disposition,

(ii) la somme qu'il a payée pour acquérir ces droits;

c) dans le cas où, par suite d'une ou de plusieurs opérations entre personnes ayant un lien de dépendance, des droits de l'employé prévus par la convention sont dévolus à une personne qui a acquis des titres en vertu de la convention, l'employé est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition où cette personne a acquis ces titres, un avantage égal à l'excédent éventuel de la valeur des titres au moment où cette personne les a acquis sur le total de la somme qu'elle a payée ou doit payer à la personne admissible donnée pour ces titres et de la somme

(ii) the amount, if any, paid by the employee to acquire those rights

is deemed to have been received, in the taxation year in which the employee made the disposition, by the employee because of the employee's employment;

(c) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a person who has acquired securities under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the securities at the time the person acquired them

exceeds the total of

(ii) the amount paid or to be paid to the particular qualifying person by the person for the securities, and

(iii) the amount, if any, paid by the employee to acquire the right to acquire the securities,

is deemed to have been received, in the taxation year in which the person acquired the securities, by the employee because of the employee's employment, unless at the time the person acquired the securities the employee was deceased, in which case such a benefit is deemed to have been received by the person in that year as income from the duties of an employment performed by the person in that year in the country in which the employee primarily performed the duties of the employee's employment;

(d) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a particular person who has transferred or otherwise disposed of rights under the agreement to another person with whom the particular person was dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition

exceeds

(ii) the amount, if any, paid by the employee to acquire those rights

shall be deemed to have been received, in the taxation year in which the particular person made the disposition, by the employee because of the employee's employment, unless at the time the other person acquired the rights the employee was deceased, in which case such a benefit shall be deemed to have been received

éventuelle que l'employé a payée pour acquérir le droit d'acquérir les titres; toutefois, si l'employé était décédé au moment où la personne a acquis les titres, celle-ci est réputée avoir reçu un avantage au cours de l'année comme revenu provenant des fonctions d'un emploi qu'elle exerçait au cours de l'année dans le pays où l'employé exerçait principalement les fonctions de son emploi;

d) dans le cas où, par suite d'une ou plusieurs opérations entre personnes ayant un lien de dépendance, des droits de l'employé prévus par la convention sont dévolus à une personne donnée qui a transféré des droits prévus par la convention à une autre personne avec qui elle n'avait aucun lien de dépendance, ou en a par ailleurs disposé en faveur de cette personne, l'employé est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition où la personne donnée a effectué la disposition, un avantage égal à l'excédent éventuel de la valeur de la contrepartie de la disposition sur la somme que l'employé a payée pour acquérir ces droits; toutefois, si l'employé était décédé au moment où l'autre personne a acquis les droits, la personne donnée est réputée avoir reçu un avantage au cours de l'année à titre de revenu provenant des fonctions d'un emploi qu'elle exerçait au cours de l'année dans le pays où l'employé exerçait principalement les fonctions de son emploi;

d.1) dans le cas où, par suite d'une ou de plusieurs opérations entre personnes ayant un lien de dépendance, des droits de l'employé prévus par la convention sont dévolus à une personne donnée qui a transféré des droits prévus par la convention à une personne avec laquelle elle a un lien de dépendance qui est une personne admissible donnée ou une personne admissible avec laquelle celle-ci a un lien de dépendance, ou qui a autrement disposé de ces droits en faveur d'une telle personne, l'employé est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition où la personne donnée a effectué la disposition, un avantage égal à l'excédent de la valeur visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) la valeur de la contrepartie de la disposition,

(ii) la somme qu'il a payée pour acquérir ces droits;

toutefois, si l'employé était décédé au moment de la disposition, cet avantage est réputé avoir été reçu par la personne donnée au cours de l'année à titre de revenu provenant des fonctions d'un emploi qu'elle exerçait au cours de l'année dans le pays où l'employé exerçait principalement les fonctions de son emploi;

by the particular person in that year as income from the duties of an employment performed by the particular person in that year in the country in which the employee primarily performed the duties of the employee's employment; and

(d.1) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a particular person who has transferred or otherwise disposed of rights under the agreement to a particular qualifying person (or a qualifying person with which the particular qualifying person does not deal at arm's length) with whom the particular person was not dealing at arm's length, a benefit equal to the amount, if any, by which

(i) the value of the consideration for the disposition

exceeds

(ii) the amount, if any, paid by the employee to acquire those rights

is deemed to have been received, in the taxation year in which the particular person made the disposition, by the employee because of the employee's employment, unless at the time of the disposition the employee was deceased, in which case such a benefit is deemed to have been received by the particular person in that year as income from the duties of an employment performed by the particular person in that year in the country in which the employee primarily performed the duties of the employee's employment; and

(e) if the employee has died and immediately before death owned a right to acquire securities under the agreement, a benefit equal to the amount, if any, by which

(i) the value of the right immediately after the death

exceeds

(ii) the amount, if any, paid by the employee to acquire the right

shall be deemed to have been received, in the taxation year in which the employee died, by the employee because of the employee's employment, and paragraphs 7(1)(b), 7(1)(c) and 7(1)(d) do not apply.

e) si un employé décédé était, immédiatement avant son décès, propriétaire d'un droit d'acquérir des titres en vertu de la convention, l'employé est réputé avoir reçu, en raison de son emploi et au cours de l'année d'imposition de son décès, un avantage égal à l'excédent éventuel de la valeur du droit immédiatement après le décès sur la somme qu'il a payée pour acquérir ce droit, de plus, les alinéas b), c) et d) ne s'appliquent pas.

Employee stock options

(1.1) Where after March 31, 1977 a Canadian-controlled private corporation (in this subsection referred to as "the corporation") has agreed to sell or issue a share of the

Options d'achat d'actions accordées à des employés

(1.1) Lorsque, après le 31 mars 1977, une société privée sous contrôle canadien (appelée l'« émetteur » au présent paragraphe) est convenue d'émettre une action de son

capital stock of the corporation or of a Canadian-controlled private corporation with which it does not deal at arm's length to an employee of the corporation or of a Canadian-controlled private corporation with which it does not deal at arm's length and at the time immediately after the agreement was made the employee was dealing at arm's length with

(a) the corporation,

(b) the Canadian-controlled private corporation, the share of the capital stock of which has been agreed to be sold by the corporation, and

(c) the Canadian-controlled private corporation that is the employer of the employee,

in applying paragraph (1)(a) in respect of the employee's acquisition of the share, the reference in that paragraph to "the taxation year in which the employee acquired the securities" shall be read as a reference to "the taxation year in which the employee disposed of or exchanged the securities".

Non-arm's length relationship with trusts

(1.11) For the purposes of this section, a mutual fund trust is deemed not to deal at arm's length with a corporation only if the trust controls the corporation.

Order of disposition of securities

(1.3) For the purposes of this subsection, subsection (1.1), subdivision c, paragraph 110(1)(d.01), subparagraph 110(1)(d.1)(ii) and subsections 110(2.1) and 147(10.4), and subject to subsection (1.31), a taxpayer is deemed to dispose of securities that are identical properties in the order in which the taxpayer acquired them and, for this purpose,

(a) if a taxpayer acquires a particular security (other than under circumstances to which subsection (1.1) or 147(10.1) applies) at a time when the taxpayer also acquires or holds one or more other securities that are identical to the particular security and are, or were, acquired under circumstances to which subsection (1.1) or 147(10.1) applied, the taxpayer is deemed to have acquired the particular security at the time immediately preceding the earliest of the times at which the taxpayer acquired those other securities; and

(b) if a taxpayer acquires, at the same time, two or more identical securities under circumstances to which subsection (1.1) applied, the taxpayer is deemed to have acquired the securities in the order in which the agreements under which the taxpayer acquired the rights to acquire the securities were made.

capital-actions, ou du capital-actions d'une société privée sous contrôle canadien avec laquelle elle a un lien de dépendance, en faveur d'un de ses employés ou d'un employé d'une société privée sous contrôle canadien avec laquelle elle a un lien de dépendance, ou de vendre une telle action à un tel employé, et que, immédiatement après la conclusion d'une telle convention, l'employé n'avait aucun lien de dépendance :

a) avec l'émetteur;

b) avec la société privée sous contrôle canadien dont l'émetteur est convenu de vendre l'action du capital-actions;

c) avec la société privée sous contrôle canadien qui est son employeur,

pour l'application de l'alinéa (1)a) à l'acquisition de cette action par l'employé, le passage « au cours de l'année d'imposition où il a acquis les titres » à cet alinéa est remplacé par « au cours de l'année d'imposition où il a disposé des titres ou les a échangés ».

Lien de dépendance avec des fiducies

(1.11) Pour l'application du présent article, une fiducie de fonds commun de placement est réputée n'avoir un lien de dépendance avec une société que si elle la contrôle.

Ordre de disposition des titres

(1.3) Pour l'application du présent paragraphe, du paragraphe (1.1), de la sous-section c, de l'alinéa 110(1)d.01), du sous-alinéa 110(1)d.1)(ii) et des paragraphes 110(2.1) et 147(10.4) et sous réserve du paragraphe (1.31), un contribuable est réputé disposer de titres qui sont des biens identiques dans l'ordre où il les a acquis. À cette fin, les règles suivantes s'appliquent :

a) si le contribuable acquiert un titre donné (autrement que dans les circonstances visées aux paragraphes (1.1) ou 147(10.1)) à un moment où il acquiert ou détient un ou plusieurs autres titres qui sont identiques au titre donné et qui sont acquis, ou l'ont été, dans les circonstances visées aux paragraphes (1.1) ou 147(10.1), il est réputé avoir acquis le titre donné immédiatement avant le premier en date des moments auxquels il a acquis ces autres titres;

b) si le contribuable acquiert, à un même moment, plusieurs titres identiques dans les circonstances visées au paragraphe (1.1), il est réputé les avoir acquis dans l'ordre dans lequel ont été conclues les conventions aux termes desquelles il a acquis les droits de les acquérir.

Disposition of newly-acquired security

(1.31) Where a taxpayer acquires, at a particular time, a particular security under an agreement referred to in subsection (1) and, on a day that is no later than 30 days after the day that includes the particular time, the taxpayer disposes of a security that is identical to the particular security, the particular security is deemed to be the security that is so disposed of if

(a) no other securities that are identical to the particular security are acquired, or disposed of, by the taxpayer after the particular time and before the disposition;

(b) the taxpayer identifies the particular security as the security so disposed of in the taxpayer's return of income under this Part for the year in which the disposition occurs; and

(c) the taxpayer has not so identified the particular security, in accordance with this subsection, in connection with the disposition of any other security.

Exchange of options

(1.4) Where

(a) a taxpayer disposes of rights under an agreement referred to in subsection (1) to acquire securities of a particular qualifying person that made the agreement or of a qualifying person with which it does not deal at arm's length (which rights and securities are referred to in this subsection as the "exchanged option" and the "old securities", respectively),

(b) the taxpayer receives no consideration for the disposition of the exchanged option other than rights under an agreement with a person (in this subsection referred to as the "designated person") that is

(i) the particular person,

(ii) a qualifying person with which the particular person does not deal at arm's length immediately after the disposition,

(iii) a corporation formed on the amalgamation or merger of the particular person and one or more other corporations,

(iv) a mutual fund trust to which the particular person has transferred property in circumstances to which subsection 132.2(1) applied,

(v) a qualifying person with which the corporation referred to in subparagraph (iii) does not deal at arm's length immediately after the disposition, or

Disposition d'un titre nouvellement acquis

(1.31) Lorsqu'un contribuable, à un moment donné, acquiert un titre donné aux termes d'une convention mentionnée au paragraphe (1), puis dispose d'un titre identique à ce titre au plus tard le trentième jour suivant le jour qui comprend le moment donné, le titre donné est réputé être le titre dont il est ainsi disposé si, à la fois :

a) le contribuable ne fait l'acquisition, ni ne dispose, après le moment donné et avant la disposition, d'aucun autre titre qui est identique au titre donné;

b) il indique, dans la déclaration de revenu qu'il produit en vertu de la présente partie pour l'année de la disposition, que le titre donné est le titre dont il est ainsi disposé;

c) le titre donné ne fait pas l'objet d'une telle indication, conformément au présent paragraphe, par rapport à la disposition d'un autre titre.

Échange d'options

(1.4) Dans le cas où les conditions suivantes sont réunies :

a) un contribuable dispose de droits prévus par une convention visée au paragraphe (1) visant l'acquisition de titres de la personne admissible donnée qui a conclu la convention ou d'une personne admissible avec laquelle elle a un lien de dépendance (ces droits et titres étant appelés respectivement « option échangée » et « anciens titres » au présent paragraphe),

b) le contribuable ne reçoit en contrepartie de la disposition de l'option échangée que des droits prévus par une convention conclue avec l'une des personnes suivantes (appelée « personne désignée » au présent paragraphe) visant l'acquisition de titres de celle-ci ou d'une personne admissible avec laquelle elle a un lien de dépendance (ces droits et titres étant appelés respectivement « nouvelle option » et « nouveaux titres » au présent paragraphe):

(i) la personne donnée,

(ii) une personne admissible avec laquelle la personne donnée a un lien de dépendance immédiatement après la disposition,

(iii) la société issue de la fusion ou de l'unification de la personne donnée et d'une ou de plusieurs autres sociétés,

(iv) une fiducie de fonds commun de placement à laquelle la personne donnée a transféré des biens

(vi) if the disposition is before 2013 and the old securities were equity in a SIFT wind-up entity that was at the time of the disposition a mutual fund trust, a SIFT wind-up corporation in respect of the SIFT wind-up entity

to acquire securities of the designated person or a qualifying person with which the designated person does not deal at arm's length (which rights and securities are referred to in this subsection as the "new option" and the "new securities", respectively), and

(c) the amount, if any, by which

(i) the total value of the new securities immediately after the disposition

exceeds

(ii) the total amount payable by the taxpayer to acquire the new securities under the new option

does not exceed the amount, if any, by which

(iii) the total value of the old securities immediately before the disposition

exceeds

(iv) the amount payable by the taxpayer to acquire the old securities under the exchanged option,

for the purposes of this section,

(d) the taxpayer is deemed (other than for the purposes of subparagraph (9)(d)(ii)) not to have disposed of the exchanged option and not to have acquired the new option,

(e) the new option is deemed to be the same option as, and a continuation of, the exchanged option, and

(f) if the designated person is not the particular person, the designated person is deemed to be the same person as, and a continuation of, the particular person.

Rules where securities exchanged

(1.5) For the purposes of this section and paragraphs 110(1)(d) to (d.1), where

(a) a taxpayer disposes of or exchanges securities of a particular qualifying person that were acquired by the taxpayer under circumstances to which subsection (1.1) applied (in this subsection referred to as the "exchanged securities"),

dans les circonstances visées au paragraphe 132.2(1),

(v) une personne admissible avec laquelle la société visée au sous-alinéa (iii) a un lien de dépendance immédiatement après la disposition,

(vi) si la disposition est antérieure à 2013 et que les anciens titres étaient des intérêts dans une EIPD convertible qui était une fiducie de fonds commun de placement au moment de la disposition, une société de conversion d'EIPD quant à l'EIPD convertible,

c) l'excédent éventuel de la valeur globale des nouveaux titres immédiatement après la disposition sur le montant total payable par le contribuable pour acquérir ceux-ci aux termes de la nouvelle option ne dépasse pas l'excédent éventuel de la valeur globale des anciens titres immédiatement avant la disposition sur le montant payable par le contribuable pour acquérir les anciens titres aux termes de l'option échangée,

les présomptions suivantes s'appliquent dans le cadre du présent article :

d) le contribuable est réputé (sauf pour l'application du sous-alinéa (9)d)(ii)) ne pas avoir disposé de l'option échangée et ne pas avoir acquis la nouvelle option;

e) la nouvelle option est réputée être la même option que l'option échangée et en être la continuation;

f) si elle n'est pas la personne donnée, la personne désignée est réputée être la même personne que la personne donnée et en être la continuation.

Échange d'actions

(1.5) Pour l'application du présent article et des alinéas 110(1)d) à d.1), dans le cas où, à la fois :

a) un contribuable dispose de titres d'une personne admissible donnée (appelés « titres échangés » au présent paragraphe) qu'il a acquis dans les circonstances visées au paragraphe (1.1), ou les échange,

b) le contribuable ne reçoit en contrepartie de la disposition ou de l'échange des titres échangés que les

(b) the taxpayer receives no consideration for the disposition or exchange of the exchanged securities other than securities (in this subsection referred to as the "new securities") of

(i) the particular qualifying person,

(ii) a qualifying person with which the particular qualifying person does not deal at arm's length immediately after the disposition or exchange,

(iii) a corporation formed on the amalgamation or merger of the particular qualifying person and one or more other corporations,

(iv) a mutual fund trust to which the particular qualifying person has transferred property in circumstances to which subsection 132.2(1) applied, or

(v) a qualifying person with which the corporation referred to in subparagraph (iii) does not deal at arm's length immediately after the disposition or exchange, and

(c) the total value of the new securities immediately after the disposition or exchange does not exceed the total value of the old securities immediately before the disposition or exchange,

the following rules apply:

(d) the taxpayer is deemed not to have disposed of or exchanged the exchanged securities and not to have acquired the new securities,

(e) the new securities are deemed to be the same securities as, and a continuation of, the exchanged securities, except for the purpose of determining if the new securities are identical to any other securities,

(f) the qualifying person that issued the new securities is deemed to be the same person as, and a continuation of, the qualifying person that issued the exchanged securities, and

(g) where the exchanged securities were issued under an agreement, the new securities are deemed to have been issued under that agreement.

titres (appelés « nouveaux titres » au présent paragraphe) d'une des personnes suivantes :

(i) la personne admissible donnée,

(ii) une personne admissible avec laquelle la personne admissible donnée a un lien de dépendance immédiatement après la disposition ou l'échange,

(iii) la société issue de la fusion ou de l'unification de la personne admissible donnée et d'une ou de plusieurs autres sociétés,

(iv) une fiducie de fonds commun de placement à laquelle la personne admissible donnée a transféré un bien dans les circonstances visées au paragraphe 132.2(1),

(v) une personne admissible avec laquelle la société visée au sous-alinéa (iii) a un lien de dépendance immédiatement après la disposition ou l'échange;

c) la valeur globale des nouveaux titres immédiatement après la disposition ou l'échange ne dépasse pas celle des anciens titres immédiatement avant la disposition ou l'échange,

les présomptions suivantes s'appliquent :

d) le contribuable est réputé ne pas avoir disposé des titres échangés, ou ne pas les avoir échangés, et ne pas avoir acquis les nouveaux titres;

e) les nouveaux titres sont réputés être les mêmes titres que les titres échangés et en être la continuation, sauf pour ce qui est de déterminer s'ils sont identiques à d'autres titres;

f) la personne admissible qui a émis les nouveaux titres est réputée être la même personne que la personne admissible qui a émis les titres échangés et en être la continuation;

g) dans le cas où les titres échangés ont été émis aux termes d'une convention, les nouveaux titres sont réputés avoir été émis aux termes de la même convention.

Emigrant

(1.6) For the purposes of this section and paragraph 110(1)(d.1), a taxpayer is deemed not to have disposed of a share acquired under circumstances to which subsection (1.1) applied solely because of subsection 128.1(4).

Émigrant

(1.6) Pour l'application du présent article et de l'alinéa 110(1)d.1), un contribuable est réputé ne pas avoir disposé, par le seul effet du paragraphe 128.1(4), d'une action acquise dans les circonstances visées au paragraphe (1.1).

Rights ceasing to be exercisable

(1.7) For the purposes of subsections (1) and 110(1), if a taxpayer receives at a particular time one or more particular amounts in respect of rights of the taxpayer to acquire securities under an agreement referred to in subsection (1) ceasing to be exercisable in accordance with the terms of the agreement, and the cessation would not, if this Act were read without reference to this subsection, constitute a transfer or disposition of those rights by the taxpayer,

(a) the taxpayer is deemed to have disposed of those rights at the particular time to a person with whom the taxpayer was dealing at arm's length and to have received the particular amounts as consideration for the disposition; and

(b) for the purpose of determining the amount, if any, of the benefit that is deemed to have been received as a consequence of the disposition referred to in paragraph (a), the taxpayer is deemed to have paid an amount to acquire those rights equal to the amount, if any, by which

(i) the amount paid by the taxpayer to acquire those rights (determined without reference to this subsection)

exceeds

(ii) the total of all amounts each of which is an amount received by the taxpayer before the particular time in respect of the cessation.

Droits ne pouvant plus être exercés

(1.7) Pour l'application des paragraphes (1) et 110(1), lorsque les droits d'un contribuable d'acquérir des titres en vertu d'une convention mentionnée au paragraphe (1) cessent d'être susceptibles d'exercice conformément à la convention, que cette cessation ne constituerait pas un transfert ou une disposition de droits par lui s'il n'était pas tenu compte du présent paragraphe et que le contribuable reçoit, à un moment donné, un ou plusieurs montants donnés au titre des droits en question, les règles suivantes s'appliquent :

a) le contribuable est réputé avoir disposé de ces droits au moment donné en faveur d'une personne avec laquelle il n'avait aucun lien de dépendance et avoir reçu les montants donnés en contrepartie de la disposition;

b) pour ce qui est du calcul de la valeur de l'avantage qui est réputé avoir été reçu par suite de la disposition mentionnée à l'alinéa a), le contribuable est réputé avoir payé, en vue d'acquérir ces droits, un montant égal à l'excédent de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) la somme qu'il a payée pour acquérir les droits, déterminée compte non tenu du présent paragraphe,

(ii) le total des montants représentant chacun une somme qu'il a reçue avant le moment donné relativement à la cessation.

Securities held by trustee

(2) If a security is held by a trustee in trust or otherwise, whether absolutely, conditionally or contingently, for an employee, the employee is deemed, for the purposes of this section and paragraphs 110(1)(d) to (d.1),

(a) to have acquired the security at the time the trust began to so hold it; and

(b) to have exchanged or disposed of the security at the time the trust exchanged it or disposed of it to any person other than the employee.

Titres détenus par un fiduciaire

(2) L'employé pour lequel un fiduciaire détient un titre, en fiducie ou autrement, conditionnellement ou non, est réputé, pour l'application du présent article et des alinéas 110(1)d) à d.1):

a) avoir acquis le titre au moment où la fiducie a commencé à ainsi le détenir;

b) avoir échangé le titre ou en avoir disposé au moment où la fiducie l'a échangé avec une autre personne que l'employé ou en a disposé en faveur d'une telle autre personne.

Special provision

(3) If a particular qualifying person has agreed to sell or issue securities of the particular person, or of a qualifying person with which it does not deal at arm's length, to an employee of the particular person or of a qualifying person with which it does not deal at arm's length,

Dispositions spéciales

(3) Lorsqu'une personne admissible donnée est convenue d'émettre ou de vendre de ses titres, ou des titres d'une personne admissible avec laquelle elle a un lien de dépendance, à un de ses employés ou à un employé d'une personne admissible avec laquelle elle a un lien de dépendance, les présomptions suivantes s'appliquent :

(a) except as provided by this section, the employee is deemed to have neither received nor enjoyed any benefit under or because of the agreement; and

(b) the income for a taxation year of any person is deemed to be not less than its income for the year would have been if a benefit had not been conferred on the employee by the sale or issue of the securities.

a) l'employé est réputé ne pas avoir reçu d'avantage ni avoir bénéficié d'un avantage en vertu ou par l'effet de la convention, sauf indication contraire au présent article;

b) le revenu d'une personne pour une année d'imposition est réputé ne pas être inférieur à ce qu'il aurait été pour l'année si un avantage n'avait pas été accordé à l'employé par l'émission ou la vente des titres.

Application of s. (1)

(4) For greater certainty it is hereby declared that, where a person to whom any provision of subsection 7(1) would otherwise apply has ceased to be an employee before all things have happened that would make that provision applicable, subsection 7(1) shall continue to apply as though the person were still an employee and as though the employment were still in existence.

Application du par. (1)

(4) Il demeure entendu que, lorsqu'une personne qui serait par ailleurs visée au paragraphe (1) a cessé d'être un employé avant que se soient réalisées toutes les conditions qui rendraient cette disposition applicable, le paragraphe (1) doit continuer de s'appliquer comme si la personne était encore un employé et comme si l'emploi durait encore.

Non-application of this section

(5) This section does not apply if the benefit conferred by the agreement was not received in respect of, in the course of, or by virtue of, the employment.

Non-application du présent article

(5) Le présent article ne s'applique pas lorsque l'avantage accordé par la convention n'a pas été reçu au titre, dans l'occupation ou en vertu de l'emploi.

Sale to trustee for employees

(6) If a particular qualifying person has entered into an arrangement under which securities of the particular person, or of a qualifying person with which it does not deal at arm's length, are sold or issued by either person to a trustee to be held by the trustee in trust for sale to an employee of the particular person or of a qualifying person with which it does not deal at arm's length,

(a) for the purposes of this section (other than subsection (2)) and paragraphs 110(1)(d) to (d.1),

(i) any particular rights of the employee under the arrangement in respect of those securities are deemed to be rights under a particular agreement with the particular person under which the particular person has agreed to sell or issue securities to the employee,

(ii) any securities acquired under the arrangement by the employee or by a person in whom the particular rights have become vested are deemed to be securities acquired under the particular agreement, and

(iii) any amounts paid or agreed to be paid to the trustee for any securities acquired under the arrangement by the employee or by a person in whom the particular rights have become vested are deemed to be amounts paid or agreed to be paid to

Vente à un fiduciaire pour des employés

(6) Lorsqu'une personne admissible donnée a conclu un arrangement en vertu duquel des titres de la personne, ou d'une personne admissible avec laquelle elle a un lien de dépendance, sont vendus ou émis par l'une ou l'autre de ces personnes à un fiduciaire qui les détiendra en fiducie en vue de les vendre à un employé de la personne donnée ou d'une personne admissible avec laquelle elle a un lien de dépendance, les règles suivantes s'appliquent :

a) pour l'application du présent article (à l'exception du paragraphe (2)) et des alinéas 110(1)d) à d.1):

(i) les droits donnés de l'employé, prévus par l'arrangement, afférents à ces titres sont réputés être des droits prévus par une convention donnée conclue avec la personne donnée selon laquelle celle-ci est convenue d'émettre des titres en faveur de l'employé ou de les lui vendre,

(ii) les titres acquis aux termes de l'arrangement par l'employé ou par une personne à qui les droits donnés sont dévolus sont réputés être des titres acquis aux termes de la convention donnée,

(iii) les sommes versées au fiduciaire, ou qu'il est convenu de lui verser, pour les titres acquis aux termes de l'arrangement par l'employé ou par une personne à qui les droits donnés sont dévolus sont réputées être des sommes versées à la personne

the particular person for securities acquired under the particular agreement; and

(b) subsection (2) does not apply in respect of securities held by the trustee under the arrangement.

donnée, ou qu'il est convenu de lui verser, pour des titres acquis aux termes de la convention donnée;

b) le paragraphe (2) ne s'applique pas aux titres détenus par le fiduciaire en vertu de l'arrangement.

Definitions

(7) The following definitions apply in this section and in subsection 47(3), paragraphs 53(1)(j) and 110(1)(d) and (d.01) and subsections 110(1.1), (1.2), (1.5) to (1.8) and (2.1).

qualifying person means a corporation or a mutual fund trust. (*personne admissible*)

security of a qualifying person means

(a) if the person is a corporation, a share of the capital stock of the corporation; and

(b) if the person is a mutual fund trust, a unit of the trust. (*titre*)

Définitions

(7) Les définitions qui suivent s'appliquent au présent article, au paragraphe 47(3), aux alinéas 53(1)j) et 110(1)d) et d.01) et aux paragraphes 110(1.1), (1.2), (1.5) à (1.8) et (2.1).

personne admissible Société ou fiducie de fonds commun de placement. (*qualifying person*)

titre S'agissant des titres d'une personne admissible :

a) si la personne est une société, action de son capital-actions;

b) si elle est une fiducie de fonds commun de placement, part de la fiducie. (*security*)

(8) to (15) [Repealed, 2010, c. 25, s. 3]

(8) à (15) [Abrogés, 2010, ch. 25, art. 3]

Prescribed form for deferral

(16) Where, at any time in a taxation year, a taxpayer holds a security that was acquired under circumstances to which subsection (8) applied, the taxpayer shall file with the Minister, with the taxpayer's return of income for the year, a prescribed form containing prescribed information relating to the taxpayer's acquisition and disposition of securities under agreements referred to in subsection (1).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 7; 1994, c. 7, Sch. II, s. 4, c. 21, s. 3; 1999, c. 22, s. 3; 2001, c. 17, s. 2; 2007, c. 35, s. 68; 2009, c. 2, s. 3; 2010, c. 25, s. 3; 2013, c. 34, s. 171.

Formulaire prescrit concernant le report

(16) Le contribuable qui, au cours d'une année d'imposition, détient un titre acquis dans les circonstances visées au paragraphe (8) est tenu de présenter au ministre, avec sa déclaration de revenu pour l'année, un formulaire prescrit contenant les renseignements prescrits concernant l'acquisition et la disposition de titres qu'il a effectuées aux termes de conventions mentionnées au paragraphe (1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 7; 1994, ch. 7, ann. II, art. 4, ch. 21, art. 3; 1999, ch. 22, art. 3; 2001, ch. 17, art. 2; 2007, ch. 35, art. 68; 2009, ch. 2, art. 3; 2010, ch. 25, art. 3; 2013, ch. 34, art. 171.

Deductions

Deductions allowed

8 (1) In computing a taxpayer's income for a taxation year from an office or employment, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto

(a) [Repealed, 2001, c. 17, s. 3(1)]

Legal expenses of employee

(b) amounts paid by the taxpayer in the year as or on account of legal expenses incurred by the taxpayer to collect, or to establish a right to, an amount owed to the taxpayer that, if received by the taxpayer, would be

Déductions

Éléments déductibles

8 (1) Sont déductibles dans le calcul du revenu d'un contribuable tiré, pour une année d'imposition, d'une charge ou d'un emploi ceux des éléments suivants qui se rapportent entièrement à cette source de revenus, ou la partie des éléments suivants qu'il est raisonnable de considérer comme s'y rapportant :

a) [Abrogé, 2001, ch. 17, art. 3]

Frais judiciaires d'un employé

b) les sommes payées par le contribuable au cours de l'année au titre des frais judiciaires ou extrajudiciaires qu'il a engagés pour recouvrer un montant qui lui est dû et qui, s'il le recevait, serait à inclure en vertu de la

required by this subdivision to be included in computing the taxpayer's income;

Clergy residence

(c) where, in the year, the taxpayer

(i) is a member of the clergy or of a religious order or a regular minister of a religious denomination, and

(ii) is

(A) in charge of a diocese, parish or congregation,

(B) ministering to a diocese, parish or congregation, or

(C) engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination,

the amount, not exceeding the taxpayer's remuneration for the year from the office or employment, equal to

(iii) the total of all amounts including amounts in respect of utilities, included in computing the taxpayer's income for the year under section 6 in respect of the residence or other living accommodation occupied by the taxpayer in the course of, or because of, the taxpayer's office or employment as such a member or minister so in charge of or ministering to a diocese, parish or congregation, or so engaged in such administrative service, or

(iv) rent and utilities paid by the taxpayer for the taxpayer's principal place of residence (or other principal living accommodation), ordinarily occupied during the year by the taxpayer, or the fair rental value of such a residence (or other living accommodation), including utilities, owned by the taxpayer or the taxpayer's spouse or common-law partner, not exceeding the lesser of

(A) the greater of

(I) $1,000 multiplied by the number of months (to a maximum of ten) in the year, during which the taxpayer is a person described in subparagraphs (i) and (ii), and

(II) one-third of the taxpayer's remuneration for the year from the office or employment, and

(B) the amount, if any, by which

présente sous-section dans le calcul de son revenu, ou pour établir un droit à un tel montant;

Résidence des membres du clergé

c) lorsque le contribuable, au cours de l'année :

(i) d'une part, est membre du clergé ou d'un ordre religieux ou est ministre régulier d'une confession religieuse,

(ii) d'autre part :

(A) soit dessert un diocèse, une paroisse ou une congrégation,

(B) soit a la charge d'un diocèse, d'une paroisse ou d'une congrégation,

(C) soit s'occupe exclusivement et à plein temps du service administratif, du fait de sa nomination par un ordre religieux ou une confession religieuse,

le montant, n'excédant pas sa rémunération pour l'année provenant de sa charge ou de son emploi, égal :

(iii) soit au total des montants, y compris les montants relatifs aux services publics, inclus dans le calcul de son revenu pour l'année en vertu de l'article 6 relativement à la résidence ou autre logement qu'il a occupé dans le cadre ou en raison de l'exercice de sa charge ou de son emploi, à titre de membre ou ministre qui ainsi dessert un diocèse, une paroisse ou une congrégation, a ainsi la charge d'un diocèse, d'une paroisse ou d'une congrégation ou est ainsi occupé à un service administratif,

(iv) soit au loyer et aux services publics qu'il a payés pour son lieu principal de résidence (ou autre logement principal) qu'il a occupé habituellement au cours de l'année, ou à la juste valeur locative d'une telle résidence (ou autre logement) lui appartenant, ou appartenant à son époux ou conjoint de fait, jusqu'à concurrence du moins élevé des montants suivants :

(A) le plus élevé des montants suivants :

(I) le produit de la multiplication de 1 000 $ par le nombre de mois de l'année (jusqu'à concurrence de dix) au cours desquels il est une personne visée aux sous-alinéas (i) et (ii),

(II) le tiers de sa rémunération pour l'année provenant de sa charge ou de son emploi,

(I) the rent paid or the fair rental value of the residence or living accommodation, including utilities

exceeds

(II) the total of all amounts each of which is an amount deducted, in connection with the same accommodation or residence, in computing an individual's income for the year from an office or employment or from a business (other than an amount deducted under this paragraph by the taxpayer), to the extent that the amount can reasonably be considered to relate to the period, or a portion of the period, in respect of which an amount is claimed by the taxpayer under this paragraph;

Teachers' exchange fund contribution

(d) a single amount, in respect of all employments of the taxpayer as a teacher, not exceeding $250 paid by the taxpayer in the year to a fund established by the Canadian Education Association for the benefit of teachers from Commonwealth countries present in Canada under a teachers' exchange arrangement;

Expenses of railway employees

(e) amounts disbursed by the taxpayer in the year for meals and lodging while employed by a railway company

(i) away from the taxpayer's ordinary place of residence as a relieving telegrapher or station agent or on maintenance and repair work, or

(ii) away from the municipality and the metropolitan area, if there is one, where the taxpayer's home terminal was located, and at a location from which, by reason of distance from the place where the taxpayer maintained a self-contained domestic establishment in which the taxpayer resided and actually supported a spouse or common-law partner or a person dependent on the taxpayer for support and connected with the taxpayer by blood relationship, marriage or common-law partnership or adoption, the taxpayer could not reasonably be expected to return daily to that place,

to the extent that the taxpayer has not been reimbursed and is not entitled to be reimbursed in respect thereof;

Sales expenses

(f) where the taxpayer was employed in the year in connection with the selling of property or negotiating of contracts for the taxpayer's employer, and

(B) l'excédent éventuel du montant visé à la subdivision (I) sur le montant visé à la subdivision (II):

(I) le loyer payé ou la juste valeur locative de la résidence ou du logement, y compris les services publics,

(II) le total des montants représentant chacun un montant déduit, au titre de la même résidence ou du même logement, dans le calcul du revenu d'un particulier pour l'année provenant d'une charge, d'un emploi ou d'une entreprise (sauf un montant déduit par le contribuable en application du présent alinéa), dans la mesure où il est raisonnable de considérer que le montant se rapporte à tout ou partie de la période pour laquelle le contribuable a déduit un montant en application du présent alinéa;

Cotisation à une caisse d'enseignants

d) un montant unique maximal de 250 $ pour tous les emplois occupés par le contribuable à titre de membre du corps enseignant, payé par lui au cours de l'année à une caisse que l'Association canadienne d'éducation a établie au profit des enseignants des pays du Commonwealth présents au Canada en vertu d'un accord relatif à l'échange d'enseignants;

Dépenses de certains employés d'une compagnie de chemin de fer

e) dans la mesure où il n'a pas été remboursé et n'a pas le droit d'être remboursé à cet égard, les sommes que le contribuable a dépensées au cours de l'année pour ses repas et son logement pendant qu'il était employé par une compagnie de chemin de fer :

(i) soit ailleurs qu'à son lieu de résidence habituelle, à titre de télégraphiste ou de chef de gare suppléant, ou à des travaux d'entretien et de réparation,

(ii) soit ailleurs que dans la municipalité ou, le cas échéant, la région métropolitaine où sa gare d'attache était située et dans un lieu d'où on ne pouvait raisonnablement s'attendre à ce qu'il retourne quotidiennement à l'établissement domestique autonome où il résidait et subvenait réellement aux besoins de son époux ou conjoint de fait ou d'une personne à charge qui lui était unie par les liens du sang, du mariage, de l'union de fait ou de l'adoption, étant donné la distance entre ce lieu et cet établissement;

(i) under the contract of employment was required to pay the taxpayer's own expenses,

(ii) was ordinarily required to carry on the duties of the employment away from the employer's place of business,

(iii) was remunerated in whole or part by commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated, and

(iv) was not in receipt of an allowance for travel expenses in respect of the taxation year that was, by virtue of subparagraph 6(1)(b)(v), not included in computing the taxpayer's income,

amounts expended by the taxpayer in the year for the purpose of earning the income from the employment (not exceeding the commissions or other similar amounts referred to in subparagraph 8(1)(f)(iii) and received by the taxpayer in the year) to the extent that those amounts were not

(v) outlays, losses or replacements of capital or payments on account of capital, except as described in paragraph 8(1)(j),

(vi) outlays or expenses that would, by virtue of paragraph 18(1)(l), not be deductible in computing the taxpayer's income for the year if the employment were a business carried on by the taxpayer, or

(vii) amounts the payment of which reduced the amount that would otherwise be included in computing the taxpayer's income for the year because of paragraph 6(1)(e);

Transport employee's expenses

(g) where the taxpayer was an employee of a person whose principal business was passenger, goods, or passenger and goods transport and the duties of the employment required the taxpayer, regularly,

(i) to travel, away from the municipality where the employer's establishment to which the taxpayer reported for work was located and away from the metropolitan area, if there is one, where it was located, on vehicles used by the employer to transport the goods or passengers, and

(ii) while so away from that municipality and metropolitan area, to make disbursements for meals and lodging,

Dépenses de vendeurs

f) lorsque le contribuable a été, au cours de l'année, employé pour remplir des fonctions liées à la vente de biens ou à la négociation de contrats pour son employeur, et lorsque, à la fois :

(i) il était tenu, en vertu de son contrat, d'acquitter ses propres dépenses,

(ii) il était habituellement tenu d'exercer les fonctions de son emploi ailleurs qu'au lieu d'affaires de son employeur,

(iii) sa rémunération consistait en tout ou en partie en commissions ou autres rétributions semblables fixées par rapport au volume des ventes effectuées ou aux contrats négociés,

(iv) il ne recevait pas, relativement à l'année d'imposition, une allocation pour frais de déplacement qui, en vertu du sous-alinéa 6(1)b)(v), n'était pas incluse dans le calcul de son revenu,

les sommes qu'il a dépensées au cours de l'année pour gagner le revenu provenant de son emploi (jusqu'à concurrence des commissions ou autres rétributions semblables fixées de la manière prévue au sous-alinéa (iii) et reçues par lui au cours de l'année) dans la mesure où ces sommes n'étaient pas :

(v) des dépenses, des pertes ou des remplacements de capital ou des paiements au titre du capital, exception faite du cas prévu à l'alinéa j),

(vi) des dépenses qui ne seraient pas, en vertu de l'alinéa 18(1)l), déductibles dans le calcul du revenu du contribuable pour l'année, si son emploi relevait d'une entreprise exploitée par lui;

(vii) des montants dont le paiement a entraîné la réduction du montant qui serait inclus par ailleurs dans le calcul du revenu du contribuable pour l'année en application de l'alinéa 6(1)e);

Employés des entreprises de transport

g) lorsque le contribuable a été employé par une personne dont la principale activité d'entreprise était le transport de voyageurs, de marchandises, ou de voyageurs et marchandises et que les fonctions de son emploi l'obligeaient régulièrement :

(i) d'une part, à voyager à l'extérieur de la municipalité dans laquelle était situé l'établissement de son employeur où il devait se présenter pour son travail, et, le cas échéant, hors de la région métropolitaine où était situé cet établissement, dans des

amounts so disbursed by the taxpayer in the year to the extent that the taxpayer has not been reimbursed and is not entitled to be reimbursed in respect thereof;

Travel expenses

(h) where the taxpayer, in the year,

(i) was ordinarily required to carry on the duties of the office or employment away from the employer's place of business or in different places, and

(ii) was required under the contract of employment to pay the travel expenses incurred by the taxpayer in the performance of the duties of the office or employment,

amounts expended by the taxpayer in the year (other than motor vehicle expenses) for travelling in the course of the office or employment, except where the taxpayer

(iii) received an allowance for travel expenses that was, because of subparagraph 6(1)(b)(v), 6(1)(b)(vi) or 6(1)(b)(vii), not included in computing the taxpayer's income for the year, or

(iv) claims a deduction for the year under paragraph 8(1)(e), 8(1)(f) or 8(1)(g);

Motor vehicle travel expenses

(h.1) where the taxpayer, in the year,

(i) was ordinarily required to carry on the duties of the office or employment away from the employer's place of business or in different places, and

(ii) was required under the contract of employment to pay motor vehicle expenses incurred in the performance of the duties of the office or employment,

amounts expended by the taxpayer in the year in respect of motor vehicle expenses incurred for travelling in the course of the office or employment, except where the taxpayer

(iii) received an allowance for motor vehicle expenses that was, because of paragraph 6(1)(b), not included in computing the taxpayer's income for the year, or

(iv) claims a deduction for the year under paragraph 8(1)(f);

Dues and other expenses of performing duties

(i) an amount paid by the taxpayer in the year, or on behalf of the taxpayer in the year if the amount paid

véhicules utilisés par l'employeur pour transporter les voyageurs ou marchandises,

(ii) d'autre part, pendant qu'il était ainsi absent de cette municipalité et région métropolitaine, à engager des frais pour ses repas et son logement,

les sommes qu'il a ainsi déboursées au cours de l'année, dans la mesure où il n'a pas le droit d'être remboursé à cet égard;

Frais de déplacement

h) lorsque le contribuable, au cours de l'année, à la fois :

(i) a été habituellement tenu d'exercer les fonctions de son emploi ailleurs qu'au lieu d'affaires de son employeur ou à différents endroits,

(ii) a été tenu, en vertu de son contrat d'emploi, d'acquitter les frais de déplacement qu'il a engagés pour l'accomplissement des fonctions de sa charge ou de son emploi,

les sommes qu'il a dépensées pendant l'année (sauf les frais afférents à un véhicule à moteur) pour se déplacer dans l'exercice des fonctions de son emploi, sauf s'il a, selon le cas :

(iii) reçu une allocation pour frais de déplacement qui, par l'effet des sous-alinéas 6(1)b)(v), (vi) ou (vii), n'est pas incluse dans le calcul de son revenu pour l'année,

(iv) demandé une déduction pour l'année en application des alinéas e), f) ou g);

Frais afférents à un véhicule à moteur

h.1) dans le cas où le contribuable, au cours de l'année, a été habituellement tenu d'accomplir les fonctions de son emploi ailleurs qu'au lieu d'affaires de son employeur ou à différents endroits et a été tenu, aux termes de son contrat d'emploi, d'acquitter les frais afférents à un véhicule à moteur qu'il a engagés dans l'accomplissement des fonctions de sa charge ou de son emploi, les sommes qu'il a dépensées au cours de l'année au titre des frais afférents à un véhicule à moteur pour se déplacer dans l'exercice des fonctions de son emploi, sauf s'il a, selon le cas :

(i) reçu une allocation pour frais afférents à un véhicule à moteur qui, par l'effet de l'alinéa 6(1)b), n'est pas incluse dans le calcul de son revenu pour l'année,

(ii) demandé une déduction pour l'année en application de l'alinéa f);

on behalf of the taxpayer is required to be included in the taxpayer's income for the year, as

(i) annual professional membership dues the payment of which was necessary to maintain a professional status recognized by statute,

(ii) office rent, or salary to an assistant or substitute, the payment of which by the officer or employee was required by the contract of employment,

(iii) the cost of supplies that were consumed directly in the performance of the duties of the office or employment and that the officer or employee was required by the contract of employment to supply and pay for,

(iv) annual dues to maintain membership in a trade union as defined

(A) by section 3 of the Canada Labour Code, or

(B) in any provincial statute providing for the investigation, conciliation or settlement of industrial disputes,

or to maintain membership in an association of public servants the primary object of which is to promote the improvement of the members' conditions of employment or work,

(v) annual dues that were, pursuant to the provisions of a collective agreement, retained by the taxpayer's employer from the taxpayer's remuneration and paid to a trade union or association designated in subparagraph 8(1)(i)(iv) of which the taxpayer was not a member,

(vi) dues to a parity or advisory committee or similar body, the payment of which was required under the laws of a province in respect of the employment for the year, and

(vii) dues to a professions board, the payment of which was required under the laws of a province,

to the extent that the taxpayer has not been reimbursed, and is not entitled to be reimbursed in respect thereof;

Motor vehicle and aircraft costs

(j) where a deduction may be made under paragraph 8(1)(f), 8(1)(h) or 8(1)(h.1) in computing the taxpayer's income from an office or employment for a taxation year,

Cotisations et autres dépenses liées à l'exercice de fonctions

i) les sommes payées par le contribuable au cours de l'année, ou les sommes payées pour son compte au cours de l'année si elles sont à inclure dans son revenu pour l'année, au titre :

(i) des cotisations annuelles de membre d'association professionnelle dont le paiement était nécessaire pour la conservation d'un statut professionnel reconnu par la loi,

(ii) du loyer de bureau ou du salaire d'un adjoint ou remplaçant que le contrat d'emploi du cadre ou de l'employé l'obligeait à payer,

(iii) du coût des fournitures qui ont été consommées directement dans l'accomplissement des fonctions de la charge ou de l'emploi et que le contrat d'emploi du cadre ou de l'employé l'obligeait à fournir et à payer,

(iv) des cotisations annuelles requises pour demeurer membre d'une association de fonctionnaires dont le principal objet est de favoriser l'amélioration des conditions d'emploi ou de travail des membres, ou d'un syndicat au sens de :

(A) l'article 3 du Code canadien du travail,

(B) toute loi provinciale prévoyant des enquêtes sur les conflits du travail, la conciliation ou le règlement de ceux-ci,

(v) des cotisations annuelles qui ont été, conformément aux dispositions d'une convention collective, retenues par son employeur sur sa rémunération et versées à un syndicat ou à une association visés au sous-alinéa (iv) et dont le contribuable n'était pas membre,

(vi) des cotisations, à un comité paritaire ou consultatif ou à un groupement semblable, dont la législation d'une province prévoit le paiement en raison de l'emploi que le contribuable exerce pour l'année;

(vii) des cotisations versées à un office des professions et dont le paiement est prévu par les lois d'une province;

Frais afférents à un véhicule à moteur ou à un aéronef

j) lorsqu'un montant est déductible en application des alinéas f), h) ou h.1) dans le calcul du revenu que le contribuable tire d'une charge ou d'un emploi pour une année d'imposition :

(i) any interest paid by the taxpayer in the year on borrowed money used for the purpose of acquiring, or on an amount payable for the acquisition of, property that is

(A) a motor vehicle that is used, or

(B) an aircraft that is required for use

in the performance of the duties of the taxpayer's office or employment, and

(ii) such part, if any, of the capital cost to the taxpayer of

(A) a motor vehicle that is used, or

(B) an aircraft that is required for use

in the performance of the duties of the office or employment as is allowed by regulation;

C.P.P. contributions and U.I.A. premiums

(I.1) any amount payable by the taxpayer in the year

(i) as an employer's premium under the employment *Insurance Act*, or

(ii) as an employer's contribution under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of the *Canada Pension Plan*,

in respect of salary, wages or other remuneration, including gratuities, paid to an individual employed by the taxpayer as an assistant or substitute to perform the duties of the taxpayer's office or employment if an amount is deductible by the taxpayer for the year under subparagraph 8(1)(i)(ii) in respect of that individual;

Quebec parental insurance plan

(I.2) an amount payable by the taxpayer in the year as an employer's premium under the *Act respecting parental insurance*, R.S.Q., c. A-29.011 in respect of salary, wages or other remuneration, including gratuities, paid to an individual employed by the taxpayer as an assistant or substitute to perform the duties of the taxpayer's office or employment if an amount is deductible by the taxpayer for the year under subparagraph (i)(ii) in respect of that individual;

Employee's registered pension plan contributions

(m) the amount in respect of contributions to registered pension plans that, by reason of subsection 147.2(4), is deductible in computing the taxpayer's income for the year;

(i) les intérêts payés par le contribuable au cours de l'année soit sur de l'argent emprunté et utilisé pour acquérir un véhicule à moteur utilisé dans l'exercice des fonctions de sa charge ou de son emploi ou un aéronef nécessaire à cet exercice, soit sur un montant payable pour l'acquisition d'un tel véhicule ou aéronef,

(ii) la déduction pour amortissement pour le contribuable, autorisée par règlement, applicable, selon le cas :

(A) à un véhicule à moteur utilisé dans l'exercice des fonctions de sa charge ou de son emploi,

(B) à un aéronef qui est nécessaire à l'exercice de ces fonctions;

Cotisations au *Régime de pensions du Canada* et prime prévue par la *Loi sur l'assurance-emploi*

I.1) les sommes payables par le contribuable au cours de l'année :

(i) à titre de cotisation patronale en vertu de la *Loi sur l'assurance-emploi,*

(ii) à titre de cotisation de l'employeur en vertu du *Régime de pensions du Canada* ou en vertu d'un régime provincial de pensions au sens de l'article 3 de cette loi,

relativement au salaire, au traitement ou à toute autre rémunération, y compris les gratifications, payés à un particulier employé par le contribuable à titre d'adjoint ou de remplaçant pour exercer les fonctions de la charge ou de l'emploi du contribuable, si le contribuable peut déduire une certaine somme pour l'année, en vertu du sous-alinéai)(ii), relativement à ce particulier;

Régime québécois d'assurance parentale

I.2) toute somme à payer par le contribuable au cours de l'année à titre de cotisation d'employeur en application de la *Loi sur l'assurance parentale*, L.R.Q., ch. A-29.011, relativement au salaire, au traitement ou à toute autre rémunération, y compris les gratifications, payés à un particulier employé par le contribuable à titre d'adjoint ou de remplaçant pour exercer les fonctions de la charge ou de l'emploi du contribuable, si une somme est déductible par celui-ci pour l'année en application du sous-alinéa i)(ii) relativement à ce particulier;

Cotisations salariales à un régime de pension agréé

m) le montant que le contribuable peut déduire en application du paragraphe 147.2(4) dans le calcul de son

Employee RCA contributions

(m.2) an amount contributed by the taxpayer in the year to a pension plan in respect of services rendered by the taxpayer where the plan is a prescribed plan established by an enactment of Canada or a province or where

(i) the plan is a retirement compensation arrangement,

(ii) the amount was paid to a custodian (within the meaning assigned by the definition ***retirement compensation arrangement*** in subsection 248(1)) of the arrangement who is resident in Canada, and

(iii) either

(A) the taxpayer was required, by the terms of the taxpayer's office or employment, to contribute the amount, and the total of the amounts contributed to the plan in the year by the taxpayer does not exceed the total of the amount contributed to the plan in the year by any other person in respect of the taxpayer, or

(B) the plan is a pension plan the registration of which under this Act was revoked (other than a plan the registration of which was revoked as of the effective date of its registration) and the amount was contributed in accordance with the terms of the plan as last registered;

(C) [Repealed, 1994, c. 21, s. 4(2)]

Salary reimbursement

(n) an amount paid by or on behalf of the taxpayer in the year pursuant to an arrangement (other than an arrangement described in subparagraph (b)(ii) of the definition ***top-up disability payment*** in subsection 6(17)) under which the taxpayer is required to reimburse any amount paid to the taxpayer for a period throughout which the taxpayer did not perform the duties of the office or employment, to the extent that

(i) the amount so paid to the taxpayer for the period was included in computing the taxpayer's income from an office or employment, and

(ii) the total of amounts so reimbursed does not exceed the total of amounts received by the taxpayer for the period throughout which the taxpayer did not perform the duties of the office or employment;

Reimbursement of disability payments

(n.1) where,

revenu pour l'année au titre des cotisations versées à des régimes de pension agréés;

Cotisations salariales à une convention de retraite

m.2) les cotisations que le contribuable verse au cours de l'année à un régime de pension au titre de services qu'il rend, s'il s'agit d'un régime visé par règlement et établi par quelque texte législatif ou réglementaire fédéral ou provincial ou si les conditions suivantes sont réunies :

(i) le régime est une convention de retraite,

(ii) les cotisations ont été versées à un dépositaire (au sens de la définition de ***convention de retraite*** au paragraphe 248(1)) de la convention qui réside au Canada,

(iii) selon le cas :

(A) le contribuable est tenu, par les conditions de son emploi ou de sa charge, de verser les cotisations, et le total des cotisations qu'il verse au régime au cours de l'année ne dépasse pas le total des cotisations qu'une autre personne a ainsi versées pour le compte du contribuable,

(B) il s'agit d'un régime de pension dont l'agrément dans le cadre de la présente loi a été retiré (sauf un régime dont l'agrément a été retiré rétroactivement à la date de sa prise d'effet), et les cotisations ont été versées conformément aux modalités du régime en vigueur avant le retrait de l'agrément;

(C) [Abrogé, 1994, ch. 21, art. 4]

Remboursement de la rémunération

n) une somme payée au cours de l'année par le contribuable ou pour son compte conformément à un arrangement, sauf celui visé au sous-alinéa b)(ii) de la définition de ***paiement compensatoire pour invalidité*** au paragraphe 6(17), selon lequel le contribuable est tenu de rembourser toute somme qui lui a été versée pour une période tout au long de laquelle il n'exerçait pas les fonctions de sa charge ou de son emploi, dans la mesure où:

(i) la somme ainsi versée a été incluse dans le calcul de son revenu tiré d'une charge ou d'un emploi,

(ii) le total des sommes ainsi remboursées ne dépasse pas le total des sommes qu'il a reçues pour la période tout au long de laquelle il n'a pas exercé les fonctions de sa charge ou de son emploi;

(i) as a consequence of the receipt of a payment (in this paragraph referred to as the "deferred payment") from an insurer, a payment (in this paragraph referred to as the "reimbursement payment") is made by or on behalf of an individual to an employer or former employer of the individual pursuant to an arrangement described in subparagraph (b)(ii) of the definition ***top-up disability payment*** in subsection 6(17), and

(ii) the reimbursement payment is made

(A) in the year, other than within the first 60 days of the year if the deferred payment was received in the immediately preceding taxation year, or

(B) within 60 days after the end of the year, if the deferred payment was received in the year,

an amount equal to the lesser of

(iii) the amount included under paragraph 6(1)(f) in respect of the deferred payment in computing the individual's income for any taxation year, and

(iv) the amount of the reimbursement payment;

Forfeited amounts

(o) where at the end of the year the rights of any person to receive benefits under a salary deferral arrangement in respect of the taxpayer have been extinguished or no person has any further right to receive any amount under the arrangement, the amount, if any, by which the total of all deferred amounts under the arrangement included in computing the taxpayer's income for the year and preceding taxation years as benefits under paragraph 6(1)(a) exceeds the total of

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

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

(iii) all amounts deducted under this paragraph in computing the taxpayer's income for preceding taxation years in respect of deferred amounts under the arrangement;

Idem

(o.1) an amount that is deductible in computing the taxpayer's income for the year because of subsection 144(9);

Remboursement de paiements pour invalidité

n.1) dans le cas où les conditions suivantes sont réunies :

(i) par suite de la réception d'un paiement (appelé « paiement différé » au présent alinéa) d'un assureur, un montant (appelé « montant de remboursement » au présent alinéa) est versé par un particulier ou pour son compte à son employeur ou ancien employeur en conformité avec un arrangement visé au sous-alinéa b)(ii) de la définition de ***paiement compensatoire pour invalidité*** au paragraphe 6(17),

(ii) le montant de remboursement est versé :

(A) au cours de l'année, mais non au cours des 60 premiers jours de l'année si le paiement différé a été reçu au cours de l'année d'imposition précédente,

(B) dans les 60 jours suivant la fin de l'année, si le paiement différé a été reçu au cours de l'année,

le moins élevé des montants suivants :

(iii) le montant inclus, en application de l'alinéa 6(1)f) relativement au paiement différé, dans le calcul du revenu du particulier pour une année d'imposition,

(iv) le montant de remboursement;

Montants différés perdus

o) dans le cas où, à la fin de l'année, les droits d'une personne de recevoir des avantages dans le cadre d'une entente d'échelonnement du traitement applicable au contribuable sont éteints et où personne n'a un autre droit de recevoir un montant dans le cadre de l'entente, l'excédent éventuel du total des montants différés dans le cadre de l'entente ajoutés comme avantages en vertu de l'alinéa 6(1)a) dans le calcul du revenu du contribuable pour l'année et pour les années d'imposition antérieures sur le total des montants suivants :

(i) les montants ainsi différés et reçus par toute personne au cours de l'année ou des années d'imposition antérieures dans le cadre de l'entente,

(ii) les montants ainsi différés et à recevoir par toute personne au cours des années d'imposition ultérieures dans le cadre de l'entente,

(iii) les montants déduits en vertu du présent alinéa dans le calcul du revenu du contribuable pour

Excess EPSP amounts

(o.2) an amount that is an excess EPSP amount (as defined in subsection 207.8(1)) of the taxpayer for the year, other than any portion of the excess EPSP amount for which the taxpayer's tax for the year under subsection 207.8(2) is waived or cancelled;

Musical instrument costs

(p) where the taxpayer was employed in the year as a musician and as a term of the employment was required to provide a musical instrument for a period in the year, an amount (not exceeding the taxpayer's income for the year from the employment, computed without reference to this paragraph) equal to the total of

(i) amounts expended by the taxpayer before the end of the year for the maintenance, rental or insurance of the instrument for that period, except to the extent that the amounts are otherwise deducted in computing the taxpayer's income for any taxation year, and

(ii) such part, if any, of the capital cost to the taxpayer of the instrument as is allowed by regulation;

Artists' employment expenses

(q) where the taxpayer's income for the year from the office or employment includes income from an artistic activity

(i) that was the creation by the taxpayer of, but did not include the reproduction of, paintings, prints, etchings, drawings, sculptures or similar works of art,

(ii) that was the composition by the taxpayer of a dramatic, musical or literary work,

(iii) that was the performance by the taxpayer of a dramatic or musical work as an actor, dancer, singer or musician, or

(iv) in respect of which the taxpayer was a member of a professional artists' association that is certified by the Minister of Communications,

amounts paid by the taxpayer before the end of the year in respect of expenses incurred for the purpose of earning the income from those activities to the extent that they were not deductible in computing the taxpayer's income for a preceding taxation year, but not exceeding a single amount in respect of all such offices and employments of the taxpayer equal to the amount, if any, by which

les années d'imposition antérieures dans le cadre de l'entente;

Idem

o.1) un montant qui est déductible, par l'effet du paragraphe 144(9), dans le calcul du revenu du contribuable pour l'année;

Excédent RPEB

o.2) toute somme qui représente un excédent RPEB, au sens du paragraphe 207.8(1), du contribuable pour l'année, à l'exception de toute partie de cet excédent relativement à laquelle l'impôt du contribuable pour l'année, prévu au paragraphe 207.8(2), fait l'objet d'une renonciation ou d'une annulation;

Instruments de musique propriété d'employés

p) lorsque le contribuable occupe au cours de l'année un emploi de musicien et que ses conditions de travail prévoient qu'il doit fournir un instrument de musique pendant une période de l'année, le montant, à concurrence du revenu qu'il tire de cet emploi pour l'année — calculé compte non tenu du présent alinéa —, égal au total des éléments suivants :

(i) les dépenses qu'il effectue avant la fin de l'année pour entretenir, louer ou assurer l'instrument de musique pendant cette période, dans la mesure où ces dépenses ne sont pas déduites par ailleurs dans le calcul de son revenu pour une année d'imposition,

(ii) la déduction pour amortissement applicable à l'instrument de musique, pour le contribuable, autorisée par règlement;

Dépenses d'artistes afférentes à un emploi

q) lorsque le revenu que le contribuable tire pour l'année de la charge ou de l'emploi comprend un revenu provenant d'une des sources suivantes, les sommes que le contribuable a payées avant la fin de l'année au titre des dépenses engagées en vue de tirer le revenu de cette source, dans la mesure où elles n'étaient pas déductibles dans le calcul de son revenu pour une année d'imposition antérieure :

(i) une activité artistique qui consiste pour le contribuable à créer des peintures, estampes, gravures, dessins, sculptures ou œuvres d'art semblables, mais non à reproduire de telles œuvres,

(ii) une activité artistique qui consiste pour le contribuable à composer une œuvre littéraire, dramatique ou musicale,

(v) the lesser of $1,000 and 20% of the total of all amounts each of which is the taxpayer's income from an office or employment for the year, before deducting any amount under this section, that was income from an artistic activity described in any of subparagraphs 8(1)(q)(i) to 8(1)(q)(iv),

exceeds

(vi) the total of all amounts deducted by the taxpayer for the year under paragraph 8(1)(j) or 8(1)(p) in respect of costs or expenses incurred for the purpose of earning the income from such an activity for the year;

Apprentice mechanics' tool costs

(r) if the taxpayer was an eligible apprentice mechanic at any time after 2001 and before the end of the taxation year, the amount claimed by the taxpayer for the taxation year under this paragraph not exceeding the lesser of

(i) the taxpayer's income for the taxation year computed without reference to this paragraph, and

(ii) the amount determined by the formula

(A - B) + C

where

A is the total of all amounts each of which is the cost to the taxpayer of an eligible tool acquired in the taxation year by the taxpayer or, if the taxpayer first becomes employed as an eligible apprentice mechanic in the taxation year, the cost to the taxpayer of an eligible tool acquired by the taxpayer in the last three months of the preceding taxation year,

B is the lesser of

(A) the value of A for the taxation year in respect of the taxpayer, and

(B) the greater of

(I) the amount that is the total of $500 and the amount determined for the taxation year for B in subsection 118(10), and

(II) 5% of the total of

1. the total of all amounts each of which is the taxpayer's income from employment for the taxation year as an eligible apprentice mechanic, computed without reference to this paragraph, and

(iii) une activité artistique qui consiste pour le contribuable à interpréter une œuvre dramatique ou musicale à titre d'acteur, de danseur, de chanteur ou de musicien,

(iv) une activité artistique à l'égard de laquelle le contribuable est membre d'une association d'artistes professionnels reconnue par le ministre des Communications;

ces sommes ne peuvent dépasser un montant unique, pour l'ensemble des semblables charges et emplois du contribuable, égal à l'excédent éventuel du montant visé au sous-alinéa (v) sur le total des montants visés au sous-alinéa (vi):

(v) le moins élevé de 1 000 $ et de 20 % du total des montants représentant chacun le revenu du contribuable pour l'année provenant d'une charge ou d'un emploi calculé avant toute déduction prévue au présent article, qui est un revenu provenant d'une activité visée à l'un des sous-alinéas (i) à (iv),

(vi) les montants déduits par le contribuable pour l'année en application des alinéas j) ou p) au titre des frais ou dépenses engagés en vue de tirer le revenu d'une telle activité pour l'année;

Coût des outils des apprentis mécaniciens

r) si le contribuable est un apprenti mécanicien admissible après 2001 et avant la fin de l'année d'imposition, la somme qu'il déduit pour l'année d'imposition en application du présent alinéa, n'excédant pas le moins élevé des montants suivants :

(i) son revenu pour l'année d'imposition, calculé compte non tenu du présent alinéa,

(ii) le montant obtenu par la formule suivante :

(A - B) + C

où :

A représente le total des montants représentant chacun le coût pour le contribuable d'un outil admissible qu'il a acquis au cours de l'année d'imposition ou, s'il obtient au cours de cette année son premier emploi à titre d'apprenti mécanicien admissible, au cours des trois derniers mois de l'année d'imposition précédente,

B le moins élevé des montants suivants :

(A) la valeur de l'élément A pour l'année d'imposition relativement au contribuable,

(B) la plus élevée des sommes suivantes :

2. the amount, if any, by which the amount required by paragraph 56(1)(n.1) to be included in computing the taxpayer's income for the taxation year exceeds the amount required by paragraph 60(p) to be deducted in computing that income, and

C is the amount by which the amount determined under this subparagraph for the preceding taxation year in respect of the taxpayer exceeds the amount deducted under this paragraph for that preceding taxation year by the taxpayer; and

Deduction — tradesperson's tools

(s) if the taxpayer is employed as a tradesperson at any time in the taxation year, the lesser of $500 and the amount determined by the formula

A - $1,000

where

A is the lesser of

(i) the total of all amounts each of which is the cost of an eligible tool acquired by the taxpayer in the year, and

(ii) the total of

(A) the amount that would, if this subsection were read without reference to this paragraph, be the taxpayer's income for the taxation year from employment as a tradesperson in the taxation year, and

(B) the amount, if any, by which the amount required by paragraph 56(1)(n.1) to be included in computing the taxpayer's income for the taxation year exceeds the amount required by paragraph 60(p) to be deducted in computing that income.

(I) le total de 500 $ et de la valeur de l'élément B de la formule figurant au paragraphe 118(10), déterminée pour l'année d'imposition,

(II) 5 % du total des sommes suivantes :

1. le total des sommes représentant chacune le revenu que le contribuable tire, au cours de l'année d'imposition, de son emploi à titre d'apprenti mécanicien admissible, calculé compte non tenu du présent alinéa,

2. l'excédent éventuel de la somme à inclure, en application de l'alinéa 56(1)n.1), dans le calcul du revenu du contribuable pour l'année d'imposition sur la somme à déduire, en application de l'alinéa 60p), dans le calcul de ce revenu,

C l'excédent du montant déterminé selon le présent sous-alinéa pour l'année d'imposition précédente relativement au contribuable sur le montant déduit par celui-ci en application du présent alinéa pour cette année;

Déduction — outillage des gens de métier

s) si le contribuable occupe un emploi à titre de personne de métier au cours de l'année, 500 $ ou, si elle est moins élevée, la somme obtenue par la formule suivante :

A - 1 000 $

où :

A représente la moins élevée des sommes suivantes :

(i) le total des sommes représentant chacune le coût d'un outil admissible que le contribuable a acquis au cours de l'année,

(ii) le total des sommes suivantes :

(A) la somme qui, en l'absence du présent alinéa, correspondrait au revenu du contribuable pour l'année provenant de son emploi à titre de personne de métier au cours de l'année,

(B) l'excédent éventuel de la somme à inclure, en application de l'alinéa 56(1)n.1), dans le calcul du revenu du contribuable pour l'année sur la somme à déduire, en application de l'alinéa 60p), dans le calcul de ce revenu.

General limitation

(2) Except as permitted by this section, no deductions shall be made in computing a taxpayer's income for a taxation year from an office or employment.

Meals

(4) An amount expended in respect of a meal consumed by a taxpayer who is an officer or employee shall not be included in computing the amount of a deduction under paragraph 8(1)(f) or 8(1)(h) unless the meal was consumed during a period while the taxpayer was required by the taxpayer's duties to be away, for a period of not less than twelve hours, from the municipality where the employer's establishment to which the taxpayer ordinarily reported for work was located and away from the metropolitan area, if there is one, where it was located.

Dues not deductible

(5) Notwithstanding subparagraphs 8(1)(i)(i), 8(1)(i)(iv), 8(1)(i)(vi) and 8(1)(i)(vii), dues are not deductible under those subparagraphs in computing a taxpayer's income from an office or employment to the extent that they are, in effect, levied

(a) for or under a superannuation fund or plan;

(b) for or under a fund or plan for annuities, insurance (other than professional or malpractice liability insurance that is necessary to maintain a professional status recognized by statute) or similar benefits; or

(c) for any other purpose not directly related to the ordinary operating expenses of the committee or similar body, association, board or trade union, as the case may be.

Apprentice mechanics

(6) For the purpose of paragraph (1)(r),

(a) a taxpayer is an eligible apprentice mechanic in a taxation year if, at any time in the taxation year, the taxpayer

(i) is registered in a program established in accordance with the laws of Canada or of a province that leads to designation under those laws as a mechanic licensed to repair self-propelled motorized vehicles, and

(ii) is employed as an apprentice mechanic;

Restriction générale

(2) Seuls les montants prévus au présent article sont déductibles dans le calcul du revenu d'un contribuable tiré, pour une année d'imposition, d'une charge ou d'un emploi.

Repas

(4) La somme dépensée par un cadre ou un employé pour son repas ne peut être incluse dans le calcul du montant d'une déduction en vertu de l'alinéa (1)f) ou h) que si le repas a été pris au cours d'une période où les fonctions de ce cadre ou de cet employé l'obligeaient à être absent, durant une période d'au moins douze heures, de la municipalité dans laquelle était situé l'établissement de l'employeur où il se présentait habituellement pour son travail et à être absent, le cas échéant, de la région métropolitaine où cet établissement était situé.

Cotisations non déductibles

(5) Malgré les sous-alinéas (1)i)(i), (iv), (vi) et (vii), les cotisations ne sont pas déductibles dans le calcul du revenu qu'un contribuable tire d'une charge ou d'un emploi, dans la mesure où elles sont effectivement prélevées, selon le cas :

a) dans le cadre d'une caisse ou d'un régime de retraite;

b) dans le cadre d'une caisse ou d'un régime de rentes, d'assurance — sauf s'il s'agit de l'assurance-responsabilité professionnelle obligatoire pour la conservation d'un statut professionnel reconnu par la loi — ou de prestations similaires;

c) à toute autre fin qui n'est pas directement liée aux frais ordinaires de fonctionnement du comité ou groupement semblable, de l'association, de l'office ou du syndicat, selon le cas.

Apprentis mécaniciens

(6) Les règles suivantes s'appliquent dans le cadre de l'alinéa (1)r) :

a) est un apprenti mécanicien admissible au cours d'une année d'imposition le contribuable qui, au cours de l'année :

(i) d'une part, est inscrit à un programme établi conformément aux lois du Canada ou d'une province et menant à l'obtention d'une attestation de mécanicien qualifié dans la réparation de véhicules automoteurs,

(ii) d'autre part, occupe un emploi d'apprenti mécanicien;

(b) an eligible tool is a tool (including ancillary equipment) that

(i) is acquired by a taxpayer for use in connection with the taxpayer's employment as an eligible apprentice mechanic,

(ii) has not been used for any purpose before it is acquired by the taxpayer,

(iii) is certified in prescribed form by the taxpayer's employer to be required to be provided by the taxpayer as a condition of, and for use in, the taxpayer's employment as an eligible apprentice mechanic, and

(iv) is, unless the device or equipment can be used only for the purpose of measuring, locating or calculating, not an electronic communication device or electronic data processing equipment; and

(c) a taxpayer who, for a taxation year, is not an eligible apprentice mechanic and has an excess amount determined under the description of C in subparagraph (1)(r)(ii) is, for the taxation year, entitled to claim a deduction under that paragraph as if that excess amount were wholly applicable to an employment of the taxpayer.

b) est un outil admissible l'outil, y compris le matériel accessoire, qui, à la fois :

(i) est acquis par un contribuable en vue d'être utilisé dans le cadre de son emploi à titre d'apprenti mécanicien admissible,

(ii) n'a jamais été utilisé à une autre fin,

(iii) selon l'attestation de l'employeur du contribuable, effectuée sur le formulaire prescrit, doit obligatoirement être fourni par le contribuable dans le cadre de son emploi à titre d'apprenti mécanicien admissible et être utilisé au cours de celui-ci,

(iv) n'est pas un dispositif électronique de communication ni un appareil électronique de traitement de données, sauf dans la mesure où il ne peut servir qu'à mesurer, localiser ou calculer;

c) le contribuable qui n'est pas un apprenti mécanicien admissible pour une année d'imposition et relativement auquel il existe pour l'année un excédent déterminé selon l'élément C de la formule figurant au sous-alinéa (1)r)(ii) peut déduire, pour cette année, un montant en vertu de l'alinéa (1)r) comme si l'excédent se rapportait entièrement à un emploi du contribuable.

Eligible tool of tradesperson

(6.1) For the purposes of paragraph (1)(s), an eligible tool of a taxpayer is a tool (including ancillary equipment) that

(a) is acquired by the taxpayer on or after May 2, 2006 for use in connection with the taxpayer's employment as a tradesperson;

(b) has not been used for any purpose before it is acquired by the taxpayer;

(c) is certified in prescribed form by the taxpayer's employer to be required to be provided by the taxpayer as a condition of, and for use in, the taxpayer's employment as a tradesperson; and

(d) is, unless the device or equipment can be used only for the purpose of measuring, locating or calculating, not an electronic communication device or electronic data processing equipment.

Outils admissibles des gens de métier

(6.1) Pour l'application de l'alinéa (1)s), est un outil admissible d'un contribuable l'outil, y compris le matériel accessoire, qui, à la fois :

a) est acquis par le contribuable après le 1er mai 2006 en vue d'être utilisé dans le cadre de son emploi à titre de personne de métier;

b) n'a jamais été utilisé à quelque fin que ce soit avant d'être acquis par le contribuable;

c) selon l'attestation de l'employeur du contribuable, effectuée sur le formulaire prescrit, doit obligatoirement être fourni par le contribuable dans le cadre de son emploi à titre de personne de métier et être utilisé au cours de celui-ci;

d) n'est pas un dispositif électronique de communication ni un appareil électronique de traitement de données, sauf dans la mesure où il ne peut servir qu'à mesurer, localiser ou calculer.

Cost of tool

(7) Except for the purposes of the description of A in subparagraph (1)(r)(ii) and the description of A in paragraph (1)(s), the cost to a taxpayer of an eligible tool the

Coût des outils

(7) Sauf pour l'application de l'élément A de chacune des formules figurant au sous-alinéa (1)r)(ii) et à l'alinéa (1)s), le coût pour un contribuable d'un outil admissible,

cost of which was included in determining the value of one or both of those descriptions in respect of the taxpayer for a taxation year is the amount determined by the formula

K - (K × L/M)

where

K is the cost to the taxpayer of the tool determined without reference to this subsection;

L is

(a) if the tool is a tool to which only paragraph (1)(r) applies in the taxation year, the amount that would be determined under subparagraph (1)(r)(ii) in respect of the taxpayer for the taxation year if the value of C in that subparagraph were nil,

(b) if the tool is a tool to which only paragraph (1)(s) applies in the taxation year, the amount determined under that paragraph to be deductible by the taxpayer in the taxation year, or

(c) if the tool is a tool to which both paragraphs (1)(r) and (s) apply in the taxation year, the amount that is the total of

(i) the amount that would be determined under subparagraph (1)(r)(ii) in respect of the taxpayer for the taxation year if the value of C in that subparagraph were nil, and

(ii) the amount determined under paragraph (1)(s) to be deductible by the taxpayer in the taxation year; and

M is the amount that is

(a) if the tool is a tool to which only paragraph (1)(r) applies in the taxation year, the value of A determined under subparagraph (1)(r)(ii) in respect of the taxpayer for the taxation year,

(b) if the tool is a tool to which only paragraph (1)(s) applies in the taxation year, the amount determined under subparagraph (i) of the description of A in paragraph (1)(s) in respect of the taxpayer for the taxation year, and

(c) if the tool is a tool to which both paragraphs (1)(r) and (s) apply in the taxation year, the amount that is the greater of the value of A determined under subparagraph (1)(r)(ii) in respect of the taxpayer for the taxation year and the amount determined under subparagraph (i) of the description of A in paragraph (1)(s) in respect of the taxpayer for the taxation year.

dont le coût a été inclus dans le calcul de la valeur de l'un de ces éléments, ou des deux, relativement au contribuable pour une année d'imposition, correspond à la somme obtenue par la formule suivante :

K - (K × L/M)

où :

K représente le coût de l'outil pour le contribuable, déterminé compte non tenu du présent paragraphe;

L :

a) s'il s'agit d'un outil auquel seul l'alinéa (1)r) s'applique au cours de l'année, la somme qui serait déterminée selon le sous-alinéa (1)r)(ii) relativement au contribuable pour l'année si la valeur de l'élément C de la formule figurant à ce sous-alinéa était nulle,

b) s'il s'agit d'un outil auquel seul l'alinéa (1)s) s'applique au cours de l'année, la somme qui est déductible par le contribuable pour l'année en application de cet alinéa,

c) s'il s'agit d'un outil auquel les alinéas (1)r) et s) s'appliquent au cours de l'année, le total des sommes suivantes :

(i) la somme qui serait déterminée selon le sous-alinéa (1)r)(ii) relativement au contribuable pour l'année si la valeur de l'élément C de la formule figurant à ce sous-alinéa était nulle,

(ii) la somme qui est déductible par le contribuable pour l'année en application de l'alinéa (1)s);

M :

a) s'il s'agit d'un outil auquel seul l'alinéa (1)r) s'applique au cours de l'année, la valeur de l'élément A de la formule figurant au sous-alinéa (1)r)(ii) relativement au contribuable pour l'année,

b) s'il s'agit d'un outil auquel seul l'alinéa (1)s) s'applique au cours de l'année, la somme déterminée selon le sous-alinéa (i) de l'élément A de la formule figurant à cet alinéa relativement au contribuable pour l'année,

c) s'il s'agit d'un outil auquel les alinéas (1)r) et s) s'appliquent au cours de l'année, la valeur de l'élément A de la formule figurant au sous-alinéa (1)r)(ii) relativement au contribuable pour l'année ou, si elle est plus élevée, la somme déterminée selon le sous-alinéa (i) de l'élément A de la formule figurant à l'alinéa (1)s) relativement au contribuable pour l'année.

Presumption

(9) Notwithstanding any other provision of this Act, the total of all amounts that would otherwise be deductible by a taxpayer pursuant to paragraph 8(1)(f), 8(1)(h) or 8(1)(j) for travelling in the course of the taxpayer's employment in an aircraft that is owned or rented by the taxpayer, may not exceed an amount that is reasonable in the circumstances having regard to the relative cost and availability of other modes of transportation.

Certificate of employer

(10) An amount otherwise deductible for a taxation year under paragraph (1)(c), (f), (h) or (h.1) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless a prescribed form, signed by the taxpayer's employer certifying that the conditions set out in the applicable provision were met in the year in respect of the taxpayer, is filed with the taxpayer's return of income for the year.

Goods and services tax

(11) For the purposes of this section and section 6, the amount of any rebate paid or payable to a taxpayer under the *Excise Tax Act* in respect of the goods and services tax shall be deemed not to be an amount that is reimbursed to the taxpayer or to which the taxpayer is entitled.

Forfeiture of securities by employee

(12) If, in a taxation year,

(a) an employee is deemed by subsection 7(2) to have disposed of a security (as defined in subsection 7(7)) held by a trust,

(b) the trust disposed of the security to the person that issued the security,

(c) the disposition occurred as a result of the employee not meeting the conditions necessary for title to the security to vest in the employee, and

(d) the amount paid by the person to acquire the security from the trust or to redeem or cancel the security did not exceed the amount paid to the person for the security,

the following rules apply:

(e) there may be deducted in computing the employee's income for the year from employment the amount, if any, by which

(i) the amount of the benefit deemed by subsection 7(1) to have been received by the employee in the

Présomption

(9) Malgré les autres dispositions de la présente loi, le total des sommes dont chacune représente une somme qui aurait été déductible par ailleurs par un contribuable en vertu de l'alinéa (1)f), h) ou j) et qui a été engagée lors de déplacements dans l'exercice de ses fonctions dans un aéronef qui lui appartient ou qu'il loue ne peut pas dépasser une somme qui soit raisonnable dans les circonstances eu égard au coût relatif et à la disponibilité d'autres moyens de transport.

Attestation de l'employeur

(10) Un contribuable ne peut déduire un montant pour une année d'imposition en application des alinéas (1)c), f), h) ou h.1) ou des sous-alinéas (1)i)(ii) ou (iii) que s'il joint à sa déclaration de revenu pour l'année un formulaire prescrit, signé par son employeur, qui atteste que les conditions énoncées à la disposition applicable ont été remplies quant au contribuable au cours de l'année.

Taxe sur les produits et services

(11) Pour l'application du présent article et de l'article 6, le remboursement versé ou à verser à un contribuable aux termes de la *Loi sur la taxe d'accise* relativement à la taxe sur les produits et services est réputé ne pas être un montant qui lui est remboursé ou auquel il a droit.

Perte de titres par l'employé

(12) Lorsque, au cours d'une année d'imposition, un employé est réputé par le paragraphe 7(2) avoir disposé d'un titre, au sens du paragraphe 7(7), détenu par une fiducie et que la fiducie dispose du titre en faveur de l'émetteur — par acquisition, rachat ou annulation par ce dernier du titre — pour une somme qui ne dépasse pas celle qui a été versée à l'émetteur pour le titre, les règles suivantes s'appliquent si la fiducie a disposé du titre parce que l'employé ne remplissait pas les conditions nécessaires pour que la propriété du titre lui soit dévolue :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) est déductible dans le calcul du revenu que l'employé tire de son emploi pour l'année :

(i) le montant de l'avantage réputé par le paragraphe 7(1) avoir été reçu par l'employé au cours de l'année ou d'une année d'imposition antérieure relativement au titre,

(ii) un montant déduit en application des alinéas 110(1)d) ou d.1) dans le calcul du revenu imposable de l'employé pour l'année ou pour une année d'imposition antérieure relativement à cet avantage;

year or a preceding taxation year in respect of the security

exceeds

(ii) any amount deducted under paragraph 110(1)(d) or (d.1) in computing the employee's taxable income for the year or a preceding taxation year in respect of that benefit, and

(f) notwithstanding any other provision of this Act, the employee's gain or loss from the disposition of the security is deemed to be nil and section 84 does not apply to deem a dividend to have been received in respect of the disposition.

b) malgré les autres dispositions de la présente loi, les gains ou les pertes de l'employé découlant de la disposition du titre sont réputés nuls, et aucun dividende n'est réputé, par l'application de l'article 84, avoir été reçu relativement à la disposition.

Work space in home

(13) Notwithstanding paragraphs 8(1)(f) and 8(1)(i),

(a) no amount is deductible in computing an individual's income for a taxation year from an office or employment in respect of any part (in this subsection referred to as the "work space") of a self-contained domestic establishment in which the individual resides, except to the extent that the work space is either

(i) the place where the individual principally performs the duties of the office or employment, or

(ii) used exclusively during the period in respect of which the amount relates for the purpose of earning income from the office or employment and used on a regular and continuous basis for meeting customers or other persons in the ordinary course of performing the duties of the office or employment;

(b) where the conditions set out in subparagraph 8(13)(a)(i) or 8(13)(a)(ii) are met, the amount in respect of the work space that is deductible in computing the individual's income for the year from the office or employment shall not exceed the individual's income for the year from the office or employment, computed without reference to any deduction in respect of the work space; and

(c) any amount in respect of a work space that was, solely because of paragraph 8(13)(b), not deductible in computing the individual's income for the immediately preceding taxation year from the office or employment shall be deemed to be an amount in respect of a work space that is otherwise deductible in computing the individual's income for the year from that office or employment and that, subject to paragraph 8(13)(b), may be deducted in computing the individual's income for the year from the office or employment.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 8; 1994, c. 7, Sch. II, s. 5, Sch. VIII, s. 2, c.

Travail à domicile

(13) Malgré les alinéas (1)f) et i):

a) un montant n'est déductible dans le calcul du revenu d'un particulier pour une année d'imposition tiré d'une charge ou d'un emploi pour la partie d'un établissement domestique autonome où le particulier réside que si cette partie, selon le cas :

(i) est le lieu où le particulier accomplit principalement les fonctions de la charge ou de l'emploi,

(ii) est utilisée exclusivement, au cours de la période à laquelle le montant se rapporte, aux fins de tirer un revenu de la charge ou de l'emploi et est utilisée pour rencontrer des clients ou d'autres personnes de façon régulière et continue dans le cours normal de l'exécution des fonctions de la charge ou de l'emploi;

b) si une partie de l'établissement domestique autonome du particulier répond à l'une des conditions énoncées aux sous-alinéas a)(i) ou (ii), le montant déductible pour cette partie d'établissement dans le calcul du revenu du particulier pour l'année tiré de la charge ou de l'emploi ne peut dépasser son revenu ainsi tiré pour l'année, calculé compte non tenu d'une déduction pour cette partie d'établissement;

c) tout montant qui, par le seul effet de l'alinéa b), n'est pas déductible pour une partie d'établissement domestique autonome dans le calcul du revenu du particulier pour l'année d'imposition précédente tiré de la charge ou de l'emploi est réputé être un montant qui est par ailleurs déductible au titre de la partie de l'établissement dans le calcul du revenu du particulier pour l'année tiré de la charge ou de l'emploi et qui est, sous réserve de l'alinéa b), déductible dans le calcul de ce revenu.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 8; 1994,

21, s. 4; 1996, c. 23, s. 171; 1998, c. 19, s. 69; 1999, c. 22, s. 4; 2000, c. 12, s. 142; 2001, c. 17, s. 3; 2002, c. 9, s. 21; 2007, c. 2, s. 2; 2012, c. 31, s. 3; 2013, c. 34, s. 172.

ch. 7, ann. II, art. 5, ann. VIII, art. 2, ch. 21, art. 4; 1996, ch. 23, art. 171; 1998, ch. 19, art. 69; 1999, ch. 22, art. 4; 2000, ch. 12, art. 142; 2001, ch. 17, art. 3; 2002, ch. 9, art. 21; 2007, ch. 2, art. 2; 2012, ch. 31, art. 3; 2013, ch. 34, art. 172.

SUBDIVISION B

Income or Loss from a Business or Property

Basic Rules

Income

9 (1) Subject to this Part, a taxpayer's income for a taxation year from a business or property is the taxpayer's profit from that business or property for the year.

Loss

(2) Subject to section 31, a taxpayer's loss for a taxation year from a business or property is the amount of the taxpayer's loss, if any, for the taxation year from that source computed by applying the provisions of this Act respecting computation of income from that source with such modifications as the circumstances require.

Gains and losses not included

(3) In this Act, "income from a property" does not include any capital gain from the disposition of that property and "loss from a property" does not include any capital loss from the disposition of that property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"9"; 1984, c. 1, s. 4; 1986, c. 6, s. 4.

Valuation of inventory

10 (1) For the purpose of computing a taxpayer's income for a taxation year from a business that is not an adventure or concern in the nature of trade, property described in an inventory shall be valued at the end of the year at the cost at which the taxpayer acquired the property or its fair market value at the end of the year, whichever is lower, or in a prescribed manner.

Adventures in the nature of trade

(1.01) For the purpose of computing a taxpayer's income from a business that is an adventure or concern in the nature of trade, property described in an inventory shall be valued at the cost at which the taxpayer acquired the property.

SOUS-SECTION B

Revenu ou perte provenant d'une entreprise ou d'un bien

Règles fondamentales

Revenu

9 (1) Sous réserve des autres dispositions de la présente partie, le revenu qu'un contribuable tire d'une entreprise ou d'un bien pour une année d'imposition est le bénéfice qu'il en tire pour cette année.

Perte

(2) Sous réserve de l'article 31, la perte subie par un contribuable au cours d'une année d'imposition relativement à une entreprise ou à un bien est le montant de sa perte subie au cours de l'année relativement à cette entreprise ou à ce bien, calculée par l'application, avec les adaptations nécessaires, des dispositions de la présente loi afférentes au calcul du revenu tiré de cette entreprise ou de ce bien.

Exclusion des gains et pertes en capital

(3) Dans la présente loi, le revenu tiré d'un bien exclut le gain en capital réalisé à la disposition de ce bien, et la perte résultant d'un bien exclut la perte en capital résultant de la disposition de ce bien.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 9 »; 1984, ch. 1, art. 4; 1986, ch. 6, art. 4.

Évaluation des biens figurant à l'inventaire

10 (1) Pour le calcul du revenu d'un contribuable pour une année d'imposition tiré d'une entreprise qui n'est pas un projet comportant un risque ou une affaire de caractère commercial, les biens figurant à l'inventaire sont évalués á la fin de l'année soit à leur coût d'acquisition pour le contribuable ou, si elle est inférieure, à leur juste valeur marchande à la fin de l'année, soit selon les modalités réglementaires.

Projet comportant un risque

(1.01) Pour le calcul du revenu d'un contribuable tiré d'une entreprise qui est un projet comportant un risque ou une affaire de caractère commercial, les biens figurant à l'inventaire sont évalués à leur coût d'acquisition pour le contribuable.

Certain expenses included in cost

(1.1) For the purposes of subsections 10(1), 10(1.01) and 10(10), where land is described in an inventory of a business of a taxpayer, the cost at which the taxpayer acquired the land shall include each amount that is

(a) described in paragraph 18(2)(a) or (b) in respect of the land and for which no deduction is permitted to the taxpayer, or to another person or partnership that is

(i) a person or partnership with whom the taxpayer does not deal at arm's length,

(ii) if the taxpayer is a corporation, a person or partnership that is a specified shareholder of the taxpayer, or

(iii) if the taxpayer is a partnership, a person or partnership whose share of any income or loss of the taxpayer is 10% or more; and

(b) not included in or added to the cost to that other person or partnership of any property otherwise than because of paragraph 53(1)(d.3) or subparagraph 53(1)(e)(xi).

Continuation of valuation

(2) Notwithstanding subsection 10(1), for the purpose of computing income for a taxation year from a business, the inventory at the commencement of the year shall be valued at the same amount as the amount at which it was valued at the end of the preceding taxation year for the purpose of computing income for that preceding year.

Methods of valuation to be the same

(2.1) Where property described in an inventory of a taxpayer's business that is not an adventure or concern in the nature of trade is valued at the end of a taxation year in accordance with a method permitted under this section, that method shall, subject to subsection 10(6), be used in the valuation of property described in the inventory at the end of the following taxation year for the purpose of computing the taxpayer's income from the business unless the taxpayer, with the concurrence of the Minister and on any terms and conditions that are specified by the Minister, adopts another method permitted under this section.

Incorrect valuation

(3) Where the inventory of a business at the commencement of a taxation year has, according to the method adopted by the taxpayer for computing income from the business for that year, not been valued as required by

Dépenses non déductibles

(1.1) Pour l'application des paragraphes (1), (1.01) et (10), le coût d'acquisition, pour un contribuable, d'un fonds de terre figurant à l'inventaire de son entreprise comprend chaque montant qui, à la fois :

a) est visé aux alinéas 18(2)a) ou b) relativement au fonds et au titre duquel aucun montant n'est déductible par le contribuable ou par une des personnes ou sociétés de personnes suivantes :

(i) une personne ou une société de personnes avec laquelle le contribuable a un lien de dépendance,

(ii) si le contribuable est une société, une personne ou une société de personnes qui en est un actionnaire déterminé,

(iii) si le contribuable est une société de personnes, une personne ou une société de personnes à laquelle il revient au moins 10 % du revenu ou de la perte du contribuable;

b) n'est pas inclus dans le coût d'un bien pour la personne ou la société de personnes, ni ajouté à ce coût, autrement que par l'effet de l'alinéa 53(1)d.3) ou du sous-alinéa 53(1)e)(xi).

Continuation de l'évaluation

(2) Malgré le paragraphe (1), pour le calcul du revenu tiré d'une entreprise au cours d'une année d'imposition, les biens figurant à un inventaire au début de l'année sont évalués au même montant que celui auquel ils ont été évalués à la fin de l'année d'imposition précédente pour le calcul du revenu de cette année précédente.

Méthode d'évaluation

(2.1) La méthode, permise par le présent article, selon laquelle les biens figurant à l'inventaire d'une entreprise d'un contribuable qui n'est pas un projet comportant un risque ou une affaire de caractère commercial sont évalués à la fin d'une année d'imposition doit servir, sous réserve du paragraphe (6), à évaluer les biens qui figurent à cet inventaire à la fin de l'année d'imposition subséquente pour le calcul du revenu que le contribuable tire de cette entreprise, sauf si celui-ci, avec l'accord du ministre et aux conditions précisées par ce dernier, adopte une autre méthode permise par le présent article.

Évaluation inexacte

(3) Le bien figurant à l'inventaire d'une entreprise au début d'une année d'imposition et qui, selon la méthode adoptée par le contribuable pour calculer le revenu tiré de l'entreprise pour cette année, n'a pas été évalué

subsection 10(1), the inventory at the commencement of that year shall, if the Minister so directs, be deemed to have been valued as required by that subsection.

Fair market value

(4) For the purpose of subsection 10(1), the fair market value of property (other than property that is obsolete, damaged or defective or that is held for sale or lease or for the purpose of being processed, fabricated, manufactured, incorporated into, attached to, or otherwise converted into property for sale or lease) that is

(a) work in progress at the end of a taxation year of a business that is a profession means the amount that can reasonably be expected to become receivable in respect thereof after the end of the year; and

(b) advertising or packaging material, parts, supplies or other property (other than work in progress of a business that is a profession) that is included in inventory means the replacement cost of the property.

Inventory

(5) Without restricting the generality of this section,

(a) property (other than capital property) of a taxpayer that is advertising or packaging material, parts or supplies or work in progress of a business that is a profession is, for greater certainty, inventory of the taxpayer;

(b) anything used primarily for the purpose of advertising or packaging property that is included in the inventory of a taxpayer shall be deemed not to be property held for sale or lease or for any of the purposes referred to in subsection 10(4); and

(c) property of a taxpayer, the cost of which to the taxpayer was deductible by virtue of paragraph 20(1)(mm), is, for greater certainty, inventory of the taxpayer having a cost to the taxpayer, except for the purposes of that paragraph, of nil.

Artistic endeavour

(6) Notwithstanding subsection 10(1), for the purpose of computing the income of an individual other than a trust for a taxation year from a business that is the individual's artistic endeavour, the value of the inventory of the business for that year shall, if the individual so elects in the

conformément au paragraphe (1) est, si le ministre l'ordonne, réputé avoir été évalué conformément à ce paragraphe.

Juste valeur marchande

(4) Pour l'application du paragraphe (1), la juste valeur marchande des biens (à l'exclusion de biens qui sont périmés ou qui sont détenus en vue d'être vendus ou loués ou d'être traités, fabriqués ou manufacturés pour être vendus ou loués, incorporés ou attachés à des biens destinés à être vendus ou loués ou autrement transformés en biens ainsi destinés) qui sont :

a) des travaux en cours à la fin d'une année d'imposition d'une entreprise qui est une profession libérale s'entend du montant dont on peut raisonnablement s'attendre à ce qu'il devienne à recevoir par l'entreprise après la fin de l'année à l'égard de ces travaux;

b) du matériel de publicité ou d'emballage, des pièces, des fournitures ou d'autres biens (autres que des travaux en cours d'une entreprise qui est une profession libérale) figurant à un inventaire s'entend du coût de remplacement des biens.

Biens à porter à l'inventaire

(5) Sans préjudice de la portée générale du présent article :

a) il demeure entendu que les biens (autres que les immobilisations) d'un contribuable qui sont des travaux en cours d'une entreprise qui est une profession libérale, du matériel de publicité ou d'emballage, des pièces ou des fournitures doivent figurer parmi les éléments portés à son inventaire;

b) tout ce qui sert principalement à la publicité ou à l'emballage des biens figurant à l'inventaire d'un contribuable est réputé ne pas être des biens détenus pour être vendus ou loués ou à toute autre fin visée au paragraphe (4);

c) il demeure entendu que les biens d'un contribuable dont le coût pour lui était déductible en vertu de l'alinéa 20(1)mm) doivent figurer parmi les éléments portés à son inventaire et dont le coût pour lui est, sauf pour l'application de cet alinéa, nul.

Entreprise artistique

(6) Malgré le paragraphe (1), un particulier, sauf une fiducie, peut faire un choix dans sa déclaration de revenu produite en vertu de la présente partie pour que la valeur des biens à porter à son inventaire soit, pour une année d'imposition, réputée nulle pour le calcul du revenu qu'il tire d'une entreprise artistique pour l'année.

individual's return of income under this Part for the year, be deemed to be nil.

Value in later years

(7) Where an individual has made an election pursuant to subsection 10(6) for a taxation year, the value of the inventory of a business that is the individual's artistic endeavour shall, for each subsequent taxation year, be deemed to be nil unless the individual, with the concurrence of the Minister and on such terms and conditions as are specified by the Minister, revokes the election.

Definition of *business that is an individual's artistic endeavour*

(8) For the purpose of this section, ***business that is an individual's artistic endeavour*** means the business of creating paintings, prints, etchings, drawings, sculptures or similar works of art, where such works of art are created by the individual, but does not include a business of reproducing works of art.

Transition

(9) Where, at the end of a taxpayer's last taxation year at the end of which property described in an inventory of a business that is an adventure or concern in the nature of trade was valued under subsection 10(1), the property was valued at an amount that is less than the cost at which the taxpayer acquired the property, after that time the cost to the taxpayer at which the property was acquired is, subject to subsection 10(10), deemed to be that amount.

Loss restriction event

(10) Notwithstanding subsection (1.01), property described in an inventory of a taxpayer's business that is an adventure or concern in the nature of trade at the end of the taxpayer's taxation year that ends immediately before the time at which the taxpayer is subject to a loss restriction event is to be valued at the cost at which the taxpayer acquired the property, or its fair market value at the end of the year, whichever is lower, and after that time the cost at which the taxpayer acquired the property is, subject to a subsequent application of this subsection, deemed to be that lower amount.

Loss restriction event

(11) For the purposes of subsections 88(1.1) and 111(5), a taxpayer's business that is at any time an adventure or concern in the nature of trade is deemed to be a business carried on at that time by the taxpayer.

Valeur pour les années suivantes

(7) La valeur des biens visés par le choix d'un contribuable conformément au paragraphe (6) est réputée nulle pour chaque année d'imposition postérieure; toutefois, le contribuable peut révoquer le choix avec l'accord du ministre et aux conditions précisées par ce dernier.

Définition de *entreprise artistique*

(8) Pour l'application du présent article, ***entreprise artistique*** s'entend de l'entreprise d'un particulier qui consiste pour celui-ci à créer des peintures, estampes, gravures, dessins, sculptures ou œuvres d'art semblables, à l'exclusion d'une entreprise qui consiste à reproduire de telles œuvres d'art.

Transition

(9) Lorsque des biens figurant à l'inventaire d'une entreprise qui est un projet comportant un risque ou une affaire de caractère commercial ont été évalués, selon le paragraphe (1) et à la fin de la dernière année d'imposition d'un contribuable, à un montant inférieur à leur coût d'acquisition pour le contribuable, ce coût est réputé, après ce moment et sous réserve du paragraphe (10), être égal à ce montant.

Fait lié à la restriction de pertes

(10) Malgré le paragraphe (1.01), les biens figurant à l'inventaire de l'entreprise d'un contribuable qui est un projet comportant un risque ou une affaire de caractère commercial à la fin de l'année d'imposition du contribuable qui se termine immédiatement avant le moment où celui-ci est assujetti à un fait lié à la restriction de pertes sont évalués au coût auquel le contribuable a acquis les biens ou, si elle est inférieure, à leur juste valeur marchande à la fin de l'année; après ce moment, le coût auquel le contribuable a acquis les biens est réputé être égal à la moins élevée de ces sommes, sous réserve d'une application ultérieure du présent paragraphe.

Fait lié à la restriction de pertes

(11) Pour l'application des paragraphes 88(1.1) et 111(5), l'entreprise d'un contribuable qui est un projet comportant un risque ou une affaire de caractère commercial à un moment donné est réputée être une entreprise que le contribuable exploite à ce moment.

Removing property from inventory

(12) If at any time a non-resident taxpayer ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before that time, a property that was immediately before that time described in the inventory of the business or the part of the business, as the case may be, (other than a property that was disposed of by the taxpayer at that time), the taxpayer is deemed

(a) to have disposed of the property immediately before that time for proceeds of disposition equal to its fair market value at that time; and

(b) to have received those proceeds immediately before that time in the course of carrying on the business or the part of the business, as the case may be.

Suppression d'un bien de l'inventaire

(12) Le contribuable non-résident qui, à un moment donné, cesse d'utiliser, dans le cadre d'une entreprise ou d'une partie d'entreprise qu'il exploitait au Canada immédiatement avant ce moment, un bien qui figurait à l'inventaire de l'entreprise ou de la partie d'entreprise, selon le cas, immédiatement avant ce moment (sauf un bien dont il a disposé à ce moment) est réputé :

a) d'une part, avoir disposé du bien immédiatement avant ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment;

b) d'autre part, avoir reçu ce produit immédiatement avant ce moment dans le cadre de l'exploitation de l'entreprise ou de la partie d'entreprise, selon le cas.

Adding property to inventory

(13) If at any time a property becomes included in the inventory of a business or part of a business that a non-resident taxpayer carries on in Canada after that time (other than a property that was, otherwise than because of this subsection, acquired by the taxpayer at that time), the taxpayer is deemed to have acquired the property at that time at a cost equal to its fair market value at that time.

Ajout d'un bien à l'inventaire

(13) Le bien qui commence, à un moment donné, à figurer à l'inventaire d'une entreprise ou d'une partie d'entreprise qu'un contribuable non-résident exploite au Canada après ce moment (sauf un bien que le contribuable a acquis à ce moment autrement que par l'effet du présent paragraphe) est réputé avoir été acquis par le contribuable à ce moment à un coût égal à sa juste valeur marchande à ce moment.

Work in progress

(14) For the purposes of subsections (12) and (13), property that is included in the inventory of a business includes property that would be so included if paragraph 34(a) did not apply.

Travaux en cours

(14) Pour l'application des paragraphes (12) et (13), sont compris parmi les biens qui figurent à l'inventaire d'une entreprise ceux qui y figureraient si l'alinéa 34a) ne s'appliquait pas.

Derivatives

(15) For the purposes of this section, property of a taxpayer that is a swap agreement, a forward purchase or sale agreement, a forward rate agreement, a futures agreement, an option agreement, or any similar agreement is deemed not to be inventory of the taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 10; 1994, c. 7, Sch. II, s. 6; 1998, c. 19, s. 70; 2001, c. 17, s. 4; 2013, c. 40, s. 2; 2016, c. 12, s. 2.

Produits dérivés

(15) Pour l'application du présent article, un bien d'un contribuable qui est un contrat d'échange, un contrat d'achat ou de vente à terme, un contrat de garantie de taux d'intérêt, un contrat à terme normalisé, un contrat d'option ou un contrat semblable est réputé ne pas figurer à l'inventaire du contribuable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 10; 1994, ch. 7, ann. II, art. 6; 1998, ch. 19, art. 70; 2001, ch. 17, art. 4; 2013, ch. 40, art. 2; 2016, ch. 12, art. 2.

Proprietor of business

11 (1) Subject to section 34.1, if an individual is a proprietor of a business, the individual's income from the business for a taxation year is deemed to be the individual's income from the business for the fiscal periods of the business that end in the year.

Propriétaire d'une entreprise

11 (1) Sous réserve de l'article 34.1, le revenu qu'un particulier propriétaire d'une entreprise tire de son entreprise pour une année d'imposition est réputé être le revenu qu'il en tire au cours des exercices de l'entreprise qui se terminent dans l'année.

Reference to "taxation year"

(2) Where an individual's income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, unless the context otherwise requires, a reference in this subdivision or section 80.3 to a "taxation year" or "year" shall, in respect of the business, be read as a reference to a fiscal period of the business ending in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 11; 1994, c. 21, s. 5; 1996, c. 21, s. 3; 2013, c. 40, s. 3.

Mention de l'année d'imposition

(2) Lorsque le revenu d'un particulier pour une année d'imposition comprend le revenu tiré d'une entreprise dont l'exercice ne coïncide pas avec l'année civile, toute mention dans la présente sous-section ou à l'article 80.3 de l'année d'imposition ou de l'année vaut, sauf indication contraire du contexte et à l'égard de l'entreprise, mention d'un exercice de celle-ci se terminant au cours de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 11; 1994, ch. 21, art. 5; 1996, ch. 21, art. 3; 2013, ch. 40, art. 3.

Inclusions

Éléments à inclure

Income inclusions

12 (1) There shall be included in computing the income of a taxpayer for a taxation year as income from a business or property such of the following amounts as are applicable

Services, etc., to be rendered

(a) any amount received by the taxpayer in the year in the course of a business

(i) that is on account of services not rendered or goods not delivered before the end of the year or that, for any other reason, may be regarded as not having been earned in the year or a previous year, or

(ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the taxpayer of articles in or by means of which goods were delivered to a customer;

Amounts receivable

(b) any amount receivable by the taxpayer in respect of property sold or services rendered in the course of a business in the year, notwithstanding that the amount or any part thereof is not due until a subsequent year, unless the method adopted by the taxpayer for computing income from the business and accepted for the purpose of this Part does not require the taxpayer to include any amount receivable in computing the taxpayer's income for a taxation year unless it has been received in the year, and for the purposes of this paragraph, an amount shall be deemed to have become receivable in respect of services rendered in the course of a business on the day that is the earlier of

(i) the day on which the account in respect of the services was rendered, and

(ii) the day on which the account in respect of those services would have been rendered had there been

Sommes à inclure dans le revenu

12 (1) Sont à inclure dans le calcul du revenu tiré par un contribuable d'une entreprise ou d'un bien, au cours d'une année d'imposition, celles des sommes suivantes qui sont applicables :

Services à rendre

a) les sommes reçues au cours de l'année par le contribuable dans le cours des activités d'une entreprise :

(i) soit qui sont au titre de services non rendus ou de marchandises non livrées avant la fin de l'année ou qui, pour toute autre raison, peuvent être considérées comme n'ayant pas été gagnées durant cette année ou une année antérieure,

(ii) soit qui sont, en vertu d'un arrangement ou d'une entente, remboursables en totalité ou en partie lors du retour ou de la revente au contribuable d'articles dans lesquels ou au moyen desquels des marchandises ont été livrées à un client;

Sommes à recevoir

b) les sommes à recevoir par le contribuable au titre de la vente de biens ou de la fourniture de services au cours de l'année, dans le cours des activités d'une entreprise, même si les sommes, en tout ou en partie, ne sont dues qu'au cours d'une année postérieure, sauf dans le cas où la méthode adoptée par le contribuable pour le calcul du revenu tiré de son entreprise et acceptée pour l'application de la présente partie ne l'oblige pas à inclure dans le calcul de son revenu pour une année d'imposition les sommes à recevoir qui n'ont pas été effectivement reçues au cours de l'année; pour l'application du présent alinéa, une somme est réputée à recevoir pour services rendus dans le cours des activités de l'entreprise à compter du premier en date des jours suivants :

no undue delay in rendering the account in respect of the services;

Interest

(c) subject to subsections (3) and (4.1), any amount received or receivable by the taxpayer in the year (depending on the method regularly followed by the taxpayer in computing the taxpayer's income) as, on account of, in lieu of payment of or in satisfaction of, interest to the extent that the interest was not included in computing the taxpayer's income for a preceding taxation year;

Reserve for doubtful debts

(d) any amount deducted under paragraph 20(1)(l) as a reserve in computing the taxpayer's income for the immediately preceding taxation year;

Reserve for guarantees, etc.

(d.1) any amount deducted under paragraph 20(1)(l.1) as a reserve in computing the taxpayer's income for the immediately preceding taxation year;

Reserves for certain goods and services, etc.

(e) any amount

(i) deducted under paragraph 20(1)(m) (including any amount substituted by virtue of subsection 20(6) for any amount deducted under that paragraph), paragraph 20(1)(m.1) or subsection 20(7), or

(ii) deducted under paragraph 20(1)(n),

in computing the taxpayer's income from a business for the immediately preceding year;

Negative reserves

(e.1) where the taxpayer is an insurer, the amount prescribed in respect of the insurer for the year;

Insurance proceeds expended

(f) such part of any amount payable to the taxpayer as compensation for damage to, or under a policy of insurance in respect of damage to, property that is depreciable property of the taxpayer as has been expended by the taxpayer

(i) within the year, and

(ii) within a reasonable time after the damage,

on repairing the damage;

(i) le jour où a été remis le compte à l'égard des services,

(ii) le jour où aurait été remis ce compte si la remise n'avait pas subi un retard indu;

Intérêts

c) sous réserve des paragraphes (3) et (4.1), les sommes reçues ou à recevoir par le contribuable au cours de l'année (selon la méthode qu'il suit normalement pour le calcul de son revenu) à titre ou en paiement intégral ou partiel d'intérêts, dans la mesure où ces intérêts n'ont pas été inclus dans le calcul de son revenu pour une année d'imposition antérieure;

Provision pour créances douteuses

d) les sommes déduites à titre de provision en application de l'alinéa 20(1)l) dans le calcul du revenu du contribuable pour l'année d'imposition précédente;

Provision pour garanties

d.1) les sommes déduites à titre de provision en application de l'alinéa 20(1)l.1) dans le calcul du revenu du contribuable pour l'année d'imposition précédente;

Provision relative à certaines marchandises et à certains services

e) les sommes qui ont été dans le calcul du revenu tiré d'une entreprise par le contribuable pour l'année précédente :

(i) soit déduites en vertu de l'alinéa 20(1)m) (y compris celles substituées, en vertu du paragraphe 20(6), à de telles sommes) ou m.1) ou du paragraphe 20(7),

(ii) soit déduites en vertu de l'alinéa 20(1)n);

Provisions négatives

e.1) si le contribuable est un assureur, la somme visée par règlement quant à l'assureur pour l'année;

Dépense du produit d'une assurance

f) la partie des sommes payables au contribuable à titre d'indemnité ou en vertu d'une police d'assurance, relative aux dommages causés aux biens amortissables du contribuable, qui a été dépensée, pour réparer les dommages, par le contribuable :

(i) au cours de l'année,

(ii) en outre, dans un délai raisonnable après que les dommages ont été subis;

Payments based on production or use

(g) any amount received by the taxpayer in the year that was dependent on the use of or production from property whether or not that amount was an instalment of the sale price of the property, except that an instalment of the sale price of agricultural land is not included by virtue of this paragraph;

Proceeds of disposition of right to receive production

(g.1) any proceeds of disposition to which subsection 18.1(6) applies;

Previous reserve for quadrennial survey

(h) any amount deducted as a reserve under paragraph 20(1)(o) in computing the taxpayer's income for the immediately preceding year;

Bad debts recovered

(i) any amount, other than an amount referred to in paragraph 12(1)(i.1), received in the year on account of a debt or a loan or lending asset in respect of which a deduction for bad debts or uncollectable loans or lending assets was made in computing the taxpayer's income for a preceding taxation year;

Bad debts recovered

(i.1) where an amount is received in the year on account of a debt in respect of which a deduction for bad debts was made under subsection 20(4.2) in computing the taxpayer's income for a preceding taxation year, the amount determined by the formula

A × B/C

where

A is 1/2 of the amount so received,

B is the amount that was deducted under subsection 20(4.2) in respect of the debt, and

C is the total of the amount that was so deducted under subsection 20(4.2) and the amount that was deemed by that subsection or subsection 20(4.3) to be an allowable capital loss in respect of the debt;

Dividends from resident corporations

(j) any amount of a dividend in respect of a share of the capital stock of a corporation resident in Canada that is required by subdivision h to be included in computing the taxpayer's income for the year;

Foreign corporations, trusts and investment entities

(k) any amount required by subdivision i to be included in computing the taxpayer's income for the year;

Paiements basés sur la production ou l'usage

g) les sommes que le contribuable a reçues au cours de l'année en fonction de l'usage d'un bien ou de la production en découlant, qu'elles aient été ou non versées en acompte sur le prix de vente du bien (un acompte sur le prix de vente d'un fonds de terre servant à l'agriculture n'est toutefois pas inclus en vertu du présent alinéa);

Produit de disposition du droit aux produits

g.1) le produit de disposition auquel s'applique le paragraphe 18.1(6);

Provision de l'année précédente pour visite quadriennale

h) les sommes déduites, à titre de provision en vertu de l'alinéa 20(1)o), dans le calcul du revenu du contribuable pour l'année précédente;

Créances irrécouvrables

i) les sommes reçues au cours de l'année — sauf si elles sont visées à l'alinéa i.1) — sur une créance, un prêt ou un titre de crédit qui a fait l'objet d'une déduction pour créance irrécouvrable ou pour prêt ou titre de crédit irrécouvrable dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

Créances irrécouvrables

i.1) lorsqu'une somme est reçue au cours de l'année sur une créance qui a fait l'objet d'une déduction pour créance irrécouvrable en application du paragraphe 20(4.2) dans le calcul du revenu du contribuable pour une année d'imposition antérieure, le montant obtenu par la formule suivante :

A × B/C

où :

A représente la moitié de la somme ainsi reçue;

B le montant déduit en application du paragraphe 20(4.2) au titre de la créance;

C le total du montant ainsi déduit en application du paragraphe 20(4.2) et du montant réputé par ce paragraphe ou le paragraphe 20(4.3) être une perte en capital déductible au titre de la créance;

Dividendes de sociétés résidant au Canada

j) tout montant de dividende relatif à une action du capital-actions d'une société résidant au Canada qui est à inclure, en application de la sous-section h, dans le calcul du revenu du contribuable pour l'année;

Partnership income

(l) any amount that is, by virtue of subdivision j, income of the taxpayer for the year from a business or property;

Partnership — interest deduction add back

(l.1) the total of all amounts, each of which is the amount, if any, determined in respect of a partnership by the formula

A × B/C – D

where

A is the total of all amounts each of which is an amount of interest that is

(i) deductible by the partnership, and

(ii) paid by the partnership in, or payable by the partnership in respect of, the taxation year of the taxpayer (depending on the method regularly followed by the taxpayer in computing the taxpayer's income) on a debt amount included in the taxpayer's outstanding debts to specified non-residents (as defined in subsection 18(5)),

B is the amount determined under paragraph 18(4)(a) in respect of the taxpayer for the year,

C is the amount determined under paragraph 18(4)(b) in respect of the taxpayer for the year, and

D is the total of all amounts each of which is an amount included under subsection 91(1) in computing the income of the taxpayer for the year or a subsequent taxation year, or of the partnership for a fiscal period, that may reasonably be considered to be in respect of interest described in A;

Benefits from trusts

(m) any amount required by subdivision k or subsection 132.1(1) to be included in computing the taxpayer's income for the year, except

(i) any amount deemed by that subdivision to be a taxable capital gain of the taxpayer, and

(ii) any amount paid or payable to the taxpayer out of or under an RCA trust (within the meaning assigned by subsection 207.5(1));

Employees profit sharing plan

(n) any amount received by the taxpayer in the year out of or under

(i) an employees profit sharing plan, or

Sociétés, fiducies et entités de placement étrangères

k) les sommes à inclure, en application de la sous-section i, dans le calcul du revenu du contribuable pour l'année;

Revenu des sociétés de personnes

l) les sommes qui constituent, selon la sous-section j, un revenu tiré d'une entreprise ou d'un bien par le contribuable pour l'année;

Société de personnes — réintégration de la déduction pour intérêts

l.1) le total des sommes dont chacune représente la somme, déterminée relativement à une société de personnes, obtenue par la formule suivante :

A × B/C – D

où :

A représente le total des sommes dont chacune représente un montant d'intérêts qui :

(i) d'une part, est déductible par la société de personnes,

(ii) d'autre part, est, selon la méthode habituellement utilisée par le contribuable pour le calcul de son revenu, payé par la société de personnes au cours de l'année d'imposition du contribuable, ou payable par elle relativement à cette année, sur un montant de dette inclus dans les dettes impayées envers des non-résidents déterminés, au sens du paragraphe 18(5), du contribuable,

B la somme déterminée selon l'alinéa 18(4)a) relativement au contribuable pour l'année,

C la somme déterminée selon l'alinéa 18(4)b) relativement au contribuable pour l'année,

D le total des sommes dont chacune représente une somme incluse en application du paragraphe 91(1) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition postérieure, ou dans le calcul du revenu de la société de personnes pour un exercice, qu'il est raisonnable de considérer comme se rapportant aux intérêts visés à l'élément A;

Avantages provenant de fiducies

m) les sommes à inclure, en application de la sous-section k ou du paragraphe 132.1(1), dans le calcul du revenu du contribuable pour l'année, exception faite :

(i) des sommes réputées, selon cette sous-section, être des gains en capital imposables du contribuable,

(ii) an employee trust

established for the benefit of employees of the taxpayer or of a person with whom the taxpayer does not deal at arm's length;

Employee benefit plan

(n.1) the amount, if any, by which the total of amounts received by the taxpayer in the year out of or under an employee benefit plan to which the taxpayer has contributed as an employer (other than amounts included in the income of the taxpayer by virtue of paragraph 12(1)(m)) exceeds the amount, if any, by which the total of all amounts

(i) so contributed by the taxpayer to the plan, or

(ii) included in computing the taxpayer's income for any preceding taxation year by virtue of this paragraph

exceeds the total of all amounts

(iii) deducted by the taxpayer in respect of the taxpayer's contributions to the plan in computing the taxpayer's income for the year or any preceding taxation year, or

(iv) received by the taxpayer out of or under the plan in any preceding taxation year (other than an amount included in the taxpayer's income by virtue of paragraph 12(1)(m));

Forfeited salary deferral amounts

(n.2) where deferred amounts under a salary deferral arrangement in respect of another person have been deducted under paragraph 20(1)(oo) in computing the taxpayer's income for preceding taxation years, any amount in respect of the deferred amounts that was deductible under paragraph 8(1)(o) in computing the income of the person for a taxation year ending in the year;

Retirement compensation arrangement

(n.3) the total of all amounts received by the taxpayer in the year in the course of a business out of or under a retirement compensation arrangement to which the taxpayer, another person who carried on a business that was acquired by the taxpayer, or any person with whom the taxpayer or that other person does not deal at arm's length, has contributed an amount that was deductible under paragraph 20(1)(r) in computing the contributor's income for a taxation year;

(o) [Repealed, 2003, c. 28, s. 1(2)]

(ii) des montants provenant d'une fiducie de convention de retraite — au sens du paragraphe 207.5(1) — et payés ou payables au contribuable;

Régime de participation des employés aux bénéfices

n) les sommes reçues par le contribuable durant l'année :

(i) soit dans le cadre d'un régime de participation aux bénéfices,

(ii) soit dans le cadre d'une fiducie d'employés, créés en faveur des employés du contribuable ou de ceux d'une personne avec qui il a un lien de dépendance;

Régime de prestations aux employés

n.1) l'excédent éventuel du total des sommes reçues par le contribuable au cours de l'année dans le cadre d'un régime de prestations aux employés auquel il a cotisé à titre d'employeur (autres que celles qui doivent être incluses dans le revenu du contribuable en vertu de l'alinéa m)) sur l'excédent éventuel du total des sommes :

(i) soit ainsi versées par lui au régime,

(ii) soit incluses, en vertu du présent alinéa, dans le calcul de son revenu pour une année d'imposition antérieure,

sur le total des sommes :

(iii) soit déduites par lui au titre de ses cotisations au régime dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure,

(iv) soit reçues par lui dans le cadre du régime au cours d'une année d'imposition antérieure (autre qu'une somme incluse dans son revenu en vertu de l'alinéa m));

Montants différés perdus

n.2) dans le cas où les montants différés dans le cadre d'une entente d'échelonnement du traitement applicable à une autre personne ont été déduits en vertu de l'alinéa 20(1)oo) dans le calcul du revenu du contribuable pour les années d'imposition antérieures, les montants relatifs aux montants différés et déductibles en vertu de l'alinéa 8(1)o) dans le calcul du revenu de cette personne pour une année d'imposition se terminant au cours de l'année;

Convention de retraite

n.3) le total des montants que le contribuable reçoit au cours de l'année, dans le cours des activités d'une

Foreign oil and gas production taxes

(o.1) the total of all amounts, each of which is the taxpayer's production tax amount for a foreign oil and gas business of the taxpayer for the year, within the meaning assigned by subsection 126(7);

Certain payments to farmers

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

Employment tax deduction

(q) any amount deducted under subsection 127(13) or (14) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, by the taxpayer for the year;

Inventory adjustment

(r) the total of all amounts each of which, in respect of a property described in the taxpayer's inventory at the end of the year and valued at its cost amount to the taxpayer for the purposes of computing the taxpayer's income for the year, is an allowance in respect of depreciation, obsolescence or depletion included in that cost amount;

(s) [Repealed, 2013, c. 34, s. 173]

Investment tax credit

(t) the amount deducted under subsection 127(5) or 127(6) in respect of a property acquired or an expenditure made in a preceding taxation year in computing the taxpayer's tax payable for a preceding taxation year to the extent that it was not included in computing the taxpayer's income for a preceding taxation year under this paragraph or is not included in an amount determined under paragraph 13(7.1)(e) or 37(1)(e), subparagraph 53(2)(c)(vi) or 53(2)(h)(ii) or for I in the definition ***undepreciated capital cost*** in subsection 13(21) or L in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6);

Home insulation or energy conversion grants

(u) the amount of any grant received by the taxpayer in the year under a prescribed program of the Government of Canada relating to home insulation or energy conversion in respect of a property used by the taxpayer principally for the purpose of gaining or producing income from a business or property;

Research and development deductions

(v) the amount, if any, by which the total of amounts determined at the end of the year in respect of the

Impôt sur la production pétrolière et gazière à l'étranger

o.1) le total des montants représentant chacun l'impôt sur la production payé par le contribuable pour l'année relativement à son entreprise pétrolière et gazière à l'étranger, au sens du paragraphe 126(7);

Certains paiements aux agriculteurs

p) les sommes reçues par le contribuable au cours de l'année soit à titre de paiement de stabilisation, ou de remboursement de cotisation, en vertu de la *Loi de stabilisation concernant le grain de l'Ouest*, soit à titre de paiement, ou de remboursement de prime, dans le cadre du régime universel institué aux termes de la *Loi sur la protection du revenu agricole*;

Déduction d'impôt à l'emploi

q) les sommes déduites en vertu des paragraphes 127(13) ou (14) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, par le contribuable pour l'année;

Ajustement de l'inventaire

r) le total des montants dont chacun représente, à l'égard d'un bien figurant à l'inventaire du contribuable à la fin de l'année et qui était évalué au coût indiqué supporté par lui pour le calcul de son revenu pour l'année, une déduction au titre de l'amortissement, de la désuétude ou de l'épuisement inclus dans ce coût indiqué;

s) [Abrogé, 2013, ch. 34, art. 173]

Crédit d'impôt à l'investissement

t) la somme déduite en application du paragraphe 127(5) ou (6) dans le calcul de l'impôt payable par le contribuable pour une année d'imposition antérieure au titre d'un bien acquis ou d'une dépense effectuée au cours d'une année d'imposition antérieure, dans la mesure où cette somme n'a pas été incluse dans le calcul du revenu du contribuable pour une année d'imposition antérieure en application du présent alinéa ou n'est pas incluse dans une somme déterminée en vertu de l'alinéa 13(7.1)e) ou 37(1)e) ou du sous-alinéa 53(2)c)(vi) ou h)(ii), ou représentée par l'élément I de la formule figurant à la définition de ***fraction non***

taxpayer under paragraphs 37(1)(d) to 37(1)(h) exceeds the total of amounts determined at the end of the year in respect of the taxpayer under paragraphs 37(1)(a) to 37(1)(c.1);

S. 80.4(1) benefit

(w) where the taxpayer is a corporation that carried on a personal services business at any time in the year or a preceding taxation year, the amount deemed by subsection 80.4(1) to be a benefit received by it in the year from carrying on a personal services business;

Inducement, reimbursement, etc.

(x) any particular amount (other than a prescribed amount) received by the taxpayer in the year, in the course of earning income from a business or property, from

(i) a person or partnership (in this paragraph referred to as the "payer") who pays the particular amount

(A) in the course of earning income from a business or property,

(B) in order to achieve a benefit or advantage for the payer or for persons with whom the payer does not deal at arm's length, or

(C) in circumstances where it is reasonable to conclude that the payer would not have paid the amount but for the receipt by the payer of amounts from a payer, government, municipality or public authority described in this subparagraph or in subparagraph (ii), or

(ii) a government, municipality or other public authority,

where the particular amount can reasonably be considered to have been received

(iii) as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, or

(iv) as a refund, reimbursement, contribution or allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of

(A) an amount included in, or deducted as, the cost of property, or

(B) an outlay or expense,

to the extent that the particular amount

amortie du coût en capital au paragraphe 13(21) ou l'élément L de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6);

Subventions à l'isolation thermique des maisons ou à la conversion énergétique

(u) le montant d'une subvention reçue par le contribuable au cours de l'année en vertu d'un programme, visé par règlement, du gouvernement du Canada relativement à l'isolation thermique des maisons ou à la conversion énergétique visant un bien qu'il utilise principalement en vue d'en tirer un revenu ou de tirer un revenu d'une entreprise;

Déductions pour activités de recherche et développement

v) l'excédent éventuel du total des sommes déterminées à la fin de l'année pour le contribuable conformément aux alinéas 37(1)d) à h) sur le total des sommes déterminées à la fin de l'année pour le contribuable conformément aux alinéas 37(1)a) à c.1);

Avantage en vertu du par. 80.4(1)

w) lorsque le contribuable est une société qui exploitait, à un moment donné de l'année ou d'une année d'imposition antérieure, une entreprise de prestation de services personnels, la somme qui est, en vertu du paragraphe 80.4(1), réputée être un avantage reçu par la société au cours de l'année et tiré de l'exploitation d'une entreprise de prestation de services personnels;

Paiements incitatifs et autres

x) un montant (à l'exclusion d'un montant prescrit) reçu par le contribuable au cours de l'année pendant qu'il tirait un revenu d'une entreprise ou d'un bien :

(i) soit d'une personne ou d'une société de personnes (appelée « débiteur » au présent alinéa) qui paie le montant, selon le cas :

(A) en vue de tirer un revenu d'une entreprise ou d'un bien,

(B) en vue d'obtenir un avantage pour elle-même ou pour des personnes avec qui elle a un lien de dépendance,

(C) dans des circonstances où il est raisonnable de conclure qu'elle n'aurait pas payé le montant si elle n'avait pas reçu des montants d'un débiteur, d'un gouvernement, d'une municipalité ou d'une autre administration visés au présent sous-alinéa ou au sous-alinéa (ii),

(v) was not otherwise included in computing the taxpayer's income, or deducted in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts, for the year or a preceding taxation year,

(v.1) is not an amount received by the taxpayer in respect of a restrictive covenant, as defined by subsection 56.4(1), that was included, under subsection 56.4(2), in computing the income of a person related to the taxpayer,

(vi) except as provided by subsection 127(11.1), 127(11.5) or 127(11.6), does not reduce, for the purpose of an assessment made or that may be made under this Act, the cost or capital cost of the property or the amount of the outlay or expense, as the case may be,

(vii) does not reduce, under subsection 12(2.2) or 13(7.4) or paragraph 53(2)(s), the cost or capital cost of the property or the amount of the outlay or expense, as the case may be, and

(viii) may not reasonably be considered to be a payment made in respect of the acquisition by the payer or the public authority of an interest in the taxpayer, an interest in, or for civil law a right in, the taxpayer's business or an interest in, or for civil law a real right in, the taxpayer's property;

Fuel tax rebates

(x.1) the total of all amounts each of which is

(i) a fuel tax rebate received in the year by the taxpayer under subsection 68.4(3) of the *Excise Tax Act*, or

(ii) the amount determined by the formula

10(A - B) - C

where

A is the total of all fuel tax rebates under subsections 68.4(2) and (3.1) of that Act received in the year by the taxpayer,

B is the total of all amounts, in respect of fuel tax rebates under section 68.4 of that Act received in the year by the taxpayer, repaid by the taxpayer under subsection 68.4(7) of that Act, and

C is the total of all amounts, in respect of fuel tax rebates under section 68.4 of that Act received in the year, deducted under subsection 111(10) in computing the taxpayer's non-capital losses for other taxation years;

(ii) soit d'un gouvernement, d'une municipalité ou d'une autre administration,

s'il est raisonnable de considérer le montant comme reçu :

(iii) soit à titre de paiement incitatif, sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'indemnité, ou sous toute autre forme,

(iv) soit à titre de remboursement, de contribution ou d'indemnité ou à titre d'aide, sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'indemnité, ou sous toute autre forme, à l'égard, selon le cas :

(A) d'une somme incluse dans le coût d'un bien ou déduite au titre de ce coût,

(B) d'une dépense engagée ou effectuée,

dans la mesure où le montant, selon le cas :

(v) n'a pas déjà été inclus dans le calcul du revenu du contribuable ou déduit dans le calcul, pour l'application de la présente loi, d'un solde de dépenses ou autres montants non déduits, pour l'année ou pour une année d'imposition antérieure,

(v.1) n'est pas une somme reçue par le contribuable relativement à une clause restrictive, au sens du paragraphe 56.4(1), qui a été incluse, en application du paragraphe 56.4(2), dans le calcul du revenu d'une personne liée au contribuable,

(vi) sous réserve des paragraphes 127(11.1), (11.5) ou (11.6), ne réduit pas, pour l'application d'une cotisation établie en vertu de la présente loi, ou pouvant l'être, le coût ou le coût en capital du bien ou le montant de la dépense,

(vii) ne réduit pas, en application du paragraphe (2.2) ou 13(7.4) ou de l'alinéa 53(2)s), le coût ou coût en capital du bien ou le montant de la dépense,

(viii) ne peut raisonnablement être considéré comme un paiement fait au titre de l'acquisition par le débiteur ou par l'administration d'une participation dans le contribuable, d'un intérêt ou, pour l'application du droit civil, d'un droit sur son entreprise ou d'un intérêt ou, pour l'application du droit civil, d'un droit réel sur son bien;

Remise de taxe sur le combustible

x.1) le total des montants représentant chacun :

Crown charge rebates

(x.2) the total of all amounts each of which is an amount that

(i) was received by the taxpayer, including by way of a deduction from tax, in the year as a refund, reimbursement, contribution or allowance, in respect of an amount that was at any time receivable, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or of a province in respect of

(A) the acquisition, development or ownership of a Canadian resource property, or

(B) the production in Canada from a mineral resource, a natural accumulation of petroleum or natural gas, or an oil or a gas well, and

(ii) was not otherwise included in computing the taxpayer's income for the year or a preceding taxation year;

Automobile provided to partner

(y) where the taxpayer is an individual who is a member of a partnership or an employee of a member of a partnership and the partnership makes an automobile available in the year to the taxpayer or to a person related to the taxpayer, the amounts that would be included by reason of paragraph 6(1)(e) in the income of the taxpayer for the year if the taxpayer were employed by the partnership;

Amateur athlete trust payments

(z) any amount in respect of an amateur athlete trust required by section 143.1 to be included in computing the taxpayer's income for the year;

Qualifying environmental trusts

(z.1) the total of all amounts received by the taxpayer in the year as a beneficiary under a qualifying environmental trust, whether or not the amounts are included because of subsection 107.3(1) in computing the taxpayer's income for any taxation year;

Dispositions of interests in qualifying environmental trusts

(z.2) the total of all amounts each of which is the consideration received by the taxpayer in the year for the disposition to another person or partnership of all or part of the taxpayer's interest as a beneficiary under a qualifying environmental trust, other than consideration that is the assumption of a reclamation obligation in respect of the trust;

Remise au titre des droits à la Couronne

x.2) le total des sommes dont chacune :

(i) d'une part, a été reçue par le contribuable au cours de l'année, y compris sous forme de déduction d'impôt, à titre de remboursement, de contribution ou d'indemnité, à l'égard d'une somme à recevoir, directement ou indirectement, de quelque manière que ce soit, par Sa Majesté du chef du Canada ou d'une province relativement, selon le cas :

(A) à l'acquisition, à l'aménagement ou à la propriété d'un avoir minier canadien,

(B) à la production au Canada tirée d'une ressource minérale, d'un gisement naturel de pétrole ou de gaz naturel ou d'un puits de pétrole ou de gaz,

(ii) d'autre part, n'a pas été incluse par ailleurs dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Automobile fournie à un associé

y) si le contribuable est un particulier qui est un associé d'une société de personnes ou un employé d'un associé d'une société de personnes et si la société de personnes met, au cours de l'année, une automobile à sa

(i) soit une remise de taxe sur le combustible reçue par le contribuable au cours de l'année en vertu du paragraphe 68.4(3) de la *Loi sur la taxe d'accise*,

(ii) soit le résultat du calcul suivant :

10(A - B) - C

où :

A représente le total des remises de taxe sur le combustible reçues par le contribuable au cours de l'année en vertu des paragraphes 68.4(2) et (3.1) de cette loi,

B le total des sommes, relatives aux remises de taxe sur le combustible reçues par le contribuable au cours de l'année en vertu de l'article 68.4 de cette loi, restituées par le contribuable en application du paragraphe 68.4(7) de cette loi,

C le total des montants, relatifs aux remises de taxe sur le combustible reçues au cours de l'année en vertu de l'article 68.4 de cette loi, déduits en application du paragraphe 111(10) dans le calcul des pertes autres que les pertes en capital du contribuable pour d'autres années d'imposition;

Debt forgiveness

(z.3) any amount required because of subsection 80(13) or 80(17) to be included in computing the taxpayer's income for the year;

Eligible funeral arrangements

(z.4) any amount required because of subsection 148.1(3) to be included in computing the taxpayer's income for the year;

TFSA amounts

(z.5) any amount required by subsection 146.2(9) or section 207.061 to be included in computing the taxpayer's income for the year;

Refunds

(z.6) any amount received by the taxpayer in the year in respect of a refund of an amount that was deducted under paragraph 20(1)(vv) in computing income for any taxation year; and

Derivative forward agreement

(z.7) the total of all amounts each of which is

(i) if the taxpayer acquires a property under a derivative forward agreement in the year, the amount by which the fair market value of the property at the time it is acquired by the taxpayer exceeds the cost to the taxpayer of the property, or

(ii) if the taxpayer disposes of a property under a derivative forward agreement in the year, the amount by which the proceeds of disposition (within the meaning assigned by subdivision c) of the property exceeds the fair market value of the property at the time the agreement is entered into by the taxpayer.

disposition ou à celle d'une personne qui lui est liée, le montant qui serait inclus en application de l'alinéa 6(1)e) dans le calcul du revenu du contribuable pour l'année si celui-ci était employé par la société de personnes;

Paiements d'une fiducie au profit d'un athlète amateur

z) un montant relatif à une fiducie au profit d'un athlète amateur qui est à inclure, en application de l'article 143.1, dans le calcul du revenu du contribuable pour l'année;

Fiducies pour l'environnement admissibles

z.1) le total des sommes reçues par le contribuable au cours de l'année en tant que bénéficiaire d'une fiducie pour l'environnement admissible, indépendamment du fait que ces sommes sont incluses, par l'effet du paragraphe 107.3(1), dans le calcul de son revenu pour une année d'imposition;

Disposition d'une participation dans une fiducie pour l'environnement admissible

z.2) le total des sommes représentant chacune la somme reçue par le contribuable au cours de l'année en contrepartie de la disposition, effectuée en faveur d'une autre personne ou d'une société de personnes, de tout ou partie de sa participation en tant que bénéficiaire d'une fiducie pour l'environnement admissible, à l'exception d'une somme reçue en contrepartie de la prise en charge d'une obligation en matière de restauration relative à la fiducie;

Remise de dette

z.3) les sommes à inclure dans le calcul du revenu du contribuable pour l'année par l'effet des paragraphes 80(13) ou (17);

Arrangements de services funéraires

z.4) un montant à inclure, par l'effet du paragraphe 148.1(3), dans le calcul du revenu du contribuable pour l'année;

Compte d'épargne libre d'impôt

z.5) toute somme à inclure dans le calcul du revenu du contribuable pour l'année par l'effet du paragraphe 146.2(9) ou de l'article 207.061;

Remboursement

z.6) la somme reçue par le contribuable au cours de l'année à titre de remboursement d'un montant qui a été déduit en application de l'alinéa 20(1)vv) dans le calcul de son revenu pour une année d'imposition;

Contrat dérivé à terme

z.7) le total des sommes dont chacune représente :

(i) si le contribuable acquiert un bien aux termes d'un contrat dérivé à terme au cours de l'année, l'excédent de la juste valeur marchande du bien au moment de son acquisition par le contribuable sur son coût pour celui-ci,

(ii) si le contribuable dispose d'un bien aux termes d'un contrat dérivé à terme au cours de l'année, l'excédent du produit de disposition, au sens de la sous-section c, du bien sur sa juste valeur marchande au moment de la conclusion du contrat par le contribuable.

Interpretation

(2) Paragraphs 12(1)(a) and 12(1)(b) are enacted for greater certainty and shall not be construed as implying that any amount not referred to in those paragraphs is not to be included in computing income from a business for a taxation year whether it is received or receivable in the year or not.

Interprétation

(2) Les alinéas (1)a) et b), édictés par souci de précision, n'ont pas pour effet d'empêcher que les sommes qui n'y sont pas visées soient incluses dans le calcul du revenu tiré d'une entreprise pour une année d'imposition, qu'elles soient reçues ou à recevoir au cours de l'année ou non.

No deferral of section 9 income under paragraph (1)(g)

(2.01) Paragraph (1)(g) does not defer the inclusion in income of any amount that would, if this section were read without reference to that paragraph, be included in computing the taxpayer's income in accordance with section 9.

Aucun report du revenu prévu à l'article 9

(2.01) L'alinéa (1)g) n'a pas pour effet de différer l'inclusion dans le revenu d'une somme qui, en l'absence de cet alinéa, serait incluse dans le calcul du revenu du contribuable conformément à l'article 9.

Source of income

(2.02) For the purposes of this Act, if an amount is included in computing the income of a taxpayer for a taxation year because of paragraph (1)(l.1) and the amount is in respect of interest that is deductible by a partnership in computing its income from a particular source or from sources in a particular place, the amount is deemed to be from the particular source or from sources in the particular place, as the case may be.

Source du revenu

(2.02) Pour l'application de la présente loi, toute somme incluse dans le calcul du revenu d'un contribuable pour une année d'imposition par l'effet de l'alinéa (1)l.1) au titre d'intérêts qui sont déductibles par une société de personnes dans le calcul de son revenu tiré d'une source donnée ou de sources situées dans un endroit donné est réputée être tirée de la source donnée ou de sources situées dans l'endroit donné, selon le cas.

Receipt of inducement, reimbursement, etc.

(2.1) For the purposes of paragraph 12(1)(x), where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received an amount as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, in respect of the activities of the trust or partnership, or as a reimbursement, contribution, allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of the cost of property or in respect of an expense of the trust or partnership, the amount shall be deemed to have been received at that

Réception de paiements incitatifs ou autres

(2.1) Pour l'application de l'alinéa (1)x), le montant que reçoit, à un moment donné, un contribuable bénéficiaire d'une fiducie ou associé d'une société de personnes soit à titre de paiement incitatif, sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'indemnité, ou sous toute autre forme, dans le cadre des activités de la fiducie ou de la société de personnes, soit à titre de remboursement, contribution ou indemnité ou à titre d'aide, sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'indemnité, ou sous toute autre forme, à l'égard du coût d'un bien, soit à

time by the trust or partnership, as the case may be, as such an inducement, reimbursement, contribution, allowance or assistance.

Deemed outlay or expense

(2.2) Where

(a) in a taxation year a taxpayer receives an amount that would, but for this subsection, be included under paragraph 12(1)(x) in computing the taxpayer's income for the year in respect of an outlay or expense (other than an outlay or expense in respect of the cost of property of the taxpayer) made or incurred by the taxpayer before the end of the following taxation year, and

(b) the taxpayer elects under this subsection on or before the day on or before which the taxpayer's return of income under this Part for the year is required to be filed, or would be required to be filed if tax under this Part were payable by the taxpayer for the year or, where the outlay or expense is made or incurred in the following taxation year, for that following year,

the amount of the outlay or expense shall be deemed for the purpose of computing the taxpayer's income, other than for the purposes of this subsection and paragraphs 12(1)(x) and 20(1)(hh), to have always been the amount, if any, by which

(c) the amount of the outlay or expense

exceeds

(d) the lesser of the amount elected by the taxpayer under this subsection and the amount so received by the taxpayer,

and, notwithstanding subsections 152(4) to 152(5), such assessment or reassessment of the taxpayer's tax, interest and penalties under this Act for any taxation year shall be made as is necessary to give effect to the election.

Interest income

(3) Subject to subsection 12(4.1), in computing the income for a taxation year of a corporation, partnership, unit trust or any trust of which a corporation or a partnership is a beneficiary, there shall be included any interest on a debt obligation (other than interest in respect of an income bond, an income debenture, a small business bond, a small business development bond, a net income stabilization account or an indexed debt obligation) that accrues to it to the end of the year, or becomes receivable

l'égard d'une dépense de la fiducie ou de la société de personnes, est réputé reçu à ce moment par la fiducie ou la société de personnes, selon le cas, au titre d'un tel paiement incitatif ou remboursement ou d'une telle contribution, indemnité ou aide.

Présomption de dépense engagée ou effectuée

(2.2) Le contribuable qui reçoit au cours d'une année d'imposition un montant qui, sans le présent paragraphe, serait inclus en application de l'alinéa (1)x) dans le calcul de son revenu pour l'année au titre d'une dépense qu'il a engagée ou effectuée avant la fin de l'année d'imposition suivante (à l'exception d'une dépense relative au coût d'un bien pour le contribuable) peut faire un choix, au plus tard le jour où il est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année (ou serait ainsi tenu s'il avait un impôt payable en vertu de la présente partie pour l'année) ou, si la dépense est engagée ou effectuée au cours de l'année d'imposition suivante, pour cette année suivante, pour que le montant de la dépense soit réputé, pour le calcul du revenu du contribuable autrement que pour l'application du présent paragraphe et des alinéas (1)x) et 20(1)hh), avoir toujours été égal à l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant de la dépense;

b) le moins élevé du montant indiqué dans le choix du contribuable et du montant ainsi reçu par lui.

Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations et nouvelles cotisations voulues concernant l'impôt, les intérêts et les pénalités du contribuable pour une année d'imposition en vertu de la présente loi pour rendre le choix applicable.

Intérêts courus

(3) Sous réserve du paragraphe (4.1), sont à inclure dans le calcul du revenu, pour une année d'imposition, d'une entité — société, société de personnes, fiducie d'investissement à participation unitaire ou fiducie dont une société ou une société de personnes est bénéficiaire — les intérêts sur une créance (sauf ceux afférents à quelque obligation à intérêt conditionnel, obligation pour le développement de la petite entreprise, obligation pour la petite entreprise, compte de stabilisation du revenu net ou titre de créance indexé) courus en sa faveur jusqu'à la fin de l'année, ou reçus ou devenus à recevoir par elle avant

or is received by it before the end of the year, to the extent that the interest was not included in computing its income for a preceding taxation year.

la fin de l'année, dans la mesure où ils n'ont pas été inclus dans le calcul de son revenu pour une année d'imposition antérieure.

Interest from investment contract

(4) Subject to subsection (4.1), if in a taxation year a taxpayer (other than a taxpayer to whom subsection (3) applies) holds an interest in, or for civil law a right in, an investment contract on any anniversary day of the contract, there shall be included in computing the taxpayer's income for the year the interest that accrued to the taxpayer to the end of that day with respect to the investment contract, to the extent that the interest was not otherwise included in computing the taxpayer's income for the year or any preceding taxation year.

Intérêts courus

(4) Sous réserve du paragraphe (4.1), le contribuable, sauf celui auquel le paragraphe (3) s'applique, qui, au cours d'une année d'imposition, détient un intérêt ou, pour l'application du droit civil, un droit sur un contrat de placement le jour anniversaire du contrat doit inclure dans le calcul de son revenu pour l'année les intérêts courus en sa faveur sur le contrat jusqu'à la fin de ce jour, dans la mesure où ceux-ci n'ont pas été inclus par ailleurs dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure.

Impaired debt obligations

(4.1) Paragraph 12(1)(c) and subsections 12(3) and 12(4) do not apply to a taxpayer in respect of a debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of subparagraph 20(1)(l)(ii) in computing the taxpayer's income for the year.

Titres de créance douteux

(4.1) L'alinéa (1)c) et les paragraphes (3) et (4) ne s'appliquent pas à un contribuable relativement à un titre de créance pour la partie d'une année d'imposition tout au long de laquelle le titre est douteux si un montant relatif au titre est déductible par l'effet du sous-alinéa 20(1)l)(ii) dans le calcul du revenu du contribuable pour l'année.

Deemed accrual

(9) For the purposes of subsections (3), (4) and (11) and 20(14) and (21), if a taxpayer acquires an interest in, or for civil law a right in, a prescribed debt obligation, an amount determined in prescribed manner is deemed to accrue to the taxpayer as interest on the obligation in each taxation year during which the taxpayer holds the interest or the right in the obligation.

Intérêts réputés courus

(9) Pour l'application des paragraphes (3), (4) et (11) et 20(14) et (21), dans le cas où un contribuable acquiert, à un moment donné, un intérêt ou, pour l'application du droit civil, un droit sur une créance visée par règlement, un montant calculé selon les modalités réglementaires est réputé courir en sa faveur à titre d'intérêts sur cette créance au cours de chaque année d'imposition où il détient l'intérêt ou le droit.

Exclusion of proceeds of disposition

(9.1) If a taxpayer disposes of an interest in, or for civil law a right in, a debt obligation that is a debt obligation in respect of which the proportion of the payments of principal to which the taxpayer is entitled is not equal to the proportion of the payments of interest to which the taxpayer is entitled, the portion of the proceeds of disposition received by the taxpayer that can reasonably be considered to represent a recovery of the cost to the taxpayer of the interest or the right in the debt obligation shall, notwithstanding any other provision of this Act, not be included in computing the taxpayer's income, and for the purpose of this subsection, a debt obligation includes, for greater certainty, all of the issuer's obligations to pay principal and interest under that obligation.

Exclusion du produit de disposition

(9.1) Malgré les autres dispositions de la présente loi, lorsqu'un contribuable dispose d'un intérêt ou, pour l'application du droit civil, d'un droit sur une créance à l'égard de laquelle la part des paiements de principal à laquelle il a droit est inégale par rapport à sa part des paiements d'intérêts sur cette créance, la partie du produit de disposition reçu par lui qu'il est raisonnable de considérer comme une récupération du coût pour lui de l'intérêt ou du droit sur la créance n'est pas incluse dans le calcul de son revenu. Pour l'application du présent paragraphe, une créance comprend toute obligation incombant à l'émetteur de verser le principal et les intérêts au titre de la créance.

Income from R.H.O.S.P

(10.1) Notwithstanding any other provision of this Act, where an individual was at the end of 1985 a beneficiary

Revenu d'un régime enregistré d'épargne-logement

(10.1) Malgré les autres dispositions de la présente loi, lorsqu'un particulier est bénéficiaire, à la fin de 1985,

under a registered home ownership savings plan (within the meanings assigned by paragraphs 146.2(1)(a) and (h) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as they read in their application to the 1985 taxation year), that portion of the income that can reasonably be considered to have accrued under the plan before 1986 (other than the portion thereof that can reasonably be considered to be attributable to amounts contributed after May 22, 1985 to or under the plan) shall not be included in computing the income of the individual or of any other person.

d'un régime enregistré d'épargne-logement (au sens des alinéas 146.2(1)a) et h) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans leur version applicable à l'année d'imposition 1985), la partie du revenu qu'il est raisonnable de considérer comme s'étant accumulée dans le cadre du régime avant 1986 (sauf celle qu'il est raisonnable de considérer comme attribuable aux contributions versées après le 22 mai 1985 dans le cadre du régime) ne peut être incluse dans le calcul du revenu du particulier ou d'une autre personne.

NISA receipts

(10.2) There shall be included in computing a taxpayer's income for a taxation year from a property the total of all amounts each of which is the amount determined by the formula

A - B

where

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

B is the amount, if any, by which

(a) the total of all amounts each of which is

(i) deemed by subsection (10.4) or 104(5.1) or (14.1) (as it read for the taxpayer's 2015 taxation year) to have been paid out of the taxpayer's NISA Fund No. 2 before the particular time, or

(ii) deemed by subsection 70(5.4) or 73(5) to have been paid out of another person's NISA Fund No. 2 on being transferred to the taxpayer's NISA Fund No. 2 before the particular time,

exceeds

(b) the total of all amounts each of which is the amount by which an amount otherwise determined under this subsection in respect of a payment out of the taxpayer's NISA Fund No. 2 before the particular time was reduced because of this description.

Paiements du compte de stabilisation du revenu net

(10.2) Est inclus dans le calcul du revenu d'un contribuable pour une année d'imposition tiré de biens le total des montants représentant chacun le résultat du calcul suivant :

A - B

où :

A représente un montant payé à un moment donné de l'année sur le second fonds du compte de stabilisation du revenu net du contribuable;

B l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants dont chacun, selon le cas :

(i) est réputé, en vertu des paragraphes (10.4) ou 104(5.1) ou (14.1) (dans leur version applicable à l'année d'imposition 2015 du contribuable), avoir été payé sur le second fonds du compte de stabilisation du revenu net du contribuable avant le moment donné,

(ii) est réputé, en vertu des paragraphes 70(5.4) ou 73(5), avoir été payé sur le second fonds du compte de stabilisation du revenu net d'une autre personne lors de son transfert au second fonds du compte de stabilisation du revenu net du contribuable avant le moment donné,

b) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du présent élément, d'un montant déterminé par ailleurs selon le présent paragraphe au titre d'un paiement provenant du second fonds du compte de stabilisation du revenu net du contribuable avant le moment donné.

Amount credited or added not included in income

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

Montant non inclus dans le revenu

(10.3) Malgré les autres dispositions de la présente loi, le montant ajouté au second fonds du compte de stabilisation du revenu net d'un contribuable, ou porté au crédit de ce fonds, n'est pas inclus dans le calcul du revenu

Acquisition of control — corporate NISA Fund No. 2

(10.4) For the purpose of subsection (10.2), if at any time there is an acquisition of control of a corporation, the balance of the corporation's NISA Fund No. 2, if any, at that time is deemed to be paid out to the corporation immediately before that time.

Definitions

(11) In this section,

anniversary day of an investment contract means

(a) the day that is one year after the day immediately preceding the date of issue of the contract,

(b) the day that occurs at every successive one year interval from the day determined under paragraph (a), and

(c) the day on which the contract was disposed of; (*jour anniversaire*)

investment contract, in relation to a taxpayer, means any debt obligation other than

(a) a salary deferral arrangement or a plan or arrangement that, but for any of paragraphs (a), (b) and (d) to (l) of the definition ***salary deferral arrangement*** in subsection 248(1), would be a salary deferral arrangement,

(b) a retirement compensation arrangement or a plan or arrangement that, but for any of paragraphs (a), (b), (d) and (f) to (n) of the definition ***retirement compensation arrangement*** in subsection 248(1), would be a retirement compensation arrangement,

(c) an employee benefit plan or a plan or arrangement that, but for any of paragraphs (a) to (e) of the definition ***employee benefit plan*** in subsection 248(1), would be an employee benefit plan,

(d) a foreign retirement arrangement,

(d.1) a TFSA,

(e) an income bond,

(f) an income debenture,

(g) a small business development bond,

(h) a small business bond,

du contribuable du seul fait qu'il est ainsi ajouté au fonds ou porté à son crédit.

Acquisition du contrôle — second fonds du compte de stabilisation du revenu net d'une société

(10.4) Pour l'application du paragraphe (10.2), en cas d'acquisition du contrôle d'une société, le solde du second fonds du compte de stabilisation du revenu net de la société au moment de l'acquisition est réputé lui être payé immédiatement avant ce moment.

Définitions

(11) Les définitions qui suivent s'appliquent au présent article.

contrat de placement En ce qui concerne un contribuable, toute créance, sauf les suivantes :

a) les ententes d'échelonnement du traitement ou un régime ou mécanisme qui constituerait une telle entente compte non tenu des alinéas a), b) et d) à l) de la définition de ***entente d'échelonnement du traitement*** au paragraphe 248(1);

b) les conventions de retraite ou un régime ou mécanisme qui constituerait une telle convention compte non tenu des alinéas a), b), d) et f) à n) de la définition de ***convention de retraite*** au paragraphe 248(1);

c) les régimes de prestations aux employés ou un régime ou mécanisme qui constituerait un tel régime compte non tenu des alinéas a) à e) de la définition de ***régime de prestations aux employés*** au paragraphe 248(1);

d) les mécanismes de retraite étrangers;

d.1) les comptes d'épargne libre d'impôt;

e) les obligations à intérêt conditionnel;

f) les débentures à intérêt conditionnel;

g) les obligations pour le développement de la petite entreprise;

h) les obligations pour la petite entreprise;

i) les obligations pour lesquelles le contribuable a inclus, à des intervalles périodiques d'un an ou moins et autrement que par application du paragraphe (4), dans le calcul de son revenu tout au long de la période pendant laquelle il détenait un intérêt ou, pour l'application du droit civil, un droit sur l'obligation, le revenu qui s'est accumulé pendant ces intervalles;

(i) an obligation in respect of which the taxpayer has (otherwise than because of subsection (4)) at periodic intervals of not more than one year, included, in computing the taxpayer's income throughout the period in which the taxpayer held an interest in, or for civil law a right in, the obligation, the income accrued on it for those intervals,

(j) an obligation in respect of a net income stabilization account,

(k) an indexed debt obligation, and

(l) a prescribed contract. (*contrat de placement*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 12; 1994, c. 7, Sch. II, s. 7, Sch. VI, s. 2, Sch. VIII, s. 3, c. 21, s. 6; 1995, c. 3, s. 2, c. 21, s. 76; 1996, c. 21, s. 4; 1997, c. 10, s. 268, c. 25, s. 2, c. 26, s. 82; 1998, c. 19, ss. 2 and 71; 1999, c. 22, s. 5; 2001, c. 17, s. 5; 2003, c. 28, s. 1; 2007, c. 35, s. 9; 2009, c. 2, s. 4; 2010, c. 25, s. 4; 2012, c. 31, s. 4; 2013, c. 34, ss. 2, 91, 173, c. 40, s. 4; 2014, c. 39, s. 2.

jour anniversaire Dans le cas d'un contrat de placement, les jours suivants :

a) le jour qui est un an après la veille de la date d'établissement du contrat;

b) le jour qui revient à intervalles successifs d'un an après le jour déterminé à l'alinéa a);

c) le jour où il est disposé du contrat. (*anniversary day*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 12; 1994, ch. 7, ann. II, art. 7, ann. VI, art. 2, ann. VIII, art. 3, ch. 21, art. 6; 1995, ch. 3, art. 2, ch. 21, art. 76; 1996, ch. 21, art. 4; 1997, ch. 10, art. 268, ch. 25, art. 2, ch. 26, art. 82; 1998, ch. 19, art. 2 et 71; 1999, ch. 22, art. 5; 2001, ch. 17, art. 5; 2003, ch. 28, art. 1; 2007, ch. 35, art. 9; 2009, ch. 2, art. 4; 2010, ch. 25, art. 4; 2012, ch. 31, art. 4; 2013, ch. 34, art. 2, 91 et 173, ch. 40, art. 4; 2014, ch. 39, art. 2.

Cash bonus on Canada Savings Bonds

12.1 Notwithstanding any other provision of this Act, where in a taxation year a taxpayer receives an amount from the Government of Canada in respect of a Canada Savings Bond as a cash bonus that the Government of Canada has undertaken to pay (other than any amount of interest, bonus or principal agreed to be paid at the time of the issue of the bond under the terms of the bond), the taxpayer shall, in computing the taxpayer's income for the year, include as interest in respect of the Canada Savings Bond 1/2 of the cash bonus so received.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1974-75-76, c. 26, s. 5; 1986, c. 6, s. 7.

Primes en argent comptant sur les obligations d'épargne du Canada

12.1 Malgré les autres dispositions de la présente loi, le contribuable qui, au cours d'une année d'imposition, reçoit du gouvernement du Canada, sur une obligation d'épargne du Canada, une prime en argent comptant que ce gouvernement s'est engagé à payer (en sus des intérêts, prime ou principal dont le paiement a été convenu à la date d'émission de l'obligation conformément aux conditions de celle-ci) doit inclure comme intérêts, dans le calcul de son revenu pour l'année, la moitié de la prime en argent comptant qu'il reçoit ainsi sur l'obligation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1974-75-76, ch. 26, art. 5; 1986, ch. 6, art. 7.

Amount to be included

12.2 (1) Where in a taxation year a taxpayer holds an interest, last acquired after 1989, in a life insurance policy that is not

(a) an exempt policy,

(b) a prescribed annuity contract, and

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

on any anniversary day of the policy, there shall be included in computing the taxpayer's income for the

Montant à inclure dans le revenu

12.2 (1) Le contribuable qui, au cours d'une année d'imposition, détient un intérêt — acquis pour la dernière fois après 1989 — dans une police d'assurance-vie le jour anniversaire de la police doit inclure dans le calcul de son revenu pour l'année l'excédent éventuel du fonds accumulé sur cet intérêt à ce jour, déterminé selon les modalités réglementaires, sur le coût de base rajusté, pour lui, de cet intérêt à ce jour, sauf s'il s'agit :

a) d'une police exonérée;

b) d'un contrat de rente visé par règlement;

taxation year the amount, if any, by which the accumulating fund on that day in respect of the interest in the policy, as determined in prescribed manner, exceeds the adjusted cost basis to the taxpayer of the interest in the policy on that day.

(3) [Repealed, 1994, c. 7, Sch. II, s. 8(2)]

Idem

(5) Where in a taxation year subsection 12.2(1) applies with respect to a taxpayer's interest in an annuity contract (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest), there shall be included in computing the taxpayer's income for the year the amount, if any, by which

(a) the total of all amounts each of which is an amount determined at the end of the year, in respect of the interest, for any of H to L in the definition ***adjusted cost basis*** in subsection 148(9)

exceeds

(b) the total of all amounts each of which is an amount determined at the end of the year, in respect of the interest, for any of A to G in the definition referred to in paragraph 12.2(5)(a).

Deemed acquisition of interest in annuity

(8) For the purposes of this section, the first premium that was not fixed before 1990 and that was paid after 1989 by or on behalf of a taxpayer under an annuity contract, other than a contract described in paragraph (1)(d) of this section, or paragraph 12.2(3)(e) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, or to which subsection (1) of this section or subsection 12.2(4) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, applies (as those paragraphs and subsections, the numbers of which are those in force immediately before December 17, 1991, read in their application to life insurance policies last acquired before 1990) or to which subsection 12(3) applies, last acquired by the taxpayer before 1990 (in this subsection referred to as the "original contract") shall be deemed to have been paid to acquire, at the time the premium was paid, an interest in a separate annuity contract issued at that time, to the extent that the amount of the premium was not fixed before 1990, and each subsequent premium paid under the original contract shall be deemed to have been paid under that separate contract to the extent that the amount of that subsequent premium was not fixed before 1990.

c) d'un contrat dans le cadre duquel le titulaire de la police a, selon les modalités d'une police d'assurance-vie qui n'est pas un contrat de rente et qui a été acquise pour la dernière fois avant le 2 décembre 1982, reçu le produit sous forme de contrat de rente.

(3) [Abrogé, 1994, ch. 7, ann. II, art. 8]

Idem

(5) Le contribuable qui, au cours d'une année d'imposition, détient un intérêt dans un contrat de rente auquel le paragraphe (1) s'applique, ou s'appliquerait si le jour anniversaire du contrat tombait dans l'année à un moment où le contribuable détient l'intérêt, doit inclure dans le calcul de son revenu pour l'année l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants dont chacun représente un montant déterminé à la fin de l'année, relativement à l'intérêt, selon l'un des éléments H à L de la formule figurant à la définition de ***coût de base rajusté*** au paragraphe 148(9);

b) le total des montants dont chacun représente un montant déterminé à la fin de l'année, relativement à l'intérêt, selon l'un des éléments A à G de la formule visée à l'alinéa a).

Présomption d'acquisition d'un intérêt dans une rente

(8) Pour l'application du présent article, la première prime qui n'a pas été fixée avant 1990 et qui a été payée après 1989 par un contribuable, ou pour son compte, dans le cadre d'un contrat de rente — à l'exception d'un contrat visé à l'alinéa (1)d) du présent article ou à l'alinéa 12.2(3)e) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, d'un contrat auquel le paragraphe (1) du présent article ou le paragraphe 12.2(4) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, s'applique (tels que ces alinéas et ces paragraphes, désignés selon la numérotation en vigueur avant le 17 décembre 1991, s'appliquaient aux polices d'assurance-vie acquises pour la dernière fois avant 1990) et d'un contrat auquel le paragraphe 12(3) s'applique — qu'il a acquis pour la dernière fois avant 1990 (appelé « contrat initial » au présent paragraphe) est réputée avoir été payée pour acquérir, au moment du paiement de la prime, un intérêt dans un contrat de rente distinct établi à ce moment, dans la mesure où le montant de cette prime n'a pas été fixé avant 1990. Chaque prime payée postérieurement dans le cadre du contrat initial est réputée avoir été payée dans le cadre d'un tel contrat distinct, dans la mesure où le montant de cette prime n'a pas été fixé avant 1990.

Riders

(10) For the purposes of this Act, a rider added at any time after 1989 to a life insurance policy last acquired before 1990 that provides additional life insurance is deemed to be a separate life insurance policy issued at that time unless

(a) the policy is an exempt policy last acquired after December 1, 1982 or an annuity contract; or

(b) the only additional life insurance provided by the rider is an accidental death benefit.

Definitions

(11) In this section and paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952,

anniversary day of a life insurance policy means

(a) the day that is one year after the day immediately preceding the day on which the policy was issued, and

(b) each day that occurs at each successive one-year interval after the day determined under paragraph (a). (*jour anniversaire*)

exempt policy has the meaning prescribed by regulation. (*police exonérée*)

Application of ss. 138(12) and 148(9)

(12) The definitions in subsections 138(12) and 148(9) apply to this section.

Application of s. 148(10)

(13) Subsection 148(10) applies to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 12.2; 1994, c. 7, Sch. II, s. 8; 1998, c. 19, s. 72.

12.3 [Repealed, 2013, c. 34, s. 174]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 12.3; 1995, c. 3, s. 3; 2013, c. 34, s. 174.

Bad debt inclusion

12.4 Where, in a taxation year, a taxpayer disposes of a property that was a property described in an inventory of the taxpayer and in the year or a preceding taxation year an amount has been deducted under paragraph 20(1)(p) in computing the taxpayer's income in respect of the property, there shall be included in computing the taxpayer's income for the year from the business in which

Avenants

(10) Pour l'application de la présente loi, l'avenant qui est ajouté, à un moment donné après 1989, à une police d'assurance-vie acquise pour la dernière fois avant 1990 et qui prévoit de l'assurance-vie supplémentaire est réputé être une police d'assurance-vie distincte établie à ce moment, sauf si, selon le cas :

a) la police est une police exonérée acquise pour la dernière fois après le 1er décembre 1982 ou un contrat de rente;

b) la seule assurance-vie supplémentaire prévue par l'avenant est une prestation pour décès accidentel.

Définitions

(11) Les définitions qui suivent s'appliquent au présent article et à l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de1952.

jour anniversaire Dans le cas d'une police d'assurance-vie, les jours suivants :

a) le jour qui tombe un an après la veille du jour d'établissement de la police;

b) chaque jour qui revient à chaque intervalle successif d'un an après le jour déterminé à l'alinéa a). (*anniversary day*)

police exonérée S'entend au sens du règlement. (*exempt policy*)

Application des par. 138(12) et 148(9)

(12) Les définitions figurant aux paragraphes 138(12) et 148(9) s'appliquent au présent article.

Application du par. 148(10)

(13) Le paragraphe 148(10) s'applique au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 12.2; 1994, ch. 7, ann. II, art. 8; 1998, ch. 19, art. 72.

12.3 [Abrogé, 2013, ch. 34, art. 174]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 12.3; 1995, ch. 3, art. 3; 2013, ch. 34, art. 174.

Inclusion des créances irrécouvrables

12.4 Dans le cas où, au cours d'une année d'imposition, un contribuable dispose d'un bien figurant à un de ses inventaires et où un montant est déduit au titre du bien en application de l'alinéa 20(1)p) dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure, l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) doit être inclus dans le calcul de

the property was used or held, the amount, if any, by which

(a) the total of all amounts deducted under paragraph 20(1)(p) by the taxpayer in respect of the property in computing the taxpayer's income for the year or a preceding taxation year

exceeds

(b the total of all amounts included under paragraph 12(1)(i) by the taxpayer in respect of the property in computing the taxpayer's income for the year or a preceding taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 5.

son revenu pour l'année tiré de l'entreprise dans laquelle le bien est utilisé ou détenu :

a) le total des montants que le contribuable déduit au titre du bien en application de l'alinéa 20(1)p) dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure;

b) le total des montants que le contribuable inclut au titre du bien en application de l'alinéa 12(1)i) dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 5.

Definitions

12.5 (1) The definitions in this section apply for the purposes of this section and section 20.4.

base year of an insurer means the insurer's taxation year that immediately precedes its transition year. (*année de base*)

insurance business of an insurer, is an insurance business carried on by the insurer, other than a life insurance business. (*entreprise d'assurance*)

reserve transition amount of an insurer, in respect of an insurance business carried on by it in Canada in its transition year, is the positive or negative amount determined by the formula

A – B

where

A is the maximum amount that the insurer would be permitted to claim under paragraph 20(7)(c) (and that would be prescribed by section 1400 of the Regulations for the purpose of paragraph 20(7)(c)) as a policy reserve for its base year in respect of its insurance policies if

(a) the generally accepted accounting principles that applied to the insurer in valuing its assets and liabilities for its transition year had applied to it for its base year, and

(b) section 1400 of the Regulations were read in respect of the insurer's base year as it reads in respect of its transition year; and

B is the maximum amount that the insurer is permitted to claim under paragraph 20(7)(c) as a policy reserve for its base year. (*montant transitoire*)

Définitions

12.5 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 20.4.

année de base L'année d'imposition d'un assureur qui précède son année transitoire. (*base year*)

année transitoire La première année d'imposition d'un assureur qui commence après septembre 2006. (*transition year*)

entreprise d'assurance Entreprise d'assurance exploitée par un assureur, à l'exclusion d'une entreprise d'assurance-vie. (*insurance business*)

montant transitoire Le montant transitoire d'un assureur relativement à une entreprise d'assurance qu'il exploite au Canada au cours de son année transitoire correspond à la somme positive ou négative obtenue par la formule suivante :

A – B

où :

A représente la somme maximale que l'assureur pourrait déduire en application de l'alinéa 20(7)c) (et qui serait visée à l'article 1400 du *Règlement de l'impôt sur le revenu* pour l'application de cet alinéa) à titre de provision technique pour son année de base relativement à ses polices d'assurance si, à la fois :

a) les principes comptables généralement reconnus qui se sont appliqués à lui aux fins d'évaluation de ses actif et passif pour son année transitoire s'étaient appliqués à lui pour son année de base;

b) l'article 1400 du *Règlement de l'impôt sur le revenu*, dans sa version applicable à l'année transitoire de l'assureur, s'appliquait à son année de base;

transition year of an insurer means the insurer's first taxation year that begins after September 2006. (*année transitoire*)

Transition year income inclusion

(2) There shall be included in computing an insurer's income for its transition year from an insurance business carried on by it in Canada in the transition year, the positive amount, if any, of the insurer's reserve transition amount in respect of that insurance business.

Transition year income deduction reversal

(3) If an amount has been deducted under subsection 20.4(2) in computing an insurer's income for its transition year from an insurance business carried on by it in Canada, there shall be included in computing the insurer's income, for each particular taxation year of the insurer that ends after the beginning of the transition year, from that insurance business, the amount determined by the formula

A × B/1825

where

A is the amount deducted under subsection 20.4(2) in computing the insurer's income for the transition year from that insurance business; and

B is the number of days in the particular taxation year that are before the day that is 1825 days after the first day of the transition year.

Winding-up

(4) If an insurer has, in a winding-up to which subsection 88(1) has applied, been wound-up into another corporation (referred to in this subsection as the "parent"), and immediately after the winding-up the parent carries on an insurance business, in applying subsections (3) and 20.4(3) in computing the incomes of the insurer and of the parent for particular taxation years that end on or after the first day (referred to in this subsection as the "start day") on which assets of the insurer were distributed to the parent on the winding-up,

(a) the parent is, on and after the start day, deemed to be the same corporation as and a continuation of the insurer in respect of

(i) any amount included under subsection (2) or deducted under subsection 20.4(2) in computing the insurer's income from an insurance business for its transition year,

(ii) any amount included under subsection (3) or deducted under subsection 20.4(3) in computing

B la somme maximale que l'assureur peut déduire en application de l'alinéa 20(7)c) à titre de provision technique pour son année de base. (*reserve transition amount*)

Somme à inclure dans le revenu — année transitoire

(2) Est à inclure dans le calcul du revenu d'un assureur pour son année transitoire provenant d'une entreprise d'assurance qu'il exploite au Canada au cours de cette année le montant positif de son montant transitoire relativement à cette entreprise.

Annulation de la déduction — année transitoire

(3) Si une somme a été déduite en application du paragraphe 20.4(2) dans le calcul du revenu d'un assureur pour son année transitoire provenant d'une entreprise d'assurance qu'il exploite au Canada, est à inclure dans le calcul de son revenu, pour chacune de ses années d'imposition se terminant après le début de l'année transitoire, provenant de cette entreprise, la somme obtenue par la formule suivante :

A × B/1825

où :

A représente la somme déduite en application du paragraphe 20.4(2) dans le calcul du revenu de l'assureur pour l'année transitoire provenant de l'entreprise;

B le nombre de jours de l'année d'imposition en cause qui sont antérieurs au jour qui suit de 1825 jours le premier jour de l'année transitoire.

Liquidation

(4) Si un assureur est liquidé dans une autre société (appelée « société mère » au présent paragraphe) dans le cadre d'une liquidation à laquelle le paragraphe 88(1) s'applique et que la société mère exploite une entreprise d'assurance immédiatement après la liquidation, pour l'application des paragraphes (3) et 20.4(3) au calcul des revenus de l'assureur et de la société mère pour des années d'imposition données se terminant au plus tôt le premier jour (appelé « date de début » au présent paragraphe) où des éléments d'actif de l'assureur ont été distribués à la société mère lors de la liquidation, les règles suivantes s'appliquent :

a) en ce qui a trait aux sommes ci-après, la société mère est réputée être la même société que l'assureur, et en être la continuation, à compter de la date de début :

the insurer's income from an insurance business for a taxation year of the insurer that begins before the start day, and

(iii) any amount that would — in the absence of this subsection and if the insurer existed and carried on an insurance business on each day that is the start day or a subsequent day and on which the parent carries on an insurance business — be required to be included or deducted, in respect of any of those days, under subsection (3) or 20.4(3) in computing the insurer's income from an insurance business; and

(b) the insurer is, in respect of each of its particular taxation years, to determine the value for B in the formulas in subsections (3) and 20.4(3) without reference to the start day and days after the start day.

(i) toute somme incluse en application du paragraphe (2), ou déduite en application du paragraphe 20.4(2), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance pour son année transitoire,

(ii) toute somme incluse en application du paragraphe (3), ou déduite en application du paragraphe 20.4(3), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance pour une année d'imposition de celui-ci commençant avant la date de début,

(iii) toute somme qui — en l'absence du présent paragraphe et à supposer que l'assureur existe, et exploite une entreprise d'assurance, chaque jour qui correspond à la date de début ou à une date postérieure et auquel la société mère exploite une entreprise d'assurance — serait à inclure en application du paragraphe (3), ou à déduire en application du paragraphe 20.4(3), relativement à ces jours, dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance;

b) l'assureur est tenu de déterminer, relativement à chacune de ses années d'imposition données, la valeur de l'élément B des formules figurant aux paragraphes (3) et 20.4(3) sans tenir compte de la date de début ni des jours qui y sont postérieurs.

Amalgamations

(5) If there is an amalgamation (within the meaning assigned by subsection 87(1)) of an insurer with one or more other corporations to form one corporation (referred to in this subsection as the "new corporation"), and immediately after the amalgamation the new corporation carries on an insurance business, in applying subsections (3) and 20.4(3) in computing the new corporation's income for particular taxation years that begin on or after the day on which the amalgamation occurred, the new corporation is, on and after that day, deemed to be the same corporation as and a continuation of the insurer in respect of

(a) any amount included under subsection (2) or deducted under subsection 20.4(2) in computing the insurer's income from an insurance business for its transition year;

(b) any amount included under subsection (3) or deducted under subsection 20.4(3) in computing the insurer's income from an insurance business for a taxation year of the insurer that begins before the day on which the amalgamation occurred; and

Fusions

(5) S'il y a fusion, au sens du paragraphe 87(1), d'un assureur et d'une ou de plusieurs autres sociétés et que la société issue de la fusion (appelée « nouvelle société » au présent paragraphe) exploite une entreprise d'assurance immédiatement après la fusion, pour l'application des paragraphes (3) et 20.4(3) au calcul du revenu de la nouvelle société pour des années d'imposition données commençant à la date de la fusion ou par la suite, la nouvelle société est réputée être la même société que l'assureur, et en être la continuation, à compter de cette date en ce qui a trait aux sommes suivantes :

a) toute somme incluse en application du paragraphe (2), ou déduite en application du paragraphe 20.4(2), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance pour son année transitoire;

b) toute somme incluse en application du paragraphe (3), ou déduite en application du paragraphe 20.4(3), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance pour une année d'imposition de celui-ci commençant avant la date de la fusion;

c) toute somme qui — en l'absence du présent paragraphe et à supposer que l'assureur existe, et exploite

(c) any amount that would — in the absence of this subsection and if the insurer existed and carried on an insurance business on each day that is the day on which the amalgamation occurred or a subsequent day and on which the new corporation carries on an insurance business — be required to be included or deducted, in respect of any of those days, under subsection (3) or 20.4(3) in computing the insurer's income from an insurance business.

Application of subsection (7)

(6) Subsection (7) applies if, at any time, an insurer (referred to in this subsection and subsection (7) as the "transferor") transfers, to a corporation (referred to in this subsection and subsection (7) as the "transferee") that is related to the transferor, property in respect of an insurance business carried on by the transferor in Canada (referred to in this subsection and subsection (7) as the "transferred business") and

(a) subsection 138(11.5) or (11.94) applies to the transfer; or

(b) subsection 85(1) applies to the transfer, the transfer includes all or substantially all of the property and liabilities of the transferred business and, immediately after the transfer, the transferee carries on an insurance business.

Transfer of insurance business

(7) If this subsection applies in respect of the transfer, at any time, of property

(a) the transferee is, at and after that time, deemed to be the same corporation as and a continuation of the transferor in respect of

(i) any amount included under subsection (2) or deducted under subsection 20.4(2) in computing the transferor's income for its transition year that can reasonably be attributed to the transferred business,

(ii) any amount included under subsection (3) or deducted under subsection 20.4(3) in computing the transferor's income for a taxation year of the transferor that begins before that time that can reasonably be attributed to the transferred business,

(iii) any amount that would — in the absence of this subsection and if the transferor existed and carried on an insurance business on each day that includes that time or is a subsequent day and on which the transferee carries on an insurance business — be required to be included or deducted, in respect of any of those days, under subsection (3) or

une entreprise d'assurance, chaque jour qui correspond à la date de la fusion ou à une date postérieure et auquel la nouvelle société exploite une entreprise d'assurance — serait à inclure en application du paragraphe (3), ou à déduire en application du paragraphe 20.4(3), relativement à ces jours, dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance.

Application du par. (7)

(6) Le paragraphe (7) s'applique dans le cas où un assureur (appelé « cédant » au présent paragraphe et au paragraphe (7)) transfère à une société qui lui est liée (appelée « cessionnaire » au présent paragraphe et au paragraphe (7)) un bien relatif à une entreprise d'assurance qu'il exploite au Canada (appelée « entreprise transférée » au présent paragraphe et au paragraphe (7)) et où, selon le cas :

a) le paragraphe 138(11.5) ou (11.94) s'applique au transfert;

b) le paragraphe 85(1) s'applique au transfert, le transfert porte sur la totalité ou la presque totalité des biens et des dettes de l'entreprise transférée et le cessionnaire exploite une entreprise d'assurance immédiatement après le transfert.

Transfert d'entreprise d'assurance

(7) Dans le cas où le présent paragraphe s'applique relativement au transfert d'un bien, les règles suivantes s'appliquent :

a) en ce qui a trait aux sommes ci-après, le cessionnaire est réputé être la même société que le cédant, et en être la continuation, à compter du moment du transfert :

(i) toute somme — incluse en application du paragraphe (2), ou déduite en application du paragraphe 20.4(2), dans le calcul du revenu du cédant pour son année transitoire — qu'il est raisonnable d'attribuer à l'entreprise transférée,

(ii) toute somme — incluse en application du paragraphe (3), ou déduite en application du paragraphe 20.4(3), dans le calcul du revenu du cédant pour une année d'imposition de celui-ci commençant avant ce moment — qu'il est raisonnable d'attribuer à l'entreprise transférée,

(iii) toute somme qui — en l'absence du présent paragraphe et à supposer que le cédant existe, et exploite une entreprise d'assurance, chaque jour qui comprend ce moment ou y est postérieur et auquel

20.4(3) in computing the transferor's income that can reasonably be attributed to the transferred business; and

(b) in determining, in respect of the day that includes that time or any subsequent day, any amount that is required under subsection (3) or 20.4(3) to be included or deducted in computing the transferor's income for each particular taxation year from the transferred business, the description of A in the formulas in those subsections is deemed to be nil.

le cessionnaire exploite une entreprise d'assurance — serait à inclure en application du paragraphe (3), ou à déduire en application du paragraphe 20.4(3), relativement à ces jours, dans le calcul du revenu du cédant et qu'il est raisonnable d'attribuer à l'entreprise transférée;

b) pour déterminer, relativement au jour qui comprend le moment du transfert ou y est postérieur, toute somme à inclure en application du paragraphe (3), ou à déduire en application du paragraphe 20.4(3), dans le calcul du revenu du cédant pour chaque année d'imposition donnée provenant de l'entreprise transférée, la valeur de l'élément A des formules figurant à ces paragraphes est réputée être nulle.

Ceasing to carry on business

(8) If at any time an insurer ceases to carry on all or substantially all of an insurance business (referred to in this subsection as the "discontinued business"), and none of subsections (4) to (6) apply, there shall be included in computing the insurer's income from the discontinued business for the insurer's taxation year that includes the time that is immediately before that time, the amount determined by the formula

A – B

where

A is the amount deducted under subsection 20.4(2) in computing the insurer's income from the discontinued business for its transition year; and

B is the total of all amounts each of which is an amount included under subsection (3) in computing the insurer's income from the discontinued business for a taxation year that began before that time.

Cessation de l'exploitation d'une entreprise

(8) Lorsqu'un assureur cesse d'exploiter la totalité ou la presque totalité d'une entreprise d'assurance (appelée « entreprise discontinuée » au présent paragraphe) et qu'aucun des paragraphes (4) à (6) ne s'applique, la somme obtenue par la formule ci-après est à inclure dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année d'imposition qui comprend le moment immédiatement avant la cessation de l'exploitation :

A – B

où :

A représente la somme déduite en application du paragraphe 20.4(2) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année transitoire;

B le total des sommes représentant chacune une somme incluse en application du paragraphe (3) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour une année d'imposition ayant commencé avant la cessation de l'exploitation.

Ceasing to exist

(9) If at any time an insurer that carried on an insurance business ceases to exist (otherwise than as a result of a winding-up or amalgamation described in subsection (4) or (5)), for the purposes of subsections (8) and 20.4(4), the insurer is deemed to have ceased to carry on the insurance business at the earlier of

(a) the time (determined without reference to this subsection) at which the insurer ceased to carry on the insurance business, and

Cessation de l'existence

(9) L'assureur qui, ayant exploité une entreprise d'assurance, cesse d'exister autrement que par suite d'une liquidation visée au paragraphe (4) ou d'une fusion visée au paragraphe (5) est réputé, pour l'application des paragraphes (8) et 20.4(4), avoir cessé d'exploiter l'entreprise au premier en date des moments suivants :

a) le moment (déterminé compte non tenu du présent paragraphe) auquel il a cessé d'exploiter l'entreprise;

(b) the time that is immediately before the end of the last taxation year of the insurer that ended at or before the time at which the insurer ceased to exist.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2009, c. 2, s. 5.

(b) le moment immédiatement avant la fin de sa dernière année d'imposition qui a pris fin au plus tard au moment où il a cessé d'exister.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2009, ch. 2, art. 5.

Definitions

12.6 (1) The definitions in section 18.3 apply in this section.

Définitions

12.6 (1) Les définitions figurant à l'article 18.3 s'appliquent au présent article.

Where subsection (3) applies

(2) Subsection (3) applies for a taxation year of an entity in respect of a security of the entity if

(a) the security becomes, at a particular time in the year, a stapled security of the entity and, as a consequence, amounts described in paragraphs 18.3(3)(a) and (b) are not deductible because of subsection 18.3(3);

(b) the security (or any security for which the security was substituted) ceased, at an earlier time, to be a stapled security of any entity and, as a consequence, subsection 18.3(3) ceased to apply to deny the deductibility of amounts that would be described in paragraphs 18.3(3)(a) and (b) if the security were a stapled security; and

(c) throughout the period that began immediately after the most recent time referred to in paragraph (b) and that ends at the particular time, the security (or any security for which the security was substituted) was not a stapled security of any entity.

Application du paragraphe (3)

(2) Le paragraphe (3) s'applique pour l'année d'imposition d'une entité relativement à un titre de celle-ci si les conditions ci-après sont réunies :

a) le titre devient un titre agrafé de l'entité à un moment donné de l'année et, par conséquent, les sommes visées aux alinéas 18.3(3)a) et b) ne sont pas déductibles par l'effet du paragraphe 18.3(3);

b) le titre, ou un titre qui lui a été substitué, a cessé, à un moment antérieur, d'être un titre agrafé d'une entité quelconque et, par conséquent, le paragraphe 18.3(3) n'a plus pour effet d'interdire la déduction de sommes qui seraient visées aux alinéas 18.3(3)a) et b) si le titre était un titre agrafé;

c) tout au long de la période ayant commencé immédiatement après le moment le plus récent visé à l'alinéa b) et se terminant au moment donné, le titre, ou un titre qui lui a été substitué, n'était pas un titre agrafé d'une entité quelconque.

Income inclusion

(3) If this subsection applies for a taxation year of an entity in respect of a security of the entity, the entity shall include in computing its income for the year each amount that

(a) was deducted by the entity (or by another entity that issued a security for which the security was substituted) in computing its income for a taxation year that includes any part of the period described in paragraph (2)(c); and

(b) would not have been deductible if subsection 18.3(3) had applied in respect of the amount.

Somme à inclure dans le revenu

(3) En cas d'application du présent paragraphe pour l'année d'imposition d'une entité relativement à un titre de celle-ci, l'entité est tenue d'inclure dans le calcul de son revenu pour l'année chaque somme qui, à la fois :

a) a été déduite par elle (ou par une autre entité ayant émis un titre qui a été substitué au titre en cause) dans le calcul de son revenu pour une année d'imposition qui comprend une partie quelconque de la période mentionnée à l'alinéa (2)c);

b) n'aurait pas été déductible si le paragraphe 18.3(3) s'y était appliqué.

Deemed excess

(4) For the purposes of subsection 161(1), if an amount described in paragraph (3)(a) is included in the income of an entity for a taxation year under subsection (3), the entity is deemed to have an excess immediately after the entity's balance-due day for the year computed as if

Excédent réputé

(4) Pour l'application du paragraphe 161(1), si une somme visée à l'alinéa (3)a) est incluse dans le revenu d'une entité pour une année d'imposition en application du paragraphe (3), l'entité est réputée avoir, immédiatement après la date d'exigibilité du solde qui lui est

(a) the entity were resident in Canada throughout the year;

(b) the entity's tax payable for the year were equal to the tax payable by the entity on its taxable income for the year;

(c) the amount were the entity's only taxable income for the year;

(d) the entity claimed no deductions under Division E for the year;

(e) the entity had not paid any amounts on account of its tax payable for the year; and

(f) the tax payable determined under paragraph (b) had been outstanding throughout the period that begins immediately after the end of the taxation year for which the amount was deducted and that ends on the entity's balance-due day for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 5.

applicable pour l'année, un excédent calculé comme si, à la fois :

a) elle avait résidé au Canada tout au long de l'année;

b) son impôt payable pour l'année était égal à son impôt payable sur son revenu imposable pour l'année;

c) la somme en cause était son seul revenu imposable pour l'année;

d) elle ne demandait aucune déduction en vertu de la section E pour l'année;

e) elle n'avait payé aucune somme au titre de son impôt payable pour l'année;

f) l'impôt payable déterminé selon l'alinéa b) était demeuré impayé tout au long de la période commençant immédiatement après la fin de l'année d'imposition pour laquelle la somme en cause a été déduite et se terminant à la date d'exigibilité du solde qui est applicable à l'entité pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 5.

Recaptured depreciation

13 (1) If, at the end of a taxation year, the total of the amounts determined for E to K in the definition ***undepreciated capital cost*** in subsection (21) in respect of a taxpayer's depreciable property of a particular prescribed class exceeds the total of the amounts determined for A to D.1 in that definition in respect of that property, the excess shall be included in computing the taxpayer's income of the year.

Idem

(2) Notwithstanding subsection 13(1), where an excess amount is determined under that subsection at the end of a taxation year in respect of a passenger vehicle having a cost to a taxpayer in excess of $20,000 or such other amount as may be prescribed, that excess amount shall not be included in computing the taxpayer's income for the year but shall be deemed, for the purposes of B in the definition ***undepreciated capital cost*** in subsection 13(21), to be an amount included in the taxpayer's income for the year by reason of this section.

"Taxation year", "year" and "income" of individual

(3) Where a taxpayer is an individual whose income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year and depreciable property acquired for the purpose of gaining or producing income from the business has been disposed of,

Récupération de l'amortissement

13 (1) Tout contribuable doit inclure, dans le calcul de son revenu pour une année d'imposition, l'excédent à la fin de l'année du total des valeurs des éléments E à K de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe (21) sur le total des valeurs des éléments A à D.1 de cette formule, au titre de ses biens amortissables d'une catégorie prescrite.

Restriction

(2) Malgré le paragraphe (1), l'excédent — calculé à la fin d'une année d'imposition en application de ce paragraphe — qui concerne une voiture de tourisme dont le coût pour un contribuable dépasse 20 000 $ ou tout autre montant qui peut être fixé par règlement n'est pas inclus dans le calcul du revenu du contribuable pour l'année. Il est toutefois réputé, pour l'application de l'élément B de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe (21), y être inclus par application du présent article.

Mentions d'« année d'imposition », d'« année » et de « revenu » d'un particulier

(3) Lorsque le contribuable est un particulier dont le revenu pour une année d'imposition comprend un revenu tiré d'une entreprise dont l'exercice ne correspond pas à l'année civile et qu'un bien amortissable acquis en vue de tirer un revenu de l'entreprise a fait l'objet d'une disposition :

(a) for greater certainty, each reference in subsections 13(1) and 13(2) to a "taxation year" and "year" shall be read as a reference to a "fiscal period"; and

(b) a reference in subsection 13(1) to "the income" shall be read as a reference to "the income from the business".

a) il est entendu que la mention de l'année d'imposition et de l'année aux paragraphes (1) et (2) vaut mention de l'exercice;

b) la mention « de son revenu », au paragraphe (1), vaut mention « du revenu tiré de l'entreprise ».

Exchanges of property

(4) Where an amount in respect of the disposition in a taxation year (in this subsection referred to as the "initial year") of depreciable property (in this section referred to as the "former property") of a prescribed class of a taxpayer would, but for this subsection, be the amount determined for F or G in the definition ***undepreciated capital cost*** in subsection 13(21) in respect of the disposition of the former property that is either

(a) property the proceeds of disposition of which were proceeds referred to in paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in subsection 13(21), or

(b) a property that was, immediately before the disposition, a former business property of the taxpayer,

and the taxpayer so elects under this subsection in the taxpayer's return of income for the taxation year in which the taxpayer acquires a depreciable property of a prescribed class of the taxpayer that is a replacement property for the taxpayer's former property,

(c) the amount otherwise determined for F or G in the definition ***undepreciated capital cost*** in subsection 13(21) in respect of the disposition of the former property shall be reduced by the lesser of

(i) the amount, if any, by which the amount otherwise determined for F or G in that definition exceeds the undepreciated capital cost to the taxpayer of property of the prescribed class to which the former property belonged at the time immediately before the time that the former property was disposed of, and

(ii) the amount that has been used by the taxpayer to acquire

(A) if the former property is described in paragraph (a), before the later of the end of the second taxation year following the initial year and 24 months after the end of the initial year, or

(B) in any other case, before the later of the end of the first taxation year following the initial year and 12 months after the end of the initial year,

Échange de biens

(4) Lorsqu'un montant, au titre de la disposition, au cours d'une année d'imposition (appelée « année initiale » au présent paragraphe), d'un bien amortissable (appelé « ancien bien » au présent article) d'une catégorie prescrite d'un contribuable serait, sans le présent paragraphe, le montant représenté par les éléments F ou G de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe (21), au titre de la disposition de l'ancien bien qui est :

a) soit un bien dont le produit de disposition est visé aux alinéas b), c) ou d) de la définition de ***produit de disposition*** au paragraphe (21);

b) soit un bien qui était, immédiatement avant qu'il en soit disposé, un ancien bien d'entreprise du contribuable,

le contribuable peut faire un choix, dans sa déclaration de revenu produite pour l'année d'imposition où il acquiert un de ses biens amortissables d'une catégorie prescrite en remplacement de son ancien bien, pour que les règles suivantes s'appliquent :

c) le montant représenté par ailleurs par ces éléments F ou G, au titre de la disposition de l'ancien bien, est réduit du moindre des montants suivants :

(i) l'excédent éventuel du montant représenté par ailleurs par ces éléments F ou G sur la fraction non amortie du coût en capital pour le contribuable du bien de la catégorie prescrite à laquelle appartenait l'ancien bien immédiatement avant la disposition de l'ancien bien,

(ii) le montant que le contribuable a utilisé pour acquérir, avant celui des moments ci-après qui est applicable, selon le cas, un bien de remplacement d'une catégorie prescrite dont il n'a pas disposé avant le moment où il a disposé de l'ancien bien :

(A) si l'ancien bien est visé à l'alinéa a), la fin de la deuxième année d'imposition suivant l'année initiale ou, si elle postérieure, la fin de la période de 24 mois qui suit l'année initiale,

(B) sinon, la fin de la première année d'imposition suivant l'année initiale ou, si elle est

a replacement property of a prescribed class that has not been disposed of by the taxpayer before the time at which the taxpayer disposed of the former property, and

(d) the amount of the reduction determined under paragraph 13(4)(c) shall be deemed to be proceeds of disposition of a depreciable property of the taxpayer that had a capital cost equal to that amount and that was property of the same class as the replacement property, from a disposition made on the later of

(i) the time the replacement property was acquired by the taxpayer, and

(ii) the time the former property was disposed of by the taxpayer.

postérieure, la fin de la période de 12 mois qui suit l'année initiale;

d) le montant de la réduction déterminée en vertu de l'alinéa c) est réputé être le produit de disposition d'un bien amortissable du contribuable dont le coût en capital était égal à ce montant et qui appartenait à la même catégorie que le bien de remplacement et dont il a été disposé au dernier en date des moments suivants :

(i) le moment auquel le contribuable a acquis le bien de remplacement,

(ii) le moment auquel le contribuable a disposé de l'ancien bien.

Replacement for a former property

(4.1) For the purposes of subsection 13(4), a particular depreciable property of a prescribed class of a taxpayer is a replacement for a former property of the taxpayer if

(a) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(a.1) it was acquired by the taxpayer and used by the taxpayer or a person related to the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(b) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing income from a business, the particular depreciable property was acquired for the purpose of gaining or producing income from that or a similar business or for use by a person related to the taxpayer for such a purpose;

(c) where the former property was a taxable Canadian property of the taxpayer, the particular depreciable property is a taxable Canadian property of the taxpayer; and

(d) where the former property was a taxable Canadian property (other than treaty-protected property) of the taxpayer, the particular depreciable property is a taxable Canadian property (other than treaty-protected property) of the taxpayer.

Bien servant de remplacement à un ancien bien

(4.1) Pour l'application du paragraphe (4), le bien amortissable, d'une catégorie prescrite, d'un contribuable est un bien servant de remplacement à un ancien bien du contribuable si les conditions suivantes sont réunies :

a) il est raisonnable de conclure qu'il a acquis le bien en remplacement de l'ancien bien;

a.1) le bien a été acquis par lui et est utilisé par lui, ou par une personne qui lui est liée, pour un usage identique ou semblable à celui qu'il a fait de l'ancien bien ou qu'une telle personne en a fait;

b) dans le cas où le contribuable ou une personne qui lui est liée utilisait l'ancien bien en vue de tirer un revenu d'une entreprise, le bien amortissable a été acquis en vue de tirer un revenu de cette entreprise ou d'une entreprise semblable ou pour qu'une personne liée au contribuable l'utilise à cette fin;

c) si l'ancien bien était un bien canadien imposable, le bien amortissable en est un;

d) si l'ancien bien était un bien canadien imposable (sauf un bien protégé par traité), le bien amortissable en est un (sauf un bien protégé par traité).

Election — limited period franchise, concession or license

(4.2) Subsection (4.3) applies if

Choix — concession ou permis d'une durée limitée

(4.2) Le paragraphe (4.3) s'applique si, à la fois :

(a) a taxpayer (in this subsection and subsection (4.3) referred to as the "transferor") has, pursuant to a written agreement with a person or partnership (in this subsection and subsection (4.3) referred to as the "transferee"), at any time disposed of or terminated a former property that is a franchise, concession or licence for a limited period that is wholly attributable to the carrying on of a business at a fixed place;

(b) the transferee acquired the former property from the transferor or, on the termination, acquired a similar property in respect of the same fixed place from another person or partnership; and

(c) the transferor and the transferee jointly elect in their returns of income for their taxation years that include that time to have subsection (4.3) apply in respect of the acquisition and the disposition or termination.

a) un ancien bien — concession ou permis d'une durée limitée qui est entièrement attribuable à l'exploitation d'une entreprise dans un lieu fixe — fait l'objet d'une disposition ou d'une discontinuation par un contribuable (appelé « cédant » au présent paragraphe et au paragraphe (4.3)) conformément à un accord écrit qu'il a conclu avec une personne ou une société de personnes (appelée « cessionnaire » au présent paragraphe et au paragraphe (4.3));

b) le cessionnaire a acquis l'ancien bien du cédant ou a acquis d'une autre personne ou société de personnes, au moment de la discontinuation, un bien semblable relativement au même lieu fixe;

c) le cédant et le cessionnaire ont fait, dans leur déclaration de revenu visant leur année d'imposition qui comprend le moment de la disposition ou de la discontinuation, un choix conjoint afin que le paragraphe (4.3) s'applique à l'acquisition ainsi qu'à la disposition ou la discontinuation.

Effect of election

(4.3) If this subsection applies in respect of an acquisition and a disposition or termination,

(a) if the transferee acquired a similar property referred to in paragraph (4.2)(b), the transferee is deemed to have also acquired the former property at the time that the former property was terminated and to own the former property until the transferee no longer owns the similar property;

(b) if the transferee acquired the former property referred to in paragraph (4.2)(b), the transferee is deemed to own the former property until such time as the transferee owns neither the former property nor a similar property in respect of the same fixed place to which the former property related;

(c) for the purpose of calculating the amount deductible under paragraph 20(1)(a) in respect of the former property in computing the transferee's income, the life of the former property remaining on its acquisition by the transferee is deemed to be equal to the period that was the life of the former property remaining on its acquisition by the transferor; and

(d) any amount that would, if this Act were read without reference to this subsection, be included in the cost of a property of the transferor included in Class 14.1 of Schedule II to the *Income Tax Regulations* (including a deemed acquisition under subsection (35)) or included in the proceeds of disposition of a property of the transferee included in that Class (including a deemed disposition under subsection (37)) in respect

Effet du choix

(4.3) En cas d'application du présent paragraphe à une acquisition et à une disposition ou une discontinuation, les règles ci-après s'appliquent :

a) le cessionnaire, s'il a acquis le bien semblable visé à l'alinéa (4.2)b), est réputé avoir aussi acquis l'ancien bien au moment de sa discontinuation et en être propriétaire jusqu'au moment où il cesse d'être propriétaire du bien semblable;

b) le cessionnaire, s'il a acquis l'ancien bien visé à l'alinéa (4.2)b), est réputé en être propriétaire jusqu'au moment où il n'est propriétaire ni de l'ancien bien ni d'un bien semblable relativement au même lieu fixe auquel l'ancien bien se rapportait;

c) pour déterminer le montant qui est déductible en application de l'alinéa 20(1)a) relativement à l'ancien bien dans le calcul du revenu du cessionnaire, la durée restant à l'ancien bien au moment de son acquisition par le cessionnaire est réputée être égale à la durée qui lui restait au moment de son acquisition par le cédant;

d) tout montant qui, en l'absence du présent paragraphe, serait inclus soit dans le coût d'un bien du cédant qui est compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* (y compris une acquisition réputée visée au paragraphe (35)), soit dans le produit de disposition d'un bien du cessionnaire qui est compris dans cette catégorie (y compris une disposition réputée visée au paragraphe (37)) relativement à la disposition ou à la discontinuation de l'ancien bien par le cédant est réputé, à la fois :

of the disposition or termination of the former property by the transferor is deemed to be

(i) neither included in the cost nor the proceeds of disposition of property included in that Class,

(ii) an amount required to be included in computing the capital cost to the transferee of the former property, and

(iii) an amount required to be included in computing the proceeds of disposition to the transferor in respect of a disposition of the former property.

(i) n'être inclus ni dans le coût de ce bien ni dans le produit de disposition relatif à un bien de cette catégorie,

(ii) être un montant à inclure dans le calcul du coût en capital de l'ancien bien pour le cessionnaire,

(iii) être un montant à inclure dans le calcul du produit de disposition, pour le cédant, découlant d'une disposition de l'ancien bien.

Reclassification of property

(5) Where one or more depreciable properties of a taxpayer that were included in a prescribed class (in this subsection referred to as the "old class") become included at any time (in this subsection referred to as the "transfer time") in another prescribed class (in this subsection referred to as the "new class"), for the purpose of determining at any subsequent time the undepreciated capital cost to the taxpayer of depreciable property of the old class and the new class

(a) the value of A in the definition ***undepreciated capital cost*** in subsection 13(21) shall be determined as if each of those depreciable properties were

(i) properties of the new class acquired before the subsequent time, and

(ii) never included in the old class; and

(b) there shall be deducted in computing the total depreciation allowed to the taxpayer for property of the old class before the subsequent time, and added in computing the total depreciation allowed to the taxpayer for property of the new class before the subsequent time, the greater of

(i) the amount determined by the formula

A - B

where

A is the total of all amounts each of which is the capital cost to the taxpayer of each of those depreciable properties, and

B is the undepreciated capital cost to the taxpayer of depreciable property of the old class at the transfer time, and

(ii) the total of all amounts each of which is an amount that would have been deducted under paragraph 20(1)(a) in respect of a depreciable property

Reclassification des biens

(5) Dans le cas où un ou plusieurs biens amortissables d'un contribuable qui faisaient partie d'une catégorie prescrite (appelée « ancienne catégorie » au présent paragraphe) font partie, à compter d'un moment donné (appelé « moment du transfert » au présent paragraphe), d'une autre catégorie prescrite (appelée « nouvelle catégorie » au présent paragraphe), les règles suivantes s'appliquent au calcul, à un moment postérieur, de la fraction non amortie du coût en capital, pour le contribuable, des biens amortissables de l'ancienne catégorie et de la nouvelle catégorie :

a) la valeur de l'élément A de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe (21) est déterminée comme si chacun de ces biens amortissables :

(i) étaient des biens de la nouvelle catégorie, acquis avant le moment postérieur,

(ii) n'avaient jamais fait partie de l'ancienne catégorie;

b) le plus élevé des montants ci-après est à déduire dans le calcul de l'amortissement total accordé au contribuable pour les biens de l'ancienne catégorie avant le moment postérieur et est à ajouter dans le calcul de l'amortissement total qui lui est accordé pour les biens de la nouvelle catégorie avant ce moment :

(i) le résultat du calcul suivant :

A - B

où :

A représente le total des montants représentant chacun le coût en capital, pour lui, de chacun de ces biens amortissables,

B la fraction non amortie du coût en capital, pour lui, des biens amortissables de l'ancienne catégorie au moment du transfert,

that is one of those properties in computing the taxpayer's income for a taxation year that ended before the transfer time and at the end of which the property was included in the old class if

(A) the property had been the only property included in a separate prescribed class, and

(B) the rate allowed by the regulations made for the purpose of paragraph 20(1)(a) in respect of that separate class had been the effective rate that was used by the taxpayer to calculate a deduction under that paragraph in respect of the old class for the year.

(ii) le total des montants représentant chacun un montant qui aurait été déduit en application de l'alinéa 20(1)a) relativement à un bien amortissable qui compte parmi ces biens dans le calcul du revenu du contribuable pour une année d'imposition qui s'est terminée avant le moment du transfert et au terme de laquelle le bien fait partie de l'ancienne catégorie si, à la fois :

(A) le bien avait été le seul bien d'une catégorie prescrite distincte,

(B) le taux prévu pour cette catégorie distincte selon les dispositions réglementaires prises en application de l'alinéa 20(1)a) avait été le taux réel utilisé par le contribuable pour calculer une déduction prévue à cet alinéa au titre de l'ancienne catégorie pour l'année.

Rules applicable

(5.1) Where at any time in a taxation year a taxpayer acquires a particular property in respect of which, immediately before that time, the taxpayer had a leasehold interest that was included in a prescribed class, for the purposes of this section, section 20 and any regulations made under paragraph 20(1)(a), the following rules apply:

(a) the leasehold interest shall be deemed to have been disposed of by the taxpayer at that time for proceeds of disposition equal to the amount, if any, by which

(i) the capital cost immediately before that time of the leasehold interest

exceeds

(ii) the total of all amounts claimed by the taxpayer in respect of the leasehold interest and deductible under paragraph 20(1)(a) in computing the taxpayer's income in previous taxation years;

(b) the particular property shall be deemed to be depreciable property of a prescribed class of the taxpayer acquired by the taxpayer at that time and there shall be added to the capital cost to the taxpayer of the property an amount equal to the capital cost referred to in subparagraph 13(5.1)(a)(i); and

(c) the total referred to in subparagraph 13(5.1)(a)(ii) shall be added to the total depreciation allowed to the taxpayer before that time in respect of the class to which the particular property belongs.

Règles applicables

(5.1) Dans le cas où, à un moment donné d'une année d'imposition, un contribuable a acquis un bien donné sur lequel il avait, immédiatement avant ce moment, un droit de tenure à bail d'une catégorie prescrite les règles suivantes s'appliquent dans le cadre du présent article, de l'article 20 et des dispositions réglementaires prises sous le régime de l'alinéa 20(1)a):

a) le contribuable est réputé avoir disposé du droit de tenure à bail à ce moment, pour un produit de disposition égal à l'excédent éventuel du montant visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii):

(i) le coût en capital du droit de tenure à bail immédiatement avant ce moment,

(ii) le total des montants pour lesquels le contribuable a demandé une déduction à l'égard du droit de tenure à bail et qui étaient déductibles en vertu de l'alinéa 20(1)a) dans le calcul de son revenu pour des années d'imposition antérieures;

b) le bien donné est réputé être un bien amortissable d'une catégorie prescrite que le contribuable a acquis à ce moment et le coût en capital visé au sous-alinéa a)(i) doit être ajouté au coût en capital du bien, pour lui;

c) le total prévu au sous-alinéa a)(ii) doit être ajouté à l'amortissement total accordé au contribuable avant ce moment pour la catégorie dont fait partie le bien donné.

Deemed cost and depreciation

(5.2) If, at any time, a taxpayer has acquired a capital property that is depreciable property or real or immovable property in respect of which, before that time, the taxpayer or any person with whom the taxpayer was not dealing at arm's length was entitled to a deduction in computing income in respect of any amount paid or payable for the use of, or the right to use, the property and the cost or the capital cost (determined without reference to this subsection) at that time of the property to the taxpayer is less than the fair market value thereof at that time determined without reference to any option with respect to that property, for the purposes of this section, section 20 and any regulations made under paragraph 20(1)(a), the following rules apply:

(a) the property shall be deemed to have been acquired by the taxpayer at that time at a cost equal to the lesser of

(i) the fair market value of the property at that time determined without reference to any option with respect to that property, and

(ii) the total of the cost or the capital cost (determined without reference to this subsection) of the property to the taxpayer and all amounts (other than amounts paid or payable to a person with whom the taxpayer was not dealing at arm's length) each of which is an outlay or expense made or incurred by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length at any time for the use of, or the right to use, the property,

and for the purposes of this paragraph and subsection 13(5.3), where a particular corporation has been incorporated or otherwise formed after the time any other corporation with which the particular corporation would not have been dealing at arm's length had the particular corporation been in existence before that time, the particular corporation shall be deemed to have been in existence from the time of the formation of the other corporation and to have been not dealing at arm's length with the other corporation;

(b) the amount by which the cost to the taxpayer of the property determined under paragraph 13(5.2)(a) exceeds the cost or the capital cost thereof (determined without reference to this subsection) shall be added to the total depreciation allowed to the taxpayer before that time in respect of the prescribed class to which the property belongs; and

(c) where the property would, but for this paragraph, not be depreciable property of the taxpayer, it shall be

Coût et amortissement réputés

(5.2) Lorsque, à un moment donné, un contribuable a acquis une immobilisation qui est un bien amortissable ou un bien immeuble ou réel à l'égard duquel, avant ce moment, le contribuable ou une personne avec qui il avait un lien de dépendance avait droit à une déduction dans le calcul de son revenu relativement à tout montant payé ou payable pour l'usage ou le droit d'usage du bien et que le coût ou le coût en capital (déterminé compte non tenu du présent paragraphe) à ce moment du bien pour le contribuable est inférieur à sa juste valeur marchande à ce moment, déterminée compte non tenu d'une option sur ce bien, les règles ci-après s'appliquent au présent article, à l'article 20 et aux dispositions réglementaires prises en vertu de l'alinéa 20(1)a) :

a) le bien est réputé avoir été acquis par le contribuable à ce moment à un coût égal au moindre des montants suivants :

(i) la juste valeur marchande du bien, à ce moment, déterminée compte non tenu d'une option sur ce bien,

(ii) la somme du coût ou coût en capital (déterminé compte non tenu du présent paragraphe) du bien pour le contribuable et de toutes les sommes (à l'exclusion de sommes payées ou payables à une personne avec qui le contribuable avait un lien de dépendance) dont chacune représente une dépense engagée ou effectuée par le contribuable ou par une personne avec qui il avait un lien de dépendance à un moment donné pour l'usage ou le droit d'usage du bien;

pour l'application du présent alinéa et du paragraphe (5.3), la société donnée qui a été constituée après le moment où elle aurait eu un lien de dépendance avec une autre société si elle avait existé avant ce moment est réputée avoir existé à compter du moment de la constitution de l'autre société et avoir eu un lien de dépendance avec celle-ci;

b) l'excédent du coût pour le contribuable du bien déterminé en vertu de l'alinéa a) sur le coût ou coût en capital de ce bien (déterminé compte non tenu du présent paragraphe) est ajouté à l'amortissement total accordé au contribuable avant ce moment relativement à la catégorie prescrite à laquelle le bien appartient;

c) le bien qui ne serait pas, sans le présent alinéa, un bien amortissable du contribuable est réputé être un bien amortissable d'une catégorie prescrite distincte du contribuable.

deemed to be depreciable property of a separate prescribed class of the taxpayer.

Deemed recapture

(5.3) If, at any time in a taxation year, a taxpayer has disposed of a capital property that is an option with respect to depreciable property or real or immovable property in respect of which the taxpayer or any person with whom the taxpayer was not dealing at arm's length was entitled to a deduction in computing income in respect of any amount paid for the use of, or the right to use, the property, for the purposes of this section, the amount, if any, by which the proceeds of disposition to the taxpayer of the option exceed the taxpayer's cost in respect thereof is deemed to be an excess referred to in subsection (1) in respect of the taxpayer for the year.

Idem

(5.4) Where, before the time of disposition of a capital property that was depreciable property of a taxpayer, the taxpayer, or any person with whom the taxpayer was not dealing at arm's length, was entitled to a deduction in computing income in respect of any outlay or expense made or incurred for the use of, or the right to use, during a period of time, that capital property (other than an outlay or expense made or incurred by the taxpayer or a person with whom the taxpayer was not dealing at arm's length before the acquisition of the property), except where the taxpayer disposed of the property to a person with whom the taxpayer was not dealing at arm's length and that person was subject to the provisions of subsection 13(5.2) with respect to the acquisition by that person of the property, the following rules apply:

(a) an amount equal to the lesser of

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

(ii) the amount, if any, by which the fair market value of the property at the earlier of

(A) the expiration of the last period of time in respect of which the deductible outlay or expense referred to in subparagraph 13(5.4)(a)(i) was made or incurred, and

(B) the time of the disposition

Récupération réputée

(5.3) Dans le cas où, au cours d'une année d'imposition, un contribuable a disposé d'une immobilisation qui est une option sur un bien amortissable ou un bien immeuble ou réel à l'égard duquel le contribuable ou une personne avec qui il avait un lien de dépendance avait droit à une déduction dans le calcul de son revenu relativement à toute somme payée pour l'usage ou le droit d'usage du bien, l'excédent du produit de disposition de l'option pour le contribuable sur le coût de celle-ci pour le contribuable est, pour l'application du présent article, réputé être un excédent visé au paragraphe (1) à l'égard du contribuable pour l'année.

Idem

(5.4) Dans le cas où, avant la disposition d'une immobilisation qui était un bien amortissable d'un contribuable, le contribuable ou toute personne avec laquelle il avait un lien de dépendance avait droit à une déduction dans le calcul de son revenu à l'égard d'une dépense engagée ou effectuée pour l'usage ou le droit d'usage de cette immobilisation, pendant une période (sauf une dépense engagée ou effectuée par le contribuable ou une personne avec laquelle il avait un lien de dépendance avant l'acquisition du bien), les règles suivantes s'appliquent, sauf si le contribuable a disposé du bien en faveur d'une personne avec laquelle il avait un lien de dépendance et si cette personne était assujettie aux dispositions du paragraphe (5.2) relativement à l'acquisition par lui du bien :

a) une somme égale au moins élevé des montants suivants doit être ajoutée, immédiatement avant le moment de la disposition, au coût en capital du bien, pour la personne qui était propriétaire du bien à ce moment :

(i) le total des sommes (sauf celles payées ou payables au contribuable ou à une personne avec laquelle le contribuable avait un lien de dépendance) dont chacune représente une dépense déductible engagée ou effectuée avant la disposition par le contribuable ou par une personne avec laquelle il avait un lien de dépendance pour l'usage ou le droit d'usage du bien pendant la période,

(ii) l'excédent éventuel de la juste valeur marchande du bien au premier en date des jours suivants sur le coût en capital du bien, pour le contribuable, immédiatement avant ce jour :

(A) le jour de l'expiration de la dernière période à l'égard de laquelle la dépense déductible visée au sous-alinéa (i) a été engagée ou effectuée,

exceeds the capital cost to the taxpayer of the property immediately before that time

shall immediately before the time of the disposition, be added to the capital cost of the property to the person who owned the property at that time; and

(b) the amount added to the capital cost to the taxpayer of the property pursuant to paragraph 13(5.4)(a) shall be added immediately before the time of the disposition to the total depreciation allowed to the taxpayer before that time in respect of the prescribed class to which the property belongs.

(B) le jour de la disposition;

b) la somme ajoutée au coût en capital du bien, pour le contribuable, conformément à l'alinéa a) est ajoutée, immédiatement avant le moment de la disposition, à l'amortissement total accordé au contribuable avant ce moment relativement à la catégorie prescrite à laquelle appartient le bien.

Lease cancellation payment

(5.5) For the purposes of subsection 13(5.4), an amount deductible by a taxpayer under paragraph 20(1)(z) or 20(1)(z.1) in respect of a cancellation of a lease of property shall, for greater certainty, be deemed not to be an outlay or expense that was made or incurred by the taxpayer for the use of, or the right to use, the property.

Paiement pour résiliation d'un bail

(5.5) Pour l'application du paragraphe (5.4), il est entendu que la somme que le contribuable peut déduire en vertu de l'alinéa 20(1)z) ou z.1) à l'égard de la résiliation d'un bail est réputée ne pas être une dépense qui a été engagée ou effectuée par lui pour l'usage ou le droit d'usage du bien.

Misclassified property

(6) Where, in calculating the amount of a deduction allowed to a taxpayer under subsection 20(16) or regulations made for the purposes of paragraph 20(1)(a) in respect of depreciable property of the taxpayer of a prescribed class (in this subsection referred to as the "particular class"), there has been added to the capital cost to the taxpayer of depreciable property of the particular class the capital cost of depreciable property (in this subsection referred to as "added property") of another prescribed class, for the purposes of this section, section 20 and any regulations made for the purposes of paragraph 20(1)(a), the added property shall, if the Minister so directs with respect to any taxation year for which, under subsection 152(4), the Minister may make any reassessment or additional assessment or assess tax, interest or penalties under this Part, be deemed to have been property of the particular class and not of the other class at all times before the beginning of the year and, except to the extent that the added property or any part thereof has been disposed of by the taxpayer before the beginning of the year, to have been transferred from the particular class to the other class at the beginning of the year.

Bien classé par erreur

(6) Lorsque, dans le calcul de la déduction permise à un contribuable selon le paragraphe 20(16) ou les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) au titre de ses biens amortissables appartenant à une catégorie prescrite donnée, le coût en capital, pour le contribuable, des biens amortissables de cette catégorie est majoré du coût en capital des biens amortissables — appelés « biens ajoutés » au présent paragraphe — d'une autre catégorie prescrite, les présomptions suivantes s'appliquent dans le cadre du présent article, de l'article 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), si le ministre l'ordonne pour toute année d'imposition pour laquelle il peut, conformément au paragraphe 152(4), établir une cotisation, une nouvelle cotisation ou une cotisation supplémentaire de l'impôt, des intérêts ou des pénalités prévus par la présente partie :

a) les biens ajoutés sont réputés avoir toujours été, avant le début de cette année, des biens appartenant à la catégorie donnée et non à l'autre catégorie;

b) sauf dans la mesure où le contribuable a disposé de tout ou partie des biens ajoutés avant le début de cette année, ces biens sont réputés avoir été transférés de la catégorie donnée à l'autre catégorie au début de cette année.

Rules applicable

(7) Subject to subsection 70(13), for the purposes of paragraphs 8(1)(j) and 8(1)(p), this section, section 20

Règles applicables

(7) Sous réserve du paragraphe 70(13), les règles suivantes s'appliquent dans le cadre des alinéas 8(1)j) et p), du présent article, de l'article 20 et des dispositions

and any regulations made for the purpose of paragraph 20(1)(a),

(a) where a taxpayer, having acquired property for the purpose of gaining or producing income, has begun at a later time to use it for some other purpose, the taxpayer shall be deemed to have disposed of it at that later time for proceeds of disposition equal to its fair market value at that time and to have reacquired it immediately thereafter at a cost equal to that fair market value;

(b) where a taxpayer, having acquired property for some other purpose, has begun at a later time to use it for the purpose of gaining or producing income, the taxpayer shall be deemed to have acquired it at that later time at a capital cost to the taxpayer equal to the lesser of

(i) the fair market value of the property at that later time, and

(ii) the total of

(A) the cost to the taxpayer of the property at that later time determined without reference to this paragraph, paragraph 13(7)(a) and subparagraph 13(7)(d)(ii), and

(B) 1/2 of the amount, if any, by which

(I) the fair market value of the property at that later time

exceeds the total of

(II) the cost to the taxpayer of the property as determined under clause 13(7)(b)(ii)(A), and

(III) twice the amount deducted by the taxpayer under section 110.6 in respect of the amount, if any, by which the fair market value of the property at that later time exceeds the cost to the taxpayer of the property as determined under clause 13(7)(b)(ii)(A);

(c) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income and in part for some other purpose, the taxpayer shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the taxpayer equal to the same proportion of the capital cost to the taxpayer of the whole property and, if the property has, in such a

réglementaires prises pour l'application de l'alinéa 20(1)a):

a) le contribuable ayant acquis un bien en vue d'en tirer un revenu et qui commence, à un moment postérieur, à l'utiliser à une autre fin est réputé en avoir disposé à ce moment postérieur pour un produit de disposition égal à sa juste valeur marchande à ce même moment et l'avoir acquis de nouveau immédiatement après à un coût égal à cette juste valeur marchande;

b) le contribuable ayant acquis un bien à une autre fin et qui commence, à un moment postérieur, à l'utiliser en vue d'en tirer un revenu est réputé l'avoir acquis à ce moment postérieur à un coût en capital, pour lui, égal au moindre des montants suivants :

(i) la juste valeur marchande du bien à ce moment postérieur,

(ii) le total des montants suivants :

(A) le coût du bien pour lui à ce moment postérieur calculé compte non tenu du présent alinéa, de l'alinéa a) et du sous-alinéa d)(ii),

(B) la moitié de l'excédent éventuel de la juste valeur marchande du bien à ce moment postérieur sur le total du coût du bien pour le contribuable, calculé selon la division (A), et du double du montant déduit par le contribuable en application de l'article 110.6 au titre de l'excédent éventuel de la juste valeur marchande du bien à ce moment postérieur sur le coût du bien pour le contribuable calculé selon la division (A);

c) lorsque, depuis son acquisition par un contribuable, un bien a été habituellement utilisé, en partie en vue d'en tirer un revenu et en partie à une autre fin, ce contribuable est réputé avoir acquis, en vue d'en tirer un revenu, la fraction du bien représentée par le rapport entre l'usage qui en est fait habituellement pour tirer un revenu et l'usage total habituel du bien, à un coût en capital, pour le contribuable, égal à la même fraction du coût en capital, pour lui, du bien entier; si, dans ce cas, le bien a fait l'objet d'une disposition, le produit de disposition de la fraction du bien réputée acquise pour tirer un revenu est réputé égal à la même fraction du produit de disposition du bien entier;

d) lorsque, à un moment donné après l'acquisition d'un bien par le contribuable, le rapport entre l'usage qu'il fait habituellement du bien en vue de tirer un revenu et l'usage habituel du bien à d'autres fins change :

case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property;

(d) where, at any time after a taxpayer has acquired property, there has been a change in the relation between the use regularly made by the taxpayer of the property for gaining or producing income and the use regularly made of the property for other purposes,

(i) if the use regularly made by the taxpayer of the property for the purpose of gaining or producing income has increased, the taxpayer shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the total of

(A) the proportion of the lesser of

(I) its fair market value at that time, and

(II) its cost to the taxpayer at that time determined without reference to this subparagraph, subparagraph 13(7)(d)(ii) and paragraph 13(7)(a)

that the amount of the increase in the use regularly made by the taxpayer of the property for that purpose is of the whole of the use regularly made of the property, and

(B) 1/2 of the amount, if any, by which

(I) the amount deemed under subparagraph 45(1)(c)(ii) to be the taxpayer's proceeds of disposition of the property in respect of the change

exceeds the total of

(II) that proportion of the cost to the taxpayer of the property as determined under subclause 13(7)(d)(i)(A)(II) that the amount of the increase in the use regularly made by the taxpayer of the property for that purpose is of the whole of the use regularly made of the property, and

(III) twice the amount deducted by the taxpayer under section 110.6 in respect of the amount, if any, by which the amount determined under subclause 13(7)(d)(i)(B)(I) exceeds the amount determined under subclause 13(7)(d)(i)(B)(II), and

(i) si l'usage qu'il fait habituellement du bien en vue de tirer un revenu a augmenté, le contribuable est réputé avoir acquis, à ce moment, un bien amortissable de cette catégorie à un coût en capital égal au total des montants suivants :

(A) le produit de la multiplication, par le rapport entre l'augmentation de l'usage que le contribuable fait habituellement du bien à ces fins et l'usage total habituel de ce bien, du moindre des montants suivants :

(I) la juste valeur marchande du bien à ce moment,

(II) le coût du bien pour lui à ce moment calculé compte non tenu du présent sous-alinéa, du sous-alinéa (ii) et de l'alinéa a),

(B) la moitié de l'excédent éventuel :

(I) du montant réputé par le sous-alinéa 45(1)c)(ii) être le produit de disposition du bien pour le contribuable en raison du changement d'usage,

sur le total des montants suivants :

(II) le produit de la multiplication du coût du bien pour le contribuable, calculé selon la subdivision (A)(II), par le rapport entre l'augmentation de l'usage qu'il fait habituellement du bien à cette fin et l'usage total habituel du bien,

(III) le double du montant déduit par le contribuable en application de l'article 110.6 au titre de l'excédent éventuel du montant visé à la subdivision (I) sur le montant calculé selon la subdivision (II),

(ii) si l'usage qu'il fait habituellement du bien en vue de tirer un revenu a diminué, le contribuable est réputé avoir disposé, à ce moment, d'un bien amortissable de cette catégorie et le produit de disposition est réputé être la fraction de la juste valeur marchande du bien à ce moment représentée par le rapport entre la diminution de l'usage que le contribuable fait habituellement du bien à ces fins et l'usage total habituel de ce bien;

e) malgré les autres dispositions de la présente loi, à l'exception du paragraphe 70(13), lorsqu'un contribuable — personne ou société de personnes — a acquis, à un moment donné, directement ou indirectement, de quelque manière que ce soit (autrement que par suite du décès de l'auteur du transfert), un bien

(ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the taxpayer shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the taxpayer of the property for that purpose is of the whole use regularly made of the property;

(e) notwithstanding any other provision of this Act except subsection 70(13), where at a particular time a person or partnership (in this paragraph referred to as the "taxpayer") has, directly or indirectly, in any manner whatever, acquired (otherwise than as a consequence of the death of the transferor) a depreciable property (other than a timber resource property) of a prescribed class from a person or partnership with whom the taxpayer did not deal at arm's length (in this paragraph referred to as the "transferor") and, immediately before the transfer, the property was a capital property of the transferor,

(i) where the transferor was an individual resident in Canada or a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the taxpayer at the particular time determined without reference to this paragraph exceeds the cost, or where the property was depreciable property, the capital cost of the property to the transferor immediately before the transferor disposed of it, the capital cost of the property to the taxpayer at the particular time shall be deemed to be the amount that is equal to the total of

(A) the cost or capital cost, as the case may be, of the property to the transferor immediately before the particular time, and

(B) 1/2 of the amount, if any, by which

(I) the transferor's proceeds of disposition of the property

exceed the total of

(II) the cost or capital cost, as the case may be, to the transferor immediately before the particular time,

(III) twice the amount deducted by any person under section 110.6 in respect of the amount, if any, by which the amount determined under subclause 13(7)(e)(i)(B)(I) exceeds the amortissable, sauf un avoir forestier, d'une catégorie prescrite auprès d'une personne ou société de personnes (appelée « auteur du transfert » au présent alinéa) avec laquelle le contribuable avait un lien de dépendance et que le bien était une immobilisation de l'auteur du transfert immédiatement avant le transfert :

(i) si l'auteur du transfert était un particulier qui résidait au Canada ou une société de personnes dont un associé était un particulier qui résidait au Canada ou une autre société de personnes et si le coût du bien pour le contribuable à ce moment, calculé compte non tenu du présent alinéa, dépasse le coût ou, s'il s'agit d'un bien amortissable, le coût en capital du bien pour l'auteur du transfert immédiatement avant que celui-ci en ait disposé, le coût en capital du bien pour le contribuable à ce moment est réputé correspondre au total des montants suivants :

(A) le coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant ce moment,

(B) la moitié de l'excédent éventuel :

(I) du produit de disposition du bien pour l'auteur du transfert,

sur le total des montants suivants :

(II) le coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant ce moment,

(III) le double du montant déduit par une personne selon l'article 110.6 au titre de l'excédent éventuel du montant visé à la subdivision (I) sur le montant visé à la subdivision (II);

(IV) le montant éventuel à déduire, en application du paragraphe 110.6(21), dans le calcul du coût en capital du bien pour le contribuable à ce moment;

en outre, pour l'application de l'alinéab) et du sous-alinéad)(i), le coût du bien pour le contribuable est réputé correspondre au même total,

(ii) si l'auteur du transfert n'était ni un particulier qui résidait au Canada ni une société de personnes dont un associé était un particulier qui résidait au Canada ou une autre société de personnes et si le coût du bien pour le contribuable à ce moment, calculé compte non tenu du présent alinéa, dépasse le

amount determined under subclause 13(7)(e)(i)(B)(II), and

(IV) the amount, if any, required by subsection 110.6(21) to be deducted in computing the capital cost to the taxpayer of the property at that time

and for the purposes of paragraph 13(7)(b) and subparagraph 13(7)(d)(i), the cost of the property to the taxpayer shall be deemed to be the same amount,

(ii) where the transferor was neither an individual resident in Canada nor a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the taxpayer at the particular time determined without reference to this paragraph exceeds the cost, or where the property was depreciable property, the capital cost of the property to the transferor immediately before the transferor disposed of it, the capital cost of the property to the taxpayer at that time shall be deemed to be the amount that is equal to the total of

(A) the cost or capital cost, as the case may be, of the property to the transferor immediately before the particular time, and

(B) 1/2 of the amount, if any, by which the transferor's proceeds of disposition of the property exceed the cost or capital cost, as the case may be, to the transferor immediately before the particular time

and for the purposes of paragraph 13(7)(b) and subparagraph 13(7)(d)(i), the cost of the property to the taxpayer shall be deemed to be the same amount, and

(iii) where the cost or capital cost, as the case may be, of the property to the transferor immediately before the transferor disposed of it exceeds the capital cost of the property to the taxpayer at that time determined without reference to this paragraph, the capital cost of the property to the taxpayer at that time shall be deemed to be the amount that was the cost or capital cost, as the case may be, of the property to the transferor immediately before the transferor disposed of it and the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing the taxpayer's income for taxation years ending before the acquisition of the property by the taxpayer;

coût ou, s'il s'agit d'un bien amortissable, le coût en capital du bien pour l'auteur du transfert immédiatement avant que celui-ci en ait disposé, le coût en capital du bien pour le contribuable à ce moment est réputé correspondre au total des montants suivants :

(A) le coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant ce moment,

(B) la moitié de l'excédent éventuel du produit de disposition du bien pour l'auteur du transfert sur le coût ou coût en capital, selon le cas, pour l'auteur du transfert immédiatement avant ce moment;

en outre, pour l'application de l'alinéab) et du sous-alinéad)(i), le coût du bien pour le contribuable est réputé correspondre au même total,

(iii) si le coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant que celui-ci en ait disposé dépasse le coût en capital du bien pour le contribuable à ce moment, calculé compte non tenu du présent alinéa, le coût en capital du bien pour le contribuable à ce moment est réputé correspondre au coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant que celui-ci en ait disposé, et l'excédent est réputé avoir été admis en déduction au titre du bien, conformément aux dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu du contribuable pour les années d'imposition se terminant avant que celui-ci ait acquis le bien;

e.1) le contribuable qui est réputé par l'alinéa 110.6(19)a) avoir disposé d'un bien et l'avoir acquis de nouveau — lequel bien était, immédiatement avant la disposition, un bien amortissable — est réputé avoir acquis le bien de lui-même et, à cette fin, avoir un lien de dépendance avec lui-même;

f) dans le cas où un contribuable est réputé, en vertu de l'alinéa 111(4)e), avoir disposé d'un bien amortissable, sauf un avoir forestier, et l'avoir acquis de nouveau, le coût en capital du bien pour lui au moment où il l'a acquis de nouveau est réputé être égal au total des sommes suivantes :

(i) le coût en capital du bien pour lui au moment de la disposition,

(ii) la moitié de l'excédent éventuel du produit de disposition du bien pour lui sur son coût en capital pour lui au moment de la disposition;

(e.1) where a taxpayer is deemed by paragraph 110.6(19)(a) to have disposed of and reacquired a property that immediately before the disposition was a depreciable property, the taxpayer shall be deemed to have acquired the property from himself, herself or itself and, in so having acquired the property, not to have been dealing with himself, herself or itself at arm's length;

(f) if a taxpayer is deemed under paragraph 111(4)(e) to have disposed of and reacquired depreciable property (other than a timber resource property), the capital cost to the taxpayer of the property at the time of the reacquisition is deemed to be equal to the total of

(i) the capital cost to the taxpayer of the property at the time of the disposition, and

(ii) 1/2 of the amount, if any, by which the taxpayer's proceeds of disposition of the property exceed the capital cost to the taxpayer of the property at the time of the disposition;

(g) where the cost to a taxpayer of a passenger vehicle exceeds $20,000 or such other amount as is prescribed, the capital cost to the taxpayer of the vehicle shall be deemed to be $20,000 or that other prescribed amount, as the case may be; and

(h) notwithstanding paragraph 13(7)(g), where a passenger vehicle is acquired by a taxpayer at any time from a person with whom the taxpayer does not deal at arm's length, the capital cost at that time to the taxpayer of the vehicle shall be deemed to be the least of

(i) the fair market value of the vehicle at that time,

(ii) the amount that immediately before that time was the cost amount to that person of the vehicle, and

(iii) $20,000 or such other amount as is prescribed.

g) si le coût d'une voiture de tourisme pour un contribuable est supérieur à 20 000 $ ou à tout autre montant fixé par règlement, le coût en capital de la voiture pour le contribuable est réputé être 20 000 $ ou cet autre montant, selon le cas;

h) malgré l'alinéa g), le coût en capital d'une voiture de tourisme pour un contribuable au moment où celui-ci l'acquiert auprès d'une personne avec laquelle il a un lien de dépendance est réputé être le moins élevé des montants suivants :

(i) la juste valeur de la voiture à ce moment,

(ii) le coût indiqué de la voiture pour cette personne juste avant ce moment,

(iii) 20 000 $ ou tout autre montant fixé par règlement.

Deemed capital cost of certain property

(7.1) For the purposes of this Act, where section 80 applied to reduce the capital cost to a taxpayer of a depreciable property or a taxpayer deducted an amount under subsection 127(5) or 127(6) in respect of a depreciable property or received or is entitled to receive assistance from a government, municipality or other public authority in respect of, or for the acquisition of, depreciable property, whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance other than

(a) an amount described in paragraph 37(1)(d),

Coût en capital présumé de certains biens

(7.1) Pour l'application de la présente loi, lorsque l'article 80 a eu pour effet de réduire le coût en capital d'un bien amortissable pour un contribuable ou qu'un contribuable a déduit un montant en vertu des paragraphes 127(5) ou (6) relativement à un bien amortissable ou a reçu ou est en droit de recevoir une aide d'un gouvernement, d'une municipalité ou d'une autre administration relativement à des biens amortissables ou en vue d'en acquérir, sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'allocation de placement, ou sous toute autre forme, à l'exception des sommes et montants suivants :

(b) an amount deducted as an allowance under section 65, or

(b.1) an amount included in income by virtue of paragraph 12(1)(u) or 56(1)(s),

the capital cost of the property to the taxpayer at any particular time shall be deemed to be the amount, if any, by which the total of

(c) the capital cost of the property to the taxpayer, determined without reference to this subsection, subsection 13(7.4) and section 80, and

(d) such part, if any, of the assistance as has been repaid by the taxpayer, pursuant to an obligation to repay all or any part of that assistance, in respect of that property before the disposition thereof by the taxpayer and before the particular time

exceeds the total of

(e) where the property was acquired in a taxation year ending before the particular time, all amounts deducted under subsection 127(5) or 127(6) by the taxpayer for a taxation year ending before the particular time,

(f) the amount of assistance the taxpayer has received or is entitled, before the particular time, to receive, and

(g) all amounts by which the capital cost of the property to the taxpayer is required because of section 80 to be reduced at or before that time,

in respect of that property before the disposition thereof by the taxpayer.

a) un montant visé à l'alinéa 37(1)d);

b) une somme dont la déduction est autorisée par l'article 65;

b.1) un montant inclus dans le revenu pour l'application de l'alinéa 12(1)u) ou 56(1)s),

le coût en capital du bien, pour le contribuable, à un moment donné est réputé être l'excédent éventuel du total des montants suivants :

c) le coût en capital du bien pour le contribuable, calculé compte non tenu du présent paragraphe, du paragraphe (7.4) et de l'article 80;

d) la partie de l'aide qui a été remboursée par le contribuable en exécution d'une obligation de rembourser tout ou partie de l'aide, en ce qui concerne ce bien avant qu'il en dispose et avant le moment donné,

sur le total des montants suivants :

e) si le bien a été acquis au cours d'une année d'imposition se terminant avant le moment donné, les montants déduits par le contribuable en application des paragraphes 127(5) et (6) pour toute année d'imposition se terminant avant le moment donné;

f) le montant de l'aide que le contribuable a reçue ou a le droit, avant le moment donné, de recevoir,

g) les montants qui, par l'effet de l'article 80, sont à appliquer, à ce moment ou antérieurement, en réduction du coût en capital du bien pour le contribuable,

en ce qui concerne le bien avant que le contribuable n'en dispose.

Receipt of public assistance

(7.2) For the purposes of subsection 13(7.1), where at any time a taxpayer who is a beneficiary of a trust or a member of a partnership has received or is entitled to receive assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance, the amount of the assistance that may reasonably be considered to be in respect of, or for the acquisition of, depreciable property of the trust or partnership shall be deemed to have been received at that time by the trust or partnership, as the case may be, as assistance from the government, municipality or other public authority for the acquisition of depreciable property.

Aide d'une administration

(7.2) Pour l'application du paragraphe (7.1), lorsque, à un moment donné, un contribuable bénéficiaire d'une fiducie ou associé d'une société de personnes a reçu ou est en droit de recevoir une aide d'un gouvernement, d'une municipalité ou d'une autre administration, sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'allocation de placement, ou sous toute autre forme, le montant de l'aide qu'il est raisonnable de considérer comme se rapportant à un bien amortissable de la fiducie ou de la société de personnes ou comme étant destinée à l'acquisition d'un tel bien est réputé avoir été reçu à ce moment par la fiducie ou par la société de personnes, selon le cas, à titre d'aide du gouvernement, de la municipalité ou de l'autre administration pour l'acquisition d'un tel bien.

Control of corporations by one trustee

(7.3) For the purposes of paragraph (7)(e), where at a particular time one corporation would, but for this subsection, be related to another corporation by reason of both corporations being controlled by the same executor, liquidator of a succession or trustee and it is established that

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

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

the two corporations are deemed not to be related to each other at the particular time.

Deemed capital cost

(7.4) Notwithstanding subsection 13(7.1), where a taxpayer has in a taxation year received an amount that would, but for this subsection, be included in the taxpayer's income under paragraph 12(1)(x) in respect of the cost of a depreciable property acquired by the taxpayer in the year, in the three taxation years immediately preceding the year or in the taxation year immediately following the year and the taxpayer elects under this subsection on or before the day on or before which the taxpayer is required to file the taxpayer's return of income under this Part for the year, or, where the property is acquired in the taxation year immediately following the year, for that following year, the capital cost of the property to the taxpayer shall be deemed to be the amount by which the total of

(a) the capital cost of the property to the taxpayer otherwise determined, applying the provisions of subsection 13(7.1), where necessary, and

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

exceeds the amount elected by the taxpayer under this subsection, but in no case shall the amount elected under this subsection exceed the least of

(c) the amount so received by the taxpayer,

Contrôle d'une société par un fiduciaire

(7.3) Pour l'application de l'alinéa (7)e), deux sociétés qui, étant contrôlées par le même fiduciaire, liquidateur de succession ou exécuteur testamentaire, seraient liées l'une à l'autre à un moment donné, sans le présent paragraphe, sont réputées ne pas l'être à ce moment s'il est établi :

a) d'une part, que le fiduciaire, liquidateur ou exécuteur n'a pas acquis le contrôle des sociétés par suite de la création d'une ou plusieurs fiducies ou successions par le même particulier ou par plusieurs particuliers qui ont un lien de dépendance entre eux;

b) d'autre part, que la fiducie ou succession en vertu de laquelle le fiduciaire, liquidateur ou exécuteur a acquis le contrôle de chacune des sociétés ne commence à exister qu'au décès du particulier qui a créé la fiducie ou succession.

Coût en capital réputé

(7.4) Malgré le paragraphe (7.1), lorsqu'un contribuable a reçu au cours d'une année d'imposition un montant qui, sans le présent paragraphe, serait inclus dans son revenu en vertu de l'alinéa 12(1)x) à l'égard du coût d'un bien amortissable qu'il a acquis au cours de l'année, des trois années d'imposition précédentes ou de l'année d'imposition suivante, et que le contribuable en fait le choix en vertu du présent paragraphe, au plus tard à la date où il est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année ou, si le bien est acquis au cours de l'année d'imposition suivante, pour cette année, le coût en capital du bien pour le contribuable est réputé correspondre à l'excédent du total des montants suivants sur le montant choisi par le contribuable en vertu du présent paragraphe :

a) le coût en capital du bien pour le contribuable, calculé par ailleurs conformément au paragraphe (7.1), le cas échéant;

b) la partie du montant reçu par le contribuable et remboursé par celui-ci, conformément à une obligation légale d'en rembourser tout ou partie, relativement au bien avant qu'il n'en ait disposé, qu'il est raisonnable de considérer comme relative au montant choisi en vertu du présent paragraphe relativement au bien.

Toutefois, le montant choisi ne peut en aucun cas dépasser le moindre des montants suivants :

c) le montant ainsi reçu par le contribuable;

(d) the capital cost of the property to the taxpayer otherwise determined, and

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

(d) le coût en capital du bien pour le contribuable, calculé par ailleurs;

e) zéro, si le contribuable a disposé du bien avant l'année.

Deemed capital cost

(7.41) Subsection (38) applies in respect of an amount repaid after 2016 as if that amount was repaid immediately before 2017, if

(a) the amount is repaid by the taxpayer under a legal obligation to repay all or part of an amount the taxpayer received or was entitled to receive that was assistance from a government, municipality or other public authority (whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance) in respect of, or for the acquisition of, property the cost of which was an eligible capital expenditure of the taxpayer in respect of the business;

(b) the amount of an eligible capital expenditure of the taxpayer in respect of the business was reduced by paragraph 14(10)(c) because of the assistance referred to in paragraph (a); and

(c) paragraph 20(1)(hh.1) does not apply in respect of the amount repaid.

Coût en capital réputé

(7.41) Le paragraphe (38) s'applique relativement à un montant remboursé après 2016 comme s'il était remboursé immédiatement avant 2017, si les énoncés ci-après se vérifient :

a) le montant est remboursé par le contribuable en exécution d'une obligation légale de rembourser tout ou partie d'un montant que le contribuable a reçu ou est en droit de recevoir et qui est une aide d'un gouvernement, d'une municipalité ou d'une autre administration (sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'allocation de placement ou sous toute autre forme) relativement à des biens dont le coût constitue une dépense en capital admissible pour lui au titre d'une entreprise ou en vue d'acquérir de tels biens;

b) le montant d'une dépense en capital admissible du contribuable relativement à l'entreprise est réduit en application de l'alinéa 14(10)c) en raison de l'aide mentionnée à l'alinéa a);

c) l'alinéa 20(1)hh.1) ne s'applique pas relativement au montant remboursé.

Timing of deduction

(7.42) No amount may be deducted under paragraph 20(1)(a) in respect of an amount of repaid assistance referred to in subsection (7.41) for any taxation year prior to the taxation year in which the assistance is repaid.

Moment de la déduction

(7.42) Aucun montant ne peut être déduit en application de l'alinéa 20(1)a) relativement à un montant d'aide remboursé visé au paragraphe (7.41) pour une année d'imposition antérieure à l'année d'imposition au cours de laquelle le montant d'aide est remboursé.

Deemed capital cost

(7.5) For the purposes of this Act,

(a) where a taxpayer, to acquire a property prescribed in respect of the taxpayer, is required under the terms of a contract made after March 6, 1996 to make a payment to Her Majesty in right of Canada or a province or to a Canadian municipality in respect of costs incurred or to be incurred by the recipient of the payment

(i) the taxpayer is deemed to have acquired the property at a capital cost equal to the portion of

Coût en capital présumé

(7.5) Les présomptions suivantes s'appliquent dans le cadre de la présente loi :

a) lorsqu'un contribuable, en vue d'acquérir un bien visé par règlement quant à lui, est tenu, selon les modalités d'une convention conclue après le 6 mars 1996, d'effectuer un paiement à Sa Majesté du chef du Canada ou d'une province ou à une municipalité canadienne relativement aux coûts engagés ou à engager par le bénéficiaire du paiement :

(i) le contribuable est réputé avoir acquis le bien à un coût en capital égal à la fraction du paiement

that payment made by the taxpayer that can reasonably be regarded as being in respect of those costs, and

(ii) the time of acquisition of the property by the taxpayer is deemed to be the later of the time the payment is made and the time at which those costs are incurred;

(b) where

(i) at any time after March 6, 1996 a taxpayer incurs a cost on account of capital for the building of, for the right to use or in respect of, a prescribed property, and

(ii) the amount of the cost would, if this paragraph did not apply, not be included in the capital cost to the taxpayer of depreciable property of a prescribed class,

the taxpayer is deemed to have acquired the property at that time at a capital cost equal to the amount of the cost;

(c) if a taxpayer acquires an intangible property, or for civil law an incorporeal property, as a consequence of making a payment to which paragraph (a) applies or incurring a cost to which paragraph (b) applies,

(i) the property referred to in paragraph (a) or (b) is deemed to include the intangible or incorporeal property, and

(ii) the portion of the capital cost referred to in paragraph (a) or (b) that applies to the intangible or incorporeal property is deemed to be the amount determined by the formula

A × B/C

where

A is the lesser of the amount of the payment made or cost incurred and the amount determined for C,

B is the fair market value of the intangible or incorporeal property at the time the payment was made or the cost was incurred, and

C is the fair market value at the time the payment was made or the cost was incurred of all intangible or incorporeal properties acquired as a consequence of making the payment or incurring the cost; and

(d) any property deemed by paragraph 13(7.5)(a) or (b) to have been acquired at any time by a taxpayer as

qu'il est raisonnable de considérer comme se rapportant à ces coûts,

(ii) le bien est réputé avoir été acquis par le contribuable au moment du paiement ou, s'il est postérieur, au moment où ces coûts sont engagés;

b) lorsque les conditions suivantes sont réunies, un contribuable est réputé avoir acquis un bien visé par règlement, à un moment postérieur au 6 mars 1996, à un coût en capital égal au coût visé au sous-alinéa (i):

(i) le contribuable engage, à ce moment, un coût à titre de capital relativement au bien, pour sa construction ou pour le droit de l'utiliser,

(ii) le montant du coût ne serait pas inclus dans le coût en capital, pour le contribuable, d'un bien amortissable d'une catégorie prescrite si le présent alinéa ne s'appliquait pas;

c) lorsqu'un contribuable acquiert un bien intangible ou, pour l'application du droit civil, un bien incorporel du fait qu'il a effectué un paiement auquel s'applique l'alinéa a) ou engagé un coût auquel s'applique l'alinéa b) :

(i) le bien visé aux alinéas a) ou b) est réputé comprendre le bien intangible ou incorporel,

(ii) la fraction du coût en capital visée aux alinéas a) ou b) qui se rapporte au bien intangible ou incorporel est réputée être égale au résultat du calcul suivant :

A × B/C

où :

A représente le montant du paiement effectué ou du coût engagé ou, si elle est inférieure, la valeur de l'élément C,

B la juste valeur marchande du bien intangible ou incorporel au moment où le paiement a été effectué ou le coût, engagé,

C la juste valeur marchande, au moment où le paiement a été effectué ou le coût, engagé, de l'ensemble des biens intangibles ou incorporels acquis du fait que le paiement a été effectué ou le coût, engagé;

d) le bien qui est réputé par les alinéas a) ou b) avoir été acquis par un contribuable du fait qu'un paiement a été effectué ou un coût, engagé est réputé :

(i) avoir été acquis aux fins auxquelles le paiement a été effectué ou le coût, engagé,

a consequence of making a payment or incurring a cost

(i) is deemed to have been acquired for the purpose for which the payment was made or the cost was incurred, and

(ii) is deemed to be owned by the taxpayer at any subsequent time that the taxpayer benefits from the property.

(ii) appartenir au contribuable à tout moment postérieur où il en tire profit.

Disposition after ceasing business

(8) Notwithstanding subsections 13(3) and 11(2), where a taxpayer, after ceasing to carry on a business, has disposed of depreciable property of the taxpayer of a prescribed class that was acquired by the taxpayer for the purpose of gaining or producing income from the business and that was not subsequently used by the taxpayer for some other purpose, in applying subsection 13(1) or 13(2), each reference therein to a "taxation year" and "year" shall not be read as a reference to a "fiscal period".

Disposition après cessation de l'exploitation

(8) Lorsqu'un contribuable, après avoir cessé d'exploiter une entreprise, dispose d'un bien amortissable d'une catégorie prescrite qu'il avait acquis en vue de tirer un revenu de l'entreprise et qu'il n'a pas utilisé par la suite à d'autres fins, la mention de l'année d'imposition et de l'année aux paragraphes (1) et (2) ne vaut pas, malgré les paragraphes (3) et 11(2), mention de l'exercice.

Meaning of *gaining or producing income*

(9) In applying paragraphs 13(7)(a) to 13(7)(d) in respect of a non-resident taxpayer, a reference to ***gaining or producing income*** in relation to a business shall be read as a reference to "gaining or producing income from a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada".

Sens de *tirer un revenu*

(9) Pour l'application des alinéas (7)a) à d) à un contribuable non-résident, la mention de ***tirer un revenu*** vaut mention, en ce qui concerne une entreprise, de « tirer un revenu d'une entreprise exploitée entièrement au Canada ou de toute partie d'une entreprise exploitée entièrement au Canada ».

Deemed capital cost

(10) For the purposes of this Act, where a taxpayer has, after December 3, 1970 and before April 1, 1972, acquired prescribed property

(a) for use in a prescribed manufacturing or processing business carried on by the taxpayer, and

(b) that was not used for any purpose whatever before it was acquired by the taxpayer,

the taxpayer shall be deemed to have acquired that property at a capital cost to the taxpayer equal to 115% of the amount that, but for this subsection and section 21, would have been the capital cost to the taxpayer of that property.

Coût en capital présumé de certains biens

(10) Pour l'application de la présente loi, le contribuable qui, après le 3 décembre 1970 et avant le 1er avril 1972, a acquis des biens visés par règlement est réputé les avoir acquis à un coût en capital égal à 115 % du montant qui, sans le présent paragraphe et l'article 21, aurait été pour lui le coût en capital de ces biens si les conditions suivantes sont remplies :

a) il a acquis les biens pour les utiliser dans une entreprise, visée par règlement, de fabrication ou de transformation exploitée par lui;

b) les biens n'ont pas été utilisés dans quelque but que ce soit avant qu'il les acquière.

Deduction in respect of property used in performance of duties

(11) Any amount deducted under subparagraph 8(1)(j)(ii) or 8(1)(p)(ii) of this Act or subsection 11(11) of The *Income Tax Act*, chapter 52 of the Statutes of Canada, 1948, shall be deemed, for the purposes of this section to have been deducted under regulations made under paragraph 20(1)(a).

Déduction relative à un bien utilisé dans l'accomplissement des fonctions

(11) Un montant déduit en application des sous-alinéas 8(1)j)(ii) ou p)(ii) de la présente loi ou du paragraphe 11(11) de la *Loi de l'impôt sur le revenu*, chapitre 52 des Statuts du Canada de 1948, est réputé, pour l'application du présent article, déduit selon les dispositions réglementaires prises en application de l'alinéa 20(1)a).

Application of para. 20(1)(cc)

(12) Where, in computing the income of a taxpayer for a taxation year, an amount has been deducted under paragraph 20(1)(cc) or the taxpayer has elected under subsection 20(9) to make a deduction in respect of an amount that would otherwise have been deductible under that paragraph, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing the income of the taxpayer

(a) for the year, or

(b) for the year in which the property was acquired,

whichever is the later.

Deduction under *Canadian Vessel Construction Assistance Act*

(13) Where a deduction has been made under the *Canadian Vessel Construction Assistance Act* for any taxation year, subsection 13(1) is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred.

Conversion cost

(14) For the purposes of this section, section 20 and any regulations made under paragraph 20(1)(a), a vessel in respect of which any conversion cost is incurred after March 23, 1967 shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class.

Where s. (1) and subdivision c do not apply

(15) Where a vessel owned by a taxpayer on January 1, 1966 or constructed pursuant to a construction contract entered into by the taxpayer prior to 1966 and not completed by that date was disposed of by the taxpayer before 1974,

(a) subsection 13(1) and subdivision c do not apply to the proceeds of disposition

(i) if an amount at least equal to the proceeds of disposition was used by the taxpayer, before May, 1974 and during the taxation year of the taxpayer in which the vessel was disposed of or within 4 months after the end of that taxation year, under conditions satisfactory to the appropriate minister, either for replacement or to incur any conversion

Application de l'al. 20(1)cc)

(12) Lorsque, dans le calcul du revenu d'un contribuable pour une année d'imposition, une somme a été déduite en vertu de l'alinéa 20(1)cc) ou que le contribuable a choisi en vertu du paragraphe 20(9) de faire une déduction à l'égard d'une somme qui aurait été déductible par ailleurs en vertu de cet alinéa, la somme est réputée, si elle était un paiement à valoir sur le coût en capital de biens amortissables, avoir été allouée au contribuable à l'égard des biens selon les dispositions réglementaires prises en vertu de l'alinéa 20(1)a) dans le calcul du revenu du contribuable pour la dernière en date des années suivantes :

a) l'année d'imposition en question;

b) l'année au cours de laquelle les biens ont été acquis.

Déduction faite en vertu de la *Loi aidant à la construction de navires au Canada*

(13) Lorsqu'une déduction a été faite, au titre d'une année d'imposition quelconque, en vertu de la *Loi aidant à la construction de navires au Canada*, le paragraphe (1) s'applique à la catégorie prescrite créée par cette loi ou à toute autre catégorie prescrite à laquelle le navire peut avoir été transféré.

Frais de conversion

(14) Pour l'application du présent article, de l'article 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a), tout navire pour lequel des frais de conversion ont été engagés après le 23 mars 1967 est, jusqu'à concurrence des frais de conversion, réputé inclus dans une catégorie prescrite distincte.

Cas où le par. (1) et la sous-section c ne s'appliquent pas

(15) Lorsqu'un navire qui appartenait à un contribuable au 1er janvier 1966 ou qui se trouvait en cours de construction en vertu d'un contrat de construction passé par le contribuable avant 1966 et n'était pas achevé à cette date a fait l'objet d'une disposition par le contribuable avant 1974 :

a) le paragraphe (1) et la sous-section c ne s'appliquent pas au produit de disposition dans l'un ou l'autre des cas suivants :

(i) une somme au moins égale au produit de disposition a été utilisée par le contribuable, avant le mois de mai 1974 et pendant l'année d'imposition du contribuable au cours de laquelle le navire a fait l'objet d'une disposition ou dans les 4 mois suivant la fin de cette année, dans des conditions agréées

cost with respect to a vessel owned by the taxpayer, or

(ii) if the appropriate minister certified that the taxpayer had, on satisfactory terms, deposited

(A) on or before the day on which the taxpayer was required to file a return of the taxpayer's income for the taxation year in which the vessel was disposed of, or

(B) on or before such day subsequent to the day referred to in clause 13(15)(a)(ii)(A) as the appropriate minister specified in respect of the taxpayer,

an amount at least equal to the tax that would, but for this subsection, have been payable by the taxpayer under this Part in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition would be used before 1975 for replacement; and

(b) if within the time specified for the filing of a return of the taxpayer's income for the taxation year in which the vessel was disposed of

(i) the taxpayer elected to have the vessel constituted a prescribed class, or

(ii) where any conversion cost in respect of the vessel was included in a separate prescribed class, the taxpayer elected to have the vessel transferred to that class,

the vessel shall be deemed to have been so transferred immediately before the disposition thereof, but this paragraph does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of property of the class to which it would be so transferred.

par le ministre compétent, soit en vue de le remplacer, soit pour couvrir les frais de conversion d'un navire appartenant au contribuable,

(ii) le ministre compétent a certifié que le contribuable avait, à des conditions satisfaisantes, déposé :

(A) au plus tard le jour où il était tenu de produire sa déclaration de revenu pour l'année d'imposition au cours de laquelle il a été disposé du navire,

(B) au plus tard le jour, postérieur à celui visé à la division (A), fixé par le ministre compétent pour le contribuable,

soit une somme au moins égale à l'impôt que, sans le présent paragraphe, le contribuable aurait dû payer en vertu de la présente partie sur le produit de disposition, soit un cautionnement satisfaisant à ce titre, pour garantir que le produit de disposition serait utilisé avant 1975 pour le remplacement du navire;

b) si le contribuable, dans le délai fixé pour produire sa déclaration de revenu pour l'année d'imposition au cours de laquelle il a été disposé du navire :

(i) soit a fait un choix pour que le navire constitue une catégorie prescrite,

(ii) soit, dans les cas où des frais de conversion relatifs au navire ont été inclus dans une catégorie prescrite distincte, a fait un choix pour que le navire soit transféré à cette catégorie,

le navire est réputé avoir été transféré immédiatement avant sa disposition, mais le présent alinéa ne s'applique que si le produit de disposition du navire dépasse le montant qui aurait constitué la fraction non amortie du coût en capital des biens de la catégorie à laquelle le navire aurait été ainsi transféré.

Election concerning vessel

(16) Where a vessel owned by a taxpayer is disposed of by the taxpayer, the taxpayer may, if subsection 13(15) does not apply to the proceeds of disposition or if the taxpayer did not make an election under paragraph 13(15)(b) in respect of the vessel, within the time specified for the filing of a return of the taxpayer's income for the taxation year in which the vessel was disposed of, elect to have the proceeds that would be included in computing the taxpayer's income for the year under this Part treated as proceeds of disposition of property of another

Choix relatif au navire

(16) Le contribuable qui dispose d'un navire dont il est propriétaire peut, si le paragraphe (15) ne s'applique pas au produit de disposition ou si le contribuable n'a pas fait le choix visé à l'alinéa (15)b), dans le délai fixé pour produire sa déclaration de revenu pour l'année d'imposition au cours de laquelle il a disposé du navire, faire un choix pour que le produit qui aurait été inclus dans le calcul de son revenu de l'année en vertu de la présente partie soit considéré comme le produit de disposition de biens d'une autre catégorie prescrite dont fait partie un navire dont il est propriétaire.

prescribed class that includes a vessel owned by the taxpayer.

Separate prescribed class concerning vessel

(17) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* by reason of the conversion of a vessel owned by a taxpayer and the vessel is disposed of by the taxpayer, if no election in respect of the vessel was made under paragraph 13(15)(b), the separate prescribed class constituted by reason of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof.

Reassessments

(18) Notwithstanding any other provision of this Act, where a taxpayer has

(a) used an amount as described in paragraph 13(4)(c), or

(b) made an election under paragraph 13(15)(b) in respect of a vessel and the proceeds of disposition of the vessel were used before 1975 for replacement under conditions satisfactory to the appropriate minister,

such reassessments of tax, interest or penalties shall be made as are necessary to give effect to subsections 13(4) and 13(15).

Ascertainment of certain property

(18.1) For the purpose of determining whether property meets the criteria set out in the *Income Tax Regulations* in respect of prescribed energy conservation property, the *Technical Guide to Class 43.1 and 43.2*, as amended from time to time and published by the Department of Natural Resources, shall apply conclusively with respect to engineering and scientific matters.

Disposition of deposit

(19) All or any part of a deposit made under subparagraph 13(15)(a)(ii) or under the *Canadian Vessel Construction Assistance Act* may be paid out to or on behalf of any person who, under conditions satisfactory to the appropriate minister and as a replacement for the vessel disposed of, acquires a vessel before 1975

(a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the appropriate minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement, signed at London on December 10, 1931, applies, and

Catégorie prescrite distincte relativement au navire

(17) Lorsqu'une catégorie prescrite distincte a été créée soit en vertu de la présente loi, soit en vertu de la *Loi aidant à la construction de navires au Canada*, en raison de la conversion d'un navire dont le contribuable est propriétaire, qu'il a été disposé du navire par ce dernier et qu'aucun choix n'a été fait en vertu de l'alinéa (15)b), la catégorie prescrite distincte créée en raison de la conversion est réputée avoir été transférée à la catégorie dont le navire faisait partie immédiatement avant sa disposition.

Nouvelle cotisation

(18) Malgré les autres dispositions de la présente loi, à l'égard de l'impôt, des intérêts ou des pénalités, une nouvelle cotisation est établie, au besoin, pour l'application des paragraphes (4) et (15) lorsqu'un contribuable a :

a) soit utilisé une somme visée à l'alinéa (4)c);

b) soit fait le choix visé à l'alinéa (15)b), à l'égard d'un navire, et que le produit de disposition du navire a été utilisé avant 1975 pour remplacer celui-ci dans des conditions agréées par le ministre compétent.

Détermination de la nature de certains biens

(18.1) Le guide intitulé *Catégories 43.1 et 43.2 — Guide technique*, avec ses modifications successives, publié par le ministère des Ressources naturelles, est concluant en matière technique et scientifique lorsqu'il s'agit de déterminer si un bien remplit les critères applicables aux biens économisant l'énergie visés par règlement, énoncés dans le *Règlement de l'impôt sur le revenu*.

Affectation du dépôt

(19) Tout ou partie du dépôt fait en vertu du sous-alinéa (15)a)(ii) ou de la *Loi aidant à la construction de navires au Canada*, peut être versé à la personne ou pour le compte de la personne qui, dans des conditions agréées par le ministre compétent et en vue du remplacement du navire dont il a été disposé, acquiert avant 1975 un navire :

a) d'une part, qui a été construit au Canada et y est immatriculé ou qui est immatriculé, aux conditions agréées par le ministre compétent, dans tout pays ou territoire auquel s'applique le British Commonwealth Merchant Shipping Agreement (signé à Londres le 10 décembre 1931);

(b) in respect of the capital cost of which no allowance has been made to any other taxpayer under this Act or the *Canadian Vessel Construction Assistance Act*,

or incurs any conversion cost with respect to a vessel owned by that person that is registered in Canada or is registered under conditions satisfactory to the appropriate minister in any country or territory to which the agreement referred to in paragraph 13(19)(a) applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to that person of the vessel or the conversion cost to that person of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of, and any deposit or part of a deposit not so paid out before July 1, 1975 or not paid out pursuant to subsection 13(20) shall be paid to the Receiver General and form part of the Consolidated Revenue Fund.

b) d'autre part, dont le coût en capital n'a fait l'objet d'aucune déduction par quelque autre contribuable en vertu de la présente loi ou de la *Loi aidant à la construction de navires au Canada*,

ou engage des frais de conversion pour un navire dont cette personne est propriétaire et immatriculé au Canada ou immatriculé, aux conditions agréées par le ministre compétent, dans tout pays ou territoire auquel s'applique le British Commonwealth Merchant Shipping Agreement visé à l'alinéaa). Le rapport entre la somme versée et la somme déposée ne peut toutefois pas être supérieur au rapport existant entre le coût en capital ou les frais de conversion, suivant le cas, supportés par cette personne pour le navire et le produit de disposition du navire; tout dépôt ou partie de dépôt non payé de la sorte avant le 1er juillet 1975 ou non payé conformément au paragraphe (20) est payé au receveur général pour être affecté au Trésor.

Idem

(20) Notwithstanding any other provision of this section, where a taxpayer made a deposit under subparagraph 13(15)(a)(ii) and the proceeds of disposition in respect of which the deposit was made were not used by any person before 1975 under conditions satisfactory to the appropriate minister as a replacement for the vessel disposed of,

(a) to acquire a vessel described in paragraphs 13(19)(a) and 13(19)(b), or

(b) to incur any conversion cost with respect to a vessel owned by that person that is registered in Canada or is registered under conditions satisfactory to the appropriate minister in any country or territory to which the agreement referred to in paragraph 13(19)(a) applies,

the appropriate minister may refund to the taxpayer the deposit, or the part thereof not paid out to the taxpayer under subsection 13(19), as the case may be, in which case there shall be added, in computing the income of the taxpayer for the taxation year of the taxpayer in which the vessel was disposed of, that proportion of the amount that would have been included in computing the income for the year under this Part had the deposit not been made under subparagraph 13(15)(a)(ii) that the portion of the proceeds of disposition not so used before 1975 as such a replacement is of the proceeds of disposition, and, notwithstanding any other provision of this Act, such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection.

Idem

(20) Malgré les autres dispositions du présent article, lorsqu'un contribuable a fait un dépôt en vertu du sous-alinéa (15)a)(ii) et que le produit de disposition relativement auquel le dépôt a été fait n'a pas été employé par une personne avant 1975, aux conditions agréées par le ministre compétent, pour remplacer le navire dont il a été disposé :

a) soit pour acquérir un navire visé aux alinéas (19)a) et b);

b) soit pour engager des frais de conversion d'un navire dont cette personne est propriétaire et immatriculé au Canada ou immatriculé, aux conditions agréées par le ministre compétent, dans tout pays ou territoire auquel s'applique le British Commonwealth Merchant Shipping Agreement,

le ministre compétent peut rembourser au contribuable le dépôt, ou toute partie de ce dépôt non versée au contribuable en vertu du paragraphe (19), selon le cas. En pareille circonstance, il faut ajouter, dans le calcul du revenu du contribuable pour l'année d'imposition au cours de laquelle il a été disposé du navire, le produit de la multiplication de la somme qui aurait été incluse dans le calcul de son revenu pour l'année en vertu de la présente partie si le dépôt n'avait pas été fait en vertu du sous-alinéa (15)a)(ii) par le rapport entre la partie du produit de disposition qui n'a pas été ainsi employée avant 1975 pour ce remplacement et le produit de disposition. Malgré les autres dispositions de la présente loi, à l'égard de l'impôt, de l'intérêt ou des pénalités, une nouvelle cotisation est alors établie, au besoin, pour l'application du présent paragraphe.

Definitions

(21) In this section,

appropriate minister means the Canadian Maritime Commission, the Minister of Industry, Trade and Commerce, the Minister of Regional Industrial Expansion, the Minister of Industry, Science and Technology or the Minister of Industry or any other minister or body that was or is legally authorized to perform the act referred to in the provision in which this expression occurs at the time the act was or is performed; (*ministre compétent*)

conversion, in respect of a vessel, means a conversion or major alteration in Canada by a taxpayer; (*conversion*)

conversion cost, in respect of a vessel, means the cost of a conversion; (*frais de conversion*)

depreciable property of a taxpayer as of any time in a taxation year means property acquired by the taxpayer in respect of which the taxpayer has been allowed, or would, if the taxpayer owned the property at the end of the year and this Act were read without reference to subsection 13(26), be entitled to, a deduction under paragraph 20(1)(a) in computing income for that year or a preceding taxation year; (*bien amortissable*)

disposition of property [Repealed, 2001, c. 17, s. 6]

proceeds of disposition of property includes

(a) the sale price of property that has been sold,

(b) compensation for property unlawfully taken,

(c) compensation for property destroyed and any amount payable under a policy of insurance in respect of loss or destruction of property,

(d) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

(e) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,

(f) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that the compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

Définitions

(21) Les définitions qui suivent s'appliquent au présent article.

amortissement total S'agissant de l'amortissement total accordé à un contribuable avant un moment donné pour les biens d'une catégorie prescrite, le total des montants dont chacun représente une déduction pour amortissement prise par le contribuable par application de l'alinéa 20(1)a) pour les biens de cette catégorie ou un montant déduit en application du paragraphe 20(16) — ou qui serait ainsi déduit sans le paragraphe 20(16.1) — dans le calcul du revenu du contribuable pour les années d'imposition se terminant avant ce moment. (*total depreciation*)

avoir forestier

a) Droit ou permis de couper ou de retirer du bois sur une concession ou un territoire du Canada (appelé « droit initial » à la présente définition) si :

(i) d'une part, le contribuable a acquis ce droit initial (mais non de la manière visée à l'alinéa b)) après le 6 mai 1974,

(ii) d'autre part, au moment de l'acquisition du droit initial :

(A) soit il est raisonnable de considérer que le contribuable a acquis, directement ou indirectement, le droit à la prolongation ou au renouvellement de ce droit initial ou le droit d'acquérir un autre droit ou permis de ce genre pour le remplacer,

(B) soit dans le cours ordinaire des choses, le contribuable peut raisonnablement s'attendre de pouvoir obtenir la prolongation ou le renouvellement de ce droit initial ou de pouvoir acquérir un autre droit ou permis de ce genre pour le remplacer;

b) droit ou permis de couper ou de retirer du bois sur une concession ou un territoire du Canada dont le contribuable est propriétaire s'il est raisonnable de considérer ce droit ou ce permis :

(i) soit comme une prolongation ou un renouvellement d'un droit initial ou comme l'une de plusieurs prolongations ou l'un de plusieurs renouvellements d'un tel droit du contribuable,

(ii) soit comme ayant été acquis en remplacement d'un droit initial du contribuable ou en remplacement d'un renouvellement ou d'une prolongation

(g) an amount by which the liability of a taxpayer to a mortgagee or hypothecary creditor is reduced as a result of the sale of mortgaged or hypothecated property under a provision of the mortgage or hypothec, plus any amount received by the taxpayer out of the proceeds of the sale, and

(h) any amount included because of section 79 in computing a taxpayer's proceeds of disposition of the property; (*produit de disposition*)

timber resource property of a taxpayer means

(a) a right or licence to cut or remove timber from a limit or area in Canada (in this definition referred to as an "original right") if

(i) that original right was acquired by the taxpayer (other than in the manner referred to in paragraph 13(21) ***timber resource property*** (b)) after May 6, 1974, and

(ii) at the time of the acquisition of the original right

(A) the taxpayer may reasonably be regarded as having acquired, directly or indirectly, the right to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

(B) in the ordinary course of events, the taxpayer may reasonably expect to be able to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

(b) any right or licence owned by the taxpayer to cut or remove timber from a limit or area in Canada if that right or licence may reasonably be regarded

(i) as an extension or renewal of or as one of a series of extensions or renewals of an original right of the taxpayer, or

(ii) as having been acquired in substitution for or as one of a series of substitutions for an original right of the taxpayer or any renewal or extension thereof; (*avoir forestier*)

total depreciation allowed to a taxpayer before any time for property of a prescribed class means the total of all amounts each of which is an amount deducted by the taxpayer under paragraph 20(1)(a) in respect of property of that class or an amount deducted under subsection 20(16), or that would have been so deducted but for subsection 20(16.1), in computing the taxpayer's income for

de celui-ci ou lors de l'un de plusieurs remplacements d'un tel droit, ou d'un renouvellement ou d'une prolongation d'un tel droit. (*timber resource property*)

bien amortissable À un moment donné d'une année d'imposition, bien qu'un contribuable acquiert et pour lequel il obtient une déduction, en vertu de l'alinéa 20(1)a), dans le calcul de son revenu pour cette année ou pour une année d'imposition antérieure ou pour lequel il aurait droit à une telle déduction compte non tenu du paragraphe (26) et s'il était propriétaire du bien à la fin de l'année. (*depreciable property*)

conversion En ce qui concerne un navire, transformation importante ou conversion effectuée au Canada par un contribuable. (*conversion*)

disposition de biens [Abrogée, 2001, ch. 17, art. 6]

fraction non amortie du coût en capital S'agissant de la fraction non amortie du coût en capital existant à un moment donné pour un contribuable, relativement à des biens amortissables d'une catégorie prescrite, le montant calculé selon la formule suivante :

(A + B + C + D + D.1) - (E + E.1 + F + G + H + I + J + K)

où :

A représente le total des sommes dont chacune est le coût en capital que le contribuable a supporté pour chaque bien amortissable de cette catégorie acquis avant ce moment;

B le total des sommes incluses en vertu du présent article dans le revenu du contribuable pour une année d'imposition antérieure à ce moment, si ces sommes sont relatives à des biens amortissables de cette catégorie;

C le total des sommes dont chacune est la fraction d'une aide que le contribuable a remboursée en vertu d'une obligation de rembourser tout ou partie de cette aide en ce qui concerne un bien amortissable de cette catégorie après qu'il en a disposé et qui aurait été incluse dans une somme déterminée en vertu de l'alinéa (7.1)d) si le remboursement avait été effectué avant la disposition;

D le total des montants dont chacun est un montant, remboursé relativement à un bien de la catégorie après la disposition de celui-ci par le contribuable, qui aurait été visé à l'alinéa (7.4)b) si le remboursement avait été fait avant la disposition;

taxation years ending before that time; (*amortissement total*)

undepreciated capital cost to a taxpayer of depreciable property of a prescribed class as of any time means the amount determined by the formula

(A + B + C + D + D.1) - (E + E.1 + F + G + H + I + J + K)

where

A is the total of all amounts each of which is the capital cost to the taxpayer of a depreciable property of the class acquired before that time,

B is the total of all amounts included in the taxpayer's income under this section for a taxation year ending before that time, to the extent that those amounts relate to depreciable property of the class,

C is the total of all amounts each of which is such part of any assistance as has been repaid by the taxpayer, pursuant to an obligation to repay all or any part of that assistance, in respect of a depreciable property of the class subsequent to the disposition thereof by the taxpayer that would have been included in an amount determined under paragraph 13(7.1)(d) had the repayment been made before the disposition,

D is the total of all amounts each of which is an amount repaid in respect of a property of the class subsequent to the disposition thereof by the taxpayer that would have been an amount described in paragraph 13(7.4)(b) had the repayment been made before the disposition,

D.1 is the total of all amounts each of which is an amount paid by the taxpayer before that time as or on account of an existing or proposed countervailing or anti-dumping duty in respect of depreciable property of the class,

E is the total depreciation allowed to the taxpayer for property of the class before that time, including, if the taxpayer is an insurer, depreciation deemed to have been allowed before that time under subsection (22) or (23) as they read in their application to the taxpayer's last taxation year that began before November 2011,

E.1 is the total of all amounts each of which is an amount by which the undepreciated capital cost to the taxpayer of depreciable property of that class is required (otherwise than because of a reduction in the capital cost to the taxpayer of depreciable property) to be reduced at or before that time because of subsection 80(5),

D.1 le total des sommes représentant chacune un montant payé par le contribuable avant ce moment au titre d'un droit compensateur ou antidumping en vigueur ou proposé sur un bien amortissable de cette catégorie;

E l'amortissement total accordé au contribuable relativement aux biens de cette catégorie avant ce moment, y compris, si le contribuable est un assureur, l'amortissement réputé avoir été accordé avant ce moment en vertu des paragraphes (22) ou (23), dans leur application à la dernière année d'imposition du contribuable ayant commencé avant novembre 2011;

E.1 le total des montants représentant chacun un montant qui, par l'effet du paragraphe 80(5), est à appliquer, à ce moment ou antérieurement, en réduction de la fraction non amortie du coût en capital, pour le contribuable, d'un bien amortissable de cette catégorie (pour une raison autre que la réduction du coût en capital de biens amortissables pour le contribuable);

F le total des sommes dont chacune est, pour une disposition, avant ce moment, de biens (sauf les avoirs forestiers) de cette catégorie dont le contribuable est propriétaire, la moins élevée des sommes suivantes :

a) le produit de disposition des biens moins les dépenses engagées ou effectuées en vue de la disposition;

b) le coût en capital que ce contribuable a supporté pour les biens;

G le total des sommes dont chacune est, pour une disposition, avant ce moment, d'un avoir forestier de cette catégorie dont le contribuable est propriétaire, le produit de disposition de cet avoir moins les dépenses engagées ou effectuées en vue de la disposition;

H la somme, lorsque le contribuable a acquis les biens de cette catégorie en vue de tirer un revenu d'une mine et qu'il fait un choix à l'égard de ces biens selon les modalités et dans le délai réglementaires, égale à la partie du revenu tiré de l'exploitation de la mine qui n'est pas, en vertu des *Règles concernant l'application de l'impôt sur le revenu* relatives au revenu tiré de l'exploitation de nouvelles mines, incluse dans le calcul du revenu du contribuable ou d'une autre personne;

I le total des sommes dont chacune est une somme déduite en application du paragraphe 127(5) ou (6), au titre d'un bien amortissable de cette catégorie, dans le calcul de l'impôt payable par le contribuable pour une année d'imposition se terminant avant ce moment et après qu'il a disposé de ces biens;

F is the total of all amounts each of which is an amount in respect of a disposition before that time of property (other than a timber resource property) of the taxpayer of the class, and is the lesser of

(a) the proceeds of disposition of the property minus any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition, and

(b) the capital cost to the taxpayer of the property,

G is the total of all amounts each of which is the proceeds of disposition before that time of a timber resource property of the taxpayer of the class minus any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition,

H is, where the property of the class was acquired by the taxpayer for the purpose of gaining or producing income from a mine and the taxpayer so elects in prescribed manner and within a prescribed time in respect of that property, the amount equal to that portion of the income derived from the operation of the mine that is, by virtue of the provisions of the *Income Tax Application Rules* relating to income from the operation of new mines, not included in computing income of the taxpayer or any other person,

I is the total of all amounts deducted under subsection 127(5) or 127(6), in respect of a depreciable property of the class of the taxpayer, in computing the taxpayers tax payable for a taxation year ending before that time and subsequent to the disposition of that property by the taxpayer,

J is the total of all amounts of assistance that the taxpayer received or was entitled to receive before that time, in respect of or for the acquisition of a depreciable property of the class of the taxpayer subsequent to the disposition of that property by the taxpayer, that would have been included in an amount determined under paragraph 13(7.1)(f) had the assistance been received before the disposition, and

K is the total of all amounts each of which is an amount received by the taxpayer before that time in respect of a refund of an amount added to the undepreciated capital cost of depreciable property of the class because of the description of D.1; (*fraction non amortie du coût en capital*)

vessel means a vessel as defined in the *Canada Shipping Act*. (*navire*)

J le total des sommes dont chacune est une aide que le contribuable a reçue ou avait le droit de recevoir avant ce moment à l'égard d'un bien amortissable de cette catégorie du contribuable — ou pour l'acquisition d'un tel bien — après avoir disposé de ces biens et qui aurait été incluse dans une somme déterminée en vertu de l'alinéa (7.1)f) si l'aide avait été reçue avant la disposition;

K le total des sommes représentant chacune un montant reçu par le contribuable avant ce moment à titre de remboursement d'un montant ajouté à la fraction non amortie du coût en capital des biens amortissables de cette catégorie par l'effet de l'élément D.1 de la formule figurant à la présente définition. (*undepreciated capital cost*)

frais de conversion Relativement à un navire, coût d'une conversion. (*conversion cost*)

ministre compétent La Commission maritime canadienne, le ministre de l'Industrie et du Commerce, le ministre de l'Expansion industrielle régionale, le ministre de l'Industrie, des Sciences et de la Technologie, le ministre de l'Industrie ou tout autre ministre ou organisme autorisé par la loi à accomplir l'acte prévu à la disposition où le terme est employé au moment où l'acte est ou a été accompli. (*appropriate minister*)

navire S'entend au sens de la *Loi sur la marine marchande du Canada*. (*vessel*)

produit de disposition Le produit de disposition de biens comprend :

a) le prix de vente de biens qui ont été vendus;

b) les indemnités pour biens pris illégalement;

c) les indemnités afférentes à la destruction de biens et les sommes payables en vertu d'une police d'assurance du fait de la perte ou de la destruction de biens;

d) les indemnités afférentes aux biens pris en vertu d'une loi ou le prix de vente de biens vendus à une personne ayant donné un avis de son intention de les prendre en vertu d'une loi;

e) les indemnités afférentes aux biens ayant subi un préjudice, légalement ou illégalement, ou en vertu d'une loi ou de toute autre façon;

f) les indemnités afférentes aux dommages causés aux biens et les sommes payables en vertu d'une police d'assurance au titre des dommages causés à des biens, sauf dans la mesure où ces indemnités ou sommes, selon le cas, ont, dans un délai raisonnable après que les

dommages ont été subis, été dépensées pour la réparation des dommages;

g) le montant de la réduction de la dette dont un contribuable est débiteur envers un créancier hypothécaire découlant de la vente du bien hypothéqué en vertu d'une clause du contrat d'hypothèque, plus la partie du produit d'une telle vente reçue par le contribuable;

h) les sommes incluses, par l'effet de l'article 79, dans le calcul du produit de disposition de biens pour un contribuable. (*proceeds of disposition*)

Disposition of building

(21.1) Notwithstanding subsection 13(7) and the definition ***proceeds of disposition*** in section 54, where at any particular time in a taxation year a taxpayer disposes of a building of a prescribed class and the proceeds of disposition of the building determined without reference to this subsection and subsection 13(21.2) are less than the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before the disposition, for the purposes of paragraph (a) of the description of F in the definition ***undepreciated capital cost*** in subsection 13(21) and subdivision c,

(a) where in the year the taxpayer or a person with whom the taxpayer does not deal at arm's length disposes of land subjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be the lesser of

(i) the amount, if any, by which

(A) the total of the fair market value of the building at the particular time and the fair market value of the land immediately before its disposition

exceeds

(B) the lesser of the fair market value of the land immediately before its disposition and the amount, if any, by which the cost amount to the vendor of the land (determined without reference to this subsection) exceeds the total of the capital gains (determined without reference to subparagraphs 40(1)(a)(ii) and (iii)) in respect of dispositions of the land within 3 years before the particular time by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length to the taxpayer or to another person with whom the taxpayer was not dealing at arm's length, and

Disposition d'un bâtiment

(21.1) Malgré le paragraphe (7) et la définition de ***produit de disposition*** à l'article 54, dans le cas où, à un moment donné d'une année d'imposition, un contribuable dispose d'un bâtiment d'une catégorie prescrite pour un produit de disposition, déterminé compte non tenu du présent paragraphe ni du paragraphe (21.2), qui est inférieur à son coût indiqué, ou, s'il est moins élevé, à son coût en capital, pour lui immédiatement avant la disposition, les règles ci-après s'appliquent dans le cadre de l'alinéa a) de l'élément F de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe (21) et de la sous-section c :

a) si, au cours de l'année, le contribuable ou une personne avec qui il a un lien de dépendance dispose du fonds de terre sous-jacent ou contigu au bâtiment et nécessaire à l'usage qui en est fait, le produit de disposition du bâtiment est réputé égal au moins élevé des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le montant visé à la division (B):

(A) le total de la juste valeur marchande du bâtiment au moment donné et de la juste valeur marchande du fonds de terre immédiatement avant sa disposition,

(B) la juste valeur marchande du fonds de terre immédiatement avant sa disposition ou, s'il est inférieur, l'excédent éventuel de son coût indiqué pour le vendeur (déterminé compte non tenu du présent paragraphe) sur le total des gains en capital (déterminés compte non tenu des sous-alinéas 40(1)a) (ii) et (iii)) provenant de dispositions de ce fonds effectuées dans les trois ans précédant le moment donné par le contribuable ou par une personne avec qui il avait un lien de dépendance en faveur du contribuable ou d'une autre personne avec qui il a un lien de dépendance,

(ii) the greater of

(A) the fair market value of the building at the particular time, and

(B) the lesser of the cost amount and the capital cost to the taxpayer of the building immediately before its disposition,

and notwithstanding any other provision of this Act, the proceeds of disposition of the land are deemed to be the amount, if any, by which

(iii) the total of the proceeds of disposition of the building and of the land determined without reference to this subsection and subsection 13(21.2)

exceeds

(iv) the proceeds of disposition of the building as determined under this paragraph,

and the cost to the purchaser of the land shall be determined without reference to this subsection; and

(b) where paragraph 13(21.1)(a) does not apply with respect to the disposition and, at any time before the disposition, the taxpayer or a person with whom the taxpayer did not deal at arm's length owned the land subjacent to, or immediately contiguous to and necessary for the use of, the building, the proceeds of disposition of the building are deemed to be an amount equal to the total of

(i) the proceeds of disposition of the building determined without reference to this subsection and subsection 13(21.2), and

(ii) 1/2 of the amount by which the greater of

(A) the cost amount to the taxpayer of the building, and

(B) the fair market value of the building

immediately before its disposition exceeds the proceeds of disposition referred to in subparagraph 13(21.1)(b)(i).

(ii) le plus élevé des montants suivants :

(A) la juste valeur marchande du bâtiment au moment donné,

(B) le coût indiqué du bâtiment, ou, s'il est inférieur, son coût en capital, pour le contribuable immédiatement avant sa disposition;

malgré les autres dispositions de la présente loi, le produit de disposition du fonds de terre est réputé égal à l'excédent éventuel du total visé au sous-alinéa (iii) sur le montant visé au sous-alinéa (iv):

(iii) le total des produits de disposition du bâtiment et du fonds de terre, déterminés compte non tenu du présent paragraphe ni du paragraphe (21.2),

(iv) le produit de disposition du bâtiment déterminé selon le présent alinéa;

par ailleurs, le coût du fonds de terre pour l'acheteur est déterminé compte non tenu du présent paragraphe;

b) lorsque l'alinéa a) ne s'applique pas à la disposition et que, à un moment donné avant celle-ci, le contribuable ou une personne avec laquelle il avait un lien de dépendance était propriétaire du fonds de terre sous-jacent ou contigu au bâtiment et nécessaire à l'usage qui en est fait, le produit de disposition du bâtiment est réputé égal au total des montants suivants :

(i) le produit de disposition du bâtiment, déterminé compte non tenu du présent paragraphe ni du paragraphe (21.2),

(ii) la moitié de l'excédent du plus élevé des montants suivants sur le produit de disposition visé au sous-alinéa (i):

(A) le coût indiqué du bâtiment pour le contribuable immédiatement avant sa disposition,

(B) la juste valeur marchande du bâtiment immédiatement avant sa disposition.

Loss on certain transfers

(21.2) Where

(a) a person or partnership (in this subsection referred to as the "transferor") disposes at a particular time (otherwise than in a disposition described in any of paragraphs (c) to (g) of the definition ***superficial loss*** in section 54) of a depreciable property — other

Perte sur certains transferts

(21.2) Dans le cas où, à la fois :

a) une personne ou une société de personnes (appelées « cédant » au présent paragraphe) dispose, en dehors du cadre d'une disposition visée à l'un des alinéas c) à g) de la définition de ***perte apparente*** à l'article 54, de son bien amortissable d'une catégorie prescrite

than, for the purposes of computing the exempt surplus or exempt deficit and taxable surplus or taxable deficit of a foreign affiliate of a taxpayer, in respect of the taxpayer, where the transferor is the affiliate or is a partnership of which the affiliate is a member, depreciable property that is, or would be, if the transferor were a foreign affiliate of the taxpayer, excluded property (within the meaning assigned by subsection 95(1)) of the transferor — of a particular prescribed class of the transferor,

(b) the lesser of

(i) the capital cost to the transferor of the transferred property, and

(ii) the proportion of the undepreciated capital cost to the transferor of all property of the particular class immediately before that time that

(A) the fair market value of the transferred property at that time

is of

(B) the fair market value of all property of the particular class immediately before that time

exceeds the amount that would otherwise be the transferor's proceeds of disposition of the transferred property at the particular time, and

(c) on the 30th day after the particular time, a person or partnership (in this subsection referred to as the "subsequent owner") who is the transferor or a person affiliated with the transferor owns or has a right to acquire the transferred property (other than a right, as security only, derived from a mortgage, hypothec, agreement for sale or similar obligation),

the following rules apply:

(d) sections 85 and 97 do not apply to the disposition,

(e) for the purposes of applying this section and section 20 and any regulations made for the purpose of paragraph 20(1)(a) to the transferor for taxation years that end after the particular time,

(i) the transferor is deemed to have disposed of the transferred property for proceeds equal to the lesser of the amounts determined under subparagraphs 13(21.2)(b)(i) and 13(21.2)(b)(ii) with respect to the transferred property,

(ii) where two or more properties of a prescribed class of the transferor are disposed of at the same time, subparagraph (i) applies as if each property

donnée (à l'exclusion, pour ce qui est du calcul du surplus exonéré ou du déficit exonéré et du surplus imposable ou du déficit imposable d'une société étrangère affiliée d'un contribuable, relativement à celui-ci, dans le cas où le cédant est soit la société affiliée, soit une société de personnes dont celle-ci est un associé, d'un bien amortissable qui est un bien exclu, au sens du paragraphe 95(1), du cédant ou le serait si celui-ci était une société étrangère affiliée du contribuable);

b) le moins élevé des montants suivants excède le montant qui représenterait par ailleurs le produit de disposition du bien transféré pour le cédant au moment de la disposition :

(i) le coût en capital du bien transféré pour le cédant,

(ii) le produit de la multiplication de la fraction non amortie du coût en capital, pour le cédant, de l'ensemble des biens de la catégorie donnée immédiatement avant ce moment par le rapport entre :

(A) d'une part, la juste valeur marchande du bien transféré à ce moment,

(B) d'autre part, la juste valeur marchande de l'ensemble des biens de la catégorie donnée immédiatement avant ce moment;

c) le trentième jour suivant le moment de la disposition, une personne ou une société de personnes (appelées « propriétaire successeur » au présent paragraphe) qui est le cédant ou une personne affiliée à celui-ci est propriétaire du bien transféré ou a le droit de l'acquérir, sauf s'il s'agit d'un droit servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un tire semblable,

les règles suivantes s'appliquent :

d) les articles 85 et 97 ne s'appliquent pas à la disposition;

e) pour l'application du présent article, de l'article 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) au cédant pour les années d'imposition qui se terminent après le moment de la disposition :

(i) le cédant est réputé avoir disposé du bien transféré pour un produit égal au moins élevé des montants déterminés selon les sous-alinéas b)(i) et (ii) relativement à ce bien,

(ii) dans le cas où il est disposé simultanément de plusieurs biens d'une catégorie prescrite du cédant,

so disposed of had been separately disposed of in the order designated by the transferor or, if the transferor does not designate an order, in the order designated by the Minister,

(iii) the transferor is deemed to own a property that was acquired before the beginning of the taxation year that includes the particular time at a capital cost equal to the amount of the excess described in paragraph 13(21.2)(b), and that is property of the particular class, until the time that is immediately before the first time, after the particular time,

(A) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns or has a right to acquire the transferred property (other than a right, as security only, derived from a mortgage, hypothec, agreement for sale or similar obligation),

(B) at which the transferred property is not used by the transferor or a person affiliated with the transferor for the purpose of earning income and is used for another purpose,

(C) at which the transferred property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(D) that is immediately before the transferor is subject to a loss restriction event, or

(E) if the transferor is a corporation,

(I) for the purposes of computing the transferor's foreign accrual property income, exempt surplus or exempt deficit, and taxable surplus or taxable deficit, in respect of a taxpayer for a taxation year of the transferor where the transferor is a foreign affiliate of the taxpayer, at which the liquidation and dissolution of the transferor begins, unless the liquidation and dissolution is

1 a qualifying liquidation and dissolution (within the meaning assigned by subsection 88(3.1)) of the transferor, or

2 a designated liquidation and dissolution (within the meaning assigned by subsection 95(1)) of the transferor, and

(II) for any other purposes, at which the winding-up (other than a winding-up to which

le sous-alinéa (i) s'applique comme si chacun de ces biens avait fait l'objet d'une disposition distincte dans l'ordre indiqué par le cédant ou, à défaut d'une telle indication, dans l'ordre indiqué par le ministre,

(iii) le cédant est réputé être propriétaire d'un bien qui fait partie de la catégorie donnée et qui a été acquis avant le début de l'année d'imposition qui comprend le moment de la disposition à un coût en capital égal à l'excédent visé à l'alinéa b), jusqu'au moment immédiatement avant le premier en date des moments suivants qui est postérieur à la disposition :

(A) le début d'une période de 30 jours tout au long de laquelle ni le cédant, ni une personne affiliée à celui-ci n'est propriétaire du bien transféré ou n'a le droit de l'acquérir, sauf s'il s'agit d'un droit servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un titre semblable,

(B) le moment auquel le bien transféré n'est pas utilisé par le cédant ou par une personne affiliée à celui-ci pour gagner un revenu, mais est utilisé à une autre fin,

(C) le moment auquel le cédant serait réputé, par l'article 128.1 ou le paragraphe 149(10), avoir disposé du bien transféré s'il en était propriétaire,

(D) le moment immédiatement avant le moment où le cédant est assujetti à un fait lié à la restriction de pertes,

(E) si le cédant est une société :

(I) pour ce qui est du calcul de son revenu étranger accumulé, tiré de biens, de son surplus exonéré ou déficit exonéré et de son surplus imposable ou déficit imposable, relativement à un contribuable pour une année d'imposition du cédant, dans le cas où celui-ci est une société étrangère affiliée du contribuable, le moment auquel la liquidation et dissolution du cédant commence, sauf s'il s'agit d'une liquidation et dissolution qui, selon le cas :

1 est une liquidation et dissolution admissibles, au sens du paragraphe 88(3.1), du cédant,

subsection 88(1) applies) of the transferor begins, and

(iv) the property described in subparagraph 13(21.2)(e)(iii) is considered to have become available for use by the transferor at the time at which the transferred property is considered to have become available for use by the subsequent owner,

(f) for the purposes of subparagraphs 13(21.2)(e)(iii) and 13(21.2)(e)(iv), where a partnership otherwise ceases to exist at any time after the particular time, the partnership is deemed not to have ceased to exist, and each person who was a member of the partnership immediately before the partnership would, but for this paragraph, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in clauses 13(21.2)(e)(iii)(A) to 13(21.2)(e)(iii)(E), and

(g) for the purposes of applying this section and section 20 and any regulations made for the purpose of paragraph 20(1)(a) to the subsequent owner,

(i) the subsequent owner's capital cost of the transferred property is deemed to be the amount that was the transferor's capital cost of the transferred property, and

(ii) the amount by which the transferor's capital cost of the transferred property exceeds its fair market value at the particular time is deemed to have been deducted under paragraph 20(1)(a) by the subsequent owner in respect of property of that class in computing income for taxation years that ended before the particular time.

2 est une liquidation et dissolution désignées, au sens du paragraphe 95(1), du cédant,

(II) pour toute autre fin, le moment auquel la liquidation du cédant commence, sauf s'il s'agit d'une liquidation à laquelle s'applique le paragraphe 88(1),

(iv) le bien visé au sous-alinéa (iii) est considéré comme devenu prêt à être mis en service par le cédant au moment auquel le bien transféré est considéré comme devenu prêt à être mis en service par le propriétaire successeur;

f) pour l'application des sous-alinéas e)(iii) et (iv), la société de personnes qui cesse par ailleurs d'exister après la disposition est réputée ne cesser d'exister qu'au moment donné immédiatement après le premier en date des moments visés aux divisions e)(iii)(A) à (E), et chaque personne qui en était un associé immédiatement avant le moment où elle aurait cessé d'exister, n'eût été le présent alinéa, est réputée le demeurer jusqu'au moment donné;

g) pour l'application du présent article, de l'article 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) au propriétaire successeur :

(i) le coût en capital du bien transféré pour le propriétaire successeur est réputé égal au montant qui représentait le coût en capital de ce bien pour le cédant,

(ii) l'excédent du coût en capital du bien transféré pour le cédant sur sa juste valeur marchande au moment de la disposition est réputé avoir été déduit en application de l'alinéa 20(1)a) par le propriétaire successeur, relativement aux biens de la catégorie en question, dans le calcul du revenu pour les années d'imposition qui se sont terminées avant le moment de la disposition.

(22) to (23.1) [Repealed, 2013, c. 34, s. 175]

(22) à (23.1) [Abrogés, 2013, ch. 34, art. 175]

Loss restriction event

(24) If at any time a taxpayer is subject to a loss restriction event and, within the 12-month period that ended immediately before that time, the taxpayer, a partnership of which the taxpayer was a majority-interest partner or a trust of which the taxpayer was a majority-interest beneficiary (as defined in subsection 251.1(3)) acquired depreciable property (other than property that was held, by the taxpayer, partnership or trust or by a person that would be affiliated with the taxpayer if section 251.1 were read without reference to the definition ***controlled*** in

Fait lié à la restriction de pertes

(24) Si un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné et que, dans la période de douze mois qui s'est terminée immédiatement avant ce moment, le contribuable, une société de personnes dont il est un associé détenant une participation majoritaire ou une fiducie dont il est un bénéficiaire détenant une participation majoritaire, au sens du paragraphe 251.1(3), a acquis un bien amortissable (sauf un bien détenu par le contribuable, la société de personnes ou la fiducie, ou par une personne qui serait affiliée au

subsection 251.1(3), throughout the period that began immediately before the 12-month period began and ended at the time the property was acquired by the taxpayer, partnership or trust) that was not used, or acquired for use, by the taxpayer, partnership or trust in a business that was carried on by it immediately before the 12-month period began

(a) subject to paragraph (b), for the purposes of the description of A in the definition ***undepreciated capital cost*** in subsection (21) and of sections 127 and 127.1, the property is deemed

(i) not to have been acquired by the taxpayer, partnership or trust, as the case may be, before that time, and

(ii) to have been acquired by it immediately after that time; and

(b) if the property was disposed of by the taxpayer, partnership or trust, as the case may be, before that time and was not reacquired by it before that time, for the purposes of the description of A in that definition, the property is deemed to have been acquired by it immediately before the property was disposed of.

contribuable si l'article 251.1 s'appliquait compte non tenu de la définition de ***contrôlé*** au paragraphe 251.1(3), tout au long de la période ayant commencé immédiatement avant la période de douze mois et s'étant terminée au moment où le bien a été acquis par le contribuable, la société de personnes ou la fiducie) qui n'a pas été utilisé, ni acquis en vue d'être utilisé, par le contribuable, la société de personnes ou la fiducie dans le cadre d'une entreprise qu'il ou elle exploitait immédiatement avant le début de la période de douze mois, les règles ci-après s'appliquent :

a) sous réserve de l'alinéa b), pour l'application de l'élément A de la formule figurant à la définition de ***fraction non amortie du coût en capital***, au paragraphe (21), et des articles 127 et 127.1, le bien est réputé :

(i) ne pas avoir été acquis par le contribuable, la société de personnes ou la fiducie, selon le cas, avant le moment donné,

(ii) avoir été acquis par lui ou elle, selon le cas, immédiatement après ce moment;

b) dans le cas où le contribuable, la société de personnes ou la fiducie a disposé du bien avant le moment donné et ne l'a pas acquis de nouveau avant ce moment, le bien est réputé, pour l'application de l'élément A de la formule mentionnée à l'alinéa a), avoir été acquis par lui ou elle, selon le cas, immédiatement avant sa disposition.

Affiliation — subsection (24)

(25) For the purposes of subsection (24), if the taxpayer referred to in that subsection was formed or created in the 12-month period referred to in that subsection, the taxpayer is deemed to have been, throughout the period that began immediately before the 12-month period and ended immediately after it was formed or created,

(a) in existence; and

(b) affiliated with every person with whom it was affiliated (otherwise than because of a right referred to in paragraph 251(5)(b)) throughout the period that began when it was formed or created and that ended immediately before the time at which the taxpayer was subject to the loss restriction event referred to in that subsection.

Affiliation — paragraphe (24)

(25) Pour l'application du paragraphe (24), si le contribuable visé à ce paragraphe a été constitué ou établi au cours de la période de douze mois mentionnée à ce paragraphe, les faits ci-après sont réputés s'avérer à son égard tout au long de la période ayant commencé immédiatement avant la période de douze mois et s'étant terminée immédiatement après sa constitution ou son établissement :

a) il existait;

b) il était affilié à chaque personne à laquelle il était affilié (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b)) tout au long de la période ayant commencé au moment de sa constitution ou de son établissement et s'étant terminée immédiatement avant le moment où il a été assujetti à un fait lié à la restriction de pertes visé à ce paragraphe.

Restriction on deduction before available for use

(26) In applying the definition ***undepreciated capital cost*** in subsection 13(21) for the purpose of paragraph 20(1)(a) and any regulations made for the purpose of that paragraph, in computing a taxpayer's income for a taxation year from a business or property, no amount shall be included in calculating the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class in respect of the capital cost to the taxpayer of a property of that class (other than property that is a certified production, as defined by regulations made for the purpose of paragraph 20(1)(a)) before the time the property is considered to have become available for use by the taxpayer.

Interpretation — available for use

(27) For the purposes of subsection 13(26) and subject to subsection 13(29), property (other than a building or part thereof) acquired by a taxpayer shall be considered to have become available for use by the taxpayer at the earliest of

(a) the time the property is first used by the taxpayer for the purpose of earning income,

(b) the time that is immediately after the beginning of the first taxation year of the taxpayer that begins more than 357 days after the end of the taxation year of the taxpayer in which the property was acquired by the taxpayer,

(c) the time that is immediately before the disposition of the property by the taxpayer,

(d) the time the property

(i) is delivered to the taxpayer, or to a person or partnership (in this paragraph referred to as the "other person") that will use the property for the benefit of the taxpayer, or, where the property is not of a type that is deliverable, is made available to the taxpayer or the other person, and

(ii) is capable, either alone or in combination with other property in the possession at that time of the taxpayer or the other person, of being used by or for the benefit of the taxpayer or the other person to produce a commercially saleable product or to perform a commercially saleable service, including an intermediate product or service that is used or consumed, or to be used or consumed, by or for the benefit of the taxpayer or the other person in producing or performing any such product or service,

Restriction de la déduction portant sur un bien prêt à être mis en service

(26) Pour l'application de la définition de ***fraction non amortie du coût en capital*** au paragraphe (21) dans le cadre de l'alinéa 20(1)a) et des dispositions réglementaires prises pour l'application de cet alinéa, pour le calcul du revenu qu'un contribuable tire d'une entreprise ou d'un bien pour une année d'imposition, aucun montant n'est inclus dans le calcul de la fraction non amortie du coût en capital, pour le contribuable, d'un bien amortissable d'une catégorie prescrite au titre du coût en capital, pour lui, d'un bien de cette catégorie (sauf un bien qui est une production portant visa, au sens des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a)) avant le moment où le bien est considéré comme devenu prêt à être mis en service par le contribuable.

Bien prêt à être mis en service

(27) Pour l'application du paragraphe (26) et sous réserve du paragraphe (29), le bien qu'un contribuable acquiert, à l'exception de tout ou partie d'un bâtiment, est considéré comme devenu prêt à être mis en service par lui au premier en date des moments suivants :

a) le moment où le contribuable l'utilise pour la première fois pour gagner un revenu;

b) le moment immédiatement après le début de la première année d'imposition du contribuable qui commence plus de 357 jours après la fin de son année d'imposition au cours de laquelle il a acquis le bien;

c) le moment immédiatement avant la disposition du bien par le contribuable;

d) le moment où le bien, à la fois :

(i) est livré au contribuable, ou à une personne ou une société de personnes qui l'utilisera au profit du contribuable, ou, si le bien ne se prête pas à la livraison, est mis à la disposition de l'un d'entre eux,

(ii) peut, seul ou avec d'autres biens en possession, à ce moment, du contribuable ou de la personne ou société de personnes visée au sous-alinéa (i), être utilisé par le contribuable ou cette personne ou société de personnes, ou pour son compte, pour produire un produit ou fournir un service qui est vendable commercialement, y compris un produit ou un service utilisé ou consommé, ou à être utilisé ou consommé, par le contribuable ou cette personne ou société de personnes, ou pour son compte, dans le cadre de cette production ou de cette fourniture;

e) dans le cas où le contribuable a acquis le bien pour la prévention, la réduction ou l'élimination de la

(e) in the case of property acquired by the taxpayer for the prevention, reduction or elimination of air or water pollution created by operations carried on by the taxpayer or that would be created by such operations if the property had not been acquired, the time at which the property is installed and capable of performing the function for which it was acquired,

(f) in the case of property acquired by

(i) a corporation a class of shares of the capital stock of which is listed on a designated stock exchange,

(ii) a corporation that is a public corporation because of an election made under subparagraph (b)(i) of the definition ***public corporation*** in subsection 89(1) or a designation made by the Minister in a notice to the corporation under subparagraph (b)(ii) of that definition, or

(iii) a subsidiary wholly-owned corporation of a corporation described in subparagraph 13(27)(f)(i) or 13(27)(f)(ii),

the end of the taxation year for which depreciation in respect of the property is first deducted in computing the earnings of the corporation in accordance with generally accepted accounting principles and for the purpose of the financial statements of the corporation for the year presented to its shareholders,

(g) in the case of property acquired by the taxpayer in the course of carrying on a business of farming or fishing, the time at which the property has been delivered to the taxpayer and is capable of performing the function for which it was acquired,

(h) in the case of property of a taxpayer that is a motor vehicle, trailer, trolley bus, aircraft or vessel for which one or more permits, certificates or licences evidencing that the property may be operated by the taxpayer in accordance with any laws regulating the use of such property are required to be obtained, the time all those permits, certificates or licences have been obtained,

(i) in the case of property that is a spare part intended to replace a part of another property of the taxpayer if required due to a breakdown of that other property, the time the other property became available for use by the taxpayer,

(j) in the case of a concrete gravity base structure and topside modules intended to be used at an oil production facility in a commercial discovery area (within the meaning assigned by section 2 of the *Canada* pollution de l'air ou de l'eau causée par des activités qu'il exerce ou qui serait ainsi causée si le bien n'avait pas été acquis, le moment où le bien est installé et peut servir aux fins auxquelles il a été acquis;

f) dans le cas où le bien est acquis par l'une des sociétés suivantes, la fin de l'année d'imposition pour laquelle une déduction pour amortissement au titre du bien est demandée pour la première fois dans le calcul des gains de la société, selon les principes comptables généralement reconnus et dans le cadre des états financiers pour l'année qu'elle présente à ses actionnaires; toutefois, dans le cas où l'amortissement est calculé en fonction d'une partie du coût du bien, seule cette partie est considérée comme devenue prête à être mise en service à la fin de l'année d'imposition mentionnée au présent alinéa :

(i) une société dont une catégorie d'actions du capital-actions est cotée à une bourse de valeurs désignée,

(ii) une société qui est une société publique par suite d'un choix fait conformément au sous-alinéa b)(i) de la définition de ***société publique*** au paragraphe 89(1) ou d'une désignation faite par le ministre conformément au sous-alinéa b)(ii) de cette définition,

(iii) une filiale à cent pour cent de l'une de ces sociétés;

g) dans le cas où le contribuable a acquis le bien dans le cadre de l'exploitation d'une entreprise agricole ou d'une entreprise de pêche, le moment où le bien lui est livré et peut servir aux fins auxquelles il a été acquis;

h) dans le cas d'un véhicule à moteur, d'une remorque, d'un trolleybus, d'un aéronef ou d'un navire du contribuable, pour lequel une ou plusieurs autorisations — permis, attestations ou licences — établissant que le contribuable peut faire fonctionner le bien en conformité avec la législation qui en réglemente l'utilisation doivent être obtenues, le moment où ces autorisations sont obtenues;

i) dans le cas d'une pièce de rechange destinée à remplacer une partie d'un autre bien du contribuable dans l'éventualité d'une défectuosité de ce bien, le moment où cet autre bien est devenu prêt à être mis en service par le contribuable;

j) dans le cas de structures à embasepoids en béton et de modules de surface destinés à être utilisés à une installation de production pétrolière dans un périmètre de découverte exploitable, au sens donné à cette

Petroleum Resources Act) on which the drilling of the first well that indicated the discovery began before March 5, 1982, in an offshore region prescribed for the purposes of subsection 127(9), the time the gravity base structure deballasts and lifts the assembled topside modules, and

(k) where the property is (within the meaning assigned by subsection 13(4.1)) a replacement for a former property described in paragraph 13(4)(a) that was acquired before 1990 or that became available for use at or before the time the replacement property is acquired, the time the replacement property is acquired,

and, for the purposes of paragraph 13(27)(f), where depreciation is calculated by reference to a portion of the cost of the property, only that portion of the property shall be considered to have become available for use at the end of the taxation year referred to in that paragraph.

expression à l'article 2 de la *Loi fédérale sur les hydrocarbures*, où le forage du premier puits qui a donné lieu à la découverte a commencé avant le 5 mars 1982 dans une zone extracôtière visée par règlement pour l'application du paragraphe 127(9), le moment où la structure à embasepoids en béton déballaste et soulève les modules de surface assemblés;

k) dans le cas d'un bien servant de remplacement, aux termes du paragraphe (4.1), à un ancien bien visé à l'alinéa (4)a) qui est acquis avant 1990 ou qui devient prêt à être mis en service au plus tard au moment de l'acquisition du bien de remplacement, le moment de cette acquisition.

Idem

(28) For the purposes of subsection 13(26) and subject to subsection 13(29), property that is a building or part thereof of a taxpayer shall be considered to have become available for use by the taxpayer at the earliest of

(a) the time all or substantially all of the building is first used by the taxpayer for the purpose for which it was acquired,

(b) the time the construction of the building is complete,

(c) the time that is immediately after the beginning of the taxpayer's first taxation year that begins more than 357 days after the end of the taxpayer's taxation year in which the property was acquired by the taxpayer,

(d) the time that is immediately before the disposition of the property by the taxpayer, and

(e) where the property is (within the meaning assigned by subsection 13(4.1)) a replacement for a former property described in paragraph 13(4)(a) that was acquired before 1990 or that became available for use at or before the time the replacement property is acquired, the time the replacement property is acquired,

and, for the purpose of this subsection, a renovation, alteration or addition to a particular building shall be considered to be a building separate from the particular building.

Bâtiment prêt à être mis en service

(28) Pour l'application du paragraphe (26) et sous réserve du paragraphe (29), tout ou partie du bâtiment d'un contribuable est considéré comme devenu prêt à être mis en service par lui au premier en date des moments suivants :

a) le moment où le contribuable utilise pour la première fois la totalité, ou presque, du bâtiment aux fins auxquelles il l'a acquis;

b) le moment où la construction du bâtiment est achevée;

c) le moment après le début de la première année d'imposition du contribuable qui commence plus de 357 jours après la fin de son année d'imposition au cours de laquelle il a acquis le bien;

d) le moment avant la disposition du bien par le contribuable;

e) dans le cas d'un bien servant de remplacement, aux termes du paragraphe (4.1), à un ancien bien visé à l'alinéa (4)a) qui est acquis avant 1990 ou qui devient prêt à être mis en service au plus tard au moment de l'acquisition du bien de remplacement, le moment de cette acquisition.

Pour l'application du présent paragraphe, la rénovation ou la transformation d'un bâtiment, ou l'adjonction à celui-ci, est considérée comme un bâtiment distinct.

Idem

(29) For the purposes of subsection 13(26), where a taxpayer acquires property (other than a building that is used or is to be used by the taxpayer principally for the

Conditions visant d'autres biens

(29) Pour l'application du paragraphe (26), lorsqu'un contribuable acquiert un bien, sauf un bâtiment qu'il utilise ou utilisera principalement en vue de gagner un

purpose of gaining or producing gross revenue that is rent) in the taxpayer's first taxation year (in this subsection referred to as the "particular year") that begins more than 357 days after the end of the taxpayer's taxation year in which the taxpayer first acquired property after 1989, that is part of a project of the taxpayer, or in a taxation year subsequent to the particular year, and at the end of any taxation year (in this subsection referred to as the "inclusion year") of the taxpayer

(a) the property can reasonably be considered to be part of the project, and

(b) the property has not otherwise become available for use,

if the taxpayer so elects in prescribed form filed with the taxpayer's return of income under this Part for the particular year, that particular portion of the property the capital cost of which does not exceed the amount, if any, by which

(c) the total of all amounts each of which is the capital cost to the taxpayer of a depreciable property (other than a building that is used or is to be used by the taxpayer principally for the purpose of gaining or producing gross revenue that is rent) that is part of the project, that was acquired by the taxpayer after 1989 and before the end of the taxpayer's last taxation year that ends more than 357 days before the beginning of the inclusion year and that has not become available for use at or before the end of the inclusion year (except where the property has first become available for use before the end of the inclusion year because of this subsection or paragraph 13(27)(b) or 13(28)(c))

exceeds

(d) the total of all amounts each of which is the capital cost to the taxpayer of a depreciable property, other than the particular portion of the property, that is part of the project to the extent that the property is considered, because of this subsection, to have become available for use before the end of the inclusion year

shall be considered to have become available for use immediately before the end of the inclusion year.

Transfers of property

(30) Notwithstanding subsections 13(27) to 13(29), for the purpose of subsection 13(26), property of a taxpayer shall be deemed to have become available for use by the taxpayer at the earlier of the time the property was acquired by the taxpayer and, if applicable, a prescribed time, where

(a) the property was acquired

revenu brut qui consiste en un loyer, soit au cours de sa première année d'imposition (appelée « année donnée » au présent paragraphe) qui commence plus de 357 jours après la fin de son année d'imposition au cours de laquelle il a acquis, pour la première fois après 1989, un bien qui fait partie d'un de ses projets, soit au cours d'une année d'imposition postérieure à l'année donnée, et que le bien, à la fin de n'importe quelle année d'imposition du contribuable (appelée « année d'inclusion » au présent paragraphe), peut raisonnablement être considéré comme faisant partie du projet et n'est pas autrement devenu prêt à être mis en service, la partie du bien dont le coût en capital ne dépasse pas l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) (appelée « partie donnée du bien » au présent paragraphe) est considérée comme devenue prête à être mise en service immédiatement avant la fin de l'année d'inclusion si le contribuable en fait le choix selon le formulaire prescrit annexé à sa déclaration de revenu pour l'année donnée en vertu de la présente partie :

a) le total des montants dont chacun représente le coût en capital, pour le contribuable, d'un bien amortissable qui fait partie du projet, sauf un bâtiment que le contribuable utilise ou utilisera principalement en vue de gagner un revenu brut qui consiste en un loyer, que le contribuable acquiert après 1989 et avant la fin de sa dernière année d'imposition se terminant plus 357 jours avant le début de l'année d'inclusion et qui n'est pas devenu prêt à être mis en service au plus tard à la fin de l'année d'inclusion, sauf si le bien était devenu prêt à être mis en service pour la première fois avant la fin de l'année d'inclusion en vertu du présent paragraphe ou des alinéas (27)b) ou (28)c);

b) le total des montants dont chacun représente le coût en capital, pour le contribuable, d'un bien amortissable, autre que la partie donnée du bien, qui fait partie du projet dans la mesure où le bien est considéré, aux termes du présent paragraphe, comme devenu prêt à être mis en service avant la fin de l'année d'inclusion.

Transfert de biens

(30) Malgré les paragraphes (27) à (29) et pour l'application du paragraphe (26), le bien d'un contribuable est réputé devenir prêt à être mis en service par le contribuable au premier en date du moment de son acquisition par le contribuable et, le cas échéant, du moment fixé par règlement dans le cas où:

a) d'une part, le bien a été acquis soit auprès d'une personne avec laquelle le contribuable avait un lien de

(i) from a person with whom the taxpayer was not dealing at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b)) at the time the property was acquired by the taxpayer, or

(ii) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, subsection 55(2) would not apply to the dividend because of paragraph 55(3)(b); and

(b) before the property was acquired by the taxpayer, it became available for use (determined without reference to paragraphs 13(27)(c) and 13(28)(d)) by the person from whom it was acquired.

dépendance, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), au moment de l'acquisition du bien par le contribuable, soit dans le cadre d'une réorganisation relativement à laquelle le paragraphe 55(2) ne s'applique pas, par l'effet de l'alinéa 55(3)b), au dividende qu'une société pourrait recevoir à l'occasion de la réorganisation;

b) d'autre part, le bien est devenu prêt à être mis en service, avant le moment de son acquisition par le contribuable, par la personne auprès de qui il a été acquis, compte non tenu des alinéas (27)c) et (28)d).

Idem

(31) For the purposes of paragraphs 13(27)(b) and 13(28)(c) and subsection 13(29), where a property of a taxpayer was acquired from a person (in this subsection referred to as "the transferor")

(a) with whom the taxpayer was, at the time the taxpayer acquired the property, not dealing at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b)), or

(b) in the course of a reorganization in respect of which, if a dividend were received by a corporation in the course of the reorganization, subsection 55(2) would not apply to the dividend because of the application of paragraph 55(3)(b), the taxpayer shall be deemed to have acquired the property at the time it was acquired by the transferor.

Idem

(31) Pour l'application des alinéas (27)b) et (28)c) et du paragraphe (29), le contribuable qui acquiert un bien auprès d'une personne est réputé l'avoir acquis au moment où la personne l'a acquis si, selon le cas :

a) au moment où il a acquis le bien, il avait un lien de dépendance avec la personne, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b);

b) il a acquis le bien dans le cadre d'une réorganisation relativement à laquelle le paragraphe 55(2) ne s'applique pas, par l'effet de l'alinéa 55(3)b), au dividende qu'une société pourrait recevoir à l'occasion de la réorganisation.

Leased property

(32) Where a taxpayer has leased property that is depreciable property of a person with whom the taxpayer does not deal at arm's length, the amount, if any, by which

(a) the total of all amounts paid or payable by the taxpayer for the use of, or the right to use, the property in a particular taxation year and before the time the property would have been considered to have become available for use by the taxpayer if the taxpayer had acquired the property, and that, but for this subsection, would be deductible in computing the taxpayer's income for any taxation year

exceeds

(b) the total of all amounts received or receivable by the taxpayer for the use of, or the right to use, the property in the particular taxation year and before that time and that are included in the income of the taxpayer for any taxation year shall be deemed to be a

Bien de location

(32) Dans le cas où un contribuable loue un bien qui est un bien amortissable d'une personne avec laquelle il a un lien de dépendance, l'excédent du total des montants visés à l'alinéa a) sur le total des montants visés à l'alinéa b) est réputé être le coût, pour le contribuable, d'un bien compris dans la catégorie 13 de l'annexe II du *Règlement de l'impôt sur le revenu* et non un montant payé ou payable pour l'usage, ou le droit d'usage, du bien :

a) les montants qui sont payés ou payables par le contribuable pour l'usage, ou le droit d'usage, du bien au cours d'une année d'imposition donnée et avant le moment donné où le bien serait considéré comme devenu prêt à être mis en service par lui s'il l'avait acquis, et qui, sans le présent paragraphe, seraient déductibles dans le calcul du revenu du contribuable pour une année d'imposition;

b) les montants qui sont reçus ou à recevoir par le contribuable pour l'usage, ou le droit d'usage, du bien

cost to the taxpayer of a property included in Class 13 in Schedule II to the *Income Tax Regulations* and not to be an amount paid or payable for the use of, or the right to use, the property.

Consideration given for depreciable property

(33) For greater certainty, where a person acquires a depreciable property for consideration that can reasonably be considered to include a transfer of property, the portion of the cost to the person of the depreciable property attributable to the transfer shall not exceed the fair market value of the transferred property.

Goodwill

(34) Where a taxpayer carries on a particular business,

(a) there is deemed to be a single goodwill property in respect of the particular business;

(b) if at any time the taxpayer acquires goodwill as part of an acquisition of all or a part of another business that is carried on, after the acquisition, as part of the particular business — or is deemed by subsection (35) to acquire goodwill in respect of the particular business — the cost of the goodwill is added at that time to the cost of the goodwill property in respect of the particular business;

(c) if at any time the taxpayer disposes of goodwill as part of the disposition of part of the particular business, receives proceeds of disposition a portion of which is attributable to goodwill and continues to carry on the particular business or is deemed by subsection (37) to dispose of goodwill in respect of the particular business,

(i) the taxpayer is deemed to dispose at that time of a portion of the goodwill property in respect of the particular business having a cost equal to the lesser of the cost of the goodwill property in respect of the particular business otherwise determined and the portion of the proceeds attributable to goodwill, and

(ii) the cost of the goodwill property in respect of the particular business is reduced at that time by the amount determined under subparagraph (i); and

(d) if paragraph (c) applies to more than one disposition of goodwill at the same time, that paragraph and subsection (39) apply as if each disposition had occurred separately in the order designated by the taxpayer or, if the taxpayer does not designate an order, in the order designated by the Minister.

au cours de l'année d'imposition donnée et avant le moment donné, et qui sont inclus dans le revenu du contribuable pour une année d'imposition.

Contrepartie d'un bien amortissable

(33) Il est entendu que lorsqu'une personne acquiert un bien amortissable pour une contrepartie qui, d'après ce qu'il est raisonnable de considérer, comprend le transfert d'un bien, la partie du coût du bien amortissable pour la personne qui est imputable au transfert ne peut dépasser la juste valeur marchande du bien transféré.

Achalandage

(34) Si un contribuable exploite une entreprise donnée, les règles ci-après s'appliquent :

a) un seul bien représentant l'achalandage est réputé exister relativement à l'entreprise donnée;

b) si le contribuable acquiert de l'achalandage à un moment donné dans le cadre de l'acquisition de tout ou partie d'une autre entreprise qui est exploitée, après l'acquisition, dans le cadre de l'entreprise donnée ou s'il est réputé, par le paragraphe (35), acquérir de l'achalandage à un moment donné relativement à l'entreprise donnée, le coût de l'achalandage ainsi acquis est ajouté, à ce moment, au coût du bien représentant l'achalandage relatif à l'entreprise donnée;

c) si le contribuable dispose d'achalandage à un moment donné dans le cadre de la disposition d'une partie de l'entreprise donnée, qu'il reçoit un produit de disposition dont une partie est attribuable à cet achalandage et qu'il continue d'exploiter l'entreprise donnée, ou s'il est réputé, par le paragraphe (37), disposer d'achalandage, à un moment donné, relatif à l'entreprise donnée :

(i) d'une part, le contribuable est réputé disposer à ce moment d'une partie du bien représentant l'achalandage relatif à l'entreprise donnée, le coût de cette partie étant égal au coût de ce bien relativement à cette entreprise déterminé par ailleurs ou, si elle est moins élevée, à la partie du produit de disposition attribuable à l'achalandage,

(ii) d'autre part, le coût du bien représentant l'achalandage relatif à l'entreprise donnée est réduit à ce moment de la somme déterminée selon le sous-alinéa (i);

d) si l'alinéa c) s'applique à plusieurs dispositions d'achalandage effectuées simultanément, cet alinéa et le paragraphe (39) s'appliquent comme si chaque disposition avait été effectuée séparément dans l'ordre

Outlays not relating to property

(35) If at any time a taxpayer makes or incurs an outlay or expense on account of capital for the purpose of gaining or producing income from a business carried on by the taxpayer, the taxpayer is deemed to acquire at that time goodwill in respect of the business with a cost equal to the amount of the outlay or expense if no portion of the amount is

(a) the cost, or any part of the cost, of a property;

(b) deductible in computing the taxpayer's income from the business (determined without reference to this subsection);

(c) not deductible in computing the taxpayer's income from the business because of any provision of this Act (other than paragraph 18(1)(b)) or the *Income Tax Regulations*;

(d) paid or payable to a creditor of the taxpayer as, on account of or in lieu of payment of, any debt, or on account of the redemption, cancellation or purchase of any bond or debenture; or

(e) where the taxpayer is a corporation, partnership or trust, paid or payable to a person as a shareholder, partner or beneficiary, as the case may be, of the taxpayer.

No addition to goodwill

(36) For greater certainty, no amount paid or payable may be included in Class 14.1 of Schedule II to the *Income Tax Regulations*, if the amount is

(a) in consideration for the purchase of shares; or

(b) in consideration for the cancellation or assignment of an obligation to pay consideration referred to in paragraph (a).

Receipts not relating to property

(37) If at any time in a taxation year a taxpayer has or may become entitled to receive an amount (in this subsection referred to as the ***receipt***) on account of capital in respect of a business that is or was carried on by the taxpayer, the taxpayer is deemed to dispose, at that time, of goodwill in respect of the business for proceeds of disposition equal to the amount by which the receipt exceeds the total of all outlays or expenses that were made or incurred by the taxpayer for the purpose of obtaining the receipt and that were not otherwise deductible in

établi par le contribuable ou, à défaut, dans l'ordre établi par le ministre.

Dépenses non liées à un bien

(35) Le contribuable qui engage ou effectue une dépense de capital à un moment donné en vue de tirer un revenu d'une entreprise qu'il exploite est réputé acquérir à ce moment l'achalandage relatif à l'entreprise à un coût égal au montant de la dépense, à condition qu'aucune partie de ce montant, selon le cas :

a) ne représente le coût, ou une partie du coût, d'un bien;

b) ne soit déductible dans le calcul du revenu du contribuable provenant de l'entreprise, déterminé compte non tenu du présent paragraphe;

c) ne soit pas déductible dans le calcul du revenu du contribuable provenant de l'entreprise par l'effet d'une disposition de la présente loi (sauf l'alinéa 18(1)b)) ou du *Règlement de l'impôt sur le revenu*;

d) ne soit payée ou payable à un créancier du contribuable au titre ou en paiement total ou partiel de toute dette, ou au titre du rachat, de l'annulation ou de l'achat d'une obligation ou d'une débenture;

e) si le contribuable est une société, une société de personnes ou une fiducie, ne soit payée ou à payer à une personne en sa qualité d'actionnaire, d'associé ou de bénéficiaire, selon le cas, du contribuable.

Exception

(36) Il est entendu qu'aucune somme payée ou à payer ne peut être incluse dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* si la somme est :

a) soit un montant de contrepartie relatif à l'achat d'actions;

b) soit un montant de contrepartie relatif à l'annulation ou à la cession d'une obligation de payer un montant visé à l'alinéa a).

Rentrées non liées à un bien

(37) Le contribuable qui, à un moment donné d'une année d'imposition, devient ou peut devenir en droit de recevoir une somme (appelée ***rentrée*** au présent paragraphe) au titre du capital relatif à une entreprise qu'il exploite ou exploitait est réputé disposer, à ce moment, d'achalandage relatif à l'entreprise pour un produit de disposition égal à l'excédent de la rentrée sur le total des dépenses qu'il a engagées ou effectuées en vue d'obtenir la rentrée et qui n'étaient pas déductibles par ailleurs dans le calcul de son revenu si, compte non tenu du

computing the taxpayer's income, if the following conditions are satisfied (determined without reference to this subsection):

(a) the receipt is not included in computing the taxpayer's income, or deducted in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts for the taxation year or a preceding taxation year;

(b) the receipt does not reduce the cost or capital cost of a property or the amount of an outlay or expense; and

(c) the receipt is not included in computing any gain or loss of the taxpayer from a disposition of a capital property.

Class 14.1 — transitional rules

(38) If a taxpayer has incurred an eligible capital expenditure in respect of a business before January 1, 2017,

(a) at the beginning of that day, the total capital cost of all property of the taxpayer included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of the business, each of which was an eligible capital property of the taxpayer immediately before that day or is the goodwill property in respect of the business, is deemed to be the amount determined by the formula

4/3 × (A + B – C)

where

A is the amount that is the cumulative eligible capital in respect of the business at the beginning of that day,

B is the amount determined for F in the definition ***cumulative eligible capital*** in subsection 14(5) (as that subsection applied immediately before that day) in respect of the business at the beginning of that day, and

C is the amount by which the total of all amounts determined, in respect of the business, for E or F in the definition ***cumulative eligible capital*** in subsection 14(5) (as that subsection applied immediately before that day), exceeds the total of all amounts determined for A to D.1 in that definition in respect of the business at the beginning of that day, including any adjustment required by subparagraph (d)(i);

(b) at the beginning of that day, the capital cost of each property of the taxpayer included in the class in respect of the business, each of which was an eligible

présent paragraphe, les conditions ci-après sont remplies :

a) pour l'application de la présente loi, la rentrée n'est pas incluse dans le calcul du revenu du contribuable ni déduite dans le calcul de tout solde de dépenses ou d'autres sommes non déduites pour l'année d'imposition ou pour une année d'imposition antérieure;

b) la rentrée n'est pas appliquée en réduction du coût ou du coût en capital d'un bien ou du montant d'une dépense;

c) la rentrée n'est pas incluse dans le calcul d'un gain ou d'une perte du contribuable découlant de la disposition d'une immobilisation.

Catégorie 14.1 — dispositions transitoires

(38) Si un contribuable a engagé, avant 2017, une dépense en capital admissible relativement à une entreprise, les règles ci-après s'appliquent :

a) au début du 1er janvier 2017, le coût en capital total des biens du contribuable compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relativement à l'entreprise — dont chacun était une immobilisation admissible du contribuable immédiatement avant cette date ou est le bien représentant l'achalandage relatif à l'entreprise — est réputé correspondre à la somme obtenue par la formule suivante :

4/3 × (A + B – C)

où :

A représente le montant cumulatif des immobilisations admissibles relatives à l'entreprise au début du 1er janvier 2017,

B la valeur de l'élément F de la formule figurant à la définition de ***montant cumulatif des immobilisations admissibles*** au paragraphe 14(5), dans sa version applicable immédiatement avant cette date, relativement à l'entreprise au début du 1er janvier 2017,

C l'excédent du total des valeurs des éléments E ou F de la formule figurant à la définition de ***montant cumulatif des immobilisations admissibles*** au paragraphe 14(5), dans sa version applicable immédiatement avant cette date, relativement à l'entreprise sur le total des valeurs des éléments A à D.1 de cette formule relativement à l'entreprise au début du 1er janvier 2017, compte tenu de tout rajustement prévu au sous-alinéa d)(i);

capital property of the taxpayer immediately before that day or is the goodwill property in respect of the business, is to be determined as follows:

(i) the taxpayer shall designate the order in which the capital cost of each property that is not the goodwill property is determined and, if the taxpayer does not designate an order, the Minister may designate the order,

(ii) the capital cost of a particular property that is not the goodwill property in respect of the business is deemed to be the lesser of the eligible capital expenditure of the taxpayer in respect of the particular property and the amount by which the total capital cost of the class determined under paragraph (a) exceeds the total of all amounts each of which is an amount deemed by this subparagraph to be the capital cost of a property that is determined in advance of the determination of the capital cost of the particular property, and

(iii) the capital cost of the goodwill property is deemed to be the amount by which the total capital cost of the class exceeds the total of all amounts each of which is an amount deemed by subparagraph (ii) to be the capital cost of a property;

(c) an amount is deemed to have been allowed to the taxpayer in respect of property of the class under regulations made under paragraph 20(1)(a) in computing the taxpayer's income for taxation years ending before that day equal to the amount by which

(i) the total of the total capital cost of the class and the amount determined for C in paragraph (a)

exceeds

(ii) the amount determined for A in paragraph (a); and

(d) if no taxation year of the taxpayer ends immediately before that day and the taxpayer would have had a particular amount included, because of paragraph 14(1)(b) (as that paragraph applied immediately before that day), in computing the taxpayer's income from the business for the particular taxation year that includes that day if the particular year had ended immediately before that day,

(i) for the purposes of the formula in paragraph (a), 3/2 of the particular amount is to be included in computing the amount for B of the definition ***cumulative eligible capital*** in subsection 14(5) (as that subsection applied immediately before that day),

b) au début du 1er janvier 2017, le coût en capital de chaque bien du contribuable qui est compris dans la catégorie relativement à l'entreprise et qui soit était une immobilisation admissible du contribuable immédiatement avant cette date, soit est le bien représentant l'achalandage relatif à l'entreprise, est déterminé de la façon suivante :

(i) le contribuable ou, à défaut, le ministre établit l'ordre dans lequel est déterminé le coût en capital de chaque bien autre que le bien représentant l'achalandage,

(ii) le coût en capital d'un bien donné qui n'est pas l'achalandage relatif à l'entreprise est réputé être égal à la dépense en capital admissible du contribuable relativement au bien donné ou, s'il est moins élevé, à l'excédent du coût en capital total des biens de la catégorie, déterminé selon l'alinéa a), sur le total des sommes dont chacune représente une somme réputée, selon le présent sous-alinéa, être le coût en capital d'un bien qui est déterminé avant que ne le soit le coût en capital du bien donné,

(iii) le coût en capital du bien représentant l'achalandage est réputé être égal à l'excédent du coût en capital total des biens de la catégorie sur le total des sommes dont chacune représente une somme réputée, par le sous-alinéa (ii), être le coût en capital d'un bien;

c) une somme, égale à l'excédent du total visé au sous-alinéa (i) sur la valeur visée au sous-alinéa (ii), est réputée avoir été accordée au contribuable en déduction au titre des biens de la catégorie, conformément aux dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul de son revenu pour les années d'imposition se terminant avant cette date :

(i) le total du coût en capital total des biens de la catégorie et de la valeur de l'élément C de la formule figurant à l'alinéa a),

(ii) la valeur de l'élément A de la formule figurant à l'alinéa a);

d) dans le cas où aucune année d'imposition du contribuable ne prend fin immédiatement avant le 1er janvier 2017 et qu'une somme donnée aurait été incluse, par l'effet de l'alinéa 14(1)b), dans sa version applicable immédiatement avant cette date, dans le calcul du revenu du contribuable provenant de l'entreprise pour l'année d'imposition donnée qui

(ii) the taxpayer is deemed to dispose of a capital property in respect of the business immediately before that day for proceeds of disposition equal to twice the particular amount,

(iii) if the taxpayer elects in writing to have this subparagraph apply and files that election with the Minister on or before the filing-due date for the particular year, subparagraph (ii) does not apply and an amount equal to the particular amount is to be included in computing the taxpayer's income from the business for the particular year,

(iv) if, on or after that day and in the particular year, the taxpayer acquires a property included in the class in respect of the business, or is deemed by subsection (35) to acquire goodwill in respect of the business, and the taxpayer elects in writing to have this subparagraph apply and files that election with the Minister on or before the filing-due date for the particular year,

(A) for the purposes of subparagraphs (ii) and (iii), the particular amount is to be reduced by the lesser of the particular amount otherwise determined and 1/2 of the capital cost of the property or goodwill acquired (determined without reference to clause (B)), and

(B) the capital cost of the property or goodwill acquired, as the case may be, is to be reduced by twice the amount by which the particular amount is reduced under clause (A), and

(v) if, in the particular year and before that day, the taxpayer disposed of a ***qualified farm or fishing property*** (as defined in subsection 110.6(1)) that was an eligible capital property of the taxpayer, the capital property disposed of under subparagraph (ii), if any, is deemed to be a qualified farm or fishing property to the extent of the lesser of

(A) the proceeds of disposition of the capital property, and

(B) the amount by which the proceeds of disposition of the qualified farm or fishing property exceed its cost.

comprend cette date si cette année avait pris fin immédiatement avant cette date :

(i) pour l'application de la formule figurant à l'alinéa a), la somme correspondant aux 3/2 de la somme donnée est à inclure dans le calcul de la valeur de l'élément B de la formule figurant à la définition de ***montant cumulatif des immobilisations admissibles*** au paragraphe 14(5), dans sa version applicable immédiatement avant cette date,

(ii) le contribuable est réputé disposer d'une immobilisation relative à l'entreprise immédiatement avant cette date pour un produit de disposition égal au double de la somme donnée,

(iii) si le contribuable fait le choix de se prévaloir du présent sous-alinéa dans un document qu'il présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année donnée, le sous-alinéa (ii) ne s'applique pas et une somme égale à la somme donnée est à inclure dans le calcul de son revenu provenant de l'entreprise pour cette année,

(iv) si, à cette date ou par la suite et au cours de l'année donnée, le contribuable acquiert un bien compris dans la catégorie relativement à l'entreprise ou est réputé, par le paragraphe (35), acquérir de l'achalandage relatif à l'entreprise, et qu'il fait le choix de se prévaloir du présent sous-alinéa dans un document qu'il présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année donnée :

(A) pour l'application des sous-alinéas (ii) et (iii), la somme donnée est réduite de la somme donnée déterminée par ailleurs ou, si elle est moins élevée, de la moitié du coût en capital du bien ou de l'achalandage acquis, déterminé compte non tenu de la division (B),

(B) le coût en capital du bien ou de l'achalandage acquis, selon le cas, est réduit du double de la somme appliquée en réduction de la somme donnée en application de la division (A),

(v) si, au cours de l'année donnée et avant cette date, le contribuable a disposé d'un ***bien agricole ou de pêche admissible***, au sens du paragraphe 110.6(1), qui faisait partie de ses immobilisations admissibles, l'immobilisation dont il a été disposé en application du sous-alinéa (ii) est réputée être un tel bien jusqu'à concurrence de la moins élevée des sommes suivantes :

Class 14.1 — transitional rule

(39) If at any time a taxpayer disposes of a particular property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business and none of subsections 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) and (5), 107(2) and 107.4(3) apply to the disposition, then for the purpose of determining the undepreciated capital cost of the class, the taxpayer is deemed to have acquired a property of the class immediately before that time with a capital cost equal to the least of 1/4 of the proceeds of disposition of the particular property, 1/4 of the capital cost of the particular property and

(a) if the particular property is not goodwill and is acquired before January 1, 2017 by the taxpayer, 1/4 of the capital cost of the particular property;

(b) if the particular property is not goodwill, is acquired on or after that day by the taxpayer and subsection (40) deems an amount to have been allowed under paragraph 20(1)(a) in respect of the taxpayer's acquisition of the particular property, that amount;

(c) if the particular property (other than a property to which paragraph (b) applies) is not goodwill and is acquired on or after that day by the taxpayer — in circumstances under which any of subsections 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) and (5), 107(2) and 107.4(3) apply — from a person or partnership that would have been deemed under this subsection to have acquired a property if none of those subsections had applied, the capital cost of the property that would have been deemed under this subsection to have been acquired by the person or partnership;

(d) if the particular property is goodwill, the amount by which

(i) the total of all amounts each of which is

(A) 1/4 of the amount determined under subparagraph (38)(b)(iii) in respect of the business,

(B) if goodwill is acquired on or after that day by the taxpayer and subsection (40) deems an amount to have been allowed under paragraph 20(1)(a) in respect of the taxpayer's acquisition of the goodwill, that amount, or

(A) le produit de disposition provenant de l'immobilisation,

(B) l'excédent du produit de disposition du bien agricole ou de pêche admissible sur son coût.

Catégorie 14.1 — disposition transitoire

(39) Si un contribuable dispose à un moment donné d'un bien donné compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relativement à une entreprise et qu'aucun des paragraphes 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) et (5), 107(2) et 107.4(3) ne s'applique à la disposition, le contribuable est réputé, pour le calcul de la fraction non amortie du coût en capital de la catégorie, avoir acquis un bien de la catégorie immédiatement avant ce moment dont le coût en capital est égal au moins élevé du quart du produit de disposition du bien donné, du quart de son coût en capital et de celui des montants ci-après qui est applicable :

a) si le bien donné n'est pas un bien représentant l'achalandage et est acquis par le contribuable avant 2017, le quart de son coût en capital;

b) si le bien donné n'est pas un bien représentant l'achalandage, qu'il est acquis par le contribuable après 2016 et qu'une somme est réputée, par le paragraphe (40), avoir été accordée en déduction en application de l'alinéa 20(1)a) relativement à l'acquisition de ce bien par le contribuable, cette somme;

c) si le bien donné, sauf un bien auquel l'alinéa b) s'applique, n'est pas un bien représentant l'achalandage et est acquis par le contribuable après 2016 — dans les circonstances visées à l'un des paragraphes 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) et (5), 107(2) et 107.4(3) — d'une personne ou société de personnes qui aurait été réputée, en vertu du présent paragraphe, avoir acquis un bien si aucun de ces paragraphes ne s'était appliqué, le coût en capital du bien qui aurait été ainsi réputé avoir été acquis par la personne ou société de personnes;

d) si le bien donné est un bien représentant l'achalandage, l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le total des sommes dont chacune représente :

(A) le quart de la somme déterminée selon le sous-alinéa (38)b)(iii) relativement à l'entreprise,

(B) si de l'achalandage est acquis par le contribuable après 2016 et qu'une somme est réputée, par le paragraphe (40), avoir été accordée en

(C) if goodwill is acquired (other than an acquisition in respect of which clause (B) applies) on or after that day by the taxpayer — in circumstances under which any of subsections 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) and (5), 107(2) and 107.4(3) apply — from a person or partnership that would have been deemed under this subsection to have acquired a property if none of those subsections had applied, the capital cost of the property that would have been deemed under this subsection to have been acquired by the person or partnership

exceeds

(ii) the total of all amounts each of which is the capital cost of a property deemed by this subsection to have been acquired by the taxpayer at or before that time in respect of another disposition of goodwill in respect of the business; and

(e) in any other case, nil.

(C) si de l'achalandage est acquis par le contribuable (à l'exception d'une acquisition relativement à laquelle la division (B) s'applique) après 2016 — dans les circonstances visées à l'un des paragraphes 24(2), 70(5.1), 73(3.1), 85(1), 88(1), 98(3) et (5), 107(2) et 107.4(3) — d'une personne ou société de personnes qui aurait été réputée, par le présent paragraphe, avoir acquis un bien si aucun de ces paragraphes ne s'était appliqué, le coût en capital du bien qui aurait été ainsi réputé avoir été acquis par la personne ou société de personnes,

(ii) le total des sommes dont chacune représente le coût en capital d'un bien réputé, par le présent paragraphe, avoir été acquis par le contribuable au moment donné ou antérieurement relativement à une autre disposition de bien représentant l'achalandage relatif à l'entreprise;

e) dans les autres cas, zéro.

Class 14.1 — transitional rule

(40) If at any time a taxpayer acquires a particular property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business, the acquisition of the particular property is part of a transaction or series of transactions or events that includes a disposition (in this subsection referred to as the ***prior disposition***) at or before that time of the particular property, or a similar property, by the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer and subsection (39) applies in respect of the prior disposition, then for the purpose of determining the undepreciated capital cost of the class, an amount is deemed to have been allowed under paragraph 20(1)(a) to the taxpayer in respect of the particular property in computing the taxpayer's income for taxation years ending before the acquisition equal to the lesser of the capital cost of the property deemed by subsection (39) to be acquired in respect of the prior disposition and 1/4 of the capital cost of the particular property.

Catégorie 14.1 — disposition transitoire

(40) Si un contribuable acquiert à un moment donné un bien donné compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relativement à une entreprise, que l'acquisition de ce bien fait partie d'une opération ou d'une série d'opérations ou d'événements qui comprend la disposition (appelée ***disposition antérieure*** au présent paragraphe) du bien donné ou d'un bien semblable effectuée à ce moment ou antérieurement par le contribuable ou par une personne ou société de personnes avec laquelle il a un lien de dépendance et que le paragraphe (39) s'applique relativement à la disposition antérieure, pour le calcul de la fraction non amortie du coût en capital des biens de la catégorie, est réputée avoir été accordée au contribuable en déduction en application de l'alinéa 20(1)a) relativement au bien donné dans le calcul de son revenu pour les années d'imposition se terminant avant l'acquisition une somme égale au coût en capital du bien réputé, par le paragraphe (39), être acquis relativement à la disposition antérieure ou, s'il est moins élevé, au quart du coût en capital du bien donné.

Class 14.1 — transitional rule

(41) For the purposes of subsections (38) to (40) and (42), paragraph 20(1)(hh.1), subsections 40(13) to (16) and paragraph 79(4)(b), ***cumulative eligible capital***, ***eligible capital expenditure***, ***eligible capital property*** and ***exempt gains balance*** have the meanings that

Catégorie 14.1 — disposition transitoire

(41) Pour l'application des paragraphes (38) à (40) et (42), de l'alinéa 20(1)hh.1), des paragraphes 40(13) à (16) et de l'alinéa 79(4)b), les termes ***dépense en capital admissible***, ***immobilisation admissible***, ***montant cumulatif des immobilisations admissibles*** et ***solde des***

would be assigned to those expressions if the Act read as it did immediately before 2017.

Class 14.1 — transitional rules

(42) If a taxpayer owns property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business at the beginning of 2017, that was an eligible capital property in respect of the business immediately before 2017,

(a) for the purposes of the Act and its regulations (other than this section, section 20 and any regulations made for the purposes of paragraph 20(1)(a)), if the amount determined for A in the definition ***cumulative eligible capital*** in subsection 14(5) would have been increased immediately before 2017 if the property had been disposed of immediately before that time, the capital cost of the property is deemed to be increased by 4/3 of the amount of that increase;

(b) for purposes of this section, section 20 and any regulations made for the purposes of paragraph 20(1)(a), if the taxpayer was deemed by subsection 14(12) to continue to own eligible capital property in respect of the business and not to have ceased to carry on the business until a time that is after 2016, the taxpayer is deemed to continue to own the property and to continue to carry on the business until the time that is immediately before the first time one of the events that would be described in any of paragraphs 14(12)(c) to (g) (as they read immediately before 2017, if the reference to "eligible capital property" in paragraph 14(12)(d) were read as "eligible capital property or capital property") occurs;

(c) for the purposes of the descriptions of D.1 and K in the definition ***undepreciated capital cost*** in subsection (21), the taxpayer is deemed not to have paid or received any amounts before 2017 as or on account of an existing or proposed countervailing or anti-dumping duty in respect of depreciable property of the class; and

(d) subsection (7.1) does not apply to assistance that a taxpayer received or is entitled to receive before 2017 in respect of a property that was an eligible capital property immediately before 2017.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 13; 1994, c. 7, Sch. II, s. 9, Sch. VIII, s. 4, c. 21, s. 7; 1995, c. 1, s. 44, c. 3, s. 4, c. 21, s. 2; 1997, c. 25, s. 3; 1998, c. 19, s. 73; 1999, c. 22, s. 6; 2001, c. 17, ss. 6, 196; 2007, c. 35, s. 68; 2013, c. 34, ss. 54, 92, 175, c. 40, s. 6; 2016, c. 12, s. 3.

gains exonérés s'entendent au sens de la présente loi dans sa version applicable immédiatement avant 2017.

Catégorie 14.1 — dispositions transitoires

(42) Si le contribuable est propriétaire d'un bien compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relativement à une entreprise au début de 2017, qui était une immobilisation admissible relative à l'entreprise avant 2017, les règles ci-après s'appliquent :

a) pour l'application de la Loi et de ses règlements (à l'exception du présent article, de l'article 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a)), si la valeur de l'élément A de la formule figurant à la définition de ***dépense en capital admissible*** au paragraphe 14(5) avait augmenté immédiatement avant 2017 en raison de la disposition du bien immédiatement avant ce moment, le coût en capital du bien est réputé augmenter des 4/3 du montant de cette augmentation;

b) pour l'application du présent article, de l'article 20 et des règlements pris pour l'application de l'alinéa 20(1)a), si le contribuable a été réputé, par le paragraphe 14(12), continuer d'être propriétaire d'une immobilisation admissible relative à l'entreprise et continuer de l'exploiter jusqu'à un moment qui est postérieur à 2016, le contribuable est réputé continuer d'être propriétaire de l'immobilisation admissible et d'exploiter l'entreprise jusqu'au moment qui précède immédiatement le moment de la première occurrence d'un des événements qui seraient visés à l'un des alinéas 14(12)c) à g) (dans leur version applicable immédiatement avant 2017, si le passage « une immobilisation admissible » à l'alinéa 14(12)d) était remplacé par « une immobilisation admissible ou une immobilisation »);

c) pour l'application des éléments D.1 et K de la définition de ***fraction non amortie du coût en capital*** au paragraphe (21), le contribuable est réputé n'avoir payé ni reçu aucune somme au titre d'un droit compensateur ou anti-dumping en vigueur ou proposé sur un bien amortissable de cette catégorie;

d) le paragraphe (7.1) ne s'applique pas à un montant d'aide qu'un contribuable a reçu ou est en droit de recevoir avant 2017 relativement à un bien qui était une immobilisation admissible immédiatement avant 2017.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 13; 1994, ch. 7, ann. II, art. 9, ann. VIII, art. 4, ch. 21, art. 7; 1995, ch. 1, art. 44, ch. 3, art. 4, ch. 21, art. 2; 1997, ch. 25, art. 3; 1998, ch. 19, art. 73; 1999, ch. 22, art. 6; 2001, ch. 17, art. 6 et 196; 2007, ch. 35, art. 68; 2013, ch. 34, art. 54, 92 et 175, ch. 40, art. 6; 2016, ch. 12, art. 3.

14 [Repealed, 2016, c. 12, s. 4]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 14; 1994, c. 7, Sch. II, s. 10, c. 21, s. 8; 1995, c. 3, s. 5, c. 21, s. 3; 1998, c. 19, s. 74; 2001, c. 17, ss. 7, 197; 2007, c. 2, s. 3; 2013, c. 34, ss. 55, 93, 176, c. 40, s. 7; 2014, c. 39, s. 3; 2016, c. 12, s. 4.

14 [Abrogé, 2016, ch. 12, art. 4]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 14; 1994, ch. 7, ann. II, art. 10, ch. 21, art. 8; 1995, ch. 3, art. 5, ch. 21, art. 3; 1998, ch. 19, art. 74; 2001, ch. 17, art. 7 et 197; 2007, ch. 2, art. 3; 2013, ch. 34, art. 55, 93 et 176, ch. 40, art. 7; 2014, ch. 39, art. 3; 2016, ch. 12, art. 4.

Benefit conferred on shareholder

15 (1) If, at any time, a benefit is conferred by a corporation on a shareholder of the corporation, on a member of a partnership that is a shareholder of the corporation or on a contemplated shareholder of the corporation, then the amount or value of the benefit is to be included in computing the income of the shareholder, member or contemplated shareholder, as the case may be, for its taxation year that includes the time, except to the extent that the amount or value of the benefit is deemed by section 84 to be a dividend or that the benefit is conferred on the shareholder

(a) where the corporation is resident in Canada at the time,

(i) by the reduction of the paid-up capital of the corporation,

(ii) by the redemption, acquisition or cancellation by the corporation of shares of its capital stock,

(iii) on the winding-up, discontinuance or reorganization of the corporation's business, or

(iv) by way of a transaction to which subsection 88(1) or (2) applies;

(a.1) where the corporation is not resident in Canada at the time,

(i) by way of a distribution to which subsection 86.1(1) applies,

(ii) by a reduction of the paid-up capital of the corporation to which subclause 53(2)(b)(i)(B)(II) or subparagraph 53(2)(b)(ii) applies,

(iii) by the redemption, acquisition or cancellation by the corporation of shares of its capital stock, or

(iv) on the winding-up, or liquidation and dissolution, of the corporation;

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

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

Avantages aux actionnaires

15 (1) La valeur de l'avantage qu'une société confère, à un moment donné, à son actionnaire, à un associé d'une société de personnes qui compte parmi ses actionnaires ou à son actionnaire pressenti est incluse dans le calcul du revenu de l'actionnaire, de l'associé ou de l'actionnaire pressenti, selon le cas, pour son année d'imposition qui comprend ce moment, sauf dans la mesure où cette valeur est réputée en vertu de l'article 84 constituer un dividende ou dans la mesure où cet avantage est conféré à l'actionnaire au moyen de l'une des opérations suivantes :

a) dans le cas où la société réside au Canada à ce moment :

(i) la réduction du capital versé de la société,

(ii) le rachat, l'acquisition ou l'annulation, par la société, d'actions de son capital-actions,

(iii) la liquidation, la cessation ou la réorganisation de l'entreprise de la société,

(iv) une opération à laquelle les paragraphes 88(1) ou (2) s'appliquent;

a.1) dans le cas où la société ne réside pas au Canada à ce moment :

(i) une distribution visée au paragraphe 86.1(1),

(ii) une réduction du capital versé de la société, visée à la subdivision 53(2)b)(i)(B)(II) ou au sous-alinéa 53(2)b)(ii),

(iii) le rachat, l'acquisition ou l'annulation, par la société, d'actions de son capital-actions,

(iv) la liquidation, ou la liquidation et dissolution, de la société;

b) le versement d'un dividende ou d'un dividende en actions;

c) l'octroi à tous les propriétaires d'actions ordinaires du capital-actions de la société à ce moment d'un droit, relatif à chaque action ordinaire et identique à

the capital stock of the corporation, and, for the purposes of this paragraph,

(i) the shares of a particular class of common shares of the capital stock of the corporation are deemed to be property that is identical to the shares of another class of common shares of the capital stock of the corporation if

(A) the voting rights attached to the particular class differ from the voting rights attached to the other class, and

(B) there are no other differences between the terms and conditions of the classes of shares that could cause the fair market value of a share of the particular class to differ materially from the fair market value of a share of the other class, and

(ii) rights are not considered identical if the cost of acquiring the rights differs; or

(d) by an action to which paragraph 84(1)(c.1), (c.2) or (c.3) applies.

chacun des autres droits conférés à ce moment relativement à chacune des autres actions semblables, d'acquérir d'autres actions du capital-actions de la société; pour l'application du présent alinéa :

(i) les actions ordinaires d'une catégorie donnée du capital-actions de la société sont réputées être identiques aux actions ordinaires d'une autre catégorie de son capital-actions dans le cas où, à la fois :

(A) les droits de vote rattachés à la catégorie donnée d'actions diffèrent de ceux rattachés à l'autre catégorie d'actions,

(B) les modalités des catégories d'actions ne présentent pas d'autres différences qui pourraient donner lieu à un important écart entre la juste valeur marchande d'une action de la catégorie donnée et la juste valeur marchande d'une action de l'autre catégorie,

(ii) des droits ne sont pas considérés comme identiques si leur coût d'acquisition diffère;

d) une opération visée aux alinéas 84(1)c.1), c.2) ou c.3).

Conferring of benefit

(1.1) Notwithstanding subsection (1), if in a taxation year a corporation has paid a stock dividend to a person and it may reasonably be considered that one of the purposes of that payment was to significantly alter the value of the interest of any specified shareholder of the corporation, the fair market value of the stock dividend shall, except to the extent that it is otherwise included in computing that person's income under any of paragraphs 82(1)(a), (a.1) and (c) to (e), be included in computing the income of that person for the year.

Octroi d'un avantage

(1.1) Malgré le paragraphe (1), la juste valeur marchande d'un dividende en actions qu'une société verse à une personne au cours d'une année d'imposition est à inclure dans le calcul du revenu de cette personne pour l'année — sauf dans la mesure où elle est par ailleurs incluse dans le calcul du revenu de cette personne en vertu de l'un des alinéas 82(1)a), a.1) et c) à e) — s'il est raisonnable de considérer qu'un des motifs du versement est de modifier de façon sensible la valeur de la participation d'un actionnaire déterminé de la société.

Forgiveness of shareholder debt

(1.2) For the purpose of subsection 15(1), the value of the benefit where an obligation issued by a debtor is settled or extinguished at any time shall be deemed to be the forgiven amount at that time in respect of the obligation.

Valeur de l'avantage en cas de remise de dette

(1.2) Pour l'application du paragraphe (1), la valeur de l'avantage découlant du règlement ou de l'extinction d'une dette émise par un débiteur est réputée correspondre au montant remis sur la dette au moment de son règlement ou de son extinction.

Forgiven amount

(1.21) For the purpose of subsection 15(1.2), the ***forgiven amount*** at any time in respect of an obligation issued by a debtor has the meaning that would be assigned by subsection 80(1) if

(a) the obligation were a commercial obligation (within the meaning assigned by subsection 80(1)) issued by the debtor;

Montant remis

(1.21) Pour l'application du paragraphe (1.2), le ***montant remis*** à un moment donné sur une dette émise par un débiteur s'entend au sens qui serait donné à cette expression par le paragraphe 80(1) si, à la fois :

a) la dette était une dette commerciale, au sens du paragraphe 80(1), émise par le débiteur;

(b) no amount included in computing income (otherwise than because of paragraph 6(1)(a)) because of the obligation being settled or extinguished were taken into account;

(c) the definition ***forgiven amount*** in subsection 80(1) were read without reference to paragraphs (f) and (h) of the description B in that definition; and

(d) section 80 were read without reference to paragraphs (2)(b) and (q) of that section.

b) il n'était pas tenu compte d'un montant inclus dans le calcul du revenu (autrement que par l'effet de l'alinéa 6(1)a)) en raison du règlement ou de l'extinction de la dette;

c) il n'était pas tenu compte des alinéas f) et h) de l'élément B de la formule figurant à la définition de ***montant remis*** au paragraphe 80(1);

d) il n'était pas tenu compte des alinéas 80(2)b) et q).

Cost of property or service

(1.3) To the extent that the cost to a person of purchasing a property or service or an amount payable by a person for the purpose of leasing property is taken into account in determining an amount required under this section to be included in computing a taxpayer's income for a taxation year, that cost or amount payable, as the case may be, shall include any tax that was payable by the person in respect of the property or service or that would have been so payable if the person were not exempt from the payment of that tax because of the nature of the person or the use to which the property or service is to be put.

Coût d'un bien ou d'un service

(1.3) Dans la mesure où il entre dans le calcul de la somme à inclure, en application du présent article, dans le calcul du revenu d'un contribuable pour une année d'imposition, le coût d'achat d'un bien ou d'un service pour une personne ou un montant payable par elle pour la location d'un bien comprend la taxe qui était payable par la personne relativement au bien ou au service ou qui aurait été ainsi payable si elle n'avait pas été exonérée du paiement de cette taxe en raison de sa qualité ou de l'usage auquel le bien ou le service est destiné.

Interpretation — subsection (1)

(1.4) For the purposes of this subsection and subsection (1),

(a) a contemplated shareholder of a corporation is

(i) a person or partnership on whom a benefit is conferred by the corporation in contemplation of the person or partnership becoming a shareholder of the corporation, or

(ii) a member of a partnership on whom a benefit is conferred by the corporation in contemplation of the partnership becoming a shareholder of the corporation;

(b) a person or partnership that is (or is deemed by this paragraph to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership;

(c) a benefit conferred by a corporation on an individual is a benefit conferred on a shareholder of the corporation, a member of a partnership that is a shareholder of the corporation or a contemplated shareholder of the corporation — except to the extent that the amount or value of the benefit is included in computing the income of the individual or any other person — if the individual is an individual, other than an excluded trust in respect of the corporation, who

Interprétation — paragraphe (1)

(1.4) Les règles ci-après s'appliquent au présent paragraphe et au paragraphe (1) :

a) est un actionnaire pressenti d'une société :

(i) la personne ou la société de personnes à laquelle un avantage est conféré par la société du fait qu'elle est pressentie pour devenir un actionnaire de la société,

(ii) l'associé d'une société de personnes auquel un avantage est conféré par la société du fait que la société de personnes est pressentie pour devenir un actionnaire de la société;

b) la personne ou la société de personnes qui est, ou qui est réputée être en vertu du présent alinéa, un associé d'une société de personnes donnée qui est elle-même un associé d'une autre société de personnes est réputée être un associé de cette dernière;

c) l'avantage conféré par une société à un particulier est un avantage conféré à un actionnaire de la société, à un associé d'une société de personnes actionnaire de la société ou à un actionnaire pressenti de la société — sauf dans la mesure où le montant ou la valeur de l'avantage est inclus dans le calcul du revenu du particulier ou d'une autre personne — si le particulier est un particulier, autre qu'une fiducie exclue relativement à

does not deal at arm's length with, or is affiliated with, the shareholder, member of the partnership or contemplated shareholder, as the case may be;

(d) for the purposes of paragraph (c), an excluded trust in respect of a corporation is a trust in which no individual (other than an excluded trust in respect of the corporation) who does not deal at arm's length with, or is affiliated with, a shareholder of the corporation, a member of a partnership that is a shareholder of the corporation or a contemplated shareholder of the corporation, is beneficially interested; and

(e) if a non-resident corporation (in this paragraph referred to as the "original corporation") governed by the laws of a foreign jurisdiction is divided under those laws into two or more non-resident corporations and, as a consequence of the division, a shareholder of the original corporation acquires at any time one or more shares of another corporation (in this paragraph referred to as the "new corporation"), the original corporation is deemed at that time to have conferred a benefit on the shareholder equal to the value at that time of the shares of the new corporation acquired by the shareholder except to the extent that any of subparagraphs (1)(a.1)(i) to (iii) and paragraph (1)(b) applies to the acquisition of the shares.

la société, qui a un lien de dépendance avec l'actionnaire, l'associé ou l'actionnaire pressenti, selon le cas, ou lui est affilié;

d) pour l'application de l'alinéa c), est une fiducie exclue relativement à une société la fiducie dans laquelle aucun particulier (sauf une fiducie exclue relativement à la société) qui a un lien de dépendance avec un actionnaire de la société, un associé d'une société de personnes actionnaire de la société ou un actionnaire pressenti de la société, ou qui lui est affilié, n'a de droit de bénéficiaire;

e) si, à un moment donné, une société non-résidente (appelée « société d'origine » au présent alinéa) régie par les lois d'une administration étrangère est divisée, en vertu de ces lois, en plusieurs sociétés non-résidentes et que, par suite de cette division, un actionnaire de la société d'origine acquiert une ou plusieurs actions d'une autre société (appelée « nouvelle société » au présent alinéa), la société d'origine est réputée à ce moment avoir conféré à l'actionnaire un avantage égal à la valeur, à ce moment, des actions de la nouvelle société acquises par l'actionnaire, sauf dans la mesure où l'un des sous-alinéas (1)a.1)(i) à (iii) ou l'alinéa (1)b) s'applique à l'acquisition des actions.

Shareholder debt

(2) Where a person (other than a corporation resident in Canada) or a partnership (other than a partnership each member of which is a corporation resident in Canada) is

(a) a shareholder of a particular corporation,

(b) connected with a shareholder of a particular corporation, or

(c) a member of a partnership, or a beneficiary of a trust, that is a shareholder of a particular corporation

and the person or partnership has in a taxation year received a loan from or become indebted to (otherwise than by way of a pertinent loan or indebtedness) the particular corporation, any other corporation related to the particular corporation or a partnership of which the particular corporation or a corporation related to the particular corporation is a member, the amount of the loan or indebtedness is included in computing the income for the year of the person or partnership.

Dette d'un actionnaire

(2) La personne ou la société de personnes — actionnaire d'une société donnée, personne ou société de personnes rattachée à un tel actionnaire ou associé d'une société de personnes, ou bénéficiaire d'une fiducie, qui est un tel actionnaire — qui, au cours d'une année d'imposition, obtient un prêt ou devient la débitrice (autrement qu'au moyen d'un prêt ou dette déterminé) de la société donnée, d'une autre société liée à celle-ci ou d'une société de personnes dont la société donnée ou une société liée à celle-ci est un associé est tenue d'inclure le montant du prêt ou de la dette dans le calcul de son revenu pour l'année. Le présent paragraphe ne s'applique pas aux sociétés résidant au Canada ni aux sociétés de personnes dont chacun des associés est une société résidant au Canada.

Meaning of connected

(2.1) For the purposes of subsection (2), a person or partnership is connected with a shareholder of a particular corporation if that person or partnership does not deal at arm's length with, or is affiliated with, the shareholder, unless, in the case of a person, that person is

(a) a foreign affiliate of the particular corporation; or

(b) a foreign affiliate of a person resident in Canada with which the particular corporation does not deal at arm's length.

Pertinent loan or indebtedness

(2.11) For the purposes of subsection (2) and subject to subsection 17.1(3), ***pertinent loan or indebtedness*** means a loan received, or an indebtedness incurred, at any time, by a non-resident corporation (in this subsection referred to as the "subject corporation"), or by a partnership of which the subject corporation is, at that time, a member, that is an amount owing to a corporation resident in Canada (in this subsection and subsections (2.12) and (2.14) referred to as the "CRIC") or to a qualifying Canadian partnership in respect of the CRIC and in respect of which amount owing all of the following apply:

(a) subsection (2) would, in the absence of this subsection, apply to the amount owing;

(b) the amount becomes owing after March 28, 2012;

(c) at that time, the CRIC is controlled by a non-resident corporation that

(i) is the subject corporation, or

(ii) does not deal at arm's length with the subject corporation; and

(d) either

(i) in the case of an amount owing to the CRIC, the CRIC and a non-resident corporation that controls the CRIC jointly elect in writing under this subparagraph in respect of the amount owing and file the election with the Minister on or before the filing-due date of the CRIC for the taxation year that includes that time, or

(ii) in the case of an amount owing to the qualifying Canadian partnership, all the members of the qualifying Canadian partnership and a non-resident corporation that controls the CRIC jointly elect in writing under this subparagraph in respect of the

Sens de *rattaché*

(2.1) Pour l'application du paragraphe (2), une personne ou une société de personnes est rattachée à un actionnaire d'une société donnée si elle a un lien de dépendance avec lui, ou lui est affiliée, et si, s'agissant d'une personne, elle n'est :

a) ni une société étrangère affiliée à la société donnée;

b) ni une société étrangère affiliée à une personne résidant au Canada et avec laquelle la société donnée a un lien de dépendance.

Prêt ou dette déterminé

(2.11) Pour l'application du paragraphe (2) et sous réserve du paragraphe 17.1(3), ***prêt ou dette déterminé*** s'entend d'un prêt reçu, ou d'une dette contractée, à un moment donné par une société non-résidente (appelée « société déterminée » au présent paragraphe) ou par une société de personnes dont celle-ci est un associé à ce moment, qui est une somme due à une société résidant au Canada (appelée « société résidente » au présent paragraphe et aux paragraphes (2.12) et (2.14)) ou à une société de personnes canadienne admissible relativement à la société résidente, somme à l'égard de laquelle les faits ci-après s'avèrent :

a) le paragraphe (2) s'appliquerait à la somme due en l'absence du présent paragraphe;

b) la somme devient due après le 28 mars 2012;

c) à ce moment, la société résidente est contrôlée par une société non-résidente qui, selon le cas :

(i) est la société déterminée,

(ii) a un lien de dépendance avec la société déterminée;

d) selon le cas :

(i) s'agissant d'une somme due à la société résidente, celle-ci et une société non-résidente qui la contrôle font un choix conjoint en vertu du présent sous-alinéa relativement à la somme due, dans un document qu'elles présentent au ministre au plus tard à la date d'échéance de production qui est applicable à la société résidente pour l'année d'imposition qui comprend ce moment,

(ii) s'agissant d'une somme due à la société de personnes canadienne admissible, les associés de celle-ci et une société non-résidente qui contrôle la société résidente font un choix conjoint en vertu du

amount owing and file the election with the Minister on or before the filing-due date of the CRIC for its taxation year in which ends the fiscal period of the qualifying Canadian partnership that includes that time.

présent sous-alinéa relativement à la somme due, dans un document qu'ils présentent au ministre au plus tard à la date d'échéance de production qui est applicable à la société résidente pour l'année d'imposition de celle-ci dans laquelle prend fin l'exercice de la société de personnes canadienne admissible qui comprend ce moment.

Late-filed elections

(2.12) Where an election referred to in paragraph (2.11)(d) was not made on or before the day on or before which the election was required by that paragraph to be made, the election is deemed to have been made on that day if the election is made on or before the day that is three years after that day and the penalty in respect of the election is paid by the CRIC when the election is made.

Choix produit en retard

(2.12) Le choix prévu à l'alinéa (2.11)d) qui n'a pas été fait au plus tard à la date mentionnée à cet alinéa est réputé avoir été fait à cette date s'il est fait au plus tard le jour qui suit cette date de trois ans et si la pénalité relative au choix est payée par la société résidente au moment où le choix est fait.

Penalty for late-filed election

(2.13) For the purposes of subsection (2.12), the penalty in respect of an election referred to in that subsection is the amount equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period commencing with the day on or before which the election is required by paragraph (2.11)(d) to be made and ending on the day the election is made.

Pénalité pour choix produit en retard

(2.13) Pour l'application du paragraphe (2.12), la pénalité relative au choix mentionné à ce paragraphe correspond au résultat de la multiplication de 100 $ par le nombre de mois ou de parties de mois compris dans la période commençant à la date où le choix devait être fait au plus tard selon l'alinéa (2.11)d) et se terminant à la date où il est fait.

Partnerships

(2.14) For purposes of this subsection, subsection (2.11), section 17.1 and subsection 18(5),

(a) a ***qualifying Canadian partnership***, at any time in respect of a CRIC, means a partnership each member of which is, at that time, the CRIC or another corporation resident in Canada to which the CRIC is, at that time, related; and

(b) a person or partnership that is (or is deemed by this paragraph to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership.

Société de personnes

(2.14) Pour l'application du présent paragraphe, du paragraphe (2.11), de l'article 17.1 et du paragraphe 18(5) :

a) est une société de personnes canadienne admissible à un moment donné, relativement à une société résidente, toute société de personnes dont chacun des associés est, à ce moment, ou bien la société résidente, ou bien une autre société résidant au Canada à laquelle la société résidente est liée à ce moment;

b) toute personne ou société de personnes qui est, ou qui est réputée être en vertu du présent alinéa, un associé d'une société de personnes donnée qui est elle-même un associé d'une autre société de personnes est réputée être un associé de cette dernière.

Mergers

(2.15) For the purposes of subsections (2.11) and (2.14),

(a) if there has been an amalgamation to which subsection 87(1) applies, the new corporation referred to in that subsection is deemed to be the same corporation as, and a continuation of, each predecessor corporation referred to in that subsection; and

Fusions et liquidations

(2.15) Pour l'application des paragraphes (2.11) et (2.14) :

a) en cas de fusion à laquelle le paragraphe 87(1) s'applique, la nouvelle société visée à ce paragraphe est réputée être la même société que chaque société remplacée visée à ce paragraphe et en être la continuation;

(b) if there has been a winding-up to which subsection 88(1) applies, the parent referred to in that subsection is deemed to be the same corporation as, and a continuation of, the subsidiary referred to in that subsection.

Back-to-back arrangement — application

(2.16) Subsection (2.17) applies at any time if

(a) at that time, a person or partnership (referred to in this subsection and subsections (2.17) to (2.192) as the ***intended borrower***) has an amount outstanding as or on account of a debt or other obligation to pay an amount (in this subsection and subsections (2.17) to (2.192) referred to as the ***shareholder debt***) to a person or partnership (in this subsection and subsections (2.17) to (2.192) referred to as the ***immediate funder***);

(b) subsection (2) would not, in the absence of this subsection and subsection (2.17), apply to the shareholder debt;

(c) at that time, a funder, in respect of a particular funding arrangement,

(i) has an amount outstanding as or on account of a debt or other obligation to pay an amount (other than a debt or other obligation to pay an amount to which subsection (2) applies or would apply if it were not a ***pertinent loan or indebtedness***, as defined in subsection (2.11)) to a person or partnership that meets either of the following conditions:

(A) recourse in respect of the debt or other obligation is limited in whole or in part, either immediately or in the future and either absolutely or contingently, to a funding arrangement, or

(B) it can reasonably be concluded that all or a portion of the particular funding arrangement was entered into or was permitted to remain outstanding because

(I) all or a portion of the debt or other obligation was entered into or was permitted to remain outstanding, or

(II) the funder anticipated that all or a portion of the debt or other obligation would become owing or remain outstanding, or

(ii) has a specified right in respect of a particular property that was granted directly or indirectly by a person or partnership and

b) en cas de liquidation à laquelle le paragraphe 88(1) s'applique, la société mère visée à ce paragraphe est réputée être la même société que chaque filiale visée à ce paragraphe et en être la continuation.

Mécanisme de prêts adossés — application

(2.16) Le paragraphe (2.17) s'applique à un moment donné si les énoncés ci-après se vérifient :

a) à ce moment, une personne ou société de personnes (appelées ***emprunteur visé*** au présent paragraphe et aux paragraphes (2.17) à (2.192)) doit une somme au titre d'une dette ou autre obligation de payer une somme (appelée ***dette d'actionnaire*** au présent paragraphe et aux paragraphes (2.17) à (2.192)) à une personne ou société de personnes (appelées ***bailleur de fonds immédiat*** au présent paragraphe et aux paragraphes (2.17) à (2.192));

b) le paragraphe (2) ne s'appliquerait pas, en l'absence du présent paragraphe et du paragraphe (2.17), à la dette d'actionnaire;

c) à ce moment, un bailleur de fonds, relativement à un mécanisme de financement donné :

(i) soit doit une somme au titre d'une dette ou autre obligation de payer une somme (sauf une dette ou autre obligation de payer une somme à laquelle le paragraphe (2) s'applique ou à laquelle ce paragraphe s'appliquerait si elle n'était pas un ***prêt ou dette déterminé***, au sens du paragraphe (2.11)) à une personne ou société de personnes à l'égard de laquelle l'un des énoncés ci-après se vérifie :

(A) il s'agit d'une dette ou autre obligation à l'égard de laquelle le recours est limité en tout ou en partie, dans l'immédiat ou pour l'avenir conditionnellement ou non, à un mécanisme de financement,

(B) il est raisonnable de conclure que la totalité ou une partie du mécanisme de financement donné a été conclu, ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(I) la totalité ou une partie de la dette ou autre obligation a été contractée ou il a été permis qu'elle demeure à payer,

(II) le bailleur de fonds prévoyait que la totalité ou une partie de la dette ou autre obligation deviendrait à payer ou qu'elle le demeurerait,

(ii) détient un droit déterminé qui est relatif à un bien donné qui a été accordé, directement ou

(A) the existence of the specified right is required under the terms and conditions of the particular funding arrangement, or

(B) it can reasonably be concluded that all or a portion of the particular funding arrangement was entered into, or was permitted to remain in effect, because

(I) the specified right was granted, or

(II) the funder anticipated that the specified right would be granted; and

(d) at that time, one or more funders is an ultimate funder.

Back-to-back arrangement — consequences

(2.17) If this subsection applies at a particular time, then for the purposes of this section and section 80.4, the intended borrower is deemed to receive a loan from each particular ultimate funder at the particular time, the amount of which is equal to the amount determined by the formula

A × B/C – (D – E)

where

A is the lesser of

(a) the amount outstanding as or on account of the shareholder debt at the particular time, and

(b) the total of all amounts, each of which is, at the particular time,

(i) an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to an ultimate funder under a funding arrangement in respect of the shareholder debt, or

(ii) the fair market value of a particular property in respect of which an ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

B is the total of all amounts, each of which is, at the particular time,

(a) an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt, or

indirectement, par une personne ou société de personnes, et à l'égard duquel l'un des énoncés ci-après se vérifie :

(A) les modalités du mécanisme de financement donné prévoient l'existence du droit déterminé,

(B) il est raisonnable de conclure que la totalité ou une partie du mécanisme de financement donné a été conclu, ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(I) le droit déterminé a été accordé,

(II) le bailleur de fonds prévoyait que le droit déterminé serait accordé;

d) à ce moment, au moins un bailleur de fonds est un bailleur de fonds ultime.

Mécanisme de prêts adossés — conséquences

(2.17) Si le présent paragraphe s'applique à un moment donné, l'emprunteur visé est réputé, pour l'application du présent article et de l'article 80.4, recevoir à ce moment de chaque bailleur de fonds ultime donné un prêt d'un montant égal à la somme obtenue par la formule suivante :

A × B/C – (D – E)

où :

A représente la moins élevée des sommes suivantes :

a) la somme qui est due au titre de la dette d'actionnaire au moment donné;

b) le total des sommes dont chacune représente, au moment donné, l'une des sommes suivantes :

(i) une somme due au titre d'une dette ou autre obligation qui est due par un bailleur de fonds (sauf un bailleur de fonds ultime) à un bailleur de fonds ultime dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire,

(ii) la juste valeur marchande d'un bien donné relativement auquel un bailleur de fonds ultime a accordé un droit déterminé à un bailleur de fonds (sauf un bailleur de fonds ultime) dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire;

B le total des sommes dont chacune représente, au moment donné, l'une des sommes suivantes :

a) une somme due au titre d'une dette ou autre obligation qui est due par un bailleur de fonds (sauf un bailleur de fonds ultime) au bailleur de fonds ultime donné dans le cadre d'un mécanisme de financement relatif à une dette d'actionnaire;

(b) the fair market value of a particular property in respect of which the particular ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt;

C is the total amount determined under paragraph (b) of the description of A;

D is the total of all amounts, each of which is, in respect of the shareholder debt, an amount that the intended borrower has been deemed by this subsection to have received from the particular ultimate funder as a loan at any time before the particular time; and

E is the total amount of any repayments deemed by subsections (2.19) and (2.191) to have occurred before the particular time, in respect of any deemed loans from the particular ultimate funder that are referred to in the description of D.

b) la juste valeur marchande d'un bien donné relativement auquel le bailleur de fonds ultime donné a accordé un droit déterminé à un bailleur de fonds (sauf un bailleur de fonds ultime) dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire;

C le total déterminé selon l'alinéa b) de l'élément A;

D le total des sommes dont chacune représente, relativement à la dette d'actionnaire, une somme que l'emprunteur visé est réputé par le présent paragraphe avoir reçue à titre de prêt du bailleur de fonds ultime donné avant le moment donné;

E le total des remboursements réputés par les paragraphes (2.19) et (2.191) avoir été effectués avant le moment donné relativement à des prêts qui sont réputés reçus du bailleur de fonds ultime donné et qui sont mentionnés à l'élément D.

Back-to-back arrangement — conditions for deemed repayment

(2.18) Subsection (2.19) applies in respect of an intended borrower and a particular ultimate funder at a particular time if

(a) prior to the particular time, subsection (2.17) has applied in respect of a shareholder debt to deem one or more loans to have been received by the intended borrower from the particular ultimate funder; and

(b) at the particular time,

(i) an amount owing in respect of the shareholder debt is repaid in whole or in part,

(ii) an amount owing in respect of a debt or other obligation owing to the particular ultimate funder by a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt is repaid in whole or in part, or

(iii) either

(A) there is a decrease in the fair market value of a property in respect of which a specified right was granted by the particular ultimate funder to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt, or

(B) a right described in clause (A) is extinguished.

Mécanisme de prêts adossés — remboursement réputé

(2.18) Le paragraphe (2.19) s'applique relativement à un emprunteur visé et à un bailleur de fonds ultime donné à un moment donné si les énoncés ci-après se vérifient :

a) à un moment antérieur au moment donné, le paragraphe (2.17) s'est appliqué relativement à une dette d'actionnaire pour qu'au moins un prêt soit réputé avoir été reçu par l'emprunteur visé du bailleur de fonds ultime donné;

b) au moment donné, l'un des faits ci-après s'avère :

(i) la totalité ou une partie d'une somme qui est due au titre de la dette d'actionnaire est remboursée,

(ii) la totalité ou une partie d'une somme au titre d'une dette ou autre obligation qui est due au bailleur de fonds ultime donné par un bailleur de fonds (sauf un bailleur de fonds ultime) dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire est remboursée,

(iii) l'un des énoncés ci-après se vérifie :

(A) une diminution de la juste valeur marchande d'un bien relativement auquel le bailleur de fonds ultime donné a accordé un droit déterminé à un bailleur de fonds (sauf un bailleur de fonds ultime) dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire,

(B) un droit visé à la clause (A) est éteint.

Back-to-back arrangement — deemed repayment

(2.19) If this subsection applies in respect of an intended borrower and a particular ultimate funder at a particular time,

(a) the intended borrower is deemed, for the purposes of this section, paragraph 20(1)(j), section 80.4 and subsection 227(6.1), to repay, in whole or in part, one or more of the deemed loans referred to in paragraph (2.18)(a) at the particular time; and

(b) the total amount of the deemed repayments referred to in paragraph (a) is to be determined by the following formula:

A – B – C

where

A is the total of all amounts, each of which is the amount of a loan deemed by subsection (2.17) to have been received, at any time before the particular time, by the intended borrower from the particular ultimate funder in respect of the shareholder debt,

B is the total of all amounts deemed by this subsection to have been repaid, at any time before the particular time, by the intended borrower in respect of any loans referred to in the description of A, and

C is the amount determined by the formula

D × E/F

where

D is the lesser of

(i) the amount outstanding as or on account of the shareholder debt, immediately after the particular time, and

(ii) the total of all amounts, each of which is, immediately after the particular time,

(A) an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to an ultimate funder under a funding arrangement in respect of the shareholder debt, or

(B) the fair market value of a particular property in respect of which an ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt,

Mécanisme de prêts adossés — remboursement réputé

(2.19) Si le présent paragraphe s'applique relativement à un emprunteur visé et à un bailleur de fonds ultime donné à un moment donné, les règles ci-après s'appliquent :

a) l'emprunteur visé est réputé, pour l'application du présent article, de l'alinéa 20(1)j), de l'article 80.4 et du paragraphe 227(6.1), rembourser la totalité ou une partie d'au moins un prêt réputé mentionné à l'alinéa (2.18)a) au moment donné;

b) le total du remboursement réputé mentionné à l'alinéa a) s'obtient par la formule suivante :

A – B – C

où :

A représente le total des sommes dont chacune représente le montant d'un prêt qui est réputé par le paragraphe (2.17) avoir été reçu, avant le moment donné, par l'emprunteur visé du bailleur de fonds ultime donné relativement à la dette d'actionnaire,

B le total des sommes réputées par le présent paragraphe avoir été remboursées, avant le moment donné, par l'emprunteur visé relativement à un prêt mentionné à l'élément A,

C la somme obtenue par la formule suivante :

D × E/F

où :

D représente la moins élevée des sommes suivantes :

i) la somme due au titre de la dette d'actionnaire immédiatement après le moment donné,

ii) le total des sommes dont chacune représente, immédiatement après le moment donné, l'une des sommes suivantes :

(A) une somme due au titre d'une dette ou autre obligation qui est due par un bailleur de fonds (sauf un bailleur de fonds ultime) à un bailleur de fonds ultime dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire,

(B) la juste valeur marchande d'un bien donné relativement auquel un bailleur de fonds ultime a accordé un droit déterminé à un bailleur de fonds (sauf un bailleur de fonds ultime) dans le cadre

E is the total of all amounts, each of which is, immediately after the particular time

(i) an amount outstanding as or on account of a debt or other obligation that is owed by a funder (other than an ultimate funder) to the particular ultimate funder under a funding arrangement in respect of the shareholder debt, or

(ii) the fair market value of a particular property in respect of which the particular ultimate funder has granted a specified right to a funder (other than an ultimate funder) under a funding arrangement in respect of the shareholder debt, and

F is the amount determined under subparagraph (ii) in the description of D.

E le total des sommes dont chacune représente, immédiatement après le moment donné, l'une des sommes suivantes :

i) une somme due au titre d'une dette ou autre obligation qui est due par un bailleur de fonds (sauf un bailleur de fonds ultime) au bailleur de fonds ultime donné dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire,

ii) la juste valeur marchande d'un bien donné relativement auquel le bailleur de fonds ultime donné a accordé un droit déterminé à un bailleur de fonds (sauf un bailleur de fonds ultime) dans le cadre d'un mécanisme de financement relatif à la dette d'actionnaire,

F la somme déterminée selon le sous-alinéa (ii) de l'élément D.

Negative amounts

(2.191) If, in the absence of section 257, the formula in subsection (2.17) would result in a negative amount at a particular time,

(a) the intended borrower is deemed, for the purposes of this section, paragraph 20(1)(j), section 80.4 and subsection 227(6.1), to repay, in whole or in part, one or more of the loans deemed by subsection (2.17) to have been received by the intended borrower from the particular ultimate funder before the particular time; and

(b) the total amount of the deemed repayments referred to in paragraph (a) is equal to the absolute value of that negative amount.

Montants négatifs

(2.191) Si, en l'absence de l'article 257, la somme obtenue par la formule figurant au paragraphe (2.17) est un montant négatif à un moment donné, les règles ci-après s'appliquent :

a) l'emprunteur visé est réputé, pour l'application du présent article, de l'alinéa 20(1)j), de l'article 80.4 et du paragraphe 227(6.1), rembourser la totalité ou une partie d'au moins un prêt réputé par le paragraphe (2.17) avoir été reçu par l'emprunteur visé du bailleur de fonds ultime donné avant le moment donné;

b) le total des sommes réputées remboursées visées à l'alinéa a) est égal à la valeur absolue de ce montant négatif.

Back-to-back arrangement — definitions

(2.192) The following definitions apply in this subsection and subsections (2.16) to (2.191).

funder, in respect of a funding arrangement, means

(a) if the funding arrangement is described in paragraph (a) of the definition *funding arrangement*, the immediate funder;

(b) if the funding arrangement is described in paragraph (b) of the definition *funding arrangement*, the creditor in respect of the debt or other obligation or the grantor of the specified right, as the case may be; and

Mécanismes de prêts adossés — définitions

(2.192) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (2.16) à (2.191).

bailleur de fonds Relativement à un mécanisme de financement, les personnes suivantes :

a) s'agissant d'un mécanisme de financement visé à l'alinéa a) de la définition de *mécanisme de financement*, le bailleur de fonds immédiat;

b) s'agissant d'un mécanisme de financement visé à l'alinéa b) de la définition de *mécanisme de financement*, le créancier relativement à la dette ou autre

(c) a person or partnership that does not deal at arm's length with a person or partnership referred to in paragraph (a) or (b). (*bailleur de fonds*)

funding arrangement means

(a) the shareholder debt; and

(b) each debt or other obligation or specified right, owing by or granted to a funder, in respect of a particular funding arrangement, if the debt or other obligation or specified right meets the conditions in subparagraph (2.16)(c)(i) or (ii) in respect of a funding arrangement. (*mécanisme de financement*)

specified right has the same meaning as in subsection 18(5). (*droit déterminé*)

ultimate funder means a funder, if subsection (2) would apply to the shareholder debt if the creditor under the shareholder debt were the funder instead of the immediate funder. (*bailleur de fonds ultime*)

obligation ou la personne ou société de personnes qui accorde le droit déterminé, selon le cas;

c) une personne ou société de personnes qui a un lien de dépendance avec une personne ou société de personnes visée à l'un des alinéas a) ou b). (*funder*)

bailleur de fonds ultime Bailleur de fonds, dans le cas où le paragraphe (2) s'appliquerait à une dette d'actionnaire si le créancier relatif à la dette d'actionnaire était le bailleur de fonds plutôt que le bailleur de fonds immédiat. (*ultimate funder*)

droit déterminé S'entend au sens du paragraphe 18(5). (*specified right*)

mécanisme de financement Les droits ou créances suivants :

a) la dette d'actionnaire;

b) chaque dette ou autre obligation dont un bailleur de fonds est débiteur, ou chaque droit déterminé qui est accordé à un bailleur de fonds, relativement à un mécanisme de financement donné, si la dette ou autre obligation ou le droit déterminé remplit les conditions énoncées aux sous-alinéas (2.16)c)(i) ou (ii) relativement à un mécanisme de financement. (*funding arrangement*)

When s. 15(2) not to apply — non-resident persons

(2.2) Subsection 15(2) does not apply to indebtedness between non-resident persons.

When s. 15(2) not to apply — ordinary lending business

(2.3) Subsection 15(2) does not apply to a debt that arose in the ordinary course of the creditor's business or a loan made in the ordinary course of the lender's ordinary business of lending money where, at the time the indebtedness arose or the loan was made, *bona fide* arrangements were made for repayment of the debt or loan within a reasonable time.

When s. 15(2) not to apply — certain employees

(2.4) Subsection 15(2) does not apply to a loan made or a debt that arose

(a) in respect of an individual who is an employee of the lender or creditor but not a specified employee of the lender or creditor,

(b) in respect of an individual who is an employee of the lender or creditor or who is the spouse or

Inapplication du paragraphe 15(2) — personnes non-résidentes

(2.2) Le paragraphe (2) ne s'applique pas aux dettes entre personnes non-résidentes.

Inapplication du paragraphe 15(2) — entreprise de prêt

(2.3) Le paragraphe (2) ne s'applique pas aux dettes contractées dans le cours normal des activités de l'entreprise du créancier ni aux prêts consentis dans le cours normal des activités de l'entreprise habituelle de prêt d'argent du prêteur dans le cas où, au moment où la dette a été contractée ou le prêt, consenti, des arrangements sont conclus de bonne foi en vue du remboursement de la dette ou du prêt dans un délai raisonnable.

Inapplication du paragraphe 15(2) — employés

(2.4) Le paragraphe (2) ne s'applique pas aux prêts consentis ni aux dettes contractées à l'égard des personnes suivantes :

a) un employé du prêteur ou du créancier, autre qu'un employé déterminé;

b) un particulier qui est un employé du prêteur ou du créancier ou l'époux ou conjoint de fait d'un tel

common- law partner of an employee of the lender or creditor to enable or assist the individual to acquire a dwelling or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the individual's habitation,

(c) where the lender or creditor is a particular corporation, in respect of an employee of the particular corporation or of another corporation that is related to the particular corporation, to enable or assist the employee to acquire from the particular corporation, or from another corporation related to the particular corporation, previously unissued fully paid shares of the capital stock of the particular corporation or the related corporation, as the case may be, to be held by the employee for the employee's own benefit, or

(d) in respect of an employee of the lender or creditor to enable or assist the employee to acquire a motor vehicle to be used by the employee in the performance of the duties of the employee's office or employment,

where

(e) it is reasonable to conclude that the employee or the employee's spouse or common-law partner received the loan, or became indebted, because of the employee's employment and not because of any person's share-holdings, and

(f) at the time the loan was made or the debt was incurred, *bona fide* arrangements were made for repayment of the loan or debt within a reasonable time.

employé, dans le cas où le prêt ou la dette a pour objet de permettre au particulier d'acquérir une habitation destinée à son propre usage ou une part du capital social d'une coopérative d'habitation acquise dans l'unique but d'acquérir le droit d'habiter une telle habitation dont la coopérative est propriétaire;

c) lorsque le prêteur ou le créancier est une société, un employé de la société ou d'une société liée à celle-ci, dans le cas où le prêt ou la dette a pour objet de permettre à l'employé d'acquérir pour son propre bénéfice auprès de la société ou d'une société liée à celle-ci des actions non émises antérieurement, entièrement libérées de son capital-actions et à être détenues par lui;

d) un employé du prêteur ou du créancier, dans le cas où le prêt ou la dette a pour objet de permettre à l'employé d'acquérir un véhicule à moteur pour son usage dans l'exercice des fonctions de sa charge ou de son emploi.

Le présent paragraphe ne rend le paragraphe (2) inapplicable que lorsque les conditions suivantes sont réunies :

e) il est raisonnable de conclure que l'employé, ou son conjoint, a obtenu le prêt ou contracté la dette en raison de l'emploi de l'employé et non en raison du nombre de parts ou d'actions qu'une personne détient;

f) au moment où le prêt est consenti ou la dette, contractée, des arrangements ont été conclus de bonne foi en vue du remboursement du prêt ou de la dette dans un délai raisonnable.

When s. 15(2) not to apply — certain trusts

(2.5) Subsection 15(2) does not apply to a loan made or a debt that arose in respect of a trust where

(a) the lender or creditor is a private corporation;

(b) the corporation is the settlor and sole beneficiary of the trust;

(c) the sole purpose of the trust is to facilitate the purchase and sale of the shares of the corporation, or of another corporation related to the corporation, for an amount equal to their fair market value at the time of the purchase or sale, as the case may be, from or to the employees of the corporation or of the related corporation (other than employees who are specified employees of the corporation or of another corporation related to the corporation), as the case may be; and

(d) at the time the loan was made or the debt incurred, *bona fide* arrangements were made for

Inapplication du paragraphe 15(2) — fiducies

(2.5) Le paragraphe (2) ne s'applique pas à un prêt consenti, ou à une dette contractée, relativement à une fiducie dans le cas où les conditions suivantes sont réunies :

a) le prêteur ou le créancier est une société privée;

b) la société est l'auteur et l'unique bénéficiaire de la fiducie;

c) l'unique raison d'être de la fiducie est de faciliter l'achat et la vente des actions de la société, ou d'une autre société liée à celle-ci, pour un montant égal à leur juste valeur marchande au moment de l'achat par des employés de la société ou de la société liée ou de la vente à de tels employés (sauf ceux qui sont des employés déterminés de la société ou d'une autre société liée à celle-ci);

repayment of the loan or debt within a reasonable time.

(d) au moment où le prêt est consenti ou la dette, contractée, des arrangements ont été conclus de bonne foi en vue du remboursement du prêt ou de la dette dans un délai raisonnable.

When s. 15(2) not to apply — repayment within one year

(2.6) Subsection 15(2) does not apply to a loan or an indebtedness repaid within one year after the end of the taxation year of the lender or creditor in which the loan was made or the indebtedness arose, where it is established, by subsequent events or otherwise, that the repayment was not part of a series of loans or other transactions and repayments.

Inapplication du paragraphe 15(2) — remboursement

(2.6) Le paragraphe (2) ne s'applique pas aux prêts ou aux dettes remboursés dans un délai d'un an suivant la fin de l'année d'imposition du prêteur ou du créancier au cours de laquelle ils ont été consentis ou contractés, s'il est établi, à la suite d'événements postérieurs ou autrement, que le remboursement n'a pas été fait dans le cadre d'une série de prêts, de remboursements ou d'autres opérations.

Employee of partnership

(2.7) For the purpose of this section, an individual who is an employee of a partnership is deemed to be a specified employee of the partnership where the individual is a specified shareholder of one or more corporations that, in total, are entitled, directly or indirectly, to a share of any income or loss of the partnership, which share is not less than 10% of the income or loss.

Employé d'une société de personnes

(2.7) Pour l'application du présent article, le particulier qui est l'employé d'une société de personnes est réputé en être un employé déterminé s'il est l'actionnaire déterminé d'une ou plusieurs sociétés qui, au total, ont droit, directement ou indirectement, à une part d'au moins 10 % du revenu ou de la perte de la société de personnes.

Interest or dividend on income bond or debenture

(3) An amount paid as interest or a dividend by a corporation resident in Canada to a taxpayer in respect of an income bond or income debenture shall be deemed to have been paid by the corporation and received by the taxpayer as a dividend on a share of the capital stock of the corporation, unless the corporation is entitled to deduct the amount so paid in computing its income.

Intérêt ou dividendes sur obligations à intérêt conditionnel

(3) La somme versée à titre d'intérêt ou de dividende par une société qui réside au Canada à un contribuable au titre d'une obligation à intérêt conditionnel est réputée avoir été payée par la société et reçue par le contribuable à titre de dividende sur une action du capital-actions de la société, sauf si celle-ci a le droit de déduire la somme ainsi versée dans le calcul de son revenu.

Idem, where corporation not resident

(4) An amount paid as interest or a dividend by a corporation not resident in Canada to a taxpayer in respect of an income bond or income debenture shall be deemed to have been received by the taxpayer as a dividend on a share of the capital stock of the corporation unless the amount so paid was, under the laws of the country in which the corporation was resident, deductible in computing the amount for the year on which the corporation was liable to pay income or profits tax imposed by the government of that country.

Idem, cas d'une société non-résidente

(4) La somme versée à titre d'intérêt ou de dividende à un contribuable par une société ne résidant pas au Canada, au titre d'une obligation à intérêt conditionnel, est réputée avoir été reçue par le contribuable à titre de dividende sur une action du capital-actions de la société à moins que la somme ainsi versée n'ait été, en vertu des lois du pays où la société résidait, déductible dans le calcul de la somme, pour l'année, sur laquelle la société était tenue de payer un impôt sur le revenu ou sur les bénéfices établi par le gouvernement de ce pays.

Automobile benefit

(5) For the purposes of subsection 15(1), the value of the benefit to be included in computing a shareholder's income for a taxation year with respect to an automobile made available to the shareholder, or a person related to the shareholder, by a corporation shall (except where an amount is determined under subparagraph 6(1)(e)(i) in

Avantage relatif à l'utilisation d'une automobile

(5) Pour l'application du paragraphe (1), la valeur de l'avantage à inclure dans le calcul du revenu d'un actionnaire pour une année d'imposition, à l'égard d'une automobile mise à sa disposition, ou à celle d'une personne qui lui est liée, par une société est, sauf si un montant est déterminé en application du sous-alinéa 6(1)e)(i) à

respect of the automobile in computing the shareholder's income for the year) be computed on the assumption that subsections 6(1), 6(1.1), 6(2) and 6(7) apply, with such modifications as the circumstances require, and as though the references therein to "the employer of the taxpayer", "the taxpayer's employer" and "the employer" were read as "the corporation".

l'égard de l'automobile dans le calcul du revenu de l'actionnaire pour l'année, calculée à supposer que les paragraphes 6(1), (1.1), (2) et (7) s'appliquent, avec les adaptations nécessaires, et comme si la mention, à ces paragraphes, de « l'employeur » ou de « son employeur », selon le cas, valait mention de « la société ».

Application of ss. (1), (2) and (5)

(7) For greater certainty, subsections 15(1), (2) and (5) are applicable in computing, for the purposes of this Part, the income of a shareholder or of a person or partnership whether or not the corporation, or the lender or creditor, as the case may be, was resident or carried on business in Canada.

Application des par. (1), (2) et (5)

(7) Il demeure entendu que les paragraphes (1), (2) et (5) s'appliquent au calcul, pour l'application de la présente partie, du revenu d'un actionnaire, d'une personne ou d'une société de personnes, que la société, le prêteur ou le créancier, selon le cas, ait ou non résidé au Canada ou y ait ou non exploité une entreprise.

(8) [Repealed, 1998, c. 19, s. 75(3)]

(8) [Abrogé, 1998, ch. 19, art. 75]

Deemed benefit to shareholder by corporation

(9) Where an amount in respect of a loan or debt is deemed by section 80.4 to be a benefit received by a person or partnership in a taxation year, the amount is deemed for the purpose of subsection 15(1) to be a benefit conferred in the year on a shareholder, unless subsection 6(9) or paragraph 12(1)(w) applies to the amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 15; 1994, c. 7, Sch. II, s. 11, Sch, VIII, s. 5, c. 21, s. 9; 1995, c. 21, s. 4; 1997, c. 10, s. 269; 1998, c. 19, s. 75; 2000, c. 12, s. 142; 2007, c. 2, s. 43; 2012, c. 31, s. 5; 2013, c. 34, s. 177; 2014, c. 39, s. 4; 2016, c. 12, s. 5.

Avantage réputé accordé à un actionnaire

(9) Pour l'application du paragraphe (1), la somme à l'égard d'un prêt ou d'une dette qui est réputée, en vertu de l'article 80.4, être un avantage reçu par une personne ou une société de personnes au cours d'une année d'imposition est réputée être (à l'exception d'une somme à laquelle s'applique le paragraphe 6(9) ou l'alinéa 12(1)w)), un avantage accordé au cours de l'année à un actionnaire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 15; 1994, ch. 7, ann. II, art. 11, ann. VIII, art. 5, ch. 21, art. 9; 1995, ch. 21, art. 4; 1997, ch. 10, art. 269; 1998, ch. 19, art. 75; 2000, ch. 12, art. 142; 2007, ch. 2, art. 43; 2012, ch. 31, art. 5; 2013, ch. 34, art. 177; 2014, ch. 39, art. 4; 2016, ch. 12, art. 5.

Interest on small business development bonds

15.1 (1) Any amount received by a taxpayer as or on account of interest on a small business development bond shall, except for the purposes of Part IV, be deemed to have been received as a taxable dividend.

Intérêts sur obligation pour le développement de la petite entreprise

15.1 (1) Toute somme reçue par un contribuable au titre des intérêts sur une obligation pour le développement de la petite entreprise est réputée, sauf pour l'application de la partie IV, avoir été reçue à titre de dividende imposable.

Rules for small business development bonds

(2) Where a corporation (in this section referred to as the "issuer") has issued an obligation that is at any time a small business development bond, notwithstanding any other provision of this Act,

(a) in computing the issuer's income for a taxation year, no deduction shall be made in respect of any amount paid or payable (depending on the method regularly followed in computing the issuer's income) as or on account of interest on the obligation in respect of a period that includes that time;

(b) except for the purpose of subsection 129(1), to the extent that any amount paid by the issuer as or on account of interest on the obligation is not allowed as a

Règles applicables

(2) Malgré les autres dispositions de la présente loi, les règles suivantes s'appliquent lorsqu'une société (appelée « émetteur » au présent article) émet un titre qui est, à un moment donné, une obligation pour le développement de la petite entreprise :

a) nul montant n'est déductible, dans le calcul du revenu de l'émetteur pour une année d'imposition, quant à une somme payée ou payable (selon la méthode servant habituellement à calculer le revenu de l'émetteur) au titre des intérêts sur le titre pour une période qui comprend ce moment;

b) sauf pour l'application du paragraphe 129(1), une somme payée par l'émetteur au titre des intérêts sur le

deduction because of paragraph 15.1(2)(a), it shall, when paid, be deemed to have been paid as a taxable dividend; and

(c) except for the purposes of paragraph 125(1)(b), the issuer's taxable income for any taxation year that includes a period throughout which the obligation was a small business development bond but

(i) the issuer was not an eligible small business corporation, or

(ii) all or substantially all of the proceeds from the issue of the obligation cannot reasonably be regarded as having been used by the issuer or a corporation with which it was not dealing at arm's length in the financing of an active business carried on in Canada immediately before the obligation was issued

shall be deemed to be an amount equal to the total of

(iii) the amount paid or payable (depending on the method regularly followed in computing the issuer's income) as or on account of interest on the obligation in respect of that period, and

(iv) the issuer's taxable income otherwise determined for the year.

Definitions

(3) In this section,

eligible small business corporation at any time means a taxable Canadian corporation that at that time is

(a) a small business corporation, or

(b) a cooperative corporation (within the meaning assigned by subsection 136(2)) all or substantially all of the assets of which are used in an active business carried on by it in Canada; (*société admissible exploitant une petite entreprise*)

joint election means an election that is made in prescribed form, containing prescribed information, jointly by the issuer of an obligation and the person who is the holder of the obligation at the time of the election, that is filed with the Minister by the holder, and in which the holder and the issuer elect that this section apply to the obligation; (*choix conjoint*)

majority interest partner [Repealed, 1998, c. 19, s. 76(1)]

titre, qui n'est pas admise en déduction par l'effet de l'alinéa a), est réputée, une fois payée, avoir été payée à titre de dividende imposable;

c) sauf pour l'application de l'alinéa 125(1)b), le revenu imposable de l'émetteur pour une année d'imposition qui comprend une période tout au long de laquelle le titre est une obligation pour le développement de la petite entreprise alors que, selon le cas :

(i) l'émetteur n'est pas une société admissible exploitant une petite entreprise,

(ii) il n'est pas raisonnable de considérer que l'émetteur ou une société avec laquelle il a un lien de dépendance s'est servi de la totalité, ou presque, du produit de l'émission du titre pour financer une entreprise exploitée activement au Canada immédiatement avant l'émission du titre,

est réputé égal au total des montants suivants :

(iii) la somme payée ou payable (selon la méthode servant habituellement à calculer le revenu de l'émetteur) au titre des intérêts sur le titre pour cette période,

(iv) le revenu imposable de l'émetteur, calculé par ailleurs pour l'année.

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

associé détenant une participation majoritaire [Abrogée, 1998, ch. 19, art. 76]

bien désigné [Abrogée, 1994, ch. 7, ann. VIII, art. 6]

bien utilisé à des fins désignées [Abrogée, 1994, ch. 7, ann. VIII, art. 6]

choix conjoint Choix par lequel l'émetteur d'un titre et la personne qui en est la détentrice au moment du choix conviennent d'appliquer les dispositions du présent article au titre. Le choix est présenté au ministre par la détentrice du titre, sur formulaire prescrit contenant les renseignements prescrits. (*joint election*)

créance admissible Titre — obligation, effet, billet, créance hypothécaire ou titre semblable — d'une société à un moment donné, qui est émis après le 25 février 1992 et avant 1995 et qui répond aux conditions suivantes :

a) le principal du titre n'est ni inférieur à 10 000 $ ni supérieur à 500 000 $;

property used for specified purposes [Repealed, 1994, c. 7, Sch. VIII, s. 6(1)]

qualifying debt obligation of a corporation at a particular time means an obligation that is a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation issued after February 25, 1992 and before 1995,

(a) the principal amount of which is not less than $10,000 or more than $500,000,

(b) that is issued for a term of not more than 5 years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, and

(c) that was issued not more than 5 years before the particular time,

if the obligation is issued by the corporation

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

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

(f) at a time when, because of financial difficulty, the corporation is in default, or could reasonably be expected to default, on a debt held by a person with whom the corporation was dealing at arm's length and the obligation is issued, in whole or in part, directly or indirectly in exchange or substitution for that debt; (*créance admissible*)

small business development bond at any time means

(a) an obligation that is at that time a qualifying debt obligation issued after 1981 and before 1988 by a Canadian-controlled private corporation in respect of which a joint election was made within 90 days after the later of its issue date and March 30, 1983,

(b) an obligation that is at that time a qualifying debt obligation issued after February 25, 1992 by a Canadian-controlled private corporation in respect of which a joint election was made within 90 days after its issue date, or

(c) an obligation that is at that time a qualifying debt obligation issued by a Canadian-controlled private corporation if

(i) it is reasonable to consider that the corporation and the holder of the obligation intended that this

b) le titre est émis pour une durée d'au plus cinq ans et, sauf en cas d'inexécution des conditions du titre, d'au moins un an;

c) le titre a été émis au plus cinq ans avant le moment donné;

Par ailleurs, le titre doit avoir été émis par la société :

d) soit dans le cadre d'une proposition faite à ses créanciers ou d'un accommodement conclu avec eux et approuvés par un tribunal en conformité avec la *Loi sur la faillite et l'insolvabilité*;

e) soit à un moment où la totalité, ou presque, de ses éléments d'actif est sous le contrôle d'un séquestre, d'un séquestre-gérant, d'un administrateur-séquestre ou d'un syndic de faillite;

f) soit à un moment où, en raison de difficultés financières, elle manque, ou pourrait vraisemblablement manquer, aux engagements résultant d'une dette détenue par une personne avec laquelle elle n'a aucun lien de dépendance, et le titre est émis, en tout ou en partie, directement ou indirectement, en échange ou en remplacement de cette dette. (*qualifying debt obligation*)

obligation pour le développement de la petite entreprise Titre qui est, à un moment donné :

a) soit une créance admissible émise après 1981 et avant 1988 par une société privée sous contrôle canadien, relativement à laquelle un choix conjoint a été fait dans les 90 jours suivant le dernier en date du jour de son émission et du 30 mars 1983;

b) soit une créance admissible émise après le 25 février 1992 par une société privée sous contrôle canadien, relativement à laquelle un choix conjoint a été fait dans les 90 jours suivant son émission;

c) soit une créance admissible émise par une société privée sous contrôle canadien si les conditions suivantes sont réunies :

(i) il est raisonnable de considérer que la société et le détenteur du titre voulaient que le présent article s'applique au titre compte tenu des éléments qui pourraient être applicables, y compris le taux d'intérêt prévu par les conditions du titre et la manière dont la société et le détenteur ont traité le titre pour l'application de la présente loi,

(ii) le détenteur présente au ministre un choix conjoint concernant le titre dans les 90 jours suivant le jour où le ministre signale, par avis écrit,

section apply to the obligation, having regard to such factors as may be relevant, including the rate of interest stipulated under the terms of the obligation and the manner in which the corporation and the holder have treated the obligation for the purposes of this Act, and

(ii) the holder files with the Minister a joint election in respect of the obligation within 90 days after the date of notification by the Minister that a joint election in respect of the obligation has not been filed. (*obligation pour le développement de la petite entreprise*)

specified property [Repealed, 1994, c. 7, Sch. VIII, s. 6(1)]

l'absence d'un tel choix. (*small business development bond*)

société admissible exploitant une petite entreprise Société canadienne imposable qui est, à un moment donné :

a) une société exploitant une petite entreprise;

b) une société coopérative (au sens du paragraphe 136(2)) dont la totalité, ou presque, des éléments d'actif est utilisée dans une entreprise qu'elle exploite activement au Canada. (*eligible small business corporation*)

Money borrowed

(4) Notwithstanding any other provision of this Act, an amount paid or payable by a taxpayer pursuant to a legal obligation to pay interest on borrowed money used for the purpose of acquiring a small business development bond shall be deemed to be an amount paid or payable, as the case may be, on borrowed money used for the purpose of earning income from a business or property.

Emprunts

(4) Malgré les autres dispositions de la présente loi, une somme payée ou payable par un contribuable en exécution d'une obligation légale de payer des intérêts sur de l'argent emprunté et utilisé pour acquérir une obligation pour le développement de la petite entreprise est réputée être une somme payée ou payable, selon le cas, sur de l'argent emprunté et utilisé pour tirer un revenu d'une entreprise ou d'un bien.

False declaration

(5) Where the Minister establishes that an issuer has knowingly or under circumstances amounting to gross negligence made a false declaration in a joint election in respect of an obligation, the reference in subparagraph 15.1(2)(c)(iii) to "the amount paid or payable" shall in respect of the obligation be read as a reference to "3 times the amount paid or payable".

Fausse déclaration

(5) Lorsque le ministre établit qu'un émetteur a fait, sciemment ou dans des circonstances équivalant à faute lourde, un faux énoncé dans un choix conjoint concernant un titre, le passage « la somme payée ou payable » au sous-alinéa (2)c)(iii) est remplacé par le passage « trois fois la somme payée ou payable ».

Disqualification

(6) Where at a particular time an issuer makes a joint election in respect of an obligation and

(a) the issuer or any other corporation associated at the time the obligation was issued with the issuer,

(b) an individual who controls or is a member of a related group that controls the issuer, or

(c) a partnership any member of which, who is a majority interest partner of the partnership, controls, or is a member of a related group that controls, the issuer

had at or before the particular time made a joint election in respect of any small business development bond or small business bond, as the case may be, for the purposes of this section, the issuer shall be deemed not to be an eligible small business corporation in respect of the obligation.

Inadmissibilité

(6) Lorsqu'un émetteur fait un choix conjoint relativement à un titre et que l'une des personnes ou sociétés de personnes suivantes a fait, au moment du choix ou avant, un choix conjoint relativement à une obligation pour le développement de la petite entreprise ou à une obligation pour la petite entreprise pour l'application du présent article, l'émetteur est réputé ne pas être une société admissible exploitant une petite entreprise relativement au titre :

a) l'émetteur ou toute autre société qui lui est associée au moment de l'émission du titre;

b) un particulier qui contrôle l'émetteur ou qui est membre d'un groupe lié qui le contrôle;

c) une société de personnes dont un associé détenant une participation majoritaire dans la société de

Exception

(7) Subsection 15.1(6) does not apply in respect of an obligation issued at any time where the issue price of the obligation does not exceed the amount, if any, by which

(a) $500,000

exceeds

(b) the total of all amounts each of which is the principal amount outstanding immediately after that time in respect of

(i) another obligation that is a small business development bond issued by

(A) the issuer, or

(B) a corporation associated with the issuer, or

(ii) a small business bond issued by

(A) an individual who controls, or is a member of a related group that controls, the issuer, or

(B) a partnership any member of which, who is a majority interest partner of the partnership, controls, or is a member of a related group that controls, the issuer.

Exception

(7) Le paragraphe (6) ne s'applique pas au titre émis à un moment donné et dont le prix d'émission ne dépasse pas l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

a) 500 000 $;

b) le total des montants représentant chacun le principal impayé, immédiatement après ce moment, d'un des titres suivants :

(i) un autre titre qui est une obligation pour le développement de la petite entreprise émise par l'émetteur ou par une société associée à celui-ci,

(ii) une obligation pour la petite entreprise émise, selon le cas :

(A) par un particulier qui contrôle l'émetteur ou qui est membre d'un groupe lié qui le contrôle,

(B) par une société de personnes dont un associé détenant une participation majoritaire dans la société de personnes contrôle l'émetteur ou est membre d'un groupe lié qui le contrôle.

(8) to (12) [Repealed, 1994, c. 7, Sch. VIII, s. 6(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts R.S., 1985, c. 1 (5th Supp.), s. 15.1; 1994, c. 7, Sch. V, s. 90, Sch. VIII, s. 6, c. 8, s. 1; 1998, c. 19, s. 76; 2001, c. 17, s. 198.

(8) à (12) [Abrogés, 1994, ch. 7, ann. VIII, art. 6]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 15.1; 1994, ch. 7, ann. V, art. 90, ann. VIII, art. 6, ch. 8, art. 1; 1998, ch. 19, art. 76; 2001, ch. 17, art. 198.

Interest on small business bond

15.2 (1) Any amount received by a taxpayer as or on account of interest on a small business bond shall, except for the purposes of Part IV, be deemed to have been received as a taxable dividend from a taxable Canadian corporation.

Intérêts sur obligation pour la petite entreprise

15.2 (1) Une somme reçue par un contribuable au titre des intérêts sur une obligation pour la petite entreprise est réputée, sauf pour l'application de la partie IV, avoir été reçue à titre de dividende imposable d'une société canadienne imposable.

Rules for small business bonds

(2) Where an individual or a partnership (in this section referred to as the "issuer") has issued an obligation that is at any time a small business bond, notwithstanding any other provision of this Act,

(a) in computing the issuer's income for a taxation year, no deduction shall be made in respect of any amount paid or payable (depending on the method regularly followed in computing the issuer's income) as or on account of interest on the bond in respect of a period that includes that time; and

Règles applicables

(2) Malgré les autres dispositions de la présente loi, les règles suivantes s'appliquent lorsqu'un particulier ou une société de personnes (appelé « émetteur » au présent article) émet un titre qui est, à un moment donné, une obligation pour la petite entreprise :

a) nul montant n'est déductible, dans le calcul du revenu de l'émetteur pour une année d'imposition, quant à une somme payée ou payable (selon la méthode servant habituellement à calculer le revenu de

(b) for any taxation year that includes a period throughout which the obligation was a small business bond but

(i) the issuer was not an eligible issuer, or

(ii) all or substantially all of the proceeds from the issue of the obligation were not used by the issuer in the financing of an active business carried on by the issuer in Canada immediately before the time of the issue of the obligation,

there shall be added to the tax otherwise payable under this Part by the issuer for that taxation year an amount equal to 29% of the amount of interest paid or payable (depending on the method regularly followed in computing the issuer's income) in respect of the bond for that period.

Definitions

(3) In this section,

eligible issuer at any time means

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

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

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

(iii) neither controls nor is a member of a related group that controls

(A) a corporation that has made a joint election before that time in respect of a small business development bond, or

(B) a corporation that is associated with a corporation referred to in clause (A), or

(b) a partnership

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

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

(iii) that has not made a joint election before that time in respect of a small business bond; (*émetteur admissible*)

l'émetteur) au titre des intérêts sur le titre pour une période qui comprend le moment donné;

b) une somme correspondant à 29 % des intérêts payés ou payables (selon la méthode servant habituellement à calculer le revenu de l'émetteur) sur le titre pour une période d'une année d'imposition tout au long de laquelle le titre est une obligation pour la petite entreprise est ajoutée à l'impôt payable par ailleurs en vertu de la présente partie par l'émetteur pour l'année d'imposition qui comprend cette période si les conditions suivantes sont réunies :

(i) l'émetteur n'est pas un émetteur admissible,

(ii) l'émetteur n'utilise pas la totalité, ou la presque totalité, du produit de l'émission du titre pour financer une entreprise qu'il exploite activement au Canada immédiatement avant l'émission du titre.

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

associé détenant une participation majoritaire [Abrogée, 1998, ch. 19, art. 77]

choix conjoint Choix par lequel l'émetteur d'un titre et la personne qui en est la détentrice au moment du choix conviennent d'appliquer les dispositions du présent article au titre. Le choix est présenté au ministre par la détentrice du titre, sur formulaire prescrit contenant les renseignements prescrits. (*joint election*)

créance admissible Titre — effet, billet, créance hypothécaire ou titre semblable — d'un émetteur à un moment donné, qui est émis après le 25 février 1992 et avant 1995 et qui répond aux conditions suivantes :

a) le principal du titre n'est ni inférieur à 10 000 $ ni supérieur à 500 000 $;

b) le titre est émis pour une durée d'au plus cinq ans et, sauf en cas d'inexécution des conditions du titre, d'au moins un an;

c) le titre a été émis au plus cinq ans avant le moment donné;

Par ailleurs, le titre doit avoir été émis :

d) soit dans le cadre d'une proposition faite aux créanciers de l'émetteur ou d'un accommodement conclu avec eux et approuvés par un tribunal en conformité avec la *Loi sur la faillite et l'insolvabilité*;

joint election means an election that is made in prescribed form, containing prescribed information, jointly by the issuer of an obligation and the person who is the holder of the obligation at the time of the election, that is filed with the Minister by the holder and in which the holder and the issuer elect that the provisions of this section apply to that obligation; (*choix conjoint*)

majority interest partner [Repealed, 1998, c. 19, s. 77(1)]

qualifying debt obligation of an issuer at a particular time means an obligation that is a bill, note, mortgage, hypothecary claim or similar obligation issued after February 25, 1992 and before 1995,

(a) the principal amount of which is not less than $10,000 or more than $500,000,

(b) that is issued for a term of not more than 5 years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, and

(c) that was issued not more than 5 years before the particular time,if the obligation is issued

(d) as part of a proposal to, or an arrangement with, the issuer's creditors that has been approved by a court under the *Bankruptcy and Insolvency Act*,

(e) at a time when all or substantially all of the issuer's assets are under the control of a receiver, receiver-manager, sequestrator or trustee in bankruptcy, or

(f) at a time when, because of financial difficulty, the issuer is in default, or could reasonably be expected to default, on a debt incurred in the course of the issuer's business and held by a person with whom the issuer was dealing at arm's length or, where the issuer is a partnership, by a person with whom each member of the partnership was dealing at arm's length, and it is issued, in whole or in part, directly or indirectly in exchange or substitution for that debt,

and the funds from the issue of the obligation are used in Canada in a business of the issuer carried on immediately before the time of issue; (*créance admissible*)

small business bond at any time means

(a) an obligation that is at that time a qualifying debt obligation, issued by an individual or a partnership, in respect of which a joint election was made within 90 days after its issue date, or

e) soit à un moment où la totalité, ou presque, des éléments d'actif de l'émetteur est sous le contrôle d'un séquestre, d'un séquestre-gérant, d'un administrateur-séquestre ou d'un syndic de faillite;

f) soit à un moment où, en raison de difficultés financière, l'émetteur manque, ou pourrait vraisemblablement manquer, aux engagements résultant d'une dette contractée dans le cadre de son entreprise, qui est détenue par une personne avec laquelle il n'a aucun lien de dépendance ou, si l'émetteur est une société de personnes, par une personne avec laquelle aucun associé de la société de personnes n'a de lien de dépendance, et le titre est émis, en tout ou en partie, directement ou indirectement, en échange ou en remplacement de cette dette.

En outre, les fonds tirés de l'émission de l'obligation doivent être utilisés au Canada dans le cadre d'une entreprise de l'émetteur qu'il exploite immédiatement avant l'émission. (*qualifying debt obligation*)

émetteur admissible

(a) Particulier, sauf une fiducie, qui, à un moment donné, réside au Canada et répond aux conditions suivantes :

(i) il n'a pas fait de choix conjoint avant le moment donné relativement à une obligation pour la petite entreprise,

(ii) il n'est pas un associé détenant une participation majoritaire dans une société de personnes qui a fait un choix conjoint avant le moment donné relativement à une obligation pour la petite entreprise,

(iii) il ne contrôle pas les sociétés suivantes et n'est pas membre d'un groupe lié qui les contrôle :

(A) une société qui a fait un choix conjoint avant le moment donné relativement à une obligation pour le développement de la petite entreprise,

(B) une société associée à la société visée à la division (A);

b) société de personnes qui, à un moment donné, répond aux conditions suivantes :

(i) chacun de ses associés est un particulier, sauf une fiducie, qui réside au Canada,

(ii) chacun de ses associés détenant une participation majoritaire, le cas échéant, est un émetteur admissible,

(b) an obligation that is at that time a qualifying debt obligation issued by an individual or a partnership if

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

(ii) the holder files with the Minister a joint election in respect of the obligation within 90 days after the date of notification by the Minister that a joint election in respect of the obligation has not been filed under paragraph (a). (*obligation pour la petite entreprise*)

(iii) elle n'a pas fait de choix conjoint avant le moment donné relativement à une obligation pour la petite entreprise. (*eligible issuer*)

obligation pour la petite entreprise Titre qui est, à un moment donné :

a) soit une créance admissible émise par un particulier ou une société de personnes et relativement à laquelle un choix conjoint a été fait dans les 90 jours suivant son émission;

b) soit une créance admissible émise par un particulier ou une société de personnes si les conditions suivantes sont réunies :

(i) il est raisonnable de considérer que l'émetteur et le détenteur du titre voulaient que le présent article s'applique au titre compte tenu des éléments qui pourraient être applicables, y compris le taux d'intérêt prévu par les conditions du titre et la manière dont l'émetteur et le détenteur ont traité le titre pour l'application de la présente loi,

(ii) le détenteur présente au ministre un choix conjoint concernant le titre dans les 90 jours suivant le jour où le ministre signale, par avis écrit, l'absence d'un choix visé à l'alinéa a). (*small business bond*)

Status of interest

(4) Notwithstanding any other provision of this Act, an amount paid or payable by a taxpayer pursuant to a legal obligation to pay interest on borrowed money used for the purpose of acquiring a small business bond shall be deemed to be an amount paid or payable, as the case may be, on borrowed money used for the purpose of earning income from a business or property.

Emprunts

(4) Malgré les autres dispositions de la présente loi, une somme payée ou payable par un contribuable en exécution d'une obligation légale de payer des intérêts sur de l'argent emprunté et utilisé pour acquérir une obligation pour la petite entreprise est réputée être une somme payée ou payable, selon le cas, sur de l'argent emprunté et utilisé pour tirer un revenu d'une entreprise ou d'un bien.

False declaration

(5) Where the Minister establishes that an issuer has knowingly or under circumstances amounting to gross negligence made a false declaration in a joint election in respect of an obligation, the reference in paragraph 15.2(2)(b) to "29%" shall, in respect of the obligation, be read as a reference to "87%".

Fausse déclaration

(5) Lorsque le ministre établit qu'un émetteur a fait, sciemment ou dans des circonstances équivalant à faute lourde, un faux énoncé dans un choix conjoint concernant un titre, le pourcentage de 29 % à l'alinéa (2)b) est remplacé par le pourcentage de 87 %.

Partnerships

(6) For the purpose of paragraph 15.2(2)(b), in the case of an issuer that is a partnership, the expression "tax otherwise payable under this Part by the issuer" shall be read as a reference to the "tax otherwise payable under this Part by each member of the partnership" and each member shall add to that member's tax otherwise

Sociétés de personnes

(6) Pour l'application de l'alinéa (2)b), dans le cas d'un émetteur qui est une société de personnes, le passage « l'impôt payable par ailleurs en vertu de la présente partie par l'émetteur » est remplacé par le passage « l'impôt payable par ailleurs en vertu de la présente partie par chaque associé de la société de personnes », et chaque

payable under this Part for the taxation year that includes the period described in paragraph 15.2(2)(b) the amount that can reasonably be regarded as that member's share of the amount determined under that paragraph with respect to the partnership.

Deemed eligible issuer

(7) Where, but for subparagraphs (a)(i), (ii) and (iii) and (b)(ii) of the definition ***eligible issuer*** in subsection 15.2(3), an individual or a partnership would be an "eligible issuer", the individual or partnership shall be deemed to be an eligible issuer in respect of a small business bond at any time where the issue price of the bond does not exceed the amount, if any, by which

(a) $500,000

exceeds

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

(i) another obligation that is a small business bond issued by

(A) the individual, or

(B) a partnership of which the individual is a majority interest partner, or

(ii) a small business development bond issued by

(A) a corporation that is controlled by the individual or by a related group of which the individual is a member, or

(B) a corporation that is associated with a corporation referred to in clause (A), or

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

(i) another obligation that is a small business bond issued by

(A) the partnership,

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

(C) a partnership of which the individual referred to in clause (B) is a majority interest partner, or

(ii) a small business development bond issued by

associé ajoute à son impôt payable par ailleurs en vertu de la présente partie pour l'année d'imposition qui comprend la période visée à l'alinéa (2)b) la somme qu'il est raisonnable de considérer comme étant sa part sur le montant déterminé selon cet alinéa quant à la société de personnes.

Émetteurs admissibles réputés

(7) Le particulier ou la société de personnes qui serait un émetteur admissible sans les sous-alinéas a)(i), (ii) et (iii) et b)(ii) de la définition de cette expression au paragraphe (3) est réputé en être un relativement à une obligation pour la petite entreprise à un moment donné si le prix d'émission de l'obligation ne dépasse pas l'excédent éventuel du montant visé à l'alinéa a) sur le total visé aux alinéas b) ou c):

a) 500 000 $;

b) si l'émetteur est un particulier, le total des montants représentant chacun le principal impayé immédiatement après le moment donné sur l'un des titres suivants :

(i) un autre titre qui est une obligation pour la petite entreprise émise par le particulier ou par une société de personnes dont il est un associé détenant une participation majoritaire,

(ii) une obligation pour le développement de la petite entreprise émise, selon le cas :

(A) par une société contrôlée par le particulier ou par un groupe lié dont il est membre,

(B) par une société associée à une société visée à la division (A);

c) si l'émetteur est une société de personnes, le total des montants représentant chacun le principal impayé immédiatement après le moment donné sur l'un des titres suivants :

(i) un autre titre qui est une obligation pour la petite entreprise émise, selon le cas :

(A) par la société de personnes,

(B) par un particulier qui est un associé détenant une participation majoritaire dans la société de personnes,

(C) par une société de personnes dont le particulier visé à la division (B) est un associé détenant une participation majoritaire,

(A) a corporation that is controlled by the individual referred to in clause (B) or by a related group of which the individual is a member, or

(B) a corporation that is associated with a corporation referred to in clause (A).

(8) and (9) [Repealed, 1994, c. 7, Sch. VIII, s. 6(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 15.2; 1994, c. 7, Sch. V, s. 90, Sch. VIII, s. 6, c. 8, s. 2; 1998, c. 19, s. 77; 2001, c. 17, s. 199.

Income and capital combined

16 (1) Where, under a contract or other arrangement, an amount can reasonably be regarded as being in part interest or other amount of an income nature and in part an amount of a capital nature, the following rules apply:

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

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

Obligation issued at discount

(2) Where, in the case of a bond, debenture, bill, note, mortgage or similar obligation issued after December 20, 1960 and before June 19, 1971 by a person exempt from tax under section 149, a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

(a) the obligation was issued for an amount that is less than the principal amount of the obligation,

(b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(ii) une obligation pour le développement de la petite entreprise émise, selon le cas :

(A) par une société contrôlée par le particulier visé à la division (i)(B) ou par un groupe lié dont il est membre,

(B) par une société associée à une société visée à la division (A).

(8) et (9) [Abrogés, 1994, ch. 7, ann VIII, art. 6]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 15.2; 1994, ch. 7, ann. V, art. 90, ann. VIII, art. 6, ch. 8, art. 2; 1998, ch. 19, art. 77; 2001, ch. 17, art. 199.

Revenu et capital réunis

16 (1) Les règles suivantes s'appliquent dans le cas où, selon un contrat ou un autre arrangement, il est raisonnable de considérer un montant en partie comme des intérêts ou comme un autre montant ayant un caractère de revenu et en partie comme un montant ayant un caractère de capital :

a) la partie du montant qu'il est raisonnable de considérer comme des intérêts est, quels que soient la date, la forme ou les effets juridiques du contrat ou de l'arrangement, considérée comme des intérêts sur un titre de créance détenu par la personne à qui le montant est payé ou payable;

b) la partie du montant qu'il est raisonnable de considérer comme un autre montant ayant un caractère de revenu est, quels que soient la date, la forme ou les effets juridiques du contrat ou de l'arrangement, incluse dans le calcul du revenu du contribuable à qui le montant est payé ou payable pour l'année d'imposition au cours de laquelle le montant est reçu ou est devenu exigible dans la mesure où elle n'est pas par ailleurs incluse dans le calcul du revenu du contribuable.

Titre émis au rabais

(2) L'excédent du principal d'un titre — obligation, effet, billet, hypothèque ou titre semblable — émis après le 20 décembre 1960 et avant let 19 juin 1971, par une personne exonérée d'impôt en vertu de l'article 149, par une personne que ne réside pas au Canada et qui n'y exploite pas d'entreprise ou par un gouvernement, une municipalité ou un organisme public, municipal ou autre, exerçant des fonctions gouvernementales, sur la somme pour laquelle il a été émis doit être inclus dans le calcul du revenu du premier propriétaire du titre qui réside au Canada et n'est ni une personne exonérée d'impôt en vertu de l'article 149 ni un gouvernement, pour l'année d'imposition du propriétaire du titre pendant laquelle il en est devenu propriétaire, si les conditions suivantes sont réunies :

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

is less than 5%, and

(c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred on the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional on the exercise of any such right) exceeds the annual rate determined under paragraph 16(2)(b) by more than 1/3 thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the first owner of the obligation who is a resident of Canada and is not a person exempt from tax under section 149 or a government, for the taxation year of that owner of the obligation in which he, she or it became the owner thereof.

a) le titre a été émis pour une somme inférieure à son principal;

b) est inférieur à 5 % l'intérêt déclaré payable sur le titre, exprimé en pourcentage annuel :

(i) du principal du titre, si aucune somme n'est payable sur le principal avant l'échéance du titre,

(ii) de la somme restant à rembourser sur le principal du titre, dans les autres cas;

c) le rendement du titre, exprimé en pourcentage annuel de la somme pour laquelle il a été émis (pourcentage annuel qui doit, si les conditions d'émission du titre ou les dispositions de toute convention y afférente donnaient à leur détenteur le droit d'exiger le paiement du principal du titre ou de la somme restant à rembourser sur ce principal, selon le cas, avant l'échéance de ce titre, être calculé en fonction du rendement qui permet d'obtenir le pourcentage annuel le plus élevé possible soit à l'échéance du titre, soit sous réserve de l'exercice de tout droit de ce genre) dépasse le pourcentage annuel déterminé en vertu de l'alinéa b) de plus du 1/3 de ce pourcentage annuel.

Obligation issued at discount

(3) Where, in the case of a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation (other than an obligation that is a prescribed debt obligation for the purpose of subsection 12(9)) issued after June 18, 1971 by a person exempt, because of section 149, from Part I tax on part or on all of the person's income, a non-resident person not carrying on business in Canada or a government, municipality or municipal or other public body performing a function of government,

(a) the obligation was issued for an amount that is less than the principal amount of the obligation, and

(b) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred on the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that

Titre émis au rabais

(3) L'excédent du principal d'un titre — obligation, effet, billet, créance hypothécaire ou titre semblable — (sauf un titre qui constitue une créance visée par règlement pour l'application du paragraphe 12(9)) émis après le 18 juin 1971 par une personne exonérée d'impôt par l'effet de l'article 149, par une personne qui ne réside pas au Canada et qui n'y exploite pas d'entreprise ou par un gouvernement, une municipalité ou un organisme public, municipal ou autre exerçant des fonctions gouvernementales, sur la somme pour laquelle il a été émis est à inclure dans le calcul du revenu du premier propriétaire du titre qui réside au Canada, qui n'est ni un gouvernement ni une personne qui, par l'effet de l'article 149, est exonérée de l'impôt prévu à la présente partie sur tout ou partie de son revenu imposable et pour lequel le titre est une immobilisation, pour l'année d'imposition au cours de laquelle il l'a acquis, si les conditions suivantes sont réunies :

a) le titre a été émis pour une somme inférieure à son principal;

produces the highest annual rate obtainable either on the maturity of the obligation or conditional on the exercise of any such right) exceeds 4/3 of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(i) the principal amount of the obligation, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the first owner of the obligation

(c) who is resident in Canada,

(d) who is not a government nor a person exempt, because of section 149, from tax under this Part on all or part of the person's taxable income, and

(e) of whom the obligation is a capital property,

for the taxation year in which the owner acquired the obligation.

b) le rendement du titre exprimé en pourcentage annuel de la somme pour laquelle il a été émis (pourcentage annuel qui doit, si les conditions d'émission du titre ou les dispositions de toute convention y afférente donnaient à leur détenteur le droit d'exiger le paiement du principal du titre ou de la somme restant à rembourser sur ce principal, selon le cas, avant l'échéance de ce titre, être calculé en fonction du rendement qui permet d'obtenir le pourcentage annuel le plus élevé possible soit à l'échéance du titre, soit sous réserve de l'exercice de tout droit de ce genre) dépasse les 4/3 de l'intérêt déclaré payable sur le titre, exprimé en pourcentage annuel :

(i) du principal du titre, si aucune somme n'est payable sur le principal avant l'échéance du titre,

(ii) de la somme restant à rembourser sur le principal du titre, dans les autres cas.

Where s. (1) does not apply

(4) Subsection 16(1) does not apply to any amount received by a taxpayer in a taxation year

(a) as an annuity payment; or

(b) in satisfaction of the taxpayer's rights under an annuity contract.

Non-application du par. (1)

(4) Le paragraphe (1) ne s'applique à aucune des sommes reçues par un contribuable au cours d'une année d'imposition :

a) soit à titre de rente;

b) soit en règlement de ses droits en vertu d'un contrat de rente.

Idem

(5) Subsection 16(1) does not apply in any case where subsection 16(2) or 16(3) applies.

Idem

(5) Le paragraphe (1) ne s'applique pas lorsque le paragraphe (2) ou (3) est applicable.

Indexed debt obligations

(6) Subject to subsection 16(7) and for the purposes of this Act, where at any time in a taxpayer's taxation year

(a) an interest in an indexed debt obligation is held by the taxpayer,

(i) an amount determined in prescribed manner shall be deemed to be received and receivable by the taxpayer in the year as interest in respect of the obligation, and

Titres de créance indexés

(6) Sous réserve du paragraphe (7) et pour l'application de la présente loi, lorsque, au cours de l'année d'imposition d'un contribuable :

a) le contribuable détient un droit dans un titre de créance indexé, les présomptions suivantes s'appliquent :

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

(b) an indexed debt obligation is an obligation of the taxpayer,

(i) an amount determined in prescribed manner shall be deemed to be payable in respect of the year by the taxpayer as interest in respect of the obligation, and

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

(c) the taxpayer pays or credits an amount in respect of an amount determined under subparagraph 16(6)(b)(i) in respect of an indexed debt obligation, the payment or crediting shall be deemed to be a payment or crediting of interest on the obligation.

(i) un montant déterminé selon les modalités réglementaires est réputé reçu et à recevoir par le contribuable au cours de l'année à titre d'intérêts sur le titre,

(ii) un montant déterminé selon les modalités réglementaires est réputé payé et payable par le contribuable pour l'année à titre d'intérêts en exécution d'une obligation légale du contribuable de payer des intérêts sur de l'argent emprunté et utilisé pour tirer un revenu d'une entreprise ou d'un bien;

b) un titre de créance indexé représente une dette du contribuable, les présomptions suivantes s'appliquent :

(i) un montant déterminé selon les modalités réglementaires est réputé payable par le contribuable pour l'année à titre d'intérêts sur le titre,

(ii) un montant déterminé selon les modalités réglementaires est réputé reçu et à recevoir par le contribuable au cours de l'année à titre d'intérêts sur le titre;

c) le contribuable paie ou crédite une somme au titre d'un montant déterminé selon le sous-alinéa b)(i) relativement à un titre de créance indexé, la somme est réputée représenter des intérêts payés ou crédités sur le titre.

Impaired indexed debt obligations

(7) Paragraph 16(6)(a) does not apply to a taxpayer in respect of an indexed debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of subparagraph 20(1)(l)(ii) in computing the taxpayer's income for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 16; 1994, c. 7, Sch. VIII, s. 7, c. 21, s. 10; 1998, c. 19, s. 78; 2001, c. 17, s. 200.

Titres de créance indexés douteux

(7) L'alinéa (6)a) ne s'applique pas à un contribuable relativement à un titre de créance indexé pour la partie d'une année d'imposition tout au long de laquelle le titre est douteux si un montant relatif au titre est déductible par l'effet du sous-alinéa 20(1)l)(ii) dans le calcul du revenu du contribuable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 16; 1994, ch. 7, ann. VIII, art. 7, ch. 21, art. 10; 1998, ch. 19, art. 78; 2001, ch. 17, art. 200.

Leasing properties

16.1 (1) Where a taxpayer (in this section referred to as the "lessee") leases tangible property, or for civil law corporeal property, that is not prescribed property and that would, if the lessee acquired the property, be depreciable property of the lessee, from a person resident in Canada other than a person whose taxable income is exempt from tax under this Part, or from a non-resident person who holds the lease in the course of carrying on a business through a permanent establishment in Canada, as defined by regulation, any income from which is subject to tax under this Part, who owns the property and with whom the lessee was dealing at arm's length (in this

Biens de location

16.1 (1) Lorsqu'un contribuable (appelé « preneur » au présent article) prend à bail d'une personne résidant au Canada (sauf une personne dont le revenu imposable est exonéré de l'impôt prévu à la présente partie) ou d'une personne non-résidente qui détient le bail dans le cadre d'une entreprise exploitée par l'entremise d'un établissement stable au Canada, au sens du règlement, dont le revenu est assujetti à l'impôt prévu à la présente partie, avec laquelle il n'a aucun lien de dépendance (appelée « bailleur » au présent article), pour une durée de plus d'un an, un bien tangible ou, pour l'application du droit civil, un bien corporel, sauf un bien visé par règlement,

section referred to as the "lessor") for a term of more than one year, if the lessee and the lessor jointly elect in prescribed form filed with their returns of income for their respective taxation years that include the particular time when the lease began, the following rules apply for the purpose of computing the income of the lessee for the taxation year that includes the particular time and for all subsequent taxation years:

(a) in respect of amounts paid or payable for the use of, or for the right to use, the property, the lease shall be deemed not to be a lease;

(b) the lessee shall be deemed to have acquired the property from the lessor at the particular time at a cost equal to its fair market value at that time;

(c) the lessee shall be deemed to have borrowed money from the lessor at the particular time, for the purpose of acquiring the property, in a principal amount equal to the fair market value of the property at that time;

(d) interest shall be deemed to accrue on the principal amount of the borrowed money outstanding from time to time, compounded semi-annually, not in advance, at the prescribed rate in effect

(i) at the earlier of

(A) the time, if any, before the particular time, at which the lessee last entered into an agreement to lease the property, and

(B) the particular time, or

(ii) where the lease provides that the amount payable by the lessee for the use of, or the right to use, the property varies according to prevailing interest rates in effect from time to time, and the lessee so elects, in respect of all of the property that is subject to the lease, in the lessee's return of income under this Part for the taxation year of the lessee in which the lease began, at the beginning of the period for which the interest is being calculated;

(e) all amounts paid or payable by or on behalf of the lessee for the use of, or the right to use, the property in the year shall be deemed to be blended payments, paid or payable by the lessee, of principal and interest on the borrowed money outstanding from time to time, calculated in accordance with paragraph 16.1(1)(d), applied firstly on account of interest on principal, secondly on account of interest on unpaid interest and thirdly on account of unpaid principal, if any, and the amount, if any, by which any such payment exceeds the total of those amounts shall be deemed to be paid

dont le bailleur est propriétaire et qui, si le preneur l'avait acquis, aurait constitué un bien amortissable pour lui, les règles ci-après s'appliquent au calcul du revenu du preneur pour l'année d'imposition qui comprend le moment donné où le bail a commencé et pour les années d'imposition postérieures si le preneur et le bailleur en font le choix conjoint sur le formulaire prescrit présenté avec leur déclaration de revenu pour leur année d'imposition respective qui comprend ce moment :

a) en ce qui concerne les montants payés ou payables pour l'usage ou le droit d'usage du bien, le bail est réputé ne pas en être un;

b) le preneur est réputé avoir acquis le bien du bailleur au moment donné à un coût égal à la juste valeur marchande du bien à ce moment;

c) le preneur est réputé avoir emprunté de l'argent du bailleur au moment donné en vue d'acquérir le bien, et le principal de l'emprunt est réputé correspondre à la juste valeur marchande du bien à ce moment;

d) des intérêts — composés semestriellement et non à l'avance, et calculés au taux prescrit applicable soit au premier en date du moment donné et du moment, antérieur au moment donné, où le preneur a conclu pour la dernière fois une convention visant la location du bien, soit, lorsque le bail prévoit que le montant payable par le preneur pour l'usage, ou le droit d'usage, du bien varie selon les taux d'intérêt applicables et que le preneur en fait le choix, pour tous les biens visés par le bail, dans sa déclaration de revenu produite en vertu de la présente partie pour son année d'imposition au cours de laquelle le bail commence, au début de la période pour laquelle les intérêts sont calculés — sont réputés s'accumuler sur le principal de l'argent emprunté non remboursé;

e) les montants payés ou payables par le preneur, ou pour son compte, pour l'usage, ou le droit d'usage, du bien au cours de l'année sont réputés être des paiements de principal et d'intérêts réunis — ces derniers étant calculés conformément à l'alinéa d) —, faits ou à faire par le preneur sur l'argent emprunté et non remboursé, qui sont appliqués d'abord en réduction des intérêts sur le principal, ensuite en réduction des intérêts sur les intérêts impayés et enfin en réduction du principal non remboursé; l'excédent éventuel d'un tel paiement sur le total de ces montants est réputé payé ou payable au titre des intérêts et tout montant réputé par le présent alinéa être un paiement d'intérêts est réputé être un montant payé ou payable, selon le cas, en exécution d'une obligation légale de payer des intérêts pour l'année sur l'argent emprunté;

or payable on account of interest, and any amount deemed by reason of this paragraph to be a payment of interest shall be deemed to have been an amount paid or payable, as the case may be, pursuant to a legal obligation to pay interest in respect of the year on the borrowed money;

(f) at the time of the expiration or cancellation of the lease, the assignment of the lease or the sublease of the property by the lessee, the lessee shall (except where subsection 16.1(4) applies) be deemed to have disposed of the property at that time for proceeds of disposition equal to the amount, if any, by which

(i) the total of

(A) the amount referred to in paragraph 16.1(1)(c), and

(B) all amounts received or receivable by the lessee in respect of the cancellation or assignment of the lease or the sublease of the property

exceeds

(ii) the total of

(A) all amounts deemed under paragraph 16.1(1)(e) to have been paid or payable, as the case may be, by the lessee on account of the principal amount of the borrowed money, and

(B) all amounts paid or payable by or on behalf of the lessee in respect of the cancellation or assignment of the lease or the sublease of the property;

(g) for the purposes of subsections 13(5.2) and 13(5.3), each amount paid or payable by or on behalf of the lessee that would, but for this subsection, have been an amount paid or payable for the use of, or the right to use, the property shall be deemed to have been deducted in computing the lessee's income as an amount paid or payable by the lessee for the use of, or the right to use, the property after the particular time;

(h) any amount paid or payable by or on behalf of the lessee in respect of the granting or assignment of the lease or the sublease of the property that would, but for this paragraph, be the capital cost to the lessee of a leasehold interest in the property shall be deemed to be an amount paid or payable, as the case may be, by the lessee for the use of, or the right to use, the property for the remaining term of the lease; and

(i) where the lessee elects under this subsection in respect of a property and, at any time after the lease was

f) sauf si le paragraphe (4) s'applique, le preneur est réputé disposer du bien, au moment de l'expiration, de la résiliation ou de la cession du bail ou au moment où il sous-loue le bien, pour un produit de disposition égal à l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants suivants :

(A) le montant visé à l'alinéa c),

(B) les montants reçus ou à recevoir par le preneur en raison de la résiliation ou de la cession du bail ou de la sous-location du bien,

(ii) le total des montants suivants :

(A) les montants réputés par l'alinéa e) avoir été payés ou payables par le preneur en réduction du principal de l'argent emprunté,

(B) les montants payés ou payables par le preneur ou pour son compte en raison de la résiliation ou de la cession du bail ou de la sous-location du bien;

g) pour l'application des paragraphes 13(5.2) et (5.3), chaque montant payé ou payable par le preneur ou pour son compte qui, sans le présent paragraphe, constituerait un montant payé ou payable pour l'usage, ou le droit d'usage, du bien est réputé déduit dans le calcul du revenu du preneur à titre de montant payé ou payable par lui pour l'usage, ou le droit d'usage, du bien après le moment donné;

h) tout montant payé ou payable par le preneur ou pour son compte au titre de la conclusion ou de la cession du bail ou de la sous-location du bien qui, sans le présent alinéa, représenterait le coût en capital pour le preneur d'un droit de tenure à bail dans le bien est réputé payé ou payable par le preneur pour l'usage, ou le droit d'usage, du bien pour la durée non écoulée du bail;

i) lorsque le preneur fait un choix selon le présent paragraphe relativement à un bien et que, à un moment donné après la conclusion du bail, le propriétaire du bien ne réside pas au Canada et ne détient pas le bail dans le cadre d'une entreprise exploitée par l'entremise d'un établissement stable au Canada, au sens du règlement, dont le revenu est assujetti à l'impôt prévu à la présente partie, le bail est réputé, pour l'application du présent paragraphe, avoir été annulé à ce moment.

entered into, the owner of the property is a non-resident person who does not hold the lease in the course of carrying on a business through a permanent establishment in Canada, as defined by regulation, any income from which is subject to tax under this Part, for the purposes of this subsection the lease shall be deemed to have been cancelled at that time.

Assignments and subleases

(2) Subject to subsections 16.1(3) and 16.1(4), where at any particular time a lessee who has made an election under subsection 16.1(1) in respect of a leased property assigns the lease or subleases the property to another person (in this section referred to as the "assignee"),

(a) subsection 16.1(1) shall not apply in computing the income of the lessee in respect of the lease for any period after the particular time; and

(b) if the lessee and the assignee jointly elect in prescribed form filed with their returns of income under this Part for their respective taxation years that include the particular time, subsection 16.1(1) shall apply to the assignee as if

(i) the assignee leased the property at the particular time from the owner of the property for a term of more than one year, and

(ii) the assignee and the owner of the property jointly elected under subsection 16.1(1) in respect of the property with their returns of income under this Part for their respective taxation years that include the particular time.

Idem

(3) Subject to subsection 16.1(4), where at any particular time a lessee who has made an election under subsection 16.1(1) in respect of a leased property assigns the lease or subleases the property to another person with whom the lessee is not dealing at arm's length, the other person shall, for the purposes of subsection 16.1(1) and for the purposes of computing that person's income in respect of the lease for any period after the particular time, be deemed to be the same person as, and a continuation of, the lessee, except that, notwithstanding paragraph 16.1(1)(b), that other person shall be deemed to have acquired the property from the lessee at the time that it was acquired by the lessee at a cost equal to the amount that would be the lessee's proceeds of disposition of the property determined under paragraph 16.1(1)(f) if that amount were determined without reference to clauses 16.1(1)(f)(i)(B) and (ii)(B).

Cessions et sous-locations

(2) Sous réserve des paragraphes (3) et (4), dans le cas où, à un moment donné, le preneur qui a fait un choix selon le paragraphe (1) cède un bail ou sous-loue un bien á une autre personne — appelée « cessionnaire » au présent article —, les règles suivantes s'appliquent :

a) le paragraphe (1) ne s'applique pas au calcul du revenu du preneur relativement au bail pour toute période postérieure au moment donné;

b) le preneur et le cessionnaire peuvent faire un choix conjoint sur formulaire prescrit présenté avec leur déclaration de revenu en vertu de la présente partie pour leur année d'imposition respective qui comprend le moment donné pour que le paragraphe (1) s'applique au cessionnaire comme si, à la fois :

(i) le cessionnaire avait, au moment donné, pris le bien à bail du propriétaire du bien pour une durée de plus d'un an,

(ii) le cessionnaire et le propriétaire du bien avaient fait le choix conjoint prévu au paragraphe (1) relativement au bien avec leur déclaration de revenu produite en vertu de la présente partie pour leur année d'imposition respective qui comprend le moment donné.

Idem

(3) Sous réserve du paragraphe (4), dans le cas où, à un moment donné, le preneur qui a fait un choix selon le paragraphe (1) cède un bail ou sous-loue un bien à une personne avec laquelle il a un lien de dépendance, la personne est réputée, pour l'application du paragraphe (1) et pour le calcul de son revenu relativement au bail pour une période postérieure au moment donné, être la même personne que le preneur et en être la continuation. Toutefois, malgré l'alinéa (1)b), la personne est réputée avoir acquis le bien auprès du preneur au moment où celui-ci l'a acquis à un coût égal au produit de disposition du bien pour le preneur, déterminé selon l'alinéa (1)f), compte non tenu des divisions (1)f)(i)(B) et (ii)(B).

Amalgamations and windings-up

(4) Notwithstanding subsection 16.1(2), where at any time a particular corporation that has made an election under subsection 16.1(1) in respect of a lease assigns the lease

(a) by reason of an amalgamation (within the meaning assigned by subsection 87(1)), or

(b) in the course of the winding-up of a Canadian corporation in respect of which subsection 88(1) applies,

to another corporation with which it does not deal at arm's length, the other corporation shall, for the purposes of subsection 16.1(1) and for the purposes of computing its income in respect of the lease after that time, be deemed to be the same person as, and a continuation of, the particular corporation.

Fusions et liquidations

(4) Malgré le paragraphe (2), dans le cas où, à un moment donné, la société donnée qui a fait un choix selon le paragraphe (1) cède un bail — soit en raison d'une fusion, au sens du paragraphe 87(1), soit lors de la liquidation d'une société canadienne, à laquelle le paragraphe 88(1) s'applique — à une autre société avec laquelle elle a un lien de dépendance, l'autre société est réputée, pour l'application du paragraphe (1) et pour le calcul de son revenu relativement au bail après ce moment, être la même personne que la société donnée et en être la continuation.

Replacement property

(5) For the purposes of subsection 16.1(1), where at any time a property (in this subsection referred to as a "replacement property") is provided by a lessor to a lessee as a replacement for a similar property of the lessor (in this subsection referred to as the "original property") that was leased by the lessor to the lessee, and the amount payable by the lessee for the use of, or the right to use, the replacement property is the same as the amount that was so payable in respect of the original property, the replacement property shall be deemed to be the same property as the original property.

Bien de remplacement

(5) Pour l'application du paragraphe (1), le bien qu'un bailleur fournit à un preneur en remplacement d'un bien semblable du bailleur visé par un bail conclu entre eux est réputé être le même bien que le bien semblable si le montant payable pour l'usage ou le droit d'usage du bien de remplacement est le même que celui qui était payable pour le bien semblable.

Additional property

(6) For the purposes of subsection 16.1(1), where at any particular time

(a) an addition or alteration (in this subsection referred to as "additional property") is made by a lessor to a property (in this subsection referred to as the "original property") of the lessor that is the subject of a lease,

(b) the lessor and the lessee of the original property have jointly elected under subsection 16.1(1) in respect of the original property, and

(c) as a consequence of the addition or alteration, the total amount payable by the lessee for the use of, or the right to use, the original property and the additional property exceeds the amount so payable in respect of the original property,

the following rules apply:

(d) the lessee shall be deemed to have leased the additional property from the lessor at the particular time,

Bien supplémentaire

(6) Pour l'application du paragraphe (1), lorsque, à un moment donné, le bien d'un bailleur (appelé « bien initial » au présent paragraphe) — bien visé par un bail et pour lequel le bailleur et le preneur ont fait le choix prévu au paragraphe (1) — fait l'objet, de la part du bailleur, d'une addition ou d'une modification (appelée « bien supplémentaire » au présent paragraphe) et que, par suite de l'addition ou de la modification, le montant total payable par le preneur pour l'usage ou le droit d'usage du bien initial et du bien supplémentaire excède le montant ainsi payable pour le bien initial, les présomptions suivantes s'appliquent :

a) le preneur est réputé avoir pris le bien supplémentaire à bail au moment donné;

b) la durée de ce bail est réputée supérieure à une année;

c) le bailleur et le preneur sont réputés avoir fait le choix conjoint prévu au paragraphe (1) relativement au bien supplémentaire;

(e) the term of the lease of the additional property shall be deemed to be greater than one year,

(f) the lessor and the lessee shall be deemed to have jointly elected under subsection 16.1(1) in respect of the additional property,

(g) the prescribed rate in effect at the particular time in respect of the additional property shall be deemed to be equal to the prescribed rate in effect in respect of the original property at the particular time,

(h) the additional property shall be deemed not to be prescribed property, and

(i) the excess referred to in paragraph 16.1(6)(c) shall be deemed to be an amount payable by the lessee for the use of, or the right to use, the additional property.

d) le taux prescrit applicable au moment donné au bien supplémentaire est réputé correspondre à celui alors applicable au bien initial;

e) le bien supplémentaire est réputé ne pas être visé par règlement;

f) l'excédent est réputé être un montant payable par le preneur pour l'usage ou le droit d'usage du bien supplémentaire.

Renegotiation of lease

(7) For the purposes of subsection 16.1(1), where at any time

(a) a lease (in this subsection referred to as the "original lease") of property is renegotiated in the course of a *bona fide* renegotiation, and

(b) as a result of the renegotiation, the amount payable by the lessee of the property for the use of, or the right to use, the property is altered in respect of a period after that time (otherwise than because of an addition or alteration to which subsection 16.1(6) applies),

the original lease shall be deemed to have expired and the renegotiated lease shall be deemed to be a new lease of the property entered into at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 16.1; 1994, c. 7, Sch. II, s. 12; 1999, c. 22, s. 7; 2013, c. 34, s. 94.

Renégociation du bail

(7) Pour l'application du paragraphe (1), le bail visant un bien qui, à un moment donné, fait l'objet d'une renégociation de bonne foi par suite de laquelle le montant payable par le preneur pour l'usage ou le droit d'usage du bien est modifié pour une période postérieure à ce moment, autrement que par suite d'une addition ou modification à laquelle le paragraphe (6) s'applique, est réputé expiré. Le bail renégocié est réputé être un nouveau bail conclu au moment donné.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 16.1; 1994, ch. 7, ann. II, art. 12; 1999, ch. 22, art. 7; 2013, ch. 34, art. 94.

Amount owing by non-resident

17 (1) If this subsection applies to a corporation resident in Canada in respect of an amount owing to the corporation (in this subsection referred to as the "debt"), the corporation shall include in computing its income for a taxation year the amount determined by the formula

A – B

where

A is the amount of interest that would be included in computing the corporation's income for the year in respect of the debt if interest on the debt were computed at the prescribed rate for the period in the year during which the debt was outstanding; and

B is the total of all amounts each of which is

Somme due par un non-résident

17 (1) Si le présent paragraphe s'applique à une société résidant au Canada relativement à une somme qui lui est due (appelée « dette » au présent paragraphe), la société est tenue d'inclure dans le calcul de son revenu pour une année d'imposition la somme obtenue par la formule suivante :

A – B

où :

A représente le montant d'intérêts qui serait inclus dans le calcul du revenu de la société pour l'année au titre de la dette si les intérêts sur celle-ci étaient calculés au taux prescrit pour la période de l'année durant laquelle la dette était impayée;

(a) an amount included in computing the corporation's income for the year as, on account of, in lieu of or in satisfaction of, interest in respect of the debt,

(b) an amount received or receivable by the corporation from a trust that is included in computing the corporation's income for the year or a subsequent taxation year and that can reasonably be attributed to interest on the debt for the period in the year during which the debt was outstanding, or

(c) an amount included in computing the corporation's income for the year or a subsequent taxation year under subsection 91(1) that can reasonably be attributed to interest on an amount owing (in this paragraph referred to as the "original debt") — or if the amount of the original debt exceeds the amount of the debt, a portion of the original debt that is equal to the amount of the debt — for the period in the year during which the debt was outstanding if

(i) without the existence of the original debt, subsection (2) would not have deemed the debt to be owed by the non-resident person referred to in paragraph (1.1)(a),

(ii) the original debt was owed by a non-resident person or a partnership each member of which is a non-resident person, and

(iii) where subsection (11.2) applies to the original debt,

(A) an amount determined under paragraph (11.2)(a) or (b) in respect of the original debt is an amount referred to in paragraph (2)(a), and because of the amount referred to in paragraph (2)(a), the debt is deemed to be owed by the non-resident person referred to in paragraph (1.1)(a), and

(B) the original debt was owing by an intermediate lender to an initial lender or by an intended borrower to an intermediate lender (within the meanings of those terms assigned by subsection (11.2)).

B le total des sommes dont chacune représente :

a) une somme incluse dans le calcul du revenu de la société pour l'année au titre ou en règlement total ou partiel des intérêts relatifs à la dette,

b) une somme reçue ou à recevoir par la société d'une fiducie, qui est incluse dans le calcul du revenu de la société pour l'année ou pour une année d'imposition postérieure et qu'il est raisonnable d'attribuer aux intérêts sur la dette pour la période de l'année durant laquelle la dette était impayée,

c) une somme incluse dans le calcul du revenu de la société pour l'année ou pour une année d'imposition postérieure en vertu du paragraphe 91(1) qu'il est raisonnable d'attribuer aux intérêts soit sur une somme due (appelée « dette initiale » au présent alinéa), soit, dans le cas où le montant de la dette initiale excède le montant de la dette, sur une partie de la dette initiale qui est égale au montant de la dette, pour la période de l'année durant laquelle la dette était impayée si, à la fois :

(i) en l'absence de la dette initiale, la dette n'avait pas été réputée, en vertu du paragraphe (2), être due par la personne non-résidente visée à l'alinéa (1.1)a),

(ii) la dette initiale était due par une personne non-résidente ou par une société de personnes dont chacun des associés est une personne non-résidente,

(iii) dans le cas où le paragraphe (11.2) s'applique à la dette initiale :

(A) d'une part, une somme déterminée selon les alinéas (11.2)a) ou b) relativement à la dette initiale est une somme visée à l'alinéa (2)a) et, en raison de cette dernière somme, la dette est réputée être due par la personne non-résidente visée à l'alinéa (1.1)a),

(B) d'autre part, la dette initiale était due par un prêteur intermédiaire à un prêteur initial ou par un emprunteur visé à un prêteur intermédiaire, ces termes s'entendant au sens du paragraphe (11.2).

Amount owing by non-resident

(1.1) Subsection (1) applies to a corporation resident in Canada in respect of an amount owing to the corporation if, at any time in a taxation year of the corporation,

(a) a non-resident person owes the amount to the corporation;

Somme due par un non-résident

(1.1) Le paragraphe (1) s'applique à une société résidant au Canada relativement à une somme qui lui est due si les faits ci-après s'avèrent au cours d'une année d'imposition de la société :

a) une personne non-résidente est débitrice de la somme envers la société;

(b) the amount has been or remains outstanding for more than a year; and

(c) the amount that would be determined for B in subsection (1), if that subsection applied, for the year in respect of the amount owing is less than the amount of interest that would be included in computing the corporation's income for the year in respect of the amount owing if that interest were computed at a reasonable rate for the period in the year during which the amount was outstanding.

b) la somme est impayée depuis plus d'un an ou le demeure pendant plus d'un an;

c) la somme qui serait déterminée pour l'année selon l'élément B de la formule figurant au paragraphe (1) relativement à la somme due si ce paragraphe s'appliquait, est moins élevée que le montant d'intérêts qui serait inclus dans le calcul du revenu de la société pour l'année au titre de cette somme si ces intérêts étaient calculés à un taux raisonnable pour la période de l'année durant laquelle la somme était due.

Anti-avoidance rule — indirect loan

(2) For the purpose of this section and subject to subsection (3), where

(a) a non-resident person owes an amount at any time to a particular person or partnership (other than a corporation resident in Canada), and

(b) it is reasonable to conclude that the amount or a portion of the amount became owing, or was permitted to remain owing, to the particular person or partnership because

(i) a corporation resident in Canada made a loan or transfer of property, or

(ii) the particular person or partnership anticipated that a corporation resident in Canada would make a loan or transfer of property,

either directly or indirectly, in any manner whatever, to or for the benefit of any person or partnership (other than an exempt loan or transfer),

the non-resident person is deemed at that time to owe to the corporation an amount equal to the amount, or the portion of the amount, as the case may be, owing to the particular person or partnership.

Règle anti-évitement — prêt indirect

(2) Pour l'application du présent article et sous réserve du paragraphe (3), dans le cas ou les conditions suivantes sont réunies :

a) une personne non-résidente est débitrice, à un moment donné, d'une créance d'une personne ou société de personnes donnée (sauf une société résidant au Canada),

b) il est raisonnable de conclure que la créance ou une partie de la créance est devenue due à la personne ou société de personnes donnée, ou a pu demeurer impayée, du fait qu'une société résidant au Canada a effectué un prêt ou transfert de biens (sauf un prêt ou transfert de biens exclu), directement ou indirectement, de quelque manière que ce soit, au profit d'une personne ou d'une société de personnes, ou pour le compte de l'une ou l'autre, ou du fait que la personne ou société de personnes donnée a prévu qu'une société résidant au Canada effectuerait ainsi un prêt ou transfert de biens (sauf un prêt ou transfert de biens exclu) au profit d'une personne ou d'une société de personnes, ou pour le compte de l'une ou l'autre,

la personne non-résidente est réputée, à ce moment, être débitrice envers la société d'une somme égale à la créance ou à la partie de la créance, selon le cas, due à la personne ou société de personnes donnée.

Exception to anti-avoidance rule — indirect loan

(3) Subsection (2) does not apply to an amount owing at any time by a non-resident person to a particular person or partnership where

(a) at that time, the non-resident person and the particular person or each member of the particular partnership, as the case may be, are controlled foreign affiliates of the corporation resident in Canada; or

(b) at that time,

(i) the non-resident person and the particular person are not related or the non-resident person and

Exception

(3) Le paragraphe (2) ne s'applique pas à la créance d'une personne ou société de personnes donnée dont une personne non-résidente est débitrice à un moment donné si, selon le cas :

a) à ce moment, la personne non-résidente et la personne donnée ou chaque associé de la société de personnes donnée, selon le cas, sont des sociétés étrangères affiliées contrôlées de la société résidant au Canada;

b) les faits suivants se vérifient à ce moment :

each member of the particular partnership are not related, as the case may be,

(ii) the terms or conditions made or imposed in respect of the amount owing, determined without reference to any loan or transfer of property by a corporation resident in Canada described in paragraph (2)(b) in respect of the amount owing, are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into, and

(iii) if there were an amount of interest payable on the amount owing at that time that would be required to be included in computing the income of a foreign affiliate of the corporation resident in Canada for a taxation year, that amount of interest would not be required to be included in computing the foreign accrual property income of the affiliate for that year.

Anti-avoidance rule — loan through partnership

(4) For the purpose of this section, where a non-resident person owes an amount at any time to a partnership and subsection (2) does not deem the non-resident person to owe an amount equal to that amount to a corporation resident in Canada, the non-resident person is deemed at that time to owe to each member of the partnership, on the same terms as those that apply in respect of the amount owing to the partnership, that proportion of the amount owing to the partnership at that time that

(a) the fair market value of the member's interest in the partnership at that time

is of

(b) the fair market value of all interests in the partnership at that time.

Anti-avoidance rule — loan through trust

(5) For the purpose of this section, where a non-resident person owes an amount at any time to a trust and subsection (2) does not deem the non-resident person to owe an amount equal to that amount to a corporation resident in Canada,

(a) where the trust is a non-discretionary trust at that time, the non-resident person is deemed at that time to owe to each beneficiary of the trust, on the same terms as those that apply in respect of the amount

(i) la personne non-résidente et la personne donnée ne sont pas liées ou la personne non-résidente et chaque associé de la société de personnes donnée ne sont pas liés, selon le cas,

(ii) les modalités conclues ou imposées relativement à la créance, déterminées compte non tenu d'un prêt ou transfert de biens visé à l'alinéa (2)b) effectué par une société résidant au Canada relativement à la créance, sont telles que des personnes n'ayant entre elles aucun lien de dépendance auraient été prêtes à les conclure au moment où elles l'ont été,

(iii) si des intérêts, à inclure dans le calcul du revenu d'une société étrangère affiliée de la société résidant au Canada pour une année d'imposition, étaient payables sur la créance à ce moment, ils ne seraient pas à inclure dans le calcul du revenu étranger accumulé, tiré de biens de la société affiliée pour cette année.

Règle anti-évitement — prêt par l'intermédiaire d'une société de personnes

(4) Pour l'application du présent article, la personne non-résidente qui, à un moment donné, est débitrice d'une créance d'une société de personnes sans être réputée, par le paragraphe (2), être débitrice d'une somme, égale à cette créance, due à une société résidant au Canada est réputée, à ce moment, être débitrice, selon les mêmes modalités que celles qui s'appliquent à la créance de la société de personnes, d'une somme, due à chaque associé de la société de personnes, égale au produit de la multiplication de la créance de la société de personnes à ce moment par le rapport entre :

a) d'une part, la juste valeur marchande de la participation de l'associé dans la société de personnes à ce moment;

b) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes à ce moment.

Règle anti-évitement — prêt par l'intermédiaire d'une fiducie

(5) Pour l'application du présent article, la personne non-résidente qui, à un moment donné, est débitrice d'une créance d'une fiducie sans être réputée, par le paragraphe (2), être débitrice d'une somme, égale à cette créance, due à une société résidant au Canada est réputée, à ce moment :

a) si la fiducie est une fiducie non discrétionnaire à ce moment, être débitrice, selon les mêmes modalités que celles qui s'appliquent à la créance de la fiducie,

owing to the trust, that proportion of the amount owing to the trust that

(i) the fair market value of the beneficiary's interest in the trust at that time

is of

(ii) the fair market value of all the beneficial interests in the trust at that time; and

(b) in any other case, the non-resident person is deemed at that time to owe to each settlor in respect of the trust, on the same terms as those that apply in respect of the amount owing to the trust, an amount equal to the amount owing to the trust.

Anti-avoidance rule — loan to partnership

(6) For the purpose of this section, where a particular partnership owes an amount at any time to any person or any other partnership (in this subsection referred to as the "lender"), each member of the particular partnership is deemed to owe at that time to the lender, on the same terms as those that apply in respect of the amount owing by the particular partnership to the lender, that proportion of the amount owing to the lender that

(a) the fair market value of the member's interest in the particular partnership at that time

is of

(b) the fair market value of all interests in the particular partnership at that time.

Exception

(7) Subsection (1) does not apply in respect of an amount owing to a corporation resident in Canada by a non-resident person if a tax has been paid under Part XIII on the amount owing, except that, for the purpose of this subsection, tax under Part XIII is deemed not to have been paid on that portion of the amount owing in respect of which an amount was repaid or applied under subsection 227(6.1).

Exception

(8) Subsection (1) does not apply to a corporation resident in Canada for a taxation year of the corporation in respect of an amount owing to the corporation by a non-resident person if the non-resident person is a controlled foreign affiliate of the corporation throughout the period

d'une somme, due à chaque bénéficiaire de la fiducie, égale au produit de la multiplication de la créance de la fiducie par le rapport entre :

(i) d'une part, la juste valeur marchande de la participation du bénéficiaire dans la fiducie à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des participations des bénéficiaires de la fiducie à ce moment;

b) dans les autres cas, être débitrice, selon les mêmes modalités que celles qui s'appliquent à la créance de la fiducie, d'une somme, égale à cette créance, due à chaque auteur de la fiducie.

Règle anti-évitement — prêt à une société de personnes

(6) Pour l'application du présent article, dans le cas où une société de personnes donnée est débitrice, à un moment donné, d'une créance d'une personne ou d'une autre société de personnes (appelées « prêteur » au présent paragraphe), chaque associé de la société de personnes donnée est réputé être débiteur à ce moment, selon les mêmes modalités que celles qui s'appliquent à la créance du prêteur dont est débitrice la société de personnes donnée, d'une somme, due au prêteur, égale au produit de la multiplication de la créance par le rapport entre :

a) d'une part, la juste valeur marchande de la participation de l'associé dans la société de personnes donnée à ce moment;

b) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes donnée à ce moment.

Exception

(7) Le paragraphe (1) ne s'applique pas à la somme qu'une personne non-résidente doit à une société résidant au Canada si l'impôt prévu à la partie XIII a été payé sur la somme. Toutefois, pour l'application du présent paragraphe, l'impôt prévu à la partie XIII est réputé ne pas avoir été payé sur la partie de la somme due à l'égard de laquelle un remboursement a été effectué ou un montant appliqué en vertu du paragraphe 227(6.1).

Exception

(8) Le paragraphe (1) ne s'applique pas à une société résidant au Canada pour une année d'imposition de celle-ci relativement à une somme qu'une personne non-résidente lui doit si cette personne est une société étrangère affiliée contrôlée de la société tout au long de la période

in the year during which the amount is owing to the extent that it is established that the amount owing

(a) arose as a loan or advance of money to the affiliate that the affiliate has used, throughout the period that began when the loan or advance was made and that ended at the earlier of the end of the year and the time at which the amount was repaid,

(i) for the purpose of earning

(A) income from an active business, as defined in subsection 95(1), of the affiliate, or

(B) income that was included in computing the income from an active business of the affiliate under subsection 95(2), or

(ii) for the purpose of making a loan or advance to another controlled foreign affiliate of the corporation where, if interest became payable on the loan or advance at any time in the period and the affiliate was required to include the interest in computing its income for a taxation year, that interest would not be required to be included in computing the affiliate's foreign accrual property income for that year; or

(b) arose in the course of an active business, as defined in subsection 95(1), carried on by the affiliate throughout the period that began when the amount owing arose and that ended at the earlier of the end of the year and the time at which the amount was repaid.

Borrowed money

(8.1) Subsection (8.2) applies in respect of money (referred to in this subsection and in subsection (8.2) as "new borrowings") that a controlled foreign affiliate of a particular corporation resident in Canada has borrowed from the particular corporation to the extent that the affiliate has used the new borrowings

(a) to repay money (referred to in this subsection and in subsection (8.2) as "previous borrowings") previously borrowed from any person or partnership, if

(i) the previous borrowings became owing after the last time at which the affiliate became a controlled foreign affiliate of the particular corporation, and

(ii) the previous borrowings were, at all times after they became owing, used for a purpose described in subparagraph (8)(a)(i) or (ii); or

(b) to pay an amount owing (referred to in this subsection and in subsection (8.2) as the "unpaid

de l'année pendant laquelle la somme est due, dans la mesure où il est établi que cette somme :

a) soit est attribuable à un prêt ou à une avance d'argent consenti à la société affiliée et dont elle s'est servi, tout au long de la période ayant commencé au moment où le prêt ou l'avance a été consenti et s'étant terminée à la fin de l'année ou, s'il est antérieur, au moment où la somme a été remboursée, à l'une des fins suivantes :

(i) tirer un revenu d'une entreprise exploitée activement, au sens du paragraphe 95(1), par elle, ou gagner un revenu qui a été inclus, en vertu du paragraphe 95(2), dans le calcul de son revenu provenant d'une entreprise exploitée activement par elle,

(ii) consentir un prêt ou une avance d'argent à une autre société étrangère affiliée contrôlée de la société dans le cas ou, si des intérêts, à inclure dans le calcul du revenu de la société affiliée pour une année d'imposition, étaient payables sur le prêt ou l'avance d'argent au cours de la période, ils ne seraient pas à inclure dans le calcul du revenu étranger accumulé tiré de biens de la société affiliée pour cette année;

b) soit est attribuable à l'exploitation d'une entreprise exploitée activement, au sens du paragraphe 95(1), par la société affiliée tout au long de la période ayant commencé au moment où la somme est devenue due et s'étant terminée à la fin de l'année ou, s'il est antérieur, au moment où la somme a été remboursée.

Argent emprunté

(8.1) Le paragraphe (8.2) s'applique relativement à l'argent (appelé « nouveaux emprunts » au présent paragraphe et au paragraphe (8.2)) qu'une société étrangère affiliée contrôlée d'une société donnée résidant au Canada a emprunté de celle-ci, dans la mesure où la société affiliée a utilisé les nouveaux emprunts :

a) soit pour rembourser de l'argent (appelé « emprunts antérieurs » au présent paragraphe et au paragraphe (8.2)) emprunté antérieurement d'une personne ou d'une société de personnes, si les emprunts antérieurs :

(i) d'une part, sont devenus dus après que la société affiliée est devenue, la dernière fois, une société étrangère affiliée contrôlée de la société donnée,

(ii) d'autre part, ont été utilisés, à tout moment après être devenus dus, à une fin visée aux sous-alinéas (8)a)(i) ou (ii);

purchase price") by the affiliate for property previously acquired from any person or partnership, if

(i) the property was acquired, and the unpaid purchase price became owing, by the affiliate after the last time at which it became a controlled foreign affiliate of the particular corporation,

(ii) the unpaid purchase price is in respect of the property, and

(iii) throughout the period that began when the unpaid purchase price became owing by the affiliate and ended when the unpaid purchase price was so paid, the property had been used principally to earn income described in clause (8)(a)(i)(A) or (B).

b) soit pour payer une somme due (appelée « prix d'achat impayé » au présent paragraphe et au paragraphe (8.2)) par elle pour un bien acquis antérieurement d'une personne ou d'une société de personnes, si, à la fois :

(i) le bien a été acquis, et le prix d'achat impayé est devenu dû, par la société affiliée après qu'elle est devenue, la dernière fois, une société étrangère affiliée contrôlée de la société donnée,

(ii) le prix d'achat impayé se rapporte au bien,

(iii) tout au long de la période ayant commencé au moment où le prix d'achat impayé est devenu dû par la société affiliée et s'étant terminée au moment il a été payé, le bien avait été utilisé principalement pour gagner un revenu visé au sous-alinéa (8)a)(i).

Deemed use

(8.2) To the extent that this subsection applies in respect of new borrowings, the new borrowings are, for the purpose of subsection (8), deemed to have been used for the purpose for which the proceeds from the previous borrowings were used or were deemed by this subsection to have been used, or to acquire the property in respect of which the unpaid purchase price was payable, as the case may be.

Utilisation réputée

(8.2) Dans la mesure où le présent paragraphe s'applique relativement à de nouveaux emprunts, ceux-ci sont réputés, pour l'application du paragraphe (8), avoir été utilisés, selon le cas, à la fin à laquelle le produit des emprunts antérieurs a été utilisé ou était réputé, par le présent paragraphe, avoir été utilisé, ou en vue d'acquérir le bien au titre duquel le prix d'achat impayé était exigible.

Exception

(9) Subsection (1) does not apply to a corporation resident in Canada for a taxation year of the corporation in respect of an amount owing to the corporation by a non-resident person if

(a) the corporation is not related to the non-resident person throughout the period in the year during which the amount owing is outstanding;

(b) the amount owing arose in respect of goods sold or services provided to the non-resident person by the corporation in the ordinary course of the business carried on by the corporation; and

(c) the terms and conditions in respect of the amount owing are such that persons dealing at arm's length would have been willing to enter into them at the time that they were entered into.

Exception

(9) Le paragraphe (1) ne s'applique pas à une société résidant au Canada pour une année d'imposition relativement à une créance de la société dont une personne non-résidente est débitrice si les conditions suivantes sont réunies :

a) la société n'est liée à la personne non-résidente à aucun moment de la période de l'année pendant laquelle la créance est due;

b) la créance a pris naissance du fait que la société a vendu des marchandises à la personne non-résidente, ou lui a fourni des services, dans le cours normal de son entreprise;

c) les modalités de la créance sont telles que des personnes sans lien de dépendance auraient été prêtes à les conclure au moment de leur conclusion.

Determination of whether related and controlled foreign affiliate status

(10) For the purpose of this section, in determining whether persons are related to each other and whether a non-resident corporation is a controlled foreign affiliate of a corporation resident in Canada at any time,

Personnes liées et société étrangère affiliée contrôlée

(10) Pour l'application du présent article, pour déterminer si des personnes sont liées les unes aux autres ou si une société non-résidente est une société étrangère affiliée contrôlée d'une société résidant au Canada à un moment donné, les présomptions suivantes s'appliquent :

(a) each member of a partnership is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the partnership at that time that

(i) the fair market value of the member's interest in the partnership at that time

is of

(ii) the fair market value of all interests in the partnership at that time; and

(b) each beneficiary of a non-discretionary trust is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the trust at that time that

(i) the fair market value of the beneficiary's interest in the trust at that time

is of

(ii) the fair market value of all the beneficial interests in the trust at that time.

a) chaque associé d'une société de personnes est réputé être propriétaire de la proportion d'actions d'une catégorie du capital-actions d'une société appartenant à la société de personnes à ce moment que représente le produit de la multiplication du nombre de ces actions par le rapport entre :

(i) d'une part, la juste valeur marchande de la participation de l'associé dans la société de personnes à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes à ce moment,

b) chaque bénéficiaire d'une fiducie non discrétionnaire est réputé être propriétaire de la proportion d'actions d'une catégorie du capital-actions d'une société appartenant à la fiducie à ce moment que représente le produit de la multiplication du nombre de ces actions par le rapport entre :

(i) d'une part, la juste valeur marchande de la participation du bénéficiaire dans la fiducie à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des participations dans la fiducie à ce moment.

Determination of whether related

(11) For the purpose of this section, in determining whether persons are related to each other at any time, each settlor in respect of a trust, other than a non-discretionary trust, is deemed to own the shares of a class of the capital stock of a corporation owned by the trust at that time.

Determination of whether persons related

(11.1) For the purposes of this section, in determining whether persons are related to each other at any time, any rights referred to in subparagraph 251(5)(b)(i) that exist at that time are deemed not to exist at that time to the extent that the exercise of those rights is prohibited at that time under a law of the country under the law of which the corporation was formed or last continued and is governed, that restricts the foreign ownership or control of the corporation.

Back-to-back loans

(11.2) For the purposes of subsection (2) and paragraph (3)(b), where a non-resident person, or a partnership each member of which is non-resident, (in this subsection referred to as the "intermediate lender") makes a loan to a non-resident person, or a partnership each

Personnes liées

(11) Pour l'application du présent article, pour déterminer si des personnes sont liées les unes aux autres à un moment donné, les auteurs d'une fiducie, sauf une fiducie non discrétionnaire, sont chacun réputés être propriétaires des actions d'une catégorie du capital-actions d'une société appartenant à la fiducie à ce moment.

Lien entre personnes

(11.1) Pour l'application du présent article, lorsqu'il s'agit de déterminer, à un moment donné, si des personnes sont liées entre elles, le droit visé au sous-alinéa 251(5)b)(i) qui existe à ce moment est réputé ne pas exister dans la mesure où son exercice est interdit à ce moment par une loi, limitant la propriété ou le contrôle étrangers de la société, du pays sous le régime des lois duquel la société a été constituée ou prorogée la dernière fois et est régie.

Prêts multiples

(11.2) Pour l'application du paragraphe (2) et de l'alinéa (3)b), lorsqu'une personne non-résidente ou une société de personnes dont chacun des associés est un non-résident (appelée « prêteur intermédiaire » au présent paragraphe) consent un prêt à une personne non-résidente

member of which is non-resident, (in this subsection referred to as the "intended borrower") because the intermediate lender received a loan from another non-resident person, or a partnership each member of which is non-resident, (in this subsection referred to as the "initial lender")

(a) the loan made by the intermediate lender to the intended borrower is deemed to have been made by the initial lender to the intended borrower (to the extent of the lesser of the amount of the loan made by the initial lender to the intermediate lender and the amount of the loan made by the intermediate lender to the intended borrower) under the same terms and conditions and at the same time as it was made by the intermediate lender; and

(b) the loan made by the initial lender to the intermediate lender and the loan made by the intermediate lender to the intended borrower are deemed not to have been made to the extent of the amount of the loan deemed to have been made under paragraph (a).

Determination of whether persons related

(11.3) For the purpose of applying paragraph (3)(b) in respect of a corporation resident in Canada described in paragraph (2)(b), in determining whether persons described in subparagraph (3)(b)(i) are related to each other at any time, any rights referred to in paragraph 251(5)(b) that otherwise exist at that time are deemed not to exist at that time where, if the rights were exercised immediately before that time,

(a) all of those persons would at that time be controlled foreign affiliates of the corporation resident in Canada; and

(b) because of subsection (8), subsection (1) would not apply to the corporation resident in Canada in respect of the amount that would, but for this subsection, have been deemed to have been owing at that time to the corporation resident in Canada by the non-resident person described in subparagraph (3)(b)(i).

Determination of controlled foreign affiliate status

(12) For the purpose of this section, in determining whether a non-resident person is a controlled foreign affiliate of a corporation resident in Canada at any time, each settlor in respect of a trust, other than a non-discretionary trust, is deemed to own that proportion of the number of shares of a class of the capital stock of a corporation owned by the trust at that time that one is of the number of settlors in respect of the trust at that time.

ou à une société de personnes dont chacun des associés est un non-résident (appelée « emprunteur visé » au présent paragraphe) du fait qu'elle a reçu un prêt d'une autre personne non-résidente ou d'une société de personnes dont chacun des associés est un non-résident (appelée « prêteur initial » au présent paragraphe), les présomptions suivantes s'appliquent :

a) le prêt consenti par le prêteur intermédiaire à l'emprunteur visé est réputé avoir été consenti par le prêteur initial à l'emprunteur visé (jusqu'à concurrence du prêt consenti par le prêteur initial au prêteur intermédiaire ou, s'il est moins élevé, du prêt consenti par le prêteur intermédiaire à l'emprunteur visé) selon les mêmes modalités auxquelles il a été consenti par le prêteur intermédiaire et au même moment où il a été consenti par lui;

b) le prêt consenti par le prêteur initial au prêteur intermédiaire et le prêt consenti par le prêteur intermédiaire à l'emprunteur visé sont réputés ne pas avoir été consentis jusqu'à concurrence du prêt réputé avoir été consenti aux termes de l'alinéa a).

Lien entre personnes

(11.3) Pour l'application de l'alinéa (3)b) à la société résidant au Canada visée à l'alinéa (2)b), lorsqu'il s'agit de déterminer si les personnes visées au sous-alinéa (3)b)(i) sont liées entre elles à un moment donné, le droit visé à l'alinéa 251(5)b) qui existe par ailleurs à ce moment est réputé ne pas exister dans le cas où, à la fois :

a) les personnes en question seraient, à ce moment, des sociétés étrangères affiliées contrôlées de la société résidant au Canada si le droit était exercé immédiatement avant ce moment;

b) par l'effet du paragraphe (8), le paragraphe (1) ne s'appliquerait pas à la société relativement à la somme qui, n'eût été le présent paragraphe, aurait été réputée lui être due à ce moment par la personne non-résidente visée au sous-alinéa (3)b)(i), si le droit était exercé immédiatement avant ce moment.

Société étrangère affiliée contrôlée

(12) Pour l'application du présent article, pour déterminer si une personne non-résidente est une société étrangère affiliée contrôlée d'une société résidant au Canada à un moment donné, les auteurs d'une fiducie, sauf une fiducie non discrétionnaire, sont chacun réputés être propriétaires de la proportion d'actions d'une catégorie du capital-actions d'une société appartenant à la fiducie à ce moment que représente le produit de la multiplication du nombre de ces actions par le rapport entre un et le nombre d'auteurs de la fiducie à ce moment.

Extended definition of controlled foreign affiliate

(13) For the purpose of this section, where, at any time, two corporations resident in Canada are related (otherwise than because of a right referred to in paragraph 251(5)(b)), any corporation that is a controlled foreign affiliate of one of the corporations at that time is deemed to be a controlled foreign affiliate of the other corporation at that time.

Anti-avoidance rule — where rights or shares issued, acquired or disposed of to avoid tax

(14) For the purpose of this section,

(a) where any person or partnership has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of the capital stock of a corporation and it can reasonably be considered that the principal purpose for the existence of the right is to avoid or reduce the amount of income that subsection (1) would otherwise require any corporation to include in computing its income for any taxation year, those shares are deemed to be owned by that person or partnership; and

(b) where any person or partnership acquires or disposes of shares of the capital stock of a corporation, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition of the shares is to avoid or reduce the amount of income that subsection (1) would otherwise require any corporation to include in computing its income for any taxation year, those shares are deemed not to have been acquired or disposed of, as the case may be, and where the shares were unissued by the corporation immediately before the acquisition, those shares are deemed not to have been issued.

Definitions

(15) The definitions in this subsection apply in this section.

controlled foreign affiliate, at any time, of a taxpayer resident in Canada, means a corporation that would, at that time, be a controlled foreign affiliate of the taxpayer within the meaning assigned by the definition ***controlled foreign affiliate*** in subsection 95(1) if the word "or" were added at the end of paragraph (a) of that definition and

Sens élargi de « société étrangère affiliée contrôlée »

(13) Pour l'application du présent article, lorsque deux sociétés résidant au Canada sont liées à un moment donné (autrement qu'en raison d'un droit visé à l'alinéa 251(5)b)), toute société qui est une société étrangère affiliée contrôlée de l'une des deux sociétés à ce moment est réputée être une société étrangère affiliée contrôlée de l'autre à ce moment.

Règle anti-évitement — émission, acquisition ou disposition de droits ou d'actions en vue d'éviter l'impôt

(14) Les présomptions suivantes s'appliquent dans le cadre du présent article :

a) lorsqu'une personne ou une société de personnes a, en vertu d'un contrat, en equity, ou autrement, un droit, immédiat ou futur, conditionnel ou non, à des actions du capital-actions d'une société ou d'acquérir de telles actions et qu'il est raisonnable de considérer que la principale raison de l'existence du droit est de permettre à une société d'éviter ou de réduire le montant de revenu qu'elle serait tenue par ailleurs, aux termes du paragraphe (1), d'inclure dans le calcul de son revenu pour une année d'imposition, ces actions sont réputées appartenir à cette personne ou société de personnes;

b) lorsqu'une personne ou une société de personnes acquiert des actions du capital-actions d'une société, ou dispose de telles actions, directement ou indirectement, et qu'il est raisonnable de considérer que la principale raison de l'acquisition ou de la disposition des actions est de permettre à une société d'éviter ou de réduire le montant de revenu qu'elle serait tenue par ailleurs, aux termes du paragraphe (1), d'inclure dans le calcul de son revenu pour une année d'imposition, ces actions sont réputées ne pas avoir été acquises ou ne pas avoir fait l'objet d'une disposition, selon le cas, et, si elles n'avaient pas été émises par la société immédiatement avant l'acquisition, ne pas avoir été émises.

Définitions

(15) Les définitions qui suivent s'appliquent au présent article.

auteur Quant à une fiducie à un moment donné, personne ou société de personnes qui a consenti un prêt ou effectué un transfert de biens, directement ou indirectement, de quelque manière que ce soit, à la fiducie ou pour son compte à ce moment ou antérieurement, sauf, dans le cas où la personne ou la société de personnes n'a aucun lien de dépendance avec la fiducie à ce moment, s'il s'agit d'un des prêts ou transferts suivants consentis

(a) subparagraph (b)(ii) of that definition were read as "all of the shares of the capital stock of the foreign affiliate that are owned at that time by persons resident in Canada who do not deal at arm's length with the taxpayer,"; and

(b) subparagraph (b)(iv) of that definition were read as "all of the shares of the capital stock of the foreign affiliate that are owned at that time by persons resident in Canada who do not deal at arm's length with any relevant Canadian shareholder;". (*société étrangère affiliée contrôlée*)

exempt loan or transfer means

(a) a loan made by a corporation resident in Canada where the interest rate charged on the loan is not less than the interest rate that a lender and a borrower would have been willing to agree to if they were dealing at arm's length with each other at the time the loan was made;

(b) a transfer of property (other than a transfer of property made for the purpose of acquiring shares of the capital stock of a foreign affiliate of a corporation or a foreign affiliate of a person resident in Canada with whom the corporation was not dealing at arm's length) or payment of an amount owing by a corporation resident in Canada pursuant to an agreement made on terms and conditions that persons who were dealing at arm's length at the time the agreement was entered into would have been willing to agree to;

(c) a dividend paid by a corporation resident in Canada on shares of a class of its capital stock; and

(d) a payment made by a corporation resident in Canada on a reduction of the paid-up capital in respect of shares of a class of its capital stock (not exceeding the total amount of the reduction). (*prêt ou transfert de biens exclu*)

non-discretionary trust, at any time, means a trust in which all interests were vested indefeasibly at the beginning of the trust's taxation year that includes that time. (*fiducie non discrétionnaire*)

settlor in respect of a trust at any time means any person or partnership that has made a loan or transfer of property, either directly or indirectly, in any manner whatever, to or for the benefit of the trust at or before that time, other than, where the person or partnership deals at arm's length with the trust at that time,

(a) a loan made by the person or partnership to the trust at a reasonable rate of interest; or

ou effectués par la personne ou la société de personnes à la fiducie :

a) un prêt consenti à un taux d'intérêt raisonnable;

b) un transfert effectué pour une contrepartie égale à la juste valeur marchande. (*settlor*)

fiducie non discrétionnaire Est une fiducie non discrétionnaire à un moment donné la fiducie dont l'ensemble des participations étaient dévolues irrévocablement au début de son année d'imposition comprenant ce moment. (*non-discretionary trust*)

prêt ou transfert de biens exclu

a) Prêt consenti par une société résidant au Canada à un taux d'intérêt qui n'est pas inférieur à celui sur lequel un prêteur et un emprunteur auraient été prêts à s'entendre s'il n'avait eu entre eux aucun lien de dépendance au moment où le prêt a été consenti;

b) transfert de biens (sauf celui effectué en vue d'acquérir des actions du capital-actions d'une société étrangère affiliée d'une société ou d'une société étrangère affiliée d'une personne résidant au Canada avec laquelle la société avait un lien de dépendance) par une société résidant au Canada, ou paiement d'un montant dont elle est débitrice, effectué conformément à une convention dont les modalités sont telles que des personnes n'ayant entre elles aucun lien de dépendance au moment de la conclusion de la convention auraient été prêtes à les conclure;

c) dividende versé par une société résidant au Canada sur des actions d'une catégorie de son capital-actions;

d) paiement fait par une société résidant au Canada sur une réduction du capital versé au titre des actions d'une catégorie de son capital-actions, qui n'excède pas le montant total de la réduction. (*exempt loan or transfer*)

société étrangère affiliée contrôlée Société qui, à un moment donné, serait une société étrangère affiliée contrôlée, au sens du paragraphe 95(1), d'un contribuable résidant au Canada si, à la fois :

a) le sous-alinéa b)(ii) de la définition de ***société étrangère affiliée contrôlée*** à ce paragraphe avait le libellé suivant : « les actions du capital-actions de la société affiliée qui appartiennent, à ce moment, à des personnes résidant au Canada qui ont un lien de dépendance avec lui »;

(b) a transfer made by the person or partnership to the trust for fair market value consideration. (*auteur*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 17; 1999, c. 22, s. 8; 2001, c. 17, s. 8; 2007, c. 35, s. 10; 2014, c. 39, s. 5.

b) le sous-alinéa b)(iv) de cette définition avait le libellé suivant : « les actions du capital-actions de la société affiliée qui appartiennent, à ce moment, à des personnes résidant au Canada qui ont un lien de dépendance avec un actionnaire canadien intéressé ». (*controlled foreign affiliate*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 17; 1999, ch. 22, art. 8; 2001, ch. 17, art. 8; 2007, ch. 35, art. 10; 2014, ch. 39, art. 5.

Deemed interest income — sections 15 and 212.3

17.1 (1) Subject to subsection (2), if — at any time in a taxation year of a corporation resident in Canada (in this section referred to as the "CRIC") or in a fiscal period of a qualifying Canadian partnership in respect of the CRIC — a non-resident corporation, or a partnership of which the non-resident corporation is a member, owes an amount to the CRIC or the qualifying Canadian partnership and the amount owing is a pertinent loan or indebtedness (as defined in subsection 15(2.11) or 212.3(11)),

(a) section 17 does not apply in respect of the amount owing; and

(b) the amount, if any, determined by the following formula is to be included in computing the income of the CRIC for the year or of the qualifying Canadian partnership for the fiscal period, as the case may be:

A – B

where

A is the amount that is the greater of

(i) the amount of interest that would be included in computing the income of the CRIC for the year or of the qualifying Canadian partnership for the fiscal period, as the case may be, in respect of the amount owing for the particular period in the year, or the fiscal period, during which the amount owing was a pertinent loan or indebtedness if that interest were computed at the prescribed rate for the particular period, and

(ii) the total of all amounts of interest payable in respect of the period in the year, or the fiscal period, during which the amount owing was a pertinent loan or indebtedness, by the CRIC, the qualifying Canadian partnership, a person resident in Canada with which the CRIC did not, at the time the amount owing arose, deal at arm's length or a partnership of which the CRIC or the person is a member, in respect of a debt obligation — entered into as part of a series of transactions or events that includes the transaction by which the amount owing arose — to the extent that the proceeds of the debt

Revenu d'intérêts réputé — articles 15 et 212.3

17.1 (1) Sous réserve du paragraphe (2), si, au cours d'une année d'imposition d'une société résidant au Canada (appelée « société résidente » au présent article) ou au cours d'un exercice d'une société de personnes canadienne admissible relativement à celle-ci, une société non-résidente, ou une société de personnes dont elle est un associé, doit une somme à la société résidente ou à la société de personnes canadienne admissible et que la somme due est un prêt ou dette déterminé, au sens des paragraphes 15(2.11) ou 212.3(11), les règles ci-après s'appliquent :

a) l'article 17 ne s'applique pas relativement à la somme due;

b) la somme éventuelle obtenue par la formule ci-après est à inclure dans le calcul du revenu de la société résidente pour l'année ou dans le calcul du revenu de la société de personnes canadienne admissible pour l'exercice, selon le cas :

A – B

où :

A représente la plus élevée des sommes suivantes :

(i) le montant d'intérêts qui serait inclus dans le calcul du revenu de la société résidente pour l'année ou dans le calcul du revenu de la société de personnes canadienne admissible pour l'exercice, selon le cas, au titre de la somme due pour la période donnée de l'année ou de l'exercice au cours de laquelle la somme due était un prêt ou dette déterminé si ces intérêts étaient calculés au taux prescrit pour cette période,

(ii) le total des montants d'intérêts à payer, relativement à la période de l'année ou de l'exercice au cours de laquelle la somme due était un prêt ou dette déterminé, par la société résidente, par la société de personnes canadienne admissible, par une personne résidant au Canada avec laquelle la société résidente avait un lien de dépendance au moment où la somme due a pris naissance ou par une société de personnes dont la société résidente ou la personne est un associé, au titre d'une créance

obligation can reasonably be considered to have directly or indirectly funded, in whole or in part, the amount owing, and

B is an amount included in computing the income of the CRIC for the year or of the qualifying Canadian partnership for the fiscal period, as the case may be, as, on account of, in lieu of or in satisfaction of, interest in respect of the amount owing for the period in the year, or the fiscal period, during which the amount owing was a pertinent loan or indebtedness.

— conclue dans le cadre d'une série d'opérations ou d'événements qui comprend l'opération ayant donné naissance à la somme due — dans la mesure où il est raisonnable de considérer que le produit de la créance a servi, directement ou indirectement, à financer, en tout ou en partie, la somme due,

B toute somme incluse dans le calcul du revenu de la société résidente pour l'année ou dans le calcul du revenu de la société de personnes canadienne admissible pour l'exercice, selon le cas, au titre ou en règlement total ou partiel d'intérêts relatifs à la somme due pour la période de l'année ou de l'exercice au cours de laquelle cette somme était un prêt ou dette déterminé.

Acquisition of control

(2) If at any time a parent referred to in section 212.3 acquires control of a CRIC and the CRIC was not controlled by a non-resident corporation immediately before that time, no amount is to be included under subsection (1) in computing the income of the CRIC in respect of a pertinent loan or indebtedness (as defined in subsection 212.3(11)) for the period that begins at that time and ends on the day that is 180 days after that time.

Acquisition de contrôle

(2) Si la société mère visée à l'article 212.3 acquiert le contrôle d'une société résidente à un moment donné et que celle-ci n'était pas contrôlée par une société non-résidente immédiatement avant ce moment, aucune somme n'est à inclure, en application du paragraphe (1), dans le calcul du revenu de la société résidente au titre d'un prêt ou dette déterminé, au sens du paragraphe 212.3(11), pour la période commençant au moment donné et se terminant 180 jours après ce moment.

Tax treaties

(3) A particular loan or indebtedness that would, in the absence of this subsection, be a pertinent loan or indebtedness is deemed not to be a pertinent loan or indebtedness if, because of a provision of a tax treaty, the amount included in computing the income of the CRIC for any taxation year or of the qualifying Canadian partnership for any fiscal period, as the case may be, in respect of the particular loan or indebtedness is less than it would be if no tax treaty applied.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 6.

Traités fiscaux

(3) Le prêt ou la dette qui, en l'absence du présent paragraphe, serait un prêt ou dette déterminé est réputé ne pas l'être si, par l'effet d'une disposition d'un traité fiscal, la somme incluse dans le calcul du revenu de la société résidente pour une année d'imposition ou dans le calcul du revenu de la société de personnes canadienne admissible pour un exercice, selon le cas, au titre du prêt ou de la dette est inférieure à ce qu'elle serait si aucun traité fiscal ne s'appliquait.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 6.

Deductions

Déductions

General limitations

18 (1) In computing the income of a taxpayer from a business or property no deduction shall be made in respect of

Exceptions d'ordre général

18 (1) Dans le calcul du revenu du contribuable tiré d'une entreprise ou d'un bien, les éléments suivants ne sont pas déductibles :

General limitation

(a) an outlay or expense except to the extent that it was made or incurred by the taxpayer for the purpose of gaining or producing income from the business or property;

Restriction générale

a) les dépenses, sauf dans la mesure où elles ont été engagées ou effectuées par le contribuable en vue de tirer un revenu de l'entreprise ou du bien;

Capital outlay or loss

(b) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;

Limitation re exempt income

(c) an outlay or expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;

Annual value of property

(d) the annual value of property except rent for property leased by the taxpayer for use in the taxpayer's business;

Reserves, etc.

(e) an amount as, or on account of, a reserve, a contingent liability or amount or a sinking fund except as expressly permitted by this Part;

Unpaid claims under insurance policies

(e.1) an amount in respect of claims that were received by an insurer before the end of the year under insurance policies and that are unpaid at the end of the year, except as expressly permitted by this Part;

Payments on discounted bonds

(f) an amount paid or payable as or on account of the principal amount of any obligation described in paragraph 20(1)(f) except as expressly permitted by that paragraph;

Payments on income bonds

(g) an amount paid by a corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930

(i) to afford relief to the debtor from financial difficulties, and

(ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;

Personal and living expenses

(h) personal or living expenses of the taxpayer, other than travel expenses incurred by the taxpayer while away from home in the course of carrying on the taxpayer's business;

Dépense ou perte en capital

b) une dépense en capital, une perte en capital ou un remplacement de capital, un paiement à titre de capital ou une provision pour amortissement, désuétude ou épuisement, sauf ce qui est expressément permis par la présente partie;

Restriction concernant le revenu exonéré

c) les dépenses, dans la mesure où il est raisonnable de les considérer comme engagées ou effectuées en vue de tirer un revenu exonéré ou à l'égard d'un bien dont le revenu serait exonéré;

Valeur annuelle des biens

d) la valeur annuelle des biens, sauf le loyer des biens loués par le contribuable pour usage dans son entreprise;

Provision, etc.

e) un montant au titre d'une provision, d'une éventualité ou d'un fonds d'amortissement, sauf ce qui est expressément permis par la présente partie;

Réclamations non réglées

e.1) un montant au titre des réclamations soumises à un assureur avant la fin de l'année dans le cadre de polices d'assurance et non réglées à la fin de l'année, sauf ce qui est expressément permis par la présente partie;

Versements sur obligations vendues au rabais

f) une somme payée ou payable au titre du principal d'une obligation visée à l'alinéa 20(1)f), sauf autorisation expresse contenue dans ce dernier alinéa;

Versements sur obligations à intérêt conditionnel

g) une somme versée par une société, à titre d'intérêt ou à tout autre titre, aux détenteurs de ses obligations à intérêt conditionnel, à moins que les obligations n'aient été émises ou que les dispositions qu'elles renferment relatives aux intérêts n'aient été adoptées depuis 1930 aux fins suivantes :

(i) apporter quelque assistance au débiteur qui est aux prises avec des difficultés financières,

(ii) remplacer ou modifier des obligations qui, à la fin de 1930, portaient un taux d'intérêt fixe sans condition;

Limitation re employer's contribution under supplementary unemployment benefit plan

(i) an amount paid by an employer to a trustee under a supplementary unemployment benefit plan except as permitted by section 145;

Limitation re employer's contribution under deferred profit sharing plan

(j) an amount paid by an employer to a trustee under a deferred profit sharing plan except as expressly permitted by section 147;

Limitation re employer's contribution under profit sharing plan

(k) an amount paid by an employer to a trustee under a profit sharing plan that is not

(i) an employees profit sharing plan,

(ii) a deferred profit sharing plan, or

(iii) a pooled registered pension plan or registered pension plan;

Use of recreational facilities and club dues

(l) an outlay or expense made or incurred by the taxpayer after 1971,

(i) for the use or maintenance of property that is a yacht, a camp, a lodge or a golf course or facility, unless the taxpayer made or incurred the outlay or expense in the ordinary course of the taxpayer's business of providing the property for hire or reward, or

(ii) as membership fees or dues (whether initiation fees or otherwise) in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members;

Safety deposit box

(l.1) an amount paid or payable in respect of the use of a safety deposit box of a financial institution;

Limitation re employee stock option expenses

(m) an amount in respect of which an election was made by or on behalf of the taxpayer under subsection 110(1.1);

Political contributions

(n) a political contribution;

Employee benefit plan contributions

(o) an amount paid or payable as a contribution to an employee benefit plan;

Frais personnels ou de subsistance

h) le montant des frais personnels ou de subsistance du contribuable — à l'exception des frais de déplacement engagés par celui-ci dans le cadre de l'exploitation de son entreprise pendant qu'il était absent de chez lui;

Limite quant aux cotisations patronales en vertu d'un régime de prestations supplémentaires de chômage

i) une somme payée par un employeur à un fiduciaire en vertu d'un régime de prestations supplémentaires de chômage, sauf dans la mesure permise par l'article 145;

Limite quant aux cotisations patronales en vertu d'un régime de participation différée aux bénéfices

j) une somme payée par un employeur à un fiduciaire en vertu d'un régime de participation différée aux bénéfices, sauf ce qui est expressément permis par l'article 147;

Limite quant aux cotisations patronales en vertu d'un régime de participation aux bénéfices

k) une somme payée par un employeur à un fiduciaire en vertu d'un régime de participation aux bénéfices qui n'est :

(i) ni un régime de participation des employés aux bénéfices,

(ii) ni un régime de participation différée aux bénéfices,

(iii) ni un régime de pension agréé ou un régime de pension agréé collectif;

Dépense relative aux loisirs

l) une dépense engagée ou effectuée par le contribuable après 1971:

(i) soit pour l'usage ou l'entretien d'un bien qui est un bateau de plaisance, un pavillon, un chalet-hôtel ou un terrain ou une installation de golf, sauf si le contribuable a engagé ou effectué cette dépense dans le cours normal des activités de son entreprise qui consiste à fournir ce bien contre loyer ou récompense,

(ii) soit à titre de cotisation (droit d'inscription ou autre) à une association dont l'objet principal consiste à fournir à ses membres des installations pour les loisirs, le sport ou les repas;

Salary deferral arrangement

(o.1) except as expressly permitted by paragraphs 20(1)(oo) and 20(1)(pp), an outlay or expense made or incurred under a salary deferral arrangement in respect of another person, other than such an arrangement established primarily for the benefit of one or more non-resident employees in respect of services to be rendered outside Canada;

Retirement compensation arrangement

(o.2) except as expressly permitted by paragraph 20(1)(r), contributions made under a retirement compensation arrangement;

Employee life and health trust

(o.3) except as expressly permitted by paragraph 20(1)(s), contributions to an employee life and health trust;

Limitation re personal services business expenses

(p) an outlay or expense to the extent that it was made or incurred by a corporation in a taxation year for the purpose of gaining or producing income from a personal services business, other than

(i) the salary, wages or other remuneration paid in the year to an incorporated employee of the corporation,

(ii) the cost to the corporation of any benefit or allowance provided to an incorporated employee in the year,

(iii) any amount expended by the corporation in connection with the selling of property or the negotiating of contracts by the corporation if the amount would have been deductible in computing the income of an incorporated employee for a taxation year from an office or employment if the amount had been expended by the incorporated employee under a contract of employment that required the employee to pay the amount, and

(iv) any amount paid by the corporation in the year as or on account of legal expenses incurred by it in collecting amounts owing to it on account of services rendered

that would, if the income of the corporation were from a business other than a personal services business, be deductible in computing its income;

Limitation re cancellation of lease

(q) an amount paid or payable by the taxpayer for the cancellation of a lease of property of the taxpayer

Compartiment de coffre-fort

l.1) toute somme payée ou à payer au titre de l'utilisation d'un compartiment de coffre-fort d'une institution financière;

Restriction — dépenses liées aux options d'achat d'actions d'employés

m) toute somme à l'égard de laquelle le choix prévu au paragraphe 110(1.1) a été fait par le contribuable ou pour son compte;

Contribution à fin politique

n) une contribution versée à des fins politiques;

Cotisations à un régime de prestations aux employés

o) une somme payée ou payable à titre de cotisation à un régime de prestations aux employés;

Dépenses en vertu d'une entente d'échelonnement du traitement

o.1) sauf ce qui est expressément prévu aux alinéas 20(1)oo) et pp), une dépense engagée ou effectuée en vertu d'une entente d'échelonnement du traitement applicable à une autre personne, à condition que l'entente ne soit pas faite principalement au profit d'un ou de plusieurs employés non-résidents pour des services à rendre à l'étranger;

Convention de retraite

o.2) sauf ce qui est prévu à l'alinéa 20(1)r), les cotisations versées dans le cadre d'une convention de retraite;

Fiducie de soins de santé au bénéfice d'employés

o.3) sauf ce qui est expressément prévu à l'alinéa 20(1)s), les cotisations versées à une fiducie de soins de santé au bénéfice d'employés;

Dépenses restreintes des entreprises de prestation de services personnels

p) une dépense, dans la mesure où elle est engagée ou effectuée par une société au cours d'une année d'imposition en vue de tirer un revenu d'une entreprise de prestation de services personnels, à l'exception :

(i) du salaire, du traitement ou d'une autre rémunération versé au cours de l'année à un actionnaire constitué en société de la société,

(ii) du coût, pour la société, de tout autre avantage ou allocation accordé à un actionnaire constitué en société au cours de l'année,

(iii) d'un montant dépensé par la société et lié à la vente de biens ou à la négociation de contrats par la société, lorsque le montant aurait été déductible

leased by the taxpayer to another person, except to the extent permitted by paragraph 20(1)(z) or 20(1)(z.1);

Certain automobile expenses

(r) an amount paid or payable by the taxpayer as an allowance for the use by an individual of an automobile to the extent that the amount exceeds an amount determined in accordance with prescribed rules, except where the amount so paid or payable is required to be included in computing the individual's income;

Loans or lending assets

(s) any loss, depreciation or reduction in a taxation year in the value or amortized cost of a loan or lending asset of a taxpayer made or acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money and not disposed of by the taxpayer in the year, except as expressly permitted by this Part;

Payments under different acts

(t) any amount paid or payable

(i) under this Act (other than tax paid or payable under Part XII.2 or Part XII.6),

(ii) as interest under Part IX of the *Excise Tax Act*, or

(iii) as interest under the *Air Travellers Security Charge Act*;

Fees — individual saving plans

(u) any amount paid or payable by the taxpayer for services in respect of a retirement savings plan, retirement income fund or TFSA under or of which the taxpayer is the annuitant or holder;

Interest — authorized foreign bank

(v) where the taxpayer is an authorized foreign bank, an amount in respect of interest that would otherwise be deductible in computing the taxpayer's income from a business carried on in Canada, except as provided in section 20.2;

Underlying payments on qualified securities

(w) except as expressly permitted, an amount that is deemed by subsection 260(5.1) to have been received by another person as an amount described in any of paragraphs 260(5.1)(a) to (c); and

Derivatives — lower of cost and market

(x) any reduction in a taxation year in the value of a property if

dans le calcul du revenu d'un actionnaire constitué en société pour une année d'imposition tiré d'une charge ou d'un emploi s'il l'avait dépensé en vertu d'un contrat d'emploi qui l'obligeait à verser le montant,

(iv) d'un montant versé par la société au cours de l'année au titre des frais judiciaires ou extrajudiciaires engagés par elle en recouvrement des sommes qui lui étaient dues pour services rendus,

qui serait, si le revenu de la société était tiré d'une entreprise autre qu'une entreprise de prestation de services personnels, déductible dans le calcul de son revenu;

Restriction concernant la résiliation d'un bail

q) une somme payée ou payable par le contribuable en vue de la résiliation d'un bail portant sur des biens du contribuable loués par ce dernier à une autre personne sauf dans la mesure permise par l'alinéa 20(1)z) ou z.1);

Allocation pour usage d'une automobile

r) tout montant payé ou payable par le contribuable à titre d'allocation pour usage d'une automobile par un particulier, dans la mesure où ce montant excède le montant prescrit, sauf si le montant ainsi payé ou payable doit être inclus dans le calcul du revenu du particulier;

Prêts et titres de crédit

s) le montant représentant une perte, une dépréciation ou une réduction, au cours d'une année d'imposition, de la valeur ou du coût amorti d'un prêt ou d'un titre de crédit qu'un contribuable a consenti ou acquis dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent et dont il n'a pas disposé au cours de l'année, sauf ce qui est expressément permis par la présente partie;

Paiements en vertu de diverses lois

t) toute somme payée ou à payer :

(i) en vertu de la présente loi, sauf l'impôt payé ou à payer en vertu des parties XII.2 ou XII.6,

(ii) à titre d'intérêts en vertu de la partie IX de la *Loi sur la taxe d'accise*,

(iii) à titre d'intérêts en vertu de la *Loi sur le droit pour la sécurité des passagers du transport aérien*;

(i) the method used by the taxpayer to value the property at the end of the year for purposes of computing the taxpayer's profit from a business or property is the cost at which the taxpayer acquired it or its fair market value at the end of the year, whichever is lower,

(ii) the property is described in subsection 10(15), and

(iii) the property is not disposed of by the taxpayer in the year; and

Payment for shares

(y) an amount referred to in subsection 13(36).

Limit on certain interest and property tax

(2) Notwithstanding paragraph 20(1)(c), in computing the taxpayer's income for a particular taxation year from a business or property, no amount shall be deductible in respect of any expense incurred by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,

(a) interest on debt relating to the acquisition of land, or

(b) property taxes (not including income or profits taxes or taxes computed by reference to the transfer of property) paid or payable by the taxpayer in respect of land to a province or to a Canadian municipality,

Frais — régimes d'épargne personnels

u) les sommes payées ou payables par le contribuable pour des services relatifs à un régime d'épargne-retraite, à un fonds de revenu de retraite ou à un compte d'épargne libre d'impôt dont il est le rentier ou le titulaire;

Intérêts — banque étrangère autorisée

v) si le contribuable est une banque étrangère autorisée, les intérêts qui seraient déductibles par ailleurs dans le calcul de son revenu provenant d'une entreprise exploitée au Canada, sauf disposition contraire de l'article 20.2;

Paiements sous-jacents sur titres admissibles

w) sauf autorisation expresse, la somme qui est réputée par le paragraphe 260(5.1) avoir été reçue par une autre personne au titre d'une somme visée à l'un des alinéas 260(5.1)a) à c);

Produits dérivés – évaluation à la moindre valeur

x) une réduction au cours d'une année d'imposition de la valeur d'un bien si, à la fois :

(i) la méthode qu'utilise le contribuable pour évaluer le bien à la fin de l'année aux fins du calcul du bénéfice qu'il tire d'une entreprise ou d'un bien est d'évaluer le bien à son coût d'acquisition pour lui ou, si elle est inférieure, à sa juste valeur marchande à la fin de l'année,

(ii) le bien est visé au paragraphe 10(15),

(iii) le bien ne fait l'objet d'aucune disposition par le contribuable au cours de l'année;

Paiements relatifs à des actions

y) une somme mentionnée au paragraphe 13(36).

Restriction relative à certains intérêts et impôts fonciers

(2) Malgré l'alinéa 20(1)c), dans le calcul du revenu qu'un contribuable tire d'une entreprise ou d'un bien pour une année d'imposition, un montant n'est déductible quant à une dépense engagée par le contribuable au cours de l'année au titre :

a) soit des intérêts sur une dette concernant l'acquisition d'un fonds de terre;

b) soit des impôts fonciers — à l'exclusion des impôts sur le revenu ou sur les bénéfices et des impôts afférents au transfert de biens — payés ou payables par le contribuable sur un fonds de terre à une province ou à une municipalité du Canada,

unless, having regard to all the circumstances (including the cost to the taxpayer of the land in relation to the taxpayer's gross revenue, if any, from the land for the particular year or any preceding taxation year), the land can reasonably be considered to have been, in the year,

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

(d) held primarily for the purpose of gaining or producing income of the taxpayer from the land for the particular year,

except to the extent of the total of

(e) the amount, if any, by which the taxpayer's gross revenue, if any, from the land for the particular year exceeds the total of all amounts deducted in computing the taxpayer's income from the land for the year, and

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

Where taxpayer member of partnership

(2.1) Where a taxpayer who is a member of a partnership was obligated to pay any amount as, on account or in lieu of payment of, or in satisfaction of, interest (in this subsection referred to as an "interest amount") on money that was borrowed by the taxpayer before April 1, 1977 and that was used to acquire land owned by the partnership before that day or on an obligation entered into by the taxpayer before April 1, 1977 to pay for land owned by the partnership before that day, and, in a taxation year of the taxpayer, either,

(a) the partnership has disposed of all or any portion of the land, or

(b) the taxpayer has disposed of all or any portion of the taxpayer's interest in the partnership

to a person other than a person with whom the taxpayer does not deal at arm's length, in computing the taxpayer's income for the year or any subsequent year, there may be deducted such portion of the taxpayer's interest amount

que si, compte tenu des circonstances, y compris le coût du fonds de terre pour le contribuable en rapport avec le revenu brut qu'il en tire pour l'année donnée ou en a tiré pour une année d'imposition antérieure, il est raisonnable de considérer que le fonds est au cours de l'année donnée :

c) soit utilisé dans le cours des activités d'une entreprise que le contribuable exploite au cours de l'année donnée — à l'exclusion des activités d'entreprise dans le cours normal desquelles le fonds est principalement détenu en vue de revente ou d'aménagement;

d) soit principalement détenu afin que le contribuable tire un revenu du fonds pour l'année donnée,

sauf dans la mesure du total des montants suivants :

e) l'excédent éventuel du revenu brut tiré du fonds par le contribuable pour l'année donnée sur le total des montants déduits dans le calcul du revenu qu'il tire du fonds pour l'année donnée;

f) s'il s'agit d'une société dont l'activité d'entreprise principale consiste à louer, à vendre ou à faire de l'aménagement en vue de louer ou de vendre des biens immeubles ou réels dont elle est propriétaire, à une personne avec laquelle elle n'a aucun lien de dépendance ou pour cette personne, la déduction de base de la société pour l'année donnée.

Cas où le contribuable est un associé d'une société de personnes

(2.1) Lorsqu'un contribuable — associé d'une société de personnes — était tenu de payer un montant au titre ou en paiement intégral ou partiel des intérêts sur de l'argent qu'il a emprunté avant le 1er avril 1977 et qui a servi à acquérir un fonds de terre dont la société de personnes était propriétaire avant cette date ou sur une obligation qu'il a contractée avant le 1er avril 1977 afin de payer un fonds de terre dont la société de personnes était propriétaire avant cette date et au cours d'une année d'imposition du contribuable et que :

a) soit la société de personnes a disposé de tout ou partie du fonds de terre;

b) soit le contribuable a disposé de tout ou partie de sa participation dans la société de personnes,

en faveur d'une personne avec laquelle le contribuable n'a aucun lien de dépendance, le contribuable peut, dans le calcul de son revenu pour l'année ou toute année suivante, déduire la fraction des intérêts payables par le contribuable qui est raisonnable par rapport à la partie du fonds de terre ou à la participation dans la société de

(c) that was, by virtue of subsection 18(2), not deductible in computing the income of the taxpayer for any previous taxation year,

(d) that was not deductible in computing the income of any other taxpayer for any taxation year,

(e) that was not included in computing the adjusted cost base to the taxpayer of any property, and

(f) that was not deductible under this subsection in computing the income of the taxpayer for any previous taxation year

as is reasonable having regard to the portion of the land or interest in the partnership, as the case may be, so disposed of.

c) elle n'était pas, en vertu du paragraphe (2), déductible dans le calcul de son revenu pour une année d'imposition antérieure;

d) elle n'était pas déductible dans le calcul du revenu d'un autre contribuable pour une année d'imposition quelconque;

e) elle n'était pas incluse dans le calcul du prix de base rajusté, pour le contribuable, d'un bien quelconque;

f) elle n'était pas déductible en vertu du présent paragraphe dans le calcul du revenu du contribuable pour une année d'imposition antérieure.

personnes, selon le cas, qui a fait l'objet d'une telle disposition et qui remplit les conditions suivantes :

Base level deduction

(2.2) For the purposes of this section, a corporation's base level deduction for a taxation year is the amount that would be the amount of interest, computed at the prescribed rate, for the year in respect of a loan of $1,000,000 outstanding throughout the year, unless the corporation is associated in the year with one or more other corporations in which case, except as otherwise provided in this section, its base level deduction for the year is nil.

Déduction de base

(2.2) Pour l'application du présent article, la déduction de base d'une société pour une année d'imposition est le montant qui serait l'intérêt, calculé au taux prescrit, pour l'année sur un prêt de 1 000 000 $ qui resterait impayé tout au long de l'année, sauf si la société est associée au cours de l'année à une ou à plusieurs autres sociétés, auquel cas, sauf disposition contraire au présent article, la déduction de base de la société est nulle.

Associated corporations

(2.3) Notwithstanding subsection 18(2.2), if all of the corporations that are associated with each other in a taxation year have filed with the Minister in prescribed form an agreement whereby, for the purposes of this section, they allocate an amount to one or more of them for the taxation year and the amount so allocated or the total of the amounts so allocated, as the case may be, does not exceed $1,000,000, the base level deduction for the year for each of the corporations is the base level deduction that would be computed under subsection 18(2.2) in respect of the corporation if the reference in that subsection to $1,000,000 were read as a reference to the amount so allocated to it.

Sociétés associées

(2.3) Malgré le paragraphe (2.2), si les sociétés qui sont associées entre elles au cours d'une année d'imposition ont présenté au ministre, selon le formulaire prescrit, une convention qui prévoit, pour l'application du présent article, la répartition entre elles ou l'attribution à l'une d'elles, pour l'année, d'un montant ne dépassant pas 1 000 000 $, la déduction de base de chaque société pour l'année est calculée conformément au paragraphe (2.2), « 1 000 000 $ » étant toutefois à remplacer par le montant qui lui est ainsi attribué.

Failure to file agreement

(2.4) If any of the corporations that are associated with each other in a taxation year has failed to file with the Minister an agreement as contemplated by subsection 18(2.3) within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax under this Part, the Minister shall, for the purpose of this section, allocate an amount to one or more of them for the taxation year, which amount or the total of

Défaut de présentation de la convention

(2.4) Si aucune des sociétés associées entre elles au cours d'une année d'imposition ne présente au ministre la convention visée au paragraphe (2.3) dans les 30 jours suivant l'envoi par le ministre d'un avis écrit à l'une d'elles qu'une telle convention est nécessaire à l'établissement d'une cotisation pour l'impôt prévu à la présente partie, le ministre doit, pour l'application du présent article, répartir entre elles ou attribuer à l'une d'elles pour l'année le montant de 1 000 000 $, auquel cas le montant

which amounts, as the case may be, shall equal $1,000,000 and in any such case, the amount so allocated to any corporation shall be deemed to be an amount allocated to the corporation pursuant to subsection 18(2.3).

ainsi attribué à chaque société est réputé l'être conformément au paragraphe (2.3).

Special rules for base level deduction

(2.5) Notwithstanding any other provision of this section,

(a) where a corporation, in this paragraph referred to as the "first corporation", has more than one taxation year ending in the same calendar year and is associated in two or more of those taxation years with another corporation that has a taxation year ending in that calendar year, the base level deduction of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to the application of paragraph 18(2.5)(b), an amount equal to its base level deduction for the first such taxation year determined without reference to paragraph 18(2.5)(b); and

(b) where a corporation has a taxation year that is less than 51 weeks, its base level deduction for the year is that proportion of its base level deduction for the year determined without reference to this paragraph that the number of days in the year is of 365.

Règles particulières

(2.5) Malgré les autres dispositions du présent article :

a) sous réserve de l'alinéa b), lorsqu'une société a plus d'une année d'imposition qui se termine au cours de la même année civile et qu'elle est associée, au cours d'au moins deux de ces années d'imposition, à une autre société ayant une année d'imposition qui se termine au cours de cette année civile, la déduction de base de la société pour chacune de ces années d'imposition qui se termine au cours de cette année civile et où elle est associée à l'autre société est égale à sa déduction de base pour la première de ces années d'imposition — déterminée compte non tenu de l'alinéa b);

b) la déduction de base d'une société qui a une année d'imposition de moins de 51 semaines est, pour cette année, calculée proportionnellement au nombre de jours de l'année par rapport à 365.

Definitions

(3) In subsection 18(2),

interest on debt relating to the acquisition of land includes

(a) interest paid or payable in a year in respect of borrowed money that cannot be identified with particular land but that may nonetheless reasonably be considered (having regard to all the circumstances) as interest on borrowed money used in respect of or for the acquisition of land, and

(b) interest paid or payable in the year by a taxpayer in respect of borrowed money that may reasonably be considered (having regard to all the circumstances) to have been used to assist, directly or indirectly,

(i) another person with whom the taxpayer does not deal at arm's length,

(ii) a corporation of which the taxpayer is a specified shareholder, or

(iii) a partnership of which the taxpayer's share of any income or loss is 10% or more,

Définitions

(3) Les définitions qui suivent s'appliquent au paragraphe (2).

fonds de terre Les biens suivants ne sont pas des fonds de terre, sauf dans la mesure où ils sont exploités comme terrain de stationnement à titre onéreux :

a) les bâtiments et constructions fixés au sol;

b) les fonds de terre sous-jacents aux biens visés à l'alinéa a);

c) les fonds de terre contigus aux fonds de terre visés à l'alinéa b) et qui sont un terrain de stationnement, une voie d'accès, une cour, un jardin ou un fonds de terre utilisé à des fins semblables comme accessoire nécessaire à un bien visé à l'alinéa a). (*land*)

intérêts sur une dette concernant l'acquisition d'un fonds de terre Sont compris dans ces intérêts :

a) les intérêts payés ou payables au cours d'une année relativement à de l'argent emprunté qu'il n'est pas possible de rattacher à un fonds de terre déterminé, mais qu'il est néanmoins raisonnable de considérer (compte tenu des circonstances) comme des intérêts

to acquire land to be used or held by that person, corporation or partnership otherwise than as described in paragraph 18(2)(c) or 18(2)(d), except where the assistance is in the form of a loan to that person, corporation or partnership and a reasonable rate of interest on the loan is charged by the taxpayer; (*intérêts sur une dette concernant l'acquisition d'un fonds de terre*)

land does not, except to the extent that it is used for the provision of parking facilities for a fee or charge, include

(a) any property that is a building or other structure affixed to land,

(b) the land subjacent to any property described in paragraph (a), or

(c) such land immediately contiguous to the land described in paragraph (b) that is a parking area, driveway, yard, garden or similar land as is necessary for the use of any property described in paragraph (a). (*fonds de terre*)

sur de l'argent emprunté et utilisé à l'égard de l'acquisition d'un fonds de terre;

b) les intérêts payés ou payables au cours de l'année par le contribuable sur de l'argent emprunté qu'il est raisonnable de considérer (compte tenu des circonstances) comme ayant été utilisé pour aider, directement ou indirectement :

(i) une autre personne avec laquelle le contribuable a un lien de dépendance,

(ii) une société dont le contribuable est un actionnaire déterminé,

(iii) une société de personnes sur le revenu ou la perte de laquelle la part du contribuable est d'au moins 10 %,

à acquérir un fonds de terre qui sera utilisé ou détenu par cette personne, société ou société de personnes autrement que de la manière prévue aux alinéas (2)c) oud), sauf lorsque l'aide prend la forme d'un prêt à cette personne, société ou société de personnes sur lequel le contribuable exige un taux d'intérêt raisonnable. (*interest on debt relating to the acquisition of land*)

Costs relating to construction of building or ownership of land

(3.1) Notwithstanding any other provision of this Act, in computing a taxpayer's income for a taxation year,

(a) no deduction shall be made in respect of any outlay or expense made or incurred by the taxpayer (other than an amount deductible under paragraph 20(1)(a), 20(1)(aa) or 20(1)(qq) or subsection 20(29)) that can reasonably be regarded as a cost attributable to the period of the construction, renovation or alteration of a building by or on behalf of the taxpayer, a person with whom the taxpayer does not deal at arm's length, a corporation of which the taxpayer is a specified shareholder or a partnership of which the taxpayer's share of any income or loss is 10% or more and relating to the construction, renovation or alteration, or a cost attributable to that period and relating to the ownership during that period of land

(i) that is subjacent to the building, or

(ii) that

(A) is immediately contiguous to the land subjacent to the building,

Coûts liés à un bâtiment ou à un fonds de terre

(3.1) Malgré les autres dispositions de la présente loi, dans le calcul du revenu d'un contribuable pour une année d'imposition :

a) aucune déduction n'est faite à l'égard d'une dépense engagée ou effectuée par le contribuable (à l'exception d'une somme déductible en application des alinéas 20(1)a), aa) ou qq) ou du paragraphe 20(29)) qu'il est raisonnable de considérer soit comme un coût attribuable à la période de construction, de rénovation ou de transformation d'un bâtiment par le contribuable, par une personne avec laquelle il a un lien de dépendance, par une société dont il est un actionnaire déterminé ou par une société de personnes dont sa part sur le revenu ou la perte est d'au moins 10 %, ou pour leur compte, et lié à cette construction, rénovation ou transformation, soit comme un coût attribuable à cette période et lié à la propriété, pendant cette période, d'un fonds de terre qui :

(i) soit est sous-jacent au bâtiment,

(ii) soit remplit les conditions suivantes :

(A) il est contigu au fonds de terre sous-jacent au bâtiment,

(B) is used, or is intended to be used, for a parking area, driveway, yard, garden or any other similar use, and

(C) is necessary for the use or intended use of the building; and

(b) the amount of such an outlay or expense shall, to the extent that it would otherwise be deductible in computing the taxpayer's income for the year, be included in computing the cost or capital cost, as the case may be, of the building to the taxpayer, to the person with whom the taxpayer does not deal at arm's length, to the corporation of which the taxpayer is a specified shareholder or to the partnership of which the taxpayer's share of any income or loss is 10% or more, as the case may be.

(B) il est utilisé, ou destiné à être utilisé, comme terrain de stationnement, voie d'accès, cour ou jardin ou à un usage semblable,

(C) il est nécessaire à l'utilisation présente ou projetée du bâtiment;

b) dans la mesure où il serait déductible par ailleurs dans le calcul du revenu du contribuable pour l'année, le montant d'une telle dépense est inclus dans le calcul du coût ou du coût en capital, selon le cas, du bâtiment pour le contribuable, pour la personne avec laquelle il a un lien de dépendance, pour la société dont il est un actionnaire déterminé ou pour la société de personnes dont sa part du revenu ou de la perte est d'au moins 10 %, selon le cas.

Included costs

(3.2) For the purposes of subsection 18(3.1), costs relating to the construction, renovation or alteration of a building or to the ownership of land include

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

(b) interest paid or payable by a taxpayer in respect of borrowed money that may reasonably be considered (having regard to all the circumstances) to have been used to assist, directly or indirectly,

(i) another person with whom the taxpayer does not deal at arm's length,

(ii) a corporation of which the taxpayer is a specified shareholder, or

(iii) a partnership of which the taxpayer's share of any income or loss is 10% or more,

to construct, renovate or alter a building or to purchase land, except where the assistance is in the form of a loan to that other person, corporation or partnership and a reasonable rate of interest on the loan is charged by the taxpayer.

Coûts inclus

(3.2) Pour l'application du paragraphe (3.1), les coûts liés à la construction, rénovation ou transformation d'un bâtiment ou à la propriété d'un fonds de terre comprennent :

a) les intérêts payés ou payables par le contribuable relativement à de l'argent emprunté qu'il n'est pas possible de rattacher à un bâtiment ou fonds de terre donné, mais qu'il est raisonnable de considérer (compte tenu des circonstances) comme des intérêts sur de l'argent emprunté et utilisé par le contribuable à l'égard de la construction, rénovation ou transformation d'un bâtiment ou de la propriété d'un fonds de terre;

b) les intérêts payés ou payables par le contribuable sur de l'argent emprunté qu'il est raisonnable de considérer (compte tenu des circonstances) comme ayant été utilisé pour aider, directement ou indirectement l'une des personnes suivantes à construire, à rénover ou à transformer un bâtiment ou à acheter un fonds de terre, sauf lorsque l'aide prend la forme d'un prêt à une telle personne sur lequel le contribuable exige un taux d'intérêt raisonnable :

(i) une autre personne avec laquelle le contribuable a un lien de dépendance,

(ii) une société dont le contribuable est un actionnaire déterminé,

(iii) une société de personnes sur le revenu ou la perte de laquelle la part du contribuable est d'au moins 10 %.

Completion

(3.3) For the purposes of subsection 18(3.1), the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered.

Where s. (3.1) does not apply

(3.4) Subsection 18(3.1) does not apply to prohibit a deduction in a taxation year of the specified percentage of any outlay or expense described in that subsection made or incurred before 1992 by

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

(b) a partnership

(i) each member of which is a corporation described in paragraph (a), and

(ii) the principal business of which is throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of real or immovable property held by it, to or for a person with whom each member of the partnership is dealing at arm's length,

and for the purposes of this subsection, ***specified percentage*** means, in respect of an outlay or expense made or incurred in 1988, 80%, in 1989, 60%, in 1990, 40%, and in 1991, 20%.

Idem

(3.5) Subsection 18(3.1) does not apply in respect of an outlay or expense in respect of a building or the land described in subparagraph 18(3.1)(a)(i) or 18(3.1)(a)(ii) in respect of the building,

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

(b) where the installation of the footings or other base support of the building commenced after November 12, 1981 and before 1982,

(c) if, in the case of a new building being constructed in Canada or an existing building being renovated or altered in Canada, arrangements, evidenced in

Achèvement de la construction

(3.3) Pour l'application du paragraphe (3.1), la construction, la rénovation ou la transformation d'un bâtiment est terminée au premier en date des jours suivants : le jour où la construction, la rénovation ou la transformation est effectivement terminée et le jour où la totalité, ou presque, du bâtiment est utilisée aux fins auxquelles il a été construit, rénové ou transformé.

Non-application du par. (3.1)

(3.4) Le paragraphe (3.1) n'a pas pour effet de priver les sociétés et sociétés de personnes suivantes de la déduction, au taux indiqué, pour une année d'imposition, des dépenses engagées ou effectuées avant 1992 et visées à ce paragraphe :

a) la société dont l'activité d'entreprise principale consiste, tout au long de l'année, à louer, à vendre ou à faire de l'aménagement en vue de louer ou de vendre des biens immeubles ou réels dont elle est propriétaire, à une personne avec laquelle elle n'a aucun lien de dépendance ou pour cette personne;

b) la société de personnes dont, à la fois :

(i) chaque associé est une société visée à l'alinéa a),

(ii) l'activité d'entreprise principale consiste, tout au long de l'année, à louer, à vendre ou à faire de l'aménagement en vue de louer ou de vendre des biens immeubles ou réels qu'elle détient, à une personne avec laquelle aucun associé de la société de personnes n'a de lien de dépendance ou pour cette personne.

Pour l'application du présent paragraphe, le taux indiqué est de 80 %, de 60 %, de 40 % ou de 20 % selon que les dépenses sont engagées ou effectuées en 1988, en 1989, en 1990 ou en 1991 respectivement.

Inapplication du paragraphe (3.1)

(3.5) Le paragraphe (3.1) ne s'applique pas à une dépense relative à un bâtiment ou au fonds de terre visé aux sous-alinéas (3.1)a) (i) ou (ii) en ce qui concerne le bâtiment dans l'un ou l'autre des cas suivants :

a) la construction, rénovation ou transformation du bâtiment était en cours le 12 novembre 1981;

b) l'installation des empattements ou de toute autre fondation du bâtiment a débuté après le 12 novembre 1981 et avant 1982;

c) des arrangements constatés par écrit en vue de la construction d'un bâtiment neuf au Canada ou de la rénovation ou de la transformation d'un bâtiment déjà

writing, for the construction, renovation or alteration were substantially advanced before November 13, 1981 and the installation of footings or other base support for the new building or the renovation or alteration of the existing building, as the case may be, commenced before June 1, 1982, or

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

and the construction, renovation or alteration, as the case may be, of the building proceeds after 1982 without undue delay (having regard to acts of God, labour disputes, fire, accidents or unusual delay by common carriers or suppliers of materials or equipment).

construit au Canada étaient fort avancés avant le 13 novembre 1981, et l'installation des empattements ou de toute autre fondation du bâtiment neuf a commencé avant le 1er juin 1982 ou la rénovation ou la transformation du bâtiment déjà construit a commencé avant cette date;

d) dans le cas d'un bâtiment neuf construit au Canada, le contribuable était tenu, en vertu d'une convention écrite conclue avant le 13 novembre 1981, de construire le bâtiment, des arrangements constatés par écrit relativement à la construction du bâtiment étaient fort avancés avant le 1er juin 1982, et l'installation des empattements ou de toute autre fondation a commencé avant 1983,

et si la construction, la rénovation ou la transformation, selon le cas, du bâtiment se poursuit après 1982 sans retard indu (compte tenu des cas de force majeure, des conflits de travail, des accidents ou des délais imprévus occasionnés par les transporteurs publics ou les fournisseurs de matériaux ou d'équipement).

Undue delay

(3.6) For the purposes of subsection 18(3.5), where more than one building is being constructed under any of the circumstances described in that subsection on one site or on immediately contiguous sites, no undue delay shall be regarded as occurring in the construction of any such building if construction of at least one such building proceeds after 1982 without undue delay and continuous construction of all other such buildings proceeds after 1983 without undue delay.

Retard indu

(3.6) Pour l'application du paragraphe (3.5), lorsque plusieurs bâtiments sont construits, dans l'un des cas prévus à ce paragraphe, sur un ou des emplacements adjacents, il n'est pas censé y avoir de retard indu à l'égard d'un bâtiment quelconque si, à tout le moins, la construction d'un tel bâtiment se poursuit après 1982 sans retard indu et si la construction de tous les autres bâtiments se poursuit, après 1983, sans retard indu.

Commencement of footings

(3.7) For the purposes of this section, the installation of footings or other base support for a building shall be deemed to commence on the first placement of concrete, pilings or other material that is to provide permanent support for the building.

Installation des empattements

(3.7) Pour l'application du présent article, l'installation des empattements ou de toute autre fondation d'un bâtiment est réputée commencer lors de la première installation du béton, des pilotis ou d'autres matériaux destinés à servir de fondation au bâtiment.

Limitation on deduction of interest

(4) Notwithstanding any other provision of this Act (other than subsection (8)), in computing the income for a taxation year of a corporation or a trust from a business (other than the Canadian banking business of an authorized foreign bank) or property, no deduction shall be made in respect of that proportion of any amount otherwise deductible in computing its income for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents that

(a) the amount, if any, by which

(i) the average of all amounts each of which is, in respect of a calendar month that ends in the year,

Plafond de la déduction d'intérêts

(4) Malgré les autres dispositions de la présente loi, à l'exception du paragraphe (8), aucune déduction ne peut être faite, dans le calcul du revenu pour une année d'imposition qu'une société ou une fiducie tire d'une entreprise (sauf l'entreprise bancaire canadienne d'une banque étrangère autorisée) ou d'un bien, relativement à la proportion des sommes déductibles par ailleurs dans le calcul de son revenu pour l'année au titre d'intérêts payés ou à payer par elle sur des dettes impayées envers des non-résidents déterminés que représente le rapport entre :

the greatest total amount at any time in the month of the outstanding debts to specified non-residents of the corporation or trust,

exceeds

(ii) 1.5 times the equity amount of the corporation or trust for the year,

is of

(b) the amount determined under subparagraph (a)(i) in respect of the corporation or trust for the year.

a) d'une part, l'excédent éventuel de la moyenne visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) la moyenne des sommes représentant chacune, pour un mois civil se terminant dans l'année, le montant le plus élevé, à un moment du mois, des dettes impayées envers des non-résidents déterminés de la société ou de la fiducie,

(ii) une fois et demie le montant des capitaux propres de la société ou de la fiducie pour l'année;

b) d'autre part, la somme déterminée selon le sous-alinéa a)(i) relativement à la société ou à la fiducie pour l'année.

Definitions

(5) Notwithstanding any other provision of this Act (other than subsection (5.1)), in this subsection and subsections (4) and (5.1) to (6.1),

beneficiary has the same meaning as in subsection 108(1); (*bénéficiaire*)

equity amount, of a corporation or trust for a taxation year, means

(a) in the case of a corporation resident in Canada, the total of

(i) the retained earnings of the corporation at the beginning of the year, except to the extent that those earnings include retained earnings of any other corporation,

(ii) the average of all amounts each of which is the corporation's contributed surplus (other than any portion of that contributed surplus that arose in connection with an investment, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) at the beginning of a calendar month that ends in the year, to the extent that it was contributed by a specified non-resident shareholder of the corporation, and

(iii) the average of all amounts each of which is the corporation's paid-up capital at the beginning of a calendar month that ends in the year, excluding the paid-up capital in respect of shares of any class of the capital stock of the corporation owned by a person other than a specified non-resident shareholder of the corporation,

(b) in the case of a trust resident in Canada, the amount, if any, by which

Définitions

(5) Malgré les autres dispositions de la présente loi, sauf le paragraphe (5.1), les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (4) et (5.1) à (6.1).

actionnaire déterminé S'agissant de l'actionnaire déterminé d'une société à un moment donné, personne qui, à ce moment, seule ou avec d'autres personnes avec lesquelles elle a un lien de dépendance, est propriétaire d'actions du capital-actions de la société :

a) soit qui confèrent aux détenteurs au moins 25 % des voix pouvant être exprimées à l'assemblée annuelle des actionnaires de la société;

b) soit qui ont une juste valeur marchande équivalant à au moins 25 % de la juste valeur marchande de l'ensemble des actions émises et en circulation du capital-actions de la société;

en outre, pour ce qui est de déterminer si une personne est un actionnaire déterminé d'une société à un moment donné, lorsque la personne ou une personne avec laquelle elle a un lien de dépendance a, à ce moment, en vertu d'un contrat, en equity ou autrement, un droit, immédiat ou futur, conditionnel ou non :

c) soit à des actions d'une société ou de les acquérir ou d'en contrôler les droits de vote;

d) soit d'obliger une société à racheter, acquérir ou annuler tout ou partie de ses actions, sauf des actions détenues par la personne ou par une personne avec laquelle elle a un lien de dépendance,

la personne ou la personne avec laquelle elle a un lien de dépendance est réputée, à ce moment, être propriétaire des actions visées à l'alinéac), et la société visée à l'alinéad) est réputée, à ce moment, avoir racheté, acquis ou

(i) the total of

(A) the average of all amounts each of which is the total amount of all equity contributions to the trust made before a calendar month that ends in the year, to the extent that the contributions were made by a specified non-resident beneficiary of the trust, and

(B) the tax-paid earnings of the trust for the year,

exceeds

(ii) the average of all amounts each of which is the total of all amounts that were paid or became payable by the trust to a beneficiary of the trust in respect of the beneficiary's interest under the trust before a calendar month that ends in the year except to the extent that the amount is

(A) included in the beneficiary's income for a taxation year because of subsection 104(13),

(B) an amount from which tax was deducted under Part XIII because of paragraph 212(1)(c), or

(C) paid or payable to a person other than a specified non-resident beneficiary of the trust, and

(c) in the case of a corporation or trust that is not resident in Canada, including a corporation or trust that files a return under this Part in accordance with subsection 216(1) in respect of the year, 40% of the amount, if any, by which

(i) the average of all amounts each of which is the cost of a property, other than an interest as a member of a partnership, owned by the corporation or trust at the beginning of a calendar month that ends in the year

(A) that is used by the corporation or trust in the year in, or held by it in the year in the course of, carrying on business in Canada, or

(B) that is an interest in real property, or a real right in immovables, in Canada, or an interest in, or for civil law a right in, timber resource properties and timber limits, in Canada, and in respect of which the corporation or trust files a return under this Part in accordance with subsection 216(1) in respect of the year,

exceeds

annulé les actions visées à ce sous-alinéa, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier. (*specified shareholder*)

actionnaire non-résident déterminé S'agissant d'un actionnaire non-résident déterminé d'une société à un moment donné, actionnaire déterminé de la société qui était à ce moment une personne non-résidente ou une société de placement appartenant à des non-résidents. (*specified non-resident shareholder*)

apport de capitaux propres S'agissant d'un apport de capitaux propres fait à une fiducie, tout transfert de biens à la fiducie qui est effectué :

a) soit en échange d'une participation à titre de bénéficiaire de la fiducie;

b) soit en échange d'un droit d'acquérir une participation à titre de bénéficiaire de la fiducie;

c) soit sans contrepartie par une personne qui a un droit de bénéficiaire sur la fiducie. (*equity contribution*)

bénéfices libérés d'impôt Relativement à une fiducie résidant au Canada pour une année d'imposition, le total des sommes représentant chacune la somme obtenue par la formule ci-après relativement à une année d'imposition donnée de la fiducie ayant pris fin avant l'année en cause :

A – B

où :

A représente le revenu imposable de la fiducie en vertu de la présente partie pour l'année donnée;

B le total de l'impôt payable par la fiducie en vertu de la présente partie pour l'année donnée et des impôts sur le revenu payables par elle pour cette année en vertu des lois d'une province. (*tax-paid earnings*)

bénéficiaire S'entend au sens du paragraphe 108(1). (*beneficiary*)

bénéficiaire déterminé S'agissant du bénéficiaire déterminé d'une fiducie à un moment donné, personne qui, à ce moment, seule ou avec d'autres personnes avec lesquelles elle a un lien de dépendance, a une participation à titre de bénéficiaire de la fiducie dont la juste valeur marchande équivaut à au moins 25 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire de la fiducie. En outre, les règles ci-après s'appliquent lorsqu'il s'agit de déterminer si une personne donnée est un bénéficiaire déterminé d'une fiducie :

(ii) the average of all amounts each of which is the total of all amounts outstanding, at the beginning of a calendar month that ends in the year, as or on account of a debt or other obligation to pay an amount that was payable by the corporation or trust that may reasonably be regarded as relating to a business carried on by it in Canada or to an interest or right described in clause (i)(B), other than a debt or obligation that is included in the outstanding debts to specified non-residents of the corporation or trust; (*montant des capitaux propres*)

equity contribution, to a trust, means a transfer of property to the trust that is made

(a) in exchange for an interest as a beneficiary under the trust,

(b) in exchange for a right to acquire an interest as a beneficiary under the trust, or

(c) for no consideration by a person beneficially interested in the trust; (*apport de capitaux propres*)

outstanding debts to specified non-residents, of a corporation or trust at any particular time in a taxation year, means

(a) the total of all amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount

(i) that was payable by the corporation or trust to a person who was, at any time in the year,

(A) a specified non-resident shareholder of the corporation or a specified non-resident beneficiary of the trust, or

(B) a non-resident person who was not dealing at arm's length with a specified shareholder of the corporation or a specified beneficiary of the trust, as the case may be, and

(ii) on which any amount in respect of interest paid or payable by the corporation or trust is or would be, but for subsection (4), deductible in computing the income of the corporation or trust for the year,

but does not include

(b) an amount outstanding at the particular time as or on account of a debt or other obligation

(i) to pay an amount to

a) si la personne donnée ou une personne avec laquelle elle a un lien de dépendance a, à ce moment, en vertu d'un contrat, en equity ou autrement, un droit, immédiat ou futur, conditionnel ou non, à une participation à titre de bénéficiaire d'une fiducie ou un droit, immédiat ou futur, conditionnel ou non, d'acquérir une telle participation, la personne donnée ou la personne avec laquelle elle a un lien de dépendance, selon le cas, est réputée, à ce moment, être propriétaire de la participation;

b) si la personne donnée ou une personne avec laquelle elle a un lien de dépendance a, à ce moment, en vertu d'un contrat, en equity ou autrement, un droit, immédiat ou futur, conditionnel ou non, d'obliger une fiducie à racheter, à acquérir ou à résilier une participation à titre de bénéficiaire de la fiducie (sauf une participation détenue par la personne donnée ou par une personne avec laquelle celle-ci a un lien de dépendance), la fiducie est réputée, à ce moment, avoir racheté, acquis ou résilié la participation, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier;

c) si le montant du revenu ou du capital de la fiducie que la personne donnée, ou une personne avec laquelle elle a un lien de dépendance, peut recevoir à titre de bénéficiaire de la fiducie est fonction de l'exercice, ou de l'absence d'exercice, par une personne quelconque d'un pouvoir discrétionnaire, cette personne est réputée avoir pleinement exercé ce pouvoir ou avoir omis de l'exercer, selon le cas. (*specified beneficiary*)

bénéficiaire non-résident déterminé À un moment donné, tout bénéficiaire déterminé d'une fiducie qui est une personne non-résidente à ce moment. (*specified non-resident beneficiary*)

dettes impayées envers des non-résidents déterminés S'agissant des dettes impayées d'une société ou d'une fiducie envers des non-résidents déterminés, à un moment donné d'une année d'imposition :

a) le total des sommes dont chacune représente une somme due à ce moment au titre d'une dette ou autre obligation de verser un montant et :

(i) d'une part, qui était payable par la société ou la fiducie à une personne qui était, à un moment quelconque de l'année :

(A) un actionnaire non-résident déterminé de la société ou un bénéficiaire non-résident déterminé de la fiducie,

(A) a non-resident insurance corporation to the extent that the obligation was, for the non-resident insurance corporation's taxation year that included the particular time, designated insurance property in respect of an insurance business carried on in Canada through a permanent establishment as defined by regulation, or

(B) an authorized foreign bank, if the bank uses or holds the obligation at the particular time in its Canadian banking business, or

(ii) that is a debt obligation described in subparagraph (ii) of the description of A in paragraph 17.1(1)(b) to the extent that the proceeds of the debt obligation can reasonably be considered to directly or indirectly fund at the particular time, in whole or in part, a pertinent loan or indebtedness (as defined in subsection 212.3(11)) owing to the corporation or another corporation resident in Canada that does not, at the particular time, deal at arm's length with the corporation; (*dettes impayées envers des non-résidents déterminés*)

security interest, in respect of a property, means an interest in, or for civil law a right in, the property that secures payment of an obligation; (*garantie*)

specified beneficiary, of a trust at any time, means a person who at that time, either alone or together with persons with whom that person does not deal at arm's length, has an interest as a beneficiary under the trust with a fair market value that is not less than 25% of the fair market value of all interests as a beneficiary under the trust and for the purpose of determining whether a particular person is a specified beneficiary of a trust,

(a) if the particular person, or a person with whom the particular person does not deal at arm's length, has at that time a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, an interest as a beneficiary under a trust, the particular person or the person with whom the particular person does not deal at arm's length, as the case may be, is deemed at that time to own the interest,

(b) if the particular person, or a person with whom the particular person does not deal at arm's length, has at that time a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently to cause a trust to redeem, acquire or terminate any interest in it as a beneficiary (other than an interest held by the particular person or a person with whom the particular person does not deal at arm's length), the trust is deemed at

(B) une personne non-résidente qui avait un lien de dépendance avec un actionnaire déterminé de la société ou un bénéficiaire déterminé de la fiducie, selon le cas,

(ii) d'autre part, au titre de laquelle toute somme relative à des intérêts payés ou à payer par la société ou la fiducie est déductible ou serait déductible, en l'absence du paragraphe (4), dans le calcul du revenu de la société ou de la fiducie pour l'année,

à l'exclusion :

b) de toute somme due au moment donné au titre d'une dette ou autre obligation de verser un montant qui est, selon le cas :

(i) une obligation de verser un montant à l'une des personnes suivantes :

(A) une compagnie d'assurance non-résidente, dans la mesure où l'obligation constitue, pour l'année d'imposition de cette compagnie qui comprend ce moment, un bien d'assurance désigné quant à une entreprise d'assurance exploitée au Canada par l'entremise d'un établissement stable, au sens prévu par règlement,

(B) une banque étrangère autorisée, si elle utilise ou détient l'obligation à ce moment dans le cadre de son entreprise bancaire canadienne,

(ii) une créance visée au sous-alinéa (ii) de l'élément A de la formule figurant à l'alinéa 17.1(1)b), dans la mesure où il est raisonnable de considérer qu'à ce moment le produit de la créance finance directement ou indirectement, en tout ou en partie, un prêt ou dette déterminé, au sens du paragraphe 212.3(11), qui est dû à la société ou à une autre société résidant au Canada avec laquelle elle a, à ce moment, un lien de dépendance. (*outstanding debts to specified non-residents*)

droit déterminé Est un droit déterminé à un moment donné relativement à un bien le droit, à ce moment, d'hypothéquer le bien, de le céder, de le donner en nantissement ou de le grever de quelque façon que ce soit afin de garantir le paiement d'une obligation (autre que la dette ou autre obligation donnée visée à l'alinéa (6)a) ou qu'une dette ou autre obligation visée au sous-alinéa (6)d)(ii)) ou de l'utiliser, de l'investir, de le vendre ou d'en disposer autrement ou de l'aliéner de quelque façon que ce soit, à moins qu'il soit établi par le contribuable que le produit total (déduction faite des coûts, s'il y en a) qui est, ou qui serait, reçu par suite de l'exercice du droit doit en premier lieu être appliqué en réduction d'une

that time to have redeemed, acquired or terminated the interest, unless the right is not exercisable at that time because the exercise of the right is contingent on the death, bankruptcy or permanent disability of an individual, and

(c) if the amount of income or capital of the trust that the particular person, or a person with whom the particular person does not deal at arm's length, may receive as a beneficiary of the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, that person is deemed to have fully exercised, or to have failed to exercise, the power, as the case may be; (*bénéficiaire déterminé*)

specified non-resident beneficiary, of a trust at any time, means a specified beneficiary of the trust who at that time is a non-resident person; (*bénéficiaire non-résident déterminé*)

specified non-resident shareholder of a corporation at any time means a specified shareholder of the corporation who was at that time a non-resident person or a non-resident-owned investment corporation; (*actionnaire non-résident déterminé*)

specified proportion [Repealed, 2013, c. 34, s. 427]

specified right, at any time in respect of a property, means a right to, at that time, mortgage, hypothecate, assign, pledge or in any way encumber the property to secure payment of an obligation — other than the particular debt or other obligation described in paragraph (6)(a) or a debt or other obligation described in subparagraph (6)(d)(ii) — or to use, invest, sell or otherwise dispose of, or in any way alienate, the property unless it is established by the taxpayer that all of the proceeds (net of costs, if any) received, or that would be received, from exercising the right must first be applied to reduce an amount described in subparagraph (6)(d)(i) or (ii); (*droit déterminé*)

specified shareholder of a corporation at any time means a person who at that time, either alone or together with persons with whom that person is not dealing at arm's length, owns

(a) shares of the capital stock of the corporation that give the holders thereof 25% or more of the votes that could be cast at an annual meeting of the shareholders of the corporation, or

somme visée aux sous-alinéas (6)d)(i) ou (ii). (*specified right*)

garantie Est une garantie relative à un bien tout intérêt ou, pour l'application du droit civil, tout droit sur le bien qui garantit le paiement d'une obligation. (*security interest*)

montant des capitaux propres S'agissant du montant des capitaux propres d'une société ou d'une fiducie pour une année d'imposition :

a) dans le cas d'une société résidant au Canada, le total des sommes suivantes :

(i) les bénéfices non répartis de la société au début de l'année, sauf dans la mesure où ils comprennent des bénéfices non répartis d'une autre société,

(ii) la moyenne des sommes représentant chacune le surplus d'apport de la société (à l'exclusion de toute partie de ce surplus qui a pris naissance dans le cadre d'un placement, au sens du paragraphe 212.3(10), auquel le paragraphe 212.3(2) s'applique) au début d'un mois civil se terminant dans l'année, dans la mesure où il a été fourni par un actionnaire non-résident déterminé de la société,

(iii) la moyenne des sommes représentant chacune le capital versé de la société au début d'un mois civil se terminant dans l'année, à l'exclusion du capital versé au titre des actions d'une catégorie du capital-actions de la société appartenant à une personne autre qu'un actionnaire non-résident déterminé de la société;

b) dans le cas d'une fiducie résidant au Canada, l'excédent éventuel du total visé au sous-alinéa (i) sur la moyenne visée au sous-alinéa (ii) :

(i) le total des sommes suivantes :

(A) la moyenne des sommes représentant chacune le total des apports de capitaux propres faits à la fiducie avant un mois civil se terminant dans l'année, dans la mesure où les apports ont été faits par un bénéficiaire non-résident déterminé de la fiducie,

(B) les bénéfices libérés d'impôt de la fiducie pour l'année,

(ii) la moyenne des sommes représentant chacune le total des sommes qui ont été payées ou sont devenues payables par la fiducie à l'un de ses bénéficiaires au titre de la participation de celui-ci dans la

(b) shares of the capital stock of the corporation having a fair market value of 25% or more of the fair market value of all of the issued and outstanding shares of the capital stock of the corporation,

and for the purpose of determining whether a particular person is a specified shareholder of a corporation at any time, where the particular person or a person with whom the particular person is not dealing at arm's length has at that time a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently

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

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

the particular person or the person with whom the particular person is not dealing at arm's length, as the case may be, shall be deemed at that time to own the shares referred to in paragraph (c) and the corporation referred to in paragraph (d) shall be deemed at that time to have redeemed, acquired or cancelled the shares referred to in paragraph (d), unless the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual; (*actionnaire déterminé*)

tax-paid earnings, of a trust resident in Canada for a taxation year, means the total of all amounts each of which is the amount in respect of a particular taxation year of the trust that ended before the year determined by the formula

A – B

where

A is the taxable income of the trust under this Part for the particular year, and

B is the total of tax payable under this Part by the trust, and all income taxes payable by the trust under the laws of a province, for the particular year. (*bénéfices libérés d'impôt*)

fiducie avant un mois civil se terminant dans l'année, sauf dans la mesure où la somme, selon le cas :

(A) est incluse dans le revenu du bénéficiaire pour une année d'imposition par l'effet du paragraphe 104(13),

(B) a fait l'objet d'une retenue d'impôt en vertu de la partie XIII par l'effet de l'alinéa 212(1)c),

(C) est payée ou est à payer à une personne autre qu'un bénéficiaire non-résident déterminé de la fiducie;

c) dans le cas d'une société ou d'une fiducie qui ne réside pas au Canada, y compris celle qui produit une déclaration en vertu de la présente partie conformément au paragraphe 216(1) pour l'année, 40 % de l'excédent éventuel de la moyenne visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) la moyenne des sommes représentant chacune le coût d'un bien, sauf une participation à titre d'associé d'une société de personnes, qui appartient à la société ou à la fiducie au début d'un mois civil se terminant dans l'année et qui est, selon le cas :

(A) utilisé ou détenu par la société ou la fiducie pendant l'année dans le cadre de l'exploitation d'une entreprise au Canada,

(B) un droit réel sur un immeuble, ou un intérêt sur un bien réel, situé au Canada ou un intérêt ou, pour l'application du droit civil, un droit sur des avoirs forestiers et des concessions forestières situés au Canada, à l'égard duquel la société ou la fiducie produit une déclaration en vertu de la présente partie conformément au paragraphe 216(1) pour l'année,

(ii) la moyenne des sommes représentant chacune le total des sommes impayées, au début d'un mois civil se terminant dans l'année, au titre d'une dette ou d'une autre obligation de payer une somme qui était à payer par la société ou la fiducie, qu'il est raisonnable de considérer comme se rapportant à une entreprise qu'elle exploite au Canada ou à un droit ou un intérêt visé à la division (i)(B), à l'exception d'une dette ou d'une obligation qui fait partie des dettes impayées envers des non-résidents déterminés de la société ou de la fiducie. (*equity amount*)

proportion déterminée [Abrogée, 2013, ch. 34, art. 427]

Specified shareholder or specified beneficiary

(5.1) For the purposes of subsections (4) to (6), if

(a) a particular person would, but for this subsection, be a specified shareholder of a corporation or a specified beneficiary of a trust at any time,

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

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

the particular person is deemed not to be a specified shareholder of the corporation or a specified beneficiary of the trust, as the case may be, at that time.

Specified shareholder or specified beneficiary

(5.2) For the purposes of subsections (4) to (6), a non-resident corporation is deemed to be a specified shareholder of itself and a non-resident trust is deemed to be a specified beneficiary of itself.

Property used in business — cost attribution

(5.3) For the purposes of subparagraph (c)(i) of the definition *equity amount* in subsection (5),

(a) if a property is partly used or held by a taxpayer in a taxation year in the course of carrying on business in Canada, the cost of the property to the taxpayer is deemed for the year to be equal to the same proportion of the cost to the taxpayer of the property (determined without reference to this subsection) that the proportion of the use or holding made of the property in the course of carrying on business in Canada in the year is of the whole use or holding made of the property in the year; and

(b) if a corporation or trust is deemed to own a portion of a property of a partnership because of subsection (7) at any time,

(i) the property is deemed to have, at that time, a cost to the corporation or trust equal to the same proportion of the cost of the property to the

Actionnaire déterminé ou bénéficiaire déterminé

(5.1) Pour l'application des paragraphes (4) à (6), une personne est réputée ne pas être un actionnaire déterminé d'une société, ou un bénéficiaire déterminé d'une fiducie, à un moment donné si les conditions ci-après sont réunies :

a) la personne serait à ce moment, en l'absence du présent paragraphe, un actionnaire déterminé de la société ou un bénéficiaire déterminé de la fiducie;

b) est en vigueur à ce moment un contrat ou un arrangement qui stipule que, à la réalisation d'une condition ou d'un événement à laquelle il est raisonnable de s'attendre, la personne cessera d'être un actionnaire déterminé de la société ou un bénéficiaire déterminé de la fiducie;

c) la raison pour laquelle la personne est devenue un actionnaire déterminé ou un bénéficiaire déterminé est la sauvegarde de ses droits ou des droits d'une personne avec laquelle elle a un lien de dépendance, afférents à tout titre de créance dont elle est créancière, ou dont une personne avec laquelle elle a un lien de dépendance est créancière, à un moment quelconque.

Être son propre actionnaire déterminé ou bénéficiaire déterminé

(5.2) Pour l'application des paragraphes (4) à (6), une société non-résidente est réputée être son propre actionnaire déterminé et une fiducie non-résidente, son propre bénéficiaire déterminé.

Bien utilisé dans une entreprise — attribution du coût

(5.3) Les règles ci-après s'appliquent dans le cadre du sous-alinéa c)(i) de la définition de *montant des capitaux propres* au paragraphe (5) :

a) si un bien est utilisé ou détenu par un contribuable au cours d'une année d'imposition en partie dans le cadre de l'exploitation d'une entreprise au Canada, le coût du bien pour le contribuable est réputé, pour l'année, être égal à la proportion du coût du bien pour lui (déterminé compte non tenu du présent paragraphe) que représente la proportion dans laquelle le bien est utilisé ou détenu au cours de l'année dans le cadre de l'exploitation d'une entreprise au Canada par rapport à l'utilisation ou à la détention totale du bien au cours de l'année;

b) si une partie d'un bien d'une société de personnes est réputée appartenir à une société ou à une fiducie par l'effet du paragraphe (7) à un moment donné :

partnership as the proportion of the debts and other obligations to pay an amount of the partnership allocated to it under subsection (7) is of the total amount of all debts and other obligations to pay an amount of the partnership, and

(ii) in the case of a partnership that carries on business in Canada, the corporation or trust is deemed to use or hold the property in the course of carrying on business in Canada to the extent the partnership uses or holds the property in the course of carrying on business in Canada for the fiscal period of the partnership that includes that time.

(i) le coût du bien pour la société ou la fiducie à ce moment est réputé être égal à la même proportion du coût du bien pour la société de personnes que représente la proportion des dettes et autres obligations de payer une somme de la société de personnes qui lui est attribuée en vertu du paragraphe (7) par rapport au total des dettes et autres obligations de payer une somme de la société de personnes,

(ii) dans le cas d'une société de personnes qui exploite une entreprise au Canada, la société ou la fiducie est réputée utiliser ou détenir le bien dans le cadre de l'exploitation d'une entreprise au Canada dans la mesure où la société de personnes l'utilise ou le détient dans ce cadre pour son exercice qui comprend ce moment.

Rules — trust income

(5.4) For the purposes of this Act, a trust resident in Canada may designate in its return of income under this Part for a taxation year that all or any portion of an amount paid or credited as interest by the trust, or by a partnership, in the year to a non-resident person is deemed to be income of the trust that has been paid to the non-resident person as a beneficiary of the trust, and not to have been paid or credited by the trust or the partnership as interest, to the extent that an amount in respect of the interest

(a) is included in computing the income of the trust for the year under paragraph 12(1)(l.1); or

(b) is not deductible in computing the income of the trust for the year because of subsection (4).

Règles — revenu d'une fiducie

(5.4) Pour l'application de la présente loi, une fiducie résidant au Canada peut indiquer dans la déclaration de revenu qu'elle produit en vertu de la présente partie pour une année d'imposition que tout ou partie d'une somme payée à une personne non-résidente, ou portée à son crédit, à titre d'intérêts par la fiducie ou par une société de personnes au cours de l'année est réputée, d'une part, être un revenu de la fiducie qui a été payé à la personne non-résidente en sa qualité de bénéficiaire de la fiducie et, d'autre part, ne pas avoir été payée ou créditée par la fiducie ou la société de personnes à titre d'intérêts, dans la mesure où une somme au titre des intérêts, selon le cas :

a) est incluse dans le calcul du revenu de la fiducie pour l'année en application de l'alinéa 12(1)l.1);

b) n'est pas déductible dans le calcul du revenu de la fiducie pour l'année par l'effet du paragraphe (4).

Back-to-back loan arrangement

(6) Subsection (6.1) applies at any time in respect of a taxpayer if at that time

(a) the taxpayer has a particular amount outstanding as or on account of a particular debt or other obligation to pay an amount to a person (in this subsection and subsection (6.1) referred to as the "intermediary");

(b) the intermediary is neither

(i) a person resident in Canada with whom the taxpayer does not deal at arm's length, nor

(ii) a person that is, in respect of the taxpayer, described in subparagraph (a)(i) of the definition

Prêts adossés

(6) Le paragraphe (6.1) s'applique à un moment donné relativement à un contribuable si les conditions ci-après sont réunies à ce moment :

a) une somme donnée est due par le contribuable au titre d'une dette ou autre obligation donnée de payer une somme à une personne (appelée « intermédiaire » au présent paragraphe et au paragraphe (6.1));

b) l'intermédiaire n'est :

(i) ni une personne résidant au Canada avec laquelle le contribuable a un lien de dépendance,

(ii) ni une personne qui est visée, par rapport au contribuable, au sous-alinéa a)(i) de la définition de

outstanding debts to specified non-residents in subsection (5);

(c) the intermediary or a person that does not deal at arm's length with the intermediary

(i) has an amount outstanding as or on account of a debt or other obligation to pay an amount to a particular non-resident person that is, in respect of the taxpayer, described in subparagraph (a)(i) of the definition *outstanding debts to specified non-residents* in subsection (5) that meets any of the following conditions (in this subsection and subsection (6.1) referred to as the "intermediary debt"):

(A) recourse in respect of the debt or other obligation is limited in whole or in part, either immediately or in the future and either absolutely or contingently, to the particular debt or other obligation, or

(B) it can reasonably be concluded that all or a portion of the particular amount became owing, or was permitted to remain owing, because

(I) all or a portion of the debt or other obligation was entered into or was permitted to remain outstanding, or

(II) the intermediary anticipated that all or a portion of the debt or other obligation would become owing or remain outstanding, or

(ii) has a specified right in respect of a particular property that was granted directly or indirectly by a person that is, in respect of the taxpayer, a particular non-resident person described in subparagraph (a)(i) of the definition *outstanding debts to specified non-residents* in subsection (5) and

(A) the existence of the specified right is required under the terms and conditions of the particular debt or other obligation, or

(B) it can reasonably be concluded that all or a portion of the particular amount became owing, or was permitted to remain owing, because

(I) the specified right was granted, or

(II) the intermediary anticipated that the specified right would be granted; and

(d) the total of all amounts — each of which is, in respect of the particular debt or other obligation, an amount outstanding as or on account of an intermediary debt or the fair market value of a particular

dettes impayées envers des non-résidents déterminés au paragraphe (5);

c) l'intermédiaire ou une personne avec laquelle il a un lien de dépendance, selon le cas :

(i) a une somme due au titre d'une dette ou autre obligation de payer une somme à une personne non-résidente donnée qui est visée, par rapport au contribuable, au sous-alinéa a)(i) de la définition de *dettes impayées envers des non-résidents déterminés*, au paragraphe (5), qui remplit l'une des conditions ci-après (appelée « dette d'intermédiaire » au présent paragraphe et au paragraphe (6.1)) :

(A) il s'agit d'une dette ou autre obligation à l'égard de laquelle le recours est limité en tout ou en partie, dans l'immédiat ou pour l'avenir et conditionnellement ou non, au montant de la dette ou autre obligation donnée,

(B) il est raisonnable de conclure que la totalité ou une partie de la somme donnée est devenue à payer, ou qu'il a été permis qu'elle le demeure, pour l'un des motifs suivants :

(I) la totalité ou une partie de la dette ou autre obligation a été contractée ou il a été permis qu'elle demeure à payer,

(II) l'intermédiaire prévoyait que la totalité ou une partie de la dette ou autre obligation deviendrait à payer ou qu'elle le demeurerait,

(ii) a un droit déterminé relatif à un bien donné qui a été accordé, directement ou indirectement, par une personne qui est, par rapport au contribuable, une personne non-résidente donnée visée au sous-alinéa a)(i) de la définition de *dettes impayées envers des non-résidents déterminés* au paragraphe (5), et l'un des énoncés ci-après se vérifie :

(A) les modalités de la dette ou autre obligation donnée prévoient que le droit déterminé doit exister,

(B) il est raisonnable de conclure que la totalité ou une partie de la somme donnée est devenue à payer, ou qu'il a été permis qu'elle le demeure, pour l'un des motifs suivants :

(I) le droit déterminé a été accordé,

(II) l'intermédiaire prévoyait que le droit déterminé serait accordé;

property described in subparagraph (c)(ii) — is equal to at least 25% of the total of

(i) the particular amount, and

(ii) the total of all amounts each of which is an amount (other than the particular amount) that the taxpayer, or a person that does not deal at arm's length with the taxpayer, has outstanding as or on account of a debt or other obligation to pay an amount to the intermediary under the agreement, or an agreement that is connected to the agreement, under which the particular debt or other obligation was entered into if

(A) the intermediary is granted a security interest in respect of a property that is the intermediary debt or the particular property, as the case may be, and the security interest secures the payment of two or more debts or other obligations that include the debt or other obligation and the particular debt or other obligation, and

(B) each security interest that secures the payment of a debt or other obligation referred to in clause (A) secures the payment of every debt or other obligation referred to in that clause.

d) le total des sommes — dont chacune représente, relativement à la dette ou autre obligation donnée, une somme due au titre d'une dette d'intermédiaire ou la juste valeur marchande d'un bien donné visé au sous-alinéa c)(ii) — correspond à au moins 25 % du total des sommes suivantes :

(i) la somme donnée,

(ii) le total des sommes dont chacune représente une somme (sauf la somme donnée) qui est due par le contribuable, ou par une personne avec laquelle il a un lien de dépendance, au titre d'une dette ou autre obligation de payer une somme à l'intermédiaire aux termes de la convention, ou d'une convention rattachée à celle-ci, aux termes de laquelle la dette ou autre obligation donnée a été contractée, dans le cas où, à la fois :

(A) l'intermédiaire reçoit, relativement à un bien qui est la dette d'intermédiaire ou le bien donné, une garantie pour le paiement de plusieurs dettes ou autres obligations qui comprennent la dette ou autre obligation ainsi que la dette ou autre obligation donnée,

(B) toute garantie pour le paiement d'une dette ou autre obligation mentionnée à la division (A) garantit le paiement de chacune des dettes ou autres obligations mentionnées à cette division.

Back-to-back loan arrangement

(6.1) If this subsection applies at any time in respect of a taxpayer,

(a) then for the purpose of applying subsections (4) and (5),

(i) the portion of the particular amount, at that time, referred to in paragraph (6)(a) that is equal to the lesser of the following amounts is deemed to be an amount outstanding as or on account of a debt or other obligation to pay an amount to the particular non-resident person referred to in subparagraph (6)(c)(i) or (ii), as the case may be, and not to the intermediary:

(A) the amount outstanding as or on account of the intermediary debt or the fair market value of the particular property referred to in subparagraph (6)(c)(ii), as the case may be, and

(B) the proportion of the particular amount that the amount outstanding or the fair market value, as the case may be, is of the total of all amounts each of which is

Prêts adossés

(6.1) En cas d'application du présent paragraphe à un moment donné relativement à un contribuable, les règles ci-après s'appliquent :

a) pour l'application des paragraphes (4) et (5), à la fois :

(i) la partie de la somme donnée, à ce moment, visée à l'alinéa (6)a) qui correspond à la moins élevée des sommes ci-après est réputée être une somme due au titre d'une dette ou autre obligation de payer une somme à la personne non-résidente donnée visée aux sous-alinéas (6)c)(i) ou (ii) et non à l'intermédiaire :

(A) la somme due au titre de la dette d'intermédiaire ou la juste valeur marchande du bien donné visé au sous-alinéa (6)c)(ii), selon le cas,

(B) la proportion de la somme donnée que représente le rapport entre la somme due ou la juste valeur marchande, selon le cas, et le total des sommes dont chacune représente :

(I) an amount outstanding as or on account of an intermediary debt in respect of the particular debt or other obligation, owed to the particular non-resident or any other non-resident person that is, in respect of the taxpayer, described in the definition *outstanding debts to specified non-residents* in subsection (5), or

(II) the fair market value of a particular property referred to in subparagraph (6)(c)(ii) in respect of the particular debt or other obligation, and

(ii) the portion of the interest paid or payable by the taxpayer, in respect of a period throughout which subparagraph (a)(i) applies, on the particular debt or other obligation referred to in paragraph (6)(a) that is equal to the amount determined by the following formula is deemed to be paid or payable by the taxpayer to the particular non-resident, and not to the intermediary, as interest for the period on the amount deemed by subparagraph (a)(i) to be outstanding to the particular non-resident:

A × B/C

where

A is the interest paid or payable,

B is the average of all amounts each of which is an amount that is deemed by subparagraph (a)(i) to be outstanding to the particular non-resident at a time during the period, and

C is the average of all amounts each of which is the particular amount outstanding at a time during the period; and

(b) for the purposes of Part XIII and subject to subsections 214(16) and (17), interest deemed under subparagraph (a)(ii) to be paid or payable to the particular non-resident in respect of a period is, to the extent that the interest is not deductible in computing the income of the taxpayer for the year because of subsection 18(4), deemed to be paid or payable by the taxpayer to the particular non-resident, and not to the intermediary, in respect of the period.

Partnership debts and property

(7) For the purposes of this subsection, paragraph (4)(a), subsections (5) to (6.1) and paragraph 12(1)(l.1), each member of a partnership at any time is deemed at that time

(I) soit, une somme due au titre d'une dette d'intermédiaire relative à la dette ou autre obligation donnée, dont est créancière la personne non-résidente donnée ou toute autre personne non-résidente qui est visée, par rapport au contribuable, à la définition de *dettes impayées envers des non-résidents déterminés* au paragraphe (5),

(II) soit, la juste valeur marchande d'un bien donné visé au sous-alinéa (6)c)(ii) relativement à la dette ou autre obligation donnée,

(ii) la partie des intérêts payés ou à payer par le contribuable, relativement à une période tout au long de laquelle le sous-alinéa a)(i) s'applique, sur la dette ou autre obligation donnée visée à l'alinéa (6)a), qui correspond à la somme obtenue par la formule ci-après est réputée être payée ou à payer par le contribuable à la personne non-résidente donnée, et non à l'intermédiaire, au titre des intérêts pour la période sur la somme qui est réputée, en vertu du sous-alinéa a)(i), être due à la personne non-résidente donnée :

A × B/C

où :

A représente les intérêts payés ou à payer,

B la moyenne des sommes dont chacune représente une somme qui est réputée, en vertu du sous-alinéa a)(i), être due à la personne non-résidente donnée à un moment de la période,

C la moyenne des sommes dont chacune représente la somme donnée due à un moment de la période;

b) pour l'application de la partie XIII et sous réserve des paragraphes 214(16) et (17), les intérêts qui sont réputés, en vertu du sous-alinéa a)(ii), être payés ou à payer à la personne non-résidente donnée pour une période sont réputés, dans la mesure où ils ne sont pas déductibles dans le calcul du revenu du contribuable pour l'année par l'effet du paragraphe 18(4), être payés ou à payer par le contribuable à la personne non-résidente donnée, et non à l'intermédiaire, pour la période.

Dettes et biens de sociétés de personnes

(7) Pour l'application du présent paragraphe, de l'alinéa (4)a), des paragraphes (5) à (6.1) et de l'alinéa 12(1)l.1), chacun des associés d'une société de personnes à un moment quelconque est réputé à ce moment, à la fois :

(a) to owe the portion (in this subsection and paragraph 12(1)(l.1) referred to as the "debt amount") of each debt or other obligation to pay an amount of the partnership and to own the portion of each property of the partnership that is equal to

(i) the member's specified proportion for the last fiscal period, if any, of the partnership ending

(A) at or before the end of the taxation year referred to in subsection (4), and

(B) at a time when the member is a member of the partnership, and

(ii) if the member does not have a specified proportion described in subparagraph (i), the proportion that

(A) the fair market value of the member's interest in the partnership at that time

is of

(B) the fair market value of all interests in the partnership at that time;

(b) to owe the debt amount to the person to whom the partnership owes the debt or other obligation to pay an amount; and

(c) to have paid interest on the debt amount that is deductible in computing the member's income to the extent that an amount in respect of interest paid or payable on the debt amount by the partnership is deductible in computing the partnership's income.

a) être débiteur de la partie (appelée « montant de dette » au présent paragraphe et à l'alinéa 12(1)l.1)) de chaque dette ou autre obligation de payer une somme de la société de personnes, et être propriétaire de la partie de chaque bien de la société de personnes, qui correspond à celle des proportions ci-après qui est applicable :

(i) la proportion déterminée de l'associé pour le dernier exercice de la société de personnes se terminant, à la fois :

(A) à la fin de l'année d'imposition visée au paragraphe (4) ou antérieurement,

(B) à un moment où l'associé est un associé de la société de personnes,

(ii) si l'associé n'a pas de proportion déterminée visée au sous-alinéa (i), la proportion que représente le rapport entre la somme visée à la division (A) et celle visée à la division (B) :

(A) la juste valeur marchande de la participation de l'associé dans la société de personnes à ce moment,

(B) la juste valeur marchande de l'ensemble des participations dans la société de personnes à ce moment;

b) être débiteur du montant de dette envers la personne envers laquelle la société de personnes est débitrice de la dette ou de l'autre obligation de payer une somme;

c) avoir payé sur le montant de dette des intérêts qui sont déductibles dans le calcul de son revenu dans la mesure où une somme relative aux intérêts payés ou à payer sur le montant de dette par la société de personnes est déductible dans le calcul du revenu de celle-ci.

Exception — foreign accrual property income

(8) An amount in respect of interest paid or payable to a controlled foreign affiliate of a corporation resident in Canada that would otherwise not be deductible by the corporation for a taxation year because of subsection (4) may be deducted to the extent that an amount included under subsection 91(1) in computing the corporation's income for the year or a subsequent year can reasonably be considered to be in respect of the interest.

Exception — revenu étranger accumulé, tiré de biens

(8) Toute somme relative à des intérêts payés ou à payer à une société étrangère affiliée contrôlée d'une société résidant au Canada qui ne serait pas déductible par ailleurs par celle-ci pour une année d'imposition par l'effet du paragraphe (4) peut être déduite dans la mesure où il est raisonnable de considérer qu'une somme incluse en application du paragraphe 91(1) dans le calcul du revenu de la société pour l'année ou pour une année postérieure se rapporte aux intérêts.

Limitation respecting prepaid expenses

(9) Notwithstanding any other provision of this Act,

Limitation des dépenses payées d'avance

(9) Malgré les autres dispositions de la présente loi :

(a) in computing a taxpayer's income for a taxation year from a business or property (other than income from a business computed in accordance with the method authorized by subsection 28(1)), no deduction shall be made in respect of an outlay or expense to the extent that it can reasonably be regarded as having been made or incurred

(i) as consideration for services to be rendered after the end of the year,

(ii) as, on account of, in lieu of payment of or in satisfaction of, interest, taxes (other than taxes imposed on an insurer in respect of insurance premiums of a non-cancellable or guaranteed renewable accident and sickness insurance policy, or a life insurance policy other than a group term life insurance policy that provides coverage for a period of 12 months or less), rent or royalties in respect of a period that is after the end of the year,

(iii) as consideration for insurance in respect of a period after the end of the year, other than

(A) where the taxpayer is an insurer, consideration for reinsurance, and

(B) consideration for insurance on the life of an individual under a group term life insurance policy where all or part of the consideration is for insurance that is (or would be if the individual survived) in respect of a period that ends more than 13 months after the consideration is paid, or

(iv) subject to clause (iii)(B) and subsections 144.1(4) to (7), as consideration for a *designated employee benefit* (as defined in subsection 144.1(1)) to be provided after the end of the year (other than consideration payable in the year, to a corporation that is licensed to provide insurance, for insurance coverage in respect of the year);

(b) such portion of each outlay or expense (other than an outlay or expense of a corporation, partnership or trust as, on account of, in lieu of payment of or in satisfaction of, interest) made or incurred as would, but for paragraph 18(9)(a), be deductible in computing a taxpayer's income for a taxation year shall be deductible in computing the taxpayer's income for the subsequent year to which it can reasonably be considered to relate;

(c) for the purposes of section 37.1, such portion of each qualified expenditure (within the meaning assigned by subsection 37.1(5)) as was made by a taxpayer in a taxation year and as would, but for paragraph

a) dans le calcul du revenu d'un contribuable pour une année d'imposition tiré d'une entreprise ou d'un bien (à l'exclusion du revenu tiré d'une entreprise calculé selon la méthode permise par le paragraphe 28(1)), il n'est accordé aucune déduction au titre d'une dépense dans la mesure où il est raisonnable de la considérer comme engagée ou effectuée, selon le cas :

(i) en contrepartie de services à rendre après la fin de l'année,

(ii) à titre ou en paiement intégral ou partiel d'intérêts, d'impôts ou de taxes (à l'exclusion des taxes imposées aux assureurs sur les primes prévues par une police d'assurance contre les accidents et la maladie non résiliable ou à renouvellement garanti ou par une police d'assurance-vie autre qu'une police d'assurance-vie collective temporaire d'une durée maximale de douze mois), de loyer ou de redevances visant une période postérieure à la fin de l'année,

(iii) en contrepartie d'assurance visant une période postérieure à la fin de l'année, mais non :

(A) en contrepartie de réassurance, dans le cas où le contribuable est un assureur,

(B) en contrepartie d'assurance sur la tête d'un particulier aux termes d'une police d'assurance-vie collective temporaire, dans le cas où tout ou partie de la contrepartie se rapporte à de l'assurance qui vise ou viserait, si le particulier survivait, une période qui prend fin plus de treize mois après le paiement de la contrepartie,

(iv) sous réserve de la division (iii)(B) et des paragraphes 144.1(4) à (7), en contrepartie d'une prestation désignée, au sens du paragraphe 144.1(1), à verser après la fin de l'année (sauf si la contrepartie est payable au cours de l'année, à une société autorisée à offrir de l'assurance, pour de l'assurance relative à l'année);

b) la fraction de chaque dépense engagée ou effectuée (sauf celle d'une société, d'une société de personnes ou d'une fiducie au titre ou en règlement total ou partiel d'intérêts) qui, sans l'alinéa a), serait déductible dans le calcul du revenu d'un contribuable pour une année d'imposition est déductible dans le calcul de son revenu pour l'année postérieure à laquelle il est raisonnable de considérer qu'elle se rapporte;

c) pour l'application de l'article 37.1, la fraction de chaque dépense admissible (au sens du paragraphe 37.1(5)) effectuée par un contribuable au cours d'une année d'imposition et qui, sans l'alinéa a), aurait été

18(9)(a), have been deductible in computing the taxpayer's income for the year shall be deemed

(i) not to be a qualified expenditure made by the taxpayer in the year, and

(ii) to be a qualified expenditure made by the taxpayer in the subsequent year to which the expenditure can reasonably be considered to relate;

(d) for the purpose of paragraph 18(9)(a), an outlay or expense of a taxpayer is deemed not to include any payment referred to in subparagraph 37(1)(a)(ii) or 37(1)(a)(iii) that

(i) is made by the taxpayer to a person or partnership with which the taxpayer deals at arm's length, and

(ii) is not an expenditure described in subparagraph 37(1)(a)(i); and

(e) for the purposes of section 37 and the definition *qualified expenditure* in subsection 127(9), the portion of an expenditure that is made or incurred by a taxpayer in a taxation year and that would, but for paragraph 18(9)(a), have been deductible under section 37 in computing the taxpayer's income for the year, is deemed

(i) not to be made or incurred by the taxpayer in the year, and

(ii) to be made or incurred by the taxpayer in the subsequent taxation year to which the expenditure can reasonably be considered to relate.

(f) [Repealed, 2017, c. 20, s. 3]

Group term life insurance

(9.01) Where

(a) a taxpayer pays a premium after February 1994 and before 1997 under a group term life insurance policy for insurance on the life of an individual,

(b) the insurance is for the remainder of the individual's lifetime, and

(c) no further premiums will be payable for the insurance,

no amount may be deducted in computing the taxpayer's income for a taxation year from a business or property in respect of the premium except that there may be so deducted,

déductible dans le calcul du revenu de la société pour l'année est réputée :

(i) ne pas être une dépense admissible effectuée par le contribuable au cours de l'année,

(ii) être une dépense admissible effectuée par le contribuable au cours de l'année postérieure à laquelle il est raisonnable de considérer qu'elle se rapporte;

d) pour l'application de l'alinéa a), la dépense d'un contribuable est réputée ne pas comprendre un paiement visé aux sous-alinéas 37(1)a)(ii) ou (iii) qui, à la fois :

(i) est fait par le contribuable à une personne ou une société de personnes avec laquelle il n'a aucun lien de dépendance,

(ii) n'est pas une dépense visée au sous-alinéa 37(1)a)(i);

e) pour l'application de l'article 37 et de la définition de *dépense admissible* au paragraphe 127(9), la fraction d'une dépense engagée ou effectuée par un contribuable au cours d'une année d'imposition qui, n'eût été l'alinéa a), serait déductible en application de l'article 37 dans le calcul de son revenu pour l'année est réputée :

(i) ne pas être engagée ou effectuée par le contribuable au cours de l'année,

(ii) être engagée ou effectuée par le contribuable au cours de l'année d'imposition postérieure à laquelle il est raisonnable de considérer qu'elle se rapporte.

f) [Abrogé, 2017, ch. 20, art. 3]

Assurance-vie collective temporaire

(9.01) Lorsqu'un contribuable verse une prime après février 1994 et avant 1997 aux termes d'une police d'assurance-vie collective temporaire afin de prendre, sur la tête d'un particulier, une assurance qui porte sur la durée de vie restante de celui-ci et qu'aucune autre prime ne sera payable pour cette assurance, seuls les montants suivants peuvent être déduits dans le calcul du revenu du contribuable pour une année d'imposition tiré d'une entreprise ou d'un bien relativement à la prime :

a) si l'année correspond à l'année d'imposition au cours de laquelle la prime a été versée ou à une année d'imposition postérieure et si le particulier est vivant à la fin de l'année, le moins élevé des montants suivants :

(d) where the year is the taxation year in which the premium was paid or a subsequent taxation year and the individual is alive at the end of the year, the lesser of

(i) the amount determined by the formula

A - B

and

(ii) 1/3 of the amount determined by the formula

(A × C)/365

where

A is the amount that would, if this Act were read without reference to this subsection, be deductible in respect of the premium in computing the taxpayer's income,

B is the total amount deductible in respect of the premium in computing the taxpayer's income for preceding taxation years, and

C is the number of days in the year, and

(e) where the individual died in the year, the amount determined under subparagraph 18(9.01)(d)(i).

(i) le résultat du calcul suivant :

A - B

(ii) le tiers du résultat du calcul suivant :

A × C/365

où :

A représente le montant qui serait déductible relativement à la prime dans le calcul du revenu du contribuable, compte non tenu du présent paragraphe,

B le montant total qui est déductible relativement à la prime dans le calcul du revenu du contribuable pour les années d'imposition précédentes,

C le nombre de jours de l'année;

b) si le particulier est décédé au cours de l'année, le montant déterminé selon le sous-alinéa a)(i).

Application of subsection (9) to insurers

(9.02) For the purpose of subsection (9), an outlay or expense made or incurred by an insurer on account of the acquisition of an insurance policy (other than a non-cancellable or guaranteed renewable accident and sickness insurance policy or a life insurance policy other than a group term life insurance policy that provides coverage for a period of 12 months or less) is deemed to be an expense incurred as consideration for services rendered consistently throughout the period of coverage of the policy.

Application du paragraphe (9) aux assureurs

(9.02) Pour l'application du paragraphe (9), les dépenses engagées ou effectuées par un assureur au titre de l'acquisition d'une police d'assurance (sauf une police d'assurance contre les accidents et la maladie non résiliable ou à renouvellement garanti et une police d'assurance-vie autre qu'une police d'assurance-vie collective temporaire d'une durée maximale de douze mois) sont réputées être des dépenses engagées en contrepartie de services rendus régulièrement pendant toute la durée de la police.

Penalties, bonuses and rate-reduction payments

(9.1) Subject to subsection 142.4(10), where at any time a payment, other than a payment that

(a) can reasonably be considered to have been made in respect of the extension of the term of a debt obligation or in respect of the substitution or conversion of a debt obligation to another debt obligation or share, or

(b) is contingent or dependent on the use of or production from property or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation,

Paiement pour pénalité, gratification ou réduction de taux

(9.1) Sous réserve du paragraphe 142.4(10), lorsqu'un contribuable fait un paiement à une autre personne ou à une société de personnes à un moment donné dans le cadre de l'exploitation d'une entreprise ou dans le cadre d'une activité dont il tire un revenu d'un bien, relativement à de l'argent emprunté ou à un montant payable pour un bien (appelé « créance » au présent paragraphe) qu'il a acquis, et que le paiement est fait soit en contrepartie d'une réduction du taux d'intérêt payable par le contribuable sur la créance, soit au titre d'une pénalité ou d'une gratification payable par le contribuable du fait qu'il a fait un remboursement de tout ou partie du principal de la créance avant son échéance, les présomptions suivantes s'appliquent dans la mesure où le paiement

is made to a person or partnership by a taxpayer in the course of carrying on a business or earning income from property in respect of borrowed money or on an amount payable for property acquired by the taxpayer (in this subsection referred to as a "debt obligation")

(c) as consideration for a reduction in the rate of interest payable by the taxpayer on the debt obligation, or

(d) as a penalty or bonus payable by the taxpayer because of the repayment by the taxpayer of all or part of the principal amount of the debt obligation before its maturity,

the payment shall, to the extent that it can reasonably be considered to relate to, and does not exceed the value at that time of, an amount that, but for the reduction described in paragraph 18(9.1)(c) or the repayment described in paragraph 18(9.1)(d), would have been paid or payable by the taxpayer as interest on the debt obligation for a taxation year of the taxpayer ending after that time, be deemed,

(e) for the purposes of this Act, to have been paid by the taxpayer and received by the person or partnership at that time as interest on the debt obligation, and

(f) for the purpose of computing the taxpayer's income in respect of the business or property for the year, to have been paid or payable by the taxpayer in that year as interest pursuant to a legal obligation to pay interest,

(i) in the case of a reduction described in paragraph 18(9.1)(c), on the debt obligation, and

(ii) in the case of a repayment described in paragraph 18(9.1)(d),

(A) where the repayment was in respect of all or part of the principal amount of the debt obligation that was borrowed money, except to the extent that the borrowed money was used by the taxpayer to acquire property, on borrowed money used in the year for the purpose for which the borrowed money that was repaid was used, and

(B) where the repayment was in respect of all or part of the principal amount of the debt obligation that was either borrowed money used to acquire property or an amount payable for property acquired by the taxpayer, on the debt obligation to the extent that the property or property substituted therefor is used by the taxpayer in the year for the purpose of gaining or

n'excède pas la valeur, au moment donné, d'un montant qui, sans la réduction ou le remboursement, serait payé ou payable par le contribuable à titre d'intérêts sur la créance pour son année d'imposition se terminant après ce moment et où il est raisonnable de considérer que le paiement se rapporte à ce montant :

a) pour l'application de la présente loi, le paiement est réputé avoir été fait par le contribuable et reçu par la personne ou la société de personnes au moment donné à titre d'intérêts sur la créance;

b) pour le calcul du revenu du contribuable provenant de l'entreprise ou du bien pour l'année, le paiement est réputé avoir été payé ou payable par le contribuable au cours de l'année à titre d'intérêts en conformité avec une obligation légale de payer :

(i) dans le cas d'une réduction, des intérêts sur la créance,

(ii) dans le cas d'un remboursement :

(A) si le remboursement s'applique à tout ou partie du principal de la créance qui était de l'argent emprunté, sauf dans la mesure où le contribuable a utilisé cet argent pour acquérir un bien, des intérêts sur de l'argent emprunté et utilisé au cours de l'année aux fins auxquelles l'argent emprunté et remboursé a été utilisé,

(B) si le remboursement s'applique à tout ou partie du principal de la créance qui était soit de l'argent emprunté et utilisé pour acquérir un bien, soit un montant payable pour un bien acquis par le contribuable, des intérêts sur la créance dans la mesure où le contribuable utilise au cours de l'année le bien, ou un bien y substitué, en vue d'en tirer un revenu ou de tirer un revenu d'une entreprise.

Toutefois le présent paragraphe ne s'applique ni à un paiement qu'il est raisonnable de considérer comme fait relativement au report d'échéance d'une créance, au remplacement d'une créance par une autre créance ou par une action ou encore à la conversion d'une créance en une autre créance ou en une action, ni à un paiement qui est conditionnel à l'utilisation de biens ou qui dépend de la production en provenant ou encore qui est calculé en fonction des recettes, des bénéfices, de la marge d'autofinancement, du prix des marchandises ou d'un critère semblable ou en fonction des dividendes versés ou payables aux actionnaires d'une catégorie d'actions du capital-actions d'une société.

producing income therefrom or for the purpose of gaining or producing income from a business.

Interest on debt obligations

(9.2) For the purposes of this Part, the amount of interest payable on borrowed money or on an amount payable for property (in this subsection and subsections 18(9.3) to 18(9.8) referred to as the "debt obligation") by a corporation, partnership or trust (in this subsection and subsections 18(9.3) to 18(9.7) referred to as the "borrower") in respect of a taxation year shall, notwithstanding subparagraph 18(9.1)(f)(i), be deemed to be an amount equal to the lesser of

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

(i) the amount outstanding at the particular time on account of the principal amount of the debt obligation

exceeds the total of

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

(iii) the amount, if any, by which

(A) the total of all amounts of interest payable on the debt obligation (determined without reference to this subsection) by the borrower in respect of taxation years ending after 1991 and before the year (to the extent that the interest does not exceed a reasonable amount)

exceeds

(B) the total of all amounts of interest deemed by this subsection to have been payable on the

Intérêts sur créances

(9.2) Pour l'application de la présente partie, les intérêts payables sur de l'argent emprunté ou sur un montant payable pour un bien (appelé « créance » au présent paragraphe et aux paragraphes (9.3) à (9.8)) par une société, une société de personnes ou une fiducie (appelée « emprunteur » au présent paragraphe et aux paragraphes (9.3) à (9.7)) pour une année d'imposition sont réputés, malgré le sous-alinéa (9.1)b)(i), correspondre au moins élevé des montants suivants :

a) les intérêts, ne dépassant pas un montant raisonnable, que l'emprunteur aurait eu à payer sur la créance pour l'année si aucun montant n'avait été payé avant la fin de l'année en exécution de l'obligation de payer des intérêts sur la créance pour l'année et si le montant impayé à chaque moment donné de l'année, postérieur à 1991, au titre du principal de la créance correspondait à l'excédent éventuel de ce montant impayé sur le total des montants suivants :

(i) le total des montants représentant chacun un montant payé avant le moment donné en exécution de tout ou partie de l'obligation de payer des intérêts sur la créance pour une période, ou une partie de période, qui est postérieure, à la fois, à 1991, au début de l'année et au moment où le montant a été ainsi payé (sauf une période, ou une partie de période, qui fait partie de l'année, si aucun semblable montant n'a été payé avant le moment donné pour une période, ou une partie de période, qui est postérieure à la fin de l'année),

(ii) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants des intérêts payables sur la créance, déterminés compte non tenu du présent paragraphe, par l'emprunteur pour les années d'imposition se terminant après 1991 et avant l'année, dans la mesure où ces intérêts ne dépassent pas un montant raisonnable,

(B) le total des montants des intérêts réputés, par le présent paragraphe, payables sur la créance par l'emprunteur pour les années d'imposition se terminant avant l'année;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants des intérêts payables sur la créance, déterminés compte non tenu du présent

debt obligation by the borrower in respect of taxation years ending before the year, and

(b) the amount, if any, by which

(i) the total of all amounts of interest payable on the debt obligation (determined without reference to this subsection) by the borrower in respect of the year or taxation years ending after 1991 and before the year (to the extent that the interest does not exceed a reasonable amount)

exceeds

(ii) the total of all amounts of interest deemed by this subsection to have been payable on the debt obligation by the borrower in respect of taxation years ending before the year.

Interest on debt obligations

(9.3) Where at any time in a taxation year of a borrower a debt obligation of the borrower is settled or extinguished or the holder of the obligation acquires or reacquires property of the borrower in circumstances in which section 79 applies in respect of the debt obligation and the total of

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

(b) all amounts of interest payable on the debt obligation (determined without reference to subsection 18(9.2)) by the borrower in respect of taxation years ending after 1991 and before that time, or in respect of periods, or parts of periods, that are in such years and before that time (to the extent that the interest does not exceed a reasonable amount),

exceeds the total of

(c) all amounts of interest deemed by subsection 18(9.2) to have been payable on the debt obligation by the borrower in respect of taxation years ending before that time, and

(d) the amount of interest that would be deemed by subsection 18(9.2) to have been payable on the debt obligation by the borrower in respect of the year if the year had ended immediately before that time,

(which excess is in this subsection referred to as the "excess amount"), the following rules apply:

(e) for the purpose of applying section 79 in respect of the borrower, the principal amount at that time of the

paragraphe, par l'emprunteur pour l'année ou pour les années d'imposition se terminant après 1991 et avant l'année, dans la mesure où ces intérêts ne dépassent pas un montant raisonnable,

(ii) le total des montants des intérêts réputés, par le présent paragraphe, payables sur la créance par l'emprunteur pour les années d'imposition se terminant avant l'année.

Intérêts sur créances

(9.3) Lorsque, à un moment de l'année d'imposition d'un emprunteur, une créance dont celui-ci est débiteur est réglée ou éteinte ou le détenteur de la créance acquiert ou acquiert de nouveau un bien de l'emprunteur dans les circonstances visées à l'article 79 relativement à la créance et que, à ce moment, le total des montants visés aux alinéas a) et b):

a) le total des montants représentant chacun un montant payé à ce moment ou antérieurement en exécution de tout ou partie de l'obligation de payer des intérêts sur la créance pour une période, ou une partie de période, qui est postérieure à ce moment;

b) le total des montants des intérêts payables sur la créance, déterminés compte non tenu du paragraphe (9.2), par l'emprunteur pour les années d'imposition se terminant après 1991 et avant ce moment, ou pour des périodes, ou parties de période, qui font partie de ces années et sont antérieures à ce moment, dans la mesure où ces intérêts ne dépassent pas un montant raisonnable,

excède le total des montants visés aux alinéas c) et d):

c) le total des montants des intérêts réputés par le paragraphe (9.2) avoir été payables sur la créance par l'emprunteur pour les années d'imposition se terminant avant ce moment;

d) les intérêts qui seraient réputés, par le paragraphe (9.2), payables sur la créance par l'emprunteur pour l'année si cette année s'était terminée immédiatement avant ce moment,

(cet excédent étant appelé « excédent donné » au présent paragraphe), les règles suivantes s'appliquent :

debt obligation shall be deemed to be equal to the amount, if any, by which

(i) the principal amount at that time of the debt obligation

exceeds

(ii) the excess amount, and

(f) the excess amount shall be deducted at that time in computing the forgiven amount in respect of the obligation (within the meaning assigned by subsection 80(1)).

e) pour l'application de l'article 79 à l'emprunteur, le principal de la créance à ce moment est réputé correspondre à l'excédent éventuel de ce principal sur l'excédent donné;

f) l'excédent donné est à déduire à ce moment dans le calcul du montant remis, au sens du paragraphe 80(1), sur la créance.

Idem

(9.4) Where an amount is paid at any time by a person or partnership in respect of a debt obligation of a borrower

(a) as, on account of, in lieu of payment of or in satisfaction of, interest on the debt obligation in respect of a period or part thereof that is after 1991 and after that time, or

(b) as consideration for a reduction in the rate of interest payable on the debt obligation (excluding, for greater certainty, a payment described in paragraph 18(9.1)(a) or 18(9.1)(b)) in respect of a period or part thereof that is after 1991 and after that time,

that amount shall be deemed, for the purposes of subsection 18(9.5) and, subject to that subsection, for the purposes of clause 18(9.2)(a)(iii)(A), subparagraph 18(9.2)(b)(i), paragraph 18(9.3)(b) and subsection 18(9.6), to be an amount of interest payable on the debt obligation by the borrower in respect of that period or part thereof and shall be deemed, for the purposes of subparagraph 18(9.2)(a)(ii) and paragraph 18(9.3)(a), to be an amount paid at that time in satisfaction of the obligation to pay interest on the debt obligation in respect of that period or part thereof.

Idem

(9.4) Les présomptions suivantes s'appliquent au montant qu'une personne ou une société de personnes paie relativement à une créance dont un emprunteur est débiteur soit au titre ou en règlement total ou partiel d'intérêts sur la créance pour une période, ou une partie de période, qui est postérieure à 1991 et au moment du paiement, soit en contrepartie d'une réduction du taux d'intérêt payable sur la créance (à l'exclusion d'un paiement visé au paragraphe (9.1)) pour une période, ou une partie de période, qui est postérieure à 1991 et au moment du paiement :

a) le montant est réputé, pour l'application du paragraphe (9.5) et, sous réserve de ce paragraphe, pour l'application de la division (9.2)a)(ii)(A), du sous-alinéa (9.2)b)(i), de l'alinéa (9.3)b) et du paragraphe (9.6), constituer des intérêts payables sur la créance par l'emprunteur pour cette période ou partie de période;

b) le montant est réputé, pour l'application du sous-alinéa (9.2)a)(i) et de l'alinéa (9.3)a), être un montant payé au moment du paiement en exécution de l'obligation de payer des intérêts sur la créance pour cette période ou partie de période.

Idem

(9.5) Where the amount of interest payable on a debt obligation (determined without reference to subsection 18(9.2)) by a borrower in respect of a particular period or part thereof that is after 1991 can reasonably be regarded as an amount payable as consideration for

(a) a reduction in the amount of interest that would otherwise be payable on the debt obligation in respect of a subsequent period, or

Idem

(9.5) Les intérêts payables sur une créance, déterminés compte non tenu du paragraphe (9.2), par un emprunteur pour une période donnée, ou une partie d'une telle période, qui est postérieure à 1991 sont réputés, pour l'application de la division (9.2)a)(ii)(A), du sous-alinéa (9.2)b)(i), de l'alinéa (9.3)b) et du paragraphe (9.6), être des intérêts payables sur la créance par l'emprunteur pour une période ultérieure et non pour la période donnée et sont réputés, pour l'application du sous-alinéa (9.2) a)(i) et de l'alinéa (9.3)a), constituer, une fois payés, un montant payé en exécution de l'obligation de payer des intérêts sur la créance pour une période ultérieure s'il

(b) a reduction in the amount that was or may be paid before the beginning of a subsequent period in satisfaction of the obligation to pay interest on the debt obligation in respect of that subsequent period

(determined without reference to the existence of, or the amount of any interest paid or payable on, any other debt obligation), that amount shall, for the purposes of clause 18(9.2)(a)(iii)(A), subparagraph 18(9.2)(b)(i), paragraph 18(9.3)(b) and subsection 18(9.6), be deemed to be an amount of interest payable on the debt obligation by the borrower in respect of the subsequent period and not to be an amount of interest payable on the debt obligation by the borrower in respect of the particular period and shall, when paid, be deemed for the purposes of subparagraph 18(9.2)(a)(ii) and paragraph 18(9.3)(a) to be an amount paid in satisfaction of the obligation to pay interest on the debt obligation in respect of the subsequent period.

est raisonnable de considérer les intérêts comme un montant payable en contrepartie d'une des réductions suivantes, déterminées compte non tenu de l'existence d'une autre créance ou des intérêts payés ou payables sur une telle créance :

a) une réduction des intérêts qui seraient payables par ailleurs sur la créance pour la période ultérieure;

b) une réduction du montant qui a été payé, ou qui peut l'être, avant le début de la période ultérieure en exécution de l'obligation de payer des intérêts sur la créance pour cette période.

Idem

(9.6) Where the liability in respect of a debt obligation of a person or partnership is assumed by a borrower at any time,

(a) the amount of interest payable on the debt obligation (determined without reference to subsection 18(9.2)) by any person or partnership in respect of a period shall, to the extent that that period is included in a taxation year of the borrower ending after 1991, be deemed, for the purposes of clause 18(9.2)(a)(iii)(A), subparagraph 18(9.2)(b)(i) and paragraph 18(9.3)(b), to be an amount of interest payable on the debt obligation by the borrower in respect of that year, and

(b) the application of subsections 18(9.2) and 18(9.3) to the borrower in respect of the debt obligation after that time shall be determined on the assumption that subsection 18(9.2) applied to the borrower in respect of the debt obligation before that time,

and, for the purposes of this subsection, where the borrower came into existence at a particular time that is after the beginning of the particular period beginning at the beginning of the first period in respect of which interest was payable on the debt obligation by any person or partnership and ending at the particular time, the borrower shall be deemed

(c) to have been in existence throughout the particular period, and

(d) to have had, throughout the particular period, taxation years ending on the day of the year on which its first taxation year ended.

Idem

(9.6) Lorsqu'un emprunteur assume, à un moment donné, les obligations d'une personne ou d'une société de personnes relativement à une créance, les règles suivantes s'appliquent :

a) les intérêts payables sur la créance, déterminés compte non tenu du paragraphe (9.2), par une personne ou une société de personnes pour une période sont réputés, pour l'application de la division (9.2)a)(ii)(A), du sous-alinéa (9.2)b)(i) et de l'alinéa (9.3)b), être des intérêts payables sur la créance par l'emprunteur pour son année d'imposition se terminant après 1991, dans la mesure où la période fait partie de cette année;

b) les paragraphes (9.2) et (9.3) s'appliquent à l'emprunteur relativement à la créance après ce moment à la condition que le paragraphe (9.2) se soit appliqué à lui relativement à la créance avant ce moment.

Pour l'application du présent paragraphe, lorsque l'emprunteur a commencé à exister à un moment donné qui est postérieur au début de la période donnée commençant au début de la première période pour laquelle des intérêts sont payables sur la créance par une personne ou une société de personnes et se terminant au moment donné, les présomptions suivantes s'appliquent :

c) l'emprunteur est réputé avoir existé tout au long de la période donnée;

d) les années d'imposition de l'emprunteur, tout au long de la période donnée, sont réputées avoir pris fin le jour de l'année où sa première année d'imposition a pris fin.

Idem

(9.7) Where the amount paid by a borrower at any particular time, in satisfaction of the obligation to pay a particular amount of interest on a debt obligation in respect of a subsequent period or part thereof, exceeds the particular amount of that interest, discounted

(a) for the particular period beginning at the particular time and ending at the end of the subsequent period or part thereof, and

(b) at the rate or rates of interest applying under the debt obligation during the particular period (or, where the rate of interest of any part of the particular period is not fixed at the particular time, at the prescribed rate of interest in effect at the particular time),

that excess shall

(c) for the purposes of applying subsections 18(9.2) to 18(9.6) and 18(9.8), be deemed to be neither an amount of interest payable on the debt obligation nor an amount paid in satisfaction of the obligation to pay interest on the debt obligation, and

(d) be deemed to be a payment described in paragraph 18(9.1)(d) in respect of the debt obligation.

Idem

(9.8) Nothing in any of subsections 18(9.2) to 18(9.7) shall be construed as providing that

(a) the total of all amounts each of which is the amount of interest payable on a debt obligation by an individual (other than a trust), or deemed by subsection 18(9.2) to be payable on the debt obligation by a corporation, partnership or trust, in respect of a taxation year ending after 1991 and before any particular time,

may exceed

(b) the total of all amounts each of which is the amount of interest payable on the debt obligation (determined without reference to subsection 18(9.2)) by a person or partnership in respect of a taxation year ending after 1991 and before that particular time.

Employee benefit plan

(10) Paragraph 18(1)(o) does not apply in respect of a contribution to an employee benefit plan

(a) to the extent that the contribution

(i) is made in respect of services performed by an employee who is not resident in Canada and is

Idem

(9.7) Lorsque le montant payé par un emprunteur à un moment donné en exécution de l'obligation de payer un montant déterminé d'intérêts sur une créance pour tout ou partie d'une période ultérieure excède ce montant déterminé, escompté :

a) d'une part, pour la période donnée commençant au moment donné et se terminant à la fin de la période ultérieure ou de la partie de période;

b) d'autre part, au taux d'intérêt applicable à la créance au cours de la période donnée ou, lorsque le taux pour une partie de la période donnée n'est pas fixé au moment donné, au taux prescrit en vigueur au moment donné,

les présomptions suivantes s'appliquent à l'excédent :

c) pour l'application des paragraphes (9.2) à (9.6) et (9.8), l'excédent est réputé ne pas constituer des intérêts payables sur la créance, ni un montant payé en exécution de l'obligation de payer des intérêts sur la créance;

d) l'excédent est réputé être un paiement au titre d'une pénalité ou d'une gratification visées au paragraphe (9.1) relativement à la créance.

Idem

(9.8) Les paragraphes (9.2) à (9.7) n'ont pas pour effet de permettre le dépassement du total visé à l'alinéa b) par le total visé à l'alinéa a):

a) le total des montants représentant chacun les intérêts payables sur une créance par un particulier, sauf une fiducie, ou réputés par le paragraphe (9.2) payables sur la créance par une société, une société de personnes ou une fiducie, pour une année d'imposition se terminant après 1991 et avant un moment donné;

b) le total des montants représentant chacun les intérêts payables sur la créance, déterminés compte non tenu du paragraphe (9.2), par une personne ou une société de personnes pour une année d'imposition se terminant après 1991 et avant le moment donné.

Régime de prestations aux employés

(10) L'alinéa (1)o) ne s'applique pas à une cotisation versée à un régime de prestations aux employés dans la mesure où, selon le cas :

a) la cotisation répond aux conditions suivantes :

regularly employed in a country other than Canada, and

(ii) cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada;

(b) the custodian of which is non-resident, to the extent that the contribution

(i) is in respect of an employee who is non-resident at the time the contribution is made, and

(ii) cannot reasonably be regarded as having been made in respect of services performed or to be performed during a period when the employee is resident in Canada; or

(c) the custodian of which is non-resident, to the extent that the contribution can reasonably be regarded as having been made in respect of services performed by an employee in a particular calendar month where

(i) the employee was resident in Canada throughout no more than 60 of the 72 calendar months ending with the particular month, and

(ii) the employee became a member of the plan before the end of the month following the month in which the employee became resident in Canada,

and for the purpose of this paragraph, where benefits provided to an employee under a particular employee benefit plan are replaced by benefits provided under another employee benefit plan, the other plan shall be deemed, in respect of the employee, to be the same plan as the particular plan.

(i) elle est versée pour des services rendus par un employé qui ne réside pas au Canada et qui est employé avec régularité dans un pays étranger,

(ii) il n'est pas raisonnable de la considérer comme versée pour des services rendus ou à rendre pendant que l'employé réside au Canada;

b) le dépositaire du régime ne résidant pas au Canada, la cotisation répond aux conditions suivantes :

(i) elle est versée à l'égard d'un employé qui ne réside pas au Canada au moment du versement,

(ii) il n'est pas raisonnable de la considérer comme versée pour des services rendus ou à rendre pendant que l'employé réside au Canada;

c) le dépositaire du régime ne résidant pas au Canada, il est raisonnable de considérer que la cotisation a été versée pour des services rendus par un employé au cours d'un mois donné, dans le cas où, à la fois :

(i) l'employé a résidé au Canada durant au plus 60 mois compris dans la période de 72 mois se terminant au cours du mois donné,

(ii) l'employé a adhéré au régime avant la fin du mois suivant celui au cours duquel il a commencé à résider au Canada.

Pour l'application du présent alinéa, dans le cas où les prestations versées à un employé aux termes d'un régime de prestations aux employés donné sont remplacées par des prestations versées aux termes d'un autre régime de prestations aux employés, cet autre régime est réputé, quant à l'employé, être le régime donné.

Limitation

(11) Notwithstanding any other provision of this Act, in computing the income of a taxpayer for a taxation year, no amount is deductible under paragraph 20(1)(c), 20(1)(d), 20(1)(e), 20(1)(e.1) or 20(1)(f) in respect of borrowed money (or other property acquired by the taxpayer) in respect of any period after which the money (or other property) is used by the taxpayer for the purpose of

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

(b) paying a premium (within the meaning assigned by subsection 146(1) read without reference to the portion of the definition ***premium*** in that subsection

Restriction

(11) Malgré les autres dispositions de la présente loi, aucun montant n'est déductible en application des alinéas 20(1)c), d), e), e.1) ou f), dans le calcul du revenu d'un contribuable pour une année d'imposition, au titre de l'argent emprunté (ou d'un autre bien acquis par le contribuable) pour une période après laquelle le contribuable utilise cet argent, ou ce bien, à l'une ou autre des fins suivantes :

a) effectuer un paiement, après le 12 novembre 1981, en contrepartie d'un contrat de rente à versements invariables, à moins que ce contrat n'ait été acquis conformément à une convention écrite conclue avant le 13 novembre 1981;

b) verser une prime (au sens du paragraphe 146(1), compte non tenu du passage de cette définition qui

following paragraph (b) of that definition) under a registered retirement savings plan after November 12, 1981;

(c) making a contribution to a deferred profit sharing plan, a pooled registered pension plan or a registered pension plan, other than

(i) a contribution described in subparagraph 8(1)(m)(ii) or 8(1)(m)(iii) (as they read in their application to the 1990 taxation year) that was required to be made pursuant to an obligation entered into before November 13, 1981, or

(ii) a contribution deductible under paragraph 20(1)(q) or 20(1)(y) in computing the taxpayer's income;

(d) making a payment as consideration for an annuity the payment for which was deductible in computing the taxpayer's income by virtue of paragraph 60(l;

(e) making a contribution to a retirement compensation arrangement where the contribution was deductible under paragraph 8(1)(m.2) in computing the taxpayer's income;

(f) making a contribution to a net income stabilization account;

(g) [Repealed, 2011, c. 24, s. 2]

(h) making a contribution into a registered education savings plan;

(i) making a contribution to a registered disability savings plan; or

(j) making a contribution under a TFSA,

and, for the purposes of this subsection, to the extent that an indebtedness is incurred by a taxpayer in respect of a property and at any time that property or a property substituted therefor is used for any of the purposes referred to in this subsection, the indebtedness shall be deemed to be incurred at that time for that purpose.

Work space in home

(12) Notwithstanding any other provision of this Act, in computing an individual's income from a business for a taxation year,

(a) no amount shall be deducted in respect of an otherwise deductible amount for any part (in this subsection referred to as the "work space") of a self-contained domestic establishment in which the individual

suit l'alinéa b)) en vertu d'un régime enregistré d'épargne-retraite après le 12 novembre 1981;

c) verser une cotisation à un régime de participation différée aux bénéfices, à un régime de pension agréé ou à un régime de pension agréé collectif, à l'exception :

(i) d'une cotisation visée au sous-alinéa 8(1)m)(ii) ou (iii) — dans sa version applicable à l'année d'imposition 1990 — qui devait être versée conformément à une obligation contractée avant le 13 novembre 1981,

(ii) d'une cotisation déductible en application de l'alinéa 20(1)q) ou y) dans le calcul du revenu du contribuable;

d) effectuer un paiement en contrepartie d'une rente dont le paiement était déductible dans le calcul de son revenu en vertu de l'alinéa 60l);

e) verser à une convention de retraite une cotisation déductible en application de l'alinéa 8(1)m.2) dans le calcul du revenu du contribuable;

f) déposer des sommes dans un compte de stabilisation du revenu net;

g) [Abrogé, 2011, ch. 24, art. 2]

h) verser une cotisation à un régime enregistré d'épargne-études;

i) verser une cotisation à un régime enregistré d'épargne-invalidité;

j) verser une cotisation à un compte d'épargne libre d'impôt.

Pour l'application du présent paragraphe, dans la mesure où un contribuable contracte une dette relativement à un bien et où ce bien, ou un bien qui y est substitué, est utilisé à un moment donné à l'une des fins visées au présent paragraphe, la dette est réputée contractée à ce moment et à cette fin.

Travail à domicile

(12) Malgré les autres dispositions de la présente loi, dans le calcul du revenu d'un particulier tiré d'une entreprise pour une année d'imposition :

a) un montant n'est déductible pour la partie d'un établissement domestique autonome où le particulier réside que si cette partie d'établissement :

(i) soit est son principal lieu d'affaires,

resides, except to the extent that the work space is either

(i) the individual's principal place of business, or

(ii) used exclusively for the purpose of earning income from business and used on a regular and continuous basis for meeting clients, customers or patients of the individual in respect of the business;

(b) where the conditions set out in subparagraph 18(12)(a)(i) or 18(12)(a)(ii) are met, the amount for the work space that is deductible in computing the individual's income for the year from the business shall not exceed the individual's income for the year from the business, computed without reference to the amount and sections 34.1 and 34.2; and

(c) any amount not deductible by reason only of paragraph 18(12)(b) in computing the individual's income from the business for the immediately preceding taxation year shall be deemed to be an amount otherwise deductible that, subject to paragraphs 18(12)(a) and 18(12)(b), may be deducted for the year for the work space in respect of the business.

ii) soit lui sert exclusivement à tirer un revenu d'une entreprise et à rencontrer des clients ou des patients sur une base régulière et continue dans le cadre de l'entreprise;

b) si une partie de l'établissement domestique autonome où le particulier réside est son principal lieu d'affaires ou lui sert exclusivement à tirer un revenu d'une entreprise et à rencontrer des clients ou des patients sur une base régulière et continue dans le cadre de l'entreprise, le montant déductible pour cette partie d'établissement ne peut dépasser le revenu du particulier tiré de cette entreprise pour l'année, calculé compte non tenu de ce montant et des articles 34.1 et 34.2;

c) tout montant qui, par le seul effet de l'alinéa b), n'est pas déductible pour une partie d'établissement domestique autonome dans le calcul du revenu d'entreprise du particulier pour l'année d'imposition précédente est déductible dans le calcul du revenu d'entreprise du particulier pour l'année, sous réserve des alinéas a) et b).

When s. (15) applies to money lenders

(13) Subsection 18(15) applies, subject to subsection 142.6(7), when

(a) a taxpayer (in this subsection and subsection (15) referred to as the "transferor") disposes of a particular property (other than, for the purposes of computing the exempt surplus or exempt deficit and taxable surplus or taxable deficit of a foreign affiliate of a taxpayer, in respect of the taxpayer, where the transferor is the affiliate or is a partnership of which the affiliate is a member, property that is, or would be, if the transferor were a foreign affiliate of the taxpayer, excluded property (within the meaning assigned by subsection 95(1)) of the transferor);

(b) the disposition is not described in any of paragraphs (c) to (g) of the definition *superficial loss* in section 54;

(c) the transferor is not an insurer;

(d) the ordinary business of the transferor includes the lending of money and the particular property was used or held in the ordinary course of that business;

(e) the particular property is a share, or a loan, bond, debenture, mortgage, hypothecary claim, note, agreement for sale or any other indebtedness;

Application du paragraphe (15) aux prêteurs d'argent

(13) Le paragraphe (15) s'applique, sous réserve du paragraphe 142.6(7), lorsque les conditions suivantes sont réunies :

a) un contribuable (appelé « cédant » au présent paragraphe et au paragraphe (15)) dispose d'un bien (à l'exclusion, pour ce qui est du calcul du surplus exonéré ou du déficit exonéré et du surplus imposable ou du déficit imposable d'une société étrangère affiliée d'un contribuable, relativement à celui-ci, dans le cas où le cédant est soit la société affiliée, soit une société de personnes dont celle-ci est un associé, d'un bien qui est un bien exclu, au sens du paragraphe 95(1), du cédant ou le serait si celui-ci était une société étrangère affiliée du contribuable);

b) la disposition n'est pas visée à l'un des alinéas c) à g) de la définition de *perte apparente* à l'article 54;

c) le cédant n'est pas un assureur;

d) l'activité d'entreprise habituelle du cédant consiste en tout ou en partie à prêter de l'argent et le bien est utilisé ou détenu dans le cadre des activités habituelles de cette entreprise;

e) le bien est une action ou un prêt, une obligation, un billet, une créance hypothécaire, une convention de vente ou une autre créance;

(f) the particular property was, immediately before the disposition, not a capital property of the transferor;

(g) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires a property (in this subsection and subsection 18(15) referred to as the "substituted property") that is, or is identical to, the particular property; and

(h) at the end of the period, the transferor or a person affiliated with the transferor owns the substituted property.

f) le bien n'était pas une immobilisation du cédant immédiatement avant la disposition;

g) au cours de la période qui commence 30 jours avant la disposition et se termine 30 jours après cette disposition, le cédant ou une personne affiliée à celui-ci acquiert le même bien ou un bien identique (appelés « bien de remplacement » au présent paragraphe et au paragraphe (15));

h) à la fin de la période visée à l'alinéa g), le cédant ou une personne affiliée à celui-ci est propriétaire du bien de remplacement.

When s. (15) applies to adventurers in trade

(14) Subsection 18(15) applies where

(a) a person (in this subsection and subsection 18(15) referred to as the "transferor") disposes of a particular property;

(b) the particular property is described in an inventory of a business that is an adventure or concern in the nature of trade;

(c) the disposition is not a disposition that is deemed to have occurred by section 70, subsection 104(4), section 128.1, paragraph 132.2(3)(a) or (c) or subsection 138(11.3) or 149(10);

(d) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires property (in this subsection and subsection 18(15) referred to as the "substituted property") that is, or is identical to, the particular property; and

(e) at the end of the period, the transferor or a person affiliated with the transferor owns the substituted property.

Application du paragraphe (15) aux risques ou affaires de caractère commercial

(14) Le paragraphe (15) s'applique lorsque les conditions suivantes sont réunies :

a) une personne (appelée « cédant » au présent paragraphe et au paragraphe (15)) dispose d'un bien;

b) le bien figure à l'inventaire d'une entreprise qui est un projet comportant un risque ou une affaire de caractère commercial;

c) la disposition n'en est pas une qui est réputée avoir été effectuée par l'effet de l'article 70, du paragraphe 104(4), de l'article 128.1, des alinéas 132.2(3)a) ou c) ou des paragraphes 138(11.3) ou 149(10);

d) au cours de la période qui commence 30 jours avant la disposition et se termine 30 jours après cette disposition, le cédant ou une personne affiliée à celui-ci acquiert le même bien ou un bien identique (appelés « bien de remplacement » au présent paragraphe);

e) à la fin de la période visée à l'alinéa d), le cédant ou une personne affiliée à celui-ci est propriétaire du bien de remplacement.

Loss on certain properties

(15) If this subsection applies because of subsection 18(13) or 18(14) to a disposition of a particular property,

(a) the transferor's loss, if any, from the disposition is deemed to be nil, and

(b) the amount of the transferor's loss, if any, from the disposition (determined without reference to this subsection) is deemed to be a loss of the transferor from a disposition of the particular property at the first time, after the disposition,

Pertes sur certains biens

(15) Lorsque le présent paragraphe s'applique par l'effet des paragraphes (13) ou (14) à la disposition d'un bien, les présomptions suivantes s'appliquent :

a) la perte du cédant résultant de la disposition est réputée nulle;

b) la perte du cédant résultant de la disposition (déterminée compte non tenu du présent paragraphe) est réputée être sa perte résultant d'une disposition du bien effectuée au premier en date des moments suivants qui est postérieur à la disposition :

(i) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns

(A) the substituted property, or

(B) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

(ii) at which the substituted property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(iii) that is immediately before the transferor is subject to a loss restriction event, or

(iv) if the transferor is a corporation,

(A) for the purposes of computing the transferor's foreign accrual property income, exempt surplus or exempt deficit, and taxable surplus or taxable deficit, in respect of a taxpayer for a taxation year of the transferor where the transferor is a foreign affiliate of the taxpayer, at which the liquidation and dissolution of the transferor begins, unless the liquidation and dissolution is

(I) a qualifying liquidation and dissolution (within the meaning assigned by subsection 88(3.1)) of the transferor, or

(II) a designated liquidation and dissolution (within the meaning assigned by subsection 95(1)) of the transferor, and

(B) for any other purposes, at which the winding-up (other than a winding-up to which subsection 88(1) applies) of the transferor begins, and

and for the purpose of paragraph 18(15)(b), where a partnership otherwise ceases to exist at any time after the disposition, the partnership is deemed not to have ceased to exist, and each person who was a member of the partnership immediately before the partnership would, but for this subsection, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs 18(15)(b)(i) to (iv).

(i) le début d'une période de 30 jours tout au long de laquelle ni le cédant, ni une personne affiliée à celui-ci n'est propriétaire :

(A) du bien de remplacement,

(B) d'un bien qui est identique au bien de remplacement et qui a été acquis après le jour qui précède de 31 jours le début de la période,

(ii) le moment auquel le cédant serait réputé, par l'article 128.1 ou le paragraphe 149(10), avoir disposé du bien de remplacement s'il en était propriétaire,

(iii) le moment immédiatement avant le moment où le cédant est assujetti à un fait lié à la restriction de pertes,

(iv) si le cédant est une société :

(A) pour ce qui est du calcul de son revenu étranger accumulé, tiré de biens, de son surplus exonéré ou déficit exonéré et de son surplus imposable ou déficit imposable, relativement à un contribuable pour une année d'imposition du cédant, dans le cas où celui-ci est une société étrangère affiliée du contribuable, le moment auquel la liquidation et dissolution du cédant commence, sauf s'il s'agit d'une liquidation et dissolution qui, selon le cas :

(I) est une liquidation et dissolution admissibles, au sens du paragraphe 88(3.1), du cédant,

(II) est une liquidation et dissolution désignées, au sens du paragraphe 95(1), du cédant,

(B) pour toute autre fin, le moment auquel la liquidation du cédant commence, sauf s'il s'agit d'une liquidation à laquelle s'applique le paragraphe 88(1);

c) pour l'application de l'alinéa b), la société de personnes qui cesse d'exister après la disposition est réputée ne cesser d'exister qu'au moment donné immédiatement après le premier en date des moments visés aux sous-alinéas b)(i) à (iv), et chaque personne qui en était un associé immédiatement avant le moment où elle aurait cessé d'exister, n'eût été le présent paragraphe, est réputée le demeurer jusqu'au moment donné.

Deemed identical property

(16) For the purposes of subsections (13), (14) and (15), a right to acquire a property (other than a right, as security only, derived from a mortgage, hypothec, agreement for sale or similar obligation) is deemed to be a property that is identical to the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 18; 1994, c. 7, Sch. II, s. 13, Sch. VIII, s. 8, c. 21, s. 11; 1995, c. 3, s. 6, c. 21, ss. 5 and 48; 1996, c. 21. s. 5; 1997, c. 25, s. 4; 1998, c. 19, ss. 3 and 79; 2001, c. 17, ss. 9, 201; 2003, c. 28, s. 2; 2006, c. 4, s. 161; 2007, c. 35, ss. 11, 102; 2008, c. 28, s. 2; 2010, c. 25, s. 5; 2011, c. 24, s. 2; 2012, c. 31, s. 7; 2013, c. 33, s. 2, c. 34, ss. 56, 95, 178, 427, c. 40, s. 8; 2014, c. 39, s. 6; 2016, c. 12, s. 6; 2017, c. 20, s. 3.

Definitions

18.1 (1) The definitions in this subsection apply in this section.

matchable expenditure of a taxpayer means the amount of an expenditure that is made by the taxpayer to

(a) acquire a right to receive production,

(b) fulfil a covenant or obligation arising in circumstances in which it is reasonable to conclude that a relationship exists between the covenant or obligation and a right to receive production, or

(c) preserve or protect a right to receive production,

but does not include an amount for which a deduction is provided under section 20 in computing the taxpayer's income. (*dépense à rattacher*)

right to receive production means a right under which a taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount all or a portion of which is computed by reference to use of property, production, revenue, profit, cash flow, commodity price, cost or value of property or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares where the amount is in respect of another taxpayer's activity, property or business but such a right does not include an income interest in a trust, a Canadian resource property or a foreign resource property. (*droit aux produits*)

tax benefit means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act. (*avantage fiscal*)

tax shelter means a property that would be a tax shelter (as defined in subsection 237.1(1)) if

Bien identique présumé

(16) Pour l'application des paragraphes (13), (14) et (15), le droit d'acquérir un bien (sauf le droit servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un titre semblable) est réputé être un bien qui est identique au bien.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 18; 1994, ch. 7, ann. II, art. 13, ann. VIII, art. 8, ch. 21, art. 11; 1995, ch. 3, art. 6, ch. 21, art. 5 et 48; 1996, ch. 21. art. 5; 1997, ch. 25, art. 4; 1998, ch. 19, art. 3 et 79; 2001, ch. 17, art. 9 et 201; 2003, ch. 28, art. 2; 2006, ch. 4, art. 161; 2007, ch. 35, art. 11 et 102; 2008, ch. 28, art. 2; 2010, ch. 25, art. 5; 2011, ch. 24, art. 2; 2012, ch. 31, art. 7; 2013, ch. 33, art. 2, ch. 34, art. 56, 95, 178 et 427, ch. 40, art. 8; 2014, ch. 39, art. 6; 2016, ch. 12, art. 6; 2017, ch. 20, art. 3.

Définitions

18.1 (1) Les définitions qui suivent s'appliquent au présent article.

abri fiscal Bien qui serait un abri fiscal au sens du paragraphe 237.1(1) si, à la fois :

a) le coût d'un droit aux produits correspondait au total des montants représentant chacun une dépense à rattacher à laquelle le droit se rapporte;

b) les paragraphes (2) à (13) ne s'appliquaient pas au calcul d'un montant ou, dans le cas d'une société de personnes, d'une perte qui est annoncé comme étant déductible. (*tax shelter*)

avantage fiscal Réduction, évitement ou report d'un impôt ou d'un autre montant payable en vertu de la présente loi ou augmentation d'un remboursement d'impôt ou d'autre montant accordé en vertu de cette loi. (*tax benefit*)

contribuable Sont assimilées aux contribuables les sociétés de personnes. (*taxpayer*)

dépense à rattacher Le montant d'une dépense effectuée par un contribuable en vue, selon le cas :

a) d'acquérir un droit aux produits;

b) de remplir un engagement ou une obligation découlant de circonstances où il est raisonnable de conclure à l'existence d'un lien entre l'engagement ou l'obligation et un droit aux produits;

c) de conserver ou de protéger un droit aux produits.

Ne sont pas des dépenses à rattacher les sommes déductibles en application de l'article 20 dans le calcul du revenu du contribuable. (*matchable expenditure*)

droit aux produits Droit, immédiat ou futur et conditionnel ou non, d'un contribuable de recevoir un montant, se rapportant aux activités, biens ou entreprises

(a) the cost of a right to receive production were the total of all amounts each of which is a matchable expenditure to which the right relates; and

(b) subsections 18.1(2) to 18.1(13) did not apply for the purpose of computing an amount, or in the case of a partnership a loss, represented to be deductible. (*abri fiscal*)

taxpayer includes a partnership. (*contribuable*)

Limitation on the deductibility of matchable expenditure

(2) In computing a taxpayer's income from a business or property for a taxation year, no amount of a matchable expenditure may be deducted except as provided by subsection 18.1(3).

Deduction of matchable expenditure

(3) If a taxpayer's matchable expenditure would, but for subsection 18.1(2) and this subsection, be deductible in computing the taxpayer's income, there may be deducted in respect of the matchable expenditure in computing the taxpayer's income for a taxation year the amount that is determined under subsection 18.1(4) for the year in respect of the expenditure.

Amount of deduction

(4) For the purpose of subsection 18.1(3), the amount determined under this subsection for a taxation year in respect of a taxpayer's matchable expenditure is the amount, if any, that is the least of

(a) the total of

(i) the lesser of

(A) 1/5 of the matchable expenditure, and

(B) the amount determined by the formula

(A/B) × C

where

A is the number of months that are in the year and after the day on which the right to receive production to which the matchable expenditure relates is acquired,

B is the lesser of 240 and the number of months that are in the period that begins on the day on which the right to receive production to which the matchable expenditure relates is acquired and that ends on the day the right is to terminate, and

d'un autre contribuable, qui est calculé en tout ou en partie en fonction de l'utilisation d'un bien, de la production, des produits, des bénéfices, des flux de trésorerie, du prix de marchandises ou du coût ou de la valeur d'un bien ou d'un critère semblable ou en fonction des dividendes versés ou payables aux actionnaires d'une catégorie d'actions. Ne sont pas des droits aux produits les participations au revenu d'une fiducie, les avoirs miniers canadiens et les avoirs miniers étrangers. (*right to receive production*)

Restriction

(2) Le montant d'une dépense à rattacher n'est déductible dans le calcul du revenu d'un contribuable tiré d'une entreprise ou d'un bien pour une année d'imposition que dans la mesure prévue au paragraphe (3).

Déduction d'une dépense à rattacher

(3) Est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition, au titre d'une dépense à rattacher de celui-ci qui serait déductible dans ce calcul si ce n'était le paragraphe (2) et le présent paragraphe, le montant déterminé selon le paragraphe (4) pour l'année relativement à la dépense.

Montant de la déduction

(4) Pour l'application du paragraphe (3), le montant déductible pour une année d'imposition au titre de la dépense à rattacher d'un contribuable correspond au moins élevé des montants suivants :

a) le total des montants suivants :

(i) le moins élevé des montants suivants :

(A) le cinquième de la dépense à rattacher,

(B) le résultat du calcul suivant :

(A/B) × C

où :

A représente le nombre de mois de l'année qui sont postérieurs à la date d'acquisition du droit aux produits auquel se rapporte la dépense à rattacher,

B 240 ou, s'il est inférieur, le nombre de mois de la période commençant à la date d'acquisition du droit aux produits auquel se rapporte la dépense à rattacher et se terminant à la date d'extinction de ce droit,

C le montant de la dépense à rattacher,

C is the amount of the matchable expenditure, and

(ii) the amount, if any, by which the amount determined under this paragraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year,

(b) the total of

(i) all amounts each of which is included in computing the taxpayer's income for the year (other than any portion of such amount that is the subject of a reserve claimed by the taxpayer for the year under this Act) in respect of the right to receive production to which the matchable expenditure relates, and

(ii) the amount by which the amount determined under this paragraph for the preceding taxation year in respect of the matchable expenditure exceeds the amount of the matchable expenditure deductible in computing the taxpayer's income for that preceding year, and

(c) the amount, if any, by which

(i) the total of all amounts each of which is an amount of the matchable expenditure that would, but for this section, have been deductible in computing the taxpayer's income for the year or a preceding taxation year

exceeds

(ii) the total of all amounts each of which is an amount of the matchable expenditure deductible under subsection 18.1(3) in computing the taxpayer's income for a preceding taxation year.

(ii) l'excédent éventuel du montant déterminé selon le présent alinéa pour l'année d'imposition précédente relativement à la dépense à rattacher sur le montant de cette dépense qui est déductible dans le calcul du revenu du contribuable pour cette année;

b) le total des montants suivants :

(i) un montant inclus dans le calcul du revenu du contribuable pour l'année (sauf la partie d'un tel montant qui fait l'objet d'une provision déduite par le contribuable pour l'année en application de la présente loi) au titre du droit aux produits auquel se rapporte la dépense à rattacher,

(ii) l'excédent du montant déterminé selon le présent alinéa pour l'année d'imposition précédente relativement à la dépense à rattacher sur le montant de cette dépense qui est déductible dans le calcul du revenu du contribuable pour cette année;

c) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun le montant de la dépense à rattacher qui, n'eût été le présent article, aurait été déductible dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(ii) le total des montants représentant chacun le montant de la dépense à rattacher qui est déductible en application du paragraphe (3) dans le calcul du revenu du contribuable pour une année d'imposition antérieure.

Special rules

(5) For the purpose of this section,

(a) where a taxpayer's matchable expenditure is made before the day on which the related right to receive production is acquired by the taxpayer, the expenditure is deemed to have been made on that day;

(b) where a taxpayer has one or more rights to renew a particular right to receive production to which a matchable expenditure relates for one or more additional terms, after the term that includes the time at which the particular right was acquired, the particular right is deemed to terminate on the latest day on

Présomptions

(5) Les présomptions suivantes s'appliquent dans le cadre du présent article :

a) la dépense à rattacher qu'un contribuable effectue avant d'acquérir le droit aux produits auquel elle se rapporte est réputée avoir été effectuée à la date de cette acquisition;

b) lorsqu'un contribuable a un ou plusieurs droits de renouveler un droit aux produits auquel se rapporte une dépense à rattacher, pour une ou plusieurs durées supplémentaires après la durée qui comprend la date d'acquisition du droit aux produits, le droit aux produits est réputé s'éteindre le dernier jour auquel

which the latest possible such term could terminate if all rights to renew the particular right were exercised;

(c) where a taxpayer has 2 or more rights to receive production that can reasonably be considered to be related to each other, the rights are deemed to be one right; and

(d) where the term of a taxpayer's right to receive production is for an indeterminate period, the right is deemed to terminate 240 months after it is acquired.

pourrait prendre fin la dernière de ces durées si tous les droits de renouvellement étaient exercés;

c) lorsqu'un contribuable a plusieurs droits aux produits et qu'il est raisonnable de considérer qu'ils sont liés les uns aux autres, les droits sont réputés être un seul droit;

d) le droit aux produits dont la durée est indéterminée est réputé s'éteindre 240 mois après son acquisition.

Proceeds of disposition considered income

(6) Where in a taxation year a taxpayer disposes of all or part of a right to receive production to which a matchable expenditure relates, the proceeds of the disposition shall be included in computing the taxpayer's income for the year.

Inclusion du produit de disposition dans le revenu

(6) Le produit de la disposition, effectuée par un contribuable au cours d'une année d'imposition, de tout ou partie d'un droit aux produits auquel se rapporte une dépense à rattacher est à inclure dans le calcul du revenu du contribuable pour l'année.

Arm's length disposition

(7) Subject to subsections 18.1(8) to 18.1(10), where in a taxation year a taxpayer disposes (otherwise than in a disposition to which subsection 87(1) or 88(1) applies) of all of the taxpayer's right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to this subsection, be deductible under subsection 18.1(3) in computing the taxpayer's income) relates, or the taxpayer's right expires, the amount deductible in respect of the expenditure under subsection 18.1(3) in computing the taxpayer's income for the year is deemed to be the amount, if any, determined under paragraph 18.1(4)(c) for the year in respect of the expenditure.

Disposition entre personnes sans lien de dépendance

(7) Sous réserve des paragraphes (8) à (10), lorsque, au cours d'une année d'imposition, un contribuable dispose, hors du cadre d'une disposition à laquelle s'appliquent les paragraphes 87(1) ou 88(1), de son droit aux produits auquel se rapporte une dépense à rattacher (à l'exception d'une dépense dont aucune partie ne serait déductible en application du paragraphe (3) dans le calcul du revenu du contribuable en l'absence du présent paragraphe), ou que le droit du contribuable s'éteint, le montant qui est déductible au titre de la dépense en application du paragraphe (3) dans le calcul du revenu du contribuable pour l'année est réputé être le montant déterminé selon l'alinéa (4) c) pour l'année relativement à la dépense.

Non-arm's length disposition

(8) Subsection 18.1(10) applies where

(a) a taxpayer's particular right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to subsections 18.1(7) and 18.1(10), be deductible under subsection 18.1(3) in computing the taxpayer's income) relates has expired or the taxpayer has disposed of all of the right (otherwise than in a disposition to which subsection 87(1) or 88(1) applies);

(b) during the period that begins 30 days before and ends 30 days after the disposition or expiry, the taxpayer or a person affiliated, or who does not deal at arm's length, with the taxpayer acquires a right to receive production (in this subsection and subsection 18.1(10) referred to as the "substituted property") that is, or is identical to, the particular right; and

Disposition entre personnes ayant un lien de dépendance

(8) Le paragraphe (10) s'applique dans le cas où les conditions suivantes sont réunies :

a) un droit aux produits donné d'un contribuable auquel se rapporte une dépense à rattacher (à l'exception d'une dépense dont aucune partie ne serait déductible en application du paragraphe (3) dans le calcul du revenu du contribuable en l'absence des paragraphes (7) et (10)) s'est éteint ou a fait l'objet d'une disposition par le contribuable hors du cadre d'une disposition à laquelle s'appliquent les paragraphes 87(1) ou 88(1);

b) au cours de la période commençant 30 jours avant la disposition ou l'extinction et se terminant 30 jours après cette disposition ou extinction, le contribuable ou une personne qui lui est affiliée ou avec laquelle il a

(c) at the end of the period, the taxpayer or a person affiliated, or who does not deal at arm's length, with the taxpayer owns the substituted property.

Special case

(9) Subsection 18.1(10) applies where

(a) a taxpayer's particular right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to subsections 18.1(7) and 18.1(10), be deductible under subsection 18.1(3) in computing the taxpayer's income) relates has expired or the taxpayer has disposed of all of the right (otherwise than in a disposition to which subsection 87(1) or 88(1) applies); and

(b) during the period that begins at the time of the disposition or expiry and ends 30 days after that time, a taxpayer that had an interest, directly or indirectly, in the right has another interest, directly or indirectly, in another right to receive production, which other interest is a tax shelter or a tax shelter investment (as defined by section 143.2).

Amount of deduction if non-arm's length disposition

(10) Where this subsection applies because of subsection 18.1(8) or 18.1(9) to a disposition or expiry in a taxation year or a preceding taxation year of a taxpayer's right to receive production to which a matchable expenditure relates,

(a) the amount deductible under subsection 18.1(3) in respect of the expenditure in computing the taxpayer's income for a taxation year that ends at or after the disposition or expiry of the right is the least of the amounts determined under subsection 18.1(4) for the year in respect of the expenditure; and

(b) the least of the amounts determined under subsection 18.1(4) in respect of the expenditure for a taxation year is deemed to be the amount, if any, determined under paragraph 18.1(4)(c) in respect of the expenditure for the year where the year includes the time that is immediately before the first time, after the disposition or expiry,

(i) at which the right would, if it were owned by the taxpayer, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the taxpayer,

un lien de dépendance acquiert le même droit aux produits ou un droit identique (appelés « bien de remplacement » au présent paragraphe et au paragraphe (10));

c) à la fin de la période, le contribuable ou une personne qui lui est affiliée ou avec laquelle il a un lien de dépendance est propriétaire du bien de remplacement.

Cas spécial

(9) Le paragraphe (10) s'applique dans le cas où les conditions suivantes sont réunies :

a) un droit aux produits donné d'un contribuable auquel se rapporte une dépense à rattacher (à l'exception d'une dépense dont aucune partie ne serait déductible en application du paragraphe (3) dans le calcul du revenu du contribuable en l'absence des paragraphes (7) et (10)) s'est éteint ou a fait l'objet d'une disposition par le contribuable hors du cadre d'une disposition à laquelle s'appliquent les paragraphes 87(1) ou 88(1));

b) au cours de la période commençant au moment de la disposition ou de l'extinction et se terminant 30 jours après ce moment, un contribuable — qui avait une part directe ou indirecte dans le droit — a une autre semblable part dans un autre droit aux produits, laquelle autre part est un abri fiscal ou un abri fiscal déterminé au sens de l'article 143.2.

Déduction en cas de disposition entre personnes ayant un lien de dépendance

(10) Dans le cas où le présent paragraphe s'applique par l'effet des paragraphes (8) ou (9) à la disposition ou à l'extinction, dans une année d'imposition ou une année d'imposition antérieure, du droit aux produits d'un contribuable auquel se rapporte une dépense à rattacher, les règles suivants s'appliquent :

a) le montant qui est déductible au titre de la dépense en application du paragraphe (3) dans le calcul du revenu du contribuable pour une année d'imposition se terminant au moment de la disposition ou de l'extinction du droit ou postérieurement correspond au moins élevé des montants déterminés selon le paragraphe (4) pour l'année relativement à la dépense;

b) le moins élevé des montants déterminés selon le paragraphe (4) relativement à la dépense pour une année d'imposition est réputé être le montant déterminé selon l'alinéa (4)c) relativement à la dépense pour l'année dans le cas où l'année comprend le moment immédiatement avant le premier en date des moments suivants qui est postérieur à la disposition ou à l'extinction :

(ii) that is immediately before the taxpayer is subject to a loss restriction event,

(iii) at which winding-up of the taxpayer begins (other than a winding-up to which subsection 88(1) applies), if the taxpayer is a corporation,

(iv) if subsection 18.1(8) applies, at which a 30-day period begins throughout which neither the taxpayer nor a person affiliated, or who does not deal at arm's length, with the taxpayer owns

(A) the substituted property, or

(B) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period began, or

(v) if subsection 18.1(9) applies, at which a 30-day period begins throughout which no taxpayer who had an interest, directly or indirectly, in the right has an interest, directly or indirectly, in another right to receive production if one or more of those direct or indirect interests in the other right is a tax shelter or tax shelter investment (as defined by section 143.2).

(i) le moment où le contribuable serait réputé par l'article 128.1 ou le paragraphe 149(10) avoir disposé du droit s'il en était propriétaire,

(ii) le moment immédiatement avant le moment où le contribuable est assujetti à un fait lié à la restriction de pertes,

(iii) si le contribuable est une société, le moment où commence sa liquidation, sauf s'il s'agit d'une liquidation à laquelle s'applique le paragraphe 88(1),

(iv) en cas d'application du paragraphe (8), le début d'une période de 30 jours tout au long de laquelle ni le contribuable, ni une personne qui lui est affiliée ou avec laquelle il a un lien de dépendance n'est propriétaire, selon le cas :

(A) du bien de remplacement,

(B) d'un bien qui est identique au bien de remplacement et qui a été acquis après le jour qui précède de 31 jours le début de la période,

(v) en cas d'application du paragraphe (9), le début d'une période de 30 jours tout au long de laquelle aucun contribuable ayant eu une part directe ou indirecte dans le droit n'a une autre semblable part dans un autre droit aux produits, laquelle autre part est un abri fiscal ou un abri fiscal déterminé au sens de l'article 143.2.

Partnerships

(11) For the purpose of paragraph 18.1(10)(b), where a partnership otherwise ceases to exist at any time after a disposition or expiry referred to in subsection 18.1(10), the partnership is deemed not to have ceased to exist, and each taxpayer who was a member of the partnership immediately before the partnership would, but for this subsection, have ceased to exist is deemed to remain a member of the partnership until the time that is immediately after the first of the times described in subparagraphs 18.1(10)(b)(i) to 18.1(10)(b)(v).

Sociétés de personnes

(11) Pour l'application de l'alinéa (10)b), la société de personnes qui par ailleurs cesse d'exister après la disposition ou l'extinction visée au paragraphe (10) est réputée ne cesser d'exister qu'au moment donné immédiatement après le premier en date des moments visés aux sous-alinéas (10)b)(i) à (v), et chaque contribuable qui en était un associé immédiatement avant le moment où elle aurait cessé d'exister, n'eût été le présent paragraphe, est réputé le demeurer jusqu'au moment donné.

Identical property

(12) For the purposes of subsections (8) and (10), a right to acquire a particular right to receive production (other than a right, as security only, derived from a mortgage, hypothec, agreement of sale or similar obligation) is deemed to be a right to receive production that is identical to the particular right.

Biens identiques

(12) Pour l'application des paragraphes (8) et (10), le droit d'acquérir un droit aux produits donné (sauf le droit servant de garantie seulement et découlant d'une hypothèque, d'un contrat de vente ou d'un titre semblable) est réputée être un droit aux produits qui est identique au droit donné.

Application of section 143.2

(13) For the purpose of applying section 143.2 to an amount that would, if this section were read without

Application de l'article 143.2

(13) Le montant qui, si ce n'était le présent paragraphe, serait une dépense à rattacher dont une partie du coût est

reference to this subsection, be a matchable expenditure any portion of the cost of which is deductible under subsection 18.1(3), the expenditure is deemed to be a tax shelter investment and that section shall be read without reference to subparagraph 143.2(6)(b)(ii).

Debt obligations

(14) Where the rate of return on a taxpayer's right to receive production to which a matchable expenditure (other than an expenditure no portion of which would, if this section were read without reference to this subsection, be deductible under subsection 18.1(3) in computing the taxpayer's income) relates is reasonably certain at the time the taxpayer acquires the right,

(a) the right is, for the purposes of subsection 12(9) and Part LXX of the *Income Tax Regulations*, deemed to be a debt obligation in respect of which no interest is stipulated to be payable in respect of its principal amount and the obligation is deemed to be satisfied at the time the right terminates for an amount equal to the total of the return on the obligation and the amount that would otherwise be the matchable expenditure that is related to the right; and

(b) notwithstanding subsection 18.1(3), no amount may be deducted in computing the taxpayer's income in respect of any matchable expenditure that relates to the right.

Non-application — risks ceded between insurers

(15) Subsections (2) to (13) do not apply to a taxpayer's matchable expenditure in respect of a right to receive production if

(a) the expenditure is in respect of commissions, or other expenses, related to the issuance of an insurance policy for which all or a portion of a risk has been ceded to the taxpayer; and

(b) the taxpayer and the person to whom the expenditure is made, or is to be made, are both insurers who are subject to the supervision of

(i) the Superintendent of Financial Institutions, if the taxpayer or that person, as the case may be, is an insurer who is required by law to report to the Superintendent of Financial Institutions, or

(ii) the Superintendent of Insurance, or other similar officer or authority, of the province under whose laws the insurer is incorporated, in any other case.

déductible en application du paragraphe (3) est réputé être un abri fiscal déterminé pour l'application de l'article 143.2. À cette fin, il n'est pas tenu compte du sous-alinéa 143.2(6)b)(ii).

Créances

(14) Lorsque le taux de rendement du droit aux produits d'un contribuable auquel se rapporte une dépense à rattacher (sauf une dépense dont aucune partie ne serait déductible en application du paragraphe (3) dans le calcul du revenu du contribuable en l'absence du présent paragraphe) est raisonnablement assuré à la date d'acquisition du droit, les règles suivantes s'appliquent :

a) le droit est réputé, pour l'application du paragraphe 12(9) et de la partie LXX du *Règlement de l'impôt sur le revenu*, être une créance sur le principal de laquelle aucun intérêt n'est stipulé, et la créance est réputée réglée à la date d'extinction du droit pour un montant égal à la somme du rendement sur la créance et du montant représentant par ailleurs la dépense à rattacher qui se rapporte au droit;

b) malgré le paragraphe (3), aucun montant n'est déductible dans le calcul du revenu du contribuable au titre d'une dépense à rattacher qui se rapporte au droit.

Exception — risques cédés entre assureurs

(15) Les paragraphes (2) à (13) ne s'appliquent pas à la dépense à rattacher d'un contribuable relative à un droit aux produits si, à la fois :

a) la dépense se rapporte à des commissions, ou à d'autres frais, liés à l'établissement d'une police d'assurance couvrant un risque cédé en totalité ou en partie au contribuable;

b) le contribuable et la personne auprès de laquelle la dépense est ou sera effectuée sont tous deux des assureurs sous la surveillance :

(i) du surintendant des institutions financières, s'il s'agit d'un assureur légalement tenu de faire rapport à ce dernier,

(ii) du surintendant des assurances ou d'un autre agent ou autorité semblable de la province sous le régime des lois de laquelle l'assureur est constitué, dans les autres cas.

Non-application — no rights, tax benefits or shelters

(16) Subsections (2) to (13) do not apply to a taxpayer's matchable expenditure in respect of a right to receive production if

(a) no portion of the matchable expenditure can reasonably be considered to have been paid to another taxpayer, or to a person or partnership with whom the other taxpayer does not deal at arm's length, to acquire the right from the other taxpayer;

(b) no portion of the matchable expenditure can reasonably be considered to relate to a tax shelter or a tax shelter investment (within the meaning assigned by subsection 143.2(1)); and

(c) none of the main purposes for making the matchable expenditure can reasonably be considered to have been to obtain a tax benefit for the taxpayer, a person or partnership with whom the taxpayer does not deal at arm's length, or a person or partnership that holds, directly or indirectly, an interest in the taxpayer.

Revenue exception

(17) Paragraph (4)(a) does not apply in determining the amount for a taxation year that may be deducted in respect of a taxpayer's matchable expenditure in respect of a right to receive production if

(a) before the end of the taxation year in which the matchable expenditure is made, the total of all amounts each of which is included in computing the taxpayer's income for the year (other than any portion of any of those amounts that is the subject of a reserve claimed by the taxpayer for the year under this Act) in respect of the right to receive production that relates to the matchable expenditure exceeds 80% of the matchable expenditure; and

(b) no portion of the matchable expenditure can reasonably be considered to have been paid to another taxpayer, or to a person or partnership with whom the other taxpayer does not deal at arm's length, to acquire the right from the other taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 80; 2001, c. 17, ss. 10, 202(E); 2013, c. 34, ss. 96(F), 179, c. 40, s. 9.

18.2 [Repealed, 2009, c. 2, s. 6]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 12; 2009, c. 2, s. 6.

Definitions

18.3 (1) The following definitions apply in this section.

Exception — aucun droit, abri fiscal ou avantage fiscal

(16) Les paragraphes (2) à (13) ne s'appliquent pas à la dépense à rattacher d'un contribuable relative à un droit aux produits si, à la fois :

a) il est raisonnable de considérer qu'aucune partie de la dépense n'a été payée à un autre contribuable, ou à une personne ou une société de personnes avec laquelle celui-ci a un lien de dépendance, pour acquérir le droit de l'autre contribuable;

b) il est raisonnable de considérer qu'aucune partie de la dépense ne se rapporte à un abri fiscal ou à un abri fiscal déterminé au sens du paragraphe 143.2(1);

c) il est raisonnable de considérer que l'obtention d'un avantage fiscal par le contribuable, par une personne ou une société de personnes avec laquelle il a un lien de dépendance ou par une personne ou une société de personnes qui détient, directement ou indirectement, une participation dans le contribuable ne compte pas parmi les principales raisons pour lesquelles la dépense a été effectuée.

Exception — revenu

(17) L'alinéa (4)a) ne s'applique pas au calcul du montant qui est déductible pour une année d'imposition au titre de la dépense à rattacher d'un contribuable relative à un droit aux produits si, à la fois :

a) avant la fin de l'année d'imposition au cours de laquelle la dépense est effectuée, le total des montants dont chacun est inclus dans le calcul du revenu du contribuable pour l'année (sauf la partie d'un tel montant qui fait l'objet d'une provision déduite par le contribuable pour l'année en application de la présente loi) au titre du droit aux produits qui est lié à la dépense dépasse 80 % de la dépense;

b) il est raisonnable de considérer qu'aucune partie de la dépense n'a été payée à un autre contribuable, ou à une personne ou une société de personnes avec laquelle celui-ci a un lien de dépendance, pour acquérir le droit de l'autre contribuable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 80; 2001, ch. 17, art. 10 et 202(A); 2013, ch. 34, art. 96 et 179, ch. 40, art. 9.

18.2 [Abrogé, 2009, ch. 2, art. 6]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, c. 35, s. 12; 2009, ch. 2, art. 6.

Définitions

18.3 (1) Les définitions qui suivent s'appliquent au présent article.

entity has the same meaning as in subsection 122.1(1). (*entité*)

equity value has the same meaning as in subsection 122.1(1). (*valeur des capitaux propres*)

real estate investment trust has the same meaning as in subsection 122.1(1). (*fiducie de placement immobilier*)

security, of an entity, means

(a) a liability of the entity;

(b) if the entity is a corporation,

(i) a share of the capital stock of the corporation, and

(ii) a right to control in any manner whatever the voting rights of a share of the capital stock of the corporation if it can reasonably be concluded that one of the reasons that a person or partnership holds the right to control is to avoid the application of subsection (3) or 12.6(3);

(c) if the entity is a trust, an income or a capital interest in the trust; and

(d) if the entity is a partnership, an interest as a member of the partnership. (*titre*)

stapled security, of a particular entity at any time, means a particular security of the particular entity if at that time

(a) another security (referred to in this section as the "reference security")

(i) is or may be required to be transferred together or concurrently with the particular security as a term or condition of the particular security, the reference security, or an agreement or arrangement to which the particular entity (or if the reference security is a security of another entity, the other entity) is a party, or

(ii) is listed or traded with the particular security on a stock exchange or other public market under a single trading symbol;

(b) the particular security or the reference security is listed or traded on a stock exchange or other public market; and

(c) any of the following applies:

entité S'entend au sens du paragraphe 122.1(1). (*entity*)

fiducie de placement immobilier S'entend au sens du paragraphe 122.1(1). (*real estate investment trust*)

filiale Est une filiale d'une entité donnée à un moment donné :

a) l'entité de laquelle l'entité donnée détient, à ce moment, des titres dont la juste valeur marchande totale excède 10 % de la valeur des capitaux propres de l'entité;

b) l'entité qui, à ce moment, est la filiale d'une entité qui est elle-même une filiale de l'entité donnée. (*subsidiary*)

période de transition Quant à une entité, celle des périodes ci-après qui lui est applicable :

a) dans le cas où un ou plusieurs titres de l'entité auraient été des titres agrafés de celle-ci le 31 octobre 2006 et le 19 juillet 2011 si la définition de ***titre agrafé*** au présent paragraphe était entrée en vigueur le 31 octobre 2006, la période commençant le 20 juillet 2011 et se terminant au premier en date des jours suivants :

(i) le 1er janvier 2016,

(ii) le premier jour, après le 20 juillet 2011, où l'un de ces titres fait l'objet d'une modification importante,

(iii) le premier jour, après le 20 juillet 2011, où tout titre de l'entité devient un titre agrafé autrement qu'au moyen :

(A) d'une opération qui, à la fois :

(I) a été menée à terme selon les modalités d'une convention qui a été conclue par écrit avant le 20 juillet 2011, pourvu qu'aucune des parties à la convention ne puisse être dispensée de mener l'opération à terme en raison de modifications apportées à la présente loi,

(II) ne consiste pas à émettre un titre en règlement du droit d'exiger le paiement d'une somme par l'entité,

(B) de l'émission du titre en règlement du droit d'exiger le paiement d'une somme devenue payable par l'entité sur un autre titre de celle-ci avant le 20 juillet 2011, dans le cas où l'autre titre était un titre agrafé à cette date et où l'émission a été effectuée en exécution d'une condition de

(i) the reference security and the particular security are securities of the particular entity and the particular entity is a corporation, SIFT partnership or SIFT trust,

(ii) the reference security is a security of another entity, one of the particular entity or the other entity is a subsidiary of the other, and the particular entity or the other entity is a corporation, SIFT partnership or SIFT trust, or

(iii) the reference security is a security of another entity and the particular entity or the other entity is a real estate investment trust or a subsidiary of a real estate investment trust. (*titre agrafé*)

subsidiary, of a particular entity at any time, means

(a) an entity in which the particular entity holds at that time securities that have a total fair market value greater than 10% of the equity value of the entity; and

(b) an entity that at that time is a subsidiary of an entity that is a subsidiary of the particular entity. (*filiale*)

transition period, of an entity, means

(a) if one or more securities of the entity would have been stapled securities of the entity on October 31, 2006 and July 19, 2011 had the definition ***stapled security*** in this subsection come into force on October 31, 2006, the period that begins on July 20, 2011 and ends on the earliest of

(i) January 1, 2016,

(ii) the first day after July 20, 2011 on which any of those securities is materially altered, and

(iii) the first day after July 20, 2011 on which any security of the entity becomes a stapled security other than by way of

(A) a transaction

(I) that is completed under the terms of an agreement in writing entered into before July 20, 2011 if no party to the agreement may be excused from completing the transaction as a result of amendments to this Act, and

(II) that is not the issuance of a security in satisfaction of a right to enforce payment of an amount by the entity, or

(B) the issuance of the security in satisfaction of a right to enforce payment of an amount that

l'autre titre qui était en vigueur à cette même date;

b) dans le cas où l'alinéa a) ne s'applique pas à l'entité et où un ou plusieurs titres de celle-ci auraient été des titres agrafés le 19 juillet 2011 si la définition de ***titre agrafé*** au présent paragraphe était entrée en vigueur à cette date, la période commençant le 20 juillet 2011 et se terminant au premier en date des jours suivants :

(i) le 20 juillet 2012,

(ii) le premier jour, après le 20 juillet 2011, où l'un de ces titres fait l'objet d'une modification importante,

(iii) le premier jour, après le 20 juillet 2011, où tout titre de l'entité devient un titre agrafé autrement qu'au moyen :

(A) d'une opération qui, à la fois :

(I) a été menée à terme selon les modalités d'une convention qui a été conclue par écrit avant le 20 juillet 2011, pourvu qu'aucune des parties à la convention ne puisse être dispensée de mener l'opération à terme en raison de modifications apportées à la présente loi,

(II) ne consiste pas à émettre un titre en règlement du droit d'exiger le paiement d'une somme par l'entité,

(B) de l'émission du titre en règlement du droit d'exiger le paiement d'une somme devenue payable par l'entité sur un autre titre de celle-ci avant le 20 juillet 2011, dans le cas où l'autre titre était un titre agrafé à cette date et où l'émission a été effectuée en exécution d'une condition de l'autre titre qui était en vigueur à cette même date;

c) dans les autres cas, si l'entité est une filiale d'une autre entité le 20 juillet 2011 et que cette dernière a une période de transition, la période commençant à cette date et se terminant au premier en date des jours suivants :

(i) le jour où la période de transition de l'autre entité prend fin,

(ii) le premier jour, après le 20 juillet 2011, où l'entité cesse d'être une filiale de l'autre entité,

(iii) le premier jour, après le 20 juillet 2011, où tout titre de l'entité devient un titre agrafé autrement qu'au moyen :

became payable by the entity on another security of the entity before July 20, 2011, if the other security was a stapled security on July 20, 2011 and the issuance was made under a term or condition of the other security in effect on July 20, 2011;

(b) if paragraph (a) does not apply to the entity and one or more securities of the entity would have been stapled securities of the entity on July 19, 2011 had the definition ***stapled security*** in this subsection come into force on July 19, 2011, the period that begins on July 20, 2011 and ends on the earliest of

(i) July 20, 2012,

(ii) the first day after July 20, 2011 on which any of those securities is materially altered, and

(iii) the first day after July 20, 2011 on which any security of the entity becomes a stapled security other than by way of

(A) a transaction

(I) that is completed under the terms of an agreement in writing entered into before July 20, 2011 if no party to the agreement may be excused from completing the transaction as a result of amendments to this Act, and

(II) that is not the issuance of a security in satisfaction of a right to enforce payment of an amount by the entity, or

(B) the issuance of the security in satisfaction of a right to enforce payment of an amount that became payable by the entity on another security of the entity before July 20, 2011, if the other security was a stapled security on July 20, 2011 and the issuance was made under a term or condition of the other security in effect on July 20, 2011; and

(c) in any other case, if the entity is a subsidiary of another entity on July 20, 2011 and the other entity has a transition period, the period that begins on July 20, 2011 and ends on the earliest of

(i) the day on which the other entity's transition period ends,

(ii) the first day after July 20, 2011 on which the entity ceases to be a subsidiary of the other entity, and

(iii) the first day after July 20, 2011 on which any security of the entity becomes a stapled security other than by way of

(A) d'une opération qui, à la fois :

(I) a été menée à terme selon les modalités d'une convention qui a été conclue par écrit avant le 20 juillet 2011, pourvu qu'aucune des parties à la convention ne puisse être dispensée de mener l'opération à terme en raison de modifications apportées à la présente loi,

(II) ne consiste pas à émettre un titre en règlement du droit d'exiger le paiement d'une somme par l'entité,

(B) de l'émission du titre en règlement du droit d'exiger le paiement d'une somme devenue payable par l'entité sur un autre titre de celle-ci avant le 20 juillet 2011, dans le cas où l'autre titre était un titre agrafé à cette date et où l'émission a été effectuée en exécution d'une condition de l'autre titre qui était en vigueur à cette même date. (*transition period*)

titre Est un titre d'une entité :

a) toute dette ou autre obligation de l'entité;

b) si l'entité est une société :

(i) toute action de son capital-actions,

(ii) tout droit de contrôler, de quelque manière que ce soit, les droits de vote rattachés à une action de son capital-actions, s'il est raisonnable de conclure que l'une des raisons pour lesquelles une personne ou une société de personnes détient ce droit consiste à éviter l'application des paragraphes (3) ou 12.6(3);

c) si elle est une fiducie, toute participation au revenu ou au capital de la fiducie;

d) si elle est une société de personnes, toute participation à titre d'associé de la société de personnes. (*security*)

titre agrafé Titre donné d'une entité donnée à un moment donné à l'égard duquel les conditions ci-après sont réunies à ce moment :

a) un autre titre (appelé « titre de référence » au présent article), selon le cas :

(i) doit ou pourrait devoir être transféré avec le titre donné, ou simultanément avec celui-ci, en exécution d'une condition du titre donné, du titre de référence ou d'une convention ou d'un arrangement

(A) a transaction

(I) that is completed under the terms of an agreement in writing entered into before July 20, 2011 if no party to the agreement may be excused from completing the transaction as a result of amendments to this Act, and

(II) that is not the issuance of a security in satisfaction of a right to enforce payment of an amount by the entity, or

(B) the issuance of the security in satisfaction of a right to enforce payment of an amount that became payable by the entity on another security of the entity before July 20, 2011, if the other security was a stapled security on July 20, 2011 and the issuance was made under a term or condition of the other security in effect on July 20, 2011. (*période de transition*)

auquel est partie l'entité donnée ou, si le titre de référence est un titre d'une autre entité, cette dernière,

(ii) est coté ou négocié avec le titre donné sur une bourse de valeurs ou un autre marché public sous un même symbole;

b) le titre donné ou le titre de référence est coté ou négocié sur une bourse de valeurs ou un autre marché public;

c) l'un des faits ci-après s'avère :

(i) le titre de référence et le titre donné sont des titres de l'entité donnée, laquelle est une société, une société de personnes intermédiaire de placement déterminée ou une fiducie intermédiaire de placement déterminée,

(ii) le titre de référence est un titre d'une autre entité, l'une ou l'autre de l'entité donnée ou de l'autre entité est une filiale de l'autre et l'entité donnée ou l'autre entité est une société, une société de personnes intermédiaire de placement déterminée ou une fiducie intermédiaire de placement déterminée,

(iii) le titre de référence est un titre d'une autre entité et l'entité donnée ou l'autre entité est une fiducie de placement immobilier ou une filiale d'une telle fiducie. (*stapled security*)

valeur des capitaux propres S'entend au sens du paragraphe 122.1(1). (*equity value*)

Property representing security

(2) For the purpose of determining whether a particular security of an entity is a stapled security, if a receipt or similar property (referred to in this subsection as the "receipt") represents all or a portion of the particular security and the receipt would be described in paragraphs (a) and (b) of the definition ***stapled security*** in subsection (1) if it were a security of the entity, then

(a) the particular security is deemed to be described in those paragraphs; and

(b) a security that would be a reference security in respect of the receipt is deemed to be a reference security in respect of the particular security.

Bien représentant un titre

(2) Si un reçu ou un bien semblable (appelé « reçu » au présent paragraphe) représente la totalité ou une partie d'un titre donné d'une entité, lequel reçu serait visé aux alinéas a) ou b) de la définition de ***titre agrafé*** au paragraphe (1) s'il était un titre de l'entité, les règles ci-après s'appliquent lorsqu'il s'agit de déterminer si le titre donné est un titre agrafé :

a) le titre donné est réputé être visé à ces alinéas;

b) tout titre qui serait un titre de référence par rapport au reçu est réputé être un titre de référence par rapport au titre donné.

Amounts not deductible

(3) Notwithstanding any other provision of this Act, in computing the income of a particular entity for a taxation year from a business or property, no deduction may be made in respect of an amount

Sommes non déductibles

(3) Malgré les autres dispositions de la présente loi, aucun montant n'est déductible dans le calcul du revenu d'une entité donnée pour une année d'imposition tiré

(a) that is paid or payable after July 19, 2011, unless the amount is paid or payable in respect of the entity's transition period; and

(b) that is

(i) interest paid or payable on a liability of the particular entity that is a stapled security, unless each reference security in respect of the stapled security is a liability, or

(ii) if a security of the particular entity, a subsidiary of the particular entity or an entity of which the particular entity is a subsidiary is a reference security in respect of a stapled security of a real estate investment trust or a subsidiary of a real estate investment trust, an amount paid or payable to

(A) the real estate investment trust,

(B) a subsidiary of the real estate investment trust, or

(C) any person or partnership on condition that any person or partnership pays or makes payable an amount to the real estate investment trust or a subsidiary of the real estate investment trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 10.

d'une entreprise ou d'un bien au titre d'une somme qui, à la fois :

a) est payée ou payable après le 19 juillet 2011, sauf si elle est payée ou payable relativement à la période de transition de l'entité;

b) représente, selon le cas :

(i) des intérêts payés ou payables sur une dette ou une autre obligation de l'entité donnée qui est un titre agrafé, sauf si chaque titre de référence par rapport au titre agrafé est une dette ou une autre obligation,

(ii) si un titre de l'entité donnée, d'une filiale de celle-ci ou d'une entité dont l'entité donnée est une filiale est un titre de référence par rapport à un titre agrafé d'une fiducie de placement immobilier ou d'une filiale d'une telle fiducie, une somme payée ou payable :

(A) à la fiducie,

(B) à une filiale de la fiducie,

(C) à une personne ou à une société de personnes, à condition qu'une personne ou une société de personnes paie une somme à la fiducie ou à l'une de ses filiales ou fasse en sorte qu'une somme lui soit payable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 10.

Limitation re advertising expense — newspapers

19 (1) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer for advertising space in an issue of a newspaper for an advertisement directed primarily to a market in Canada unless

(a) the issue is a Canadian issue of a Canadian newspaper; or

(b) the issue is an issue of a newspaper that would be a Canadian issue of a Canadian newspaper except that

(i) its type has been wholly set in the United States or has been partly set in the United States with the remainder having been set in Canada, or

(ii) it has been wholly printed in the United States or has been partly printed in the United States with the remainder having been printed in Canada.

Restriction — frais de publicité — journaux

19 (1) La dépense, déductible par ailleurs, qu'un contribuable engage ou effectue pour obtenir un espace publicitaire dans un numéro d'un journal en vue de la publication d'une annonce destinée principalement au marché canadien n'est déductible dans le calcul du revenu que si le numéro est :

a) soit l'édition canadienne d'un journal canadien;

b) soit le numéro d'un journal qui serait l'édition canadienne d'un journal canadien si ce n'était :

(i) soit que la composition du numéro est faite aux États-Unis ou en partie aux États-Unis et en partie au Canada,

(ii) soit que l'ensemble du numéro est imprimé aux États-Unis ou en partie aux États-Unis et en partie au Canada.

Where s. (1) does not apply

(3) Subsection 19(1) does not apply with respect to an advertisement in a special issue or edition of a newspaper that is edited in whole or in part and printed and published outside Canada if that special issue or edition is devoted to features or news related primarily to Canada and the publishers thereof publish such an issue or edition not more frequently than twice a year.

Definitions

(5) In this section,

Canadian issue of a newspaper means an issue, including a special issue,

(a) the type of which, other than the type for advertisements or features, is set in Canada,

(b) all of which, exclusive of any comics supplement, is printed in Canada,

(c) that is edited in Canada by individuals resident in Canada, and

(d) that is published in Canada; (*édition canadienne*)

Canadian newspaper means a newspaper the exclusive right to produce and publish issues of which is held by one or more of the following:

(a) a Canadian citizen,

(b) a partnership

(i) in which interests representing in value at least 3/4 of the total value of the partnership property are beneficially owned by, and

(ii) at least 3/4 of each income or loss of which from any source is included in the determination of the income of,

corporations described in paragraph (e) or Canadian citizens or any combination thereof,

(c) an association or society of which at least 3/4 of the members are Canadian citizens,

(d) Her Majesty in right of Canada or a province, or a municipality in Canada, or

(e) a corporation

(i) that is incorporated under the laws of Canada or a province,

Non-application du par. (1)

(3) Le paragraphe (1) ne s'applique pas à une annonce parue dans un numéro spécial ou une édition spéciale d'un journal rédigé en totalité ou en partie et imprimé et publié à l'étranger, si ce numéro spécial ou cette édition spéciale est consacrée à des articles spéciaux ou à des nouvelles se rapportant surtout au Canada et si les éditeurs ne publient ce numéro ou cette édition qu'au plus deux fois par année.

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

édition canadienne S'agissant de l'édition canadienne d'un journal, numéro, y compris un numéro spécial, qui répond aux conditions suivantes :

a) sa composition, sauf celle qui sert aux annonces ou aux articles spéciaux, est faite au Canada;

b) il est entièrement imprimé au Canada, exception faite des suppléments de bandes illustrées;

c) il est édité au Canada par des particuliers qui y résident;

d) il est publié au Canada. (*Canadian issue*)

États-Unis S'entend :

a) d'une part, des États-Unis d'Amérique, à l'exclusion de Porto Rico, des Îles Vierges, de Guam et des autres possessions ou territoires des États-Unis;

b) d'autre part, des régions s'étendant au-delà des eaux territoriales des États-Unis et qui, conformément au droit international et aux lois des États-Unis, sont des régions à l'égard desquelles les États-Unis sont habilités à exercer des droits pour ce qui concerne les fonds marins et leur sous-sol ainsi que leurs ressources naturelles. (*United States*)

journal canadien Journal dont le droit exclusif d'éditer et de publier des numéros est détenu par une ou plusieurs des personnes ou entités suivantes :

a) un citoyen canadien;

b) une société de personnes dans laquelle des citoyens canadiens ou des sociétés visées à l'alinéa e), ou l'un et l'autre de ceux-ci, ont la propriété effective des participations représentant en valeur au moins les 3/4 de la valeur totale des biens de la société de personnes et dont au moins les 3/4 du revenu ou les 3/4 des pertes,

(ii) of which the chairperson or other presiding officer and at least 3/4 of the directors or other similar officers are Canadian citizens, and

(iii) that, if it is a corporation having share capital, is

(A) a public corporation a class or classes of shares of the capital stock of which are listed on a designated stock exchange in Canada, other than a corporation controlled by citizens or subjects of a country other than Canada, or

(B) a corporation of which at least 3/4 of the shares having full voting rights under all circumstances, and shares having a fair market value in total of at least 3/4 of the fair market value of all of the issued shares of the corporation, are beneficially owned by Canadian citizens or by public corporations a class or classes of shares of the capital stock of which are listed on a designated stock exchange in Canada, other than a public corporation controlled by citizens or subjects of a country other than Canada,

and, for the purposes of clause (B), where shares of a class of the capital stock of a corporation are owned, or deemed by this definition to be owned, at any time by another corporation (in this definition referred to as the "holding corporation"), other than a public corporation a class or classes of shares of the capital stock of which are listed on a designated stock exchange in Canada, each shareholder of the holding corporation shall be deemed to own at that time that proportion of the number of such shares of that class that

(C) the fair market value of the shares of the capital stock of the holding corporation owned at that time by the shareholder

is of

(D) the fair market value of all the issued shares of the capital stock of the holding corporation outstanding at that time,

and where at any time shares of a class of the capital stock of a corporation are owned, or are deemed by this definition to be owned, by a partnership, each member of the partnership shall be deemed to own at that time the least proportion of the number of such shares of that class that

(E) the member's share of the income or loss of the partnership from any source for its fiscal period that includes that time

provenant d'une source donnée, sont inclus dans le calcul du revenu de tels citoyens ou de telles sociétés;

c) une association dont au moins les 3/4 des membres sont des citoyens canadiens;

d) Sa Majesté du chef du Canada ou d'une province ou une municipalité canadienne;

e) une société remplissant les conditions suivantes :

(i) elle est constituée sous le régime des lois fédérales ou provinciales,

(ii) son président ou une autre personne agissant comme tel et au moins les 3/4 des administrateurs ou autres cadres semblables sont des citoyens canadiens,

(iii) si elle a un capital-actions, elle est :

(A) soit une société publique — non contrôlée par des citoyens ou des sujets d'un pays étranger — dont une ou plusieurs catégories d'actions du capital-actions sont cotées à une bourse de valeurs désignée située au Canada,

(B) soit une société dans laquelle des citoyens canadiens ou des sociétés publiques — non contrôlées par des citoyens ou des sujets d'un pays étranger — dont une ou plusieurs catégories d'actions du capital-actions sont cotées à une bourse de valeurs désignée située au Canada ont la propriété effective des 3/4 au moins des actions ayant plein droit de vote en toutes circonstances et des actions ayant une juste valeur marchande égale, au total, aux 3/4 au moins de la juste valeur marchande de l'ensemble des actions émises de la société;

pour l'application de la division (B), chaque actionnaire d'une société — autre qu'une société publique dont une ou plusieurs catégories d'actions du capital-actions sont cotées à une bourse de valeurs désignée située au Canada — qui a, à un moment donné, la propriété réelle ou présumée, en application de la présente définition, d'actions d'une catégorie du capital-actions d'une société est réputé propriétaire à ce moment de la fraction du nombre d'actions de cette catégorie représentée par le rapport entre :

(C) d'une part, la juste valeur marchande des actions du capital-actions de la société dont l'actionnaire est propriétaire à ce moment,

is of

(F) the income or loss of the partnership from that source for its fiscal period that includes that time,

and for this purpose, where the income and loss of a partnership from any source for a fiscal period are nil, the partnership shall be deemed to have had income from that source for that period in the amount of $1,000,000; (*journal canadien*)

substantially the same [Repealed, 2001, c. 17, s. 11(2)]

United States means

(a) the United States of America, but does not include Puerto Rico, the Virgin Islands, Guam or any other United States possession or territory, and

(b) any areas beyond the territorial sea of the United States within which, in accordance with international law and its domestic laws, the United States may exercise rights with respect to the seabed and subsoil and the natural resources of those areas. (*États-Unis*)

(D) d'autre part, la juste valeur marchande de l'ensemble des actions émises du capital-actions de la société qui sont en circulation à ce moment;

chaque associé d'une société de personnes qui a, à un moment donné, la propriété réelle ou présumée, en application de la présente définition, d'actions d'une catégorie du capital-actions d'une société est réputé propriétaire à ce moment de la fraction la moins élevée du nombre d'actions de cette catégorie représentée par le rapport entre :

(E) d'une part, la part de l'associé sur le revenu ou la perte de la société de personnes, provenant d'une source donnée, pour son exercice qui comprend ce moment,

(F) d'autre part, le revenu ou la perte de la société de personnes provenant de cette source pour son exercice qui comprend ce moment,

à cette fin, dans le cas où le revenu et la perte d'une société de personnes provenant d'une source donnée pour un exercice sont nuls, le revenu de la société de personnes provenant de cette source pour cet exercice est réputé égal à 1000000 $. (*Canadian newspaper*)

sensiblement le même [Abrogée, 2001, ch. 17, art. 11]

Interpretation

(5.1) In this section, each of the following is deemed to be a Canadian citizen:

(a) a trust or corporation described in paragraph 149(1)(o) or (o.1) formed in connection with a pension plan that exists for the benefit of individuals a majority of whom are Canadian citizens;

(b) a trust described in paragraph 149(1)(r) or (x), the annuitant in respect of which is a Canadian citizen;

(c) a mutual fund trust, within the meaning assigned by subsection 132(6), other than a mutual fund trust the majority of the units of which are held by citizens or subjects of a country other than Canada;

(d) a trust, each beneficiary of which is a person, partnership, association or society described in any of paragraphs (a) to (e) of the definition ***Canadian newspaper*** in subsection (5); and

(e) a person, association or society described in paragraph (c) or (d) of the definition ***Canadian newspaper*** in subsection (5).

Citoyens canadiens

(5.1) Pour l'application du présent article, les personnes suivantes sont réputées être des citoyens canadiens :

a) une fiducie ou une société visée aux alinéas 149(1)o) ou o.1) qui est établie ou constituée, selon le cas, dans le cadre d'un régime de pension établi à l'intention de particuliers qui sont majoritairement des citoyens canadiens;

b) une fiducie visée aux alinéas 149(1)r) ou x) dont le rentier est un citoyen canadien;

c) une fiducie de fonds commun de placement, au sens du paragraphe 132(6), à l'exception d'une telle fiducie dont la majorité des unités sont détenues par des citoyens ou des sujets d'un pays étranger;

d) une fiducie dont les bénéficiaires sont des personnes, des sociétés de personnes ou des associations visées à l'un des alinéas a) à e) de la définition de ***journal canadien*** au paragraphe (5);

e) une personne ou une association visée aux alinéas c) ou d) de la définition de ***journal canadien*** au paragraphe (5).

Trust property

(6) Where the right that is held by any person, partnership, association or society described in the definition ***Canadian newspaper*** in subsection (5) to produce and publish issues of a newspaper is held as property of a trust or estate, the newspaper is not a Canadian newspaper unless each beneficiary under the trust or estate is a person, partnership, association or society described in that definition.

Biens de fiducie

(6) Lorsque le droit que détient une personne, une société de personnes ou une association visée à la définition de ***journal canadien*** au paragraphe (5) d'éditer et de publier des numéros d'un journal est détenu à titre de bien d'une fiducie ou d'une succession, le journal n'est un journal canadien que si chaque bénéficiaire de la fiducie ou de la succession est une personne, une société de personnes ou une association visée à cette définition.

Grace period

(7) A Canadian newspaper that would, but for this subsection, cease to be a Canadian newspaper, is deemed to continue to be a Canadian newspaper until the end of the 12th month that follows the month in which it would, but for this subsection, have ceased to be a Canadian newspaper.

Délai de grâce

(7) Le journal qui cesserait d'être un journal canadien si ce n'était le présent paragraphe est réputé continuer d'être un tel journal jusqu'à la fin du douzième mois qui suit le mois au cours duquel il aurait cessé de l'être n'eût été le présent paragraphe.

Non-Canadian newspaper

(8) Where at any time one or more persons or partnerships that are not described in any of paragraphs (a) to (e) of the definition ***Canadian newspaper*** in subsection (5) have any direct or indirect influence that, if exercised, would result in control in fact of a person or partnership that holds a right to produce or publish issues of a newspaper, the newspaper is deemed not to be a Canadian newspaper at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 19; 1994, c. 7, Sch. II, s. 14; 1995, c. 46, s. 5; 2001, c. 17, s. 11; 2007, c. 35, s. 13.

Journal étranger

(8) Un journal est réputé ne pas être un journal canadien à tout moment où une ou plusieurs personnes ou sociétés de personnes qui ne sont pas visées à l'un des alinéas a) à e) de la définition de ***journal canadien*** au paragraphe (5) ont une influence directe ou indirecte dont l'exercice entraînerait le contrôle de fait d'une personne ou d'une société de personnes qui détient le droit d'éditer et de publier des numéros du journal.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 19; 1994, ch. 7, ann. II, art. 14; 1995, ch. 46, art. 5; 2001, ch. 17, art. 11; 2007, ch. 35, art. 13.

Definitions

19.01 (1) The definitions in this subsection apply in this section.

advertisement directed at the Canadian market has the same meaning as the expression ***directed at the Canadian market*** in section 2 of the *Foreign Publishers Advertising Services Act* and includes a reference to that expression made by or under that Act. (*annonce destinée au marché canadien*)

original editorial content in respect of an issue of a periodical means non-advertising content

(a) the author of which is a Canadian citizen or a permanent resident of Canada within the meaning assigned by the *Immigration Act* and, for this purpose, "author" includes a writer, a journalist, an illustrator and a photographer; or

Définitions

19.01 (1) Les définitions qui suivent s'appliquent au présent article.

annonce destinée au marché canadien S'entend de services publicitaires destinés au marché canadien, au sens de l'article 2 de la *Loi sur les services publicitaires fournis par des éditeurs étrangers*, et comprend toute mention de cette expression figurant dans un texte pris en vertu de cette loi. (*advertisement directed at the Canadian market*)

contenu rédactionnel original Contenu non publicitaire d'un numéro d'un périodique à l'égard duquel l'un des faits suivants se vérifie :

a) son auteur — notamment un écrivain, un journaliste, un illustrateur ou un photographe — est un citoyen canadien ou un résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration*;

(b) that is created for the Canadian market and has not been published in any other edition of that issue of the periodical published outside Canada. (*contenu rédactionnel original*)

periodical has the meaning assigned by section 2 of the *Foreign Publishers Advertising Services Act*. (*périodique*)

(b) il est créé pour le marché canadien et n'a pas été publié dans une autre édition de ce numéro du périodique publiée à l'étranger. (*original editorial content*)

périodique S'entend au sens de l'article 2 de la *Loi sur les services publicitaires fournis par des éditeurs étrangers*. (*periodical*)

Limitation re advertising expenses — periodicals

(2) Subject to subsections (3) and (4), in computing income, no deduction shall be made by a taxpayer in respect of an otherwise deductible outlay or expense for advertising space in an issue of a periodical for an advertisement directed at the Canadian market.

Restriction — frais de publicité — périodiques

(2) Sous réserve des paragraphes (3) et (4), la dépense, déductible par ailleurs, qu'un contribuable engage ou effectue pour obtenir un espace publicitaire dans un numéro d'un périodique en vue de la publication d'une annonce destinée au marché canadien n'est pas déductible dans le calcul du revenu.

100% deduction

(3) A taxpayer may deduct in computing income an outlay or expense of the taxpayer for advertising space in an issue of a periodical for an advertisement directed at the Canadian market if

(a) the original editorial content in the issue is 80% or more of the total non-advertising content in the issue; and

(b) the outlay or expense would, but for subsection (2), be deductible in computing the taxpayer's income.

Déduction de la totalité de la dépense

(3) Un contribuable peut déduire, dans le calcul de son revenu, la dépense qu'il a engagée ou effectuée pour obtenir un espace publicitaire dans un numéro d'un périodique en vue de la publication d'une annonce destinée au marché canadien si les conditions suivantes sont réunies :

a) le contenu rédactionnel original du numéro compte pour au moins 80 % de son contenu non publicitaire total;

b) la dépense serait déductible dans le calcul du revenu du contribuable si ce n'était le paragraphe (2).

50% deduction

(4) A taxpayer may deduct in computing income 50% of an outlay or expense of the taxpayer for advertising space in an issue of a periodical for an advertisement directed at the Canadian market if

(a) the original editorial content in the issue is less than 80% of the total non-advertising content in the issue; and

(b) the outlay or expense would, but for subsection (2), be deductible in computing the taxpayer's income.

Déduction de la moitié de la dépense

(4) Un contribuable peut déduire, dans le calcul de son revenu, la moitié de la dépense qu'il a engagée ou effectuée pour obtenir un espace publicitaire dans un numéro d'un périodique en vue de la publication d'une annonce destinée au marché canadien si les conditions suivantes sont réunies :

a) le contenu rédactionnel original du numéro compte pour moins de 80 % de son contenu non publicitaire total;

b) la dépense serait déductible dans le calcul du revenu du contribuable si ce n'était le paragraphe (2).

Application

(5) For the purposes of subsections (3) and (4),

(a) the percentage that original editorial content is of total non-advertising content is the percentage that the total space occupied by original editorial content in the issue is of the total space occupied by non-advertising content in the issue; and

Application

(5) Les règles suivantes s'appliquent dans le cadre des paragraphes (3) et (4):

a) le pourcentage que représente le contenu rédactionnel original par rapport au contenu non publicitaire total est égal au pourcentage que représente l'espace total occupé par le contenu rédactionnel original

(b) the Minister may obtain the advice of the Department of Canadian Heritage for the purpose of

(i) determining the result obtained under paragraph (a), and

(ii) interpreting any expression defined in this section that is defined in the *Foreign Publishers Advertising Services Act*.

b) le ministre peut obtenir du ministère du Patrimoine canadien des avis sur ce qui suit :

(i) la façon d'en arriver au résultat visé par l'alinéa a),

(ii) l'interprétation de tout terme défini au présent article, qui est défini dans la *Loi sur les services publicitaires fournis par des éditeurs étrangers*.

Editions of issues

(6) For the purposes of this section,

(a) where an issue of a periodical is published in several versions, each version is an edition of that issue; and

(b) where an issue of a periodical is published in only one version, that version is an edition of that issue.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 12.

Éditions de numéros

(6) Les règles suivantes s'appliquent dans le cadre du présent article :

a) si un numéro d'un périodique est publié en plusieurs versions, chacune des versions est une édition du numéro;

b) si un numéro d'un périodique est publié en une seule version, cette version est une édition du numéro.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 12.

Limitation re advertising expense on broadcasting undertaking

19.1 (1) Subject to subsection 19.1(2), in computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer made or incurred after September 21, 1976 for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking.

Limitation des frais de publicité des entreprises de radiodiffusion

19.1 (1) Sous réserve du paragraphe (2), dans le calcul du revenu, il n'est accordé aucune déduction au titre d'une dépense, déductible par ailleurs, engagée ou effectuée par un contribuable après le 21 septembre 1976 pour de la publicité essentiellement destinée au marché canadien et faite par une entreprise étrangère de radiodiffusion.

Exception

(2) In computing income, a deduction may be made in respect of an outlay or expense made or incurred before September 22, 1977 for an advertisement directed primarily to a market in Canada and broadcast by a foreign broadcasting undertaking pursuant to

(a) a written agreement entered into on or before January 23, 1975; or

(b) a written agreement entered into after January 23, 1975 and before September 22, 1976 if the agreement is for a term of one year or less and by its express terms is not capable of being extended or renewed.

Exception

(2) Dans le calcul du revenu, une déduction peut être faite au titre d'une dépense engagée ou effectuée avant le 22 septembre 1977 pour de la publicité essentiellement destinée au marché canadien et faite par une entreprise étrangère de radiodiffusion, en vertu d'une convention écrite :

a) soit conclue au plus tard le 23 janvier 1975;

b) soit conclue entre le 23 janvier 1975 et le 22 septembre 1976, à condition qu'elle ne puisse dépasser un an ni, d'après ses modalités expresses, être prolongée ni renouvelée.

Definitions

(4) In this section,

foreign broadcasting undertaking means a network operation or a broadcasting transmitting undertaking

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

located outside Canada or on a ship or aircraft not registered in Canada; (*entreprise étrangère de radiodiffusion*)

network includes any operation involving two or more broadcasting undertakings whereby control over all or any part of the programs or program schedules of any of the broadcasting undertakings involved in the operation is delegated to a network operator. (*réseau*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1974-75-76, c. 106, s. 3; 1977-78, c. 1, s. 13; 1985, c. 45, s. 126(F).

entreprise étrangère de radiodiffusion Entreprise d'émission de radiodiffusion ou d'exploitation d'un réseau située à l'étranger ou sur un navire ou un aéronef non immatriculés au Canada. (*foreign broadcasting undertaking*)

réseau Est comprise dans un réseau toute exploitation à laquelle participent plusieurs entreprises de radiodiffusion et où le contrôle de tout ou partie des émissions ou des programmes d'émission d'une entreprise de radiodiffusion participant à l'exploitation est délégué à un exploitant de réseau. (*network*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1974-75-76, ch. 106, art. 3; 1977-78, ch. 1, art. 13; 1985, ch. 45, art. 126(F).

Deductions permitted in computing income from business or property

20 (1) Notwithstanding paragraphs 18(1)(a), 18(1)(b) and 18(1)(h), in computing a taxpayer's income for a taxation year from a business or property, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto

Capital cost of property

(a) such part of the capital cost to the taxpayer of property, or such amount in respect of the capital cost to the taxpayer of property, if any, as is allowed by regulation;

Incorporation expenses

(b) the lesser of

(i) the portion of the amount (that is not otherwise deductible in computing the income of the taxpayer) that is an expense incurred in the year for the incorporation of a corporation, and

(ii) $3,000 less the total of all amounts each of which is an amount deducted by another taxpayer in respect of the incorporation of the corporation;

Interest

(c) an amount paid in the year or payable in respect of the year (depending on the method regularly followed by the taxpayer in computing the taxpayer's income), pursuant to a legal obligation to pay interest on

(i) borrowed money used for the purpose of earning income from a business or property (other than borrowed money used to acquire property the income from which would be exempt or to acquire a life insurance policy),

Déductions admises dans le calcul du revenu tiré d'une entreprise ou d'un bien

20 (1) Malgré les alinéas 18(1)a), b) et h), sont déductibles dans le calcul du revenu tiré par un contribuable d'une entreprise ou d'un bien pour une année d'imposition celles des sommes suivantes qui se rapportent entièrement à cette source de revenus ou la partie des sommes suivantes qu'il est raisonnable de considérer comme s'y rapportant :

Coût en capital des biens

a) la partie du coût en capital des biens supporté par le contribuable ou le montant au titre de ce coût ainsi supporté que le règlement autorise;

Dépenses — constitution en société

b) la moins élevée des sommes suivantes :

(i) la partie de la somme qui n'est pas par ailleurs déductible dans le calcul du revenu du contribuable et qui est une dépense engagée au cours de l'année au titre de la constitution en société d'une société,

(ii) la somme de 3 000 $ réduite du total des sommes dont chacune est une somme déduite par un autre contribuable relativement à la constitution en société de la société;

Intérêts

c) la moins élevée d'une somme payée au cours de l'année ou payable pour l'année (suivant la méthode habituellement utilisée par le contribuable dans le calcul de son revenu) et d'une somme raisonnable à cet égard, en exécution d'une obligation légale de verser des intérêts sur :

(i) de l'argent emprunté et utilisé en vue de tirer un revenu d'une entreprise ou d'un bien (autre que l'argent emprunté et utilisé pour acquérir un bien

(ii) an amount payable for property acquired for the purpose of gaining or producing income from the property or for the purpose of gaining or producing income from a business (other than property the income from which would be exempt or property that is an interest in a life insurance policy),

(iii) an amount paid to the taxpayer under

(A) an appropriation Act and on terms and conditions approved by the Treasury Board for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or

(B) the *Northern Mineral Exploration Assistance Regulations* made under an appropriation Act that provides for payments in respect of the Northern Mineral Grants Program, or

(iv) borrowed money used to acquire an interest in an annuity contract in respect of which section 12.2 applies (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest) except that, where annuity payments have begun under the contract in a preceding taxation year, the amount of interest paid or payable in the year shall not be deducted to the extent that it exceeds the amount included under section 12.2 in computing the taxpayer's income for the year in respect of the taxpayer's interest in the contract,

or a reasonable amount in respect thereof, whichever is the lesser;

Compound interest

(d) an amount paid in the year pursuant to a legal obligation to pay interest on an amount that would be deductible under paragraph 20(1)(c) if it were paid in the year or payable in respect of the year;

Expenses re financing

(e) such part of an amount (other than an excluded amount) that is not otherwise deductible in computing the income of the taxpayer and that is an expense incurred in the year or a preceding taxation year

(i) in the course of an issuance or sale of units of the taxpayer where the taxpayer is a unit trust, of interests in a partnership or syndicate by the partnership or syndicate, as the case may be, or of shares of the capital stock of the taxpayer,

dont le revenu serait exonéré ou pour contracter une police d'assurance-vie),

(ii) une somme payable pour un bien acquis en vue d'en tirer un revenu ou de tirer un revenu d'une entreprise (à l'exception d'un bien dont le revenu serait exonéré ou à l'exception d'un bien représentant un intérêt dans une police d'assurance-vie),

(iii) une somme payée au contribuable :

(A) en vertu d'une loi de crédits et selon les modalités approuvées par le Conseil du Trésor en vue de relever ou de maintenir le niveau de compétence technologique des industries manufacturières canadiennes ou d'autres industries canadiennes,

(B) en vertu des *Règlements sur l'aide à l'exploration minière dans le Nord*, pris en vertu d'une loi de crédits qui prévoit les paiements à effectuer relativement au Programme de subventions visant les minéraux dans le Nord,

(iv) de l'argent emprunté et utilisé pour acquérir un intérêt dans un contrat de rente auquel l'article 12.2 s'applique, ou s'appliquerait si le jour anniversaire du contrat tombait dans l'année à un moment où le contribuable détient l'intérêt; toutefois, lorsque la rente a commencé à être versée aux termes du contrat au cours d'une année d'imposition antérieure, les intérêts payés ou payables au cours de l'année ne sont pas déduits dans la mesure où ils dépassent le montant inclus en application de l'article 12.2 dans le calcul du revenu du contribuable pour l'année quant à son intérêt dans le contrat;

Intérêts composés

d) une somme payée au cours de l'année en exécution d'une obligation légale de verser des intérêts sur une somme qui serait déductible selon l'alinéa c) si elle était payée au cours de l'année ou payable pour l'année;

Frais d'émission ou de vente d'actions, d'unités ou de participations et frais d'emprunt

e) la partie d'un montant (sauf un montant exclu) qui n'est pas déductible par ailleurs dans le calcul du revenu du contribuable et qui est une dépense engagée au cours de l'année ou d'une année d'imposition antérieure :

(ii) in the course of a borrowing of money used by the taxpayer for the purpose of earning income from a business or property (other than money used by the taxpayer for the purpose of acquiring property the income from which would be exempt),

(ii.1) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business (other than property the income from which would be exempt or property that is an interest in a life insurance policy), or

(ii.2) in the course of a rescheduling or restructuring of a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where the debt obligation is

(A) in respect of a borrowing described in subparagraph 20(1)(e)(ii), or

(B) in respect of an amount payable described in subparagraph 20(1)(e)(ii.1),

and in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the conversion or substitution of the debt obligation to or with a share or another debt obligation,

(including a commission, fee, or other amount paid or payable for or on account of services rendered by a person as a salesperson, agent or dealer in securities in the course of the issuance, sale or borrowing) that is the lesser of

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

(iv) the amount, if any, by which the expense exceeds the total of all amounts deductible by the taxpayer in respect of the expense in computing the taxpayer's income for a preceding taxation year,

and for the purposes of this paragraph,

(iv.1) ***excluded amount*** means

(A) an amount paid or payable as or on account of the principal amount of a debt obligation or interest in respect of a debt obligation,

(B) an amount that is contingent or dependent on the use of, or production from, property, or

(i) soit dans le cadre d'une émission ou vente d'unités du contribuable, si celui-ci est une fiducie d'investissement à participation unitaire, ou de participations dans une société de personnes ou un syndicat par cette société de personnes ou ce syndicat, ou encore d'actions du capital-actions du contribuable,

(ii) soit dans le cadre d'un emprunt d'argent que le contribuable utilise en vue de tirer un revenu d'une entreprise ou d'un bien, sauf s'il s'agit d'argent utilisé par le contribuable en vue d'acquérir un bien dont le revenu serait exonéré,

(ii.1) soit dans le cadre de la constitution d'une dette qui représente un montant payable pour un bien acquis en vue de tirer un revenu d'une entreprise ou d'un bien (sauf un bien dont le revenu serait exonéré ou un bien qui est un intérêt dans une police d'assurance-vie),

(ii.2) soit dans le cadre de la révision du calendrier des paiements sur une créance du contribuable, de la restructuration de la créance ou de sa prise en charge par le contribuable, à condition que la créance se rapporte à un emprunt visé au sous-alinéa (ii) ou à un montant payable visé au sous-alinéa (ii.1) et que, s'il s'agit de la révision du calendrier des paiements ou de la restructuration de la créance, la révision ou la restructuration prévoie la modification des conditions de la créance, sa conversion en une action ou en une autre créance ou son remplacement par une action ou par une autre créance,

(y compris les commissions, honoraires et autres montants payés ou payables au titre de services rendus par une personne en tant que vendeur, mandataire ou courtier en valeurs dans le cadre de l'émission, de la vente ou de l'emprunt) égale au moins élevé des montants suivants :

(iii) le produit de 20 % de la dépense et du rapport entre le nombre de jours de l'année et 365,

(iv) l'excédent éventuel de la dépense sur le total des montants déductibles par le contribuable au titre de la dépense dans le calcul de son revenu pour les années d'imposition antérieures;

toutefois :

(iv.1) ***montant exclu*** s'entend des montants suivants :

(C) an amount that is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation,

(v) where in a taxation year all debt obligations in respect of a borrowing described in subparagraph 20(1)(e)(ii) or in respect of indebtedness described in subparagraph 20(1)(e)(ii.1) are settled or extinguished (otherwise than in a transaction made as part of a series of borrowings or other transactions and repayments), by the taxpayer for consideration that does not include any unit, interest, share or debt obligation of the taxpayer or any person with whom the taxpayer does not deal at arm's length or any partnership or trust of which the taxpayer or any person with whom the taxpayer does not deal at arm's length is a member or beneficiary, this paragraph shall be read without reference to the words "the lesser of" and to subparagraph 20(1)(e)(iii), and

(vi) where a partnership has ceased to exist at any particular time in a fiscal period of the partnership,

(A) no amount may be deducted by the partnership under this paragraph in computing its income for the period, and

(B) there may be deducted for a taxation year ending at or after that time by any person or partnership that was a member of the partnership immediately before that time, that proportion of the amount that would, but for this subparagraph, have been deductible under this paragraph by the partnership in the fiscal period ending in the year had it continued to exist and had the partnership interest not been redeemed, acquired or cancelled, that the fair market value of the member's interest in the partnership immediately before that time is of the fair market value of all the interests in the partnership immediately before that time;

Annual fees, etc.

(e.1) an amount payable by the taxpayer (other than a payment that is contingent or dependent on the use of, or production from, property or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation) as a standby charge, guarantee fee, registrar fee, transfer agent fee, filing fee, service fee or any similar fee, that can

(A) un montant payé ou payable au titre du principal d'une créance ou des intérêts afférents à une créance,

(B) un montant qui est conditionnel à l'utilisation de biens ou qui dépend de la production en provenant,

(C) un montant calculé en fonction des recettes, des bénéfices, du flux de trésorerie, du prix des marchandises ou d'un critère semblable ou en fonction des dividendes versés ou payables aux actionnaires d'une catégorie d'actions du capital-actions d'une société,

(v) dans le cas où toutes les obligations découlant d'un emprunt visé au sous-alinéa (ii) ou d'une dette visée au sous-alinéa (ii.1) sont réglées ou éteintes au cours d'une année d'imposition — autrement que dans le cadre d'une opération faisant partie d'une série d'emprunts ou d'autres opérations et remboursements — par le contribuable pour une contrepartie qui ne comprend pas d'unités, de participations, d'actions ou de créances du contribuable ou d'une personne ayant un lien de dépendance avec celui-ci ou d'une société de personnes ou fiducie dont le contribuable ou une telle personne est un associé ou un bénéficiaire, la partie de la dépense visée au présent alinéa est égale à l'excédent éventuel de la dépense sur le total des montants déductibles par le contribuable au titre de la dépense dans le calcul de son revenu pour les années d'imposition antérieures,

(vi) dans le cas où une société de personnes cesse d'exister à un moment quelconque d'un de ses exercices :

(A) aucun montant n'est déductible par la société de personnes en application du présent alinéa dans le calcul de son revenu pour l'exercice,

(B) la personne ou société de personnes qui était un associé de la société de personnes immédiatement avant ce moment peut déduire, pour une année d'imposition se terminant à ce moment ou après, le produit de la multiplication du montant qui serait déductible par la société de personnes au cours de l'exercice se terminant dans l'année en application du présent alinéa si elle n'avait pas cessé d'exister et si la participation dans la société de personnes n'avait pas été rachetée, acquise ou annulée par le rapport entre la juste valeur marchande de la participation de cet associé dans la société de personnes immédiatement avant ce moment et la juste valeur marchande de

reasonably be considered to relate solely to the year and that is incurred by the taxpayer

(i) for the purpose of borrowing money to be used by the taxpayer for the purpose of earning income from a business or property (other than borrowed money used by the taxpayer for the purpose of acquiring property the income from which would be exempt income),

(ii) in the course of incurring indebtedness that is an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business (other than property the income from which would be exempt or property that is an interest in a life insurance policy), or

(iii) for the purpose of rescheduling or restructuring a debt obligation of the taxpayer or an assumption of a debt obligation by the taxpayer, where the debt obligation is

(A) in respect of a borrowing described in subparagraph 20(1)(e.1)(i), or

(B) in respect of an amount payable described in subparagraph 20(1)(e.1)(ii),

and in the case of a rescheduling or restructuring, the rescheduling or restructuring, as the case may be, provides for the modification of the terms or conditions of the debt obligation or the conversion or substitution of the debt obligation to or with a share or another debt obligation.

Premiums on life insurance — collateral

(e.2) the least of the following amounts in respect of a life insurance policy (other than an annuity contract or LIA policy):

(i) the premiums payable by the taxpayer under the policy in respect of the year, if

(A) an interest in the policy is assigned to a restricted financial institution in the course of a borrowing from the institution,

(B) the interest payable in respect of the borrowing is or would, but for subsections 18(2) and 18(3.1) and sections 21 and 28, be deductible in computing the taxpayer's income for the year, and

(C) the assignment referred to in clause 20(1)(e.2)(i)(A) is required by the institution as collateral for the borrowing

toutes les participations dans la société de personnes immédiatement avant ce moment;

Frais annuels

e.1) un montant payable par le contribuable — sauf s'il s'agit d'un paiement qui est conditionnel à l'utilisation de biens, qui dépend de la production en provenant ou qui est calculé en fonction des recettes, des bénéfices, de la marge d'autofinancement, du prix des marchandises ou d'un critère semblable ou en fonction des dividendes versés ou payables aux actionnaires d'une catégorie d'actions du capital-actions d'une société — à titre de frais d'ouverture de crédit, de frais de garantie, d'honoraires de registraire, d'honoraires d'agent de transfert, de frais de dépôt de prospectus, de frais de service ou d'autres frais semblables, qu'il est raisonnable de considérer comme se rapportant uniquement à l'année et que le contribuable engage, selon le cas :

(i) en vue d'emprunter de l'argent qu'il a l'intention d'utiliser en vue de tirer un revenu d'une entreprise ou d'un bien, à l'exception d'argent qu'il utilise en vue d'acquérir un bien qui produirait un revenu exonéré,

(ii) dans le cadre de la constitution d'une dette qui représente un montant payable pour un bien acquis en vue de tirer un revenu d'une entreprise ou d'un bien (sauf un bien dont le revenu serait exonéré ou un bien qui est un intérêt dans une police d'assurance-vie),

(iii) en vue de la révision du calendrier des paiements sur une créance du contribuable, de la restructuration de la créance ou de sa prise en charge par le contribuable, à condition que la créance se rapporte soit à un emprunt visé au sous-alinéa (i), soit à un montant payable visé au sous-alinéa (ii) et que, s'il s'agit de la révision du calendrier des paiements ou de la restructuration de la créance, la révision ou la restructuration prévoie la modification des conditions de la créance, sa conversion en une action ou en une autre créance ou son remplacement par une action ou par une autre créance;

Prime d'une police d'assurance-vie utilisée à titre de garantie

e.2) la moins élevée des sommes ci-après relatives à une police d'assurance-vie (sauf un contrat de rente ou une police RAL) :

(i) les primes payables par le contribuable pour l'année aux termes de la police, dans le cas où, à la fois :

(ii) the net cost of pure insurance in respect of the year (other than in respect of a period after 2013 during which the policy is a 10/8 policy), as determined in accordance with the regulations, in respect of the interest in the policy referred to in clause (i)(A), and

(iii) the portion, of the lesser of the amounts determined under subparagraphs (i) and (ii) in respect of the policy, that can reasonably be considered to relate to the amount owing from time to time during the year by the taxpayer to the institution under the borrowing;

Discount on certain obligations

(f) an amount paid in the year in satisfaction of the principal amount of any bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation issued by the taxpayer after June 18, 1971 on which interest was stipulated to be payable, to the extent that the amount so paid does not exceed,

(i) in any case where the obligation was issued for an amount not less than 97% of its principal amount, and the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred on its holder a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of its principal amount, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional on the exercise of any such right) does not exceed 4/3 of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(A) the principal amount of the obligation, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(B) the amount outstanding from time to time as or on account of the principal amount of the obligation, in any other case,

the amount by which the lesser of the principal amount of the obligation and all amounts paid in the year or in any preceding year in satisfaction of its principal amount exceeds the amount for which the obligation was issued, and

(ii) in any other case, 1/2 of the lesser of the amount so paid and the amount by which the lesser

(A) un intérêt dans la police est cédé à une institution financière véritable dans le cadre d'un emprunt contracté auprès d'elle,

(B) les intérêts payables sur l'emprunt sont déductibles dans le calcul du revenu du contribuable pour l'année, ou le seraient sans les paragraphes 18(2) et (3.1) et les articles 21 et 28,

(C) la cession visée à la division (A) est exigée par l'institution financière à titre de garantie de l'emprunt,

(ii) le coût net de l'assurance pure pour l'année (à l'exclusion d'une période postérieure à 2013 au cours de laquelle la police est une police 10/8), déterminé en conformité avec les dispositions réglementaires, relativement à l'intérêt dans la police visé à la division (i)(A),

(iii) la partie de la moins élevée des sommes déterminées selon les sous-alinéas (i) et (ii) relativement à la police qu'il est raisonnable de considérer comme étant liée à la somme que le contribuable doit à l'institution financière au cours de l'année en raison de l'emprunt;

Rabais sur émission de certains titres

f) une somme payée au cours de l'année en acquittement du principal de quelque obligation, effet, billet, créance hypothécaire ou titre semblable émis par le contribuable après le 18 juin 1971 et sur lequel un intérêt a été déclaré payable, dans la mesure où la somme ainsi payée ne dépasse pas :

(i) chaque fois que le titre a été émis pour une somme non inférieure aux 97 % de son principal et que le rendement du titre, exprimé en pourcentage annuel de la somme pour laquelle il a été émis (pourcentage annuel qui doit, si les conditions d'émission du titre ou les dispositions d'une convention y afférente donnaient à leur détenteur le droit d'exiger le paiement du principal du titre ou de la somme restant à rembourser sur ce principal avant l'échéance de ce titre, être calculé sur la base du rendement qui permet d'obtenir le pourcentage annuel le plus élevé possible soit à l'échéance du titre, soit sous réserve de l'exercice de tout droit de ce genre) ne dépasse pas les 4/3 de l'intérêt déclaré payable sur le titre, exprimé en pourcentage annuel :

(A) du principal du titre, si aucune somme n'est payable sur le principal avant l'échéance du titre,

of the principal amount of the obligation and all amounts paid in the year or in any preceding taxation year in satisfaction of its principal amount exceeds the amount for which the obligation was issued;

Share transfer and other fees

(g) where the taxpayer is a corporation,

(i) an amount payable in the year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the taxpayer or as an agent for the remittance to shareholders of the taxpayer of dividends declared by it,

(ii) an amount payable in the year as a fee to a stock exchange for the listing of shares of the capital stock of the taxpayer, and

(iii) an expense incurred in the year in the course of printing and issuing a financial report to shareholders of the taxpayer or to any other person entitled by law to receive the report;

Repayment of loan by shareholder

(j) such part of any loan or indebtedness repaid by the taxpayer in the year as was by virtue of subsection 15(2) included in computing the taxpayer's income for a preceding taxation year (except to the extent that the amount of the loan or indebtedness was deductible from the taxpayer's income for the purpose of computing the taxpayer's taxable income for that preceding taxation year), if it is established by subsequent events or otherwise that the repayment was not made as part of a series of loans or other transactions and repayments;

Doubtful or impaired debts

(l) a reserve determined as the total of

(i) a reasonable amount in respect of doubtful debts (other than a debt to which subparagraph 20(1)(l)(ii) applies) that have been included in computing the taxpayer's income for the year or a preceding taxation year, and

(ii) where the taxpayer is a financial institution (as defined in subsection 142.2(1)) in the year or a taxpayer whose ordinary business includes the lending of money, an amount in respect of properties (other than mark-to-market properties, as defined in that subsection) that are

(A) impaired loans or lending assets that are specified debt obligations (as defined in that subsection) of the taxpayer, or

(B) de la somme restant à rembourser sur le principal du titre, dans les autres cas,

l'excédent du moins élevé du principal du titre et du total des sommes payées au cours de l'année ou d'une année antérieure en acquittement du principal de ce titre sur la somme pour laquelle le titre a été émis,

(ii) dans les autres cas, la moitié du moins élevé de la somme ainsi payée et de l'excédent du moins élevé du principal du titre et du total des sommes payées au cours de l'année ou d'une année d'imposition antérieure en acquittement du principal du titre sur la somme pour laquelle le titre a été émis;

Frais de transfert d'actions et autres

g) lorsque le contribuable est une société :

(i) une somme payable au cours de l'année à titre d'honoraires pour services rendus par une personne en sa qualité d'agent comptable des transferts ou d'agent préposé aux transferts d'actions du capital-actions du contribuable, ou en sa qualité d'agent préposé à la remise, aux actionnaires du contribuable, de dividendes déclarés par cette société,

(ii) une somme payable au cours de l'année, à titre d'honoraires, à une bourse de valeurs pour l'admission à la cote des actions du capital-actions du contribuable,

(iii) une dépense engagée durant l'année à l'occasion de la publication et de l'envoi d'un rapport financier aux actionnaires du contribuable ou à toute autre personne qui a le droit, selon la loi, de recevoir un semblable rapport;

Remboursement d'un emprunt par un actionnaire

j) la partie remboursée, au cours de l'année, par le contribuable, de quelque emprunt ou dette et incluse, en vertu du paragraphe 15(2), dans le calcul de son revenu pour une année d'imposition antérieure (sauf dans la mesure où le montant de l'emprunt ou de la dette était déductible du revenu du contribuable pour le calcul de son revenu imposable pour cette année d'imposition antérieure) s'il est établi par des événements postérieurs ou d'une autre façon que le remboursement n'a pas été effectué comme partie d'une série d'emprunts ou d'autres opérations et de remboursements;

Créances douteuses

l) la provision égale au total des montants suivants :

(B) impaired loans or lending assets that were made or acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money

equal to the total of

(C) the percentage (not exceeding 100%) that the taxpayer claims of the prescribed reserve amount for the taxpayer for the year, and

(D) in respect of loans, lending assets or specified debt obligations that are impaired and for which an amount is not deductible for the year because of clause 20(1)(l)(ii)(C) (each of which in this clause is referred to as a "loan"), the taxpayer's specified percentage for the year of the lesser of

(I) the total of all amounts each of which is a reasonable amount as a reserve (other than any portion of which is in respect of a sectoral reserve) for a loan in respect of the amortized cost of the loan to the taxpayer at the end of the year, and

(II) the amount determined by the formula

0.9M - N

where

M is the amount that is the taxpayer's reserve or allowance for impairment (other than any portion of the amount that is in respect of a sectoral reserve) for all loans that is determined for the year in accordance with generally accepted accounting principles, and

N is the total of all amounts each of which is the specified reserve adjustment for a loan (other than an income bond, an income debenture, a small business bond or small business development bond) for the year or a preceding taxation year;

Reserve for guarantees, etc.

(I.1) a reserve in respect of credit risks under guarantees, indemnities, letters of credit or other credit facilities, bankers' acceptances, interest rate or currency swaps, foreign exchange or other future or option contracts, interest rate protection agreements, risk participations and other similar instruments or commitments issued, made or assumed by a taxpayer who was an insurer or whose ordinary business included the lending of money in favour of persons with whom the taxpayer deals at arm's length in the ordinary

(i) un montant raisonnable au titre de créances douteuses (sauf une créance à laquelle s'applique le sous-alinéa (ii)) incluses dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(ii) si le contribuable est une institution financière au sens du paragraphe 142.2(1) au cours de l'année ou si son activité d'entreprise habituelle consiste en tout ou en partie à prêter de l'argent, un montant au titre de biens (sauf un bien évalué à la valeur du marché au sens de ce paragraphe) qui sont des prêts ou des titres de crédit douteux soit qui comptent parmi ses titres de créance déterminés au sens de ce paragraphe, soit qu'il consent ou acquiert dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent, égal au total des montants suivants :

(A) le pourcentage, jusqu'à concurrence de 100 %, qu'il demande du montant de provision prescrit pour lui pour l'année,

(B) en ce qui concerne les prêts, titres de crédit ou titres de créance déterminés douteux pour lesquels un montant n'est pas déductible pour l'année par l'effet de la division (A) (chacun étant appelé « prêt » à la présente division), le pourcentage déterminé, applicable au contribuable pour l'année, du moins élevé des montants suivants :

(I) le total des montants représentant chacun un montant raisonnable à titre de provision (à l'exclusion de toute partie de ce montant qui se rapporte à une provision sectorielle) pour un prêt, relativement au coût amorti du prêt pour le contribuable à la fin de l'année,

(II) le résultat du calcul suivant :

0,9M - N

où :

M représente le montant qui correspond à la provision pour prêts douteux (à l'exclusion de toute partie de ce montant qui se rapporte à une provision sectorielle) pour l'ensemble des prêts, déterminé pour l'année en conformité avec les principes comptables généralement reconnus,

N le total des montants représentant chacun le montant de redressement déterminé pour un prêt (sauf une obligation à intérêt conditionnel, une obligation pour la petite entreprise ou une obligation pour le

course of the taxpayer's business of insurance or the lending of money, equal to the lesser of

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

(ii) 90% of the reserve for credit risk losses of the taxpayer expected to arise after the end of the year under or in respect of those instruments or commitments determined for the year in accordance with generally accepted accounting principles,

or such lesser amount as the taxpayer may claim;

Reserve in respect of certain goods and services

(m) subject to subsection 20(6), where amounts described in paragraph 12(1)(a) have been included in computing the taxpayer's income from a business for the year or a previous year, a reasonable amount as a reserve in respect of

(i) goods that it is reasonably anticipated will have to be delivered after the end of the year,

(ii) services that it is reasonably anticipated will have to be rendered after the end of the year,

(iii) periods for which rent or other amounts for the possession or use of land or of chattels or movables have been paid in advance, or

(iv) repayments under arrangements or understandings of the class described in subparagraph 12(1)(a)(ii) that it is reasonably anticipated will have to be made after the end of the year on the return or resale to the taxpayer of articles other than bottles;

Manufacturer's warranty reserve

(m.1) where an amount described in paragraph 12(1)(a) has been included in computing the taxpayer's income from a business for the year or a preceding taxation year, a reasonable amount as a reserve in respect of goods or services that it is reasonably anticipated will have to be delivered or rendered after the end of the year pursuant to an agreement for an extended warranty

(i) entered into by the taxpayer with a person with whom the taxpayer was dealing at arm's length, and

(ii) under which the only obligation of the taxpayer is to provide those goods or services with respect to property manufactured by the taxpayer or by a corporation related to the taxpayer,

développement de la petite entreprise) pour l'année ou pour une année d'imposition antérieure;

Provision pour garanties

l.1) la provision égale ou inférieure, selon ce que le contribuable demande, au moins élevé des montants suivants pour les risques de crédit sur les effets et les engagements que le contribuable — qui est un assureur ou dont l'activité d'entreprise habituelle consiste en partie à prêter de l'argent dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent — émet, consent ou assume en faveur de personnes avec lesquelles il n'a aucun lien de dépendance, notamment les garanties, indemnités, lettres de crédit et autres moyens de crédit, les acceptations bancaires, les opérations de troc de devises ou de taux d'intérêt, les opérations de change ou autres contrats à terme ou sur options, les conventions visant à garantir un taux d'intérêt, les participations aux risques :

(i) un montant raisonnable à titre de provision pour les pertes sur risques de crédit que le contribuable s'attend à subir après la fin de l'année en rapport avec ces effets et ces engagements,

(ii) 90 % de la provision pour les pertes sur risques de crédit que le contribuable s'attend à subir après la fin de l'année en rapport avec ces effets ces engagements, déterminée pour l'année en conformité avec les principes comptables généralement reconnus;

Provision relative à certaines marchandises et à certains services

m) sous réserve du paragraphe (6), lorsque des sommes visées à l'alinéa 12(1)a) ont été incluses dans le calcul du revenu tiré par un contribuable d'une entreprise, pour l'année ou une année antérieure, une somme raisonnable à titre de provision dans le cas :

(i) de marchandises qui, selon ce qu'il est raisonnable de prévoir, devront être livrées après la fin de l'année,

(ii) de services qui, selon ce qu'il est raisonnable de prévoir, devront être rendus après la fin de l'année,

(iii) de périodes pour lesquelles le loyer ou d'autres sommes relatives à la possession ou à l'usage d'un fonds de terre ou de biens meubles ou personnels ont été payées à l'avance,

(iv) de remboursements en vertu d'arrangements ou d'ententes de la catégorie visée au sous-alinéa 12(1)a)(ii), qui, selon ce qu'il est raisonnable de

not exceeding that portion of the amount paid or payable by the taxpayer to an insurer that carries on an insurance business in Canada to insure the taxpayer's liability under the agreement in respect of an outlay or expense made or incurred after December 11, 1979 and in respect of the period after the end of the year;

Repayment of amount previously included in income

(m.2) a repayment in the year by the taxpayer of an amount required by paragraph 12(1)(a) to be included in computing the taxpayer's income from a business for the year or a preceding taxation year;

Reserve for unpaid amounts

(n) if an amount included in computing the taxpayer's income from the business for the year or for a preceding taxation year in respect of property sold in the course of the business is payable to the taxpayer after the end of the year and, except where the property is real or immovable property, all or part of the amount was, at the time of the sale, not due until at least two years after that time, a reasonable amount as a reserve in respect of any part of the amount that can reasonably be regarded as a portion of the profit from the sale;

Reserve for quadrennial survey

(o) such amount as may be prescribed as a reserve for expenses to be incurred by the taxpayer by reason of quadrennial or other special surveys required under the *Canada Shipping Act*, or the regulations under that Act, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport for the purposes of the *Canada Shipping Act*;

Bad debts

(p) the total of

(i) all debts owing to the taxpayer that are established by the taxpayer to have become bad debts in the year and that have been included in computing the taxpayer's income for the year or a preceding taxation year, and

(ii) all amounts each of which is that part of the amortized cost to the taxpayer at the end of the year of a loan or lending asset (other than a mark-to-market property, as defined in subsection 142.2(1)) that is established in the year by the taxpayer to have become uncollectible and that,

(A) where the taxpayer is an insurer or a taxpayer whose ordinary business includes the lending of money, was made or acquired in the ordinary

prévoir, devront être faits après la fin de l'année sur remise ou revente au contribuable d'articles autres que des bouteilles;

Provision pour garantie du fabricant

m.1) lorsqu'un montant visé à l'alinéa 12(1)a) a été inclus dans le calcul du revenu du contribuable tiré d'une entreprise pour l'année ou une année d'imposition antérieure, un montant raisonnable à titre de provision à l'égard des marchandises ou des services qui seront, selon ce qu'il est raisonnable de prévoir, livrées ou rendus après la fin de l'année conformément à une convention de garantie prolongée :

(i) que le contribuable a conclue avec une personne avec laquelle il n'avait aucun lien de dépendance,

(ii) qui n'impose au contribuable que l'unique obligation de fournir ces marchandises ou ces services à l'égard des biens fabriqués par le contribuable ou par une société qui lui est liée,

ne dépassant pas la partie de la somme payée ou payable par le contribuable à un assureur qui exploite une entreprise d'assurance au Canada, dans le but d'assurer l'obligation que lui impose la convention, relativement à une dépense engagée ou effectuée après le 11 décembre 1979, à l'égard de la période postérieure à la fin de l'année;

Remboursement d'un montant antérieurement inclus dans le revenu

m.2) un remboursement au cours de l'année par le contribuable d'un montant qui, en application de l'alinéa 12(1)a), doit être inclus dans le calcul de son revenu tiré d'une entreprise pour l'année ou une année d'imposition antérieure;

Provision pour montants impayés

n) lorsqu'une somme incluse dans le calcul du revenu du contribuable tiré d'une entreprise pour l'année ou pour une année d'imposition antérieure au titre de biens vendus dans le cours des activités de l'entreprise est payable au contribuable après la fin de l'année et que tout ou partie de cette somme, au moment de la vente, n'est pas due avant une date qui tombe au moins deux ans après ce moment (sauf si les biens constituent des biens immeubles ou réels), un montant raisonnable à titre de provision se rapportant à toute partie de la somme qu'il est raisonnable de considérer comme une partie du bénéfice résultant de la vente;

course of the taxpayer's business of insurance or the lending of money, or

(B) where the taxpayer is a financial institution (as defined in subsection 142.2(1)) in the year, is a specified debt obligation (as defined in that subsection) of the taxpayer;

Employer's contributions to RPP or PRPP

(q) such amount in respect of employer contributions to registered pension plans or pooled registered pension plans as is permitted under subsection 147.2(1) or 147.5(10);

Employer's contributions under retirement compensation arrangement

(r) amounts paid by the taxpayer in the year as contributions under a retirement compensation arrangement in respect of services rendered by an employee or former employee of the taxpayer, other than where it is established, by subsequent events or otherwise, that the amounts were paid as part of a series of payments and refunds of contributions under the arrangement;

Employer's contributions under employee life and health trust

(s) such amount in respect of employer contributions paid to a trustee under an employee life and health trust as is permitted by subsections 144.1(4) to (7);

Patronage dividends

(u) such amounts in respect of payments made by the taxpayer pursuant to allocations in proportion to patronage as are permitted by section 135;

Mining taxes

(v) such amount as is allowed by regulation in respect of taxes on income for the year from mining operations;

(v.1) [Repealed, 2003, c. 28, s. 3]

Employer's contributions under profit sharing plan

(w) an amount paid by the taxpayer to a trustee in trust for employees of the taxpayer or of a corporation with whom the taxpayer does not deal at arm's length, under an employees profit sharing plan as permitted by section 144;

Employer's contributions under registered supplementary unemployment benefit plan

(x) an amount paid by the taxpayer to a trustee under a registered supplementary unemployment benefit plan as permitted by section 145;

Provision pour visites quadriennales

o) le montant qui peut être prescrit à titre de provision pour des dépenses que doit engager le contribuable en raison de visites quadriennales ou d'autres visites spéciales requises en vertu de la *Loi sur la marine marchande du Canada* ou de ses règlements, ou en vertu des règles de tout association pour la classification l'immatriculation des navires approuvée par le ministre des Transports pour l'application de la *Loi sur la marine marchande du Canada*;

Créances irrécouvrables

p) le total des montants suivants :

(i) les créances du contribuable qu'il a établies comme étant devenues irrécouvrables au cours de l'année et qui sont incluses dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure,

(ii) les montants représentant chacun la partie du coût amorti, pour le contribuable à la fin de l'année, d'un prêt ou d'un titre de crédit (sauf un bien évalué à la valeur du marché, au sens du paragraphe 142.2(1)) que le contribuable a établie, au cours de l'année, comme étant devenue irrécouvrable, lequel prêt ou titre, selon le cas :

(A) si le contribuable est un assureur ou si son activité d'entreprise habituelle consiste en tout ou en partie à prêter de l'argent, a été consenti ou acquis dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent,

(B) si le contribuable est une institution financière au sens du paragraphe 142.2(1) au cours de l'année, compte parmi ses titres de créance déterminés au sens de ce paragraphe;

Cotisations d'employeur à un RPA ou à un RPAC

q) toute somme versée au titre des cotisations d'employeur à des régimes de pension agréés ou à des régimes de pension agréés collectifs, dans la mesure permise par les paragraphes 147.2(1) ou 147.5(10);

Cotisations patronales dans le cadre d'une convention de retraite

r) les cotisations que le contribuable verse au cours de l'année dans le cadre d'une convention de retraite et qui se rapportent à des services rendus par un employé ou ancien employé du contribuable, sauf s'il est établi, par des événements ultérieurs ou autrement, que les cotisations ainsi versées font partie d'une série de cotisations et de remboursements de cotisations dans le cadre de la convention;

Employer's contributions under deferred profit sharing plan

(y) an amount paid by the taxpayer to a trustee under a deferred profit sharing plan as permitted by subsection 147(8);

Cancellation of lease

(z) the proportion of an amount not otherwise deductible that was paid or that became payable by the taxpayer before the end of the year to a person for the cancellation of a lease of property of the taxpayer leased by the taxpayer to that person that

(i) the number of days that remained in the term of the lease (including all renewal periods of the lease), not exceeding 40 years, immediately before its cancellation and that were in the year

is of

(ii) the number of days that remained in the term of the lease (including all renewal periods of the lease), not exceeding 40 years, immediately before its cancellation,

in any case where the property was owned at the end of the year by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length and no part of the amount was deductible by the taxpayer under paragraph 20(1)(z.1) in computing the taxpayer's income for a preceding taxation year;

Idem

(z.1) an amount not otherwise deductible that was paid or that became payable by the taxpayer before the end of the year to a person for the cancellation of a lease of property of the taxpayer leased by the taxpayer to that person, in any case where

(i) the property was not owned at the end of the year by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length, and

(ii) no part of the amount was deductible by the taxpayer under this paragraph in computing the taxpayer's income for any preceding taxation year,

to the extent of the amount thereof (or in the case of capital property, 1/2 of the amount thereof) that was not deductible by the taxpayer under paragraph 20(1)(z) in computing the taxpayer's income for any preceding taxation year;

Landscaping of grounds

(aa) an amount paid by the taxpayer in the year for the landscaping of grounds around a building or other

Cotisations patronales à une fiducie de soins de santé au bénéfice d'employés

s) toute somme versée à un fiduciaire à titre de cotisation patronale dans le cadre d'une fiducie de soins de santé au bénéfice d'employés, ainsi que le permettent les paragraphes 144.1(4) à (7);

Ristourne

u) les sommes qu'autorise l'article 135 au titre des paiements effectués par le contribuable conformément aux répartitions proportionnelles à l'apport commercial;

Impôt sur les exploitations minière

v) les sommes autorisées par règlement au titre des impôts sur le revenu de l'année provenant d'exploitations minières;

v.1) [Abrogé, 2003, ch. 28, art. 3]

Cotisation patronale à un régime de participation aux bénéfices

w) une somme payée par le contribuable à un fiduciaire, au profit de ses employés ou de ceux d'une société avec laquelle le contribuable a un lien de dépendance, en vertu d'un régime de participation des employés aux bénéfices, ainsi que le permet l'article 144;

Cotisation patronale à un régime enregistré de prestations supplémentaires de chômage

x) une somme payée par le contribuable à un fiduciaire en vertu d'un régime enregistré de prestations supplémentaires de chômage, ainsi que le permet l'article 145;

Cotisation patronale à un régime de participation différée aux bénéfices

y) une somme payée par le contribuable à un fiduciaire, en vertu d'un régime de participation différée aux bénéfices, ainsi que le permet le paragraphe 147(8);

Résiliation d'un bail

z) le produit de la multiplication de la somme, non déductible par ailleurs, qui a été payée ou est devenue payable par le contribuable avant la fin de l'année à une personne en vue de la résiliation d'un bail portant sur des biens du contribuable loués par ce dernier à cette personne par le rapport entre :

(i) d'une part, la durée du bail, exprimée en jours (incluant toutes les périodes de renouvellement), ne dépassant pas 40 ans, restant à courir dans l'année immédiatement avant que le bail ne soit résilié,

structure of the taxpayer that is used by the taxpayer primarily for the purpose of gaining or producing income therefrom or from a business;

Fees paid to investment counsel

(bb) an amount, other than a commission, that

(i) is paid by the taxpayer in the year to a person or partnership the principal business of which

(A) is advising others as to the advisability of purchasing or selling specific shares or securities, or

(B) includes the provision of services in respect of the administration or management of shares or securities, and

(ii) is paid for

(A) advice as to the advisability of purchasing or selling a specific share or security of the taxpayer, or

(B) services in respect of the administration or management of shares or securities of the taxpayer;

Expenses of representation

(cc) an amount paid by the taxpayer in the year as or on account of expenses incurred by the taxpayer in making any representation relating to a business carried on by the taxpayer,

(i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or

(ii) to an agency of a government or of a municipal or public body referred to in subparagraph 20(1)(cc)(i) that had authority to make rules, regulations or by-laws relating to the business carried on by the taxpayer,

including any representation for the purpose of obtaining a licence, permit, franchise or trade-mark relating to the business carried on by the taxpayer;

Investigation of site

(dd) an amount paid by the taxpayer in the year for investigating the suitability of a site for a building or other structure planned by the taxpayer for use in connection with a business carried on by the taxpayer;

Utilities service connection

(ee) an amount paid by the taxpayer in the year to a person (other than a person with whom the taxpayer

(ii) d'autre part, la durée du bail, exprimée en jours (incluant toutes les périodes de renouvellement), ne dépassant pas 40 ans, restant à courir immédiatement avant que le bail ne soit résilié,

dans les cas où le contribuable ou une personne avec laquelle il avait un lien de dépendance était propriétaire des biens à la fin de l'année et où aucune partie de la somme n'était déductible par lui en vertu de l'alinéa z.1) dans le calcul de son revenu pour une année d'imposition antérieure;

Idem

z.1) une somme, non déductible par ailleurs, qui a été payée ou est devenue payable par le contribuable avant la fin de l'année à une personne en vue de la résiliation d'un bail portant sur des biens du contribuable loués par ce dernier à cette personne, dans le cas où:

(i) d'une part, les biens n'appartenaient pas au contribuable ni à une personne avec laquelle il avait un lien de dépendance à la fin de l'année,

(ii) d'autre part, aucune fraction du montant n'était déductible par le contribuable en vertu du présent alinéa dans le calcul de son revenu pour une année antérieure,

jusqu'à concurrence de la somme (et, dans le cas d'immobilisations, de la moitié de la somme) payée et qui n'était pas déductible par lui en vertu de l'alinéa z) dans le calcul de son revenu pour une année d'imposition antérieure;

Aménagement paysager

aa) une somme payée par le contribuable au cours de l'année pour l'aménagement paysager autour de quelque bâtiment ou autre construction du contribuable que ce dernier utilise principalement en vue d'en tirer un revenu ou de tirer un revenu d'une entreprise;

Honoraires versés à un conseiller en placement

bb) une somme, autre qu'une commission, qui, à la fois :

(i) est versée par le contribuable au cours de l'année à une personne ou à une société de personnes dont l'activité d'entreprise principale consiste :

(A) soit à donner des avis sur l'opportunité d'acheter ou de vendre certaines actions ou valeurs mobilières,

was not dealing at arm's length) for the purpose of making a service connection to the taxpayer's place of business for the supply, by means of wires, pipes or conduits, of electricity, gas, telephone service, water or sewers supplied by that person, to the extent that the amount so paid was not paid

(i) to acquire property of the taxpayer, or

(ii) as consideration for the goods or services for the supply of which the service connection was undertaken or made;

Payments by farmers

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

(gg) [Repealed, 1994, c. 7, Sch. VIII, s. 157]

Repayments of inducements, etc.

(hh) an amount repaid by the taxpayer in the year pursuant to a legal obligation to repay all or part of a particular amount

(i) included under paragraph 12(1)(x) in computing the taxpayer's income for the year or a preceding taxation year, or

(ii) that is, by reason of subparagraph 12(1)(x)(vi) or subsection 12(2.2), not included under paragraph 12(1)(x) in computing the taxpayer's income for the year or a preceding taxation year, where the particular amount relates to an outlay or expense (other than an outlay or expense that is in respect of the cost of property of the taxpayer or that is or would be, if amounts deductible by the taxpayer were not limited by reason of paragraph 66(4)(b), subsection 66.1(2), subparagraph 66.2(2)(a)(ii), the words "30% of" in clause 66.21(4)(a)(ii)(B), clause 66.21(4)(a)(ii)(C) or (D) or subparagraph 66.4(2)(a)(ii), deductible under section 66, 66.1, 66.2, 66.21 or 66.4) that would, if the particular amount had not been received, have been deductible in computing the taxpayer's income for the year or a preceding taxation year;

Repayment of obligation

(hh.1) 3/4 of any amount repaid by the taxpayer in the year (on or after the time the taxpayer ceases to carry on a business) under a legal obligation to repay all or part of an amount the taxpayer received or was entitled to receive that was assistance from a

(B) soit, entre autres choses, à assurer des services relatifs à l'administration ou à la gestion d'actions ou de valeurs mobilières,

(ii) est versée :

(A) soit pour obtenir un avis sur l'opportunité d'acheter ou de vendre certaines actions ou valeurs mobilières du contribuable,

(B) soit pour la prestation de services relativement à l'administration ou à la gestion d'actions ou de valeurs mobilières du contribuable;

Frais de démarches

cc) une somme payée par le contribuable au cours de l'année au titre des frais qu'il a engagés pour effectuer les démarches concernant une entreprise exploitée par lui :

(i) auprès du gouvernement d'un pays, d'une province ou d'un État ou auprès d'un organisme municipal ou public remplissant des fonctions gouvernementales au Canada,

(ii) auprès d'une agence d'un gouvernement ou d'un organisme municipal ou public, visés au sous-alinéa (i), qui était autorisé à édicter des règles ou des règlements concernant l'entreprise exploitée par le contribuable,

y compris les démarches faites en vue d'obtenir une licence, un permis, une concession ou une marque de commerce pour cette entreprise;

Recherche d'emplacement

dd) une somme payée par le contribuable au cours de l'année pour des recherches destinées à déterminer si un emplacement convenait ou non à la construction d'un bâtiment ou de tout autre ouvrage que le contribuable projetait de construire pour l'utiliser dans le cadre d'une entreprise exploitée par lui;

Raccordement aux réseaux des services

ee) une somme payée par le contribuable au cours de l'année à une personne avec laquelle il n'avait pas de lien de dépendance, en vue de raccorder son lieu d'affaires aux fils, tuyaux ou conduites transportant l'électricité, le gaz, les communications téléphoniques ou l'eau, ou aux égouts fournis par cette personne, dans la mesure où la somme ainsi versée n'a pas été payée :

(i) en vue d'acquérir des biens du contribuable,

government, municipality or other public authority (whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance) in respect of, or for the acquisition of, property the cost of which was an eligible capital expenditure of the taxpayer in respect of the business if the amount of the eligible capital expenditure of the taxpayer in respect of the business was reduced by paragraph 14(10)(c) because of the amount of the assistance the taxpayer received or was entitled to receive;

Inventory adjustment

(ii) the amount required by paragraph 12(1)(r) to be included in computing the taxpayer's income for the immediately preceding taxation year;

(jj) [Repealed, 2013, c. 34, s. 180]

Exploration and development grants

(kk) the amount of any assistance or benefit received by the taxpayer in the year as a deduction from or reimbursement of an expense that is a tax (other than the goods and services tax) or royalty to the extent that

(i) the tax or royalty is, by reason of the receipt of the amount by the taxpayer, not deductible in computing the taxpayer's income for a taxation year, and

(ii) the deduction or reimbursement was included by the taxpayer in the amount determined for J in the definition *cumulative Canadian exploration expense* in subsection 66.1(6), for M in the definition *cumulative Canadian development expense* in subsection 66.2(5) or for I in the definition *cumulative Canadian oil and gas property expense* in subsection 66.4(5);

Repayment of interest

(ll) such part of any amount payable by the taxpayer because of a provision of this Act, or of an Act of a province that imposes a tax similar to the tax imposed under this Act, as was paid in the year and as can reasonably be considered to be a repayment of interest that was included in computing the taxpayer's income for the year or a preceding taxation year;

Cost of substances injected in reservoir

(mm) the portion claimed by the taxpayer of an amount that is an outlay or expense made or incurred by the taxpayer before the end of the year that is a cost to the taxpayer of any substance injected before that time into a natural reservoir to assist in the recovery of

(ii) en contrepartie des produits ou services pour la fourniture desquels les raccordements ont été entrepris ou établis;

Sommes payées par un agriculteur

ff) toute somme payée par le contribuable au cours de l'année à titre de cotisation en vertu de la *Loi de stabilisation concernant le grain de l'Ouest*, de prime dans le cadre du régime universel institué aux termes de la *Loi sur la protection du revenu agricole* ou de frais d'administration d'un compte de stabilisation du revenu net;

gg) [Abrogé, 1994, ch. 7, art. 157]

Remboursement de paiements incitatifs

hh) une somme remboursée par le contribuable au cours de l'année conformément à une obligation légale de rembourser tout ou partie d'un montant qui est :

(i) soit inclus en vertu de l'alinéa 12(1)x) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(ii) soit exclu, par l'effet du sous-alinéa 12(1)x)(vi) ou du paragraphe 12(2.2), du calcul du revenu du contribuable en vertu de l'alinéa 12(1)x) pour l'année ou pour une année d'imposition antérieure, dans le cas où il se rapporte à une dépense engagée ou effectuée (à l'exception d'une dépense relative au coût d'un bien du contribuable ou qui est déductible en application des articles 66, 66.1, 66.2, 66.21 ou 66.4, ou le serait si les montants déductibles par le contribuable n'étaient pas limités par l'effet de l'alinéa 66(4)b), du paragraphe 66.1(2), du sous-alinéa 66.2(2)a)(ii), du passage « 30 % du » à la division 66.21(4)a)(ii)(B), des divisions 66.21(4)a)(ii)(C) ou (D) ou du sous-alinéa 66.4(2)a)(ii)) qui, si le montant n'avait pas été reçu, aurait été déductible dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Remboursement d'un montant d'aide

hh.1) les trois quarts d'un montant que le contribuable a remboursé au cours de l'année (au moment où il cesse d'exploiter une entreprise ou postérieurement) en exécution d'une obligation légale de rembourser tout ou partie d'un montant qu'il a reçu ou est en droit de recevoir et qui est une aide d'un gouvernement, d'une municipalité ou d'une autre administration (sous forme de prime, de subvention, de prêt à remboursement conditionnel, de déduction de l'impôt ou d'allocation de placement ou sous toute autre forme) relativement à des biens dont le coût constitue une dépense en capital admissible pour lui au titre de l'entreprise ou en vue d'acquérir de tels biens si le

petroleum, natural gas or related hydrocarbons to the extent that that portion was not

(i) otherwise deducted in computing the taxpayer's income for the year, or

(ii) deducted in computing the taxpayer's income for any preceding taxation year,

except that where the year is less than 51 weeks, the amount that may be claimed under this paragraph by the taxpayer for the year shall not exceed the greater of

(iii) that proportion of the maximum amount that may otherwise be claimed under this paragraph by the taxpayer for the year that the number of days in the year is of 365, and

(iv) the amount of such outlay or expense that was made or incurred by the taxpayer in the year and not otherwise deducted in computing the taxpayer's income for the year;

Part XII.6 tax

(nn) the tax, if any, under Part XII.6 paid in the year or payable in respect of the year by the taxpayer (depending on the method regularly followed by the taxpayer in computing the taxpayer's income);

(nn.1) [Repealed, 2017, c. 20, s. 4]

Salary deferral arrangement

(oo) any deferred amount under a salary deferral arrangement in respect of another person to the extent that it was

(i) included under paragraph 6(1)(a) as a benefit in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year, and

(ii) in respect of services rendered to the taxpayer;

Idem

(pp) any amount under a salary deferral arrangement in respect of another person (other than an arrangement established primarily for the benefit of one or more non-resident employees in respect of services to be rendered outside Canada) to the extent that it was

(i) included under paragraph 6(1)(i) in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year, and

(ii) in respect of services rendered to the taxpayer;

montant au titre de l'immobilisation admissible du contribuable relativement à l'entreprise a été réduit en application de l'alinéa 14(10)c) en raison du montant d'aide qu'il a reçu ou est en droit de recevoir;

Ajustement de l'inventaire

ii) la somme à inclure en application de l'alinéa 12(1)r) dans le calcul du revenu du contribuable pour l'année d'imposition précédente;

jj) [Abrogé, 2013, ch. 34, art. 180]

Subventions à l'exploration et à l'aménagement

kk) le montant de toute aide ou de tout avantage reçu par le contribuable au cours de l'année à titre de déduction d'une dépense qui est un impôt (à l'exception de la taxe sur les produits et services) ou une redevance, ou de remboursement d'une telle dépense, dans la mesure où :

(i) l'impôt ou la redevance n'est pas, du fait qu'il a reçu le montant, déductible dans le calcul de son revenu pour une année d'imposition,

(ii) la déduction ou le remboursement a été inclus par le contribuable dans le montant représenté par l'élément J de la formule figurant à la définition de *frais cumulatifs d'exploration au Canada* au paragraphe 66.1(6), l'élément M de la formule figurant à la définition de *frais cumulatifs d'aménagement au Canada* au paragraphe 66.2(5) ou l'élément I de la formule figurant à la définition de *frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz* au paragraphe 66.4(5);

Remboursement d'intérêts

ll) la fraction d'une somme payable par le contribuable par l'effet d'une disposition de la présente loi ou d'une loi provinciale qui prévoit un impôt semblable à celui prévu par la présente loi, qui a été payée au cours de l'année et qu'il est raisonnable de considérer comme un remboursement d'intérêts inclus dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Coût des substances injectées pour faciliter la récupération du pétrole

mm) la fraction déduite par le contribuable d'un montant qui constitue des dépenses qu'il a engagées ou effectuées avant la fin de l'année et qui représente le coût pour lui de toute substance injectée avant ce moment dans un réservoir naturel afin de faciliter la récupération du pétrole, du gaz naturel ou d'hydrocarbures connexes, dans la mesure où:

Disability-related modifications to buildings

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

Disability-related equipment

(rr) an amount paid by the taxpayer in the year for any prescribed disability-specific device or equipment;

Qualifying environmental trusts

(ss) a contribution made in the year by the taxpayer to a qualifying environmental trust under which the taxpayer is a beneficiary;

Acquisition of interests in qualifying environmental trusts

(tt) the consideration paid by the taxpayer in the year for the acquisition from another person or partnership of all or part of the taxpayer's interest as a beneficiary under a qualifying environmental trust, other than consideration that is the assumption of a reclamation obligation in respect of the trust;

Debt forgiveness

(uu) any amount deducted in computing the taxpayer's income for the year because of paragraph 80(15)(a) or subsection 80.01(10);

Countervailing or anti-dumping duty

(vv) an amount paid in the year by the taxpayer as or on account of an existing or proposed countervailing or anti-dumping duty in respect of property (other than depreciable property);

Split income

(ww) where the taxpayer is a specified individual in relation to the year, the individual's split income for the year; and

Derivative forward agreement

(xx) in respect of a derivative forward agreement of a taxpayer, the amount determined by the formula

A – B

where

A is the lesser of

(i) the total of all amounts each of which is

(A) if the taxpayer acquires a property under the agreement in the year or a preceding taxation year, the amount by which the cost

(i) il n'a pas par ailleurs déduit cette fraction dans le calcul de son revenu pour l'année,

(ii) il n'a pas déduit cette fraction dans le calcul de son revenu pour une année d'imposition antérieure;

toutefois si l'année compte moins de 51 semaines, le montant que le contribuable peut déduire pour l'année en application du présent alinéa ne peut dépasser le plus élevé des montants suivants :

(iii) le produit de la multiplication du montant maximal qu'il peut déduire par ailleurs pour l'année en application du présent alinéa par le rapport entre le nombre de jours de l'année et 365,

(iv) le montant des dépenses qu'il a engagées ou effectuées au cours de l'année et qu'il n'a pas déduit par ailleurs dans le calcul de son revenu pour l'année;

Impôt de la partie XII.6

nn) l'impôt prévu à la partie XII.6 payé au cours de l'année ou payable pour l'année par le contribuable, suivant la méthode qu'il utilise habituellement pour le calcul de son revenu;

nn.1) [Abrogé, 2017, ch. 20, art. 4]

Entente d'échelonnement du traitement

oo) un montant différé dans le cadre d'une entente d'échelonnement du traitement applicable à une autre personne, dans la mesure où il est ajouté comme avantage en vertu de l'alinéa 6(1)a) dans le calcul du revenu de cette autre personne pour l'année d'imposition de celle-ci qui se termine au cours de l'année d'imposition du contribuable et dans la mesure où il correspond à des services rendus au contribuable;

Idem

pp) un montant en vertu d'une entente d'échelonnement du traitement applicable à une autre personne, sauf une entente faite principalement au profit d'un ou de plusieurs employés non-résidents pour des services à rendre à l'étranger, dans la mesure où ce montant se rapporte à des services rendus au contribuable et est inclus en application de l'alinéa 6(1)i) dans le calcul du revenu de l'autre personne pour son année d'imposition se terminant au cours de l'année d'imposition du contribuable;

to the taxpayer of the property exceeds the fair market value of the property at the time it is acquired by the taxpayer, or

(B) if the taxpayer disposes of a property under the agreement in the year or a preceding taxation year, the amount by which the fair market value of the property at the time the agreement is entered into by the taxpayer exceeds the proceeds of disposition (within the meaning assigned by subdivision c) of the property, and

(ii) the amount that is,

(A) if final settlement of the agreement occurs in the year and it cannot reasonably be considered that one of the main reasons for entering into the agreement is to obtain a deduction under this paragraph, the amount determined under subparagraph (i), or

(B) in any other case, the total of all amounts included under paragraph 12(1)(z.7) in computing the taxpayer's income in respect of the agreement for the year or a preceding taxation year, and

B is the total of all amounts deducted under this paragraph in respect of the agreement for a preceding taxation year.

Modification pour adapter un bâtiment aux besoins des personnes handicapées

qq) une somme payée par le contribuable au cours de l'année pour les rénovations ou transformations, visées par règlement, effectuées à un bâtiment qu'il utilise principalement en vue d'en tirer un revenu ou de tirer un revenu d'une entreprise, si les rénovations ou transformations ont pour objet de permettre à des particuliers ayant un handicap moteur d'avoir accès au bâtiments ou de s'y déplacer;

Appareils pour personnes ayant une déficience

rr) une somme payée par le contribuable au cours de l'année pour tout appareil ou matériel, visé par règlement, conçu en fonction de la déficience d'une personne;

Fiducies pour l'environnement admissibles

ss) un apport effectué par le contribuable au cours de l'année à une fiducie pour l'environnement admissible dont il est bénéficiaire;

Acquisition d'une participation dans une fiducie pour l'environnement admissible

tt) la somme payée par le contribuable au cours de l'année en contrepartie de l'acquisition, effectuée auprès d'une personne ou d'une société de personnes, de tout ou partie de sa participation en tant que bénéficiaire d'une fiducie pour l'environnement admissible, à l'exception d'une somme payée en contrepartie de la prise en charge d'une obligation en matière de restauration relative à la fiducie;

Remise de dette

uu) un montant déduit dans le calcul du revenu du contribuable pour l'année par l'effet de l'alinéa 80(15)a) ou du paragraphe 80.01(10);

Droit compensateur ou antidumping

vv) un montant payé par le contribuable au cours de l'année au titre d'un droit compensateur ou antidumping en vigueur ou proposé sur des biens (sauf des biens amortissables);

Revenu fractionné

ww) si le contribuable est un particulier déterminé pour l'année, son revenu fractionné pour l'année;

Contrat dérivé à terme

xx) en ce qui a trait à un contrat dérivé à terme d'un contribuable, la somme obtenue par la formule suivante :

A – B

où :

A représente la moins élevée des sommes suivantes :

(i) le total des sommes dont chacune représente :

(A) si le contribuable acquiert un bien aux termes du contrat au cours de l'année ou d'une année d'imposition antérieure, l'excédent du coût du bien pour lui sur sa juste valeur marchande au moment de son acquisition par le contribuable,

(B) si le contribuable dispose d'un bien aux termes du contrat au cours de l'année ou d'une année d'imposition antérieure, l'excédent de la juste valeur marchande du bien au moment de la conclusion du contrat par le contribuable sur son produit de disposition, au sens de la sous-section c,

(ii) celle des sommes ci-après qui est applicable :

(A) si le contrat fait l'objet d'un règlement définitif au cours de l'année et qu'il n'est pas raisonnable de considérer que l'une des principales raisons pour lesquelles il a été conclu consiste à obtenir une déduction en application du présent alinéa, la somme déterminée selon le sous-alinéa (i),

(B) dans les autres cas, le total des sommes incluses, en application de l'alinéa 12(1)z.7), dans le calcul du revenu du contribuable relativement au contrat pour l'année ou pour une année d'imposition antérieure,

B le total des sommes déduites en application du présent alinéa relativement au contrat pour une année d'imposition antérieure.

Application of s. 13(21)

(1.1) The definitions in subsection 13(21) apply to any regulations made under paragraph 20(1)(a).

Application du par. 13(21)

(1.1) Les définitions figurant au paragraphe 13(21) s'appliquent aux dispositions réglementaires prises en vertu de l'alinéa (1)a).

Application of s. 12.2(11)

(1.2) The definitions in subsection 12.2(11) apply to paragraph 20(1)(c).

Application du par. 12.2(11)

(1.2) Les définitions figurant au paragraphe 12.2(11) s'appliquent à l'alinéa (1)c).

Borrowed money

(2) For the purposes of paragraph 20(1)(c), where a person has borrowed money in consideration of a promise by the person to pay a larger amount and to pay interest on the larger amount,

(a) the larger amount shall be deemed to be the amount borrowed; and

Emprunts

(2) Pour l'application de l'alinéa (1)c), lorsqu'une personne a emprunté de l'argent en contrepartie d'une promesse qu'elle a faite de payer un montant majoré et de verser des intérêts sur ce montant :

a) le montant majoré est réputé être le montant emprunté;

(b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used.

b) si le montant réellement emprunté a été utilisé en totalité ou en partie pour tirer un revenu d'une entreprise ou d'un bien, le produit de la multiplication du montant majoré par le rapport entre la somme véritablement utilisée de cette manière et le montant véritablement emprunté est réputé être le montant ainsi utilisé.

Limitation of expression "interest" — 10/8 policy

(2.01) For the purposes of paragraphs (1)(c) and (d), interest does not include an amount if

(a) the amount

(i) is paid, after March 20, 2013 in respect of a period after 2013, in respect of a life insurance policy that is, at the time of the payment, a 10/8 policy, and

(ii) is described in paragraph (a) of the definition *10/8 policy* in subsection 248(1); or

(b) the amount

(i) is payable, in respect of a life insurance policy, after March 20, 2013 in respect of a period after 2013 during which the policy is a 10/8 policy, and

(ii) is described in paragraph (a) of the definition *10/8 policy* in subsection 248(1).

Sens restreint de *intérêts* — police 10/8

(2.01) Pour l'application des alinéas (1)c) et d), les sommes ci-après ne sont pas des intérêts :

a) la somme qui, à la fois :

(i) est payée après le 20 mars 2013 pour une période postérieure à 2013, relativement à une police d'assurance-vie qui est une police 10/8 au moment du paiement,

(ii) est visée à l'alinéa a) de la définition de *police 10/8* au paragraphe 248(1);

b) la somme qui, à la fois :

(i) est à payer, relativement à une police d'assurance-vie, après le 20 mars 2013 pour une période postérieure à 2013 au cours de laquelle la police est une police 10/8,

(ii) est visée à l'alinéa a) de la définition de *police 10/8* au paragraphe 248(1).

Limitation of expression "interest"

(2.1) For the purposes of paragraphs 20(1)(c) and 20(1)(d), "interest" does not include an amount that is paid after the taxpayer's 1977 taxation year or payable in respect of a period after the taxpayer's 1977 taxation year, depending on the method regularly followed by the taxpayer in computing the taxpayer's income, in respect of interest on a policy loan made by an insurer except to the extent that the amount of that interest is verified by the insurer in prescribed form and within the prescribed time to be

(a) interest paid in the year on that loan; and

(b) interest (other than interest that would, but for paragraph 20(2.2)(b), be interest on money borrowed before 1978 to acquire a life insurance policy or on an amount payable for property acquired before 1978 that is an interest in a life insurance policy) that is not added to the adjusted cost basis (within the meaning given that expression in subsection 148(9)) to the taxpayer of the taxpayer's interest in the policy.

Restriction relative aux intérêts

(2.1) Pour l'application des alinéas (1)c) et d), un montant payé après l'année d'imposition 1977 du contribuable ou payable à l'égard d'une période postérieure à cette année, selon la méthode habituellement utilisée par le contribuable pour le calcul de son revenu, au titre des intérêts d'une avance sur police consentie par un assureur n'est compris dans les intérêts que dans la mesure où le montant de ces intérêts est, après confirmation par l'assureur selon le formulaire et dans le délai prescrits, déclaré représenter :

a) des intérêts payés au cours de l'année sur cette avance;

b) des intérêts (sauf ceux qui seraient, sans l'alinéa (2.2)b), des intérêts sur de l'argent emprunté avant 1978 pour acquérir une police d'assurance-vie ou sur un montant payable relativement à un bien acquis avant 1978 qui consiste en un intérêt dans une police d'assurance-vie) qui ne sont pas ajoutés au coût de base rajusté (au sens du paragraphe 148(9)), pour le contribuable, de son intérêt dans la police.

Limitation of expression "life insurance policy"

(2.2) For the purposes of paragraphs 20(1)(c) and 20(1)(d), a "life insurance policy" does not include a policy

(a) that is or is issued pursuant to a pooled registered pension plan, a registered pension plan, a registered retirement savings plan, an income-averaging annuity contract or a deferred profit sharing plan;

(b) that was an annuity contract issued before 1978 that provided for annuity payments to commence not later than the day on which the policyholder attains 75 years of age; or

(c) that is an annuity contract all of the insurer's reserves for which vary in amount depending on the fair market value of a specified group of properties.

Restriction relative aux polices d'assurance-vie

(2.2) Pour l'application des alinéas (1)c) et d), n'est pas une police d'assurance-vie la police :

a) qui est un régime de pension agréé, un régime de pension agréé collectif, un régime enregistré d'épargne-retraite, un contrat de rente à versements invariables, un régime de participation différée aux bénéfices ou qui est émise en vertu d'un tel régime ou d'un tel contrat;

b) qui était un contrat de rente émis avant 1978 et prévoyant que le paiement de rentes devait commencer au plus tard le jour où le titulaire de police atteindrait l'âge de 75 ans;

c) qui est un contrat de rente relativement auquel l'ensemble des provisions de l'assureur varient selon la juste valeur marchande d'un groupe déterminé de biens.

Sectoral reserve

(2.3) For the purpose of clause 20(1)(l)(ii)(D), a sectoral reserve is a reserve or an allowance for impairment for a loan that is determined on a sector-by-sector basis (including a geographic sector, an industrial sector or a sector of any other nature) and not on a property-by-property basis.

Provision sectorielle

(2.3) Pour l'application de la division (1)l)(ii)(B), une provision sectorielle est une provision pour prêts douteux qui est déterminée pour un secteur — géographique, industriel ou autre — et non pour un bien donné.

Specified Percentage

(2.4) For the purpose of clause 20(1)(l)(ii)(D), a taxpayer's specified percentage for a taxation year is

(a) where the taxpayer has a prescribed reserve amount for the year, the percentage that is the percentage of the prescribed reserve amount of the taxpayer for the year claimed by the taxpayer under clause 20(1)(l)(ii)(C) for the year, and

(b) in any other case, 100%.

Pourcentage déterminé

(2.4) Pour l'application de la division (1)l)(ii)(B), le pourcentage déterminé applicable à un contribuable pour une année d'imposition est le suivant :

a) s'il existe un montant de provision prescrit pour le contribuable pour l'année, le pourcentage de ce montant que le contribuable demande pour l'année en vertu de la division (1)l)(ii)(A);

b) dans les autres cas, 100 %.

Borrowed money

(3) For greater certainty, if a taxpayer uses borrowed money to repay money previously borrowed, or to pay an amount payable for property described in subparagraph (1)(c)(ii) previously acquired (which previously borrowed money or amount payable in respect of previously acquired property is, in this subsection, referred to as the "previous indebtedness"), subject to subsection 20.1(6), for the purposes of paragraphs (1)(c), (e) and (e.1), subsections 20.1(1) and (2), section 21 and subparagraph 95(2)(a)(ii), and for the purpose of paragraph 20(1)(k) of the *Income Tax Act*, Chapter 148 of the Revised Statutes of Canada, 1952, the borrowed money is deemed to be used for the purpose for which the previous indebtedness

Argent emprunté

(3) Il est entendu que si un contribuable utilise de l'argent emprunté pour rembourser un emprunt antérieur ou pour payer une somme payable pour des biens visés au sous-alinéa (1)c)(ii) et acquis antérieurement (cet emprunt antérieur et cette somme payable étant appelés « dette antérieure » au présent paragraphe), sous réserve du paragraphe 20.1(6), l'argent emprunté est réputé, pour l'application des alinéas (1)c), e) et e.1), des paragraphes 20.1(1) et (2), de l'article 21 et du sous-alinéa 95(2)a)(ii), ainsi que de l'alinéa 20(1)k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, être utilisé aux fins auxquelles la dette

was used or incurred, or was deemed by this subsection to have been used or incurred.

Bad debts from dispositions of depreciable property

(4) Where an amount that is owing to a taxpayer as or on account of the proceeds of disposition of depreciable property (other than a timber resource property or a passenger vehicle having a cost to the taxpayer in excess of $20,000 or such other amount as may be prescribed) of the taxpayer of a prescribed class is established by the taxpayer to have become a bad debt in a taxation year, there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the amount so owing to the taxpayer, and

(b) the amount, if any, by which the capital cost to the taxpayer of that property exceeds the total of the amounts, if any, realized by the taxpayer on account of the proceeds of disposition.

Idem

(4.1) Where an amount that is owing to a taxpayer as or on account of the proceeds of disposition of a timber resource property of the taxpayer is established by the taxpayer to have become a bad debt in a taxation year, the amount so owing to the taxpayer may be deducted in computing the taxpayer's income for the year.

Former eligible capital property

(4.2) If an amount is deductible under subsection (4) in respect of the disposition of a depreciable property and subsection 13(39) applied to the disposition of the depreciable property, the amount deductible under subsection (4) is equal to 3/4 of the amount that would be deductible without reference to this subsection.

(4.3) [Repealed, 2016, c. 12, s. 7]

Sale of agreement for sale, mortgage or hypothecary claim included in proceeds of disposition

(5) Where depreciable property, other than a timber resource property, of a taxpayer has, in a taxation year, been disposed of to a person with whom the taxpayer was dealing at arm's length, and the proceeds of disposition include an agreement for the sale of, or a mortgage or hypothecary claim on, land that the taxpayer has, in a subsequent taxation year, sold to a person with whom the taxpayer was dealing at arm's length, there may be deducted in computing the income of the taxpayer for the subsequent year an amount equal to the lesser of

(a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothecary

antérieure a été utilisée ou contractée ou est réputée par le présent paragraphe avoir été utilisée ou contractée.

Partie irrécouvrable du produit de disposition de biens amortissables

(4) Le contribuable qui établit qu'une somme qui lui est due au titre du produit de disposition d'un de ses biens amortissables d'une catégorie prescrite (sauf un avoir forestier et sauf une voiture de tourisme dont le coût pour lui dépasse 20 000 $ ou tout autre montant fixé par règlement) est devenue une créance irrécouvrable au cours d'une année d'imposition peut déduire dans le calcul de son revenu pour l'année la moins élevée des sommes suivantes :

a) la somme qui lui est due;

b) l'excédent éventuel du coût en capital de ce bien pour lui sur le total des sommes qu'il a réalisées sur le produit de disposition.

Idem

(4.1) Le contribuable qui établit qu'une somme qui lui est due et qui est afférente au produit de disposition d'un de ses avoirs forestiers est devenue une créance irrécouvrable au cours d'une année d'imposition peut déduire cette somme dans le calcul de son revenu pour l'année.

Bien amortissable

(4.2) La somme qui peut être déduite en vertu du paragraphe (4) relativement à la disposition d'un bien amortissable à laquelle le paragraphe 13(39) s'applique est égale aux trois quarts de la somme qui pourrait être déduite compte non tenu du présent paragraphe.

(4.3) [Abrogé, 2016, ch. 12, art. 7]

Vente d'une convention de vente ou d'une créance hypothécaire comprise dans le produit de disposition

(5) Lorsqu'il a été disposé de biens amortissables d'un contribuable, autres qu'un avoir forestier, au cours d'une année d'imposition en faveur d'une personne avec laquelle le contribuable n'avait aucun lien de dépendance, pour un produit de disposition qui comprend une convention de vente d'un fonds de terre ou une créance hypothécaire sur un fonds de terre que le contribuable a vendu, au cours d'une année d'imposition ultérieure, à une personne avec laquelle il n'avait aucun lien de dépendance, la moins élevée des sommes suivantes est déductible dans le calcul du revenu du contribuable pour l'année ultérieure :

claim outstanding at the time of the sale exceeds the consideration paid by the purchaser to the taxpayer for the agreement for sale, mortgage or hypothecary claim, and

(b) the amount determined under paragraph 20(5)(a) less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the taxpayer of that property.

a) l'excédent éventuel du principal de la convention de vente ou de la créance hypothécaire due lors de la vente sur la contrepartie payée par l'acheteur au contribuable pour la convention de vente ou la créance hypothécaire;

b) la somme déterminée en vertu de l'alinéa a), moins l'excédent éventuel du produit de la disposition de ces biens amortissables sur le coût en capital de ces biens supporté par le contribuable.

Sale of agreement for sale, mortgage or hypothecary claim included in proceeds of disposition

(5.1) Where a timber resource property of a taxpayer has, in a taxation year, been disposed of to a person with whom the taxpayer was dealing at arm's length, and the proceeds of disposition include an agreement for sale of, or a mortgage or hypothecary claim on, land that the taxpayer has, in a subsequent taxation year, sold to a person with whom the taxpayer was dealing at arm's length, there may be deducted in computing the income of the taxpayer for the subsequent year the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothecary claim outstanding at the time of the sale exceeds the consideration paid by the purchaser to the taxpayer for the agreement for sale, mortgage or hypothecary claim.

Vente d'une convention de vente ou d'une créance hypothécaire comprise dans le produit de disposition

(5.1) Lorsqu'il a été disposé d'un avoir forestier d'un contribuable au cours d'une année d'imposition en faveur d'une personne avec laquelle le contribuable n'avait aucun lien de dépendance pour un produit de disposition qui comprend une convention de vente d'un fonds de terre ou une créance hypothécaire sur un fonds de terre que le contribuable a vendu, au cours d'une année d'imposition ultérieure, à une personne avec laquelle il n'avait aucun lien de dépendance, est déductible dans le calcul du revenu du contribuable pour l'année ultérieure l'excédent éventuel du principal de la convention de vente ou de la créance hypothécaire due lors de la vente sur la contrepartie payée par l'acheteur au contribuable pour la convention de vente ou la créance hypothécaire.

Special reserves

(6) Where an amount is deductible in computing income for a taxation year under paragraph 20(1)(m) as a reserve in respect of

(a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the year, or

(b) transportation that it is reasonably anticipated will have to be provided after the end of the year,

there shall be substituted for the amount determined under that paragraph an amount not exceeding the total of amounts included in computing the taxpayer's income from the business for the year that were received or receivable (depending on the method regularly followed by the taxpayer in computing the taxpayer's profit) in the year in respect of

(c) articles of food or drink not delivered before the end of the year, or

(d) transportation not provided before the end of the year, as the case may be.

Provisions spéciales

(6) Lorsqu'un montant est déductible dans le calcul du revenu pour une année d'imposition, selon l'alinéa (1)m), à titre de provision et relativement à :

a) soit des aliments ou des boissons qui, selon ce qu'il est raisonnable de prévoir, devront être livrés après la fin de l'année;

b) soit du transport qui, selon ce qu'il est raisonnable de prévoir, devra être fourni après la fin de l'année,

il doit être substitué au montant déterminé en application de cet alinéa une somme n'excédant pas le total des montants inclus dans le calcul du revenu du contribuable, tiré de l'entreprise, pour l'année, qui ont été reçus ou sont à recevoir (selon la méthode habituellement utilisée par le contribuable dans le calcul de ses bénéfices) dans l'année relativement à, selon le cas :

c) des aliments ou des boissons non livrés avant la fin de l'année;

d) du transport non fourni avant la fin de l'année.

Where para. (1)(m) does not apply

(7) Paragraph 20(1)(m) does not apply to allow a deduction

(a) as a reserve in respect of guarantees, indemnities or warranties;

(b) in computing the income of a taxpayer for a taxation year from a business in any case where the taxpayer's income for the year from that business is computed in accordance with the method authorized by subsection 28(1);

(c) as a reserve in respect of insurance, except that in computing an insurer's income for a taxation year from an insurance business, other than a life insurance business, carried on by it, there may be deducted as a policy reserve any amount that the insurer claims not exceeding the amount prescribed in respect of the insurer for the year; or

(d) as a reserve in respect of a reclamation obligation.

No deduction in respect of property in certain circumstances

(8) Paragraph 20(1)(n) does not apply to allow a deduction in computing the income of a taxpayer for a taxation year from a business in respect of a property sold in the course of the business if

(a) the taxpayer, at the end of the year or at any time in the immediately following taxation year,

(i) was exempt from tax under any provision of this Part, or

(ii) was not resident in Canada and did not carry on the business in Canada;

(b) the sale occurred more than 36 months before the end of the year;

(c) the purchaser of the property sold was a corporation that, immediately after the sale,

(i) was controlled, directly or indirectly, in any manner whatever, by the taxpayer,

(ii) was controlled, directly or indirectly, in any manner whatever, by a person or group of persons that controlled the taxpayer, directly or indirectly, in any manner whatever, or

(iii) controlled the taxpayer, directly or indirectly, in any manner whatever; or

Non-application de l'al. (1)m)

(7) L'alinéa (1)m) ne permet pas de faire une déduction :

a) à titre de provision relativement à des garanties ou indemnités;

b) dans le calcul du revenu tiré par un contribuable d'une entreprise, pour une année d'imposition, lorsque ce revenu pour l'année est calculé suivant la méthode permise par le paragraphe 28(1);

c) à titre de provision relativement à une assurance; toutefois, un assureur peut déduire à titre de provision technique, dans le calcul de son revenu pour une année d'imposition tiré d'une entreprise d'assurance qu'il exploite, sauf une entreprise d'assurance-vie, un montant ne dépassant pas la somme visée par règlement quant à lui pour l'année;

d) à titre de provision relativement à une obligation en matière de restauration.

Aucune déduction dans certains cas

(8) L'alinéa (1)n) n'autorise pas une déduction dans le calcul du revenu d'un contribuable tiré d'une entreprise pour une année d'imposition à l'égard d'un bien vendu dans le cours des activités de l'entreprise dans l'un ou l'autre des cas suivants :

a) le contribuable, à la fin de l'année ou à un moment donné de l'année d'imposition suivante :

(i) soit était exonéré d'impôt en vertu d'une disposition de la présente partie,

(ii) soit ne résidait pas au Canada ni n'exploitait l'entreprise au Canada;

b) la vente a eu lieu plus de 36 mois avant la fin de l'année;

c) l'acheteur du bien vendu était une société qui, immédiatement après la vente :

(i) était contrôlée, directement ou indirectement, de quelque manière que ce soit, par le contribuable,

(ii) était contrôlée, directement ou indirectement, de quelque manière que ce soit, par une personne ou un groupe de personnes qui contrôlait le contribuable directement ou indirectement, de quelque manière que ce soit,

(d) the purchaser of the property sold was a partnership in which the taxpayer was, immediately after the sale, a majority-interest partner.

d) l'acheteur du bien vendu était une société de personnes dont le contribuable était, immédiatement après la vente, un associé détenant une participation majoritaire.

Application of para. (1)(cc)

(9) In lieu of making any deduction of an amount permitted by paragraph 20(1)(cc) in computing a taxpayer's income for a taxation year from a business, the taxpayer may, if the taxpayer so elects in prescribed manner, make a deduction of 1/10 of that amount in computing the taxpayer's income for that taxation year and a like deduction in computing the taxpayer's income for each of the 9 immediately following taxation years.

Application de l'al. (1)cc)

(9) Au lieu de déduire, dans le calcul du revenu qu'il a tiré d'une entreprise pour une année d'imposition, une somme dont la déduction est autorisée par l'alinéa (1)cc), un contribuable peut, s'il choisit cette méthode selon les modalités réglementaires, déduire 1/10 de cette somme dans le calcul de son revenu pour cette année d'imposition et faire une déduction semblable dans le calcul de son revenu pour chacune des 9 années suivantes.

Convention expenses

(10) Notwithstanding paragraph 18(1)(b), there may be deducted in computing a taxpayer's income for a taxation year from a business an amount paid by the taxpayer in the year as or on account of expenses incurred by the taxpayer in attending, in connection with the business, not more than two conventions held during the year by a business or professional organization at a location that may reasonably be regarded as consistent with the territorial scope of that organization.

Dépenses relatives à un congrès

(10) Malgré l'alinéa 18(1)b), est déductible dans le calcul du revenu qu'un contribuable tire d'une entreprise pour une année d'imposition une somme payée par le contribuable au cours de l'année au titre des dépenses qu'il a supportées pour assister à deux congrès au plus afférents à l'entreprise et tenus pendant l'année par une organisation commerciale ou professionnelle, en un lieu qu'il est raisonnable de considérer comme étant en rapport avec l'organisation en question, eu égard au territoire sur lequel elle exerce son activité.

Foreign taxes on income from property exceeding 15%

(11) In computing the income of an individual from a property other than real or immovable property for a taxation year after 1975 that is income from a source outside Canada, there may be deducted the amount, if any, by which,

(a) such part of any income or profits tax paid by the taxpayer to the government of a country other than Canada for the year as may reasonably be regarded as having been paid in respect of an amount that has been included in computing the taxpayer's income for the year from the property,

exceeds

(b) 15% of the amount referred to in paragraph 20(11)(a).

Impôts étrangers sur le revenu tiré de biens et dépassant 15 %

(11) Est déductible dans le calcul du revenu qu'un particulier tire d'un bien autre qu'un bien immeuble ou réel, pour une année d'imposition postérieure à 1975, et qui constitue un revenu tiré d'une source située à l'étranger l'excédent du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) :

a) la partie des impôts sur le revenu ou sur les bénéfices qu'il a payée pour l'année au gouvernement d'un pays étranger et qu'il est raisonnable de considérer comme ayant été payée au titre d'une somme incluse dans le calcul de son revenu tiré des biens pour l'année;

b) 15 % de la somme visée à l'alinéa a).

Foreign non-business income tax

(12) In computing the income of a taxpayer who is resident in Canada at any time in a taxation year from a business or property for the year, there may be deducted any

Impôt étranger sur le revenu ne provenant pas d'une entreprise

(12) Si un contribuable réside au Canada au cours d'une année d'imposition, est déductible dans le calcul de son revenu pour l'année tiré d'une entreprise ou d'un bien le

amount that the taxpayer claims that does not exceed the non-business income tax paid by the taxpayer for the year to the government of a country other than Canada (within the meaning assigned by subsection 126(7) read without reference to paragraphs (c) and (e) of the definition *non-business income tax* in that subsection) in respect of that income, other than any of those taxes paid that can, in whole or in part, reasonably be regarded as having been paid by a corporation in respect of income from a share of the capital stock of a foreign affiliate of the corporation.

montant qu'il demande, ne dépassant pas l'impôt sur le revenu ne provenant pas d'une entreprise (au sens du paragraphe 126(7), mais compte non tenu des alinéas c) et e) de la définition de ce terme à ce paragraphe) qu'il a payé pour l'année au gouvernement d'un pays étranger au titre de ce revenu, à l'exclusion de tout ou partie de cet impôt qu'il est raisonnable de considérer comme payé par une société à l'égard du revenu tiré d'une action du capital-actions d'une société étrangère affiliée de la société.

Foreign tax where no economic profit

(12.1) In computing a taxpayer's income for a taxation year from a business, there may be deducted the amount that the taxpayer claims not exceeding the lesser of

(a) the amount of foreign tax (within the meaning assigned by subsection 126(4.1)) that

(i) is in respect of a property used in the business for a period of ownership by the taxpayer or in respect of a related transaction (as defined in subsection 126(7)),

(ii) is paid by the taxpayer for the year,

(iii) is, because of subsection 126(4.1), not included in computing the taxpayer's business-income tax or non-business-income tax, and

(iv) where the taxpayer is a corporation, is not an amount that can reasonably be regarded as having been paid in respect of income from a share of the capital stock of a foreign affiliate of the taxpayer, and

(b) the portion of the taxpayer's income for the year from the business that is attributable to the property for the period or to a related transaction (as defined in subsection 126(7)).

Impôt étranger en cas d'absence de profit économique

(12.1) Est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition tiré d'une entreprise le montant que le contribuable demande, ne dépassant pas le moins élevé des montants suivants :

a) le montant d'impôt étranger, au sens du paragraphe 126(4.1), qui, à la fois :

(i) est attribuable soit à un bien utilisé dans le cadre de l'entreprise pour une période pendant laquelle le contribuable était propriétaire du bien, soit à une opération connexe au sens du paragraphe 126(7),

(ii) est payé par le contribuable pour l'année,

(iii) n'est pas inclus, par l'effet du paragraphe 126(4.1), dans le calcul de l'impôt sur le revenu tiré d'une entreprise du contribuable ou de son impôt sur le revenu ne provenant pas d'une entreprise,

(iv) si le contribuable est une société, n'est pas un montant qu'il est raisonnable de considérer comme ayant été payé au titre du revenu tiré d'une action du capital-actions d'une société étrangère affiliée du contribuable;

b) la partie du revenu du contribuable pour l'année tiré de l'entreprise qui est attribuable au bien pour la période ou à des opérations connexes au sens du paragraphe 126(7).

Deductions under subdivision i

(13) In computing the income for a taxation year of a taxpayer resident in Canada, there may be deducted such amounts as are provided by subdivision i.

Sommes déductibles en application de la sous-section i

(13) Les sommes prévues à la sous-section i sont déductibles dans le calcul du revenu pour une année d'imposition d'un contribuable résidant au Canada.

Accrued bond interest

(14) Where, by virtue of an assignment or other transfer of a debt obligation, other than an income bond, an income debenture, a small business development bond or a

Intérêts courus sur obligations

(14) Lorsque, en raison d'une cession ou autre transfert d'une créance, à l'exception d'une obligation à intérêt conditionnel, d'une obligation pour le développement de

small business bond, the transferee has become entitled to an amount of interest that accrued on the debt obligation for a period commencing before the time of transfer and ending at that time that is not payable until after that time, that amount

(a) shall be included as interest in computing the transferor's income for the transferor's taxation year in which the transfer occurred, except to the extent that it was otherwise included in computing the transferor's income for the year or a preceding taxation year; and

(b) may be deducted in computing the transferee's income for a taxation year to the extent that the amount was included as interest in computing the transferee's income for the year.

la petite entreprise et d'une obligation pour la petite entreprise, le bénéficiaire du transfert a obtenu, pour une période commençant avant le moment du transfert et se terminant à ce moment, le droit à un montant d'intérêt qui s'est accumulé pendant cette période et qui n'est payable qu'après le moment du transfert, ce montant :

a) est inclus, à titre d'intérêt, dans le calcul du revenu de l'auteur du transfert pour son année d'imposition dans laquelle le transfert survient, sauf dans la mesure où il a été inclus dans le calcul de son revenu, pour l'année d'imposition ou une année d'imposition antérieure;

b) est déductible dans le calcul du revenu du bénéficiaire pour une année d'imposition, dans la mesure où il a été inclus à titre d'intérêt dans le calcul de son revenu pour l'année.

Interest on debt obligation

(14.1) Where a person who has issued a debt obligation, other than an income bond, an income debenture, a small business development bond or a small business bond, is obligated to pay an amount that is stipulated to be interest on that debt obligation in respect of a period before its issue (in this subsection referred to as the "unearned interest amount") and it is reasonable to consider that the person to whom the debt obligation was issued paid to the issuer consideration for the debt obligation that included an amount in respect of the unearned interest amount,

(a) for the purposes of subsection 20(14) and section 12, the issue of the debt obligation shall be deemed to be an assignment of the debt obligation from the issuer, as transferor, to the person to whom the obligation was issued, as transferee, and an amount equal to the unearned interest amount shall be deemed to be interest that accrued on the obligation for a period commencing before the issue and ending at the time of issue; and

(b) notwithstanding paragraph 20(14.1)(a) or any other provision of this Act, no amount that can reasonably be considered to be an amount in respect of the unearned interest amount shall be deducted or included in computing the income of the issuer.

Intérêts sur une créance

(14.1) Lorsque l'émetteur d'une créance, à l'exception d'une obligation à intérêt conditionnel, d'une obligation pour le développement de la petite entreprise ou d'une obligation pour la petite entreprise, est obligé de payer un montant stipulé au titre des intérêts sur cette créance visant une période antérieure à son émission (appelé « intérêts non gagnés » au présent paragraphe) et qu'il est raisonnable de considérer que la personne en faveur de qui la créance a été émise a versé à l'émetteur une contrepartie pour la créance qui comprenait un montant couvrant les intérêts non gagnés :

a) pour l'application du paragraphe (14) et de l'article 12, l'émission de la créance est réputée être une cession de la créance par l'émetteur, à titre d'auteur du transfert, à la personne en faveur de qui la créance a été émise, à titre de destinataire; un montant égal aux intérêts non gagnés est réputé constituer les intérêts courus sur la créance au cours d'une période commençant avant l'émission et finissant au moment de celle-ci;

b) malgré l'alinéa a) ou les autres dispositions de la présente loi, un montant qu'il est raisonnable de considérer comme se rapportant aux intérêts non gagnés ne peut être ni déduit ni inclus dans le calcul du revenu de l'émetteur.

Sales of linked notes

(14.2) For the purposes of subsection (14), the amount determined by the following formula is deemed to be interest that accrued on an assigned or otherwise transferred debt obligation — that is, at any time, described in paragraph 7000(1)(d) of the *Income Tax Regulations* — to which the transferee has become entitled to for a period commencing before the time of the transfer and

Ventes de billets liés

(14.2) Pour l'application du paragraphe (14), la somme obtenue par la formule ci-après est réputée constituer un montant d'intérêts courus sur une créance cédée ou autrement transférée — visée, à un moment donné, à l'alinéa 7000(1)d) du *Règlement de l'impôt sur le revenu* — auquel le bénéficiaire du transfert a obtenu, pour une période commençant avant le moment du transfert et se

ending at that particular time that is not payable until after that particular time:

A – B

where

A is the price for which the debt obligation was assigned or otherwise transferred at the particular time; and

B is the amount by which the price (converted to Canadian currency using the exchange rate prevailing at the particular time, if the debt obligation is denominated in a foreign currency) for which the debt obligation was issued exceeds the portion, if any, of the principal amount of the debt obligation (converted to Canadian currency using the exchange rate prevailing at the particular time, if the debt obligation is denominated in a foreign currency) that was repaid by the issuer on or before the particular time.

(15) [Repealed, 2003, c. 28, s. 3]

Terminal loss

(16) Notwithstanding paragraphs 18(1)(a), 18(1)(b) and 18(1)(h), where at the end of a taxation year,

(a) the total of all amounts used to determine A to D.1 in the definition *undepreciated capital cost* in subsection 13(21) in respect of a taxpayer's depreciable property of a particular class exceeds the total of all amounts used to determine E to K in that definition in respect of that property, and

(b) the taxpayer no longer owns any property of that class,

in computing the taxpayer's income for the year

(c) there shall be deducted the amount of the excess determined under paragraph 20(16)(a), and

(d) no amount shall be deducted for the year under paragraph 20(1)(a) in respect of property of that class.

Non-application of subsection (16)

(16.1) Subsection (16) does not apply

(a) in respect of a passenger vehicle of a taxpayer that has a cost to the taxpayer in excess of $20,000 or any other amount that is prescribed;

(b) in respect of a taxation year in respect of a property that was a former property deemed by paragraph 13(4.3)(a) or (b) to be owned by the taxpayer, if

terminant à ce moment, le droit et qui n'est payable qu'après ce moment :

A – B

où :

A représente le prix auquel la créance a été cédée ou autrement transférée au moment du transfert;

B l'excédent du prix (converti en dollars canadiens au taux de change en vigueur au moment du transfert, si la créance est libellée dans une monnaie étrangère) auquel la créance a été émise sur la partie éventuelle du principal (convertie en dollars canadiens au taux de change en vigueur au moment du transfert, si la créance est libellée dans une monnaie étrangère) de la créance qui a été remboursée par l'émetteur au plus tard au moment du transfert.

(15) [Abrogé, 2003, ch. 28, art. 3]

Perte finale

(16) Malgré les alinéas 18(1)a), b) et h), lorsque, à la fin d'une année d'imposition :

a) d'une part, le total des montants entrant dans le calcul des éléments A à D.1 de la formule figurant à la définition de *fraction non amortie du coût en capital* au paragraphe 13(21) excède le total des montants entrant dans le calcul des éléments E à K de la même formule, au titre des biens amortissables d'une catégorie prescrite d'un contribuable;

b) d'autre part, le contribuable ne possède plus de biens de cette catégorie,

dans le calcul de son revenu pour l'année :

c) il doit déduire l'excédent déterminé en vertu de l'alinéa a);

d) il ne peut déduire aucun montant pour l'année en vertu de l'alinéa (1)a) à l'égard des biens de cette catégorie.

Non-application du paragraphe (16)

(16.1) Le paragraphe (16) ne s'applique pas à l'égard :

a) de la voiture de tourisme d'un contribuable dont le coût pour lui dépasse 20 000 $ ou tout autre montant qui est prévu par règlement;

(i) within 24 months after the taxpayer last owned the former property, the taxpayer or a person not dealing at arm's length with the taxpayer acquires a similar property in respect of the same fixed place to which the former property applied, and

(ii) at the end of the taxation year, the taxpayer or the person owns the similar property or another similar property in respect of the same fixed place to which the former property applied; and

(c) in respect of a taxation year in respect of property included in Class 14.1 of Schedule II to the *Income Tax Regulations* unless the taxpayer has ceased to carry on the business to which the class relates.

b) d'une année d'imposition pour ce qui est d'un bien qui était un ancien bien dont le contribuable est réputé, par les alinéas 13(4.3)a) ou b), être le propriétaire, si, à la fois :

(i) dans les 24 mois suivant le moment où le contribuable a été propriétaire du bien la dernière fois, le contribuable ou une personne avec laquelle il a un lien de dépendance acquiert un bien semblable relativement au même lieu fixe auquel l'ancien bien se rapportait,

(ii) à la fin de l'année d'imposition, le contribuable ou la personne est propriétaire du bien semblable ou d'un autre bien semblable relativement au même lieu fixe auquel l'ancien bien se rapportait;

c) d'une année d'imposition relativement à un bien compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu*, sauf si le contribuable a cessé d'exploiter l'entreprise à laquelle cette catégorie se rapporte.

Reference to "taxation year" and "year" of individual

(16.2) Where a taxpayer is an individual and the taxpayer's income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, if depreciable property acquired for the purpose of gaining or producing income from the business has been disposed of, each reference in subsections 20(16) and 20(16.1) to a "taxation year" and "year" shall, for greater certainty, be read as a reference to a "fiscal period".

Mentions d'« année d'imposition » et d'« année » d'un particulier

(16.2) Lorsque le contribuable est un particulier et que son revenu pour une année d'imposition comprend un revenu tiré d'une entreprise dont l'exercice ne correspond pas à l'année civile et qu'un bien amortissable acquis en vue de tirer un revenu de l'entreprise a fait l'objet d'une disposition, il est entendu que la mention de l'« année d'imposition » et de l'« année » aux paragraphes (16) et (16.1) vaut mention de l'« exercice ».

Disposition after ceasing business

(16.3) Where a taxpayer, after ceasing to carry on a business, has disposed of depreciable property of the taxpayer of a prescribed class that was acquired by the taxpayer for the purpose of gaining or producing income from the business and that was not subsequently used by the taxpayer for some other purpose, in applying subsection 20(16) or 20(16.1), each reference in that subsection to a "taxation year" and "year" shall, notwithstanding anything in subsection 20(16.2), not be read as a reference to a "fiscal period".

Disposition après cessation de l'exploitation

(16.3) Lorsqu'un contribuable, après avoir cessé d'exploiter une entreprise, dispose d'un bien amortissable d'une catégorie prescrite qu'il avait acquis en vue de tirer un revenu de l'entreprise et qu'il n'a pas utilisé par la suite à d'autres fins, la mention de l'« année d'imposition » et de l'« année » aux paragraphes (16) et (16.1) ne vaut pas, malgré le paragraphe (16.2), mention de l' « exercice ».

(17) and (18) [Repealed, 2013, c. 34, s. 180]

(17) et (18) [Abrogés, 2013, ch. 34, art. 180]

Annuity contract

(19) Where a taxpayer has in a particular taxation year received a payment under an annuity contract in respect of which an amount was by virtue of subsection 12(3) included in computing the taxpayer's income for a taxation year commencing before 1983, there may be deducted in

Contrat de rente

(19) Lorsque, au cours d'une année d'imposition donnée, un contribuable a reçu un versement en vertu d'un contrat de rente, à l'égard duquel un montant a été inclus en vertu du paragraphe 12(3) dans le calcul de son revenu pour une année d'imposition commençant avant 1983, est

computing the taxpayer's income for the particular year such amount, if any, as is allowed by regulation.

Life insurance policy

(20) Where in a taxation year a taxpayer disposes of an interest in a life insurance policy that is not an annuity contract (otherwise than as a consequence of a death) or of an interest in an annuity contract (other than a prescribed annuity contract), there may be deducted in computing the taxpayer's income for the year an amount equal to the lesser of

(a) the total of all amounts in respect of the interest in the policy that were included under section 12.2 of this Act or paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in computing the taxpayer's income for the year or a preceding taxation year, and

(b) the amount, if any, by which the adjusted cost basis (within the meaning assigned by section 148) to the taxpayer of that interest immediately before the disposition exceeds the proceeds of the disposition (within the meaning assigned by section 148) of the interest that the policyholder, a beneficiary or an assignee became entitled to receive.

Debt obligation

(21) If a taxpayer has in a particular taxation year disposed of a property that is an interest in, or for civil law a right in, a debt obligation for consideration equal to its fair market value at the time of disposition, there may be deducted in computing the taxpayer's income for the particular year the amount, if any, by which

(a) the total of all amounts each of which is an amount that was included in computing the taxpayer's income for the particular year or a preceding taxation year as interest in respect of that property

exceeds the total of all amounts each of which is

(b) the portion of an amount that was received or became receivable by the taxpayer in the particular year or a preceding taxation year that can reasonably be considered to be in respect of an amount described in paragraph 20(21)(a) and that was not repaid by the taxpayer to the issuer of the debt obligation because of an adjustment in respect of interest received before the time of disposition by the taxpayer, or

(c) an amount in respect of that property that was deductible by the taxpayer by virtue of paragraph 20(14)(b) in computing the taxpayer's income for the particular year or a preceding taxation year.

déductible, dans le calcul de son revenu pour l'année donnée, le montant que permet le règlement.

Police d'assurance-vie

(20) Le contribuable qui, au cours d'une année d'imposition, dispose d'un intérêt dans une police d'assurance-vie qui n'est pas un contrat de rente, autrement qu'à cause d'un décès, ou d'un intérêt dans un contrat de rente autre qu'un contrat de rente visé par règlement peut déduire dans le calcul de son revenu pour l'année le moins élevé des montants suivants :

a) le total des montants à l'égard de l'intérêt inclus en application de l'article 12.2 de la présente loi ou de l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure;

b) l'excédent éventuel du coût de base rajusté (au sens de l'article 148) pour lui de cet intérêt, immédiatement avant la disposition, sur le produit de disposition (au sens de l'article 148) de l'intérêt que le titulaire de la police, un bénéficiaire ou un cessionnaire est devenu en droit de recevoir.

Créance

(21) Lorsque, au cours d'une année d'imposition donnée, un contribuable a disposé d'un bien qui est un intérêt ou, pour l'application du droit civil, un droit sur une créance pour une contrepartie égale à sa juste valeur marchande au moment de la disposition, est déductible, dans le calcul de son revenu pour l'année donnée, l'excédent :

a) du total des montants dont chacun représente un montant qui a été inclus dans le calcul de son revenu pour l'année donnée ou une année d'imposition antérieure au titre des intérêts sur ce bien,

sur le total des montants dont chacun représente :

b) soit la fraction d'un montant reçu ou devenu à recevoir par lui au cours de l'année donnée ou d'une année d'imposition antérieure, qu'il est raisonnable de considérer comme se rapportant à un montant visé à l'alinéa a) et que le contribuable n'a pas remboursée à l'émetteur de la créance en raison d'un redressement des intérêts que le contribuable a reçus avant le moment de la disposition;

c) soit un montant relatif à ce bien et qui était déductible par lui en vertu de l'alinéa (14)b) dans le calcul de son revenu pour l'année donnée ou une année d'imposition antérieure.

Deduction for negative reserves

(22) In computing an insurer's income for a taxation year, there may be deducted the amount included under paragraph 12(1)(e.1) in computing the insurer's income for the preceding taxation year.

Amounts paid for undertaking future obligations

(24) Where an amount is included under paragraph 12(1)(a) in computing a taxpayer's income for a taxation year in respect of an undertaking to which that paragraph applies and the taxpayer paid a reasonable amount in a particular taxation year to another person as consideration for the assumption by that other person of the taxpayer's obligations in respect of the undertaking, if the taxpayer and the other person jointly so elect,

(a) the payment may be deducted in computing the taxpayer's income for the particular year and no amount is deductible under paragraph 20(1)(m) or 20(1)(m.1) in computing the taxpayer's income for that or any subsequent taxation year in respect of the undertaking; and

(b) where the amount was received by the other person in the course of business, it shall be deemed to be an amount described in paragraph 12(1)(a).

Manner of election

(25) An election under subsection 20(24) shall be made by notifying the Minister in writing on or before the earlier of the days on or before which either the payer or the recipient is required to file a return of income pursuant to section 150 for the taxation year in which the payment to which the election relates was made.

(26) [Repealed, 2013, c. 34, s. 180]

Loans, etc., acquired in ordinary course of business

(27) For the purposes of computing a deduction under paragraph 20(1)(l), 20(1)(l.1) or 20(1)(p) from the income for a taxation year of a taxpayer who was an insurer or whose ordinary business included the lending of money, a loan or lending asset or an instrument or commitment described in paragraph 20(1)(l.1) acquired from a person with whom the taxpayer did not deal at arm's length for an amount equal to its fair market value shall be deemed to have been acquired by the taxpayer in the ordinary course of the taxpayer's business of insurance or the lending of money where

Déduction pour provisions négatives

(22) Un assureur peut déduire, dans le calcul de son revenu pour une année d'imposition, la somme incluse en application de l'alinéa 12(1)e.1) dans le calcul de son revenu pour l'année d'imposition précédente.

Paiement contre obligations futures

(24) Lorsqu'un montant au titre d'un engagement auquel l'alinéa 12(1) a) s'applique est inclus, en application de cet alinéa, dans le calcul du revenu d'un contribuable pour une année d'imposition et que le contribuable a payé un montant raisonnable au cours d'une année d'imposition donnée à une autre personne en contrepartie de l'acceptation par celle-ci des obligations du contribuable dans le cadre de l'engagement, les règles suivantes s'appliquent si le contribuable et l'autre personne en font conjointement le choix :

a) le paiement peut être déduit dans le calcul du revenu du contribuable pour l'année donnée, mais aucun montant n'est déductible au titre de l'engagement en application des alinéas (1)m) ou m.1) dans le calcul de son revenu pour cette année ou pour une année d'imposition ultérieure;

b) lorsque l'autre personne reçoit le montant dans le cadre d'une entreprise, le montant est réputé être une somme visée à l'alinéa 12(1)a).

Exercice du choix

(25) Le choix prévu au paragraphe (24) est fait par avis écrit au ministre au plus tard à la date où l'un ou l'autre du débiteur ou du créancier du paiement doit le premier, au plus tard, produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition au cours de laquelle le paiement concerné par le choix a été fait.

(26) [Abrogé, 2013, ch. 34, art. 180]

Prêts acquis dans le cours normal des activités de l'entreprise

(27) Dans le cadre du calcul du montant à déduire en application de l'alinéa (1)l), l.1) ou p) du revenu d'un contribuable — qui est assureur ou dont l'activité d'entreprise habituelle consiste en partie à prêter de l'argent — pour une année d'imposition, un prêt, un titre de crédit ou un effet ou engagement visé à l'alinéa (1)l.1) et que le contribuable acquiert auprès d'une personne avec laquelle il a un lien de dépendance, pour un montant égal à sa juste valeur marchande, est réputé acquis par le contribuable dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent si :

a) d'une part, la personne auprès de qui le prêt titre de crédit ou l'effet ou l'engagement a été acquis

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

(b) the loan or lending asset was made or acquired or the instrument or commitment was issued, made or assumed by the person in the ordinary course of the person's business of insurance or the lending of money.

Application of ss. 13(21) and 138(12)

(27.1) The definitions in subsections 13(21) and 138(12) apply to this section.

Deduction before available for use

(28) In computing a taxpayer's income from a business or property for a taxation year ending before the time a building or a part thereof acquired after 1989 by the taxpayer becomes available for use by the taxpayer, there may be deducted an amount not exceeding the amount by which the lesser of

(a) the amount that would be deductible under paragraph 20(1)(a) for the year in respect of the building if subsection 13(26) did not apply, and

(b) the taxpayer's income for the year from renting the building, computed without reference to this subsection and before deducting any amount in respect of the building under paragraph 20(1)(a)

exceeds

(c) the amount deductible under paragraph 20(1)(a) for the year in respect of the building, computed without reference to this subsection,

and any amount so deducted shall be deemed to be an amount deducted by the taxpayer under paragraph 20(1)(a) in computing the taxpayer's income for the year.

Idem

(29) Where, because of subsection 18(3.1), a deduction would, but for this subsection, not be allowed to a taxpayer in respect of an outlay or expense in respect of a building, or part thereof, and the outlay or expense would, but for that subsection and without reference to this subsection, be deductible in computing the taxpayer's income for a taxation year, there may be deducted in respect of such outlays and expenses in computing the taxpayer's income for the year an amount equal to the lesser of

(a) the total of all such outlays or expenses, and

exploite une entreprise d'assurance ou de prêt d'argent;

b) d'autre part, le prêt ou le titre de crédit a été consenti ou acquis, ou l'effet ou l'engagement a été émis, consenti ou assumé, par la personne dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent.

Application des par. 13(21) et 138(12)

(27.1) Les définitions figurant aux paragraphes 13(21) et 138(12) s'appliquent au présent article.

Déduction relative à un bâtiment

(28) Est déductible dans le calcul du revenu qu'un contribuable tire d'une entreprise ou d'un bien pour une année d'imposition se terminant avant le moment où tout ou partie d'un bâtiment acquis par le contribuable après 1989 est devenu prêt à être mis en service par lui, l'excédent du moins élevé des montants visés aux alinéas a) et b) sur le montant visé à l'alinéa c):

a) le montant qui serait déductible au titre du bâtiment en application de l'alinéa (1)a) pour l'année si le paragraphe 13(26) ne s'appliquait pas;

b) le revenu que le contribuable tire pour l'année de la location du bâtiment, calculé sans le présent paragraphe et avant la déduction d'un montant au titre du bâtiment en application de l'alinéa (1)a);

c) le montant déductible au titre du bâtiment en application de l'alinéa (1)a) pour l'année, calculé sans le présent paragraphe.

Le montant ainsi déduit est réputé l'être par le contribuable en application de l'alinéa (1)a) dans le calcul de son revenu pour l'année.

Idem

(29) Lorsque, par l'effet du paragraphe 18(3.1), aucune déduction ne pourrait être faite par un contribuable, sans le présent paragraphe, à l'égard de dépenses afférentes à tout ou partie d'un bâtiment, mais que ces dépenses seraient déductibles, sans le paragraphe 18(3.1) et le présent paragraphe, dans le calcul du revenu du contribuable pour une année d'imposition, le moins élevé des montants suivants est déductible dans ce calcul pour l'année au titre de telles dépenses :

a) le total de telles dépenses;

b) le revenu que le contribuable tire pour l'année de la location de tout ou partie du bâtiment, calculé sans le paragraphe (28) et le présent paragraphe.

(b) the taxpayer's income for the year from renting the building or the part thereof computed without reference to subsection 20(28) and this subsection.

Specified reserve adjustment

(30) For the purpose of the description of N in subclause 20(1)(l)(ii)(D)(II), the specified reserve adjustment for a loan of a taxpayer for a taxation year is the amount determined by the formula

0.1(A × B × C/365)

where

A is the carrying amount of the impaired loan that is used or would be used in determining the interest income on the loan for the year in accordance with generally accepted accounting principles;

B is the effective interest rate on the loan for the year determined in accordance with generally accepted accounting principles; and

C is the number of days in the year on which the loan is impaired.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 20; 1994, c. 7, Sch. II, s. 15, Sch. VIII, ss. 9, 157, c. 8, s. 3, c. 21, s. 12; 1995, c. 3, s. 7, c. 21, ss. 6, 45; 1997, c. 25, s. 5; 1998, c. 19, ss. 4, 81; 1999, c. 22, s. 9; 2000, c. 19, s. 2; 2001, c. 17, ss. 13, 203; 2003, c. 28, s. 3; 2007, c. 35, s. 14; 2009, c. 2, s. 7; 2010, c. 25, s. 6; 2012, c. 31, s. 8; 2013, c. 33, s. 3, c. 34, ss. 57, 97, 180, c. 40, s. 11; 2016, c. 12, s. 7; 2017, c. 20, s. 4.

Montant de redressement déterminé

(30) Pour l'application de l'élément N de la formule figurant à la subdivision (1)l)(ii)(B)(II), le montant de redressement déterminé pour un prêt d'un contribuable pour une année d'imposition correspond au résultat du calcul suivant :

0,1(A × B × C/365)

où :

A représente la valeur comptable du prêt douteux qui entre ou entrerait dans le calcul du revenu d'intérêts sur le prêt pour l'année en conformité avec les principes comptables généralement reconnus;

B le taux d'intérêt réel sur le prêt pour l'année, déterminé en conformité avec les principes comptables généralement reconnus;

C le nombre de jours de l'année où le prêt est douteux.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 20; 1994, ch. 7, ann. II, art. 15, ann. VIII, art. 9 et 157, ch. 8, art. 3, ch. 21, art. 12; 1995, ch. 3, art. 7, ch. 21, art. 6 et 45; 1997, ch. 25, art. 5; 1998, ch. 19, art. 4 et 81; 1999, ch. 22, art. 9; 2000, ch. 19, art. 2; 2001, ch. 17, art. 13 et 203; 2003, ch. 28, art. 3; 2007, ch. 35, art. 14; 2009, ch. 2, art. 7; 2010, ch. 25, art. 6; 2012, ch. 31, art. 8; 2013, ch. 33, art. 3, ch. 34, art. 57, 97 et 180, ch. 40, art. 11; 2016, ch. 12, art. 7; 2017, ch. 20, art. 4.

PHSP premiums

20.01 (1) Notwithstanding paragraphs 18(1)(a) and (h) and subject to subsection (2), there may be deducted in computing an individual's income for a taxation year from a business carried on by the individual and in which the individual is actively engaged on a regular and continuous basis, directly or as a member of a partnership, an amount payable by the individual or partnership in respect of the year as a premium, contribution or other consideration under a private health services plan in respect of the individual, the individual's spouse or common-law partner or any person who is a member of the individual's household if

(a) in the year or in the preceding taxation year

(i) the total of all amounts each of which is the individual's income from such a business for a fiscal period that ends in the year exceeds 50% of the individual's income for the year, or

(ii) the individual's income for the year does not exceed the total of $10,000 and the total referred to in subparagraph (i) in respect of the individual for the year,

Primes versées a un régime privé d'assurance-maladie

20.01 (1) Malgré les alinéas 18(1)a) et h) et sous réserve du paragraphe (2), un particulier peut déduire, dans le calcul de son revenu pour une année d'imposition tiré d'une entreprise qu'il exploite et à laquelle il prend une part active de façon régulière et continue, directement ou comme associe d'une société de personnes, un montant payable par lui ou par la société de personnes pour l'année à titre de prime, cotisation ou autre contrepartie à un régime privé d'assurance-maladie à l'égard du particulier, de son époux ou conjoint de fait ou d'une personne habitant chez le particulier, si les conditions suivantes sont réunies :

a) au cours de l'année ou de l'année d'imposition précédente, l'un ou l'autre des faits suivants se vérifie :

(i) le total des montants représentant chacun son revenu tiré d'une telle entreprise pour un exercice se terminant dans l'année dépasse le montant représentant 50 % de son revenu pour l'année,

(ii) son revenu pour l'année ne dépasse pas la somme de 10 000 $ et du total visé au sous-alinéa (i) à son égard pour l'année,

on the assumption that the individual's income from each business is computed without reference to this subsection and the individual's income is computed without reference to this subsection and subdivision e; and

(b) the amount is payable under a contract between the individual or partnership and

(i) a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an insurance business or the business of offering to the public its services as trustee,

(ii) a person or partnership engaged in the business of offering to the public its services as an administrator of private health services plans, or

(iii) a person the taxable income of which is exempt under section 149 and that is a business or professional organization of which the individual is a member or a trade union of which the individual or a majority of the individual's employees are members.

Limit

(2) For the purpose of calculating the amount deductible under subsection (1) in computing an individual's income for a taxation year from a particular business,

(a) no amount may be deducted to the extent that

(i) it is deducted under this section in computing another individual's income for any taxation year, or

(ii) it is included in calculating a deduction under section 118.2 in computing an individual's tax payable under this Part for any taxation year;

(b) where an amount payable under a private health services plan relates to a period in the year throughout which

(i) each of one or more persons

(A) is employed on a full-time basis (other than on a temporary or seasonal basis) in the particular business or in another business carried on by

(I) the individual (otherwise than as a member of a partnership),

(II) a partnership of which the individual is a majority-interest partner, or

à supposer que son revenu tiré d'une entreprise soit calculé compte non tenu du présent paragraphe et que son revenu soit calculé compte non tenu du présent paragraphe et de la sous-section e;

b) le montant est payable aux termes d'un contrat que le particulier ou la société de personnes a conclu avec l'une des entités suivantes :

(i) une personne autorisée par licence ou autrement, en vertu de la législation fédérale ou provinciale, à exploiter au Canada une entreprise d'assurance ou une entreprise consistant à offrir ses services au publie en tant que fiduciaire,

(ii) une personne ou une société de personnes dont l'entreprise consiste à offrir ses services au public en tant qu'administrateur de régimes privés d'assurance-maladie,

(iii) une personne dont le revenu imposable est exonéré en vertu de l'article 149 et qui est soit une organisation commerciale ou professionnelle dont le particulier est membre, soit un syndicat dont le particulier ou la majorité de ses employés sont membres.

Restriction

(2) Pour le calcul du montant qui est déductible en application du paragraphe (1) dans le calcul du revenu d'un particulier pour une année d'imposition tiré d'une entreprise donnée, les règles suivantes s'appliquent :

a) un montant n'est pas déductible dans la mesure où, selon le cas :

(i) il est déduit en application du présent article dans le calcul du revenu d'un autre particulier pour une année d'imposition,

(ii) il entre dans le calcul de la déduction prévue à l'article 118.2 dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition;

b) lorsqu'un montant payable dans le cadre d'un régime privé d'assurance-maladie se rapporte à une période de l'année tout au long de laquelle les circonstances suivantes existent :

(i) une ou plusieurs personnes :

(A) occupent chacune un emploi à temps plein (mais non à titre temporaire ou saisonnier) dans l'entreprise donnée ou une autre entreprise exploitée par l'une des entités suivantes :

(III) a corporation affiliated with the individual, and

(B) has accumulated not less than three months of service in that employment since the person last became so employed, and

(ii) the total number of persons employed in a business described in clause (i)(A), with whom the individual deals at arm's length and to whom coverage is extended under the plan, is not less than 50% of the total number of persons each of whom is a person

(A) who carries on the particular business or is employed in a business described in clause (i)(A), and

(B) to whom coverage is extended under the plan,

the amount so deductible in relation to the period shall not exceed the individual's cost of equivalent coverage under the plan in respect of each employed person who deals at arm's length with the individual and who is described in subparagraph (i) in relation to the period;

(c) subject to paragraph (d), where an amount payable under a private health services plan relates to a particular period in the year, other than a period described in paragraph (b), the amount so deductible in relation to the particular period shall not exceed the amount determined by the formula

(A/365) × (B + C)

where

A is the number of days in the year that are included in the particular period,

B is the product obtained when $1,500 is multiplied by the number of persons each of whom is covered under the plan, and

(i) is the individual or the individual's spouse or common-law partner, or

(ii) is a member of the individual's household and has attained the age of 18 years before the beginning of the particular period, and

C is the product obtained when $750 is multiplied by the number of members of the individual's household who, but for the fact that they have not attained the age of 18 years before the particular period began, would be included in computing the product under the description of B; and

(I) le particulier (autrement qu'à titre d'associé d'une société de personnes),

(II) une société de personnes dont le particulier est l'associé détenant une participation majoritaire,

(III) une société affiliée au particulier,

(B) comptent chacune au moins trois mois de service depuis leur dernier embauchage par l'entreprise,

(ii) le nombre total de personnes employées dans une entreprise visée à la division (i)(A), avec lesquelles le particulier n'a aucun lien de dépendance et qui sont couvertes par le régime, compte pour au moins 50 % du nombre total de personnes dont chacune, à la fois :

(A) exploite l'entreprise donnée ou occupe un emploi dans une entreprise visée à la division (i)(A),

(B) est couverte par le régime,

le montant ainsi déductible pour la période ne peut dépasser le coût pour le particulier d'une protection équivalente dans le cadre du régime à l'égard de chaque personne occupant un emploi qui est visée au sous-alinéa (i) pour la période et qui n'a aucun lien de dépendance avec le particulier;

c) sous réserve de l'alinéa d), lorsqu'un montant payable dans le cadre d'un régime privé d'assurance-maladie se rapporte à une période de l'année, sauf la période visée à l'alinéa b), le montant ainsi déductible pour la période ne peut dépasser le montant obtenu par la formule suivante :

(A/365) × (B + C)

où :

A représente le nombre de jours de l'année qui font partie de la période,

B le produit de la multiplication de 1500 $ par le nombre de personnes dont chacune est couverte par le régime et, selon le cas :

(i) est le particulier ou son époux ou conjoint de fait,

(ii) habite chez le particulier et a atteint l'âge de 18 ans avant le début de la période,

(d) where an amount payable under a private health services plan relates to a particular period in the year (other than a period described in paragraph (b)) and one or more persons with whom the individual deals at arm's length are described in subparagraph (b)(i) in relation to the particular period, the amount so deductible in relation to the particular period shall not exceed the lesser of the amount determined under the formula set out in paragraph (c) and the individual's cost of equivalent coverage in respect of any such person in relation to the particular period.

C le produit de la multiplication de 750 $ par le nombre de personnes qui habitent chez le particulier et qui, si ce n'était le fait qu'elles n'ont pas atteint l'âge de 18 ans avant le début de la période, seraient prises en compte dans le calcul du produit visé à l'élément B;

d) lorsqu'un montant payable dans le cadre d'un régime privé d'assurance-maladie se rapporte à une période de l'année, sauf la période visée à l'alinéa b), et qu'une ou plusieurs personnes avec lesquelles le particulier n'a aucun lien de dépendance sont visées au sous-alinéa b)(i) relativement à la période, le montant ainsi déductible pour la période ne peut dépasser le montant obtenu par la formule figurant à l'alinéa c) ou, s'il est moins élevé, le coût pour le particulier d'une protection équivalente à l'égard de ces personnes relativement à la période.

Equivalent coverage

(3) For the purpose of subsection (2), an amount payable in respect of an individual under a private health services plan in relation to a period does not exceed the individual's cost of equivalent coverage under the plan in respect of another person in relation to the period to the extent that, in relation to the period, the amount does not exceed the product obtained when

(a) the amount that would be the individual's cost of coverage under the plan if the benefits and coverage in respect of the individual, the individual's spouse or common-law partner and the members of the individual's household were identical to the benefits and coverage made available in respect of the other person, the other person's spouse or common-law partner and the members of the other person's household

is multiplied by

(b) the percentage of the cost of coverage under the plan in respect of the other person that is payable by the individual or a partnership of which the individual is a member.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1999, c. 22, s. 10; 2000, c. 12, s. 142; 2013, c. 40, s. 12(E).

Protection équivalente

(3) Pour l'application du paragraphe (2), le montant payable à l'égard d'un particulier dans le cadre d'un régime privé d'assurance-maladie pour une période ne dépasse pas le coût, pour lui, d'une protection équivalente dans le cadre du régime à l'égard d'une autre personne pour la période dans la mesure où, pour la période, le montant ne dépasse pas le produit de la multiplication des montants suivants :

a) le montant qui représenterait le coût, pour le particulier, d'une protection dans le cadre du régime si les prestations et la protection relatives au particulier, à son époux ou conjoint de fait et aux personnes habitant chez le particulier étaient identiques à celles offertes à l'égard de l'autre personne, de son époux ou conjoint de fait et des personnes habitant chez elle;

b) le pourcentage du coût d'une protection dans le cadre du régime à l'égard de l'autre personne qui est payable par le particulier ou par une société de personnes dont il est un associé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1999, ch. 22, art. 10; 2000, ch. 12, art. 142; 2013, ch. 40, art. 12(A).

Borrowed money used to earn income from property

20.1 (1) Where

(a) at any time after 1993 borrowed money ceases to be used by a taxpayer for the purpose of earning income from a capital property (other than real or immovable property or depreciable property), and

(b) the amount of the borrowed money that was so used by the taxpayer immediately before that time exceeds the total of

Argent emprunté pour tirer un revenu d'un bien

20.1 (1) Le contribuable qui, à un moment donné, cesse d'utiliser de l'argent emprunté en vue de tirer un revenu d'une immobilisation (sauf un bien immeuble ou réel ou un bien amortissable) est réputé continuer à ainsi utiliser la fraction de l'argent emprunté qui correspond à l'excédent visé à l'alinéa b), dans la mesure où cette fraction reste à rembourser après ce moment, si les conditions ci-après sont réunies :

a) le moment donné est postérieur à 1993;

(i) where the taxpayer disposed of the property at that time for an amount of consideration that is not less than the fair market value of the property at that time, the amount of the borrowed money used to acquire the consideration,

(ii) where the taxpayer disposed of the property at that time and subparagraph 20.1(1)(b)(i) does not apply, the amount of the borrowed money that, if the taxpayer had received as consideration an amount of money equal to the amount by which the fair market value of the property at that time exceeds the amount included in the total by reason of subparagraph 20.1(1)(b)(iii), would be considered to be used to acquire the consideration,

(iii) where the taxpayer disposed of the property at that time for consideration that includes a reduction in the amount of the borrowed money, the amount of the reduction, and

(iv) where the taxpayer did not dispose of the property at that time, the amount of the borrowed money that, if the taxpayer had disposed of the property at that time and received as consideration an amount of money equal to the fair market value of the property at that time, would be considered to be used to acquire the consideration,

an amount of the borrowed money equal to the excess shall, to the extent that the amount is outstanding after that time, be deemed to be used by the taxpayer for the purpose of earning income from the property.

b) la fraction de l'argent emprunté ainsi utilisée par le contribuable immédiatement avant le moment donné excède le total des montants suivants :

(i) si le contribuable a disposé de l'immobilisation au moment donné pour une contrepartie au moins égale à sa juste valeur marchande à ce moment, la fraction de l'argent emprunté qui a servi à acquérir la contrepartie,

(ii) si le contribuable a disposé de l'immobilisation à ce moment et que le sous-alinéa (i) ne s'applique pas, la fraction de l'argent emprunté qui serait considérée comme ayant servi à acquérir la contrepartie si le contribuable avait reçu, à titre de contrepartie, une somme égale à l'excédent de la juste valeur marchande de l'immobilisation à ce moment sur le montant inclus dans le total par l'effet du sous-alinéa (iii),

(iii) si le contribuable a disposé de l'immobilisation à ce moment pour une contrepartie comprenant une réduction du montant d'argent emprunté, le montant de cette réduction,

(iv) si le contribuable n'a pas disposé de l'immobilisation à ce moment, la fraction de l'argent emprunté qui aurait été considérée comme ayant servi à acquérir la contrepartie si le contribuable avait disposé de l'immobilisation à ce moment en contrepartie d'une somme égale à sa juste valeur marchande à ce moment.

Borrowed money used to earn income from business

(2) Where at any particular time after 1993 a taxpayer ceases to carry on a business and, as a consequence, borrowed money ceases to be used by the taxpayer for the purpose of earning income from the business, the following rules apply:

(a) where, at any time (in this paragraph referred to as the "time of disposition") at or after the particular time, the taxpayer disposes of property that was last used by the taxpayer in the business, an amount of the borrowed money equal to the lesser of

(i) the fair market value of the property at the time of disposition, and

(ii) the amount of the borrowed money outstanding at the time of disposition that is not deemed by this paragraph to have been used before the time of disposition to acquire any other property

Argent emprunté pour tirer un revenu d'une entreprise

(2) Lorsque, à un moment donné après 1993, un contribuable cesse d'exploiter une entreprise et cesse, par conséquent, d'utiliser de l'argent emprunté en vue de tirer un revenu de l'entreprise, les règles suivantes s'appliquent :

a) lorsque, à un moment coïncidant avec le moment donné ou postérieur à celui-ci (appelé « moment de la disposition » au présent alinéa), le contribuable dispose d'un bien qu'il a utilisé pour la dernière fois dans la cadre de son entreprise, il est réputé avoir utilisé, immédiatement avant le moment de la disposition, la fraction de l'argent emprunté qui correspond au moins élevé des montants suivants pour acquérir le bien :

(i) la juste valeur marchande du bien au moment de la disposition,

(ii) la fraction de l'argent emprunté qui reste à rembourser au moment de la disposition et qui

shall be deemed to have been used by the taxpayer immediately before the time of disposition to acquire the property;

(b) subject to paragraph 20.1(2)(a), the borrowed money shall, after the particular time, be deemed not to have been used to acquire property that was used by the taxpayer in the business;

(c) the portion of the borrowed money outstanding at any time after the particular time that is not deemed by paragraph 20.1(2)(a) to have been used before that subsequent time to acquire property shall be deemed to be used by the taxpayer at that subsequent time for the purpose of earning income from the business; and

(d) the business shall be deemed to have fiscal periods after the particular time that coincide with the taxation years of the taxpayer, except that the first such fiscal period shall be deemed to begin at the end of the business's last fiscal period that began before the particular time.

n'est pas réputée, par le présent alinéa, avoir été utilisée avant le moment de la disposition pour acquérir un autre bien;

b) sous réserve de l'alinéa a), l'argent emprunté est réputé, après le moment donné, ne pas avoir été utilisé pour acquérir un bien que le contribuable a utilisé dans le cadre de son entreprise;

c) la fraction de l'argent emprunté qui reste à rembourser après le moment donné et qui n'est pas réputée, par l'alinéa a), avoir été utilisée avant ce moment ultérieur pour acquérir un bien est réputée avoir été utilisée par le contribuable à ce moment ultérieur en vue de tirer un revenu de l'entreprise;

d) après le moment donné, les exercices de l'entreprise sont réputés coïncider avec les années d'imposition du contribuable, sauf que le premier de ces exercices est réputé commencer à la fin du dernier exercice de l'entreprise commençant avant le moment donné.

Deemed dispositions

(3) For the purpose of paragraph 20.1(2)(a),

(a) where a property was used by a taxpayer in a business that the taxpayer has ceased to carry on, the taxpayer shall be deemed to dispose of the property at the time at which the taxpayer begins to use the property in another business or for any other purpose;

(b) where a taxpayer, who has at any time ceased to carry on a business, regularly used a property in part in the business and in part for some other purpose,

(i) the taxpayer shall be deemed to have disposed of the property at that time, and

(ii) the fair market value of the property at that time shall be deemed to equal the proportion of the fair market value of the property at that time that the use regularly made of the property in the business was of the whole use regularly made of the property; and

(c) where the taxpayer is a trust, subsections 104(4) to 104(5.2) do not apply.

Présomption de disposition

(3) Les règles suivantes s'appliquent dans le cadre de l'alinéa 2a):

a) lorsqu'un bien était utilisé par un contribuable dans le cadre d'une entreprise qu'il a cessé d'exploiter, le contribuable est réputé disposer du bien au moment où il commence à l'utiliser dans le cadre d'une autre entreprise ou à une autre fin;

b) lorsqu'un bien était utilisé habituellement par un contribuable en partie dans le cadre d'une entreprise qu'il a cessé d'exploiter à un moment donné et en partie à une autre fin, les présomptions suivantes s'appliquent :

(i) le contribuable est réputé avoir disposé du bien à ce moment,

(ii) la juste valeur marchande du bien à ce moment est réputée être égale au produit de la multiplication de sa juste valeur marchande à ce moment par le rapport entre l'usage qui en est fait habituellement dans le cadre de l'entreprise et l'usage total habituel du bien;

c) lorsque le contribuable est une fiducie, les paragraphes 104(4) à (5.2) ne s'appliquent pas.

Amount payable for property

(4) Where an amount is payable by a taxpayer for property, the amount shall be deemed, for the purposes of this section and, where subsection 20.1(2) applies with

Montant payable pour un bien

(4) La somme qui est payable pour un bien par un contribuable est réputée, pour l'application du présent article et, si le paragraphe (2) s'applique à la somme,

respect to the amount, for the purposes of this Act, to be payable in respect of borrowed money used by the taxpayer to acquire the property.

Interest in partnership

(5) For the purposes of this section, where borrowed money that has been used to acquire an interest in a partnership is, as a consequence, considered to be used at any time for the purpose of earning income from a business or property of the partnership, the borrowed money shall be deemed to be used at that time for the purpose of earning income from property that is the interest in the partnership and not to be used for the purpose of earning income from the business or property of the partnership.

Refinancings

(6) Where at any time a taxpayer uses borrowed money to repay money previously borrowed that was deemed by paragraph 20.1(2)(c) immediately before that time to be used for the purpose of earning income from a business,

(a) paragraphs 20.1(2)(a) to 20.1(2)(c) apply with respect to the borrowed money; and

(b) subsection 20(3) does not apply with respect to the borrowed money.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 21, s. 13; 2013, c. 34, s. 98.

Interest — authorized foreign bank — interpretation

20.2 (1) The following definitions apply in this section.

branch advance of an authorized foreign bank means an amount allocated or provided by, or on behalf of, the bank to, or for the benefit of, its Canadian banking business under terms that were documented, before the amount was so allocated or provided, to the same extent as, and in a form similar to the form in which, the bank would ordinarily document a loan by it to a person with whom it deals at arm's length. (*avance de succursale*)

branch financial statements of an authorized foreign bank for a taxation year means the unconsolidated statements of assets and liabilities and of income and expenses for the year, in respect of its Canadian banking business,

(a) that form part of the bank's annual report for the year filed with the Superintendent of Financial Institutions as required under section 601 of the *Bank Act*, and accepted by the Superintendent, and

(b) if no filing is so required for the taxation year, that are prepared in a manner consistent with the

pour l'application de la présente loi, être payable relativement à de l'argent emprunté et utilisé par le contribuable pour acquérir le bien.

Participation dans une société de personnes

(5) Pour l'application du présent article, l'argent emprunté qui a été utilisé pour acquérir une participation dans une société de personnes et qui, en conséquence, est considéré comme étant utilisé à un moment donné afin de tirer un revenu d'une entreprise ou d'un bien de la société de personnes est réputé être utilisé à ce moment afin de tirer un revenu d'un bien qui est la participation dans la société de personnes et non pas être utilisé afin de tirer un revenu de l'entreprise ou du bien de celle-ci.

Refinancement

(6) Lorsque, à un moment donné, un contribuable utilise de l'argent emprunté pour rembourser une somme empruntée antérieurement qui était réputée, par l'alinéa (2)c) et immédiatement avant ce moment, être utilisée en vue de tirer un revenu d'une entreprise, les règles suivantes s'appliquent :

a) les alinéas (2)a) à c) s'appliquent à l'argent emprunté;

b) le paragraphe 20(3) ne s'applique pas à l'argent emprunté.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 21, art. 13; 2013, ch. 34, art. 98.

Intérêts — banque étrangère autorisée — définitions

20.2 (1) Les définitions qui suivent s'appliquent au présent article.

avance de succursale En ce qui concerne une banque étrangère autorisée, montant attribué ou fourni par la banque, ou en son nom, à son entreprise bancaire canadienne, ou pour son compte, selon des modalités qui, avant l'attribution ou la fourniture du montant, ont été documentées comme le serait habituellement, eu égard à l'étendue et à la forme des documents, un prêt que la banque consentirait à une personne avec laquelle elle n'a aucun lien de dépendance. (*branch advance*)

états financiers de succursale États non consolidés des actif et passif et des recettes et dépenses d'une banque étrangère autorisée pour une année d'imposition, relativement à son entreprise bancaire canadienne, qui :

a) font partie de l'état annuel de la banque pour l'année, envoyé au surintendant des institutions financières conformément à l'article 601 de la *Loi sur les banques* et accepté par ce dernier;

statements in the annual report or reports so filed and accepted for the period or periods in which the taxation year falls,

except if the Minister demonstrates that the statements are not prepared in accordance with generally-accepted accounting principles in Canada as modified by any specifications applicable to the bank made by the Superintendent of Financial Institutions under subsection 308(4) of the *Bank Act* (in this definition referred to as "modified GAAP"), in which case it means the statements subject to such modifications as are required to make them comply with modified GAAP. (*états financiers de succursale*)

calculation period of an authorized foreign bank for a taxation year means any one of a series of regular periods into which the year is divided in a designation by the bank in its return of income for the year or, in the absence of such a designation, by the Minister,

(a) none of which is longer than 31 days;

(b) the first of which commences at the beginning of the year and the last of which ends at the end of the year; and

(c) that are, unless the Minister otherwise agrees in writing, consistent with the calculation periods designated for the bank's preceding taxation year. (*période de calcul*)

b) si tel envoi n'est pas requis pour l'année, sont établis conformément aux énoncés figurant dans l'état annuel ou les états annuels ainsi envoyés et acceptés pour la ou les périodes comprenant l'année.

Toutefois si le ministre démontre que les états ne sont pas établis selon les principes comptables généralement reconnus au Canada, modifiés par toute spécification applicable à la banque faite par le surintendant des institutions financières en vertu du paragraphe 308(4) de la *Loi sur les banques* (appelés « PCGR modifiés » à la présente définition), ***états financiers de succursale*** s'entend des états en question, sous réserve des modifications dont ils doivent faire l'objet pour les rendre conformes aux PCGR modifiés. (*branch financial statements*)

période de calcul En ce qui concerne une banque étrangère autorisée pour une année d'imposition, l'une d'une série de périodes régulières en lesquelles l'année a été divisée par la banque dans sa déclaration de revenu pour l'année ou, sinon, par le ministre, et qui répondent aux conditions suivantes :

a) aucune période ne compte plus de 31 jours;

b) la première commence au début de l'année et la dernière se termine à la fin de l'année;

c) elles sont conformes aux périodes de calcul établies pour l'année d'imposition précédente, sauf si le ministre donne son accord écrit pour qu'il en soit autrement. (*calculation period*)

Formula elements

(2) The following descriptions apply for the purposes of the formulae in subsection (3) for any calculation period in a taxation year of an authorized foreign bank:

A is the amount of the bank's assets at the end of the period;

BA is the amount of the bank's branch advances at the end of the period;

IBA is the total of all amounts each of which is a reasonable amount on account of notional interest for the period, in respect of a branch advance, that would be deductible in computing the bank's income for the year if it were interest payable by, and the advance were indebtedness of, the bank to another person and if this Act were read without reference to paragraph 18(1)(v) and this section;

IL is the total of all amounts each of which is an amount on account of interest for the period in respect of a liability of the bank to another person or partnership that would be deductible in computing

Éléments des formules

(2) Pour ce qui est d'une période de calcul comprise dans une année d'imposition d'une banque étrangère autorisée, dans les formules figurant au paragraphe (3):

A représente les éléments d'actif de la banque à la fin de la période;

AS les avances de succursale de la banque à la fin de la période;

D les dettes de la banque envers d'autres personnes et des sociétés de personnes à la fin de la période;

IAS le total des montants représentant chacun un montant raisonnable au titre des intérêts théoriques courus pour la période sur une avance de succursale, qui seraient déductibles dans le calcul du revenu de la banque pour l'année s'il s'agissait d'intérêts payables par la banque à une autre personne, si l'avance représentait une dette de la banque et s'il n'était pas tenu compte de l'alinéa 18(1)v) ni du présent article;

the bank's income for the year if this Act were read without reference to paragraph 18(1)(v) and this section; and

L is the amount of the bank's liabilities to other persons and partnerships at the end of the period.

Interest deduction

(3) In computing the income of an authorized foreign bank from its Canadian banking business for a taxation year, there may be deducted on account of interest for each calculation period of the bank for the year,

(a) where the total amount at the end of the period of its liabilities to other persons and partnerships and branch advances is 95% or more of the amount of its assets at that time, an amount not exceeding

(i) if the amount of liabilities to other persons and partnerships at that time is less than 95% of the amount of its assets at that time, the amount determined by the formula

IL + IBA × (0.95 × A - L)/BA

and

(ii) if the amount of those liabilities at that time is greater than or equal to 95% of the amount of its assets at that time, the amount determined by the formula

IL × (0.95 × A)/L

and

(b) in any other case, the total of

(i) the amount determined by the formula

IL + IBA

and

(ii) the product of

(A) the amount claimed by the bank, in its return of income for the year, not exceeding the amount determined by the formula

(0.95 × A) - (L + BA)

and

(B) the average, based on daily observations, of the Bank of Canada bank rate for the period.

ID le total des montants représentant chacun un montant au titre des intérêts courus pour la période sur une dette de la banque envers une autre personne ou une société de personnes, qui seraient déductibles dans le calcul du revenu de la banque pour l'année s'il n'était pas tenu compte de l'alinéa 18(1)v) ni du présent article.

Déduction des intérêts

(3) Les montants ci-après sont déductibles, dans le calcul du revenu d'une banque étrangère autorisée provenant de son entreprise bancaire canadienne pour une année d'imposition, au titre des intérêts pour chacune de ses périodes de calcul de l'année :

a) si la somme, à la fin de la période, de ses dettes envers d'autres personnes et des sociétés de personnes et de ses avances de succursale représente au moins 95 % de ses éléments d'actif à ce moment, un montant n'excédant pas le montant applicable suivant :

(i) si le montant de ces dettes à ce moment est inférieur à 95 % de ses éléments d'actif à ce moment, le montant obtenu par la formule suivante :

ID + IAS × (0,95 × A - D)/AS

(ii) si le montant de ces dettes à ce moment est égal ou supérieur à 95 % de ses éléments d'actif à ce moment, le montant obtenu par la formule suivante :

ID × (0,95 × A)/D

b) dans les autres cas, la somme des montants suivants :

(i) le montant obtenu par la formule suivante :

ID + IAS

(ii) le produit des montants suivants :

(A) le montant que la banque demande dans sa déclaration de revenu pour l'année, n'excédant pas le montant obtenu par la formule suivante :

(0,95 × A) - (D + AS)

(B) la moyenne, établie d'après des observations quotidiennes, du taux d'escompte de la Banque du Canada pour la période.

Branch amounts

(4) Only amounts that are in respect of an authorized foreign bank's Canadian banking business, and that are recorded in the books of account of the business in a manner consistent with the manner in which they are required to be treated for the purposes of the branch financial statements, shall be used to determine

(a) the amounts in subsection (2); and

(b) the amounts in subsection (3) of an authorized foreign bank's assets, liabilities to other persons and partnerships, and branch advances.

Notional interest

(5) For the purposes of the description of IBA in subsection (2), a reasonable amount on account of notional interest for a calculation period in respect of a branch advance is the amount that would be payable on account of interest for the period by a notional borrower, having regard to the duration of the advance, the currency in which repayment is required and all other terms, as adjusted by paragraph (c), of the advance, if

(a) the borrower were a person that dealt at arm's length with the bank, that carried on the bank's Canadian banking business and that had the same creditworthiness and borrowing capacity as the bank;

(b) the advance were a loan by the bank to the borrower; and

(c) any of the terms of the advance (excluding the rate of interest, but including the structure of the interest calculation, such as whether the rate is fixed or floating and the choice of any reference rate referred to) that are not terms that would be made between the bank as lender and the borrower, having regard to all the circumstances, including the nature of the Canadian banking business, the use of the advanced funds in the business and normal risk management practices for banks, were instead terms that would be agreed to by the bank and the borrower.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 14.

Montants applicables à la succursale

(4) Seuls les montants se rapportant à l'entreprise bancaire canadienne d'une banque étrangère autorisée qui sont inscrits dans les documents comptables de l'entreprise conformément à la manière dont ils doivent être traités aux fins d'établissement des états financiers de succursale servent à déterminer les montants suivants :

a) les montants visés au paragraphe (2);

b) les montants visés au paragraphe (3) représentant les éléments d'actif d'une banque étrangère autorisée, ses dettes envers d'autres personnes ou des sociétés de personnes et ses avances de succursale.

Intérêts théoriques

(5) Pour l'application de l'élément IAS visé au paragraphe (2), est un montant raisonnable au titre des intérêts théoriques courus pour une période de calcul sur une avance de succursale le montant qui serait payable au titre des intérêts pour la période par un emprunteur théorique, compte tenu de la durée de l'avance, de la monnaie dans laquelle elle doit être remboursée et de ses autres modalités, modifiées par l'alinéa c), si, à la fois :

a) l'emprunteur était une personne sans lien de dépendance avec la banque exploitant l'entreprise bancaire canadienne de celle-ci et jouissant de la même réputation de solvabilité et de la même capacité d'emprunt qu'elle;

b) l'avance était un prêt consenti par la banque à l'emprunteur;

c) les modalités de l'avance (autres que le taux d'intérêt, mais incluant la structure du calcul des intérêts, comme le choix du taux de référence ou la question de savoir si le taux est fixe ou variable) qui ne font pas partie des modalités qui seraient établies entre la banque à titre de prêteur et l'emprunteur compte tenu de toutes les circonstances, y compris la nature de l'entreprise bancaire canadienne, l'utilisation des fonds avancés dans le cadre de l'entreprise et les pratiques normales des banques en matière de gestion des risques, étaient des modalités qui seraient conclues entre la banque et l'emprunteur.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 14.

Weak currency debt — interpretation

20.3 (1) The definitions in this subsection apply in this section.

exchange date in respect of a debt of a taxpayer that is at any time a weak currency debt means, if the debt is incurred or assumed by the taxpayer

Dette en devise faible — définitions

20.3 (1) Les définitions qui suivent s'appliquent au présent article.

date de l'échange En ce qui concerne la dette d'un contribuable qui est une dette en devise faible à un moment quelconque :

(a) in respect of borrowed money that is denominated in the final currency, the day that the debt is incurred or assumed by the taxpayer; and

(b) in respect of borrowed money that is not denominated in the final currency, or in respect of the acquisition of property, the day on which the taxpayer uses the borrowed money or the acquired property, directly or indirectly, to acquire funds that are, or to settle an obligation that is, denominated in the final currency. (*date de l'échange*)

hedge in respect of a debt of a taxpayer that is at any time a weak currency debt means any agreement made by the taxpayer

(a) that can reasonably be regarded as having been made by the taxpayer primarily to reduce the taxpayer's risk, with respect to payments of principal or interest in respect of the debt, of fluctuations in the value of the weak currency; and

(b) that is identified by the taxpayer as a hedge in respect of the debt in a designation in prescribed form filed with the Minister on or before the 30th day after the day the taxpayer enters into the agreement. (*opération de couverture*)

weak currency debt of a taxpayer at a particular time means a particular debt in a foreign currency (in this section referred to as the "weak currency"), incurred or assumed by the taxpayer at a time (in this section referred to as the "commitment time") after February 27, 2000, in respect of a borrowing of money or an acquisition of property, where

(a) any of the following applies, namely,

(i) the borrowed money is denominated in a currency (in this section referred to as the "final currency") other than the weak currency, is used for the purpose of earning income from a business or property and is not used to acquire funds in a currency other than the final currency,

(ii) the borrowed money or the acquired property is used, directly or indirectly, to acquire funds that are denominated in a currency (in this section referred to as the "final currency") other than the weak currency, that are used for the purpose of earning income from a business or property and that are not used to acquire funds in a currency other than the final currency,

(iii) the borrowed money or the acquired property is used, directly or indirectly, to settle an obligation that is denominated in a currency (in this section

a) si la dette est contractée ou prise en charge par le contribuable relativement à de l'argent emprunté libellé dans la devise utilisée pour gagner un revenu, la date à laquelle il la contracte ou la prend en charge;

b) si la dette est contractée ou prise en charge par le contribuable relativement à de l'argent emprunté qui n'est pas libellé dans la devise utilisée pour gagner un revenu ou relativement à l'acquisition d'un bien, la date à laquelle il utilise l'argent emprunté ou le bien acquis, directement ou indirectement, pour acquérir des fonds libellés dans cette devise ou pour régler une obligation ainsi libellée. (*exchange date*)

dette en devise faible S'agissant d'une dette en devise faible d'un contribuable à un moment donné, dette donnée en monnaie étrangère (appelée « devise faible » au présent article) contractée ou prise en charge par le contribuable à un moment (appelé « moment de l'engagement » au présent article) postérieur au 27 février 2000, relativement à un emprunt d'argent ou à une acquisition de bien, si les conditions suivantes sont réunies :

a) selon le cas :

(i) l'argent emprunté est libellé dans une devise (appelée « devise utilisée pour gagner un revenu » au présent article) autre que la devise faible et sert à tirer un revenu d'une entreprise ou d'un bien, mais non à acquérir des fonds dans une devise autre que la devise utilisée pour gagner un revenu,

(ii) l'argent emprunté ou le bien acquis est utilisé, directement ou indirectement, pour acquérir des fonds libellés dans une devise (appelée « devise utilisée pour gagner un revenu » au présent article) autre que la devise faible, qui servent à tirer un revenu d'une entreprise ou d'un bien, mais non à acquérir des fonds dans une devise autre que la devise utilisée pour gagner un revenu,

(iii) l'argent emprunté ou le bien acquis est utilisé, directement ou indirectement, pour régler une obligation libellée dans une devise (appelée « devise utilisée pour gagner un revenu » au présent article) autre que la devise faible, qui est contractée ou prise en charge pour tirer un revenu d'une entreprise ou d'un bien, mais non pour acquérir des fonds dans une devise autre que la devise utilisée pour gagner un revenu,

(iv) l'argent emprunté ou le bien acquis est utilisé, directement ou indirectement, pour régler une autre dette du contribuable qui est une dette en devise faible à un moment quelconque relativement à laquelle la devise utilisée pour gagner un revenu

referred to as the "final currency") other than the weak currency, that is incurred or assumed for the purpose of earning income from a business or property and that is not incurred or assumed to acquire funds in a currency other than the final currency, or

(iv) the borrowed money or the acquired property is used, directly or indirectly, to settle another debt of the taxpayer that is at any time a weak currency debt in respect of which the final currency (which is deemed to be the final currency in respect of the particular debt) is a currency other than the currency of the particular debt;

(b) the amount of the particular debt (together with any other debt that would, but for this paragraph, be at any time a weak currency debt, and that can reasonably be regarded as having been incurred or assumed by the taxpayer as part of a series of transactions that includes the incurring or assumption of the particular debt) exceeds $500,000; and

(c) either of the following applies, namely,

(i) if the rate at which interest is payable at the particular time in the weak currency in respect of the particular debt is determined under a formula based on the value from time to time of a reference rate (other than a reference rate the value of which is established or materially influenced by the taxpayer), the interest rate at the commitment time, as determined under the formula as though interest were then payable, exceeds by more than two percentage points the rate at which interest would have been payable at the commitment time in the final currency if

(A) the taxpayer had, at the commitment time, instead incurred or assumed an equivalent amount of debt in the final currency on the same terms as the particular debt (excluding the rate of interest but including the structure of the interest calculation, such as whether the rate is fixed or floating) with those modifications that the difference in currency requires, and

(B) interest on the equivalent amount of debt referred to in clause (A) was payable at the commitment time, or

(ii) in any other case, the rate at which interest is payable at the particular time in the weak currency in respect of the particular debt exceeds by more than two percentage points the rate at which interest would have been payable at the particular time in the final currency if at the commitment time the taxpayer had instead incurred or assumed an

(qui est réputée être la devise utilisée pour gagner un revenu relative à la dette donnée) est une devise autre que celle de la dette donnée;

b) le montant de la dette donnée (et de toute autre dette qui serait une dette en devise faible à un moment quelconque en l'absence du présent alinéa et qu'il est raisonnable de considérer comme ayant été contractée ou prise en charge par le contribuable à l'occasion d'une série d'opérations dans le cadre de laquelle la dette donnée a été contractée ou prise en charge) excède 500 000 $;

c) selon le cas :

(i) si le taux auquel les intérêts sont payables au moment donné dans la devise faible relativement à la dette donnée est déterminé selon une formule fondée sur la valeur d'un taux de référence (sauf celui dont la valeur est affectée de façon appréciable, ou établie, par le contribuable), le taux d'intérêt au moment de l'engagement, déterminé selon la formule comme si des intérêts étaient alors payables, excède de plus de deux points de pourcentage le taux auquel les intérêts auraient été payables à ce moment dans la devise utilisée pour gagner un revenu si, à la fois :

(A) le contribuable, au moment de l'engagement, avait plutôt contracté ou pris en charge, dans la devise utilisée pour gagner un revenu, une dette équivalente selon les mêmes modalités que celles de la dette donnée (à l'exception du taux d'intérêt, mais incluant la structure du calcul des intérêts, comme la question de savoir si le taux est fixe ou variable), compte tenu des modifications que nécessite l'écart entre les devises,

(B) des intérêts sur la dette équivalente mentionnée à la division (A) avaient été payables au moment de l'engagement,

(ii) sinon, le taux auquel les intérêts sont payables au moment donné dans la devise faible relativement à la dette donnée excède de plus de deux points de pourcentage celui auquel les intérêts auraient été payables à ce moment dans la devise utilisée pour gagner un revenu si, au moment de l'engagement, le contribuable avait plutôt contracté ou pris en charge, dans la devise utilisée pour gagner un revenu, une dette équivalente selon les mêmes modalités que celles de la dette donnée (à l'exception du taux d'intérêt, mais incluant la structure du calcul des intérêts, comme la question de savoir si

equivalent amount of debt in the final currency on the same terms as the particular debt (excluding the rate of interest but including the structure of the interest calculation, such as whether the rate is fixed or floating), with those modifications that the difference in currency requires. (*dette en devise faible*)

le taux est fixe ou variable), compte tenu des modifications que nécessite l'écart entre les devises. (*weak currency debt*)

opération de couverture En ce qui concerne la dette d'un contribuable qui est une dette en devise faible à un moment quelconque, convention conclue par le contribuable et qui répond aux conditions suivantes :

a) il est raisonnable de considérer que le contribuable l'a conclue principalement en vue de réduire le risque que présentent pour lui, en ce qui concerne les paiements de principal et d'intérêts sur la dette, les fluctuations de la valeur de la devise faible;

b) le contribuable indique qu'il s'agit d'une opération de couverture relative à la dette dans un formulaire prescrit présenté au ministre au plus tard le trentième jour suivant le jour où il conclut la convention. (*hedge*)

Interest and gain

(2) Notwithstanding any other provision of this Act, the following rules apply in respect of a particular debt of a taxpayer (other than a corporation described in one or more of paragraphs (a), (b), (c) and (e) of the definition ***specified financial institution*** in subsection 248(1)) that is at any time a weak currency debt:

(a) no deduction on account of interest that accrues on the debt for any period that begins after the day that is the later of June 30, 2000 and the exchange date during which it is a weak currency debt shall exceed the amount of interest that would, if at the commitment time the taxpayer had instead incurred or assumed an equivalent amount of debt, the principal and interest in respect of which were denominated in the final currency, on the same terms as the particular debt (excluding the rate of interest but including the structure of the interest calculation, such as whether the rate is fixed or floating) have accrued on the equivalent debt during that period, with those modifications that the difference in currency requires;

(b) the amount, if any, of the taxpayer's gain or loss (in this section referred to as a "foreign exchange gain or loss") for a taxation year on the settlement or extinguishment of the debt that arises because of the fluctuation in the value of any currency shall be included or deducted, as the case may be, in computing the taxpayer's income for the year from the business or the property to which the debt relates; and

(c) the amount of any interest on the debt that was, because of this subsection, not deductible is deemed, for the purpose of computing the taxpayer's foreign

Intérêts et gains

(2) Malgré les autres dispositions de la présente loi, les règles ci-après s'appliquent à une dette donnée d'un contribuable (sauf une société visée à l'un ou plusieurs des alinéas a), b), c) et e) de la définition de ***institution financière déterminée*** au paragraphe 248(1)) qui est une dette en devise faible à un moment quelconque :

a) aucune déduction au titre des intérêts qui courent sur la dette pour une période, commençant après le 30 juin 2000 ou, si elle est postérieure, la date de l'échange, au cours de laquelle elle est une dette en devise faible ne peut excéder les intérêts qui, si le contribuable avait plutôt contracté ou pris en charge, au moment de l'engagement, une dette équivalente — dont le principal et les intérêts sont libellés dans la devise utilisée pour gagner un revenu — selon les mêmes modalités que celles de la dette donnée (à l'exception du taux d'intérêt, mais incluant la structure du calcul des intérêts, comme la question de savoir si le taux est fixe ou variable), courraient sur la dette équivalente au cours de cette période, compte tenu des modifications que nécessite l'écart entre les devises;

b) le profit ou la perte (appelés respectivement « profit sur change » et « perte sur change » au présent article) du contribuable pour une année d'imposition résultant du règlement ou de l'extinction de la dette et découlant de la fluctuation de la valeur d'une devise est inclus ou déduite, selon le cas, dans le calcul du revenu du contribuable pour l'année provenant de l'entreprise ou du bien auquel la dette se rapporte;

c) le montant des intérêts sur la dette qui n'étaient pas déductibles par l'effet du présent paragraphe est

exchange gain or loss on the settlement or extinguishment of the debt, to be an amount paid by the taxpayer to settle or extinguish the debt.

réputé, pour ce qui est du calcul du profit ou de la perte sur change du contribuable résultant du règlement ou de l'extinction de la dette, être un montant payé par le contribuable pour régler ou éteindre la dette.

Hedges

(3) In applying subsection (2) in circumstances where a taxpayer has entered into a hedge in respect of a debt of the taxpayer that is at any time a weak currency debt, the amount paid or payable in the weak currency for a taxation year on account of interest on the debt, or paid in the weak currency in the year on account of the debt's principal, shall be decreased by the amount of any foreign exchange gain, or increased by the amount of any foreign exchange loss, on the hedge in respect of the amount so paid or payable.

Opérations de couverture

(3) Pour l'application du paragraphe (2) au cas où un contribuable a conclu une opération de couverture relativement à une de ses dettes qui est une dette en devise faible à un moment quelconque, le montant payé ou payable dans cette devise pour une année d'imposition au titre des intérêts sur la dette, ou payé dans cette devise au cours de l'année au titre du principal de la dette, est diminué de tout profit sur change, ou majoré de toute perte sur change, résultant de l'opération pour ce qui est du montant ainsi payé ou payable.

Repayment of principal

(4) If the amount (expressed in the weak currency) outstanding on account of principal in respect of a debt of the taxpayer that is at any time a weak currency debt is reduced before maturity (whether by repayment or otherwise), the amount (expressed in the weak currency) of the reduction is deemed, except for the purposes of determining the rate of interest that would have been charged on an equivalent loan in the final currency and applying paragraph (b) of the definition ***weak currency debt*** in subsection (1), to have been a separate debt from the commitment time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 14.

Remboursement de principal

(4) Si la somme (exprimée dans la devise faible) impayée au titre du principal d'une dette du contribuable qui est une dette en devise faible à un moment quelconque est réduite avant l'échéance (par un remboursement ou un autre moyen), le montant (exprimé dans la devise faible) de la réduction est réputé, sauf pour ce qui est du calcul du taux d'intérêt qui aurait été demandé sur un emprunt équivalent dans la devise utilisée pour gagner un revenu et sauf pour l'application de l'alinéa b) de la définition de ***dette en devise faible*** au paragraphe (1), avoir été une dette distincte à partir du moment de l'engagement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 14.

Definitions

20.4 (1) The definitions in section 12.5 apply for the purposes of this section.

Définitions

20.4 (1) Les définitions figurant à l'article 12.5 s'appliquent au présent article.

Transition year income deduction

(2) There shall be deducted in computing an insurer's income for its transition year from an insurance business carried on by it in Canada in the transition year the absolute value of the negative amount, if any, of the insurer's reserve transition amount in respect of that insurance business.

Somme à déduire du revenu — année transitoire

(2) Est à déduire dans le calcul du revenu d'un assureur pour son année transitoire provenant d'une entreprise d'assurance qu'il exploite au Canada au cours de cette année la valeur absolue du montant négatif de son montant transitoire relativement à cette entreprise.

Transition year income inclusion reversal

(3) If an amount has been included under subsection 12.5(2) in computing an insurer's income for its transition year from an insurance business carried on by it in Canada, there shall be deducted in computing the insurer's income, for each particular taxation year of the insurer that ends after the beginning of the transition year,

Annulation de l'inclusion — année transitoire

(3) Si une somme a été incluse en application du paragraphe 12.5(2) dans le calcul du revenu d'un assureur pour son année transitoire provenant d'une entreprise d'assurance qu'il exploite au Canada, est à déduire dans

from that insurance business, the amount determined by the formula

A × B/1825

where

A is the amount included under subsection 12.5(2) in computing the insurer's income for the transition year from that insurance business; and

B is the number of days in the particular taxation year that are before the day that is 1825 days after the first day of the transition year.

Ceasing to carry on business

(4) If at any time an insurer ceases to carry on all or substantially all of an insurance business (referred to in this subsection as the "discontinued business"), and none of subsections 12.5(4) to (6) apply, there shall be deducted in computing the insurer's income from the discontinued business for the insurer's taxation year that includes the time that is immediately before that time, the amount determined by the formula

A – B

where

A is any amount included under subsection 12.5(2) in computing the insurer's income from the discontinued business for its transition year; and

B is the total of all amounts each of which is an amount deducted under subsection (3) in computing the insurer's income from the discontinued business for a taxation year that began before that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2009, c. 2, s. 8.

Cost of borrowed money

21 (1) Where in a taxation year a taxpayer has acquired depreciable property, if the taxpayer elects under this subsection in the taxpayer's return of income under this Part for the year,

(a) in computing the taxpayer's income for the year and for such of the 3 immediately preceding taxation years as the taxpayer had, paragraphs 20(1)(c), 20(1)(d), 20(1)(e) and 20(1)(e.1) do not apply to the amount or to the part of the amount specified in the taxpayer's election that, but for an election under this subsection in respect thereof, would be deductible in computing the taxpayer's income (other than exempt

le calcul de son revenu, pour chacune de ses années d'imposition se terminant après le début de l'année transitoire, provenant de cette entreprise, la somme obtenue par la formule suivante :

A × B/1825

où :

A représente la somme incluse en application du paragraphe 12.5(2) dans le calcul du revenu de l'assureur pour l'année transitoire provenant de l'entreprise;

B le nombre de jours de l'année d'imposition en cause qui sont antérieurs au jour qui suit de 1825 jours le premier jour de l'année transitoire.

Cessation de l'exploitation d'une entreprise

(4) Lorsqu'un assureur cesse d'exploiter la totalité ou la presque totalité d'une entreprise d'assurance (appelée « entreprise discontinuée » au présent paragraphe) et qu'aucun des paragraphes 12.5(4) à (6) ne s'applique, la somme obtenue par la formule ci-après est à déduire dans le calcul de son revenu provenant de l'entreprise discontinuée pour son année d'imposition qui comprend le moment immédiatement avant la cessation de l'exploitation :

A – B

où :

A représente la somme incluse en application du paragraphe 12.5(2) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année transitoire;

B le total des sommes représentant chacune une somme déduite en application du paragraphe (3) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour une année d'imposition ayant commencé avant la cessation de l'exploitation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2009, ch. 2, art. 8.

Coût des emprunts

21 (1) Lorsque, au cours d'une année d'imposition, un contribuable a acquis des biens amortissables et fait un choix en vertu du présent paragraphe dans sa déclaration de revenu produite pour l'année en vertu de la présente partie :

a) dans le calcul de son revenu pour l'année et pour celles des trois années d'imposition précédentes qu'il a pu avoir, les alinéas 20(1)c), d), e) et e.1) ne s'appliquent pas à tout ou partie du montant qu'il a indiqué dans son choix et qui, sans un tel choix, serait déductible dans le calcul de son revenu, autre que son revenu exonéré, pour chacune de ces années

income) for any such year in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property; and

(b) the amount or the part of the amount, as the case may be, described in paragraph 21(1)(a) shall be added to the capital cost to the taxpayer of the depreciable property so acquired by the taxpayer.

relativement à l'argent emprunté et utilisé pour acquérir les biens amortissables ou à la somme payable pour ces biens;

b) le montant ou la partie du montant, selon le cas, visé à l'alinéa a) est ajouté au coût en capital, pour lui, des biens amortissables qu'il a ainsi acquis.

Borrowed money used for exploration or development

(2) Where in a taxation year a taxpayer has used borrowed money for the purpose of exploration, development or the acquisition of property and the expenses incurred by the taxpayer in respect of those activities are Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses, Canadian oil and gas property expenses, foreign resource expenses in respect of a country, or foreign exploration and development expenses, as the case may be, if the taxpayer so elects under this subsection in the taxpayer's return of income for the year,

(a) in computing the taxpayer's income for the year and for such of the three immediately preceding taxation years as the taxpayer had, paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the taxpayer's election that, but for that election, would be deductible in computing the taxpayer's income (other than exempt income or income that is exempt from tax under this Part) for any such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be; and

(b) the amount or the part of the amount, as the case may be, described in paragraph (a) is deemed to be Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses, Canadian oil and gas property expenses, foreign resource expenses in respect of a country, or foreign exploration and development expenses, as the case may be, incurred by the taxpayer in the year.

Argent emprunté pour exploration ou aménagement

(2) Lorsque, au cours d'une année d'imposition, un contribuable a utilisé de l'argent emprunté pour l'exploration, l'aménagement ou l'acquisition d'un bien, que les dépenses qu'il a engagées relativement à ces activités représentent, selon le cas, des frais d'exploration et d'aménagement au Canada, des frais d'exploration et d'aménagement à l'étranger, des frais d'exploration au Canada, des frais d'aménagement au Canada, des frais relatifs à des ressources à l'étranger se rapportant à un pays ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, et qu'il en fait le choix dans sa déclaration de revenu pour l'année, les règles suivantes s'appliquent :

a) dans le calcul de son revenu pour l'année et pour celles des trois années d'imposition précédentes qu'il a pu avoir, les alinéas 20(1)c), d), e) et e.1) ne s'appliquent pas au montant ou à la partie de montant qu'il a indiqué dans son choix et qui, sans un tel choix, serait déductible dans le calcul de son revenu (sauf le revenu exonéré ou le revenu qui est exonéré de l'impôt prévu par la présente partie) pour chacune de ces années relativement à l'argent emprunté et utilisé pour l'exploration, l'aménagement ou l'acquisition d'un bien;

b) le montant ou la partie de montant, selon le cas, visé à l'alinéa a) est réputé représenter, selon le cas, des frais d'exploration et d'aménagement au Canada, des frais d'exploration et d'aménagement à l'étranger, des frais d'exploration au Canada, des frais d'aménagement au Canada, des frais relatifs à des ressources à l'étranger se rapportant à un pays ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, qu'il a engagés au cours de l'année.

Borrowing for depreciable property

(3) In computing the income of a taxpayer for a particular taxation year, where the taxpayer

(a) in any preceding taxation year

(i) made an election under subsection 21(1) in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by the taxpayer, or

Argent emprunté pour des biens amortissables

(3) Dans le calcul du revenu d'un contribuable pour une année d'imposition donnée, lorsque celui-ci :

a) d'une part, au cours d'une année d'imposition précédente :

(i) soit a fait le choix prévu au paragraphe (1) relativement à de l'argent emprunté et utilisé pour acquérir des biens amortissables ou à une somme

(ii) was, by virtue of subsection 18(3.1), required to include an amount in respect of the construction of a depreciable property in computing the capital cost to the taxpayer of the depreciable property, and

(b) in each taxation year, if any, after that preceding taxation year and before the particular year, made an election under this subsection covering the total amount that, but for an election under this subsection in respect thereof, would have been deductible in computing the taxpayer's income (other than exempt income) for each such year in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by the taxpayer,

if an election under this subsection is made in the taxpayer's return of income under this Part for the particular year, paragraphs 20(1)(c), 20(1)(d), 20(1)(e) and 20(1)(e.1) do not apply to the amount or to the part of the amount specified in the election that, but for an election under this subsection in respect thereof, would be deductible in computing the taxpayer's income (other than exempt income) for the particular year in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by the taxpayer, and the amount or part of the amount, as the case may be, shall be added to the capital cost to the taxpayer of the depreciable property.

Borrowing for exploration, etc.

(4) In computing the income of a taxpayer for a particular taxation year, where the taxpayer

(a) in any preceding taxation year made an election under subsection 21(2) in respect of borrowed money used for the purpose of exploration, development or acquisition of property,

(b) in each taxation year, if any, after that preceding taxation year and before the particular year, made an election under this subsection covering the total amount that, but for that election, would have been deductible in computing the taxpayer's income (other than exempt income or income that is exempt from tax under this Part) for each such year in respect of the borrowed money used for the exploration, development or acquisition of property, as the case may be, and

(c) so elects in the taxpayer's return of income for the particular year,

the following rules apply:

payable au titre de biens amortissables qu'il a acquis,

(ii) soit était tenu par le paragraphe 18(3.1) d'inclure un montant au titre de la construction d'un bien amortissable dans le calcul du coût en capital, pour lui, de ce bien;

(b) d'autre part, au cours de chaque année d'imposition postérieure à cette année d'imposition précédente et antérieure à l'année d'imposition donnée, a fait le choix prévu au présent paragraphe, portant sur le montant total qui, en l'absence d'un tel choix, aurait été déductible dans le calcul de son revenu (qui n'est pas un revenu exonéré) pour chacune de ces années relativement à l'argent emprunté et utilisé pour acquérir des biens amortissables ou à la somme payable pour les biens amortissables qu'il a acquis,

et a fait le choix prévu au présent paragraphe dans sa déclaration de revenu produite en vertu de la présente partie pour l'année donnée, les alinéas 20(1)c),d),e) ete.1) ne s'appliquent pas à tout ou partie du montant indiqué dans le choix et qui, sans un tel choix, serait déductible dans le calcul de son revenu, autre que son revenu exonéré, pour l'année donnée relativement à l'argent emprunté et utilisé pour acquérir les biens amortissables ou à la somme payable pour ces biens; le montant ou la partie du montant doit alors être ajouté au coût en capital, pour lui, des biens amortissables.

Argent emprunté pour exploration, aménagement ou acquisition d'un bien

(4) Dans le calcul du revenu d'un contribuable pour une année d'imposition donnée, lorsque celui-ci, à la fois :

a) a fait, au cours d'une année d'imposition précédente, le choix prévu au paragraphe (2) relativement à de l'argent emprunté et utilisé pour l'exploration, l'aménagement ou l'acquisition d'un bien;

b) a fait en vertu du présent paragraphe, au cours de chaque année d'imposition postérieure à cette année d'imposition précédente et antérieure à l'année donnée, un choix portant sur le montant total qui, en l'absence d'un tel choix, aurait été déductible dans le calcul de son revenu (qui n'est pas un revenu exonéré ni un revenu qui est exonéré de l'impôt prévu par la présente partie) pour chacune de ces années relativement à l'argent emprunté et utilisé pour l'exploration, l'aménagement ou l'acquisition d'un bien;

c) fait un tel choix dans sa déclaration de revenu pour l'année donnée,

les règles suivantes s'appliquent :

(d) paragraphs 20(1)(c), (d), (e) and (e.1) do not apply to the amount or to the part of the amount specified in the election that, but for the election, would be deductible in computing the taxpayer's income (other than exempt income or income that is exempt from tax under this Part) for the particular year in respect of the borrowed money used for the exploration, development or acquisition of property, and

(e) the amount or part of the amount, as the case may be, is deemed to be Canadian exploration and development expenses, Canadian exploration expenses, Canadian development expenses, Canadian oil and gas property expenses, foreign resource expenses in respect of a country, or foreign exploration and development expenses, as the case may be, incurred by the taxpayer in the particular year.

d) les alinéas 20(1)c), d), e) et e.1) ne s'appliquent pas au montant ou à la partie de montant indiqué dans le choix et qui, sans ce choix, serait déductible dans le calcul de son revenu (sauf le revenu exonéré ou le revenu qui est exonéré de l'impôt prévu par la présente partie) pour l'année donnée relativement à l'argent emprunté et utilisé pour l'exploration, l'aménagement ou l'acquisition d'un bien;

e) le montant ou la partie de montant est réputé représenter des frais d'exploration et d'aménagement au Canada, des frais d'exploration et d'aménagement à l'étranger, des frais d'exploration au Canada, des frais d'aménagement au Canada, des frais relatifs à des ressources à l'étranger se rapportant à un pays ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, qu'il a engagés au cours de l'année donnée.

Reassessments

(5) Notwithstanding any other provision of this Act, where a taxpayer has made an election in accordance with the provisions of subsection 21(1) or 21(2), such reassessments of tax, interest or penalties shall be made as are necessary to give effect thereto.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 21; 1994, c. 7, Sch. II, s. 16; 2001, c. 17, s. 15.

Nouvelles cotisations

(5) Malgré les autres dispositions de la présente loi, lorsqu'un contribuable a choisi d'exercer son droit conformément aux dispositions du paragraphe (1) ou (2), il doit être procédé à de nouvelles cotisations relativement à l'impôt, aux intérêts et aux pénalités nécessaires pour donner effet au choix effectué.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 21; 1994, ch. 7, ann. II, art. 16; 2001, ch. 17, art. 15.

Ceasing to carry on business

Sale of accounts receivable

22 (1) Where a person who has been carrying on a business has, in a taxation year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing the person's income for that year or a previous year and that are still outstanding, and including the debts arising from loans made in the ordinary course of the person's business if part of the person's ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in prescribed form to have this section apply, the following rules are applicable:

(a) there may be deducted in computing the vendor's income for the taxation year an amount equal to the difference between the face value of the debts so sold (other than debts in respect of which the vendor has made deductions under paragraph 20(1)(p)), and the consideration paid by the purchaser to the vendor for the debts so sold;

Cessation de l'exploitation d'une entreprise

Vente de créances

22 (1) Lorsqu'une personne qui exploitait une entreprise a, au cours d'une année d'imposition, vendu la totalité, ou presque, des biens utilisés dans l'exploitation de l'entreprise, y compris les créances qui ont été ou seront incluses dans le calcul de son revenu pour cette année ou une année antérieure et qui sont encore dues, et y compris les créances découlant de prêts faits dans le cours normal des activités de son entreprise, si une partie de son activité d'entreprise habituelle consistait à prêter de l'argent, et qui sont encore dues, à un acheteur qui se propose de continuer à exploiter l'entreprise du vendeur, si le vendeur et l'acheteur ont signé conjointement un choix, selon le formulaire prescrit, pour que s'applique le présent article, les règles suivantes sont applicables :

a) il peut être déduit, dans le calcul du revenu du vendeur pour l'année d'imposition, une somme égale à la différence entre la valeur nominale des créances ainsi vendues (autres que les créances au titre desquelles le vendeur a effectué des déductions en vertu de l'alinéa 20(1) p)), et la contrepartie versée par l'acheteur au vendeur pour les créances ainsi vendues;

(b) an amount equal to the difference described in paragraph 22(1)(a) shall be included in computing the purchaser's income for the taxation year;

(c) the debts so sold shall be deemed, for the purposes of paragraphs 20(1)(l) and 20(1)(p), to have been included in computing the purchaser's income for the taxation year or a previous year but no deduction may be made by the purchaser under paragraph 20(1)(p) in respect of a debt in respect of which the vendor has previously made a deduction; and

(d) each amount deducted by the vendor in computing income for a previous year under paragraph 20(1)(p) in respect of any of the debts so sold shall be deemed, for the purpose of paragraph 12(1)(i), to have been so deducted by the purchaser.

b) une somme égale à la différence visée à l'alinéa a) doit être incluse dans le calcul du revenu de l'acheteur pour l'année d'imposition;

c) les créances ainsi vendues sont, pour l'application des alinéas 20(1)l) et p), réputées avoir été incluses dans le calcul du revenu de l'acheteur pour l'année d'imposition ou une année antérieure, mais l'acheteur ne peut effectuer aucune déduction en vertu de l'alinéa 20(1)p) relativement à une créance au sujet de laquelle le vendeur a déjà réclamé une déduction;

d) chaque somme déduite par le vendeur, dans le calcul du revenu pour une année antérieure, en vertu de l'alinéa 20(1)p) relativement à l'une quelconque des créances ainsi vendues est, pour l'application de l'alinéa 12(1)i), réputée avoir été ainsi déduite par l'acheteur.

Statement by vendor and purchaser

(2) An election executed for the purposes of subsection 22(1) shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement shall, subject to subsection 69(1), as against the Minister, be binding on the vendor and the purchaser in so far as it may be relevant in respect of any matter arising under this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"22"; 1974-75-76, c. 26, s. 10.

Déclaration du vendeur et de l'acheteur

(2) Un choix signé dans le cadre du paragraphe (1) doit contenir une déclaration conjointe du vendeur et de l'acheteur quant à la contrepartie versée pour les créances vendues par le vendeur à l'acheteur et, sous réserve du paragraphe 69(1), cette déclaration, en ce qui regarde le ministre, lie le vendeur et l'acheteur dans la mesure où elle peut se rapporter à toute question relative à l'application de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 22 »; 1974-75-76, ch. 26, art. 10.

Sale of inventory

23 (1) Where, on or after disposing of or ceasing to carry on a business or a part of a business, a taxpayer has sold all or any part of the property that was included in the inventory of the business, the property so sold shall, for the purposes of this Part, be deemed to have been sold by the taxpayer in the course of carrying on the business.

Vente de biens à porter à l'inventaire

23 (1) Lorsque, lors de la disposition d'une entreprise ou d'une partie quelconque d'une entreprise ou après en avoir disposé, ou lors de la cessation de l'exploitation d'une entreprise ou d'une partie quelconque d'une entreprise ou après avoir cessé de l'exploiter, un contribuable a vendu la totalité ou une partie des biens qui étaient à porter à l'inventaire de l'entreprise, les biens ainsi vendus sont réputés, pour l'application de la présente partie, avoir été vendus par lui dans le cadre de l'exploitation de l'entreprise.

Reference to property in inventory

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 28(1) or paragraph 34(a).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"23"; 1974-75-76, c. 26, s. 11; 1985, c. 45, s. 13.

Mention des biens à porter à l'inventaire

(3) Les biens mentionnés au présent article et qui étaient à porter à l'inventaire d'une entreprise sont réputés comprendre les biens qui y auraient été compris si le revenu tiré de l'entreprise n'avait pas été calculé selon la méthode autorisée par le paragraphe 28(1) ou l'alinéa 34a).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 23 »; 1974-75-76, ch. 26, art. 11; 1985, ch. 45, art. 13.

24 (1) [Repealed, 2016, c. 12, s. 8]

24 (1) [Abrogé, 2016, ch. 12, art. 8]

Business carried on by spouse or common-law partner or controlled corporation

(2) If, at any time, an individual ceases to carry on a business and the individual's spouse or common-law partner, or a corporation controlled directly or indirectly in any manner whatever by the individual, carries on the business and acquires all of the property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of the business owned by the individual immediately before that time and that had value at that time, the following rules apply:

(a) the individual is deemed to have, immediately before that time, disposed of the property and received proceeds of disposition equal to the lesser of the capital cost and the cost amount to the individual of the property immediately before the disposition;

(b) the spouse, common-law partner or corporation, as the case may be, is deemed to have acquired the property at a cost equal to those proceeds; and

(c) if the amount that was the capital cost to the individual of the property exceeds the amount determined under paragraph 70(5)(b) to be the cost to the person that acquired the property, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(i) the capital cost to the person of the property is deemed to be the amount that was the capital cost to the individual of the property, and

(ii) the excess is deemed to have been allowed to the person in respect of the property under regulations made for the purposes of paragraph 20(1)(a) in computing income for taxation years that ended before the person acquired the property.

(3) [Repealed, 2016, c. 12, s. 8]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 24; 1994, c. 7, Sch. II, s. 17, Sch. VIII, s. 10; 1995, c. 3, s. 8; 2000, c. 12, s. 142; 2001, c. 17, s. 16; 2016, c. 12, s. 8.

24.1 [Repealed, 1996, c. 21, s. 6(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 24.1; 1996, c. 21, s. 6.

Fiscal period of business disposed of by individual

25 (1) Where an individual was the proprietor of a business and disposed of it during a fiscal period of the business, the fiscal period may, if the individual so elects and subsection 249.1(4) does not apply in respect of the business, be deemed to have ended at the time it would have

Entreprise exploitée par l'époux ou le conjoint de fait ou par une société contrôlée

(2) Si, à un moment donné, un particulier cesse d'exploiter une entreprise et que, par la suite, son époux ou conjoint de fait ou une société que le particulier contrôle directement ou indirectement, de quelque manière que ce soit, exploite l'entreprise et acquiert tous les biens qui étaient compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu*, relativement à l'entreprise dont le particulier était propriétaire immédiatement avant ce moment, et qui avaient une valeur à ce moment, les règles ci-après s'appliquent :

a) le particulier est réputé avoir, immédiatement avant ce moment, disposé des biens et reçu un produit de disposition égal au moins élevé du coût en capital et du coût, pour le particulier, des biens immédiatement avant la disposition;

b) l'époux, le conjoint de fait ou la société, selon le cas, est réputé avoir acquis les biens à un coût égal à ce produit de disposition;

c) pour l'application des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), si la somme qui était le coût en capital des biens pour le particulier est supérieure à la somme déterminée selon l'alinéa 70(5)b) comme étant le coût pour la personne qui a acquis les biens :

(i) le coût en capital des biens pour la personne est réputé égal à la somme qui était son coût en capital pour le particulier,

(ii) l'excédent est réputé avoir été accordé à la personne relativement aux biens, selon les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), dans le calcul de son revenu pour les années d'imposition terminées avant qu'elle n'acquière le bien.

(3) [Abrogé, 2016, ch. 12, art. 8]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 24; 1994, ch. 7, ann. II, art. 17, ann. VIII, art. 10; 1995, ch. 3, art. 8; 2000, ch. 12, art. 142; 2001, ch. 17, art. 16; 2016, ch. 12, art. 8.

24.1 [Abrogé, 1996, ch. 21, art. 6]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 24.1; 1996, ch. 21, art. 6.

Exercice d'une entreprise dont il a été disposé

25 (1) Lorsqu'un particulier propriétaire d'une entreprise dispose de l'entreprise au cours d'un exercice de celle-ci, l'exercice peut, si le particulier en fait le choix et que le paragraphe 249.1(4) ne s'applique pas relativement à l'entreprise, être réputé avoir pris fin au moment où il

ended if the individual had not disposed of the business during the fiscal period.

Election

(2) An election under subsection 25(1) is not valid unless the individual, at the time when the fiscal period of the business would, if the election were valid, be deemed to have ended, is resident in Canada.

Dispositions in extended fiscal period

(3) If subsection (1) applies in respect of a fiscal period of a business of an individual, for the purpose of computing the individual's income for the fiscal period, section 13 is to be read without reference to its subsection (8).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 25; 1996, c. 21, s. 7; 2016, c. 12, s. 9.

aurait pris fin si le particulier n'avait pas disposé de l'entreprise au cours de l'exercice.

Choix

(2) Le choix prévu au paragraphe (1) n'est valide que si le particulier est un résident du Canada au moment où l'exercice de l'entreprise serait réputé terminé si le choix était valide.

Disposition dans l'exercice prolongé

(3) Si le paragraphe (1) s'applique relativement à un exercice de l'entreprise d'un particulier, dans le cadre de la détermination de son revenu pour l'exercice, l'article 13 s'applique compte non tenu de son paragraphe (8).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 25; 1996, ch. 21, art. 7; 2016, ch. 12, art. 9.

Special Cases

Banks — inclusions in income

26 (1) There shall be included in computing the income of a bank for its first taxation year that commences after June 17, 1987 and ends after 1987 the total of

(a) the total of the specific provisions of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, as at the end of its immediately preceding taxation year,

(b) the total of the general provisions of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, as at the end of its immediately preceding taxation year,

(c) the amount, if any, by which

(i) the amount of the special provision for losses on trans-border claims of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, that was deductible by the bank under subsection 26(2) in computing its income for its immediately preceding taxation year

exceeds

(ii) that part of the amount determined under subparagraph 26(1)(c)(i) that was a realized loss of the bank for that immediately preceding taxation year, and

(d) the amount, if any, of the tax allowable appropriations account of the bank, as determined, or as would

Cas spéciaux

Banques — éléments à inclure dans le revenu

26 (1) Le total des montants suivants est à inclure dans le calcul du revenu d'une banque pour sa première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987:

a) le total des provisions spécifiques de la banque calculées à la fin de l'année d'imposition précédente selon les règles du ministre ou qui le seraient si la banque y était tenue;

b) le total des provisions générales de la banque calculées à la fin de l'année d'imposition précédente selon les règles du ministre ou qui le seraient si la banque y était tenue;

c) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant de la provision spéciale pour pertes sur créances hors frontière de la banque calculée selon les règles du ministre — ou qui le serait si la banque y était tenue — qui est déductible par la banque en application du paragraphe (2) dans le calcul de son revenu pour l'année d'imposition précédente,

(ii) la partie du montant visé au sous-alinéa (i) qui représente une perte subie de la banque pour l'année d'imposition précédente;

d) le solde du compte de provisions admissibles aux déductions d'impôt de la banque calculé à la fin de l'année d'imposition précédente selon les règles du ministre ou qui le serait si la banque y était tenue.

be determined if such a determination were required, under the Minister's rules, at the end of its immediately preceding taxation year.

Banks — deductions from income

(2) In computing the income for a taxation year of a bank, there may be deducted an amount not exceeding the total of

(a) that part of the total of the amounts of the five-year average loan loss experiences of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year,

(b) that part of the total of the amounts transferred by the bank to its tax allowable appropriations account, as permitted under the Minister's rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year,

(c) that part of the amount, if any, by which

(i) the amount of the special provision for losses on trans-border claims, as determined, or as would be determined if such a determination were required, under the Minister's rules, that was deductible by the bank under this subsection in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987

exceeds

(ii) that part of the amount determined under subparagraph 26(2)(c)(i) that was a realized loss of the bank for that last taxation year

that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year,

(d) where the tax allowable appropriations account of the bank at the end of its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987, as determined, or as would be determined if such a determination were required, under the Minister's rules, is a negative amount, that part of such amount expressed as a positive number that is

Banques — éléments à déduire du revenu

(2) Un montant ne dépassant pas le total des montants suivants est déductible dans le calcul du revenu pour une année d'imposition d'une banque :

a) la partie, précisée par la banque pour l'année et non déduite par elle dans le calcul de son revenu pour une année d'imposition antérieure, du total des moyennes sur cinq ans des pertes sur prêts de la banque calculées selon les règles du ministre — ou qui le seraient si la banque y était tenue — pour les années d'imposition antérieures à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987;

b) la partie, précisée par la banque pour l'année et non déduite par elle dans le calcul de son revenu pour une année d'imposition antérieure, du total des montants que la banque a virés à son compte de provisions admissibles aux déductions d'impôt, qui est autorisée par les règles du ministre, pour les années d'imposition antérieures à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987;

c) la partie, précisée par la banque pour l'année et non déduite par elle dans le calcul de son revenu pour une année d'imposition antérieure, de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant de la provision spéciale pour pertes sur créances hors frontière calculée selon les règles du ministre — ou qui le serait si la banque y était tenue — que la banque peut déduire en application du présent paragraphe dans le calcul de son revenu pour la dernière année d'imposition antérieure à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987,

(ii) la partie du montant visé au sous-alinéa (i) qui représente une perte subie de la banque pour la dernière année d'imposition;

d) dans le cas où le compte de provisions admissibles aux déductions d'impôt de la banque à la fin de la dernière année d'imposition antérieure à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987 calculé selon les régles du ministre — ou qui le serait si la banque y était tenue — est un montant négatif, la partie de ce montant, exprimé de façon positive, précisée par la banque pour

specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year, and

(e) that part of the total of the amounts calculated in respect of the bank for the purposes of the Minister's rules, or that would be calculated for the purposes of those rules if such a calculation were required, under Procedure 8 of the Procedures for the Determination of the Provision for Loan Losses as set out in Appendix 1 of those rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year.

l'année et non déduite par elle dans le calcul de son revenu pour une année d'imposition antérieure;

e) la partie, précisée par la banque pour l'année et non déduite par elle dans le calcul de son revenu pour une année d'imposition antérieure, du total des montants calculés quant à la banque — ou qui le seraient si la banque en était tenue — pour l'application des règles du ministre, à l'étape 8 de la Marche à suivre pour déterminer la provision pour pertes sur prêts, énoncée à l'annexe 1 de ces règles, pour les années d'imposition antérieures à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987.

Write-offs and recoveries

(3) In computing the income of a bank, the following rules apply:

(a) any amount that was recorded by the bank as a realized loss or a write-off of an asset that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included in the calculation of such an amount if such a calculation had been required, for any taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987, shall, for the purposes of paragraph 12(1)(i) and section 12.4, be deemed to have been deducted by the bank under paragraph 20(1)(p) in computing its income for the year for which it was so recorded; and

(b) any amount that was recorded by the bank as a recovery of a realized loss or a write-off of an asset that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included in the calculation of such an amount if such a calculation had been required, for any taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987 shall, for the purposes of section 12.4, be deemed to have been included by the bank under paragraph 12(1)(i) in computing its income for the year for which it was so recorded.

Radiations et recouvrements

(3) Les règles suivantes s'appliquent au calcul du revenu d'une banque :

a) pour l'application de l'alinéa 12(1)i) et de l'article 12.4, le montant que la banque inscrit comme perte subie ou radiation d'un élément d'actif et inclut dans le calcul d'un montant déductible selon les règles du ministre — ou inclurait dans ce calcul si elle y était tenue — pour une année d'imposition antérieure à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987 est réputé déduit par la banque application de l'alinéa 20(1)p) dans le calcul de son revenu pour l'année où il est ainsi inscrit;

b) pour l'application de l'article 12.4, le montant que la banque inscrit comme recouvrement d'une perte subie ou d'une radiation d'un élément d'actif et inclut dans le calcul d'un montant déductible selon les règles du ministre — ou inclurait dans ce calcul si elle y était tenue — pour toute année d'imposition antérieure à la première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987 est réputé inclus par la banque en application de l'alinéa 12(1)i) dans le calcul de son revenu pour l'année où il est ainsi inscrit.

Definition of *Minister's rules*

(4) For the purposes of this section, ***Minister's rules*** means the Rules for the Determination of the Appropriations for Contingencies of a Bank issued under the authority of the Minister of Finance pursuant to section 308 of the *Bank Act* for the purposes of subsections (1) and (2) of this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts R.S., 1985, c. 1 (5th Supp.), s. 26; 1994, c. 7, Sch. III, s. 14(F).

Règles du ministre

(4) Pour l'application du présent article, les règles du ministre s'entendent des Règles de détermination des provisions pour éventualités d'une banque publiées sous l'autorité du ministre des Finances en application de l'article 308 de la *Loi sur les banques* pour l'application des paragraphes (1) et (2) du présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 26; 1994, ch. 7, ann. III, art. 14(F).

Application of Part I to Crown corporation

27 (1) This Part applies to a federal Crown corporation as if

(a) any income or loss from a business carried on by the corporation as agent of Her Majesty, or from a property of Her Majesty administered by the corporation, were an income or loss of the corporation from the business or the property, as the case may be; and

(b) any property, obligation or debt of any kind whatever held, administered, entered into or incurred by the corporation as agent of Her Majesty were a property, obligation or debt, as the case may be, of the corporation.

Application de la partie I aux sociétés d'État

27 (1) La présente partie s'applique à une société d'État fédérale comme si, à la fois :

a) le revenu ou la perte provenant d'une entreprise qu'elle exploite à titre de mandataire de Sa Majesté ou d'un bien de Sa Majesté qu'elle gère était ses propres revenu ou perte provenant de l'entreprise ou du bien;

b) le bien de toute nature qu'elle détient ou gère à titre de mandataire de Sa Majesté ou l'obligation ou la dette, de tout nature, qu'elle a contractée à ce titre était ses propres bien, obligation ou dette.

Presumption

(2) Notwithstanding any other provision of this Act, a prescribed federal Crown corporation and any corporation controlled by such a corporation are each deemed not to be a private corporation and paragraphs 149(1)(d) to (d.4) do not apply to those corporations.

Présomption

(2) Malgré les autres dispositions de la présente loi, la société d'État prévue par règlement et toute société dont elle a le contrôle sont réputées chacune ne pas être une société privée, et les alinéas 149(1)d) à d.4) ne s'y appliquent pas.

Transfers of land for disposition

(3) Where land of Her Majesty has been transferred to a prescribed federal Crown corporation for purposes of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 27; 1998, c. 19, s. 82; 2001, c. 17, s. 17.

Transferts de fonds de terre pour qu'il en soit disposé

(3) Lorsqu'un fonds de terre de Sa Majesté a été transféré à une société d'État prévue par règlement pour qu'il en soit disposé, l'acquisition du bien par la société et toute disposition qui en est faite sont réputées n'avoir pas eu lieu dans le cours des activités de l'entreprise exploitée par la société.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 27; 1998, ch. 19, art. 82; 2001, ch. 17, art. 17.

Emissions allowances

27.1 (1) Notwithstanding section 10, for the purpose of computing a taxpayer's income from a business, an emissions allowance shall be valued at the cost at which the taxpayer acquired it.

Droits d'émissions

27.1 (1) Malgré l'article 10, pour le calcul du revenu d'un contribuable tiré d'une entreprise, un droit d'émissions est évalué à son coût d'acquisition pour le contribuable.

Determination of cost of emissions allowances

(2) If at any particular time a taxpayer that owns one emissions allowance, or two or more identical emissions allowances (for the purposes of this subsection two or more emissions allowances will be considered identical if they could be used to settle the same emissions obligations), acquires one or more other emissions allowances (in this subsection referred to as ***newly acquired emissions allowances***), each of which is identical to each of the previously-acquired emissions allowances, for the purposes of computing, at any subsequent time, the cost of the taxpayer of each of the identical emissions allowances,

Droits d'émissions — détermination du coût

(2) Si, à un moment donné, un contribuable qui est propriétaire d'un droit d'émissions, ou de plusieurs droits d'émissions identiques (étant entendu que, pour l'application du présent paragraphe, des droits d'émissions sont considérés identiques s'ils peuvent servir à régler les mêmes obligations d'émissions), acquiert un ou plusieurs autres droits d'émissions (appelés ***droits d'émissions nouvellement acquis*** au présent paragraphe), dont chacun est identique à chaque droit d'émissions acquis précédemment, les règles ci-après s'appliquent pour le calcul, à un moment postérieur, du coût pour le contribuable de chacun des droits d'émissions identiques :

(a) the taxpayer is deemed to have disposed of each of the previously-acquired emissions allowances immediately before the particular time for proceeds equal to its cost to the taxpayer immediately before the particular time; and

(b) the taxpayer is deemed to have acquired each of the identical emissions allowances at the particular time at a cost equal to the amount determined by the formula

(A + B)/C

where

A is the total cost to the taxpayer immediately before the particular time of the previously-acquired emissions allowances,

B is the total cost to the taxpayer (determined without reference to this section) of the newly-acquired emissions allowances, and

C is the number of the identical emissions allowances owned by the taxpayer immediately after the particular time.

a) le contribuable est réputé avoir disposé de chacun des droits d'émissions acquis précédemment immédiatement avant le moment donné pour un produit de disposition égal au coût pour lui de ce droit immédiatement avant le moment donné;

b) le contribuable est réputé avoir acquis chaque droit d'émissions identique au moment donné au coût égal à la somme déterminée selon la formule suivante :

(A + B)/C

où :

A représente le coût total pour le contribuable immédiatement avant le moment donné des droits d'émissions acquis précédemment,

B le coût total pour le contribuable (déterminé compte non tenu du présent article) des droits d'émissions nouvellement acquis,

C le nombre de droits d'émissions identiques qui appartiennent au contribuable immédiatement après le moment donné.

Expense restriction

(3) Notwithstanding any other provision of this Act, in computing a taxpayer's income from a business for a taxation year, the total amount deductible in respect of a particular emissions obligation for a taxation year shall not exceed the amount determined by the formula

A + B x C

where

A is the total cost of emissions allowances either

(a) used by the taxpayer to settle the particular emissions obligation in the year, or

(b) held by the taxpayer at the end of the taxation year that can be used to satisfy the particular emissions obligation in respect of the year;

B is the amount determined by the formula

D – (E + F)

where

D is the number of emissions allowances required to satisfy the particular emissions obligation in respect of the taxation year,

E is the number of emissions allowances used by the taxpayer to settle the particular emissions obligation in the year, and

F is the number of emissions allowances held by the taxpayer at the end of the taxation year that

Restriction — déduction pour droits d'émissions

(3) Malgré les autres dispositions de la présente loi, dans le calcul du revenu d'un contribuable tiré d'une entreprise pour une année d'imposition, le montant total qui est déductible relativement à une obligation d'émissions donnée pour l'année ne peut dépasser la somme obtenue par la formule suivante :

A + B x C

où :

A représente le coût total des droits d'émissions :

a) soit utilisés par le contribuable pour régler l'obligation d'émissions donnée au cours de l'année;

b) soit détenu par le contribuable à la fin de l'année d'imposition qui peuvent servir à régler l'obligation d'émissions donnée relativement à l'année;

B la somme obtenue par la formule suivante :

D – (E + F)

où :

D le nombre de droits d'émissions requis pour remplir l'obligation d'émissions donnée relativement à l'année d'imposition,

E le nombre de droits d'émissions utilisés par le contribuable pour régler l'obligation d'émissions donnée au cours de l'année,

F le nombre de droits d'émissions détenus par le contribuable à la fin de l'année d'imposition qui

can be used to satisfy the particular emissions obligation in respect of the year; and

C is the fair market value of an emissions allowance at the end of the taxation year that could be used to satisfy the particular emissions obligation in respect of the year.

peuvent être utilisés pour remplir l'obligation d'émissions relativement à l'année;

C la juste valeur marchande d'un droit d'émissions à la fin de l'année d'imposition qui pourrait servir à régler l'obligation d'émissions donnée relativement à l'année.

Income inclusion in following year

(4) There shall be included in computing the income of a taxpayer for a taxation year as income from a business the amount deducted in respect of an emissions obligation referred to in subsection (3) for the immediately preceding taxation year to the extent that the emissions obligation was not settled in the immediately preceding taxation year.

Inclusion au revenu l'année suivante

(4) Est à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition à titre de revenu tiré d'une entreprise la somme déduite relativement à une obligation d'émissions mentionnée au paragraphe (3) pour l'année précédente dans la mesure où l'obligation d'émissions n'a pas été réglée au cours de cette année.

Proceeds of disposition

(5) If a taxpayer surrenders an emissions allowance to settle an emissions obligation, the taxpayer's proceeds from the disposition of the emissions allowance are deemed to be equal to the taxpayer's cost of the emissions allowance.

Produit de disposition

(5) Si un contribuable renonce à un droit d'émissions afin de régler une obligation d'émissions, son produit provenant de la disposition du droit d'émissions est réputé être égal au coût pour le contribuable du droit d'émissions.

Loss restriction event

(6) Notwithstanding subsection (1), each emissions allowance held at the end of the taxpayer's taxation year that ends immediately before the time at which the taxpayer is subject to a loss restriction event is to be valued at the cost at which the taxpayer acquired the property, or its fair market value at the end of the year, whichever is lower, and after that time the cost at which the taxpayer acquired the property is, subject to a subsequent application of this subsection and subsection (2), deemed to be that lower amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 10.

Fait lié à la restriction de pertes

(6) Malgré le paragraphe (1), chaque droit d'émissions détenu à la fin de l'année d'imposition du contribuable qui se termine immédiatement avant le moment où le contribuable est assujetti à un fait lié à la restriction de pertes est évalué au coût auquel le contribuable a acquis le bien ou, si elle est inférieure, à sa juste valeur marchande à la fin de l'année; après ce moment, le coût auquel le contribuable a acquis le bien est réputé être égal à la moins élevée de ces sommes, sous réserve d'une application ultérieure du présent paragraphe.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 10.

Farming or fishing business

28 (1) For the purpose of computing the income of a taxpayer for a taxation year from a farming or fishing business, the income from the business for that year may, if the taxpayer so elects, be computed in accordance with a method (in this section referred to as the "cash method") whereby the income therefrom for that year shall be deemed to be an amount equal to the total of

(a) all amounts that

(i) were received in the year, or are deemed by this Act to have been received in the year, in the course of carrying on the business, and

(ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method,

Entreprise agricole ou de pêche

28 (1) Dans le calcul du revenu d'un contribuable, pour une année d'imposition, tiré d'une entreprise agricole ou d'une entreprise de pêche, le revenu de cette entreprise pour cette année peut être déterminé, au choix du contribuable, selon une méthode (appelée « méthode de comptabilité de caisse » au présent article) en vertu de laquelle le revenu de cette entreprise pour cette année est réputé être un montant égal au total des montants suivants :

a) les sommes qui sont :

(i) d'une part, reçues pendant l'année ou réputées, selon la présente loi, avoir été reçues pendant l'année dans le cadre de l'exploitation de l'entreprise,

(ii) d'autre part, versées en paiement ou au titre d'un montant qui serait inclus, pour cette année ou

be included in computing income from the business for that or any other year,

(b) with respect to a farming business, such amount, if any, as is specified by the taxpayer in respect of the business in the taxpayer's return of income under this Part for the year, not exceeding the amount, if any, by which

(i) the fair market value at the end of the year of inventory owned by the taxpayer in connection with the business at that time

exceeds

(ii) the amount determined under paragraph 28(1)(c) for the year,

(c) with respect to a farming business, the amount, if any, that is the lesser of

(i) the taxpayer's loss from the business for the year computed without reference to this paragraph and to paragraph 28(1)(b), and

(ii) the value of inventory purchased by the taxpayer that was owned by the taxpayer in connection with the business at the end of the year, and

(d) the total of all amounts each of which is an amount included in computing the taxpayer's income for the year from the business because of subsection 13(1), 80(13) or 80.3(3) or (5),

minus the total of

(e) all amounts, other than amounts described in section 30, that

(i) were paid in the year, or are deemed by this Act to have been paid in the year, in the course of carrying on the business,

(ii) in the case of amounts paid, or deemed by this Act to have been paid, for inventory, were in payment of or on account of an amount that would be deductible in computing the income from the business for the year or any other taxation year if that income were not computed in accordance with the cash method, and

(iii) in any other case, were in payment of or on account of an amount that would be deductible in computing the income from the business for a preceding taxation year, the year or the following taxation year if that income were not computed in accordance with the cash method,

toute autre année, dans le calcul du revenu de l'entreprise, si ce revenu n'était pas calculé selon la méthode de comptabilité de caisse;

b) en ce qui concerne une entreprise agricole, le montant que le contribuable indique quant à l'entreprise dans sa déclaration de revenu produite en vertu de la présente partie pour l'année, ne dépassant pas l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) la juste valeur marchande, à la fin de l'année, des biens à porter à l'inventaire de l'entreprise et dont il est propriétaire à ce moment,

(ii) le montant calculé à l'alinéa c) pour l'année;

c) en ce qui concerne une entreprise agricole, le montant qui est le moins élevé des montants suivants :

(i) la perte du contribuable résultant de l'entreprise pour l'année, calculée compte non tenu du présent alinéa et de l'alinéa b),

(ii) la valeur des biens à porter à l'inventaire de l'entreprise, qu'il a achetés et dont il est propriétaire à la fin de l'année;

d) les montants inclus en application des paragraphes 13(1), 80(13) ou 80.3(3) ou (5) dans le calcul du revenu que le contribuable tire de l'entreprise pour l'année,

moins le total des montants suivants :

e) les sommes, sauf celles visées à l'article 30, qui, à la fois :

(i) sont payées au cours de l'année, ou réputées l'être par la présente loi, dans le cadre de l'exploitation de l'entreprise,

(ii) s'il s'agit de sommes payées, ou réputées l'être par la présente loi, au titre de l'inventaire, sont versées au titre d'un montant qui serait déductible dans le calcul du revenu provenant de l'entreprise pour l'année ou pour une autre année d'imposition, si ce revenu n'était pas calculé selon la méthode de comptabilité de caisse,

(iii) dans les autres cas, sont versées au titre d'un montant qui serait déductible dans le calcul du revenu provenant de l'entreprise pour une année d'imposition antérieure, pour l'année ou pour l'année d'imposition suivante, si ce revenu n'était pas calculé selon la méthode de comptabilité de caisse;

e.1) les sommes, sauf celles visées à l'article 30, qui, à la fois :

(e.1) all amounts, other than amounts described in section 30, that

(i) would be deductible in computing the income from the business for the year if that income were not computed in accordance with the cash method,

(ii) are not deductible in computing the income from the business for any other taxation year, and

(iii) were paid in a preceding taxation year in the course of carrying on the business,

(f) the total of all amounts each of which is the amount, if any, included under paragraph 28(1)(b) or 28(1)(c) in computing the taxpayer's income from the business for the immediately preceding taxation year, and

(g) the total of all amounts each of which is an amount deducted for the year under paragraph 20(1)(a) or (uu), subsection 20(16), section 30 or subsection 80.3(2) or (4) in respect of the business,

except that paragraphs 28(1)(b) and 28(1)(c) do not apply in computing the income of the taxpayer for the taxation year in which the taxpayer dies.

(i) seraient déductibles dans le calcul du revenu provenant de l'entreprise pour l'année si ce revenu n'était pas calculé selon la méthode de comptabilité de caisse,

(ii) ne sont pas déductibles dans le calcul du revenu provenant de l'entreprise pour une autre année d'imposition,

(iii) ont été versées au cours d'une année d'imposition antérieure dans le cadre de l'exploitation de l'entreprise;

f) le total des montants dont chacun représente le montant qui est inclus en application de l'alinéa b) ou c) dans le calcul du revenu du contribuable tiré de l'entreprise pour l'année d'imposition précédente;

g) les montants représentant chacun un montant déduit pour l'année relativement à l'entreprise en application des alinéas 20(1)a) ou uu), du paragraphe 20(16), de l'article 30 ou des paragraphes 80.3(2) ou (4).

Toutefois, les alinéasb) etc) ne s'appliquent pas au calcul du revenu du contribuable pour l'année d'imposition de son décès.

Acquisition of inventory

(1.1) Where at any time, and in circumstances where paragraph 69(1)(a) or 69(1)(c) applies, a taxpayer acquires inventory that is owned by the taxpayer in connection with a farming business the income from which is computed in accordance with the cash method, for the purposes of this section an amount equal to the cost to the taxpayer of the inventory shall be deemed

(a) to have been paid by the taxpayer at that time and in the course of carrying on that business, and

(b) to be the only amount so paid for the inventory by the taxpayer,

and the taxpayer shall be deemed to have purchased the inventory at the time it was so acquired.

Acquisition d'inventaire

(1.1) Pour l'application du présent article, le contribuable qui acquiert, dans des circonstances où les alinéas 69(1)a) ou c) s'appliquent, un bien à porter à l'inventaire qu'il possède à l'égard d'une entreprise agricole dont le revenu est calculé selon la méthode de comptabilité de caisse est réputé avoir acheté le bien au moment de l'acquisition. En outre, un montant égal au coût du bien pour le contribuable est réputé :

a) avoir été payé, par le contribuable, à ce moment dans le cadre de l'exploitation de l'entreprise agricole;

b) être le seul montant ainsi payé pour le bien par le contribuable.

Valuation of inventory

(1.2) For the purpose of paragraph 28(1)(c) and notwithstanding section 10, inventory of a taxpayer shall be valued at any time at the lesser of the total amount paid by the taxpayer at or before that time to acquire it (in this section referred to as its "cash cost") and its fair market value, except that an animal (in this section referred to as a "specified animal") that is a horse or, where the taxpayer has so elected in respect thereof for the taxation year that includes that time or for any preceding taxation

Valeur de l'inventaire

(1.2) Pour l'application de l'alinéa (1)c) et malgré l'article 10, les biens à porter à l'inventaire d'un contribuable sont évalués à un moment donné au moins élevé du montant total que le contribuable a payé pour les acquérir à ce moment ou avant — appelé « prix au comptant » au présent article — et de leur juste valeur marchande; toutefois, la valeur d'un animal déterminé qui est soit un cheval, soit un animal de race bovine enregistré en application de la *Loi sur la généalogie des animaux* et pour lequel le contribuable a fait un choix pour l'année

year, is a bovine animal registered under the *Animal Pedigree Act*, shall be valued

(a) at any time in the taxation year in which it is acquired, at such amount as is designated by the taxpayer not exceeding its cash cost to the taxpayer and not less than 70% of its cash cost to the taxpayer; and

(b) at any time in a subsequent taxation year, at such amount as is designated by the taxpayer not exceeding its cash cost to the taxpayer and not less than 70% of the total of

(i) its value determined under this subsection at the end of the preceding taxation year, and

(ii) the total amount paid on account of the purchase price of the animal during the year.

d'imposition qui comprend ce moment ou pour une année d'imposition antérieure, correspond :

a) à un moment de l'année d'imposition au cours de laquelle il est acquis, à un montant, indiqué par le contribuable, qui n'est ni supérieur à son prix au comptant, ni inférieur à 70 % de ce prix;

b) à un moment d'une année d'imposition ultérieure, à un montant, indiqué par le contribuable, qui n'est ni supérieur à son prix au comptant, ni inférieur à 70 % du total des montants suivants :

(i) la valeur de l'animal, déterminée en application du présent paragraphe à la fin de l'année d'imposition précédente,

(ii) le total des montants payés au titre du prix d'achat de l'animal au cours de l'année.

Short fiscal period

(1.3) For each taxation year that is less than 51 weeks, the reference in subsection 28(1.2) to "70" shall be read as a reference to the number determined by the formula

100 - (30 × A/365)

where

A is the number of days in the taxation year.

Exercice de moins de 51 semaines

(1.3) Pour chaque année d'imposition qui compte moins de 51 semaines, le nombre 70 au paragraphe (1.2) est remplacé par le nombre calculé selon la formule suivante :

100 - (30 × A/365)

où :

A représente le nombre de jours de l'année d'imposition.

Where joint farming or fishing business

(2) Subsection 28(1) does not apply for the purpose of computing the income of a taxpayer for a taxation year from a farming or fishing business carried on by the taxpayer jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his or her income from the business for that year computed in accordance with the cash method.

Exploitation conjointe de l'entreprise agricole ou de pêche

(2) Le paragraphe (1) ne s'applique pas au calcul du revenu, pour une année d'imposition, qu'un contribuable tire de l'entreprise agricole ou de l'entreprise de pêche qu'il exploite conjointement avec une ou plusieurs autres personnes, à moins que chacune de ces autres personnes exploitant conjointement l'entreprise n'ait choisi de faire calculer le revenu qu'elle tire de l'entreprise pour cette année selon la méthode de comptabilité de caisse.

Concurrence of Minister

(3) Where a taxpayer has filed a return of income under this Part for a taxation year wherein the taxpayer's income for that year from a farming or fishing business has been computed in accordance with the cash method, income from the business for each subsequent taxation year shall, subject to the other provisions of this Part, be computed in accordance with that method unless the taxpayer, with the concurrence of the Minister and on such terms and conditions as are specified by the Minister, adopts some other method.

Accord du ministre

(3) Si un contribuable a produit, pour une année d'imposition et en vertu de la présente partie, une déclaration de revenu dans laquelle le revenu qu'il a tiré pour cette année d'une entreprise agricole ou d'une entreprise de pêche a été calculé selon la méthode de comptabilité de caisse, le revenu tiré de cette entreprise pour chaque année d'imposition postérieure doit, sous réserve des autres dispositions de la présente partie, être calculé selon cette méthode, sauf si le contribuable, avec l'accord du ministre et aux conditions précisées par ce dernier, en choisit une autre.

Non-resident

(4) Notwithstanding subsections 28(1) and 28(5), where at the end of a taxation year a taxpayer who carried on a business the income from which was computed in accordance with the cash method is non-resident and does not carry on that business in Canada, an amount equal to the total of all amounts each of which is the fair market value of an amount outstanding during the year as or on account of a debt owing to the taxpayer that arose in the course of carrying on the business and that would have been included in computing the taxpayer's income for the year if the amount had been received by the taxpayer in the year, shall (to the extent that the amount was not otherwise included in computing the taxpayer's income for the year or a preceding taxation year) be included in computing the taxpayer's income from the business

(a) for the year, if the taxpayer was non-resident throughout the year; and

(b) for the part of the year throughout which the taxpayer was resident in Canada, if the taxpayer was resident in Canada at any time in the year.

(4.1) [Repealed, 2001, c. 17, s. 18]

Accounts receivable

(5) There shall be included in computing the income of a taxpayer for a taxation year such part of an amount received by the taxpayer in the year, on or after disposing of or ceasing to carry on a business or a part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the taxpayer that arose in the course of carrying on the business as would have been included in computing the income of the taxpayer for the year had the amount so received been received by the taxpayer in the course of carrying on the business.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 28; 1994, c. 7, Sch. II, s. 18; 1995, c. 21, s. 7; 1998, c. 19, s. 83; 2001, c. 17, s. 18; 2013, c. 40, s. 13(E); 2014, c. 39, s. 7; 2016, c. 12, s. 11.

Disposition of animal of basic herd class

29 (1) Where a taxpayer has a basic herd of a class of animals and disposes of an animal of that class in the course of carrying on a farming business in a taxation year, if the taxpayer so elects in the taxpayer's return of income under this Part for the year the following rules apply:

(a) there shall be deducted in computing the taxpayer's basic herd of that class at the end of the year such

Non-résident

(4) Malgré les paragraphes (1) et (5), le contribuable qui exploite une entreprise dont le revenu est calculé selon la méthode de comptabilité de caisse et qui, à la fin d'une année d'imposition, est un non-résident et n'exploite pas cette entreprise au Canada doit inclure dans le calcul de son revenu tiré de l'entreprise (dans la mesure où il ne l'a pas inclus par ailleurs dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure) un montant égal au total des sommes dont chacune représente la juste valeur marchande d'un montant impayé au cours de l'année au titre d'une dette envers lui qui a pris naissance au cours de l'exploitation de l'entreprise et qui aurait été incluse dans le calcul de son revenu pour l'année s'il avait reçu le montant au cours de l'année. Ce montant est ainsi inclus :

a) pour l'année, si le contribuable était un non-résident tout au long de l'année;

b) pour la partie de l'année tout au long de laquelle le contribuable a résidé au Canada, le cas échéant.

(4.1) [Abrogé, 2001, ch. 17, art. 18]

Comptes à recevoir

(5) Est à inclure dans le calcul du revenu d'un contribuable, pour une année d'imposition, la partie d'une somme qu'il a reçue pendant l'année, lors de la disposition de cette entreprise ou d'une partie de celle-ci ou après en avoir disposé en tout ou en partie ou lors de la cessation de l'exploitation de cette entreprise ou d'une partie de celle-ci ou après avoir cessé de l'exploiter en tout ou en partie, au titre ou en paiement intégral ou partiel des dettes envers le contribuable, qui ont pris naissance dans le cadre de l'exploitation de l'entreprise, qui aurait été comprise dans le calcul du revenu du contribuable, pour l'année, s'il avait reçu cette somme dans le cadre de l'exploitation de l'entreprise.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 28; 1994, ch. 7, ann. II, art. 18; 1995, ch. 21, art. 7; 1998, ch. 19, art. 83; 2001, ch. 17, art. 18; 2013, ch. 40, art. 13(A); 2014, ch. 39, art. 7; 2016, ch. 12, art. 11.

Disposition d'un animal appartenant à une catégorie de troupeau de base

29 (1) Un contribuable qui possède un troupeau de base d'une catégorie donnée d'animaux, qui dispos d'un animal de cette catégorie dans le cadre de l'exploitation d'une entreprise agricole pendant une année d'imposition et qui choisit, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année, d'appliquer cette méthode de calcul doit :

number as is designated by the taxpayer in the taxpayer's election, not exceeding the least of

(i) the number of animals of that class so disposed of by the taxpayer in that year,

(ii) 1/10 of the taxpayer's basic herd of that class on December 31, 1971, and

(iii) the taxpayer's basic herd of that class of animal at the end of the immediately preceding taxation year; and

(b) there shall be deducted in computing the taxpayer's income from the farming business for the taxation year the product obtained when

(i) the number determined under paragraph 29(1)(a) in respect of the taxpayer's basic herd of that class for the year

is multiplied by

(ii) the quotient obtained when the fair market value on December 31, 1971 of the taxpayer's animals of that class on that day is divided by the number of the taxpayer's animals of that class on that day.

a) retrancher, dans le dénombrement de ce troupeau de base à la fin de l'année, le nombre, indiqué dans son choix, qui ne dépasse pas le moindre des éléments suivants :

(i) le nombre d'animaux de cette catégorie dont il a ainsi disposé au cours de l'année,

(ii) 1/10 de ce troupeau de base au 31 décembre 1971,

(iii) ce troupeau de base à la fin de l'année d'imposition précédente;

b) retrancher, dans le calcul du revenu qu'il tire de son entreprise agricole pour l'année d'imposition, le produit des facteurs suivants :

(i) le nombre déterminé en vertu de l'alinéa a) relativement à son troupeau de base de cette catégorie pour l'année,

(ii) le quotient de la juste valeur marchande, au 31 décembre 1971, de ses animaux de cette catégorie à cette date, par le nombre de ses animaux de cette catégorie, à cette date.

Reduction in basic herd

(2) Where a taxpayer carries on a farming business in a taxation year and the taxpayer's basic herd of any class at the end of the immediately preceding year, minus the deduction, if any, required by paragraph 29(1)(a) to be made in computing the taxpayer's basic herd of that class at the end of the year, exceeds the number of animals of that class owned by the taxpayer at the end of the year,

(a) there shall be deducted in computing the taxpayer's basic herd of that class at the end of the year the number of animals comprising the excess; and

(b) there shall be deducted in computing the taxpayer's income from the farming business for the taxation year the product obtained when

(i) the number of animals comprising the excess

is multiplied by

(ii) the quotient obtained when the fair market value on December 31, 1971 of the taxpayer's animals of that class on that day is divided by the number of the taxpayer's animals of that class on that day.

Réduction du troupeau de base

(2) Lorsqu'un contribuable exploite une entreprise agricole au cours d'une année d'imposition et qu'à la fin de l'année précédente son troupeau de base d'une catégorie quelconque, moins ce qu'il faut retrancher, le cas échéant, dans le dénombrement du troupeau de base de cette catégorie à la fin de l'année pour se conformer à l'alinéa (1)a), dépasse le nombre d'animaux de cette catégorie dont il est propriétaire à la fin de l'année, il faut :

a) retrancher, dans le dénombrement de son troupeau de base de cette catégorie, à la fin de l'année, le nombre d'animaux constituant cet excédent;

b) retrancher, dans le calcul du revenu qu'il tire de son entreprise agricole pour l'année d'imposition, le produit des facteurs suivants :

(i) le nombre d'animaux constituant l'excédent,

(ii) le quotient de la juste valeur marchande, au 31 décembre 1971, de ses animaux de cette catégorie à cette date, par le nombre de ses animaux de cette catégorie à cette date.

Interpretation

(3) For the purposes of this section,

Interprétation

(3) Pour l'application du présent article :

(a) a taxpayer's ***basic herd*** of any class of animals at a particular time means such number of the animals of that class that the taxpayer had on hand at the end of his 1971 taxation year as were, for the purpose of assessing the taxpayer's tax under this Part for that year, accepted by the Minister, as a consequence of an application made by the taxpayer, to be capital properties and not to be stock-in-trade, minus the numbers, if any, required by virtue of this section to be deducted in computing the taxpayer's basic herd of that class at the end of taxation years of the taxpayer ending before the particular time;

(b) ***class of animals*** means animals of a particular species, namely, cattle, horses, sheep or swine, that are

(i) purebred animals of that species for which a certificate of registration has been issued by a person recognized by breeders in Canada of purebred animals of that species to be the registrar of the breed to which such animals belong, or issued by the Canadian Livestock Records Corporation, or

(ii) animals of that species other than purebred animals described in subparagraph 29(3)(b)(i),

each of which descriptions in subparagraphs 29(3)(b)(i) and 29(3)(b)(ii) shall be deemed to be of separate classes, except that where the number of the taxpayer's animals described in subparagraph 29(3)(b)(i) or 29(3)(b)(ii), as the case may be, of a particular species is not greater than 10% of the total number of the taxpayer's animals of that species that would otherwise be of two separate classes by virtue of this paragraph, the taxpayer's animals described in subparagraphs 29(3)(b)(i) and 29(3)(b)(ii) of that species shall be deemed to be of a single class; and

(c) in determining the number of animals of any class on hand at any time, an animal shall not be included if it was acquired for a feeder operation, and an animal shall be included only if its actual age is not less than,

(i) in the case of cattle, 2 years,

(ii) in the case of horses, 3 years, and

(iii) in the case of sheep or swine, one year,

except that 2 animals of a class under the age specified in subparagraph 29(3)(c)(i), 29(3)(c)(ii) or 29(3)(c)(iii), as the case may be, shall be counted as one animal of the age so specified.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "29"; 1985, c. 45, s. 126(F).

a) ***troupeau de base***, s'agissant du troupeau de base d'une catégorie quelconque d'animaux d'un contribuable, à un moment donné, s'entend du nombre d'animaux de cette catégorie que le contribuable avait en sa possession à la fin de son année d'imposition 1971, et qui, en vue de la cotisation relative à son impôt pour cette année, en vertu de la présente partie, a été accepté par le ministre, à la demande du contribuable, comme constituant des immobilisations et non des articles de commerce, moins le nombre des animaux dont le présent article exige le retranchement de son troupeau de base de cette catégorie à la fin des années d'imposition du contribuable qui se terminent avant le moment donné;

b) ***catégorie d'animaux*** s'entend des animaux d'une espèce particulière, à savoir bovins, chevaux, ovins ou porcs, qui sont :

(i) des animaux de race pure de cette espèce pour lesquels un certificat d'enregistrement a été délivré par une personne reconnue par les éleveurs au Canada d'animaux de race de cette espèce comme étant le chef du service chargé de tenir le livre généalogique de la race des animaux en question, ou délivré par la Société canadienne d'enregistrement des animaux,

(ii) des animaux de cette espèce autres que les animaux de race pure visés au sous-alinéa (i),

dont chacune des descriptions figurant aux sous-alinéas (i) et (ii) est réputée représenter une catégorie distincte; toutefois, lorsque le nombre des animaux d'un contribuable décrits au sous-alinéa (i) ou (ii), selon le cas, d'une espèce particulière ne dépasse pas 10 % du nombre total des ses animaux de cette espèce qui appartiendraient par ailleurs à deux catégories distinctes en vertu du présent alinéa, ses animaux de cette espèce, visés aux sous-alinéas (i) et (ii), sont réputés appartenir à une seule catégorie;

c) en déterminant le nombre d'animaux d'une catégorie quelconque en sa possession à un moment donné, il ne faut pas inclure un animal qui a été acquis pour l'engraissement, et il ne faut inclure un animal que si son âge véritable n'est pas inférieur à :

(i) 2 ans pour les bovins,

(ii) 3 ans pour les chevaux,

(iii) 1 an pour les ovins et les porcs;

2 animaux d'une catégorie donnée et dont l'âge est inférieur à l'âge indiqué aux sous-alinéas (i), (ii) ou (iii),

selon le cas, sont toutefois comptés comme un seul animal ayant l'âge ainsi indiqué.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 29 »; 1985, ch. 45, art. 126(F).

Improving land for farming

30 Notwithstanding paragraphs 18(1)(a) and 18(1)(b), there may be deducted in computing a taxpayer's income for a taxation year from a farming business any amount paid by the taxpayer before the end of the year for clearing land, levelling land or installing a land drainage system for the purposes of the business, to the extent that the amount has not been deducted in a preceding taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"30"; 1988, c. 55, s. 15.

Défrichement, nivellement et installation d'un système de drainage

30 Malgré les alinéas 18(1)a) et b), est déductible dans le calcul du revenu qu'un contribuable tire d'une entreprise agricole pour une année d'imposition tout montant qu'il paye avant la fin de l'année pour le défrichement ou le nivellement de la terre ou l'installation d'un système de drainage, dans le cadre de l'entreprise, dans la mesure où ce montant n'a pas été déduit pour une année d'imposition antérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 30 »; 1988, ch. 55, art. 15.

Restricted farm loss

31 (1) If a taxpayer's chief source of income for a taxation year is neither farming nor a combination of farming and some other source of income that is a subordinate source of income for the taxpayer, then for the purposes of sections 3 and 111 the taxpayer's loss, if any, for the year from all farming businesses carried on by the taxpayer is deemed to be the total of

(a) the lesser of

(i) the amount by which the total of the taxpayer's losses for the year, determined without reference to this section and before making any deduction under section 37, from all farming businesses carried on by the taxpayer exceeds the total of the taxpayer's incomes for the year, so determined from all such businesses, and

(ii) $2,500 plus the lesser of

(A) 1/2 of the amount by which the amount determined under subparagraph 31(1)(a)(i) exceeds $2,500, and

(B) $15,000, and

(b) the amount, if any, by which

(i) the amount that would be determined under subparagraph (a)(i) if it were read without reference to "and before making any deduction under section 37",

exceeds

(ii) the amount determined under subparagraph 31(1)(a)(i).

Perte agricole restreinte

31 (1) Si le revenu d'un contribuable, pour une année d'imposition, ne provient principalement ni de l'agriculture ni d'une combinaison de l'agriculture et d'une autre source qui est une source secondaire de revenu pour lui, pour l'application des articles 3 et 111, ses pertes pour l'année, provenant de toutes les entreprises agricoles exploitées par lui, sont réputées correspondre au total des montants suivants :

a) la moins élevée des sommes suivantes :

(i) l'excédent du total de ses pertes pour l'année, déterminées compte non tenu du présent article et avant toute déduction prévue à l'article 37 et provenant de toutes les entreprises agricoles exploitées par lui, sur le total des revenus, ainsi déterminés, qu'il a tirés pour l'année de ces entreprises,

(ii) 2 500 $ plus la moins élevée des sommes suivantes :

(A) 1/2 de l'excédent du montant visé au sous-alinéa (i) sur 2 500 $,

(B) 15 000 $;

b) l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii):

(i) la somme qui serait déterminée en vertu du sous-alinéa a)(i) compte non tenu du passage « et avant toute déduction prévue à l'article 37 »,

(ii) la somme déterminée en vertu du sous-alinéa a)(i).

Restricted farm loss

(1.1) For the purposes of this Act, a taxpayer's "restricted farm loss" for a taxation year is the amount, if any, by which

(a) the amount determined under subparagraph 31(1)(a)(i) in respect of the taxpayer for the year

exceeds

(b) the total of the amount determined under subparagraph 31(1)(a)(ii) in respect of the taxpayer for the year and all amounts each of which is an amount by which the taxpayer's restricted farm loss for the year is required to be reduced because of section 80.

Farming and manufacturing or processing

(2) Subsection (1) does not apply to a taxpayer for a taxation year if the taxpayer's chief source of income for the year is a combination of farming and manufacturing or processing in Canada of goods for sale and all or substantially all output from all farming businesses carried on by the taxpayer is used in the manufacturing or processing.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 31; 1995, c. 21, s. 8; 2013, c. 40, s. 14.

Insurance agents and brokers

32 (1) In computing a taxpayer's income for a taxation year from the taxpayer's business as an insurance agent or broker, no amount may be deducted under paragraph 20(1)(m) for the year in respect of unearned commissions from the business, but in computing the taxpayer's income for the year from the business there may be deducted, as a reserve in respect of such commissions, an amount equal to the lesser of

(a) the total of all amounts each of which is that proportion of an amount that has been included in computing the taxpayer's income for the year or a preceding taxation year as a commission in respect of an insurance contract (other than a life insurance contract) that

(i) the number of days in the period provided for in the insurance contract that are after the end of the taxation year

is of

(ii) the number of days in that period, and

(b) the total of all amounts each of which is the amount that would, but for this subsection, be

Perte agricole restreinte

(1.1) Pour l'application de la présente loi, la perte agricole restreinte d'un contribuable pour une année d'imposition correspond à l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le montant déterminé selon le sous-alinéa (1)a)(i) relativement au contribuable pour l'année;

b) le total du montant déterminé selon le sous-alinéa (1)a)(ii) relativement au contribuable pour l'année et des montants représentant chacun un montant qui, par l'effet de l'article 80, est à appliquer en réduction de la perte agricole restreinte du contribuable pour l'année.

Agriculture et fabrication ou transformation

(2) Le paragraphe (1) ne s'applique pas à un contribuable pour une année d'imposition si son revenu pour l'année provient principalement d'une combinaison de l'agriculture et de la fabrication ou de la transformation au Canada de marchandises destinées à la vente et que la totalité ou la presque totalité de la production provenant de l'ensemble des entreprises agricoles qu'il exploite soit utilisée dans la fabrication ou la transformation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 31; 1995, ch. 21, art. 8; 2013, ch. 40, art. 14.

Agents ou courtiers d'assurance

32 (1) Dans le calcul du revenu qu'un contribuable tire pour une année d'imposition de son entreprise en qualité d'agent ou de courtier d'assurance, aucun montant n'est déductible en application de l'alinéa 20(1)m) pour l'année au titre des commissions non gagnées provenant de cette entreprise. Toutefois, le moins élevé des montants suivants est déductible dans ce calcul pour l'année à titre de provision pour ces commissions :

a) le total des montants dont chacun représente le produit de la multiplication d'une somme incluse dans le calcul du revenu du contribuable pour l'année ou pour une année antérieure au titre des commissions sur un contrat d'assurance, sauf un contrat d'assurance-vie, par le rapport entre :

(i) d'une part, le nombre de jours de la période prévue par le contrat qui sont postérieurs à la fin de l'année d'imposition,

(ii) d'autre part, le nombre de jours de cette période;

deductible under paragraph 20(1)(m) for the year in respect of a commission referred to in paragraph 32(1)(a).

Reserve to be included

(2) There shall be included as income of a taxpayer for a taxation year from a business as an insurance agent or broker, the amount deducted under subsection 32(1) in computing the taxpayer's income therefrom for the immediately preceding year.

Additional reserve

(3) In computing a taxpayer's income for a taxation year ending after 1990 from a business carried on by the taxpayer throughout the year as an insurance agent or broker, there may be deducted as an additional reserve an amount not exceeding

(a) where the year ends in 1991, 90%,

(b) where the year ends in 1992, 80%,

(c) where the year ends in 1993, 70%,

(d) where the year ends in 1994, 60%,

(e) where the year ends in 1995, 50%,

(f) where the year ends in 1996, 40%,

(g) where the year ends in 1997, 30%,

(h) where the year ends in 1998, 20%,

(i) where the year ends in 1999, 10%, and

(j) where the year ends after 1999, 0%

of the amount, if any, by which

(k) the reserve that was deducted by the taxpayer under subsection 32(1) for the taxpayer's last taxation year ending before 1991

exceeds

(l) the amount deductible by the taxpayer under subsection 32(1) for the taxpayer's first taxation year ending after 1990,

and any amount so deducted by the taxpayer for a taxation year shall be deemed for the purposes of subsection 32(2) to have been deducted for that year under subsection 32(1).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 32; 1994, c. 7, Sch. II, s. 19.

b) le total des montants dont chacun représente le montant qui, sans le présent paragraphe, serait déductible en application de l'alinéa 20(1)m) pour l'année au titre des commissions visées à l'alinéa a).

Provision à inclure

(2) Il faut inclure à titre de revenu tiré, par le contribuable, d'une entreprise pour une année d'imposition en qualité d'agent ou de courtier d'assurance le montant qui a été déduit en vertu du paragraphe (1) dans le calcul de son revenu tiré de cette entreprise pour l'année précédente.

Provisions supplémentaires

(3) Est déductible à titre de provision supplémentaire, dans le calcul du revenu d'un contribuable pour une année d'imposition donnée se terminant après 1990 tiré de l'exploitation d'une entreprise tout au long de l'année par le contribuable en qualité d'agent ou de courtier d'assurance, une somme ne dépassant pas le montant correspondant au pourcentage déterminé de l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) la provision déduite par le contribuable en application du paragraphe (1) pour sa dernière année d'imposition se terminant avant 1991;

b) le montant déductible par le contribuable en application du paragraphe (1) pour sa première année d'imposition se terminant après 1990.

Le pourcentage déterminé, pour les années d'imposition se terminant au cours des années ci-après, est le suivant :

1991: 90 %;
1992: 80 %;
1993: 70 %;
1994: 60 %;
1995: 50 %;
1996: 40 %;
1997: 30 %;
1998: 20 %;
1999: 10 %;
années d'imposition seterminant après
1999: 0 %;

Pour l'application du paragraphe (2), la somme ainsi déduite par le contribuable pour une année d'imposition est réputée déduite en application du paragraphe (1) pour cette année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 32; 1994, ch. 7, ann. II, art. 19.

Employee benefit plan deductions

32.1 (1) Where a taxpayer has made contributions to an employee benefit plan in respect of the taxpayer's employees or former employees, the taxpayer may deduct in computing the taxpayer's income for a taxation year

(a) such portion of an amount allocated to the taxpayer for the year under subsection 32.1(2) by the custodian of the plan as does not exceed the amount, if any, by which

(i) the total of all amounts each of which is a contribution by the taxpayer to the plan for the year or a preceding year

exceeds the total of all amounts each of which is

(ii) an amount in respect of the plan deducted by the taxpayer in computing the taxpayer's income for a preceding year, or

(iii) an amount received by the taxpayer in the year or a preceding year that was a return of amounts contributed by the taxpayer to the plan; and

(b) where at the end of the year all of the obligations of the plan to the taxpayer's employees and former employees have been satisfied and no property of the plan will thereafter be paid to or otherwise be available for the benefit of the taxpayer, the amount, if any, by which

(i) the total of all amounts each of which is a contribution by the taxpayer to the plan for the year or a preceding year

exceeds the total of all amounts each of which is

(ii) an amount in respect of the plan deducted by the taxpayer in computing the taxpayer's income for a preceding year, or, by virtue of paragraph 32.1(1)(a), for the year, or

(iii) an amount received by the taxpayer in the year or a preceding year that was a return of amounts contributed by the taxpayer to the plan.

Allocation

(2) Every custodian of an employee benefit plan shall each year allocate to persons who have made contributions to the plan in respect of their employees or former employees the amount, if any, by which the total of

(a) all payments made in the year out of or under the plan to or for the benefit of their employees or former

Déductions relatives à un régime de prestations aux employés

32.1 (1) Lorsqu'un contribuable a versé des cotisations à un régime de prestations aux employés à l'égard de ses employés ou de ses anciens employés, il peut déduire dans le calcul de son revenu pour une année d'imposition :

a) la fraction d'un montant qui lui est attribué pour l'année en vertu du paragraphe (2) par le dépositaire du régime qui ne peut dépasser l'excédent éventuel :

(i) du total des sommes dont chacune représente une cotisation qu'il a versée au régime pour l'année ou une année antérieure,

sur le total des sommes dont chacune représente :

(ii) soit une somme relative au régime et qu'il a déduite dans le calcul de son revenu pour une année antérieure,

(iii) soit une somme qu'il a reçue au cours de l'année ou au cours d'une année antérieure et qui représentait un remboursement de sommes versées par lui au régime;

b) dans le cas où, à la fin de l'année, toutes les obligations du régime à l'égard de ses employés et de ses anciens employés ont été honorées et où aucun bien du régime ne sera payé par la suite ou autrement mis à la disposition du contribuable, l'excédent éventuel :

(i) du total des sommes dont chacune représente une cotisation qu'il a versée au régime pour l'année ou pour une année antérieure,

sur le total des sommes dont chacune représente :

(ii) soit une somme relative au régime et qu'il a déduite dans le calcul de son revenu pour une année antérieure ou, en vertu de l'alinéa a), pour l'année,

(iii) soit une somme qu'il a reçue au cours de l'année ou au cours d'une année antérieure et qui représentait un remboursement de sommes qu'il avait versées au régime.

Allocation

(2) Tout dépositaire d'un régime de prestations aux employés doit attribuer, chaque année, aux personnes qui ont versé des cotisations au régime à l'égard de leurs employés ou de leurs anciens employés l'excédent éventuel du total des paiements suivants sur le revenu du régime pour l'année :

employees (other than the portion thereof that, by virtue of subparagraph 6(1)(g)(ii), is not required to be included in computing the income of a taxpayer), and

(b) all payments made in the year out of or under the plan to the heirs or the legal representatives of their employees or former employees

exceeds the income of the plan for the year.

a) les paiements effectués au cours de l'année dans le cadre du régime à leurs employés ou à leurs anciens employés, ou pour le bénéfice de ceux-ci (à l'exclusion de la fraction de ces paiements qui, en vertu du sous-alinéa 6(1)g)(ii), n'a pas à être incluse dans le calcul du revenu d'un contribuable);

b) les paiements effectués au cours de l'année dans le cadre du régime aux héritiers ou aux représentants légaux de leurs employés ou anciens employés.

Income of employee benefit plan

(3) For the purposes of subsection 32.1(2), the income of an employee benefit plan for a year

(a) in the case of a plan that is a trust, is the amount that would be its income for the year if section 104 were read without reference to subsections 104(4) to 104(24); and

(b) in any other case, is the total of all amounts each of which is the amount, if any, by which a payment under the plan by the custodian thereof in the year exceeds

(i) in the case of an annuity, that part of the payment determined in prescribed manner to have been a return of capital, and

(ii) in any other case, that part of the payment that could, but for paragraph 6(1)(g), reasonably be regarded as being a payment of a capital nature.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1980-81-82-83, c. 48, s. 14, c. 140, s. 15.

Revenu d'un régime de prestations aux employés

(3) Pour l'application du paragraphe (2), le revenu d'un régime de prestations aux employés pour une année :

a) dans le cas d'un régime qui est une fiducie, est la somme qui aurait été son revenu pour l'année compte non tenu des paragraphes 104(4) à (24);

b) dans tout autre cas, est le total des sommes dont chacune représente l'excédent éventuel d'un paiement effectué en vertu du régime par son dépositaire au cours de l'année sur :

(i) dans le cas d'une rente, la fraction du paiement déterminée selon les modalités réglementaires comme ayant été un remboursement du capital,

(ii) dans tout autre cas, la fraction du paiement qu'il serait, sans l'alinéa 6(1)g), raisonnable de considérer comme étant un paiement de capital.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1980-81-82-83, ch. 48, art. 14, ch. 140, art. 15.

33.1 [Repealed, 2013, c. 33, s. 4]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 33.1; 1994, c. 7, Sch. II, s. 20; 2001, c. 17, s. 19; 2010, c. 25, s. 7; 2013, c. 33, s. 4.

33.1 [Abrogé, 2013, ch. 33, art. 4]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 33.1; 1994, ch. 7, ann. II, art. 20; 2001, ch. 17, art. 19; 2010, ch. 25, art. 7; 2013, ch. 33, art. 4.

Professional business

34 In computing the income of a taxpayer for a taxation year from a business that is the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor, the following rules apply:

(a) where the taxpayer so elects in the taxpayer's return of income under this Part for the year, there shall not be included any amount in respect of work in progress at the end of the year; and

(b) where the taxpayer has made an election under this section, paragraph 34(a) shall apply in computing

Professions libérales

34 Les règles suivantes s'appliquent au calcul du revenu d'un contribuable pour une année d'imposition tiré d'une entreprise qui consiste en l'exercice de la profession de comptable, de dentiste, d'avocat, de médecin, de vétérinaire ou de chiropraticien :

a) aucun montant n'est inclus pour le travail en cours à la fin de l'année, si le contribuable en fait le choix dans sa déclaration de revenu produite en vertu de la présente partie pour l'année;

b) l'alinéa a) s'applique au calcul du revenu du contribuable tiré de l'entreprise pour les années d'imposition ultérieures, si celui-ci a fait le choix prévu au présent article, à moins qu'il ne le révoque en ce qui

the taxpayer's income from the business for all subsequent taxation years unless the taxpayer, with the concurrence of the Minister and on such terms and conditions as are specified by the Minister, revokes the election to have that paragraph apply.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"34"; 1973-74, c. 14, s. 8; 1980-81-82-83, c. 140, s. 16; 1985, c. 45, s. 13.

concerne l'application de cet alinéa avec l'accord du ministre et aux conditions fixées par ce dernier.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 34 »; 1973-74, ch. 14, art. 8; 1980-81-82-83, ch. 140, art. 16; 1985, ch. 45, art. 13.

Additional Business Income

34.1 (1) Where

(a) an individual (other than a graduated rate estate) carries on a business in a taxation year,

(b) a fiscal period of the business begins in the year and ends after the end of the year (in this subsection referred to as the "particular period"), and

(c) the individual has elected under subsection 249.1(4) in respect of the business and the election has not been revoked,

there shall be included in computing the individual's income for the year from the business, the amount determined by the formula

(A - B) × C/D

where

A is the total of the individual's income from the business for the fiscal periods of the business that end in the year,

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of all amounts deducted under section 110.6 in computing the individual's taxable income for the year,

C is the number of days on which the individual carries on the business that are both in the year and in the particular period, and

D is the number of days on which the individual carries on the business that are in fiscal periods of the business that end in the year.

Revenu d'entreprise supplémentaire

34.1 (1) Le particulier, sauf une succession assujettie à l'imposition à taux progressifs, qui exploite, au cours d'une année d'imposition, une entreprise dont un exercice commence dans l'année et se termine après la fin de l'année (appelé « exercice donné » au présent paragraphe) et qui a fait le choix prévu au paragraphe 249.1(4) relativement à l'entreprise, lequel choix n'a pas été révoqué, est tenu d'inclure la somme obtenue par la formule ci-après dans le calcul de son revenu pour l'année tiré de l'entreprise :

(A - B) × C/D

où :

A représente le total du revenu du particulier tiré de l'entreprise pour les exercices de celle-ci qui se terminent dans l'année;

B le moins élevé des montants suivants :

(i) le total des montants représentant chacun un montant, compris dans le calcul de l'élément A relativement à l'entreprise, qui est réputé être un gain en capital imposable pour l'application de l'article 110.6,

(ii) le total des montants déduits en application de l'article 110.6 dans le calcul du revenu imposable du particulier pour l'année;

C le nombre de jours où le particulier exploite l'entreprise qui tombent à la fois dans l'année et dans l'exercice donné;

D le nombre de jours où le particulier exploite l'entreprise qui tombent dans les exercices de celle-ci se terminant dans l'année.

Additional income election

(2) Where

(a) an individual (other than a graduated rate estate) begins carrying on a business in a taxation year and not earlier than the beginning of the first fiscal period of the business that begins in the year and ends after

Choix portant sur le revenu supplémentaire

(2) Le particulier, sauf une succession assujettie à l'imposition à taux progressifs, qui commence à exploiter une entreprise au cours d'une année d'imposition, mais non antérieurement au début du premier exercice de l'entreprise qui commence dans l'année et se termine après la fin de l'année (appelé « exercice donné » au présent

the end of the year (in this subsection referred to as the "particular period"), and

(b) the individual has elected under subsection 249.1(4) in respect of the business and the election has not been revoked,

there shall be included in computing the individual's income for the year from the business the lesser of

(c) the amount designated in the individual's return of income for the year, and

(d) the amount determined by the formula

(A - B) × C/D

where

A is the individual's income from the business for the particular period,

B is the lesser of

(i) the total of all amounts each of which is an amount included in the value of A in respect of the business and that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of all amounts deducted under section 110.6 in computing the individual's taxable income for the taxation year that includes the end of the particular period,

C is the number of days on which the individual carries on the business that are both in the year and in the particular period, and

D is the number of days on which the individual carries on the business that are in the particular period.

paragraphe), et qui a fait le choix prévu au paragraphe 249.1(4) relativement à l'entreprise, lequel choix n'a pas été révoqué, est tenu d'inclure la moins élevée des sommes ci-après dans le calcul de son revenu pour l'année tiré de l'entreprise :

a) le montant indiqué dans la déclaration de revenu du particulier pour l'année;

b) le résultat du calcul suivant :

(A - B) × C/D

où :

A représente le revenu du particulier tiré de l'entreprise pour l'exercice donné,

B le moins élevé des montants suivants :

(i) le total des montants représentant chacun un montant, compris dans le calcul de l'élément A relativement à l'entreprise, qui est réputé être un gain en capital imposable pour l'application de l'article 110.6,

(ii) le total des montants déduits en application de l'article 110.6 dans le calcul du revenu imposable du particulier pour l'année d'imposition qui comprend la fin de l'exercice donné,

C le nombre de jours où le particulier exploite l'entreprise qui tombent à la fois dans l'année et dans l'exercice donné,

D le nombre de jours où le particulier exploite l'entreprise qui tombent dans l'exercice donné.

Deduction

(3) There shall be deducted in computing an individual's income for a taxation year from a business the amount, if any, included under subsection 34.1(1) or 34.1(2) in computing the individual's income for the preceding taxation year from the business.

(4) to (7) [Repealed, 2013, c. 40, s. 15]

No additional income inclusion

(8) Subsections 34.1(1) and 34.1(2) do not apply in computing an individual's income for a taxation year from a business where

(a) the individual dies or otherwise ceases to carry on the business in the year; or

Déduction

(3) Est à déduire dans le calcul du revenu qu'un particulier tire d'une entreprise pour une année d'imposition le montant inclus, en application des paragraphes (1) ou (2), dans le calcul du revenu qu'il en tire pour l'année d'imposition précédente.

(4) à (7) [Abrogés, 2013, ch. 40, art. 15]

Exception

(8) Les paragraphes (1) et (2) ne s'appliquent pas au calcul du revenu qu'un particulier tire d'une entreprise pour une année d'imposition si :

a) le particulier décède ou cesse autrement d'exploiter l'entreprise au cours de l'année;

(b) the individual becomes a bankrupt in the calendar year in which the taxation year ends.

b) le particulier fait faillite au cours de l'année civile où l'année d'imposition prend fin.

Death of partner or proprietor

(9) Where

(a) an individual carries on a business in a taxation year,

(b) the individual dies in the year and after the end of a fiscal period of the business that ends in the year,

(c) another fiscal period of the business ends because of the individual's death (in this subsection referred to as the "short period"), and

(d) the individual's legal representative

(i) elects that this subsection apply in computing the individual's income for the year, or

(ii) files a separate return of income under subsection 150(4) in respect of the individual's business,

notwithstanding subsection 34.1(8), there shall be included in computing the individual's income for the year from the business, the amount determined by the formula

(A - B) × C/D

where

A is the total of the individual's income from the business for fiscal periods (other than the short period) of the business that end in the year,

B is the lesser of

(i) the total of all amounts, each of which is an amount included in the value of A in respect of the business that is deemed to be a taxable capital gain for the purpose of section 110.6, and

(ii) the total of all amounts deducted under section 110.6 in computing the individual's taxable income for the year,

C is the number of days in the short period, and

D is the total number of days in fiscal periods of the business (other than the short period) that end in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 8; 1998, c. 19, s. 84; 2013, c. 40, s. 15; 2014, c. 39, s. 8.

Décès d'un associé ou d'un propriétaire d'entreprise

(9) Malgré le paragraphe (8), un montant est à inclure dans le calcul du revenu d'un particulier pour une année d'imposition tiré d'une entreprise qu'il exploite au cours de l'année si les conditions suivantes sont réunies :

a) le particulier décède dans l'année, après la fin de l'exercice de l'entreprise qui se termine dans l'année;

b) un autre exercice de l'entreprise (appelé « exercice abrégé » au présent paragraphe) prend fin en raison du décès du particulier

c) le représentant légal du particulier :

(i) soit choisit de calculer le revenu du particulier pour l'année compte tenu du présent paragraphe,

(ii) soit produit une déclaration de revenu distincte aux termes du paragraphe 150(4) relativement à l'entreprise du particulier.

Ce montant est égal au résultat du calcul suivant :

(A - B) × C/D

où :

A représente le total du revenu du particulier tiré de l'entreprise pour les exercices de celle-ci (sauf l'exercice abrégé) se terminant dans l'année;

B le moins élevé des montants suivants :

(i) le total des montants représentant chacun un montant compris dans la valeur de l'élément A relativement à l'entreprise et qui est réputé être un gain en capital imposable pour l'application de l'article 110.6,

(ii) le total des montants déduits en application de l'article 110.6 dans le calcul du revenu imposable du particulier pour l'année;

C le nombre de jours de l'exercice abrégé;

D le nombre total de jours des exercices de l'entreprise (sauf l'exercice abrégé) se terminant dans l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 8; 1998, ch. 19, art. 84; 2013, ch. 40, art. 15; 2014, ch. 39, art. 8.

Definitions

34.2 (1) The definitions in this subsection apply in this section.

Définitions

34.2 (1) Les définitions qui suivent s'appliquent au présent article.

adjusted stub period accrual of a corporation in respect of a partnership — in which the corporation has a significant interest at the end of the last fiscal period of the partnership that ends in the corporation's taxation year in circumstances where another fiscal period (in this definition referred to as the "particular period") of the partnership begins in the year and ends after the year — means

(a) if paragraph (b) does not apply, the amount determined by the formula

[(A – B) × C/D] – (E + F)

where

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for a fiscal period of the partnership that ends in the year (other than any amount for which a deduction is available under section 112 or 113),

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the description of A — of the partnership for a fiscal period of the partnership that ends in the year,

C is the number of days that are in both the year and the particular period,

D is the number of days in fiscal periods of the partnership that end in the year,

E is the amount of the qualified resource expense in respect of the particular period of the partnership that is designated by the corporation for the year under subsection (6) in its return of income for the year filed with the Minister on or before its filing-due date for the year, and

F is an amount designated by the corporation in its return of income for the year (other than an amount included in the description of E) and filed with the Minister on or before its filing-due date for the year; and

(b) if a fiscal period of the partnership ends in the corporation's taxation year and the year is the first taxation year in which the fiscal period of the partnership is aligned with the fiscal period of one or more other partnerships under a multi-tier alignment (in this paragraph referred to as the "eligible fiscal period"),

alignement pour paliers multiples Relativement à une société de personnes, alignement, prévu aux paragraphes 249.1(9) ou (11), de l'exercice de la société de personnes et de celui d'une ou de plusieurs autres sociétés de personnes. (*multi-tier alignment*)

alignement pour palier unique Relativement à une société de personnes, le fait de mettre fin à un exercice de la société de personnes conformément au paragraphe 249.1(8). (*single-tier alignment*)

dépense admissible relative à des ressources Est une dépense admissible relative à des ressources d'une société pour une année d'imposition, relativement à l'exercice d'une société de personnes qui commence dans l'année et se termine après la fin de l'année, toute dépense engagée par la société de personnes au cours de la partie de l'exercice comprise dans l'année et visée à l'une des définitions suivantes :

a) ***frais d'exploration au Canada*** au paragraphe 66.1(6);

b) ***frais d'aménagement au Canada*** au paragraphe 66.2(5);

c) ***frais relatifs à des ressources à l'étranger*** au paragraphe 66.21(1);

d) ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5). (*qualified resource expense*)

montant comptabilisé ajusté pour la période tampon Le montant comptabilisé ajusté pour la période tampon d'une société relativement à une société de personnes — dans laquelle la société a une participation importante à la fin du dernier exercice de la société de personnes se terminant dans l'année d'imposition de la société, dans des circonstances où un autre exercice (appelé « exercice donné » dans la présente définition) de la société de personnes commence dans l'année et se termine après la fin de l'année — correspond à celle des sommes ci-après qui est applicable :

a) si l'alinéa b) ne s'applique pas, la somme obtenue par la formule suivante :

[(A – B) × C/D] – (E + F)

où :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour un exercice de celle-ci se terminant dans l'année, à l'exclusion d'une somme au

(i) where a fiscal period of the partnership ends in the year and before the eligible fiscal period, the amount determined by the formula

[(A – B) × C/D] – (E + F)

where

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the first fiscal period of the partnership that ends in the year (other than any amount for which a deduction is available under section 112 or 113),

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the description of A — of the partnership for the first fiscal period of the partnership that ends in the year,

C is the number of days that are in both the year and the particular period,

D is the number of days in the first fiscal period of the partnership that ends in the year,

E is the amount of the qualified resource expense in respect of the particular period of the partnership that is designated by the corporation for the year under subsection (6) in its return of income for the year filed with the Minister on or before its filing-due date for the year, and

F is an amount designated by the corporation in its return of income for the year (other than an amount included in the description of E) and filed with the Minister on or before its filing-due date for the year, and

(ii) where the eligible fiscal period of the partnership is the first fiscal period of the partnership that ends in the corporation's taxation year, the amount determined by the formula

(A – B – C) × D/E – (F + G)

where

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the eligible fiscal period (other than any amount for which a deduction is available under section 112 or 113),

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all

titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — de la société de personnes pour un exercice de celle-ci se terminant dans l'année,

C le nombre de jours qui font partie à la fois de l'année et de l'exercice donné,

D le nombre de jours des exercices de la société de personnes se terminant dans l'année,

E le montant des dépenses admissibles relatives à des ressources pour l'exercice donné de la société de personnes que la société désigne pour l'année en vertu du paragraphe (6) dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

F toute somme, à l'exclusion d'une somme comprise dans la valeur de l'élément E, que la société désigne dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année;

b) si l'un des exercices de la société de personnes prend fin dans l'année d'imposition de la société et que cette année est la première année d'imposition où l'exercice de la société de personnes est aligné sur celui d'une ou de plusieurs autres sociétés de personnes en raison d'un alignement pour paliers multiples (appelé « exercice admissible » au présent alinéa) :

(i) dans le cas où un exercice de la société de personnes prend fin dans l'année et avant l'exercice admissible, la somme obtenue par la formule suivante :

[(A – B) × C/D] – (E + F)

où :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour le premier exercice de celle-ci se terminant dans l'année, à l'exclusion d'une somme au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

allowable capital losses does not exceed the total of all taxable capital gains included in the description of A — of the partnership for the eligible fiscal period,

C is the corporation's eligible alignment income for the eligible fiscal period,

D is the number of days that are in both the year and the particular period,

E is the number of days that are in the eligible fiscal period that ends in the year,

F is the amount of the qualified resource expense in respect of the particular period of the partnership that is designated by the corporation for the year under subsection (6) in its return of income for the year filed with the Minister on or before its filing-due date for the year, and

G is an amount designated by the corporation in its return of income for the year (other than an amount included in the description of F) and filed with the Minister on or before its filing-due date for the year. (*montant comptabilisé ajusté pour la période tampon*)

eligible alignment income, of a corporation, means

(a) if a partnership is subject to a single-tier alignment, the first aligned fiscal period of the partnership ends in the first taxation year of the corporation ending after March 22, 2011 (in this paragraph referred to as the "eligible fiscal period") and the corporation is a member of the partnership at the end of the eligible fiscal period,

(i) where the eligible fiscal period is preceded by another fiscal period of the partnership that ends in the corporation's first taxation year that ends after March 22, 2011 and the corporation is a member of the partnership at the end of that preceding fiscal period, the amount determined by the formula

A – B – C

where

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the eligible fiscal period (other than any amount for which a deduction is available under section 112 or 113),

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all allowable capital losses does not exceed the total

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — de la société de personnes pour le premier exercice de celle-ci se terminant dans l'année,

C le nombre de jours qui font partie à la fois de l'année et de l'exercice donné,

D le nombre de jours du premier exercice de la société de personnes se terminant dans l'année,

E le montant des dépenses admissibles relatives à des ressources pour l'exercice donné de la société de personnes que la société désigne pour l'année en vertu du paragraphe (6) dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

F toute somme, à l'exclusion d'une somme comprise dans la valeur de l'élément E, que la société désigne dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

(ii) dans le cas où l'exercice admissible de la société de personnes correspond à son premier exercice se terminant dans l'année d'imposition de la société, la somme obtenue par la formule suivante :

(A – B – C) × D/E – (F + G)

où :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour l'exercice admissible, à l'exclusion d'une somme au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — de la société de personnes pour l'exercice admissible,

C le revenu d'alignement admissible de la société pour l'exercice admissible,

of all taxable capital gains included in the description of A — of the partnership for the eligible fiscal period, and

C is, where an outlay or expense of the partnership is deemed by subsection 66(18) to be made or incurred by the corporation at the end of the eligible fiscal period, the total of all amounts each of which is an amount that would be deductible by the corporation for the taxation year under any of sections 66.1, 66.2, 66.21 and 66.4 determined as if each such outlay or expense were the only amount relevant in determining the amount deductible, or

(ii) where the eligible fiscal period is the first fiscal period of the partnership that ends in the corporation's first taxation year ending after March 22, 2011, nil; and

(b) if a partnership is subject to a multi-tier alignment, the first aligned fiscal period of the partnership ends in the taxation year of the corporation (in this paragraph referred to as the "eligible fiscal period") and the corporation is a member of the partnership at the end of the eligible fiscal period, the amount determined by the formula

A – B – C

where

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the eligible fiscal period, other than any amount

(i) for which a deduction is available under section 112 or 113, or

(ii) that would be included in computing the income of the corporation for the year if there were no multi-tier alignment,

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the description of A — of a partnership for the eligible fiscal period, and

C is, where an outlay or expense of the partnership is deemed by subsection 66(18) to be made or incurred by the corporation at the end of the eligible fiscal period, the total of all amounts each of which is an amount that would be deductible by the corporation for the taxation year under any of sections 66.1, 66.2, 66.21 and 66.4 determined as if each such outlay or expense were the only amount

D le nombre de jours qui font partie à la fois de l'année et de l'exercice donné,

E le nombre de jours de l'exercice admissible se terminant dans l'année,

F le montant des dépenses admissibles relatives à des ressources pour l'exercice donné de la société de personnes que la société désigne pour l'année en vertu du paragraphe (6) dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

G toute somme, à l'exclusion d'une somme comprise dans la valeur de l'élément F, que la société désigne dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année. (*adjusted stub period accrual*)

participation importante Est une participation importante d'une société dans une société de personnes à un moment donné la participation de la société dans la société de personnes en vertu de laquelle la société a droit à ce moment, à titre individuel ou de concert avec une ou plusieurs autres personnes ou sociétés de personnes qui lui sont liées ou affiliées, à plus de 10 % :

a) soit du revenu ou de la perte de la société de personnes;

b) soit des actifs (net du passif) de la société de personnes dans l'éventualité où elle cesserait d'exister. (*significant interest*)

pourcentage déterminé Celui des pourcentages ci-après qui s'applique à une société pour une année d'imposition donnée relativement à une société de personnes :

a) si la première année d'imposition pour laquelle la société a un revenu admissible à l'allègement prend fin en 2011 et que l'année donnée prend fin :

(i) en 2011, 100 %,

(ii) en 2012, 85 %,

(iii) en 2013, 65 %,

(iv) en 2014, 45 %,

(v) en 2015, 25 %,

(vi) en 2016, 0 %;

relevant in determining the amount deductible. (*revenu d'alignement admissible*)

multi-tier alignment, in respect of a partnership, means the alignment under subsection 249.1(9) or (11) of the fiscal period of the partnership and the fiscal period of one or more other partnerships. (*alignement pour paliers multiples*)

qualified resource expense, of a corporation for a taxation year in respect of a fiscal period of a partnership that begins in the year and ends after the year, means an expense incurred by the partnership in the portion of the fiscal period that is in the year and that is described in any of the following definitions:

(a) ***Canadian exploration expense*** in subsection 66.1(6);

(b) ***Canadian development expense*** in subsection 66.2(5);

(c) ***foreign resource expense*** in subsection 66.21(1); and

(d) ***Canadian oil and gas property expense*** in subsection 66.4(5). (*dépense admissible relative à des ressources*)

qualifying transitional income, of a corporation that is a member of a partnership on March 22, 2011, means the amount that is the total of the following amounts, computed in accordance with subsection (15),

(a) the corporation's eligible alignment income in respect of the partnership, and

(b) the corporation's adjusted stub period accrual in respect of the partnership for

(i) if there is a multi-tier alignment in respect of the partnership, the corporation's taxation year during which ends the fiscal period of the partnership that is aligned with the fiscal period of one or more other partnerships under the multi-tier alignment, or

(ii) in any other case, the corporation's first taxation year that ends after March 22, 2011. (*revenu admissible à l'allègement*)

significant interest, of a corporation in a partnership at any time, means a membership interest of the corporation in the partnership if the corporation, or the corporation together with one or more persons or partnerships related to or affiliated with the corporation, is entitled at that time to more than 10% of

b) si la première année d'imposition pour laquelle la société a un revenu admissible à l'allègement prend fin en 2012 et que l'année donnée prend fin :

(i) en 2012, 100 %,

(ii) en 2013, 85 %,

(iii) en 2014, 65 %,

(iv) en 2015, 45 %,

(v) en 2016, 25 %,

(vi) en 2017, 0 %;

c) si la première année d'imposition pour laquelle la société a un revenu admissible à l'allègement prend fin en 2013 et que l'année donnée prend fin :

(i) en 2013, 85 %,

(ii) en 2014, 65 %,

(iii) en 2015, 45 %,

(iv) en 2016, 25 %,

(v) en 2017, 0 %. (*specified percentage*)

revenu admissible à l'allègement Le revenu admissible à l'allègement d'une société qui est un associé d'une société de personnes le 22 mars 2011 correspond au total des sommes ci-après, calculées selon le paragraphe (15) :

a) le revenu d'alignement admissible de la société relativement à la société de personnes;

b) le montant comptabilisé ajusté pour la période tampon de la société relativement à la société de personnes pour celle des années d'imposition ci-après qui est applicable :

(i) si la société de personnes fait l'objet d'un alignement pour paliers multiples, l'année d'imposition de la société dans laquelle prend fin l'exercice de la société de personnes qui est aligné sur celui d'une ou de plusieurs autres sociétés de personnes en raison de l'alignement pour paliers multiples,

(ii) dans les autres cas, la première année d'imposition de la société qui prend fin après le 22 mars 2011. (*qualifying transitional income*)

revenu d'alignement admissible Le revenu d'alignement admissible d'une société correspond à celle des sommes ci-après qui est applicable :

(a) the income or loss of the partnership; or

(b) the assets (net of liabilities) of the partnership if it were to cease to exist. (*participation importante*)

single-tier alignment, in respect of a partnership, means the ending of a fiscal period of the partnership under subsection 249.1(8). (*alignement pour palier unique*)

specified percentage, of a corporation for a particular taxation year in respect of a partnership, means

(a) if the first taxation year for which the corporation has qualifying transitional income ends in 2011 and the particular year ends in

(i) 2011, 100%,

(ii) 2012, 85%,

(iii) 2013, 65%,

(iv) 2014, 45%,

(v) 2015, 25%, and

(vi) 2016, 0%;

(b) if the first taxation year for which the corporation has qualifying transitional income ends in 2012 and the particular year ends in

(i) 2012, 100%,

(ii) 2013, 85%,

(iii) 2014, 65%,

(iv) 2015, 45%,

(v) 2016, 25%, and

(vi) 2017, 0%; and

(c) if the first taxation year for which the corporation has qualifying transitional income ends in 2013 and the particular year ends in

(i) 2013, 85%,

(ii) 2014, 65%,

(iii) 2015, 45%,

(iv) 2016, 25%, and

(v) 2017, 0%. (*pourcentage déterminé*)

a) si une société de personnes fait l'objet d'un alignement pour palier unique, que son premier exercice aligné prend fin dans la première année d'imposition de la société se terminant après le 22 mars 2011 (appelé « exercice admissible » au présent alinéa) et que la société est un associé de la société de personnes à la fin de l'exercice admissible :

(i) dans le cas où l'exercice admissible est précédé d'un autre exercice de la société de personnes qui prend fin dans la première année d'imposition de la société se terminant après le 22 mars 2011 et où la société est un associé de la société de personnes à la fin de cet exercice précédent, la somme obtenue par la formule suivante :

A – B – C

où :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour l'exercice admissible, à l'exclusion d'une somme au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — de la société de personnes pour l'exercice admissible,

C dans le cas où une dépense de la société de personnes est réputée, en vertu du paragraphe 66(18), être engagée ou effectuée par la société à la fin de l'exercice admissible, le total des sommes dont chacune représente une somme qui serait déductible par la société pour l'année d'imposition en application des articles 66.1, 66.2, 66.21 ou 66.4, déterminée comme si chacune de ces dépenses était la seule somme entrant dans le calcul de la somme déductible,

(ii) dans le cas où l'exercice admissible correspond au premier exercice de la société de personnes qui prend fin dans la première année d'imposition de la société se terminant après le 22 mars 2011, zéro;

b) si une société de personnes fait l'objet d'un alignement pour paliers multiples, que son premier exercice aligné prend fin dans l'année d'imposition de la société (appelé « exercice admissible » au présent alinéa) et que la société est un associé de la société de personnes

à la fin de l'exercice admissible, la somme obtenue par la formule suivante :

A – B – C

où :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour l'exercice admissible, à l'exclusion d'une somme, selon le cas :

(i) au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

(ii) qui serait incluse dans le calcul du revenu de la société pour l'année en l'absence de l'alignement pour paliers multiples,

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — d'une société de personnes pour l'exercice admissible,

C dans le cas où une dépense de la société de personnes est réputée, en vertu du paragraphe 66(18), être engagée ou effectuée par la société à la fin de l'exercice admissible, le total des sommes dont chacune représente une somme qui serait déductible par la société pour l'année d'imposition en application des articles 66.1, 66.2, 66.21 ou 66.4, déterminée comme si chacune de ces dépenses était la seule somme entrant dans le calcul de la somme déductible. (*eligible alignment income*)

Income inclusion — adjusted stub period accrual

(2) Subject to subsections (5) and (9), a corporation (other than a professional corporation) shall include in computing its income for a taxation year its adjusted stub period accrual in respect of a partnership if

(a) the corporation has a significant interest in the partnership at the end of the last fiscal period of the partnership that ends in the year;

(b) another fiscal period of the partnership begins in the year and ends after the year; and

(c) at the end of the year, the corporation is entitled to a share of an income, loss, taxable capital gain or allowable capital loss of the partnership for the fiscal period referred to in paragraph (b).

Somme à inclure dans le revenu — montant comptabilisé ajusté pour la période tampon

(2) Sous réserve des paragraphes (5) et (9), une société, à l'exception d'une société professionnelle, est tenue d'inclure dans le calcul de son revenu pour une année d'imposition son montant comptabilisé ajusté pour la période tampon relativement à une société de personnes si, à la fois :

a) elle a une participation importante dans la société de personnes à la fin du dernier exercice de celle-ci se terminant dans l'année;

b) un autre exercice de la société de personnes commence dans l'année et se termine après la fin de l'année;

c) à la fin de l'année, la société a droit à une part du revenu, de la perte, du gain en capital imposable ou de

Income inclusion — new partner designation

(3) Subject to subsection (5), if a corporation (other than a professional corporation) becomes a member of a partnership during a fiscal period of the partnership (in this subsection referred to as the "particular period") that begins in the corporation's taxation year and ends after the taxation year but on or before the filing-due date for the taxation year and the corporation has a significant interest in the partnership at the end of the particular period, the corporation may include in computing its income for the taxation year the lesser of

(a) the amount, if any, designated by the corporation in its return of income for the taxation year, and

(b) the amount determined by the formula

A × B/C

where

A is the corporation's income from the partnership for the particular period (other than any amount for which a deduction is available under section 112 or 113),

B is the number of days that are both in the corporation's taxation year and the particular period, and

C is the number of days in the particular period.

Treatment in following year

(4) If an amount was included in computing the income of a corporation in respect of a partnership for the immediately preceding taxation year under subsection (2) or (3),

(a) the portion of the amount that, because of subparagraph (5)(a)(i) or (ii), was income for that preceding year is deductible in computing the income of the corporation for the current taxation year; and

(b) the portion of the amount that, because of subparagraph (5)(a)(i) or (ii), was taxable capital gains for that preceding year is deemed to be an allowable capital loss of the corporation for the current taxation year from the disposition of property.

Character of amounts

(5) For the purposes of this Act, the following rules apply:

Somme à inclure dans le revenu — nouvel associé

(3) Sous réserve du paragraphe (5), une société, à l'exception d'une société professionnelle, qui, d'une part, devient l'associé d'une société de personnes au cours d'un exercice de celle-ci (appelé « exercice donné » au présent paragraphe) commençant dans l'année d'imposition de la société et se terminant après cette année mais au plus tard à la date d'échéance de production qui lui est applicable pour l'année et, d'autre part, a une participation importante dans la société de personnes à la fin de l'exercice donné peut inclure dans le calcul de son revenu pour l'année la moins élevée des sommes suivantes :

a) la somme que la société a désignée, le cas échéant, dans sa déclaration de revenu pour l'année;

b) la somme obtenue par la formule suivante :

A × B/C

où :

A représente le revenu de la société provenant de la société de personnes pour l'exercice donné, à l'exclusion d'une somme au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

B le nombre de jours qui font partie à la fois de l'année et de l'exercice donné,

C le nombre de jours de l'exercice donné.

Traitement — année subséquente

(4) Dans le cas où une somme a été incluse, en application des paragraphes (2) ou (3), dans le calcul du revenu d'une société relativement à une société de personnes pour l'année d'imposition précédente, les règles ci-après s'appli-quent :

a) la partie de la somme qui, par l'effet des sous-alinéas (5)a)(i) ou (ii), est un revenu pour l'année précédente est déductible dans le calcul du revenu de la société pour l'année d'imposition en cours;

b) la partie de la somme qui, par l'effet de l'un ou l'autre de ces sous-alinéas, représente des gains en capital imposables pour l'année précédente est réputée être une perte en capital déductible de la société pour l'année d'imposition en cours résultant de la disposition d'un bien.

Nature des sommes

(5) Les règles ci-après s'appliquent à la présente loi :

(a) in computing the income of a corporation for a taxation year,

(i) an adjusted stub period accrual included under subsection (2) in respect of a partnership for the year is deemed to be income, and taxable capital gains from the disposition of property, having the same character and to be in the same proportions as any income and taxable capital gains that were allocated by the partnership to the corporation for all fiscal periods of the partnership ending in the year,

(ii) an amount included under subsection (3) in respect of a partnership for the year is deemed to be income, and taxable capital gains from the disposition of property, having the same character and to be in the same proportions as any income and taxable capital gains that were allocated by the partnership to the corporation for the particular period referred to in that subsection,

(iii) an amount, a portion of which is deductible or is an allowable capital loss under subsection (4) in respect of a partnership for the year, is deemed to have the same character and to be in the same proportions as the income and taxable capital gains included in the corporation's income for the immediately preceding taxation year under subsection (2) or (3) in respect of the partnership,

(iv) an amount claimed as a reserve under subsection (11) in respect of a partnership for the year is deemed to have the same character and to be in the same proportions as the qualifying transitional income in respect of the partnership for the year, and

(v) an amount, a portion of which is included in income under paragraph (12)(a), or is deemed to be a taxable capital gain under paragraph (12)(b), in respect of a partnership for the year, is deemed to have the same character and to be in the same proportions as the amount claimed as a reserve under subsection (11) in respect of the partnership for the immediately preceding taxation year;

(b) a corporation's capital dividend account, as defined in subsection 89(1), is to be determined without reference to this section; and

(c) the reference in subparagraph 53(2)(c)(i.4) to an amount deducted under subsection (11) by a taxpayer includes an amount deemed to be an allowable capital loss under subparagraph (11)(b)(ii).

a) pour le calcul du revenu d'une société pour une année d'imposition :

(i) tout montant comptabilisé ajusté pour la période tampon inclus en application du paragraphe (2) relativement à une société de personnes pour l'année est réputé être un revenu, et des gains en capital imposables provenant de la disposition de biens, de mêmes nature et proportion que les revenu et gains en capital imposables que la société de personnes a attribués à la société pour l'ensemble de ses exercices se terminant dans l'année,

(ii) toute somme incluse en application du paragraphe (3) relativement à une société de personnes pour l'année est réputée être un revenu, et des gains en capital imposables provenant de la disposition de biens, de mêmes nature et proportion que les revenu et gains en capital imposables que la société de personnes a attribués à la société pour l'exercice visé à ce paragraphe,

(iii) toute somme dont une partie est déductible ou représente une perte en capital déductible selon le paragraphe (4) relativement à une société de personnes pour l'année est réputée être de mêmes nature et proportion que les revenu et gains en capital imposables qui ont été inclus en application des paragraphes (2) ou (3) dans le revenu de la société pour l'année d'imposition précédente relativement à la société de personnes,

(iv) toute somme demandée à titre de provision en application du paragraphe (11) relativement à une société de personnes pour l'année est réputée être de mêmes nature et proportion que le revenu admissible à l'allègement relativement à la société de personnes pour l'année,

(v) toute somme dont une partie est incluse dans le revenu en application de l'alinéa (12)a) ou est réputée être un gain en capital imposable selon l'alinéa (12)b) relativement à une société de personnes pour l'année est réputée être de mêmes nature et proportion que la somme demandée à titre de provision en application du paragraphe (11) relativement à la société de personnes pour l'année d'imposition précédente;

b) le compte de dividendes en capital, au sens du paragraphe 89(1), d'une société est déterminé compte non tenu du présent article;

c) la mention, au sous-alinéa 53(2)c)(i.4), d'une somme déduite en application du paragraphe (11) par un contribuable vaut également mention d'une somme

réputée être une perte en capital déductible selon le sous-alinéa (11)b)(ii).

Designation — qualified resource expense

(6) A corporation may designate an amount for a taxation year in respect of a qualified resource expense under the definition ***adjusted stub period accrual*** in subsection (1) subject to the following rules:

(a) the corporation cannot designate an amount for the year in respect of a qualified resource expense in respect of a partnership except to the extent the corporation obtains from the partnership, before the corporation's filing-due date for the year, information in writing identifying the corporation's qualified resource expenses described

(i) in paragraph (h) of the definition ***Canadian exploration expense*** in subsection 66.1(6), determined as if those expenses had been incurred by the partnership in its last fiscal period that ended in the year,

(ii) in paragraph (f) of the definition ***Canadian development expense*** in subsection 66.2(5), determined as if those expenses had been incurred by the partnership in its last fiscal period that ended in the year,

(iii) in paragraph (e) of the definition ***foreign resource expense*** in subsection 66.21(1), determined as if those expenses had been incurred by the partnership in its last fiscal period that ended in the year, and

(iv) in paragraph (b) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), determined as if those expenses had been incurred by the partnership in its last fiscal period that ended in the year; and

(b) the amount designated for the year by the corporation is not to exceed the maximum amount that would be deductible by the corporation under any of sections 66.1, 66.2, 66.21 and 66.4 in computing its income for the year if

(i) the amounts referred to in paragraph (a) in respect of the partnership were the only amounts relevant in determining the maximum amount, and

(ii) the fiscal period of the partnership that begins in the year and ends after the year had ended at the end of the year and each qualified resource expense

Désignation — dépense admissible relative à des ressources

(6) Une société peut désigner une somme pour une année d'imposition au titre d'une dépense admissible relative à des ressources pour l'application de la définition de ***montant comptabilisé ajusté pour la période tampon*** au paragraphe (1). Toutefois :

a) la société ne peut désigner une somme pour l'année au titre d'une dépense admissible relative à des ressources relativement à une société de personnes que dans la mesure où elle obtient de celle-ci par écrit, avant la date d'échéance de production qui lui est applicable pour l'année, des renseignements identifiant les dépenses admissibles relatives à des ressources de la société visées :

(i) à l'alinéa h) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), déterminées comme si ces dépenses avaient été engagées par la société de personnes au cours de son dernier exercice ayant pris fin dans l'année,

(ii) à l'alinéa f) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5), déterminées comme si ces dépenses avaient été engagées par la société de personnes au cours de son dernier exercice ayant pris fin dans l'année,

(iii) à l'alinéa e) de la définition de ***frais relatifs à des ressources à l'étranger*** au paragraphe 66.21(1), déterminées comme si ces dépenses avaient été engagées par la société de personnes au cours de son dernier exercice ayant pris fin dans l'année,

(iv) à l'alinéa b) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5), déterminées comme si ces dépenses avaient été engagées par la société de personnes au cours de son dernier exercice ayant pris fin dans l'année;

b) la somme désignée par la société pour l'année ne peut excéder la somme maximale qu'elle pourrait déduire en application des articles 66.1, 66.2, 66.21 ou 66.4 dans le calcul de son revenu pour l'année si, à la fois :

(i) les sommes visées à l'alinéa a) relativement à la société de personnes étaient les seules sommes entrant dans le calcul de la somme maximale,

were deemed under subsection 66(18) to be incurred by the corporation at the end of the year.

(ii) l'exercice de la société de personnes commençant dans l'année et se terminant après la fin de l'année avait pris fin à la fin de l'année et chaque dépense admissible relative à des ressources était réputée, en vertu du paragraphe 66(18), être engagée par la société à la fin de l'année.

No additional income — bankrupt

(7) Subsections (2) and (3) do not apply in computing a corporation's income for a taxation year in respect of a partnership if the corporation becomes a bankrupt in the year.

Aucun revenu additionnel — failli

(7) Les paragraphes (2) et (3) ne s'appliquent pas au calcul du revenu d'une société pour une année d'imposition relativement à une société de personnes si la société fait faillite au cours de l'année.

Foreign affiliates

(8) This section does not apply for the purposes of computing, for a taxation year of a foreign affiliate of a corporation resident in Canada,

(a) the foreign accrual property income of the affiliate in respect of the corporation; and

(b) except to the extent that the context otherwise requires, the exempt surplus or exempt deficit, the hybrid surplus or hybrid deficit, and the taxable surplus or taxable deficit (as those terms are defined in subsection 5907(1) of the *Income Tax Regulations*) of the affiliate in respect of the corporation.

Société étrangère affiliée

(8) Le présent article ne s'applique pas au calcul des sommes ci-après pour une année d'imposition d'une société étrangère affiliée d'une société résidant au Canada :

a) le revenu étranger accumulé, tiré de biens de la société affiliée relativement à la société;

b) sauf indication contraire du contexte, le surplus exonéré ou le déficit exonéré, le surplus hybride ou le déficit hybride et le surplus imposable ou le déficit imposable, au sens du paragraphe 5907(1) du *Règlement de l'impôt sur le revenu*, de la société affiliée relativement à la société.

Special case — multi-tier alignment

(9) If a corporation is a member of a partnership subject to a multi-tier alignment, subsection (2) does not apply to the corporation in respect of the partnership for taxation years preceding the taxation year that includes the end of the first aligned fiscal period of the partnership under the multi-tier alignment.

Cas spécial — alignement pour paliers multiples

(9) Si une société est un associé d'une société de personnes faisant l'objet d'un alignement pour paliers multiples, le paragraphe (2) ne s'applique pas à la société relativement à la société de personnes pour les années d'imposition précédant celle qui comprend la fin du premier exercice aligné de la société de personnes découlant de l'alignement.

Designations

(10) Once a corporation makes a designation in calculating its adjusted stub period accrual in respect of a partnership for a taxation year under any of the description of E or F of paragraph (a), the description of E or F of subparagraph (b)(i) and the description of F or G of subparagraph (b)(ii) of the definition ***adjusted stub period accrual*** in subsection (1), the designation cannot be amended or revoked.

Désignations

(10) La désignation que fait une société, dans le calcul de son montant comptabilisé ajusté pour la période tampon relativement à une société de personnes pour une année d'imposition, selon les éléments E ou F de la formule figurant à l'alinéa a) de la définition de ***montant comptabilisé ajusté pour la période tampon*** au paragraphe (1), les éléments E ou F de la formule figurant au sous-alinéa b)(i) de cette définition ou les éléments F ou G de la formule figurant au sous-alinéa b)(ii) de cette même définition n'est ni modifiable ni révocable.

Transitional reserve

(11) If a corporation has qualifying transitional income in respect of a partnership for a particular taxation year,

Provision transitoire

(11) Dans le cas où une société a un revenu admissible à l'allègement relativement à une société de personnes pour une année d'imposition donnée, les règles ci-après s'appliquent :

(a) the corporation may, in computing its income for the particular year, claim an amount, as a reserve, not exceeding the least of

(i) the specified percentage for the particular year of the corporation's qualifying transitional income in respect of the partnership,

(ii) if, for the immediately preceding taxation year, an amount was claimed under this subsection in computing the corporation's income in respect of the partnership, the amount that is the total of

(A) the amount included under subsection (12) in computing the corporation's income for the particular year in respect of the partnership, and

(B) the amount by which the corporation's qualifying transitional income in respect of the partnership is increased in the particular year because of the application of subsections (16) and (17), and

(iii) the amount determined by the formula

A – B

where

A is the corporation's income for the particular year computed before deducting or claiming any amount under this subsection in respect of the partnership or under section 61.3 and 61.4, and

B is the total of all amounts each of which is an amount deductible by the corporation for the year under section 112 or 113 in respect of a dividend received by the corporation after December 20, 2012; and

(b) the portion of the amount claimed under paragraph (a) for the particular year that, because of subparagraph (5)(a)(iv), has

(i) a character other than capital is deductible in computing the income of the corporation for the particular year, and

(ii) the character of capital is deemed to be an allowable capital loss of the corporation for the particular year from the disposition of property.

a) elle peut demander à titre de provision, dans le calcul de son revenu pour l'année donnée, une somme n'excédant pas la moins élevée des sommes suivantes :

(i) la somme correspondant au pourcentage déterminé pour l'année donnée de son revenu admissible à l'allègement relativement à la société de personnes,

(ii) si une somme a été demandée en application du présent paragraphe pour l'année d'imposition précédente dans le calcul de son revenu relativement à la société de personnes, le total des sommes suivantes :

(A) la somme incluse en application du paragraphe (12) dans le calcul du revenu de la société pour l'année donnée relativement à la société de personnes,

(B) la somme qui s'est ajoutée au cours de l'année donnée au revenu admissible à l'allègement de la société relativement à la société de personnes par l'effet des paragraphes (16) et (17),

(iii) la somme obtenue par la formule suivante :

A – B

où :

A représente le revenu de la société pour l'année donnée, calculé avant qu'une somme soit déduite ou demandée en application soit du présent paragraphe relativement à la société de personnes, soit des articles 61.3 et 61.4,

B le total des sommes représentant chacune une somme déductible par la société pour l'année en application des articles 112 ou 113 au titre d'un dividende qu'elle a reçu après le 20 décembre 2012;

b) la partie de la somme demandée en application de l'alinéa a) pour l'année donnée qui, par l'effet du sous-alinéa (5)a)(iv) :

(i) est de nature autre que du capital est déductible dans le calcul du revenu de la société pour l'année donnée,

(ii) est de la nature du capital est réputée être une perte en capital déductible de la société pour l'année donnée résultant de la disposition d'un bien.

Inclusion of prior year reserve

(12) Subject to subsection (5), if a reserve was claimed by a corporation under subsection (11) in respect of a partnership for the immediately preceding taxation year,

(a) the portion of the reserve that was deducted under subparagraph (11)(b)(i) for that preceding year is to be included in computing the income of the corporation for the current taxation year; and

(b) the portion of the reserve that was deemed by subparagraph (11)(b)(ii) to be an allowable capital loss of the corporation for that preceding year is deemed to be a taxable capital gain of the corporation for the current taxation year from the disposition of property.

No reserve

(13) No claim shall be made under subsection (11) in computing a corporation's income for a taxation year in respect of a partnership

(a) unless,

(i) in the case of a corporation that is a member of a partnership in respect of which there is a multi-tier alignment, the corporation has been a member of the partnership continuously since before March 22, 2011 to the end of the year,

(ii) in the case of a corporation that is a member of a partnership in respect of which there is no multi-tier alignment, the corporation is a member of the partnership

(A) at the end of the partnership's fiscal period that begins before March 22, 2011 and ends in the year of the corporation that includes March 22, 2011,

(B) at the end of the partnership's fiscal period commencing immediately after the fiscal period referred to in clause (A) and continues to be a member until after the end of the year of the corporation that includes March 22, 2011, and

(C) continuously since before March 22, 2011 until the end of the year;

(b) if at the end of the year or at any time in the following taxation year,

(i) the corporation's income is exempt from tax under this Part, or

Inclusion de la provision de l'année précédente

(12) Sous réserve du paragraphe (5), si une somme a été demandée à titre de provision par une société en application du paragraphe (11) relativement à une société de personnes pour l'année d'imposition précédente, les règles ci-après s'appliquent :

a) la partie de la somme qui a été déduite en application du sous-alinéa (11)b)(i) pour cette année est incluse dans le calcul du revenu de la société pour l'année d'imposition en cours;

b) la partie de la somme qui est réputée, en vertu du sous-alinéa (11)b)(ii), être une perte en capital déductible de la société pour l'année précédente est réputée être un gain en capital imposable de la société pour l'année d'imposition en cours provenant de la disposition d'un bien.

Aucune provision

(13) Aucune somme ne peut être demandée en application du paragraphe (11) dans le calcul du revenu d'une société pour une année d'imposition relativement à une société de personnes :

a) à moins que :

(i) dans le cas d'une société qui est un associé d'une société de personnes ayant fait l'objet d'un alignement pour paliers multiples, la société n'ait été l'associé de la société de personnes de façon continue depuis un moment antérieur au 22 mars 2011 jusqu'à la fin de l'année d'imposition,

(ii) dans le cas d'une société qui est un associé d'une société de personnes n'ayant pas fait l'objet d'un alignement pour paliers multiples, la société ne soit l'associé de la société de personnes, à la fois :

(A) à la fin de l'exercice de la société de personnes commençant avant le 22 mars 2011 et se terminant dans l'année d'imposition de la société qui comprend cette date,

(B) à la fin de l'exercice de la société de personnes commençant immédiatement après l'exercice visé à la division (A) et jusqu'à un moment postérieur à la fin de l'année d'imposition de la société qui comprend le 22 mars 2011,

(C) de façon continue depuis un moment antérieur au 22 mars 2011 jusqu'à la fin de l'année;

b) si, à la fin de l'année ou à tout moment de l'année d'imposition suivante :

(ii) the corporation is non-resident and the partnership does not carry on business through a permanent establishment (as defined for the purpose of subsection 16.1(1)) in Canada; or

(c) if the year ends immediately before another taxation year

(i) at the beginning of which the partnership no longer principally carries on the activities to which the reserve relates,

(ii) in which the corporation becomes a bankrupt, or

(iii) in which the corporation is dissolved or wound up (other than in circumstances to which subsection 88(1) applies).

(i) le revenu de la société est exonéré de l'impôt prévu à la présente partie,

(ii) la société ne réside pas au Canada et la société de personnes n'exploite pas d'entreprise par l'intermédiaire d'un établissement stable, au sens du paragraphe 16.1(1), au Canada;

c) si l'année prend fin immédiatement avant une autre année d'imposition :

(i) au début de laquelle la société de personnes n'exerce plus principalement des activités auxquelles la provision se rapporte,

(ii) au cours de laquelle la société fait faillite,

(iii) au cours de laquelle la société fait l'objet d'une dissolution ou d'une liquidation autrement que dans les circonstances visées au paragraphe 88(1).

Deemed partner

(14) A corporation that cannot claim an amount under subsection (11) for a taxation year in respect of a partnership solely because it has disposed of its interest in the partnership is deemed for the purposes of paragraph (13)(a) to be a member of a partnership continuously until the end of the taxation year if

(a) the corporation disposed of its interest to another corporation related to, or affiliated with, the corporation at the time of the disposition; and

(b) a corporation related to, or affiliated with, the corporation has the partnership interest referred to in paragraph (a) at the end of the taxation year.

Associé réputé

(14) La société qui ne peut demander de somme en application du paragraphe (11) pour une année d'imposition relativement à une société de personnes du seul fait qu'elle a disposé de sa participation dans celle-ci est réputée, pour l'application de l'alinéa (13)a), être un associé de la société de personnes de façon continue jusqu'à la fin de cette année si, à la fois :

a) elle a disposé de sa participation en faveur d'une autre société qui lui est liée ou affiliée au moment de la disposition;

b) à la fin de l'année en cause, une société liée ou affiliée à la société détient la participation visée à l'alinéa a).

Computing qualifying transitional income — special rules

(15) For the purposes of determining a corporation's qualifying transitional income, the income or loss, as the case may be, of a partnership for a fiscal period shall be computed as if

(a) the partnership had deducted for the period the maximum amount deductible in respect of any expense, reserve, allowance or other amount;

(b) this Act were read without reference to paragraph 28(1)(b); and

(c) the partnership had made an election under paragraph 34(a).

Calcul du revenu admissible à l'allègement — règles spéciales

(15) Pour le calcul du revenu admissible à l'allègement d'une société, le revenu ou la perte d'une société de personnes pour un exercice est calculé comme si, à la fois :

a) la société de personnes avait déduit pour l'exercice la somme maximale déductible au titre d'une dépense, d'une provision ou d'une autre somme;

b) la présente loi s'appliquait compte non tenu de l'alinéa 28(1)b);

c) la société de personnes avait fait le choix prévu à l'alinéa 34a).

Qualifying transition income adjustment — conditions for application

(16) Subsection (17) applies for a particular taxation year of a corporation and for each subsequent taxation year for which the corporation may claim an amount under subsection (11) in respect of a partnership if the particular year is the first taxation year

(a) that is after the taxation year in which the corporation has, or would have if the partnership had income, an adjusted stub period accrual that is included in the corporation's qualifying transitional income in respect of the partnership by reason of paragraph (b) of the definition ***qualifying transitional income*** in subsection (1); and

(b) in which ends the fiscal period of the partnership that began in the taxation year referred to in paragraph (a).

Adjustment of qualifying transitional income

(17) If this subsection applies in respect of a partnership for a taxation year of a corporation, the adjusted stub period accrual included in the corporation's qualifying transitional income in respect of the partnership for the year is computed as if

(a) the descriptions in paragraph (a) and subparagraph (b)(i) of the definition ***adjusted stub period accrual*** in subsection (1) read as follows:

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the particular period (other than any amount for which a deduction is available under section 112 or 113),

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all allowable losses does not exceed the total of all taxable capital gains included in the description of A — of the partnership for the particular period,

C is the number of days that are in both the year and the particular period,

D is the number of days in the particular period,

E is the amount of the qualified resource expense in respect of the particular period of the partnership that is designated by the corporation for the year under subsection (6) in its return of income for the year filed with the Minister on or before its filing-due date for the year, and

Rajustement du montant admissible à l'allègement — conditions d'application

(16) Le paragraphe (17) s'applique pour une année d'imposition donnée d'une société ainsi que pour chaque année d'imposition subséquente pour laquelle la société peut demander une somme en application du paragraphe (11) relativement à une société de personnes si l'année donnée est la première année d'imposition, à la fois :

a) qui est postérieure à l'année d'imposition au cours de laquelle un montant comptabilisé ajusté pour la période tampon de la société est inclus dans son revenu admissible à l'allègement relativement à la société de personnes par l'effet de l'alinéa b) de la définition de ***revenu admissible à l'allègement*** au paragraphe (1), ou serait ainsi inclus si la société de personnes avait un revenu;

b) dans laquelle prend fin l'exercice de la société de personnes qui a commencé dans l'année d'imposition mentionnée à l'alinéa a).

Rajustement du revenu admissible à l'allègement

(17) En cas d'application du présent paragraphe relativement à une société de personnes pour une année d'imposition d'une société, le montant comptabilisé ajusté pour la période tampon inclus dans le revenu admissible à l'allègement de la société relativement à la société de personnes pour l'année est calculé comme si :

a) les éléments des formules figurant à l'alinéa a) et au sous-alinéa b)(i) de la définition de ***montant comptabilisé ajusté pour la période tampon*** au paragraphe (1) avaient le libellé suivant :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour l'exercice donné, à l'exclusion d'une somme au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — de la société de personnes pour l'exercice donné,

C le nombre de jours qui font partie à la fois de l'année et de l'exercice donné,

D le nombre de jours de l'exercice donné,

E le montant des dépenses admissibles relatives à des ressources pour l'exercice donné de la société de personnes que la société désigne pour l'année en vertu

F is nil; and

(b) the descriptions in subparagraph (b)(ii) of the definition ***adjusted stub period accrual*** in subsection (1) read as follows:

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the partnership for the particular period (other than any amount for which a deduction is available under section 112 or 113),

B the total of all amounts each of which is the corporation's share of a loss or allowable capital loss — to the extent that the total of all allowable capital losses does not exceed the total of all taxable capital gains included in the description of A — of the partnership for the particular period,

C is nil,

D is the number of days that are in both the year and the particular period,

E is the number of days in the particular period,

F is the amount of the qualified resource expense in respect of the particular period of the partnership that is designated by the corporation for the year under subsection (6) in its return of income for the year filed with the Minister on or before its filing-due date for the year, and

G is nil.

du paragraphe (6) dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

F zéro;

b) les éléments de la formule figurant au sous-alinéa b)(ii) de la définition de ***montant comptabilisé ajusté pour la période tampon*** au paragraphe (1) avaient le libellé suivant :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes pour l'exercice donné, à l'exclusion d'une somme au titre de laquelle une déduction peut être demandée en application des articles 112 ou 113,

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible — dans la mesure où le total des pertes en capital déductibles n'excède pas le total des gains en capital imposables compris dans la valeur de l'élément A — de la société de personnes pour l'exercice donné,

C zéro,

D le nombre de jours qui font partie à la fois de l'année et de l'exercice donné,

E le nombre de jours de l'exercice donné,

F le montant des dépenses admissibles relatives à des ressources pour l'exercice donné de la société de personnes que la société désigne pour l'année en vertu du paragraphe (6) dans la déclaration de revenu pour l'année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

G zéro.

Anti-avoidance

(18) If it is reasonable to conclude that one of the main reasons a corporation is a member of a partnership in a taxation year is to avoid the application of subsection (13), the corporation is deemed not to be a member of the partnership for the purposes of that subsection.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 8; 1998, c. 19, s. 85; 2011, c. 24, s. 3; 2013, c. 34, s. 58, c. 40, s. 16.

Anti-évitement

(18) S'il est raisonnable de conclure que l'une des principales raisons pour lesquelles une société est l'associé d'une société de personnes au cours d'une année d'imposition est de se soustraire à l'application du paragraphe (13), la société est réputée ne pas être un associé de la société de personnes pour l'application de ce paragraphe.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 8; 1998, ch. 19, art. 85; 2011, ch. 24, art. 3; 2013, ch. 34, art. 58, ch. 40, art. 16.

Definitions

34.3 (1) The definitions in this subsection and in subsection 34.2(1) apply in this section.

Définitions

34.3 (1) Les définitions qui suivent et celles figurant au paragraphe 34.2(1) s'appliquent au présent article.

actual stub period accrual, of a corporation in respect of a qualifying partnership for a taxation year, means the positive or negative amount determined by the formula

(A – B) × C/D – E

where

A is the total of all amounts each of which is the corporation's share of an income or taxable capital gain of the qualifying partnership for the last fiscal period of the partnership that began in the base year (other than any amount for which a deduction was available under section 112 or 113);

B is the total of all amounts each of which is the corporation's share of a loss or allowable capital loss of the qualifying partnership for the last fiscal period of the partnership that began in the base year (to the extent that the total of all allowable capital losses included under this description in respect of all qualifying partnerships for the taxation year does not exceed the corporation's share of all taxable capital gains of all qualifying partnerships for the taxation year);

C is the number of days that are in both the base year and the fiscal period;

D is the number of days in the fiscal period; and

E is the amount of the qualified resource expense in respect of the qualifying partnership that was designated by the corporation for the base year under subsection 34.2(6) in its return of income for the base year filed with the Minister on or before its filing-due date for the base year. (*montant comptabilisé réel pour la période tampon*)

base year, of a corporation in respect of a qualifying partnership for a taxation year, means the preceding taxation year of the corporation in which began a fiscal period of the partnership that ends in the corporation's taxation year. (*année de base*)

income shortfall adjustment, of a corporation in respect of a qualifying partnership for a taxation year, means the positive or negative amount determined by the formula

(A – B) × C × D

where

A is the amount that is the lesser of

(a) the actual stub period accrual in respect of the qualifying partnership, and

(b) the amount that would be the corporation's adjusted stub period accrual for the base year in respect of the qualifying partnership if the value of

année de base L'année de base d'une société relativement à une société de personnes admissible pour une année d'imposition s'entend de son année d'imposition précédente dans laquelle a commencé un exercice de la société de personnes qui se termine dans l'année d'imposition de la société. (*base year*)

montant comptabilisé réel pour la période tampon Le montant comptabilisé réel pour la période tampon d'une société relativement à une société de personnes admissible pour une année d'imposition correspond au montant positif ou négatif obtenu par la formule suivante :

(A – B) × C/D – E

où :

A représente le total des sommes dont chacune représente la part, revenant à la société, d'un revenu ou d'un gain en capital imposable de la société de personnes admissible pour le dernier exercice de celle-ci ayant commencé dans l'année de base, à l'exclusion d'une somme au titre de laquelle une déduction pouvait être demandée en application des articles 112 ou 113;

B le total des sommes dont chacune représente la part, revenant à la société, d'une perte ou d'une perte en capital déductible de la société de personnes admissible pour le dernier exercice de celle-ci ayant commencé dans l'année de base dans la mesure où le total des pertes en capital déductibles comprises dans la valeur du présent élément relativement à l'ensemble des sociétés de personnes admissibles pour l'année d'imposition n'excède pas la part, revenant à la société, des gains en capital imposables de l'ensemble des sociétés de personnes admissibles pour l'année d'imposition;

C le nombre de jours qui font partie à la fois de l'année de base et de l'exercice;

D le nombre de jours de l'exercice;

E le montant des dépenses admissibles relatives à des ressources relativement à la société de personnes admissible que la société a désigné pour l'année de base en vertu du paragraphe 34.2(6) dans la déclaration de revenu pour cette année qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour cette année. (*actual stub period accrual*)

rajustement pour revenu insuffisant Le rajustement pour revenu insuffisant d'une société relativement à une

F in paragraph (a) of the definition ***adjusted stub period accrual*** in subsection 34.2(1) were nil;

B is the amount included under subsection 34.2(2) in computing the corporation's income for the base year in respect of the qualifying partnership;

C is the number of days in the period that

(a) begins on the day after the day on which the base year ends, and

(b) ends on the day on which the taxation year ends; and

D is the average daily rate of interest determined by reference to the rate of interest prescribed under paragraph 4301(a) of the *Income Tax Regulations* for the period referred to in the description of C. (*rajustement pour revenu insuffisant*)

qualifying partnership, in respect of a corporation for a particular taxation year, means a partnership

(a) a fiscal period of which began in a preceding taxation year and ends in the particular taxation year; and

(b) in respect of which the corporation was required to calculate an adjusted stub period accrual for the preceding taxation year. (*société de personnes admissible*)

société de personnes admissible pour une année d'imposition correspond au montant positif ou négatif obtenu par la formule suivante :

(A – B) × C × D

où :

A représente la moins élevée des sommes suivantes :

a) le montant comptabilisé réel pour la période tampon relativement à la société de personnes admissible,

b) la somme qui correspondrait au montant comptabilisé ajusté pour la période tampon de la société pour l'année de base relativement à la société de personnes admissible si la valeur de l'élément F de la formule figurant à l'alinéa a) de la définition de ***montant comptabilisé ajusté pour la période tampon*** au paragraphe 34.2(1) était nulle;

B la somme incluse en application du paragraphe 34.2(2) dans le calcul du revenu de la société pour l'année de base relativement à la société de personnes admissible;

C le nombre de jours compris dans la période qui :

a) commence le lendemain du jour où l'année de base prend fin,

b) se termine le jour où l'année d'imposition prend fin;

D le taux d'intérêt quotidien moyen déterminé par rapport au taux d'intérêt prescrit selon l'alinéa 4301a) du *Règlement de l'impôt sur le revenu* pour la période visée à l'élément C. (*income shortfall adjustment*)

société de personnes admissible Est une société de personnes admissible relativement à une société pour une année d'imposition donnée la société de personnes :

a) dont l'un des exercices a commencé dans une année d'imposition antérieure et prend fin dans l'année d'imposition donnée;

b) relativement à laquelle la société était tenue de calculer un montant comptabilisé ajusté pour la période tampon pour l'année d'imposition antérieure. (*qualifying partnership*)

Application of subsection (3)

(2) Subsection (3) applies to a corporation for a taxation year if

(a) the corporation has designated an amount for the purpose of the description of F in paragraph (a) of the definition ***adjusted stub period accrual*** in

Application du paragraphe (3)

(2) Le paragraphe (3) s'applique à une société pour une année d'imposition si, à la fois :

a) la société a désigné un montant pour l'application de l'élément F de la formule figurant à l'alinéa a) de la définition de ***montant comptabilisé ajusté pour la***

subsection 34.2(1) in calculating its adjusted stub period accrual for the base year in respect of a qualifying partnership for the taxation year; and

(b) where the corporation has qualifying transitional income, the taxation year is after the first taxation year of the corporation to which subsection 34.2(17) applies.

Income shortfall adjustment — inclusion

(3) If this subsection applies to a corporation for a taxation year, the corporation shall include in computing its income for the taxation year the amount determined by the formula

A + 0.50 × (A – B)

where

A is the amount that is the total of all amounts each of which is the corporation's income shortfall adjustment in respect of a qualifying partnership for the year; and

B is the amount that is the lesser of A and the total of all amounts each of which is 25% of the positive amount, if any, that would be the income shortfall adjustment in respect of a qualifying partnership for the year if the value of the description of B in the definition ***income shortfall adjustment*** in subsection (1) were nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2011, c. 24, s. 3.

Prospectors and grubstakers

35 (1) Where a share of the capital stock of a corporation

(a) is received in a taxation year by an individual as consideration for the disposition by the individual to the corporation of a mining property or an interest, or for civil law a right, therein acquired by the individual as a result of the individual's efforts as a prospector, either alone or with others, or

(b) is received in a taxation year

(i) by a person who has, either under an arrangement with a prospector made before the prospecting, exploration or development work or as an employer of a prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, and

période tampon au paragraphe 34.2(1) dans le calcul de son montant comptabilisé ajusté pour la période tampon pour l'année de base relativement à une société de personnes admissible pour l'année d'imposition;

b) lorsque la société a un revenu admissible à l'allègement, l'année d'imposition est postérieure à sa première année d'imposition à laquelle le paragraphe 34.2(17) s'applique.

Rajustement pour revenu insuffisant — inclusion

(3) La société à laquelle le présent paragraphe s'applique pour une année d'imposition est tenue d'inclure dans le calcul de son revenu pour l'année la somme obtenue par la formule suivante :

A + 0,50 × (A – B)

où :

A représente le total des sommes dont chacune représente son rajustement pour revenu insuffisant relativement à une société de personnes admissible pour l'année;

B la valeur de l'élément A ou, s'il est moins élevé, le total des sommes dont chacune représente 25 % du montant positif qui correspondrait au rajustement pour revenu insuffisant relativement à une société de personnes admissible pour l'année si la valeur de l'élément B de la formule figurant à la définition de ***rajustement pour revenu insuffisant*** au paragraphe (1) était nulle.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2011, ch. 24, art. 3.

Prospecteurs et commanditaires en prospection

35 (1) Si une action du capital-actions d'une société est :

a) soit reçue par un particulier, au cours d'une année d'imposition, en contrepartie d'un bien minier dont il a disposé en faveur de cette société ou d'un intérêt ou, pour l'application du droit civil, d'un droit sur ce bien minier, acquis du fait de son activité de prospecteur, qu'il a exercée seul ou avec d'autres;

b) soit reçue, au cours d'une année d'imposition :

(i) d'une part, par une personne qui a, soit en vertu d'une entente intervenue entre elle et un prospecteur avant les travaux de prospection, d'exploration ou d'aménagement, soit à titre d'employeur d'un prospecteur, avancé de l'argent pour subvenir aux frais de prospection ou d'exploration en vue de la découverte de minéraux ou de l'aménagement d'une propriété où se trouvent des minéraux ou a payé ces frais en totalité ou en partie,

(ii) as consideration for the disposition by the person referred to in subparagraph (i) to the corporation of a mining property or an interest, or for civil law a right, therein acquired under the arrangement under which that person made the advance or paid the expenses, or if the prospector's employee, acquired by the person through the employee's efforts,

the following rules apply:

(c) notwithstanding any other provision of this Act, no amount in respect of the receipt of the share shall be included

(i) in computing the income for the year of the individual or person, as the case may be, except as provided in paragraph 35(1)(d), or

(ii) in computing at any time the amount to be determined for F in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) in respect of the individual or person, as the case may be,

(d) in the case of an individual or partnership (other than a partnership each member of which is a taxable Canadian corporation), an amount in respect of the receipt of the share equal to the lesser of its fair market value at the time of acquisition and its fair market value at the time of disposition or exchange of the share shall be included in computing the income of the individual or partnership, as the case may be, for the year in which the share is disposed of or exchanged,

(e) notwithstanding subdivision c, in computing the cost to the individual, person or partnership, as the case may be, of the share, no amount shall be included in respect of the disposition of the mining property or the interest, or for civil law the right, therein, as the case may be,

(f) notwithstanding sections 66 and 66.2, in computing the cost to the corporation of the mining property or the interest, or for civil law the right, therein, as the case may be, no amount shall be included in respect of the share, and

(g) for the purpose of paragraph 35(1)(d), an individual or partnership shall be deemed to have disposed of or exchanged shares that are identical properties in the order in which they were acquired.

(ii) d'autre part, en contrepartie de la disposition en faveur de la société, par la personne mentionnée au sous-alinéa (i), d'un bien minier ou d'un intérêt ou, pour l'application du droit civil, d'un droit sur ce bien, acquis conformément à l'entente en vertu de laquelle cette personne a effectué l'avance ou payé les frais ou, si le prospecteur était son employé, acquis par elle grâce au travail de l'employé,

les règles suivantes s'appliquent :

c) malgré les autres dispositions de la présente loi, aucune somme relative à la réception de l'action n'est incluse :

(i) dans le calcul du revenu pour l'année de ce particulier ou de cette personne, selon le cas, sous réserve de l'alinéa d),

(ii) dans le calcul, à un moment donné, relativement à ce particulier ou à cette personne, selon le cas, du montant représenté par l'élément F de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5);

d) dans le cas d'un particulier ou d'une société de personnes (à l'exclusion d'une société de personnes dont chaque associé est une société canadienne imposable), une somme relative à la réception de l'action et correspondant au moindre de la juste valeur marchande de l'action au moment de son acquisition et de la juste valeur marchande de l'action au moment de sa disposition ou de son échange doit être incluse dans le calcul du revenu du particulier ou de la société de personnes, selon le cas, pour l'année où soit il est disposé de l'action, soit celle-ci est échangée;

e) malgré la sous-section c, aucune somme relative à la disposition du bien minier, ou de l'intérêt ou, pour l'application du droit civil, du droit sur celui-ci, n'est incluse dans le calcul du coût de l'action pour le particulier, la personne ou la société de personnes, selon le cas;

f) malgré les articles 66 et 66.2, aucune somme relative à l'action n'est incluse dans le calcul du coût, pour la société, du bien minier ou de l'intérêt ou, pour l'application du droit civil, du droit sur celui-ci;

g) pour l'application de l'alinéa d), un particulier ou une société de personnes est réputé disposer d'actions qui sont des biens identiques ou échanger de telles actions dans l'ordre où elles ont été acquises.

Definitions

(2) In this section,

mining property means

(a) a right, licence or privilege to prospect, explore, drill or mine for minerals in a mineral resource in Canada, or

(b) real property or an immovable in Canada (other than depreciable property) the principal value of which depends on its mineral resource content; (*bien minier*)

prospector means an individual who prospects or explores for minerals or develops a property for minerals on behalf of the individual, on behalf of the individual and others or as an employee. (*prospecteur*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 35; 2001, c. 17, s. 20; 2013, c. 34, ss. 99, 100.

Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

bien minier

a) Droit, permis ou privilège afférent à des travaux de prospection, d'exploration, de forage ou d'extraction relatifs aux minéraux d'une ressource minérale au Canada;

b) immeuble ou bien réel au Canada (sauf un bien amortissable) dont la valeur dépend principalement de sa teneur en ressources minérales. (*mining property*)

prospecteur Particulier qui fait de la prospection ou de l'exploration en vue de découvrir des minéraux ou qui exploite un bien en vue d'en tirer des minéraux soit en son nom, soit pour son compte et celui d'autres personnes, ou à titre d'employé. (*prospector*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 35; 2001, ch. 17, art. 20; 2013, ch. 34, art. 99 et 100.

36 [Repealed, 2013, c. 40, s. 17]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 36; 2013, c. 40, s. 17.

36 [Abrogé, 2013, ch. 40, art. 17]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 36, 2013, ch. 40, art. 17.

Scientific research and experimental development

37 (1) Where a taxpayer carried on a business in Canada in a taxation year, there may be deducted in computing the taxpayer's income from the business for the year such amount as the taxpayer claims not exceeding the amount, if any, by which the total of

(a) the total of all amounts each of which is an expenditure of a current nature made by the taxpayer in the year or in a preceding taxation year ending after 1973

(i) on scientific research and experimental development related to a business of the taxpayer, carried on in Canada and directly undertaken by the taxpayer,

(i.01) on scientific research and experimental development related to a business of the taxpayer, carried on in Canada and directly undertaken on behalf of the taxpayer,

(i.1) by payments to a corporation resident in Canada to be used for scientific research and experimental development carried on in Canada that is related to a business of the taxpayer, but only where the taxpayer is entitled to exploit the results

Activités de recherche scientifique et de développement expérimental

37 (1) Le contribuable qui exploite une entreprise au Canada au cours d'une année d'imposition peut déduire dans le calcul du revenu qu'il tire de cette entreprise pour l'année un montant qui ne dépasse pas l'excédent éventuel du total des montants suivants :

a) le total des montants dont chacun représente une dépense de nature courante qu'il a faite au cours de l'année ou d'une année d'imposition antérieure se terminant après 1973:

(i) soit pour des activités de recherche scientifique et de développement expérimental exercées au Canada directement par le contribuable, en rapport avec son entreprise,

(i.01) soit pour des activités de recherche scientifique et de développement expérimental exercées au Canada directement pour le compte du contribuable, en rapport avec son entreprise,

(i.1) soit sous forme de paiement à une société qui réside au Canada, devant servir à des activités de recherche scientifique et de développement expérimental exercées au Canada en rapport avec une

of that scientific research and experimental development,

(ii) by payments to

(A) an approved association that undertakes scientific research and experimental development,

(B) an approved university, college, research institute or other similar institution,

(C) a corporation resident in Canada and exempt from tax under paragraph 149(1)(j), or

(D) [Repealed, 1996, c. 21, s. 9(4)]

(E) an approved organization that makes payments to an association, institution or corporation described in any of clauses A to (C)

to be used for scientific research and experimental development carried on in Canada that is related to a business of the taxpayer, but only where the taxpayer is entitled to exploit the results of that scientific research and experimental development, or

(iii) where the taxpayer is a corporation, by payments to a corporation resident in Canada and exempt from tax because of paragraph 149(1)(j), for scientific research and experimental development that is basic research or applied research carried on in Canada

(A) the primary purpose of which is the use of results therefrom by the taxpayer in conjunction with other scientific research and experimental development activities undertaken or to be undertaken by or on behalf of the taxpayer that relate to a business of the taxpayer, and

(B) that has the technological potential for application to other businesses of a type unrelated to that carried on by the taxpayer, and

(b) [Repealed, 2012, c. 31, s. 9]

(c) the total of all amounts each of which is an expenditure made by the taxpayer in the year or in a preceding taxation year ending after 1973 by way of repayment of amounts described in paragraph 37(1)(d),

(c.1) all amounts included by virtue of paragraph 12(1)(v), in computing the taxpayer's income for any previous taxation year,

(c.2) all amounts added because of subsection 127(27), (29) or (34) to the taxpayer's tax otherwise

entreprise du contribuable, mais seulement dans le cas où le contribuable est en droit d'exploiter les résultats de ces activités,

(ii) soit sous forme de paiement — devant servir à des activités de recherche scientifique et de développement expérimental exercées au Canada en rapport avec une entreprise du contribuable, mais seulement dans le cas où le contribuable est en droit d'exploiter les résultats de ces activités — à l'une des entités suivantes :

(A) une association agréée qui exerce des activités de recherche scientifique et de développement expérimental,

(B) une université, un collège, un institut de recherches ou un autre établissement semblable agréés,

(C) une société résidant au Canada exonérée, par application de l'alinéa 149(1)j), de l'impôt prévu à la présente partie,

(D) [Abrogée, 1996, ch. 21, art. 9]

(E) une organisation agréée qui verse des fonds à une association, un établissement ou une société visés aux divisions (A) à (C),

(iii) soit, si le contribuable est une société, sous forme de paiements à une société résidant au Canada et exonérée d'impôt en application de l'alinéa 149(1)j), devant servir à des activités de recherche scientifique et de développement expérimental — recherche fondamentale ou appliquée — exercées au Canada :

(A) d'une part, dont l'objet principal consiste à permettre au contribuable d'en exploiter les résultats conjointement avec d'autres activités de recherche scientifique et de développement expérimental exercées ou à exercer par lui ou pour son compte et liées à son entreprise,

(B) d'autre part, qui, du point de vue technologique, sont susceptibles d'être appliqués à des entreprises d'un type non lié à celle exploitée par le contribuable;

b) [Abrogé, 2012, ch. 31, art. 9]

c) le total des montants dont chacun représente une dépense que le contribuable a faite au cours de l'année ou d'une année d'imposition antérieure se terminant après 1973 sous forme de remboursement de montants visés à l'alinéa d);

payable under this Part for any preceding taxation year, and

(c.3) in the case of a partnership, all amounts each of which is an excess referred to in subsection 127(30) in respect of the partnership for any preceding fiscal period,

exceeds the total of

(d) the total of all amounts each of which is the amount of any government assistance or non-government assistance (as defined in subsection 127(9)) in respect of an expenditure described in paragraph (a) or (b), as paragraph (a) or (b), as the case may be, read in its application in respect of the expenditure, that at the taxpayer's filing-due date for the year the taxpayer has received, is entitled to receive or can reasonably be expected to receive,

(d.1) the total of all amounts each of which is the super-allowance benefit amount (within the meaning assigned by subsection 127(9)) for the year or for a preceding taxation year in respect of the taxpayer in respect of a province,

(e) that part of the total of all amounts each of which is an amount deducted under subsection 127(5) in computing the tax payable under this Part by the taxpayer for a preceding taxation year where the amount can reasonably be attributed to

(i) a prescribed proxy amount for a preceding taxation year,

(ii) an expenditure of a current nature incurred in a preceding taxation year that was a qualified expenditure incurred in that preceding year in respect of scientific research and experimental development for the purposes of section 127, or

(iii) an amount included because of paragraph 127(13)(e) in the taxpayer's SR&ED qualified expenditure pool at the end of a preceding taxation year within the meaning assigned by subsection 127(9),

(f) the total of all amounts each of which is an amount deducted under this subsection in computing the taxpayer's income for a preceding taxation year, except amounts described in subsection 37(6),

(f.1) the total of all amounts each of which is the lesser of

c.1) les sommes incluses en vertu de l'alinéa 12(1)v) dans le calcul du revenu d'un contribuable pour une année d'imposition antérieure,

c.2) les montants ajoutés, par l'effet des paragraphes 127(27), (29) ou (34) à l'impôt payable par ailleurs par le contribuable en vertu de la présente partie pour une année d'imposition antérieure,

c.3) dans le cas d'une société de personnes, le total des montants représentant chacun l'excédent visé au paragraphe 127(30) relativement à la société de personnes pour un exercice antérieur,

sur le total des montants suivants :

d) le total des sommes représentant chacune une aide gouvernementale ou une aide non gouvernementale, au sens du paragraphe 127(9), au titre d'une dépense visée aux alinéas a) ou b), dans leur version applicable relativement à la dépense, que le contribuable a reçue, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir à la date d'échéance de production qui lui est applicable pour l'année;

d.1) le total des montants représentant chacun l'avantage relatif à la superdéduction, au sens du paragraphe 127(9), pour l'année ou pour une année d'imposition antérieure relativement au contribuable et à une province;

e) la fraction du total des montants représentant chacun un montant déduit en application du paragraphe 127(5) dans le calcul de l'impôt payable par le contribuable en vertu de la présente partie pour une année d'imposition antérieure, qu'il est raisonnable d'attribuer, selon le cas :

(i) à un montant de remplacement visé par

(ii) à une dépense de nature courante engagée au cours d'une année d'imposition antérieure qui était, pour l'application de l'article 127, une dépense admissible engagée au cours de cette année pour des activités de recherche scientifique et de développement expérimental,

(iii) à un montant inclus, par l'effet de l'alinéa 127(13) e), dans le compte de dépenses admissibles de recherche et de développement du contribuable, au sens du paragraphe 127(9), à la fin d'une année d'imposition antérieure;

f) les montants déduits en application du présent paragraphe dans le calcul du revenu du contribuable pour les années d'imposition antérieures, à l'exception des montants visés au paragraphe (6);

(i) the amount deducted under section 61.3 in computing the taxpayer's income for a preceding taxation year, and

(ii) the amount, if any, by which the amount that was deductible under this subsection in computing the taxpayer's income for that preceding year exceeds the amount claimed under this subsection in computing the taxpayer's income for that preceding year,

(g) the total of all amounts each of which is an amount equal to twice the amount claimed under subparagraph 194(2)(a)(ii) by the taxpayer for the year or any preceding taxation year, and

(h) if the taxpayer was subject to a loss restriction event before the end of the year, the amount determined for the year under subsection (6.1) with respect to the taxpayer.

f.1) le total des montants représentant chacun le moins élevé des montants suivants :

(i) le montant déduit en application de l'article 61.3 dans le calcul du revenu du contribuable pour une année d'imposition antérieure,

(ii) l'excédent éventuel du montant qui était déductible en application du présent paragraphe dans le calcul du revenu du contribuable pour cette année antérieure sur le montant déduit en application de ce paragraphe dans le calcul de son revenu pour cette même année;

g) le total des montants dont chacun représente un montant égal au double du montant demandé en vertu du sous-alinéa 194(2)a)(ii) par le contribuable pour l'année ou toute année d'imposition antérieure;

h) si le contribuable a été assujetti à un fait lié à la restriction de pertes avant la fin de l'année, la somme déterminée à son égard pour l'année selon le paragraphe (6.1).

Business of related corporations

(1.1) Notwithstanding paragraph 37(8)(c), for the purposes of subsection 37(1), where a taxpayer is a corporation, scientific research and experimental development, related to a business carried on by another corporation to which the taxpayer is related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) and in which that other corporation is actively engaged, at the time at which an expenditure or payment in respect of the scientific research and experimental development is made by the taxpayer, shall be considered to be related to a business of the taxpayer at that time.

Sociétés liées

(1.1) Pour l'application du paragraphe (1) et malgré l'alinéa (8)c), les activités de recherche scientifique et de développement expérimental exercées en rapport avec une entreprise qu'exploite une société donnée à laquelle est lié, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), un contribuable qui est lui-même une société, et dans laquelle cette société donnée prend une part active au moment où le contribuable fait une dépense ou un paiement pour ces activités sont considérées comme étant exercées en rapport avec une entreprise du contribuable à ce moment.

Deemed time of capital expenditure

(1.2) For the purposes of paragraph 37(1)(b), an expenditure made by a taxpayer in respect of property shall be deemed not to have been made before the property is considered to have become available for use by the taxpayer.

Présomption

(1.2) Pour l'application de l'alinéa (1)b), la dépense qu'un contribuable fait au titre d'un bien est réputée ne pas avoir été faite avant que le bien soit considéré comme étant devenu prêt à être mis en service par lui.

SR&ED in the exclusive economic zone

(1.3) For the purposes of this section and section 127 of this Act and Part XXIX of the *Income Tax Regulations*, an expenditure is deemed to have been made by a taxpayer in Canada if the expenditure is

(a) made by the taxpayer in the course of a business carried on by the taxpayer in Canada; and

(b) made for the prosecution of scientific research and experimental development in the exclusive economic

Recherche scientifique et développement expérimental dans la zone économique exclusive

(1.3) Pour l'application du présent article, de l'article 127 de la présente loi et de la partie XXIX du *Règlement de l'impôt sur le revenu*, une dépense est réputée avoir été effectuée par un contribuable au Canada si, à la fois :

a) elle est effectuée par le contribuable dans le cadre d'une entreprise qu'il exploite au Canada;

b) elle est effectuée dans le cadre d'activités de recherche scientifique et de développement

zone of Canada, within the meaning of the *Oceans Act*, or in the airspace above that zone or the seabed or subsoil below that zone.

Salary or wages for SR&ED outside Canada

(1.4) For the purposes of this section, section 127 and Part XXIX of the *Income Tax Regulations*, the amount of a taxpayer's expenditure for a taxation year determined under subsection (1.5) is deemed to be made in the taxation year in respect of scientific research and experimental development carried on in Canada by the taxpayer.

Salary or wages outside Canada — limit determined

(1.5) The amount of a taxpayer's expenditure for a taxation year determined under this subsection is the lesser of

(a) the amount that is the total of all expenditures each of which is an expenditure made by the taxpayer, in the taxation year and after February 25, 2008, in respect of an expense incurred in the taxation year for salary or wages paid to the taxpayer's employee who was resident in Canada at the time the expense was incurred in respect of scientific research and experimental development,

(i) that was carried on outside Canada,

(ii) that was directly undertaken by the taxpayer,

(iii) that related to a business of the taxpayer, and

(iv) that was solely in support of scientific research and experimental development carried on in Canada by the taxpayer, and

(b) the amount that is 10 per cent of the total of all expenditures, made by the taxpayer in the year, each of which would, if this Act were read without reference to subsection (1.4), be an expenditure made in respect of an expense incurred in the year for salary or wages paid to an employee in respect of scientific research and experimental development that was carried on in Canada, that was directly undertaken by the taxpayer and that related to a business of the taxpayer.

Research outside Canada

(2) In computing the income of a taxpayer for a taxation year from a business of the taxpayer, there may be deducted expenditures of a current nature made by the taxpayer in the year

expérimental menées dans la zone économique exclusive du Canada, au sens de la *Loi sur les océans*, ou dans l'espace aérien ou les fonds marins ou leur sous-sol correspondants.

Traitement ou salaire — RS&DE à l'étranger

(1.4) Pour l'application du présent article, de l'article 127 de la présente loi et de la partie XXIX du *Règlement de l'impôt sur le revenu*, la dépense d'un contribuable pour une année d'imposition, déterminée selon le paragraphe (1.5), est réputée être effectuée au cours de l'année pour des activités de recherche scientifique et de développement expérimental qu'il exerce au Canada.

Traitement ou salaire à l'étranger — plafond

(1.5) La dépense d'un contribuable pour une année d'imposition correspond à la moins élevée des sommes suivantes :

a) le total des dépenses dont chacune représente une dépense qu'il a effectuée, au cours de l'année et après le 25 février 2008, au titre de frais engagés au cours de l'année pour le traitement ou salaire versé à son employé, qui était résident du Canada au moment où les frais ont été engagés, relativement à des activités de recherche scientifique et de développement expérimental qui, à la fois :

(i) sont exercées à l'étranger,

(ii) sont menées directement par le contribuable,

(iii) sont en rapport avec son entreprise,

(iv) servent uniquement à appuyer des activités de recherche scientifique et de développement expérimental qu'il exerce au Canada;

b) le montant qui correspond à 10 % du total des dépenses effectuées par le contribuable au cours de l'année, dont chacune représenterait, en l'absence du paragraphe (1.4), une dépense effectuée au titre de frais engagés au cours de l'année pour le traitement ou salaire versé à un employé relativement à des activités de recherche scientifique et de développement expérimental exercées au Canada directement par le contribuable, en rapport avec son entreprise.

Activités de recherche scientifique et de développement expérimental exercées à l'étranger

(2) Sont déductibles, dans le calcul du revenu qu'un contribuable tire pour une année d'imposition d'une entreprise de celui-ci, les dépenses de nature courante que celui-ci a faites au cours de l'année :

(a) on scientific research and experimental development carried on outside Canada, directly undertaken by or on behalf of the taxpayer, and related to the business (except to the extent that subsection (1.4) deems the expenditures to have been made in Canada); or

(b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research and experimental development carried on outside Canada related to the business provided that the taxpayer is entitled to exploit the results of that scientific research and experimental development.

a) soit pour des activités de recherche scientifique et de développement expérimental exercées à l'étranger directement par le contribuable ou pour son compte, en rapport avec l'entreprise (sauf dans la mesure où les dépenses sont réputées par le paragraphe (1.4) avoir été effectuées au Canada);

b) soit sous forme de paiements à une association, une université, un collège, un institut de recherches ou un autre établissement semblable agréés, devant servir à des activités de recherche scientifique et de développement expérimental exercées à l'étranger, en rapport avec l'entreprise, à condition que le contribuable soit en droit d'en exploiter les résultats.

Minister may obtain advice

(3) The Minister may obtain the advice of the Department of Industry, the National Research Council of Canada, the Defence Research Board or any other agency or department of the Government of Canada carrying on activities in the field of scientific research as to whether any particular activity constitutes scientific research and experimental development.

Demandes d'avis par le ministre

(3) Le ministre peut obtenir l'avis du ministère de l'Industrie, du Conseil national de recherches du Canada, du Conseil national de recherches pour la défense, ou de tout autre organisme ou ministère fédéral qui se livre à des activités de recherche scientifique et de développement expérimental, sur la question de savoir si une activité particulière constitue une activité de recherche scientifique et de développement expérimental.

Where no deduction allowed under section

(4) No deduction may be made under this section in respect of an expenditure made to acquire rights in, or arising out of, scientific research and experimental development.

Absence de déduction au titre des activités de recherche scientifique et de développement expérimental

(4) Aucune déduction n'est permise en vertu du présent article relativement à une dépense faite en vue d'acquérir des droits relatifs à des activités de recherche scientifique et de développement expérimental ou des droits en découlant.

Where no deduction allowed under ss. 110.1 and 118.1

(5) Where, in respect of an expenditure on scientific research and experimental development made by a taxpayer in a taxation year, an amount is otherwise deductible under this section and under section 110.1 or 118.1, no deduction may be made in respect of the expenditure under section 110.1 or 118.1 in computing the taxable income of, or the tax payable by, the taxpayer for any taxation year.

Idem

(5) Dans le cas où un montant est déductible par ailleurs en application à la fois du présent article et de l'article 110.1 ou 118.1 au titre d'une dépense faite par un contribuable pour des activités de recherche scientifique et de développement expérimental au cours d'une année d'imposition, aucune déduction ne peut être faite en application de l'article 110.1 ou 118.1 au titre de cette dépense dans le calcul du revenu imposable du contribuable ou de l'impôt payable par le contribuable pour une année d'imposition.

Expenditures of a capital nature

(6) For the purposes of section 13, an amount claimed under subsection (1) that may reasonably be considered to be in respect of a property described in paragraph (1)(b), as that paragraph read in its application in respect of the property, is deemed to be an amount allowed to the taxpayer in respect of the property under regulations

Dépenses en capital

(6) Pour l'application de l'article 13, la somme déduite en application du paragraphe (1) qu'il est raisonnable de considérer comme se rapportant à un bien visé à l'alinéa (1)b), dans sa version applicable relativement au bien, est réputée être accordée au contribuable au titre du bien par les dispositions réglementaires prises en application de

made under paragraph 20(1)(a), and for that purpose the property is deemed to be of a separate prescribed class.

Loss restriction event

(6.1) If a taxpayer was, at any time (in this subsection referred to as "that time") before the end of a taxation year of the taxpayer, last subject to a loss restriction event, the amount determined for the purposes of paragraph (1)(h) for the year with respect to the taxpayer in respect of a business is the amount, if any, by which

(a) the amount, if any, by which

(i) the total of all amounts each of which is

(A) an expenditure described in paragraph (1)(a) or (c) that was made by the taxpayer before that time,

(B) the lesser of the amounts determined immediately before that time in respect of the taxpayer under subparagraphs (1)(b)(i) and (ii), as those paragraphs read on March 29, 2012, in respect of expenditures made, and property acquired, by the taxpayer before 2014, or

(C) an amount determined in respect of the taxpayer under paragraph (1)(c.1) for its taxation year that ended immediately before that time

exceeds the total of all amounts each of which is

(ii) the total of all amounts determined in respect of the taxpayer under paragraphs (1)(d) to (g) for its taxation year that ended immediately before that time, or

(iii) the amount deducted under subsection (1) in computing the taxpayer's income for its taxation year that ended immediately before that time

exceeds

(b) the total of

(i) if the business to which the amounts described in any of clauses (a)(i)(A) to (C) can reasonably be considered to have been related was carried on by the taxpayer for profit or with a reasonable expectation of profit throughout the year, the total of

(A) the taxpayer's income for the year from the business before making any deduction under subsection (1), and

(B) if properties were sold, leased, rented or developed, or services were rendered, in the course

l'alinéa 20(1)a). À cette fin, le bien est réputé constituer une catégorie prescrite distincte.

Fait lié à la restriction de pertes

(6.1) Si un contribuable a été assujetti à un fait lié à la restriction de pertes, la dernière fois, à un moment donné avant la fin d'une année d'imposition, la somme qui est déterminée à son égard pour l'année pour l'application de l'alinéa (1)h) relativement à une entreprise correspond à l'excédent éventuel de la somme visée à l'alinéa a) sur le total visé à l'alinéa b) :

a) l'excédent éventuel :

(i) du total des montants dont chacun représente :

(A) une dépense visée aux alinéas (1)a) ou c) que le contribuable a effectuée avant ce moment,

(B) la moins élevée des sommes déterminées à l'égard du contribuable immédiatement avant ce moment selon les sous-alinéas (1)b)(i) et (ii), en leur état au 29 mars 2012, relativement aux dépenses effectuées, et aux biens acquis, par le contribuable avant 2014,

(C) la somme déterminée à l'égard du contribuable selon l'alinéa (1)c.1) pour son année d'imposition s'étant terminée immédiatement avant ce moment,

sur le total des montants dont chacun représente :

(ii) le total des sommes déterminées à l'égard du contribuable selon les alinéas (1)d) à g) pour son année d'imposition s'étant terminée immédiatement avant ce moment,

(iii) la somme déduite en application du paragraphe (1) dans le calcul du revenu du contribuable pour son année d'imposition s'étant terminée immédiatement avant ce moment;

b) le total des montants suivants :

(i) si l'entreprise à laquelle il est raisonnable de considérer que les sommes visées à l'une des divisions a)(i)(A) à (C) se rapportent a été exploitée par le contribuable à profit ou dans une attente raisonnable de profit tout au long de l'année, le total des sommes suivantes :

(A) le revenu du contribuable pour l'année provenant de l'entreprise, avant que soit effectuée une déduction en application du paragraphe (1),

of carrying on the business before that time, the taxpayer's income for the year, before making any deduction under subsection (1), from any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services, and

(ii) the total of all amounts each of which is an amount determined in respect of a preceding taxation year of the taxpayer that ended after that time equal to the lesser of

(A) the amount determined under subparagraph (i) with respect to the taxpayer in respect of the business for that preceding year, and

(B) the amount in respect of the business deducted under subsection (1) in computing the taxpayer's income for that preceding year.

(B) dans le cas où des biens sont vendus, loués ou mis en valeur, ou des services rendus, dans le cadre de l'exploitation de l'entreprise avant ce moment, le revenu du contribuable pour l'année, avant que soit effectuée une déduction en application du paragraphe (1), provenant de toute autre entreprise dont la presque totalité du revenu est dérivée de la vente, de la location ou de la mise en valeur, selon le cas, de biens semblables ou de la prestation de services semblables,

(ii) le total des sommes représentant chacune une somme, déterminée pour une année d'imposition antérieure du contribuable s'étant terminée après ce moment, égale à la moins élevée des sommes suivantes :

(A) la somme déterminée selon le sous-alinéa (i) à l'égard du contribuable relativement à l'entreprise pour cette année antérieure,

(B) la somme déduite relativement à l'entreprise en application du paragraphe (1) dans le calcul du revenu du contribuable pour cette année antérieure.

Definitions

(7) In this section,

approved means approved by the Minister after the Minister has, if the Minister considers it necessary, obtained the advice of the Department of Industry or the National Research Council of Canada; (*agréé*)

scientific research and experimental development [Repealed, 1996, c. 21, s. 9(8)]

Interpretation

(8) In this section,

(a) references to expenditures on or in respect of scientific research and experimental development

(i) where the references occur in subsection 37(2), include only

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

(B) expenditures of a current nature that were directly attributable, as determined by regulation, to the prosecution of scientific research and experimental development, and

Définitions

(7) Les définitions qui suivent s'appliquent au présent article.

activités de recherche scientifique et de développement expérimental [Abrogée, 1996, ch. 21, art. 9]

agréé Agréé par le ministre après qu'il a obtenu, s'il le juge nécessaire, l'avis du ministère de l'Industrie ou du Conseil national de recherches du Canada. (*approved*)

Interprétation

(8) Dans le cadre du présent article :

a) les mentions des dépenses afférentes aux activités de recherche scientifique et de développement expérimental :

(i) lorsqu'elles figurent au paragraphe (2), se limitent :

(A) aux dépenses dont chacune représente une dépense engagée pour des activités de recherche scientifique et de développement expérimental et qui y est attribuable en totalité, ou presque,

(B) aux dépenses courantes directement attribuables, selon ce qui est prévu par règlement, à des activités de recherche scientifique et de développement expérimental,

(ii) where the references occur other than in subsection 37(2), include only

(A) expenditures incurred by a taxpayer in a taxation year (other than a taxation year for which the taxpayer has elected under clause (B)), each of which is

(I) an expenditure of a current nature all or substantially all of which was attributable to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development in Canada, or

(II) an expenditure of a current nature directly attributable, as determined by regulation, to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development in Canada, and

(III) [Repealed, 2012, c. 31, s. 9]

(B) where a taxpayer has elected in prescribed form and in accordance with subsection 37(10) for a taxation year, expenditures incurred by the taxpayer in the year each of which is

(I) [Repealed, 2012, c. 31, s. 9]

(II) an expenditure of a current nature in respect of the prosecution of scientific research and experimental development in Canada directly undertaken on behalf of the taxpayer,

(III) [Repealed, 2012, c. 31, s. 9]

(IV) that portion of an expenditure made in respect of an expense incurred in the year for salary or wages of an employee who is directly engaged in scientific research and experimental development in Canada that can reasonably be considered to relate to such work having regard to the time spent by the employee thereon, and, for this purpose, where that portion is all or substantially all of the expenditure, that portion shall be deemed to be the amount of the expenditure, or

(V) the cost of materials consumed or transformed in the prosecution of scientific research and experimental development in Canada, or

(VI) [Repealed, 2012, c. 31, s. 9]

(ii) lorsqu'elles figurent ailleurs qu'au paragraphe (2), se limitent :

(A) aux dépenses engagées par un contribuable au cours d'une année d'imposition, sauf une année d'imposition pour laquelle le contribuable a fait le choix prévu à la division (B), représentant chacune :

(I) soit une dépense courante attribuable en totalité, ou presque, à des activités de recherche scientifique et de développement expérimental exercées au Canada, ou à la fourniture, à ces fins, de locaux, d'installations ou de matériel,

(II) soit une dépense courante directement attribuable, selon ce qui est prévu par règlement, à des activités de recherche scientifique et de développement expérimental exercées au Canada, ou à la fourniture, à ces fins, de locaux, d'installations ou de matériel,

(III) [Abrogé, 2012, ch. 31, art. 9]

(B) si un contribuable en fait le choix sur formulaire prescrit et en conformité avec le paragraphe (10) pour une année d'imposition, aux dépenses engagées par lui au cours de l'année, représentant chacune :

(I) [Abrogé, 2012, ch. 31, art. 9]

(II) soit une dépense de nature courante pour des activités de recherche scientifique et de développement expérimental exercées au Canada et entreprises directement pour le compte du contribuable,

(III) [Abrogé, 2012, ch. 31, art. 9]

(IV) soit la partie d'une dépense faite relativement à des frais engagés au cours de l'année pour le traitement ou le salaire d'un employé exerçant directement des activités de recherche scientifique et de développement expérimental au Canada, qu'il est raisonnable de considérer comme se rapportant à ce travail compte tenu du temps que l'employé y consacre; à cette fin, la partie de dépense est réputée correspondre au montant de la dépense si elle en constitue la totalité, ou presque,

(b) for greater certainty, references to scientific research and experimental development related to a business include any scientific research and experimental development that may lead to or facilitate an extension of that business;

(c) except in the case of a taxpayer who derives all or substantially all of the taxpayer's revenue from the prosecution of scientific research and experimental development (including the sale of rights arising out of scientific research and experimental development carried on by the taxpayer), the prosecution of scientific research and experimental development shall not be considered to be a business of the taxpayer to which scientific research and experimental development is related; and

(d) references to expenditures of a current nature include any expenditure made by a taxpayer other than an expenditure made by the taxpayer for

(i) the acquisition from a person or partnership of a property that is a capital property of the taxpayer, or

(ii) the use of, or the right to use, property that would be capital property of the taxpayer if it were owned by the taxpayer.

(V) soit le coût des matériaux consommés ou transformés dans le cadre d'activités de recherche scientifique et de développement expérimental exercées au Canada,

(VI) [Abrogé, 2012, ch. 31, art. 9]

b) il est entendu que les activités de recherche scientifique et de développement expérimental exercées en rapport avec une entreprise comprennent les activités de recherche scientifique et de développement expérimental susceptibles de provoquer ou de faciliter la croissance de cette entreprise;

c) sauf si le contribuable obtient la totalité, ou presque, de ses recettes de l'exercice d'activités de recherche scientifique et de développement expérimental — y compris la vente de droits découlant de ces activités —, leur exercice n'est pas considéré comme une entreprise du contribuable à laquelle ces activités se rapportent;

d) les dépenses de nature courante comprennent les dépenses faites par un contribuable, à l'exception de celles qu'il fait :

(i) pour l'acquisition, auprès d'une personne ou d'une société de personnes, d'un bien qui est une immobilisation du contribuable,

(ii) pour l'usage ou le droit d'usage d'un bien qui serait une immobilisation du contribuable s'il lui appartenait.

Salary or wages

(9) An expenditure of a taxpayer

(a) does not include, for the purposes of clauses (8)(a)(ii)(A) and (B), remuneration based on profits or a bonus, where the remuneration or bonus, as the case may be, is in respect of a specified employee of the taxpayer, and

(b) includes, for the purpose of paragraph (1.5)(a), an amount paid in respect of an expense incurred for salary or wages paid to an employee only if the taxpayer reasonably believes that the salary or wages is not subject to an income or profits tax imposed, because of the employee's presence or activity in a country other than Canada, by a government of that other country.

Traitement ou salaire

(9) La dépense d'un contribuable :

a) ne comprend pas, pour l'application des divisions (8)a)(ii)(A) et (B), la rémunération fondée sur les bénéfices ni les gratifications, si la rémunération ou les gratifications se rapportent à un employé déterminé du contribuable;

b) ne comprend, pour l'application de l'alinéa (1.5)a), une somme payée au titre de frais engagés pour le traitement ou salaire versé à un employé que si le contribuable a des motifs raisonnables de croire que le traitement ou salaire n'est pas assujetti à l'impôt sur le revenu ou sur les bénéfices levé par un gouvernement d'un pays étranger, en raison de la présence ou de l'activité de l'employé dans ce pays.

Limitation re specified employees

(9.1) For the purposes of clauses (8)(a)(ii)(A) and (B), expenditures incurred by a taxpayer in a taxation year do not include expenses incurred in the year in respect of

Limite applicable aux employés déterminés

(9.1) Pour l'application des divisions (8)a)(ii)(A) et (B), sont exclues des dépenses qu'un contribuable engage au cours d'une année d'imposition celles qu'il a engagées au

salary or wages of a specified employee of the taxpayer to the extent that those expenses exceed the amount determined by the formula

A × B/365

where

A is 5 times the Year's Maximum Pensionable Earnings (as determined under section 18 of the *Canada Pension Plan*) for the calendar year in which the taxation year ends; and

B is the number of days in the taxation year on which the employee is a specified employee of the taxpayer.

Associated corporations

(9.2) Where

(a) in a taxation year of a corporation that ends in a calendar year, the corporation employs an individual who is a specified employee of the corporation,

(b) the corporation is associated with another corporation (in this subsection and subsection 37(9.3) referred to as the "associated corporation") in a taxation year of the associated corporation that ends in the calendar year, and

(c) the individual is a specified employee of the associated corporation in the taxation year of the associated corporation that ends in the calendar year,

for the purposes of clauses (8)(a)(ii)(A) and (B), the expenditures incurred by the corporation in its taxation year or years that end in the calendar year and by each associated corporation in its taxation year or years that end in the calendar year do not include expenses incurred in those taxation years in respect of salary or wages of the specified employee unless the corporation and all of the associated corporations have filed with the Minister an agreement referred to in subsection 37(9.3) in respect of those years.

Agreement among associated corporations

(9.3) Where all of the members of a group of associated corporations of which an individual is a specified employee file, in respect of their taxation years that end in a particular calendar year, an agreement with the Minister in which they allocate an amount in respect of the individual to one or more of them for those years and the amount so allocated or the total of the amounts so allocated, as the case may be, does not exceed the amount determined by the formula

A × B/365

where

cours de l'année au titre du traitement ou salaire de son employé déterminé, dans la mesure où elles dépassent le résultat du calcul suivant :

A × B/365

où :

A représente cinq fois le maximum des gains annuels ouvrant droit à pension, établi selon l'article 18 du *Régime de pensions du Canada*, pour l'année civile dans laquelle l'année d'imposition prend fin;

B le nombre de jours de l'année d'imposition où l'employé est un employé déterminé du contribuable.

Sociétés associées

(9.2) Pour l'application des divisions (8)a)(ii)(A) et (B) et si les conditions ci-après sont réunies, sont exclues des dépenses engagées par une société et par une autre société qui lui est associée (appelée « société associée » au présent paragraphe et au paragraphe (9.3)), au cours de leurs années d'imposition se terminant dans une année civile, celles qu'elles ont engagées au cours de ces années d'imposition au titre du traitement ou salaire d'un particulier, sauf si elles ont présenté au ministre pour ces années la convention visée au paragraphe (9.3):

a) au cours de l'année d'imposition de la société qui se termine dans l'année civile, le particulier est l'employé déterminé de la société,

b) les deux sociétés sont associées au cours d'une année d'imposition de la société associée qui se termine dans l'année civile;

c) le particulier est un employé déterminé de la société associée au cours de l'année d'imposition de celle-ci qui se termine dans l'année civile.

Convention entre sociétés associées

(9.3) Lorsque les membres d'un groupe de sociétés associées dont un particulier est un employé déterminé présentent au ministre, pour leurs années d'imposition qui se terminent dans une année civile, une convention par laquelle est attribué à l'un d'eux, ou réparti entre eux, pour ces années un montant relatif au particulier ne dépassant pas le résultat du calcul ci-après, le montant maximum qui peut être déduit au titre du traitement ou salaire du particulier pour l'application des divisions (8)a) (ii)(A) et (B) par chaque société pour chacune de ces années est le montant qui lui a été attribué pour chacune de ces années :

A × B/365

A is 5 times the Year's Maximum Pensionable Earnings (as determined under section 18 of the *Canada Pension Plan*) for the particular calendar year, and

B is the lesser of 365 and the number of days in those taxation years on which the individual was a specified employee of one or more of the corporations,

the maximum amount that may be claimed in respect of salary or wages of the individual for the purposes of clauses (8)(a)(ii)(A) and (B) by each of the corporations for each of those years is the amount so allocated to it for each of those years.

où :

A représente cinq fois le maximum des gains annuels ouvrant droit à pension, établi selon l'article 18 du *Régime de pensions du Canada*, pour l'année civile;

B le moins élevé de 365 et du nombre de jours de ces années d'imposition où le particulier était un employé déterminé d'une ou plusieurs des sociétés.

Filing

(9.4) An agreement referred to in subsection 37(9.3) is deemed not to have been filed by a taxpayer unless

(a) it is in prescribed form; and

(b) where the taxpayer is a corporation, it is accompanied by

(i) where its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

(ii) where its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made.

Modalités de présentation

(9.4) La convention visée au paragraphe (9.3) n'est considérée comme présentée au ministre que si :

a) elle est présentée sur le formulaire prescrit;

b) si le contribuable est une société, elle est accompagnée des documents suivants :

(i) si ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(ii) sinon, une copie certifiée du document par lequel la personne qui a ce droit autorise la conclusion de la convention.

Deemed corporation

(9.5) For the purposes of subsections 37(9.2) and 37(9.3) and this subsection, each

(a) individual related to a particular corporation,

(b) partnership of which a majority-interest partner is

(i) an individual related to a particular corporation, or

(ii) a corporation associated with a particular corporation, and

(c) limited partnership of which a member whose liability as a member is not limited is

(i) an individual related to a particular corporation, or

(ii) a corporation associated with a particular corporation,

is deemed to be a corporation associated with the particularcorporation.

Présomption

(9.5) Pour l'application des paragraphes (9.2) et (9.3) et du présent paragraphe, chacune des entités suivantes est réputée être une société associée à une société :

a) le particulier lié à la société;

b) la société de personnes dont l'associé détenant une participation majoritaire est :

(i) soit un particulier lié à la société,

(ii) soit une société associée à la société;

c) la société de personnes en commandite dont un des associés dont la responsabilité est illimitée est :

(i) soit un particulier lié à la société,

(ii) soit une société associée à la société.

Time for election

(10) Any election made under clause (8)(a)(ii)(B) for a taxation year by a taxpayer shall be filed by the taxpayer on the day on which the taxpayer first files a prescribed form referred to in subsection 37(11) for the year.

Filing requirement

(11) Subject to subsection 37(12), no amount in respect of an expenditure that would be incurred by a taxpayer in a taxation year that begins after 1995 if this Act were read without reference to subsection 78(4) may be deducted under subsection 37(1) unless the taxpayer files with the Minister a prescribed form containing prescribed information in respect of the expenditure on or before the day that is 12 months after the taxpayer's filing-due date for the year.

Misclassified expenditures

(12) If a taxpayer has not filed a prescribed form in respect of an expenditure in accordance with subsection 37(11), for the purposes of this Act, the expenditure is deemed not to be an expenditure on or in respect of scientific research and experimental development.

Non-arm's length contract — linked work

(13) For the purposes of this section and sections 127 and 127.1, where

(a) work is performed by a taxpayer for a person or partnership at a time when the person or partnership does not deal at arm's length with the taxpayer, and

(b) the work would be scientific research and experimental development if it were performed by the person or partnership,

the work is deemed to be scientific research and experimental development.

Look-through rule

(14) For the purposes of subparagraphs (1)(a)(i.01) to (iii), the amount of a particular expenditure made by a taxpayer shall be reduced by the amount of any related expenditure of the person or partnership to whom the particular expenditure is made that is not an expenditure of a current nature of the person or partnership.

Reporting of certain payments

(15) If an expenditure is required to be reduced because of subsection (14), the person or the partnership referred to in that subsection is required to inform the taxpayer in writing of the amount of the reduction without delay if

Moment du choix

(10) Un contribuable présente le formulaire indiquant le choix prévu à la division (8)a)(ii)(B) pour une année d'imposition le jour où il présente pour la première fois le formulaire visé au paragraphe (11) pour l'année.

Formulaire obligatoire

(11) Sous réserve du paragraphe (12), un montant n'est déductible en application du paragraphe (1) au titre d'une dépense qu'un contribuable engagerait, compte non tenu du paragraphe 78(4), au cours d'une année d'imposition qui commence après 1995 que s'il présente au ministre, au plus tard douze mois après la date d'échéance de production qui lui est applicable pour l'année, un formulaire prescrit contenant les renseignements prescrits relativement à la dépense.

Dépenses reclassifiées

(12) Pour l'application de la présente loi, la dépense à l'égard de laquelle un contribuable n'a pas produit un formulaire prescrit en conformité avec le paragraphe (11) est réputée ne pas être une dépense relative à des activités de recherche scientifique et de développement expérimental.

Travaux par des personnes ayant un lien de dépendance

(13) Pour l'application du présent article et des articles 127 et 127.1, sont réputés être des activités de recherche scientifique et de développement expérimental les travaux qui, à la fois :

a) sont exécutés par un contribuable pour une personne ou une société de personnes, à un moment où ils ont entre eux un lien de dépendance;

b) seraient des activités de recherche scientifique et de développement expérimental s'ils étaient exécutés par la personne ou la société de personnes visée à l'alinéa a).

Règle de transparence

(14) Pour l'application des sous-alinéas (1)a)(i.01) à (iii), le montant d'une dépense donnée faite par un contribuable est réduite du montant de toute dépense connexe de la personne ou de la société de personnes auprès de laquelle la dépense donnée est faite qui n'est pas une dépense de nature courante de celle-ci.

Déclaration de certains paiements

(15) Si une dépense doit être réduite par l'effet du paragraphe (14), la personne ou la société de personnes visée à ce paragraphe est tenue d'aviser le contribuable par écrit du montant de la réduction, sans délai si le

requested by the taxpayer and in any other case no later than 90 days after the end of the calendar year in which the expenditure was made.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 37; 1994, c. 7, Sch. II, s. 21, c. 8, s. 4; 1995, c. 1, s. 63, c. 3, s. 9, c. 21, s. 9; 1996, c. 21, s. 9; 1997, c. 25, ss. 6, 74; 1998, c. 19, ss. 5, 86; 1999, c. 22, s. 11; 2001, c. 17, s. 21; 2005, c. 30, s. 2; 2008, c. 28, s. 3; 2012, c. 31, s. 9; 2013, c. 34, s. 181, c. 40, s. 18.

37.1 [Repealed, 1998, c. 19, s. 87(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 37.1; 1998, c. 19, s. 87.

37.2 [Repealed, 1998, c. 19, s. 87(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 37.2; 1998, c. 19, s. 87.

37.3 [Repealed, 1998, c. 19, s. 87(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 37.3; 1998, c. 19, s. 87.

contribuable lui en fait la demande ou, dans les autres cas, au plus tard 90 jours suivant la fin de l'année civile où la dépense a été faite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 37; 1994, ch. 7, ann. II, art. 21, ch. 8, art. 4; 1995, ch. 1, art. 63, ch. 3, art. 9, ch. 21, art. 9; 1996, ch. 21, art. 9; 1997, ch. 25, art. 6 et 74; 1998, ch. 19, art. 5 et 86; 1999, ch. 22, art. 11; 2001, ch. 17, art. 21; 2005, ch. 30, art. 2; 2008, ch. 28, art. 3; 2012, ch. 31, art. 9; 2013, ch. 34, art. 181, ch. 40, art. 18.

37.1 [Abrogé, 1998, ch. 19, art. 87]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 37.1; 1998, ch. 19, art. 87.

37.2 [Abrogé, 1998, ch. 19, art. 87]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 37.2; 1998, ch. 19, art. 87.

37.3 [Abrogé, 1998, ch. 19, art. 87]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 37.3; 1998, ch. 19, art. 87.

SUBDIVISION C

Taxable Capital Gains and Allowable Capital Losses

Taxable capital gain and allowable capital loss

38 For the purposes of this Act,

(a) subject to paragraphs (a.1) to (a.3), a taxpayer's taxable capital gain for a taxation year from the disposition of any property is ½ of the taxpayer's capital gain for the year from the disposition of the property;

(a.1) a taxpayer's taxable capital gain for a taxation year from the disposition of a property is equal to zero if

(i) the disposition is the making of a gift to a qualified donee of a share, debt obligation or right listed on a designated stock exchange, a share of the capital stock of a mutual fund corporation, a unit of a mutual fund trust, an interest in a related segregated fund trust (within the meaning assigned by paragraph 138.1(1)(a)) or a prescribed debt obligation,

(ii) the disposition is deemed by section 70 to have occurred and the property is

(A) a security described in subparagraph (i), and

(B) the subject of a gift to which subsection 118.1(5.1) applies and that is made by the taxpayer's estate to a qualified donee, or

SOUS-SECTION C

Gains en capital imposables et pertes en capital déductibles

Sens de gain en capital imposable et de perte en capital déductible

38 Pour l'application de la présente loi :

a) sous réserve des alinéas a.1) à a.3), le gain en capital imposable d'un contribuable pour une année d'imposition, tiré de la disposition d'un bien, est égal à la moitié du gain en capital qu'il a réalisé pour l'année à la disposition du bien;

a.1) le gain en capital imposable d'un contribuable pour une année d'imposition, tiré de la disposition d'un bien, est égal à zéro si, selon le cas :

(i) la disposition consiste à faire don à un donataire reconnu d'une action, d'une créance ou d'un droit coté à une bourse de valeurs désignée, d'une action du capital-actions d'une société de placement à capital variable, d'une part d'une fiducie de fonds commun de placement, d'une participation dans une fiducie créée à l'égard du fonds réservé, au sens de l'alinéa 138.1(1)a), ou d'une créance visée par règlement,

(ii) la disposition est réputée, aux termes de l'article 70, avoir été effectuée, et le bien, à la fois :

(A) est un titre visé au sous-alinéa (i),

(iii) the disposition is the exchange, for a security described in subparagraph (i), of a share of the capital stock of a corporation, which share included, at the time it was issued and at the time of the disposition, a condition allowing the holder to exchange it for the security, and the taxpayer

(A) receives no consideration on the exchange other than the security, and

(B) makes a gift of the security to a qualified donee not more than 30 days after the exchange;

(a.2) a taxpayer's taxable capital gain for a taxation year from the disposition of a property is equal to zero if

(i) the disposition is the making of a gift to a qualified donee (other than a private foundation) of a property described, in respect of the taxpayer, in paragraph 110.1(1)(d) or in the definition ***total ecological gifts*** in subsection 118.1(1), or

(ii) the disposition is deemed by section 70 to have occurred and the property is

(A) described in subparagraph (i), and

(B) the subject of a gift to which subsection 118.1(5.1) applies and that is made by the taxpayer's estate to a qualified donee (other than a private foundation);

(a.3) a taxpayer's taxable capital gain for a taxation year, from the disposition of an interest in a partnership (other than a prescribed interest in a partnership) that would be an exchange described in subparagraph (a.1)(iii) if the interest were a share in the capital stock of a corporation, is equal to the lesser of

(i) that taxable capital gain determined without reference to this paragraph, and

(ii) ½ of the amount, if any, by which

(A) the total of

(I) the cost to the taxpayer of the partnership interest, and

(II) each amount required by subparagraph 53(1)(e)(iv) or (x) to be added in determining the taxpayer's adjusted cost base of the partnership interest,

exceeds

(B) fait l'objet d'un don — auquel le paragraphe 118.1(5.1) s'applique — fait par la succession du contribuable à un donataire reconnu;

(iii) la disposition consiste à échanger, contre un titre visé au sous-alinéa (i), une action du capital-actions d'une société, laquelle action prévoyait, au moment de son émission et au moment de la disposition, une condition permettant au détenteur de l'échanger contre le titre, et le contribuable, à la fois :

(A) ne reçoit, en contrepartie de l'échange, que le titre,

(B) fait don du titre à un donataire reconnu au plus tard 30 jours après l'échange;

a.2) le gain en capital imposable d'un contribuable pour une année d'imposition, tiré de la disposition d'un bien, est égal à zéro si, selon le cas :

(i) la disposition consiste à faire don à un donataire reconnu (à l'exception d'une fondation privée) d'un bien visé, en ce qui concerne le contribuable, à l'alinéa 110.1(1)d) ou à la définition de ***total des dons de biens écosensibles*** au paragraphe 118.1(1),

(ii) la disposition est réputée, aux termes de l'article 70, avoir été effectuée, et le bien, à la fois :

(A) est visé au sous-alinéa (i),

(B) fait l'objet d'un don — auquel le paragraphe 118.1(5.1) s'applique — fait par la succession du contribuable à un donataire reconnu (à l'exception d'une fondation privée);

a.3) le gain en capital imposable d'un contribuable pour une année d'imposition, tiré de la disposition d'une participation dans une société de personnes (à l'exception d'une telle participation visée par règlement) qui serait un échange visé au sous-alinéa a.1)(iii) si la participation était une action du capital-actions d'une société, correspond à la moins élevée des sommes suivantes :

(i) le montant de ce gain en capital imposable, déterminé compte non tenu du présent alinéa,

(ii) la moitié de l'excédent de la somme visée à la division (A) sur celle visée à la division (B) :

(A) le total des sommes suivantes :

(I) le coût de la participation pour le contribuable,

(B) the adjusted cost base to the taxpayer of the partnership interest (determined without reference to subparagraphs 53(2)(c)(iv) and (v));

(b) a taxpayer's allowable capital loss for a taxation year from the disposition of any property is 1/2 of the taxpayer's capital loss for the year from the disposition of that property; and

(c) a taxpayer's allowable business investment loss for a taxation year from the disposition of any property is 1/2 of the taxpayer's business investment loss for the year from the disposition of that property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 38; 1998, c. 19, s. 6; 2001, c. 17, s. 22; 2002, c. 9, s. 22; 2006, c. 4, s. 51; 2007, c. 35, s. 15; 2008, c. 28, s. 4; 2014, c. 39, s. 9; 2016, c. 12, s. 12.

(II) chaque somme qui, selon le sous-alinéa 53(1)e)(iv) ou (x), est à ajouter dans le calcul du prix de base rajusté de la participation pour le contribuable,

(B) le prix de base rajusté de la participation pour le contribuable (déterminé compte non tenu des sous-alinéas 53(2)c)(iv) et (v));

b) la perte en capital déductible d'un contribuable, pour une année d'imposition, résultant de la disposition d'un bien est égale à la moitié de la perte en capital que le contribuable a subie, pour l'année, à la disposition du bien;

c) la perte déductible au titre d'un placement d'entreprise d'un contribuable, pour une année d'imposition, résultant de la disposition d'un bien est égale à la moitié de la perte au titre d'un placement d'entreprise que ce contribuable a subie, pour l'année, à la disposition du bien.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 38; 1998, ch. 19, art. 6; 2001, ch. 17, art. 22; 2002, ch. 9, art. 22; 2006, ch. 4, art. 51; 2007, ch. 35, art. 15; 2008, ch. 28, art. 4; 2014, ch. 39, art. 9; 2016, ch. 12, art. 12.

Tax-deferred transaction — flow-through shares

38.1 If a taxpayer acquires a property (in this section referred to as the "acquired property") that is included in a flow-through share class of property in the course of a transaction or series of transactions to which any of section 51, subsections 73(1), 85(1) and (2) and 85.1(1), sections 86 and 87 and subsections 88(1) and 98(3) apply

(a) if the transfer of the acquired property is part of a gifting arrangement (within the meaning assigned by section 237.1) or of a transaction or series of transactions to which subsection 98(3) applies, or the transferor is a person with whom the taxpayer was, at the time of the acquisition, not dealing at arm's length, there shall be added, at the time of the transfer, to the taxpayer's exemption threshold in respect of the flow-through share class of property, and deducted from the transferor's exemption threshold in respect of the flow-through share class of property, the amount determined by the formula

A × B

where

A is the amount by which the transferor's exemption threshold in respect of the flow-through share class of property immediately before that time exceeds the capital gain, if any, of the transferor as a result of the transfer, and

B is the proportion that the fair market value of the acquired property immediately before the transfer

Opération à imposition différée — actions accréditives

38.1 Dans le cas où un contribuable acquiert, dans le cadre d'une opération ou d'une série d'opérations à laquelle s'appliquent l'article 51, les paragraphes 73(1), 85(1) ou (2) ou 85.1(1), les articles 86 ou 87 ou les paragraphes 88(1) ou 98(3), un bien (appelé « bien acquis » au présent article) compris dans une catégorie de biens constituée d'actions accréditives, les règles ci-après s'appliquent :

a) si le transfert du bien acquis fait partie d'un arrangement de don, au sens de l'article 237.1, ou d'une opération ou d'une série d'opérations à laquelle le paragraphe 98(3) s'applique ou que le cédant est une personne avec laquelle le contribuable a un lien de dépendance au moment de l'acquisition, la somme obtenue par la formule ci-après est ajoutée, au moment du transfert, au seuil d'exonération du contribuable relativement à la catégorie de biens constituée d'actions accréditives et est déduite du seuil d'exonération du cédant relativement à cette catégorie :

A × B

où :

A représente l'excédent du seuil d'exonération du cédant relativement à la catégorie de biens constituée d'actions accréditives immédiatement avant ce moment sur le gain en capital éventuel du cédant découlant du transfert,

is of the fair market value of all property of the transferor immediately before the transfer that is included in the flow-through share class of property; and

(b) if the transferor receives particular shares of the capital stock of the taxpayer as consideration for the acquired property and those particular shares are listed on a designated stock exchange or are shares of a mutual fund corporation, then for the purposes of this section and subsection 40(12)

(i) the particular shares are deemed to be flow-through shares of the transferor, and

(ii) there shall be added to the transferor's exemption threshold in respect of the flow-through share class of property that includes the particular shares the amount that is determined under paragraph (a) or that would be so determined if paragraph (a) applied to the taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2011, c. 24, s. 4.

B la proportion que représente le rapport entre la juste valeur marchande du bien acquis, immédiatement avant le transfert, et celle des biens du cédant, immédiatement avant le transfert, compris dans la catégorie de biens constituée d'actions accréditives;

b) si le cédant reçoit, en contrepartie du bien acquis, des actions données du capital-actions du contribuable qui sont soit cotées à une bourse de valeurs désignée, soit des actions d'une société de placement à capital variable, pour l'application du présent article et du paragraphe 40(12) :

(i) les actions données sont réputées être des actions accréditives du cédant,

(ii) la somme qui est déterminée selon l'alinéa a), ou qui serait ainsi déterminée si cet alinéa s'appliquait au contribuable, est ajoutée au seuil d'exonération du cédant relativement à la catégorie de biens constituée d'actions accréditives qui comprend les actions données.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2011, ch. 24, art. 4.

Allocation of gain re certain gifts

38.2 If a taxpayer is entitled to an amount of an advantage in respect of a gift of property described in paragraph 38(a.1) or (a.2),

(a) those paragraphs apply only to that proportion of the taxpayer's capital gain in respect of the gift that the eligible amount of the gift is of the taxpayer's proceeds of disposition in respect of the gift; and

(b) paragraph 38(a) applies to the extent that the taxpayer's capital gain in respect of the gift exceeds the amount of the capital gain to which paragraph 38(a.1) or (a.2) applies.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 182.

Attribution du gain provenant de certains dons

38.2 Si un contribuable a droit au montant d'un avantage au titre d'un don de bien visé aux alinéas 38a.1) ou a.2), les règles ci-après s'appliquent :

a) ces alinéas ne s'appliquent qu'à la proportion du gain en capital du contribuable relatif au don que représente le montant admissible du don par rapport au produit de disposition, pour le contribuable, relatif au don;

b) l'alinéa 38a) s'applique dans la mesure où le gain en capital du contribuable relatif au don excède le gain en capital auquel s'appliquent les alinéas 38a.1) ou a.2).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 182.

Meaning of capital gain and capital loss

39 (1) For the purposes of this Act,

(a) a taxpayer's capital gain for a taxation year from the disposition of any property is the taxpayer's gain for the year determined under this subdivision (to the extent of the amount thereof that would not, if section 3 were read without reference to the expression "other than a taxable capital gain from the disposition of a property" in paragraph 3(a) and without reference to paragraph 3(b), be included in computing the taxpayer's income for the year or any other taxation year)

Sens de gain en capital et de perte en capital

39 (1) Pour l'application de la présente loi :

a) un gain en capital d'un contribuable, tiré, pour une année d'imposition, de la disposition d'un bien quelconque, est le gain, déterminé conformément à la présente sous-section (jusqu'à concurrence du montant de ce gain qui ne serait pas, compte non tenu du passage « autre qu'un gain en capital imposable résultant de la disposition d'un bien », à l'alinéa 3a), et de l'alinéa 3b), inclus dans le calcul de son revenu pour l'année ou pour toute autre année d'imposition), que ce

from the disposition of any property of the taxpayer other than

(i) [Repealed, 2016, c. 12, s. 13]

(i.1) an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act* if

(A) the disposition is to an institution or a public authority in Canada that was, at the time of the disposition, designated under subsection 32(2) of that Act either generally or for a specified purpose related to that object, or

(B) the disposition is deemed by section 70 to have occurred and the object is the subject of a gift to which subsection 118.1(5.1) applies and that is made by the taxpayer's estate to an institution that would be described in clause (A) if the disposition were made at the time the estate makes the gift,

(ii) a Canadian resource property,

(ii.1) a foreign resource property,

(ii.2) a property if the disposition is a disposition to which subsection 142.4(4) or (5) or 142.5(1) applies,

(iii) an insurance policy, including a life insurance policy, except for that part of a life insurance policy in respect of which a policyholder is deemed by paragraph 138.1(1)(e) to have an interest in a related segregated fund trust,

(iv) a timber resource property; or

(v) an interest of a beneficiary under a qualifying environmental trust;

(b) a taxpayer's capital loss for a taxation year from the disposition of any property is the taxpayer's loss for the year determined under this subdivision (to the extent of the amount thereof that would not, if section 3 were read in the manner described in paragraph (a) of this subsection and without reference to the expression "or the taxpayer's allowable business investment loss for the year" in paragraph 3(d), be deductible in computing the taxpayer's income for the year or any other taxation year) from the disposition of any property of the taxpayer other than

(i) depreciable property, or

contribuable a tiré, pour l'année, de la disposition d'un bien lui appartenant, à l'exception :

(i) [Abrogé, 2016, ch. 12, art. 13]

(i.1) d'un objet dont la conformité aux critères d'intérêt et d'importance énoncés au paragraphe 29(3) de la *Loi sur l'exportation et l'importation de biens culturels* a été établie par la Commission canadienne d'examen des exportations de biens culturels si, selon le cas :

(A) la disposition a été effectuée au profit d'un établissement, ou d'une administration, au Canada alors désigné, en application du paragraphe 32(2) de cette loi, à des fins générales ou à une fin particulière liée à cet objet,

(B) la disposition est réputée, aux termes de l'article 70, avoir été effectuée et l'objet fait l'objet d'un don — auquel le paragraphe 118.1(5.1) s'applique — fait par la succession du contribuable à un établissement qui serait visé à la division (A) si la disposition était effectuée au moment où la succession fait le don,

(ii) d'un avoir minier canadien,

(ii.1) d'un avoir minier étranger,

(ii.2) d'un bien ayant fait l'objet d'une disposition à laquelle les paragraphes 142.4(4) ou (5) ou 142.5(1) s'appliquent,

(iii) d'une police d'assurance, y compris une police d'assurance-vie, sauf la partie d'une police d'assurance-vie à l'égard de laquelle un détenteur de police est réputé, en vertu de l'alinéa 138.1(1)e), posséder une participation dans une fiducie créée à l'égard du fonds réservé,

(iv) d'un avoir forestier;

(v) de la participation d'un bénéficiaire dans une fiducie pour l'environnement admissible;

b) une perte en capital subie par un contribuable, pour une année d'imposition, du fait de la disposition d'un bien quelconque est la perte qu'il a subie au cours de l'année, déterminée conformément à la présente sous-section (jusqu'à concurrence du montant de cette perte qui ne serait pas déductible, si l'article 3 était lu de la manière indiquée à l'alinéa a) du présent paragraphe et compte non tenu du passage « et des pertes déductibles au titre d'un placement d'entreprise subies par le contribuable pour l'année » à l'alinéa 3d), dans le calcul de son revenu pour l'année ou pour toute

(ii) property described in any of subparagraphs 39(1)(a)(ii) to (iii) and (v); and

(c) a taxpayer's business investment loss for a taxation year from the disposition of any property is the amount, if any, by which the taxpayer's capital loss for the year from a disposition after 1977

(i) to which subsection 50(1) applies, or

(ii) to a person with whom the taxpayer was dealing at arm's length

of any property that is

(iii) a share of the capital stock of a small business corporation, or

(iv) a debt owing to the taxpayer by a Canadian-controlled private corporation (other than, where the taxpayer is a corporation, a debt owing to it by a corporation with which it does not deal at arm's length) that is

(A) a small business corporation,

(B) a bankrupt (within the meaning assigned by subsection 128(3)) that was a small business corporation at the time it last became a bankrupt, or

(C) a corporation referred to in section 6 of the Winding-up Act that was insolvent (within the meaning of that Act) and was a small business corporation at the time a winding-up order under that Act was made in respect of the corporation,

exceeds the total of

(v) in the case of a share referred to in subparagraph 39(1)(c)(iii), the amount, if any, of the increase after 1977 by virtue of the application of subsection 85(4) in the adjusted cost base to the taxpayer of the share or of any share (in this subparagraph referred to as a "replaced share") for which the share or a replaced share was substituted or exchanged,

(vi) in the case of a share referred to in subparagraph 39(1)(c)(iii) that was issued before 1972 or a share (in this subparagraph and subparagraph 39(1)(c)(vii) referred to as a "substituted share") that was substituted or exchanged for such a share or for a substituted share, the total of all amounts each of which is an amount received after 1971 and before or on the disposition of the share or an

autre année d'imposition) du fait de la disposition d'un bien quelconque de ce contribuable, à l'exception :

(i) d'un bien amortissable,

(ii) d'un bien visé à l'un des sous-alinéas a)(ii) à (iii) et (v);

c) une perte au titre d'un placement d'entreprise subie par un contribuable, pour une année d'imposition, résultant de la disposition d'un bien quelconque s'entend de l'excédent éventuel de la perte en capital que le contribuable a subie pour l'année résultant d'une disposition, après 1977:

(i) soit à laquelle le paragraphe 50(1) s'applique,

(ii) soit en faveur d'une personne avec laquelle il n'avait aucun lien de dépendance,

d'un bien qui est :

(iii) soit une action du capital-actions d'une société exploitant une petite entreprise,

(iv) soit une créance du contribuable sur une société privée sous contrôle canadien (sauf une créance, si le contribuable est une société, sur une société avec laquelle il a un lien de dépendance) qui est :

(A) une société exploitant une petite entreprise,

(B) un failli, au sens du paragraphe 128(3), qui était une société exploitant une petite entreprise au moment où il est devenu un failli pour la dernière fois,

(C) une personne morale visée à l'article 6 de la *Loi sur les liquidations* qui était insolvable, au sens de cette loi, et qui était une société exploitant une petite entreprise au moment où une ordonnance de mise en liquidation a été rendue à son égard aux termes de cette loi,

sur le total des montants suivants :

(v) dans le cas d'une action visée au sous-alinéa (iii), le montant de l'augmentation, après 1977, en vertu de l'application du paragraphe 85(4), du prix de base rajusté, pour le contribuable, de l'action ou de toute action (appelée une « action de rechange » au présent sous-alinéa) pour laquelle l'action ou une action de rechange a été remplacée ou échangée,

amount receivable at the time of such a disposition by

(A) the taxpayer,

(B) where the taxpayer is an individual, the taxpayer's spouse or common-law partner, or

(C) a trust of which the taxpayer or the taxpayer's spouse or common-law partner was a beneficiary

as a taxable dividend on the share or on any other share in respect of which it is a substituted share, except that this subparagraph shall not apply in respect of a share or substituted share that was acquired after 1971 from a person with whom the taxpayer was dealing at arm's length,

(vii) in the case of a share to which subparagraph (vi) applies and where the taxpayer is a trust for which a day is to be, or has been, determined under paragraph 104(4)(a), or (a.4) by reference to a death or later death, as the case may be, the total of all amounts each of which is an amount received after 1971 or receivable at the time of the disposition, as a taxable dividend on the share or on any other share in respect of which it is a substituted share, by an individual whose death is that death or later death, as the case may be, or a spouse or common-law partner of the individual, and

(viii) the amount determined in respect of the taxpayer under subsection 39(9) or 39(10), as the case may be.

vi) dans le cas d'une action visée au sous-alinéa (iii) et émise avant 1972 ou d'une action (appelée « action de remplacement » au présent sous-alinéa et au sous-alinéa (vii)) qui a remplacé cette action ou une action de remplacement ou qui a été échangée contre l'une ou l'autre, l'ensemble des montants dont chacun représente un montant reçu après 1971, mais avant la disposition de l'action ou lors de cette disposition, ou un montant à recevoir au moment de cette disposition, à titre de dividende imposable sur l'action ou sur toute autre action pour laquelle l'action est une action de remplacement, par :

(A) le contribuable,

(B) son époux ou conjoint de fait si le contribuable est un particulier,

(C) une fiducie dont le contribuable ou son époux ou conjoint de fait était bénéficiaire;

toutefois le présent sous-alinéa ne s'applique pas à une action ou action de remplacement acquise après 1971 auprès d'une personne ave qui le contribuable n'avait aucun lien de dépendance,

(vii) dans le cas d'une action à laquelle le sous-alinéa (vi) s'applique et lorsque le contribuable est une fiducie à l'égard de laquelle un jour doit être déterminé en application des alinéas 104(4)a) ou a.4), ou l'a été, relativement à un décès ou à un décès postérieur, selon le cas, le total des montants dont chacun est un montant reçu après 1971 ou recevable au moment de la disposition à titre de dividende imposable sur l'action ou sur toute autre action à l'égard de laquelle elle est une action de remplacement par un particulier dont le décès est le décès ou le décès postérieur en cause ou par l'époux ou le conjoint de fait du particulier,

(viii) le montant calculé à l'égard du contribuable en vertu du paragraphe (9) ou (10), selon le cas.

Foreign currency dispositions by an individual

(1.1) If, because of any fluctuation after 1971 in the value of one or more currencies other than Canadian currency relative to Canadian currency, an individual (other than a trust) has made one or more particular gains or sustained one or more particular losses in a taxation year from dispositions of currency other than Canadian currency and the particular gains or losses would, in the absence of this subsection, be capital gains or losses described under subsection (1)

Dispositions de monnaie étrangère effectuées par un particulier

(1.1) Si, par suite de toute fluctuation, postérieure à 1971, de la valeur d'une ou de plusieurs monnaies (sauf la monnaie canadienne) par rapport à la monnaie canadienne, un particulier autre qu'une fiducie a fait un ou plusieurs gains donnés ou subi une ou plusieurs pertes données au cours d'une année d'imposition en raison de la disposition d'une monnaie autre que la monnaie canadienne, lesquels gains ou pertes seraient, en l'absence du présent paragraphe, des gains en capital ou des pertes en

(a) subsection (1) does not apply to any of the particular gains or losses;

(b) the amount determined by the following formula is deemed to be a capital gain of the individual for the year from the disposition of currency other than Canadian currency:

A – (B + C)

where

A is the total of all the particular gains made by the individual in the year,

B is the total of all the particular losses sustained by the individual in the year, and

C is $200; and

(c) the amount determined by the following formula is deemed to be a capital loss of the individual for the year from the disposition of currency other than Canadian currency:

D – (E + F)

where

D is the total of all the particular losses sustained by the individual in the year,

E is the total of all the particular gains made by the individual in the year, and

F is $200.

a) le paragraphe (1) ne s'applique ni aux gains donnés ni aux pertes données;

b) la somme obtenue par la formule ci-après est réputée être un gain en capital du particulier pour l'année, tiré de la disposition d'une monnaie autre que la monnaie canadienne :

A – (B + C)

où :

A représente le total des gains donnés faits par le particulier au cours de l'année,

B le total des pertes données subies par le particulier au cours de l'année,

C 200 $;

c) la somme obtenue par la formule ci-après est réputée être une perte en capital du particulier pour l'année, résultant de la disposition d'une monnaie autre que la monnaie canadienne :

D – (E + F)

où :

D représente le total des pertes données subies par le particulier au cours de l'année,

E le total des gains donnés faits par le particulier au cours de l'année,

F 200 $.

Foreign exchange capital gains and losses

(2) If, because of any fluctuation after 1971 in the value of a currency other than Canadian currency relative to Canadian currency, a taxpayer has made a gain or sustained a loss in a taxation year (other than a gain or loss that would, in the absence of this subsection, be a capital gain or capital loss to which subsection (1) or (1.1) applies, or a gain or loss in respect of a transaction or event in respect of shares of the capital stock of the taxpayer)

(a) the amount of the gain (to the extent of the amount of that gain that would not, if section 3 were read in the manner described in paragraph (1)(a), be included in computing the taxpayer's income for the year or any other taxation year), if any, is deemed to be a capital gain of the taxpayer for the year from the disposition of currency other than Canadian currency; and

(b) the amount of the loss (to the extent of the amount of that loss that would not, if section 3 were read in the

Gains et pertes en capital de change

(2) Si, par suite de toute fluctuation, postérieure à 1971, de la valeur d'une monnaie (sauf la monnaie canadienne) par rapport à la monnaie canadienne, un contribuable a fait un gain ou subi une perte au cours d'une année d'imposition (sauf un gain ou une perte qui, en l'absence du présent paragraphe, serait un gain en capital ou une perte en capital auquel s'applique le paragraphe (1) ou (1.1) et sauf un gain ou une perte relatif à une opération ou à un événement concernant des actions du capital-actions du contribuable), les règles ci-après s'appliquent :

a) le montant du gain, jusqu'à concurrence du montant de celui-ci qui, si l'article 3 était lu de la manière indiquée à l'alinéa (1)a), ne serait pas inclus dans le calcul du revenu du contribuable pour l'année ou pour toute autre année d'imposition, est réputé être un gain en capital du contribuable pour l'année, tiré de la disposition d'une monnaie autre que la monnaie canadienne;

manner described in paragraph (1)(a), be deductible in computing the taxpayer's income for the year or any other taxation year), if any, is deemed to be a capital loss of the taxpayer for the year from the disposition of currency other than Canadian currency.

b) le montant de la perte, jusqu'à concurrence du montant de celle-ci qui, si l'article 3 était lu de la manière indiquée à l'alinéa (1)a), ne serait pas déductible dans le calcul du revenu du contribuable pour l'année ou pour toute autre année d'imposition, est réputé être une perte en capital du contribuable pour l'année, résultant de la disposition d'une monnaie autre que la monnaie canadienne.

Deemed gain — parked obligation

(2.01) For the purposes of subsection (2), if a debt obligation owing by a taxpayer (referred to in this subsection and subsections (2.02) and (2.03) as the ***debtor***) is denominated in a foreign currency and the debt obligation has become a parked obligation at a particular time, the debtor is deemed at that time to have made the gain, if any, that the debtor otherwise would have made if it had paid an amount at the particular time in satisfaction of the debt obligation equal to

(a) if the debt obligation has become a parked obligation at the particular time as a result of its acquisition by the holder of the debt obligation, the amount paid by the holder to acquire the debt obligation; and

(b) in any other case, the fair market value of the debt obligation at the particular time.

Gain réputé — dette remisée

(2.01) Pour l'application du paragraphe (2), si une dette due par un contribuable (appelé ***débiteur*** au présent paragraphe et aux paragraphes (2.02) et (2.03)) est libellée en monnaie étrangère et que la dette est devenue une dette remisée à un moment donné, le débiteur est réputé avoir réalisé à ce moment le gain éventuel qu'il aurait par ailleurs réalisé s'il avait payé, à ce moment, en règlement de la dette, un montant égal à celui des montants ci-après qui s'applique :

a) si la dette est devenue une dette remisée à ce moment en raison de son acquisition par le détenteur de la dette, le montant payé par le détenteur pour acquérir la dette;

b) sinon, la juste valeur marchande de la dette à ce moment.

Parked obligation

(2.02) For the purposes of subsection (2.01), a debt obligation owing by a debtor is a parked obligation at a particular time if

(a) both

(i) at that time, the holder of the debt obligation does not deal at arm's length with the debtor or, if the debtor is a corporation, has a significant interest in the debtor, and

(ii) at any previous time, a person who held the debt obligation dealt at arm's length with the debtor and, where the debtor is a corporation, did not have a significant interest in the debtor; and

(b) it can reasonably be considered that one of the main purposes of the transaction or event or series of transactions or events that resulted in the debt obligation meeting the condition in subparagraph (a)(i) is to avoid the application of subsection (2).

Dette remisée

(2.02) Pour l'application du paragraphe (2.01), est une ***dette remisée*** à un moment donné la dette à l'égard de laquelle, à la fois :

a) les énoncés ci-après se vérifient :

(i) au moment donné, le détenteur de la dette a un lien de dépendance avec le débiteur ou, si le débiteur est une société, a une participation notable dans le débiteur,

(ii) à un moment antérieur au moment donné, une personne qui détenait la dette n'avait aucun lien de dépendance avec le débiteur et, si le débiteur est une société, n'avait pas de participation notable dans le débiteur;

b) il est raisonnable de considérer que l'un des principaux objets de l'opération ou de l'événement, ou de la série d'opérations ou d'événements, ayant fait en sorte que la dette remplit la condition énoncée au sous-alinéa a)(i) est d'éviter l'application du paragraphe (2).

Interpretation

(2.03) For the purposes of subsections (2.01) and (2.02),

Interprétation

(2.03) Pour l'application des paragraphes (2.01) et (2.02), les règles ci-après s'appliquent :

(a) paragraph 80(2)(j) applies for the purpose of determining whether two persons are related to each other or whether any person is controlled by any other person; and

(b) paragraph 80.01(2)(b) applies for the purpose of determining whether a person has a significant interest in a corporation.

a) l'alinéa 80(2)j) s'applique afin de déterminer si deux personnes sont liées l'une à l'autre ou si une personne est contrôlée par une autre personne;

b) l'alinéa 80.01(2)b) s'applique afin de déterminer si une personne a une participation notable dans une société.

Upstream loans — transitional set-off

(2.1) If at any time a corporation resident in Canada or a partnership of which such a corporation is a member (such corporation or partnership referred to in this subsection as the "borrowing party") has received a loan from, or become indebted to, a creditor that is a foreign affiliate (referred to in this subsection as a "creditor affiliate") of the borrowing party or that is a partnership (referred to in this subsection as a "creditor partnership") of which such an affiliate is a member, the loan or indebtedness is at a later time repaid, in whole or in part, and the amount of the borrowing party's capital gain or capital loss determined, in the absence of this subsection, under subsection (2) in respect of the repayment is equal to the amount of the creditor affiliate's or creditor partnership's capital loss or capital gain, as the case may be, determined, in the absence of paragraph 95(2)(g.04), in respect of the repayment, then the borrowing party's capital gain or capital loss so determined is to be reduced

(a) in the case of a capital gain

(i) if the creditor is a creditor affiliate, by an amount, not exceeding that capital gain, that is equal to twice the amount that would — in the absence of paragraph 95(2)(g.04) and on the assumption that the creditor affiliate's capital loss in respect of the repayment of the loan or indebtedness were a capital gain of the creditor affiliate, the creditor affiliate had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of the borrowing party had any income, loss, capital gain or capital loss for any taxation year — be included in computing the borrowing party's income under subsection 91(1) for its taxation year that includes the last day of the taxation year of the creditor affiliate that includes the later time, or

(ii) if the creditor is a creditor partnership, by an amount, not exceeding that capital gain, that is equal to twice the amount that is the total of each amount, determined in respect of a particular member of the creditor partnership that is a foreign affiliate of the borrowing party, that would — in the absence of paragraph 95(2)(g.04) and on the assumption that the creditor partnership's capital loss

Prêts en amont — compensation transitoire

(2.1) Si, à un moment donné, une société résidant au Canada ou une société de personnes dont une telle société est un associé (appelées « emprunteur » au présent paragraphe) a reçu un prêt ou est devenue débitrice d'un créancier qui est soit une société étrangère affiliée (appelée « société affiliée créancière » au présent paragraphe) de l'emprunteur, soit une société de personnes (appelée « société de personnes créancière » au présent paragraphe) dont une telle société affiliée est un associé, que le prêt ou la dette est remboursé en tout ou en partie à un moment ultérieur et que le montant du gain en capital ou de la perte en capital de l'emprunteur, déterminé, en l'absence du présent paragraphe, selon le paragraphe (2) relativement au remboursement, correspond au montant de la perte en capital ou du gain en capital de la société affiliée créancière ou de la société de personnes créancière, selon le cas, déterminé, en l'absence de l'alinéa 95(2)g.04), relativement au remboursement, celle des sommes ci-après qui est applicable est appliquée en réduction du gain en capital ou de la perte en capital de l'emprunteur ainsi déterminé :

a) s'agissant d'un gain en capital :

(i) dans le cas où le créancier est une société affiliée créancière, la somme, n'excédant pas le montant du gain en capital, qui correspond au double de la somme qui — en l'absence de l'alinéa 95(2)g.04) et à supposer que la perte en capital de la société affiliée créancière relativement au remboursement du prêt ou de la dette soit un gain en capital de celle-ci, que la société affiliée créancière n'ait pas d'autre revenu, perte, gain en capital ou perte en capital pour une année d'imposition quelconque et qu'aucune autre société étrangère affiliée de l'emprunteur n'ait de revenu, de pertes, de gains en capital ou de pertes en capital pour une année d'imposition quelconque — serait incluse dans le calcul du revenu de l'emprunteur en application du paragraphe 91(1) pour son année d'imposition qui comprend le dernier jour de l'année d'imposition de la société affiliée créancière qui comprend le moment ultérieur,

(ii) dans le cas où le créancier est une société de personnes créancière, la somme, n'excédant pas le montant du gain en capital, qui correspond au

in respect of the repayment of the loan or indebtedness were a capital gain of the creditor partnership, the particular member had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of the borrowing party had any income, loss, capital gain or capital loss for any taxation year — be included in computing the borrowing party's income under subsection 91(1) for its taxation year that includes the last day of the taxation year of the particular member that includes the last day of the creditor partnership's fiscal period that includes the later time, and

(b) in the case of a capital loss

(i) if the creditor is a creditor affiliate, by an amount, not exceeding that capital loss, that is equal to twice the amount, in respect of the creditor affiliate's capital gain in respect of the repayment of the loan or indebtedness, that would — in the absence of paragraph 95(2)(g.04) and on the assumption that the creditor affiliate had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of the borrowing party had any income, loss, capital gain or capital loss for any taxation year — be included in computing the borrowing party's income under subsection 91(1) for its taxation year that includes the last day of the taxation year of the creditor affiliate that includes the later time, or

(ii) if the creditor is a creditor partnership, by an amount, not exceeding that capital loss, that is equal to twice the amount, in respect of the creditor partnership's capital gain in respect of the repayment of the loan or indebtedness, that is the total of each amount, determined in respect of a particular member of the creditor partnership that is a foreign affiliate of the borrowing party, that would — in the absence of paragraph 95(2)(g.04) and on the assumption that the particular member had no other income, loss, capital gain or capital loss for any taxation year, and no other foreign affiliate of the borrowing party had any income, loss, capital gain or capital loss for any taxation year — be included in computing the borrowing party's income under subsection 91(1) for its taxation year that includes the last day of the taxation year of the particular member that includes the last day of the creditor partnership's fiscal period that includes the later time.

double du total de chaque somme, déterminée relativement à un associé donné de la société de personnes créancière qui est une société étrangère affiliée de l'emprunteur, qui — en l'absence de l'alinéa 95(2)g.04) et à supposer que la perte en capital de la société de personnes créancière relativement au remboursement du prêt ou de la dette soit un gain en capital de celle-ci, que l'associé donné n'ait pas d'autre revenu, perte, gain en capital ou perte en capital pour une année d'imposition quelconque et qu'aucune autre société étrangère affiliée de l'emprunteur n'ait de revenu, de pertes, de gains en capital ou de pertes en capital pour une année d'imposition quelconque — serait incluse dans le calcul du revenu de l'emprunteur en application du paragraphe 91(1) pour son année d'imposition qui comprend le dernier jour de l'année d'imposition de l'associé donné qui comprend le dernier jour de l'exercice de la société de personnes créancière qui comprend le moment ultérieur;

b) s'agissant d'une perte en capital :

(i) dans le cas où le créancier est une société affiliée créancière, la somme, n'excédant pas le montant de la perte en capital, qui correspond au double de la somme, relative au gain en capital de la société affiliée créancière relativement au remboursement du prêt ou de la dette, qui — en l'absence de l'alinéa 95(2)g.04) et à supposer que la société affiliée créancière n'ait pas d'autre revenu, perte, gain en capital ou perte en capital pour une année d'imposition quelconque et qu'aucune autre société étrangère affiliée de l'emprunteur n'ait de revenu, de pertes, de gains en capital ou de pertes en capital pour une année d'imposition quelconque — serait incluse dans le calcul du revenu de l'emprunteur en application du paragraphe 91(1) pour son année d'imposition qui comprend le dernier jour de l'année d'imposition de la société affiliée créancière qui comprend le moment ultérieur,

(ii) dans le cas où le créancier est une société de personnes créancière, la somme, n'excédant pas le montant de la perte en capital, qui correspond au double de la somme, relative au gain en capital de la société de personnes créancière relativement au remboursement du prêt ou de la dette, qui est égale au total de chaque somme, déterminée relativement à un associé donné de la société de personnes créancière qui est une société étrangère affiliée de l'emprunteur, qui — en l'absence de l'alinéa 95(2)g.04) et à supposer que l'associé donné n'ait pas d'autre revenu, perte, gain en capital ou perte en capital pour une année d'imposition quelconque et qu'aucune autre société étrangère affiliée de

Gain in respect of purchase of bonds, etc., by issuer

(3) Where a taxpayer has issued any bond, debenture or similar obligation and has at any subsequent time in a taxation year and after 1971 purchased the obligation in the open market, in the manner in which any such obligation would normally be purchased in the open market by any member of the public,

(a) the amount, if any, by which the amount for which the obligation was issued by the taxpayer exceeds the purchase price paid or agreed to be paid by the taxpayer for the obligation shall be deemed to be a capital gain of the taxpayer for the taxation year from the disposition of a capital property, and

(b) the amount, if any, by which the purchase price paid or agreed to be paid by the taxpayer for the obligation exceeds the greater of the principal amount of the obligation and the amount for which it was issued by the taxpayer shall be deemed to be a capital loss of the taxpayer for the taxation year from the disposition of a capital property,

to the extent that the amount determined under paragraph 39(3)(a) or 39(3)(b) would not, if section 3 were read in the manner described in paragraph 39(1)(a) and this Act were read without reference to subsections 80(12) and 80(13), be included or be deductible, as the case may be, in computing the taxpayer's income for the year or any other taxation year.

Election concerning disposition of Canadian securities

(4) Except as provided in subsection 39(5), where a Canadian security has been disposed of by a taxpayer in a taxation year and the taxpayer so elects in prescribed form in the taxpayer's return of income under this Part for that year,

(a) every Canadian security owned by the taxpayer in that year or any subsequent taxation year shall be deemed to have been a capital property owned by the taxpayer in those years; and

l'emprunteur n'ait de revenu, de pertes, de gains en capital ou de pertes en capital pour une année d'imposition quelconque — serait incluse dans le calcul du revenu de l'emprunteur en application du paragraphe 91(1) pour son année d'imposition qui comprend le dernier jour de l'année d'imposition de l'associé donné qui comprend le dernier jour de l'exercice de la société de personnes créancière qui comprend le moment ultérieur.

Gains relatifs à l'achat d'obligations, etc. par l'émetteur

(3) Lorsqu'un contribuable a émis quelque obligation, ou titre semblable et qu'il a, à un moment donné au cours d'une année d'imposition, postérieur à 1971, acheté le titre sur le marché libre, de la façon que tout semblable titre serait normalement acheté sur le marché libre par le grand public :

a) l'excédent éventuel du montant pour lequel le contribuable a émis le titre sur le prix d'achat que le contribuable a payé ou est convenu de payer pour le titre est réputé représenter un gain en capital, pour le contribuable, tiré, pour l'année d'imposition, de la disposition d'une immobilisation;

b) l'excédent éventuel du prix d'achat que le contribuable a payé ou est convenu de payer pour le titre sur le plus élevé du principal du titre et du montant pour lequel celui-ci a été émis par le contribuable est réputé représenter une perte en capital, pour le contribuable, résultant, pour l'année d'imposition, de la disposition d'une immobilisation,

dans la mesure où le montant déterminé selon les alinéas a) oub) ne serait pas inclus ou déductible, selon le cas, dans le calcul du revenu du contribuable pour l'année ou pour une autre année d'imposition, si l'article 3 était lu de la manière indiquée à l'alinéa (1)a) et s'il n'était pas tenu compte des paragraphes 80(12) et (13).

Choix visant la disposition de titres canadiens

(4) Sauf dans les cas prévus au paragraphe (5), lorsqu'un contribuable dispose d'un titre canadien au cours d'une année d'imposition et qu'il exerce un choix, selon le formulaire prescrit, dans sa déclaration de revenu produite pour l'année en vertu de la présente partie :

a) chacun des titres canadiens qu'il possède au cours de l'année ou de toute année d'imposition ultérieure est réputé avoir été une immobilisation qu'il possédait au cours de ces années;

(b) every disposition by the taxpayer of any such Canadian security shall be deemed to be a disposition by the taxpayer of a capital property.

(b) chaque disposition par le contribuable d'un tel titre canadien est réputée être une disposition par lui d'une immobilisation.

Members of partnerships

(4.1) For the purpose of determining the income of a taxpayer who is a member of a partnership, subsections 39(4) and 39(5) apply as if

(a) every Canadian security owned by the partnership were owned by the taxpayer; and

(b) every Canadian security disposed of by the partnership in a fiscal period of the partnership were disposed of by the taxpayer at the end of that fiscal period.

Associés

(4.1) Pour déterminer le revenu d'un associé d'une société de personnes, les paragraphes (4) et (5) s'appliquent comme si :

a) chaque titre canadien dont la société de personnes est propriétaire était la propriété de l'associé;

b) chaque titre canadien ayant fait l'objet d'une disposition par la société de personnes au cours de son exercice faisait l'objet d'une disposition par l'associé à la fin de cet exercice.

Exception

(5) An election under subsection 39(4) does not apply to a disposition of a Canadian security by a taxpayer (other than a mutual fund corporation or a mutual fund trust) who at the time of the disposition is

(a) a trader or dealer in securities,

(b) a financial institution (as defined in subsection 142.2(1)),

(c) to (e) [Repealed, 1995, c. 21, s. 49]

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

(g) a non-resident,

or any combination thereof.

Exception

(5) Le choix prévu au paragraphe (4) ne s'applique pas à la disposition d'un titre canadien effectuée par un contribuable, sauf une société de placement à capital variable ou une fiducie de fonds commun de placement, qui, au moment de la disposition, est :

a) un commerçant ou un courtier en valeurs mobilières;

b) une institution financière, au sens du paragraphe 142.2(1);

c) à e) [Abrogés, 1995, ch. 21, art. 49]

f) une société dont l'activité d'entreprise principale consiste à prêter de l'argent ou à acheter des créances, ou une combinaison de ce qui précède;

g) un non-résident,

ou toute combinaison de ce qui précède.

Definition of *Canadian security*

(6) For the purposes of this section, ***Canadian security*** means a security (other than a prescribed security) that is a share of the capital stock of a corporation resident in Canada, a unit of a mutual fund trust or a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation issued by a person resident in Canada.

Définition de *titre canadien*

(6) Pour l'application du présent article, ***titre canadien*** s'entend d'un titre (à l'exclusion d'un titre visé par règlement) qui est une action du capital-actions d'une société qui réside au Canada, une unité d'une fiducie de fonds commun de placement ou quelque obligation, effet, billet, créance hypothécaire ou titre semblable émis par une personne qui réside au Canada.

Unused share-purchase tax credit

(7) The amount of any unused share-purchase tax credit of a taxpayer for a particular taxation year, to the extent that it was not deducted from the taxpayer's tax otherwise payable under this Part for the immediately preceding taxation year, shall be deemed to be a capital loss of

Crédit d'impôt à l'achat d'actions inutilisé

(7) La partie inutilisée du crédit d'impôt à l'achat d'actions d'un contribuable pour une année d'imposition donnée, dans la mesure où elle n'a pas été déduite de son impôt payable par ailleurs en vertu de la présente partie pour l'année d'imposition précédente, est réputée être une perte en capital du contribuable résultant de la

the taxpayer from a disposition of property for the year immediately following the particular taxation year.

Unused scientific research and experimental development tax credit

(8) The amount of any unused scientific research and experimental development tax credit of a taxpayer for a particular taxation year, to the extent that it was not deducted from the taxpayer's tax otherwise payable under this Part for the immediately preceding taxation year, shall be deemed to be a capital loss of the taxpayer from a disposition of property for the year immediately following the particular taxation year, except that where the taxpayer is an individual the capital loss shall be deemed to be 147% of that amount.

Deduction from business investment loss

(9) In computing the business investment loss of a taxpayer who is an individual (other than a trust) for a taxation year from the disposition of a particular property, there shall be deducted an amount equal to the lesser of

(a) the amount that would be the taxpayer's business investment loss for the year from the disposition of that particular property if paragraph 39(1)(c) were read without reference to subparagraph 39(1)(c)(viii), and

(b) the amount, if any, by which the total of

(i) the total of all amounts each of which is twice the amount deducted by the taxpayer under section 110.6 in computing the taxpayer's taxable income for a preceding taxation year that

(A) ended before 1988, or

(B) begins after October 17, 2000,

(i.1) the total of all amounts each of which is

(A) 3/2 of the amount deducted under section 110.6 in computing the taxpayer's taxable income for a preceding taxation year that

(I) ended after 1987 and before 1990, or

(II) began after February 27, 2000 and ended before October 18, 2000, or

(B) the amount determined by multiplying the reciprocal of the fraction in paragraph 38(a) that applies to the taxpayer for each of the taxpayer's

disposition d'un bien pour l'année suivant l'année d'imposition donnée.

Crédit d'impôt pour des activités de recherche scientifique et de développement expérimental inutilisé

(8) La partie inutilisée du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental d'un contribuable pour une année d'imposition donnée, dans la mesure où elle n'a pas été déduite de son impôt payable par ailleurs en vertu de la présente partie pour l'année d'imposition précédente, est réputée être une perte en capital du contribuable résultant de la disposition d'un bien pour l'année suivant l'année d'imposition donnée, sauf que, pour un contribuable qui est un particulier, cette perte en capital est réputée représenter 147 % de ce montant.

Déduction dans le calcul d'une perte au titre d'un placement d'entreprise

(9) Le moindre des montants suivants doit être déduit dans le calcul de la perte au titre d'un placement d'entreprise qu'un contribuable qui est un particulier (à l'exception d'une fiducie) subit pour une année d'imposition à la disposition d'un bien donné :

a) le montant qui correspondrait à la perte au titre d'un placement d'entreprise que le contribuable subirait pour l'année à la disposition du bien donné, compte non tenu du sous-alinéa (1)c)(viii);

b) l'excédent éventuel du total des montants suivants :

(i) le total des montants représentant chacun le double du montant que le contribuable a déduit en application de l'article 110.6 dans le calcul de son revenu imposable pour une année d'imposition antérieure qui :

(A) soit s'est terminée avant 1988,

(B) soit commence après le 17 octobre 2000,

(i.1) le total des montants représentant chacun, selon le cas :

(A) les 3/2 du montant déduit en application de l'article 110.6 dans le calcul du revenu imposable du contribuable pour une année d'imposition antérieure qui :

(I) soit s'est terminée après 1987 et avant 1990,

(II) soit a commencé après le 27 février 2000 et s'est terminée avant le 18 octobre 2000,

taxation years that includes February 28, 2000 or October 18, 2000 by the amount deducted under section 110.6 in computing the taxpayer's taxable income for that year, and

(i.2) the total of all amounts each of which is 4/3 of the amount deducted under section 110.6 in computing the taxpayer's taxable income for a preceding taxation year that ended after 1989 and before February 28, 2000

exceeds

(ii) the total of all amounts each of which is an amount deducted by the taxpayer under paragraph 39(1)(c) by virtue of subparagraph 39(1)(c)(viii) in computing the taxpayer's business investment loss

(A) from the disposition of property in taxation years preceding the year, or

(B) from the disposition of property other than the particular property in the year,

except that, where a particular amount was included under subparagraph 14(1)(a)(v) in the taxpayer's income for a taxation year that ended after 1987 and before 1990, the reference in subparagraph 39(9)(b)(i.1) to "3/2" shall, in respect of that portion of any amount deducted under section 110.6 in respect of the particular amount, be read as "4/3".

(B) le produit de la multiplication de l'inverse de la fraction figurant à l'alinéa 38a) qui s'applique au contribuable pour chacune de ses années d'imposition qui comprend le 28 février 2000 ou le 18 octobre 2000 par le montant qu'il a déduit en application de l'article 110.6 dans le calcul de son revenu imposable pour cette année,

(i.2) le total des montants représentant chacun les 4/3 du montant déduit en application de l'article 110.6 dans le calcul du revenu imposable du contribuable pour une année d'imposition antérieure terminée après 1989 et avant le 28 février 2000,

sur :

(ii) le total des montants dont chacun représente un montant que le contribuable a déduit en vertu de l'alinéa (1)c) à cause du sous-alinéa (1)c)(viii) dans le calcul de la perte au titre d'un placement d'entreprise qu'il a subie :

(A) soit à la disposition de biens au cours des années d'imposition antérieures à l'année,

(B) soit à la disposition d'autres biens que le bien donné au cours de l'année;

toutefois lorsqu'un montant donné est inclus, en application du sous-alinéa 14(1)a)(v), dans le revenu du contribuable pour une année d'imposition qui s'est terminée après 1987 et avant 1990, la mention « 3/2 » au sous-alinéa (i.1) vaut mention de « 4/3 » pour ce qui est de la partie d'un montant qui est déduite en application de l'article 110.6 au titre du montant donné.

Idem, of a trust

(10) In computing the business investment loss of a trust for a taxation year from the disposition of a particular property, there shall be deducted an amount equal to the lesser of

(a) the amount that would be the trust's business investment loss for the year from the disposition of that particular property if paragraph 39(1)(c) were read without reference to subparagraph 39(1)(c)(viii), and

(b) the amount, if any, by which the total of

(i) the total of all amounts each of which is twice the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year that

(A) ended before 1988, or

Idem, cas d'une fiducie

(10) Le moindre des montants suivants doit être déduit dans le calcul de la perte au titre d'un placement d'entreprise qu'une fiducie subit pour une année d'imposition à la disposition d'un bien donné :

a) le montant qui correspondrait à la perte au titre d'un placement d'entreprise que la fiducie subirait pour l'année à la disposition du bien donné, compte non tenu du sous-alinéa (1)c)(viii);

b) l'excédent éventuel du total des montants suivants :

(i) le total des montants représentant chacun le double du montant qu'une fiducie a attribué à un bénéficiaire en application du paragraphe 104(21.2) dans sa déclaration de revenu produite pour une année d'imposition antérieure qui :

(A) soit s'est terminée avant 1988,

(B) begins after October 17, 2000,

(i.1) the total of all amounts each of which is

(A) 3/2 of the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year that

(I) ended after 1987 and before 1990, or

(II) began after February 27, 2000 and ended before October 18, 2000, or

(B) the amount determined by multiplying the reciprocal of the fraction in paragraph 38(a) that applies to the trust for each of the trust's taxation years that includes February 28, 2000 or October 18, 2000 by the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for that year, and

(i.2) the total of all amounts each of which is 4/3 of the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year that ended after 1989 and before February 28, 2000

exceeds

(ii) the total of all amounts each of which is an amount deducted by the trust under paragraph 39(1)(c) by virtue of subparagraph 39(1)(c)(viii) in computing its business investment loss

(A) from the disposition of property in taxation years preceding the year, or

(B) from the disposition of property other than the particular property in the year,

except that, where a particular amount was included under subparagraph 14(1)(a)(v) in the trust's income for a taxation year that ended after 1987 and before 1990, the reference in subparagraph 39(10)(b)(i.1) to "3/2" shall, in respect of that portion of any amount deducted under section 110.6 in respect of the particular amount, be read as "4/3".

(B) soit commence après le 17 octobre 2000,

(i.1) le total des montants représentant chacun, selon le cas :

(A) les 3/2 du montant que la fiducie a attribué à un bénéficiaire en application du paragraphe 104(21.2) dans sa déclaration de revenu produite pour une année d'imposition antérieure qui :

(I) soit s'est terminée après 1987 et avant 1990,

(II) soit a commencé après le 27 février 2000 et s'est terminée avant le 18 octobre 2000,

(B) le produit de la multiplication de l'inverse de la fraction figurant à l'alinéa 38a) qui s'applique à la fiducie pour chacune de ses années d'imposition qui comprend le 28 février 2000 ou le 18 octobre 2000 par le montant qu'elle a attribué à un bénéficiaire en application du paragraphe 104(21.2) dans sa déclaration de revenu pour cette année,

(i.2) le total des montants représentant chacun les 4/3 du montant que la fiducie a attribué à un bénéficiaire en application du paragraphe 104(21.2) dans sa déclaration de revenu produite pour une année d'imposition antérieure terminée après 1989 et avant le 28 février 2000,

sur :

(ii) le total des montants dont chacun représente un montant que la fiducie a déduit en vertu de l'alinéa (1)c) à cause du sous-alinéa (1)c)(viii) dans le calcul de la perte au titre d'un placement d'entreprise qu'elle a subie :

(A) soit à la disposition de biens au cours des années d'imposition antérieures à l'année,

(B) soit à la disposition d'autres biens que le bien donné au cours de l'année;

toutefois lorsqu'un montant donné est inclus, en application du sous-alinéa 14(1)a)(v), dans le revenu de la fiducie pour une année d'imposition qui s'est terminée après 1987 et avant 1990, la mention « 3/2 » au sous-alinéa (i.1) vaut mention de « 4/3 » pour ce qui est de la partie d'un montant qui est déduite en application de l'article 110.6 au titre du montant donné.

Recovery of bad debt

(11) Where an amount is received in a taxation year on account of a debt (in this subsection referred to as the "recovered amount") in respect of which a deduction for bad debts had been made under subsection 20(4.2) in computing a taxpayer's income for a preceding taxation year, the amount, if any, by which 1/2 of the recovered amount exceeds the amount determined under paragraph 12(1)(i.1) in respect of the recovered amount is deemed to be a taxable capital gain of the taxpayer from a disposition of capital property in the year.

Guarantees

(12) For the purpose of paragraph 39(1)(c), where

(a) an amount was paid by a taxpayer in respect of a debt of a corporation under an arrangement under which the taxpayer guaranteed the debt,

(b) the amount was paid to a person with whom the taxpayer was dealing at arm's length, and

(c) the corporation was a small business corporation

(i) at the time the debt was incurred, and

(ii) at any time in the 12 months before the time an amount first became payable by the taxpayer under the arrangement in respect of a debt of the corporation,

that part of the amount that is owing to the taxpayer by the corporation shall be deemed to be a debt owing to the taxpayer by a small business corporation.

Repayment of assistance

(13) The total of all amounts paid by a taxpayer in a taxation year each of which is

(a) such part of any assistance described in subparagraph 53(2)(k)(i) in respect of, or for the acquisition of, a capital property (other than depreciable property) by the taxpayer that was repaid by the taxpayer in the year where the repayment is made after the disposition of the property by the taxpayer and under an obligation to repay all or any part of that assistance, or

(b) an amount repaid by the taxpayer in the year in respect of a capital property (other than depreciable property) acquired by the taxpayer that is repaid after the disposition thereof by the taxpayer and that would have been an amount described in subparagraph 53(2)(s)(ii) had the repayment been made before the disposition of the property,

shall be deemed to be a capital loss of the taxpayer for the year from the disposition of property by the taxpayer in

Recouvrement d'une créance irrécouvrable

(11) Dans le cas où une somme est reçue au cours d'une année d'imposition sur une créance au titre de laquelle une déduction pour créance irrécouvrable a été faite en application du paragraphe 20(4.2) dans le calcul du revenu d'un contribuable pour une année d'imposition antérieure, l'excédent éventuel de la moitié de la somme ainsi reçue sur le montant calculé selon l'alinéa 12(1)i.1) au titre de cette somme est réputé être un gain en capital imposable du contribuable provenant de la disposition d'une immobilisation au cours de l'année.

Garantie

(12) Pour l'application de l'alinéa (1)c), dans le cas où, aux termes d'une entente de garantie de dette, un contribuable paie à une personne avec laquelle il n'a aucun lien de dépendance un montant au titre de la dette d'une société qui est une société exploitant une petite entreprise au moment où la dette est contractée et à un moment donné au cours des 12 mois précédant le moment où un montant devient payable pour la première fois par le contribuable aux termes de l'entente au titre d'une dette de la société, la partie du montant que la société doit au contribuable est réputée être une créance de celui-ci sur une société exploitant une petite entreprise.

Remboursement d'un montant d'aide

(13) Est réputé être une perte en capital d'un contribuable pour une année d'imposition résultant de la disposition d'un bien par lui au cours de l'année le total des montants que le contribuable a payés au cours de l'année représentant chacun :

a) soit la fraction d'un montant d'aide visé au sous-alinéa 53(2)k)(i) et reçu au titre d'une immobilisation (sauf un bien amortissable) ou en vue de l'acquisition d'une telle immobilisation par lui, que le contribuable a remboursée au cours de l'année, dans le cas où le remboursement est effectué après que le contribuable a disposé de l'immobilisation et en exécution d'une obligation de rembourser tout ou partie de cette aide;

b) soit un montant que le contribuable a remboursé au cours de l'année au titre d'une immobilisation, sauf un bien amortissable, qu'il a acquise, dans le cas où le remboursement, d'une part, est effectué après que le contribuable a disposé de l'immobilisation et, d'autre

the year and, for the purpose of section 110.6, that property shall be deemed to have been disposed of by the taxpayer in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 39; 1994, c. 7, Sch. II, s. 22, Sch. VIII, s. 11, c. 21, s. 14; 1995, c. 3, s. 10, c. 21, ss. 10, 49; 1998, c. 19, s. 7; 2000, c. 12, s. 142; 2001, c. 17, ss. 23, 204; 2009, c. 2, s. 9; 2013, c. 34, s. 59; 2014, c. 39, s. 10; 2016, c. 12, s. 13.

Definitions

39.1 (1) In this section,

exempt capital gains balance of an individual for a taxation year that ends before 2005 in respect of a flow-through entity means the amount determined by the formula

A - B - C - F

where

A is

(a) if the entity is a trust referred to in any of paragraphs (f) to (j) of the definition ***flow-through entity*** in this subsection, the amount determined under paragraph 110.6(19)(c) in respect of the individual's interest or interests therein, and

(b) in any other case, the lesser of

(i) 4/3 of the total of the taxable capital gains that resulted from elections made under subsection 110.6(19) in respect of the individual's interests in or shares of the capital stock of the entity, and

(ii) the amount that would be determined under subparagraph (i) if

(A) the amount designated in the election in respect of each interest or share were equal to the amount determined by the formula

D - E

where

D is the fair market value of the interest or share at the end of February 22, 1994, and

E is the amount, if any, by which the amount designated in the election that was made in respect of the interest or share exceeds 11/10 of its fair market value at the end of February 22, 1994, and

(B) this Act were read without reference to subsection 110.6(20),

part, aurait été visé au sous-alinéa 53(2)s)(ii) s'il avait été effectué avant la disposition.

Pour l'application de l'article 110.6, le contribuable est réputé avoir disposé du bien au cours de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 39; 1994, ch. 7, ann. II, art. 22, ann. VIII, art. 11, ch. 21, art. 14; 1995, ch. 3, art. 10, ch. 21, art. 10, 49; 1998, ch. 19, art. 7; 2000, ch. 12, art. 142; 2001, ch. 17, art. 23 et 204; 2009, ch. 2, art. 9; 2013, ch. 34, art. 59; 2014, ch. 39, art. 10; 2016, ch. 12, art. 13.

Définitions

39.1 (1) Les définitions qui suivent s'appliquent au présent article.

entité intermédiaire

a) Société de placement;

b) société de placement hypothécaire;

c) société de placement à capital variable;

d) fiducie de fonds commun de placement;

e) société de personnes;

f) fiducie créée à l'égard du fonds réservé pour l'application de l'article 138.1;

g) fiducie régie par un régime de participation des employés aux bénéfices;

h) fiducie administrée principalement au profit des employés d'une société ou de plusieurs sociétés qui ont entre elles un lien de dépendance, dans le cas où l'un des principaux objets de la fiducie consiste à détenir des intérêts ou, pour l'application du droit civil, des droits sur des actions du capital-actions de la ou des sociétés ou d'une société ayant un lien de dépendance avec celles-ci;

i) fiducie établie au profit exclusif d'une ou plusieurs personnes dont chacun était, au moment de l'établissement de la fiducie, soit une personne de qui la fiducie a reçu un bien, soit un créancier d'une telle personne, dans le cas où l'un des principaux objets de la fiducie consiste à garantir les paiements à faire par cette personne, ou pour son compte, à ce créancier;

j) fiducie dont la totalité, ou presque, des biens consistent en actions du capital-actions d'une société, dans le cas où la fiducie a été établie en conformité avec une convention entre plusieurs actionnaires de la société et où l'un des principaux objets de la fiducie consiste à permettre l'exercice des droits de vote rattachés à ces actions selon cette convention. (*flow-through entity*)

B is the total of all amounts each of which is the amount by which the individual's capital gain for a preceding taxation year, determined without reference to subsection 39.1(2), from the disposition of an interest in or a share of the capital stock of the entity was reduced under that subsection,

C is

(a) if the entity is a trust described in any of paragraphs (d) and (h) to (j) of the definition ***flow-through entity*** in this subsection, the total of

(i) 3/2 of the total of all amounts each of which is the amount by which the individual's taxable capital gain (determined without reference to this section), for a preceding taxation year that began after February 27, 2000 and ended before October 18, 2000 that resulted from a designation made under subsection 104(21) by the trust, was reduced under subsection (3),

(ii) 4/3 of the total of all amounts each of which is the amount by which the individual's taxable capital gain (determined without reference to this section), for a preceding taxation year that ended before February 28, 2000 and that resulted from a designation made under subsection 104(21) by the trust, was reduced under subsection (3),

(iii) the amount claimed by the individual under subparagraph 104(21.4)(a)(ii) or (21.7)(b)(ii) for a preceding taxation year, and

(iv) twice the total of all amounts each of which is the amount by which the individual's taxable capital gain (determined without reference to this section) for a preceding taxation year that began after October 17, 2000 and that resulted from a designation made under subsection 104(21) by the trust, was reduced under subsection (3),

(b) if the entity is a partnership, the total of

(i) 3/2 of the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that began after February 27, 2000 and ended before October 18, 2000, was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this

solde des gains en capital exonérés Quant à un particulier pour une année d'imposition qui se termine avant 2005 relativement à une entité intermédiaire, le résultat du calcul suivant :

A - B - C - F

où :

A représente :

a) si l'entité intermédiaire est une fiducie visée à l'un des alinéas f) à j) de la définition de ***entité intermédiaire***, le montant déterminé selon l'alinéa 110.6(19)c) relativement à la participation du particulier dans la fiducie,

b) dans les autres cas, le moins élevé des montants suivants :

(i) 4/3 du total des gains en capital imposables qui résultent de choix effectués aux termes du paragraphe 110.6(19) au titre des participations du particulier dans l'entité ou de ses actions du capital-actions de celle-ci,

(ii) le montant qui serait déterminé selon le sous-alinéa (i) si, à la fois :

(A) le montant indiqué dans le formulaire concernant le choix au titre de chaque participation ou action correspondait au résultat du calcul suivant :

D - E

où :

D représente la juste valeur marchande de la participation ou de l'action à la fin du 22 février 1994,

E l'excédent éventuel du montant indiqué dans le formulaire concernant le choix fait au titre de la participation ou de l'action sur 11/10 de sa juste valeur marchande à la fin du 22 février 1994,

(B) il n'était pas tenu compte du paragraphe 110.6(20);

B le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (2), du gain en capital du particulier pour une année d'imposition antérieure, déterminé compte non tenu de ce paragraphe, provenant de la disposition d'une participation dans l'entité ou d'une action du capital-actions de celle-ci;

C :

a) si l'entité est une fiducie visée à l'un des alinéas d) et h) à j) de la définition de ***entité intermédiaire***, la somme des montants suivants :

section), for its fiscal period that began after February 27, 2000 and ended before October 18, 2000, was reduced under subsection (5),

(ii) 4/3 of the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that ended before February 28, 2000 and in a preceding taxation year was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this section), for its fiscal period that ended before February 28, 2000 and in a preceding taxation year, was reduced under subsection (5),

(iii) the product obtained when the reciprocal of the fraction in paragraph 38(a) that applies to the partnership for its fiscal period that includes February 28, 2000 or October 17, 2000 is multiplied by the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that includes February 28, 2000 or October 17, 2000 and ended in a preceding taxation year, was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business (determined without reference to this section), for its fiscal period that includes February 28, 2000 or October 17, 2000 and ended in a preceding taxation year was reduced under subsection (5), and

(iv) twice the total of

(A) the total of all amounts each of which is the amount by which the individual's share of the partnership's taxable capital gains (determined without reference to this section), for its fiscal period that began after October 17, 2000 and ended in a preceding taxation year, was reduced under subsection (4), and

(B) the total of all amounts each of which is the amount by which the individual's share of the partnership's income from a business

(i) les 3/2 du total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (3), du gain en capital imposable du particulier (déterminé compte non tenu du présent article), pour une année d'imposition antérieure ayant commencé après le 27 février 2000 et s'étant terminée avant le 18 octobre 2000, résultant d'une attribution effectuée par la fiducie aux termes du paragraphe 104(21),

(ii) les 4/3 du total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (3), du gain en capital imposable du particulier (déterminé compte non tenu du présent article), pour une année d'imposition antérieure terminée avant le 28 février 2000, résultant d'une attribution effectuée par la fiducie aux termes du paragraphe 104(21),

(iii) le montant demandé par le particulier en application des sous-alinéas 104(21.4)a)(ii) ou (21.7)b)(ii) pour une année d'imposition antérieure,

(iv) le double du total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (3), du gain en capital imposable du particulier (déterminé compte non tenu du présent article), pour une année d'imposition antérieure ayant commencé après le 17 octobre 2000, résultant d'une attribution effectuée par la fiducie aux termes du paragraphe 104(21);

b) si l'entité est une société de personnes, la somme des montants suivants :

(i) les 3/2 de la somme des montants suivants :

(A) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (4), de la part qui revient au particulier des gains en capital imposables de la société de personnes (déterminés compte non tenu du présent article) pour un exercice de celle-ci ayant commencé après le 27 février 2000 et s'étant terminé avant le 18 octobre 2000,

(B) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (5), de la part qui revient au particulier du revenu de la société de personnes tiré d'une entreprise (déterminé compte non tenu du présent article) pour un exercice de celle-ci ayant commencé après le 27 février 2000 et s'étant terminé avant le 18 octobre 2000,

(determined without reference to this section), for its fiscal period that began after October 17, 2000 and ended in a preceding taxation year, was reduced under subsection (5), and

(c) in any other case, the total of all amounts each of which is the amount by which the total of the individual's capital gains otherwise determined under subsection 130.1(4) or 131(1), subsections 138.1(3) and 138.1(4) or subsection 144(4), as the case may be, for a preceding taxation year in respect of the entity was reduced under subsection 39.1(6); and

F is

(a) if the entity is a trust described in any of paragraphs (g) to (j) of the definition ***flow-through entity*** in this subsection, the total of all amounts each of which is an amount included before the year in the cost to the individual of a property under subsection 107(2.2) or paragraph 144(7.1)(c) because of the individual's exempt capital gains balance in respect of the entity, and

(b) in any other case, nil; (*solde des gains en capital exonérés*)

flow-through entity means

(a) an investment corporation,

(b) a mortgage investment corporation,

(c) a mutual fund corporation,

(d) a mutual fund trust,

(e) a partnership,

(f) a related segregated fund trust for the purpose of section 138.1,

(g) a trust governed by an employees profit sharing plan,

(h) a trust maintained primarily for the benefit of employees of a corporation or two or more corporations that do not deal at arm's length with each other, where one of the main purposes of the trust is to hold interests in, or for civil law rights in, shares of the capital stock of the corporation or corporations, as the case may be, or any corporation not dealing at arm's length therewith,

(i) a trust established exclusively for the benefit of one or more persons each of whom was, at the time the trust was created, either a person from whom the trust

(ii) les 4/3 de la somme des montants suivants :

(A) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (4), de la part qui revient au particulier des gains en capital imposables de la société de personnes (déterminés compte non tenu du présent article) pour un exercice de celle-ci terminé avant le 28 février 2000 et dans une année d'imposition antérieure,

(B) le total des montants représentant chacun un montant appliqué en réduction, par l'effet du paragraphe (5), de la part qui revient au particulier du revenu de la société de personnes tiré d'une entreprise (déterminé compte non tenu du présent article) pour un exercice de celle-ci terminé avant le 28 février 2000 et dans une année d'imposition antérieure,

(iii) le produit de la multiplication de l'inverse de la fraction figurant à l'alinéa 38a) qui s'applique à la société de personnes pour son exercice qui comprend le 28 février 2000 ou le 17 octobre 2000 par la somme des montants suivants :

(A) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (4), de la part qui revient au particulier des gains en capital imposables de la société de personnes (déterminés compte non tenu du présent article) pour un exercice de celle-ci comprenant le 28 février 2000 ou le 17 octobre 2000 et s'étant terminé dans une année d'imposition antérieure,

(B) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (5), de la part qui revient au particulier du revenu de la société de personnes tiré d'une entreprise (déterminé compte non tenu du présent article) pour un exercice de celle-ci comprenant le 28 février 2000 ou le 17 octobre 2000 et s'étant terminé dans une année d'imposition antérieure,

(iv) le double de la somme des montants suivants :

(A) le total des montants représentant chacun le montant appliqué en réduction, par

received property or a creditor of that person, where one of the main purposes of the trust is to secure the payments required to be made by or on behalf of that person to such creditor, and

(j) a trust all or substantially all of the properties of which consist of shares of the capital stock of a corporation, where the trust was established pursuant to an agreement between 2 or more shareholders of the corporation and one of the main purposes of the trust is to provide for the exercise of voting rights in respect of those shares pursuant to that agreement. (*entité intermédiaire*)

l'effet du paragraphe (4), de la part qui revient au particulier des gains en capital imposables de la société de personnes (déterminés compte non tenu du présent article) pour un exercice de celle-ci ayant commencé après le 17 octobre 2000 et s'étant terminé dans une année d'imposition antérieure,

(B) le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (5), de la part qui revient au particulier du revenu de la société de personnes tiré d'une entreprise (déterminé compte non tenu du présent article) pour un exercice de celle-ci ayant commencé après le 17 octobre 2000 et s'étant terminé dans une année d'imposition antérieure,

c) dans les autres cas, le total des montants représentant chacun le montant appliqué en réduction, par l'effet du paragraphe (6), du total des gains en capital du particulier pour une année d'imposition antérieure, déterminés par ailleurs selon les paragraphes 130.1(4) ou 131(1), les paragraphes 138.1(3) et (4) ou le paragraphe 144(4), relativement à l'entité;

F :

a) si l'entité est une fiducie visée à l'un des alinéas g) à j) de la définition de ***entité intermédiaire***, le total des montants représentant chacun un montant qui a été inclus avant l'année, en application du paragraphe 107(2.2) ou de l'alinéa 144(7.1)c), dans le coût d'un bien pour le particulier en raison de son solde des gains en capital exonérés relativement à l'entité,

b) dans les autres cas, zéro. (*exempt capital gains balance*)

Reduction of capital gain

(2) Where at any time after February 22, 1994 an individual disposes of an interest in or a share of the capital stock of a flow-through entity, the individual's capital gain, if any, otherwise determined for a taxation year from the disposition shall be reduced by such amount as the individual claims, not exceeding the amount determined by the formula

A - B - C

where

A is the exempt capital gains balance of the individual for the year in respect of the entity,

B is

Réduction du gain en capital

(2) Dans le cas où un particulier dispose, après le 22 février 1994, d'une participation dans une entité intermédiaire ou d'une action du capital-actions d'une telle entité, son gain en capital, déterminé par ailleurs pour une année d'imposition, provenant de la disposition est réduit du montant qu'il demande, jusqu'à concurrence du résultat du calcul suivant :

A - B - C

où :

A représente le solde des gains en capital exonérés du particulier pour l'année relativement à l'entité;

B :

(a) if the entity made a designation under subsection 104(21) in respect of the individual for the year, twice the amount, if any, claimed under subsection 39.1(3) by the individual for the year in respect of the entity,

(b) if the entity is a partnership, twice the amount, if any, claimed under subsection (4) by the individual for the year in respect of the entity, and

(c) in any other case, the amount, if any, claimed under subsection 39.1(6) by the individual for the year in respect of the entity, and

C is the total of all reductions under this subsection in the individual's capital gains otherwise determined for the year from the disposition of other interests in or shares of the capital stock of the entity.

a) si l'entité a fait une attribution aux termes du paragraphe 104(21) relativement au particulier pour l'année, le double du montant que le particulier a demandé en application du paragraphe (3) pour l'année relativement à l'entité,

b) si l'entité est une société de personnes, le double du montant que le particulier a demandé en application du paragraphe (4) pour l'année relativement à l'entité,

c) dans les autres cas, le montant que le particulier a demandé en application du paragraphe (6) pour l'année relativement à l'entité;

C le total des montants appliqués en réduction, par l'effet du présent paragraphe, des gains en capital du particulier, déterminés par ailleurs pour l'année, provenant de la disposition d'autres participations dans l'entité ou d'autres actions de son capital-actions.

Reduction of taxable capital gain

(3) The taxable capital gain otherwise determined under subsection 104(21) of an individual for a taxation year as a result of a designation made under that subsection by a flow-through entity shall be reduced by such amount as the individual claims, not exceeding 1/2 of the individual's exempt capital gains balance for the year in respect of the entity.

Réduction du gain en capital imposable

(3) Le gain en capital imposable d'un particulier pour une année d'imposition, déterminé par ailleurs selon le paragraphe 104(21), résultant d'une attribution effectuée aux termes de ce paragraphe par une entité intermédiaire est réduit du montant que le particulier demande, jusqu'à concurrence de la moitié de son solde des gains en capital exonérés pour l'année relativement à l'entité.

Reduction in share of partnership's taxable capital gains

(4) An individual's share otherwise determined for a taxation year of a taxable capital gain of a partnership from the disposition of a property (other than property acquired by the partnership after February 22, 1994 in a transfer to which subsection 97(2) applied) for its fiscal period that ends after February 22, 1994 and in the year shall be reduced by such amount as the individual claims, not exceeding the amount determined by the formula

A - B

where

A is 1/2 of the individual's exempt capital gains balance for the year in respect of the partnership, and

B is the total of amounts claimed by the individual under this subsection in respect of other taxable capital gains of the partnership for that fiscal period.

Réduction de la part des gains en capital imposables d'une société de personnes

(4) La part qui revient à un particulier, déterminée par ailleurs pour une année d'imposition, du gain en capital imposable d'une société de personnes provenant de la disposition d'un bien (sauf un bien que la société de personnes a acquis après le 22 février 1994 dans le cadre d'un transfert auquel s'applique le paragraphe 97(2)) pour l'exercice de la société de personnes qui se termine après le 22 février 1994 et au cours de l'année est réduite du montant qu'il demande, jusqu'à concurrence du résultat du calcul suivant :

A - B

où :

A représente la moitié solde des gains en capital exonérés du particulier pour l'année relativement à la société de personnes;

B le total des montants que le particulier a demandés en application du présent paragraphe au titre d'autres gains en capital imposables de la société de personnes pour cet exercice.

(5) [Repealed, 2016, c. 12, s. 14]

(5) [Abrogé, 2016, ch. 12, art. 14]

Reduction of capital gains

(6) The total capital gains otherwise determined under subsection 130.1(4) or 131(1), subsections 138.1(3) and 138.1(4) or subsection 144(4), as the case may be, of an individual for a taxation year as a result of one or more elections, allocations or designations made after February 22, 1994 by a flow-through entity shall be reduced by such amount as the individual claims, not exceeding the individual's exempt capital gains balance for the year in respect of the entity.

Nil exempt capital gains balance

(7) Notwithstanding subsection 39.1(1), where at any time an individual ceases to be a member or shareholder of, or a beneficiary under, a flow-through entity, the exempt capital gains balance of the individual in respect of the entity for each taxation year that begins after that time is deemed to be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 3, s. 11; 1998, c. 19, s. 88; 2001, c. 17, s. 24; 2013, c. 34, s. 101; 2016, c. 12, s. 14.

General rules

40 (1) Except as otherwise expressly provided in this Part

(a) a taxpayer's gain for a taxation year from the disposition of any property is the amount, if any, by which

(i) if the property was disposed of in the year, the amount, if any, by which the taxpayer's proceeds of disposition exceed the total of the adjusted cost base to the taxpayer of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition, or

(ii) if the property was disposed of before the year, the amount, if any, claimed by the taxpayer under subparagraph 40(1)(a)(iii) in computing the taxpayer's gain for the immediately preceding year from the disposition of the property,

exceeds

(iii) subject to subsection 40(1.1), such amount as the taxpayer may claim

(A) in the case of an individual (other than a trust) in prescribed form filed with the taxpayer's return of income under this Part for the year, and

Réduction des gains en capital

(6) Le total des gains en capital d'un particulier pour une année d'imposition, déterminés par ailleurs selon les paragraphes 130.1(4) ou 131(1), les paragraphes 138.1(3) et (4) ou le paragraphe 144(4), résultant d'un ou plusieurs choix ou attributions effectués après le 22 février 1994 par une entité intermédiaire est réduit du montant que le particulier demande, jusqu'à concurrence de son solde des gains en capital exonérés pour l'année relativement à l'entité.

Solde des gains en capital exonérés nul

(7) Malgré le paragraphe (1), dans le cas où un particulier cesse d'être associé, actionnaire ou bénéficiaire d'une entité intermédiaire, son solde des gains en capital exonérés relativement à l'entité pour chaque année d'imposition qui commence après la cessation est réputé nul.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 3, art. 11; 1998, ch. 19, art. 88; 2001, ch. 17, art. 24; 2013, ch. 34, art. 101; 2016, ch. 12, art. 14.

Règles générales

40 (1) Sauf indication contraire expresse de la présente partie :

a) le gain d'un contribuable tiré, pour une année d'imposition, de la disposition d'un bien est l'excédent éventuel :

(i) en cas de disposition du bien au cours de l'année, de l'excédent éventuel du produit de disposition sur le total du prix de base rajusté du bien, pour le contribuable, calculé immédiatement avant la disposition, et des dépenses dans la mesure où celles-ci ont été engagées ou effectuées par lui en vue de réaliser la disposition,

(ii) en cas de disposition du bien avant l'année, du montant éventuel dont le contribuable a demandé la déduction en vertu du sous-alinéa (iii) dans le calcul de son gain pour l'année précédente, tiré de la disposition de ce bien,

sur :

(iii) sous réserve du paragraphe (1.1), le montant dont il peut demander la déduction, dans le cas d'un particulier — à l'exclusion d'une fiducie —, sur le formulaire prescrit présenté avec la déclaration de revenu prévue à la présente partie pour l'année et, dans les autres cas, dans la déclaration de revenu produite en vertu de la présente partie pour l'année, jusqu'à concurrence du moins élevé des montants suivants :

(B) in any other case, in the taxpayer's return of income under this Part for the year,

as a deduction, not exceeding the lesser of

(C) a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are payable to the taxpayer after the end of the year as can reasonably be regarded as a portion of the amount determined under subparagraph 40(1)(a)(i) in respect of the property, and

(D) an amount equal to the product obtained when 1/5 of the amount determined under subparagraph 40(1)(a)(i) in respect of the property is multiplied by the amount, if any, by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property; and

(b) a taxpayer's loss for a taxation year from the disposition of any property is,

(i) if the property was disposed of in the year, the amount, if any, by which the total of the adjusted cost base to the taxpayer of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition, exceeds the taxpayer's proceeds of disposition of the property, and

(ii) in any other case, nil.

(A) un montant raisonnable à titre de provision à l'égard de toute partie du produit de disposition du bien qui lui est payable après la fin de l'année et qu'il est raisonnable de considérer comme une partie du montant déterminé en vertu du sous-alinéa (i) pour ce bien,

(B) le produit de 1/5 de l'excédent déterminé en vertu du sous-alinéa (i) pour ce bien et de l'excédent éventuel de 4 sur le nombre d'années d'imposition antérieures du contribuable qui se terminent après la disposition du bien;

b) la perte d'un contribuable résultant, pour une année d'imposition, de la disposition d'un bien est :

(i) en cas de disposition du bien au cours de l'année, l'excédent éventuel du total du prix de base rajusté du bien, pour le contribuable, immédiatement avant la disposition, et des dépenses dans la mesure où celles-ci ont été engagées ou effectuées par lui en vue de réaliser la disposition sur le produit de disposition du bien qu'il en a tiré,

(ii) dans les autres cas, nulle.

Gift of non-qualifying security

(1.01) A taxpayer's gain for a particular taxation year from a disposition of a non-qualifying security of the taxpayer (as defined in subsection 118.1(18)) that is the making of a gift (other than an excepted gift, within the meaning assigned by subsection 118.1(19)) to a qualified donee (as defined in subsection 149.1(1)) is the amount, if any, by which

(a) where the disposition occurred in the particular year, the amount, if any, by which the taxpayer's proceeds of disposition exceed the total of the adjusted cost base to the taxpayer of the security immediately before the disposition and any outlays and expenses to the extent they were made or incurred by the taxpayer for the purpose of making the disposition, and

(b) where the disposition occurred in the 60-month period that ends at the beginning of the particular year, the amount, if any, deducted under paragraph 40(1.01)(c) in computing the taxpayer's gain for the

Don d'un titre non admissible

(1.01) Le gain d'un contribuable pour une année d'imposition tiré de la disposition de son titre non admissible, au sens du paragraphe 118.1(18), qui consiste à faire un don (sauf un don exclu au sens du paragraphe 118.1(19)) à un donataire reconnu, au sens du paragraphe 149.1(1), correspond à l'excédent éventuel de l'un des montants suivants :

a) si la disposition a été effectuée au cours de l'année en question, l'excédent éventuel du produit de disposition pour le contribuable sur la somme du prix de base rajusté du titre pour lui immédiatement avant la disposition et des dépenses engagées ou effectuées dans la mesure où il les a engagées ou effectuées en vue d'effectuer la disposition,

b) si la disposition a été effectuée au cours de la période de 60 mois se terminant au début de l'année en question, le montant déduit selon l'alinéa c) dans le

preceding taxation year from the disposition of the security

exceeds

(c) the amount that the taxpayer claims in prescribed form filed with the taxpayer's return of income for the particular year, not exceeding the eligible amount of the gift, where the taxpayer is not deemed by subsection 118.1(13) to have made a gift of property before the end of the particular year as a consequence of a disposition of the security by the donee or as a consequence of the security ceasing to be a non-qualifying security of the taxpayer before the end of the particular year.

calcul du gain du contribuable pour l'année d'imposition précédente tiré de la disposition du titre,

sur le montant suivant :

c) le montant, n'excédant pas le montant admissible du don, dont le contribuable demande la déduction dans le formulaire prescrit accompagnant sa déclaration de revenu pour l'année en question, s'il n'est pas réputé par le paragraphe 118.1(13) avoir fait un don de bien avant la fin de cette année par suite de la disposition du titre par le donataire ou du fait que le titre a cessé d'être un titre non admissible du contribuable avant la fin de cette année.

Reserve — property disposed of to a child

(1.1) In computing the amount that a taxpayer may claim under subparagraph (1)(a)(iii) in computing the taxpayer's gain from the disposition of a property, that subparagraph shall be read as if the references in that subparagraph to "1/5" and "4" were references to "1/10" and "9" respectively, if,

(a) the property was disposed of by the taxpayer to the taxpayer's child,

(b) that child was resident in Canada immediately before the disposition, and

(c) the property was immediately before the disposition,

(i) any land in Canada or depreciable property in Canada of a prescribed class that was used by the taxpayer, the spouse or common-law partner of the taxpayer, a child or a parent of the taxpayer in a farming or fishing business carried on in Canada,

(ii) a share of the capital stock of a family farm or fishing corporation of the taxpayer or an interest in a family farm or fishing partnership of the taxpayer (such a share or an interest having the meaning assigned by subsection 70(10)), or

(iii) a qualified small business corporation share of the taxpayer (within the meaning assigned by subsection 110.6(1)).

(iv) [Repealed, 2014, c. 39, s. 11]

Disposition d'un bien en faveur d'un enfant

(1.1) Pour le calcul de la somme dont un contribuable peut demander la déduction, selon le sous-alinéa (1)a)(iii), dans le calcul de son gain provenant de la disposition d'un bien, les mentions « 1/5 » et « 4 » à ce sous-alinéa valent mention respectivement de « 1/10 » et « 9 » si les conditions suivantes sont réunies :

a) le contribuable a disposé du bien en faveur de son enfant;

b) cet enfant résidait au Canada immédiatement avant la disposition;

c) immédiatement avant la disposition, le bien était :

(i) un fonds de terre situé au Canada, ou un bien amortissable d'une catégorie prescrite situé au Canada, que le contribuable ou son époux ou conjoint de fait, son enfant, son père ou sa mère utilisait dans le cadre d'une entreprise agricole ou de pêche exploitée au Canada,

(ii) une action du capital-actions d'une société agricole ou de pêche familiale du contribuable, au sens du paragraphe 70(10), ou une participation dans une société de personnes agricole ou de pêche familiale du contribuable, au sens du même paragraphe,

(iii) une action admissible de petite entreprise du contribuable, au sens du paragraphe 110.6(1).

(iv) [Abrogé, 2014, ch. 39, art. 11]

Limitations

(2) Notwithstanding subsection 40(1),

(a) subparagraph 40(1)(a)(iii) does not apply to permit a taxpayer to claim any amount under that subparagraph in computing a gain for a taxation year if

Restrictions

(2) Malgré le paragraphe (1):

a) le sous-alinéa (1)a)(iii) n'autorise pas le contribuable à demander la déduction d'un montant en vertu de ce sous-alinéa dans le calcul d'un gain pour une

(i) the taxpayer, at the end of the year or at any time in the immediately following year, was not resident in Canada or was exempt from tax under any provision of this Part,

(ii) the purchaser of the property sold is a corporation that, immediately after the sale,

(A) was controlled, directly or indirectly, in any manner whatever, by the taxpayer,

(B) was controlled, directly or indirectly, in any manner whatever, by a person or group of persons by whom the taxpayer was controlled, directly or indirectly, in any manner whatever, or

(C) controlled the taxpayer, directly or indirectly, in any manner whatever, where the taxpayer is a corporation, or

(iii) the purchaser of the property sold is a partnership in which the taxpayer was, immediately after the sale, a majority-interest partner;

(b) where the taxpayer is an individual, the taxpayer's gain for a taxation year from the disposition of a property that was the taxpayer's principal residence at any time after the date (in this section referred to as the "acquisition date") that is the later of December 31, 1971 and the day on which the taxpayer last acquired or reacquired it, as the case may be, is the amount determined by the formula

A - (A × B/C) - D

where

A is the amount that would, if this Act were read without reference to this paragraph and subsections 110.6(19) and 110.6(21), be the taxpayer's gain therefrom for the year,

B is one plus the number of taxation years that end after the acquisition date for which the property was the taxpayer's principal residence and during which the taxpayer was resident in Canada,

C is the number of taxation years that end after the acquisition date during which the taxpayer owned the property whether jointly with another person or otherwise, and

D is

(i) if the acquisition date is before February 23, 1994 and the taxpayer or the taxpayer's spouse or common-law partner elected under subsection 110.6(19) in respect of the property or an interest, or for civil law a right, therein that was

année d'imposition dans l'un ou l'autre des cas suivants :

(i) le contribuable, à la fin de l'année ou à un moment donné de l'année suivante, ne résidait pas au Canada ou était exonéré d'impôt en vertu d'une disposition de la présente partie,

(ii) l'acheteur du bien vendu est une société qui, immédiatement après la vente :

(A) était contrôlée, directement ou indirectement, de quelque manière que ce soit, par le contribuable

(B) était contrôlée, directement ou indirectement, de quelque manière que ce soit, par une personne ou un groupe de personnes qui contrôlait, directement ou indirectement, de quelque manière que ce soit, le contribuable,

(C) contrôlait, directement ou indirectement, de quelque manière que ce soit, le contribuable, lorsque ce dernier est une société,

(iii) l'acheteur du bien vendu est une société de personnes dont le contribuable était, immédiatement après la vente, un associé détenant une participation majoritaire;

b) dans le cas où le contribuable est un particulier, le gain qu'il a tiré, pour une année d'imposition, de la disposition d'un bien qui était sa résidence principale à un moment donné après le jour (appelé « date d'acquisition » au présent article) qui est le dernier en date du 31 décembre 1971 et du jour où il a acquis le bien, ou l'a acquis de nouveau, pour la dernière fois correspond au résultat du calcul suivant :

A - (A × B/C) - D

où :

A représente le montant qui constituerait le gain du contribuable provenant de la disposition pour l'année, compte non tenu du présent alinéa et des paragraphes 110.6(19) et (21),

B le nombre un plus le nombre d'années d'imposition qui se terminent après la date d'acquisition pour lesquelles le bien était la résidence principale du contribuable et au cours desquelles celui-ci résidait au Canada,

C le nombre d'années d'imposition se terminant après la date d'acquisition au cours desquelles le contribuable était propriétaire du bien conjointement avec une autre personne ou autrement,

owned, immediately before the disposition, by the taxpayer, 4/3 of the lesser of

(A) the total of all amounts each of which is the taxable capital gain of the taxpayer or of their spouse or common-law partner that would have resulted from an election by the taxpayer or spouse or common-law partner under subsection 110.6(19) in respect of the property or the interest or right if

(I) this Act were read without reference to subsection 110.6(20), and

(II) the amount designated in the election were equal to the amount, if any, by which the fair market value of the property or the interest or right at the end of February 22, 1994 exceeds the amount determined by the formula

E – 1.1F

where

E is the amount designated in the election that was made in respect of the property or the interest or right, and

F is the fair market value of the property or the interest or right at the end of February 22, 1994, and

(B) the total of all amounts each of which is the taxable capital gain of the taxpayer or of their spouse or common-law partner that would have resulted from an election that was made under subsection 110.6(19) in respect of the property or the interest or right if the property were the principal residence of neither the taxpayer nor the spouse or common-law partner for each particular taxation year unless the property was designated, in a return of income for the taxation year that includes February 22, 1994 or for a preceding taxation year, to be the principal residence of either of them for the particular taxation year, and

(ii) in any other case, zero;

(c) where the taxpayer is an individual, the taxpayer's gain for a taxation year from the disposition of land used in a farming business carried on by the taxpayer that includes property that was at any time the taxpayer's principal residence is

(i) the taxpayer's gain for the year, otherwise determined, from the disposition of the portion of the land that does not include the property that was the taxpayer's principal residence, plus the taxpayer's

D :

(i) dans le cas où la date d'acquisition est antérieure au 23 février 1994 et où le contribuable ou son époux ou conjoint de fait a fait le choix prévu au paragraphe 110.6(19) relativement au bien, ou à un intérêt ou, pour l'application du droit civil, à un droit sur celui-ci, dont le contribuable était propriétaire immédiatement avant la disposition, 4/3 du moins élevé des montants suivants :

(A) le total des montants représentant chacun le gain en capital imposable du contribuable ou de son époux ou conjoint de fait qui aurait résulté d'un choix fait par l'un de ceux-ci en application du paragraphe 110.6(19) relativement au bien ou à l'intérêt ou au droit si, à la fois :

(I) il n'était pas tenu compte du paragraphe 110.6(20),

(II) le montant indiqué dans le formulaire concernant le choix était égal à l'excédent de la juste valeur marchande du bien ou de l'intérêt ou du droit à la fin du 22 février 1994 sur le résultat du calcul suivant :

E – 1,1F

où :

E représente le montant indiqué dans le formulaire concernant le choix fait relativement au bien ou à l'intérêt ou au droit,

F la juste valeur marchande du bien ou de l'intérêt ou du droit à la fin du 22 février 1994,

(B) le total des montants représentant chacun le gain en capital imposable du contribuable ou de son époux ou conjoint de fait qui aurait résulté d'un choix fait selon le paragraphe 110.6(19) relativement au bien ou à l'intérêt ou au droit si le bien n'avait été la résidence principale ni de l'un ni de l'autre pour chaque année d'imposition donnée, sauf si le bien a été désigné, dans une déclaration de revenu visant l'année d'imposition qui comprend le 22 février 1994 ou une année d'imposition antérieure, comme étant la résidence principale de l'un d'eux pour l'année donnée,

(ii) dans les autres cas, zéro;

gain for the year, if any, determined under paragraph 40(2)(b) from the disposition of the property that was the taxpayer's principal residence, or

(ii) if the taxpayer so elects in prescribed manner in respect of the land, the taxpayer's gain for the year from the disposition of the land including the property that was the taxpayer's principal residence, determined without regard to paragraph 40(2)(b) or subparagraph (i) of this paragraph, less the total of

(A) $1,000, and

(B) $1,000 for each taxation year ending after the acquisition date for which the property was the taxpayer's principal residence and during which the taxpayer was resident in Canada;

(d) where the taxpayer is a corporation, its loss for a taxation year from the disposition of a bond or debenture is its loss therefrom for the year otherwise determined, less the total of such amounts received by it as, on account or in lieu of payment of, or in satisfaction of interest thereon as were, by virtue of paragraph 81(1)(m), not included in computing its income;

(e) [Repealed, 1998, c. 19, s. 89]

(e.1) a particular taxpayer's loss, if any, from the disposition at any time to a particular person or partnership of an obligation — other than, for the purposes of computing the exempt surplus or exempt deficit and taxable surplus or taxable deficit of the particular taxpayer in respect of another taxpayer, where the particular taxpayer or, if the particular taxpayer is a partnership, a member of the particular taxpayer is a foreign affiliate of the other taxpayer, an obligation that is, or would be, if the particular taxpayer were a foreign affiliate of the other taxpayer, excluded property (within the meaning assigned by subsection 95(1)) of the particular taxpayer — that was, immediately after that time, payable by another person or partnership to the particular person or partnership is nil if the particular taxpayer, the particular person or partnership and the other person or partnership are related to each other at that time or would be related to each other at that time if paragraph 80(2)(j) applied for the purpose of this paragraph;

(e.2) subject to paragraph (e.3), a taxpayer's loss on the settlement or extinguishment of a particular commercial obligation (in this paragraph having the meaning assigned by subsection 80(1)) issued by a person or partnership and payable to the taxpayer is deemed to be the amount determined by the following formula if any part of the consideration given by the

c) lorsque le contribuable est un particulier, son gain pour une année d'imposition, tiré de la disposition d'un fonds de terre utilisé dans une entreprise agricole qu'il exploite et qui comprend une propriété qui était à un moment donné sa résidence principale, est :

(i) son gain pour l'année, déterminé par ailleurs et tiré de la disposition de la partie du fonds de terre qui ne comprend pas la propriété qui était sa résidence principale, plus son gain pour l'année, déterminé en vertu de l'alinéa b) et tiré de la disposition de la propriété qui était sa résidence principale,

(ii) si le contribuable en fait le choix selon les modalités réglementaires à l'égard du fonds de terre, son gain pour l'année, tiré de la disposition du fonds de terre qui comprend la propriété qui était sa résidence principale, déterminé compte non tenu de l'alinéa b) ou du sous-alinéa (i) du présent alinéa, moins le total des montants suivants :

(A) 1 000 $,

(B) 1 000 $ pour chaque année d'imposition — se terminant après la date d'acquisition — durant laquelle le bien constituait sa résidence principale et durant laquelle il résidait au Canada;

d) lorsque le contribuable est une société, sa perte pour une année d'imposition, provenant de la disposition d'une obligation, constitue sa perte provenant de cette disposition pour l'année, déterminée par ailleurs, moins le total des montants qu'il a reçus au titre ou en paiement intégral ou partiel des intérêts sur cette obligation et qui, en vertu de l'alinéa 81(1)m), n'ont pas été inclus dans le calcul de son revenu;

e) [Abrogé, 1998, ch. 19, art. 89]

e.1) la perte d'un contribuable donné résultant de la disposition, effectuée en faveur d'une personne ou d'une société de personnes donnée, d'une dette (à l'exclusion, pour ce qui est du calcul du surplus exonéré ou du déficit exonéré et du surplus imposable ou du déficit imposable du contribuable donné relativement à un autre contribuable, dans le cas où le contribuable donné ou, si celui-ci est une société de personnes, son associé est une société étrangère affiliée de l'autre contribuable, d'une dette qui est un bien exclu, au sens du paragraphe 95(1), du contribuable donné ou le serait si celui-ci était une société étrangère affiliée de l'autre contribuable) qui était, immédiatement après la disposition, payable par une autre personne ou société de personnes à la personne ou la société de personnes donnée est nulle dans le cas où le contribuable donné, la personne ou la société de personnes donnée

person or partnership for the settlement or extinguishment of the particular obligation consists of one or more other commercial obligations issued by the person or partnership to the taxpayer:

A - (B - C)/B

where

A is the amount, if any, that would be the taxpayer's loss from the disposition of the particular obligation if this Act were read without reference to this paragraph,

B is the total fair market value of all the consideration given by the person or partnership for the settlement or extinguishment of the particular obligation, and

C is the total fair market value of the other obligations;

(e.3) paragraph (e.2) does not apply, for the purposes of computing the exempt surplus or exempt deficit and taxable surplus or taxable deficit of the taxpayer in respect of another taxpayer, where the taxpayer or, if the taxpayer is a partnership, a member of the taxpayer is a foreign affiliate of the other taxpayer, to the particular commercial obligation if the particular commercial obligation is, or would be, if the taxpayer were a foreign affiliate of the other taxpayer, excluded property (within the meaning assigned by subsection 95(1)) of the taxpayer;

(f) a taxpayer's gain or loss from the disposition of

(i) a chance to win a prize or bet, or

(ii) a right to receive an amount as a prize or as winnings on a bet,

in connection with a lottery scheme or a pool system of betting referred to in section 205 of the *Criminal Code* is nil;

(g) a taxpayer's loss, if any, from the disposition of a property (other than, for the purposes of computing the exempt surplus or exempt deficit, hybrid surplus or hybrid deficit, and taxable surplus or taxable deficit of the taxpayer in respect of another taxpayer, where the taxpayer or, if the taxpayer is a partnership, a member of the taxpayer is a foreign affiliate of the other taxpayer, a property that is, or would be, if the taxpayer were a foreign affiliate of the other taxpayer, excluded property (within the meaning assigned by subsection 95(1)) of the taxpayer), to the extent that it is

(i) a superficial loss,

et l'autre personne ou société de personnes sont liés les uns aux autres au moment de la disposition ou seraient ainsi liés à ce moment si l'alinéa 80(2)j) s'appliquait dans le cadre du présent alinéa;

e.2) sous réserve de l'alinéa e.3), la perte qu'un contribuable subit lors du règlement ou de l'extinction d'une dette commerciale donnée (cette expression s'entendant, au présent alinéa, au sens du paragraphe 80(1)) émise par une personne ou une société de personnes et payable au contribuable est réputée être égale à la somme obtenue par la formule ci-après dans le cas où une partie de la contrepartie donnée par la personne ou la société de personnes en vue du règlement ou de l'extinction de la dette donnée consiste en une ou plusieurs autres dettes commerciales émises par la personne ou la société de personnes en faveur du contribuable :

A × (B - C)/B

où :

A représente le montant qui constituerait la perte du contribuable résultant de la disposition de la dette donnée compte non tenu du présent alinéa,

B la juste valeur marchande totale des contreparties données par la personne ou la société de personnes en vue du règlement ou de l'extinction de la dette donnée,

C la juste valeur marchande totale des autres dettes;

e.3) pour ce qui est du calcul du surplus exonéré ou du déficit exonéré et du surplus imposable ou du déficit imposable du contribuable relativement à un autre contribuable, dans le cas où le contribuable ou, si celui-ci est une société de personnes, son associé est une société étrangère affiliée de l'autre contribuable, l'alinéa e.2) ne s'applique pas à la dette commerciale donnée si celle-ci est un bien exclu, au sens du paragraphe 95(1), du contribuable ou le serait si celui-ci était une société étrangère affiliée de l'autre contribuable;

f) est nul le gain ou la perte du contribuable résultant de la disposition :

(i) soit d'une chance de gagner un prix ou un pari,

(ii) soit d'un droit de recevoir une somme comme prix ou comme enjeu d'un pari,

à l'occasion d'une loterie ou d'un pari collectif mentionné à l'article 205 du *Code criminel*;

g) est nulle la perte subie par un contribuable et résultant de la disposition d'un bien (à l'exclusion, pour ce qui est du calcul du surplus exonéré ou du déficit

(ii) a loss from the disposition of a debt or other right to receive an amount, unless the debt or right, as the case may be, was acquired by the taxpayer for the purpose of gaining or producing income from a business or property (other than exempt income) or as consideration for the disposition of capital property to a person with whom the taxpayer was dealing at arm's length,

(iii) a loss from the disposition of any personal-use property of the taxpayer (other than listed personal property or a debt referred to in subsection 50(2)), or

(iv) a loss from the disposition of property to

(A) a trust governed by a deferred profit sharing plan, an employees profit sharing plan, a registered disability savings plan, a registered retirement income fund or a TFSA under which the taxpayer is a beneficiary or immediately after the disposition becomes a beneficiary, or

(B) a trust governed by a registered retirement savings plan under which the taxpayer or the taxpayer's spouse or common-law partner is an annuitant or becomes, within 60 days after the end of the taxation year, an annuitant,

is nil;

(h) where the taxpayer is a corporation, its loss otherwise determined from the disposition at any time in a taxation year of shares of the capital stock of a corporation (in this paragraph referred to as the "controlled corporation") that was controlled, directly or indirectly in any manner whatever, by it at any time in the year, is its loss therefrom otherwise determined less the amount, if any, by which

(i) all amounts added under paragraph 53(1)(f.1) to the cost to a corporation, other than the controlled corporation, of property disposed of to that corporation by the controlled corporation that were added to the cost of the property during the period while the controlled corporation was controlled by the taxpayer and that can reasonably be attributed to losses on the property that accrued during the period while the controlled corporation was controlled by the taxpayer,

exceeds

(ii) all amounts by which losses have been reduced by virtue of this paragraph in respect of dispositions before that time of shares of the capital stock of the controlled corporation; and

exonéré, du surplus hybride ou du déficit hybride et du surplus imposable ou du déficit imposable du contribuable relativement à un autre contribuable, dans le cas où le contribuable ou, si celui-ci est une société de personnes, son associé est une société étrangère affiliée de l'autre contribuable, d'un bien qui est un bien exclu, au sens du paragraphe 95(1), du contribuable ou le serait si celui-ci était une société étrangère affiliée de l'autre contribuable), dans la mesure où elle est :

(i) une perte apparente,

(ii) une perte résultant de la disposition d'une créance ou d'un autre droit de recevoir une somme, sauf si la créance ou le droit a été acquis par le contribuable en vue de tirer un revenu (qui n'est pas un revenu exonéré) d'une entreprise ou d'un bien, ou en contrepartie de la disposition d'une immobilisation en faveur d'une personne avec qui le contribuable n'avait aucun lien de dépendance,

(iii) une perte résultant de la disposition d'un bien à usage personnel du contribuable, à l'exclusion d'un bien meuble déterminé et d'une créance visée au paragraphe 50(2),

(iv) une perte résultant de la disposition d'un bien en faveur :

(A) soit d'une fiducie régie par un régime de participation différée aux bénéfices, un régime de participation des employés aux bénéfices, un régime enregistré d'épargne-invalidité, un fonds enregistré de revenu de retraite ou un compte d'épargne libre d'impôt dont il est bénéficiaire ou le devient immédiatement après la disposition,

(B) soit d'une fiducie régie par un régime enregistré d'épargne-retraite en vertu duquel lui ou son époux ou conjoint de fait est rentier ou le devient dans les 60 jours suivant la fin de l'année d'imposition;

h) lorsque le contribuable est une société, sa perte, déterminée par ailleurs, résultant de la disposition, à un moment donné d'une année d'imposition, d'actions du capital-actions d'une société (appelée « société contrôlée » au présent alinéa) qu'il contrôlait, directement ou indirectement, de quelque manière que ce soit, à un moment donné de l'année, est sa perte, déterminée par ailleurs, résultant de la disposition moins l'excédent éventuel :

(i) du total des montants ajoutés en vertu de l'alinéa 53(1) f.1) au coût, pour une société autre que la

(i) where at a particular time a taxpayer has disposed of a share of the capital stock of a corporation that was at any time a prescribed venture capital corporation or a prescribed labour-sponsored venture capital corporation or a share of the capital stock of a taxable Canadian corporation that was held in a prescribed stock savings plan or of a property substituted for such a share, the taxpayer's loss from the disposition thereof shall be deemed to be the amount, if any, by which

(i) the loss otherwise determined

exceeds

(ii) the amount, if any, by which

(A) the amount of prescribed assistance that the taxpayer (or a person with whom the taxpayer was not dealing at arm's length) received or is entitled to receive in respect of the share

exceeds

(B) the total of all amounts determined under subparagraph 40(2)(i)(i) in respect of any disposition of the share or of the property substituted for the share before the particular time by the taxpayer or by a person with whom the taxpayer was not dealing at arm's length.

société contrôlée, du bien dont a disposé en faveur de cette société la société contrôlée, qui ont été ajoutés au coût du bien au cours de la période où le contribuable contrôlait la société contrôlée et qu'il est raisonnable d'attribuer aux pertes accumulées sur le bien au cours de cette période,

sur :

(ii) le total des montants des diminutions des pertes en vertu du présent alinéa à l'égard des dispositions, faites avant ce moment, d'actions du capital-actions de la société contrôlée;

i) la perte qu'un contribuable subit en disposant, à un moment donné, d'une action du capital-actions d'une société qui a été, à un moment quelconque, une société à capital de risque visée par règlement ou une société à capital de risque de travailleurs visée par règlement, d'une action du capital-actions d'une société canadienne imposable détenue dans le cadre d'un régime d'achat d'actions visé par règlement ou d'un bien substitué à l'une ou l'autre de ces actions est réputée être l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) sa perte calculée par ailleurs,

(ii) l'excédent éventuel du montant visé à la division (A) sur le total visé à la division (B):

(A) le montant d'une aide, visée par règlement, que le contribuable (ou une personne avec laquelle il avait un lien de dépendance) a reçue ou est en droit de recevoir relativement à l'action,

(B) le total des montants déterminés selon le sous-alinéa (i) relativement à une disposition de l'action, ou du bien qui la remplace, effectuée avant le moment donné par le contribuable ou une personne avec laquelle il avait un lien de dépendance.

Deemed gain where amounts to be deducted from adjusted cost base exceed cost plus amounts to be added to adjusted cost base

(3) Where

(a) the total of all amounts required by subsection 53(2) (except paragraph 53(2)(c)) to be deducted in computing the adjusted cost base to a taxpayer of any property at any time in a taxation year

exceeds

(b) the total of

Gain présumé lorsque les montants à déduire du prix de base rajusté sont plus élevés

(3) Lorsque :

a) le total des montants qui, en vertu du paragraphe 53(2) (sauf l'alinéa 53(2)c)), doivent être retranchés dans le calcul du prix de base rajusté d'un bien, pour le contribuable, à un moment donné d'une année d'imposition,

dépasse :

b) le total des éléments suivants :

(i) the cost to the taxpayer of the property determined for the purpose of computing the adjusted cost base to the taxpayer of that property at that time, and

(ii) all amounts required by subsection 53(1) to be added to the cost to the taxpayer of the property in computing the adjusted cost base to the taxpayer of that property at that time,

the following rules apply:

(c) subject to paragraph 93(1)(b), the amount of the excess is deemed to be a gain of the taxpayer for the year from a disposition at that time of the property,

(d) for the purposes of section 93, the property is deemed to have been disposed of by the taxpayer at that time, and

(e) for the purposes of section 110.6, the property is deemed to have been disposed of by the taxpayer in the year.

(i) le coût de ce bien, pour le contribuable, déterminé pour le calcul du prix de base rajusté du bien, pour lui, à ce moment,

(ii) les sommes qui, en vertu du paragraphe 53(1), doivent à ce moment être ajoutées au coût du bien, pour le contribuable, dans le calcul du prix de base rajusté du bien, pour le contribuable,

les présomptions suivantes s'appliquent :

c) sous réserve de l'alinéa 93(1)b), l'excédent est réputé être un gain du contribuable pour l'année tiré de la disposition du bien à ce moment;

d) pour l'application de l'article 93, le bien est réputé avoir fait l'objet d'une disposition par le contribuable à ce moment;

e) pour l'application de l'article 110.6, le bien est réputé avoir fait l'objet d'une disposition par le contribuable au cours de l'année.

Deemed gain for certain partners

(3.1) Where, at the end of a fiscal period of a partnership, a member of the partnership is a limited partner of the partnership, or is a member of the partnership who was a specified member of the partnership at all times since becoming a member, except where the member's partnership interest was held by the member on February 22, 1994 and is an excluded interest at the end of the fiscal period,

(a) the amount determined under subsection 40(3.11) is deemed to be a gain from the disposition, at the end of the fiscal period, of the member's interest in the partnership; and

(b) for the purpose of section 110.6, the interest is deemed to have been disposed of by the member at that time.

Gain présumé pour certains associés

(3.1) Dans le cas où, à la fin de l'exercice d'une société de personnes, un associé de celle-ci en est soit un commanditaire, soit un associé déterminé depuis qu'il en est un associé, les présomptions suivantes s'appliquent :

a) le montant déterminé selon le paragraphe (3.11) est réputé être un gain provenant de la disposition, à la fin de l'exercice, de la participation de l'associé dans la société de personnes;

b) la participation de l'associé dans la société de personnes est réputée, pour l'application de l'article 110.6, avoir fait l'objet d'une disposition par l'associé à la fin de l'exercice.

Le présent paragraphe ne s'applique pas lorsque la participation de l'associé, qu'il détenait le 22 février 1994, est une participation exclue à la fin de l'exercice.

Amount of gain

(3.11) For the purpose of subsection 40(3.1), the amount determined at any time under this subsection in respect of a member's interest in a partnership is the amount determined by the formula

A - B

where

A is the total of

(a) all amounts required by subsection 53(2) to be deducted in computing the adjusted cost base to

Montant du gain

(3.11) Pour l'application du paragraphe (3.1), le montant déterminé selon le présent paragraphe à un moment donné relativement à la participation d'un associé dans une société de personnes correspond au résultat du calcul suivant :

A - B

où :

A représente le total des sommes suivantes :

a) les sommes à déduire, en application du paragraphe 53(2), dans le calcul du prix de base

the member of the interest in the partnership at that time, and

(b) if the member is a member of a professional partnership, and that time is the end of the fiscal period of the partnership, the amount referred to in subparagraph 53(2)(c)(i) in respect of the taxpayer for that fiscal period; and

B is the total of

(a) the cost to the member of the interest determined for the purpose of computing the adjusted cost base to the member of the interest at that time,

(b) all amounts required by subsection 53(1) to be added to the cost to the member of the interest in computing the adjusted cost base to the member of the interest at that time, and

(c) if the member is a member of a professional partnership, and that time is the end of the fiscal period of the partnership, the amount referred to in subparagraph 53(1)(e)(i) in respect of the taxpayer for that fiscal period.

rajusté, pour l'associé, de la participation à ce moment,

b) si l'associé fait partie d'une société de personnes de professionnels et que le moment donné correspond à la fin de l'exercice de celle-ci, la somme visée au sous-alinéa 53(2)c)(i) relativement au contribuable pour cet exercice;

B le total des sommes suivantes :

a) le coût de la participation pour l'associé, déterminé en vue du calcul de son prix de base rajusté pour celui-ci à ce moment,

b) les sommes à ajouter, en application du paragraphe 53(1), au coût de la participation pour l'associé dans le calcul de son prix de base rajusté pour celui-ci à ce moment,

c) si l'associé fait partie d'une société de personnes de professionnels et que le moment donné correspond à la fin de l'exercice de celle-ci, la somme visée au sous-alinéa 53(1)e)(i) relativement au contribuable pour cet exercice.

Meaning of *professional partnership*

(3.111) In this section, ***professional partnership*** means a partnership through which one or more persons carry on the practice of a profession that is governed or regulated under a law of Canada or a province.

Définition de *société de personnes de professionnels*

(3.111) Au présent article, ***société de personnes de professionnels*** s'entend d'une société de personnes par l'intermédiaire de laquelle une ou plusieurs personnes exercent une profession qui est régie ou réglementée par une loi fédérale ou provinciale.

Deemed loss for certain partners

(3.12) If a corporation, an individual (other than a trust) or a graduated rate estate (each of which is referred to in this subsection as the "taxpayer") is a member of a partnership at the end of a fiscal period of the partnership, the taxpayer is deemed to have a loss from the disposition at that time of the member's interest in the partnership equal to the amount that the taxpayer elects in the taxpayer's return of income under this Part for the taxation year that includes that time, not exceeding the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which was an amount deemed by subsection 40(3.1) to be a gain of the taxpayer from a disposition of the interest before that time

exceeds

(ii) the total of all amounts each of which was an amount deemed by this subsection to be a loss of

Perte présumée pour certains associés

(3.12) Le contribuable — société, succession assujettie à l'imposition à taux progressifs ou particulier autre qu'une fiducie — qui est l'associé d'une société de personnes à la fin d'un exercice de celle-ci est réputé subir une perte lors de la disposition, à ce moment, de sa participation dans la société de personnes, égale à la somme qu'il a choisie à cette fin dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition qui comprend ce moment, n'excédant pas la moins élevée des sommes suivantes :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un montant réputé par le paragraphe (3.1) être un gain du contribuable provenant de la disposition de la participation avant ce moment,

(ii) le total des montants représentant chacun un montant réputé par le présent paragraphe être une perte du contribuable provenant de la disposition de la participation avant ce moment;

the taxpayer from a disposition of the interest before that time, and

(b) the adjusted cost base to the taxpayer of the interest at that time.

b) le prix de base rajusté de la participation pour le contribuable à ce moment.

Artificial transactions

(3.13) For the purpose of applying section 53 at any time to a member of a partnership who would be a member described in subsection (3.1) of the partnership if the fiscal period of the partnership that includes that time ended at that time, where at any time after February 21, 1994 the member of the partnership makes a contribution of capital to the partnership and

(a) the partnership or a person or partnership with whom the partnership does not deal at arm's length

(i) makes a loan to the member or to a person with whom the member does not deal at arm's length, or

(ii) pays an amount as, on account of, in lieu of payment of or in satisfaction of, a distribution of the member's share of the partnership profits or partnership capital, or

(b) the member or a person with whom the member does not deal at arm's length becomes indebted to the partnership or a person or partnership with whom the partnership does not deal at arm's length,

and it is established, by subsequent events or otherwise, that the loan, payment or indebtedness, as the case may be, was made or arose as part of a series of contributions and such loans, payments or other transactions, the contribution of capital shall be deemed not to have been made.

Opérations factices

(3.13) Pour l'application de l'article 53, à un moment donné, à l'associé d'une société de personnes qui serait visé au paragraphe (3.1) si l'exercice de la société de personnes qui comprend ce moment se terminait à ce moment, un apport de capital à la société de personnes effectué par l'associé après le 21 février 1994 est réputé ne pas avoir été effectué si, à la fois :

a) l'un des faits suivants se vérifie :

(i) la société de personnes, ou une personne ou une société de personnes avec laquelle elle a un lien de dépendance :

(A) soit consent un prêt à l'associé ou à une personne avec laquelle il a un lien de dépendance,

(B) soit verse un montant au titre ou en paiement intégral ou partiel d'une attribution de la part qui revient à l'associé des bénéfices ou du capital de la société de personnes,

(ii) l'associé, ou une personne avec laquelle il a un lien de dépendance, devient débiteur de la société de personnes, ou d'une personne ou d'une société de personnes avec laquelle elle a un lien de dépendance;

b) il est établi, par des événements subséquents à l'apport ou autrement, que le prêt a été consenti, le versement, fait ou la dette, contractée, selon le cas, dans le cadre d'une série d'apports et de semblables prêts, versements ou autres opérations.

Specified member of a partnership

(3.131) Where it can reasonably be considered that one of the main reasons that a member of a partnership was not a specified member of the partnership at all times since becoming a member of the partnership is to avoid the application of subsection 40(3.1) to the member's interest in the partnership, the member is deemed for the purpose of that subsection to have been a specified member of the partnership at all times since becoming a member of the partnership.

Associé déterminé d'une société de personnes

(3.131) L'associé d'une société de personnes au sujet duquel il est raisonnable de considérer que l'une des principales raisons pour lesquelles il n'est pas un associé déterminé de la société de personnes depuis qu'il en est un associé est d'éviter l'application du paragraphe (3.1) à sa participation dans la société de personnes est réputé, pour l'application de ce paragraphe, avoir été un associé déterminé de la société de personnes sans interruption depuis qu'il en est un associé.

Limited partner

(3.14) For the purpose of subsection 40(3.1), a member of a partnership at a particular time is a limited partner

Commanditaire

(3.14) Pour l'application du paragraphe (3.1), un associé d'une société de personnes en est un commanditaire à un

of the partnership at that time if, at that time or within 3 years after that time,

(a) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited (except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts, obligations and liabilities of the partnership, or any member of the partnership, arising from negligent acts or omissions, from misconduct or from fault of another member of the partnership or an employee, an agent or a representative of the partnership in the course of the partnership business while the partnership is a limited liability partnership);

(b) the member or a person not dealing at arm's length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph 96(2.2)(d) if that paragraph were read without reference to subparagraphs 40(3.14)(b)(ii) and 40(3.14)(b)(vi);

(c) one of the reasons for the existence of the member who owns the interest

(i) can reasonably be considered to be to limit the liability of any person with respect to that interest, and

(ii) cannot reasonably be considered to be to permit any person who has an interest in the member to carry on the person's business (other than an investment business) in the most effective manner; or

(d) there is an agreement or other arrangement for the disposition of an interest in the partnership and one of the main reasons for the agreement or arrangement can reasonably be considered to be to attempt to avoid the application of this subsection to the member.

moment donné si, à ce moment ou au cours des trois années subséquentes, l'un des faits suivants se vérifie :

a) sa responsabilité à titre d'associé est limitée par la loi qui régit le contrat de société (sauf s'il s'agit d'une disposition législative fédérale ou provinciale qui limite sa responsabilité en ce qui a trait aux dettes, obligations et engagements de la société de personnes, ou d'un de ses associés, découlant d'actes ou d'omissions négligents ou de fautes commis par un autre associé de la société de personnes, ou par un employé, mandataire ou représentant de celle-ci, dans le cours des activités de l'entreprise de la société de personnes pendant qu'elle est une société de personnes à responsabilité limitée);

b) l'associé, ou une personne avec laquelle il a un lien de dépendance, a le droit, immédiat ou futur et absolu ou conditionnel, de recevoir un montant ou un avantage qui serait visé à l'alinéa 96(2.2)d), compte non tenu des sous-alinéas 96(2.2)d)(ii) et (vi);

c) il est raisonnable de considérer que l'associé qui a la participation existe notamment pour limiter la responsabilité d'une personne relativement à cette participation, mais non pour permettre à une personne qui a une participation dans l'associé d'exploiter de la manière la plus efficace son entreprise l'exclusion d'une entreprise de placements;

d) il existe une convention ou un autre mécanisme prévoyant la disposition d'une participation dans la société de personnes et dont il est raisonnable de considérer qu'un des principaux objets consiste à tenter de soustraire l'associé à l'application du présent paragraphe.

Excluded interest

(3.15) For the purpose of subsection 40(3.1), an excluded interest in a partnership at any time means an interest in a partnership that actively carries on a business that was carried on by it throughout the period beginning February 22, 1994 and ending at that time, or that earns income from a property that was owned by it throughout that period, unless in that period there was a substantial contribution of capital to the partnership or a substantial increase in the indebtedness of the partnership.

Participation exclue

(3.15) Pour l'application du paragraphe (3.1), est une participation exclue dans une société de personnes à un moment donné la participation dans une société de personnes qui exploite activement une entreprise tout au long de la période commençant le 22 février 1994 et se terminant à ce moment ou qui tire un revenu d'un bien dont elle était propriétaire tout au long de cette période, sauf s'il y a eu apport important de capital à la société de personnes ou augmentation importante de sa dette au cours de cette période.

Amounts considered not to be substantial

(3.16) For the purpose of subsection 40(3.15), an amount will be considered not to be substantial where

(a) the amount

(i) was raised pursuant to the terms of a written agreement entered into by a partnership before February 22, 1994 to issue an interest in the partnership and was expended on expenditures contemplated by the agreement before 1995 (or before March 2, 1995 in the case of amounts expended to acquire a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) the principal photography of which or, in the case of such a production that is a television series, one episode of the series, commences before 1995 and the production is completed before March 2, 1995, or an interest in one or more partnerships all or substantially all of the property of which is such a film production),

(ii) was raised pursuant to the terms of a written agreement (other than an agreement referred to in subparagraph 40(3.16)(a)(i)) entered into by a partnership before February 22, 1994 and was expended on expenditures contemplated by the agreement before 1995 (or before March 2, 1995 in the case of amounts expended to acquire a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) the principal photography of which or, in the case of such a production that is a television series, one episode of the series, commences before 1995 and the production is completed before March 2, 1995, or an interest in one or more partnerships all or substantially all of the property of which is such a film production),

(iii) was used by the partnership before 1995 (or before March 2, 1995 in the case of amounts expended to acquire a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) the principal photography of which or, in the case of such a production that is a television series, one episode of the series, commences before 1995 and the production is completed before March 2, 1995, or an interest in one or more partnerships all or substantially all of the property of which is such a film production) to make an expenditure required to be made pursuant to the terms of a written agreement entered into by the partnership before February 22, 1994, or

(iv) was used to repay a loan, debt or contribution of capital that had been received or incurred in respect of any such expenditure;

Montant non important

(3.16) Pour l'application du paragraphe (3.15), le montant d'un apport de capital ou d'une augmentation de dette n'est pas considéré comme important lorsque, selon le cas :

a) l'un des faits suivants se vérifie :

(i) le montant a été :

(A) d'une part, réuni aux termes d'une convention écrite conclue par une société de personnes avant le 22 février 1994 en vue de l'émission d'une participation dans celle-ci,

(B) d'autre part, consacré à des dépenses envisagées par la convention avant l'une des dates suivantes :

(I) le 1er janvier 1995,

(II) le 2 mars 1995 s'il s'agit de montants consacrés à l'acquisition d'un des biens suivants :

1 une production cinématographique visée par règlement pour l'application du sous-alinéa 96(2.2)d)(ii) si les principaux travaux de prise de vue relatifs à la production ou, s'il s'agit d'une production qui est une série télévisée, relatifs à un épisode de la série commencent avant 1995 et si la production est achevée avant le 2 mars 1995,

2 une participation dans une ou plusieurs sociétés de personnes dont la totalité, ou presque, des biens consistent en une production visée à la sous-subdivision 1,

(ii) le montant a été :

(A) d'une part, réuni aux termes d'une convention écrite, à l'exclusion de celle visée au sous-alinéa (i), conclue par une société de personnes avant le 22 février 1994,

(B) d'autre part, consacré à des dépenses envisagées par la convention avant l'une des dates suivantes :

(I) le 1er janvier 1995,

(II) le 2 mars 1995 s'il s'agit de montants consacrés à l'acquisition d'un des biens suivants :

(b) the amount was raised before 1995 pursuant to the terms of a prospectus, preliminary prospectus, offering memorandum or registration statement filed before February 22, 1994 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of a province and, where required by law, accepted for filing by the public authority, and expended before 1995 (or before March 2, 1995 in the case of amounts expended to acquire a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii), or an interest in one or more partnerships all or substantially all of the property of which is such a film production) on expenditures contemplated by the document that was filed before February 22, 1994;

(c) the amount was raised before 1995 pursuant to the terms of an offering memorandum distributed as part of an offering of securities where

(i) the memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering,

(ii) the memorandum was distributed before February 22, 1994,

(iii) solicitations in respect of the sale of the securities contemplated by the memorandum were made before February 22, 1994,

(iv) the sale of the securities was substantially in accordance with the memorandum, and

(v) the funds are expended in accordance with the memorandum before 1995 (except that the funds may be expended before March 2, 1995 in the case of a partnership all or substantially all of the property of which is a film production prescribed for the purpose of subparagraph 96(2.2)(d)(ii) the principal photography of which or, in the case of such a production that is a television series, one episode of the series, commences before 1995 and the production is completed before March 2, 1995, or an interest in one or more partnerships all or substantially all of the property of which is such a film production); or

(d) the amount was used for an activity that was carried on by the partnership on February 22, 1994 but not for a significant expansion of the activity nor for the acquisition or production of a film production.

1 une production cinématographique visée par règlement pour l'application du sous-alinéa 96(2.2) d)(ii) si les principaux travaux de prise de vue relatifs à la production ou, s'il s'agit d'une production qui est une série télévisée, relatifs à un épisode de la série commencent avant 1995 et si la production est achevée avant le 2 mars 1995,

2 une participation dans une ou plusieurs sociétés de personnes dont la totalité, ou presque, des biens consistent en une production visée à la sous-subdivision 1,

(iii) la société de personnes a utilisé le montant avant l'une des dates suivantes pour effectuer une dépense requise par une convention écrite conclue par la société de personnes avant le 22 février 1994:

(A) le 1er janvier 1995;

(B) le 2 mars 1995 s'il s'agit de montants consacrés à l'acquisition d'un des biens suivants :

(I) une production cinématographique visée par règlement pour l'application du sous-alinéa 96(2.2)d)(ii) si les principaux travaux de prise de vue relatifs à la production ou, s'il s'agit d'une production qui est une série télévisée, relatifs à un épisode de la série commencent avant 1995 et si la production est achevée avant le 2 mars 1995,

(II) une participation dans une ou plusieurs sociétés de personnes dont la totalité, ou presque, des biens consistent en une production visée à la subdivision (I),

(iv) le montant a servi à rembourser un emprunt ou une dette contracté, ou un apport de capital reçu, pour effectuer une telle dépense;

b) le montant a été :

(i) d'une part, réuni avant 1995 conformément à un document — prospectus, prospectus provisoire, notice d'offre ou déclaration d'enregistrement — produit avant le 22 février 1994 auprès d'une administration au Canada selon la législation fédérale ou provinciale sur les valeurs mobilières applicable et, si la loi le prévoit, approuvé par l'administration,

(ii) d'autre part, consacré avant l'une des dates suivantes à des dépenses envisagées par le document produit avant le 22 février 1994:

(A) le 1er janvier 1995,

(B) le 2 mars 1995 s'il s'agit de montants consacrés à l'acquisition d'un des biens suivants :

(I) une production cinématographique visée par règlement pour l'application du sous-alinéa 96(2.2)d) (ii),

(II) une participation dans une ou plusieurs sociétés de personnes dont la totalité, ou presque, des biens consistent en une production visée à la subdivision (I);

c) le montant a été réuni avant 1995 conformément à une notice d'offre distribuée dans le cadre d'un placement de titres et, à la fois :

(i) la notice renferme une description complète ou quasi complète des titres qui y sont envisagés ainsi que les conditions du placement,

(ii) la notice a été distribuée avant le 22 février 1994,

(iii) des démarches en vue de la vente des titres envisagés par la notice ont été faites avant le 22 février 1994,

(iv) la vente des titres est à peu près conforme à la notice,

(v) les fonds sont dépensés en conformité avec la notice avant l'une des dates suivantes :

(A) le 1er janvier 1995,

(B) le 2 mars 1995 s'il s'agit d'une société de personnes dont la totalité, ou presque, des biens consistent en l'un des biens suivants :

(I) une production cinématographique visée par règlement pour l'application du sous-alinéa 96(2.2)d) (ii) si les principaux travaux de prise de vue relatifs à la production ou, s'il s'agit d'une production qui est une série télévisée, relatifs à un épisode de la série commencent avant 1995 et si la production est achevée avant le 2 mars 1995,

(II) une participation dans une ou plusieurs sociétés de personnes dont la totalité, ou presque, des biens consistent en une production visée à la subdivision (I);

d) le montant a servi à l'activité que la société de personnes exerçait le 22 février 1994, mais non à un accroissement majeur de cette activité ni à l'acquisition ou la réalisation d'une production cinématographique.

Whether carrying on business before February 22, 1994

(3.17) For the purpose of subsection 40(3.15), a partnership in respect of which paragraph 40(3.16)(a), 40(3.16)(b) or 40(3.16)(c) applies shall be considered to have actively carried on the business, or earned income from the property, contemplated in the document referred to in that paragraph throughout the period beginning February 22, 1994 and ending on the earlier of the closing date, if any, stipulated in the document and January 1, 1995.

Deemed partner

(3.18) For the purpose of subsection 40(3.1), a member of a partnership who acquired an interest in the partnership after February 22, 1994 shall be deemed to have held the interest on February 22, 1994 where the member acquired the interest

(a) in circumstances in which

(i) paragraph 70(6)(d.1) applied,

(ii) where the member is an individual, the member's spouse or common-law partner held the partnership interest on February 22, 1994,

(iii) where the member is a trust, the taxpayer by whose will the trust was created held the partnership interest on February 22, 1994, and

(iv) the partnership interest was, immediately before the death of the spouse or common-law partner or the taxpayer, as the case may be, an excluded interest;

(b) in circumstances in which

(i) paragraph 70(9.2)(c) applied,

(ii) the member's parent held the partnership interest on February 22, 1994, and

(iii) the partnership interest was, immediately before the parent's death, an excluded interest;

(c) in circumstances in which

(i) paragraph 70(9.3)(e) applied,

(ii) the trust referred to in subsection 70(9.3) or the taxpayer by whose will the trust was created held the partnership interest on February 22, 1994, and

(iii) the partnership interest was, immediately before the death of the spouse or common-law

Exploitation d'une entreprise avant le 22 février 1994

(3.17) Pour l'application du paragraphe (3.15), la société de personnes à laquelle s'appliquent les alinéas (3.16)a), b) ou c) est réputée avoir exploité activement l'entreprise envisagée par le document visé aux alinéas a), b) ou c), selon le cas, ou avoir tiré un revenu du bien visé par ce document, tout au long de la période commençant le 22 février 1994 et se terminant au premier en date du jour de clôture indiqué dans le document et du 1er janvier 1995.

Associé présumé

(3.18) Pour l'application du paragraphe (3.1), l'associé d'une société de personnes qui acquiert une participation dans celle-ci après le 22 février 1994 est réputé avoir détenu la participation à cette date s'il a acquis celle-ci :

a) dans les circonstances suivantes :

(i) l'alinéa 70(6)d.1) s'applique,

(ii) si l'associé est un particulier, son époux ou conjoint de fait détenait la participation le 22 février 1994,

(iii) si l'associé est une fiducie, le contribuable dont le testament a établi la fiducie détenait la participation le 22 février 1994,

(iv) immédiatement avant le décès de l'époux ou conjoint de fait ou du contribuable, la participation était une participation exclue;

b) dans les circonstances suivantes :

(i) l'alinéa 70(9.2)c) s'applique,

(ii) le père ou la mère de l'associé détenait la participation le 22 février 1994,

(iii) immédiatement avant le décès du père ou de la mère, selon le cas, de l'associé, la participation était une participation exclue;

c) dans les circonstances suivantes :

(i) l'alinéa 70(9.3)e) s'applique,

(ii) la fiducie visée au paragraphe 70(9.3) ou le contribuable dont le testament a établi la fiducie détenait la participation le 22 février 1994,

(iii) immédiatement avant le décès de l'époux ou conjoint de fait visé au paragraphe 70(9.3), la participation était une participation exclue;

partner referred to in subsection 70(9.3), an excluded interest; or

(d) before 1995 pursuant to a document referred to in subparagraph 40(3.16)(a)(i) or paragraph 40(3.16)(b) or 40(3.16)(c).

d) avant 1995 en conformité avec un document visé au sous-alinéa (3.16)a)(i) ou aux alinéas (3.16)b) ou c).

Non-application of subsection (3)

(3.19) Subsection 40(3) does not apply in any case where subsection 40(3.1) applies.

Inapplication du paragraphe (3)

(3.19) Le paragraphe (3.1) prévaut sur le paragraphe (3).

Non-application of subsection (3.1)

(3.2) Subsection 40(3.1) does not apply in any case where paragraph 98(1)(c) or 98.1(1)(c) applies.

Inapplication du paragraphe (3.1)

(3.2) Les alinéas 98(1)c) et 98.1(1)c) prévalent sur le paragraphe (3.1).

Deemed capital gain under section 180.01

(3.21) If, in respect of a taxation year, a taxpayer has made an election under subsection 180.01(1), the amount deemed to be a capital gain under paragraph 180.01(2)(b) is deemed to be a gain from the disposition of property for the taxation year.

Gain en capital réputé selon l'article 180.01

(3.21) Si un contribuable a fait le choix prévu au paragraphe 180.01(1) pour une année d'imposition, la somme qui est réputée être un gain en capital en vertu de l'alinéa 180.01(2)b) est réputée être un gain provenant de la disposition d'un bien pour l'année.

When subsection (3.4) applies

(3.3) Subsection 40(3.4) applies when

(a) a corporation, trust or partnership (in this subsection and subsection (3.4) referred to as the "transferor") disposes of a particular capital property — other than depreciable property of a prescribed class and other than, for the purposes of computing the exempt surplus or exempt deficit, hybrid surplus or hybrid deficit, and taxable surplus or taxable deficit of a foreign affiliate of a taxpayer, in respect of the taxpayer, where the transferor is the affiliate or is a partnership of which the affiliate is a member, property that is, or would be, if the transferor were a foreign affiliate of the taxpayer, excluded property (within the meaning assigned by subsection 95(1)) of the transferor — otherwise than in a disposition described in any of paragraphs (c) to (g) of the definition ***superficial loss*** in section 54;

(b) during the period that begins 30 days before and ends 30 days after the disposition, the transferor or a person affiliated with the transferor acquires a property (in this subsection and subsection 40(3.4) referred to as the "substituted property") that is, or is identical to, the particular property; and

(c) at the end of the period, the transferor or a person affiliated with the transferor owns the substituted property.

Application du paragraphe (3.4)

(3.3) Le paragraphe (3.4) s'applique lorsque les conditions suivantes sont réunies :

a) une société, une fiducie ou une société de personnes (appelées « cédant » au présent paragraphe et au paragraphe (3.4)) dispose d'une immobilisation (à l'exclusion d'un bien amortissable d'une catégorie prescrite et, pour ce qui est du calcul du surplus exonéré ou du déficit exonéré, du surplus hybride ou du déficit hybride et du surplus imposable ou du déficit imposable d'une société étrangère affiliée d'un contribuable relativement à celui-ci, dans le cas où le cédant est soit la société affiliée, soit une société de personnes dont celle-ci est un associé, d'un bien qui est un bien exclu, au sens du paragraphe 95(1), du cédant ou le serait si celui-ci était une société étrangère affiliée du contribuable), en dehors du cadre d'une disposition visée à l'un des alinéas c) à g) de la définition de ***perte apparente*** à l'article 54;

b) au cours de la période qui commence 30 jours avant la disposition et se termine 30 jours après cette disposition, le cédant ou une personne affiliée à celui-ci acquiert le même bien ou un bien identique (appelés « bien de remplacement » au présent paragraphe et au paragraphe (3.4));

c) à la fin de cette période, le cédant ou une personne affiliée à celui-ci est propriétaire du bien de remplacement.

Loss on certain properties

(3.4) If this subsection applies because of subsection 40(3.3) to a disposition of a particular property,

(a) the transferor's loss, if any, from the disposition is deemed to be nil, and

(b) the amount of the transferor's loss, if any, from the disposition (determined without reference to paragraph 40(2)(g) and this subsection) is deemed to be a loss of the transferor from a disposition of the particular property at the time that is immediately before the first time, after the disposition,

(i) at which a 30-day period begins throughout which neither the transferor nor a person affiliated with the transferor owns

(A) the substituted property, or

(B) a property that is identical to the substituted property and that was acquired after the day that is 31 days before the period begins,

(ii) at which the property would, if it were owned by the transferor, be deemed by section 128.1 or subsection 149(10) to have been disposed of by the transferor,

(iii) that is immediately before the transferor is subject to a loss restriction event,

(iv) at which the transferor or a person affiliated with the transferor is deemed by section 50 to have disposed of the property, where the substituted property is a debt or a share of the capital stock of a corporation, or

(v) if the transferor is a corporation,

(A) for the purposes of computing the transferor's foreign accrual property income, exempt surplus or exempt deficit, hybrid surplus or hybrid deficit, and taxable surplus or taxable deficit, in respect of a taxpayer for a taxation year of the transferor where the transferor is a foreign affiliate of the taxpayer, at which the liquidation and dissolution of the transferor begins, unless the liquidation and dissolution is

(I) a qualifying liquidation and dissolution (within the meaning assigned by subsection 88(3.1)) of the transferor, or

(II) a designated liquidation and dissolution (within the meaning assigned by subsection 95(1)) of the transferor, and

Perte sur certains biens

(3.4) Lorsque le présent paragraphe s'applique par l'effet du paragraphe (3.3) à la disposition d'un bien, les présomptions suivantes s'appliquent :

a) la perte du cédant résultant de la disposition est réputée nulle;

b) la perte du cédant résultant de la disposition, déterminée compte non tenu de l'alinéa (2)g) et du présent paragraphe, est réputée être sa perte résultant d'une disposition du bien effectuée immédiatement avant le premier en date des moments suivants qui est postérieur à la disposition :

(i) le début d'une période de 30 jours tout au long de laquelle ni le cédant, ni une personne affiliée à celui-ci n'est propriétaire :

(A) du bien de remplacement,

(B) d'un bien qui est identique au bien de remplacement et qui a été acquis après le jour qui précède de 31 jours le début de la période,

(ii) le moment auquel le cédant serait réputé, par l'article 128.1 ou le paragraphe 149(10), avoir disposé de l'immobilisation s'il en était propriétaire,

(iii) le moment immédiatement avant le moment où le cédant est assujetti à un fait lié à la restriction de pertes,

(iv) si le bien de remplacement est une dette ou une action du capital-actions d'une société, le moment auquel le cédant ou une personne affiliée à celui-ci est réputé, par l'article 50, avoir disposé du bien,

(v) si le cédant est une société :

(A) pour ce qui est du calcul de son revenu étranger accumulé, tiré de biens, de son surplus exonéré ou déficit exonéré, de son surplus hybride ou déficit hybride et de son surplus imposable ou déficit imposable, relativement à un contribuable pour une année d'imposition du cédant, dans le cas où celui-ci est une société étrangère affiliée du contribuable, le moment auquel la liquidation et dissolution du cédant commence, sauf s'il s'agit d'une liquidation et dissolution qui, selon le cas :

(I) est une liquidation et dissolution admissibles, au sens du paragraphe 88(3.1), du cédant,

(B) for any other purposes, at which the winding-up (other than a winding-up to which subsection 88(1) applies) of the transferor begins,

and for the purpose of paragraph 40(3.4)(b), where a partnership otherwise ceases to exist at any time after the disposition, the partnership is deemed not to have ceased to exist, and each person who was a member of the partnership immediately before the partnership would, but for this subsection, have ceased to exist is deemed to remain a member of the partnership, until the time that is immediately after the first time described in subparagraphs 40(3.4)(b)(i) to 40(3.4)(b)(v).

(II) est une liquidation et dissolution désignées, au sens du paragraphe 95(1), du cédant,

(B) pour toute autre fin, le moment auquel la liquidation du cédant commence, sauf s'il s'agit d'une liquidation à laquelle s'applique le paragraphe 88(1);

c) pour l'application de l'alinéa b), la société de personnes qui cesse d'exister après la disposition est réputée ne cesser d'exister qu'au moment donné immédiatement après le premier en date des moments visés aux sous-alinéa b)(i) à (v), et chaque personne qui en était un associé immédiatement avant le moment où elle aurait cessé d'exister, n'eût été le présent paragraphe, est réputée le demeurer jusqu'au moment donné.

Deemed identical property

(3.5) For the purposes of subsections 40(3.3) and 40(3.4),

(a) right to acquire a property (other than a right, as security only, derived from a mortgage, hypothec, agreement for sale or similar obligation) is deemed to be a property that is identical to the property;

(b) a share of the capital stock of a corporation that is acquired in exchange for another share in a transaction is deemed to be a property that is identical to the other share if

(i) section 51, 86 or 87 applies to the transaction, or

(ii) the following conditions are met, namely,

(A) section 85.1 applies to the transaction,

(B) subsection (3.4) applied to a prior disposition of the other share, and

(C) none of the times described in any of subparagraphs (3.4)(b)(i) to (v) has occurred in respect of the prior disposition;

(b.1) a share of the capital stock of a SIFT wind-up corporation in respect of a SIFT wind-up entity is, if the share was acquired before 2013, deemed to be a property that is identical to equity in the SIFT wind-up entity;

(c) if subsections (3.3) and (3.4) apply to the disposition by a transferor of a share of the capital stock of a particular corporation and after the disposition

(i) the particular corporation is merged or combined with one or more other corporations,

Bien identique présumé

(3.5) Les présomptions suivantes s'appliquent dans le cadre des paragraphes (3.3) et (3.4):

a) le droit d'acquérir un bien (sauf le droit servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un titre semblable) est réputé être un bien qui est identique au bien;

b) l'action du capital-actions d'une société qui est acquise en échange d'une autre action dans le cadre d'une opération est réputée être un bien qui est identique à l'autre action si, selon le cas :

(i) les articles 51, 86 ou 87 s'appliquent à l'opération,

(ii) les conditions ci-après sont réunies :

(A) l'article 85.1 s'applique à l'opération,

(B) le paragraphe (3.4) s'est appliqué à une disposition antérieure de l'autre action,

(C) aucun des moments visés aux sous-alinéas (3.4)b)(i) à (v) ne s'applique à l'égard de la disposition antérieure;

b.1) si elle a été acquise avant 2013, l'action du capital-actions d'une société de conversion d'EIPD quant à une EIPD convertible est réputée être un bien qui est identique à un intérêt dans l'EIPD convertible;

c) lorsque les paragraphes (3.3) et (3.4) s'appliquent à la disposition par un cédant d'une action du capital-actions d'une société donnée et que, après cette disposition, selon le cas :

otherwise than in a transaction in respect of which paragraph (b) applies to the share, then the corporation formed on the merger or combination is deemed to own the share while the corporation so formed is affiliated with the transferor,

(ii) the particular corporation is wound up in a winding-up to which subsection 88(1) applies, then the parent (within the meaning assigned by subsection 88(1)) is deemed to own the share while the parent is affiliated with the transferor, or

(iii) the particular corporation is liquidated and dissolved, the liquidation and dissolution is a qualifying liquidation and dissolution (within the meaning assigned by subsection 88(3.1)) of the corporation or a designated liquidation and dissolution (within the meaning assigned by subsection 95(1)) of the corporation, and the transferor is a foreign affiliate of a taxpayer, then for the purposes of computing the transferor's foreign accrual property income, exempt surplus or exempt deficit, hybrid surplus or hybrid deficit, and taxable surplus or taxable deficit, in respect of the taxpayer for a taxation year of the transferor, the taxpayer referred to in subsection 88(3.1) or the particular shareholder referred to in the definition ***designated liquidation and dissolution*** in subsection 95(1), as the case may be, is deemed to own the share while the taxpayer or particular shareholder is affiliated with the transferor; and

(d) where subsections 40(3.3) and 40(3.4) apply to the disposition by a transferor of a share of the capital stock of a corporation, and after the disposition the share is redeemed, acquired or cancelled by the corporation, otherwise than in a transaction in respect of which paragraph 40(3.5)(b) or 40(3.5)(c) applies to the share, the transferor is deemed to own the share while the corporation is affiliated with the transferor.

(i) la société donnée est fusionnée ou combinée avec une ou plusieurs autres sociétés en dehors du cadre d'une opération relativement à laquelle l'alinéa b) s'applique à l'action, la société issue de la fusion ou de la combinaison est réputée être propriétaire de l'action tant qu'elle est affiliée au cédant,

(ii) la société donnée fait l'objet d'une liquidation à laquelle s'applique le paragraphe 88(1), la société mère, au sens du paragraphe 88(1), est réputée être propriétaire de l'action tant qu'elle est affiliée au cédant,

(iii) la société donnée fait l'objet d'une liquidation et dissolution qui est une liquidation et dissolution admissibles, au sens du paragraphe 88(3.1), ou une liquidation et dissolution désignées, au sens du paragraphe 95(1), et le cédant est une société étrangère affiliée d'un contribuable, pour ce qui est du calcul du revenu étranger accumulé, tiré de biens du cédant, de son surplus exonéré ou déficit exonéré, de son surplus hybride ou déficit hybride et de son surplus imposable ou déficit imposable, relativement au contribuable pour une année d'imposition du cédant, le contribuable visé au paragraphe 88(3.1) ou l'actionnaire donné visé à la définition de ***liquidation et dissolution désignées*** au paragraphe 95(1), selon le cas, est réputé être propriétaire de l'action tant qu'il est affilié au cédant;

d) lorsque les paragraphes (3.3) et (3.4) s'appliquent à la disposition par un cédant d'une action du capital-actions d'une société et que, après cette disposition, l'action est rachetée, acquise ou annulée par la société en dehors du cadre d'une opération relativement à laquelle les alinéas b) ou c) s'appliquent à l'action, le cédant est réputé être propriétaire de l'action tant que la société lui est affiliée.

Loss on shares

(3.6) If at any time a taxpayer disposes, to a corporation that is affiliated with the taxpayer immediately after the disposition, of a share of a class of the capital stock of the corporation (other than a share that is a distress preferred share (within the meaning assigned by subsection 80(1)) and other than, for the purposes of computing the exempt surplus or exempt deficit, hybrid surplus or hybrid deficit, and taxable surplus or taxable deficit of the taxpayer in respect of another taxpayer, where the taxpayer or, if the taxpayer is a partnership, a member of the taxpayer is a foreign affiliate of the other taxpayer, a property that is, or would be, if the taxpayer were a foreign affiliate of the other taxpayer, excluded property

Perte lors de la disposition d'une action

(3.6) Dans le cas où un contribuable dispose, en faveur d'une société qui lui est affiliée immédiatement après la disposition, d'une action d'une catégorie du capital-actions de la société (à l'exclusion d'une action privilégiée de renflouement, au sens du paragraphe 80(1) et, pour ce qui est du calcul du surplus exonéré ou du déficit exonéré, du surplus hybride ou du déficit hybride et du surplus imposable ou du déficit imposable du contribuable relativement à un autre contribuable, dans le cas où le contribuable ou, s'il est une société de personnes, son associé est une société étrangère affiliée de l'autre contribuable, d'un bien qui est un bien exclu, au sens du paragraphe

(within the meaning assigned by subsection 95(1)) of the taxpayer),

(a) the taxpayer's loss, if any, from the disposition is deemed to be nil; and

(b) in computing the adjusted cost base to the taxpayer after that time of a share of a class of the capital stock of the corporation owned by the taxpayer immediately after the disposition, there shall be added the proportion of the amount of the taxpayer's loss from the disposition (determined without reference to paragraph 40(2)(g) and this subsection) that

(i) the fair market value, immediately after the disposition, of the share

is of

(ii) the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation owned by the taxpayer.

95(1), du contribuable ou le serait si celui-ci était une société étrangère affiliée de l'autre contribuable), les règles ci-après s'appliquent :

a) la perte du contribuable résultant de la disposition est réputée nulle;

b) est à ajouter dans le calcul du prix de base rajusté, pour le contribuable après la disposition, d'une action d'une catégorie du capital-actions de la société qui appartenait au contribuable immédiatement après la disposition le produit de la multiplication du montant de sa perte résultant de la disposition, déterminé compte non tenu de l'alinéa (2)g) et du présent paragraphe, par le rapport entre :

(i) d'une part, la juste valeur marchande de l'action immédiatement après la disposition,

(ii) d'autre part, la juste valeur marchande, immédiatement après la disposition, de l'ensemble des actions du capital-actions de la société appartenant au contribuable.

Exception — estate loss carried back

(3.61) If, in the course of administering the estate of a deceased taxpayer, the taxpayer's legal representative elects in accordance with subsection 164(6) to treat all or any portion of the estate's capital loss (determined without reference to subsections (3.4) and (3.6)) from the disposition of a share of the capital stock of a corporation as a capital loss of the deceased taxpayer from the disposition of the share, subsections (3.4) and (3.6) apply to the estate in respect of the loss only to the extent that the amount of the loss exceeds the portion of the loss to which the election applies.

Exception — report de perte de succession

(3.61) Si, au cours de l'administration de la succession d'un contribuable, le représentant légal du contribuable choisit, conformément au paragraphe 164(6), de considérer tout ou partie de la perte en capital de la succession (déterminée compte non tenu des paragraphes (3.4) et (3.6)) résultant de la disposition d'une action du capital-actions d'une société comme une perte en capital du contribuable résultant de la disposition de l'action, les paragraphes (3.4) et (3.6) s'appliquent à la succession relativement à la perte seulement dans la mesure où le montant de la perte excède la partie de celle-ci qui est visée par le choix.

Losses of non-resident

(3.7) If an individual disposes of a property at any time after having ceased to be resident in Canada, for the purposes of applying subsections 100(4), 107(1) and 112(3) to (3.32) and (7) in computing the individual's loss from the disposition,

(a) the individual is deemed to be a corporation in respect of dividends received by the individual, or deemed under Part XIII to have been paid to the individual, at a particular time that is after the time at which the individual last acquired the property and at which the individual was non-resident; and

(b) an amount on account of

(i) each taxable dividend received by the individual at a particular time described in paragraph (a), and

Pertes d'un non-résident

(3.7) Lorsqu'un particulier dispose d'un bien après avoir cessé de résider au Canada, les présomptions ci-après s'appliquent pour l'application des paragraphes 100(4), 107(1) et 112(3) à (3.32) et (7) au calcul de la perte du particulier résultant de la disposition :

a) le particulier est réputé être une société en ce qui concerne les dividendes qu'il a reçus, ou qui sont réputés par la partie XIII lui avoir été versés, à un moment donné où il était un non-résident, postérieur au moment où il a acquis le bien la dernière fois;

b) est réputé être un dividende imposable que le particulier a reçu et qui était déductible en application de l'article 112 dans le calcul de son revenu imposable ou

(ii) each amount deemed under Part XIII to have been paid to the individual at a particular time described in paragraph (a), as a dividend from a corporation resident in Canada, to the extent that the amount can reasonably be considered to relate to the property,

is deemed to be a taxable dividend that was received by the individual and that was deductible under section 112 in computing the individual's taxable income or taxable income earned in Canada for the taxation year that includes that particular time.

Disposal of principal residence to spouse or trust for spouse

(4) Where a taxpayer has, after 1971, disposed of property to an individual in circumstances to which subsection 70(6) or 73(1) applied, for the purposes of computing the individual's gain from the disposition of the property under paragraph 40(2)(b) or 40(2)(c), as the case may be,

(a) the individual shall be deemed to have owned the property throughout the period during which the taxpayer owned it;

(b) the property shall be deemed to have been the individual's principal residence

(i) in any case where subsection 70(6) is applicable, for any taxation year for which it would, if the taxpayer had designated it in prescribed manner to have been the taxpayer's principal residence for that year, have been the taxpayer's principal residence, and

(ii) in any case where subsection 73(1) is applicable, for any taxation year for which it was the taxpayer's principal residence; and

(c) where the individual is a trust, the trust shall be deemed to have been resident in Canada during each taxation year during which the taxpayer was resident in Canada.

(5) [Repealed, 1994, Sch. VIII, c. 7, s. 12]

Special rule concerning principal residence

(6) Where a property was owned by a taxpayer, whether jointly with another person or otherwise, at the end of 1981 and continuously thereafter until disposed of by the taxpayer, the amount of the gain determined under paragraph 40(2)(b) in respect of the disposition shall not exceed the amount, if any, by which the total of

de son revenu imposable gagné au Canada pour l'année d'imposition qui comprend le moment donné un montant au titre des montants suivants :

(i) chaque dividende imposable qu'il a reçu à un moment donné visé à l'alinéa a),

(ii) chaque montant réputé, par la partie XIII, lui avoir été payé à un moment donné visé à l'alinéa a) à titre de dividende provenant d'une société résidant au Canada, dans la mesure où il est raisonnable de considérer que le montant se rapporte au bien.

Disposition d'une résidence principale en faveur du conjoint ou d'une fiducie au profit du conjoint

(4) Lorsqu'un contribuable a, après 1971, disposé d'un bien en faveur d'un particulier dans des circonstances telles que le paragraphe 70(6) ou 73(1) s'appliquait, pour le calcul du gain que le particulier a tiré de la disposition du bien en vertu de l'alinéa (2)b) ou c), selon le cas :

a) le particulier est réputé avoir été propriétaire du bien tout au long de la période durant laquelle le contribuable en a été propriétaire;

b) le bien est réputé avoir été la résidence principale du particulier :

(i) dans tout cas où le paragraphe 70(6) s'applique pour une année d'imposition pour laquelle le bien aurait été la résidence principale du contribuable si celui-ci l'avait désigné selon les modalités réglementaires comme ayant été sa résidence principale pour cette année,

(ii) dans tout cas où le paragraphe 73(1) s'applique pour une année d'imposition pour laquelle il était la résidence principale du contribuable;

c) lorsque le particulier est une fiducie, la fiducie est réputée avoir résidé au Canada durant chaque année d'imposition pendant laquelle le contribuable résidait au Canada.

(5) [Abrogé, 1994, ch. 7, ann. VIII, art. 12]

Règle spéciale concernant la résidence principale

(6) Lorsqu'un bien appartenait à un contribuable, conjointement avec une autre personne ou autrement, à la fin de 1981 et ce, d'une façon continue après cette date et jusqu'à sa disposition, par le contribuable, le montant du gain déterminé en vertu de l'alinéa (2)b) à l'égard de la disposition ne dépasse pas l'excédent éventuel du total des montants suivants :

(a) the taxpayer's gain calculated in accordance with paragraph 40(2)(b) on the assumption that the taxpayer had disposed of the property on Dec ember 31, 1981 for proceeds of disposition equal to its fair market value on that date, and

(b) the taxpayer's gain calculated in accordance with paragraph 40(2)(b) on the assumption that that paragraph applies and that

(i) the taxpayer acquired the property on January 1, 1982 at a cost equal to its proceeds of disposition as determined under paragraph 40(6)(a), and

(ii) the description of B in paragraph 40(2)(b) is read without reference to "one plus"

exceeds

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

a) son gain calculé conformément à l'alinéa (2)b) à supposer qu'il en ait disposé le 31 décembre 1981 et en ait reçu un produit de disposition égal à sa juste valeur marchande à cette date;

b) son gain calculé conformément à l'alinéa (2)b) à supposer que cet alinéa s'applique et :

(i) qu'il ait acquis le bien le 1er janvier 1982 à un coût égal à son produit de disposition déterminé en vertu de l'alinéa a),

(ii) qu'il ne soit pas tenu compte du passage « le nombre un plus » à l'élément B de la formule figurant à l'alinéa (2) b),

sur :

c) l'excédent éventuel de la juste valeur marchande du bien au 31 décembre 1981 sur le produit de disposition du bien déterminé compte non tenu du présent paragraphe.

Property in satisfaction of interest in trust

(7) Where property has been acquired by a taxpayer in satisfaction of all or any part of the taxpayer's capital interest in a trust, in circumstances to which subsection 107(2) applies and subsection 107(4) does not apply, for the purposes of paragraph 40(2)(b) and the definition ***principal residence*** in section 54 the taxpayer shall be deemed to have owned the property continuously since the trust last acquired it.

Acquisition d'un bien en acquittement d'une participation dans une fiducie

(7) Pour l'application de l'alinéa (2)b) et de la définition de ***résidence principale*** à l'article 54, un bien acquis par un contribuable en acquittement de tout ou partie de sa participation au capital d'une fiducie, dans des circonstances où le paragraphe 107(2) s'applique et où le paragraphe 107(4) ne s'applique pas, est réputé avoir continuellement appartenu au contribuable depuis que la fiducie a acquis le bien pour la dernière fois.

Effect of election under subsection 110.6(19)

(7.1) Where an election was made under subsection 110.6(19) in respect of a property of a taxpayer that was the taxpayer's principal residence for the 1994 taxation year or that, in the taxpayer's return of income for the taxation year in which the taxpayer disposes of the property or grants an option to acquire the property, is designated as the taxpayer's principal residence, in determining, for the purposes of paragraph 40(2)(b) and subsections 40(4) to 40(7), the day on which the property was last acquired or reacquired by the taxpayer and the period throughout which the property was owned by the taxpayer this Act shall be read without reference to subsection 110.6(19).

Effet du choix prévu au paragraphe 110.6(19)

(7.1) Dans le cas où le choix prévu au paragraphe 110.6(19) est effectué relativement au bien d'un contribuable qui était sa résidence principale pour l'année d'imposition 1994 ou qu'il désigne comme telle dans sa déclaration de revenu pour l'année d'imposition au cours de laquelle il en dispose ou consent une option d'achat à son égard, le jour où le contribuable a acquis le bien, ou l'a acquis de nouveau, pour la dernière fois et la période tout au long de laquelle il en a été propriétaire sont déterminés, pour l'application de l'alinéa (2)b) et des paragraphes (4) à (7), compte non tenu du paragraphe 110.6(19).

Application of s. 70(10)

(8) The definitions in subsection 70(10) apply to this section.

Application du par. 70(10)

(8) Les définitions figurant au paragraphe 70(10) s'appliquent au présent article.

Additions to taxable Canadian property

(9) If a non-resident person disposes of a taxable Canadian property

(a) that the person last acquired before April 27, 1995,

(b) that would not be a taxable Canadian property immediately before the disposition if section 115 were read as it applied to dispositions that occurred on April 26, 1995, and

(c) that would be a taxable Canadian property immediately before the disposition if section 115 were read as it applied to dispositions that occurred on January 1, 1996,

the person's gain or loss from the disposition is deemed to be the amount determined by the formula

A × B/C

where

A is the amount of the gain or loss determined without reference to this subsection;

B is the number of calendar months in the period that begins with May 1995 and ends with the calendar month that includes the time of the disposition; and

C is the number of calendar months in the period that begins with the calendar month in which the person last acquired the property and ends with the calendar month that includes the time of the disposition.

Application of subsection (11)

(10) Subsection (11) applies in computing at any particular time a taxpayer's gain or loss (in this subsection and subsection (11) referred to as the "new gain" or "new loss", as the case may be), in respect of any part (which in this subsection and subsection (11) is referred to as the "relevant part" and which may for greater certainty be the whole) of a foreign currency debt of the taxpayer, arising from a fluctuation in the value of the currency of the foreign currency debt (other than, for greater certainty, a gain or a capital loss that arises because of the application of subsection 111(12)), if at any time before the particular time the taxpayer realized a capital loss or gain in respect of the foreign currency debt because of subsection 111(12).

Gain ou perte résultant de la disposition d'un bien canadien imposable

(9) Lorsqu'une personne non-résidente dispose d'un bien canadien imposable qu'elle a acquis la dernière fois avant le 27 avril 1995 et qui ne serait pas un tel bien immédiatement avant la disposition si l'article 115 était remplacé par sa version applicable aux dispositions effectuées le 26 avril 1995, mais en serait un immédiatement avant la disposition si cet article était remplacé par sa version applicable aux dispositions effectuées le 1er janvier 1996, le gain ou la perte de la personne résultant de la disposition est réputé égal au montant obtenu par la formule suivante :

A × B/C

où :

A représente le montant du gain ou de la perte, déterminé compte non tenu du présent paragraphe;

B le nombre de mois depuis mai 1995 jusqu'au mois qui comprend le moment de la disposition;

C le nombre de mois depuis le mois au cours duquel la personne a acquis le bien pour la dernière fois jusqu'au mois qui comprend le moment de la disposition.

Application du paragraphe (11)

(10) Le paragraphe (11) s'applique au calcul, à un moment donné, du gain ou de la perte d'un contribuable (appelé, selon le cas, « nouveau gain » ou « nouvelle perte » au présent paragraphe et au paragraphe (11)), relativement à toute partie (appelée « partie pertinente » au présent paragraphe et au paragraphe (11), étant entendu que la partie en cause peut être le tout) d'une dette en monnaie étrangère du contribuable, découlant de la fluctuation de la valeur de la monnaie dans laquelle cette dette est exprimée (étant entendu que toute perte en capital ou tout gain découlant de l'application du paragraphe 111(12) n'est pas pris en compte), si, avant le moment donné, le contribuable a réalisé une perte en capital ou un gain en capital relativement à cette même dette par l'effet du paragraphe 111(12).

Gain or loss on foreign currency debt

(11) If this subsection applies, the new gain is the positive amount, or the new loss is the negative amount, as the case may be, determined by the formula

A + B – C

where

A is

(a) if the taxpayer would, but for any application of subsection 111(12), recognize a new gain, the amount of the new gain, determined without reference to this subsection, or

(b) if the taxpayer would, but for any application of subsection 111(12), recognize a new loss, the amount of the new loss, determined without reference to this subsection, multiplied by (–1);

B is the total of all amounts each of which is that portion of the amount of a capital loss realized by the taxpayer at any time before the particular time, in respect of the foreign currency debt and because of subsection 111(12), that is reasonably attributable to

(a) the relevant part of the foreign currency debt at the particular time, or

(b) the forgiven amount, if any, (as defined in subsection 80(1)) in respect of the foreign currency debt at the particular time; and

C is the total of all amounts each of which is that portion of the amount of a gain realized by the taxpayer at any time before the particular time, in respect of the foreign currency debt and because of subsection 111(12), that is reasonably attributable to

(a) the relevant part of the foreign currency debt at the particular time, or

(b) the forgiven amount, if any, (as defined in subsection 80(1)) in respect of the foreign currency debt at the particular time.

Donated flow-through shares

(12) If at any time a taxpayer disposes of one or more capital properties that are included in a flow-through share class of property and subparagraph 38(a.1)(i) or (iii) applies to the disposition (in this subsection referred to as the "actual disposition"), then the taxpayer is deemed to have a capital gain from a disposition at that time of another capital property equal to the lesser of

Gain ou perte sur dette en monnaie étrangère

(11) En cas d'application du présent paragraphe, le nouveau gain ou la nouvelle perte correspond à la somme positive ou négative, selon le cas, obtenue par la formule suivante :

A + B – C

où :

A représente :

a) dans le cas où un nouveau gain serait constaté par le contribuable en l'absence de toute application du paragraphe 111(12), le montant de ce gain, déterminé compte non tenu du présent paragraphe;

b) dans le cas où une nouvelle perte serait constatée par le contribuable en l'absence de toute application du paragraphe 111(12), le résultat de la multiplication du montant de cette perte, déterminé compte non tenu du présent paragraphe, par (–1);

B le total des sommes représentant chacune la partie du montant d'une perte en capital réalisée par le contribuable avant le moment donné, relativement à la dette en monnaie étrangère et par l'effet du paragraphe 111(12), qu'il est raisonnable d'attribuer, selon le cas :

a) à la partie pertinente de cette dette au moment donné;

b) au montant remis, au sens du paragraphe 80(1), sur cette dette au moment donné;

C le total des sommes représentant chacune la partie du montant d'un gain réalisé par le contribuable avant le moment donné, relativement à la dette en monnaie étrangère et par l'effet du paragraphe 111(12), qu'il est raisonnable d'attribuer, selon le cas :

a) à la partie pertinente de cette dette au moment donné;

b) au montant remis, au sens du paragraphe 80(1), sur cette dette au moment donné.

Dons d'actions accréditives

(12) Si un contribuable dispose, à un moment donné, d'une ou de plusieurs immobilisations comprises dans une catégorie de biens constituée d'actions accréditives et que le sous-alinéa 38a.1)(i) ou (iii) s'applique à la disposition (appelée « disposition réelle » au présent paragraphe), le contribuable est réputé avoir un gain en capital provenant de la disposition d'une autre immobilisation effectuée à ce moment, égal à la moins élevée des sommes suivantes :

(a) the taxpayer's exemption threshold at that time in respect of the flow-through share class of property, and

(b) the total of all amounts each of which is a capital gain from the actual disposition (for greater certainty, calculated without reference to this subsection).

a) le seuil d'exonération du contribuable à ce moment relativement à la catégorie de biens constituée d'actions accréditives;

b) le total des sommes représentant chacune un gain en capital provenant de la disposition réelle, étant entendu que ce total est calculé compte non tenu du présent paragraphe.

Class 14.1 — transitional rules

(13) Subsection (14) applies in respect of a disposition by a taxpayer of a property that is included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of a business of the taxpayer if

(a) the property was an eligible capital property of the taxpayer immediately before January 1, 2017;

(b) the amount determined for Q in the definition ***cumulative eligible capital*** in subsection 14(5) in respect of the business immediately before January 1, 2017 is greater than nil;

(c) the amount determined for B in that definition in respect of the business immediately before January 1, 2017 is nil; and

(d) no amount is included in the taxpayer's income for a taxation year because of paragraph 13(38)(d).

Catégorie 14.1 — dispositions transitoires

(13) Le paragraphe (14) s'applique relativement à la disposition par un contribuable d'un bien qui est compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relativement à une entreprise du contribuable si les faits ci-après s'avèrent :

a) le bien était une immobilisation admissible du contribuable immédiatement avant le 1er janvier 2017;

b) la valeur de l'élément Q de la formule figurant à la définition de ***montant cumulatif des immobilisations admissibles*** au paragraphe 14(5) relativement à l'entreprise immédiatement avant cette date est supérieure à zéro;

c) la valeur de l'élément B de la formule figurant à cette même définition relativement à l'entreprise immédiatement avant cette date est zéro;

d) aucune somme n'est incluse dans le revenu du contribuable pour une année d'imposition par l'effet de l'alinéa 13(38)d).

Class 14.1 — transitional rules

(14) If this subsection applies in respect of a disposition at any time by a taxpayer of a property, the taxpayer's capital gain from the disposition is to be reduced by such amount as the taxpayer claims, not exceeding the amount by which

(a) 2/3 of the amount determined for Q in the definition ***cumulative eligible capital*** in subsection 14(5) in respect of the business immediately before 2017

exceeds

(b) the total of all amounts each of which is an amount claimed under this subsection in respect of another disposition at or before that time.

Catégorie 14.1 — dispositions transitoires

(14) Si le présent paragraphe s'applique relativement à la disposition d'un bien par un contribuable à un moment donné, le contribuable applique, en réduction de son gain en capital résultant de la disposition, une somme ne dépassant pas l'excédent du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) :

a) les deux tiers de la valeur de l'élément Q de la formule figurant à la définition de ***montant cumulatif des immobilisations admissibles*** au paragraphe 14(5) relativement à l'entreprise immédiatement avant 2017;

b) le total des sommes dont chacune est une réduction demandée aux termes du présent paragraphe relativement à une autre disposition effectuée au plus tard à ce moment.

Class 14.1 — transitional rules

(15) Subsection (16) applies in respect of a disposition by an individual of a property that is included in Class

Catégorie 14.1 — dispositions transitoires

(15) Le paragraphe (16) s'applique relativement à la disposition par un particulier d'un bien compris dans la

14.1 of Schedule II to the *Income Tax Regulations* in respect of a business of the individual if

(a) the property was an eligible capital property of the individual immediately before January 1, 2017; and

(b) the individual's exempt gains balance in respect of the business is greater than nil for the taxation year that includes January 1, 2017.

Class 14.1 — transitional rules

(16) If this subsection applies in respect of a disposition at any time by an individual of a property, the individual's capital gain from the disposition is to be reduced by such amount as the individual claims, not exceeding the amount by which

(a) twice the amount of the individual's exempt gains balance in respect of the business for the taxation year that includes January 1, 2017

exceeds

(b) the total of

(i) if paragraph 13(38)(d) applies in respect of the business for the individual's taxation year that includes January 1, 2017, the amount determined for D in paragraph 14(1)(b) for the purposes of paragraph 13(38)(d), and

(ii) the total of all amounts each of which is an amount claimed under this subsection in respect of another disposition at or before that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 40; 1994, c. 7, Sch. II, s. 23, Sch. VIII, s. 12, c. 21, s. 15; 1995, c. 3, s. 12, c. 21, s. 11; 1998, c. 19, ss. 8, 89; 2000, c. 12, s. 142; 2001, c. 17, ss. 25, 205(E); 2005, c. 19, s. 13; 2007, c. 2, s. 4, c. 35, s. 103; 2008, c. 28, s. 5; 2009, c. 2, s. 10; 2010, c. 25, s. 8; 2011, c. 24, s. 5; 2013, c. 34, ss. 60, 102, 183, c. 40, s. 19; 2014, c. 39, s. 11; 2016, c. 12, s. 15.

catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relativement à l'entreprise du particulier si les faits ci-après s'avèrent :

a) le bien était une immobilisation admissible du particulier immédiatement avant le 1er janvier 2017;

b) le solde des gains exonérés du particulier relativement à l'entreprise est supérieur à zéro pour l'année d'imposition qui comprend cette date.

Catégorie 14.1 — dispositions transitoires

(16) Si le présent paragraphe s'applique relativement à la disposition d'un bien par un particulier à un moment donné, le particulier applique, en réduction de son gain en capital résultant de la disposition, une somme ne dépassant pas l'excédent du montant visé à l'alinéa a) sur le total des montants visés à l'alinéa b) :

a) le double du solde des gains exonérés du particulier relativement à l'entreprise pour l'année d'imposition qui comprend le 1er janvier 2017;

b) le total des sommes suivantes :

(i) si l'alinéa 13(38)d) s'applique relativement à l'entreprise pour l'année d'imposition du particulier qui comprend cette date, la valeur de l'élément D de la formule figurant à l'alinéa 14(1)b) aux fins de l'alinéa 13(38)d),

(ii) le total des sommes demandées dont chacune est une déduction aux termes du présent paragraphe relativement à une autre disposition au plus tard à cette date.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 40; 1994, ch. 7, ann. II, art. 23, ann. VIII, art. 12, ch. 21, art. 15; 1995, ch. 3, art. 12, ch. 21, art. 11; 1998, ch. 19, art. 8 et 89; 2000, ch. 12, art. 142; 2001, ch. 17, art. 25 et 205(A); 2005, ch. 19, art. 13; 2007, ch. 2, art. 4, ch. 35, art. 103; 2008, ch. 28, art. 5; 2009, ch. 2, art. 10; 2010, ch. 25, art. 8; 2011, ch. 24, art. 5; 2013, ch. 34, art. 60, 102 et 183, ch. 40, art. 19; 2014, ch. 39, art. 11; 2016, ch. 12, art. 15.

Taxable net gain from disposition of listed personal property

41 (1) For the purposes of this Part, a taxpayer's taxable net gain for a taxation year from dispositions of listed personal property is 1/2 of the amount determined under subsection 41(2) to be the taxpayer's net gain for the year from dispositions of such property.

Determination of net gain

(2) A taxpayer's net gain for a taxation year from dispositions of listed personal property is an amount determined as follows:

Sens de gain net imposable tiré de la disposition de biens meubles déterminés

41 (1) Pour l'application de la présente partie, le gain net imposable qu'un contribuable tire, pour une année d'imposition, de la disposition de biens meubles déterminés est égal à la moitié du gain net, déterminé en application du paragraphe (2), qu'il tire pour l'année de la disposition de ces biens.

Détermination du gain net

(2) Le gain net que le contribuable a tiré, pour une année d'imposition, de la disposition de biens meubles déterminés se détermine selon les modalités suivantes :

(a) determine the amount, if any, by which the total of the taxpayer's gains for the year from the disposition of listed personal property, other than property described in subparagraph 39(1)(a)(i.1), exceeds the total of the taxpayer's losses for the year from dispositions of listed personal property, and

(b) deduct from the amount determined under paragraph 41(2)(a) such portion as the taxpayer may claim of the taxpayer's listed-personal-property losses for the 7 taxation years immediately preceding and the 3 taxation years immediately following the taxation year, except that for the purposes of this paragraph

(i) an amount in respect of a listed-personal-property loss is deductible for a taxation year only to the extent that it exceeds the total of amounts deducted under this paragraph in respect of that loss for preceding taxation years,

(ii) no amount is deductible in respect of the listed-personal-property loss of any year until the deductible listed-personal-property losses for previous years have been deducted, and

(iii) no amount is deductible in respect of listed-personal-property losses from the amount determined under paragraph 41(2)(a) for a taxation year except to the extent of the amount so determined for the year,

and the remainder determined under paragraph 41(2)(b) is the taxpayer's net gain for the year from dispositions of listed personal property.

a) calculer l'excédent éventuel du total de ses gains, pour l'année, tiré de la disposition de biens meubles déterminés, à l'exclusion des biens visés par le sous-alinéa 39(1)a)(i.1), sur le total des pertes résultant, pour l'année, de la disposition de biens meubles déterminés;

b) retrancher de la somme calculée conformément à l'alinéa a) la fraction dont le contribuable peut demander la déduction au titre de ses pertes relatives à des biens meubles déterminés pour les 7 années d'imposition qui précèdent l'année d'imposition, ainsi que pour les 3 années d'imposition qui la suivent; toutefois, pour l'application du présent alinéa :

(i) une somme n'est déductible pour une année d'imposition au titre d'une perte relative à un bien meuble déterminé que dans la mesure où elle dépasse le total des sommes déduites, au titre de cette perte, en vertu du présent alinéa pour les années d'imposition antérieures,

(ii) aucune somme n'est déductible au titre d'une perte subie au cours de toute année, relativement à des biens meubles déterminés, jusqu'à ce qu'aient été déduites les pertes relatives à des biens meubles déterminés déductibles au titre d'années antérieures,

(iii) une somme n'est, au titre de pertes relatives à des biens meubles déterminés, déductible de la somme calculée conformément à l'alinéa a) pour une année d'imposition qu'à concurrence de la somme ainsi calculée pour l'année;

le reliquat calculé conformément à l'alinéab) constitue le gain net que le contribuable a tiré pour l'année de la disposition de biens meubles déterminés.

Definition of *listed-personal-property loss*

(3) In this section, ***listed-personal-property loss*** of a taxpayer for a taxation year means the amount, if any, by which the total of the taxpayer's losses for the year from dispositions of listed personal property exceeds the total of the taxpayer's gains for the year from dispositions of listed personal property, other than property described in subparagraph 39(1)(a)(i.1).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 41; 2001, c. 17, s. 26.

Définition de *perte relative à des biens meubles déterminés*

(3) Au présent article, ***perte relative à des biens meubles déterminés*** subie par un contribuable pour une année d'imposition s'entend de l'excédent éventuel du total de ses pertes résultant, pour l'année, de la disposition de biens meubles déterminés sur le total de ses gains, pour l'année, tirés de la disposition de biens meubles déterminés, à l'exclusion des biens visés au sous-alinéa 39(1)a)(i.1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 41; 2001, ch. 17, art. 26.

Dispositions subject to warranty

42 (1) For the purposes of this subdivision,

Disposition avec garantie

42 (1) Les règles ci-après s'appliquent à la présente sous-section :

(a) an amount received or receivable by a person or partnership (referred to in this subsection as the "vendor"), as the case may be, as consideration for a warranty, covenant or other conditional or contingent obligation given or incurred by the vendor in respect of a property (referred to in this section as the "subject property") disposed of by the vendor,

(i) if it is received or receivable on or before the specified date, is deemed to be received as consideration for the disposition by the vendor of the subject property (and not to be an amount received or receivable by the vendor as consideration for the obligation) and is to be included in computing the vendor's proceeds of disposition of the subject property for the taxation year or fiscal period in which the disposition occurred, and

(ii) in any other case, is deemed to be a capital gain of the vendor from the disposition of a property by the vendor that occurs at the earlier of the time when the amount is received or becomes receivable; and

(b) an outlay or expense paid or payable by the vendor under a warranty, covenant or other conditional or contingent obligation given or incurred by the vendor in respect of the subject property disposed of by the vendor,

(i) if it is paid or payable on or before the specified date, is deemed to reduce the consideration for the disposition by the vendor of the subject property (and not to be an outlay or expense paid or payable by the vendor under the obligation) and is to be deducted in computing the vendor's proceeds of disposition of the subject property for the taxation year or fiscal period in which the disposition occurred, and

(ii) in any other case, is deemed to be a capital loss of the vendor from the disposition of a property by the vendor that occurs at the earlier of the time when the outlay or expense is paid or becomes payable.

a) toute somme reçue ou à recevoir par une personne ou une société de personnes (appelées « vendeur » au présent paragraphe) en contrepartie d'une garantie, d'une promesse ou d'une autre obligation conditionnelle qu'elle a donnée ou contractée relativement à un bien (appelé « bien visé » au présent article) dont elle a disposé fait l'objet du traitement suivant :

(i) si elle est reçue ou à recevoir au plus tard à la date déterminée, elle est réputée être reçue en contrepartie de la disposition par le vendeur du bien visé (et ne pas être une somme reçue ou à recevoir par lui en contrepartie de l'obligation) et est à inclure dans le calcul du produit de disposition du bien visé pour lui pour l'année d'imposition ou l'exercice dans lequel la disposition a été effectuée,

(ii) dans les autres cas, elle est réputée être un gain en capital du vendeur provenant de la disposition d'un bien qu'il effectue au moment où la somme est reçue ou au moment où elle devient à recevoir, le premier en date étant à retenir;

b) toute dépense engagée ou effectuée qui est payée ou payable par le vendeur aux termes d'une garantie, d'une promesse ou d'une autre obligation conditionnelle qu'il a donnée ou contractée relativement au bien visé dont il a disposé fait l'objet du traitement suivant :

(i) si elle est payée ou payable au plus tard à la date déterminée, elle est réputée réduire la contrepartie de la disposition par le vendeur du bien visé (et ne pas être une dépense qui est payée ou payable par lui aux termes de l'obligation) et est à déduire dans le calcul du produit de disposition du bien visé pour lui pour l'année d'imposition ou l'exercice dans lequel la disposition a été effectuée,

(ii) dans les autres cas, elle est réputée être une perte en capital du vendeur résultant de la disposition d'un bien qu'il effectue au moment où la dépense est payée ou au moment où elle devient payable, le premier en date étant à retenir.

Meaning of *specified date*

(2) In subsection (1), ***specified date*** means,

(a) if the vendor is a partnership, the last day of the vendor's fiscal period in which the vendor disposed of the subject property; and

Définition de *date déterminée*

(2) Au paragraphe (1), ***date déterminée*** s'entend :

a) si le vendeur est une société de personnes, du dernier jour de l'exercice où il a disposé du bien visé;

(b) in any other case, the vendor's filing-due date for the vendor's taxation year in which the vendor disposed of the subject property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 42; 2013, c. 34, s. 184.

b) dans les autres cas, de la date d'échéance de production qui lui est applicable pour l'année d'imposition où il a disposé de ce bien.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 42; 2013, ch. 34, art. 184.

General rule for part dispositions

43 (1) For the purpose of computing a taxpayer's gain or loss for a taxation year from the disposition of part of a property, the adjusted cost base to the taxpayer, immediately before the disposition, of that part is the portion of the adjusted cost base to the taxpayer at that time of the whole property that can reasonably be regarded as attributable to that part.

Disposition partielle d'un bien — règle générale

43 (1) Pour le calcul du gain ou de la perte d'un contribuable pour une année d'imposition, tiré de la disposition d'une partie de bien, le prix de base rajusté, pour lui, immédiatement avant la disposition, de cette partie de bien correspond à la fraction du prix de base rajusté, pour lui, à ce moment, de la totalité du bien qu'il est raisonnable d'attribuer à cette partie.

Ecological gifts

(2) For the purposes of subsection (1) and section 53, if at any time a taxpayer disposes of a covenant or an easement to which land is subject or, in the case of land in the Province of Quebec, a real servitude, in circumstances where subsection 110.1(5) or 118.1(12) applies,

(a) the portion of the adjusted cost base to the taxpayer of the land immediately before the disposition that can reasonably be regarded as attributable to the covenant, easement or real servitude, as the case may be, is deemed to be equal to the amount determined by the formula

A × B/C

where

A is the adjusted cost base to the taxpayer of the land immediately before the disposition,

B is the amount determined under subsection 110.1(5) or 118.1(12) in respect of the disposition, and

C is the fair market value of the land immediately before the disposition; and

(b) for greater certainty, the cost to the taxpayer of the land shall be reduced at the time of the disposition by the amount determined under paragraph (a).

Dons de biens écosensibles

(2) Pour l'application du paragraphe (1) et de l'article 53, dans le cas où un contribuable dispose d'un covenant ou d'une servitude, visant un fonds de terre, la servitude devant être une servitude réelle si le fonds de terre est situé au Québec, dans les circonstances visées aux paragraphes 110.1(5) ou 118.1(12), les règles ci-après s'appliquent :

a) la partie du prix de base rajusté du fonds de terre pour le contribuable immédiatement avant la disposition qu'il est raisonnable de considérer comme étant attribuable à la servitude ou au covenant est réputée être égale au montant obtenu par la formule suivante :

A × B/C

où :

A représente le prix de base rajusté du fonds de terre pour le contribuable immédiatement avant la disposition,

B le montant déterminé selon les paragraphes 110.1(5) ou 118.1(12) relativement à la disposition,

C la juste valeur marchande du fonds de terre immédiatement avant la disposition;

b) il est entendu que le coût du fonds de terre pour le contribuable est réduit, au moment de la disposition, du montant déterminé selon l'alinéa a).

Payments out of trust income, etc.

(3) Notwithstanding subsection (1), where part of a capital interest of a taxpayer in a trust would, but for paragraph (h) or (i) of the definition ***disposition*** in subsection 248(1), be disposed of solely because of the satisfaction of a right to enforce payment of an amount by the trust, no part of the adjusted cost base to the taxpayer of the taxpayer's capital interest in the trust shall be allocated to that part of the capital interest.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 43; 2001, c. 17, s. 27; 2013, c. 34, s. 185.

Paiements sur le revenu, etc. d'une fiducie

(3) Malgré le paragraphe (1), lorsqu'une partie de la participation d'un contribuable au capital d'une fiducie ferait l'objet d'une disposition, si ce n'était les alinéas h) ou i) de la définition de ***disposition*** au paragraphe 248(1), en raison seulement du règlement d'un droit d'exiger de la fiducie le versement d'une somme, aucune partie du prix de base rajusté, pour le contribuable, de sa participation

Life estates in real property

43.1 (1) Notwithstanding any other provision of this Act, if at any time a taxpayer disposes of a remainder interest in real property (except as a result of a transaction to which subsection 73(3) would otherwise apply or by way of a gift to a qualified donee) to a person or partnership and retains a life estate or an estate *pur autre vie* (in this section referred to as the "life estate") in the property, the taxpayer is deemed

(a) to have disposed at that time of the life estate in the property for proceeds of disposition equal to its fair market value at that time; and

(b) to have reacquired the life estate immediately after that time at a cost equal to the proceeds of disposition referred to in paragraph 43.1(1)(a).

Idem

(2) Where, as a result of an individual's death, a life estate to which subsection 43.1(1) applied is terminated,

(a) the holder of the life estate immediately before the death shall be deemed to have disposed of the life estate immediately before the death for proceeds of disposition equal to the adjusted cost base to that person of the life estate immediately before the death; and

(b) where a person who is the holder of the remainder interest in the real property immediately before the death was not dealing at arm's length with the holder of the life estate, there shall, after the death, be added in computing the adjusted cost base to that person of the real property an amount equal to the lesser of

(i) the adjusted cost base of the life estate in the property immediately before the death, and

(ii) the amount, if any, by which the fair market value of the real property immediately after the death exceeds the adjusted cost base to that person of the remainder interest immediately before the death.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 6, Sch. VIII, s. 13, c. 21, s. 16; 2011, c. 24, s. 6; 2013, c. 34, s. 103(F).

au capital de la fiducie n'est attribuée à la partie de participation en question.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 43; 2001, ch. 17, art. 27; 2013, ch. 34, art. 185.

Domaine viager sur un bien réel

43.1 (1) Malgré les autres dispositions de la présente loi, le contribuable qui, à un moment donné, dispose d'un domaine résiduel sur un bien réel (sauf par suite d'une opération à laquelle le paragraphe 73(3) s'appliquerait par ailleurs et sauf au moyen d'un don à un donataire reconnu) en faveur d'une personne ou d'une société de personnes et qui, à ce moment, conserve un domaine viager ou domaine à vie d'autrui (appelé « domaine viager » au présent article) sur le bien est réputé :

a) avoir disposé à ce moment du domaine viager sur le bien pour un produit égal à la juste valeur marchande du bien à ce moment;

b) avoir acquis de nouveau le domaine viager, immédiatement après ce moment, à un coût égal au produit visé à l'alinéa a).

Extinction d'un domaine viager

(2) Les règles suivantes s'appliquent lorsqu'un domaine viager auquel le paragraphe (1) s'applique s'éteint par suite du décès d'un particulier :

a) le détenteur du domaine viager immédiatement avant le décès du particulier est réputé avoir disposé du domaine immédiatement avant ce décès pour un produit égal au prix de base rajusté du domaine pour lui immédiatement avant ce décès;

b) lorsque la personne qui détient un domaine résiduel sur le bien réel immédiatement avant le décès du particulier a un lien de dépendance avec le détenteur du domaine viager, le moins élevé des montants ci-après est ajouté, après ce décès, au calcul du prix de base rajusté du bien pour cette personne :

(i) le prix de base rajusté du domaine viager sur le bien immédiatement avant le décès du particulier,

(ii) l'excédent éventuel de la juste valeur marchande du bien immédiatement après le décès du particulier sur le prix de base rajusté du domaine résiduel pour cette personne immédiatement avant ce décès.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 6, ann. VIII, art. 13, ch. 21, art. 16; 2011, ch. 24, art. 6; 2013, ch. 34, art. 103(F).

Exchanges of property

44 (1) Where at any time in a taxation year (in this subsection referred to as the "initial year") an amount has become receivable by a taxpayer as proceeds of disposition of a capital property that is not a share of the capital stock of a corporation (which capital property is in this section referred to as the taxpayer's "former property") that is either

(a) property the proceeds of disposition of which are described in paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in subsection 13(21) or paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in section 54, or

(b) a property that was, immediately before the disposition, a former business property of the taxpayer,

and the taxpayer has

(c) if the former property is described in paragraph (a), before the later of the end of the second taxation year following the initial year and 24 months after the end of the initial year, and

(d) in any other case, before the later of the end of the first taxation year following the initial year and 12 months after the end of the initial year,

acquired a capital property that is a replacement property for the taxpayer's former property and the replacement property has not been disposed of by the taxpayer before the time the taxpayer disposed of the taxpayer's former property, notwithstanding subsection 40(1), if the taxpayer so elects under this subsection in the taxpayer's return of income for the year in which the taxpayer acquired the replacement property,

(e) the gain for a particular taxation year from the disposition of the taxpayer's former property shall be deemed to be the amount, if any, by which

(i) where the particular year is the initial year, the lesser of

(A) the amount, if any, by which the proceeds of disposition of the former property exceed

(I) in the case of depreciable property, the lesser of the proceeds of disposition of the former property computed without reference to subsection 44(6) and the total of its adjusted cost base to the taxpayer immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition, and

Échanges de biens

44 (1) Lorsque, au cours d'une année d'imposition (appelée « année initiale » au présent paragraphe), une somme est devenue un montant à recevoir par un contribuable à titre de produit de disposition d'une immobilisation qui n'est pas une action du capital-actions d'une société (l'immobilisation étant appelée « ancien bien » au présent article), mais qui est :

a) soit un bien dont le produit de disposition est visé aux alinéas b), c) ou d) de la définition de ***produit de disposition*** au paragraphe 13(21) ou aux alinéas b), c) ou d) de la définition de ***produit de disposition*** à l'article 54;

b) soit un bien qui était immédiatement avant qu'il en soit disposé, un ancien bien d'entreprise du contribuable,

et lorsque le contribuable a acquis :

c) si l'ancien bien est visé à l'alinéa a), avant le dernier jour de la deuxième année d'imposition suivant l'année initiale ou, s'il est postérieur, le jour qui suit de 24 mois la fin de l'année initiale;

d) dans les autres cas, avant le dernier jour de la première année d'imposition suivant l'année initiale ou, s'il est postérieur, le jour qui suit de 12 mois la fin de l'année initiale,

une immobilisation en remplacement de son ancien bien, et qu'il n'en a pas disposé avant le moment où il a disposé de son ancien bien, le contribuable peut, malgré le paragraphe 40(1), faire un choix dans sa déclaration de revenu produite pour l'année au cours de laquelle il a acquis le bien de remplacement, pour que les présomptions suivantes s'appliquent :

e) le gain, pour une année d'imposition donnée, tiré de la disposition de son ancien bien, est réputé être l'excédent éventuel :

(i) lorsque l'année donnée est l'année initiale, du moindre des montants suivants :

(A) l'excédent éventuel du produit de disposition de l'ancien bien sur :

(I) dans le cas d'un bien amortissable, le moins élevé des montants suivants : le produit de disposition de l'ancien bien calculé compte non tenu du paragraphe (6) et le total de son prix de base rajusté, pour lui, immédiatement avant la disposition et de toutes dépenses dans la mesure où elles ont été engagées ou

(II) in any other case, the total of its adjusted cost base to the taxpayer immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition, and

(B) the amount, if any, by which the proceeds of disposition of the former property exceed the total of the cost to the taxpayer, or in the case of depreciable property, the capital cost to the taxpayer, determined without reference to paragraph (f), of the taxpayer's replacement property and any outlays and expenses to the extent that they were made or incurred by the taxpayer for the purpose of making the disposition, or

(ii) where the particular year is subsequent to the initial year, the amount, if any, claimed by the taxpayer under subparagraph 44(1)(e)(iii) in computing the taxpayer's gain for the immediately preceding year from the disposition of the former property,

exceeds

(iii) subject to subsection 44(1.1), such amount as the taxpayer claims,

(A) in the case of an individual (other than a trust), in prescribed form filed with the taxpayer's return of income under this Part for the particular year, and

(B) in any other case, in the taxpayer's return of income under this Part for the particular year,

as a deduction, not exceeding the lesser of

(C) a reasonable amount as a reserve in respect of such of the proceeds of disposition of the former property that are payable to the taxpayer after the end of the particular year as can reasonably be regarded as a portion of the amount determined under subparagraph 44(1)(e)(i) in respect of the property, and

(D) an amount equal to the product obtained when 1/5 of the amount determined under subparagraph 44(1)(e)(i) in respect of the property is multiplied by the amount, if any, by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property, and

(f) the cost to the taxpayer or, in the case of depreciable property, the capital cost to the taxpayer, of the

effectuées par lui afin de réaliser la disposition,

(II) dans les autres cas, le total de son prix de base rajusté, pour lui, immédiatement avant la disposition, et de toutes dépenses dans la mesure où elles ont été engagées ou effectuées par lui afin de réaliser la disposition,

(B) l'excédent éventuel du produit de disposition de son ancien bien sur le total du coût, pour lui, ou, s'il s'agit d'un bien amortissable, du coût en capital du bien de remplacement, pour lui, calculé compte non tenu de l'alinéa f), et de toutes dépenses dans la mesure où elles ont été engagées ou effectuées par lui afin de réaliser la disposition,

(ii) lorsque l'année donnée est postérieure à l'année initiale, la somme dont il a demandé la déduction en vertu du sous-alinéa (iii) dans le calcul du gain qu'il a tiré, pour l'année précédente, de la disposition de l'ancien bien,

sur :

(iii) sous réserve du paragraphe (1.1), le montant qu'il peut demander à titre de déduction soit sur le formulaire prescrit présenté avec sa déclaration de revenu produite en vertu de la présente partie pour l'année donnée, s'il est un particulier (mais non une fiducie), soit dans sa déclaration de revenu produite en vertu de la présente partie pour l'année donnée, dans les autres cas, lequel montant ne peut dépasser le moins élevé des montants suivants :

(A) un montant raisonnable à titre de provision à l'égard de la fraction du produit de disposition de l'ancien bien qui lui est payable après la fin de l'année donnée et qu'il est raisonnable de considérer comme une fraction du montant calculé selon le sous-alinéa (i) relativement au bien,

(B) le produit de la multiplication de 1/5 du montant calculé selon le sous-alinéa (i) relativement au bien par l'excédent de 4 sur le nombre d'années d'imposition antérieures du contribuable se terminant après la disposition du bien;

f) le coût pour lui, ou, dans le cas d'un bien amortissable, le coût en capital pour le contribuable, du bien de remplacement, pour lui, à tout moment postérieur à celui de la disposition de son ancien bien, est réputé être :

taxpayer's replacement property at any time after the time the taxpayer disposed of the taxpayer's former property, shall be deemed to be

(i) the cost to the taxpayer or, in the case of depreciable property, the capital cost to the taxpayer of the taxpayer's replacement property otherwise determined,

minus

(ii) the amount, if any, by which the amount determined under clause 44(1)(e)(i)(A) exceeds the amount determined under clause 44(1)(e)(i)(B).

(i) le coût pour lui, ou, dans le cas d'un bien amortissable, le coût en capital pour le contribuable, de son bien de remplacement, calculé par ailleurs,

moins :

(ii) l'excédent éventuel de l'excédent calculé conformément à la division e)(i)(A) sur l'excédent calculé en vertu de la division e)(i)(B).

Reserve — property disposed of to a child

(1.1) In computing the amount that a taxpayer may claim under subparagraph (1)(e)(iii) in computing the taxpayer's gain from the disposition of a former property of the taxpayer, that subparagraph shall be read as if the references in that subparagraph to "1/5" and "4" were references to "1/10" and "9" respectively if that former property is real or immovable property in respect of the disposition of which, because of subsection 73(3), the rules in subsection 73(3.1) applied to the taxpayer and a child of the taxpayer.

Disposition d'un bien en faveur d'un enfant

(1.1) Pour le calcul de la somme que le contribuable peut demander à titre de déduction, selon le sous-alinéa (1)e)(iii), dans le calcul de son gain tiré de la disposition de son ancien bien, les mentions « 1/5 » et « 4 » à ce sous-alinéa valent mention respectivement de « 1/10 » et « 9 » si cet ancien bien est un bien immeuble ou réel à la disposition duquel les règles énoncées au paragraphe 73(3.1) se sont appliquées, par l'effet du paragraphe 73(3), au contribuable et à son enfant.

Time of disposition and of receipt of proceeds

(2) For the purposes of this Act, the time at which a taxpayer has disposed of a property for which there are proceeds of disposition as described in paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in subsection 13(21) or paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in section 54, and the time at which an amount, in respect of those proceeds of disposition has become receivable by the taxpayer shall be deemed to be the earliest of

(a) the day the taxpayer has agreed to an amount as full compensation to the taxpayer for the property lost, destroyed, taken or sold,

(b) where a claim, suit, appeal or other proceeding has been taken before one or more tribunals or courts of competent jurisdiction, the day on which the taxpayer's compensation for the property is finally determined by those tribunals or courts,

(c) where a claim, suit, appeal or other proceeding referred to in paragraph 44(2)(b) has not been taken before a tribunal or court of competent jurisdiction within two years of the loss, destruction or taking of the property, the day that is two years following the day of the loss, destruction or taking,

Moment de la disposition du bien et de la réception du produit

(2) Pour l'application de la présente loi, le moment où un contribuable a disposé d'un bien dont le produit de disposition est visé aux alinéas b), c) ou d) de la définition de ***produit de disposition*** au paragraphe 13(21) ou aux alinéas b), c) ou d) de la définition de ***produit de disposition*** à l'article 54, ainsi que le moment où une somme, au titre de ce produit de disposition, est devenue un montant à recevoir par le contribuable, est réputé être le premier des moments suivants :

a) le jour où le contribuable a convenu d'un montant devant lui être versé à titre d'indemnité totale pour le bien perdu, détruit, pris ou vendu;

b) lorsqu'une poursuite, un appel ou quelque autre procédure a été engagée devant un ou plusieurs tribunaux compétents, le jour où l'indemnité à verser au contribuable pour le bien est fixée de façon définitive par ces tribunaux;

c) lorsqu'une poursuite, un appel ou quelque autre procédure visée à l'alinéa b) n'a pas été engagée devant un tribunal compétent au cours des deux années suivant la perte, la destruction ou la prise du bien, deux années exactement suivant le jour où il a été pris, perdu ou détruit;

(d) the time at which the taxpayer is deemed by section 70 or paragraph 128.1(4)(b) to have disposed of the property, and

(e) where the taxpayer is a corporation other than a subsidiary corporation referred to in subsection 88(1), the time immediately before the winding-up of the corporation,

and the taxpayer shall be deemed to have owned the property continuously until the time so determined.

d) le moment où le contribuable est réputé, aux termes de l'article 70 ou de l'alinéa 128.1(4)b), avoir disposé du bien;

e) lorsque le contribuable est une société autre qu'une filiale visée au paragraphe 88(1), le moment qui précède la liquidation de la société.

En outre, le contribuable est réputé avoir possédé le bien d'une façon continue jusqu'au moment ainsi déterminé.

Where s. 70(3) does not apply

(3) Subsection 70(3) does not apply to compensation referred to in paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in subsection 13(21) or paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in section 54 that has been transferred or distributed to beneficiaries or other persons beneficially interested in an estate or trust.

Non-application du par. 70(3)

(3) Le paragraphe 70(3) ne s'applique pas à l'indemnité visée aux alinéas b), c) ou d) de la définition de ***produit de disposition*** au paragraphe 13(21) ou aux alinéas b), c) ou d) de la définition de ***produit de disposition*** à l'article 54 et qui a été transférée ou distribuée aux bénéficiaires ou à d'autres personnes ayant un droit de bénéficiaire sur une succession ou une fiducie.

Deemed election

(4) Where a former property of a taxpayer was a depreciable property of the taxpayer

(a) if the taxpayer has elected in respect of that property under subsection 44(1), the taxpayer shall be deemed to have elected in respect thereof under subsection 13(4); and

(b) if the taxpayer has elected in respect of that property under subsection 13(4), the taxpayer shall be deemed to have elected in respect thereof under subsection 44(1).

Choix présumé

(4) Lorsqu'un ancien bien d'un contribuable était un bien amortissable qui lui appartenait :

a) si ce dernier a fait un choix à l'égard du bien en vertu du paragraphe (1), il est réputé l'avoir fait en vertu du paragraphe 13(4);

b) s'il a fait un choix à l'égard du bien en vertu du paragraphe 13(4), il est réputé l'avoir fait en vertu du paragraphe (1).

Replacement property

(5) For the purposes of this section, a particular capital property of a taxpayer is a replacement property for a former property of the taxpayer, if

(a) it is reasonable to conclude that the property was acquired by the taxpayer to replace the former property;

(a.1) it was acquired by the taxpayer and used by the taxpayer or a person related to the taxpayer for a use that is the same as or similar to the use to which the taxpayer or a person related to the taxpayer put the former property;

(b) where the former property was used by the taxpayer or a person related to the taxpayer for the purpose of gaining or producing income from a business, the particular capital property was acquired for the purpose of gaining or producing income from that or a

Bien de remplacement

(5) Pour l'application du présent article, une immobilisation d'un contribuable est un bien servant de remplacement à un ancien bien dont il était propriétaire si les conditions suivantes sont réunies :

a) il est raisonnable de conclure qu'il l'a acquise en remplacement de l'ancien bien;

a.1) elle a été acquise par lui et est utilisée par lui, ou par une personne qui lui est liée, pour un usage identique ou semblable à celui qu'il a fait de l'ancien bien ou qu'une telle personne en a fait;

b) dans le cas où le contribuable ou une personne qui lui est liée utilisait l'ancien bien en vue de tirer un revenu d'une entreprise, l'immobilisation a été acquise en vue de tirer un revenu de cette entreprise ou d'une entreprise semblable ou pour qu'une personne liée au contribuable l'utilise à cette fin;

similar business or for use by a person related to the taxpayer for such a purpose;

(c) where the former property was a taxable Canadian property of the taxpayer, the particular capital property is a taxable Canadian property of the taxpayer; and

(d) where the former property was a taxable Canadian property (other than treaty-protected property) of the taxpayer, the particular capital property is a taxable Canadian property (other than treaty-protected property) of the taxpayer.

c) si l'ancien bien était un bien canadien imposable, l'immobilisation en est un;

d) si l'ancien bien était un bien canadien imposable (sauf un bien protégé par traité), l'immobilisation en est un (sauf un bien protégé par traité).

Deemed proceeds of disposition

(6) If a taxpayer has disposed of property that was a former business property and was in part a building and in part the land (or an interest, or for civil law a right, therein) subjacent to, or immediately contiguous to and necessary for the use of, the building, for the purposes of this subdivision, the amount if any, by which

(a) the proceeds of disposition of one such part determined without regard to this subsection

exceed

(b) the adjusted cost base to the taxpayer of that part

shall, to the extent that the taxpayer so elects in the taxpayer's return of income under this Part for the year in which the taxpayer acquired a replacement property for the former business property, be deemed not to be proceeds of disposition of that part and to be proceeds of disposition of the other part.

Produit de disposition réputé

(6) Lorsqu'un contribuable a disposé d'un bien qui était un ancien bien d'entreprise constitué en partie d'un bâtiment et en partie du fonds de terre qui est sous-jacent ou contigu au bâtiment et nécessaire à son utilisation, ou d'un intérêt ou, pour l'application du droit civil, d'un droit sur ce fonds de terre, pour l'application de la présente sous-section, l'excédent :

a) du produit de disposition d'une telle partie, calculé compte non tenu du présent paragraphe,

sur :

b) le prix de base rajusté pour lui de cette même partie,

est, dans la mesure où le contribuable fait un choix en ce sens dans sa déclaration de revenu produite en vertu de la présente partie pour l'année au cours de laquelle il a acquis un bien de remplacement pour l'ancien bien d'entreprise, réputé ne pas être le produit de disposition de cette partie et est réputé être le produit de disposition de l'autre partie.

Where subpara. (1)(e)(iii) does not apply

(7) Subparagraph 44(1)(e)(iii) does not apply to permit a taxpayer to claim any amount under that subparagraph in computing a gain for a taxation year where

(a) the taxpayer, at the end of the year or at any time in the immediately following year, was not resident in Canada or was exempt from tax under any provision of this Part;

(b) the person to whom the former property of the taxpayer was disposed of was a corporation that, immediately after the disposition,

(i) was controlled, directly or indirectly in any manner whatever, by the taxpayer,

(ii) was controlled, directly or indirectly in any manner whatever, by a person or group of persons

Non-application du sous-alinéa (1)e)(iii)

(7) Le sous-alinéa (1)e)(iii) ne s'applique pas de manière à permettre à un contribuable de demander la déduction d'une somme dans le calcul d'un gain pour une année d'imposition lorsque, selon le cas :

a) le contribuable, à la fin de l'année ou à un moment donné au cours de l'année suivante, n'était pas un résident du Canada ou était exonéré de l'impôt en vertu des dispositions de la présente partie;

b) la personne en faveur de qui il a été disposé de l'ancien bien était une société qui, immédiatement après la disposition :

(i) soit était contrôlée, directement ou indirectement, de quelque manière que ce soit, par le contribuable,

by whom the taxpayer was controlled, directly or indirectly in any manner whatever, or

(iii) controlled the taxpayer, directly or indirectly in any manner whatever, where the taxpayer is a corporation; or

(c) the former property of the taxpayer was disposed of to a partnership in which the taxpayer was, immediately after the disposition, a majority-interest partner.

(ii) soit était contrôlée, directement ou indirectement, de quelque manière que ce soit, par une personne ou un groupe de personnes par qui le contribuable était contrôlé, directement ou indirectement, de quelque manière que ce soit,

(iii) soit contrôlait le contribuable, directement ou indirectement, de quelque manière que ce soit, lorsque le contribuable est une société;

c) il a été disposé de l'ancien bien du contribuable en faveur d'une société de personnes dont le contribuable était, immédiatement après la disposition, un associé détenant une participation majoritaire.

Application of s. 70(10)

(8) The definitions in subsection 70(10) apply to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 44; 1994, c. 7, Sch. II, s. 24, c. 21, s. 17; 1995, c. 21, s. 12; 1998, c. 19, s. 90; 1999, c. 22, s. 12; 2001, c. 17, s. 28; 2007, c. 2, s. 5; 2013, c. 34, ss. 104, 186, c. 40, s. 20(E).

Application du par. 70(10)

(8) Les définitions figurant au paragraphe 70(10) s'appliquent au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 44; 1994, ch. 7, ann. II, art. 24, ch. 21, art. 17; 1995, ch. 21, art. 12; 1998, ch. 19, art. 90; 1999, ch. 22, art. 12; 2001, ch. 17, art. 28; 2007, ch. 2, art. 5; 2013, ch. 34, art. 104 et 186, ch. 40, art. 20(A).

Definitions

44.1 (1) The definitions in this subsection apply in this section.

ACB reduction of an individual in respect of a replacement share of the individual in respect of a qualifying disposition of the individual means the amount determined by the formula

D × (E/F)

where

D is the permitted deferral of the individual in respect of the qualifying disposition;

E is the cost to the individual of the replacement share; and

F is the cost to the individual of all the replacement shares of the individual in respect of the qualifying disposition. (*réduction du prix de base rajusté*)

active business corporation at any time means, subject to subsection (10), a corporation that is, at that time, a taxable Canadian corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

(a) assets used principally in an active business carried on by the corporation or by an active business corporation that is related to the corporation;

(b) shares issued by or debt owing by other active business corporations that are related to the corporation; or

Définitions

44.1 (1) Les définitions qui suivent s'appliquent au présent article.

action de remplacement S'agissant de l'action de remplacement d'un particulier relativement à une disposition admissible qu'il effectue au cours d'une année d'imposition, action déterminée de petite entreprise du particulier que celui-ci a :

a) d'une part, acquise au cours de l'année ou dans les 120 jours suivant la fin de l'année;

b) d'autre part, désignée, dans sa déclaration de revenu pour l'année, à titre d'action de remplacement relativement à la disposition admissible. (*replacement share*)

action déterminée de petite entreprise S'agissant d'une action déterminée de petite entreprise d'un particulier, action ordinaire émise par une société au particulier dans les conditions suivantes :

a) au moment de son émission, la société était une société admissible exploitant une petite entreprise;

b) immédiatement avant et immédiatement après son émission, la valeur comptable totale des actifs de la société et des sociétés liées à celle-ci n'excédait pas 50 000 000 $. (*eligible small business corporation share*)

(c) a combination of assets described in paragraphs (a) and (b). (*société exploitant activement une entreprise*)

carrying value of the assets of a corporation at any time means the amount at which the assets of the corporation would be valued for the purpose of the corporation's balance sheet as of that time if that balance sheet were prepared in accordance with generally accepted accounting principles used in Canada at that time, except that an asset of a corporation that is a share or debt issued by a related corporation is deemed to have a carrying value of nil. (*valeur comptable*)

common share means a share prescribed for the purpose of paragraph 110(1)(d). (*action ordinaire*)

eligible pooling arrangement in respect of an individual means an agreement in writing made between the individual and another person or partnership (which other person or partnership is referred to in this definition and subsection (3) as the "investment manager") where the agreement provides for

(a) the transfer of funds or other property by the individual to the investment manager for the purpose of making investments on behalf of the individual;

(b) the purchase of eligible small business corporation shares with those funds, or the proceeds of a disposition of the other property, within 60 days after receipt of those funds or the other property by the investment manager; and

(c) the provision of a statement of account to the individual by the investment manager at the end of each month that ends after the transfer disclosing the details of the investment portfolio held by the investment manager on behalf of the individual at the end of that month and the details of the transactions made by the investment manager on behalf of the individual during the month. (*arrangement admissible de mis en commun*)

eligible small business corporation at any time means, subject to subsection (10), a corporation that, at that time, is a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets of the corporation that are

(a) assets used principally in an active business carried on primarily in Canada by the corporation or by an eligible small business corporation that is related to the corporation;

action ordinaire Action visée par règlement pour l'application de l'alinéa 110(1)d). (*common share*)

arrangement admissible de mise en commun En ce qui concerne un particulier, convention écrite conclue entre le particulier et une autre personne ou une société de personnes (cette autre personne ou cette société de personnes étant appelée « gestionnaire de placements » à la présente définition et au paragraphe (3)) et prévoyant ce qui suit :

a) le transfert de fonds ou d'autres biens par le particulier au gestionnaire de placements en vue de leur placement au nom du particulier;

b) l'achat, au moyen de ces fonds ou du produit de la disposition des autres biens, d'actions déterminées de petite entreprise dans les 60 jours suivant la réception des fonds ou des autres biens par le gestionnaire de placements;

c) la remise au particulier par le gestionnaire de placements, à la fin de chaque mois se terminant après le transfert, d'un état de compte indiquant le détail du portefeuille de placements que le gestionnaire de placements détient au nom du particulier à la fin du mois en question ainsi que le détail des opérations qu'il a effectuées au nom du particulier au cours de ce mois. (*eligible pooling arrangement*)

coût admissible [Abrogée, 2003, ch. 15, art. 70]

disposition admissible Sous réserve du paragraphe (9), disposition d'actions du capital-actions d'une société effectuée par un particulier (sauf une fiducie), si chaque action dont il est disposé répond aux conditions suivantes :

a) elle est une action déterminée de petite entreprise du particulier;

b) tout au long de la période pendant laquelle le particulier en a été propriétaire, elle a été une action ordinaire d'une société exploitant activement une entreprise;

c) tout au long de la période de 185 jours terminée immédiatement avant la disposition, elle a appartenu au particulier. (*qualifying disposition*)

montant de report autorisé S'agissant du montant de report autorisé d'un particulier relativement à une disposition admissible qu'il effectue, le montant obtenu par la formule suivante :

(G/H) × I

où :

(b) shares issued by or debt owing by other eligible small business corporations that are related to the corporation; or

(c) a combination of assets described in paragraphs (a) and (b). (*société admissible exploitant une petite entreprise*)

eligible small business corporation share of an individual means a common share issued by a corporation to the individual if

(a) at the time the share was issued, the corporation was an eligible small business corporation; and

(b) immediately before and after the share was issued, the total carrying value of the assets of the corporation and corporations related to it did not exceed $50,000,000. (*action déterminée de petite entreprise*)

permitted deferral of an individual in respect of a qualifying disposition of the individual means the amount determined by the formula

(G/H) × I

where

G is the lesser of the individual's proceeds of disposition from the qualifying disposition and the total of all amounts each of which is the cost to the individual of a replacement share in respect of the qualifying disposition;

H is the individual's proceeds of disposition from the qualifying disposition; and

I is the individual's capital gain from the qualifying disposition. (*montant de report autorisé*)

qualifying cost [Repealed, 2003, c. 15, s. 70(1)]

qualifying disposition of an individual (other than a trust) means, subject to subsection (9), a disposition of shares of the capital stock of a corporation where each such share disposed of was

(a) an eligible small business corporation share of the individual;

(b) throughout the period during which the individual owned the share, a common share of an active business corporation; and

(c) throughout the 185-day period that ended immediately before the disposition of the share, owned by the individual. (*disposition admissible*)

G représente le produit de disposition pour le particulier provenant de la disposition admissible ou, s'il est inférieur, le total des montants représentant chacun le coût, pour le particulier, d'une action de remplacement relativement à la disposition admissible;

H le produit de disposition pour le particulier provenant de la disposition admissible;

I le gain en capital du particulier provenant de la disposition admissible. (*permitted deferral*)

partie admissible d'un gain en capital [Abrogée, 2003, ch. 15, art. 70]

partie admissible du produit de disposition [Abrogée, 2003, ch. 15, art. 70]

réduction du prix de base rajusté En ce qui concerne l'action de remplacement d'un particulier relativement à une disposition admissible qu'il effectue, le montant obtenu par la formule suivante :

D × (E/F)

où :

D représente le montant de report autorisé du particulier relativement à la disposition admissible;

E le coût de l'action de remplacement pour le particulier;

F le coût, pour le particulier, de l'ensemble de ses actions de remplacement relativement à la disposition admissible. (*ACB reduction*)

société admissible exploitant une petite entreprise Sous réserve du paragraphe (10), société qui, à un moment donné, est une société privée sous contrôle canadien dont la totalité ou la presque totalité de la juste valeur marchande des actifs à ce moment est attribuable à ceux de ses actifs qui sont :

a) soit des actifs utilisés principalement dans le cadre d'une entreprise exploitée activement principalement au Canada par elle ou par une société admissible exploitant une petite entreprise qui lui est liée;

b) soit des actions émises par d'autres sociétés admissibles exploitant une petite entreprise qui lui sont liées, ou des créances dont de telles sociétés sont débitrices;

c) soit des actifs visés aux alinéas a) et b). (*eligible small business corporation*)

société exploitant activement une entreprise Sous réserve du paragraphe (10), société qui, à un moment donné, est une société canadienne imposable dont la totalité

qualifying portion of a capital gain [Repealed, 2003, c. 15, s. 70(1)]

qualifying portion of the proceeds of disposition [Repealed, 2003, c. 15, s. 70(1)]

replacement share of an individual in respect of a qualifying disposition of the individual in a taxation year means an eligible small business corporation share of the individual that is

(a) acquired by the individual in the year or within 120 days after the end of the year; and

(b) designated by the individual in the individual's return of income for the year to be a replacement share in respect of the qualifying disposition. (*action remplacement*)

Capital gain deferral

(2) Where an individual has made a qualifying disposition in a taxation year,

(a) the individual's capital gain for the year from the qualifying disposition is deemed to be the amount by which the individual's capital gain for the year from the qualifying disposition, determined without reference to this section, exceeds the individual's permitted deferral in respect of the qualifying disposition;

(b) in computing the adjusted cost base to the individual of a replacement share of the individual in respect of the qualifying disposition at any time after its acquisition, there shall be deducted the amount of the ACB reduction of the individual in respect of the replacement share; and

(c) where the qualifying disposition was a disposition of a share that was taxable Canadian property of the individual, the replacement share of the individual in respect of the qualifying disposition is deemed to be, at any time that is within 60 months after the disposition, taxable Canadian property of the individual.

Special rule — re eligible pooling arrangements

(3) Except for the purpose of the definition ***eligible pooling arrangement*** in subsection (1), any transaction

ou la presque totalité de la juste valeur marchande des actifs, à ce moment, est attribuable à ceux de ses actifs qui sont :

a) soit des actifs utilisés principalement dans le cadre d'une entreprise exploitée activement par elle ou par une société exploitant activement une entreprise qui lui est liée;

b) soit des actions émises par d'autres sociétés exploitant activement une entreprise qui lui sont liées, ou des créances dont de telles sociétés sont débitrices;

c) soit des actifs visés aux alinéas a) et b). (*active business corporation*)

valeur comptable Le montant auquel les actifs d'une société à un moment donné seraient évalués en vue de l'établissement de son bilan à ce moment si ce bilan était dressé conformément aux principes comptables généralement reconnus utilisés au Canada à ce moment. Toutefois, la valeur comptable de l'actif d'une société qui est une action ou une créance émise par une société liée est réputée nulle. (*carrying value*)

Report du gain en capital

(2) Les règles ci-après s'appliquent lorsqu'un particulier effectue une disposition admissible au cours d'une année d'imposition :

a) son gain en capital pour l'année provenant de la disposition admissible est réputé correspondre à l'excédent de son gain en capital pour l'année provenant de cette disposition, déterminé compte non tenu du présent article, sur son montant de report autorisé relativement à cette disposition;

b) est déduit, dans le calcul du prix de base rajusté, pour lui, d'une de ses actions de remplacement relativement à la disposition admissible, à un moment postérieur à l'acquisition de l'action, le montant de la réduction du prix de base rajusté qui lui est applicable relativement à l'action;

c) lorsque la disposition admissible a consisté en la disposition d'une action qui était un bien canadien imposable du particulier, l'action de remplacement du particulier relativement à la disposition admissible est réputée être, à tout moment de la période de 60 mois suivant la disposition, un bien canadien imposable lui appartenant.

Règle spéciale — arrangement admissible de mise en commun

(3) Sauf pour l'application de la définition de ***arrangement admissible de mise en commun*** au paragraphe

entered into by an investment manager under an eligible pooling arrangement on behalf of an individual is deemed to be a transaction of the individual and not a transaction of the investment manager.

Special rule — re acquisitions on death

(4) For the purpose of this section, a share of the capital stock of a corporation, acquired by an individual as a consequence of the death of a person who is the individual's spouse, common-law partner or parent, is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person, if

(a) where the person was the spouse or common-law partner of the individual, the share was an eligible small business share of the person and subsection 70(6) applied to the individual in respect of the share; or

(b) where the person was the individual's parent, the share was an eligible small business share of the parent and subsection 70(9.2) applied to the individual in respect of the share.

Special rule — re breakdown of relationships

(5) For the purpose of this section, a share of the capital stock of a corporation, acquired by an individual from a person who was the individual's former spouse or common-law partner as a consequence of the settlement of rights arising out of their marriage or common-law partnership, is deemed to be a share that was acquired by the individual at the time it was acquired by that person and owned by the individual throughout the period that it was owned by that person if the share was an eligible small business share of the person and subsection 73(1) applied to the individual in respect of the share.

Special rule — re eligible small business corporation share exchanges

(6) For the purpose of this section, where an individual receives shares of the capital stock of a particular corporation that are eligible small business corporation shares of the individual (in this subsection referred to as the "new shares") as the sole consideration for the disposition by the individual of shares issued by the particular corporation or by another corporation that were eligible small business corporation shares of the individual (in this subsection referred to as the "exchanged shares"), the new shares are deemed to have been owned by the individual throughout the period that the exchanged shares were owned by the individual if

(1), toute opération conclue par un gestionnaire de placements au nom d'un particulier dans le cadre d'un arrangement admissible de mise en commun est réputée être conclue par le particulier et non par le gestionnaire.

Règle spéciale — acquisitions au décès

(4) Pour l'application du présent article, l'action du capital-actions d'une société qui est acquise par un particulier par suite du décès d'une personne qui est son époux, son conjoint de fait, son père ou sa mère est réputée avoir été acquise par le particulier au moment où elle a été acquise par la personne en question et lui avoir appartenu tout au long de la période où cette personne en a été propriétaire si, selon le cas :

a) la personne en question étant l'époux ou le conjoint de fait du particulier, l'action était une action déterminée de petite entreprise lui appartenant et le paragraphe 70(6) s'est appliqué au particulier relativement à l'action;

b) la personne en question étant le père ou la mère du particulier, l'action était une action déterminée de petite entreprise lui appartenant et le paragraphe 70(9.2) s'est appliqué au particulier relativement à l'action.

Règle spéciale — échec du mariage ou de l'union de fait

(5) Pour l'application du présent article, l'action du capital-actions d'une société qu'un particulier acquiert d'une personne qui est son ex-époux ou son ancien conjoint de fait, par suite du règlement des droits découlant de leur mariage ou union de fait est réputée avoir été acquise par le particulier au moment où elle a été acquise par la personne en question et lui avoir appartenu tout au long de la période où cette personne en a été propriétaire, si elle était une action déterminée de petite entreprise de la personne et si le paragraphe 73(1) s'est appliqué au particulier relativement à l'action.

Règle spéciale — échange d'actions déterminées de petite entreprise

(6) Pour l'application du présent article, lorsqu'un particulier reçoit des actions du capital-actions d'une société donnée qui sont des actions déterminées de petite entreprise du particulier (appelées « nouvelles actions » au présent paragraphe) comme unique contrepartie de la disposition par le particulier d'actions émises par la société donnée ou par une autre société qui étaient des actions déterminées de petite entreprise du particulier (appelées « actions échangées » au présent paragraphe), les nouvelles actions sont réputées avoir appartenu au particulier tout au long de la période au cours de laquelle les actions échangées lui ont appartenu si, à la fois :

(a) section 51, paragraph 85(1)(h), subsection 85.1(1), section 86 or subsection 87(4) applied to the individual in respect of the new shares; and

(b) the individual's total proceeds of disposition of the exchanged shares was equal to the total of all amounts each of which was the individual's adjusted cost base of an exchanged share immediately before the disposition.

Special rule — re active business corporation share exchanges

(7) For the purpose of this section, where an individual receives common shares of the capital stock of a particular corporation (in this subsection referred to as the "new shares") as the sole consideration for the disposition by the individual of common shares of the particular corporation or of another corporation (in this subsection referred to as the "exchanged shares"), the new shares are deemed to be eligible small business corporation shares of the individual and shares of the capital stock of an active business corporation that were owned by the individual throughout the period that the exchanged shares were owned by the individual, if

(a) section 51, paragraph 85(1)(h), subsection 85.1(1), section 86 or subsection 87(4) applied to the individual in respect of the new shares;

(b) the total of the individual's proceeds of disposition in respect of the disposition of the exchanged shares was equal to the total of the individual's adjusted cost bases immediately before the disposition of such shares; and

(c) the disposition of the exchanged shares was a qualifying disposition of the individual.

Special rule — re carrying on an active business

(8) For the purpose of the definitions in subsection (1), a property held at any particular time by a corporation that would, if this Act were read without reference to this subsection, be considered to carry on an active business at that time, is deemed to be used or held by the corporation in the course of carrying on that active business if the property (or other property for which the property is substituted property) was acquired by the corporation, at any time in the 36-month period ending at the particular time, because the corporation

(a) issued a debt or a share of a class of its capital stock in order to acquire money for the purpose of acquiring property to be used in or held in the course of, or making expenditures for the purpose of, earning income from an active business carried on by it;

a) l'article 51, l'alinéa 85(1)h), le paragraphe 85.1(1), l'article 86 ou le paragraphe 87(4) se sont appliqués au particulier relativement aux nouvelles actions;

b) le total des produits de disposition des actions échangées pour le particulier correspondait au total des montants représentant chacun le prix de base rajusté, pour lui, d'une action échangée immédiatement avant la disposition.

Règle spéciale — échange d'actions de société exploitant activement une entreprise

(7) Pour l'application du présent article, lorsqu'un particulier reçoit des actions ordinaires du capital-actions d'une société donnée (appelées « nouvelles actions » au présent paragraphe) comme unique contrepartie de la disposition par le particulier d'actions ordinaires de la société donnée ou d'une autre société (appelées « actions échangées » au présent paragraphe), les nouvelles actions sont réputées être des actions déterminées de petite entreprise du particulier ainsi que des actions du capital-actions d'une société exploitant activement une entreprise qui lui ont appartenu tout au long de la période au cours de laquelle les actions échangées lui ont appartenu si, à la fois :

a) l'article 51, l'alinéa 85(1)h), le paragraphe 85.1(1), l'article 86 ou le paragraphe 87(4) se sont appliqués au particulier relativement aux nouvelles actions;

b) le total des produits de disposition du particulier relativement à la disposition des actions échangées correspondait au total des prix de base rajustés, pour lui, immédiatement avant la disposition de ces actions;

c) la disposition des actions échangées était une disposition admissible effectuée par le particulier.

Règle spéciale — exploitation active d'une entreprise

(8) Pour l'application des définitions figurant au paragraphe (1), le bien détenu à un moment donné par une société qui, en l'absence du présent paragraphe, serait considérée comme exploitant activement une entreprise à ce moment est réputé être utilisé ou détenu par la société dans le cours de l'exploitation active de cette entreprise si elle a acquis le bien (ou un autre bien pour lequel le bien est un bien substitué), au cours de la période de 36 mois se terminant à ce moment, du fait qu'elle a :

a) soit émis une créance ou une action d'une catégorie de son capital-actions afin d'obtenir de l'argent qui servira soit à acquérir un bien à utiliser ou à détenir en vue de tirer un revenu d'une entreprise exploitée activement par elle, soit à faire des dépenses en vue de tirer un revenu d'une telle entreprise;

(b) disposed of property used or held by it in the course of carrying on an active business in order to acquire money for the purpose of acquiring property to be used in or held in the course of, or making expenditures for the purpose of, earning income from an active business carried on by it; or

(c) accumulated income derived from an active business carried on by it in order to acquire property to be used in or held in the course of, or to make expenditures for the purpose of, earning income from an active business carried on by it.

Special rule — re qualifying disposition

(9) A disposition of a common share of an active business corporation (in this subsection referred to as the "subject share") by an individual that, but for this subsection, would be a qualifying disposition of the individual is deemed not to be a qualifying disposition of the individual unless the active business of the corporation referred to in paragraph (a) of the definition ***active business corporation*** in subsection (1) was carried on primarily in Canada

(a) at all times in the period that began at the time the individual last acquired the subject share and ended at the time of disposition, if that period is less than 730 days; or

(b) in any other case, for at least 730 days in the period referred to in paragraph (a).

Special rule — re exceptions

(10) For the purpose of this section, an eligible small business corporation and an active business corporation at any time do not include a corporation that is, at that time,

(a) a professional corporation;

(b) a specified financial institution;

(c) a corporation the principal business of which is the leasing, rental, development or sale, or any combination of those activities, of real or immovable property owned by it; or

(d) a corporation more than 50% of the fair market value of the property of which (net of debts incurred to acquire the property) is attributable to real or immovable property.

b) soit disposé d'un bien utilisé ou détenu par elle dans le cadre d'une entreprise exploitée activement afin d'obtenir de l'argent qui servira soit à acquérir un bien à utiliser ou à détenir en vue de tirer un revenu d'une entreprise exploitée activement par elle, soit à faire des dépenses en vue de tirer un revenu d'une telle entreprise;

c) soit accumulé un revenu provenant d'une entreprise exploitée activement par elle soit afin d'acquérir un bien à utiliser ou à détenir en vue de tirer un revenu d'une entreprise exploitée activement par elle, soit afin de faire des dépenses en vue de tirer un revenu d'une telle entreprise.

Règle spéciale — disposition admissible

(9) La disposition, par un particulier, d'une action ordinaire d'une entreprise exploitée activement qui, en l'absence du présent paragraphe, serait une disposition admissible effectuée par le particulier est réputée ne pas être une telle disposition, à moins que l'entreprise exploitée activement par la société visée à l'alinéa a) de la définition de ***société exploitant activement une entreprise*** au paragraphe (1) n'ait été exploitée principalement au Canada :

a) soit, si la période ayant commencé au moment de la dernière acquisition de l'action ordinaire par le particulier et s'étant terminée au moment de la disposition compte moins de 730 jours, tout au long de cette période;

b) soit, dans les autres cas, pendant au moins 730 jours de cette période.

Règle spéciale — exceptions

(10) Pour l'application du présent article, n'est pas une société admissible exploitant une petite entreprise ou une société exploitant activement une entreprise la société qui est, selon le cas :

a) une société professionnelle;

b) une institution financière déterminée;

c) une société dont l'entreprise principale consiste à louer, à aménager ou à vendre des biens immeubles ou réels dont elle est propriétaire, ou à faire plusieurs de ces activités;

d) une société dont plus de 50 % de la juste valeur marchande des biens (déduction faite des dettes contractées pour acquérir les biens) est attribuable à des biens immeubles ou réels.

Determination rule

(11) In determining whether a share owned by an individual is an eligible small business corporation share of the individual, this Act shall be read without reference to section 48.1.

Anti-avoidance rule

(12) The permitted deferral of an individual in respect of a qualifying disposition of shares issued by a corporation (in this subsection referred to as "new shares") is deemed to be nil where

(a) the new shares (or shares for which the new shares are substituted property) were issued to the individual or a person related to the individual as part of a series of transactions or events in which

(i) shares of the capital stock of a corporation (in this subsection referred to as the "old shares") were disposed of by the individual or a person related to the individual, or

(ii) the paid-up capital of old shares or the adjusted cost base to the individual or to a person related to the individual of the old shares was reduced;

(b) the new shares (or shares for which the new shares are substituted property) were

(i) issued by the corporation that issued the old shares,

(ii) issued by a corporation that, at or immediately after the time of issue of the new shares, was a corporation that was not dealing at arm's length with

(A) the corporation that issued the old shares, or

(B) the individual, or

(iii) issued, by a corporation that acquired the old shares (or by another corporation related to that corporation), as part of the transaction or event or series of transactions or events that included that acquisition of the old shares; and

(c) it is reasonable to conclude that one of the main reasons for the series of transactions or events or a transaction in the series was to permit the individual, persons related to the individual, or the individual and persons related to the individual to become eligible to deduct under subsection (2) permitted deferrals in respect of qualifying dispositions of new shares (or shares substituted for the new shares) the total of which would exceed the total that those persons would have been eligible to deduct under subsection (2) in

Inapplication de l'article 48.1

(11) L'article 48.1 n'est pas pris en compte lorsqu'il s'agit de déterminer si une action appartenant à un particulier est une action déterminée de petite entreprise du particulier.

Règle anti-évitement

(12) Le montant de report autorisé d'un particulier relativement à une disposition admissible d'actions émises par une société (appelées « nouvelles actions » au présent paragraphe) est réputé nul si les conditions suivantes sont réunies :

a) les nouvelles actions (ou des actions de remplacement) ont été émises au particulier, ou à une personne qui lui est liée, dans le cadre d'une série d'opérations ou d'événements comportant :

(i) soit la disposition d'actions du capital-actions d'une société (appelées « anciennes actions » au présent paragraphe) par le particulier ou une personne qui lui est liée,

(ii) soit la réduction du capital versé au titre des anciennes actions ou la réduction de leur prix de base rajusté pour le particulier ou une personne qui lui est liée;

b) les nouvelles actions (ou des actions pour lesquelles les nouvelles actions sont des biens substitués) ont été émises :

(i) soit par la société qui a émis les anciennes actions,

(ii) soit par une société qui, au moment de l'émission des nouvelles actions ou immédiatement après ce moment, était une société ayant un lien de dépendance :

(A) ou bien avec la société qui a émis les anciennes actions,

(B) ou bien avec le particulier,

(iii) soit par une société qui a acquis les anciennes actions (ou par une autre société qui lui est liée), dans le cadre de l'opération ou de l'événement, ou de la série d'opérations ou d'événements, comprenant l'acquisition des anciennes actions;

c) il est raisonnable de conclure que l'une des principales raisons de la série d'opérations ou d'événements, ou d'une opération de la série, était de permettre au particulier, à des personnes qui lui sont liées ou au particulier et à de telles personnes d'être en mesure de

respect of permitted deferrals in respect of qualifying dispositions of old shares.

déduire, en application du paragraphe (2), des montants de report autorisés relativement à des dispositions admissibles de nouvelles actions (ou d'actions de remplacement) dont le total excéderait le total que ces personnes auraient été en mesure de déduire, en application de ce paragraphe, au titre de montants de report autorisés relativement à des dispositions admissibles d'anciennes actions.

Order of disposition of shares

(13) For the purpose of this section, an individual is deemed to dispose of shares that are identical properties in the order in which the individual acquired them.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 29; 2003, c. 15, s. 70; 2010, c. 12, s. 2; 2013, c. 34, ss. 105, 187.

Ordre de disposition des actions

(13) Pour l'application du présent article, un particulier est réputé disposer d'actions qui sont des biens identiques dans l'ordre dans lequel il les a acquises.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 29; 2003, ch. 15, art. 70; 2010, ch. 12, art. 2; 2013, ch. 34, art. 105 et 187.

Property with more than one use

45 (1) For the purposes of this subdivision the following rules apply:

(a) where a taxpayer,

(i) having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income, or

(ii) having acquired property for the purpose of gaining or producing income, has commenced at a later time to use it for some other purpose,

the taxpayer shall be deemed to have

(iii) disposed of it at that later time for proceeds equal to its fair market value at that later time, and

(iv) immediately thereafter reacquired it at a cost equal to that fair market value;

(b) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income and in part for some other purpose, the taxpayer shall be deemed to have acquired, for that other purpose, the proportion of the property that the use regularly made of the property for that other purpose is of the whole use regularly made of the property at a cost to the taxpayer equal to the same proportion of the cost to the taxpayer of the whole property, and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for that other purpose shall be deemed to be the same proportion of the proceeds of disposition of the whole property;

(c) where, at any time after a taxpayer has acquired property, there has been a change in the relation

Bien affecté à plus d'un usage

45 (1) Les règles suivantes s'appliquent dans le cadre de la présente sous-section :

a) un contribuable :

(i) soit qui a acquis un bien à une autre fin et qui commence, à un moment postérieur, à l'utiliser en vue de gagner un revenu,

(ii) soit qui a acquis un bien en vue de gagner un revenu et qui commence, à un moment postérieur, à l'utiliser à une autre fin,

est réputé :

(iii) avoir disposé de ce bien à ce moment postérieur pour un produit égal à sa juste valeur marchande à ce moment,

(iv) avoir, aussitôt après, acquis ce bien de nouveau à un coût égal à cette juste valeur marchande;

b) lorsqu'un bien est, depuis son acquisition par un contribuable, utilisé habituellement en partie en vue de gagner un revenu et en partie à une autre fin, le contribuable est réputé avoir acquis, à cette autre fin, la fraction de ce bien représentée par le rapport entre l'usage qui en est fait habituellement à cette autre fin et l'usage total habituel de ce bien, à un coût, pour lui, égal à la même fraction du coût, pour lui, du bien entier; si, dans ce cas, le bien a fait l'objet d'une disposition, le produit de disposition de la fraction du bien réputée avoir été acquise à cette autre fin est réputé égal à la même fraction du produit de disposition du bien entier;

c) lorsque, à un moment donné après l'acquisition d'un bien par un contribuable, le rapport entre l'usage que le contribuable fait habituellement de ce bien en

between the use regularly made by the taxpayer of the property for gaining or producing income and the use regularly made of the property for other purposes,

(i) if the use regularly made of the property for those other purposes has increased, the taxpayer shall be deemed to have

(A) disposed of the property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by the taxpayer of the property for those other purposes is of the whole use regularly made of the property, and

(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in clause 45(1)(c)(i)(A), and

(ii) if the use regularly made of the property for those other purposes has decreased, the taxpayer shall be deemed to have

(A) disposed of the property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the decrease in use regularly made by the taxpayer of the property for those other purposes is of the whole use regularly made of the property, and

(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in clause 45(1)(c)(ii)(A); and

(d) in applying this subsection in respect of a non-resident taxpayer, a reference to "gaining or producing income" shall be read as a reference to "gaining or producing income from a source in Canada".

vue de gagner un revenu et l'usage habituel du bien à une autre fin change :

(i) si l'usage habituellement fait du bien à cette autre fin a augmenté, le contribuable est réputé :

(A) avoir disposé du bien à ce moment pour un produit égal à la fraction de la juste valeur marchande du bien à ce moment, représentée par le rapport entre l'augmentation de l'usage que le contribuable fait habituellement du bien à cette autre fin et l'usage total habituel du bien,

(B) avoir acquis le bien de nouveau immédiatement après à un coût égal au produit visé à la division (A),

(ii) si l'usage habituellement fait du bien à cette autre fin a diminué, le contribuable est réputé :

(A) avoir disposé du bien à ce moment pour un produit égal à la fraction de la juste valeur marchande du bien à ce moment, représentée par le rapport entre la diminution de l'usage que le contribuable fait habituellement du bien à cette autre fin et l'usage total habituel du bien,

(B) avoir acquis le bien de nouveau immédiatement après à un coût égal au produit visé à la division (A);

d) pour l'application du présent paragraphe au contribuable ne résidant pas au Canada, la mention « en vue de gagner un revenu » vaut mention de « en vue de tirer un revenu d'une source au Canada ».

Election where change of use

(2) For the purposes of this subdivision and section 13, where subparagraph 45(1)(a)(i) or paragraph 13(7)(b) would otherwise apply to any property of a taxpayer for a taxation year and the taxpayer so elects in respect of the property in the taxpayer's return of income for the year under this Part, the taxpayer shall be deemed not to have begun to use the property for the purpose of gaining or producing income except that, if in the taxpayer's return of income under this Part for a subsequent taxation year the taxpayer rescinds the election in respect of the property, the taxpayer shall be deemed to have begun so to use the property on the first day of that subsequent year.

Choix en cas de changement d'usage

(2) Pour l'application de la présente sous-section et de l'article 13, lorsque le sous-alinéa (1)a)(i) ou l'alinéa 13(7)b) s'appliquerait par ailleurs au bien d'un contribuable pour une année d'imposition, le contribuable est réputé ne pas avoir commencé à utiliser le bien en vue de gagner un revenu, s'il fait un choix en ce sens relativement au bien dans la déclaration de revenu qu'il produit pour l'année en vertu de la présente partie; toutefois, s'il revient sur ce choix dans la déclaration de revenu qu'il produit pour une année d'imposition ultérieure en vertu de la présente partie, il est réputé avoir commencé à ainsi utiliser le bien le premier jour de cette année ultérieure.

Election concerning principal residence

(3) Where at any time a property that was acquired by a taxpayer for the purpose of gaining or producing income ceases to be used for that purpose and becomes the principal residence of the taxpayer, subsection 45(1) shall not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately thereafter if the taxpayer so elects by notifying the Minister in writing on or before the earlier of

(a) the day that is 90 days after a demand by the Minister for an election under this subsection is sent to the taxpayer, and

(b) the taxpayer's filing-due date for the taxation year in which the property is actually disposed of by the taxpayer.

Where election cannot be made

(4) Notwithstanding subsection 45(3), an election described in that subsection shall be deemed not to have been made in respect of a change in use of property if any deduction in respect of the property has been allowed for any taxation year ending after 1984 and on or before the change in use under regulations made under paragraph 20(1)(a) to the taxpayer, the taxpayer's spouse or common-law partner or a trust under which the taxpayer or the taxpayer's spouse or common-law partner is a beneficiary.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 45; 1994, c. 7, Sch. II, s. 25, c. 21, s. 18; 1996, c. 21, s. 10; 2000, c. 12, s. 142; 2001, c. 17, s. 30.

Personal-use property

46 (1) Where a taxpayer has disposed of a personal-use property (other than an excluded property disposed of in circumstances to which subsection 110.1(1), or the definition ***total charitable gifts***, ***total cultural gifts*** or ***total ecological gifts*** in subsection 118.1(1), applies) of the taxpayer, for the purposes of this subdivision

(a) the adjusted cost base to the taxpayer of the property immediately before the disposition shall be deemed to be the greater of $1,000 and the amount otherwise determined to be its adjusted cost base to the taxpayer at that time; and

(b) the taxpayer's proceeds of disposition of the property shall be deemed to be the greater of $1,000 and the taxpayer's proceeds of disposition of the property otherwise determined.

Choix d'utiliser un bien comme résidence principale

(3) Malgré le paragraphe (1), le contribuable qui cesse à un moment donné d'utiliser en vue de gagner un revenu un bien qu'il a acquis à cette fin n'est pas réputé en avoir disposé à ce moment et l'avoir acquis de nouveau aussitôt après si le bien devient la résidence principale du contribuable et si le contribuable en fait le choix par avis écrit au ministre au plus tard au premier en date des jours suivants :

a) le 90e jour suivant l'envoi au contribuable d'une demande formelle du ministre de produire ce choix;

b) la date d'échéance de production qui est applicable au contribuable pour l'année d'imposition où il a effectivement disposé du bien.

Choix exclu

(4) Malgré le paragraphe (3), le choix qui y est prévu est réputé ne pas avoir été fait à l'égard d'un bien ayant fait l'objet d'un changement d'usage si un montant a été déduit à l'égard du bien, selon les dispositions réglementaires prises en application de l'alinéa 20(1)a), par le contribuable, par son époux ou conjoint de fait ou par une fiducie dont le contribuable ou son époux ou conjoint de fait est bénéficiaire, pour une année d'imposition se terminant après 1984 et au plus tard à la date du changement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 45; 1994, ch. 7, ann. II, art. 25, ch. 21, art. 18; 1996, ch. 21, art. 10; 2000, ch. 12, s. 142; 2001, ch. 17, art. 30.

Bien à usage personnel

46 (1) Lorsqu'un contribuable a disposé d'un bien à usage personnel lui appartenant (à l'exception d'un bien exclu dont il est disposé dans les circonstances visées au paragraphe 110.1(1) ou aux définitions de ***total des dons de bienfaisance***, ***total des dons de biens culturels*** ou ***total des dons de biens écosensibles*** au paragraphe 118.1(1)), les présomptions suivantes s'appliquent dans le cadre de la présente sous-section :

a) le prix de base rajusté du bien, pour le contribuable, immédiatement avant la disposition, est réputé être le plus élevé des montants suivants : 1 000 $ et le montant calculé par ailleurs comme prix de base rajusté du bien, pour le contribuable, à ce moment;

b) le produit de disposition du bien est réputé être le plus élevé des montants suivants : 1 000 $ et le produit de disposition du bien, calculé par ailleurs.

Where part only of property disposed of

(2) Where a taxpayer has disposed of part of a personal-use property (other than a part of an excluded property disposed of in circumstances to which subsection 110.1(1), or the definition ***total charitable gifts***, ***total cultural gifts*** or ***total ecological gifts*** in subsection 118.1(1), applies) owned by the taxpayer and has retained another part of the property, for the purposes of this subdivision

(a) the adjusted cost base to the taxpayer, immediately before the disposition, of the part so disposed of shall be deemed to be the greater of

(i) the adjusted cost base to the taxpayer at that time of that part otherwise determined, and

(ii) that proportion of $1,000 that the amount determined under subparagraph 46(2)(a)(i) is of the adjusted cost base to the taxpayer at that time of the whole property; and

(b) the proceeds of disposition of the part so disposed of shall be deemed to be the greater of

(i) the proceeds of disposition of that part otherwise determined, and

(ii) the amount determined under subparagraph 46(2)(a)(ii).

Properties ordinarily disposed of as a set

(3) For the purposes of this subdivision, where a number of personal-use personal-use properties of a taxpayer that would, if the properties were disposed of, ordinarily be disposed of in one disposition as a set,

(a) have been disposed of by more than one disposition so that all of the properties have been acquired by one person or by a group of persons not dealing with each other at arm's length, and

(b) had, immediately before the first disposition referred to in paragraph 46(3)(a), a total fair market value greater than $1,000,

the properties shall be deemed to be a single personal-use property and each such disposition shall be deemed to be a disposition of a part of that property.

Disposition d'une partie de bien

(2) Lorsqu'un contribuable a disposé d'une partie d'un bien à usage personnel lui appartenant (à l'exception d'une partie d'un bien exclu dont il est disposé dans les circonstances visées au paragraphe 110.1(1) ou aux définitions de ***total des dons de bienfaisance***, ***total des dons de biens culturels*** ou ***total des dons de biens écosensibles*** au paragraphe 118.1(1)) et a conservé une autre partie du bien, les présomptions suivantes s'appliquent dans le cadre de la présente sous-section :

a) le prix de base rajusté, pour lui, immédiatement avant la disposition de la partie dont il a ainsi disposé, est réputé être le plus élevé des montants suivants :

(i) le prix de base rajusté à ce moment de cette partie du bien, pour le contribuable, calculé par ailleurs,

(ii) la fraction de 1 000 $ que représente le montant calculé en vertu du sous-alinéa (i) par rapport au prix de base rajusté de tout le bien, pour le contribuable, à ce moment;

b) le produit de disposition de la partie dont il a été ainsi disposé est réputé être le plus élevé des montants suivants :

(i) le produit de disposition calculé par ailleurs,

(ii) le montant calculé en vertu du sous-alinéa a)(ii).

Biens normalement vendus comme un tout

(3) Pour l'application de la présente sous-section, si un certain nombre de biens à usage personnel d'un contribuable qui feraient normalement l'objet d'une seule disposition en cas de disposition de ces biens :

a) d'une part, ont fait l'objet de plus d'une disposition, de manière que tous les biens soient acquis par la même personne ou par un groupe de personnes qui ont des liens de dépendance;

b) d'autre part, avaient, immédiatement avant la première disposition visée à l'alinéa a), une juste valeur marchande totale supérieure à 1 000 $,

ces biens sont réputés être un seul bien à usage personnel et chacune de ces dispositions est réputée être la disposition d'une partie de ce bien.

Decrease in value of personal-use property of corporation, etc.

(4) Where it may reasonably be regarded that, by reason of a decrease in the fair market value of any personal-use property of a corporation, partnership or trust,

(a) a taxpayer's gain, if any, from the disposition of a share of the capital stock of a corporation, an interest in a trust or an interest in a partnership has become a loss, or is less than it would have been if the decrease had not occurred, or

(b) a taxpayer's loss, if any, from the disposition of a share or interest described in paragraph 46(4)(a) is greater than it would have been if the decrease had not occurred,

the amount of the gain or loss, as the case may be, shall be deemed to be the amount that it would have been but for the decrease.

Diminution de la valeur de biens à usage personnel d'une société, etc.

(4) Lorsqu'il est raisonnable de considérer, en raison d'une diminution de la juste valeur marchande d'un bien à usage personnel quelconque d'une société, une société de personnes ou une fiducie :

a) soit que le gain qu'un contribuable tire éventuellement de la disposition d'une action du capital-actions d'une société, d'un droit relatif à une fiducie ou d'une participation dans une société de personnes, s'est transformé en perte ou est moins élevé que si la diminution ne s'était pas produite;

b) soit que la perte qu'un contribuable peut éventuellement subir du fait de la disposition de l'action ou de la participation visée à l'alinéa a) est plus élevée que ce qu'elle aurait été si la diminution ne s'était pas produite,

le montant du gain ou de la perte, selon le cas, est réputé être le montant qui aurait été obtenu si la diminution ne s'était pas produite.

Excluded property

(5) For the purpose of this section, ***excluded property*** of a taxpayer means property acquired by the taxpayer, or by a person with whom the taxpayer does not deal at arm's length, in circumstances in which it is reasonable to conclude that the acquisition of the property relates to an arrangement, plan or scheme that is promoted by another person or partnership and under which it is reasonable to conclude that the property will be the subject of a gift to which subsection 110.1(1), or the definition ***total charitable gifts***, ***total cultural gifts*** or ***total ecological gifts*** in subsection 118.1(1), applies.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 46; 2001, c. 17, s. 31.

Bien exclu

(5) Pour l'application du présent article, ***bien exclu*** d'un contribuable s'entend d'un bien qu'il a acquis, ou qu'a acquis une personne avec laquelle il a un lien de dépendance, dans des circonstances où il est raisonnable de conclure que l'acquisition du bien a trait à un arrangement, un mécanisme, un plan ou un régime dont une autre personne ou une société de personnes fait la promotion et aux termes duquel il est raisonnable de conclure que le bien fera l'objet d'un don auquel s'appliquent le paragraphe 110.1(1) ou les définitions de ***total des dons de bienfaisance***, ***total des dons de biens culturels*** ou ***total des dons de biens écosensibles*** au paragraphe 118.1(1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 46; 2001, ch. 17, art. 31.

Identical properties

47 (1) Where at any particular time after 1971 a taxpayer who owns one property that was or two or more identical properties each of which was, as the case may be, acquired by the taxpayer after 1971, acquires one or more other properties (in this subsection referred to as "newly-acquired properties") each of which is identical to each such previously-acquired property, for the purposes of computing, at any subsequent time, the adjusted cost base of the taxpayer of each such identical property,

(a) the taxpayer shall be deemed to have disposed of each such previously-acquired property immediately before the particular time for proceeds equal to its

Biens identiques

47 (1) Lorsque, à un moment donné après 1971, un contribuable qui est propriétaire d'un bien acquis par lui après 1971 ou de plusieurs biens identiques dont chacun a été acquis par lui après 1971 acquiert un ou plusieurs autres biens (appelés « les biens nouvellement acquis » au présent paragraphe) dont chacun est identique à chaque bien acquis antérieurement, pour le calcul, à un moment ultérieur, du prix de base rajusté, pour le contribuable, de chacun de ces biens identiques :

a) le contribuable est réputé avoir disposé de chaque bien acquis antérieurement, immédiatement avant le moment donné, pour un produit égal à son prix de

adjusted cost base to the taxpayer immediately before the particular time;

(b) the taxpayer shall be deemed to have acquired the identical property at the particular time at a cost equal to the quotient obtained when

(i) the total of the adjusted cost bases to the taxpayer immediately before the particular time of the previously-acquired properties, and the cost to the taxpayer (determined without reference to this section) of the newly-acquired properties

is divided by

(ii) the number of the identical properties owned by the taxpayer immediately after the particular time;

(c) there shall be deducted, after the particular time, in computing the adjusted cost base to the taxpayer of each such identical property, the amount determined by the formula

A/B

where

A is the total of all amounts deducted under paragraph 53(2)(g.1) in computing immediately before the particular time the adjusted cost base to the taxpayer of the previously-acquired properties, and

B is the number of such identical properties owned by the taxpayer immediately after the particular time or, where subsection 47(2) applies, the quotient determined under that subsection in respect of the acquisition; and

(d) there shall be added, after the particular time, in computing the adjusted cost base to the taxpayer of each such identical property the amount determined under paragraph 47(1)(c) in respect of the identical property.

base rajusté, pour le contribuable, immédiatement avant le moment donné;

b) le contribuable est réputé avoir acquis chacun de ces biens identiques au moment donné, à un coût égal au quotient de la division :

(i) du total des prix de base rajustés, pour le contribuable, immédiatement avant le moment donné, des biens acquis antérieurement et du coût supporté par lui (déterminé compte non tenu du présent article) des biens nouvellement acquis,

par :

(ii) le nombre de biens identiques appartenant au contribuable immédiatement après le moment donné.

c) le résultat du calcul suivant est à déduire, après le moment donné, dans le calcul du prix de base rajusté, pour le contribuable, de chacun de ces biens identiques :

A/B

où :

A représente le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul, immédiatement avant le moment donné, du prix de base rajusté, pour le contribuable, des biens acquis antérieurement,

B le nombre de ces biens identiques appartenant au contribuable immédiatement après le moment donné ou, en cas d'application du paragraphe (2), le quotient déterminé selon ce paragraphe relativement à l'acquisition;

d) est à ajouter, après le moment donné, dans le calcul du prix de base rajusté, pour le contribuable, de chacun de ces biens identiques le montant déterminé selon l'alinéa c) relativement à ce bien.

Where identical properties are bonds, etc.

(2) For the purposes of subsection 47(1), where a group of identical properties referred to in that subsection is a group of identical bonds, debentures, bills, notes or similar obligations issued by a debtor, subparagraph 47(1)(b)(ii) shall be read as follows:

"(ii) the quotient obtained when the total of the principal amounts of all such identical properties owned by the taxpayer immediately after the particular time is divided by the principal amount of the identical property."

Cas où les biens identiques sont des titres

(2) Pour l'application du paragraphe (1), dans le cas où un groupe de biens identiques visés à ce paragraphe est un groupe d'obligations, d'effets, de billets ou d'autres titres semblables émis par un débiteur, le sous-alinéa (1)b)(ii) est à remplacer par ce qui suit :

« (ii) le quotient de la division du total du principal de tous ces biens identiques dont le contribuable est propriétaire immédiatement après le moment donné par le principal du bien identique. »

Securities acquired by employee

(3) For the purpose of subsection (1), a security (within the meaning assigned by subsection 7(7)) acquired by a taxpayer after February 27, 2000 is deemed not to be identical to any other security acquired by the taxpayer if

(a) the security is acquired in circumstances to which any of subsections 7(1.1), (1.5) or (8) or 147(10.1) applies; or

(b) the security is a security to which subsection 7(1.31) applies.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 47; 1995, c. 21, s 13; 2001, c. 17, s. 32.

Titres acquis par un employé

(3) Pour l'application du paragraphe (1), le titre (au sens du paragraphe 7(7)) qu'un contribuable acquiert après le 27 février 2000 est réputé n'être identique à aucun autre titre qu'il a acquis, si, selon le cas :

a) le titre est acquis dans les circonstances visées à l'un des paragraphes 7(1.1), (1.5) ou (8) ou 147(10.1);

b) il s'agit d'un titre auquel le paragraphe 7(1.31) s'applique.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 47; 1995, ch. 21, art. 13; 2001, ch. 17, art. 32.

Indexed Security Investment Plans

Régimes de placements en titres indexés

Application of s. 47.1 of R.S.C., 1952, c. 148

47.1 (26.1) Words and expressions used in subsections 47.1(27) and 47.1(28) have the meanings assigned to them by subsections 47.1(1) to (26) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as the latter subsections read on July 1, 1986 and in so far as they are not inconsistent with subsections 47.1(27) and 47.1(28).

Application de l'art. 47.1 des S.R.C. 1952, ch. 148

47.1 (26.1) Les termes figurant aux paragraphes (27) et (28) s'entendent au sens des paragraphes 47.1(1) à (26) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts révisé du Canada de 1952, dans leur version applicable au 1er janvier 1986, dans la mesure où ces derniers ne sont pas incompatibles avec les paragraphes (27) et (28).

Capital losses in 1986

(27) Notwithstanding any other provision of this Act, where paragraph 47.1(10)(f) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as that paragraph read on January 1, 1986, applied in respect of the termination before 1986 of an indexed security investment plan under which a taxpayer was a participant, any amount that would have been deemed under that paragraph to be a capital loss of the taxpayer from the Plan for the 1986 or a subsequent taxation year shall be deemed to be a capital loss of the taxpayer for the 1986 taxation year from the disposition of property in 1986.

Pertes en capital en 1986

(27) Malgré les autres dispositions de la présente loi, lorsque l'alinéa 47.1(10)f) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts révisé du Canada de 1952, dans sa version applicable au 1er janvier 1986 s'applique à la résiliation avant 1986 d'un régime de placements en titres indexés dont un contribuable était participant, tout montant qui serait réputé, selon cet alinéa, être une perte en capital résultant du régime subie par le contribuable pour l'année d'imposition 1986 ou pour une année d'imposition ultérieure est réputé être une perte en capital subie par le contribuable pour l'année d'imposition 1986 à la disposition d'un bien en 1986.

Transition for 1986

(28) Where a taxpayer was a participant under a Plan on January 1, 1986, the following rules apply:

(a) each indexed security owned under the Plan by the taxpayer on that date shall be deemed to have been disposed of under the Plan on that date for proceeds of disposition determined by the formula

A × B/C

where

A is the indexing base of the Plan on that date determined as if subparagraph 47.1(3)(a)(i) of the *Income Tax Act*, chapter 148 of the Revised Statutes

Règles transitoires pour 1986

(28) Lorsqu'un contribuable est participant à un régime le 1er janvier 1986, les règles suivantes s'appliquent :

a) chaque titre indexé qui appartient au contribuable dans le cadre du régime à cette date est réputé faire l'objet d'une disposition dans le cadre du régime à cette date pour un produit de disposition calculé selon la formule suivante :

A × B/C

où :

A représente la base d'indexation du régime à cette date, calculée comme si le texte du sous-alinéa

of Canada, 1952, were read as "the fair market value of all indexed securities owned by the taxpayer under the Plan at the end of the preceding taxation year",

B is the fair market value of the security on that date, and

C is the fair market value of all indexed securities owned under the Plan by the taxpayer on that date;

(b) each indexed security deemed under paragraph 47.1(28)(a) to have been disposed of under the Plan shall be deemed to have been reacquired outside the Plan by the taxpayer immediately after that date at a cost equal to the amount deemed under paragraph 47.1(28)(a) to be the proceeds of the disposition of that security;

(c) each put or call option referred to in clause 47.1(4)(a)(iv)(B) or (C) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as that clause read on January 1, 1986, outstanding under the Plan on that date shall be deemed to have been closed out under the Plan on that date at a cost equal to the amount that the taxpayer would have had to pay on that date if the taxpayer had actually closed out the option on a prescribed stock exchange in Canada on that date;

(d) each put or call option deemed under paragraph 47.1(28)(c) to have been closed out shall be deemed to be written outside the Plan immediately after that date for proceeds equal to the amount deemed under paragraph 47.1(28)(c) to be the cost at which the option was closed out; and

(e) for greater certainty, the taxpayer's indexed gain or loss, as the case may be, for the 1986 taxation year from the Plan and unindexed gain or loss, as the case may be, for that year from the Plan shall be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1984, c. 1, s. 17; 1985, c. 45, ss. 19, 126(F); 1986, c. 6, s. 20, c. 55, s. 7.

48 [Repealed, 1994, c. 21, s. 19(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 48; 1994, c. 21, s. 19.

Gain when small business corporation becomes public

48.1 (1) Where

(a) at any time in a taxation year an individual owns capital property that is a share of a class of the capital stock of a corporation that,

47.1(3)a)(i) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts révisé du Canada de 1952, était remplacé par « de la juste valeur marchande de tous les titres indexés appartenant au contribuable dans le cadre du régime à la fin de l'année d'imposition précédente »,

B la juste valeur marchande du titre à cette date,

C la juste valeur marchande de tous les titres indexés appartenant au contribuable dans le cadre du régime à cette date;

b) chaque titre indexé réputé selon l'alinéa a) faire l'objet d'une disposition est réputé acquis de nouveau par le contribuable hors du cadre du régime immédiatement après cette date à un coût égal au montant réputé selon l'alinéa a) être le produit de disposition du titre;

c) chaque option de vente ou d'achat visée à la division 47.1(4)a)(iv)(B) ou (C) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts révisé du Canada de 1952, dans sa version applicable au 1er janvier 1986, et détenue dans le cadre du régime à cette date est réputée liquidée dans le cadre du régime à cette date à un coût égal au montant que le contribuable aurait à payer à cette date s'il liquidait effectivement l'option à une bourse de valeurs au Canada visée par règlement à cette date;

d) chaque option de vente ou d'achat réputée liquidée selon l'alinéa c) est réputée vendue hors du cadre du régime immédiatement après cette date pour un produit égal au montant réputé selon l'alinéa c) être le coût auquel elle est liquidée;

e) il est entendu que le gain indexé ou la perte indexée, selon le cas, du contribuable pour l'année d'imposition 1986 qui résultent du régime sont nuls, de même que le gain non indexé ou la perte non indexée, selon le cas, pour cette même année qui résultent du régime.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1984, ch. 1, art. 17; 1985, ch. 45, art. 19 et 126(F); 1986, ch. 6, art. 20, ch. 55, art. 7.

48 [Abrogé, 1994, ch. 21, art. 19]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 48; 1994, ch. 21, art. 19.

Gain lorsqu'une société exploitant une petite entreprise devient une société publique

48.1 (1) Le particulier qui, à un moment donné d'une année d'imposition, est propriétaire d'une immobilisation qui consiste en une action d'une catégorie du capital-actions d'une société qui, à ce moment, est une société

(i) at that time, is a small business corporation, and

(ii) immediately after that time, ceases to be a small business corporation because a class of its or another corporation's shares is listed on a designated stock exchange, and

(b) the individual elects in prescribed form to have this section apply,

the individual is deemed, except for the purposes of sections 7 and 35, paragraph 110(1)(d.1) and subsections 120.4(4) and (5),

(c) to have disposed of the share at that time for proceeds of disposition equal to the greater of

(i) the adjusted cost base to the individual of the share at that time, and

(ii) the lesser of the fair market value of the share at that time and such amount as is designated in the prescribed form by the individual in respect of the share, and

(d) to have reacquired the share immediately after that time at a cost equal to those proceeds of disposition.

exploitant une petite entreprise et qui, immédiatement après ce moment, cesse d'être une telle société du fait qu'une catégorie de ses actions ou d'actions d'une autre société est inscrite à la cote d'une bourse de valeurs désignée est réputé, sauf pour l'application des articles 7 et 35, de l'alinéa 110(1)d.1) et des paragraphes 120.4(4) et (5), s'il choisit, sur le formulaire prescrit, de se prévaloir du présent article :

a) avoir disposé de l'action, au moment donné, pour un produit de disposition égal au plus élevé des montants suivants :

(i) le prix de base rajusté de l'action, pour lui, à ce moment,

(ii) le moins élevé de la juste valeur marchande de l'action à ce moment et du montant que le particulier désigne au titre de l'action dans le formulaire prescrit;

b) avoir acquis l'action de nouveau immédiatement après le moment donné à un coût égal au produit de disposition visé à l'alinéa a).

Time for election

(2) An election made under subsection 48.1(1) by an individual for a taxation year shall be made on or before the individual's filing-due date for the year.

Moment du choix

(2) Le choix d'un particulier pour une année d'imposition doit être fait au plus tard à la date d'échéance de production qui lui est applicable pour l'année.

Late filed election

(3) Where the election referred to in subsection 48.1(2) was not made on or before the day referred to therein, the election shall be deemed for the purposes of subsections 48.1(1) and 48.1(2) to have been made on that day if, on or before the day that is 2 years after that day,

(a) the election is made in prescribed form; and

(b) an estimate of the penalty in respect of that election is paid by the individual when the election is made.

Choix tardif

(3) Le choix visé au paragraphe (2) qui n'a pas été fait dans le délai imparti est réputé, pour l'application des paragraphes (1) et (2), avoir été fait dans ce délai si, au plus tard deux ans après l'expiration de ce délai :

a) le choix est fait selon le formulaire prescrit;

b) le particulier paie, au moment où il fait le choix, le montant estimatif de la pénalité y afférent.

Penalty for late filed election

(4) For the purposes of this section, the penalty in respect of an election referred to in paragraph 48.1(3)(a) is an amount equal to the lesser of

(a) 1/4 of 1% of the amount, if any, by which

(i) the proceeds of disposition determined under subsection 48.1(1)

Pénalités pour choix tardif

(4) Pour l'application du présent article, la pénalité relative à un choix visé à l'alinéa (3)a) est égale au moins élevé des montants suivants :

a) 0,25 % de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii), pour chaque mois ou partie de mois de la période commençant à la date d'exigibilité du solde visée au

exceed

(ii) the amount referred to in subparagraph 48.1(1)(c)(i)

for each month or part of a month during the period commencing on the day referred to in subsection 48.1(2) and ending on the day the election is made, and

(b) an amount equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period referred to in paragraph 48.1(4)(a).

paragraphe (2) et se terminant au moment où le choix est fait :

(i) le produit de disposition déterminé en application du paragraphe (1),

(ii) le montant visé au sous-alinéa (1)a)(i);

b) le produit de la multiplication de 100 $ par le nombre de mois tombant, en tout ou en partie, dans la période visée à l'alinéa a).

Unpaid balance of penalty

(5) The Minister shall, with all due dispatch, examine each election referred to in paragraph 48.1(3)(a), assess the penalty payable and send a notice of assessment to the individual, who shall pay forthwith to the Receiver General the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 26; 1996, c. 21, s. 11; 1998, c. 19, s. 91; 2001, c. 17, s. 33; 2007, c. 35, s. 68; 2011, c. 24, s. 7.

Solde impayé de la pénalité

(5) Le ministre, avec diligence, examine chaque choix visé à l'alinéa (3)a), calcule le montant de la pénalité payable et envoie un avis de cotisation au particulier; le particulier doit, sans délai, payer au receveur général l'excédent éventuel du montant de la pénalité ainsi calculée sur l'ensemble des montants antérieurement payés au titre de cette pénalité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 26; 1996, ch. 21, art. 11; 1998, ch. 19, art. 91; 2001, ch. 17, art. 33; 2007, ch. 35, art. 68; 2011, ch. 24, art. 7.

Granting of options

49 (1) Subject to subsections 49(3) and 49(3.1), for the purposes of this subdivision, the granting of an option, other than

(a) an option to acquire or to dispose of a principal residence,

(b) an option granted by a corporation to acquire shares of its capital stock or bonds or debentures to be issued by it, or

(c) an option granted by a trust to acquire units of the trust to be issued by the trust,

is a disposition of a property the adjusted cost base of which to the grantor immediately before the grant is nil.

Octroi d'options

49 (1) Sous réserve des paragraphes (3) et (3.1) et pour l'application de la présente sous-section, l'octroi d'une option équivaut à la disposition d'un bien dont le prix de base rajusté, pour celui qui donne l'option, immédiatement avant l'octroi de l'option, est nul, sauf s'il s'agit d'une des options suivantes :

a) une option portant sur l'acquisition ou la disposition d'une résidence principale;

b) une option donnée par une société pour l'acquisition d'actions de son capital-actions ou d'obligations qu'elle doit émettre;

c) une option donnée par une fiducie pour l'acquisition d'unités qu'elle doit émettre.

Expired option — shares

(2) If at any time an option described in paragraph (1)(b) expires, the corporation that granted the option is deemed to have disposed of capital property at that time for proceeds equal to the proceeds received by it for the granting of the option, and the adjusted cost base to the corporation of that capital property immediately before that time is deemed to be nil, unless

(a) the option is held, at that time, by a person who deals at arm's length with the corporation and the

Option expirée — actions

(2) Si l'option visée à l'alinéa (1)b) expire à un moment donné, la société l'ayant octroyée est réputée avoir disposé d'une immobilisation à ce moment pour un produit égal à celui qu'elle a reçu pour l'octroi de l'option et le prix de base rajusté de cette immobilisation pour elle, immédiatement avant ce moment, est réputé être nul, sauf si l'un des faits ci-après s'avère :

a) l'option a été octroyée par la société à une personne avec laquelle elle n'avait aucun lien de dépendance au

option was granted by the corporation to a person who was dealing at arm's length with the corporation at the time that the option was granted, or

(b) the option is an option to acquire shares of the capital stock of the corporation in consideration for the incurring, pursuant to an agreement described in paragraph (e) of the definition ***Canadian exploration and development expenses*** in subsection 66(15), paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5) or paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), of any expense described in whichever of those paragraphs is applicable.

Expired option — trust units

(2.1) If, at a particular time, an option referred to in paragraph (1)(c) expires, and the option is held at that time by a person who does not deal at arm's length with the trust or was granted to a person who did not deal at arm's length with the trust at the time that the option was granted,

(a) the trust is deemed to have disposed of capital property at the particular time for proceeds equal to the proceeds received by it for the granting of the option; and

(b) the adjusted cost base to the trust of that capital property immediately before the particular time is deemed to be nil.

Where option to acquire exercised

(3) Where an option to acquire property is exercised so that property is disposed of by a taxpayer (in this subsection referred to as the "vendor") or so that property is acquired by another taxpayer (in this subsection referred to as the "purchaser"), for the purpose of computing the income of each such taxpayer the granting and the exercise of the option shall be deemed not to be dispositions of property and there shall be included

(a) in computing the vendor's proceeds of disposition of the property, the consideration received by the vendor for the option; and

(b) in computing the cost to the purchaser of the property,

(i) where paragraph 53(1)(j) applied to the acquisition of the property by the purchaser because a person who did not deal at arm's length with the purchaser was deemed because of the acquisition to

moment de l'octroi et elle est détenue, au moment donné, par une personne sans lien de dépendance avec la société;

b) il s'agit d'une option pour l'acquisition d'actions du capital-actions de la société en contrepartie de l'engagement, prévu par une convention visée à l'alinéa e) de la définition de ***frais d'exploration et d'aménagement au Canada*** au paragraphe 66(15), à l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), à l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) ou à l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5), d'effectuer une dépense visée à celui de ces alinéas qui est applicable.

Option expirée — unités de fiducie

(2.1) Si l'option visée à l'alinéa (1)c) expire à un moment donné et qu'elle est détenue, à ce moment, par une personne ayant un lien de dépendance avec la fiducie ou a été octroyée à une personne ayant un lien de dépendance avec la fiducie au moment de son octroi, les règles ci-après s'appliquent :

a) la fiducie est réputée avoir disposé d'une immobilisation au moment donné pour un produit égal à celui qu'elle a reçu pour l'octroi de l'option;

b) le prix de base rajusté de cette immobilisation pour la fiducie immédiatement avant ce moment est réputé être nul.

Levée d'une option d'achat

(3) Lorsqu'une option portant sur l'acquisition d'un bien est levée, de sorte qu'un contribuable — appelé « vendeur » au présent paragraphe — dispose d'un bien ou qu'un autre contribuable — appelé « acheteur » au présent paragraphe — acquiert un bien, pour le calcul du revenu de chacun de ces contribuables, l'octroi de l'option et sa levée sont réputés ne pas être des dispositions de bien et :

a) la contrepartie que le vendeur reçoit pour l'option est incluse dans le calcul du produit de disposition du bien pour lui;

b) est à inclure dans le calcul du coût du bien pour lui :

(i) dans le cas où l'alinéa 53(1)j) s'appliquait à l'acquisition du bien par l'acheteur du fait qu'une autre personne ayant un lien de dépendance avec lui était réputée avoir reçu, en raison de l'acquisition, un

have received a benefit under section 7, the adjusted cost base to that person of the option immediately before that person last disposed of the option, and

(ii) in any other case, the adjusted cost base to the purchaser of the option.

avantage en vertu de l'article 7, le prix de base rajusté de l'option pour l'autre personne immédiatement avant qu'elle ne dispose de l'option pour la dernière fois,

(ii) dans les autres cas, le prix de base rajusté de l'option pour l'acheteur.

Option to acquire specified property exercised

(3.01) Where at any time a taxpayer exercises an option to acquire a specified property,

(a) there shall be deducted after that time in computing the adjusted cost base to the taxpayer of the specified property the total of all amounts deducted under paragraph 53(2)(g.1) in computing, immediately before that time, the adjusted cost base to the taxpayer of the option; and

(b) the amount determined under paragraph 49(3.01)(a) in respect of that acquisition shall be added after that time in computing the adjusted cost base to the taxpayer of the specified property.

Levée d'une option portant sur l'acquisition d'un bien déterminé

(3.01) Les règles suivantes s'appliquent dans le cas où un contribuable lève, à un moment donné, une option portant sur l'acquisition d'un bien déterminé :

a) le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul, immédiatement avant ce moment, du prix de base rajusté de l'option pour le contribuable est à déduire, après ce moment, dans le calcul du prix de base rajusté du bien déterminé pour le contribuable;

b) le montant déterminé selon l'alinéa a) relativement à l'acquisition du bien déterminé est à ajouter, après ce moment, dans le calcul du prix de base rajusté de ce bien pour le contribuable.

Where option to dispose exercised

(3.1) Where an option to dispose of property is exercised so that property is disposed of by a taxpayer (in this subsection referred to as the "vendor") or so that property is acquired by another taxpayer (in this subsection referred to as the "purchaser"), for the purpose of computing the income of each such taxpayer the granting and the exercise of the option shall be deemed not to be dispositions of property and there shall be deducted

(a) in computing the vendor's proceeds of disposition of the property, the adjusted cost base to the vendor of the option; and

(b) in computing the cost to the purchaser of the property, the consideration received by the purchaser for the option.

Levée d'une option de vente

(3.1) Lorsqu'une option portant sur la disposition d'un bien est levée, de sorte qu'un contribuable — appelé « vendeur » au présent paragraphe — dispose de ce bien ou qu'un autre contribuable — appelé « acheteur » au présent paragraphe — l'acquiert, pour le calcul du revenu de chacun de ces contribuables, l'octroi de l'option et sa levée sont réputés ne pas être des dispositions de bien et :

a) le prix de base rajusté de l'option pour le vendeur est déduit dans le calcul du produit de disposition du bien pour lui;

b) la contrepartie que l'acheteur reçoit pour l'option est déduite dans le calcul du coût du bien pour lui.

Option granted before February 23, 1994

(3.2) Where an individual (other than a trust) who disposes of property pursuant to the exercise of an option that was granted by the individual before February 23, 1994 so elects in the individual's return of income for the taxation year in which the disposition occurs, subsection 49(3) does not apply in respect of the disposition in computing the income of the individual.

Option consentie avant le 23 février 1994

(3.2) Le particulier, à l'exception d'une fiducie, qui dispose d'un bien par suite de la levée d'une option qu'il a consentie avant le 23 février 1994 peut faire un choix, dans la déclaration de revenu qu'il produit pour l'année d'imposition de la disposition, pour que le paragraphe (3) ne s'applique pas à la disposition aux fins du calcul de son revenu.

Reassessment where option exercised in subsequent year

(4) Where

(a) an option granted by a taxpayer in a taxation year (in this subsection referred to as the "initial year") is exercised in a subsequent taxation year (in this subsection referred to as the "subsequent year"),

(b) the taxpayer has filed a return of the taxpayer's income for the initial year as required by section 150, and

(c) on or before the day on or before which the taxpayer was required by section 150 to file a return of the taxpayer's income for the subsequent year, the taxpayer has filed an amended return for the initial year excluding from the taxpayer's income the proceeds received by the taxpayer for the granting of the option,

such reassessment of the taxpayer's tax, interest or penalties for the year shall be made as is necessary to give effect to the exclusion.

Idem

(5) Where a taxpayer has granted an option (in this subsection referred to as the "original option") to which subsection 49(1), 49(2) or 49(2.1) applies, and grants one or more extensions or renewals of that original option,

(a) for the purposes of subsections 49(1), 49(2) and 49(2.1), the granting of each extension or renewal shall be deemed to be the granting of an option at the time the extension or renewal is granted;

(b) for the purposes of subsections (2) to (4) and subparagraph (b)(iv) of the definition ***disposition*** in subsection 248(1), the original option and each extension or renewal of it is deemed to be the same option; and

(c) subsection 49(4) shall be read as if the year in which the original option was granted and each year in which any extension or renewal thereof was granted were all initial years.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 49; 1994, c. 7, Sch. II, s. 27; 1995, c. 3, s. 13, c. 21, s. 14; 2001, c. 17, s. 34; 2013, c. 34, s. 188.

No disposition where obligation satisfied

49.1 For greater certainty, where a taxpayer acquires a particular property in satisfaction of an absolute or contingent obligation of a person or partnership to provide

Nouvelle cotisation lorsque l'option est exercée au cours d'une année postérieure

(4) Le ministre doit établir la nouvelle cotisation voulue concernant l'impôt, les intérêts ou les pénalités d'un contribuable pour l'année pour tenir compte de l'exclusion, lorsque les conditions suivantes sont réunies :

a) une option consentie par le contribuable au cours d'une année d'imposition — appelée « année initiale » au présent paragraphe — est levée au cours d'une année d'imposition postérieure — appelée « année postérieure » au présent paragraphe;

b) le contribuable a produit, pour l'année initiale, la déclaration de revenu comme il en était tenu par l'article 150;

c) au plus tard le jour où il était tenu de produire, en vertu de l'article 150, la déclaration de revenu pour l'année postérieure, le contribuable a produit, pour l'année initiale, une déclaration modifiée qui exclut de son revenu le produit qu'il a reçu pour l'octroi de l'option.

Idem

(5) Lorsqu'un contribuable a donné une option — appelée « option initiale » au présent paragraphe — à laquelle s'appliquent les paragraphes (1), (2) ou (2.1), et pour laquelle il a accordé un ou plusieurs renouvellements ou prolongations, les présomptions suivantes s'appliquent :

a) pour l'application des paragraphes (1), (2) et (2.1), l'octroi de chaque renouvellement ou prolongation est réputé constituer l'octroi d'une option au moment où est accordé le renouvellement ou la prolongation;

b) pour l'application des paragraphes (2) à (4) et du sous-alinéa b)(iv) de la définition de ***disposition*** au paragraphe 248(1), l'option initiale et chacun des renouvellements ou chacune des prolongations sont réputés constituer une seule et même option;

c) le paragraphe (4) s'interprète comme si l'année au cours de laquelle l'option initiale a été accordée et chaque année au cours de laquelle a été accordé un renouvellement ou une prolongation de celle-ci étaient des années initiales.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 49; 1994, ch. 7, ann. II, art. 27; 1995, ch. 3, art. 13, ch. 21, art. 14; 2001, ch. 17, art. 34; 2013, ch. 34, art. 188.

Aucune disposition en cas d'exécution d'obligation

49.1 Il est entendu que lorsqu'un contribuable acquiert un bien en exécution de l'obligation absolue ou conditionnelle d'une personne ou d'une société de personnes

the particular property pursuant to a contract or other arrangement one of the main objectives of which was to establish a right, whether absolute or contingent, to the particular property and that right was not under the terms of a trust, partnership agreement, share or debt obligation, the satisfaction of the obligation is not a disposition of that right.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 3.

Debts established to be bad debts and shares of bankrupt corporation

50 (1) For the purposes of this subdivision, where

(a) a debt owing to a taxpayer at the end of a taxation year (other than a debt owing to the taxpayer in respect of the disposition of personal-use property) is established by the taxpayer to have become a bad debt in the year, or

(b) a share (other than a share received by a taxpayer as consideration in respect of the disposition of personal-use property) of the capital stock of a corporation is owned by the taxpayer at the end of a taxation year and

(i) the corporation has during the year become a bankrupt,

(ii) the corporation is a corporation referred to in section 6 of the Winding-up Act that is insolvent (within the meaning of that Act) and in respect of which a winding-up order under that Act has been made in the year, or

(iii) at the end of the year,

(A) the corporation is insolvent,

(B) neither the corporation nor a corporation controlled by it carries on business,

(C) the fair market value of the share is nil, and

(D) it is reasonable to expect that the corporation will be dissolved or wound up and will not commence to carry on business

and the taxpayer elects in the taxpayer's return of income for the year to have this subsection apply in respect of the debt or the share, as the case may be, the taxpayer shall be deemed to have disposed of the debt or the share, as the case may be, at the end of the year for proceeds equal to nil and to have reacquired it immediately after the end of the year at a cost equal to nil.

de fournir le bien conformément à un contrat ou autre arrangement dont l'un des principaux objets était d'établir un droit, absolu ou conditionnel, au bien — lequel droit n'était pas prévu par les modalités d'une fiducie, d'un contrat de société de personnes, d'une action ou d'une créance — l'exécution de l'obligation ne constitue pas une disposition du droit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 3.

Créances reconnues comme irrécouvrables et actions d'une société en faillite

50 (1) Pour l'application de la présente sous-section, lorsque, selon le cas :

a) un contribuable établit qu'une créance qui lui est due à la fin d'une année d'imposition (autre qu'une créance qui lui serait due du fait de la disposition d'un bien à usage personnel) s'est révélée être au cours de l'année une créance irrécouvrable;

b) une action du capital-actions d'une société (autre qu'une action reçue par un contribuable en contrepartie de la disposition d'un bien à usage personnel) appartient au contribuable à la fin d'une année d'imposition et :

(i) soit la société est devenue un failli au cours de l'année,

(ii) soit elle est une personne morale visée à l'article 6 de la *Loi sur les liquidations*, insolvable au sens de cette loi et au sujet de laquelle une ordonnance de mise en liquidation en vertu de cette loi a été rendue au cours de l'année,

(iii) soit les conditions suivantes sont réunies à la fin de l'année :

(A) la société est insolvable,

(B) ni la société ni une société qu'elle contrôle n'exploite d'entreprise,

(C) la juste valeur marchande de l'action est nulle,

(D) il est raisonnable de s'attendre à ce que la société soit dissoute ou liquidée et ne commence pas à exploiter une entreprise,

le contribuable est réputé avoir disposé de la créance ou de l'action à la fin de l'année pour un produit nul et l'avoir acquise de nouveau immédiatement après la fin de l'année à un coût nul, à condition qu'il fasse un choix, dans sa déclaration de revenu pour l'année, pour que le présent paragraphe s'applique à la créance ou à l'action.

Idem

(1.1) Where

(a) a taxpayer is deemed because of subparagraph 50(1)(b)(iii) to have disposed of a share of the capital stock of a corporation at the end of a taxation year, and

(b) the taxpayer or a person with whom the taxpayer is not dealing at arm's length owns the share at the earliest time, during the 24-month period immediately following the disposition, that the corporation or a corporation controlled by it carries on business,

the taxpayer or the person, as the case may be, shall be deemed to have disposed of the share at that earliest time for proceeds of disposition equal to its adjusted cost base to the taxpayer determined immediately before the time of the disposition referred to in paragraph 50(1.1)(a) and to have reacquired it immediately after that earliest time at a cost equal to those proceeds.

Where debt a personal-use property

(2) Where at the end of a taxation year a debt that is a personal-use property of a taxpayer is owing to the taxpayer by a person with whom the taxpayer deals at arm's length and is established by the taxpayer to have become a bad debt in the year,

(a) the taxpayer shall be deemed to have disposed of it at the end of the year for proceeds equal to the amount, if any, by which

(i) its adjusted cost base to the taxpayer immediately before the end of the year

exceeds

(ii) the amount of the taxpayer's gain, if any, from the disposition of the personal-use property the proceeds of disposition of which included the debt; and

(b) the taxpayer shall be deemed to have reacquired the debt immediately after the end of the year at a cost equal to the amount of the proceeds determined under paragraph 50(2)(a).

Disposal of R.H.O.S.P. properties

(3) Each trust that was at the end of 1985 governed by a registered home ownership savings plan (within the meaning assigned by paragraph 146.2(1)(h) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1985 taxation year) shall be deemed to have disposed,

Idem

(1.1) Dans le cas où, à la fois :

a) un contribuable est réputé en application du sous-alinéa (1)b)(iii) avoir disposé d'une action du capital-actions d'une société à la fin d'une année d'imposition;

b) le contribuable ou une personne avec qui il a un lien de dépendance est propriétaire de l'action au premier moment, au cours de la période de 24 mois suivant la disposition, où la société ou une société qu'elle contrôle exploite une entreprise,

le contribuable ou la personne est réputé avoir disposé de l'action à ce premier moment pour un produit de disposition égal au prix de base rajusté de l'action pour lui, calculé immédiatement avant le moment de la disposition visée à l'alinéaa), et l'avoir acquise de nouveau immédiatement après ce premier moment à un coût égal à ce produit.

Créance consistant en un bien à usage personnel

(2) Lorsque, à la fin d'une année d'imposition, une créance qui est un bien à usage personnel d'un contribuable est due à celui-ci par une personne avec qui il n'avait aucun lien de dépendance, et que le contribuable établit que cette créance est devenue une créance irrécouvrable au cours de l'année :

a) il est réputé en avoir disposé à la fin de l'année à un prix égal à l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le prix de base rajusté du bien, pour le contribuable, immédiatement avant la fin de l'année,

(ii) le montant de son gain tiré de la disposition du bien à usage personnel dont le produit de disposition comprenait la créance;

b) il est réputé avoir acquis de nouveau la créance immédiatement après la fin de l'année à un coût égal à celui déterminé en vertu de l'alinéa a).

Disposition des biens d'un régime enregistré d'épargne-logement

(3) Chaque fiducie régie à la fin de 1985 par un régime enregistré d'épargne-logement (au sens de l'alinéa 146.2(1)h) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts révisé du Canada de 1952, dans sa version applicable à l'année d'imposition 1985) est réputée disposer, immédiatement avant 1986, de chaque bien qu'elle

immediately before 1986, of each property it holds at that time for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired it immediately after 1985 at a cost equal to that fair market value.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 50; 1994, c. 7, Sch. II, s. 28; 1995, c. 21, s. 15; 2013, c. 40, s. 21.

Convertible property

51 (1) Where a share of the capital stock of a corporation is acquired by a taxpayer from the corporation in exchange for

(a) a capital property of the taxpayer that is another share of the corporation (in this section referred to as a "convertible property"), or

(b) a capital property of the taxpayer that is a bond, debenture or note of the corporation the terms of which confer on the holder the right to make the exchange (in this section referred to as a "convertible property")

and no consideration other than the share is received by the taxpayer for the convertible property,

(c) except for the purposes of subsections 20(21) and 44.1(6) and (7) and paragraph 94(2)(m), the exchange is deemed not to be a disposition of the convertible property,

(d) the cost to the taxpayer of all the shares of a particular class acquired by the taxpayer on the exchange shall be deemed to be the amount determined by the formula

A × B/C

where

A is the adjusted cost base to the taxpayer of the convertible property immediately before the exchange,

B is the fair market value, immediately after the exchange, of all the shares of the particular class acquired by the taxpayer on the exchange, and

C is the fair market value, immediately after the exchange, of all the shares acquired by the taxpayer on the exchange,

(d.1) there shall be deducted, after the exchange, in computing the adjusted cost base to the taxpayer of a share acquired by the taxpayer on the exchange, the amount determined by the formula

A × B/C

where

détient à ce moment pour un produit de disposition égal à la juste valeur marchande du bien à ce moment et l'acquérir de nouveau, immédiatement après 1985, à un coût égal à cette juste valeur marchande.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 50; 1994, ch. 7, ann. II, art. 28; 1995, ch. 21, art. 15; 2013, ch. 40, art. 21.

Bien convertible

51 (1) Lorsqu'un contribuable acquiert d'une société une action du capital-actions de la société en échange d'une immobilisation du contribuable qui est soit une obligation ou un billet de la société dont les conditions confèrent à son détenteur un tel droit d'échange, soit une autre action de la société (l'obligation, le billet et l'autre action étant chacun appelé « bien convertible » au présent article) et que le contribuable ne reçoit que cette action en contrepartie du bien convertible, les présomptions suivantes s'appliquent :

a) sauf pour l'application des paragraphes 20(21) et 44.1(6) et (7) et de l'alinéa 94(2)m), l'échange est réputé ne pas constituer une disposition du bien convertible;

b) le coût pour le contribuable des actions d'une catégorie donnée que celui-ci a acquises lors de l'échange est réputé égal au résultat du calcul suivant :

A × B/C

où :

A représente le prix de base rajusté du bien convertible pour le contribuable immédiatement avant l'échange,

B la juste valeur marchande, immédiatement après l'échange, des actions de la catégorie donnée acquises par le contribuable lors de l'échange,

C la juste valeur marchande, immédiatement après l'échange, de l'ensemble des actions acquises par le contribuable lors de l'échange;

b.1) le résultat du calcul suivant est à déduire, après l'échange, dans le calcul du prix de base rajusté, pour le contribuable, d'une action qu'il a acquise lors de l'échange :

A × B/C

où :

A représente le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul, immédiatement avant l'échange, du prix de base rajusté, pour le contribuable, du bien convertible,

A is the total of all amounts deducted under paragraph 53(2)(g.1) in computing, immediately before the exchange, the adjusted cost base to the taxpayer of the convertible property,

B is the fair market value, immediately after the exchange, of that share, and

C is the fair market value, immediately after the exchange, of all the shares acquired by the taxpayer on the exchange,

(d.2) the amount determined under paragraph 51(1)(d.1) in respect of a share shall be added, after the exchange, in computing the adjusted cost base to the taxpayer of the share,

(e) for the purposes of sections 74.4 and 74.5, the exchange shall be deemed to be a transfer of the convertible property by the taxpayer to the corporation, and

(f) where the convertible property is taxable Canadian property of the taxpayer, the share acquired by the taxpayer on the exchange is deemed to be, at any time that is within 60 months after the exchange, taxable Canadian property of the taxpayer.

B la juste valeur marchande de l'action immédiatement après l'échange,

C la juste valeur marchande, immédiatement après l'échange, de toutes les actions acquises par le contribuable lors de l'échange;

b.2) le montant déterminé selon l'alinéa b.1) relativement à une action est à ajouter, après l'échange, dans le calcul du prix de base rajusté de l'action pour le contribuable;

c) pour l'application des articles 74.4 et 74.5, l'échange est réputé être un transfert du bien convertible par le contribuable à la société;

d) si le bien convertible est un bien canadien imposable du contribuable, l'action qu'il a acquise lors de l'échange est réputée l'être également à tout moment de la période de 60 mois suivant l'échange.

Idem

(2) Notwithstanding subsection 51(1), where

(a) shares of the capital stock of a corporation have been acquired by a taxpayer in exchange for a convertible property in circumstances such that, but for this subsection, subsection 51(1) would have applied,

(b) the fair market value of the convertible property immediately before the exchange exceeds the fair market value of the shares immediately after the exchange, and

(c) it is reasonable to regard any portion of the excess (in this subsection referred to as the "gift portion") as a benefit that the taxpayer desired to have conferred on a person related to the taxpayer,

the following rules apply:

(d) the taxpayer shall be deemed to have disposed of the convertible property for proceeds of disposition equal to the lesser of

(i) the total of its adjusted cost base to the taxpayer immediately before the exchange and the gift portion, and

(ii) the fair market value of the convertible property immediately before the exchange,

Idem

(2) Malgré le paragraphe (1), lorsque :

a) des actions du capital-actions d'une société ont été acquises par un contribuable en échange d'un bien convertible dans des circonstances telles que, sans le présent paragraphe, le paragraphe (1) se serait appliqué;

b) la juste valeur marchande du bien convertible immédiatement avant l'échange dépasse la juste valeur marchande de ces actions immédiatement après l'échange;

c) il est raisonnable de considérer une partie de cet excédent (appelée la « partie donnée » au présent paragraphe) comme un avantage que le contribuable a voulu voir conféré à une personne à laquelle il est lié,

les règles suivantes s'appliquent :

d) le contribuable est réputé avoir disposé du bien convertible pour un produit de disposition égal au moindre des montants suivants :

(i) le total du prix de base rajusté pour lui, immédiatement avant l'échange, et de la partie donnée,

(ii) la juste valeur marchande du bien convertible, immédiatement avant l'échange;

(e) the taxpayer's capital loss from the disposition of the convertible property shall be deemed to be nil, and

(f) the cost to the taxpayer of all the shares of a particular class acquired in exchange for the convertible property shall be deemed to be that proportion of the lesser of

(i) the adjusted cost base to the taxpayer of the convertible property immediately before the exchange, and

(ii) the total of the fair market value immediately after the exchange of all the shares acquired by the taxpayer in exchange for the convertible property and the amount that, but for paragraph 51(2)(e), would have been the taxpayer's capital loss on the disposition of the convertible property,

that

(iii) the fair market value, immediately after the exchange, of all the shares of the particular class acquired by the taxpayer on the exchange

is of

(iv) the fair market value, immediately after the exchange, of all the shares acquired by the taxpayer on the exchange.

e) la perte en capital du contribuable résultant de la disposition du bien convertible est réputée nulle;

f) le coût pour le contribuable des actions d'une catégorie donnée acquises en échange du bien convertible est réputé correspondre à la fraction du moindre des montants suivants :

(i) le prix de base rajusté, pour le contribuable, du bien convertible immédiatement avant l'échange,

(ii) le total de la juste valeur marchande, immédiatement après l'échange, des actions que le contribuable a acquises en échange du bien convertible et du montant qui, sans l'alinéa e), aurait été la perte en capital du contribuable résultant de la disposition du bien convertible,

représentée par le rapport entre :

(iii) d'une part, la juste valeur marchande, immédiatement après l'échange, des actions de la catégorie donnée qu'il a acquises lors de l'échange,

(iv) d'autre part, la juste valeur marchande, immédiatement après l'échange, des actions qu'il a acquises lors de l'échange.

Computation of paid-up capital

(3) Where subsection 51(1) applies to the exchange of convertible property described in paragraph 51(1)(a) (referred to in this subsection as the "old shares"), in computing the paid-up capital in respect of a particular class of shares of the capital stock of the corporation at any particular time that is the time of, or any time after, the exchange

(a) there shall be deducted the amount determined by the formula

(A - B) × C/A

where

A is the total of all amounts each of which is the amount of the increase, if any, as a result of the exchange, in the paid-up capital in respect of a class of shares of the capital stock of the corporation, computed without reference to this subsection as it applies to the exchange,

B is the paid-up capital immediately before the exchange in respect of the old shares, and

C is the increase, if any, as a result of the exchange, in the paid-up capital in respect of the particular

Calcul du capital versé

(3) Lorsque le paragraphe (1) s'applique à l'échange d'un bien convertible — immobilisation d'un contribuable qui est une action d'une société — (appelé « ancienne action » au présent paragraphe), les règles suivantes s'appliquent aux fins du calcul du capital versé au titre d'une catégorie donnée d'actions du capital-actions de la société à un moment donné qui coïncide avec le moment de l'échange ou y est postérieur :

a) est déduit dans ce calcul le résultat du calcul suivant :

(A - B) × C/A

où :

A représente le total des montants représentant chacun le montant éventuel dont le capital versé au titre d'une catégorie d'actions du capital-actions de la société a été augmenté par suite de l'échange, calculé compte non tenu du présent paragraphe dans son application à l'échange

B le capital versé au titre de l'ancienne action immédiatement avant l'échange,

class of shares, computed without reference to this subsection as it applies to the exchange; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid by the corporation before the particular time

exceeds

(B) the total that would be determined under clause 51(3)(b)(i)(A) if this Act were read without reference to paragraph 51(3)(a), and

(ii) the total of all amounts required by paragraph 51(3)(a) to be deducted in respect of that particular class of shares before the particular time.

C le montant éventuel dont le capital versé au titre de la catégorie donnée d'actions a été augmenté par suite de l'échange, calculé compte non tenu du présent paragraphe dans son application à l'échange;

b) est ajouté dans ce calcul le moins élevé des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants réputés par les paragraphes 84(3), (4) ou (4.1) être des dividendes sur les actions de la catégorie donnée versés par la société avant le moment donné,

(B) le total qui serait déterminé selon la division (A) compte non tenu de l'alinéa a),

(ii) le total des montants à déduire en application de l'alinéa a) au titre de la catégorie donnée d'actions avant le moment donné.

Application

(4) Subsections 51(1) and 51(2) do not apply to any exchange to which subsection 85(1) or 85(2) or section 86 applies.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 51; 1994, c. 21, s. 20; 1995, c. 21, s. 16; 1998, c. 19, s. 92; 2010, c. 12, s. 3; 2013, c. 34, s. 3.

Inapplication des paragraphes (1) et (2)

(4) Les paragraphes (1) et (2) ne s'appliquent pas à l'échange auquel s'appliquent les paragraphes 85(1) ou (2) ou l'article 86.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 51; 1994, ch. 21, art. 20; 1995, ch. 21, art. 16; 1998, ch. 19, art. 92; 2010, ch. 12, art. 3; 2013, ch. 34, art. 3.

Conversion of debt obligation

51.1 Where

(a) a taxpayer acquires a bond, debenture or note of a debtor (in this section referred to as the "new obligation") in exchange for a capital property of the taxpayer that is another bond, debenture or note of the same debtor (in this section referred to as the "convertible obligation"),

(b) the terms of the convertible obligation conferred on the holder the right to make the exchange, and

(c) the principal amount of the new obligation is equal to the principal amount of the convertible obligation,

the cost to the taxpayer of the new obligation and the proceeds of disposition of the convertible obligation shall be deemed to be equal to the adjusted cost base to the taxpayer of the convertible obligation immediately before the exchange.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 50.

Conversion d'un titre de créance

51.1 Le coût, pour un contribuable, de l'obligation ou du billet qu'il acquiert auprès d'un débiteur (appelé « nouveau titre » au présent article) en échange d'une immobilisation du contribuable qui constitue une autre obligation ou un autre billet du même débiteur (appelé « titre convertible » au présent article) et le produit de disposition du titre convertible sont réputés correspondre au prix de base rajusté du titre convertible pour le contribuable immédiatement avant l'échange, si les conditions suivantes sont réunies :

a) les conditions du titre convertible confèrent détenteur le droit d'effectuer l'échange;

b) le principal du nouveau titre est égal au principal du titre convertible.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 50.

Cost of certain property the value of which included in income

52 (1) In applying this subdivision, an amount equal to the particular amount described by paragraph (d) shall be added in computing the cost at any time to a taxpayer of a property if

(a) the taxpayer acquired the property after 1971;

(b) the amount was not at or before that time otherwise added to the cost, or included in computing the adjusted cost base, to the taxpayer of the property;

(c) the property is not an annuity contract, a right as a beneficiary under a trust to enforce payment of an amount by the trust to the taxpayer, property acquired in circumstances to which subsection (2) or (3) applies, or property acquired from a trust in satisfaction of all or part of the taxpayer's capital interest in the trust; and

(d) a particular amount in respect of the property's value was

(i) included, otherwise than under section 7, in computing

(A) the taxpayer's taxable income or taxable income earned in Canada, as the case may be, for a taxation year during which the taxpayer was non-resident, or

(B) the taxpayer's income for a taxation year throughout which the taxpayer was resident in Canada, or

(ii) for the purpose of computing the tax payable under Part XIII by the taxpayer, included in an amount that was paid or credited to the taxpayer.

(1.1) [Repealed, 2001, c. 17, s. 35(1)]

Cost of property received as dividend in kind

(2) Where any property has, after 1971, been received by a shareholder of a corporation at any time as, on account or in lieu of payment of, or in satisfaction of, a dividend payable in kind (other that a stock dividend) in respect of a share owned by the shareholder of the capital stock of the corporation, the shareholder shall be deemed to have acquired the property at a cost to the shareholder equal to its fair market value at that time, and the corporation shall be deemed to have disposed of the property at that time fore proceeds equal to that fair market value.

Coût de certains biens dont la valeur est incluse dans le revenu

52 (1) Pour l'application de la présente sous-section, une somme égale au montant mentionné à l'alinéa d) est ajoutée dans le calcul du coût d'un bien pour un contribuable à un moment donné si les conditions ci-après sont réunies :

a) le contribuable a acquis le bien après 1971;

b) à ce moment ou antérieurement, la somme n'a pas par ailleurs été ajoutée au coût du bien pour le contribuable ou incluse dans le calcul de son prix de base rajusté pour lui;

c) le bien n'est pas un contrat de rente, un droit à titre de bénéficiaire d'une fiducie d'exiger de celle-ci qu'elle verse une somme au contribuable, un bien acquis dans les circonstances visées aux paragraphes (2) ou (3) ou un bien acquis d'une fiducie en règlement de la totalité ou d'une partie de la participation du contribuable au capital de la fiducie;

d) un montant relatif à la valeur du bien a été, selon le cas :

(i) inclus, autrement qu'en vertu de l'article 7, dans le calcul :

(A) soit du revenu imposable du contribuable, ou de son revenu imposable gagné au Canada, selon le cas, pour une année d'imposition où il était un non-résident,

(B) soit de son revenu pour une année d'imposition tout au long de laquelle il a résidé au Canada,

(ii) inclus, pour le calcul de l'impôt à payer par le contribuable en vertu de la partie XIII, dans une somme qui lui a été versée ou qui a été portée à son crédit.

(1.1) [Abrogé, 2001, ch. 17, art. 35]

Prix des biens reçus à titre de dividende en nature

(2) Lorsque, à un moment donné après 1971, un actionnaire a reçu un bien d'une société au titre ou en paiement intégral ou partiel d'un dividende payable en nature (autre qu'un dividende en actions) sur une action qui lui appartient du capital-actions de la société, cet actionnaire est réputé avoir acquis le bien à un prix égal à la juste valeur marchande du bien à ce moment, et la société est réputée avoir disposé du bien à ce moment à un prix égal à cette juste valeur marchande.

Cost of stock dividend

(3) Where a shareholder of a corporation has, after 1971, received a stock dividend in respect of a share owned by the shareholder of the capital stock of the corporation, the shareholder shall be deemed to have acquired the share or shares received by the shareholder as a stock dividend at a cost to the shareholder equal to the total of

(a) where the stock dividend is a dividend,

(i) in the case of a shareholder that is an individual, the amount of the stock dividend, and

(ii) in any other case, the total of all amounts each of which is

(A) the amount, if any, by which

(I) the amount that is the lesser of the amount of the stock dividend and its fair market value

exceeds

(II) the amount of the dividend that the shareholder may deduct under subsection 112(1) in computing the shareholder's taxable income, except any portion of the dividend that, if paid as a separate dividend, would not be subject to subsection 55(2) because the amount of the separate dividend would not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series of transactions or events as part of which the dividend is received — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received, and

(B) the amount determined by the formula

A + B

where

A is the amount of the deemed gain under paragraph 55(2)(c) in respect of that stock dividend, and

B is the amount, if any, by which the amount of the reduction under paragraph 55(2.3)(b) in respect of that stock dividend to which paragraph 55(2)(a) would otherwise apply exceeds the amount determined for clause (A) in respect of that dividend;

Coût d'un dividende en actions

(3) Un actionnaire d'une société qui a reçu, après 1971, un dividende en actions sur une action qui lui appartient du capital-actions de cette société est réputé avoir acquis l'action ou les actions qu'il a reçues à titre de dividende en actions à un coût, pour lui, égal au total des montants suivants :

a) si le dividende en actions est un dividende :

(i) dans le cas d'un actionnaire qui est un particulier, le montant du dividende en actions,

(ii) dans les autres cas, le total des montants dont chacun est l'un des montants suivants :

(A) l'excédent du montant visé à la subdivision (I) sur le montant visé à la subdivision (II) :

(I) le moindre du montant du dividende en actions et de sa juste valeur marchande,

(II) le montant du dividende que l'actionnaire peut déduire en application du paragraphe 112(1) dans le calcul de son revenu imposable, à l'exception de toute partie de ce dividende qui, si elle était versée à titre de dividende distinct, ne serait pas assujettie au paragraphe 55(2) du fait que le montant du dividende distinct n'excéderait pas le montant du revenu gagné ou réalisé par une société — après 1971 et avant le moment de détermination du revenu protégé quant à l'opération, à l'événement ou à la série d'opérations ou d'événements dans le cadre duquel le dividende a été reçu — qu'il serait raisonnable de considérer comme contribuant au gain en capital qui aurait été réalisé lors d'une disposition à la juste valeur marchande, effectuée immédiatement avant le dividende, de l'action sur laquelle le dividende a été reçu,

(B) le montant obtenu par la formule suivante :

A + B

où :

A représente le montant du gain réputé selon l'alinéa 55(2)c) relativement à ce dividende en actions,

B l'excédent du montant de la réduction prévue à l'alinéa 55(2.3)b) relativement à ce dividende en actions auquel l'alinéa 55(2)a) s'appliquerait par ailleurs sur le montant déterminé à la division (A) relativement à ce dividende;

(a.1) where the stock dividend is not a dividend, nil, and

(b) where an amount is included in the shareholder's income in respect of the stock dividend under subsection 15(1.1), the amount so included.

a.1) si le dividende en actions n'est pas un dividende, zéro;

b) lorsqu'un montant est inclus, en vertu du paragraphe 15(1.1), dans le revenu de l'actionnaire au titre du dividende en actions, ce montant.

Cost of property acquired as prize

(4) Where any property has been acquired by a taxpayer at any time after 1971 as a prize in connection with a lottery scheme, the taxpayer shall be deemed to have acquired the property at a cost to the taxpayer equal to its fair market value at that time.

Coût d'un bien acquis comme prix

(4) Un contribuable qui a acquis, après 1971, un bien comme prix à l'occasion d'une loterie, est réputé avoir acquis ce bien à un coût, pour lui, égal à sa juste valeur marchande au moment de l'acquisition.

(6) [Repealed, 2001, c. 17, s. 35(2)]

(6) [Abrogé, 2001, ch. 17, art. 35]

Cost of shares of subsidiary

(7) Notwithstanding any other provision of this Act, where a corporation disposes of property to another corporation in a transaction to which paragraph 219(1)(l) applies, the cost to it of any share of a particular class of the capital stock of the other corporation received by it as consideration for the property is deemed to be the lesser of the cost of the share to the corporation otherwise determined immediately after the disposition and the amount by which the paid-up capital in respect of that class increases because of the issuance of the share.

Coût des actions d'une filiale

(7) Malgré les autres dispositions de la présente loi, lorsqu'une société dispose d'un bien en faveur d'une autre société dans le cadre d'une opération à laquelle s'applique l'alinéa 219(1)l), le coût pour la société d'une action d'une catégorie donnée du capital-actions de l'autre société qu'elle a reçue en contrepartie du bien est réputé être le coût de l'action pour la société, déterminé par ailleurs immédiatement après la disposition, ou, s'il est inférieur, le montant par lequel le capital versé au titre de cette catégorie augmente à cause de l'émission de l'action.

Cost of shares of immigrant corporation

(8) Notwithstanding any other provision of this Act, where at any time a corporation becomes resident in Canada, the cost to any shareholder who is not at that time resident in Canada of any share of the corporation's capital stock, other than a share that was taxable Canadian property immediately before that time, is deemed to be equal to the fair market value of the share at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 52; 1994, c. 7, Sch. II, s. 29, Sch. VIII, s. 14, c. 21, s. 21; 1998, c. 19, s. 93; 1999, c. 22, s. 13; 2001, c. 17, s. 35; 2013, c. 34, s. 189; 2016, c. 7, s. 2.

Coût d'une action pour une société arrivant au Canada

(8) Malgré les autres dispositions de la présente loi, dans le cas où une société devient un résident du Canada à un moment donné, le coût d'une action de son capital-actions, sauf une action qui était un bien canadien imposable immédiatement avant ce moment, pour un actionnaire qui ne réside pas au Canada à ce moment est réputé égal à la juste valeur marchande de l'action a ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 52; 1994, ch. 7, ann. II, art. 29, ann. VIII, art. 14, ch. 21, art. 21; 1998, ch. 19, art. 93; 1999, ch. 22, art.13; 2001, ch. 17, art. 35; 2013, ch. 34, art. 189; 2016, ch. 7, art. 2.

Adjustments to cost base

53 (1) In computing the adjusted cost base to a taxpayer of property at any time, there shall be added to the cost to the taxpayer of the property such of the following amounts in respect of the property as are applicable:

(a) any amount deemed by subsection 40(3) to be a gain of the taxpayer for a taxation year from a disposition before that time of the property;

(b) where the property is a share of the capital stock of a corporation resident in Canada, the amount, if any, by which

Rajustements du prix de base

53 (1) Un contribuable doit, dans le calcul du prix de base rajusté, pour lui, d'un bien à un moment donné, ajouter au coût, pour lui, de ce bien les montants suivants qui s'y rapportent :

a) toute somme réputée, en vertu du paragraphe 40(3), être un gain que le contribuable a tiré, pour une année d'imposition, de la disposition du bien avant ce moment;

b) lorsque le bien est une action du capital-actions d'une société résidant au Canada, l'excédent de la

(i) the total of all amounts each of which is the amount of a dividend on the share deemed by subsection 84(1) to have been received by the taxpayer before that time

exceeds

(ii) the portion of the total determined under subparagraph (i) that relates to dividends in respect of which the taxpayer was permitted a deduction under subsection 112(1) in computing the taxpayer's taxable income, except any portion of the dividend that, if paid as a separate dividend, would not be subject to subsection 55(2) because the amount of the separate dividend would not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series of transactions or events as part of which the dividend is received — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received;

(b.1) where the property is a share of the capital stock of a corporation, the amount of any dividend deemed by paragraph 128.1(1)(c.2) to have been received in respect of the share by the taxpayer before that time and while the taxpayer was resident in Canada;

(c) where the property is a share of the capital stock of a corporation and the taxpayer has, after 1971, made a contribution of capital to the corporation otherwise than by way of a loan, by way of a disposition of shares of a foreign affiliate of the taxpayer to which subsection 85.1(3) or paragraph 95(2)(c) applies or, subject to subsection 53(1.1), a disposition of property in respect of which the taxpayer and the corporation have made an election under section 85, that proportion of such part of the amount of the contribution as cannot reasonably be regarded as a benefit conferred by the taxpayer on a person (other than the corporation) who was related to the taxpayer that

(i) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of the share

is of

(ii) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of all shares of the capital stock of the corporation owned by the taxpayer immediately after the contribution;

somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune le montant d'un dividende afférent à l'action que le contribuable est réputé, en vertu du paragraphe 84(1), avoir reçu antérieurement,

(ii) la partie du total déterminé selon le sous-alinéa (i) qui se rapporte à des dividendes à l'égard desquels le contribuable a obtenu une déduction en application du paragraphe 112(1) dans le calcul de son revenu imposable, à l'exception de toute partie de ces dividendes qui, si elle était versée à titre de dividende distinct, ne serait pas assujettie au paragraphe 55(2) du fait que le montant du dividende distinct n'excéderait pas le montant du revenu gagné ou réalisé par une société — après 1971 et avant le moment de détermination du revenu protégé quant à l'opération, à l'événement ou à la série d'opérations ou d'événements dans le cadre duquel le dividende a été reçu — qu'il serait raisonnable de considérer comme contribuant au gain en capital qui aurait été réalisé lors d'une disposition à la juste valeur marchande, effectuée immédiatement avant le dividende, de l'action sur laquelle le dividende a été reçu;

b.1) lorsque le bien est une action du capital-actions d'une société, le montant d'un dividende que le contribuable est réputé par l'alinéa 128.1(1)c.2) avoir reçu au titre de l'action avant ce moment et à un moment où il résidait au Canada;

c) lorsque le bien est une action du capital-actions d'une société et que le contribuable a fait, après 1971, un apport en capital à la société — autrement que sous forme de prêt, que sous forme de disposition d'actions d'une société étrangère affiliée du contribuable à laquelle le paragraphe 85.1(3) ou l'alinéa 95(2)c) s'applique ou, sous réserve du paragraphe (1.1), que sous forme de disposition d'un bien à l'égard de laquelle le contribuable et la société ont fait un choix en vertu de l'article 85 —, la fraction de la partie de l'apport qu'il n'est pas raisonnable de considérer comme un avantage conféré par le contribuable à une personne — autre que la société — liée au contribuable représentée par le rapport entre :

(i) d'une part, le montant qu'il est raisonnable de considérer comme l'augmentation de la juste valeur marchande de cette action, produite par l'apport en capital,

(ii) d'autre part, le montant qu'il est raisonnable de considérer comme l'augmentation de la juste valeur

(d) if the property is a share of the capital stock of a foreign affiliate of the taxpayer, any amount required by section 92 to be added in computing the adjusted cost base to the taxpayer of the share;

(d.01) where the property is a share of the capital stock of a corporation, any amount required by paragraph 139.1(16)(l) to be added in computing the adjusted cost base to the taxpayer of the share;

(d.1) if the property is a capital interest in a trust, any amount included under subsection 91(1) or (3) in computing the taxpayer's income for a taxation year that ends at or before that time (or that would have been required to have been included under those subsections but for subsection 56(4.1) and sections 74.1 to 75 of this Act and section 74 of the *Income Tax Act,* chapter 148 of the Revised Statutes of Canada, 1952) in respect of that interest;

(d.2) where the property is a unit in a mutual fund trust, any amount required by subsection 132.1(2) to be added in computing the adjusted cost base to the taxpayer of the unit;

(d.3) where the property is a share of the capital stock of a corporation of which the taxpayer was, at any time, a specified shareholder, any expense incurred by the taxpayer in respect of land or a building of the corporation that was by reason of subsection 18(2) or 18(3.1) not deductible by the taxpayer in computing the taxpayer's income for any taxation year commencing before that time;

(e) where the property is an interest in a partnership,

(i) an amount in respect of each fiscal period of the partnership ending after 1971 and before that time, equal to the total of all amounts each of which is the taxpayer's share (other than a share under an agreement referred to in subsection 96(1.1)) of the income of the partnership from any source for that fiscal period, computed as if this Act were read without reference to

(A) paragraphs 38(a.1) to (a.3) and the fractions set out in the formula in paragraph 14(1)(b) and in subsection 14(5), paragraph 38(a) and subsection 41(1),

(A.1) subparagraph 39(1)(a)(i.1) in respect of an object referred to in that subparagraph that is not the subject of a gifting arrangement, as defined in subsection 237.1(1), nor a property that is a tax shelter,

marchande, produite par l'apport en capital, de toutes les actions du capital-actions de la société qui appartenaient au contribuable immédiatement après cet apport en capital;

d) lorsque le bien est une action du capital-actions d'une société étrangère affiliée du contribuable, toute somme qui est à ajouter, en application de l'article 92, dans le calcul du prix de base rajusté de l'action pour lui;

d.01) lorsque le bien est une action du capital-actions d'une société, tout montant qui doit, en vertu de l'alinéa 139.1(16)l), être ajouté dans le calcul du prix de base de l'action pour le contribuable;

d.1) si le bien est une participation au capital d'une fiducie, toute somme qui est incluse en application des paragraphes 91(1) ou (3) dans le calcul du revenu du contribuable pour une année d'imposition se terminant au plus tard à ce moment (ou qui aurait été à inclure en application de ces paragraphes en l'absence du paragraphe 56(4.1) et des articles 74.1 à 75 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952) relativement à cette participation;

d.2) lorsque le bien est une unité dans une fiducie de fonds commun de placement, tout montant à inclure, par application du paragraphe 132.1(2), dans le calcul du prix de base rajusté de l'unité pour le contribuable;

d.3) lorsque le bien est une action du capital-actions d'une société dont le contribuable est, à un moment donné, un actionnaire déterminé, toute dépense engagée par le contribuable au titre d'un fonds de terre ou d'un bâtiment de la société et qui, à cause du paragraphe 18(2) ou (3.1), n'était pas déductible par le contribuable dans le calcul de son revenu pour une année d'imposition commençant avant ce moment;

e) lorsque le bien est une participation dans une société de personnes :

(i) une somme relative à chaque exercice de la société de personnes se terminant après 1971 et avant ce moment, égale au total des sommes dont chacune représente la part du contribuable (à l'exclusion d'une part stipulée dans une convention visée au paragraphe 96(1.1)) dans le revenu de la société de personnes tiré de toute source, pour cet exercice, calculé compte non tenu :

(A) des alinéas 38a.1) à a.3), de la fraction apparaissant dans la formule figurant à l'alinéa 14(1)b) et des fractions figurant au paragraphe 14(5), à l'alinéa 38a) et au paragraphe 41(1),

(A.2) the description of C in the formula in paragraph 14(1)(b), and

(B) paragraph (i), paragraphs 12(1)(o) and 12(1)(z.5), 18(1)(m), 20(1)(v.1) and 29(1)(b) and 29(2)(b), section 55, subsections 69(6) and 69(7) and paragraph 82(1)(b) of this Act and paragraphs 20(1)(gg) and 81(1)(r) and (s) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, and the provisions of the *Income Tax Application Rules* relating to income from the operation of new mines,

(ii) the taxpayer's share of any capital dividends and any life insurance capital dividends received by the partnership before that time on shares of the capital stock of a corporation that were partnership property,

(iii) the taxpayer's share of the amount, if any, by which

(A) any proceeds of a life insurance policy received by the partnership after 1971 and before that time in consequence of the death of any person whose life was insured under the policy,

exceeds the total of all amounts each of which is

(B) the ***adjusted cost basis*** (in this subparagraph as defined in subsection 148(9)), immediately before the death, of

(I) if the death occurs before March 22, 2016, the policy to the partnership, and

(II) if the death occurs after March 21, 2016, a policyholder's interest in the policy,

(C) the amount by which the fair market value of consideration given in respect of a disposition of an interest in the policy exceeds the greater of the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition and the adjusted cost basis to the policyholder of the interest immediately before the disposition, if

(I) the death occurs after March 21, 2016, and

(II) the disposition was by a policyholder (other than a taxable Canadian corporation) after 1999 and before March 22, 2016, or

(D) if the death occurs after March 21, 2016, an interest in the policy was disposed of by a policyholder (other than a taxable Canadian corporation) after 1999 and before March 22, 2016 and

(A.1) du sous-alinéa 39(1)a)(i.1) relativement à tout objet visé à ce sous-alinéa qui n'est ni l'objet d'un arrangement de don, au sens du paragraphe 237.1(1), ni un bien qui est un abri fiscal,

(A.2) de l'élément C de la formule figurant à l'alinéa 14(1)b),

(ii) la part du contribuable dans tout dividende en capital et tout dividende en capital d'assurance-vie reçu par la société de personnes avant ce moment, relativement à des actions du capital-actions d'une société qui étaient des biens de la société de personnes,

(iii) la part du contribuable de l'excédent éventuel du montant visé à la division (A) sur le total du coût de base rajusté visé à la division (B) et de l'excédent visé à la division (C) :

(A) tout produit d'une police d'assurance-vie reçu par la société de personnes après 1971 mais avant ce moment par suite du décès de toute personne dont la vie était assurée par la police,

(B) le ***coût de base rajusté*** (s'entendant au présent sous-alinéa au sens du paragraphe 148(9)) immédiatement avant le décès :

(I) si le décès survient avant le 22 mars 2016, de la police pour la société de personnes,

(II) si le décès survient après le 21 mars 2016, de l'intérêt d'un titulaire de police dans la police,

(C) l'excédent de la juste valeur marchande de la contrepartie donnée relativement à une disposition d'un intérêt dans la police sur la plus élevée de la somme déterminée en application du sous-alinéa 148(7)a)(i) relativement à la disposition et de la somme qui est le coût de base rajusté pour le titulaire de police de l'intérêt immédiatement avant la disposition si, à la fois :

(I) le décès survient après le 21 mars 2016,

(II) la disposition a été effectuée par un titulaire de police (sauf une société canadienne imposable) après 1999 mais avant le 22 mars 2016,

(D) si le décès est postérieur au 21 mars 2016, qu'un intérêt dans la police a fait l'objet d'une disposition effectuée par un titulaire de police (sauf une société canadienne imposable) à une date postérieure à 1999 mais antérieure au 22

subsection 148(7) applied to the disposition, the amount, if any, determined by the formula

A – B

where

A is the amount, if any, by which the lesser of the adjusted cost basis to the policyholder of the interest immediately before the disposition and the fair market value of consideration given in respect of the disposition exceeds the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition, and

B is the absolute value of the negative amount, if any, that would be, in the absence of section 257, the adjusted cost basis, immediately before the death, of the interest in the policy,

(iv) where the taxpayer has, after 1971, made a contribution of capital to the partnership otherwise than by way of loan, such part of the amount of the contribution as cannot reasonably be regarded as a benefit conferred on any other member of the partnership who was related to the taxpayer,

(iv.1) each amount that is in respect of a specified amount described in subsection 80.2(1) and that is paid by the taxpayer to the partnership, to the extent that the amount paid is not deductible in computing the income of the taxpayer,

(v) where the time is immediately before the taxpayer's death and the taxpayer was at that time a member of a partnership, the value, at the time of the taxpayer's death, of the rights or things referred to in subsection 70(2) in respect of a partnership interest held by the taxpayer immediately before the taxpayer's death, other than an interest referred to in subsection 96(1.5),

(vi) any amount deemed by subsection 40(3.1) to be a gain of the taxpayer for a taxation year from a disposition before that time of the property,

(vii) any amount deemed by paragraph 98(1)(c) or 98.1(1)(c) to be a gain of the taxpayer for a taxation year from a disposition before that time of the property,

(vii.1) a share of the taxpayer's Canadian development expense or Canadian oil and gas property expense that was deducted at or before that time in computing the adjusted cost base to the taxpayer of the interest because of subparagraph 53(2)(c)(ii)

mars 2016 et que le paragraphe 148(7) s'est appliqué à la disposition, la somme obtenue par la formule suivante :

A – B

où :

A représente l'excédent éventuel de la moins élevée de la somme qui est le coût de base rajusté pour le titulaire de police de l'intérêt immédiatement avant la disposition et de la juste valeur marchande de la contrepartie donnée relativement à la disposition sur la somme déterminée en vertu du sous-alinéa 148(7)a)(i) relativement à la disposition,

B la valeur absolue de la somme négative éventuelle qui serait, compte non tenu de l'article 257, le coût de base rajusté, immédiatement avant le décès, de l'intérêt dans la police,

(iv) lorsque le contribuable a fait, après 1971, un apport de capital à la société de personnes autrement que sous forme de prêt, la partie de l'apport qu'il n'est pas raisonnable de considérer comme un avantage conféré à un autre associé de la société de personnes qui était lié au contribuable,

(iv.1) chaque somme, relative à un montant de remboursement visé au paragraphe 80.2(1), que le contribuable verse à la société de personnes, dans la mesure où elle n'est pas déductible dans le calcul du revenu du contribuable,

(v) lorsque le moment est immédiatement avant le décès du contribuable et que le contribuable faisait partie de la société de personnes à ce moment, la valeur, à la date de son décès, des droits ou des biens visés au paragraphe 70(2) à l'égard de la participation qu'il avait dans la société de personnes immédiatement avant son décès, autre qu'une participation prévue au paragraphe 96(1.5),

(vi) toute somme qui est réputée par le paragraphe 40(3.1) être un gain du contribuable pour une année d'imposition, provenant de la disposition du bien avant ce moment,

(vii) un montant réputé, en vertu des alinéas 98(1)c) ou 98.1(1)c), être un gain du contribuable, pour une année d'imposition, tiré d'une disposition du bien avant ce moment,

(vii.1) la part des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz du contribuable qui a été déduite à

and in respect of which the taxpayer elected under paragraph (f) of the definition ***Canadian development expense*** in subsection 66.2(5) or paragraph (b) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), as the case may be,

(viii) an amount deemed, before that time, by subsection 66.1(7), 66.2(6) or 66.4(6) to be an amount referred to in the description of G in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6), paragraph (a) of the description of F in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) or the description of G in that definition, or paragraph (a) of the description of F in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) or the description of G in that definition in respect of the taxpayer,

(viii.1) an amount deemed, before that time, by subsection 59(1.1) to be proceeds of disposition receivable by the taxpayer in respect of the disposition of a foreign resource property,

(ix) the amount, if any, by which

(A) the taxpayer's share of the amount of any assistance or benefit that the partnership received or became entitled to receive after 1971 and before that time from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, in respect of or related to a Canadian resource property or an exploration or development expense incurred in Canada

exceeds

(B) the part, if any, of the amount included in clause 53(1)(e)(ix)(A) in respect of the interest that was repaid before that time by the taxpayer under a legal obligation to repay all or any part of the amount,

(x) any amount required by section 97 to be added before that time in computing the adjusted cost base to the taxpayer of the interest,

(xi) of which the taxpayer's share of any income or loss of the partnership was, at any time, 10% or more, any expense incurred by the taxpayer in respect of land or a building of the partnership that was by reason of subsection 18(2) or 18(3.1) not

ce moment ou avant, par l'effet du sous-alinéa (2)c)(ii), dans le calcul du prix de base rajusté de la participation pour le contribuable, et à l'égard de laquelle celui-ci a fait le choix prévu aux alinéas f) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) ou b) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5),

(viii) un montant réputé, avant ce moment, en vertu des paragraphes 66.1(7), 66.2(6) ou 66.4(6) être un montant visé à l'élément G de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6), à l'alinéa a) de l'élément F ou à l'élément G de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) ou à l'alinéa a) de l'élément F ou à l'élément G de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) à l'égard du contribuable,

(viii.1) toute somme réputée avant ce moment, en vertu du paragraphe 59(1.1), être un produit de disposition à recevoir par le contribuable relativement à la disposition d'un avoir minier étranger,

(ix) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) la part du contribuable sur le montant d'une aide ou d'un avantage que la société de personnes a reçu ou est en droit de recevoir après 1971 et avant ce moment d'un gouvernement, d'une municipalité ou d'une autre administration sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt, réduction de redevance ou allocation de placement ou sous toute autre forme, relativement à un avoir minier canadien ou à des frais d'exploration ou d'aménagement engagés au Canada,

(B) la partie du montant visé à la division (A) relativement à la participation, que le contribuable a remboursée avant cette date en conformité avec une obligation légale de rembourser tout ou partie de ce montant,

(x) toute somme qui, en vertu de l'article 97, doit être ajoutée avant ce moment dans le calcul du prix de base rajusté, pour le contribuable, de la participation,

(xi) si la part du contribuable sur le revenu ou la perte de la société de personnes est d'au moins 10 %

deductible by the taxpayer in computing the taxpayer's income for any taxation year commencing before that time,

(xii) any amount required by paragraph 110.6(23)(a) to be added at that time in computing the adjusted cost base to the taxpayer of the interest, and

(xiii) any amount required by subsection 127(30) to be added to the taxpayer's tax otherwise payable under this Part for a taxation year that ended before that time;

(xiv) [Repealed, 2009, c. 2, s. 11]

(f) where the property is substituted property (within the meaning assigned by paragraph (a) of the definition ***superficial loss*** in section 54) of the taxpayer, the amount, if any, by which

(i) the amount of the loss that was, because of the acquisition by the taxpayer of the property, a superficial loss of any taxpayer from a disposition of a property

exceeds

(ii) where the property disposed of was a share of the capital stock of a corporation, the amount that would, but for paragraph 40(2)(g), be deducted under subsection 112(3), 112(3.1) or 112(3.2) in computing the loss of any taxpayer in respect of the disposition of the share;

(f.1) where the taxpayer is a taxable Canadian corporation and the property was disposed of by another taxable Canadian corporation to the taxpayer in circumstances such that

(i) paragraph 53(1)(f.2) does not apply to increase the adjusted cost base to the other corporation of shares of the capital stock of the taxpayer, and

(ii) the capital loss from the disposition was deemed by paragraph 40(2)(e.1) (or, where the property was acquired by the taxpayer before 1996, by paragraph 40(2)(e) or 85(4)(a) as those paragraphs read in their application to property acquired before April 26, 1995) to be nil,

the amount that would otherwise have been the capital loss from the disposition;

(f.11) where the property was disposed of by a person (other than a non-resident person or a person exempt from tax under this Part on the person's taxable

à un moment donné, toute dépense engagée par le contribuable au titre d'un fonds de terre ou d'un bâtiment de la société de personnes et qui, à cause du paragraphe 18(2) ou (3.1), n'était pas déductible par le contribuable dans le calcul de son revenu pour une année d'imposition commençant avant ce moment,

(xii) tout montant à ajouter à ce moment, en application de l'alinéa 110.6(23)a), dans le calcul du prix de base rajusté de la participation pour le contribuable,

(xiii) tout montant à ajouter, en application du paragraphe 127(30), à l'impôt payable par ailleurs par le contribuable en vertu de la présente partie pour une année d'imposition s'étant terminée avant ce moment;

(xiv) [Abrogé, 2009, ch. 2, art. 11]

f) lorsque le bien est un bien de remplacement, au sens donné à ce terme à l'alinéa a) de la définition de ***perte apparente*** à l'article 54, du contribuable, l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) la perte qui était, en raison de l'acquisition du bien par le contribuable, une perte apparente qu'un contribuable a subie à la disposition d'un bien,

(ii) dans le cas où le bien ayant fait l'objet de la disposition était une action du capital-actions d'une société, le montant qui, sans l'alinéa 40(2)g), serait déduit en application des paragraphes 112(3), (3.1) ou (3.2) dans le calcul de la perte qu'un contribuable a subie à la disposition de l'action;

f.1) lorsqu'une société canadienne imposable a disposé du bien en faveur du contribuable — qui est lui-même une société canadienne imposable — dans des circonstances qui font que l'alinéa f.2) n'a pas pour effet d'augmenter le prix de base rajusté, pour la société qui dispose du bien, des actions du capital-actions du contribuable et que la perte en capital résultant de la disposition est réputée nulle par l'alinéa 40(2)e .1) (ou, dans le cas où le bien a été acquis par le contribuable avant 1996, par les alinéas 40(2)e) ou 85(4)a), dans leur version applicable aux biens acquis avant le 26 avril 1995), le montant qui aurait par ailleurs représenté la perte en capital résultant de la disposition;

f.11) lorsqu'une personne (sauf une personne non-résidente ou une personne exonérée de l'impôt prévu à la présente partie sur son revenu imposable) ou une société de personnes canadienne admissible, au sens du paragraphe 80(1), a disposé du bien en faveur du

income) or by an eligible Canadian partnership (as defined in subsection 80(1)) to the taxpayer in circumstances such that

(i) paragraph 53(1)(f.1) does not apply to increase the adjusted cost base to the taxpayer of the property,

(ii) paragraph 53(1)(f.2) does not apply to increase the adjusted cost base to that person of shares of the capital stock of the taxpayer, and

(iii) the capital loss from the disposition was deemed by paragraph 40(2)(e.1) (or, where the property was acquired by the taxpayer before 1996, by paragraph 85(4)(a) as it read in its application to property acquired before April 26, 1995) to be nil,

the amount that would otherwise be the capital loss from the disposition;

(f.12) where the property is a particular commercial obligation (in this paragraph having the meaning assigned by subsection 80(1)) payable to the taxpayer as consideration for the settlement or extinguishment of another commercial obligation payable to the taxpayer and the taxpayer's loss from the disposition of the other obligation was reduced because of paragraph 40(2)(e.2), the proportion of the reduction that the principal amount of the particular obligation is of the total of all amounts each of which is the principal amount of a commercial obligation payable to the taxpayer as consideration for the settlement or extinguishment of that other obligation;

(f.2) where the property is a share, any amount required by paragraph 40(3.6)(b) (or, where the property was acquired by the taxpayer before 1996, by paragraph 85(4)(b) as it read in its application to property disposed of before April 26, 1995) to be added in computing the adjusted cost base to the taxpayer of the share;

(g) where the property is a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation, the amount, if any, by which the principal amount of the obligation exceeds the amount for which the obligation was issued, if the excess was required by subsection 16(2) or (3) to be included in computing the income of the taxpayer for a taxation year commencing before that time;

(g.1) where the property is an indexed debt obligation, any amount determined under subparagraph 16(6)(a)(i) in respect of the obligation and required to be included in computing the taxpayer's income for a taxation year beginning before that time;

contribuable dans des circonstances qui font que l'alinéa f.1) n'a pas pour effet d'augmenter le prix de base rajusté du bien pour le contribuable, que l'alinéa f.2) n'a pas pour effet d'augmenter le prix de base rajusté, pour la personne, des actions du capital-actions du contribuable et que la perte en capital résultant de la disposition est réputée nulle par l'alinéa 40(2)e.1) (ou, dans le cas où le bien a été acquis par le contribuable avant 1996, par l'alinéa 85(4)a), dans sa version applicable aux biens acquis avant le 26 avril 1995), le montant qui représenterait par ailleurs la perte en capital résultant de la disposition;

f.12) lorsque le bien est une dette commerciale donnée (cette expression s'entendant, au présent alinéa, au sens du paragraphe 80(1)) qui est payable au contribuable en contrepartie du règlement ou de l'extinction d'une autre dette commerciale qui lui est payable et que la perte du contribuable résultant de la disposition de l'autre dette a été réduite par l'effet de l'alinéa 40(2)e.2), le produit de la multiplication du montant de la réduction par le rapport entre le principal de la dette donnée et le total des montants représentant chacun le principal d'une dette commerciale payable au contribuable en contrepartie du règlement ou de l'extinction de l'autre dette;

f.2) lorsque le bien est une action, le montant à ajouter en application de l'alinéa 40(3.6)b) (ou, dans le cas où le bien a été acquis par le contribuable avant 1996, en application de l'alinéa 85(4)b), dans sa version applicable aux biens dont il a été disposé avant le 26 avril 1995) dans le calcul du prix de base rajusté de l'action pour le contribuable;

g) lorsque le bien est une obligation, un effet, un billet, une créance hypothécaire ou tout autre titre semblable, l'excédent éventuel du principal du titre sur la somme pour laquelle il a été émis, si cet excédent devait, en vertu du paragraphe 16(2) ou (3), être inclus dans le calcul du revenu du contribuable pour une année d'imposition commençant avant ce moment;

g.1) lorsque le bien est un titre de créance indexé, tout montant déterminé selon le sous-alinéa 16(6)a)(i) relativement au titre, qui était à inclure dans le calcul du revenu du contribuable pour une année d'imposition commençant avant ce moment;

h) lorsque le bien est un fonds de terre du contribuable, toute somme versée par ce dernier ou par un autre contribuable à l'égard duquel le contribuable était une personne, société ou société de personnes visées aux sous-alinéas b)(i), (ii) ou (iii) de la définition de ***intérêts sur une dette concernant l'acquisition***

(h) where the property is land of the taxpayer, any amount paid by the taxpayer or by another taxpayer in respect of whom the taxpayer was a person, corporation or partnership described in subparagraph (b)(i), (ii) or (iii) of the definition ***interest on debt relating to the acquisition of land*** in subsection 18(3), after 1971 and before that time pursuant to a legal obligation to pay

(i) interest on debt relating to the acquisition of land (within the meaning assigned by subsection 18(3)), or

(ii) property taxes (not including income or profits taxes or taxes imposed by reference to the transfer of property) paid by the taxpayer in respect of the property to a province or to a Canadian municipality

to the extent that the amount was, because of subsection 18(2),

(iii) not deductible in computing the taxpayer's income from the land or from a business for any taxation year beginning before that time, or

(iv) not deductible in computing the income of the other taxpayer and was not included in or added to the cost to the other taxpayer of any property otherwise than because of subparagraph (d.3) or subparagraph (e)(xi);

(i) where the property is land used in a farming business carried on by the taxpayer, an amount in respect of each taxation year ending after 1971 and commencing before that time, equal to the taxpayer's loss, if any, for that year from the farming business, to the extent that the loss

(i) was not, by virtue of section 31, deductible in computing the taxpayer's income for that year,

(ii) was not deducted in computing the taxpayer's taxable income for the taxation year in which the taxpayer disposed of the property or any preceding taxation year,

(iii) did not exceed the total of

(A) taxes (other than income or profits taxes or taxes imposed by reference to the transfer of the property) paid by the taxpayer in that year or payable by the taxpayer in respect of that year to a province or a Canadian municipality in respect of the property, and

d'un fonds de terre au paragraphe 18(3), après 1971 et avant ce moment du fait d'une obligation légale de payer :

(i) soit, au sens du paragraphe 18(3), des intérêts sur une dette concernant l'acquisition d'un fonds de terre,

(ii) soit des impôts fonciers (sauf l'impôt sur le revenu ou sur les bénéfices ou l'impôt afférent au transfert des biens fonciers) sur ce bien, à une province ou à une municipalité canadienne,

dans la mesure où cette somme, par l'effet du paragraphe 18(2), selon le cas :

(iii) n'était pas déductible dans le calcul du revenu du contribuable tiré du fonds de terre ou d'une entreprise pour une année d'imposition commençant avant ce moment,

(iv) n'était pas déductible dans le calcul du revenu de l'autre contribuable et n'était pas comprise dans le coût d'un bien pour lui, ou ajoutée à ce coût, autrement que par l'effet de l'alinéa d.3) ou du sous-alinéa e)(xi);

i) lorsque le bien est un fonds de terre servant à une entreprise agricole exploitée par le contribuable, un montant relatif à chaque année d'imposition se terminant après 1971 et commençant avant ce moment, égal à la perte qui a résulté, pour le contribuable, pour cette année, de l'exploitation de l'entreprise agricole, dans la mesure où cette perte, à la fois :

(i) n'était pas, en vertu de l'article 31, déductible dans le calcul du revenu du contribuable pour cette année,

(ii) n'a pas été déduite dans le calcul du revenu imposable du contribuable pour l'année d'imposition dans laquelle le contribuable a disposé du bien, ou pour toute année d'imposition antérieure,

(iii) ne dépassait pas le total des montants suivants :

(A) les impôts (autres que les impôts sur le revenu ou sur les bénéfices ou les impôts afférents au transfert du bien) payés par le contribuable au cours de cette année, ou qu'il devait payer au titre de la même année à une province ou à une municipalité canadienne relativement au bien,

(B) les intérêts versés par le contribuable au cours de cette année, ou qu'il devait verser au

(B) interest, paid by the taxpayer in that year or payable by the taxpayer in respect of that year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that those taxes and interest were included in computing the loss, and

(iv) did not exceed the remainder obtained when

(A) the total of each of the taxpayer's losses from the farming business for taxation years preceding that year (to the extent that they are required by this paragraph to be added in computing the taxpayer's adjusted cost base of the property),

is deducted from

(B) the amount, if any, by which the taxpayer's proceeds of disposition of the property exceed the adjusted cost base to the taxpayer of the property immediately before that time, determined without reference to this paragraph;

(j) if the property is a security (within the meaning assigned by subsection 7(7)) and, in respect of its acquisition by the taxpayer, a benefit was deemed by section 7 to have been received in any taxation year that ends after 1971 and begins before that time by the taxpayer or by a person that did not deal at arm's length with the taxpayer or, if the security was acquired after February 27, 2000, would have been so deemed if section 7 were read without reference to subsections 7(1.1) and (8), the amount of the benefit that was, or would have been, so deemed to have been received;

(k) where the property is an expropriation asset of the taxpayer (within the meaning assigned by section 80.1) or an asset of the taxpayer assumed for the purposes of that section to be an expropriation asset thereof, any amount required by paragraph 80.1(2)(b) to be added in computing the adjusted cost base to the taxpayer of the asset;

(l) where the property is an interest in a related segregated fund trust referred to in section 138.1,

(i) each amount deemed by paragraph 138.1(1)(f) to be an amount payable to the taxpayer before that time in respect of that interest,

(ii) each amount required by subparagraph 138.1(1)(g)(ii) to be added before that time in respect of that interest,

titre de cette année, en vertu d'une obligation légale de verser des intérêts sur de l'argent emprunté et utilisé pour l'acquisition du bien ou sur toute somme due en contrepartie de l'acquisition de ce bien, dans la mesure où il a été tenu compte de ces impôts et de ces intérêts

dans le calcul de la perte,

(iv) ne dépassait pas la différence obtenue en soustrayant :

(A) le total de chacune des pertes que le contribuable a subies dans l'exploitation de son entreprise agricole pour les années d'imposition qui ont précédé cette année (dans la mesure où elles doivent, en vertu du présent alinéa, s'ajouter au calcul du prix de base rajusté du bien, pour le contribuable),

de :

(B) l'excédent éventuel du produit de disposition du bien pour le contribuable sur le prix de base rajusté du bien, pour le contribuable, immédiatement avant ce moment, déterminé compte non tenu du présent alinéa;

j) lorsque le bien est un titre, au sens du paragraphe 7(7), et que son acquisition par le contribuable a donné lieu à un avantage soit qui est réputé par l'article 7 avoir été reçu, au cours d'une année d'imposition commençant avant ce moment et se terminant après 1971, par le contribuable ou par une personne avec qui il avait un lien de dépendance, soit, si le titre a été acquis après le 27 février 2000, qui aurait été ainsi réputé si l'article 7 s'appliquait compte non tenu de ses paragraphes (1.1) et (8), le montant de cet avantage;

k) lorsque le bien est une contre-valeur de biens expropriés du contribuable (au sens de l'article 80.1) ou une contre-valeur du contribuable qui, pour l'application de cet article, est réputée être une telle contre-valeur de biens expropriés, toute somme qui, en vertu de l'alinéa 80.1(2)b), doit être ajoutée dans le calcul du prix de base rajusté de la contre-valeur pour le contribuable;

l) lorsque le bien constitue une participation dans une fiducie créée à l'égard du fonds réservé qui est visée à l'article 138.1:

(i) chaque montant réputé être, en vertu de l'alinéa 138.1(1)f), un montant payable au contribuable avant ce moment au titre de cette participation,

(iii) each amount in respect of that interest that is a capital gain deemed to have been allocated under subsection 138.1(4) to the taxpayer before that time, and

(iv) each amount in respect of that interest that before that time was deemed by subsection 138.1(3) to be a capital gain of the taxpayer;

(m) where the property is an offshore investment fund property (within the meaning assigned by subsection 94.1(1)),

(i) any amount included in respect of the property by virtue of subsection 94.1(1) in computing the taxpayer's income for a taxation year commencing before that time, or

(ii) where the taxpayer is a controlled foreign affiliate (within the meaning of subsection 95(1)), of a person resident in Canada, any amount included in respect of the property in computing the foreign accrual property income of the controlled foreign affiliate by reason of the description of C in the definition ***foreign accrual property income*** in subsection 95(1) for a taxation year commencing before that time;

(n) the reasonable costs incurred by the taxpayer, before that time, of surveying or valuing the property for the purpose of its acquisition or disposition (to the extent that those costs are not deducted by the taxpayer in computing the taxpayer's income for any taxation year or attributable to any other property);

(o) where the property is real property of the taxpayer, any amount required by paragraph 43.1(2)(b) to be added in computing the adjusted cost base to the taxpayer of the property;

(p) where the time is after 2004 and the property is an interest in or a share of the capital stock of a flow-through entity (within the meaning assigned by subsection 39.1(1)), the amount determined by the formula

A × B/C

where

A is the amount, if any, that would, if the definition ***exempt capital gains balance*** in subsection 39.1(1) were read without reference to "that ends before 2005", be the taxpayer's exempt capital gains balance in respect of the entity for the taxpayer's 2005 taxation year,

(ii) chaque montant qui, en vertu du sous-alinéa 138.1(1)g) (ii), doit être ajouté avant ce moment au titre de cette participation,

(iii) chaque montant qui, au titre de cette participation, est un gain en capital réputé avoir été attribué au contribuable en vertu du paragraphe 138.1(4) avant ce moment,

(iv) chaque montant qui, au titre de cette participation, était réputé avant ce moment être un gain en capital du contribuable en vertu du paragraphe 138.1(3);

m) lorsque le bien est un bien d'un fonds de placement non-résident, au sens du paragraphe 94.1(1):

(i) soit tout montant inclus, à l'égard d'un bien, en vertu du paragraphe 94.1(1), dans le calcul du revenu du contribuable pour une année d'imposition commençant avant ce moment,

(ii) soit, si le contribuable est une société étrangère affiliée contrôlée (au sens du paragraphe 95(1)) d'une personne qui réside au Canada, tout montant inclus, au titre du bien, dans le calcul du revenu étranger accumulé, tiré de biens de la société étrangère affiliée contrôlée en vertu de l'élément C de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe 95(1) pour une année d'imposition commençant avant ce moment;

n) les frais raisonnables que le contribuable a engagés avant ce moment pour l'arpentage ou l'évaluation du bien en vue de son acquisition ou de sa disposition (dans la mesure où ces frais ne sont pas par ailleurs déduits par le contribuable dans le calcul de son revenu pour une année d'imposition ou ne se rapportent pas à un autre bien);

o) lorsque le bien est un bien réel du contribuable, tout montant à ajouter, en application de l'alinéa 43.1(2)b), dans le calcul du prix de base rajusté du bien pour le contribuable;

p) lorsque le moment est postérieur à 2004 et que le bien est une participation dans une entité intermédiaire, au sens du paragraphe 39.1(1), ou une action du capital-actions d'une telle entité, le résultat du calcul suivant :

A × B/C

où :

B is the fair market value at that time of the property, and

C is the fair market value at that time of all the taxpayer's interests in or shares of the capital stock of the entity;

(q) any amount required under paragraph 53(4)(b), (5)(b), (6)(b), 47(1)(d), 49(3.01)(b), 51(1)(d.2), 86(4)(b) or 87(5.1)(b) or (6.1)(b) to be added in computing the adjusted cost base to the taxpayer of the property;

(r) if the time is before 2005, the property is an interest in, or a share of the capital stock of, a flow-through entity described in any of paragraphs (a) to (f) and (h) of the definition ***flow-through entity*** in subsection 39.1(1) and immediately after that time the taxpayer disposed of all their interests in, and shares of the capital stock of, the entity, the amount determined by the formula

A × B/C

where

A is the amount, if any, by which the taxpayer's exempt capital gains balance (as defined in subsection 39.1(1)) in respect of the entity for the taxpayer's taxation year that includes that time exceeds the total of all amounts each of which is

(i) the amount by which a capital gain is reduced under section 39.1 for the year because of the taxpayer's exempt capital gains balance in respect of the entity, or

(ii) twice an amount by which a taxable capital gain, or the income from a business, is reduced under section 39.1 for the year because of the taxpayer's exempt capital gains balance in respect of the entity,

B is the fair market value at that time of the property, and

C is the fair market value at that time of all the taxpayer's interests in, and shares of the capital stock of, the entity;

(s) if the property was acquired under a derivative forward agreement, any amount required to be included in respect of the property under subparagraph 12(1)(z.7)(i) in computing the income of the taxpayer for a taxation year; and

(t) if the property is disposed of under a derivative forward agreement, any amount required to be included in respect of the property under subparagraph 12(1)(z.7)(ii) in computing the income of the taxpayer for the taxation year that includes that time.

A représente le montant qui correspondrait au solde des gains en capital exonérés du contribuable relativement à l'entité pour l'année d'imposition 2005 du contribuable, compte non tenu du passage « qui se termine avant 2005 » à la définition de ***solde des gains en capital exonérés*** au paragraphe 39.1(1),

B la juste valeur marchande du bien à ce moment,

C la juste valeur marchande, à ce moment, de l'ensemble des participations du contribuable dans l'entité ou de ses actions du capital-actions de celle-ci;

q) le montant à ajouter en application des alinéas (4)b), (5)b), (6)b), 47(1)d), 49(3.01)b), 51(1)b.2), 86(4)b) ou 87(5.1)b) ou (6.1)b) dans le calcul du prix de base rajusté du bien pour le contribuable;

r) lorsque le moment est antérieur à 2005, que le bien est une participation dans une entité intermédiaire visée à l'un des alinéas a) à f) et h) de la définition de ***entité intermédiaire*** au paragraphe 39.1(1), ou une action du capital-actions d'une telle entité, et que, immédiatement après ce moment, le contribuable a disposé de l'ensemble de ses participations dans l'entité ou de ses actions du capital-actions de celle-ci, la somme obtenue par la formule suivante :

A × B/C

où :

A représente l'excédent éventuel du solde des gains en capital exonérés, au sens du paragraphe 39.1(1), du contribuable relativement à l'entité pour l'année d'imposition du contribuable qui comprend ce moment sur le total des montants représentant chacun :

(i) un montant qui, par l'effet de l'article 39.1 et pour l'année, est appliqué en réduction d'un gain en capital en raison du solde des gains en capital exonérés du contribuable relativement à l'entité,

(ii) le double du montant qui, par l'effet de l'article 39.1 et pour l'année, est appliqué en réduction d'un gain en capital imposable ou du revenu tiré d'une entreprise, en raison du solde des gains en capital exonérés du contribuable relativement à l'entité,

B la juste valeur marchande du bien à ce moment,

C la juste valeur marchande, à ce moment, de l'ensemble des participations du contribuable dans l'entité et de ses actions du capital-actions de celle-ci;

s) si le bien a été acquis aux termes d'un contrat dérivé à terme, toute somme à inclure relativement au bien, en application du sous-alinéa 12(1)z.7)(i), dans le calcul du revenu du contribuable pour une année d'imposition;

t) s'il a été disposé du bien aux termes d'un contrat dérivé à terme, toute somme à inclure relativement au bien, en application du sous-alinéa 12(1)z.7)(ii), dans le calcul du revenu du contribuable pour l'année d'imposition qui comprend ce moment.

Deemed contribution of capital

(1.1) For the purposes of paragraph 53(1)(c), where there has been a disposition of property before May 7, 1974 and

(a) the taxpayer and the corporation referred to in that paragraph have made an election under section 85 in respect of that property, and

(b) the consideration received by the taxpayer for the property did not include shares of the capital stock of the corporation,

the disposition of property shall be deemed to be a contribution of capital equal to the amount, if any, by which

(c) the amount that the taxpayer and the corporation have agreed on in the election

exceeds

(d) the fair market value at the time of the disposition of any consideration received by the taxpayer for the property so disposed of.

Apport de capital réputé

(1.1) Pour l'application de l'alinéa (1)c), lorsqu'il a été disposé d'un bien avant le 7 mai 1974 et que :

a) d'une part, le contribuable et la société visés par cet alinéa ont fait le choix prévu à l'article 85 à l'égard de ce bien;

b) d'autre part, la contrepartie que le contribuable a tirée du bien ne comprend pas des actions du capital-actions de la société,

la disposition du bien est réputée être un apport en capital égal à l'excédent éventuel du montant visé à l'alinéa c) sur le montant visé à l'alinéa d):

c) le montant dont le contribuable et la société sont convenus dans le choix;

d) la juste valeur marchande, au moment de la disposition, de toute contrepartie que le contribuable a tirée de la disposition du bien.

Flow-through entity before 2005

(1.2) For the purposes of paragraph (1)(r), if the fair market value of all of a taxpayer's interests in, and shares of the capital stock of, a flow-through entity is nil when the taxpayer disposes of those interests and shares, the fair market value of each such interest or share at that time is deemed to be $1.

Entité intermédiaire avant 2005

(1.2) Pour l'application de l'alinéa (1)r), si la juste valeur marchande de l'ensemble des participations d'un contribuable dans une entité intermédiaire, ou de l'ensemble de ses actions du capital-actions d'une telle entité, est nulle au moment où il en dispose, la juste valeur marchande de chacune de ces participations ou actions à ce moment est réputée être égale à un dollar.

Amounts to be deducted

(2) In computing the adjusted cost base to a taxpayer of property at any time, there shall be deducted such of the following amounts in respect of the property as are applicable:

(a) where the property is a share of the capital stock of a corporation resident in Canada,

(i) any amount received by the taxpayer after 1971 and before that time as, on account or in lieu of

Montants déductibles

(2) Dans le calcul du prix de base rajusté du bien, pour un contribuable, à un moment donné, doivent être déduits, au titre du bien, ceux des montants suivants qui sont appropriés :

a) lorsque le bien est une action du capital-actions d'une société qui réside au Canada :

(i) toute somme reçue par le contribuable, après 1971 et avant ce moment, au titre ou en paiement

payment of, or in satisfaction of, a dividend on the share (other than a taxable dividend or a dividend in respect of which the corporation paying the dividend has elected in accordance with subsection 83(2) or 83(2.1) in respect of the full amount thereof),

(ii) any amount received by the taxpayer after 1971 and before that time on a reduction of the paid-up capital of the corporation in respect of the share, except to the extent that the amount is deemed by subsection 84(4) or 84(4.1) to be a dividend received by the taxpayer,

(iii) any amount required to be deducted before that time under section 84.1 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it applied before May 23, 1985 in computing the adjusted cost base to the taxpayer of the share,

(iv) any amount, to the extent that such amount is not proceeds of disposition of a share, received by the taxpayer before that time that would, but for subsection 84(8), be deemed by subsection 84(2) to be a dividend received by the taxpayer, and

(v) any amount required by paragraph 44.1(2)(b) to be deducted in computing the adjusted cost base to the taxpayer of the share;

(b) where the property is a share of the capital stock of a non-resident corporation,

(i) if the corporation is a foreign affiliate of the taxpayer,

(A) any amount required under paragraph 80.1(4)(d) or section 92 to be deducted in computing the adjusted cost base to the taxpayer of the share, and

(B) any amount received by the taxpayer before that time, on a reduction of the paid-up capital of the corporation in respect of the share, that is so received

(I) after 1971 and on or before August 19, 2011, or

(II) after August 19, 2011, where the reduction is a qualifying return of capital (within the meaning assigned by subsection 90(3)) in respect of the share, or

intégral ou partiel d'un dividende sur l'action (autre qu'un dividende imposable ou un dividende à l'égard duquel la société qui le verse a fait un choix visant le plein montant, conformément au paragraphe 83(2) ou (2.1)),

(ii) toute somme reçue par le contribuable après 1971 et avant ce moment, à l'occasion de la réduction du capital versé de la société au titre de l'action, sauf dans la mesure où cette somme est réputée, en application des paragraphes 84(4) ou (4.1), être un dividende qu'il a reçu,

(iii) toute somme à déduire avant ce moment, en vertu de l'article 84.1 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable avant le 23 mai 1985, dans le calcul du prix de base rajusté de l'action pour lui,

(iv) toute somme, dans la mesure où cette somme n'est pas le produit de disposition d'une action, reçue par le contribuable avant ce moment et qui, sans le paragraphe 84(8), serait réputée, en vertu du paragraphe 84(2), être un dividende reçu par lui,

(v) toute somme à déduire en application de l'alinéa 44.1(2)b) dans le calcul du prix de base rajusté de l'action pour lui;

b) lorsque le bien est une action du capital-actions d'une société non-résidente :

(i) si la société est une société étrangère affiliée du contribuable :

(A) toute somme à déduire, en application de l'alinéa 80.1(4)d) ou de l'article 92, dans le calcul du prix de base rajusté de l'action pour le contribuable,

(B) toute somme que le contribuable reçoit avant ce moment à la suite d'une réduction du capital versé de la société au titre de l'action et qui est ainsi reçue :

(I) après 1971 et avant le 20 août 2011,

(II) après le 19 août 2011, dans le cas où la réduction constitue un remboursement de capital admissible, au sens du paragraphe 90(3), relativement à l'action,

(ii) dans les autres cas, toute somme reçue par le contribuable après 1971 et avant le moment donné à la suite d'une réduction du capital versé de la société au titre de l'action;

(ii) in any other case, any amount received by the taxpayer after 1971 and before that time on a reduction of the paid-up capital of the corporation in respect of the share;

(b.1) if the property is a capital interest in a trust, any amount deducted by the taxpayer by reason of subsection 91(2) or (4) in computing the taxpayer's income for a taxation year that ends at or before that time (or that would have been so deductible by the taxpayer but for subsection 56(4.1) and sections 74.1 to 75 of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952) in respect of that interest;

(b.2) if the property is property of a taxpayer that was subject to a loss restriction event at or before that time, any amount required by paragraph 111(4)(c) to be deducted in computing the adjusted cost base of the property;

(c) where the property is an interest in a partnership,

(i) an amount in respect of each fiscal period of the partnership ending after 1971 and before that time, equal to the total of amounts each of which is the taxpayer's share (other than a share under an agreement referred to in subsection 96(1.1)) of any loss of the partnership from any source for that fiscal period, computed as if this Act were read without reference to

(A) the fractions set out in subsection 14(5), paragraph 38(b) and in the formula in paragraph 14(1)(b),

(A.1) [Repealed, 2013, c. 34, s. 190]

(A.2) the description of C in the formula in paragraph 14(1)(b),

(B) paragraphs 12(1)(o) and 12(1)(z.5), 18(1)(m) and 20(1)(v.1), section 31, subsection 40(2), section 55 and subsections 69(6) and 69(7) of this Act and paragraphs 20(1)(gg) and 81(1)(r) and (s) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, and

(C) subsections 100(4) and 112(3.1), and subsection 112(4.2) as it read in its application to dispositions of property that occurred before April 27, 1995,

except to the extent that all or a portion of such a loss may reasonably be considered to have been included in the taxpayer's limited partnership loss in

b.1) si le bien est une participation au capital d'une fiducie, toute somme qui est déduite par le contribuable par l'effet des paragraphes 91(2) ou (4) dans le calcul de son revenu pour une année d'imposition se terminant au plus tard à ce moment (ou qui aurait été ainsi déductible par lui en l'absence du paragraphe 56(4.1) et des articles 74.1 à 75 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952) relativement à cette participation;

b.2) s'il s'agit du bien d'un contribuable qui a été assujetti à un fait lié à la restriction de pertes à ce moment ou antérieurement, toute somme qui est à déduire, en application de l'alinéa 111(4)c), dans le calcul du prix de base rajusté du bien;

c) lorsque le bien est une participation dans une société de personnes :

(i) une somme relative à chaque exercice de la société de personnes se terminant après 1971 et avant ce moment, égale au total des sommes dont chacune représente la part du contribuable (autre qu'une part en vertu d'une convention visée au paragraphe 96(1.1)) dans toute perte de la société de personnes, provenant de toute source, pour cet exercice, calculée compte non tenu :

(A) des fractions figurant à la formule figurant à l'alinéa 14(1)b), au paragraphe 14(5) et à l'alinéa 38b),

(A.1) [Abrogée, 2013, ch. 34, art. 190]

(A.2) de l'élément C de la formule figurant à l'alinéa 14(1)b),

(B) des alinéas 12(1)o) et z.5), 18(1)m) et 20(1)v.1), de l'article 31, du paragraphe 40(2), de l'article 55 et des paragraphes 69(6) et (7) de la présente loi et des alinéas 20(1)gg) et 81(1)r) et s) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952,

(C) des paragraphes 100(4) et 112(3.1) et du paragraphe 112(4.2) dans sa version applicable aux dispositions de biens effectuées avant le 27 avril 1995,

sauf dans la mesure où il est raisonnable de considérer que tout ou partie de cette perte est incluse dans la perte comme commanditaire du contribuable dans la société de personnes pour l'année d'imposition du contribuable au cours de laquelle cet exercice se termine,

respect of the partnership for the taxpayer's taxation year in which that fiscal period ended,

(i.1) an amount in respect of each fiscal period of the partnership ending before that time that is the taxpayer's limited partnership loss in respect of the partnership for the taxation year in which that fiscal period ends to the extent that such loss was deducted by the taxpayer in computing the taxpayer's taxable income for any taxation year that commenced before that time,

(i.2) any amount deemed by subsection 40(3.12) to be a loss of the taxpayer for a taxation year from a disposition before that time of the property,

(i.3) if at that time the property is not a tax shelter investment as defined by section 143.2 and the taxpayer would be a member, described in subsection 40(3.1), of the partnership if the fiscal period of the partnership that includes that time ended at that time, the unpaid principal amount of any indebtedness of the taxpayer for which recourse is limited, either immediately or in the future and either absolutely or contingently, and that can reasonably be considered to have been used to acquire the property,

(i.4) unless that time is immediately before a disposition of the interest, if the taxpayer is a member of the partnership and the taxpayer has been a specified member of the partnership at all times since becoming a member of the partnership, or the taxpayer is at that time a limited partner of the partnership for the purposes of subsection 40(3.1),

(A) where that time is in the taxpayer's first taxation year for which the taxpayer is eligible to deduct an amount in respect of the partnership under subsection 34.2(11), the portion of the amount deducted in computing the taxpayer's income for the taxation year under subsection 34.2(11) in respect of the partnership that would have been deductible if the definition ***qualifying transitional income*** in subsection 34.2(1) were read without reference to paragraph (b), and

(B) where that time is in any other taxation year, the portion of the amount deducted in computing the taxpayer's income for the taxation year immediately preceding that other year under subsection 34.2(11) in respect of the partnership that would have been deductible if the definition ***qualifying transitional income*** in subsection 34.2(1) were read without reference to paragraph (b),

(i.1) la somme relative à chaque exercice de la société de personnes se terminant avant ce moment et qui est la perte comme commanditaire du contribuable dans la société de personnes pour l'année d'imposition au cours de laquelle cet exercice se termine, dans la mesure où le contribuable a déduit cette perte dans le calcul de son revenu imposable pour une année d'imposition qui a commencé avant ce moment,

(i.2) toute somme qui est réputée par le paragraphe 40(3.12) être une perte du contribuable pour une année d'imposition, provenant de la disposition du bien avant ce moment,

(i.3) dans le cas où, à ce moment, le bien n'est pas un abri fiscal déterminé, au sens de l'article 143.2, et où le contribuable serait, à ce moment, un associé visé au paragraphe 40(3.1) de la société de personnes si l'exercice de celle-ci qui comprend ce moment se terminait à ce moment, le montant impayé du principal d'une dette du contribuable à l'égard de laquelle le recours est limité dans l'immédiat ou pour l'avenir et conditionnellement ou non, qu'il est raisonnable de considérer comme ayant été utilisé pour acquérir le bien,

(i.4) à moins que ce moment ne précède immédiatement une disposition de la participation, si le contribuable est un associé de la société de personnes et en est soit un associé déterminé depuis qu'il en est un associé, soit un commanditaire à ce moment pour l'application du paragraphe 40(3.1), celle des sommes ci-après qui est applicable :

(A) dans le cas où ce moment fait partie de la première année d'imposition du contribuable pour laquelle il peut déduire une somme relativement à la société de personnes en application du paragraphe 34.2(11), la partie de la somme déduite en application de ce paragraphe dans le calcul de son revenu pour l'année relativement à la société de personnes qui serait déductible si la définition de ***revenu admissible à l'allègement*** au paragraphe 34.2(1) s'appliquait compte non tenu de son alinéa b),

(B) dans le cas où ce moment fait partie d'une autre année d'imposition, la partie de la somme déduite en application du paragraphe 34.2(11) dans le calcul du revenu du contribuable pour l'année d'imposition précédant cette autre année relativement à la société de personnes qui serait déductible si la définition de ***revenu admissible à l'allègement*** au paragraphe 34.2(1) s'appliquait compte non tenu de son alinéa b),

(ii) an amount in respect of each fiscal period of the partnership ending after 1971 and before that time, other than a fiscal period after the fiscal period in which the taxpayer ceased to be a member of the partnership, equal to the taxpayer's share of the total of

(A) amounts that, but for paragraph 96(1)(d), would be deductible in computing the income of the partnership for the fiscal period by virtue of the provisions of the *Income Tax Application Rules* relating to the exploration and development expenses,

(B) the Canadian exploration and development expenses and foreign resource pool expenses, if any, incurred by the partnership in the fiscal period,

(C) the Canadian exploration expense, if any, incurred by the partnership in the fiscal period,

(D) the Canadian development expense, if any, incurred by the partnership in the fiscal period, and

(E) the Canadian oil and gas property expense, if any, incurred by the partnership in the fiscal period,

(iii) any amount deemed by subsection 110.1(4) or 118.1(8) to have been the eligible amount of a gift made by the taxpayer by reason of the taxpayer's membership in the partnership at the end of a fiscal period of the partnership ending before that time,

(iv) any amount required by section 97 to be deducted before that time in computing the adjusted cost base to the taxpayer of the interest,

(v) any amount received by the taxpayer after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a distribution of the taxpayer's share (other than a share under an agreement referred to in subsection 96(1.1)) of the partnership profits or partnership capital,

(vi) an amount equal to that portion of all amounts deducted under subsection 127(5) in computing the tax otherwise payable by the taxpayer under this Part for the taxpayer's taxation years ending before that time that may reasonably be attributed to amounts added in computing the investment tax credit of the taxpayer by virtue of subsection 127(8),

(ii) une somme relative à chaque exercice de la société de personnes se terminant après 1971 et avant ce moment, autre qu'un exercice postérieur à l'exercice au cours duquel le contribuable a cessé d'être un associé de la société de personnes, égale à la part du contribuable dans le total des montants suivants :

(A) les sommes qui, sans l'alinéa 96(1)d), seraient déductibles dans le calcul du revenu de cette société de personnes pour l'exercice, en vertu des *Règles concernant l'application de l'impôt sur le revenu* relatives aux frais d'exploration et d'aménagement,

(B) les frais d'exploration et d'aménagement au Canada et les frais globaux relatifs à des ressources à l'étranger engagés par la société de personnes au cours de l'exercice,

(C) les frais d'exploration au Canada engagés par la société de personnes au cours de l'exercice,

(D) les frais d'aménagement au Canada engagés par la société de personnes au cours de l'exercice,

(E) les frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par la société de personnes au cours de l'exercice,

(iii) toute somme réputée, selon le paragraphe 110.1(4) ou 118.1(8), être le montant admissible d'un don que le contribuable effectue du fait qu'il est un associé de la société de personnes à la fin d'un exercice de celle-ci se terminant avant ce moment,

(iv) toute somme qui, en vertu de l'article 97, doit être déduite avant ce moment dans le calcul du prix de base rajusté, pour le contribuable, de la participation,

(v) toute somme reçue par le contribuable après et avant ce moment au titre ou en paiement intégral ou partiel de l'attribution de sa part (autre qu'une part en vertu d'une convention visée au paragraphe 96(1.1)) des bénéfices ou du capital de la société de personnes,

(vi) une somme égale à la fraction des montants déduits en vertu du paragraphe 127(5) dans le calcul de l'impôt par ailleurs payable par le contribuable en vertu de la présente partie pour ses années d'imposition se terminant avant ce moment

(vii) any amount added pursuant to subsection 127.2(4) in computing the taxpayer's share-purchase tax credit for a taxation year ending before or after that time,

(viii) an amount equal to 50% of the amount deemed to be designated pursuant to subsection 127.3(4) before that time in respect of each share, debt obligation or right acquired by the partnership and deemed to have been acquired by the taxpayer under that subsection,

(ix) the amount of all assistance received by the taxpayer before that time that has resulted in a reduction of the capital cost of a depreciable property to the partnership by virtue of subsection 13(7.2),

(x) any amount deductible by the taxpayer under subparagraph 20(1)(e)(vi) in respect of the partnership for a taxation year of the taxpayer ending at or after that time,

(xi) any amount required by paragraph 110.6(23)(b) to be deducted at that time in computing the adjusted cost base to the taxpayer of the interest,

(xii) any amount payable by the partnership, to the extent that the amount is deductible under subsection 20.01(1) in computing the taxpayer's income for a taxation year that began before that time, and

(xiii) the amount of any reduction (within the meaning of paragraph 247(13)(a)) of the amount of a dividend deemed to have been received by the taxpayer in respect of a transaction (as defined in subsection 247(1)) or series of transactions in which the partnership was a participant;

(d) where the property is such that the taxpayer has, after 1971 and before that time, disposed of a part of it while retaining another part of it, the amount determined under section 43 to be the adjusted cost base to the taxpayer of the part so disposed of;

(e) if the property is a share, or an interest in or a right to — or, for civil law, a right in or to — a share, of the capital stock of a corporation acquired before August 1976, an amount equal to any expense incurred by the taxpayer in consideration therefor, to the extent that the expense was, by virtue of

(i) paragraph (e) of the definition ***Canadian exploration and development expenses*** in subsection 66(15), a Canadian exploration and development expense,

qu'il est raisonnable d'attribuer aux montants ajoutés dans le calcul du crédit d'impôt à l'investissement du contribuable en vertu du paragraphe 127(8),

(vii) toute somme ajoutée en vertu du paragraphe 127.2(4) dans le calcul de son crédit d'impôt à l'achat d'actions pour une année d'imposition finissant avant ou après ce moment,

(viii) une somme égale à 50 % du montant réputé avoir été désigné en vertu du paragraphe 127.3(4), avant ce moment, à l'égard de chaque action, créance ou droit acquis par la société de personnes et réputé avoir été acquis par le contribuable en vertu de ce paragraphe,

(ix) le montant de toute l'aide reçue par le contribuable avant ce moment et qui a donné lieu à une réduction du coût en capital d'un bien amortissable pour la société de personnes aux termes du paragraphe 13(7.2),

(x) une somme déductible par le contribuable en application du sous-alinéa 20(1)e)(vi) en rapport avec la société de personnes pour une année d'imposition du contribuable se terminant à ce moment ou postérieurement,

(xi) tout montant à déduire à ce moment, en application de l'alinéa 110.6(23)b), dans le calcul du prix de base rajusté de la participation pour le contribuable,

(xii) tout montant payable par la société de personnes, dans la mesure où il est déductible en application du paragraphe 20.01(1) dans le calcul du revenu du contribuable pour une année d'imposition ayant commencé avant ce moment,

(xiii) le montant de toute réduction, au sens de l'alinéa 247(13)a), du montant d'un dividende que le contribuable est réputé avoir reçu relativement à une opération, au sens du paragraphe 247(1), ou à une série d'opérations à laquelle la société de personnes a pris part;

d) lorsque le bien est d'une nature telle que le contribuable, après 1971 et avant ce moment, n'en a disposé qu'en partie et en a gardé l'autre partie, le montant calculé en vertu de l'article 43 comme étant le prix de base rajusté pour le contribuable de la partie dont il a ainsi disposé;

(ii) paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), a Canadian exploration expense,

(iii) paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5), a Canadian development expense, or

(iv) paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), a Canadian oil and gas property expense

incurred by the taxpayer;

(f) where the property was received by the taxpayer as consideration for any payment or loan

(i) made before April 20, 1983 by the taxpayer as a shareholder corporation (within the meaning assigned by subsection 66(15)) to a joint exploration corporation of the shareholder, and

(ii) described in paragraph (a) of the definition ***agreed portion*** in subsection 66(15),

or the property was substituted for such a property, such portion of the payment or loan as may reasonably be considered to be related to an agreed portion (within the meaning assigned by subsection 66(15)) of the joint exploration corporation's

(iii) Canadian exploration and development expenses,

(iv) Canadian exploration expense,

(v) Canadian development expense, or

(vi) Canadian oil and gas property expense,

as the case may be;

(f.1) where the property is a share of the capital stock of a joint exploration corporation resident in Canada and the taxpayer has, after 1971, made a contribution of capital to the corporation otherwise than by way of a loan, which contribution was included in computing the adjusted cost base of the property by virtue of paragraph 53(1)(c), such portion of the contribution as may reasonably be considered to be part of an agreed portion (within the meaning assigned by subsection 66(15)) of the corporation's

(i) Canadian exploration and development expenses,

(ii) Canadian exploration expense,

e) lorsque le bien est une action du capital-actions d'une société — ou un intérêt ou un droit sur cette action ou, pour l'application du droit civil, un droit relatif à cette action — et qu'il a été acquis avant août 1976, une somme égale aux frais engagés par le contribuable en contrepartie de son acquisition, dans la mesure où il s'agissait :

(i) en vertu de l'alinéa e) de la définition de ***frais d'exploration et d'aménagement au Canada*** au paragraphe 66(15), de frais d'exploration et d'aménagement au Canada,

(ii) en vertu de l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), de frais d'exploration au Canada,

(iii) en vertu de l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5), de frais d'aménagement au Canada,

(iv) en vertu de l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5), de frais à l'égard de biens canadiens relatifs au pétrole et au gaz,

engagés par lui;

f) lorsque le bien a été reçu par le contribuable en contrepartie de tout paiement ou prêt :

(i) d'une part, fait avant le 20 avril 1983 par le contribuable en tant que société actionnaire (au sens du paragraphe 66(15)) à une société d'exploration en commun de l'actionnaire,

(ii) d'autre part, visé à l'alinéa a) de la définition de ***partie convenue*** au paragraphe 66(15),

ou lorsque le bien a été substitué à un tel bien, la fraction du paiement ou du prêt qu'il est raisonnable de considérer comme se rapportant à une partie convenue (au sens du paragraphe 66(15)) des frais de la société d'exploration en commun qui consistent, selon le cas, en :

(iii) frais d'exploration et d'aménagement au Canada,

(iv) frais d'exploration au Canada,

(v) frais d'aménagement au Canada,

(vi) frais à l'égard de biens canadiens relatifs au pétrole et au gaz;

(iii) Canadian development expense, or

(iv) Canadian oil and gas property expense,

as the case may be;

(f.2) any amount required by paragraph 66(10.4)(a) to be deducted before that time in computing the adjusted cost base to the taxpayer of the property;

(g) where section 80 is applicable in respect of the taxpayer, the amount, if any, by which the adjusted cost base to the taxpayer of the property is required in prescribed manner to be reduced before that time;

(g.1) any amount required under paragraph 53(4)(a), 53(5)(a), 53(6)(a), 47(1)(c), 49(3.01)(a), 51(1)(d.1), 86(4)(a) or 87(5.1)(a) or 87(6.1)(a) to be deducted in computing the adjusted cost base to the taxpayer of the property or any amount by which that adjusted cost base is required to be reduced because of subsection 80(9), 80(10) or 80(11);

(h) where the property is a capital interest of the taxpayer in a trust (other than an interest in a personal trust that has never been acquired for consideration or an interest of a taxpayer in a trust described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1)),

(i) any amount paid to the taxpayer by the trust after 1971 and before that time as a distribution or payment of capital by the trust (otherwise than as proceeds of disposition of the interest or part thereof), to the extent that the amount became payable before 1988,

(i.1) any amount that has become payable to the taxpayer by the trust after 1987 and before that time in respect of the interest (otherwise than as proceeds of disposition of the interest or part thereof), except to the extent of the portion thereof

(A) that was included in the taxpayer's income by reason of subsection 104(13) or from which an amount of tax was deducted under Part XIII by reason of paragraph 212(1)(c),

(A.1) that was deemed by subsection 104(16) to be a dividend received by the taxpayer, or

(B) where the trust was resident in Canada throughout its taxation year in which the amount became payable

f.1) lorsque le bien est une action du capital-actions d'une société d'exploration en commun résidant au Canada et que le contribuable a fait, après 1971, autrement qu'au moyen d'un prêt, un apport au capital de cette société qui a été inclus dans le calcul du prix de base rajusté du bien en vertu de l'alinéa (1)c), la partie de cet apport qu'il est raisonnable de considérer comme une fraction d'une partie convenue (au sens du paragraphe 66(15)) des frais de la société qui consistent, selon le cas, en :

(i) frais d'exploration et d'aménagement au Canada,

(ii) frais d'exploration au Canada,

(iii) frais d'aménagement au Canada,

(vi) frais à l'égard de biens canadiens relatifs au pétrole et au gaz;

f.2) tout montant dont l'alinéa 66(10.4)a) exige la déduction avant ce moment dans le calcul du prix de base rajusté du bien pour lui;

g) lorsque l'article 80 s'applique au contribuable, le montant dont le prix de base rajusté du bien, pour le contribuable, doit être réduit selon les modalités réglementaires avant ce moment;

g.1) un montant à déduire en application des alinéas (4) a), (5)a), (6)a), 47(1)c), 49(3.01)a), 51(1)b.1), 86(4)a) ou 87(5.1)a) ou (6.1)a) dans le calcul du prix de base rajusté du bien pour le contribuable ou un montant à appliquer en réduction de ce prix de base rajusté par l'effet des paragraphes 80(9), (10) ou (11);

h) lorsque le bien est une participation du contribuable au capital d'une fiducie — à l'exclusion d'une participation dans une fiducie personnelle qui n'a jamais été acquise moyennant contrepartie et d'une participation du contribuable dans une fiducie visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1):

(i) toute somme payée au contribuable par la fiducie après 1971 et avant ce moment lors d'une distribution ou d'un paiement de capital par la fiducie — exception faite du produit de disposition de la participation ou d'une partie de celle-ci — dans la mesure où cette somme est devenue payable avant 1988,

(i.1) toute somme devenue payable au contribuable par la fiducie après 1987 et avant ce moment au

(I) that is equal to the amount designated by the trust under subsection 104(21) in respect of the taxpayer,

(II) that was designated by the trust under subsection 104(20) in respect of the taxpayer, or

(III) that is an assessable distribution (as defined in subsection 218.3(1)) to the taxpayer,

(ii) an amount equal to that portion of all amounts deducted under subsection 127(5) in computing the tax otherwise payable by the taxpayer under this Part for the taxpayer's taxation years ending before that time that may reasonably be attributed to amounts added in computing the investment tax credit of the taxpayer by virtue of subsection 127(7),

(iii) any amount added pursuant to subsection 127.2(3) in computing the taxpayer's share-purchase tax credit for a taxation year ending before or after that time,

(iv) an amount equal to 50% of the amount deemed to be designated pursuant to subsection 127.3(3) before that time in respect of each share, debt obligation or right acquired by the trust and deemed to have been acquired by the taxpayer under that subsection, and

(v) an amount equal to the amount of all assistance received by the taxpayer before that time that has resulted in a reduction of the capital cost of a depreciable property to the trust by virtue of subsection 13(7.2);

(i) where the property is a capital interest in a trust (other than a unit trust) not resident in Canada that was purchased after 1971 and before that time by the taxpayer from a non-resident person at a time (in this paragraph referred to as the "purchase time") when the property was not taxable Canadian property and the fair market value of such of the trust property as was

(i) a Canadian resource property,

(iii) an income interest in a trust resident in Canada,

(iv) taxable Canadian property, or

(v) a timber resource property

titre de cette participation — exception faite du produit de disposition de la participation ou d'une partie de celle-ci — sauf dans la mesure où il s'agit de la partie de cette somme qui, selon le cas :

(A) a été incluse en application du paragraphe 104(13) dans le calcul du revenu du contribuable ou de laquelle un impôt a été déduit en vertu de la partie XIII par application de l'alinéa 212(1)c),

(A.1) est réputée, en vertu du paragraphe 104(16), être un dividende reçu par le contribuable,

(B) si la fiducie réside au Canada tout au long de son année d'imposition au cours de laquelle la somme est devenue payable :

(I) soit est égale au montant attribué au contribuable par la fiducie en application du paragraphe 104(21),

(II) soit est attribuée au contribuable par la fiducie en application du paragraphe 104(20),

(III) soit est une distribution déterminée, au sens du paragraphe 218.3(1), pour le contribuable,

(ii) une somme égale à la fraction des montants déduits en vertu du paragraphe 127(5) dans le calcul de l'impôt par ailleurs payable par le contribuable en vertu de la présente partie pour ses années d'imposition se terminant avant ce moment qu'il est raisonnable d'attribuer aux montants ajoutés dans le calcul du crédit d'impôt à l'investissement du contribuable prévu au paragraphe 127(7),

(iii) toute somme ajoutée en vertu du paragraphe 127.2(3) dans le calcul de son crédit d'impôt à l'achat d'actions pour une année d'imposition finissant avant ou après ce moment,

(iv) une somme égale à 50 % du montant réputé avoir été désigné en vertu du paragraphe 127.3(3), avant ce moment, à l'égard de chaque action, créance ou droit acquis par la fiducie et réputé avoir été acquis par le contribuable en vertu de ce paragraphe,

(v) une somme égale au montant de toute l'aide reçue par le contribuable avant ce moment et qui a donné lieu à une réduction du coût en capital d'un bien amortissable pour la fiducie aux termes du paragraphe 13(7.2);

was not less than 50% of the fair market value of all the trust property, that proportion of the amount, if any, by which

(vi) the fair market value at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v)

exceeds

(vii) the total of the cost amounts to the trust at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v),

that the fair market value at the purchase time of the interest is of the fair market value at the purchase time of all capital interests in the trust;

(j) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 and before that time by the taxpayer from a non-resident person at a time (in this paragraph referred to as the "purchase time") when the property was not taxable Canadian property and the fair market value of such of the trust property as was

(i) a Canadian resource property,

(iii) an income interest in a trust resident in Canada,

(iv) taxable Canadian property, or

(v) a timber resource property

was not less than 50% of the fair market value of all the trust property, that proportion of the amount, if any, by which

(vi) the fair market value at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v)

exceeds

(vii) the total of the cost amounts to the trust at the purchase time of such of the trust properties as were properties described in any of subparagraphs (i) to (v),

that the fair market value at the purchase time of the unit is of the fair market value at the purchase time of all the issued units of the trust;

(k) where the property was acquired by the taxpayer after 1971, the amount, if any, by which the total of

i) lorsque le bien est une participation au capital d'une fiducie (autre qu'une fiducie d'investissement à participation unitaire) ne résidant pas au Canada qui a été achetée par le contribuable, après 1971 et avant ce moment, d'une personne non-résidente à un moment (appelé « moment de l'achat » au présent alinéa) où le bien n'était pas un bien canadien imposable et où la juste valeur marchande des biens de la fiducie qui étaient :

(i) des avoirs miniers canadiens,

(iii) une participation au revenu d'une fiducie résidant au Canada,

(iv) des biens canadiens imposables,

(v) un avoir forestier,

n'était pas inférieure à 50 % de la juste valeur marchande de l'ensemble des biens de la fiducie, le produit de la multiplication de l'excédent éventuel du montant visé au sous-alinéa (vi) sur le total visé au sous-alinéa (vii):

(vi) la juste valeur marchande, au moment de l'achat, des biens de la fiducie qui étaient des biens visés à l'un des sous-alinéas (i) à (v),

(vii) le total des coûts indiqués pour la fiducie, au moment de l'achat, des biens de la fiducie qui étaient des biens visés à l'un des sous-alinéas (i) à (v),

par le rapport entre la juste valeur marchande de la participation au moment de l'achat et la juste valeur marchande, à ce même moment, de l'ensemble des participations au capital de la fiducie;

j) lorsque le bien est une unité d'une fiducie d'investissement à participation unitaire ne résidant pas au Canada, que le contribuable a achetée après 1971 et avant ce moment à une personne non-résidente à un moment (appelé « moment de l'achat » au présent alinéa) où le bien n'était pas un bien canadien imposable et où la juste valeur marchande des biens de la fiducie qui étaient :

(i) des avoirs miniers canadiens,

(iii) une participation au revenu d'une fiducie résidant au Canada,

(iv) des biens canadiens imposables,

(v) un avoir forestier,

(i) the amount of any assistance which the taxpayer has received or is entitled to receive before that time from a government, municipality or other public authority, in respect of, or for the acquisition of, the property, whether as a grant, subsidy, forgivable loan, deduction from tax not otherwise provided for under this paragraph, investment allowance or as any other form of assistance other than

(A) an amount described in paragraph 37(1)(d),

(B) an amount deducted as an allowance under section 65,

(C) the amount of prescribed assistance that the taxpayer has received or is entitled to receive in respect of, or for the acquisition of, shares of the capital stock of a prescribed venture capital corporation or a prescribed labour-sponsored venture capital corporation or shares of the capital stock of a taxable Canadian corporation that are held in a prescribed stock savings plan, or

(D) an amount included in income by virtue of paragraph 12(1)(u) or 56(1)(s), and

(ii) all amounts deducted under subsection 127(5) or 127(6) in respect of the property before that time,

exceeds such part, if any, of the assistance referred to in subparagraph 53(2)(k)(i) as has been repaid before that time by the taxpayer pursuant to an obligation to repay all or any part of that assistance;

(l) where the property is a debt obligation, any amount that was deductible by virtue of subsection 20(14) in computing the taxpayer's income for any taxation year commencing before that time in respect of interest on that debt obligation;

(l.1) where the property is an indexed debt obligation,

(i) any amount determined under subparagraph 16(6)(a)(ii) in respect of the obligation and deductible in computing the income of the taxpayer for a taxation year beginning before that time, and

(ii) the amount of any payment that was received or that became receivable by the taxpayer at or before that time in respect of an amount that was added under paragraph 53(1)(g.1) to the cost to the taxpayer of the obligation;

(m) any part of the cost to the taxpayer of the property that was deductible (otherwise than because of this subdivision or paragraph 8(1)(r)) in computing the

n'était pas inférieure à 50 % de la juste valeur marchande de l'ensemble des biens de la fiducie, le produit de la multiplication de l'excédent éventuel du montant visé au sous-alinéa (vi) sur le total visé au sous-alinéa (vii):

(vi) la juste valeur marchande, au moment de l'achat, des biens de la fiducie qui étaient des biens visés aux sous-alinéas (i) à (v),

(vii) le total des coûts indiqués pour la fiducie, au moment de l'achat, des biens de la fiducie qui étaient des biens visés aux sous-alinéas (i) à (v),

par le rapport entre la juste valeur marchande de l'unité au moment de l'achat et la juste valeur marchande, à ce même moment, de l'ensemble des unités émises de la fiducie;

k) lorsque le contribuable a acquis le bien après 1971, l'excédent éventuel du total des montants suivants :

(i) le montant de toute aide qu'il reçoit ou qu'il est en droit de recevoir avant ce moment d'un gouvernement, d'une municipalité ou d'une autre administration au titre du bien ou en vue de son acquisition, à titre de prime, de subvention, de prêt à remboursement conditionnel, de déductions de l'impôt qui ne sont pas par ailleurs prévues au présent alinéa, d'allocation de placement ou à tout autre titre mais qui n'est pas :

(A) une somme visée à l'alinéa 37(1)d),

(B) une somme dont la déduction est autorisée par l'article 65,

(C) le montant d'une aide visée par règlement que le contribuable a reçue ou est en droit de recevoir soit relativement à des actions du capital-actions d'une société à capital de risque visée par règlement ou d'une société à capital de risque de travailleurs visée par règlement, ou à des actions du capital-actions d'une société canadienne imposable détenues dans le cadre d'un régime d'achat d'actions visé par règlement, soit en vue d'acquérir pareilles actions,

(D) un montant inclus dans le revenu par l'application de l'alinéa 12(1)u) ou 56(1)s),

(ii) les montants déduits en vertu des paragraphes 127(5) ou (6) relativement au bien avant ce moment,

sur la partie éventuelle de l'aide visée au sous-alinéa (i) qu'il a remboursée avant ce moment en exécution

taxpayer's income for any taxation year commencing before that time and ending after 1971;

(n) where the property is an expropriation asset of the taxpayer (within the meaning assigned by section 80.1) or an asset of the taxpayer assumed for the purposes of that section to be an expropriation asset thereof, any amount required by paragraph 80.1(2)(b) to be deducted in computing the adjusted cost base to the taxpayer of the asset;

(o) where the property is a right to receive partnership property within the meaning assigned by paragraph 98.2(a) or 100(3)(a), any amount received by the taxpayer in full or partial satisfaction of that right;

(p) where the property is a debt owing to the taxpayer by a corporation, any amount required to be deducted before that time under section 84.1 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it applied before May 23, 1985 or subsection 84.2(2) in computing the adjusted cost base to the taxpayer of the debt;

(q) where the property is an interest in a related segregated fund trust referred to in section 138.1,

(i) each amount in respect of that interest that is a capital loss deemed to have been allocated under subsection 138.1(4) to the taxpayer before that time, and

(ii) each amount in respect of that interest that before that time was deemed by subsection 138.1(3) to be a capital loss of the taxpayer;

(s) the amount, if any, by which

(i) the amount elected by the taxpayer before that time under subsection 53(2.1)

exceeds

(ii) any repayment before that time by the taxpayer of an amount received by the taxpayer as described in subsection 53(2.1) that may reasonably be considered to relate to the amount elected where the repayment is made pursuant to a legal obligation to repay all or any part of the amount so received;

(t) if the property is a right to acquire shares or units under an agreement, any amount required by paragraph 164(6.1)(b) to be deducted in computing the adjusted cost base to the taxpayer of the right;

(u) where the property was at the end of February 22, 1994 a non-qualifying real property (within the

d'une obligation de rembourser tout ou partie de cette aide;

l) lorsque le bien est une créance, tout montant déductible en vertu du paragraphe 20(14) dans le calcul du revenu du contribuable pour toute année d'imposition commençant avant ce moment à l'égard des intérêts sur celle-ci;

l.1) lorsque le bien est un titre de créance indexé :

(i) tout montant déterminé selon le sous-alinéa 16(6)a)(ii) relativement au titre, qui était déductible dans le calcul du revenu du contribuable pour une année d'imposition commençant avant ce moment,

(ii) tout paiement reçu ou devenu à recevoir par le contribuable au plus tard à ce moment, au titre d'un montant qui a été ajouté en application de l'alinéa (1) g.1) au coût du titre pour lui;

m) la partie du coût du bien pour le contribuable qui était déductible (autrement que par l'effet de la présente sous-section ou de l'alinéa 8(1)r)) dans le calcul du revenu du contribuable pour une année d'imposition commençant avant ce moment et se terminant après 1971;

n) lorsque le bien est une contre-valeur de biens expropriés du contribuable (au sens de l'article 80.1) ou une contre-valeur du contribuable qui, pour l'application de cet article, est réputée être une telle contre-valeur de biens expropriés, toute somme qui, en vertu de l'alinéa 80.1(2)b), doit être déduite dans le calcul du prix de base rajusté de la contre-valeur pour le contribuable;

o) lorsque le bien est constitué par le droit de recevoir un bien d'une société de personnes au sens de l'alinéa 98.2a) ou 100(3)a), toute somme reçue par le contribuable en contrepartie totale ou partielle de ce droit;

p) lorsque le bien est une créance du contribuable sur une société, toute somme à déduire avant ce moment, en vertu de l'article 84.1 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable avant le 23 mai 1985, ou en vertu du paragraphe 84.2(2), dans le calcul du prix de base rajusté de la créance pour lui;

q) lorsque le bien constitue une participation dans une fiducie créée à l'égard du fonds réservé qui est visée à l'article 138.1:

meaning assigned by subsection 110.6(1) as that subsection applies to the 1994 taxation year) of a taxpayer, any amount required by paragraph 110.6(21)(b) to be deducted in computing the adjusted cost base to the taxpayer of the property;

(v) where the taxpayer elected under subsection 110.6(19) in respect of the property, any amount required by subsection 110.6(22) to be deducted in computing the adjusted cost base to the taxpayer of the property at that time;

(w) if the property was acquired under a derivative forward agreement, any amount deductible in respect of the property under paragraph 20(1)(xx) in computing the income of the taxpayer for a taxation year; and

(x) if the property is disposed of under a derivative forward agreement, any amount deductible in respect of the property under paragraph 20(1)(xx) in computing the income of the taxpayer for the taxation year that includes that time.

(i) chaque montant qui, au titre de cette participation, est une perte en capital réputée avoir été attribuée au contribuable en vertu du paragraphe 138.1(4) avant ce moment,

(ii) chaque montant qui, au titre de cette participation, était réputé avant ce moment être une perte en capital du contribuable en vertu du paragraphe 138.1(3);

s) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant choisi par le contribuable avant ce moment en vertu du paragraphe (2.1),

(ii) tout remboursement antérieur à ce moment par le contribuable d'un montant, visé au paragraphe (2.1), reçu par le contribuable, qu'il est raisonnable de considérer comme rattaché au montant choisi, si ce remboursement est fait conformément à une obligation légale de rembourser tout ou partie du montant ainsi reçu;

t) lorsque le bien consiste en un droit d'acquérir des actions ou des parts en vertu d'une convention, tout montant qui est à déduire en application de l'alinéa 164(6.1)b) dans le calcul du prix de base rajusté du droit pour le contribuable;

u) dans le cas où le bien était, à la fin du 22 février 1994, un immeuble non admissible d'un contribuable, au sens du paragraphe 110.6(1) dans sa version applicable à l'année d'imposition 1994, le montant à déduire, en application de l'alinéa 110.6(21)b), dans le calcul de son prix de base rajusté pour le contribuable;

v) dans le cas où le contribuable a fait le choix prévu au paragraphe 110.6(19) relativement au bien, un montant à déduire, en application du paragraphe 110.6(22), dans le calcul du prix de base rajusté du bien pour lui au moment donné;

w) si le bien a été acquis aux termes d'un contrat dérivé à terme, toute somme déductible relativement au bien, en application de l'alinéa 20(1)xx), dans le calcul du revenu du contribuable pour une année d'imposition;

x) s'il a été disposé du bien aux termes d'un contrat dérivé à terme, toute somme déductible relativement au bien, en application de l'alinéa 20(1)xx), dans le calcul du revenu du contribuable pour l'année d'imposition qui comprend ce moment.

Election

(2.1) For the purpose of paragraph 53(2)(s), where in a taxation year a taxpayer receives an amount that would, but for this subsection, be included in the taxpayer's income under paragraph 12(1)(x) in respect of the cost of a property (other than depreciable property) acquired by the taxpayer in the year, in the 3 taxation years preceding the year or in the taxation year following the year, the taxpayer may elect under this subsection on or before the date on or before which the taxpayer's return of income under this Part for the year is required to be filed or, where the property is acquired in the following year, for that following year, to reduce the cost of the property by such amount as the taxpayer specifies, not exceeding the least of

(a) the adjusted cost base, determined without reference to paragraph 53(2)(s), at the time the property was acquired,

(b) the amount so received by the taxpayer, and

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

(3) [Repealed, 2001, c. 17, s. 36(13)]

Recomputation of adjusted cost base on transfers and deemed dispositions

(4) If at any time in a taxation year a person or partnership (in this subsection referred to as the "vendor") disposes of a specified property and the proceeds of disposition of the property are determined under paragraph 48.1(1)(c), section 70 or 73, subsection 85(1), paragraph 87(4)(a) or (c) or 88(1)(a), subsection 97(2) or 98(2), paragraph 98(3)(f) or (5)(f), subsection 104(4), paragraph 107(2)(a) or (2.1)(a), 107.4(3)(a) or 111(4)(e) or section 128.1,

(a) there shall be deducted after that time in computing the adjusted cost base to the person or partnership (in this subsection referred to as the "transferee") who acquires or reacquires the property at or immediately after that time the amount, if any, by which

(i) the total of all amounts deducted under paragraph 53(2)(g.1) in computing, immediately before that time, the adjusted cost base to the vendor of the property,

exceeds

(ii) the amount that would be the vendor's capital gain for the year from that disposition if this Act were read without reference to subparagraph 40(1)(a)(iii) and subsection 100(2); and

Choix

(2.1) Pour l'application de l'alinéa (2)s), le contribuable qui reçoit, au cours d'une année d'imposition, un montant qui, sans le présent paragraphe, serait inclus dans son revenu en application de l'alinéa 12(1)x) au titre du coût d'un bien, sauf un bien amortissable, qu'il a acquis au cours de l'année, des trois années d'imposition précédentes ou de l'année d'imposition suivante peut choisir, au plus tard à la date où il est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année ou, si le bien est acquis au cours de l'année suivante, pour cette année suivante, de réduire le coût du bien du montant qu'il indique ne dépassant pas le moins élevé des montants suivants :

a) le prix de base rajusté, calculé compte non tenu de l'alinéa (2)s), au moment de l'acquisition du bien;

b) le montant ainsi reçu par le contribuable;

c) zéro, si le contribuable a disposé du bien avant l'année.

(3) [Abrogé, 2001, ch. 17, art. 36]

Nouveau calcul du prix de base rajusté en cas de transfert et de disposition réputée

(4) Si, au cours d'une année d'imposition, une personne ou une société de personnes (appelées « vendeur » au présent paragraphe) dispose d'un bien déterminé pour un produit de disposition calculé selon l'alinéa 48.1(1)a), les articles 70 ou 73, le paragraphe 85(1), les alinéas 87(4)a) ou c) ou 88(1)a), les paragraphes 97(2) ou 98(2), les alinéas 98(3)f) ou (5)f), le paragraphe 104(4), les alinéas 107(2)a) ou (2.1)a), 107.4(3)a) ou 111(4)e) ou l'article 128.1, les règles ci-après s'appliquent :

a) est à déduire, après le moment de la disposition, dans le calcul du prix de base rajusté du bien pour la personne ou la société de personnes (appelées « cessionnaire » au présent paragraphe) qui acquiert, ou acquiert de nouveau, le bien à ce moment ou immédiatement après ce moment l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants déduits en application de l'alinéa (2)g.1) dans le calcul, immédiatement avant ce moment, du prix de base rajusté du bien pour le vendeur,

(ii) le montant qui représenterait le gain en capital du vendeur pour l'année tiré de la disposition,

(b) the amount determined under paragraph 53(4)(a) in respect of that disposition shall be added after that time in computing the adjusted cost base to the transferee of the property.

b) le montant déterminé selon l'alinéa a) relativement à la disposition est à ajouter, après le moment de la disposition, dans le calcul du prix de base rajusté du bien pour le cessionnaire.

Recomputation of adjusted cost base on other transfer

(5) Where

(a) at any time in a taxation year a person or partnership (in this subsection referred to as the "vendor") disposes of a specified property to another person or partnership (in this subsection referred to as the "transferee"),

(b) immediately before that time, the vendor and the transferee do not deal with each other at arm's length or would not deal with each other at arm's length if paragraph 80(2)(j) applied for the purpose of this subsection,

(c) paragraph 53(5)(b) would apply in respect of the disposition if each right referred to in paragraph 251(5)(b) that is a right of the transferee to acquire the specified property from the vendor or a right of the transferee to acquire other property as part of a transaction or event or series of transactions or events that includes the disposition were not taken into account, and

(d) the proceeds of the disposition are not determined under any of the provisions referred to in subsection 53(4),

the following rules apply:

(e) there shall be deducted after that time in computing the adjusted cost base to the transferee of the property the amount, if any, by which

(i) the total of all amounts deducted under paragraph 53(2)(g.1) in computing the adjusted cost base to the vendor of the property immediately before that time

exceeds

(ii) the amount that would be the vendor's capital gain for the year from that disposition if this Act were read without reference to subparagraph 40(1)(a)(iii) and subsection 100(2), and

(f) the amount determined under paragraph 53(5)(e) in respect of that disposition shall be added after that

Nouveau calcul du prix de base rajusté en cas de transfert

(5) Dans le cas où les conditions suivantes sont réunies :

a) au cours d'une année d'imposition, une personne ou une société de personnes (appelées « vendeur » au présent paragraphe) dispose d'un bien déterminé en faveur d'une autre personne ou société de personnes (appelées « cessionnaire » au présent paragraphe),

b) immédiatement avant la disposition, le vendeur et le cessionnaire avaient entre eux un lien de dépendance, ou auraient eu un tel lien si l'alinéa 80(2)j) s'était appliqué dans le cadre du présent paragraphe,

c) l'alinéa b) s'appliquerait à la disposition s'il n'était pas tenu compte de chaque droit visé à l'alinéa 251(5)b) qui représente le droit du cessionnaire d'acquérir le bien déterminé auprès du vendeur ou son droit d'acquérir un autre bien dans le cadre d'une opération ou d'un événement, ou d'une série d'opérations ou d'événements, qui comprend la disposition,

d) le produit de la disposition n'est pas calculé selon l'une des dispositions énumérées au paragraphe (4),

les règles suivantes s'appliquent :

e) est à déduire, après la disposition, dans le calcul du prix de base rajusté du bien pour le cessionnaire l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants déduits en application de l'alinéa (2)g.1) dans le calcul du prix de base rajusté du bien pour le vendeur immédiatement avant la disposition,

(ii) le montant qui représenterait le gain en capital du vendeur pour l'année tiré de la disposition, compte non tenu du sous-alinéa 40(1)a)(iii) et du paragraphe 100(2);

f) le montant déterminé selon l'alinéa e) relativement à la disposition est à ajouter, après la disposition, dans le calcul du prix de base rajusté du bien pour le cessionnaire.

time in computing the adjusted cost base to the transferee of the property.

Recomputation of adjusted cost base on amalgamation

(6) Where a capital property that is a specified property is acquired by a new corporate entity at any time as a result of the amalgamation or merger of 2 or more predecessor corporations,

(a) there shall be deducted after that time in computing the adjusted cost base to the new entity of the property the total of all amounts deducted under paragraph 53(2)(g.1) in computing, immediately before that time, the adjusted cost base to a predecessor corporation of the property, unless those amounts are otherwise deducted under that paragraph in computing the adjusted cost base to the new entity of the property; and

(b) the amount deducted under paragraph 53(6)(a) in respect of the acquisition shall be added after that time in computing the adjusted cost base to the new entity of the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 53; 1994, c. 7, Sch II, s. 30, Sch VIII, s. 15, c. 21, s. 22; 1995, c. 3, s. 14, c. 21, s. 17; 1996, c. 21, s. 12; 1997, c. 25, s. 7; 1998, c. 19, s. 94; 1999, c. 22, s. 14; 2000, c. 19, s. 4; 2001, c. 17, ss. 36, 206; 2002, c. 9, s. 23; 2005, c. 19, s. 14; 2006, c. 4, s. 52; 2007, c. 29, s. 2, c. 35, s. 16; 2009, c. 2, s. 11; 2011, c. 24, s. 8; 2012, c. 31, s. 10; 2013, c. 34, ss. 4, 29, 61, 106, 190, c. 40, s. 22; 2016, c. 7, s. 3, c. 12, s. 16.

Nouveau calcul du prix de base rajusté en cas de fusion

(6) Lorsque la nouvelle société issue de la fusion ou de l'unification de sociétés (appelées « sociétés remplacées » au présent paragraphe) acquiert, par suite de la fusion ou de l'unification, une immobilisation qui constitue un bien déterminé, les règles suivantes s'appliquent :

a) est à déduire, après le moment de l'acquisition, dans le calcul du prix de base rajusté de l'immobilisation pour la nouvelle société le total des montants déduits en application de l'alinéa (2)g.1) dans le calcul, immédiatement avant ce moment, du prix de base rajusté de l'immobilisation pour une des sociétés remplacées, sauf si ces montants sont déduits par ailleurs en application de cet alinéa dans le calcul du prix de base rajusté de l'immobilisation pour la nouvelle société;

b) le montant déduit en application de l'alinéa a) relativement à l'acquisition est à ajouter, après le moment de l'acquisition, dans le calcul du prix de base rajusté de l'immobilisation pour la nouvelle société.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 53; 1994, ch. 7, ann. II, art. 30, ann. VIII, art. 15, ch. 21, art. 22; 1995, ch. 3, art. 14, ch. 21, art. 17; 1996, ch. 21, art. 12; 1997, ch. 25, art. 7; 1998, ch. 19, art. 94; 1999, ch. 22, art. 14; 2000, ch. 19, art. 4; 2001, ch. 17, art. 36 et 206; 2002, ch. 9, art. 23; 2005, ch. 19, art. 14; 2006, ch. 4, art. 52; 2007, ch. 29, art. 2, ch. 35, art. 16; 2009, ch. 2, art. 11; 2011, ch. 24, art. 8; 2012, ch. 31, art. 10; 2013, ch. 34, art. 4, 29, 61, 106 et 190, ch. 40, art. 22; 2016, ch. 7, art. 3, ch. 12, art. 16.

Definitions

54 In this subdivision,

adjusted cost base to a taxpayer of any property at any time means, except as otherwise provided,

(a) where the property is depreciable property of the taxpayer, the capital cost to the taxpayer of the property as of that time, and

(b) in any other case, the cost to the taxpayer of the property adjusted, as of that time, in accordance with section 53,

except that

(c) for greater certainty, where any property (other than an interest in or a share of the capital stock of a flow-through entity within the meaning assigned by subsection 39.1(1) that was last reacquired by the taxpayer as a result of an election under subsection 110.6(19)) of the taxpayer is property that was reacquired by the taxpayer after having been previously disposed of by the taxpayer, no adjustment to the cost

Définitions

54 Les définitions qui suivent s'appliquent à la présente sous-section.

bien déterminé Immobilisation d'un contribuable qui constitue, selon le cas :

a) une action;

b) une participation au capital d'une fiducie;

c) une participation dans une société de personnes;

d) une option portant sur l'acquisition d'un bien visé aux alinéas a), b) ou c) ou une option sur une telle option. (*specified property*)

biens à usage personnel Sont compris parmi les biens à usage personnel :

a) les biens qui appartiennent au contribuable et qui sont affectés principalement à l'usage ou à l'agrément

to the taxpayer of the property that was required to be made under section 53 before its reacquisition by the taxpayer shall be made under that section to the cost to the taxpayer of the property as reacquired property of the taxpayer, and

(d) in no case shall the adjusted cost base to a taxpayer of any property at any time be less than nil; (*prix de base rajusté*)

capital property of a taxpayer means

(a) any depreciable property of the taxpayer, and

(b) any property (other than depreciable property), any gain or loss from the disposition of which would, if the property were disposed of, be a capital gain or a capital loss, as the case may be, of the taxpayer; (*immobilisations*)

disposition [Repealed, 2001, c. 17, s. 37]

eligible capital property [Repealed, 2016, c. 12, s. 17]

exemption threshold, of a taxpayer at a particular time in respect of a flow-through share class of property, means the amount determined by the formula

A – B

where

A is the total of

(a) the total of all amounts, each of which is an amount that would be the cost to the taxpayer, computed without reference to subsection 66.3(3), of a flow-through share that was included at any time before the particular time in the flow-through share class of property and that was issued by a corporation to the taxpayer on or after the taxpayer's fresh-start date in respect of the flow-through share class of property at that time, other than a flow-through share that the taxpayer was obligated, before March 22, 2011, to acquire pursuant to the terms of a flow-through share agreement entered into between the corporation and the taxpayer, and

(b) the total of all amounts, each of which is an amount that would be the adjusted cost base to the taxpayer of an interest in a partnership — computed as if subparagraph 53(1)(e)(vii.1) and clauses 53(2)(c)(ii)(C) and (D) did not apply to any amount incurred by the partnership in respect of a flow-through share held by the partnership, either directly or indirectly through another partnership

personnels du contribuable ou à l'usage ou à l'agrément personnels d'une ou plusieurs personnes qui sont :

(i) le contribuable,

(ii) une personne liée au contribuable,

(iii) lorsque le contribuable est une fiducie, un bénéficiaire de cette fiducie ou toute personne liée au bénéficiaire;

b) toute créance du contribuable relative à la disposition de biens qui étaient réservés à son usage personnel;

c) tout bien du contribuable qui consiste en une option relative à l'acquisition de biens qui seraient, si le contribuable les acquérait, des biens réservés à son usage personnel.

Dans le cas d'une société de personnes, le terme vise également les biens de la société de personnes qui sont affectés principalement à l'usage ou à l'agrément personnels d'un ou plusieurs associés de la société de personnes ou d'une personne liée à cet associé. (*personal-use property*)

biens meubles déterminés Biens à usage personnel du contribuable, constitués par l'un ou plusieurs des biens ci-après qui lui appartiennent, en totalité ou en partie, ou par un intérêt ou un droit sur ces biens ou, pour l'application du droit civil, un droit relatif à ces biens :

a) estampes, gravures, dessins, tableaux, sculptures ou autres œuvres d'art de même nature;

b) bijoux;

c) in-folios rares, manuscrits rares ou livres rares;

d) timbres;

e) pièces de monnaie. (*listed personal property*)

catégorie de biens constituée d'actions accréditives

a) Groupe de biens, relatif à une catégorie d'actions du capital-actions d'une société, dont chacun est :

(i) soit une action de la catégorie, dans le cas où une action de cette catégorie ou un droit visé au sous-alinéa (ii) est, à un moment donné, une action accréditive pour une personne,

(ii) soit un droit d'acquérir une action de la catégorie, dans le cas où une action de cette catégorie ou

— that was included at any time before the particular time in the flow-through share class of property, if

(i) the taxpayer

(A) acquired the interest on or after the taxpayer's fresh-start date in respect of the flow-through share class of property at the particular time (other than an interest that the taxpayer was obligated, before August 16, 2011, to acquire pursuant to the terms of an agreement in writing entered into by the taxpayer), or

(B) made a contribution of capital to the partnership on or after August 16, 2011,

(ii) at any time after the taxpayer acquired the interest or made the contribution of capital, the taxpayer is deemed by subsection 66(18) to have made or incurred an outlay or expense in respect of a flow-through share held by the partnership, either directly or indirectly through another partnership, and

(iii) at any time between the time that the taxpayer acquired the interest or made the contribution of capital and the particular time, more than 50% of the fair market value of the assets of the partnership is attributable to property included in a flow-through share class of property, and

B is the total, if any, of all amounts, each of which is the lesser of

(a) the total of all amounts, each of which is a capital gain from a disposition of a property included in the flow-through share class of property, other than a capital gain referred to in paragraph 38.1(a), at an earlier time that is

(i) before the particular time, and

(ii) after the first time that the taxpayer acquired a flow-through share referred to in paragraph (a) of the description of A or acquired a partnership interest referred to in paragraph (b) of the description of A, and

(b) the exemption threshold of the taxpayer in respect of the flow-though share class of property immediately before that earlier time; (*seuil d'exonération*)

flow-through share class of property means a group of properties,

(a) in respect of a class of shares of the capital stock of a corporation, each of which is

un droit visé au présent sous-alinéa est, à un moment donné, une action accréditive pour une personne,

(iii) soit un bien qui est un bien identique à un bien visé aux sous-alinéas (i) ou (ii);

b) groupe de biens dont chacun est une participation dans une société de personnes dont plus de 50 % de la juste valeur marchande des biens est attribuable, à un moment donné, à des biens compris dans une catégorie de biens constituée d'actions accréditives. (*flow-through share class of property*)

date de nouveau départ La date de nouveau départ d'un contribuable à un moment donné relativement à une catégorie de biens constituée d'actions accréditives correspond à celui des jours ci-après qui est applicable :

a) dans le cas d'une participation dans une société de personnes qui est incluse dans la catégorie, le dernier en date des jours suivants :

(i) le 16 août 2011,

(ii) le dernier jour, antérieur au moment donné, où le contribuable détenait une participation dans la société de personnes;

b) dans le cas de tout autre bien qui est inclus dans la catégorie, le dernier en date des jours suivants :

(i) le 22 mars 2011,

(ii) le dernier jour, antérieur au moment donné, où le contribuable a disposé de l'ensemble des biens compris dans la catégorie. (*fresh-start date*)

disposition de biens [Abrogée, 2001, ch. 17, art. 37]

immobilisation admissible [Abrogée, 2016, ch. 12, art. 17]

immobilisations S'agissant des immobilisations d'un contribuable :

a) ***disposition de biens*** tous biens amortissables du contribuable;

b) tous biens (autres que des biens amortissables) dont la disposition se traduirait pour le contribuable par un gain ou une perte en capital. (*capital property*)

perte apparente Perte d'un contribuable résultant de la disposition d'un bien, dans le cas où, à la fois :

(i) a share of the class, if any share of the class or any right described in subparagraph (ii) is, at any time, a flow-through share to any person,

(ii) a right to acquire a share of the class, if any share of that class or any right described in this subparagraph is, at any time, a flow-through share to any person, or

(iii) a property that is an identical property of a property described in subparagraph (i) or (ii), or

(b) each of which is an interest in a partnership, if at any time more than 50% of the fair market value of the partnership's assets is attributable to property included in a flow-through share class of property; (*catégorie de biens constituée d'actions accréditives*)

fresh-start date, of a taxpayer at a particular time in respect of a flow-through share class of property, means

(a) in the case of a partnership interest that is included in the flow-through share class of property, the day that is the later of

(i) August 16, 2011, and

(ii) the last day, if any, before the particular time, on which the taxpayer held an interest in the partnership, and

(b) in the case of any other property that is included in the flow-though share class of property, the day that is the later of

(i) March 22, 2011, and

(ii) the last day, if any, before the particular time, on which the taxpayer disposed of all property included in the flow-through share class of property; (*date de nouveau départ*)

listed personal property of a taxpayer means the taxpayer's personal-use property that is all or any portion of, or any interest in or right to — or, for civil law, any right in or to — any

(a) print, etching, drawing, painting, sculpture, or other similar work of art,

(b) jewellery,

(c) rare folio, rare manuscript, or rare book,

(d) stamp, or

(e) coin; (*biens meubles déterminés*)

a) au cours de la période qui commence 30 jours avant la disposition et se termine 30 jours après cette disposition, le contribuable ou une personne affiliée à celui-ci acquiert le même bien ou un bien identique (appelés « bien de remplacement » à la présente définition);

b) à la fin de la période visée à l'alinéa a), le contribuable ou une personne affiliée à celui-ci est propriétaire du bien de remplacement ou a le droit de l'acquérir.

Toutefois une perte n'est pas une perte apparente si la disposition qui y a donné lieu est, selon le cas :

c) une disposition réputée avoir été effectuée par le paragraphe 45(1), l'article 48, en son état avant 1993, les articles 50 ou 70, le paragraphe 104(4), l'article 128.1, les alinéas 132.2(3)a) ou c), les paragraphes 138(11.3) ou 142.5(2), l'article 142.6 ou les paragraphes 144(4.1) ou (4.2) ou 149(10);

d) l'expiration d'une option;

e) une disposition à laquelle s'applique l'alinéa 40(2) e.1);

f) une disposition effectuée par un contribuable qui a été assujetti à un fait lié à la restriction de pertes dans les 30 jours suivant la disposition;

g) une disposition effectuée par une personne qui, dans les 30 jours suivant la disposition, est devenue exonérée de l'impôt prévu par la présente partie sur son revenu imposable ou a cessé de l'être;

h) une disposition à laquelle s'appliquent les paragraphes 40(3.4) ou 69(5).

Pour l'application de la présente définition :

i) le droit d'acquérir un bien (sauf le droit servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un titre semblable) est réputé être un bien qui est identique au bien;

j) si elle a été acquise avant 2013, l'action du capital-actions d'une société de conversion d'EIPD quant à une EIPD convertible est réputée être un bien qui est identique à un intérêt dans l'EIPD convertible. (*superficial loss*)

prix de base rajusté S'agissant du prix de base d'un bien quelconque pour un contribuable à un moment donné s'entend, sauf dispositions contraires :

personal-use property of a taxpayer includes

(a) property owned by the taxpayer that is used primarily for the personal use or enjoyment of the taxpayer or for the personal use or enjoyment of one or more individuals each of whom is

(i) the taxpayer,

(ii) a person related to the taxpayer, or

(iii) where the taxpayer is a trust, a beneficiary under the trust or any person related to the beneficiary,

(b) any debt owing to the taxpayer in respect of the disposition of property that was the taxpayer's personal-use property, and

(c) any property of the taxpayer that is an option to acquire property that would, if the taxpayer acquired it, be personal-use property of the taxpayer,

and ***personal-use property*** of a partnership includes any partnership property that is used primarily for the personal use or enjoyment of any member of the partnership or for the personal use or enjoyment of one or more individuals each of whom is a member of the partnership or a person related to such a member; (*biens à usage personnel*)

principal residence of a taxpayer for a taxation year means a particular property that is a housing unit, a leasehold interest in a housing unit or a share of the capital stock of a co-operative housing corporation acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the corporation and that is owned, whether jointly with another person or otherwise, in the year by the taxpayer, if

(a) where the taxpayer is an individual other than a personal trust, the housing unit was ordinarily inhabited in the year by the taxpayer, by the taxpayer's spouse or common-law partner or former spouse or common- law partner or by a child of the taxpayer,

(a.1) where the taxpayer is a personal trust, the housing unit was ordinarily inhabited in the calendar year ending in the year by a specified beneficiary of the trust for the year, by the spouse or common-law partner or former spouse or common-law partner of such a beneficiary or by a child of such a beneficiary, or

(b) where the taxpayer is a personal trust or an individual other than a trust, the taxpayer

a) lorsque le bien entre dans la catégorie des biens amortissables du contribuable, du coût en capital du bien, supporté par lui, à ce moment;

b) dans les autres cas, du coût du bien, pour le contribuable, rajusté à ce moment, conformément à l'article 53;

toutefois :

c) il demeure entendu que, lorsqu'un bien du contribuable (sauf une participation dans une entité intermédiaire, au sens du paragraphe 39.1(1), ou une action du capital-actions d'une telle entité, que le contribuable a acquise de nouveau pour la dernière fois par suite d'un choix fait selon le paragraphe 110.6(19)) est un bien qu'il a acquis de nouveau après en avoir disposé, le coût du bien pour lui, tel qu'il a été acquis de nouveau, ne peut faire l'objet du rajustement qui devait être fait à son égard en vertu de l'article 53 avant qu'il ne l'acquière de nouveau;

d) le prix de base rajusté d'un bien pour le contribuable à un moment donné ne peut, en aucun cas, être inférieur à zéro. (*adjusted cost base*)

produit de disposition Sont compris dans le produit de disposition d'un bien :

a) le prix de vente du bien qui a été vendu;

b) toute indemnité pour biens pris illégalement;

c) toute indemnité afférente à la destruction de biens, et toute somme payable en vertu d'une police d'assurance du fait de la perte ou de la destruction de biens;

d) toute indemnité afférente aux biens pris en vertu d'une loi, ou le montant du prix de vente des biens vendus à une personne ayant donné un avis de son intention de les prendre en vertu d'une loi;

e) toute indemnité afférente aux biens ayant subi un préjudice, légalement ou illégalement, ou en vertu d'une loi ou de toute autre façon;

f) toute indemnité afférente aux dommages causés aux biens et toute somme payable en vertu d'une police d'assurance au titre de dommages causés à des biens, sauf dans la mesure où cette indemnité ou cette somme, suivant le cas, a, dans un délai raisonnable après que les dommages ont été subis, été dépensée pour réparer les dommages;

g) le montant de la réduction de la dette dont un contribuable est débiteur envers un créancier hypothécaire découlant de la vente du bien hypothéqué en

(i) elected under subsection 45(2) that relates to the change in use of the particular property in the year or a preceding taxation year, other than an election rescinded under subsection 45(2) in the taxpayer's return of income for the year or a preceding taxation year, or

(ii) elected under subsection 45(3) that relates to a change in use of the particular property in a subsequent taxation year,

except that, subject to section 54.1, a particular property shall be considered not to be a taxpayer's principal residence for a taxation year

(c) where the taxpayer is an individual other than a personal trust, unless the particular property was designated by the taxpayer in prescribed form and manner to be the taxpayer's principal residence for the year and no other property has been designated for the purposes of this definition for the year

(i) where the year is before 1982, by the taxpayer, or

(ii) where the year is after 1981,

(A) by the taxpayer,

(B) by a person who was throughout the year the taxpayer's spouse or common-law partner (other than a spouse or common-law partner who was throughout the year living apart from, and was separated under a judicial separation or written separation agreement from, the taxpayer),

(C) by a person who was the taxpayer's child (other than a child who was at any time in the year a married person, a person who is in a common-law partnership or 18 years of age or older), or

(D) where the taxpayer was not at any time in the year a married person, a person who is in a common-law partnership or 18 years of age or older, by a person who was the taxpayer's

(I) mother or father, or

(II) brother or sister, where that brother or sister was not at any time in the year a married person, a person who is in a common-law partnership or 18 years of age or older,

(c.1) where the taxpayer is a personal trust, unless

vertu d'une clause du contrat d'hypothèque, plus toute partie du produit d'une telle vente reçue par le contribuable;

h) toute somme comprise, par l'effet de l'article 79, dans le calcul du produit de disposition du bien revenant à un contribuable;

i) pour une action, toute somme réputée, aux termes du sous-alinéa 88(2)b)(ii), ne pas être un dividende sur cette action.

Malgré les autres dispositions de la présente partie, le terme ne vise toutefois pas :

j) une somme qui serait par ailleurs le produit de disposition d'une action, dans la mesure où elle est réputée, par le paragraphe 84(2) ou (3), être un dividende reçu, sauf dans la mesure où le dividende est :

(i) réputé par l'alinéa 55(2)b) être le produit de disposition d'une action,

(ii) réputé par le sous-alinéa 88(2)b)(ii) ne pas être un dividende;

k) une somme qui serait par ailleurs le produit de disposition d'un bien d'un contribuable dans la mesure où elle est réputée par les paragraphes 84.1(1), 212.1(1.1) ou 212.2(2) être un dividende versé au contribuable. (*proceeds of disposition*)

résidence principale S'agissant de la résidence principale d'un contribuable pour une année d'imposition, bien — logement, ou droit de tenure à bail y afférent, ou part du capital social d'une société coopérative d'habitation acquise dans l'unique but d'acquérir le droit d'habiter un logement dont la coopérative est propriétaire — dont le contribuable est propriétaire au cours de l'année conjointement avec une autre personne ou autrement, à condition que :

a) le contribuable étant un particulier autre qu'une fiducie personnelle, le logement soit normalement habité au cours de l'année par le contribuable, par son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait ou par un enfant du contribuable;

a.1) le contribuable étant une fiducie personnelle, le logement soit normalement habité au cours de l'année civile se terminant pendant l'année par un bénéficiaire déterminé de la fiducie pour l'année, par l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait de ce bénéficiaire ou par un enfant de celui-ci;

b) le contribuable, étant une fiducie personnelle ou un particulier autre qu'une fiducie, ait fait soit le choix

(i) the particular property was designated by the trust in prescribed form and manner to be the taxpayer's principal residence for the year,

(ii) the trust specifies in the designation each individual (in this definition referred to as a "specified beneficiary" of the trust for the year) who, in the calendar year ending in the year,

(A) is beneficially interested in the trust, and

(B) except where the trust is entitled to designate it for the year solely because of paragraph (b), ordinarily inhabited the housing unit or has a spouse or common-law partner, former spouse or common-law partner or child who ordinarily inhabited the housing unit,

(iii) no corporation (other than a registered charity) or partnership is beneficially interested in the trust at any time in the year, and

(iv) no other property has been designated for the purpose of this definition for the calendar year ending in the year by any specified beneficiary of the trust for the year, by a person who was throughout that calendar year such a beneficiary's spouse or common-law partner (other than a spouse or common-law partner who was throughout that calendar year living apart from, and was separated pursuant to a judicial separation or written separation agreement from, the beneficiary), by a person who was such a beneficiary's child (other than a child who was during that calendar year a married person or a person who is in a common-law partnership or a person 18 years or over) or, where such a beneficiary was not during that calendar year a married person or a person who is in a common-law partnership or a person 18 years or over, by a person who was such a beneficiary's

(A) mother or father, or

(B) brother or sister, where that brother or sister was not during that calendar year a married person or a person who is in a common-law partnership or a person 18 years or over, or

(d) because of paragraph (b), if solely because of that paragraph the property would, but for this paragraph, have been a principal residence of the taxpayer for 4 or more preceding taxation years,

and, for the purpose of this definition,

(e) the principal residence of a taxpayer for a taxation year shall be deemed to include, except where the prévu au paragraphe 45(2) concernant le changement d'utilisation du bien au cours de l'année ou d'une année d'imposition antérieure (sauf un choix sur lequel le contribuable est revenu en vertu du paragraphe 45(2) dans sa déclaration de revenu pour l'une de ces années), soit le choix prévu au paragraphe 45(3) concernant le changement d'utilisation du bien au cours d'une année d'imposition ultérieure.

Toutefois sous réserve de l'article 54.1, le bien ne peut en aucun cas être considéré comme la résidence principale d'un contribuable pour une année d'imposition :

c) à moins que le contribuable, étant un particulier autre qu'une fiducie personnelle, ne l'ait désigné comme étant sa résidence principale pour l'année en la forme et selon les modalités réglementaires et qu'aucun autre bien n'ait été désigné pour l'année, pour l'application de la présente définition, par l'une des personnes suivantes :

(i) si l'année en question est antérieure à 1982, le contribuable,

(ii) si l'année en question est postérieure à 1981:

(A) soit le contribuable,

(B) soit une personne qui a été son époux ou conjoint de fait tout au long de l'année (sauf une personne qui, tout au long de l'année, a vécu séparée du contribuable en vertu d'une séparation judiciaire ou d'un accord écrit de séparation),

(C) soit un enfant du contribuable (sauf un enfant marié, vivant en union de fait ou âgé de 18 ans ou plus au cours de l'année),

(D) soit, si le contribuable n'était pas marié, ne vivait pas en union de fait ou n'était pas âgé de 18 ans ou plus au cours de l'année, l'une des personnes suivantes :

(I) la mère ou le père du contribuable,

(II) le frère ou la sœur du contribuable qui n'étaient pas mariés, ne vivaient pas en union de fait ou n'étaient pas âgés de 18 ans ou plus au cours de l'année;

c.1) à moins que, le contribuable étant une fiducie personnelle, les conditions suivantes soient réunies :

(i) la fiducie a désigné le bien, en la forme et selon les modalités réglementaires, comme étant la résidence principale du contribuable pour l'année,

particular property consists of a share of the capital stock of a co-operative housing corporation, the land subjacent to the housing unit and such portion of any immediately contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence, except that where the total area of the subjacent land and of that portion exceeds 1/2 hectare, the excess shall be deemed not to have contributed to the use and enjoyment of the housing unit as a residence unless the taxpayer establishes that it was necessary to such use and enjoyment, and

(f) a particular property designated under paragraph (c.1) by a trust for a year shall be deemed to be property designated for the purposes of this definition by each specified beneficiary of the trust for the calendar year ending in the year; (*résidence principale*)

proceeds of disposition of property includes,

(a) the sale price of property that has been sold,

(b) compensation for property unlawfully taken,

(c) compensation for property destroyed, and any amount payable under a policy of insurance in respect of loss or destruction of property,

(d) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

(e) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,

(f) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

(g) an amount by which the liability of a taxpayer to a mortgagee or hypothecary creditor is reduced as a result of the sale of mortgaged or hypothecated property under a provision of the mortgage or hypothec, plus any amount received by the taxpayer out of the proceeds of the sale,

(h) any amount included in computing a taxpayer's proceeds of disposition of the property because of section 79, and

(ii) la désignation comporte le nom de chaque particulier (appelé « bénéficiaire déterminé » à la présente définition) qui, au cours de l'année civile se terminant pendant l'année :

(A) d'une part, a un droit de bénéficiaire dans la fiducie,

(B) d'autre part, sauf dans le cas où la fiducie n'a le droit de désigner le bien pour l'année que par l'effet de l'alinéa b), habitait normalement le logement ou à un époux ou un conjoint de fait, un ex-époux ou un ancien conjoint de fait ou un enfant qui l'habitait normalement,

(iii) nulle société de personnes ou société, sauf un organisme de bienfaisance enregistré, ne détient de droit de bénéficiaire dans la fiducie au cours de l'année,

(iv) aucun autre bien n'a été désigné, pour l'application de la présente définition, pour l'année civile se terminant au cours de l'année par un bénéficiaire déterminé de la fiducie pour l'année, par une personne qui a été l'époux ou conjoint de fait du bénéficiaire tout au long de cette année civile (sauf une personne qui, tout au long de cette année civile, a vécu séparée du bénéficiaire en vertu d'une séparation judiciaire ou d'un accord écrit de séparation), par un enfant du bénéficiaire (sauf un enfant marié ou âgé de 18 ans ou plus au cours de cette année civile) ou, dans le cas où le bénéficiaire n'était pas marié, ne vivait pas en union de fait ou n'était pas âgé de 18 ans ou plus au cours de cette année civile, par une des personnes suivantes :

(A) la mère ou le père du bénéficiaire,

(B) le frère ou la sœur du bénéficiaire qui n'étaient pas mariés, ne vivaient pas en union de fait ou n'étaient pas âgés de 18 ans ou plus au cours de cette année civile;

d) par l'effet de l'alinéa b), dans le cas où, par le seul effet de cet alinéa, le bien aurait été, sans le présent alinéa, la résidence principale du contribuable durant au moins quatre années d'imposition antérieures.

En outre, pour l'application de la présente définition :

e) la résidence principale d'un contribuable pour une année d'imposition est réputée comprendre (sauf si le bien est une part du capital social d'une société coopérative d'habitation) le fonds de terre sous-jacent au logement ainsi que la partie du fonds de terre adjacent qu'il est raisonnable de considérer comme facilitant l'usage du logement comme résidence; toutefois, dans

(i) in the case of a share, an amount deemed by subparagraph 88(2)(b)(ii) not to be a dividend on that share,

but notwithstanding any other provision of this Part, does not include

(j) any amount that would otherwise be proceeds of disposition of a share to the extent that the amount is deemed by subsection 84(2) or (3) to be a dividend received except to the extent the dividend is deemed

(i) by paragraph 55(2)(b) to be proceeds of disposition of the share, or

(ii) by subparagraph 88(2)(b)(ii) not to be a dividend, or

(k) any amount that would otherwise be proceeds of disposition of property of a taxpayer to the extent that the amount is deemed by subsection 84.1(1), 212.1(1.1) or 212.2(2) to be a dividend paid to the taxpayer; (*produit de disposition*)

specified property of a taxpayer is capital property of the taxpayer that is

(a) a share,

(b) a capital interest in a trust,

(c) an interest in a partnership, or

(d) an option to acquire specified property of the taxpayer; (*bien déterminé*)

superficial loss of a taxpayer means the taxpayer's loss from the disposition of a particular property where

(a) during the period that begins 30 days before and ends 30 days after the disposition, the taxpayer or a person affiliated with the taxpayer acquires a property (in this definition referred to as the "substituted property") that is, or is identical to, the particular property, and

(b) at the end of that period, the taxpayer or a person affiliated with the taxpayer owns or had a right to acquire the substituted property,

except where the disposition was

(c) a disposition deemed to have been made by subsection 45(1), section 48 as it read in its application before 1993, section 50 or 70, subsection 104(4), section 128.1, paragraph 132.2(3)(a) or (c), subsection

le cas où la superficie totale du fonds de terre sous-jacent et de cette partie excède un demi-hectare, l'excédent n'est réputé faciliter l'usage du logement comme résidence que si le contribuable établit qu'il était nécessaire à cet usage;

f) le bien qu'une fiducie désigne pour une année en application de l'alinéa c.1) est réputé être un bien désigné pour l'application de la présente définition par chaque bénéficiaire déterminé de la fiducie pour l'année civile se terminant pendant l'année. (*principal residence*)

seuil d'exonération Le seuil d'exonération d'un contribuable à un moment donné relativement à une catégorie de biens constituée d'actions accréditives correspond à la somme obtenue par la formule suivante :

A – B

où :

A représente le total des sommes suivantes :

a) le total des sommes représentant chacune une somme qui correspondrait au coût pour le contribuable, calculé compte non tenu du paragraphe 66.3(3), d'une action accréditive qui, avant le moment donné, était comprise dans la catégorie de biens constituée d'actions accréditives et qui a été émise par une société en faveur du contribuable à la date de nouveau départ du contribuable ou par la suite relativement à la catégorie de biens constituée d'actions accréditives à ce moment, à l'exception d'une action accréditive que le contribuable avait l'obligation, avant le 22 mars 2011, d'acquérir aux termes d'une convention d'émission d'actions accréditives qu'il a conclue avec la société,

b) le total des sommes représentant chacune une somme qui correspondrait au prix de base rajusté pour le contribuable d'une participation dans une société de personnes — calculé comme si le sous-alinéa 53(1)e)(vii.1) et les divisions 53(2)c)(ii)(C) et (D) ne s'appliquaient pas à toute somme engagée par la société de personnes relativement à une action accréditive détenue par elle directement ou par l'intermédiaire d'une autre société de personnes — qui a été incluse avant le moment donné dans la catégorie de biens constituée d'actions accréditives, dans le cas où, à la fois :

(i) le contribuable a :

(A) soit acquis la participation à sa date de nouveau départ ou par la suite relativement à la catégorie de biens constituée d'actions accréditives au moment donné (sauf s'il s'agit d'une participation qu'il avait l'obligation, avant le 16 août 2011, d'acquérir aux

138(11.3) or 142.5(2), section 142.6 or any of subsections 144(4.1) and (4.2) and 149(10),

(d) the expiry of an option,

(e) a disposition to which paragraph 40(2)(e.1) applies,

(f) a disposition by a taxpayer that was subject to a loss restriction event within 30 days after the disposition,

(g) a disposition by a person that, within 30 days after the disposition, became or ceased to be exempt from tax under this Part on its taxable income, or

(h) a disposition to which subsection 40(3.4) or 69(5) applies,

and, for the purpose of this definition,

(i) a right to acquire a property (other than a right, as security only, derived from a mortgage, hypothec, agreement for sale or similar obligation) is deemed to be a property that is identical to the property, and

(j) a share of the capital stock of a SIFT wind-up corporation in respect of a SIFT wind-up entity is, if the share was acquired before 2013, deemed to be a property that is identical to equity in the SIFT wind-up entity. (*perte apparente*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 54; 1994, c. 7, Sch. II, s. 31, Sch. VIII, s. 16, c. 21, s. 23; 1995, c. 3, s. 15, c. 21, ss. 18, 77; 1998, c. 19, s. 95; 2000, c. 12, ss. 130(F), 142, c. 19, s. 5; 2001, c. 17, ss. 37, 207(E); 2009, c. 2, s. 12; 2011, c. 24, s. 9; 2013, c. 34, ss. 107, 191, c. 40, s. 23; 2016, c. 7, s. 4, c. 12, s. 17.

termes d'une convention qu'il a conclue par écrit),

(B) soit effectué un apport de capital à la société de personnes après le 15 août 2011,

(ii) après avoir acquis la participation ou effectué l'apport, le contribuable est réputé, en vertu du paragraphe 66(18), avoir effectué ou engagé une dépense relativement à une action accréditive détenue par la société de personnes directement ou par l'intermédiaire d'une autre société de personnes,

(iii) entre le moment où le contribuable a acquis la participation ou effectué l'apport et le moment donné, plus de 50 % de la valeur marchande des actifs de la société de personnes est attribuable à des biens compris dans une catégorie de biens constituée d'actions accréditives;

B le total des sommes représentant chacune la moins élevée des sommes suivantes :

a) le total des sommes représentant chacune un gain en capital provenant de la disposition d'un bien compris dans la catégorie de biens constituée d'actions accréditives, à l'exception d'un gain en capital visé à l'alinéa 38.1a), effectuée à un moment antérieur qui est, à la fois :

(i) antérieur au moment donné,

(ii) postérieur au premier moment où le contribuable a acquis une action accréditive visée à l'alinéa a) de l'élément A ou une participation visée à l'alinéa b) de cet élément,

b) le seuil d'exonération du contribuable relativement à la catégorie de biens constituée d'actions accréditives immédiatement avant ce moment antérieur. (*exemption threshold*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 54; 1994, ch. 7, ann. II, art. 31, ann. VIII, art. 16, ch. 21, art. 23; 1995, ch. 3, art. 15, ch. 21, art. 18, 77; 1998, ch. 19, art. 95; 2000, ch. 12, art. 130(F), 142, ch. 19, art. 5; 2001, ch. 17, art. 37 et 207(A); 2009, ch. 2, art. 12; 2011, ch. 24, art. 9; 2013, ch. 34, art. 107 et 191, ch. 40, art. 23; 2016, ch. 7, art. 4, ch. 12, art. 17.

Exception to principal residence rules

54.1 (1) A taxation year in which a taxpayer does not ordinarily inhabit the taxpayer's property as a consequence of the relocation of the place of employment of the taxpayer or the taxpayer's spouse or common-law partner while the taxpayer or the taxpayer's spouse or common-law partner, as the case may be, is employed by an employer who is not a person to whom the taxpayer or the taxpayer's spouse or common-law partner is related is deemed not to be a previous taxation year referred to in paragraph (d) of the definition ***principal residence*** in section 54 if

Exception aux règles de la résidence principale

54.1 (1) L'année d'imposition au cours de laquelle le contribuable n'habite pas habituellement son bien en raison du changement du lieu de son emploi ou de celui de son époux ou conjoint de fait pendant la durée de son emploi ou de celui de son époux ou conjoint de fait, selon le cas, par un employeur auquel le contribuable ou son époux ou conjoint de fait n'est pas lié est réputée ne pas être une année d'imposition antérieure visée à l'alinéa d) de la définition de ***résidence principale*** à l'article 54 si le contribuable :

(a) the property subsequently becomes ordinarily inhabited by the taxpayer during the term of the taxpayer's or the taxpayer's spouse's or common-law partner's employment by that employer or before the end of the taxation year immediately following the taxation year in which the taxpayer's or the spouse's or common-law partner's employment by that employer terminates; or

(b) the taxpayer dies during the term of the taxpayer's or the spouse's or common-law partner's employment by that employer.

a) reprend la résidence habituelle de ce bien pendant la durée de son emploi ou de celui de son époux ou conjoint de fait chez cet employeur ou avant la fin de l'année d'imposition qui suit celle où se termine son emploi ou celui de son époux ou conjoint de fait chez cet employeur;

b) meurt pendant la durée de son emploi ou de celui de son époux ou conjoint de fait chez cet employeur.

Definition of *property*

(2) In this section, ***property***, in relation to a taxpayer, means a housing unit

(a) owned by the taxpayer,

(b) in respect of which the taxpayer has a leasehold interest, or

(c) in respect of which the taxpayer owned a share of the capital stock of a co-operative housing corporation if the share was acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the corporation

whether jointly with another person or otherwise in the year and that at all times was at least 40 kilometres farther from the taxpayer's or the taxpayer's spouse's or common-law partner's new place of employment than was the taxpayer's subsequent place or places of residence.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 54.1; 2000, c. 12, s. 142; 2001, c. 17, s. 238(E); 2013, c. 34, s. 192(E).

Définition de *bien*

(2) Au présent article, ***bien*** s'entend, pour ce qui concerne un contribuable, d'un logement, selon le cas :

a) qu'il possède;

b) sur lequel il a un droit de tenure à bail;

c) au titre duquel il possède une action du capital-actions d'une société coopérative d'habitation pourvu que l'action ait été acquise dans le seul but d'acquérir le droit d'habiter un logement de la société,

soit conjointement avec une autre personne, soit autrement, au cours de l'année et qui, à tout moment, était plus éloigné d'au moins 40 kilomètres de son nouveau lieu d'emploi ou de celui de son époux ou conjoint de fait que de son ou ses lieux ultérieurs de résidence.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 54.1; 2000, ch. 12, art. 142; 2001, ch. 17, art. 238(A); 2013, ch. 34, art. 192(A).

Certain shares deemed to be capital property

54.2 Where any person has disposed of property that consisted of all or substantially all of the assets used in an active business carried on by that person to a corporation for consideration that included shares of the corporation, the shares shall be deemed to be capital property of the person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 32.

Actions réputées être des immobilisations

54.2 Dans le cas où une personne dispose de la totalité, ou presque, de l'actif qu'elle utilisait dans une entreprise qu'elle exploitait activement, en faveur d'une société, pour une contrepartie comprenant des actions de cette société, ces actions sont réputées être des immobilisations de cette personne.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 32.

Definitions

55 (1) In this section,

distribution means a direct or indirect transfer of property of a corporation (referred to in this section as the "distributing corporation") to one or more corporations (each of which is referred to in this section as a "transferee corporation") where, in respect of each type of property owned by the distributing corporation immediately

Définitions

55 (1) Les définitions qui suivent s'appliquent au présent article.

acquisition autorisée Quant à une attribution effectuée par une société cédante, acquisition d'un bien par une personne ou une société de personnes réalisée à l'occasion ou dans le cadre :

before the transfer, each transferee corporation receives property of that type the fair market value of which is equal to or approximates the amount determined by the formula

A × B/C

where

A is the fair market value, immediately before the transfer, of all property of that type owned at that time by the distributing corporation,

B is the fair market value, immediately before the transfer, of all the shares of the capital stock of the distributing corporation owned at that time by the transferee corporation, and

C is the fair market value, immediately before the transfer, of all the issued shares of the capital stock of the distributing corporation; (*attribution*)

permitted acquisition, in relation to a distribution by a distributing corporation, means an acquisition of property by a person or partnership on, or as part of,

(a) a distribution, or

(b) a permitted exchange or permitted redemption in relation to a distribution by another distributing corporation; (*acquisition autorisée*)

permitted exchange, in relation to a distribution by a distributing corporation, means

(a) an exchange of shares for shares of the capital stock of the distributing corporation to which subsection 51(1) or 86(1) applies or would, if the shares were capital property to the holder thereof, apply, other than an exchange that resulted in an acquisition of control of the distributing corporation by any person or group of persons, and

(b) an exchange of shares of the capital stock of the distributing corporation by one or more shareholders of the distributing corporation (each of whom is referred to in this paragraph as a "participant") for shares of the capital stock of another corporation (referred to in this paragraph as the "acquiror") in contemplation of the distribution where

(i) no share of the capital stock of the acquiror outstanding immediately after the exchange (other than directors' qualifying shares) is owned at that time by any person or partnership other than a participant,

and either

a) soit d'une attribution;

b) soit d'un échange ou d'un rachat autorisés relativement à une attribution effectuée par une autre société cédante. (*permitted acquisition*)

attribution Transfert direct ou indirect de biens d'une société (appelée « société cédante » au présent article) en faveur d'une ou plusieurs sociétés (chacune étant appelée « société cessionnaire » au présent article) dans le cas où, pour ce qui est de chaque type de bien appartenant à la société cédante immédiatement avant le transfert, chaque société cessionnaire reçoit des biens de ce type dont la juste valeur marchande correspond exactement ou approximativement au résultat du calcul suivant :

A × B/C

où :

A représente la juste valeur marchande, immédiatement avant le transfert, de l'ensemble des biens de ce type qui appartenaient alors à la société cédante;

B la juste valeur marchande, immédiatement avant le transfert, des actions du capital-actions de la société cédante qui appartenaient alors à la société cessionnaire;

C la juste valeur marchande, immédiatement avant le transfert, des actions émises du capital-actions de la société cédante. (*distribution*)

catégorie exclue Catégorie d'actions du capital-actions d'une société cédante, lorsque les conditions suivantes sont réunies :

a) le capital versé au titre de la catégorie, immédiatement avant le début de la série d'opérations ou d'événements qui comprend une attribution par la société cédante, était au moins égal à la juste valeur marchande de la contrepartie de l'émission des actions de cette catégorie alors en circulation;

b) ni les caractéristiques des actions de la catégorie ni une convention relative à celles-ci ne permettent que les actions soient convertibles en actions autres que des actions d'une catégorie exclue ou des actions du capital-actions d'une société cessionnaire quant à la société cédante, ou échangeables contre de telles actions;

c) aucun détenteur des actions ne peut recevoir, au rachat, à l'annulation ou à l'acquisition des actions par la société ou par une personne avec laquelle celle-ci a un lien de dépendance, un montant, sauf une prime pour rachat anticipé, qui dépasse le total de la juste valeur marchande de la contrepartie de l'émission des

(ii) the acquiror owns, immediately before the distribution, all the shares each of which is a share of the capital stock of the distributing corporation that was owned immediately before the exchange by a participant, or

(iii) the fair market value, immediately before the distribution, of each participant's shares of the capital stock of the acquiror is equal to or approximates the amount determined by the formula

(A × B/C) + D

where

A is the fair market value, immediately before the distribution, of all the shares of the capital stock of the acquiror then outstanding (other than shares issued to participants in consideration for shares of a specified class all the shares of which were acquired by the acquiror on the exchange),

B is the fair market value, immediately before the exchange, of all the shares of the capital stock of the distributing corporation (other than shares of a specified class none or all of the shares of which were acquired by the acquiror on the exchange) owned at that time by the participant,

C is the fair market value, immediately before the exchange, of all the shares (other than shares of a specified class none or all of the shares of which were acquired by the acquiror on the exchange and shares to be redeemed, acquired or cancelled by the distributing corporation pursuant to the exercise of a statutory right of dissent by the holder of the share) of the capital stock of the distributing corporation outstanding immediately before the exchange, and

D is the fair market value, immediately before the distribution, of all the shares issued to the participant by the acquiror in consideration for shares of a specified class all of the shares of which were acquired by the acquiror on the exchange; (*échange autorisé*)

permitted redemption, in relation to a distribution by a distributing corporation, means

(a) a redemption or purchase for cancellation by the distributing corporation, as part of the reorganization in which the distribution was made, of all the shares of its capital stock that were owned, immediately before the distribution, by a transferee corporation in relation to the distributing corporation,

actions et du montant des dividendes impayés sur les actions;

d) les actions ne confèrent pas le droit d'élire les membres du conseil d'administration, sauf en cas d'inexécution des conditions des actions. (*specified class*)

échange autorisé Quant à une attribution effectuée par une société cédante :

a) échange d'actions contre des actions du capital-actions de la société cédante auquel les paragraphes 51(1) ou 86(1) s'appliquent ou s'appliqueraient si les actions étaient des immobilisations pour leur détenteur, à l'exclusion d'un échange par suite duquel le contrôle de la société cédante a été acquis par une personne ou un groupe de personnes;

b) échange d'actions du capital-actions de la société cédante par un ou plusieurs de ses actionnaires (chacun étant appelé « participant » au présent alinéa) contre des actions du capital-actions d'une autre société (appelée « acquéreur » au présent alinéa) en prévision d'une attribution, dans le cas où, à la fois :

(i) aucune action du capital-actions de l'acquéreur qui est en circulation immédiatement après l'échange, sauf les actions conférant l'admissibilité aux postes d'administrateurs, n'appartient alors à une personne ou une société de personnes autre qu'un participant,

(ii) l'un des faits suivants se vérifie :

(A) l'acquéreur est propriétaire, immédiatement avant l'attribution, de l'ensemble des actions du capital-actions de la société cédante qui appartenaient à un participant immédiatement avant l'échange,

(B) la juste valeur marchande, immédiatement avant l'attribution, des actions du capital-actions de l'acquéreur qui appartiennent à chaque participant correspond exactement ou approximativement au résultat du calcul suivant :

(A × B/C) + D

où :

A représente la juste valeur marchande, immédiatement avant l'attribution, des actions du capital-actions de l'acquéreur alors en circulation, à l'exception d'actions émises en faveur de participants en contrepartie d'actions d'une catégorie exclue dont l'ensemble

(b) a redemption or purchase for cancellation by a transferee corporation in relation to the distributing corporation, or by a corporation that, immediately after the redemption or purchase, was a subsidiary wholly-owned corporation of the transferee corporation, as part of the reorganization in which the distribution was made, of all of the shares of the capital stock of the transferee corporation or the subsidiary wholly-owned corporation that were acquired by the distributing corporation in consideration for the transfer of property received by the transferee corporation on the distribution, and

(c) a redemption or purchase for cancellation by the distributing corporation, in contemplation of the distribution, of all the shares of its capital stock each of which is

(i) a share of a specified class the cost of which, at the time of its issuance, to its original owner was equal to the fair market value at that time of the consideration for which it was issued, or

(ii) a share that was issued, in contemplation of the distribution, by the distributing corporation in exchange for a share described in subparagraph 55(1) permitted redemption (c)(i); (*rachat autorisé*)

qualified person, in relation to a distribution, means a person or partnership with whom the distributing corporation deals at arm's length at all times during the course of the series of transactions or events that includes the distribution if

(a) at any time before the distribution,

(i) all of the shares of each class of the capital stock of the distributing corporation that includes shares that cause that person or partnership to be a specified shareholder of the distributing corporation (in this definition all of those shares in all of those classes are referred to as the "exchanged shares") are, in the circumstances described in paragraph (a) of the definition ***permitted exchange***, exchanged for consideration that consists solely of shares of a specified class of the capital stock of the distributing corporation (in this definition referred to as the "new shares"), or

(ii) the terms or conditions of all of the exchanged shares are amended (which shares are in this definition referred to after the amendment as the "amended shares") and the amended shares are shares of a specified class of the capital stock of the distributing corporation,

des actions ont été acquises par l'acquéreur lors de l'échange,

B la juste valeur marchande, immédiatement avant l'échange, des actions du capital-actions de la société cédante appartenant alors au participant, sauf les actions d'une catégorie exclue à l'égard de laquelle l'acquéreur a acquis, lors de l'échange, soit l'ensemble, soit aucune des actions,

C la juste valeur marchande, immédiatement avant l'échange, des actions du capital-actions de la société cédante en circulation immédiatement avant l'échange, sauf, d'une part, les actions d'une catégorie exclue à l'égard de laquelle l'acquéreur a acquis, lors de l'échange, soit l'ensemble, soit aucune des actions et, d'autre part, les actions que la société cédante est tenue de racheter, d'acquérir ou d'annuler par suite de l'exercice, par le détenteur de l'action, d'un droit à la dissidence prévu par une loi,

D la juste valeur marchande, immédiatement avant l'attribution, des actions émises au participant par l'acquéreur en contrepartie des actions d'une catégorie exclue dont l'ensemble des actions ont été acquises par l'acquéreur lors de l'échange. (*permitted exchange*)

filiale à cent pour cent déterminée S'agissant de la filiale à cent pour cent déterminée d'une société publique, société dont l'ensemble des actions du capital-actions en circulation (sauf les actions conférant l'admissibilité aux postes d'administrateurs et les actions d'une catégorie exclue) sont détenues, selon le cas :

a) par la société publique;

b) par une filiale à cent pour cent déterminée de la société publique;

c) par plusieurs des sociétés visées aux alinéas a) et b). (*specified wholly-owned corporation*)

moment de détermination du revenu protégé Quant à une opération, à un événement ou à une série d'opérations ou d'événements, le premier en date des moments suivants :

a) le moment après la première disposition ou la première augmentation de participation, visée à l'un des sous-alinéas (3)a)(i) à (v), qui a résulté de l'opération, de l'événement ou de la série;

(b) immediately before the exchange or amendment, the exchanged shares are listed on a designated stock exchange,

(c) immediately after the exchange or amendment, the new shares or the amended shares, as the case may be, are listed on a designated stock exchange,

(d) the exchanged shares would be shares of a specified class if they were not convertible into, or exchangeable for, other shares,

(e) the new shares or the amended shares, as the case may be, and the exchanged shares are non-voting in respect of the election of the board of directors of the distributing corporation except in the event of a failure or default under the terms or conditions of the shares, and

(f) no holder of the new shares or the amended shares, as the case may be, is entitled to receive on the redemption, cancellation or acquisition of the new shares or the amended shares, as the case may be, by the distributing corporation or by any person with whom the distributing corporation does not deal at arm's length an amount (other than a premium for early redemption) that is greater than the total of the fair market value of the consideration for which the exchanged shares were issued and the amount of any unpaid dividends on the new shares or on the amended shares, as the case may be; (*personne admissible*)

safe-income determination time for a transaction or event or a series of transactions or events means the time that is the earlier of

(a) the time that is immediately after the earliest disposition or increase in interest described in any of subparagraphs 55(3)(a)(i) to 55(3)(a)(v) that resulted from the transaction, event or series, and

(b) the time that is immediately before the earliest time that a dividend is paid as part of the transaction, event or series; (*moment de détermination du revenu protégé*)

specified class means a class of shares of the capital stock of a distributing corporation where

(a) the paid-up capital in respect of the class immediately before the beginning of the series of transactions or events that includes a distribution by the distributing corporation was not less than the fair market value of the consideration for which the shares of that class then outstanding were issued,

b) le moment avant le premier versement de dividende dans le cadre de l'opération, de l'événement ou de la série. (*safe-income determination time*)

personne admissible En ce qui concerne une attribution, personne ou société de personnes qui n'a de lien de dépendance avec la société cédante à aucun moment de la série d'opérations ou d'événements qui comprend l'attribution si, à la fois :

a) l'un des faits ci-après se vérifie avant l'attribution :

(i) les actions de chaque catégorie du capital-actions de la société cédante qui comprend des actions qui font que la personne ou la société de personnes est un actionnaire déterminé de la société cédante (les actions de l'ensemble de ces catégories étant appelées « actions échangées » à la présente définition) sont échangées, dans les circonstances visées à l'alinéa a) de la définition de ***échange autorisé***, contre une contrepartie qui consiste uniquement en actions d'une catégorie exclue du capital-actions de la société cédante (appelées « nouvelles actions » à la présente définition),

(ii) les conditions des actions échangées sont modifiées (ces actions étant appelées, après la modification, « actions modifiées » à la présente définition), et les actions modifiées sont des actions d'une catégorie exclue du capital-actions de la société cédante;

b) immédiatement avant l'échange ou la modification, les actions échangées sont inscrites à la cote d'une bourse de valeurs désignée;

c) immédiatement après l'échange ou la modification, les nouvelles actions ou les actions modifiées, selon le cas, sont inscrites à la cote d'une bourse de valeurs désignée;

d) les actions échangées seraient des actions d'une catégorie exclue si elles n'étaient pas convertibles en d'autres actions ou échangeables contre d'autres actions;

e) ni les actions échangées ou les actions modifiées, selon le cas, ni les nouvelles actions ne confèrent le droit d'élire les membres du conseil d'administration de la société cédante, sauf en cas d'inexécution des conditions des actions;

f) aucun détenteur des nouvelles actions ou des actions modifiées, selon le cas, ne peut recevoir, au rachat, à l'annulation ou à l'acquisition de ces actions par la société cédante ou par une personne avec laquelle celle-ci a un lien de dépendance, un montant,

(b) under neither the terms and conditions of the shares nor any agreement in respect of the shares are the shares convertible into or exchangeable for shares other than shares of a specified class or shares of the capital stock of a transferee corporation in relation to the distributing corporation,

(c) no holder of the shares is entitled to receive on the redemption, cancellation or acquisition of the shares by the corporation or by any person with whom the corporation does not deal at arm's length an amount (other than a premium for early redemption) that is greater than the total of the fair market value of the consideration for which the shares were issued and the amount of any unpaid dividends on the shares, and

(d) the shares are non-voting in respect of the election of the board of directors except in the event of a failure or default under the terms or conditions of the shares; (*catégorie exclue*)

specified corporation in relation to a distribution means a distributing corporation

(a) that is a public corporation or a specified wholly-owned corporation of a public corporation,

(b) shares of the capital stock of which are exchanged for shares of the capital stock of another corporation (referred to in this definition and subsection (3.02) as an "acquiror") in an exchange to which the definition ***permitted exchange*** in this subsection would apply if that definition were read without reference to paragraph (a) and subparagraph (b)(ii) of that definition,

(c) that does not make a distribution, to a corporation that is not an acquiror, after 1998 and before the day that is three years after the day on which the shares of the capital stock of the distributing corporation are exchanged in a transaction described in paragraph (b), and

(d) no acquiror in relation to which makes a distribution after 1998 and before the day that is three years after the day on which the shares of the capital stock of the distributing corporation are exchanged in a transaction described in paragraph (b),

and for the purposes of paragraphs (c) and (d)

(e) a corporation that is formed by an amalgamation of two or more other corporations is deemed to be the same corporation as, and a continuation of, each of the other corporations, and

sauf une prime pour rachat anticipé, qui dépasse le total de la juste valeur marchande de la contrepartie de l'émission des actions échangées et du montant des dividendes impayés sur les nouvelles actions ou les actions modifiées, selon le cas. (*qualified person*)

rachat autorisé Quant à une attribution effectuée par une société cédante :

a) le rachat, ou l'achat pour annulation, par la société cédante, dans le cadre de la réorganisation qui comprend l'attribution, des actions de son capital-actions qui appartenaient, immédiatement avant l'attribution, à une société cessionnaire quant à la société cédante;

b) le rachat, ou l'achat pour annulation, par une société cessionnaire quant à la société cédante ou par une société qui, immédiatement après le rachat ou l'achat, était une filiale à cent pour cent de la société cessionnaire, dans le cadre de la réorganisation qui comprend l'attribution, des actions du capital-actions de la société cessionnaire ou de la filiale qui ont été acquises par la société cédante en contrepartie du transfert de biens reçus par la société cessionnaire lors de l'attribution;

c) le rachat, ou l'achat pour annulation, par la société cédante, en prévision de l'attribution, de l'ensemble des actions de son capital-actions représentant chacune :

(i) soit une action d'une catégorie exclue dont le coût, au moment de son émission, pour son propriétaire initial était égal à la juste valeur marchande, à ce moment, de la contrepartie de son émission,

(ii) soit une action émise, en prévision de l'attribution, par la société cédante en échange d'une action visée au sous-alinéa (i). (*permitted redemption*)

société déterminée En ce qui concerne une attribution, société cédante qui répond aux conditions suivantes :

a) elle est une société publique ou une filiale à cent pour cent déterminée d'une société publique;

b) des actions de son capital-actions sont échangées contre des actions du capital-actions d'une autre société (appelée « acquéreur » à la présente définition et au paragraphe (3.02)) dans le cadre d'une opération à laquelle la définition de ***échange autorisé*** au présent paragraphe s'appliquerait s'il était fait abstraction de l'alinéa a) et de la division b)(ii)(A) de cette définition;

c) elle n'effectue pas d'attribution, en faveur d'une société qui n'est pas un acquéreur, après 1998 et avant le

(f) where there has been a winding-up of a corporation to which subsection 88(1) applies, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary; (*société déterminée*)

specified wholly-owned corporation of a public corporation means a corporation all of the outstanding shares of the capital stock of which (other than directors' qualifying shares and shares of a specified class) are held by

(a) the public corporation,

(b) a specified wholly-owned corporation of the public corporation, or

(c) any combination of corporations described in paragraph (a) or (b). (*filiale à cent pour cent déterminée*)

Deemed proceeds or gain

(2) If this subsection applies to a taxable dividend received by a dividend recipient, notwithstanding any other provision of this Act, the amount of the dividend (other than the portion of it, if any, subject to tax under Part IV that is not refunded as a consequence of the payment of a dividend by a corporation where the payment is part of the series referred to in subsection (2.1)) is deemed

(a) not to be a dividend received by the dividend recipient;

(b) if the dividend is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, to which subsection 84(2) or (3) applies, to be proceeds of disposition of the share that is redeemed, acquired or cancelled except to the extent that the dividend is otherwise included in computing those proceeds; and

(c) if paragraph (b) does not apply to the dividend, to be a gain of the dividend recipient, for the year in which the dividend was received, from the disposition of a capital property.

jour qui suit de trois ans le jour où les actions du capital-actions de la société cédante sont échangées dans le cadre de l'opération visée à l'alinéa b);

d) en ce qui la concerne, aucun acquéreur n'effectue d'attribution après 1998 et avant le jour qui suit de trois ans le jour où les actions du capital-actions de la société cédante sont échangées dans le cadre de l'opération visée à l'alinéa b).

Les présomptions suivantes s'appliquent dans le cadre des alinéas c) et d):

e) la société issue de la fusion d'autres sociétés est réputée être la même société que chacune des autres sociétés et en être la continuation;

f) en cas de liquidation d'une société à laquelle le paragraphe 88(1) s'applique, la société mère est réputée être la même société que la filiale et en être la continuation. (*specified corporation*)

Présomption — gain en capital ou produit de disposition

(2) En cas d'application du présent paragraphe à un dividende imposable reçu par un bénéficiaire de dividende, malgré toute autre disposition de la présente loi, les règles ci-après s'appliquent relativement au montant du dividende (à l'exclusion de la partie de celui-ci qui est assujettie à l'impôt prévu à la partie IV qui n'est pas remboursé en raison du paiement d'un dividende par une société lorsqu'un tel paiement fait partie de la série visée au paragraphe (2.1)) :

a) ce montant est réputé ne pas être un dividende reçu par le bénéficiaire de dividende;

b) si le dividende est reçu lors du rachat, de l'acquisition ou de l'annulation d'une action par la société l'ayant émise auquel le paragraphe 84(2) ou (3) s'applique, ce montant est réputé être inclus dans le produit de disposition de l'action qui est rachetée, acquise ou annulée, sauf dans la mesure où le dividende est par ailleurs inclus dans le calcul de ce produit;

c) si l'alinéa b) ne s'applique pas au dividende, ce montant est réputé être un gain du bénéficiaire de dividende, pour l'année au cours de laquelle le dividende a été reçu, provenant de la disposition d'une immobilisation.

Application of subsection (2)

(2.1) Subsection (2) applies to a taxable dividend received by a corporation resident in Canada (in subsections (2) to (2.2) and (2.4) referred to as the ***dividend recipient***) as part of a transaction or event or a series of transactions or events if

(a) the dividend recipient is entitled to a deduction in respect of the dividend under subsection 112(1) or (2) or 138(6);

(b) it is the case that

(i) one of the purposes of the payment or receipt of the dividend (or, in the case of a dividend under subsection 84(3), one of the results of which) is to effect a significant reduction in the portion of the capital gain that, but for the dividend, would have been realized on a disposition at fair market value of any share of capital stock immediately before the dividend, or

(ii) the dividend (other than a dividend that is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, to which subsection 84(2) or (3) applies) is received on a share that is held as capital property by the dividend recipient and one of the purposes of the payment or receipt of the dividend is to effect

(A) a significant reduction in the fair market value of any share, or

(B) a significant increase in the cost of property, such that the amount that is the total of the cost amounts of all properties of the dividend recipient immediately after the dividend is significantly greater than the amount that is the total of the cost amounts of all properties of the dividend recipient immediately before the dividend; and

(c) the amount of the dividend exceeds the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received.

Application du paragraphe (2)

(2.1) Le paragraphe (2) s'applique à un dividende imposable reçu par une société résidant au Canada (appelée ***bénéficiaire de dividende*** aux paragraphes (2) à (2.2) et (2.4)) dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements si les énoncés ci-après se vérifient :

a) le bénéficiaire de dividende a droit à une déduction en vertu des paragraphes 112(1) ou (2) ou 138(6) relativement au dividende;

b) l'un des faits ci-après s'avère :

(i) l'un des objets du paiement ou de la réception du dividende (ou, dans le cas d'un dividende visé au paragraphe 84(3), l'un de ses résultats) a été de diminuer sensiblement la partie du gain en capital qui, sans le dividende, aurait été réalisée lors d'une disposition d'une action du capital-actions à la juste valeur marchande effectuée immédiatement avant le dividende,

(ii) le dividende — à l'exception d'un dividende qui a été reçu lors du rachat, de l'acquisition ou de l'annulation d'une action par la société l'ayant émise auquel le paragraphe 84(2) ou (3) s'applique — a été reçu sur une action qui est détenue à titre d'immobilisation par le bénéficiaire de dividende et l'un des objets du paiement ou de la réception du dividende est, selon le cas :

(A) de diminuer sensiblement la juste valeur marchande d'une action,

(B) d'augmenter sensiblement le coût des biens de sorte que le montant qui correspond au total des coûts indiqués des biens du bénéficiaire de dividende immédiatement après le dividende soit sensiblement supérieur au montant qui correspond au total des coûts indiqués des biens du bénéficiaire de dividende immédiatement avant le dividende;

c) le montant du dividende est supérieur au montant du revenu gagné ou réalisé par une société — après 1971 et avant le moment de détermination du revenu protégé quant à l'opération, à l'événement ou à la série d'opérations ou d'événements — qu'il serait raisonnable de considérer comme contribuant au gain en capital qui aurait été réalisé lors d'une disposition à la juste valeur marchande, effectuée immédiatement avant le dividende, de l'action sur laquelle le dividende a été reçu.

Special rule — amount of the stock dividend

(2.2) For the purpose of applying subsections (2), (2.1), (2.3) and (2.4), the amount of a stock dividend and the dividend recipient's entitlement to a deduction under subsection 112(1) or (2) or 138(6) in respect of the amount of that dividend are to be determined as if paragraph (b) of the definition ***amount*** in subsection 248(1) read as follows:

(b) in the case of a stock dividend paid by a corporation, the greater of

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

(ii) the fair market value of the share or shares issued as a stock dividend at the time of payment,

Stock dividends and safe income

(2.3) If this subsection applies in respect of a stock dividend

(a) the amount of the stock dividend is deemed for the purpose of subsection (2) to be a separate taxable dividend to the extent of the portion of the amount that does not exceed the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received; and

(b) the amount of the separate taxable dividend referred to in paragraph (a) is deemed to reduce the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received.

Application of subsection (2.3)

(2.4) Subsection (2.3) applies in respect of a stock dividend if

(a) a dividend recipient holds a share upon which it receives the stock dividend;

Règle spéciale — montant du dividende en actions

(2.2) Pour l'application des paragraphes (2), (2.1), (2.3) et (2.4), le montant d'un dividende en actions et le droit du bénéficiaire de dividende à une déduction en vertu des paragraphes 112(1) ou (2) ou 138(6) relativement au montant de ce dividende sont déterminés comme si l'alinéa b) de la définition de ***montant*** au paragraphe 248(1) avait le libellé suivant :

b) dans le cas d'un dividende en actions payé par une société, le plus élevé des montants suivants :

(i) le montant correspondant à l'augmentation, découlant du versement du dividende, du capital versé de la société qui a versé le dividende,

(ii) la juste valeur marchande de l'action ou des actions émises à titre de dividendes en actions au moment du versement;

Dividende en actions et revenu protégé

(2.3) En cas d'application du présent paragraphe à l'égard d'un dividende en action, les règles ci-après s'appliquent :

a) le montant du dividende en actions est réputé, pour l'application du paragraphe (2), être un dividende imposable distinct jusqu'à concurrence de la partie du montant qui n'excède pas le montant du revenu gagné ou réalisé par une société — après 1971 et avant le moment de détermination du revenu protégé quant à l'opération, à l'événement ou à la série d'opérations ou d'événements — qu'il serait raisonnable de considérer comme contribuant au gain en capital qui aurait été réalisé lors d'une disposition à la juste valeur marchande, effectuée immédiatement avant le dividende, de l'action sur laquelle le dividende a été reçu;

b) le montant du dividende imposable distinct visé à l'alinéa a) est réputé réduire le montant du revenu gagné ou réalisé par une société — après 1971 et avant le moment de détermination du revenu protégé quant à l'opération, à l'événement ou à la série d'opérations ou d'événements — qu'il serait raisonnable de considérer comme contribuant au gain en capital qui aurait été réalisé lors d'une disposition à la juste valeur marchande, effectuée immédiatement avant le dividende, de l'action sur laquelle le dividende a été reçu.

Application du paragraphe (2.3)

(2.4) Le paragraphe (2.3) s'applique à l'égard d'un dividende en actions si les énoncés ci-après se vérifient :

a) un bénéficiaire de dividende détient une action sur laquelle il reçoit le dividende en actions;

(b) the fair market value of the share or shares issued as a stock dividend exceeds the amount by which the paid-up capital of the corporation that paid the stock dividend is increased because of the dividend; and

(c) subsection (2) would apply to the dividend if subsection (2.1) were read without reference to its paragraph (c).

b) la juste valeur marchande de l'action ou des actions émises au titre d'un dividende en actions est supérieure au montant correspondant à l'augmentation, découlant du versement du dividende en actions, du capital versé de la société qui a versé le dividende;

c) le paragraphe (2) s'appliquerait au dividende si le paragraphe (2.1) s'appliquait compte non tenu de son alinéa c).

Determination of reduction in fair market value

(2.5) For the purpose of applying clause (2.1)(b)(ii)(A), whether a dividend causes a significant reduction in the fair market value of any share is to be determined as if the fair market value of the share, immediately before the dividend, was increased by an amount equal to the amount, if any, by which the fair market value of the dividend received on the share exceeds the fair market value of the share.

Détermination de la réduction de la juste valeur marchande

(2.5) Pour l'application de la division (2.1)b)(ii)(A), la détermination selon laquelle un dividende diminue sensiblement la juste valeur marchande d'une action s'effectue comme si la juste valeur marchande de l'action, immédiatement avant le dividende, était additionnée d'un montant égal à l'excédent de la juste valeur marchande du dividende reçu sur l'action sur la juste valeur marchande de l'action.

Application

(3) Subsection 55(2) does not apply to any dividend received by a corporation (in this subsection and subsection 55(3.01) referred to as the "dividend recipient")

(a) in the case of a dividend that is received on a redemption, acquisition or cancellation of a share, by the corporation that issued the share, to which subsection 84(2) or (3) applies, if, as part of a transaction or event or a series of transactions or events as a part of which the dividend is received, there was not at any particular time

(i) a disposition of property, other than

(A) money disposed of on the payment of a dividend or on a reduction of the paid-up capital of a share, and

(B) property disposed of for proceeds that are not less than its fair market value,

to a person or partnership that was an unrelated person immediately before the particular time,

(ii) a significant increase (other than as a consequence of a disposition of shares of the capital stock of a corporation for proceeds of disposition that are not less than their fair market value) in the total direct interest in any corporation of one or more persons or partnerships that were unrelated persons immediately before the particular time,

Exception

(3) Le paragraphe (2) ne s'applique pas à un dividende reçu par une société (appelée « bénéficiaire de dividende » au présent paragraphe et au paragraphe (3.01)) si, selon le cas :

a) dans le cas d'un dividende qui a été reçu lors du rachat, de l'acquisition ou de l'annulation d'une action par la société l'ayant émise auquel le paragraphe 84(2) ou (3) s'applique, aucun des faits suivants ne s'est produit à un moment donné dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements dans le cadre duquel le dividende a été reçu :

(i) une disposition de biens en faveur d'une personne ou d'une société de personnes qui était une personne non liée immédiatement avant le moment donné, sauf les dispositions suivantes :

(A) la disposition d'argent effectuée lors du versement d'un dividende ou de la réduction du capital versé au titre d'une action,

(B) la disposition de biens effectuée pour un produit au moins égal à leur juste valeur marchande,

(ii) une augmentation sensible (sauf celle qui découle d'une disposition d'actions du capital-actions d'une société pour un produit de disposition au moins égal à leur juste valeur marchande) de la participation directe totale dans une société d'une ou plusieurs personnes ou sociétés de personnes

(iii) a disposition, to a person or partnership who was an unrelated person immediately before the particular time, of

(A) shares of the capital stock of the corporation that paid the dividend (referred to in this paragraph and subsection 55(3.01) as the "dividend payer"), or

(B) property (other than shares of the capital stock of the dividend recipient) more than 10% of the fair market value of which was, at any time during the series, derived from any combination of shares of the capital stock and debt of the dividend payer,

(iv) after the time the dividend was received, a disposition, to a person or partnership that was an unrelated person immediately before the particular time, of

(A) shares of the capital stock of the dividend recipient, or

(B) property more than 10% of the fair market value of which was, at any time during the series, derived from any combination of shares of the capital stock and debt of the dividend recipient, and

(v) a significant increase in the total of all direct interests in the dividend payer of one or more persons or partnerships who were unrelated persons immediately before the particular time; or

(b) if the dividend was received

(i) in the course of a reorganization in which

(A) a distributing corporation made a distribution to one or more transferee corporations, and

(B) the distributing corporation was wound up or all of the shares of its capital stock owned by each transferee corporation immediately before the distribution were redeemed or cancelled otherwise than on an exchange to which subsection 51(1), 85(1) or 86(1) applies, and

(ii) on a permitted redemption in relation to the distribution or on the winding-up of the distributing corporation.

qui étaient des personnes non liées immédiatement avant le moment donné,

(iii) une disposition des biens suivants effectuée en faveur d'une personne ou d'une société de personnes qui était une personne non liée immédiatement avant le moment donné :

(A) des actions du capital-actions de la société qui a versé le dividende (appelée « payeur de dividende » au présent alinéa et au paragraphe (3.01)),

(B) des biens, sauf des actions du capital-actions du bénéficiaire de dividende, dont plus de 10 % de la juste valeur marchande provenait, à un moment de la série, de toute combinaison d'actions du capital-actions et de dettes du payeur de dividende,

(iv) après la réception du dividende, une disposition des biens suivants effectuée en faveur d'une personne ou d'une société de personnes qui était une personne non liée immédiatement avant le moment donné :

(A) des actions du capital-actions du bénéficiaire de dividende,

(B) des biens dont plus de 10 % de la juste valeur marchande provenait, à un moment de la série, de toute combinaison d'actions du capital-actions et de dettes du bénéficiaire de dividende,

(v) une augmentation sensible du total des participations directes dans le payeur de dividende d'une ou plusieurs personnes ou sociétés de personnes qui étaient des personnes non liées immédiatement avant le moment donné;

b) le dividende est reçu, à la fois :

(i) lors d'une réorganisation dans le cadre de laquelle :

(A) une société cédante a effectué une attribution en faveur d'une ou plusieurs sociétés cessionnaires,

(B) la société cédante a été liquidée ou l'ensemble des actions de son capital-actions qui appartenaient à chaque société cessionnaire immédiatement avant l'attribution ont été rachetées ou annulées dans des circonstances autres que lors d'un échange auquel s'appliquent les paragraphes 51(1), 85(1) ou 86(1),

Interpretation for par. (3)(a)

(3.01) For the purposes of paragraph 55(3)(a),

(a) an unrelated person means a person (other than the dividend recipient) to whom the dividend recipient is not related or a partnership any member of which (other than the dividend recipient) is not related to the dividend recipient;

(b) a corporation that is formed by an amalgamation of 2 or more other corporations is deemed to be the same corporation as, and a continuation of, each of the other corporations;

(c) where there has been a winding-up of a corporation to which subsection 88(1) applies, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary;

(d) proceeds of disposition are to be determined without reference to

(i) subparagraph (j)(i) of the definition ***proceeds of disposition*** in section 54, and

(ii) section 93;

(e) notwithstanding any other provision of this Act, where a non-resident person disposes of a property in a taxation year and the gain or loss from the disposition is not included in computing the person's taxable income earned in Canada for the year, the person is deemed to have disposed of the property for proceeds of disposition that are less than its fair market value unless, under the income tax laws of the country in which the person is resident, the gain or loss is computed as if the property were disposed of for proceeds of disposition that are not less than its fair market value and the gain or loss so computed is recognized for the purposes of those laws;

(f) a significant increase in the total direct interest in a corporation that would, but for this paragraph, be described in subparagraph (3)(a)(ii) is deemed not to be described in that subparagraph if the increase was the result of the issuance of shares of the capital stock of the corporation solely for money and the shares were redeemed, acquired or cancelled by the corporation before the dividend was received;

(ii) lors d'un rachat autorisé relativement à l'attribution, visée à la division (i)(A), ou lors de la liquidation, visée à la division (i)(B), de la société cédante.

Application de l'alinéa (3)a)

(3.01) Les règles suivantes s'appliquent dans le cadre de l'alinéa (3)a):

a) sont des personnes non liées :

(i) la personne, sauf le bénéficiaire de dividende, à laquelle le bénéficiaire de dividende n'est pas lié,

(ii) la société de personnes dont un des associés, sauf le bénéficiaire de dividende, n'est pas lié au bénéficiaire de dividende;

b) la société issue de la fusion de plusieurs autres sociétés est réputée être la même société que chacune des autres sociétés et en être la continuation;

c) en cas de liquidation d'une société à laquelle s'applique le paragraphe 88(1), la société mère est réputée être la même société que la filiale et en être la continuation;

d) le produit de disposition est déterminé compte tenu :

(i) ni du sous-alinéa j)(i) de la définition de ***produit de disposition*** à l'article 54,

(ii) ni de l'article 93;

e) malgré les autres dispositions de la présente loi, lorsqu'une personne non-résidente dispose d'un bien au cours d'une année d'imposition et que le gain ou la perte provenant de la disposition n'est pas inclus dans le calcul de son revenu imposable gagné au Canada pour l'année, elle est réputée avoir disposé du bien pour un produit de disposition inférieur à sa juste valeur marchande sauf si, selon la législation fiscale de son pays de résidence, le gain ou la perte est calculé comme s'il avait été disposé du bien pour un produit de disposition qui est au moins égal à sa juste valeur marchande et le gain ou la perte ainsi calculé est constaté aux fins de cette législation;

f) toute augmentation sensible de la participation directe totale dans une société qui, en l'absence du présent alinéa, serait visée au sous-alinéa (3)a)(ii) est réputée ne pas être visée à ce sous-alinéa si elle fait suite à l'émission d'actions du capital-actions de la société effectuée uniquement en contrepartie d'argent et que

(g) a disposition of property that would, but for this paragraph, be described in subparagraph (3)(a)(i), or a significant increase in the total direct interest in a corporation that would, but for this paragraph, be described in subparagraph (3)(a)(ii), is deemed not to be described in those subparagraphs if

(i) the dividend payer was related to the dividend recipient immediately before the dividend was received,

(ii) the dividend payer did not, as part of the series of transactions or events that includes the receipt of the dividend, cease to be related to the dividend recipient,

(iii) the disposition or increase occurred before the dividend was received,

(iv) the disposition or increase was the result of the disposition of shares to, or the acquisition of shares of, a particular corporation, and

(v) at the time the dividend was received, all the shares of the capital stock of the dividend recipient and the dividend payer were owned by the particular corporation, a corporation that controlled the particular corporation, a corporation controlled by the particular corporation or any combination of those corporations; and

(h) a winding-up of a subsidiary wholly-owned corporation to which subsection 88(1) applies, or an amalgamation to which subsection 87(11) applies of a corporation with one or more subsidiary wholly-owned corporations, is deemed not to result in a significant increase in the total direct interest, or in the total of all direct interests, in the subsidiary or subsidiaries, as the case may be.

g) toute disposition de biens qui, en l'absence du présent alinéa, serait visée au sous-alinéa (3)a)(i) ou toute augmentation sensible de la participation directe totale dans une société qui, en l'absence du présent alinéa, serait visée au sous-alinéa (3)a)(ii) est réputée ne pas être visée à ces sous-alinéas si, à la fois :

(i) le payeur de dividende était lié au bénéficiaire de dividende immédiatement avant la réception du dividende,

(ii) le payeur de dividende n'a pas cessé d'être lié au bénéficiaire de dividende lors de la série d'opérations ou d'événements qui comprend la réception du dividende,

(iii) la disposition ou l'augmentation s'est produite avant la réception du dividende,

(iv) la disposition ou l'augmentation a fait suite à la disposition d'actions au profit d'une société donnée ou à l'acquisition d'actions d'une telle société,

(v) au moment de la réception du dividende, l'ensemble des actions du capital-actions du bénéficiaire de dividende et du payeur de dividende appartenaient à la société donnée, à une société qui la contrôle ou qu'elle contrôle ou à plusieurs de celles-ci;

h) toute liquidation d'une filiale à cent pour cent à laquelle le paragraphe 88(1) s'applique ou toute fusion, à laquelle le paragraphe 87(11) s'applique, d'une société ayant une ou plusieurs filiales à cent pour cent est réputée ne pas donner lieu à une augmentation sensible de la participation directe totale, ou du total des participations directes, dans la ou les filiales, selon le cas.

Distribution by a specified corporation

(3.02) For the purposes of the definition ***distribution*** in subsection (1), where the transfer referred to in that definition is by a specified corporation to an acquiror described in the definition ***specified corporation*** in subsection (1), the references in the definition ***distribution*** to

(a) "each type of property" shall be read as "property"; and

(b) "property of that type" shall be read as "property".

Attribution par une société déterminée

(3.02) Pour l'application de la définition de ***attribution*** au paragraphe (1), lorsque le transfert visé à cette définition est effectué par une société déterminée à un acquéreur visé à la définition de ***société déterminée*** au paragraphe (1), les modifications suivantes sont apportées à la définition de ***attribution***:

a) le passage « de chaque type de bien » est remplacé par « des biens »;

b) le passage « des biens de ce type » est remplacé par « des biens ».

Where paragraph (3)(b) not applicable

(3.1) Notwithstanding subsection 55(3), a dividend to which subsection 55(2) would, but for paragraph 55(3)(b), apply is not excluded from the application of subsection 55(2) where

(a) in contemplation of and before a distribution (other than a distribution by a specified corporation) made in the course of the reorganization in which the dividend was received, property became property of the distributing corporation, a corporation controlled by it or a predecessor corporation of any such corporation otherwise than as a result of

(i) an amalgamation of corporations each of which was related to the distributing corporation,

(ii) an amalgamation of a predecessor corporation of the distributing corporation and one or more corporations controlled by that predecessor corporation,

(iii) a reorganization in which a dividend was received to which subsection 55(2) would, but for paragraph 55(3)(b), apply, or

(iv) a disposition of property by

(A) the distributing corporation, a corporation controlled by it or a predecessor corporation of any such corporation to a corporation controlled by the distributing corporation or a predecessor corporation of the distributing corporation,

(B) a corporation controlled by the distributing corporation or by a predecessor corporation of the distributing corporation to the distributing corporation or predecessor corporation, as the case may be, or

(C) the distributing corporation, a corporation controlled by it or a predecessor corporation of any such corporation for consideration that consists only of money or indebtedness that is not convertible into other property, or of any combination thereof,

(b) the dividend was received as part of a series of transactions or events in which

(i) a person or partnership (referred to in this subparagraph as the "vendor") disposed of property and

(A) the property is

Inapplication de l'alinéa (3)b)

(3.1) Malgré le paragraphe (3), un dividende auquel le paragraphe (2) s'appliquerait, n'eût été l'alinéa (3)b), n'est pas exclu de l'application du paragraphe (2) si, selon le cas :

a) en prévision d'une attribution (sauf celle effectuée par une société déterminée) effectuée dans le cadre de la réorganisation au cours de laquelle le dividende a été reçu et avant pareille attribution, un bien est devenu celui de la société cédante, d'une société qu'elle contrôle ou d'une société remplacée par l'une ou l'autre de ces sociétés, autrement que par suite d'un des événements suivants :

(i) la fusion de sociétés dont chacune était liée à la société cédante,

(ii) la fusion d'une société remplacée par la société cédante et d'une ou plusieurs sociétés contrôlées par cette société remplacée,

(iii) une réorganisation dans le cadre de laquelle a été reçu un dividende auquel le paragraphe (2) s'appliquerait n'eût été l'alinéa (3)b),

(iv) une disposition de biens effectuée par l'une des sociétés suivantes :

(A) la société cédante, une société qu'elle contrôle ou une société remplacée par l'une ou l'autre de ces sociétés, en faveur d'une société contrôlée par la société cédante ou par une société remplacée par celle-ci,

(B) une société contrôlée par la société cédante, ou par une société remplacée par celle-ci, en faveur de la société cédante ou de la société remplacée, selon le cas,

(C) la société cédante, une société qu'elle contrôle ou une société remplacée par l'une ou l'autre de ces sociétés, pour une contrepartie constituée uniquement soit d'argent, soit de dettes non convertibles en d'autres biens, soit d'argent et de telles dettes;

b) le dividende a été reçu dans le cadre d'une série d'opérations ou d'événements par lesquels, selon le cas :

(i) une personne ou une société de personnes (appelées « vendeur » au présent sous-alinéa) a disposé d'un bien, les conditions suivantes étant réunies :

(A) il s'agit de l'un des biens suivants :

(I) a share of the capital stock of a distributing corporation that made a distribution as part of the series or of a transferee corporation in relation to the distributing corporation, or

(II) property 10% or more of the fair market value of which was, at any time during the course of the series, derived from one or more shares described in subclause 55(3.1)(b)(i)(A)(I),

(B) the vendor (other than a qualified person in relation to the distribution) was, at any time during the course of the series, a specified shareholder of the distributing corporation or of the transferee corporation, and

(C) the property or any other property (other than property received by the transferee corporation on the (distribution) acquired by any person or partnership in substitution therefor was acquired (otherwise than on a permitted acquisition, permitted exchange or permitted redemption in relation to the (distribution) by a person (other than the vendor) who was not related to the vendor or, as part of the series, ceased to be related to the vendor or by a partnership,

(ii) control of a distributing corporation that made a distribution as part of the series or of a transferee corporation in relation to the distributing corporation was acquired (otherwise than as a result of a permitted acquisition, permitted exchange or permitted redemption in relation to the (distribution) by any person or group of persons, or

(iii) in contemplation of a distribution by a distributing corporation, a share of the capital stock of the distributing corporation was acquired (otherwise than on a permitted acquisition or permitted exchange in relation to the distribution or on an amalgamation of 2 or more predecessor corporations of the distributing corporation) by

(A) a transferee corporation in relation to the distributing corporation or by a person or partnership with whom the transferee corporation did not deal at arm's length from a person to whom the acquiror was not related or from a partnership,

(B) a person or any member of a group of persons who acquired control of the distributing corporation as part of the series,

(C) a particular partnership any interest in which is held, directly or indirectly through one

(I) une action du capital-actions d'une société cédante qui a effectué une attribution dans le cadre de la série ou d'une société cessionnaire quant à cette société,

(II) un bien dont au moins 10 % de la juste valeur marchande est attribuable, au cours de la série, à une ou plusieurs actions visées à la subdivision (I),

(B) le vendeur, sauf une personne admissible par rapport à l'attribution, a été, au cours de la série, un actionnaire déterminé de la société cédante ou de la société cessionnaire,

(C) le bien, ou tout bien de remplacement acquis par une personne ou une société de personnes (sauf un bien reçu par la société cessionnaire lors de l'attribution), a été acquis — dans des circonstances autres que lors d'une acquisition, d'un échange ou d'un rachat autorisés relativement à l'attribution — soit par une société de personnes, soit par une personne autre que le vendeur qui n'était pas liée à celui-ci ou qui, dans le cadre de la série, a cessé d'être liée à celui-ci,

(ii) le contrôle d'une société cédante qui a effectué une attribution dans le cadre de la série ou d'une société cessionnaire quant à celle-ci a été acquis, autrement que par suite d'une acquisition, d'un échange ou d'un rachat autorisés relativement à l'attribution, par une personne ou un groupe de personnes,

(iii) en prévision d'une attribution par une société cédante, une action du capital-actions de la société cédante a été acquise, dans des circonstances autres que lors d'une acquisition ou d'un échange autorisés relativement à l'attribution ou que lors d'une fusion de sociétés remplacées par la société cédante :

(A) soit par une société cessionnaire quant à la société cédante ou par une personne ou une société de personnes avec laquelle la société cessionnaire avait un lien de dépendance, auprès d'une personne à laquelle l'acquéreur n'était pas lié ou d'une société de personnes,

(B) soit par une personne ou un membre d'un groupe de personnes qui a acquis le contrôle de la société cédante dans le cadre de la série,

(C) soit par une société de personnes dont une des participations est détenue, directement ou indirectement par l'intermédiaire d'une ou plusieurs sociétés de personnes, par une personne visée à la division (B),

or more partnerships, by a person referred to in clause 55(3.1)(b)(iii)(B), or

(D) a person or partnership with whom a person referred to in clause 55(3.1)(b)(iii)(B) or a particular partnership referred to in clause 55(3.1)(b)(iii)(C) did not deal at arm's length,

(c) the dividend was received by a transferee corporation from a distributing corporation that, immediately after the reorganization in the course of which a distribution was made and the dividend was received, was not related to the transferee corporation and the total of all amounts each of which is the fair market value, at the time of acquisition, of a property that

(i) was acquired, as part of the series of transactions or events that includes the receipt of the dividend, by a person (other than the transferee corporation) who was not related to the transferee corporation or, as part of the series, ceased to be related to the transferee corporation or by a partnership, otherwise than

(A) as a result of a disposition

(I) in the ordinary course of business, or

(II) before the distribution for consideration that consists solely of money or indebtedness that is not convertible into other property, or of any combination of the two,

(B) on a permitted acquisition in relation to a distribution, or

(C) as a result of an amalgamation of 2 or more corporations that were related to each other immediately before the amalgamation, and

(ii) is a property (other than money, indebtedness that is not convertible into other property, a share of the capital stock of the transferee corporation and property more than 10% of the fair market value of which is attributable to one or more such shares)

(A) that was received by the transferee corporation on the distribution,

(B) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series, attributable to property (other than money and indebtedness that is not convertible into other property) described in clause 55(3.1)(c)(ii)(A) or 55(3.1)(c)(ii)(C), or

(D) soit par une personne ou une société de personnes avec laquelle une personne visée à la division (B) ou une société de personnes qui est visée à la division (C) avait un lien de dépendance;

c) le dividende a été reçu par une société cessionnaire d'une société cédante qui, immédiatement après la réorganisation dans le cadre de laquelle une attribution a été effectuée et le dividende, reçu, n'est pas liée à la société cessionnaire et le total des montants représentant chacun la juste valeur marchande, au moment de l'acquisition, d'un bien qui répond aux conditions suivantes représente plus de 10 % de la juste valeur marchande, au moment de l'attribution, des biens, sauf de l'argent et des dettes qui ne sont pas convertibles en d'autres biens, reçus par la société cessionnaire lors de l'attribution :

(i) le bien a été acquis, dans le cadre de la série d'opérations ou d'événements qui comprend la réception du dividende, soit par une personne (sauf la société cessionnaire) qui n'était pas liée à la société cessionnaire ou qui, dans le cadre de la série, a cessé d'être liée à celle-ci, soit par une société de personnes, autrement que, selon le cas :

(A) par suite d'une disposition effectuée, selon le cas :

(I) dans le cours normal des activités d'une entreprise,

(II) avant l'attribution pour une contrepartie constituée uniquement d'argent, de dettes non convertibles en d'autres biens ou d'une combinaison des deux,

(B) lors d'une acquisition autorisée relativement à une attribution,

(C) par suite de la fusion de sociétés qui étaient liées les unes aux autres immédiatement avant la fusion,

(ii) il s'agit d'un bien (sauf de l'argent, une dette qui n'est pas convertible en un autre bien, une action du capital-actions de la société cessionnaire et un bien dont plus de 10 % de la juste valeur marchande est attribuable à une ou plusieurs de ces actions), selon le cas :

(A) que la société cessionnaire a reçu lors de l'attribution,

(B) dont plus de 10 % de la juste valeur marchande est attribuable, après l'attribution et avant la fin de la série, à un bien (sauf de l'argent

(C) to which, at any time during the course of the series, the fair market value of property described in clause 55(3.1)(c)(ii)(A) was wholly or partly attributable

is greater than 10% of the fair market value, at the time of the distribution, of all the property (other than money and indebtedness that is not convertible into other property) received by the transferee corporation on the distribution, or

(d) the dividend was received by a distributing corporation that, immediately after the reorganization in the course of which a distribution was made and the dividend was received, was not related to the transferee corporation that paid the dividend and the total of all amounts each of which is the fair market value, at the time of acquisition, of a property that

(i) was acquired, as part of the series of transactions or events that includes the receipt of the dividend, by a person (other than the distributing corporation) who was not related to the distributing corporation or, as part of the series, ceased to be related to the distributing corporation or by a partnership, otherwise than

(A) as a result of a disposition

(I) in the ordinary course of business, or

(II) before the distribution for consideration that consists solely of money or indebtedness that is not convertible into other property, or of any combination of the two,

(B) on a permitted acquisition in relation to a distribution, or

(C) as a result of an amalgamation of 2 or more corporations that were related to each other immediately before the amalgamation, and

(ii) is a property (other than money, indebtedness that is not convertible into other property, a share of the capital stock of the distributing corporation and property more than 10% of the fair market value of which is attributable to one or more such shares)

(A) that was owned by the distributing corporation immediately before the distribution and not disposed of by it on the distribution,

(B) more than 10% of the fair market value of which was, at any time after the distribution and before the end of the series, attributable to

et des dettes qui ne sont pas convertibles en d'autres biens) visé aux divisions (A) ou (C),

(C) auquel la juste valeur marchande d'un bien visé à la division (A) est attribuable en tout ou en partie au cours de la série;

d) le dividende a été reçu par une société cédante qui, immédiatement après la réorganisation dans le cadre de laquelle une attribution a été effectuée et le dividende, reçu, n'est pas liée à la société cessionnaire qui a versé le dividende et le total des montants représentant chacun la juste valeur marchande, au moment de l'acquisition, d'un bien qui répond aux conditions suivantes représente plus de 10 % de la juste valeur marchande, au moment de l'attribution, des biens, sauf de l'argent et des dettes qui ne sont pas convertibles en d'autres biens, appartenant à la société cédante immédiatement avant ce moment et dont elle n'a pas disposé lors de l'attribution :

(i) le bien a été acquis, dans le cadre de la série d'opérations ou d'événements qui comprend la réception du dividende, soit par une personne (sauf la société cédante) qui n'était pas liée à la société cédante ou qui, dans le cadre de la série, a cessé d'être liée à celle-ci, soit par une société de personnes, autrement que, selon le cas :

(A) par suite d'une disposition effectuée, selon le cas :

(I) dans le cours normal des activités d'une entreprise,

(II) avant l'attribution pour une contrepartie constituée uniquement d'argent, de dettes non convertibles en d'autres biens ou d'une combinaison des deux,

(B) lors d'une acquisition autorisée relativement à une attribution,

(C) par suite de la fusion de sociétés qui étaient liées les unes aux autres immédiatement avant la fusion,

(ii) il s'agit d'un bien (sauf de l'argent, une dette qui n'est pas convertible en un autre bien, une action du capital-actions de la société cédante et un bien dont plus de 10 % de la juste valeur marchande est attribuable à une ou plusieurs de ces actions), selon le cas :

(A) dont la société cédante était propriétaire immédiatement avant l'attribution et dont elle n'a pas disposé lors de celle-ci,

property (other than money and indebtedness that is not convertible into other property) described in clause 55(3.1)(d)(ii)(A) or 55(3.1)(d)(ii)(C), or

(C) to which, at any time during the course of the series, the fair market value of property described in clause 55(3.1)(d)(ii)(A) was wholly or partly attributable

is greater than 10% of the fair market value at the time of the distribution, of all the property (other than money and indebtedness that is not convertible into other property) owned immediately before that time by the distributing corporation and not disposed of by it on the distribution.

(B) dont plus de 10 % de la juste valeur marchande est attribuable, après l'attribution et avant la fin de la série, à un bien (sauf de l'argent et des dettes qui ne sont pas convertibles en d'autres biens) visé aux divisions (A) ou (C),

(C) auquel la juste valeur marchande d'un bien visé à la division (A) est attribuable en tout ou en partie au cours de la série.

Interpretation of paragraph (3.1)(b)

(3.2) For the purpose of paragraph 55(3.1)(b),

(a) in determining whether the vendor referred to in subparagraph 55(3.1)(b)(i) is at any time a specified shareholder of a transferee corporation or of a distributing corporation, the references in the definition ***specified shareholder*** in subsection 248(1) to "taxpayer" shall be read as "person or partnership";

(b) a corporation that is formed by the amalgamation of 2 or more corporations (each of which is referred to in this paragraph as a "predecessor corporation") shall be deemed to be the same corporation as, and a continuation of, each of the predecessor corporations;

(c) subject to paragraph 55(3.2)(d), each particular person who acquired a share of the capital stock of a distributing corporation in contemplation of a distribution by the distributing corporation shall be deemed, in respect of that acquisition, not to be related to the person from whom the particular person acquired the share unless

(i) the particular person acquired all the shares of the capital stock of the distributing corporation that were owned, at any time during the course of the series of transactions or events that included the distribution and before the acquisition, by the other person, or

(ii) immediately after the reorganization in the course of which the distribution was made, the particular person was related to the distributing corporation;

(d) where a share is acquired by an individual from a personal trust in satisfaction of all or a part of the individual's capital interest in the trust, the individual

Application de l'alinéa (3.1)b)

(3.2) Les règles suivantes s'appliquent dans le cadre de l'alinéa (3.1)b):

a) lorsqu'il s'agit de déterminer si le vendeur visé au sous-alinéa (3.1)b)(i) est, à un moment donné, un actionnaire déterminé d'une société cessionnaire ou d'une société cédante, la mention « contribuable », à la définition de ***actionnaire déterminé*** au paragraphe 248(1), est remplacée par « personne ou société de personnes », avec les adaptations nécessaires;

b) la société issue de la fusion de sociétés est réputée être la même société que chaque société remplacée et en être la continuation;

c) sous réserve de l'alinéa d), chaque personne qui acquiert auprès d'une autre personne une action du capital-actions d'une société cédante en prévision d'une attribution par celle-ci est réputée, pour ce qui est de cette acquisition, ne pas être liée à l'autre personne, sauf si, selon le cas :

(i) elle a acquis l'ensemble des actions du capital-actions de la société cédante qui appartenaient à l'autre personne au cours de la série d'opérations ou d'événements qui comprenait l'attribution et avant l'acquisition,

(ii) elle est liée à la société cédante immédiatement après la réorganisation lors de laquelle l'attribution a été effectuée;

d) le particulier qui acquiert une action d'une fiducie personnelle en règlement de tout ou partie de sa participation au capital de la fiducie est réputé, pour ce qui est de cette acquisition, être lié à la fiducie;

shall be deemed, in respect of that acquisition, to be related to the trust;

(e) subject to paragraph 55(3.2)(f), where at any time a share of the capital stock of a corporation is redeemed or cancelled (otherwise than on an amalgamation where the only consideration received or receivable for the share by the shareholder on the amalgamation is a share of the capital stock of the corporation formed by the amalgamation), the corporation shall be deemed to have acquired the share at that time;

(f) where a share of the capital stock of a corporation is redeemed, acquired or cancelled by the corporation pursuant to the exercise of a statutory right of dissent by the holder of the share, the corporation shall be deemed not to have acquired the share;

(g) control of a corporation shall be deemed not to have been acquired by a person or group of persons where it is so acquired solely because of

(i) the incorporation of the corporation, or

(ii) the acquisition by an individual of one or more shares for the sole purpose of qualifying as a director of the corporation; and

(h) in relation to a distribution each corporation (other than a qualified person in relation to the distribution) that is a shareholder and a specified shareholder of the distributing corporation at any time during the course of a series of transactions or events, a part of which includes the distribution made by the distributing corporation, is deemed to be a transferee corporation in relation to the distributing corporation.

e) sous réserve de l'alinéa f), en cas de rachat ou d'annulation d'une action du capital-actions d'une société (dans des circonstances autres que lors d'une fusion dans le cadre de laquelle la seule contrepartie reçue ou à recevoir par l'actionnaire pour l'action est une action du capital-actions de la société issue de la fusion), la société est réputée avoir acquis l'action au moment du rachat ou de l'annulation;

f) lorsqu'une action du capital-actions d'une société est rachetée, acquise ou annulée par la société par suite de l'exercice par le détenteur de l'action d'un droit à la dissidence prévu par une loi, la société est réputée ne pas avoir acquis l'action;

g) le contrôle d'une société est réputé ne pas avoir été acquis par une personne ou un groupe de personnes s'il est acquis uniquement par suite d'un des événements suivants :

(i) la constitution de la société en société par actions,

(ii) l'acquisition par un particulier d'une ou plusieurs actions dans le seul but d'être admissible à un poste d'administrateur;

h) par rapport à une attribution, chaque société, sauf une personne admissible par rapport à l'attribution, qui est à la fois actionnaire et actionnaire déterminé de la société cédante au cours d'une série d'opérations ou d'événements dont une partie comprend l'attribution effectuée par la société cédante, est réputée être une société cessionnaire par rapport à la société cédante.

Interpretation of *specified shareholder* changed

(3.3) In determining whether a person is a specified shareholder of a corporation for the purposes of subparagraph 55(3.1)(b)(i) and paragraph 55(3.2)(h), the reference in the definition ***specified shareholder*** in subsection 248(1) to "or of any other corporation that is related to the corporation" shall be read as "or of any other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation".

Autre sens de *actionnaire déterminé*

(3.3) Pour déterminer si une personne est un actionnaire déterminé d'une société pour l'application du sous-alinéa (3.1)b)(i) et de l'alinéa (3.2)h), le passage « ou de toute autre société qui est liée à celle-ci » dans la définition de ***actionnaire déterminé*** au paragraphe 248(1) est remplacé par « ou de toute autre société qui est liée à celle-ci et qui a une participation directe ou indirecte importante dans des actions émises de son capital-actions ».

Specified shareholder exclusion

(3.4) In determining whether a person is a specified shareholder of a corporation for the purposes of the definition ***qualified person*** in subsection (1), subparagraph (3.1)(b)(i) and paragraph (3.2)(h) as it applies for the purpose of subparagraph (3.1)(b)(iii), the reference to "not less than 10% of the issued shares of any class of the

Exclusion — actionnaire déterminé

(3.4) Pour déterminer si une personne est un actionnaire déterminé d'une société pour l'application de la définition de ***personne admissible*** au paragraphe (1), du sous-alinéa (3.1)b)(i) et de l'alinéa (3.2)h) dans la mesure où il s'applique au sous-alinéa (3.1)b)(iii), le passage « au moins 10 % des actions émises d'une catégorie donnée du

capital stock of the corporation" in the definition ***specified shareholder*** in subsection 248(1) is to be read as "not less than 10% of the issued shares of any class of the capital stock of the corporation, other than shares of a specified class (within the meaning of subsection 55(1))".

capital-actions de la société ou de toute autre société qui est liée à celle-ci » à la définition de ***actionnaire déterminé*** au paragraphe 248(1) est remplacé par « au moins 10 % des actions émises d'une catégorie donnée du capital-actions de la société, sauf des actions d'une catégorie exclue au sens du paragraphe 55(1), et de toute autre société qui est liée à cette société ».

Amalgamation of related corporations

(3.5) For the purposes of paragraphs (3.1)(c) and (d), a corporation formed by an amalgamation of two or more corporations (each of which is referred to in this subsection as a "predecessor corporation") that were related to each other immediately before the amalgamation, is deemed to be the same corporation as, and a continuation of, each of the predecessor corporations.

Fusion de sociétés liées

(3.5) Pour l'application des alinéas (3.1)c) et d), la société issue de la fusion de plusieurs sociétés (chacune étant appelée « société remplacée » au présent paragraphe) qui étaient liées les unes aux autres immédiatement avant la fusion est réputée être la même société que chaque société remplacée et en être la continuation.

Avoidance of subsection (2)

(4) For the purposes of this section, where it can reasonably be considered that one of the main purposes of one or more transactions or events was to cause 2 or more persons to be related to each other or to cause a corporation to control another corporation, so that subsection 55(2) would, but for this subsection, not apply to a dividend, those persons shall be deemed not to be related to each other or the corporation shall be deemed not to control the other corporation, as the case may be.

Évitement du paragraphe (2)

(4) Pour l'application du présent article, lorsqu'il est raisonnable de considérer que l'un des principaux motifs d'événements ou d'opérations consiste à faire en sorte que des personnes deviennent liées entre elles ou qu'une société en contrôle une autre, de façon que le paragraphe (2) ne s'appliquerait pas, n'eût été le présent paragraphe, à un dividende, ce lien et ce contrôle sont réputés ne pas exister.

Applicable rules

(5) For the purposes of this section,

(a) where a dividend referred to in subsection 55(2) was received by a corporation as part of a transaction or event or a series of transactions or events, the portion of a capital gain attributable to any income expected to be earned or realized by a corporation after the safe-income determination time for the transaction, event or series is deemed to be a portion of a capital gain attributable to anything other than income;

(b) the income earned or realized by a corporation for a period throughout which it was resident in Canada and not a private corporation shall be deemed to be the total of

(i) its income for the period otherwise determined on the assumption that no amounts were deductible by the corporation by reason of section 37.1 of this Act or paragraph 20(1)(gg) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952,

(ii) the amount, if any, by which

Régles applicables

(5) Pour l'application du présent article :

a) lorsqu'une société a reçu un dividende visé au paragraphe (2) dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements, la fraction d'un gain en capital attribuable au revenu qu'une société peut s'attendre à gagner ou à réaliser après le moment de détermination du revenu protégée quant à l'opération, à l'événement ou à la série est réputée être une partie du gain en capital attribuable à autre chose qu'un revenu;

b) le revenu gagné ou réalisé par une société pour une période tout au long de laquelle elle était un résident du Canada et n'était pas une société privée est réputé être le total des montants suivants :

(i) son revenu pour la période déterminé par ailleurs à supposer qu'aucun montant n'ait été déductible par la société en vertu de l'article 37.1 de la présente loi ou de l'alinéa 20(1)gg) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952,

(ii) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) the amount, if any, by which the total of the capital gains of the corporation for the period exceeds the total of the taxable capital gains of the corporation for the period

exceeds

(B) the amount, if any, by which the total of the capital losses of the corporation for the period exceeds the total of the allowable capital losses of the corporation for the period,

(iii) the total of all amounts each of which is an amount required to have been included under this subparagraph as it read in its application to a taxation year that ended before February 28, 2000,

(iv) the amount, if any, by which

(A) 1/2 of the total of all amounts each of which is an amount required by paragraph 14(1)(b) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000,

exceeds

(B) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

V + W

where

V is 1/2 of the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

W is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(C) in any other case, nil, and

(v) the amount, if any, by which

(A) the total of all amounts each of which is an amount required by paragraph 14(1)(b) to be

(A) l'excédent éventuel du total des gains en capital de la société pour la période sur le total de ses gains en capital imposables pour la période,

(B) l'excédent éventuel du total de ses pertes en capital pour la période sur le total de ses pertes en capital déductibles pour la période,

(iii) le total des montants représentant chacun un montant qui était à inclure en application du présent sous-alinéa, dans sa version applicable à une année d'imposition terminée avant le 28 février 2000,

(iv) l'excédent éventuel du montant suivant :

(A) la moitié du total des montants représentant chacun un montant à inclure en application de l'alinéa 14(1)b) dans le calcul du revenu de la société, relativement à une entreprise qu'elle exploite, pour une année d'imposition comprise dans la période et terminée après le 27 février 2000 et avant le 18 octobre 2000,

sur le montant applicable suivant :

(B) si la société a établi qu'une somme est devenue une créance irrécouvrable au cours d'une année d'imposition comprise dans la période et terminée après le 27 février 2000 et avant le 18 octobre 2000 et a déduit un montant au titre de cette somme en application du paragraphe 20(4.2), ou si elle a une perte en capital déductible pour une telle année par l'effet du paragraphe 20(4.3), le montant obtenu par la formule suivante :

V + W

où :

V représente la moitié de la valeur de l'élément A de la formule figurant au paragraphe 20(4.2), déterminée relativement à la société pour la dernière année d'imposition semblable terminée dans la période,

W le tiers de la valeur de l'élément B de cette formule, déterminée relativement à la société pour cette dernière année d'imposition,

(C) dans les autres cas, zéro,

(v) l'excédent éventuel du montant suivant :

(A) le total des montants représentant chacun un montant à inclure en application de l'alinéa 14(1)b) dans le calcul du revenu de la société, relativement à une entreprise qu'elle exploite, pour

included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after October 17, 2000,

exceeds

(B) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ends after October 17, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

X + Y

where

X is the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

Y is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(C) in any other case, nil;

(c) the income earned or realized by a corporation for a period throughout which it was a private corporation is deemed to be its income for the period otherwise determined on the assumption that no amounts were deductible by the corporation under section 37.1 of this Act, as that section applies for taxation years that ended before 1995, or paragraph 20(1)(gg) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952;

(d) the income earned or realized by a corporation (referred to in this paragraph as the "affiliate") for a period ending at a time when the affiliate was a foreign affiliate of another corporation is deemed to be the lesser of

(i) the amount that would, if the *Income Tax Regulations* were read without reference to their subsection 5905(5.6), be the tax-free surplus balance (within the meaning of their subsection 5905(5.5)) of the affiliate in respect of the other corporation at that time, and

(ii) the fair market value at that time of all the issued and outstanding shares of the capital stock of the affiliate;

une année d'imposition comprise dans la période et se terminant après le 17 octobre 2000,

sur le montant applicable suivant :

(B) si la société a établi qu'une somme est devenue une créance irrécouvrable au cours d'une année d'imposition comprise dans la période et se terminant après le 17 octobre 2000 et a déduit un montant au titre de cette somme en application du paragraphe 20(4.2), ou si elle a une perte en capital déductible pour une telle année par l'effet du paragraphe 20(4.3), le montant obtenu par la formule suivante :

X + Y

où :

X représente la valeur de l'élément A de la formule figurant au paragraphe 20(4.2), déterminée relativement à la société pour la dernière année d'imposition semblable terminée dans la période,

Y le tiers de la valeur de l'élément B de cette formule, déterminée relativement à la société pour cette dernière année d'imposition,

(C) dans les autres cas, zéro;

c) le revenu gagné ou réalisé par une société pour une période tout au long de laquelle elle était une société privée est réputé être son revenu pour la période qui serait déterminé par ailleurs si aucun montant n'était déductible par elle en vertu de l'article 37.1 de la présente loi, dans sa version applicable aux années d'imposition s'étant terminées avant 1995, ou de l'alinéa 20(1)gg) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952;

d) le revenu gagné ou réalisé par une société (appelée « société affiliée » au présent alinéa) pour une période se terminant à un moment où elle était une société étrangère affiliée d'une autre société est réputé correspondre à la moins élevée des sommes suivantes :

(i) la somme qui représenterait le solde de surplus libre d'impôt, au sens du paragraphe 5905(5.5) du *Règlement de l'impôt sur le revenu*, de la société affiliée relativement à l'autre société à ce moment si ce règlement s'appliquait compte non tenu de son paragraphe 5905(5.6),

(ii) la juste valeur marchande à ce moment de l'ensemble des actions émises et en circulation du capital-actions de la société affiliée;

(e) in determining whether 2 or more persons are related to each other, in determining whether a person is at any time a specified shareholder of a corporation and in determining whether control of a corporation has been acquired by a person or group of persons,

(i) a person shall be deemed to be dealing with another person at arm's length and not to be related to the other person if the person is the brother or sister of the other person,

(ii) where at any time a person is related to each beneficiary (other than a registered charity) under a trust who is or may (otherwise than by reason of the death of another beneficiary under the trust) be entitled to share in the income or capital of the trust, the person and the trust shall be deemed to be related at that time to each other and, for this purpose, a person shall be deemed to be related to himself, herself or itself,

(iii) a trust and a person shall be deemed not to be related to each other unless they are deemed by paragraph 55(3.2)(d) or subparagraph 55(5)(e)(ii) to be related to each other or the person is a corporation that is controlled by the trust, and

(iv) this Act shall be read without reference to subsection 251(3) and paragraph 251(5)(b); and

(f) unless subsection (2.3) applies, if a corporation has received a dividend any portion of which is a taxable dividend (such a portion referred to as the ***taxable part*** in this paragraph), as part of a transaction or event or series of transactions or events

(i) a portion of the dividend is deemed to be a separate taxable dividend equal to the lesser of

(A) the taxable part, and

(B) the amount of the income earned or realized by any corporation — after 1971 and before the safe-income determination time for the transaction, event or series — that could reasonably be considered to contribute to the capital gain that could be realized on a disposition at fair market value, immediately before the dividend, of the share on which the dividend is received, and

(ii) the amount, if any, by which the taxable part exceeds the portion referred to in subparagraph (i) is deemed to be a separate taxable dividend.

e) pour déterminer si des personnes sont liées entre elles, si une personne est un actionnaire déterminé d'une société et si le contrôle d'une société a été acquis par une personne ou un groupe de personnes, les règles suivantes s'appliquent :

(i) des personnes sont réputées n'avoir entre elles aucun lien de dépendance et ne pas être liées entre elles si l'une est le frère ou la sœur de l'autre,

(ii) dans le cas où une personne est liée, à un moment donné, à chaque bénéficiaire, autre qu'un organisme de bienfaisance enregistré, d'une fiducie qui a ou peut avoir droit, pour une raison autre que le décès d'un autre bénéficiaire de la fiducie, à une part du revenu ou du capital de la fiducie, la personne et la fiducie sont réputées être liées entre elles à ce moment; à cette fin, une personne est réputée être liée à elle-même,

(iii) une fiducie et une personne ne sont réputées être liées entre elles que si elles sont réputées, par l'alinéa (3.2)d) ou le sous-alinéa (ii), être ainsi liées ou si la personne est une société contrôlée par la fiducie,

(iv) il n'est pas tenu compte du paragraphe 251(3) ni de l'alinéa 251(5)b);

f) sauf si le paragraphe (2.3) s'applique, les règles ci-après s'appliquent si une société a reçu un dividende dont une partie est un dividende imposable (cette partie étant appelée ***partie imposable*** au présent alinéa) dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements :

(i) une fraction du dividende est réputée être un dividende imposable distinct égal au moins élevé des montants suivants :

(A) la partie imposable,

(B) le montant du revenu gagné ou réalisé par une société — après 1971 et avant le moment de détermination du revenu protégé quant à l'opération, à l'événement ou à la série — qu'il serait raisonnable de considérer comme contribuant au gain en capital qui aurait été réalisé lors d'une disposition à la juste valeur marchande, effectuée immédiatement avant le dividende, de l'action sur laquelle le dividende a été reçu,

(ii) le montant de l'excédent de la partie imposable sur la fraction mentionnée au sous-alinéa (i) est réputé être un dividende imposable distinct.

Unlisted shares deemed listed

(6) A share (in this subsection referred to as the "reorganization share") is deemed, for the purposes of subsection 116(6) and the definition ***taxable Canadian property*** in subsection 248(1), to be listed on a designated stock exchange if

(a) a dividend, to which subsection (2) does not apply because of paragraph (3)(b), is received in the course of a reorganization;

(b) in contemplation of the reorganization

(i) the reorganization share is issued to a taxpayer by a public corporation in exchange for another share of that corporation (in this subsection referred to as the "old share") owned by the taxpayer, and

(ii) the reorganization share is exchanged by the taxpayer for a share of another public corporation (in this subsection referred to as the "new share") in an exchange that would be a permitted exchange if the definition ***permitted exchange*** were read without reference to paragraph (a) and subparagraph (b)(ii) of that definition;

(c) immediately before the exchange, the old share

(i) is listed on a designated stock exchange, and

(ii) is not taxable Canadian property of the taxpayer; and

(d) the new share is listed on a designated stock exchange.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 55; 1994, c. 21, s. 24; 1995, c. 3, s. 16; 1998, c. 19, s. 96; 2001, c. 17, s. 38; 2013, c. 34, ss. 62, 193, c. 40, s. 24; 2016, c. 7, s. 5.

Action réputée cotée

(6) Une action (appelée « action de réorganisation » au présent paragraphe) est réputée, pour l'application du paragraphe 116(6) et de la définition de ***bien canadien imposable*** au paragraphe 248(1), être inscrite à la cote d'une bourse de valeurs désignée si les conditions ci-après sont réunies :

a) un dividende, auquel le paragraphe (2) ne s'applique pas par l'effet de l'alinéa (3)b), est reçu dans le cadre d'une réorganisation;

b) en prévision de la réorganisation :

(i) d'une part, une société publique émet l'action de réorganisation à un contribuable en échange d'une autre de ses actions (appelée « ancienne action » au présent paragraphe) appartenant au contribuable,

(ii) d'autre part, le contribuable échange l'action de réorganisation contre une action d'une autre société publique (appelée « nouvelle action » au présent paragraphe) dans le cadre d'une opération qui serait un échange autorisé si la définition de cette expression s'appliquait compte tenu ni de son alinéa a) ni de son sous-alinéa b)(ii);

c) immédiatement avant l'échange, l'ancienne action, à la fois :

(i) est inscrite à la cote d'une bourse de valeurs désignée,

(ii) n'est pas un bien canadien imposable du contribuable;

d) la nouvelle action est inscrite à la cote d'une bourse de valeurs désignée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 55; 1994, ch. 21, art. 24; 1995, ch. 3, art. 16; 1998, ch. 19, art. 96; 2001, ch. 17, art. 38; 2013, ch. 34, art. 62 et 193, ch. 40, art. 24; 2016, ch. 7, art. 5.

SUBDIVISION D

Other Sources of Income

Amounts to be included in income for year

56 (1) Without restricting the generality of section 3, there shall be included in computing the income of a taxpayer for a taxation year,

SOUS-SECTION D

Autres sources de revenu

Sommes à inclure dans le revenu de l'année

56 (1) Sans préjudice de la portée générale de l'article 3, sont à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition :

Pensions, prestations d'assurance-chômage, etc.

a) toute somme reçue par le contribuable au cours de l'année au titre, ou en paiement intégral ou partiel :

Pension benefits, unemployment insurance benefits, etc.

(a) any amount received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,

(i) a superannuation or pension benefit including, without limiting the generality of the foregoing,

(A) the amount of any pension, supplement or spouse's or common-law partner's allowance under the *Old Age Security Act* and the amount of any similar payment under a law of a province,

(B) the amount of any benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

(C) the amount of any payment out of or under a specified pension plan, and

(C.1) the amount of any payment out of or under a foreign retirement arrangement established under the laws of a country, except to the extent that the amount would not, if the taxpayer were resident in the country, be subject to income taxation in the country,

but not including

(D) the portion of a benefit received out of or under an employee benefit plan that is required by paragraph 6(1)(g) to be included in computing the taxpayer's income for the year, or would be required to be so included if that paragraph were read without reference to subparagraph 6(1)(g)(ii),

(E) the portion of an amount received out of or under a retirement compensation arrangement that is required by paragraph 56(1)(x) or 56(1)(z) to be included in computing the taxpayer's income for the year,

(F) a benefit received under section 71 of the *Canada Pension Plan* or under a similar provision of a provincial pension plan as defined in section 3 of that Act, and

(G) an amount received out of or under a registered pension plan as a return of all or a portion of a contribution to the plan to the extent that the amount

(I) is a payment made to the taxpayer under subsection 147.1(19) or subparagraph

(i) d'une prestation de retraite ou de pension, y compris, sans préjudice de la portée générale de ce qui précède :

(A) une pension, un supplément et une allocation à l'époux ou conjoint de fait, servis en vertu de la *Loi sur la sécurité de la vieillesse*, et un paiement semblable fait en vertu d'une loi provinciale,

(B) une prestation prévue par le *Régime de pensions du Canada* ou par un régime provincial de pensions au sens de l'article 3 de cette loi,

(C) tout paiement versé dans le cadre d'un régime de pension déterminé,

(C.1) tout paiement fait dans le cadre d'un mécanisme de retraite étranger prévu par la législation d'un pays, sauf dans la mesure où le paiement serait exclu du calcul du revenu du contribuable aux fins de l'impôt sur le revenu dans ce pays s'il y résidait,

à l'exclusion toutefois :

(D) de la partie d'une prestation versée dans le cadre d'un régime de prestations aux employés qui doit être incluse dans le calcul du revenu du contribuable pour l'année en vertu de l'alinéa 6(1)g), compte non tenu du sous-alinéa 6(1)g)(ii),

(E) de la partie d'un montant versé dans le cadre d'une convention de retraite qui doit être incluse dans le calcul du revenu du contribuable pour l'année en vertu de l'alinéa x) ou z),

(F) d'une prestation reçue en vertu de l'article 71 du *Régime de pensions du Canada* ou d'une disposition semblable d'un régime provincial de pensions au sens de l'article 3 de cette loi,

(G) d'une somme reçue dans le cadre d'un régime de pension agréé en remboursement de tout ou partie d'une cotisation versée au régime, dans la mesure où cette somme, à la fois :

(I) est un paiement effectué au contribuable en vertu du paragraphe 147.1(19) ou du sous-alinéa 8502d)(iii) du *Règlement de l'impôt sur le revenu*,

(II) n'est pas déduite dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

8502(d)(iii) of the *Income Tax Regulations,* and

(II) is not deducted in computing the taxpayer's income for the year or a preceding taxation year,

(ii) a retiring allowance, other than an amount received out of or under an employee benefit plan, a retirement compensation arrangement or a salary deferral arrangement,

(iii) a death benefit,

(iv) a benefit under the *Unemployment Insurance Act*, other than a payment relating to a course or program designed to facilitate the re-entry into the labour force of a claimant under that Act, or a benefit under Part I, VII.1, VIII or VIII.1 of the *Employment Insurance Act*,

(v) a benefit under regulations made under an appropriation Act providing for a scheme of transitional assistance benefits to persons employed in the production of products to which the Canada-United States Agreement on Automotive Products, signed on January 16, 1965 applies,

(vi) except to the extent otherwise required to be included in computing the taxpayer's income, a prescribed benefit under a government assistance program, or

(vii) a benefit under the *Act respecting parental insurance*, R.S.Q., c. A-29.011;

Benefits under CPP/QPP

(a.1) where the taxpayer is an estate that arose on or as a consequence of the death of an individual, each benefit received under section 71 of the *Canada Pension Plan*, or under a similar provision of a provincial pension plan as defined in section 3 of that Act, after July 1997 and in the year in respect of the death of the individual;

Pension income reallocation

(a.2) where the taxpayer is a pension transferee (as defined in subsection 60.03(1)), any amount that is a split-pension amount (as defined in that subsection) in respect of the pension transferee for the taxation year;

Parents of victims of crime

(a.3) amounts received by the taxpayer in the year under a program established under the authority of the *Department of Employment and Social Development*

(ii) d'une allocation de retraite, sauf s'il s'agit d'un montant versé dans le cadre d'un régime de prestations aux employés, d'une convention de retraite ou d'une entente d'échelonnement du traitement,

(iii) d'une prestation consécutive au décès,

(iv) d'une prestation versée en vertu de la *Loi sur l'assurance-chômage*, à l'exception d'un versement lié à un cours ou un programme destiné à faciliter le retour d'un prestataire sur le marché du travail aux termes de cette loi, ou d'une prestation versée en vertu des parties I, VII.1, VIII ou VIII.1 de la *Loi sur l'assurance-emploi*,

(v) d'un avantage accordé en vertu des règlements pris sous le régime d'une loi de crédits prévoyant l'établissement d'un régime d'assistance transitoire pour les personnes employées à la production d'articles auxquels s'applique l'Accord canado-américain sur les produits de l'automobile, signé le 16 janvier 1965,

(vi) d'une prestation, visée par règlement, prévue par un programme d'aide gouvernemental, sauf dans la mesure où elle est par ailleurs à inclure dans le calcul du revenu du contribuable,

(vii) d'une prestation versée en vertu de la *Loi sur l'assurance parentale*, L.R.Q., ch. A-29.011;

Prestations du RPC/RRQ

a.1) dans le cas où le contribuable est une succession qui a commencé a exister au décès d'un particulier ou par suite de ce décès, chaque prestation reçue en vertu de l'article 71 du *Régime de pensions du Canada*, ou d'une disposition semblable d'un régime provincial de pensions au sens de l'article 3 de cette loi, après juillet 1997 et au cours de l'année relativement au décès du particulier;

Réattribution du revenu de pension

a.2) si le contribuable est un cessionnaire, au sens du paragraphe 60.03(1), toute somme qui est un montant de pension fractionné, au sens de ce paragraphe, pour lui pour l'année;

Parents de victimes d'actes criminels

a.3) les sommes reçues par le contribuable au cours de l'année dans le cadre d'un programme établi sous le régime de la *Loi sur le ministère de l'Emploi et du Développement social* relativement à des enfants décédés ou disparus par suite d'une infraction, avérée ou probable, prévue au *Code criminel*;

Act in respect of children who are deceased or missing as a result of an offence, or a probable offence, under the *Criminal Code*;

Support

(b) the total of all amounts each of which is an amount determined by the formula

A - (B + C)

where

A is the total of all amounts each of which is a support amount received after 1996 and before the end of the year by the taxpayer from a particular person where the taxpayer and the particular person were living separate and apart at the time the amount was received,

B is the total of all amounts each of which is a child support amount that became receivable by the taxpayer from the particular person under an agreement or order on or after its commencement day and before the end of the year in respect of a period that began on or after its commencement day, and

C is the total of all amounts each of which is a support amount received after 1996 by the taxpayer from the particular person and included in the taxpayer's income for a preceding taxation year;

(c) [Repealed, 1997, c. 25, s. 8]

(c.1) [Repealed, 1994, c. 7, Sch. VIII, s. 17]

Reimbursement of support payments

(c.2) an amount received by the taxpayer in the year under a decree, order or judgment of a competent tribunal as a reimbursement of an amount deducted under paragraph 60(b) or 60(c), or under paragraph 60(c.1) as it applies, in computing the taxpayer's income for the year or a preceding taxation year to decrees, orders and judgments made before 1993;

Annuity payments

(d) any amount received by the taxpayer in the year as an annuity payment other than an amount

(i) otherwise required to be included in computing the taxpayer's income for the year,

(ii) with respect to an interest in an annuity contract to which subsection 12.2(1) applies (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest), or

Pension alimentaire

b) le total des montants représentant chacun le résultat du calcul suivant :

A - (B + C)

où :

A représente le total des montants représentant chacun une pension alimentaire que le contribuable a reçue après 1996 et avant la fin de l'année d'une personne donnée dont il vivait séparé au moment de la réception de la pension,

B le total des montants représentant chacun une pension alimentaire pour enfants que la personne donnée était tenue de verser au contribuable aux termes d'un accord ou d'une ordonnance à la date d'exécution ou postérieurement et avant la fin de l'année relativement à une période ayant commencé à cette date ou postérieurement,

C le total des montants représentant chacun une pension alimentaire que le contribuable a reçue de la personne donnée après 1996 et qu'il a incluse dans son revenu pour une année d'imposition antérieure;

c) [Abrogé, 1997, ch. 25, art. 8]

c.1) [Abrogé, 1994, ch. 7, ann. VIII, art. 17]

Remboursement de la pension alimentaire

c.2) une somme que le contribuable a reçue au cours de l'année, en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent, à titre de remboursement d'un montant déduit en application des alinéas 60b) ou c), ou de l'alinéa 60c.1) tel qu'il s'applique, dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, aux ordonnances ou jugements rendus avant 1993;

Versements de rente

d) toute somme reçue au cours de l'année par le contribuable à titre de versement de rente sauf une somme, selon le cas :

(i) qui doit être par ailleurs incluse dans le calcul de son revenu pour l'année,

(ii) à l'égard d'un intérêt dans un contrat de rente auquel le paragraphe 12.2(1) s'applique, ou s'appliquerait si le jour anniversaire du contrat tombait dans l'année à un moment où le contribuable détient l'intérêt,

(iii) received out of or under an annuity contract issued or effected as a TFSA;

Idem

(d.2) any amount received out of or under, or as proceeds of disposition of, an annuity the payment for which was

(i) deductible in computing the taxpayer's income because of paragraph 60(l) or because of subsection 146(5.5) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952,

(ii) made in circumstances to which subsection 146(21) applied, or

(iii) made pursuant to or under a deferred profit sharing plan by a trustee under the plan to purchase the annuity for a beneficiary under the plan;

Disposition of income-averaging annuity contract

(e) any amount received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of, proceeds of the surrender, cancellation, redemption, sale or other disposition of an income-averaging annuity contract;

Idem

(f) any amount deemed by subsection 61.1(1) to have been received by the taxpayer in the year as proceeds of the disposition of an income-averaging annuity contract;

Supplementary unemployment benefit plan

(g) amounts received by the taxpayer in the year from a trustee under a supplementary unemployment benefit plan as provided by section 145;

Registered retirement savings plan, etc.

(h) amounts required by section 146 in respect of a registered retirement savings plan or a registered retirement income fund to be included in computing the taxpayer's income for the year;

Home buyers' plan

(h.1) amounts required by section 146.01 to be included in computing the taxpayer's income for the year;

Lifelong learning plan

(h.2) amounts required by section 146.02 to be included in computing the taxpayer's income for the year;

Deferred profit sharing plan

(i) amounts received by the taxpayer in the year under a deferred profit sharing plan as provided by section 147;

(iii) reçue dans le cadre d'un contrat de rente établi ou souscrit à titre de compte d'épargne libre d'impôt;

Idem

d.2) toute somme reçue dans le cadre d'une rente, ou à titre de produit de disposition d'une rente, dont le versement, selon le cas :

(i) était déductible dans le calcul du revenu du contribuable par l'effet de l'alinéa 60l) de la présente loi ou du paragraphe 146(5.5) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952,

(ii) a été fait dans les circonstances déterminées au paragraphe 146(21),

(iii) a été fait dans le cadre d'un régime de participation différée aux bénéfices par un fiduciaire du régime en vue d'acheter la rente pour un bénéficiaire du régime;

Disposition d'un contrat de rente à versements invariables

e) toute somme reçue par le contribuable au cours de l'année au titre ou en paiement intégral ou partiel du produit de l'abandon, de l'annulation, du rachat, de la vente ou d'une autre forme de disposition d'un contrat de rente à versements invariables;

Idem

f) toute somme réputée, selon le paragraphe 61.1(1), avoir été reçue par le contribuable au cours de l'année à titre de produit de la disposition d'un contrat de rente à versements invariables;

Régime de prestations supplémentaires de chômage

g) toutes sommes reçues d'un fiduciaire au cours de l'année par le contribuable, en vertu d'un régime de prestations supplémentaires de chômage et conformément à l'article 145;

Régime enregistré d'épargne-retraite, etc.

h) toutes sommes relatives à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite et qui doivent, en vertu de l'article 146, être incluses dans le calcul du revenu du contribuable pour l'année;

Régime d'accession à la propriété

h.1) les sommes à inclure, en application de l'article 146.01, dans le calcul du revenu du contribuable pour l'année;

Life insurance policy proceeds

(j) any amount required by subsection 148(1) or 148(1.1) to be included in computing the taxpayer's income for the year;

Certain tools of an employee, re proceeds

(k) all amounts received in the year by a person or partnership (in this paragraph referred to as the "vendor") as consideration for the disposition by the vendor of a property the cost of which was included in computing an amount under paragraph 8(1)(r) or (s) in respect of the vendor or in respect of a person with whom the vendor does not deal at arm's length, to the extent that the total of those amounts received in respect of the disposition in the year and in preceding taxation years exceeds the total of the cost to the vendor of the property immediately before the disposition and all amounts included in respect of the disposition under this paragraph in computing the vendor's income for a preceding taxation year, unless the property was acquired by the vendor in circumstances to which subsection 85(5.1) or subsection 97(5) applied;

Legal expenses

(l) amounts received by the taxpayer in the year as

(i) legal costs awarded to the taxpayer by a court on an appeal in relation to an assessment of any tax, interest or penalties referred to in paragraph 60(o,

(ii) reimbursement of costs incurred in relation to a decision of the Canada Employment Insurance Commission under the *Employment Insurance Act* or to an appeal of such a decision to the Social Security Tribunal,

(iii) reimbursement of costs incurred in relation to an assessment or a decision under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

if with respect to that assessment or decision, as the case may be, an amount has been deducted or may be deductible under paragraph 60(o) in computing the taxpayer's income;

Idem

(l.1) amounts received by the taxpayer in the year as an award or a reimbursement in respect of legal expenses (other than those relating to a division or settlement of property arising out of, or on a breakdown of, a marriage or common-law partnership) paid to collect or establish a right to a retiring allowance or a benefit under a pension fund or plan (other than a benefit under the *Canada Pension Plan* or a provincial

Régime d'éducation permanente

h.2) les sommes à inclure, en application de l'article 146.02, dans le calcul du revenu du contribuable pour l'année;

Régime de participation différée aux bénéfices

i) toutes sommes reçues au cours de l'année par le contribuable en vertu d'un régime de participation différée aux bénéfices, conformément à l'article 147;

Produit d'une police d'assurance-vie

j) toutes sommes qui, en vertu du paragraphe 148(1) ou (1.1), doivent être incluses dans le calcul du revenu du contribuable pour l'année;

Certains outils d'employés — produit de disposition

k) les sommes qu'une personne ou une société de personnes reçoit au cours de l'année en contrepartie de la disposition, par elle, d'un bien dont le coût a été inclus dans le calcul de la somme prévue aux alinéas 8(1)r) ou s) relativement à elle ou à une personne avec laquelle elle a un lien de dépendance, dans la mesure où le total de ces sommes, reçues au titre de la disposition au cours de l'année et d'années d'imposition antérieures, excède le total du coût du bien pour elle immédiatement avant la disposition et des sommes incluses relativement à la disposition en vertu du présent alinéa dans le calcul de son revenu pour une année d'imposition antérieure, sauf si elle a acquis le bien dans les circonstances visées aux paragraphes 85(5.1) ou 97(5);

Frais judiciaires et extrajudiciaires

l) les sommes reçues au cours de l'année par le contribuable :

(i) soit au titre des frais et dépens qui lui ont été alloués par un tribunal à l'occasion d'un appel relatif à une cotisation à l'égard de tout impôt ou intérêt, ou de toutes pénalités, visés à l'alinéa 60o),

(ii) soit à titre de remboursement de frais engagés relativement à une décision de la Commission de l'assurance-emploi du Canada en vertu de la *Loi sur l'assurance-emploi* ou à l'appel d'une telle décision devant le Tribunal de la sécurité sociale,

(iii) soit à titre de remboursement de frais engagés à l'occasion d'une cotisation établie ou d'une décision rendue en vertu du *Régime de pensions du Canada* ou d'un régime provincial de pensions au sens de l'article 3 de cette loi,

si en ce qui concerne cette cotisation ou décision, une somme a été déduite ou peut être déduite dans le calcul de son revenu en vertu de l'alinéa 60o);

pension plan as defined in section 3 of that Act) in respect of employment;

Bad debt recovered

(m) any amount received by the taxpayer, or by a person who does not deal at arm's length with the taxpayer, in the year on account of a debt in respect of which a deduction was made under paragraph 60(f) in computing the taxpayer's income for a preceding taxation year;

Scholarships, bursaries, etc.

(n) the amount, if any, by which

(i) the total of all amounts (other than amounts described in paragraph 56(1)(q), amounts received in the course of business, and amounts received in respect of, in the course of or by virtue of an office or employment) received by the taxpayer in the year, each of which is an amount received by the taxpayer as or on account of a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer, other than a prescribed prize,

exceeds

(ii) the taxpayer's scholarship exemption for the year computed under subsection (3);

(iii) [Repealed, 2001, c. 17, s. 39]

Apprenticeship grants

(n.1) the total of all amounts, each of which is an amount received by the taxpayer in the year under the Apprenticeship Incentive Grant program or the Apprenticeship Completion Grant program administered by the Department of Employment and Social Development;

Research grants

(o) the amount, if any, by which any grant received by the taxpayer in the year to enable the taxpayer to carry on research or any similar work exceeds the total of expenses incurred by the taxpayer in the year for the purpose of carrying on the work, other than

(i) personal or living expenses of the taxpayer except travel expenses (including the entire amount expended for meals and lodging) incurred by the taxpayer while away from home in the course of carrying on the work,

(ii) expenses in respect of which the taxpayer has been reimbursed, or

Frais judiciaires et extrajudiciaires

l.1) les montants reçus par le contribuable au cours de l'année et qui lui ont été accordés ou remboursés au titre des frais judiciaires ou extrajudiciaires (sauf ceux se rapportant au règlement ou au partage de biens découlant du mariage ou union de fait ou de son échec) payés pour recouvrer, relativement à un emploi, une allocation de retraite ou une prestation prévue par quelque caisse ou régime de pension (sauf une prestation prévue par le régime institué par le *Régime de pensions du Canada* ou un régime provincial de pensions, au sens de l'article 3 de cette loi) ou pour établir un droit à ceux-ci;

Mauvaise créance recouvrée

m) toute somme reçue par le contribuable, ou par une personne ayant un lien de dépendance avec lui, au cours de l'année au titre d'une créance pour laquelle une somme a été déduite, en application de l'alinéa 60f), dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

Bourses d'études, de perfectionnement, etc.

n) l'excédent éventuel :

(i) du total des sommes (à l'exclusion des sommes visées à l'alinéa q), des sommes reçues dans le cours des activités d'une entreprise et des sommes reçues au titre, dans l'occupation ou en vertu d'une charge ou d'un emploi) reçues au cours de l'année par le contribuable à titre de bourse d'études, de bourse de perfectionnement (fellowship) ou de récompense couronnant une œuvre remarquable réalisée dans son domaine d'activité habituel, à l'exclusion d'une récompense visée par règlement,

sur :

(ii) l'exemption pour bourses d'études du contribuable pour l'année, calculée selon le paragraphe (3);

(iii) [Abrogé, 2001, ch. 17, art. 39]

Subvention aux apprentis

n.1) le total des sommes représentant chacune une somme reçue par le contribuable au cours de l'année dans le cadre du programme de la Subvention incitative aux apprentis ou du programme de la Subvention à l'achèvement de la formation d'apprenti administrés par le ministère de l'Emploi et du Développement social;

Subventions de recherches

o) l'excédent éventuel de toute subvention reçue au cours de l'année par le contribuable pour la poursuite

(iii) expenses that are otherwise deductible in computing the taxpayer's income for the year;

Refund of scholarships, bursaries and research grants

(p) amounts as described in paragraph 60(q) received by the taxpayer in the year from an individual;

Education savings plan payments

(q) amounts in respect of a registered education savings plan required by section 146.1 to be included in computing the taxpayer's income for the year;

Registered disability savings plan payments

(q.1) amounts in respect of a registered disability savings plan required by section 146.4 to be included in computing the taxpayer's income for the year;

Financial assistance

(r) amounts received in the year by the taxpayer as

(i) earnings supplements provided under a project sponsored by a government or government agency in Canada to encourage individuals to obtain or keep employment,

(ii) financial assistance under a program established by the Canada Employment Insurance Commission under Part II of the *Employment Insurance Act*,

(iii) financial assistance under a program that is

(A) established by a government or government agency in Canada or by an organization,

(B) similar to a program established under Part II of that Act, and

(C) the subject of an agreement between the government, government agency or organization and the Canada Employment Insurance Commission because of section 63 of that Act,

(iv) financial assistance provided under a program established by a government, or government agency, in Canada that provides income replacement benefits similar to income replacement benefits provided under a program established under the *Employment Insurance Act*, or

(v) amounts received by the taxpayer in the year under the *Wage Earner Protection Program Act* in respect of wages (within the meaning of that Act);

de recherches ou de tous travaux similaires sur le total des dépenses qu'il a engagées pendant l'année dans le but de poursuivre ces travaux, à l'exception :

(i) des frais personnels ou de subsistance du contribuable, sauf ses frais de déplacement (y compris le montant entier dépensé pour ses repas et son logement) engagés par lui pendant qu'il vivait hors de chez lui occupé à poursuivre ces travaux,

(ii) des dépenses qui lui ont été remboursées,

(iii) des dépenses déductibles, comme il est prévu par ailleurs, dans le calcul de son revenu de l'année;

Remboursement des bourses d'études ou de recherche et des subventions de recherches

p) les sommes reçues par le contribuable d'un particulier au cours de l'année ainsi qu'il est prévu à l'alinéa 60q);

Versements d'un régime d'épargne-études

q) les sommes relatives à un régime enregistré d'épargne-études qui, en vertu de l'article 146.1, doivent être incluses dans le calcul du revenu du contribuable pour l'année;

Paiements d'un régime enregistré d'épargne-invalidité

q.1) les sommes relatives à un régime enregistré d'épargne-invalidité qui sont à inclure, en application de l'article 146.4, dans le calcul du revenu du contribuable pour l'année;

Soutien financier

r) les sommes reçues par le contribuable au cours de l'année :

(i) soit à titre de supplément de revenu accordé dans le cadre d'un projet, parrainé par un gouvernement au Canada ou un organisme public canadien, visant à encourager les particuliers à accepter ou à conserver un emploi,

(ii) soit à titre de soutien financier prévu par un programme établi par la Commission de l'assurance-emploi du Canada en vertu de la partie II de la *Loi sur l'assurance-emploi*,

(iii) soit à titre de soutien financier prévu par un programme qui, à la fois :

(A) est établi par un gouvernement ou un organisme public canadien ou par tout autre organisme,

Grants under prescribed programs

(s) the amount of any grant received in the year under a prescribed program of the Government of Canada relating to home insulation or energy conversion by

(i) the taxpayer, other than a married taxpayer or a taxpayer who is in a common-law partnership who resided with the taxpayer's spouse or common-law partner at the time the grant was received and whose income for the year is less than the taxpayer's spouse's or common-law partner's income for the year, or

(ii) the spouse or common-law partner of the taxpayer with whom the taxpayer resided at the time the grant was received, if the spouse's or common-law partner's income for the year is less than the taxpayer's income for the year

to the extent that the amount is not required by paragraph 12(1)(u) to be included in computing the taxpayer's or the taxpayer's spouse's or common-law partner's income for the year or a subsequent year;

Registered retirement income fund

(t) amounts in respect of a registered retirement income fund required by section 146.3 to be included in computing the taxpayer's income for the year;

Social assistance payments

(u) a social assistance payment made on the basis of a means, needs or income test and received in the year by

(i) the taxpayer, other than a married taxpayer or a taxpayer who is in a common-law partnership who resided with the taxpayer's spouse or common-law partner at the time the payment was received and whose income for the year is less than the spouse's or common-law partner's income for the year, or

(ii) the taxpayer's spouse or common-law partner, if the taxpayer resided with the spouse or common-law partner at the time the payment was received and if the spouse's or common-law partners income for the year is less than the taxpayer's income for the year,

except to the extent that the payment is otherwise required to be included in computing the income for a taxation year of the taxpayer or the taxpayer's spouse or common-law partner;

Subventions en vertu de programmes visés par règlement

s) le montant de toute subvention versée en vertu d'un programme, visé par règlement, du gouvernement du Canada concernant l'isolation thermique des maisons ou la conversion énergétique qu'a reçue au cours de l'année :

(i) soit le contribuable, si celui-ci n'est pas un contribuable marié ou vivant en union de fait qui résidait avec son époux ou conjoint de fait au moment où il a reçu la subvention et dont le revenu pour l'année est inférieur au revenu pour l'année de son époux ou conjoint de fait,

(ii) soit le conjoint du contribuable, lorsque ce conjoint résidait avec lui au moment où il a reçu la subvention et que son revenu pour l'année est inférieur au revenu pour l'année du contribuable,

dans la mesure où l'alinéa 12(1)u) n'exige pas que le montant soit inclus dans le calcul de son revenu ou de celui de son époux ou conjoint de fait pour l'année ou pour une année ultérieure;

Fonds enregistré de revenu de retraite

t) les sommes relatives à un fonds enregistré de revenu de retraite qui doivent, en vertu de l'article 146.3, être incluses dans le calcul du revenu du contribuable pour l'année;

Prestation d'assistance sociale

u) la prestation d'assistance sociale payée après examen des ressources, des besoins et du revenu et reçue au cours de l'année par une des personnes suivantes, sauf dans la mesure où elle est à inclure par ailleurs

Workers' compensation

(v) compensation received under an employees' or workers' compensation law of Canada or a province in respect of an injury, a disability or death;

Salary deferral arrangement

(w) the total of all amounts each of which is an amount received by the taxpayer as a benefit (other than an amount received by or from a trust governed by a salary deferral arrangement) in the year out of or under a salary deferral arrangement in respect of a person other than the taxpayer except to the extent that the amount, or another amount that may reasonably be considered to relate thereto, has been included in computing the income of that other person for the year or for any preceding taxation year;

Retirement compensation arrangement

(x) any amount, including a return of contributions, received in the year by the taxpayer or another person, other than an amount required to be included in that other person's income for a taxation year under paragraph 12(1)(n.3), out of or under a retirement compensation arrangement that can reasonably be considered to have been received in respect of an office or employment of the taxpayer;

Idem

(y) any amount received or that became receivable in the year by the taxpayer as proceeds from the disposition of an interest in a retirement compensation arrangement;

Idem

(z) the total of all amounts, including a return of contributions, each of which is an amount received in the year by the taxpayer out of or under a retirement compensation arrangement that can reasonably be considered to have been received in respect of an office or employment of a person other than the taxpayer, except to the extent that the amount was required

(i) under paragraph 12(1)(n.3) to be included in computing the taxpayer's income for a taxation year, or

(ii) under paragraph 56(1)(x) or subsection 70(2) to be included in computing the income for the year of a person resident in Canada other than the taxpayer;

Value of benefits

(z.1) the value of benefits received or enjoyed by any person in the year in respect of workshops, seminars, training programs and similar development programs

dans le calcul du revenu de ces personnes pour une année d'imposition :

(i) le contribuable, à l'exclusion d'un contribuable marié ou vivant en union de fait qui habite avec son époux ou conjoint de fait au moment de la réception du paiement et dont le revenu pour l'année est inférieur à celui de son époux ou conjoint de fait pour l'année,

(ii) l'époux ou conjoint de fait du contribuable avec qui celui-ci habite au moment de la réception du paiement, si le revenu de l'époux ou conjoint de fait pour l'année est inférieur à celui du contribuable pour l'année;

Indemnité d'accident du travail

v) une indemnité reçue en vertu d'une loi sur les accidents du travail du Canada ou d'une province à l'égard d'une blessure, d'une invalidité ou d'un décès;

Entente d'échelonnement du traitement

w) le total des montants dont chacun représente un montant reçu par le contribuable comme avantage — à l'exclusion des montants reçus par une fiducie régissant une entente d'échelonnement du traitement et des montants reçus d'une telle fiducie — au cours de l'année dans le cadre d'une entente d'échelonnement du traitement applicable à une autre personne que le contribuable, sauf dans la mesure où ce montant ou un autre montant qu'il est raisonnable de considérer comme lié à celui-ci est ajouté dans le calcul du revenu de cette autre personne pour l'année ou pour une année d'imposition antérieure;

Convention de retraite

x) tout montant — y compris un remboursement de cotisations — versé dans le cadre d'une convention de retraite que le contribuable ou une autre personne reçoit au cours de l'année — à l'exception d'un montant qui doit être inclus dans le revenu de cette autre personne pour une année d'imposition en vertu de l'alinéa 12(1)n.3) — et qu'il est raisonnable de considérer comme se rapportant à une charge ou à un emploi du contribuable;

Idem

y) tout montant reçu ou devenu à recevoir au cours de l'année par le contribuable comme produit de disposition d'un droit sur une convention de retraite;

Idem

z) le total des montants — y compris les remboursements de cotisations — dont chacun représente un montant versé dans le cadre d'une convention de retraite que le contribuable reçoit au cours de l'année et

because of the taxpayer's membership in a registered national arts service organization;

Employee life and health trust

(z.2) the total of all amounts, each of which is an amount received in the year by the taxpayer that is required to be included in income under subsection 144.1(11) except to the extent that the amount was required under subsection 70(2) to be included in computing the income for the year by the taxpayer or other person resident in Canada;

Pooled registered pension plan

(z.3) any amount required by section 147.5 to be included in computing the taxpayer's income for the year; and

Tax informant program

(z.4) any amount received in the year by the taxpayer under a contract, to provide information to the Canada Revenue Agency, entered into by the taxpayer under a program administered by the Canada Revenue Agency to obtain information relating to tax non-compliance.

qu'il est raisonnable de considérer comme se rapportant à une charge ou à un emploi d'une autre personne que le contribuable, sauf dans la mesure où le montant doit :

(i) selon l'alinéa 12(1)n.3), être inclus dans le calcul du revenu du contribuable pour une année d'imposition,

(ii) selon l'alinéa x) ou le paragraphe 70(2), être inclus dans le calcul du revenu pour l'année d'une autre personne que le contribuable, qui réside au Canada;

Valeur des avantages

z.1) la valeur des avantages qu'une personne reçoit au cours de l'année, ou dont elle jouit, relativement à des ateliers, des colloques, des programmes de formation et des programmes de perfectionnement semblables, du fait qu'elle est membre d'un organisme agréé de services nationaux dans le domaine des arts;

Fiducie de soins de santé au bénéfice d'employés

z.2) le total des sommes dont chacune représente une somme reçue par le contribuable au cours de l'année qui est à inclure dans le revenu en application du paragraphe 144.1(11), sauf dans la mesure où elle était à inclure, en application du paragraphe 70(2), dans le calcul du revenu pour l'année du contribuable ou d'une autre personne résidant au Canada;

Régime de pension agréé collectif

z.3) toute somme à inclure, en application de l'article 147.5, dans le calcul du revenu du contribuable pour l'année;

Programme de dénonciateurs de l'inobservation fiscale

z.4) toute somme que le contribuable reçoit au cours de l'année aux termes d'un contrat pour la fourniture de renseignements à l'Agence du revenu du Canada qu'il a conclu dans le cadre d'un programme administré par l'Agence du revenu du Canada qui permet d'obtenir des renseignements concernant l'inobservation fiscale.

Application of s. 12.2(11)

(1.1) The definitions in subsection 12.2(11) apply to paragraph 56(1)(d).

Indirect payments

(2) A payment or transfer of property made pursuant to the direction of, or with the concurrence of, a taxpayer to another person for the benefit of the taxpayer or as a benefit that the taxpayer desired to have conferred on the

Application du par. 12.2(11)

(1.1) Les définitions figurant au paragraphe 12.2(11) s'appliquent à l'alinéa (1)d).

Paiements indirects

(2) Tout paiement ou transfert de biens fait, suivant les instructions ou avec l'accord d'un contribuable, à une autre personne au profit du contribuable ou à titre d'avantage que le contribuable désirait voir accorder à

other person (other than by an assignment of any portion of a retirement pension under section 65.1 of the *Canada Pension Plan* or a comparable provision of a provincial pension plan as defined in section 3 of that Act) shall be included in computing the taxpayer's income to the extent that it would be if the payment or transfer had been made to the taxpayer.

Exemption for scholarships, fellowships, bursaries and prizes

(3) For the purpose of subparagraph (1)(n)(ii), a taxpayer's scholarship exemption for a taxation year is the total of

(a) the total of all amounts each of which is the amount included under subparagraph (1)(n)(i) in computing the taxpayer's income for the taxation year in respect of a scholarship, fellowship or bursary received in connection with the taxpayer's enrolment

(i) in an educational program in respect of which the taxpayer is a *qualifying student* (as defined in subsection 118.6(1)) in the taxation year, in the immediately preceding taxation year or in the following taxation year, or

(ii) in an elementary or secondary school educational program,

(b) the total of all amounts each of which is the lesser of

(i) the amount included under subparagraph (1)(n)(i) in computing the taxpayer's income for the taxation year in respect of a scholarship, fellowship, bursary or prize that is to be used by the taxpayer in the production of a literary, dramatic, musical or artistic work, and

(ii) the total of all amounts each of which is an expense incurred by the taxpayer in the taxation year for the purpose of fulfilling the conditions under which the amount described in subparagraph (i) was received, other than

(A) personal or living expenses of the taxpayer (except expenses in respect of travel, meals and lodging incurred by the taxpayer in the course of fulfilling those conditions and while absent from the taxpayer's usual place of residence for the period to which the scholarship, fellowship, bursary or prize, as the case may be, relates),

(B) expenses for which the taxpayer is entitled to be reimbursed, and

l'autre personne — sauf la cession d'une partie d'une pension de retraite conformément à l'article 65.1 du *Régime de pensions du Canada* ou à une disposition comparable d'un régime provincial de pensions au sens de l'article 3 de cette loi — est inclus dans le calcul du revenu du contribuable dans la mesure où il le serait si ce paiement ou transfert avait été fait au contribuable.

Exemption pour bourses d'études, bourses de perfectionnement (fellowships) ou récompenses

(3) Pour l'application du sous-alinéa (1)n)(ii), l'exemption pour bourses d'études d'un contribuable pour une année d'imposition correspond au total des sommes suivantes :

a) le total des sommes représentant chacune la somme incluse en application du sous-alinéa (1)n)(i) dans le calcul du revenu du contribuable pour l'année au titre d'une bourse d'études ou d'une bourse de perfectionnement (*fellowship*) reçue relativement à son inscription :

(i) soit à un programme d'études relativement auquel le contribuable est un ***étudiant admissible***, au sens du paragraphe 118.6(1), au cours de l'année, de l'année d'imposition précédente ou de l'année d'imposition subséquente,

(ii) soit à un programme d'études d'une école primaire ou secondaire;

b) le total des sommes représentant chacune la moins élevée des sommes suivantes :

(i) la somme incluse en application du sous-alinéa (1)n)(i) dans le calcul du revenu du contribuable pour l'année au titre d'une bourse d'études, d'une bourse de perfectionnement (*fellowship*) ou d'une récompense dont il doit se servir dans la production d'une œuvre littéraire, dramatique, musicale ou artistique,

(ii) le total des sommes représentant chacune une dépense engagée par le contribuable au cours de l'année en vue de remplir les conditions aux termes desquelles la somme visée au sous-alinéa (i) a été reçue, à l'exception des dépenses suivantes :

(A) ses frais personnels ou de subsistance, sauf ses frais de déplacement, de repas et de logement engagés en vue de remplir ces conditions, pendant qu'il était absent de son lieu de résidence habituel pour la période visée par la bourse d'études, la bourse de perfectionnement (*fellowship*) ou la récompense,

(C) expenses that are otherwise deductible in computing the taxpayer's income, and

(c) the lesser of $500 and the amount by which the total described in subparagraph (1)(n)(i) for the taxation year exceeds the total of the amounts determined under paragraphs (a) and (b).

(B) les dépenses qu'il peut se faire rembourser,

(C) les dépenses déductibles par ailleurs dans le calcul de son revenu;

c) 500 $ ou, s'il est moins élevé, l'excédent du total visé au sous-alinéa (1)n)(i) pour l'année sur le total des sommes déterminées selon les alinéas a) et b).

Limitations of scholarship exemption

(3.1) For the purpose of determining the total in paragraph (3)(a) for a taxation year,

(a) a scholarship, fellowship or bursary (in this subsection referred to as an "award") is not considered to be received in connection with the taxpayer's enrolment in an educational program described in subparagraph (3)(a)(i) except to the extent that it is reasonable to conclude that the award is intended to support the taxpayer's enrolment in the program, having regard to all the circumstances, including the terms and conditions that apply in respect of the award, the duration of the program and the period for which support is intended to be provided; and

(b) if an award is received in connection with an educational program in respect of which the taxpayer is a qualifying student because of subparagraph (a)(ii) of the definition ***qualifying student*** in subsection 118.6(1) in the taxation year, in the immediately preceding taxation year or in the following taxation year (in this paragraph referred to as the ***claim year***), the amount included under subparagraph (1)(n)(i) in computing the taxpayer's income for the taxation year in respect of the award may not exceed the amount that is the total of amounts, each of which is the cost of materials related to the program or a fee paid to a ***designated educational institution*** in respect of the program, as defined in subsection 118.6(1), in respect of the claim year.

Restrictions — exemption pour bourses d'études

(3.1) Les règles ci-après s'appliquent au calcul du total visé à l'alinéa (3)a) pour une année d'imposition :

a) une bourse d'études ou de perfectionnement (*fellowship*) (appelée « bourse » au présent paragraphe) n'est considérée comme reçue relativement à l'inscription d'un contribuable à un programme d'études visé au sous-alinéa (3)a)(i) que dans la mesure où il est raisonnable de conclure qu'elle vise à soutenir l'inscription du contribuable au programme, compte tenu des circonstances, y compris les conditions de la bourse, la durée du programme et la période pendant laquelle la bourse sert au soutien;

b) si une bourse est reçue relativement à un programme d'études relativement auquel le contribuable est un étudiant admissible, par l'effet du sous-alinéa a)(ii) de la définition de ***étudiant admissible*** au paragraphe 118.6(1), au cours de l'année, de l'année d'imposition précédente ou de l'année d'imposition subséquente (appelées ***année de la demande*** au présent alinéa), la somme incluse en application du sous-alinéa (1)n)(i) dans le calcul du revenu du contribuable pour l'année relativement à la bourse ne peut excéder le total des sommes dont chacune représente le coût du matériel lié au programme ou les frais payés à un ***établissement d'enseignement agréé***, au sens du paragraphe 118.6(1), relativement au programme pour l'année de la demande.

Transfer of rights to income

(4) Where a taxpayer has, at any time before the end of a taxation year, transferred or assigned to a person with whom the taxpayer was not dealing at arm's length the right to an amount (other than any portion of a retirement pension assigned by the taxpayer under section 65.1 of the *Canada Pension Plan* or a comparable provision of a provincial pension plan as defined in section 3 of that Act) that would, if the right had not been so transferred or assigned, be included in computing the taxpayer's income for the taxation year, the part of the amount that relates to the period in the year throughout which the taxpayer is resident in Canada shall be included in computing the taxpayer's income for the year unless the

Transfert de droits sur le revenu

(4) Lorsqu'un contribuable transfère ou cède, avant la fin d'une année d'imposition, à une personne avec laquelle il a un lien de dépendance son droit sur une somme (sauf la partie d'une pension de retraite cédée en application de l'article 65.1 du *Régime de pensions du Canada* ou d'une disposition comparable d'un régime provincial de pensions, au sens de l'article 3 de cette loi) qui serait, en l'absence du transfert ou de la cession, incluse dans le calcul de son revenu pour l'année, la partie de la somme qui se rapporte à la période de l'année tout au long de laquelle il réside au Canada est incluse dans le calcul de son revenu pour l'année, sauf si le revenu provient d'un bien qu'il a également transféré ou cédé.

income is from property and the taxpayer has also transferred or assigned the property.

Interest free or low interest loans

(4.1) Where

(a) a particular individual (other than a trust) or a trust in which the particular individual is beneficially interested has, directly or indirectly by means of a trust or by any means whatever, received a loan from or become indebted to

(i) another individual (in this subsection referred to as the "creditor") who

(A) does not deal at arm's length with the particular individual, and

(B) is not a trust, or

(ii) a trust (in this subsection referred to as the "creditor trust") to which another individual (in this subsection referred to as the "original transferor") who

(A) does not deal at arm's length with the particular individual,

(B) was resident in Canada at any time in the period during which the loan or indebtedness is outstanding, and

(C) is not a trust,

has directly or indirectly by means of a trust or by any means whatever, transferred property, and

(b) it can reasonably be considered that one of the main reasons for making the loan or incurring the indebtedness was to reduce or avoid tax by causing income from

(i) the loaned property,

(ii) property that the loan or indebtedness enabled or assisted the particular individual, or the trust in which the particular individual is beneficially interested, to acquire, or

(iii) property substituted for property referred to in subparagraph 56(4.1)(b)(i) or 56(4.1)(b)(ii)

to be included in the income of the particular individual,

the following rules apply:

Prêt sans intérêt ou à intérêt faible

(4.1) Dans le cas où:

a) d'une part, un particulier donné, sauf une fiducie, ou une fiducie dans laquelle celui-ci a un droit de bénéficiaire, directement ou indirectement au moyen d'une fiducie ou autrement, a reçu un prêt d'une des personnes suivantes ou est devenu son débiteur :

(i) un autre particulier (sauf une fiducie), appelé « créancier » au présent paragraphe et ayant un lien de dépendance avec le particulier donné,

(ii) une fiducie (appelée « fiducie créancière » au présent paragraphe) à laquelle un bien a été transféré, directement ou indirectement au moyen d'une fiducie ou autrement, par un autre particulier (sauf une fiducie), appelé « cédant initial » au présent paragraphe et ayant un lien de dépendance avec le particulier donné et résidait au Canada pendant la période au cours de laquelle le prêt ou la dette est impayé;

b) d'autre part, il est raisonnable de considérer qu'un des principaux motifs pour lesquels le prêt a été consenti ou la dette contractée consiste à réduire ou à éviter l'impôt en faisant en sorte que soit inclus dans le revenu du particulier donné le revenu provenant d'un des biens suivants :

(i) le bien prêté,

(ii) le bien que le particulier donné, ou la fiducie dans laquelle il a un droit de bénéficiaire, a pu acquérir grâce au prêt ou à la dette,

(iii) le bien substitué à l'un de ces biens,

les règles suivantes s'appliquent :

c) le revenu du particulier donné pour une année d'imposition provenant du bien visé à l'alinéa b), qui se rapporte à une ou plusieurs périodes de l'année tout au long desquelles le créancier ou la fiducie créancière réside au Canada et a un lien de dépendance avec le particulier donné, est considéré :

(i) en cas d'application du sous-alinéa a)(i), comme un revenu du créancier pour cette année et non du particulier donné, sauf dans la mesure où, selon le cas :

(c) any income of the particular individual for a taxation year from the property referred to in paragraph 56(4.1)(b) that relates to the period or periods in the year throughout which the creditor or the creditor trust, as the case may be, was resident in Canada and the particular individual was not dealing at arm's length with the creditor or the original transferor, as the case may be, shall be deemed,

(i) where subparagraph 56(4.1)(a)(i) applies, to be income of the creditor for that year and not of the particular individual except to the extent that

(A) section 74.1 applies or would, but for subsection 74.5(3), apply, or

(B) subsection 75(2) applies

to that income, and

(ii) where subparagraph 56(4.1)(a)(ii) applies, to be income of the creditor trust for that year and not of the particular individual except to the extent that

(A) subparagraph 56(4.1)(c)(i) applies,

(B) section 74.1 applies or would, but for subsection 74.5(3), apply, or

(C) subsection 75(2) applies (otherwise than because of paragraph 56(4.1)(d))

to that income; and

(d) where subsection 75(2) applies to any of the property referred to in paragraph 56(4.1)(b) and subparagraph 56(4.1)(c)(ii) applies to income from the property, subsection 75(2) applies after subparagraph 56(4.1)(c)(ii) is applied.

(A) l'article 74.1 s'applique, ou s'appliquerait compte non tenu du paragraphe 74.5(3), à ce revenu,

(B) le paragraphe 75(2) s'applique à ce revenu,

(ii) en cas d'application du sous-alinéa a)(ii), comme un revenu de la fiducie créancière pour cette année et non du particulier donné, sauf dans la mesure où, selon le cas :

(A) le sous-alinéa (i) s'applique à ce revenu,

(B) l'article 74.1 s'applique, ou s'appliquerait compte non tenu du paragraphe 74.5(3), à ce revenu,

(C) le paragraphe 75(2) s'applique à ce revenu autrement que par l'effet de l'alinéa d);

d) si le paragraphe 75(2) s'applique à un bien visé à l'alinéa b) et si le sous-alinéa c)(ii) s'applique au revenu tiré de ce bien, le paragraphe 75(2) est appliqué après le sous-alinéa c)(ii).

Exception

(4.2) Notwithstanding any other provision of this Act, subsection 56(4.1) does not apply to any income derived in a particular taxation year where

(a) interest was charged on the loan or indebtedness at a rate equal to or greater than the lesser of

(i) the prescribed rate of interest in effect at the time the loan was made or the indebtedness arose, and

(ii) the rate that would, having regard to all the circumstances, have been agreed on, at the time the loan was made or the indebtedness arose, between parties dealing with each other at arm's length;

Exception

(4.2) Malgré les autres dispositions de la présente loi, le paragraphe (4.1) ne s'applique pas au revenu obtenu pour une année d'imposition si, à la fois :

a) le prêt ou la dette porte intérêt à un taux égal ou supérieur au moins élevé des taux suivants :

(i) le taux prescrit applicable au moment où le prêt est consenti ou la dette survient,

(ii) le taux dont des parties n'ayant aucun lien de dépendance entre elles seraient convenues au moment où le prêt est consenti ou la dette survient, compte tenu des circonstances;

(b) the amount of interest that was payable in respect of the particular year in respect of the loan or indebtedness was paid not later than 30 days after the end of the particular year; and

(c) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the loan or indebtedness was paid not later than 30 days after the end of each of those preceding taxation years.

b) les intérêts payables sur le prêt ou la dette pour l'année sont payés au plus tard 30 jours après la fin de l'année;

c) les intérêts payables sur le prêt ou la dette pour chaque année d'imposition antérieure à l'année sont payés au plus tard 30 jours après la fin de cette année antérieure.

Repayment of existing indebtedness

(4.3) For the purposes of subsection 56(4.1), where at any time a particular property is used to repay, in whole or in part, a loan or indebtedness that enabled or assisted an individual to acquire another property, there shall be included in computing the income from the particular property that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the amount so repaid is of the cost to the individual of the other property, but for greater certainty nothing in this subsection shall affect the application of subsection 56(4.1) to any income or loss derived from the other property or from property substituted therefor.

Remboursement d'une dette

(4.3) Pour l'application du paragraphe (4.1), dans le cas où, à un moment donné, un bien donné sert à rembourser tout ou partie d'un prêt ou d'une dette qui a permis à un particulier d'acquérir un autre bien, est inclus dans le calcul du revenu provenant du bien donné le produit de la multiplication du revenu ou de la perte provenant, après ce moment, de l'autre bien ou d'un bien y substitué par le rapport entre le montant ainsi remboursé et le coût de l'autre bien pour le particulier. Il est entendu que le présent paragraphe n'a pas pour effet de modifier l'application du paragraphe (4.1) à un revenu ou à une perte provenant de l'autre bien ou d'un bien y substitué.

Exception for split income

(5) Subsections (2), (4) and (4.1) do not apply to any amount that is included in computing a specified individual's split income for a taxation year.

Exception — revenu fractionné

(5) Les paragraphes (2), (4) et (4.1) ne s'appliquent pas aux montants inclus dans le calcul du revenu fractionné d'un particulier déterminé pour une année d'imposition.

Child care benefit

(6) There shall be included in computing the income of a taxpayer for a taxation year the total of all amounts each of which is a benefit paid under section 4 of the *Universal Child Care Benefit Act* that is received in the taxation year by

(a) the taxpayer, if

(i) the taxpayer does not have a ***cohabiting spouse or common-law partner*** (within the meaning assigned by section 122.6) at the end of the year and the taxpayer does not make a designation under subsection (6.1) for the taxation year, or

(ii) the income, for the taxation year, of the person who is the taxpayer's cohabiting spouse or common-law partner at the end of the taxation year is equal to or greater than the income of the taxpayer for the taxation year;

(b) the taxpayer's cohabiting spouse or common-law partner at the end of the taxation year, if the income of the cohabiting spouse or common-law partner for the

Prestation universelle pour la garde d'enfants

(6) Est inclus dans le calcul du revenu d'un contribuable pour une année d'imposition le total des sommes représentant chacune une prestation versée en vertu de l'article 4 de la *Loi sur la prestation universelle pour la garde d'enfants* que reçoit, au cours de l'année :

a) le contribuable, si :

(i) il n'a pas d'époux ou de conjoint de fait visé, au sens de l'article 122.6, à la fin de l'année et n'a pas fait pour l'année la désignation prévue au paragraphe (6.1),

(ii) le revenu pour l'année de la personne qui est son époux ou conjoint de fait visé à la fin de l'année est égal ou supérieur au sien pour l'année;

b) l'époux ou le conjoint de fait visé du contribuable à la fin de l'année, si son revenu pour l'année est supérieur à celui du contribuable pour l'année;

taxation year is greater than the taxpayer's income for the taxation year; or

(c) an individual who makes a designation under subsection (6.1) in respect of the taxpayer for the taxation year.

c) tout particulier qui fait la désignation prévue au paragraphe (6.1) relativement au contribuable pour l'année.

Designation

(6.1) If, at the end of the taxation year, a taxpayer does not have a ***cohabiting spouse or common-law partner*** (within the meaning assigned by section 122.6), the taxpayer may designate, in the taxpayer's return of income for the taxation year, the total of all amounts, each of which is a benefit received in the taxation year by the taxpayer under section 4 of the *Universal Child Care Benefit Act*, to be income of

(a) if the taxpayer deducts an amount for the taxation year under subsection 118(1) because of paragraph (b) of the description of B in that subsection in respect of an individual, the individual; or

(b) in any other case, a child who is a *qualified dependant* (as defined in section 2 of the *Universal Child Care Benefit Act*) of the taxpayer.

Désignation

(6.1) Le contribuable qui, à la fin d'une année d'imposition, n'a pas d'époux ou de conjoint de fait visé, au sens de l'article 122.6, peut désigner, dans sa déclaration de revenu pour l'année, le total des sommes représentant chacune une prestation qu'il a reçue au cours de l'année en vertu de l'article 4 de la *Loi sur la prestation universelle pour la garde d'enfants* comme étant le revenu de l'une ou l'autre des personnes suivantes :

a) si le contribuable déduit pour l'année, en application de l'alinéa 118(1)b) de la Loi, une somme relative à un particulier, ce particulier;

b) dans les autres cas, tout enfant qui est une personne à charge admissible, au sens de l'article 2 de la *Loi sur la prestation universelle pour la garde d'enfants*, du contribuable.

(7) [Repealed, 1994, c. 7, Sch. VII, s. 1]

(7) [Abrogé, 1994, ch. 7, ann VII, art. 1]

CPP/QPP and UCCB amounts for previous years

(8) Notwithstanding subsections (1) and (6), if

(a) one or more amounts

(i) are received by an individual (other than a trust) in a taxation year as, on account of, in lieu of payment of or in satisfaction of, any benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act, or

(ii) would be, but for this subsection, included in computing the income of an individual for a taxation year under subsection (6), and

(b) a portion, not less than $300, of the total of those amounts relates to one or more preceding taxation years,

that portion shall, at the option of the individual, not be included in the individual's income.

Prestations du RPC/RRQ pour années antérieures

(8) Malgré les paragraphes (1) et (6), dans le cas où une ou plusieurs sommes sont reçues par un particulier (sauf une fiducie) au cours d'une année d'imposition au titre ou en paiement intégral ou partiel d'une prestation prévue par le *Régime de pensions du Canada* ou par un régime provincial de pensions au sens de l'article 3 de cette loi ou seraient incluses, en l'absence du présent paragraphe, dans le calcul de son revenu pour une année d'imposition en application du paragraphe (6) et qu'une partie d'au moins 300 $ du total de ces sommes se rapporte à une ou plusieurs années d'imposition antérieures, le particulier n'a pas à inclure cette partie dans son revenu, s'il en fait le choix.

Meaning of *income for the year*

(9) For the purposes of paragraphs 56(1)(s) and 56(1)(u), ***income for the year*** of a person means the amount that would, but for those paragraphs, paragraphs 60(v.1) and 60(w) and section 63, be the income of that person for the year.

Revenu pour l'année

(9) Pour l'application des alinéas (1)s) et u), le revenu d'une personne pour l'année correspond au montant qui, sans ces alinéas, les alinéas 60v.1) et w) et l'article 63, constituerait son revenu pour l'année.

Meaning of *income*

(9.1) For the purposes of subsection (6), ***income*** of a person for a taxation year means the amount that would, in the absence of that subsection, paragraphs (1)(s) and (u) and 60(v.1), (w) and (y) and section 63, be the income of the person for the taxation year.

Severability of retirement compensation arrangement

(10) Where a retirement compensation arrangement is part of a plan or arrangement (in this subsection referred to as the "plan") under which amounts not related to the retirement compensation arrangement are payable or provided, for the purposes of this Act, other than this subsection,

(a) the retirement compensation arrangement shall be deemed to be a separate arrangement independent of other parts of the plan of which it is a part; and

(b) subject to subsection 6(14), amounts paid out of or under the plan shall be deemed to have first been paid out of the retirement compensation arrangement unless a provision in the plan otherwise provides.

Disposition of property by RCA trust

(11) For the purposes of paragraphs 56(1)(x) and 56(1)(z), where, at any time in a year, a trust governed by a retirement compensation arrangement

(a) disposes of property to a person for consideration less than the fair market value of the property at the time of the disposition, or for no consideration,

(b) acquires property from a person for consideration greater than the fair market value of the property at the time of the acquisition, or

(c) permits a person to use or enjoy property of the trust for no consideration or for consideration less than the fair market value of such use or enjoyment,

the amount, if any, by which the fair market value differs from the consideration or, if there is no consideration, the amount of the fair market value shall be deemed to be an amount received at that time by the person out of or under the arrangement that can reasonably be considered to have been received in respect of an office or employment of a taxpayer.

Foreign retirement arrangement

(12) If an amount in respect of a foreign retirement arrangement is, as a result of a transaction, an event or a

Revenu

(9.1) Pour l'application du paragraphe (6), le revenu d'une personne pour une année d'imposition correspond à la somme qui, en l'absence de ce paragraphe, des alinéas (1)s) et u) et 60v.1), w) et y) et de l'article 63, constituerait son revenu pour l'année.

Convention de retraite comme régime distinct

(10) Dans le cas où une convention de retraite fait partie d'un régime ou mécanisme — appelé « régime » au présent paragraphe — en vertu duquel des montants ne se rapportant pas à la convention sont payables ou prévus, pour l'application de la présente loi, compte non tenu du présent paragraphe :

a) la convention de retraite est réputée être un mécanisme distinct, indépendant des autres parties du régime;

b) sous réserve du paragraphe 6(14), les montants payés provenant du régime sont réputés provenir d'abord de la convention de retraite, sauf disposition contraire du régime.

Disposition d'un bien par une fiducie de convention de retraite

(11) Pour l'application des alinéas (1)x) et z), est réputée être un montant versé dans le cadre d'une convention de retraite que la personne reçoit au moment où un des cas suivants se produit et qu'il est raisonnable de considérer comme se rapportant à une charge ou à un emploi d'un contribuable la différence éventuelle entre la juste valeur marchande et la contrepartie ci-après ou, à défaut de contrepartie, la juste valeur marchande :

a) une fiducie prévue par une convention de retraite dispose d'un bien en faveur d'une personne sans contrepartie ou en contrepartie d'un montant inférieur à la juste valeur marchande du bien au moment de la disposition;

b) une telle fiducie acquiert un bien auprès d'une personne en contrepartie d'un montant supérieur à la juste valeur marchande du bien au moment de l'acquisition;

c) une telle fiducie permet à une personne d'utiliser un bien de la fiducie ou d'en jouir sans contrepartie ou en contrepartie d'un montant inférieur à la juste valeur marchande correspondant à cette utilisation ou jouissance.

Mécanisme de retraite étranger

(12) La somme relative à un mécanisme de retraite étranger qui, par suite d'une opération, d'un événement

circumstance, considered to be distributed to an individual under the income tax laws of the country in which the arrangement is established, the amount is, for the purpose of paragraph (1)(a), deemed to be received by the individual as a payment out of the arrangement in the taxation year that includes the time of the transaction, event or circumstance.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 56; 1994, c. 7, Sch. II, s. 32, Sch. III, s. 13(E), Sch. VII, s. 1, Sch. VIII, s. 17, c. 21, s. 25; 1996, c. 11, s. 99, c. 23, ss. 172, 187; 1997, c. 25, s. 8; 1998, c. 19, ss. 9, 97; 1999, c. 22, s. 15; 2000, c. 12, s. 142, c. 19, s. 6; 2001, c. 17, s. 39; 2002, c. 9, s. 24; 2006, c. 4, s. 173; 2007, c. 2, s. 6, c. 29, s. 3, c. 35, ss. 17, 104; 2009, c. 2, s. 13; 2010, c. 12, s. 4, c. 25, s. 9; 2011, c. 24, s. 10; 2012, c. 19, s. 277, c. 27, ss. 26, 36, c. 31, s. 11; 2013, c. 34, s. 194, c. 40, ss. 25, 236, 237; 2014, c. 20, s. 2; 2016, c. 7, s. 6.

ou de circonstances, est considérée comme ayant été versée à un particulier aux termes de la législation fiscale du pays où le mécanisme est établi est réputée, pour l'application de l'alinéa (1)a), être reçue par le particulier à titre de paiement provenant du mécanisme au cours de l'année d'imposition qui comprend le moment de l'opération, de l'événement ou des circonstances.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 56; 1994, ch. 7, ann. II, art. 32, ann. III, art. 13(A), ann. VII, art. 1, ann. VIII, art. 17, ch. 21, art. 25; 1996, ch. 11, art. 99, ch. 23, art. 172 et 187; 1997, ch. 25, art. 8; 1998, ch. 19, art. 9 et 97; 1999, ch. 22, art. 15; 2000, ch. 12, art. 142, ch. 19, art. 6; 2001, ch. 17, art. 39; 2002, ch. 9, art. 24; 2006, ch. 4, art. 173; 2007, ch. 2, art. 6, ch. 29, art. 3, ch. 35, art. 17 et 104; 2009, ch. 2, art. 13; 2010, ch. 12, art. 4, ch. 25, art. 9; 2011, ch. 24, art. 10; 2012, ch. 19, art. 277, ch. 27, art. 26 et 36, ch. 31, art. 11; 2013, ch. 34, art. 194, ch. 40, art. 25, 236 et 237; 2014, ch. 20, art. 2; 2016, ch. 7, art. 6.

Support

56.1 (1) For the purposes of paragraph 56(1)(b) and subsection 118(5), where an order or agreement, or any variation thereof, provides for the payment of an amount to a taxpayer or for the benefit of the taxpayer, children in the taxpayer's custody or both the taxpayer and those children, the amount or any part thereof

(a) when payable, is deemed to be payable to and receivable by the taxpayer; and

(b) when paid, is deemed to have been paid to and received by the taxpayer.

Pension alimentaire

56.1 (1) Pour l'application de l'alinéa 56(1)b) et du paragraphe 118(5), dans le cas où une ordonnance ou un accord, ou une modification s'y rapportant, prévoit le paiement d'un montant à un contribuable ou à son profit, au profit d'enfants confiés à sa garde ou à la fois au profit du contribuable et de ces enfants, le montant ou une partie de celui-ci est réputé :

a) une fois payable, être payable au contribuable et à recevoir par lui;

b) une fois payé, avoir été payé au contribuable et reçu par lui.

Agreement

(2) For the purposes of section 56, this section and subsection 118(5), the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount (other than an amount that is otherwise a support amount) that became payable by a person in a taxation year, under an order of a competent tribunal or under a written agreement, in respect of an expense (other than an expenditure in respect of a self-contained domestic establishment in which the person resides or an expenditure for the acquisition of tangible property, or for civil law corporeal property, that is not an expenditure on account of a medical or education expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the taxpayer described in paragraph (a) or (b) resides) incurred in the year or the preceding taxation year for the maintenance of a taxpayer, children in the taxpayer's custody or both the taxpayer and those children, if the taxpayer is

Entente

(2) Pour l'application de l'article 56, du présent article et du paragraphe 118(5), le résultat du calcul suivant :

A - B

où :

A représente le total des montants représentant chacun un montant (sauf celui qui constitue par ailleurs une pension alimentaire) qui est devenu payable par une personne au cours d'une année d'imposition, aux termes de l'ordonnance d'un tribunal compétent ou d'un accord écrit, au titre d'une dépense (sauf la dépense relative à un établissement domestique autonome que la personne habite ou une dépense pour l'acquisition de biens tangibles ou, pour l'application du droit civil, de biens corporels qui n'est pas une dépense au titre de frais médicaux ou d'études ni une dépense en vue de l'acquisition, de l'amélioration ou de l'entretien d'un établissement domestique autonome que le contribuable visé aux alinéas a) ou b) habite) engagée au cours de l'année ou de l'année d'imposition précédente pour subvenir aux besoins d'un contribuable, d'enfants confiés à sa garde ou à la fois du contribuable et de ces enfants, dans le cas où le contribuable est :

(a) the person's spouse or common-law partner or former spouse or common-law partner, or

(b) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, an individual who is the parent of a child of whom the person is a legal parent,

and

B is the amount, if any, by which

(a) the total of all amounts each of which is an amount included in the total determined for A in respect of the acquisition or improvement of a self-contained domestic establishment in which the taxpayer resides, including any payment of principal or interest in respect of a loan made or indebtedness incurred to finance, in any manner whatever, such acquisition or improvement

exceeds

(b) the total of all amounts each of which is an amount equal to 1/5 of the original principal amount of a loan or indebtedness described in paragraph (a),

is, where the order or written agreement, as the case may be, provides that this subsection and subsection 60.1(2) shall apply to any amount paid or payable thereunder, deemed to be an amount payable to and receivable by the taxpayer as an allowance on a periodic basis, and the taxpayer is deemed to have discretion as to the use of that amount.

a) l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait de la personne,

b) si le montant est devenu payable en vertu de l'ordonnance d'un tribunal compétent rendue en conformité avec les lois d'une province, un particulier qui est le parent, père ou mère, d'un enfant dont cette personne est légalement l'autre parent;

B l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentant chacun un montant inclus dans le total calculé selon l'élément A relativement à l'acquisition ou à l'amélioration d'un établissement domestique autonome dans lequel le contribuable habite, y compris un paiement de principal ou d'intérêts sur un emprunt ou une dette contracté en vue de financer, de quelque manière que ce soit, l'acquisition ou l'amélioration,

b) le total des montants correspondant chacun à 1/5 du principal initial d'un emprunt ou d'une dette visés à l'alinéa a),

est réputé, lorsque l'ordonnance ou l'accord écrit prévoit que le présent paragraphe et le paragraphe 60.1(2) s'appliquent à un montant payé ou payable à leur titre, être un montant payable au contribuable et à recevoir par lui à titre d'allocation périodique, qu'il peut utiliser à sa discrétion.

Prior payments

(3) For the purposes of this section and section 56, where a written agreement or order of a competent tribunal made at any time in a taxation year provides that an amount received before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder,

(a) the amount is deemed to have been received thereunder; and

(b) the agreement or order is deemed, except for the purpose of this subsection, to have been made on the day on which the first such amount was received, except that, where the agreement or order is made after April 1997 and varies a child support amount payable to the recipient from the last such amount received by the recipient before May 1997, each varied amount of child support received under the agreement or order is deemed to have been receivable under an agreement or order the commencement day of which is the day

Paiements antérieurs

(3) Pour l'application du présent article et de l'article 56, lorsqu'un accord écrit ou l'ordonnance d'un tribunal compétent, établi à un moment d'une année d'imposition, prévoit qu'un montant reçu avant ce moment et au cours de l'année ou de l'année d'imposition précédente est considéré comme payé et reçu au titre de l'accord ou de l'ordonnance, les présomptions suivantes s'appliquent :

a) le montant est réputé avoir été reçu au titre de l'accord ou de l'ordonnance;

b) l'accord ou l'ordonnance est réputé, sauf pour l'application du présent paragraphe, avoir été établi le jour où un tel montant est reçu pour la première fois. Toutefois, lorsque l'accord ou l'ordonnance est établi après avril 1997 et modifie un montant de pension alimentaire pour enfants payable au bénéficiaire par rapport au dernier semblable montant qu'il a reçu avant mai 1997, chaque montant modifié de pension alimentaire pour enfants reçu aux termes de l'accord ou de

on which the first payment of the varied amount is required to be made.

Definitions

(4) The definitions in this subsection apply in this section and section 56.

child support amount means any support amount that is not identified in the agreement or order under which it is receivable as being solely for the support of a recipient who is a spouse or common-law partner or former spouse or common-law partner of the payer or who is a parent of a child of whom the payer is a legal parent. (*pension alimentaire pour enfants*)

commencement day at any time of an agreement or order means

(a) where the agreement or order is made after April 1997, the day it is made; and

(b) where the agreement or order is made before May 1997, the day, if any, that is after April 1997 and is the earliest of

(i) the day specified as the commencement day of the agreement or order by the payer and recipient under the agreement or order in a joint election filed with the Minister in prescribed form and manner,

(ii) where the agreement or order is varied after April 1997 to change the child support amounts payable to the recipient, the day on which the first payment of the varied amount is required to be made,

(iii) where a subsequent agreement or order is made after April 1997, the effect of which is to change the total child support amounts payable to the recipient by the payer, the commencement day of the first such subsequent agreement or order, and

(iv) the day specified in the agreement or order, or any variation thereof, as the commencement day of the agreement or order for the purposes of this Act. (*date d'exécution*)

support amount means an amount payable or receivable as an allowance on a periodic basis for the maintenance of the recipient, children of the recipient or both the recipient and children of the recipient, if the recipient has discretion as to the use of the amount, and

l'ordonnance est réputé avoir été à recevoir aux termes d'un accord ou d'une ordonnance dont la date d'exécution correspond au jour où le montant modifié est à verser pour la première fois.

Définitions

(4) Les définitions qui suivent s'appliquent au présent article et à l'article 56.

date d'exécution Quant à un accord ou une ordonnance :

a) si l'accord ou l'ordonnance est établi après avril 1997, la date de son établissement;

b) si l'accord ou l'ordonnance est établi avant mai 1997, le premier en date des jours suivants, postérieur à avril 1997:

(i) le jour précisé par le payeur et le bénéficiaire aux termes de l'accord ou de l'ordonnance dans un choix conjoint présenté au ministre sur le formulaire et selon les modalités prescrits,

(ii) si l'accord ou l'ordonnance fait l'objet d'une modification après avril 1997 touchant le montant de la pension alimentaire pour enfants qui est payable au bénéficiaire, le jour où le montant modifié est à verser pour la première fois,

(iii) si un accord ou une ordonnance subséquent est établi après avril 1997 et a pour effet de changer le total des montants de pension alimentaire pour enfants qui sont payables au bénéficiaire par le payeur, la date d'exécution du premier semblable accord ou de la première semblable ordonnance,

(iv) le jour précisé dans l'accord ou l'ordonnance, ou dans toute modification s'y rapportant, pour l'application de la présente loi. (*commencement day*)

pension alimentaire Montant payable ou à recevoir à titre d'allocation périodique pour subvenir aux besoins du bénéficiaire, d'enfants de celui-ci ou à la fois du bénéficiaire et de ces enfants, si le bénéficiaire peut utiliser le montant à sa discrétion et, selon le cas :

a) le bénéficiaire est l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait du payeur et vit séparé de celui-ci pour cause d'échec de leur mariage ou union de fait et le montant est à recevoir aux termes de l'ordonnance d'un tribunal compétent ou d'un accord écrit;

(a) the recipient is the spouse or common-law partner or former spouse or common-law partner of the payer, the recipient and payer are living separate and apart because of the breakdown of their marriage or common-law partnership and the amount is receivable under an order of a competent tribunal or under a written agreement; or

(b) the payer is a legal parent of a child of the recipient and the amount is receivable under an order made by a competent tribunal in accordance with the laws of a province. (*pension alimentaire*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 56.1; 1994, c. 7, Sch. VIII, s. 18, c. 21, s. 134; 1997, c. 25, s. 9; 1998, c. 19, s. 98(F), s. 307; 2000, c. 12, s. 142; 2005, c. 33, s. 10; 2013, c. 34, s. 108.

b) le payeur est légalement le père ou la mère d'un enfant du bénéficiaire et le montant est à recevoir aux termes de l'ordonnance d'un tribunal compétent rendue en conformité avec les lois d'une province. (*support amount*)

pension alimentaire pour enfants Pension alimentaire qui, d'après l'accord ou l'ordonnance aux termes duquel elle est à recevoir, n'est pas destinée uniquement à subvenir aux besoins d'un bénéficiaire qui est soit l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait du payeur, soit le parent, père ou mère, d'un enfant dont le payeur est légalement l'autre parent. (*child support amount*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 56.1; 1994, ch. 7, ann. VIII, art. 18, ch. 21, art. 134; 1997, ch. 25, art. 9; 1998, ch. 19, art. 98(F) et 307; 2000, ch. 12, art. 142; 2005, ch. 33, art. 10; 2013, ch. 34, art. 108.

Reserve claimed for debt forgiveness

56.2 There shall be included in computing an individual's income for a taxation year during which the individual was not a bankrupt the amount, if any, deducted under section 61.2 in computing the individual's income for the preceding taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 19.

Provision pour remise de dette — particuliers

56.2 Est à inclure dans le calcul du revenu d'un particulier pour une année d'imposition au cours de laquelle il n'est pas un failli le montant déduit en application de l'article 61.2 dans le calcul de son revenu pour l'année d'imposition précédente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 19.

Reserve claimed for debt forgiveness

56.3 There shall be included in computing a taxpayer's income for a taxation year during which the taxpayer was not a bankrupt the amount, if any, deducted under section 61.4 in computing the taxpayer's income for the preceding taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 19.

Provision pour remise de dette — contribuables

56.3 Est à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition au cours de laquelle il n'est pas un failli le montant déduit en application de l'article 61.4 dans le calcul de son revenu pour l'année d'imposition précédente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 19.

Restrictive Covenants

Clauses restrictives

Definitions

56.4 (1) The following definitions apply in this section.

eligible corporation, of a taxpayer, means a taxable Canadian corporation of which the taxpayer holds, directly or indirectly, shares of the capital stock. (*société admissible*)

eligible individual, in respect of a vendor, at any time means an individual (other than a trust) who is related to the vendor and who has attained the age of 18 years at or before that time. (*particulier admissible*)

eligible interest, of a taxpayer, means capital property of the taxpayer that is

(a) a partnership interest in a partnership that carries on a business;

Définitions

56.4 (1) Les définitions qui suivent s'appliquent au présent article.

clause restrictive En ce qui concerne un contribuable, accord, engagement ou renonciation à un avantage ou à un droit, ayant force exécutoire ou non, qui est conclu, pris ou consenti par lui et qui influe, ou vise à influer, de quelque manière que ce soit, sur l'acquisition ou la fourniture de biens ou de services par lui ou par un autre contribuable avec lequel il a un lien de dépendance, à l'exception d'un accord ou d'un engagement qui, selon le cas :

a) dispose des biens du contribuable;

b) a pour objet l'exécution d'une obligation visée à l'article 49.1 qui ne constitue pas une disposition, sauf

(b) a share of the capital stock of a corporation that carries on a business; or

(c) a share of the capital stock of a corporation 90% or more of the fair market value of which is attributable to eligible interests in one other corporation. (*participation admissible*)

goodwill amount, of a taxpayer, is an amount the taxpayer has or may become entitled to receive that would, if this Act were read without reference to this section, be required to be included in the proceeds of disposition of a property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, or is an amount to which subsection 13(38) applies, in respect of a business carried on by the taxpayer through a permanent establishment located in Canada. (*montant pour achalandage*)

permanent establishment means a permanent establishment as defined for the purpose of subsection 16.1(1). (*établissement stable*)

restrictive covenant, of a taxpayer, means an agreement entered into, an undertaking made, or a waiver of an advantage or right by the taxpayer, whether legally enforceable or not, that affects, or is intended to affect, in any way whatever, the acquisition or provision of property or services by the taxpayer or by another taxpayer that does not deal at arm's length with the taxpayer, other than an agreement or undertaking

(a) that disposes of the taxpayer's property; or

(b) that is in satisfaction of an obligation described in section 49.1 that is not a disposition except where the obligation being satisfied is in respect of a right to property or services that the taxpayer acquired for less than its fair market value. (*clause restrictive*)

taxpayer includes a partnership. (*contribuable*)

si l'obligation se rapporte à un droit sur des biens ou des services que le contribuable a acquis pour une somme inférieure à leur juste valeur marchande. (*restrictive covenant*)

contribuable Y sont assimilées les sociétés de personnes. (*taxpayer*)

établissement stable S'entend au sens qui est donné à ce terme pour l'application du paragraphe 16.1(1). (*permanent establishment*)

montant pour achalandage Est le montant pour achalandage d'un contribuable la somme qu'il a reçue ou peut devenir en droit de recevoir qui serait, en l'absence du présent article, à inclure dans le produit de disposition d'un bien compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu*, ou une somme à laquelle le paragraphe 13(38) s'applique, relativement à une entreprise qu'il exploite par l'entremise d'un établissement stable situé au Canada. (*goodwill amount*)

participation admissible Immobilisation d'un contribuable qui est :

a) une participation dans une société de personnes qui exploite une entreprise;

b) une action du capital-actions d'une société qui exploite une entreprise;

c) une action du capital-actions d'une société dont au moins 90 % de la juste valeur marchande est attribuable à des participations admissibles dans une autre société. (*eligible interest*)

particulier admissible S'entend, relativement à un vendeur à un moment donné, d'un particulier, à l'exception d'une fiducie, qui est lié au vendeur et qui est âgé d'au moins 18 ans à ce moment. (*eligible individual*)

société admissible Est une société admissible d'un contribuable toute société canadienne imposable dont il détient, directement ou indirectement, des actions du capital-actions. (*eligible corporation*)

Income — restrictive covenants

(2) There is to be included in computing a taxpayer's income for a taxation year the total of all amounts each of which is an amount in respect of a restrictive covenant of the taxpayer that is received or receivable in the taxation year by the taxpayer or by a taxpayer with whom the taxpayer does not deal at arm's length (other than an amount that has been included in computing the taxpayer's income because of this subsection for a preceding taxation year or in the taxpayer's eligible corporation's

Revenu — clause restrictive

(2) Est à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition le total des sommes dont chacune a trait à une clause restrictive du contribuable et est reçue ou à recevoir au cours de l'année par le contribuable ou par un contribuable avec lequel il a un lien de dépendance, à l'exception de toute somme qui a été incluse soit dans le calcul du revenu du contribuable par l'effet du présent paragraphe pour une année d'imposition antérieure, soit dans le revenu de la société

income because of this subsection for the taxation year or a preceding taxation year).

Non-application of subsection (2)

(3) Subsection (2) does not apply to an amount received or receivable by a particular taxpayer in a taxation year in respect of a restrictive covenant granted by the particular taxpayer to another taxpayer (referred to in this subsection and subsection (4) as the "purchaser") with whom the particular taxpayer deals at arm's length (determined without reference to paragraph 251(5)(b)), if

(a) section 5 or 6 applied to include the amount in computing the particular taxpayer's income for the taxation year or would have so applied if the amount had been received in the taxation year;

(b) the amount would, if this Act were read without reference to this section, be required to be included in the proceeds of disposition of a property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, or is an amount to which subsection 13(38) applies, in respect of the business to which the restrictive covenant relates, and the particular taxpayer elects (or if the amount is payable by the purchaser in respect of a business carried on in Canada by the purchaser, the particular taxpayer and the purchaser jointly elect) in prescribed form to apply this paragraph in respect of the amount; or

(c) subject to subsection (9), the amount directly relates to the particular taxpayer's disposition of property that is, at the time of the disposition, an eligible interest in the partnership or corporation that carries on the business to which the restrictive covenant relates, or that is at that time an eligible interest by virtue of paragraph (c) of the definition ***eligible interest*** in subsection (1) where the other corporation referred to in that paragraph carries on the business to which the restrictive covenant relates, and

(i) the disposition is to the purchaser (or to a person related to the purchaser),

(ii) the amount is consideration for an undertaking by the particular taxpayer not to provide, directly or indirectly, property or services in competition with the property or services provided or to be provided by the purchaser (or by a person related to the purchaser),

(iii) the restrictive covenant may reasonably be considered to have been granted to maintain or preserve the value of the eligible interest disposed of to the purchaser;

admissible du contribuable par l'effet du présent paragraphe pour l'année ou pour une année d'imposition antérieure.

Non-application du paragraphe (2)

(3) Le paragraphe (2) ne s'applique pas à la somme reçue ou à recevoir par un contribuable donné au cours d'une année d'imposition au titre d'une clause restrictive qu'il a accordée à un autre contribuable (appelé « acheteur » au présent paragraphe et au paragraphe (4)) avec lequel il n'a aucun lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) si l'un des faits ci-après se vérifie :

a) la somme a été incluse, en application des articles 5 ou 6, dans le calcul du revenu du contribuable donné pour l'année, ou l'aurait été si elle avait été reçue au cours de cette année;

b) la somme serait, en l'absence du présent article, à inclure dans le produit de disposition d'un bien compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu*, ou est une somme à laquelle le paragraphe 13(38) s'applique, relativement à l'entreprise à laquelle la clause restrictive se rapporte, et le contribuable donné fait le choix sur le formulaire prescrit, à titre individuel ou conjointement avec l'acheteur si la somme est payable par ce dernier relativement à une entreprise qu'il exploite au Canada, d'appliquer le présent alinéa relativement à la somme;

c) sous réserve du paragraphe (9), la somme se rapporte directement à la disposition, par le contribuable donné, d'un bien qui est, au moment de la disposition, soit une participation admissible dans la société de personnes ou la société qui exploite l'entreprise à laquelle la clause restrictive se rapporte, soit une participation admissible par l'effet de l'alinéa c) de la définition de ***participation admissible*** au paragraphe (1) lorsque l'entreprise à laquelle la clause restrictive se rapporte est exploitée par l'autre société visée à cet alinéa, et, à la fois :

(i) la disposition est effectuée en faveur de l'acheteur ou d'une personne qui lui est liée,

(ii) la somme représente la contrepartie de l'engagement du contribuable donné de ne pas fournir, directement ou indirectement, de biens ou de services sous un régime de concurrence avec les biens ou services fournis ou à fournir par l'acheteur ou par une personne qui lui est liée,

(iii) il est raisonnable de considérer que la clause restrictive a été accordée dans le but de maintenir ou de protéger la valeur de la participation

(iv) if the restrictive covenant is granted on or after July 18, 2005, subsection 84(3) does not apply to the disposition,

(v) the amount is added to the particular taxpayer's proceeds of disposition, as defined by section 54, for the purpose of applying this Act to the disposition of the particular taxpayer's eligible interest, and

(vi) the particular taxpayer and the purchaser elect in prescribed form to apply this paragraph in respect of the amount.

Treatment of purchaser

(4) An amount paid or payable by a purchaser for a restrictive covenant is

(a) if the amount is required because of section 5 or 6 to be included in computing the income of an employee of the purchaser, to be considered to be wages paid or payable by the purchaser to the employee;

(b) if an election has been made under paragraph (3)(b) in respect of the amount, to be considered to be incurred by the purchaser on account of capital for the purpose of determining the cost of the property or for the purposes of subsection 13(35), as the case may be, and not to be an amount paid or payable for all other purposes of the Act; and

(c) if an election has been made under paragraph (3)(c), in respect of the amount and the amount relates to the purchaser's acquisition of property that is, immediately after the acquisition, an eligible interest of the purchaser, to be included in computing the cost to the purchaser of that eligible interest and considered not to be an amount paid or payable for all other purposes of the Act.

Non-application of section 68

(5) If this subsection applies to a restrictive covenant granted by a taxpayer, section 68 does not apply to deem consideration to be received or receivable by the taxpayer for the restrictive covenant.

Application of subsection (5) — if employee provides covenant

(6) Subsection (5) applies to a restrictive covenant if

(a) the restrictive covenant is granted by an individual to another taxpayer with whom the individual deals at

admissible dont il est disposé en faveur de l'acheteur,

(iv) si la clause restrictive est accordée après le 17 juillet 2005, le paragraphe 84(3) ne s'applique pas à la disposition,

(v) la somme est ajoutée au produit de disposition, au sens de l'article 54, du contribuable donné pour ce qui est de l'application de la présente loi à la disposition de la participation admissible de ce contribuable,

(vi) le contribuable et l'acheteur font, sur le formulaire prescrit, le choix d'appliquer le présent alinéa relativement à la somme.

Somme payée ou payable par l'acheteur

(4) La somme payée ou payable par un acheteur relativement à une clause restrictive fait l'objet du traitement suivant :

a) si elle est à inclure dans le calcul du revenu d'un employé de l'acheteur par l'effet des articles 5 ou 6, elle est considérée comme un salaire versé ou à verser à l'employé par l'acheteur;

b) si le choix prévu à l'alinéa (3)b) a été fait à son égard, elle est considérée comme étant engagée par l'acheteur à titre de capital aux fins du calcul du coût du bien ou pour l'application du paragraphe 13(35), selon le cas, et comme n'étant pas une somme payée ou payable pour l'application des autres dispositions de la présente loi;

c) si le choix prévu à l'alinéa (3)c) a été fait à son égard et qu'elle a trait à l'acquisition par l'acheteur d'un bien qui, aussitôt acquis, est une participation admissible pour lui, elle est à inclure dans le calcul du coût de cette participation pour lui et est considérée comme n'étant pas une somme payée ou payable pour l'application des autres dispositions de la présente loi.

Non-application de l'article 68

(5) En cas d'application du présent paragraphe à une clause restrictive accordée par un contribuable, l'article 68 ne s'applique pas de manière qu'une contrepartie soit réputée être reçue ou à recevoir par le contribuable pour la clause restrictive.

Application du paragraphe (5) — clause restrictive accordée par l'employé

(6) Le paragraphe (5) s'applique à une clause restrictive si les conditions ci-après sont réunies :

arm's length (referred to in this subsection as the "purchaser");

(b) the restrictive covenant directly relates to the acquisition from one or more other persons (in this subsection and subsection (12) referred to as the "vendors") by the purchaser of an interest, or for civil law purposes a right, in the individual's employer, in a corporation related to that employer or in a business carried on by that employer;

(c) the individual deals at arm's length with the employer and with the vendors;

(d) the restrictive covenant is an undertaking by the individual not to provide, directly or indirectly, property or services in competition with property or services provided or to be provided by the purchaser (or by a person related to the purchaser) in the course of carrying on the business to which the restrictive covenant relates;

(e) no proceeds are received or receivable by the individual for granting the restrictive covenant; and

(f) the amount that can reasonably be regarded to be consideration for the restrictive covenant is received or receivable only by the vendors.

a) la clause restrictive est accordée par un particulier à un autre contribuable (appelé « acheteur » au présent paragraphe) avec lequel il n'a aucun lien de dépendance;

b) la clause restrictive se rapporte directement à l'acquisition par l'acheteur d'une ou de plusieurs autres personnes (appelées « vendeurs » au présent paragraphe et au paragraphe (12)) d'un intérêt ou, pour l'application du droit civil, d'un droit sur l'employeur du particulier, sur une société liée à cet employeur ou sur une entreprise exploitée par cet employeur;

c) le particulier n'a de lien de dépendance ni avec l'employeur, ni avec les vendeurs;

d) la clause restrictive est un engagement du particulier de ne pas fournir, directement ou indirectement, de biens ou de services sous un régime de concurrence avec les biens ou services fournis ou à fournir par l'acheteur, ou par une personne qui lui est liée, dans le cadre de l'exploitation de l'entreprise à laquelle la clause restrictive se rapporte;

e) aucun produit n'est reçu ou à recevoir par le particulier pour avoir accordé la clause restrictive;

f) la somme qu'il est raisonnable de considérer comme étant la contrepartie de la clause restrictive n'est reçue ou n'est à recevoir que par les vendeurs.

Application of subsection (5) — realization of goodwill amount and disposition of property

(7) Subject to subsection (10), subsection (5) applies to a restrictive covenant granted by a taxpayer if

(a) the restrictive covenant is granted by the taxpayer (in this subsection and subsection (8) referred to as the "vendor") to

(i) another taxpayer (in this subsection referred to as the "purchaser") with whom the vendor deals at arm's length (determined without reference to paragraph 251(5)(b)) at the time of the grant of the restrictive covenant, or

(ii) another person who is an eligible individual in respect of the vendor at the time of the grant of the restrictive covenant;

(b) where subparagraph (a)(i) applies, the restrictive covenant is an undertaking of the vendor not to provide, directly or indirectly, property or services in competition with the property or services provided or to be provided by the purchaser (or by a person related to the purchaser) in the course of carrying on the business to which the restrictive covenant relates, and

Application du paragraphe (5) — réalisation du montant pour achalandage et disposition d'un bien

(7) Sous réserve du paragraphe (10), le paragraphe (5) s'applique à une clause restrictive accordée par un contribuable si les conditions ci-après sont réunies :

a) la clause restrictive est accordée par le contribuable (appelé « vendeur » au présent paragraphe et au paragraphe (8)) :

(i) soit à un autre contribuable (appelé « acheteur » au présent paragraphe) avec lequel il n'a aucun lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) au moment où la clause restrictive est accordée,

(ii) soit à une autre personne qui est un particulier admissible relativement à lui au moment où la clause restrictive est accordée;

b) en cas d'application du sous-alinéa a)(i), la clause restrictive est un engagement du vendeur de ne pas fournir, directement ou indirectement, de biens ou de services sous un régime de concurrence avec les biens ou services fournis ou à fournir par l'acheteur, ou par une personne liée à celui-ci, dans le cadre de

(i) the amount that can reasonably be regarded as being consideration for the restrictive covenant is

(A) included by the vendor in computing a goodwill amount of the vendor, or

(B) received or receivable by a corporation that was an eligible corporation of the vendor when the restrictive covenant was granted and included by the eligible corporation in computing a goodwill amount of the eligible corporation in respect of the business to which the restrictive covenant relates, or

(ii) it is reasonable to conclude that the restrictive covenant is integral to an agreement in writing,

(A) under which the vendor or the vendor's eligible corporation disposes of property (other than property described in clause (B)) to the purchaser, or the purchaser's eligible corporation, for consideration that is received or receivable by the vendor, or the vendor's eligible corporation, as the case may be, or

(B) under which shares of the capital stock of a corporation (in this subsection and subsection (12) referred to as the "target corporation") are disposed of to the purchaser or to another person that is related to the purchaser and with whom the vendor deals at arm's length (determined without reference to paragraph 251(5)(b)),

(c) where subparagraph (a)(ii) applies, the restrictive covenant is an undertaking of the vendor not to provide, directly or indirectly, property or services in competition with the property or services provided or to be provided by the eligible individual (or by an eligible corporation of the eligible individual) in the course of carrying on the business to which the restrictive covenant relates, and

(i) either

(A) the amount that can reasonably be regarded as being consideration for the restrictive covenant is

(I) included by the vendor in computing a goodwill amount of the vendor, or

(II) received or receivable by a corporation that was an eligible corporation of the vendor when the restrictive covenant was granted and included by the eligible corporation in computing a goodwill amount of the eligible

l'exploitation de l'entreprise à laquelle la clause restrictive se rapporte et, selon le cas :

(i) la somme qu'il est raisonnable de considérer comme étant la contrepartie de la clause restrictive est :

(A) soit incluse par le vendeur dans le calcul d'un montant pour achalandage quant à lui,

(B) soit reçue ou à recevoir par une société qui était une société admissible du vendeur au moment où la clause restrictive a été accordée, et incluse par cette société dans le calcul d'un montant pour achalandage quant à elle relativement à l'entreprise à laquelle la clause restrictive se rapporte,

(ii) il est raisonnable de conclure que la clause restrictive fait partie intégrante d'une convention écrite aux termes de laquelle, selon le cas :

(A) le vendeur ou sa société admissible dispose de biens (sauf des biens visés à la division (B)) en faveur de l'acheteur ou de la société admissible de celui-ci pour une contrepartie reçue ou à recevoir par le vendeur ou par sa société admissible, selon le cas,

(B) il est disposé d'actions du capital-actions d'une société (appelée « société cible » au présent paragraphe et au paragraphe (12)) en faveur de l'acheteur ou d'une autre personne qui lui est liée et avec laquelle le vendeur n'a aucun lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b));

c) en cas d'application du sous-alinéa a)(ii), la clause restrictive est un engagement du vendeur de ne pas fournir, directement ou indirectement, de biens ou de services sous un régime de concurrence avec les biens ou services fournis ou à fournir par le particulier admissible, ou par une société admissible de celui-ci, dans le cadre de l'exploitation de l'entreprise à laquelle la clause restrictive se rapporte et, à la fois :

(i) selon le cas :

(A) la somme qu'il est raisonnable de considérer comme étant la contrepartie de la clause restrictive est :

(I) soit incluse par le vendeur dans le calcul d'un montant pour achalandage quant à lui,

(II) soit reçue ou à recevoir par une société qui était une société admissible du vendeur au

corporation in respect of the business to which the restrictive covenant relates, or

(B) it is reasonable to conclude that the restrictive covenant is integral to an agreement in writing

(I) under which the vendor or the vendor's eligible corporation disposes of property (other than property described in subclause (II)) to the eligible individual, or eligible individual's eligible corporation, for consideration that is received or receivable by the vendor, or the vendor's eligible corporation, as the case may be, or

(II) under which shares of the capital stock of the vendor's eligible corporation (in this subsection and subsection (12) referred to as the "family corporation") are disposed of to the eligible individual or the eligible individual's eligible corporation,

(ii) the vendor is resident in Canada at the time of the grant of the restrictive covenant and the disposition referred to in clause (i)(B), and

(iii) the vendor does not, at any time after the grant of the restrictive covenant and whether directly or indirectly in any manner whatever, have an interest, or for civil law a right, in the family corporation or in the eligible corporation of the eligible individual, as the case may be;

(d) no proceeds are received or receivable by the vendor for granting the restrictive covenant;

(e) subsection 84(3) does not apply in respect of the disposition of a share of the target corporation or family corporation, as the case may be;

(f) the restrictive covenant can reasonably be regarded to have been granted to maintain or preserve the fair market value of any of

(i) the benefit of the expenditure derived from the goodwill amount referred to in subparagraph (b)(i) or clause (c)(i)(A) and for which a joint election referred to in paragraph (g) was made,

(ii) the property referred to in clause (b)(ii)(A) or subclause (c)(i)(B)(I), or

(iii) the shares referred to in clause (b)(ii)(B) or subclause (c)(i)(B)(II); and

moment où la clause restrictive a été accordée, et incluse par cette société dans le calcul d'un montant pour achalandage quant à elle relativement à l'entreprise à laquelle la clause restrictive se rapporte,

(B) il est raisonnable de conclure que la clause restrictive fait partie intégrante d'une convention écrite aux termes de laquelle, selon le cas :

(I) le vendeur ou sa société admissible dispose de biens (sauf des biens visés à la subdivision (II)) en faveur du particulier admissible ou de la société admissible de celui-ci pour une contrepartie reçue ou à recevoir par le vendeur ou par sa société admissible, selon le cas,

(II) il est disposé d'actions du capital-actions de la société admissible du vendeur (appelée « société familiale » au présent paragraphe et au paragraphe (12)) en faveur du particulier admissible ou de la société admissible de celui-ci,

(ii) le vendeur réside au Canada au moment de l'octroi de la clause restrictive et de la disposition mentionnée à la division (i)(B),

(iii) le vendeur n'a pas, directement ou indirectement, de quelque manière que ce soit, d'intérêt ou, pour l'application du droit civil, de droit sur la société familiale ou sur la société admissible du particulier admissible, selon le cas, après l'octroi de la clause restrictive;

d) aucun produit n'est reçu ou à recevoir par le vendeur pour avoir accordé la clause restrictive;

e) le paragraphe 84(3) ne s'applique pas à la disposition d'une action de la société cible ou de la société familiale, selon le cas;

f) il est raisonnable de considérer que la clause restrictive a été accordée dans le but de maintenir ou de protéger la juste valeur marchande :

(i) de l'avantage de la dépense qui découle du montant pour achalandage visé au sous-alinéa b)(i) ou à la division c)(i)(A) et à l'égard duquel le choix conjoint prévu à l'alinéa g) a été fait,

(ii) des biens visés à la division b)(ii)(A) ou à la subdivision c)(i)(B)(I),

(iii) des actions mentionnées à la division b)(ii)(B) ou à la subdivision c)(i)(B)(II);

(g) a joint election in prescribed form to apply subsection (5) to the amount referred to in subparagraph (b)(i) or clause (c)(i)(A), if otherwise applicable, is made by

(i) in the case of subparagraph (b)(i), the vendor, or the vendor's eligible corporation if it is required to include the goodwill amount in computing its income, and the purchaser, or the purchaser's eligible corporation if it incurs the expenditure that is the goodwill amount to the vendor or the vendor's eligible corporation, as the case may be, or

(ii) in the case of clause (c)(i)(A), the vendor, or the vendor's eligible corporation if it is required to include the goodwill amount in computing its income, and the eligible individual, or the eligible individual's eligible corporation if it incurs the expenditure that is the goodwill amount to the vendor or the vendor's eligible corporation, as the case may be.

g) un choix conjoint afin que le paragraphe (5) s'applique à la somme mentionnée au sous-alinéa b)(i) ou à la division c)(i)(A), dans le cas où ce paragraphe s'applique par ailleurs, est fait sur le formulaire prescrit :

(i) dans le cas du sous-alinéa b)(i), par le vendeur ou sa société admissible, si celle-ci est tenue d'inclure le montant pour achalandage dans le calcul de son revenu, et par l'acheteur ou sa société admissible, si celle-ci engage la dépense qui représente le montant pour achalandage pour le vendeur ou pour la société admissible de celui-ci, selon le cas,

(ii) dans le cas de la division c)(i)(A), par le vendeur ou sa société admissible, si celle-ci est tenue d'inclure le montant pour achalandage dans le calcul de son revenu, et par le particulier admissible ou sa société admissible, si celle-ci engage la dépense qui représente le montant pour achalandage pour le vendeur ou pour la société admissible de celui-ci, selon le cas.

Application of subsection (7) and section 69 — special rules

(8) For the purpose

(a) of applying subsection (7), clause (7)(b)(ii)(A) and subclause (7)(c)(i)(B)(I) apply to a grant of a restrictive covenant only if

(i) the consideration that can reasonably be regarded as being in part the consideration for the restrictive covenant is received or receivable by the vendor or the vendor's eligible corporation, as the case may be, as consideration for the disposition of the property, and

(ii) if all or a part of the consideration can reasonably be regarded as being for a goodwill amount, subsection (2), paragraph (3)(b), subparagraph (7)(b)(i) or clause (7)(c)(i)(A) applies to that consideration; and

(b) of determining if the conditions described in paragraph (7)(c) have been met, and for the purpose of applying section 69, in respect of a restrictive covenant granted by a vendor, the fair market value of a property is the amount that can reasonably be regarded as being the fair market value of the property if the restrictive covenant were part of the property.

Application du paragraphe (7) et de l'article 69 — règles spéciales

(8) Les règles ci-après s'appliquent dans les cas suivants :

a) pour l'application du paragraphe (7), la division (7)b)(ii)(A) et la subdivision (7)c)(i)(B)(I) ne s'appliquent à l'octroi d'une clause restrictive que si les conditions ci-après sont réunies :

(i) la contrepartie qu'il est raisonnable de considérer comme étant en partie la contrepartie de la clause restrictive est reçue ou à recevoir par le vendeur ou par sa société admissible, selon le cas, en contrepartie de la disposition du bien,

(ii) dans le cas où il est raisonnable de considérer que la totalité ou une partie de la contrepartie se rapporte à un montant pour achalandage, le paragraphe (2), l'alinéa (3)b), le sous-alinéa (7)b)(i) ou la division (7)c)(i)(A) s'appliquent à cette contrepartie;

b) lorsqu'il s'agit de déterminer si les conditions énoncées à l'alinéa (7)c) sont remplies, et pour l'application de l'article 69, relativement à une clause restrictive accordée par un vendeur, la juste valeur marchande d'un bien correspond à la somme qu'il serait raisonnable de considérer comme étant la juste valeur marchande du bien si la clause restrictive faisait partie de celui-ci.

Anti-avoidance rule — non-application of paragraph (3)(c)

(9) Paragraph (3)(c) does not apply to an amount that would, if this Act were read without reference to subsections (2) to (14), be included in computing a taxpayer's income from a source that is an office or employment or a business or property under paragraph 3(a).

Anti-avoidance — non-application of subsection (7)

(10) Subsection (7) does not apply in respect of a taxpayer's grant of a restrictive covenant if one of the results of not applying section 68 to the consideration received or receivable in respect of the taxpayer's grant of the restrictive covenant would be that paragraph 3(a) would not apply to consideration that would, if this Act were read without reference to subsections (2) to (14), be included in computing a taxpayer's income from a source that is an office or employment or a business or property.

Clarification if subsection (2) applies — where another person receives the amount

(11) For greater certainty, if subsection (2) applies to include in computing a taxpayer's income an amount received or receivable by another taxpayer, that amount is not to be included in computing the income of that other taxpayer.

Clarification if subsection (5) applies

(12) For greater certainty, if subsection (5) applies in respect of a restrictive covenant,

(a) the amount referred to in paragraph (6)(f) is to be added in computing the amount received or receivable by the vendors as consideration for the disposition of the interest or right referred to in paragraph (6)(b); and

(b) the amount that can reasonably be regarded as being in part consideration received or receivable for a restrictive covenant to which clause (7)(b)(ii)(B) or subclause (7)(c)(i)(B)(II) applies is to be added in computing the consideration that is received or receivable by each taxpayer who disposes of shares of the target corporation, or shares of the family corporation, as the case may be, to the extent of the portion of the consideration that is received or receivable by that taxpayer.

Filing of prescribed form

(13) For the purpose of paragraphs (3)(b) and (c) and subsection (7), an election in prescribed form filed under any of those provisions is to include a copy of the restrictive covenant and be filed

Règle anti-évitement — non-application de l'alinéa (3)c)

(9) L'alinéa (3)c) ne s'applique pas à la somme qui, en l'absence des paragraphes (2) à (14), serait incluse dans le calcul du revenu d'un contribuable provenant d'une source qui est une charge, un emploi, une entreprise ou un bien selon l'alinéa 3a).

Anti-évitement — non-application du paragraphe (7)

(10) Le paragraphe (7) ne s'applique pas relativement à l'octroi d'une clause restrictive par un contribuable dans le cas où le fait de ne pas appliquer l'article 68 à la contrepartie reçue ou à recevoir pour avoir accordé la clause restrictive aurait notamment pour résultat que l'alinéa 3a) ne s'appliquerait pas à toute contrepartie qui, en l'absence des paragraphes (2) à (14), serait incluse dans le calcul du revenu d'un contribuable provenant d'une source qui est une charge, un emploi, une entreprise ou un bien.

Précision en cas d'application du paragraphe (2) — somme reçue par une autre personne

(11) Il est entendu que toute somme reçue ou à recevoir par un contribuable qui est incluse, par l'effet du paragraphe (2), dans le calcul du revenu d'un autre contribuable n'est pas à inclure dans le calcul du revenu du premier contribuable.

Précision en cas d'application du paragraphe (5)

(12) Il est entendu que, si le paragraphe (5) s'applique relativement à une clause restrictive :

a) la somme visée à l'alinéa (6)f) est à ajouter dans le calcul de la somme reçue ou à recevoir par les vendeurs en contrepartie de la disposition de l'intérêt ou du droit visé à l'alinéa (6)b);

b) la somme qu'il est raisonnable de considérer comme étant en partie la contrepartie reçue ou à recevoir pour une clause restrictive à laquelle la division (7)b)(ii)(B) ou la subdivision (7)c)(i)(B)(II) s'applique est à ajouter dans le calcul de la contrepartie qui est reçue ou à recevoir par chaque contribuable qui dispose d'actions de la société cible ou d'actions de la société familiale, selon le cas, jusqu'à concurrence de la partie de la contrepartie qui est reçue ou à recevoir par le contribuable.

Production du formulaire prescrit

(13) Pour l'application des alinéas (3)b) et c) et du paragraphe (7), le choix présenté sur le formulaire prescrit selon ces dispositions doit être accompagné d'une copie de

(a) if the person who granted the restrictive covenant was a person resident in Canada when the restrictive covenant was granted, by the person with the Minister on or before the person's filing-due date for the taxation year that includes the day on which the restrictive covenant was granted; and

(b) in any other case, with the Minister on or before the day that is six months after the day on which the restrictive covenant is granted.

a) si la personne ayant accordé la clause restrictive résidait au Canada au moment où celle-ci a été accordée, le choix est présenté par la personne au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année d'imposition qui comprend le jour où la clause restrictive a été accordée;

b) dans les autres cas, le choix est présenté au ministre au plus tard le jour qui suit de six mois le jour où la clause restrictive est accordée.

Non-application of section 42

(14) Section 42 does not apply to an amount received or receivable as consideration for a restrictive covenant.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 195; 2016, c. 12, s. 18.

Non-application de l'article 42

(14) L'article 42 ne s'applique pas à la somme reçue ou à recevoir en contrepartie d'une clause restrictive.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 195; 2016, ch. 12, art. 18.

Certain superannuation or pension benefits

57 (1) Notwithstanding subparagraph 56(1)(a)(i), there shall be included in computing the income of a taxpayer in respect of a payment received by the taxpayer out of or under a superannuation or pension fund or plan the investment income of which has at some time been exempt from taxation under the *Income War Tax Act* by reason of an election for that exemption by the trustees or corporation administering the fund or plan, only that part of the payment that remains after deducting the proportion thereof

(a) that the total of the paid by the taxpayer into or under the fund or plan during the period when its income was exempt by reason of that election is of the total of all amounts paid by the taxpayer into or under the fund or plan, or

(b) that the total of the amounts paid by the taxpayer into or under the fund or plan during the period when its income was exempt by reason of that election together with simple interest on each amount so paid from the end of the year of payment thereof to the commencement of the superannuation allowance or pension at 3% per annum is of the total of all amounts paid by the taxpayer into or under the fund or plan together with simple interest, computed in the same manner, on each amount so paid,

whichever is the greater.

Régime de retraite ou de pension

57 (1) Malgré le sous-alinéa 56(1)a)(i), seule est à inclure dans le calcul du revenu d'un contribuable, en ce qui concerne tout paiement reçu par lui dans le cadre d'une caisse ou d'un régime de retraite ou de pension dont le revenu de placement a été, à un moment donné, exonéré d'impôt en vertu de la *Loi de l'impôt de guerre sur le revenu* en raison du choix de cette exonération fait par les fiduciaires ou par la société administrant la caisse ou le régime, la partie du paiement restant après déduction de la fraction de ce paiement représentée par le plus élevé des rapports suivants :

a) le rapport entre, d'une part, le total des sommes versées par le contribuable dans le cadre de la caisse ou du régime au cours de la période pendant laquelle le revenu de cette caisse ou de ce régime était exonéré en raison de ce choix et, d'autre part, le total des sommes qu'il a versées dans le cadre de la caisse ou du régime;

b) le rapport entre, d'une part, le total des sommes versées par le contribuable dans le cadre de la caisse ou du régime au cours de la période pendant laquelle le revenu de cette caisse ou de ce régime était exonéré en raison de ce choix ainsi que des intérêts simples de 3 % par an sur chaque somme ainsi payée, à compter de la fin de l'année du paiement de cette somme jusqu'au début du paiement de la pension de retraite ou de la pension et, d'autre part, le total des sommes qu'il a payées dans le cadre de la caisse ou du régime ainsi que des intérêts simples, calculés de la même manière, afférents à chaque somme ainsi payée.

Exception

(2) This section does not apply in respect of a payment received by a taxpayer out of or under a superannuation or pension fund or plan if the taxpayer made no payment into or under the fund or plan.

Limitation

(3) Where a payment, to which subsection 57(1) would otherwise be applicable, is received by a taxpayer out of or under a superannuation or pension fund or plan in respect of a period of service for part only of which the taxpayer made payments into or under the fund or plan, subsection 57(1) is applicable only to that part of the payment which may reasonably be regarded as having been received in respect of the period for which the taxpayer made payments into or under the fund or plan and any part of the payment which may reasonably be regarded as having been received in respect of a period for which the taxpayer made no payments into or under the fund or plan shall be included in computing the taxpayer's income for the year without any deduction whatever.

Certain payments from pension plan

(4) Where a taxpayer, during the period from August 15, 1944 to December 31, 1945, made a contribution in excess of $300 to or under a registered pension plan in respect of services rendered by the taxpayer before the taxpayer became a contributor, there shall be included in computing the taxpayer's income in respect of a payment received by the taxpayer out of or under the plan only that part of the payment that remains after deducting the proportion thereof that the contribution so made minus $300 is of the total of the amounts paid by the taxpayer to or under the plan.

Payments to widow, etc., of contributor

(5) Where, in respect of the death of a taxpayer who was a contributor to or under a superannuation or pension fund or plan described in subsection 57(1) or 57(4), a payment is received by a person in a taxation year out of or under the fund or plan, there shall be included in computing the income of that person for the year in respect thereof only that part of the payment that would, if the payment had been received by the taxpayer in the year out of or under the fund or plan, have been included by virtue of this section in computing the income of the taxpayer for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "57"; 1977-78, c. 1, s. 101(F); 1990, c. 35, s. 29.

Exception

(2) Le présent article ne s'applique pas à un paiement reçu par un contribuable dans le cadre d'une caisse ou d'un régime de retraite ou de pension si le contribuable n'a effectué aucun paiement dans le cadre de la caisse ou du régime.

Restriction

(3) Lorsqu'un paiement auquel le paragraphe (1) devrait normalement s'appliquer est reçu par un contribuable dans le cadre d'une caisse ou d'un régime de retraite ou de pension au titre d'une période de service pour une partie seulement de laquelle il a effectué des paiements dans le cadre de la caisse ou du régime, le paragraphe (1) ne s'applique qu'à la partie du paiement qu'il est raisonnable de considérer comme ayant été reçue au titre de la période pour laquelle il a effectué des paiements dans le cadre de la caisse ou du régime et toute partie du paiement qu'il est raisonnable de considérer comme ayant été reçue au titre d'une période pour laquelle il n'a pas fait de paiement dans le cadre de la caisse ou du régime est incluse dans le calcul de son revenu pour l'année sans déduction aucune.

Paiements reçus d'un régime de pension

(4) Lorsqu'un contribuable, au cours de la période allant du 15 août 1944 au 31 décembre 1945, a versé une cotisation de plus de 300 $ dans le cadre d'un régime de pension agréé, au titre de services qu'il a fournis avant de commencer à effectuer des paiements, seule est incluse dans le calcul de son revenu, en ce qui concerne tout paiement qu'il a reçu dans le cadre du régime, la partie du paiement restant après déduction de la fraction de ce paiement représentée par le rapport existant entre la cotisation ainsi versée moins 300 $ et le total des sommes qu'il a payées dans le cadre du régime.

Paiements à la veuve, etc. d'un cotisant

(5) Lorsque, au titre du décès d'un contribuable qui contribuait dans le cadre d'une caisse ou d'un régime de retraite ou de pension visé au paragraphe (1) ou (4), une personne reçoit, au cours d'une année d'imposition, un paiement dans le cadre de la caisse ou du régime, seule est incluse dans le calcul du revenu reçu à ce titre au cours de l'année par cette personne la partie du paiement qui, si le paiement avait été reçu au cours de l'année, dans le cadre de la caisse ou du régime par le contribuable, aurait été incluse, en vertu du présent article, dans le calcul du revenu du contribuable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 57 »; 1977-78, ch. 1, art. 101(F); 1990, ch. 35, art. 29.

Government annuities and like annuities

58 (1) In determining the amount that shall be included in computing the income of a taxpayer in respect of payments received by the taxpayer in a taxation year under contracts entered into before May 26, 1932 with the Government of Canada or annuity contracts like those issued under the *Government Annuities Act* entered into before that day with the government of a province or a corporation incorporated or licensed to carry on an annuities business in Canada, there may be deducted from the total of the payments received the lesser of

(a) the total of the amounts that would have been so received if the contracts had continued in force as they were immediately before June 25, 1940, without the exercise of any option or contractual right to enlarge the annuity by the payment of additional sums or premiums unless those additional sums or premiums had been paid before that day, and

(b) $5,000.

Annuities before 1940

(2) In determining the amount that shall be included in computing the income of a taxpayer in respect of payments received by the taxpayer in a taxation year under annuity contracts entered into after May 25, 1932, and before June 25, 1940, with the Government of Canada or annuity contracts like those issued under the *Government Annuities Act* entered into during that period with the government of a province or a corporation incorporated or licensed to carry on an annuities business in Canada, there may be deducted from the total of the payments received the lesser of

(a) the total of the amounts that would have been received under the contracts if they had continued in force as they were immediately before June 25, 1940, without the exercise of any option or contractual right to enlarge the annuity by the payment of additional sums or premiums unless such additional sums or premiums had been paid before that day, and

(b) $1,200.

Limitation

(3) Where a taxpayer has received annuity payments in respect of which the taxpayer would otherwise be entitled to make deductions under both subsection 58(1) and subsection 58(2),

Rentes sur l'État et rentes similaires

58 (1) Pour la détermination de la somme à inclure dans le calcul du revenu d'un contribuable relativement aux paiements qu'il a reçus au cours d'une année d'imposition en vertu de contrats conclus, avant le 26 mai 1932, avec le gouvernement du Canada ou en vertu de contrats de rentes, comme ceux qui ont été passés, dans le cadre de la *Loi relative aux rentes sur l'État* avant cette date, avec le gouvernement d'une province ou une société constituée ou munie d'une licence pour exploiter un commerce de rentes au Canada, le contribuable peut déduire du total des paiements qu'il a reçus la moins élevée des sommes suivantes :

a) le total des sommes qui auraient été ainsi reçues si les contrats étaient restés en vigueur comme ils l'étaient immédiatement avant le 25 juin 1940, sans exercice de quelque option ou de quelque droit contractuel en vue d'augmenter le montant de la rente au moyen du paiement de sommes ou de primes supplémentaires à moins que ces sommes ou ces primes supplémentaires n'aient été payées avant ce jour;

b) 5 000 $.

Rentes antérieures à 1940

(2) Pour la détermination de la somme à inclure dans le calcul du revenu d'un contribuable relativement aux paiements qu'il a reçus au cours d'une année d'imposition en vertu de contrats de rentes conclus, après le 25 mai 1932 et avant le 25 juin 1940, avec le gouvernement du Canada ou en vertu de contrats de rentes comme ceux qui ont été passés, dans le cadre de la *Loi relative aux rentes sur l'État*, pendant cette période, avec le gouvernement d'une province ou une société constituée ou munie d'une licence pour exploiter un commerce de rentes au Canada, le contribuable peut déduire du total des paiements reçus la moins élevée des sommes suivantes :

a) le total des sommes qui auraient été reçues en vertu des contrats s'ils étaient restés en vigueur comme ils l'étaient immédiatement avant le 25 juin 1940, sans exercice de quelque option ou de quelque droit contractuel en vue d'augmenter le montant de la rente au moyen du paiement de sommes ou de primes supplémentaires à moins que ces sommes ou ces primes supplémentaires n'aient été payées avant ce jour;

b) 1 200 $.

Restriction

(3) Lorsqu'un contribuable a reçu des rentes au titre desquelles il aurait par ailleurs le droit de faire des déductions en vertu à la fois du paragraphe (1) et du paragraphe (2):

(a) if the amount deductible under subsection 58(1) is $1,200 or more, he may not make a deduction under subsection 58(2); and

(b) if the amount deductible under subsection 58(1) is less than $1,200, the taxpayer may make one deduction computed as though subsection 58(2) applied to all contracts entered into before June 25, 1940.

a) si la somme déductible en vertu du paragraphe (1) est égale ou supérieure à 1 200 $, il ne peut pas faire de déduction en vertu du paragraphe (2);

b) si la somme déductible en vertu du paragraphe (1) est inférieure à 1 200 $, il peut faire une seule déduction calculée comme si le paragraphe (2) s'appliquait à tous les contrats conclus avant le 25 juin 1940.

Capital element

(4) The amount remaining after deducting from the total of the annuity payments to which this section applies received in a taxation year the deductions permitted by subsection 58(1), 58(2) or 58(3) shall be deemed to be the annuity payment in respect of which the capital element is deductible under paragraph 60(a.

Partie représentant le capital

(4) La somme restant après déduction des sommes permises par les paragraphes (1), (2) ou (3) du total des rentes reçues au cours d'une année d'imposition auxquelles le présent article s'applique est réputée être les rentes au titre desquelles la partie représentant le capital est déductible en vertu de l'alinéa 60a).

Spouses or common-law partners

(5) Where a taxpayer and the taxpayer's spouse or common-law partner each received annuity payments in respect of which they may deduct amounts under this section, the amount deductible shall be computed as if their annuities belonged to one person and may be deducted by either of them or be apportioned between them in such manner as is agreed to by them or, in case of disagreement, as the Minister determines.

Époux ou conjoints de fait

(5) Lorsque des époux ou conjoints de fait ont reçu chacun des rentes au titre desquelles ils peuvent faire une déduction en vertu du présent article, le montant déductible est calculé comme si leurs rentes appartenaient à une seule personne et peut être soit déduit par l'un d'eux, soit réparti entre eux dans les proportions qu'ils fixent ou, en cas de désaccord, que le ministre fixe.

Pension benefits

(6) This section does not apply to superannuation or pension benefits received out of or under a registered pension plan.

Pensions

(6) Le présent article ne s'applique pas aux prestations de retraite ou de pension reçues dans le cadre d'un régime de pension agréé.

Enlargement of annuity

(7) For the purpose of this section, an annuity shall be deemed to have been enlarged on or after June 25, 1940, if what is payable under the contract has, at any such time, been increased whether by increasing the amount of each periodic payment, by increasing the number of payments or otherwise.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 58; 1994, c. 7, Sch. VIII, s. 19(E); 2000, c. 12, s. 142.

Augmentation de la rente

(7) Pour l'application du présent article, une rente est réputée avoir été augmentée le 25 juin 1940 ou ultérieurement si ce qui est payable en vertu du contrat a, depuis lors, été augmenté soit par accroissement du montant de chaque paiement périodique, soit par accroissement du nombre de paiements ou de toute autre façon.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 58; 1994, ch. 7, ann. VIII, art. 19 (A); 2000, ch. 12, art. 142.

Consideration for foreign resource property

59 (1) Where a taxpayer has disposed of a foreign resource property, there shall be included in computing the taxpayer's income for a taxation year the amount, if any, by which

(a) the portion of the taxpayer's proceeds of disposition from the disposition of the property that becomes receivable in the year

exceeds

(b) the total of

Contrepartie pour un avoir minier étranger

59 (1) Le contribuable qui dispose d'un avoir minier étranger doit inclure dans le calcul de son revenu pour une année d'imposition l'excédent éventuel du montant visé à l'alinéa a) sur la somme visée à l'alinéa b):

a) la partie du produit de disposition pour le contribuable, tiré de la disposition de l'avoir, qui devient à recevoir au cours de l'année;

b) la somme des montants suivants :

(i) all amounts each of which is an outlay or expense made or incurred by the taxpayer for the purpose of making the disposition that was not otherwise deductible for the purposes of this Part, and

(ii) where the property is a foreign resource property in respect of a country, the amount designated under this subparagraph in prescribed form filed with the taxpayer's return of income for the year in respect of the disposition.

(i) les montants représentant chacun une dépense engagée ou effectuée par le contribuable en vue de réaliser la disposition, qui n'était pas déductible par ailleurs pour l'application de la présente partie,

(ii) si l'avoir est un avoir minier étranger à l'égard d'un pays, le montant indiqué en application du présent sous-alinéa dans le formulaire prescrit accompagnant la déclaration de revenu du contribuable pour l'année relativement à la disposition.

Partnerships

(1.1) Where a taxpayer is a member of a partnership in a fiscal period of the partnership, the taxpayer's share of the amount that would be included under subsection (1) in respect of a disposition of a foreign resource property in computing the partnership's income for a taxation year if the partnership were a person, the fiscal period were a taxation year, subsection (1) were read without reference to subparagraph (1)(b)(ii) and section 96 were read without reference to paragraph 96(1)(d) is deemed to be proceeds of disposition that become receivable by the taxpayer at the end of the fiscal period in respect of a disposition of the property by the taxpayer.

Sociétés de personnes

(1.1) Lorsqu'un contribuable est un associé d'une société de personnes au cours d'un exercice de celle-ci, sa part du montant qui serait inclus, en application du paragraphe (1) relativement à la disposition d'un avoir minier étranger, dans le calcul du revenu de la société de personnes pour une année d'imposition si celle-ci était une personne, si l'exercice était une année d'imposition et s'il n'était pas tenu compte du sous-alinéa (1)b)(ii) ni de l'alinéa 96(1)d), est réputée être le produit de disposition qui devient à recevoir par lui à la fin de l'exercice relativement à une disposition de l'avoir qu'il a effectuée.

Deduction under former s. 64 in preceding year

(2) There shall be included in computing a taxpayer's income for a taxation year any amount that has been deducted as a reserve under subsection 64(1), (1.1) or (1.2) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in computing the taxpayer's income for the immediately preceding taxation year.

Déduction l'année précédente en vertu de l'ancien art. 64

(2) Doit être inclus dans le calcul du revenu d'un contribuable pour une année d'imposition tout montant déduit à titre de réserve en vertu du paragraphe 64(1), (1.1) ou (1.2) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul de son revenu pour l'année d'imposition précédente.

Recovery of exploration and development expenses

(3.2) There shall be included in computing a taxpayer's income for a taxation year

(a) any amount referred to in paragraph 66(12.4)(b);

(b) any amount referred to in subsection 66.1(1);

(c) any amount referred to in subsection 66.2(1);

(c.1) any amount referred to in subsection 66.21(3);

(d) any amount referred to in subparagraph 66(10.4)(b)(ii); and

(e) any amount referred to in paragraph 66(10.4)(c).

Remboursement des frais d'exploration et d'aménagement

(3.2) Doivent être inclus dans le calcul du revenu d'un contribuable pour une année d'imposition :

a) les montants visés à l'alinéa 66(12.4)b);

b) les montants visés au paragraphe 66.1(1);

c) les montants visés au paragraphe 66.2(1);

c.1) le montant visé au paragraphe 66.21(3);

d) les montants visés au sous-alinéa 66(10.4)b)(ii);

e) les montants visés à l'alinéa 66(10.4)c).

Amounts to be included in income

(3.3) There shall be included in computing a taxpayer's income for a taxation year

Montants à inclure dans le revenu

(3.3) Doivent être inclus dans le calcul du revenu d'un contribuable pour une année d'imposition :

(a) 33 1/3% of the total of all amounts, each of which is the stated percentage of

(i) an amount that became receivable by the taxpayer after December 31, 1983 and in the year (other than an amount that would have been a Canadian oil and gas exploration expense if it had been an expense incurred by the taxpayer at the time it became receivable),

(ii) an amount that became receivable by the taxpayer after December 31, 1983 and in the year that would have been a Canadian oil and gas exploration expense described in paragraph (c) or (d) of the definition ***Canadian exploration expense*** in subsection 66.1(6) in respect of a qualified tertiary oil recovery project if it had been an expense incurred by the taxpayer at the time it became receivable, or

(iii) 30% of an amount that became receivable by the taxpayer in the year and in 1984 that would have been a Canadian oil and gas exploration expense (other than an expense described in paragraph (c) of the definition ***Canadian exploration expense*** in subsection 66.1(6) in respect of a qualified tertiary oil recovery project) incurred in respect of non-conventional lands if it had been an expense incurred by the taxpayer at the time it became receivable

and in respect of which the consideration given by the taxpayer was a property (other than a share, depreciable property of a prescribed class or a Canadian resource property) or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the earned depletion base of the taxpayer or in computing the earned depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor;

(b) 33 1/3% of the total of all amounts, each of which is the stated percentage of an amount in respect of a disposition of depreciable property of a prescribed class (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and in the year, the capital cost of which was added in computing the earned depletion base of the taxpayer or of a person with whom the taxpayer was not dealing at arm's length or in computing the earned depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of

(i) the proceeds of disposition of the property, and

a) 33 1/3 % du total des montants dont chacun représente le produit de la multiplication, par le pourcentage indiqué, d'un des montants suivants :

(i) un montant qui est devenu à recevoir par le contribuable après le 31 décembre 1983 et au cours de l'année (autre qu'un montant qui aurait été des frais d'exploration pétrolière et gazière au Canada, si le montant avait été une dépense engagée par lui au moment où le montant est devenu à recevoir),

(ii) un montant qui est devenu à recevoir par le contribuable après le 31 décembre 1983 et au cours de l'année et qui aurait été des frais d'exploration pétrolière et gazière au Canada, en vertu de l'alinéa c) ou d) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), se rapportant à un projet admissible de récupération tertiaire du pétrole, si le montant avait été une dépense engagée par lui au moment où le montant est devenu à recevoir,

(iii) 30 % d'un montant qui est devenu à recevoir par le contribuable au cours de l'année et en 1984 et qui aurait été des frais d'exploration pétrolière et gazière au Canada (autres que des frais visés à l'alinéa c) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6) et se rapportant à un projet admissible de récupération tertiaire du pétrole) engagés relativement à des terres non conventionnelles, si le montant avait été une dépense engagée par lui au moment où le montant est devenu à recevoir,

et dont la contrepartie donnée par le contribuable consistait en un bien (à l'exclusion d'une action, d'un bien amortissable d'une catégorie prescrite et d'un avoir minier canadien), ou en services, dont il est raisonnable de considérer le coût comme une dépense qui a été ajoutée dans le calcul de la base de la déduction pour épuisement gagné du contribuable ou de la base de la déduction pour épuisement gagné d'un prédécesseur lorsque le contribuable est une société remplaçante du prédécesseur;

b) 33 1/3 % du total des montants dont chacun représente le produit de la multiplication, par le pourcentage indiqué, d'un montant relatif à une disposition de biens amortissables d'une catégorie prescrite (à l'exclusion d'une disposition de tels biens qui avaient été utilisés par le contribuable en faveur de toute personne avec qui le contribuable avait un lien de dépendance) du contribuable au cours de l'année et après le 11 décembre 1979 dont le coût en capital a été ajouté dans le calcul de la base de la déduction pour épuisement gagné du contribuable ou d'une personne avec

(ii) the capital cost of the property to the taxpayer, the person with whom the taxpayer was not dealing at arm's length or the predecessor, as the case may be, computed as if no amount had been added thereto by virtue of paragraph 21(1)(b) or subsection 21(3);

(c) 33 1/3% of the total of all amounts, each of which is an amount in respect of a disposition of depreciable property of a prescribed class that is bituminous sands equipment (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and before 1990 and in the year, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom the taxpayer was not dealing at arm's length or in computing the supplementary depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of

(i) the proceeds of disposition of the property, and

(ii) the capital cost of the property to the taxpayer, the person with whom the taxpayer was not dealing at arm's length or the predecessor, as the case may be, computed as if no amount had been added thereto by virtue of paragraph 21(1)(b) or subsection 21(3);

(d) 50% of the total of all amounts, each of which is an amount in respect of a disposition of depreciable property of a prescribed class that is enhanced recovery equipment (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and before 1990 and in the year, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom the taxpayer was not dealing at arm's length or in computing the supplementary depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of

(i) the proceeds of disposition of the property, and

(ii) the capital cost of the property to the taxpayer, the person with whom the taxpayer was not dealing at arms' length or the predecessor, as the case may be, computed as if no amount had been added thereto by virtue of paragraph 21(1)(b) or subsection 21(3);

qui il avait un lien de dépendance ou de la base de la déduction pour épuisement gagné d'un prédécesseur lorsque le contribuable est une société remplaçante du prédécesseur, qui est égal au moindre des montants suivants :

(i) le produit de disposition du bien,

(ii) le coût en capital du bien pour le contribuable, la personne avec qui il a un lien de dépendance ou le prédécesseur, selon le cas, calculé comme si aucun montant n'y avait été ajouté en vertu de l'alinéa 21(1)b) ou du paragraphe 21(3);

c) 33 1/3 % du total des montants dont chacun représente un montant relatif à une disposition de biens amortissables d'une catégorie prescrite qui sont du matériel d'exploitation de sables bitumineux (à l'exclusion d'une disposition de tels biens qui avaient été utilisés par le contribuable en faveur de toute personne avec qui le contribuable avait un lien de dépendance) du contribuable au cours de l'année, après le 11 décembre 1979 et avant 1990, dont le coût en capital a été ajouté dans le calcul de la base de la déduction supplémentaire pour épuisement du contribuable ou d'une personne avec qui il avait un lien de dépendance ou de la base de la déduction supplémentaire pour épuisement d'un prédécesseur lorsque le contribuable est une société remplaçante du prédécesseur, qui est égal au moindre des montants suivants :

(i) le produit de disposition du bien,

(ii) le coût en capital du bien pour le contribuable, la personne avec qui il a un lien de dépendance ou le prédécesseur, selon le cas, calculé comme si aucun montant n'y avait été ajouté en vertu de l'alinéa 21(1)b) ou du paragraphe 21(3);

d) 50 % du total des montants dont chacun représente un montant relatif à une disposition de biens amortissables d'une catégorie prescrite qui sont du matériel amélioré de récupération (à l'exclusion d'une disposition de tels biens qui avaient été utilisés par le contribuable en faveur de toute personne avec qui le contribuable avait un lien de dépendance) du contribuable au cours de l'année, après le 11 décembre 1979 et avant 1990, dont le coût en capital a été ajouté dans le calcul de la base de la déduction supplémentaire pour épuisement du contribuable ou d'une personne avec qui il avait un lien de dépendance ou de la base de la déduction supplémentaire pour épuisement d'un prédécesseur lorsque le contribuable est une société remplaçante du prédécesseur, qui est égal au moindre des montants suivants :

(e) 66 2/3% of the total of all amounts, each of which is an amount that became receivable by the taxpayer after December 11, 1979 and before 1990 and in the year and in respect of which the consideration given by the taxpayer was a property (other than a share or a Canadian resource property) or services the cost of which may reasonably be regarded as having been an expenditure in connection with an oil or gas well in respect of which an amount was included in computing the taxpayer's frontier exploration base or in computing the frontier exploration base of a predecessor where the taxpayer is a successor corporation to the predecessor; and

(f) 33 1/3% of the total of all amounts, each of which is the stated percentage of an amount that became receivable by the taxpayer after April 19, 1983 and in the year and in respect of which the consideration given by the taxpayer was a property (other than a share, depreciable property of a prescribed class or a Canadian resource property) or services the cost of which may reasonably be regarded as having been an expenditure that was included in computing the mining exploration depletion base of the taxpayer or in computing the mining exploration depletion base of a specified predecessor of the taxpayer.

Definitions

(3.4) For the purposes of this subsection and subsection 59(3.3),

specified predecessor of a taxpayer means a person who is a predecessor of

(a) the taxpayer, or

(b) a person who is a specified predecessor of the taxpayer; (*prédécesseur déterminé*)

stated percentage means

(a) in respect of an amount described in paragraph 59(3.3)(a) or 59(3.3)(f) that became receivable by a taxpayer,

(i) le produit de disposition du bien,

(ii) le coût en capital du bien pour le contribuable, la personne avec qui il a un lien de dépendance ou le prédécesseur, selon le cas, calculé comme si aucun montant n'y avait été ajouté en vertu de l'alinéa 21(1)b) ou du paragraphe 21(3);

e) 66 2/3 % du total des montants dont chacun représente un montant devenu à recevoir par le contribuable au cours de l'année, après le 11 décembre 1979 et avant 1990, et dont la contrepartie donnée par le contribuable consistait en un bien (à l'exclusion d'une action et d'un avoir minier canadien), ou en services, dont il est raisonnable de considérer le coût comme une dépense relative à un puits de pétrole ou de gaz à l'égard duquel un montant a été ajouté dans le calcul de la base d'exploration frontalière du contribuable ou de la base d'exploration frontalière d'un prédécesseur lorsque le contribuable est une société remplaçante du prédécesseur;

f) 33 1/3 % du total des montants dont chacun représente le produit de la multiplication, par le pourcentage indiqué, d'un montant devenu à recevoir par le contribuable au cours de l'année et après le 19 avril 1983 et dont la contrepartie donnée par le contribuable consistait en un bien (à l'exclusion d'une action, d'un bien amortissable d'une catégorie prescrite et d'un avoir minier canadien), ou en services, dont il est raisonnable de considérer le coût comme une dépense qui a été ajoutée dans le calcul de la base de la déduction d'épuisement pour exploration minière du contribuable ou de la base de la déduction d'épuisement pour exploration minière d'un prédécesseur déterminé du contribuable.

Définitions

(3.4) Les définitions qui suivent s'appliquent au présent paragraphe et au paragraphe (3.3).

pourcentage indiqué

a) 100 %, 50 % ou 0 % respectivement, selon qu'il s'agit de multiplier ce pourcentage par un montant visé aux alinéas (3.3)a) ou f) et qui devient à recevoir soit avant juillet 1988, soit après juin 1988 et avant 1990, soit après 1989, par un contribuable;

b) 100 %, 50 % ou 0 % respectivement, selon qu'il s'agit de multiplier ce pourcentage par un montant relatif à une disposition de biens amortissables d'un contribuable visée à l'alinéa (3.3)b) et qui est effectuée soit avant juillet 1988, soit après juin 1988 et avant 1990, soit après 1989. (*stated percentage*)

(i) 100% where the amount became receivable before July, 1988,

(ii) 50% where the amount became receivable after June, 1988 and before 1990, and

(iii) 0% where the amount became receivable after 1989, and

(b) in respect of the disposition described in paragraph 59(3.3)(b) of a depreciable property of a taxpayer,

(i) 100% where the property was disposed of before July, 1988,

(ii) 50% where the property was disposed of after June, 1988 and before 1990, and

(iii) 0% where the property was disposed of after 1989; (*pourcentage indiqué*)

successor corporation means a corporation that has at any time after November 7, 1969 acquired, by purchase, amalgamation, merger, winding-up or otherwise (other than pursuant to an amalgamation that is described in subsection 87(1.2) or a winding-up to which the rules in subsection 88(1) apply), from another person (in this subsection and subsection 59(3.3) referred to as the "predecessor") all or substantially all of the Canadian resource properties of the predecessor in circumstances in which any of subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1) and 66.7(3) to 66.7(5) apply to the corporation. (*société remplaçante*)

prédécesseur déterminé Personne qui est un prédécesseur :

a) soit du contribuable;

b) soit d'une personne qui est un prédécesseur déterminé du contribuable. (*specified predecessor*)

société remplaçante Société qui a acquis après le 7 novembre 1969, par achat, fusion, unification, liquidation ou autrement — à l'exclusion d'une fusion visée au paragraphe 87(1.2) et d'une liquidation à laquelle s'appliquent les règles du paragraphe 88(1) —, auprès d'une autre personne — appelée « prédécesseur » au présent paragraphe et au paragraphe (3.3) — la totalité, ou presque, des avoirs miniers canadiens du prédécesseur dans une circonstance visée à l'un des paragraphes 29(25) des *Règles concernant l'application de l'impôt sur le revenu* et 66.7(1) et (3) à (5). (*successor corporation*)

Variation of stated percentage

(3.5) Notwithstanding the definition ***stated percentage*** in subsection 59(3.4), where

(a) an amount became receivable by a taxpayer within 60 days after the end of 1989 in respect of a disposition of property or services, and

(b) the person to whom the disposition was made is a corporation that, before the end of 1989, had issued, or had undertaken to issue, a flow-through share and the corporation renounces under subsection 66(12.66), effective on December 31, 1989, an amount in respect of Canadian exploration expenses that includes an expenditure in respect of the amount referred to in paragraph 59(3.5)(a),

the stated percentage in respect of the amount described in paragraph 59(3.5)(a) shall be 50%.

Variation du pourcentage indiqué

(3.5) Malgré la définition de ***pourcentage indiqué*** au paragraphe (3.4), le pourcentage indiqué pour un montant qui devient à recevoir par un contribuable dans les 60 jours suivant la fin de 1989 au titre de la disposition de biens ou de services est de 50 % dans le cas où la personne en faveur de laquelle la disposition est effectuée est une société qui, avant la fin de 1989, émet ou se propose d'émettre une action accréditive et qui, au 31 décembre 1989, renonce, en application du paragraphe 66(12.66), à des frais d'exploration au Canada qui comprennent une dépense au titre de ce montant.

Definition of *proceeds of disposition*

(5) In this section, ***proceeds of disposition*** has the meaning assigned by section 54.

Definitions in regulations under s. 65

(6) In this section, ***bituminous sands equipment***,***Canadian oil and gas exploration expense***, ***earned depletion base***, ***enhanced recovery equipment***, ***frontier exploration base***, ***mining exploration depletion base***, ***non-conventional lands***, ***qualified tertiary oil recovery project*** and ***supplementary depletion base*** have the meanings assigned by regulations made for the purposes of section 65.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 59; 2001, c. 17, s. 40.

Involuntary disposition of resource property

59.1 Where in a particular taxation year an amount is deemed by subsection 44(2) to have become receivable by a taxpayer as proceeds of disposition described in paragraph (d) of the definition ***proceeds of disposition*** in section 54 of any Canadian resource property and the taxpayer elects, in the taxpayer's return of income under this Part for the year, to have this section apply to those proceeds of disposition,

(a) there shall be deducted in computing the taxpayer's income for the particular year such amount as the taxpayer may claim, not exceeding the least of,

(i) the total of all those proceeds so becoming receivable in the particular year by the taxpayer to the extent that they have been included in the amount referred to in paragraph (a) of the description of F in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) or in paragraph (a) of the description of F in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) in respect of the taxpayer,

(ii) the amount required to be included in computing the taxpayer's income for the particular year by virtue of paragraph 59(3.2)(c), and

(iii) the taxpayer's income for the particular year determined without reference to this section;

(b) the amount, if any, by which

(i) the amount deducted under paragraph 59.1(a

exceeds

Définition de *produit de disposition*

(5) Au présent article, ***produit de disposition*** s'entend au sens de l'article 54.

Termes définis par règlement (art. 65)

(6) Au présent article, ***base de la déduction d'épuisement pour exploration minière***, ***base de la déduction pour épuisement gagné***, ***base de la déduction supplémentaire pour épuisement***, ***base d'exploration frontalière***, ***frais d'exploration pétrolière et gazière au Canada***, ***matériel amélioré de récupération***, ***matériel d'exploitation de sables bitumineux***, ***projet admissible de récupération tertiaire du pétrole*** et ***terres non conventionnelles*** s'entendent au sens des dispositions réglementaires prises en application de l'article 65.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 59; 2001, ch. 17, art. 40.

Disposition involontaire d'un avoir minier

59.1 Dans le cas où, au cours d'une année d'imposition donnée, un montant est réputé, en application du paragraphe 44(2), être devenu à recevoir à titre de produit de disposition visé à l'alinéa d) de la définition de ***produit de disposition*** à l'article 54 d'un avoir minier canadien par un contribuable qui a fait un choix, dans sa déclaration de revenu produite pour l'année en vertu de la présente partie, pour que le présent article s'applique à ce produit, les règles suivantes s'appliquent :

a) le contribuable peut déduire, dans le calcul de son revenu pour l'année donnée, le montant qu'il peut demander sans dépasser le moins élevé des montants suivants :

(i) le total des produits qui deviennent recevables par le contribuable au cours de l'année donnée, dans la mesure où ils ont été inclus dans le montant visé à l'alinéa a) de l'élément F de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) ou à l'alinéa a) de l'élément F de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) à l'égard du contribuable,

(ii) le montant qui doit être inclus dans le calcul du revenu du contribuable pour l'année donnée en vertu de l'alinéa 59(3.2)c),

(iii) le revenu du contribuable pour l'année donnée déterminé compte non tenu du présent article;

b) doit être inclus dans le calcul du revenu du contribuable pour l'année donnée l'excédent éventuel du

(ii) the total of such of the Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses made or incurred by the taxpayer in the taxpayer's ten taxation years immediately following the particular year as were designated by the taxpayer in the taxpayer's return of income for the year in which the expense was made or incurred,

shall be included in computing the taxpayer's income for the particular year and, notwithstanding subsections 152(4) and 152(5), such reassessment of the taxpayer's tax, interest or penalties for any year shall be made as is necessary to give effect to the inclusion; and

(c) any Canadian exploration expense, Canadian development expense or Canadian oil and gas property expense made or incurred by the taxpayer and designated in the taxpayer's return of income in accordance with subparagraph 59.1(b(ii) shall (except for the purposes of subsections 66(12.1), 66(12.2), 66(12.3) and 66(12.5) and for the purpose of computing the taxpayer's earned depletion base within the meaning assigned by regulations made for the purposes of section 65) be deemed not to be a Canadian exploration expense, a Canadian development expense or a Canadian oil and gas property expense, as the case may be, of the taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 59.1; 1994, c. 7, Sch. II, s. 33.

montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le montant déduit en vertu de l'alinéa a),

(ii) le total des frais d'exploration au Canada, des frais d'aménagement au Canada et des frais à l'égard de biens canadiens relatifs au pétrole et au gaz qui ont été faits ou engagés par le contribuable au cours de ses dix années d'imposition suivant immédiatement l'année d'imposition donnée et désignés dans sa déclaration de revenu pour l'année où les frais ont été faits ou engagés;

en outre, malgré les paragraphes 152(4) et (5), le ministre doit établir la nouvelle cotisation voulue concernant l'impôt, les intérêts ou les pénalités du contribuable pour tenir compte de l'inclusion;

(c) tous frais d'exploration au Canada, frais d'aménagement au Canada ou frais à l'égard de biens canadiens relatifs au pétrole et au gaz qui ont été faits ou engagés par le contribuable et désignés dans sa déclaration de revenu conformément au sous-alinéa b)(ii) sont réputés (sauf pour l'application des paragraphes 66(12.1), (12.2), (12.3) et (12.5) et pour le calcul de la base de la déduction pour épuisement gagné du contribuable selon la définition qu'en donnent les dispositions réglementaires prises en application de l'article 65) ne pas constituer des frais d'exploration au Canada, des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, selon le cas, faits ou engagés par le contribuable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 59.1; 1994, ch. 7, ann. II, art. 33.

SUBDIVISION E

Deductions in Computing Income

Other deductions

60 There may be deducted in computing a taxpayer's income for a taxation year such of the following amounts as are applicable

Capital element of annuity payments

(a) the capital element of each annuity payment included by virtue of paragraph 56(1)(d) in computing the taxpayer's income for the year, that is to say,

SOUS-SECTION E

Déductions dans le calcul du revenu

Autres déductions

60 Peuvent être déduites dans le calcul du revenu d'un contribuable pour une année d'imposition les sommes suivantes qui sont appropriées :

Partie représentant le capital d'une rente

a) la partie représentant le capital de chaque versement de rente inclus, en vertu de l'alinéa 56(1)d), dans le calcul du revenu du contribuable pour l'année, c'est-à-dire :

(i) si la rente a été payée en vertu d'un contrat, une somme égale à la partie du paiement déterminée

(i) if the annuity was paid under a contract, an amount equal to that part of the payment determined in prescribed manner to have been a return of capital, and

(ii) if the annuity was paid under a will or trust, such part of the payment as can be established by the recipient not to have been paid out of the income of the estate or trust;

Support

(b) the total of all amounts each of which is an amount determined by the formula

A - (B + C)

where

A is the total of all amounts each of which is a support amount paid after 1996 and before the end of the year by the taxpayer to a particular person, where the taxpayer and the particular person were living separate and apart at the time the amount was paid,

B is the total of all amounts each of which is a child support amount that became payable by the taxpayer to the particular person under an agreement or order on or after its commencement day and before the end of the year in respect of a period that began on or after its commencement day, and

C is the total of all amounts each of which is a support amount paid by the taxpayer to the particular person after 1996 and deductible in computing the taxpayer's income for a preceding taxation year;

Pension income reallocation

(c) where the taxpayer is a pensioner (as defined in subsection 60.03(1)), any amount that is a split-pension amount (as defined in that subsection) in respect of the pensioner for the taxation year;

(c.1) [Repealed, 1994, c. 7, Sch. VIII, s. 20(2)]

Repayment of support payments

(c.2) an amount paid by the taxpayer in the year or one of the 2 preceding taxation years under a decree, order or judgment of a competent tribunal as a repayment of an amount included under paragraph 56(1)(b) or 56(1)(c), or under paragraph 56(1)(c.1) (as it applies, in computing the taxpayer's income for the year or a preceding taxation year, to decrees, orders and judgments made before 1993) to the extent that it was not so deducted for a preceding taxation year;

selon les modalités réglementaires comme ayant été un remboursement de capital,

(ii) si la rente a été payée en vertu d'un testament ou d'une fiducie, la partie du paiement qui, comme le bénéficiaire l'aura établie, ne provient pas du revenu de la succession ou de la fiducie;

Pension alimentaire

b) le total des montants représentant chacun le résultat du calcul suivant :

A - (B + C)

où :

A représente le total des montants représentant chacun une pension alimentaire que le contribuable a payée après 1996 et avant la fin de l'année à une personne donnée dont il vivait séparé au moment du paiement,

B le total des montants représentant chacun une pension alimentaire pour enfants qui est devenue payable par le contribuable à la personne donnée aux termes d'un accord ou d'une ordonnance à la date d'exécution ou postérieurement et avant la fin de l'année relativement à une période ayant commencé à cette date ou postérieurement,

C le total des montants représentant chacun une pension alimentaire que le contribuable a payée à la personne donnée après 1996 et qui est déductible dans le calcul de son revenu pour une année d'imposition antérieure;

Réattribution du revenu de pension

c) si le contribuable est un pensionné, au sens du paragraphe 60.03(1), toute somme qui est un montant de pension fractionné, au sens de ce paragraphe, pour lui pour l'année;

c.1) [Abrogé, 1994, ch. 7, ann. VIII, art. 20]

Remboursement de la pension alimentaire

c.2) une somme que le contribuable a payée au cours de l'année ou d'une des deux années d'imposition précédentes, en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent, à titre de remboursement d'un montant inclus en application des alinéas 56(1)b) ou c), ou de l'alinéa 56(1)c.1) (tel qu'il s'applique, dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, aux ordonnances ou jugements rendus avant 1993), dans la mesure où elle n'a pas été déduite dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

Interest on death duties

(d) an amount equal to annual interest accruing within the taxation year in respect of succession duties, inheritance taxes or estate taxes;

CPP/QPP contributions on self-employed earnings

(e) 1/2 of the lesser of

(i) the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under the *Canada Pension Plan* or under a provincial pension plan within the meaning assigned by section 3 of that Act, and

(ii) the maximum amount of such contributions payable by the taxpayer for the year under the plan;

Restrictive covenant — bad debt

(f) all debts owing to a taxpayer that are established by the taxpayer to have become bad debts in the taxation year and that are in respect of an amount included because of the operation of subsection 6(3.1) or 56.4(2) in computing the taxpayer's income in a preceding taxation year;

Quebec parental insurance plan — self-employed premiums

(g) the amount determined by the formula

A – B

where

A is the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the taxation year as a premium under the *Act respecting parental insurance*, R.S.Q., c. A-29.011, and

B is the total of all amounts each of which is an amount that would be payable by the taxpayer as an employee's premium under the *Act respecting parental insurance*, R.S.Q., c. A-29.011, if those earnings were employment income of the taxpayer for the taxation year;

Premium or payment under RRSP or RRIF

(i) any amount that is deductible under section 146 or 146.3 or subsection 147.3(13.1) in computing the income of the taxpayer for the year;

Transfer of superannuation benefits

(j) such part of the total of all amounts each of which is

(i) a superannuation or pension benefit (other than any amount in respect of the benefit that is

Intérêts sur droits de succession

d) toute somme égale aux intérêts annuels accumulés au cours de l'année d'imposition relativement aux droits de succession et à l'impôt sur les biens transmis par décès;

Cotisations au RPC/RRQ sur le revenu d'un travail indépendant

e) la moitié du moins élevé des montants suivants :

(i) le total des montants représentant chacun un montant payable par le contribuable pour l'année à titre de cotisation en application du *Régime de pensions du Canada* ou d'un régime provincial de pensions au sens de l'article 3 de cette loi, sur les gains provenant d'un travail qu'il exécute pour son propre compte,

(ii) le maximum payable par le contribuable pour l'année en application du régime;

Créances irrécouvrables

f) les créances d'un contribuable, que celui-ci a établies comme étant devenues irrécouvrables au cours de l'année et qui ont trait à une somme incluse, en raison de l'application des paragraphes 6(3.1) ou 56.4(2), dans le calcul de son revenu pour une année d'imposition antérieure;

Régime québécois d'assurance parentale — cotisations de travailleur autonome

g) la somme obtenue par la formule suivante :

A – B

où :

A représente le total des sommes représentant chacune une somme à payer par le contribuable pour l'année à titre de cotisation en application de la *Loi sur l'assurance parentale*, L.R.Q., ch. A-29.011, sur les gains provenant d'un travail qu'il exécute pour son propre compte,

B le total des sommes représentant chacune une somme qui serait à payer par le contribuable à titre de cotisation d'employé en application de la *Loi sur l'assurance parentale*, L.R.Q., ch. A-29.011, si ces gains représentaient un revenu d'emploi du contribuable pour l'année;

Prime ou paiement dans le cadre d'un REER ou FERR

i) toute somme qui est déductible, en application des articles 146 ou 146.3 ou du paragraphe 147.3(13.1), dans le calcul du revenu du contribuable pour l'année;

deducted in computing the taxable income of the taxpayer for a taxation year because of subparagraph 110(1)(f)(i) or a benefit that is part of a series of periodic payments) payable out of or under a pension plan that is not a registered pension plan, attributable to services rendered by the taxpayer or a spouse or common-law partner or former spouse or common-law partner of the taxpayer in a period throughout which that person was not resident in Canada, and included in computing the income of the taxpayer for the year because of subparagraph 56(1)(a)(i), or

(ii) an eligible amount in respect of the taxpayer for the year under section 60.01, subsection 104(27) or 104(27.1) or paragraph 147(10.2)(d),

as

(iii) is designated by the taxpayer in the taxpayer's return of income under this Part for the year, and

(iv) does not exceed the total of all amounts each of which is an amount paid by the taxpayer in the year or within 60 days after the end of the year

(A) as a contribution to or under a registered pension plan for the taxpayer's benefit, other than the portion thereof deductible under paragraph 8(1)(m) in computing the taxpayer's income for the year, or

(B) as a premium (within the meaning assigned by subsection 146(1)) under a registered retirement savings plan under which the taxpayer is the annuitant (within the meaning assigned by subsection 146(1)), other than the portion thereof designated for a taxation year for the purposes of paragraph 60(l,

to the extent that the amount was not deducted in computing the taxpayer's income for a preceding taxation year;

Transfer of surplus

(j.01) such part of the total of all amounts each of which is an amount received by the taxpayer before March 28, 1988 that can reasonably be considered to be a payment in respect of the actuarial surplus under a defined benefit provision (within the meaning assigned by subsection 147.1(1)) of a registered pension plan and that is included in computing the income of the taxpayer for the year by virtue of subparagraph 56(1)(a)(i) (other than any portion thereof deducted by the taxpayer under subsection 60.2(1) in computing the taxpayer's income for the year) as

Transfert de prestation de retraite

j) la partie — non déduite dans le calcul du revenu du contribuable pour une année d'imposition antérieure — du total des montants représentant chacun soit un montant admissible par application de l'article 60.01, des paragraphes 104(27) ou (27.1) ou de l'alinéa 147(10.2)d) pour le contribuable pour l'année, soit une prestation de retraite ou de pension (à l'exception d'un montant au titre d'une prestation déduite en application du sous-alinéa 110(1)f)(i) dans le calcul du revenu imposable du contribuable pour une année d'imposition et d'une prestation qui fait partie d'une série de paiements périodiques) payable dans le cadre d'un régime de pension qui n'est pas un régime de pension agréé, attribuable à des services que le contribuable ou son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait a rendus au cours d'une période tout au long de laquelle il ne résidait pas au Canada et incluse dans le calcul du revenu du contribuable pour l'année en application du sous-alinéa 56(1)a)(i), laquelle partie :

(i) d'une part, est indiquée par le contribuable dans sa déclaration de revenu produite pour l'année en vertu de la présente partie,

(ii) d'autre part, ne dépasse pas le total des montants qu'il a versés au cours de l'année ou dans les 60 jours suivant la fin de cette année :

(A) soit à titre de cotisation dans le cadre d'un régime de pension agréé, à son profit, à l'exclusion de la fraction de cette cotisation qu'il peut déduire en application de l'alinéa 8(1)m) dans le calcul de son revenu pour l'année,

(B) soit à titre de prime, au sens du paragraphe 146(1), à un régime enregistré d'épargne-retraite dont il est rentier, au sens de ce paragraphe, à l'exclusion de la fraction de cette prime qu'il indique dans sa déclaration de revenu pour une année d'imposition pour l'application de l'alinéa l);

Transfert de surplus

j.01) la partie — non déduite dans le calcul du revenu du contribuable pour une année d'imposition antérieure — du total des montants dont chacun représente un montant que le contribuable a reçu avant le 28 mars 1988, qu'il est raisonnable de considérer comme un paiement fait au titre du surplus actuariel afférent à la disposition à prestations déterminées, au sens du paragraphe 147.1(1), d'un régime de pension agréé, et qui est inclus dans le calcul de son revenu pour l'année en application du sous-alinéa 56(1)a)(i)

(i) is designated by the taxpayer in the taxpayer's return of income under this Part for the year, and

(ii) does not exceed the total of all amounts each of which as an amount paid by the taxpayer in the year or within 60 days after the end of the year

(A) as a contribution to or under a registered pension plan for the taxpayer's benefit, other than the portion thereof deductible under paragraph 60(j) or 60(j.1) or 8(1)(m) of this Act or paragraph 8(1)(m.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in computing the taxpayer's income for the year, or

(B) as a premium (within the meaning assigned by subsection 146(1)) under a registered retirement savings plan under which the taxpayer is the annuitant (within the meaning assigned by subsection 146(1)), other than the portion thereof that has been designated for the purposes of paragraph 60(j), 60(j.1) or 60(l,

to the extent that it was not deducted in computing the taxpayer's income for a preceding taxation year;

Payment to registered pension plan

(j.02) an amount equal to the lesser of

(i) the total of

(A) all contributions made in the year by the taxpayer to registered pension plans in respect of eligible service of the taxpayer before 1990 under the plans, where the taxpayer was obliged under the terms of an agreement in writing entered into before March 28, 1988 to make the contributions, and

(B) all amounts each of which is an amount paid in the year by the taxpayer to a registered pension plan as

(I) a repayment under a prescribed statutory provision of an amount received from the plan that was included under subsection 56(1) in computing the taxpayer's income for a taxation year ending before 1990, where the taxpayer was obliged as a consequence of a written election made before March 28, 1988 to make the repayment, or

(II) interest in respect of a repayment referred to in subclause 60(j.02)(i)(B)(I),

(sauf toute partie de ce montant qu'il déduit en application du paragraphe 60.2(1) dans le calcul de son revenu pour l'année), laquelle partie :

(i) d'une part, est indiquée par le contribuable dans sa déclaration de revenu produite pour l'année en vertu de la présente partie,

(ii) d'autre part, ne dépasse pas le total des montants qu'il a versés au cours de l'année ou dans les 60 jours suivant la fin de cette année :

(A) soit à titre de cotisation dans le cadre d'un régime de pension agréé, à son profit, à l'exclusion de la fraction de cette cotisation qu'il peut déduire en application de l'alinéa j) ou j.1) ou 8(1)m) de la présente loi ou de l'alinéa 8(1)m.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul de son revenu pour l'année,

(B) soit à titre de prime, au sens du paragraphe 146(1), à un régime enregistré d'épargne-retraite dont il est rentier, au sens de ce paragraphe, à l'exclusion de la fraction de cette prime qu'il indique dans sa déclaration de revenu pour l'application de l'alinéa j), j.1) ou l);

Versement à un régime de pension agréé

j.02) la moins élevée des sommes suivantes :

(i) le total des montants suivants, à l'exception de la partie de ce total qui est déductible en application de l'alinéa 8(1)m) ou de l'alinéa j.03) dans le calcul du revenu du contribuable pour l'année :

(A) les cotisations que le contribuable a versées au cours de l'année à des régimes de pension agréés au titre des services admissibles qu'il a accomplis dans le cadre des régimes avant 1990, s'il s'agit de cotisations qu'il était tenu de verser en conformité avec une convention écrite conclue avant le 28 mars 1988,

(B) les montants représentant chacun un montant que le contribuable a versé au cours de l'année à un régime de pension agréé au titre, selon le cas :

(I) du remboursement, effectué en application d'une disposition législative visée par règlement, d'un montant provenant du régime et inclus, en application du paragraphe 56(1), dans le calcul du revenu du contribuable pour une année d'imposition se terminant avant 1990, s'il s'agit d'un remboursement que le

other than the portion of that total that is deductible under paragraph 8(1)(m) or paragraph 60(j.03) in computing the taxpayer's income for the year, and

(ii) the total of all amounts each of which is an amount paid out of or under a registered pension plan as part of a series of periodic payments and included under subsection 56(1) in computing the taxpayer's income for the year, other than the portion of that total that can reasonably be considered to have been designated by the taxpayer for the purpose of paragraph 60(j.2);

Repayments of pre-1990 pension benefits

(j.03) an amount equal to the lesser of

(i) the total of all amounts each of which is an amount paid in the year or a preceding taxation year by the taxpayer to a registered pension plan that was not deductible in computing the taxpayer's income for a preceding taxation year and that was paid as

(A) a repayment under a prescribed statutory provision of an amount received from the plan that was included under subsection 56(1) in computing the taxpayer's income for a taxation year ending before 1990, or

(B) interest in respect of a repayment referred to in clause 60(j.03)(i)(A), and

(ii) the amount, if any, by which $3,500 exceeds the amount deducted under paragraph 8(1)(m) in computing the taxpayer's income for the year;

Repayments of post-1989 pension benefits

(j.04) the total of all amounts each of which is an amount paid in the year by the taxpayer to a registered pension plan as

(i) a repayment under a prescribed statutory provision of an amount received from the plan that

(A) was included under subsection 56(1) in computing the taxpayer's income for a taxation year ending after 1989, and

(B) can reasonably be considered not to have been designated by the taxpayer for the purpose of paragraph 60(j.2), or

(ii) interest in respect of a repayment referred to in subparagraph 60(j.04)(i),

contribuable était tenu de faire par suite d'un choix écrit effectué avant le 28 mars 1988,

(II) des intérêts afférents au remboursement visé à la subdivision (I),

(ii) le total des montants représentant chacun un montant, faisant partie d'une série de paiements périodiques, qui est prévu par un régime de pension agréé, ou en provient, et qui est inclus, en application du paragraphe 56(1), dans le calcul du revenu du contribuable pour l'année, à l'exception de la partie de ce total qu'il est raisonnable de considérer comme indiquée dans la déclaration de revenu du contribuable pour l'application de l'alinéa j.2);

Remboursement des prestations de pension antérieures à 1990

j.03) la moins élevée des sommes suivantes :

(i) le total des montants représentant chacun un montant versé par le contribuable au cours de l'année ou d'une année d'imposition antérieure à un régime de pension agréé, qui n'était pas déductible dans le calcul du revenu du contribuable pour une année d'imposition antérieure et qui a été versé au titre, selon le cas :

(A) du remboursement, effectué en application d'une disposition législative visée par règlement, d'un montant provenant du régime et inclus, en application du paragraphe 56(1), dans le calcul du revenu du contribuable pour une année d'imposition se terminant avant 1990,

(B) des intérêts afférents au remboursement visé à la division (A),

(ii) l'excédent éventuel de 3 500 $ sur le montant déduit en application de l'alinéa 8(1)m) dans le calcul du revenu du contribuable pour l'année;

Remboursement des prestations de pension postérieures à 1989

j.04) le total, sauf dans la mesure où il est déductible en application de l'alinéa 8(1)m) dans le calcul du revenu du contribuable pour l'année, des montants représentant chacun un montant que le contribuable a versé au cours de l'année à un régime de pension agréé au titre, selon le cas :

(i) du remboursement, effectué en application d'une disposition législative visée par règlement, d'un montant provenant du régime et qui, à la fois :

(A) a été inclus, en application du paragraphe 56(1), dans le calcul du revenu du contribuable

except to the extent that the total was deductible under paragraph 8(1)(m) in computing the taxpayer's income for the year;

Transfer of retiring allowances

(j.1) such part of the total of all amounts each of which is an amount paid to the taxpayer by an employer, or under a retirement compensation arrangement to which the employer has contributed, as a retiring allowance and included in computing the taxpayer's income for the year by virtue of subparagraph 56(1)(a)(ii) or paragraph 56(1)(x) as

(i) is designated by the taxpayer in the taxpayer's return of income under this Part for the year,

(ii) does not exceed the amount, if any, by which the total of

(A) $2,000 multiplied by the number of years before 1996 during which the employee or former employee in respect of whom the payment was made (in this paragraph referred to as the "retiree") was employed by the employer or a person related to the employer, and

(B) $1,500 multiplied by the number by which the number of years before 1989 described in clause 60(j.1)(ii)(A) exceeds the number that can reasonably be regarded as the equivalent number of years before 1989 in respect of which employer contributions under either a pension plan or a deferred profit sharing plan of the employer or a person related to the employer had vested in the retiree at the time of the payment

exceeds the total of

(C) all amounts deducted under this paragraph in respect of amounts paid before the year in respect of the retiree

(I) by the employer or a person related to the employer, or

(II) under a retirement compensation arrangement to which the employer or a person related to the employer has contributed,

(C.1) all other amounts deducted under this paragraph for the year in respect of amounts paid in the year in respect of the retiree

(I) by a person related to the employer, or

pour une année d'imposition se terminant après 1989,

(B) peut raisonnablement être considéré comme n'ayant pas été indiqué dans la déclaration de revenu du contribuable pour l'application de l'alinéa j.2),

(ii) des intérêts afférents au remboursement visé au sous-alinéa (i);

Transfert d'allocations de retraite

j.1) la partie du total des montants dont chacun représente un montant versé au contribuable à titre d'allocation de retraite par un employeur ou dans le cadre d'une convention de retraite à laquelle l'employeur a cotisé et inclus dans le calcul du revenu du contribuable pour l'année, en vertu du sous-alinéa 56(1)a)(ii) ou de l'alinéa 56(1)x), qui, à la fois :

(i) est indiquée par le contribuable dans sa déclaration de revenu produite pour l'année en vertu de la présente partie,

(ii) ne dépasse pas l'excédent éventuel du total des montants suivants :

(A) le produit de 2 000 $ et du nombre d'années antérieures à 1996 pendant lesquelles l'employé ou ancien employé à l'égard duquel le versement a été fait (appelé « retraité » au présent alinéa) était employé par l'employeur ou par une personne liée à celui-ci,

(B) le produit de 1 500 $ et de l'excédent du nombre d'années, antérieures à 1989, visé à la division (A) sur le nombre qu'il est raisonnable de considérer comme le nombre équivalent d'années, antérieures à 1989, pour lesquelles les cotisations de l'employeur versées aux termes d'un régime de pension ou d'un régime de participation différée aux bénéfices de l'employeur ou d'une personne liée à celui-ci étaient acquises au retraité au moment du versement,

sur le total des montants suivants :

(C) les montants déduits en application du présent alinéa au titre des sommes versées avant l'année pour le retraité par l'employeur ou une personne liée à celui-ci ou dans le cadre d'une convention de retraite à laquelle l'employeur ou la personne a cotisé,

(C.1) les autres montants déduits en application du présent alinéa pour l'année au titre des

(II) under a retirement compensation arrangement to which a person related to the employer has contributed, and

(D) all amounts deducted under paragraph 60(t) in computing the retiree's income for the year in respect of a retirement compensation arrangement to which the employer or a person related to the employer has contributed, and

(iii) does not exceed the total of all amounts each of which is an amount paid by the taxpayer in the year or within 60 days after the end of the year in respect of the amount so designated

(A) as a contribution to or under a registered pension plan, other than the portion thereof deductible under paragraph 60(j) or 8(1)(m) in computing the taxpayer's income for the year, or

(B) as a premium (within the meaning assigned by section 146) under a registered retirement savings plan under which the taxpayer is the annuitant (within the meaning assigned by section 146), other than the portion thereof that has been designated for the purposes of paragraph 60(j) or 60(l,

to the extent that it was not deducted in computing the taxpayer's income for a preceding taxation year

and for the purposes of this paragraph, ***person related to the employer*** includes

(iv) any person whose business was acquired or continued by the employer, and

(v) a previous employer of the retiree whose service therewith is recognized in determining the retiree's pension benefits;

Transfer to spousal RRSP

(j.2) for taxation years ending after 1988 and before 1995, such part of the total of all amounts (other than amounts paid out of or under a registered retirement savings plan or a registered retirement income fund that by reason of section 254 are considered to be amounts paid out of or under a registered pension plan) paid on a periodic basis out of or under a registered pension plan or a deferred profit sharing plan and included, by reason of subsection 56(1), in computing the taxpayer's income for the year as

(i) is designated by the taxpayer in the taxpayer's return of income under this Part for the year, and

(ii) does not exceed the least of

sommes versées au cours de l'année pour le retraité par une personne liée à l'employeur ou dans le cadre d'une convention de retraite à laquelle la personne a cotisé,

(D) les montants déduits selon l'alinéa t) dans le calcul du revenu du retraité pour l'année relativement à une convention de retraite à laquelle l'employeur ou une personne liée à celui-ci a cotisé,

(iii) ne dépasse pas le total des sommes dont chacune représente une somme payée par le contribuable au cours de l'année ou dans les 60 jours suivant la fin de l'année relativement au montant qu'il a ainsi indiqué :

(A) soit à titre de cotisation dans le cadre d'un régime de pension agréé, à l'exception de la fraction de cette cotisation qui est déductible en vertu de l'alinéa j) ou 8(1)m) dans le calcul de son revenu pour l'année,

(B) soit à titre de prime (au sens de l'article 146) en vertu d'un régime enregistré d'épargne-retraite aux termes duquel il est le rentier (au sens de l'article 146), à l'exception de la fraction de cette prime désignée pour l'application de l'alinéa j) ou l),

dans la mesure où elle n'a pas été déduite dans le calcul de son revenu pour une année d'imposition antérieure;

pour l'application du présent alinéa, sont compris parmi les personnes liées à l'employeur :

(iv) toute personne dont l'entreprise a été acquise ou continuée par l'employeur,

(v) un ancien employeur du retraité, dans la mesure où le temps passé au service de cet ancien employeur est reconnu pour établir les prestations de retraite du retraité;

Transfert au REER du conjoint

j.2) pour les années d'imposition se terminant après 1988 et avant 1995,la partie du total des paiements périodiques (à l'exception de montants prévus dans le cadre d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite qui, par l'effet de l'article 254, sont considérés comme prévus dans le cadre d'un régime de pension agréé) prévus dans le cadre d'un régime de pension agréé ou d'un régime de participation différée aux bénéfices et inclus en application du paragraphe 56(1) dans le calcul de son revenu pour l'année qui :

(A) $6,000,

(B) the amount, if any, by which that total exceeds the part of that total designated for the year for the purposes of paragraph 60(j) of this Act or deducted under paragraph 60(k) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in computing the taxpayer's income for the year, and

(C) the total of all amounts each of which is paid by the taxpayer in the year or within 60 days after the end of the year as a premium (within the meaning assigned by subsection 146(1)) under a registered retirement savings plan under which the taxpayer's spouse or common-law partner (or, where the taxpayer died in the year or within 60 days after the end of the year, an individual who was the taxpayer's spouse or common-law partner immediately before the death) is the annuitant (within the meaning assigned by subsection 146(1)), to the extent that the amount was not deducted in computing the taxpayer's income for a preceding taxation year;

Transfer of refund of premiums under RRSP

(I) the total of all amounts each of which is an amount paid by or on behalf of the taxpayer in the year or within 60 days after the end of the year (or within such longer period after the end of the year as is acceptable to the Minister)

(i) as a premium under a registered retirement savings plan under which the taxpayer is the annuitant,

(ii) to acquire, from a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, an annuity

(A) under which the taxpayer is the annuitant

(I) for the taxpayer's life, or for the lives jointly of the taxpayer and the taxpayer's spouse or common-law partner either without a guaranteed period, or with a guaranteed period that is not greater than 90 years minus the lesser of the age in whole years of the taxpayer and the age in whole years of the taxpayer's spouse or common-law partner at the time the annuity was acquired, or

(II) for a term equal to 90 years minus the age in whole years of the taxpayer or the age in whole years of the taxpayer's spouse or

(i) d'une part, est indiquée par le contribuable dans sa déclaration de revenu produite pour l'année en vertu de la présente partie,

(ii) d'autre part, ne dépasse pas le moins élevé des montants suivants :

(A) 6 000 $,

(B) l'excédent éventuel de ce total sur la partie de ce total qu'il indique dans sa déclaration de revenu pour l'année pour l'application de l'alinéa j) ou qu'il déduit selon l'alinéa 60k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul de son revenu pour l'année,

(C) le total des montants représentant chacun un montant que le contribuable a versé au cours de l'année ou des 60 jours suivant la fin de l'année à titre de prime, au sens du paragraphe 146(1), à un régime enregistré d'épargne-retraite dont son époux ou conjoint de fait (ou, si le contribuable est décédé au cours de l'année ou des 60 jours suivant la fin de l'année, le particulier qui était son époux ou conjoint de fait immédiatement avant le décès) est rentier, au sens de ce paragraphe, dans la mesure où ce montant n'a pas été déduit dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

Transfert de REER

I) le total des montants représentant chacun un montant versé par le contribuable, ou pour son compte, au cours de l'année ou dans les 60 jours suivant la fin de l'année (ou au cours d'une période plus longue suivant la fin de l'année que le ministre estime acceptable):

(i) à titre de prime en vertu d'un régime enregistré d'épargne-retraite dont le contribuable est rentier,

(ii) afin d'acheter à une personne titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter un commerce de rentes au Canada, une rente :

(A) dont le contribuable est rentier et qui est :

(I) soit une rente viagère simple ou réversible à l'époux ou conjoint de fait survivant, sans durée garantie ou pour une durée garantie égale ou inférieure à la différence entre 90 et l'âge du contribuable en années accomplies au moment de l'achat de la rente ou, s'il est moindre, l'âge de son époux ou conjoint de fait en années accomplies à ce moment,

common-law partner, at the time the annuity was acquired, or

(B) under which the taxpayer is the annuitant for a term not exceeding 18 years minus the age in whole years of the taxpayer at the time the annuity was acquired

that does not provide for any payment thereunder except

(C) the single payment by or on behalf of the taxpayer,

(D) annual or more frequent periodic payments

(I) beginning not later than one year after the date of the payment referred to in clause 60(l(ii)(C), and

(II) each of which is equal to all other such payments or not equal to all other such payments solely because of an adjustment that would, if the annuity were an annuity under a retirement savings plan, be in accordance with subparagraphs 146(3)(b)(iii) to 146(3)(b)(v), and

(E) payments in full or partial commutation of the annuity and, where the commutation is partial,

(I) equal annual or more frequent periodic payments thereafter, or

(II) annual or more frequent periodic payments thereafter that are not equal solely because of an adjustment that would, if the annuity were an annuity under a retirement savings plan, be in accordance with subparagraphs 146(3)(b)(iii) to 146(3)(b)(v);

or

(iii) to a carrier as consideration for a registered retirement income fund under which the taxpayer is the annuitant

where that total

(iv) is designated by the taxpayer in the taxpayer's return of income under this Part for the year,

(v) does not exceed the total of

(A) the amount included in computing the taxpayer's income for the year as a refund of

(II) soit une rente à terme, pour un nombre d'années égal à la différence entre 90 et l'âge, en années accomplies, du contribuable ou de son époux ou conjoint de fait au moment de l'achat de la rente,

(B) dont est rentier le contribuable pour un nombre d'années ne dépassant pas la différence entre 18 et l'âge du contribuable en années accomplies au moment de l'achat de la rente,

cette rente ne devant pas prévoir d'autres versements, sauf les suivants :

(C) le paiement unique à effectuer par le contribuable ou pour son compte,

(D) des versements à effectuer périodiquement à intervalles ne dépassant pas un an et qui, à la fois :

(I) commencent au plus tard une année après la date du paiement visé à la division (C),

(II) sont égaux entre eux, ou ne le sont pas en raison seulement d'un rajustement qui serait conforme aux sous-alinéas 146(3)b)(iii) à (v) si la rente était prévue par un régime d'épargne-retraite,

(E) des versements découlant de la conversion totale ou partielle de la rente et, par la suite, en cas de conversion partielle :

(I) soit des versements égaux à effectuer périodiquement à intervalles ne dépassant pas un an,

(II) soit des versements à effectuer périodiquement à intervalles ne dépassant pas un an qui ne sont pas égaux entre eux en raison seulement d'un rajustement qui serait conforme aux sous-alinéas 146(3)b)(iii) à (v) si la rente était prévue par un régime d'épargne-retraite,

(iii) en contrepartie d'un fonds enregistré de revenu de retraite dont le contribuable est rentier, à l'émetteur de ce fonds,

lorsque ce total :

(iv) est indiqué par le contribuable dans sa déclaration de revenu produite pour l'année en vertu de la présente partie,

(v) ne dépasse pas le total des sommes suivantes :

premiums out of or under a registered retirement savings plan under which the taxpayer's spouse or common-law partner was the annuitant,

(A.1) the amount included in computing the taxpayer's income for the year as a payment (other than a payment that is part of a series of periodic payments) received by the taxpayer out of or under a pooled registered pension plan as a consequence of the death of an individual who was, immediately before the death, a spouse or common-law partner of the taxpayer,

(B) the amount included in computing the taxpayer's income for the year as a refund of premiums out of or under a registered retirement savings plan where the taxpayer was dependent by reason of physical or mental infirmity on the annuitant under the plan,

(B.01) the amount included in computing the taxpayer's income for the year as a payment (other than a payment that is part of a series of periodic payments or that relates to an actuarial surplus) received by the taxpayer out of or under a pooled registered pension plan, a registered pension plan or a specified pension plan as a consequence of the death of an individual of whom the taxpayer was a child or grandchild, if the taxpayer was, immediately before the death, financially dependent on the individual for support because of mental or physical infirmity,

(B.1) the least of

(I) the amount paid by or on behalf of the taxpayer to acquire an annuity that would be described in subparagraph 60(l(ii) if that subparagraph were read without reference to clause (A) thereof,

(II) the amount (other than any portion of it that is included in the amount determined under clause (B), (B.01) or (B.2)) that is included in computing the taxpayer's income for the year as

1. a payment (other than a payment that is part of a series of periodic payments or that relates to an actuarial surplus) received by the taxpayer out of or under a pooled registered pension plan, a registered pension plan or a specified pension plan,

2. a refund of premiums out of or under a registered retirement savings plan, or

(A) la somme ajoutée dans le calcul de son revenu pour l'année à titre de remboursement de primes dans le cadre d'un régime enregistré d'épargne-retraite dont l'époux ou conjoint de fait du contribuable était rentier,

(A.1) la somme ajoutée dans le calcul de son revenu pour l'année à titre de paiement (sauf un paiement qui fait partie d'une série de paiements périodiques) qu'il reçoit dans le cadre d'un régime de pension agréé collectif par suite du décès d'un particulier qui était, immédiatement avant le décès, son époux ou conjoint de fait,

(B) la somme ajoutée dans le calcul de son revenu pour l'année à titre de remboursement de primes dans le cadre d'un régime enregistré d'épargne-retraite dans le cas où le contribuable était à la charge du rentier du régime en raison d'une infirmité mentale ou physique,

(B.01) la somme ajoutée dans le calcul de son revenu pour l'année à titre de paiement (sauf un paiement afférent à un surplus actuariel ou faisant partie d'une série de paiements périodiques) qu'il reçoit dans le cadre d'un régime de pension agréé, d'un régime de pension agréé collectif ou d'un régime de pension déterminé par suite du décès d'un particulier dont il était l'enfant ou le petit-enfant, dans le cas où le contribuable était, immédiatement avant le décès du particulier, financièrement à la charge de celui-ci en raison d'une déficience mentale ou physique,

(B.1) la moins élevée des sommes suivantes :

(I) la somme versée par le contribuable ou pour son compte afin d'acheter une rente visée au sous-alinéa (ii), compte non tenu de la division (A),

(II) la somme, sauf la partie de celle-ci qui est comprise dans la somme visée aux divisions (B), (B.01) ou (B.2), ajoutée dans le calcul du revenu du contribuable pour l'année, par suite du décès d'un particulier dont le contribuable est l'enfant ou le petit-enfant, à titre, selon le cas :

1. de paiement (sauf un paiement afférent à un surplus actuariel ou faisant partie d'une série de paiements périodiques) que le contribuable reçoit dans le cadre d'un régime de pension agréé, d'un régime de pension agréé collectif ou d'un régime de pension déterminé,

3. a designated benefit in respect of a registered retirement income fund (in this clause having the meaning assigned by subsection 146.3(1))

as a consequence of the death of an individual of whom the taxpayer is a child or grandchild, and

(III) the amount, if any, by which the amount determined for the year under subclause 60(1)(v)(B.1)(II) in respect of the taxpayer exceeds the amount, if any, by which

1. the total of all designated benefits of the taxpayer for the year in respect of registered retirement income funds

exceeds

2. the total of all amounts that would be eligible amounts of the taxpayer for the year in respect of those funds (within the meaning that would be assigned by subsection 146.3(6.11) if the taxpayer were described in paragraph (b) thereof), and

(B.2) all eligible amounts of the taxpayer for the year in respect of registered retirement income funds (within the meaning assigned by subsection 146.3(6.11)),

and where the amount is paid by a direct transfer from the issuer of a registered retirement savings plan or a carrier of a registered retirement income fund,

(C) the amount included in computing the taxpayer's income for the year as a consequence of a payment described in subparagraph 146(2)(b)(ii), and

(D) the amount, if any, by which

(I) the amount received by the taxpayer out of or under a registered retirement income fund under which the taxpayer is the annuitant and included because of subsection 146.3(5) in computing the taxpayer's income for the year

exceeds

(II) the amount, if any, by which the minimum amount (within the meaning assigned by subsection 146.3(1)) under the fund for the year exceeds the total of all amounts received out of or under the fund in the year by an

2. de remboursement de primes prévu dans le cadre d'un régime enregistré d'épargne-retraite,

3. de prestation désignée (s'entendant, à la présente division, au sens du paragraphe 146.3(1)) prévue par un fonds enregistré de revenu de retraite,

(III) l'excédent éventuel du montant déterminé selon la subdivision (II) à l'égard du contribuable pour l'année sur l'excédent éventuel du total visé à la sous-subdivision 1 sur le total visé à la sous-subdivision 2:

1. le total des prestations désignées du contribuable pour l'année prévues par des fonds enregistrés de revenu de retraite,

2. le total des montants qui seraient des montants admissibles du contribuable pour l'année relativement à ces fonds (au sens du paragraphe 146.3(6.11), à supposer que le contribuable est visé à l'alinéa 146.3(6.11)b)),

(B.2) les montants admissibles du contribuable pour l'année relativement à des fonds enregistrés de revenu de retraite (au sens du paragraphe 146.3(6.11)),

et si le montant est versé par transfert direct de l'émetteur d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite :

(C) la somme ajoutée dans le calcul de son revenu pour l'année en raison d'un versement visé au sous-alinéa 146(2)b)(ii),

(D) l'excédent éventuel du montant visé à la subdivision (I) sur l'excédent visé à la subdivision (II):

(I) le montant que le contribuable a retiré dans le cadre d'un fonds enregistré de revenu de retraite dont il est rentier et qui est ajouté dans le calcul de son revenu pour l'année par l'effet du paragraphe 146.3(5),

(II) l'excédent éventuel du minimum, au sens du paragraphe 146.3(1), à retirer du fonds pour l'année sur le total des montants retirés dans le cadre du fonds au cours de l'année par un particulier qui en était le rentier avant que le contribuable ne le devienne et qui sont inclus dans le calcul du revenu de ce particulier

individual who was an annuitant under the fund before the taxpayer became the annuitant under the fund and that were included because of subsection 146.3(5) in computing that individual's income for the year, and

(vi) was not deducted in computing the taxpayer's income for a preceding taxation year;

(m) such amount in respect of payments to a registered disability savings plan as is permitted under section 60.02;

Succession duties applicable to certain property

(m.1) that proportion of any superannuation or pension benefit, death benefit, benefit under a registered retirement savings plan, benefit under a deferred profit sharing plan or benefit that is a payment under an income-averaging annuity contract, received by the taxpayer in the year, on or after the death of a predecessor, in payment of or on account of property to which the taxpayer is the successor, that

(i) such part of any succession duties payable under a law of a province in respect of the death of the predecessor as may reasonably be regarded as attributable to the property in payment of or on account of which the benefit was so received,

is of

(ii) the value of the property in payment of or on account of which the benefit was so received, as computed for the purposes of the law referred to in subparagraph 60(m.1)(i);

Repayment of pension or benefits

(n) any amount paid by the taxpayer in the year as a repayment (otherwise than because of Part VII of the *Unemployment Insurance Act*, chapter U-1 of the Revised Statutes of Canada, 1985, or of Part VII of the *Employment Insurance Act*) of any of the following amounts to the extent that the amount was included in computing the taxpayer's income, and not deducted in computing the taxpayer's taxable income, for the year or for a preceding taxation year, namely,

(i) a pension described in clause 56(1)(a)(i)(A),

(ii) a benefit described in clause 56(1)(a)(i)(B),

(iii) an amount described in subparagraph 56(1)(a)(ii),

(iv) a benefit described in subparagraph 56(1)(a)(iv),

pour l'année par l'effet du paragraphe 146.3(5),

(vi) n'a pas été déduit dans le calcul de son revenu pour une année d'imposition antérieure;

Paiements à un régime enregistré d'épargne-invalidité

m) la somme que permet l'article 60.02 au titre de paiements à un régime enregistré d'épargne-invalidité;

Droits successoraux applicables à certains biens

m.1) la fraction de toute prestation de retraite ou de pension, prestation consécutive au décès, prestation en vertu d'un régime enregistré d'épargne-retraite ou d'un régime de participation différée aux bénéfices, ou prestation constituant un paiement effectué en vertu d'un contrat de rente à versements invariables, reçue au cours de l'année par le contribuable, lors du décès d'un prédécesseur ou par la suite, en paiement ou au titre de biens dont le contribuable est l'héritier, représentée par le rapport entre :

(i) d'une part, la partie de tous droits successoraux payables en vertu d'une loi provinciale à la suite du décès du prédécesseur qu'il est raisonnable de considérer comme imputable aux biens en paiement ou au titre desquels la prestation a été ainsi reçue,

(ii) d'autre part, la valeur des biens en paiement ou au titre desquels la prestation a été ainsi reçue, ainsi qu'elle est calculée dans le cadre de la loi visée au sous-alinéa (i);

Remboursement des pensions ou prestations

n) un montant payé par le contribuable au cours de l'année en remboursement, autrement que par l'effet de la partie VII de la *Loi sur l'assurance-chômage*, chapitre U-1 des Lois révisées du Canada (1985), ou de la partie VII de la *Loi sur l'assurance-emploi*, de l'un des montants ci-après, dans la mesure où le montant a été inclus dans le calcul du revenu du contribuable, et n'a pas été déduit dans le calcul de son revenu imposable, pour l'année ou pour une année d'imposition antérieure :

(i) une pension visée à la division 56(1)a)(i)(A),

(ii) une prestation visée à la division 56(1)a)(i)(B),

(iii) une allocation visée au sous-alinéa 56(1)a)(ii),

(iv) une prestation visée au sous-alinéa 56(1)a)(iv),

(v) une prestation visée au sous-alinéa 56(1)a)(vi),

(v) a benefit described in subparagraph 56(1)(a)(vi),

(v.1) a benefit described in subparagraph 56(1)(a)(vii), and

(vi) an amount described in paragraph 56(1)(r);

(v.1) une prestation visée au sous-alinéa 56(1)a)(vii),

(vi) une somme visée à l'alinéa 56(1)r);

Repayment of pension benefits

(n.1) an amount paid by the taxpayer in the year to a pooled registered pension plan or registered pension plan if

(i) the taxpayer is an individual,

(ii) the amount is paid as

(A) a repayment of an amount received from the plan that was included in computing the taxpayer's income for the year or a preceding year, if

(I) it is reasonable to consider that the amount was paid under the plan as a consequence of an error and not as an entitlement to benefits, or

(II) it was subsequently determined that, as a consequence of a settlement of a dispute in respect of the taxpayer's employment, the taxpayer was not entitled to the amount, or

(B) interest in respect of a repayment described in clause (A), and

(iii) no portion of the amount is deductible under any of paragraph 8(1)(m) and subsections 146(5) to (5.2) in computing the taxpayer's income for the year;

Remboursement de prestations de pension

n.1) toute somme versée par le contribuable au cours de l'année à un régime de pension agréé ou à un régime de pension agréé collectif si, à la fois :

(i) le contribuable est un particulier,

(ii) la somme est versée :

(A) soit en remboursement d'une somme reçue du régime qui a été incluse dans le calcul du revenu du contribuable pour l'année ou pour une année antérieure, dans le cas où l'un des faits ci-après s'avère :

(I) il est raisonnable de considérer que la somme a été versée dans le cadre du régime par suite d'une erreur et non en raison d'un droit à des prestations,

(II) il a été établi par la suite que, en raison du règlement d'un différend concernant l'emploi du contribuable, celui-ci n'avait pas droit à la somme,

(B) soit à titre d'intérêts relatifs au remboursement visé à la division (A),

(iii) aucune partie de la somme n'est déductible en application de l'alinéa 8(1)m) ou de l'un des paragraphes 146(5) à (5.2) dans le calcul du revenu du contribuable pour l'année;

Legal Expenses

(o) amounts paid by the taxpayer in the year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to,

(i) an assessment of tax, interest or penalties under this Act or an Act of a province that imposes a tax similar to the tax imposed under this Act,

(ii) a decision of the Canada Employment Insurance Commission under the *Employment Insurance Act* or to an appeal of such a decision to the Social Security Tribunal,

(iii) an assessment of any income tax deductible by the taxpayer under section 126 or any interest or penalty with respect thereto, or

Frais judiciaires et extrajudiciaires

o) les sommes payées au cours de l'année par le contribuable au titre des honoraires ou frais engagés pour préparer, présenter ou poursuivre une opposition ou préparer, interjeter ou poursuivre un appel au sujet :

(i) d'une cotisation à l'égard de l'impôt, des intérêts ou des pénalités en vertu de la présente loi ou d'une loi provinciale imposant un impôt semblable à celui qui est imposé par la présente loi,

(ii) d'une décision de la Commission de l'assurance-emploi du Canada en vertu de la *Loi sur l'assurance-emploi* ou de l'appel d'une telle décision devant le Tribunal de la sécurité sociale,

(iv) an assessment or a decision made under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act;

Idem

(o.1) the amount, if any, by which the lesser of

(i) the total of all legal expenses (other than those relating to a division or settlement of property arising out of, or on a breakdown of, a marriage or common-law partnership) paid by the taxpayer in the year or in any of the 7 preceding taxation years to collect or establish a right to an amount of

(A) a benefit under a pension fund or plan (other than a benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act) in respect of the employment of the taxpayer or a deceased individual of whom the taxpayer was a dependant, relation or legal representative, or

(B) a retiring allowance of the taxpayer or a deceased individual of whom the taxpayer was a dependant, relation or legal representative, and

(ii) the amount, if any, by which the total of all amounts each of which is

(A) an amount described in clause 60(o.1)(i)(A) or 60(o.1)(i)(B)

(I) that is received after 1985,

(II) in respect of which legal expenses described in subparagraph 60(o.1)(i) were paid, and

(III) that is included in computing the income of the taxpayer for the year or a preceding taxation year, or

(B) an amount included in computing the income of the taxpayer under paragraph 56(1)(l.1) for the year or a preceding taxation year,

exceeds the total of all amounts each of which is an amount deducted under paragraph 60(j), 60(j.01), 60(j.1) or 60(j.2) in computing the income of the taxpayer for the year or a preceding taxation year, to the extent that the amount may reasonably be considered to have been deductible as a consequence of the receipt of an amount referred to in clause 60(o.1)(ii)(A),

exceeds

(iii) d'une cotisation de tout impôt sur le revenu qu'il peut déduire en vertu de l'article 126 ou de toute peine ou de tout intérêt y afférent,

(iv) d'une cotisation ou d'une décision rendue en vertu du *Régime de pensions du Canada* ou d'un régime provincial de pensions au sens de l'article 3 de cette loi;

Idem

o.1) l'excédent éventuel du moins élevé des montants suivants :

(i) le total des frais judiciaires ou extrajudiciaires, sauf ceux se rapportant au règlement ou au partage de biens découlant du mariage ou union de fait ou de son échec, payés par le contribuable au cours de l'année ou de l'une des sept années d'imposition précédentes pour recouvrer l'un des montants suivants ou pour établir un droit à ceux-ci :

(A) une prestation prévue par quelque régime ou caisse de pensions, sauf une prestation prévue par le régime institué par le *Régime de pensions du Canada* ou un régime provincial de pensions, au sens de l'article 3 de cette loi, en raison de l'emploi du contribuable ou d'un particulier décédé auquel le contribuable était apparenté ou dont il était une personne à charge ou le représentant légal,

(B) une allocation de retraite du contribuable ou d'un particulier décédé auquel le contribuable était apparenté ou dont il était une personne à charge ou le représentant légal,

(ii) l'excédent éventuel du total des montants dont chacun représente :

(A) soit un montant visé à la division (i)(A) ou (B) au titre duquel les frais judiciaires et extrajudiciaires visés au sous-alinéa (i) ont été payés, reçu après 1985 et inclus dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(B) soit un montant inclus en application de l'alinéa 56(1)l.1) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

sur le total des montants dont chacun représente un montant déduit en application de l'alinéa j), j.01), j.1) ou j.2) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, dans la mesure où il est raisonnable

(iii) the portion of the total described in subparagraph 60(o.1)(i) in respect of the taxpayer that may reasonably be considered to have been deductible under this paragraph in computing the income of the taxpayer for a preceding taxation year;

Repayment of apprenticeship grants

(p) the total of all amounts each of which is an amount paid in the taxation year as a repayment under the Apprenticeship Incentive Grant program or the Apprenticeship Completion Grant program of an amount that was included under paragraph 56(1)(n.1) in computing the taxpayer's income for the taxation year or a preceding taxation year;

Refund of income payments

(q) where the taxpayer is an individual, an amount paid by the taxpayer in the year to a person with whom the taxpayer was dealing at arm's length (in this paragraph referred to as the "payer") if

(i) the amount has been included in computing the income of the taxpayer for the year or a preceding taxation year as an amount described in subparagraph 56(1)(n)(i) or paragraph 56(1)(o) paid to the taxpayer by the payer,

(ii) at the time the amount was paid by the payer to the taxpayer a condition was stipulated for the taxpayer to fulfil,

(iii) as a result of the failure of the taxpayer to fulfil the condition referred to in subparagraph 60(q(ii) the taxpayer was required to repay the amount to the payer,

(iv) during the period for which the amount referred to in subparagraph 60(q(i) was paid the taxpayer did not provide other than occasional services to the payer as an officer or under a contract of employment, and

(v) the amount was paid to the taxpayer for the purpose of enabling the taxpayer to further the taxpayer's education;

Amounts included under s. 146.2(6)

(r) where an amount has been included in computing the income of the taxpayer by virtue of subsection 146.2(6) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952 (as it read in its application to the 1985 taxation year) for any of the taxpayer's three immediately preceding taxation years, the taxpayer may deduct the lesser of

de considérer que ce montant est déductible en raison de la réception d'un montant visé à la division (A),

sur :

(iii) la fraction du total visé au sous-alinéa (i) quant au contribuable qu'il est raisonnable de considérer comme déductible en application du présent alinéa dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

Remboursement de la subvention aux apprentis

p) le total des sommes représentant chacune une somme payée au cours de l'année en remboursement, dans le cadre du programme de la Subvention incitative aux apprentis ou du programme de la Subvention à l'achèvement de la formation d'apprenti, d'une somme incluse en application de l'alinéa 56(1)n.1) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Remboursement de paiements de revenu

q) lorsque le contribuable est un particulier, une somme versée par le contribuable au cours de l'année à une personne avec qui il n'avait pas de lien de dépendance (appelée le « payeur » au présent alinéa) si les conditions suivantes sont réunies :

(i) la somme a été incluse dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure à titre de somme, visée au sous-alinéa 56(1)n)(i) ou à l'alinéa 56(1)o), que le payeur lui a versée,

(ii) au moment où la somme a été versée par le payeur au contribuable, il était stipulé que le contribuable devait remplir une certaine condition,

(iii) le contribuable n'ayant pas rempli la condition visée au sous-alinéa (ii), il a dû rembourser la somme au payeur,

(iv) durant la période pour laquelle la somme visée au sous-alinéa (i) a été versée, le contribuable n'a pas rendu de services autres que des services rendus à titre occasionnel au payeur en tant que cadre ou en vertu d'un contrat d'emploi,

(v) la somme a été versée au contribuable afin de lui permettre de poursuivre ses études;

Montant inclus en vertu du par. 146.2(6) de l'ancienne loi

r) le contribuable qui inclut un montant en vertu du paragraphe 146.2(6) de la *Loi de l'impôt sur le revenu*,

(i) the amount that had been so included in computing the taxpayer's income, and

(ii) the total of all amounts used by the taxpayer to acquire in the year the taxpayer's owner-occupied home (within the meaning assigned by paragraph 146.2(1)(f) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1985 taxation year),

except that no amount may be deducted by the taxpayer for the year under this paragraph if an amount has been deducted

(iii) under subsection 146.2(6.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952 (as it read in its application to taxation years before 1986) in computing the taxpayer's income for any taxation year ending before 1986, or

(iv) under this paragraph for any preceding taxation year ending after 1985;

Repayment of policy loan

(s) the total of all repayments made by the taxpayer in the year in respect of a policy loan (within the meaning assigned by subsection 148(9)) made under a life insurance policy, not exceeding the amount, if any, by which

(i) the total of all amounts required by subsection 148(1) to be included in computing the taxpayer's income for the year or a preceding taxation year from a disposition described in paragraph (b) of the definition ***disposition*** in subsection 148(9) in respect of that policy

exceeds

(ii) the total of all repayments made by the taxpayer in respect of the policy loan that were deductible in computing the taxpayer's income for a preceding taxation year;

RCA distributions

(t) where an amount in respect of a particular retirement compensation arrangement is required by paragraph 56(1)(x) or 56(1)(z) or subsection 70(2) to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

(i) the total of all amounts in respect of the particular arrangement so required to be included in computing the taxpayer's income for the year, and

(ii) the amount, if any, by which the total of all amounts each of which is

chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1985, dans le calcul de son revenu pour une de ses trois années d'imposition précédentes, peut déduire le moindre des montants suivants :

(i) le montant ainsi inclus dans le calcul de son revenu,

(ii) le total des montants qu'il affecte à l'achat au cours de l'année de son logement de type propriétaire-occupant (au sens de l'alinéa 146.2(1)f) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1985);

toutefois le contribuable ne peut déduire aucun montant pour l'année en vertu du présent alinéa si un montant a été déduit :

(iii) soit en vertu du paragraphe 146.2(6.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable aux années d'imposition antérieures à 1986, dans le calcul de son revenu pour une année d'imposition se terminant avant 1986,

(iv) soit en vertu du présent alinéa pour une année d'imposition antérieure se terminant après 1985;

Remboursement d'une avance sur police

s) le total des remboursements faits par le contribuable au cours de l'année sur une avance sur police (au sens du paragraphe 148(9)) consentie dans le cadre d'une police d'assurance-vie, jusqu'à concurrence de l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants que le paragraphe 148(1) prévoit d'inclure dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure et qui proviennent d'une disposition visée à l'alinéa b) de la définition de ***disposition*** au paragraphe 148(9) à l'égard de cette police,

(ii) le total des remboursements faits par le contribuable sur l'avance sur police et qui étaient déductibles dans le calcul de son revenu pour une année d'imposition antérieure;

Montants provenant d'une convention de retraite

t) dans le cas où un montant au titre d'une convention de retraite est à inclure dans le calcul du revenu du contribuable pour l'année en vertu des alinéas 56(1)x) ou z) ou du paragraphe 70(2), le moins élevé des montants suivants :

(A) an amount (other than an amount deductible under paragraph 8(1)(m.2) or transferred to the particular arrangement under circumstances in which subsection 207.6(7) applies) contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(A.1) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under this paragraph in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement,

(B) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement, or

(C) an amount that was received or became receivable by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada as proceeds from the disposition of an interest in the particular arrangement,

exceeds the total of all amounts each of which is

(D) an amount deducted under this paragraph or paragraph 60(u) in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year, or

(E) an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under this paragraph in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the particular arrangement;

RCA dispositions

(u) where an amount in respect of a particular retirement compensation arrangement is required by paragraph 56(1)(y) to be included in computing the taxpayer's income for the year, an amount equal to the lesser of

(i) le total des montants au titre de la convention qui sont ainsi à inclure dans le calcul du revenu du contribuable pour l'année,

(ii) l'excédent éventuel du total des montants représentant chacun :

(A) une cotisation que le contribuable a versée dans le cadre de la convention avant la fin de l'année à un moment où elle était une convention de retraite, à l'exception d'un montant déductible en application de l'alinéa 8(1)m.2) ou transféré à la convention dans les circonstances visées au paragraphe 207.6(7),

(A.1) un montant transféré, à l'égard du contribuable avant la fin de l'année, à la convention d'une autre convention de retraite dans les circonstances visées au paragraphe 207.6(7), dans la mesure où il aurait été déductible en application du présent alinéa au titre de l'autre convention dans le calcul du revenu du contribuable s'il avait été versé à celui-ci sur cette autre convention,

(B) un montant payé par le contribuable avant la fin de l'année à un moment où il résidait au Canada, en vue d'acquérir un droit dans la convention,

(C) un montant qui a été reçu ou est devenu à recevoir par le contribuable avant la fin de l'année à un moment où il résidait au Canada, comme produit de disposition d'un droit dans la convention,

sur le total des montants représentant chacun :

(D) un montant déduit en application du présent alinéa ou de l'alinéa u) au titre de la convention dans le calcul du revenu du contribuable pour une année d'imposition antérieure,

(E) un montant transféré, à l'égard du contribuable avant la fin de l'année, de la convention à une autre convention de retraite dans les circonstances visées au paragraphe 207.6(7), dans la mesure où il aurait été déductible en application du présent alinéa au titre de la convention dans le calcul du revenu du contribuable s'il avait été versé à celui-ci sur cette convention;

Disposition d'un droit dans une convention de retraite

u) dans le cas où un montant au titre d'une convention de retraite est à inclure dans le calcul du revenu du contribuable pour l'année en vertu de l'alinéa 56(1)y), le moins élevé des montants suivants :

(i) the total of all amounts in respect of the particular arrangement so required to be included in computing the taxpayer's income for the year, and

(ii) the amount, if any, by which the total of all amounts each of which is

(A) an amount (other than an amount deductible under paragraph 8(1)(m.2) or transferred to the particular arrangement under circumstances in which subsection 207.6(7) applies) contributed under the particular arrangement by the taxpayer while it was a retirement compensation arrangement and before the end of the year,

(A.1) an amount transferred in respect of the taxpayer before the end of the year to the particular arrangement from another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under paragraph 60(t) in respect of the other arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the other arrangement, or

(B) an amount paid by the taxpayer before the end of the year and at a time when the taxpayer was resident in Canada to acquire an interest in the particular arrangement

exceeds the total of all amounts each of which is

(C) an amount deducted under paragraph 60(t) in respect of the particular arrangement in computing the taxpayer's income for the year or a preceding taxation year,

(D) an amount deducted under this paragraph in respect of the particular arrangement in computing the taxpayer's income for a preceding taxation year, or

(E) an amount transferred in respect of the taxpayer before the end of the year from the particular arrangement to another retirement compensation arrangement under circumstances in which subsection 207.6(7) applies, to the extent that the amount would have been deductible under paragraph 60(t) in respect of the particular arrangement in computing the taxpayer's income if it had been received by the taxpayer out of the particular arrangement;

(i) le total des montants au titre de la convention qui sont ainsi à inclure dans le calcul du revenu du contribuable pour l'année,

(ii) l'excédent éventuel du total des montants représentant chacun :

(A) une cotisation que le contribuable a versée dans le cadre de la convention avant la fin de l'année à un moment où elle était une convention de retraite, à l'exception d'un montant déductible en application de l'alinéa 8(1)m.2) ou transféré à la convention dans les circonstances visées au paragraphe 207.6(7),

(A.1) un montant transféré, à l'égard du contribuable avant la fin de l'année, à la convention d'une autre convention de retraite dans les circonstances visées au paragraphe 207.6(7), dans la mesure où il aurait été déductible en application de l'alinéa t) au titre de l'autre convention dans le calcul du revenu du contribuable s'il avait été versé à celui-ci sur cette autre convention,

(B) un montant payé par le contribuable avant la fin de l'année à un moment où il résidait au Canada, en vue d'acquérir un droit dans la convention,

sur le total des montants représentant chacun :

(C) un montant déduit en application de l'alinéa t) au titre de la convention dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(D) un montant déduit en application du présent alinéa au titre de la convention dans le calcul du revenu du contribuable pour une année d'imposition antérieure,

(E) un montant transféré, à l'égard du contribuable avant la fin de l'année, de la convention à une autre convention de retraite dans les circonstances visées au paragraphe 207.6(7), dans la mesure où il aurait été déductible en application de l'alinéa t) au titre de la convention dans le calcul du revenu du contribuable s'il avait été versé à celui-ci sur cette convention;

Remboursement — parents de victimes d'actes criminels

v) le total des sommes dont chacune représente une somme versée au cours de l'année en remboursement d'une prestation qui a été incluse par l'effet de l'alinéa 56(1)a.3) dans le calcul du revenu du contribuable

Repayment — parents of victims of crime

(v) the total of all amounts each of which is an amount paid in the year as a repayment of a benefit that was included because of paragraph 56(1)(a.3) in computing the taxpayer's income for the year or a preceding taxation year;

UI and EI benefit repayment

(v.1) any benefit repayment payable by the taxpayer under Part VII of the *Unemployment Insurance Act* or Part VII of the *Employment Insurance Act* on or before April 30 of the following year, to the extent that the amount was not deductible in computing the taxpayer's income for any preceding taxation year;

Tax under Part I.2

(w) the amount of the taxpayer's tax payable under Part I.2 for the year;

Repayment under *Canada Education Savings Act*

(x) the total of all amounts each of which is an amount paid by the taxpayer in the year as a repayment, under the *Canada Education Savings Act* or under a designated provincial program (as defined in subsection 146.1(1)), of an amount that was included because of subsection 146.1(7) in computing the taxpayer's income for the year or a preceding taxation year;

Repayment of UCCB

(y) the total of all amounts each of which is an amount paid in the taxation year as a repayment, under the *Universal Child Care Benefit Act*, of a benefit that was included because of subsection 56(6) in computing the taxpayer's income for the taxation year or a preceding taxation year;

Repayment under the *Canada Disability Savings Act*

(z) the total of all amounts each of which is an amount paid in the taxation year as a repayment, under or because of the *Canada Disability Savings Act* or a designated provincial program as defined in subsection 146.4(1), of an amount that was included because of section 146.4 in computing the taxpayer's income for the taxation year or a preceding taxation year; and

Tax informant program

(z.1) the total of all amounts each of which is an amount paid in the year as a repayment of an amount that was included, because of paragraph 56(1)(z.4), in computing the taxpayer's income for the year or a preceding taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 60; 1994, c. 7, Sch. II, s. 34, Sch. VII, s. 2, Sch. VIII, s. 20, c. 21, s. 26; 1996, c. 11, s. 99, c. 21, s. 13, c. 23, ss. 172.1, 187; 1997, c. 25, s. 10; 1998, c. 19, s. 99; 1999, c. 22, s. 16; 2000, c. 12, s. 142, c. 19, s. 7; 2001, c. 17, s. 41; 2002, c. 9, s. 25; 2003, c. 15, s. 71; 2004, c. 26, s. 20; 2006, c. 4, s. 174; 2007, c. 2, s. 7,

pour l'année ou pour une année d'imposition antérieure;

Remboursement de prestations d'assurance-chômage ou d'assurance-emploi

v.1) tout remboursement de prestations payable par le contribuable en application de la partie VII de la *Loi sur l'assurance-chômage* ou de la partie VII de la *Loi sur l'assurance-emploi* au plus tard le 30 avril de l'année suivante, dans la mesure où le montant n'était pas déductible dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

Impôt de la partie I.2

w) l'impôt payable par le contribuable pour l'année en vertu de la partie I.2;

Remboursement en vertu de la *Loi canadienne sur l'épargne-études*

x) le total des montants représentant chacun une somme versée par le contribuable au cours de l'année au titre du remboursement, en vertu de la *Loi canadienne sur l'épargne-études* ou d'un programme provincial désigné, au sens du paragraphe 146.1(1), d'une somme qui a été incluse par l'effet du paragraphe 146.1(7) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Remboursement de la prestation universelle pour la garde d'enfants

y) le total des sommes représentant chacune une somme versée au cours de l'année au titre du remboursement, prévu par la *Loi sur la prestation universelle pour la garde d'enfants*, d'une prestation qui a été incluse par l'effet du paragraphe 56(6) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Remboursement en vertu de la *Loi canadienne sur l'épargne-invalidité*

z) le total des sommes représentant chacune une somme versée au cours de l'année au titre du remboursement, prévu par la *Loi canadienne sur l'épargne-invalidité* ou par un programme provincial désigné au sens du paragraphe 146.4(1), d'une somme qui a été incluse, par l'effet de l'article 146.4, dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;

Programme de dénonciateurs de l'inobservation fiscale

z.1) le total des sommes dont chacune représente une somme versée au cours de l'année en remboursement d'une somme incluse par l'effet de l'alinéa 56(1)z.4)

c. 29, s. 4, c. 35, ss. 18, 105; 2009, c. 2, s. 14; 2010, c. 12, s. 5, c. 25, s. 10; 2011, c. 24, s. 11; 2012, c. 19, s. 278, c. 27, s. 27, c. 31, s. 12; 2013, c. 34, ss. 196, 426, c. 40, s. 26; 2014, c. 20, s. 3.

dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 60; 1994, ch. 7, ann. II, art. 34, ann. VII, art. 2, ann. VIII, art. 20, ch. 21, art. 26; 1996, ch. 11, art. 99, ch. 21, art. 13, ch. 23, art. 172.1 et 187; 1997, ch. 25, art. 10; 1998, ch. 19, art. 99; 1999, ch. 22, art. 16; 2000, ch. 12, art. 142, ch. 19, art. 7; 2001, ch. 17, art. 41; 2002, ch. 9, art. 25; 2003, ch. 15, art. 71; 2004, ch. 26, art. 20; 2006, ch. 4, art. 174; 2007, ch. 2, art. 7, ch. 29, art. 4, ch. 35, art. 18 et 105; 2009, ch. 2, art. 14; 2010, ch. 12, art. 5, ch. 25, art. 10; 2011, ch. 24, art. 11; 2012, ch. 19, art. 278, ch. 27, art. 27, ch. 31, art. 12; 2013, ch. 34, art. 196 et 426, ch. 40, art. 26; 2014, ch. 20, art. 3.

60.001 [Repealed, 2013, c. 40, s. 27]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 60.001; 2013, c. 40, s. 27.

60.001 [Abrogé, 2013, ch. 40, art. 27]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 60.001; 2013, ch. 40, art. 27.

Eligible amount

60.01 For the purpose of paragraph 60(j), the amount, if any, by which

(a) the amount of any payment received by a taxpayer in a taxation year out of or under a foreign retirement arrangement and included in computing the taxpayer's income because of clause 56(1)(a)(i)(C.1) (other than any portion thereof that is included in respect of the taxpayer for the year under subparagraph 60(j(i) or that is part of a series of periodic payments)

exceeds

(b) the portion, if any, of the payment included under paragraph 60.01(a) that can reasonably be considered to derive from contributions to the foreign retirement arrangement made by a person other than the taxpayer or the taxpayer's spouse or common-law partner or former spouse or common-law partner,

is an eligible amount in respect of the taxpayer for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 35, Sch. VIII, s. 21; 2000, c. 12, s. 142; 2001, c. 17, s. 239(F).

Montant admissible

60.01 Pour l'application de l'alinéa 60j), est un montant admissible quant à un contribuable pour une année d'imposition l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant d'un paiement (sauf toute partie de celui-ci qui constitue une prestation de retraite ou de pension visée à l'alinéa 60j) quant au contribuable pour l'année ou qui fait partie d'une série de paiements périodiques) visé à la division 56(1)a)(i)(C.1) que le contribuable a reçu au cours de l'année dans le cadre d'un mécanisme de retraite étranger;

b) un montant visé à l'alinéa a) et qu'il est raisonnable de considérer comme provenant de cotisations que verse au mécanisme de retraite étranger une personne autre que le contribuable ou son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 35, ann. VIII, art. 21; 2000, ch. 12, art. 142; 2001, ch. 17, art. 239(F).

Meaning of *lifetime benefit trust*

60.011 (1) For the purpose of subsection (2), a trust is at any particular time a lifetime benefit trust with respect to a taxpayer and the estate of a deceased individual if

(a) immediately before the death of the deceased individual, the taxpayer

(i) was both a spouse or common-law partner of the deceased individual and mentally infirm, or

(ii) was both a child or grandchild of the deceased individual and dependent on the deceased individual for support because of mental infirmity; and

(b) the trust is, at the particular time, a personal trust under which

Définition de *fiducie de prestations à vie*

60.011 (1) Pour l'application du paragraphe (2), une fiducie est une fiducie de prestations à vie à un moment donné, relativement à un contribuable et à la succession d'un particulier, si les faits ci-après se vérifient :

a) immédiatement avant le décès du particulier, le contribuable :

(i) était l'époux ou le conjoint de fait du particulier et avait une infirmité mentale,

(ii) était l'enfant ou le petit-enfant du particulier et était à sa charge en raison d'une infirmité mentale;

b) la fiducie est, au moment donné, une fiducie personnelle dans le cadre de laquelle :

(i) no person other than the taxpayer may receive or otherwise obtain the use of, during the taxpayer's lifetime, any of the income or capital of the trust, and

(ii) the trustees

(A) are empowered to pay amounts from the trust to the taxpayer, and

(B) are required — in determining whether to pay, or not to pay, an amount to the taxpayer — to consider the needs of the taxpayer including, without limiting the generality of the foregoing, the comfort, care and maintenance of the taxpayer.

Meaning of *qualifying trust annuity*

(2) Each of the following is a qualifying trust annuity with respect to a taxpayer:

(a) an annuity that meets the following conditions:

(i) it is acquired after 2005,

(ii) the annuitant under it is a trust that is, at the time the annuity is acquired, a lifetime benefit trust with respect to the taxpayer and the estate of a deceased individual,

(iii) it is for the life of the taxpayer (with or without a guaranteed period), or for a fixed term equal to 90 years minus the age in whole years of the taxpayer at the time it is acquired, and

(iv) if it is with a guaranteed period or for a fixed term, it requires that, in the event of the death of the taxpayer during the guaranteed period or fixed term, any amounts that would otherwise be payable after the death of the taxpayer be commuted into a single payment;

(b) an annuity that meets the following conditions:

(i) it is acquired after 1988,

(ii) the annuitant under it is a trust under which the taxpayer is the sole person beneficially interested (determined without regard to any right of a person to receive an amount from the trust only on or after the death of the taxpayer) in amounts payable under the annuity,

(iii) it is for a fixed term not exceeding 18 years minus the age in whole years of the taxpayer at the time it is acquired, and

(i) durant la vie du contribuable, lui seul peut recevoir une partie quelconque du revenu ou du capital de la fiducie ou autrement en obtenir l'usage,

(ii) les fiduciaires :

(A) d'une part, sont autorisés à prélever des sommes sur la fiducie pour les verser au contribuable,

(B) d'autre part, sont tenus — lorsqu'il s'agit de décider s'il y a lieu ou non de verser une somme au contribuable — de prendre en considération les besoins de celui-ci, notamment en ce qui concerne son bien-être et son entretien.

Définition de *rente admissible de fiducie*

(2) Chacune des rentes ci-après constitue une rente admissible de fiducie relativement à un contribuable :

a) la rente qui remplit les conditions suivantes :

(i) elle est acquise après 2005,

(ii) le rentier en vertu de la rente est une fiducie qui, au moment où la rente est acquise, est une fiducie de prestations à vie relativement au contribuable et à la succession d'un particulier,

(iii) il s'agit soit d'une rente viagère avec ou sans durée garantie, soit d'une rente d'une durée déterminée égale à la différence entre 90 et l'âge du contribuable en années accomplies au moment où la rente est acquise,

(iv) s'il s'agit d'une rente à durée garantie ou déterminée, ses modalités exigent que, en cas de décès du contribuable pendant la durée garantie ou déterminée, les sommes à verser par ailleurs après ce décès soient converties en versement unique;

b) la rente qui remplit les conditions suivantes :

(i) elle est acquise après 1988,

(ii) le rentier en vertu de la rente est une fiducie dans le cadre de laquelle le contribuable est le seul à avoir un droit de bénéficiaire sur les sommes à verser aux termes de la rente, ce droit étant déterminé compte non tenu du droit d'une personne de recevoir une somme de la fiducie seulement au décès ou après le décès du contribuable,

(iii) il s'agit d'une rente d'une durée déterminée n'excédant pas la différence entre 18 et l'âge du

(iv) if it is acquired after 2005, it requires that, in the event of the death of the taxpayer during the fixed term, any amounts that would otherwise be payable after the death of the taxpayer be commuted into a single payment; and

(c) an annuity that meets the following conditions:

(i) it is acquired

(A) after 2000 and before 2005 at a time at which the taxpayer was mentally or physically infirm, or

(B) in 2005 at a time at which the taxpayer was mentally infirm,

(ii) the annuitant under it is a trust under which the taxpayer is the sole person beneficially interested (determined without regard to any right of a person to receive an amount from the trust only on or after the death of the taxpayer) in amounts payable under the annuity, and

(iii) it is for the life of the taxpayer (with or without a guaranteed period), or for a fixed term equal to 90 years minus the age in whole years of the taxpayer at the time it is acquired.

Application of paragraph 60(l) to *qualifying trust annuity*

(3) For the purpose of paragraph 60(l),

(a) in determining if a qualifying trust annuity with respect to a taxpayer is an annuity described in subparagraph 60(l)(ii), clauses 60(l)(ii)(A) and (B) are to be read without regard to their requirement that the taxpayer be the annuitant under the annuity; and

(b) if an amount paid to acquire a qualifying trust annuity with respect to a taxpayer would, if this Act were read without reference to this subsection, not be considered to have been paid by or on behalf of the taxpayer, the amount is deemed to have been paid on behalf of the taxpayer where

(i) it is paid

(A) by the estate of a deceased individual who was, immediately before death,

contribuable en années accomplies au moment où la rente est acquise,

(iv) si elle est acquise après 2005, ses modalités exigent que, en cas de décès du contribuable pendant la durée déterminée, les sommes à verser par ailleurs après ce décès soient converties en versement unique;

c) la rente qui remplit les conditions suivantes :

(i) elle est acquise :

(A) après 2000 et avant 2005, à un moment où le contribuable avait une infirmité mentale ou physique,

(B) en 2005, à un moment où le contribuable avait une infirmité mentale,

(ii) le rentier en vertu de la rente est une fiducie dans le cadre de laquelle le contribuable est le seul à avoir un droit de bénéficiaire sur les sommes à verser aux termes de la rente, ce droit étant déterminé compte non tenu du droit d'une personne de recevoir une somme de la fiducie seulement au décès ou après le décès du contribuable,

(iii) il s'agit soit d'une rente viagère avec ou sans durée garantie, soit d'une rente d'une durée déterminée égale à la différence entre 90 et l'âge du contribuable en années accomplies au moment où la rente est acquise.

Application de l'alinéa 60l)

(3) Les règles ci-après s'appliquent à l'alinéa 60l) :

a) pour déterminer si une rente admissible de fiducie relativement à un contribuable est une rente visée au sous-alinéa 60l)(ii), les divisions 60l)(ii)(A) et (B) s'appliquent compte non tenu de l'exigence, énoncée à ces divisions, voulant que le contribuable soit le rentier en vertu de la rente;

b) la somme versée pour l'acquisition d'une rente admissible de fiducie relativement à un contribuable qui ne serait pas considérée comme ayant été versée par celui-ci ou pour son compte si la présente loi s'appliquait compte non tenu du présent paragraphe est réputée avoir été versée pour son compte dans le cas où, à la fois :

(i) elle est versée :

(A) par la succession d'un particulier qui, immédiatement avant son décès, était :

(I) a spouse or common-law partner of the taxpayer, or

(II) a parent or grandparent of the taxpayer on whom the taxpayer was dependent for support, or

(B) by the trust that is the annuitant under the qualifying trust annuity, and

(ii) it would, if it had been paid by the taxpayer, be deductible under paragraph 60(l) in computing the taxpayer's income for a taxation year and the taxpayer elects, in the taxpayer's return of income under this Part for that taxation year, to have this paragraph apply to the amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 197.

(I) l'époux ou le conjoint de fait du contribuable,

(II) le père, la mère, le grand-père ou la grand-mère du contribuable dont celui-ci était une personne à charge,

(B) par la fiducie qui est le rentier en vertu de la rente admissible de fiducie,

(ii) elle serait déductible, en application de l'alinéa 60l), dans le calcul du revenu du contribuable pour une année d'imposition si elle avait été versée par celui-ci, et le contribuable fait un choix, dans la déclaration de revenu qu'il produit en vertu de la présente partie pour cette année, afin que le présent alinéa s'applique à la somme.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 197.

Definitions

60.02 (1) The definitions in this subsection apply in this section and section 146.4,

eligible individual means a child or grandchild of a deceased annuitant under a registered retirement savings plan or a registered retirement income fund, or of a deceased member of a pooled registered pension plan, a registered pension plan or a specified pension plan, who was financially dependent on the deceased for support, at the time of the deceased's death, by reason of mental or physical infirmity. (*particulier admissible*)

eligible proceeds means an amount (other than an amount that was deducted under paragraph 60(l) in computing the eligible individual's income) received by an eligible individual as a consequence of the death after March 3, 2010 of a parent or grandparent of the eligible individual that is

(a) a refund of premiums (as defined in subsection 146(1));

(b) an eligible amount under subsection 146.3(6.11); or

(c) a payment (other than a payment that is part of a series of periodic payments or that relates to an actuarial surplus) out of or under a pooled registered pension plan, a registered pension plan or a specified pension plan. (*produit admissible*)

specified RDSP payment in respect of an eligible individual means a payment that

(a) is made to a registered disability savings plan under which the eligible individual is the beneficiary;

Définitions

60.02 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 146.4.

paiement de REEI déterminé S'entend, relativement à un particulier admissible, d'un paiement qui, à la fois :

a) est fait à un régime enregistré d'épargne-invalidité dont le particulier est le bénéficiaire;

b) est conforme aux conditions énoncées aux alinéas 146.4(4)f) à h);

c) est fait après juin 2011;

d) est désigné dans le formulaire prescrit pour une année d'imposition par le titulaire du régime et le particulier au moment où il est fait. (*specified RDSP payment*)

particulier admissible Enfant ou petit-enfant d'un rentier décédé d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite ou d'un participant décédé d'un régime de pension agréé, d'un régime de pension agréé collectif ou d'un régime de pension déterminé, qui, au moment du décès de la personne, était financièrement à sa charge en raison d'une déficience mentale ou physique. (*eligible individual*)

produit admissible Somme (sauf celle qui a été déduite en application de l'alinéa 60l) dans le calcul du revenu du particulier admissible) qu'un particulier admissible reçoit par suite du décès, après le 3 mars 2010, d'un de ses parents ou grands-parents et qui constitue, selon le cas :

a) un remboursement de primes au sens du paragraphe 146(1);

(b) complies with the conditions set out in paragraphs 146.4(4)(f) to (h);

(c) is made after June 2011; and

(d) has been designated in prescribed form for a taxation year by the holder of the plan and the eligible individual at the time that the payment is made. (*paiement de REEI déterminé*)

transitional eligible proceeds of a taxpayer means

(a) any amount (other than an amount that is eligible proceeds or an amount that was deducted under paragraph 60(l) in computing the taxpayer's income) that is received by the taxpayer as a consequence of the death of an individual after 2007 and before 2011 out of or under

(i) a registered retirement savings plan or registered retirement income fund, or

(ii) a registered pension plan (other than an amount that is received as part of a series of periodic payments or that relates to an actuarial surplus); or

(b) an amount withdrawn from the taxpayer's registered retirement savings plan or a registered retirement income fund (in this subsection referred to as the "RRSP withdrawal") if

(i) the taxpayer previously deducted an amount under paragraph 60(l) in respect of an amount that would be described by paragraph (a) if it were read without reference to "other than an amount that is eligible proceeds or an amount that was deducted under paragraph 60(l) in computing the taxpayer's income",

(ii) the RRSP withdrawal is included in computing the taxpayer's income for the year of the withdrawal, and

(iii) the RRSP withdrawal does not exceed the amount deducted under subparagraph (i). (*produit admissible transitoire*)

Rollover to RDSP on death

(2) There may be deducted in computing the income for a taxation year of a taxpayer who is an eligible individual an amount that

(a) does not exceed the lesser of

(i) the total specified RDSP payments made in the year or within 60 days after the end of the year (or

b) un montant admissible aux termes du paragraphe 146.3(6.11);

c) un paiement provenant d'un régime de pension agréé, d'un régime de pension agréé collectif ou d'un régime de pension déterminé, sauf s'il s'agit d'un paiement afférent à un surplus actuariel ou faisant partie d'une série de paiements périodiques. (*eligible proceeds*)

produit admissible transitoire S'entend, relativement à un contribuable :

a) de toute somme, sauf celle qui représente un produit admissible ou une somme qui a été déduite en application de l'alinéa 60l) dans le calcul du revenu du contribuable, que le contribuable reçoit par suite du décès d'un particulier après 2007 et avant 2011 et qui provient :

(i) d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite,

(ii) d'un régime de pension agréé, sauf s'il s'agit d'une somme afférente à un surplus actuariel ou faisant partie d'une série de paiements périodiques;

b) de toute somme retirée du régime enregistré d'épargne-retraite ou du fonds enregistré de revenu de retraite du contribuable (appelée « retrait de REER » au présent alinéa) si, à la fois :

(i) le contribuable a déjà déduit, en application de l'alinéa 60l), un montant au titre d'une somme qui serait visée à l'alinéa a) s'il n'était pas tenu compte du passage « sauf celle qui représente un produit admissible ou une somme qui a été déduite en application de l'alinéa 60l) dans le calcul du revenu du contribuable »,

(ii) le retrait de REER est inclus dans le calcul du revenu du contribuable pour l'année du retrait,

(iii) le retrait de REER n'excède pas le montant déduit selon le sous-alinéa (i). (*transitional eligible proceeds*)

Roulement au REEI au décès

(2) Est déductible dans le calcul du revenu pour une année d'imposition d'un contribuable qui est un particulier admissible toute somme qui, à la fois :

a) n'excède pas la moins élevée des sommes suivantes :

within any longer period after the end of the year that is acceptable to the Minister) in respect of the taxpayer; and

(ii) the total amount of eligible proceeds that is included in computing the taxpayer's income in the year; and

(b) was not deducted in computing the taxpayer's income for a preceding taxation year.

(i) le total des paiements de REEI déterminés faits relativement au contribuable au cours de l'année ou dans les 60 jours suivant la fin de l'année ou au cours de toute période plus longue suivant la fin de l'année que le ministre estime acceptable,

(ii) le total des produits admissibles qui est inclus dans le calcul du revenu du contribuable pour l'année;

b) n'a pas été déduite dans le calcul du revenu du contribuable pour une année d'imposition antérieure.

Application of subsections (4) and (5)

(3) Subsections (4) and (5) do not apply unless

(a) a taxpayer who was the annuitant under a registered retirement savings plan or a registered retirement income fund or was a member of a registered pension plan died after 2007 and before 2011;

(b) the taxpayer was, immediately before the taxpayer's death, the parent or grandparent of an eligible individual;

(c) transitional eligible proceeds were received from the plan or fund by

(i) an eligible individual in respect of the taxpayer,

(ii) a person who was the spouse or common-law partner of the taxpayer immediately before the taxpayer's death, or

(iii) a person who is a beneficiary of the taxpayer's estate or who directly received transitional eligible proceeds as a consequence of the death of the taxpayer; and

(d) the transitional eligible proceeds were included in computing the income of a person for a taxation year.

Application des paragraphes (4) et (5)

(3) Les paragraphes (4) et (5) ne s'appliquent que s'il s'avère que :

a) un contribuable qui était rentier d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite ou participant à un régime de pension agréé décède après 2007 et avant 2011;

b) immédiatement avant son décès, le contribuable était le parent ou le grand-parent d'un particulier admissible;

c) l'une des personnes ci-après a reçu sur le régime ou le fonds un produit admissible transitoire :

(i) un particulier admissible relativement au contribuable,

(ii) la personne qui était l'époux ou le conjoint de fait du contribuable immédiatement avant le décès de celui-ci,

(iii) une personne qui est bénéficiaire de la succession du contribuable ou qui a reçu directement un produit admissible transitoire par suite du décès de celui-ci;

d) le produit admissible transitoire a été inclus dans le calcul du revenu d'une personne pour une année d'imposition.

Transitional rule

(4) There may be deducted in computing the income of a taxpayer described in paragraph (3)(c) for a taxation year an amount approved by the Minister that does not exceed the lesser of

(a) the total specified RDSP payments made by the taxpayer before 2012, and

Règle transitoire

(4) Est déductible dans le calcul du revenu d'un contribuable visé à l'alinéa (3)c) pour une année d'imposition toute somme approuvée par le ministre qui n'excède pas la moins élevée des sommes suivantes :

a) le total des paiements de REEI déterminés faits par le contribuable avant 2012;

b) le montant du produit admissible transitoire inclus dans le calcul du revenu du contribuable pour l'année.

(b) the amount of transitional eligible proceeds included in computing the taxpayer's income for the year.

(b) le montant admissible transitoire reçu inclus dans le calcul du revenu du contribuable pour l'année.

Transitional rule — deceased taxpayer

(5) There may be deducted in computing the income of a taxpayer for the taxation year in which the taxpayer died an amount approved by the Minister that does not exceed the lesser of

(a) the total specified RDSP payments made before 2012 by an individual described in subparagraph (3)(c)(iii), and

(b) the amount by which the total of all amounts that were included in computing the taxpayer's income for the year under subsection 146(8.8) or 146.3(6) exceeds the total of all amounts, if any, that were deducted in computing the taxpayer's income for the year under subsection 146(8.92) or 146.3(6.3).

Règle transitoire — contribuable décédé

(5) Est déductible dans le calcul du revenu d'un contribuable pour l'année d'imposition dans laquelle celui-ci décède toute somme approuvée par le ministre qui n'excède pas la moins élevée des sommes suivantes :

a) le total des paiements de REEI déterminés faits avant 2012 par un particulier visé au sous-alinéa (3)c)(iii);

b) l'excédent du total des sommes incluses dans le calcul du revenu du contribuable pour l'année selon les paragraphes 146(8.8) ou 146.3(6) sur le total des sommes qui ont été déduites, le cas échéant, dans le calcul de son revenu pour l'année en application des paragraphes 146(8.92) ou 146.3(6.3).

Limitation

(6) The total amounts that may be deducted under subsections (4) and (5) in respect of transitional eligible proceeds received in respect of the death of a taxpayer shall not exceed the total transitional eligible proceeds received in respect of the deceased taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1990, c. 35, s. 5; 2010, c. 25, s. 11; 2011, c. 24, s. 12; 2012, c. 31, s. 13.

Restriction

(6) Le total des sommes qui sont déductibles en application des paragraphes (4) et (5) au titre d'un produit admissible transitoire reçu relativement au décès d'un contribuable ne peut excéder le total des produits admissibles transitoires reçus relativement à ce contribuable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1990, ch. 35, art. 5; 2010, ch. 25, art. 11; 2011, ch. 24, art. 12; 2012, ch. 31, art. 13.

Additions to clause 60(l)(v)(B.2) for 2008

60.021 (1) In determining the amount that may be deducted because of paragraph 60(l) in computing a taxpayer's income for the 2008 taxation year, clause 60(l)(v)(B.2) shall be read as follows:

(B.2) the total of all amounts each of which is

(I) the taxpayer's eligible amount (within the meaning assigned by subsection 146.3(6.11)) for the year in respect of a registered retirement income fund,

(II) the taxpayer's eligible RRIF withdrawal amount (within the meaning assigned by subsection 60.021(2)) for the year in respect of a registered retirement income fund, or

(III) the taxpayer's eligible variable benefit withdrawal amount (within the meaning assigned by subsection 60.021(3)) for the year in respect of an account of the taxpayer under a money purchase provision of a registered pension plan,

Libellé de la div. 60l)(v)(B.2) pour 2008

60.021 (1) Lorsqu'il s'agit de déterminer la somme qui peut être déduite par l'effet de l'alinéa 60l) dans le calcul du revenu d'un contribuable pour l'année d'imposition 2008, la division 60l)(v)(B.2) est réputée avoir le libellé suivant :

(B.2) le total des sommes représentant chacune :

(I) le montant admissible, au sens du paragraphe 146.3(6.11), du contribuable pour l'année relativement à un fonds enregistré de revenu de retraite,

(II) le montant de retrait admissible de FERR, au sens du paragraphe 60.021(2), du contribuable pour l'année relativement à un fonds enregistré de revenu de retraite,

(III) le montant de retrait admissible de prestation variable, au sens du paragraphe

Meaning of eligible RRIF withdrawal amount

(2) A taxpayer's eligible RRIF withdrawal amount for a taxation year in respect of a registered retirement income fund under which the taxpayer is the annuitant at the beginning of the taxation year is

(a) except where paragraph (b) applies, the amount determined by the formula

A – B

where

A is the lesser of

(i) the total of all amounts included, because of subsection 146.3(5), in computing the income of the taxpayer for the taxation year in respect of amounts received out of or under the fund (other than an amount paid by direct transfer from the fund to another fund or to a registered retirement savings plan), and

(ii) the amount that would, in the absence of subsection 146.3(1.1), be the minimum amount under the fund for the taxation year, and

B is the minimum amount under the fund for the taxation year; and

(b) if the taxpayer attained 70 years of age in 2007, nil.

Meaning of eligible variable benefit withdrawal amount

(3) A taxpayer's eligible variable benefit withdrawal amount for a taxation year in respect of an account of the taxpayer under a money purchase provision of a registered pension plan is the amount determined by the formula

A – B – C

where

A is the lesser of

(a) the total of all amounts each of which is the amount of a retirement benefit (other than a retirement benefit permissible under any of paragraphs 8506(1)(a) to (e) of the Regulations) paid from the plan in the taxation year in respect of the account and included, because of paragraph 56(1)(a), in computing the taxpayer's income for the taxation year, and

60.021(3), du contribuable pour l'année relativement à son compte dans le cadre d'une disposition à cotisations déterminées d'un régime de pension agréé,

Sens de *montant de retrait admissible de FERR*

(2) Le montant de retrait admissible de FERR d'un contribuable pour une année d'imposition relativement à un fonds enregistré de revenu de retraite dont le contribuable est le rentier au début de l'année correspond à celle des sommes ci-après qui est applicable :

a) sauf en cas d'application de l'alinéa b), la somme obtenue par la formule suivante :

A – B

où :

A représente la moins élevée des sommes suivantes :

(i) le total des sommes incluses, par l'effet du paragraphe 146.3(5), dans le calcul du revenu du contribuable pour l'année au titre de sommes reçues dans le cadre du fonds, à l'exception des sommes versées par transfert direct du fonds à un autre fonds ou à un régime enregistré d'épargne-retraite,

(ii) la somme qui, en l'absence du paragraphe 146.3(1.1), correspondrait au minimum à retirer du fonds pour l'année,

B le minimum à retirer du fonds pour l'année;

b) si le contribuable a atteint 70 ans en 2007, zéro.

Sens de *montant de retrait admissible de prestation variable*

(3) Le montant de retrait admissible de prestation variable d'un contribuable pour une année d'imposition relativement au compte du contribuable dans le cadre d'une disposition à cotisations déterminées d'un régime de pension agréé correspond à la somme obtenue par la formule suivante :

A – B – C

où :

A représente la moins élevée des sommes suivantes :

a) le total des sommes représentant chacune le montant d'une prestation de retraite, sauf celles permises en vertu des alinéas 8506(1)a) à e) du *Règlement de l'impôt sur le revenu*, versée sur le régime au cours de l'année relativement au compte et incluse, par l'effet de l'alinéa 56(1)a), dans le calcul du revenu du contribuable pour l'année;

(b) the amount that would, in the absence of paragraph 8506(7)(b) of the Regulations, be the minimum amount for the account for the taxation year;

B is the minimum amount for the account for the taxation year; and

C is the total of all contributions made by the taxpayer under the provision and designated for the purposes of subsection 8506(10) of the Regulations.

b) la somme qui, en l'absence de l'alinéa 8506(7)b) de ce règlement, correspondrait au minimum relatif au compte pour l'année;

B le minimum relatif au compte pour l'année;

C le total des cotisations versées par le contribuable aux termes de la disposition qui ont été désignées pour l'application du paragraphe 8506(10) de ce règlement.

Expressions used in this section

(4) For the purposes of this section,

(a) the term "money purchase provision" has the meaning assigned by subsection 147.1(1);

(b) the term "retirement benefit" has the meaning assigned by subsection 8500(1) of the Regulations; and

(c) the minimum amount for an account of a taxpayer under a money purchase provision of a registered pension plan is the amount determined in accordance with subsection 8506(5) of the Regulations.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2009, c. 2, s. 15.

Terminologie

(4) Pour l'application du présent article :

a) le terme « disposition à cotisations déterminées » s'entend au sens du paragraphe 147.1(1);

b) le terme « prestation de retraite » s'entend au sens du paragraphe 8500(1) du *Règlement de l'impôt sur le revenu*;

c) le minimum relatif au compte d'un contribuable dans le cadre de la disposition à cotisations déterminées d'un régime de pension agréé correspond à la somme déterminée conformément au paragraphe 8506(5) de ce règlement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2009, ch. 2, art. 15.

Additions to clause 60(l)(v)(B.2) for 2015

60.022 (1) In determining the amount that may be deducted because of paragraph 60(l) in computing a taxpayer's income for the 2015 taxation year, clause 60(l)(v)(B.2) is to be read as follows:

(B.2) the total of all amounts each of which is

(I) the taxpayer's eligible amount (within the meaning of subsection 146.3(6.11)) for the year in respect of a registered retirement income fund,

(II) the taxpayer's eligible RRIF withdrawal amount (within the meaning of subsection 60.022(2)) for the year in respect of a RRIF,

(III) the taxpayer's eligible variable benefit withdrawal amount (within the meaning of subsection 60.022(3)) for the year in respect of an account of the taxpayer under a money purchase provision of a registered pension plan, or

(IV) the taxpayer's eligible PRPP withdrawal amount (within the meaning of subsection

Libellé de la div. 60l)(v)(B.2) pour 2015

60.022 (1) Pour déterminer la somme qui peut être déduite par l'effet de l'alinéa 60l) dans le calcul du revenu d'un contribuable pour l'année d'imposition 2015, la division 60l)(v)(B.2) est réputée avoir le libellé suivant :

(B.2) le total des sommes représentant chacune :

(I) le montant admissible, au sens du paragraphe 146.3(6.11), du contribuable pour l'année relativement à un fonds enregistré de revenu de retraite,

(II) le montant de retrait admissible de FERR, au sens du paragraphe 60.022(2), du contribuable pour l'année relativement à un FERR,

(III) le montant de retrait admissible de prestation variable, au sens du paragraphe 60.022(3), du contribuable pour l'année relativement à son compte dans le cadre d'une disposition à cotisations déterminées d'un régime de pension agréé,

(IV) le montant de retrait admissible de RPAC, au sens du paragraphe 60.022(4), du

60.022(4)) for the year in respect of an account of the taxpayer under a PRPP,

Eligible RRIF withdrawal amount

(2) A taxpayer's eligible RRIF withdrawal amount for the taxation year in respect of a RRIF under which the taxpayer is the annuitant at the beginning of the taxation year is the amount determined by the formula

A – B

where

A is the lesser of

(a) the total of all amounts included, because of subsection 146.3(5), in computing the taxpayer's income for the taxation year in respect of amounts received out of or under the fund (other than an amount paid by direct transfer from the fund to another fund or to a registered retirement savings plan), and

(b) the amount that would be the minimum amount under the fund for the 2015 taxation year if it were determined using the prescribed factors under subsection 7308(3) or (4), as the case may be, of the *Income Tax Regulations* as they read on December 31, 2014; and

B is the minimum amount under the fund for the taxation year.

Eligible variable benefit withdrawal amount

(3) A taxpayer's eligible variable benefit withdrawal amount for a taxation year in respect of an account of the taxpayer under a money purchase provision of a registered pension plan is the amount determined by the formula

A – B – C

where

A is the lesser of

(a) the total of all amounts each of which is the amount of a retirement benefit (other than a retirement benefit permissible under any of paragraphs 8506(1)(a) to (e) of the *Income Tax Regulations*) paid from the plan in the taxation year in respect of the account and included, because of paragraph 56(1)(a), in computing the taxpayer's income for the taxation year, and

(b) the amount that would be the minimum amount for the account for the 2015 taxation year if it were determined using the factor designated under subsection 7308(4) of the *Income Tax Regulations* as they read on December 31, 2014;

contribuable pour l'année relativement à son compte dans le cadre d'un RPAC,

Montant de retrait admissible de FERR

(2) Le montant de retrait admissible de FERR d'un contribuable pour l'année d'imposition relativement à un FERR dont le contribuable est le rentier au début de l'année correspond à la somme obtenue par la formule suivante :

A – B

où :

A représente la moins élevée des sommes suivantes :

a) le total des sommes incluses, par l'effet du paragraphe 146.3(5), dans le calcul du revenu du contribuable pour l'année au titre de sommes reçues dans le cadre du fonds, à l'exception des sommes versées par transfert direct du fonds à un autre fonds ou à un régime enregistré d'épargne-retraite,

b) la somme qui serait le minimum à retirer du fonds pour l'année 2015 si ce minimum était déterminé en utilisant les facteurs prescrits aux paragraphes 7308(3) ou (4), selon le cas, du *Règlement de l'impôt sur le revenu* dans sa version applicable au 31 décembre 2014;

B le minimum à retirer du fonds pour l'année.

Montant de retrait admissible de prestation variable

(3) Le montant de retrait admissible de prestation variable d'un contribuable pour une année d'imposition relativement au compte du contribuable dans le cadre d'une disposition à cotisations déterminées d'un régime de pension agréé correspond à la somme obtenue par la formule suivante :

A – B – C

où :

A représente la moins élevée des sommes suivantes :

a) le total des sommes représentant chacune le montant d'une prestation de retraite, sauf celles permises en vertu des alinéas 8506(1)a) à e) du *Règlement de l'impôt sur le revenu*, versée sur le régime au cours de l'année relativement au compte et incluse, par l'effet de l'alinéa 56(1)a), dans le calcul du revenu du contribuable pour l'année,

B is the minimum amount for the account for the taxation year; and

C is the total of all contributions made by the taxpayer under the provision and designated for the purposes of subsection 8506(12) of the *Income Tax Regulations*.

B le minimum relatif au compte pour l'année;

C le total des cotisations versées par le contribuable aux termes de la disposition qui ont été désignées pour l'application du paragraphe 8506(12) du *Règlement de l'impôt sur le revenu*.

Eligible PRPP withdrawal amount

(4) A taxpayer's eligible PRPP withdrawal amount for a taxation year in respect of an account of the taxpayer under a PRPP is the amount determined by the formula

A – B

where

A is the lesser of

(a) the total of all amounts each of which is the amount of a distribution made from the account in the taxation year and included, because of subsection 147.5(13), in computing the taxpayer's income for the taxation year, and

(b) the amount that would be the minimum amount for the account for the 2015 taxation year if it were determined using the factor designated under subsection 7308(4) of the *Income Tax Regulations* as they read on December 31, 2014, and

B is the minimum amount for the account for the taxation year.

Montant de retrait admissible de RPAC

(4) Le montant de retrait admissible de RPAC d'un contribuable pour une année d'imposition relativement au compte du contribuable dans le cadre d'un RPAC correspond à la somme obtenue par la formule suivante :

A – B

où :

A représente la moins élevée des sommes suivantes :

a) le total des sommes représentant chacune le montant d'une distribution effectuée sur le compte au cours de l'année et incluse, par l'effet du paragraphe 147.5(13), dans le calcul du revenu du contribuable pour l'année,

b) la somme qui serait le minimum relatif au compte pour l'année 2015 si ce minimum était déterminé en utilisant le facteur désigné au paragraphe 7308(4) du *Règlement de l'impôt sur le revenu* dans sa version applicable au 31 décembre 2014;

B le minimum relatif au compte pour l'année.

Expressions used in this section

(5) For the purposes of this section,

(a) ***money purchase provision*** has the same meaning as in subsection 147.1(1);

(b) ***retirement benefits*** has the same meaning as in subsection 8500(1) of the *Income Tax Regulations*;

(c) the minimum amount for an account of a taxpayer under a money purchase provision of a registered pension plan is the amount determined under subsection 8506(5) of the *Income Tax Regulations*; and

(d) the minimum amount for an account of a taxpayer under a PRPP is the amount that would be the minimum amount for the calendar year under subsection 8506(5) of the *Income Tax Regulations* if the

Terminologie

(5) Pour l'application du présent article :

a) l'expression ***disposition à cotisations déterminées*** s'entend au sens du paragraphe 147.1(1);

b) l'expression ***prestation de retraite*** s'entend au sens du paragraphe 8500(1) du *Règlement de l'impôt sur le revenu*;

c) le minimum relatif au compte d'un contribuable dans le cadre de la disposition à cotisations déterminées d'un régime de pension agréé correspond à la somme déterminée selon le paragraphe 8506(5) du *Règlement de l'impôt sur le revenu*;

d) le minimum relatif au compte d'un contribuable dans le cadre d'un RPAC correspond à la somme qui

taxpayer's account were an account under a money purchase provision of a registered pension plan.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2015, c. 36, s. 2.

serait le minimum pour l'année civile déterminé selon le paragraphe 8506(5) du *Règlement de l'impôt sur le revenu* si le compte du contribuable était un compte dans le cadre de la disposition à cotisations déterminées d'un régime de pension agréé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2015, ch. 36, art. 2.

Definitions

60.03 (1) The following definitions apply in this section.

eligible pension income, of an individual for a taxation year, means the total of

(a) the eligible pension income (as defined in subsection 118(7)) of the individual for the year, and

(b) if the individual has attained the age of 65 years before the end of the year, the lesser of

(i) the total of all amounts each of which is a payment made in the year to the individual

(A) out of or under a retirement compensation arrangement that provides benefits that supplement the benefits provided under a registered pension plan (other than an individual pension plan for the purposes of Part LXXXIII of the *Income Tax Regulations*), and

(B) in respect of a life annuity that is attributable to periods of employment for which benefits are also provided to the individual under the registered pension plan, and

(ii) the amount, if any, by which the defined benefit limit (as defined in subsection 8500(1) of the *Income Tax Regulations*) for the year multiplied by 35 exceeds the amount determined under paragraph (a). (*revenu de pension déterminé*)

joint election in respect of a pensioner and a pension transferee for a taxation year means an election made jointly in prescribed form by the pensioner and the pension transferee and filed with the Minister with both the pensioner's and the pension transferee's returns of income for the taxation year in respect of which the election is made, on or before their respective filing-due dates for the taxation year. (*choix conjoint*)

pensioner for a taxation year means an individual who

(a) receives eligible pension income in the taxation year; and

(b) is resident in Canada,

Définitions

60.03 (1) Les définitions qui suivent s'appliquent au présent article.

cessionnaire Est un cessionnaire pour une année d'imposition le particulier qui, à la fois :

a) réside au Canada à celui des moments suivants qui est applicable :

(i) s'il décède dans l'année d'imposition, le moment immédiatement avant son décès,

(ii) dans les autres cas, la fin de l'année civile dans laquelle l'année d'imposition prend fin;

b) au cours de l'année d'imposition, est l'époux ou le conjoint de fait d'un pensionné et ne vit pas séparé de lui, à la fin de l'année d'imposition et pendant une période de 90 jours ou plus ayant commencé dans l'année, pour cause d'échec de leur mariage ou union de fait. (*pension transferee*)

choix conjoint En ce qui concerne un pensionné et un cessionnaire pour une année d'imposition, choix qu'ils font conjointement sur le formulaire prescrit et qu'ils présentent au ministre, avec leurs déclarations de revenu pour l'année d'imposition visée par le choix, au plus tard à la date d'échéance de production qui leur est applicable respectivement pour l'année. (*joint election*)

montant de pension fractionné Est un montant de pension fractionné pour une année d'imposition la somme choisie par un pensionné et un cessionnaire dans un choix conjoint visant l'année, n'excédant pas la somme obtenue par la formule suivante :

0,5A × B/C

où :

A représente le revenu de pension déterminé du pensionné pour l'année;

B le nombre de mois de l'année d'imposition du pensionné au cours desquels il était l'époux ou le conjoint de fait du cessionnaire;

C le nombre de mois de l'année d'imposition du pensionné. (*split-pension amount*)

(i) if the individual dies in the taxation year, at the time that is immediately before the individual's death, or

(ii) in any other case, at the end of the calendar year in which the taxation year ends. (*pensionné*)

pension income has the meaning assigned by section 118. (*revenu de pension*)

pension transferee for a taxation year means an individual who

(a) is resident in Canada,

(i) if the individual dies in the taxation year, at the time that is immediately before the individual's death, or

(ii) in any other case, at the end of the calendar year in which the taxation year ends; and

(b) at any time in the taxation year is married to, or in a common-law partnership with, a pensioner and is not, by reason of the breakdown of their marriage or common-law partnership, living separate and apart from the pensioner at the end of the taxation year and for a period of at least 90 days commencing in the taxation year. (*cessionnaire*)

qualified pension income has the meaning assigned by section 118. (*revenu de pension admissible*)

split-pension amount for a taxation year is the amount elected by a pensioner and a pension transferee in a joint election for the taxation year not exceeding the amount determined by the formula

0.5A × B/C

where

A is the eligible pension income of the pensioner for the taxation year;

B is the number of months in the pensioner's taxation year at any time during which the pensioner was married to, or was in a common-law partnership with, the pension transferee; and

C is the number of months in the pensioner's taxation year. (*montant de pension fractionné*)

pensionné Est un pensionné pour une année d'imposition le particulier qui, à la fois :

a) reçoit un revenu de pension déterminé au cours de l'année d'imposition;

b) réside au Canada à celui des moments suivants qui est applicable :

(i) s'il décède dans l'année d'imposition, le moment immédiatement avant son décès,

(ii) dans les autres cas, la fin de l'année civile dans laquelle l'année d'imposition prend fin. (*pensioner*)

revenu de pension S'entend au sens de l'article 118. (*pension income*)

revenu de pension admissible S'entend au sens de l'article 118. (*qualified pension income*)

revenu de pension déterminé S'entend, à l'égard d'un particulier pour une année d'imposition, du total des sommes suivantes :

a) son revenu de pension déterminé, au sens du paragraphe 118(7), pour l'année;

b) s'il a atteint 65 ans avant la fin de l'année, la moins élevée des sommes suivantes :

(i) le total des sommes représentant chacune un paiement qui lui est fait au cours de l'année, à la fois :

(A) dans le cadre d'une convention de retraite qui prévoit des prestations qui complètent celles prévues par un régime de pension agréé, sauf un régime de retraite individuel pour l'application de la partie LXXXIII du *Règlement de l'impôt sur le revenu*,

(B) relativement à une rente viagère qui est attribuable à des périodes d'emploi pour lesquelles des prestations lui sont également assurées en vertu du régime de pension agréé,

(ii) l'excédent du résultat de la multiplication de 35 par le plafond des prestations déterminées, au sens du paragraphe 8500(1) du *Règlement de l'impôt sur le revenu*, pour l'année sur la somme visée à l'alinéa a). (*eligible pension income*)

Effect of pension income split

(2) For the purpose of subsection 118(3), if a pensioner and a pension transferee have made a joint election in a taxation year,

(a) the pensioner is deemed not to have received the portion of the pensioner's pension income or qualified pension income, as the case may be, for the taxation year that is equal to the amount of the pensioner's split-pension amount for that taxation year; and

(b) the pension transferee is deemed to have received the split-pension amount

(i) as pension income, to the extent that the split-pension amount was pension income to the pensioner, and

(ii) as qualified pension income, to the extent that the split-pension amount was qualified pension income to the pensioner.

Limitation

(3) A pensioner may file only one joint election for a particular taxation year.

False declaration

(4) A joint election is invalid if the Minister establishes that a pensioner or a pension transferee has knowingly or under circumstances amounting to gross negligence made a false declaration in the joint election.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 29, s. 5; 2012, c. 31, s. 14.

Support

60.1 (1) For the purposes of paragraph 60(b) and subsection 118(5), where an order or agreement, or any variation thereof, provides for the payment of an amount by a taxpayer to a person or for the benefit of the person, children in the person's custody or both the person and those children, the amount or any part thereof

(a) when payable, is deemed to be payable to and receivable by that person; and

(b) when paid, is deemed to have been paid to and received by that person.

Agreement

(2) For the purposes of section 60, this section and subsection 118(5), the amount determined by the formula

A - B

Effet du fractionnement

(2) Pour l'application du paragraphe 118(3), les règles ci-après s'appliquent dans le cas où un pensionné et un cessionnaire font un choix conjoint pour une année d'imposition :

a) le pensionné est réputé ne pas avoir reçu la partie de son revenu de pension ou revenu de pension admissible, selon le cas, pour l'année qui correspond au montant de pension fractionné pour l'année;

b) le cessionnaire est réputé avoir reçu le montant de pension fractionné, à la fois :

(i) à titre de revenu de pension, dans la mesure où le montant de pension fractionné était un revenu de pension pour le pensionné,

(ii) à titre de revenu de pension admissible, dans la mesure où le montant de pension fractionné était un revenu de pension admissible pour le pensionné.

Restriction

(3) Le pensionné ne peut produire plus d'un choix conjoint pour une année d'imposition.

Fausse déclaration

(4) Le choix conjoint est invalide si le ministre établit que le pensionné ou le cessionnaire ont, sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé dans le choix.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 29, art. 5; 2012, ch. 31, art. 14.

Pension alimentaire

60.1 (1) Pour l'application de l'alinéa 60b) et du paragraphe 118(5), dans le cas où une ordonnance ou un accord, ou une modification s'y rapportant, prévoit le paiement d'un montant par un contribuable à une personne ou à son profit, au profit d'enfants confiés à sa garde ou à la fois au profit de la personne et de ces enfants, le montant ou une partie de celui-ci est réputé :

a) une fois payable, être payable à la personne et à recevoir par elle;

b) une fois payé, avoir été payé à la personne et reçu par elle.

Entente

(2) Pour l'application de l'article 60, du présent article et du paragraphe 118(5), le résultat du calcul suivant :

A - B

where

A is the total of all amounts each of which is an amount (other than an amount that is otherwise a support amount) that became payable by a taxpayer in a taxation year, under an order of a competent tribunal or under a written agreement, in respect of an expense (other than an expenditure in respect of a self-contained domestic establishment in which the taxpayer resides or an expenditure for the acquisition of tangible property, or for civil law corporeal property, that is not an expenditure on account of a medical or education expense or in respect of the acquisition, improvement or maintenance of a self-contained domestic establishment in which the person described in paragraph (a) or (b) resides) incurred in the year or the preceding taxation year for the maintenance of a person, children in the person's custody or both the person and those children, if the person is

(a) the taxpayer's spouse or common-law partner or former spouse or common-law partner, or

(b) where the amount became payable under an order made by a competent tribunal in accordance with the laws of a province, an individual who is a parent of a child of whom the taxpayer is a legal parent,

and

B is the amount, if any, by which

(a) the total of all amounts each of which is an amount included in the total determined for A in respect of the acquisition or improvement of a self-contained domestic establishment in which that person resides, including any payment of principal or interest in respect of a loan made or indebtedness incurred to finance, in any manner whatever, such acquisition or improvement

exceeds

(b) the total of all amounts each of which is an amount equal to 1/5 of the original principal amount of a loan or indebtedness described in paragraph (a),

is, where the order or written agreement, as the case may be, provides that this subsection and subsection 56.1(2) shall apply to any amount paid or payable thereunder, deemed to be an amount payable by the taxpayer to that person and receivable by that person as an allowance on a periodic basis, and that person is deemed to have discretion as to the use of that amount.

Prior payments

(3) For the purposes of this section and section 60, where a written agreement or order of a competent tribunal

où :

A représente le total des montants représentant chacun un montant (sauf celui qui constitue par ailleurs une pension alimentaire) qui est devenu payable par un contribuable au cours d'une année d'imposition, aux termes de l'ordonnance d'un tribunal compétent ou d'un accord écrit, au titre d'une dépense (sauf la dépense relative à un établissement domestique autonome que le contribuable habite ou une dépense pour l'acquisition de biens tangibles ou, pour l'application du droit civil, de biens corporels qui n'est pas une dépense au titre de frais médicaux ou d'études ni une dépense en vue de l'acquisition, de l'amélioration ou de l'entretien d'un établissement domestique autonome que la personne visée aux alinéas a) ou b) habite) engagée au cours de l'année ou de l'année d'imposition précédente pour subvenir aux besoins d'une personne, d'enfants confiés à sa garde ou à la fois de la personne et de ces enfants, dans le cas où la personne est :

a) l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait du contribuable,

b) si le montant est devenu payable en vertu de l'ordonnance d'un tribunal compétent rendue en conformité avec les lois d'une province, un particulier qui est le parent, père ou mère, d'un enfant dont le contribuable est légalement l'autre parent;

B l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentant chacun un montant inclus dans le total calculé selon l'élément A relativement à l'acquisition ou à l'amélioration d'un établissement domestique autonome dans lequel la personne habite, y compris un paiement de principal ou d'intérêts sur un emprunt ou une dette contracté en vue de financer, de quelque manière qui ce soit, l'acquisition ou l'amélioration,

b) le total des montants correspondant chacun à 1/5 du principal initial d'un emprunt ou d'une dette visés à l'alinéa a),

est réputé, lorsque l'ordonnance ou l'accord écrit prévoit que le présent paragraphe et le paragraphe 56.1(2) s'appliquent à un montant payé ou payable à leur titre, être un montant payable par le contribuable à cette personne et à recevoir par celle-ci à titre d'allocation périodique, que cette personne peut utiliser à sa discrétion.

Paiements antérieurs

(3) Pour l'application du présent article et de l'article 60, lorsqu'un accord écrit ou l'ordonnance d'un tribunal

made at any time in a taxation year provides that an amount paid before that time and in the year or the preceding taxation year is to be considered to have been paid and received thereunder,

(a) the amount is deemed to have been paid thereunder; and

(b) the agreement or order is deemed, except for the purpose of this subsection, to have been made on the day on which the first such amount was paid, except that, where the agreement or order is made after April 1997 and varies a child support amount payable to the recipient from the last such amount paid to the recipient before May 1997, each varied amount of child support paid under the agreement or order is deemed to have been payable under an agreement or order the commencement day of which is the day on which the first payment of the varied amount is required to be made.

compétent, établi à un moment d'une année d'imposition, prévoit qu'un montant payé avant ce moment et au cours de l'année ou de l'année d'imposition précédente est considéré comme payé et reçu au titre de l'accord ou de l'ordonnance, les présomptions suivantes s'appliquent :

a) le montant est réputé avoir été payé au titre de l'accord ou de l'ordonnance;

b) l'accord ou l'ordonnance est réputé, sauf pour l'application du présent paragraphe, avoir été établi le jour où un tel montant est payé pour la première fois. Toutefois, lorsque l'accord ou l'ordonnance est établi après avril 1997 et modifie un montant de pension alimentaire pour enfants payable au bénéficiaire par rapport au dernier semblable montant qui lui a été payé avant mai 1997, chaque montant modifié de pension alimentaire pour enfants payé aux termes de l'accord ou de l'ordonnance est réputé avoir été payable aux termes d'un accord ou d'une ordonnance dont la date d'exécution correspond au jour où le montant modifié est à verser pour la première fois.

Definitions

(4) The definitions in subsection 56.1(4) apply in this section and section 60.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 60.1; 1994, c. 7, Sch. VIII, s. 22, c. 21, s. 135; 1997, c. 25, s. 11; 1998, c. 19, s. 100(F); 2000, c. 12, s. 142; 2001, c. 17, s. 240(F); 2005, c. 33, s. 11; 2013, c. 34, s. 109, c. 40, s. 28(F).

Définitions

(4) Les définitions figurant au paragraphe 56.1(4) s'appliquent au présent article et à l'article 60.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 60.1; 1994, ch. 7, ann. VIII, art. 22, ch. 21, art. 135; 1997, ch. 25, art. 11; 1998, ch. 19, art. 100(F); 2000, ch. 12, art. 142; 2001, ch. 17, art. 240(F); 2005, ch. 33, art. 11; 2013, ch. 34, art. 109, ch. 40, art. 28(F).

60.11 [Repealed, 2013, c. 40, s. 29]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 60.11; 2013, c. 40, s. 29.

60.11 [Abrogé, 2013, ch. 40, art. 29]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 60.11; 2013, ch. 40, art. 29.

Refund of undeducted past service AVCs

60.2 (1) There may be deducted in computing a taxpayer's income for a taxation year an amount equal to the total of

(a) where the taxation year ends before 1991, the total of all amounts each of which is that portion of an amount paid to the taxpayer before 1991 and included by reason of subparagraph 56(1)(a)(i) or paragraph 56(1)(h) or 56(1)(t) in computing the taxpayer's income for the year or a preceding taxation year that can reasonably be considered to be a refund of additional voluntary contributions made by the taxpayer before October 9, 1986 to a registered pension plan for the taxpayer's benefit in respect of services rendered by the taxpayer before the year in which the contributions were made, to the extent that the contributions were not deducted in computing the taxpayer's income for any taxation year; and

Remboursement de cotisations facultatives non déduites

60.2 (1) Le total des montants suivants est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition :

a) si l'année d'imposition se termine avant 1991, l'ensemble des montants dont chacun représente la partie d'un montant versé au contribuable avant 1991 et inclus, en application du sous-alinéa 56(1)a)(i) ou de l'alinéa 56(1)h) ou t), dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure qu'il est raisonnable de considérer comme un remboursement de cotisations facultatives qu'il a versées à son profit avant le 9 octobre 1986 à un régime de pension agréé au titre de services qu'il a rendus avant l'année où les cotisations ont été versées, dans la mesure où ces cotisations n'ont pas été déduites dans le calcul de son revenu pour une année d'imposition;

(b) the least of

(i) $3,500,

(ii) the total of all amounts each of which is an amount included after 1986 by reason of subparagraph 56(1)(a)(i) or paragraph 56(1)(d.2), 56(1)(h) or 56(1)(t) in computing the taxpayer's income for the year, and

(iii) the balance of the annuitized voluntary contributions of the taxpayer at the end of the year.

Definition of *balance of the annuitized voluntary contributions*

(2) For the purposes of subsection 60.2(1), ***balance of the annuitized voluntary contributions*** of a taxpayer at the end of a taxation year means the amount, if any, by which

(a) such part of the total of all amounts each of which is an additional voluntary contribution made by the taxpayer to a registered pension plan before October 9, 1986 in respect of services rendered by the taxpayer before the year in which the contribution was made, to the extent that the contribution was not deducted in computing the taxpayer's income for any taxation year, as may reasonably be considered as having been

(i) used before October 9, 1986 to acquire or provide an annuity for the taxpayer's benefit under a registered pension plan or registered retirement savings plan, or

(ii) transferred before October 9, 1986 to a registered retirement income fund under which the taxpayer was the annuitant (within the meaning assigned by subsection 146.3(1)) at the time of the transfer

exceeds

(b) the total of all amounts each of which is

(i) an amount deducted under paragraph 60.2(1)(b) in computing the taxpayer's income for a preceding taxation year, or

(ii) an amount deducted under paragraph 60.2(1)(a) in computing the taxpayer's income for the year or a preceding taxation year, to the extent that the amount can reasonably be considered to be in respect of a refund of additional voluntary contributions included in determining the total under paragraph 60.2(2)(a).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1990, c. 35, s. 6.

b) le moins élevé des montants suivants :

(i) 3 500 $,

(ii) le total des montants dont chacun représente un montant inclus après 1986, en application du sous-alinéa 56(1)a)(i) ou de l'alinéa 56(1)d .2), h) ou t), dans le calcul de son revenu pour l'année,

(iii) le solde de ses cotisations facultatives à la fin de l'année qui ont servi à assurer une rente.

Solde des cotisations facultatives ayant servi à assurer une rente

(2) Pour l'application du paragraphe (1), le solde des cotisations facultatives d'un contribuable à la fin d'une année d'imposition qui ont servi à assurer une rente correspond à l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

a) la partie du total des montants dont chacun représente une cotisation facultative que le contribuable a versée à un régime de pension agréé avant le 9 octobre 1986 au titre de services qu'il a rendus avant l'année où la cotisation a été versée qu'il est raisonnable de considérer comme ayant servi avant cette date à acquérir ou à fournir une rente à son profit dans le cadre d'un régime de pension agréé ou d'un régime enregistré d'épargne-retraite ou comme ayant été transférée avant cette date à un fonds enregistré de revenu de retraite dont il est rentier, au sens du paragraphe 146.3(1), au moment du transfert, dans la mesure où la cotisation n'a pas été déduite dans le calcul de son revenu pour une année d'imposition;

b) le total des montants dont chacun représente :

(i) soit un montant déduit en application de l'alinéa (1)b) dans le calcul de son revenu pour une année d'imposition antérieure,

(ii) soit un montant déduit en application de l'alinéa (1)a) dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure et qu'il est raisonnable de considérer comme se rapportant à un remboursement de cotisations facultatives inclus dans le calcul du total visé à l'alinéa a).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1990, ch. 35, art. 6.

Payment made as consideration for income-averaging annuity

61 (1) In computing the income for a taxation year of an individual resident in Canada, there may be deducted an amount equal to the lesser of

(a) such amount as the individual may claim, not exceeding the total of amounts each of which is a single payment

(i) made by the individual in the year or within 60 days after the end of the year as consideration for an income-averaging annuity contract of the individual, and

(ii) in respect of which no amount has been deducted in computing the individual's income for the immediately preceding taxation year, and

(b) the amount, if any, by which the total of

(i) the remainder obtained when the total of the amounts deductible in computing the individual's income for the year by reason of paragraphs 60(j) and 60(l) of this Act and paragraph 60(k) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, is deducted from the total of amounts described in subsection 61(2) in respect of the individual for the year,

(ii) the amount, if any, by which the amount determined under paragraph 3(b) in respect of the individual for the year exceeds the total of amounts each of which is an allowable business investment loss of the individual for the year,

(iii) the individual's income for the year from the production of a literary, dramatic, musical or artistic work,

(iv) the individual's income for the year from the individual's activities as an athlete, a musician or a public entertainer such as a theatre, motion picture, radio or television artist, and

(iv.1) the amount, if any, by which the amount included in computing the income of the individual for the year by virtue of section 59 exceeds the total of amounts deducted in computing the individual's income for the year under sections 64, 66, 66.1, 66.2 and 66.4 and under section 29 of the *Income Tax Application Rules*,

exceeds

(v) the total of amounts each of which is the annual annuity amount of the individual in respect of an

Paiement effectué en contrepartie d'une rente à versements invariables

61 (1) Peut être déduit dans le calcul du revenu, pour une année d'imposition, d'un particulier résidant au Canada, le moins élevé des montants suivants :

a) le montant qu'il peut déduire dans la limite du total des sommes dont chacune correspond à un paiement unique :

(i) d'une part, qu'il a effectué au cours de l'année ou dans les 60 jours suivant la fin de l'année, en contrepartie d'un contrat de rente à versements invariables du particulier,

(ii) d'autre part, au titre duquel aucune somme n'a été déduite dans le calcul de son revenu pour l'année d'imposition précédente;

b) l'excédent éventuel du total des montants suivants :

(i) le reste obtenu lorsque le total des sommes déductibles dans le calcul du revenu du contribuable pour l'année, en vertu des alinéas 60j) et l) de la présente loi et de l'alinéa 60k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, est déduit du total des sommes relatives au particulier pour l'année et visées au paragraphe (2),

(ii) l'excédent éventuel de la somme déterminée en vertu de l'alinéa 3b) et relative au particulier pour l'année sur le total des sommes dont chacune représente une perte déductible au titre d'un placement d'entreprise du particulier pour l'année,

(iii) le revenu tiré pour l'année par le particulier de la production d'œuvres littéraires, dramatiques, musicales ou artistiques,

(iv) le revenu tiré pour l'année par le particulier de ses activités d'athlète, de musicien ou de professionnel du spectacle comme un artiste de théâtre, de cinéma, de radio ou de télévision,

(iv.1) l'excédent éventuel de la somme incluse dans le calcul du revenu du particulier pour l'année en vertu de l'article 59 sur le total des sommes déduites dans le calcul de son revenu pour l'année en vertu des articles 64, 66, 66.1, 66.2 et 66.4 et en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*,

sur :

(v) le total des sommes dont chacune correspond au montant annuel de la rente du particulier en

income-averaging annuity contract in respect of the consideration for which any amount has been deducted under this subsection in computing the individual's income for the year.

Idem

(2) For the purposes of subsection 61(1), an amount described in this subsection in respect of an individual for a taxation year is any following amount:

(a) any single payment received by the individual in the year

(i) out of or under a superannuation or pension fund or plan

(A) on the death, withdrawal or retirement from employment of an employee or former employee,

(B) on the winding-up of the fund or plan in full satisfaction of all rights of the payee in or under the fund or plan, or

(C) to which the payee is entitled by virtue of an amendment to the plan although the payee continues to be an employee to whom the plan is applicable,

(ii) on retirement as an employee in recognition of long service and not made out of or under a superannuation fund or plan,

(iii) pursuant to an employees profit sharing plan in full satisfaction of all the individual's rights in or under the plan, to the extent that the amount thereof is required to be included in computing the individual's income for the year in which the payment was received, or

(iv) pursuant to a deferred profit sharing plan on the death, withdrawal or retirement from employment of an employee or former employee, to the extent that the amount thereof is required to be included in computing the individual's income for the year;

(b) a payment or payments made by an employer to the individual as an employee or former employee on or after retirement in respect of loss of office or employment, if made in the year of retirement or within one year after that year;

(c) a payment or payments paid to the individual as a death benefit, if paid in the year of death or within one year after that year;

vertu d'un contrat de rente à versements invariables, relativement à la contrepartie pour laquelle une somme a été déduite, en vertu du présent paragraphe, dans le calcul de son revenu pour l'année.

Idem

(2) Pour l'application du paragraphe (1), une somme relative à un particulier pour une année d'imposition et visée au présent paragraphe s'entend de l'une ou plusieurs des sommes suivantes :

a) tout paiement unique qu'il a reçu au cours de l'année :

(i) dans le cadre d'une caisse ou d'un régime de retraite ou de pension :

(A) lors du décès, de la démission ou de la retraite d'un employé ou d'un ancien employé,

(B) lors de la liquidation de la caisse ou du régime, en règlement total des droits du cotisant dans le cadre de la caisse ou du régime,

(C) auquel le cotisant a droit en vertu d'une modification du régime, bien qu'il continue à être un employé auquel le régime s'applique,

(ii) lors de sa retraite en tant qu'employé, en reconnaissance de ses longs états de service mais non dans le cadre d'une caisse ou d'un régime de retraite,

(iii) dans le cadre d'un régime de participation des employés aux bénéfices, en règlement total de ses droits en vertu du régime, dans la mesure où le montant de ce paiement doit être inclus dans le calcul de son revenu pour l'année au cours de laquelle il a été reçu,

(iv) dans le cadre d'un régime de participation différée aux bénéfices, lors du décès, de la démission ou du départ à la retraite d'un employé ou d'un ancien employé, dans la mesure où le montant de ce paiement doit être inclus dans le calcul du revenu du particulier pour l'année;

b) les paiements faits par un employeur au particulier en sa qualité d'employé ou d'ancien employé, lors de son départ à la retraite ou après, relativement à la perte de sa charge ou de son emploi, si ces paiements sont effectués au cours de l'année du départ à la retraite ou de l'année suivante;

(d) any amount included in computing the individual's income for the year by virtue of subsection 146(8), to the extent that the amount is a refund of premiums, as defined by section 146, under a registered retirement savings plan received by the individual under the plan on or after the death of the person who was, immediately before the person's death, the annuitant thereunder;

(e) any amount included in computing the individual's income for the year by virtue of section 13, 14 or 23, subsection 28(4) or 28(5) or paragraph 106(2)(a) of this Act or subparagraph 56(1)(a)(viii) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952;

(f) any amount deemed by section 7 to be a benefit received by the individual in the year by virtue of the individual's employment;

(g) the amount, if any, by which any amount received by the individual in the year as or on account of a prize for achievement in a field of endeavour ordinarily carried on by the individual exceeds $500;

(h) any amount included in computing the individual's income for the year by virtue of subsection 146.2(6) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952;

(i) a payment made in the year to an individual by virtue of paragraph 51(2)(b) of the *Judges Act*;

(j) except where the individual claimed a deduction under paragraph 23(3)(a) of the *Income Tax Application Rules* in computing the individual's income for the year, any amount included in computing that income by virtue of paragraph 23(3)(c) of that Act; and

(k) where the individual ceased to be a member of a partnership in the year or the preceding year and paragraph 34(a) applied in computing the individual's income therefrom in the preceding year, the amount included in the individual's income for the year by virtue of paragraph 3(a) to the extent that, having regard to all the circumstances including the proportion in which the members of the partnership have agreed to share the profits of the partnership, it can reasonably be considered to be in respect of the individual's share of the work in progress of the partnership at the time the individual ceased to be a member thereof, if, during the remainder of the year in which the individual ceased to be a member and in the following year, the individual did not

(i) become employed in the business that had been carried on by the partnership,

c) les paiements faits au particulier à titre de prestation consécutive au décès, si ces paiements sont effectués au cours de l'année du décès ou de l'année suivante;

d) toute somme incluse dans le calcul du revenu du particulier pour l'année, en vertu du paragraphe 146(8), dans la mesure où cette somme représente un remboursement de primes, au sens de l'article 146, effectué en vertu d'un régime enregistré d'épargne-retraite et reçu par le particulier en vertu de ce régime, lors du décès ou après le décès de la personne qui était, immédiatement avant son décès, le bénéficiaire de la rente en vertu du régime;

e) toute somme incluse dans le calcul du revenu du particulier pour l'année, en vertu des articles 13, 14 ou 23, du paragraphe 28(4) ou (5) ou de l'alinéa 106(2)a) de la présente loi ou du sous-alinéa 56(1)a)(viii) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952;

f) toute somme réputée, aux termes de l'article 7, être une prestation reçue au cours de l'année par le particulier au titre de son emploi;

g) l'excédent éventuel de toute somme que le particulier a reçue au cours de l'année au titre d'une récompense couronnant une œuvre remarquable réalisée dans son domaine d'activité habituel sur 500 $;

h) la somme incluse dans le calcul du revenu du particulier pour l'année en vertu du paragraphe 146.2(6) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952;

i) le paiement fait au cours de l'année à un particulier en vertu de l'alinéa 51(2)b) de la *Loi sur les juges*;

j) sauf lorsque le particulier a réclamé une déduction en vertu de l'alinéa 23(3)a) des *Règles concernant l'application de l'impôt sur le revenu* dans le calcul de son revenu pour l'année, un montant inclus dans le calcul de ce revenu par l'application de l'alinéa 23(3)c) de cette loi;

k) lorsque le particulier a cessé d'être un associé d'une société de personnes au cours de l'année ou de l'année précédente et que l'alinéa 34a) était applicable au calcul de son revenu tiré de cette société de personnes au cours de l'année précédente, le montant inclus dans son revenu pour l'année par l'application de l'alinéa 3a) dans la mesure où, compte tenu des circonstances y compris la proportion sur laquelle les associés de la société de personnes sont convenus d'en partager les bénéfices, il est raisonnable de l'assimiler à sa part dans le travail en cours de la société de personnes au

(ii) carry on a business that is a profession, or

(iii) become a member of a partnership that carries on a business that is a profession.

Definitions

(4) In this section,

annual annuity amount of an individual in respect of an income-averaging annuity contract means the total of the equal payments described in paragraph (c) of the definition ***income-averaging annuity contract*** in this subsection that, under the contract, are receivable by the individual in the twelve month period commencing on the day that the first such payment under the contract becomes receivable by the individual; (*montant annuel de la rente*)

income-averaging annuity contract of an individual means a contract between the individual and a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business or a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, under which

(a) in consideration of a qualifying payment as consideration under the contract, that person agrees to pay to the individual, commencing at a time not later than 10 months after the individual has made the qualifying payment,

(i) an annuity to the individual for the individual's life, with or without a guaranteed term not exceeding the number of years that is the lesser of

(A) 15, and

(B) 85 minus the age of the individual at the time the annuity payments commence, or

(ii) an annuity to the individual for a guaranteed term described in subparagraph (i), or

(b) in consideration of a single payment in respect of the individual's 1981 taxation year, other than a

moment où il a cessé d'en être un associé, si, au cours du reste de l'année pendant laquelle il a cessé d'être un associé et au cours de l'année suivante :

(i) il n'est pas devenu employé dans l'entreprise qu'exploitait la société de personnes,

(ii) il n'a pas exploité une entreprise qui est une profession libérale,

(iii) il n'est pas devenu un associé d'une société de personnes qui exploite une entreprise qui est une profession libérale.

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

contrat de rente à versements invariables Contrat passé entre un particulier et soit une personne titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exercer un commerce de rentes au Canada, soit une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise de fiducie offrant ses services au public, en vertu duquel, selon le cas :

a) en contrepartie d'un paiement admissible, cette personne convient de payer au particulier, le premier paiement devant intervenir dans les 10 mois au plus tard suivant le moment du paiement admissible du particulier :

(i) soit une rente viagère, avec ou sans durée garantie dans la limite du moins élevé des nombres d'années suivants :

(A) 15,

(B) 85 moins l'âge du particulier au moment du premier paiement de la rente,

(ii) soit une rente pour une des durées garanties visées au sous-alinéa (i);

b) en contrepartie d'un paiement unique à l'égard de son année d'imposition 1981, autre qu'un paiement admissible effectué par le particulier, cette personne fait au particulier avant 1983 tous les paiements prévus au contrat,

et qui ne prévoit pas d'autre paiement que le paiement unique à effectuer par le particulier et :

c) à l'égard d'un contrat visé à l'alinéa a), des rentes de même valeur qui doivent être servies annuellement ou à des intervalles plus rapprochés;

qualifying payment, made by the individual as consideration under the contract, that person makes all payments provided for under the contract to the individual before 1983

and under which no payments are provided except the single payment by the individual and,

(c) in respect of a contract referred to in paragraph (a), equal annuity payments that are to be made annually or at more frequent periodic intervals, or

(d) in respect of a contract referred to in paragraph (b), payments described therein to the individual; (*contrat de rente à versements invariables*)

qualifying payment means a single payment made before November 13, 1981 (or made on or after November 13, 1981 pursuant to an agreement in writing entered into before that date to make such a payment in respect of the individual's 1981 taxation year, or pursuant to an arrangement in writing made before that date to have funds withheld before 1982 from any of the individual's remuneration described in paragraph 61(1)(b) earned or received before November 13, 1981 and paid by or on behalf of the individual). (*paiement admissible*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "61"; 1973-74, c. 14, s. 17, c. 30, s. 5; 1974-75-76, c. 26, s. 32; 1976-77, c. 4, s. 18; 1977-78, c. 1, ss. 26, 101(F); 1979, c. 5, s. 18; 1980-81-82-83, c. 48, s. 31, c. 140, s. 30.

d) à l'égard d'un contrat visé à l'alinéa b), les paiements au particulier qui y sont visés. (*income-averaging annuity contract*)

montant annuel de la rente S'agissant du montant annuel de la rente revenant à un particulier en vertu d'un contrat de rente à versements invariables, le total des paiements égaux visés à l'alinéa c) de la définition de ***contrat de rente à versements invariables*** au présent paragraphe que le particulier doit, en vertu du contrat, recevoir dans la période de 12 mois commençant le jour où il doit recevoir le premier de ces paiements en vertu du contrat. (*annual annuity amount*)

paiement admissible Paiement unique effectué avant le 13 novembre 1981 (ou effectué le ou après le 13 novembre 1981 conformément à une convention écrite conclue avant cette date et prévoyant un tel paiement à l'égard de son année d'imposition 1981, ou conformément à un arrangement écrit fait au plus tard à cette date et prévoyant la retenue de fonds, avant 1982, sur l'une quelconque des rémunérations du particulier visées à l'alinéa (1)b) qui a été gagnée ou reçue avant le 13 novembre 1981 et versée par le particulier ou pour son compte). (*qualifying payment*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 61 »; 1973-74, ch. 14, art. 17, ch. 30, art. 5; 1974-75-76, ch. 26, art. 32; 1976-77, ch. 4, art. 18; 1977-78, ch. 1, art. 26 et 101(F); 1979, ch. 5, art. 18; 1980-81-82-83, ch. 48, art. 31, ch. 140, art. 30.

Where income-averaging annuity contract ceases to be such

61.1 (1) Where a contract that was at any time an income-averaging annuity contract of an individual has, at a subsequent time, ceased to be an income-averaging annuity contract otherwise than by virtue of the surrender, cancellation, redemption, sale or the disposition thereof, the individual shall be deemed to have received at that subsequent time as proceeds of the disposition of an income-averaging annuity contract an amount equal to the fair market value of the contract at that subsequent time and to have acquired the contract, as another contract not being an income-averaging annuity contract, immediately thereafter at a cost to the individual equal to that fair market value.

Where annuitant dies and payments continued

(2) Where an individual who was an annuitant under an income-averaging annuity contract has died and payments are subsequently made under that contract, the payments shall be deemed to be payments under an income-averaging annuity contract.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1976-77, c. 4, s. 19.

Cessation d'un contrat de rente à versements invariables

61.1 (1) Lorsqu'un contrat d'un particulier, qui était à un moment donné un contrat de rente à versements invariables, a cessé de l'être à un moment postérieur autrement que par abandon, annulation, rachat, vente ou autre forme de disposition, le particulier est réputé avoir reçu, à ce moment postérieur, à titre de produit de disposition d'un contrat de rente à versements invariables, une somme égale à sa juste valeur marchande à ce moment postérieur et avoir acquis, immédiatement après, le contrat comme un autre contrat qui n'est pas un contrat de rente à versements invariables, à un coût égal à cette juste valeur marchande.

Maintien des paiements après le décès

(2) Lorsqu'un particulier qui était un rentier en vertu d'un contrat de rente à versements invariables décède et que des paiements sont faits par la suite en vertu du contrat, ces paiements sont réputés être des paiements faits en vertu d'un contrat de rente à versements invariables.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1976-77, ch. 4, art. 19.

Reserve for debt forgiveness for resident individuals

61.2 There may be deducted in computing the income for a taxation year of an individual (other than a trust) resident in Canada throughout the year such amount as the individual claims not exceeding the amount determined by the formula

A + B - 0.2(C - $40,000)

where

A is the amount, if any, by which

(a) the total of all amounts each of which is an amount that, because of the application of section 80 to an obligation payable by the individual (or a partnership of which the individual was a member) was included under subsection 80(13) in computing the income of the individual for the year or the income of the partnership for a fiscal period that ends in the year (to the extent that, where the amount was included in computing income of a partnership, it relates to the individual's share of that income)

exceeds

(b) the total of all amounts deducted because of paragraph 80(15)(a) in computing the individual's income for the year,

B is the amount, if any, included under section 56.2 in computing the individual's income for the year, and

C is the greater of $40,000 and the individual's income for the year, determined without reference to this section, paragraph 20(1)(ww), section 56.2, paragraph 60(w), subsection 80(13) and paragraph 80(15)(a).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 20; 2000, c. 19, s. 8.

Deduction for insolvency with respect to resident corporations

61.3 (1) There shall be deducted in computing the income for a taxation year of a corporation resident in Canada throughout the year that is not exempt from tax under this Part on its taxable income, the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is an amount that, because of the application of section 80 to a commercial obligation (in this section having the meaning assigned by subsection 80(1)) issued by the corporation (or a partnership of which the corporation was a member) was included under subsection 80(13) in computing the income of the corporation for the year or the income of the

Provision pour remise de dette — particuliers résidant au Canada

61.2 Le particulier, à l'exception d'une fiducie, qui réside au Canada tout au long d'une année d'imposition peut déduire dans le calcul de son revenu pour l'année un montant qui ne dépasse pas le résultat du calcul suivant :

A + B - 0,2(C - 40 000 $)

où :

A représente l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentant chacun un montant qui, en raison de l'application de l'article 80 à une dette payable par le particulier ou par une société de personnes dont il est un associé, a été inclus en application du paragraphe 80(13) dans le calcul du revenu du particulier pour l'année ou du revenu de la société de personnes pour un exercice qui prend fin dans l'année, dans la mesure où le montant, s'il a été inclus dans le calcul du revenu d'une société de personnes, se rapporte à la part de ce revenu qui revient au particulier,

b) le total des montants déduits par l'effet de l'alinéa 80(15)a) dans le calcul du revenu du particulier pour l'année;

B le montant inclus en application de l'article 56.2 dans le calcul du revenu du particulier pour l'année;

C 40 000 $ ou, s'il est plus élevé, le revenu du particulier pour l'année, déterminé compte non tenu du présent article, de l'alinéa 20(1)ww), de l'article 56.2, de l'alinéa 60w), du paragraphe 80(13) et de l'alinéa 80(15)a).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 20; 2000, ch. 19, art. 8.

Déduction pour insolvabilité — sociétés résidant au Canada

61.3 (1) Le moins élevé des montants suivants est à déduire dans le calcul du revenu, pour une année d'imposition, d'une société qui réside au Canada tout au long de l'année et qui n'est pas exonérée de l'impôt prévu à la présente partie sur son revenu imposable :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un montant qui, en raison de l'application de l'article 80 à une dette commerciale (cette expression s'entendant, au présent article, au sens du paragraphe 80(1)) émise par la société ou par une société de personnes dont elle est un associé, a été inclus en

partnership for a fiscal period that ends in the year (to the extent that the amount, where it was included in computing income of a partnership, relates to the corporation's share of that income)

exceeds

(ii) the total of all amounts deducted because of paragraph 80(15)(a) in computing the corporation's income for the year, and

(b) the amount determined by the formula

A - 2(B - C - D - E)

where

A is the amount determined under paragraph 61.3(1)(a) in respect of the corporation for the year,

B is the total of

(i) the fair market value of the assets of the corporation at the end of the year,

(ii) the amounts paid before the end of the year on account of the corporation's tax payable under this Part or any of Parts I.3, II, VI and XIV for the year or on account of a similar tax payable for the year under an Act of a province, and

(iii) all amounts paid by the corporation in the 12-month period preceding the end of the year to a person with whom the corporation does not deal at arm's length

(A) as a dividend (other than a stock dividend),

(B) on a reduction of paid-up capital in respect of any class of shares of its capital stock,

(C) on a redemption, acquisition or cancellation of its shares, or

(D) as a distribution or appropriation in any manner whatever to or for the benefit of the shareholders of any class of its capital stock, to the extent that the distribution or appropriation cannot reasonably be considered to have resulted in a reduction in the amount otherwise determined for C in respect of the corporation for the year,

C is the total liabilities of the corporation at the end of the year (determined without reference to the corporation's liabilities for tax payable under this Part or any of Parts I.3, II, VI and XIV for the year

application du paragraphe 80(13) dans le calcul du revenu de la société pour l'année ou du revenu de la société de personnes pour un exercice qui prend fin dans l'année, dans la mesure où le montant, s'il a été inclus dans le calcul du revenu d'une société de personnes, se rapporte à la part de ce revenu qui revient à la société,

(ii) le total des montants déduits par l'effet de l'alinéa 80(15)a) dans le calcul du revenu de la société pour l'année;

b) le résultat du calcul suivant :

A - 2(B - C - D - E)

où :

A représente le montant déterminé selon l'alinéa a) relativement à la société pour l'année,

B le total des montants suivants :

(i) la juste valeur marchande des actifs de la société à la fin de l'année,

(ii) les montants payés avant la fin de l'année au titre de l'impôt payable par la société en vertu de la présente partie ou de l'une des parties I.3, II, VI et XIV pour l'année ou au titre d'un impôt semblable payable pour l'année en vertu d'une loi provinciale,

(iii) le total des montants payés par la société au cours de la période de douze mois précédant la fin de l'année à une personne avec laquelle elle a un lien de dépendance :

(A) soit à titre de dividende, sauf un dividende en actions,

(B) soit lors de la réduction du capital versé au titre d'une catégorie d'actions de son capital-actions,

(C) soit lors du rachat, de l'acquisition ou de l'annulation de ses actions,

(D) soit à titre de distribution ou d'attribution effectuée de quelque façon que ce soit aux actionnaires d'une catégorie de son capital-actions ou à leur profit, dans la mesure où il n'est pas raisonnable de considérer que la distribution ou l'attribution a donné lieu à une réduction de l'élément C, déterminé par ailleurs relativement à la société pour l'année,

C le passif total de la société à la fin de l'année, déterminé compte non tenu de son assujettissement à l'impôt payable en vertu de la présente partie ou de l'une des parties I.3, II, VI et XIV pour l'année

or for a similar tax payable for the year under an Act of a province) and, for this purpose,

(i) the equity and consolidation methods of accounting shall not be used, and

(ii) subject to subparagraph 61.3(1)(b)(i) and except as otherwise provided in this description, the total liabilities of the corporation shall

(A) where the corporation is not an insurance corporation, a federal credit union or a bank to which clause (B) or (C) applies and the balance sheet as of the end of the year was presented to the shareholders of the corporation and was prepared in accordance with generally accepted accounting principles, be considered to be the total liabilities shown on the balance sheet,

(B) where the corporation is a bank, a federal credit union or an insurance corporation that is required to report to the Superintendent of Financial Institutions and the balance sheet as of the end of the year was accepted by the Superintendent, be considered to be the total liabilities shown on that balance sheet,

(C) where the corporation is an insurance corporation that is required to report to the superintendent of insurance or other similar officer or authority of the province under whose laws the corporation is incorporated and the balance sheet as of the end of the year was accepted by that officer or authority, be considered to be the total liabilities shown on that balance sheet, and

(D) in any other case, be considered to be the amount that would be shown as total liabilities of the corporation at the end of the year on a balance sheet prepared in accordance with generally accepted accounting principles,

D is the total of all amounts each of which is the principal amount at the end of the year of a distress preferred share (within the meaning assigned by subsection 80(1)) issued by the corporation, and

E is 50% of the amount, if any, by which

(i) the amount that would be the corporation's income for the year if that amount were determined without reference to this section and section 61.4

exceeds

ou à un impôt semblable payable pour l'année en vertu d'une loi provinciale; à cette fin :

(i) la méthode de comptabilisation à la valeur de consolidation et la consolidation ne peuvent être utilisées,

(ii) sous réserve du sous-alinéa (i) et sauf disposition contraire prévue au présent élément, le passif total de la société est considéré comme l'un des montants suivants :

(A) lorsque la société n'est pas une compagnie d'assurance, une coopérative de crédit fédérale ou une banque à laquelle les divisions (B) ou (C) s'appliquent et que le bilan à la fin de l'année a été dressé conformément aux principes comptables généralement reconnus et présenté aux actionnaires de la société, le passif total indiqué dans ce bilan,

(B) lorsque la société est une banque, une coopérative de crédit fédérale ou une compagnie d'assurance qui est tenue de faire rapport au surintendant des institutions financières et que le bilan à la fin de l'année a été accepté par le surintendant, le passif total indiqué dans ce bilan,

(C) lorsque la société est une compagnie d'assurance qui est tenue de faire rapport au surintendant des assurances ou un autre agent ou autorité semblable de la province où elle est constituée et que le bilan à la fin de l'année a été accepté par cet agent ou cette autorité, le passif total indiqué dans ce bilan,

(D) dans les autres cas, le montant qui représenterait le passif total de la société à la fin de l'année dans un bilan dressé conformément aux principes comptables généralement reconnus,

D le total des montants représentant chacun le principal à la fin de l'année d'une action privilégiée de renflouement, au sens du paragraphe 80(1), émise par la société,

E 50 % de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui représenterait le revenu de la société pour l'année si ce montant était déterminé compte non tenu du présent article et de l'article 61.4,

(ii) le montant déterminé selon l'alinéa a) relativement à la société pour l'année.

(ii) the amount determined under paragraph 61.3(1)(a) in respect of the corporation for the year.

Reserve for insolvency with respect to non-resident corporations

(2) There shall be deducted in computing the income for a taxation year of a corporation that is non-resident at any time in the year, the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is an amount that, because of the application of section 80 to a commercial obligation issued by the corporation (or a partnership of which the corporation was a member) was included under subsection 80(13) in computing the corporation's taxable income or taxable income earned in Canada for the year or the income of the partnership for a fiscal period that ends in the year (to the extent that, where the amount was included in computing income of a partnership, it relates to the corporation's share of the partnership's income added in computing the corporation's taxable income or taxable income earned in Canada for the year)

exceeds

(ii) the total of all amounts deducted because of paragraph 80(15)(a) in computing the corporation's taxable income or taxable income earned in Canada for the year, and

(b) the amount determined by the formula

A - 2(B - C - D - E)

where

A is the amount determined under paragraph 61.3(2)(a) in respect of the corporation for the year,

B is the total of

(i) the fair market value of the assets of the corporation at the end of the year,

(ii) the amounts paid before the end of the year on account of the corporation's tax payable under this Part or any of Parts I.3, II, VI and XIV for the year or on account of a similar tax payable for the year under an Act of a province, and

(iii) all amounts paid in the 12-month period preceding the end of the year by the corporation to a person with whom the corporation does not deal at arm's length

Provision pour insolvabilité — sociétés non-résidentes

(2) Le moins élevé des montants suivants est à déduire dans le calcul du revenu, pour une année d'imposition, d'une société non-résidente au cours de l'année :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un montant qui, en raison de l'application de l'article 80 à une dette commerciale émise par la société ou par une société de personnes dont elle est un associé, a été inclus en application du paragraphe 80(13) dans le calcul du revenu imposable de la société, ou de son revenu imposable gagné au Canada, pour l'année ou du revenu de la société de personnes pour un exercice qui prend fin dans l'année, dans la mesure où le montant, s'il a été inclus dans le calcul du revenu d'une société de personnes, se rapporte à la part du revenu de la société de personnes qui revient à la société et qui est ajoutée dans le calcul de son revenu imposable, ou de son revenu imposable gagné au Canada, pour l'année,

(ii) le total des montants déduits par l'effet de l'alinéa 80(15)a) dans le calcul du revenu imposable de la société, ou de son revenu imposable gagné au Canada, pour l'année;

b) le résultat du calcul suivant :

A - 2(B - C - D - E)

où :

A représente le montant déterminé selon l'alinéa a) relativement à la société pour l'année,

B le total des montants suivants :

(i) la juste valeur marchande des actifs de la société à la fin de l'année,

(ii) les montants payés avant la fin de l'année au titre de l'impôt payable par la société en vertu de la présente partie ou de l'une des parties I.3, II, VI et XIV pour l'année ou au titre d'un impôt semblable payable pour l'année en vertu d'une loi provinciale,

(iii) le total des montants payés au cours de la période de douze mois précédant la fin de l'année par la société à une personne avec laquelle elle a un lien de dépendance :

(A) as a dividend (other than a stock dividend),

(B) on a reduction of paid-up capital in respect of any class of shares of its capital stock,

(C) on a redemption, acquisition or cancellation of its shares, or

(D) as a distribution or appropriation in any manner whatever to or for the benefit of the shareholders of any class of its capital stock, to the extent that the distribution or appropriation cannot reasonably be considered to have resulted in a reduction of the amount otherwise determined for C in respect of the corporation for the year,

C is the total liabilities of the corporation at the end of the year (determined without reference to the corporation's liabilities for tax payable under this Part or any of Parts I.3, II, VI and XIV for the year or for a similar tax payable for the year under an Act of a province), determined in the manner described in the description of C in paragraph 61.3(1)(b),

D is the total of all amounts each of which is the principal amount at the end of the year of a distress preferred share (within the meaning assigned by subsection 80(1)) issued by the corporation, and

E is 50% of the amount, if any, by which

(i) the amount that would be the corporation's taxable income or taxable income earned in Canada for the year if that amount were determined without reference to this section and section 61.4

exceeds

(ii) the amount determined under paragraph 61.3(2)(a) in respect of the corporation for the year.

(A) soit à titre de dividende, sauf un dividende en actions,

(B) soit lors de la réduction du capital versé au titre d'une catégorie d'actions de son capital-actions,

(C) soit lors du rachat, de l'acquisition ou de l'annulation de ses actions,

(D) soit à titre de distribution ou d'attribution effectuée de quelque façon que ce soit aux actionnaires d'une catégorie de son capital-actions ou à leur profit, dans la mesure où il n'est pas raisonnable de considérer que la distribution ou l'attribution a donné lieu à une réduction de l'élément C, déterminé par ailleurs relativement à la société pour l'année,

C le passif total de la société à la fin de l'année, déterminé compte non tenu de son assujettissement à l'impôt payable en vertu de la présente partie ou de l'une des parties I.3, II, VI et XIV pour l'année ou à un impôt semblable payable pour l'année en vertu d'une loi provinciale et calculé de la manière indiquée à l'élément C de la formule figurant à l'alinéa (1)b),

D le total des montants représentant chacun le principal à la fin de l'année d'une action privilégiée de renflouement, au sens du paragraphe 80(1), émise par la société,

E 50 % de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui représenterait le revenu imposable de la société, ou son revenu imposable gagné au Canada, pour l'année si ce montant était déterminé compte non tenu du présent article et de l'article 61.4,

(ii) le montant déterminé selon l'alinéa a) relativement à la société pour l'année.

Anti-avoidance

(3) Subsections 61.3(1) and 61.3(2) do not apply to a corporation for a taxation year where property was transferred in the 12-month period preceding the end of the year or the corporation became indebted in that period and it can reasonably be considered that one of the reasons for the transfer or the indebtedness was to increase the amount that the corporation would, but for this subsection, be entitled to deduct under subsection 61.3(1) or 61.3(2).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 20; 1998, c. 19, s. 101; 2010, c. 12, s. 2108.

Anti-évitement

(3) Les paragraphes (1) et (2) ne s'appliquent pas à une société pour une année d'imposition si un bien a été transféré au cours de la période de douze mois précédant la fin de l'année ou si la société a contracté une dette au cours de cette période et qu'il soit raisonnable de considérer que l'un des motifs du transfert ou de la dette était d'augmenter le montant que la société aurait le droit de déduire, n'eût été le présent paragraphe, en application des paragraphes (1) ou (2).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 20; 1998, ch. 19, art. 101; 2010, ch. 12, art. 2108.

Reserve for debt forgiveness for corporations and others

61.4 There may be deducted as a reserve in computing the income for a taxation year of a taxpayer that is a corporation or trust resident in Canada throughout the year or a non-resident person who carried on business through a fixed place of business in Canada at the end of the year such amount as the taxpayer claims not exceeding the least of

(a) the amount determined by the formula

A - B

where

A is the amount, if any, by which

(i) the total of all amounts each of which is an amount that, because of the application of section 80 to a commercial obligation (within the meaning assigned by subsection 80(1)) issued by the taxpayer (or a partnership of which the taxpayer was a member) was included under subsection 80(13) in computing the income of the taxpayer for the year or a preceding taxation year or of the partnership for a fiscal period that ends in that year or preceding year (to the extent that, where the amount was included in computing income of a partnership, it relates to the taxpayer's share of that income)

exceeds the total of

(ii) all amounts each of which is an amount deducted under paragraph 80(15)(a) in computing the taxpayer's income for the year or a preceding taxation year, and

(iii) all amounts deducted under section 61.3 in computing the taxpayer's income for the year or a preceding taxation year, and

B is the amount, if any, by which the amount determined for A in respect of the taxpayer for the year exceeds the total of

(i) the amount that would be determined for A in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for any preceding taxation year, and

(ii) the amount, if any, included under section 56.3 in computing the taxpayer's income for the year,

(b) the total of

(i) 4/5 of the amount that would be determined for A in paragraph 61.4(a) in respect of the taxpayer for

Provision pour remise de dette — sociétés et autres

61.4 Le contribuable — société ou fiducie qui réside au Canada tout au long d'une année d'imposition ou personne non-résidente qui exploitait une entreprise par l'entremise d'un lieu fixe d'affaires au Canada à la fin d'une année d'imposition — peut déduire à titre de provision dans le calcul de son revenu pour l'année un montant qui ne dépasse pas le moins élevé des montants suivants :

a) le résultat du calcul suivant :

A - B

où :

A représente l'excédent éventuel :

(i) du total des montants représentant chacun un montant qui, en raison de l'application de l'article 80 à une dette commerciale, au sens du paragraphe 80(1), émise par le contribuable ou par une société de personnes dont il est un associé, a été inclus en application du paragraphe 80(13) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure ou du revenu de la société de personnes pour un exercice qui prend fin dans l'année ou de l'année antérieure, dans la mesure où le montant, s'il a été inclus dans le calcul du revenu d'une société de personnes, se rapporte à la part de ce revenu qui revient au contribuable,

sur le total des montants suivants :

(ii) le total des montants représentant chacun un montant déduit en application de l'alinéa 80(15)a) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(iii) les montants déduits en application de l'article 61.3 dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

B l'excédent éventuel de l'élément A, déterminé relativement au contribuable pour l'année, sur le total des montants suivants :

(i) le montant qui représenterait l'élément A, déterminé relativement au contribuable pour l'année, si la valeur de cet élément ne tenait pas compte des montants inclus ou déduits dans le calcul du revenu du contribuable pour une année d'imposition antérieure,

the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for any preceding taxation year,

(ii) 3/5 of the amount that would be determined for A in paragraph 61.4(a) in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for the year or any preceding taxation year (other than the last preceding taxation year),

(iii) 2/5 of the amount that would be determined for A in paragraph 61.4(a) in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for the year or any preceding taxation year (other than the second last preceding taxation year), and

(iv) 1/5 of the amount that would be determined for A in paragraph 61.4(a) in respect of the taxpayer for the year if that value did not take into account amounts included or deducted in computing the taxpayer's income for the year or any preceding taxation year (other than the third last preceding taxation year), and

(c) where the taxpayer is a corporation that commences to wind up in the year (otherwise than in circumstances to which the rules in subsection 88(1) apply), nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 20.

(ii) le montant inclus en application de l'article 56.3 dans le calcul du revenu du contribuable pour l'année;

b) le total des montants suivants :

(i) les 4/5 du montant qui représenterait l'élément A de la formule figurant à l'alinéa a), déterminé relativement au contribuable pour l'année, si la valeur de cet élément ne tenait pas compte des montants inclus ou déduits dans le calcul du revenu du contribuable pour une année d'imposition antérieure,

(ii) les 3/5 du montant qui représenterait l'élément A de la formule figurant à l'alinéa a), déterminé relativement au contribuable pour l'année, si la valeur de cet élément ne tenait pas compte des montants inclus ou déduits dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, à l'exception de l'année d'imposition précédente,

(iii) les 2/5 du montant qui représenterait l'élément A de la formule figurant à l'alinéa a), déterminé relativement au contribuable pour l'année, si la valeur de cet élément ne tenait pas compte des montants inclus ou déduits dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, à l'exception de la deuxième année d'imposition précédente,

(iv) le 1/5 du montant qui représenterait l'élément A de la formule figurant à l'alinéa a), déterminé relativement au contribuable pour l'année, si la valeur de cet élément ne tenait pas compte des montants inclus ou déduits dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, à l'exception de la troisième année d'imposition précédente;

c) dans le cas où le contribuable est une société qui, au cours de l'année, commence à être liquidée dans des circonstances autres que celles auxquelles s'appliquent les règles énoncées au paragraphe 88(1), zéro.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 20.

Moving expenses

62 (1) There may be deducted in computing a taxpayer's income for a taxation year amounts paid by the taxpayer as or on account of moving expenses incurred in respect of an eligible relocation, to the extent that

(a) they were not paid on the taxpayer's behalf in respect of, in the course of or because of, the taxpayer's office or employment;

Frais de déménagement

62 (1) Un contribuable peut déduire dans le calcul de son revenu pour une année d'imposition les sommes qu'il a payées au titre des frais de déménagement engagés relativement à une réinstallation admissible dans la mesure où, à la fois :

(b) they were not deductible because of this section in computing the taxpayer's income for the preceding taxation year;

(c) the total of those amounts does not exceed

(i) in any case described in subparagraph (a)(i) of the definition ***eligible relocation*** in subsection 248(1), the total of all amounts, each of which is an amount included in computing the taxpayer's income for the taxation year from the taxpayer's employment at a new work location or from carrying on the business at the new work location, or because of subparagraph 56(1)(r)(v) in respect of the taxpayer's employment at the new work location, and

(ii) in any case described in subparagraph (a)(ii) of the definition ***eligible relocation*** in subsection 248(1), the total of amounts included in computing the taxpayer's income for the year because of paragraphs 56(1)(n) and (o); and

(d) all reimbursements and allowances received by the taxpayer in respect of those expenses are included in computing the taxpayer's income.

a) elles n'ont pas été payées en son nom relativement à sa charge ou à son emploi ou dans le cadre ou en raison de sa charge ou de son emploi;

b) elles n'étaient pas déductibles par l'effet du présent article dans le calcul de son revenu pour l'année d'imposition précédente;

c) leur total ne dépasse pas le montant applicable suivant :

(i) dans le cas visé au sous-alinéa a)(i) de la définition de ***réinstallation admissible*** au paragraphe 248(1), le total des sommes représentant chacune une somme incluse dans le calcul du revenu du contribuable pour l'année tiré de son emploi au nouveau lieu de travail ou de l'exploitation de l'entreprise au nouveau lieu de travail ou une somme incluse dans le calcul de son revenu pour l'année par l'effet du sous-alinéa 56(1)r)(v) relativement à son emploi au nouveau lieu de travail,

(ii) dans le cas visé au sous-alinéa a)(ii) de cette définition, le total des montants inclus dans le calcul du revenu du contribuable pour l'année par l'effet des alinéas 56(1)n) et o);

d) les remboursements et allocations qu'il a reçus relativement à ces frais sont inclus dans le calcul de son revenu.

Moving expenses of students

(2) There may be deducted in computing a taxpayer's income for a taxation year the amount, if any, that the taxpayer would be entitled to deduct under subsection (1) if the definition ***eligible relocation*** in subsection 248(1) were read without reference to subparagraph (a)(i) of that definition and if the word "both" in paragraph (b) of that definition were read as "either or both".

Frais de déménagement d'étudiants

(2) Un contribuable peut déduire dans le calcul de son revenu pour une année d'imposition la somme éventuelle qu'il pourrait déduire en application du paragraphe (1) s'il n'était pas tenu compte du sous-alinéa a)(i) de la définition de ***réinstallation admissible*** au paragraphe 248(1) et si l'alinéa b) de cette définition était remplacé par ce qui suit :

« b) la résidence que le contribuable habitait ordinairement avant la réinstallation (appelée « ancienne résidence » à l'article 62 et au présent paragraphe) et celle qu'il habitait ordinairement après la réinstallation (appelée « nouvelle résidence » à l'article 62 et au présent paragraphe), ou l'une de ces résidences, sont situées au Canada; »

Definition of *moving expenses*

(3) In subsection 62(1), ***moving expenses*** includes any expense incurred as or on account of

(a) travel costs (including a reasonable amount expended for meals and lodging), in the course of moving the taxpayer and members of the taxpayer's household from the old residence to the new residence,

Frais de déménagement

(3) Pour l'application du paragraphe (1), sont comprises dans les frais de déménagement toutes dépenses engagées au titre :

a) des frais de déplacement (y compris les dépenses raisonnables pour repas et logement) engagés pour le déménagement du contribuable et des membres de sa

(b) the cost to the taxpayer of transporting or storing household effects in the course of moving from the old residence to the new residence,

(c) the cost to the taxpayer of meals and lodging near the old residence or the new residence for the taxpayer and members of the taxpayer's household for a period not exceeding 15 days,

(d) the cost to the taxpayer of cancelling the lease by virtue of which the taxpayer was the lessee of the old residence,

(e) the taxpayer's selling costs in respect of the sale of the old residence,

(f) where the old residence is sold by the taxpayer or the taxpayer's spouse or common-law partner as a result of the move, the cost to the taxpayer of legal services in respect of the purchase of the new residence and of any tax, fee or duty (other than any goods and services tax or value-added tax) imposed on the transfer or registration of title to the new residence,

(g) interest, property taxes, insurance premiums and the cost of heating and utilities in respect of the old residence, to the extent of the lesser of $5,000 and the total of such expenses of the taxpayer for the period

(i) throughout which the old residence is neither ordinarily occupied by the taxpayer or by any other person who ordinarily resided with the taxpayer at the old residence immediately before the move nor rented by the taxpayer to any other person, and

(ii) in which reasonable efforts are made to sell the old residence, and

(h) the cost of revising legal documents to reflect the address of the taxpayer's new residence, of replacing drivers' licenses and non-commercial vehicle permits (excluding any cost for vehicle insurance) and of connecting or disconnecting utilities,

but, for greater certainty, does not include costs (other than costs referred to in paragraph 62(3)(f)) incurred by the taxpayer in respect of the acquisition of the new residence.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 62; 1998, c. 19, s. 102; 1999, c. 22, s. 17; 2000, c. 12, s. 142; 2009, c. 2, s. 16.

maisonnée qui se transportent de l'ancienne résidence à la nouvelle résidence;

b) des frais de transport et d'entreposage des meubles du contribuable qui doivent être transportés de son ancienne résidence à sa nouvelle résidence;

c) des frais de repas et de logement, près de l'ancienne résidence ou de la nouvelle résidence, engagés par le contribuable et les membres de sa maisonnée pendant une période maximale de 15 jours;

d) des frais de résiliation du bail en vertu duquel il était le locataire de son ancienne résidence;

e) des frais relatifs à la vente de son ancienne résidence;

f) lorsque le contribuable ou son époux ou conjoint de fait vend l'ancienne résidence par suite du déménagement, des frais, pour le contribuable, à l'égard des services juridiques relatifs à l'achat de la nouvelle résidence et des impôts, frais, droits et taxes (sauf toute taxe sur les produits et services ou taxe à la valeur ajoutée) applicables au transfert ou à l'enregistrement du droit de propriété de cette résidence;

g) des intérêts, impôts fonciers, primes d'assurance et coûts du chauffage et des services publics relativement à l'ancienne résidence, jusqu'à concurrence de 5 000 $ ou, s'il est moins élevé, du total des dépenses de cette nature engagées par le contribuable pour la période, à la fois :

(i) tout au long de laquelle l'ancienne résidence n'est ni ordinairement occupée par le contribuable ou par une autre personne qui y résidait habituellement avec lui immédiatement avant le déménagement, ni louée par le contribuable à une autre personne,

(ii) au cours de laquelle des efforts sérieux sont faits en vue de vendre l'ancienne résidence;

h) du coût de la révision de documents juridiques pour tenir compte de l'adresse de la nouvelle résidence du contribuable, du remplacement des permis de conduire et des certificats d'immatriculation de véhicules non commerciaux (à l'exclusion du coût de l'assurance-véhicule) et des connexion et déconnexion des services publics;

il est toutefois entendu que le terme ne vise pas les frais (autres que les frais visés à l'alinéa f)) engagés par le contribuable pour l'acquisition de sa nouvelle résidence.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 62; 1998, ch. 19, art. 102; 1999, ch. 22, art. 17; 2000, ch. 12, art. 142; 2009, ch. 2, art. 16.

Child care expenses

63 (1) Subject to subsection 63(2), where a prescribed form containing prescribed information is filed with a taxpayer's return of income (other than a return filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) under this Part for a taxation year, there may be deducted in computing the taxpayer's income for the year such amount as the taxpayer claims not exceeding the total of all amounts each of which is an amount paid, as or on account of child care expenses incurred for services rendered in the year in respect of an eligible child of the taxpayer,

(a) by the taxpayer, where the taxpayer is described in subsection (2) and the supporting person of the child for the year is a person described in clause (i)(D) of the description of C in the formula in that subsection, or

(b) by the taxpayer or a supporting person of the child for the year, in any other case,

to the extent that

(c) the amount is not included in computing the amount deductible under this subsection by an individual (other than the taxpayer), and

(d) the amount is not an amount (other than an amount that is included in computing a taxpayer's income and that is not deductible in computing the taxpayer's taxable income) in respect of which any taxpayer is or was entitled to a reimbursement or any other form of assistance,

and the payment of which is proven by filing with the Minister one or more receipts each of which was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number, but not exceeding the amount, if any, by which

(e) the lesser of

(i) 2/3 of the taxpayer's earned income for the year, and

(ii) the total of all amounts each of which is the annual child care expense amount in respect of an eligible child of the taxpayer for the year

exceeds

(f) the total of all amounts each of which is an amount that is deducted, in respect of the taxpayer's eligible children for the year, under this section in computing the income for the year of an individual (other than the taxpayer) to whom subsection 63(2) applies for the year.

Frais de garde d'enfants.

63 (1) Sous réserve du paragraphe (2), lorsque le formulaire prescrit contenant les renseignements prescrits accompagne la déclaration de revenu d'un contribuable produite en vertu de la présente partie pour une année d'imposition (à l'exclusion de celle produite ou déposée en application des paragraphes 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4)), est déductible dans le calcul du revenu du contribuable pour l'année le montant qu'il demande, ne dépassant pas le total des montants représentant chacun un montant, au titre des frais de garde d'enfants engagés pour des services rendus au cours de l'année relativement à un enfant admissible du contribuable, payé :

a) par le contribuable, lorsqu'il est un contribuable visé au paragraphe (2) et que la personne assumant les frais d'entretien de l'enfant pour l'année est une personne visée à la division (i)(D) de l'élément C de la formule figurant à l'alinéa (2)b);

b) par le contribuable ou la personne assumant les frais d'entretien de l'enfant pour l'année, dans les autres cas,

dans la mesure où le montant :

c) n'est pas inclus par un autre particulier dans le calcul du montant déductible en vertu du présent paragraphe;

d) n'est pas un montant (sauf un montant qui est inclus dans le calcul du revenu d'un particulier et qui n'est pas déductible dans le calcul de son revenu imposable) à l'égard duquel un particulier a droit, ou avait droit, à un remboursement ou à une autre forme d'aide,

et dont le paiement est établi par la présentation au ministre d'un ou de plusieurs reçus délivrés par le bénéficiaire du paiement et portant, lorsque celui-ci est un particulier, le numéro d'assurance sociale de ce particulier; le total ne peut toutefois être supérieur à l'excédent éventuel du montant visé à l'alinéa e) sur le total visé à l'alinéa f):

e) le moins élevé des montants suivants :

(i) les 2/3 du revenu gagné du contribuable pour l'année,

(ii) le total des montants représentant chacun le montant annuel de frais de garde d'enfants pour un enfant admissible du contribuable pour l'année,

f) le total des montants représentant chacun un montant déduit en vertu du présent article, à l'égard des

Income exceeding income of supporting person

(2) Where the income for a taxation year of a taxpayer who has an eligible child for the year exceeds the income for that year of a supporting person of that child (on the assumption that both incomes are computed without reference to this section and paragraphs 60(v.1) and 60(w), the amount that may be deducted by the taxpayer under subsection 63(1) for the year as or on account of child care expenses shall not exceed the lesser of

(a) the amount that would, but for this subsection, be deductible by the taxpayer for the year under subsection 63(1), and

(b) the amount determined by the formula

A × C

where

A is the total of all amounts each of which is the periodic child care expense amount in respect of an eligible child of the taxpayer for the year, and

B [Repealed, 2001, c. 17, s. 42]

C is the total of

(i) the number of weeks in the year during which the child care expenses were incurred and throughout which the supporting person was

(A) a student in attendance at a designated educational institution or a secondary school and enrolled in a program of the institution or school of not less than 3 consecutive weeks duration that provides that each student in the program spend not less than 10 hours per week on courses or work in the program,

(B) a person certified in writing by a medical doctor to be a person who

(I) was incapable of caring for children because of the person's mental or physical infirmity and confinement throughout a period of not less than 2 weeks in the year to bed, to a wheelchair or as a patient in a hospital, an asylum or other similar institution, or

(II) was in the year, and is likely to be for a long, continuous and indefinite period,

enfants admissibles du contribuable pour l'année, dans le calcul du revenu pour l'année d'un particulier, autre que le contribuable, à qui le paragraphe (2) s'applique pour l'année.

Revenu supérieur à celui de la personne assumant les frais d'entretien

(2) Dans le cas où le revenu, pour une année d'imposition, d'un contribuable qui a un enfant admissible pour l'année dépasse le revenu, pour cette année, d'une personne assumant les frais d'entretien de l'enfant (les deux revenus étant censément calculés sans le présent article et les alinéas 60v.1) et w)), le montant que le contribuable peut déduire en application du paragraphe (1) pour l'année au titre des frais de garde d'enfants ne peut dépasser le moins élevé des montants suivants :

a) le montant qu'il pourrait, sans le présent paragraphe, déduire pour l'année en vertu du paragraphe (1);

b) le montant obtenu par la formule suivante :

A × C

où :

A représente le total des montants représentant chacun le montant périodique de frais de garde d'enfants pour un enfant admissible du contribuable pour l'année,

B [Abrogé, 2001, ch. 17, art. 42]

C la somme des nombres suivants :

(i) le nombre de semaines de l'année au cours desquelles les frais de garde d'enfants ont été engagés et tout au long desquelles la personne assumant les frais d'entretien était :

(A) soit un étudiant qui fréquente un établissement d'enseignement agréé ou une école secondaire et y est inscrit à un programme d'une durée d'au moins trois semaines consécutives, aux cours ou aux travaux duquel chaque étudiant doit consacrer au moins dix heures par semaine,

(B) soit une personne qu'un médecin en titre atteste par écrit être quelqu'un qui, selon le cas :

(I) a été dans l'incapacité de s'occuper de ses enfants en raison de l'infirmité mentale ou physique qu'elle a et de l'obligation, tout au long d'une période d'au moins deux semaines de l'année, de garder le lit, de demeurer dans un fauteuil roulant ou d'effectuer un séjour dans un

incapable of caring for children, because of the person's mental or physical infirmity,

(C) a person confined to a prison or similar institution throughout a period of not less than 2 weeks in the year, or

(D) a person who, because of a breakdown of the person's marriage or common-law partnership, was living separate and apart from the taxpayer at the end of the year and for a period of at least 90 days that began in the year, and

(ii) the number of months in the year (other than a month that includes all or part of a week included in the number of weeks referred to in subparagraph (i)), each of which is a month during which the child care expenses were incurred and the supporting person was a student in attendance at a designated educational institution or a secondary school and enrolled in a program of the institution or school that is not less than 3 consecutive weeks duration and that provides that each student in the program spend not less than 12 hours in the month on courses in the program.

hôpital, un asile ou tout autre établissement semblable,

(II) a été au cours de l'année et sera vraisemblablement, pendant une longue période indéfinie, dans l'incapacité de s'occuper de ses enfants en raison de l'infirmité mentale ou physique qu'elle a,

(C) soit une personne qui a été détenue dans une prison ou dans un établissement semblable tout au long d'une période d'au moins deux semaines de l'année,

(D) soit une personne qui, pour cause d'échec de son mariage ou union de fait, vit séparée du contribuable à la fin de l'année et pendant une période d'au moins 90 jours ayant commencé au cours de l'année,

(ii) le nombre de mois de l'année (sauf un mois qui comprend tout ou partie d'une semaine comprise dans le nombre de semaines visé au sous-alinéa (i)), dont chacun est un mois au cours duquel les frais de garde d'enfants ont été engagés et la personne assumant les frais d'entretien était un étudiant qui fréquente un établissement d'enseignement agréé ou une école secondaire et y est inscrit à un programme d'une durée d'au moins trois semaines consécutives, aux cours duquel chaque étudiant doit consacrer au moins douze heures par mois.

Taxpayer and supporting person with equal incomes

(2.1) For the purposes of this section, where in any taxation year the income of a taxpayer who has an eligible child for the year and the income of a supporting person of the child are equal (on the assumption that both incomes are computed without reference to this section and paragraphs 60(v.1) and 60(w), no deduction shall be allowed under this section to the taxpayer and the supporting person in respect of the child unless they jointly elect to treat the income of one of them as exceeding the income of the other for the year.

Revenu égal à celui de la personne assumant les frais d'entretien

(2.1) Pour l'application du présent article, dans le cas où, au cours d'une année d'imposition, le revenu d'un contribuable qui a un enfant admissible pour l'année est égal au revenu de la personne assumant les frais d'entretien de l'enfant (les deux revenus étant censément calculés sans le présent article et les alinéas 60v.1) et w)), ni le contribuable ni la personne n'ont droit à la déduction prévue au présent article, sauf s'ils choisissent conjointement de traiter le revenu de l'un d'eux comme étant plus élevé que celui de l'autre pour l'année.

Expenses while at school

(2.2) There may be deducted in computing a taxpayer's income for a taxation year such part of the amount determined under subsection 63(2.3) as the taxpayer claims, where

(a) the taxpayer is, at any time in the year, a student in attendance at a designated educational institution or a secondary school and enrolled in a program of the institution or school of not less than 3 consecutive

Dépenses d'étudiant

(2.2) Un montant ne dépassant pas le montant déterminé selon le paragraphe (2.3) est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition si les conditions suivantes sont réunies :

a) le contribuable est, au cours de l'année, un étudiant qui fréquente un établissement d'enseignement agréé ou une école secondaire et y est inscrit à un programme d'une durée d'au moins trois semaines consécutives, selon le cas :

weeks duration that provides that each student in the program spend not less than

(i) 10 hours per week on courses or work in the program, or

(ii) 12 hours per month on courses in the program;

(b) there is no supporting person of an eligible child of the taxpayer for the year or the income of the taxpayer for the year exceeds the income for the year of a supporting person of the child (on the assumption that both incomes are computed without reference to this section and paragraphs 60(v.1) and 60(w); and

(c) a prescribed form containing prescribed information is filed with the taxpayer's return of income (other than a return filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) for the year.

(i) aux cours ou aux travaux duquel chaque étudiant doit consacrer au moins dix heures par semaine,

(ii) aux cours duquel chaque étudiant doit consacrer au moins douze heures par mois;

b) il n'existe pas de personne assumant les frais d'entretien d'un enfant admissible du contribuable pour l'année ou le revenu du contribuable pour l'année dépasse celui de la personne assumant les frais d'entretien de l'enfant pour l'année, à supposer que les deux revenus sont calculés compte non tenu du présent article et des alinéas 60v.1) et w);

c) le formulaire prescrit contenant les renseignements prescrits accompagne la déclaration de revenu du contribuable pour l'année, à l'exclusion de celle produite ou déposée en application des paragraphes 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4).

Amount deductible

(2.3) For the purpose of subsection 63(2.2), the amount determined in respect of a taxpayer for a taxation year is the least of

(a) the amount by which the total of all amounts, each of which is an amount paid as or on account of child care expenses incurred for services rendered in the year in respect of an eligible child of the taxpayer, exceeds the amount that is deductible under subsection 63(1) in computing the taxpayer's income for the year,

(b) 2/3 of the taxpayer's income for the year computed without reference to this section and paragraphs 60(v.1) and 60(w,

(c) the amount determined by the formula

A × C

where

A is the total of all amounts each of which is the periodic child care expense amount in respect of an eligible child of the taxpayer for the year, and

B [Repealed, 2001, c. 17, s. 42]

C is

(i) if there is a supporting person of an eligible child of the taxpayer for the year,

(A) the number of weeks, in the year, in which both the taxpayer and the supporting

Montant déductible

(2.3) Pour l'application du paragraphe (2.2), le montant déterminé quant à un contribuable pour une année d'imposition correspond au moins élevé des montants suivants :

a) l'excédent du total des montants représentant chacun un montant payé au titre des frais de garde d'enfants engagés pour des services rendus au cours de l'année à l'égard d'un enfant admissible du contribuable sur le montant qui est déductible en application du paragraphe (1) dans le calcul du revenu du contribuable pour l'année;

b) les deux tiers du revenu du contribuable pour l'année calculé compte non tenu du présent article et des alinéas 60v.1) et w);

c) le résultat du calcul suivant :

A × C

où :

A représente le total des montants représentant chacun le montant périodique de frais de garde d'enfants pour un enfant admissible du contribuable pour l'année,

B [Abrogé, 2001, ch. 17, art. 42]

C :

(i) s'il existe une personne assumant les frais d'entretien d'un enfant admissible du contribuable pour l'année :

person were students who would be described in paragraph (2.2)(a) if that paragraph were read without reference to subparagraph (ii), and

(B) the number of months in the year (other than a month that includes all or part of a week included in the number of weeks referred to in clause (A)), in which both the taxpayer and the supporting person were students described in paragraph (2.2)(a), and

(ii) in any other case,

(A) the number of weeks, in the year, in which the taxpayer was a student who would be described in paragraph (2.2)(a) if that paragraph were read without reference to subparagraph (ii), and

(B) the number of months in the year (other than a month that includes all or part of a week included in the number of weeks referred to in clause (A)), in which the taxpayer was a student described in paragraph (2.2)(a),

(d) the amount by which the total calculated under subparagraph 63(1)(e)(ii) in respect of eligible children of the taxpayer for the year exceeds the amount that is deductible under subsection 63(1) in computing the taxpayer's income for the year, and

(e) where there is a supporting person of an eligible child of the taxpayer for the year, the amount by which the amount calculated under paragraph 63(2)(b) for the year in respect of the taxpayer exceeds 2/3 of the taxpayer's earned income for the year.

(A) le nombre de semaines de l'année au cours desquelles le contribuable et cette personne étaient des étudiants qui seraient visés à l'alinéa (2.2)a) en l'absence de son sous-alinéa (ii),

(B) le nombre de mois de l'année (sauf celui qui comprend tout ou partie d'une semaine comprise dans le nombre de semaines visé à la division (A)), au cours desquels le contribuable et cette personne étaient des étudiants visés à l'alinéa (2.2)a),

(ii) dans les autres cas :

(A) le nombre de semaines de l'année au cours desquelles le contribuable était un étudiant qui serait visé à l'alinéa (2.2)a) en l'absence de son sous-alinéa (ii),

(B) le nombre de mois de l'année (sauf celui qui comprend tout ou partie d'une semaine comprise dans le nombre de semaines visé à la division (A)), au cours desquels le contribuable était un étudiant visé à l'alinéa (2.2)a);

d) l'excédent du total calculé selon le sous-alinéa (1)e)(ii) à l'égard d'enfants admissibles du contribuable pour l'année sur le montant qui est déductible en application du paragraphe (1) dans le calcul de son revenu pour l'année;

e) s'il existe une personne assumant les frais d'entretien d'un enfant admissible du contribuable pour l'année, l'excédent du montant calculé selon l'alinéa (2)b) pour l'année à l'égard du contribuable sur les deux tiers de son revenu gagné pour l'année.

Definitions

(3) In this section,

annual child care expense amount, in respect of an eligible child of a taxpayer for a taxation year, means

(a) $11,000, if the child is a person in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year, and

(b) if the child is not a person referred to in paragraph (a),

(i) $8,000, if the child is under 7 years of age at the end of the year, and

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

enfant admissible Quant à une année d'imposition, enfant d'un contribuable ou de l'époux ou conjoint de fait de celui-ci ou enfant à la charge d'un contribuable ou de cet époux ou conjoint de fait et dont le revenu pour l'année ne dépasse pas le montant applicable pour l'année selon l'alinéa 118(1)c), si, à un moment quelconque de l'année, l'enfant est soit âgé de moins de 16 ans, soit à la charge du contribuable ou de l'époux ou conjoint de fait de celui-ci et a une infirmité mentale ou physique. (*eligible child*)

frais de garde d'enfants Frais engagés au cours d'une année d'imposition dans le but de faire assurer au Canada la garde de tout enfant admissible du

(ii) $5,000, in any other case; (*montant annuel de frais de garde d'enfants*)

child care expense means an expense incurred in a taxation year for the purpose of providing in Canada, for an eligible child of a taxpayer, child care services including baby sitting services, day nursery services or services provided at a boarding school or camp if the services were provided

(a) to enable the taxpayer, or the supporting person of the child for the year, who resided with the child at the time the expense was incurred,

(i) to perform the duties of an office or employment,

(ii) to carry on a business either alone or as a partner actively engaged in the business,

(iii) [Repealed, 1996, c. 23, s. 173]

(iv) to carry on research or any similar work in respect of which the taxpayer or supporting person received a grant, or

(v) to attend a designated educational institution or a secondary school, where the taxpayer is enrolled in a program of the institution or school of not less than three consecutive weeks duration that provides that each student in the program spend not less than

(A) 10 hours per week on courses or work in the program, or

(B) 12 hours per month on courses in the program, and

(b) by a resident of Canada other than a person

(i) who is the father or the mother of the child,

(ii) who is a supporting person of the child or is under 18 years of age and related to the taxpayer, or

(iii) in respect of whom an amount is deducted under section 118 in computing the tax payable under this Part for the year by the taxpayer or by a supporting person of the child,

except that

(c) any such expenses paid in the year for a child's attendance at a boarding school or camp to the extent that the total of those expenses exceeds the product obtained when the periodic child care expense amount

contribuable, en le confiant à des services de garde d'enfants, y compris des services de gardienne d'enfants ou de garderie ou des services assurés dans un pensionnat ou dans une colonie de vacances, si les services étaient assurés :

a) d'une part, pour permettre au contribuable, ou à la personne assumant les frais d'entretien de l'enfant pour l'année, qui résidait avec l'enfant au moment où les frais ont été engagés d'exercer l'une des activités suivantes :

(i) remplir les fonctions d'une charge ou d'un emploi,

(ii) exploiter une entreprise, soit seul, soit comme associé participant activement à l'exploitation de l'entreprise,

(iii) [Abrogé, 1996, ch. 23, art. 173]

(iv) mener des recherches ou des travaux similaires relativement auxquels il a reçu une subvention;

(v) fréquenter un établissement d'enseignement agréé ou une école secondaire où il est inscrit à un programme d'une durée d'au moins trois semaines consécutives, selon le cas :

(A) aux cours ou aux travaux duquel chaque étudiant doit consacrer au moins dix heures par semaine,

(B) aux cours duquel chaque étudiant doit consacrer au moins douze heures par mois;

b) d'autre part, par une personne résidant au Canada autre qu'une personne :

(i) soit qui est le père ou la mère de l'enfant,

(ii) soit qui est la personne assumant les frais d'entretien de l'enfant ou était âgée de moins de 18 ans et liée au contribuable,

(iii) soit pour laquelle un montant est déduit en application de l'article 118 dans le calcul de l'impôt payable en vertu de la présente partie pour l'année par le contribuable ou par la personne assumant les frais d'entretien de l'enfant;

toutefois ne constituent pas des frais de garde d'enfants :

c) tous frais de cette nature payés au cours de l'année pour un enfant qui fréquente un pensionnat ou une

in respect of the child for the year is multiplied by the number of weeks in the year during which the child attended the school or camp, and

(d) for greater certainty, any expenses described in subsection 118.2(2) and any other expenses that are paid for medical or hospital care, clothing, transportation or education or for board and lodging, except as otherwise expressly provided in this definition,

are not child care expenses; (*frais de garde d'enfants*)

earned income of a taxpayer means the total of

(a) all salaries, wages and other remuneration, including gratuities, received by the taxpayer in respect of in the course of, or because of, offices and employments,

(b) all amounts that are included, or that would, but for paragraph 81(1)(a) or subsection 81(4), be included, because of section 6 or 7 or paragraph 56(1) (n), (n.1), (o) or (r), in computing the taxpayer's income,

(c) all the taxpayer's incomes or the amounts that would, but for paragraph 81(1)(a), be the taxpayer's incomes from all businesses carried on either alone or as a partner actively engaged in the business, and

(d) all amounts received by the taxpayer as, on account of, in lieu of payment of or in satisfaction of, a disability pension under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act; (*revenu gagné*)

eligible child of a taxpayer for a taxation year means

(a) a child of the taxpayer or of the taxpayer's spouse or common-law partner, or

(b) a child dependent on the taxpayer or the taxpayer's spouse or common-law partner for support and whose income for the year does not exceed the amount used under paragraph (c) of the description of B in subsection 118(1) for the year

if at any time during the year, the child

(c) is under 16 years of age, or

(d) is dependent on the taxpayer or on the taxpayer's spouse or common-law partner and has a mental or physical infirmity; (*enfant admissible*)

periodic child care expense amount, in respect of an eligible child of a taxpayer for a taxation year, means 1/40 of the annual child care expense amount in respect

colonie de vacances, dans la mesure où leur total dépasse le produit de la multiplication du montant périodique de frais de garde d'enfants pour l'enfant pour l'année par le nombre de semaines de l'année pendant lesquelles l'enfant a fréquenté le pensionnat ou la colonie de vacances :

d) pour plus de précision, les frais médicaux visés au paragraphe 118.2(2) et les autres frais payés au titre des soins médicaux ou hospitaliers, de l'habillement, du transport, de l'éducation et de la pension et du logement, sauf dispositions contraires à la présente définition. (*child care expense*)

montant annuel de frais de garde d'enfants En ce qui concerne un enfant admissible d'un contribuable pour une année d'imposition, le montant applicable suivant :

a) si l'enfant est une personne à l'égard de laquelle un montant est déductible, en application de l'article 118.3, dans le calcul de l'impôt payable par un contribuable pour l'année en vertu de la présente partie, 11 000 $;

b) sinon :

(i) 8 000 $, si l'enfant est âgé de moins de 7 ans à la fin de l'année,

(ii) 5 000 $, dans les autres cas. (*annual child care expense amount*)

montant périodique de frais de garde d'enfants En ce qui concerne un enfant admissible d'un contribuable pour une année d'imposition, 1/40 du montant annuel de frais de garde d'enfants pour l'enfant pour l'année. (*periodic child care expense amount*)

personne assumant les frais d'entretien Quant à l'enfant admissible d'un contribuable pour une année d'imposition, personne, autre que le contribuable, qui est, selon le cas :

a) le père ou la mère de l'enfant;

b) l'époux ou conjoint de fait du contribuable;

c) un particulier qui, pour l'année, a déduit un montant pour l'enfant en application de l'article 118,

si le père, la mère, l'époux ou conjoint de fait ou le particulier, selon le cas, a résidé avec le contribuable à un moment donné au cours de l'année et à un moment donné dans les 60 jours suivant la fin de l'année. (*supporting person*)

of the child for the year; (*montant périodique de frais de garde d'enfants*)

supporting person of an eligible child of a taxpayer for a taxation year means a person, other than the taxpayer, who is

(a) a parent of the child,

(b) the taxpayer's spouse or common-law partner, or

(c) an individual who deducted an amount under section 118 for the year in respect of the child

if the parent, spouse or common-law partner or individual, as the case may be, resided with the taxpayer at any time during the year and at any time within 60 days after the end of the year. (*personne assumant les frais d'entretien*)

revenu gagné S'agissant du revenu gagné d'un contribuable, le total des montants suivants :

a) les traitements, salaires et autre rémunération, y compris les gratifications, reçus par lui dans le cadre de charges ou d'emplois;

b) les montants qui sont inclus dans le calcul du revenu du contribuable par l'effet des articles 6 ou 7 ou des alinéas 56(1)n), n.1), o) ou r), ou qui seraient ainsi inclus si ce n'était l'alinéa 81(1)a) ou le paragraphe 81(4);

c) les revenus qu'il tire des entreprises qu'il exploite soit seul, soit comme associé participant activement à l'exploitation de l'entreprise, ou des montants qui représenteraient ces revenus sans l'alinéa 81(1)a);

d) les montants qu'il reçoit au cours de l'année au titre ou en paiement intégral ou partiel d'une prestation d'invalidité aux termes du régime institué par le *Régime de pensions du Canada* ou d'un régime provincial de pensions au sens de l'article 3 de cette loi. (*earned income*)

Commuter's child care expense

(4) Where in a taxation year a person resides in Canada near the boundary between Canada and the United States and while so resident incurs expenses for child care services that would be child care expenses if

(a) the definition ***child care expense*** in subsection 248(1) were read without reference to the words "in Canada", and

(b) the reference in paragraph (b) of the definition ***child care expense*** in subsection 248(1) to "resident of Canada" were read as "person",

those expenses (other than expenses paid for a child's attendance at a boarding school or camp outside Canada) shall be deemed to be child care expenses for the purpose of this section if the child care services are provided at a place that is closer to the person's principal place of residence by a reasonably accessible route, having regard to the circumstances, than any place in Canada where such child care services are available and, in respect of those expenses, subsection 63(1) shall be read without reference to the words "and contains, where the payee is an individual, that individual's Social Insurance Number".

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 63; 1994, c. 7, Sch. II, s. 36, Sch. VII, s. 3, Sch. VIII, s. 23, c. 21, s. 27; 1996, c. 23, s. 173; 1997, c. 25, s. 12; 1998, c. 19, ss. 10, 103; 1999, c. 22, s. 18; 2000, c. 12, s. 142, c. 19, s. 9; 2001, c. 17, s. 42; 2007, c. 2, s. 8; 2013, c. 34, s. 198; 2015, c. 36, s. 29.

Frais de garde d'enfants d'un frontalier

(4) Les frais qu'une personne qui réside au Canada, près de la frontière canado-américaine, engage au cours d'une année d'imposition pour des services de garde d'enfants qui seraient des frais de garde d'enfants s'il était fait abstraction des passages « au Canada » à la définition de ***frais de garde d'enfants*** au paragraphe (3) et ***résidant au Canada*** à l'alinéa b) de cette définition, sont réputés (sauf s'il s'agit de frais payés pour permettre à un enfant de fréquenter un pensionnat ou une colonie de vacances à l'étranger) constituer des frais de garde d'enfants pour l'application du présent article si les services de garde sont assurés à un endroit situé plus près du lieu principal de résidence de la personne par une route suffisamment accessible, compte tenu des circonstances, que tout autre endroit au Canada où de tels services sont offerts. Pour ce qui est des frais en question, il n'est pas tenu compte, au paragraphe (1), du passage « et portant, lorsque celui-ci est un particulier, le numéro d'assurance sociale de ce particulier ».

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 63; 1994, ch. 7, ann. II, art. 36, ann. VII, art. 3, ann. VIII, art. 23, ch. 21, art. 27; 1996, ch. 23, art. 173; 1997, ch. 25, art. 12; 1998, ch. 19, art. 10 et 103; 1999, ch. 22, art. 18; 2000, ch. 12, art. 142, ch. 19, art. 9; 2001, ch. 17, art. 42; 2007, ch. 2, art. 8; 2013, ch. 34, art. 198; 2015, ch. 36, art. 29.

Disability supports deduction

64 If a taxpayer files with the taxpayer's return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) for the taxation year a prescribed form containing prescribed information, there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount paid by the taxpayer in the year and that

(i) was paid to enable the taxpayer

(A) to perform the duties of an office or employment,

(B) to carry on a business either alone or as a partner actively engaged in the business,

(C) to attend a designated educational institution or a secondary school at which the taxpayer is enrolled in an educational program, or

(D) to carry on research or any similar work in respect of which the taxpayer received a grant,

(ii) was paid

(A) where the taxpayer has a speech or hearing impairment, for the cost of sign-language interpretation services or real time captioning services and to a person engaged in the business of providing such services,

(B) where the taxpayer is deaf or mute, for the cost of a teletypewriter or similar device, including a telephone ringing indicator, prescribed by a medical practitioner, to enable the taxpayer to make and receive telephone calls,

(C) where the taxpayer is blind, for the cost of a device or equipment, including synthetic speech systems, Braille printers, and large-print on-screen devices, prescribed by a medical practitioner, and designed to be used by blind individuals in the operation of a computer,

Déduction pour produits et services de soutien aux personnes handicapées

64 Le contribuable qui présente un formulaire prescrit contenant les renseignements prescrits avec sa déclaration de revenu pour l'année — à l'exclusion de celle produite en application du paragraphe 70(2), des alinéas 104(23)d) ou 128(2)e) ou du paragraphe 150(4) — peut déduire dans le calcul de son revenu pour l'année le moins élevé des montants suivants :

a) le montant obtenu par la formule suivante :

A - B

où :

A représente le total des montants représentant chacun un montant payé par le contribuable au cours de l'année qui, à la fois :

(i) a été versé pour lui permettre d'exercer l'une des activités suivantes :

(A) accomplir les tâches d'une charge ou d'un emploi,

(B) exploiter une entreprise, seul ou activement comme associé,

(C) fréquenter un établissement d'enseignement agréé ou une école secondaire où il est inscrit à un programme d'études,

(D) faire des recherches ou des travaux semblables pour lesquels il a reçu une subvention,

(ii) a été versé :

(A) si le contribuable a un trouble de la parole ou une déficience auditive, en règlement du coût de services d'interprétation gestuelle ou de services de sous-titrage en temps réel, à une personne dont l'entreprise consiste à offrir de tels services,

(B) si le contribuable est sourd ou muet, en règlement du coût d'un téléimprimeur ou d'un dispositif semblable, y compris un indicateur de sonnerie de poste téléphonique, obtenu sur l'ordonnance d'un médecin, qui permet au contribuable de faire des appels téléphoniques et d'en recevoir,

(C) si le contribuable est aveugle, en règlement du coût d'un dispositif ou d'équipement, y compris un système de parole synthétique, une imprimante en braille et un dispositif de grossissement des caractères sur écran, obtenu sur l'ordonnance d'un médecin, conçu pour permettre aux aveugles de faire fonctionner un ordinateur,

(D) where the taxpayer is blind, for the cost of an optical scanner or similar device, prescribed by a medical practitioner, and designed to be used by blind individuals to enable them to read print,

(E) where the taxpayer is mute, for the cost of an electronic speech synthesizer, prescribed by a medical practitioner, and designed to be used by mute individuals to enable them to communicate by use of a portable keyboard,

(F) where the taxpayer has an impairment in physical or mental functions, for the cost of note-taking services and to a person engaged in the business of providing such services, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires such services,

(G) where the taxpayer has an impairment in physical functions, for the cost of voice recognition software, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires that software,

(H) where the taxpayer has a learning disability or an impairment in mental functions, for the cost of tutoring services that are rendered to, and supplementary to the primary education of, the taxpayer and to a person ordinarily engaged in the business of providing such services to individuals who are not related to the person, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that disability or impairment, requires those services,

(I) where the taxpayer has a perceptual disability, for the cost of talking textbooks used by the taxpayer in connection with the taxpayer's enrolment at a secondary school in Canada or at a designated educational institution, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that disability, requires those textbooks,

(J) where the taxpayer has an impairment in physical or mental functions, for the cost of attendant care services provided in Canada and to a person who is neither the taxpayer's spouse or common-law partner nor under 18 years of age, if the taxpayer is a taxpayer in respect of whom an amount may

(D) si le contribuable est aveugle, en règlement du coût d'un lecteur optique ou d'un dispositif semblable, obtenu sur l'ordonnance d'un médecin, conçu pour permettre aux aveugles de lire un texte imprimé,

(E) si le contribuable est muet, en règlement du coût d'un synthétiseur de parole électronique, obtenu sur l'ordonnance d'un médecin, conçu pour permettre aux personnes muettes de communiquer à l'aide d'un clavier portatif,

(F) si le contribuable a une déficience des fonctions physiques ou mentales, en règlement du coût de services de prise de notes, à une personne dont l'entreprise consiste à offrir de tels services, si le contribuable est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ces services en raison de sa déficience,

(G) si le contribuable a une déficience des fonctions physiques, en règlement du coût d'un logiciel de reconnaissance de la voix, si le contribuable est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ce logiciel en raison de sa déficience,

(H) si le contribuable a des troubles d'apprentissage ou une déficience des fonctions mentales, en règlement du coût de services de tutorat s'ajoutant à l'enseignement général du contribuable, à une personne dont l'entreprise habituelle consiste à offrir de tels services à des personnes qui ne lui sont pas liées, si le contribuable est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ces services en raison de ses troubles ou de sa déficience,

(I) si le contribuable a un trouble de la perception, en règlement du coût de manuels parlés utilisés par le contribuable en raison de son inscription à une école secondaire au Canada ou à un établissement d'enseignement agréé, si le contribuable est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ces manuels en raison de sa déficience,

(J) si le contribuable a une déficience des fonctions physiques ou mentales, en règlement du coût de services de préposé aux soins fournis au Canada, à une personne qui n'est ni l'époux ou le conjoint de fait du contribuable, ni âgée de moins de 18 ans, si le contribuable est quelqu'un à l'égard duquel une somme est déductible par l'effet de

be deducted because of section 118.3, or if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment is, and is likely to be indefinitely, dependent on others for their personal needs and care and who as a result requires a full-time attendant,

(K) where the taxpayer has a severe and prolonged impairment in physical or mental functions, for the cost of job coaching services (not including job placement or career counselling services) and to a person engaged in the business of providing such services if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires such services,

(L) where the taxpayer is blind or has a severe learning disability, for the cost of reading services and to a person engaged in the business of providing such services, if the taxpayer has been certified in writing by a medical practitioner to be a person who, because of that impairment or disability, requires those services,

(M) where the taxpayer is blind and profoundly deaf, for the cost of deaf-blind intervening services and to a person engaged in the business of providing such services,

(N) where the taxpayer has a speech impairment, for the cost of a device that is a Bliss symbol board, or a similar device, that is prescribed by a medical practitioner to help the taxpayer communicate by selecting the symbols or spelling out words,

(O) where the taxpayer is blind, for the cost of a device that is a Braille note-taker, prescribed by a medical practitioner, to allow the taxpayer to take notes (that can, by the device, be read back to them or printed or displayed in Braille) with the help of a keyboard,

(P) where the taxpayer has a severe and prolonged impairment in physical functions that markedly restricts their ability to use their arms or hands, for the cost of a device that is a page turner prescribed by a medical practitioner to help the taxpayer to turn the pages of a book or other bound document, and

(Q) where the taxpayer is blind, or has a severe learning disability, for the cost of a device or software that is prescribed by a

l'article 118.3 ou quelqu'un qui, d'après l'attestation écrite d'un médecin, dépend et dépendra vraisemblablement d'autrui pour ses besoins et soins personnels en raison de sa déficience et a, par conséquent, besoin de la présence d'un préposé à plein temps,

(K) si le contribuable a une déficience grave et prolongée des fonctions physiques ou mentales, en règlement du coût de services de formation particulière en milieu de travail (sauf les services de placement ou d'orientation professionnelle), à une personne dont l'entreprise consiste à fournir de tels services, si le contribuable est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ces services en raison de sa déficience,

(L) si le contribuable est aveugle ou a des troubles d'apprentissage graves, en règlement du coût de services de lecture, à une personne dont l'entreprise consiste à fournir de tels services, si le contribuable est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ces services en raison de sa déficience ou de ses troubles,

(M) si le contribuable est atteint à la fois de cécité et de surdité profonde, en règlement du coût de services d'intervention pour les personnes sourdes et aveugles, à une personne dont l'entreprise consiste à fournir de tels services,

(N) si le contribuable a un trouble de la parole, en règlement du coût d'un tableau Bliss ou d'un appareil semblable, obtenu sur l'ordonnance d'un médecin, à l'aide duquel le contribuable peut communiquer en sélectionnant des symboles ou en épelant des mots,

(O) si le contribuable est aveugle, en règlement du coût d'un appareil de prise de notes en braille, obtenu sur l'ordonnance d'un médecin, qui permet au contribuable de prendre des notes à l'aide d'un clavier et de les imprimer ou les afficher en braille ou de se les faire relire,

(P) si le contribuable a une déficience grave et prolongée des fonctions physiques qui limite de façon marquée sa capacité de se servir de ses bras ou mains, en règlement du coût d'un tourne-pages, obtenu sur l'ordonnance d'un médecin, à l'aide duquel le contribuable peut tourner les pages d'un livre ou d'un autre document relié,

medical practitioner and designed to enable the taxpayer to read print,

(iii) is evidenced by one or more receipts filed with the Minister each of which was issued by the payee and contains, where the payee is an individual who is a person referred to in clause (ii)(J), that individual's Social Insurance Number, and

(iv) is not included in computing a deduction under section 118.2 for any taxpayer for any taxation year, and

B is the total of all amounts each of which is the amount of a reimbursement or any other form of assistance (other than prescribed assistance or an amount that is included in computing a taxpayer's income and that is not deductible in computing the taxpayer's taxable income) that any taxpayer is or was entitled to receive in respect of an amount included in computing the value of A, and

(b) the total of

(i) the total of all amounts each of which is

(A) an amount included under section 5, 6 or 7 or paragraph 56(1)(n), (o) or (r) in computing the taxpayer's income for the year, or

(B) the taxpayer's income for the year from a business carried on either alone or as a partner actively engaged in the business, and

(ii) where the taxpayer is in attendance at a designated educational institution or a secondary school at which the taxpayer is enrolled in an educational program, the least of

(A) $15,000,

(B) $375 times the number of weeks in the year during which the taxpayer is in attendance at the institution or school, and

(C) the amount, if any, by which the amount that would, if this Act were read without reference to this section, be the taxpayer's income for the year exceeds the total determined under subparagraph (i) in respect of the taxpayer for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 64; 1994, c. 7, Sch. II, s. 37; 1996, c. 23, s. 174; 1998, c. 19, s. 11; 2000, c. 12, s. 142; 2001, c. 17, s. 43; 2005, c. 19, s. 15; 2006, c. 4, s. 53; 2007, c. 2, s. 9.

(Q) si le contribuable est aveugle ou a des troubles d'apprentissage graves, en règlement du coût d'un instrument ou d'un logiciel, obtenu sur l'ordonnance d'un médecin, conçu pour permettre au contribuable de lire des caractères imprimés,

(iii) est attesté par un ou plusieurs reçus présentés au ministre et qui, chacun, ont été délivrés par le bénéficiaire du paiement et portent, lorsque celui-ci est une personne visée à la division (ii)(J), le numéro d'assurance sociale de cette personne,

(iv) n'est pas inclus dans le calcul de la déduction prévue à l'article 118.2 pour un contribuable et une année d'imposition quelconques,

B le total des montants dont chacun représente un remboursement ou une autre forme d'aide (sauf une aide visée par règlement ou un montant qui est inclus dans le calcul du revenu d'un contribuable et qui n'est pas déductible dans le calcul de son revenu imposable) qu'un contribuable a ou avait le droit de recevoir au titre d'un montant inclus dans le calcul de la valeur de l'élément A;

b) le total des montants suivants :

(i) le total des montants représentant chacun :

(A) soit un montant inclus en application des articles 5, 6 ou 7 ou des alinéas 56(1)n), o) ou r) dans le calcul du revenu du contribuable pour l'année,

(B) soit le revenu du contribuable pour l'année tiré d'une entreprise qu'il exploite seul ou activement comme associé,

(ii) si le contribuable fréquente un établissement d'enseignement agréé ou une école secondaire où il est inscrit à un programme d'études, le moins élevé des montants suivants :

(A) 15 000 $,

(B) le produit de 375 $ par le nombre de semaines de l'année où il fréquente l'établissement ou l'école,

(C) l'excédent éventuel du montant qui correspondrait à son revenu pour l'année, s'il n'était pas tenu compte du présent article, sur le total déterminé à son égard pour l'année selon le sous-alinéa (i).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 64; 1994,

ch. 7, ann. II, art. 37; 1996, ch. 23, art. 174; 1998, ch. 19, art. 11; 2000, ch. 12, art. 142; 2001, ch. 17, art. 43; 2005, ch. 19, art. 15; 2006, ch. 4, art. 53; 2007, ch. 2, art. 9.

Individuals absent from Canada

64.1 In applying sections 63 and 64 in respect of a taxpayer who is, throughout all or part of a taxation year, absent from but resident in Canada, the following rules apply for the year or that part of the year, as the case may be:

(a) the definition ***child care expense*** in subsection 63(3), and section 64, shall be read without reference to the words "in Canada";

(b) subsection 63(1) and section 64 shall be read without reference to the words "and contains, where the payee is an individual, that individual's Social Insurance Number", if the payment referred to in that subsection or section, as the case may be, is made to a person who is not resident in Canada; and

(c) paragraph (b) of the definition ***child care expense*** in subsection 63(3) shall be read as if the word "person" were substituted for the words "resident of Canada" where they appear therein.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 64.1; 1999, c. 22, s. 19.

Particulier absent du Canada

64.1 Pour l'application des articles 63 et 64 au contribuable qui, tout au long d'une année d'imposition ou d'une partie d'année d'imposition, est absent du Canada mais y réside, les règles suivantes s'appliquent à l'année ou à la partie d'année, selon le cas :

a) il n'est pas tenu compte des mots « au Canada » dans la définition de ***frais de garde d'enfants*** au paragraphe 63(3), et à l'article 64;

b) il n'est pas tenu compte, au paragraphe 63(1) et à l'article 64, du passage « et portant, lorsque celui-ci est un particulier, le numéro d'assurance sociale de ce particulier », si le bénéficiaire du versement visé à ce paragraphe ou à cet article, selon le cas, est une personne qui ne réside pas au Canada;

c) il n'est pas tenu compte des mots « résidant au Canada » à l'alinéa b) de la définition de ***frais de garde d'enfants*** au paragraphe 63(3).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 64.1; 1999, ch. 22, art. 19.

Allowance for oil or gas well, mine or timber limit

65 (1) There may be deducted in computing a taxpayer's income for a taxation year such amount as an allowance, if any, in respect of

(a) a natural accumulation of petroleum or natural gas, oil or gas well, mineral resource or timber limit,

(b) the processing of ore (other than iron ore or tar sands) from a mineral resource to any stage that is not beyond the prime metal stage or its equivalent,

(c) the processing of iron ore from a mineral resource to any stage that is not beyond the pellet stage or its equivalent, or

(d) the processing of tar sands from a mineral resource to any stage that is not beyond the crude oil stage or its equivalent

as is allowed to the taxpayer by regulation.

Déduction pour puits de pétrole ou de gaz, mine ou concession forestière

65 (1) Peut être déduite dans le calcul du revenu d'un contribuable pour une année d'imposition toute somme que le contribuable est autorisé, par règlement, à déduire au titre :

a) d'un gisement naturel de pétrole ou de gaz naturel, d'un puits de pétrole ou de gaz, de ressources minérales ou d'une concession forestière;

b) de la transformation de minerais (à l'exclusion du minerai de fer et des sables asphaltiques) tirés de ressources minérales, jusqu'à un stade qui ne dépasse pas celui du métal primaire ou de son équivalent;

c) de la transformation de minerai de fer tiré de ressources minérales, jusqu'à un stade qui ne dépasse pas celui de la boulette ou de son équivalent;

d) de la transformation de sables asphaltiques tirés de ressources minérales, jusqu'à un stade qui ne dépasse pas celui du pétrole brut ou de son équivalent.

Regulations

(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection 65(1) allowing to a taxpayer an amount in respect of a natural accumulation of petroleum or natural gas, an oil or gas well or a mineral resource or in respect of the processing of ore,

(a) there may be allowed to the taxpayer by that regulation an amount in respect of any or all

(i) natural accumulations of petroleum or natural gas, oil or gas wells or mineral resources in which the taxpayer has any interest or, for civil law, right, or

(ii) processing operations described in any of paragraphs 65(1)(b), (c) and (d) that are carried on by the taxpayer; and

(b) notwithstanding any other provision contained in this Act, the Governor in Council may prescribe the formula by which the amount that may be allowed to the taxpayer by that regulation shall be determined.

Disposition réglementaire

(2) Il est entendu que, dans le cas d'une disposition réglementaire prise en vertu du paragraphe (1) et qui permet à un contribuable de déduire une somme au titre d'un gisement naturel de pétrole ou de gaz naturel, d'un puits de pétrole ou de gaz ou de ressources minérales ou au titre de la transformation de minerai :

a) il peut être permis au contribuable par cette disposition réglementaire de déduire une somme au titre de tout ou partie :

(i) des gisements naturels de pétrole ou de gaz naturel, des puits de pétrole ou de gaz, ou des ressources minérales, sur lesquels le contribuable a un intérêt ou, pour l'application du droit civil, un droit,

(ii) des activités de transformation visées à l'un des alinéas (1)b), c) et d) et qui sont effectuées par le contribuable;

b) malgré les autres dispositions de la présente loi, le gouverneur en conseil peut établir par règlement la formule qui doit déterminer la somme dont la déduction peut être permise au contribuable par cette disposition réglementaire.

Lessee's share of allowance

(3) Where a deduction is allowed under subsection 65(1) in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 65; 2013, c. 34, s. 110.

Part du preneur dans les déductions

(3) Lorsqu'une déduction est permise, en vertu du paragraphe (1), relativement à une mine de charbon exploitée par un preneur, le bailleur et le preneur peuvent convenir de la fraction de la somme qui sera déduite par chacun d'eux et, en cas de désaccord, le ministre peut fixer leurs fractions respectives.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 65; 2013, ch. 34, art. 110.

Exploration and development expenses of principal-business corporations

66 (1) A principal-business corporation may deduct, in computing its income for a taxation year, the lesser of

(a) the total of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year, to the extent that they were not deductible in computing income for a previous taxation year, and

(b) of that total, an amount equal to its income for the taxation year if no deduction were allowed under this subsection, section 65 or subsection 66.1(2), minus the deductions allowed for the year by sections 112 and 113.

Frais d'exploration et d'aménagement d'une société exploitant une entreprise principale

66 (1) Une société exploitant une entreprise principale peut déduire, dans le calcul de son revenu pour une année d'imposition, le moins élevé des montants suivants :

a) le total des frais d'exploration et d'aménagement au Canada qu'elle a engagés avant la fin de l'année d'imposition, dans la mesure où ils n'étaient pas déductibles dans le calcul de son revenu pour une année d'imposition antérieure;

b) sur ce total, une somme égale à son revenu pour l'année d'imposition si aucune déduction n'était permise en vertu du présent paragraphe, de l'article 65 ou du paragraphe 66.1(2), moins les déductions permises pour l'année en vertu des articles 112 et 113.

Expenses of special product corporations

(2) A corporation (other than a principal-business corporation the principal business of which is described in paragraph (a) or (b) of the definition ***principal-business corporation*** in subsection 66(15)), whose principal business is the production or marketing of sodium chloride or potash or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income for a taxation year, the drilling and exploration expenses incurred by it in the year and before May 7, 1974 on or in respect of exploring or drilling for halite or sylvite.

Expenses of other taxpayers

(3) A taxpayer other than a principal-business corporation may deduct, in computing the taxpayer's income for a taxation year, the total of the taxpayer's Canadian exploration and development expenses to the extent that they were not deducted in computing the taxpayer's income for a preceding taxation year.

Foreign exploration and development expenses

(4) A taxpayer who is resident throughout a taxation year in Canada may deduct, in computing the taxpayer's income for that taxation year, the lesser of

(a) the amount, if any, by which

(i) the total of the foreign exploration and development expenses incurred by the taxpayer

(A) before the end of the year,

(B) at a time at which the taxpayer was resident in Canada, and

(C) where the taxpayer became resident in Canada before the end of the year, after the last time (before the end of the year) that the taxpayer became resident in Canada,

exceeds the total of

(ii) such of the expenses described in subparagraph 66(4)(a)(i) as were deductible in computing the taxpayer's income for a preceding taxation year, and

(iii) all amounts by which the amount described in this paragraph in respect of the taxpayer is required because of subsection 80(8) to be reduced at or before the end of the year, and

(b) of that total, the greater of

Frais relatifs à des productions spéciales

(2) Une société (autre qu'une société exploitant une entreprise principale dont la catégorie d'entreprises principales est visée à l'alinéa a) ou b) de la définition de ***société exploitant une entreprise principale*** au paragraphe (15)) dont l'entreprise principale consiste à produire ou à mettre sur le marché du chlorure de sodium ou de la potasse, ou dont l'entreprise fabrique, entre autres, des produits nécessitant le traitement du chlorure de sodium ou de la potasse, peut déduire, dans le calcul de son revenu pour une année d'imposition, les frais d'exploration ou de forage qu'elle a engagés au cours de l'année et avant le 7 mai 1974 pour l'exploration ou le forage faits en vue de la découverte de l'halite ou de la sylvine.

Frais engagés par d'autres contribuables

(3) Un contribuable, à l'exclusion d'une société exploitant une entreprise principale, peut déduire, dans le calcul de son revenu pour une année d'imposition, le total de ses frais d'exploration et d'aménagement au Canada, dans la mesure où ceux-ci n'ont pas été déduits dans le calcul de son revenu pour une année d'imposition antérieure.

Frais d'exploration et d'aménagement étrangers

(4) Un contribuable qui réside au Canada pendant toute l'année d'imposition peut déduire, dans le calcul de son revenu pour cette année d'imposition, le moins élevé des montants suivants :

a) l'excédent éventuel :

(i) du total des frais d'exploration et d'aménagement à l'étranger engagés par le contribuable, à la fois :

(A) avant la fin de l'année,

(B) à un moment où il résidait au Canada,

(C) s'il est devenu résident du Canada avant la fin de l'année, après le dernier moment (antérieur à la fin de l'année) où il est devenu résident du Canada,

sur le total des montants suivants :

(ii) la partie des frais visés au sous-alinéa (i) qui était déductible dans le calcul du revenu du contribuable pour une année d'imposition antérieure,

(iii) les montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction de l'excédent visé au présent alinéa relativement au contribuable au plus tard à la fin de l'année;

(i) the amount, if any, claimed by the taxpayer not exceeding 10% of the amount determined under paragraph (a) in respect of the taxpayer for the year, and

(ii) the total of

(A) the part of the taxpayer's income for the year, determined without reference to this subsection and subsection 66.21(4), that can reasonably be regarded as attributable to

(I) the production of petroleum or natural gas from natural accumulations outside Canada or from oil or gas wells outside Canada, or

(II) the production of minerals from mines outside Canada,

(B) the taxpayer's income for the year from royalties in respect of a natural accumulation of petroleum or natural gas outside Canada, an oil or gas well outside Canada or a mine outside Canada, determined without reference to this subsection and subsection 66.21(4), and

(C) all amounts each of which is an amount, in respect of a foreign resource property that has been disposed of by the taxpayer, equal to the amount, if any, by which

(I) the amount included in computing the taxpayer's income for the year by reason of subsection 59(1) in respect of the disposition

exceeds

(II) the total of all amounts each of which is that portion of an amount deducted under subsection 66.7(2) in computing the taxpayer's income for the year that

1. can reasonably be considered to be in respect of the foreign resource property, and

2. cannot reasonably be considered to have reduced the amount otherwise determined under clause (A) or (B) in respect of the taxpayer for the year.

b) sur ce total, le plus élevé des montants suivants :

(i) le montant éventuel que le contribuable déduit, jusqu'à concurrence de 10 % du montant déterminé à son égard pour l'année selon l'alinéa a),

(ii) la somme des montants suivants :

(A) la partie de son revenu pour l'année, déterminé compte non tenu du présent paragraphe et du paragraphe 66.21(4), qu'il est raisonnable de considérer comme étant attribuable :

(I) soit à la production de pétrole ou de gaz naturel tiré de gisements naturels ou de puits de pétrole ou de gaz, situés à l'étranger,

(II) soit à la production de minéraux provenant de mines situées à l'étranger,

(B) son revenu pour l'année tiré de redevances afférentes à un gisement naturel de pétrole ou de gaz naturel, à un puits de pétrole ou de gaz ou à une mine, situés à l'étranger, déterminé compte non tenu du présent paragraphe et du paragraphe 66.21(4),

(C) le total des montants représentant chacun un montant afférent à un avoir minier étranger dont il a disposé, égal à l'excédent éventuel du montant visé à la subdivision (I) sur le total visé à la subdivision (II):

(I) le montant inclus dans le calcul de son revenu pour l'année, en application du paragraphe 59(1), relativement à la disposition,

(II) le total des montants représentant chacun la partie d'un montant déduit en application du paragraphe 66.7(2) dans le calcul de son revenu pour l'année :

1. d'une part, qu'il est raisonnable de considérer comme se rapportant à un avoir minier étranger,

2. d'autre part, qu'il n'est pas raisonnable de considérer comme ayant réduit le montant déterminé par ailleurs à son égard pour l'année selon la division (A) ou (B).

Country-by-country FEDE allocations

(4.1) For greater certainty, the portion of an amount deducted under subsection (4) in computing a taxpayer's income for a taxation year that can reasonably be considered to be in respect of specified foreign exploration and

Attribution par pays

(4.1) Il est entendu que la partie d'un montant déduit, en application du paragraphe (4), dans le calcul du revenu d'un contribuable pour une année d'imposition qu'il est raisonnable de considérer comme étant afférente à des frais d'exploration et d'aménagement à l'étranger

development expenses of the taxpayer in respect of a country is considered to apply to a source in that country.

Method of allocation

(4.2) For the purpose of subsection (4.1), where a taxpayer has incurred specified foreign exploration and development expenses in respect of two or more countries, an allocation to each of those countries for a taxation year shall be determined in a manner that is

(a) reasonable having regard to all the circumstances, including the level and timing of

(i) the taxpayer's specified foreign exploration and development expenses in respect of the country, and

(ii) the profits or gains to which those expenses relate; and

(b) not inconsistent with the allocation made under subsection (4.1) for the preceding taxation year.

FEDE deductions where change of individual's residence

(4.3) Where at any time in a taxation year an individual becomes or ceases to be resident in Canada,

(a) subsection (4) applies to the individual as if the year were the period or periods in the year throughout which the individual was resident in Canada; and

(b) for the purpose of applying subsection (4), subsection (13.1) does not apply to the individual for the year.

Dealers

(5) Subsections (3) and (4) and sections 59, 64, 66.1, 66.2, 66.21, 66.4 and 66.7 do not apply in computing the income for a taxation year of a taxpayer (other than a principal-business corporation) whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons.

(10) to (10.3) [Repealed, 1997, c. 25, s. 13(1)]

déterminés du contribuable se rapportant à un pays est attribuable à une source située dans ce pays.

Méthode d'attribution

(4.2) Pour l'application du paragraphe (4.1), lorsqu'un contribuable a engagé des frais d'exploration et d'aménagement à l'étranger déterminés se rapportant à plusieurs pays, le montant attribué à chacun des pays pour une année d'imposition est déterminé d'une manière qui, à la fois :

a) est raisonnable compte tenu des circonstances, y compris l'importance des éléments suivants et le moment auquel ils ont été engagés ou réalisés, selon le cas :

(i) les frais d'exploration et d'aménagement à l'étranger déterminés du contribuable se rapportant au pays,

(ii) les bénéfices ou les gains auxquels ces frais se rapportent;

b) n'est pas incompatible avec l'attribution effectuée en application du paragraphe (4.1) pour l'année d'imposition précédente.

Déduction des frais d'exploration et d'aménagement à l'étranger — changement de résidence

(4.3) Lorsqu'un particulier devient résident du Canada au cours d'une année d'imposition ou cesse de l'être, les règles suivantes s'appliquent :

a) le paragraphe (4) s'applique à lui comme si l'année était constituée de la ou des périodes de l'année tout au long desquelles il a résidé au Canada;

b) pour ce qui est de l'application du paragraphe (4), le paragraphe (13.1) ne s'applique pas au particulier pour l'année.

Courtiers

(5) Les paragraphes (3) et (4) et les articles 59, 64, 66.1, 66.2, 66.21, 66.4 et 66.7 ne s'appliquent pas au calcul du revenu, pour une année d'imposition, d'un contribuable (sauf une société exploitant une entreprise principale) dont l'entreprise comprend le commerce de droits, permis ou privilèges afférents à des travaux d'exploration, de forage ou d'extraction relatifs à des minéraux, du pétrole, du gaz naturel ou d'autres hydrocarbures connexes.

(10) à (10.3) [Abrogés, 1997, ch. 25, art. 13(1)]

Idem

(10.4) Where a taxpayer has, after April 19, 1983, made a payment or loan described in paragraph (a) of the definition ***agreed portion*** in subsection 66(15) to a joint exploration corporation in respect of which the corporation has at any time renounced in favour of the taxpayer any Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses (in this subsection referred to as "resource expenses") under subsection 66(10.1), 66(10.2) or 66(10.3), the following rules apply:

(a) where the taxpayer receives as consideration for the payment or loan property that is capital property to the taxpayer,

(i) there shall be deducted in computing the adjusted cost base to the taxpayer of the property at any time the amount of any resource expenses renounced by the corporation in the taxpayer's favour in respect of the loan or payment at or before that time,

(ii) there shall be deducted in computing the adjusted cost base to the taxpayer at any time of any property for which the property, or any property substituted therefor, was exchanged the amount of any resource expenses renounced by the corporation in the taxpayer's favour in respect of the loan or payment at or before that time (except to the extent such amount has been deducted under subparagraph 66(10.4)(a)(i)), and

(iii) the amount of any resource expenses renounced by the corporation in favour of the taxpayer in respect of the loan or payment at any time, except to the extent that the renunciation of those expenses results in a deduction under subparagraph 66(10.4)(a)(i) or 66(10.4)(a)(ii), shall, for the purposes of this Act, be deemed to be a capital gain of the taxpayer from the disposition by the taxpayer of property at that time;

(b) where the taxpayer receives as consideration for the payment or loan property that is not capital property to the taxpayer,

(i) there shall be deducted in computing the cost to the taxpayer of the property at any time the amount of any resource expenses renounced by the corporation in the taxpayer's favour in respect of the loan or payment at or before that time, and

(ii) there shall be included in computing the amount referred to in paragraph 59(3.2)(d) for a taxation year the amount of any resource expenses

Idem

(10.4) Lorsqu'un contribuable a fait, après le 19 avril 1983, un paiement ou un prêt visé à l'alinéa a) de la définition de ***partie convenue*** au paragraphe (15) à une société d'exploration en commun à l'égard duquel celle-ci a renoncé, à un moment donné, en faveur du contribuable à des frais d'exploration au Canada, à des frais d'aménagement au Canada ou à des frais à l'égard de biens canadiens relatifs au pétrole et au gaz (appelés des « frais relatifs à des ressources » au présent paragraphe) selon le paragraphe (10.1), (10.2) ou (10.3), les règles suivantes s'appliquent :

a) lorsque le contribuable reçoit en contrepartie du paiement ou du prêt des biens qui sont pour lui des immobilisations :

(i) il est déduit dans le calcul du prix de base rajusté pour lui du bien à un moment donné le montant des frais relatifs à des ressources auxquels la société a renoncé en sa faveur relativement au paiement ou au prêt au plus tard à ce moment,

(ii) il est déduit dans le calcul du prix de base rajusté pour lui à un moment donné de biens pour lesquels des biens, ou tous biens qui y sont substitués, ont été échangés le montant des frais relatifs à des ressources auxquels la société a renoncé en sa faveur relativement au paiement ou au prêt au plus tard à ce moment (sauf dans la mesure où ce montant a été déduit selon le sous-alinéa (i)),

(iii) le montant des frais relatifs à des ressources auxquels la société a renoncé en faveur du contribuable relativement au paiement ou au prêt à un moment donné, sauf dans la mesure où la renonciation à ces frais constitue une déduction selon le sous-alinéa (i) ou (ii), est réputé, pour l'application de la présente loi, être un gain en capital du contribuable provenant de la disposition de biens par lui à ce moment;

b) lorsque le contribuable reçoit en contrepartie du paiement ou du prêt des biens qui ne sont pas pour lui des immobilisations :

(i) il est déduit dans le calcul du coût des biens pour lui à un moment donné le montant des frais relatifs à des ressources auxquels la société renonce en sa faveur relativement au paiement ou au prêt au plus tard à ce moment,

(ii) il est inclus dans le calcul du montant visé à l'alinéa 59(3.2)d) pour une année d'imposition le montant des frais relatifs à des ressources auxquels la société a renoncé en sa faveur relativement au

renounced by the corporation in the taxpayer's favour in respect of the loan or payment at any time in the year, except to the extent that the amount has been deducted under subparagraph 66(10.4)(b)(i); and

(c) where the taxpayer does not receive any property as consideration for the payment, there shall be included in computing the amount referred to in paragraph 59(3.2)(e) for a taxation year the amount of any resource expenses renounced by the corporation in the taxpayer's favour in respect of the payment in the year, except to the extent that the amount has been deducted from the adjusted cost base to the taxpayer of shares of the corporation under paragraph 53(2)(f.1) in respect of the payment.

paiement ou au prêt à un moment donné de l'année, sauf dans la mesure où ce montant a été déduit selon le sous-alinéa (i);

c) lorsque le contribuable ne reçoit aucun bien en contrepartie du paiement, il est inclus dans le calcul du montant visé à l'alinéa 59(3.2)e) pour une année d'imposition le montant des frais relatifs à des ressources auxquels la société a renoncé en sa faveur relativement au paiement au cours de l'année, sauf dans la mesure où un montant a été déduit du prix de base rajusté pour lui des actions de la société selon l'alinéa 53(2)f.1) relativement au paiement.

Acquisition of control

(11) Where after March 31, 1977 and before November 13, 1981 control of a corporation has been acquired by a person or persons who did not control the corporation at the time when it last ceased to carry on active business,

(a) the amount by which the Canadian exploration and development expenses incurred by the corporation before it last ceased to carry on active business exceeds the total of all amounts otherwise deductible by the corporation in respect of Canadian exploration and development expenses in computing its income for taxation years ending before control was so acquired, shall be deemed to have been deductible under this section by the corporation in computing its income for taxation years ending before control was so acquired;

(b) the amount by which the cumulative Canadian exploration expense of the corporation at the time it last ceased to carry on active business exceeds the total of amounts otherwise deducted under section 66.1 in computing its income for taxation years ending after that time and before control was so acquired, shall be deemed to have been deducted under that section by the corporation in computing its income for taxation years ending before control was so acquired;

(c) the amount by which the cumulative Canadian development expense of the corporation at the time it last ceased to carry on active business exceeds the total of amounts otherwise deducted under section 66.2 in computing its income for taxation years ending after that time and before control was so acquired, shall be deemed to have been deducted under that section by the corporation in computing its income for taxation years ending before control was so acquired;

Acquisition du contrôle

(11) Lorsque, après le 31 mars 1977 et avant le 13 novembre 1981, le contrôle d'une société a été acquis par une ou plusieurs personnes qui ne contrôlaient pas la société au moment où celle-ci a cessé pour la dernière fois d'exploiter activement une entreprise :

a) l'excédent du montant des frais d'exploration et d'aménagement au Canada engagés par la société avant qu'elle cesse pour la dernière fois d'exploiter activement son entreprise sur le total des montants autrement déductibles par elle au titre des frais d'exploration et d'aménagement au Canada dans le calcul de son revenu pour les années d'imposition se terminant avant que le contrôle soit ainsi acquis est réputé avoir été déductible par elle en vertu du présent article dans le calcul de son revenu pour les années d'imposition se terminant avant que le contrôle soit ainsi acquis;

b) l'excédent du montant des frais cumulatifs d'exploration au Canada engagés par la société qui existait au moment où elle a cessé pour la dernière fois d'exploiter activement son entreprise sur le total des montants autrement déduits en vertu de l'article 66.1 dans le calcul de son revenu pour les années d'imposition se terminant après ce moment et avant que le contrôle soit ainsi acquis est réputé avoir été déduit par la société en vertu de cet article dans le calcul de son revenu pour les années d'imposition se terminant avant que le contrôle soit ainsi acquis;

c) l'excédent des frais cumulatifs d'aménagement au Canada engagés par la société qui existait au moment où elle a cessé pour la dernière fois d'exploiter activement son entreprise sur le total des montants autrement déduits en vertu de l'article 66.2 dans le calcul de son revenu pour les années d'imposition se terminant après ce moment et avant que le contrôle soit ainsi acquis est réputé avoir été déduit par la société en vertu

(d) the amount by which the cumulative Canadian oil and gas property expense of the corporation at the time it last ceased to carry on active business exceeds the total of amounts otherwise deducted under section 66.4 in computing its income for taxation years ending after that time and before control was so acquired, shall be deemed to have been deducted under that section by the corporation in computing its income for taxation years ending before control was so acquired; and

(e) the amount by which the foreign exploration and development expenses incurred by the corporation before it last ceased to carry on active business exceeds the total of all amounts otherwise deductible by the corporation in respect of foreign exploration and development expenses in computing its income for taxation years ending before control was so acquired, shall be deemed to have been deductible under this section by the corporation in computing its income for taxation years ending before control was so acquired.

d) l'excédent des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par la société qui existait au moment où elle a cessé pour la dernière fois d'exploiter activement son entreprise sur le total des montants autrement déduits en vertu de l'article 66.4 dans le calcul de son revenu pour les années d'imposition se terminant après ce moment et avant que le contrôle soit ainsi acquis est réputé avoir été déduit par la société en vertu de cet article dans le calcul de son revenu pour les années d'imposition se terminant avant que le contrôle soit ainsi acquis;

e) l'excédent des frais d'exploration et d'aménagement à l'étranger engagés par la société avant qu'elle cesse pour la dernière fois d'exploiter activement son entreprise sur le total des montants autrement déductibles par elle au titre des frais d'exploration et d'aménagement à l'étranger dans le calcul de son revenu pour les années d'imposition se terminant avant que le contrôle soit ainsi acquis est réputé avoir été déductible par la société en vertu du présent article dans le calcul de son revenu pour les années d'imposition se terminant avant que le contrôle soit ainsi acquis.

Control

(11.3) For the purposes of subsections 66(11) and 66.7(10), where a corporation acquired control of another corporation after November 12, 1981 and before 1983 by reason of the acquisition of shares of the other corporation pursuant to an agreement in writing concluded on or before November 12, 1981, it shall be deemed to have acquired that control on or before November 12, 1981.

Contrôle

(11.3) Pour l'application des paragraphes (11) et 66.7(10), la société qui a acquis le contrôle d'une autre société après le 12 novembre 1981 et avant 1983 en acquérant des actions de cette autre société conformément à une convention écrite conclue au plus tard le 12 novembre 1981 est réputée avoir acquis ce contrôle au plus tard le 12 novembre 1981.

Loss restriction event

(11.4) If

(a) at any time a taxpayer is subject to a loss restriction event,

(b) within the 12-month period that ended immediately before that time, the taxpayer, a partnership of which the taxpayer was a majority-interest partner or a trust of which the taxpayer was a majority-interest beneficiary (as defined in subsection 251.1(3)) acquired a Canadian resource property or a foreign resource property (other than a property that was held, by the taxpayer, partnership or trust or by a person that would be affiliated with the taxpayer if section 251.1 were read without reference to the definition ***controlled*** in subsection 251.1(3), throughout the period that began immediately before the 12-month

Fait lié à la restriction de pertes

(11.4) Pour l'application du paragraphe (4) et des articles 66.2, 66.21 et 66.4 — sauf dans la mesure où ces dispositions servent à l'application de l'article 66.7 —, si les conditions ci-après sont réunies :

a) un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné,

b) dans la période de douze mois qui s'est terminée immédiatement avant ce moment, le contribuable, une société de personnes dont il est un associé détenant une participation majoritaire ou une fiducie dont il est un bénéficiaire détenant une participation majoritaire, au sens du paragraphe 251.1(3), a acquis un avoir minier canadien ou un avoir minier étranger (sauf un bien détenu par le contribuable, la société de personnes ou la fiducie, ou par une personne qui serait

period began and ended at the time the property was acquired by the taxpayer, partnership or trust), and

(c) immediately before the 12-month period began the taxpayer, partnership or trust was not, or would not be if it were a corporation, a principal-business corporation,

for the purposes of subsection (4) and sections 66.2, 66.21 and 66.4, except as those provisions apply for the purposes of section 66.7, the property is deemed not to have been acquired by the taxpayer, partnership or trust, as the case may be, before that time, except that if the property has been disposed of by it before that time and not reacquired by it before that time, the property is deemed to have been acquired by the taxpayer, partnership or trust, as the case may be, immediately before it disposed of the property.

Affiliation — subsection (11.4)

(11.5) For the purposes of subsection (11.4), if the taxpayer referred to in that subsection was formed or created in the 12-month period referred to in that subsection, the taxpayer is deemed to have been, throughout the period that began immediately before the 12-month period and ended immediately after it was formed or created,

(a) in existence; and

(b) affiliated with every person with whom it was affiliated (otherwise than because of a right referred to in paragraph 251(5)(b)) throughout the period that began when it was formed or created and that ended immediately before the time at which the taxpayer was subject to the loss restriction event referred to in that subsection.

Trust loss restriction event — successor

(11.6) If at any time a trust is subject to a loss restriction event,

(a) for the purposes of the provisions of this Act relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses (in this

affiliée au contribuable si l'article 251.1 s'appliquait compte non tenu de la définition de ***contrôlé*** au paragraphe 251.1(3), tout au long de la période ayant commencé immédiatement avant la période de douze mois et s'étant terminée au moment où le contribuable, la société de personnes ou la fiducie a acquis l'avoir),

c) immédiatement avant le début de la période de douze mois, le contribuable, la société de personnes ou la fiducie n'était pas — ou ne serait pas s'il ou si elle était une société — une société exploitant une entreprise principale,

l'avoir est réputé ne pas avoir été acquis par le contribuable, la société de personnes ou la fiducie, selon le cas, avant ce moment. Toutefois, dans le cas où le contribuable, la société de personnes ou la fiducie a disposé de l'avoir avant ce moment et ne l'a pas acquis de nouveau avant ce moment, l'avoir est réputé avoir été acquis par lui ou elle, selon le cas, immédiatement avant cette disposition.

Affiliation — paragraphe (11.4)

(11.5) Pour l'application du paragraphe (11.4), si le contribuable visé à ce paragraphe a été constitué ou établi au cours de la période de douze mois mentionnée à ce paragraphe, les faits ci-après sont réputés s'avérer à son égard tout au long de la période ayant commencé immédiatement avant la période de douze mois et s'étant terminée immédiatement après sa constitution ou son établissement :

a) il existait;

b) il était affilié à chaque personne à laquelle il était affilié (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b)) tout au long de la période ayant commencé au moment de sa constitution ou de son établissement et s'étant terminée immédiatement avant le moment où il a été assujetti à un fait lié à la restriction de pertes visé à ce paragraphe.

Fait lié à la restriction de pertes — société remplaçante

(11.6) Si une fiducie est assujettie à un fait lié à la restriction de pertes à un moment donné, les règles ci-après s'appliquent :

a) pour l'application des dispositions de la présente loi concernant les déductions relatives aux frais de forage et d'exploration, aux frais de prospection, d'exploration et d'aménagement, aux frais d'exploration et d'aménagement au Canada, aux frais globaux relatifs à des ressources à l'étranger, aux frais d'exploration au Canada, aux frais d'aménagement au Canada et aux frais à l'égard de biens canadiens relatifs au pétrole et

subsection referred to as "resource expenses") incurred by the trust before that time, the following rules apply:

(i) the trust is (other than for purposes of this subsection and subsections (11.4), (11.5) and 66.7(10) to (11)) deemed to be a corporation that

(A) after that time is a successor (within the meaning assigned by any of subsections 66.7(1), (2) and (2.3) to (5)), and

(B) at that time, acquired all the properties held by the trust immediately before that time from an original owner of those properties,

(ii) if the trust did not hold a foreign resource property immediately before that time, the trust is deemed to have owned a foreign resource property immediately before that time,

(iii) a joint election is deemed to have been filed in accordance with subsections 66.7(7) and (8) in respect of the acquisition described in clause (i)(B),

(iv) the resource expenses incurred by the trust before that time are deemed to have been incurred by an original owner of the properties and not by the trust,

(v) the original owner is deemed to have been resident in Canada at every time before that time at which the trust was resident in Canada,

(vi) if at that time the trust is a member of a partnership and the property of the partnership includes a Canadian resource property or a foreign resource property,

(A) for the purposes of clause (i)(B), the trust is deemed to have held immediately before that time that portion of the partnership's property at that time that is equal to the trust's percentage share of the total of amounts that would be paid to all members of the partnership if it were wound up at that time, and

(B) for the purposes of clauses 66.7(1)(b)(i)(C) and (2)(b)(i)(B), subparagraph 66.7(2.3)(b)(i) and clauses 66.7(3)(b)(i)(C), (4)(b)(i)(B) and (5)(b)(i)(B) for a taxation year that ends after that time, the lesser of the following amounts is deemed to be income of the trust for the year that can reasonably be regarded as attributable to production from the property:

au gaz (appelés « frais relatifs à des ressources » au présent paragraphe) engagés par la fiducie avant ce moment :

(i) la fiducie est réputée (sauf pour l'application du présent paragraphe et des paragraphes (11.4) et (11.5) et 66.7(10) à (11)) être une société qui, à la fois :

(A) est une société remplaçante, au sens de chacun des paragraphes 66.7(1), (2) et (2.3) à (5) où ce terme est défini, après ce moment,

(B) a acquis, à ce moment, auprès d'un propriétaire obligé tous les biens détenus par la fiducie immédiatement avant ce moment,

(ii) si elle ne détenait pas d'avoir minier étranger immédiatement avant ce moment, la fiducie est réputée avoir été propriétaire d'un tel avoir immédiatement avant ce moment,

(iii) un choix conjoint est réputé avoir été présenté conformément aux paragraphes 66.7(7) et (8) relativement à l'acquisition mentionnée à la division (i)(B),

(iv) les frais relatifs à des ressources que la fiducie a engagés avant ce moment sont réputés l'avoir été par un propriétaire obligé des biens et non par la fiducie,

(v) le propriétaire obligé est réputé avoir résidé au Canada à tout moment où la fiducie y résidait avant le moment donné,

(vi) si la fiducie est un associé d'une société de personnes à ce moment et que les biens de cette dernière comprennent, à ce moment, un avoir minier canadien ou un avoir minier étranger :

(A) pour l'application de la division (i)(B), la fiducie est réputée avoir détenu, immédiatement avant ce moment, la partie des biens de la société de personnes à ce moment qui correspond à la part, exprimée en pourcentage, revenant à la fiducie du total des sommes qui seraient payées à l'ensemble des associés de la société de personnes si elle était liquidée à ce moment,

(B) pour l'application des divisions 66.7(1)b)(i)(C) et (2)b)(i)(B), du sous-alinéa 66.7(2.3)b)(i) et des divisions 66.7(3)b)(i)(C), (4)b)(i)(B) et (5)b)(i)(B) pour une année d'imposition se terminant après ce moment, la moins élevée des sommes ci-après est réputée être un revenu de la fiducie pour l'année

(I) the trust's share of the part of the income of the partnership for the fiscal period of the partnership that ends in the year that can reasonably be regarded as attributable to the production from the property, and

(II) an amount that would be determined under subclause (I) for the year if the trust's share of the income of the partnership for the fiscal period of the partnership that ends in the year were determined on the basis of the percentage share referred to in clause (A), and

(vii) if after that time the trust disposes of property that was at that time held by the trust to another person, subsections 66.7(1) to (5) do not apply in respect of the acquisition by the other person of the property; and

(b) if before that time, the trust or a partnership of which the trust was a member acquired a property that is a Canadian resource property, a foreign resource property or an interest in a partnership and it can reasonably be considered that one of the main purposes of the acquisition is to avoid any limitation provided in any of subsections 66.7(1) to (5) on the deduction in respect of any expenses incurred by the trust, then the trust or the partnership, as the case may be, is deemed, for the purposes of applying those subsections to or in respect of the trust, not to have acquired the property.

Computation of exploration and development expenses

(12) In computing a taxpayer's Canadian exploration and development expenses,

(a) there shall be deducted any amount paid to the taxpayer before May 7, 1974

(i) and after 1971 under the *Northern Mineral Exploration Assistance Regulations* made under an appropriation Act that provides for payments in respect of the Northern Mineral Grants Program, or

(ii) pursuant to any agreement entered into between the taxpayer and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development, to the extent that the amount has been expended by

qu'il est raisonnable d'attribuer à la production tirée de l'avoir :

(I) sa part du revenu de la société de personnes, pour l'exercice de celle-ci se terminant dans l'année, qu'il est raisonnable de considérer comme étant attribuable à la production tirée de l'avoir,

(II) la somme qui serait déterminée selon la subdivision (I) pour l'année si la part revenant à la fiducie du revenu de la société de personnes pour l'exercice de celle-ci se terminant dans l'année était déterminée en fonction de la part, exprimée en pourcentage, visée à la division (A),

(vii) si la fiducie dispose après ce moment, en faveur d'une autre personne, d'un bien qu'elle détenait à ce moment, les paragraphes 66.7(1) à (5) ne s'appliquent pas relativement à l'acquisition du bien par l'autre personne;

b) si, avant ce moment, la fiducie ou une société de personnes dont elle est un associé a acquis un bien qui est un avoir minier canadien, un avoir minier étranger ou une participation dans une société de personnes et qu'il est raisonnable de considérer que l'un des principaux objets de l'acquisition consiste à éviter toute restriction, prévue à l'un des paragraphes 66.7(1) à (5), applicable à la déduction relative aux frais engagés par la fiducie, la fiducie ou la société de personnes, selon le cas, est réputée ne pas avoir acquis le bien pour l'application de ces paragraphes relativement à la fiducie.

Calcul des frais d'exploration et d'aménagement au Canada

(12) Dans le calcul des frais d'exploration et d'aménagement au Canada engagés par un contribuable :

a) il est déduit toute somme versée à celui-ci avant le 7 mai 1974:

(i) soit en vertu du *Règlement sur l'aide à l'exploration minière dans le Nord* pris en application d'une loi de crédits et prévoyant des paiements au titre du Programme de subventions visant les minéraux dans le Nord, si la somme a ainsi été versée après 1971,

(ii) soit en vertu d'une entente conclue par le contribuable et Sa Majesté du chef du Canada sous le régime du Programme de subventions visant les minéraux dans le Nord ou du Programme de développement du ministère des Affaires indiennes et du Nord canadien, dans la mesure où le montant a

the taxpayer as or on account of Canadian exploration and development expenses incurred by the taxpayer; and

(b) there shall be included any amount, except an amount in respect of interest, paid by the taxpayer after 1971 and before May 7, 1974 under the Regulations referred to in subparagraph 66(12)(a)(i) to Her Majesty in right of Canada.

été dépensé par le contribuable au titre des frais d'exploration et d'aménagement au Canada qu'il a engagés;

b) est comprise toute somme, sauf une somme afférente aux intérêts, versée par lui après 1971 mais avant le 7 mai 1974 à Sa Majesté du chef du Canada, en vertu du règlement mentionné au sous-alinéa a)(i).

Limitations of Canadian exploration and development expenses

(12.1) Except as expressly otherwise provided in this Act,

(a) if as a result of a transaction occurring after May 6, 1974 an amount has become receivable by a taxpayer at a particular time in a taxation year and the consideration given by the taxpayer therefor was property (other than a share or a Canadian resource property, or an interest in or a right to — or, for civil law, a right in or to — the share or the property) or services, the original cost of which to the taxpayer may reasonably be regarded as having been primarily Canadian exploration and development expenses of the taxpayer (or would have been so regarded if they had been incurred by the taxpayer after 1971 and before May 7, 1974) or a Canadian exploration expense, there shall at that time be included in the amount determined for G in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6) in respect of the taxpayer the amount that became receivable by the taxpayer at that time; and

(b) if as a result of a transaction occurring after May 6, 1974 an amount has become receivable by a taxpayer at a particular time in a taxation year and the consideration given by the taxpayer therefor was property (other than a share or a Canadian resource property, or an interest in or a right to — or, for civil law, a right in or to — the share or the property) or services, the original cost of which to the taxpayer may reasonably be regarded as having been primarily a Canadian development expense, there shall at that time be included in the amount determined for G in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) in respect of the taxpayer the amount that became receivable by the taxpayer at that time.

Restrictions quant aux frais d'exploration et d'aménagement au Canada

(12.1) Sauf disposition contraire expresse de la présente loi, les règles suivantes s'appliquent :

a) lorsque, par suite d'une opération qui a eu lieu après le 6 mai 1974, un montant est devenu à recevoir par un contribuable à un moment donné d'une année d'imposition et que la contrepartie donnée par le contribuable consistait en biens (à l'exclusion d'une action, d'un avoir minier canadien et d'un intérêt ou d'un droit sur ceux-ci ou, pour l'application du droit civil, d'un droit relatif à ceux-ci), ou services, dont il est raisonnable de croire que le coût initial, pour lui, consistait principalement en frais d'exploration au Canada ou en frais d'exploration et d'aménagement au Canada du contribuable (ou dont le coût initial aurait été considéré ainsi si le contribuable avait engagé ces derniers frais après 1971 mais avant le 7 mai 1974), le montant devenu à recevoir par le contribuable à ce moment doit être inclus, à ce moment, dans le montant représenté par l'élément G de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6);

b) lorsque, par suite d'une opération qui a eu lieu après le 6 mai 1974, un montant est devenu à recevoir par un contribuable à un moment donné d'une année d'imposition et que la contrepartie donnée par le contribuable consistait en biens (à l'exclusion d'une action, d'un avoir minier canadien et d'un intérêt ou d'un droit sur ceux-ci ou, pour l'application du droit civil, d'un droit relatif à ceux-ci), ou services, dont il est raisonnable de croire que le coût initial, pour lui, consistait principalement en frais d'aménagement au Canada, le montant devenu à recevoir par le contribuable à ce moment doit être inclus, à ce moment, dans le montant représenté par l'élément G de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5).

Unitized oil or gas field in Canada

(12.2) Where, pursuant to an agreement between a taxpayer and another person to unitize an oil or gas field in

Unification d'un champ de pétrole ou de gaz au Canada

(12.2) Lorsque, en exécution d'une convention intervenue entre un contribuable et une autre personne en vue

Canada, an amount has become receivable by the taxpayer at a particular time after May 6, 1974 from that other person in respect of Canadian exploration expense incurred by the taxpayer or Canadian exploration and development expenses incurred by the taxpayer (or expenses that would have been Canadian exploration and development expenses if they had been incurred by the taxpayer after 1971 and before May 7, 1974) in respect of that field or any part thereof, the following rules apply:

(a) there shall, at that time, be included by the taxpayer in the amount determined for G in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6) the amount that became receivable by the taxpayer; and

(b) there shall, at that time, be included by the other person in the amount referred to in paragraph (c) of the definition ***Canadian exploration expense*** in subsection 66.1(6) the amount that became payable by that person.

Idem

(12.3) Where, pursuant to an agreement between a taxpayer and another person to unitize an oil or gas field in Canada, an amount has become receivable by the taxpayer at a particular time after May 6, 1974 from that other person in respect of Canadian development expense incurred by the taxpayer in respect of that field or any part thereof, the following rules apply:

(a) there shall, at that time, be included by the taxpayer in the amount determined for G in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) the amount that became receivable by the taxpayer; and

(b) there shall, at that time, be included by the other person in the amount referred to in paragraph (a) of the definition ***Canadian development expense*** in subsection 66.2(5) the amount that became payable by that person.

Limitation of FEDE

(12.4) Where, as a result of a transaction that occurs after May 6, 1974, an amount becomes receivable by a taxpayer at a particular time in a taxation year and the consideration given by the taxpayer for the amount receivable is property (other than a foreign resource property) or services, the original cost of which to the taxpayer can reasonably be regarded as having been primarily foreign exploration and development expenses of the taxpayer (or would have been so regarded if they had

d'unifier un champ de pétrole ou de gaz au Canada, une somme est devenue payable au contribuable à un moment donné postérieur au 6 mai 1974 par cette personne relativement aux frais d'exploration au Canada ou aux frais d'exploration et d'aménagement au Canada engagés par le contribuable (ou aux frais qui auraient été des frais d'exploration et d'aménagement au Canada s'ils avaient été engagés après 1971, mais avant le 7 mai 1974), relativement à ce champ ou à quelque partie de celui-ci, les règles suivantes s'appliquent :

a) le contribuable doit, à ce moment, inclure la somme qui lui est payable dans le montant représenté par l'élément G de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6);

b) l'autre personne doit, à ce moment, inclure la somme payable par elle dans le montant visé à l'alinéa c) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6).

Idem

(12.3) Lorsque, en exécution d'une convention intervenue entre un contribuable et une autre personne en vue d'unifier un champ de pétrole ou de gaz au Canada, une somme est devenue payable au contribuable à un moment donné postérieur au 6 mai 1974 par cette autre personne relativement aux frais d'aménagement au Canada engagés par le contribuable, relativement à ce champ ou à quelque partie de celui-ci, les règles suivantes s'appliquent :

a) le contribuable doit, à ce moment, inclure la somme qui lui est payable dans le montant représenté par l'élément G de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5);

b) l'autre personne doit, à ce moment, inclure la somme payable par elle dans le montant visé à l'alinéa a) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5).

Restrictions quant aux frais d'exploration et d'aménagement à l'étranger

(12.4) Lorsque, par suite d'une opération qui a lieu après le 6 mai 1974, un montant devient à recevoir par un contribuable à un moment donné d'une année d'imposition et que la contrepartie donnée par le contribuable pour ce montant consiste en biens (à l'exclusion d'un avoir minier étranger) ou services, dont il est raisonnable de considérer que le coût initial, pour le contribuable, consistait principalement en frais d'exploration et d'aménagement à l'étranger du contribuable (ou dont le coût

been incurred by the taxpayer after 1971 and the definition ***foreign exploration and development expenses*** in subsection (15) were read without reference to paragraph (k) of that definition), the following rules apply:

(a) in computing the taxpayer's foreign exploration and development expenses at that time, there shall be deducted the amount receivable by the taxpayer;

(b) where the amount receivable exceeds the total of the taxpayer's foreign exploration and development expenses incurred before that time to the extent that those expenses were not deducted or deductible, as the case may be, in computing the taxpayer's income for a preceding taxation year, there shall be included in the amount referred to in paragraph 59(3.2)(a) the amount, if any, by which the amount receivable exceeds the total of

(i) the taxpayer's foreign exploration and development expenses incurred before that time to the extent that those expenses were not deducted or deductible, as the case may be, in computing the taxpayer's income for a preceding taxation year, and

(ii) the amount, designated by the taxpayer in prescribed form filed with the taxpayer's return of income for the year, not exceeding the portion of the amount receivable for which the consideration given by the taxpayer was property (other than a foreign resource property) or services, the original cost of which to the taxpayer can reasonably be regarded as having been primarily

(A) specified foreign exploration and development expenses in respect of a country, or

(B) foreign resource expenses in respect of a country; and

(c) where an amount is included in the amount referred to in paragraph 59(3.2)(a) by virtue of paragraph 66(12.4)(b), the total of the taxpayer's foreign exploration and development expenses at that time shall be deemed to be nil.

initial aurait été ainsi considéré si le contribuable avait engagé ces frais après 1971 et s'il n'était pas tenu compte de l'alinéa k) de la définition de ***frais d'exploration et d'aménagement à l'étranger*** au paragraphe (15)), les règles suivantes s'appliquent :

a) dans le calcul des frais d'exploration et d'aménagement à l'étranger engagés par le contribuable à ce moment, il y a lieu de déduire la somme qui lui est ainsi payable;

b) lorsque le montant à recevoir dépasse le total des frais d'exploration et d'aménagement à l'étranger engagés par lui avant ce moment, dans la mesure où ils n'étaient pas déductibles ou n'ont pas été déduits, selon le cas, dans le calcul de son revenu pour une année d'imposition antérieure, il y a lieu d'inclure dans le montant visé à l'alinéa 59(3.2)a) l'excédent éventuel du montant à recevoir sur la somme des montants suivants :

(i) les frais d'exploration et d'aménagement à l'étranger engagés par le contribuable avant ce moment, dans la mesure où ils n'étaient pas déductibles ou n'ont pas été déduits, selon le cas, dans le calcul de son revenu pour une année d'imposition antérieure,

(ii) le montant, indiqué par le contribuable dans le formulaire prescrit accompagnant sa déclaration de revenu pour l'année, ne dépassant pas la partie du montant à recevoir pour laquelle la contrepartie donnée par lui consistait en biens (à l'exclusion d'un avoir minier étranger) ou services, dont il est raisonnable de considérer que le coût initial, pour lui, consistait principalement :

(A) soit en frais d'exploration et d'aménagement à l'étranger déterminés se rapportant à un pays,

(B) soit en frais relatifs à des ressources à l'étranger se rapportant à un pays;

c) lorsqu'une somme est incluse dans le montant visé à l'alinéa 59(3.2)a) en vertu de l'alinéa b), le total des frais d'exploration et d'aménagement à l'étranger engagés par le contribuable à ce moment est réputé être nul.

Limitations of foreign resource expenses

(12.41) Where a particular amount described in subsection (12.4) becomes receivable by a taxpayer at a particular time, there shall at that time be included in the value determined for G in the definition ***cumulative foreign resource expense*** in subsection 66.21(1) in respect of

Restrictions quant aux frais relatifs à des ressources à l'étranger

(12.41) Lorsqu'un montant donné visé au paragraphe (12.4) devient à recevoir par un contribuable à un moment donné, le montant indiqué par le contribuable en application du sous-alinéa (12.4)b)(ii) relativement au montant donné et à un pays doit être inclus, à ce

the taxpayer and a country the amount designated under subparagraph (12.4)(b)(ii) by the taxpayer in respect of the particular amount and the country.

Partnerships

(12.42) For the purposes of subsections (12.4) and (12.41), where a person or partnership is a member of a particular partnership and a particular amount described in subsection (12.4) becomes receivable by the particular partnership in a fiscal period of the particular partnership,

(a) the member's share of the particular amount is deemed to be an amount that became receivable by the member at the end of the fiscal period; and

(b) the amount deemed by paragraph (a) to be an amount receivable by the member is deemed to be an amount

(i) that is described in subsection (12.4) in respect of the member, and

(ii) that has the same attributes for the member as it did for the particular partnership.

Unitized oil or gas field in Canada

(12.5) Where, pursuant to an agreement between a taxpayer and another person to unitize an oil or gas field in Canada, an amount has become receivable by the taxpayer at a particular time from that other person in respect of Canadian oil and gas property expense incurred by the taxpayer in respect of that field or any part thereof, the following rules apply:

(a) there shall, at that time, be included by the taxpayer in the amount determined for G in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) the amount that became receivable by the taxpayer; and

(b) there shall, at that time, be included by the other person in the amount referred to in paragraph (a) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5) the amount that became payable by that person.

Canadian exploration expenses to flow-through shareholder

(12.6) If a person gave consideration under an agreement to a corporation for the issue of a flow-through

moment, dans la valeur de l'élément G de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1) relativement au contribuable et au pays.

Sociétés de personnes

(12.42) Pour l'application des paragraphes (12.4) et (12.41), lorsqu'une personne ou une société de personnes est un associé d'une société de personnes donnée et qu'un montant donné visé au paragraphe (12.4) devient à recevoir par celle-ci au cours d'un de ses exercices, les présomptions suivantes s'appliquent :

a) la part du montant donné qui revient à l'associé est réputée être un montant devenu à recevoir par lui à la fin de l'exercice;

b) le montant réputé par l'alinéa a) être un montant à recevoir par l'associé est réputé être un montant qui, à la fois :

(i) est visé au paragraphe (12.4) à l'égard de l'associé,

(ii) présente les mêmes caractéristiques pour l'associé que pour la société de personnes donnée.

Unification d'un champ de pétrole ou de gaz au Canada

(12.5) Lorsque, en exécution d'une convention intervenue entre un contribuable et une autre personne en vue d'unifier un champ de pétrole ou de gaz au Canada, une somme est devenue payable au contribuable à un moment donné par cette autre personne relativement aux frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par le contribuable relativement à ce champ ou à une partie de celui-ci, les règles suivantes s'appliquent :

a) le contribuable doit, à ce moment, inclure la somme qui lui est payable dans le montant représenté par l'élément G de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5);

b) l'autre personne doit, à ce moment, inclure la somme payable par elle dans le montant visé à l'alinéa a) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5).

Renonciation à des frais d'exploration en faveur de l'actionnaire

(12.6) Si, conformément à une convention, une personne paie une action accréditive à la société qui l'émet

share of the corporation and, in the period that begins on the day on which the agreement was made and ends 24 months after the end of the month that includes that day, the corporation incurred Canadian exploration expenses (other than an expense deemed by subsection 66.1(9) to be a Canadian exploration expense of the corporation), the corporation may, after it complies with subsection (12.68) in respect of the share and before March of the first calendar year that begins after the period, renounce, effective on the day on which the renunciation is made or on an earlier day set out in the form prescribed for the purpose of subsection (12.7), to the person in respect of the share the amount, if any, by which the portion of those expenses that was incurred on or before the effective date of the renunciation (which portion is in this subsection referred to as the "specified expenses") exceeds the total of

(a) the assistance that the corporation has received, is entitled to receive or can reasonably be expected to receive at any time, and that can reasonably be related to the specified expenses or to Canadian exploration activities to which the specified expenses relate (other than assistance that can reasonably be related to expenses referred to in paragraph 66(12.6)(b) or 66(12.6)(b.1)),

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

(b.1) all specified expenses each of which is a cost of, or for the use of, seismic data

(i) that had been acquired (otherwise than as a consequence of performing work that resulted in the creation of the data) by any other person before the cost was incurred,

(ii) in respect of which a right to use had been acquired by any other person before the cost was incurred, or

(iii) all or substantially all of which resulted from work performed more than one year before the cost was incurred, and

(c) the total of amounts that are renounced on or before the date on which the renunciation is made by any other renunciation under this subsection in respect of those expenses,

but not in any case

(d) exceeding the amount, if any, by which the consideration for the share exceeds the total of other amounts renounced under this subsection or

en sa faveur et que la société engage des frais d'exploration au Canada (sauf des frais réputés par le paragraphe 66.1(9) être des frais d'exploration au Canada de la société) au cours de la période commençant à la date de conclusion de la convention et se terminant 24 mois après la fin du mois qui comprend cette date, la société peut, en ce qui concerne cette action, après s'être conformée au paragraphe (12.68), renoncer en faveur de cette personne, avant mars de la première année civile commençant après cette période, à l'excédent de la partie de ces frais (appelée « frais déterminés » au présent paragraphe) qui a été engagée au plus tard à la date où la renonciation prend effet — à savoir le jour où la renonciation est faite ou, s'il est antérieur, le jour de prise d'effet précisé dans le formulaire requis par le paragraphe (12.7) — sur le total des montants suivants :

a) tout montant à titre d'aide que la société a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir à un moment donné et qu'il est raisonnable de rattacher aux frais déterminés ou à des activités d'exploration au Canada s'y rapportant, à l'exclusion des montants à titre d'aide qu'il est raisonnable de rattacher aux frais visés aux alinéas b) ou b.1);

b) ceux des frais déterminés qui constituent des frais généraux d'exploration et d'aménagement au Canada de la société visés par règlement;

b.1) ceux des frais déterminés qui représentent le coût ou le coût d'utilisation de données sismiques, selon le cas :

(i) qui ont été acquises, autrement que par suite de l'exécution de travaux qui les ont créées, par une autre personne avant que le coût soit engagé,

(ii) relativement auxquelles un droit d'utilisation avait été acquis par une autre personne avant que le coût soit engagé,

(iii) qui découlent, en totalité, ou presque, de travaux exécutés plus d'un an avant que le coût soit engagé;

c) les montants au titre de ces frais auxquels, au plus tard le jour où la renonciation est faite, il est par ailleurs renoncé en vertu du présent paragraphe.

Cet excédent ne peut toutefois ni dépasser l'excédent éventuel du montant payé pour l'action sur le total des autres montants concernant l'action auxquels la société a renoncé en vertu du présent paragraphe ou des paragraphes (12.601) ou (12.62) au plus tard le jour où la renonciation est faite, ni dépasser l'excédent éventuel du montant des frais cumulatifs d'exploration au Canada de

subsection 66(12.601) or 66(12.62) in respect of the share on or before the day on which the renunciation is made, or

(e) exceeding the amount, if any, by which the cumulative Canadian exploration expense of the corporation on the effective date of the renunciation computed before taking into account any amounts renounced under this subsection on the date on which the renunciation is made, exceeds the total of all amounts renounced under this subsection in respect of any other share

(i) on the date on which the renunciation is made, and

(ii) effective on or before the effective date of the renunciation.

Flow-through share rules for first $1 million of Canadian development expenses

(12.601) Where

(a) a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation,

(a.1) the corporation's taxable capital amount at the time the consideration was given was not more than $15,000,000, and

(b) during the period beginning on the later of December 3, 1992 and the particular day the agreement was entered into and ending on the day that is 24 months after the end of the month that included that particular day, the corporation incurred Canadian development expenses described in paragraph (a) or (b) of the definition ***Canadian development expense*** in subsection 66.2(5) or that would be described in paragraph (f) of that definition if the words "paragraphs 66(12.601)(a) to 66(12.601)(e)" in that paragraph were read as "paragraphs 66(12.601)(a) and 66(12.601)(b)",

the corporation may, after it complies with subsection 66(12.68) in respect of the share and before March of the first calendar year that begins after that period, renounce, effective on the day on which the renunciation is made or on an earlier day set out in the form prescribed for the purposes of subsection 66(12.7), to the person in respect of the share the amount, if any, by which the part of those expenses that was incurred on or before the effective date of the renunciation (which part is in this subsection referred to as the "specified expenses") exceeds the total of

(c) the assistance that the corporation has received, is entitled to receive, or can reasonably be expected to

la société à la date où la renonciation prend effet — calculé compte non tenu des montants auxquels il a été renoncé en vertu du présent paragraphe le jour où la renonciation est faite — sur le total des montants auxquels il a été renoncé en vertu du présent paragraphe en ce qui concerne d'autres actions, d'une part, le jour où la renonciation est faite et, d'autre part, avec effet au plus tard à la date où la renonciation prend effet.

Règles applicables à la première tranche de 1 000 000 $ de frais d'aménagement au Canada

(12.601) Lorsque, conformément à une convention, une personne paie une action accréditive à la société qui l'émet en sa faveur, que le montant de capital imposable de la société au moment du paiement n'excède pas 15 000 000 $ et que, au cours de la période commençant le 3 décembre 1992 ou, s'il est postérieur, le jour de la conclusion de la convention et se terminant 24 mois après la fin du mois qui comprend ce jour, la société engage des frais d'aménagement au Canada visés aux alinéas a) ou b) de la définition de *frais d'aménagement au Canada* au paragraphe 66.2(5) ou qui seraient visés à l'alinéa f) de cette définition si le passage « à l'un des alinéas a) à e) » était remplacé par « aux alinéas a) et b) », la société peut, en ce qui concerne cette action, après s'être conformée au paragraphe (12.68), renoncer en faveur de cette personne, avant mars de la première année civile commençant après cette période, à l'excédent éventuel de la partie de ces frais (appelée « frais déterminés » au présent paragraphe) qui a été engagée au plus tard à la date où la renonciation prend effet — à savoir le jour où la renonciation est faite ou, s'il est antérieur, le jour de prise d'effet précisé dans le formulaire requis par le paragraphe (12.7) —, sur le total des montants suivants :

a) tout montant à titre d'aide que la société a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir à un moment quelconque et qu'il est raisonnable de rattacher aux frais déterminés ou à des activités d'aménagement au Canada s'y rapportant, à l'exclusion des montants à titre d'aide qu'il est raisonnable de rattacher aux frais visés à l'alinéa b);

b) ceux des frais déterminés qui constituent des frais généraux d'exploration et d'aménagement au Canada de la société visés par règlement;

receive at any time, and that can reasonably be related to the specified expenses or Canadian development activities to which the specified expenses relate (other than assistance that can reasonably be related to expenses referred to in paragraph 66(12.601)(d)),

(d) all specified expenses that are prescribed Canadian exploration and development overhead expenses of the corporation, and

(e) all amounts that are renounced on or before the day on which the renunciation is made by any other renunciation under this subsection or subsection 66(12.62) in respect of those expenses.

c) les montants au titre de ces frais auxquels, au plus tard le jour où la renonciation est faite, il est par ailleurs renoncé en vertu du présent paragraphe ou du paragraphe (12.62).

Taxable capital amount

(12.6011) For the purpose of subsection 66(12.601), a particular corporation's taxable capital amount at any time is the total of

(a) its taxable capital employed in Canada for its last taxation year that ended more than 30 days before that time, and

(b) the total of all amounts each of which is the taxable capital employed in Canada of another corporation associated at that time with the particular corporation for the other corporation's last taxation year that ended more than 30 days before that time.

Montant de capital imposable

(12.6011) Pour l'application du paragraphe (12.601), le montant de capital imposable d'une société à un moment donné correspond au total des montants suivants :

a) son capital imposable utilisé au Canada pour sa dernière année d'imposition qui s'est terminée plus de 30 jours avant ce moment;

b) le total des montants représentant chacun le capital imposable utilisé au Canada d'une autre société qui lui est associée à ce moment pour la dernière année d'imposition de cette autre société qui s'est terminée plus de 30 jours avant ce moment.

Taxable capital employed in Canada

(12.6012) For the purpose of determining a corporation's taxable capital amount at a particular time under subsection 66(12.6011) and for the purpose of subsection 66(12.6013), a particular corporation's taxable capital employed in Canada for a taxation year is the amount that would be its taxable capital employed in Canada for the year, determined in accordance with subsection 181.2(1) and without reference to the portion of its investment allowance (as determined under subsection 181.2(4)) that is attributable to shares of the capital stock of, dividends payable by, or indebtedness of, another corporation that

(a) was not associated with the particular corporation at the particular time; and

(b) was associated with the particular corporation at the end of the particular corporation's last taxation year that ended more than 30 days before that time.

Capital imposable utilisé au Canada

(12.6012) Pour le calcul du montant de capital imposable d'une société à un moment donné selon le paragraphe (12.6011) et pour l'application du paragraphe (12.6013), le capital imposable utilisé au Canada d'une société donnée pour une année d'imposition correspond au montant qui représenterait son capital imposable utilisé au Canada pour l'année, déterminé en conformité avec le paragraphe 181.2(1) et compte non tenu de la partie de sa déduction pour placements, calculée selon le paragraphe 181.2(4), qui est attribuable à des actions du capital-actions ou des dettes d'une autre société qui répond aux conditions suivantes, ou à des dividendes payables par celle-ci :

a) elle n'était pas associée à la société donnée au moment donné;

b) elle était associée à la société donnée à la fin de la dernière année d'imposition de celle-ci qui s'est terminée plus de 30 jours avant le moment donné.

Amalgamations and mergers

(12.6013) For the purpose of determining the taxable capital amount at a particular time under subsection

Fusions et unifications

(12.6013) Pour le calcul du montant de capital imposable d'une société à un moment donné selon le

66(12.6011) of any corporation and for the purpose of this subsection, a particular corporation that was created as a consequence of an amalgamation or merger of other corporations (each of which is in this subsection referred to as a "predecessor corporation"), and that does not have a taxation year that ended more than 30 days before the particular time, is deemed to have taxable capital employed in Canada for a taxation year that ended more than 30 days before the particular time equal to the total of all amounts each of which is the taxable capital employed in Canada of a predecessor corporation for its last taxation year that ended more than 30 days before the particular time.

paragraphe (12.6011) et pour l'application du présent paragraphe, le capital imposable utilisé au Canada pour une année d'imposition s'étant terminée plus de 30 jours avant ce moment de la société issue de la fusion ou de l'unification d'autres sociétés (chacune étant appelée « société remplacée » au présent paragraphe) et dont l'année d'imposition ne s'est pas terminée plus de 30 jours avant ce moment est réputé égal au total des montants représentant chacun le capital imposable utilisé au Canada d'une société remplacée pour sa dernière année d'imposition qui s'est terminée plus de 30 jours avant ce moment.

Idem

(12.602) A corporation shall be deemed not to have renounced any particular amount under subsection 66(12.601) in respect of a share where

(a) the particular amount exceeds the amount, if any, by which the consideration for the share exceeds the total of other amounts renounced in respect of the share under subsection 66(12.6), 66(12.601) or 66(12.62) on or before the day on which the renunciation is made;

(b) the particular amount exceeds the amount, if any, by which

(i) the cumulative Canadian development expense of the corporation on the effective date of the renunciation, computed before taking into account any amounts renounced under subsection 66(12.601) on the day on which the renunciation is made,

exceeds

(ii) the total of all amounts renounced under subsection 66(12.601) by the corporation in respect of any other share

(A) on the day on which the renunciation is made, and

(B) effective on or before the effective date of the renunciation; or

(c) the particular amount relates Canadian development expenses incurred by the corporation in a calendar year and the total amounts renounced, on or before the day on which the renunciation is made, under subsection 66(12.601) in respect of

(i) Canadian development expenses incurred by the corporation in that calendar year, or

Idem

(12.602) Une société est réputée ne pas avoir renoncé à un montant en vertu du paragraphe (12.601) en ce qui concerne une action si, selon le cas :

a) le montant dépasse l'excédent éventuel du montant payé pour l'action sur le total des autres montants concernant l'action auxquels la société a renoncé en vertu des paragraphes (12.6), (12.601) ou (12.62) au plus tard à la date où la renonciation est faite;

b) le montant dépasse l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) les frais cumulatifs d'aménagement au Canada de la société à la date où la renonciation prend effet, calculés compte non tenu des montants auxquels il a été renoncé en vertu du paragraphe (12.601) à la date où la renonciation est faite,

(ii) le total des montants auxquels la société a renoncé en vertu du paragraphe (12.601) en ce qui concerne d'autres actions, d'une part, à la date où la renonciation est faite et, d'autre part, avec effet au plus tard à la date où la renonciation prend effet;

c) le montant se rattache à des frais d'aménagement au Canada que la société a engagés au cours d'une année civile, et le total des montants auxquels elle a renoncé en vertu du paragraphe (12.601), au plus tard à la date où la renonciation est faite, au titre des frais suivants dépasse 1 000 000 $:

(i) soit les frais d'aménagement au Canada engagés par la société au cours de cette année civile,

(ii) soit les frais d'aménagement au Canada engagés au cours de cette année civile par une autre société qui, au moment où elle engage ces frais, est associée à la société.

(ii) Canadian development expenses incurred in that calendar year by another corporation associated with the corporation at the time the other corporation incurred such expenses

exceeds $1,000,000.

Effect of renunciation

(12.61) Subject to subsections 66(12.69) to 66(12.702), where under subsection 66(12.6) or 66(12.601) a corporation renounces an amount to a person,

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

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

Canadian development expenses to flow-through shareholder

(12.62) Where a person gave consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, in the period that begins on the day the agreement was made and ends 24 months after the end of the month that includes that day, the corporation incurred Canadian development expenses, the corporation may, after it complies with subsection 66(12.68) in respect of the share and before March of the first calendar year that begins after the period, renounce, effective on the day on which the renunciation is made or on an earlier day set out in the form prescribed for the purposes of subsection 66(12.7), to the person in respect of the share the amount, if any, by which the part of those expenses that was incurred on or before the effective date of the renunciation (which part is in this subsection referred to as the "specified expenses") exceeds the total of

(a) the assistance that the corporation has received, is entitled to receive, or can reasonably be expected to receive at any time, and that can reasonably be related to the specified expenses or to Canadian development activities to which the specified expenses relate (other than assistance that can reasonably be related to expenses referred to in paragraph 66(12.62)(b) or 66(12.62)(b.1)),

Effet de la renonciation

(12.61) Sous réserve des paragraphes (12.69) à (12.702), dans le cas où une société renonce à un montant en faveur d'une personne en vertu des paragraphes (12.6) ou (12.601):

a) les frais d'exploration au Canada ou les frais d'aménagement au Canada auxquels ce montant se rapporte sont réputés être des frais d'exploration au Canada de ce montant engagés par cette personne à la date où la renonciation prend effet;

b) les frais d'exploration au Canada ou les frais d'aménagement au Canada auxquels ce montant se rapporte sont réputés, à compter de la date où la renonciation prend effet, n'avoir jamais été engagés par la société.

Renonciation à des frais d'aménagement au Canada en faveur de l'actionnaire

(12.62) Lorsque, conformément à une convention, une personne paie une action accréditive à la société qui l'émet en sa faveur et que la société engage des frais d'aménagement au Canada au cours de la période commençant à la date de conclusion de la convention et se terminant 24 mois après la fin du mois qui comprend cette date, la société peut, en ce qui concerne cette action, après s'être conformée au paragraphe (12.68), renoncer en faveur de cette personne, avant mars de la première année civile commençant après cette période, à l'excédent éventuel de la partie de ces frais (appelée « frais déterminés » au présent paragraphe) qui a été engagée au plus tard à la date où la renonciation prend effet — à savoir le jour où la renonciation est faite ou, s'il est antérieur, le jour de prise d'effet précisé dans le formulaire requis par le paragraphe (12.7) — sur le total des montants suivants :

a) tout montant à titre d'aide que la société a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir à un moment donné et qu'il est raisonnable de rattacher aux frais déterminés ou à des activités d'aménagement au Canada s'y rapportant, à l'exclusion des montants à titre d'aide qu'il est raisonnable de rattacher aux frais visés aux alinéas b) ou b.1);

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

(b.1) all specified expenses that are described in paragraph (e) of the definition ***Canadian development expense*** in subsection 66.2(5) or that are described in paragraph (f) of that definition because of the reference in the latter paragraph to paragraph 66(12.62)(e), and

(c) the total of amounts that are renounced on or before the day on which the renunciation is made by any other renunciation under this subsection or subsection 66(12.601) in respect of those expenses,

but not in any case

(d) exceeding the amount, if any, by which the consideration for the share exceeds the total of other amounts renounced in respect of the share under this subsection or subsection 66(12.6) or 66(12.601) on or before the day on which the renunciation is made, or

(e) exceeding the amount, if any, by which the cumulative Canadian development expense of the corporation on the effective date of the renunciation computed before taking into account any amounts renounced under this subsection on the date on which the renunciation is made, exceeds the total of all amounts renounced under this subsection in respect of any other share

(i) on the date on which the renunciation is made, and

(ii) effective on or before the effective date of the renunciation.

b) ceux des frais déterminés qui constituent des frais généraux d'exploration et d'aménagement au Canada de la société visés par règlement;

b.1) ceux des frais déterminés qui sont visés soit à l'alinéa e) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5), soit à l'alinéa f) de cette définition par l'effet du renvoi à l'alinéa e) qui y figure;

c) les montants au titre de ces frais auxquels, au plus tard le jour où la renonciation est faite, il est par ailleurs renoncé en vertu du présent paragraphe ou du paragraphe (12.601).

Cet excédent ne peut toutefois ni dépasser l'excédent éventuel du montant payé pour l'action sur le total des autres montants concernant l'action auxquels la société a renoncé en vertu du présent paragraphe ou des paragraphes (12.6) ou (12.601) au plus tard le jour où la renonciation est faite, ni dépasser l'excédent éventuel du montant des frais cumulatifs d'aménagement au Canada de la société à la date où la renonciation prend effet — calculé compte non tenu des montants auxquels il a été renoncé en vertu du présent paragraphe le jour où la renonciation est faite — sur le total des montants auxquels il a été renoncé en vertu du présent paragraphe en ce qui concerne d'autres actions, d'une part, le jour où la renonciation est faite et, d'autre part, avec effet au plus tard à la date où la renonciation prend effet.

Effect of renunciation

(12.63) Subject to subsections (12.69) to (12.702), if under subsection (12.62) a corporation renounces an amount to a person,

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

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

(12.64) and (12.65) [Repealed, 1997, c. 25, s. 13(15)]

Effet de la renonciation

(12.63) Sous réserve des paragraphes (12.69) à (12.702), dans le cas où une société renonce à un montant en faveur d'une personne en vertu du paragraphe (12.62) :

a) les frais d'aménagement au Canada auxquels ce montant se rapporte sont réputés être des frais d'aménagement au Canada de ce montant engagés par cette personne à la date où la renonciation prend effet;

b) les frais d'aménagement au Canada auxquels ce montant se rapporte sont réputés, à compter de la date où la renonciation prend effet, n'avoir jamais été engagés par la société.

(12.64) et (12.65) [Abrogés, 1997, ch. 25, art. 13(15)]

Expenses in the first 60 days of year

(12.66) Where

(a) a corporation that issues a flow-through share to a person under an agreement incurs, in a particular calendar year, Canadian exploration expenses or Canadian development expenses,

(a.1) the agreement was made in the preceding calendar year,

(b) the expenses

(i) are described in paragraph (a), (d), (f) or (g.1) of the definition ***Canadian exploration expense*** in subsection 66.1(6) or paragraph (a) or (b) of the definition ***Canadian development expense*** in subsection 66.2(5),

(ii) would be described in paragraph (h) of the definition ***Canadian exploration expense*** in subsection 66.1(6) if the reference to "paragraphs (a) to (d) and (f) to (g.4)" in that paragraph were read as "paragraphs (a), (d), (f) and (g.1)", or

(iii) would be described in paragraph (f) of the definition ***Canadian development expense*** in subsection 66.2(5) if the words "any of paragraphs 66(12.66)(a) to (e)" were read as "paragraph 66(12.66)(a) or (b)",

(c) before the end of that preceding year the person paid the consideration in money for the share to be issued,

(d) the corporation and the person deal with each other at arm's length throughout the particular year, and

(e) in January, February or March of the particular year, the corporation renounces an amount in respect of the expenses to the person in respect of the share in accordance with subsection 66(12.6) or 66(12.601) and the effective date of the renunciation is the last day of that preceding year,

the corporation is, for the purpose of subsection (12.6), or of subsection (12.601) and paragraph (12.602)(b), as the case may be, deemed to have incurred the expenses on the last day of that preceding year.

Restrictions on renunciation

(12.67) A corporation shall be deemed

(a) not to have renounced under any of subsections 66(12.6), 66(12.601) and 66(12.62) any expenses that are deemed to have been incurred by it because of a

Frais engagés dans l'année suivante

(12.66) Pour l'application du paragraphe (12.6) et pour l'application du paragraphe (12.601) et de l'alinéa (12.602)b), la société qui émet une action accréditive à une personne conformément à une convention est réputée avoir engagé des frais d'exploration au Canada ou des frais d'aménagement au Canada le dernier jour de l'année civile précédant une année civile donnée si les conditions ci-après sont réunies :

a) la société engage les frais au cours de l'année donnée;

a.1) la convention a été conclue au cours de l'année précédente;

b) les frais, selon le cas :

(i) sont des dépenses visées aux alinéas a), d), f) ou g.1) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6) ou aux alinéas a) ou b) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5),

(ii) seraient des dépenses visées à l'alinéa h) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6) si le passage « alinéas a) à d) et f) à g.4) » à cet alinéa était remplacé par « alinéas a), d), f) et g.1) »,

(iii) seraient des dépenses visées à l'alinéa f) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) si le passage « à l'un des alinéas a) à e) » était remplacé par « aux alinéas a) ou b) »;

c) la personne a payé l'action à émettre en argent avant la fin de l'année précédente;

d) la société et la personne n'ont entre elles aucun lien de dépendance tout au long de l'année donnée;

e) en janvier, février ou mars de l'année donnée, la société renonce à un montant au titre de ces frais, en ce qui concerne l'action, en faveur de la personne, conformément aux paragraphes (12.6) ou (12.601) et la renonciation prend effet le dernier jour de l'année précédente.

Restrictions

(12.67) Une société est réputée :

a) ne pas avoir renoncé, en vertu de l'un des paragraphes (12.6), (12.601) et (12.62), aux frais qu'elle est réputée avoir engagés à cause d'une renonciation en sa

renunciation under this section by another corporation that is not related to it;

(b) not to have renounced under subsection 66(12.601) to a trust, corporation or partnership any Canadian development expenses (other than expenses renounced to another corporation that renounces under subsection 66(12.6) any Canadian exploration expense deemed to have been incurred by it because of the renunciation under subsection 66(12.601)) if, in respect of the renunciation under subsection 66(12.601), it has a prohibited relationship with the trust, corporation or partnership;

(c) not to have renounced under subsection 66(12.601) any Canadian development expenses deemed to have been incurred by it because of a renunciation under subsection 66(12.62); and

(d) not to have renounced under subsection 66(12.6) to a particular trust, corporation or partnership any Canadian exploration expenses (other than expenses ultimately renounced by another corporation under subsection 66(12.6) to an individual (other than a trust) or to a trust, corporation or partnership with which that other corporation does not have, in respect of that ultimate renunciation, a prohibited relationship) deemed to be incurred by it because of a renunciation under subsection 66(12.601) if, in respect of the renunciation under subsection 66(12.6), it has a prohibited relationship with the particular trust, corporation or partnership.

faveur en vertu du présent article par une autre société qui ne lui est pas liée;

b) ne pas avoir renoncé, en vertu du paragraphe (12.601), en faveur d'une fiducie, d'une société ou d'une société de personnes, à des frais d'aménagement au Canada (sauf les frais auxquels elle renonce en faveur d'une autre société qui renonce, en vertu du paragraphe (12.6), aux frais d'exploration au Canada qu'elle est réputée avoir engagés à cause d'une renonciation en sa faveur en vertu du paragraphe (12.601)) si, en ce qui concerne la renonciation faite en vertu du paragraphe (12.601), elle a un lien non autorisé avec la fiducie, la société ou la société de personnes;

c) ne pas avoir renoncé, en vertu du paragraphe (12.601), aux frais d'aménagement au Canada qu'elle est réputée avoir engagés à cause d'une renonciation en sa faveur en vertu du paragraphe (12.62);

d) ne pas avoir renoncé, en vertu du paragraphe (12.6), en faveur de quelque fiducie, société ou société de personnes donnée, à des frais d'exploration au Canada (sauf les frais auxquels une autre société renonce en fin de compte, en vertu du paragraphe (12.6), en faveur d'un particulier autre qu'une fiducie ou en faveur de quelque fiducie, société ou société de personnes avec laquelle elle n'a pas de lien non autorisé en ce qui concerne cette ultime renonciation) qu'elle est réputée avoir engagés à cause d'une renonciation en sa faveur en vertu du paragraphe (12.601), si, en ce qui concerne la renonciation faite en vertu du paragraphe (12.6), elle a un lien non autorisé avec la fiducie, société ou société de personnes donnée.

Prohibited relationship

(12.671) For the purposes of subsection 66(12.67), where a trust, corporation (in paragraph 66(12.671)(b) referred to as the "shareholder corporation") or partnership, as the case may be, gave consideration under a particular agreement for the issue of a flow-through share of a particular corporation, the particular corporation has, in respect of a renunciation under subsection 66(12.6) or 66(12.601) in respect of the share, a prohibited relationship

(a) with the trust if, at any time after the particular agreement was entered into and before the share is issued to the trust, the particular corporation or any corporation related to the particular corporation is beneficially interested in the trust;

(b) with the shareholder corporation if, immediately before the particular agreement was entered into, the shareholder corporation was related to the particular corporation; or

Lien non autorisé

(12.671) Pour l'application du paragraphe (12.67), dès lors que, conformément à une convention, une fiducie, une société (appelée « société actionnaire » à l'alinéa b)) ou une société de personnes paye une action accréditive à la société donnée qui l'émet en sa faveur, cette dernière a, en ce qui concerne une renonciation faite à l'égard de l'action en vertu des paragraphes (12.6) ou (12.601), un lien non autorisé :

a) avec la fiducie dans le cas où, après la conclusion de la convention et avant l'émission de l'action, la société donnée ou une société liée à celle-ci a un droit de bénéficiaire dans la fiducie;

b) avec la société actionnaire dans le cas où, immédiatement avant la conclusion de la convention, la société actionnaire était liée à la société donnée;

c) avec la société de personnes dans le cas où une partie quelconque du montant auquel il a été renoncé

(c) with the partnership if any part of the amount renounced would, but for subsection 66(12.7001), be included, because of paragraph (h) of the definition ***Canadian exploration expense*** in subsection 66.1(6), in the Canadian exploration expense of

(i) the particular corporation, or

(ii) any other corporation that, at any time

(A) after the particular agreement was entered into, and

(B) before that part of the amount renounced would, but for this paragraph, be incurred,

would, if flow-through shares issued by the particular corporation under agreements entered into at the same time as or after the time the particular agreement was entered into were disregarded, be related to the particular corporation.

serait, si ce n'était le paragraphe (12.7001), incluse, par l'effet de l'alinéa h) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), dans les frais d'exploration au Canada :

(i) soit de la société donnée,

(ii) soit d'une autre société qui serait liée à la société donnée après la conclusion de la convention et avant que soit engagée, abstraction faite du présent alinéa, la partie de montant en question, s'il n'était pas tenu compte des actions accréditives émises par la société donnée aux termes de conventions conclues en même temps que la convention en question ou après.

Filing selling instruments

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

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

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

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

Formulaire sur l'avis ou la convention

(12.68) La société qui s'oblige par convention à émettre des actions accréditives ou se propose d'en émettre par avis d'émission doit présenter au ministre un formulaire prescrit auquel copie de la convention ou de l'avis doit être jointe, au plus tard le dernier jour du mois suivant le premier :

a) du mois au cours duquel la convention est conclue;

b) du mois au cours duquel l'avis est en premier remis à un investisseur éventuel.

Le ministre doit alors attribuer au formulaire un numéro, dont il informe la société.

Filing re partners

(12.69) Where, in a fiscal period of a partnership, an expense is incurred by the partnership as a consequence of a renunciation of an amount under subsection 66(12.6), 66(12.601) or 66(12.62), the partnership shall, before the end of the third month that begins after the end of the period, file with the Minister a prescribed form identifying the share of the expense attributable to each member of the partnership at the end of the period.

Déclaration de renseignements sur la part des associés

(12.69) La société de personnes qui engage des frais au cours d'un exercice à cause d'une renonciation en vertu des paragraphes (12.6), (12.601) ou (12.62) est tenue, avant la fin du troisième mois commençant suivant la fin de l'exercice, de présenter au ministre un formulaire prescrit dans lequel est indiquée la part de ces frais attribuable à un de ses associés à la fin de l'exercice.

Consequences of failure to file

(12.6901) Where a partnership fails to file a prescribed form as required under subsection 66(12.69) in respect of an expense, except for the purpose of subsection

Non-production

(12.6901) La société de personnes qui ne se conforme pas au paragraphe (12.69) est réputée, sauf pour l'application de ce paragraphe, ne pas avoir engagé les frais.

66(12.69) the partnership is deemed not to have incurred the expense.

Filing re assistance

(12.691) Where a partnership receives or becomes entitled to receive assistance as an agent for its members or former members at a particular time in respect of any Canadian exploration expense or Canadian development expense that is or, but for paragraph 66(12.61)(b) or 66(12.63)(b), would be incurred by a corporation, the following rules apply:

(a) where the entitlement of any such member or former member to any part of the assistance is known by the partnership as of the end of the partnership's first fiscal period ending after the particular time and that part of the assistance was not required to be reported under paragraph 66(12.691)(b) in respect of a calendar year ending before the end of that fiscal period, the partnership shall, on or before the last day of the third month following the end of that fiscal period, file with the Minister a prescribed form indicating the share of that part of the assistance paid to each of those members or former members before the end of that fiscal period or to which each of those members or former members is entitled at the end of that fiscal period;

(b) where the entitlement of any of those members or former members to any part of the assistance is known by the partnership as of the end of a calendar year that ends after the particular time and that part of the assistance was not required to be reported under paragraph 66(12.691)(a) in respect of a fiscal period ending at or before the end of that calendar year, or under this paragraph in respect of a preceding calendar year, the partnership shall, on or before the last day of the third month following the end of that calendar year, file with the Minister a prescribed form indicating the share of that part of the assistance paid to each of those members or former members before the end of that fiscal period or to which each of those members or former members is entitled at the end of that calendar year; and

(c) where a prescribed form required to be filed under paragraph 66(12.691)(a) or 66(12.691)(b) is not so filed, the part of that expense relating to the assistance required to be reported in the prescribed form shall be deemed not to have been incurred by the partnership.

Formulaire concernant le montant à titre d'aide

(12.691) Dans le cas où une société de personnes reçoit ou devient en droit de recevoir un montant à titre d'aide à un moment donné en tant que mandataire de ses associés — actuels ou anciens — concernant des frais d'exploration au Canada ou des frais d'aménagement au Canada qu'une société a engagés, ou engagerait si ce n'était les alinéas (12.61)b) ou (12.63)b), les règles suivantes s'appliquent :

a) la société de personnes qui sait, à la fin de son premier exercice se terminant après le moment donné, qu'un des associés a un droit sur une partie du montant à titre d'aide et qui n'est pas tenue de déclarer cette partie en application de l'alinéa b) pour une année civile se terminant avant la fin de cet exercice doit, au plus tard le dernier jour du troisième mois suivant la fin de cet exercice, présenter au ministre un formulaire prescrit, dans lequel est indiquée la part de cette partie du montant à titre d'aide qui a été payée à chaque associé avant la fin de cet exercice ou à laquelle chaque associé a droit à la fin de cet exercice;

b) la société de personnes qui sait, à la fin d'une année civile se terminant après le moment donné, qu'un des associés a un droit sur une partie du montant à titre d'aide et qui n'est pas tenue de déclarer cette partie en application soit de l'alinéa a) pour un exercice se terminant à la fin de cette année civile ou avant, soit du présent alinéa pour une année civile antérieure doit, au plus tard le dernier jour du troisième mois suivant la fin de cette année civile, présenter au ministre un formulaire prescrit, dans lequel est indiquée la part de cette partie du montant à titre d'aide qui a été payée à chaque associé avant la fin de cet exercice ou à laquelle chaque associé a droit à la fin de cette année civile;

c) à défaut de présenter le formulaire, la société de personnes est réputée ne pas avoir engagé la partie des frais relatifs au montant à titre d'aide qui doit y être déclarée.

Filing re renunciation

(12.7) Where a corporation renounces an amount in respect of Canadian exploration expenses or Canadian development expenses under subsection 66(12.6), 66(12.601) or 66(12.62), the corporation shall file a

Formulaire de renonciation

(12.7) La société qui renonce à un montant au titre de frais d'exploration au Canada ou de frais d'aménagement au Canada en vertu des paragraphes (12.6), (12.601) ou (12.62) est tenue, avant la fin du premier mois suivant

prescribed form in respect of the renunciation with the Minister before the end of the first month after the month in which the renunciation is made.

Consequences of failure to file

(12.7001) Where a corporation fails to file a prescribed form as required under subsection 66(12.7) in respect of a renunciation of an amount, subsections 66(12.61) and 66(12.63) do not apply in respect of the amount.

Filing re assistance

(12.701) Where a corporation receives or becomes entitled to receive assistance as an agent in respect of any Canadian exploration expense or Canadian development expense that is or, but for paragraph 66(12.61)(b) or 66(12.63)(b), would be incurred by the corporation, the corporation shall, before the end of the first month after the particular month in which it first becomes known to the corporation that a person that holds a flow-through share of the corporation is entitled to a share of any part of the assistance, file with the Minister a prescribed form identifying the share of the assistance to which each of those persons is entitled at the end of the particular month.

Consequences of failure to file

(12.702) Where a corporation fails to file a prescribed form as required under subsection 66(12.701) in respect of assistance, except for the purpose of subsection 66(12.701) the Canadian exploration expense or Canadian development expense to which the assistance relates is deemed not to have been incurred by the corporation.

Restriction on renunciation

(12.71) A corporation may renounce an amount under subsection 66(12.6), 66(12.601) or 66(12.62) in respect of Canadian exploration expenses or Canadian development expenses incurred by it only to the extent that, but for the renunciation, it would be entitled to a deduction in respect of the expenses in computing its income.

(12.72) [Repealed, 1997, c. 25, s. 13(23)]

Reductions in renunciations

(12.73) Where an amount that a corporation purports to renounce to a person under subsection 66(12.6), 66(12.601) or 66(12.62) exceeds the amount that it can renounce to the person under that subsection,

(a) the corporation shall file a statement with the Minister in prescribed form where

(i) the Minister sends a notice in writing to the corporation demanding the statement, or

celui où la renonciation est faite, de présenter au ministre un formulaire prescrit relatif à la renonciation.

Non-production

(12.7001) Les paragraphes (12.61) et (12.63) ne s'appliquent pas au montant auquel il est renoncé par une société qui ne se conforme pas au paragraphe (12.7) relativement au montant.

Formulaire concernant le montant à titre d'aide

(12.701) La société qui reçoit ou devient en droit de recevoir, en tant que mandataire, un montant à titre d'aide à un moment donné concernant des frais d'exploration au Canada ou des frais d'aménagement au Canada qu'elle a engagés, ou engagerait si ce n'était les alinéas (12.61)b) ou (12.63)b), doit, avant la fin du premier mois suivant le mois au cours duquel elle apprend pour la première fois qu'une personne qui détient une de ses actions accréditives a droit à une part d'une partie d'un tel montant à titre d'aide, présenter au ministre un formulaire prescrit, dans lequel est indiquée la part de cette partie du montant à titre d'aide à laquelle cette personne a droit à la fin de ce mois.

Non-production

(12.702) La société qui ne se conforme pas au paragraphe (12.701) est réputée, sauf pour l'application de ce paragraphe, ne pas avoir engagé les frais d'exploration au Canada ou les frais d'aménagement au Canada auxquels le montant à titre d'aide se rapporte.

Frais raisonnables

(12.71) Une société ne peut renoncer, en vertu des paragraphes (12.6), (12.601) ou (12.62), à un montant au titre des frais d'exploration au Canada ou des frais d'aménagement au Canada qu'elle a engagés que dans la mesure où, sans renonciation, elle aurait droit à une déduction à l'égard de ces frais dans le calcul de son revenu.

(12.72) [Abrogé, 1997, ch. 25, art. 13(23)]

Réductions

(12.73) Dans le cas où un montant auquel une société a censément renoncé en faveur d'une personne en vertu des paragraphes (12.6), (12.601) ou (12.62) excède celui auquel elle pouvait renoncer en vertu de ces paragraphes, les règles suivantes s'appliquent :

a) la société est tenue de présenter au ministre un état sur le formulaire prescrit si, selon le cas :

(ii) the excess arose as a consequence of a renunciation purported to be made in a calendar year under subsection 66(12.6) or 66(12.601) because of the application of subsection 66(12.66) and, at the end of the year, the corporation knew or ought to have known of all or part of the excess;

(b) where subparagraph 66(12.73)(a)(i) applies, the statement shall be filed not later than 30 days after the Minister sends a notice in writing to the corporation demanding the statement;

(c) where subparagraph 66(12.73)(a)(ii) applies, the statement shall be filed before March of the calendar year following the calendar year in which the purported renunciation was made;

(d) except for the purpose of Part XII.6, any amount that is purported to have been so renounced to any person is deemed, after the statement is filed with the Minister, to have always been reduced by the portion of the excess identified in the statement in respect of that purported renunciation; and

(e) where a corporation fails in the statement to apply the excess fully to reduce one or more purported renunciations, the Minister may at any time reduce the total amount purported to be renounced by the corporation to one or more persons by the amount of the unapplied excess in which case, except for the purpose of Part XII.6, the amount purported to have been so renounced to a person is deemed, after that time, always to have been reduced by the portion of the unapplied excess allocated by the Minister in respect of that person.

(i) le ministre lui en fait formellement la demande par écrit,

(ii) l'excédent découle d'une renonciation censément effectuée au cours d'une année civile en vertu des paragraphes (12.6) ou (12.601) par l'effet du paragraphe (12.66) et, à la fin de l'année, la société avait ou aurait dû avoir connaissance de tout ou partie de l'excédent;

b) en cas d'application du sous-alinéa a)(i), l'état doit être présenté au plus tard 30 jours après l'envoi de la demande;

c) en cas d'application du sous-alinéa a)(ii), l'état doit être présenté avant mars de l'année civile subséquente;

d) sauf pour l'application de la partie XII.6, tout montant ayant censément fait l'objet d'une renonciation en faveur d'une personne est réputé, une fois l'état présenté au ministre, avoir toujours été réduit de la partie de l'excédent indiquée dans l'état concernant cette renonciation;

e) lorsqu'une société, dans l'état, n'applique pas la totalité de l'excédent en réduction d'un ou plusieurs montants auxquels il a censément été renoncé, le ministre peut réduire le montant total auquel la société a censément renoncé en faveur d'une ou plusieurs personnes du montant de l'excédent inappliqué, auquel cas le montant auquel il a censément été renoncé en faveur d'une personne est réputé, après le moment de la réduction, sauf pour l'application de la partie XII.6, avoir toujours été réduit de la partie de l'excédent inappliqué que le ministre a attribuée à la personne.

Late filed forms

(12.74) A corporation or partnership may file with the Minister a document referred to in subsection 66(12.68), 66(12.69), 66(12.691), 66(12.7) or 66(12.701) after the particular day on or before which the document is required to be filed under the applicable subsection and the document shall, except for the purposes of this subsection and subsection 66(12.75), be deemed to have been filed on the day on or before which it was required to be filed if

(a) it is filed

(i) on or before the day that is 90 days after the particular day, or

(ii) after the day that is 90 days after the particular day where, in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the document to be filed; and

Documents présentés en retard

(12.74) Une société ou une société de personnes peut présenter au ministre un document visé aux paragraphes (12.68), (12.69), (12.691), (12.7) ou (12.701) après le jour où le document doit au plus tard être présenté selon ces paragraphes. Sauf pour l'application du présent paragraphe et du paragraphe (12.75), le document est réputé présenté dans le délai prévu si les conditions suivantes sont réunies :

a) le document est présenté :

(i) au plus tard le quatre-vingt-dixième jour suivant le jour où il devait l'être au plus tard,

(ii) après le quatre-vingt-dixième jour suivant ce jour, dans le cas où, de l'avis du ministre, les circonstances sont telles qu'il est juste et équitable d'en permettre la présentation;

(b) the corporation or partnership, as the case may be, pays to the Receiver General at the time of filing a penalty in respect of the late filing.

b) la société ou la société de personnes paie au receveur général, au moment de la présentation, une pénalité pour présentation tardive.

Late renunciation

(12.741) Where a corporation purports to renounce an amount under subsection 66(12.6), 66(12.601) or 66(12.62) after the period in which the corporation was entitled to renounce the amount, the amount is deemed, except for the purposes of this subsection and subsections 66(12.7) and 66(12.75), to have been renounced at the end of the period if

(a) the corporation purports to renounce the amount

(i) on or before the day that is 90 days after the end of that period, or

(ii) after the day that is 90 days after the end of that period where, in the opinion of the Minister, the circumstances are such that it would be just and equitable that the amount be renounced; and

(b) the corporation pays to the Receiver General a penalty in respect of the renunciation not more than 90 days after the renunciation.

Renonciation tardive

(12.741) Lorsqu'une société a censément renoncé à un montant en vertu des paragraphes (12.6), (12.601) ou (12.62) après la période au cours de laquelle elle avait le droit de le faire, le montant est réputé, sauf pour l'application du présent paragraphe et des paragraphes (12.7) et (12.75), avoir fait l'objet d'une renonciation à la fin de la période si, à la fois :

a) la société a censément renoncé au montant :

(i) soit au plus tard le quatre-vingt-dixième jour suivant la fin de la période,

(ii) soit après le quatre-vingt-dixième jour suivant la fin de la période si, de l'avis du ministre, les circonstances sont telles qu'il est juste et équitable qu'elle renonce au montant;

b) la société verse au receveur général une pénalité à l'égard de la renonciation au plus tard quatre-vingt-dix jours après celle-ci.

Penalty

(12.75) For the purposes of subsections 66(12.74) and 66(12.741), the penalty in respect of the late filing of a document referred to in subsection 66(12.68), 66(12.69), 66(12.691), 66(12.7) or 66(12.701) or in respect of a renunciation referred to in subsection 66(12.741) is the lesser of $15,000 and

(a) where the penalty is in respect of the late filing of a document referred to in subsection 66(12.68), 66(12.69) or 66(12.7), the greater of

(i) $100, and

(ii) 1/4 of 1% of the maximum amount in respect of the Canadian exploration expenses and Canadian development expenses renounced or attributed or to be renounced or attributed as set out in the document;

(b) where the penalty is in respect of the late filing of a document referred to in subsection 66(12.691) or 66(12.701), the greater of

(i) $100, and

(ii) 1/4 of 1% of the assistance reported in the document; and

Pénalité

(12.75) Pour l'application des paragraphes (12.74) et (12.741), la pénalité pour présentation tardive d'un document visé aux paragraphes (12.68), (12.69), (12.691), (12.7) ou (12.701) ou pour renonciation tardive visée au paragraphe (12.741) correspond au moins élevé de 15 000 $ et :

a) dans le cas d'un document visé aux paragraphes (12.68), (12.69) ou (12.7), du plus élevé des montants suivants :

(i) 100 $,

(ii) 0,25 % du montant maximal au titre des frais d'exploration au Canada ou des frais d'aménagement au Canada qui font ou doivent faire l'objet d'une renonciation ou d'une attribution conformément au document;

b) dans le cas d'un document visé au paragraphe (12.691) ou (12.701), du plus élevé des montants suivants :

(i) 100 $,

(ii) 0,25 % du montant à titre d'aide indiqué dans le document;

(c) where the penalty is in respect of a renunciation referred to in subsection 66(12.741), the greater of

(i) $100, and

(ii) 1/4 of 1% of the amount of the renunciation.

c) dans le cas de la renonciation visée au paragraphe (12.741), du plus élevé des montants suivants :

(i) 100 $,

(ii) 0,25 % du montant de la renonciation.

Limitation

(13) Where a taxpayer has incurred an outlay or expense in respect of which a deduction from income is authorized under more than one provision of this section or section 66.1, 66.2 or 66.4, the taxpayer is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

Limitation

(13) Le contribuable qui a engagé des dépenses à l'égard desquelles une déduction est autorisée par plusieurs dispositions du présent article ou des articles 66.1, 66.2 ou 66.4 ne peut les déduire qu'en vertu d'une seule disposition mais il peut choisir la disposition en vertu de laquelle il effectuera cette déduction.

Short taxation year

(13.1) Where a taxpayer has a taxation year that is less than 51 weeks, the amount determined in respect of the year under each of subparagraph (4)(b)(i), paragraph 66.2(2)(c), subparagraph (b)(i) of the definition ***global foreign resource limit*** in subsection 66.21(1), subparagraph 66.21(4)(a)(i), clause 66.21(4)(a)(ii)(B) and paragraphs 66.4(2)(b) and 66.7(2.3)(a), (4)(a) and (5)(a) shall not exceed that proportion of the amount otherwise determined that the number of days in the year is of 365.

Année d'imposition courte

(13.1) Dans le cas où l'année d'imposition d'un contribuable compte moins de 51 semaines, le montant déterminé pour l'année selon le sous-alinéa (4)b)(i), l'alinéa 66.2(2)c), le sous-alinéa b)(i) de la définition de ***limite globale des frais relatifs à des ressources à l'étranger*** au paragraphe 66.21(1), le sous-alinéa 66.21(4)a)(i), la division 66.21(4)a)(ii)(B) et les alinéas 66.4(2)b) et 66.7(2.3)a), (4)a) et (5)a) ne peut dépasser le produit de la multiplication du montant déterminé par ailleurs par le rapport entre le nombre de jours de l'année et 365.

Amounts deemed deductible under this subdivision

(14) For the purposes of section 3, any amount deductible under the *Income Tax Application Rules* in respect of this subsection shall be deemed to be deductible under this subdivision.

Montants réputés déductibles en vertu de la présente sous-section

(14) Pour l'application de l'article 3, toute somme déductible selon les *Règles concernant l'application de l'impôt sur le revenu* à l'égard du présent paragraphe est réputée déductible en vertu de la présente sous-section.

Designation respecting Canadian exploration expense

(14.1) A corporation may designate for a taxation year, by filing a designation in prescribed form with the Minister on or before the day on or before which it is required to file a return of its income for the year under section 150, a particular amount not exceeding the lesser of

(a) its prescribed Canadian exploration expense for the year, and

(b) its cumulative Canadian exploration expense at the end of the year,

and the particular amount shall be added in computing its cumulative offset account immediately before the end of the year and deducted in computing its cumulative Canadian exploration expense at any time after the end of the year.

Montant désigné au titre des frais d'exploration au Canada

(14.1) Une société peut désigner pour une année d'imposition un montant qui ne dépasse pas le moindre des montants suivants, en présentant une désignation au ministre sur le formulaire prescrit au plus tard à la date où elle est tenue de produire une déclaration de son revenu pour l'année conformément à l'article 150:

a) ses frais d'exploration au Canada, visés par règlement, pour l'année;

b) ses frais cumulatifs d'exploration au Canada à la fin de l'année.

Le montant ainsi désigné doit être, d'une part, ajouté dans le calcul du solde de son compte compensatoire cumulatif immédiatement avant la fin de l'année et, d'autre part, déduit dans le calcul de ses frais cumulatifs d'exploration au Canada à un moment postérieur à la fin de l'année.

Designation respecting cumulative Canadian development expense

(14.2) A corporation may designate for a taxation year, by filing a designation in prescribed form with the Minister on or before the day on or before which it is required to file a return of its income for the year under section 150, a particular amount not exceeding

(a) where a deduction has been made under subsection 66.2(2) in computing its income for the year, the lesser of

(i) 30% of its prescribed Canadian development expense for the year, and

(ii) the amount, if any, by which 30% of its cumulative Canadian development expense at the end of the year exceeds the amount, if any, deducted for the year under subsection 66.2(2) in computing its income for the year, or

(b) where a deduction has not been made under subsection 66.2(2) in computing its income for the year, the lesser of

(i) 30% of its prescribed Canadian development expense for the year, and

(ii) 30% of the amount, if any, of its adjusted cumulative Canadian development expense at the end of the year,

and the particular amount shall be added in computing its cumulative offset account immediately before the end of the year and deducted in computing its cumulative Canadian development expense at any time after the end of the year.

Definition of *adjusted cumulative Canadian development expense*

(14.3) For the purposes of paragraph 66(14.2)(b), ***adjusted cumulative Canadian development expense*** of a corporation at the end of a taxation year means the amount, if any, that would be its cumulative Canadian development expense at the end of the year, if no Canadian resource property were disposed of by it in the year.

Montant désigné au titre des frais cumulatifs d'aménagement au Canada

(14.2) Une société peut désigner pour une année d'imposition un montant qui ne dépasse pas le montant visé à l'alinéa a) ou b) en présentant une désignation au ministre sur le formulaire prescrit au plus tard à la date où elle est tenue de produire une déclaration de son revenu pour l'année conformément à l'article 150:

a) en cas de déduction en vertu du paragraphe 66.2(2) dans le calcul du revenu de la société pour l'année, le moindre des montants suivants :

(i) le montant correspondant à 30 % des frais d'aménagement au Canada, visés par règlement, de la société pour l'année,

(ii) l'excédent éventuel du montant correspondant à 30 % des frais cumulatifs d'aménagement au Canada de la société à la fin de l'année sur le montant déduit pour l'année en vertu du paragraphe 66.2(2) dans le calcul du revenu de la société pour l'année;

b) en l'absence de déduction en vertu du paragraphe 66.2(2) dans le calcul du revenu de la société pour l'année, le moindre des montants suivants :

(i) le montant correspondant à 30 % des frais d'aménagement au Canada, visés par règlement, de la société pour l'année,

(ii) le montant correspondant à 30 % des frais cumulatifs rajustés d'aménagement au Canada de la société à la fin de l'année.

Le montant ainsi désigné doit être, d'une part, ajouté dans le calcul du solde de son compte compensatoire cumulatif immédiatement avant la fin de l'année et, d'autre part, déduit dans le calcul de ses frais cumulatifs d'aménagement au Canada à un moment postérieur à la fin de l'année.

Définition de *frais cumulatifs rajustés d'aménagement au Canada*

(14.3) Pour l'application de l'alinéa (14.2)b), ***frais cumulatifs rajustés d'aménagement au Canada*** s'entend du montant qui correspondrait aux frais cumulatifs d'aménagement au Canada d'une société à la fin d'une année d'imposition si aucun avoir minier canadien n'avait fait l'objet d'une disposition par la société au cours de l'année.

Special cases

(14.4) Where, in the opinion of the Minister, the circumstances of a case are such that it would be just and equitable

(a) to permit a designation under subsection 66(14.1) or 66(14.2) to be filed after the day on or before which it is required by that subsection to be filed, or

(b) to permit a designation filed under subsection 66(14.1) or 66(14.2) to be amended,

the Minister may permit the designation to be filed or amended, as the case may be, after that day, and where the designation or amendment is filed pursuant to that permission, it shall be deemed to have been filed on the day on or before which it was required to be filed if

(c) it is filed with the Minister in prescribed form, and

(d) the corporation filing it pays to the Receiver General at the time of filing the penalty in respect of it,

and where a designation is amended under this subsection, the designation to which the amendment is made shall be deemed not to have been effective.

Penalty for late designation

(14.5) For the purposes of this section, the penalty in respect of a designation or amended designation referred to in paragraph 66(14.4)(a) or 66(14.4)(b) is the lesser of

(a) an amount determined by the formula

0.0025 × A × B

where

A is

(i) in the case of a late-filed designation, the amount designated therein, and

(ii) in the case of an amended designation, the amount, if any, by which the amount designated in the designation being amended differs from the amount designated in the amended designation, and

B is the number of months each of which is included in whole or in part in the period commencing on the day on or before which the designation was required to be filed under subsection 66(14.1) or 66(14.2), as the case may be, and ending on the day the late-filed designation or amended designation, as the case may be, is filed, and

Cas particuliers

(14.4) Le ministre, s'il est d'avis, dans une situation particulière, qu'il serait juste et équitable d'autoriser :

a) soit la présentation de la désignation prévue au paragraphe (14.1) ou (14.2) après la date où, au plus tard, l'un ou l'autre de ces paragraphes prévoit qu'elle doit être faite;

b) soit la modification d'une désignation présentée en vertu du paragraphe (14.1) ou (14.2),

peut autoriser la présentation ou la modification après cette date; la désignation ou la modification présentée conformément à cette autorisation est alors réputée présentée au plus tard le jour où elle devait l'être si les conditions suivantes sont réunies :

c) elle est présentée au ministre sur le formulaire prescrit;

d) la société qui la présente paye au receveur général au moment de cette présentation la pénalité correspondante.

Lorsqu'une désignation est modifiée en vertu du présent paragraphe, la désignation antérieure est réputée ne jamais avoir eu effet.

Pénalité en cas de désignation en retard ou modifiée

(14.5) Pour l'application du présent article, la pénalité en cas de désignation en retard ou de désignation modifiée, visées respectivement aux alinéas (14.4)a) et b), correspond au moindre des montants suivants :

a) le montant calculé selon la formule suivante :

0,0025 × A × B

où :

A représente :

(i) en cas de désignation présentée en retard, le montant désigné,

(ii) en cas de désignation modifiée, la différence éventuelle entre le montant désigné dans la désignation à modifier et celui qui est désigné dans la désignation modifiée,

B le nombre de mois compris en totalité ou en partie dans la période commençant au plus tard le jour où la désignation doit être présentée en vertu du paragraphe (14.1) ou (14.2) et se terminant le jour où la désignation en retard ou la désignation modifiée, selon le cas, est présentée;

b) un montant, n'excédant pas 8 000 $, égal au produit de 100 $ et du nombre de mois compris en totalité

(b) an amount, not exceeding $8,000, equal to the product obtained by multiplying $100 by the number of months each of which is included in whole or in part in the period referred to in the description of B in paragraph 66(14.5)(a).

Deduction of carved-out income

(14.6) A taxpayer may deduct in computing the taxpayer's income under this Part for a taxation year, an amount equal to the total of the taxpayer's carved-out incomes for the year within the meaning assigned by subsection 209(1).

Definitions

(15) In this section,

agreed portion in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed on between the joint exploration corporation and the shareholder corporation not exceeding

(a) the total of all amounts each of which is a payment or loan referred to in paragraph (b) of the definition ***shareholder corporation*** in this subsection 66(15) except to the extent that the payment or loan was made by a shareholder corporation that was not a Canadian corporation and was used by the joint exploration corporation to acquire a Canadian resource property after December 11, 1979 from a shareholder corporation that was not a Canadian corporation) made by the shareholder corporation to the joint exploration corporation during the period it was a shareholder corporation of the joint exploration corporation,

minus

(b) the total of the amounts, if any, previously renounced by the joint exploration corporation under any of subsections 66(10) to 66(10.3) in favour of the shareholder corporation; (*partie convenue*)

assistance means any amount, other than a prescribed amount, received or receivable at any time from a person or government, municipality or other public authority whether the amount is by way of a grant, subsidy, rebate, forgivable loan, deduction from royalty or tax, rebate of royalty or tax, investment allowance or any other form of assistance or benefit; (*montant à titre d'aide*)

Canadian exploration and development expenses incurred by a taxpayer means any expense incurred before May 7, 1974 that is

(a) any drilling or exploration expense, including any general geological or geophysical expense, incurred by

ou en partie dans la période visée à l'élément B figurant à l'alinéa a).

Déduction des revenus miniers et pétroliers

(14.6) Dans le calcul de son revenu en vertu de la présente partie pour une année d'imposition, un contribuable peut déduire le total de ses revenus miniers et pétroliers, au sens du paragraphe 209(1), pour cette année.

Définitions

(15) Les définitions qui suivent s'appliquent au présent article.

action accréditive Action du capital-actions d'une société exploitant une entreprise principale, à l'exclusion d'une action visée par règlement, ou droit d'acquérir une action du capital-actions d'une telle société, à l'exclusion d'un droit visé par règlement, émis à une personne conformément à une convention écrite conclue entre cette personne et la société et par laquelle la société s'oblige, pour une contrepartie qui ne comprend pas un bien que la personne doit échanger ou transférer aux termes de la convention dans des circonstances où les articles 51, 85, 85.1, 86 ou 87 s'appliquent :

a) d'une part, à engager, au cours de la période commençant à la date de conclusion de la convention et se terminant 24 mois après le mois qui comprend cette date, des frais d'exploration au Canada ou des frais d'aménagement au Canada pour un montant total au moins égal au paiement prévu pour l'action ou le droit;

b) d'autre part, à renoncer en ce qui concerne l'action ou le droit en faveur de cette personne, avant mars de la première année civile commençant après cette période, sur le formulaire prescrit, à un montant au titre des frais ainsi engagés qui ne dépasse pas le paiement reçu par la société pour l'action ou le droit. (*flow-through share*)

avis d'émission Lorsqu'il s'agit d'actions accréditives, s'entend d'un prospectus, d'une déclaration d'enregistrement, d'une notice d'offre, d'une offre de souscription ou d'un document analogue donnant les éléments d'une offre (notamment le prix et le nombre des actions), par lequel une société propose d'émettre des actions accréditives. (*selling instrument*)

avoir minier canadien Relativement à un contribuable, bien de celui-ci qui est :

the taxpayer after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,

(b) any prospecting, exploration or development expense incurred by the taxpayer after 1971 in searching for minerals in Canada,

(c) the cost to the taxpayer of any Canadian resource property acquired by the taxpayer after 1971,

(d) the taxpayer's share of the Canadian exploration and development expenses incurred after 1971 by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period the taxpayer was a member or partner thereof,

(e) any expense incurred by the taxpayer after 1971 pursuant to an agreement with a corporation under which the taxpayer incurred the expense solely in consideration for shares of the capital stock of the corporation issued to the taxpayer by the corporation or any interest in such shares or right thereto, to the extent that the expense was incurred as or on account of the cost of

(i) drilling or exploration activities, including any general geological or geophysical activities, in or in respect of exploring or drilling for petroleum or natural gas in Canada,

(ii) prospecting, exploration or development activities in searching for minerals in Canada, or

(iii) acquiring a Canadian resource property, and

(f) any annual payment made by the taxpayer for the preservation of a Canadian resource property,

but, for greater certainty, does not include

(g) any consideration given by the taxpayer for any share or any interest therein or right thereto, except as provided by paragraph (e), or

(h) any expense described in paragraph (e) incurred by another taxpayer to the extent that the expense was, by virtue of that paragraph, a Canadian exploration and development expense of that other taxpayer; (*frais d'exploration et d'aménagement au Canada*)

Canadian resource property of a taxpayer means any property of the taxpayer that is

(a) any right, licence or privilege to explore for, drill for or take petroleum, natural gas or related hydrocarbons in Canada,

a) un droit, permis ou privilège afférent aux travaux d'exploration, de forage ou d'extraction relatifs au pétrole, au gaz naturel ou à des hydrocarbures connexes au Canada;

b) un droit, permis ou privilège afférent :

(i) soit au stockage souterrain de pétrole, de gaz naturel ou d'hydrocarbures connexes au Canada,

(ii) soit aux travaux de prospection, d'exploration, de forage ou d'extraction de minéraux d'une ressource minérale située au Canada, à l'exception d'un gisement de sables bitumineux ou de schiste bitumineux;

c) un puits de pétrole ou de gaz, ou un immeuble ou bien réel, situé au Canada (sauf un bien amortissable) dont la valeur principale dépend de sa teneur en pétrole, en gaz naturel ou en hydrocarbures connexes;

d) un droit à un loyer ou à une redevance calculé en fonction du volume ou de la valeur de la production d'un puits de pétrole ou de gaz, ou d'un gisement naturel de pétrole, de gaz naturel ou d'hydrocarbures connexes, situé au Canada, si le payeur du loyer ou de la redevance a un intérêt ou, pour l'application du droit civil, un droit sur le puits ou le gisement, selon le cas, et si au moins 90 % du loyer ou de la redevance est payable sur la production provenant du puits ou du gisement ou sur le produit tiré de cette production;

e) un droit à un loyer ou à une redevance calculé en fonction du volume ou de la valeur de la production d'une ressource minérale située au Canada, sauf un gisement de sables bitumineux ou de schiste bitumineux, si le payeur du loyer ou de la redevance a un intérêt ou, pour l'application du droit civil, un droit sur la ressource et si au moins 90 % du loyer ou de la redevance est payable sur la production provenant de la ressource ou sur le produit tiré de cette production;

f) un immeuble ou bien réel situé au Canada (sauf un bien amortissable) dont la valeur principale dépend de sa teneur en matières minérales, sauf dans le cas où la matière minérale est un gisement de sables bitumineux ou de schiste bitumineux;

g) un droit ou un intérêt sur un bien visé à l'un des alinéas a) à e) ou, pour l'application du droit civil, un droit relatif à un tel bien, à l'exception d'un droit ou d'un intérêt que le contribuable détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes;

(b) any right, licence or privilege to

(i) store underground petroleum, natural gas or related hydrocarbons in Canada, or

(ii) prospect, explore, drill or mine for minerals in a mineral resource in Canada other than a bituminous sands deposit or an oil shale deposit,

(c) any oil or gas well in Canada or any real property or immovable in Canada the principal value of which depends on its petroleum, natural gas or related hydrocarbon content (not including any depreciable property),

(d) any right to a rental or royalty computed by reference to the amount or value of production from an oil or a gas well in Canada, or from a natural accumulation of petroleum, natural gas or a related hydrocarbon in Canada, if the payer of the rental or royalty has an interest in, or for civil law a right in, the well or accumulation, as the case may be, and 90% or more of the rental or royalty is payable out of, or from the proceeds of, the production from the well or accumulation,

(e) any right to a rental or royalty computed by reference to the amount or value of production from a mineral resource in Canada, other than a bituminous sands deposit or an oil shale deposit, if the payer of the rental or royalty has an interest in, or for civil law a right in, the mineral resource and 90% or more of the rental or royalty is payable out of, or from the proceeds of, the production from the mineral resource,

(f) any real property or immovable in Canada (not including any depreciable property) the principal value of which depends on its mineral resource content other than where the mineral resource is a bituminous sands deposit or an oil shale deposit,

(g) any right to or interest in — or, for civil law, any right to or in — any property described in any of paragraphs (a) to (e), other than a right or an interest that the taxpayer has because the taxpayer is a beneficiary under a trust or a member of a partnership, or

(h) an interest in real property described in paragraph (f) or a real right in an immovable described in that paragraph, other than an interest or a right that the taxpayer has because the taxpayer is a beneficiary under a trust or a member of a partnership; (*avoir minier canadien*)

drilling or exploration expense incurred on or in respect of exploring or drilling for petroleum or natural gas includes any expense incurred on or in respect of

h) un droit réel sur un immeuble visé à l'alinéa f) ou un intérêt sur un bien réel visé à cet alinéa, à l'exception d'un droit ou d'un intérêt que le contribuable détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes. (*Canadian resource property*)

avoir minier étranger Relativement à un contribuable, tout bien qui serait un avoir minier canadien du contribuable si, à la définition de ***avoir minier canadien*** au présent paragraphe, les mentions « au Canada » étaient remplacées par les mentions « à l'étranger ». (*foreign resource property*)

dépenses S'agissant de dépenses engagées ou effectuées par un contribuable avant un moment donné :

a) sont comprises parmi ces dépenses les sommes désignées par lui à ce moment en vertu de l'alinéa 98(3)d) ou (5)d) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, à titre de coût relatif à un bien qui est un avoir minier canadien ou un avoir minier étranger;

b) il est entendu que la présente définition exclut un montant payé ou payable :

(i) soit en contrepartie de services à rendre après ce moment,

(ii) soit au titre ou en paiement intégral ou partiel des loyers visant une période postérieure à ce moment. (*outlay*)

frais d'exploration et d'aménagement à l'étranger Relativement à un contribuable :

a) tous frais d'exploration ou de forage, y compris tous frais généraux d'étude géologique ou géophysique qu'il a engagés après 1971 pour l'exploration ou le forage faits en vue de la découverte de pétrole ou de gaz naturel à l'étranger;

b) tous frais qu'il a engagés en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'une ressource minérale à l'étranger, y compris :

(i) les frais de prospection,

(ii) les frais d'étude géologique, géophysique ou géochimique,

(iii) les frais de forage au moyen d'un appareil rotatif ou à diamant, par battage ou d'autres méthodes,

(a) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,

(b) drilling for water or gas for injection into a petroleum or natural gas formation, or

(c) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well; (*frais d'exploration ou de forage*)

expense, incurred before a particular time by a taxpayer,

(a) includes an amount designated by the taxpayer at that time under paragraph 98(3)(d) or (5)(d) of the*Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as a cost in respect of property that is a Canadian resource property or a foreign resource property,

but

(b) for greater certainty, does not include any amount paid or payable

(i) as consideration for services to be rendered after that time, or

(ii) as, on account or in lieu of payment of, or in satisfaction of, rent in respect of a period after that time; (*dépenses*)

flow-through share means a share (other than a prescribed share) of the capital stock of a principal-business corporation, or a right (other than a prescribed right) to acquire a share of the capital stock of a principal-business corporation, issued to a person under an agreement in writing made between the person and the corporation under which the corporation, for consideration that does not include property to be exchanged or transferred by the person under the agreement in circumstances to which any of sections 51, 85, 85.1, 86 and 87 applies, agrees

(a) to incur, in the period that begins on the day on which the agreement was made and ends 24 months after the month that includes that day, Canadian exploration expenses or Canadian development expenses in an amount not less than the consideration for which the share or right is to be issued, and

(b) to renounce, in prescribed form and before March of the first calendar year that begins after that period, to the person in respect of the share or right, an amount in respect of the Canadian exploration expenses or Canadian development expenses so incurred by it not exceeding the consideration received by the

(iv) les frais de creusage de tranchées, de creusage de trous d'exploration et d'échantillonnage préliminaire;

c) le coût, pour lui, de tout avoir minier étranger qu'il a acquis;

d) sous réserve de l'article 66.8, sa part des frais d'exploration et d'aménagement à l'étranger qu'une société de personnes a engagés après 1971 cours d'un de ses exercices, s'il en était un associé à la fin de cet exercice;

e) tout versement annuel fait par lui pour préserver un avoir minier étranger.

Ne sont pas des frais d'exploration et d'aménagement à l'étranger :

f) un montant inclus dans le coût en capital, pour le contribuable, d'un bien amortissable d'une catégorie prescrite;

g) une dépense engagée après l'entrée en production d'un avoir minier étranger du contribuable en vue d'évaluer la valeur pratique d'une méthode de récupération du pétrole, du gaz naturel ou d'hydrocarbures connexes de la partie d'un réservoir naturel à laquelle l'avoir se rapporte;

h) une dépense (sauf une dépense de forage) engagée après l'entrée en production d'un avoir minier étranger du contribuable en vue de faciliter la récupération de pétrole, de gaz naturel ou d'hydrocarbures connexes de la partie d'un réservoir naturel à laquelle l'avoir se rapporte;

i) une dépense engagée relativement à l'injection d'une substance en vue de faciliter la récupération de pétrole, de gaz naturel ou d'hydrocarbures connexes d'un réservoir naturel;

j) une dépense qui représente le coût ou une partie du coût, pour le contribuable, d'un bien amortissable d'une catégorie prescrite qui a été acquis après le 21 décembre 2000;

k) les frais relatifs à des ressources à l'étranger se rapportant à un pays;

l) une dépense effectuée par le contribuable après le 27 février 2000, sauf si elle a été faite, selon le cas :

(i) conformément à une convention écrite conclue par le contribuable avant le 28 février 2000,

corporation for the share or right; (*action accréditive*)

foreign exploration and development expenses incurred by a taxpayer means

(a) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the taxpayer after 1971 on or in respect of exploring or drilling for petroleum or natural gas outside Canada,

(b) any expense incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of a mineral resource outside Canada, including any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other method, or

(iv) trenching, digging test pits and preliminary sampling,

(c) the cost to the taxpayer of any foreign resource property acquired by him,

(d) subject to section 66.8, the taxpayer's share of the foreign exploration and development expenses incurred after 1971 by a partnership in a fiscal period thereof, if at the end of that period the taxpayer was a member of the partnership, and

(e) any annual payment made by the taxpayer for the preservation of a foreign resource property;

but does not include

(f) any amount included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class,

(g) an expenditure incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates,

(h) an expenditure (other than a drilling expense) incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to assist in the recovery of petroleum,

(ii) en vue de l'acquisition d'un avoir minier étranger par le contribuable,

(iii) en vue :

(A) soit d'accroître la valeur d'un avoir minier étranger dont le contribuable était propriétaire au moment où la dépense a été engagée ou dont il pouvait raisonnablement s'attendre à être propriétaire après ce moment,

(B) soit d'aider à déterminer s'il y a lieu que le contribuable acquière un avoir minier étranger. (*foreign exploration and development expenses*)

frais d'exploration et d'aménagement à l'étranger déterminés S'agissant des frais d'exploration et d'aménagement à l'étranger déterminés d'un contribuable se rapportant à un pays étranger, montant qui est inclus dans ses frais d'exploration et d'aménagement à l'étranger et qui représente, selon le cas :

a) des frais d'exploration ou de forage, y compris les frais généraux d'étude géologique ou géophysique, qu'il a engagés pour l'exploration ou le forage faits en vue de la découverte de pétrole ou de gaz naturel dans le pays;

a.1) des frais qu'il a engagés après le 21 décembre 2000 (autrement que conformément à une convention écrite conclue avant le 22 décembre 2000) en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'une ressource minérale située dans le pays, y compris :

(i) les frais de prospection,

(ii) les frais d'étude géologique, géophysique ou géochimique,

(iii) les frais de forage au moyen d'un appareil rotatif ou à diamant, par battage ou d'autres méthodes,

(iv) les frais de creusage de tranchées, de creusage de trous d'exploration et d'échantillonnage préliminaire;

b) des frais de prospection, d'exploration ou d'aménagement qu'il a engagés avant le 22 décembre 2000 (ou après le 21 décembre 2000 conformément à une convention écrite conclue avant le 22 décembre 2000) dans la recherche de minéraux dans le pays;

c) le coût, pour lui, de ses avoirs miniers étrangers à l'égard du pays;

natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates,

(i) an expenditure incurred at any time relating to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir,

(j) an expenditure that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after December 21, 2000,

(k) foreign resource expenses in respect of a country, or

(l) an expenditure made after February 27, 2000 by the taxpayer unless the expenditure was made

(i) pursuant to an agreement in writing made by the taxpayer before February 28, 2000,

(ii) for the acquisition of foreign resource property by the taxpayer, or

(iii) for the purpose of

(A) enhancing the value of foreign resource property that the taxpayer owned at the time the expenditure was incurred or that the taxpayer had a reasonable expectation of owning after that time, or

(B) assisting in evaluating whether a foreign resource property is to be acquired by the taxpayer; (*frais d'exploration et d'aménagement à l'étranger*)

foreign resource property of a taxpayer means any property that would be a Canadian resource property of the taxpayer if the definition ***Canadian resource property*** in this subsection were read as if the references therein to "in Canada" were references to "outside Canada"; (*avoir minier étranger*)

joint exploration corporation means a principal-business corporation that has not at any time since its incorporation had more than 10 shareholders, not including any individual holding a share for the sole purpose of qualifying as a director; (*société d'exploration en commun*)

original owner of a Canadian resource property or a foreign resource property means a person

d) un versement annuel qu'il fait au cours de son année d'imposition pour préserver un avoir minier étranger à l'égard du pays;

e) un montant réputé par les paragraphes 21(2) ou (4) être des frais d'exploration et d'aménagement à l'étranger qu'il a engagés, dans la mesure où il est raisonnable de considérer qu'il se rapporte à un montant qui serait des frais d'exploration et d'aménagement à l'étranger déterminés se rapportant au pays s'il n'était pas tenu compte du présent alinéa et de l'alinéa f);

f) sous réserve de l'article 66.8, sa part des frais d'exploration et d'aménagement à l'étranger déterminés qu'une société de personnes a engagés relativement au pays au cours d'un de ses exercices s'il était un associé de cette société de personnes à la fin de cet exercice. (*specified foreign exploration and development expense*)

frais d'exploration et d'aménagement au Canada Relativement à un contribuable, les frais suivants, s'ils sont engagés avant le 7 mai 1974:

a) tous frais d'exploration ou de forage, y compris tous frais généraux d'étude géologique ou géophysique qu'il a engagés après 1971 pour l'exploration ou le forage faits en vue de la découverte de pétrole ou de gaz naturel au Canada;

b) tous frais de prospection, d'exploration ou d'aménagement qu'il a engagés après 1971 dans la recherche de minéraux au Canada;

c) le coût, pour lui, de tout avoir minier canadien qu'il a acquis après 1971;

d) sa part des frais d'exploration et d'aménagement au Canada, engagés après 1971 par tout association, société de personnes ou syndicat au cours d'un exercice de ceux-ci, si à la fin de cet exercice il en était membre ou associé;

e) tous frais que le contribuable a engagés après 1971 en conformité avec une convention conclue avec une société et en vertu de laquelle il a engagé ces frais uniquement en contrepartie d'actions du capital-actions de cette société émises en sa faveur par cette dernière ou de toute part ou droits afférents à ces actions, dans la mesure où ces frais ont été engagés au titre du coût :

(i) des activités d'exploration ou de forage, y compris toutes activités générales de nature géologique ou géophysique, touchant directement ou indirectement l'exploration ou le forage entrepris en vue de la découverte de pétrole ou de gaz naturel au Canada,

(a) who owned the property and disposed of it to a corporation that acquired it in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property, and

(b) who would, but for subsection 66.7(12), (13), (13.1) or (17), as the case may be, be entitled in computing that person's income for a taxation year that ends after that person disposed of the property to a deduction under section 29 of the *Income Tax Application Rules* or subsection (2), (3) or (4), 66.1(2) or (3), 66.2(2), 66.21(4) or 66.4(2) of this Act in respect of expenses described in subparagraph 29(25)(c)(i) or (ii) of that Act, Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the person before the person disposed of the property; (*propriétaire obligé*)

outlay, made before a particular time by a taxpayer, has the meaning assigned to the expression ***expense*** by this subsection; (*dépenses*)

predecessor owner of a Canadian resource property or a foreign resource property means a corporation

(a) that acquired the property in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) applies, or would apply if the corporation had continued to own the property, to the corporation in respect of the property,

(b) that disposed of the property to another corporation that acquired it in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) applies, or would apply if the other corporation had continued to own the property, to the other corporation in respect of the property, and

(c) that would, but for subsection 66.7(14), (15), (15.1) or (17), as the case may be, be entitled in computing its income for a taxation year ending after it disposed of the property to a deduction under subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), (2), (2.3), (3), (4) or (5) in respect of expenses incurred by an original owner of the property; (*propriétaire antérieur*)

(ii) des activités de prospection, d'exploration ou d'aménagement afférents à la recherche de minéraux au Canada,

(iii) de l'acquisition d'avoirs miniers canadiens;

f) tout versement annuel effectué par le contribuable pour préserver un avoir minier canadien;

il est toutefois entendu que le terme ne vise pas :

g) une contrepartie fournie par le contribuable en vue de l'acquisition de toute action ou part ou droit y afférents, sauf comme il est prévu à l'alinéa e);

h) des frais visés à l'alinéa e) et engagés par un autre contribuable dans la mesure où ces frais étaient, en vertu de cet alinéa, des frais d'exploration et d'aménagement au Canada de cet autre contribuable. (*Canadian exploration and development expenses*)

frais d'exploration ou de forage Sont compris dans ces frais, engagés pour l'exploration ou le forage faits en vue de la découverte de pétrole ou de gaz naturel, tous frais engagés pour :

a) le forage ou la conversion d'un puits pour l'évacuation des résidus liquides provenant d'un puits de pétrole ou de gaz naturel;

b) le forage fait en vue de la découverte d'eau ou de gaz pour injection dans une formation de pétrole ou de gaz naturel;

c) le forage ou la conversion d'un puits pour l'injection d'eau ou de gaz dans le but de faciliter la récupération du pétrole ou du gaz naturel provenant d'un autre puits. (*drilling or exploration expense*)

montant à titre d'aide Tout montant — à l'exclusion d'un montant prescrit — reçu ou à recevoir à un moment donné, d'une personne ou d'un gouvernement, d'une municipalité ou d'une autre administration, sous forme de prime, subvention, remise, prêt à remboursement conditionnel, déduction de l'impôt, réduction de redevance ou allocation de placement ou sous toute autre forme d'aide ou d'avantage. (*assistance*)

partie convenue Dans le cas d'une société qui était une société actionnaire d'une société d'exploration en commun, le montant dont peuvent convenir la société d'exploration en commun et la société actionnaire, sans toutefois que soit dépassé :

a) le total des montants dont chacun représente un paiement ou un prêt visé à l'alinéa b) de la définition de ***société actionnaire*** au présent paragraphe (sauf

principal-business corporation means a corporation the principal business of which is any of, or a combination of,

(a) the production, refining or marketing of petroleum, petroleum products or natural gas,

(a.1) exploring or drilling for petroleum or natural gas,

(b) mining or exploring for minerals,

(c) the processing of mineral ores for the purpose of recovering metals or minerals from the ores,

(d) the processing or marketing of metals or minerals that were recovered from mineral ores and that include metals or minerals recovered from mineral ores processed by the corporation,

(e) the fabrication of metals,

(f) the operation of a pipeline for the transmission of oil or gas,

(f.1) the production or marketing of calcium chloride, gypsum, kaolin, sodium chloride or potash,

(g) the manufacturing of products, where the manufacturing involves the processing of calcium chloride, gypsum, kaolin, sodium chloride or potash,

(h) the generation or distribution of energy, or the production of fuel, using property described in Class 43.1 or 43.2 of Schedule II to the *Income Tax Regulations*, and

(i) the development of projects for which it is reasonable to expect that at least 50% of the capital cost of the depreciable property to be used in each project would be the capital cost of property described in Class 43.1 or 43.2 of Schedule II to the *Income Tax Regulations*,

or a corporation all or substantially all of the assets of which are shares of the capital stock or indebtedness of one or more principal-business corporations that are related to the corporation (otherwise than because of a right referred to in paragraph 251(5)(b)), (*société exploitant une entreprise principale*)

production from a Canadian resource property or a foreign resource property means

(a) petroleum, natural gas and related hydrocarbons produced from the property,

dans la mesure où ce paiement ou ce prêt a été fait par une société actionnaire qui n'était pas une société canadienne et a été utilisé par la société d'exploration en commun pour acquérir un avoir minier canadien après le 11 décembre 1979 auprès d'une société actionnaire qui n'était pas une société canadienne) et fait par la société actionnaire à la société d'exploration en commun pendant la période où elle était une société actionnaire de la société d'exploration en commun,

moins :

b) la totalité des sommes auxquelles la société d'exploration en commun a antérieurement renoncé en vertu de l'un ou l'autre des paragraphes (10) à (10.3) en faveur de la société actionnaire. (*agreed portion*)

production S'il s'agit de la production tirée d'un avoir minier canadien ou d'un avoir minier étranger, les produits suivants tirés de cet avoir :

a) le pétrole, le gaz naturel et les hydrocarbures connexes;

b) le pétrole brut lourd transformé jusqu'à un stade qui ne dépasse pas celui du pétrole brut ou de son équivalent;

c) le minerai — à l'exclusion du minerai de fer et des sables asphaltiques — transformé jusqu'à un stade qui ne dépasse pas celui du métal primaire ou de son équivalent;

d) le minerai de fer transformé jusqu'à un stade qui ne dépasse pas celui de la boulette ou de son équivalent;

e) les sables asphaltiques transformés jusqu'à un stade qui ne dépasse pas celui du pétrole brut ou de son équivalent;

sont assimilés à de la production les loyers et les redevances provenant d'un avoir minier canadien ou d'un avoir minier étranger et calculés sur la quantité ou la valeur de la production de pétrole, de gaz naturel ou d'hydrocarbures connexes ou de minerai. (*production*)

propriétaire antérieur Société qui, à la fois :

a) a acquis un avoir minier canadien ou un avoir minier étranger dans des circonstances où le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou le paragraphe 66.7(1), (2), (2.3), (3), (4) ou (5) s'applique à la société relativement à l'avoir ou s'appliquerait à celle-ci si elle avait continué d'être propriétaire de l'avoir;

(b) heavy crude oil produced from the property processed to any stage that is not beyond the crude oil stage or its equivalent, (c) ore (other than iron ore or tar sands) produced from the property processed to any stage that is not beyond the prime metal stage or its equivalent,

(d) iron ore produced from the property processed to any stage that is not beyond the pellet stage or its equivalent,

(e) tar sands produced from the property processed to any stage that is not beyond the crude oil stage or its equivalent, and

(f) any rental or royalty from the property computed by reference to the amount or value of the production of petroleum, natural gas or related hydrocarbons or ore; (*production*)

reserve amount of a corporation for a taxation year in respect of an owner or predecessor owner of a Canadian resource property means the amount determined by the formula

A - B

where

A is the total of all amounts that are

(a) required by subsection 59(2) to be included in computing the corporation's income for the year, and

(b) in respect of a reserve, deducted in computing the income of the original owner or predecessor owner and deemed by paragraph 87(2)(g) or by virtue of that paragraph and paragraph 88(1)(e.2) to have been deducted by the corporation as a reserve in computing its income for a preceding taxation year, and

B is the total of amounts deducted in computing the corporation's income for the year by virtue of subsection 64(1), 64(1.1) or 64(1.2) in respect of dispositions by the original owner or predecessor owner, as the case may be; (*provision*)

selling instrument in respect of flow-through shares means a prospectus, registration statement, offering memorandum, term sheet or other similar document that describes the terms of the offer (including the price and number of shares) pursuant to which a corporation offers to issue flow-through shares; (*avis d'émission*)

shareholder corporation of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied

b) a disposé de cet avoir en faveur d'une autre société qui l'a elle-même acquis dans des circonstances où le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou le paragraphe 66.7(1), (2), (2.3), (3), (4) ou (5) s'applique à l'autre société relativement à l'avoir ou s'appliquerait à celle-ci si elle avait continué d'être propriétaire de l'avoir;

c) aurait eu droit, n'eût été le paragraphe 66.7(14), (15), (15.1) ou (17), dans le calcul de son revenu pour une année d'imposition se terminant après qu'elle a disposé de l'avoir, à une déduction prévue au paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou au paragraphe 66.7(1), (2), (2.3), (3), (4) ou (5) au titre des frais engagés par un propriétaire obligé de l'avoir. (*predecessor owner*)

propriétaire obligé Personne qui, à la fois :

a) a disposé d'un avoir minier canadien ou d'un avoir minier étranger dont elle était propriétaire, en faveur d'une société qui l'a acquis dans des circonstances où le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou le paragraphe 66.7(1), (2), (2.3), (3), (4) ou (5) s'applique à la société relativement à l'avoir ou s'appliquerait à celle-ci si elle avait continué d'être propriétaire de l'avoir;

b) aurait eu droit, n'eût été le paragraphe 66.7(12), (13), (13.1) ou (17), dans le calcul de son revenu pour une année d'imposition se terminant après qu'elle a disposé de l'avoir, à une déduction prévue à l'article 29 des *Règles concernant l'application de l'impôt sur le revenu* ou au paragraphe (2), (3) ou (4), 66.1(2) ou (3), 66.2(2), 66.21(4) ou 66.4(2) de la présente loi au titre des frais visés au sous-alinéa 29(25)c)(i) ou (ii) de ces règles, des frais d'exploration et d'aménagement au Canada, des frais globaux relatifs à des ressources à l'étranger, des frais d'exploration au Canada, des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz qu'elle a engagés avant de disposer de l'avoir. (*original owner*)

provision S'il s'agit de la provision d'une société pour une année d'imposition provenant d'un propriétaire obligé ou d'un propriétaire antérieur d'un avoir minier canadien, le montant calculé selon la formule suivante :

A - B

où :

A représente le total des montants suivants :

a) les montants à inclure dans le calcul du revenu de la société pour l'année en application du paragraphe 59(2);

(a) was a shareholder of the joint exploration corporation, and

(b) made a payment or loan to the joint exploration corporation in respect of Canadian exploration and development expenses, a Canadian exploration expense, a Canadian development expense or a Canadian oil and gas property expense incurred or to be incurred by the joint exploration corporation; (*société actionnaire*)

specified foreign exploration and development expense of a taxpayer in respect of a country (other than Canada) means an amount that is included in the taxpayer's foreign exploration and development expenses and that is

(a) a drilling or exploration expense, including any general geological or geophysical expense, incurred by the taxpayer on or in respect of exploring or drilling for petroleum or natural gas in that country,

(a.1) an expense incurred by the taxpayer after December 21, 2000 (otherwise than pursuant to an agreement in writing made before December 22, 2000) for the purpose of determining the existence, location, extent or quality of a mineral resource in that country, including any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other methods, or

(iv) trenching, digging test pits and preliminary sampling,

(b) a prospecting, exploration or development expense incurred by the taxpayer before December 22, 2000 (or after December 21, 2000 pursuant to an agreement in writing made before December 22, 2000) in searching for minerals in that country,

(c) the cost to the taxpayer of the taxpayer's foreign resource property in respect of that country,

(d) an annual payment made by the taxpayer in a taxation year of the taxpayer for the preservation of a foreign resource property in respect of that country,

(e) an amount deemed by subsection 21(2) or (4) to be a foreign exploration and development expense incurred by the taxpayer, to the extent that it can reasonably be considered to relate to an amount that,

b) les montants, à titre de provision, déduits dans le calcul du revenu du propriétaire obligé ou du propriétaire antérieur et réputés déduits à titre de provision, en application soit de l'alinéa 87(2)g), soit de cet alinéa et de l'alinéa 88(1)e.2), dans le calcul du revenu de la société pour une année d'imposition antérieure;

B le total des montants déduits dans le calcul du revenu de la société pour l'année en application du paragraphe 64(1), (1.1) ou (1.2), à titre de dispositions par le propriétaire obligé ou le propriétaire antérieur. (*reserve amount*)

société actionnaire S'agissant d'une société actionnaire d'une société d'exploration en commun, société qui, pendant la période où s'applique ce terme :

a) d'une part, était un actionnaire de la société d'exploration en commun;

b) d'autre part, a fait un paiement ou un prêt à la société d'exploration en commun à l'égard de frais d'exploration et d'aménagement au Canada, de frais d'exploration au Canada, de frais d'aménagement au Canada ou de frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés, ou qui doivent être engagés, par la société d'exploration en commun. (*shareholder corporation*)

société d'exploration en commun Société exploitant une entreprise principale et qui n'a eu, à aucun moment depuis sa constitution, plus de 10 actionnaires, à l'exclusion d'un particulier détenant une action à la seule fin d'acquérir la qualité d'administrateur. (*joint exploration corporation*)

société exploitant une entreprise principale Société dont l'entreprise principale consiste en l'une ou plusieurs des activités suivantes :

a) la production, le raffinage ou la commercialisation du pétrole, de ses dérivés ou du gaz naturel;

a.1) la recherche du pétrole ou du gaz naturel par exploration ou forage;

b) l'extraction de minéraux ou la recherche de minéraux par exploration;

c) le traitement de minerai en vue d'en extraire des métaux ou des minéraux;

d) le traitement ou la commercialisation de métaux ou de minéraux extraits de minerai et contenant des métaux ou des minéraux extraits du minerai traité par la société;

without reference to this paragraph and paragraph (f), would be a specified foreign exploration and development expense in respect of that country, or

(f) subject to section 66.8, the taxpayer's share of the specified foreign exploration and development expenses of a partnership incurred in respect of that country in a fiscal period of the partnership if, at the end of that period, the taxpayer was a member of the partnership. (*frais d'exploration et d'aménagement à l'étranger déterminés*)

e) la fabrication de métaux;

f) l'exploitation d'un pipeline servant au transport du pétrole ou du gaz;

f.1) la production ou la commercialisation du chlorure de calcium, du gypse, du kaolin, du chlorure de sodium ou de la potasse;

g) la fabrication de produits nécessitant le traitement du chlorure de calcium, du gypse, du kaolin, du chlorure de sodium ou de la potasse;

h) la production ou la distribution d'énergie, ou la production de combustible, à l'aide de biens compris dans la catégorie 43.1 ou 43.2 de l'annexe II du *Règlement de l'impôt sur le revenu*;

i) l'élaboration de projets à l'égard desquels il est raisonnable de s'attendre à ce qu'au moins 50 % du coût en capital des biens amortissables à utiliser dans chaque projet soit celui de biens compris dans la catégorie 43.1 ou 43.2 de l'annexe II du *Règlement de l'impôt sur le revenu*.

Est également une société exploitant une entreprise principale la société dont la totalité, ou presque, de l'actif consiste en actions du capital-actions, ou en créances, d'une ou plusieurs autres sociétés exploitant une entreprise principale qui lui sont liées autrement qu'à cause d'un droit visé à l'alinéa 251(5)b). (*principal-business corporation*)

Other definitions

(15.1) The definitions in subsections 66.1(6), 66.2(5), 66.21(1), 66.4(5) and 66.5(2) apply in this section.

Autres définitions

(15.1) Les définitions figurant aux paragraphes 66.1(6), 66.2(5), 66.21(1), 66.4(5) et 66.5(2) s'appliquent au présent article.

Partnerships

(16) For the purposes of subsections 66(12.6) to 66(12.73), the definitions ***assistance*** and ***flow-through share*** in subsection 66(15) and subsections 66(18), 66(19) and 66.3(3) and 66.3(4), a partnership is deemed to be a person and its taxation year is deemed to be its fiscal period.

Société de personnes

(16) Pour l'application des paragraphes (12.6) à (12.73), des définitions de ***action accréditive*** et ***montant à titre d'aide*** au paragraphe (15) et des paragraphes (18), (19) et 66.3(3) et (4), une société de personnes est réputée être une personne et son année d'imposition, correspondre à son exercice.

Non-arm's length partnerships

(17) For the purpose of paragraph (12.66)(d), a partnership and a corporation are, at all times in a calendar year,

(a) deemed not to deal with each other at arm's length, if

(i) an expense is deemed by subsection (12.61) to be incurred by the partnership,

Sociétés et sociétés de personnes liées

(17) Pour l'application de l'alinéa (12.66)d), une société de personnes et une société sont réputées, à tout moment d'une année civile :

a) avoir entre elles un lien de dépendance si les conditions suivantes sont réunies :

(ii) the expense would, if this Act were read without reference to paragraph (12.61)(b), be incurred in the calendar year by the corporation, and

(iii) a share of the expense is included, because of paragraph (h) of the definition ***Canadian exploration expense*** in subsection 66.1(6), in the Canadian exploration expense of the corporation or of a member of the partnership with whom the corporation, at any time in that calendar year, does not deal at arm's length; and

(b) deemed to deal with each other at arm's length, in any other case.

(i) des frais sont réputés par le paragraphe (12.61) être engagés par la société de personnes,

(ii) ces frais seraient engagés par la société au cours de l'année civile s'il n'était pas tenu compte de l'alinéa (12.61)b),

(iii) une part de ces frais est incluse, par l'effet de l'alinéa h) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), dans les frais d'exploration au Canada de la société ou d'un associé de la société de personnes avec lequel la société a un lien de dépendance au cours de cette année civile;

b) ne pas avoir entre elles de lien de dépendance, dans les autres cas.

Members of partnerships

(18) For the purposes of this section, subsection 21(2), sections 59.1 and 66.1 to 66.7, paragraph (d) of the definition ***investment expense*** in subsection 110.6(1), the definition ***pre-production mining expenditure*** in subsection 127(9) and the descriptions of C and D in subsection 211.91(1), where a person's share of an outlay or expense made or incurred by a partnership in a fiscal period of the partnership is included in respect of the person under paragraph (d) of the definition ***foreign exploration and development expenses*** in subsection (15), paragraph (h) of the definition ***Canadian exploration expense*** in subsection 66.1(6), paragraph (f) of the definition ***Canadian development expense*** in subsection 66.2(5), paragraph (e) of the definition ***foreign resource expense*** in subsection 66.21(1) or paragraph (b) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), the portion of the outlay or expense so included is deemed, except for the purposes of applying the definitions ***foreign exploration and development expenses***, ***Canadian exploration expense***, ***Canadian development expense***, ***foreign resource expense*** and ***Canadian oil and gas property expense*** in respect of the person, to be made or incurred by the person at the end of that fiscal period.

Associés

(18) Pour l'application du présent article, du paragraphe 21(2), des articles 59.1 et 66.1 à 66.7, de l'alinéa d) de la définition de ***frais de placement*** au paragraphe 110.6(1), de la définition de ***dépense minière préparatoire*** au paragraphe 127(9) et des éléments C et D de la formule figurant au paragraphe 211.91(1), dans le cas où la part revenant à une personne d'une dépense engagée ou effectuée par une société de personnes au cours de l'exercice de celle-ci est visée, en ce qui concerne la personne, à l'alinéa d) de la définition de ***frais d'exploration et d'aménagement à l'étranger*** au paragraphe (15), à l'alinéa h) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), à l'alinéa f) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5), à l'alinéa e) de la définition de ***frais relatifs à des ressources à l'étranger*** au paragraphe 66.21(1) ou à l'alinéa b) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5), la partie de la dépense ainsi visée est réputée, sauf pour l'application des définitions de ***frais d'exploration et d'aménagement à l'étranger***, ***frais d'exploration au Canada***, ***frais d'aménagement au Canada***, ***frais relatifs à des ressources à l'étranger*** et ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** à l'égard de la personne, être engagée ou effectuée par celle-ci à la fin de l'exercice en cause.

Renunciation by corporate partner, etc.

(19) A corporation is not entitled to renounce under subsection 66(12.6), 66(12.601) or 66(12.62) to a person a specified amount in respect of the corporation where the corporation would not be entitled to so renounce the specified amount if

(a) the expression "end of that fiscal period" in subsection 66(18) were read as "time the outlay or

Renonciation par une société associée

(19) Une société n'a pas le droit de renoncer en faveur d'une personne, en vertu des paragraphes (12.6), (12.601) ou (12.62), à un montant déterminé quant à elle dans le cas où elle n'aurait pas le droit d'y renoncer ainsi si, à la fois :

a) le passage « à la fin de cet exercice » qui figure au paragraphe (18) était remplacé par « au moment où la

expense was made or incurred by the partnership"; and

(b) the expression "on the effective date of the renunciation" in each of paragraphs 66(12.61)(a) and 66(12.63)(a) were read as "at the earliest time that any part of such expense was incurred by the corporation".

société de personnes a engagé ou effectué la dépense »;

b) le passage « à la date où la renonciation prend effet » qui figure à chacun des alinéas (12.61)a) et (12.63) a) était remplacé par « au moment où la société en engage une partie pour la première fois ».

Specified amount

(20) For the purpose of subsection 66(19), a specified amount in respect of a corporation is an amount that represents

(a) all or part of the corporation's share of an outlay or expense made or incurred by a partnership of which the corporation is a member or former member; or

(b) all or part of an amount renounced to the corporation under subsection 66(12.6), 66(12.601) or 66(12.62).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66; 1994, c. 7 Sch. II, s. 38, c. 8, s. 5, c. 21, s. 28; 1995, c. 21, s. 21; 1997, c. 25, s. 13; 1998, c. 19, s. 104; 2001, c. 17, s. 44; 2003, c. 28, s. 4; 2007, c. 35, s. 19; 2010, c. 25, s. 12; 2011, c. 24, s. 13; 2013, c. 34, ss. 111, 199, c. 40, s. 30.

Montant déterminé

(20) Pour l'application du paragraphe (19), le montant déterminé quant à une société correspond à tout ou partie de l'un des montants suivants :

a) sa part d'une dépense engagée ou effectuée par une société de personnes dont elle est un associé ou un ancien associé;

b) un montant auquel il a été renoncé en sa faveur en vertu des paragraphes (12.6), (12.601) ou (12.62).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66; 1994, ch. 7 ann. II, art. 38, ch. 8, art. 5, ch. 21, art. 28; 1995, ch. 21, art. 21; 1997, ch. 25, art. 13; 1998, ch. 19, art. 104; 2001, ch. 17, art. 44; 2003, ch. 28, art. 4; 2007, ch. 35, art. 19; 2010, ch. 25, art. 12; 2011, ch. 24, art. 13; 2013, ch. 34, art. 111 et 199, ch. 40, art. 30.

Amount to be included in income

66.1 (1) There shall be included in computing the amount referred to in paragraph 59(3.2)(b) in respect of a taxpayer for a taxation year the amount, if any, by which

(a) the total of all amounts referred to in the descriptions of F to M in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6) that are deducted in computing the taxpayer's cumulative Canadian exploration expense at the end of the year

exceeds the total of

(b) all amounts referred to in the descriptions of A to E.1 in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6) that are included in computing the taxpayer's cumulative Canadian exploration expense at the end of the year, and

(c) the total determined under subparagraph 66.7(12.1)(a)(i) in respect of the taxpayer for the year.

Sommes à inclure dans le revenu

66.1 (1) Est inclus dans le calcul du montant visé à l'alinéa 59(3.2)b) relativement à un contribuable pour une année d'imposition l'excédent éventuel :

a) du total des montants visés aux éléments F à M de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe (6) et déduits dans le calcul des frais cumulatifs d'exploration au Canada du contribuable à la fin de l'année,

sur le total des montants suivants :

b) les montants visés aux éléments A à E.1 de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe (6) et inclus dans le calcul des frais cumulatifs d'exploration au Canada du contribuable à la fin de l'année;

c) le total calculé selon le sous-alinéa 66.7(12.1)a) (i) relativement au contribuable pour l'année.

Deduction for certain principal-business corporations

(2) In computing the income for a taxation year of a principal-business corporation (other than a corporation that would not be a principal-business corporation if the definition ***principal-business corporation*** in subsection 66(15) were read without reference to paragraphs (h) and (i) of that definition), there may be deducted any amount that the corporation claims not exceeding the lesser of

Déduction pour une société exploitant une entreprise principale

(2) Une société exploitant une entreprise principale (sauf la société qui ne serait pas une telle société s'il était fait abstraction des alinéas h) et i) de la définition de ***société exploitant une entreprise principale*** au paragraphe 66(15)) peut déduire dans le calcul de son revenu pour une année d'imposition un montant ne dépassant pas le moins élevé des montants suivants :

(a) the total of

(i) the amount, if any, by which its cumulative Canadian exploration expense at the end of the year exceeds the amount, if any, designated by it for the year under subsection 66(14.1), and

(ii) the amount, if any, by which

(A) the total determined under subparagraph 66.7(12.1)(a)(i) in respect of the corporation for the year

exceeds

(B) the amount that would be determined under subsection 66.1(1) in respect of the corporation for the year, if that subsection were read without reference to paragraph (c) thereof, and

(b) the amount, if any, by which

(i) the amount that would be its income for the year if no deduction (other than a prescribed deduction) were allowed under this subsection or section 65

exceeds

(ii) the total of all amounts each of which is an amount deducted by the corporation under section 112 or 113 in computing its taxable income for the year.

a) le total des montants suivants :

(i) l'excédent éventuel de ses frais cumulatifs d'exploration au Canada à la fin de l'année sur le montant qu'elle a désigné pour l'année en application du paragraphe 66(14.1),

(ii) l'excédent éventuel du total visé à la division (A) sur le montant visé à la division (B):

(A) le total calculé selon le sous-alinéa 66.7(12.1)a)(i) relativement à la société pour l'année,

(B) le montant qui serait calculé selon le paragraphe (1) relativement à la société pour l'année n'eût été l'alinéa (1)c);

b) l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le montant qui correspondrait à son revenu pour l'année si aucune déduction, sauf une déduction prévue par règlement, n'était permise par le présent paragraphe ou l'article 65,

(ii) le total des montants représentant chacun un montant déduit par la société en application des articles 112 ou 113 dans le calcul de son revenu imposable pour l'année.

Expenses of other taxpayer

(3) In computing the income for a taxation year of a taxpayer that is not a principal-business corporation, or that is a corporation that would not be a principal-business corporation if the definition ***principal-business corporation*** in subsection 66(15) were read without reference to paragraphs (h) and (i) of that definition, there may be deducted such amount as the taxpayer claims not exceeding the total of

(a) the amount, if any, by which the taxpayer's cumulative Canadian exploration expense at the end of the year exceeds the amount, if any, designated by the taxpayer for the year under subsection 66(14.1), and

(b) the amount, if any, by which

(i) the total determined under subparagraph 66.7(12.1)(a)(i) in respect of the taxpayer for the year

exceeds

Frais engagés par d'autres contribuables

(3) Le contribuable qui n'est pas une société exploitant une entreprise principale, ou qui est une société qui ne serait pas une telle société s'il était fait abstraction des alinéas h) et i) de la définition de ***société exploitant une entreprise principale*** au paragraphe 66(15), peut déduire dans le calcul de son revenu pour une année d'imposition un montant ne dépassant pas le total des montants suivants :

a) l'excédent éventuel de ses frais cumulatifs d'exploration au Canada à la fin de l'année sur le montant qu'il a désigné pour l'année en vertu du paragraphe 66(14.1);

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total calculé selon le sous-alinéa 66.7(12.1)a)(i) relativement au contribuable pour l'année,

(ii) the amount that would, but for paragraph 66.1(1)(c), be the amount determined under subsection 66.1(1) in respect of the taxpayer for the year.

(ii) le montant qui, sans l'alinéa (1)c), serait calculé selon le paragraphe (1) relativement au contribuable pour l'année.

Definitions

(6) In this section,

bitumen mine development project, of a taxpayer, means an undertaking for the sole purpose of developing a new mine to extract and process tar sands from a mineral resource of the taxpayer to produce bitumen or a similar product; (*projet de mise en valeur d'une mine de bitume*)

bitumen upgrading development project, of a taxpayer, means an undertaking for the sole purpose of constructing an upgrading facility to process bitumen or a similar feedstock (all or substantially all of which is from a mineral resource of the taxpayer) from a new mine to the crude oil stage or its equivalent; (*projet de valorisation du bitume*)

Canadian exploration expense of a taxpayer means any expense incurred after May 6, 1974 that is

(a) any expense incurred by the taxpayer (other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well) for the purpose of determining the existence, location, extent or quality of an accumulation of petroleum or natural gas (other than a mineral resource) in Canada, including such an expense that is

(i) a geological, geophysical or geochemical expense, or

(ii) an expense for environmental studies or community consultations (including studies or consultations that are undertaken to obtain a right, licence or privilege for the purpose of determining the existence, location, extent or quality of an accumulation of petroleum or natural gas),

(b) any expense (other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well) incurred by the taxpayer after March, 1985 for the purpose of bringing a natural accumulation of petroleum or natural gas (other than a mineral resource) in Canada into production and incurred prior to the commencement of the production (other than the production from an oil or gas well) in reasonable commercial quantities from such accumulation, including

Définitions

(6) Les définitions qui suivent s'appliquent au présent article.

achèvement Le fait d'atteindre, pour la première fois, un niveau de production moyenne, mesuré sur une période de soixante jours, égal à au moins 60 % du niveau prévu de production quotidienne moyenne, déterminé à l'alinéa b) de la définition de ***projet déterminé de mise en valeur d'une mine de sables bitumineux***, pour un projet déterminé de mise en valeur d'une mine de sables bitumineux. (*completion*)

bien désigné En ce qui concerne un projet de mise en valeur d'une mine de sables bitumineux d'un contribuable, bien — bâtiment, construction, machine ou matériel — qui est l'un des biens ci-après ou qui en est une partie intégrante et importante :

a) s'agissant d'un projet de mise en valeur d'une mine de bitume :

(i) concasseur,

(ii) installation de traitement des mousses,

(iii) séparateur primaire,

(iv) générateur de vapeur,

(v) centrale de cogénération,

(vi) station de traitement d'eau;

b) s'agissant d'un projet de valorisation du bitume :

(i) gazéifieur,

(ii) unité de distillation sous vide,

(iii) unité d'hydrocraquage,

(iv) unité d'hydrotraitement,

(v) unité d'hydroraffinage,

(vi) cokeur. (*designated asset*)

fin admise

a) L'utilisation d'un puits de pétrole ou de gaz uniquement dans le cadre d'essais du puits ou de la tête de

(i) clearing, removing overburden and stripping, and

(ii) sinking a shaft or constructing an adit or other underground entry,

(c) any expense incurred before April, 1987 in drilling or completing an oil or gas well in Canada or in building a temporary access road to, or preparing a site in respect of, any such well,

(i) incurred by the taxpayer in the year, or

(ii) incurred by the taxpayer in any previous year and included by the taxpayer in computing the taxpayer's Canadian development expense for a previous taxation year,

if, within six months after the end of the year, the drilling of the well is completed and

(iii) it is determined that the well is the first well capable of production in commercial quantities from an accumulation of petroleum or natural gas (other than a mineral resource) not previously known to exist, or

(iv) it is reasonable to expect that the well will not come into production in commercial quantities within twelve months of its completion,

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

(i) the drilling or completing of the well resulted in the discovery that a natural underground reservoir contains petroleum or natural gas, where

(A) before the time of the discovery, no person or partnership had discovered that the reservoir contained either petroleum or natural gas, and

(B) the discovery occurred at any time before six months after the end of the year,

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

(iii) the period of 24 months commencing on the day of completion of the drilling of the well ends in the year, the expense was incurred within that period and in the year and the well has not within that

puits et du matériel connexe, exécutés dans les règles de l'art de l'ingénierie;

b) la combustion de gaz naturel ou d'hydrocarbures connexes en vue de protéger l'environnement;

c) toute fin prévue par règlement. (*specified purpose*)

frais cumulatifs d'exploration au Canada S'agissant des frais cumulatifs d'exploration au Canada engagés par le contribuable à un moment donné au cours d'une année d'imposition, le montant calculé selon la formule suivante :

(A + B + C + D + E + E.1) - (F + G + H + I + J + J.1 + K + L + M)

où :

A représente le total des frais d'exploration au Canada engagés ou supportés par lui avant ce moment;

B le total des sommes qui ont été incluses, par l'effet du paragraphe (1), dans le calcul des sommes mentionnées à l'alinéa 59(3.2)b) pour les années d'imposition du contribuable se terminant avant ce moment;

C le total des montants, sauf les montants relatifs à l'intérêt, payés par lui après le 6 mai 1974 ou avant à Sa Majesté du chef du Canada relativement à des montants qui lui ont été versés avant le 25 mai 1976 en vertu du règlement visé à l'alinéa a) de l'élément H;

D le total des montants visés à l'élément G dans la mesure où le contribuable établit que ceux-ci sont devenus des créances irrécouvrables avant ce moment;

E la partie du montant représenté par l'élément J que le contribuable a remboursée avant ce moment conformément à une obligation légale de rembourser tout ou partie de ce montant;

E.1 le total des montants déterminés calculés selon l'alinéa 66.7(12.1)a) relativement au contribuable pour les années d'imposition se terminant avant ce moment;

F le total des montants déduits ou à déduire dans le calcul de son revenu pour une année d'imposition qui se termine avant ce moment au titre de ses frais cumulatifs d'exploration au Canada;

G le total des montants qui lui sont devenus payables avant ce moment et qui doivent être inclus dans le montant déterminé en vertu du présent élément aux termes de l'alinéa 66(12.1)a) ou (12.2)a);

H le total des montants qui lui sont payés après le 6 mai 1974 et avant le 25 mai 1976:

period produced otherwise than for specified purposes, or

(iv) there has been filed with the Minister, on or before the day that is 6 months after the end of the taxation year of the taxpayer in which the drilling of the well was commenced, a certificate issued by the Minister of Natural Resources certifying that, on the basis of evidence submitted to that Minister, that Minister is satisfied that

(A) the total of expenses incurred and to be incurred in drilling and completing the well, in building a temporary access road to the well and in preparing the site in respect of the well will exceed $5,000,000, and

(B) the well will not produce, otherwise than for a specified purpose, within the period of 24 months commencing on the day on which the drilling of the well is completed,

(e) any expense deemed by subsection 66.1(9) to be a Canadian exploration expense incurred by the taxpayer,

(f) any expense incurred by the taxpayer (other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well) for the purpose of determining the existence, location, extent or quality of a mineral resource in Canada including such an expense for environmental studies or community consultations (including, notwithstanding subparagraph (v), studies or consultations that are undertaken to obtain a right, licence or privilege for the purpose of determining the existence, location, extent or quality of a mineral resource in Canada) and any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other methods, or

(iv) trenching, digging test pits and preliminary sampling,

but not including

(v) any Canadian development expense,

(v.1) any expense described in subparagraph (i), (iii) or (iv) in respect of the mineral resource,

a) soit en vertu du *Règlement sur l'aide à l'exploration minière dans le Nord*, pris en application d'une loi de crédits et prévoyant des paiements au titre du Programme de subventions visant les minéraux dans le Nord;

b) soit en vertu d'une entente conclue par le contribuable et Sa Majesté du chef du Canada en vertu du Programme de subventions visant les minéraux dans le Nord ou du Programme de développement du ministère des Affaires indiennes et du Nord canadien,

dans la mesure où les montants ont été dépensés par le contribuable au titre des frais d'exploration et d'aménagement ou des frais d'exploration au Canada qu'il a engagés;

I le total des montants dont chacun est un montant reçu avant ce moment au titre de tout montant visé à l'élément D;

J le total des montants à titre d'aide qu'il a reçus ou est en droit de recevoir concernant des frais d'exploration au Canada engagés après 1980, ou qui peuvent raisonnablement se rapporter à des activités d'exploration au Canada postérieures à 1980, dans la mesure où ces montants n'ont pas réduit les frais d'exploration au Canada du contribuable à cause de l'alinéa (9)g);

J.1 le total des montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction des frais cumulatifs d'exploration au Canada du contribuable au plus tard à ce moment;

K le total des montants à déduire avant ce moment en vertu du paragraphe 66(14.1) dans le calcul de ses frais cumulatifs d'exploration au Canada;

L la partie du total des montants représentant chacun un montant qui a été déduit par le contribuable en application des paragraphes 127(5) ou (6) pour une année d'imposition terminée avant ce moment et qu'il est raisonnable d'attribuer à une dépense admissible d'exploration au Canada, à une dépense minière préparatoire ou à une dépense minière déterminée (au sens où ces expressions s'entendent au paragraphe 127(9)) effectuées au cours d'une année d'imposition antérieure;

M le total des montants à déduire avant ce moment selon l'alinéa 66.7(12)b) dans le calcul de ses frais cumulatifs d'exploration au Canada. (*cumulative Canadian exploration expense*)

incurred before a new mine in the mineral resource comes into production in reasonable commercial quantities, that results in revenue or can reasonably be expected to result in revenue earned before the new mine comes into production in reasonable commercial quantities, except to the extent that the total of all such expenses exceeds the total of those revenues, or

(vi) any expense that may reasonably be considered to be related to a mine in the mineral resource that has come into production in reasonable commercial quantities or to be related to a potential or actual extension of the mine,

(g) any expense incurred by the taxpayer after November 16, 1978 and before March 21, 2013 for the purpose of bringing a new mine in a mineral resource in Canada, other than a bituminous sands deposit or an oil shale deposit, into production in reasonable commercial quantities and incurred before the new mine comes into production in such quantities, including an expense for clearing, removing overburden, stripping, sinking a mine shaft or constructing an adit or other underground entry, but not including any expense that results in revenue or can reasonably be expected to result in revenue earned before the new mine comes into production in reasonable commercial quantities, except to the extent that the total of all such expenses exceeds the total of those revenues,

(g.1) any Canadian renewable and conservation expense incurred by the taxpayer,

(g.2) any expense incurred by the taxpayer after March 21, 2011, that is

(i) a specified oil sands mine development expense, or

(ii) an eligible oil sands mine development expense,

(g.3) any expense incurred by the taxpayer that would be described in paragraph (g) if the reference to "March 21, 2013" in that paragraph were "2017" and that is incurred

(i) under an agreement in writing entered into by the taxpayer before March 21, 2013, or

(ii) as part of the development of a new mine, if

(A) the construction of the new mine was started by, or on behalf of, the taxpayer before March 21, 2013 (and for this purpose construction does not include obtaining permits or regulatory

frais d'aménagement admissibles relatifs à une mine de sables bitumineux Dépense engagée par un contribuable après le 21 mars 2011 et avant 2016 dont le montant est déterminé selon la formule suivante :

A × B

où :

A représente une dépense qui représenterait des frais d'exploration au Canada du contribuable visés à l'alinéa g) de la définition de ***frais d'exploration au Canada*** si cet alinéa s'appliquait compte non tenu des passages « et avant le 21 mars 2013 » et « sauf un gisement de sables bitumineux ou de schiste bitumineux » , à l'exclusion d'une dépense qui représente des frais d'aménagement déterminés relatifs à une mine de sables bitumineux;

B :

a) 100 %, si la dépense est engagée avant 2013,

b) 80 %, si elle est engagée en 2013,

c) 60 %, si elle est engagée en 2014,

d) 30 %, si elle est engagée en 2015. (*eligible oil sands mine development expense*)

frais d'aménagement déterminés relatifs à une mine de sables bitumineux Dépense d'un contribuable qui, à la fois :

a) représenterait des frais d'exploration au Canada du contribuable visés à l'alinéa g) de la définition de ***frais d'exploration au Canada*** si cet alinéa s'appliquait compte non tenu des passages « et avant le 21 mars 2013 » et « sauf un gisement de sables bitumineux ou de schiste bitumineux »;

b) est engagée par le contribuable après le 21 mars 2011 et avant 2015;

c) est engagée par le contribuable dans le but d'atteindre l'achèvement de son projet déterminé de mise en valeur d'une mine de sables bitumineux. (*specified oil sands mine development expense*)

frais d'exploration au Canada Relativement à un contribuable, les dépenses suivantes, engagées après le 6 mai 1974:

a) une dépense engagée par le contribuable (à l'exception d'une dépense engagée pour le forage ou l'achèvement d'un puits de pétrole ou de gaz, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour un tel puits) en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'un gisement de pétrole ou de gaz naturel (à

approvals, conducting environmental assessments, community consultations or impact benefit studies, and similar activities), or

(B) the engineering and design work for the construction of the new mine, as evidenced in writing, was started by, or on behalf of, the taxpayer before March 21, 2013 (and for this purpose engineering and design work does not include obtaining permits or regulatory approvals, conducting environmental assessments, community consultations or impact benefit studies, and similar activities),

(g.4) any expense incurred by the taxpayer, the amount of which is determined by the formula

A × B

where

A is an expense that would be described in paragraph (g) if the reference to "March 21, 2013" in that paragraph were "2018" and that is not described in paragraph (g.3), and

B is

(i) 100% if the expense is incurred before 2015,

(ii) 80% if the expense is incurred in 2015,

(iii) 60% if the expense is incurred in 2016, and

(iv) 30% if the expense is incurred in 2017,

(h) subject to section 66.8, the taxpayer's share of any expense referred to in any of paragraphs (a) to (d) and (f) to (g.4) incurred by a partnership in a fiscal period of the partnership, if at the end of the period the taxpayer is a member of the partnership, or

(i) any expense referred to in any of paragraphs (a) to (g) incurred by the taxpayer pursuant to an agreement in writing with a corporation, entered into before 1987, under which the taxpayer incurred the expense solely as consideration for shares, other than prescribed shares, of the capital stock of the corporation issued to the taxpayer or any interest in or right to — or, for civil law, any right in or to — such shares,

but for greater certainty, shall not include

(j) any consideration given by the taxpayer for any share or any interest in or right to — or, for civil law, any right in or to — a share, except as provided by paragraph (i),

(k) any expense described in paragraph (i) incurred by any other taxpayer to the extent that the expense was,

l'exception d'une ressource minérale) au Canada, y compris une telle dépense qui est, selon le cas :

(i) une dépense à des fins géologiques, géophysiques ou géochimiques,

(ii) une dépense à des fins d'études environnementales ou de consultations auprès des collectivités (y compris les études ou les consultations qui sont engagées en vue d'obtenir un droit, un permis ou un privilège en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'un gisement de pétrole ou de gaz naturel);

b) une dépense (à l'exclusion d'une dépense engagée pour le forage ou l'achèvement d'un puits de pétrole ou de gaz ou pour la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement en vue d'un tel puits) engagée par le contribuable, d'une part, après mars 1985 en vue d'amener un gisement naturel de pétrole ou de gaz naturel (à l'exclusion d'une ressource minérale) situé au Canada au stade de la production et, d'autre part, avant le début de la production en quantités commerciales raisonnables (autrement que d'un puits de pétrole ou de gaz) provenant d'un tel gisement, y compris :

(i) les frais de défrichage et d'enlèvement du terrain de couverture,

(ii) les frais de fonçage d'un puits et de construction d'une galerie ou d'une autre entrée souterraine;

c) une dépense, d'une part, engagée avant avril 1987 pour le forage ou l'achèvement d'un puits de pétrole ou de gaz au Canada, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour un tel puits et, d'autre part, engagée par le contribuable :

(i) soit au cours de l'année,

(ii) soit au cours d'une année antérieure si elle est incluse par le contribuable dans le calcul de ses frais d'aménagement au Canada pour une année d'imposition antérieure,

si dans les six mois suivant la fin de l'année, le forage du puits est achevé et :

(iii) soit il est établi que le puits est le premier susceptible d'une production en quantités commerciales à partir d'un gisement de pétrole ou de gaz naturel (à l'exception d'une ressource minérale) jusque-là inconnu,

(i) by virtue of that paragraph, a Canadian exploration expense of that other taxpayer,

(ii) by virtue of paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5), a Canadian development expense of that other taxpayer, or

(iii) by virtue of paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), a Canadian oil and gas property expense of that other taxpayer,

(k.1) an expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 1987,

(k.2) [Repealed, 2011, c. 24, s. 14]

(l) any amount (other than a Canadian renewable and conservation expense) included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class,

(m) an expenditure incurred at any time after the commencement of production from a Canadian resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of, or to assist in the recovery of, petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the Canadian resource property relates,

(n) an expenditure incurred at any time relating to the injection of any substance to assist in the recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir, or

(o) the taxpayer's share of any consideration, expense, cost or expenditure referred to in any of paragraphs (j) to (n) given or incurred by a partnership,

but any assistance that a taxpayer has received or is entitled to receive after May 25, 1976 in respect of or related to the taxpayer's Canadian exploration expense shall not reduce the amount of any of the expenses described in any of paragraphs (a) to (i); (*frais d'exploration au Canada*)

Canadian renewable and conservation expense has the meaning assigned by regulation, and for the purpose of determining whether an outlay or expense in respect of a prescribed energy conservation property is a Canadian renewable and conservation expense, the *Technical Guide to Canadian Renewable and Conservation Expenses (CRCE)*, as amended from time to time and published by the Department of Natural Resources, shall apply conclusively with respect to engineering and scientific

(iv) soit il est raisonnable de s'attendre à ce que le puits ne produise pas de quantités commerciales dans les douze mois suivant son achèvement;

d) une dépense engagée par le contribuable après mars 1987 et au cours d'une année d'imposition du contribuable, pour le forage ou l'achèvement d'un puits de pétrole ou de gaz au Canada, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour un tel puits, à condition, selon le cas :

(i) que le forage ou l'achèvement du puits soit la cause de la découverte qu'un réservoir souterrain naturel contient du pétrole ou du gaz naturel, si, à la fois :

(A) avant la découverte, aucune personne ou société de personnes n'avait découvert que le réservoir contenait du pétrole ou du gaz naturel,

(B) la découverte s'est produite avant l'expiration de la période de six mois suivant la fin de l'année,

(ii) que le puits soit abandonné au cours de l'année ou des six mois suivant la fin de l'année sans avoir jamais produit de pétrole ou de gaz sinon à une fin admise,

(iii) que le terme de la période de 24 mois commençant le jour d'achèvement du forage du puits tombe au cours de l'année, que la dépense soit engagée durant cette période et au cours de l'année et que le puits n'ait pas produit de pétrole ou de gaz durant cette période sinon à une fin admise,

(iv) que soit présentée au ministre, au plus tard six mois après la fin de l'année d'imposition du contribuable au cours de laquelle le forage du puits a commencé, une attestation délivrée par le ministre des Ressources naturelles portant que, compte tenu des éléments de preuve qui lui ont été présentés, il est convaincu :

(A) d'une part, que le total des dépenses engagées et à engager pour le forage ou l'achèvement du puits, la construction d'une route d'accès temporaire au puits et la préparation d'un emplacement pour le puits dépassera 5 000 000 $,

(B) d'autre part, que le puits ne produira pas de pétrole ou de gaz sinon à une fin admise dans la période de 24 mois commençant à la date où le forage du puits est terminé;

matters; (*frais liés aux énergies renouvelables et à l'économie d'énergie au Canada*)

completion, of a specified oil sands mine development project, means the first attainment of a level of average output, measured over a 60-day period, equal to at least 60% of the planned level of average daily output (as determined in paragraph (b) of the definition ***specified oil sands mine development project***) for the specified oil sands mine development project; (*achèvement*)

cumulative Canadian exploration expense of a taxpayer at any time in a taxation year means the amount determined by the formula

(A+B+C+D+E+E.1) - (F+G+H+I+J+J.1+K+L+M)

where

A is the total of all Canadian exploration expenses made or incurred by the taxpayer before that time,

B is the total of all amounts that were, because of subsection (1), included in computing the amount referred to in paragraph 59(3.2)(b) for the taxpayer's taxation years ending before that time,

C is the total of all amounts, except amounts in respect of interest, paid by the taxpayer after May 6, 1974 and before that time to Her Majesty in right of Canada in respect of amounts paid to the taxpayer before May 25, 1976 under the regulations referred to in paragraph (a) of the description of H,

D is the total of all amounts referred to in the description of G that are established by the taxpayer to have become bad debts before that time,

E is such part, if any, of the amount determined for J as has been repaid before that time by the taxpayer pursuant to a legal obligation to repay all or any part of that amount,

E.1 is the total of all specified amounts determined under paragraph 66.7(12.1)(a) in respect of the taxpayer for taxation years ending before that time,

F is the total of all amounts deducted or required to be deducted in computing the taxpayer's income for a taxation year ending before that time in respect of the taxpayer's cumulative Canadian exploration expense,

G is the total of all amounts that became receivable by the taxpayer before that time that are to be included in the amount determined under this description by virtue of paragraph 66(12.1)(a) or 66(12.2)(a),

H is the total of all amounts paid to the taxpayer after May 6, 1974 and before May 25, 1976

e) une dépense réputée par le paragraphe (9) être des frais d'exploration au Canada engagés par le contribuable;

f) une dépense engagée par le contribuable (à l'exception d'une dépense engagée pour le forage ou l'achèvement d'un puits de pétrole ou de gaz, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour le puits) en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'une ressource minérale au Canada, y compris, d'une part, une telle dépense à des fins d'études environnementales ou de consultations auprès des collectivités (y compris, malgré le sous-alinéa (v), les études ou les consultations qui sont engagées en vue d'obtenir un droit, un permis ou un privilège d'exploration en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'une ressource minérale au Canada) et, d'autre part, les frais suivants :

(i) les frais de prospection,

(ii) les frais d'étude géologique, géophysique ou géochimique,

(iii) les frais de forage au moyen d'un appareil rotatif ou à diamant, par battage ou d'autres méthodes,

(iv) les frais de creusage de tranchées, de creusage de trous d'exploration et d'échantillonnage préliminaire,

à l'exclusion :

(v) des frais d'aménagement au Canada,

(v.1) de toute dépense visée aux sous-alinéas (i), (iii) ou (iv) relativement à la ressource minérale qui a été engagée avant l'entrée en production en quantités commerciales raisonnables d'une nouvelle mine située dans la ressource et qui permet de gagner un revenu, ou dont on peut raisonnablement s'attendre à ce qu'elle permette de gagner un revenu, avant l'entrée en production en quantités commerciales raisonnables de la nouvelle mine, sauf dans la mesure où le total de ces dépenses excède le total de ces revenus,

(vi) de toute dépense qu'il est raisonnable de considérer comme étant liée soit à une mine située dans la ressource minérale qui a commencé à produire des quantités commerciales raisonnables, soit à un prolongement potentiel ou réel de cette mine;

g) une dépense engagée par le contribuable après le 16 novembre 1978 et avant le 21 mars 2013 en vue d'amener une nouvelle mine, située dans une ressource

(a) under the *Northern Mineral Exploration Assistance Regulations* made under an appropriation Act that provides for payments in respect of the Northern Mineral Grants Program, or

(b) pursuant to any agreement entered into between the taxpayer and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development,

to the extent that the amounts have been expended by the taxpayer as or on account of Canadian exploration and development expenses or Canadian exploration expense incurred by the taxpayer,

I is the total of all amounts each of which is an amount received before that time on account of any amount referred to in the description of,

J is the total amount of assistance that the taxpayer has received or is entitled to receive in respect of any Canadian exploration expense incurred after 1980 or that can reasonably be related to Canadian exploration activities after 1980, to the extent that the assistance has not reduced the taxpayer's Canadian exploration expense by virtue of paragraph 66.1(9)(g),

J.1 is the total of all amounts by which the cumulative Canadian exploration expense of the taxpayer is required because of subsection 80(8) to be reduced at or before that time,

K is the total of all amounts that are required to be deducted before that time under subsection 66(14.1) in computing the taxpayer's cumulative Canadian exploration expense,

L is that portion of the total of all amounts each of which was deducted by the taxpayer under subsection 127(5) or (6) for a taxation year that ended before that time and that can reasonably be attributed to a qualified Canadian exploration expenditure, a pre-production mining expenditure or a flow-through mining expenditure (each expenditure within the meaning assigned by subsection 127(9)) made in a preceding taxation year, and

M is the total of all amounts that are required to be deducted before that time under paragraph 66.7(12)(b) in computing the taxpayer's cumulative Canadian exploration expense; (*frais cumulatifs d'exploration au Canada*)

designated asset, in respect of an oil sands mine development project of a taxpayer, means a property that is a building, a structure, machinery or equipment and is, or is an integral and substantial part of,

minérale au Canada, sauf un gisement de sables bitumineux ou de schiste bitumineux, au stade de la production en quantités commerciales raisonnables, mais avant l'entrée en production de cette mine en de telles quantités; sont compris parmi ces dépenses les frais de déblaiement, d'enlèvement des terrains de couverture, de dépouillement, de creusage d'un puits de mine et de construction d'une galerie à flanc de coteau ou d'une autre entrée souterraine; en est exclue toute dépense qui permet de gagner un revenu, ou dont on peut raisonnablement s'attendre à ce qu'elle permette de gagner un revenu, avant l'entrée en production en quantités commerciales raisonnables de la nouvelle mine, sauf dans la mesure où le total de ces dépenses excède le total de ces revenus;

g.1) les frais liés aux énergies renouvelables et à l'économie d'énergie au Canada engagés par le contribuable;

g.2) une dépense engagée par le contribuable après le 21 mars 2011, qui représente :

(i) soit des frais d'aménagement déterminés relatifs à une mine de sables bitumineux,

(ii) soit des frais d'aménagement admissibles relatifs à une mine de sables bitumineux;

g.3) une dépense engagée par le contribuable qui serait visée à l'alinéa g) si le passage « le 21 mars 2013 » y était remplacé par « 2017 » et qui est engagée :

(i) soit aux termes d'une convention écrite que le contribuable a conclue avant le 21 mars 2013,

(ii) soit dans le cadre de la mise en valeur d'une nouvelle mine à l'égard de laquelle l'un des énoncés ci-après se vérifie :

(A) la construction de la nouvelle mine a été entreprise par le contribuable, ou pour son compte, avant le 21 mars 2013 (à cette fin, ne sont pas des travaux de construction l'obtention des permis ou des autorisations réglementaires, les évaluations environnementales, la consultation des collectivités, les études sur les répercussions et les avantages et les activités semblables),

(B) les travaux de conception et d'ingénierie pour la construction de la nouvelle mine, documents à l'appui, ont été entrepris par le contribuable, ou pour son compte, avant le 21 mars 2013 (à cette fin, ne sont pas des travaux de conception et d'ingénierie l'obtention des permis

(a) in the case of a bitumen mine development project,

(i) a crusher,

(ii) a froth treatment plant,

(iii) a primary separation unit,

(iv) a steam generation plant,

(v) a cogeneration plant, or

(vi) a water treatment plant, or

(b) in the case of a bitumen upgrading development project,

(i) a gasifier unit,

(ii) a vacuum distillation unit,

(iii) a hydrocracker unit,

(iv) a hydrotreater unit,

(v) a hydroprocessor unit, or

(vi) a coker; (*bien désigné*)

eligible oil sands mine development expense, of a taxpayer, means an expense incurred by the taxpayer after March 21, 2011 and before 2016, the amount of which is determined by the formula

A × B

where

A is an expense that would be a Canadian exploration expense of the taxpayer described in paragraph (g) of the definition ***Canadian exploration expense*** if that paragraph were read without reference to "and before March 21, 2013" and "other than a bituminous sands deposit or an oil shale deposit", but does not include an expense that is a specified oil sands mine development expense, and

B is

(a) 100% if the expense is incurred before 2013,

(b) 80% if the expense is incurred in 2013,

(c) 60% if the expense is incurred in 2014, and

(d) 30% if the expense is incurred in 2015; (*frais d'aménagement admissibles relatifs à une mine de sables bitumineux*)

ou des autorisations réglementaires, les évaluations environnementales, la consultation des collectivités, les études sur les répercussions et les avantages et les activités semblables);

g.4) une dépense engagée par le contribuable, dont le montant est déterminé selon la formule suivante :

A × B

où :

A représente une dépense non visée à l'alinéa g.3) qui serait visée à l'alinéa g) si le passage « le 21 mars 2013 » y était remplacé par « 2018 »,

B :

(i) 100 %, si la dépense est engagée avant 2015,

(ii) 80 %, si elle est engagée en 2015,

(iii) 60 %, si elle est engagée en 2016,

(iv) 30 %, si elle est engagée en 2017;

h) sous réserve de l'article 66.8, la part revenant au contribuable d'une dépense visée à l'un des alinéas a) à d) et f) à g.4) qu'une société de personnes a engagée au cours d'un de ses exercices, dans le cas où le contribuable était un associé de la société de personnes à la fin de cet exercice;

i) une dépense visée à l'un des alinéas a) à g) et engagée par le contribuable conformément à une convention écrite conclue avec une société avant 1987 par laquelle le contribuable n'engage la dépense qu'en paiement d'actions de la société — à l'exclusion des actions visées par règlement — émises en sa faveur ou d'intérêts ou de droits sur de telles actions ou, pour l'application du droit civil, de droits relatifs à de telles actions;

il est entendu toutefois que le terme ne vise pas :

j) une contrepartie donnée par le contribuable pour une action — ou un intérêt ou un droit sur celle-ci ou, pour l'application du droit civil, un droit relatif à celle-ci — sauf dans le cas prévu à l'alinéa i);

k) une dépense visée à l'alinéa i) et engagée par un autre contribuable dans la mesure où cette dépense consistait, selon le cas, en :

(i) frais d'exploration au Canada engagés par cet autre contribuable, en vertu de cet alinéa,

(ii) frais d'aménagement au Canada engagés par cet autre contribuable, en vertu de l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5),

oil sands mine development project, of a taxpayer, means a bitumen mine development project or a bitumen upgrading development project of the taxpayer; (*projet de mise en valeur d'une mine de sables bitumineux*)

preliminary work activity, in respect of an oil sands mine development project, means activity that is preliminary to the acquisition, construction, fabrication or installation by or on behalf of a taxpayer of designated assets in respect of the taxpayer's oil sands mine development project including, without limiting the generality of the foregoing, the following activities:

(a) obtaining permits or regulatory approvals,

(b) performing design or engineering work,

(c) conducting feasibility studies,

(d) conducting environmental assessments, and

(e) entering into contracts; (*travaux préliminaires*)

restricted expense of a taxpayer means an expense

(a) incurred by the taxpayer before April, 1987,

(b) that is deemed by paragraph 66(10.2)(c) to have been incurred by the taxpayer, or included by the taxpayer in the amount referred to in paragraph (a) of the definition ***Canadian development expense*** in subsection 66.2(5) by virtue of paragraph 66(12.3)(b), to the extent that the expense was originally incurred before April, 1987,

(c) that was renounced by the taxpayer under subsection 66(10.2), 66(12.601) or 66(12.62),

(d) in respect of which an amount referred to in subsection 66(12.3) becomes receivable by the taxpayer,

(e) deemed to be a Canadian exploration expense of the taxpayer or any other taxpayer by virtue of subsection 66.1(9), or

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

specified oil sands mine development expense, of a taxpayer, means an expense that

(a) would be a Canadian exploration expense described in paragraph (g) of the definition ***Canadian exploration expense*** if that paragraph were read without reference to "and before March 21, 2013" and

(iii) frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par cet autre contribuable, en vertu de l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5);

k.1) une dépense qui représente le coût ou une partie du coût, pour le contribuable, d'un bien amortissable d'une catégorie prescrite qui a été acquis après 1987;

k.2) [Abrogé, 2011, ch. 24, art. 14]

l) un montant (sauf des frais liés aux énergies renouvelables et à l'économie d'énergie au Canada) inclus dans le coût en capital, pour le contribuable, d'un bien amortissable d'une catégorie prescrite;

m) une dépense engagée après l'entrée en production d;un avoir minier canadien du contribuable en vue d'évaluer la valeur pratique d'une méthode de récupération du pétrole, du gaz naturel ou d'hydrocarbures connexes de la partie d'un réservoir naturel à laquelle l'avoir se rapporte ou en vue de faciliter la récupération de ces ressources;

n) une dépense engagée relativement à l'injection d'une substance en vue de faciliter la récupération de pétrole, de gaz naturel ou d'hydrocarbures connexes d'un réservoir naturel;

o) la part revenant au contribuable d'une contrepartie, d'une dépense ou d'un coût, visé à l'un des alinéas j) à n), donné ou engagé par une société de personnes;

cependant aucun montant à titre d'aide qu'un contribuable a reçu ou est en droit de recevoir après le 25 mai 1976 concernant ses frais d'exploration au Canada ou s'y rapportant ne peut réduire une dépense visée à l'un des alinéas a) à i). (*Canadian exploration expense*)

frais liés aux énergies renouvelables et à l'économie d'énergie au Canada S'entend au sens du règlement. Lorsqu'il s'agit de déterminer si une dépense engagée ou effectuée relativement à un bien économisant l'énergie visé par règlement constitue des frais liés aux énergies renouvelables et à l'économie d'énergie, le *Guide technique relatif aux frais liés aux énergies renouvelables et à l'économie d'énergie au Canada (FEREEC)*, avec ses modifications successives, publié par le ministère des Ressources naturelles, est concluant en matière technique et scientifique. (*Canadian renewable and conservation expense*)

frais spécifiés Frais, selon le cas :

a) que le contribuable engage avant avril 1987;

"other than a bituminous sands deposit or an oil shale deposit",

(b) is incurred by the taxpayer after March 21, 2011 and before 2015, and

(c) is incurred by the taxpayer to achieve completion of a specified oil sands mine development project of the taxpayer; (*frais d'aménagement déterminés relatifs à une mine de sables bitumineux*)

specified oil sands mine development project, of a taxpayer, means an oil sands mine development project (not including any preliminary work activity) in respect of which

(a) one or more designated assets was, before March 22, 2011,

(i) acquired by the taxpayer, or

(ii) in the process of being constructed, fabricated or installed, by or on behalf of the taxpayer, and

(b) the planned level of average daily output (where that output is bitumen or a similar product in the case of a bitumen mine development project, or synthetic crude oil or a similar product in the case of a bitumen upgrading development project) that can reasonably be expected, is the lesser of

(i) the level that was the demonstrated intention of the taxpayer as of March 21, 2011 to produce from the oil sands mine development project, and

(ii) the maximum level of output associated with the design capacity, as of March 21, 2011, of the designated asset referred to in paragraph (a); (*projet déterminé de mise en valeur d'une mine de sables bitumineux*)

specified purpose means

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

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

(c) prescribed purposes. (*fin admise*)

b) dans la mesure où ils sont initialement engagés avant avril 1987, que le contribuable est réputé par l'alinéa 66(10.2)c) engager ou qu'il ajoute au montant visé à l'alinéa a) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) à cause de l'alinéa 66(12.3) b);

c) auxquels le contribuable renonce en vertu des paragraphes 66(10.2), (12.601) ou (12.62),

d) pour lesquels un montant visé au paragraphe 66(12.3) devient à recevoir par le contribuable;

e) qui sont réputés par le paragraphe (9) constituer des frais d'exploration au Canada du contribuable ou d'un autre contribuable;

f) si le contribuable est une société, que celle-ci engage avant le moment où une ou plusieurs personnes en acquièrent le contrôle pour la dernière fois. (*restricted expense*)

projet de mise en valeur d'une mine de bitume Tout projet qu'un contribuable entreprend dans l'unique but de mettre en valeur une nouvelle mine en vue d'extraire d'une ressource minérale dont il est propriétaire, et de traiter, des sables asphaltiques qui serviront à produire du bitume ou un produit semblable. (*bitumen mine development project*)

projet de mise en valeur d'une mine de sables bitumineux Projet de mise en valeur d'une mine de bitume ou projet de valorisation de bitume d'un contribuable. (*oil sands mine development project*)

projet déterminé de mise en valeur d'une mine de sables bitumineux Tout projet de mise en valeur d'une mine de sables bitumineux d'un contribuable, abstraction faite de tous travaux préliminaires, à l'égard duquel, à la fois :

a) un ou plusieurs biens désignés, selon le cas :

(i) ont été acquis par le contribuable avant le 22 mars 2011,

(ii) étaient, avant cette date, en voie de construction, de fabrication ou d'installation par le contribuable ou pour son compte;

b) le niveau prévu de production quotidienne moyenne (cette production consistant, dans le cas d'un projet de mise en valeur d'une mine de bitume, en bitume ou en un produit semblable ou, dans le cas d'un projet de valorisation du bitume, en pétrole brut synthétique ou en un produit semblable) auquel il est

raisonnable de s'attendre correspond au moins élevé des niveaux suivants :

(i) le niveau correspondant à l'intention manifeste du contribuable, au 21 mars 2011, d'obtenir une production attribuable au projet de mise en valeur d'une mine de sables bitumineux,

(ii) le niveau maximal de production associé à la capacité théorique, au 21 mars 2011, des biens désignés visés à l'alinéa a). (*specified oil sands mine development project*)

projet de valorisation du bitume Tout projet qu'un contribuable entreprend dans l'unique but de construire une installation de valorisation pour traiter le bitume ou une charge d'alimentation semblable (dont la totalité ou la presque totalité provient d'une ressource minérale dont le contribuable est propriétaire) provenant d'une nouvelle mine jusqu'au stade du pétrole brut ou son équivalent. (*bitumen upgrading development project*)

travaux préliminaires Toute activité préalable à l'acquisition, à la construction, à la fabrication ou à l'installation, par un contribuable ou pour son compte, de biens désignés relativement à un projet de mise en valeur d'une mine de sables bitumineux du contribuable, notamment :

a) l'obtention des permis ou des autorisations réglementaires;

b) les travaux de conception ou d'ingénierie;

c) les études de faisabilité;

d) les évaluations environnementales;

e) la passation de contrats. (*preliminary work activity*)

Application of ss. 66(15), 66.2(5) and 66.4(5)

(6.1) The definitions in subsections 66(15), 66.2(5) and 66.4(5) apply to this section.

Application des par. 66(15), 66.2(5) et 66.4(5)

(6.1) Les définitions figurant aux paragraphes 66(15), 66.2(5) et 66.4(5) s'appliquent au présent article.

Deductible expense

(6.2) An expense of a taxpayer that is not included in paragraph (f) or (g) of the definition ***Canadian exploration expense*** in subsection (6) because the taxpayer earned revenue from a mine in a mineral resource is deemed, for the purposes of this Part, not to be an outlay or payment described in paragraph 18(1)(b).

Dépense déductible

(6.2) Toute dépense d'un contribuable qui n'est pas visée aux alinéas f) ou g) de la définition de ***frais d'exploration au Canada*** au paragraphe (6) du fait que le contribuable a tiré un revenu d'une mine située dans une ressource minérale est réputée, pour l'application de la présente partie, ne pas être une dépense ou un paiement visés à l'alinéa 18(1)b).

Share of partner

(7) Where a taxpayer is a member of a partnership, the taxpayer's share of any amount that would be an amount referred to in the description of E, G or J in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6) in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph 96(1)(d) shall, for the purposes of this Act, be deemed to be an amount referred to in the description of E, G or J, as the case may be, in that definition in respect of the taxpayer for the taxation year of the taxpayer in which the partnership's taxation year ends.

(8) [Repealed, 1997, c. 25, s. 14(6)]

Canadian development expenses for preceding years

(9) Where at any time in a taxpayer's taxation year

(a) the drilling or completing of an oil or gas well resulted in the discovery that a natural underground reservoir contains petroleum or natural gas and, before the time of the discovery, no person or partnership had discovered that the reservoir contained either petroleum or natural gas,

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

(c) an oil or gas well that has never produced, otherwise than for specified purposes, is abandoned,

the amount, if any, by which the total of

(d) all Canadian development expenses (other than restricted expenses) described in subparagraph (a)(ii) of the definition ***Canadian development expense*** in subsection 66.2(5) in respect of the well that are deemed by subsection 66(10.2) or 66(12.63) to have been incurred by the taxpayer in the year or a preceding taxation year,

(e) all Canadian development Canadian development expenses (other than restricted expenses) described in subparagraph (a)(ii) of the definition ***Canadian development expense*** in subsection 66.2(5) in respect of the well that are required by paragraph 66(12.3)(b) to be included by the taxpayer in the amount referred to in paragraph (a) of that definition for the year or a preceding taxation year, and

(f) all Canadian development expenses (other than expenses referred to in paragraph 66.1(9)(d) or 66.1(9)(e) and restricted expenses) described in subparagraph

Part d'un associé

(7) Pour l'application de la présente loi, la part d'un contribuable — associé d'une société de personnes — sur un montant qui, sans l'alinéa 96(1)d), serait visé à l'élément E, G ou J de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe (6) quant à la société de personnes pour son année d'imposition est réputée être un montant visé à ces éléments quant au contribuable pour son année d'imposition au cours de laquelle l'année d'imposition de la société de personnes prend fin.

(8) [Abrogé, 1997, ch. 25, art. 14(6)]

Frais d'aménagement au Canada d'années antérieures

(9) Lorsque, à un moment donné d'une année d'imposition d'un contribuable, se produit l'un ou l'autre des cas suivants :

a) le forage ou l'achèvement d'un puits de pétrole ou de gaz est la cause de la découverte qu'un réservoir souterrain naturel contient du pétrole ou du gaz naturel et, avant la découverte, aucune personne ou société de personnes n'avait découvert que le réservoir contenait du pétrole ou du gaz naturel;

b) la période de 24 mois commençant le jour de l'achèvement du forage du puits prend fin et le puits n'a pas produit de pétrole ou de gaz durant cette période sinon à une fin admise;

c) le puits est abandonné sans avoir jamais produit de pétrole ou de gaz sinon à une fin admise,

est réputé, pour l'application de la présente loi, être des frais d'exploration au Canada visés à l'alinéa e) de la définition de ***frais d'exploration au Canada*** au paragraphe (6) et engagés par le contribuable à ce moment l'excédent éventuel du total des montants suivants :

d) les frais d'aménagement au Canada concernant le puits — à l'exclusion des frais spécifiés — visés au sous-alinéa a)(ii) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) et qui sont réputés par le paragraphe 66(10.2) ou (12.63) engagés par le contribuable au cours de l'année ou d'une année d'imposition antérieure;

e) les frais d'aménagement au Canada concernant le puits — à l'exclusion des frais spécifiés — visés au sous-alinéa a)(ii) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) et que le contribuable doit inclure, en vertu de l'alinéa 66(12.3)b), dans le montant visé à l'alinéa a) de cette

(a)(ii) of the definition ***Canadian development expense*** in subsection 66.2(5) incurred by the taxpayer in respect of the well in a taxation year preceding the year,

exceeds

(g) any assistance that the taxpayer or a partnership of which the taxpayer is a member has received or is entitled to receive in respect of the expenses referred to in any of paragraphs 66.1(9)(d) to 66.1(9)(f),

shall, for the purposes of this Act, be deemed to be a Canadian exploration expense referred to in paragraph (e) of the definition ***Canadian exploration expense*** in subsection 66.1(6) incurred by the taxpayer at that time.

Certificate ceasing to be valid

(10) A certificate in respect of an oil or gas well issued by the Minister of Natural Resources for the purposes of subparagraph (d)(iv) of the definition ***Canadian exploration expense*** in subsection 66.1(6) shall be deemed never to have been issued and never to have been filed with the Minister where

(a) the well produces, otherwise than for a specified purpose, within the period of 24 months commencing on the day on which the drilling of the well was completed; or

(b) in applying for the certificate, the applicant, in any material respect, provided any incorrect information or failed to provide information.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.1; 1994, c. 7, Sch. II, s. 39, c. 8, s. 6, c. 41, par. 37(1)(o); 1995, c. 21, s. 22; 1997, c. 25, s. 14; 2001, c. 17, s. 45; 2003, c. 28, s. 5; 2011, c. 24, s. 14; 2013, c. 34, ss. 112, 200, c. 40, s. 31; 2016, c. 7, s. 7.

Amount to be included in income

66.2 (1) There shall be included in computing the amount referred to in paragraph 59(3.2)(c) in respect of a taxpayer for a taxation year the amount, if any, by which the total of

(a) all amounts referred to in the descriptions of E to O in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) that are deducted in computing the taxpayer's cumulative Canadian development expense at the end of the year, and

(b) the amount that is designated by the taxpayer for the year under subsection 66(14.2)

exceeds the total of

(c) all amounts referred to in the descriptions of A to .1 in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) that are included

définition pour l'année ou pour une année d'imposition antérieure;

f) les frais d'aménagement au Canada concernant le puits — à l'exclusion des frais visés aux alinéas d) et e) et des frais spécifiés — visés au sous-alinéa a)(ii) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) et engagés par le contribuable au cours d'une année d'imposition antérieure à l'année,

sur :

g) tous montants à titre d'aide qu'il a reçus ou est en droit de recevoir, ou qu'une société de personnes dont le contribuable est un associé a reçus ou est en droit de recevoir, concernant les frais visés aux alinéas d) à f).

Attestation invalide

(10) L'attestation concernant un puits de pétrole ou de gaz délivrée par le ministre des Ressources naturelles pour l'application du sous-alinéa d)(iv) de la définition de ***frais d'exploration au Canada*** au paragraphe (6) est réputée ne jamais avoir été délivrée et ne jamais avoir été présentée au ministre si, selon le cas :

a) le puits produit du pétrole ou du gaz, autrement qu'à une fin admise, dans les 24 mois commençant à la date où le forage du puits est terminé;

b) dans sa demande d'attestation, le contribuable fournit des renseignements faux, ou ne fournit pas de renseignements, sur des points importants.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66.1; 1994, ch. 7, ann. II, art. 39, ch. 8, art. 6, ch. 41, al. 37(1)o); 1995, ch. 21, art. 22; 1997, ch. 25, art. 14; 2001, ch. 17, art. 45; 2003, ch. 28, art. 5; 2011, ch. 24, art. 14; 2013, ch. 34, art. 112 et 200, ch. 40, art. 31; 2016, ch. 7, art. 7.

Sommes à inclure dans le revenu

66.2 (1) Est inclus dans le calcul du montant visé à l'alinéa 59(3.2)c) relativement à un contribuable pour une année d'imposition l'excédent éventuel du total des montants suivants :

a) les montants visés aux éléments E à O de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe (5) et qui sont déduits dans le calcul des frais cumulatifs d'aménagement au Canada du contribuable à la fin de l'année;

b) le montant que le contribuable a désigné pour l'année en vertu du paragraphe 66(14.2),

sur le total des montants suivants :

c) les montants visés aux éléments A à D.1 de la formule figurant à la définition de ***frais cumulatifs***

in computing the taxpayer's cumulative Canadian development expense at the end of the year, and

(d) the total determined under subparagraph 66.7(12.1)(b)(i) in respect of the taxpayer for the year.

Deduction for cumulative Canadian development expenses

(2) A taxpayer may deduct, in computing the taxpayer's income for a taxation year, such amount as the taxpayer may claim not exceeding the total of

(a) the lesser of

(i) the total of

(A) the taxpayer's cumulative Canadian development expense at the end of the year, and

(B) the amount, if any, by which

(I) the total determined under subparagraph 66.7(12.1)(b)(i) in respect of the taxpayer for the year

exceeds

(II) the amount that would, but for paragraph 66.2(1)(d), be determined under subsection 66.2(1) in respect of the taxpayer for the year, and

(ii) the amount, if any, by which the amount determined under subparagraph 66.4(2)(a)(ii) exceeds the amount determined under subparagraph 66.4(2)(a)(i),

(b) the lesser of

(i) the amount, if any, by which the amount determined under subparagraph 66.2(2)(a)(i) exceeds the amount determined under subparagraph 66.2(2)(a)(ii), and

(ii) the amount, if any, by which the total of all amounts each of which is

(A) an amount included in the taxpayer's income for the year by virtue of a disposition in the year of inventory described in section 66.3 that was a share or any interest in or right to — or, for civil law, any right in or to — a share, acquired by the taxpayer under circumstances described in paragraph (g) of the definition ***Canadian development expense*** in subsection (5) or

d'aménagement au Canada au paragraphe (5) et qui sont inclus dans le calcul des frais cumulatifs d'aménagement au Canada du contribuable à la fin de l'année;

d) le total calculé selon le sous-alinéa 66.7(12.1)b) (i) relativement au contribuable pour l'année.

Déduction pour frais cumulatifs d'aménagement au Canada

(2) Un contribuable peut déduire, dans le calcul de son revenu pour une année d'imposition, le montant déductible ne dépassant pas le total des montants suivants :

a) le moins élevé des montants suivants :

(i) le total des montants suivants :

(A) les frais cumulatifs d'aménagement au Canada du contribuable à la fin de l'année,

(B) l'excédent éventuel du total visé à la subdivision (I) sur le montant visé à la subdivision (II):

(I) le total calculé selon le sous-alinéa 66.7(12.1)b) (i) relativement au contribuable pour l'année,

(II) le montant qui, sans l'alinéa (1)d), serait calculé selon le paragraphe (1) relativement au contribuable pour l'année,

(ii) l'excédent éventuel du montant établi conformément au sous-alinéa 66.4(2)a)(ii) sur le montant établi conformément au sous-alinéa 66.4(2)a)(i);

b) le moins élevé des montants suivants :

(i) l'excédent éventuel du montant établi conformément au sous-alinéa a)(i) sur le montant établi conformément au sous-alinéa a)(ii),

(ii) l'excédent éventuel du total des montants dont chacun représente :

(A) soit un montant inclus dans son revenu pour l'année du fait de la vente de biens à porter à son inventaire en vertu de l'article 66.3 et qui étaient une action, ou un intérêt ou un droit sur celle-ci ou, pour l'application du droit civil, un droit relatif à celle-ci, acquis par le contribuable dans des circonstances visées à l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe (5) ou à l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6),

paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), or

(B) an amount included by virtue of paragraph 12(1)(e) in computing the taxpayer's income for the year to the extent that it relates to inventory described in clause 66.2(2)(b)(ii)(A)

exceeds

(C) the total of all amounts deducted as a reserve by virtue of paragraph 20(1)(n) in computing the taxpayer's income for the year to the extent that the reserve relates to inventory described in clause 66.2(2)(b)(ii)(A), and

(c) 30% of the amount, if any, by which the amount determined under subparagraph 66.2(2)(b)(i) exceeds the amount determined under subparagraph 66.2(2)(b)(ii).

(B) soit un montant, relatif aux biens à porter à l'inventaire et visés à la division (A), inclus dans le calcul de son revenu pour l'année en vertu de l'alinéa 12(1)e),

sur :

(C) le total des montants, relatifs à des biens à porter à l'inventaire et visés à la division (A), déduits à titre de provision en vertu de l'alinéa 20(1)n) dans le calcul de son revenu pour l'année;

c) un montant égal à 30 % de l'excédent éventuel du montant calculé en vertu du sous-alinéa b)(i) sur le montant calculé en vertu du sous-alinéa b)(ii).

Definitions

(5) In this section,

Canadian development expense of a taxpayer means any cost or expense incurred after May 6, 1974 that is

(a) any expense incurred by the taxpayer in

(i) drilling or converting a well in Canada for the disposal of waste liquids from an oil or gas well,

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

(iii) drilling or converting a well in Canada for the injection of water, gas or any other substance to assist in the recovery of petroleum or natural gas from another well,

(iv) drilling for water or gas in Canada for injection into a petroleum or natural gas formation, or

(v) drilling or converting a well in Canada for the purposes of monitoring fluid levels, pressure changes or other phenomena in an accumulation of petroleum or natural gas,

(b) any expense incurred by the taxpayer in drilling or recompleting an oil or gas well in Canada after the commencement of production from the well,

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

frais cumulatifs d'aménagement au Canada S'agissant des frais cumulatifs d'aménagement au Canada engagés par un contribuable à un moment donné au cours d'une année d'imposition, le montant calculé selon la formule suivante :

(A + B + C + D + D.1) - (E + F + G + H + I + J + K + L + M + M.1 + N + O)

où :

A représente le total des frais d'aménagement au Canada engagés par lui avant ce moment;

B le total des sommes qui ont été incluses, par l'effet du paragraphe (1), dans le calcul des sommes mentionnées à l'alinéa 59(3.2)c) pour les années d'imposition se terminant avant ce moment;

C le total des montants visés aux éléments F ou G dans la mesure où le contribuable peut établir qu'ils sont devenus des créances irrécouvrables avant ce moment;

D la partie du montant représenté par l'élément M que le contribuable a remboursée avant ce moment conformément à une obligation légale de rembourser tout ou partie de ce montant;

D.1 le total des montants déterminés calculés selon l'alinéa 66.7(12.1)b) relativement au contribuable pour les années d'imposition se terminant avant ce moment;

(c) any expense incurred by the taxpayer before November 17, 1978 for the purpose of bringing a mineral resource in Canada into production and incurred prior to the commencement of production from the resource in reasonable commercial quantities, including

(i) clearing, removing overburden and stripping, and

(ii) sinking a mine shaft, constructing an adit or other underground entry,

(c.1) any expense, or portion of any expense, that is not a Canadian exploration expense, incurred by the taxpayer for the purpose of bringing a new mine in a mineral resource in Canada that is a bituminous sands deposit or an oil shale deposit into production and incurred before the new mine comes into production in reasonable commercial quantities, including an expense for clearing the land, removing overburden and stripping, or building an entry ramp,

(c.2) any expense, or portion of any expense, that is not a Canadian exploration expense, incurred by the taxpayer after March 20, 2013 for the purpose of bringing a new mine in a mineral resource in Canada, other than a bituminous sands deposit or an oil shale deposit, into production in reasonable commercial quantities and incurred before the new mine comes into production in such quantities, including an expense for clearing, removing overburden, stripping, sinking a mine shaft or constructing an adit or other underground entry,

(d) any expense (other than an amount included in the capital cost of depreciable property) incurred by the taxpayer after 1987

(i) in sinking or excavating a mine shaft, main haulage way or similar underground work designed for continuing use, for a mine in a mineral resource in Canada built or excavated after the mine came into production, or

(ii) in extending any such shaft, haulage way or work,

(e) the cost to the taxpayer of, including any payment for the preservation of a taxpayer's rights in respect of, any property described in paragraph (b), (e) or (f) of the definition ***Canadian resource property*** in subsection 66(15), or any right to or interest in — or for civil law, any right in or to — the property (other than a right or an interest that the taxpayer has by reason of being a beneficiary under a trust or a member of a partnership),

E le total des montants déduits dans le calcul de son revenu pour une année d'imposition qui se termine avant ce moment au titre de ses frais cumulatifs d'aménagement au Canada;

F le total des montants représentant chacun un montant relatif soit à un bien visé aux alinéas b), e) ou f) de la définition de ***avoir minier canadien*** au paragraphe 66(15), soit à un bien dont il est disposé après le 21 mars 2011, mais qui était visé à l'un de ces alinéas et dont le coût, au moment où le contribuable l'a acquis, a été inclus dans ses frais d'aménagement au Canada, soit à un droit ou à un intérêt sur un tel bien ou, pour l'application du droit civil, à un droit relatif à un tel bien, à l'exclusion d'un tel droit ou intérêt qu'il détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes, (appelé « bien donné » au présent élément) dont le contribuable a disposé avant ce moment, égal à l'excédent :

a) de l'excédent éventuel du produit de disposition tiré du bien donné, devenu à recevoir par le contribuable après le 6 mai 1974 mais avant ce moment, sur toute dépense qu'il a engagée ou effectuée après le 6 mai 1974 mais avant ce moment en vue de réaliser la disposition et qui n'était pas par ailleurs déductible pour l'application de la présente partie,

sur :

b) l'excédent éventuel :

(i) du total des montants qui seraient déterminés selon l'alinéa 66.7(4)a), immédiatement avant le moment (appelé « moment déterminé » au présent alinéa) auquel le produit de disposition est devenu à recevoir, relativement au contribuable et à un propriétaire obligé du bien donné (ou de tout autre bien acquis par le contribuable en même temps que le bien donné dans les circonstances déterminées au paragraphe 66.7(4) et pour lequel le produit de disposition est devenu à recevoir par le contribuable au moment déterminé) si, à la fois :

(A) il n'était pas tenu compte des montants devenus à recevoir au moment déterminé ou après,

(B) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir avant le moment déterminé était effectuée avant ce moment,

(C) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(4)a),

(D) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe

(f) subject to section 66.8, the taxpayer's share of any expense referred to in any of paragraphs (a) to (e) incurred by a partnership in a fiscal period thereof at the end of which the taxpayer was a member of the partnership, unless the taxpayer elects in respect of the share in prescribed form and manner on or before the day that is 6 months after the taxpayer's taxation year in which that period ends, or

(g) any cost or expense referred to in any of paragraphs (a) to (e) incurred by the taxpayer pursuant to an agreement in writing with a corporation, entered into before 1987, under which the taxpayer incurred the cost or expense solely as consideration for shares, other than prescribed shares, of the capital stock of the corporation issued to the taxpayer or any interest in or right to — or, for civil law, any right in or to — such shares,

but for greater certainty, shall not include

(h) any consideration given by the taxpayer for any share or any interest in or right to — or, for civil law, any right in or to — a share, except as provided by paragraph (g),

(i) any expense described in paragraph (g) incurred by any other taxpayer to the extent that the expense was,

(i) by virtue of that paragraph, a Canadian development expense of that other taxpayer,

(ii) by virtue of paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), a Canadian exploration expense of that other taxpayer, or

(iii) by virtue of paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), a Canadian oil and gas property expense of that other taxpayer,

(i.1) an expense that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class that was acquired after 1987,

(j) any amount included at any time in the capital cost to the taxpayer of any depreciable property of a prescribed class, or

(k) the taxpayer's share of any consideration, expense, cost or expenditure referred to in any of paragraphs (h) to (j) given or incurred by a partnership,

but any assistance that a taxpayer has received or is entitled to receive after May 25, 1976 in respect of or related to the taxpayer's Canadian development expense shall

80(8) au moment déterminé ou postérieurement,

sur le total :

(ii) des montants qui seraient déterminés selon l'alinéa 66.7(4)a) au moment déterminé relativement au contribuable et à un propriétaire obligé du bien donné (ou de cet autre bien) si, à la fois :

(A) il n'était pas tenu compte des montants devenus à recevoir après le moment déterminé,

(B) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir au moment déterminé ou avant était effectuée avant ce moment,

(C) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(4)a),

(D) il n'était pas tenu compte des montants visés au sous-alinéa 66.7(4)a)(iii) et devenus à recevoir au moment déterminé,

(E) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe 80(8) au moment déterminé ou postérieurement,

(iii) de la partie du montant déterminé par ailleurs selon le présent alinéa qui est par ailleurs appliquée en réduction du montant déterminé par ailleurs selon le présent élément;

G le total des montants devenus recevables par lui avant ce moment et qui doivent être inclus dans le montant déterminé en vertu du présent élément aux termes de l'alinéa 66(12.1)b) ou (12.3)a);

H le total des montants dont chacun est un montant inclus par le contribuable à titre de dépense en vertu de l'alinéa a) de la définition de ***frais d'aménagement au Canada*** au présent paragraphe dans le calcul de ses frais d'aménagement au Canada pour une année d'imposition antérieure et qui est devenu des frais d'exploration au Canada du contribuable à cause du sous-alinéa c)(ii) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6);

I le total des montants dont chacun est un montant qui, avant ce moment, est devenu des frais d'exploration au Canada du contribuable à cause du paragraphe 66.1(9);

J le total des montants dont chacun est un montant reçu avant ce moment au titre de tout montant visé à l'élément C;

not reduce the amount of any of the expenses described in any of paragraphs (a) to (g); (*frais d'aménagement au Canada*)

cumulative Canadian development expense of a taxpayer at any time in a taxation year means the amount determined by the formula

(A+B+C+D+D.1) - (E+F+G+H+I+J+K+L+M+M.1+N+O)

where

A is the total of all Canadian development expenses made or incurred by the taxpayer before that time,

B is the total of all amounts that were, because of subsection (1), included in computing the amount referred to in paragraph 59(3.2)(c) for taxation years ending before that time,

C is the total of all amounts referred to in the description of F or G that are established by the taxpayer to have become bad debts before that time,

D is such part, if any, of the amount determined for M as has been repaid before that time by the taxpayer pursuant to a legal obligation to repay all or any part of that amount,

D.1 is the total of all specified amounts, determined under paragraph 66.7(12.1)(b) in respect of the taxpayer for taxation years ending before that time,

E is the total of all amounts deducted in computing the taxpayer's income for a taxation year ending before that time in respect of the taxpayer's cumulative Canadian development expense,

F is the total of all amounts each of which is an amount in respect of property described in paragraph (b), (e) or (f) of the definition ***Canadian resource property*** in subsection 66(15) or property disposed of after March 21, 2011 which was described in any of those paragraphs and the cost of which when acquired by the taxpayer was included in the Canadian development expense of the taxpayer, or any right to or interest in — or, for civil law, any right in or to — such a property, other than such a right or an interest that the taxpayer has by reason of being a beneficiary under a trust or a member of a partnership, (in this description referred to as "the particular property") disposed of by the taxpayer before that time equal to the amount, if any, by which

(a) the amount, if any, by which the proceeds of disposition in respect of the particular property that became receivable by the taxpayer after May 6, 1974 and before that time exceed any outlays or expenses that were made or incurred by the taxpayer after May 6, 1974 and before that time for

K le total des montants qui lui ont été versés après le 6 mai 1974 ou avant le 25 mai 1976:

a) soit en vertu du *Règlement sur l'aide à l'exploration minière dans le Nord* pris en application d'une loi de crédits et prévoyant des paiements au titre du Programme de subventions visant les minéraux dans le Nord;

b) soit en vertu d'une entente conclue par le contribuable et Sa Majesté du chef du Canada en vertu du Programme d'aide à l'exploration minière dans le Nord ou du Programme de développement du ministère des Affaires indiennes et du Nord canadien,

dans la mesure où les montants ont été dépensés par le contribuable au titre des frais d'aménagement au Canada engagés par lui;

L l'excédent du total des montants déterminés selon le paragraphe 66.4(1) pour une année d'imposition du contribuable se terminant au plus tard à ce moment sur le total des montants représentant chacun le moins élevé des montants suivants :

a) le montant qui serait déterminé selon l'alinéa 66.7(4)a), au moment (appelé « moment particulier » au présent élément) qui correspond à la fin de la plus récente année d'imposition du contribuable se terminant au plus tard au moment donné, relativement au contribuable à titre de société remplaçante dans le cadre de la disposition (appelée « disposition initiale » au présent élément) d'un avoir minier canadien effectuée par une personne qui est un propriétaire obligé de l'avoir en raison de la disposition initiale, si, à la fois :

(i) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(4)a),

(ii) dans le cas où le contribuable a disposé de tout ou partie de l'avoir dans les circonstances déterminées au paragraphe 66.7(4), ce paragraphe continuait de s'appliquer au contribuable relativement à la disposition initiale comme si les sociétés remplaçantes subséquentes étaient la même personne que le contribuable,

(iii) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir avant le moment particulier était effectuée avant ce moment;

b) l'excédent éventuel du total des montants représentant chacun un montant devenu à recevoir par le contribuable au plus tard au moment particulier et avant 1993 et inclus dans le calcul du montant déterminé selon le sous-alinéa

the purpose of making the disposition and that were not otherwise deductible for the purposes of this Part

exceeds

(b) the amount, if any, by which

(i) the total of all amounts that would be determined under paragraph 66.7(4)(a), immediately before the time (in this paragraph referred to as the "relevant time") when such proceeds of disposition became receivable, in respect of the taxpayer and an original owner of the particular property (or of any other property acquired by the taxpayer with the particular property in circumstances in which subsection 66.7(4) applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time) if

(A) amounts that became receivable at or after the relevant time were not taken into account,

(B) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable before the relevant time were made before the relevant time,

(C) paragraph 66.7(4)(a) were read without reference to "30% of", and

(D) no reduction under subsection 80(8) at or after the relevant time were taken into account

exceeds the total of

(ii) all amounts that would be determined under paragraph 66.7(4)(a) at the relevant time in respect of the taxpayer and an original owner of the particular property (or of that other property) if

(A) amounts that became receivable after the relevant time were not taken into account,

(B) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable at or before the relevant time were made before the relevant time,

(C) paragraph 66.7(4)(a) were read without reference to "30% of",

(D) amounts described in subparagraph 66.7(4)(a)(iii) that became receivable at the relevant time were not taken into account, and

66.7(5)a)(ii) relativement à la disposition initiale sur l'excédent éventuel :

(i) dans le cas où le contribuable a disposé de tout ou partie de l'avoir avant le moment particulier dans les circonstances déterminées au paragraphe 66.7(5), du montant qui serait déterminé au moment particulier selon le sous-alinéa 66.7(5)a)(i) relativement à la disposition initiale si ce sous-alinéa continuait de s'appliquer au contribuable relativement à cette disposition comme si les sociétés remplaçantes subséquentes étaient la même personne que le contribuable,

(ii) dans les autres cas, du montant déterminé au moment particulier selon le sous-alinéa 66.7(5)a)(i) relativement à la disposition initiale,

sur :

(iii) le montant qui serait déterminé au moment particulier selon le sous-alinéa 66.7(5)a)(ii) relativement à la disposition initiale s'il n'était pas tenu compte des passages « ou par la société remplaçante » à ce sous-alinéa, ni des montants devenus à recevoir après 1992;

c) zéro, dans le cas où, à la fois :

(i) après la disposition initiale et au plus tard au moment particulier, le contribuable a disposé de tout ou partie de l'avoir dans les circonstances déterminées au paragraphe 66.7(4), autrement que par voie de fusion ou d'unification ou autrement que par le seul effet de l'alinéa 66.7(10)c),

(ii) la liquidation du contribuable a commencé au moment donné ou avant ou la disposition visée au sous-alinéa (i) (sauf si elle est effectuée aux termes d'une convention écrite conclue avant le 22 décembre 1992) a été effectuée après le 21 décembre 1992;

M le total des montants à titre d'aide qu'il a reçus ou est en droit de recevoir, concernant des frais d'aménagement au Canada — y compris des frais qui sont devenus des frais d'exploration au Canada du contribuable à cause du paragraphe 66.1(9) — engagés après 1980, ou qui peuvent raisonnablement se rapporter à des activités d'aménagement au Canada postérieures à 1980;

M.1 le total des montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction des frais cumulatifs d'aménagement au Canada du contribuable au plus tard à ce moment;

(E) no reduction under subsection 80(8) at or after the relevant time were taken into account, and

(iii) such portion of the amount otherwise determined under this paragraph as was otherwise applied to reduce the amount otherwise determined under this description,

G is the total of all amounts that became receivable by the taxpayer before that time that are to be included in the amount determined under this description by virtue of paragraph 66(12.1)(b) or 66(12.3)(a),

H is the total of all amounts each of which is an amount included by the taxpayer as an expense under paragraph (a) of the definition ***Canadian development expense*** in this subsection in computing the taxpayer's Canadian development expense for a previous taxation year that has become a Canadian exploration expense of the taxpayer by virtue of subparagraph (c)(ii) of the definition ***Canadian exploration expense*** in subsection 66.1(6),

I is the total of all amounts each of which is an amount that before that time has become a Canadian exploration expense of the taxpayer by virtue of subsection 66.1(9),

J is the total of all amounts each of which is an amount received before that time on account of any amount referred to in the description of C

K is the total of all amounts paid to the taxpayer after May 6, 1974 and before May 25, 1976

(a) under the *Northern Mineral Exploration Assistance Regulations* made under an appropriation Act that provides for payments in respect of the Northern Mineral Grants Program, or

(b) pursuant to any agreement, entered into between the taxpayer and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development,

to the extent that the amounts have been expended by the taxpayer as or on account of Canadian development expense incurred by the taxpayer,

L is the amount by which the total of all amounts determined under subsection 66.4(1) in respect of a taxation year of the taxpayer ending at or before that time exceeds the total of all amounts each of which is the least of

(a) the amount that would be determined under paragraph 66.7(4)(a), at a time (hereafter in this description referred to only as the "particular

N le total des montants à déduire avant ce moment en vertu du paragraphe 66(14.2) dans le calcul de ses frais cumulatifs d'aménagement au Canada;

O le total des montants à déduire avant ce moment selon l'alinéa 66.7(12)c) dans le calcul de ses frais cumulatifs d'aménagement au Canada. (*cumulative Canadian development expense*)

frais d'aménagement au Canada Relativement à un contribuable, les dépenses et coûts suivants engagés après le 6 mai 1974:

a) une dépense engagée par le contribuable :

(i) pour le forage ou la conversion d'un puits au Canada en vue d'évacuer les liquides résiduels provenant d'un puits de pétrole ou de gaz,

(ii) pour le forage ou l'achèvement d'un puits de pétrole ou de gaz au Canada, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour le puits, dans la mesure où cette dépense ne consiste pas en frais d'exploration au Canada du contribuable au cours de l'année d'imposition où elle est engagée,

(iii) pour le forage ou la conversion d'un puits au Canada en vue d'injecter de l'eau, du gaz ou une autre substance pour faciliter la récupération du pétrole ou du gaz naturel d'un autre puits,

(iv) pour le forage en vue de trouver de l'eau ou du gaz au Canada pour injection dans une formation de pétrole ou de gaz naturel,

(v) pour le forage ou la conversion d'un puits au Canada en vue de contrôler les niveaux de fluide, les changements de pression ou d'autres facteurs dans un gisement de pétrole ou de gaz naturel;

b) une dépense engagée par le contribuable pour le forage ou la remise en production d'un puits de pétrole ou de gaz au Canada après le début de la production tirée de ce puits;

c) une dépense engagée par le contribuable, d'une part, avant le 17 novembre 1978 en vue d'amener au stade de la production une ressource minérale au Canada et, d'autre part, avant le début de la production en quantités commerciales raisonnables tirée de cette ressource minérale, y compris :

(i) les frais de déblaiement, d'enlèvement des terrains de couverture et de dépouillement,

time") that is the end of the latest taxation year of the taxpayer ending at or before that time, in respect of the taxpayer as successor in respect of a disposition (in this description referred to as the "original disposition") of Canadian resource property by a person who is an original owner of the property because of the original disposition, if

(i) that paragraph were read without reference to "30% of",

(ii) where the taxpayer has disposed of all or part of the property in circumstances in which subsection 66.7(4) applied, that subsection continued to apply to the taxpayer in respect of the original disposition as if subsequent successors were the same person as the taxpayer, and

(iii) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable before the particular time were made before the particular time,

(b) the amount, if any, by which the total of all amounts each of which became receivable at or before the particular time and before 1993 by the taxpayer and is included in computing the amount determined under subparagraph 66.7(5)(a)(ii) in respect of the original disposition exceeds the amount, if any, by which

(i) where the taxpayer disposed of all or part of the property before the particular time in circumstances in which subsection 66.7(5) applied, the amount that would be determined at the particular time under subparagraph 66.7(5)(a)(i) in respect of the original disposition if that subparagraph continued to apply to the taxpayer in respect of the original disposition as if subsequent successors were the same person as the taxpayer, and

(ii) in any other case, the amount determined at the particular time under subparagraph 66.7(5)(a)(i) in respect of the original disposition

exceeds

(iii) the amount that would be determined at the particular time under subparagraph 66.7(5)(a)(ii) in respect of the original disposition if that subparagraph were read without reference to the words "or the successor", wherever they appear therein, and if amounts that became receivable after 1992 were not taken into account, and

(c) where

(ii) les frais de creusage d'un puits de mine, la construction d'une galerie à flanc de coteau ou d'une autre entrée souterraine;

c.1) une dépense ou une partie de dépense, qui ne représente pas des frais d'exploration au Canada, engagée par le contribuable en vue d'amener une nouvelle mine, située dans une ressource minérale au Canada qui est un gisement de sables bitumineux ou de schiste bitumineux, au stade de la production, mais avant l'entrée en production de cette mine en quantités commerciales raisonnables; sont compris parmi ces dépenses les frais de déblaiement, d'enlèvement des terrains de couverture, de dépouillement et de construction d'une voie d'entrée;

c.2) toute dépense ou partie de dépense, ne représentant pas des frais d'exploration au Canada, engagée par le contribuable après le 20 mars 2013 en vue d'amener une nouvelle mine, située dans une ressource minérale au Canada, sauf un gisement de sables bitumineux ou de schiste bitumineux, au stade de la production en quantités commerciales raisonnables, mais avant l'entrée en production de cette mine en de telles quantités; sont compris parmi ces dépenses les frais de déblaiement, d'enlèvement des terrains de couverture, de dépouillement, de creusage d'un puits de mine et de construction d'une galerie à flanc de coteau ou d'une autre entrée souterraine;

d) une dépense (à l'exclusion d'un montant inclus dans le coût en capital de biens amortissables) engagée par le contribuable après 1987 en vue de creuser un puits de mine, une voie principale de roulage ou d'autres travaux souterrains semblables destinés à un usage continu, ou en vue de prolonger ceux-ci, creusés ou construits après l'entrée en production d'une mine située dans une ressource minérale au Canada;

e) le coût pour lui d'un bien visé aux alinéas b), e) ou f) de la définition de ***avoir minier canadien*** au paragraphe 66(15) ou d'un droit ou d'un intérêt sur celui-ci ou, pour l'application du droit civil, d'un droit relatif à celui-ci — sauf un droit ou intérêt qu'il détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes —, y compris tout paiement fait pour préserver les droits d'un contribuable à l'égard d'un tel bien ou droit ou intérêt;

f) sous réserve de l'article 66.8, sa part d'une dépense visée à l'un des alinéas a) à e) qu'une société de personnes a engagée au cours d'un de ses exercices à la fin duquel le contribuable en était un associé, sauf si le contribuable fait un choix à l'égard de cette part en la forme et selon les modalités réglementaires au plus

(i) after the original disposition and at or before the particular time, the taxpayer disposed of all or part of the property in circumstances in which subsection 66.7(4) applied, otherwise than by way of an amalgamation or merger or solely because of the application of paragraph 66.7(10)(c), and

(ii) the winding-up of the taxpayer began at or before that time or the taxpayer's disposition referred to in subparagraph (i) (other than a disposition under an agreement in writing entered into before December 22, 1992) occurred after December 21, 1992,

nil

M is the total amount of assistance that the taxpayer has received or is entitled to receive in respect of any Canadian development expense (including an expense that has become a Canadian exploration expense of the taxpayer by virtue of subsection 66.1(9)) incurred after 1980 or that can reasonably be related to Canadian development activities after 1980,

M.1 is the total of all amounts by which the cumulative Canadian development expense of the taxpayer is required because of subsection 80(8) to be reduced at or before that time,

N is the total of all amounts that are required to be deducted before that time under subsection 66(14.2) in computing the taxpayer's cumulative Canadian development expense, and

O is the total of all amounts that are required to be deducted before that time under paragraph 66.7(12)(c) in computing the taxpayer's cumulative Canadian development expense. (*frais cumulatifs d'aménagement au Canada*)

tard six mois après la fin de son année d'imposition au cours de laquelle cet exercice prend fin;

g) un coût ou une dépense visés à l'un des alinéas a) à e) et engagés par le contribuable conformément à une convention écrite conclue avec une société avant 1987 et par laquelle le contribuable n'engage le coût ou la dépense qu'en paiement d'actions de la société — à l'exclusion des actions visées par règlement — émises en sa faveur ou d'intérêts ou de droits sur de telles actions ou, pour l'application du droit civil, de droits relatifs à de telles actions;

il est entendu toutefois que le terme ne vise pas :

h) une contrepartie donnée par le contribuable pour une action — ou un intérêt ou droit sur celle-ci ou, pour l'application du droit civil, un droit relatif à celle-ci — sauf dans le cas prévu à l'alinéa g);

i) une dépense visée à l'alinéa g) et engagée par un autre contribuable dans la mesure où cette dépense consistait, selon le cas, en :

(i) frais d'aménagement au Canada engagés par cet autre contribuable, en vertu de cet alinéa,

(ii) frais d'exploration au Canada engagés par cet autre contribuable, en vertu de l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6),

(iii) frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par cet autre contribuable, en vertu de l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5);

i.1) une dépense qui représente le coût ou une partie du coût, pour le contribuable, d'un bien amortissable d'une catégorie prescrite qui a été acquis après 1987;

j) un montant inclus dans le coût en capital, pour le contribuable, d'un bien amortissable d'une catégorie prescrite;

k) la part revenant au contribuable d'une contrepartie, d'une dépense ou d'un coût, visé à l'un des alinéas h) à j), donné ou engagé par une société de personnes;

cependant aucun montant à titre d'aide qu'un contribuable a reçu ou est en droit de recevoir après le 25 mai 1976 concernant ses frais d'aménagement au Canada ou s'y rapportant ne peut réduire une dépense visée à l'un des alinéas a) à g). (*Canadian development expense*)

Application of ss. 66(15), 66.1(6) and 66.4(5)

(5.1) The definitions in subsections 66(15), 66.1(6) and 66.4(5) apply to this section.

Share of partner

(6) Except as provided in subsection 66.2(7), where a taxpayer is a member of a partnership, the taxpayer's share of any amount that would be an amount referred to in the description of in the definition ***cumulative Canadian development expense*** in subsection 66.2(5), in paragraph (a) of the description of F in that definition or in the description of G or M in that definition in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph 96(1)(d) shall, for the purposes of this Act, be deemed to be an amount referred to in the description of in the definition ***cumulative Canadian development expense*** in subsection (5), in paragraph (a) of the description of F in that definition or in the description of G or M in that definition, whichever is applicable, in respect of the taxpayer for the taxation year of the taxpayer in which the partnership's taxation year ends.

Exception

(7) Where a non-resident person is a member of a partnership that is deemed under paragraph 115(4)(b) to have disposed of any Canadian resource property, the person's share of any amount that would be an amount referred to in the description of in the definition ***cumulative Canadian development expense*** in subsection 66.2(5), in paragraph (a) of the description of F in that definition or in the description of G or M in that definition in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph 96(1)(d) shall, for the purposes of this Act, be deemed to be an amount referred to in the description of in the definition ***cumulative Canadian development expense*** in subsection (5), in paragraph (a) of the description of F in that definition or in the description of G or M in that definition, whichever is applicable, in respect of the person for the taxation year of the person that is deemed under paragraph 115(4)(a) to have ended.

Presumption

(8) Where pursuant to the terms of an arrangement in writing entered into before December 12, 1979 a taxpayer acquired a property described in paragraph (a) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), for the purposes of this Act, the cost of acquisition shall be deemed to be a Canadian development expense incurred at the time the taxpayer acquired the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.2; 1994, c. 7, Sch. II, s. 40, Sch. VIII, s.

Application des par. 66(15), 66.1(6) et 66.4(5)

(5.1) Les définitions figurant aux paragraphes 66(15), 66.1(6) et 66.4(5) s'appliquent au présent article.

Part d'un associé

(6) Pour l'application de la présente loi et sauf disposition contraire au paragraphe (7), la part d'un contribuable — associé d'une société de personnes — sur un montant qui, sans l'alinéa 96(1)d), serait visé à l'élément D de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe (5), à l'alinéa a) de l'élément F de cette formule ou aux éléments G ou M de cette formule quant à la société de personnes pour son année d'imposition est réputée être un montant visé à cet élément D, cet alinéa a) de l'élément F ou ces éléments G ou M, selon le cas, quant au contribuable pour son année d'imposition au cours de laquelle l'année d'imposition de la société de personnes prend fin.

Exception

(7) Pour l'application de la présente loi, la part d'une personne non-résidente — associée d'une société de personnes qui est réputée, en application de l'alinéa 115(4)b), avoir disposé d'un avoir minier canadien — sur un montant qui, sans l'alinéa 96(1) d), serait visé à l'élément D de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe (5), à l'alinéa a) de l'élément F de cette formule ou aux éléments G ou M de cette formule quant à la société de personnes pour son année d'imposition est réputée être un montant visé à cet élément D, cet alinéa a) de l'élément F ou ces éléments G ou M, selon le cas, quant à la personne pour son année d'imposition qui est réputée par l'alinéa 115(4)a) avoir pris fin.

Présomption

(8) Lorsque, conformément à une entente écrite conclue avant le 12 décembre 1979, un contribuable a acquis un bien visé à l'alinéa a) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5), le coût d'acquisition est, pour l'application de la présente loi, réputé constituer des frais d'aménagement au Canada engagés au moment où il a acquis le bien.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66.2; 1994, ch. 7, ann. II, art. 40, ann. VIII, art. 24, ch. 21, art. 29; 1995, ch. 21, art. 23; 1997,

24, c. 21, s. 29; 1995, c. 21, s. 23; 1997, c. 25, s. 15; 2001, c. 17, s. 46; 2003, c. 28, s. 6; 2011, c. 24, s. 15; 2013, c. 34, ss. 113, 201, c. 40, s. 32.

ch. 25, art. 15; 2001, ch. 17, art. 46; 2003, ch. 28, art. 6; 2011, ch. 24, art. 15; 2013, ch. 34, art. 113 et 201, ch. 40, art. 32.

Definitions

66.21 (1) The definitions in this subsection apply in this section.

adjusted cumulative foreign resource expense of a taxpayer, in respect of a country, at the end of a taxation year means the total of

(a) the cumulative foreign resource expense of the taxpayer, in respect of that country, at the end of the year; and

(b) the amount, if any, by which

(i) the total determined under paragraph 66.7(13.2)(a) in respect of that country and the taxpayer for the year

exceeds

(ii) the amount that would, but for paragraph (3)(c), be determined under subsection (3) in respect of that country and the taxpayer for the year. (*frais cumulatifs rajustés relatifs à des ressources à l'étranger*)

cumulative foreign resource expense of a taxpayer, in respect of a country other than Canada at a particular time, means the amount determined by the formula

(A + A.1 + B + C + D) – (E + F + G + H + I + J)

where

A is the total of all foreign resource expenses, in respect of that country, made or incurred by the taxpayer

(a) before the particular time, and

(b) at a time (in this definition referred to as a "resident time")

(i) at which the taxpayer was resident in Canada, and

(ii) where the taxpayer became resident in Canada before the particular time, that is after the last time (before the particular time) that the taxpayer became resident in Canada;

A.1 is the total of all foreign resource expenses, in respect of that country, that is the cost to the taxpayer of any of the taxpayer's foreign resource property in respect of that country that is deemed

Définitions

66.21 (1) Les définitions qui suivent s'appliquent au présent article.

frais cumulatifs rajustés relatifs à des ressources à l'étranger S'agissant des frais cumulatifs rajustés relatifs à des ressources à l'étranger d'un contribuable se rapportant à un pays à la fin d'une année d'imposition, la somme des montants suivants :

a) les frais cumulatifs relatifs à des ressources à l'étranger du contribuable se rapportant au pays à la fin de l'année;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total déterminé selon l'alinéa 66.7(13.2)a) relativement au pays et au contribuable pour l'année,

(ii) le montant qui serait déterminé selon le paragraphe (3) relativement au pays et au contribuable pour l'année si ce n'était l'alinéa (3)c). (*adjusted cumulative foreign resourse expense*)

frais cumulatifs relatifs à des ressources à l'étranger S'agissant des frais cumulatifs relatifs à des ressources à l'étranger d'un contribuable se rapportant à un pays étranger à un moment donné, le montant obtenu par la formule suivante :

(A + A.1 + B + C + D) – (E + F + G + H + I + J)

où :

A représente le total des frais relatifs à des ressources à l'étranger, se rapportant au pays, engagés ou effectués par le contribuable, à la fois :

a) avant le moment donné,

b) à un moment (appelé « moment de résidence » à la présente définition) où il résidait au Canada et qui, s'il est devenu résident du Canada avant le moment donné, est postérieur au dernier moment (mais antérieur au moment donné) où il est devenu résident du Canada;

A.1 le total des frais relatifs à des ressources à l'étranger, se rapportant au pays, qui correspond au coût, pour le contribuable, de ses avoirs miniers étrangers à l'égard de ce pays qu'il est réputé avoir acquis en vertu de l'alinéa 128.1(1)c) au moment, antérieur au moment donné, où il est devenu la dernière fois un résident du Canada;

to have been acquired by the taxpayer under paragraph 128.1(1)(c) at the last time (before the particular time) that the taxpayer became resident in Canada;

B is the total of all amounts included in computing the amount referred to in paragraph 59(3.2)(c.1) in respect of that country, for taxation years that ended before the particular time and at a resident time;

C is the total of all amounts referred to in the description of F or G that are established by the taxpayer to have become a bad debt before the particular time and at a resident time;

D is the total of all specified amounts determined under subsection 66.7(13.2), in respect of the taxpayer and that country, for taxation years that ended before the particular time and at a resident time;

E is the total of all amounts deducted, in computing the taxpayer's income for a taxation year that ended before the particular time and at a resident time, in respect of the taxpayer's cumulative foreign resource expense in respect of that country;

F is the total of all amounts each of which is an amount in respect of a foreign resource property, in respect of that country, (in this description referred to as the "particular property") disposed of by the taxpayer equal to the amount, if any, by which

(a) the amount designated under subparagraph 59(1)(b)(ii) by the taxpayer in respect of the portion of the proceeds of that disposition that became receivable before the particular time and at a resident time

exceeds

(b) the amount, if any, by which

(i) the total of all amounts that would be determined under paragraph 66.7(2.3)(a), immediately before the time (in this paragraph referred to as the "relevant time") when such proceeds of disposition became receivable, in respect of the taxpayer, that country and an original owner of the particular property (or of any other property acquired by the taxpayer with the particular property in circumstances to which subsection 66.7(2.3) applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time) if

(A) amounts that became receivable at or after the relevant time were not taken into account,

B le total des sommes incluses dans le calcul de la somme mentionnée à l'alinéa 59(3.2)c.1) relativement au pays pour les années d'imposition terminées avant le moment donné et à un moment de résidence;

C le total des montants visés aux éléments F ou G dans la mesure où le contribuable peut établir qu'ils sont devenus des créances irrécouvrables avant le moment donné et à un moment de résidence;

D le total des montants déterminés, calculés selon le paragraphe 66.7(13.2) relativement au contribuable et au pays pour les années d'imposition terminées avant le moment donné et à un moment de résidence;

E le total des montants déduits, dans le calcul du revenu du contribuable pour une année d'imposition terminée avant le moment donné et à un moment de résidence, au titre de ses frais cumulatifs relatifs à des ressources à l'étranger se rapportant au pays;

F le total des montants représentant chacun un montant relatif à un avoir minier étranger à l'égard du pays (appelé « bien donné » au présent élément) dont le contribuable a disposé, égal à l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant indiqué par le contribuable en application du sous-alinéa 59(1)b)(ii) au titre de la partie du produit de cette disposition qui est devenue à recevoir avant le moment donné et à un moment de résidence,

b) l'excédent éventuel du total suivant :

(i) le total des montants qui seraient déterminés selon l'alinéa 66.7(2.3)a), immédiatement avant le moment (appelé « moment déterminé » au présent alinéa) où le produit de disposition en question est devenu à recevoir, relativement au contribuable, au pays et à un propriétaire obligé du bien donné (ou de tout autre bien acquis par le contribuable en même temps que le bien donné dans les circonstances visées au paragraphe 66.7(2.3) et pour lequel le produit de disposition est devenu à recevoir par le contribuable au moment déterminé) si, à la fois :

(A) il n'était pas tenu compte des montants devenus à recevoir au moment déterminé ou postérieurement,

(B) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(2.3)a),

(C) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe

(B) paragraph 66.7(2.3)(a) were read without reference to "30% of", and

(C) no reduction under subsection 80(8) at or after the relevant time were taken into account

exceeds the total of

(ii) all amounts that would be determined under paragraph 66.7(2.3)(a) at the relevant time in respect of the taxpayer, that country and an original owner of the particular property (or of that other property) if

(A) amounts that became receivable after the relevant time were not taken into account,

(B) paragraph 66.7(2.3)(a) were read without reference to "30% of", and

(C) no reduction under subsection 80(8) at or after the relevant time were taken into account, and

(iii) the portion of the amount otherwise determined under this paragraph that was otherwise applied to reduce the amount otherwise determined under this description;

G is the total of all amounts, in respect of that country, each of which is an amount included in the amount determined under this description by reason of subsection 66(12.41) that became receivable by the taxpayer before the particular time and at a resident time;

H is the total of all amounts each of which is an amount received before the particular time and at a resident time on account of any amount referred to in the description of C;

I is the total of all amounts each of which is an amount by which the cumulative foreign resource expense of the taxpayer, in respect of that country, is required, by reason of subsection 80(8), to be reduced at or before the particular time and at a resident time; and

J is the total of all amounts each of which is an amount that is required to be deducted, before the particular time and at a resident time, under paragraph 66.7(13.1)(a) in computing the taxpayer's cumulative foreign resource expense. (*frais cumulatifs relatifs à des ressources à l'étranger*)

foreign resource expense of a taxpayer, in respect of a country other than Canada, means

(a) any drilling or exploration expense, including any general geological or geophysical expense, incurred by

80(8) au moment déterminé ou postérieurement,

sur la somme des montants suivants :

(ii) les montants qui seraient déterminés selon l'alinéa 66.7(2.3)a) au moment déterminé relativement au contribuable, au pays et à un propriétaire obligé du bien donné (ou de l'autre bien visé au sous-alinéa (i)) si, à la fois :

(A) il n'était pas tenu compte des montants devenus à recevoir après le moment déterminé,

(B) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(2.3)a),

(C) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe 80(8) au moment déterminé ou postérieurement,

(iii) la partie du montant déterminé par ailleurs selon le présent alinéa qui a été appliquée par ailleurs en réduction du montant déterminé par ailleurs selon le présent élément;

G le total des montants, relatifs au pays, représentant chacun un montant inclus dans le montant déterminé selon le présent élément par l'effet du paragraphe 66(12.41) qui est devenu à recevoir par le contribuable avant le moment donné et à un moment de résidence;

H le total des montants représentant chacun un montant reçu avant le moment donné et à un moment de résidence au titre d'un montant mentionné à l'élément C;

I le total des montants représentant chacun un montant qui, par l'effet du paragraphe 80(8), est à appliquer, au moment donné ou antérieurement et à un moment de résidence, en réduction des frais cumulatifs relatifs à des ressources à l'étranger du contribuable se rapportant au pays;

J le total des montants représentant chacun un montant qui, selon l'alinéa 66.7(13.1)a), est à déduire, avant le moment donné et à un moment de résidence, dans le calcul des frais cumulatifs relatifs à des ressources à l'étranger du contribuable. (*cumulative foreign resource expense*)

frais relatifs à des ressources à l'étranger S'agissant des frais relatifs à des ressources à l'étranger d'un contribuable se rapportant à un pays étranger, la somme des montants suivants :

a) les frais de forage ou d'exploration, y compris les frais généraux d'étude géologique ou géophysique,

the taxpayer on or in respect of exploring or drilling for petroleum or natural gas in that country,

(b) any expense incurred by the taxpayer for the purpose of determining the existence, location, extent or quality of a mineral resource in that country, including any expense incurred in the course of

(i) prospecting,

(ii) carrying out geological, geophysical or geochemical surveys,

(iii) drilling by rotary, diamond, percussion or other methods, or

(iv) trenching, digging test pits and preliminary sampling,

(c) the cost to the taxpayer of any of the taxpayer's foreign resource property in respect of that country,

(d) any annual payment made by the taxpayer for the preservation of a foreign resource property in respect of that country, and

(e) subject to section 66.8, the taxpayer's share of an expense, cost or payment referred to in any of paragraphs (a) to (d) that is made or incurred by a partnership in a fiscal period of the partnership that begins after 2000 if, at the end of that period, the taxpayer was a member of the partnership

but does not include

(f) an expenditure that is the cost, or any part of the cost, to the taxpayer of any depreciable property of a prescribed class,

(g) an expenditure incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to evaluate the feasibility of a method of recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates,

(h) an expenditure (other than a drilling expense) incurred at any time after the commencement of production from a foreign resource property of the taxpayer in order to assist in the recovery of petroleum, natural gas or related hydrocarbons from the portion of a natural reservoir to which the foreign resource property relates,

(i) an expenditure, incurred at any time, that relates to the injection of any substance to assist in the

qu'il a engagés pour l'exploration ou le forage faits en vue de la découverte de pétrole ou de gaz naturel dans le pays;

b) les frais qu'il a engagés en vue de déterminer l'existence, la localisation, l'étendue ou la qualité d'une ressource minérale se trouvant dans le pays, y compris :

(i) les frais de prospection,

(ii) les frais d'étude géologique, géophysique ou géochimique,

(iii) les frais de forage au moyen d'un appareil rotatif ou à diamant, par battage ou d'autres méthodes,

(iv) les frais de creusage de tranchées, de creusage de trous d'exploration et d'échantillonnage préliminaire;

c) le coût, pour lui, de ses avoirs miniers étrangers à l'égard du pays;

d) un versement annuel qu'il fait pour préserver un avoir minier étranger à l'égard du pays;

e) sous réserve de l'article 66.8, sa part des frais, du coût ou du versement mentionnés aux alinéas a) à d) qu'une société de personnes a engagés ou effectués au cours d'un de ses exercices commençant après 2000, s'il était un associé de cette société de personnes à la fin de cet exercice.

Ne sont pas des frais relatifs à des ressources à l'étranger :

f) une dépense qui représente le coût ou une partie du coût, pour le contribuable, d'un bien amortissable d'une catégorie prescrite;

g) une dépense engagée après l'entrée en production d'un avoir minier étranger du contribuable en vue d'évaluer la valeur pratique d'une méthode de récupération du pétrole, du gaz naturel ou d'hydrocarbures connexes de la partie d'un réservoir naturel à laquelle l'avoir se rapporte;

h) une dépense (sauf une dépense de forage) engagée après l'entrée en production d'un avoir minier étranger du contribuable en vue de faciliter la récupération du pétrole, du gaz naturel ou d'hydrocarbures connexes de la partie d'un réservoir naturel à laquelle l'avoir se rapporte;

i) une dépense engagée relativement à l'injection d'une substance en vue de faciliter la récupération du

recovery of petroleum, natural gas or related hydrocarbons from a natural reservoir,

(j) an expenditure incurred by the taxpayer, unless the expenditure was made

(i) for the acquisition of foreign resource property by the taxpayer, or

(ii) for the purpose of

(A) enhancing the value of foreign resource property that the taxpayer owned at the time the expenditure was incurred or that the taxpayer had a reasonable expectation of owning after that time, or

(B) assisting in evaluating whether a foreign resource property is to be acquired by the taxpayer, or

(k) the taxpayer's share of any cost or expenditure referred to in any of paragraphs (f) to (j) that is incurred by a partnership. (*frais relatifs à des ressources à l'étranger*)

foreign resource income of a taxpayer for a taxation year, in respect of a country other than Canada, means the total of

(a) that part of the taxpayer's income for the year, determined without reference to subsections (4) and 66(4), that is reasonably attributable to

(i) the production of petroleum or natural gas from natural accumulations of petroleum or natural gas in that country or from oil or gas wells in that country, or

(ii) the production of minerals from mines in that country;

(b) the taxpayer's income for the year from royalties in respect of a natural accumulation of petroleum or natural gas in that country, an oil or gas well in that country or a mine in that country, determined without reference to subsections (4) and 66(4); and

(c) all amounts each of which is an amount, in respect of a foreign resource property in respect of that country that has been disposed of by the taxpayer, equal to the amount, if any, by which

(i) the amount included in computing the taxpayer's income for the year by reason of subsection 59(1) in respect of that disposition

pétrole, du gaz naturel ou d'hydrocarbures connexes d'un réservoir naturel;

j) une dépense engagée par le contribuable, sauf si elle a été faite, selon le cas :

(i) en vue de l'acquisition d'un avoir minier étranger par le contribuable,

(ii) en vue :

(A) soit d'accroître la valeur d'un avoir minier étranger dont le contribuable était propriétaire au moment où la dépense a été engagée ou dont il pouvait raisonnablement s'attendre à être propriétaire après ce moment,

(B) soit d'aider à déterminer s'il y a lieu que le contribuable acquière un avoir minier étranger;

k) la part revenant au contribuable d'un coût ou d'une dépense mentionnée à l'un des alinéas f) à j) qui est engagé par une société de personnes. (*foreign resource expense*)

limite globale des frais relatifs à des ressources à l'étranger En ce qui concerne un contribuable pour une année d'imposition, le moins élevé des montants suivants :

a) l'excédent éventuel du montant suivant :

(i) le montant déterminé selon le sous-alinéa 66(4)b)(ii) relativement au contribuable pour l'année,

sur la somme des montants suivants :

(ii) le total des montants représentant chacun le montant maximal que le contribuable serait autorisé à déduire en application du paragraphe (4), relativement à un pays, dans le calcul de son revenu pour l'année si ce paragraphe s'appliquait pour l'année compte non tenu de son alinéa b),

(iii) le montant déduit pour l'année en application du paragraphe 66(4) dans le calcul de son revenu pour l'année;

b) l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) 30 % du total des montants représentant chacun, à la fin de l'année, les frais cumulatifs rajustés relatifs à des ressources à l'étranger du contribuable se rapportant à un pays,

exceeds

(ii) the total of all amounts each of which is that portion of an amount deducted under subsection 66.7(2) in computing the taxpayer's income for the year that

(A) can reasonably be considered to be in respect of the foreign resource property, and

(B) cannot reasonably be considered to have reduced the amount otherwise determined under paragraph (a) or (b) in respect of the taxpayer for the year. (*revenu provenant de ressources à l'étranger*)

foreign resource loss of a taxpayer for a taxation year in respect of a country other than Canada means the taxpayer's loss for the year in respect of the country determined in accordance with the definition ***foreign resource income*** with such modifications as the circumstances require. (*perte résultant de ressources à l'étranger*)

global foreign resource limit of a taxpayer for a taxation year means the amount that is the lesser of

(a) the amount, if any, by which

(i) the amount determined under subparagraph 66(4)(b)(ii) in respect of the taxpayer for the year

exceeds the total of

(ii) the total of all amounts each of which is the maximum amount that the taxpayer would be permitted to deduct, in respect of a country, under subsection (4) in computing the taxpayer's income for the year if, in its application to the year, subsection (4) were read without reference to paragraph (4)(b), and

(iii) the amount deducted for the year under subsection 66(4) in computing the taxpayer's income for the year; and

(b) the amount, if any, by which

(i) 30% of the total of all amounts each of which is, at the end of the year, the taxpayer's adjusted cumulative foreign resource expense in respect of a country

exceeds

(ii) le total visé au sous-alinéa a)(ii). (*global foreign resource limit*)

perte résultant de ressources à l'étranger S'agissant de la perte résultant de ressources à l'étranger d'un contribuable pour une année d'imposition se rapportant à un pays étranger, sa perte pour l'année se rapportant au pays, déterminée conformément à la définition de ***revenu provenant de ressources à l'étranger***, avec les adaptations nécessaires. (*foreign resource loss*)

revenu provenant de ressources à l'étranger S'agissant du revenu provenant de ressources à l'étranger d'un contribuable pour une année d'imposition se rapportant à un pays étranger, la somme des montants suivants :

a) la partie du revenu du contribuable pour l'année, déterminé compte non tenu des paragraphes (4) et 66(4), qu'il est raisonnable d'attribuer :

(i) soit à la production de pétrole ou de gaz naturel tiré de gisements naturels ou de puits de pétrole ou de gaz, situés dans le pays,

(ii) soit à la production de minéraux provenant de mines situées dans le pays;

b) le revenu du contribuable pour l'année tiré de redevances afférentes à un gisement naturel de pétrole ou de gaz naturel, à un puits de pétrole ou de gaz ou à une mine, situés dans le pays, déterminé compte non tenu des paragraphes (4) et 66(4);

c) le total des montants représentant chacun un montant, afférent à un avoir minier étranger à l'égard du pays dont le contribuable a disposé, égal à l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le montant inclus dans le calcul de son revenu pour l'année par l'effet du paragraphe 59(1) relativement à cette disposition,

(ii) le total des montants représentant chacun la partie d'un montant déduit en application du paragraphe 66.7(2) dans le calcul de son revenu pour l'année :

(A) d'une part, qu'il est raisonnable de considérer comme se rapportant à un avoir minier étranger,

(B) d'autre part, qu'il n'est pas raisonnable de considérer comme ayant réduit le montant déterminé par ailleurs à son égard pour l'année selon l'alinéa a) ou b). (*foreign resource income*)

(ii) the total described in subparagraph (a)(ii). (*limite globale des frais relatifs à des ressources à l'étranger*)

Application of subsection 66(15)

(2) The definitions in subsection 66(15) apply in this section.

Amount to be included in income

(3) For the purpose of paragraph 59(3.2)(c.1), the amount referred to in this subsection in respect of a taxpayer for a taxation year is the amount, if any, by which

(a) the total of all amounts referred to in the descriptions of E to J in the definition ***cumulative foreign resource expense*** in subsection (1) that are deducted in computing the taxpayer's cumulative foreign resource expense at the end of the year in respect of a country

exceeds the total of

(b) the total of all amounts referred to in the descriptions of A to D in the definition ***cumulative foreign resource expense*** in subsection (1) that are included in computing the taxpayer's cumulative foreign resource expense at the end of the year in respect of the country, and

(c) the total determined under paragraph 66.7(13.2)(a) for the year in respect of the taxpayer and the country.

Deduction for cumulative foreign resource expense

(4) In computing a taxpayer's income for a taxation year throughout which the taxpayer is resident in Canada, the taxpayer may deduct the amount claimed by the taxpayer, in respect of a country other than Canada, not exceeding the total of

(a) the greater of

(i) 10% of a particular amount equal to the taxpayer's adjusted cumulative foreign resource expense in respect of the country at the end of the year, and

(ii) the least of

(A) if the taxpayer ceased to be resident in Canada immediately after the end of the year, the particular amount,

(B) if clause (A) does not apply, 30% of the particular amount,

Application du paragraphe 66(15)

(2) Les définitions figurant au paragraphe 66(15) s'appliquent au présent article.

Montant à inclure dans le revenu

(3) Pour l'application de l'alinéa 59(3.2)c.1), est visé relativement à un contribuable pour une année d'imposition l'excédent éventuel :

a) du total des montants visés aux éléments E à J de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe (1) qui sont inclus dans le calcul de ses frais cumulatifs relatifs à des ressources à l'étranger à la fin de l'année se rapportant à un pays,

sur la somme des montants suivants :

b) le total des montants visés aux éléments A à D de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe (1) qui sont inclus dans le calcul de ses frais cumulatifs relatifs à des ressources à l'étranger à la fin de l'année se rapportant au pays,

c) le total déterminé selon l'alinéa 66.7(13.2)a) pour l'année relativement au contribuable et au pays.

Déduction pour frais cumulatifs relatifs à des ressources à l'étranger

(4) Un contribuable peut déduire, dans le calcul de son revenu pour une année d'imposition tout au long de laquelle il réside au Canada, le montant qu'il demande relativement à un pays étranger, ne dépassant pas la somme des montants suivants :

a) le plus élevé des montants suivants :

(i) 10 % d'un montant donné correspondant à ses frais cumulatifs rajustés relatifs à des ressources à l'étranger se rapportant au pays à la fin de l'année,

(ii) le moins élevé des montants suivants :

(A) s'il a cessé de résider au Canada immédiatement après la fin de l'année, le montant donné,

(B) si la division (A) ne s'applique pas, 30 % du montant donné,

(C) the amount, if any, by which the taxpayer's foreign resource income for the year in respect of the country exceeds the portion of the amount, deducted under subsection 66(4) in computing the taxpayer's income for the year, that applies to a source in the country, and

(D) the amount, if any, by which

(I) the total of all amounts each of which is the taxpayer's foreign resource income for the year in respect of a country

exceeds the total of

(II) all amounts each of which is the taxpayer's foreign resource loss for the year in respect of a country, and

(III) the amount deducted under subsection 66(4) in computing the taxpayer's income for the year, and

(b) the lesser of

(i) the amount, if any, by which the particular amount exceeds the amount determined for the year under paragraph (a) in respect of the taxpayer, and

(ii) that portion of the taxpayer's global foreign resource limit for the year that is designated for the year by the taxpayer, in respect of that country and no other country, in prescribed form filed with the Minister with the taxpayer's return of income for the year.

(C) l'excédent éventuel de son revenu provenant de ressources à l'étranger pour l'année se rapportant au pays sur la partie du montant, déduit en application du paragraphe 66(4) dans le calcul de son revenu pour l'année, qui est attribuable à une source située dans le pays,

(D) l'excédent éventuel du total des montants représentant chacun son revenu provenant de ressources à l'étranger pour l'année se rapportant à un pays sur la somme des montants suivants :

(I) le total des montants représentant chacun sa perte résultant de ressources à l'étranger pour l'année se rapportant à un pays,

(II) le montant déduit en application du paragraphe 66(4) dans le calcul de son revenu pour l'année;

b) le moins élevé des montants suivants :

(i) l'excédent éventuel du montant donné sur le montant déterminé à son égard pour l'année selon l'alinéa a),

(ii) la partie de sa limite globale des frais relatifs à des ressources à l'étranger pour l'année qu'il indique pour l'année, relativement au pays et à aucun autre, dans un formulaire prescrit présenté au ministre avec sa déclaration de revenu pour l'année.

Individual changing residence

(5) Where at any time in a taxation year an individual becomes or ceases to be resident in Canada,

(a) subsection (4) applies to the individual as if the year were the period or periods in the year throughout which the individual was resident in Canada; and

(b) for the purpose of applying this section, subsection 66(13.1) does not apply to the individual for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 47; 2013, c. 34, s. 202.

Changement de résidence

(5) Lorsqu'un particulier devient résident au Canada au cours d'une année d'imposition ou cesse de l'être, les règles suivantes s'appliquent :

a) le paragraphe (4) s'applique à lui comme si l'année était constituée de la ou des périodes de l'année tout au long desquelles il a résidé au Canada;

b) pour ce qui est de l'application du présent article, le paragraphe 66(13.1) ne s'applique pas au particulier pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 47; 2013, ch. 34, art. 202.

Exploration and development shares

66.3 (1) Any shares of the capital stock of a corporation or any interest in any such shares or right thereto acquired by a taxpayer under circumstances described in paragraph (i) of the definition ***Canadian exploration***

Actions relatives à l'exploration et à l'aménagement

66.3 (1) Toute action du capital-actions d'une société ou tout droit sur une telle action, acquis par un contribuable dans les cas prévus à l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), à

expense in subsection 66.1(6), paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5) or paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5)

(a) shall, if acquired before November 13, 1981, be deemed

(i) not to be a capital property of the taxpayer,

(ii) subject to subsection 142.6(3), to be inventory of the taxpayer, and

(iii) to have been acquired by the taxpayer at a cost to the taxpayer of nil; and

(b) shall, if acquired after November 12, 1981, be deemed to have been acquired by the taxpayer at a cost to the taxpayer of nil.

l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) ou à l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5):

a) est, s'il est acquis avant le 13 novembre 1981, réputé ne pas être une immobilisation du contribuable, mais avoir été acquis par lui à un coût nul et, sous réserve du paragraphe 142.6(3), être un bien à porter à son inventaire;

b) est, s'il est acquis après le 12 novembre 1981, réputé avoir été acquis par le contribuable à un coût nul.

Deductions from paid-up capital

(2) If, at any time after May 23, 1985, a corporation has issued a share of its capital stock under circumstances described in paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5) or paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5) or has issued a share of its capital stock on the exercise of an interest in or right to — or, for civil law, a right in or to — such a share granted under circumstances described in any of those paragraphs, in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of the corporation that included that share

(a) there shall be deducted the amount, if any, by which

(i) the increase as a result of the issue of the share in the paid-up capital, determined without reference to this subsection as it applies to the share, in respect of all of the shares of that class

exceeds

(ii) the amount, if any, by which

(A) the total amount of consideration received by the corporation in respect of the share, including any consideration for the interest or right in respect of the share

exceeds

Calcul du capital versé

(2) Lorsque, après le 23 mai 1985, une société émet une action de son capital-actions dans une situation visée à l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6), à l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) ou à l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) ou émet une action de son capital-actions sur exercice d'un droit ou d'un intérêt sur cette action ou, pour l'application du droit civil, d'un droit relatif à cette action consenti dans une situation visée à l'un de ces alinéas, dans le calcul, à un moment donné postérieur au moment de l'émission, du capital versé au titre de la catégorie d'actions du capital-actions de cette société qui comprend cette action :

a) d'une part, doit être déduit l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant correspondant à l'augmentation — conséquence de l'émission de l'action — du capital versé au titre de toutes les actions de cette catégorie, calculée compte non tenu du présent paragraphe tel qu'il s'applique à l'action,

(ii) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le montant total que la société reçoit en contrepartie de l'action, y compris toute contrepartie du droit afférent à l'action,

(B) la moitié du total des frais visés à l'alinéa i) de la définition de ***frais d'exploration au***

(B) 50% of the amount of the expense referred to in paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5) or paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5) that was incurred by a taxpayer who acquired the share or the interest or right on the exercise of which the share was issued, as the case may be, pursuant to an agreement with the corporation under which the taxpayer incurred the expense solely as consideration for the share, interest or right, as the case may be; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation after May 23, 1985 and before the particular time

exceeds

(B) the total that would be determined under clause (A) if this Act were read without reference to paragraph 66.3(2)(a), and

(ii) the total of all amounts each of which is an amount required by paragraph 66.3(2)(a) to be deducted in computing the paid-up capital in respect of that class of shares after May 22, 1985 and before the particular time.

Canada au paragraphe 66.1(6), à l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) et à l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) et engagés par un contribuable qui acquiert, selon le cas, l'action ou le droit sur exercice duquel l'action est émise, conformément à une convention conclue avec la société et stipulant que le contribuable n'engage ces frais qu'en contrepartie de l'action ou du droit, selon le cas;

b) d'autre part, doit être ajouté le moindre des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant réputé selon le paragraphe 84(3), (4) ou (4.1) être un dividende sur les actions de cette catégorie que la société verse après le 23 mai 1985 et avant le moment donné,

(B) le total qui serait calculé selon la division (A) compte non tenu de l'alinéa a),

(ii) le total des montants à déduire selon l'alinéa a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 22 mai 1985 et avant le moment donné.

Cost of flow-through shares

(3) Any flow-through share (within the meaning assigned by subsection 66(15)) of a corporation acquired by a person who was a party to the agreement pursuant to which it was issued shall be deemed to have been acquired by the person at a cost to the person of nil.

Paid-up capital

(4) Where, at any time after February, 1986, a corporation has issued a flow-through share (within the meaning assigned by subsection 66(15)), in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of the corporation that included that share

(a) there shall be deducted the amount, if any, by which

Coût d'une action accréditive

(3) La personne qui acquiert une action accréditive — au sens du paragraphe 66(15) — auprès d'une société et qui est partie à la convention relative à l'émission de l'action est réputée acquérir celle-ci à un coût nul.

Calcul du capital versé

(4) En cas d'émission par une société d'une action accréditive au sens du paragraphe 66(15) à un moment postérieur au 28 février 1986, dans le calcul, à un moment ultérieur, du capital versé au titre de la catégorie d'actions du capital-actions de cette société dont fait partie l'action accréditive :

a) d'une part, doit être déduit l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) the increase as a result of the issue of the share in the paid-up capital, determined without reference to this subsection as it applies to the share, in respect of all of the shares of that class

exceeds

(ii) the amount, if any, by which

(A) the total amount of consideration received by the corporation in respect of the share

exceeds

(B) 50% of the total of the expenses that were renounced by the corporation under subsection 66(12.6), (12.601), (12.62) or (12.64) in respect of the share; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation after February, 1986 and before the particular time

exceeds

(B) the total that would be determined under clause (A) if this Act were read without reference to paragraph 66.3(4)(a), and

(ii) the total of all amounts each of which is an amount required by paragraph 66.3(4)(a) to be deducted in computing the paid-up capital in respect of that class of shares after February, 1986 and before the particular time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.3; 1994, c. 8, s. 7; 1995, c. 21, s. 51; 2013, c. 34, s. 114.

(i) le montant correspondant à l'augmentation — conséquence de l'émission de l'action — du capital versé au titre de toutes les actions de la catégorie, calculée compte non tenu du présent paragraphe tel qu'il s'applique à l'action,

(ii) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le paiement prévu et reçu par la société pour l'action,

(B) la moitié du total des frais auxquels la société a renoncé en vertu des paragraphes 66(12.6), (12.601), (12.62) ou (12.64) en ce qui concerne l'action;

b) d'autre part, doit être ajouté le moindre des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant réputé par le paragraphe 84(3), (4) ou (4.1) être un dividende sur les actions de la catégorie versé par la société après février 1986 et avant le moment ultérieur,

(B) le total qui serait calculé à la division (A) compte non tenu de l'alinéa a),

(ii) le total des montants dont chacun représente un montant à déduire selon l'alinéa a) dans le calcul du capital versé au titre de la catégorie d'actions après février 1986 et avant le moment ultérieur.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66.3; 1994, ch. 8, art. 7; 1995, ch. 21, art. 51; 2013, ch. 34, art. 114.

Recovery of costs

66.4 (1) For the purposes of the description of B in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) and the description of L in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) and for the purpose of subparagraph 64(1.2)(a)(ii) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it applies to dispositions occurring before November 13, 1981, the amount determined under this subsection in respect of a taxpayer for a taxation year is the amount, if any, by which

Recouvrement des frais

66.4 (1) Pour l'application de l'élément B de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe (5) et l'élément L de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) ainsi que du sous-alinéa 64(1.2)a)(ii) de la *Loi de l'impôt sur le revenu*, chapitre

(a) the total of all amounts referred to in the descriptions of E to J in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) that are deducted in computing the taxpayer's cumulative Canadian oil and gas property expense at the end of the year

exceeds the total of

(b) all amounts referred to in the descriptions of A to D.1 in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) that are included in computing the taxpayer's cumulative Canadian oil and gas property expense at the end of the year, and

(c) the total determined under subparagraph 66.7(12.1)(c)(i) in respect of the taxpayer for the year.

Deduction for cumulative Canadian oil and gas property expense

(2) A taxpayer may deduct, in computing the taxpayer's income for a taxation year, such amount as the taxpayer may claim not exceeding the total of

(a) the lesser of

(i) the total of

(A) the taxpayer's cumulative Canadian oil and gas property expense at the end of the year, and

(B) the amount, if any, by which

(I) the total determined under subparagraph 66.7(12.1)(c)(i) in respect of the taxpayer for the year

exceeds

(II) the amount that would, but for paragraph 66.4(1)(c), be determined under subsection 66.4(1) in respect of the taxpayer for the year, and

(ii) the amount, if any, by which the total of all amounts each of which is

(A) an amount included in the taxpayer's income for the year by virtue of a disposition in the year of inventory described in section 66.3 that was a share or any interest in or right to — or, for civil law, any right in or to — a share acquired by

148 des Statuts revisés du Canada de 1952, dans son application aux dispositions effectuées avant le 13 novembre 1981, le montant calculé selon le présent paragraphe relativement à un contribuable pour une année d'imposition correspond à l'excédent éventuel :

a) du total des montants visés aux éléments E à J de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe (5) et déduits dans le calcul des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du contribuable à la fin de l'année,

sur le total des montants suivants :

b) les montants visés aux éléments A à D.1 de la formule visée à l'alinéa a) et inclus dans le calcul des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du contribuable à la fin de l'année;

c) le total calculé selon le sous-alinéa 66.7(12.1)c) (i) relativement au contribuable pour l'année.

Déduction pour frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz

(2) Le contribuable peut déduire, dans le calcul de son revenu pour une année d'imposition, tout montant qu'il peut demander ne dépassant pas le total des montants suivants :

a) le moins élevé des montants suivants :

(i) le total des montants suivants :

(A) les frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du contribuable à la fin de l'année,

(B) l'excédent éventuel du total visé à la subdivision (I) sur le montant visé à la subdivision (II):

(I) le total calculé selon le sous-alinéa 66.7(12.1)c) (i) relativement au contribuable pour l'année,

(II) le montant qui, sans l'alinéa (1)c), serait calculé selon le paragraphe (1) relativement au contribuable pour l'année,

(ii) l'excédent éventuel du total des montants dont chacun représente, selon le cas :

(A) un montant inclus dans son revenu pour l'année en vertu d'une disposition au cours de l'année de biens à porter à l'inventaire et visés à l'article 66.3 qui étaient une action, ou un intérêt ou un droit sur celle-ci ou, pour l'application du

the taxpayer under circumstances described in paragraph (c) of the definition ***Canadian oil and gas property expense*** in subsection (5), or

(B) an amount included by virtue of paragraph 12(1)(e) in computing the taxpayer's income for the year to the extent that it relates to inventory described in clause (A)

exceeds

(C) the total of all amounts deducted as a reserve by virtue of paragraph 20(1)(n) in computing the taxpayer's income for the year to the extent that the reserve relates to inventory described in clause (A); and

(b) 10% of the amount, if any, by which the amount determined under subparagraph 66.4(2)(a)(i) exceeds the amount determined under subparagraph 66.4(2)(a)(ii).

droit civil, un droit relatif à celle-ci, acquis par le contribuable dans des circonstances visées à l'alinéa c) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe (5),

(B) un montant inclus en vertu de l'alinéa 12(1)e) dans le calcul de son revenu pour l'année, dans la mesure où il se rapporte aux biens à porter à l'inventaire et visés à la division (A),

sur :

(C) le total des montants déduits à titre de provision en vertu de l'alinéa 20(1)n) dans le calcul de son revenu pour l'année, dans la mesure où la provision se rapporte aux biens à porter à l'inventaire et visés à la division (A);

b) 10 % de l'excédent éventuel du montant établi au sous-alinéa a)(i) sur le montant établi au sous-alinéa a) (ii).

Definitions

(5) In this section,

Canadian oil and gas property expense of a taxpayer means any cost or expense incurred after December 11, 1979 that is

(a) the cost to the taxpayer of, including any payment for the preservation of a taxpayer's rights in respect of, any property described in paragraph (a), (c) or (d) of the definition ***Canadian resource property*** in subsection 66(15) or any right to or interest in — or, for civil law, any right in or to — the property (other than a right or an interest that the taxpayer has by reason of being a beneficiary under a trust or a member of a partnership), or an amount paid to Her Majesty in right of the Province of Saskatchewan as a net royalty payment pursuant to a net royalty petroleum and natural gas lease that was in effect on March 31, 1977 to the extent that it can reasonably be regarded as a cost of acquiring the lease,

(b) subject to section 66.8, the taxpayer's share of any expense referred to in paragraph (a) incurred by a partnership in a fiscal period thereof at the end of which the taxpayer was a member of the partnership, unless the taxpayer elects in respect of the share in prescribed form and manner on or before the day that is 6 months after the taxpayer's taxation year in which that period ends, or

(c) any cost or expense referred to in paragraph (a) incurred by the taxpayer pursuant to an agreement in

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

frais à l'égard de biens canadiens relatifs au pétrole et au gaz Relativement à un contribuable, les dépenses et coûts suivants, engagés après le 11 décembre 1979:

a) soit le coût pour lui d'un bien visé aux alinéas a), c) ou d) de la définition de ***avoir minier canadien*** au paragraphe 66(15) ou d'un droit ou d'un intérêt sur celui-ci ou, pour l'application du droit civil, d'un droit relatif à celui-ci — sauf un droit ou intérêt qu'il détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes —, y compris tout paiement fait pour préserver les droits d'un contribuable à l'égard d'un tel bien ou droit ou intérêt, soit une somme payée à Sa Majesté du chef de la province de la Saskatchewan à titre de paiement net de redevance conformément à un bail portant sur du pétrole ou du gaz naturel qui était en vigueur le 31 mars 1977, dans la mesure où il est raisonnable de considérer cette somme comme un coût d'acquisition du bail;

b) sous réserve de l'article 66.8, sa part d'une dépense visée à l'alinéa a) qu'une société de personnes a engagée au cours d'un de ses exercices à la fin duquel le contribuable en était un associé, sauf si le contribuable fait un choix à l'égard de cette part en la forme et selon les modalités réglementaires au plus tard six mois après la fin de son année d'imposition au cours de laquelle cet exercice prend fin;

writing with a corporation, entered into before 1987, under which the taxpayer incurred the cost or expense solely as consideration for shares, other than prescribed shares, of the capital stock of the corporation issued to the taxpayer or any interest in or right to — or, for civil law, any right in or to — such shares,

but for greater certainty, shall not include

(d) any consideration given by the taxpayer for any share or any interest therein or right thereto, except as provided by paragraph (c), or

(e) any expense described in paragraph (c) incurred by any other taxpayer to the extent that the expense was,

(i) by virtue of that paragraph, a Canadian oil and gas property expense of that other taxpayer,

(ii) by virtue of paragraph (i) of the definition ***Canadian exploration expense*** in subsection 66.1(6), a Canadian exploration expense of that other taxpayer, or

(iii) by virtue of paragraph (g) of the definition ***Canadian development expense*** in subsection 66.2(5), a Canadian development expense of that other taxpayer,

but any amount of assistance that a taxpayer has received or is entitled to receive in respect of or related to the taxpayer's Canadian oil and gas property expense shall not reduce the amount of any of the expenses described in any of paragraphs (a) to (c); (*frais à l'égard de biens canadiens relatifs au pétrole et au gaz*)

cumulative Canadian oil and gas property expense of a taxpayer at any time in a taxation year means the amount determined by the formula

(A + B + C + D + D.1) - (E + F + G + H + I + I.1 + J)

where

A is the total of all Canadian oil and gas property expenses made or incurred by the taxpayer before that time,

B is the total of all amounts determined under subsection 66.4(1) in respect of the taxpayer for taxation years ending before that time,

C is the total of all amounts referred to in the description of F or G that are established by the taxpayer to have become bad debts before that time,

D is such part, if any, of the amount determined for I as has been repaid before that time by the taxpayer

c) un coût ou une dépense visé à l'alinéa a) et engagé par le contribuable conformément à une convention écrite conclue avec une société avant 1987 et par laquelle le contribuable n'engage le coût ou la dépense qu'en paiement d'actions de la société — à l'exclusion des actions visées par règlement — émises en sa faveur, ou d'intérêts ou de droits sur de telles actions ou, pour l'application du droit civil, de droits relatifs à de telles actions;

il est entendu toutefois que le terme ne vise pas :

d) une contrepartie donnée par le contribuable pour une action ou un droit y afférent, sauf dans le cas prévu à l'alinéa c);

e) une dépense visée à l'alinéa c) et engagée par un autre contribuable dans la mesure où cette dépense consistait, selon le cas, en :

(i) frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par cet autre contribuable, en vertu de cet alinéa,

(ii) frais d'exploration au Canada engagés par cet autre contribuable, en vertu de l'alinéa i) de la définition de ***frais d'exploration au Canada*** au paragraphe 66.1(6),

(iii) frais d'aménagement au Canada engagés par cet autre contribuable, en vertu de l'alinéa g) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5);

cependant aucun montant à titre d'aide qu'un contribuable a reçu ou est en droit de recevoir concernant ses frais à l'égard de biens canadiens relatifs au pétrole et au gaz ou se rapportant à ces frais ne peut réduire une dépense visée à l'un des alinéas a) à c). (*Canadian oil and gas property expense*)

frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz S'agissant des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz d'un contribuable à un moment donné au cours d'une année d'imposition, le montant calculé selon la formule suivante :

(A + B + C + D + D.1) - (E + F + G + H + I + I.1 + J)

où :

A représente le total des frais à l'égard de biens canadiens relatifs au pétrole et au gaz faits ou engagés par le contribuable avant ce moment;

pursuant to a legal obligation to repay all or any part of that amount,

D.1 is the total of all specified amounts, determined under paragraph 66.7(12.1)(c) in respect of the taxpayer for taxation years ending before that time,

E is the total of all amounts deducted in computing the taxpayer's income for a taxation year ending before that time in respect of the taxpayer's cumulative Canadian oil and gas property expense,

F is the total of all amounts each of which is an amount in respect of property described in paragraph (a), (c) or (d) of the definition ***Canadian resource property*** in subsection 66(15) or any right to or interest in — or, for civil law, any right in or to — such a property, other than such a right or interest that the taxpayer has by reason of being a beneficiary under a trust or a member of a partnership, (in this description referred to as "the particular property") disposed of by the taxpayer before that time equal to the amount, if any, by which

(a) the amount, if any, by which the proceeds of disposition in respect of the particular property that became receivable by the taxpayer before that time exceed any outlays or expenses made or incurred by the taxpayer before that time for the purpose of making the disposition and that were not otherwise deductible for the purposes of this Part

exceeds the total of

(b) the amount, if any, by which

(i) the total of all amounts that would be determined under paragraph 66.7(5)(a), immediately before the time (in this paragraph and paragraph (c) referred to as the "relevant time") when such proceeds of disposition became receivable, in respect of the taxpayer and an original owner of the particular property (or of any other property acquired by the taxpayer with the particular property in circumstances in which subsection 66.7(5) applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time) if

(A) amounts that became receivable at or after the relevant time were not taken into account,

(B) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable before the relevant time were made before the relevant time,

B le total des montants déterminés en vertu du paragraphe (1) à l'égard du contribuable pour les années d'imposition se terminant avant ce moment;

C le total des montants visés aux éléments F ou G que le contribuable détermine comme étant devenus des créances irrécouvrables avant ce moment;

D la partie du montant représenté par l'élément I que le contribuable a remboursée avant ce moment conformément à une obligation légale de rembourser tout ou partie de ce montant;

D.1 le total des montants déterminés calculés selon l'alinéa 66.7(12.1)c) relativement au contribuable pour les années d'imposition se terminant avant ce moment;

E le total des montants déduits dans le calcul du revenu du contribuable pour une année d'imposition se terminant avant ce moment, relativement à ses frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz;

F le total des montants représentant chacun un montant relatif à un bien visé aux alinéas a), c) ou d) de la définition de ***avoir minier canadien*** au paragraphe 66(15) ou à un droit ou un intérêt sur celui-ci ou, pour l'application du droit civil, à un droit relatif à celui-ci, à l'exclusion d'un tel droit ou intérêt qu'il détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes, (appelé « bien donné » au présent élément) dont le contribuable a disposé avant ce moment, égal à l'excédent :

a) de l'excédent éventuel du produit de disposition tiré du bien donné, devenu à recevoir par le contribuable avant ce moment, sur toute dépense qu'il a engagée ou effectuée avant ce moment en vue de réaliser la disposition et qui n'était pas par ailleurs déductible pour l'application de la présente partie,

sur le total :

b) de l'excédent éventuel :

(i) du total des montants qui seraient déterminés selon l'alinéa 66.7(5)a), immédiatement avant le moment (appelé « moment déterminé » au présent alinéa et à l'alinéa c)) auquel le produit de disposition est devenu à recevoir, relativement au contribuable et à un propriétaire obligé du bien donné (ou de tout autre bien acquis par le contribuable en même temps que le bien donné dans les circonstances déterminées au paragraphe 66.7(5) et pour lequel le produit de disposition est devenu à recevoir par le contribuable au moment déterminé) si, à la fois :

(C) paragraph 66.7(5)(a) were read without reference to "10% of", and

(D) no reduction under subsection 80(8) at or after the relevant time were taken into account

exceeds the total of

(ii) all amounts that would be determined under paragraph 66.7(5)(a) at the relevant time in respect of the taxpayer and an original owner of the particular property (or of that other property described in subparagraph (i)) if

(A) amounts that became receivable after the relevant time were not taken into account,

(B) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable at or before the relevant time were made before the relevant time,

(C) paragraph 66.7(5)(a) were read without reference to "10% of", and

(D) no reduction under subsection 80(8) at or after the relevant time were taken into account, and

(iii) such portion of the amount determined under this paragraph as was otherwise applied to reduce the amount otherwise determined under this description, and

(c) the amount, if any, by which

(i) the total of all amounts that would be determined under paragraph 66.7(4)(a), immediately before the relevant time, in respect of the taxpayer and an original owner of the particular property (or of any other property acquired by the taxpayer with the particular property in circumstances in which subsection 66.7(4) applied and in respect of which the proceeds of disposition became receivable by the taxpayer at the relevant time) if

(A) amounts that became receivable at or after the relevant time were not taken into account,

(B) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable before the relevant time were made before the relevant time,

(C) paragraph 66.7(4)(a) were read without reference to "30% of", and

(A) il n'était pas tenu compte des montants devenus à recevoir au moment déterminé ou après,

(B) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir avant le moment déterminé était effectuée avant ce moment,

(C) il n'était pas tenu compte du passage « 10 % de » à l'alinéa 66.7(5)a),

(D) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe 80(8) au moment déterminé ou postérieurement,

sur le total :

(ii) des montants qui seraient déterminés selon l'alinéa 66.7(5)a) au moment déterminé relativement au contribuable et à un propriétaire obligé du bien donné (ou de l'autre bien visé au sous-alinéa (i)) si, à la fois :

(A) il n'était pas tenu compte des montants devenus à recevoir après le moment déterminé,

(B) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir au moment déterminé ou avant était effectuée avant ce moment,

(C) il n'était pas tenu compte du passage « 10 % de » à l'alinéa 66.7(5)a),

(D) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe 80(8) au moment déterminé ou postérieurement,

(iii) de la partie du montant déterminé selon le présent alinéa qui est par ailleurs appliquée en réduction du montant déterminé par ailleurs selon le présent élément,

(c) de l'excédent éventuel :

(i) du total des montants qui seraient déterminés selon l'alinéa 66.7(4)a), immédiatement avant le moment déterminé relativement au contribuable et à un propriétaire obligé du bien donné (ou de tout autre bien acquis par le contribuable en même temps que le bien donné dans les circonstances déterminées au paragraphe 66.7(4) et pour lequel le produit de disposition est devenu à recevoir par le contribuable au moment déterminé) si, à la fois :

(D) no reduction under subsection 80(8) at or after the relevant time were taken into account

exceeds the total of

(ii) all amounts that would be determined under paragraph 66.7(4)(a) at the relevant time in respect of the taxpayer and an original owner of the particular property (or of that other property described in subparagraph (i)) if

(A) amounts that became receivable after the relevant time were not taken into account,

(B) each designation made under subparagraph 66.7(4)(a)(iii) in respect of an amount that became receivable at or before the relevant time were made before the relevant time,

(C) paragraph 66.7(4)(a) were read without reference to "30% of",

(D) amounts described in subparagraph 66.7(4)(a)(ii) that became receivable at the relevant time were not taken into account, and

(E) no reduction under subsection 80(8) at or after the relevant time were taken into account, and

(iii) such portion of the amount otherwise determined under this paragraph as was otherwise applied to reduce the amount otherwise determined under this description,

G is the total of all amounts that became receivable by the taxpayer before that time that are to be included in the amount determined under this description by virtue of paragraph 66(12.5)(a),

H is the total of all amounts each of which is an amount received before that time on account of any amount referred to in the description of C,

I is the total amount of assistance that the taxpayer has received or is entitled to receive in respect of any Canadian oil and gas property expense incurred after 1980 or that can reasonably be related to any such expense after 1980,

I.1 is the total of all amounts by which the cumulative Canadian oil and gas property expense of the taxpayer is required because of subsection 80(8) to be reduced at or before that time, and

J is the total of all amounts that are required to be deducted before that time under paragraph 66.7(12)(d) in computing the taxpayer's cumulative Canadian oil

(A) il n'était pas tenu compte des montants devenus à recevoir au moment déterminé ou après,

(B) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir avant le moment déterminé était effectuée avant ce moment,

(C) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(4)a),

(D) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe 80(8) au moment déterminé ou postérieurement,

sur le total :

(ii) des montants qui seraient déterminés selon l'alinéa 66.7(4)a) au moment déterminé relativement au contribuable et à un propriétaire obligé du bien donné (ou de l'autre bien visé au sous-alinéa (i)) si, à la fois :

(A) il n'était pas tenu compte des montants devenus à recevoir après le moment déterminé,

(B) chaque désignation effectuée en application du sous-alinéa 66.7(4)a)(iii) relativement à un montant devenu à recevoir au moment déterminé ou avant était effectuée avant ce moment,

(C) il n'était pas tenu compte du passage « 30 % de » à l'alinéa 66.7(4)a),

(D) il n'était pas tenu compte des montants visés au sous-alinéa 66.7(4)a)(ii) et devenus à recevoir au moment déterminé,

(E) il n'était pas tenu compte d'une réduction effectuée en application du paragraphe 80(8) au moment déterminé ou postérieurement,

(iii) de la partie du montant déterminé par ailleurs selon le présent alinéa qui est par ailleurs appliquée en réduction du montant déterminé par ailleurs selon le présent élément;

G le total des montants devenus à recevoir par le contribuable avant ce moment et qui doivent être inclus dans le montant calculé conformément au présent élément en vertu de l'alinéa 66(12.5)a);

H le total des montants dont chacun représente un montant reçu avant ce moment au titre d'un montant visé à l'élément C;

and gas property expense; (*frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*)

proceeds of disposition has the meaning assigned by section 54. (*produit de disposition*)

I le total des montants à titre d'aide que le contribuable a reçus ou est en droit de recevoir, concernant les frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés après 1980, ou qui peuvent raisonnablement s'y rapporter après 1980;

I.1 le total des montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du contribuable au plus tard à ce moment;

J le total des montants à déduire avant ce moment selon l'alinéa 66.7(12)d) dans le calcul de ses frais cumulatifs à l'égard de biens canadiens relatifs aupétrole et au gaz. (*cumulative Canadian oil and gas property expense*)

produit de disposition S'entend au sens de l'article 54. (*proceeds of disposition*)

Application of ss. 66(15) and 66.1(6)

(5.1) The definitions in subsections 66(15) and 66.1(6) apply to this section.

Application des par. 66(15) et 66.1(6)

(5.1) Les définitions figurant aux paragraphes 66(15) et 66.1(6) s'appliquent au présent article.

Share of partner

(6) Except as provided in subsection 66.4(7), where a taxpayer is a member of a partnership, the taxpayer's share of any amount that would be an amount referred to in the description of in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5), in paragraph (a) of the description of F in that definition or in the description of G or I in that definition in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph 96(1)(d) shall, for the purposes of this Act, be deemed to be an amount referred to in the description of D in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5), in paragraph (a) of the description of F in that definition or in the description of G or I in that definition, whichever is applicable, in respect of the taxpayer for the taxation year of the taxpayer in which the partnership's taxation year ends.

Part d'un associé

(6) Pour l'application de la présente loi et sauf disposition contraire au paragraphe (7), la part d'un contribuable — associé d'une société de personnes — sur un montant qui, sans l'alinéa 96(1)d), serait visé à l'élément D de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe (5), à l'alinéa a) de l'élément F de cette formule ou aux éléments G ou I de cette formule quant à la société de personnes pour son année d'imposition est réputée être un montant visé à cet élément D, cet alinéa a) de l'élément F ou ces éléments G ou I, selon le cas, quant au contribuable pour son année d'imposition au cours de laquelle l'année d'imposition de la société de personnes prend fin.

Exception

(7) Where a non-resident person is a member of a partnership that is deemed under paragraph 115(4)(b) to have disposed of any Canadian resource property, the person's share of any amount that would be an amount referred to in the description of D in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5), in paragraph (a) of the description of F in that definition or in the description of G or I in that definition in respect of the partnership for a taxation year of the partnership if section 96 were read without reference to paragraph 96(1)(d) shall, for the purposes of this

Exception

(7) Pour l'application de la présente loi, la part d'une personne non-résidente — associée d'une société de personnes qui est réputée en application de l'alinéa 115(4)b) avoir disposé d'un avoir minier canadien — sur un montant qui, sans l'alinéa 96(1)d), serait visé à l'élément D de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe (5), à l'alinéa a) de l'élément F de cette formule ou aux éléments G ou I de cette formule quant à la société de personnes pour son année d'imposition est réputée être un montant visé à cet élément D, cet

Act, be deemed to be an amount referred to in the description of D in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5), in paragraph (a) of the description of F in that definition or in the description of G or I in that definition, whichever is applicable, in respect of the person for the taxation year of the person that is deemed under paragraph 115(4)(a) to have ended.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.4; 1994, c. 7, Sch. II, s. 41, Sch. VIII, s. 25, c. 21, s. 30; 1995, c. 21, s. 24; 2001, c. 17, s. 48; 2003, c. 28, s. 7; 2013, c. 34, ss. 115, 203.

alinéa a) de l'élément F ou ces éléments G ou I, selon le cas, quant à la personne pour son année d'imposition qui est réputée par l'alinéa 115(4)a) avoir pris fin.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66.4; 1994, ch. 7, ann. II, art. 41, ann. VIII, art. 25, ch. 21, art. 30; 1995, ch. 21, art. 24; 2001, ch. 17, art. 48; 2003, ch. 28, art. 7; 2013, ch. 34, art. 115 et 203.

Deduction from income

66.5 (1) In computing its income for a taxation year that ends before 1995, a corporation that has not made a designation for the year under subsection 66(14.1) or (14.2) may deduct such amount as it may claim not exceeding its cumulative offset account at the end of the year.

Définition de *compte compensatoire cumulatif*

(2) Pour l'application du présent article, ***compte compensatoire cumulatif*** s'entend du compte d'une société dont le solde correspond à l'excédent éventuel, à un moment donné, du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants à ajouter en vertu des paragraphes 66(14.1) et (14.2) dans le calcul du solde du compte compensatoire cumulatif de la société avant ce moment;

b) le total des montants déduits en vertu du paragraphe (1) dans le calcul du revenu de la société pour les années d'imposition se terminant avant ce moment.

Change of control

(3) Where at any time after June 5, 1987 control of a corporation has been acquired by a person or group of persons, the amount deductible under subsection 66.5(1) by the corporation in computing its income for a taxation year ending after that time shall not exceed the amount, if any, by which

(a) the part of its income for the year that may reasonably be regarded as attributable to production from Canadian resource properties owned by it immediately before that time

exceeds

(b) the total of all amounts deducted under subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1), (3), (4) and (5) by it in respect of its

Définition de *compte compensatoire cumulatif*

(2) In this section, ***cumulative offset account*** of a corporation at any time means the amount, if any, by which

(a) the total of all amounts required to be added under subsections 66(14.1) and (14.2) in computing its cumulative offset account before that time,

exceeds

(b) the total of all amounts deducted under subsection 66.5(1) in computing its income for taxation years ending before that time.

Déduction dans le calcul du revenu

66.5 (1) Une société peut déduire dans le calcul de son revenu pour une année d'imposition se terminant avant 1995 un montant qui ne dépasse pas le solde de son compte compensatoire cumulatif à la fin de l'année si elle n'a pas désigné de montant pour cette année conformément au paragraphe 66(14.1) ou (14.2).

Changement de contrôle

(3) En cas d'acquisition, après le 5 juin 1987, du contrôle d'une société par une personne ou un groupe de personnes, le montant que la société peut déduire en vertu du paragraphe (1) dans le calcul de son revenu pour une année d'imposition se terminant après le moment de l'acquisition ne peut dépasser l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

a) la partie de son revenu pour l'année qu'il est raisonnable de considérer comme attribuable à la production tirée d'avoirs miniers canadiens qui lui appartenaient immédiatement avant ce moment;

b) le total des montants qu'elle a déduits en vertu du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* et des paragraphes 66.7(1),

income for the year in computing its income for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1986, c. 2, s. 19, c. 58, s. 9; 1987, c. 46, s. 22.

Acquisition from tax-exempt

66.6 Where a corporation acquires, by purchase, amalgamation, merger, winding-up or otherwise, all or substantially all of the Canadian resource properties or foreign resource properties of a person whose taxable income is exempt from tax under this Part, subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1) to 66.7(5) do not apply to the corporation in respect of the acquisition of the properties.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.6; 1998, c. 19, s. 105.

Successor of Canadian exploration and development expenses

66.7 (1) Subject to subsections 66.7(6) and 66.7(7), where after 1971 a corporation (in this subsection referred to as the "successor") acquired a particular Canadian resource property (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) the Canadian exploration and development expenses incurred by the original owner before the original owner disposed of the particular property to the extent that those expenses were not otherwise deducted in computing the income of the successor for the year, were not deducted in computing the income of the successor for a preceding taxation year and were not deductible under subsection 66(1) or deducted under subsection 66(2) or 66(3) by the original owner, or deducted by any predecessor owner of the particular property, in computing income for any taxation year, and

(b) the amount, if any, by which

(i) the part of the successor's income for the year that may reasonably be regarded as attributable to

(A) the amount included in computing its income for the year under paragraph 59(3.2)(c) that may reasonably be regarded as attributable to the disposition by it in the year or a preceding taxation year of any interest in or right to — or, for civil law, any right in or to — the particular property to the extent that the proceeds of the disposition have not been included in

(3), (4) et (5) au titre de cette partie de revenu dans le calcul de son revenu pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1986, ch. 2, art. 19, ch. 58, art. 9; 1987, ch. 46, art. 22.

Acquisition des avoirs d'une personne exonérée

66.6 Le paragraphe 29(25) des R revenu et les paragraphes 66.7(1) à (5) ne s'appliquent pas à la société qui acquiert, par achat, fusion, unification, liquidation ou autrement, la totalité ou la presque totalité des avoirs miniers canadiens ou des avoirs miniers étrangers d'une personne dont le revenu imposable est exonéré de l'impôt prévu par la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66.6; 1998, ch. 19, art. 105.

Frais d'exploration et d'aménagement au Canada des sociétés remplaçantes

66.7 (1) Sous réserve des paragraphes (6) et (7), la société — appelée « société remplaçante » au présent paragraphe — qui a acquis, après 1971, un avoir minier canadien, par achat, fusion, unification, liquidation ou autrement, peut déduire dans le calcul de son revenu pour une année d'imposition un montant qui ne dépasse pas le total des montants dont chacun représente le moins élevé des montants suivants, déterminés en rapport avec un propriétaire obligé de l'avoir :

a) le montant des frais d'exploration et d'aménagement au Canada que le propriétaire obligé a engagés avant de disposer de l'avoir, dans la mesure où ces frais n'ont pas été déduits par ailleurs dans le calcul du revenu de la société remplaçante pour l'année, n'ont pas été déduits dans le calcul du revenu de la société remplaçante pour une année d'imposition antérieure et n'étaient pas déductibles par le propriétaire obligé en application du paragraphe 66(1) ou n'ont pas été déduits par celui-ci en application des paragraphes 66(2) ou (3), ni déduits par un propriétaire antérieur de l'avoir, dans le calcul du revenu pour une année d'imposition;

b) l'excédent éventuel du montant suivant :

(i) la partie du revenu de la société remplaçante pour l'année — calculée comme si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article ou de l'un des articles 65 à 66.5 — qu'il est raisonnable de considérer comme attribuable :

(A) soit au montant — inclus dans le calcul de son revenu pour l'année en vertu de l'alinéa 59(3.2)c) — qu'il est raisonnable de considérer

determining an amount under clause 29(25)(d)(i)(A) of the *Income Tax Application Rules*, this clause, clause (3)(b)(i)(A) or paragraph (10)(g) for a preceding taxation year,

(B) its reserve amount for the year in respect of the original owner and each predecessor owner, if any, of the particular property, or

(C) production from the particular property,

computed as if no deduction were allowed under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5,

exceeds the total of

(ii) all other amounts deducted under subsection 29(25) of the *Income Tax Application Rules*, this subsection and subsections 66.7(3), 66.7(4) and 66.7(5) for the year that can reasonably be regarded as attributable to the part of its income for the year described in subparagraph 66.7(1)(b)(i) in respect of the particular property, and

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph 66.7(1)(b)(i).

comme attribuable à la disposition par la société remplaçante au cours de l'année ou d'une année d'imposition antérieure d'un intérêt ou droit sur l'avoir ou, pour l'application du droit civil, d'un droit relatif à cet avoir, dans la mesure où le produit de disposition n'a pas été inclus dans le calcul d'un montant en vertu de la division 29(25)d)(i)(A) des *Règles concernant l'application de l'impôt sur le revenu*, de la présente division, de la division (3)b)(i)(A) ou de l'alinéa (10)g), pour une année d'imposition antérieure,

(B) soit à sa provision pour l'année provenant du propriétaire obligé et, éventuellement, de chaque propriétaire antérieur de l'avoir,

(C) soit à la production tirée de cet avoir,

sur le total des montants suivants :

(ii) les autres montants déduits en vertu du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu*, du présent paragraphe et des paragraphes (3), (4) et (5) pour l'année et qu'il est raisonnable de considérer comme attribuables à la partie de revenu visée au sous-alinéa (i),

(iii) les montants ajoutés, par l'effet du paragraphe 80(13), dans le calcul du montant déterminé selon le sous-alinéa (i).

Successor of foreign exploration and development expenses

(2) Subject to subsections 66.7(6) and 66.7(8), where after 1971 a corporation (in this subsection referred to as the "successor") acquired a particular foreign resource property (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) the amount, if any, by which

(i) the foreign exploration and development expenses incurred by the original owner before the original owner disposed of the particular property to the extent that those expenses were incurred when the original owner was resident in Canada, were not otherwise deducted in computing the successor's income for the year, were not deducted in computing the successor's income for a preceding taxation year and were not deductible by the original owner, nor deducted by any predecessor owner

Frais d'exploration et d'aménagement à l'étranger des sociétés remplaçantes

(2) Sous réserve des paragraphes (6) et (8), la société — appelée « société remplaçante » au présent paragraphe — qui a acquis, après 1971, un avoir minier étranger, par achat, fusion, unification, liquidation ou autrement, peut déduire dans le calcul de son revenu pour une année d'imposition un montant qui ne dépasse pas le total des montants dont chacun représente le moins élevé des montants suivants, déterminé en rapport avec un propriétaire obligé de l'avoir :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant des frais d'exploration et d'aménagement à l'étranger que le propriétaire obligé a engagés avant de disposer de l'avoir, dans la mesure où ces frais ont été engagés au moment où il résidait au Canada, n'ont pas été déduits par ailleurs dans le calcul du revenu de la société remplaçante pour l'année, n'ont été déduits ni dans le calcul du revenu de la société remplaçante pour une année d'imposition antérieure ni par un propriétaire antérieur de l'avoir dans le calcul de son revenu pour une

of the particular property, in computing income for any taxation year

exceeds

(ii) the total of all amounts each of which is an amount by which the amount described in this paragraph is required because of subsection 80(8) to be reduced at or before the end of the year, and

(b) the amount, if any, by which the total of

(i) the part of the successor's income for the year that can reasonably be regarded as attributable to

(A) the amount included under subsection 59(1) in computing its income for the year that can reasonably be regarded as attributable to the disposition by it of any interest in or right to — or, for civil law, any right in or to — the particular property, or

(B) production from the particular property,

computed as if no deduction were allowed under sections 65 to 66.5 and this section, and

(ii) the lesser of

(A) the total of all amounts each of which is the amount designated by the successor for the year in respect of a Canadian resource property owned by the original owner immediately before being acquired with the particular property by the successor or a predecessor owner of the particular property, not exceeding the amount included in the successor's income for the year, computed as if no deduction were allowed under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, that can reasonably be regarded as being attributable to the production after 1988 from the Canadian resource property, and

(B) the amount, if any, by which 10% of the amount described in paragraph 66.7(2)(a) for the year in respect of the original owner exceeds the total of all amounts each of which would, but for this subparagraph, clause 66.7(2)(b)(iii)(B) and subparagraph 66.7(10)(h)(vi), be determined under this paragraph for the year in respect of the particular property or other foreign resource property owned by the original owner immediately before being acquired with the particular property by the successor or a predecessor owner of the particular property

année d'imposition et n'étaient pas déductibles par le propriétaire obligé dans le calcul de son revenu pour une année d'imposition,

(ii) le total des montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction de l'excédent visé au présent alinéa au plus tard à la fin de l'année;

b) l'excédent éventuel du total des montants suivants :

(i) la partie du revenu de la société remplaçante pour l'année — calculée comme si aucune déduction n'était admise en vertu du présent article et des articles 65 à 66.5 — qu'il est raisonnable de considérer comme attribuable :

(A) soit au montant — inclus en vertu du paragraphe 59(1) dans le calcul de son revenu pour l'année — qu'il est raisonnable de considérer comme attribuable à la disposition par la société remplaçante d'un intérêt ou droit sur l'avoir ou, pour l'application du droit civil, d'un droit relatif à cet avoir,

(B) soit à la production tirée de cet avoir,

(ii) le moins élevé des montants suivants :

(A) le total des montants dont chacun représente le montant désigné par la société remplaçante pour l'année relativement à un avoir minier canadien dont le propriétaire obligé était propriétaire immédiatement avant que la société remplaçante ou un propriétaire antérieur de l'avoir minier étranger ne l'acquière en même temps que celui-ci, à concurrence du montant inclus dans le revenu de la société remplaçante pour l'année, calculé comme si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article et des articles 65 à 66.5, qu'il est raisonnable de considérer comme attribuable à la production tirée de l'avoir minier canadien après 1988,

(B) l'excédent éventuel du montant correspondant à 10 % du montant visé à l'alinéa a) pour l'année concernant le propriétaire obligé sur le total des montants dont chacun représente un montant qui, sans le présent sous-alinéa, la division (iii)(B) et le sous-alinéa (10)h)(vi), serait calculé selon le présent alinéa pour l'année relativement à l'avoir minier étranger ou à un autre semblable avoir dont le propriétaire obligé était propriétaire immédiatement avant que la société

exceeds the total of

(iii) all other amounts deducted under this subsection for the year that can reasonably be regarded as attributable to

(A) the part of its income for the year described in subparagraph 66.7(2)(b)(i) in respect of the particular property, or

(B) a part of its income for the year described in clause 66.7(2)(b)(ii)(A) in respect of which an amount is designated by the successor under clause 66.7(2)(b)(ii)(A), and

(iv) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph 66.7(2)(b)(i),

and income in respect of which an amount is designated under clause 66.7(2)(b)(ii)(A) shall, for the purposes of clause 29(25)(d)(i)(B) of the *Income Tax Application Rules*, clauses 66.7(1)(b)(i)(C), 66.7(3)(b)(i)(C), 66.7(4)(b)(i)(B) and 66.7(5)(b)(i)(B) and subparagraph 66.7(10)(g)(iii), be deemed not to be attributable to production from a Canadian resource property.

remplaçante ou un propriétaire antérieur de l'avoir minier étranger ne l'acquière en même temps que celui-ci,

sur le total des montants suivants :

(iii) les autres montants déduits en application du présent paragraphe pour l'année et qu'il est raisonnable de considérer comme attribuables :

(A) soit à la partie de son revenu pour l'année, visée au sous-alinéa (i), relativement à l'avoir minier étranger,

(B) soit à la partie de son revenu pour l'année, visée à la division (ii)(A), relativement à laquelle la société remplaçante désigne un montant en vertu de la division (ii)(A),

(iv) les montants ajoutés, par l'effet du paragraphe 80(13), dans le calcul du montant déterminé selon le sous-alinéa (i).

Le revenu relativement auquel un montant est désigné en vertu de la division b)(ii)(A) est réputé, pour l'application de la division 29(25)d)(i)(B) des *Règles concernant l'application de l'impôt sur le revenu*, des divisions (1)b)(i)(C), (3)b)(i)(C), (4)b)(i)(B) et (5)b)(i)(B) et du sous-alinéa (10)g)(iii), ne pas être attribuable à la production tirée d'un avoir minier canadien.

Country-by-country successor FEDE allocations

(2.1) For greater certainty, the portion of an amount deducted under subsection (2) in computing a taxpayer's income for a taxation year that can reasonably be considered to be in respect of specified foreign exploration and development expenses of the taxpayer in respect of a country is considered to apply to a source in that country.

Frais d'exploration et d'aménagement à l'étranger de sociétés remplaçantes — attribution par pays

(2.1) Il est entendu que la partie d'un montant déduit, en application du paragraphe (2), dans le calcul du revenu d'un contribuable pour une année d'imposition qu'il est raisonnable de considérer comme étant afférente à des frais d'exploration et d'aménagement à l'étranger déterminés du contribuable se rapportant à un pays est attribuable à une source située dans ce pays.

Method of allocation

(2.2) For the purpose of subsection (2.1), where a taxpayer has incurred specified foreign exploration and development expenses in respect of two or more countries, an allocation to each of those countries for a taxation year shall be determined in a manner that is

(a) reasonable having regard to all the circumstances, including the level and timing of

(i) the taxpayer's specified foreign exploration and development expenses in respect of the country, and

(ii) the profits or gains to which those expenses relate; and

Méthode d'attribution

(2.2) Pour l'application du paragraphe (2.1), lorsqu'un contribuable a engagé des frais d'exploration et d'aménagement à l'étranger déterminés se rapportant à plusieurs pays, le montant attribué à chacun des pays pour une année d'imposition est déterminé d'une manière qui, à la fois :

a) est raisonnable compte tenu des circonstances, y compris l'importance des éléments suivants et le moment auquel ils ont été engagés ou réalisés, selon le cas :

(i) les frais d'exploration et d'aménagement à l'étranger déterminés du contribuable se rapportant au pays,

(b) not inconsistent with the allocation made under subsection (2.1) for the preceding taxation year.

(ii) les bénéfices ou les gains auxquels ces frais se rapportent;

b) n'est pas incompatible avec l'attribution effectuée en application du paragraphe (2.1) pour l'année d'imposition précédente.

Successor of foreign resource expenses

(2.3) Subject to subsections (6) and (8), where a corporation (in this subsection referred to as the "successor") acquired a particular foreign resource property in respect of a country (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) 30% of the amount, if any, by which

(i) the cumulative foreign resource expense, in respect of the country, of the original owner determined immediately after the disposition of the particular property by the original owner to the extent that it has not been

(A) deducted by the original owner or any predecessor owner of the particular property in computing income for any taxation year,

(B) otherwise deducted in computing the income of the successor for the year, or

(C) deducted by the successor in computing its income for any preceding taxation year

exceeds the total of

(ii) all amounts each of which is an amount (other than any portion of the amount that can reasonably be considered to result in a reduction of the amount otherwise determined under this paragraph in respect of another original owner of a relevant resource property who is not a predecessor owner of a relevant resource property or who became a predecessor owner of a relevant resource property before the original owner became a predecessor owner of a relevant resource property) that became receivable by a predecessor owner of the particular property, or by the successor in the year or a preceding taxation year, and that

(A) was included by the predecessor owner or the successor in computing an amount determined under paragraph (a) of the description of

Frais relatifs à des ressources à l'étranger de sociétés remplaçantes

(2.3) Sous réserve des paragraphes (6) et (8), la société (appelée « société remplaçante » au présent paragraphe) qui a acquis un avoir minier étranger donné à l'égard d'un pays, par achat, fusion, unification, liquidation ou autrement, peut déduire dans le calcul de son revenu pour une année d'imposition un montant ne dépassant pas le total des montants représentant chacun le moins élevé des montants suivants, déterminés relativement à un propriétaire obligé de l'avoir donné :

a) 30 % de l'excédent éventuel :

(i) des frais cumulatifs relatifs à des ressources à l'étranger du propriétaire obligé, se rapportant au pays, déterminés immédiatement après que ce dernier a disposé de l'avoir donné, dans la mesure où le montant de ces frais n'a été :

(A) ni déduit par le propriétaire obligé ou un propriétaire antérieur de l'avoir donné dans le calcul de leur revenu pour une année d'imposition,

(B) ni déduit par ailleurs dans le calcul du revenu de la société remplaçante pour l'année,

(C) ni déduit par la société remplaçante dans le calcul de son revenu pour une année d'imposition antérieure,

sur la somme des montants suivants :

(ii) le total des montants représentant chacun un montant (sauf la partie de ce montant qu'il est raisonnable de considérer comme entraînant une réduction du montant déterminé par ailleurs selon le présent alinéa relativement à un autre propriétaire obligé d'un avoir minier déterminé qui soit n'est pas un propriétaire antérieur d'un tel avoir, soit en est devenu un avant que le propriétaire obligé ne le devienne) qui est devenu à recevoir par un propriétaire antérieur de l'avoir donné, ou par la société remplaçante au cours de l'année ou d'une année d'imposition antérieure, et qui remplit les conditions suivantes :

(A) il a été inclus par le propriétaire antérieur ou par la société remplaçante dans le calcul d'un

F in the definition ***cumulative foreign resource expense*** in subsection 66.21(1) at the end of the year, and

(B) can reasonably be regarded as attributable to the disposition of a property (in this subparagraph referred to as a "relevant resource property") that is

(I) the particular property, or

(II) another foreign resource property in respect of the country that was acquired from the original owner with the particular property by the successor or a predecessor owner of the particular property, and

(iii) all amounts each of which is an amount by which the amount described in this paragraph is required by reason of subsection 80(8) to be reduced at or before the end of the year, and

(b) the amount, if any, by which the total of

(i) the part of the successor's income for the year that can reasonably be regarded as attributable to production from the particular property, computed as if no deduction were permitted under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, except that, where the successor acquired the particular property from the original owner at any time in the year (otherwise than by way of an amalgamation or merger or solely by reason of the application of paragraph (10)(c)) and did not deal with the original owner at arm's length at that time, the amount determined under this subparagraph is deemed to be nil, and

(ii) unless the amount determined under subparagraph (i) is nil by reason of the exception provided under that subparagraph, the lesser of

(A) the total of all amounts each of which is the amount designated by the successor for the year in respect of a Canadian resource property owned by the original owner immediately before being acquired with the particular property by the successor or a predecessor owner of the particular property, not exceeding the amount included in the successor's income for the year, computed as if no deduction were permitted under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, that can reasonably be regarded as being attributable to the production from the Canadian resource property, and

montant déterminé selon l'alinéa a) de l'élément F de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1) à la fin de l'année,

(B) il est raisonnable de considérer qu'il est attribuable à la disposition d'un bien (appelé « avoir minier déterminé » au présent sous-alinéa) qui est :

(I) soit l'avoir donné,

(II) soit un autre avoir minier étranger se rapportant au pays que la société remplaçante ou un propriétaire antérieur de l'avoir donné a acquis du propriétaire obligé en même temps que l'avoir donné,

(iii) le total des montants représentant chacun un montant qui, par l'effet du paragraphe 80(8), est à appliquer en réduction du montant visé au présent alinéa au plus tard à la fin de l'année;

b) l'excédent éventuel de la somme des montants suivants :

(i) la partie du revenu de la société remplaçante pour l'année, calculée comme si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article ou de l'un des articles 65 à 66.5, qu'il est raisonnable de considérer comme étant attribuable à la production tirée de l'avoir donné; toutefois, dans le cas où la société remplaçante a acquis l'avoir donné auprès du propriétaire obligé au cours de l'année (autrement que dans le cadre d'une fusion ou d'une unification ou autrement que par le seul effet de l'alinéa (10)c)), et a un lien de dépendance avec lui au moment de l'acquisition, le montant déterminé selon le présent sous-alinéa est réputé égal à zéro,

(ii) sauf si le montant déterminé selon le sous-alinéa (i) est égal à zéro par l'effet de l'exception prévue à ce sous-alinéa, le moins élevé des montants suivants :

(A) le total des montants représentant chacun le montant désigné par la société remplaçante pour l'année relativement à un avoir minier canadien dont le propriétaire obligé était propriétaire immédiatement avant que la société remplaçante ou un propriétaire antérieur de l'avoir donné ne l'acquière en même temps que celui-ci, jusqu'à concurrence du montant inclus dans le revenu de la société remplaçante pour l'année, calculé comme si aucune déduction n'était admise en

(B) the amount, if any, by which 10% of the amount described in paragraph (a) for the year, in respect of the original owner, exceeds the total of all amounts each of which would, but for this subparagraph, clause (2)(b)(iii)(B) and subparagraph (10)(h)(vi), be determined under this paragraph for the year in respect of the particular property or other foreign resource property, in respect of the country, owned by the original owner immediately before being acquired with the particular property by the successor or by a predecessor owner of the particular property

exceeds the total of

(iii) all other amounts each of which is an amount deducted for the year under this subsection or subsection (2) that can reasonably be regarded as attributable to

(A) the part of its income for the year described in subparagraph (i) in respect of the particular property, or

(B) a part of its income for the year described in clause (ii)(A) in respect of which an amount is designated by the successor under clause (ii)(A), and

(iv) all amounts added by reason of subsection 80(13) in computing the amount determined under subparagraph (i),

and income in respect of which an amount is designated under clause (b)(ii)(A) is, for the purposes of clause 29(25)(d)(i)(B) of the *Income Tax Application Rules*, clauses (1)(b)(i)(C), (3)(b)(i)(C), (4)(b)(i)(B) and (5)(b)(i)(B) and subparagraph (10)(g)(iii), deemed not to be attributable to production from a Canadian resource property.

Successor of Canadian exploration expense

(3) Subject to subsections 66.7(6) and 66.7(7), where after May 6, 1974 a corporation (in this subsection referred to as the "successor") acquired a particular Canadian resource property (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a

vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article et de l'un des articles 65 à 66.5, qu'il est raisonnable de considérer comme étant attribuable à la production tirée de l'avoir minier canadien,

(B) l'excédent éventuel du montant représentant 10 % du montant visé à l'alinéa a) pour l'année concernant le propriétaire obligé sur le total des montants représentant chacun un montant qui, si ce n'était le présent sous-alinéa, la division (2)b)(iii)(B) et le sous-alinéa (10)h)(vi), serait déterminé selon le présent alinéa pour l'année relativement à l'avoir donné ou à un autre avoir minier étranger, se rapportant au pays, dont le propriétaire obligé était propriétaire immédiatement avant que la société remplaçante ou un propriétaire antérieur de l'avoir donné ne l'acquière en même temps que celui-ci,

sur la somme des montants suivants :

(iii) les autres montants représentant chacun un montant déduit pour l'année en application du présent paragraphe ou du paragraphe (2) et qu'il est raisonnable de considérer comme étant attribuable :

(A) soit à la partie de son revenu pour l'année, visée au sous-alinéa (i), relativement à l'avoir donné,

(B) soit à une partie de son revenu pour l'année, visée à la division (ii)(A), relativement à laquelle la société remplaçante désigne un montant en vertu de cette division,

(iv) les montants ajoutés, par l'effet du paragraphe 80(13), dans le calcul du montant déterminé selon le sous-alinéa (i).

Le revenu relativement auquel un montant est désigné en vertu de la division b)(ii)(A) est réputé, pour l'application de la division 29(25)d)(i)(B) des *Règles concernant l'application de l'impôt sur le revenu*, des divisions (1)b)(i)(C), (3)b)(i)(C), (4)b)(i)(B) et (5)b)(i)(B) et du sous-alinéa (10)g)(iii), ne pas être attribuable à la production tirée d'un avoir minier canadien.

Frais d'exploration au Canada des sociétés remplaçantes

(3) Sous réserve des paragraphes (6) et (7), la société — appelée « société remplaçante » au présent paragraphe — qui a acquis, après le 6 mai 1974, un avoir minier canadien, par achat, fusion, unification, liquidation ou autrement, peut déduire dans le calcul de son revenu pour une année d'imposition un montant qui ne dépasse pas le

taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) the amount, if any, by which

(i) the total of

(A) the cumulative Canadian exploration expense of the original owner determined immediately after the disposition of the particular property by the original owner, and

(B) all amounts required to be added under paragraph 66.7(9)(f) to the cumulative Canadian exploration expense of the original owner in respect of a predecessor owner of the particular property, or the successor, as the case may be, at any time after the disposition of the particular property by the original owner and before the end of the year,

to the extent that an amount in respect of that total was not

(C) deducted or required to be deducted under subsection 66.1(2) or 66.1(3) by the original owner or deducted by any predecessor owner of the particular property in computing income for any taxation year,

(D) otherwise deducted in computing the successor's income for the year,

(E) deducted in computing the successor's income for a preceding taxation year, or

(F) designated by the original owner pursuant to subsection 66(14.1) for any taxation year,

exceeds

(ii) the total of all amounts each of which is an amount by which the amount described in this paragraph is required because of subsection 80(8) to be reduced at or before the end of the year, and

(b) the amount, if any, by which

(i) the part of the successor's income for the year that may reasonably be regarded as attributable to

(A) the amount included in computing its income for the year under paragraph 59(3.2)(c) that may reasonably be regarded as being attributable to the disposition by it in the year or a

total des montants dont chacun représente le moins élevé des montants suivants, déterminé en rapport avec un propriétaire obligé de l'avoir :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants suivants :

(A) les frais cumulatifs d'exploration au Canada du propriétaire obligé, calculés immédiatement après que ce dernier a disposé de l'avoir,

(B) les montants à ajouter en vertu de l'alinéa (9)f) aux frais cumulatifs d'exploration au Canada soit du propriétaire obligé quant à un propriétaire antérieur de l'avoir, soit de la société remplaçante, après que le propriétaire obligé a disposé de l'avoir et avant la fin de l'année,

dans la mesure où un montant sur ce total :

(C) n'a pas été déduit ou n'était pas à déduire en application des paragraphes 66.1(2) ou (3) par le propriétaire obligé, ou n'a pas été déduit par un propriétaire antérieur de l'avoir, dans le calcul de leur revenu pour une année d'imposition,

(D) n'a pas été déduit par ailleurs dans le calcul du revenu de la société remplaçante pour l'année,

(E) n'a pas été déduit dans le calcul du revenu de la société remplaçante pour une année d'imposition antérieure,

(F) n'a pas été désigné par le propriétaire obligé pour une année d'imposition conformément au paragraphe 66(14.1),

(ii) le total des montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction de l'excédent visé au présent alinéa au plus tard à la fin de l'année,

b) l'excédent éventuel du montant suivant :

(i) la partie du revenu de la société remplaçante pour l'année — calculée comme si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article ou de l'un des articles 65 à 66.5 — qu'il est raisonnable de considérer comme attribuable :

(A) soit au montant — inclus dans le calcul de son revenu pour l'année en vertu de l'alinéa

preceding taxation year of any interest in or right to — or, for civil law, any right in or to — the particular property to the extent that the proceeds have not been included in determining an amount under clause 29(25)(d)(i)(A) of the *Income Tax Application Rules*, this clause, clause (1)(b)(i)(A) or paragraph (10)(g) for a preceding taxation year,

(B) its reserve amount for the year in respect of the original owner and each predecessor owner, if any, of the particular property, or

(C) production from the particular property,

computed as if no deduction were allowed under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5,

exceeds the total of

(ii) all other amounts deducted under subsection 29(25) of the *Income Tax Application Rules*, this subsection and subsections 66.7(1), 66.7(4) and 66.7(5) for the year that can reasonably be regarded as attributable to the part of its income for the year described in subparagraph 66.7(3)(b)(i) in respect of the particular property, and

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph 66.7(3)(b)(i).

59(3.2)c) — qu'il est raisonnable de considérer comme attribuable à la disposition par la société remplaçante au cours de l'année ou d'une année d'imposition antérieure d'un intérêt ou droit sur l'avoir ou, pour l'application du droit civil, d'un droit relatif à cet avoir, dans la mesure où ce produit n'a pas été inclus dans le calcul d'un montant en vertu de la division 29(25)d)(i)(A) des *Règles concernant l'application de l'impôt sur le revenu*, de la présente division, de la division (1)b)(i)(A) ou de l'alinéa (10)g), pour une année d'imposition antérieure,

(B) soit à sa provision pour l'année provenant du propriétaire obligé et, éventuellement, de chaque propriétaire antérieur de l'avoir,

(C) soit à la production tirée de cet avoir,

sur le total des montants suivants :

(ii) les autres montants déduits en vertu du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu*, du présent paragraphe et des paragraphes (1), (4) et (5) pour l'année et qu'il est raisonnable de considérer comme attribuables à la partie de revenu visée au sous-alinéa (i),

(iii) les montants ajoutés, par l'effet du paragraphe 80(13), dans le calcul du montant déterminé selon le sous-alinéa (i).

Successor of Canadian development expense

(4) Subject to subsections 66.7(6) and 66.7(7), where after May 6, 1974 a corporation (in this subsection referred to as the "successor") acquired a particular Canadian resource property (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) 30% of the amount, if any, by which

(i) the amount, if any, by which

(A) the cumulative Canadian development expense of the original owner determined immediately after the disposition of the particular property by the original owner to the extent that it has not been

Frais d'aménagement au Canada des sociétés remplaçantes

(4) Sous réserve des paragraphes (6) et (7), la société — appelée « société remplaçante » au présent paragraphe — qui a acquis, après le 6 mai 1974, un avoir minier canadien, par achat, fusion, unification, liquidation ou autrement, peut déduire dans le calcul de son revenu pour une année d'imposition un montant qui ne dépasse pas le total des montants dont chacun représente le moins élevé des montants suivants, déterminés en rapport avec un propriétaire obligé de l'avoir :

a) 30 % de l'excédent éventuel :

(i) de l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) les frais cumulatifs d'aménagement au Canada du propriétaire obligé, calculés immédiatement après que ce dernier a disposé de l'avoir, dans la mesure où le montant de ces frais n'a été :

(I) deducted by the original owner or any predecessor owner of the particular property in computing income for any taxation year,

(I.1) otherwise deducted in computing the income of the successor for the year,

(II) deducted by the successor in computing its income for any preceding taxation year, or

(III) designated by the original owner pursuant to subsection 66(14.2) for any taxation year,

(B) any amount required to be deducted under paragraph (9)(e) from the cumulative Canadian development expense of the original owner in respect of a predecessor owner of the particular property or the successor, as the case may be, at any time after the disposition of the particular property by the original owner and before the end of the year,

exceeds the total of

(ii) all amounts each of which is an amount (other than any portion thereof that can reasonably be considered to result in a reduction of the amount otherwise determined under this paragraph in respect of another original owner of a relevant mining property who is not a predecessor owner of a relevant mining property or who became a predecessor owner of a relevant mining property before the original owner became a predecessor owner of a relevant mining property) that became receivable by a predecessor owner of the particular property or the successor in the year or a preceding taxation year and that

(A) was included by the predecessor owner or the successor in computing an amount determined under paragraph (a) of the description of F in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) at the end of the year, and

(B) can reasonably be regarded as attributable to the disposition of a property (in this subparagraph referred to as a "relevant mining property") that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the successor or a predecessor owner of the particular property,

(iii) all amounts each of which is an amount (other than any portion thereof that can reasonably be

(I) ni déduit par le propriétaire obligé ou un propriétaire antérieur de l'avoir dans le calcul de leur revenu pour une année d'imposition,

(I.1) ni déduit par ailleurs dans le calcul du revenu de la société remplaçante pour l'année,

(II) ni déduit par la société remplaçante dans le calcul de son revenu pour une année d'imposition antérieure,

(III) ni désigné par le propriétaire obligé pour une année d'imposition conformément au paragraphe 66(14.2),

(B) le montant à déduire en vertu de l'alinéa (9)e) des frais cumulatifs d'aménagement au Canada soit du propriétaire obligé en rapport avec un propriétaire antérieur de l'avoir, soit de la société remplaçante, après que le propriétaire obligé a disposé de l'avoir et avant la fin de l'année,

sur le total :

(ii) du total des montants représentant chacun un montant (sauf la partie de ce montant qu'il est raisonnable de considérer comme entraînant une réduction du montant déterminé par ailleurs selon le présent alinéa relativement à un autre propriétaire obligé d'un bien minier donné qui soit n'est pas un propriétaire antérieur d'un tel bien, soit en est devenu un avant que le propriétaire obligé ne le devienne) qui est devenu à recevoir par un propriétaire antérieur de l'avoir ou par la société remplaçante au cours de l'année ou d'une année d'imposition antérieure et qui remplit les conditions suivantes :

(A) il a été inclus par le propriétaire antérieur ou par la société remplaçante dans le calcul d'un montant déterminé selon l'alinéa a) de l'élément F de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) à la fin de l'année,

(B) il est raisonnable de le considérer comme attribuable à la disposition d'un bien (appelé « bien minier donné » au présent sous-alinéa) qui est soit l'avoir, soit un autre avoir minier canadien que la société remplaçante ou un propriétaire antérieur de l'avoir a acquis du propriétaire obligé en même temps que l'avoir,

(iii) des montants représentant chacun un montant (sauf la partie de ce montant qu'il est raisonnable de considérer comme entraînant une réduction du

considered to result in a reduction of the amount otherwise determined under paragraph 66.7(5)(a) in respect of the original owner or under this paragraph or paragraph 66.7(5)(a) in respect of another original owner of a relevant oil and gas property who is not a predecessor owner of a relevant oil and gas property or who became a predecessor owner of a relevant oil and gas property before the original owner became a predecessor owner of a relevant oil and gas property) that became receivable by a predecessor owner of the particular property or the successor after 1992 and in the year or a preceding taxation year and that

(A) is designated in respect of the original owner by the predecessor owner or the successor, as the case may be, in prescribed form filed with the Minister within 6 months after the end of the taxation year in which the amount became receivable,

(B) was included by the predecessor owner or the successor in computing an amount determined under paragraph (a) of the description of F in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) at the end of the year, and

(C) can reasonably be regarded as attributable to the disposition of a property (in this subparagraph referred to as a "relevant oil and gas property") that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the successor or a predecessor owner of the particular property, and

(iv) all amounts each of which is an amount by which the amount described in this paragraph is required because of subsection 80(8) to be reduced at or before the end of the year, and

(b) the amount, if any, by which

(i) the part of the successor's income for the year that can reasonably be regarded as attributable to

(A) its reserve amount for the year in respect of the original owner and each predecessor owner of the particular property, or

(B) production from the particular property,

computed as if no deduction were allowed under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, except that, where the successor acquired the particular

montant déterminé par ailleurs soit selon l'alinéa (5)a) relativement au propriétaire obligé, soit selon le présent alinéa ou l'alinéa (5)a) relativement à un autre propriétaire obligé d'un bien donné relatif au pétrole et au gaz qui soit n'est pas un propriétaire antérieur d'un tel bien, soit en est devenu un avant que le propriétaire obligé ne le devienne) qui est devenu à recevoir par un propriétaire antérieur de l'avoir ou par la société remplaçante après 1992 et au cours de l'année ou d'une année d'imposition antérieure et qui remplit les conditions suivantes :

(A) il a été désigné relativement au propriétaire obligé par le propriétaire antérieur ou par la société remplaçante, selon le cas, sur formulaire prescrit présenté au ministre dans les six mois suivant la fin de l'année d'imposition au cours de laquelle le montant est devenu à recevoir,

(B) il a été inclus par le propriétaire antérieur ou par la société remplaçante dans le calcul d'un montant déterminé selon l'alinéa a) de l'élément F de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) à la fin de l'année,

(C) il est raisonnable de le considérer comme attribuable à la disposition d'un bien (appelé « bien donné relatif au pétrole et au gaz » au présent sous-alinéa) qui est soit l'avoir, soit un autre avoir minier canadien que la société remplaçante ou un propriétaire antérieur de l'avoir a acquis du propriétaire obligé en même temps que l'avoir;

(iv) des montants qui, par l'effet du paragraphe 80(8), sont à appliquer en réduction du montant visé au présent alinéa au plus tard à la fin de l'année;

b) l'excédent éventuel du montant suivant :

(i) la partie du revenu de la société remplaçante pour l'année — calculée comme si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article ou de l'un des articles 65 à 66.5 — qu'il est raisonnable de considérer comme attribuable :

(A) soit à sa provision pour l'année provenant du propriétaire obligé et, éventuellement, de chaque propriétaire antérieur de l'avoir,

(B) soit à la production tirée de cet avoir,

property from the original owner at any time in the year (otherwise than by way of an amalgamation or merger or solely because of the application of paragraph 66.7(10)(c)) and did not deal with the original owner at arm's length at that time, the amount determined under this subparagraph shall be deemed to be nil,

exceeds the total of

(ii) all other amounts deducted under subsection 29(25) of the *Income Tax Application Rules*, this subsection and subsections 66.7(1), 66.7(3) and 66.7(5) for the year that can reasonably be regarded as attributable to the part of its income for the year described in subparagraph 66.7(4)(b)(i) in respect of the particular property, and

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph 66.7(4)(b)(i).

Successor of Canadian oil and gas property expense

(5) Subject to subsections 66.7(6) and 66.7(7), where after December 11, 1979 a corporation (in this subsection referred to as the "successor") acquired a particular Canadian resource property (whether by way of a purchase, amalgamation, merger, winding-up or otherwise), there may be deducted by the successor in computing its income for a taxation year an amount not exceeding the total of all amounts each of which is an amount determined in respect of an original owner of the particular property that is the lesser of

(a) 10% of the amount, if any, by which

(i) the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition of the particular property by the original owner to the extent it has not been

(A) deducted by the original owner or any predecessor owner of the particular property in computing income for any taxation year,

(A.1) otherwise deducted in computing the income of the successor for the year, or

(B) deducted by the successor in computing its income for any preceding taxation year

exceeds the total of

(ii) the total of all amounts each of which is an amount (other than any portion thereof that can reasonably be considered to result in a reduction of

sauf que, dans le cas où la société remplaçante acquiert l'avoir auprès du propriétaire obligé au cours de l'année (autrement que dans le cadre d'une fusion ou d'une unification ou que par le seul effet de l'alinéa (10)c)), et a un lien de dépendance avec le propriétaire obligé au moment de l'acquisition, le montant déterminé en vertu du présent sous-alinéa est réputé égal à zéro,

sur le total des montants suivants :

(ii) les autres montants déduits en vertu du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu*, du présent paragraphe et des paragraphes (1), (3) et (5) pour l'année et qu'il est raisonnable de considérer comme attribuables à la partie de revenu visée au sous-alinéa (i),

(iii) les montants ajoutés, par l'effet du paragraphe 80(13), dans le calcul du montant déterminé selon le sous-alinéa (i).

Frais à l'égard de biens canadiens relatifs au pétrole et au gaz des sociétés remplaçantes

(5) Sous réserve des paragraphes (6) et (7), la société — appelée « société remplaçante » au présent paragraphe — qui a acquis, après le 11 décembre 1979, un avoir minier canadien, par achat, fusion, unification, liquidation ou autrement, peut déduire dans le calcul de son revenu pour une année d'imposition un montant qui ne dépasse pas le total des montants dont chacun représente le moins élevé des montants suivants, déterminés en rapport avec un propriétaire obligé de l'avoir :

a) 10 % de l'excédent éventuel du montant suivant :

(i) les frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du propriétaire obligé, calculés immédiatement après que ce dernier a disposé de l'avoir, dans la mesure où ces frais n'ont été :

(A) ni déduits par le propriétaire obligé ou par un propriétaire antérieur de l'avoir, dans le calcul de leur revenu pour une année d'imposition,

(A.1) ni déduits par ailleurs dans le calcul du revenu de la société remplaçante pour l'année,

(B) ni déduits par la société remplaçante dans le calcul de son revenu pour une année d'imposition antérieure,

sur le total des montants suivants :

(ii) le total des montants représentant chacun un montant (sauf la partie de ce montant qu'il est

the amount otherwise determined under this paragraph or paragraph 66.7(4)(a) in respect of another original owner of a relevant oil and gas property who is not a predecessor owner of a relevant oil and gas property or who became a predecessor owner of a relevant oil and gas property before the original owner became a predecessor owner of a relevant oil and gas property) that became receivable by a predecessor owner of the particular property or the successor in the year or a preceding taxation year and that

(A) was included by the predecessor owner or the successor in computing an amount determined under paragraph (a) of the description of F in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) at the end of the year, and

(B) can reasonably be regarded as attributable to the disposition of a property (in this subparagraph referred to as a "relevant oil and gas property") that is the particular property or another Canadian resource property that was acquired from the original owner with the particular property by the successor or a predecessor owner of the particular property, and

(iii) the total of all amounts each of which is an amount by which the amount described in this paragraph is required because of subsection 80(8) to be reduced at or before the end of the year, and

(b) the amount, if any, by which

(i) the part of the successor's income for the year that can reasonably be regarded as attributable to

(A) its reserve amount for the year in respect of the original owner and each predecessor owner of the particular property, or

(B) production from the particular property,

computed as if no deduction were allowed under section 29 of the *Income Tax Application Rules*, this section or any of sections 65 to 66.5, except that, where the successor acquired the particular property from the original owner at any time in the year (otherwise than by way of an amalgamation or merger or solely because of the application of paragraph 66.7(10)(c)) and did not deal with the original owner at arm's length at that time, the amount determined under this subparagraph shall be deemed to be nil,

exceeds the total of

raisonnable de considérer comme entraînant une réduction du montant déterminé par ailleurs selon le présent alinéa ou l'alinéa (4)a) relativement à un autre propriétaire obligé d'un bien donné relatif au pétrole et au gaz qui soit n'est pas un propriétaire antérieur d'un tel bien, soit en est devenu un avant que le propriétaire obligé ne le devienne) qui est devenu à recevoir par un propriétaire antérieur de l'avoir ou par la société remplaçante au cours de l'année ou d'une année d'imposition antérieure et qui remplit les conditions suivantes :

(A) il a été inclus par le propriétaire antérieur ou par la société remplaçante dans le calcul d'un montant déterminé selon l'alinéa a) de l'élément F de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) à la fin de l'année,

(B) il est raisonnable de le considérer comme attribuable à la disposition d'un bien (appelé « bien donné relatif au pétrole et au gaz » au présent sous-alinéa) qui est soit l'avoir, soit un autre avoir minier canadien que la société remplaçante ou un propriétaire antérieur de l'avoir a acquis du propriétaire obligé en même temps que l'avoir;

(iii) le total des montants représentant chacun un montant qui, par l'effet du paragraphe 80(8), est à appliquer en réduction du montant visé au présent alinéa au plus tard à la fin de l'année;

b) l'excédent éventuel du montant suivant :

(i) la partie du revenu de la société remplaçante pour l'année — calculée comme si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article ou de l'un des articles 65 à 66.5 — qu'il est raisonnable de considérer comme attribuable :

(A) soit à sa provision pour l'année provenant du propriétaire obligé et de chaque propriétaire antérieur de l'avoir,

(B) soit à la production tirée de cet avoir,

sauf que, dans le cas où la société remplaçante acquiert l'avoir auprès du propriétaire obligé au cours de l'année (autrement que dans le cadre d'une fusion ou d'une unification ou que par le seul effet de l'alinéa (10)c)), et a un lien de dépendance avec le propriétaire obligé au moment de l'acquisition, le

(ii) all other amounts deducted under subsection 29(25) of the *Income Tax Application Rules*, this subsection and subsections 66.7(1), 66.7(3) and 66.7(4) for the year that can reasonably be regarded as attributable to the part of its income for the year described in subparagraph 66.7(5)(b)(i) in respect of the particular property, and

(iii) all amounts added because of subsection 80(13) in computing the amount determined under subparagraph 66.7(5)(b)(i).

montant déterminé en vertu du présent sous-alinéa est réputé égal à zéro,

sur le total des montants suivants :

(ii) les autres montants déduits en vertu du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu*, du présent paragraphe et des paragraphes (1), (3) et (4) pour l'année et qu'il est raisonnable de considérer comme attribuables à la partie de revenu visée au sous-alinéa (i),

(iii) les montants ajoutés, par l'effet du paragraphe 80(13), dans le calcul du montant déterminé selon le sous-alinéa (i).

Where s. 29(25) of ITAR and ss. (1) to (5) do not apply

(6) Subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1) to 66.7(5) do not apply

(a) in respect of a Canadian resource property or a foreign resource property acquired by way of an amalgamation to which subsection 87(1.2) applies or a winding-up to which subsection 88(1.5) applies; or

(b) to permit, in respect of the acquisition by a corporation before February 18, 1987 of a Canadian resource property or a foreign resource property, a deduction by the corporation of an amount that the corporation would not have been entitled to deduct under section 29 of the *Income Tax Application Rules* or section 66, 66.1, 66.2 or 66.4 if those sections, as they read in their application to taxation years ending before February 18, 1987, applied to taxation years ending after February 17, 1987.

Restriction à l'application des par. (1) à (5) et du par. 29(25) des RAIR

(6) Le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* et les paragraphes (1) à (5) ne s'appliquent pas à un avoir minier canadien ou à un avoir minier étranger :

a) soit acquis par suite d'une fusion à laquelle le paragraphe 87(1.2) s'applique ou d'une liquidation à laquelle le paragraphe 88(1.5) s'applique;

b) soit acquis avant le 18 février 1987 par une société afin de lui permettre de déduire un montant qu'elle n'aurait pas eu le droit de déduire en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu* ou des articles 66, 66.1, 66.2 ou 66.4 si ces articles, dans leur version applicable aux années d'imposition se terminant avant le 18 février 1987, s'étaient appliqués aux années d'imposition se terminant après le 17 février 1987.

Application of s. 29(25) of ITAR and ss. (1), (3), (4) and (5)

(7) Subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1), 66.7(3), 66.7(4) and 66.7(5) apply only to a corporation that has acquired a particular Canadian resource property

(a) where it acquired the particular property in a taxation year commencing before 1985 and, at the time it acquired the particular property, the corporation acquired all or substantially all of the property used by the person from whom it acquired the particular property in carrying on in Canada such of the businesses described in paragraphs (a) to (g) of the definition ***principal-business corporation*** in subsection 66(15) as were carried on by the person;

(b) where it acquired the particular property in a taxation year commencing after 1984 and, at the time it

Application limitée du par. 29(25) des RAIR et des par. (1), (3), (4) et (5)

(7) Le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* et les paragraphes (1), (3), (4) et (5) ne s'appliquent qu'à une société qui a acquis un avoir minier canadien :

a) au cours d'une année d'imposition commençant avant 1985 si, au moment de l'acquisition, elle a acquis la totalité, ou presque, des biens utilisés par la personne auprès de qui elle a acquis l'avoir dans le cadre de l'exploitation par cette personne au Canada d'une entreprise visée à l'un des alinéas a) à g) de la définition de ***société exploitant une entreprise principale*** au paragraphe 66(15);

b) au cours d'une année d'imposition commençant après 1984 si, au moment de l'acquisition, elle a acquis

acquired the particular property, the corporation acquired all or substantially all of the Canadian resource properties of the person from whom it acquired the particular property;

(c) where it acquired the particular property after June 5, 1987 by way of an amalgamation or winding-up and it has filed an election in prescribed form with the Minister on or before the day on or before which the corporation is required to file a return of income pursuant to section 150 for its taxation year in which it acquired the particular property;

(d) where it acquired the particular property after November 16, 1978 and in a taxation year ending before February 18, 1987 by any means other than by way of an amalgamation or winding-up and it and the person from whom it acquired the particular property, have filed with the Minister a joint election under and in accordance with any of subsection 29(25) of the *Income Tax Application Rules*, subsection 29(29) of the *Income Tax Application Rules, 1971*, Part III of chapter 63 of the Statutes of Canada, 1970-71-72, and subsections 66(6) and (7), 66.1(4) and (5), 66.2(3) and (4) and 66.4(3) and (4) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as all of those subsections read in their application to that year; and

(e) where it acquired the particular property in a taxation year ending after February 17, 1987 by any means other than by way of an amalgamation or winding-up and it and the person from whom it acquired the particular property have filed a joint election in prescribed form with the Minister on or before the earlier of the days on or before which either of them is required to file a return of income pursuant to section 150 for its or the person's taxation year in which the corporation acquired the particular property.

la totalité, ou presque, des avoirs miniers canadiens de la personne auprès de qui elle a acquis l'avoir;

c) après le 5 juin 1987, par fusion ou liquidation, si elle présent un choix en ce sens au ministre sur le formulaire prescrit, au plus tard à la date où elle doit produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition au cours de laquelle elle a acquis l'avoir;

d) après le 16 novembre 1978 et au cours d'une année d'imposition se terminant avant le 18 février 1987, autrement que par fusion ou liquidation, si la société et la personne auprès de qui elle a acquis l'avoir présentent un choix conjoint en ce sens au ministre conformément au paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu*, au paragraphe 29(29) des Règles de 1971 concernant l'application de l'impôt sur le revenu, partie III du chapitre 63 des Statuts du Canada de 1970-71-72, ou aux paragraphes 66(6) ou (7), 66.1(4) ou (5), 66.2(3) ou (4) ou 66.4(3) ou (4) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans leur version applicable à cette année;

e) au cours d'une année d'imposition se terminant après le 17 février 1987, autrement que par fusion ou liquidation, si la société et la personne auprès de qui elle a acquis l'avoir présentent un choix conjoint en ce sens au ministre sur le formulaire prescrit, au plus tard au premier en date du jour où l'une d'elles doit produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition de cette société ou de cette personne au cours de laquelle la société a acquis l'avoir.

Application of subsections (2) and (2.3)

(8) Subsections (2) and (2.3) apply only to a corporation that has acquired a particular foreign resource property

(a) where it acquired the particular property in a taxation year commencing before 1985 and, at the time it acquired the particular property, the corporation acquired all or substantially all of the property used by the person from whom it acquired the particular property in carrying on outside Canada such of the businesses described in paragraphs (a) to (g) of the definition ***principal-business corporation*** in subsection 66(15) as were carried on by that person;

(b) where it acquired the particular property in a taxation year commencing after 1984 and, at the time it acquired the particular property, the corporation

Application des paragraphes (2) et (2.3)

(8) Les paragraphes (2) et (2.3) ne s'appliquent qu'à une société qui a acquis un avoir minier étranger :

a) au cours d'une année d'imposition commençant avant 1985 si, au moment de l'acquisition, elle a acquis la totalité, ou presque, des biens utilisés par la personne auprès de qui elle a acquis l'avoir dans le cadre de l'exploitation par cette personne à l'étranger d'une entreprise visée à l'un des alinéas a) à g) de la définition de ***société exploitant une entreprise principale*** au paragraphe 66(15);

b) au cours d'une année d'imposition commençant après 1984 si, au moment de cette acquisition, elle a acquis la totalité, ou presque, des avoirs miniers étrangers de la personne auprès de qui elle a acquis l'avoir;

acquired all or substantially all of the foreign resource properties of the person from whom it acquired the particular property;

(c) where it acquired the particular property after June 5, 1987 by way of an amalgamation or winding-up and it has filed an election in prescribed form with the Minister on or before the day on or before which the corporation is required to file a return of income pursuant to section 150 for its taxation year in which it acquired the particular property;

(d) where it acquired the particular property after November 16, 1978 and in a taxation year ending before February 18, 1987 by any means other than by way of an amalgamation or winding-up and it and the person from whom it acquired the particular property, have filed with the Minister a joint election under and in accordance with subsection 66(6) or 66(7) (as modified by subsections 66(8) and 66(9), respectively) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as those subsections read in their application to that year; and

(e) where it acquired the particular property in a taxation year ending after February 17, 1987 by any means other than by way of an amalgamation or winding-up and it and the person from whom it acquired the particular property have filed a joint election in prescribed form with the Minister on or before the earlier of the days on or before which either of them is required to file a return of income pursuant to section 150 for its or the person's taxation year in which the corporation acquired the particular property.

c) après le 5 juin 1987, par fusion ou liquidation, si la société présente un choix en ce sens au ministre sur le formulaire prescrit, au plus tard à la date où elle doit produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition au cours de laquelle elle a acquis l'avoir;

d) après le 16 novembre 1978 et au cours d'une année d'imposition se terminant avant le 18 février 1987, autrement que par fusion ou liquidation, si la société et la personne auprès de qui elle a acquis l'avoir présentent un choix conjoint en ce sens au ministre conformément aux paragraphes 66(6) ou (7) (avec les adaptations prévues aux paragraphes 66(8) et (9) respectivement) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans leur version applicable à cette année;

e) au cours d'une année d'imposition se terminant après le 17 février 1987, autrement que par fusion ou liquidation, si la société et la personne auprès de qui elle a acquis l'avoir présentent un choix conjoint en ce sens au ministre sur le formulaire prescrit, au plus tard au premier en date du jour où l'une d'elles doit produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition de cette société ou de cette personne au cours de laquelle la société a acquis l'avoir.

Canadian development expense becoming Canadian exploration expense

(9) Where

(a) a corporation acquires a Canadian resource property,

(b) subsection 66.7(4) applies in respect of the acquisition, and

(c) the cumulative Canadian development expense of an original owner of the property determined under clause 66.7(4)(a)(i)(A) in respect of the corporation includes a Canadian development expense incurred by the original owner in respect of an oil or gas well that would, but for this subsection, be deemed by subsection 66.1(9) to be a Canadian exploration expense incurred in respect of the well by the original owner at any particular time after the acquisition by the corporation and before it disposed of the property,

the following rules apply:

Transformation de frais d'aménagement au Canada en frais d'exploration au Canada

(9) Dans le cas où les conditions suivantes sont réunies :

a) une société acquiert un avoir minier canadien;

b) le paragraphe (4) s'applique à cette acquisition;

c) les frais cumulatifs d'aménagement au Canada d'un propriétaire obligé de l'avoir, calculés en vertu de la division (4)a)(i)(A) à l'égard de la société, comprennent des frais d'aménagement au Canada que le propriétaire obligé a engagés relativement à un puits de pétrole ou de gaz et qui, sans le présent paragraphe, seraient réputés par le paragraphe 66.1(9) être des frais d'exploration au Canada engagés relativement au puits par le propriétaire obligé à un moment donné après l'acquisition de l'avoir par la société et avant qu'elle en dispose,

les règles suivantes s'appliquent :

(d) subsection 66.1(9) does not apply in respect of the Canadian development expense incurred in respect of the well by the original owner,

(e) an amount equal to the lesser of

(i) the amount that would be deemed by subsection 66.1(9) to be a Canadian exploration expense incurred in respect of the well by the original owner at the particular time if that subsection applied in respect of the expense, and

(ii) the cumulative Canadian development expense of the original owner as determined under clause 66.7(4)(a)(i)(A) in respect of the corporation immediately before the particular time

shall be deducted at the particular time from the cumulative Canadian development expense of the original owner in respect of the corporation for the purposes of subparagraph 66.7(4)(a)(i), and

(f) the amount required by paragraph 66.7(9)(e) to be deducted shall be added at the particular time to the cumulative Canadian exploration expense of the original owner in respect of the corporation for the purpose of paragraph 66.7(3)(a).

d) le paragraphe 66.1(9) ne s'applique pas aux frais d'aménagement au Canada que le propriétaire obligé a engagés relativement au puits;

e) le moins élevé des montants suivants doit être déduit au moment donné des frais cumulatifs d'aménagement au Canada du propriétaire obligé à l'égard de la société pour l'application du sous-alinéa (4)a)(i):

(i) le montant qui serait réputé par le paragraphe 66.1(9) être des frais d'exploration au Canada que le propriétaire obligé a engagés relativement au puits au moment donné, si ce paragraphe s'appliquait à ces frais,

(ii) les frais cumulatifs d'aménagement au Canada du propriétaire obligé, calculés en vertu de la division (4) a)(i)(A) à l'égard de la société immédiatement avant le moment donné;

f) le montant à déduire en vertu de l'alinéa e) est à ajouter au moment donné aux frais cumulatifs d'exploration au Canada du propriétaire obligé à l'égard de la société pour l'application de l'alinéa (3)a).

Change of control

(10) Where at any time after November 12, 1981

(a) control of a corporation has been acquired by a person or group of persons, or

(b) a corporation ceased on or before April 26, 1995 to be exempt from tax under this Part on its taxable income,

for the purposes of the provisions of the *Income Tax Application Rules* and this Act (other than subsections 66(12.6), (12.601), (12.602), (12.62) and (12.71)) relating to deductions in respect of drilling and exploration expenses, prospecting, exploration and development expenses, Canadian exploration and development expenses, foreign resource pool expenses, Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses (in this subsection referred to as "resource expenses") incurred by the corporation before that time, the following rules apply:

(c) the corporation shall be deemed after that time to be a successor (within the meaning assigned by subsection 29(25) of the *Income Tax Application Rules* or any of subsections 66.7(1) to 66.7(5)) that had, at that time, acquired all the properties owned by the corporation immediately before that time from an original owner thereof,

Changement de contrôle

(10) Pour l'application des dispositions des *Règles concernant l'application de l'impôt sur le revenu* et de la présente loi, sauf les paragraphes 66(12.6), (12.601), (12.602), (12.62) et (12.71), concernant les déductions pour frais de forage et d'exploration, frais de prospection, d'exploration et d'aménagement, frais d'exploration et d'aménagement au Canada, frais globaux relatifs à des ressources à l'étranger, frais d'exploration au Canada, frais d'aménagement au Canada et frais à l'égard de biens canadiens relatifs au pétrole et au gaz (appelés « frais relatifs à des ressources » au présent paragraphe) qu'une société a engagés avant un moment postérieur au 12 novembre 1981 et si, à ce moment postérieur :

a) soit une personne ou un groupe de personnes acquiert le contrôle de la société;

b) soit la société a cessé, avant le 27 avril 1995, d'être exonérée de l'impôt prévue par la présente partie sur son revenu imposable,

les règles suivantes s'appliquent :

c) la société est réputée, après ce moment, être une société remplaçante — au sens du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou de l'un des paragraphes (1) à (5) — qui a acquis, à ce moment, auprès d'un propriétaire obligé

(c.1) where the corporation did not own a foreign resource property immediately before that time, the corporation is deemed to have owned a foreign resource property immediately before that time,

(d) a joint election shall be deemed to have been filed in accordance with subsections 66.7(7) and 66.7(8) in respect of the acquisition,

(e) the resource expenses incurred by the corporation before that time shall be deemed to have been incurred by an original owner of the properties and not by the corporation,

(f) the original owner is deemed to have been resident in Canada before that time while the corporation was resident in Canada,

(g) where the corporation (in this paragraph referred to as the "transferee") was, immediately before and at that time,

(i) a parent corporation (within the meaning assigned by subsection 87(1.4)), or

(ii) a subsidiary wholly-owned corporation (within the meaning assigned by subsection 87(1.4))

of a particular corporation (in this paragraph referred to as the "transferor"), if both corporations agree to have this paragraph apply to them in respect of a taxation year of the transferor ending after that time and notify the Minister in writing of the agreement in the return of income under this Part of the transferor for that year, the transferor may, if throughout that year the transferee was such a parent corporation or subsidiary wholly-owned corporation of the transferor, designate in favour of the transferee, in respect of that year, for the purpose of making a deduction under subsection 29(25) of the *Income Tax Application Rules* or this section in respect of resource expenses incurred by the transferee before that time and when it was such a parent corporation or subsidiary wholly-owned corporation of the transferor, an amount not exceeding such portion of the amount that would be its income for the year, if no deductions were allowed under any of section 29 of the *Income Tax Application Rules*, this section and sections 65 to 66.5, that may reasonably be regarded as being attributable to

(iii) the production from Canadian resource properties owned by the transferor immediately before that time, and

(iv) the disposition in the year of any Canadian resource properties owned by the transferor immediately before that time,

tous les biens appartenant à la société immédiatement avant ce moment;

c.1) si elle n'était pas propriétaire d'un avoir minier étranger immédiatement avant ce moment, la société est réputée avoir alors été propriétaire d'un tel avoir;

d) un choix conjoint est réputé présenté conformément aux paragraphes (7) et (8) en ce qui concerne cette acquisition;

e) les frais relatifs à des ressources que la société a engagés avant ce moment sont réputés l'avoir été par un propriétaire obligé des biens et non pas par la société;

f) le propriétaire obligé est réputé avoir résidé au Canada avant ce moment, pendant que la société y résidait;

g) si la société — appelée « cessionnaire » au présent alinéa — est à ce moment, et immédiatement avant :

(i) une société mère au sens du paragraphe 87(1.4),

(ii) une filiale à cent pour cent au sens du même paragraphe,

d'une société donnée — appelée « cédante » au présent alinéa — et si la cessionnaire et la cédante en conviennent pour une année d'imposition de la cédante se terminant après ce moment et en informent le ministre par écrit dans la déclaration de revenu de la cédante produite pour l'année en vertu de la présente partie, la cédante peut, si, tout au long de l'année, la cessionnaire est restée société 29(25) des Régles concernant l'application de l'impôt sur le revenu ou au présent article au titre des frais relatifs à des ressources que la cessionnaire a engagés avant ce moment alors qu'elle était société mère ou filiale à cent pour cent de la cédante, un montant qui ne dépasse pas la partie de ce que serait son revenu pour l'année si aucune déduction n'était admise en vertu de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du présent article et des articles 65 à 66.5 et qu'il est raisonnable de considérer comme attribuable :

(iii) d'une part, à la production tirée d'avoirs miniers canadiens appartenant à la cédante immédiatement avant ce moment,

(iv) d'autre part, à la disposition au cours de l'année d'avoirs miniers canadiens appartenant à la cédante immédiatement avant ce moment,

dans la mesure où le montant ainsi attribué ne l'est pas en vertu du présent alinéa à un autre contribuable;

to the extent that the portion of the amount so designated is not designated under this paragraph in favour of any other taxpayer, and the amount so designated shall be deemed, for the purposes of determining the amount under paragraph 29(25)(d) of the *Income Tax Application Rules* and paragraphs 66.7(1)(b), 66.7(3)(b), 66.7(4)(b) and 66.7(5)(b),

(v) to be income from the sources described in subparagraph 66.7(10)(g)(iii) or 66.7(10)(g)(iv), as the case may be, of the transferee for its taxation year in which that taxation year of the transferor ends, and

(vi) not to be income from the sources described in subparagraph 66.7(10)(g)(iii) or 66.7(10)(g)(iv), as the case may be, of the transferor for that year,

(h) where the corporation (in this paragraph referred to as the "transferee") was, immediately before and at that time,

(i) a parent corporation (within the meaning assigned by subsection 87(1.4)), or

(ii) a subsidiary wholly-owned corporation (within the meaning assigned by subsection 87(1.4))

of a particular corporation (in this paragraph referred to as the "transferor"), if both corporations agree to have this paragraph apply to them in respect of a taxation year of the transferor ending after that time and notify the Minister in writing of the agreement in the return of income under this Part of the transferor for that year, the transferor may, if throughout that year the transferee was such a parent corporation or subsidiary wholly-owned corporation of the transferor, designate in favour of the transferee, in respect of that year, for the purpose of making a deduction under this section in respect of resource expenses incurred by the transferee before that time and when it was such a parent corporation or subsidiary wholly-owned corporation of the transferor, an amount not exceeding such portion of the amount that would be its income for the year, if no deductions were allowed under this section and sections 65 to 66.5, that may reasonably be regarded as being attributable to

(iii) the production from foreign resource properties owned by the transferor immediately before that time, and

(iv) the disposition of any foreign resource properties owned by the transferor immediately before that time,

le montant ainsi attribué est réputé, pour le calcul du montant en vertu de l'alinéa 29(25)d) des *Règles concernant l'application de l'impôt sur le revenu* et des alinéas (1)b), (3)b), (4)b) et (5)b):

(v) être un revenu provenant des sources visées aux sous-alinéas (iii) ou (iv), selon le cas, de la cessionnaire pour son année d'imposition au cours de laquelle l'année d'imposition de la cédante se termine,

(vi) ne pas être un revenu provenant des sources visées aux sous-alinéas (iii) ou (iv), selon le cas, de la cédante pour cette année;

h) si la société — appelée « cessionnaire » au présent alinéa — est à ce moment, et immédiatement avant :

(i) une société mère au sens du paragraphe 87(1.4),

(ii) une filiale à cent pour cent au sens du même paragraphe,

d'une société donnée — appelée « cédante » au présent alinéa — et si la cessionnaire et la cédante en conviennent pour une année d'imposition de la cédante se terminant après ce moment et en informent le ministre par écrit dans la déclaration de revenu de la cédante produite pour l'année en vertu de la présente partie, la cédante peut, si, tout au long de l'année, la cessionnaire est restée société mère ou filiale à cent pour cent de la cédante, attribuer à la cessionnaire pour cette année, en vue de faire une déduction prévue au présent article au titre des frais relatifs à des ressources que la cessionnaire a engagés avant ce moment alors qu'elle était société mère ou filiale à cent pour cent de la cédante, un montant qui ne dépasse pas la partie de ce que serait son revenu pour l'année si aucune déduction n'était admise en vertu du présent article et des articles 65 à 66.5 et qu'il est raisonnable de considérer comme attribuable :

(iii) d'une part, à la production tirée d'avoirs miniers étrangers appartenant à la cédante immédiatement avant ce moment,

(iv) d'autre part, à la disposition d'avoirs miniers étrangers appartenant à la cédante immédiatement avant ce moment,

dans la mesure où le montant ainsi attribué ne l'est pas en vertu du présent alinéa à un autre contribuable; le montant ainsi attribué est réputé :

(v) pour ce qui est du calcul des montants selon les alinéas (2)b) et (2.3)b), être un revenu provenant

to the extent that the portion of the amount so designated is not designated under this paragraph in favour of any other taxpayer, and the amount so designated shall be deemed,

(v) for the purposes of determining the amounts under paragraphs (2)(b) and (2.3)(b), to be income from the sources described in subparagraph (iii) or (iv), as the case may be, of the transferee for its taxation year in which that taxation year of the transferor ends, and

(vi) for the purposes of determining the amounts under paragraphs (2)(b) and (2.3)(b), not to be income from the sources described in subparagraph (iii) or (iv), as the case may be, of the transferor for that year,

(i) where, immediately before and at that time, the corporation (in this paragraph referred to as the "transferee") and another corporation (in this paragraph referred to as the "transferor") were both subsidiary wholly-owned corporations (within the meaning assigned by subsection 87(1.4)) of a particular parent corporation (within the meaning assigned by subsection 87(1.4)), if the transferee and the transferor agree to have this paragraph apply to them in respect of a taxation year of the transferor ending after that time and notify the Minister in writing of the agreement in the return of income under this Part of the transferor for that year, paragraph 66.7(10)(g) or 66.7(10)(h), or both, as the agreement provides, shall apply for that year to the transferee and transferor as though one were the parent corporation (within the meaning of subsection 87(1.4)) of the other, and

(j) where that time is after January 15, 1987 and at that time the corporation was a member of a partnership that owned a Canadian resource property or a foreign resource property at that time

(i) for the purpose of paragraph 66.7(10)(c), the corporation shall be deemed to have owned immediately before that time that portion of the property owned by the partnership at that time that is equal to its percentage share of the total of amounts that would be paid to all members of the partnership if it were wound up at that time, and

(ii) for the purposes of clause 29(25)(d)(i)(B) of the *Income Tax Application Rules*, clauses (1)(b)(i)(C) and (2)(b)(i)(B), subparagraph (2.3)(b)(i) and clauses (3)(b)(i)(C), (4)(b)(i)(B) and (5)(b)(i)(B) for a taxation year ending after that time, the lesser of

des sources visées aux sous-alinéas (iii) ou (iv), selon le cas, de la cessionnaire pour son année d'imposition dans laquelle l'année d'imposition de la cédante se termine,

(vi) pour ce qui est du calcul du montant selon les alinéas (2)b) et (2.3)b), ne pas être un revenu provenant des sources visées aux sous-alinéas (iii) ou (iv), selon le cas, de la cédante pour cette année;

i) si, à ce moment et immédiatement avant, la société — appelée « cessionnaire » au présent alinéa — et une autre société — appelée « cédante » au présent alinéa — étaient des filiales à cent pour cent — au sens du paragraphe 87(1.4) — d'une société mère — au sens du même paragraphe — et si la cessionnaire et la cédante en conviennent pour une année d'imposition de la cédante se terminant après ce moment et en informent le ministre par écrit dans la déclaration de revenu de la cédante produite pour cette année en vertu de la présente partie, l'alinéa g) ou h), ou les deux, selon ce que la convention prévoit, s'appliquent pour cette année à la cessionnaire et à la cédante comme si l'une était la société mère — au sens du paragraphe 87(1.4) — de l'autre;

j) si le moment postérieur au 12 novembre 1981 est également postérieur au 15 janvier 1987 et si la société est alors un associé d'une société de personnes qui est alors propriétaire d'un avoir minier canadien ou d'un avoir minier étranger :

(i) pour l'application de l'alinéa c), la société est réputée avoir été propriétaire, immédiatement avant ce moment, de la partie de l'avoir dont la société de personnes est alors propriétaire correspondant à sa part, exprimée en pourcentage, des montants qui seraient payés à tous les associés de la société de personnes si celle-ci était alors liquidée,

(ii) pour l'application de la division 29(25)d)(i)(B) des *Règles concernant l'application de l'impôt sur le revenu* et des divisions (1)b)(i)(C) et (2)b)(i)(B), du sous-alinéa (2.3)b)(i) et des divisions (3)b)(i)(C), (4)b)(i)(B) et (5)b)(i)(B) pour une année d'imposition se terminant après ce moment, le moins élevé des montants suivants est réputé être un revenu de la société pour l'année qu'il est raisonnable d'attribuer à la production tirée de l'avoir :

(A) sa part du revenu de la société de personnes, pour l'exercice de celle-ci se terminant au cours de l'année, qu'il est raisonnable de considérer comme attribuable à la production tirée de l'avoir,

(A) its share of the part of the income of the partnership for the fiscal period of the partnership ending in the year that may reasonably be regarded as being attributable to the production from the property, and

(B) an amount that would be determined under clause 66.7(10)(j)(ii)(A) for the year if its share of the income of the partnership for the fiscal period of the partnership ending in the year were determined on the basis of the percentage share referred to in subparagraph 66.7(10)(j)(i),

shall be deemed to be income of the corporation for the year that may reasonably be attributable to production from the property.

(B) ce que serait sa part de la société de personnes, pour l'exercice de celle-ci se terminant au cours de l'année, qu'il est raisonnable de considérer comme attribuable à la production tirée de l'avoir, si elle était déterminée en fonction de la part, exprimée en pourcentage, visée au sous-alinéa (i).

Amalgamation — partnership property

(10.1) For the purposes of subsections (1) to (5) and the definition ***original owner*** in subsection 66(15), if at any particular time there has been an amalgamation within the meaning assigned by subsection 87(1), other than an amalgamation to which subsection 87(1.2) applies, of two or more corporations (each of which is referred to in this subsection as a "predecessor corporation") to form one corporate entity (referred to in this subsection as the "new corporation") and immediately before the particular time a predecessor corporation was a member of a partnership that owned a Canadian resource property or a foreign resource property,

(a) the predecessor corporation is deemed

(i) to have owned, immediately before the particular time, that portion of each Canadian resource property and of each foreign resource property owned by the partnership at the particular time that is equal to the predecessor corporation's percentage share of the total of the amounts that would be paid to all members of the partnership if the partnership were wound up immediately before the particular time, and

(ii) to have disposed of those portions to the new corporation at the particular time;

(b) the new corporation is deemed to have, by way of the amalgamation, acquired those portions at the particular time; and

(c) the income of the new corporation for a taxation year that ends after the particular time that can reasonably be attributable to production from those properties is deemed to be the lesser of

Fusion — biens d'une société de personnes

(10.1) Pour l'application des paragraphes (1) à (5) et de la définition de ***propriétaire obligé*** au paragraphe 66(15), en cas de fusion, au sens du paragraphe 87(1), sauf une fusion à laquelle s'applique le paragraphe 87(1.2), de plusieurs sociétés (appelées chacune « société remplacée » au présent paragraphe) en vue de former une nouvelle société, les règles ci-après s'appliquent si, immédiatement avant la fusion, une société remplacée était l'associé d'une société de personnes propriétaire d'un avoir minier canadien ou d'un avoir minier étranger :

a) la société remplacée est réputée :

(i) d'une part, avoir été propriétaire, immédiatement avant la fusion, de la partie de chaque avoir minier canadien et de chaque avoir minier étranger appartenant à la société de personnes au moment de la fusion qui représente sa part, exprimée en pourcentage, du total des montants qui seraient versés aux associés de la société de personnes si celle-ci était liquidée immédiatement avant la fusion,

(ii) d'autre part, avoir disposé de ces parties d'avoir en faveur de la nouvelle société au moment de la fusion;

b) la nouvelle société est réputée avoir acquis ces parties d'avoir au moyen de la fusion et au moment de la fusion;

c) le revenu de la nouvelle société pour une année d'imposition se terminant après le moment de la fusion qu'il est raisonnable d'attribuer à la production tirée de ces avoirs est réputé correspondre au moins élevé des montants suivants :

(i) the new corporation's share of the part of the income of the partnership for fiscal periods of the partnership that end in the year that can reasonably be regarded as being attributable to production from those properties, and

(ii) the amount that would be determined under subparagraph (i) for the year if the new corporation's share of the income of the partnership for the fiscal periods of the partnership that end in the year were determined on the basis of the percentage share referred to in paragraph (a).

(i) la part revenant à la nouvelle société de la partie du revenu de la société de personnes pour les exercices de celle-ci se terminant dans l'année qu'il est raisonnable de considérer comme étant attribuable à la production tirée de ces avoirs,

(ii) le montant qui serait déterminé selon le sous-alinéa (i) pour l'année si la part revenant à la nouvelle société du revenu de la société de personnes pour les exercices de celle-ci se terminant dans l'année était déterminée en fonction de la part exprimée en pourcentage visée à l'alinéa a).

Idem

(11) Where, at any time,

(a) control of a taxpayer that is a corporation has been acquired by a person or group of persons, or

(b) a taxpayer has disposed of all or substantially all of the taxpayer's Canadian resource properties or foreign resource properties,

and, before that time, the taxpayer or a partnership of which the taxpayer was a member acquired a property that is a Canadian resource property, a foreign resource property or an interest in a partnership and it may reasonably be considered that one of the main purposes of the acquisition was to avoid any limitation provided in subsection 29(25) of the *Income Tax Application Rules* or any of subsections 66.7(1) to 66.7(5) on the deduction in respect of any expenses incurred by the taxpayer or a corporation referred to as a transferee in paragraph 66.7(10)(g) or 66.7(10)(h), the taxpayer or the partnership, as the case may be, shall be deemed, for the purposes of applying those subsections to or in respect of the taxpayer, not to have acquired the property.

Idem

(11) Dans le cas où les conditions suivantes sont réunies :

a) à un moment donné, soit une personne ou un groupe de personnes acquiert le contrôle d'un contribuable qui est une société, soit un contribuable dispose de la totalité, ou presque, de ses avoirs miniers canadiens ou avoirs miniers étrangers;

b) avant ce moment, ce contribuable ou une société de personnes dont il est un associé a acquis un avoir minier canadien, un avoir minier étranger ou une participation dans une société de personnes;

c) il est raisonnable de considérer que l'un des principaux objets de cette acquisition consistait à éviter la restriction à une déduction en vertu du paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou de l'un des paragraphes (1) à (5) au titre des frais que le contribuable ou la société appelée « cessionnaire » à l'alinéa (10)g) ou h) a engagés,

le contribuable ou la société de personnes, selon le cas, est réputé ne pas avoir acquis l'avoir pour l'application de ces paragraphes au contribuable.

Reduction of Canadian resource expenses

(12) Where in a taxation year an owner of Canadian resource properties disposes of all or substantially all of the original owner's Canadian resource properties to a particular corporation in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), 66.7(3), 66.7(4) or 66.7(5) applies,

(a) the Canadian exploration and development expenses incurred by the original owner before that owner so disposed of the properties shall, for the purposes of this subdivision, be deemed after the disposition not to have been incurred by the original owner except for the purposes of making a deduction under subsection 66(1) or 66(2) for the year and of

Réduction des frais relatifs à des ressources au Canada

(12) Dans le cas où, au cours d'une année d'imposition, un propriétaire obligé d'avoirs miniers canadiens dispose de la totalité, ou presque, de ses avoirs miniers canadiens en faveur d'une société donnée dans une circonstance visée au paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou aux paragraphes (1), (3), (4) ou (5):

a) les frais d'exploration et d'aménagement au Canada que le propriétaire obligé a engagés avant de disposer ainsi des avoirs sont, pour l'application de la présente sous-section, réputés, après la disposition, ne pas avoir été engagés par celui-ci, sauf pour ce qui est d'effectuer la déduction prévue au paragraphe 66(1) ou

determining the amount that may be deducted under subsection 66.7(1) by the particular corporation or by any other corporation that subsequently acquires any of the properties;

(b) in determining the cumulative Canadian exploration expense of the original owner at any time after the time referred to in subparagraph 66.7(3)(a)(i), there shall be deducted the amount thereof determined immediately after the disposition;

(b.1) for the purposes of paragraph 66.7(3)(a), the cumulative Canadian exploration expenses of the original owner determined immediately after the disposition that was deducted or required to be deducted under subsection 66.1(2) or 66.1(3) in computing the original owner's income for the year shall be deemed to be equal to the lesser of

(i) the amount deducted under paragraph 66.7(12)(b) in respect of the disposition, and

(ii) the amount, if any, by which

(A) the specified amount determined under paragraph 66.7(12.1)(a) in respect of the original owner for the year

exceeds

(B) the total of all amounts each of which is an amount determined under this paragraph in respect of any disposition made by the original owner before the disposition and in the year;

(b.2) for greater certainty, any amount (other than the amount determined under paragraph 66.7(12)(b.1)) that was deducted or required to be deducted under subsection 66.1(2) or 66.1(3) by the original owner for the year or a subsequent taxation year shall, for the purposes of paragraph 66.7(3)(a), be deemed not to be in respect of the cumulative Canadian exploration expense of the original owner determined immediately after the disposition;

(c) in determining the cumulative Canadian development expense of the original owner at any time after the time referred to in clause 66.7(4)(a)(i)(A), there shall be deducted the amount thereof determined immediately after the disposition;

(c.1) for the purpose of paragraph 66.7(4)(a), the cumulative Canadian development expense of the original owner determined immediately after the disposition that was deducted under subsection 66.2(2) in computing the original owner's income for the year shall be deemed to be equal to the lesser of

(2) pour l'année et de calculer le montant déductible en application du paragraphe (1) par la société donnée ou par une autre société qui acquiert ultérieurement un ou plusieurs de ces avoirs;

b) le montant des frais cumulatifs d'exploration au Canada du propriétaire obligé, calculés immédiatement après la disposition, doit être déduit dans le calcul de ces frais à un moment postérieur au moment visé au sous-alinéa (3)a)(i);

b.1) pour l'application de l'alinéa (3)a), les frais cumulatifs d'exploration au Canada du propriétaire obligé, calculés immédiatement après la disposition, qui ont été déduits ou qui étaient à déduire en application des paragraphes 66.1(2) ou (3) dans le calcul de son revenu pour l'année sont réputés correspondre au moins élevé des montants suivants :

(i) le montant déduit en application de l'alinéa b) relativement à la disposition,

(ii) l'excédent éventuel du montant visé à la division (A) sur le total visé à la division (B):

(A) le montant déterminé, calculé selon l'alinéa (12.1)a) relativement au propriétaire obligé pour l'année,

(B) le total des montants calculés selon le présent alinéa relativement aux dispositions effectuées par le propriétaire obligé avant la disposition en question et au cours de l'année;

b.2) il est entendu qu'un montant, sauf celui calculé selon l'alinéa b.1), qui a été déduit ou était à déduire en application des paragraphes 66.1(2) ou (3) par le propriétaire obligé pour l'année ou pour une année d'imposition postérieure est réputé, pour l'application de l'alinéa (3)a), ne pas être relatif aux frais cumulatifs d'exploration au Canada du propriétaire obligé calculés immédiatement après la disposition;

c) dans le calcul des frais cumulatifs d'aménagement au Canada du propriétaire obligé à une date postérieure au moment visé à la division (4)a)(i)(A), les frais cumulatifs d'aménagement au Canada calculés immédiatement après la disposition doivent être déduits;

c.1) pour l'application de l'alinéa (4)a), les frais cumulatifs d'aménagement au Canada du propriétaire obligé, calculés immédiatement après la disposition, qui ont été déduits en application du paragraphe 66.2(2) dans le calcul de son revenu pour l'année sont réputés correspondre au moins élevé des montants suivants :

(i) the amount deducted under paragraph 66.7(12)(c) in respect of the disposition, and

(ii) the amount, if any, by which

(A) the specified amount determined under paragraph 66.7(12.1)(b) in respect of the original owner for the year

exceeds

(B) the total of all amounts determined under this paragraph in respect of any dispositions made by the original owner before the disposition and in the year;

(c.2) for greater certainty, any amount (other than the amount determined under paragraph 66.7(12)(c.1)) that was deducted under subsection 66.2(2) by the original owner for the year or a subsequent taxation year shall, for the purpose of paragraph 66.7(4)(a), be deemed not to be in respect of the cumulative Canadian development expense of the original owner determined immediately after the disposition;

(d) in determining the cumulative Canadian oil and gas property expense of the original owner at any time after the time referred to in subparagraph 66.7(5)(a)(i), there shall be deducted the amount thereof determined immediately after the disposition;

(d.1) for the purpose of paragraph 66.7(5)(a), the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition that was deducted under subsection 66.4(2) in computing the original owner's income for the year shall be deemed to be equal to the lesser of

(i) the amount deducted under paragraph 66.7(12)(d) in respect of the disposition, and

(ii) the amount, if any, by which

(A) the specified amount determined under paragraph 66.7(12.1)(c) in respect of the original owner for the year

exceeds

(B) the total of all amounts determined under this paragraph in respect of any dispositions made by the original owner before the disposition and in the year;

(d.2) for greater certainty, any amount (other than the amount determined under paragraph 66.7(12)(d.1)) that was deducted under subsection

(i) le montant déduit en application de l'alinéa c) relativement à la disposition,

(ii) l'excédent éventuel du montant visé à la division (A) sur le total visé à la division (B):

(A) le montant déterminé calculé selon l'alinéa (12.1)b) relativement au propriétaire obligé pour l'année,

(B) le total des montants calculés selon le présent alinéa relativement aux dispositions effectuées par le propriétaire obligé avant la disposition en question et au cours de l'année;

c.2) il est entendu qu'un montant, sauf celui calculé selon l'alinéa c.1), que le propriétaire obligé déduit en application du paragraphe 66.2(2) pour l'année ou pour une année d'imposition postérieure est réputé, pour l'application de l'alinéa (4)a), ne pas être relatif à ses frais cumulatifs d'aménagement au Canada calculés immédiatement après la disposition;

d) dans le calcul des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du propriétaire obligé à un moment postérieur au moment visé au sous-alinéa (5)a)(i), les frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz calculés immédiatement après la disposition doivent être déduits;

d.1) pour l'application de l'alinéa (5)a), les frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du propriétaire obligé, calculés immédiatement après la disposition, qui ont été déduits en application du paragraphe 66.4(2) dans le calcul de son revenu pour l'année sont réputés correspondre au moins élevé des montants suivants :

(i) le montant déduit en application de l'alinéa d) relativement à la disposition,

(ii) l'excédent éventuel du montant visé à la division (A) sur le total visé à la division (B):

(A) le montant déterminé calculé selon l'alinéa (12.1)c) relativement au propriétaire obligé pour l'année,

(B) le total des montants calculés selon le présent alinéa relativement aux dispositions effectuées par le propriétaire obligé avant la disposition et au cours de l'année;

d.2) il est entendu qu'un montant, sauf celui calculé selon l'alinéa d.1), que le propriétaire obligé déduit en application du paragraphe 66.4(2) pour l'année ou

66.4(2) by the original owner for the year or a subsequent taxation year shall, for the purpose of paragraph 66.7(5)(a), be deemed not to be in respect of the cumulative Canadian oil and gas property expense of the original owner determined immediately after the disposition; and

(e) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the original owner before 1972 on or in respect of exploring or drilling for petroleum or natural gas in Canada and the prospecting, exploration and development expenses incurred by the original owner before 1972 in searching for minerals in Canada shall, for the purposes of section 29 of the *Income Tax Application Rules*, be deemed after the disposition not to have been incurred by the original owner except for the purposes of making a deduction under that section for the year and of determining the amount that may be deducted under subsection 29(25) of that Act by the particular corporation or any other corporation that subsequently acquires any of the properties.

Specified amount

(12.1) Where in a taxation year an original owner of Canadian resource properties disposes of all or substantially all of the original owner's Canadian resource properties in circumstances in which subsection 66.7(3), 66.7(4) or 66.7(5) applies,

(a) the lesser of

(i) the total of all amounts each of which is the amount, if any, by which

(A) an amount deducted under paragraph 66.7(12)(b) in respect of a disposition in the year by the original owner

exceeds

(B) the amount, if any, designated by the original owner in prescribed form filed with the Minister within 6 months after the end of the year in respect of an amount determined under clause 66.7(12.1)(a)(i)(A), and

(ii) the total of

(A) the amount claimed under subsection 66.1(2) or 66.1(3) by the original owner for the year, and

(B) the amount that would, but for paragraph 66.1(1)(c), be determined under subsection

pour une année d'imposition postérieure est réputé, pour l'application de l'alinéa (5)a), ne pas être relatif à ses frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz calculés immédiatement après la disposition;

e) les frais de forage et d'exploration, y compris tous les frais généraux d'étude géologique ou géophysique, engagés par le propriétaire obligé avant 1972 pour l'exploration ou le forage en vue de découvrir du pétrole ou du gaz naturel au Canada, et les frais de prospection, d'exploration et d'aménagement engagés par le propriétaire obligé avant 1972 pour la recherche de minéraux au Canada sont, pour l'application de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, réputés, après la disposition, ne pas avoir été engagés par le propriétaire obligé, sauf pour ce qui est d'effectuer la déduction prévue à cet article pour l'année et de calculer le montant déductible en vertu du paragraphe 29(25) de cette loi par la société donnée ou par une autre société qui acquiert ultérieurement un ou plusieurs de ces avoirs.

Montant déterminé

(12.1) Dans le cas où, au cours d'une année d'imposition, un propriétaire obligé d'avoirs miniers canadiens dispose de la totalité, ou presque, de ceux-ci dans une circonstance visée aux paragraphes (3), (4) ou (5):

a) le moins élevé des montants suivants correspond au montant déterminé qui est applicable au propriétaire obligé pour l'année pour l'application de la division (12) b.1)(ii)(A) et la détermination de l'élément E.1 de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6):

(i) le total des montants dont chacun représente l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le montant déduit en application de l'alinéa (12)b) relativement à une disposition qu'il a effectuée au cours de l'année,

(B) le montant qu'il indique dans un formulaire prescrit présenté au ministre dans les 6 mois suivant la fin de l'année relativement à un montant calculé selon la division (A),

(ii) le total des montants suivants :

(A) le montant qu'il a demandé en déduction pour l'année en application des paragraphes 66.1(2) ou (3),

66.1(1) in respect of the original owner for the year

is the specified amount in respect of the original owner for the year for the purposes of clause 66.7(12)(b.1)(ii)(A) and of determining the value of E.1 in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6);

(b) the lesser of

(i) the total of all amounts each of which is the amount, if any, by which

(A) an amount deducted under paragraph 66.7(12)(c) in respect of a disposition in the year by the original owner

exceeds

(B) the amount, if any, designated by the original owner in prescribed form filed with the Minister within 6 months after the end of the year in respect of an amount determined under clause 66.7(12.1)(b)(i)(A), and

(ii) the total of

(A) the amount claimed under subsection 66.2(2) by the original owner for the year, and

(B) the amount that would, but for paragraph 66.2(1)(d), be determined under subsection 66.2(1) in respect of the original owner for the year

is the specified amount in respect of the original owner for the year for the purposes of clause 66.7(12)(c.1)(ii)(A) and of determining the value of D.1 in the definition ***cumulative Canadian development expense*** in subsection 66.2(5); and

(c) the lesser of

(i) the total of all amounts each of which is the amount, if any, by which

(A) an amount deducted under paragraph 66.7(12)(d) in respect of a disposition in the year by the original owner

exceeds

(B) the amount, if any, designated by the original owner in prescribed form filed with the Minister within 6 months after the end of the year in

(B) le montant qui, sans l'alinéa 66.1(1)c), serait calculé à son égard pour l'année selon le paragraphe 66.1(1);

b) le moins élevé des montants suivants correspond au montant déterminé qui est applicable au propriétaire obligé pour l'année pour l'application de la division (12) c.1)(ii)(A) et la détermination de l'élément D.1 de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5):

(i) le total des montants dont chacun représente l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le montant déduit en application de l'alinéa (12)c) relativement à une disposition qu'il a effectuée au cours de l'année,

(B) le montant qu'il indique dans un formulaire prescrit présenté au ministre dans les 6 mois suivant la fin de l'année relativement à un montant calculé selon la division (A),

(ii) le total des montants suivants :

(A) le montant qu'il a demandé en déduction pour l'année en application du paragraphe 66.2(2),

(B) le montant qui, sans l'alinéa 66.2(1)d), serait calculé à son égard pour l'année selon le paragraphe 66.2(1);

c) le moins élevé des montants suivants correspond au montant déterminé qui est applicable au propriétaire obligé pour l'année pour l'application de la division (12) d.1)(ii)(A) et la détermination de l'élément D.1 de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5):

(i) le total des montants dont chacun représente l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le montant déduit en application de l'alinéa (12)d) relativement à une disposition qu'il a effectuée au cours de l'année,

(B) le montant qu'il indique dans un formulaire prescrit présenté au ministre dans les 6 mois suivant la fin de l'année relativement à un montant calculé selon la division (A),

(ii) le total des montants suivants :

respect of an amount determined under clause 66.7(12.1)(c)(i)(A), and

(ii) the total of

(A) the amount claimed under subsection 66.4(2) by the original owner for the year, and

(B) the amount that would, but for paragraph 66.4(1)(c), be determined under subsection 66.4(1) in respect of the original owner for the year

is the specified amount in respect of the original owner for the year for the purposes of clause 66.7(12)(d.1)(ii)(A) and of determining the value of D.1 in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5).

(A) le montant qu'il a demandé en déduction pour l'année en application du paragraphe 66.4(2),

(B) le montant qui, sans l'alinéa 66.4(1)c), serait calculé à son égard pour l'année selon le paragraphe 66.4(1).

Reduction of foreign resource expenses

(13) Where after June 5, 1987 an original owner of foreign resource properties disposes of all or substantially all of the original owner's foreign resource properties to a particular corporation in circumstances in which subsection 66.7(2) applies, the foreign exploration and development expenses incurred by the original owner before that owner so disposed of the properties shall be deemed after the disposition not to have been incurred by the original owner except for the purposes of determining the amounts that may be deducted under that subsection by the particular corporation or any other corporation that subsequently acquires any of the properties.

Réduction des frais relatifs à des ressources à l'étranger

(13) Le propriétaire obligé d'avoirs miniers étrangers qui dispose après le 5 juin 1987 de la totalité, ou presque, de ceux-ci en faveur d'une société dans une circonstance où le paragraphe (2) s'applique est réputé, après la disposition, ne pas avoir engagé les frais d'exploration et d'aménagement à l'étranger qu'il a engagés avant cette disposition, sauf pour le calcul des montants déductibles en application de ce paragraphe par la société ou par une autre société qui acquiert ultérieurement un ou plusieurs de ces avoirs.

Reduction of foreign resource expenses

(13.1) Where in a taxation year an original owner of foreign resource properties in respect of a country disposes of all or substantially all of the original owner's foreign resource properties in circumstances to which subsection (2.3) applies,

(a) in determining the cumulative foreign resource expense of the original owner in respect of the country at any time after the time referred to in subparagraph (2.3)(a)(i), there shall be deducted the amount of that cumulative foreign resource expense determined immediately after the disposition; and

(b) for the purpose of paragraph (2.3)(a), the cumulative foreign resource expense of the original owner in respect of the country determined immediately after the disposition that was deducted under subsection 66.21(4) in computing the original owner's income for the year is deemed to be equal to the lesser of

Réduction des frais relatifs à des ressources à l'étranger

(13.1) Dans le cas où un propriétaire obligé d'avoirs miniers étrangers se rapportant à un pays dispose, au cours d'une année d'imposition, de la totalité ou de la presque totalité de ses avoirs miniers étrangers dans les circonstances visées au paragraphe (2.3), les règles suivantes s'appliquent :

a) est déduit, dans le calcul des frais cumulatifs relatifs à des ressources à l'étranger du propriétaire obligé se rapportant au pays à un moment postérieur au moment visé au sous-alinéa (2.3)a)(i), le montant de ces frais déterminé immédiatement après la disposition;

b) pour l'application de l'alinéa (2.3)a), les frais cumulatifs relatifs à des ressources à l'étranger du propriétaire obligé se rapportant au pays, déterminés immédiatement après la disposition, qui ont été déduits en application du paragraphe 66.21(4) dans le calcul de son revenu pour l'année sont réputés correspondre au moins élevé des montants suivants :

(i) the amount deducted under paragraph (a) in respect of the disposition, and

(ii) the amount, if any, by which

(A) the specified amount determined under subsection (13.2) in respect of the original owner and the country for the year

exceeds

(B) the total of all amounts determined under this paragraph in respect of another disposition of foreign resource property in respect of the country made by the original owner before the disposition and in the year.

(i) le montant déduit en application de l'alinéa a) relativement à la disposition,

(ii) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le montant déterminé, calculé selon le paragraphe (13.2) relativement au propriétaire obligé et au pays pour l'année,

(B) le total des montants déterminés selon le présent alinéa relativement à une autre disposition d'avoirs miniers étrangers se rapportant au pays effectuée par le propriétaire obligé avant la disposition et au cours de l'année.

Specified amount — foreign resource expenses

(13.2) Where in a taxation year an original owner of foreign resource properties in respect of a country disposes of all or substantially all of the original owner's foreign resource properties in circumstances to which subsection (2.3) applies, the specified amount in respect of the country and the original owner for the year for the purposes of clause (13.1)(b)(ii)(A) and of determining the value of D in the definition ***cumulative foreign resource expense*** in subsection 66.21(1) is the lesser of

(a) the total of all amounts each of which is the amount, if any, by which

(i) an amount deducted under paragraph (13.1)(a) in respect of a disposition in the year by the original owner of foreign resource property in respect of the country

exceeds

(ii) the amount, if any, designated by the original owner in the prescribed form filed with the Minister within six months after the end of the year in respect of an amount described under subparagraph (i), and

(b) the total of

(i) the amount claimed under subsection 66.21(4) by the original owner in respect of the country for the year, and

(ii) the amount that would, but for paragraph 66.21(3)(c), be determined under subsection 66.21(3) in respect of the country and the original owner for the year.

Montant déterminé — frais relatifs à des ressources à l'étranger

(13.2) Dans le cas où un propriétaire obligé d'avoirs miniers étrangers se rapportant à un pays dispose, au cours d'une année d'imposition, de la totalité ou de la presque totalité de ses avoirs miniers étrangers dans les circonstances visées au paragraphe (2.3), le montant déterminé relativement au pays et au propriétaire obligé pour l'année, pour l'application de la division (13.1)b)(ii)(A) ainsi que pour le calcul de la valeur de l'élément D de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1), correspond au moins élevé des montants suivants :

a) le total des montants représentant chacun l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant déduit en application de l'alinéa (13.1)a) relativement à une disposition d'avoirs miniers étrangers se rapportant au pays effectuée par le propriétaire obligé au cours de l'année,

(ii) le montant éventuellement indiqué par le propriétaire obligé dans un formulaire prescrit présenté au ministre dans les six mois suivant la fin de l'année relativement au montant visé au sous-alinéa (i);

b) la somme des montants suivants :

(i) le montant déduit par le propriétaire obligé en application du paragraphe 66.21(4) relativement au pays pour l'année,

(ii) le montant qui, si ce n'était l'alinéa 66.21(3)c), serait déterminé selon le paragraphe 66.21(3) relativement au pays et au propriétaire obligé pour l'année.

Disposal of Canadian resource properties

(14) Where in a taxation year a predecessor owner of Canadian resource properties disposes of Canadian resource properties to a corporation in circumstances in which subsection 29(25) of the *Income Tax Application Rules* or subsection 66.7(1), 66.7(3), 66.7(4) or 66.7(5) applies,

(a) for the purposes of applying any of those subsections to the predecessor owner in respect of its acquisition of any Canadian resource property owned by it immediately before the disposition, it shall be deemed, after the disposition, never to have acquired any such properties except for the purposes of

(i) determining an amount deductible under subsection 66.7(1) or 66.7(3) for the year,

(ii) where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition was by way of an amalgamation or merger, determining an amount deductible under subsection 66.7(4) or 66.7(5) for the year, and

(iii) determining the amount for F in the definition ***cumulative Canadian development expense*** in subsection 66.2(5), the amounts for paragraphs 66.7(14)(a) and 66.7(14)(b) in the description of L in that definition and the amount for F in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5); and

(b) where the corporation or another corporation acquires any of the properties on or after the disposition in circumstances in which subsection 66.7(4) or 66.7(5) applies, amounts that become receivable by the predecessor owner after the disposition in respect of Canadian resource properties retained by it at the time of the disposition shall, for the purposes of applying subsection 66.7(4) or 66.7(5) to the corporation or the other corporation in respect of the acquisition, be deemed not to have become receivable by the predecessor owner.

Disposal of foreign resource properties

(15) Where after June 5, 1987 a predecessor owner of foreign resource properties disposes of all or substantially all of its foreign resource properties to a corporation in circumstances in which subsection 66.7(2) applies, for the purpose of applying that subsection to the predecessor owner in respect of its acquisition of any of those

Disposition d'avoirs miniers canadiens

(14) Les présomptions suivantes s'appliquent au propriétaire antérieur d'avoirs miniers canadiens qui dispose au cours d'une année d'imposition de tels avoirs en faveur d'une société dans les circonstances déterminées au paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou aux paragraphes (1), (3), (4) ou (5):

a) pour l'application de ces paragraphes à l'acquisition par le propriétaire antérieur d'un avoir minier canadien dont il était propriétaire immédiatement avant la disposition, le propriétaire antérieur est réputé, après la disposition, n'avoir jamais acquis de tels avoirs, sauf pour ce qui est de calculer les montants suivants :

(i) un montant déductible en application des paragraphes (1) ou (3) pour l'année,

(ii) un montant déductible en application des paragraphes (4) ou (5) pour l'année, si le propriétaire antérieur et la société n'avaient pas de lien de dépendance au moment de la disposition ou si la disposition a été effectuée par fusion ou unification,

(iii) le montant que représente l'élément F de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5), les montants visés aux alinéas a) et b) de l'élément L de cette formule et le montant que représente l'élément F de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5);

b) lorsque la société ou une autre société acquiert un ou plusieurs des avoirs au moment de la disposition, ou après, dans les circonstances déterminées aux paragraphes (4) ou (5), les montants qui deviennent à recevoir par le propriétaire antérieur après la disposition relativement aux avoirs miniers canadiens qu'il détenait toujours au moment de la disposition sont réputés, pour l'application des paragraphes (4) ou (5) à la société ou à l'autre société relativement à cette acquisition, ne pas être devenus à recevoir par le propriétaire antérieur.

Disposition d'avoirs miniers étrangers

(15) Le propriétaire antérieur d'avoirs miniers étrangers qui dispose après le 5 juin 1987 de la totalité, ou presque, de ceux-ci en faveur d'une société dans les circonstances déterminées au paragraphe (2) est réputé, après la disposition, n'avoir jamais acquis les avoirs pour l'application de ce paragraphe à l'acquisition par le propriétaire

properties (or other foreign resource properties retained by it at the time of the disposition which were acquired by it in circumstances in which subsection 66.7(2) applied), it shall be deemed, after the disposition, never to have acquired the properties.

Disposal of foreign resource properties — subsection (2.3)

(15.1) Where in a taxation year a predecessor owner of foreign resource properties disposes of foreign resource properties to a corporation in circumstances to which subsection (2.3) applies,

(a) for the purpose of applying that subsection to the predecessor owner in respect of its acquisition of any foreign resource properties owned by it immediately before the disposition, it is deemed, after the disposition, never to have acquired any such properties except for the purposes of

(i) where the predecessor owner and the corporation dealt with each other at arm's length at the time of the disposition or the disposition was by way of an amalgamation or merger, determining an amount deductible under subsection (2.3) for the year, and

(ii) determining the value of F in the definition ***cumulative foreign resource expense*** in subsection 66.21(1); and

(b) where the corporation or another corporation acquires any of the properties on or after the disposition in circumstances to which subsection (2.3) applies, amounts that become receivable by the predecessor owner after the disposition in respect of foreign resource properties retained by it at the time of the disposition are, for the purposes of applying subsection (2.3) to the corporation or the other corporation in respect of the acquisition, deemed not to have become receivable by the predecessor owner.

Non-successor acquisitions

(16) If at any time a Canadian resource property or a foreign resource property is acquired by a person in circumstances in which none of subsections (1) to (5), nor subsection 29(25) of the *Income Tax Application Rules,* apply, every person who was an original owner or predecessor owner of the property before that time is, for the purpose of applying those subsections to or in respect of the person or any other person who after that time acquires the property, deemed after that time not to be an original owner or predecessor owner of the property before that time.

antérieur d'un ou plusieurs de ces avoirs (ou d'autres avoirs miniers étrangers qu'il détenait toujours au moment de la disposition et qu'il avait acquis dans les circonstances déterminées au paragraphe (2)).

Disposition d'avoirs miniers étrangers — paragraphe (2.3)

(15.1) Dans le cas où un propriétaire antérieur d'avoirs miniers étrangers dispose, au cours d'une année d'imposition, d'avoirs miniers étrangers en faveur d'une société dans les circonstances visées au paragraphe (2.3), les présomptions suivantes s'appliquent :

a) pour l'application de ce paragraphe au propriétaire antérieur relativement à son acquisition d'avoirs miniers étrangers dont il était propriétaire immédiatement avant la disposition, il est réputé, après la disposition, ne jamais avoir acquis de tels avoirs, sauf pour ce qui est de déterminer les montants suivants :

(i) un montant déductible en application du paragraphe (2.3) pour l'année, si le propriétaire antérieur et la société n'avaient entre eux aucun lien de dépendance au moment de la disposition ou si la disposition a été effectuée par suite d'une fusion ou d'une unification,

(ii) la valeur de l'élément F de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1);

b) si la société ou une autre société acquiert l'un des avoirs au moment de la disposition ou postérieurement dans les circonstances visées au paragraphe (2.3), les montants qui deviennent à recevoir par le propriétaire antérieur après la disposition relativement aux avoirs miniers étrangers qu'il a conservés au moment de la disposition sont réputés, pour l'application du paragraphe (2.3) à la société ou à l'autre société relativement à l'acquisition, ne pas être devenus à recevoir par le propriétaire antérieur.

Absence de propriétaire obligé ou antérieur

(16) Dans le cas où, à un moment donné, une personne acquiert un avoir minier canadien ou un avoir minier étranger dans des circonstances où ni les paragraphes (1) à (5) ni le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ne s'appliquent, quiconque était propriétaire obligé ou propriétaire antérieur de l'avoir avant ce moment est réputé après ce moment ne pas l'être avant ce moment pour l'application de ces paragraphes à l'égard de cette personne ou de toute autre personne qui acquiert l'avoir après ce moment.

Restriction on deductions

(17) Where in a particular taxation year and before June 6, 1987 a person disposed of a Canadian resource property or a foreign resource property in circumstances in which any of subsection 29(25) of the *Income Tax Application Rules* and subsections 66.7(1) to 66.7(5) applies, no deduction in respect of an expense incurred before the property was disposed of may be made under this section or section 66, 66.1, 66.2 or 66.4 by the person in computing the person's income for a taxation year subsequent to the particular taxation year.

Application of interpretation provisions

(18) The definitions in subsection 66(15) and sections 66.1 to 66.4 apply in this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.7; 1994, c. 7, Sch. II, s. 42, c. 8, s. 8, c. 21, s. 31; 1995, c. 21, s. 25; 1997, c. 25, s. 16; 1998, c. 19, s. 106; 2001, c. 17, s. 49; 2013, c. 34, ss. 116, 204.

Resource expenses of limited partner

66.8 (1) Where a taxpayer is a limited partner of a partnership at the end of a fiscal period of the partnership, the following rules apply:

(a) determine the amount, if any, by which

(i) the total of all amounts each of which is the taxpayer's share of

(A) the Canadian oil and gas property expenses (in this subsection referred to as "property expenses"),

(B) the Canadian development expenses (in this subsection referred to as "development expenses"),

(C) the Canadian exploration expenses (in this subsection referred to as "exploration expenses"),

(D) the foreign resource expenses in respect of a country (in this subsection referred to as "country-specific foreign expenses"), or

(E) the foreign exploration and development expenses (in this subsection referred to as "global foreign expenses"),

incurred by the partnership in the fiscal period determined without reference to this subsection

exceeds

(ii) the amount, if any, by which

Restrictions aux déductions

(17) Dans le cas où, au cours d'une année d'imposition donnée et avant le 4 juin 1987, une personne dispose d'un avoir minier canadien ou d'un avoir minier étranger dans des circonstances où le paragraphe 29(25) des *Règles concernant l'application de l'impôt sur le revenu* ou l'un des paragraphes (1) à (5) s'applique, aucune déduction au titre des frais engagés avant la disposition ne peut être faite par cette personne en application du présent article ou de l'article 66, 66.1, 66.2 ou 66.4 dans le calcul de son revenu pour une année d'imposition postérieure à l'année donnée.

Application des définitions

(18) Les définitions figurant au paragraphe 66(15) et aux articles 66.1 à 66.4 s'appliquent au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 66.7; 1994, ch. 7, ann. II, art. 42, ch. 8, art. 8, ch. 21, art. 31; 1995, ch. 21, art. 25; 1997, ch. 25, art. 16; 1998, ch. 19, art. 106; 2001, ch. 17, art. 49; 2013, ch. 34, art. 116 et 204.

Frais relatifs à des ressources d'un commanditaire

66.8 (1) Les règles suivantes s'appliquent dans le cas où un contribuable est commanditaire d'une société de personnes à la fin d'un exercice de celle-ci :

a) il y a lieu de calculer l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants dont chacun représente sa part des frais suivants que la société de personnes a engagés au cours de l'exercice, calculée compte non tenu du présent paragraphe :

(A) les frais à l'égard de biens canadiens relatifs au pétrole et au gaz,

(B) les frais d'aménagement au Canada,

(C) les frais d'exploration au Canada,

(D) les frais relatifs à des ressources à l'étranger se rapportant à un pays (appelés « frais étrangers propres à un pays » au présent paragraphe),

(E) les frais d'exploration et d'aménagement à l'étranger (appelés « frais étrangers globaux » au présent paragraphe),

(ii) l'excédent éventuel du montant visé à la division (A) sur le total visé à la division (B):

(A) la fraction à risques, à la fin de l'exercice, de l'intérêt du contribuable dans la société de personnes,

(A) the taxpayer's at-risk amount at the end of the fiscal period in respect of the partnership

exceeds

(B) the total of

(I) the amount required by subsection 127(8) in respect of the partnership to be added in computing the investment tax credit of the taxpayer in respect of the fiscal period, and

(II) the taxpayer's share of any losses of the partnership for the fiscal period from a farming business;

(b) the amount determined under paragraph 66.8(1)(a) shall be applied

(i) first to reduce the taxpayer's share of property expenses,

(ii) if any remains unapplied, then to reduce the taxpayer's share of development expenses,

(iii) if any remains unapplied, then to reduce the taxpayer's share of exploration expenses,

(iv) if any remains unapplied, then to reduce (in the order specified by the taxpayer in writing filed with the Minister on or before the taxpayer's filing-due date for the taxpayer's taxation year in which the fiscal period ends or, where no such specification is made, in the order determined by the Minister) the taxpayer's share of country-specific foreign expenses, and

(v) if any remains unapplied, then to reduce the taxpayer's share of global foreign expenses; and

incurred by the partnership in the fiscal period; and

(c) for the purposes of subparagraph 53(2)(c)(ii), sections 66 to 66.7, subsection 96(2.1) and section 111, the taxpayer's share of each class of expenses described in subparagraph 66.8(1)(a)(i) incurred by the partnership in the fiscal period shall be deemed to be the amount by which the taxpayer's share of that class of expenses as determined under subparagraph 66.8(1)(a)(i) exceeds the amount, if any, that was applied under paragraph 66.8(1)(b) to reduce the taxpayer's share of that class of expenses.

(B) le total des montants suivants :

(I) la partie du montant déterminée à l'égard de la société de personnes pour l'exercice à ajouter, en application du paragraphe 127(8), dans le calcul du crédit d'impôt à l'investissement du contribuable,

(II) la part, dont le contribuable est tenu pour l'exercice, des pertes de la société de personnes provenant d'une entreprise agricole;

b) l'excédent calculé à l'alinéa a) est appliqué successivement en réduction des montants suivants :

(i) sa part des frais à l'égard de biens canadiens relatifs au pétrole et au gaz,

(ii) sa part des frais d'aménagement au Canada,

(iii) sa part des frais d'exploration au Canada,

(iv) sa part des frais étrangers propres à un pays, selon l'ordre qu'il établit dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition dans laquelle l'exercice prend fin ou, si aucun ordre n'est ainsi établi, selon l'ordre établi par le ministre,

(v) sa part des frais étrangers globaux;

(c) pour l'application du sous-alinéa 53(2)c)(ii), des articles 66 à 66.7, du paragraphe 96(2.1) et de l'article 111, la part qui revient au contribuable de chaque catégorie de frais visés au sous-alinéa a)(i) que la société de personnes a engagés au cours de l'exercice est réputée égale à l'excédent de la part qui revient au contribuable des frais de cette catégorie sur l'excédent appliqué en réduction de sa part des frais de cette catégorie en application de l'alinéa b).

Expenses in following fiscal period

(2) For the purposes of subparagraph 66.8(1)(a)(i), the amount by which a taxpayer's share of a class of expenses incurred by a partnership is reduced under paragraph

Frais engagés au cours de l'exercice suivant

(2) Pour l'application du sous-alinéa (1)a)(i), l'excédent appliqué en réduction de la part d'un contribuable des frais d'une catégorie qu'une société de personnes a

66.8(1)(b) in respect of a fiscal period of the partnership shall be added to the taxpayer's share, otherwise determined, of that class of expenses incurred by the partnership in the immediately following fiscal period of the partnership.

Interpretation

(3) In this section,

(a) the expression ***limited partner*** of a partnership has the meaning that would be assigned by subsection 96(2.4), if in subsection 96(2.5) each reference to

(i) "February 25, 1986" were a reference to "June 17, 1987",

(ii) "February 26, 1986" were a reference to "June 18, 1987",

(iii) "January 1, 1987" were a reference to "January 1, 1988",

(iv) "June 12, 1986" were a reference to "June 18, 1987", and

(v) "prospectus, preliminary prospectus or registration statement" were a reference to "prospectus, preliminary prospectus, registration statement, offering memorandum or notice that is required to be filed before any distribution of securities may commence";

(a.1) the expression ***at-risk amount*** of a taxpayer in respect of a partnership has the meaning that would be assigned by subsection 96(2.2) if paragraph 96(2.2)(c) read as follows:

(c) all amounts each of which is an amount owing at that time to the partnership, or to a person or partnership not dealing at arm's length with the partnership, by the taxpayer or by a person or partnership not dealing at arm's length with the taxpayer, other than any amount deducted under subparagraph 53(2)(c)(i.3) in computing the adjusted cost base, or under section 143.2 in computing the cost, to the taxpayer of the taxpayer's partnership interest at that time, or any amount owing by the taxpayer to a person in respect of which the taxpayer is a subsidiary wholly-owned corporation or where the taxpayer is a trust, to a person that is the sole beneficiary of the taxpayer, and;

(b) a reference to a taxpayer who is a member of a particular partnership shall include a reference to another partnership that is a member if the particular partnership; and

engagés au cours d'un exercice, en application de l'alinéa (1)b), doit être ajouté à la part du contribuable, déterminée par ailleurs, des frais de cette catégorie engagés par la société de personnes au cours de l'exercice suivant.

Précisions

(3) Au présent article :

a) le ***commanditaire*** d'une société de personnes s'entend au sens qui serait donné à ce terme par le paragraphe 96(2.4) si, au paragraphe 96(2.5) :

(i) la date du 25 février 1986 était remplacée par celle du 17 juin 1987,

(ii) la date du 26 février 1986 était remplacée par celle du 18 juin 1987,

(iii) la date du 1er janvier 1987 était remplacée par celle du 1er janvier 1988,

(iv) la date du 12 juin 1986 était remplacée par celle du 18 juin 1987,

(v) la mention « un prospectus, un prospectus provisoire ou une déclaration d'enregistrement » était remplacée par « un prospectus, un prospectus provisoire, une déclaration d'enregistrement, une notice d'offre ou un avis à produire avant le placement des titres »;

a.1) la ***fraction à risques*** de l'intérêt d'un contribuable dans une société de personnes s'entend au sens qui serait donné à ce terme par le paragraphe 96(2.2) si l'alinéa 96(2.2)c) avait le libellé suivant :

c) le total des sommes représentant chacune une somme due, au moment donné, à la société de personnes, ou à une personne ou une société de personnes avec laquelle elle a un lien de dépendance, par le contribuable ou par une personne ou une société de personnes avec laquelle il a un lien de dépendance, à l'exception d'une somme déduite en application du sous-alinéa 53(2)c)(i.3) ou de l'article 143.2 dans le calcul du prix de base rajusté ou du coût, selon le cas, pour le contribuable de sa participation dans la société de personnes à ce moment ou d'une somme due par le contribuable à une personne dont il est la filiale à cent pour cent ou, si le contribuable est une fiducie, à une personne qui est son unique bénéficiaire;

b) un renvoi à un contribuable qui est un associé d'une société de personnes donnée constitue également un renvoi à une autre société de personnes qui est un associé de la société de personnes donnée;

(c) a taxpayer's share of Canadian development expenses or Canadian oil and gas property expenses incurred by a partnership in a fiscal period in respect of which the taxpayer has elected in respect of the share under paragraph (f) of the definition ***Canadian development expense*** in subsection 66.2(5) or paragraph (b) of the definition ***Canadian oil and gas property expense*** in subsection 66.4(5), as the case may be, shall be deemed to be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 66.8; 1994, c. 7, Sch. VIII, s. 26; 2001, c. 17, s. 50; 2013, c. 34, s. 205.

c) la part des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz du contribuable qu'une société de personnes a engagée au cours d'un exercice à l'égard duquel le contribuable a fait, concernant cette part, le choix prévu à l'alinéa f) de la définition de ***frais d'aménagement au Canada*** au paragraphe 66.2(5) ou à l'alinéa b) de la définition de ***frais à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) est réputée nulle.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 66.8; 1994, ch. 7, ann. VIII, art. 26; 2001, ch. 17, art. 50; 2013, ch. 34, art. 205.

SUBDIVISION F

Rules Relating to Computation of Income

General limitation re expenses

67 In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"67".

Expenses for food, etc.

67.1 (1) Subject to subsection (1.1), for the purposes of this Act, other than sections 62, 63, 118.01 and 118.2, an amount paid or payable in respect of the human consumption of food or beverages or the enjoyment of entertainment is deemed to be 50 per cent of the lesser of

(a) the amount actually paid or payable in respect thereof, and

(b) an amount in respect thereof that would be reasonable in the circumstances.

Meal expenses for long-haul truck drivers

(1.1) An amount paid or payable in respect of the consumption of food or beverages by a long-haul truck driver during an eligible travel period of the driver is deemed to be the amount determined by multiplying the specified percentage in respect of the amount so paid or payable by the lesser of

(a) the amount so paid or payable, and

(b) a reasonable amount in the circumstances.

SOUS-SECTION F

Règles relatives au calcul du revenu

Restriction générale relative aux dépenses

67 Dans le calcul du revenu, aucune déduction ne peut être faite relativement à une dépense à l'égard de laquelle une somme est déductible par ailleurs en vertu de la présente loi, sauf dans la mesure où cette dépense était raisonnable dans les circonstances.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 67 ».

Frais de représentation

67.1 (1) Sous réserve du paragraphe (1.1), pour l'application de la présente loi, sauf les articles 62, 63, 118.01 et 118.2, la somme payée ou payable pour des aliments, des boissons ou des divertissements pris par des personnes est réputée correspondre à 50 % de la moins élevée des sommes suivantes :

a) la somme réellement payée ou à payer;

b) la somme qui serait raisonnable dans les circonstances.

Frais de repas des conducteurs de grands routiers

(1.1) La somme payée ou payable relativement à la consommation d'aliments ou de boissons par un conducteur de grand routier pendant une période de déplacement admissible est réputée correspondre au produit du pourcentage déterminé relatif à la somme ainsi payée ou payable par la moins élevée des sommes suivantes :

a) la somme ainsi payée ou payable;

b) toute somme raisonnable dans les circonstances.

Exceptions

(2) Subsection 67.1(1) does not apply to an amount paid or payable by a person in respect of the consumption of food or beverages or the enjoyment of entertainment where the amount

(a) is paid or payable for food, beverages or entertainment provided for, or in expectation of, compensation in the ordinary course of a business carried on by that person of providing the food, beverages or entertainment for compensation;

(b) relates to a fund-raising event the primary purpose of which is to benefit a registered charity;

(c) is an amount for which the person is compensated and the amount of the compensation is reasonable and specifically identified in writing to the person paying the compensation;

(d) is required to be included in computing any taxpayer's income because of the application of section 6 in respect of food or beverages consumed or entertainment enjoyed by the taxpayer or a person with whom the taxpayer does not deal at arm's length, or would be so required but for subparagraph 6(6)(a)(ii);

(e) is an amount that

(i) is not paid or payable in respect of a conference, convention, seminar or similar event,

(ii) would, but for subparagraph 6(6)(a)(i), be required to be included in computing any taxpayer's income for a taxation year because of the application of section 6 in respect of food or beverages consumed or entertainment enjoyed by the taxpayer or a person with whom the taxpayer does not deal at arm's length, and

(iii) is paid or payable in respect of the taxpayer's duties performed at a work site in Canada that is

(A) outside any population centre, as defined by the last Census Dictionary published by Statistics Canada before the year, that has a population of at least 40,000 individuals as determined in the last census published by Statistics Canada before the year, and

(B) at least 30 kilometres from the nearest point on the boundary of the nearest such population centre;

(e.1) is an amount that

Exceptions

(2) Le paragraphe (1) ne s'applique pas au montant payé ou payable par une personne pour des aliments, des boissons ou des divertissements dans les cas suivants :

a) le montant est payé ou payable pour des aliments, des boissons ou des divertissements fournis contre paiement ou en vue de l'obtention d'un bénéfice dans le cours normal des activités d'une entreprise exploitée par cette personne et qui consiste à fournir contre paiement ces aliments, ces boissons ou ces divertissements;

b) le montant est payé ou payable dans le cadre d'une levée de fonds dont le principal objet est un objet charitable d'un organisme de bienfaisance enregistré;

c) le montant est payé ou payable contre un paiement raisonnable indiqué de façon précise par écrit à la personne qui fait ce paiement;

d) le montant est à inclure dans le calcul du revenu d'un contribuable en raison de l'application de l'article 6 relativement aux aliments, boissons ou divertissements pris par le contribuable ou par une personne avec laquelle il a un lien de dépendance, ou serait ainsi à inclure si ce n'était le sous-alinéa 6(6)a)(ii);

e) le montant, à la fois :

(i) n'est pas payé ou payable relativement à une conférence, à un congrès, à un colloque ou à un événement semblable,

(ii) serait à inclure, si ce n'était le sous-alinéa 6(6)a)(i), dans le calcul du revenu d'un contribuable pour une année d'imposition en raison de l'application de l'article 6 relativement aux aliments, boissons ou divertissements pris par le contribuable ou par une personne avec laquelle il a un lien de dépendance,

(iii) est payé ou payable au titre du travail accompli par le contribuable sur un chantier au Canada situé, à la fois :

(A) à l'extérieur d'un centre de population, au sens du dernier dictionnaire du recensement publié par Statistique Canada avant l'année, qui compte une population d'au moins 40 000 personnes selon le dernier recensement publié par Statistique Canada avant l'année,

(B) à au moins 30 kilomètres du point le plus rapproché de la limite du centre de population le plus proche visé à la division (A);

(i) is not paid or payable in respect of entertainment or of a conference, convention, seminar or similar event,

(ii) would, if this Act were read without reference to subparagraph 6(6)(a)(i), be required to be included in computing a taxpayer's income for a taxation year because of the application of section 6 in respect of food or beverages consumed by the taxpayer or by a person with whom the taxpayer does not deal at arm's length,

(iii) is paid or payable in respect of the taxpayer's duties performed at a site in Canada at which the person carries on a construction activity or at a construction work camp referred to in subparagraph (iv) in respect of the site, and

(iv) is paid or payable for food or beverages provided at a construction work camp, at which the taxpayer is lodged, that was constructed or installed at or near the site to provide board and lodging to employees while they are engaged in construction services at the site; or

(f) is in respect of one of six or fewer special events held in a calendar year at which the food, beverages or entertainment is generally available to all individuals employed by the person at a particular place of business of the person and consumed or enjoyed by those individuals.

e.1) le montant, à la fois :

(i) n'est pas payé ou payable relativement à des divertissements ou à une conférence, à un congrès, à un colloque ou à un événement semblable,

(ii) serait à inclure, si ce n'était le sous-alinéa 6(6)a)(i), dans le calcul du revenu d'un contribuable pour une année d'imposition en raison de l'application de l'article 6 relativement aux aliments ou boissons pris par le contribuable ou par une personne avec laquelle il a un lien de dépendance,

(iii) est payé ou payable au titre du travail accompli par le contribuable sur un chantier au Canada où la personne exerce une activité de construction ou dans un campement de travailleurs de la construction mentionné au sous-alinéa (iv) relatif au chantier,

(iv) est payé ou payable pour des aliments ou des boissons fournis dans un campement de travailleurs de la construction, où le contribuable est logé, qui a été construit ou installé sur le chantier, ou près de celui-ci, en vue de fournir des repas et un logement aux employés pendant qu'ils exécutent des services de construction sur le chantier;

f) le montant se rapporte à l'un d'un maximum de six événements spéciaux tenus au cours d'une année civile et à l'occasion desquels des aliments, des boissons ou des divertissements sont offerts, de façon générale, à l'ensemble des employés de la personne affectés à un lieu d'affaires donné de celle-ci et pris par ces employés.

Fees for convention, etc.

(3) For the purposes of this section, where a fee paid or payable for a conference, convention, seminar or similar event entitles the participant to food, beverages or entertainment (other than incidental beverages and refreshments made available during the course of meetings or receptions at the event) and a reasonable part of the fee, determined on the basis of the cost of providing the food, beverages and entertainment, is not identified in the account for the fee as compensation for the food, beverages and entertainment, $50 or such other amount as may be prescribed shall be deemed to be the actual amount paid or payable in respect of food, beverages and entertainment for each day of the event on which food, beverages or entertainment is provided and, for the purposes of this Act, the fee for the event shall be deemed to be the actual amount of the fee minus the amount deemed by this subsection to be the actual amount paid or payable for the food, beverages and entertainment.

Frais de congrès

(3) Pour l'application du présent article, lorsque les frais payés ou payables pour participer à une conférence, à un congrès à un colloque ou à un événement semblable donnent au participant droit à des aliments, des boissons ou des divertissements — à l'exclusion des rafraîchissements offerts accessoirement lors de réunions ou réceptions tenues dans le cadre de l'événement — et qu'une partie raisonnable de ces frais, calculée en fonction du coût de la fourniture des aliments, boissons et divertissements, n'est pas indiquée dans le compte de frais à titre de paiement pour ceux-ci, un montant de 50 $, ou tout autre montant qui peut être fixé par règlement, est réputé être le montant réellement payé ou payable pour ceux-ci pour chaque jour de l'événement où ceux-ci sont fournis. Pour l'application de la présente loi, les frais de participation à l'événement sont réputés être les frais réels moins le montant réputé, par le présent paragraphe, être le montant réellement payé ou payable.

Interpretation

(4) For the purposes of this section,

(a) no amount paid or payable for travel on an airplane, train or bus shall be considered to be in respect of food, beverages or entertainment consumed or enjoyed while travelling thereon; and

(b) ***entertainment*** includes amusement and recreation.

Definitions

(5) The following definitions apply for the purpose of this section.

eligible travel period in respect of a long-haul truck driver is a period during which the driver is away from the municipality or metropolitan area where the specified place in respect of the driver is located for a period of at least 24 continuous hours for the purpose of driving a long-haul truck that transports goods to, or from, a location that is beyond a radius of 160 kilometres from the specified place. (*période de déplacement admissible*)

long-haul truck means a truck or a tractor that is designed for hauling freight and that has a gross vehicle weight rating (as that term is defined in subsection 2(1) of the *Motor Vehicle Safety Regulations*) that exceeds 11 788 kilograms. (*grand routier*)

long-haul truck driver means an individual whose principal business or principal duty of employment is driving a long-haul truck that transports goods. (*conducteur de grand routier*)

specified percentage in respect of an amount paid or payable is

(a) 60 per cent, if the amount is paid or becomes payable on or after March 19, 2007 and before 2008;

(b) 65 per cent, if the amount is paid or becomes payable in 2008;

(c) 70 per cent, if the amount is paid or becomes payable in 2009;

(d) 75 per cent, if the amount is paid or becomes payable in 2010; and

(e) 80 per cent, if the amount is paid or becomes payable after 2010. (*pourcentage déterminé*)

specified place means, in the case of an employee, the employer's establishment to which the employee

Interprétation

(4) Pour l'application du présent article :

a) aucun montant payé ou payable pour un voyage à bord d'un avion, d'un train ou d'un autobus ne peut être considéré comme payé ou payable pour des aliments, des boissons ou des divertissements pris pendant le voyage;

b) sont assimilés à des divertissements les loisirs et les amusements.

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

conducteur de grand routier Particulier dont l'entreprise principale ou la fonction principale à titre d'employé consiste à conduire un grand routier qui transporte des marchandises. (*long-haul truck driver*)

endroit déterminé Dans le cas d'un employé, l'établissement de l'employeur où il se présente habituellement au travail; dans le cas d'un particulier dont l'entreprise principale consiste à conduire un grand routier qui transporte des marchandises, son lieu de résidence. (*specified place*)

grand routier Camion ou tracteur conçu pour transporter des marchandises et dont le poids nominal brut, au sens du paragraphe 2(1) du *Règlement sur la sécurité des véhicules automobiles*, excède 11 788 kilogrammes. (*long-haul truck*)

période de déplacement admissible Toute période d'au moins 24 heures consécutives durant laquelle un conducteur de grand routier se trouve à l'extérieur de la municipalité ou de la région métropolitaine où est situé l'endroit déterminé dont il relève, du fait qu'il conduit un grand routier qui transporte des marchandises à destination ou en provenance d'un lieu situé à l'extérieur d'un rayon d'au moins 160 kilomètres de l'endroit déterminé. (*eligible travel period*)

pourcentage déterminé En ce qui concerne une somme payée ou payable :

a) 60 %, si la somme est payée ou devient payable après le 18 mars 2007 et avant 2008;

b) 65 %, si elle est payée ou devient payable en 2008;

c) 70 %, si elle est payée ou devient payable en 2009;

d) 75 %, si elle est payée ou devient payable en 2010;

ordinarily reports to work is located and, in the case of an individual whose principal business is to drive a long-haul truck to transport goods, the place where the individual resides. (*endroit déterminé*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 67.1; 1994, c. 7, Sch. II, s. 43; 1995, c. 3, s. 17; 1999, c. 22, s. 20; 2002, c. 9, s. 26; 2006, c. 4, s. 54; 2007, c. 35, s. 20; 2013, c. 34, s. 206, c. 40, s. 33.

e) 80 %, si elle est payée ou devient payable après 2010. (*specified percentage*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 67.1; 1994, ch. 7, ann. II, art. 43; 1995, ch. 3, art. 17; 1999, ch. 22, art. 20; 2002, ch. 9, art. 26; 2006, ch. 4, art. 54; 2007, ch. 35, art. 20; 2013, ch. 34, art. 206, ch. 40, art. 33.

Interest on money borrowed for passenger vehicle

67.2 For the purposes of this Act, where an amount is paid or payable for a period by a person in respect of interest on borrowed money used to acquire a passenger vehicle or on an amount paid or payable for the acquisition of such a vehicle, in computing the person's income for a taxation year, the amount of interest so paid or payable shall be deemed to be the lesser of the actual amount paid or payable and the amount determined by the formula

A/30 × B

where

A is $250 or such other amount as may be prescribed; and

B is the number of days in the period in respect of which the interest was paid or payable, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 67.2; 1994, c. 7, Sch. II, s. 44.

Intérêts sur l'argent emprunté pour une voiture de tourisme

67.2 Pour l'application de la présente loi, les intérêts payés ou payables par une personne pour une période sur l'argent emprunté et utilisé pour acquérir une voiture de tourisme ou sur un montant payé ou payable pour l'acquisition d'une telle voiture sont réputés correspondre, pour le calcul du revenu de la personne pour une année d'imposition, au moins élevé des intérêts réellement payés ou payables et du résultat du calcul suivant :

A/30 × B

où :

A représente 250 $ ou tout autre montant fixé par règlement;

B le nombre de jours de la période où les intérêts sont payés ou payables.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées.L.R. (1985), ch. 1 (5e suppl.), art. 67.2; 1994, ch. 7, ann. II, art. 44.

Limitation re cost of leasing passenger vehicle

67.3 Notwithstanding any other section of this Act, where

(a) in a taxation year all or part of the actual lease charges in respect of a passenger vehicle are paid or payable, directly or indirectly, by a taxpayer, and

(b) in computing the taxpayer's income for the year an amount may be deducted in respect of those charges,

in determining the amount that may be so deducted, the total of those charges shall be deemed not to exceed the lesser of

(c) the amount determined by the formula

(A × B)/30 - C - D - E

where

A is $600 or such other amount as is prescribed,

B is the number of days in the period commencing at the beginning of the term of the lease and ending at the earlier of the end of the year and the end of the lease,

Limitation du coût de location d'une voiture de tourisme

67.3 Malgré les autres articles de la présente loi, dans le cas où, au cours d'une année d'imposition, tout ou partie des frais réels de location d'une voiture de tourisme sont payés ou payables, directement ou indirectement, par un contribuable qui peut déduire un montant au titre de ces frais dans le calcul de son revenu pour l'année, le total de ces frais est réputé ne pas dépasser le moins élevé des montants suivants pour le calcul du montant ainsi déductible :

a) le résultat du calcul suivant :

(A × B)/30 - C - D - E

où :

A représente 600 $ ou tout autre montant fixé par règlement;

B le nombre de jours de la période commençant au début de la location et se terminant à la première en date de la fin d l'année et de la fin de la location,

C le total des montants déduits au titre des frais réels de location dans le calcul du revenu du

C is the total of all amounts deducted in computing the taxpayer's income for preceding taxation years in respect of the actual lease charges in respect of the vehicle,

D is the amount of interest that would be earned on the part of the total of all refundable amounts in respect of the lease that exceeds $1,000 if interest were

(i) payable on the refundable amounts at the prescribed rate, and

(ii) computed for the period before the end of the year during which the refundable amounts were outstanding, and

E is the total of all reimbursements that became receivable before the end of the year by the taxpayer in respect of the lease, and

(d) the amount determined by the formula

(A × B)/0.85C - D - E

where

A is the total of the actual lease charges in respect of the lease incurred in respect of the year or the total of the actual lease charges in respect of the lease paid in the year (depending on the method regularly followed by the taxpayer in computing income),

B is $20,000 or such other amount as is prescribed,

C is the greater of $23,529 (or such other amount as is prescribed) and the manufacturer's list price for the vehicle,

D is the amount of interest that would be earned on that part of the total of all refundable amounts paid in respect of the lease that exceeds $1,000 if interest were

(i) payable on the refundable amounts at the prescribed rate, and

(ii) computed for the period in the year during which the refundable amounts are outstanding, and

E is the total of all reimbursements that became receivable during the year by the taxpayer in respect of the lease.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 67.3; 1994, c. 7, Sch. II, s. 45.

More than one owner or lessor

67.4 Where a person owns or leases a motor vehicle jointly with one or more other persons, the reference in paragraph 13(7)(g) to the amount of $20,000, in section 67.2 to the amount of $250 and in section 67.3 to the

contribuable pour les années d'imposition antérieures,

D les intérêts qui seraient gagnés sur la partie, excédant 1000 $, de tous les montants remboursables relativement à la location, si ces intérêts étaient, à la fois :

(i) payables sur les montants remboursables au taux prescrit,

(ii) calculés pour la période avant la fin de l'année où les montants remboursables sont impayés,

E le total des remboursements devenus à recevoir par le contribuable pour la location avant la fin de l'année;

b) le résultat du calcul suivant :

(A × B)/0,85C - D - E

où :

A représente le total des frais réels de location payables pour l'année relativement à la location ou le total des frais réels payés au cours de l'année relativement à la location, selon la méthode que le contribuable utilise habituellement pour calculer son revenu,

B 20 000 $ ou tout autre montant fixé par règlement;

C le plus élevé de 23 529 $, ou tout autre montant fixé par règlement, et du prix courant de la voiture conseillé par le fabricant,

D les intérêts qui seraient gagnés sur la partie, excédant 1 000 $, de tous les montants remboursables payés relativement à la location, si ces intérêts étaient, à la fois :

(i) payables sur les montants remboursables au taux prescrit,

(ii) calculés pour la période de l'année où les montants remboursables sont impayés,

E le total des remboursements devenus à recevoir par le contribuable pour la location au cours de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 67.3; 1994, ch. 7, ann. II, art. 45.

Propriété ou location conjointe

67.4 Dans le cas où une personne, conjointement avec une ou plusieurs autres personnes, loue un véhicule à moteur ou en est propriétaire, le montant de 20 000 $ à l'alinéa 13(7)g) et de 250 $ à l'article 67.2 et les montants

amounts of $600, $20,000 and $23,529 shall be read as a reference to that proportion of each of those amounts or such other amounts as may be prescribed for the purposes thereof that the fair market value of the first-mentioned person's interest in the vehicle is of the fair market value of the interests in the vehicle of all those persons.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 46.

de 600 $, 20 000 $ et 23 529 $ à l'article 67.3 sont remplacés par le produit de la multiplication de chacun de ces montants, ou de tout autre montant qui peut être fixé par règlement pour l'application de ces dispositions, par le rapport entre la juste valeur marchande du droit de la personne sur le véhicule et la juste valeur marchande du droit de l'ensemble des personnes sur le véhicule.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 46.

Non-deductibility of illegal payments

67.5 (1) In computing income, no deduction shall be made in respect of an outlay made or expense incurred for the purpose of doing anything that is an offence under section 3 of the *Corruption of Foreign Public Officials Act* or under any of sections 119 to 121, 123 to 125, 393 and 426 of the *Criminal Code*, or an offence under section 465 of the *Criminal Code* as it relates to an offence described in any of those sections.

Non-déductibilité des paiements illégaux

67.5 (1) Aucune déduction ne peut être faite dans le calcul du revenu au titre d'une dépense engagée ou effectuée en vue d'accomplir une chose qui constitue une infraction prévue à l'article 3 de la *Loi sur la corruption d'agents publics étrangers* ou à l'un des articles 119 à 121, 123 à 125, 393 et 426 du *Code criminel*, ou à l'article 465 du *Code criminel* qui est liée à une infraction visée à l'un de ces articles.

Reassessments

(2) Notwithstanding subsections 152(4) to (5), the Minister may make such assessments, reassessments and additional assessments of tax, interest and penalties and such determinations and redeterminations as are necessary to give effect to subsection (1) for any taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 46; 1998, c. 34, s. 10.

Nouvelle cotisation

(2) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations, nouvelles cotisations et cotisations supplémentaires voulues concernant l'impôt, les intérêts et les pénalités et déterminer ou déterminer de nouveau les montants voulus pour rendre le paragraphe (1) applicable pour une année d'imposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 46; 1998, ch. 34, art. 10.

Non-deductibility of fines and penalties

67.6 In computing income, no deduction shall be made in respect of any amount that is a fine or penalty (other than a prescribed fine or penalty) imposed under a law of a country or of a political subdivision of a country (including a state, province or territory) by any person or public body that has authority to impose the fine or penalty.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2005, c. 19, s. 16.

Non-déductibilité des amendes et pénalités

67.6 Aucune déduction ne peut être faite dans le calcul du revenu au titre de toute amende ou pénalité (sauf celles visées par règlement) imposée sous le régime des lois d'un pays, ou d'une de ses subdivisions politiques — notamment un État, une province ou un territoire — par toute personne ou tout organisme public qui est autorisé à imposer pareille amende ou pénalité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2005, ch. 19, art. 16.

Allocation of amounts in consideration for property, services or restrictive covenants

68 If an amount received or receivable from a person can reasonably be regarded as being in part the consideration for the disposition of a particular property of a taxpayer, for the provision of particular services by a taxpayer or for a restrictive covenant as defined by subsection 56.4(1) granted by a taxpayer,

(a) the part of the amount that can reasonably be regarded as being the consideration for the disposition shall be deemed to be proceeds of disposition of the particular property irrespective of the form or legal effect of the contract or agreement, and the person to

Contrepartie mixte

68 Dans le cas où il est raisonnable de considérer que le montant reçu ou à recevoir d'une personne représente en partie la contrepartie de la disposition d'un bien d'un contribuable, la contrepartie de la prestation de services par un contribuable ou la contrepartie d'une clause restrictive, au sens du paragraphe 56.4(1), accordée par un contribuable, les règles ci-après s'appliquent :

a) la partie du montant qu'il est raisonnable de considérer comme la contrepartie de cette disposition est réputée être le produit de disposition du bien, quels que soient la forme et les effets juridiques du contrat

whom the property was disposed of shall be deemed to have acquired it for an amount equal to that part;

(b) the part of the amount that can reasonably be regarded as being consideration for the provision of particular services shall be deemed to be an amount received or receivable by the taxpayer in respect of those services irrespective of the form or legal effect of the contract or agreement, and that part shall be deemed to be an amount paid or payable to the taxpayer by the person to whom the services were rendered in respect of those services; and

(c) the part of the amount that can reasonably be regarded as being consideration for the restrictive covenant is deemed to be an amount received or receivable by the taxpayer in respect of the restrictive covenant irrespective of the form or legal effect of the contract or agreement, and that part is deemed to be an amount paid or payable to the taxpayer by the person to whom the restrictive covenant was granted.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 68; 2013, c. 34, s. 207.

ou de la convention, et la personne qui a acquis le bien à la suite de cette disposition est réputée l'acquérir pour un montant égal à cette partie;

b) la partie du montant qu'il est raisonnable de considérer comme la contrepartie de la prestation de services est réputée être un montant reçu ou à recevoir par le contribuable pour ces services, quels que soient la forme et les effets juridiques du contrat ou de la convention, et être un montant payé ou payable au contribuable par la personne à qui ces services ont été rendus;

c) la partie du montant qu'il est raisonnable de considérer comme la contrepartie de la clause restrictive est réputée être à la fois une somme reçue ou à recevoir par le contribuable au titre de la clause, quels que soient la forme et les effets juridiques du contrat ou de la convention, et une somme payée ou payable au contribuable par la personne à laquelle la clause a été accordée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 68; 2013, ch. 34, art. 207.

Inadequate considerations

69 (1) Except as expressly otherwise provided in this Act,

(a) where a taxpayer has acquired anything from a person with whom the taxpayer was not dealing at arm's length at an amount in excess of the fair market value thereof at the time the taxpayer so acquired it, the taxpayer shall be deemed to have acquired it at that fair market value;

(b) where a taxpayer has disposed of anything

(i) to a person with whom the taxpayer was not dealing at arm's length for no proceeds or for proceeds less than the fair market value thereof at the time the taxpayer so disposed of it,

(ii) to any person by way of gift, or

(iii) to a trust because of a disposition of a property that does not result in a change in the beneficial ownership of the property;

the taxpayer shall be deemed to have received proceeds of disposition therefor equal to that fair market value; and

(c) where a taxpayer acquires a property by way of gift, bequest or inheritance or because of a disposition

Contreparties insuffisantes

69 (1) Sauf disposition contraire expresse de la présente loi :

a) le contribuable qui a acquis un bien auprès d'une personne avec laquelle il avait un lien de dépendance pour une somme supérieure à la juste valeur marchande de ce bien au moment de son acquisition est réputé l'avoir acquis pour une somme égale à cette juste valeur marchande;

b) le contribuable qui a disposé d'un bien en faveur :

(i) soit d'une personne avec laquelle il avait un lien de dépendance sans contrepartie ou moyennant une contrepartie inférieure à la juste valeur marchande de ce bien au moment de la disposition,

(ii) soit d'une personne au moyen d'un don,

(iii) soit d'une fiducie par suite de la disposition d'un bien qui n'a pas pour effet de changer la propriété effective du bien,

est réputé avoir reçu par suite de la disposition une contrepartie égale à cette juste valeur marchande;

c) le contribuable qui acquiert un bien par donation, legs ou succession ou par suite d'une disposition qui n'a pas pour effet de changer la propriété effective du bien est réputé acquérir le bien à sa juste valeur marchande.

that does not result in a change in the beneficial ownership of the property, the taxpayer is deemed to acquire the property at its fair market value.

Idem, where s. 70(3) applies

(1.1) Where a taxpayer has acquired property that is a right or thing to which subsection 70(3) applies, the following rules apply:

(a) paragraph 69(1)(c) is not applicable to that property; and

(b) the taxpayer shall be deemed to have acquired the property at a cost equal to the total of

(i) such part, if any, of the cost thereof to the taxpayer who has died as had not been deducted by the taxpayer in computing the taxpayer's income for any year, and

(ii) any expenditures made or incurred by the taxpayer to acquire the property.

Idem

(1.2) Where, at any time,

(a) a taxpayer disposed of property for proceeds of disposition (determined without reference to this subsection) equal to or greater than the fair market value at that time of the property, and

(b) there existed at that time an agreement under which a person with whom the taxpayer was not dealing at arm's length agreed to pay as rent, royalty or other payment for the use of or the right to use the property an amount less than the amount that would have been reasonable in the circumstances if the taxpayer and the person had been dealing at arm's length at the time the agreement was entered into,

the taxpayer's proceeds of disposition of the property shall be deemed to be the greater of

(c) those proceeds determined without reference to this subsection, and

(d) the fair market value of the property at the time of the disposition, determined without reference to the existence of the agreement.

(2) and (3) [Repealed, 1998, c. 19, s. 107]

Shareholder appropriations

(4) Where at any time property of a corporation has been appropriated in any manner whatever to or for the benefit of a shareholder of the corporation for no

Idem, cas où le par. 70(3) s'applique

(1.1) Lorsqu'un contribuable a acquis un bien consistant dans un droit ou un bien auquel s'applique le paragraphe 70(3), les régles suivantes s'appliquent :

a) l'alinéa (1)c) ne s'applique pas à ce bien;

b) le contribuable est réputé avoir acquis ce bien à un coût égal au total des montants suivants :

(i) la fraction de son coût pour le contribuable décédé qui n'avait pas été déduite par lui dans le calcul de son revenu pour une année donnée,

(ii) les dépenses engagées ou effectuées par lui pour acquérir ce bien.

Idem

(1.2) Lorsqu'un contribuable dispose d'un bien pour un produit de disposition, déterminé compte non tenu du présent paragraphe, au moins égal à la juste valeur marchande du bien au moment de la disposition, et qu'il existe, à ce moment, une convention selon laquelle une personne avec qui le contribuable a un lien de dépendance convient de payer, à titre de loyer, redevance ou autre paiement pour l'usage ou le droit d'usage du bien, un montant inférieur à ce qui aurait été raisonnable dans les circonstances si le contribuable et la personne n'avaient eu aucun lien de dépendance au moment de la conclusion de la convention, le produit de disposition du bien est réputé égal au plus élevé des montants suivants :

a) le produit qui serait déterminé sans le présent paragraphe;

b) le montant qui aurait représenté la juste valeur marchande du bien au moment de la disposition si la convention n'avait pas existé.

(2) et (3) [Abrogés, 1998, ch. 19, art. 107]

Attribution à un actionnaire

(4) Lorsque le bien d'une société est attribué de quelque manière que ce soit à un actionnaire de la société, ou à son profit, à titre gratuit ou pour une contrepartie

consideration or for consideration that is less than the property's fair market value and a sale of the property at its fair market value would have increased the corporation's income or reduced a loss of the corporation, the corporation shall be deemed to have disposed of the property, and to have received proceeds of disposition therefor equal to its fair market value, at that time.

Idem

(5) Where in a taxation year of a corporation property of the corporation has been appropriated in any manner whatever to, or for the benefit of, a shareholder, on the winding-up of the corporation, the following rules apply:

(a) the corporation is deemed, for the purpose of computing its income for the year, to have disposed of the property immediately before the winding-up for proceeds equal to its fair market value at that time;

(b) the shareholder shall be deemed to have acquired the property at a cost equal to its fair market value immediately before the winding-up;

(c) subsections 52(1) and (2) do not apply for the purposes of determining the cost to the shareholder of the property; and

(d) subsections 13(21.2), 18(15) and 40(3.4) and (3.6) do not apply in respect of any property disposed of on the winding-up.

(e) [Repealed, 1998, c. 19, s. 107]

(6) to (10) [Repealed, 2003, c. 28, s. 8]

Deemed proceeds of disposition

(11) Where, at any particular time as part of a series of transactions or events, a taxpayer disposes of property for proceeds of disposition that are less than its fair market value and it can reasonably be considered that one of the main purposes of the series is

(a) to obtain the benefit of

(i) any deduction (other than a deduction under subsection 110.6(2.1) in respect of a capital gain from a disposition of a share acquired by the taxpayer in an acquisition to which subsection 85(3) or 98(3) applied) in computing income, taxable income, taxable income earned in Canada or tax payable under this Act, or

(ii) any balance of undeducted outlays, expenses or other amounts

inférieure à sa juste valeur marchande, et que la vente du bien à sa juste valeur marchande aurait augmenté le revenu de la société, ou réduit sa perte, la société est réputée avoir disposé du bien au moment de son attribution et en avoir reçu un produit de disposition égal à sa juste valeur marchande à ce moment.

Idem

(5) Lorsque, au cours d'une année d'imposition d'une société, des biens de la société ont été attribués de quelque manière que ce soit à un actionnaire ou au profit de celui-ci, lors de la liquidation de la société, les règles suivantes s'appliquent :

a) pour le calcul de son revenu pour l'année, la société est réputée avoir disposé des biens immédiatement avant la liquidation pour un produit égal à leur juste valeur marchande à ce moment;

b) l'actionnaire est réputé avoir acquis les biens à un coût égal à leur juste valeur marchande immédiatement avant la liquidation;

c) les paragraphes 52(1) et (2) ne s'appliquent pas lorsqu'il s'agit de déterminer le coût de ces biens pour l'actionnaire;

d) les paragraphes 13(21.2), 18(15) et 40(3.4) et (3.6) ne s'appliquent pas aux biens dont il a été disposé lors de la liquidation.

e) [Abrogé, 1998, ch. 19, art. 107]

(6) à (10) [Abrogés, 2003, ch. 28, art. 8]

Produit de disposition réputé

(11) Malgré les autres dispositions de la présente loi, le contribuable qui, à un moment donné, dispose d'un bien dans le cadre d'une série d'opérations ou d'événements pour un produit de disposition inférieur à la juste valeur marchande du bien est réputé avoir disposé du bien à ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment s'il est raisonnable de considérer que l'un des principaux objets de la série consiste :

a) à profiter de l'un des éléments ci-après offert à une personne (sauf une personne qui serait affiliée au contribuable immédiatement avant le début de la série, compte non tenu de la définition de ***contrôlé*** au paragraphe 251.1(3)) relativement à une disposition ultérieure du bien ou d'un bien de remplacement, à condition que cette disposition soit effectuée, ou des arrangements en vue de cette disposition pris, avant le jour qui suit de trois ans le moment donné :

available to a person (other than a person that would be affiliated with the taxpayer immediately before the series began, if section 251.1 were read without reference to the definition ***controlled*** in subsection 251.1(3)) in respect of a subsequent disposition of the property or property substituted for the property, or

(b) to obtain the benefit of an exemption available to any person from tax payable under this Act on any income arising on a subsequent disposition of the property or property substituted for the property,

notwithstanding any other provision of this Act, where the subsequent disposition occurs, or arrangements for the subsequent disposition are made, before the day that is 3 years after the particular time, the taxpayer is deemed to have disposed of the property at the particular time for proceeds of disposition equal to its fair market value at the particular time.

(i) une déduction (sauf celle visée au paragraphe 110.6(2.1) au titre d'un gain en capital provenant de la disposition d'une action acquise par le contribuable dans le cadre d'une acquisition à laquelle se sont appliqués les paragraphes 85(3) ou 98(3)) dans le calcul du revenu, du revenu imposable, du revenu imposable gagné au Canada ou de l'impôt payable en vertu de la présente loi,

(ii) un solde de dépenses ou autres montants non déduits;

b) à profiter d'une exemption offerte à une personne de l'impôt payable en vertu de la présente loi sur un revenu découlant d'une disposition ultérieure du bien ou d'un bien de remplacement, à condition que cette disposition soit effectuée, ou des arrangements en vue de cette disposition pris, avant le jour qui suit de trois ans le moment donné.

Reassessments

(12) Notwithstanding subsections 152(4) to 152(5), the Minister may at any time make any assessments or reassessments of the tax, interest and penalties payable by the taxpayer that are necessary to give effect to subsection 69(11).

Nouvelles cotisations

(12) Malgré les paragraphes 152(4) à (5), le ministre peut établir en tout temps, pour l'application du paragraphe (11), les cotisations et nouvelles cotisations voulues concernant l'impôt, les intérêts et les pénalités payables par le contribuable.

(12.1) and (12.2) [Repealed, 1998, c. 19, s. 107]

(12.1) et (12.2) [Abrogés, 1998, ch. 19, art. 107]

Amalgamation or merger

(13) Where there is an amalgamation or merger of a corporation with one or more other corporations to form one corporate entity (in this subsection referred to as the "new corporation"), each property of the corporation that becomes property of the new corporation as a result of the amalgamation or merger is deemed, for the purpose of determining whether subsection 69(11) applies to the amalgamation or merger, to have been disposed of by the corporation immediately before the amalgamation or merger for proceeds equal to

(a) in the case of a Canadian resource property or a foreign resource property, nil; and

(b) in the case of any other property, the cost amount to the corporation of the property immediately before the amalgamation or merger.

Fusion ou unification

(13) En cas de fusion ou d'unification d'une société avec une ou plusieurs autres sociétés en vue de former une nouvelle société, la société est réputée, pour ce qui est déterminer si le paragraphe (11) s'applique à la fusion ou à l'unification, avoir disposé, immédiatement avant la fusion ou l'unification, de chacun de ses biens qui est devenu celui de la nouvelle société par suite de la fusion ou de l'unification, pour un produit égal au montant suivant :

a) zéro, dans le cas d'un avoir minier canadien ou d'un avoir minier étranger;

b) le coût indiqué du bien pour la société immédiatement avant la fusion ou l'unification, dans le cas d'autres biens.

New taxpayer

(14) For the purpose of subsection 69(11), where a taxpayer is incorporated or otherwise comes into existence at a particular time during a series of transactions or events, the taxpayer is deemed

Nouveau contribuable

(14) Pour l'application du paragraphe (11), le contribuable qui est constitué au cours d'une série d'opérations ou d'événements est réputé :

a) d'une part, avoir existé immédiatement avant le début de la série;

(a) to have existed at the time that was immediately before the series began; and

(b) to have been affiliated at that time with every person with whom the taxpayer is affiliated (otherwise than because of a right referred to in paragraph 251(5)(b)) at the particular time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 69; 1994, c. 7, Sch. II, s. 47, Sch. VIII, s. 27, c. 21, s. 32; 1998, c. 19, s. 107; 2001, c. 17, s. 51; 2003, c. 28, s. 8; 2013, c. 34, s. 208(E); 2014, c. 39, s. 12; 2016, c. 12, s. 19.

b) d'autre part, avoir été affilié, immédiatement avant le début de la série, avec chacune des personnes avec laquelle il est affilié (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b)) au moment de sa constitution.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 69; 1994, ch. 7, ann. II, art. 47, ann. VIII, art. 27, ch. 21, art. 32; 1998, ch. 19, art. 107; 2001, ch. 17, art. 51; 2003, ch. 28, art. 8; 2013, ch. 34, art. 208(A); 2014, ch. 39, art. 12; 2016, ch. 12, art. 19.

Death of a taxpayer

70 (1) In computing the income of a taxpayer for the taxation year in which the taxpayer died,

(a) an amount of interest, rent, royalty, annuity (other than an amount with respect to an interest in an annuity contract to which paragraph 148(2)(b) applies), remuneration from an office or employment, or other amount payable periodically, that was not paid before the taxpayer's death, shall be deemed to have accrued in equal daily amounts in the period for or in respect of which the amount was payable, and the value of the portion thereof so deemed to have accrued to the day of death shall be included in computing the taxpayer's income for the year in which the taxpayer died; and

(b) paragraph 12(1)(t) shall be read as follows:

"12(1)(t) the amount deducted under subsection 127(5) or 127(6) in computing the taxpayer's tax payable for the year or a preceding taxation year to the extent that it was not included in computing the taxpayer's income for a preceding taxation year under this paragraph or is not included in an amount determined under paragraph 13(7.1)(e) or 37(1)(e) or subparagraph 53(2)(c)(vi) or 53(2)(h)(ii) or for I in the definition ***undepreciated capital cost*** in subsection 13(21) or L in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6);"

Décès du contribuable

70 (1) Dans le calcul du revenu d'un contribuable pour l'année d'imposition au cours de laquelle il est décédé, les règles suivantes s'appliquent :

a) une somme représentant des intérêts, loyers, redevances, rentes, rémunérations d'une charge ou d'un emploi, ou toute autre somme payable périodiquement (autre qu'un montant à l'égard d'un intérêt dans un contrat de rente auquel l'alinéa 148(2)b) s'applique), qui n'a pas été payée avant son décès, est réputée s'être accumulée en sommes quotidiennes égales pendant la période à l'égard de laquelle la somme était payable, et la valeur de la partie de ces sommes ainsi réputées s'être accumulées jusqu'au jour du décès doit être incluse dans le calcul du revenu du contribuable pour l'année au cours de laquelle il est décédé;

b) l'alinéa 12(1)t) est à remplacer par ce qui suit :

« t) la somme déduite en application du paragraphe 127(5) ou (6) dans le calcul de l'impôt payable par le contribuable pour l'année ou pour une année d'imposition antérieure dans la mesure où cette somme n'a pas été incluse dans le calcul du revenu du contribuable pour une année d'imposition antérieure en application du présent alinéa ou n'est pas incluse dans une somme déterminée en vertu de l'alinéa 13(7.1)e) ou 37(1)e) ou du sous-alinéa 53(2)c)(vi) ou h) (ii) ou représentée par l'élément I de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe 13(21) ou l'élément L de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6); »

Amounts receivable

(2) If a taxpayer who has died had at the time of death rights or things (other than any capital property or any amount included in computing the taxpayer's income by virtue of subsection (1)), the amount of which when realized or disposed of would have been included in computing the taxpayer's income, the value of the rights or things at the time of death shall be included in computing the taxpayer's income for the taxation year in which

Montants à recevoir

(2) Lorsqu'un contribuable décédé avait, au moment de son décès, des droits ou biens (à l'exclusion des immobilisations et des sommes incluses dans le calcul de son revenu en vertu du paragraphe (1)) dont le montant à la réalisation ou disposition aurait été inclus dans le calcul de son revenu, la valeur de ces droits ou biens au moment du décès est incluse dans le calcul de son revenu pour l'année d'imposition de son décès, sauf si son

the taxpayer died, unless the taxpayer's legal representative has, not later than the later of the day that is one year after the date of death of the taxpayer and the day that is 90 days after the sending of any notice of assessment in respect of the tax of the taxpayer for the year of death, elected otherwise, in which case the legal representative shall file a separate return of income for the year under this Part and pay the tax for the year under this Part as if

(a) the taxpayer were another person;

(b) that other person's only income for the year were the value of the rights or things; and

(c) subject to sections 114.2 and 118.93, that other person were entitled to the deductions to which the taxpayer was entitled under sections 110, 118 to 118.7 and 118.9 for the year in computing the taxpayer's taxable income or tax payable under this Part, as the case may be, for the year.

Rights or things transferred to beneficiaries

(3) Where before the time for making an election under subsection 70(2) has expired, a right or thing to which that subsection would otherwise apply has been transferred or distributed to beneficiaries or other persons beneficially interested in the estate or trust,

(a) subsection 70(2) is not applicable to that right or thing; and

(b) an amount received by one of the beneficiaries or persons on the realization or disposition of the right or thing shall be included in computing the income of the beneficiary or person for the taxation year in which the beneficiary or person received it.

Exception

(3.1) For the purposes of this section, ***rights or things*** do not include an interest in a life insurance policy (other than an annuity contract of a taxpayer where the payment therefor was deductible in computing the taxpayer's income because of paragraph 60(l) or was made in circumstances in which subsection 146(21) applied), land included in the inventory of a business, a Canadian resource property or a foreign resource property.

Revocation of election

(4) An election made under subsection 70(2) may be revoked by a notice of revocation signed by the legal representative of the taxpayer and filed with the Minister within the time that an election under that subsection may be made.

représentant légal choisit, au plus tard le jour qui suit d'un an le jour du décès du contribuable ou, s'il est postérieur, le quatre-vingt-dixième jour suivant l'envoi d'un avis de cotisation concernant l'impôt du contribuable pour l'année de son décès, de produire une déclaration de revenu distincte pour l'année en vertu de la présente partie et de payer l'impôt pour l'année en vertu de la présente partie comme si, à la fois :

a) le contribuable était une autre personne;

b) le seul revenu de cette autre personne pour l'année correspondait à la valeur de ces droits ou biens;

c) sous réserve des articles 114.2 et 118.93, cette autre personne avait droit aux déductions auxquelles le contribuable avait droit en application des articles 110, 118 à 118.7 et 118.9 pour l'année dans le calcul de son revenu imposable ou de son impôt payable en vertu de la présente partie pour l'année.

Droits ou biens transférés aux bénéficiaires

(3) Si, avant l'expiration du délai accordé pour le choix prévu au paragraphe (2), un droit ou un bien auquel ce paragraphe s'appliquerait par ailleurs a été transféré ou distribué aux bénéficiaires ou à d'autres personnes ayant un droit de bénéficiaire sur la succession ou la fiducie, les règles ci-après s'appliquent :

a) le paragraphe (2) ne s'applique pas à ce droit ni à ce bien;

b) une somme reçue par l'un des bénéficiaires, ou l'une de ces autres personnes, lors de la réalisation ou de la disposition de ce droit ou de ce bien entre dans le calcul de son revenu pour l'année d'imposition dans laquelle il l'a reçue.

Exception

(3.1) Pour l'application du présent article, ne sont pas compris parmi les ***droits ou biens*** les intérêts dans les polices d'assurance-vie (sauf s'il s'agit d'un contrat de rente d'un contribuable lorsque le versement stipulé était déductible dans le calcul de son revenu par l'effet de l'alinéa 60l) ou a été fait dans les circonstances déterminées au paragraphe 146(21)) les fonds de terre à porter à l'inventaire d'une entreprise, les avoirs miniers canadiens et les avoirs miniers étrangers.

Révocation du choix

(4) Le choix fait en vertu du paragraphe (2) peut être révoqué par un avis de révocation signé par les représentants légaux du contribuable et présenté au ministre dans le délai imparti pour faire le choix.

Capital property of a deceased taxpayer

(5) Where in a taxation year a taxpayer dies,

(a) the taxpayer shall be deemed to have, immediately before the taxpayer's death, disposed of each capital property of the taxpayer and received proceeds of disposition therefor equal to the fair market value of the property immediately before the death;

(b) any person who as a consequence of the taxpayer's death acquires any property that is deemed by paragraph 70(5)(a) to have been disposed of by the taxpayer shall be deemed to have acquired it at the time of the death at a cost equal to its fair market value immediately before the death;

(c) where any depreciable property of the taxpayer of a prescribed class that is deemed by paragraph 70(5)(a) to have been disposed of is acquired by any person as a consequence of the taxpayer's death (other than where the taxpayer's proceeds of disposition of the property under paragraph 70(5)(a) are redetermined under subsection 13(21.1)) and the amount that was the capital cost to the taxpayer of the property exceeds the amount determined under paragraph 70(5)(b) to be the cost to the person thereof, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(i) the capital cost to the person of the property shall be deemed to be the amount that was the capital cost to the taxpayer of the property, and

(ii) the excess shall be deemed to have been allowed to the person in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation years that ended before the person acquired the property; and

(d) where a property of the taxpayer that was deemed by paragraph 70(5)(a) to have been disposed of is acquired by any person as a consequence of the taxpayer's death and the taxpayer's proceeds of disposition of the property under paragraph 70(5)(a) are redetermined under subsection 13(21.1), notwithstanding paragraph 70(5)(b),

(i) where the property was depreciable property of a prescribed class and the amount that was the capital cost to the taxpayer of the property exceeds the amount so redetermined under subsection 13(21.1), for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

Immobilisations d'un contribuable décédé

(5) En cas de décès d'un contribuable au cours d'une année d'imposition, les présomptions suivantes s'appliquent :

a) le contribuable est réputé avoir disposé, immédiatement avant son décès, de chacune de ses immobilisations et avoir reçu de leur disposition un produit égal à leur juste valeur marchande immédiatement avant son décès;

b) toute personne qui, par suite du décès du contribuable, acquiert un bien dont celui-ci est réputé avoir disposé aux termes de l'alinéa a) est réputée avoir acquis le bien au moment du décès à un coût égal à sa juste valeur marchande immédiatement avant le décès;

c) pour l'application des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), lorsqu'une personne acquiert, par suite du décès du contribuable, un bien amortissable d'une catégorie prescrite du contribuable dont celui-ci est réputé avoir disposé aux termes de l'alinéa a) (sauf dans le cas où le produit de disposition que le contribuable a reçu selon l'alinéa a) relativement à ce bien est déterminé de nouveau en application du paragraphe 13(21.1)), et que le coût en capital de ce bien pour le contribuable excède son coût pour cette personne, déterminé selon l'alinéa b):

(i) le coût en capital du bien pour cette personne est réputé égal à son coût en capital pour le contribuable,

(ii) l'excédent est réputé avoir été admis en déduction à l'égard du bien, selon les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), dans le calcul du revenu de cette personne pour les années d'imposition terminées avant qu'elle n'acquière le bien;

d) malgré l'alinéa b), lorsqu'une personne acquiert, par suite du décès du contribuable, un bien dont celui-ci est réputé avoir disposé aux termes de l'alinéa a) et que le produit de disposition que le contribuable a reçu pour le bien selon cet alinéa est déterminé de nouveau en application du paragraphe 13(21.1):

(i) pour l'application des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), si le bien était un bien amortissable d'une catégorie prescrite dont le coût en capital pour le contribuable excède le montant ainsi déterminé de nouveau en application du paragraphe 13(21.1):

(A) its capital cost to the person shall be deemed to be the amount that was its capital cost to the taxpayer, and

(B) the excess shall be deemed to have been allowed to the person in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation years that ended before the person acquired the property, and

(ii) where the property is land (other than land to which subparagraph 70(5)(d)(i) applies), its cost to the person shall be deemed to be the amount that was the taxpayer's proceeds of disposition of the land as redetermined under subsection 13(21.1).

(A) le coût en capital du bien pour la personne est réputé égal à son coût en capital pour le contribuable,

(B) l'excédent est réputé avoir été admis en déduction à l'égard du bien, selon les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), dans le calcul du revenu de cette personne pour les années d'imposition terminées avant qu'elle ne l'acquière,

(ii) si le bien est un fonds de terre (sauf un fonds auquel le sous-alinéa (i) s'applique), son coût pour la personne est réputé égal au produit de disposition que le contribuable a reçu pour le fonds de terre, déterminé de nouveau en application du paragraphe 13(21.1).

Transfer or distribution — Class 14.1

(5.1) Notwithstanding subsection (6), if property included in Class 14.1 of Schedule II to the *Income Tax Regulations* of the taxpayer in respect of a business carried on by the taxpayer immediately before the taxpayer's death that is a property to which subsection (5) would otherwise apply is, as a consequence of the death, transferred or distributed (otherwise than by way of a distribution of property by a trust that claimed a deduction under paragraph 20(1)(a) or (b) in respect of the property or in circumstances to which subsection 24(2) applies) to any person (in this subsection referred to as the ***beneficiary***), the following rules apply:

(a) paragraphs (5)(a) and (b) do not apply in respect of the property;

(b) the taxpayer is deemed to have, immediately before the taxpayer's death, disposed of the property and received proceeds of disposition equal to the lesser of the capital cost and the cost amount to the taxpayer of the property immediately before the death;

(c) the beneficiary is deemed to have acquired the property at the time of the death at a cost equal to those proceeds; and

(d) paragraph (5)(c) applies as if the references to "paragraph (a)" were read as references to "paragraph (5.1)(b)" and the reference to "paragraph (b)" were read as reference to "paragraph (5.1)(c)".

Transfert ou distribution — catégorie 14.1

(5.1) Malgré le paragraphe (6), dans le cas où un bien, compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu*, d'un contribuable relativement à une entreprise qu'il exploitait immédiatement avant son décès qui est un bien auquel le paragraphe (5) s'appliquerait par ailleurs est, par suite du décès, transféré ou distribué (autrement qu'au moyen d'une distribution de biens par une fiducie qui a déduit un montant en application des alinéas 20(1)a) ou b) relativement au bien ou dans les circonstances visées au paragraphe 24(2)) à une personne (appelée ***bénéficiaire*** au présent paragraphe), les règles ci-après s'appliquent :

a) les alinéas (5)a) et b) ne s'appliquent pas relativement au bien;

b) le contribuable est réputé avoir, immédiatement avant son décès, disposé du bien et reçu un produit de disposition égal au coût en capital, pour le contribuable, du bien immédiatement avant son décès ou, s'il est moins élevé, au coût indiqué, pour le contribuable, du bien immédiatement avant son décès;

c) le bénéficiaire est réputé avoir acquis le bien au moment du décès à un coût égal à ce produit de disposition;

d) l'alinéa (5)c) s'applique comme si son passage « l'alinéa a) » était remplacé par « l'alinéa (5.1)b) » et que son passage « l'alinéa b) » était remplacé par « l'alinéa (5.1)c) ».

Resource property and land inventory

(5.2) If in a taxation year a taxpayer dies,

(a) the taxpayer is deemed

Avoirs miniers et fonds de terre

(5.2) Lorsqu'un contribuable décède au cours d'une année d'imposition, les règles ci-après s'appliquent :

a) le contribuable est réputé :

(i) to have disposed, at the time that is immediately before the taxpayer's death, of each

(A) Canadian resource property of the taxpayer,

(B) foreign resource property of the taxpayer, and

(C) property that was land included in the inventory of a business of the taxpayer, and

(ii) subject to paragraph (c), to have received at that time proceeds of disposition for each such property equal to its fair market value at that time;

(b) any person who, as a consequence of the taxpayer's death, acquires a property that is deemed by paragraph (a) to have been disposed of by the taxpayer is, subject to paragraph (c), deemed to have acquired the property at the time of the death at a cost equal to its fair market value at the time that is immediately before the death; and

(c) where the taxpayer was resident in Canada at the time that is immediately before the taxpayer's death, a particular property described in clause (a)(i)(A), (B) or (C) is, on or after the death and as a consequence of the death, transferred or distributed to a spouse or common-law partner of the taxpayer described in paragraph (6)(a) or a trust described in paragraph (6)(b), and it can be shown within the period that ends 36 months after the death (or, where written application has been made to the Minister by the taxpayer's legal representative within that period, within any longer period that the Minister considers reasonable in the circumstances) that the particular property has, within that period, vested indefeasibly in the spouse, common-law partner or trust, as the case may be,

(i) the taxpayer is deemed to have received, at the time that is immediately before the taxpayer's death, proceeds of disposition of the particular property equal to

(A) if the particular property is Canadian resource property of the taxpayer or foreign resource property of the taxpayer, the amount specified by the taxpayer's legal representative in the taxpayer's return of income filed under paragraph 150(1)(b), not exceeding its fair market value at that time, and

(B) if the particular property was land included in the inventory of a business of the taxpayer, its cost amount to the taxpayer at that time, and

(i) d'une part, avoir disposé, au moment qui précède immédiatement son décès, de chacun des biens suivants :

(A) ses avoirs miniers canadiens,

(B) ses avoirs miniers étrangers,

(C) des biens qui étaient des fonds de terre à porter à l'inventaire de son entreprise,

(ii) d'autre part, sous réserve de l'alinéa c), avoir reçu, à ce moment, pour chacun de ces biens un produit de disposition égal à sa juste valeur marchande à ce moment;

b) toute personne qui, par suite du décès du contribuable, acquiert un bien dont celui-ci est réputé par l'alinéa a) avoir disposé est réputée, sous réserve de l'alinéa c), avoir acquis le bien au moment du décès à un coût égal à sa juste valeur marchande immédiatement avant le décès;

c) si le contribuable résidait au Canada immédiatement avant son décès, qu'un bien visé aux divisions a)(i)(A), (B) ou (C) est, au moment de ce décès ou postérieurement et par suite de ce décès, transféré ou distribué à un particulier qui est son époux ou conjoint de fait visé à l'alinéa (6)a) ou une fiducie visée à l'alinéa (6)b), et qu'il peut être démontré, dans un délai se terminant 36 mois après le décès du contribuable ou, si le représentant légal de celui-ci en a fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre estime raisonnable dans les circonstances, que le bien a été, dans ce délai, dévolu irrévocablement au particulier :

(i) d'une part, le contribuable est réputé avoir reçu, au moment qui précède immédiatement son décès, un produit de disposition pour le bien égal à celle des sommes ci-après qui est applicable :

(A) si le bien est un avoir minier canadien ou un avoir minier étranger du contribuable, la somme indiquée par son représentant légal dans la déclaration de revenu du contribuable produite en application de l'alinéa 150(1)b), jusqu'à concurrence de la juste valeur marchande du bien à ce moment,

(B) si le bien est un fonds de terre à porter à l'inventaire d'une entreprise du contribuable, son coût indiqué pour lui à ce moment,

(ii) d'autre part, le particulier est réputé avoir acquis le bien au moment du décès à un coût égal au

(ii) the spouse, common-law partner or trust, as the case may be, is deemed to have acquired at the time of the death the particular property at a cost equal to the amount determined under subparagraph (i) in respect of the disposition of it under paragraph (a).

montant déterminé selon le sous-alinéa (i) relativement à la disposition du bien prévue à l'alinéa a).

Fair market value

(5.3) For the purposes of subsections (5) and 104(4) and section 128.1, the fair market value at any time of any property deemed to have been disposed of at that time as a consequence of a particular individual's death or as a consequence of the particular individual becoming or ceasing to be resident in Canada shall be determined as though the fair market value at that time of any life insurance policy, under which the particular individual (or any other individual not dealing at arm's length with the particular individual at that time or at the time the policy was issued) was a person whose life was insured, were the cash surrender value (as defined in subsection 148(9)) of the policy immediately before the particular individual died or became or ceased to be resident in Canada, as the case may be.

Juste valeur marchande

(5.3) Pour l'application des paragraphes (5) et 104(4) et de l'article 128.1, la juste valeur marchande, à un moment donné, d'un bien qui est réputé avoir fait l'objet d'une disposition à ce moment par suite du décès d'un particulier donné ou du fait que celui-ci est devenu un résident du Canada ou a cessé de l'être est déterminée comme si la juste valeur marchande, à ce moment, de toute police d'assurance-vie stipulant que la vie du particulier donné (ou de tout autre particulier ayant un lien de dépendance avec lui à ce moment ou au moment de l'établissement de la police) était assurée était égale à la valeur de rachat (au sens du paragraphe 148(9)) de la police immédiatement avant le décès du particulier donné ou le moment où il est devenu un résident du Canada ou a cessé de l'être, selon le cas.

Fair market value

(5.31) For the purposes of subsections (5) and 104(4), the fair market value at any time of any property deemed to have been disposed of at that time as a consequence of a particular individual's death is to be determined as though the fair market value at that time of any annuity contract were the total of all amounts each of which is the amount of a premium paid on or before that time under the contract if

(a) the contract is, in respect of an LIA policy, a contract referred to in subparagraph (b)(ii) of the definition ***LIA policy*** in subsection 248(1); and

(b) the particular individual is the individual, in respect of the LIA policy, referred to in that subparagraph.

Juste valeur marchande

(5.31) Pour l'application des paragraphes (5) et 104(4), la juste valeur marchande, à un moment donné, d'un bien réputé avoir fait l'objet d'une disposition à ce moment par suite du décès d'un particulier est déterminée comme si la juste valeur marchande, à ce moment, d'un contrat de rente correspondait au total des sommes dont chacune représente le montant d'une prime payée au plus tard à ce moment dans le cadre du contrat si, à la fois :

a) le contrat est, relativement à une police RAL, un contrat visé au sous-alinéa b)(ii) de la définition de ***police RAL*** au paragraphe 248(1);

b) le particulier en cause est, relativement à la police RAL, le particulier visé à ce sous-alinéa.

NISA on death

(5.4) Where a taxpayer who dies has at the time of death a net income stabilization account, all amounts held for or on behalf of the taxpayer in the taxpayer's NISA Fund No. 2 shall be deemed to have been paid out of that fund to the taxpayer immediately before that time.

Compte de stabilisation du revenu net au décès

(5.4) Lorsqu'un contribuable possède un compte de stabilisation du revenu net à son décès, les montants détenues pour lui ou pour son compte dans son second fonds du compte de stabilisation du revenu net sont réputés lui avoir été payés sur ce fonds immédiatement avant son décès.

Where transfer or distribution to spouse or spouse trust

(6) Where any property of a taxpayer who was resident in Canada immediately before the taxpayer's death that is a property to which subsection 70(5) would otherwise

Transfert ou distribution de biens à l'époux ou au conjoint de fait ou à une fiducie à leur profit

(6) Lorsqu'un bien d'un contribuable qui résidait au Canada immédiatement avant son décès est un bien auquel le paragraphe (5) s'appliquerait par ailleurs et qu'il

apply is, as a consequence of the death, transferred or distributed to

(a) the taxpayer's spouse or common-law partner who was resident in Canada immediately before the taxpayer's death, or

(b) a trust, created by the taxpayer's will, that was resident in Canada immediately after the time the property vested indefeasibly in the trust and under which

(i) the taxpayer's spouse or common-law partner is entitled to receive all of the income of the trust that arises before the spouse's or common-law partner's death, and

(ii) no person except the spouse or common-law partner may, before the spouse's or common-law partner's death, receive or otherwise obtain the use of any of the income or capital of the trust,

if it can be shown, within the period ending 36 months after the death of the taxpayer or, where written application therefor has been made to the Minister by the taxpayer's legal representative within that period, within such longer period as the Minister considers reasonable in the circumstances, that the property has become vested indefeasibly in the spouse or common-law partner or trust, as the case may be, the following rules apply:

(c) paragraphs 70(5)(a) and 70(5)(b) do not apply in respect of the property,

(d) subject to paragraph 70(6)(d.1), the taxpayer shall be deemed to have, immediately before the taxpayer's death, disposed of the property and received proceeds of disposition therefor equal to

(i) where the property was depreciable property of a prescribed class, the lesser of the capital cost and the cost amount to the taxpayer of the property immediately before the death, and

(ii) in any other case, its adjusted cost base to the taxpayer immediately before the death,

and the spouse or common-law partner or trust, as the case may be, shall be deemed to have acquired the property at the time of the death at a cost equal to those proceeds,

(d.1) where the property is an interest in a partnership (other than an interest in a partnership to which subsection 100(3) applies),

(i) the taxpayer shall, except for the purposes of paragraph 98(5)(g), be deemed not to have disposed

est, par suite du décès du contribuable, transféré ou distribué :

a) soit à son époux ou conjoint de fait qui résidait au Canada immédiatement avant le décès du contribuable;

b) soit à une fiducie créée par le testament du contribuable qui résidait au Canada immédiatement après le moment où le bien a été, par dévolution, irrévocablement acquis par la fiducie, et en vertu de laquelle :

(i) d'une part, l'époux ou conjoint de fait du contribuable, sa vie durant, a droit à tous les revenus de la fiducie,

(ii) d'autre part, nulle autre personne que l'époux ou conjoint de fait ne peut, avant le décès de l'époux ou conjoint de fait, recevoir ou obtenir de toute autre façon l'usage de toute partie du revenu ou du capital de la fiducie,

et qu'il est démontré, dans un délai se terminant 36 mois après le décès du contribuable ou, si son représentant légal en a fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre considère raisonnable dans les circonstances, que le bien a été dévolu irrévocablement à l'époux ou conjoint de fait ou à la fiducie, les règles suivantes s'appliquent :

c) les alinéas (5)a) et b) ne s'appliquent pas au bien;

d) sous réserve de l'alinéa d.1), le contribuable est réputé avoir disposé du bien immédiatement avant son décès et avoir reçu de sa disposition un produit égal au montant suivant, et l'époux ou conjoint de fait ou la fiducie, selon le cas, est réputé avoir acquis le bien au moment du décès à un coût égal à ce produit :

(i) lorsque le bien était un bien amortissable d'une catégorie prescrite, le moins élevé de son coût en capital et de son coût indiqué pour le contribuable immédiatement avant son décès,

(ii) dans les autres cas, le prix de base rajusté du bien pour le contribuable immédiatement avant son décès;

et l'époux ou conjoint de fait ou la fiducie, selon le cas, est réputée avoir acquis ce bien en contrepartie d'une somme égale à ce produit;

d.1) dans le cas où le bien est une participation dans une société de personnes à laquelle le paragraphe 100(3) ne s'applique pas, les présomptions suivantes s'appliquent :

of the property as a consequence of the taxpayer's death,

(ii) the spouse or common-law partner or the trust, as the case may be, shall be deemed to have acquired the property at the time of the death at a cost equal to its cost to the taxpayer, and

(iii) each amount added or deducted in computing the adjusted cost base to the taxpayer of the property shall be deemed to be required by subsection 53(1) or 53(2) to be added or deducted, as the case may be, in computing the adjusted cost base to the spouse or common-law partner or the trust, as the case may be, of the property; and

(e) where the property was depreciable property of the taxpayer of a prescribed class, paragraph (5)(c) applies as if the references therein to "paragraph 70(6)(a)" and to "paragraph 70(6)(b)" were read as references to "paragraph 70(6)(d)".

(i) le contribuable est réputé, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir disposé du bien par suite de son décès,

(ii) l'époux ou conjoint de fait ou la fiducie, selon le cas, est réputé avoir acquis le bien au moment du décès à un coût pour le contribuable,

(iii) chaque montant ajouté ou déduit dans le calcul du prix de base rajusté du bien pour le contribuable est réputé être à ajouter ou à déduire, en application du paragraphe 53(1) ou (2) respectivement, dans le calcul du prix de base rajusté du bien pour l'époux ou conjoint de fait ou la fiducie;

e) si le bien était un bien amortissable d'une catégorie prescrite du contribuable, l'alinéa (5)c) s'applique comme si les renvois aux alinéas a) et b) étaient remplacés par des renvois à l'alinéa (6)d).

Transfer or distribution of NISA to spouse or trust

(6.1) Where a property that is a net income stabilization account of a taxpayer is, on or after the taxpayer's death and as a consequence thereof, transferred or distributed to

(a) the taxpayer's spouse or common-law partner, or

(b) a trust, created by the taxpayer's will, under which

(i) the taxpayer's spouse or common-law partner is entitled to receive all of the income of the trust that arises before the spouse's or common-law partner's death, and

(ii) no person except the spouse or common-law partner may, before the spouse's or common-law partner's death, receive or otherwise obtain the use of any of the income or capital of the trust,

subsections 70(5.4) and 73(5) do not apply in respect of the taxpayer's NISA Fund No. 2 if it can be shown, within the period ending 36 months after the death of the taxpayer or, where written application therefor has been made to the Minister by the taxpayer's legal representative within that period, within such longer period as the Minister considers reasonable in the circumstances, that the property has vested indefeasibly in the spouse or common-law partner or trust, as the case may be.

Transfert ou distribution du compte de stabilisation du revenu net à l'époux ou au conjoint de fait ou à une fiducie

(6.1) Lorsqu'un bien qui est un compte de stabilisation du revenu net d'un contribuable est transféré ou distribué à l'une des personnes ci-après au moment du décès du contribuable ou postérieurement et par suite de ce décès, les paragraphes (5.4) et 73(5) ne s'appliquent pas au second fonds du compte de stabilisation du revenu net du contribuable :

a) l'époux ou conjoint de fait du contribuable;

b) une fiducie établie par le testament du contribuable et dans le cadre de laquelle :

(i) l'époux ou conjoint de fait du contribuable a le droit de recevoir sa vie durant tous les revenus de la fiducie,

(ii) nulle autre personne que l'époux ou conjoint de fait peut, avant le décès de celui-ci, recevoir tout ou partie du revenu ou du capital de la fiducie, ou autrement en obtenir l'usage.

À cette fin, il doit être démontré, dans les 36 mois suivantle décès du contribuable ou, si le représentant légal ducontribuable en fait la demande écrite au ministre dans cedélai, dans un délai plus long que le ministre considèreacceptable dans les circonstances, que le bien a été dévoluirrévocablement à l'époux ou conjoint de fait ou à la fiducie.

Election

(6.2) Subsection (5.1), (6) or (6.1) does not apply to any property of a deceased taxpayer in respect of which the taxpayer's legal representative elects, in the taxpayer's return of income under this Part (other than a return of income filed under subsection (2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) for the year in which the taxpayer died, to have subsection (5) or (5.4), as the case may be, apply.

Special rules applicable in respect of trust for benefit of spouse

(7) Where a trust created by a taxpayer's will would, but for the payment of, or provision for payment of, any particular testamentary debts in respect of the taxpayer, be a trust to which subsection 70(6) or 70(6.1) applies,

(a) for the purpose of determining the day on or before which a return (in this subsection referred to as the "taxpayer's return") of the taxpayer's income for the taxation year in which the taxpayer died is required to be filed by the taxpayer's legal representatives, subsection 150(1) shall be read without reference to paragraph 150(1)(b) and as if paragraph 150(1)(d) read as follows:

"150(1)(d) in the case of any other person, by the person's legal representative within 18 months after the person's death; or;" and

(b) where the taxpayer's legal representative so elects in the taxpayer's return (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) and lists therein one or more properties (other than a net income stabilization account) that were, on or after the taxpayer's death and as a consequence thereof, transferred or distributed to the trust, the total fair market value of which properties immediately after the taxpayer's death was not less than the total of the non-qualifying debts in respect of the taxpayer,

(i) subsection 70(6) does not apply in respect of the properties so listed, and

(ii) notwithstanding the payment of, or provision for payment of, any such particular testamentary debts, the trust shall be deemed to be a trust described in subsection 70(6),

except that, where the fair market value, immediately after the taxpayer's death, of all of the properties so listed exceeds the total of the non-qualifying debts in respect of the taxpayer (the amount of which excess is referred to in this subsection as the "listed value

Choix

(6.2) Les paragraphes (5.1), (6) et (6.1) ne s'appliquent pas au bien d'un contribuable décédé relativement auquel le représentant légal du contribuable a fait un choix, dans la déclaration de revenu du contribuable produite en vertu de la présente partie (sauf une déclaration de revenu produite ou déposée en vertu des paragraphes (2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4)) pour l'année du décès du contribuable, pour que les paragraphes (5) ou (5.4) s'appliquent.

Règles spéciales applicables aux fiducies au profit du conjoint

(7) Lorsqu'une fiducie établie par le testament d'un contribuable serait une fiducie visée aux paragraphes (6) ou (6.1) en l'absence du paiement de dettes testamentaires déterminées relatives au contribuable ou des dispositions prises pour leur paiement, les régles suivantes s'appliquent :

a) pour ce qui est de déterminer le jour où les représentants légaux du contribuable doivent au plus tard produire une déclaration de revenu du contribuable pour l'année d'imposition de son décès, il n'est pas tenu compte de l'alinéa 150(1)b) et l'alinéa 150(1)d) est remplacé par ce qui suit :

« d) dans le cas d'une autre personne, par son représentant légal dans les 18 mois suivant son décès; »;

b) le représentant légal du contribuable peut, dans la déclaration de revenu du contribuable (sauf celle produite en vertu des paragraphes (2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4)) dans laquelle il énumère un ou plusieurs biens, sauf un compte de stabilisation du revenu net, qui ont été transférés ou distribués à la fiducie au moment du décès du contribuable ou postérieurement et par suite de ce décès et dont la juste valeur marchande globale immédiatement après ce décès est au moins égale au total des dettes non admissibles du contribuable, faire un choix pour que, à la fois :

(i) le paragraphe (6) ne s'applique pas aux biens ainsi énumérés,

(ii) malgré le paiement de telles dettes testamentaires déterminées ou les dispositions prises pour leur paiement, la fiducie soit réputée être visée au paragraphe (6);

toutefois lorsque la juste valeur marchande, immédiatement après le décès du contribuable, de l'ensemble des biens ainsi énumérés excède le total des dettes non admissibles du contribuable (l'excédent étant appelé « excédent de valeur » au présent paragraphe) et que

excess") and the taxpayer's legal representative designates in the taxpayer's return one property so listed (other than money) that is capital property other than depreciable property,

(iii) the amount of the taxpayer's capital gain or capital loss, as the case may be, from the disposition of that property deemed by subsection 70(5) to have been made by the taxpayer is that proportion of that capital gain or capital loss otherwise determined that

(A) the amount, if any, by which the fair market value of that property immediately after the taxpayer's death exceeds the listed value excess,

is of

(B) the fair market value of that property immediately after the taxpayer's death, and

(iv) the cost to the trust of that property is

(A) where the taxpayer has a capital gain from the disposition of that property deemed by subsection 70(5) to have been made by the taxpayer, the total of

(I) its adjusted cost base to the taxpayer immediately before the taxpayer's death, and

(II) the amount determined under subparagraph 70(7)(b)(iii) to be the taxpayer's capital gain from the disposition of that property, or

(B) where the taxpayer has a capital loss from the disposition of that property deemed by subsection 70(5) to have been made by the taxpayer, the amount by which

(I) its adjusted cost base to the taxpayer immediately before the taxpayer's death

exceeds

(II) the amount determined under subparagraph 70(7)(b)(iii) to be the taxpayer's capital loss from the disposition of that property.

le représentant légal du contribuable indique dans la déclaration du contribuable un des biens ainsi énumérés, autre que de l'argent, qui est une immobilisation autre qu'un bien amortissable :

(iii) le montant du gain en capital ou de la perte en capital du contribuable résultant de la disposition de ce bien et réputé, en vertu du paragraphe (5), avoir été réalisé ou subi par lui est la fraction de ce gain en capital ou de cette perte en capital résultant de la disposition représentée par le rapport entre :

(A) d'une part, l'excédent éventuel de la juste valeur marchande de ce bien immédiatement après le décès du contribuable sur l'excédent de valeur,

(B) d'autre part, la juste valeur marchande de ce bien immédiatement après le décès du contribuable,

(iv) le coût supporté par la fiducie pour ce bien est :

(A) si le contribuable a tiré un gain en capital de la disposition de ce bien qu'aux termes du paragraphe (5) il est réputé avoir faite, le total des montants suivants :

(I) son prix de base rajusté pour le contribuable immédiatement avant son décès,

(II) le montant déterminé en vertu du sous-alinéa (iii) comme étant le gain en capital du contribuable, tiré de la disposition de ce bien,

(B) si le contribuable a subi une perte en capital de la disposition de ce bien qu'aux termes du paragraphe (5) il est réputé avoir faite, l'excédent du montant visé à la subdivision (I) sur le montant visé à la subdivision (II):

(I) son prix de base rajusté pour le contribuable immédiatement avant son décès,

(II) le montant déterminé en vertu du sous-alinéa (iii) comme étant la perte en capital du contribuable, résultant de la disposition de ce bien.

Meaning of certain expressions in s. (7)

(8) In subsection 70(7),

(a) the ***fair market value*** at any time of any property subject to a mortgage or hypothec is the amount, if any, by which the fair market value at that time of the property otherwise determined exceeds the amount

Sens de certaines expressions au par. (7)

(8) Pour l'application du paragraphe (7):

a) la ***juste valeur marchande***, à un moment donné, d'un bien grevé d'une hypothèque correspond à l'excédant éventuel de la juste valeur marchande du bien à ce moment, déterminée par ailleurs, sur le montant dû à ce moment sur la dette garantie par l'hypothéque;

outstanding at that time of the debt secured by the mortgage or hypothec, as the case may be;

(b) ***non-qualifying debt*** in respect of a taxpayer who has died and by whose will any trust has been created that would, but for the payment of, or provision for payment of, any particular testamentary debts in respect of the taxpayer, be a trust described in subsection 70(6), means any such particular testamentary debt in respect of the taxpayer other than

(i) any estate, legacy, succession or inheritance duty payable, in consequence of the taxpayer's death, in respect of any property of, or interest in, the trust, or

(ii) any debt secured by a mortgage or hypothec on property owned by the taxpayer immediately before the taxpayer's death; and

(c) ***testamentary debt***, in respect of a taxpayer who has died, means

(i) any debt owing by the taxpayer, or any other obligation of the taxpayer to pay an amount, that was outstanding immediately before the taxpayer's death, and

(ii) any amount payable (other than any amount payable to any person as a beneficiary of the taxpayer's estate) by the taxpayer's estate in consequence of the taxpayer's death,

including any income or profits tax payable by or in respect of the taxpayer for the taxation year in which the taxpayer died or for any previous taxation year, and any estate, legacy, succession or inheritance duty payable in consequence of the taxpayer's death.

b) ***dette non admissible***, à l'égard d'un contribuable qui est décédé et dont le testament a créé une fiducie qui, sans le paiement ou la disposition prévoyant le paiement de dettes testamentaires déterminées à l'égard du contribuable, serait une fiducie visée au paragraphe (6), s'entend d'une telle dette testamentaire relative au contribuable, autre :

(i) qu'un droit sur les biens transmis par décès payable, par suite du décès du contribuable, pour un bien de la fiducie ou un droit relatif à celui-ci,

(ii) qu'une dette garantie par une hypothèque grevant un bien appartenant au contribuable immédiatement avant son décès;

c) ***dette testamentaire***, à l'égard d'un contribuable qui est décédé, s'entend :

(i) de toute dette du contribuable ou de toute autre obligation qu'a le contribuable de verser une somme qui était due immédiatement avant son décès,

(ii) de toute somme (autre qu'une somme payable à une personne en tant que bénéficiaire de sa succession) payable par sa succession par suite de son décès,

y compris de tout impôt sur le revenu ou les bénéfices payable par le contribuable ou à son égard pour l'année d'imposition au cours de laquelle il est décédé ou pour toute année d'imposition antérieure, et de tout droit sur les biens transmis par décès payable par suite de son décès.

When subsection (9.01) applies

(9) Subsection (9.01) applies to a taxpayer and a child of the taxpayer in respect of land in Canada or depreciable property in Canada of a prescribed class of the taxpayer in respect of which subsection (5) would, if this Act were read without reference to this subsection, apply if

(a) the property was, before the death of the taxpayer, used principally in a farming or fishing business carried on in Canada in which the taxpayer, the spouse or common-law partner of the taxpayer or a child or parent of the taxpayer was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot);

Application du par. (9.01)

(9) Le paragraphe (9.01) s'applique à un contribuable et à son enfant, relativement à un fonds de terre ou à un bien amortissable d'une catégorie prescrite du contribuable, situés au Canada et auxquels le paragraphe (5) s'appliquerait en l'absence du présent paragraphe, si les conditions suivantes sont réunies :

a) avant le décès du contribuable, le bien était utilisé principalement dans le cadre d'une entreprise agricole ou de pêche exploitée au Canada dans laquelle le contribuable ou son époux ou conjoint de fait, son enfant, son père ou sa mère soit prenait une part active de façon régulière et continue, soit, s'il s'agit d'un bien utilisé dans le cadre de l'exploitation d'une terre à bois, prenait part dans la mesure requise par un plan

(b) the child of the taxpayer was resident in Canada immediately before the day on which the taxpayer died; and

(c) as a consequence of the death of the taxpayer, the property is transferred to and becomes vested indefeasibly in the child within the period ending 36 months after the death of the taxpayer or, if written application has been made to the Minister by the taxpayer's legal representative within that period, within any longer period that the Minister considers reasonable in the circumstances.

Transfer of farming and fishing property to child

(9.01) If, because of subsection (9), this subsection applies to the taxpayer and a child of the taxpayer in respect of a property of the taxpayer that has been transferred to the child as a consequence of the death of the taxpayer, the following rules apply:

(a) where the taxpayer's legal representative does not elect in the taxpayer's return of income under this Part for the year in which the taxpayer died, to have paragraph (b) apply to the taxpayer and the child in respect of the property,

(i) paragraphs (5)(a) and (b) and section 69 do not apply to the taxpayer and the child in respect of the property,

(ii) the taxpayer is deemed to have

(A) disposed of the property immediately before the taxpayer's death, and

(B) received, at the time of the disposition of the property, proceeds of disposition in respect of that disposition of the property equal to

(I) where the property was depreciable property of a prescribed class, the lesser of

1 the capital cost to the taxpayer of the property, and

2 the amount, determined immediately before the time of the disposition of the property, that is that proportion of the undepreciated capital cost of property of that class to the taxpayer that the capital cost to the taxpayer of the property is of the capital cost to the taxpayer of all property of that class that had not, at or before that time, been disposed of, and

d'aménagement forestier visé par règlement relativement à cette terre;

b) l'enfant du contribuable résidait au Canada la veille du décès du contribuable;

c) par suite du décès du contribuable, le bien est transféré à l'enfant, et lui est dévolu irrévocablement, dans la période se terminant 36 mois après ce décès ou, si le représentant légal du contribuable en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre considère acceptable dans les circonstances.

Transfert de biens agricoles ou de pêche à un enfant

(9.01) Si, par l'effet du paragraphe (9), le présent paragraphe s'applique au contribuable et à son enfant relativement à un bien du contribuable qui a été transféré à l'enfant par suite du décès du contribuable, les règles suivantes s'appliquent :

a) si le représentant légal du contribuable ne fait pas de choix, dans la déclaration de revenu du contribuable produite en vertu de la présente partie pour l'année de son décès, afin que l'alinéa b) s'applique au contribuable et à l'enfant relativement au bien :

(i) les alinéas (5)a) et b) et l'article 69 ne s'appliquent pas au contribuable ni à l'enfant relativement au bien,

(ii) le contribuable est réputé :

(A) d'une part, avoir disposé du bien immédiatement avant son décès,

(B) d'autre part, avoir reçu, au moment de la disposition du bien et au titre de cette disposition, un produit de disposition égal à celle des sommes suivantes qui est applicable :

(I) si le bien était un bien amortissable d'une catégorie prescrite, la moins élevée des sommes suivantes :

1 le coût en capital du bien pour le contribuable,

2 la somme, déterminée immédiatement avant le moment de la disposition du bien, qui correspond à la proportion de la fraction non amortie du coût en capital des biens de cette catégorie pour le contribuable que représente le coût en capital du bien pour lui par rapport au coût en capital, pour lui, de l'ensemble des biens de

(II) where the property is land (other than land to which subclause (I) applies), the adjusted cost base to the taxpayer of the property immediately before the time of the disposition of the property,

(iii) the child is, immediately after the time of the disposition of the property, deemed to have acquired the property at a cost equal to the taxpayer's proceeds of disposition in respect of the disposition of the property determined under subparagraph (ii), and

(iv) where the property was depreciable property of a prescribed class, paragraphs (5)(c) and (d) apply to the taxpayer and the child in respect of the property as if the references in those paragraphs to "paragraph (a)" and "paragraph (b)" were read as "subparagraph (9.01)(a)(ii)" and "subparagraph (9.01)(a)(iii)", respectively; and

(b) where the taxpayer's legal representative elects, in the taxpayer's return of income under this Part for the taxation year in which the taxpayer died, to have this paragraph apply to the taxpayer in respect of the property,

(i) paragraphs (5)(a) and (b) and section 69 do not apply to the taxpayer and the child in respect of the property,

(ii) the taxpayer is deemed to have

(A) disposed of the property immediately before the taxpayer's death, and

(B) received, at the time of the disposition of the property, proceeds of disposition in respect of that disposition of the property equal to

(I) where the property was depreciable property of a prescribed class, the amount that the legal representative designates, which must not be greater than the greater of nor less than the lesser of

1 the fair market value of the property immediately before the time of the disposition of the property, and

2 the lesser of the capital cost to the taxpayer of the property and the amount, determined immediately before the time of the disposition of the property, that is that proportion of the undepreciated capital cost of property of that class to the taxpayer that the capital cost to the taxpayer of

cette catégorie dont il n'avait pas été disposé à ce moment ou antérieurement,

(II) si le bien est un fonds de terre (sauf celui auquel la subdivision (I) s'applique), le prix de base rajusté du bien pour le contribuable immédiatement avant le moment de sa disposition,

(iii) l'enfant est réputé, immédiatement après le moment de la disposition du bien, avoir acquis le bien à un coût égal au produit de disposition que le contribuable est réputé avoir reçu au titre de la disposition du bien, déterminé selon le sous-alinéa (ii),

(iv) si le bien était un bien amortissable d'une catégorie prescrite, les alinéas (5)c) et d) s'appliquent au contribuable et à l'enfant relativement au bien comme si les mentions « l'alinéa a) » et « l'alinéa b) » y étaient remplacées respectivement par « le sous-alinéa (9.01)a)(ii) » et « le sous-alinéa (9.01)a)(iii) »;

b) si le représentant légal du contribuable fait un choix, dans la déclaration de revenu du contribuable produite en vertu de la présente partie pour l'année d'imposition de son décès, afin que le présent alinéa s'applique au contribuable relativement au bien :

(i) les alinéas (5)a) et b) et l'article 69 ne s'appliquent pas au contribuable ni à l'enfant relativement au bien,

(ii) le contribuable est réputé :

(A) d'une part, avoir disposé du bien immédiatement avant son décès,

(B) d'autre part, avoir reçu, au moment de la disposition du bien et au titre de cette disposition, un produit de disposition égal à celle des sommes suivantes qui est applicable :

(I) lorsque le bien était un bien amortissable d'une catégorie prescrite, la somme désignée par le représentant légal, laquelle n'est ni supérieure à la plus élevée des sommes ci-après, ni inférieure à la moins élevée de ces sommes :

1 la juste valeur marchande du bien immédiatement avant le moment de sa disposition,

2 le coût en capital du bien pour le contribuable ou, si elle est moins élevée, la

the property is of the capital cost to the taxpayer of all property of that class that had not, at or before that time, been disposed of, and

(II) where the property is land (other than land to which subclause (I) applies), the amount that the legal representative designates, which must not be greater than the greater of nor less than the lesser of

1 the fair market value of the property immediately before the time of the disposition of the property, and

2 the adjusted cost base to the taxpayer of the property immediately before the time of the disposition of the property,

(iii) the child is, immediately after the time of the disposition of the property, deemed to have acquired the property at a cost equal to the taxpayer's proceeds of disposition in respect of the disposition of the property determined under subparagraph (ii),

(iv) where the property was depreciable property of a prescribed class, paragraphs (5)(c) and (d) apply to the taxpayer in respect of the property as if the references in those paragraphs to "paragraph (a)" and "paragraph (b)" were read as "subparagraph (9.01)(b)(ii)" and "subparagraph (9.01)(b)(iii)", respectively,

(v) except for the purpose of this subparagraph,

(A) where the amount designated by the taxpayer's legal representative under subclause (ii)(B)(I), exceeds the greater of the amounts determined under sub-subclauses (ii)(B)(I)1 and 2 in respect of the property, the amount designated is deemed to be equal to the greater of those amounts, and

(B) where the amount designated by the taxpayer's legal representative under subclause (ii)(B)(II) exceeds the greater of the amounts determined under sub-subclauses (ii)(B)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the greater of those amounts, and

(vi) except for the purpose of this subparagraph,

(A) where the amount designated by the taxpayer's legal representative under subclause (ii)(B)(I) is less than the lesser of the amounts

somme, déterminée immédiatement avant le moment de la disposition du bien, qui correspond à la proportion de la fraction non amortie du coût en capital des biens de cette catégorie pour le contribuable que représente le coût en capital du bien pour lui par rapport au coût en capital, pour lui, de l'ensemble des biens de cette catégorie dont il n'avait pas été disposé à ce moment ou antérieurement,

(II) lorsque le bien est un fonds de terre (sauf celui auquel la subdivision (I) s'applique), la somme désignée par le représentant légal, laquelle n'est ni supérieure à la plus élevée des sommes ci-après, ni inférieure à la moins élevée de ces sommes :

1 la juste valeur marchande du bien immédiatement avant le moment de sa disposition,

2 le prix de base rajusté du bien pour le contribuable immédiatement avant le moment de sa disposition,

(iii) l'enfant est réputé, immédiatement après le moment de la disposition du bien, avoir acquis le bien à un coût égal au produit de disposition que le contribuable est réputé avoir reçu au titre de la disposition du bien, déterminé selon le sous-alinéa (ii),

(iv) si le bien était un bien amortissable d'une catégorie prescrite, les alinéas (5)c) et d) s'appliquent au contribuable relativement au bien comme si les mentions « l'alinéa a) » et « l'alinéa b) » y étaient remplacées respectivement par « le sous-alinéa (9.01)b)(ii) » et « le sous-alinéa (9.01)b)(iii) »,

(v) sauf pour l'application du présent sous-alinéa :

(A) si la somme désignée par le représentant légal du contribuable selon la subdivision (ii)(B)(I) excède la plus élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(I)1 et 2 relativement au bien, la somme désignée est réputée être égale à la plus élevée de ces sommes,

(B) si la somme désignée par le représentant légal du contribuable selon la subdivision (ii)(B)(II) excède la plus élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la plus élevée de ces sommes,

determined under sub-subclauses (ii)(B)(I)1 and 2 in respect of the property, the amount designated is deemed to be equal to the lesser of those amounts, and

(B) where the amount designated by the taxpayer's legal representative under subclause (ii)(B)(II) is less than the lesser of the amounts determined under sub-subclauses (ii)(B)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the lesser of those amounts.

(vi) sauf pour l'application du présent sous-alinéa :

(A) si la somme désignée par le représentant légal du contribuable selon la subdivision (ii)(B)(I) est inférieure à la moins élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(I)1 et 2 relativement au bien, la somme désignée est réputée être égale à la moins élevée de ces sommes,

(B) si la somme désignée par le représentant légal du contribuable selon la subdivision (ii)(B)(II) est inférieure à la moins élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la moins élevée de ces sommes.

When subsection (9.11) applies

(9.1) Subsection (9.11) applies to a trust and a child of the settlor of the trust in respect of a property in respect of which subsection 104(4) or (5) would, if this Act were read without reference to this subsection, apply to the trust as a consequence of the death of the beneficiary under the trust who was a spouse or a common-law partner of the settlor if

(a) the property (or property for which the property was substituted) was transferred to the trust by the settlor;

(b) subsection (6), subsection 73(1) (as that subsection applied to transfers before 2000) or subparagraph 73(1.01)(c)(i) applied to the settlor and the trust in respect of the transfer referred to in paragraph (a);

(c) the property is, immediately before the beneficiary's death, land or a depreciable property of a prescribed class of the trust that was used in a farming or fishing business carried on in Canada;

(d) the child of the settlor is, immediately before the beneficiary's death, resident in Canada; and

(e) as a consequence of the beneficiary's death, the property is transferred to and becomes vested indefeasibly in the child of the settlor within the period ending 36 months after that beneficiary's death or, if written application has been made to the Minister by the taxpayer's legal representative within that period, within any longer period that the Minister considers reasonable in the circumstances.

Application du par. (9.11)

(9.1) Le paragraphe (9.11) s'applique à une fiducie et à un enfant de l'auteur de la fiducie, relativement à un bien à l'égard duquel les paragraphes 104(4) ou (5) s'appliqueraient à la fiducie, en l'absence du présent paragraphe, par suite du décès du bénéficiaire de la fiducie qui était l'époux ou le conjoint de fait de l'auteur, si les conditions suivantes sont réunies :

a) le bien, ou un bien qui lui est substitué, a été transféré à la fiducie par l'auteur;

b) le paragraphe (6), le paragraphe 73(1) (dans sa version applicable aux transferts effectués avant 2000) ou le sous-alinéa 73(1.01)c)(i) se sont appliqués à l'auteur et à la fiducie pour ce qui est du transfert visé à l'alinéa a);

c) le bien est, immédiatement avant le décès du bénéficiaire, un fonds de terre ou un bien amortissable d'une catégorie prescrite de la fiducie, qui était utilisé dans le cadre d'une entreprise agricole ou de pêche exploitée au Canada;

d) l'enfant de l'auteur réside au Canada immédiatement avant le décès du bénéficiaire;

e) par suite du décès du bénéficiaire, le bien est transféré à l'enfant de l'auteur, et lui est dévolu irrévocablement, dans la période se terminant 36 mois après ce décès ou, si le représentant légal du contribuable en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre considère acceptable dans les circonstances.

Transfer of farming and fishing property from trust to settlor's children

(9.11) If, because of subsection (9.1), this subsection applies to the trust and a child of the settlor of the trust in respect of a property of the trust that has been distributed to the child as a consequence of the death of the beneficiary under the trust who was the spouse or common-law partner of the settlor, the following rules apply:

(a) where the trust does not elect, in its return of income under this Part for the taxation year in which the beneficiary died, to have paragraph (b) apply to the trust in respect of the property,

(i) subsections 104(4) and (5) and section 69 do not apply to the trust and the child in respect of the property,

(ii) the trust is deemed to have

(A) disposed of the property immediately before the beneficiary's death, and

(B) received, at the time of the disposition, proceeds of disposition in respect of that disposition equal to

(I) where the property was depreciable property of a prescribed class, the lesser of

1 the capital cost to the trust of the property, and

2 the amount, determined immediately before the time of the disposition of the property, that is that proportion of the undepreciated capital cost of property of that class to the trust that the capital cost to the trust of the property is of the capital cost to the trust of all property of that class that had not, at or before that time, been disposed of, and

(II) where the property is land (other than land to which subclause (I) applies), the adjusted cost base to the trust of the property immediately before the time of the disposition of the property, and

(iii) the child is, immediately after the time of the disposition of the property, deemed to have acquired the property at a cost equal to the trust's proceeds of disposition in respect of the disposition of the property determined under subparagraph (ii);

Transfert d'un bien agricole ou de pêche de la fiducie aux enfants de l'auteur

(9.11) Si, par l'effet du paragraphe (9.1), le présent paragraphe s'applique à la fiducie et à un enfant de l'auteur de la fiducie, relativement à un bien de la fiducie qui a été distribué à l'enfant par suite du décès du bénéficiaire de la fiducie qui était l'époux ou le conjoint de fait de l'auteur, les règles suivantes s'appliquent :

a) si la fiducie ne fait pas de choix, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition du décès du bénéficiaire, afin que l'alinéa b) s'applique à elle relativement au bien :

(i) les paragraphes 104(4) et (5) et l'article 69 ne s'appliquent pas à la fiducie ni à l'enfant relativement au bien,

(ii) la fiducie est réputée :

(A) d'une part, avoir disposé du bien immédiatement avant le décès du bénéficiaire,

(B) d'autre part, avoir reçu, au moment de la disposition et au titre de cette disposition, un produit de disposition égal à celle des sommes suivantes qui est applicable :

(I) lorsque le bien était un bien amortissable d'une catégorie prescrite, la moins élevée des sommes suivantes :

1 le coût en capital du bien pour la fiducie,

2 la somme, déterminée immédiatement avant le moment de la disposition du bien, qui correspond à la proportion de la fraction non amortie du coût en capital des biens de cette catégorie pour la fiducie que représente le coût en capital du bien pour elle par rapport au coût en capital, pour elle, de l'ensemble des biens de cette catégorie dont il n'avait pas été disposé à ce moment ou antérieurement,

(II) lorsque le bien est un fonds de terre (sauf celui auquel la subdivision (I) s'applique), le prix de base rajusté du bien pour la fiducie immédiatement avant le moment de sa disposition,

(iii) l'enfant est réputé, immédiatement après le moment de la disposition du bien, avoir acquis le bien à un coût égal au produit de disposition que la fiducie est réputée avoir reçu au titre de la disposition du bien, déterminé selon le sous-alinéa (ii);

(b) where the trust elects, in the trust's return of income under this Part for the taxation year in which the beneficiary died, to have this paragraph apply to the trust in respect of the property,

(i) subsections 104(4) and (5) do not apply to the trust in respect of the property,

(ii) the trust is deemed to have

(A) disposed of the property immediately before the beneficiary's death, and

(B) received, at the time of the disposition of the property, proceeds of disposition in respect of the disposition of the property equal to

(I) where the property was depreciable property of a prescribed class, the amount that the trust designates, which must not be greater than the greater of nor less than the lesser of

1 the fair market value of the property immediately before the time of the disposition of the property, and

2 the lesser of the capital cost to the trust of the property and the amount, determined immediately before the time of the disposition of the property, that is that proportion of the undepreciated capital cost of property of that class to the trust that the capital cost to the trust of the property is of the capital cost to the trust of all property of that class that had not, at or before that time, been disposed of, and

(II) where the property is land (other than land to which subclause (I) applies), the amount that the trust designates, which must not be greater than the greater of nor less than the lesser of

1 the fair market value of the property immediately before the time of the disposition of the property, and

2 the adjusted cost base to the trust of the property immediately before the time of the disposition of the property,

(iii) the child is, immediately after the time of the disposition of the property, deemed to have acquired the property at a cost equal to the trust's proceeds of disposition in respect of the disposition of the property determined under subparagraph (ii),

b) si la fiducie fait un choix, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition du décès du bénéficiaire, afin que le présent alinéa s'applique à elle relativement au bien :

(i) les paragraphes 104(4) et (5) ne s'appliquent pas à elle relativement au bien,

(ii) la fiducie est réputée :

(A) d'une part, avoir disposé du bien immédiatement avant le décès du bénéficiaire,

(B) d'autre part, avoir reçu, au moment de la disposition du bien et au titre de cette disposition, un produit de disposition égal à celle des sommes suivantes qui est applicable :

(I) lorsque le bien était un bien amortissable d'une catégorie prescrite, la somme désignée par la fiducie, laquelle somme n'est ni supérieure à la plus élevée des sommes ci-après, ni inférieure à la moins élevée de ces sommes :

1 la juste valeur marchande du bien immédiatement avant le moment de sa disposition,

2 le coût en capital du bien pour la fiducie ou, si elle est moins élevée, la somme, déterminée immédiatement avant le moment de la disposition du bien, qui correspond à la proportion de la fraction non amortie du coût en capital des biens de cette catégorie pour la fiducie que représente le coût en capital du bien pour elle par rapport au coût en capital, pour elle, de l'ensemble des biens de cette catégorie dont il n'avait pas été disposé à ce moment ou antérieurement,

(II) lorsque le bien est un fonds de terre (sauf celui auquel la subdivision (I) s'applique), la somme désignée par la fiducie, laquelle somme n'est ni supérieure à la plus élevée des sommes ci-après, ni inférieure à la moins élevée de ces sommes :

1 la juste valeur marchande du bien immédiatement avant le moment de sa disposition,

2 le prix de base rajusté du bien pour la fiducie immédiatement avant le moment de sa disposition,

(iv) except for the purpose of this subparagraph,

(A) where the amount designated by the trust under subclause (ii)(B)(I) exceeds the greater of the amounts determined under sub-subclauses (ii)(B)(I)1 and 2 in respect of the property, the amount designated is deemed to be equal to the greater of those amounts, and

(B) where the amount designated by the trust under subclause (ii)(B)(II) exceeds the greater of the amounts determined under sub-subclauses (ii)(B)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the greater of those amounts, and

(v) except for the purpose of this subparagraph,

(A) where the amount designated by the trust under subclause (ii)(B)(I) is less than the lesser of the amounts determined under sub-subclauses (ii)(B)(I)1 and 2 in respect of the property, the amount designated is deemed to be equal to the lesser of those amounts, and

(B) where the amount designated by the trust under subclause (ii)(B)(II), is less than the lesser of the amounts determined under sub-subclauses (ii)(B)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the lesser of those amounts;

(c) where paragraph (a) or (b) (each of which is referred to in this subsection as the "relevant provision") applied to the trust in respect of a property that was depreciable property of a prescribed class (other than where the trust's proceeds of disposition of the property under the relevant provision are redetermined under subsection 13(21.1)),

(i) the capital cost to the child of the property, immediately after the time of the disposition, is deemed to be the amount that was the capital cost to the trust of the property, immediately before the time of the disposition, and

(ii) the amount, if any, by which the capital cost to the trust of the property, immediately before the time of the disposition, exceeds the amount determined under the relevant provision to be the cost of the property to the child, immediately after the time of the disposition, is, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a), deemed to have been allowed to the child in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation

(iii) l'enfant est réputé, immédiatement après le moment de la disposition du bien, avoir acquis le bien à un coût égal au produit de disposition que la fiducie est réputée avoir reçu au titre de la disposition du bien, déterminé selon le sous-alinéa (ii),

(iv) sauf pour l'application du présent sous-alinéa :

(A) si la somme désignée par la fiducie selon la subdivision (ii)(B)(I) excède la plus élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(I)1 et 2 relativement au bien, la somme désignée est réputée être égale à la plus élevée de ces sommes,

(B) si la somme désignée par la fiducie selon la subdivision (ii)(B)(II) excède la plus élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la plus élevée de ces sommes,

(v) sauf pour l'application du présent sous-alinéa :

(A) si la somme désignée par la fiducie selon la subdivision (ii)(B)(I) est inférieure à la moins élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(I)1 et 2 relativement au bien, la somme désignée est réputée être égale à la moins élevée de ces sommes,

(B) si la somme désignée par la fiducie selon la subdivision (ii)(B)(II) est inférieure à la moins élevée des sommes déterminées selon les sous-subdivisions (ii)(B)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la moins élevée de ces sommes;

c) si l'alinéa a) ou b) (appelé chacun « disposition applicable » au présent paragraphe) s'est appliqué à la fiducie relativement à un bien qui était un bien amortissable d'une catégorie prescrite (sauf un bien dont le produit de disposition pour la fiducie selon la disposition applicable est déterminé selon le paragraphe 13(21.1)) :

(i) le coût en capital du bien pour l'enfant, immédiatement après le moment de la disposition, est réputé correspondre à son coût en capital pour la fiducie, immédiatement avant le moment de la disposition,

(ii) l'excédent éventuel du coût en capital du bien pour la fiducie, immédiatement avant le moment de la disposition, sur la somme qui, selon la disposition applicable, correspond au coût du bien pour

years that ended before the child acquired the property; and

(d) where the relevant provision applied to the trust in respect of a property and the trust's proceeds of disposition in respect of the disposition of the property determined under the relevant provision are redetermined under subsection 13(21.1), notwithstanding the relevant provision,

(i) where the capital cost to the trust of the property, immediately before the time of the disposition, exceeds the amount redetermined under subsection 13(21.1), for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(A) the capital cost to the child of the property, immediately after the time of the disposition, is deemed to be the amount that was the capital cost to the trust of the property, immediately before the time of the disposition, and

(B) the amount, if any, by which the capital cost to the trust of the property, immediately before the time of the disposition, exceeds the amount redetermined under subsection 13(21.1) is deemed to have been allowed to the child in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation years that ended before the child acquired the property, and

(ii) where the property is land, the cost to the child of the property is deemed to be the amount that was the trust's proceeds of disposition as redetermined under subsection 13(21.1).

l'enfant, immédiatement après le moment de la disposition, est réputé, pour l'application des articles 13 et 20 et de toute disposition réglementaire prise pour l'application de l'alinéa 20(1)a), avoir été accordé à l'enfant relativement au bien en vertu des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) dans le calcul du revenu pour les années d'imposition s'étant terminées avant l'acquisition du bien par l'enfant;

d) si la disposition applicable s'est appliquée à la fiducie relativement au bien et que le produit de disposition qu'elle est réputée avoir reçu au titre de la disposition du bien, déterminé selon la disposition applicable, a été déterminé selon le paragraphe 13(21.1), malgré la disposition applicable :

(i) dans le cas où le coût en capital du bien pour la fiducie, immédiatement avant le moment de la disposition, excède la somme déterminée selon le paragraphe 13(21.1), pour l'application des articles 13 et 20 et de toute disposition réglementaire prise pour l'application de l'alinéa 20(1)a) :

(A) le coût en capital du bien pour l'enfant, immédiatement après le moment de la disposition, est réputé correspondre à son coût en capital pour la fiducie, immédiatement avant le moment de la disposition,

(B) l'excédent éventuel du coût en capital du bien pour la fiducie, immédiatement avant le moment de la disposition, sur la somme déterminée selon le paragraphe 13(21.1) est réputé avoir été accordé à l'enfant relativement au bien en vertu des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) dans le calcul du revenu pour les années d'imposition s'étant terminées avant l'acquisition du bien par l'enfant,

(ii) dans le cas où le bien est un fonds de terre, son coût pour l'enfant est réputé correspondre au produit de disposition du bien pour la fiducie, déterminé selon le paragraphe 13(21.1).

When subsection (9.21) applies

(9.2) Subsection (9.21) applies to a taxpayer and a child of the taxpayer in respect of a property of the taxpayer in respect of which subsection (5) would, if this Act were read without reference to this subsection, apply to the taxpayer and the child if

(a) the property was, immediately before the death of the taxpayer, a share of the capital stock of a family farm or fishing corporation of the taxpayer or an

Application du par. (9.21)

(9.2) Le paragraphe (9.21) s'applique à un contribuable et à son enfant, relativement à un bien du contribuable à l'égard duquel le paragraphe (5) s'appliquerait au contribuable et à l'enfant, en l'absence du présent paragraphe, si les conditions suivantes sont réunies :

a) le bien était, immédiatement avant le décès du contribuable, une action du capital-actions d'une société agricole ou de pêche familiale du contribuable ou

interest in a family farm or fishing partnership of the taxpayer;

(b) the child of the taxpayer was resident in Canada immediately before the day on which taxpayer died; and

(c) as a consequence of the death of the taxpayer, the property is transferred to and becomes vested indefeasibly in the child within the period ending 36 months after the death of the taxpayer or, if written application has been made to the Minister by the taxpayer's legal representative within that period, within any longer period that the Minister considers reasonable in the circumstances.

une participation dans une société de personnes agricole ou de pêche familiale du contribuable;

b) l'enfant du contribuable résidait au Canada la veille du décès du contribuable;

c) par suite du décès du contribuable, le bien est transféré à l'enfant, et lui est dévolu irrévocablement, dans la période de 36 mois suivant ce décès ou, si le représentant légal du contribuable en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre considère acceptable dans les circonstances.

Transfer of family farm and fishing corporations and partnerships

(9.21) If, because of subsection (9.2), this subsection applies to the taxpayer and a child of the taxpayer in respect of a property of the taxpayer that has been transferred to the child as a consequence of the death of the taxpayer, the following rules apply:

(a) where the taxpayer's legal representative does not elect, in the taxpayer's return of income under this Part for the taxation year in which the taxpayer died, to have paragraph (b) apply to the taxpayer in respect of the property,

(i) paragraphs (5)(a) and (b) and section 69 do not apply to the taxpayer and the child in respect of the property,

(ii) where the property is, immediately before the death of the taxpayer, a share of the capital stock of a family farm or fishing corporation of the taxpayer,

(A) the taxpayer is deemed to have

(I) disposed of the property immediately before the taxpayer's death, and

(II) received proceeds of disposition in respect of that disposition equal to the adjusted cost base to the taxpayer, immediately before the time of that disposition, of the property, and

(B) the child is, immediately after the time of the disposition, deemed to have acquired the property at a cost equal to the taxpayer's proceeds of disposition in respect of that disposition determined under clause (A), and

(iii) where the property is, immediately before the death of the taxpayer, a partnership interest described in paragraph (9.2)(a) (other than a

Transfert d'une société ou société de personnes agricole ou de pêche familiale

(9.21) Si, par l'effet du paragraphe (9.2), le présent paragraphe s'applique au contribuable et à son enfant relativement à un bien du contribuable qui a été transféré à l'enfant par suite du décès du contribuable, les règles suivantes s'appliquent :

a) si le représentant légal du contribuable ne fait pas de choix, dans la déclaration de revenu du contribuable produite en vertu de la présente partie pour l'année d'imposition de son décès, afin que l'alinéa b) s'applique au contribuable relativement au bien :

(i) les alinéas (5)a) et b) et l'article 69 ne s'appliquent pas au contribuable ni à l'enfant relativement au bien,

(ii) si le bien est, immédiatement avant le décès du contribuable, une action du capital-actions d'une société agricole ou de pêche familiale du contribuable :

(A) le contribuable est réputé :

(I) d'une part, avoir disposé du bien immédiatement avant son décès,

(II) d'autre part, avoir reçu, au titre de cette disposition, un produit de disposition égal au prix de base rajusté du bien pour lui immédiatement avant le moment de sa disposition,

(B) l'enfant est réputé, immédiatement après le moment de la disposition, avoir acquis le bien à un coût égal au produit de disposition pour le contribuable au titre de cette disposition, déterminé selon la division (A),

(iii) si le bien est, immédiatement avant le décès du contribuable, une participation visée à l'alinéa

partnership interest to which subsection 100(3) applies),

(A) the taxpayer is, except for the purpose of paragraph 98(5)(g), deemed not to have disposed of the property as a consequence of the taxpayer's death,

(B) the child is deemed to have acquired the property at the time of the taxpayer's death at a cost equal to the cost to the taxpayer of the interest immediately before the time that is immediately before the time of the taxpayer's death, and

(C) each amount required by subsection 53(1) or (2) to be added or deducted in computing the adjusted cost base to the taxpayer, immediately before the time of the taxpayer's death, of the property is deemed to be an amount required by subsection 53(1) or (2) to be added or deducted in computing, at any time at or after the time of the taxpayer's death, the adjusted cost base to the child of the property; and

(b) where the taxpayer's legal representative elects, in the taxpayer's return of income under this Part for the taxation year in which the taxpayer died, to have this paragraph apply to the taxpayer in respect of the property,

(i) paragraphs (5)(a) and (b) and section 69 do not apply to the taxpayer and the child in respect of the property,

(ii) subject to subparagraph (iii), where the property is, immediately before the taxpayer's death, a share of the capital stock of a family farm or fishing corporation of the taxpayer or an interest in a family farm or fishing partnership of the taxpayer,

(A) the taxpayer is deemed to have

(I) disposed of the property immediately before the taxpayer's death, and

(II) received, at the time of the disposition of the property, proceeds of disposition in respect of the disposition of the property equal to the amount that the taxpayer's legal representative designates, which must not be greater than the greater of nor less than the lesser of

1 the fair market value of the property immediately before the taxpayer's death, and

(9.2)a) (sauf une participation à laquelle le paragraphe 100(3) s'applique) :

(A) le contribuable est réputé, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir disposé du bien par suite de son décès,

(B) l'enfant est réputé avoir acquis le bien au moment du décès du contribuable à un coût égal au coût de la participation pour le contribuable immédiatement avant le moment qui précède le décès du contribuable,

(C) chaque somme à ajouter ou à déduire, en application des paragraphes 53(1) ou (2), dans le calcul du prix de base rajusté du bien pour le contribuable, immédiatement avant son décès, est réputée être une somme à ajouter ou à déduire, en application de ces paragraphes, dans le calcul, au moment du décès ou à tout moment postérieur, du prix de base rajusté du bien pour l'enfant;

b) si le représentant légal du contribuable fait un choix, dans la déclaration de revenu du contribuable produite en vertu de la présente partie pour l'année d'imposition de son décès, afin que le présent alinéa s'applique au contribuable relativement au bien :

(i) les alinéas (5)a) et b) et l'article 69 ne s'appliquent pas au contribuable ni à l'enfant relativement au bien,

(ii) sous réserve du sous-alinéa (iii), si le bien est, immédiatement avant le décès du contribuable, une action du capital-actions d'une société agricole ou de pêche familiale du contribuable ou une participation dans une société de personnes agricole ou de pêche familiale du contribuable :

(A) le contribuable est réputé :

(I) d'une part, avoir disposé du bien immédiatement avant son décès,

(II) d'autre part, avoir reçu, au moment de la disposition du bien et au titre de cette disposition, un produit de disposition égal à la somme désignée par son représentant légal, laquelle n'est ni supérieure à la plus élevée des sommes ci-après, ni inférieure à la moins élevée de ces sommes :

1 la juste valeur marchande du bien immédiatement avant le décès du contribuable,

2 the adjusted cost base to the taxpayer of the property immediately before the time of the disposition,

(B) the child is, immediately after the time of the disposition, deemed to have acquired the property at a cost equal to the taxpayer's proceeds of disposition in respect of the disposition of the property determined under clause (A),

(C) except for the purpose of this clause, where the amount designated by the taxpayer's legal representative under subclause (A)(II) exceeds the greater of the amounts determined under sub-subclauses (A)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the greater of those amounts, and

(D) except for the purpose of this clause, where the amount designated by the taxpayer's legal representative under subclause (A)(II) is less than the lesser of the amounts determined under sub-subclauses (A)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the lesser of those amounts, and

(iii) where the property is, immediately before the death of the taxpayer, a partnership interest described in paragraph (9.2)(a) (other than a partnership interest to which subsection 100(3) applies), and the taxpayer's legal representative further elects, in the taxpayer's return of income under this Part for the taxation year in which the taxpayer died, to have this subparagraph apply to the taxpayer in respect of the property,

(A) the taxpayer is, except for the purpose of paragraph 98(5)(g), deemed not to have disposed of the property as a consequence of the taxpayer's death,

(B) the child is deemed to have acquired the property at the time of the taxpayer's death at a cost equal to the cost to the taxpayer of the interest immediately before the time that is immediately before the death of the taxpayer, and

(C) each amount required by subsection 53(1) or (2) to be added or deducted in computing the adjusted cost base to the taxpayer, immediately before the time of the taxpayer's death, of the property is deemed to be an amount required by subsection 53(1) or (2) to be added or deducted in computing, at any time at or after the taxpayer's death, the adjusted cost base to the child of the property.

2 le prix de base rajusté du bien pour le contribuable immédiatement avant le moment de la disposition,

(B) l'enfant est réputé, immédiatement après le moment de la disposition du bien, avoir acquis le bien à un coût égal au produit de disposition que le contribuable est réputé avoir reçu au titre de la disposition du bien, déterminé selon la division (A),

(C) sauf pour l'application de la présente division, lorsque la somme désignée par le représentant légal du contribuable selon la subdivision (A)(II) excède la plus élevée des sommes déterminées selon les sous-subdivisions (A)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la plus élevée de ces sommes,

(D) sauf pour l'application de la présente division, lorsque la somme désignée par le représentant légal du contribuable selon la subdivision (A)(II) est inférieure à la moins élevée des sommes déterminées selon les sous-subdivisions (A)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la moins élevée de ces sommes,

(iii) si le bien est, immédiatement avant le décès du contribuable, une participation visée à l'alinéa (9.2)a) (sauf une participation à laquelle le paragraphe 100(3) s'applique) et que le représentant légal du contribuable fait un autre choix, dans la déclaration de revenu du contribuable produite en vertu de la présente partie pour l'année d'imposition de son décès, afin que le présent sous-alinéa s'applique au contribuable relativement au bien :

(A) le contribuable est réputé, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir disposé du bien par suite de son décès,

(B) l'enfant est réputé avoir acquis le bien au moment du décès du contribuable à un coût égal au coût de la participation pour celui-ci immédiatement avant le moment qui précède le décès du contribuable,

(C) chaque somme à ajouter ou à déduire, en application des paragraphes 53(1) ou (2), dans le calcul du prix de base rajusté du bien pour le contribuable, immédiatement avant son décès, est réputée être une somme à ajouter ou à déduire, en application de ces paragraphes, dans le calcul, au moment du décès ou à tout moment

When subsection (9.31) applies

(9.3) Subsection (9.31) applies to a trust and a child of the settlor of the trust in respect of a property in respect of which subsection 104(4) would, if this Act were read without reference to this subsection, apply to the trust as a consequence of the death of the beneficiary under the trust who was a spouse or a common-law partner of the settlor of the trust if

(a) the property (or property for which the property was substituted) was transferred to the trust by the settlor and was, immediately before that transfer, a share of the capital stock of a family farm or fishing corporation of the settlor or an interest in a family farm or fishing partnership of the settlor;

(b) subsection (6), subsection 73(1) (as that subsection applied to transfers before 2000) or subparagraph 73(1.01)(c)(i) applied to the settlor and the trust in respect of the transfer referred to in paragraph (a);

(c) the property is, immediately before the beneficiary's death,

(i) a share of the capital stock of a Canadian corporation that would, immediately before that beneficiary's death, be a share of the capital stock of a family farm or fishing corporation of the settlor, if the settlor owned the share at that time and paragraph (a) of the definition ***share of the capital stock of a family farm or fishing corporation*** in subsection (10) were read without the words "in which the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot)", or

(ii) [Repealed, 2014, c. 39, s. 13]

(iii) a partnership interest in a partnership that carried on in Canada a farming or fishing business in which it used all or substantially all of the property;

(d) the child of the settlor was, immediately before that beneficiary's death, resident in Canada; and

(e) as a consequence of that beneficiary's death, the property is transferred to and becomes vested

Application du par. (9.31)

(9.3) Le paragraphe (9.31) s'applique à une fiducie et à l'enfant de l'auteur de la fiducie, relativement à un bien auquel le paragraphe 104(4) s'appliquerait, en l'absence du présent paragraphe, à la fiducie par suite du décès du bénéficiaire de la fiducie qui était l'époux ou le conjoint de fait de l'auteur de la fiducie, si les conditions suivantes sont réunies :

a) le bien, ou un bien qui lui est substitué, a été transféré à la fiducie par l'auteur et était, immédiatement avant le transfert, une action du capital-actions d'une société agricole ou de pêche familiale de l'auteur ou une participation dans une société de personnes agricole ou de pêche familiale de l'auteur;

b) le paragraphe (6), le paragraphe 73(1) (dans sa version applicable aux transferts effectués avant 2000) ou le sous-alinéa 73(1.01)c)(i) se sont appliqués à l'auteur et à la fiducie relativement au transfert visé à l'alinéa a);

c) le bien est, immédiatement avant le décès du bénéficiaire :

(i) une action du capital-actions d'une société canadienne qui, immédiatement avant le décès du bénéficiaire, serait une action du capital-actions d'une société agricole ou de pêche familiale de l'auteur si celui-ci en était propriétaire à ce moment et si l'alinéa a) de la définition de ***action du capital-actions d'une société agricole ou de pêche familiale*** au paragraphe (10) s'appliquait compte non tenu du passage « dans laquelle le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère soit prenait une part active de façon régulière et continue, soit, s'il s'agit de biens utilisés dans le cadre de l'exploitation d'une terre à bois, prenait part dans la mesure requise par un plan d'aménagement forestier visé par règlement relativement à cette terre »,

(ii) [Abrogé, 2014, ch. 39, art. 13]

(iii) une participation dans une société de personnes qui exploitait au Canada une entreprise agricole ou de pêche dans laquelle elle utilisait la totalité ou la presque totalité des biens;

d) l'enfant de l'auteur résidait au Canada immédiatement avant le décès du bénéficiaire;

indefeasibly in the child within the period ending 36 months after that beneficiary's death or, if written application has been made to the Minister by the taxpayer's legal representative within that period, within any longer period that the Minister considers reasonable in the circumstances.

e) par suite du décès du bénéficiaire, le bien est transféré à l'enfant, et lui est dévolu irrévocablement, dans la période de 36 mois suivant le décès du bénéficiaire ou, si le représentant légal du contribuable en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre considère acceptable dans les circonstances.

Transfer of family farm or fishing corporation or family farm or fishing partnership from trust to children of settlor

(9.31) If, because of subsection (9.3), this subsection applies to the trust and a child of the settlor of the trust in respect of a property of the trust that has been distributed to the child as a consequence of the death of the beneficiary under the trust who was a spouse or common-law partner of the settlor of the trust, the following rules apply:

(a) where the trust does not elect, in its return of income under this Part for the taxation year in which the beneficiary died, to have paragraph (b) apply to the trust in respect of the property

(i) section 69 and subsection 104(4) do not apply to the trust and the child in respect of the property,

(ii) where the property is, immediately before the beneficiary's death, a share described in subparagraph (9.3)(c)(i),

(A) the trust is deemed to have

(I) disposed of the property immediately before the beneficiary's death, and

(II) received proceeds of disposition in respect of that disposition equal to the adjusted cost base to the trust of the property immediately before the time of that disposition, and

(B) the child is, immediately after the time of the disposition, deemed to have acquired the property at a cost equal to the trust's proceeds of disposition in respect of that disposition of the property determined under clause (A), and

(iii) where the property is, immediately before the beneficiary's death, a partnership interest described in subparagraph (9.3)(c)(iii) (other than a partnership interest to which subsection 100(3) applies),

(A) the trust is, except for the purpose of paragraph 98(5)(g), deemed not to have disposed of the property as a consequence of the beneficiary's death,

Transfert d'une société ou société de personnes agricole ou de pêche familiale de la fiducie aux enfants de l'auteur

(9.31) Si, par l'effet du paragraphe (9.3), le présent paragraphe s'applique à la fiducie et à un enfant de l'auteur de la fiducie relativement à un bien de la fiducie qui a été distribué à l'enfant par suite du décès du bénéficiaire de la fiducie qui était l'époux ou le conjoint de fait de l'auteur de la fiducie, les règles suivantes s'appliquent :

a) si la fiducie ne fait pas de choix, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition du décès du bénéficiaire, afin que l'alinéa b) s'applique à elle relativement au bien :

(i) l'article 69 et le paragraphe 104(4) ne s'appliquent pas à la fiducie ni à l'enfant relativement au bien;

(ii) si le bien est, immédiatement avant le décès du bénéficiaire, une action visée au sous-alinéa (9.3)c)(i) :

(A) la fiducie est réputée :

(I) d'une part, avoir disposé du bien immédiatement avant le décès du bénéficiaire,

(II) d'autre part, avoir reçu, au titre de cette disposition, un produit de disposition égal au prix de base rajusté du bien pour elle immédiatement avant le moment de la disposition,

(B) l'enfant est réputé, immédiatement après le moment de la disposition, avoir acquis le bien à un coût égal au produit de disposition que la fiducie est réputée avoir reçu au titre de la disposition du bien, déterminé selon la division (A),

(iii) si le bien est, immédiatement avant le décès du bénéficiaire, une participation visée au sous-alinéa (9.3)c)(iii) (sauf une participation à laquelle le paragraphe 100(3) s'applique) :

(A) la fiducie est réputée, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir disposé du bien par suite du décès du bénéficiaire,

(B) the child is deemed to have acquired the property, at the time of the beneficiary's death, at a cost equal to the cost to the trust of the interest immediately before the time that is immediately before the time of the beneficiary's death, and

(C) each amount required by subsection 53(1) or (2) to be added or deducted in computing the adjusted cost base to the trust, immediately before the beneficiary's death, of the property is deemed to be an amount required by subsection 53(1) or (2) to be added or deducted in computing, at or after the time of the beneficiary's death, the adjusted cost base to the child of the property; and

(b) where the trust elects, in its return of income under this Part for the taxation year in which the beneficiary died, to have this paragraph apply to the trust in respect of the property

(i) subsection 104(4) does not apply to the trust in respect of the property and section 69 does not apply to the trust or the child in respect of the transfer of the property,

(ii) subject to subparagraph (iii), where the property is, immediately before the beneficiary's death, a share described in subparagraph (9.3)(c)(i) or a partnership interest described in subparagraph (9.3)(c)(iii),

(A) the trust is deemed to have

(I) disposed of the property immediately before the beneficiary's death, and

(II) received, at the time of the disposition of property, proceeds of disposition in respect of the disposition of the property equal to the amount that the trust designates, which must not be greater than the greater of nor less than the lesser of

1 the fair market value of the property immediately before the beneficiary's death, and

2 the adjusted cost base to the trust of the property immediately before the beneficiary's death, and

(B) the child is, immediately after the time of the disposition of the property, deemed to have acquired the property at a cost equal to the trust's proceeds of disposition in respect of that

(B) l'enfant est réputé avoir acquis le bien au moment du décès du bénéficiaire à un coût égal au coût de la participation pour la fiducie immédiatement avant le moment qui est immédiatement avant le moment du décès du bénéficiaire,

(C) chaque somme à ajouter ou à déduire, en application des paragraphes 53(1) ou (2), dans le calcul du prix de base rajusté du bien pour la fiducie, immédiatement avant le décès du bénéficiaire, est réputée être une somme à ajouter ou à déduire, en application de ces paragraphes, dans le calcul, au moment du décès ou à tout moment postérieur, du prix de base rajusté du bien pour l'enfant;

b) si la fiducie fait un choix, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition du décès du bénéficiaire, afin que le présent alinéa s'applique à elle relativement au bien :

(i) le paragraphe 104(4) ne s'applique pas à elle relativement au bien et l'article 69 ne s'applique pas à elle ni à l'enfant relativement au transfert du bien,

(ii) sous réserve du sous-alinéa (iii), si le bien est, immédiatement avant le décès du bénéficiaire, une action visée au sous-alinéa (9.3)c)(i) ou une participation visée au sous-alinéa (9.3)c)(iii) :

(A) la fiducie est réputée :

(I) d'une part, avoir disposé du bien immédiatement avant le décès du bénéficiaire,

(II) d'autre part, avoir reçu, au moment de la disposition du bien et au titre de cette disposition, un produit de disposition égal à la somme désignée par la fiducie, laquelle somme n'est ni supérieure à la plus élevée des sommes ci-après, ni inférieure à la moins élevée de ces sommes :

1 la juste valeur marchande du bien immédiatement avant le décès du bénéficiaire,

2 le prix de base rajusté du bien pour la fiducie immédiatement avant le décès du bénéficiaire,

(B) l'enfant est réputé, immédiatement après le moment de la disposition du bien, avoir acquis le bien à un coût égal au produit de disposition que la fiducie est réputée avoir reçu au titre de la disposition du bien, déterminé selon la division (A),

disposition of the property determined under clause (A),

(iii) where the property is, immediately before that beneficiary's death, a partnership interest described in subparagraph (9.3)(c)(iii) (other than a partnership interest to which subsection 100(3) applies), and the trust further elects, in its return of income under this Part for the taxation year in which the beneficiary died, to have this subparagraph apply to the trust in respect of the property,

(A) the trust is, except for the purpose of paragraph 98(5)(g), deemed not to have disposed of the property as a consequence of the beneficiary's death,

(B) the child is deemed to have acquired the property, at the time of the beneficiary's death, at a cost equal to the cost to the trust of the property immediately before the time that is immediately before the beneficiary's death, and

(C) each amount required by subsection 53(1) or (2) to be added or deducted in computing, immediately before the beneficiary's death, the adjusted cost base to the trust of the property is deemed to be an amount required by subsection 53(1) or (2) to be added or deducted in computing, at or after the time of the beneficiary's death, the adjusted cost base to the child of the property,

(iv) except for the purpose of this subparagraph, where the amount designated by the trust under subclause (ii)(A)(II) exceeds the greater of the amounts determined under sub-subclauses (ii)(A)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the greater of those amounts, and

(v) except for the purpose of this subparagraph, where the amount designated by the trust under subclause (ii)(A)(II) is less than the lesser of the amounts determined under sub-subclauses (ii)(A)(II)1 and 2 in respect of the property, the amount designated is deemed to be equal to the lesser of those amounts.

(iii) si le bien est, immédiatement avant le décès du bénéficiaire, une participation visée au sous-alinéa (9.3)c)(iii) (sauf une participation à laquelle le paragraphe 100(3) s'applique) et que la fiducie fait un autre choix, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition du décès du bénéficiaire, afin que le présent sous-alinéa s'applique à elle relativement au bien :

(A) la fiducie est réputée, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir disposé du bien par suite du décès du bénéficiaire,

(B) l'enfant est réputé avoir acquis le bien au moment du décès du bénéficiaire à un coût égal au coût du bien pour la fiducie immédiatement avant le moment qui précède le décès du bénéficiaire,

(C) chaque somme à ajouter ou à déduire, en application des paragraphes 53(1) ou (2), dans le calcul du prix de base rajusté du bien pour la fiducie, immédiatement avant le décès du bénéficiaire, est réputée être une somme à ajouter ou à déduire, en application de ces paragraphes, dans le calcul, au moment du décès ou à tout moment postérieur, du prix de base rajusté du bien pour l'enfant,

(iv) sauf pour l'application du présent sous-alinéa, lorsque la somme désignée par la fiducie selon la subdivision (ii)(A)(II) excède la plus élevée des sommes déterminées selon les sous-subdivisions (ii)(A)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la plus élevée de ces sommes,

(v) sauf pour l'application du présent sous-alinéa, lorsque la somme désignée par la fiducie selon la subdivision (ii)(A)(II) est inférieure à la moins élevée des sommes déterminées selon les sous-subdivisions (ii)(A)(II)1 et 2 relativement au bien, la somme désignée est réputée être égale à la moins élevée de ces sommes.

Transfer to a parent

(9.6) Subsection (9.01) or (9.21), as the case may be, applies in respect of a transfer of a property as if the references in those subsections to "child" were read as references to "parent" if

Transfert au père ou à la mère

(9.6) À supposer que la mention « enfant » y soit remplacée par « père ou mère », compte tenu des adaptations grammaticales nécessaires, le paragraphe (9.01) ou (9.21), selon le cas, s'applique au transfert d'un bien si les conditions suivantes sont réunies :

(a) the property was acquired by a taxpayer in circumstances where any of subsections (9.01), (9.11), (9.21), (9.31) and 73(3.1) and (4.1) applied in respect of the acquisition;

(b) as a consequence of the death of the taxpayer the property is transferred to a parent of the taxpayer; and

(c) the taxpayer's legal representative has elected, in the taxpayer's return of income under this Part for the taxation year in which the taxpayer died, that this subsection apply in respect of the transfer.

a) le bien a été acquis par un contribuable dans des circonstances où l'un des paragraphes (9.01), (9.11), (9.21), (9.31) et 73(3.1) et (4.1) s'est appliqué relativement à l'acquisition;

b) le bien est transféré au père ou à la mère du contribuable par suite du décès de celui-ci;

c) le représentant légal du contribuable en a fait le choix dans la déclaration de revenu du contribuable produite en vertu de la présente partie pour l'année d'imposition de son décès.

Leased farm or fishing property

(9.8) For the purposes of subsections (9) and 73(3) and paragraph (d) of the definition ***qualified farm or fishing property*** in subsection 110.6(1), a property of an individual is, at a particular time, deemed to be used by the individual in a farming or fishing business carried on in Canada if, at that particular time, the property is being used, principally in the course of carrying on a farming or fishing business in Canada, by

(a) a corporation, a share of the capital stock of which is a share of the capital stock of a family farm or fishing corporation of the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual; or

(b) a partnership, a partnership interest in which is an interest in a family farm or fishing partnership of the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual.

Bien agricole ou de pêche loué

(9.8) Pour l'application des paragraphes (9) et 73(3) et de l'alinéa d) de la définition de ***bien agricole ou de pêche admissible*** au paragraphe 110.6(1), un bien d'un particulier est réputé, à un moment donné, être utilisé par le particulier dans le cadre d'une entreprise agricole ou de pêche exploitée au Canada si, à ce moment, le bien est utilisé principalement dans le cadre d'une telle entreprise au Canada :

a) soit par une société dont une action du capital-actions est une action du capital-actions d'une société agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait, de son enfant, de son père ou de sa mère;

b) soit par une société de personnes dont une participation est une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait, de son enfant, de son père ou de sa mère.

Definitions

(10) In this section,

child of a taxpayer includes

(a) a child of the taxpayer's child,

(b) a child of the taxpayer's child's child,

(b.1) a person who was a child of the taxpayer immediately before the death of the person's spouse or common-law partner, and

(c) a person who, at any time before the person attained the age of 19 years, was wholly dependent on the taxpayer for support and of whom the taxpayer had, at that time, in law or in fact, the custody and control; (*enfant*)

interest in a family farm or fishing partnership, of an individual at any time, means a partnership interest

Définitions

(10) Les définitions qui suivent s'appliquent au présent article.

action du capital-actions d'une société agricole familiale [Abrogée, 2014, ch. 39, art. 13]

action du capital-actions d'une société agricole ou de pêche familiale Est une action du capital-actions d'une société agricole ou de pêche familiale d'un particulier à un moment donné l'action du capital-actions, dont le particulier est propriétaire à ce moment, d'une société dont la totalité ou la presque totalité de la juste valeur marchande des biens est attribuable, à ce moment, aux biens suivants :

a) des biens qui ont été utilisés par l'une des personnes ou des sociétés de personnes ci-après, principalement dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada dans laquelle le particulier ou son époux ou conjoint de fait, son

owned by the individual at that time if, at that time, all or substantially all of the fair market value of the property of the partnership was attributable to

(a) property that has been used principally in the course of carrying on a farming or fishing business in Canada in which the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot), by

(i) the partnership,

(ii) a corporation, a share of the capital stock of which was a share of the capital stock of a family farm or fishing corporation of the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual,

(iii) a partnership, a partnership interest in which was an interest in a family farm or fishing partnership of the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual, or

(iv) the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual,

(b) shares of the capital stock or indebtedness of one or more corporations of which all or substantially all of the fair market value of the property was attributable to property described in paragraph (d),

(c) partnership interests or indebtedness of one or more partnerships of which all or substantially all of the fair market value of the property was attributable to property described in paragraph (d), or

(d) properties described in any of paragraphs (a) to (c); (*participation dans une société de personnes agricole ou de pêche familiale*)

interest in a family farm partnership [Repealed, 2014, c. 39, s. 13]

interest in a family fishing partnership [Repealed, 2014, c. 39, s. 13]

share of the capital stock of a family farm corporation [Repealed, 2014, c. 39, s. 13]

share of the capital stock of a family farm or fishing corporation, of an individual at any time, means a share

enfant, son père ou sa mère soit prenait une part active de façon régulière et continue, soit, s'il s'agit de biens utilisés dans le cadre de l'exploitation d'une terre à bois, prenait part dans la mesure requise par un plan d'aménagement forestier visé par règlement relativement à cette terre :

(i) la société,

(ii) une société dont une action du capital-actions était une action du capital-actions d'une société agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait, de son enfant, de son père ou de sa mère,

(iii) une société contrôlée par une société visée aux sous-alinéas (i) ou (ii),

(iv) une société de personnes dont une participation était une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait, de son enfant, de son père ou de sa mère,

(v) le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère;

b) des actions du capital-actions, ou des dettes, d'une ou de plusieurs sociétés dont la totalité ou la presque totalité de la juste valeur marchande des biens était attribuable à des biens visés à l'alinéa d);

c) des participations dans une ou plusieurs sociétés de personnes, ou des dettes d'une ou de plusieurs sociétés de personnes, dont la totalité ou la presque totalité de la juste valeur marchande des biens était attribuable à des biens visés à l'alinéa d);

d) des biens visés à l'un des alinéas a) à c). (*share of the capital stock of a family farm or fishing corporation*)

action du capital-actions d'une société de pêche familiale [Abrogée, 2014, ch. 39, art. 13]

enfant Sont assimilés à un enfant d'un contribuable :

a) son petit-enfant;

b) son arrière petit-enfant;

b.1) une personne qui était l'enfant du contribuable immédiatement avant le décès de l'époux ou du conjoint de fait de la personne;

c) une personne qui, avant d'atteindre l'âge de 19 ans, était entièrement à la charge du contribuable et dont

of the capital stock of a corporation owned by the individual at that time if, at that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to

(a) property that has been used principally in the course of carrying on a farming or fishing business in Canada in which the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot), by

(i) the corporation,

(ii) a corporation, a share of the capital stock of which was a share of the capital stock of a family farm or fishing corporation of the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual,

(iii) a corporation controlled by a corporation described in subparagraph (i) or (ii),

(iv) a partnership, a partnership interest in which was an interest in a family farm or fishing partnership of the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual, or

(v) the individual, the individual's spouse or common-law partner, a child of the individual or a parent of the individual,

(b) shares of the capital stock or indebtedness of one or more corporations of which all or substantially all of the fair market value of the property was attributable to property described in paragraph (d),

(c) partnership interests or indebtedness of one or more partnerships of which all or substantially all of the fair market value of the property was attributable to property described in paragraph (d), or

(d) properties described in any of paragraphs (a) to (c). (*action du capital-actions d'une société agricole ou de pêche familiale*)

share of the capital stock of a family fishing corporation [Repealed, 2014, c. 39, s. 13]

le contribuable avait alors la garde et la surveillance en droit ou de fait. (*child*)

participation dans une société de personnes agricole familiale [Abrogée, 2014, ch. 39, art. 13]

participation dans une société de personnes agricole ou de pêche familiale Est une participation dans une société de personnes agricole ou de pêche familiale d'un particulier à un moment donné la participation, dont le particulier est propriétaire à ce moment, dans une société de personnes dont la totalité ou la presque totalité de la juste valeur marchande des biens est attribuable, à ce moment, aux biens suivants :

a) des biens qui ont été utilisés par l'une des personnes ou sociétés de personnes ci-après, principalement dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada dans laquelle le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère soit prenait une part active de façon régulière et continue, soit, s'il s'agit de biens utilisés dans le cadre de l'exploitation d'une terre à bois, prenait part dans la mesure requise par un plan d'aménagement forestier visé par règlement relativement à cette terre :

(i) la société de personnes,

(ii) une société dont une action du capital-actions était une action du capital-actions d'une société agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait, de son enfant, de son père ou de sa mère,

(iii) une société de personnes dont une participation était une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait, de son enfant, de son père ou de sa mère,

(iv) le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère;

b) des actions du capital-actions, ou des dettes, d'une ou de plusieurs sociétés dont la totalité ou la presque totalité de la juste valeur marchande des biens était attribuable à des biens visés à l'alinéa d);

c) des participations dans une ou plusieurs sociétés de personnes, ou des dettes d'une ou de plusieurs sociétés de personnes, dont la totalité ou la presque totalité de la juste valeur marchande des biens était attribuable à des biens visés à l'alinéa d);

d) des biens visés à l'un des alinéas a) à c). (*interest in a family farm or fishing partnership*)

participation dans une société de personnes de pêche familiale [Abrogée, 2014, ch. 39, art. 13]

Application of s. 138(12)

(11) The definitions in subsection 138(12) apply to this section.

Value of NISA

(12) For the purpose of the definition ***share of the capital stock of a family farm or fishing corporation*** in subsection (10), the fair market value of a net income stabilization account is deemed to be nil.

Capital cost of certain depreciable property

(13) For the purposes of this section and, where a provision of this section (other than this subsection) applies, for the purposes of sections 13 and 20 (but not for the purposes of any regulation made for the purpose of paragraph 20(1)(a)),

(a) the capital cost to a taxpayer of depreciable property of a prescribed class disposed of immediately before the taxpayer's death, or

(b) the capital cost to a trust, to which subsection 70(9.1) applies, of depreciable property of a prescribed class disposed of immediately before the death of the spouse or common-law partner described in that subsection,

shall, in respect of property that was not disposed of by the taxpayer or the trust before that time, be the amount that it would be if subsection 13(7) were read without reference to

(c) the expression "the lesser of" in paragraph 13(7)(b) and clause (d)(i)(A) thereof, and

(d) subparagraph 13(7)(b)(ii), subclause 13(7)(d)(i)(A)(II), clause 13(7)(d)(i)(B) and paragraph (e) thereof.

Order of disposal of depreciable property

(14) Where 2 or more depreciable properties of a prescribed class are disposed of at the same time as a consequence of a taxpayer's death, this section and paragraph (a) of the definition ***cost amount*** in subsection 248(1) apply as if each property so disposed of were separately disposed of in the order designated by the taxpayer's legal representative or, in the case of a trust described in subsection 70(9.1), by the trust and, where the taxpayer's legal representative or the trust, as the case may be, does not designate an order, in the order designated by the Minister.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 70; 1994, c. 7, Sch. II, s. 48, Sch. VIII, s.

Application du par. 138(12)

(11) Les définitions figurant au paragraphe 138(12) s'appliquent au présent article.

Valeur du compte de stabilisation du revenu net

(12) Pour l'application de la définition de ***action du capital-actions d'une société agricole ou de pêche familiale*** au paragraphe (10), la juste valeur marchande du compte de stabilisation du revenu net est réputée nulle.

Coût en capital de certains biens amortissables

(13) Pour l'application du présent article et, en cas d'application d'une disposition du présent article, à l'exception du présent paragraphe, pour l'application des articles 13 et 20, mais non des dispositions réglementaires prises en application de l'alinéa 20(1)a):

a) le coût en capital, pour un contribuable, d'un bien amortissable d'une catégorie prescrite dont il a été disposé immédiatement avant son décès,

b) le coût en capital, pour une fiducie à laquelle le paragraphe (9.1) s'applique, d'un bien amortissable d'une catégorie prescrite dont il a été disposé immédiatement avant le décès de l'époux ou conjoint de fait visé à ce paragraphe,

correspondent, pour ce qui est des biens dont le contribuable ou la fiducie n'ont pas disposé avant ce moment, aux montants qui seraient obtenus s'il n'était pas tenu compte, au paragraphe 13(7), des expressions « au moindre des » à l'alinéa b) et « du moindre des » à la division d)(i)(A) ni du sous-alinéa b)(ii), de la subdivision d)(i) (A)(II), de la division d)(i)(B) et de l'alinéa e).

Ordre de disposition de biens amortissables

(14) Lorsqu'il est disposé simultanément d'au moins deux biens amortissables d'une catégorie prescrite par suite du décès d'un contribuable, le présent article et l'alinéa a) de la définition de ***coût indiqué*** au paragraphe 248(1) s'appliquent comme s'il avait été disposé de chaque bien séparément dans l'ordre indiqué par le représentant légal du contribuable ou, dans le cas d'une fiducie visée au paragraphe (9.1), par cette fiducie. À défaut d'indication par le représentant légal ou la fiducie, l'ordre est fixé par le ministre.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 70; 1994, ch. 7, ann. II, art. 48, ann. VIII, art. 28, ch. 21, art. 33; 1995, ch. 3, art. 18; 1996, ch. 21,

28, c. 21, s. 33; 1995, c. 3, s. 18; 1996, c. 21, s. 14; 1998, c. 19, s. 108; 2000, c. 12, s. 142; 2001, c. 17, ss. 52, 208(E); 2002, c. 9, s. 27; 2007, c. 2, s. 10; 2010, c. 25, s. 13; 2013, c. 34, s. 209, c. 40, s. 34; 2014, c. 39, s. 13; 2016, c. 12, s. 20.

art. 14; 1998, ch. 19, art. 108; 2000, ch. 12, art. 142; 2001, ch. 17, art. 52 et 208(A); 2002, ch. 9, art. 27; 2007, ch. 2, art. 10; 2010, ch. 25, art. 13; 2013, ch. 34, art. 209, ch. 40, art. 34; 2014, ch. 39, art. 13; 2016, ch. 12, art. 20.

Reserves, etc., for year of death

72 (1) Where in a taxation year a taxpayer has died,

(a) paragraph 20(1)(n) does not apply to allow, in computing the income of the taxpayer for the year from a business, the deduction of any amount as a reserve in respect of property sold in the course of the business;

(b) no amount is deductible under subsection 32(1) as a reserve in respect of unearned commissions in computing the taxpayer's income for the year;

(c) no amount may be claimed under subparagraph 40(1)(a)(iii), paragraph 40(1.01)(c) or subparagraph 44(1)(e)(iii) in computing any gain of the taxpayer for the year;

(d) subsection 64(1) does not apply to allow, in computing the income of the taxpayer for the year, the deduction of any amount as a reserve in respect of the disposition of any property; and

(e) subsection 64(1.1) does not apply to allow, in computing the income of the taxpayer for the year, the deduction of any amount as a reserve in respect of the disposition of any property.

Provisions, etc. pour l'année du décès

72 (1) Lorsque, au cours d'une année d'imposition, un contribuable est décédé :

a) l'alinéa 20(1)n) n'autorise pas, dans le calcul du revenu du contribuable pour l'année, tiré d'une entreprise, la déduction d'une somme à titre de provision à l'égard du bien vendu dans le cours des activités de l'entreprise;

b) aucune somme n'est déductible en vertu du paragraphe 32(1) à titre de provision à l'égard de commissions non gagnées, dans le calcul de son revenu pour l'année;

c) aucun montant n'est déductible en application du sous-alinéa 40(1)a)(iii), de l'alinéa 40(1.01)c) ou du sous-alinéa 44(1)e)(iii) dans le calcul d'un gain du contribuable pour l'année;

d) le paragraphe 64(1) n'autorise pas, dans le calcul du revenu du contribuable pour l'année, la déduction d'une somme quelconque à titre de provision à l'égard de la disposition d'un bien;

e) le paragraphe 64(1.1) n'autorise pas, dans le calcul du revenu du contribuable pour l'année, la déduction d'une somme quelconque à titre de provision à l'égard de la disposition d'un bien.

Election by legal representative and transferee re reserves

(2) Where property of a taxpayer that is a right to receive any amount has, on or after the death of the taxpayer and as a consequence thereof, been transferred or distributed to the taxpayer's spouse or common-law partner described in paragraph 70(6)(a) or to a trust described in paragraph 70(6)(b) (in this subsection referred to as the "transferee"), if the taxpayer was resident in Canada immediately before the taxpayer's death and the taxpayer's legal representative and the transferee have executed jointly an election in respect of the property in prescribed form,

(a) any amount in respect of the property that would, but for paragraph 72(1)(a), (b), (d) or (e), as the case may be, have been deductible as a reserve in computing the taxpayer's income for the taxation year in which the taxpayer died shall,

(i) notwithstanding subsection 72(1), be deducted in computing the taxpayer's income for the taxation year in which the taxpayer died,

Choix par les représentants légaux et le bénéficiaire du transfert concernant les provisions

(2) Lorsqu'un bien d'un contribuable qui représente le droit de recevoir une somme a été, au moment du décès du contribuable ou postérieurement et par suite de ce décès, transféré ou distribué à son époux ou conjoint de fait visé à l'alinéa 70(6)a) ou à une fiducie visée à l'alinéa 70(6)b) (appelés « bénéficiaire du transfert » au présent paragraphe), que le contribuable résidait au Canada immédiatement avant son décès et que le représentant légal du contribuable et le bénéficiaire du transfert ont fait, à l'égard du bien, un choix conjoint selon le formulaire prescrit, les règles ci-après s'appliquent :

(a) toute somme relative au bien qui, sans l'alinéa (1)a), b), d) ou e), aurait été déductible à titre de provision dans le calcul du revenu du contribuable pour l'année d'imposition pendant laquelle il est décédé, est :

(i) malgré le paragraphe (1), déduite du revenu du contribuable pour l'année d'imposition pendant laquelle il est décédé,

(ii) be included in computing the transferee's income for the transferee's first taxation year ending after the death of the taxpayer, and

(iii) be deemed to be

(A) an amount that has been included in computing the transferee's income from a business for a previous year in respect of property sold in the course of the business,

(B) an amount that has been included in computing the transferee's income for a previous year as a commission in respect of an insurance contract, other than a life insurance contract,

(C) an amount that by virtue of subsection 59(1) has been included in computing the transferee's income for a preceding taxation year, or

(D) for the purposes of subsection 64(1.1), an amount that by virtue of paragraph 59(3.2)(c) has been included in computing the transferee's income for a preceding taxation year and to be an amount deducted by the transferee pursuant to paragraph 64(1.1)(a) in computing the transferee's income for the transferee's last taxation year ending before the death,

as the case may be;

(b) any amount in respect of the property that could, but for paragraph 72(1)(c), have been claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing the amount of any gain of the taxpayer for the year shall,

(i) notwithstanding paragraph 72(1)(c), be deemed to have been so claimed, and

(ii) for the purpose of computing the transferee's income for the transferee's first taxation year ending after the death of the taxpayer and any subsequent taxation year, be deemed to have been

(A) proceeds of the disposition of capital property disposed of by the transferee in that first taxation year, and

(B) the amount determined under subparagraph 40(1)(a)(i) or 44(1)(e)(i), as the case may be, in respect of the capital property referred to in clause (A); and

(c) notwithstanding paragraphs 72(2)(a) (b), where any property had been disposed of by the taxpayer, in

(ii) incluse dans le calcul du revenu du bénéficiaire du transfert pour sa première année d'imposition se terminant après le décès du contribuable,

(iii) réputée être, selon le cas :

(A) une somme qui a été incluse dans le calcul du revenu du bénéficiaire du transfert, tiré d'une entreprise, pour une année antérieure, à l'égard du bien vendu dans le cours des activités de l'entreprise,

(B) une somme qui a été incluse dans le calcul du revenu du bénéficiaire du transfert pour une année antérieure à titre de commission relative à un contrat d'assurance autre qu'un contrat d'assurance-vie,

(C) une somme qui, en vertu du paragraphe 59(1), a été incluse dans le calcul du revenu du bénéficiaire du transfert pour une année d'imposition antérieure,

(D) pour l'application du paragraphe 64(1.1), une somme qui, en vertu de l'alinéa 59(3.2)c), a été incluse dans le calcul du revenu du bénéficiaire du transfert pour une année d'imposition antérieure, et une somme que le bénéficiaire du transfert a déduite en vertu de l'alinéa 64(1.1)a) dans le calcul de son revenu pour sa dernière année d'imposition se terminant avant son décès;

b) toute somme relative au bien qui, sans l'alinéa (1) c), aurait pu être déduite en application des sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii) dans le calcul d'un gain du contribuable pour l'année est :

(i) malgré l'alinéa (1)c), réputée avoir été ainsi demandée,

(ii) pour le calcul du revenu du bénéficiaire du transfert pour sa première année d'imposition se terminant après le décès du contribuable et pour toute année d'imposition ultérieure, réputée avoir été :

(A) le produit de disposition de l'immobilisation dont il a disposé au cours de cette première année d'imposition,

(B) la somme déterminée en application des sous-alinéas 40(1)a)(i) ou 44(1)e)(i) à l'égard de l'immobilisation mentionnée à la division (A);

computing the income of the transferee for any taxation year ending after the death of the taxpayer,

(i) the amount of the transferee's deduction under paragraph 20(1)(n) as a reserve in respect of the property sold in the course of business,

(ii) the amount of the transferee's claim under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in respect of the disposition of the property, and

(iii) the amount of the transferee's deduction under section 64 as a reserve in respect of the disposition of the property

shall be computed as if the transferee were the taxpayer who had disposed of the property and as if the property were disposed of by the transferee at the time it was disposed of by the taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 72; 1994, c. 7, Sch. II, s. 49; 1998, c. 19, s. 12; 2000, c. 12, s. 142; 2013, c. 34, s. 210(F).

c) malgré les alinéas a) et b), lorsque le contribuable a disposé d'un bien quelconque, dans le calcul du revenu du bénéficiaire du transfert pour toute année d'imposition se terminant après le décès du contribuable :

(i) le montant de sa déduction en vertu de l'alinéa 20(1)n) à titre de provision à l'égard du bien vendu dans le cours des activités d'une entreprise,

(ii) le montant de sa déduction en application des sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii) à l'égard de la disposition du bien,

(iii) le montant de sa déduction en vertu de l'article 64 à titre de provision à l'égard de la disposition du bien,

sont calculés comme si le bénéficiaire du transfert était le contribuable qui avait disposé du bien et comme si le bénéficiaire du transfert avait disposé du bien au moment où le contribuable en avait disposé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 72; 1994, ch. 7, ann. II, art. 49; 1998, ch. 19, art. 12; 2000, ch. 12, art. 142; 2013, ch. 34, art. 210(F).

Inter vivos transfers by individuals

73 (1) For the purposes of this Part, where at any time any particular capital property of an individual (other than a trust) has been transferred in circumstances to which subsection (1.01) applies and both the individual and the transferee are resident in Canada at that time, unless the individual elects in the individual's return of income under this Part for the taxation year in which the property was transferred that the provisions of this subsection not apply, the particular property is deemed

(a) to have been disposed of at that time by the individual for proceeds equal to,

(i) where the particular property is depreciable property of a prescribed class, that proportion of the undepreciated capital cost to the individual immediately before that time of all property of that class that the fair market value immediately before that time of the particular property is of the fair market value immediately before that time of all of that property of that class, and

(ii) in any other case, the adjusted cost base to the individual of the particular property immediately before that time; and

(b) to have been acquired at that time by the transferee for an amount equal to those proceeds.

Transfert de biens entre vifs par un particulier

73 (1) Pour l'application de la présente partie, lorsque l'immobilisation d'un particulier (sauf une fiducie) a été transférée dans les circonstances visées au paragraphe (1.01) et que le particulier et le cessionnaire résident au Canada au moment du transfert, à moins que le particulier ne choisisse, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition du transfert, de soustraire l'immobilisation à l'application du présent paragraphe, celle-ci est réputée :

a) d'une part, avoir fait l'objet d'une disposition par le particulier au moment du transfert, pour un produit égal au montant suivant :

(i) si l'immobilisation est un bien amortissable d'une catégorie prescrite, le produit de la multiplication de la fraction non amortie du coût en capital pour le particulier, immédiatement avant ce moment, des biens de cette catégorie par le rapport entre la juste valeur marchande, immédiatement avant ce moment, de l'immobilisation et la juste valeur marchande, immédiatement avant ce moment, de l'ensemble des biens de cette catégorie,

(ii) dans les autres cas, le prix de base rajusté, pour le particulier, de l'immobilisation immédiatement avant ce moment;

b) d'autre part, avoir été acquise par le cessionnaire à ce moment, pour un montant égal à ce produit.

Qualifying transfers

(1.01) Subject to subsection (1.02), property is transferred by an individual in circumstances to which this subsection applies where it is transferred to

(a) the individual's spouse or common-law partner;

(b) a former spouse or common-law partner of the individual in settlement of rights arising out of their marriage or common-law partnership; or

(c) a trust created by the individual under which

(i) the individual's spouse or common-law partner is entitled to receive all of the income of the trust that arises before the spouse's or common-law partner's death and no person except the spouse or common-law partner may, before the spouse's or common-law partner's death, receive or otherwise obtain the use of any of the income or capital of the trust,

(ii) the individual is entitled to receive all of the income of the trust that arises before the individual's death and no person except the individual may, before the individual's death, receive or otherwise obtain the use of any of the income or capital of the trust, or

(iii) either

(A) the individual or the individual's spouse is, in combination with the other, entitled to receive all of the income of the trust that arises before the later of the death of the individual and the death of the spouse and no other person may, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust, or

(B) the individual or the individual's common-law partner is, in combination with the other, entitled to receive all of the income of the trust that arises before the later of the death of the individual and the death of the common-law partner and no other person may, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust.

Exception for transfers

(1.02) Subsection (1.01) applies to a transfer of property by an individual to a trust the terms of which satisfy the conditions in subparagraph (1.01)(c)(ii) or (iii) only where

(a) the trust was created after 1999;

Transferts admissibles

(1.01) Sous réserve du paragraphe (1.02), un bien est transféré par un particulier dans les circonstances visées au présent paragraphe s'il est transféré à l'une des personnes suivantes :

a) l'époux ou le conjoint de fait du particulier;

b) l'ex-époux ou l'ancien conjoint de fait du particulier, en règlement de droits découlant de leur mariage ou union de fait;

c) une fiducie établie par le particulier, dans le cadre de laquelle, selon le cas :

(i) l'époux ou le conjoint de fait du particulier a le droit de recevoir sa vie durant tous les revenus de la fiducie, et nulle autre personne que l'époux ou le conjoint de fait ne peut, avant le décès de celui-ci, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage,

(ii) le particulier a le droit de recevoir sa vie durant tous les revenus de la fiducie, et nulle autre personne que lui ne peut, avant le décès de celui-ci, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage,

(iii) selon le cas :

(A) le particulier et son époux ont tous deux le droit de recevoir leur vie durant tous les revenus de la fiducie, et nulle autre personne ne peut, avant le décès du particulier ou, s'il est postérieur, le décès de l'époux, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage,

(B) le particulier et son conjoint de fait ont tous deux le droit de recevoir leur vie durant tous les revenus de la fiducie, et nulle autre personne ne peut, avant le décès du particulier ou, s'il est postérieur, le décès du conjoint de fait, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage.

Exception

(1.02) Le paragraphe (1.01) ne s'applique au transfert d'un bien par un particulier à une fiducie dont les modalités remplissent les conditions énoncées aux sous-alinéas (1.01)c)(ii) ou (iii) que si les conditions suivantes sont réunies :

(b) either

(i) the individual had attained 65 years of age at the time the trust was created, or

(ii) the transfer does not result in a change in beneficial ownership of the property and there is immediately after the transfer no absolute or contingent right of a person (other than the individual) or partnership as a beneficiary (determined with reference to subsection 104(1.1)) under the trust; and

(c) in the case of a trust the terms of which satisfy the conditions in subparagraph (1.01)(c)(ii), the trust does not make an election under subparagraph 104(4)(a)(ii.1).

a) la fiducie a été établie après 1999;

b) selon le cas :

(i) le particulier avait atteint l'âge de 65 ans au moment de l'établissement de la fiducie,

(ii) le transfert n'a pas pour effet de changer la propriété effective du bien et, immédiatement après le transfert, aucune personne (sauf le particulier) ni société de personnes n'a de droit absolu ou conditionnel à titre de bénéficiaire de la fiducie (déterminé par rapport au paragraphe 104(1.1));

c) dans le cas d'une fiducie dont les modalités remplissent les conditions énoncées au sous-alinéa (1.01)c)(ii), la fiducie ne fait pas le choix prévu au sous-alinéa 104(4)a)(ii.1).

Interpretation

(1.1) For greater certainty, a property is, for the purposes of subsections (1) and (1.01), deemed to be property of the individual referred to in subsection (1) that has been transferred to a particular transferee where,

(a) under the laws of a province or because of a decree, order or judgment of a competent tribunal made in accordance with those laws, the property

(i) is acquired or is deemed to have been acquired by the particular transferee,

(ii) is deemed or declared to be property of, or is awarded to, the particular transferee, or

(iii) has vested in the particular transferee; and

(b) the property was or would, but for those laws, have been a capital property of the individual referred to in subsection (1).

Interprétation

(1.1) Il est entendu qu'un bien est réputé, pour l'application des paragraphes (1) et (1.01), être un bien du particulier mentionné au paragraphe (1) qui a été transféré à un cessionnaire si les conditions suivantes sont réunies :

a) en vertu des lois d'une province ou par l'effet d'une ordonnance ou d'un jugement rendu par un tribunal compétent en conformité avec ces lois, le bien, selon le cas :

(i) est acquis ou réputé avoir été acquis par le cessionnaire,

(ii) est réputé ou déclaré être la propriété du cessionnaire, ou lui a été accordé,

(iii) est dévolu au cessionnaire;

b) le bien est une immobilisation du particulier mentionné au paragraphe (1), ou l'aurait été en l'absence des lois en question.

Capital cost and amount deemed allowed to spouse, etc., or trust

(2) If a transferee is deemed by subsection (1) to have acquired any particular depreciable property of a prescribed class of a taxpayer for an amount determined under paragraph (1)(b) and the capital cost to the taxpayer of the particular property exceeds the amount determined under that paragraph, in applying sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(a) the capital cost to the transferee of the particular property is deemed to be the amount that was the capital cost to the taxpayer of the particular property; and

Coût en capital et sommes réputées accordées au bénéficiaire du transfert

(2) Si un cessionnaire est réputé, en vertu du paragraphe (1), avoir acquis un bien amortissable d'une catégorie prescrite, appartenant à un contribuable, pour la somme déterminée selon l'alinéa (1)b) et que le coût en capital du bien pour le contribuable excède cette somme, les règles ci-après s'appliquent aux articles 13 et 20 et ainsi qu'aux dispositions réglementaires prises en application de l'alinéa 20(1)a) :

a) le coût en capital du bien pour le cessionnaire est réputé être égal au montant qui en était le coût en capital pour le contribuable;

(b) the excess is deemed to have been allowed to the transferee in respect of the particular property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition of the particular property.

b) l'excédent est réputé avoir été accordé au cessionnaire à titre de déduction relative au bien, selon les dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu pour les années d'imposition antérieures à l'acquisition du bien.

When subsection (3.1) applies

(3) Subsection (3.1) applies to a taxpayer and a child of the taxpayer in respect of property that has been transferred, at any time, by the taxpayer to the child, where

(a) the property was, before the transfer, land in Canada or depreciable property in Canada of a prescribed class, of the taxpayer;

(b) the child of the taxpayer was resident in Canada immediately before the transfer; and

(c) the property has been used principally in a farming or fishing business in which the taxpayer, the taxpayer's spouse or common-law partner, a child of the taxpayer or a parent of the taxpayer was actively engaged on a regular and continuous basis (or, in the case of property used in the operation of a woodlot, was engaged to the extent required by a prescribed forest management plan in respect of that woodlot).

Application du par. (3.1)

(3) Le paragraphe (3.1) s'applique à un contribuable et à son enfant, relativement à un bien que le contribuable a transféré à l'enfant, si les conditions suivantes sont réunies :

a) avant le transfert, le bien était un fonds de terre, ou un bien amortissable d'une catégorie prescrite du contribuable, situé au Canada;

b) l'enfant du contribuable résidait au Canada immédiatement avant le transfert;

c) le bien a été utilisé principalement dans le cadre d'une entreprise agricole ou de pêche dans laquelle le contribuable ou son époux ou conjoint de fait, son enfant, son père ou sa mère soit prenait une part active de façon régulière et continue, soit, s'il s'agit d'un bien utilisé dans le cadre de l'exploitation d'une terre à bois, prenait part dans la mesure requise par un plan d'aménagement forestier visé par règlement relativement à cette terre.

Inter vivos transfer of farm or fishing property to child

(3.1) If, because of subsection (3), this subsection applies to the taxpayer and a child of the taxpayer in respect of a property transferred by the taxpayer to the child of the taxpayer, the following rules apply:

(a) where, immediately before the transfer, the property was depreciable property of a prescribed class, the taxpayer is deemed to have disposed of the property, at the time of the transfer, for proceeds of disposition equal to

(i) in any case to which neither subparagraph (ii) nor (iii) applies, the taxpayer's proceeds of disposition otherwise determined,

(ii) the greater of the amounts referred to in clauses (A) and (B), if the taxpayer's proceeds of disposition otherwise determined exceed the greater of

(A) the fair market value of the property immediately before the time of the transfer, and

(B) the lesser of

Transfert entre vifs de biens agricoles ou de pêche à un enfant

(3.1) Si, par l'effet du paragraphe (3), le présent paragraphe s'applique au contribuable et à son enfant relativement à un bien que le contribuable a transféré à l'enfant, les règles suivantes s'appliquent :

a) si, immédiatement avant le transfert, le bien était un bien amortissable d'une catégorie prescrite, le contribuable est réputé en avoir disposé au moment du transfert pour un produit de disposition égal à celle des sommes suivantes qui est applicable :

(i) si les sous-alinéas (ii) et (iii) ne s'appliquent pas, le produit de disposition du bien pour le contribuable, déterminé par ailleurs,

(ii) la plus élevée des sommes visées aux divisions (A) et (B), si le produit de disposition du bien pour le contribuable, déterminé par ailleurs, excède la plus élevée des sommes suivantes :

(A) la juste valeur marchande du bien immédiatement avant le moment du transfert,

(B) la moins élevée des sommes suivantes :

(I) the capital cost to the taxpayer of the property, and

(II) the amount, determined immediately before the time of the disposition of the property, that is that proportion of the undepreciated capital cost of property of that class to the taxpayer that the capital cost to the taxpayer of the property is of the capital cost to the taxpayer of all property of that class that had not, at or before that time, been disposed of, or

(iii) if the taxpayer's proceeds of disposition otherwise determined are less than the lesser of the amounts referred to in clauses (ii)(A) and (B), the lesser of those amounts;

(b) where the property transferred was land, the taxpayer is deemed to have disposed of the property at the time of the transfer for proceeds of disposition equal to,

(i) in any case to which neither subparagraph (ii) nor (iii) applies, the taxpayer's proceeds of disposition otherwise determined,

(ii) the greater of the amounts referred to in clauses (A) and (B), if the taxpayer's proceeds of disposition otherwise determined exceed the greater of

(A) the fair market value of the land immediately before the time of the transfer, and

(B) the adjusted cost base to the taxpayer of the land immediately before the time of the transfer, or

(iii) if the taxpayer's proceeds of disposition otherwise determined are less than the lesser of the amounts referred to in clauses (ii)(A) and (B), the lesser of those amounts;

(c) [Repealed, 2016, c. 12, s. 21]

(d) subsection 69(1) does not apply to the taxpayer and the child in respect of the property;

(e) the child is deemed to have acquired the property at a cost equal to the taxpayer's proceeds of disposition in respect of the disposition of the property determined under

(i) where the property is depreciable property of the taxpayer, paragraph (a), and

(ii) where the property is land of the taxpayer, paragraph (b); and

(I) le coût en capital du bien pour le contribuable,

(II) la somme, déterminée immédiatement avant le moment de la disposition du bien, qui correspond à la proportion de la fraction non amortie du coût en capital des biens de cette catégorie pour le contribuable que représente le coût en capital du bien pour lui par rapport au coût en capital, pour lui, de l'ensemble des biens de cette catégorie dont il n'avait pas été disposé à ce moment ou antérieurement,

(iii) si le produit de disposition du bien pour le contribuable, déterminé par ailleurs, est inférieur à la moins élevée des sommes visées aux divisions (ii)(A) et (B), la moins élevée de ces sommes;

b) si le bien transféré était un fonds de terre, le contribuable est réputé en avoir disposé au moment du transfert pour un produit de disposition égal à celle des sommes suivantes qui est applicable :

(i) si les sous-alinéas (ii) et (iii) ne s'appliquent pas, le produit de disposition du bien pour le contribuable, déterminé par ailleurs,

(ii) si le produit de disposition du bien pour le contribuable, déterminé par ailleurs, excède la plus élevée des sommes ci-après, la plus élevée de ces sommes :

(A) la juste valeur marchande du fonds de terre immédiatement avant le moment du transfert,

(B) le prix de base rajusté du fonds de terre pour le contribuable immédiatement avant le moment du transfert,

(iii) si le produit de disposition du bien pour le contribuable, déterminé par ailleurs, est inférieur à la moins élevée des sommes visées aux divisions (ii)(A) et (B), la moins élevée de ces sommes;

c) [Abrogé, 2016, ch. 12, art. 21]

d) le paragraphe 69(1) ne s'applique pas au contribuable ni à l'enfant relativement au bien;

e) l'enfant est réputé avoir acquis le bien à un coût égal au produit de disposition que le contribuable est réputé avoir reçu au titre de la disposition du bien, déterminé :

(i) selon l'alinéa a), s'il s'agit d'un bien amortissable du contribuable,

(f) and (g) [Repealed, 2016, c. 12, s. 21]

(h) where the property is depreciable property of a prescribed class of the taxpayer and the capital cost to the taxpayer of the property exceeds the cost to the child of the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) the capital cost to the child of the property is deemed to be the amount that was the capital cost to the taxpayer of the property immediately before the transfer, and

(ii) the excess is deemed to have been allowed to the child in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years that ended before the the child acquired the property.

(ii) selon l'alinéa b), s'il s'agit d'un fonds de terre du contribuable;

f) et g) [Abrogés, 2016, ch. 12, art. 21]

h) si le bien est un bien amortissable d'une catégorie prescrite du contribuable et que son coût en capital pour le contribuable excède son coût pour l'enfant, pour l'application des articles 13 et 20 et de toute disposition réglementaire prise pour l'application de l'alinéa 20(1)a) :

(i) le coût en capital du bien pour l'enfant est réputé correspondre à la somme qui correspondait au coût en capital du bien pour le contribuable immédiatement avant le transfert,

(ii) l'excédent est réputé avoir été accordé à l'enfant relativement au bien en vertu des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) dans le calcul du revenu pour les années d'imposition s'étant terminées avant l'acquisition du bien par l'enfant.

When subsection (4.1) applies

(4) Subsection (4.1) applies to a taxpayer and a child of the taxpayer in respect of property that has been transferred, at any time, to the child if

(a) the child was resident in Canada immediately before the transfer; and

(b) the property was, immediately before the transfer, a share of the capital stock of a family farm or fishing corporation of the taxpayer or an interest in a family farm or fishing partnership of the taxpayer (as defined in subsection 70(10)).

Inter vivos transfer of family farm or fishing corporations and partnerships

(4.1) If, because of subsection (4), this subsection applies to the taxpayer and the taxpayer's child in respect of the transfer of the property by the taxpayer to the child,

(a) subject to paragraph (c), where the property was, immediately before the transfer, a share of the capital stock of a family farm or fishing corporation of the taxpayer or an interest in a family farm or fishing partnership of the taxpayer, the taxpayer is deemed to have disposed of the property at the time of the transfer for proceeds of disposition equal to,

(i) in any case to which neither subparagraph (ii) nor (iii) applies, the taxpayer's proceeds of disposition otherwise determined,

Application du par. (4.1)

(4) Le paragraphe (4.1) s'applique à un contribuable et à son enfant, relativement à un bien qui a été transféré à l'enfant, si les conditions suivantes sont réunies :

a) l'enfant résidait au Canada immédiatement avant le transfert;

b) le bien était, immédiatement avant le transfert, une action du capital-actions d'une société agricole ou de pêche familiale du contribuable ou une participation dans une société de personnes agricole ou de pêche familiale du contribuable, au sens du paragraphe 70(10).

Transfert entre vifs de sociétés et sociétés de personnes agricoles ou de pêche familiales

(4.1) Si, par l'effet du paragraphe (4), le présent paragraphe s'applique au contribuable et à son enfant relativement au transfert d'un bien effectué par le contribuable à l'enfant, les règles suivantes s'appliquent :

a) sous réserve de l'alinéa c), si le bien était, immédiatement avant le transfert, une action du capital-actions d'une société agricole ou de pêche familiale du contribuable ou une participation dans une société de personnes agricole ou de pêche familiale du contribuable, celui-ci est réputé en avoir disposé au moment du transfert pour un produit de disposition égal à celle des sommes ci-après qui est applicable :

(ii) the greater of the amounts referred to in clauses (A) and (B), if the taxpayer's proceeds of disposition otherwise determined exceed the greater of

(A) the fair market value of the property immediately before the time of the transfer, and

(B) the adjusted cost base to the taxpayer of the property immediately before the time of the transfer, or

(iii) if the taxpayer's proceeds of disposition otherwise determined are less than the lesser of the amounts referred to in clauses (ii)(A) and (B), the lesser of those amounts;

(b) subject to paragraph (c), where the property is, immediately before the transfer, a share of the capital stock of a family farm or fishing corporation of the taxpayer or an interest in a family farm or fishing partnership of the taxpayer, the child is deemed to have acquired the property for an amount equal to the taxpayer's proceeds of disposition in respect of the disposition of the property determined under paragraph (a);

(c) where the property is, immediately before the transfer, an interest in a family farm or fishing partnership of the taxpayer (other than a partnership interest to which subsection 100(3) applies), the taxpayer receives no consideration in respect of the transfer of the property and the taxpayer elects, in the taxpayer's return of income under this Part for the taxation year which includes the time of the transfer, to have this paragraph apply in respect of the transfer of the property,

(i) the taxpayer is, except for the purpose of paragraph 98(5)(g), deemed not to have disposed of the property at the time of the transfer,

(ii) the child is deemed to have acquired the property at the time of the transfer at a cost equal to the cost to the taxpayer of the interest immediately before the transfer, and

(iii) each amount required by subsection 53(1) or (2) to be added or deducted in computing the adjusted cost base to the taxpayer, immediately before the transfer, of the property is deemed to be an amount required by subsection 53(1) or (2) to be added or deducted in computing at any time at or after the time of the transfer, the adjusted cost base to the child of the property; and

(d) subsection 69(1) does not apply to the taxpayer and the child in respect of the property.

(i) si les sous-alinéas (ii) et (iii) ne s'appliquent pas, le produit de disposition du bien pour le contribuable, déterminé par ailleurs,

(ii) la plus élevée des sommes visées aux divisions (A) et (B), si le produit de disposition du bien pour le contribuable, déterminé par ailleurs, excède la plus élevée des sommes suivantes :

(A) la juste valeur marchande du bien immédiatement avant le moment du transfert,

(B) le prix de base rajusté du bien pour le contribuable immédiatement avant le moment du transfert,

(iii) si le produit de disposition du bien pour le contribuable, déterminé par ailleurs, est inférieur à la moins élevée des sommes visées aux divisions (ii)(A) et (B), la moins élevée de ces sommes;

b) sous réserve de l'alinéa c), si le bien était, immédiatement avant le transfert, une action du capital-actions d'une société agricole ou de pêche familiale du contribuable ou une participation dans une société de personnes agricole ou de pêche familiale du contribuable, l'enfant est réputé l'avoir acquis pour une somme égale au produit de disposition que le contribuable est réputé avoir reçu au titre de la disposition du bien, déterminé selon l'alinéa a);

c) si le bien était, immédiatement avant le transfert, une participation dans une société de personnes agricole ou de pêche familiale du contribuable (sauf une participation à laquelle le paragraphe 100(3) s'applique), que le contribuable ne reçoit aucune contrepartie relativement au transfert du bien et qu'il fait un choix, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition qui comprend le moment du transfert, afin que le présent alinéa s'applique relativement au transfert du bien :

(i) le contribuable est réputé, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir disposé du bien au moment du transfert,

(ii) l'enfant est réputé avoir acquis le bien au moment du transfert à un coût égal au coût de la participation pour le contribuable immédiatement avant le moment du transfert,

(iii) chaque somme à ajouter ou à déduire, en application des paragraphes 53(1) ou (2), dans le calcul du prix de base rajusté du bien pour le contribuable, immédiatement avant le transfert, est réputée être une somme à ajouter ou à déduire, en application de ces paragraphes, dans le calcul, au

moment du transfert ou à tout moment postérieur, du prix de base rajusté du bien pour l'enfant;

d) le paragraphe 69(1) ne s'applique pas au contribuable ni à l'enfant relativement au bien.

Disposition of a NISA

(5) Where at any time a taxpayer disposes of an interest in the taxpayer's NISA Fund No. 2, an amount equal to the balance in the fund so disposed of shall be deemed to have been paid out of the fund at that time to the taxpayer except that,

(a) where the interest is disposed of to the taxpayer's spouse or common-law partner, former spouse or common-law partner or an individual referred to in paragraph 73(1)(d) (as it applies to transfers of property that occurred before 1993) in settlement of rights arising out of their marriage or common-law partnership, on or after the breakdown of the marriage or common-law partnership, that amount shall not be deemed to have been paid to the taxpayer if

(i) the disposition is made under a decree, order or judgment of a competent tribunal or, in the case of a spouse or common-law partner or former spouse or common- law partner, a written separation agreement, and

(ii) the taxpayer elects in the taxpayer's return of income under this Part for the taxation year in which the property was disposed of to have this paragraph apply to the disposition; and

(b) where the interest is disposed of to a taxable Canadian corporation in a transaction in respect of which an election is made under section 85, an amount equal to the proceeds of disposition in respect of that interest shall be deemed to be paid, at that time, to the taxpayer out of the taxpayer's NISA Fund No. 2.

Disposition d'un compte de stabilisation du revenu net

(5) Lorsqu'un contribuable dispose, à un moment donné, d'un droit dans son second fonds du compte de stabilisation du revenu net, un montant égal au solde du fonds dont il est ainsi disposé est réputé lui avoir été payé sur le fonds à ce moment. Toutefois :

a) lorsque le contribuable dispose du droit en faveur de son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait ou d'un particulier visé à l'alinéa (1)d) (tel qu'il s'applique aux transferts de biens effectués avant 1993) en règlement, après échec de leur mariage ou union de fait, des droits découlant du mariage ou union de fait, ce montant n'est pas réputé avoir été payé au contribuable si, à la fois :

(i) la disposition fait suite à une ordonnance ou un jugement rendus par un tribunal compétent ou, lorsque la disposition est effectuée en faveur de l'époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait, à un accord écrit de séparation,

(ii) le contribuable fait un choix dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition de la disposition pour que le présent alinéa s'applique à la disposition;

b) lorsque le contribuable dispose du droit en faveur d'une société canadienne imposable dans le cadre d'une opération à l'égard de laquelle le choix prévu à l'article 85 est fait, un montant égal au produit de disposition du droit est réputé avoir été payé au contribuable à ce moment sur son second fonds du compte de stabilisation du revenu net.

Application of s. 70(10)

(6) The definitions in subsection 70(10) apply to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 73; 1994, c. 7, Sch. II, s. 50, Sch. VIII, s. 29, c. 21, s. 34; 1995, c. 3, s. 19; 2000, c. 12, s. 142; 2001, c. 17, s. 53; 2002, c. 9, s. 28; 2007, c. 2, s. 11; 2013, c. 34, s. 211; 2014, c. 39, s. 14; 2016, c. 12, s. 21.

Application du par. 70(10)

(6) Les définitions figurant au paragraphe 70(10) s'appliquent au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 73; 1994, ch. 7, ann. II, art. 50, ann. VIII, art. 29, ch. 21, art. 34; 1995, ch. 3, art. 19; 2000 ch. 12, art. 142; 2001, ch. 17, art. 53; 2002, ch. 9, art. 28; 2007, ch. 2, art. 11; 2013, ch. 34, art. 211; 2014, ch. 39, art. 14; 2016, ch. 12, art. 21.

Transfers and loans to spouse or common-law partner

74.1 (1) If an individual has transferred or lent property (otherwise than by an assignment of any portion of a retirement pension under section 65.1 of the *Canada Pension Plan* or a comparable provision of a provincial pension plan as defined in section 3 of that Act), either

Transfert ou prêt à l'époux ou au conjoint de fait

74.1 (1) Dans le cas où un particulier prête ou transfère un bien — sauf par la cession d'une partie d'une pension de retraite conformément à l'article 65.1 du *Régime de pensions du Canada* ou à une disposition comparable d'un régime provincial de pensions au sens de l'article 3

directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person who is the individual's spouse or common-law partner or who has since become the individual's spouse or common-law partner, any income or loss, as the case may be, of that person for a taxation year from the property or from property substituted therefor, that relates to the period in the year throughout which the individual is resident in Canada and that person is the individual's spouse or common-law partner, is deemed to be income or a loss, as the case may be, of the individual for the year and not of that person.

de cette loi —, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne qui est son époux ou conjoint de fait ou qui le devient par la suite ou au profit de cette personne, le revenu ou la perte de cette personne pour une année d'imposition provenant du bien ou d'un bien y substitué et qui se rapporte à la période de l'année tout au long de laquelle le particulier réside au Canada et tout au long de laquelle cette personne est son époux ou conjoint de fait est réputé être un revenu ou une perte, selon le cas, du particulier pour l'année et non de cette personne.

Transfers and loans to minors

(2) If an individual has transferred or lent property, either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person who was under 18 years of age (other than an amount received in respect of that person either as a consequence of the operation of subsection 122.61(1) or under section 4 of the *Universal Child Care Benefit Act*) and who

(a) does not deal with the individual at arm's length, or

(b) is the niece or nephew of the individual,

any income or loss, as the case may be, of that person for a taxation year from the property or from property substituted for that property, that relates to the period in the taxation year throughout which the individual is resident in Canada, is deemed to be income or a loss, as the case may be, of the individual and not of that person unless that person has, before the end of the taxation year, attained the age of 18 years.

Transfert ou prêt à un mineur

(2) Lorsqu'un particulier transfère ou prête un bien — directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen — à une personne de moins de 18 ans qui a un lien de dépendance avec le particulier ou qui est le neveu ou la nièce du particulier ou au profit de cette personne (sauf un montant reçu à l'égard de cette personne soit par suite de l'application du paragraphe 122.61(1), soit en application de l'article 4 de la *Loi sur la prestation universelle pour la garde d'enfants*), le revenu ou la perte de cette personne pour une année d'imposition provenant du bien ou d'un bien qui y est substitué et qui se rapporte à la période de l'année tout au long de laquelle le particulier réside au Canada est considéré comme un revenu ou une perte du particulier et non de cette personne, sauf si celle-ci atteint l'âge de 18 ans avant la fin de l'année.

Repayment of existing indebtedness

(3) For the purposes of subsections 74.1(1) and (2), where, at any time, an individual has lent or transferred property (in this subsection referred to as the "lent or transferred property") either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person, and the lent or transferred property or property substituted therefor is used

(a) to repay, in whole or in part, borrowed money with which other property was acquired, or

(b) to reduce an amount payable for other property,

there shall be included in computing the income from the lent or transferred property, or from property substituted therefor, that is so used, that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the fair market value at that time of the lent or transferred property, or property substituted therefor, that is

Remboursement d'une dette

(3) Pour l'application des paragraphes (1) et (2), lorsqu'un particulier, à un moment donné, prête ou transfère un bien — appelé « bien prêté ou transféré » au présent paragraphe —, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne ou au profit d'une personne et que le bien prêté ou transféré ou un bien y substitué est utilisé :

a) soit pour rembourser tout ou partie de l'argent emprunté et utilisé pour acquérir un autre bien;

b) soit pour réduire un montant payable pour un autre bien,

est inclus dans le calcul du revenu tiré du bien prêté ou transféré, ou du bien y substitué, ainsi utilisé le produit de la multiplication du revenu ou de la perte, dérivé après ce moment de l'autre bien ou du bien y substitué, par le rapport entre la juste valeur marchande à ce moment du bien prêté ou transféré ou du bien y substitué,

so used is of the cost to that person of the other property at the time of its acquisition, but for greater certainty nothing in this subsection shall affect the application of subsections 74.1(1) and (2) to any income or loss derived from the other property or from property substituted therefor.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 74.1; 1994, c. 7, Sch. VII, s. 4; 2000, c. 12, s. 142; 2007, c. 2, s. 12; 2011, c. 24, s. 16.

ainsi utilisé et le coût de l'autre bien pour cette personne au moment de son acquisition; il est entendu toutefois que le présent paragraphe n'a pas pour effet de modifier l'application des paragraphes (1) et (2) à un revenu ou une perte dérivé de l'autre bien ou du bien y substitué.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 74.1; 1994, ch. 7, ann. VII, art. 4; 2000, ch. 12, art. 142; 2007, ch. 2, art. 12; 2011, ch. 24, art. 16.

Gain or loss deemed that of lender or transferor

74.2 (1) Where an individual has lent or transferred property (in this section referred to as "lent or transferred property"), either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person (in this subsection referred to as the "recipient") who is the individual's spouse or common-law partner or who has since become the individual's spouse or common-law partner, the following rules apply for the purposes of computing the income of the individual and the recipient for a taxation year:

(a) the amount, if any, by which

(i) the total of the recipient's taxable capital gains for the year from dispositions of property (other than listed personal property) that is lent or transferred property or property substituted therefor occurring in the period (in this subsection referred to as the "attribution period") throughout which the individual is resident in Canada and the recipient is the individual's spouse or common-law partner

exceeds

(ii) the total of the recipient's allowable capital losses for the year from dispositions occurring in the attribution period of property (other than listed personal property) that is lent or transferred property or property substituted therefor

shall be deemed to be a taxable capital gain of the individual for the year from the disposition of property other than listed personal property;

(b) the amount, if any, by which the total determined under subparagraph 74.2(1)(a)(ii) exceeds the total determined under subparagraph 74.2(1)(a)(i) shall be deemed to be an allowable capital loss of the individual for the year from the disposition of property other than listed personal property;

(c) the amount, if any, by which

(i) the amount that the total of the recipient's gains for the year from dispositions occurring in the

Gain ou perte réputé du prêteur ou de l'auteur du transfert

74.2 (1) Lorsqu'un particulier prête ou transfère un bien — appelé « bien prêté ou transféré » au présent article —, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne — appelée « bénéficiaire » au présent paragraphe — qui est son époux ou conjoint de fait ou qui le devient par la suite ou au profit de cette personne, les règles suivantes s'appliquent au calcul du revenu du particulier et du bénéficiaire pour une année d'imposition :

a) est réputé être un gain en capital imposable réalisé par le particulier pour l'année sur la disposition d'un bien, à l'exclusion d'un bien meuble déterminé, l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des gains en capital imposables réalisés par le bénéficiaire pour l'année sur la disposition de biens (à l'exclusion de biens meubles déterminés) qui sont des biens prêtés ou transférés ou des biens y substitués, pendant la période — appelée « période d'attribution » au présent paragraphe — tout au long de laquelle le particulier réside au Canada et tout au long de laquelle le bénéficiaire est son époux ou conjoint de fait,

(ii) le total des pertes en capital déductibles subies par le bénéficiaire pour l'année à la disposition, effectuée pendant la période d'attribution, de biens (à l'exclusion de biens meubles déterminés) qui sont des biens prêtés ou transférés ou des biens y substitués;

b) est réputé être une perte en capital déductible subie par le particulier pour l'année à la disposition d'un bien, à l'exclusion d'un bien meuble déterminé, l'excédent éventuel du total visé au sous-alinéa a)(ii) sur le total visé au sous-alinéa a)(i);

c) est réputé être un gain réalisé par le particulier pour l'année sur la disposition d'un bien meuble déterminé l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

attribution period of listed personal property that is lent or transferred property or property substituted therefor would be if the recipient had at no time owned listed personal property other than listed personal property that was lent or transferred property or property substituted therefor

exceeds

(ii) the amount that the total of the recipient's losses for the year from dispositions of listed personal property that is lent or transferred property or property substituted therefor would be if the recipient had at no time owned listed personal property other than listed personal property that was lent or transferred property or property substituted therefor,

shall be deemed to be a gain of the individual for the year from the disposition of listed personal property;

(d) the amount, if any, by which the total determined under subparagraph 74.2(1)(c)(ii) exceeds the total determined under subparagraph 74.2(1)(c)(i) shall be deemed to be a loss of the individual for the year from the disposition of listed personal property; and

(e) any taxable capital gain or allowable capital loss or any gain or loss taken into account in computing an amount described in paragraph 74.2(1)(a), 74.2(1)(b), 74.2(1)(c) or 74.2(1)(d) shall, except for the purposes of those paragraphs and to the extent that the amount so described is deemed by virtue of this subsection to be a taxable capital gain or an allowable capital loss or a gain or loss of the individual, be deemed not to be a taxable capital gain or an allowable capital loss or a gain or loss, as the case may be, of the recipient.

(i) le montant qui représenterait le total des gains réalisés par le bénéficiaire pour l'année sur la disposition, effectuée pendant la période d'attribution, de biens meubles déterminés qui sont des biens prêtés ou transférés ou des biens y substitués, si le bénéficiaire n'avait, à aucun moment, été propriétaire de biens meubles déterminés autres que des biens meubles déterminés qui sont des biens prêtés ou transférés ou des biens y substitués,

(ii) le montant qui représenterait le total des pertes subies par le bénéficiaire pour l'année à la disposition de biens meubles déterminés qui sont des biens prêtés ou transférés ou des biens y substitués, si le bénéficiaire n'avait, à aucun moment, été propriétaire de biens meubles déterminés autres que des biens meubles déterminés qui sont des biens prêtés ou transférés ou des biens y substitués;

d) est réputé être une perte subie par le particulier pour l'année à la disposition d'un bien meuble déterminé l'excédent éventuel du montant visé au sous-alinéa c)(ii) sur le montant visé au sous-alinéa c)(i);

e) tout gain en capital imposable ou toute perte en capital déductible ou tout gain ou toute perte pris en compte dans le calcul d'un montant visé à l'alinéa a), b), c) ou d) est réputé ne pas être un gain en capital imposable, une perte en capital déductible, un gain ou une perte du bénéficiaire, sauf pour l'application de ces alinéas et dans la mesure où le montant ainsi visé est réputé, en application du présent paragraphe, être un gain en capital imposable, une perte en capital déductible, un gain ou une perte du particulier.

Deemed gain or loss

(2) Where an amount is deemed by subsection 74.2(1) or 75(2) or section 75.1 of this Act, or subsection 74(2) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, to be a taxable capital gain or an allowable capital loss of an individual for a taxation year,

(a) for the purposes of sections 3 and 111, as they apply for the purposes of section 110.6, such portion of the gain or loss as may reasonably be considered to relate to the disposition of a property by another person in the year shall be deemed to arise from the disposition of that property by the individual in the year; and

(b) for the purposes of section 110.6, that property shall be deemed to have been disposed of by the individual on the day on which it was disposed of by the other person.

Présomption de gain ou de perte

(2) Lorsqu'un montant est réputé, en application des paragraphes (1) ou 75(2) ou de l'article 75.1 de la présente loi ou du paragraphe 74(2) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, être un gain en capital imposable ou une perte en capital déductible d'un particulier pour une année d'imposition :

a) pour l'application des articles 3 et 111 dans le cadre de l'article 110.6, la partie du gain ou de la perte qu'il est raisonnable de considérer comme liée à la disposition d'un bien par une autre personne au cours de l'année est réputée provenir de la disposition du bien par le particulier au cours de l'année;

b) pour l'application de l'article 110.6, le particulier est réputé avoir disposé du bien le jour où l'autre personne en a disposé.

Election for subsection (1) to apply

(3) Subsection (1) does not apply to a disposition at any particular time (in this subsection referred to as the "emigration disposition") under paragraph 128.1(4)(b), by a taxpayer who is a recipient referred to in subsection (1), unless the recipient and the individual referred to in that subsection, in their returns of income for the taxation year that includes the first time, after the particular time, at which the recipient disposes of the property, jointly elect that subsection (1) apply to the emigration disposition.

Application of subsection (3)

(4) For the purpose of applying subsection (3) and notwithstanding subsections 152(4) to (5), any assessment of tax payable under this Act by the recipient or the individual referred to in subsection (1) shall be made that is necessary to take an election under subsection (3) into account except that no such assessment shall affect the computation of

(a) interest payable under this Act to or by a taxpayer in respect of any period that is before the taxpayer's filing-due date for the taxation year that includes the first time, after the particular time referred to in subsection (3), at which the recipient disposes of the property referred to in that subsection; or

(b) any penalty payable under this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 74.2; 1994, c. 7, Sch. II, s. 51; 1995, c. 3, s. 20; 2000, c. 12, s. 142; 2001, c. 17, s. 54.

Transfers or loans to a trust

74.3 (1) Where an individual has lent or transferred property (in this section referred to as "lent or transferred property"), either directly or indirectly, by means of a trust or by any other means whatever, to a trust in which another individual who is at any time a designated person in respect of the individual is beneficially interested at any time, the following rules apply:

(a) for the purposes of section 74.1, the income of the designated person for a taxation year from the lent or transferred property shall be deemed to be an amount equal to the lesser of

(i) the amount in respect of the trust that was included by virtue of paragraph 12(1)(m) in computing the income for the year of the designated person, and

(ii) that proportion of the amount that would be the income of the trust for the year from the lent or

Choix en vue de l'application du paragraphe (1)

(3) Le paragraphe (1) ne s'applique pas à la disposition qu'un contribuable, qui est un bénéficiaire mentionné à ce paragraphe, est réputé effectuer à un moment donné selon l'alinéa 128.1(4)b), à moins que le bénéficiaire et le particulier mentionnés à ce même paragraphe ne fassent conjointement le choix contraire dans leur déclaration de revenu pour l'année d'imposition qui comprend le premier moment, postérieur au moment donné, auquel le bénéficiaire dispose du bien.

Application du paragraphe (3)

(4) Pour l'application du paragraphe (3) et malgré les paragraphes 152(4) à (5), le ministre établit, pour tenir compte du choix prévu au paragraphe (3), toute cotisation concernant l'impôt payable en vertu de la présente loi par le bénéficiaire ou le particulier mentionnés au paragraphe (1). Pareille cotisation est toutefois sans effet sur le calcul des montants suivants :

a) les intérêts payables en vertu de la présente loi à ou par un contribuable pour toute période antérieure à la date d'échéance de production qui lui est applicable pour l'année d'imposition qui comprend le premier moment, postérieur au moment donné visé au paragraphe (3), auquel le bénéficiaire dispose du bien visé à ce paragraphe;

b) toute pénalité payable en vertu de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 74.2; 1994, ch. 7, ann. II, art. 51; 1995, ch. 3, art. 20; 2000, ch. 12, art. 142; 2001, ch. 17, art. 54.

Transfert ou prêt à une fiducie.

74.3 (1) Lorsqu'un particulier prête ou transfère un bien — appelé « bien prêté ou transféré » au présent article —, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une fiducie dans laquelle un autre particulier — qui, à un moment donné, est, en ce qui concerne le particulier, une personne désignée — a un droit de bénéficiaire à un moment donné, les règles suivantes s'appliquent :

a) pour l'application de l'article 74.1, le revenu que la personne désignée tire du bien prêté ou transféré pour une année d'imposition est réputé correspondre au moindre des montants suivants :

(i) le montant, à l'égard de la fiducie, qui est inclus, en vertu de l'alinéa 12(1)m), dans le calcul du revenu de la personne désignée pour l'année,

(ii) le produit de la multiplication du montant qui correspondrait au revenu que la fiducie tirerait du

transferred property or from property substituted therefor if no deduction were made under subsection 104(6) or (12) that

(A) the amount determined under subparagraph 74.3(1)(a)(i) in respect of the designated person for the year

is of

(B) the total of all amounts each of which is an amount determined under subparagraph 74.3(1)(a)(i) for the year in respect of the designated person or any other person who is throughout the year a designated person in respect of the individual; and

(b) for the purposes of section 74.2, an amount equal to the lesser of

(i) the amount that was designated under subsection 104(21) in respect of the designated person in the trust's return of income for the year, and

(ii) the amount, if any, by which

(A) the total of all amounts each of which is a taxable capital gain for the year from the disposition by the trust of the lent or transferred property or property substituted therefor

exceeds

(B) the total of all amounts each of which is an allowable capital loss for the year from the disposition by the trust of the lent or transferred property or property substituted therefor,

shall be deemed to be a taxable capital gain of the designated person for the year from the disposition of property (other than listed personal property) that is lent or transferred property.

bien prêté ou transféré ou d'un bien y substitué pour l'année, si aucune déduction n'était faite en vertu du paragraphe 104(6) ou (12), par le rapport entre :

(A) d'une part, le montant calculé pour l'année selon le sous-alinéa (i) à l'égard de la personne désignée,

(B) d'autre part, le total des montants dont chacun représente un montant calculé pour l'année selon le sous-alinéa (i) à l'égard de la personne désignée ou d'une autre personne qui est, en ce qui concerne le particulier et tout au long de l'année, une personne désignée;

b) pour l'application de l'article 74.2, est réputé être un gain en capital imposable réalisé par la personne désignée pour l'année sur la disposition d'un bien (à l'exclusion d'un bien meuble déterminé) qui est un bien prêté ou transféré, le moindre des montants suivants :

(i) le montant attribué à la personne désignée en vertu du paragraphe 104(21), dans la déclaration de revenu de la fiducie pour l'année,

(ii) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des gains en capital imposables pour l'année réalisés par la fiducie sur la disposition de biens prêtés ou transférés ou de biens y substitués,

(B) le total des pertes en capital déductibles subies par la fiducie pour l'année à la disposition de biens prêtés ou transférés ou de biens y substitués.

Definition of *designated person*

(2) In this section, ***designated person***, in respect of an individual, has the meaning assigned by subsection 74.5(5).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1986, c. 6, s. 38, c. 55, s. 18.

Définition de *personne désignée*

(2) Pour l'application du présent article, ***personne désignée***, en ce qui concerne un particulier, s'entend au sens du paragraphe 74.5(5).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1986, ch. 6, art. 38, ch. 55, art. 18.

Definitions

74.4 (1) In this section,

designated person, in respect of an individual, has the meaning assigned by subsection 74.5(5); (*personne désignée*)

Définitions

74.4 (1) Les définitions qui suivent s'appliquent au présent article.

contrepartie exclue À un moment donné, contrepartie qu'un particulier reçoit sous forme :

excluded consideration, at any time, means consideration received by an individual that is

(a) indebtedness,

(b) a share of the capital stock of a corporation, or

(c) a right to receive indebtedness or a share of the capital stock of a corporation. (*contrepartie exclue*)

personne désignée En ce qui concerne un particulier, s'entend au sens du paragraphe 74.5(5). (*designated person*)

Transfers and loans to corporations

(2) Where an individual has transferred or lent property, either directly or indirectly, by means of a trust or by any other means whatever, to a corporation and one of the main purposes of the transfer or loan may reasonably be considered to be to reduce the income of the individual and to benefit, either directly or indirectly, by means of a trust or by any other means whatever, a person who is a designated person in respect of the individual, in computing the income of the individual for any taxation year that includes a period after the loan or transfer throughout which

(a) the person is a designated person in respect of the individual and would have been a specified shareholder of the corporation if the definition ***specified shareholder*** in subsection 248(1) were read without reference to paragraphs (a) and (d) of that definition and if the reference therein to "any other corporation that is related to the corporation" were read as a reference to "any other corporation (other than a small business corporation) that is related to the corporation",

(b) the individual was resident in Canada, and

(c) the corporation was not a small business corporation,

the individual shall be deemed to have received as interest in the year the amount, if any, by which

(d) the amount that would be interest on the outstanding amount of the loan or transfer of the property for such periods in the year if the interest were computed thereon at the prescribed rate of interest for such periods

exceeds the total of

(e) any interest received in the year by the individual in respect of the transfer or loan (other than amounts deemed by this subsection to be interest),

(f) all amounts included in the individual's income for the taxation year pursuant to subsection 82(1) or 90(1) in respect of taxable dividends received (other than

Transfert ou prêt à une société

(2) Dans le cas où il est raisonnable de considérer que l'un des principaux objets d'un transfert ou d'un prêt de bien — effectué directement ou indirectement, au moyen d'une fiducie ou autrement — à une société par un particulier consiste à réduire le revenu du particulier et à avantager directement ou indirectement, au moyen d'une fiducie ou autrement, une autre personne qui, en ce qui concerne le particulier, est une personne désignée, dans le calcul du revenu de ce particulier pour une année d'imposition qui comprend une période, postérieure au transfert ou au prêt, tout au long de laquelle le particulier réside au Canada, la société visée n'est pas une société exploitant une petite entreprise et cette autre personne est une personne désignée, en ce qui concerne le particulier, et serait un actionnaire déterminé de la société compte non tenu des alinéas a) et d) de la définition de ce terme au paragraphe 248(1) et si le passage « toute autre société qui est liée à celle-ci » à cette définition était remplacé par le passage « toute autre société (sauf une société exploitant une petite entreprise) qui est liée à celle-ci », le particulier est réputé avoir reçu comme intérêts au cours de l'année l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant qui serait l'intérêt sur la valeur impayée du bien transféré ou sur le montant non remboursé du prêt pour toutes périodes semblables de l'année s'il était calculé au taux prescrit pour ces périodes;

b) le total des montants suivants :

(i) les intérêts que le particulier reçoit au cours de l'année sur le transfert ou le prêt, compte non tenu des intérêts réputés reçus en vertu du présent paragraphe,

(ii) les sommes incluses dans le revenu du particulier pour l'année en application des paragraphes 82(1) ou 90(1) au titre de dividendes imposables qu'il a reçus au cours de l'année, sauf les dividendes réputés reçus en vertu de l'article 84, soit sur les actions reçues de la société en contrepartie du transfert ou en remboursement du prêt qui sont, au moment de la réception des dividendes, une

dividends deemed by section 84 to have been received) by the individual in the year on shares that were received from the corporation as consideration for the transfer or as repayment for the loan that were excluded consideration at the time the dividends were received or on shares substituted therefor that were excluded consideration at that time, and

(g) where the designated person is a specified individual in relation to the year, the amount required to be included in computing the designated person's income for the year in respect of all taxable dividends received by the designated person that

(i) can reasonably be considered to be part of the benefit sought to be conferred, and

(ii) are included in computing the designated person's split income for any taxation year.

Outstanding amount

(3) For the purposes of subsection 74.4(2), the outstanding amount of a transferred property or loan at a particular time is

(a) in the case of a transfer of property to a corporation, the amount, if any, by which the fair market value of the property at the time of the transfer exceeds the total of

(i) the fair market value, at the time of the transfer, of the consideration (other than consideration that is excluded consideration at the particular time) received by the transferor for the property, and

(ii) the fair market value, at the time of receipt, of any consideration (other than consideration that is excluded consideration at the particular time) received by the transferor at or before the particular time from the corporation or from a person with whom the transferor deals at arm's length, in exchange for excluded consideration previously received by the transferor as consideration for the property or for excluded consideration substituted for such consideration;

(b) in the case of a loan of money or property to a corporation, the amount, if any, by which

(i) the principal amount of the loan of money at the time the loan was made, or

(ii) the fair market value of the property lent at the time the loan was made,

as the case may be, exceeds the fair market value, at the time the repayment is received by the lender, of

contrepartie exclue, soit sur des actions y substituées qui sont, à ce moment, une contrepartie exclue;

(iii) lorsque la personne désignée est un particulier déterminé pour l'année, le montant à inclure dans le calcul de son revenu pour l'année au titre des dividendes imposables qu'elle a reçus et qui répondent aux conditions suivantes :

(A) il est raisonnable de considérer qu'ils font partie de l'avantage que l'on cherche à conférer,

(B) ils sont inclus dans le calcul du revenu fractionné de la personne désignée pour une année d'imposition.

Valeur impayée ou montant non remboursé

(3) Pour l'application du paragraphe (2):

a) la valeur impayée, à un moment donné, d'un bien transféré à une société est l'excédent éventuel de la juste valeur marchande du bien au moment du transfert sur le total des montants suivants :

(i) la juste valeur marchande, au moment du transfert, de la contrepartie — qui n'est pas, au moment donné, une contrepartie exclue — que le cédant reçoit pour le bien,

(ii) la juste valeur marchande, au moment de sa réception, de la contrepartie — qui n'est pas, au moment donné, une contrepartie exclue — que le cédant reçoit, au moment donné ou avant, de la société ou d'une personne avec qui le cédant n'a aucun lien de dépendance, en échange de la contrepartie exclue reçue précédemment par le cédant pour le bien ou de la contrepartie exclue substituée à celle-ci;

b) le montant non remboursé, à un moment donné, d'un prêt à une société est l'excédent éventuel du principal du prêt au moment où il est consenti s'il s'agit de prêt d'argent, sinon de la juste valeur marchande du bien à ce même moment, sur la juste valeur marchande, au moment de leur réception par le prêteur, des remboursements effectués sur le prêt qui ne consistent pas au moment donné en une contrepartie exclue.

any repayment of the loan (other than a repayment that is excluded consideration at the particular time).

Benefit not granted to a designated person

(4) For the purposes of subsection 74.4(2), one of the main purposes of a transfer or loan by an individual to a corporation shall not be considered to be to benefit, either directly or indirectly, a designated person in respect of the individual, where

(a) the only interest that the designated person has in the corporation is a beneficial interest in shares of the corporation held by a trust;

(b) by the terms of the trust, the designated person may not receive or otherwise obtain the use of any of the income or capital of the trust while being a designated person in respect of the individual; and

(c) the designated person has not received or otherwise obtained the use of any of the income or capital of the trust, and no deduction has been made by the trust in computing its income under subsection 104(6) or (12) in respect of amounts paid or payable to, or included in the income of, that person while being a designated person in respect of the individual.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 74.4; 1994, c. 7, Sch. II, s. 52; 2000, c. 19, s. 10; 2007, c. 2, s. 43.1.

Avantage non considéré comme conféré à une personne désignée

(4) Pour l'application du paragraphe (2), un transfert ou un prêt par un particulier à une société n'est pas considéré comme ayant pour principal objet, entre autres, d'avantager directement ou indirectement quelqu'un qui, en ce qui concerne ce particulier, est une personne désignée, si les conditions suivantes sont réunies :

a) la seule participation que la personne désignée a dans la société est un droit de bénéficiaire sur une fiducie qui détient des actions de la société;

b) selon l'acte de fiducie, la personne désignée ne peut recevoir aucun revenu ou capital de la fiducie, ni en obtenir l'utilisation, tant qu'elle est, en ce qui concerne le particulier, une personne désignée;

c) la personne désignée n'a reçu aucun revenu ou capital de la fiducie ni n'en a obtenu l'utilisation et aucune déduction n'a été faite par la fiducie dans le calcul de son revenu en vertu du paragraphe 104(6) ou (12) au titre de montants payés ou payables à cette personne ou inclus dans le revenu de celle-ci, alors qu'elle était, en ce qui concerne le particulier, une personne désignée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 74.4; 1994, ch. 7, ann. II, art. 52; 2000, ch. 19, art. 10; 2007, ch. 2, art. 43.1.

Transfers for fair market consideration

74.5 (1) Notwithstanding any other provision of this Act, subsections 74.1(1) and (2) and section 74.2 do not apply to any income, gain or loss derived in a particular taxation year from transferred property or from property substituted therefor if

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

(b) where the consideration received by the transferor included indebtedness,

(i) interest was charged on the indebtedness at a rate equal to or greater than the lesser of

(A) the prescribed rate that was in effect at the time the indebtedness was incurred, and

(B) the rate that would, having regard to all the circumstances, have been agreed on, at the time

Transfert avec contrepartie à la juste valeur marchande

74.5 (1) Malgré les autres dispositions de la présente loi, les paragraphes 74.1(1) et (2) et l'article 74.2 ne s'appliquent pas à un revenu, un gain ou une perte dérivé, au cours d'une année d'imposition donnée, d'un bien transféré ou d'un bien y substitué si les conditions suivantes sont réunies :

a) au moment du transfert, la juste valeur marchande du bien transféré ne dépasse pas la juste valeur marchande du bien que l'auteur du transfert reçoit en contrepartie du bien transféré;

b) dans le cas où la contrepartie reçue par l'auteur du transfert comprend une créance, à la fois :

(i) des intérêts sont comptés sur la créance à un taux égal ou supérieur au moindre des taux suivants :

(A) le taux prescrit qui est en vigueur au moment de l'établissement de la créance,

the indebtedness was incurred, between parties dealing with each other at arm's length,

(ii) the amount of interest that was payable in respect of the particular year in respect of the indebtedness was paid not later than 30 days after the end of the particular year, and

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

(c) where the property was transferred to or for the benefit of the transferor's spouse or common-law partner, the transferor elected in the transferor's return of income under this Part for the taxation year in which the property was transferred not to have the provisions of subsection 73(1) apply.

Loans for value

(2) Notwithstanding any other provision of this Act, subsections 74.1(1) and (2) and section 74.2 do not apply to any income, gain or loss derived in a particular taxation year from lent property or from property substituted therefor if

(a) interest was charged on the loan at a rate equal to or greater than the lesser of

(i) the prescribed rate that was in effect at the time the loan was made, and

(ii) the rate that would, having regard to all the circumstances, have been agreed on, at the time the loan was made, between parties dealing with each other at arm's length;

(b) the amount of interest that was payable in respect of the particular year in respect of the loan was paid not later than 30 days after the end of the particular year; and

(c) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the loan was paid not later than 30 days after the end of each such taxation year.

Spouses or common-law partners living apart

(3) Notwithstanding subsection 74.1(1) and section 74.2, where an individual has lent or transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person who is the individual's spouse or common-law partner or

(B) le taux dont les parties, si elles n'avaient aucun lien de dépendance, seraient convenues à la date d'établissement de la créance, compte tenu des circonstances,

(ii) le montant des intérêts qui était payable sur la créance pour l'année donnée est payé au plus tard 30 jours après la fin de l'année donnée,

(iii) le montant des intérêts qui était payable sur la créance pour chaque année d'imposition précédant l'année donnée est payé au plus tard 30 jours après la fin de chacune de ces années d'imposition;

c) dans le cas où le bien est transféré à l'époux ou conjoint de fait de l'auteur du transfert ou au profit de son époux ou conjoint de fait, l'auteur du transfert choisit, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition où le bien est transféré, de ne pas se prévaloir du paragraphe 73(1).

Prêts

(2) Malgré les autres dispositions de la présente loi, les paragraphes 74.1(1) et (2) et l'article 74.2 ne s'appliquent pas à un revenu, un gain ou une perte dérivé, au cours d'une année d'imposition donnée, d'un bien prêté ou d'un bien y substitué si les conditions suivantes sont réunies :

a) des intérêts sont comptés sur le prêt à un taux égal ou supérieur au moindre des taux suivants :

(i) le taux prescrit qui est en vigueur au moment où le prêt est consenti,

(ii) le taux dont les parties, si elles n'avaient aucun lien de dépendance, seraient convenues au moment où le prêt est consenti, compte tenu des circonstances;

b) le montant des intérêts qui était payable sur le prêt pour l'année donnée est payé au plus tard 30 jours après la fin de l'année donnée;

c) le montant des intérêts qui était payable sur le prêt pour chaque année d'imposition qui précède l'année donnée est payé au plus tard 30 jours après la fin de chacune de ces années d'imposition.

Époux ou conjoints de fait vivant séparés

(3) Malgré le paragraphe 74.1(1) et l'article 74.2, lorsqu'un particulier prête ou transfère un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne qui est son époux ou

who has since become the individual's spouse or common-law partner,

(a) subsection 74.1(1) does not apply with respect to any income or loss from the property, or property substituted therefor, that relates to the period throughout which the individual is living separate and apart from that person by reason of a breakdown of their marriage or common-law partnership; and

(b) section 74.2 does not apply to a disposition of the property, or property substituted therefor, occurring at any time while the individual is living separate and apart from that person because of a breakdown of their marriage or common-law partnership, if an election completed jointly with that person not to have that section apply is filed with the individual's return of income under this Part for the taxation year that includes that time or for any preceding taxation year.

Idem

(4) No amount shall be included in computing the income of an individual under subsection 74.4(2) in respect of a designated person in respect of the individual who is the spouse or common-law partner of the individual for any period throughout which the individual is living separate and apart from the designated person by reason of a breakdown of their marriage or common-law partnership.

Definition of *designated person*

(5) For the purposes of this section, ***designated person***, in respect of an individual, means a person

(a) who is the spouse or common-law partner of the individual; or

(b) who is under 18 years of age and who

(i) does not deal with the individual at arm's length, or

(ii) is the niece or nephew of the individual.

Back to back loans and transfers

(6) Where an individual has lent or transferred property

(a) to another person and that property, or property substituted therefor, is lent or transferred by any person (in this subsection referred to as a "third party") directly or indirectly to or for the benefit of a specified person with respect to the individual, or

(b) to another person on condition that property be lent or transferred by any person (in this subsection referred to as a "third party") directly or indirectly to

conjoint de fait ou qui le devient par la suite ou au profit de cette personne :

a) le paragraphe 74.1(1) ne s'applique pas à un revenu ou à une perte provenant du bien ou d'un bien y substitué et qui se rapporte à la période tout au long de laquelle le particulier vit séparé de cette personne pour cause d'échec du mariage ou union de fait;

b) l'article 74.2 ne s'applique pas à la disposition du bien ou d'un bien y substitué, effectuée à un moment où le particulier vit séparé de cette personne pour cause d'échec du mariage ou union de fait, si le particulier et cette personne choisissent conjointement de ne pas se prévaloir de cet article dans la déclaration de revenu du particulier produite en vertu de la présente partie pour l'année d'imposition qui comprend ce moment ou pour une année d'imposition antérieure.

Idem

(4) Aucun montant ne peut être inclus dans le calcul du revenu d'un particulier en application du paragraphe 74.4(2) en ce qui concerne une personne désignée qui est l'époux ou conjoint de fait du particulier, pour une période tout au long de laquelle ils vivent séparés l'un de l'autre pour cause d'échec du mariage ou union de fait.

Définition de *personne désignée*

(5) Pour l'application du présent article, ***personne désignée*** s'entend, en ce qui concerne un particulier :

a) de l'époux ou conjoint de fait du particulier;

b) d'une personne de moins de 18 ans qui a un lien de dépendance avec le particulier ou qui est le neveu ou la nièce du particulier.

Prêts et transferts multiples

(6) Dans le cas où un particulier prête ou transfère un bien :

a) à une autre personne et où une personne — appelée « tiers » au présent paragraphe — prête ou transfère ce bien ou un bien y substitué, directement ou indirectement, à une personne déterminée, en ce qui concerne le particulier, ou au profit de cette personne;

b) à une autre personne à la condition qu'une personne — appelée « tiers » au présent paragraphe —

or for the benefit of a specified person with respect to the individual,

the following rules apply:

(c) for the purposes of sections 74.1, 74.2, 74.3 and 74.4, the property lent or transferred by the third party shall be deemed to have been lent or transferred, as the case may be, by the individual to or for the benefit of the specified person, and

(d) for the purposes of subsection 74.5(1), the consideration received by the third party for the transfer of the property shall be deemed to have been received by the individual.

Guarantees

(7) Where an individual is obligated, either absolutely or contingently, to effect any undertaking including any guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan made by any person (in this subsection referred to as the "third party") directly or indirectly to or for the benefit of a specified person with respect to the individual or the payment, in whole or in part, of any interest payable in respect of the loan, the following rules apply:

(a) for the purposes of sections 74.1, 74.2, 74.3 and 74.4, the property lent by the third party shall be deemed to have been lent by the individual to or for the benefit of the specified person; and

(b) for the purposes of paragraphs 74.5(2)(b) and (c), the amount of interest that is paid in respect of the loan shall be deemed not to include any amount paid by the individual to the third party as interest on the loan.

Definition of *specified person*

(8) For the purposes of subsections 74.5(6) and (7), ***specified person***, with respect to an individual, means

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

(b) a corporation, other than a small business corporation, of which a designated person in respect of the individual would have been a specified shareholder if the definition ***specified shareholder*** in subsection 248(1) were read without reference to paragraphs (a) and (d) of that definition.

Transfers or loans to a trust

(9) Where a taxpayer has lent or transferred property, either directly or indirectly, by means of a trust or by any

prête ou transfère ce bien, directement ou indirectement, à une personne déterminée, en ce qui concerne le particulier, ou au profit de cette personne,

les règles suivantes s'appliquent :

c) pour l'application des articles 74.1, 74.2, 74.3 et 74.4, le bien que le tiers prête ou transfère est réputé prêté ou transféré, selon le cas, par le particulier à la personne déterminée ou à son profit;

d) pour l'application du paragraphe (1), la contrepartie que le tiers reçoit pour le transfert du bien est réputée reçue par le particulier.

Garanties

(7) Dans le cas où un particulier est tenu, conditionnellement ou non, d'exécuter un engagement, notamment une garantie, un accord ou une convention, conclu afin d'assurer soit le remboursement total ou partiel d'un prêt qu'une personne — appelée « tiers » au présent paragraphe — consent, directement ou indirectement, à une personne déterminée, en ce qui concerne le particulier, ou au profit de cette personne, soit le paiement total ou partiel des intérêts payables sur le prêt, les règles suivantes s'appliquent :

a) pour l'application des articles 74.1, 74.2, 74.3 et 74.4, le bien prêté par le tiers est réputé prêté par le particulier à la personne déterminée ou au profit de cette personne;

b) pour l'application des alinéas (2)b) et c), le montant des intérêts payés sur le prêt est réputé ne pas comprendre un montant payé par le particulier au tiers à titre d'intérêts sur le prêt.

Définition de *personne déterminée*

(8) Pour l'application des paragraphes (6) et (7), ***personne déterminée*** s'entend, en ce qui concerne un particulier :

a) d'une personne désignée en ce qui concerne ce particulier;

b) d'une société — à l'exclusion d'une société exploitant une petite entreprise — dont une personne désignée, en ce qui concerne le particulier, est un actionnaire qui serait, compte non tenu des alinéas a) et d) de la définition de ce terme au paragraphe 248(1), un actionnaire déterminé.

Transfert ou prêt à une fiducie

(9) Un contribuable qui prête ou transfère un bien, directement ou indirectement, par le biais d'une fiducie ou

other means whatever, to a trust in which another taxpayer is beneficially interested, the taxpayer shall, for the purposes of this section and sections 74.1 to 74.4, be deemed to have lent or transferred the property, as the case may be, to or for the benefit of the other taxpayer.

(10) [Repealed, 1994, c. 7, Sch. VIII, s. 30]

Artificial transactions

(11) Notwithstanding any other provision of this Act, sections 74.1 to 74.4 do not apply to a transfer or loan of property where it may reasonably be concluded that one of the main reasons for the transfer or loan was to reduce the amount of tax that would, but for this subsection, be payable under this Part on the income and gains derived from the property or from property substituted therefor.

Where ss. 74.1 to 74.3 do not apply

(12) Sections 74.1, 74.2 and 74.3 do not apply in respect of a transfer by an individual of property

(a) as a payment of a premium under a registered retirement savings plan under which the individual's spouse or common-law partner is, immediately after the transfer, the annuitant (within the meaning of subsection 146(1)) to the extent that the premium is deductible in computing the income of the individual for a taxation year;

(a.1) [Repealed, 2011, c. 24, s. 17]

(a.2) as a payment of a contribution under a registered disability savings plan;

(b) as or on account of an amount paid by the individual to another individual who is the individual's spouse or common-law partner or a person who was under 18 years of age in a taxation year and who

(i) does not deal with the individual at arm's length, or

(ii) is the niece or nephew of the individual,

that is deductible in computing the individual's income for the year and is required to be included in computing the income of the other individual; or

(c) to the individual's spouse or common-law partner,

(i) while the property, or property substituted for it, is held under a TFSA of which the spouse or common-law partner is the holder, and

par tout autre moyen, à une fiducie dans laquelle un autre contribuable a un droit de bénéficiaire est réputé, pour l'application du présent article et des articles 74.1 à 74.4, avoir prêté ou transféré le bien, selon le cas, à l'autre contribuable ou à son profit.

(10) [Abrogé, 1994, ch. 7, ann. VIII, art. 30]

Opérations factices

(11) Malgré les autres dispositions de la présente loi, les articles 74.1 à 74.4 ne s'appliquent pas à un transfert ou prêt de biens lorsqu'il est raisonnable de conclure qu'un des principaux motifs du transfert ou prêt, selon le cas, consiste à réduire l'impôt qui, sans le présent paragraphe, serait payable en vertu de la présente partie sur le revenu et les gains dérivés du bien ou d'un bien y substitué.

Non-application des art. 74.1 à 74.3

(12) Les articles 74.1, 74.2 et 74.3 ne s'appliquent pas aux transferts de biens effectués par un particulier :

a) soit en paiement d'une prime en vertu d'un régime enregistré d'épargne-retraite dont l'époux ou conjoint de fait du particulier est le rentier — au sens du paragraphe 146(1) — immédiatement après le transfert, dans la mesure où cette prime est déductible dans le calcul du revenu du particulier pour une année d'imposition;

a.1) [Abrogé, 2011, ch. 24, art. 17]

a.2) soit en paiement d'une cotisation dans le cadre d'un régime enregistré d'épargne-invalidité;

b) soit en paiement, ou au titre d'un paiement, par le particulier à un autre particulier qui est, au cours d'une année d'imposition, son époux ou conjoint de fait ou une personne de moins de 18 ans qui a un lien de dépendance avec le particulier ou qui est la nièce ou le neveu du particulier, d'un montant, d'une part, déductible dans le calcul du revenu du particulier pour l'année et, d'autre part, à inclure dans le calcul du revenu de l'autre particulier;

c) soit au profit de son époux ou conjoint de fait, à la fois :

(i) à un moment où les biens, ou des biens y substitués, sont détenus dans le cadre d'un compte d'épargne libre d'impôt dont l'époux ou le conjoint de fait est le titulaire,

(ii) dans la mesure où l'époux ou le conjoint de fait n'a pas d'excédent CÉLI, au sens du paragraphe

(ii) to the extent that the spouse or common-law partner does not, at the time of the contribution of the property under the TFSA, have an excess TFSA amount (as defined in subsection 207.01(1)).

Exception from attribution rules

(13) Subsections 74.1(1) and (2), 74.3(1) and 75(2) of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, do not apply to any amount that is included in computing a specified individual's split income for a taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 74.5; 1994, c. 7, Sch. II, s. 53, Sch. VIII, s. 30; 2000, c. 12, s. 142, c. 19, s. 11; 2007, c. 35, s. 106; 2008, c. 28, s. 6; 2011, c. 24, s. 17.

Trusts

75 (2) If a trust, that is resident in Canada and that was created in any manner whatever since 1934, holds property on condition

(a) that it or property substituted therefor may

(i) revert to the person from whom the property or property for which it was substituted was directly or indirectly received (in this subsection referred to as "the person"), or

(ii) pass to persons to be determined by the person at a time subsequent to the creation of the trust, or

(b) that, during the existence of the person, the property shall not be disposed of except with the person's consent or in accordance with the person's direction,

any income or loss from the property or from property substituted for the property, and any taxable capital gain or allowable capital loss from the disposition of the property or of property substituted for the property, shall, during the existence of the person while the person is resident in Canada, be deemed to be income or a loss, as the case may be, or a taxable capital gain or allowable capital loss, as the case may be, of the person.

Exceptions

(3) Subsection 75(2) does not apply to property held in a taxation year

(a) by a trust governed by a deferred profit sharing plan, an employee benefit plan, an employees profit sharing plan, a pooled registered pension plan, a registered disability savings plan, a registered education savings plan, a registered pension plan, a registered retirement income fund, a registered retirement

207.01(1), au moment où les biens sont versés au compte.

Exception — règles d'attribution

(13) Les paragraphes 74.1(1) et (2), 74.3(1) et 75(2) de la présente loi et l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, ne s'appliquent pas aux montants inclus dans le calcul du revenu fractionné d'un particulier déterminé pour une année d'imposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 74.5; 1994, ch. 7, ann. II, art. 53, ann. VIII, art. 30; 2000, ch. 12, art. 142, ch. 19, art. 11; 2007, ch. 35, art. 106; 2008, ch. 28, art. 6; 2011, ch. 24, art. 17.

Fiducies

75 (2) Si une fiducie résidant au Canada, qui a été créée de quelque façon que ce soit depuis 1934, détient des biens à condition :

a) soit que ces derniers ou des biens qui leur sont substitués puissent :

(i) ou bien revenir à la personne dont les biens ou les biens qui leur sont substitués ont été reçus directement ou indirectement (appelée « la personne » au présent paragraphe),

(ii) ou bien être transportés à des personnes devant être désignées par la personne après la création de la fiducie;

b) soit que, pendant l'existence de la personne, il ne soit disposé des biens qu'avec son consentement ou suivant ses instructions,

tout revenu ou toute perte résultant des biens ou de biens y substitués, ou tout gain en capital imposable ou toute perte en capital déductible provenant de la disposition des biens ou de biens y substitués, est réputé, durant l'existence de la personne et pendant qu'elle réside au Canada, être un revenu ou une perte, selon le cas, ou un gain en capital imposable ou une perte en capital déductible, selon le cas, de la personne.

Exception

(3) Le paragraphe (2) ne s'applique pas à un bien détenu au cours d'une année d'imposition par l'une des fiducies suivantes :

a) une fiducie régie par un compte d'épargne libre d'impôt, une convention de retraite, un fonds enregistré de revenu de retraite, un régime de participation des employés aux bénéfices, un régime de participation différée aux bénéfices, un régime de pension

savings plan, a registered supplementary unemployment benefit plan, a retirement compensation arrangement or a TFSA;

(b) by an employee life and health trust, an employee trust, a private foundation that is a registered charity, a related segregated fund trust (within the meaning assigned by paragraph 138.1(1)(a)), a trust described by paragraph (a.1) of the definition ***trust*** in subsection 108(1), or a trust described by paragraph 149(1)(y);

(c) by a qualifying environmental trust; or

(c.1) to (c.3) [Repealed, 2013, c. 40, s. 35]

(d) by a prescribed trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 75; 1995, c. 3, s. 21; 1998, c. 19, s. 13; 2001, c. 17, s. 55; 2007, c. 35, s. 107; 2008, c. 28, s. 7; 2010, c. 25, s. 14; 2012, c. 31, s. 15; 2013, c. 34, ss. 5, 212, c. 40, s. 35.

agréé, un régime de pension agréé collectif, un régime de prestations aux employés, un régime enregistré d'épargne-études, un régime enregistré d'épargne-invalidité, un régime enregistré d'épargne-retraite ou un régime enregistré de prestations supplémentaires de chômage;

b) une fiducie créée à l'égard du fonds réservé, au sens de l'alinéa 138.1(1)a), une fiducie d'employés, une fiducie de soins de santé au bénéfice d'employés, une fiducie visée à l'alinéa a.1) de la définition de ***fiducie*** au paragraphe 108(1), une fiducie visée à l'alinéa 149(1)y) ou une fondation privée qui est un organisme de bienfaisance enregistré;

c) une fiducie pour l'environnement admissible;

c.1) à c.3) [Abrogés, 2013, ch. 40, art. 35]

d) une fiducie visée par règlement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 75; 1995, ch. 3, art. 21; 1998, ch. 19, art. 13; 2001, ch. 17, art. 55; 2007, ch. 35, art. 107; 2008, ch. 28, art. 7; 2010, ch. 25, art. 14; 2012, ch. 31, art. 15; 2013, ch. 34, art. 5 et 212, ch. 40, art. 35.

Gain or loss deemed that of transferor

75.1 (1) Where

(a) subsection 73(3) or (4) applied to the transfer of property (in this subsection referred to as "transferred property") by a taxpayer to a child of the taxpayer,

(b) the transfer was made at less than the fair market value of the transferred property immediately before the time of the transfer, and

(c) in a taxation year, the transferee disposed of the transferred property and did not, before the end of that year, attain the age of 18 years,

the following rules apply:

(d) the amount, if any, by which

(i) the total of the transferee's taxable capital gains for the year from dispositions of transferred property

exceeds

(ii) the total of the transferee's allowable capital losses for the year from dispositions of transferred property,

shall during the lifetime of the transferor while the transferor is resident in Canada, be deemed to be a taxable capital gain of the transferor for the year from the disposition of property,

Gain ou perte présumés pour l'auteur du transfert

75.1 (1) Lorsque :

a) les paragraphes 73(3) ou (4) s'appliquent au transfert de biens d'un contribuable à son enfant;

b) le transfert a été fait pour une somme inférieure à la juste valeur marchande que les biens transférés avaient immédiatement avant le transfert;

c) au cours d'une année d'imposition, le bénéficiaire des biens transférés en a disposé et n'a pas, avant la fin de cette année, atteint l'âge de 18 ans,

les règles suivantes s'appliquent :

d) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des gains en capital imposables du bénéficiaire du transfert, pour l'année, tirés de dispositions de biens transférés,

(ii) le total des pertes en capital déductibles du bénéficiaire du transfert, pour l'année, provenant de dispositions de biens transférés,

est réputé, durant la vie de l'auteur du transfert, tandis que ce dernier réside au Canada, être un gain en capital imposable de l'auteur du transfert pour l'année, tiré de la disposition de biens;

(e) the amount, if any, by which the total determined under subparagraph 75.1(1)(d)(ii) exceeds the total determined under subparagraph 75.1(1)(d)(i) shall, during the lifetime of the transferor while the transferor is resident in Canada, be deemed to be an allowable capital loss of the transferor for the year from the disposition of property, and

(f) any taxable capital gain or allowable capital loss taken into account in computing an amount described in paragraph 75.1(1)(d) or the amount described in paragraph 75.1(1)(e) shall, except for the purposes of those paragraphs, to the extent that the amount so described is deemed by virtue of this subsection to be a taxable capital gain or an allowable capital loss of the transferor, be deemed not to be a taxable capital gain or an allowable capital loss, as the case may be, of the transferee.

e) l'excédent éventuel du total déterminé en vertu du sous-alinéa d)(ii) sur le total déterminé en vertu du sous-alinéa d)(i) est réputé, durant la vie de l'auteur du transfert, tandis que ce dernier réside au Canada, être une perte en capital déductible de l'auteur du transfert, pour l'année, provenant de la disposition de biens;

f) tout gain en capital imposable ou perte en capital déductible inclus dans le calcul d'une somme visée à l'alinéa d) ou de l'excédent visé à l'alinéa e) est réputé, sauf pour l'application de ces alinéas, dans la mesure où la somme ou l'excédent ainsi visés sont réputés, en vertu du présent paragraphe, être un gain en capital imposable ou une perte en capital déductible de l'auteur du transfert, ne pas être un gain en capital imposable ou une perte en capital déductible, selon le cas, du bénéficiaire du transfert.

Definition of *child*

(2) For the purposes of this section, ***child*** of a taxpayer includes a child of the taxpayer's child and a child of the taxpayer's child's child.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 75.1; 1994, c. 7, Sch. II, s. 54.

Enfant

(2) Pour l'application du présent article, sont assimilés à l'enfant d'un contribuable ses petits-enfants et arrière-petits-enfants.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 75.1; 1994, ch. 7, ann. II, art. 54.

Rules applicable with respect to "qualifying trust annuity"

75.2 If an amount paid to acquire a qualifying trust annuity with respect to a taxpayer was deductible under paragraph 60(l) in computing the taxpayer's income,

(a) any amount that is paid out of or under the annuity at any particular time after 2005 and before the death of the taxpayer is deemed to have been received out of or under the annuity at the particular time by the taxpayer, and not to have been received by any other taxpayer; and

(b) if the taxpayer dies after 2005

(i) an amount equal to the fair market value of the annuity at the time of the taxpayer's death is deemed to have been received, immediately before the taxpayer's death, by the taxpayer out of or under the annuity, and

(ii) for the purpose of subsection 70(5), the annuity is to be disregarded in determining the fair market value (immediately before the taxpayer's death) of the taxpayer's interest in the trust that is the annuitant under the annuity.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 213.

Règles applicables aux rentes admissibles de fiducie

75.2 Dans le cas où une somme versée pour l'acquisition d'une rente admissible de fiducie relativement à un contribuable est déductible en application de l'alinéa 60l) dans le calcul du revenu du contribuable, les règles ci-après s'appliquent :

a) toute somme versée dans le cadre de la rente à un moment postérieur à 2005 et antérieur au décès du contribuable est réputée avoir été reçue à ce moment par le contribuable et par personne d'autre;

b) si le contribuable décède après 2005 :

(i) une somme égale à la juste valeur marchande de la rente au moment du décès du contribuable est réputée avoir été reçue par le contribuable immédiatement avant son décès dans le cadre de la rente,

(ii) pour l'application du paragraphe 70(5), il n'est pas tenu compte de la rente dans le calcul de la juste valeur marchande, immédiatement avant le décès du contribuable, de sa participation dans la fiducie qui est le rentier en vertu de la rente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 213.

Security in satisfaction of income debt

76 (1) Where a person receives a security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as payment of, in lieu of payment of or in satisfaction of, a debt that is then payable, the amount of which debt would be included in computing the person's income if it were paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing the person's income for the taxation year in which it is received.

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness is received by a person wholly or partially as payment of, in lieu of payment of or in satisfaction of, a debt before the debt is payable, but is not itself payable or redeemable before the day on which the debt is payable, it shall, for the purpose of subsection 76(1), be deemed to be received by the person holding it at that time when the debt becomes payable.

Section enacted for greater certainty

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income.

Debt deemed not to be income debt

(4) Where a cash purchase ticket or other form of settlement prescribed pursuant to the *Canada Grain Act* or by the Minister is issued to a taxpayer in respect of grain delivered in a taxation year of a taxpayer to a primary elevator or process elevator and the ticket or other form of settlement entitles the holder thereof to payment by the operator of the elevator of the purchase price, without interest, stated in the ticket for the grain at a date that is after the end of that taxation year, the amount of the purchase price stated in the ticket or other form of settlement shall, notwithstanding any other provision of this section, be included in computing the income of the taxpayer to whom the ticket or other form of settlement was issued for the taxpayer's taxation year immediately following the taxation year in which the grain was delivered and not for the taxation year in which the grain was delivered.

Definitions of certain expressions

(5) In subsection (4), the expressions ***cash purchase ticket***, ***operator***, ***primary elevator*** and ***process elevator*** have the meanings assigned by the *Canada Grain*

Titres en acquittement de dette

76 (1) Dans le cas où une personne reçoit un titre ou autre droit, un titre de créance ou toute autre preuve de créance au titre ou en paiement intégral ou partiel d'une dette qui est alors payable et dont le montant serait inclus dans le calcul de son revenu si elle était payée, la valeur du titre, du droit ou de la créance, ou de la partie applicable de ceux-ci, doit être incluse, indépendamment de la forme ou des effets juridiques de l'opération, dans le calcul de son revenu pour l'année d'imposition au cours de laquelle elle le reçoit.

Idem

(2) Le titre ou autre droit, le titre de créance ou toute autre preuve de créance qu'une personne reçoit au titre ou en paiement intégral ou partiel d'une dette avant qu'elle ne soit payable, lequel titre ou droit ou laquelle créance n'est pas payable ou rachetable avant l'échéance de la dette, est réputé, pour l'application du paragraphe (1), être reçu par la personne qui le détient à l'échéance de la dette.

Édiction par souci de précision

(3) Il est entendu que le présent article n'a pas pour effet de restreindre la portée générale des autres dispositions de la présente partie qui exigent l'inclusion de sommes dans le calcul du revenu.

Dette réputée ne pas être une dette de revenus

(4) Lorsqu'un bon de paiement ou tout autre moyen de règlement prévu par règlement d'application de la *Loi sur les grains du Canada* ou prescrit par le ministre est délivré à un contribuable pour du grain livré, au cours d'une année d'imposition du contribuable, à une installation primaire ou à une installation de transformation et que ce bon ou cet autre moyen de règlement donne à son titulaire le droit de se faire payer par l'exploitant de l'installation, après la fin de cette année d'imposition, sans intérêt, le prix d'achat du grain indiqué sur le bon ou sur l'autre moyen de règlement, le montant du prix d'achat indiqué sur le bon ou l'autre moyen de règlement doit, malgré tout autre disposition du présent article, être inclus dans le calcul du revenu du contribuable auquel le bon ou l'autre moyen de règlement a été délivré pour son année d'imposition suivant l'année d'imposition au cours de laquelle le grain a été livré et non pour l'année d'imposition au cours de laquelle le grain a été livré.

Définition de certaines expressions

(5) Pour l'application du paragraphe (4), ***bon de paiement***, ***exploitant***, ***installation de transformation*** et ***installation primaire*** s'entendent au sens de la *Loi sur*

Act, and ***grain*** means wheat, oats, barley, rye, flaxseed, rapeseed and canola produced in Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 76; 1994, c. 7, Sch. II, s. 55; 2012, c. 19, s. 2.

les grains du Canada et ***grain*** s'entend du blé, de l'avoine, de l'orge, du seigle, de la graine de lin, de la graine de colza et du canola produits au Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 76; 1994, ch. 7, ann. II, art. 55; 2012, ch. 19, art. 2.

Non-resident moving debt from Canadian business

76.1 (1) If at any time a debt obligation of a non-resident taxpayer that is denominated in a foreign currency ceases to be an obligation of the taxpayer in respect of a business or part of a business carried on by the taxpayer in Canada immediately before that time (other than an obligation in respect of which the taxpayer ceased to be indebted at that time), for the purpose of determining the amount of any income, loss, capital gain or capital loss due to the fluctuation in the value of the foreign currency relative to Canadian currency, the taxpayer is deemed to have settled the debt obligation immediately before that time at the amount outstanding on account of its principal amount.

Retrait d'une dette d'une entreprise canadienne par un non-résident

76.1 (1) Lorsqu'un titre de créance sur un contribuable non-résident, libellé en monnaie étrangère, cesse, à un moment donné, de représenter une obligation du contribuable relativement à une entreprise ou à une partie d'entreprise qu'il exploitait au Canada immédiatement avant ce moment (sauf s'il s'agit d'une obligation à l'égard de laquelle il cesse d'être redevable au moment donné), le contribuable est réputé, pour ce qui est du calcul d'un revenu, d'une perte, d'un gain en capital ou d'une perte en capital résultant de la fluctuation de la valeur de la monnaie étrangère par rapport à la monnaie canadienne, avoir réglé la créance constatée par le titre, immédiatement avant le moment donné, pour un montant égal à la somme restant à rembourser sur son principal.

Non-resident assuming debt

(2) If at any time a debt obligation of a non-resident taxpayer that is denominated in a foreign currency becomes an obligation of the taxpayer in respect of a business or part of a business that the taxpayer carries on in Canada after that time (other than an obligation in respect of which the taxpayer became indebted at that time), the amount of any income, loss, capital gain or capital loss in respect of the obligation due to the fluctuation in the value of the foreign currency relative to Canadian currency shall be determined based on the amount of the obligation in Canadian currency at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 56.

Prise en charge de dette par un non-résident

(2) Lorsqu'un titre de créance sur un contribuable non-résident, libellé en monnaie étrangère, devient, à un moment donné, une obligation du contribuable relativement à une entreprise ou à une partie d'entreprise qu'il exploite au Canada après ce moment (sauf s'il s'agit d'une obligation à l'égard de laquelle il devient redevable à ce moment), le montant d'un revenu, d'une perte, d'un gain en capital ou d'une perte en capital relatif à l'obligation résultant de la fluctuation de la valeur de la monnaie étrangère par rapport à la monnaie canadienne est déterminé en fonction du montant de l'obligation en monnaie canadienne à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 56.

77 [Repealed, 1995, c. 21, s. 52]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 77; 1995, c. 21, s. 52.

77 [Abrogé, 1995, ch. 21, art. 52]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 77; 1995, ch. 21, art. 52.

Unpaid amounts

78 (1) Where an amount in respect of a deductible outlay or expense that was owing by a taxpayer to a person with whom the taxpayer was not dealing at arm's length at the time the outlay or expense was incurred and at the end of the second taxation year following the taxation year in which the outlay or expense was incurred, is unpaid at the end of that second taxation year, either

(a) the amount so unpaid shall be included in computing the taxpayer's income for the third taxation

Sommes impayées

78 (1) Lorsqu'une somme, relative à des dépenses déductibles et due par un contribuable à une personne avec laquelle il avait un lien de dépendance au moment où les dépenses ont été engagées et à la fin de la deuxième année d'imposition qui suit celle durant laquelle ces dépenses ont été engagées, n'a pas encore été payée à la fin de la deuxième année d'imposition, il faut :

a) soit inclure la somme ainsi impayée dans le calcul du revenu du contribuable pour la troisième année

year following the taxation year in which the outlay or expense was incurred, or

(b) where the taxpayer and that person have filed an agreement in prescribed form on or before the day on or before which the taxpayer is required by section 150 to file the taxpayer's return of income for the third succeeding taxation year, for the purposes of this Act the following rules apply:

(i) the amount so unpaid shall be deemed to have been paid by the taxpayer and received by that person on the first day of that third taxation year, and section 153, except subsection 153(3), is applicable to the extent that it would apply if that amount were being paid to that person by the taxpayer, and

(ii) that person shall be deemed to have made a loan to the taxpayer on the first day of that third taxation year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the taxpayer on account of that person's tax for that third taxation year.

d'imposition suivant celle au cours de laquelle les dépenses ont été engagées;

b) soit, lorsque le contribuable et cette personne ont présenté une convention, selon le formulaire prescrit, au plus tard le dernier jour pour lequel le contribuable est tenu, selon l'article 150, de produire sa déclaration de revenu pour la troisième année d'imposition suivante, appliquer, dans le cadre de la présente loi, les régles suivantes :

(i) la somme ainsi impayée est réputée avoir été payée par le contribuable et reçue par cette personne le premier jour de la troisième année d'imposition en question, et l'article 153, à l'exception du paragraphe 153(3), s'applique dans la mesure où il s'appliquerait si cette somme était payée à cette personne par le contribuable,

(ii) cette personne est réputée avoir consenti au contribuable, le premier jour de la troisième année d'imposition en question, un prêt d'un montant égal à la somme ainsi impayée diminuée de la somme déduite de la première ou retenue sur celle-ci par le contribuable à valoir sur l'impôt de cette personne, pour la troisième année d'imposition en question.

Idem

(2) Where an amount in respect of a deductible outlay or expense that was owing by a taxpayer that is a corporation to a person with whom the taxpayer was not dealing at arm's length is unpaid at the time when the taxpayer is wound up, and the taxpayer is wound up before the end of the second taxation year following the taxation year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the taxpayer's income for the taxation year in which it was wound up.

Idem

(2) Lorsqu'une somme, relative à des dépenses déductibles et due par un contribuable qui est une société à une personne avec laquelle il avait un lien de dépendance, n'a pas encore été payée au moment de la liquidation de la société qui est le contribuable et que cette liquidation a lieu avant la fin de la deuxième année d'imposition suivant celle au cours de laquelle les dépenses ont été engagées, la somme ainsi impayée doit être incluse dans le calcul du revenu du contribuable pour l'année d'imposition au cours de laquelle a eu lieu la liquidation.

Late filing

(3) Where, in respect of an amount described in subsection 78(1) that was owing by a taxpayer to a person, an agreement in a form prescribed for the purposes of this section is filed after the day on or before which the agreement is required to be filed for the purposes of paragraph 78(1)(b), both paragraphs 78(1)(a) and (b) apply in respect of the said amount, except that paragraph 78(1)(a) shall be read and construed as requiring 25% only of the said amount to be included in computing the taxpayer's income.

Présentation tardive de la convention

(3) Lorsque, pour l'application du présent article, une convention concernant une somme visée au paragraphe (1) et qu'un contribuable doit à une personne est présentée sur le formulaire prescrit après le dernier jour fixé pour sa présentation pour l'application de l'alinéa (1)b), les alinéas (1)a) et b) s'appliquent à cette somme; toutefois, l'alinéa (1)a) est censé prévoir l'inclusion de seulement 25 % de cette somme dans le calcul du revenu du contribuable.

Unpaid remuneration and other amounts

(4) Where an amount in respect of a taxpayer's expense that is a superannuation or pension benefit, a retiring

Rémunération impayée et autres montants

(4) Pour l'application de la présente loi, la somme, au titre d'une dépense d'un contribuable consistant en une

allowance, salary, wages or other remuneration (other than reasonable vacation or holiday pay or a deferred amount under a salary deferral arrangement) in respect of an office or employment is unpaid on the day that is 180 days after the end of the taxation year in which the expense was incurred, for the purposes of this Act other than this subsection, the amount shall be deemed not to have been incurred as an expense in the year and shall be deemed to be incurred as an expense in the taxation year in which the amount is paid.

prestation de retraite ou de pension, une allocation de retraite, un traitement, un salaire ou une autre rémunération — à l'exclusion d'une indemnité raisonnable de vacances ou de congés et d'un montant différé dans le cadre d'une entente d'échelonnement du traitement — pour une charge ou un emploi, qui est impayée le 180e jour suivant la fin de l'année d'imposition au cours de laquelle la dépense est engagée, est réputée ne pas être engagée comme dépense au cours de l'année mais l'être au cours de l'année d'imposition où elle est payée.

Where s. (1) does not apply

(5) Subsection 78(1) does not apply in any case where subsection (4) applies.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 78; 1994, c. 7, Sch. II, s. 56.

Non-application du par. (1)

(5) Le paragraphe (4) prévaut sur le paragraphe (1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 78; 1994, ch. 7, ann. II, art. 56.

Definitions

79 (1) In this section,

creditor of a particular person includes a person to whom the particular person is obligated to pay an amount under a mortgage, hypothecary claim or similar obligation and, where property was sold to the particular person under a conditional sales agreement, the seller of the property (or any assignee with respect to the agreement) is deemed to be a creditor of the particular person in respect of that property; (*créancier*)

debt includes an obligation to pay an amount under a mortgage, hypothecary claim or similar obligation or under a conditional sales agreement; (*dette*)

person includes a partnership; (*personne*)

property does not include

(a) money, or

(b) indebtedness owed by or guaranteed by the government of a country, or a province, state, or other political subdivision of that country; (*bien*)

specified amount at any time of a debt owed or assumed by a person means

(a) the unpaid principal amount of the debt at that time, and

(b) unpaid interest accrued to that time on the debt. (*montant déterminé*)

Définitions

79 (1) Les définitions qui suivent s'appliquent au présent article.

bien Ne sont pas des biens l'argent ou les dettes garanties par le gouvernement d'un pays, ou d'une province, d'un État ou d'une autre subdivision politique de ce pays, ou dont un tel gouvernement est débiteur. (*property*)

créancier Vise également une personne envers laquelle une personne donnée a l'obligation de payer un montant en vertu d'une créance hypothécaire ou d'un droit semblable. Par ailleurs, lorsqu'un bien est vendu à la personne donnée dans le cadre d'une vente conditionnelle, le vendeur du bien, ou tout cessionnaire par rapport à la vente, est réputé être un créancier de la personne donnée pour ce qui est du bien. (*creditor*)

dette Est assimilée à une dette l'obligation de payer un montant en vertu d'une créance hypothécaire ou d'un droit semblable ou dans le cadre d'une vente conditionnelle. (*debt*)

montant déterminé Le montant déterminé de la dette d'une personne envers une autre personne — y compris la dette qu'assume une personne — à un moment donné correspond au total des montants suivants :

a) le principal impayé de la dette à ce moment;

b) les intérêts impayés courus sur la dette à ce moment. (*specified amount*)

personne Est assimilée à une personne une société de personnes. (*person*)

Surrender of property

(2) For the purposes of this section, a property is surrendered at any time by a person to another person where

Délaissement d'un bien

(2) Pour l'application du présent article, une personne acquiert, par délaissement, un bien d'une autre personne

the beneficial ownership of the property is acquired or reacquired at that time from the person by the other person and the acquisition or reacquisition of the property was in consequence of the person's failure to pay all or part of one or more specified amounts of debts owed by the person to the other person immediately before that time.

Proceeds of disposition for debtor

(3) Where a particular property is surrendered at any time by a person (in this subsection referred to as the "debtor") to a creditor of the debtor, the debtor's proceeds of disposition of the particular property shall be deemed to be the amount determined by the formula

(A + B + C + D + E - F) × G/H

where

A is the total of all specified amounts of debts of the debtor that are in respect of properties surrendered at that time by the debtor to the creditor and that are owing immediately before that time to the creditor;

B is the total of all amounts each of which is a specified amount of a debt that is owed by the debtor immediately before that time to a person (other than the creditor), to the extent that the amount ceases to be owing by the debtor as a consequence of properties being surrendered at that time by the debtor to the creditor;

C is the total of all amounts each of which is a specified amount of a particular debt that is owed by the debtor immediately before that time to a person (other than a specified amount included in the amount determined for A or B as a consequence of properties being surrendered at that time by the debtor to the creditor), where

(a) any property surrendered at that time by the debtor to the creditor was security for

(i) the particular debt, and

(ii) another debt that is owed by the debtor immediately before that time to the creditor, and

(b) the other debt is subordinate to the particular debt in respect of that property;

D is

(a) where a specified amount of a debt owed by the debtor immediately before that time to a person (other than the creditor) ceases, as a consequence of the surrender at that time of properties by the debtor to the creditor, to be secured by all properties owned by the debtor immediately before that time, the lesser of

à un moment donné lorsqu'elle acquiert ou acquiert de nouveau de l'autre personne, à ce moment, la propriété effective du bien par suite du défaut de l'autre personne de payer tout ou partie d'un ou plusieurs montants déterminés d'une dette qu'avait envers elle l'autre personne immédiatement avant ce moment.

Produit de disposition pour le débiteur

(3) Lorsqu'un créancier acquiert, par délaissement, un bien donné d'une personne (appelée « débiteur » au présent paragraphe) à un moment quelconque, le produit de disposition du bien donné pour le débiteur est réputé correspondre au résultat du calcul suivant :

(A + B + C + D + E - F) × G/H

où :

A représente le total des montants déterminés des dettes du débiteur envers le créancier immédiatement avant ce moment relativement aux biens que le créancier acquiert, par délaissement, du débiteur à ce moment;

B le total des montants représentant chacun le montant déterminé d'une dette du débiteur envers une personne, sauf le créancier, immédiatement avant ce moment, dans la mesure où le montant cesse d'être dû du fait que le créancier acquiert, par délaissement, des biens du débiteur à ce moment;

C le total des montants représentant chacun le montant déterminé d'une dette donnée du débiteur envers une personne immédiatement avant ce moment (sauf un montant déterminé inclus dans les éléments A ou B du fait que le créancier acquiert, par délaissement, des biens du débiteur à ce moment), dans le cas où, à la fois :

a) tout bien que le créancier acquiert, par délaissement, du débiteur à ce moment constituait une garantie sur les dettes suivantes :

(i) la dette donnée,

(ii) une autre dette qu'a le débiteur envers le créancier immédiatement avant ce moment,

b) l'autre dette est subordonnée à la dette donnée relativement au bien en question;

D :

a) dans le cas où le montant déterminé d'une dette du débiteur envers une personne, sauf le créancier, immédiatement avant ce moment cesse, du fait que le créancier acquiert, par délaissement, des biens du débiteur à ce moment, d'être garanti

(i) the amount, if any, by which the total of all such specified amounts exceeds the portion of that total included in any of the amounts determined for B or C as a consequence of properties being surrendered at that time by the debtor to the creditor, and

(ii) the amount, if any, by which the total cost amount to the debtor of all properties surrendered at that time by the debtor to the creditor exceeds the total amount that would, but for this description and the description of F, be determined under this subsection as a consequence of the surrender, and

(b) in any other case, nil;

E is

(a) where the particular property is surrendered at that time by the debtor in circumstances in which paragraph 69(1)(b) would, but for this subsection, apply and the fair market value of all properties surrendered at that time by the debtor to the creditor exceeds the amount that would, but for this description and the description of F, be determined under this subsection as a consequence of the surrender, that excess, and

(b) in any other case, nil;

F is the total of all amounts each of which is the lesser of

(a) the portion of a particular specified amount of a particular debt included in the amount determined for A, B, C or D in computing the debtor's proceeds of disposition of the particular property, and

(b) the total of

(i) all amounts included under paragraph 6(1)(a) or subsection 15(1) in computing the income of any person because the particular debt was settled, or deemed by subsection 80.01(8) to have been settled, at or before the end of the taxation year that includes that time,

(ii) all amounts renounced under subsection 66(10), (10.1), (10.2) or (10.3) by the debtor in respect of the particular debt,

(iii) all amounts each of which is a forgiven amount (within the meaning assigned by subsection 80(1)) in respect of the debt at a previous time that the particular debt was deemed by subsection 80.01(8) to have been settled,

(iv) where the particular debt is an excluded obligation (within the meaning assigned by

par l'ensemble des biens qui appartenaient au débiteur immédiatement avant ce moment, le moins élevé des montants suivants :

(i) l'excédent éventuel du total de ces montants déterminés sur la partie de ce total qui est incluse dans l'un des éléments B ou C du fait que le créancier acquiert, par délaissement, des biens du débiteur à ce moment,

(ii) l'excédent éventuel du total des coûts indiqués, pour le débiteur, de l'ensemble des biens que le créancier acquiert, par délaissement, du débiteur à ce moment sur le total qui, n'eût été le présent élément et l'élément F, serait déterminé selon le présent paragraphe par suite du délaissement,

b) dans les autres cas, zéro;

E :

a) lorsque le délaissement du bien donné à ce moment a lieu dans des circonstances où l'alinéa 69(1)b) s'appliquerait n'eût été le présent paragraphe et que la juste valeur marchande de l'ensemble des biens que le créancier acquiert, par délaissement, du débiteur à ce moment excède le montant qui, n'eût été le présent élément et l'élément F, serait déterminé selon le présent paragraphe par suite du délaissement, cet excédent,

b) dans les autres cas, zéro;

F le total des montants représentant chacun le moins élevé des montants suivants :

a) la partie d'un montant déterminé donné d'une dette donnée qui est incluse dans les éléments A, B, C ou D dans le calcul du produit de disposition du bien donné pour le débiteur,

b) le total des montants suivants :

(i) les montants inclus, en application de l'alinéa 6(1)a) ou du paragraphe 15(1), dans le calcul du revenu d'une personne du fait que la dette donnée a été réglée, ou est réputée réglée par le paragraphe 80.01(8), au plus tard à la fin de l'année d'imposition qui comprend ce moment,

(ii) les montants auxquels le débiteur a renoncé en application des paragraphes 66(10), (10.1), (10.2) ou (10.3) relativement à la dette donnée,

(iii) les montants représentant chacun un montant remis, au sens du paragraphe 80(1), sur la dette à un moment antérieur où la dette donnée était réputée réglée par le paragraphe 80.01(8),

subsection 80(1)), the particular specified amount, and

(v) the lesser of

(A) the unpaid interest accrued to that time on the particular debt, and

(B) the total of

(I) the amount, if any, by which the total of all amounts included because of section 80.4 in computing the debtor's income for the taxation year that includes that time or for a preceding taxation year in respect of interest on the particular debt exceeds the total of all amounts paid before that time on account of interest on the particular debt, and

(II) such portion of that unpaid interest as would, if it were paid, be included in the amount determined under paragraph 28(1)(e) in respect of the debtor;

G is the fair market value at that time of the particular property; and

H is the fair market value at that time of all properties surrendered by the debtor to the creditor at that time.

(iv) dans le cas où la dette donnée est une dette exclue, au sens du paragraphe 80(1), le montant déterminé donné,

(v) le moins élevé des montants suivants :

(A) les intérêts impayés courus sur la dette donnée à ce moment,

(B) le total des montants suivants :

(I) l'excédent éventuel du total des montants inclus par l'effet de l'article 80.4 dans le calcul du revenu du débiteur pour l'année d'imposition qui comprend ce moment ou pour une année d'imposition antérieure relativement aux intérêts sur la dette donnée, sur le total des montants payés avant ce moment au titre de ces intérêts,

(II) la partie de ces intérêts impayés qui serait incluse, si elle était payée, dans le montant calculé selon l'alinéa 28(1)e) relativement au débiteur;

G la juste valeur marchande du bien donné à ce moment;

H la juste valeur marchande, à ce moment, de l'ensemble des biens que le créancier a acquis, par délaissement, du débiteur à ce moment.

Subsequent payment by debtor

(4) An amount paid at any time by a person as, on account of or in satisfaction of, a specified amount of a debt that can reasonably be considered to have been included in the amount determined for A, C or D in subsection 79(3) in respect of a property surrendered before that time by the person shall be deemed to be a repayment of assistance, at that time in respect of the property, to which

(a) subsection 39(13) applies, where the property was capital property (other than depreciable property) of the person immediately before its surrender;

(b) paragraph 20(1)(hh.1) applies, where the cost of the property to the person was an eligible capital expenditure at the time the property was acquired;

(c) the description of E in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6), the description of D in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) or the description of D in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5), as the case may be, applies, where the cost of the property to the person was a Canadian

Paiement ultérieur par le débiteur

(4) Un montant payé à un moment donné par une personne au titre ou en paiement intégral ou partiel du montant déterminé d'une dette qu'il est raisonnable de considérer comme inclus dans les éléments A, C ou D de la formule figurant au paragraphe (3) relativement à un bien qui a été délaissé par la personne avant ce moment est réputé constituer le remboursement d'un montant d'aide, à ce moment relativement au bien, auquel s'applique :

a) le paragraphe 39(13), dans le cas où le bien était une immobilisation de la personne, autre qu'un bien amortissable, immédiatement avant son délaissement;

b) l'alinéa 20(1)hh.1), dans le cas où le coût du bien pour la personne représente une dépense en capital admissible au moment où le bien a été acquis;

c) l'élément E de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6), l'élément D de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) ou l'élément D de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au***

exploration expense, a Canadian development expense or a Canadian oil and gas property expense; or

(d) paragraph 20(1)(hh) applies, in any other case.

gaz au paragraphe 66.4(5), dans le cas où le coût du bien pour la personne représente, selon le cas, des frais d'exploration au Canada, des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz;

d) l'alinéa 20(1)hh), dans les autres cas.

Subsequent application with respect to employee or shareholder debt

(5) Any amount included under paragraph 6(1)(a) or subsection 15(1) in computing a person's income for a taxation year that can reasonably be considered to have been included in the amount determined for A, C or D in subsection 79(3) as a consequence of properties being surrendered before the year by the person shall be deemed to be a repayment by the person, immediately before the end of the year, of assistance to which subsection 79(4) applies.

Application aux dettes d'employés ou d'actionnaires

(5) Un montant inclus, en application de l'alinéa 6(1)a) ou du paragraphe 15(1), dans le calcul du revenu d'une personne pour une année d'imposition qu'il est raisonnable de considérer comme inclus dans les éléments A, C ou D de la formule figurant au paragraphe (3) du fait que des biens ont été délaissés par la personne avant l'année est réputé constituer le remboursement, effectué par la personne immédiatement avant la fin de l'année, d'un montant d'aide auquel s'applique le paragraphe (4).

Surrender of property not payment or repayment by debtor

(6) Where a specified amount of a debt is included in the amount determined at any time for A, B, C or D in subsection 79(3) in respect of a property surrendered at that time by a person to a creditor of the person, for the purpose of computing the person's income, no amount shall be considered to have been paid or repaid by the person as a consequence of the acquisition or reacquisition of the surrendered property by the creditor.

Délaissement d'un bien ne constituant pas un paiement ou un remboursement par le débiteur

(6) Dans le cas où le montant déterminé d'une dette est inclus dans les éléments A, B, C ou D de la formule figurant au paragraphe (3), à un moment donné, relativement au bien que le créancier d'une personne acquiert, par délaissement, de la personne à ce moment, aucun montant n'est considéré, aux fins du calcul du revenu de la personne, comme payé ou remboursé par celle-ci par suite de l'acquisition ou de la nouvelle acquisition, par le créancier, du bien délaissé.

Foreign exchange

(7) Where a debt is denominated in a currency (other than Canadian currency), any amount determined for A, B, C or D in subsection 79(3) in respect of the debt shall be determined with reference to the relative value of that currency and Canadian currency at the time the debt was issued.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 79; 1994, c. 7, Sch. II, s. 57; 1995, c. 21, s. 26; 1998, c. 19, s. 109; 2001, c. 17, s. 209; 2016, c. 12, s. 22.

Dette libellée en monnaie étrangère

(7) Dans le cas où une dette est libellée en monnaie étrangère, les éléments A, B, C ou D de la formule figurant au paragraphe (3) sont déterminés relativement à la dette en fonction de la valeur de cette monnaie par rapport au dollar canadien au moment de l'émission de la dette.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 79; 1994, ch. 7, ann. II, art. 57; 1995, ch. 21, art. 26; 1998, ch. 19, art. 109; 2001, ch. 17, art. 209; 2016, ch. 12, art. 22.

Definitions

79.1 (1) In this section,

creditor has the meaning assigned by subsection 79(1); (*créancier*)

debt has the meaning assigned by subsection 79(1); (*dette*)

person has the meaning assigned by subsection 79(1); (*personne*)

Définitions

79.1 (1) Les définitions qui suivent s'appliquent au présent article.

bien S'entend au sens du paragraphe 79(1). (*property*)

coût déterminé S'agissant du coût déterminé, pour une personne, d'une dette dont elle est créancière :

a) dans le cas où la dette est une immobilisation de la personne, son prix de base rajusté pour celle-ci;

property has the meaning assigned by subsection 79(1); (*bien*)

specified amount has the meaning assigned by subsection 79(1); (*montant déterminé*)

specified cost to a person of a debt owing to the person means

(a) where the debt is capital property of the person, the adjusted cost base to the person of the debt, and

(b) in any other case, the amount, if any, by which

(i) the cost amount to the person of the debt

exceeds

(ii) such portion of that cost amount as would be deductible in computing the person's income (otherwise than in respect of the principal amount of the debt) if the debt were established by the person to have become a bad debt or to have become uncollectable. (*coût déterminé*)

b) dans les autres cas, l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le coût indiqué de la dette pour la personne,

(ii) la partie de ce coût indiqué qui serait déductible dans le calcul du revenu de la personne (autrement qu'au titre du principal de la dette) si la personne établissait que la dette est devenue irrécouvrable. (*specified cost*)

créancier S'entend au sens du paragraphe 79(1). (*creditor*)

dette S'entend au sens du paragraphe 79(1). (*debt*)

montant déterminé S'entend au sens du paragraphe 79(1). (*specified amount*)

personne S'entend au sens du paragraphe 79(1). (*person*)

Seizure of property

(2) Subject to subsection (2.1) and for the purpose of this section, a property is seized at any time by a person in respect of a debt where

(a) the beneficial ownership of the property is acquired or reacquired at that time by the person; and

(b) the acquisition or reacquisition of the property is in consequence of another person's failure to pay to the person all or part of the specified amount of the debt.

Saisie d'un bien

(2) Sous réserve du paragraphe (2.1) et pour l'application du présent article, un bien est saisi par une personne relativement à une dette lorsque les conditions suivantes sont réunies :

a) la propriété effective du bien est acquise ou acquise de nouveau, au moment de la saisie, par la personne;

b) l'acquisition ou la nouvelle acquisition fait suite au défaut d'une autre personne de lui payer tout ou partie du montant déterminé de la dette.

Exception

(2.1) For the purpose of this section, foreign resource property is deemed not to be seized at any time from

(a) an individual or a corporation, if the individual or corporation is non-resident at that time; or

(b) a partnership (other than a partnership each member of which is resident in Canada at that time).

Exception

(2.1) Pour l'application du présent article, un avoir minier étranger est réputé ne pas être saisi :

a) d'un particulier ou d'une société s'ils sont des non-résidents au moment de la saisie;

b) d'une société de personnes, sauf celle dont chacun des associés réside au Canada à ce moment.

Creditor's capital gains reserves

(3) Where a property is seized at any time in a particular taxation year by a creditor in respect of a debt, for the purpose of computing the income of the creditor for the particular year, the amount claimed by the creditor under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing the creditor's gain for the preceding taxation year from any disposition before the particular year of the

Provision pour gains en capital du créancier

(3) Dans le cas où un créancier saisit un bien au cours d'une année d'imposition donnée relativement à une dette, le montant dont il demande la déduction en application des sous-alinéas 40(1)a) (iii) ou 44(1)e)(iii) dans le calcul de son gain pour l'année d'imposition précédente tiré d'une disposition du bien effectuée avant l'année donnée est réputé, aux fins du calcul de son revenu pour

property shall be deemed to be the amount, if any, by which the amount so claimed exceeds the total of all amounts each of which is an amount determined under paragraph 79.1(6)(a) or 79.1(6)(b) in respect of the seizure.

l'année donnée, correspondre à l'excédent éventuel du montant ainsi demandé sur le total des montants représentant chacun un montant calculé selon les alinéas (6)a) ou b) relativement à la saisie.

Creditor's inventory reserves

(4) Where a property is seized at any time in a particular taxation year by a creditor in respect of a debt, for the purpose of computing the income of the creditor for the particular year, the amount deducted under paragraph 20(1)(n) in computing the income of the creditor for the preceding taxation year in respect of any disposition of the property before the particular year shall be deemed to be the amount, if any, by which the amount so deducted exceeds the total of all amounts each of which is an amount determined under paragraph 79.1(6)(a) or 79.1(6)(b) in respect of the seizure.

Provision pour inventaire du créancier

(4) Dans le cas où un créancier saisit un bien au cours d'une année d'imposition donnée relativement à une dette, le montant qu'il déduit en application de l'alinéa 20(1)n) dans le calcul de son revenu pour l'année d'imposition précédente relativement à une disposition du bien effectuée avant l'année donnée est réputé, aux fins du calcul de son revenu pour l'année donnée, correspondre à l'excédent éventuel du montant ainsi déduit sur le total des montants représentant chacun un montant calculé selon les alinéas (6)a) ou b) relativement à la saisie.

Adjustment where disposition and reacquisition of capital property in same year

(5) Where a property is seized at any time in a taxation year by a creditor in respect of one or more debts and the property was capital property of the creditor that was disposed of by the creditor at a previous time in the year, the proceeds of disposition of the property to the creditor at the previous time shall be deemed to be the lesser of the amount of the proceeds (determined without reference to this subsection) and the amount that is the greater of

(a) the amount, if any, by which the amount of such proceeds (determined without reference to this subsection) exceeds such portion of the proceeds as is represented by the specified amounts of those debts immediately before that time, and

(b) the cost amount to the creditor of the property immediately before the previous time.

Ajustement pour disposition et nouvelle acquisition d'une immobilisation au cours d'une même année

(5) Dans le cas où un créancier saisit, à un moment donné d'une année d'imposition relativement à une ou plusieurs dettes, un bien qui faisait partie de ses immobilisations avant qu'il en dispose à un moment antérieur de la même année, le produit de disposition du bien, pour lui, au moment antérieur est réputé égal au moins élevé de ce produit — déterminé compte non tenu du présent paragraphe — ou du plus élevé des montants suivants :

a) l'excédent éventuel de ce produit — déterminé compte non tenu du présent paragraphe — sur la partie de ce même produit que représentent les montants déterminés de ces dettes immédiatement avant le moment donné;

b) le coût indiqué du bien pour le créancier immédiatement avant le moment antérieur.

Cost of seized properties for creditor

(6) Where a particular property is seized at any time in a taxation year by a creditor in respect of one or more debts, the cost to the creditor of the particular property shall be deemed to be the amount, if any, by which the total of

(a) that proportion of the total specified costs immediately before that time to the creditor of those debts that

(i) the fair market value of the particular property immediately before that time

is of

Coût des biens saisis pour le créancier

(6) Dans le cas où un créancier saisit un bien au cours d'une année d'imposition relativement à une ou plusieurs dettes, le coût du bien pour lui est réputé égal à l'excédent éventuel du total des montants suivants :

a) le produit de la multiplication du total des coûts déterminés de ces dettes pour le créancier immédiatement avant la saisie par le rapport entre :

(i) d'une part, la juste valeur marchande du bien immédiatement avant la saisie,

(ii) d'autre part, la juste valeur marchande, immédiatement avant la saisie, de l'ensemble des biens saisis par le créancier relativement à ces dettes,

(ii) the fair market value of all properties immediately before that time that were seized by the creditor at that time in respect of those debts, and

(b) all amounts each of which is an outlay or expense made or incurred, or a specified amount at that time of a debt that is assumed, by the creditor at or before that time to protect the creditor's interest, or for civil law the creditor's right, in the particular property, except to the extent the outlay or expense

(i) was included in the cost to the creditor of property other than the particular property,

(ii) was included before that time in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts of the creditor, or

(iii) was deductible in computing the creditor's income for the year or a preceding taxation year

exceeds

(c) the amount, if any, claimed or deducted under paragraph 20(1)(n) or subparagraph 40(1)(a)(iii) or 44(1)(e)(iii), as the case may be, in respect of the particular property in computing the creditor's income or capital gain for the preceding taxation year or the amount by which the proceeds of disposition of the creditor of the particular property are reduced because of subsection 79.1(5) in respect of a disposition of the particular property by the creditor occurring before that time and in the year.

b) le total des montants représentant chacun soit une dépense engagée ou effectuée par le créancier au plus tard au moment de la saisie afin de protéger son intérêt ou, pour l'application du droit civil, son droit sur le bien, soit un montant déterminé, à ce moment, d'une dette qu'il a assumée à cette fin au plus tard à ce moment, sauf dans la mesure où la dépense, selon le cas :

(i) est incluse dans le coût, pour le créancier, d'un bien autre que le bien en question,

(ii) est incluse avant ce moment dans le calcul, pour l'application de la présente loi, d'un solde de dépenses ou autres montants non déduits du créancier,

(iii) était déductible dans le calcul du revenu du créancier pour l'année ou pour une année d'imposition antérieure,

sur :

c) soit le montant éventuel déduit ou demandé en déduction en application de l'alinéa 20(1)n) ou des sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii), selon le cas, relativement au bien dans le calcul de son revenu ou gain en capital pour l'année d'imposition précédente, soit le montant appliqué en réduction du produit de disposition du bien pour lui par l'effet du paragraphe (5) relativement à une disposition du bien qu'il a effectuée avant la saisie et au cours de l'année.

Treatment of debt

(7) Where a property is seized at any time in a taxation year by a creditor in respect of a particular debt,

(a) the creditor shall be deemed to have disposed of the particular debt at that time;

(b) the amount received on account of the particular debt as a consequence of the seizure shall be deemed

(i) to be received at that time, and

(ii) to be equal to

(A) where the particular debt is capital property, the adjusted cost base to the creditor of the particular debt, and

(B) in any other case, the cost amount to the creditor of the particular debt;

Montant reçu au titre d'une dette

(7) Dans le cas où un créancier saisit un bien au cours d'une année d'imposition relativement à une dette, les régles suivantes s'appliquent :

a) le créancier est réputé avoir disposé de la dette au moment de la saisie;

b) le montant reçu au titre de la dette par suite de la saisie est réputé, à la fois :

(i) être reçu au moment de la saisie,

(ii) être égal à l'un des montants suivants :

(A) si la dette est une immobilisation, son prix de base rajusté pour le créancier,

(B) sinon, son coût indiqué pour le créancier;

(c) where any portion of the particular debt is outstanding immediately after that time, the creditor shall be deemed to have reacquired that portion immediately after that time at a cost equal to

(i) where the particular debt is capital property, nil, and

(ii) in any other case, the amount, if any, by which

(A) the cost amount to the creditor of the particular debt

exceeds

(B) the specified cost to the creditor of the particular debt; and

(d) where no portion of the particular debt is outstanding immediately after that time and the particular debt is not capital property, the creditor may deduct as a bad debt in computing the creditor's income for the year the amount described in subparagraph 79.1(7)(c)(ii) in respect of the seizure.

c) le créancier est réputé avoir acquis de nouveau, immédiatement après la saisie, à l'un des coûts suivants toute partie de la dette qui est alors impayée :

(i) si la dette est une immobilisation, zéro,

(ii) sinon, l'excédent éventuel du coût indiqué de la dette pour le créancier sur son coût déterminé pour lui;

d) dans le cas où aucune partie de la dette — qui n'est pas une immobilisation — n'est impayée immédiatement après la saisie, le créancier peut déduire à titre de créance irrécouvrable dans le calcul de son revenu pour l'année l'excédent visé au sous-alinéa c)(ii) relativement à la saisie.

Claims for debts

(8) Where a property is seized at any time in a taxation year by a creditor in respect of a debt, no amount in respect of the debt

(a) is deductible in computing the creditor's income for the year or a subsequent taxation year as a bad, doubtful or impaired debt; or

(b) shall be included after that time in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts of the creditor as a bad, doubtful or impaired debt.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 26; 1998, c. 19, s. 110; 2001, c. 17, s. 57; 2013, c. 34, s. 117.

Demandes pour créances

(8) Dans le cas où un créancier saisit un bien au cours d'une année d'imposition relativement à une dette, aucun montant relatif à la dette n'est, selon le cas :

a) déductible dans le calcul du revenu du créancier pour l'année ou pour une année d'imposition postérieure à titre de créance irrécouvrable ou douteuse;

b) inclus après la saisie dans le calcul, pour l'application de la présente loi, d'un solde de dépenses ou autres montants non déduits par le créancier au titre de créances irrécouvrables ou douteuses.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 26; 1998, ch. 19, art. 110; 2001, ch. 17, art. 57; 2013, ch. 34, art. 117.

Definitions

80 (1) In this section,

commercial debt obligation issued by a debtor means a debt obligation issued by the debtor

(a) where interest was paid or payable by the debtor in respect of it pursuant to a legal obligation, or

(b) if interest had been paid or payable by the debtor in respect of it pursuant to a legal obligation,

an amount in respect of the interest was or would have been deductible in computing the debtor's income, taxable income or taxable income earned in Canada, as the

Définitions

80 (1) Les définitions qui suivent s'appliquent au présent article.

action privilégiée de renflouement À un moment donné, action émise par une société après le 21 février 1994 (sauf une action émise en conformité avec une convention écrite conclue au plus tard à cette date) qui est visée à l'alinéa e) de la définition de ***action privilégiée à terme*** au paragraphe 248(1) et qui serait une action privilégiée à terme à ce moment, compte non tenu des alinéas e) et f) de cette définition. (*distress preferred share*)

case may be, if this Act were read without reference to subsections 15.1(2) and 15.2(2), paragraph 18(1)(g), subsections 18(2), 18(3.1) and 18(4) and section 21; (*créance commerciale*)

commercial obligation issued by a debtor means

(a) a commercial debt obligation issued by the debtor, or

(b) a distress preferred share issued by the debtor; (*dette commerciale*)

debtor includes any corporation that has issued a distress preferred share and any partnership; (*débiteur*)

directed person at any time in respect of a debtor means

(a) a taxable Canadian corporation or an eligible Canadian partnership by which the debtor is controlled at that time, or

(b) a taxable Canadian corporation or an eligible Canadian partnership that is controlled at that time by

(i) the debtor,

(ii) the debtor and one or more persons related to the debtor, or

(iii) a person or group of persons by which the debtor is controlled at that time; (*personne désignée*)

distress preferred share issued by a corporation means, at any time, a share issued after February 21, 1994 (other than a share issued pursuant to an agreement in writing entered into on or before that date) by the corporation that is a share described in paragraph (e) of the definition ***term preferred share*** in subsection 248(1) that would be a term preferred share at that time if that definition were read without reference to paragraphs (e) and (f); (*action privilégiée de renflouement*)

eligible Canadian partnership at any time means a Canadian partnership none of the members of which is, at that time,

(a) a non-resident owned investment corporation,

(b) a person exempt, because of subsection 149(1), from tax under this Part on all or part of the person's taxable income,

(c) a partnership, other than an eligible Canadian partnership, or

bien exclu Bien d'un débiteur non-résident qui est un bien protégé par traité ou qui n'est pas un bien canadien imposable. (*excluded property*)

compte de société remplaçante S'agissant du compte de société remplaçante, à un moment donné, relativement à une dette commerciale et à un montant calculé à l'égard d'un débiteur, la partie de ce montant qui serait déductible en application des paragraphes 66.7(2), (2.3), (3), (4) ou (5) dans le calcul du revenu du débiteur pour l'année d'imposition qui comprend ce moment si, à la fois :

a) les revenus du débiteur provenant de toutes sources étaient suffisants;

b) le montant ainsi calculé n'était pas réduit par l'effet du paragraphe (8) à ce moment;

c) l'année s'était terminée immédiatement après ce moment;

d) il n'était pas tenu compte des mentions « 30 % de », « 30 % de », et « 10 % de » aux alinéas 66.7(2.3)a), (4)a) et (5)a), respectivement.

Toutefois le compte de société remplaçante à ce moment relativement à la dette est réputé nul, sauf si, selon le cas :

e) la dette a été émise par le débiteur avant l'événement visé à l'alinéa (8)a) qui donne lieu à la déductibilité de tout ou partie de ce montant en application des paragraphes 66.7(2), (2.3), (3), (4) ou (5) dans le calcul du revenu du débiteur, et non en prévision de cet événement;

f) la totalité, ou presque, du produit de l'émission de la dette a servi à régler le principal d'une autre dette à laquelle l'alinéa e) ou le présent alinéa s'appliqueraient si cette autre dette était toujours impayée. (*successor pool*)

créance commerciale Créance émise par un débiteur et sur laquelle un montant au titre d'intérêts est déductible dans le calcul du revenu, du revenu imposable ou du revenu imposable gagné au Canada du débiteur compte non tenu des paragraphes 15.1(2) et 15.2(2), de l'alinéa 18(1)g), des paragraphes 18(2), (3.1) et (4) et de l'article 21, si ces intérêts :

a) soit ont été payés ou étaient payables par le débiteur en exécution d'une obligation légale;

b) soit avaient été payés ou payables par le débiteur en exécution d'une telle obligation.

(d) a trust, other than a trust in which no non-resident person and no person described in paragraph (a), (b) or (c) is beneficially interested; (*société de personnes canadienne admissible*)

excluded obligation means an obligation issued by a debtor where

(a) the proceeds from the issue of the obligation

(i) were included in computing the debtor's income or, but for the expression "other than a prescribed amount" in paragraph 12(1)(x), would have been so included,

(ii) were deducted in computing, for the purposes of this Act, any balance of undeducted outlays, expenses or other amounts, or

(iii) were deducted in computing the capital cost or cost amount to the debtor of any property of the debtor,

(b) an amount paid by the debtor in satisfaction of the entire principal amount of the obligation would be included in the amount determined under paragraph 28(1)(e) or section 30 in respect of the debtor,

(c) section 78 applies to the obligation, or

(d) the principal amount of the obligation would, if this Act were read without reference to sections 79 and 80 and the obligation were settled without any amount being paid in satisfaction of its principal amount, be included in computing the debtor's income because of the settlement of the obligation; (*dette exclue*)

excluded property means property of a non-resident debtor that is treaty-protected property or that is not taxable Canadian property; (*bien exclu*)

excluded security issued by a corporation to a person as consideration for the settlement of a debt means

(a) a distress preferred share issued by the corporation to the person, or

(b) a share issued by the corporation to the person under the terms of the debt, where the debt was a bond, debenture or note listed on a designated stock exchange in Canada and the terms for the conversion to the share were not established or substantially modified after the later of February 22, 1994 and the time that the bond, debenture or note was issued; (*valeur mobilière exclue*)

Il est entendu que la créance commerciale constitue une obligation pour l'application de la définition de ***principal*** au paragraphe 248(1). (*commercial debt obligation*)

débiteur Sont assimilées à des débiteurs les sociétés émettrices d'actions privilégiées de renflouement et les sociétés de personnes. (*debtor*)

dette commerciale

a) Créance commerciale émise par un débiteur;

b) action privilégiée de renflouement émise par un débiteur.

Il est entendu que la dette commerciale constitue une obligation pour l'application de la définition de ***principal*** au paragraphe 248(1). (*commercial obligation*)

dette exclue Dette émise par un débiteur et à l'égard de laquelle l'un des faits suivants se vérifie :

a) le produit de l'émission de la dette :

(i) soit a été inclus dans le calcul du revenu du débiteur ou l'aurait été, n'eût été le passage « (à l'exclusion d'un montant prescrit) » à l'alinéa 12(1)x),

(ii) soit a été déduit dans le calcul, pour l'application de la présente loi, d'un solde de dépenses ou autres montants non déduits,

(iii) soit a été déduit dans le calcul du coût en capital ou du coût indiqué, pour le débiteur, d'un de ses biens;

b) un montant payé par le débiteur en règlement du montant intégral du principal de la dette serait inclus dans le montant déterminé selon l'alinéa 28(1)e) ou l'article 30 relativement au débiteur;

c) l'article 78 s'applique à la dette;

d) le principal de la dette serait inclus dans le calcul du revenu du débiteur en raison du règlement de la dette s'il n'était pas tenu compte des articles 79 et 80 et si la dette était réglée sans qu'aucun montant ne soit payé en règlement de son principal. (*excluded obligation*)

montant remis S'agissant du montant remis, à un moment donné, sur une dette commerciale émise par un débiteur, le montant déterminé selon la formule suivante :

A - B

où :

forgiven amount at any time in respect of a commercial obligation issued by a debtor is the amount determined by the formula

A - B

where

A is the lesser of the amount for which the obligation was issued and the principal amount of the obligation, and

B is the total of

(a) the amount, if any, paid at that time in satisfaction of the principal amount of the obligation,

(b) the amount, if any, included under paragraph 6(1)(a) or subsection 15(1) in computing the income of any person because of the settlement of the obligation at that time,

(c) the amount, if any, deducted at that time under paragraph 18(9.3)(f) in computing the forgiven amount in respect of the obligation,

(d) the capital gain, if any, of the debtor resulting from the application of subsection 39(3) to the purchase at that time of the obligation by the debtor,

(e) such portion of the principal amount of the obligation as relates to an amount renounced under subsection 66(10), 66(10.1), 66(10.2) or 66(10.3) by the debtor,

(f) any portion of the principal amount of the obligation that is included in the amount determined for A, B, C or in subsection 79(3) in respect of the debtor for the taxation year of the debtor that includes that time or for a preceding taxation year,

(g) the total of all amounts each of which is a forgiven amount at a previous time that the obligation was deemed by subsection 80.01(8) or 80.01(9) to have been settled,

(h) such portion of the principal amount of the obligation as can reasonably be considered to have been included under section 80.4 in computing the debtor's income for a taxation year that includes that time or for a preceding taxation year,

(i) where the debtor is a bankrupt at that time, the principal amount of the obligation,

(j) such portion of the principal amount of the obligation as represents the principal amount of an excluded obligation,

(k) where the debtor is a partnership and the obligation was, since the later of the creation of the partnership or the issue of the obligation, always

A représente le moins élevé du montant pour lequel la dette a été émise ou du principal de la dette;

B le total des montants suivants :

a) le montant payé à ce moment en règlement du principal de la dette,

b) le montant inclus en application de l'alinéa 6(1)a) ou du paragraphe 15(1) dans le calcul du revenu d'une personne en raison du règlement de la dette à ce moment,

c) le montant éventuel déduit à ce moment en application de l'alinéa 18(9.3)f) dans le calcul du montant remis sur la dette,

d) le gain en capital éventuel du débiteur résultant de l'application du paragraphe 39(3) à l'achat, à ce moment, de la dette par le débiteur,

e) la partie du principal de la dette qui se rapporte à un montant auquel le débiteur a renoncé en application des paragraphes 66(10), (10.1), (10.2) ou (10.3),

f) la partie du principal de la dette qui est incluse dans les éléments A, B, C ou D de la formule figurant au paragraphe 79(3) relativement au débiteur pour son année d'imposition qui comprend ce moment ou pour une année d'imposition antérieure,

g) le total des montants représentant chacun un montant remis à un moment antérieur où la dette était réputée réglée par les paragraphes 80.01(8) ou (9),

h) la partie du principal de la dette qu'il est raisonnable de considérer comme incluse en application de l'article 80.4 dans le calcul du revenu du débiteur pour une année d'imposition qui comprend ce moment ou pour une année d'imposition antérieure,

i) si le débiteur est un failli à ce moment, le principal de la dette,

j) la partie du principal de la dette qui représente le principal d'une dette exclue,

k) si le débiteur est une société de personnes et si la dette, depuis le dernier en date du jour de la création de la société de personnes et du jour de l'émission de la dette, a toujours été payable à un associé de la société de personnes qui prend une part active, de façon régulière, continue et importante, aux activités de l'entreprise de la société de personnes, sauf celles qui ont trait à son financement, le principal de la dette,

payable to a member of the partnership actively engaged, on a regular, continuous and substantial basis, in those activities of the partnership that are other than the financing of the partnership business, the principal amount of the obligation, and

(l) the amount, if any, given at or before that time by the debtor to another person as consideration for the assumption by the other person of the obligation; (*montant remis*)

person includes a partnership; (*personne*)

relevant loss balance, at a particular time for a commercial obligation and in respect of a debtor's non-capital loss, farm loss, restricted farm loss or net capital loss, as the case may be, for a particular taxation year, is

(a) subject to paragraph (b), the amount of such loss that would be deductible in computing the debtor's taxable income or taxable income earned in Canada, as the case may be, for the taxation year that includes that time if

(i) the debtor had sufficient incomes from all sources and sufficient taxable capital gains,

(ii) subsections (3) and (4) did not apply to reduce such loss at or after that time, and

(iii) paragraph 111(4)(a) and subsection 111(5) did not apply to the debtor, and

(b) nil if the debtor is a taxpayer that was at a previous time subject to a loss restriction event and the particular year ended before the previous time, unless

(i) the obligation was issued by the debtor before, and not in contemplation of, the loss restriction event, or

(ii) all or substantially all of the proceeds from the issue of the obligation were used to satisfy the principal amount of another obligation to which subparagraph (i) or this subparagraph would apply if the other obligation were still outstanding; (*solde de pertes applicable*)

successor pool at any time for a commercial obligation and in respect of an amount determined in relation to a debtor means the portion of that amount that would be deductible under subsection 66.7(2), (2.3), (3), (4) or (5), as the case may be, in computing the debtor's income for the taxation year that includes that time, if

(a) the debtor had sufficient incomes from all sources,

l) le montant éventuel que le débiteur a donné à une autre personne à ce moment ou antérieurement en contrepartie de la prise en charge de la dette par cette dernière. (*forgiven amount*)

personne personnepersonne Est assimilée à une personne une société de personnes. (*person*)

personne désignée Quant à un débiteur à un moment donné :

a) société canadienne imposable ou société de personnes canadienne admissible qui contrôle le débiteur à ce moment;

b) société canadienne imposable ou société de personnes canadienne admissible contrôlée à ce moment :

(i) soit par le débiteur,

(ii) soit par le débiteur et une ou plusieurs personnes liées à celui-ci,

(iii) soit par une personne ou un groupe de personnes qui contrôle le débiteur à ce moment. (*directed person*)

perte non constatée Est une perte non constatée, à un moment donné, relativement à une dette émise par un débiteur et résultant de la disposition d'un bien, la somme qui, en l'absence du sous-alinéa 40(2)g)(ii), serait une perte en capital résultant de la disposition, effectuée par le débiteur à ce moment ou antérieurement, d'une dette ou d'un autre droit de recevoir un montant. Toutefois, si le débiteur est un contribuable qui est assujetti à un fait lié à la restriction de pertes avant le moment donné et après la disposition, la perte non constatée au moment donné relativement à la dette est réputée être nulle, sauf si, selon le cas :

a) la dette a été émise par le débiteur avant le fait lié à la restriction de pertes et non en prévision de ce fait;

b) la totalité, ou presque, du produit de l'émission de la dette a servi à régler le principal d'une autre dette à laquelle l'alinéa a) ou le présent alinéa s'appliqueraient si cette autre dette était toujours impayée. (*unrecognized loss*)

société de personnes canadienne admissible Est une société de personnes canadienne admissible à un moment donné la société de personnes canadienne dont aucun des associés n'est, à ce moment :

a) une société de placement appartenant à des non-résidents;

(b) subsection (8) did not apply to reduce the amount so determined at that time,

(c) the year ended immediately after that time, and

(d) paragraphs 66.7(2.3)(a), (4)(a) and (5)(a) were read without reference to the expressions "30% of", "30% of" and "10% of", respectively,

except that the successor pool at that time for the obligation is deemed to be nil unless

(e) the obligation was issued by the debtor before, and not in contemplation of, the event described in paragraph (8)(a) that gives rise to the deductibility under subsection 66.7(2), (2.3), (3), (4) or (5), as the case may be, of all or part of that amount in computing the debtor's income, or

(f) all or substantially all of the proceeds from the issue of the obligation were used to satisfy the principal amount of another obligation to which paragraph (e) or this paragraph would apply if the other obligation were still outstanding; (*compte de société remplaçante*)

unrecognized loss, at a particular time, in respect of an obligation issued by a debtor, from the disposition of a property, is the amount that would, but for subparagraph 40(2)(g)(ii), be a capital loss from the disposition by the debtor at or before the particular time of a debt or other right to receive an amount, except that if the debtor is a taxpayer that is subject to a loss restriction event before the particular time and after the time of the disposition, the unrecognized loss at the particular time in respect of the obligation is nil unless

(a) the obligation was issued by the debtor before, and not in contemplation of, the loss restriction event, or

(b) all or substantially all of the proceeds from the issue of the obligation were used to satisfy the principal amount of another obligation to which paragraph 80(1)(a) or this paragraph would apply if the other obligation were still outstanding. (*perte non constatée*)

b) une personne exonérée, par l'effet du paragraphe 149(1), de l'impôt prévu à la partie I sur tout ou partie de son revenu imposable;

c) une société de personnes, sauf une société de personnes canadienne admissible;

d) une fiducie, sauf une fiducie dans laquelle aucune personne non-résidente ni aucune personne visée aux alinéas a), b) ou c) n'a de droit de bénéficiaire. (*eligible Canadian partnership*)

solde de pertes applicable S'agissant du solde de pertes applicable, à un moment donné, quant à une dette commerciale et à la perte autre qu'une perte en capital, à la perte agricole, à la perte agricole restreinte ou à la perte en capital nette d'un débiteur pour une année d'imposition donnée, celle des sommes ci-après qui est applicable :

a) sous réserve de l'alinéa b), le montant de la perte qui serait déductible dans le calcul du revenu imposable du débiteur, ou de son revenu imposable gagné au Canada, pour l'année d'imposition qui comprend ce moment si, à la fois :

(i) les revenus du débiteur provenant de toutes sources ainsi que ses gains en capital imposables étaient suffisants,

(ii) la perte en question n'était pas réduite par l'effet des paragraphes (3) et (4) à ce moment ou postérieurement,

(iii) l'alinéa 111(4)a) et le paragraphe 111(5) ne s'appliquaient pas au débiteur;

b) zéro, dans le cas où le débiteur est un contribuable qui a été assujetti à un fait lié à la restriction de pertes à un moment antérieur au moment donné et où l'année donnée s'est terminée avant le moment antérieur, sauf si, selon le cas :

(i) la dette a été émise par le débiteur avant le fait lié à la restriction de pertes et non en prévision de ce fait,

(ii) la totalité ou la presque totalité du produit de l'émission de la dette a servi à régler le principal d'une autre dette à laquelle le sous-alinéa (i) ou le présent sous-alinéa s'appliquerait si cette autre dette était toujours impayée. (*relevant loss balance*)

valeur mobilière exclue S'agissant d'une valeur mobilière exclue qu'une société émet en faveur d'une personne

Application of debt forgiveness rules

(2) For the purposes of this section,

(a) an obligation issued by a debtor is settled at any time where the obligation is settled or extinguished at that time (otherwise than by way of a bequest or inheritance or as consideration for the issue of a share described in paragraph (b) of the definition ***excluded security*** in subsection 80(1));

(b) an amount of interest payable by a debtor in respect of an obligation issued by the debtor shall be deemed to be an obligation issued by the debtor that

(i) has a principal amount, and

(ii) was issued by the debtor for an amount,

equal to the portion of the amount of such interest that was deductible or would, but for subsection 18(2) or 18(3.1) or section 21, have been deductible in computing the debtor's income for a taxation year;

(c) subsections (3) to (5) and (8) to (13) apply in numerical order to the forgiven amount in respect of a commercial obligation;

(d) the applicable fraction of the unapplied portion of a forgiven amount at any time in respect of an obligation issued by the debtor is in respect of a loss for any other taxation year, the fraction required to be used under section 38 for that year;

(e) where an applicable fraction (as determined under paragraph 80(2)(d)) of the unapplied portion of a forgiven amount is applied under subsection 80(4) to reduce at any time a loss for a taxation year, the portion of the forgiven amount so applied shall, except for the purpose of reducing the loss, be deemed to be the quotient obtained when the amount of the reduction is divided by the applicable fraction;

en contrepartie du règlement d'une dette, l'une des actions suivantes :

a) une action privilégiée de renflouement;

b) une action émise en exécution des conditions de la dette, dans le cas où celle-ci prend la forme d'une obligation ou d'un billet inscrit à la cote d'une bourse de valeurs désignée située au Canada et où les conditions concernant la conversion de l'action n'ont pas été établies, ou modifiées quant à leurs éléments essentiels, après le dernier en date du 22 février 1994 et du jour de l'émission de l'obligation ou du billet. (*excluded security*)

Application des règles sur les remises de dettes

(2) Les règles suivantes s'appliquent dans le cadre du présent article :

a) une dette émise par un débiteur est réglée au moment où elle est réglée ou éteinte autrement que par legs ou héritage ou autrement qu'en contrepartie de l'émission d'une action visée à l'alinéa b) de la définition de ***valeur mobilière exclue*** au paragraphe (1);

b) les intérêts payables par un débiteur relativement à une dette qu'il a émise sont réputés être une dette qu'il a émise pour un montant égal à la partie de ces intérêts qui était déductible dans le calcul de son revenu pour une année d'imposition, ou qui aurait été ainsi déductible n'eût été les paragraphes 18(2) ou (3.1) ou l'article 21, et dont le principal correspond à cette partie d'intérêts;

c) les paragraphes (3) à (5) et (8) à (13) s'appliquent selon l'ordre numérique au montant remis sur une dette commerciale;

d) la fraction applicable de la partie non appliquée d'un montant remis, à un moment donné, sur une dette émise par un débiteur correspond, dans le cas d'une perte pour une autre année d'imposition, à la fraction à utiliser aux termes de l'article 38 pour l'année;

e) dans le cas où la fraction applicable, déterminée selon l'alinéa d), de la partie non appliquée d'un montant remis est appliquée à un moment donné, en vertu du paragraphe (4), en réduction d'une perte pour une année d'imposition, la partie ainsi appliquée du montant remis est réputée, sauf pour ce qui est de la réduction de la perte, correspondre au quotient de la division du montant de la réduction par la fraction applicable;

f) [Abrogé, 2016, ch. 12, art. 23]

(f) [Repealed, 2016, c. 12, s. 23]

(g) where a corporation issues a share (other than an excluded security) to a person as consideration for the settlement of a debt issued by the corporation and payable to the person, the amount paid in satisfaction of the debt because of the issue of the share is deemed to be equal to the fair market value of the share at the time it was issued;

(g.1) where a debt issued by a corporation and payable to a person is settled at any time, the amount, if any, that can reasonably be considered to be the increase, as a consequence of the settlement of the debt, in the fair market value of shares of the capital stock of the corporation owned by the person (other than any shares acquired by the person as consideration for the settlement of the debt) is deemed to be an amount paid at that time in satisfaction of the debt;

(h) where any part of the consideration given by a debtor to another person for the settlement at any time of a particular commercial debt obligation issued by the debtor and payable to the other person consists of a new commercial debt obligation issued by the debtor to the other person

(i) an amount equal to the principal amount of the new obligation shall be deemed to be paid by the debtor at that time, because of the issue of the new obligation, in satisfaction of the principal amount of the particular obligation, and

(ii) the new obligation shall be deemed to have been issued for an amount equal to the amount, if any, by which

(A) the principal amount of the new obligation

exceeds

(B) the amount, if any, by which the principal amount of the new obligation exceeds the amount for which the particular obligation was issued;

(i) where 2 or more commercial obligations issued by a debtor are settled at the same time, those obligations shall be treated as if they were settled at different times in the order designated by the debtor in a prescribed form filed with the debtor's return of income under this Part for the debtor's taxation year that includes that time or, if the debtor does not so designate any such order, in the order designated by the Minister;

g) dans le cas où une société émet une action, sauf une valeur mobilière exclue, en faveur d'une personne en contrepartie du règlement d'une dette émise par la société et payable à la personne, le montant payé en règlement de la dette en raison de l'émission de l'action est réputé égal à la juste valeur marchande de l'action au moment de son émission;

g.1) en cas de règlement, à un moment donné, dette émise par une société et payable à une personne, le montant qu'il est raisonnable de considérer comme représentant l'augmentation, découlant du règlement de la dette, de la juste valeur marchande des actions du capital-actions de la société qui appartiennent à la personne, à l'exception des actions que celle-ci a acquises en contrepartie du règlement de la dette, est réputé être un montant payé à ce moment en règlement de la dette;

h) dans le cas où une partie de la contrepartie qu'un débiteur donne à une autre personne en règlement, à un moment donné, d'une créance commerciale donnée émise par le débiteur et payable à l'autre personne consiste en une nouvelle créance commerciale émise par le débiteur en faveur de cette personne, les présomptions suivantes s'appliquent :

(i) un montant égal au principal de la nouvelle créance est réputé payé par le débiteur à ce moment, en raison de l'émission de cette créance, en règlement du principal de la créance donnée,

(ii) la nouvelle créance est réputée avoir été émise pour un montant égal à l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le principal de la nouvelle créance,

(B) l'excédent éventuel du principal de la nouvelle créance sur le montant pour lequel la créance donnée a été émise;

i) les dettes commerciales émises par un débiteur qui sont réglées simultanément sont considérées comme réglées à des moments différents selon l'ordre établi par le débiteur dans le formulaire prescrit annexé à sa déclaration de revenu produite en vertu de la présente partie pour son année d'imposition qui comprend le moment du règlement ou, à défaut, selon l'ordre établi par le ministre;

j) lorsqu'il s'agit de déterminer, à un moment donné, si deux personnes sont liées l'une à l'autre ou si une personne est contrôlée par une autre personne, il est présumé ce qui suit :

(j) for the purpose of determining, at any time, whether 2 persons are related to each other or whether any person is controlled by any other person, it shall be assumed that

(i) each partnership and each trust is a corporation having a capital stock of a single class of voting shares divided into 100 issued shares,

(ii) each member of a partnership and each beneficiary under a trust owned at that time the number of issued shares of that class that is equal to the proportion of 100 that

(A) the fair market value at that time of the member's interest in the partnership or the beneficiary's interest in the trust, as the case may be

is of

(B) the fair market value at that time of all members' interests in the partnership or all beneficiaries' interests in the trust, as the case may be, and

(iii) where a beneficiary's share of the income or capital of a trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power, the fair market value at any time of the beneficiary's interest in the trust is equal to

(A) where the beneficiary is not entitled to receive or otherwise obtain the use of any of the income or capital of the trust before the death after that time of one or more other beneficiaries under the trust, nil, and

(B) in any other case, the total fair market value at that time of all beneficiaries' interests under the trust;

(k) where an obligation is denominated in a currency (other than Canadian currency), the forgiven amount at any time in respect of the obligation shall be determined with reference to the relative value of that currency and Canadian currency at the time the obligation was issued;

(l) where an amount is paid in satisfaction of the principal amount of a particular commercial obligation issued by a debtor and, as a consequence of the payment, the debtor is legally obliged to pay that amount to another person, the obligation to pay that amount to the other person shall be deemed to be a commercial obligation that was issued by the debtor at the

(i) chaque société de personnes et chaque fiducie est une société dont le capital-actions consiste en une seule catégorie d'actions avec droit de vote divisée en 100 actions émises,

(ii) chaque associé d'une société de personnes et chaque bénéficiaire d'une fiducie est propriétaire, à ce moment, d'un nombre d'actions émises de cette catégorie égal au produit de la multiplication de 100 par le rapport entre :

(A) d'une part, la juste valeur marchande, à ce moment, de la participation de l'associé dans la société de personnes ou de la participation du bénéficiaire dans la fiducie, selon le cas,

(B) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des participations des associés dans la société de personnes ou de l'ensemble des participations des bénéficiaires dans la fiducie, selon le cas,

(iii) dans le cas où la part d'un bénéficiaire du revenu ou du capital d'une fiducie est fonction de l'exercice ou de l'absence d'exercice, par une personne, d'un pouvoir discrétionnaire, la juste valeur marchande, à ce moment, de la participation du bénéficiaire dans la fiducie correspond au montant suivant :

(A) si le bénéficiaire n'a le droit de recevoir aucune partie du revenu ou du capital de la fiducie, ou autrement d'en obtenir l'usage, avant le décès, survenu après ce moment, d'un ou plusieurs autres bénéficiaires de la fiducie, zéro,

(B) dans les autres cas, le total des justes valeurs marchandes, à ce moment, des participations des bénéficiaires dans la fiducie;

k) dans le cas où une dette est libellée en monnaie étrangère, le montant remis sur la dette est déterminé en fonction de la valeur de cette monnaie par rapport à la valeur du dollar canadien au moment de l'émission de la dette;

l) lorsqu'un montant est payé en règlement du principal d'une dette commerciale donnée émise par un débiteur et que, par suite de ce paiement, le débiteur a l'obligation légale de payer ce montant à une autre personne, cette obligation est réputée être une dette commerciale que le débiteur a émise au même moment et dans les mêmes circonstances que la dette donnée;

same time and in the same circumstances as the particular obligation;

(m) for greater certainty, the amount that can be applied under this section to reduce another amount may not exceed that other amount;

(n) except for the purposes of this paragraph, where

(i) a commercial debt obligation issued by a debtor is settled at any time,

(ii) the debtor is at that time a member of a partnership, and

(iii) the obligation was, under the agreement governing the obligation, treated immediately before that time as a debt owed by the partnership,

the obligation shall be considered to have been issued by the partnership and not by the debtor;

(o) notwithstanding paragraph (n), if a commercial debt obligation, for which a particular person is liable with one or more other persons, is settled at any time in respect of the particular person but not in respect of all of the other persons, the portion of the obligation that can reasonably be considered to be the particular person's share of the obligation shall be considered to have been issued by the particular person and settled at that time and not at any subsequent time;

(p) a commercial debt obligation issued by an individual that is outstanding at the time of the individual's death and settled at a subsequent time shall, if the estate of the individual was liable for the obligation immediately before the subsequent time, be deemed to have been issued by the estate at the same time and in the same circumstances as the obligation was issued by the individual; and

(q) where a commercial debt obligation issued by an individual would, but for this paragraph, be settled at any time in the period ending 6 months after the death of an individual (or within such longer period as is acceptable to the Minister and the estate of the individual) and the estate of the individual was liable immediately before that time for the obligation

(i) the obligation shall be deemed to have been settled at the beginning of the day on which the individual died and not at that time,

(ii) any amount paid at that time by the estate in satisfaction of the principal amount of the obligation shall be deemed to have been paid at the beginning of the day on which the individual died,

m) il est entendu que le montant qui peut être appliqué en réduction d'un autre montant selon le présent article doit être égal ou inférieur à celui-ci;

n) la créance commerciale émise par un débiteur et réglée à un moment où celui-ci est l'associé d'une société de personnes est considérée, sauf pour l'application du présent alinéa, comme émise par la société de personnes et non par le débiteur, dans le cas où elle était considérée, immédiatement avant ce moment, aux termes de la convention la régissant, comme une dette dont la société de personnes était débitrice;

o) malgré l'alinéa n), dans le cas où une créance commerciale dont une personne est responsable avec une ou plusieurs autres personnes est réglée, à un moment donné, quant à la personne mais non quant à l'ensemble des autres personnes, la partie de la créance qu'il est raisonnable de considérer comme représentant la part qui revient à la personne est réputée avoir été émise par celle-ci et réglée à ce moment et non à un moment postérieur;

p) une créance commerciale émise par un particulier qui est impayée au moment de son décès et réglée à un moment postérieur est réputée, si la succession du particulier était responsable du paiement de la créance immédiatement avant le moment postérieur, avoir été émise par la succession au même moment et dans les mêmes circonstances que la créance émise par le particulier;

q) lorsqu'une créance commerciale émise par un particulier serait réglée, n'eût été le présent alinéa, à un moment de la période se terminant six mois après le décès d'un particulier ou au cours d'une période plus longue que le ministre et la succession du particulier estiment acceptable et que la succession du particulier était responsable du paiement de la créance immédiatement avant ce moment :

(i) la créance est réputée avoir été réglée au début du jour du décès du particulier et non à ce moment,

(ii) tout montant payé à ce moment par la succession en règlement du principal de la créance est réputé avoir été payé au début du jour du décès du particulier,

(iii) tout montant donné par la succession à une autre personne à ce moment ou antérieurement en contrepartie de la prise en charge de la créance par cette dernière est réputé avoir été donné au début du jour du décès du particulier,

(iii) any amount given by the estate at or before that time to another person as consideration for assumption by the other person of the obligation shall be deemed to have been given at the beginning of the day on which the individual died, and

(iv) paragraph 80(2)(b) shall not apply in respect of the settlement to interest that accrues within that period,

except that this paragraph does not apply in circumstances in which any amount is because of the settlement included under paragraph 6(1)(a) or subsection 15(1) in computing the income of any person or in which section 79 applies in respect of the obligation.

Reductions of non-capital losses

(3) Where a commercial obligation issued by a debtor is settled at any time, the forgiven amount at that time in respect of the obligation shall be applied to reduce at that time, in the following order,

(a) the debtor's non-capital loss for each taxation year that ended before that time to the extent that the amount so applied

(i) does not exceed the amount (in subsection 80(4) referred to as the debtor's "ordinary non-capital loss at that time for the year") that would be the relevant loss balance at that time for the obligation and in respect of the debtor's non-capital loss for the year if the description of E in the definition ***non-capital loss*** in subsection 111(8) were read without reference to the expression "the taxpayer's allowable business investment loss for the year", and

(ii) does not, because of this subsection, reduce the debtor's non-capital loss for a preceding taxation year;

(b) the debtor's farm loss for each taxation year that ended before that time, to the extent that the amount so applied

(i) does not exceed the amount that is the relevant loss balance at that time for the obligation and in respect of the debtor's farm loss for the year, and

(ii) does not, because of this subsection, reduce the debtor's farm loss for a preceding taxation year; and

(c) the debtor's restricted farm loss for each taxation year that ended before that time, to the extent that the amount so applied

(iv) l'alinéa b) ne s'applique pas, relativement au règlement, aux intérêts courus au cours de la période en question;

toutefois le présent alinéa ne s'applique pas dans le cas où un montant est, en raison du règlement, inclus en vertu de l'alinéa 6(1)a) ou du paragraphe 15(1) dans le calcul du revenu d'une personne ni dans le cas où l'article 79 s'applique à la créance.

Réduction des pertes autres qu'en capital

(3) En cas de règlement d'une dette commerciale émise par un débiteur, le montant remis sur la dette au moment du règlement est appliqué en réduction, à ce moment, des pertes suivantes selon l'ordre établi ci-après :

a) la perte autre qu'une perte en capital du débiteur pour chaque année d'imposition qui s'est terminée avant ce moment, dans la mesure où le montant ainsi appliqué :

(i) d'une part, ne dépasse pas le montant (appelé « perte autre qu'en capital ordinaire » au paragraphe (4)) qui constituerait le solde de pertes applicable, à ce moment, quant à la dette et à la perte autre qu'une perte en capital du débiteur pour l'année s'il n'était pas tenu compte du passage « sa perte déductible au titre d'un placement d'entreprise » à l'élément E de la formule figurant à la définition de ***perte autre qu'une perte en capital*** au paragraphe 111(8),

(ii) d'autre part, ne réduit pas, par l'effet du présent paragraphe, la perte autre qu'une perte en capital du débiteur pour une année d'imposition antérieure;

b) la perte agricole du débiteur pour chaque année d'imposition qui s'est terminée avant ce moment, dans la mesure où le montant ainsi appliqué :

(i) d'une part, ne dépasse pas le montant qui constitue le solde de pertes applicable, à ce moment, quant à la dette et à la perte agricole du débiteur pour l'année,

(ii) d'autre part, ne réduit pas, par l'effet du présent paragraphe, la perte agricole du débiteur pour une année d'imposition antérieure;

(i) does not exceed the amount that is the relevant loss balance at that time for the obligation and in respect of the debtor's restricted farm loss for the year, and

(ii) does not, because of this subsection, reduce the debtor's restricted farm loss for a preceding taxation year.

c) la perte agricole restreinte du débiteur pour chaque année d'imposition qui s'est terminée avant ce moment, dans la mesure où le montant ainsi appliqué :

(i) d'une part, ne dépasse pas le montant qui constitue le solde de pertes applicable, à ce moment, quant à la dette et à la perte agricole restreinte du débiteur pour l'année,

(ii) d'autre part, ne réduit pas, par l'effet du présent paragraphe, la perte agricole restreinte du débiteur pour une année d'imposition antérieure.

Reductions of capital losses

(4) Where a commercial obligation issued by a debtor is settled at any time, the applicable fraction of the remaining unapplied portion of a forgiven amount at that time in respect of the obligation shall be applied to reduce at that time, in the following order,

(a) the debtor's non-capital loss for each taxation year that ended before that time to the extent that the amount so applied

(i) does not exceed the amount, if any, by which

(A) the relevant loss balance at that time for the obligation and in respect of the debtor's non-capital loss for the year

exceeds

(B) the debtor's ordinary non-capital loss (within the meaning assigned by subparagraph 80(3)(a)(i)) at that time for the year, and

(ii) does not, because of this subsection, reduce the debtor's non-capital loss for a preceding taxation year; and

(b) the debtor's net capital loss for each taxation year that ended before that time, to the extent that the amount so applied

(i) does not exceed the relevant loss balance at that time for the obligation and in respect of the debtor's net capital loss for the year, and

(ii) does not, because of this subsection, reduce the debtor's net capital loss for a preceding taxation year.

Réduction des pertes en capital

(4) En cas de règlement d'une dette commercial émise par un débiteur, la fraction applicable de la partie non appliquée restante du montant remis sur la dette au moment du règlement est appliquée en réduction, à ce moment, des pertes suivantes selon l'ordre établi ci-après :

a) la perte autre qu'une perte en capital du débiteur pour chaque année d'imposition qui s'est terminée avant ce moment, dans la mesure où le montant ainsi appliqué :

(i) d'une part, ne dépasse pas l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le solde de pertes applicable, à ce moment, quant à la dette et à la perte autre qu'une perte en capital du débiteur pour l'année,

(B) la perte autre qu'en capital ordinaire, au sens du sous-alinéa (3)a)(i), du débiteur à ce moment pour l'année,

(ii) d'autre part, ne réduit pas, par l'effet du présent paragraphe, la perte autre qu'une perte en capital du débiteur pour une année d'imposition antérieure;

b) la perte en capital nette du débiteur pour chaque année d'imposition qui s'est terminée avant ce moment, dans la mesure où le montant ainsi appliqué :

(i) d'une part, ne dépasse pas le solde de pertes applicable, à ce moment, quant à la dette et à la perte en capital nette du débiteur pour l'année,

(ii) d'autre part, ne réduit pas, par l'effet du présent paragraphe, la perte en capital nette du débiteur pour une année d'imposition antérieure.

Reductions with respect to depreciable property

(5) Where a commercial obligation issued by a debtor is settled at any time, the remaining unapplied portion of the forgiven amount at that time in respect of the obligation shall be applied, in such manner as is designated by the debtor in a prescribed form filed with the debtor's return of income under this Part for the taxation year that includes that time, to reduce immediately after that time the following amounts:

(a) the capital cost to the debtor of a depreciable property that is owned by the debtor immediately after that time; and

(b) the undepreciated capital cost to the debtor of depreciable property of a prescribed class immediately after that time.

Restriction with respect to depreciable property

(6) Where a commercial obligation issued by a debtor is settled at any time,

(a) an amount may be applied under subsection 80(5) to reduce, immediately after that time, the capital cost to the debtor of a depreciable property of a prescribed class only to the extent that

(i) the undepreciated capital cost to the debtor of depreciable property of that class at that time

exceeds

(ii) the total of all other reductions immediately after that time to that undepreciated capital cost; and

(b) an amount may be applied under subsection 80(5) to reduce, immediately after that time, the capital cost to the debtor of a depreciable property (other than a depreciable property of a prescribed class) only to the extent that

(i) the capital cost to the debtor of the property at that time

exceeds

(ii) the amount that was allowed to the debtor before that time under Part XVII of the *Income Tax Regulations* in respect of the property.

(7) [Repealed, 2016, c. 12, s. 23]

Réduction relative aux biens amortissables

(5) En cas de règlement d'une dette commerciale émise par un débiteur, la partie non appliquée restante du montant remis sur la dette au moment du règlement est appliquée, de la manière indiquée par le débiteur dans le formulaire prescrit annexé à sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition qui comprend ce moment, en réduction, immédiatement après ce moment, des montants suivants :

a) le coût en capital, pour le débiteur, d'un bien amortissable qui appartient à celui-ci immédiatement après ce moment;

b) la fraction non amortie du coût en capital, pour le débiteur, d'un bien amortissable d'une catégorie prescrite immédiatement après ce moment.

Restrictions concernant les biens amortissables

(6) En cas de règlement, à un moment donné, d'une dette commerciale émise par un débiteur, les règles suivantes s'appliquent :

a) un montant ne peut être appliqué, aux termes du paragraphe (5), en réduction, immédiatement après ce moment, du coût en capital, pour le débiteur, d'un bien amortissable d'une catégorie prescrite que dans la mesure où le montant visé au sous-alinéa (i) dépasse le montant visé au sous-alinéa (ii):

(i) la fraction non amortie du coût en capital, pour le débiteur, des biens amortissables de cette catégorie à ce moment,

(ii) le total des autres réductions dont fait l'objet, immédiatement après ce moment, cette fraction non amortie du coût en capital;

b) un montant ne peut être appliqué, aux termes du paragraphe (5), en réduction, immédiatement après ce moment, du coût en capital, pour le débiteur, d'un bien amortissable, sauf un tel bien d'une catégorie prescrite, que dans la mesure où le montant visé au sous-alinéa (i) dépasse le montant visé au sous-alinéa (ii):

(i) le coût en capital du bien pour le débiteur à ce moment,

(ii) le montant qui a été alloué au débiteur avant ce moment en vertu de la partie XVII du *Règles de l'impôt sur le revenu* relativement au bien.

(7) [Abrogé, 2016, ch. 12, art. 23]

Reductions of resource expenditures

(8) Where a commercial obligation issued by a debtor is settled at any time, the remaining unapplied portion of the forgiven amount at that time in respect of the obligation shall be applied (to the extent designated in a prescribed form filed with the debtor's return of income under this Part for the taxation year that includes that time) to reduce immediately after that time the following amounts:

(a) where the debtor is a corporation resident in Canada throughout that year, each particular amount that would be determined in respect of the debtor under paragraph 66.7(2)(a), (2.3)(a), (3)(a), (4)(a) or (5)(a) if paragraphs 66.7(2.3)(a), (4)(a) and (5)(a) were read without reference to the expressions "30% of", "30% of" and "10% of", respectively, as a consequence of the acquisition of control of the debtor by a person or group of persons, the debtor ceasing to be exempt from tax under this Part on its taxable income or the acquisition of properties by the debtor by way of an amalgamation or merger, where the amount so applied does not exceed the successor pool immediately after that time for the obligation and in respect of the particular amount;

(b) the cumulative Canadian exploration expense (within the meaning assigned by subsection 66.1(6)) of the debtor;

(c) the cumulative Canadian development expense (within the meaning assigned by subsection 66.2(5)) of the debtor;

(d) the cumulative Canadian oil and gas property expense (within the meaning assigned by subsection 66.4(5)) of the debtor;

(e) the total determined under paragraph 66(4)(a) in respect of the debtor, where

(i) the debtor is resident in Canada throughout that year, and

(ii) the amount so applied does not exceed such portion of the total of the debtor's foreign exploration and development expenses (within the meaning assigned by subsection 66(15)) as were incurred by the debtor before that time and would be deductible under subsection 66(4) in computing the debtor's income for that year if the debtor had sufficient income described in subparagraph 66(4)(b)(ii) and if that year ended at that time; and

Réduction des dépenses relatives à des ressources

(8) En cas de règlement d'une dette commerciale émise par un débiteur, la partie non appliquée restante du montant remis sur la dette au moment du règlement est appliquée — dans la mesure indiquée dans le formulaire prescrit annexé à la déclaration de revenu que le débiteur produit en vertu de la présente partie pour l'année d'imposition qui comprend ce moment — en réduction, immédiatement après ce moment, des montants suivants :

a) dans le cas où le débiteur est une société qui a résidé au Canada tout au long de cette année, chaque montant donné qui serait déterminé relativement au débiteur selon les alinéas 66.7(2)a), (2.3)a), (3)a), (4)a) ou (5)a), s'il n'était pas tenu compte des mentions « 30 % de », « 30 % de » et « 10 % de » aux alinéas 66.7(2.3)a), (4)a) et (5)a) respectivement, par suite de l'un des événements suivants, à condition que le montant ainsi appliqué ne dépasse pas le compte de société remplaçante, immédiatement après ce moment, relativement à la dette et au montant donné :

(i) l'acquisition du contrôle du débiteur par une personne ou un groupe de personnes,

(ii) le fait que le débiteur a cessé d'être exonéré de l'impôt prévu à la présente partie sur son revenu imposable,

(iii) l'acquisition de biens par le débiteur par suite d'une fusion ou d'une unification;

b) les frais cumulatifs d'exploration au Canada du débiteur, au sens du paragraphe 66.1(6);

c) les frais cumulatifs d'aménagement au Canada du débiteur, au sens du paragraphe 66.2(5);

d) les frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz du débiteur, au sens du paragraphe 66.4(5);

e) le total calculé selon l'alinéa 66(4)a) relativement au débiteur, dans le cas où, à la fois :

(i) le débiteur a résidé au Canada tout au long de cette année,

(ii) le montant ainsi appliqué ne dépasse pas la partie du total des frais d'exploration et d'aménagement à l'étranger du débiteur, au sens du paragraphe 66(15), que celui-ci a engagés avant ce moment, qui serait déductible en application du

(f) the cumulative foreign resource expense (within the meaning assigned by subsection 66.21(1)) of the debtor in respect of a country.

f) les frais cumulatifs relatifs à des ressources à l'étranger (au sens du paragraphe 66.21(1)) du débiteur se rapportant à un pays.

Reductions of adjusted cost bases of capital properties

(9) If a commercial obligation issued by a debtor is settled at any time and amounts have been designated under subsections (5) and (8) to the maximum extent permitted in respect of the settlement, subject to subsection (18)

(a) the remaining unapplied portion of the forgiven amount at that time in respect of the obligation shall be applied (to the extent designated in a prescribed form filed with the debtor's return of income under this Part for the taxation year that includes that time) to reduce immediately after that time the adjusted cost bases to the debtor of capital properties (other than shares of the capital stock of corporations of which the debtor is a specified shareholder at that time, debts issued by corporations of which the debtor is a specified shareholder at that time, interests in partnerships that are related to the debtor at that time, depreciable property that is not of a prescribed class, personal-use properties and excluded properties) that are owned by the debtor immediately after that time;

(b) an amount may be applied under this subsection to reduce, immediately after that time, the capital cost to the debtor of a depreciable property of a prescribed class only to the extent that

(i) the capital cost immediately after that time to the debtor of the property (determined without reference to the settlement of the obligation at that time)

exceeds

(ii) its capital cost immediately after that time to the debtor for the purposes of paragraphs 8(1)(j) and 8(1)(p), sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a) (determined without reference to the settlement of the obligation at that time); and

(c) for the purposes of paragraphs 8(1)(j) and 8(1)(p), sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a), no amount shall be

Réduction du prix de base rajusté d'immobilisations

(9) Si une dette commerciale émise par un débiteur est réglée à un moment donné et que des montants ont été indiqués en application des paragraphes (5) et (8) dans la mesure maximale permise relativement au règlement, les règles ci-après s'appliquent sous réserve du paragraphe (18) :

a) la partie non appliquée restante du montant remis sur la dette à ce moment est appliquée — dans la mesure indiquée dans le formulaire prescrit annexé à la déclaration de revenu que le débiteur produit en vertu de la présente partie pour l'année d'imposition qui comprend ce moment — en réduction, immédiatement après ce moment, du prix de base rajusté, pour le débiteur, des immobilisations lui appartenant immédiatement après ce moment (à l'exclusion des actions du capital-actions de sociétés dont il est un actionnaire déterminé à ce moment, des dettes émises par de telles sociétés, des participations dans des sociétés de personnes qui lui sont liées à ce moment, des biens amortissables qui ne font pas partie d'une catégorie prescrite, des biens à usage personnel et des biens exclus);

b) un montant ne peut être appliqué aux termes du présent paragraphe en réduction, immédiatement après ce moment, du coût en capital, pour le débiteur, d'un bien amortissable d'une catégorie prescrite que dans la mesure où le montant visé au sous-alinéa (i) dépasse le montant visé au sous-alinéa (ii):

(i) le coût en capital du bien pour le débiteur immédiatement après ce moment, déterminé compte non tenu du règlement de la dette à ce moment,

(ii) le coût en capital du bien pour le débiteur immédiatement après ce moment pour l'application des alinéas 8(1)j) et p), des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), déterminé compte non tenu du règlement de la dette à ce moment;

c) pour l'application des alinéas 8(1)j) et p), des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), aucun montant

considered to have been applied under this subsection.

Reduction of adjusted cost bases of certain shares and debts

(10) If a commercial obligation issued by a debtor is settled at any time in a taxation year and amounts have been designated by the debtor under subsections (5), (8) and (9) to the maximum extent permitted in respect of the settlement, subject to subsection (18) the remaining unapplied portion of that forgiven amount shall be applied (to the extent that it is designated in a prescribed form filed with the debtor's return of income under this Part for the year) to reduce immediately after that time the adjusted cost bases to the debtor of capital properties, owned by the debtor immediately after that time, that are shares of the capital stock of corporations of which the debtor is a specified shareholder at that time and debts issued by corporations of which the debtor is a specified shareholder at that time (other than shares of the capital stock of corporations related to the debtor at that time, debts issued by corporations related to the debtor at that time and excluded properties).

Reduction of adjusted cost bases of certain shares, debts and partnership interests

(11) If a commercial obligation issued by a debtor is settled at any time in a taxation year and amounts have been designated by the debtor under subsections (5), (8), (9) and (10) to the maximum extent permitted in respect of the settlement, subject to subsection (18) the remaining unapplied portion of that forgiven amount shall be applied (to the extent that it is designated in a prescribed form filed with the debtor's return of income under this Part for the year) to reduce immediately after that time the adjusted cost bases to the debtor of

(a) shares and debts that are capital properties (other than excluded properties and properties the adjusted cost bases of which are reduced at that time under subsection 80(9) or 80(10)) of the debtor immediately after that time; and

(b) interests in partnerships that are related to the debtor at that time that are capital properties (other than excluded properties) of the debtor immediately after that time.

n'est considéré comme appliqué aux termes du présent paragraphe.

Réduction du prix de base rajusté de certaines actions et dettes

(10) Si une dette commerciale émise par un débiteur est réglée à un moment donné d'une année d'imposition et que des montants ont été indiqués par le débiteur en application des paragraphes (5), (8) et (9) dans la mesure maximale permise relativement au règlement, sous réserve du paragraphe (18), la partie non appliquée restante du montant remis sur la dette est appliquée — dans la mesure indiquée dans le formulaire prescrit annexé à la déclaration de revenu que le débiteur produit en vertu de la présente partie pour l'année — en réduction, immédiatement après ce moment, du prix de base rajusté, pour le débiteur, des immobilisations lui appartenant immédiatement après ce moment qui constituent des actions du capital-actions de sociétés dont il est un actionnaire déterminé à ce moment et des dettes émises par de telles sociétés (à l'exclusion des actions du capital-actions de sociétés liées au débiteur à ce moment, des dettes émises par de telles sociétés et des biens exclus).

Réduction du prix de base rajusté de certaines actions, dettes et participations dans des sociétés de personnes

(11) Si une dette commerciale émise par un débiteur est réglée à un moment donné d'une année d'imposition et que des montants ont été indiqués par le débiteur en application des paragraphes (5), (8), (9) et (10) dans la mesure maximale permise relativement au règlement, sous réserve du paragraphe (18), la partie non appliquée restante du montant remis sur la dette est appliquée — dans la mesure indiquée dans le formulaire prescrit annexé à la déclaration de revenu que le débiteur produit en vertu de la présente partie pour l'année — en réduction, immédiatement après ce moment, du prix de base rajusté, pour le débiteur, des biens suivants :

a) des actions et des dettes qui sont des immobilisations (sauf des biens exclus et des biens dont le prix de base rajusté est réduit à ce moment par application des paragraphes (9) ou (10)) appartenant au débiteur immédiatement après ce moment;

b) des participations dans des sociétés de personnes qui sont liées au débiteur à ce moment, qui constituent des immobilisations (sauf des biens exclus) appartenant au débiteur immédiatement après ce moment.

Capital gain where current year capital loss

(12) If a commercial obligation issued by a debtor (other than a partnership) is settled at any time in a taxation year and amounts have been designated by the debtor under subsections (5), (8) and (9) to the maximum extent permitted in respect of the settlement,

(a) the debtor shall be deemed to have a capital gain for the year from the disposition of capital property (or, where the debtor is non-resident at the end of the year, taxable Canadian property), equal to the lesser of

(i) the remaining unapplied portion of the forgiven amount at that time in respect of the obligation, and

(ii) the amount, if any, by which the total of

(A) all of the debtor's capital losses from the dispositions of properties (other than listed personal properties and excluded properties), and

(B) twice the amount that would, because of subsection 88(1.2), be deductible under paragraph 111(1)(b) in computing the debtor's taxable income for the year, if the debtor had sufficient income and taxable capital gains for the year,

exceeds the total of

(C) all of the debtor's capital gains for the year from the dispositions of such properties (determined without reference to this subsection), and

(D) all amounts each of which is an amount deemed by this subsection to be a capital gain of the debtor for the year as a consequence of the application of this subsection to other commercial obligations settled before that time; and

(b) the forgiven amount at that time in respect of the obligation shall be considered to have been applied under this subsection to the extent of the amount deemed by this subsection to be a capital gain of the debtor for the year as a consequence of the application of this subsection to the settlement of the obligation at that time.

Gain en capital en cas de perte en capital pour l'année courante

(12) Si une dette commerciale émise par un débiteur, autre qu'une société de personnes, est réglée à un moment donné d'une année d'imposition et que des montants ont été indiqués par le débiteur en application des paragraphes (5), (8) et (9) dans la mesure maximale permise relativement au règlement, les règles ci-après s'appliquent :

a) le débiteur est réputé tirer de la disposition d'immobilisations ou, s'il est un non-résident à la fin de l'année, de biens canadiens imposables un gain en capital pour l'année égal au moins élevé des montants suivants :

(i) la partie non appliquée restante du montant remis sur la dette à ce moment,

(ii) l'excédent éventuel du total des montants suivants :

(A) les pertes en capital du débiteur pour l'année résultant de la disposition de biens, sauf des biens personnels désignés et des biens exclus,

(B) le double du montant qui, par l'effet du paragraphe 88(1.2), serait déductible en application de l'alinéa 111(1)b) dans le calcul du revenu imposable du débiteur pour l'année si le revenu et les gains en capital imposables de celui-ci pour l'année étaient suffisants,

sur le total des montants suivants :

(C) les gains en capital du débiteur pour l'année tirés de la disposition de tels biens, déterminés compte non tenu du présent paragraphe,

(D) le total des montants représentant chacun un montant réputé par le présent paragraphe être un gain en capital du débiteur pour l'année par suite de l'application du présent paragraphe à d'autres dettes commerciales réglées avant ce moment;

b) le montant remis sur la dette à ce moment est considéré comme appliqué aux termes du présent paragraphe jusqu'à concurrence du montant qui est réputé par le même paragraphe être un gain en capital du débiteur pour l'année par suite de l'application de ce même paragraphe au règlement de la dette à ce moment.

Income inclusion

(13) Where a commercial obligation issued by a debtor is settled at any time in a taxation year, there shall be added, in computing the debtor's income for the year from the source in connection with which the obligation was issued, the amount determined by the formula

(A + B - C - D) × E

where

A is the remaining unapplied portion of the forgiven amount at that time in respect of the obligation,

B is the lesser of

(a) the total of all amounts designated under subsection 80(11) by the debtor in respect of the settlement of the obligation at that time, and

(b) the residual balance at that time in respect of the settlement of the obligation,

C is the total of all amounts each of which is an amount specified in an agreement filed under section 80.04 in respect of the settlement of the obligation at that time,

D is

(a) if the debtor has designated amounts under subsections (5), (8), (9) and (10) to the maximum extent permitted in respect of the settlement, the amount, if any, by which

(i) the total of all amounts each of which is an unrecognized loss at that time, in respect of the obligation, from the disposition of a property

exceeds

(ii) twice the total of all amounts each of which is an amount by which the amount determined before that time under this subsection in respect of a settlement of an obligation issued by the debtor has been reduced because of an amount determined under this paragraph, and

(b) in any other case, nil, and

E is

(a) where the debtor is a partnership, 1, and

(b) in any other case, 1/2.

Residual balance

(14) For the purpose of subsection 80(13), the residual balance at any time in a taxation year in respect of the settlement of a particular commercial obligation issued by a debtor is the amount, if any, by which

Montant à inclure dans le revenu

(13) En cas de règlement, à un moment donné d'une année d'imposition, d'une dette commerciale émise par un débiteur, le résultat du calcul suivant est à ajouter dans le calcul du revenu du débiteur pour l'année provenant de la source relativement à laquelle la dette a été émise :

(A + B - C - D) × E

où :

A représente la partie non appliquée restante du montant remis sur la dette à ce moment;

B le moins élevé des montants suivants :

a) le total des montants indiqués par le débiteur en application du paragraphe (11) relativement au règlement de la dette à ce moment,

b) le solde résiduel, à ce moment, relativement au règlement de la dette;

C le total des montants représentant chacun un montant indiqué dans une convention produite en application de l'article 80.04 relativement au règlement de la dette à ce moment;

D :

a) dans le cas où le débiteur a indiqué des montants en application des paragraphes (5), (8), (9) et (10) dans la mesure maximale permise relativement au règlement, l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des montants représentant chacun une perte non constatée à ce moment, relativement à la dette, résultant de la disposition d'un bien,

(ii) le double du total des montants représentant chacun un montant appliqué, en raison d'un montant déterminé selon le présent alinéa, en réduction du montant déterminé avant ce moment selon le présent paragraphe relativement au règlement d'une dette émise par le débiteur,

b) dans les autres cas, zéro;

E :

a) si le débiteur est une société de personnes, 1,

b) sinon, 1/2.

Solde résiduel

(14) Pour l'application du paragraphe (13), le solde résiduel, à un moment donné d'une année d'imposition, relativement au règlement d'une dette commerciale donnée émise par un débiteur correspond à l'excédant éventuel

(a) the gross tax attributes of directed persons at that time in respect of the debtor

exceeds the total of

(b) the value of A in subsection 80(13) in respect of the settlement of the particular obligation at that time,

(c) all amounts each of which is

(i) the amount, if any, by which the value of A in subsection 80(13) in respect of a settlement before that time and in the year of a commercial obligation issued by the debtor exceeds the value of C in that subsection in respect of the settlement,

(ii) the value of A in subsection 80(13) in respect of a settlement of a commercial obligation that is deemed by paragraph 80.04(4)(e) to have been issued by a directed person in respect of the debtor because of the filing of an agreement under section 80.04 in respect of a settlement before that time and in the year of a commercial obligation issued by the debtor, or

(iii) the amount specified in an agreement (other than an agreement with a directed person in respect of the debtor) filed under section 80.04 in respect of the settlement before that time and in the year of a commercial obligation issued by the debtor, and

(d) all amounts each of which is an amount in respect of a settlement at a particular time before that time and in the year of a commercial obligation issued by the debtor equal to the least of

(i) the total of all amounts designated under subsection 80(11) in respect of the settlement,

(ii) the residual balance of the debtor at the particular time, and

(iii) the amount, if any, by which the sum of the values of A and B in subsection 80(13) in respect of the settlement exceeds the value of C in that subsection in respect of the settlement.

du montant représentant les éléments fiscaux bruts, à ce moment, de personnes désignées quant au débiteur sur le total des montants suivants :

a) la valeur de l'élément A de la formule figurant au paragraphe (13) relativement au règlement de la dette donnée à ce moment;

b) le total des montants représentant chacun :

(i) l'excédent éventuel de la valeur de l'élément A de la formule figurant au paragraphe (13) relativement au règlement, avant ce moment et au cours de l'année, d'une dette commerciale émise par le débiteur sur la valeur de l'élément C de cette formule relativement au règlement,

(ii) la valeur de l'élément A de la formule figurant au paragraphe (13) relativement au règlement d'une dette commerciale qui est réputée par l'alinéa 80.04(4)e) avoir été émise par une personne désignée quant au débiteur à cause de la production d'une convention en vertu de l'article 80.04 relativement au règlement, avant ce moment et au cours de l'année, d'une dette commerciale émise par le débiteur,

(iii) le montant précisé dans une convention (sauf celle conclue avec une personne désignée quant au débiteur) produite en vertu de l'article 80.04 relativement au règlement, avant ce moment et au cours de l'année, d'une dette commerciale émise par le débiteur;

c) le total des montants représentant chacun un montant relatif au règlement, à un moment antérieur au moment donné et au cours de l'année, d'une dette commerciale émise par le débiteur, égal au moins élevé des montants suivants :

(i) le total des montants indiqués en vertu du paragraphe (11) relativement au règlement,

(ii) le solde résiduel du débiteur au moment antérieur,

(iii) l'excédent éventuel de la somme des valeurs des éléments A et B de la formule figurant au paragraphe (13) relativement au règlement sur la valeur de l'élément C de cette formule relativement au règlement.

Gross tax attributes

(14.1) The gross tax attributes of directed persons at any time in respect of a debtor means the total of all amounts each of which is an amount that would be applied under

Éléments fiscaux bruts

(14.1) Le montant représentant les éléments fiscaux bruts, à un moment donné, de personnes désignées quant à un débiteur correspond au total des montants

any of subsections 80(3) to 80(10) and 80(12) in respect of a settlement of a separate commercial obligation (in this subsection referred to as a "notional obligation") issued by directed persons at that time in respect of the debtor if the following assumptions were made:

(a) a notional obligation was issued immediately before that time by each of those directed persons and was settled at that time;

(b) the forgiven amount at that time in respect of each of those notional obligations was equal to the total of all amounts each of which is a forgiven amount at or before that time and in the year in respect of a commercial obligation issued by the debtor;

(c) amounts were designated under subsections (5), (8), (9) and (10) by each of those directed persons to the maximum extent permitted in respect of the settlement of each of those notional obligations; and

(d) no amounts were designated under subsection 80(11) by any of those directed persons in respect of the settlement of any of the notional obligations.

Members of partnerships

(15) Where a commercial debt obligation issued by a partnership (in this subsection referred to as the "partnership obligation") is settled at any time in a fiscal period of the partnership that ends in a taxation year of a member of the partnership,

(a) the member may deduct, in computing the member's income for the year, such amount as the member claims not exceeding the relevant limit in respect of the partnership obligation;

(b) for the purpose of paragraph (a), the relevant limit in respect of the partnership obligation is the amount that would be included in computing the member's income for the year as a consequence of the application of subsection (13) and section 96 to the settlement of the partnership obligation if the partnership had designated amounts under subsections (5), (8), (9) and (10) to the maximum extent permitted in respect of each obligation settled in that fiscal period and if income arising from the application of subsection (13) were from a source of income separate from any other sources of partnership income; and

(c) for the purposes of this section and section 80.04,

représentant chacun un montant qui serait appliqué aux termes d'un des paragraphes (3) à (10) et (12) relativement au règlement d'une dette commerciale distincte (appelée « dette hypothétique » au présent paragraphe) émise, à ce moment, par des personnes désignées quant au débiteur si les hypothèses suivantes étaient posées :

a) une dette hypothétique a été émise immédiatement avant le moment donné par chacune des personnes désignées et a été réglée au moment donné;

b) le montant remis au moment donné sur chacune des dettes hypothétiques est égal au total des montants représentant chacun un montant remis à ce moment ou antérieurement et au cours de l'année relativement à une dette commerciale émise par le débiteur;

c) des montants sont indiqués en application des paragraphes (5), (8), (9) et (10) par chacune des personnes désignées dans la mesure maximale permise relativement au règlement de chacune des dettes hypothétiques;

d) aucun montant n'a été indiqué en application du paragraphe (11) par les personnes désignées relativement au règlement des dettes hypothétiques.

Associés de sociétés de personnes

(15) En cas de règlement, au cours de l'exercice d'une société de personnes qui se termine dans une année d'imposition d'un de ses associés, d'une créance commerciale émise par la société de personnes (appelée « créance de la société de personnes » au présent paragraphe), les règles suivantes s'appliquent :

a) l'associé peut déduire, dans le calcul de son revenu pour l'année, un montant ne dépassant pas le plafond déterminé relatif à la créance de la société de personnes;

b) pour l'application de l'alinéa a), le plafond déterminé relatif à la créance de la société de personnes correspond au montant qui serait inclus dans le calcul du revenu de l'associé pour l'année par suite de l'application du paragraphe (13) et de l'article 96 au règlement de la créance de la société de personnes, si celle-ci avait indiqué des montants dans la mesure maximale permise par les paragraphes (5), (8), (9) et (10) relativement à chaque dette réglée au cours de cet exercice et si le revenu découlant de l'application du paragraphe (13) provenait d'une source autre que toutes les autres sources de revenu de la société de personnes;

(i) the member shall be deemed to have issued a commercial debt obligation that was settled at the end of that fiscal period,

(ii) the amount deducted under paragraph 80(15)(a) in respect of the partnership obligation in computing the member's income shall be treated as if it were the forgiven amount at the end of that fiscal period in respect of the obligation referred to in subparagraph 80(15)(c)(i),

(iii) subject to subparagraph 80(15)(c)(iv), the obligation referred to in subparagraph 80(15)(c)(i) shall be deemed to have been issued at the same time at which, and in the same circumstances in which, the partnership obligation was issued,

(iv) if the member is a taxpayer that was subject to a loss restriction event at a particular time that is before the end of that fiscal period and before the taxpayer became a member of the partnership, and the partnership obligation was issued before the particular time,

(A) subject to the application of this subparagraph to the taxpayer after the particular time and before the end of that fiscal period, the obligation referred to in subparagraph (i) is deemed to have been issued by the member after the particular time, and

(B) subparagraph (b)(ii) of the definition ***relevant loss balance*** in subsection (1), paragraph (f) of the definition ***successor pool*** in that subsection and paragraph (b) of the definition ***unrecognized loss*** in that subsection do not apply in respect of the loss restriction event, and

(v) the source in connection with which the obligation referred to in subparagraph 80(15)(c)(i) was issued shall be deemed to be the source in connection with which the partnership obligation was issued.

c) pour l'application du présent article et de l'article 80.04:

(i) l'associé est réputé avoir émis une créance commerciale qui a été réglée à la fin de l'exercice en question,

(ii) le montant déduit en application de l'alinéa a) dans le calcul du revenu de l'associé relativement à la créance de la société de personnes est considéré comme le montant remis sur la créance visée au sous-alinéa (i) à la fin de l'exercice en question,

(iii) sous réserve du sous-alinéa (iv), la créance visée au sous-alinéa (i) est réputée avoir été émise au même moment et dans les mêmes circonstances que la créance de la société de personnes,

(iv) si l'associé est un contribuable qui a été assujetti à un fait lié à la restriction de pertes à un moment donné qui est antérieur à la fois à la fin de l'exercice en question et au moment où le contribuable est devenu l'associé de la société de personnes, et que la créance de la société de personnes a été émise avant le moment donné :

(A) sous réserve de l'application du présent sous-alinéa au contribuable après le moment donné et avant la fin de l'exercice en question, la créance visée au sous-alinéa (i) est réputée avoir été émise par l'associé après le moment donné,

(B) l'alinéa f) de la définition de ***compte de société remplaçante***, l'alinéa b) de la définition de ***perte non constatée*** et le sous-alinéa b)(ii) de la définition de ***solde de pertes applicable***, au paragraphe (1), ne s'appliquent pas relativement au fait lié à la restriction de pertes,

(v) la source relativement à laquelle la créance visée au sous-alinéa (i) a été émise est réputée être la source relativement à laquelle la créance de la société de personnes a été émise.

Designations by Minister

(16) Where a commercial obligation issued by a debtor is settled at any time in a taxation year and, as a consequence of the settlement an amount would, but for this subsection, be deducted under section 61.2 or 61.3 in computing the debtor's income for the year and the debtor has not designated amounts under subsections 80(5) to 80(11) to the maximum extent possible in respect of the settlement,

(a) the Minister may designate amounts under subsections 80(5) to 80(11) to the extent that the debtor

Montants indiqués par le ministre

(16) Dans le cas où, par suite du règlement, au cours d'une année d'imposition, d'une dette commerciale émise par un débiteur, un montant serait, n'eût été le présent paragraphe, déduit en application des articles 61.2 ou 61.3 dans le calcul du revenu du débiteur pour l'année et où le débiteur n'a pas indiqué de montants en application des paragraphes (5) à (11) dans la mesure maximale permise relativement au règlement, les règles suivantes s'appliquent :

would have been permitted to designate those amounts; and

(b) the amounts designated by the Minister shall, except for the purpose of this subsection, be deemed to have been designated by the debtor as required by subsections 80(5) to 80(11).

(17) [Repealed, 1998, c. 19, s. 111]

Partnership designations

(18) Where a commercial obligation issued by a partnership is settled at any time after December 20, 1994, the amount designated under subsection 80(9), 80(10) or 80(11) in respect of the settlement by the partnership to reduce the adjusted cost base of a capital property acquired shall not exceed the amount, if any, by which the adjusted cost base at that time to the partnership of the property exceeds the fair market value at that time of the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 80; 1994, c. 7, Sch. II, s. 58; 1995, c. 21, s. 27; 1998, c. 19, s. 111; 1999, c. 22, s. 21; 2001, c. 17, s. 58; 2007, c. 35, s. 21; 2013, c. 34, s. 118, c. 40, s. 36; 2016, c. 12, s. 23.

Definitions

80.01 (1) In this section,

commercial debt obligation has the meaning assigned by subsection 80(1); (*créance commerciale*)

commercial obligation has the meaning assigned by subsection 80(1); (*dette commerciale*)

debtor has the meaning assigned by subsection 80(1); (*débiteur*)

distress preferred share has the meaning assigned by subsection 80(1); (*action privilégiée de renflouement*)

forgiven amount has the meaning assigned by subsection 80(1) except that, where an amount would be included in computing a person's income under paragraph 6(1)(a) or subsection 15(1) as a consequence of the settlement of an obligation if the obligation were settled without any payment being made in satisfaction of its principal amount, ***forgiven amount*** in respect of that obligation has the meaning assigned by subsection 6(15.1) or 15(1.21), as the case may be; (*montant remis*)

person has the meaning assigned by subsection 80(1); (*personne*)

specified cost at any time to a person of an obligation means,

a) le ministre peut indiquer des montants en application des paragraphes (5) à (11) dans la mesure où il aurait été permis au débiteur de les indiquer;

b) les montants indiqués par le ministre sont réputés, sauf pour l'application du présent paragraphe, avoir été indiqués par le débiteur en conformité avec les paragraphes (5) à (11).

(17) [Abrogé, 1998, ch. 19, art. 111]

Montants indiqués par une société de personnes

(18) En cas de règlement, à un moment postérieur au 20 décembre 1994, d'une dette commerciale émise par une société de personnes, le montant que celle-ci indique en application des paragraphes (9), (10) ou (11) relativement au règlement comme devant être appliqué en réduction du prix de base rajusté d'une immobilisation acquise ne peut dépasser l'excédent éventuel du prix de base rajusté de l'immobilisation pour la société de personnes à ce moment sur sa juste valeur marchande à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 80; 1994, ch. 7, ann. II, art. 58; 1995, ch. 21, art. 27; 1998, ch. 19, art. 111; 1999, ch. 22, art. 21; 2001, ch. 17, art. 58; 2007, ch. 35, art. 21; 2013, ch. 34, art. 118, ch. 40, art. 36; 2016, ch. 12, art. 23.

Définitions

80.01 (1) Les définitions qui suivent s'appliquent au présent article.

action privilégiée de renflouement S'entend au sens du paragraphe 80(1). (*distress preferred share*)

coût déterminé S'agissant du coût déterminé d'une dette pour une personne à un moment donné :

a) dans le cas où la dette est une immobilisation de la personne à ce moment, son prix de base rajusté pour la personne à ce moment;

b) dans les autres cas, son coût indiqué pour la personne. (*specified cost*)

créance commerciale S'entend au sens du paragraphe 80(1). (*commercial debt obligation*)

débiteur S'entend au sens du paragraphe 80(1). (*debtor*)

dette commerciale S'entend au sens du paragraphe 80(1). (*commercial obligation*)

montant remis S'entend au sens du paragraphe 80(1). Toutefois, dans le cas où un montant serait inclus dans le calcul du revenu d'une personne en application de l'alinéa 6(1)a) ou du paragraphe 15(1) par suite du règlement d'une dette si la dette était réglée sans qu'aucun montant

(a) where the obligation is capital property of the person at that time, the adjusted cost base at that time to the person of the obligation, and

(b) in any other case, the cost amount to the person of the obligation. (*coût déterminé*)

Application

(2) For the purposes of this section,

(a) paragraphs 80(2)(a), 80(2)(b), 80(2)(j), 80(2)(l) and 80(2)(n) apply; and

(b) a person has a significant interest in a corporation at any time if the person owned at that time

(i) shares of the capital stock of the corporation that would give the person 25% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation, or

(ii) shares of the capital stock of the corporation having a fair market value of 25% or more of the fair market value of all the issued shares of the capital stock of the corporation

and, for the purposes of this paragraph, a person shall be deemed to own at any time each share of the capital stock of a corporation that is owned, otherwise than because of this paragraph, at that time by another person with whom the person does not deal at arm's length.

Deemed settlement on amalgamation

(3) Where a commercial obligation or another obligation (in this subsection referred to as the "indebtedness") of a debtor that is a corporation to pay an amount to another corporation (in this subsection referred to as the "creditor") is settled on an amalgamation of the debtor and the creditor, the indebtedness shall be deemed to have been settled immediately before the time that is immediately before the amalgamation by a payment made by the debtor and received by the creditor of an amount equal to the amount that would have been the creditor's cost amount of the indebtedness at that time if

(a) the definition ***cost amount*** in subsection 248(1) were read without reference to paragraph (e) of that definition; and

(b) that cost amount included amounts added in computing the creditor's income in respect of the portion of the indebtedness representing unpaid interest, to the extent those amounts have not been deducted in

ne soit payé en règlement de son principal, ***montant remis*** s'entend, relativement à la dette, au sens des paragraphes 6(15.1) ou 15(1.21), selon le cas. (*forgiven amount*)

personne S'entend au sens du paragraphe 80(1). (*person*)

Application

(2) Les règles suivantes s'appliquent dans le cadre du présent article :

a) les alinéas 80(2)a), b), j), l) et n) s'appliquent;

b) a une participation notable dans une société à un moment donné la personne qui est propriétaire à ce moment, selon le cas :

(i) d'actions du capital-actions de la société qui lui confèrent au moins 25 % des voix pouvant être exprimées à l'assemblée annuelle des actionnaires de la société,

(ii) d'actions du capital-actions de la société dont la juste valeur marchande correspond à au moins 25 % de la juste valeur marchande de l'ensemble des actions émises de la société;

pour l'application du présent alinéa, une personne est réputée être propriétaire, à un moment donné, de chaque action du capital-actions d'une société qui appartient à ce moment, autrement que par l'effet du présent alinéa, à une autre personne avec laquelle elle a un lien de dépendance.

Présomption de règlement en cas de fusion

(3) Lorsqu'une dette commerciale ou une autre obligation d'un débiteur — qui est une société — de verser une somme à une autre société (appelée « créancier » au présent paragraphe) est réglée lors de la fusion du débiteur et du créancier, la dette ou l'obligation est réputée avoir été réglée immédiatement avant le moment qui tombe immédiatement avant la fusion par le paiement — effectué par le débiteur et reçu par le créancier — d'une somme égale au montant qui aurait représenté le coût indiqué de la dette ou de l'obligation pour le créancier à ce moment si, à la fois :

a) il avait été fait abstraction de l'alinéa e) de la définition de ***coût indiqué*** au paragraphe 248(1);

b) ce coût indiqué avait compris les montants ajoutés dans le calcul du revenu du créancier relativement à la partie de la dette ou de l'obligation qui représente des intérêts impayés, dans la mesure où ces montants n'ont pas été déduits dans le calcul du revenu du

computing the creditor's income as bad debts in respect of that unpaid interest.

Deemed settlement on winding-up

(4) Where there is a winding-up of a subsidiary to which the rules in subsection 88(1) apply and

(a) a debt or other obligation (in this subsection referred to as the "subsidiary's obligation") of the subsidiary to pay an amount to the parent, or

(b) a debt or other obligation (in this subsection referred to as the "parent's obligation") of the parent to pay an amount to the subsidiary

is, as a consequence of the winding-up, settled at a particular time without any payment of an amount or by the payment of an amount that is less than the principal amount of the subsidiary's obligation or the parent's obligation, as the case may be,

(c) where that payment is less than the amount that would have been the cost amount to the parent or subsidiary of the subsidiary's obligation or the parent's obligation immediately before the particular time if the definition ***cost amount*** in subsection 248(1) were read without reference to paragraph (e) of that definition and the parent so elects in a prescribed form on or before the day on or before which the parent is required to file a return of income pursuant to section 150 for the taxation year that includes the particular time, the amount paid at that time in satisfaction of the principal amount of the subsidiary's obligation or the parent's obligation shall be deemed to be equal to the amount that would be the cost amount to the parent or the subsidiary, as the case may be, of the subsidiary's obligation or the parent's obligation immediately before the particular time if

(i) the definition ***cost amount*** in subsection 248(1) were read without reference to paragraph (e) of that definition, and

(ii) that cost amount included amounts added in computing the parent's income or the subsidiary's income in respect of the portion of the indebtedness representing unpaid interest, to the extent that the parent or the subsidiary has not deducted any amounts as bad debts in respect of that unpaid interest, and

(d) for the purposes of applying section 80 to the subsidiary's obligation, where property is distributed at any time in circumstances to which paragraph 88(1)(a) or 88(1)(b) applies and the subsidiary's obligation is settled as a consequence of the distribution, the subsidiary's obligation shall be deemed to have been

créancier à titre de créances irrécouvrables relativement à ces intérêts impayés.

Présomption de règlement en cas de liquidation

(4) Lorsqu'une filiale fait l'objet d'une liquidation à laquelle s'appliquent les règles énoncées au paragraphe 88(1) et que, selon le cas :

a) une dette ou une autre obligation (appelée « dette de la filiale » au présent paragraphe) de la filiale de payer un montant à la société mère;

b) une dette ou une autre obligation (appelée « dette de la société mère » au présent paragraphe) de la société mère de payer un montant à sa filiale,

est réglée à un moment donné par suite de la liquidation sans aucun paiement ou par le paiement d'un montant inférieur au principal de la dette de la filiale ou de la dette de la société mère, selon le cas, les présomptions suivantes s'appliquent :

c) lorsque ce paiement est inférieur à ce qu'aurait été le coût indiqué, pour la société mère ou la filiale, de la dette de la filiale ou de la dette de la société mère immédiatement avant ce moment, compte non tenu de l'alinéa e) de la définition de ***coût indiqué*** au paragraphe 248(1) et que la société mère en fait le choix sur formulaire prescrit au plus tard le jour où elle est tenue de produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition qui comprend ce moment, le montant payé à ce moment en règlement du principal de la dette de la filiale ou de la dette de la société mère est réputé égal au montant qui aurait représenté le coût indiqué, pour la société mère ou la filiale, de la dette de la filiale ou de la dette de la société mère immédiatement avant ce moment, si, selon le cas :

(i) il avait été fait abstraction de l'alinéa e) de la définition de ***coût indiqué*** au paragraphe 248(1),

(ii) ce coût indiqué avait compris les montants ajoutés dans le calcul du revenu de la société mère ou de la filiale relativement à la partie de la dette qui représente des intérêts impayés, dans la mesure où la société mère ou la filiale n'a pas déduit de montants à titre de créances irrécouvrables relativement à ces intérêts impayés;

d) pour l'application de l'article 80 à la dette de la filiale, cette dette est réputée, si elle est réglée par suite de l'attribution de biens, effectuée dans les circonstances visées aux alinéas 88(1)a) ou b), avoir été réglée immédiatement avant le moment qui tombe immédiatement avant le moment de l'attribution et non à un moment postérieur.

settled immediately before the time that is immediately before the time of the distribution and not at any later time.

Deemed settlement on winding-up

(5) Where there is a winding-up of a subsidiary to which the rules in subsection 88(1) apply and, as a consequence of the winding-up, a distress preferred share issued by the subsidiary and owned by the parent (or a distress preferred share issued by the parent and owned by the subsidiary) is settled at any time without any payment of an amount or by the payment of an amount that is less than the principal amount of the share,

(a) where the payment was less than the adjusted cost base of the share to the parent or the subsidiary, as the case may be, immediately before that time, for the purposes of applying the provisions of this Act to the issuer of the share, the amount paid at that time in satisfaction of the principal amount of the share shall be deemed to be equal to its adjusted cost base to the parent or to the subsidiary, as the case may be; and

(b) for the purposes of applying section 80 to the share, where property is distributed at any time in circumstances to which paragraph 88(1)(a) or 88(1)(b) applies and the share is settled as a consequence of the distribution, the share shall be deemed to have been settled immediately before the time that is immediately before the time of the distribution and not at any later time.

Deemed settlement on SIFT trust wind-up event

(5.1) If a trust that is a SIFT wind-up entity is the only beneficiary under another trust (in this subsection referred to as the "subsidiary trust"), and a capital property that is a debt or other obligation (in this subsection referred to as the "subsidiary trust's obligation") of the subsidiary trust to pay an amount to the SIFT wind-up entity is, as a consequence of a distribution from the subsidiary trust that is a SIFT trust wind-up event, settled at a particular time without any payment of an amount or by the payment of an amount that is less than the principal amount of the subsidiary trust's obligation

(a) paragraph (b) applies if

(i) the payment is less than the amount that would have been the adjusted cost base to the SIFT wind-up entity of the subsidiary trust's obligation immediately before the particular time, and

Présomption de règlement en cas de liquidation

(5) Lorsqu'une filiale fait l'objet d'une liquidation à laquelle s'appliquent les règles énoncées au paragraphe 88(1) et que, par suite de la liquidation, une action privilégiée de renflouement émise par la filiale et appartenant à la société mère, ou émise par la société mère et appartenant à la filiale, est réglée à un moment donné sans aucun paiement ou par le paiement d'un montant inférieur au principal de l'action, les présomptions suivantes s'appliquent :

a) dans le cas où le paiement est inférieur au prix de base rajusté de l'action pour la société mère ou la filiale, selon le cas, immédiatement avant ce moment, le montant payé à ce moment en règlement du principal de l'action est réputé, pour l'application des dispositions de la présente loi à l'émetteur de l'action, correspondre au prix de base rajusté de l'action pour la société mère ou la filiale, selon le cas;

b) pour l'application de l'article 80 à l'action, cette action est réputée, si elle est réglée par suite de l'attribution de biens, effectuée dans les circonstances visées aux alinéas 88(1)a) ou b), avoir été réglée immédiatement avant le moment qui tombe immédiatement avant le moment de l'attribution et non à un moment postérieur.

Règlement réputé — fait lié à la conversion d'une EIPD-fiducie

(5.1) Si une fiducie qui est une EIPD convertible est le seul bénéficiaire d'une autre fiducie (appelée « fiducie filiale » au présent paragraphe) et qu'une immobilisation, qui est une dette ou une autre obligation (appelée « obligation de la fiducie filiale » au présent paragraphe) de la fiducie filiale de payer une somme à l'EIPD convertible, est réglée à un moment donné, par suite d'une distribution provenant de la fiducie filiale qui constitue un fait lié à la conversion d'une EIPD-fiducie, sans qu'il y ait paiement d'une somme ou au moyen du paiement d'une somme qui est inférieure au principal de l'obligation de la fiducie filiale :

a) l'alinéa b) s'applique si, à la fois :

(i) le paiement est inférieur à la somme qui aurait correspondu au prix de base rajusté, pour l'EIPD convertible, de l'obligation de la fiducie filiale immédiatement avant le moment donné,

(ii) l'EIPD convertible choisit de se prévaloir de l'alinéa b) sur le formulaire prescrit produit au plus

(ii) the SIFT wind-up entity elects, in prescribed form on or before the SIFT wind-up entity's filing-due date for the taxation year that includes the particular time, to have paragraph (b) apply;

(b) if this paragraph applies, the amount paid at the particular time in satisfaction of the principal amount of the subsidiary trust's obligation is deemed to be equal to the amount that would be the adjusted cost base to the SIFT wind-up entity of the subsidiary trust's obligation immediately before the particular time if that adjusted cost base included amounts added in computing the SIFT wind-up entity's income in respect of the portion of the indebtedness representing unpaid interest, to the extent that the SIFT wind-up entity has not deducted any amounts as bad debts in respect of that unpaid interest; and

(c) for the purposes of applying section 80 to the subsidiary trust's obligation, the subsidiary trust's obligation is deemed to have been settled immediately before the time that is immediately before the distribution.

tard à la date d'échéance de production qui lui est applicable pour l'année d'imposition qui comprend le moment donné;

b) en cas d'application du présent alinéa, la somme payée au moment donné en règlement du principal de l'obligation de la fiducie filiale est réputée être égale à la somme qui correspondrait au prix de base rajusté de cette obligation pour l'EIPD convertible immédiatement avant ce moment si ce prix de base rajusté comprenait des sommes ajoutées dans le calcul du revenu de l'EIPD convertible au titre de la partie de la dette représentant des intérêts impayés, dans la mesure où l'EIPD convertible n'a pas déduit de sommes à titre de créances irrécouvrables relativement à ces intérêts impayés;

c) pour l'application de l'article 80 à l'obligation de la fiducie filiale, cette obligation est réputée avoir été réglée immédiatement avant le moment immédiatement avant la distribution.

Specified obligation in relation to debt parking

(6) For the purpose of subsection (7), an obligation issued by a debtor is, at a particular time, a specified obligation of the debtor where

(a) at any previous time (other than a time before the last time, if any, the obligation became a parked obligation before the particular time),

(i) a person who owned the obligation

(A) dealt at arm's length with the debtor, and

(B) where the debtor is a corporation, did not have a significant interest in the debtor, or

(ii) the obligation was acquired by the holder of the obligation from another person who was, at the time of that acquisition, not related to the holder or related to the holder only because of paragraph 251(5)(b); or

(b) the obligation is deemed by subsection 50(1) to be reacquired at the particular time.

Dette déterminée quant au remisage de dettes

(6) Pour l'application du paragraphe (7), une dette émise par un débiteur constitue, à un moment donné, une dette déterminée de celui-ci si, selon le cas :

a) l'un des faits suivants se vérifie à un moment antérieur, sauf un moment antérieur au moment éventuel où la dette est devenue, pour la dernière fois, une dette remisée avant le moment donné :

(i) une personne qui était propriétaire de la dette :

(A) d'une part, n'avait aucun lien de dépendance avec le débiteur,

(B) d'autre part, si le débiteur est une société, n'avait pas une participation notable dans le débiteur,

(ii) la dette a été acquise par son détenteur d'une autre personne qui, au moment de cette acquisition, n'était pas liée au détenteur ou n'était liée à celui-ci que par l'effet de l'alinéa 251(5)b);

b) la dette est réputée par le paragraphe 50(1) avoir été acquise de nouveau au moment donné.

Parked obligation

(7) For the purposes of this subsection and subsections (6), (8) and (10),

Dette remisée

(7) Pour l'application du présent paragraphe et des paragraphes (6), (8) et (10):

(a) an obligation issued by a debtor is a "parked obligation" at any time where at that time

(i) the obligation is a specified obligation of the debtor, and

(ii) the holder of the obligation

(A) does not deal at arm's length with the debtor, or

(B) where the debtor is a corporation and the holder acquired the obligation after July 12, 1994 (otherwise than pursuant to an agreement in writing entered into on or before July 12, 1994), has a significant interest in the debtor; and

(b) an obligation that is, at any time, acquired or reacquired in circumstances to which subparagraph (6)(a)(ii) or paragraph (6)(b) applies shall, if the obligation is a parked obligation immediately after that time, be deemed to have become a parked obligation at that time.

a) une dette émise par un débiteur est une dette remisée à un moment donné si les conditions suivantes sont réunies à ce moment :

(i) la dette est une dette déterminée du débiteur,

(ii) le détenteur de la dette :

(A) soit a un lien de dépendance avec le débiteur,

(B) soit, si le débiteur est une société et que le détenteur ait acquis la dette après le 12 juillet 1994, autrement qu'en conformité avec une convention écrite conclue au plus tard à cette date, a une participation notable dans le débiteur;

b) une dette qui, à un moment donné, est acquise ou acquise de nouveau dans les circonstances visées au sous-alinéa (6)a)(ii) ou à l'alinéa (6)b) est réputée, si elle constitue une dette remisée immédiatement après ce moment, être devenue une dette remisée à ce moment, indépendamment du fait qu'elle ait été une telle dette immédiatement avant ce moment.

Deemed settlement after debt parking

(8) Where at any particular time after February 21, 1994 a commercial debt obligation that was issued by a debtor becomes a parked obligation (otherwise than pursuant to an agreement in writing entered into before February 22, 1994) and the specified cost at the particular time to the holder of the obligation is less than 80% of the principal amount of the obligation, for the purpose of applying the provisions of this Act to the debtor

(a) the obligation shall be deemed to have been settled at the particular time; and

(b) the forgiven amount at the particular time in respect of the obligation shall be determined as if the debtor had paid an amount at the particular time in satisfaction of the principal amount of the obligation equal to that specified cost.

Présomption de règlement après le remisage de dettes

(8) Lorsque, à un moment donné après le 21 février 1994, une créance commerciale émise par un débiteur devient une dette remisée, autrement qu'en conformité avec une convention écrite conclue avant le 22 février 1994, et que le coût déterminé de la créance pour son détenteur au moment donné représente moins de 80 % de son principal, les règles suivantes s'appliquent pour l'application des dispositions de la présente loi au débiteur :

a) la créance est réputée avoir été réglée au moment donné;

b) le montant remis sur la créance au moment donné est calculé comme si le débiteur avait payé, à ce moment, en règlement du principal de la créance, un montant égal à ce coût déterminé.

Statute-barred debt

(9) Where at any particular time after February 21, 1994 a commercial debt obligation issued by a debtor that is payable to a person (other than a person with whom the debtor is related at the particular time) becomes unenforceable in a court of competent jurisdiction because of a statutory limitation period and the obligation would, but for this subsection, not have been settled or extinguished at the particular time, for the purpose of applying the provisions of this Act to the debtor, the obligation

Dette frappée de prescription

(9) La créance commerciale émise par un débiteur et payable à une personne autre qu'une personne à laquelle le débiteur est lié à un moment donné après le 21 février 1994 qui devient non exécutoire à ce moment devant un tribunal compétent en raison de l'expiration d'un délai de prescription prévu par une loi et qui, n'eût été le présent paragraphe, n'aurait pas été réglée ou éteinte à ce moment est réputée, pour l'application des dispositions de la présente loi au débiteur, avoir été réglée à ce moment.

shall be deemed to have been settled at the particular time.

Subsequent payments in satisfaction of debt

(10) Where a commercial debt obligation issued by a debtor is first deemed by subsection (8) or (9) to have been settled at a particular time, at a subsequent time a payment is made by the debtor of an amount in satisfaction of the principal amount of the obligation and it cannot reasonably be considered that one of the reasons the obligation became a parked obligation or became unenforceable, as the case may be, before the subsequent time was to have this subsection apply to the payment, in computing the debtor's income for the taxation year (in this subsection referred to as the "subsequent year") that includes the subsequent time from the source in connection with which the obligation was issued, there may be deducted the amount determined by the formula

0.5(A - B) - C

where

A is the amount of the payment,

B is the amount, if any, by which

(a) the principal amount of the obligation

exceeds the total of

(b) all amounts each of which is a forgiven amount at any time

(i) in the period that began at the particular time and ended immediately before the subsequent time, and

(ii) at which a particular portion of the obligation is deemed by subsection (8) or (9) to be settled

in respect of the particular portion, and

(c) all amounts paid in satisfaction of the principal amount of the obligation in the period that began at the particular time and ended immediately before the subsequent time, and

C is the amount, if any, by which the total of

(a) all amounts deducted under section 61.3 in computing the debtor's income for the subsequent year or a preceding taxation year,

(b) all amounts added because of subsection 80(13) in computing the debtor's income for the subsequent year or a preceding taxation year in respect of a settlement under subsection (8) or (9) in a period during which the debtor was exempt from tax under this Part on its taxable income, and

Paiements subséquents en règlement d'une créance

(10) Lorsqu'une créance commerciale émise par un débiteur est réputée par les paragraphes (8) ou (9) avoir été réglée pour la première fois à un moment donné, que, à un moment ultérieur, un montant est payé par le débiteur en règlement du principal de la créance et qu'il n'est pas raisonnable de considérer que l'un des motifs pour lesquels la créance a été remisée ou est devenue non exécutoire, selon le cas, avant le moment ultérieur était de faire en sorte que le présent paragraphe s'applique au paiement, le résultat du calcul suivant peut être déduit dans le calcul du revenu du débiteur, pour l'année d'imposition (appelée « année ultérieure » au présent paragraphe) qui comprend le moment ultérieur, provenant de la source relativement à laquelle la créance a été émise :

0,5(A - B) - C

où :

A représente le montant du paiement;

B l'excédent éventuel du principal de la créance sur le total des montants suivants :

a) le total des montants représentant chacun un montant remis, à un moment qui fait partie de la période qui a commencé au moment donné et s'est terminée immédiatement avant le moment ultérieur et où une partie donnée de la créance est réputée réglée par les paragraphes (8) ou (9), relativement à cette partie,

b) les montants payés en règlement du principal de la créance au cours de la période visée à l'alinéa a);

C l'excédent éventuel du total des montants suivants :

a) les montants déduits en application de l'article 61.3 dans le calcul du revenu du débiteur pour l'année ultérieure ou une année d'imposition antérieure,

b) les montants ajoutés par l'effet du paragraphe 80(13) dans le calcul du revenu du débiteur pour l'année ultérieure ou une année d'imposition antérieure relativement au règlement visé aux paragraphes (8) ou (9) au cours d'une période pendant laquelle le débiteur était exonéré de l'impôt prévu à la présente partie sur son revenu imposable,

c) les montants ajoutés par l'effet du paragraphe 80(13) dans le calcul du revenu du débiteur pour l'année ultérieure ou une année d'imposition antérieure relativement au règlement visé aux paragraphes (8) ou (9) au cours d'une période pendant laquelle le débiteur était un non-résident (à

(c) all amounts added because of subsection 80(13) in computing the debtor's income for the subsequent year or a preceding taxation year in respect of a settlement under subsection (8) or (9) in a period during which the debtor was non-resident (other than any of those amounts added in computing the debtor's taxable income or taxable income earned in Canada)

exceeds the total of

(d) the amount, if any, deducted because of paragraph 37(1)(f.1) in determining the balance determined under subsection 37(1) in respect of the debtor immediately after the subsequent year, and

(e) all amounts by which the amount deductible under this subsection in respect of a payment made by the debtor before the subsequent time in computing the debtor's income for the subsequent year or a preceding year has been reduced because of this description.

l'exception de ceux de ces montants qui ont été ajoutés dans le calcul du revenu imposable du débiteur ou de son revenu imposable gagné au Canada),

sur le total des montants suivants :

d) le montant déduit par l'effet de l'alinéa 37(1) f.1) dans le calcul du solde déterminé selon le paragraphe 37(1) relativement au débiteur immédiatement après l'année ultérieure,

e) les montants qui, en raison du présent élément, ont été appliqués en réduction du montant déductible en application du présent paragraphe dans le calcul du revenu du débiteur pour l'année ultérieure ou une année antérieure relativement à un paiement qu'il a effectué avant le moment ultérieur.

Foreign currency gains and losses

(11) Where an obligation issued by a debtor is denominated in a currency (other than the Canadian currency) and the obligation is deemed by subsection (8) or (9) to have been settled, those subsections do not apply for the purpose of determining any gain or loss of the debtor on the settlement that is attributable to a fluctuation in the value of the currency relative to the value of Canadian currency.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 27; 2001, c. 17, s. 59; 2009, c. 2, s. 17.

Gains et pertes en monnaie étrangère

(11) Lorsqu'une dette émise par un débiteur est libellée en monnaie étrangère et qu'elle est réputée par les paragraphes (8) ou (9) avoir été réglée, ces paragraphes ne s'appliquent pas aux fins du calcul d'un gain ou d'une perte du débiteur résultant du règlement qui est attribuable à une fluctuation de la valeur de la monnaie étrangère par rapport à la valeur du dollar canadien.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 27; 2001, ch. 17, art. 59; 2009, ch. 2, art. 17.

Definitions

80.02 (1) In this section, ***commercial debt obligation***, ***commercial obligation***, ***distress preferred share*** and ***person*** have the meanings assigned by subsection 80(1).

Définitions

80.02 (1) Au présent article, ***action privilégiée de renflouement***, ***créance commerciale***, ***dette commerciale*** et ***personne*** s'entendent au sens du paragraphe 80(1).

General rules for distress preferred shares

(2) For the purpose of applying the provisions of this Act to an issuer of a distress preferred share,

(a) the principal amount, at any time, of the share shall be deemed to be the amount (determined at that time) for which the share was issued;

(b) the amount for which the share was issued shall, at any time, be deemed to be the amount, if any, by which the total of

(i) the amount for which the share was issued, determined without reference to this paragraph, and

Règles générales concernant les actions privilégiées de renflouement

(2) Pour l'application des dispositions de la présente loi à l'émetteur d'une action privilégiée de renflouement :

a) le principal de l'action à un moment donné est réputé correspondre au montant, déterminé à ce moment, pour lequel l'action a été émise;

b) le montant pour lequel l'action a été émise est réputé, à un moment donné, correspondre à l'excédent éventuel du total des montants suivants :

(i) le montant pour lequel l'action a été émise, déterminé compte non tenu du présent alinéa,

(ii) all amounts by which the paid-up capital in respect of the share increased after the share was issued and before that time

exceeds

(iii) the total of all amounts each of which is an amount paid before that time on a reduction of the paid-up capital in respect of the share, except to the extent that the amount is deemed by section 84 to have been paid as a dividend;

(c) the share shall be deemed to be settled at such time as it is redeemed, acquired or cancelled by the issuer; and

(d) a payment in satisfaction of the principal amount of the share is any payment made on a reduction of the paid-up capital in respect of the share to the extent that the payment would be proceeds of disposition of the share within the meaning that would be assigned by the definition ***proceeds of disposition*** in section 54 if that definition were read without reference to paragraph (j).

Substitution of distress preferred share for debt

(3) Where any part of the consideration given by a corporation to another person for the settlement or extinguishment at any time of a commercial debt obligation that was issued by the corporation and owned immediately before that time by the other person consists of a distress preferred share issued by the corporation to the other person,

(a) for the purposes of section 80, the amount paid at that time in satisfaction of the principal amount of the obligation because of the issue of that share shall be deemed to be equal to the lesser of

(i) the principal amount of the obligation, and

(ii) the amount by which the paid-up capital in respect of the class of shares that include that share increases because of the issue of that share; and

(b) for the purpose of subparagraph (2)(b)(i), the amount for which the share was issued shall be deemed to be equal to the amount deemed by paragraph (a) to have been paid at that time.

Substitution of commercial debt obligation for distress preferred share

(4) Where any part of the consideration given by a corporation to another person for the settlement at any time

(ii) les montants qui sont venus augmenter le capital versé au titre de l'action après l'émission de celle-ci et avant ce moment,

sur :

(iii) le total des montants représentant chacun un montant payé avant ce moment lors d'une réduction du capital versé au titre de l'action, sauf dans la mesure où le montant est réputé par l'article 84 avoir été payé à titre de dividende;

c) l'action est réputée réglée au moment où l'émetteur la rachète, l'acquiert ou l'annule;

d) est un paiement effectué en règlement du principal de l'action tout paiement effectué lors d'une réduction du capital versé au titre de l'action, dans la mesure où il représenterait le produit de disposition de l'action, au sens de l'article 54, compte non tenu de l'alinéa j) de cette définition.

Remplacement d'une créance par une action privilégiée de renflouement

(3) Dans le cas où une partie de la contrepartie qu'une société a donnée à une autre personne en règlement ou en extinction, à moment donné, d'une créance commerciale émise par la société et appartenant à l'autre personne immédiatement avant ce moment consiste en une action privilégiée de renflouement émise par la société en faveur de l'autre personne, les présomptions suivantes s'appliquent :

a) pour l'application de l'article 80, le montant payé à ce moment en règlement du principal de la créance, en raison de l'émission de cette action, est réputé correspondre au moins élevé des montants suivants :

(i) le principal de la créance,

(ii) le montant qui vient augmenter le capital versé au titre de la catégorie d'actions qui comprend cette action à cause de l'émission de celle-ci;

b) pour l'application du sous-alinéa (2)b)(i), le montant pour lequel l'action a été émise est réputé égal au montant réputé par l'alinéa a) avoir été payé à ce moment.

Remplacement d'une action privilégiée de renflouement par une créance commerciale

(4) Dans le cas où une partie de la contrepartie qu'une société a donnée à une autre personne en règlement, à un

of a distress preferred share that was issued by the corporation and owned immediately before that time by the other person consists of a commercial debt obligation issued by the corporation to the other person, for the purposes of section 80

(a) the amount paid at that time in satisfaction of the principal amount of the share because of the issue of that obligation shall be deemed to be equal to the principal amount of the obligation; and

(b) the amount for which the obligation was issued shall be deemed to be equal to its principal amount.

Substitution of distress preferred share for other distress preferred share

(5) Where any part of the consideration given by a corporation to another person for the settlement at any time of a particular distress preferred share that was issued by the corporation and owned immediately before that time by the other person consists of another distress preferred share issued by the corporation to the other person, for the purposes of section 80

(a) the amount paid at that time in satisfaction of the principal amount of the particular share because of the issue of the other share shall be deemed to be equal to the amount by which the paid-up capital in respect of the class of shares that includes the other share increases because of the issue of the other share; and

(b) for the purpose of subparagraph (2)(b)(i), the amount for which the other share was issued shall be deemed to be equal to the amount deemed by paragraph (a) to have been paid at that time.

Substitution of non-commercial obligation for distress preferred share

(6) Where any part of the consideration given by a corporation to another person for the settlement at any time of a distress preferred share that was issued by the corporation and owned immediately before that time by the other person consists of another share (other than a distress preferred share) or an obligation (other than a commercial obligation) issued by the corporation to the other person, for the purposes of section 80, the amount paid at that time in satisfaction of the principal amount of the distress preferred share because of the issue of the other share or obligation shall be deemed to be equal to the fair market value of the other share or obligation, as the case may be, at that time.

moment donné, d'une action privilégiée de renflouement émise par la société et appartenant à l'autre personne immédiatement avant ce moment consiste en une créance commerciale émise par la société en faveur de l'autre personne, les présomptions suivantes s'appliquent dans le cadre de l'article 80:

a) le montant payé à ce moment en règlement du principal de l'action, en raison de l'émission de cette créance, est réputé égal au principal de la créance;

b) le montant pour lequel la créance a été émise est réputé égal à son principal.

Remplacement d'une action privilégiée de renflouement par une autre semblable action

(5) Dans le cas où une partie de la contrepartie qu'une société a donnée à une autre personne en règlement, à un moment donné, d'une action privilégiée de renflouement donnée, émise par la société et appartenant à l'autre personne immédiatement avant ce moment, consiste en une autre semblable action émise par la société en faveur de l'autre personne, les présomptions suivantes s'appliquent dans le cadre de l'article 80:

a) le montant payé à ce moment en règlement du principal de l'action donnée, en raison de l'émission de l'autre action, est réputé égal au montant qui vient augmenter le capital versé au titre de la catégorie d'actions qui comprend l'autre action à cause de l'émission de cette autre action;

b) pour l'application du sous-alinéa (2)b)(i), le montant pour lequel l'autre action a été émise est réputé égal au montant réputé par l'alinéa a) avoir été payé à ce moment.

Remplacement d'une action privilégiée de renflouement par une dette autre qu'une créance commerciale

(6) Dans le cas où une partie de la contrepartie qu'une société a donnée à une autre personne en règlement, à un moment donné, d'une action privilégiée de renflouement émise par la société et appartenant à l'autre personne immédiatement avant ce moment consiste en une autre action (sauf une action privilégiée de renflouement) ou en une dette (sauf une dette commerciale) émise par la société en faveur de l'autre personne, le montant payé à ce moment en règlement du principal de l'action privilégiée de renflouement, en raison de l'émission de l'autre action ou de la dette, est réputé, pour l'application de l'article 80, égal à la juste valeur marchande de l'autre action ou de la dette, selon le cas, à ce moment.

Deemed settlement on expiry of term

(7) Where at any time a distress preferred share becomes a share that is not a distress preferred share, for the purposes of section 80

(a) the share shall be deemed to have been settled immediately before that time; and

(b) a payment equal to the fair market value of the share at that time shall be deemed to have been made immediately before that time in satisfaction of the principal amount of the share.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 27.

Présomption de règlement à l'échéance

(7) Dans le cas où, à un moment donné, une action privilégiée de renflouement devient une action d'un autre type, les présomptions suivantes s'appliquent dans le cadre de l'article 80:

a) l'action est réputée avoir été réglée immédiatement avant ce moment;

b) un paiement égal à la juste valeur marchande de l'action à ce moment est réputé avoir été effectué immédiatement avant ce moment en règlement du principal de l'action.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 27.

80.03 (1) [1998, c. 19, s. 112(1) text missing from amending clause]

Définitions

80.03 (1) Les définitions qui suivent s'appliquent au présent article.

action privilégiée de renflouement S'entend au sens du paragraphe 80(1). (*distress preferred share*)

créance commerciale S'entend au sens du paragraphe 80(1). (*commercial debt obligation*)

dette commerciale S'entend au sens du paragraphe 80(1). (*commercial obligation*)

dividende imposable [Abrogée, 1998, ch. 19, art. 112]

montant remis S'entend au sens du paragraphe 80(1). (*forgiven amount*)

personne S'entend au sens du paragraphe 80(1). (*person*)

Deferred recognition of debtor's gain on settlement of debt

(2) Where at any time in a taxation year a person (in this subsection referred to as the "transferor") surrenders a particular capital property (other than a distress preferred share) that is a share, a capital interest in a trust or an interest in a partnership, the person shall be deemed to have a capital gain from the disposition at that time of another capital property (or, where the particular property is a taxable Canadian property, another taxable Canadian property) equal to the amount, if any, by which

(a) the total of all amounts deducted under paragraph 53(2)(g.1) in computing the adjusted cost base to the transferor of the particular property immediately before that time

exceeds the total of

Constatation différée du gain du débiteur sur règlement de dettes

(2) La personne (appelée « cédant » au présent paragraphe) qui, à un moment donné d'une année d'imposition, délaisse une immobilisation donnée — action autre qu'une action privilégiée de renflouement, participation au capital d'une fiducie ou participation dans une société de personnes — est réputée réaliser un gain en capital en raison de la disposition, à ce moment, d'une autre immobilisation ou, si l'immobilisation donnée est un bien canadien imposable, d'un autre semblable bien, égal à l'excédent éventuel du montant suivant :

a) le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul du prix de base rajusté de l'immobilisation donnée pour le cédant immédiatement avant ce moment,

sur le total des montants suivants :

(b) the amount that would be the transferor's capital gain for the year from the disposition of the particular property if this Act were read without reference to subsection 100(2), and

(c) where, at the end of the year, the transferor is resident in Canada or is a non-resident person who carries on business in Canada through a fixed place of business, the amount designated under subsection (7) by the transferor in respect of the disposition, at that time or immediately after that time, of the particular property.

b) le montant qui représenterait le gain en capital du cédant pour l'année tiré de la disposition de l'immobilisation donnée, compte non tenu du paragraphe 100(2);

c) dans le cas où, à la fin de l'année, le cédant réside au Canada ou est une personne non-résidente qui exploite une entreprise au Canada par l'entremise d'un lieu fixe d'affaires, le montant qu'il indique en application du paragraphe (7) relativement à la disposition de l'immobilisation donnée à ce moment ou immédiatement après ce moment.

Surrender of capital property

(3) For the purpose of subsection (2), a person shall be considered to have surrendered a property at any time only where

(a) in the case of a share of the capital stock of a particular corporation,

(i) the person is a corporation that disposed of the share at that time and the proceeds of disposition of the share are determined under paragraph 88(1)(b), or

(ii) the person is a corporation that owned the share at that time and, immediately after that time, amalgamates or merges with the particular corporation;

(b) in the case of a capital interest in a trust, the person disposed of the interest at that time and the proceeds of disposition are determined under paragraph 107(2)(c); and

(c) in the case of an interest in a partnership, the person disposed of the interest at that time and the proceeds of disposition are determined under paragraph 98(3)(a) or (5)(a).

Immobilisation délaissée

(3) Pour l'application du paragraphe (2), une personne n'est considérée comme ayant délaissé un bien à un moment donné que dans les cas suivants :

a) si le bien est une action du capital-actions d'une société donnée :

(i) la personne est une société qui a disposé de l'action à ce moment et le produit de disposition de l'action est déterminé selon l'alinéa 88(1)b),

(ii) la personne est une société qui était propriétaire de l'action à ce moment et qui, immédiatement après ce moment, fait l'objet, avec la société donnée, d'une fusion ou d'une unification;

b) si le bien est une participation au capital d'une fiducie, la personne a disposé de la participation à ce moment et le produit de disposition est déterminé selon l'alinéa 107(2)c);

c) si le bien est une participation dans une société de personnes, la personne a disposé de la participation à ce moment et le produit de disposition est déterminé selon les alinéas 98(3)a) ou (5)a).

(4) to (6) [Repealed, 1998, c. 19, s. 112]

(4) à (6) [Abrogés, 1998, ch. 19, art. 112]

Alternative treatment

(7) Where at any time in a taxation year a person disposes of a property, for the purposes of subsection (2) and section 80

(a) the person may designate an amount in a prescribed form filed with the person's return of income under this Part for the year; and

(b) where an amount is designated by the person under paragraph (a) in respect of the disposition,

Solution de rechange

(7) Dans le cas où une personne dispose d'un bien au cours d'une année d'imposition, les règles suivantes s'appliquent dans le cadre du paragraphe (2) et de l'article 80:

a) la personne peut indiquer un montant dans le formulaire prescrit annexé à sa déclaration de revenu produite en vertu de la présente partie pour l'année;

b) lorsqu'une personne indique un montant relativement à la disposition en application de l'alinéa a):

(i) the person shall be deemed to have issued a commercial debt obligation at that time that is settled immediately after that time,

(ii) the lesser of the amount so designated and the amount that would, but for this subsection, be a capital gain determined in respect of the disposition because of subsection (2) shall be treated as if it were the forgiven amount at the time of the settlement in respect of the obligation referred to in subparagraph (i),

(iii) the source in connection with which the obligation referred to in subparagraph (i) was issued shall be deemed to be the business, if any, carried on by the person at the end of the year, and

(iv) where the person does not carry on a business at the end of the year, the person shall be deemed to carry on an active business at the end of the year and the source in connection with which the obligation referred to in subparagraph (i) was issued shall be deemed to be the business deemed by this subparagraph to be carried on.

(i) elle est réputée avoir émis, au moment de la disposition, une créance commerciale qui est réglée immédiatement après ce moment,

(ii) le montant ainsi indiqué ou, s'il est inférieur, le montant qui, si ce n'était le présent paragraphe, serait un gain en capital déterminé relativement à la disposition par l'effet du paragraphe (2) est considéré comme le montant remis sur la créance visée au sous-alinéa (i) au moment du règlement,

(iii) la source relativement à laquelle la créance visée au sous-alinéa (i) a été émise est réputée être l'entreprise que la personne exploitait à la fin de l'année,

(iv) si elle n'exploite pas d'entreprise à la fin de l'année, la personne est réputée exploiter activement une entreprise à la fin de l'année et la source relativement à laquelle la créance visée au sous-alinéa (i) a été émise est réputée être l'entreprise qu'elle est ainsi réputée exploiter.

Lifetime capital gains exemption

(8) If, as a consequence of the disposition at any time by an individual of a property that is a qualified farm or fishing property of the individual or a qualified small business corporation share of the individual (as defined in subsection 110.6(1)), the individual is deemed by subsection (2) to have a capital gain at that time from the disposition of another property, for the purposes of sections 3, 74.3 and 111, as they apply for the purposes of section 110.6, the other property is deemed to be a qualified farm or fishing property of the individual or a qualified small business corporation share of the individual, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 27; 1998, c. 19, s. 112; 2014, c. 39, s. 15.

Exonération cumulative des gains en capital

(8) Dans le cas où un particulier est réputé en vertu du paragraphe (2), du fait qu'il a disposé à un moment donné d'un bien qui est son bien agricole ou de pêche admissible ou son action admissible de petite entreprise, au sens du paragraphe 110.6(1), tirer un gain en capital à ce moment de la disposition d'un autre bien, cet autre bien est réputé, pour l'application des articles 3, 74.3 et 111 dans le cadre de l'article 110.6, être un bien agricole ou de pêche admissible ou une action admissible de petite entreprise, selon le cas, du particulier.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 27; 1998, ch. 19, art. 112; 2014, ch. 39, art. 15.

Definitions

80.04 (1) In this section, ***commercial debt obligation***, ***commercial obligation***, ***debtor***, ***directed person***, ***eligible Canadian partnership***, ***forgiven amount*** and ***person*** have the meanings assigned by subsection 80(1).

Définitions

80.04 (1) Au présent article, ***créance commerciale***, ***débiteur***, ***dette commerciale***, ***montant remis***, ***personne***, ***personne désignée*** et ***société de personnes canadienne admissible*** s'entendent au sens du paragraphe 80(1).

Eligible transferee

(2) For the purpose of this section, an ***eligible transferee*** of a debtor at any time is a directed person at that time in respect of the debtor or a taxable Canadian corporation or eligible Canadian partnership related (otherwise than because of a right referred to in paragraph 251(5)(b)) at that time to the debtor.

Cessionnaire admissible

(2) Pour l'application du présent article, est un « cessionnaire admissible » d'un débiteur à un moment donné une personne désignée à ce moment quant au débiteur ou

une société canadienne imposable ou une société de personnes canadienne admissible liée au débiteur à ce moment autrement qu'à cause d'un droit visé à l'alinéa 251(5)b).

Application

(3) Paragraphs 80(2)(a), 80(2)(b), 80(2)(j), 80(2)(l) and 80(2)(n) apply for the purpose of this section.

Application

(3) Les alinéas 80(2)a), b), j), l) et n) s'appliquent dans le cadre du présent article.

Agreement respecting transfer of forgiven amount

(4) Where

(a) a particular commercial obligation (other than an obligation deemed by paragraph (e) to have been issued) issued by a debtor is settled at a particular time,

(b) amounts have been designated by the debtor under subsections 80(5) to 80(10) to the maximum extent permitted in respect of the settlement of the particular obligation at the particular time,

(c) the debtor and an eligible transferee of the debtor at the particular time file under this section an agreement between them in respect of that settlement, and

(d) an amount is specified in that agreement

the following rules apply:

(e) except for the purposes of subsection 80(11), the transferee shall be deemed to have issued a commercial debt obligation that was settled at the particular time,

(f) the specified amount shall be deemed to be the forgiven amount at the particular time in respect of the obligation referred to in paragraph (e),

(g) subject to paragraph (h), the obligation referred to in paragraph (e) shall be deemed to have been issued at the same time (in paragraph (h) referred to as the "time of issue") at which, and in the same circumstances in which, the particular obligation was issued,

(h) if the transferee is a taxpayer that is subject to a loss restriction event after the time of issue and the transferee and the debtor were, if the transferee is a corporation, not related to each other — or, if the transferee is a trust, not affiliated with each other — immediately before the loss restriction event,

(i) the obligation referred to in paragraph (e) is deemed to have been issued after the loss restriction event, and

Convention concernant le transfert d'un montant remis

(4) Dans le cas où les conditions suivantes sont réunies :

a) une dette commerciale donnée émise par un débiteur, sauf une dette qui est réputée émise par l'alinéa e), est réglée à un moment donné;

b) le débiteur a indiqué des montants en application des paragraphes 80(5) à (10) dans la mesure maximale permise relativement au règlement de la dette donnée ou moment donné;

c) le débiteur et son cessionnaire admissible au moment donné produisent en vertu du présent article une convention conclue entre eux relativement à ce règlement;

d) un montant est précisé dans cette convention,

les règles suivantes s'appliquent :

e) sauf pour l'application du paragraphe 80(11), le cessionnaire est réputé avoir émis une créance commerciale qui a été réglée au moment donné;

f) le montant précisé est réputé être le montant remis, au moment donné, sur la créance visée à l'alinéa e);

g) sous réserve de l'alinéa h), la créance visée à l'alinéa e) est réputée avoir été émise au même moment (appelé « moment de l'émission » à l'alinéa h)) et dans les mêmes circonstances que la dette donnée;

h) lorsque le cessionnaire est un contribuable qui est assujetti à un fait lié à la restriction de pertes après le moment de l'émission et que le cessionnaire et le débiteur ne sont pas liés l'un à l'autre — si le cessionnaire est une société — ou ne sont pas affiliés l'un à l'autre — s'il est une fiducie — immédiatement avant ce fait :

(i) la créance visée à l'alinéa e) est réputée avoir été émise après le fait lié à la restriction de pertes,

(ii) l'alinéa f) de la définition de ***compte de société remplaçante***, l'alinéa b) de la définition de ***perte non constatée*** et le sous-alinéa b)(ii) de la définition de ***solde de pertes applicable***, au

(ii) subparagraph (b)(ii) of the definition ***relevant loss balance*** in subsection 80(1), paragraph (f) of the definition ***successor pool*** in that subsection and paragraph (b) of the definition ***unrecognized loss*** in that subsection do not apply in respect of the loss restriction event,

(i) the source in connection with which the obligation referred to in paragraph (e) was issued shall be deemed to be the source in connection with which the particular obligation was issued, and

(j) for the purposes of sections 61.3 and 61.4, the amount included under subsection 80(13) in computing the income of the eligible transferee in respect of the settlement of the obligation referred to in paragraph (e) or deducted under paragraph 80(15)(a) in respect of such income shall be deemed to be nil.

paragraphe 80(1), ne s'appliquent pas relativement au fait lié à la restriction de pertes;

i) la source relativement à laquelle la créance visée à l'alinéa e) a été émise est réputée être celle relativement à laquelle la dette donnée a été émise;

j) pour l'application des articles 61.3 et 61.4, le montant inclus selon le paragraphe 80(13) dans le calcul du revenu du cessionnaire admissible relativement au règlement de la créance visée à l'alinéa e), ou déduit selon l'alinéa 80(15)a) relativement à ce revenu est réputé nul.

Consideration for agreement

(5) For the purposes of this Part, where property is acquired at any time by an eligible transferee as consideration for entering into an agreement with a debtor that is filed under this section

(a) where the property was owned by the debtor immediately before that time,

(i) the debtor shall be deemed to have disposed of the property at that time for proceeds equal to the fair market value of the property at that time, and

(ii) no amount may be deducted in computing the debtor's income as a consequence of the transfer of the property, except any amount arising as a consequence of the application of subparagraph (i);

(b) the cost at which the property was acquired by the eligible transferee at that time shall be deemed to be equal to the fair market value of the property at that time; and

(c) the eligible transferee shall not be required to add an amount in computing income solely because of the acquisition at that time of the property;

(d) [Repealed, 1998, c. 19, s. 113(1)]

Contrepartie de la convention

(5) Pour l'application de la présente partie, dans le cas où un cessionnaire admissible acquiert un bien à un moment donné en contrepartie de la conclusion d'une convention avec un débiteur qui est produite en vertu du présent article, les règles suivantes s'appliquent :

a) si le bien appartenait au débiteur immédiatement avant ce moment :

(i) le débiteur est réputé avoir disposé du bien à ce moment pour un produit égal à sa juste valeur marchande à ce moment,

(ii) seuls les montants découlant de l'application du sous-alinéa (i) sont déductibles dans le calcul du revenu du débiteur par suite du transfert du bien;

b) le coût auquel le cessionnaire admissible a acquis le bien à ce moment est réputé égal à sa juste valeur marchande à ce moment;

c) le cessionnaire admissible n'est pas tenu d'ajouter un montant dans le calcul de son revenu du seul fait qu'il a acquis le bien à ce moment.

d) [Abrogé, 1998, ch. 19, art. 113(1)]

No benefit conferred

(5.1) For the purposes of this Part, where a debtor and an eligible transferee enter into an agreement that is filed under this section, no benefit shall be considered to have been conferred on the debtor as a consequence of the agreement.

Aucun avantage

(5.1) Pour l'application de la présente partie, aucun avantage n'est considéré comme conféré à un débiteur du fait qu'il a conclu avec un cessionnaire admissible une convention produite en vertu du présent article.

Manner of filing agreement

(6) Subject to subsection (7), a particular agreement between a debtor and an eligible transferee in respect of an obligation issued by the debtor that was settled at any time shall be deemed not to have been filed under this section

(a) where it is not filed with the Minister in a prescribed form

(i) on or before the later of

(A) the day on or before which the debtor's return of income under this Part is required to be filed for the taxation year or fiscal period, as the case may be, that includes that time (or would be required to be filed if tax under this Part were payable by the debtor for the year), and

(B) the day on or before which the transferee's return of income under this Part is required to be filed for the taxation year or fiscal period, as the case may be, that includes that time, or

(ii) on or before the later of

(A) the expiry of the 90-day period commencing on the day of mailing of an assessment of tax payable under this Part or a notification that no tax is payable under this Part, as the case may be, for a taxation year or fiscal period described in clause (i)(A) or (B), as the case may be, and

(B) if the debtor is an individual (other than a trust) or a graduated rate estate, the day that is one year after the taxpayer's filing-due date for the year;

(b) where it is not accompanied by,

(i) where the debtor is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made,

(ii) where the debtor is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made,

(iii) where the transferee is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

Modalités de production

(6) Sous réserve du paragraphe (7), la convention entre un débiteur et un cessionnaire admissible relativement à une dette émise par le débiteur qui a été réglée à un moment donné est réputée ne pas avoir été produite en vertu du présent article :

a) sauf si elle est présentée au ministre sur formulaire prescrit :

(i) soit au plus tard au dernier en date des jours suivants :

(A) le jour où le débiteur est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année d'imposition ou l'exercice, selon le cas, qui comprend ce moment (ou le jour où il serait tenu de produire cette déclaration s'il avait un impôt payable pour l'année en vertu de la présente partie),

(B) le jour où le cessionnaire est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année d'imposition ou l'exercice, selon le cas, qui comprend ce moment,

(ii) soit au plus tard au dernier en date des jours suivants :

(A) le jour qui marque la fin de la période de quatre-vingt-dix jours commençant à la date de mise à la poste d'une cotisation concernant l'impôt à payer en vertu de la présente partie ou d'un avis portant qu'aucun impôt n'est à payer en vertu de la présente partie, selon le cas, pour une année d'imposition ou un exercice visé aux divisions (i)(A) ou (B), selon le cas,

(B) si le débiteur est un particulier (sauf une fiducie) ou une succession assujettie à l'imposition à taux progressifs, le jour qui suit d'un an la date d'échéance de production qui lui est applicable pour l'année;

b) sauf si elle est accompagnée des documents suivants :

(i) si le débiteur est une société et ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(ii) si le débiteur est une société et ses administrateurs n'ont pas légalement le droit de gérer ses affaires, une copie certifiée conforme du document

(iv) where the transferee is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made; or

(c) if an agreement amending the particular agreement has been filed in accordance with this section, except where subsection (8) applies to the particular agreement.

par lequel la personne qui a ce droit autorise la conclusion de la convention,

(iii) si le cessionnaire est une société et ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(iv) si le cessionnaire est une société et ses administrateurs n'ont pas légalement le droit de gérer ses affaires, une copie certifiée conforme du document par lequel la personne qui a ce droit autorise la conclusion de la convention;

c) si une convention modifiant la convention en question a été produite en conformité avec le présent article, sauf dans le cas où le paragraphe (8) s'applique à la convention en question.

Filing by partnership

(7) For the purpose of subsection (6), where an obligation is settled at any time in a fiscal period of a partnership, it shall be assumed that

(a) the partnership is required to file a return of income under this Part for the fiscal period on or before the latest day on or before which any member of the partnership during the fiscal period is required to file a return of income under this Part for the taxation year in which that fiscal period ends (or would be required to file such a return of income if tax under this Part were payable by the member for that year); and

(b) the partnership may serve a notice of objection described in subparagraph (6)(a)(ii) within each period within which any member of the partnership during the fiscal period may serve a notice of objection to tax payable under this Part for a taxation year in which that fiscal period ends.

Déclaration d'une société de personnes

(7) Pour l'application du paragraphe (6), dans le cas où une dette est réglée au cours de l'exercice d'une société de personnes, il est présumé ce qui suit :

a) la société de personnes est tenue de produire une déclaration de revenu en vertu de la présente partie pour l'exercice au plus tard le dernier jour où l'un de ses associés au cours de l'exercice est tenu de produire une telle déclaration pour l'année d'imposition dans laquelle cet exercice se termine (ou le dernier jour où un tel associé serait tenu de produire une telle déclaration s'il avait un impôt payable en vertu de la présente partie pour cette année);

b) la société de personnes peut signifier un avis d'opposition visé au sous-alinéa (6)a)(ii) au cours de chaque période pendant laquelle un de ses associés au cours de l'exercice peut signifier un tel avis concernant l'impôt payable en vertu de la présente partie pour une année d'imposition au cours de laquelle cet exercice se termine.

Related corporations

(8) Where at any time a corporation becomes related to another corporation and it can reasonably be considered that the main purpose of the corporation becoming related to the other corporation is to enable the corporations to file an agreement under this section, the amount specified in the agreement shall be deemed to be nil for the purpose of the description of C in subsection 80(13).

Sociétés liées

(8) Lorsqu'une société devient liée à une autre société et qu'il est raisonnable de considérer que le principal objet de cet événement est de permettre aux sociétés de produire une convention en vertu du présent article, le montant précisé dans la convention est réputé nul pour l'application de l'élément C de la formule figurant au paragraphe 80(13).

Assessment of taxpayers in respect of agreement

(9) The Minister shall, notwithstanding subsections 152(4) to 152(5), assess or reassess the tax, interest and penalties payable under this Act by any taxpayer in order

Cotisation en cas de convention

(9) Malgré les paragraphes 152(4) à (5), le ministre établit une cotisation ou une nouvelle cotisation concernant l'impôt, les intérêts et les pénalités payables en vertu de

to take into account an agreement filed under this section.

Liability of debtor

(10) Without affecting the liability of any person under any other provision of this Act, where a debtor and an eligible transferee file an agreement between them under this section in respect of an obligation issued by the debtor that was settled at any time, the debtor is, to the extent of 30% of the amount specified in the agreement, liable to pay

(a) where the transferee is a corporation, all taxes payable under this Act by it for taxation years that end in the period that begins at that time and ends 4 calendar years after that time;

(b) where the transferee is a partnership, the total of all amounts each of which is the tax payable under this Act by a person for a taxation year

(i) that begins or ends in that period, and

(ii) that includes the end of a fiscal period of the partnership during which the person was a member of the partnership; and

(c) interest and penalties in respect of such taxes.

Joint and several, or solidary, liability

(11) If taxes, interest and penalties are payable under this Act by a person for a taxation year and those taxes, interest and penalties are payable by a debtor because of subsection (10), the debtor and the person are jointly and severally, or solidarily, liable to pay those amounts.

Assessments in respect of liability

(12) Where a debtor and an eligible transferee file an agreement between them under this section in respect of an obligation issued by the debtor that was settled at a particular time,

(a) where the debtor is an individual or a corporation, the Minister may at any subsequent time assess the debtor in respect of taxes, interest and penalties for which the debtor is liable because of subsection (10); and

(b) where the debtor is a partnership, the Minister may at any subsequent time assess any person who has been a member of the partnership in respect of

la présente loi par un contribuable afin de tenir compte d'une convention produite en vertu du présent article.

Obligation du débiteur

(10) Sans que l'obligation d'une personne en vertu d'une autre disposition de la présente loi en soit atteinte, dans le cas où un débiteur et un cessionnaire admissible produisent une convention conclue entre eux en vertu du présent article relativement à une dette émise par le débiteur qui a été réglée à un moment donné, le débiteur est redevable des montants suivants, jusqu'à concurrence du montant représentant 30 % du montant précisé dans la convention :

a) si le cessionnaire est une société, les impôts payables par lui en vertu de la présente loi pour les années d'imposition qui se terminent dans la période qui commence à ce moment et se termine quatre années civiles après ce moment;

b) si le cessionnaire est une société de personnes, le total des montants représentant chacun l'impôt payable par une personne en vertu de la présente loi pour une année d'imposition qui, à la fois :

(i) commence ou se termine dans cette période,

(ii) comprend la fin d'un exercice de la société de personnes au cours duquel la personne est un associé de celle-ci;

c) les intérêts et les pénalités relatifs à ces impôts.

Solidarité

(11) Lorsque des impôts, des intérêts et des pénalités sont payables en vertu de la présente loi par une personne pour une année d'imposition et qu'ils sont payables par un débiteur par l'effet du paragraphe (10), la personne et le débiteur sont solidairement responsables du paiement de ces montants.

Cotisation en cas d'assujettissement

(12) Dans le cas où un débiteur et un cessionnaire admissible produisent une convention conclue entre eux en vertu du présent article relativement à une dette émise par le débiteur qui a été réglée à un moment donné, les règles suivantes s'appliquent :

a) si le débiteur est un particulier ou une société, le ministre peut, à tout moment ultérieur, établir une cotisation à l'égard du débiteur concernant les impôts, les intérêts et les pénalités dont il est redevable par l'effet du paragraphe (10);

b) si le débiteur est une société de personnes, le ministre peut, à tout moment ultérieur, établir une

taxes, interest and penalties for which the partnership is liable because of subsection (10), to the extent that those amounts relate to taxation years of the transferee (or, where the transferee is another partnership, members of the other partnership) that end at or after

(i) where the person was not a member of the partnership at the particular time, the first subsequent time the person becomes a member of the partnership, and

(ii) in any other case, the particular time.

cotisation à l'égard d'une personne qui a été un associé de la société de personnes concernant les impôts, les intérêts et les pénalités dont la société de personnes est redevable par l'effet du paragraphe (10), dans la mesure où ces montants se rapportent à des années d'imposition du cessionnaire (ou, si celui-ci est une société de personnes, des associés de cette dernière) qui se terminent au moment suivant ou postérieurement :

(i) si la personne n'est pas un associé de la société de personnes au moment donné, le premier moment, postérieur à ce moment, où elle devient un associé de la société de personnes,

(ii) dans les autres cas, le moment donné.

Application of Division I

(13) The provisions of Division I apply to an assessment under subsection (12) as though it had been made under section 152.

Application de la section I

(13) La section I s'applique aux cotisations établies en application du paragraphe (12) comme si elles avaient été établies en application de l'article 152.

Partnership members

(14) For the purposes of paragraphs (10)(b) and (12)(b) and this subsection, where at any time a member of a particular partnership is another partnership, each member of the other partnership shall be deemed to be a member of the particular partnership at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 27; 1998, c. 19, s. 113; 2013, c. 34, ss. 119(E), 214, c. 40, s. 37; 2014, c. 39, s. 16.

Associés de sociétés de personnes

(14) Pour l'application des alinéas (10)b) et (12)b) et du présent paragraphe, dans le cas où l'associé d'une société de personnes donnée à un moment quelconque est une autre société de personnes, chaque associé de celle-ci est réputé être un associé de la société de personnes donnée à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 27; 1998, ch. 19, art. 113; 2013, ch. 34, art. 119(A) et 214, ch. 40, art. 37; 2014, ch. 39, art. 16.

Expropriation assets acquired as compensation for, or as consideration for sale of, foreign property taken by or sold to foreign issuer

80.1 (1) Where in a taxation year ending coincidentally with or after December 31, 1971 a taxpayer resident in Canada has acquired any bonds, debentures, mortgages, hypothecary claims, notes or similar obligations (in this section referred to as "expropriation assets") issued by the government of a country other than Canada or issued by a person resident in a country other than Canada and guaranteed by the government of that country,

(a) as compensation for

(i) shares owned by the taxpayer of the capital stock of a foreign affiliate of the taxpayer that carried on business in that country, or

(ii) all or substantially all of the property used by the taxpayer in carrying on business in that country,

(which shares or property, as the case may be, are referred to in this section as "foreign property"), taken,

Contre-valeurs de biens expropriés acquises en compensation ou en contrepartie de la vente de biens étrangers pris ou achetés par l'émetteur étranger

80.1 (1) Lorsque, au cours d'une année d'imposition se terminant le 31 décembre 1971 ou après, un contribuable résidant au Canada a acquis des obligations, créances hypothécaires, billets ou titres semblables (appelés « contre-valeurs de biens expropriés » au présent article) émis par le gouvernement d'un pays étranger ou émis par une personne résidant dans un pays étranger et garantis par le gouvernement de ce pays :

a) soit en compensation :

(i) ou bien d'actions ayant appartenu au contribuable et faisant partie du capital-actions d'une société étrangère affiliée du contribuable qui exploitant une entreprise dans ce pays,

(ii) ou bien de la totalité, ou presque, des biens utilisés par le contribuable pour exploiter une entreprise dans ce pays,

after June 18, 1971, from the taxpayer by the issuer under the authority of a law of that country, or

(b) as consideration for the sale of foreign property sold, after June 18, 1971, by the taxpayer to the issuer, if

(i) the sale was, by a law of that country, expressly required to be made, or

(ii) the sale was made after notice or other manifestation of an intention to take the foreign property,

if the taxpayer has so elected, in prescribed form and within prescribed time, in respect of all of the expropriation assets so acquired by the taxpayer, the following rule applies, namely, an amount in respect of each such expropriation asset, equal to

(c) the principal amount of the asset, or

(d) where the taxpayer has designated in the taxpayer's election an amount in respect of the asset that is less than the principal amount thereof, the amount so designated,

shall be deemed to be

(e) the cost to the taxpayer of the asset, and

(f) for the purpose of computing the taxpayer's proceeds of disposition of the foreign property so taken or sold, the amount received by the taxpayer by virtue of the taxpayer's acquisition of the asset,

except that in no case may the taxpayer designate an amount in respect of any expropriation asset so that the taxpayer's proceeds of disposition of the foreign property so taken or sold (computed having regard to the provisions of paragraph 80.1(1)(f)) are less than the cost amount to the taxpayer of the foreign property immediately before it was so taken or sold.

(ces actions ou biens sont appelés « biens étrangers » au présent article) pris au contribuable par l'émetteur, après le 18 juin 1971 en vertu des lois de ce pays;

b) soit en contrepartie de biens étrangers vendus, après le 18 juin 1971, par le contribuable à l'émetteur dans l'un au l'autre des cas suivants :

(i) la vente était expressément requise aux termes des lois de ce pays,

(ii) la vente a été effectuée après une notification ou une autre manifestation de l'intention de prendre les biens étrangers,

si le contribuable a fait un tel choix, selon le formulaire et dans le délai prescrits, relativement à la totalité des contre-valeurs de biens expropriés, ainsi acquises par le contribuable, la règle suivante s'applique : une somme, pour chacune de ces contre-valeurs de biens expropriés, égale :

c) au principal de celle-ci;

d) lorsque le contribuable a indiqué, dans son choix, relativement à la contre-valeur, un montant inférieur au principal de celle-ci, au montant ainsi indiqué,

est réputée être :

e) le coût de la contre-valeur supporté par le contribuable;

f) pour le calcul du produit tiré, par le contribuable, de la disposition de biens étrangers ainsi pris ou vendus, la somme reçue par le contribuable en raison de l'acquisition par lui de la contre-valeur;

toutefois, le contribuable ne peut en aucun cas indiquer, relativement à la contre-valeur de biens expropriés, une somme telle que le produit de disposition qu'il a tiré de biens étrangers ainsi pris ou vendus (calculé conformément à l'alinéa f)) soit inférieur au coût indiqué, pour le contribuable, de ces biens étrangers immédiatement avant qu'ils n'aient été ainsi pris ou vendus.

Election re interest received or to be received on expropriation assets acquired by taxpayer

(2) Where a taxpayer has elected in prescribed form and within prescribed time in respect of all amounts (each of which is referred to in this section as an "interest amount") received or to be received by the taxpayer as or on account of interest on all expropriation assets acquired by the taxpayer as compensation for, or as consideration for the sale of, foreign property taken by or sold to any particular issuer as described in subsection 80.1(1), the following rules apply in respect of each such asset so acquired by the taxpayer:

Choix concernant les intérêts reçus ou à recevoir sur la contre-valeur des biens expropriés

(2) Lorsqu'un contribuable a choisi, selon le formulaire et dans le délai prescrits, à l'égard de tous les montants (dont chacun est appelé un « montant d'intérêt » au présent article) qu'il a reçus ou qu'il doit recevoir à titre d'intérêt de toutes les contre-valeurs de biens expropriés qu'il a acquises en compensation ou en contrepartie de la vente de biens étrangers pris par un émetteur donné, ou à lui vendus, de la façon indiquée au paragraphe (1), les règles suivantes s'appliquent à l'égard de chacune de ces contre-valeurs ainsi acquises par lui :

(a) in computing the taxpayer's income for a taxation year from the asset, there may be deducted, in respect of each interest amount received by the taxpayer in the year on the asset, the lesser of the interest amount and the total of

(i) the amount required by paragraph 80.1(2)(b) to be added, by virtue of the receipt by the taxpayer of the interest amount, in computing the adjusted cost base to the taxpayer of the asset, and

(ii) the greater of

(A) the adjusted cost base to the taxpayer of the asset immediately before the interest amount was so received by the taxpayer, and

(B) the adjusted principal amount to the taxpayer of the asset immediately before the interest amount was so received by the taxpayer,

and there shall be included, in respect of each amount (in this paragraph referred to as a "capital amount") received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,

(iii) any proceeds of disposition of the asset, or

(iv) the principal amount of the asset,

the amount, if any, by which the capital amount exceeds the greater of the adjusted cost base to the taxpayer of the asset immediately before the capital amount was received by the taxpayer and its adjusted principal amount to the taxpayer at that time;

(b) in computing, at any particular time, the adjusted cost base to the taxpayer of the asset, there shall be added, in respect of each interest amount received by the taxpayer on the asset before the particular time, an amount equal to the lesser of

(i) any income or profits tax paid by the taxpayer to the government of a country other than Canada in respect of the interest amount, and

(ii) that proportion of the tax referred to in subparagraph 80.1(2)(b)(i) that the adjusted cost base to the taxpayer of the asset immediately before the interest amount was received by the taxpayer is of the amount, if any, by which the interest amount exceeds the tax referred to in that subparagraph,

and there shall be deducted

(iii) each interest amount received by the taxpayer on the asset before the particular time, and

a) dans le calcul du revenu que le contribuable a tiré de la contre-valeur pour une année d'imposition, il peut être déduit, à l'égard de chaque montant d'intérêt qu'il a reçu au cours de l'année sur cette contre-valeur, le moins élevé du montant d'intérêt et du total des montants suivants :

(i) la somme dont l'alinéa b) exige l'inclusion, en raison du fait qu'il a reçu le montant d'intérêt, dans le calcul du prix de base rajusté de la contre-valeur pour le contribuable,

(ii) le plus élevé des montants suivants :

(A) le prix de base rajusté de la contre-valeur pour le contribuable immédiatement avant qu'il ait ainsi reçu le montant d'intérêt,

(B) le principal rajusté de la contre-valeur pour le contribuable, immédiatement avant qu'il ait ainsi reçu le montant d'intérêt;

en outre, il doit être inclus, à l'égard de chaque montant (appelé « montant en capital » au présent alinéa) que le contribuable a reçu au cours de l'année au titre ou en paiement intégral ou partiel :

(iii) soit de tout produit de disposition de la contre-valeur,

(iv) soit du principal de la contre-valeur,

un montant égal à l'excédent éventuel du montant de capital sur le plus élevé du prix de base rajusté de la contre-valeur pour le contribuable, immédiatement avant qu'il ait reçu le montant de capital, et de son principal rajusté pour lui à ce moment;

b) dans le calcul, à un moment donné, du prix de base rajusté de la contre-valeur pour le contribuable, il doit être inclus, à l'égard de chaque montant d'intérêt qu'il a reçu sur la contre-valeur avant le moment donné, une somme égale au moins élevé des montants suivants :

(i) tout impôt sur le revenu ou sur les bénéfices que le contribuable a payé au gouvernement d'un pays étranger à l'égard du montant d'intérêt,

(ii) la fraction de l'impôt mentionné au sous-alinéa (i) que représente le rapport entre le prix de base rajusté, pour le contribuable, de la contre-valeur immédiatement avant que celui-ci ait reçu le montant d'intérêt et l'excédent éventuel du montant d'intérêt sur l'impôt mentionné à ce sous-alinéa,

et il doit être déduit :

(iv) each amount received by the taxpayer before the particular time on account of the principal amount of the asset;

(c) the receipt by the taxpayer of an amount described in subparagraph 80.1(2)(b)(iv) in respect of the asset shall be deemed not to be a partial disposition thereof; and

(d) for the purposes of section 126, notwithstanding the definition ***non-business-income tax*** in subsection 126(7), the ***non-business-income tax*** paid by a taxpayer does not include any tax, or any portion thereof, the amount of which is required by paragraph 80.1(2)(b) to be added in computing the adjusted cost base to the taxpayer of the asset.

(iii) chaque montant d'intérêt qu'a reçu le contribuable sur la contre-valeur avant le moment donné,

(iv) chaque somme qu'il a reçue avant le moment donné au titre du principal de la contre-valeur;

c) le fait, pour le contribuable, de recevoir un montant visé au sous-alinéa b)(iv) à l'égard de la contre-valeur est réputé ne pas constituer une disposition partielle de celui-ci;

d) pour l'application de l'article 126, malgré la définition de ***impôt sur le revenu ne provenant pas d'une entreprise*** au paragraphe 126(7), l' ***impôt sur le revenu ne provenant pas d'une entreprise***, payé par un contribuable, ne vise pas tout impôt, ou une partie de celui-ci, dont l'alinéa b) exige l'inclusion dans le calcul du prix de base rajusté, pour le contribuable, de la contre-valeur.

Where interest amount and capital amount received at same time

(3) For the purposes of subsection 80.1(2), where an interest amount on an expropriation asset and a capital amount with respect to that asset are received by a taxpayer at the same time, the interest amount shall be deemed to have been received by the taxpayer immediately before the capital amount.

Cas où un montant d'intérêt et un montant de capital sont reçus en même temps

(3) Pour l'application du paragraphe (2), lorsqu'un contribuable reçoit en même temps un montant d'intérêt sur la contre-valeur d'un bien exproprié et un montant de capital relatif à cette contre-valeur, il est réputé avoir reçu le montant d'intérêt immédiatement avant le montant de capital.

Assets acquired from foreign affiliate of taxpayer as dividend in kind or as benefit to shareholder

(4) Where a foreign affiliate of a taxpayer resident in Canada would, on the assumption that the foreign affiliate were resident in Canada and its only foreign affiliates were corporations that were foreign affiliates of the taxpayer, be entitled to make an election under subsection 80.1(1) in respect of assets acquired by it that would, on that assumption, be expropriation assets of the foreign affiliate, and all or any of those assets are subsequently acquired by the taxpayer from the foreign affiliate as a dividend payable in kind, or as a benefit received from the foreign affiliate that would otherwise be required by subsection 15(1) to be included in computing the income of the taxpayer, if the taxpayer has so elected, in prescribed form and within prescribed time, in respect of all assets so acquired by the taxpayer from the foreign affiliate, the following rules apply in respect of each asset so acquired by the taxpayer:

(a) an amount equal to

(i) the principal amount of the asset, or

(ii) where the taxpayer has designated in the taxpayer's election an amount in respect of the asset

Contre-valeur acquise par l'actionnaire auprès d'une société étrangère affiliée du contribuable à titre de dividende en nature ou de prestation

(4) Lorsqu'une société étrangère affiliée d'un contribuable résidant au Canada aurait, à supposer que celle-ci réside au Canada et que ses seules sociétés étrangères affiliées soient des sociétés étrangères affiliées du contribuable, le droit de faire un choix en vertu du paragraphe (1) à l'égard des contre-valeurs qu'elle a acquises et qui seraient, dans cette hypothèse, des contre-valeurs de biens expropriés de la société étrangère affiliée, et que le contribuable acquiert par la suite tout ou partie de ces contre-valeurs auprès de la société étrangère affiliée, dont le paragraphe 15(1) exigerait par ailleurs l'inclusion dans le calcul du revenu du contribuable, si le contribuable a fait ce choix, selon le formulaire et dans le délai prescrits, à l'égard de toutes les contre-valeurs qu'il a ainsi acquises auprès de la société étrangère affiliée, les règles suivantes s'appliquent à l'égard de chacune de ces contre-valeurs ainsi acquises par lui :

a) un montant égal :

(i) au principal de celle-ci,

(ii) lorsque le contribuable a indiqué dans son choix un montant, à l'égard de cette contre-valeur,

that is less than the principal amount thereof, the amount so designated,

shall be deemed to be,

(iii) notwithstanding subsection 52(2), the cost to the taxpayer of the asset, and

(iv) the amount of the dividend or benefit, as the case may be, received by the taxpayer by virtue of the acquisition by the taxpayer of the asset;

(b) where the asset was so acquired as such a benefit and the taxpayer has designated in the election a class of shares as described in this paragraph in respect of the asset, the amount of the benefit shall be deemed

(i) to have been received by the taxpayer as a dividend from the foreign affiliate in respect of such class of shares of the capital stock thereof as the taxpayer has designated in the election, and

(ii) not to be an amount required by subsection 15(1) to be included in computing the taxpayer's income;

(c) in computing the taxable income of the taxpayer for the taxation year in which the taxpayer acquired the asset, there may be deducted from the taxpayer's income for the year the amount, if any, by which the amount received by the taxpayer as a dividend by virtue of the acquisition by the taxpayer of the asset exceeds the total of amounts deductible in respect of the dividend under sections 91 and 113 in computing the taxpayer's income or taxable income, as the case may be, for the year;

(d) there shall be deducted in computing the adjusted cost base to the taxpayer of each share of the capital stock of the foreign affiliate that is a share of a class in respect of which an amount was received by the taxpayer as a dividend by virtue of the acquisition by the taxpayer of the asset, the quotient obtained by dividing the amount, if any, deducted by the taxpayer under paragraph (c) in respect of the dividend by the number of shares of that class owned by the taxpayer immediately before that amount was received by the taxpayer as a dividend;

(e) any capital loss of the taxpayer from the disposition, after the time when the asset was so acquired by the taxpayer, of a share of the capital stock of the foreign affiliate shall be deemed to be nil; and

(f) where the taxpayer has so elected in prescribed form and within prescribed time, subsection (2) applies as if the asset were an expropriation asset

qui est inférieur au principal de celle-ci, au montant ainsi indiqué,

est réputé être :

(iii) malgré le paragraphe 52(2), le coût, pour le contribuable de la contre-valeur,

(iv) le montant du dividende ou de la prestation reçue par le contribuable en raison du fait qu'il a acquis la contre-valeur;

b) lorsque la contre-valeur a été ainsi acquise à titre de prestation de ce genre et que le contribuable a désigné dans son choix une catégorie d'actions visée au présent alinéa à l'égard de la contre-valeur, le montant de la prestation est réputé :

(i) avoir été reçu par le contribuable, à titre de dividende, de la société étrangère affiliée à l'égard de la catégorie d'actions du capital-actions de celle-ci que le contribuable a désignée dans son choix,

(ii) ne pas être une somme dont le paragraphe 15(1) exige l'inclusion dans le calcul du revenu du contribuable;

c) dans le calcul du revenu imposable du contribuable pour l'année d'imposition dans laquelle il a acquis la contre-valeur, il peut être déduit de son revenu pour l'année une somme égale à l'excédent éventuel du montant qu'il a reçu à titre de dividende, en raison du fait qu'il a acquis la contre-valeur, sur le total des sommes déductibles, à l'égard du dividende, en vertu des articles 91 et 113, dans le calcul du revenu ou du revenu imposable du contribuable, selon le cas, pour l'année;

d) il doit être déduit, dans le calcul du prix de base rajusté, pour le contribuable, de chaque action du capital-actions de la société étrangère affiliée faisant partie de la catégorie d'actions à l'égard de laquelle il a reçu un montant à titre de dividende, par suite de l'acquisition par lui de la contre-valeur, le quotient de la division de toute somme qu'a déduite le contribuable, en vertu de l'alinéa c), à l'égard du dividende par le nombre d'actions de cette catégorie appartenant au contribuable immédiatement avant qu'il ne reçoive cette somme à titre de dividende;

e) toute perte en capital subie par le contribuable par suite de la disposition, après le moment où le contribuable a ainsi acquis cette contre-valeur, d'une action du capital-actions de la société étrangère affiliée est réputée être nulle;

acquired by the taxpayer as compensation for foreign property taken by a particular issuer as described in subsection (1).

f) lorsque le contribuable a fait ce choix, selon le formulaire et dans le délai prescrits, le paragraphe (2) s'applique comme si la contre-valeur était la contre-valeur d'un bien exproprié qu'il a acquise en compensation de biens étrangers qu'un émetteur donné a pris comme il est prévu au paragraphe (1).

Assets acquired from foreign affiliate of taxpayer as consideration for settlement, etc., of debt

(5) Where a foreign affiliate of a taxpayer resident in Canada would, on the assumption that the foreign affiliate were resident in Canada and its only foreign affiliates were corporations that were foreign affiliates of the taxpayer, be entitled to make an election under subsection 80.1(1) in respect of assets acquired by it that would, on that assumption, be expropriation assets of the foreign affiliate, and all or any of those assets are subsequently acquired by the taxpayer from the foreign affiliate as consideration for the settlement or extinguishment of a capital property of the taxpayer that was a debt payable by the foreign affiliate to the taxpayer or any other obligation of the foreign affiliate to pay an amount to the taxpayer (which debt or other obligation is referred to in this subsection as the "obligation"), if the taxpayer has so elected, in prescribed form and within prescribed time, in respect of all of the assets so acquired by the taxpayer from the foreign affiliate, the following rules apply in respect of each such asset so acquired by the taxpayer:

(a) paragraph 80.1(4)(a) applies in respect of the asset as if subparagraph 80.1(4)(a)(iv) were read as follows:

"(iv) the taxpayer's proceeds of the disposition of the obligation settled or extinguished by virtue of the acquisition by the taxpayer of the asset;";

(b) where the taxpayer has designated in the taxpayer's election a class of shares as described in this paragraph in respect of the asset,

(i) the amount, if any, by which the cost to the taxpayer of the asset (computed having regard to paragraph (a) and paragraph (4)(a)) exceeds the amount of the obligation settled or extinguished by virtue of the acquisition by the taxpayer of the asset shall be deemed to have been received by the taxpayer as a dividend from the foreign affiliate in respect of such class of shares of the capital stock thereof as the taxpayer has designated in the election, and

(ii) the taxpayer's gain, if any, from the disposition of the obligation shall be deemed to be nil;

Contre-valeur acquise auprès d'une société étrangère affiliée du contribuable à la suite du règlement, etc. d'une dette

(5) Lorsqu'une société étrangère affiliée d'un contribuable résidant au Canada aurait, à supposer que celle-ci réside au Canada et que ses seules sociétés étrangères affiliées soient des sociétés étrangères affiliées du contribuable, le droit de faire un choix en vertu du paragraphe (1) à l'égard des contre-valeurs qu'elle a acquises et qui seraient, dans cette hypothèse, des contre-valeurs de biens expropriés de la société étrangère affiliée, et que le contribuable acquiert par la suite tout ou partie de ces contre-valeurs auprès de la société étrangère affiliée à titre de contrepartie du règlement ou de l'extinction d'une dette représentant un immobilisation du contribuable et que la société étrangère affiliée doit payer au contribuable ou de toute autre obligation qu'a la société affiliée de payer une somme au contribuable (dette ou autre obligation qui est appelée l'« obligation » au présent paragraphe), si le contribuable a ainsi choisi, selon le formulaire et dans le délai prescrits, à l'égard de toutes les contre-valeurs qu'il a ainsi acquises auprès de la société étrangère affiliée, les règles suivantes s'appliquent à l'égard de chaque contre-valeur de cette nature qu'il a ainsi acquise :

a) l'alinéa (4)a) s'applique à l'égard de cette contre-valeur comme si le sous-alinéa (4)a)(iv) était ainsi libellé :

« (iv) le produit que le contribuable retire de la disposition de l'obligation réglée ou éteinte par suite de l'acquisition qu'il a faite de la contre-valeur; »

b) lorsque le contribuable a désigné dans son choix une catégorie d'actions visée au présent alinéa à l'égard de la contre-valeur :

(i) l'excédent éventuel du coût, pour le contribuable, de la contre-valeur (calculé compte tenu de l'alinéa a) et de l'alinéa (4)a)) sur le montant de l'obligation réglée ou éteinte par suite de l'acquisition qu'il a faite de la contre-valeur est réputé avoir été reçu par ce contribuable de la société étrangère affiliée à titre de dividende à l'égard de la catégorie d'actions du capital-actions de celle-ci que le contribuable a désignée dans son choix,

(c) the taxpayer's loss, if any, from the disposition of the obligation shall be deemed to be nil; and

(d) paragraphs (4)(c) to (f) apply in respect of the asset.

(ii) le gain que le contribuable a réalisé sur la disposition de l'obligation est réputé être nul;

c) la perte que le contribuable a subie sur la disposition de l'obligation est réputée être nulle;

d) les alinéas (4)c) à f) s'appliquent à la contre-valeur.

Assets acquired from foreign affiliate of taxpayer on winding-up, etc.

(6) Where a foreign affiliate of a taxpayer resident in Canada would, on the assumption that the foreign affiliate were resident in Canada and its only foreign affiliates were corporations that were foreign affiliates of the taxpayer, be entitled to make an election under subsection 80.1(1) in respect of assets acquired by it that would, on that assumption, be expropriation assets of the foreign affiliate, and all or any of those assets are subsequently acquired by the taxpayer from the foreign affiliate,

(a) on the winding-up, discontinuance or reorganization of the business of the foreign affiliate, or

(b) as consideration for the redemption, cancellation or acquisition by the foreign affiliate of shares of its capital stock,

if the taxpayer has so elected, in prescribed form and within prescribed time,

(c) in respect of all of the assets so acquired by the taxpayer from the foreign affiliate, subsection (1) applies in respect of each such asset, or

(d) in respect of all amounts received or to be received by the taxpayer as or on account of interest on all of the assets so acquired by the taxpayer from the foreign affiliate, subsection (2) applies in respect of each such asset,

as if the assets were expropriation assets acquired by the taxpayer as consideration for the sale of foreign property that consisted of shares of the capital stock of the foreign affiliate owned by the taxpayer immediately before the assets were so acquired and that was sold to a particular issuer as described in subsection (1).

Contre-valeur acquise auprès d'une société affiliée du contribuable à la suite d'une liquidation, etc.

(6) Lorsqu'une société étrangère affiliée d'un contribuable résidant au Canada aurait, à supposer que celle-ci réside au Canada et que ses seules sociétés étrangères affiliées soient des sociétés étrangères affiliées du contribuable, le droit de faire un choix en vertu du paragraphe (1) à l'égard des contre-valeurs qu'elle a acquises et qui seraient, dans cette hypothèse, des contre-valeurs de biens expropriés de la société étrangère affiliée, et que le contribuable acquiert par la suite tout ou partie de ces contre-valeurs auprès de la société étrangère affiliée :

a) soit à l'occasion de la liquidation ou de la réorganisation de l'entreprise de la société étrangère affiliée, ou de la cessation de l'exploitation de l'entreprise;

b) soit en contrepartie du rachat, de l'annulation ou de l'acquisition, par la société étrangère affiliée, d'actions de son capital-actions,

si le contribuable a fait ce choix selon le formulaire et dans le délai prescrits :

c) à l'égard de toutes les contre-valeurs qu'il a ainsi acquises auprès de la société étrangère affiliée, le paragraphe (1) s'applique à chacune de ces contre-valeurs;

d) à l'égard de toutes les sommes qu'il a reçues ou qu'il doit recevoir à titre d'intérêt de toutes les contre-valeurs qu'il a ainsi acquises auprès de la société étrangère affiliée, le paragraphe (2) s'applique à chacune de ces contre-valeurs,

comme si ces contre-valeurs étaient des contre-valeurs de biens expropriés que le contribuable a acquises en contrepartie de la vente de biens étrangers constitués par des actions du capital-actions de la société étrangère affiliée qui appartenaient au contribuable immédiatement avant qu'il n'ait ainsi acquis ces contre-valeurs, et qu'il a vendus à un émetteur donné comme il est prévu au paragraphe (1).

Definition of *adjusted principal amount*

(7) In this section, ***adjusted principal amount*** to a taxpayer of an expropriation asset at any particular time means the amount, if any, by which

Principal rajusté

(7) Au présent article, le principal rajusté, pour un contribuable, de la contre-valeur d'un bien exproprié à un moment donné est l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

(a) the total of the principal amount of the asset and, in respect of each interest amount received by the taxpayer on the asset before the particular time, the lesser of the tax referred to in subparagraph (2)(b)(i) in respect of that interest amount and the proportion determined under subparagraph (2)(b)(ii) in respect thereof,

exceeds

(b) the total of each amount received by the taxpayer before the particular time as an interest amount on the asset and each amount received by the taxpayer before the particular time as, on account or in lieu of payment of, or in satisfaction of, the principal amount of the asset.

a) le total du principal de la contre-valeur et, relativement à chaque montant d'intérêt qu'a reçu le contribuable sur la contre-valeur avant le moment donné, le moins élevé de l'impôt mentionné au sous-alinéa (2)b)(i) relativement à ce montant d'intérêt et de la fraction déterminée en vertu du sous-alinéa (2)b)(ii) relativement à celui-ci;

b) le total de chaque somme qu'a reçue le contribuable avant le moment donné à titre de montant d'intérêt sur la contre-valeur et de chaque somme qu'il a reçue avant le moment donné au titre ou en paiement intégral ou partiel du principal de la contre-valeur.

Currency in which adjusted principal amount to be computed or expressed

(8) For the purposes of this section, the adjusted principal amount, at any particular time, of an expropriation asset or of any asset assumed for the purposes of this section to be an expropriation asset shall be computed in the currency in which the principal amount of the asset is, under the terms thereof, payable, except that for greater certainty, for the purposes of paragraph (2)(a), the adjusted principal amount at any particular time of such an asset is its adjusted principal amount at that time computed as provided in this subsection but expressed in Canadian currency.

Devise à utiliser pour calculer ou exprimer le principal rajusté

(8) Pour l'application du présent article, le principal rajusté de la contre-valeur d'un bien exproprié, à un moment donné, ou de toute contre-valeur réputée être, pour l'application du présent article, la contre-valeur d'un bien exproprié doit être calculé en la devise à utiliser pour payer le principal de la contre-valeur, selon les modalités y visées; il est toutefois entendu que, pour l'application de l'alinéa (2)a), le principal rajusté, à un moment donné, d'une telle contre-valeur, est son principal rajusté à ce moment, calculé comme il est prévu à ce paragraphe, mais exprimé en monnaie canadienne.

Election in respect of two or more expropriation assets acquired by taxpayer

(9) For the purposes of subdivision c and subsection (2), and in applying subsections (7) and (8) for those purposes, where two or more expropriation assets that were

(a) issued by the government of a country other than Canada, or

(b) issued by a person resident in a country other than Canada and guaranteed by the government of that country

at the same time, or as compensation for, or consideration for the sale of, the same foreign property, have been acquired by a taxpayer and the taxpayer has so elected, in prescribed form and within prescribed time, in respect of all of the expropriation assets that were so issued or guaranteed by the government of that country and acquired by the taxpayer before the making of the election, all of those expropriation assets shall be considered to be a single expropriation asset that was issued or guaranteed by the government of that country and acquired by the taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 80.1; 2001, c. 17, s. 210.

Choix relatif à plusieurs contre-valeurs d'un bien exproprié qu'a acquises le contribuable

(9) Pour l'application de la sous-section c et du paragraphe (2) et lors de l'application des paragraphes (7) et (8) dans le cadre de ces dispositions, lorsque plusieurs contre-valeurs d'un bien exproprié qui ont été :

a) soit émises par le gouvernement d'un pays étranger;

b) soit émises par une personne résidant dans un pays étranger et garanties par le gouvernement de ce pays,

en même temps, ou à titre d'indemnité pour ce même bien étranger ou en contrepartie de la vente de celui-ci, ont été acquises par un contribuable et que le contribuable en a fait le choix selon le formulaire et dans le délai prescrits à l'égard de toutes les contre-valeurs d'un bien exproprié ainsi émises ou garanties par le gouvernement de ce pays et qu'il a acquises avant de faire son choix, l'ensemble de toutes ces contre-valeurs doit être

considéré comme une contre-valeur unique d'un bien exproprié que le gouvernement de ce pays a émise ou garantie et que le contribuable a acquise.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 80.1; 2001, ch. 17, art. 210.

Application

80.2 (1) Subsections (2) to (13) apply if

(a) in a taxation year, a taxpayer, under the terms of a contract, pays to a person (referred to in this section as the "recipient") an amount (referred to in this section as the "specified amount") that may reasonably be considered to be received by the recipient as a reimbursement of, or a contribution or an allowance in respect of, an amount (referred to in this section as the "original amount")

(i) that was described by paragraph 18(1)(m) and was paid or payable by the recipient, or

(ii) that was, in respect of the recipient, an amount described by paragraph 12(1)(o);

(b) the original amount is paid or became payable or receivable in a taxation year or fiscal period of the recipient that begins before 2007; and

(c) the taxpayer is resident in Canada or carries on business in Canada when the specified amount is paid.

Application

80.2 (1) Les paragraphes (2) à (13) s'appliquent dans le cas où les faits ci-après se vérifient :

a) au cours d'une année d'imposition, un contribuable verse à une personne (appelée « bénéficiaire » au présent article), en vertu des modalités d'un contrat, une somme (appelée « montant de remboursement » au présent article) qu'il est raisonnable de considérer comme ayant été reçue par le bénéficiaire à titre de remboursement, de contribution ou d'indemnité relativement à une somme (appelée « somme initiale » au présent article) qui, selon le cas :

(i) était visée à l'alinéa 18(1)m) et a été payée, ou était à payer, par le bénéficiaire,

(ii) était, pour le bénéficiaire, une somme visée à l'alinéa 12(1)o);

b) la somme initiale est payée, ou est devenue à payer ou à recevoir, au cours d'une année d'imposition ou d'un exercice du bénéficiaire qui commence avant 2007;

c) le contribuable réside au Canada, ou y exploite une entreprise, au moment du versement du montant de remboursement.

Rules relating to time of payment

(2) If the specified amount is paid in a taxation year of the taxpayer that begins before 2008, the eligible portion of the specified amount, referred to in subsection (11), is deemed to be a payment described by paragraph 18(1)(m). If, however, the specified amount is paid in a taxation year of the taxpayer that begins after 2007, the specified amount is deemed, for the purpose of applying this section to the taxpayer, to be nil.

Règles applicables au moment du versement

(2) Si le montant de remboursement est versé au cours d'une année d'imposition du contribuable qui commence avant 2008, sa partie admissible, visée au paragraphe (11), est réputée être un paiement visé à l'alinéa 18(1)m). S'il est versé au cours d'une année d'imposition du contribuable qui commence après 2007, le montant de remboursement est réputé, pour l'application du présent article au contribuable, être égal à zéro.

Applying paragraph 18(1)(m)

(3) For the purpose of applying paragraph 18(1)(m) for the taxpayer's taxation year in which the specified amount was paid, the amount to which that paragraph applies is to be determined for that taxation year

(a) if the taxpayer was in existence at the time the original amount became receivable by a person referred to in subparagraph 12(1)(o)(i) or became payable to a person referred to in subparagraph

Application de l'alinéa 18(1)m)

(3) Pour l'application de l'alinéa 18(1)m) à l'année d'imposition du contribuable au cours de laquelle le montant de remboursement a été versé, la somme à laquelle cet alinéa s'applique est déterminée pour cette année comme si :

a) dans le cas où le contribuable existait au moment où la somme initiale est devenue à recevoir par une personne visée au sous-alinéa 12(1)o)(i) ou payable à

18(1)(m)(i), as if the specified amount were paid by the taxpayer at that time; and

(b) in any other case, as if

(i) the taxpayer were in existence and had a calendar taxation year at the time the original amount became receivable by a person referred to in subparagraph 12(1)(o)(i) or became payable to a person referred to in subparagraph 18(1)(m)(i), and

(ii) the specified amount were paid by the taxpayer at that time.

une personne visée au sous-alinéa 18(1)m)(i), le montant de remboursement était versé par le contribuable à ce moment;

b) dans les autres cas :

(i) d'une part, le contribuable existait, et avait une année d'imposition correspondant à l'année civile, au moment où la somme initiale est devenue à recevoir par une personne visée au sous-alinéa 12(1)o)(i) ou payable à une personne visée au sous-alinéa 18(1)m)(i),

(ii) d'autre part, le montant de remboursement était versé par le contribuable à ce moment.

Exception for certain partnership reimbursements

(4) Subsection (3) does not apply to a specified amount paid by a taxpayer if

(a) the recipient is a partnership;

(b) the original amount became receivable by a person referred to in subparagraph 12(1)(o)(i) or became payable to a person referred to in subparagraph 18(1)(m)(i), in a particular fiscal period of the partnership;

(c) the taxpayer is a member of the partnership at the end of the particular fiscal period; and

(d) the taxpayer paid the specified amount before the end of the taxation year of the taxpayer in which that particular fiscal period ends.

Exception — certains remboursements de sociétés de personnes

(4) Le paragraphe (3) ne s'applique pas au montant de remboursement versé par un contribuable si les conditions ci-après sont réunies :

a) le bénéficiaire est une société de personnes;

b) la somme initiale est devenue à recevoir par une personne visée au sous-alinéa 12(1)o)(i), ou est devenue payable à une personne visée au sous-alinéa 18(1)m)(i), au cours d'un exercice de la société de personnes;

c) le contribuable est un associé de la société de personnes à la fin de cet exercice;

d) le contribuable a versé le montant de remboursement avant la fin de son année d'imposition dans laquelle cet exercice prend fin.

Specified amount deemed to be paid at end of taxation year

(5) A specified amount paid by the taxpayer to a partnership is deemed to have been paid on the last day of a particular taxation year of the taxpayer, and not at the time it was paid, if

(a) the taxpayer paid an amount to the partnership in the particular taxation year (referred to in this subsection as the "initial payment");

(b) the initial payment was paid before September 17, 2004;

(c) the initial payment is an amount to which subsection (3) did not apply because of subsection (4);

(d) the taxpayer's share of the original amount in respect of the initial payment is greater than the initial payment;

Montant de remboursement réputé payé à la fin d'une année d'imposition

(5) Le montant de remboursement que le contribuable verse à une société de personnes est réputé avoir été versé le dernier jour d'une année d'imposition donnée du contribuable et non au moment où il a été versé si, à la fois :

a) le contribuable a versé une somme (appelée « paiement initial » au présent paragraphe) à la société de personnes au cours de l'année donnée;

b) le paiement initial a été fait avant le 17 septembre 2004;

c) le paiement initial est une somme à laquelle le paragraphe (3) ne s'est pas appliqué par l'effet du paragraphe (4);

(e) the specified amount is equal to or less than the difference between the taxpayer's share of the original amount in respect of the initial payment and the initial payment;

(f) the taxpayer elects in the taxpayer's return of income for the taxpayer's taxation year that includes the time at which the specified amount would, if this Act were read without reference to this subsection, have been paid, to have this subsection apply to the specified amount; and

(g) the specified amount is paid before 2006.

d) la part du contribuable de la somme initiale relative au paiement initial est supérieure à ce paiement;

e) le montant de remboursement est égal ou inférieur à l'excédent de la part du contribuable de la somme initiale relative au paiement initial sur ce paiement;

f) le contribuable fait un choix, dans sa déclaration de revenu pour son année d'imposition qui comprend le moment où le montant de remboursement aurait été versé en l'absence du présent paragraphe, afin que le présent paragraphe s'applique au montant de remboursement;

g) le montant de remboursement est versé avant 2006.

Inclusion in recipient's income

(6) The recipient shall include in computing the recipient's income for the taxation year or fiscal period in which the original amount was paid or became payable or receivable, the amount, if any, by which the eligible portion of the specified amount exceeds the portion of the original amount that was included in computing the income of the recipient for the taxation year or fiscal period because of paragraph 12(1)(o) or that was not deductible in computing the income of the recipient for the taxation year or fiscal period because of paragraph 18(1)(m).

Somme à inclure dans le revenu du bénéficiaire

(6) Le bénéficiaire est tenu d'inclure dans le calcul de son revenu, pour l'année d'imposition ou l'exercice au cours duquel la somme initiale a été payée ou est devenue à payer ou à recevoir, l'excédent de la partie admissible du montant de remboursement sur la partie de la somme initiale soit qui a été incluse dans le calcul de son revenu pour l'année d'imposition ou l'exercice par l'effet de l'alinéa 12(1)o), soit qui n'était pas déductible dans ce calcul pour l'année d'imposition ou l'exercice par l'effet de l'alinéa 18(1)m).

Interpretation — portion of the original amount

(7) For the purpose of subsection (6), the portion of the original amount that was included in computing the income of the recipient or that was not deductible in computing the income of the recipient is the amount that would be included in computing the income of the recipient under paragraph 12(1)(o) or that would not be deductible in computing the income of the recipient under paragraph 18(1)(m), if the original amount were equal to the eligible portion of the specified amount.

Interprétation — partie de la somme initiale

(7) Pour l'application du paragraphe (6), la partie de la somme initiale qui a été incluse dans le calcul du revenu du bénéficiaire, ou qui n'était pas déductible dans ce calcul, correspond à la somme qui serait incluse dans le calcul de son revenu en application de l'alinéa 12(1)o), ou qui ne serait pas déductible dans ce calcul en application de l'alinéa 18(1)m), si la somme initiale était égale à la partie admissible du montant de remboursement.

Inclusion in recipient's income

(8) The recipient shall include, in computing the recipient's income for its taxation year or fiscal period in which the original amount was paid or became payable or receivable, the amount, if any, by which the specified amount exceeds the eligible portion of the specified amount.

Somme à inclure dans le revenu du bénéficiaire

(8) Le bénéficiaire doit inclure dans le calcul de son revenu, pour son année d'imposition ou exercice au cours duquel la somme initiale a été payée ou est devenue à payer ou à recevoir, l'excédent du montant de remboursement sur sa partie admissible.

Deduction by taxpayer

(9) Subject to paragraphs 18(1)(a) and (b), the taxpayer may deduct in computing the taxpayer's income for the taxpayer's taxation year in which the specified amount was paid, the amount, if any, by which the specified amount exceeds the eligible portion of the specified amount.

Somme déductible par le contribuable

(9) Sous réserve des alinéas 18(1)a) et b), le contribuable peut déduire dans le calcul de son revenu, pour son année d'imposition au cours de laquelle le montant de remboursement a été versé, l'excédent de ce montant sur sa partie admissible.

Specified amount deemed not to be payable or receivable

(10) Except for the purposes of this section and subparagraph 53(1)(e)(iv.1),

(a) the taxpayer is deemed not to have paid, and not to have been obligated to pay, the specified amount; and

(b) the recipient is deemed not to have received, and not to have been entitled to receive, the specified amount.

Eligible portion of a specified amount

(11) The eligible portion of a specified amount is

(a) an amount equal to the specified amount if

(i) the specified amount was paid before September 17, 2004,

(ii) the original amount is a tax imposed under a provincial law on the production of

(A) petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) located in Canada, or from an oil or gas well located in Canada if the petroleum, natural gas or related hydrocarbons are not, before extraction, owned by the Crown in right of Canada or a province, or

(B) metals, minerals or coal from a mineral resource located in Canada if the metals, minerals or coal are not, before extraction, owned by the Crown in right of Canada or a province,

(iii) the specified amount does not exceed the taxpayer's share of the original amount, or

(iv) the original amount is a prescribed amount; and

(b) the taxpayer's share of the original amount, in any other case.

Taxpayer's share of original amount

(12) A taxpayer's share of an original amount in respect of a specified amount paid by the taxpayer to a recipient in respect of a property is the amount that may reasonably be considered to be the taxpayer's share of the total of all amounts described in paragraph 12(1)(o) or

Montant de remboursement réputé ne pas être à verser ou à recevoir

(10) Sauf pour l'application du présent article et du sous-alinéa 53(1)e)(iv.1) :

a) le contribuable est réputé ne pas avoir versé le montant de remboursement, ni avoir été tenu de le verser;

b) le bénéficiaire est réputé ne pas avoir reçu le montant de remboursement, ni avoir eu le droit de le recevoir.

Partie admissible du montant de remboursement

(11) La partie admissible d'un montant de remboursement correspond à celle des sommes ci-après qui est applicable :

a) une somme égale au montant de remboursement si, selon le cas :

(i) le montant de remboursement a été versé avant le 17 septembre 2004,

(ii) la somme initiale est un impôt prélevé, sous le régime d'une loi provinciale, sur la production :

(A) de pétrole, de gaz naturel ou d'hydrocarbures connexes extraits d'un gisement naturel de pétrole ou de gaz naturel, sauf une ressource minérale, ou d'un puits de pétrole ou de gaz, situés au Canada, qui ne sont pas, avant leur extraction, la propriété de Sa Majesté du chef du Canada ou d'une province,

(B) de métaux, de minéraux ou de charbon extraits d'une ressource minérale située au Canada, qui ne sont pas, avant leur extraction, la propriété de Sa Majesté du chef du Canada ou d'une province,

(iii) le montant de remboursement n'excède pas la part du contribuable de la somme initiale,

(iv) la somme initiale est une somme visée par règlement;

b) la part du contribuable de la somme initiale, dans les autres cas.

Somme initiale — part du contribuable

(12) La part du contribuable de la somme initiale relative au montant de remboursement qu'il a versé à un bénéficiaire au titre d'un bien correspond à la somme qu'il est raisonnable de considérer comme sa part du total des sommes visées aux alinéas 12(1)o) ou 18(1)m)

18(1)(m) in respect of the property, which share may not exceed the total of

(a) that proportion of the total of all amounts described in paragraph 12(1)(o) or 18(1)(m) in respect of the property that the taxpayer's share of production from the property payable to the taxpayer as a royalty, which royalty is computed without reference to the costs of exploration or production, is of the total production from the property, and

(b) that proportion of the total of all amounts described in paragraph 12(1)(o) or 18(1)(m) in respect of the property (other than those amounts which the recipient has received or is entitled to receive as a reimbursement, contribution or allowance in respect of a royalty described in paragraph (a)) that the taxpayer's share of the income from the property is of the total income from the property.

relativement au bien, cette part ne pouvant excéder le total des sommes suivantes :

a) la proportion du total des sommes visées aux alinéas 12(1)o) ou 18(1)m) relativement au bien que représente le rapport entre la part du contribuable de la production provenant du bien qui lui est payable à titre de redevance — laquelle redevance est calculée compte non tenu des coûts d'exploration ou de production — et la production totale provenant du bien;

b) la proportion du total des sommes visées aux alinéas 12(1)o) ou 18(1)m) relativement au bien (à l'exception des sommes que le bénéficiaire a reçues ou peut recevoir à titre de remboursement, de contribution ou d'indemnité relativement à une redevance visée à l'alinéa a)) que représente le rapport entre la part du contribuable du revenu provenant du bien et le revenu total en provenant.

Reduction in original amount for Part XII of the regulations

(13) For the purpose of applying Part XII of the *Income Tax Regulations*, an original amount in respect of which a specified amount is received is deemed, for the taxation year in which the original amount was paid or became payable or receivable, not to include an amount equal to the eligible portion of the specified amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 80.2; 2003, c. 28, s. 9; 2013, c. 34, s. 215.

Réduction de la somme initiale — partie XII du règlement

(13) Pour l'application de la partie XII du *Règlement de l'impôt sur le revenu*, la somme initiale relativement à laquelle le montant de remboursement est reçu est réputée, pour l'année d'imposition au cours de laquelle elle a été payée ou est devenue à payer ou à recevoir, ne pas comprendre une somme égale à la partie admissible du montant de remboursement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 80.2; 2003, ch. 28, art. 9; 2013, ch. 34, art. 215.

Definitions

80.3 (1) In this section,

breeding animals means deer, elk and other similar grazing ungulates, bovine cattle, bison, goats, sheep and horses that are over 12 months of age and are kept for breeding; (*animaux reproducteurs*)

breeding bees means bees that are not used principally to pollinate plants in greenhouses and larvae of those bees; (*abeilles reproductrices*)

breeding bee stock, of a taxpayer at any time, means a reasonable estimate of the quantity of a taxpayer's breeding bees held at that time in the course of carrying on a farming business using a unit of measurement that is accepted as an industry standard; (*stock d'abeilles reproductrices*)

breeding herd of a taxpayer at any time means the number determined by the formula

A - (B - C)

Définitions

80.3 (1) Les définitions qui suivent s'appliquent au présent article.

abeilles reproductrices Abeilles qui ne servent pas principalement à la pollinisation de plantes dans des serres et larves de telles abeilles. (*breeding bees*)

animaux reproducteurs Cerfs, wapitis et autres ongulés de pâturage semblables, bisons, bovins, chevaux, chèvres et moutons, qui ont plus de douze mois et qui sont destinés à la reproduction. (*breeding animals*)

stock d'abeilles reproductrices Estimation raisonnable du nombre d'abeilles reproductrices, détenues par un contribuable à un moment donné dans le cadre de l'exploitation d'une entreprise agricole, établie à ce moment selon une unité de mesure qui est reconnue comme étant une norme de l'industrie. (*breeding bee stock*)

where

A is the total number of the taxpayer's breeding animals held in the course of carrying on a farming business at that time,

B is the total number of the taxpayer's breeding animals held in the business at that time that are female bovine cattle that have not given birth to calves, and

C is the lesser of the number determined as the value of B and one-half the total number of the taxpayer's breeding animals held in the business at that time that are female bovine cattle that have given birth to calves. (*troupeau reproducteur*)

troupeau reproducteur Nombre d'animaux d'un contribuable à un moment donné qui est établi selon la formule suivante :

A - (B - C)

où :

A représente le nombre d'animaux reproducteurs du contribuable détenus dans le cadre de l'exploitation d'une entreprise agricole à ce moment;

B le nombre d'animaux reproducteurs du contribuable détenus dans l'entreprise à ce moment et qui sont des bovins femelles n'ayant pas encore donné naissance à des veaux;

C le moins élevé du nombre visé à l'élément B et de la moitié du nombre total d'animaux reproducteurs du contribuable détenus dans l'entreprise à ce moment et qui sont des bovins femelles ayant donné naissance à des veaux. (*breeding herd*)

Income deferral from the destruction of livestock

(2) Where a particular amount in respect of the forced destruction of livestock under statutory authority in a taxation year of a taxpayer is included in computing the income of the taxpayer for the year from a farming business, there may be deducted in computing that income such amount as the taxpayer claims not exceeding the particular amount.

Report au titre de l'abattage du bétail

(2) Le contribuable qui inclut un montant donné dans le calcul de son revenu tiré d'une entreprise agricole pour une année d'imposition au titre de l'abattage obligatoire du bétail en application d'un texte législatif peut déduire dans le calcul de son revenu le montant qu'il demande, à concurrence du montant donné.

Inclusion of deferred amount

(3) The amount deducted under subsection (2) in computing the income of a taxpayer from a farming business for a taxation year shall be deemed to be income of the taxpayer from the business for the taxpayer's immediately following taxation year.

Inclusion du montant reporté

(3) Le montant déduit en application du paragraphe (2) dans le calcul du revenu d'un contribuable tiré d'une entreprise agricole pour une année d'imposition est réputé être le revenu du contribuable tiré de l'entreprise pour l'année d'imposition suivante de celui-ci.

Income deferral for regions of drought, flood or excessive moisture

(4) If in a taxation year a taxpayer carries on a farming business in a region that is at any time in the year a prescribed drought region or a prescribed region of flood or excessive moisture and the taxpayer's breeding herd at the end of the year in respect of the business does not exceed 85% of the taxpayer's breeding herd at the beginning of the year in respect of the business, there may be deducted in computing the taxpayer's income from the business for the year the amount that the taxpayer claims, not exceeding the amount, if any, determined by the formula

(A - B) × C

where

A is the amount by which

Report au titre des ventes dans des régions frappées de sécheresse, d'inondations ou de conditions d'humidité excessive

(4) Le contribuable qui exploite une entreprise agricole au cours d'une année d'imposition dans une région qui est, à un moment de l'année, une région frappée de sécheresse visée par règlement ou une région frappée d'inondations ou de conditions d'humidité excessive visée par règlement et dont le troupeau reproducteur à la fin de l'année quant à l'entreprise ne dépasse pas 85 % de son troupeau reproducteur au début de l'année quant à l'entreprise peut déduire dans le calcul de son revenu tiré de l'entreprise pour l'année une somme n'excédant pas la somme obtenue par la formule suivante :

(A - B) × C

où :

(a) the total of all amounts included in computing the taxpayer's income for the year from the business in respect of the sale of breeding animals in the year

exceeds

(b) the total of all amounts deducted under paragraph 20(1)(n) in computing the taxpayer's income from the business for the year in respect of an amount referred to in paragraph (a) of this description;

B is the total of all amounts deducted in computing the taxpayer's income from the business for the year in respect of the acquisition of breeding animals; and

C is

(a) 30% where the taxpayer's breeding herd at the end of the year in respect of the business exceeds 70% of the taxpayer's breeding herd at the beginning of the year in respect of the business, and

(b) 90% where the taxpayer's breeding herd at the end of the year in respect of the business does not exceed 70% of the taxpayer's breeding herd at the beginning of the year in respect of the business.

A représente l'excédent du total des montants inclus dans le calcul de son revenu tiré de l'entreprise pour l'année au titre de la vente d'animaux reproducteurs au cours de l'année sur le total des montants déduits en application de l'alinéa 20(1)n) dans le calcul de son revenu tiré de l'entreprise pour l'année au titre des montants ainsi inclus;

B le total des montants déduits dans le calcul de son revenu tiré de l'entreprise pour l'année au titre de l'acquisition d'animaux reproducteurs;

C si son troupeau reproducteur à la fin de l'année quant à l'entreprise dépasse 70 % de son troupeau reproducteur au début de l'année quant à l'entreprise, 30 %; sinon, 90 %.

Income deferral

(4.1) If in a taxation year a taxpayer carries on a farming business in a region that is at any time in the year a prescribed drought region or a prescribed region of flood or excessive moisture and the taxpayer's breeding bee stock at the end of the year in respect of the business does not exceed 85% of the taxpayer's breeding bee stock at the beginning of the year in respect of the business, there may be deducted in computing the taxpayer's income from the business for the year the amount that the taxpayer claims, not exceeding the amount, if any, determined by the formula

(A – B) × C

where

A is the amount by which

(a) the total of all amounts included in computing the taxpayer's income from the business for the year in respect of the sale of breeding bees in the year

exceeds

(b) the total of all amounts deducted under paragraph 20(1)(n) in computing the taxpayer's income from the business for the year in respect of an amount referred to in paragraph (a);

Report du revenu

(4.1) Le contribuable qui exploite une entreprise agricole au cours d'une année d'imposition dans une région qui est, à un moment de l'année, une région frappée de sécheresse visée par règlement ou une région frappée d'inondations ou de conditions d'humidité excessive visée par règlement, et dont le stock d'abeilles reproductrices à la fin de l'année quant à l'entreprise ne dépasse pas 85 % de son stock d'abeilles reproductrices au début de l'année quant à l'entreprise, peut déduire dans le calcul de son revenu tiré de l'entreprise pour l'année une somme n'excédant pas la somme obtenue par la formule suivante :

(A – B) × C

où :

A représente l'excédent du total visé à l'alinéa a) sur celui visé à l'alinéa b) :

a) le total des sommes incluses dans le calcul du revenu du contribuable tiré de l'entreprise pour l'année au titre de la vente d'abeilles reproductrices au cours de l'année,

b) le total des sommes déduites en application de l'alinéa 20(1)n) dans le calcul de son revenu tiré de l'entreprise pour l'année au titre des sommes visées à l'alinéa a);

B le total des sommes déduites dans le calcul de son revenu tiré de l'entreprise pour l'année au titre de l'acquisition d'abeilles reproductrices;

B is the total of all amounts deducted in computing the taxpayer's income from the business for the year in respect of the acquisition of breeding bees; and

C is

(a) 30% if the taxpayer's breeding bee stock in respect of the business at the end of the year exceeds 70% of the taxpayer's breeding bee stock in respect of the business at the beginning of the year, and

(b) 90% if the taxpayer's breeding bee stock in respect of the business at the end of the year does not exceed 70% of the taxpayer's breeding bee stock in respect of the business at the beginning of the year.

C :

a) si son stock d'abeilles reproductrices quant à l'entreprise à la fin de l'année dépasse 70 % de son stock d'abeilles reproductrices quant à l'entreprise au début de l'année, 30 %,

b) sinon, 90 %.

Inclusion of deferred amount

(5) An amount deducted under subsection (4) or (4.1) in computing the income of a taxpayer for a particular taxation year from a farming business carried on in a region prescribed under those subsections may, to the extent that the taxpayer so elects, be included in computing the taxpayer's income from the business for a taxation year ending after the particular taxation year, and is, except to the extent that the amount has been included under this subsection in computing the taxpayer's income from the business for a preceding taxation year after the particular year, deemed to be income of the taxpayer from the business for the taxation year of the taxpayer that is the earliest of

(a) the first taxation year beginning after the end of the period or series of continuous periods, as the case may be, for which the region is prescribed under those subsections,

(b) the first taxation year, following the particular taxation year, at the end of which the taxpayer is

(i) non-resident, and

(ii) not carrying on business through a fixed place of business in Canada, and

(c) the taxation year in which the taxpayer dies.

Inclusion de la somme reportée

(5) La somme déduite en application des paragraphes (4) ou (4.1) dans le calcul du revenu d'un contribuable, pour une année d'imposition donnée, tiré d'une entreprise agricole exploitée dans une région qui est visée par règlement pour l'application de ces paragraphes peut, dans la mesure où le contribuable en fait le choix, être incluse dans le calcul de son revenu tiré de l'entreprise pour une année d'imposition se terminant après l'année donnée et est réputée, sauf dans la mesure où elle a été incluse en application du présent paragraphe dans le calcul du revenu du contribuable tiré de l'entreprise pour une année d'imposition antérieure, postérieure à l'année donnée, être un revenu du contribuable tiré de l'entreprise pour celle des années d'imposition ci-après qui est antérieure aux autres :

a) la première année d'imposition du contribuable commençant après la fin de la période ou d'une série de périodes continues, selon le cas, où la région est visée par règlement pour l'application de ces paragraphes;

b) la première année d'imposition du contribuable, suivant l'année d'imposition donnée, à las fin de laquelle il ne réside pas au Canada et n'exploite pas d'entreprise par l'entremise d'un lieu fixe d'affaires au Canada;

c) l'année d'imposition où le contribuable décède.

Subsections (2), (4) and (4.1) not applicable

(6) Subsections (2), (4) and (4.1) do not apply to a taxpayer in respect of a farming business for a taxation year

(a) in which the taxpayer died; or

Non-application des paragraphes (2), (4) et (4.1)

(6) Les paragraphes (2), (4) et (4.1) ne s'appliquent pas aux années d'imposition ci-après d'un contribuable quant à une entreprise agricole :

a) celle où il est décédé;

(b) where at the end of the year the taxpayer is non-resident and not carrying on the business through a fixed place of business in Canada.

b) celle à la fin de laquelle il ne résidait pas au Canada et n'exploitait pas une telle entreprise par l'entremise d'un lieu fixe d'affaires au Canada.

Measuring breeding bee stock

(7) In applying subsection (4.1) in respect of a taxation year, the unit of measurement used for estimating the quantity of a taxpayer's breeding bee stock held in the course of carrying on a farming business at the end of the year is to be the same as that used for the beginning of the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 80.3; 1994, c. 7, Sch. II, s. 59, Sch. VIII, s. 31; 2009, c. 31, s. 2; 2014, c. 39, s. 17.

Unité de mesure du stock d'abeilles reproductrices

(7) Pour l'application du paragraphe (4.1) relativement à une année d'imposition, l'unité de mesure qui sert à estimer le stock d'abeilles reproductrices d'un contribuable, détenu dans le cadre de l'exploitation d'une entreprise agricole à la fin de l'année, est la même que celle qui est utilisée au début de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 80.3; 1994, ch. 7, ann. II, art. 59, ann. VIII, art. 31; 2009, ch. 31, art. 2; 2014, ch. 39, art. 17.

Loans

80.4 (1) Where a person or partnership receives a loan or otherwise incurs a debt because of or as a consequence of a previous, the current or an intended office or employment of an individual, or because of the services performed or to be performed by a corporation carrying on a personal services business, the individual or corporation, as the case may be, shall be deemed to have received a benefit in a taxation year equal to the amount, if any, by which the total of

(a) all interest on all such loans and debts computed at the prescribed rate on each such loan and debt for the period in the year during which it was outstanding, and

(b) the total of all amounts each of which is an amount of interest that was paid or payable in respect of the year on such a loan or debt by

(i) a person or partnership (in this paragraph referred to as the "employer") that employed or intended to employ the individual,

(ii) a person (other than the debtor) related to the employer, or

(iii) a person or partnership to or for whom or which the services were or were to be provided or performed by the corporation or a person (other than the debtor) who does not deal at arm's length with that person or any member of that partnership,

exceeds the total of

(c) the amount of interest for the year paid on all such loans and debts not later than 30 days after the end of the year, and

(d) any portion of the total determined in respect of the year under paragraph 80.4(1)(b) that is reimbursed

Prêts

80.4 (1) Lorsqu'une personne ou une société de personnes reçoit un prêt ou contracte autrement une dette en raison ou par suite de l'emploi ou de la charge antérieur, actuel ou projeté d'un particulier ou en raison des services fournis ou à fournir par une société qui exploite une entreprise de prestation de services personnels, le particulier ou la société est réputé avoir reçu, au cours d'une année d'imposition, un avantage d'une valeur égale à l'excédent éventuel du total des montants suivants :

a) le total des intérêts sur tous ces prêts et sur toutes ces dettes, calculés au taux prescrit sur chacun de ces prêts et chacune de ces dettes pour la période de l'année où le prêt ou la dette était impayé;

b) le total des montants dont chacun représente le montant des intérêts payés ou payables à l'égard de l'année sur ces prêts ou dettes par :

(i) soit une personne ou une société de personnes (appelée l'« employeur » au présent alinéa) qui a employé ou a eu l'intention d'employer le particulier,

(ii) soit une personne (autre que le débiteur) liée à l'employeur,

(iii) soit une personne ou une société de personnes à qui ou pour qui les services ont été ou devaient être rendus ou exécutés par la société ou par une personne (autre que le débiteur) qui a un lien de dépendance avec cette personne ou un associé de cette société de personnes,

sur le total des montants suivants :

c) le montant des intérêts pour l'année payés sur tous ces prêts et sur toutes ces dettes au plus tard 30 jours après la fin de l'année;

in the year or within 30 days after the end of the year by the debtor to the person or entity who made the payment referred to in that paragraph.

d) toute partie du total déterminé pour l'année en vertu de l'alinéa b) qui est remboursée par le débiteur au cours de l'année ou des 30 jours suivant la fin de l'année à la personne ou entité qui a fait le paiement visé à cet alinéa.

Interpretation

(1.1) A loan or debt is deemed to have been received or incurred because of an individual's office or employment, or because of services performed by a corporation that carries on a personal services business, as the case may be, if it is reasonable to conclude that, but for an individual's previous, current or intended office or employment, or the services performed or to be performed by the corporation,

(a) the terms of the loan or debt would have been different; or

(b) the loan would not have been received or the debt would not have been incurred.

Présomption

(1.1) Un prêt est réputé avoir été reçu, ou une dette contractée, en raison de la charge ou de l'emploi d'un particulier ou en raison de services exécutés par une société qui exploite une entreprise de services personnels, selon le cas, s'il est raisonnable de conclure que, n'eût été la charge ou l'emploi précédent, courant ou projeté d'un particulier ou les services exécutés ou à exécuter par la société :

a) les conditions du prêt ou de la dette auraient été différentes;

b) le prêt n'aurait pas été reçu ou la dette, contractée.

Idem

(2) Where a person (other than a corporation resident in Canada) or a partnership (other than a partnership each member of which is a corporation resident in Canada) was

(a) a shareholder of a corporation,

(b) connected with a shareholder of a corporation, or

(c) a member of a partnership, or a beneficiary of a trust, that was a shareholder of a corporation,

and by virtue of that shareholding that person or partnership received a loan from, or otherwise incurred a debt to, that corporation, any other corporation related thereto or a partnership of which that corporation or any corporation related thereto was a member, the person or partnership shall be deemed to have received a benefit in a taxation year equal to the amount, if any, by which

(d) all interest on all such loans and debts computed at the prescribed rate on each such loan and debt for the period in the year during which it was outstanding

exceeds

(e) the total of

(i) the amount of interest for the year paid on all such loans and debts (other than loans deemed to have been made under subsection 15(2.17)) not later than 30 days after the end of the year, and

Idem

(2) Lorsqu'une personne (autre qu'une société résidant au Canada) ou une société de personnes (autre qu'une société de personnes dont chacun des associés est une société résidant au Canada) était :

a) soit un actionnaire d'une société;

b) soit rattachée à un actionnaire d'une société;

c) soit un associé d'une société de personnes, ou un bénéficiaire d'une fiducie, qui était actionnaire d'une société,

et que, à ce titre, la personne ou la société de personnes a reçu un prêt de la société, de toute autre société qui lui est liée ou d'une société de personnes dont la société ou toute autre société qui lui est liée est un associé, ou a par ailleurs contracté une dette en faveur de l'une d'elles, la personne ou la société de personnes est réputée avoir reçu, au cours d'une année d'imposition, un avantage égal à l'excédent éventuel du total visé à l'alinéa d) sur le montant visé à l'alinéa e):

d) le total des intérêts sur tous ces prêts et sur toutes ces dettes, calculés au taux prescrit sur chacun de ces prêts et chacune de ces dettes pour la période de l'année où le prêt ou la dette était impayé;

e) le total des sommes suivantes :

(i) le montant des intérêts pour l'année versés sur tous ces prêts ou toutes ces dettes (sauf les prêts qui sont réputés par le paragraphe 15(2.17) avoir été

(ii) the specified interest amounts, for the year, in respect of all such loans that are deemed to have been made under subsection 15(2.17).

Where ss. (1) and (2) do not apply

(3) Subsections 80.4(1) and (2) do not apply in respect of any loan or debt, or any part thereof,

(a) on which the rate of interest was equal to or greater than the rate that would, having regard to all the circumstances (including the terms and conditions of the loan or debt), have been agreed on, at the time the loan was received or the debt was incurred, between parties dealing with each other at arm's length if

(i) none of the parties received the loan or incurred the debt by virtue of an office or employment or by virtue of the shareholding of a person or partnership, and

(ii) the ordinary business of the creditor included the lending of money,

except where an amount is paid or payable in any taxation year to the creditor in respect of interest on the loan or debt by a party other than the debtor; or

(b) that was included in computing the income of a person or partnership under this Part.

Interest on loans for home purchase or relocation

(4) For the purpose of computing the benefit under subsection 80.4(1) in a taxation year in respect of a home purchase loan or a home relocation loan and for the purpose of paragraph 110(1)(j), the amount of interest determined under paragraph 80.4(1)(a) shall not exceed the amount of interest that would have been determined thereunder if it had been computed at the prescribed rate in effect at the time the loan was received or the debt was incurred, as the case may be.

Idem

(5) Where an individual has, before November 13, 1981,

(a) received a housing loan, or

(b) made arrangements in writing in respect of a home purchase loan that would, if the loan were made before 1982, have been a housing loan,

consentis) au plus tard 30 jours après la fin de l'année,

(ii) les montants d'intérêts déterminés, pour l'année, relativement à tous ces prêts qui sont réputés par le paragraphe 15(2.17) avoir été consentis.

Non-application des par. (1) et (2)

(3) Les paragraphes (1) et (2) ne s'appliquent pas à un prêt ou à une dette ou à une partie quelconque d'un prêt ou d'une dette qui :

a) soit est assujetti à un taux d'intérêt qui n'est pas inférieur au taux dont auraient été convenues, compte tenu des circonstances (y compris les modalités du prêt ou de la dette), au moment où le prêt a été reçu ou la dette contractée, deux parties n'ayant entre elles aucun lien de dépendance, pourvu que :

(i) d'une part, aucune partie n'ait reçu le prêt ou contracté la dette en vertu d'une charge ou d'un emploi ou en vertu de la qualité d'actionnaire d'une personne ou d'une société de personnes,

(ii) d'autre part, l'activité d'entreprise habituelle du créancier ait compris le prêt d'argent,

sauf si un montant est payé ou payable au cours d'une année d'imposition donnée au créancier à l'égard de l'intérêt sur le prêt ou la dette par une partie qui n'est pas le débiteur;

b) soit a été inclus dans le calcul du revenu d'une personne ou d'une société de personnes en vertu de la présente partie.

Intérêts sur prêt résidentiel et sur prêt à la réinstallation

(4) Pour le calcul, au cours d'une année d'imposition, de l'avantage visé au paragraphe (1) relativement à un prêt consenti pour l'achat d'une maison ou à un prêt à la réinstallation et pour l'application de l'alinéa 110(1)j), le montant des intérêts calculé conformément à l'alinéa (1)a) ne peut dépasser le montant des intérêts qui aurait été calculé conformément à cet alinéa s'il avait été calculé au taux prescrit en vigueur au moment où le prêt a été reçu ou la dette contractée, selon le cas.

Idem

(5) Lorsqu'un particulier a, avant le 13 novembre 1981:

a) reçu un prêt résidentiel;

b) pris des arrangements par écrit pour un prêt consenti pour l'achat d'une maison qui, s'il avait été consenti avant 1982, aurait été un prêt résidentiel,

for the purpose of computing the amount of interest referred to in paragraph 80.4(1)(a) on the loan, the amount of the loan may be reduced

(c) for the 1982 taxation year, by the amount, if any, by which $40,000 exceeds the total of

(i) all amounts claimed as a reduction under this subsection for the year by the individual's spouse or common-law partner with whom the individual resided in the year, and

(ii) all amounts claimed as a reduction under this subsection for the year by the individual on all other loans, and

(d) for the 1983 taxation year, by the amount, if any, by which $20,000 exceeds the total of

(i) all amounts claimed as a reduction under this subsection for the year by the individual's spouse or common-law partner with whom the individual resided in the year, and

(ii) all amounts claimed as a reduction under this subsection for the year by the individual on all other loans.

pour le calcul du montant des intérêts visés à l'alinéa (1)a) sur le prêt, le montant du prêt peut être réduit :

c) pour l'année d'imposition 1982, de l'excédent éventuel de 40 000 $ sur le total des montants suivants :

(i) les montants demandés à titre de réduction en vertu du présent paragraphe pour l'année par son époux ou conjoint de fait avec lequel il résidait au cours de l'année,

(ii) les montants demandés à titre de réduction en vertu du présent paragraphe au cours de l'année par le particulier sur tous les autres prêts;

d) pour l'année d'imposition 1983, de l'excédent éventuel de 20 000 $ sur le total des montants suivants :

(i) les montants demandés à titre de réduction en vertu du présent paragraphe pour l'année par son époux ou conjoint de fait avec lequel il résidait au cours de l'année,

(ii) les montants demandés à titre de réduction en vertu du présent paragraphe pour l'année par le particulier sur tous les autres prêts.

Deemed new home purchase loans

(6) For the purposes of this section, other than paragraph 80.4(3)(a) and subsection 80.4(5), where a home purchase loan or a home relocation loan of an individual has a term for repayment exceeding five years, the balance outstanding on the loan on the date that is five years from the day the loan was received or was last deemed by this subsection to have been received shall be deemed to be a new home purchase loan received by the individual on that date.

Prêts résidentiels et à la réinstallation

(6) Pour l'application du présent article, à l'exception de l'alinéa (3)a) et du paragraphe (5), dans le cas d'un prêt consenti pour l'achat d'une maison ou d'un prêt à la réinstallation d'un particulier dont le délai de remboursement est supérieur à cinq ans, le solde dû sur le prêt à la date qui tombe cinq ans après le jour de réception du prêt ou le jour où le prêt a été, en vertu du présent paragraphe, pour la dernière fois réputé reçu est réputé être un nouveau prêt consenti pour l'achat d'une maison et reçu par le particulier à cette date.

Definitions

(7) In this section,

home purchase loan means that portion of any loan received or debt otherwise incurred by an individual in the circumstances described in subsection 80.4(1) that is used to acquire, or to repay a loan or debt that was received or incurred to acquire, a dwelling, or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the habitation of

(a) the individual by virtue of whose office or employment the loan is received or the debt is incurred,

Définitions

(7) Les définitions qui suivent s'appliquent au présent article.

montant d'intérêts déterminé Relativement à un prêt (appelé *prêt réputé* à la présente définition) qui est réputé par le paragraphe 15(2.17) avoir été consenti par un *bailleur de fonds ultime*, au sens du paragraphe 15(2.192), le montant, pour une année, obtenu par la formule suivante :

A × (B/C)

où :

A représente le montant des intérêts pour l'année versés au plus tard 30 jours après la fin de l'année sur

(b) a specified shareholder of the corporation by virtue of whose services the loan is received or the debt is incurred, or

(c) a person related to a person described in paragraph (a) or (b),

or that is used to repay a home purchase loan; (*prêt consenti pour l'achat d'une maison*)

prescribed rate of interest means

(a) 6% per annum before 1978,

(b) 8% per annum for 1978, and

(c) for any year, or part thereof, after 1978, such rate of interest as is prescribed therefor except that, for the purpose of computing the benefit under subsection 80.4(1) in a taxation year on a home purchase loan received after November 12, 1981 and before 1982, the prescribed rate of interest at the time the loan was received shall be deemed to be 16% per annum; (*taux prescrit*)

specified interest amount, for a year, in respect of a loan (referred to in this definition as the *deemed loan*) deemed to have been made under subsection 15(2.17) by an *ultimate funder* (as defined in subsection 15(2.192)), means the amount determined by the formula

A × (B/C)

where

A is the amount of interest for the year paid not later than 30 days after the end of the year on all debts — owing by one or more *funders* (as defined in subsection 15(2.192), but excluding any funders that are *ultimate funders* as defined in subsection 15(2.192)) under one or more *funding arrangements* (as defined in subsection 15(2.192)) to the ultimate funder — that gave rise to the deemed loan;

B is the average amount outstanding for the year in respect of the deemed loan; and

C is the total of all amounts each of which is the average amount outstanding in the year as or on account of an amount owing under a debt described in A. (*montant d'intérêts déterminé*)

Meaning of connected

(8) For the purposes of subsection (2), a person or partnership is connected with a shareholder of a corporation

toutes les dettes — dues par au moins un *bailleur de fonds*, au sens du paragraphe 15(2.192), qui n'est pas un *bailleur de fonds ultime*, au sens de ce paragraphe, dans le cadre d'au moins un *mécanisme de financement*, au sens de ce paragraphe, au bailleur de fonds ultime — qui a donné lieu au prêt réputé;

B la moyenne des sommes dues pour l'année relativement au prêt réputé;

C le total des sommes dont chacune représente la moyenne des sommes dues au cours de l'année au titre d'une somme due relative à une dette visée à l'élément A. (*specified interest amount*)

prêt consenti pour l'achat d'une maison La partie d'un prêt reçu ou d'une dette par ailleurs contractée par un particulier dans les circonstances visées au paragraphe (1) qui sert à acquérir, ou à rembourser un prêt reçu ou une dette contractée pour acquérir, une maison d'habitation, ou une action du capital-actions d'une coopérative d'habitation acquise dans l'unique but d'acquérir le droit d'habiter une maison d'habitation dont la coopérative est propriétaire, dans le cas où la maison d'habitation sert à loger :

a) soit le particulier dont la charge ou l'emploi a permis d'obtenir le prêt ou de contracter la dette;

b) soit un actionnaire déterminé de la société dont les services ont permis d'obtenir le prêt ou de contracter la dette;

c) soit une personne liée à une personne visée à l'alinéa a) ou b),

ou qui sert à rembourser un prêt consenti pour l'achat d'une maison. (*home purchase loan*)

taux prescrit

a) 6 % par année avant 1978;

b) 8 % par année pour 1978;

c) pour toute année ou partie d'année après 1978, le taux d'intérêt prescrit à cet égard sauf que, pour le calcul de l'avantage visé au paragraphe (1) au cours d'une année d'imposition à l'égard d'un prêt consenti pour l'achat d'une maison, reçu après le 12 novembre 1981 et avant 1982, le taux prescrit au moment où le prêt a été reçu est réputé être de 16 % par an. (*prescribed rate*)

Sens de *rattaché*

(8) Pour l'application du paragraphe (2), une personne ou une société de personnes est rattachée à un

if that person or partnership does not deal at arm's length with, or is affiliated with, the shareholder, unless, in the case of a person, that person is

(a) a foreign affiliate of the corporation; or

(b) a foreign affiliate of a person resident in Canada with which the corporation does not deal at arm's length.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 80.4; 1994, c. 7, Sch. II, s. 60, Sch. VIII, s. 32; 1999, c. 22, s. 22; 2000, c. 12, s. 142; 2013, c. 34, s. 216; 2016, c. 12, s. 24.

actionnaire d'une société si elle a un lien de dépendance avec lui, ou lui est affiliée, et si, s'agissant d'une personne, elle n'est pas :

a) une société étrangère affiliée de la société;

b) une société étrangère affiliée d'une personne résidant au Canada avec laquelle la société a un lien de dépendance.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 80.4; 1994, ch. 7, ann. II, art. 60, ann. VIII, art. 32; 1999, ch. 22, art. 22; 2000, ch. 12, art. 142; 2013, ch. 34, art. 216; 2016, ch. 12, art. 24.

Deemed interest

80.5 Where a benefit is deemed by section 80.4 to have been received in a taxation year by

(a) an individual or corporation under subsection 80.4(1), or

(b) a person or partnership under subsection 80.4(2),

the amount of the benefit shall, for the purposes of subparagraph 8(1)(j)(i) and paragraph 20(1)(c), be deemed to be interest paid in, and payable in respect of, the year by the debtor pursuant to a legal obligation to pay interest on borrowed money.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1980-81-82-83, c. 140, s. 45; 1984, c. 1, s. 36.

Intérêts réputés

80.5 Lorsque, en vertu de l'article 80.4, un avantage est réputé avoir été reçu au cours d'une année d'imposition par :

a) soit un particulier ou une société, aux termes du paragraphe 80.4(1);

b) soit une personne ou une société de personnes, aux termes du paragraphe 80.4(2),

le montant de l'avantage est réputé, pour l'application du sous-alinéa 8(1)j)(i) et de l'alinéa 20(1)c), représenter des intérêts payés au cours de l'année et payables à l'égard de l'année par un débiteur conformément à une obligation légale de payer des intérêts sur de l'argent emprunté.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1980-81-82-83, ch. 140, art. 45; 1984, ch. 1, art. 36.

Synthetic disposition

80.6 (1) If a synthetic disposition arrangement is entered into in respect of a property owned by a taxpayer and the synthetic disposition period of the arrangement is one year or more, the taxpayer is deemed

(a) to have disposed of the property immediately before the beginning of the synthetic disposition period for proceeds equal to its fair market value at the beginning of the synthetic disposition period; and

(b) to have reacquired the property at the beginning of the synthetic disposition period at a cost equal to that fair market value.

Exception

(2) Subsection (1) does not apply in respect of a property owned by a taxpayer if

(a) the disposition referred to in subsection (1) would not result in the realization of a capital gain or income;

Disposition factice

80.6 (1) Si un arrangement de disposition factice est conclu relativement à un bien appartenant à un contribuable et que la période de disposition factice relative à l'arrangement dure un an ou plus, le contribuable est réputé, à la fois :

a) avoir disposé du bien immédiatement avant le début de la période pour un produit égal à sa juste valeur marchande au début de cette période;

b) avoir acquis le bien de nouveau au début de la période à un coût égal à cette juste valeur marchande.

Exception

(2) Le paragraphe (1) ne s'applique pas relativement à un bien appartenant à un contribuable si l'un des faits ci-après s'avère :

a) la disposition visée au paragraphe (1) ne donnerait pas lieu à la réalisation d'un gain en capital ou à un revenu;

(b) the property is a mark-to-market property (as defined in subsection 142.2(1)) of the taxpayer;

(c) the synthetic disposition arrangement referred to in subsection (1) is a lease of tangible property or, for civil law, corporeal property;

(d) the arrangement is an exchange of property to which subsection 51(1) applies; or

(e) the property is disposed of as part of the arrangement, within one year after the day on which the synthetic disposition period of the arrangement begins.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 38.

b) le bien est un bien évalué à la valeur du marché, au sens du paragraphe 142.2(1), du contribuable;

c) l'arrangement de disposition factice visé au paragraphe (1) est un bail visant un bien tangible ou, pour l'application du droit civil, un bien corporel;

d) l'arrangement est un échange de bien auquel le paragraphe 51(1) s'applique;

e) il est disposé du bien dans le cadre de l'arrangement dans un délai d'un an après le début de la période de disposition factice relative à l'arrangement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 38.

SUBDIVISION G

Amounts Not Included in Computing Income

Amounts not included in income

81 (1) There shall not be included in computing the income of a taxpayer for a taxation year,

Statutory exemptions

(a) an amount that is declared to be exempt from income tax by any other enactment of Parliament, other than an amount received or receivable by an individual that is exempt by virtue of a provision contained in a tax convention or agreement with another country that has the force of law in Canada;

War Savings Certificate

(b) an amount received under a War Savings Certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949;

Ship or aircraft of non-residents

(c) the income for the year of a non-resident person earned in Canada from international shipping or from the operation of aircraft in international traffic, if the country in which the person is resident grants substantially similar relief for the year to persons resident in Canada;

Service pension, allowance or compensation

(d) a pension payment, an allowance or compensation that is received under or is subject to the *Pension Act*,the *Civilian War-related Benefits Act* or the *War Veterans Allowance Act*, an amount received under the Gallantry Awards Order or compensation received under the regulations made under section 9 of the *Aeronautics Act*;

SOUS-SECTION G

Sommes exclues du calcul du revenu

Sommes à exclure du revenu

81 (1) Ne sont pas inclus dans le calcul du revenu d'un contribuable pour une année d'imposition :

Exemptions prévues par une autre loi

a) une somme exonérée de l'impôt sur le revenu par toute autre loi fédérale, autre qu'un montant reçu ou à recevoir par un particulier qui est exonéré en vertu d'une disposition d'une convention ou d'un accord fiscal conclu avec un autre pays et qui a force de loi au Canada;

Certificats d'épargne de guerre

b) une somme reçue en vertu d'un certificat d'épargne de guerre émis par Sa Majesté du chef du Canada ou en vertu d'un certificat semblable émis par Sa Majesté du chef de Terre-Neuve avant le 1er avril 1949;

Navire ou aéronef de non-résidents

c) le revenu pour l'année d'une personne non-résidente gagné au Canada qui provient du transport maritime international ou de l'exploitation d'un aéronef en transport international, si le pays de résidence de cette personne accorde sensiblement le même dégrèvement pour l'année à des personnes résidant au Canada;

Allocation, pension ou indemnité de service de guerre

d) une pension, allocation ou indemnité reçue en vertu de la *Loi sur les pensions*, de la *Loi sur les prestations de guerre pour les civils* ou de la *Loi sur les allocations aux anciens combattants*, ou régie par ces lois, un montant reçu en vertu du *Décret sur les prestations pour bravoure* ou encore, une indemnité reçue

Canadian Forces members and veterans amounts

(d.1) the total of all amounts received by the taxpayer in the year on account of a Canadian Forces income support benefit payable to the taxpayer under Part 2 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, on account of a critical injury benefit, disability award, death benefit, clothing allowance or detention benefit payable to the taxpayer under Part 3 of that Act or on account of a family caregiver relief benefit payable to the taxpayer under Part 3.1 of that Act;

War pensions

(e) a pension payment received on account of disability or death arising out of a war from a country that was an ally of Canada at the time of the war, if that country grants substantially similar relief for the year to a person receiving a pension referred to in paragraph 81(1)(d);

Halifax disaster pensions, grants or allowances

(f) a pension payment, a grant or an allowance in respect of death or injury sustained in the explosion in Halifax in 1917 and received from the Halifax Relief Commission the incorporation of which was confirmed by *An Act respecting the Halifax Relief Commission*, chapter 24 of the Statutes of Canada, 1918, or received pursuant to the *Halifax Relief Commission Pension Continuation Act*, chapter 88 of the Statutes of Canada, 1974-75-76;

Compensation by Federal Republic of Germany

(g) a payment made by the Federal Republic of Germany or by a public body performing a function of government within that country as compensation to a victim of National Socialist persecution, where no tax is payable in respect of that payment under a law of the Federal Republic of Germany that imposes an income tax;

Income from personal injury award property

(g.1) the income for the year from any property acquired by or on behalf of a person as an award of, or pursuant to an action for, damages in respect of physical or mental injury to that person, or from any property substituted therefor and any taxable capital gain for the year from the disposition of any such property,

(i) where the income was income from the property, if the income was earned in respect of a period before the end of the taxation year in which the person attained the age of 21 years, and

(ii) in any other case, if the person was less than 21 years of age during any part of the year;

en vertu des règlements d'application de l'article 9 de la *Loi sur l'aéronautique*;

Allocations aux militaires et aux vétérans des Forces canadiennes

d.1) le total des sommes reçues par le contribuable au cours de l'année au titre d'une allocation de soutien du revenu qui lui est payable en vertu de la partie 2 de la *Loi sur les mesures de réinsertion et d'indemnisation des militaires et vétérans des Forces canadiennes*, au titre d'une indemnité pour blessure grave, d'une indemnité d'invalidité, d'une indemnité de décès, d'une allocation vestimentaire ou d'une indemnité de captivité qui lui est payable en vertu de la partie 3 de cette loi ou au titre d'une allocation pour relève d'un aidant familial qui lui est payable en vertu de la partie 3.1 de cette loi;

Pension de guerre

e) une pension reçue pour cause d'invalidité ou de décès survenus pendant une guerre, et provenant d'un pays qui était un allié du Canada au moment de la guerre, si ce pays accorde pour l'année sensiblement le même dégrèvement à une personne qui reçoit une pension visée à l'alinéa d);

Indemnisation des victimes du désastre d'Halifax

f) les pensions, subventions ou allocations versées, pour es décès ou blessures provoqués par l'explosion survenue à Halifax en 1917, soit par la Commission de secours d'Halifax, dont la constitution a été confirmée par la *Loi concernant la Commission de secours d'Halifax*, chapitre 24 des Statuts du Canada de 1918, soit en vertu de la *Loi sur la prise en charge des prestations de la Commission de secours d'Halifax*, chapitre 88 des Statuts du Canada de 1974-75-76;

Indemnité versée par la République fédérale d'Allemagne

g) un versement effectué par la République fédérale d'Allemagne ou par un organisme public remplissant une fonction gouvernementale dans ce pays à titre d'indemnité à une victime de la persécution nationale-socialiste, lorsque aucun impôt n'est payable relativement à ce paiement en vertu d'une loi de la République fédérale d'Allemagne établissant un impôt sur le revenu;

Revenu tiré de dommages-intérêts pour préjudice corporel

g.1) le revenu pour l'année provenant d'un bien acquis par une personne ou à son profit, soit à titre de compensation accordée pour les dommages physiques ou mentaux que cette personne a subis, soit à la suite d'une action en dommages-intérêts intentée pour de tels dommages, ou provenant d'un bien remplaçant ce

Income from income exempt under para. (g.1)

(g.2) any income for the year from any income that is by virtue of this paragraph or paragraph 81(1)(g.1) not required to be included in computing the taxpayer's income (other than any income attributable to any period after the end of the taxation year in which the person on whose behalf the income was earned attained the age of 21 years);

Certain government funded trusts

(g.3) the amount that, but for this paragraph, would be the income of the taxpayer for the year if

(i) the taxpayer is the trust established under

(A) the 1986-1990 Hepatitis C Settlement Agreement entered into by Her Majesty in right of Canada and Her Majesty in right of each of the provinces,

(B) the Pre-1986/Post-1990 Hepatitis C Settlement Agreement entered into by Her Majesty in right of Canada, or

(C) the Indian Residential Schools Settlement Agreement entered into by Her Majesty in right of Canada on May 8, 2006, and

(ii) the only contributions made to the taxpayer before the end of the year are those provided for under the relevant Agreement described in subparagraph (i);

Relief for increased heating expenses

(g.4) an amount received pursuant to the Order Authorizing Ex Gratia Payments for Increased Heating Expenses;

Energy cost relief

(g.5) an amount received pursuant to Part 1 of the *Energy Costs Assistance Measures Act*;

Ontario Electricity Support Program

(g.6) an amount of rate assistance received under section 79.2 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch B, as amended from time to time;

Social assistance

(h) where the taxpayer is an individual (other than a trust), a social assistance payment (other than a prescribed payment) ordinarily made on the basis of a means, needs or income test under a program provided for by an Act of Parliament or a law of a province, to the extent that it is received directly or indirectly by the taxpayer for the benefit of another individual (other than the taxpayer's spouse or common-law partner

Revenu tiré d'un revenu exonéré en vertu de l'al. g.1)

g.2) tout revenu pour l'année (à l'exclusion du revenu se rapportant à une période tombant après la fin de l'année d'imposition et au cours de laquelle la personne au profit de qui le revenu a été gagné a atteint l'âge de 21 ans) tiré du revenu que le présent alinéa ou l'alinéa g.1) ne prévoit pas d'inclure dans le calcul du revenu du contribuable;

Certaines fiducies à financement public

g.3) la somme qui, en l'absence du présent alinéa, représenterait le revenu du contribuable pour l'année si, à la fois :

(i) le contribuable est la fiducie créée en vertu de l'une des conventions suivantes :

(A) la Convention de règlement relative à l'hépatite C 1986-1990 conclue par Sa Majesté du chef du Canada et Sa Majesté du chef de chacune des provinces,

(B) la Convention de règlement relative à l'hépatite C visant la période antérieure à 1986 et la période postérieure à 1990 conclue par Sa Majesté du chef du Canada,

(C) la Convention de règlement relative aux pensionnats indiens conclue par Sa Majesté du chef du Canada le 8 mai 2006,

(ii) les seules sommes versées au contribuable avant la fin de l'année sont celles prévues par la convention applicable visée au sous-alinéa (i);

Allocation de chauffage

g.4) un montant reçu conformément au *Décret autorisant des paiements à titre gracieux pour la hausse des frais de chauffage*;

Allocation liée au coût de l'énergie

g.5) la somme reçue en application de la partie 1 de la *Loi sur les mesures d'aide liées au coût de l'énergie*;

or a person who is related to the taxpayer or to the taxpayer's spouse or common-law partner), if

(i) no family allowance under the *Family Allowances Act* or any similar allowance under a law of a province that provides for payment of an allowance similar to the family allowance provided under that Act is payable in respect of the other individual for the period in respect of which the social assistance payment is made, and

(ii) the other individual resides in the taxpayer's principal place of residence, or the taxpayer's principal place of residence is maintained for use as the residence of that other individual, throughout the period referred to in subparagraph 81(1)(h)(i);

R.C.M.P. pension or compensation

(i) a pension payment or compensation received under section 5, 31 or 45 of the *Royal Canadian Mounted Police Pension Continuation Act*, chapter R-10 of the Revised Statutes of Canada, 1970, or section 32 or 33 of the *Royal Canadian Mounted Police Superannuation Act*, in respect of an injury, disability or death;

Employees profit sharing plan

(k) a payment or part of a payment from an employees profit sharing plan that section 144 provides is not to be included;

Prospecting

(l) an amount in respect of the receipt of a share that section 35 provides is not to be included;

Interest on certain obligations

(m) interest that accrued to, became receivable or was received by, a corporation resident in Canada (in this paragraph referred to as the "parent corporation") on a bond, debenture, bill, note, mortgage or similar obligation received by it as consideration for the disposition by it, before June 18, 1971, of

(i) a business carried on by it in a country other than Canada, or

(ii) all of the shares of a corporation that carried on a business in a country other than Canada, and such of the debts and other obligations of that corporation as were, immediately before the disposition, owing to the parent corporation,

if

(iii) the business was of a public utility or public service nature,

Programme ontarien d'aide relative aux frais d'électricité

g.6) un montant d'aide tarifaire reçu en application de l'article 79.2 de la *Loi de 1998 sur la Commission de l'énergie de l'Ontario*, L.O. 1998, ch. 15, annexe B, avec ses modifications successives;

Assistance sociale

h) la prestation d'assistance sociale, sauf une prestation visée par règlement, qui est habituellement payée à un particulier, à l'exclusion d'une fiducie, dans le cadre d'un programme prévu par une loi fédérale ou provinciale, après examen des ressources, de besoins et du revenu — dans la mesure où il la reçoit, directement ou indirectement, au profit d'un autre particulier, à l'exception de son époux ou conjoint de fait ou d'une personne qui lui est liée ou qui est liée à son époux ou conjoint de fait — si, à la fois :

(i) aucune allocation familiale en vertu de la *Loi sur les allocations familiales*, ou une allocation semblable en vertu d'un texte législatif provincial qui prévoit le versement d'une allocation semblable à celle prévue par cette loi, n'est payable à l'égard de l'autre particulier pour la période pour laquelle la prestation d'assistance sociale est payée,

(ii) l'autre particulier habite au lieu principal de résidence du contribuable, ou ce lieu est maintenu pour que ce particulier l'utilise à titre résidentiel tout au long de la période visée au sous-alinéa (i);

Pension ou indemnité de la Gendarmerie royale du Canada

i) une pension ou une indemnité pour blessure, invalidité ou décès reçue en vertu de l'article 5, 31 ou 45 de la *Loi sur la continuation des pensions de la Gendarmerie royale du Canada*, chapitre R-10 des Statuts revisés du Canada de 1970, ou des articles 32 ou 33 de la *Loi sur la pension de retraite de la Gendarmerie royale du Canada*;

Régime de participation des employés aux bénéfices

k) une somme ou partie de somme versée dans le cadre d'un régime de participation des employés aux bénéfices, qui, selon l'article 144, n'est pas à inclure;

Prospection

l) une somme afférente à la réception d'une action qui, selon l'article 35, n'est pas à inclure;

Intérêts sur certaines obligations

m) les intérêts accumulés en faveur d'une société qui réside au Canada (appelée la « société mère » au présent alinéa), reçus ou recevables par elle, sur une obligation, un effet, un billet, une hypothèque ou un titre

(iv) the business or the property described in subparagraph 81(1)(m)(ii), as the case may be, was disposed of to a person or persons resident in that country, and

(v) the obligation received by the parent corporation was issued by or guaranteed by the government of that country or any agent thereof;

Governor General

(n) income from the office of Governor General of Canada, other than salary under the *Governor General's Act*;

(o) and (p) [Repealed, 1998, c. 19, s. 14(1)]

Provincial indemnities

(q) an amount paid to an individual as an indemnity under a prescribed provision of the law of a province;

Foreign retirement arrangements

(r) an amount that is credited or added to a deposit or account governed by a foreign retirement arrangement as interest or other income in respect of the deposit or account, where the amount would, but for this paragraph, be included in the taxpayer's income solely because of that crediting or adding; or

Salary deferral leave plans

(s) an amount paid to the taxpayer in the year under an arrangement described in paragraph 6801(a) of the *Income Tax Regulations* to the extent that the amount may reasonably be considered to be attributable to amounts that

(i) were included in the taxpayer's income for a preceding taxation year and were income, interest or other additional amounts, described in subparagraph 6801(a)(iv) of the *Income Tax Regulations*, and

(ii) were re-contributed by the taxpayer under the arrangement in a preceding taxation year.

semblable reçu par elle en contrepartie de la disposition qu'elle a faite, avant le 18 juin 1971:

(i) soit d'une entreprise exploitée par elle dans un pays étranger,

(ii) soit de toutes les actions d'une société qui exploitait une entreprise dans un pays étranger, et des dettes et autres obligations de cette société qui, immédiatement avant la disposition, étaient dues à la société mère,

si les conditions suivantes sont réunies :

(iii) l'entreprise était de la nature d'un service public,

(iv) il a été disposé de l'entreprise ou des biens visés au sous-alinéa (ii), selon le cas, en faveur d'une personne ou de personnes résidant dans ce pays,

(v) le titre reçu par la société mère a été émis ou garanti par le gouvernement de ce pays ou par tout mandataire de ce gouvernement;

Gouverneur général

n) le revenu tiré de la charge de gouverneur général du Canada, à l'exception du traitement prévu par la *Loi sur le gouverneur général*;

o) et p) [Abrogés, 1998, ch. 19, art. 14(1)]

Indemnités provinciales

q) une somme versée à un particulier à titre d'indemnité en vertu d'une disposition, précisée par règlement, de la législation provinciale;

Mécanisme de retraite étranger

r) une somme ajoutée à quelque dépôt ou compte régi par un mécanisme de retraite étranger, ou portée au crédit d'un tel dépôt ou compte, à titre d'intérêts ou d'autres revenus relatifs au dépôt ou au compte, dans le cas où la somme serait, sans le présent alinéa, incluse dans le revenu du contribuable à cause uniquement de ce crédit ou de cet ajout;

Régimes de financement de congé

s) toute somme versée au contribuable au cours de l'année aux termes d'un mécanisme ou régime visé à l'alinéa 6801a) du *Règlement de l'impôt sur le revenu*, dans la mesure où il est raisonnable de considérer qu'elle est attribuable à des sommes qui, à la fois :

(i) ont été incluses dans le revenu du contribuable pour une année d'imposition antérieure et représentaient un revenu, des intérêts ou d'autres montants supplémentaires visés au sous-alinéa 6801a)(iv) de ce règlement,

(ii) ont été versées de nouveau par le contribuable dans le cadre du mécanisme ou régime au cours d'une année d'imposition antérieure.

M.L.A.'s expense allowance

(2) Where an elected member of a provincial legislative assembly has, under an Act of the provincial legislature, been paid an allowance in a taxation year for expenses incident to the discharge of the member's duties in that capacity, the allowance shall not be included in computing the member's income for the year unless it exceeds 1/2 of the maximum fixed amount provided by law as payable to the member by way of salary, indemnity and other remuneration as a member in respect of attendance at a session of the legislature, in which event there shall be included in computing the member's income for the year only the amount by which the allowance exceeds 1/2 of that maximum fixed amount.

Allocation de frais aux membres d'assemblées législatives

(2) Lorsqu'un député élu à une assemblée législative provinciale a reçu, en vertu d'une loi provinciale, une allocation, au cours d'une année d'imposition, pour les frais occasionnés par l'exercice de ses fonctions comme député, l'allocation n'est pas incluse dans le calcul de son revenu pour l'année; toutefois, si elle dépasse la moitié du montant maximal fixe que la loi prévoit de lui verser sous forme de traitement, indemnité ou autre rémunération comme député pour sa présence à une session de l'assemblée législative, seul est inclus dans le calcul de son revenu pour l'année, l'excédent de cette allocation sur la moitié de ce montant maximal fixe.

Municipal officers' expense allowance

(3) Where a person who is

(a) an elected officer of an incorporated municipality,

(b) an officer of a municipal utilities board, commission or corporation or any other similar body, the incumbent of whose office as such an officer is elected by popular vote, or

(c) a member of a public or separate school board or similar body governing a school district,

has been paid by the municipal corporation or the body of which the person was such an officer or member (in this subsection referred to as the person's "employer") an amount as an allowance in a taxation year for expenses incident to the discharge of the person's duties as such an officer or member, the allowance shall not be included in computing the person's income for the year unless it exceeds 1/2 of the amount that was paid to the person in the year by the person's employer as salary or other remuneration as such an officer or member, in which event there shall be included in computing the person's income for the year only the amount by which the allowance exceeds 1/2 of the amount so paid to the person by way of salary or remuneration.

Allocation de dépenses aux conseillers municipaux

(3) Lorsque l'une des personnes suivantes :

a) un conseiller élu d'une administration municipale dotée de la personnalité morale;

b) un conseiller d'une commission ou société municipale de services publics ou de tout autre organisme administratif similaire qui est élu par la population;

c) un membre d'une commission scolaire publique ou séparée ou de tout organisme similaire administrant un district scolaire,

a reçu de la municipalité ou de l'organisme dont il est conseiller ou membre (appelé « employeur » au présent paragraphe) une allocation, au cours d'une année d'imposition, pour les dépenses occasionnées par l'exercice de ses fonctions comme conseiller ou membre, l'allocation n'est pas incluse dans le calcul de son revenu pour l'année; toutefois, si elle dépasse la moitié du montant qui lui a été versé au cours de l'année par son employeur à titre de traitement ou autre rémunération comme conseiller ou membre, seul est inclus, dans le calcul de son revenu pour l'année, l'excédent de cette allocation sur la moitié du montant ainsi versé à titre de traitement ou de rémunération.

Travel expenses

(3.1) There shall not be included in computing an individual's income for a taxation year an amount (not in excess of a reasonable amount) received by the individual from an employer with whom the individual was dealing at arm's length as an allowance for, or reimbursement of, travel expenses incurred by the individual in the year in respect of the individual's part-time employment in the year with the employer (other than expenses incurred in the performance of the duties of the individual's part-time employment) if

(a) throughout the period in which the expenses were incurred,

(i) the individual had other employment or was carrying on a business, or

(ii) where the employer is a designated educational institution (within the meaning assigned by subsection 118.6(1)), the duties of the individual's part-time employment were the provision in Canada of a service to the employer in the individual's capacity as a professor or teacher; and

(b) the duties of the individual's part-time employment were performed at a location not less than 80 kilometres from,

(i) where subparagraph (a)(i) applies, both the individual's ordinary place of residence and the place of the other employment or business referred to in that subparagraph, and

(ii) where subparagraph (a)(ii) applies, the individual's ordinary place of residence.

Payments for volunteer services

(4) Where

(a) an individual was employed or otherwise engaged in a taxation year by a government, municipality or public authority (in this subsection referred to as "the employer") and received in the year from the employer one or more amounts for the performance, as a volunteer, of the individual's duties as

(i) an ambulance technician,

(ii) a firefighter, or

(iii) a person who assists in the search or rescue of individuals or in other emergency situations, and

(b) if the Minister so demands, the employer has certified in writing that

Frais de déplacement

(3.1) N'est pas inclus dans le calcul du revenu d'un particulier pour une année d'imposition un montant, ne dépassant pas le montant raisonnable, qu'il a reçu d'un employeur avec lequel il n'a aucun lien de dépendance à titre d'allocation de frais de déplacement, ou en remboursement de tels frais, qu'il a engagés au cours de l'année relativement à son emploi à temps partiel auprès de l'employeur au cours de l'année (à l'exclusion des frais engagés pour accomplir les fonctions de son emploi à temps partiel) si les conditions suivantes sont réunies :

a) tout au long de la période au cours de laquelle les frais ont été engagés, l'un des faits suivants se vérifie :

(i) le particulier avait un autre emploi ou exploitait une entreprise,

(ii) si l'employeur est un établissement d'enseignement agréé, au sens du paragraphe 118.6(1), l'emploi à temps partiel du particulier consistait à lui fournir au Canada un service en sa qualité de professeur ou d'enseignant;

b) les fonctions de l'emploi à temps partiel du particulier ont été exécutées à un endroit situé à au moins 80 kilomètres des lieux suivants :

(i) en cas d'application du sous-alinéa a)(i), à la fois, la résidence habituelle du particulier et le lieu de l'autre emploi ou de l'entreprise visé à ce sous-alinéa;

(ii) en cas d'application du sous-alinéa a)(ii), la résidence habituelle du particulier.

Paiements pour services de volontaire

(4) La somme de 1 000 $ ou, s'il est moins élevé, le total des montants visés à l'alinéa a) n'est pas inclus dans le calcul du revenu d'un particulier provenant de l'exercice des fonctions visées à cet alinéa si les conditions suivantes sont réunies :

a) le particulier est l'employé d'un gouvernement, d'une municipalité ou d'une autre administration (appelé « employeur » au présent paragraphe), ou est autrement engagé par lui, au cours d'une année d'imposition, et reçoit de lui, au cours de l'année, un ou plusieurs montants pour l'exercice de ses fonctions à titre :

(i) de technicien ambulancier volontaire,

(ii) de pompier volontaire,

(i) the individual was in the year a person described in paragraph (a), and

(ii) the individual was at no time in the year employed or otherwise engaged by the employer, otherwise than as a volunteer, in connection with the performance of any of the duties referred to in paragraph (a) or of similar duties,

there shall not be included in computing the individual's income derived from the performance of those duties the lesser of $1,000 and the total of those amounts, unless the individual makes a claim under section 118.06 or 118.07 for the year.

(iii) de volontaire participant aux activités de recherche ou de sauvetage de personnes ou à d'autres situations d'urgence;

b) à la demande du ministre, l'employeur atteste ce qui suit par écrit :

(i) le particulier a été, au cours de l'année, une personne visée à l'alinéa a),

(ii) le particulier, dans le cadre de son emploi ou autre engagement auprès de l'employeur, n'a, à aucun moment de l'année, exercé les fonctions visées à l'alinéa a) ou des fonctions semblables autrement qu'à titre de volontaire.

Le présent paragraphe ne s'applique pas si le particulier demande pour l'année la déduction prévue aux articles 118.06 ou 118.07.

Election

(5) Where a taxpayer or a person described in paragraph 81(1)(g.1) has acquired capital property under the circumstances described in that paragraph, the taxpayer or the person may, in the return of income of the taxpayer for the taxation year in which the taxpayer attains the age of 21 years, elect to treat any such capital property held by the taxpayer or person as having been disposed of on the day immediately preceding the day on which the taxpayer attained the age of 21 years for proceeds of disposition equal to the fair market value of the property on that day and the person or taxpayer making the election shall be deemed to have reacquired that property immediately thereafter at a cost equal to those proceeds.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 81; 1994, c. 7, Sch. II, s. 61, Sch IV, s. 15, Sch, VIII, s. 33; 1995, c. 18, s. 88; 1998, c. 19, s. 14; 1999, c. 10, s. 44; 2000, c. 12, s. 142, c. 19, s. 12; 2001, c. 17, s. 60; 2005, c. 21, s. 102, c. 49, s. 5; 2011, c. 24, s. 18; 2012, c. 19, s. 3; 2013, c. 34, s. 217; 2014, c. 20, s. 4, c. 39, s. 18; 2015, c. 36, s. 3; 2016, c. 7, s. 8.

Choix

(5) Un contribuable ou une personne visée à l'alinéa (1)g.1) qui a acquis une immobilisation dans les circonstances visées à cet alinéa peut, dans la déclaration de revenu du contribuable pour l'année d'imposition au cours de laquelle celui-ci atteint l'âge de 21 ans, choisir de considérer toute immobilisation qu'il ou qu'elle détient comme ayant fait l'objet d'une disposition le jour précédant la date à laquelle le contribuable a atteint l'âge de 21 ans pour un produit de disposition égal à la juste valeur marchande de l'immobilisation ce jour-là et le contribuable ou la personne qui a fait ce choix est réputé avoir acquis de nouveau l'immobilisation, immédiatement après, à un coût égal à ce produit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 81; 1994, ch. 7, ann. II, art. 61, ann. IV, art. 15, ann. VIII, art. 33; 1995, ch. 18, art. 88; 1998, ch. 19, art. 14; 1999, ch. 10, art. 44; 2000 ch. 12, art. 142, ch. 19, art. 12; 2001, ch. 17, art. 60; 2005, ch. 21, art. 102, ch. 49, art. 5; 2011, ch. 24, art. 18; 2012, ch. 19, art. 3; 2013, ch. 34, art. 217; 2014, ch. 20, art. 4, ch. 39, art. 18; 2015, ch. 36, art. 3; 2016, ch. 7, art. 8.

SUBDIVISION H

Corporations Resident in Canada and their Shareholders

Taxable dividends received

82 (1) In computing the income of a taxpayer for a taxation year, there shall be included the total of the following amounts:

(a) the amount, if any, by which

(i) the total of all amounts, other than eligible dividends and amounts described in paragraph (c), (d) or (e), received by the taxpayer in the taxation year from corporations resident in Canada as, on

SOUS-SECTION H

Les sociétés résidant au Canada et leurs actionnaires

Dividendes imposables reçus

82 (1) Le total des sommes ci-après est à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition :

a) l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) le total des sommes, à l'exception des dividendes déterminés et des sommes visées aux alinéas c), d) ou e), que le contribuable reçoit au cours de l'année

account of, in lieu of payment of or in satisfaction of, taxable dividends,

exceeds

(ii) if the taxpayer is an individual, the total of all amounts each of which is, or is deemed by paragraph 260(12)(b) to have been, paid by the taxpayer in the taxation year and deemed by subsection 260(5.1) to have been received by another person as a taxable dividend (other than an eligible dividend);

(a.1) the amount, if any, by which

(i) the total of all amounts, other than amounts included in computing the income of the taxpayer because of paragraph (c), (d) or (e), received by the taxpayer in the taxation year from corporations resident in Canada as, on account of, in lieu of payment of or in satisfaction of, eligible dividends,

exceeds

(ii) if the taxpayer is an individual, the total of all amounts each of which is, or is deemed by paragraph 260(12)(b) to have been, paid by the taxpayer in the taxation year and deemed by subsection 260(5.1) to have been received by another person as an eligible dividend;

(b) if the taxpayer is an individual, other than a trust that is a registered charity, the total of

(i) the product of the amount determined under paragraph (a) in respect of the taxpayer for the taxation year multiplied by 17%, and

(ii) the product of the amount determined under paragraph (a.1) in respect of the taxpayer for the taxation year multiplied by

(A) for taxation years that end after 2005 and before 2010, 45%,

(B) for the 2010 taxation year, 44%,

(C) for the 2011 taxation year, 41%, and

(D) for taxation years that end after 2011, 38%;

(c) all taxable dividends received by the taxpayer in the taxation year, from corporations resident in Canada, under dividend rental arrangements of the taxpayer;

(d) all taxable dividends (other than taxable dividends described in paragraph (c)) received by the taxpayer in

de sociétés résidant au Canada au titre ou en paiement intégral ou partiel de dividendes imposables,

(ii) si le contribuable est un particulier, le total des sommes dont chacune représente, ou est réputée par l'alinéa 260(12)b) représenter, une somme qu'il a payée au cours de l'année et qui est réputée par le paragraphe 260(5.1) avoir été reçue par une autre personne à titre de dividende imposable (autre qu'un dividende déterminé);

a.1) l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) le total des sommes, à l'exception des sommes incluses dans le calcul du revenu du contribuable par l'effet des alinéas c), d) ou e), que le contribuable a reçues au cours de l'année de sociétés résidant au Canada au titre ou en paiement intégral ou partiel de dividendes déterminés,

(ii) si le contribuable est un particulier, le total des sommes dont chacune représente, ou est réputée par l'alinéa 260(12)b) représenter, une somme qu'il a payée au cours de l'année et qui est réputée par le paragraphe 260(5.1) avoir été reçue par une autre personne à titre de dividende déterminé;

b) si le contribuable est un particulier, autre qu'une fiducie qui est un organisme de bienfaisance enregistré, le total des sommes suivantes :

(i) le produit de la somme déterminée selon l'alinéa a) relativement au contribuable pour l'année par 17 %,

(ii) le produit de l'excédent déterminé selon l'alinéa a.1) relativement au contribuable pour l'année par celui des pourcentages ci-après qui est applicable :

(A) 45 % pour les années d'imposition se terminant après 2005 et avant 2010,

(B) 44 % pour l'année d'imposition 2010,

(C) 41 % pour l'année d'imposition 2011,

(D) 38 % pour les années d'imposition se terminant après 2011;

c) les dividendes imposables que le contribuable a reçus au cours de l'année de sociétés résidant au Canada, dans le cadre de ses mécanismes de transfert de dividendes;

d) les dividendes imposables, à l'exception de ceux visés à l'alinéa c), que le contribuable a reçus au cours

the taxation year from corporations resident in Canada that are not taxable Canadian corporations; and

(e) if the taxpayer is a trust, all amounts each of which is all or part of a taxable dividend (other than a taxable dividend described in paragraph (c) or (d)) that was received by the trust in the taxation year on a share of the capital stock of a taxable Canadian corporation and that can reasonably be considered to have been included in computing the income of a beneficiary under the trust who was non-resident at the end of the taxation year.

de l'année de sociétés résidant au Canada qui ne sont pas des sociétés canadiennes imposables;

e) si le contribuable est une fiducie, le total des sommes représentant chacune tout ou partie d'un dividende imposable, à l'exception de celui visé aux alinéas c) ou d), qu'il a reçu au cours de l'année sur une action du capital-actions d'une société canadienne imposable et qu'il est raisonnable de considérer comme ayant été inclus dans le calcul du revenu d'un de ses bénéficiaires qui était un non-résident à la fin de l'année.

Limitation as to paragraph (1)(c)

(1.1) An amount shall be included in the amounts described in paragraph (1)(c) in respect of a taxable dividend received at any time as part of a dividend rental arrangement only if that dividend was received on a share acquired before that time and after April, 1989.

Restriction relative à l'alinéa (1)c)

(1.1) Un montant n'est inclus dans les montants visés à l'alinéa (1)c), au titre d'un dividende imposable reçu à un moment donné dans le cadre d'un mécanisme de transfert de dividendes, que dans le cas où le dividende est reçu sur une action acquise avant ce moment et après avril 1989.

Certain dividends received by taxpayer

(2) Where by reason of subsection 56(4) or 56(4.1) or sections 74.1 to 75 of this Act or section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, there is included in computing a taxpayer's income for a taxation year a dividend received by another person, for the purposes of this Act, the dividend shall be deemed to have been received by the taxpayer.

Dividendes réputés reçus par le contribuable

(2) Le dividende reçu par une personne et qui est inclus en application du paragraphe 56(4) ou (4.1) ou des articles 74.1 à 75 de la présente loi ou de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul du revenu d'un contribuable — autre que cette personne — pour une année d'imposition est réputé reçu par le contribuable pour l'application de la présente loi.

Dividends received by spouse or common-law partner

(3) Where the amount that would, but for this subsection, be deductible under subsection 118(1) by reason of paragraph 118(1)(a) in computing a taxpayer's tax payable under this Part for a taxation year that is less than the amount that would be so deductible if no amount were required by subsection (1) to be included in computing the income for the year of the taxpayer's spouse or common-law partner and the taxpayer so elects in the taxpayer's return of income for the year under this Part, all amounts described in paragraph (1)(a) or (a.1) received in the year from taxable Canadian corporations by the taxpayer's spouse or common-law partner are deemed to have been so received by that taxpayer and not by the spouse or common-law partner.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 82; 1998, c. 19, s. 114; 2000, c. 12, s. 142; 2007, c. 2, s. 44; 2008, c. 28, s. 8; 2013, c. 33, s, 5, c. 34, s. 218; 2015, c. 36, s. 4; 2016, c. 7, s. 9.

Dividendes reçus par l'époux ou le conjoint de fait

(3) Lorsque le montant qui, sans le présent paragraphe, serait déductible en application du paragraphe 118(1) par l'effet de l'alinéa 118(1)a) dans le calcul de l'impôt payable par un contribuable en vertu de la présente partie pour une année d'imposition est inférieur au montant qui serait ainsi déductible si aucun montant n'était à inclure, en application du paragraphe (1), dans le calcul du revenu de l'époux ou du conjoint de fait du contribuable pour l'année, les montants visés aux alinéas (1)a) ou a.1) qui ont été reçus au cours de l'année de sociétés canadiennes imposables, par l'époux ou le conjoint de fait du contribuable, sont réputés avoir été reçus par le contribuable et non par son époux ou conjoint de fait si le contribuable en fait le choix dans la déclaration de revenu qu'il produit pour l'année en vertu de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 82; 1998, ch. 19, art. 114; 2000, ch. 12, art. 142; 2007, ch. 2, art. 44; 2008, ch. 28, art. 8; 2013, ch. 33, art. 5, ch. 34, art. 218; 2015, ch. 36, art. 4; 2016, ch. 7, art. 9.

Qualifying dividends

83 (1) Where a qualifying dividend has been paid by a public corporation to shareholders of a series of tax-deferred preferred shares of a class of the capital stock of the corporation that were outstanding on March 31, 1977, the following rules apply:

(a) no part of the qualifying dividend shall be included in computing the income of any shareholder of the corporation by virtue of this subdivision; and

(b) in computing the adjusted cost base to any shareholder of the corporation of any tax-deferred preferred share of the corporation owned by the shareholder, there shall be deducted in respect of the qualifying dividend an amount as provided by subparagraph 53(2)(a)(i).

Capital dividend

(2) Where at any particular time after 1971 a dividend becomes payable by a private corporation to shareholders of any class of shares of its capital stock and the corporation so elects in respect of the full amount of the dividend, in prescribed manner and prescribed form and at or before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply:

(a) the dividend shall be deemed to be a capital dividend to the extent of the corporation's capital dividend account immediately before the particular time; and

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

Idem

(2.1) Notwithstanding subsection 83(2), where a dividend that, but for this subsection, would be a capital dividend is paid on a share of the capital stock of a corporation and the share (or another share for which the share was substituted) was acquired by its holder in a transaction or as part of a series of transactions one of the main purposes of which was to receive the dividend,

(a) the dividend shall, for the purposes of this Act (other than for the purposes of Part III and computing the capital dividend account of the corporation), be deemed to be received by the shareholder and paid by the corporation as a taxable dividend and not as a capital dividend; and

(b) paragraph 83(2)(b) does not apply in respect of the dividend.

Dividendes admissibles

83 (1) Lorsqu'un dividende admissible a été versé par une société publique aux actionnaires d'une série d'actions privilégiées à impôt différé d'une catégorie du capital-actions de la société qui étaient en circulation le 31 mars 1977, les règles suivantes s'appliquent :

a) aucune partie du dividende admissible n'est incluse dans le calcul du revenu d'un actionnaire de la société en vertu de la présente sous-section;

b) dans le calcul du prix de base rajusté, pour tout actionnaire de la société, d'une action privilégiée à impôt différé du capital-actions de cette société dont il est propriétaire, il faut déduire, au titre du dividende admissible, la somme prévue par le sous-alinéa 53(2)a)(i).

Dividende en capital

(2) Lorsque, à un moment donné après 1971, un dividende devient payable par une société privée aux actionnaires d'une catégorie quelconque d'actions de son capital-actions et que la société fait un choix relativement au montant total du dividende, selon les modalités et le formulaire réglementaires, au plus tard au premier en date du moment donné et du premier jour où une partie du dividende a été payée, les règles suivantes s'appliquent :

a) le dividende est réputé être un dividende en capital jusqu'à concurrence du montant du compte de dividendes en capital de la société immédiatement avant le moment donné;

b) aucune partie du dividende n'est incluse dans le calcul du revenu des actionnaires de la société.

Restriction

(2.1) Malgré le paragraphe (2), le dividende versé par une société sur une action de son capital-actions qui serait, sans le présent paragraphe, un dividende en capital est réputé, pour l'application de la présente loi — à l'exception de la partie III et sauf pour le calcul du compte de dividendes en capital de la société — reçu par l'actionnaire et versé par la société comme dividende imposable, et non comme dividende en capital, et l'alinéa (2)b) ne s'applique pas à ce dividende si l'actionnaire a acquis l'action — ou une action qui lui est substituée — par une opération, ou dans le cadre d'une série d'opérations, dont un des principaux objets consistait à recevoir ce dividende.

Where s. (2.1) does not apply

(2.2) Subsection 83(2.1) does not apply in respect of a particular dividend, in respect of which an election is made under subsection 83(2), paid on a share of the capital stock of a particular corporation to an individual where it is reasonable to consider that all or substantially all of the capital dividend account of the particular corporation immediately before the particular dividend became payable consisted of amounts other than any amount

(a) added to that capital dividend account under paragraph (b) of the definition ***capital dividend account*** in subsection 89(1) in respect of a dividend received on a share of the capital stock of another corporation, which share (or another share for which the share was substituted) was acquired by the particular corporation in a transaction or as part of a series of transactions one of the main purposes of which was that the particular corporation receive the dividend, but not in respect of a dividend where it is reasonable to consider that the purpose of paying the dividend was to distribute an amount that was received by the other corporation and included in computing the other corporation's capital dividend account by reason of paragraph (d) of that definition;

(b) added to that capital dividend account under paragraph 87(2)(z.1) as a result of an amalgamation or winding-up or a series of transactions including the amalgamation or winding-up that would not have been so added had the amalgamation or winding-up occurred or the series of transactions been commenced after 4:00 p.m. Eastern Daylight Saving Time, September 25, 1987;

(c) added to that capital dividend account at a time when the particular corporation was controlled, directly or indirectly, in any manner whatever, by one or more non-resident persons; or

(d) in respect of a capital gain from a disposition of a property by the particular corporation or another corporation that may reasonably be considered as having accrued while the property (or another property for which it was substituted) was a property of a corporation that was controlled, directly or indirectly, in any manner whatever, by one or more non-resident persons.

Idem

(2.3) Subsection 83(2.1) does not apply in respect of a dividend, in respect of which an election is made under subsection 83(2), paid on a share of the capital stock of a

Non-application du par. (2.1) (dividende versé à un particulier)

(2.2) Le paragraphe (2.1) ne s'applique pas au dividende qu'une société verse à un particulier sur une action de son capital-actions et qui fait l'objet d'un choix en vertu du paragraphe (2), s'il est raisonnable de considérer que la totalité, ou presque, du compte de dividendes en capital de la société juste avant que le dividende ne soit devenu payable consistait en montants qui n'étaient :

a) ni une somme ajoutée à ce compte en application de l'alinéa b) de la définition de ***compte de dividendes en capital*** au paragraphe 89(1) au titre d'un dividende reçu sur une action du capital-actions d'une autre société, si la société a acquis l'action — ou une action qui lui est substituée — par une opération, ou dans le cadre d'une série d'opérations, dont un des principaux objets consistait pour la société à recevoir ce dividende, sauf s'il est raisonnable de considérer que l'objet du versement du dividende consistait à distribuer un montant reçu par l'autre société et inclus dans le calcul du compte de dividendes en capital de cette autre société en application de l'alinéa d) de cette définition;

b) ni des montants qui ont été ajoutés à ce compte en application de l'alinéa 87(2)z.1) par suite d'une fusion, d'une liquidation ou d'une série d'opérations dont la fusion ou la liquidation faisait partie et qui n'auraient pas été ainsi ajoutés si la fusion ou la liquidation avait eu lieu, ou la série avait commencé, après 16 heures, heure avancée de l'Est, le 25 septembre 1987;

c) ni des montants ajoutés à ce compte alors qu'une ou plusieurs personnes non-résidentes contrôlaient la société, directement ou indirectement, de quelque manière que ce soit;

d) ni un montant au titre d'un gain en capital réalisé à la disposition d'un bien par la société ou par une autre société et qu'il est raisonnable de considérer comme s'étant accumulé alors que le bien — ou un bien qui lui est substitué — appartenait à une société qu'une ou plusieurs personnes non-résidentes contrôlaient, directement ou indirectement, de quelque manière que ce soit.

Idem (distribution du produit d'une police d'assurance-vie)

(2.3) Le paragraphe (2.1) ne s'applique pas au dividende versé par une société sur une action de son capital-actions qui fait l'objet d'un choix en vertu du paragraphe

corporation where it is reasonable to consider that the purpose of paying the dividend was to distribute an amount that was received by the corporation and included in computing its capital dividend account by reason of paragraph (d) of the definition ***capital dividend account*** in subsection 89(1).

Idem

(2.4) Subsection 83(2.1) does not apply in respect of a particular dividend, in respect of which an election is made under subsection 83(2), paid on a share of the capital stock of a particular corporation to a corporation (in this subsection referred to as the "related corporation") related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) to the particular corporation where it is reasonable to consider that all or substantially all of the capital dividend account of the particular corporation immediately before the particular dividend became payable consisted of amounts other than any amount

(a) added to that capital dividend account under paragraph (b) of the definition ***capital dividend account*** in subsection 89(1) in respect of a dividend received on a share of the capital stock of another corporation if it is reasonable to consider that any portion of the capital dividend account of that other corporation immediately before that dividend became payable consisted of amounts added to that account under paragraph 87(2)(z.1) or paragraph (b) of that definition as a result of a transaction or a series of transactions that would not have been so added had the transaction occurred or the series of transactions been commenced after 4:00 p.m. Eastern Daylight Saving Time, September 25, 1987;

(b) that represented the capital dividend account of a corporation before it became related to the related corporation;

(c) added to the capital dividend account of the particular corporation at a time when that corporation was controlled, directly or indirectly, in any manner whatever, by one or more non-resident persons;

(d) in respect of a capital gain from a disposition of a property by the particular corporation or another corporation that may reasonably be considered as having accrued while the property (or another property for which it was substituted) was a property of a corporation that was controlled, directly or indirectly, in any manner whatever, by one or more non-resident persons; or

(e) in respect of a capital gain from a disposition of a property (or another property for which it was substituted) that may reasonably be considered as having

(2), s'il est raisonnable de considérer que l'objet du versement du dividende consistait à distribuer un montant reçu par la société et inclus dans le calcul de son compte de dividendes en capital en application de l'alinéa d) de la définition de ce terme au paragraphe 89(1).

Idem (dividende versé à une société liée)

(2.4) Le paragraphe (2.1) ne s'applique pas au dividende qu'une société donnée verse sur une action de son capital-actions à une société qui lui est liée autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), et qui fait l'objet d'un choix en vertu du paragraphe (2), s'il est raisonnable de considérer que la totalité, ou presque, du compte de dividendes en capital de la société donnée juste avant que le dividende ne soit devenu payable consistait en montants qui n'étaient :

a) ni une somme ajoutée à ce compte en application de l'alinéa b) de la définition de ***compte de dividendes en capital*** au paragraphe 89(1) au titre d'un dividende reçu sur une action du capital-actions d'une autre société, s'il est raisonnable de considérer qu'une partie du compte de dividendes en capital de cette autre société juste avant que ce dernier dividende ne soit devenu payable consistait en sommes qui ont été ajoutées à ce compte en application de l'alinéa 87(2)z.1) ou de l'alinéa b) de cette définition par suite d'une opération ou d'une série d'opérations et qui n'auraient pas été ainsi ajoutées si l'opération avait eu lieu, ou la série avait commencé, après 16 heures, heure avancée de l'Est, le 25 septembre 1987;

b) ni le montant du compte de dividendes en capital d'une société avant qu'elle ne devienne liée à la société liée;

c) ni des montants ajoutés à ce compte alors qu'une ou plusieurs personnes non-résidentes contrôlaient la société donnée, directement ou indirectement, de quelque manière que ce soit;

d) ni un montant au titre d'un gain en capital réalisé à la disposition d'un bien par la société donnée ou par une autre société et qu'il est raisonnable de considérer comme s'étant accumulé alors que le bien — ou un bien qui lui est substitué — appartenait à une société qu'une ou plusieurs personnes non-résidentes contrôlaient, directement ou indirectement, de quelque manière que ce soit;

e) ni un montant au titre d'un gain en capital réalisé à la disposition d'un bien — ou d'un bien qui lui est substitué — qu'il est raisonnable de considérer comme s'étant accumulé alors que le bien ou le bien qui lui est

accrued while the property or the other property was a property of a person that was not related to the related corporation.

substitué appartenait à une personne qui n'était pas liée à la société liée.

Late filed elections

(3) Where at any particular time after 1974 a dividend has become payable by a corporation to shareholders of any class of shares of its capital stock, and subsection 83(1) or (2) would have applied to the dividend except that the election referred to therein was not made on or before the day on or before which the election was required by that subsection to be made, the election shall be deemed to have been made at the particular time or on the first day on which any part of the dividend was paid, whichever is the earlier, if

(a) the election is made in prescribed manner and prescribed form;

(b) an estimate of the penalty in respect of that election is paid by the corporation when that election is made; and

(c) the directors or other person or persons legally entitled to administer the affairs of the corporation have, before the time the election is made, authorized the election to be made.

Production en retard d'un choix

(3) Lorsque, à un moment donné après 1974, un dividende est devenu payable par une société aux actionnaires d'une catégorie d'actions de son capital-actions et que le paragraphe (1) ou (2) se serait appliqué au dividende si le choix y mentionné avait été fait au plus tard à la date où le choix devait être fait en vertu de ce paragraphe, le choix est réputé avoir été fait au premier en date du moment donné et du premier jour du versement d'une partie du dividende dans le cas où:

a) le choix est fait selon les modalités et le formulaire réglementaires;

b) la société paye le montant estimatif de la pénalité relative au choix au moment où celui-ci est fait;

c) les administrateurs ou toute autre personne qui a le droit de gérer la société ont autorisé au préalable l'exercice d'un choix.

Request for election

(3.1) The Minister may at any time, by written request served personally or by registered mail, request that an election referred to in subsection 83(3) be made by a taxpayer, and where the taxpayer on whom such a request is served does not comply therewith within 90 days of service thereof on the taxpayer, subsection 83(3) does not apply to such an election made by the taxpayer.

Demande d'exercice d'un choix

(3.1) Le ministre peut, à tout moment, par demande écrite signifiée à personne ou par courrier recommandé, demander qu'un choix visé au paragraphe (3) soit fait par le contribuable et lorsque le contribuable à qui cette demande est signifiée n'y donne pas suite dans les 90 jours suivant la signification, le paragraphe (3) ne s'applique pas à son choix.

Penalty for late filed election

(4) For the purposes of this section, the penalty in respect of an election referred to in paragraph 83(3)(a) is an amount equal to the lesser of

(a) 1% per annum of the amount of the dividend referred to in the election for each month or part of a month during the period commencing with the time that the dividend became payable, or the first day on which any part of the dividend was paid if that day is earlier, and ending with the day on which that election was made, and

(b) the product obtained when $500 is multiplied by the proportion that the number of months or parts of months during the period referred to in paragraph 83(4)(a) bears to 12.

Pénalités pour choix tardifs

(4) Pour l'application du présent article, la pénalité relative au choix visé à l'alinéa (3)a) est égale au moins élevé des montants suivants :

a) 1 % par année du montant du dividende qui y est visé pour chaque mois ou partie de mois de la période commençant au premier en date du moment où le dividende est devenu payable et du premier jour où une partie du dividende a été payée et se terminant le jour où le choix est fait;

b) le produit de 500 $ et du rapport entre le nombre de mois ou de parties de mois dans la période visée à l'alinéa a) et 12.

Unpaid balance of penalty

(5) The Minister shall, with all due dispatch, examine each election referred to in paragraph 83(3)(a), assess the penalty payable and send a notice of assessment to the corporation and the corporation shall pay, forthwith to the Receiver General, the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

Definition of *qualifying dividend*

(6) For the purposes of subsection 83(1), ***qualifying dividend*** means a dividend on shares of a series of a class of the capital stock of a public corporation that is prescribed to be a tax-deferred preferred series that became payable by the corporation after 1978 and not later than

(a) where the terms as at March 31, 1977 of the shares of that series entitled the holder of such a share to exchange it after a particular date for a share or shares of another series or class of preferred shares of the capital stock of the corporation, that particular date,

(b) where the terms as at March 31, 1977 of the shares of that series required the corporation to offer to purchase at a time not later than a particular date all of the shares of that series from all of the holders of those shares, that particular date, and

(c) in any other case, October 1, 1991,

whichever is applicable in respect of that series of shares, except that a dividend on shares of such a series that would otherwise be a qualifying dividend shall be deemed not to be a qualifying dividend if

(d) at the time that the dividend became payable, the terms of the shares of that series differ from the terms as at March 31, 1977 of the shares of that series, or

(e) after March 31, 1977 the corporation issued additional shares of that series.

Amalgamation where there are tax-deferred preferred shares

(7) For the purposes of this section, where, after March 31, 1977, there has been an amalgamation within the meaning of section 87 and one or more of the predecessor corporations had a series of shares outstanding on March 31, 1977 that was prescribed to be a tax-deferred preferred series, the following rules apply:

Solde impayé de la pénalité

(5) Le ministre, avec diligence, examine chaque choix visé à l'alinéa (3)a), calcule le montant de la pénalité payable et envoie un avis de cotisation à la société; celle-ci doit, sans délai, payer au receveur général l'excédent éventuel du montant estimatif de la pénalité sur l'ensemble des montants antérieurement payés au titre de cette pénalité.

Définition de *dividende admissible*

(6) Pour l'application du paragraphe (1), ***dividende admissible*** s'entend d'un dividende sur des actions d'une série d'une catégorie du capital-actions d'une société publique qui est considérée, aux termes du règlement, comme une série privilégiée à impôt différé, lequel dividende devient payable après 1978 et au plus tard :

a) lorsque les modalités, au 31 mars 1977, relatives aux actions de cette série donnaient le droit au détenteur de toute action de ce genre de l'échanger, après une date donnée, contre une ou des actions d'une autre série ou catégorie d'actions privilégiées du capital-actions de la société, à cette date donnée;

b) lorsque, au 31 mars 1977, les modalités relatives aux actions de cette série obligeaient la société à offrir d'acheter, au plus tard à une date donnée, toutes les actions de cette série à chacun des détenteurs, à cette date donnée;

c) dans tous les autres cas, le 1er octobre 1991,

selon le cas qui s'applique à cette série d'actions, sauf qu'un dividende sur des actions d'une telle série qui serait par ailleurs un dividende admissible, est réputé ne pas l'être si :

d) soit, au moment où il devient payable, les modalités relatives aux actions de cette série diffèrent des modalités qui, le 31 mars 1977, régissaient les actions de cette série;

e) soit, après le 31 mars 1977, la société a émis d'autres actions de cette série.

Fusion lorsqu'il y a des actions privilégiées à impôt différé

(7) Pour l'application du présent article, lorsque, après le 31 mars 1977, il y a eu fusion au sens de l'article 87 et qu'une ou plusieurs des sociétés remplacées avaient une série d'actions en circulation le 31 mars 1977 qui était considérée, aux termes du règlement, comme une série d'actions privilégiées à impôt différé, les règles suivantes s'appliquent :

(a) the series of shares of the capital stock of the predecessor corporation that was prescribed to be a tax-deferred preferred series shall be deemed to have been continued in existence in the form of the new shares; and

(b) the new corporation shall be deemed to be the same corporation as, and a continuation of, each such predecessor corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "83"; 1973-74, c. 14, s. 24; 1974-75-76, c. 26, s. 46; 1976-77, c. 4, s. 32; 1977-78, c. 1, s. 37, c. 32, s. 17; 1980-81-82-83, c. 48, s. 115, c. 140, s. 47; 1985, c. 45, s. 126(F); 1986, c. 6, s. 42; 1988, c. 55, s. 55.

a) la série d'actions du capital-actions de la société remplacée qui était considérée, aux termes du règlement, comme une série d'actions privilégiées à impôt différé est réputée continuer d'exister sous la forme des nouvelles actions;

b) la nouvelle société est réputée être la même société que chacune des sociétés remplacées et est réputée assurer la continuation de chacune d'elles.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 83 »; 1973-74, ch. 14, art. 24; 1974-75-76, ch. 26, art. 46; 1976-77, ch. 4, art. 32; 1977-78, ch. 1, art. 37, ch. 32, art. 17; 1980-81-82-83, ch. 48, art. 115, ch. 140, art. 47; 1985, ch. 45, art. 126(F); 1986, ch. 6, art. 42; 1988, ch. 55, art. 55.

Deemed dividend

84 (1) Where a corporation resident in Canada has at any time after 1971 increased the paid-up capital in respect of the shares of any particular class of its capital stock, otherwise than by

(a) payment of a stock dividend,

(b) a transaction by which

(i) the value of its assets less its liabilities has been increased, or

(ii) its liabilities less the value of its assets have been decreased,

by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class,

(c) a transaction by which the paid-up capital in respect of the shares of all other classes of its capital stock has been reduced by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class,

(c.1) if the corporation is an insurance corporation, any action by which it converts contributed surplus related to its insurance business (other than any portion of that contributed surplus that arose in connection with an investment, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) into paid-up capital in respect of the shares of its capital stock,

(c.2) if the corporation is a bank, any action by which it converts any of its contributed surplus that arose on the issuance of shares of its capital stock (other than any portion of that contributed surplus that arose in connection with an investment, as defined in subsection 212.3(10), to which subsection 212.3(2) applies) into paid-up capital in respect of shares of its capital stock, or

Dividende réputé versé et reçu

84 (1) Lorsqu'une société résidant au Canada a, à un moment donné après 1971, augmenté le capital versé relatif aux actions de toute catégorie particulière d'actions de son capital-actions, autrement que :

a) par le paiement d'un dividende en actions;

b) par une opération qui a :

(i) soit augmenté la valeur de son actif diminué du passif,

(ii) soit diminué son passif après soustraction de la valeur de l'actif,

d'un montant non inférieur à celui de l'augmentation du capital versé relativement aux actions de cette catégorie particulière;

c) par une opération qui a réduit le capital versé relatif aux actions de toutes les autres catégories d'actions de son capital-actions d'un montant non inférieur à celui de l'augmentation du capital versé relatif aux actions de cette catégorie particulière;

c.1) si la société est une compagnie d'assurance, par une opération au moyen de laquelle elle convertit un surplus d'apport lié à son entreprise d'assurance (à l'exclusion de toute partie de ce surplus qui a pris naissance dans le cadre d'un placement, au sens du paragraphe 212.3(10), auquel le paragraphe 212.3(2) s'applique) en un capital versé au titre des actions de son capital-actions;

c.2) si la société est une banque, par une opération au moyen de laquelle elle convertit un surplus d'apport provenant de l'émission d'actions de son capital-actions (à l'exclusion de toute partie de ce surplus qui a pris naissance dans le cadre d'un placement, au sens du paragraphe 212.3(10), auquel le paragraphe 212.3(2) s'applique) en un capital versé au titre d'actions de son capital-actions;

(c.3) if the corporation is neither an insurance corporation nor a bank, any action by which it converts into paid-up capital in respect of a class of shares of its capital stock any of its contributed surplus that arose after March 31, 1977 (other than any portion of that contributed surplus that arose in connection with an investment, as defined in subsection 212.3(10), to which subsection 212.3(2) applies)

(i) on the issuance of shares of that class or shares of another class for which the shares of that class were substituted (other than an issuance to which section 51, 66.3, 84.1, 85, 85.1, 86 or 87 or subsection 192(4.1), 194(4.1) or 212.1(1.1) applied),

(ii) on the acquisition of property by the corporation from a person who at the time of the acquisition held any of the issued shares of that class or shares of another class for which shares of that class were substituted for no consideration or for consideration that did not include shares of the capital stock of the corporation, or

(iii) as a result of any action by which the paid-up capital in respect of that class of shares or in respect of shares of another class for which shares of that class were substituted was reduced by the corporation, to the extent of the reduction in paid-up capital that resulted from the action,

the corporation shall be deemed to have paid at that time a dividend on the issued shares of the particular class equal to the amount, if any, by which the amount of the increase in the paid-up capital exceeds the total of

(d) the amount, if any, of the increase referred to in subparagraph 84(1)(b)(i) or the decrease referred to in subparagraph 84(1)(b)(ii), as the case may be,

(e) the amount, if any, of the reduction referred to in paragraph 84(1)(c), and

(f) the amount, if any, of the increase in the paid-up capital that resulted from a conversion referred to in paragraph 84(1)(c.1), (c.2) or (c.3),

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares of the particular class immediately after that time equal to that proportion of the dividend so deemed to have been paid by the corporation that the number of the shares of the particular class held by the person immediately after that time is of the number of the issued shares of that class outstanding immediately after that time.

c.3) si la société n'est ni une compagnie d'assurance ni une banque, par une opération au moyen de laquelle elle convertit, en capital versé au titre d'une catégorie donnée d'actions de son capital-actions, un surplus d'apport s'étant produit après le 31 mars 1977 (à l'exclusion de toute partie de ce surplus qui a pris naissance dans le cadre d'un placement, au sens du paragraphe 212.3(10), auquel le paragraphe 212.3(2) s'applique) et, selon le cas :

(i) découlant de l'émission d'actions de la catégorie donnée ou d'actions d'une autre catégorie ayant remplacé les actions de la catégorie donnée, à l'exclusion d'une émission à laquelle s'appliquent les articles 51, 66.3, 84.1, 85, 85.1, 86 ou 87 ou les paragraphes 192(4.1), 194(4.1) ou 212(1.1),

(ii) découlant de l'acquisition d'un bien par la société auprès d'une personne que détenait, au moment de l'acquisition, des actions émises de la catégorie donnée, ou des actions d'une autre catégorie ayant remplacé les actions de la catégorie donnée, à titre gratuit ou pour une contrepartie excluant les actions du capital-actions de la société,

(iii) résultant d'une opération par laquelle la société a réduit le capital versé au titre de la catégorie donnée d'actions, ou d'actions d'une autre catégorie ayant remplacé les actions de la catégorie donnée, jusqu'à concurrence de la réduction du capital versé qui a résulté de cette opération,

la société est réputée avoir alors versé un dividende sur les actions émises de la catégorie particulière, égal à l'excédent éventuel du montant de l'augmentation du capital versé sur le total des montants suivants :

d) le montant de l'augmentation visée au sous-alinéa b)(i) ou de la diminution visée au sous-alinéa b)(ii), selon le cas;

e) le montant de la réduction visée à l'alinéa c);

f) le montant de l'augmentation du capital versé qui découle de la conversion visée aux alinéas c.1), c.2) ou c.3);

chacune des personnes qui détenaient immédiatement après le moment donné une ou plusieurs actions émises de cette catégorie particulière est réputée avoir à ce moment touché un dividende égal à la fraction du dividende ainsi réputé avoir été payé par la société représentée par le rapport entre le nombre d'actions de cette catégorie particulière qu'elle détenait immédiatement après ce moment et le nombre d'actions émises de cette catégorie qui étaient en circulation immédiatement après ce moment.

Distribution on winding-up, etc.

(2) Where funds or property of a corporation resident in Canada have at any time after March 31, 1977 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time a dividend on the shares of that class equal to the amount, if any, by which

(a) the amount or value of the funds or property distributed or appropriated, as the case may be,

exceeds

(b) the amount, if any, by which the paid-up capital in respect of the shares of that class is reduced on the distribution or appropriation, as the case may be,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess that the number of the shares of that class held by the person immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

Redemption, etc.

(3) Where at any time after December 31, 1977 a corporation resident in Canada has redeemed, acquired or cancelled in any manner whatever (otherwise than by way of a transaction described in subsection 84(2)) any of the shares of any class of its capital stock,

(a) the corporation shall be deemed to have paid at that time a dividend on a separate class of shares comprising the shares so redeemed, acquired or cancelled equal to the amount, if any, by which the amount paid by the corporation on the redemption, acquisition or cancellation, as the case may be, of those shares exceeds the paid-up capital in respect of those shares immediately before that time; and

(b) a dividend shall be deemed to have been received at that time by each person who held any of the shares of that separate class at that time equal to that portion of the amount of the excess determined under paragraph 84(3)(a) that the number of those shares held by the person immediately before that time is of the total number of shares of that separate class that the corporation has redeemed, acquired or cancelled, at that time.

Distribution lors de liquidation, etc.

(2) Lorsque des fonds ou des biens d'une société résidant au Canada ont, à un moment donné après le 31 mars 1977, été distribués ou autrement attribués, de quelque façon que ce soit, aux actionnaires ou au profit des actionnaires de tout catégorie d'actions de son capital-actions, lors de la liquidation, de la cessation de l'exploitation ou de la réorganisation de son entreprise, la société est réputée avoir versé au moment donné un dividende sur les actions de cette catégorie, égal à l'excédent éventuel du montant ou de la valeur visés à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant ou la valeur des fonds ou des biens distribués ou attribués, selon le cas;

b) le montant éventuel de la réduction, lors de la distribution ou de l'attribution, selon le cas, du capital versé relatif aux actions de cette catégorie;

chacune des personnes qui détenaient au moment donné une ou plusieurs des actions émises est réputée avoir reçu à ce moment un dividende égal à la fraction de l'excédent représentée par le rapport existant entre le nombre d'actions de cette catégorie qu'elle détenait immédiatement avant ce moment et le nombre d'actions émises de cette catégorie qui étaient en circulation immédiatement avant ce moment.

Rachat, etc.

(3) Lorsque, à un moment donné après le 31 décembre 1977, une société résidant au Canada a racheté acquis ou annulé de quelque façon que ce soit (autrement que par une opération visée au paragraphe (2)) toute action d'une catégorie quelconque de son capital-actions :

a) la société est réputée avoir versé au moment donné un dividende sur une catégorie distincte d'actions constituée des actions ainsi rachetées, acquises ou annulées, égal à l'excédent éventuel de la somme payée par la société lors du rachat, de l'acquisition ou de l'annulation, selon le cas, de ces actions sur le capital versé relatif à ces actions, existant immédiatement avant ce moment;

b) chacune des personnes qui détenaient au moment donné une ou plusieurs actions de cette catégorie distincte est réputée avoir reçu à ce moment un dividende égal à la fraction de l'excédent déterminé en vertu de l'alinéa a) représentée par le rapport existant entre le nombre de ces actions que détenait cette personne immédiatement avant ce moment et le nombre total des actions de cette catégorie distincte que la société a rachetées, acquises ou annulées, à ce moment.

Reduction of paid-up capital

(4) Where at any time after March 31, 1977 a corporation resident in Canada has reduced the paid-up capital in respect of any class of shares of its capital stock otherwise than by way of a redemption, acquisition or cancellation of any shares of that class or a transaction described in subsection 84(2) or (4.1),

(a) the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which the amount paid by it on the reduction of the paid-up capital, exceeds the amount by which the paid-up capital in respect of that class of shares of the corporation has been so reduced; and

(b) a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess referred to in paragraph 84(4)(a) that the number of the shares of that class held by the person immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

Deemed dividend on reduction of paid-up capital

(4.1) Any amount paid by a public corporation on the reduction of the paid-up capital in respect of any class of shares of its capital stock, otherwise than by way of a redemption, acquisition or cancellation of any shares of that class or by way of a transaction described in subsection (2) or section 86, is deemed to have been paid by the corporation and received by the person to whom it was paid, as a dividend, unless

(a) the amount may reasonably be considered to be derived from proceeds of disposition realized by the public corporation, or by a person or partnership in which the public corporation had a direct or indirect interest at the time that the proceeds were realized, from a transaction that occurred

(i) outside the ordinary course of the business of the corporation, or of the person or partnership that realized the proceeds, and

(ii) within the period that commenced 24 months before the payment; and

(b) no amount that may reasonably be considered to be derived from those proceeds was paid by the public corporation on a previous reduction of the paid-up capital in respect of any class of shares of its capital stock.

Réduction du capital versé

(4) Lorsqu'une société résidant au Canada a réduit, à un moment donné après 31 mars 1977, le capital versé à l'égard de toute catégorie d'actions de son capital-actions autrement que par le rachat, l'acquisition ou l'annulation de toute action de cette catégorie ou par une opération visée au paragraphe (2) ou (4.1):

a) la société est réputée avoir payé au moment donné sur les actions de cette catégorie un dividende égal à l'excédent éventuel de la somme qu'elle a payée pour la réduction du capital versé sur le montant qui a été soustrait du capital versé à l'égard de cette catégorie d'actions de la société;

b) chacune des personnes qui détenaient au moment donné une ou plusieurs des actions émises est réputée avoir à ce moment reçu un dividende égal à la fraction de l'excédent visé à l'alinéa a) représentée par le rapport existant entre le nombre des actions de cette catégorie que détenait cette personne immédiatement avant ce moment et le nombre des actions émises de cette catégorie en circulation immédiatement avant ce moment.

Dividende réputé lors de la réduction du capital versé

(4.1) Toute somme payée par une société publique à l'occasion de la réduction du capital versé au titre d'une catégorie d'actions de son capital-actions, autrement que par le rachat, l'acquisition ou l'annulation d'une action de cette catégorie ou que par une opération visée au paragraphe (2) ou à l'article 86, est réputée avoir été payée par la société et reçue à titre de dividende par la personne à qui elle a été payée, sauf si les faits ci-après se vérifient :

a) il est raisonnable de considérer que la somme provient du produit de disposition réalisé par la société, ou par une personne ou une société de personnes dans laquelle elle avait une participation directe ou indirecte au moment de la réalisation du produit, à l'occasion d'une opération conclue, à la fois :

(i) en dehors du cours normal des activités de l'entreprise de la société, ou de la personne ou société de personnes ayant réalisé le produit,

(ii) au cours de la période ayant commencé 24 mois avant le paiement;

b) aucune somme qu'il est raisonnable de considérer comme découlant de ce produit n'a été payée par la société à l'occasion d'une réduction antérieure du capital versé au titre d'une catégorie d'actions de son capital-actions.

Deemed dividend on term preferred share

(4.2) Where, at any time after November 16, 1978, the paid-up capital in respect of a term preferred share owned by a shareholder that is

(a) a specified financial institution, or

(b) a partnership or trust of which a specified financial institution or a person related to such an institution was a member or a beneficiary,

was reduced otherwise than by way of a redemption, acquisition or cancellation of the share or of a transaction described in subsection 84(2) or (4.1), the amount received by the shareholder on the reduction of the paid-up capital in respect of the share shall be deemed to be a dividend received by the shareholder at that time unless the share was not acquired in the ordinary course of the business carried on by the shareholder.

Dividende réputé sur action privilégiée à terme

(4.2) Dans le cas où, à un moment donné après le 16 novembre 1978, le capital versé au titre d'une action privilégiée à terme dont l'actionnaire est soit une institution financière déterminée, soit une société de personnes ou une fiducie dont une institution financière déterminée ou une personne qui lui est liée est respectivement un associé ou un bénéficiaire, est réduit autrement que par le rachat, l'acquisition ou l'annulation de l'action ou que par une opération visée au paragraphe (2) ou (4.1), le montant reçu par l'actionnaire lors de la réduction du capital versé au titre de l'action est réputé être un dividende reçu au moment donné par l'actionnaire, sauf si l'action n'a pas été acquise dans le cours normal des activités de l'entreprise exploitée par l'actionnaire.

Deemed dividend on guaranteed share

(4.3) Where at any time after 1987 the paid-up capital in respect of a share of the capital stock of a particular corporation owned

(a) by a shareholder that is another corporation to which subsection 112(2.2) or (2.4) would, if the particular corporation were a taxable Canadian corporation, apply to deny the deduction under subsection 112(1) or (2) or 138(6) of a dividend received on the share, or

(b) by a partnership or trust of which the other corporation is a member or beneficiary, as the case may be,

was reduced otherwise than by way of a redemption, acquisition or cancellation of the share or of a transaction described in subsection 84(2) or (4.1), the amount received by the shareholder on the reduction of the paid-up capital in respect of the share shall be deemed to be a dividend received by the shareholder at that time.

Dividende réputé sur action garantie

(4.3) Dans le cas où, à un moment donné après 1987, le capital versé au titre d'une action du capital-actions d'une société donnée dont est propriétaire :

a) soit un actionnaire qui est une autre société qui, à cause du paragraphe 112(2.2) ou (2.4) et si la société donnée était une société canadienne imposable, n'aurait pas le droit de déduire, en application du paragraphe 112(1) ou (2) ou 138(6), un dividende reçu sur l'action;

b) soit une société de personnes ou une fiducie dont l'autre société est un associé ou un bénéficiaire, selon le cas,

est réduit autrement que par le rachat, l'acquisition ou l'annulation de l'action ou que par une opération visée au paragraphe (2) ou (4.1), le montant reçu par l'actionnaire lors de la réduction du capital versé au titre de l'action est réputé être un dividende reçu au moment donné par l'actionnaire.

Amount distributed or paid where a share

(5) Where

(a) the amount of property distributed by a corporation or otherwise appropriated to or for the benefit of its shareholders as described in paragraph 84(2)(a), or

(b) the amount paid by a corporation as described in paragraph 84(3)(a) or (4)(a),

includes a share of the capital stock of the corporation, for the purposes of subsections 84(2) to (4) the following rules apply:

Biens distribués ou somme versée comprenant une action

(5) Lorsque :

a) soit les biens distribués par une société ou attribués d'une autre façon par cette dernière à ses actionnaires ou pour le compte de ceux-ci, comme il est indiqué à l'alinéa (2)a);

b) soit la somme versée par une société, comme il est indiqué aux alinéas (3)a) ou (4)a),

(c) in computing the amount referred to in paragraph 84(5)(a) at any time, the share shall be valued at an amount equal to its paid-up capital at that time, and

(d) in computing the amount referred to in paragraph 84(5)(b) at any time, the share shall be valued at an amount equal to the amount by which the paid-up capital in respect of the class of shares to which it belongs has increased by virtue of its issue.

c) dans le calcul de la valeur des biens visés à l'alinéa a) à un moment donné, l'action doit être évaluée à un montant égal à son capital versé à ce moment;

d) dans le calcul de la somme visée à l'alinéa b) à un moment donné, l'action doit être évaluée à un montant égal à l'augmentation apportée, par l'émission de celle-ci, au capital versé à l'égard de la catégorie d'actions dont elle fait partie.

comprennent une action du capital-actions de la société, pour l'application des paragraphes (2) à (4), les règles suivantes s'appliquent :

Where s. (2) or (3) does not apply

(6) Subsection 84(2) or (3), as the case may be, is not applicable

(a) in respect of any transaction or event, to the extent that subsection 84(1) is applicable in respect of that transaction or event; and

(b) in respect of any purchase by a corporation of any of its shares in the open market, if the corporation acquired those shares in the manner in which shares would normally be purchased by any member of the public in the open market.

Non-application du par. (2) ou (3)

(6) Le paragraphe (2) ou (3), selon le cas, ne s'applique pas :

a) à une opération ou à un événement, dans la mesure où le paragraphe (1) s'y applique;

b) à l'achat, sur le marché libre, par une société, de n'importe lesquelles de ses actions, si la société a acheté ces actions comme le ferait normalement le public sur le marché libre.

When dividend payable

(7) A dividend that is deemed by this section or section 84.1, 128.1 or 212.1 to have been paid at a particular time is deemed, for the purposes of this subdivision and sections 131 and 133, to have become payable at that time.

Moment présumé du paiement d'un dividende

(7) Le dividende qui est réputé par le présent article ou par les articles 84.1, 128.1 ou 212.1 avoir été versé à un moment donné est réputé, pour l'application de la présente sous-section et des articles 131 et 133, être devenu payable à ce moment.

Where s. (3) does not apply

(8) Subsection 84(3) does not apply to deem a dividend to have been received by a shareholder of a public corporation where the shareholder is an individual resident in Canada who deals at arm's length with the corporation and the shares redeemed, acquired or cancelled are prescribed shares of the capital stock of the corporation.

Non-application du par. (3)

(8) Le paragraphe (3) ne s'applique pas de manière qu'un dividende soit réputé avoir été reçu par un actionnaire d'une société publique lorsque celui-ci est un particulier résidant au Canada qui n'a aucun lien de dépendance avec la société et que les actions rachetées, acquises ou annulées sont des actions visées par règlement du capital-actions de la société.

Shares disposed of on redemptions, etc.

(9) For greater certainty it is declared that where a shareholder of a corporation has disposed of a share of the capital stock of the corporation as a result of the redemption, acquisition or cancellation of the share by the corporation, the shareholder shall, for the purposes of this Act, be deemed to have disposed of the share to the corporation.

Disposition d'actions en cas de rachat, acquisition ou annulation

(9) Il est entendu que l'actionnaire d'une société qui a disposé d'une action du capital-actions de la société à cause du rachat, de l'acquisition ou de l'annulation de l'action par la société est réputé, pour l'application de la présente loi, avoir disposé de l'action en faveur de la société.

Reduction of contributed surplus

(10) For the purpose of paragraph 84(1)(c.3), there shall be deducted in determining at any time a corporation's contributed surplus that arose after March 31, 1977 in any manner described in that paragraph the lesser of

(a) the amount, if any, by which the amount of a dividend paid by the corporation at or before that time and after March 31, 1977 and when it was a public corporation exceeded its retained earnings immediately before the payment of the dividend, and

(b) the amount of its contributed surplus immediately before the payment of the dividend referred to in paragraph 84(10)(a) that arose after March 31, 1977.

Computation of contributed surplus

(11) For the purpose of subparagraph 84(1)(c.3)(ii), where the property acquired by the corporation (in this subsection referred to as the "acquiring corporation") consists of shares (in this subsection referred to as the "subject shares") of any class of the capital stock of another corporation resident in Canada (in this subsection referred to as the "subject corporation") and, immediately after the acquisition of the subject shares, the subject corporation would be connected (within the meaning that would be assigned by subsection 186(4) if the references in that subsection to "payer corporation" and "particular corporation" were read as "subject corporation" and "acquiring corporation", respectively) with the acquiring corporation, the contributed surplus of the acquiring corporation that arose on the acquisition of the subject shares shall be deemed to be the lesser of

(a) the amount added to the contributed surplus of the acquiring corporation on the acquisition of the subject shares, and

(b) the amount, if any, by which the paid-up capital in respect of the subject shares at the time of the acquisition exceeded the fair market value of any consideration given by the acquiring corporation for the subject shares.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 84; 1994, c. 7, Sch. II, s. 62, c. 21, s. 35; 1999, c. 22, s. 23, c. 31, s. 135(F); 2012, c. 31, s. 16; 2013, c. 34, s. 219; 2016, c. 12, s. 25.

Non-arm's length sale of shares

84.1 (1) Where after May 22, 1985 a taxpayer resident in Canada (other than a corporation) disposes of shares that are capital property of the taxpayer (in this section referred to as the "subject shares") of any class of the capital stock of a corporation resident in Canada (in this section referred to as the "subject corporation") to another corporation (in this section referred to as the "purchaser

Réduction du surplus d'apport

(10) Pour l'application de l'alinéa (1)c.3), est déductible dans le calcul, à un moment donné, du surplus d'apport d'une société provenant de l'un des événements décrits à cet alinéa après le 31 mars 1977, le moins élevé des montants suivants :

a) l'excédent du dividende versé par la société au plus tard au moment donné et après le 31 mars 1977 et lorsqu'elle était une société publique sur ses bénéfices non répartis immédiatement avant le versement du dividende;

b) le surplus d'apport de la société immédiatement avant le versement du dividende visé à l'alinéa a), qui est apparu après le 31 mars 1977.

Calcul du surplus d'apport

(11) Pour l'application du sous-alinéa (1)c.3)(ii), lorsque le bien acquis par la société (appelée « acquéreur » au présent paragraphe) consiste en actions d'une catégorie du capital-actions d'une autre société qui réside au Canada (appelée « société donnée » au présent paragraphe) et qui, immédiatement après l'acquisition des actions, est rattachée (au sens qui serait donné à cette expression par le paragraphe 186(4) si les mentions de société payante et de société donnée étaient remplacées, respectivement, par des mentions de société donnée et d'acquéreur) à l'acquéreur, le surplus d'apport de l'acquéreur qui découle de l'acquisition des actions est réputé égal au moins élevé des montants suivants :

a) le montant ajouté au surplus d'apport de l'acquéreur à la suite de l'acquisition des actions;

b) l'excédent éventuel du capital versé au titre des actions au moment de l'acquisition sur la juste valeur marchande de toute contrepartie donnée par l'acquéreur pour ces actions.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 84; 1994, ch. 7, ann. II, art. 62, ch. 21, art. 35; 1999, ch. 22, art. 23, ch. 31, art. 135(F); 2012, ch. 31, art. 16; 2013, ch. 34, art. 219; 2016, ch. 12, art. 25.

Vente d'actions en cas de lien de dépendance

84.1 (1) Lorsque, après le 22 mai 1985, un contribuable qui réside au Canada (à l'exclusion d'une société) dispose d'actions qui sont des immobilisations du contribuable — appelées « actions concernées » au présent article — d'une catégorie du capital-actions d'une société qui réside au Canada — appelée « la société en cause » au présent article — en faveur d'une autre société — appelée

corporation") with which the taxpayer does not deal at arm's length and, immediately after the disposition, the subject corporation would be connected (within the meaning assigned by subsection 186(4) if the references therein to "payer corporation" and to "particular corporation" were read as "subject corporation" and "purchaser corporation" respectively) with the purchaser corporation,

(a) where shares (in this section referred to as the "new shares") of the purchaser corporation have been issued as consideration for the subject shares, in computing the paid-up capital, at any particular time after the issue of the new shares, in respect of any particular class of shares of the capital stock of the purchaser corporation, there shall be deducted an amount determined by the formula

(A - B) × C/A

where

A is the increase, if any, determined without reference to this section as it applies to the acquisition of the subject shares, in the paid-up capital in respect of all shares of the capital stock of the purchaser corporation as a result of the issue of the new shares,

B is the amount, if any, by which the greater of

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

(ii) subject to paragraphs 84.1(2)(a) and 84.1(2)(a.1), the adjusted cost base to the taxpayer, immediately before the disposition, of the subject shares,

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

C is the increase, if any, determined without reference to this section as it applies to the acquisition of the subject shares, in the paid-up capital in respect of the particular class of shares as a result of the issue of the new shares; and

(b) for the purposes of this Act, a dividend shall be deemed to be paid to the taxpayer by the purchaser corporation and received by the taxpayer from the purchaser corporation at the time of the disposition in an amount determined by the formula

(A + D) - (E + F)

where

« acheteur » au présent article — avec laquelle le contribuable a un lien de dépendance et que, immédiatement après la disposition, la société en cause serait rattachée à l'acheteur, au sens du paragraphe 186(4) si les mentions « société payante » et « société donnée » y étaient respectivement remplacées par « la société en cause » et « acheteur »:

a) dans le cas où les actions de l'acheteur — appelées « nouvelles actions » au présent article — ont été émises en contrepartie des actions concernées, le montant calculé selon la formule suivante est déduit dans le calcul du capital versé, à un moment postérieur à l'émission des nouvelles actions, au titre d'une catégorie donnée d'actions du capital-actions de l'acheteur :

(A - B) × C/A

où :

A représente le montant correspondant à l'augmentation — conséquence de l'émission des nouvelles actions — du capital versé au titre de toutes les actions du capital-actions de l'acheteur, calculée sans que le présent article soit appliqué à l'acquisition des actions concernées,

B l'excédent éventuel du plus élevé des montants suivants :

(i) le capital versé au titre des actions concernées immédiatement avant la disposition,

(ii) le prix de base rajusté des actions concernées pour le contribuable immédiatement avant la disposition, sous réserve des alinéas (2)a) et a.1),

sur la juste valeur marchande, immédiatement après la disposition, de tout contrepartie, à l'exclusion des nouvelles actions, reçue de l'acheteur par le contribuable pour les actions concernées,

C le montant correspondant à l'augmentation — conséquence de l'émission des nouvelles actions — du capital versé au titre de la catégorie donnée d'actions, calculée sans que le présent article soit appliqué à l'acquisition des actions concernées;

b) pour l'application de la présente loi, un dividende, calculé selon la formule suivante, est réputé avoir été versé par l'acheteur au contribuable et reçu par celui-ci au moment de la disposition :

(A + D) - (E + F)

où :

A représente le montant correspondant à l'augmentation — conséquence de l'émission des nouvelles

A is the increase, if any, determined without reference to this section as it applies to the acquisition of the subject shares, in the paid-up capital in respect of all shares of the capital stock of the purchaser corporation as a result of the issue of the new shares,

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

E is the greater of

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

(ii) subject to paragraphs 84.1(2)(a) and 84.1(2)(a.1), the adjusted cost base to the taxpayer, immediately before the disposition, of the subject shares, and

F is the total of all amounts each of which is an amount required to be deducted by the purchaser corporation under paragraph 84.1(1)(a) in computing the paid-up capital in respect of any class of shares of its capital stock by virtue of the acquisition of the subject shares.

A le cas échéant, la hausse déterminée sans application du présent article à l'acquisition des actions concernées, du capital versé au titre de toutes les actions du capital-actions de l'acheteur,

D la juste valeur marchande, immédiatement après la disposition, de toute contrepartie, à l'exclusion des nouvelles actions, reçue de l'acheteur par le contribuable pour les actions concernées,

E le plus élevé des montants suivants :

(i) le capital versé au titre des actions concernées immédiatement avant la disposition,

(ii) le prix de base rajusté des actions concernées pour le contribuable immédiatement avant la disposition, sous réserve des alinéas (2)a) et a.1),

F le total des montants dont chacun représente un montant que l'acheteur doit déduire selon l'alinéa a) dans le calcul du capital versé au titre d'une catégorie d'actions de son capital-actions à cause de l'acquisition des actions concernées.

Idem

(2) For the purposes of this section,

(a) where a share disposed of by a taxpayer was acquired by the taxpayer before 1972, the adjusted cost base to the taxpayer of the share at any time shall be deemed to be the total of

(i) the amount that would be its adjusted cost base to the taxpayer if the *Income Tax Application Rules* were read without reference to subsections 26(3) and (7) of that Act, and

(ii) the total of all amounts each of which is an amount received by the taxpayer after 1971 and before that time as a dividend on the share and in respect of which the corporation that paid the dividend has made an election under subsection 83(1);

(a.1) where a share disposed of by a taxpayer was acquired by the taxpayer after 1971 from a person with whom the taxpayer was not dealing at arm's length, was a share substituted for such a share or was a share substituted for a share owned by the taxpayer at the end of 1971, the adjusted cost base to the taxpayer of the share at any time shall be deemed to be the amount, if any, by which its adjusted cost base to the taxpayer, otherwise determined, exceeds the total of

Idem

(2) Pour l'application du présent article :

a) dans le cas où une action dont dispose un contribuable a été acquise par celui-ci avant 1972, le prix de base rajusté de l'action pour le contribuable à un moment donné est réputé égal au total des montants suivants :

(i) le montant qui serait le prix de base rajusté de l'action pour le contribuable compte non tenu des paragraphes 26(3) et (7) des *Règles concernant l'application de l'impôt sur le revenu*,

(ii) le total des montants dont chacun représente un montant que le contribuable a reçu, après 1971 et avant ce moment, à titre de dividende sur l'action, et pour lequel la société qui a versé le dividende a fait le choix prévu au paragraphe 83(1);

a.1) dans le cas où une action dont dispose un contribuable a été acquise par celui-ci après 1971 auprès d'une personne avec qui il avait un lien de dépendance ou était une action substituée à une telle action ou était une action substituée à une action dont le contribuable était propriétaire à la fin de 1971, le prix de base rajusté de l'action pour le contribuable à un moment donné est réputé égal à l'excédent éventuel du

(i) where the share or a share for which the share was substituted was owned at the end of 1971 by the taxpayer or a person with whom the taxpayer did not deal at arm's length, the amount in respect of that share equal to the amount, if any, by which

(A) the fair market value of the share or the share for which it was substituted, as the case may be, on valuation day (within the meaning assigned by section 24 of the *Income Tax Application Rules*)

exceeds the total of

(B) the actual cost (within the meaning assigned by subsection 26(13) of that Act) of the share or the share for which it was substituted, as the case may be, on January 1, 1972, to the taxpayer or the person with whom the taxpayer did not deal at arm's length, and

(C) the total of all amounts each of which is an amount received by the taxpayer or the person with whom the taxpayer did not deal at arm's length after 1971 and before that time as a dividend on the share or the share for which it was substituted and in respect of which the corporation that paid the dividend has made an election under subsection 83(1), and

(ii) the total of all amounts each of which is an amount determined after 1984 under subparagraph 40(1)(a)(i) in respect of a previous disposition of the share or a share for which the share was substituted (or such lesser amount as is established by the taxpayer to be the amount in respect of which a deduction under section 110.6 was claimed) by the taxpayer or an individual with whom the taxpayer did not deal at arm's length;

(a.2) [Repealed, 1998, c. 19, s. 115(1)]

(b) in respect of any disposition described in subsection 84.1(1) by a taxpayer of shares of the capital stock of a subject corporation to a purchaser corporation, the taxpayer shall, for greater certainty, be deemed not to deal at arm's length with the purchaser corporation if the taxpayer

(i) was, immediately before the disposition, one of a group of fewer than 6 persons that controlled the subject corporation, and

(ii) was, immediately after the disposition, one of a group of fewer than 6 persons that controlled the purchaser corporation, each member of which was

prix de base rajusté de l'action pour le contribuable, déterminé par ailleurs, sur le total des montants suivants :

(i) si l'action ou une action y substituée était, à la fin de 1971, la propriété du contribuable ou d'une personne avec laquelle il avait un lien de dépendance, le montant au titre de cette action égal à l'excédent éventuel :

(A) de la juste valeur marchande de l'action ou de l'action y substituée, selon le cas, au jour de l'évaluation — au sens de l'article 24 des *Règles concernant l'application de l'impôt sur le revenu* —,

sur le total des montants suivants :

(B) le coût effectif — au sens du paragraphe 26(13) de cette loi — de l'action ou de l'action y substituée, selon le cas, pour le contribuable ou pour cette personne le 1er janvier 1972,

(C) le total des montants dont chacun représente un montant que le contribuable ou cette personne a reçu, après 1971 et avant ce moment, à titre de dividende sur l'action ou sur l'action y substituée, et pour lequel la société qui a versé le dividende a fait le choix prévu au paragraphe 83(1),

(ii) le total des montants dont chacun représente un montant calculé après 1984 selon le sous-alinéa 40(1)a)(i) dans le cas d'une disposition antérieure de l'action ou d'une action à laquelle l'action a été substituée (ou le montant moins élevé que le contribuable indique comme étant le montant à l'égard duquel une déduction a été demandée en vertu de l'article 110.6) par le contribuable ou par un particulier avec qui le contribuable avait un lien de dépendance;

a.2) [Abrogé, 1998, ch. 19, art. 115(1)]

b) pour toute disposition décrite au paragraphe (1), et faite par un contribuable, d'actions du capital-actions de la société en cause en faveur de l'acheteur, il est entendu que le contribuable est réputé avoir un lien de dépendance avec l'acheteur, si :

(i) d'une part, immédiatement avant la disposition, il faisait partie d'un groupe de moins de 6 personnes qui contrôlaient la société en cause,

a member of the group referred to in subparagraph 84.1(2)(b)(i); and

(c) [Repealed, 1998, c. 19, s. 115(2)]

(d) a trust and a beneficiary of the trust or a person related to a beneficiary of the trust shall be deemed not to deal with each other at arm's length.

(e) [Repealed, 1998, c. 19, s. 115(3)]

Rules for par. 84.1(2)(a.1)

(2.01) For the purpose of paragraph 84.1(2)(a.1),

(a) where at any time a corporation issues a share of its capital stock to a taxpayer, the taxpayer and the corporation are deemed not to be dealing with each other at arm's length at that time;

(b) where a taxpayer is deemed by paragraph 110.6(19)(a) to have reacquired a share, the taxpayer is deemed to have acquired the share at the beginning of February 23, 1994 from a person with whom the taxpayer was not dealing at arm's length; and

(c) where a share owned by a particular person, or a share substituted for that share, has by one or more transactions or events between persons not dealing at arm's length become vested in another person, the particular person and the other person are deemed at all times not to be dealing at arm's length with each other whether or not the particular person and the other person coexisted.

Idem

(2.1) For the purposes of subparagraph 84.1(2)(a.1)(ii), where the taxpayer or an individual with whom the taxpayer did not deal at arm's length (in this subsection referred to as the "transferor") disposes of a share in a taxation year and claims an amount under subparagraph 40(1)(a)(iii) in computing the gain for the year from the disposition, the amount in respect of which a deduction under section 110.6 was claimed in respect of the transferor's gain from the disposition shall be deemed to be equal to the lesser of

(a) the total of

(i) the amount claimed under subparagraph 40(1)(a)(iii) by the transferor for the year in respect of the disposition, and

(ii) twice the amount deducted under section 110.6 in computing the taxable income of the transferor

(ii) d'autre part, immédiatement après la disposition, il faisait partie d'un groupe de moins de 6 personnes — dont chacune était membre du groupe visé au sous-alinéa (i) — qui contrôlaient l'acheteur;

c) [Abrogé, 1998, ch. 19, art. 115(2)]

d) une fiducie et ses bénéficiaires ou les personne liées à ceux-ci sont réputés avoir un lien de dépendance.

e) [Abrogé, 1998, ch. 19, art. 115(3)]

Application de l'alinéa 84.1(2)a.1)

(2.01) Les présomptions suivantes s'appliquent dans le cadre de l'alinéa (2)a.1):

a) une société et le contribuable en faveur duquel elle émet une action de son capital-actions sont réputés avoir entre eux un lien de dépendance au moment de l'émission;

b) le contribuable qui est réputé par l'alinéa 110.6(19)a) avoir acquis une action de nouveau est réputé l'avoir acquise au début du 23 février 1994 auprès d'une personne avec laquelle il avait un lien de dépendance;

c) dans le cas où une action appartenant à une personne donnée, ou une action qui y est substituée, est dévolue à une autre personne par suite d'opérations ou d'événements entre personnes ayant un lien de dépendance, la personne donnée et l'autre personne sont réputées à tout moment avoir entre elles un lien de dépendance même si elles ne coexistaient pas.

Idem

(2.1) Pour l'application du sous-alinéa (2)a.1)(ii), dans le cas où un contribuable ou un particulier avec lequel il a un lien de dépendance (appelé « cédant » au présent paragraphe) dispose d'une action au cours d'une année d'imposition et demande la déduction d'un montant en application du sous-alinéa 40(1)a)(iii) dans le calcul du gain pour l'année tiré de la disposition, le montant au titre duquel une déduction est demandée en application de l'article 110.6 relativement au gain du cédant tiré de la disposition est réputé égal au moins élevé des montants suivants :

a) le total des montants suivants :

(i) le montant dont le cédant a demandé la déduction pour l'année en application du sous-alinéa 40(1)a)(iii) relativement à la disposition,

for the year in respect of the taxable capital gain from the disposition, and

(b) twice the maximum amount that could have been deducted under section 110.6 in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the disposition if

(i) no amount had been claimed by the transferor under subparagraph 40(1)(a)(iii) in computing the gain for the year from the disposition, and

(ii) all amounts deducted under section 110.6 in computing the taxable income of the transferor for the year in respect of taxable capital gains from dispositions of property to which this subsection does not apply were deducted before determining the maximum amount that could have been deducted under section 110.6 in respect of the taxable capital gain from the disposition,

and for the purposes of subparagraph 84.1(2.1)(b)(ii), 1/2 of the total of all amounts determined under this subsection for the year in respect of other property disposed of before the disposition of the share shall be deemed to have been deducted under section 110.6 in computing the taxable income of the transferor for the year in respect of the taxable capital gain from the disposition of property to which this subsection does not apply,

and, for the purposes of this subsection, where more than one share to which this subsection applies is disposed of in the year, each such share shall be deemed to have been separately disposed of in the order designated by the taxpayer in the taxpayer's return of income under this Part for the year.

ii) le double du montant déduit en application de l'article 110.6 dans le calcul du revenu imposable du cédant pour l'année relativement au gain en capital imposable tiré de la disposition;

b) le double du montant maximal qui aurait été déductible en application de l'article 110.6 dans le calcul du revenu imposable du cédant pour l'année relativement au gain en capital imposable tiré de la disposition si, à la fois :

(i) aucun montant n'avait été demandé en déduction par le cédant en application du sous-alinéa 40(1)a)(iii) dans le calcul du gain pour l'année tiré de la disposition,

(ii) les montants déduits en application de l'article 110.6 dans le calcul du revenu imposable du cédant pour l'année relativement aux gains en capital imposables tirés de la disposition de biens auxquels le présent paragraphe ne s'applique pas l'avaient été avant le calcul du montant maximal qui aurait été déductible en application de cet article relativement au gain en capital imposable tiré de la disposition.

Pour l'application du sous-alinéa (ii), la moitié du total des montants calculés en application du présent paragraphe pour l'année relativement à d'autres biens dont il a été disposé avant l'action est réputé avoir été déduit en application de l'article 110.6 dans le calcul du revenu imposable du cédant pour l'année au titre du gain en capital imposable tiré de la disposition de biens auxquels le présent paragraphe ne s'applique pas. Pour l'application du présent paragraphe, chaque action à laquelle le présent paragraphe s'applique et qui fait l'objet d'une disposition au cours de l'année est réputée faire l'objet d'une disposition distincte dans l'ordre déterminé par le contribuable dans sa déclaration de revenu produite en vertu de la présente partie pour l'année.

Rules for par. 84.1(2)(b)

(2.2) For the purpose of paragraph 84.1(2)(b),

(a) in determining whether or not a taxpayer referred to in that paragraph was a member of a group of fewer than 6 persons that controlled a corporation at any time, any shares of the capital stock of that corporation owned at that time by

(i) the taxpayer's child (as defined in subsection 70(10)), who is under 18 years of age, or the taxpayer's spouse or common law partner,

(ii) a trust of which the taxpayer, a person described in subparagraph 84.1(2.2)(a)(i) or a corporation described in subparagraph 84.1(2.2)(a)(iii), is a beneficiary, or

Application de l'alinéa 84.1(2)b)

(2.2) Les règles suivantes s'appliquent dans le cadre de l'alinéa (2)b):

a) pour déterminer si un contribuable visé à cet alinéa fait partie d'un groupe de moins de six personnes qui contrôlaient une société à un moment donné, les actions du capital-actions de la société qui appartiennent à l'une des personnes suivantes à ce moment sont réputées appartenir à ce moment au contribuable et non à la personne qui en était réellement le propriétaire à ce moment :

(i) l'enfant du contribuable, au sens du paragraphe 70(10), âgé de moins de 18 ans ou l'époux ou conjoint de fait du contribuable,

(iii) a corporation controlled by the taxpayer, by a person described in subparagraph 84.1(2.2)(a)(i) or 84.1(2.2)(a)(ii) or by any combination of those persons or trusts

are deemed to be owned at that time by the taxpayer and not by the person who actually owned the shares at that time;

(b) a group of persons in respect of a corporation means any 2 or more persons each of whom owns shares of the capital stock of the corporation;

(c) a corporation that is controlled by one or more members of a particular group of persons in respect of that corporation is considered to be controlled by that group of persons; and

(d) a corporation may be controlled by a person or a particular group of persons even though the corporation is also controlled or deemed to be controlled by another person or group of persons.

(ii) une fiducie qui compte parmi ses bénéficiaires le contribuable, une personne visée au sous-alinéa (i) ou une société visée au sous-alinéa (iii),

(iii) une société contrôlée par le contribuable, par une personne visée aux sous-alinéas (i) ou (ii) ou par plusieurs de ces personnes;

b) un groupe de personnes quant à une société s'entend de plusieurs personnes dont chacune est propriétaire d'actions du capital-actions de la société;

c) la société qui est contrôlée par un ou plusieurs membres d'un groupe de personnes quant à cette société est réputée être contrôlée par ce groupe;

d) une société peut être contrôlée par une personne ou par un groupe de personnes même si elle est contrôlée par une autre personne ou un autre groupe de personnes ou est réputée l'être.

Addition to paid-up capital

(3) In computing the paid-up capital at any time after May 22, 1985 in respect of any class of shares of the capital stock of a corporation, there shall be added an amount equal to the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of the class paid after May 22, 1985 and before that time by the corporation

exceeds

(ii) the total of such dividends that would be determined under subparagraph 84.1(3)(a)(i) if this Act were read without reference to paragraph 84.1(1)(a), and

(b) the total of all amounts required by paragraph 84.1(1)(a) to be deducted in computing the paid-up capital in respect of that class of shares after May 22, 1985 and before that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 84.1; 1994, c. 7, Sch. II, s. 63, Sch. VIII, s. 34; 1998, c. 19, s. 115; 2000, c. 12, s. 142; 2001, c. 17, s. 61.

Majoration du capital versé

(3) Le moindre des montants suivants doit être ajouté dans le calcul du capital versé, à un moment donné postérieur au 22 mai 1985, au titre d'une catégorie d'actions du capital-actions d'une société :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants dont chacun représente un montant réputé en vertu du paragraphe 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie que la société a versé après le 22 mai 1985 et avant le moment donné,

(ii) le total de ces dividendes, calculé selon le sous-alinéa (i), compte non tenu de l'alinéa (1)a);

b) le total des montants à déduire selon l'alinéa (1) a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 22 mai 1985 et avant le moment donné.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 84.1; 1994, ch. 7, ann. II, art. 63, ann. VIII, art. 34; 1998, ch. 19, art. 115; 2000, ch. 12, art. 142; 2001, ch. 17, art. 61.

Computation of paid-up capital in respect of particular class of shares

84.2 (1) In computing the paid-up capital in respect of any particular class of shares of the capital stock of a corporation at any particular time after March 31, 1977,

Calcul du capital versé d'une catégorie donnée d'actions

84.2 (1) Dans le calcul du capital versé à l'égard d'une catégorie particulière d'actions du capital-actions d'une société à un moment donné après le 31 mars 1977:

(a) there shall be deducted that proportion of the amount, if any, by which the paid-up capital in respect of all of the issued shares of the capital stock of the corporation on April 1, 1977, determined without reference to this section, exceeds the greater of

(i) the amount that the paid-up capital limit of the corporation would have been on March 31, 1977 if paragraph 89(1)(d) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read at that date, were read without reference to clause 89(1)(d)(iv.1)(F) of that Act and without reference to all subparagraphs of paragraph 89(1)(d) of that Act except subparagraphs 89(1)(d)(iv.1) and (vii) of that Act, and

(ii) the paid-up capital limit of the corporation on March 31, 1977,

that the paid-up capital on April 1, 1977, determined without reference to this section, in respect of the particular class of shares is of the paid-up capital on April 1, 1977, determined without reference to this section, in respect of all of the issued and outstanding shares of the capital stock of the corporation; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3) or 84(4) to be a dividend on shares of the particular class paid by the corporation after March 31, 1977 and before the particular time

exceeds

(B) the total that would be determined under clause 84.2(1)(b)(i)(A) if this Act were read without reference to paragraph 84.2(1)(a), and

(ii) the amount required by paragraph 84.2(1)(a) to be deducted in computing the paid-up capital of shares of the particular class.

a) il doit être déduit la fraction de l'excédent éventuel du capital versé à l'égard de toutes les actions émises du capital-actions de la société au 1er avril 1977, déterminé compte non tenu du présent article, sur le plus élevé des montants suivants :

(i) le montant du plafond du capital versé de la société qui aurait été déterminé le 31 mars 1977 si l'alinéa 89(1)d) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à cette date, n'avait pas comporté la division 89(1)d)(iv.1)(F) ni les sous-alinéas autres que les sous-alinéas 89(1)d)(iv.1) et (vii),

(ii) le plafond du capital versé de la société au 31 mars 1977,

qui est représentée par le rapport entre, d'une part, le capital versé au 1er avril 1977, déterminé compte non tenu du présent article, à l'égard de la catégorie donnée d'actions et, d'autre part, le capital versé au 1er avril 1977, déterminé compte non tenu du présent article, à l'égard de toutes les actions émises du capital-actions de la société qui sont en circulation;

b) il doit être ajouté un montant égal au moindre des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant qui est réputé être, en vertu des paragraphes 84(3) ou (4), un dividende sur des actions de la catégorie donnée versé par la société, après le 31 mars 1977 et avant le moment donné,

(B) le total qui serait déterminé en vertu de la division (A), compte non tenu de l'alinéa a),

(ii) le montant qui doit être déduit, en vertu de l'alinéa a), dans le calcul du capital versé des actions de la catégorie donnée.

Debt deficiency

(2) In computing, after March 31, 1977, the adjusted cost base to an individual of a debt that was owing to the individual by a corporation on March 31, 1977, there shall be deducted the amount of any dividend that would have been deemed to have been received by the individual on that day if the corporation had paid the debt in full on that day.

Insuffisance de la créance

(2) Dans le calcul, après le 31 mars 1977, du prix de base rajusté de la créance, pour un particulier, dont une société lui est redevable au 31 mars 1977, il faut déduire le montant de tout dividende qu'il serait réputé avoir reçu à cette date si la société s'était entièrement acquittée de la dette à cette date.

Idem

(3) Where, after March 31, 1977 and before 1979, any debt referred to in subsection 84.2(2) owing by a corporation and held by an individual on March 31, 1977 and continuously after that date until conversion, is converted into shares of a particular class of the capital stock of the corporation,

(a) subsection 84.2(2) shall not apply in respect of the debt; and

(b) in computing the paid-up capital in respect of the shares of the particular class at any particular time after the conversion,

(i) there shall be deducted the amount by which the adjusted cost base to the taxpayer of the debt would, but for paragraph 84.2(3)(a), have been reduced by virtue of subsection 84.2(2), and

(ii) there shall be added an amount equal to the lesser of

(A) the amount, if any, by which

(I) the total of all amounts deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of the particular class paid by the corporation after the conversion and before the particular time,

exceeds

(II) the total that would be determined under subclause 84.2(3)(b)(ii)(A)(I) if this Act were read without reference to subparagraph 84.2(3)(b)(i), and

(B) the amount required by subparagraph 84.2(3)(b)(i) to be deducted in computing the paid-up capital of shares of the particular class.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1974-75-76, c. 26, s. 47; 1977-78, c. 1, s. 39, c. 32, s. 20.

Idem

(3) Lorsque, après le 31 mars 1977 et avant 1979, tout dette, visée au paragraphe (2) dont une société est redevable à un particulier au 31 mars 1977 et sans interruption après cette date jusqu'au moment de la conversion, est convertie en actions d'une catégorie donnée du capital-actions de la société :

a) le paragraphe (2) ne s'applique pas à cette dette;

b) dans le calcul du capital versé à l'égard des actions de la catégorie donnée à un moment donné après la conversion :

(i) il doit être déduit le montant qui aurait, sans l'alinéa a), été retranché du prix de base rajusté de la créance pour le contribuable en vertu du paragraphe (2),

(ii) il doit être ajouté un montant égal au moindre des montants suivants :

(A) l'excédent éventuel du total visé à la subdivision (I) sur le total visé à la subdivision (II):

(I) le total des montants dont chacun représente un montant qui est réputé être, en vertu des paragraphes 84(3), (4) ou (4.1), un dividende sur des actions de la catégorie donnée payé par la société, après la conversion et avant le moment donné,

(II) le total qui serait déterminé en vertu de la subdivision (I), compte non tenu du sous-alinéa (i),

(B) le montant qui, en vertu du sous-alinéa (i) doit être déduit dans le calcul du capital versé des actions de la catégorie donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1974-75-76, ch. 26, art. 47; 1977-78, ch. 1, art. 39, ch. 32, art. 20.

Transfer of property to corporation by shareholders

85 (1) Where a taxpayer has, in a taxation year, disposed of any of the taxpayer's property that was eligible property to a taxable Canadian corporation for consideration that includes shares of the capital stock of the corporation, if the taxpayer and the corporation have jointly elected in prescribed form and in accordance with subsection 85(6), the following rules apply:

(a) the amount that the taxpayer and the corporation have agreed on in their election in respect of the property shall be deemed to be the taxpayer's proceeds of

Transfert d'un bien par un actionnaire à une société

85 (1) Lorsqu'un contribuable a disposé, au cours d'une année d'imposition, d'un bien admissible en faveur d'une société canadienne imposable et pour une contrepartie comprenant des actions du capital-actions de la société, et que le contribuable et la société en ont fait le choix sur le formulaire prescrit et conformément au paragraphe (6), les règles suivantes s'appliquent :

a) la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est réputée être, pour le contribuable, le produit de disposition du bien et, pour la société, le coût du bien;

disposition of the property and the corporation's cost of the property;

(b) subject to paragraph 85(1)(c), where the amount that the taxpayer and the corporation have agreed on in their election in respect of the property is less than the fair market value, at the time of the disposition, of the consideration therefor (other than any shares of the capital stock of the corporation or a right to receive any such shares) received by the taxpayer, the amount so agreed on shall, irrespective of the amount actually so agreed on by them, be deemed to be an amount equal to that fair market value;

(c) where the amount that the taxpayer and the corporation have agreed on in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed on shall, irrespective of the amount actually so agreed on, be deemed to be an amount equal to that fair market value;

(c.1) where the property was inventory, capital property (other than depreciable property of a prescribed class), a NISA Fund No. 2 or a property that is eligible property because of paragraph 85(1.1)(g) or 85(1.1)(g.1), and the amount that the taxpayer and corporation have agreed on in their election in respect of the property is less than the lesser of

(i) the fair market value of the property at the time of the disposition, and

(ii) the cost amount to the taxpayer of the property at the time of the disposition,

the amount so agreed on shall, irrespective of the amount actually so agreed on by them, be deemed to be an amount equal to the lesser of the amounts described in subparagraphs 85(1)(c.1)(i) and 85(1)(c.1)(ii);

(c.2) subject to paragraphs 85(1)(b) and 85(1)(c) and notwithstanding paragraph 85(1)(c.1), where the taxpayer carries on a farming business the income from which is computed in accordance with the cash method and the property was inventory owned in connection with that business immediately before the particular time the property was disposed of to the corporation,

(i) the amount that the taxpayer and the corporation agreed on in their election in respect of inventory purchased by the taxpayer shall be deemed to be equal to the amount determined by the formula

(A × B/C) + D

b) sous réserve de l'alinéa c), lorsque la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est inférieure à la juste valeur marchande, au moment de la disposition, de la contrepartie de la disposition (autre que toutes actions du capital-actions de la société ou un droit d'en recevoir), reçue par le contribuable la somme ainsi convenue est, quel qu'en soit le montant effectivement convenu entre eux, réputée être une somme égale à cette juste valeur marchande;

c) lorsque la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est supérieure à la juste valeur marchande, au moment de la disposition, du bien dont il a été ainsi disposé, la somme ainsi convenue est, quel qu'en soit le montant effectivement convenu entre eux, réputée être une somme égale à cette juste valeur marchande;

c.1) lorsque le bien était un bien à porter à l'inventaire, une immobilisation (sauf un bien amortissable d'une catégorie prescrite), un second fonds du compte de stabilisation du revenu net ou un bien qui est un bien admissible par l'effet des alinéas (1.1)g) ou g.1) et que la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est inférieure au moins élevé des montants suivants :

(i) la juste valeur marchande du bien au moment de la disposition,

(ii) le coût indiqué du bien, supporté par le contribuable, au moment de la disposition,

la somme ainsi convenue entre eux est, quel qu'en soit le montant effectivement convenu, réputée être égale au moins élevé des montants visés aux sous-alinéas (i) et (ii);

c.2) sous réserve des alinéas b) et c) et malgré l'alinéa c.1), lorsque le contribuable exploite une entreprise agricole dont le revenu est calculé selon la méthode de comptabilité de caisse et que le bien consistait en biens à porter à l'inventaire dont la propriété était détenue dans le cadre de cette entreprise immédiatement avant la disposition du bien en faveur de la société :

(i) la somme convenue entre le contribuable et la société dans leur choix concernant les biens à porter à l'inventaire achetés par le contribuable est réputée égale au résultat du calcul suivant :

(A × B/C) + D

où :

where

A is the amount that would be included because of paragraph 28(1)(c) in computing the taxpayer's income for the taxpayer's last taxation year beginning before the particular time if that year had ended immediately before the particular time,

B is the value (determined in accordance with subsection 28(1.2)) to the taxpayer immediately before the particular time of the purchased inventory in respect of which the election is made,

C is the value (determined in accordance with subsection 28(1.2)) of all of the inventory purchased by the taxpayer that was owned by the taxpayer in connection with that business immediately before the particular time, and

D is such additional amount as the taxpayer and the corporation designate in respect of the property,

(ii) for the purpose of subparagraph 28(1)(a)(i), the disposition of the property and the receipt of proceeds of disposition therefor shall be deemed to have occurred at the particular time and in the course of carrying on the business, and

(iii) where the property is owned by the corporation in connection with a farming business and the income from that business is computed in accordance with the cash method, for the purposes of section 28,

(A) an amount equal to the cost to the corporation of the property shall be deemed to have been paid by the corporation, and

(B) the corporation shall be deemed to have purchased the property for an amount equal to that cost,

at the particular time and in the course of carrying on that business;

(d) to (d.12) [Repealed, 2016, c. 12, s. 26]

(e) where the property was depreciable property of a prescribed class of the taxpayer and the amount that, but for this paragraph, would be the proceeds of disposition thereof is less than the least of

(i) the undepreciated capital cost to the taxpayer of all property of that class immediately before the disposition,

A représente le montant qui serait inclus en application de l'alinéa 28(1)c) dans le calcul du revenu du contribuable pour sa dernière année d'imposition commençant avant la disposition si cette année se terminait immédiatement avant la disposition,

B la valeur, déterminée en conformité avec le paragraphe 28(1.2), pour le contribuable, immédiatement avant la disposition, des biens à porter à l'inventaire achetés et visés par le choix,

C la valeur, déterminée en conformité avec le paragraphe 28(1.2), de l'ensemble des biens à porter à l'inventaire du contribuable, qu'il a achetés et dont il était propriétaire dans le cadre de cette entreprise immédiatement avant la disposition,

D tout montant supplémentaire désigné par le contribuable et la société relativement au bien,

(ii) pour l'application du sous-alinéa 28(1)a)(i), la disposition du bien et la réception du produit de disposition y afférent sont réputées s'être produites au moment de la disposition dans le cadre de l'exploitation de l'entreprise,

(iii) pour l'application de l'article 28, lorsque la société est propriétaire du bien dans le cadre d'une entreprise agricole et que le revenu tiré de cette entreprise est calculé selon la méthode de comptabilité de caisse, les présomptions suivantes s'appliquent :

(A) un montant égal au coût du bien pour la société est réputé avoir été payé par la société au moment de la disposition et dans le cadre de l'exploitation de cette entreprise,

(B) la société est réputée avoir acheté le bien pour un montant égal à ce coût au moment de la disposition et dans le cadre de l'exploitation de cette entreprise;

d) à d.12) [Abrogés, 2016, ch. 12, art. 26]

e) lorsque le bien était un bien amortissable d'une catégorie prescrite appartenant au contribuable et que la somme qui constituerait, sans le présent alinéa, le produit de disposition de ce bien est inférieure au moins élevé des montants suivants :

(i) la fraction non amortie du coût en capital que le contribuable a supporté de tous les biens de cette catégorie immédiatement avant la disposition,

(ii) le coût du bien supporté par le contribuable,

(ii) the cost to the taxpayer of the property, and

(iii) the fair market value of the property at the time of the disposition,

the amount agreed on by the taxpayer and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed on by them, be deemed to be the least of the amounts described in subparagraphs 85(1)(e)(i) to 85(1)(e)(iii);

(e.1) where two or more properties, each of which is a property described in paragraph (e), are disposed of at the same time, paragraph (e) applies as if each property so disposed of had been separately disposed of in the order designated by the taxpayer before the time referred to in subsection (6) for the filing of an election in respect of those properties or, if the taxpayer does not so designate any such order, in the order designated by the Minister;

(e.2) where the fair market value of the property immediately before the disposition exceeds the greater of

(i) the fair market value, immediately after the disposition, of the consideration received by the taxpayer for the property disposed of by the taxpayer, and

(ii) the amount that the taxpayer and the corporation have agreed on in their election in respect of the property, determined without reference to this paragraph,

and it is reasonable to regard any part of the excess as a benefit that the taxpayer desired to have conferred on a person related to the taxpayer (other than a corporation that was a wholly owned corporation of the taxpayer immediately after the disposition), the amount that the taxpayer and the corporation agreed on in their election in respect of the property shall, regardless of the amount actually so agreed on by them, be deemed (except for the purposes of paragraphs 85(1)(g) and 85(1)(h)) to be an amount equal to the total of the amount referred to in subparagraph 85(1)(e.2)(ii) and that part of the excess;

(e.3) where, under any of paragraphs (c.1) and (e), the amount that the taxpayer and the corporation have agreed on in their election in respect of the property (in this paragraph referred to as the ***elected amount***) would be deemed to be an amount that is greater or less than the amount that would be deemed, subject to paragraph (c), to be the elected amount under paragraph (b), the elected amount is deemed to be the greater of

(iii) la juste valeur marchande du bien au moment de la disposition,

la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est, quel qu'en soit le montant effectivement convenu ainsi entre eux, réputée être égale au moins élevé des montants visés aux sous-alinéas (i) à (iii);

e.1) lorsqu'il est disposé en même temps de plusieurs biens qui sont tous des biens visés à l'alinéa e), l'alinéa e) s'applique comme s'il avait été disposé de chacun d'eux séparément, dans l'ordre désigné par le contribuable avant le moment prévu au paragraphe (6) pour la présentation d'un choix à l'égard de ces biens ou, si le contribuable n'a pas ainsi désigné cet ordre, dans l'ordre désigné par le ministre;

e.2) en cas d'excédent de la juste valeur marchande du bien immédiatement avant la disposition sur le plus élevé des montants suivants :

(i) la juste valeur marchande, immédiatement après la disposition, de la contrepartie reçue par le contribuable pour le bien dont il a disposé,

(ii) la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien, déterminée compte non tenu du présent alinéa,

s'il est raisonnable de considérer une partie de cet excédent comme un avantage que le contribuable a voulu conférer à une personne qui lui est liée, à l'exclusion d'une société qui est une filiale à cent pour cent du contribuable immédiatement après la disposition, la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est, quelle que soit la somme effectivement convenue, réputée, sauf pour l'application des alinéas g) et h), être le total de la somme effectivement convenue et de cette partie de l'excédent;

e.3) lorsque, en vertu de l'un des alinéas c.1) et e), la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien (appelée la ***somme choisie*** au présent alinéa) serait réputée être supérieure ou inférieure à celle qui serait réputée, sous réserve de l'alinéa c), être la somme choisie en vertu de l'alinéa b), la somme choisie est réputée être égale au plus élevé des montants suivants :

(i) la somme réputée, par l'alinéa c.1) ou e), selon le cas, être la somme choisie,

(ii) la somme réputée, par l'alinéa b), être la somme choisie;

(i) the amount deemed by paragraph (c.1) or (e), as the case may be, to be the elected amount, and

(ii) the amount deemed by paragraph 85(1)(b) to be the elected amount;

(e.4) where

(i) the property is depreciable property of a prescribed class of the taxpayer and is a passenger vehicle the cost to the taxpayer of which was more than $20,000 or such other amount as may be prescribed, and

(ii) the taxpayer and the corporation do not deal at arm's length,

the amount that the taxpayer and the corporation have agreed on in their election in respect of the property shall be deemed to be an amount equal to the undepreciated capital cost to the taxpayer of the class immediately before the disposition, except that, for the purposes of subsection 6(2), the cost to the corporation of the vehicle shall be deemed to be an amount equal to its fair market value immediately before the disposition;

(f) the cost to the taxpayer of any particular property (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the taxpayer as consideration for the disposition shall be deemed to be an amount equal to the lesser of

(i) the fair market value of the particular property at the time of the disposition, and

(ii) that proportion of the fair market value, at the time of the disposition, of the property disposed of by the taxpayer to the corporation that

(A) the amount determined under subparagraph 85(1)(f)(i)

is of

(B) the fair market value, at the time of the disposition, of all properties (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the taxpayer as consideration for the disposition;

(g) the cost to the taxpayer of any preferred shares of any class of the capital stock of the corporation receivable by the taxpayer as consideration for the disposition shall be deemed to be the lesser of the fair market value of those shares immediately after the disposition and that proportion of the amount, if any, by which

e.4) si le bien est un bien amortissable d'une catégorie prescrite du contribuable et une voiture de tourisme dont le coût, pour le contribuable, est supérieur à 20 000 $ ou au montant qui peut être fixé par règlement et si le contribuable et la société ont un lien de dépendance, la somme convenue entre le contribuable et la société dans le choix qu'ils ont fait relativement au bien est réputée être un montant égal à la fraction non amortie du coût en capital de la catégorie, pour le contribuable, juste avant la disposition; toutefois, pour l'application du paragraphe 6(2), le coût de la voiture pour la société est réputé égal à sa juste valeur marchande juste avant la disposition;

f) le coût, supporté par le contribuable, d'un bien particulier (autre que des actions du capital-actions de la société ou le droit d'en recevoir) qu'il a reçu en contrepartie de la disposition, est réputé être égal au moins élevé des montants suivants :

(i) la juste valeur marchande du bien particulier au moment de la disposition,

(ii) la fraction de la juste valeur marchande, au moment de la disposition, du bien dont le contribuable a disposé en faveur de la société, représentée par le rapport entre :

(A) d'une part, le montant déterminé en vertu du sous-alinéa (i),

(B) d'autre part, la juste valeur marchande, au moment de la disposition, des biens (autres que des actions du capital-actions de la société ou le droit d'en recevoir) que le contribuable a reçus en contrepartie de la disposition;

g) le coût supporté par le contribuable de toutes catégories d'actions privilégiées du capital-actions de la société qu'il doit recevoir en contrepartie de la disposition est réputé être le moins élevé des montants suivants : la juste valeur marchande de ces actions immédiatement après la disposition et la fraction de l'excédent éventuel du produit de disposition sur la juste valeur marchande de la contrepartie (autre que des actions du capital-actions de la société ou le droit d'en recevoir) qu'il a reçue pour la disposition représentée par le rapport entre :

(i) d'une part, la juste valeur marchande, immédiatement après la disposition, de ces actions privilégiées de cette catégorie,

(ii) d'autre part, la juste valeur marchande, immédiatement après la disposition, de toutes les actions privilégiées du capital-actions de la société que le

the proceeds of the disposition exceed the fair market value of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the taxpayer for the disposition, that

(i) the fair market value, immediately after the disposition, of those preferred shares of that class,

is of

(ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation receivable by the taxpayer as consideration for the disposition;

(h) the cost to the taxpayer of any common shares of any class of the capital stock of the corporation receivable by the taxpayer as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the proceeds of the disposition exceed the total of the fair market value, at the time of the disposition, of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the taxpayer for the disposition and the cost to the taxpayer of all preferred shares of the capital stock of the corporation receivable by the taxpayer as consideration for the disposition, that

(i) the fair market value, immediately after the disposition, of those common shares of that class,

is of

(ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation receivable by the taxpayer as consideration for the disposition; and

(i) where the property so disposed of is taxable Canadian property of the taxpayer, all of the shares of the capital stock of the Canadian corporation received by the taxpayer as consideration for the property are deemed to be, at any time that is within 60 months after the disposition, taxable Canadian property of the taxpayer.

contribuable doit recevoir en contrepartie de la disposition;

h) le coût supporté par le contribuable de toutes catégories d'actions ordinaires du capital-actions de la société qu'il doit recevoir en contrepartie de la disposition est réputé être la fraction de l'excédent éventuel du produit de disposition sur le total de la juste valeur marchande, au moment de la disposition, de la contrepartie (autre que des actions du capital-actions de la société ou le droit d'en recevoir) qu'il a reçue pour la disposition et du coût que le contribuable a supporté pour toutes les actions privilégiées du capital-actions de la société qu'il doit recevoir en contrepartie de la disposition, représentée par le rapport entre :

(i) d'une part, la juste valeur marchande, immédiatement après la disposition, de ces actions ordinaires de cette catégorie,

(ii) d'autre part, la juste valeur marchande, immédiatement après la disposition, de toutes les actions ordinaires du capital-actions de la société qu'il doit recevoir en contrepartie de la disposition;

i) lorsque le bien dont il a été ainsi disposé est un bien canadien imposable du contribuable, la totalité des actions du capital-actions de la société canadienne qu'il a reçues en contrepartie du bien sont réputées être, à tout moment de la période de 60 mois suivant la disposition, des biens canadiens imposables lui appartenant.

Definition of *eligible property*

(1.1) For the purposes of subsection 85(1), ***eligible property*** means

(a) a capital property (other than real or immovable property, an option in respect of such property, or an interest in real property or a real right in an immovable, owned by a non-resident person);

Définition de *bien admissible*

(1.1) Pour l'application du paragraphe (1), ***bien admissible*** s'entend :

a) d'une immobilisation (à l'exception d'un bien immeuble ou réel, d'une option s'y rapportant, ou d'un droit réel sur un immeuble ou d'un intérêt sur un bien

(b) a capital property that is real or immovable property, an option in respect of such property, or an interest in real property or a real right in an immovable, owned by a non-resident insurer if that property and the property received as consideration for that property are designated insurance property for the year;

(c) a Canadian resource property;

(d) a foreign resource property;

(e) [Repealed, 2016, c. 12, s. 26]

(f) an inventory (other than real or immovable property, an option in respect of such property, or an interest in real property or a real right in an immovable);

(g) a property that is a security or debt obligation used by the taxpayer in the year in, or held by it in the year in the course of, carrying on the business of insurance or lending money, other than

(i) a capital property,

(ii) inventory, or

(iii) where the taxpayer is a financial institution in the year, a mark-to-market property for the year;

(g.1) where the taxpayer is a financial institution in the year, a specified debt obligation (other than a mark-to-market property of the taxpayer for the year);

(h) a capital property that is real or immovable property, an option in respect of such property, or an interest in real property or a real right in an immovable, owned by a non-resident person (other than a non-resident insurer) and used in the year in a business carried on in Canada by that person; or

(i) a NISA Fund No. 2, if that property is owned by an individual.

réel, dont une personne non-résidente est propriétaire);

b) d'une immobilisation qui est un bien immeuble ou réel, une option s'y rapportant, ou un droit réel sur un immeuble ou un intérêt sur un bien réel, appartenant à un assureur non-résident, dans le cas où ce bien et celui reçu en contrepartie de ce bien constituent des biens d'assurance désignés pour l'année;

c) d'un avoir minier canadien;

d) d'un avoir minier étranger;

e) [Abrogé, 2016, ch. 12, art. 26]

f) d'un bien à porter à l'inventaire, à l'exception d'un bien immeuble ou réel, d'une option s'y rapportant, ou d'un droit réel sur un immeuble ou d'un intérêt sur un bien réel;

g) d'un bien — valeur ou titre de créance — qui est utilisé ou détenu par le contribuable pendant l'année dans le cadre de l'exploitation d'une entreprise d'assurance ou de prêt d'argent, à l'exception d'une immobilisation, d'un bien à porter à l'inventaire et, dans le cas où le contribuable est une institution financière au cours de l'année, d'un bien évalué à la valeur du marché pour l'année;

g.1) dans le cas où le contribuable est une institution financière au cours de l'année, d'un titre de créance déterminé, à l'exception d'un bien évalué à la valeur du marché du contribuable pour l'année;

h) d'une immobilisation qui est un bien immeuble ou réel, une option s'y rapportant, ou un droit réel sur un immeuble ou un intérêt sur un bien réel, dont une personne non-résidente, autre qu'un assureur non-résident, est propriétaire et qui est utilisé au cours de l'année dans le cadre d'une entreprise exploitée par cette personne au Canada;

i) d'un second fonds du compte de stabilisation du revenu net, si ce bien appartient à un particulier.

Exception

(1.11) Notwithstanding subsection (1.1), a foreign resource property, or an interest in a partnership that derives all or part of its value from one or more foreign resource properties, is not an eligible property of a taxpayer in respect of a disposition by the taxpayer to a corporation where

(a) the taxpayer and the corporation do not deal with each other at arm's length; and

Exception

(1.11) Malgré le paragraphe (1.1), un avoir minier étranger, ou la participation dans une société de personnes dont tout ou partie de la valeur provient d'un ou de plusieurs avoirs miniers étrangers, n'est pas un bien admissible d'un contribuable relativement à une disposition qu'il effectue à une société si, à la fois :

a) le contribuable et la société ont entre eux un lien de dépendance;

(b) it is reasonable to conclude that one of the purposes of the disposition, or a series of transactions or events of which the disposition is a part, is to increase the extent to which any person may claim a deduction under section 126.

Application of subsection (1)

(1.2) Subsection 85(1) does not apply to a disposition by a taxpayer to a corporation of a property referred to in paragraph 85(1.1)(h) unless

(a) immediately after the disposition, the corporation is controlled by the taxpayer, a person or persons related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the taxpayer or the taxpayer and a person or persons so related to the taxpayer;

(b) the disposition is part of a transaction or series of transactions in which all or substantially all of the property used in the business referred to in paragraph 85(1.1)(h) is disposed of by the taxpayer to the corporation; and

(c) the disposition is not part of a series of transactions that result in control of the corporation being acquired by a person or group of persons after the time that is immediately after the disposition.

Meaning of *wholly owned corporation*

(1.3) For the purposes of this subsection and paragraph 85(1)(e.2), ***wholly owned corporation*** of a taxpayer means a corporation all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to

(a) the taxpayer;

(b) a corporation that is a wholly owned corporation of the taxpayer; or

(c) any combination of persons described in paragraph 85(1.3)(a) or 85(1.3)(b).

Definitions

(1.4) For the purpose of subsection 85(1.1), ***financial institution***, ***mark-to-market property*** and ***specified debt obligation*** have the meanings assigned by subsection 142.2(1).

Transfer of property to corporation from partnership

(2) Where

b) il est raisonnable de conclure que l'un des objets de la disposition, ou d'une série d'opérations ou d'événements dont elle fait partie, consiste à accroître la mesure dans laquelle une personne peut demander la déduction prévue à l'article 126.

Application du paragraphe (1)

(1.2) Le paragraphe (1) ne s'applique à la disposition, par un contribuable en faveur d'une société, d'un bien visé à l'alinéa (1.1)h) que si les conditions suivantes sont réunies :

a) immédiatement après la disposition, la société est contrôlée par le contribuable, par une ou plusieurs personnes qui lui sont liées, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), ou par le contribuable et une ou plusieurs personnes qui lui sont ainsi liées;

b) la disposition fait partie d'une opération ou d'une série d'opérations dans le cadre desquelles le contribuable a disposé en faveur de la société de la totalité, ou presque, des biens utilisés dans l'entreprise visée à l'alinéa (1.1)h);

c) la disposition ne fait pas partie d'une série d'opérations par suite desquelles le contrôle de la société a été acquis par une personne ou par un groupe de personnes après le moment qui suit immédiatement la disposition.

Sens de *filiale à cent pour cent*

(1.3) Pour l'application du présent paragraphe et de l'alinéa (1)e.2), ***filiale à cent pour cent***, relativement à un contribuable, s'entend d'une société dont toutes les actions émises et en circulation du capital-actions, sauf les actions conférant l'admissibilité aux postes d'administrateurs, sont la propriété de l'une des personnes suivantes :

a) le contribuable;

b) une société qui est une filiale à cent pour cent du contribuable;

c) l'une et l'autre des personnes visées aux alinéas a) et b).

Définitions

(1.4) Pour l'application du paragraphe (1.1), ***bien évalué à la valeur du marché***, ***institution financière*** et ***titre de créance déterminé*** s'entendent au sens du paragraphe 142.2(1).

Transfert d'un bien d'une société de personnes à une société

(2) Dans le cas où:

(a) a partnership has disposed, to a taxable Canadian corporation for consideration that includes shares of the corporation's capital stock, of any partnership property that was

(i) a capital property (other than real or immovable property, an option in respect of such property, or an interest in real property or a real right in an immovable, if the partnership was not a Canadian partnership at the time of the disposition),

(ii) a property described in any of paragraphs 85(1.1)(c) to 85(1.1)(f), or

(iii) a property that would be described in paragraph 85(1.1)(g) or 85(1.1)(g.1) if the references in those paragraphs to "taxpayer" were read as "partnership", and

(b) the corporation and all the members of the partnership have jointly so elected, in prescribed form and within the time referred to in subsection 85(6),

paragraphs 85(1)(a) to 85(1)(i) are applicable, with such modifications as the circumstances require, in respect of the disposition as if the partnership were a taxpayer resident in Canada who had disposed of the property to the corporation.

a) d'une part, une société de personnes a disposé, en faveur d'une société canadienne imposable et pour une contrepartie qui comprend des actions du capital-actions de celle-ci, d'un de ses biens, à savoir :

(i) une immobilisation (sauf un bien immeuble ou réel, une option s'y rapportant, ou un droit réel sur un immeuble ou un intérêt sur un bien réel, si la société de personnes n'était pas une société de personnes canadienne au moment de la disposition),

(ii) un bien visé à l'un des alinéas (1.1)c) à f),

(iii) un bien qui serait visé aux alinéas (1.1)g) ou g.1) si les mentions de « contribuable », à ces alinéas, étaient remplacées par « société de personnes », avec les adaptations nécessaires;

b) d'autre part, la société et tous les associés de la société de personnes ont conjointement choisi ainsi relativement à la disposition, selon le formulaire prescrit et dans le délai mentionné au paragraphe (6),

les alinéas (1)a) à i) s'appliquent, avec les adaptations nécessaires, à la disposition, comme si la société de personnes était un contribuable résidant au Canada qui aurait disposé du bien en faveur de la société.

Computing paid-up capital

(2.1) Where subsection 85(1) or 85(2) applies to a disposition of property (other than a disposition of property to which section 84.1 or 212.1 applies) to a corporation by a person or partnership (in this subsection referred to as the "taxpayer"),

(a) in computing the paid-up capital in respect of any particular class of shares of the capital stock of the corporation at the time of, and at any time after, the issue of shares of the capital stock of the corporation in consideration for the disposition of the property, there shall be deducted an amount determined by the formula

(A - B) × C/A

where

A is the increase, if any, determined without reference to this section as it applies to the disposition of the property, in the paid-up capital in respect of all the shares of the capital stock of the corporation as a result of the acquisition by the corporation of the property,

B is the amount, if any, by which the corporation's cost of the property, immediately after the acquisition, determined under subsection 85(1) or 85(2), as the case may be, exceeds the fair market

Calcul du capital versé

(2.1) Les règles suivantes s'appliquent lorsque les paragraphes (1) ou (2) s'appliquent à la disposition d'un bien qu'un contribuable — personne ou société de personnes — effectue en faveur d'une société (à l'exception d'une disposition de bien à laquelle les articles 84.1 ou 212.1 s'appliquent):

a) le résultat du calcul suivant est déduit dans le calcul du capital versé, au moment de l'émission d'actions du capital-actions de la société en contrepartie de la disposition du bien, et après ce moment, au titre d'une catégorie donnée d'actions du capital-actions de la société :

(A - B) × C/A

où :

A représente l'augmentation — conséquence de l'acquisition du bien par la société — du capital versé au titre de toutes les actions du capital-actions de la société, calculée sans que le présent article soit appliqué à la disposition du bien

B l'excédent éventuel du coût du bien pour la société immédiatement après l'acquisition calculé en vertu du paragraphe (1) ou (2), selon le cas, sur la juste valeur marchande, immédiatement après l'acquisition, de toute contrepartie (à l'exclusion

value, immediately after the acquisition, of any consideration (other than shares of the capital stock of the corporation) received by the taxpayer from the corporation for the property, and

C is the increase, if any, determined without reference to this section as it applies to the disposition of the property, in the paid-up capital in respect of the particular class of shares as a result of the acquisition by the corporation of the property; and

(b) in computing the paid-up capital, at any time after November 21, 1985, in respect of any class of shares of the capital stock of a corporation, there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid after November 21, 1985 and before that time by the corporation

exceeds

(B) the total of such dividends that would be determined under clause 85(2.1)(b)(i)(A) if this Act were read without reference to paragraph 85(2.1)(a), and

(ii) the total of all amounts required by paragraph 85(2.1)(a) to be deducted in computing the paid-up capital in respect of that class of shares after November 21, 1985 and before that time.

des actions du capital-actions de la société) que le contribuable a reçue de la société pour le bien,

C l'augmentation — conséquence de l'acquisition du bien par la société — du capital versé au titre de la catégorie donnée d'actions, calculée sans que le présent article soit appliqué à la disposition du bien;

b) le moindre des montants suivants est ajouté dans le calcul du capital versé, à un moment donné postérieur au 21 novembre 1985, au titre d'une catégorie d'actions du capital-actions d'une société :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant réputé en vertu du paragraphe 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie que la société a versé après le 21 novembre 1985 et avant le moment donné,

(B) le total de ces dividendes qui serait déterminé en vertu de la division (A), compte non tenu de l'alinéa a),

(ii) le total des montants à déduire selon l'alinéa a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 21 novembre 1985 et avant le moment donné.

Where partnership wound up

(3) Where,

(a) in respect of any disposition of partnership property of a partnership to a corporation, subsection 85(2) applies,

(b) the affairs of the partnership were wound up within 60 days after the disposition, and

(c) immediately before the winding-up there was no partnership property other than money or property received from the corporation as consideration for the disposition,

the following rules apply:

(d) the cost to any member of the partnership of any property (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the member as consideration for the disposition of the member's partnership interest on the

Liquidation des sociétés de personnes

(3) Lorsque les conditions suivantes sont réunies :

a) le paragraphe (2) s'applique à une disposition de biens d'une société de personnes en faveur d'une société;

b) les affaires de la société de personnes ont été mises en liquidation dans les 60 jours suivant la disposition;

c) la société de personnes avait pour seuls biens, immédiatement avant la liquidation, l'argent ou les biens reçus de la société en contrepartie de la disposition,

les règles suivantes s'appliquent :

d) le coût de tout bien pour tout associé de la société de personnes (autre que des actions du capital-actions de la société ou le droit d'en recevoir) qu'il a reçu en contrepartie de la disposition de sa participation dans la société de personnes lors de la liquidation est réputé

winding-up shall be deemed to be the fair market value of the property at the time of the winding-up,

(e) the cost to any member of the partnership of any preferred shares of any class of the capital stock of the corporation receivable by the member as consideration for the disposition of the member's partnership interest on the winding-up shall be deemed to be

(i) where any common shares of the capital stock of the corporation were also receivable by the member as consideration for the disposition of the interest, the lesser of

(A) the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by the member, and

(B) that proportion of the amount, if any, by which the adjusted cost base to the member of the member's partnership interest immediately before the winding-up exceeds the total of the fair market value, at the time of the winding-up, of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the member for the disposition of the interest, that

(I) the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by the member,

is of

(II) the fair market value, immediately after the winding-up, of all preferred shares of the capital stock of the corporation receivable by the member as consideration for the disposition, and

(ii) in any other case, the amount determined under clause 85(3)(e)(i)(B),

(f) the cost to any member of the partnership of any common shares of any class of the capital stock of the corporation receivable by the member as consideration for the disposition of the member's partnership interest on the winding-up shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to the member of the member's partnership interest immediately before the winding-up exceeds the total of the fair market value, at the time of the winding-up, of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by the member for the disposition of the interest and the cost to the member of all preferred shares of the capital stock of

être la juste valeur marchande du bien au moment de la liquidation;

e) le coût, pour tout associé de la société de personnes, de toutes catégories d'actions privilégiées du capital-actions de la société qu'il doit recevoir en contrepartie de la disposition de sa participation dans la société de personnes lors de la liquidation, est réputé être :

(i) lorsqu'il devait également recevoir des actions ordinaires du capital-actions de la société en contrepartie de la disposition de sa participation, le moins élevé des montants suivants :

(A) la juste valeur marchande, immédiatement après la liquidation, des actions privilégiées de cette catégorie qu'il devait ainsi recevoir,

(B) la fraction de l'excédent éventuel du prix de base rajusté de sa participation dans la société de personnes, immédiatement avant la liquidation, sur le total de la juste valeur marchande, au moment de la liquidation, de la contrepartie (autre que des actions du capital-actions de la société ou le droit d'en recevoir) reçue par lui pour la disposition de sa participation représentée par le rapport entre :

(I) d'une part, la juste valeur marchande, immédiatement après la liquidation, des actions privilégiées de cette catégorie, qu'il devait ainsi recevoir,

(II) d'autre part, la juste valeur marchande, immédiatement après la liquidation, de toutes actions privilégiées du capital-actions de la société qu'il devait recevoir en contrepartie de la disposition,

(ii) dans tout autre cas, le montant déterminé conformément à la division (i)(B);

f) le coût supporté par tout associé de la société de personnes pour toutes actions ordinaires, de toute catégorie, du capital-actions de la société qu'il doit recevoir en contrepartie de la disposition de sa participation dans la société de personnes, lors de la liquidation, est réputé être la fraction de l'excédent éventuel du prix de base rajusté de sa participation dans la société de personnes, immédiatement avant la liquidation, sur le total de la juste valeur marchande, au moment de la liquidation, de la contrepartie (autre que des actions du capital-actions de la société ou le droit d'en recevoir) qu'il a reçue pour la disposition de sa participation, et du coût, pour lui, de toutes les actions privilégiées du capital-actions de la société qu'il

the corporation receivable by the member as consideration for the disposition of the interest, that

(i) the fair market value, immediately after the winding-up, of the common shares of that class so receivable by the member,

is of

(ii) the fair market value, immediately after the winding-up, of all common shares of the capital stock of the corporation so receivable by the member as consideration for the disposition,

(g) the proceeds of disposition of the partnership interest of any member of the partnership shall be deemed to be the cost to the member of all shares and property receivable or received by the member as consideration for the disposition of the interest plus the amount of any money received by the member as consideration for the disposition, and

(h) where the partnership has distributed partnership property referred to in paragraph 85(3)(c) to a member of the partnership, the partnership shall be deemed to have disposed of that property for proceeds equal to the cost amount to the partnership of the property immediately before its distribution.

doit recevoir en contrepartie de la disposition de sa participation, représentée par le rapport entre :

(i) d'une part, la juste valeur marchande, immédiatement après la liquidation, des actions ordinaires de cette catégorie qu'il doit ainsi recevoir,

(ii) d'autre part, la juste valeur marchande, immédiatement après la liquidation, de toutes les actions ordinaires du capital-actions de la société qu'il doit ainsi recevoir en contrepartie de la disposition;

g) le produit de disposition de la participation dans la société de personnes de tout associé de cette société de personnes est réputé être le coût, pour lui, de toutes les actions et des biens qu'il doit recevoir ou qu'il a reçus en contrepartie de la disposition de sa participation plus le montant de toute somme d'argent qu'il a reçue en contrepartie de la disposition;

h) lorsque la société de personnes a attribué des biens de la société de personnes visés à l'alinéa c) à l'un de ses associés, elle est réputée avoir disposé de ces biens et en avoir tiré un produit égal au coût indiqué de ces biens supporté par elle immédiatement avant leur attribution.

(4) [Repealed, 1998, c. 19, s. 116]

(4) [Abrogé, 1998, ch. 19, art. 116]

Rules on transfers of depreciable property

(5) Where subsection 85(1) or 85(2) has applied to a disposition at any time of depreciable property to a person (in this subsection referred to as the "transferee") and the capital cost to the transferor of the property exceeds the transferor's proceeds of disposition of the property, for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(a) the capital cost to the transferee of the property is deemed to be the amount that was its capital cost to the transferor; and

(b) the excess is deemed to have been deducted by the transferee under paragraph 20(1)(a) in respect of the property in computing income for taxation years that ended before that time.

Règles sur les transferts de biens amortissables

(5) Lorsque les paragraphes (1) ou (2) s'appliquent à la disposition d'un bien amortissable en faveur d'une personne (appelée « cessionnaire » au présent paragraphe) et que le coût en capital du bien pour le cédant excède son produit de disposition pour celui-ci, les présomptions suivantes s'appliquent dans le cadre des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a):

a) le coût en capital du bien pour le cessionnaire est réputé égal à son coût en capital pour le cédant;

b) l'excédent est réputé avoir été déduit par le cessionnaire en application de l'alinéa 20(1)a) relativement au bien dans le calcul du revenu pour les années d'imposition terminées avant la disposition.

Acquisition of certain tools — capital cost and deemed depreciation

(5.1) If subsection (1) has applied in respect of the acquisition at any particular time of any depreciable property by a corporation from an individual, the cost of the property to the individual was included in computing an amount under paragraph 8(1)(r) or (s) in respect of the

Acquisition de certains outils — coût en capital et amortissement réputé

(5.1) Lorsque le paragraphe (1) s'est appliqué relativement à l'acquisition, à un moment donné, d'un bien amortissable par une société d'un particulier, que le coût du bien pour le particulier a été inclus dans le calcul de la somme prévue aux alinéas 8(1)r) ou s) relativement au

individual, and the amount that would be the cost of the property to the individual immediately before the transfer if this Act were read without reference to subsection 8(7) (which amount is in this subsection referred to as the "individual's original cost") exceeds the individual's proceeds of disposition of the property,

(a) the capital cost to the corporation of the property is deemed to be equal to the individual's original cost; and

(b) the amount by which the individual's original cost exceeds the individual's proceeds of disposition in respect of the property is deemed to have been deducted by the corporation under paragraph 20(1)(a) in respect of the property in computing income for taxation years that ended before that particular time.

particulier et que le montant (appelé « coût initial » au présent paragraphe) qui représenterait le coût du bien pour le particulier immédiatement avant le transfert si la présente loi s'appliquait compte non tenu du paragraphe 8(7) excède le produit de disposition du bien pour le particulier, les règles suivantes s'appliquent :

a) le coût en capital du bien pour la société est réputé être égal au coût initial;

b) l'excédent du coût initial sur le produit de disposition du bien pour le particulier est réputé avoir été déduit par la société en application de l'alinéa 20(1)a) relativement au bien dans le calcul du revenu pour les années d'imposition s'étant terminées avant le moment donné.

Time for election

(6) Any election under subsection 85(1) or 85(2) shall be made on or before the day that is the earliest of the days on or before which any taxpayer making the election is required to file a return of income pursuant to section 150 for the taxation year in which the transaction to which the election relates occurred.

Date du choix

(6) Tout choix visé au paragraphe (1) ou (2) doit être fait au plus tard à la date qui survient la première parmi les dates auxquelles un contribuable faisant le choix doit, au plus tard, produire une déclaration de revenu, en application de l'article 150, pour l'année d'imposition pendant laquelle a eu lieu l'opération à laquelle se rapporte le choix.

Late filed election

(7) Where the election referred to in subsection 85(6) was not made on or before the day on or before which the election was required by that subsection to be made and that day is after May 6, 1974, the election shall be deemed to have been made on that day if, on or before the day that is 3 years after that day,

(a) the election is made in prescribed form; and

(b) an estimate of the penalty in respect of that election is paid by the taxpayer or the partnership, as the case may be, when that election is made.

Choix tardif

(7) Lorsque le choix visé au paragraphe (6) n'a pas été fait au plus tard à la date à laquelle ou avant laquelle il devait être fait aux termes de ce paragraphe et que cette date est postérieure au 6 mai 1974, le choix est réputé avoir été fait à cette date, si, au plus tard 3 ans suivant cette date :

a) d'une part, le choix est fait selon le formulaire prescrit;

b) d'autre part, le contribuable ou la société de personnes, selon le cas, paye le montant estimatif de la pénalité relative au choix au moment où celui-ci est fait.

Special cases

(7.1) Where, in the opinion of the Minister, the circumstances of a case are such that it would be just and equitable

(a) to permit an election under subsection 85(1) or 85(2) to be made after the day that is 3 years after the day on or before which the election was required by subsection 85(6) to be made, or

(b) to permit an election made under subsection 85(1) or 85(2) to be amended,

Cas spéciaux

(7.1) Lorsque le ministre est d'avis que les circonstances d'un cas sont telles qu'il serait juste et équitable :

a) soit de permettre qu'un choix visé au paragraphe (1) ou (2) soit fait après la fin du délai de 3 ans qui suit la date à laquelle il devait être fait au plus tard en vertu du paragraphe (6);

b) soit de permettre qu'un choix fait en vertu du paragraphe (1) ou (2) soit modifié,

the election or amended election shall be deemed to have been made on the day on or before which the election was so required to be made if

(c) the election or amended election is made in prescribed form, and

(d) an estimate of the penalty in respect of the election or amended election is paid by the taxpayer or partnership, as the case may be, when the election or amended election is made,

and where this subsection applies to the amendment of an election, that election shall be deemed not to have been effective.

le choix ou choix modifié est réputé avoir été fait au plus tard à la date à laquelle le choix devait être ainsi fait, si les conditions suivantes sont réunies :

c) le choix ou choix modifié est fait selon le formulaire prescrit;

d) le contribuable ou la société de personnes, selon le cas, paie le montant estimatif de la pénalité relative au choix ou choix modifié, au moment où celui-ci est fait.

Lorsque le présent paragraphe s'applique à la modification d'un choix, celui-ci est réputé n'avoir jamais été en vigueur.

Penalty for late filed election

(8) For the purposes of this section, the penalty in respect of an election or an amended election referred to in paragraph 85(7)(a) or 85(7.1)(c) is an amount equal to the lesser of

(a) 1/4 of 1% of the amount, if any, by which

(i) the fair market value of the property in respect of which that election or amended election was made, at the time the property was disposed of,

exceeds

(ii) the amount agreed on in the election or amended election by the taxpayer or partnership, as the case may be, and the corporation,

for each month or part of a month during the period commencing with the day on or before which the election is required by subsection 85(6) to be made and ending on the day the election or amended election is made, and

(b) an amount, not exceeding $8,000, equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period referred to in paragraph 85(8)(a).

Pénalités pour choix tardifs

(8) Pour l'application du présent article, la pénalité relative à un choix ou choix modifié visé à l'alinéa (7)a) ou (7.1)c) est égale au moins élevé des montants suivants :

a) 1/4 de 1 % de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) la juste valeur marchande, au moment de la disposition, du bien à l'égard duquel le choix ou choix modifié a été fait,

(ii) le montant dont sont convenus dans le choix ou choix modifié le contribuable ou la société de personnes, selon le cas, et la société,

pour chaque mois ou partie de mois de la période commençant à la date à laquelle le choix doit être fait, au plus tard, aux termes du paragraphe (6), et se terminant à la date à laquelle le choix ou choix modifié est fait;

b) le produit, ne dépassant pas 8 000 $, de la multiplication de 100 $ par le nombre de mois tombant, en tout ou en partie, dans la période visée à l'alinéa a).

Unpaid balance of penalty

(9) The Minister shall, with all due dispatch, examine each election and amended election referred to in paragraph 85(7)(a) or 85(7.1)(c), assess the penalty payable and send a notice of assessment to the taxpayer or partnership, as the case may be, and the taxpayer or partnership, as the case may be, shall pay forthwith to the Receiver General the amount, if any, by which the penalty

Solde impayé de la pénalité

(9) Le ministre, avec diligence, examine chaque choix ou choix modifié visé à l'alinéa (7)a) ou (7.1)c), calcule le montant de la pénalité payable et envoie un avis de cotisation au contribuable ou à la société de personnes, selon le cas; et le contribuable ou la société de personnes, selon le cas, doit, sans délai, payer au receveur général l'excédent éventuel du montant estimatif de la pénalité sur

so assessed exceeds the total of all amounts previously paid on account of that penalty.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 85; 1994, c. 7, Sch. II, s. 64, Sch. VIII, s. 35, c. 21, s. 36; 1995, c. 3, s. 22, c. 21, ss. 28, 53; 1997, c. 25, s. 17; 1998, c. 19, s. 116; 2001, c. 17, s. 62; 2002, c. 9, s. 29; 2007, c. 2, s. 13, c. 35, s. 22; 2010, c. 12, s. 6; 2013, c. 34, ss. 120, 220; 2016, c. 12, s. 26.

l'ensemble des montants antérieurement payés au titre de cette pénalité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 85; 1994, ch. 7, ann. II, art. 64, ann. VIII, art. 35, ch. 21, art. 36; 1995, ch. 3, art. 22, ch. 21, art. 28 et 53; 1997, ch. 25, art. 17; 1998, ch. 19, art. 116; 2001, ch. 17, art. 62; 2002, ch. 9, art. 29; 2007, ch. 2, art. 13, ch. 35, art. 22; 2010, ch. 12, art. 6; 2013, ch. 34, art. 120 et 220; 2016, ch. 12, art. 26.

Share for share exchange

85.1 (1) Where shares of any particular class of the capital stock of a Canadian corporation (in this section referred to as the "purchaser") are issued to a taxpayer (in this section referred to as the "vendor") by the purchaser in exchange for a capital property of the vendor that is shares of any particular class of the capital stock (in this section referred to as the "exchanged shares") of another corporation that is a taxable Canadian corporation (in this section referred to as the "acquired corporation"), subject to subsection 85.1(2),

(a) except where the vendor has, in the vendor's return of income for the taxation year in which the exchange occurred, included in computing the vendor's income for that year any portion of the gain or loss, otherwise determined, from the disposition of the exchanged shares, the vendor shall be deemed

(i) to have disposed of the exchanged shares for proceeds of disposition equal to the adjusted cost base to the vendor of those shares immediately before the exchange, and

(ii) to have acquired the shares of the purchaser at a cost to the vendor equal to the adjusted cost base to the vendor of the exchanged shares immediately before the exchange,

and where the exchanged shares were taxable Canadian property of the vendor, the shares of the purchaser so acquired by the vendor are deemed to be, at any time that is within 60 months after the exchange, taxable Canadian property of the vendor; and

(b) the cost to the purchaser of each exchanged share, at any time up to and including the time the purchaser disposed of the share, shall be deemed to be the lesser of

(i) its fair market value immediately before the exchange, and

(ii) its paid-up capital immediately before the exchange.

Where s. (1) does not apply

(2) Subsection 85.1(1) does not apply where

Échange d'actions

85.1 (1) Les règles suivantes s'appliquent, sous réserve du paragraphe (2), dans le cas où une société canadienne (appelée « acheteur » au présent article) émet des actions d'une catégorie de son capital-actions en faveur d'un contribuable (appelé « vendeur » au présent article), en échange d'immobilisations du vendeur qui sont des actions d'une catégorie du capital-actions (appelées « actions échangées » au présent article) d'une autre société qui est une société canadienne imposable (appelée « société acquise » au présent article):

a) sauf lorsque le vendeur a, dans sa déclaration d'impôt pour l'année d'imposition au cours de laquelle a eu lieu l'échange, inclus dans le calcul de son revenu pour cette année, toute partie du gain ou de la perte, par ailleurs déterminée, provenant de la disposition des actions échangées, le vendeur est réputé :

(i) avoir tiré un produit de disposition des actions échangées égal au prix de base rajusté de celles-ci, pour lui, immédiatement avant l'échange,

(ii) avoir acquis les actions de l'acheteur à un coût, pour lui, égal au prix de base rajusté des actions échangées, pour lui, immédiatement avant l'échange;

en outre, lorsque les actions échangées étaient des biens canadiens imposables du vendeur, les actions de l'acheteur qu'il a ainsi acquises sont réputées l'être également à tout moment de la période de 60 mois suivant l'échange;

b) le coût pour l'acheteur de chaque action échangée à un moment donné qui n'est pas postérieur au moment où il a disposé de l'action est réputé être le moins élevé des montants suivants :

(i) la juste valeur marchande de l'action immédiatement avant l'échange,

(ii) le capital versé au titre de l'action immédiatement avant l'échange.

Non-application du par. (1)

(2) Le paragraphe (1) ne s'applique pas dans l'un ou l'autre des cas suivants :

(a) the vendor and purchaser were, immediately before the exchange, not dealing with each other at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b) that is a right of the purchaser to acquire the exchanged shares);

(b) the vendor or persons with whom the vendor did not deal at arm's length, or the vendor together with persons with whom the vendor did not deal at arm's length,

(i) controlled the purchaser, or

(ii) beneficially owned shares of the capital stock of the purchaser having a fair market value of more than 50% of the fair market value of all of the outstanding shares of the capital stock of the purchaser,

immediately after the exchange;

(c) the vendor and the purchaser have filed an election under subsection 85(1) or 85(2) with respect to the exchanged shares;

(d) consideration other than shares of the particular class of the capital stock of the purchaser was received by the vendor for the exchanged shares, notwithstanding that the vendor may have disposed of shares of the capital stock of the acquired corporation (other than the exchanged shares) to the purchaser for consideration other than shares of one class of the capital stock of the purchaser; or

(e) the vendor

(i) is a foreign affiliate of a taxpayer resident in Canada at the end of the taxation year of the vendor in which the exchange occurred, and

(ii) has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged shares in computing its foreign accrual property income for the taxation year of the vendor in which the exchange occurred.

a) le vendeur et l'acheteur avaient un lien de dépendance immédiatement avant l'échange (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b) qui permet à l'acheteur d'acquérir les actions échangées);

b) le vendeur, les personnes avec qui il a un lien de dépendance ou le vendeur et les personnes avec qui il a un lien de dépendance :

(i) soit contrôlaient l'acheteur,

(ii) soit avaient la propriété effective d'actions du capital-actions de l'acheteur dont la juste valeur marchande est égale à plus de 50 % de la juste valeur marchande de toutes les actions en circulation du capital-actions de l'acheteur,

immédiatement après l'échange;

c) le vendeur et l'acheteur ont présenté un choix en vertu du paragraphe 85(1) ou (2) à l'égard des actions échangées;

d) la contrepartie, à l'exception d'actions de la catégorie donnée du capital-actions de l'acheteur, a été reçue par le vendeur en compensation des actions échangées, malgré le fait que le vendeur ait pu disposer d'actions du capital-actions de la société acquise (à l'exception des actions échangées) en faveur de l'acheteur moyennant une contrepartie autre que des actions d'une catégorie du capital-actions de l'acheteur;

e) le vendeur, à la fois :

(i) est la société étrangère affiliée d'un contribuable résidant au Canada à la fin de l'année d'imposition du vendeur au cours de laquelle l'échange a été effectué,

(ii) a inclus, dans le calcul de son revenu étranger accumulé, tiré de biens pour son année d'imposition au cours de laquelle l'échange a été effectué, une partie du gain ou de la perte, déterminé par ailleurs, provenant de la disposition des actions échangées.

Computation of paid-up capital

(2.1) Where, at any time, a purchaser has issued shares of its capital stock as a result of an exchange to which subsection 85.1(1) applied, in computing the paid-up capital in respect of any particular class of shares of its capital stock at any particular time after that time

(a) there shall be deducted that proportion of the amount, if any, by which

Capital versé suite à l'échange

(2.1) L'acheteur qui a émis des actions de son capital-actions à cause d'un échange auquel le paragraphe (1) s'applique doit, dans le calcul du capital versé au titre d'une catégorie d'actions donnée de son capital-actions à un moment postérieur à l'émission :

a) déduire le produit de la multiplication de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) the increase, if any, as a result of the issue, in the paid-up capital in respect of all the shares of the capital stock of the purchaser, computed without reference to this subsection as it applies to the issue,

exceeds

(ii) the paid-up capital in respect of all the exchanged shares received as a result of the exchange

that

(iii) the increase, if any, as a result of the issue, in the paid-up capital in respect of the particular class of shares, computed without reference to this subsection as it applies to the issue,

is of

(iv) the amount, if any, determined in subparagraph 85.1(2.1)(a)(i) in respect of the issue; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid by the purchaser before the particular time

exceeds

(B) the total that would be determined under clause 85.1(2.1)(b)(i)(A) if this Act were read without reference to paragraph 85.1(2.1)(a), and

(ii) the total of all amounts required by paragraph 85.1(2.1)(a) to be deducted in respect of that particular class of shares before the particular time.

(i) le montant correspondant à l'augmentation — conséquence de l'émission — du capital versé au titre de toutes les actions du capital-actions de l'acheteur, calculé compte non tenu du présent paragraphe dans la mesure où il s'applique à l'émission,

(ii) le capital versé au titre des actions échangées reçues à cause de l'échange,

par le rapport entre :

(iii) d'une part, le montant correspondant à l'augmentation — conséquence de l'émission — du capital versé au titre de la catégorie donnée, calculé compte non tenu du présent paragraphe dans la mesure où il s'applique à l'émission,

(iv) d'autre part, le montant visé au sous-alinéa (i);

b) ajouter le moins élevé des montants suivants :

(i) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le total des montants dont chacun représente un montant qui est réputé par le paragraphe 84(3), (4) ou (4.1) être un dividende que l'acheteur a versé sur des actions de la catégorie donnée avant ce moment postérieur,

(B) le total qui serait déterminé en vertu de la division (A) compte non tenu de l'alinéa a),

(ii) le total des montants à déduire en vertu de l'alinéa a) au titre de la catégorie donnée avant ce moment postérieur.

Issuance deemed made to vendor

(2.2) For the purposes of subsection (1), if a purchaser issues shares of a class of its capital stock (in this subsection referred to as "purchaser shares") to a trust under a court-approved plan or scheme of arrangement in consideration for which a vendor disposes of exchanged shares that trade on a designated stock exchange to the purchaser solely for purchaser shares that are widely traded on a designated stock exchange immediately after and as part of completion of the plan or scheme of arrangement, the issuance to the trust is deemed to be an issuance to the vendor.

Émission réputée au profit du vendeur

(2.2) Pour l'application du paragraphe (1), si un acheteur émet des actions d'une catégorie de son capital-actions (appelées « actions d'acheteur » au présent paragraphe) au profit d'une fiducie aux termes d'un plan d'arrangement approuvé par un tribunal et que, en contrepartie de cette émission, un vendeur dispose en faveur de l'acheteur d'actions échangées négociées sur une bourse de valeurs désignée, ne recevant en échange que des actions d'acheteur qui sont négociées couramment sur une telle bourse immédiatement après l'exécution du plan d'arrangement et dans le cadre de son exécution, l'émission au profit de la fiducie est réputée être une émission au profit du vendeur.

Disposition of shares of foreign affiliate

(3) Where a taxpayer has disposed of capital property that was shares of the capital stock of a foreign affiliate of the taxpayer to any corporation that was, immediately following the disposition, a foreign affiliate of the taxpayer (in this subsection referred to as the "acquiring affiliate") for consideration including shares of the capital stock of the acquiring affiliate,

(a) the cost to the taxpayer of any property (other than shares of the capital stock of the acquiring affiliate) receivable by the taxpayer as consideration for the disposition shall be deemed to be the fair market value of the property at the time of the disposition;

(b) the cost to the taxpayer of any shares of any class of the capital stock of the acquiring affiliate receivable by the taxpayer as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the total of the adjusted cost bases to the taxpayer, immediately before the disposition, of the shares disposed of exceeds the fair market value at that time of the consideration receivable for the disposition (other than shares of the capital stock of the acquiring affiliate) that

(i) the fair market value, immediately after the disposition, of those shares of the acquiring affiliate of that class

is of

(ii) the fair market value, immediately after the disposition, of all shares of the capital stock of the acquiring affiliate receivable by the taxpayer as consideration for the disposition;

(c) the taxpayer's proceeds of disposition of the shares shall be deemed to be an amount equal to the cost to the taxpayer of all shares and other property receivable by the taxpayer from the acquiring affiliate as consideration for the disposition; and

(d) the cost to the acquiring affiliate of the shares acquired from the taxpayer shall be deemed to be an amount equal to the taxpayer's proceeds of disposition referred to in paragraph 85.1(3)(c).

Exception

(4) Subsection (3) does not apply in respect of a disposition at any time by a taxpayer of a share of the capital stock of a particular foreign affiliate of the taxpayer to another foreign affiliate of the taxpayer if

(a) both

Disposition d'actions d'une société étrangère affiliée

(3) Lorsqu'un contribuable a disposé d'une immobilisation constituée par des actions du capital-actions d'une société étrangère affiliée du contribuable en faveur d'une société qui était, immédiatement après la disposition, une société étrangère affiliée du contribuable (appelée « l'acquéreur » au présent paragraphe) moyennant une contrepartie comprenant des actions du capital-actions de l'acquéreur :

a) le coût, pour le contribuable, de tout bien (sauf les actions du capital-actions de l'acquéreur) à recevoir par le contribuable en contrepartie de la disposition est réputé être la juste valeur marchande du bien au moment de la disposition;

b) le coût, pour le contribuable, des actions de toute catégorie du capital-actions de l'acquéreur, à recevoir par le contribuable en contrepartie de la disposition est réputé être la fraction de l'excédent éventuel du total des prix de base rajustés pour lui, immédiatement avant la disposition, des actions dont il a disposé sur la juste valeur marchande, à ce moment, de la contrepartie à recevoir pour la disposition (sauf les actions du capital-actions de l'acquéreur), représentée par le rapport entre :

(i) d'une part, la juste valeur marchande, immédiatement après la disposition, des actions de cette catégorie de l'acquéreur.

(ii) d'autre part, la juste valeur marchande, immédiatement après la disposition, de toutes les actions du capital-actions de l'acquéreur, à recevoir par le contribuable en contrepartie de la disposition;

c) le produit de disposition des actions, pour le contribuable, est réputé égal au coût, pour lui, de toutes les actions et tous les autres biens à recevoir par le contribuable de l'acquéreur en contrepartie de la disposition;

d) le coût, pour l'acquéreur, des actions acquises du contribuable est réputé égal au produit de disposition, pour le contribuable, visé à l'alinéa c).

Exception

(4) Le paragraphe (3) ne s'applique pas relativement à la disposition par un contribuable à un moment donné d'une action du capital-actions d'une de ses sociétés étrangères affiliées (appelée « société affiliée donnée » au présent paragraphe) en faveur d'une autre de ses sociétés étrangères affiliées si, selon le cas :

(i) all or substantially all of the property of the particular affiliate was, immediately before that time, excluded property (within the meaning assigned by subsection 95(1)) of the particular affiliate, and

(ii) the disposition is part of a transaction or event or a series of transactions or events for the purpose of disposing of the share to a person or partnership that, immediately after the transaction, event or series, was a person or partnership (other than a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest (within the meaning assigned by paragraph 95(2)(m)) at the time of the transaction or event or throughout the series, as the case may be) with whom the taxpayer was dealing at arm's length; or

(b) the adjusted cost base to the taxpayer of the share at that time is greater than the amount that would, in the absence of subsection (3), be the taxpayer's proceeds of disposition of the share in respect of the disposition.

a) à la fois :

(i) la totalité ou la presque totalité des biens de la société affiliée donnée étaient, immédiatement avant ce moment, des biens exclus, au sens du paragraphe 95(1), de celle-ci,

(ii) la disposition fait partie d'une opération ou d'un événement ou d'une série d'opérations ou d'événements visant à disposer de l'action en faveur d'une personne ou d'une société de personnes qui, immédiatement après l'opération, l'événement ou la série, était une personne ou une société de personnes (sauf une société étrangère affiliée du contribuable relativement à laquelle celui-ci a une participation admissible, au sens de l'alinéa 95(2)m)) au moment de l'opération ou de l'événement ou tout au long de la série, selon le cas, avec laquelle le contribuable n'avait aucun lien de dépendance;

b) le prix de base rajusté de l'action pour le contribuable à ce moment excède la somme qui, en l'absence du paragraphe (3), correspondrait au produit de disposition de l'action pour lui relativement à la disposition.

Foreign share for foreign share exchange

(5) Subject to subsections (3) and (6) and 95(2), where a corporation resident in a country other than Canada (in this section referred to as the "foreign purchaser") issues shares of its capital stock (in this section referred to as the "issued foreign shares") to a vendor in exchange for shares of the capital stock of another corporation resident in a country other than Canada (in this section referred to as the "exchanged foreign shares") that were immediately before the exchange capital property of the vendor, except where the vendor has, in the vendor's return of income for the taxation year in which the exchange occurred, included in computing the vendor's income for that year any portion of the gain or loss, otherwise determined, from the disposition of the exchanged foreign shares, the vendor is deemed

(a) to have disposed of the exchanged foreign shares for proceeds of disposition equal to the adjusted cost base to the vendor of those shares immediately before the exchange, and

(b) to have acquired the issued foreign shares at a cost to the vendor equal to the adjusted cost base to the vendor of the exchanged foreign shares immediately before the exchange,

and where the exchanged foreign shares were taxable Canadian property of the vendor, the issued foreign shares so acquired by the vendor are deemed to be, at

Échange d'actions étrangères

(5) Sous réserve des paragraphes (3) et (6) et 95(2), lorsqu'une société résidant dans un pays étranger (appelée « acheteur étranger » au présent article) émet des actions de son capital-actions (appelées « actions étrangères émises » au présent article) en faveur d'un vendeur en échange d'actions du capital-actions d'une autre société résidant dans un pays étranger (appelées « actions étrangères échangées » au présent article) qui étaient des immobilisations du vendeur immédiatement avant l'échange, le vendeur est réputé avoir fait ce qui suit, sauf si, dans sa déclaration de revenu pour l'année d'imposition de l'échange, il a inclus dans le calcul de son revenu pour cette année une partie de la perte ou du gain, déterminé par ailleurs, provenant de la disposition des actions étrangères échangées :

a) avoir disposé des actions étrangères échangées pour un produit de disposition égal au prix de base rajusté de ces actions pour lui immédiatement avant l'échange;

b) avoir acquis les actions étrangères émises à un coût, pour lui, égal au prix de base rajusté des actions étrangères échangées pour lui immédiatement avant l'échange.

En outre, si les actions étrangères échangées étaient des biens canadiens imposables du vendeur, les actions étrangères émises qu'il a ainsi acquises sont réputées

any time that is within 60 months after the exchange, taxable Canadian property of the vendor.

Where subsection (5) does not apply

(6) Subsection (5) does not apply where

(a) the vendor and foreign purchaser were, immediately before the exchange, not dealing with each other at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b) that is a right of the foreign purchaser to acquire the exchanged foreign shares);

(b) immediately after the exchange the vendor, persons with whom the vendor did not deal at arm's length or the vendor together with persons with whom the vendor did not deal at arm's length

(i) controlled the foreign purchaser, or

(ii) beneficially owned shares of the capital stock of the foreign purchaser having a fair market value of more than 50% of the fair market value of all of the outstanding shares of the capital stock of the foreign purchaser;

(c) consideration other than issued foreign shares was received by the vendor for the exchanged foreign shares, notwithstanding that the vendor may have disposed of shares of the capital stock of the other corporation referred to in subsection (5) (other than the exchanged foreign shares) to the foreign purchaser for consideration other than shares of the capital stock of the foreign purchaser;

(d) the vendor

(i) is a foreign affiliate of a taxpayer resident in Canada at the end of the taxation year of the vendor in which the exchange occurred, and

(ii) has included any portion of the gain or loss, otherwise determined, from the disposition of the exchanged foreign shares in computing its foreign accrual property income for the taxation year of the vendor in which the exchange occurred; or

(e) the vendor is a foreign affiliate of a taxpayer resident in Canada at the end of the taxation year of the vendor in which the exchange occurred and the exchanged foreign shares are excluded property (within the meaning assigned by subsection 95(1)) of the vendor.

l'être également à tout moment de la période de 60 mois suivant l'échange.

Inapplication du paragraphe (5)

(6) Le paragraphe (5) ne s'applique pas dans les cas suivants :

a) le vendeur et l'acheteur étranger avaient un lien de dépendance immédiatement avant l'échange (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b) qui permet à l'acheteur étranger d'acquérir les actions étrangères échangées);

b) immédiatement après l'échange, le vendeur, des personnes avec lesquelles il a un lien de dépendance ou à la fois le vendeur et de telles personnes :

(i) soit contrôlaient l'acheteur étranger,

(ii) soit avaient la propriété effective d'actions du capital-actions de l'acheteur étranger dont la juste valeur marchande représente plus de 50 % de la juste valeur marchande de l'ensemble des actions en circulation du capital-actions de cet acheteur;

c) le vendeur a reçu, pour les actions étrangères échangées, une contrepartie non constituée d'actions étrangères émises, malgré qu'il ait pu avoir disposé d'actions du capital-actions de l'autre société visée au paragraphe (5) (sauf les actions étrangères échangées) en faveur de l'acheteur étranger pour une contrepartie non constituée d'actions du capital-actions de cet acheteur;

d) le vendeur, à la fois :

(i) est la société étrangère affiliée d'un contribuable résidant au Canada à la fin de l'année d'imposition du vendeur au cours de laquelle l'échange a été effectué,

(ii) a inclus, dans le calcul de son revenu étranger accumulé, tiré de biens pour son année d'imposition au cours de laquelle l'échange a été effectué, une partie du gain ou de la perte, déterminé par ailleurs, provenant de la disposition des actions étrangères échangées;

e) le vendeur est la société étrangère affiliée d'un contribuable résidant au Canada à la fin de l'année d'imposition du vendeur au cours de laquelle l'échange a été effectué, et les actions étrangères échangées sont des biens exclus, au sens du paragraphe 95(1), du vendeur.

Issuance deemed made to vendor

(6.1) For the purposes of subsection (5), if a foreign purchaser issues shares of a class of its capital stock (in this subsection referred to as ***foreign purchaser shares***) to a trust under a court-approved plan or scheme of arrangement in consideration for which a vendor disposes of exchanged foreign shares that trade on a designated stock exchange to the purchaser solely for foreign purchaser shares that are widely traded on a designated stock exchange immediately after and as part of completion of the plan or scheme of arrangement, the issuance to the trust is deemed to be an issuance to the vendor.

Application of subsection (8)

(7) Subsection (8) applies in respect of the disposition before 2013 by a taxpayer of SIFT wind-up entity equity (referred to in subsection (8) as the "particular unit") to a taxable Canadian corporation if

(a) the disposition occurs during a period (referred to in this subsection and subsection (8) as the "exchange period") of no more than 60 days at the end of which all of the equity in the SIFT wind-up entity is owned by the corporation;

(b) the taxpayer receives no consideration for the disposition other than a share (referred to in this subsection and subsection (8) as the "exchange share") of the capital stock of the corporation that is issued during the exchange period to the taxpayer by the corporation;

(c) neither of subsections 85(1) and (2) applies to the disposition; and

(d) all of the exchange shares issued to holders of equity in the SIFT wind-up entity are shares of a single class of the capital stock of the corporation.

Rollover on SIFT unit for share exchange

(8) If this subsection applies in respect of a disposition by a taxpayer of a particular unit of a SIFT wind-up entity to a corporation for consideration that is an exchange share, the following rules apply:

(a) the taxpayer's proceeds of disposition of the particular unit, and cost of the exchange share, are deemed to be equal to the cost amount to the taxpayer of the particular unit immediately before the disposition;

Émission réputée au profit du vendeur

(6.1) Pour l'application du paragraphe (5), si un acheteur étranger émet des actions d'une catégorie de son capital-actions (appelées « actions d'acheteur étranger » au présent paragraphe) au profit d'une fiducie aux termes d'un plan d'arrangement approuvé par un tribunal et que, en contrepartie de cette émission, un vendeur dispose en faveur de l'acheteur d'actions étrangères échangées négociées sur une bourse de valeurs désignée, ne recevant en échange que des actions d'acheteur étranger qui sont négociées couramment sur une telle bourse immédiatement après l'exécution du plan d'arrangement et dans le cadre de son exécution, l'émission au profit de la fiducie est réputée être une émission au profit du vendeur.

Application du par. (8)

(7) Le paragraphe (8) s'applique à l'égard de la disposition d'un intérêt dans une EIPD convertible (appelé « unité donnée » au paragraphe (8)), effectuée avant 2013 par un contribuable en faveur d'une société canadienne imposable, si les conditions suivantes sont réunies :

a) la disposition est effectuée au cours d'une période d'au plus 60 jours (appelée « période d'échange » au présent paragraphe et au paragraphe (8)) à la fin de laquelle l'ensemble des intérêts dans l'EIPD convertible appartiennent à la société;

b) le contribuable ne reçoit en contrepartie de la disposition qu'une action (appelée « action d'échange » au présent paragraphe et au paragraphe (8)) du capital-actions de la société qui est émise par la société en sa faveur au cours de la période d'échange;

c) les paragraphes 85(1) et (2) ne s'appliquent pas à la disposition;

d) l'ensemble des actions d'échange, émises en faveur de détenteurs d'intérêts dans l'EIPD convertible, font partie d'une seule catégorie du capital-actions de la société.

Roulement en cas d'échange

(8) En cas d'application du présent paragraphe à l'égard de la disposition d'une unité donnée d'une EIPD convertible, effectuée par un contribuable en faveur d'une société en contrepartie d'une action d'échange, les règles suivantes s'appliquent :

a) le produit de disposition de l'unité donnée pour le contribuable et le coût de l'action d'échange sont réputés correspondre au coût indiqué pour lui de l'unité donnée immédiatement avant la disposition;

(b) if the particular unit was immediately before the disposition taxable Canadian property of the taxpayer, the exchange share is deemed to be, at any time that is within 60 months after the disposition, taxable Canadian property of the taxpayer;

(c) if the exchange share's fair market value immediately after the disposition exceeds the particular unit's fair market value at the time of the disposition, the excess is deemed to be an amount that section 15 requires to be included in computing the taxpayer's income for the taxpayer's taxation year in which the disposition occurs;

(d) if the particular unit's fair market value at the time of the disposition exceeds the exchange share's fair market value immediately after the disposition, and it is reasonable to regard any part of the excess as a benefit that the taxpayer desired to have conferred on a person, or partnership, with whom the taxpayer does not deal at arm's length, the excess is deemed to be an amount that section 15 requires to be included in computing the taxpayer's income for the taxpayer's taxation year in which the disposition occurs;

(e) the cost to the corporation of the particular unit is deemed to be the lesser of

(i) the fair market value of the particular unit immediately before the disposition, and

(ii) the amount determined for B in the formula in paragraph (f) in respect of the particular unit; and

(f) in computing the paid-up capital in respect of each class of shares of the capital stock of the corporation at any time after the disposition there shall be deducted the amount determined by the formula

(A – B) × C/A

where

A is the increase, if any, as a result of the disposition, in the paid-up capital in respect of all the shares of the capital stock of the corporation, computed without reference to this paragraph as it applies to the disposition,

B is the amount determined by the formula

D – E

where

D is

(i) unless subparagraph (ii) applies, the total of all amounts each of which is

b) si l'unité donnée était un bien canadien imposable du contribuable immédiatement avant la disposition, l'action d'échange est réputée l'être également à tout moment de la période de 60 mois suivant la disposition;

c) si la juste valeur marchande de l'action d'échange immédiatement après la disposition excède celle de l'unité donnée au moment de la disposition, l'excédent est réputé être une somme qui est à inclure, en vertu de l'article 15, dans le calcul du revenu du contribuable pour son année d'imposition au cours de laquelle la disposition est effectuée;

d) si la juste valeur marchande de l'unité donnée au moment de la disposition excède celle de l'action d'échange immédiatement après la disposition et qu'il est raisonnable de considérer une partie quelconque de l'excédent comme un avantage que le contribuable souhaitait faire conférer à une personne, ou une société de personnes, avec laquelle il a un lien de dépendance, l'excédent est réputé être une somme qui est à inclure, en vertu de l'article 15, dans le calcul du revenu du contribuable pour son année d'imposition au cours de laquelle la disposition est effectuée;

e) le coût de l'unité donnée pour la société est réputé être égal à la moins élevée des sommes suivantes :

(i) sa juste valeur marchande immédiatement avant la disposition,

(ii) la valeur de l'élément B de la formule figurant à l'alinéa f) relativement à l'unité donnée;

f) la somme obtenue par le calcul ci-après est déduite dans le calcul du capital versé au titre de chaque catégorie d'actions du capital-actions de la société après la disposition :

(A – B) × C/A

où :

A représente le montant de l'augmentation, découlant de la disposition, du capital versé au titre de l'ensemble des actions du capital-actions de la société, calculé compte non tenu du présent alinéa dans la mesure où il s'applique à la disposition,

B la somme obtenue par la formule suivante :

D – E

où :

D représente :

(i) sauf si le sous-alinéa (ii) s'applique, le total des sommes dont chacune représente

(A) if the SIFT wind-up entity is a trust, the fair market value of property received by the SIFT wind-up entity on the issuance of the particular unit, or

(B) if the SIFT wind-up entity is a partnership,

(I) an amount that has at any time been added, in computing the adjusted cost base to any taxpayer of the particular unit on or before the disposition, because of subparagraph 53(1)(e)(iv) or (x), or

(II) an amount that would at any time have been added, in computing the adjusted cost base to any taxpayer of the particular unit on or before the disposition, because of subparagraph 53(1)(e)(i) if subsection 96(1) were read without reference to its paragraph (d) and the partnership deducted all amounts otherwise deductible because of that paragraph, and

(ii) if the SIFT wind-up entity has on or after the end of the exchange period issued a unit, nil, and

E is the total of all amounts each of which

(i) if the SIFT wind-up entity is a trust, has become payable by the SIFT wind-up entity, in respect of the particular unit, to any holder of the unit on or before the disposition, other than an amount that has become payable out of its income (determined without reference to subsection 104(6)) or capital gains, and

(ii) if the SIFT wind-up entity is a partnership,

(A) has at any time been deducted, in computing the adjusted cost base to any taxpayer of the particular unit on or before the disposition, because of subparagraph 53(2)(c)(iv) or (v), or

(B) would have at any time been deducted, in computing the adjusted cost base to any taxpayer of the particular unit on or before the disposition, because of subparagraph 53(2)(c)(i) if subsection 96(1) were read without reference to its paragraph (d) and the partnership deducted all amounts otherwise deductible because of that paragraph, and

celle des sommes suivantes qui est applicable :

(A) si l'EIPD convertible est une fiducie, la juste valeur marchande d'un bien qu'elle a reçu lors de l'émission de l'unité donnée,

(B) si elle est une société de personnes :

(I) une somme qui a été ajoutée, à un moment donné, dans le calcul du prix de base rajusté de l'unité donnée pour un contribuable quelconque, au plus tard au moment de la disposition, par l'effet du sous-alinéa 53(1)e)(iv) ou (x),

(II) une somme qui aurait été ajoutée, à un moment donné, dans le calcul du prix de base rajusté de l'unité donnée pour un contribuable quelconque, au plus tard au moment de la disposition, par l'effet du sous-alinéa 53(1)e)(i) si le paragraphe 96(1) s'appliquait compte non tenu de son alinéa d) et si la société de personnes déduisait toutes les sommes qui sont déductibles par ailleurs par l'effet de cet alinéa,

(ii) si l'EIPD convertible a émis une unité à la fin de la période d'échange ou par la suite, zéro,

E le total des sommes dont chacune représente celle des sommes suivantes qui est applicable :

(i) si l'EIPD convertible est une fiducie, une somme qui est devenue payable par elle, relativement à l'unité donnée, à tout détenteur de l'unité au plus tard au moment de la disposition, à l'exception d'une somme qui est devenue payable sur son revenu, déterminé compte non tenu du paragraphe 104(6), ou sur ses gains en capital,

(ii) si l'EIPD convertible est une société de personnes, une somme qui :

(A) a été déduite, à un moment donné, dans le calcul du prix de base rajusté de l'unité donnée pour un contribuable quelconque, au plus tard au moment de la disposition, par l'effet du sous-alinéa 53(2)c)(iv) ou (v),

C is the increase, if any, as a result of the disposition, in the paid-up capital in respect of the class of shares, computed without reference to this paragraph as it applies to the disposition.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 85.1; 1994, c. 7, Sch. VIII, s. 36, c. 21, s. 37; 2001, c. 17, s. 63; 2009, c. 2, s. 18; 2010, c. 12, s. 7; 2013, c. 34, ss. 63, 221.

(B) aurait été déduite, à un moment donné, dans le calcul du prix de base rajusté de l'unité donnée pour un contribuable quelconque, au plus tard au moment de la disposition, par l'effet du sous-alinéa 53(2)c)(i) si le paragraphe 96(1) s'appliquait compte non tenu de son alinéa d) et si la société de personnes déduisait toutes les sommes qui sont déductibles par ailleurs par l'effet de cet alinéa,

C le montant de l'augmentation, découlant de la disposition, du capital versé au titre de la catégorie d'actions, calculé compte non tenu du présent alinéa dans la mesure où il s'applique à la disposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 85.1; 1994, ch. 7, ann. VIII, art. 36, ch. 21, art. 37; 2001, ch. 17, art. 63; 2009, ch. 2, art. 18; 2010, ch. 12, art. 7; 2013, ch. 34, art. 63 et 221.

Exchange of shares by a shareholder in course of reorganization of capital

86 (1) Where, at a particular time after May 6, 1974, in the course of a reorganization of the capital of a corporation, a taxpayer has disposed of capital property that was all the shares of any particular class of the capital stock of the corporation that were owned by the taxpayer at the particular time (in this section referred to as the "old shares"), and property is receivable from the corporation therefor that includes other shares of the capital stock of the corporation (in this section referred to as the "new shares"), the following rules apply:

(a) the cost to the taxpayer of any property (other than new shares) receivable by the taxpayer for the old shares shall be deemed to be its fair market value at the time of the disposition;

(b) the cost to the taxpayer of any new shares of any class of the capital stock of the corporation receivable by the taxpayer for the old shares shall be deemed to be that proportion of the amount, if any, by which the total of the adjusted cost bases to the taxpayer, immediately before the disposition, of the old shares exceeds the fair market value at that time of the consideration receivable for the old shares (other than new shares) that

(i) the fair market value, immediately after the disposition, of those new shares of that class,

is of

(ii) the fair market value, immediately after the disposition, of all new shares of the capital stock of the

Échange d'actions par un actionnaire dans le cadre d'un remaniement du capital

86 (1) Lorsque, à un moment donné après le 6 mai 1974, au cours d'un remaniement du capital d'une société, un contribuable a disposé d'immobilisations qui consistaient dans la totalité des actions d'une catégorie donnée du capital-actions de la société qui lui appartenaient à ce moment donné (appelées les « anciennes actions » au présent article), et que les biens à recevoir de la société comprennent d'autres actions du capital-actions de la société (appelées les « les nouvelles actions » au présent article), les règles suivantes s'appliquent :

a) le coût supporté par le contribuable pour tout bien (autre que des nouvelles actions) qu'il doit recevoir en échange des anciennes actions est réputé être la juste valeur marchande du bien au moment de la disposition;

b) le coût supporté par le contribuable pour toutes nouvelles actions d'une catégorie donnée du capital-actions de la société qu'il doit recevoir en échange des anciennes actions est réputé être la fraction de l'excédent éventuel du prix de base total rajusté, pour lui, immédiatement avant la disposition, des anciennes actions sur la juste valeur marchande à ce moment de la contrepartie à recevoir en échange des anciennes actions (autres que des nouvelles actions), représentée par le rapport entre :

(i) d'une part, la juste valeur marchande, immédiatement après la disposition, de ces nouvelles actions de cette catégorie,

corporation receivable by the taxpayer for the old shares; and

(c) the taxpayer shall be deemed to have disposed of the old shares for proceeds of disposition equal to the cost to the taxpayer of all new shares and other property receivable by the taxpayer for the old shares.

(ii) d'autre part, la juste valeur marchande, immédiatement après la disposition, de toutes les nouvelles actions du capital-actions de la société qu'il doit recevoir en échange des anciennes actions;

c) le contribuable est réputé avoir disposé des anciennes actions pour un produit de disposition égal au coût, pour lui, de toutes les nouvelles actions et autres biens qu'il doit recevoir en échange des anciennes actions.

Idem

(2) Notwithstanding paragraphs 86(1)(b) and 86(1)(c), where a taxpayer has disposed of old shares in circumstances described in subsection 86(1) and the fair market value of the old shares immediately before the disposition exceeds the total of

(a) the cost to the taxpayer of the property (other than new shares) receivable by the taxpayer for the old shares as determined under paragraph 86(1)(a), and

(b) the fair market value of the new shares, immediately after the disposition,

and it is reasonable to regard any portion of the excess (in this subsection referred to as the "gift portion") as a benefit that the taxpayer desired to have conferred on a person related to the taxpayer, the following rules apply:

(c) the taxpayer shall be deemed to have disposed of the old shares for proceeds of disposition equal to the lesser of

(i) the total of the cost to the taxpayer of the property as determined under paragraph 86(1)(a) and the gift portion

and

(ii) the fair market value of the old shares immediately before the disposition,

(d) the taxpayer's capital loss from the disposition of the old shares shall be deemed to be nil, and

(e) the cost to the taxpayer of any new shares of any class of the capital stock of the corporation receivable by the taxpayer for the old shares shall be deemed to be that proportion of the amount, if any, by which the total of the adjusted cost bases to the taxpayer, immediately before the disposition, of the old shares exceeds the total determined under subparagraph 86(2)(c)(i) that

(i) the fair market value, immediately after the disposition, of the new shares of that class,

Idem

(2) Malgré les alinéas (1)b) et c), lorsqu'un contribuable a disposé d'anciennes actions dans des circonstances visées au paragraphe (1) et que la juste valeur marchande des anciennes actions, immédiatement avant la disposition, dépasse le total des montants suivants :

a) le coût supporté par le contribuable pour le bien (autre que des nouvelles actions) recevable par lui en échange des anciennes actions tel que calculé conformément à l'alinéa (1)a);

b) la juste valeur marchande, immédiatement après la disposition, des nouvelles actions,

et qu'il est raisonnable de considérer toute fraction de cet excédent (appelée la « partie donnée » au présent paragraphe) comme un avantage que le contribuable désirait voir conféré à une personne à laquelle il est lié, les règles suivantes s'appliquent :

c) le contribuable est réputé avoir disposé des anciennes actions pour un produit de disposition égal au moindre des montants suivants :

(i) le total du coût supporté par lui pour le bien, tel que déterminé à l'alinéa (1)a), et de la partie donnée,

(ii) la juste valeur marchande des anciennes actions immédiatement avant la disposition;

d) la perte en capital subie par le contribuable lors de la disposition des anciennes actions est réputée nulle;

e) le coût supporté par le contribuable pour toutes nouvelles actions d'une catégorie donnée du capital-actions de la société qui sont recevables par lui en contrepartie des anciennes actions est réputé être la fraction de l'excédent éventuel du total des prix de base rajustés pour lui, immédiatement avant la disposition, des anciennes actions sur le total déterminé en vertu du sous-alinéa c)(i) représentée par le rapport entre :

is of

(ii) the fair market value, immediately after the disposition, of all new shares of the capital stock of the corporation receivable by the taxpayer for the old shares.

Computation of paid-up capital

(2.1) Where subsection 86(1) applies to a disposition of shares of the capital stock of a corporation (in this subsection referred to as the "exchange"), in computing the paid-up capital in respect of a particular class of shares of the capital stock of the corporation at any particular time that is the time of, or any time after, the exchange,

(a) there shall be deducted the amount determined by the formula

(A - B) × C/A

where

A is the total of all amounts each of which is the increase, if any, as a result of the exchange, in the paid-up capital in respect of a class of shares of the capital stock of the corporation, computed without reference to this subsection as it applies to the exchange,

B is the amount, if any, by which the paid-up capital in respect of the old shares exceeds the fair market value of the consideration (other than shares of the capital stock of the corporation) given by the corporation for the old shares on the exchange, and

C is the increase, if any, as a result of the exchange, in the paid-up capital in respect of the particular class of shares, computed without reference to this subsection as it applies to the exchange; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid by the corporation before the particular time

exceeds

(B) the total that would be determined under clause 86(2.1)(b)(i)(A) if this Act were read without reference to paragraph 86(2.1)(a), and

(i) d'une part, la juste valeur marchande, immédiatement après la disposition, des nouvelles actions de cette catégorie,

(ii) d'autre part, la juste valeur marchande, immédiatement après la disposition, de toutes les nouvelles actions du capital-actions de la société qui sont recevables par lui en contrepartie des anciennes actions.

Calcul du capital versé

(2.1) En cas d'application du paragraphe (1) à une disposition (appelée « échange » au présent paragraphe) d'actions du capital-actions d'une société, les opérations suivantes interviennent dans le calcul du capital versé au titre d'une catégorie donnée d'actions du capital-actions de la société à un moment donné qui coïncide avec le moment de l'échange ou y est postérieur :

a) est déduit dans ce calcul le résultat du calcul suivant :

(A - B) × C/A

où :

A représente le total des montants représentant chacun le montant éventuel dont le capital versé au titre d'une catégorie d'actions du capital-actions de la société a augmenté en raison de l'échange, déterminé compte non tenu du présent paragraphe dans son application à l'échange,

B l'excédent éventuel du capital versé au titre des anciennes actions sur la juste valeur marchande de la contrepartie (à l'exclusion des actions du capital-actions de la société) que la société a versée pour les anciennes actions lors de l'échange,

C le montant éventuel dont le capital versé au titre de la catégorie donnée d'actions a augmenté en raison de l'échange, déterminé compte non tenu du présent paragraphe dans son application à l'échange;

b) est ajouté dans ce calcul le moins élevé des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants réputés par les paragraphes 84(3), (4) ou (4.1) être des dividendes que la société verse sur des actions de la catégorie donnée avant le moment donné,

(B) le total qui serait déterminé selon la division (A) compte non tenu de l'alinéa a),

(ii) the total of all amounts required by paragraph 86(2.1)(a) to be deducted in respect of that particular class of shares before the particular time.

(ii) le total des montants à déduire en application de l'alinéa a) relativement à la catégorie donnée d'actions avant le moment donné.

Application

(3) Subsections 86(1) and 86(2) do not apply in any case where subsection 85(1) or 85(2) applies.

Inapplication des paragraphes (1) et (2)

(3) Les paragraphes (1) et (2) ne s'appliquent pas lorsque s'appliquent les paragraphes 85(1) ou (2).

Computation of adjusted cost base

(4) Where a taxpayer has disposed of old shares in circumstances described in subsection 86(1),

(a) there shall be deducted after the disposition in computing the adjusted cost base to the taxpayer of each new share the amount determined by the formula

A × B/C

where

A is the amount, if any, by which

(i) the total of all amounts deducted under paragraph 53(2)(g.1) in computing the adjusted cost base to the taxpayer of the old shares immediately before the disposition

exceeds

(ii) the amount that would be the taxpayer's capital gain for the taxation year that includes the time of the disposition from the disposition of the old shares if paragraph 40(1)(a) were read without reference to subparagraph (iii) of that paragraph,

B is the fair market value of the new share at the time it was acquired by the taxpayer in consideration for the disposition of the old shares, and

C is the total of all amounts each of which is the fair market value of a new share at the time it was acquired by the taxpayer in consideration for the disposition of the old shares; and

(b) the amount determined under paragraph 86(4)(a) in respect of the acquisition shall be added in computing the adjusted cost base to the taxpayer of the new share after the disposition.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 86; 1994, c. 21, s. 38; 1995, c. 21, s. 29.

Calcul du prix de base rajusté

(4) Dans le cas où un contribuable a disposé d'anciennes actions dans les circonstances visées au paragraphe (1), les règles suivantes s'appliquent :

a) le résultat du calcul suivant est à déduire, après la disposition, dans le calcul du prix de base rajusté de chaque nouvelle action pour le contribuable :

A × B/C

où :

A représente l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul du prix de base rajusté des anciennes actions pour le contribuable immédiatement avant la disposition,

(ii) le montant qui représenterait le gain en capital du contribuable, pour l'année d'imposition qui comprend le moment de la disposition, tiré de la disposition des anciennes actions, compte non tenu du sous-alinéa 40(1)a)(iii),

B la juste valeur marchande de la nouvelle action au moment où le contribuable en a fait l'acquisition en contrepartie de la disposition des anciennes actions,

C le total des montants représentant chacun la juste valeur marchande d'une nouvelle action au moment où le contribuable en a fait l'acquisition en contrepartie de la disposition des anciennes actions;

b) le montant déterminé selon l'alinéa a) relativement à l'acquisition est à ajouter dans le calcul du prix de base rajusté, pour le contribuable, de la nouvelle action après la disposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 86; 1994, ch. 21, art. 38; 1995, ch. 21, art. 29.

Foreign Spin-offs

Eligible distribution not included in income

86.1 (1) Notwithstanding any other provision of this Part,

(a) the amount of an eligible distribution received by a taxpayer shall not be included in computing the income of the taxpayer; and

(b) subsection 52(2) does not apply to the eligible distribution received by the taxpayer.

Eligible distribution

(2) For the purpose of this section, a distribution by a particular corporation that is received by a taxpayer is an eligible distribution if

(a) the distribution is with respect to all of the taxpayer's common shares of the capital stock of the particular corporation (in this section referred to as the "original shares");

(b) the distribution consists solely of common shares of the capital stock of another corporation that were owned by the particular corporation immediately before their distribution to the taxpayer (in this section referred to as the "spin-off shares");

(c) in the case of a distribution that is not prescribed,

(i) at the time of the distribution, both corporations are resident in the United States and were never resident in Canada,

(ii) at the time of the distribution, the shares of the class that includes the original shares are widely held and

(A) are actively traded on a designated stock exchange in the United States, or

(B) are required, under the *Securities Exchange Act of 1934* of the United States, as amended from time to time, to be registered with the Securities and Exchange Commission of the United States and are so registered, and

(iii) under the provisions of the *Internal Revenue Code of 1986* of the United States, as amended from time to time, that apply to the distribution, the shareholders of the particular corporation who are resident in the United States are not taxable in respect of the distribution;

(d) in the case of a distribution that is prescribed,

Distributions d'actions de l'étranger

Distribution admissible non comprise dans le revenu

86.1 (1) Malgré les autres dispositions de la présente partie :

a) le montant d'une distribution admissible qu'un contribuable reçoit n'est pas inclus dans le calcul de son revenu;

b) le paragraphe 52(2) ne s'applique pas à la distribution admissible reçue par le contribuable.

Distribution admissible

(2) Pour l'application du présent article, la distribution effectuée par une société donnée à un contribuable est une distribution admissible si les conditions suivantes sont réunies :

a) la distribution porte sur l'ensemble des actions ordinaires du capital-actions de la société donnée qui appartiennent au contribuable (appelées « actions initiales » au présent article);

b) la distribution consiste uniquement en actions ordinaires du capital-actions d'une autre société qui appartenaient à la société donnée immédiatement avant leur distribution au contribuable (appelées « actions de distribution » au présent article);

c) dans le cas d'une distribution qui n'est pas visée par règlement :

(i) au moment de la distribution, les deux sociétés résident aux États-Unis et n'ont jamais résidé au Canada,

(ii) au moment de la distribution, les actions de la catégorie qui comprend les actions initiales, selon le cas :

(A) sont largement réparties et activement transigées sur une bourse de valeurs désignée située aux États-Unis,

(B) sont largement réparties et doivent, sous le régime de la loi des États-Unis intitulée *Securities Exchange Act of 1934*, avec ses modifications successives, être inscrites auprès de la Securities and Exchange Commission des États-Unis et sont ainsi inscrites,

(iii) selon les dispositions de la loi des États-Unis intitulée *Internal Revenue Code of 1986*, avec ses modifications successives, qui s'appliquent à la distribution, les actionnaires de la société donnée qui

(i) at the time of the distribution, both corporations are resident in the same country, other than the United States, with which Canada has a tax treaty (in this section referred to as the "foreign country") and were never resident in Canada,

(ii) at the time of the distribution, the shares of the class that includes the original shares are widely held and actively traded on a designated stock exchange,

(iii) under the law of the foreign country, those shareholders of the particular corporation who are resident in that country are not taxable in respect of the distribution, and

(iv) the distribution is prescribed subject to such terms and conditions as are considered appropriate in the circumstances;

(e) before the end of the sixth month following the day on which the particular corporation first distributes a spin-off share in respect of the distribution, the particular corporation provides to the Minister information satisfactory to the Minister establishing

(i) that, at the time of the distribution, the shares of the class that includes the original shares are shares described in subparagraph (c)(ii) or (d)(ii),

(ii) that the particular corporation and the other corporation referred to in paragraph (b) were never resident in Canada,

(iii) the date of the distribution,

(iv) the type and fair market value of each property distributed to residents of Canada,

(v) the name and address of each resident of Canada that received property with respect to the distribution,

(vi) in the case of a distribution that is not prescribed, that the distribution is not taxable under the provisions of the *Internal Revenue Code of 1986* of the United States, as amended from time to time, that apply to the distribution,

(vii) in the case of a distribution that is prescribed, that the distribution is not taxable under the law of the foreign country, and

(viii) such other matters that are required, in prescribed form; and

résident aux États-Unis ne sont pas imposables pour ce qui est de la distribution;

d) dans le cas d'une distribution qui est visée par règlement :

(i) au moment de la distribution, les deux sociétés résident dans le même pays (sauf les États-Unis) avec lequel le Canada a conclu un traité fiscal (appelé « pays étranger » au présent article) et n'ont jamais résidé au Canada,

(ii) au moment de la distribution, les actions de la catégorie qui comprend les actions initiales sont largement réparties et activement transigées sur une bourse de valeurs désignée,

(iii) selon les lois du pays étranger, les actionnaires de la société donnée qui résident dans ce pays ne sont pas imposables pour ce qui est de la distribution,

(iv) la distribution est visée par règlement sous réserve de conditions jugées applicables dans les circonstances;

e) avant la fin du sixième mois suivant le jour où la société donnée transfère pour la première fois une action de distribution dans le cadre de la distribution, la société donnée fournit au ministre des renseignements, que celui-ci estime acceptables, établissant ce qui suit :

(i) le fait que, au moment de la distribution, les actions de la catégorie qui comprend les actions initiales sont des actions visées aux sous-alinéas c)(ii) ou d)(ii),

(ii) le fait que la société donnée et l'autre société mentionnée à l'alinéa b) n'ont jamais résidé au Canada,

(iii) la date de la distribution,

(iv) le type et la juste valeur marchande de chacun des biens transférés à des résidents du Canada,

(v) les nom et adresse de chaque résident du Canada qui a reçu des biens lors de la distribution,

(vi) dans le cas d'une distribution qui n'est pas visée par règlement, le fait qu'elle n'est pas imposable aux termes des dispositions de la loi des États-Unis intitulée *Internal Revenue Code of 1986*, avec ses modifications successives, qui s'appliquent à la distribution,

(f) the taxpayer elects in writing filed with the taxpayer's return of income for the taxation year in which the distribution occurs that this section apply to the distribution and provides information satisfactory to the Minister

(i) of the number, cost amount (determined without reference to this section) and fair market value of the taxpayer's original shares immediately before the distribution,

(ii) of the number, and fair market value, of the taxpayer's original shares and the spin-off shares immediately after the distribution of the spin-off shares to the taxpayer,

(iii) except where the election is filed with the taxpayer's return of income for the year in which the distribution occurs, concerning the amount of the distribution, the manner in which the distribution was reported by the taxpayer and the details of any subsequent disposition of original shares or spin-off shares for the purpose of determining any gains or losses from those dispositions, and

(iv) of such other matters that are required, in prescribed form.

f) le contribuable fait, dans sa déclaration de revenu pour l'année d'imposition de la distribution, un choix afin que le présent article s'applique à la distribution, et fournit au ministre des renseignements, que celui-ci estime acceptables, établissant ce qui suit :

(i) le nombre d'actions initiales qui lui appartenaient immédiatement avant la distribution, ainsi que leur coût indiqué (déterminé compte non tenu du présent article) et leur juste valeur marchande à ce moment,

(ii) le nombre d'actions initiales qui lui appartenaient immédiatement après la distribution des actions de distribution, le nombre d'actions de distribution qu'il a reçues et la juste valeur marchande de ces actions initiales et actions de distribution à ce moment,

(iii) sauf si le choix est fait dans sa déclaration de revenu pour l'année de la distribution, le montant de la distribution, la façon dont il l'a déclarée et les renseignements concernant toute disposition ultérieure d'actions initiales ou d'actions de distribution en vue du calcul des gains et pertes résultant de ces dispositions,

(iv) tout autre fait, selon ce qui est exigé sur le formulaire prescrit.

(vii) dans le cas d'une distribution qui est visée par règlement, le fait qu'elle n'est pas imposable aux termes des lois du pays étranger,

(viii) tout autre fait, selon ce qui est exigé sur le formulaire prescrit;

Cost adjustments

(3) Where a spin-off share is distributed by a corporation to a taxpayer pursuant to an eligible distribution with respect to an original share of the taxpayer,

(a) there shall be deducted for the purpose of computing the cost amount to the taxpayer of the original share at any time the amount determined by the formula

A × (B/C)

where

A is the cost amount, determined without reference to this section, to the taxpayer of the original share at the time that is immediately before the distribution or, if the original share is disposed of by the taxpayer, before the distribution, at the time that is immediately before its disposition,

Rajustements de coût

(3) Lorsqu'une société distribue une action de distribution à un contribuable, au titre d'une action initiale de celui-ci, dans le cadre d'une distribution admissible, les règles suivantes s'appliquent :

a) le montant obtenu par la formule ci-après est déduit dans le calcul du coût indiqué de l'action initiale pour le contribuable à un moment donné :

A × (B/C)

où :

A représente le coût indiqué, déterminé compte non tenu du présent article, de l'action initiale pour le contribuable immédiatement avant la distribution ou, si le contribuable a disposé de cette action avant la distribution, immédiatement avant la disposition,

B is the fair market value of the spin-off share immediately after its distribution to the taxpayer, and

C is the total of

(i) the fair market value of the original share immediately after the distribution of the spin-off share to the taxpayer, and

(ii) the fair market value of the spin-off share immediately after its distribution to the taxpayer; and

(b) the cost to the taxpayer of the spin-off share is the amount by which the cost amount of the taxpayer's original share was reduced as a result of paragraph (a).

B la juste valeur marchande de l'action de distribution immédiatement après sa distribution au contribuable,

C la somme des montants suivants :

(i) la juste valeur marchande de l'action initiale immédiatement après la distribution de l'action de distribution au contribuable,

(ii) la juste valeur marchande de l'action de distribution immédiatement après sa distribution au contribuable;

b) le coût de l'action de distribution pour le contribuable correspond au montant appliqué en réduction, par l'effet de l'alinéa a), du coût indiqué de son action initiale.

Inventory

(4) For the purpose of calculating the value of the property described in an inventory of a taxpayer's business,

(a) an eligible distribution to the taxpayer of a spin-off share that is included in the inventory is deemed not to be an acquisition of property in the fiscal period of the business in which the distribution occurs; and

(b) for greater certainty, the value of the spin-off share is to be included in computing the value of the inventory at the end of that fiscal period.

Biens figurant à l'inventaire

(4) Pour ce qui est du calcul de la valeur d'un bien figurant à l'inventaire de l'entreprise d'un contribuable, les règles suivantes s'appliquent :

a) la distribution admissible au contribuable d'une action de distribution qui figure à cet inventaire est réputée ne pas être une acquisition de bien effectuée au cours de l'exercice de l'entreprise dans lequel la distribution est effectuée;

b) il est entendu que la valeur de l'action de distribution est à inclure dans le calcul de la valeur des biens figurant à cet inventaire à la fin de l'exercice en question.

Reassessments

(5) Notwithstanding subsections 152(4) to (5), the Minister may make at any time such assessments, reassessments, determinations and redeterminations that are necessary where information is obtained that the conditions in subparagraph (2)(c)(iii) or (d)(iii) are not, or are no longer, satisfied.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 64; 2005, c. 30, s. 3; 2007, c. 35, s. 68; 2013, c. 34, s. 222.

Nouvelle cotisation

(5) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations et nouvelles cotisations voulues et déterminer ou déterminer de nouveau les montants voulus lorsqu'il obtient des renseignements selon lesquels les conditions énoncées aux sous-alinéas (2)c)(iii) ou d)(iii) ne sont pas ou ne sont plus remplies.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 64; 2005, ch. 30, art. 3; 2007, ch. 35, art. 68; 2013, ch. 34, art. 222.

Amalgamations

87 (1) In this section, an amalgamation means a merger of two or more corporations each of which was, immediately before the merger, a taxable Canadian corporation (each of which corporations is referred to in this section as a "predecessor corporation") to form one corporate entity (in this section referred to as the "new corporation") in such a manner that

(a) all of the property (except amounts receivable from any predecessor corporation or shares of the capital stock of any predecessor corporation) of the

Fusions

87 (1) Au présent article, ***fusion*** s'entend de l'unification de plusieurs sociétés dont chacune était, immédiatement avant l'unification, une société canadienne imposable (chacune de ces sociétés étant appelée une « société remplacée » au présent article) destinée à former une société (appelée la « nouvelle société » au présent article) de façon que, à la fois :

a) les biens (à l'exception des sommes à recevoir d'une société remplacée ou des actions du capital-actions d'une société remplacée) appartenant aux

predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger,

(b) all of the liabilities (except amounts payable to any predecessor corporation) of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger, and

(c) all of the shareholders (except any predecessor corporation), who owned shares of the capital stock of any predecessor corporation immediately before the merger, receive shares of the capital stock of the new corporation because of the merger,

otherwise than as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of that property by the other corporation or as a result of the distribution of that property to the other corporation on the winding-up of the corporation.

Shares deemed to have been received by virtue of merger

(1.1) For the purposes of paragraph 87(1)(c) and the *Income Tax Application Rules*, where there is a merger of

(a) a corporation and one or more of its subsidiary wholly-owned corporations, or

(b) two or more corporations each of which is a subsidiary wholly-owned corporation of the same corporation

any shares of the capital stock of a predecessor corporation owned by a shareholder (except any predecessor corporation) immediately before the merger that were not cancelled on the merger shall be deemed to be shares of the capital stock of the new corporation received by the shareholder by virtue of the merger as consideration for the disposition of the shares of the capital stock of the predecessor corporations.

New corporation continuation of a predecessor

(1.2) Where there has been an amalgamation of corporations described in paragraph (1.1)(a) or of two or more corporations each of which is a subsidiary wholly-owned corporation of the same person, the new corporation is, for the purposes of section 29 of the *Income Tax Application Rules*, subsection 59(3.3) and sections 66, 66.1, 66.2, 66.21, 66.4 and 66.7, deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this subsection does not affect the determination of any predecessor corporation's fiscal period, taxable income or tax payable.

sociétés remplacées immédiatement avant l'unification deviennent des biens de la nouvelle société en vertu de l'unification;

b) les engagements (à l'exception des sommes payables à une société remplacée) des sociétés remplacées, existant immédiatement avant l'unification, deviennent des engagements de la nouvelle société en vertu de l'unification;

c) les actionnaires (à l'exception des sociétés remplacées) qui possédaient des actions du capital-actions d'une société remplacée immédiatement avant l'unification reçoivent des actions du capital-actions de la nouvelle société en raison de l'unification,

autrement qu'à la suite de l'acquisition de biens d'une société par une autre société, de l'achat de ces biens par l'autre société ou de l'attribution de ces biens à l'autre société lors de la liquidation de la société.

Actions réputées avoir été reçues en vertu d'une unification

(1.1) Pour l'application de l'alinéa (1)c) et des *Règles concernant l'application de l'impôt sur le revenu*, lorsqu'il y a unification :

a) soit d'une société et d'une ou plusieurs de ses filiales à cent pour cent;

b) soit de plusieurs sociétés dont chacune est une filiale à cent pour cent de la même société,

toute action du capital-actions d'une société remplacée qui appartenait à un actionnaire (exception faite de toute société remplacée) immédiatement avant l'unification et qui n'a pas été annulée lors de celle-ci est réputée être une action du capital-actions de la nouvelle société qui a été reçue par l'actionnaire en vertu de l'unification à titre de contrepartie pour la disposition des actions du capital-actions de la société remplacée.

Continuation par la nouvelle société

(1.2) En cas de fusion de sociétés visées à l'alinéa (1.1)a) ou de plusieurs sociétés dont chacune est une filiale à cent pour cent de la même personne, la nouvelle société est réputée, pour l'application de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du paragraphe 59(3.3) et des articles 66, 66.1, 66.2, 66.21, 66.4 et 66.7, être la même société que chaque société remplacée et en être la continuation. Toutefois, le présent paragraphe est sans effet sur la détermination de l'exercice d'une société remplacée, de son revenu imposable et de son impôt payable.

Definition of *subsidiary wholly-owned corporation*

(1.4) Notwithstanding subsection 248(1), for the purposes of this subsection and subsections 87(1.1), 87(1.2) and 87(2.11), ***subsidiary wholly-owned corporation*** of a person (in this subsection referred to as the "parent") means a corporation all the issued and outstanding shares of the capital stock of which belong to

(a) the parent;

(b) a corporation that is a subsidiary wholly-owned corporation of the parent; or

(c) any combination of persons each of which is a person described in paragraph 87(1.4)(a) or 87(1.4)(b).

Definitions

(1.5) For the purpose of this section, ***financial institution***, ***mark-to-market property*** and ***specified debt obligation*** have the meanings assigned by subsection 142.2(1).

Rules applicable

(2) Where there has been an amalgamation of two or more corporations after 1971 the following rules apply

Taxation year

(a) for the purposes of this Act, the corporate entity formed as a result of the amalgamation shall be deemed to be a new corporation the first taxation year of which shall be deemed to have commenced at the time of the amalgamation, and a taxation year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation;

Inventory

(b) for the purpose of computing the income of the new corporation, where the property described in the inventory, if any, of the new corporation at the beginning of its first taxation year includes property that was described in the inventory of a predecessor corporation at the end of the taxation year of the predecessor corporation that ended immediately before the amalgamation (which taxation year of a predecessor corporation is referred to in this section as its "last taxation year"), the property so included shall be deemed to have been acquired by the new corporation at the beginning of its first taxation year for an amount determined in accordance with section 10 as the value thereof for the purpose of computing the income of the predecessor corporation for its last taxation year, except that where the income of the predecessor corporation for its last taxation year from a

Sens de *filiale à cent pour cent*

(1.4) Malgré le paragraphe 248(1), est une filiale à cent pour cent d'une personne (appelée « société mère » au présent paragraphe) pour l'application du présent paragraphe et des paragraphes (1.1), (1.2) et (2.11) la société dont l'ensemble des actions émises et en circulation du capital-actions appartiennent, selon le cas :

a) à la société mère;

b) à une société qui est une filiale à cent pour cent de la société mère;

c) à plusieurs personnes dont chacune est visée aux alinéas a) ou b).

Définitions de *bien évalué à la valeur du marché, institution financière* et *titre de créance déterminé*

(1.5) Pour l'application du présent article, ***bien évalué à la valeur du marché***, ***institution financière*** et ***titre de créance déterminé*** s'entendent au sens du paragraphe 142.2(1).

Règles applicables

(2) Lorsqu'il y a eu fusion de plusieurs sociétés après 1971, les règles suivantes s'appliquent :

Année d'imposition

a) pour l'application de la présente loi, l'entité issue de la fusion est réputée être une nouvelle société dont la première année d'imposition est réputée avoir commencé au moment de la fusion et l'année d'imposition d'une société remplacée, qui se serait autrement terminée après la fusion, est réputée s'être terminée immédiatement avant la fusion;

Inventaire

b) pour le calcul du revenu de la nouvelle société, lorsque les biens figurant à l'inventaire de la nouvelle société au début de sa première année d'imposition comprennent des biens qui figuraient à l'inventaire d'une société remplacée à la fin de l'année d'imposition de celle-ci qui s'est terminée immédiatement avant la fusion (appelée « dernière année d'imposition » au présent article), les biens ainsi compris sont réputés avoir été acquis par la nouvelle société au début de sa première année d'imposition pour un montant déterminé conformément à l'article 10 comme représentant la valeur de ces biens pour le calcul du revenu de la société remplacée pour sa dernière année d'imposition; toutefois, lorsque le revenu de la société remplacée pour sa dernière année d'imposition tiré d'une entreprise agricole a été calculé selon la méthode de comptabilité de caisse, le montant ainsi déterminé relativement aux biens figurant à l'inventaire

farming business was computed in accordance with the cash method, the amount so determined in respect of inventory owned in connection with that business shall be deemed to be the total of all amounts each of which is an amount included because of paragraph 28(1)(b) or 28(1)(c) in computing that income for that year and, where the income of the new corporation from a farming business is computed in accordance with the cash method, for the purpose of section 28,

(i) an amount equal to that total shall be deemed to have been paid by the new corporation, and

(ii) the new corporation shall be deemed to have purchased the property for an amount equal to that total,

in its first taxation year and in the course of carrying on that business;

Method adopted for computing income

(c) in computing the income of the new corporation for a taxation year from a business or property

(i) there shall be included any amount received or receivable (depending on the method followed by the new corporation in computing its income for that year) by it in that year that would, if it had been received or receivable (depending on the method followed by the predecessor corporation in computing its income for its last taxation year) by the predecessor corporation in its last taxation year, have been included in computing the income of the predecessor corporation for that year, and

(ii) there may be deducted any amount paid or payable (depending on the method followed by the new corporation in computing its income for that year) by it in that year that would, if it had been paid or payable (depending on the method followed by the predecessor corporation in computing its income for its last taxation year) by the predecessor corporation in its last taxation year, have been deductible in computing the income of the predecessor corporation for that year;

Depreciable property

(d) for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) where depreciable property of a prescribed class has been acquired by the new corporation from a predecessor corporation, the capital cost of the property to the new corporation shall be deemed to be the amount that was the capital cost of the property to the predecessor corporation, and

qui sont possédés dans le cadre de cette entreprise est réputé correspondre au total des montants dont chacun représente un montant inclus dans le calcul de ce revenu en application des alinéas 28(1)b) ou c) pour cette année et, lorsque le revenu de la nouvelle société tiré d'une entreprise agricole est calculé selon la méthode de comptabilité de caisse, les présomptions suivantes s'appliquent dans le cadre de l'article 28 :

(i) un montant égal à ce total est réputé avoir été payé par la nouvelle société au cours de sa première année d'imposition et dans le cadre de l'exploitation de cette entreprise,

(ii) la nouvelle société est réputée avoir acheté les biens pour un montant égal à ce total au cours de sa première année d'imposition et dans le cadre de l'exploitation de cette entreprise;

Méthode adoptée pour le calcul du revenu

c) dans le calcul du revenu tiré d'une entreprise ou d'un bien par la nouvelle société, pour une année d'imposition :

(i) il faut inclure toute somme qu'a reçue ou que doit recevoir la nouvelle société (selon la méthode qu'elle a adoptée pour calculer son revenu pour cette année) au cours de cette année, qui aurait, si la société remplacée l'avait reçue ou avait dû la recevoir (selon la méthode adoptée par la société remplacée pour calculer son revenu pour sa dernière année d'imposition) au cours de sa dernière année d'imposition, été incluse dans le calcul du revenu de la société remplacée pour cette année,

(ii) il peut être déduit toute somme versée ou payable par la nouvelle société (selon la méthode qu'elle a adoptée pour calculer son revenu pour cette année) au cours de cette année, qui aurait, si elle avait été versée ou payable par la société remplacée (selon la méthode qu'a adoptée la société remplacée pour calculer son revenu pour sa dernière année d'imposition) au cours de sa dernière année d'imposition, été déductible dans le calcul du revenu de la société remplacée pour cette année;

Biens amortissables

d) pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a) :

(i) lorsque la nouvelle société a acquis auprès d'une société remplacée des biens amortissables d'une catégorie prescrite, le coût en capital supporté pour les biens par la nouvelle société est réputé être le

(ii) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,

(A) there shall be added to the capital cost to the new corporation of depreciable property of the class acquired before that time the cost amount, immediately before the amalgamation, to a predecessor corporation of each property included in that class by the new corporation,

(B) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of property of that class acquired by virtue of the amalgamation,

(C) a reference in subparagraph 13(5)(b)(ii) to amounts that would have been deducted in respect of property in computing a taxpayer's income shall be construed as including a reference to amounts that would have been deducted in respect of that property in computing a predecessor corporation's income, and

(D) where depreciable property that is deemed by subsection 37(6) to be a separate prescribed class has been acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class;

Depreciable property acquired from predecessor corporation

(d.1) for the purposes of this Act, where depreciable property (other than property of a prescribed class) has been acquired by the new corporation from a predecessor corporation, the new corporation shall be deemed to have acquired the property before 1972 at an actual cost equal to the actual cost of the property to the predecessor corporation, and the new corporation shall be deemed to have been allowed the total of all amounts allowed to the predecessor corporation in respect of the property, under regulations made under paragraph 20(1)(a), in computing the income of the predecessor corporation;

Capital property

(e) subject to paragraph 87(2)(e.4) and subsection 142.6(5), where a capital property (other than depreciable property or an interest in a partnership) has been acquired by the new corporation from a predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the adjusted cost base of the property to the

coût en capital supporté pour ces biens par la société remplacée,

(ii) dans la détermination de la fraction non amortie du coût en capital supporté, à un moment donné, par la nouvelle société pour les biens amortissables d'une catégorie prescrite :

(A) le coût indiqué, pour une société remplacée immédiatement avant la fusion, de chaque bien compris dans cette catégorie par la nouvelle société doit être ajouté au coût en capital pour celle-ci de biens amortissables de cette catégorie acquis avant le moment donné,

(B) il faut soustraire du coût en capital supporté par la nouvelle société pour les biens amortissables de cette catégorie, acquis avant le moment donné, le coût en capital supporté par la nouvelle société pour les biens de cette catégorie, acquis en vertu de la fusion,

(C) toute mention au sous-alinéa 13(5)b)(ii) de sommes qui auraient été déduites relativement à un bien dans le calcul du revenu d'un contribuable vaut également mention de sommes qui auraient été déduites relativement à ce bien dans le calcul du revenu d'une société remplacée,

(D) lorsque des biens amortissables qui sont réputés selon le paragraphe 37(6) constituer une catégorie prescrite distincte ont été acquis auprès d'une société remplacée par la nouvelle société, les biens sont toujours réputés faire partie de cette même catégorie prescrite distincte;

Biens amortissables acquis auprès d'une société remplacée

d.1) pour l'application de la présente loi, lorsque la nouvelle société a acquis auprès d'une société remplacée des biens amortissables (autres que des biens d'une catégorie prescrite), la nouvelle société est réputée avoir acquis ces biens avant 1972 à un coût effectif égal au prix effectif supporté pour ceux-ci par la société remplacée, et la nouvelle société est réputée avoir été autorisée à déduire le total des sommes admises que la société remplacée était autorisée à déduire relativement à ces biens, en vertu des dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu de la société remplacée;

Immobilisations

e) sous réserve de l'alinéa e.4) et du paragraphe 142.6(5), le coût, pour la nouvelle société, de l'immobilisation — à l'exception d'un bien amortissable et d'une participation dans une société de personnes —

predecessor corporation immediately before the amalgamation;

Partnership interest

(e.1) where a partnership interest that is capital property has been acquired from a predecessor corporation to which the new corporation was related, for the purposes of this Act, the cost of that partnership interest to the new corporation shall be deemed to be the amount that was the cost of that interest to the predecessor corporation and, in respect of that partnership interest, the new corporation shall be deemed to be the same corporation as and a continuation of the predecessor corporation;

Security or debt obligation

(e.2) subject to paragraphs 87(2)(e.3) and 87(2)(e.4) and subsection 142.6(5), where a property that is a security or debt obligation (other than a capital property or an inventory) of a predecessor corporation used by it in the year in, or held by it in the year in the course of, carrying on the business of insurance or lending money in the taxation year ending immediately before the amalgamation has been acquired by the new corporation from the predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the cost amount of the property to the predecessor corporation immediately before the amalgamation;

Financial institutions — specified debt obligation

(e.3) where the new corporation is a financial institution in its first taxation year, it shall be deemed, in respect of a specified debt obligation (other than a mark-to-market property) acquired from a predecessor corporation that was a financial institution in its last taxation year, to be the same corporation as, and a continuation of, the predecessor corporation;

Financial institutions — mark-to-market property

(e.4) where

(i) the new corporation is a financial institution in its first taxation year and a property acquired by the new corporation from a predecessor corporation is a mark-to-market property of the new corporation for the year, or

(ii) a predecessor corporation was a financial institution in its last taxation year and a property acquired by the new corporation from the predecessor corporation was a mark-to-market property of the predecessor corporation for the year,

the cost of the property to the new corporation shall be deemed to be the amount that was the fair market

qu'elle a acquise auprès d'une société remplacée est réputé être le prix de base rajusté de l'immobilisation pour cette dernière immédiatement avant la fusion;

Participations dans une société de personnes

e.1) dans le cas où une participation dans une société de personnes qui est une immobilisation a été acquise auprès d'une société remplacée à laquelle la nouvelle société était liée, le coût de cette participation pour la nouvelle société est réputé, pour l'application de la présente loi, être son coût pour la société remplacée et, en ce qui concerne cette participation, la nouvelle société est réputée être la même société que la société remplacée et en être la continuation;

Valeur ou titre de créance

e.2) sous réserve des alinéas e.3) et e.4) et du paragraphe 142.6(5), le coût, pour la nouvelle société, du bien qu'elle a acquis auprès d'une société remplacée et qui est une valeur ou un titre de créance — à l'exception d'une immobilisation et d'un bien à porter à l'inventaire — utilisé ou détenu par la société remplacée pendant l'année dans le cadre de l'exploitation d'une entreprise d'assurance ou de prêt d'argent au cours de l'année d'imposition se terminant avant la fusion est réputé être le coût indiqué de ce bien pour la société remplacée immédiatement avant la fusion;

Institutions financières — titre de créance déterminé

e.3) la nouvelle société qui est, au cours de sa première année d'imposition, une institution financière est réputée, pour ce qui est d'un titre de créance déterminé, sauf un bien évalué à la valeur du marché, qu'elle a acquis auprès d'une société remplacée qui était une institution financière au cours de sa dernière année d'imposition, être la même société que la société remplacée et en être la continuation;

Institutions financières — bien évalué à la valeur du marché

e.4) le coût, pour la nouvelle société, d'un bien qu'elle a acquis auprès d'une société remplacée est réputé être la juste valeur marchande du bien immédiatement avant la fusion lorsque, selon le cas :

(i) la nouvelle société est une institution financière au cours de sa première année d'imposition et le bien est son bien évalué à la valeur du marché pour l'année,

(ii) la société remplacée était une institution financière au cours de sa dernière année d'imposition et le bien était son bien évalué à la valeur du marché pour l'année;

value of the property immediately before the amalgamation;

Financial institutions — mark-to-market property

(e.5) for the purposes of subsections 112(5) to 112(5.2) and 112(5.4) and the definition ***mark-to-market property*** in subsection 142.2(1), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(f) [Repealed, 2016, c. 12, s. 27]

(f.1) [Repealed, 1994, c. 7, Sch. VIII, s. 37]

Reserves

(g) for the purpose of computing the income of the new corporation for a taxation year,

(i) any amount that has been deducted as a reserve in computing the income of a predecessor corporation for its last taxation year shall be deemed to have been deducted as a reserve in computing the income of the new corporation for a taxation year immediately preceding its first taxation year, and

(ii) any amount deducted under paragraph 20(1)(p) in computing the income of a predecessor corporation for its last taxation year or a previous taxation year shall be deemed to have been deducted under that paragraph in computing the income of the new corporation for a taxation year immediately preceding its first taxation year;

Continuation

(g.1) for the purposes of sections 12.4 and 26, subsection 97(3) and section 256.1, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Financial institution rules

(g.2) for the purposes of paragraphs 142.4(4)(c) and (d) and subsections 142.51(11) and 142.6(1), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(g.3) for the purposes of applying subsections 13(21.2), 18(15) and 40(3.4) to any property that was disposed of by a predecessor corporation before the amalgamation, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Superficial losses — capital property

(g.4) for the purpose of applying paragraph 40(3.5)(c) in respect of any share that was acquired by a predecessor corporation, the new corporation is deemed to

Institutions financières — continuation

e.5) pour l'application des paragraphes 112(5) à (5.2) et (5.4) et de la définition de ***bien évalué à la valeur du marché*** au paragraphe 142.2(1), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

f) [Abrogé, 2016, ch. 12, art. 27]

f.1) [Abrogé, 1994, ch. 7, ann. VIII, art. 37]

Provisions

g) pour le calcul du revenu de la nouvelle société pour une année d'imposition :

(i) toute somme déduite à titre de provision, dans le calcul du revenu d'une société remplacée pour sa dernière année d'imposition, est réputé avoir été déduite à titre de provision dans le calcul du revenu de la nouvelle société pour l'année d'imposition précédant sa première année d'imposition,

(ii) toute somme déduite en vertu de l'alinéa 20(1)p), dans le calcul du revenu d'une société remplacée pour sa dernière année d'imposition ou pour une année d'imposition antérieure, est réputée avoir été déduite en vertu de cet alinéa dans le calcul du revenu de la nouvelle société pour l'année d'imposition précédant sa première année d'imposition;

Continuation

g.1) pour l'application des articles 12.4 et 26, du paragraphe 97(3) et de l'article 256.1, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Institutions financières — continuation

g.2) pour l'application des alinéas 142.4(4)c) et d) et des paragraphes 142.51(11) et 142.6(1), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

g.3) pour l'application des paragraphes 13(21.2), 18(15) et 40(3.4) aux biens dont une société remplacée a disposé avant la fusion, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Perte apparente — immobilisation

g.4) pour l'application de l'alinéa 40(3.5)c) relativement à une action acquise par une société remplacée, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

be the same corporation as, and a continuation of, each predecessor corporation;

Patronage dividends

(g.5) for the purposes of section 135, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Debts

(h) for the purpose of computing a deduction from the income of the new corporation for a taxation year under paragraph 20(1)(l), 20(1)(l.1) or 20(1)(p)

(i) any debt owing to a predecessor corporation that was included in computing the income of the predecessor corporation for its last taxation year or a preceding taxation year,

(ii) where a predecessor corporation was an insurer or a corporation the ordinary business of which included the lending of money, any loan or lending asset made or acquired by the predecessor corporation in the ordinary course of its business of insurance or the lending of money, or

(iii) where a predecessor corporation was an insurer or a corporation the ordinary business of which included the lending of money, any instrument or commitment described in paragraph 20(1)(l.1) that was issued, made or assumed by the predecessor corporation in the ordinary course of its business of insurance or the lending of money,

and that by reason of the amalgamation, has been acquired by the new corporation, shall be deemed to be a debt owing to the new corporation that was included in computing its income for a preceding taxation year, a loan or lending asset made or acquired or an instrument or commitment that was issued, made or assumed by the new corporation in a preceding taxation year in the ordinary course of its business of insurance or the lending of money, as the case may be;

Debts

(h.1) for the purposes of section 61.4, the description of F in subsection 79(3), the definition ***forgiven amount*** in subsection 80(1), subsection 80.03(7) and section 80.04, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Special reserve

(i) for the purpose of computing a deduction from the income of the new corporation for a taxation year under paragraph 20(1)(n), any amount included in computing the income of a predecessor corporation from a

Ristournes

g.5) pour l'application de l'article 135, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Créances

h) pour le calcul du montant à déduire en application de l'alinéa 20(1)l), l.1) ou p) dans le calcul du revenu de la nouvelle société pour une année d'imposition :

(i) toute créance d'une société remplacée incluse dans le calcul de son revenu pour sa dernière année d'imposition ou pour une année d'imposition antérieure,

(ii) tout prêt ou titre de crédit qu'une société remplacée — qui est un assureur ou dont l'activité d'entreprise habituelle consiste en partie à prêter de l'argent — a consenti ou acquis dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent,

(iii) tout effet ou engagement visé à l'alinéa 20(1)l.1) qu'une société remplacée — qui est un assureur ou une société dont l'activité d'entreprise habituelle consiste en partie à prêter de l'argent — a émis, consenti ou assumé dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent,

et que la nouvelle société a acquis en raison de la fusion est réputé être, selon le cas, une créance de la nouvelle société incluse dans le calcul de son revenu pour une année d'imposition antérieure, un prêt ou un titre de crédit consenti ou acquis ou un effet ou engagement émis, consenti ou assumé, par la nouvelle société au cours d'une année d'imposition antérieure dans le cours normal des activités de son entreprise d'assurance ou de prêt d'argent;

Dettes

h.1) pour l'application de l'article 61.4, de l'élément F de la formule figurant au paragraphe 79(3), de la définition de ***montant remis*** au paragraphe 80(1), du paragraphe 80.03(7) et de l'article 80.04, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Provisions spéciales

i) pour le calcul du montant à déduire du revenu de la nouvelle société pour une année d'imposition, en vertu de l'alinéa 20(1) n), toute somme incluse dans le calcul du revenu qu'une société remplacée a tiré d'une entreprise pour sa dernière année d'imposition ou une année d'imposition antérieure, relativement à des biens

business for its last taxation year or a previous taxation year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous year in respect of that property;

Special reserves

(j) for the purposes of paragraphs 20(1)(m), 20(1)(m.1) and 20(1)(m.2), subsection 20(24) and section 34.2, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Inventory adjustment

(j.1) for the purposes of paragraph 20(1)(ii), an amount required by paragraph 12(1)(r) to be included in computing the income of a predecessor corporation for its last taxation year shall be deemed to be an amount required by paragraph 12(1)(r) to be included in computing the income of the new corporation for a taxation year immediately preceding its first taxation year;

Prepaid expenses and matchable expenditures

(j.2) for the purposes of subsections 18(9) and 18(9.01), section 18.1 and paragraph 20(1)(mm), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Employee benefit plans, etc.

(j.3) for the purposes of paragraphs 12(1)(n.1) to (n.3) and 20(1)(r), (s), (oo) and (pp), section 32.1, paragraph 104(13)(b), subsections 144.1(4) to (7) and Part X1.3, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Accrual rules

(j.4) for the purposes of subsections 12(3) and 12(9), section 12.2, subsection 20(19) and the definition ***adjusted cost basis*** in subsection 148(9) of this Act, and subsections 12(5) and (6) and paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Cancellation of lease

(j.5) for the purposes of paragraphs 20(1)(z) and 20(1)(z.1), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

vendus au cours des activités de l'entreprise, est réputée avoir été incluse dans le calcul du revenu que la nouvelle société a tiré de cette entreprise pour une année antérieure, relativement à ces biens;

Provisions spéciales

j) pour l'application des alinéas 20(1)m), m.1) et m.2), du paragraphe 20(24) et de l'article 34.2, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Ajustement de l'inventaire

j.1) pour l'application de l'alinéa 20(1)ii), une somme qui, en vertu de l'alinéa 12(1)r), doit être incluse dans le calcul du revenu d'une société remplacée pour sa dernière année d'imposition est réputée être une somme qui, en vertu de l'alinéa 12(1)r), doit être incluse dans le calcul du revenu de la nouvelle société pour une année d'imposition qui précède immédiatement sa première année d'imposition;

Dépenses payées d'avance et dépenses à rattacher

j.2) pour l'application des paragraphes 18(9) et (9.01), de l'article 18.1 et de l'alinéa 20(1)mm), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Régimes de prestations aux employés, etc.

j.3) pour l'application des alinéas 12(1)n.1) à n.3) et 20(1)r), s), oo) et pp), de l'article 32.1, de l'alinéa 104(13)b), des paragraphes 144.1(4) à (7) et de la partie XI.3, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Règles d'accumulation

j.4) pour l'application des paragraphes 12(3) et (9), de l'article 12.2, du paragraphe 20(19) et de la définition de ***coût de base rajusté*** au paragraphe 148(9) de la présente loi et des paragraphes 12(5) et (6) et de l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Résiliation d'un bail

j.5) pour l'application des alinéas 20(1)z) et z.1), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Continuation

j.6) pour l'application des alinéas 12(1)t) et x), des paragraphes 12(2.2) et 13(7.1), (7.4) et (24), des alinéas 13(27)b) et (28)c), des paragraphes 13(29) et 18(9.1), des alinéas 20(1)e), e.1) et hh), des articles 20.1 et 32,

Continuing corporation

(j.6) for the purposes of paragraphs 12(1)(t) and (x), subsections 12(2.2) and 13(7.1), (7.4) and (24), paragraphs 13(27)(b) and (28)(c), subsections 13(29) and 18(9.1), paragraphs 20(1)(e), (e.1) and (hh), sections 20.1 and 32, paragraph 37(1)(c), subsection 39(13), subparagraphs 53(2)(c)(vi) and (h)(ii), paragraph 53(2)(s), subsections 53(2.1), 66(11.4) and 66.7(11), section 139.1, subsection 152(4.3), the determination of D in the definition ***undepreciated capital cost*** in subsection 13(21) and the determination of L in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Certain transfers and loans

(j.7) for the purposes of sections 74.4 and 74.5, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(j.8) [Repealed, 2013, c. 33, s. 6]

Part I.3 tax

(j.9) for the purpose of determining the amount deductible by the new corporation for any taxation year under section 125.3, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Part I.3 and Part VI tax

(j.91) for the purpose of determining the amount deductible under subsection 181.1(4) or 190.1(3) by the new corporation for any taxation year, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this paragraph does not affect the determination of the fiscal period of any corporation or the tax payable by any corporation for any taxation year that ends before the amalgamation;

Subsection 125(5.1) and 157.1(1)

(j.92) for the purposes of subsection 125(5.1) and the definition ***eligible corporation*** in subsection 157.1(1), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Mining reclamation trusts

(j.93) for the purposes of paragraphs 12(1)(z.1) and 12(1)(z.2) and 20(1)(ss) and 20(1)(tt) and sections 107.3 and 127.41, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

de l'alinéa 37(1)c), du paragraphe 39(13), des sous-alinéas 53(2)c)(vi) et h)(ii), de l'alinéa 53(2)s), des paragraphes 53(2.1), 66(11.4) et 66.7(11), de l'article 139.1, du paragraphe 152(4.3), de l'élément D de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe 13(21) et de l'élément L de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Certains transferts et prêts

j.7) pour l'application des articles 74.4 et 74.5, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

j.8) [Abrogé, 2013, ch. 33, art. 6]

Impôt de la partie I.3

j.9) pour le calcul du montant déductible par la nouvelle société pour une année d'imposition en application de l'article 125.3, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Impôt des parties I.3 et VI

j.91) pour le calcul du montant déductible en application des paragraphes 181.1(4) ou 190.1(3) par la nouvelle société pour une année d'imposition, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation; toutefois, le présent alinéa n'a pas pour effet de changer l'exercice d'une société ou de modifier l'impôt payable par une société pour une année d'imposition se terminant avant la fusion;

Application des par. 125(5.1) et 157.1(1)

j.92) pour l'application du paragraphe 125(5.1) et de la définition de ***société admissible*** au paragraphe 157.1(1), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Fiducies de restauration minière

j.93) pour l'application des alinéas 12(1)z.1) et z.2) et 20(1)ss) et tt) et des articles 107.3 et 127.41, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Productions cinématographiques ou magnétoscopiques

j.94) pour l'application des articles 125.4 et 125.5, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Film or video productions

(j.94) for the purposes of sections 125.4 and 125.5, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Non-resident entities

(j.95) for the purposes of sections 94 to 94.2, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Certain payments to employees

(k) for the purpose of subsection 6(3), any amount received by a person from the new corporation that would, if received by the person from a predecessor corporation, be deemed for the purpose of section 5 to be remuneration for that person's services rendered as an officer or during a period of employment, shall be deemed for the purposes of section 5 to be remuneration for services so rendered by the person;

Scientific research and experimental development

(l) for the purposes of section 37 and Part VIII, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Idem

(l.1) for the purposes of this paragraph, paragraph 87(2)(l.2) and section 37.1,

(i) the base period for a particular taxation year of a new corporation that has fewer than 3 preceding taxation years shall be deemed to be the period

(A) commencing on the day that

(I) is the earliest of all days each of which is a day immediately before the commencement of a taxation year of a predecessor corporation in respect of the new corporation that ended after 1976, and

(II) is in the 3 year period ending on the day immediately before the commencement of the particular year, and

(B) ending immediately before the first day of the particular taxation year,

(ii) where subparagraph 87(2)(l.1)(i) applies,

(A) in determining the qualified expenditures made by the new corporation in its base period, there shall be included the total of all amounts each of which is the qualified expenditure made

Entités non-résidentes

j.95) pour l'application des articles 94 à 94.2, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Rémunération de services rendus

k) pour l'application du paragraphe 6(3), toute somme qu'une personne a reçue de la nouvelle société et qui, si elle l'avait reçue d'une société remplacée, serait réputée, pour l'application de l'article 5, constituer la rémunération des services que cette personne a rendus en qualité de cadre ou durant une période d'emploi est réputée, pour l'application de l'article 5, être une rémunération des services qu'elle a ainsi rendus;

Activités de recherche scientifique et de développement expérimental

l) pour l'application de l'article 37 et de la partie VIII, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Idem

l.1) pour l'application du présent alinéa, de l'alinéa l.2) et de l'article 37.1 :

(i) pour une année d'imposition donnée d'une nouvelle société qui compte moins de 3 années d'imposition antérieures, la période de base est réputée être la période :

(A) commençant le jour qui :

(I) d'une part, est le premier en date des jours précédant immédiatement le début d'une année d'imposition se terminant après 1976 d'une société remplacée par la nouvelle société,

(II) d'autre part, est compris dans la période de 3 ans se terminant le jour précédant immédiatement le début de l'année donnée,

(B) se terminant immédiatement avant le premier jour de l'année d'imposition donnée,

(ii) dans les cas où le sous-alinéa (i) s'applique :

(A) il doit être inclus, dans le calcul des dépenses admissibles faites par la nouvelle société au cours de sa période de base, le total des montants dont chacun représente les dépenses admissibles faites par une société remplacée au cours d'une année d'imposition ayant commencé au cours de la période de base de la nouvelle société,

by a predecessor corporation in a taxation year that commenced in the base period of the new corporation, and

(B) in determining the total of the amounts paid to the new corporation by persons referred to in subparagraphs (b)(i) to (iii) of the definition ***expenditure base*** in subsection 37.1(5) in its base period, there shall be included the total of all such amounts paid to a predecessor corporation by a person referred to in those subparagraphs in a taxation year that commenced in the base period of the new corporation,

(iii) the capital cost to the new corporation of any property that was a research property of a predecessor corporation acquired by it from the predecessor corporation shall be deemed to be the capital cost thereof to the predecessor corporation and the property shall be deemed to be a research property of the new corporation, and

(iv) each amount determined in respect of the new corporation under subparagraph 37.1(3)(b)(i) or 37.1(3)(b)(iii), as the case may be, shall be deemed to be the total of the amount otherwise determined and the total of amounts each of which is the amount determined under subparagraph 37.1(3)(b)(i) or 37.1(3)(b)(iii), as the case may be, in respect of a predecessor corporation;

Definition of *predecessor corporation*

(I.2) for the purposes of this paragraph and paragraph 87(2)(l.1), ***predecessor corporation*** includes any corporation in respect of which a predecessor corporation was a new corporation;

Forgiven amount

(I.21) for the purposes of section 61.3, the definition ***unrecognized loss*** in subsection 80(1) and subsection 80.01(10), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Replacement property

(I.3) where before the amalgamation property of a predecessor corporation was unlawfully taken, lost, destroyed or taken under statutory authority, or was a former business property of the predecessor corporation, for the purposes of applying sections 13 and 44 and the definition ***former business property*** in subsection 248(1) to the new corporation in respect of the property and any replacement property acquired therefor, the new corporation shall be deemed to be the same corporation as, and a continuation of, the predecessor corporation;

(B) il doit être inclus, dans le calcul du total des montants versés à la nouvelle société par des personnes visées aux sous-alinéas b)(i) à (iii) de la définition de ***base de dépenses*** au paragraphe 37.1(5) au cours de sa période de base, le total de tels montants versés à la société remplacée par une personne visée à ces sous-alinéas au cours d'une année d'imposition ayant commencé au cours de la période de base de la nouvelle société,

(iii) le coût en capital, pour la nouvelle société, de tout bien qui était un bien de la société remplacée servant à la recherche et qu'elle a acquis auprès de cette dernière est réputé être le coût en capital pour la société remplacée, et les biens sont réputés être des biens servant à la recherche et appartenant à la nouvelle société,

(iv) chaque montant déterminé à l'égard de la nouvelle société en vertu des sous-alinéas 37.1(3)b)(i) ou (iii) est réputé être la somme du montant par ailleurs déterminé et du total des montants dont chacun est le montant déterminé en vertu des sous-alinéas 37.1(3)b)(i) ou (iii), selon le cas, à l'égard d'une société remplacée;

Définition de *société remplacée*

I.2) pour l'application du présent alinéa et de l'alinéa l.1), ***société remplacée*** s'entend en outre d'une société à l'égard de laquelle la société remplacée était une nouvelle société;

Montant remis

I.21) pour l'application de l'article 61.3, de la définition de ***perte non constatée*** au paragraphe 80(1) et du paragraphe 80.01(10), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Biens de remplacement

I.3) lorsque, avant la fusion, un bien d'une société remplacée a été pris illégalement, perdu, détruit ou saisi en vertu d'une loi ou était un ancien bien d'entreprise de cette société, la nouvelle société est réputée, pour l'application à cette société des articles 13 et 44 et de la définition de ***ancien bien d'entreprise*** au paragraphe 248(1) relativement au bien ainsi qu'au bien éventuellement acquis pour le remplacer, être la même société que la société remplacée et en être la continuation;

Choix prévu au paragraphe 13(4.2)

I.4) pour l'application du paragraphe 13(4.3) et de l'alinéa 20(16.1)b), la nouvelle société est réputée être la

Subsection 13(4.2) election

(I.4) for the purposes of subsection 13(4.3) and paragraph 20(16.1)(b), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Contingent amount — section 143.4

(I.5) for the purposes of section 143.4, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Reserves

(m) for the purpose of computing the income of the new corporation for a taxation year, any amount claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing a predecessor corporation's gain for its last taxation year from the disposition of any property shall be deemed

(i) to have been claimed under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii), as the case may be, in computing the new corporation's gain for a taxation year immediately preceding its first taxation year from the disposition of that property by it before its first taxation year, and

(ii) to be the amount determined under subparagraph 40(1)(a)(i) or 44(1)(e)(i), as the case may be, in respect of that property;

Gift of non-qualifying security

(m.1) for the purpose of computing the new corporation's gain under subsection 40(1.01) for any taxation year from the disposition of a property, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Gift of predecessor's property

(m.2) for the purpose of computing the fair market value of property under subsection 248(35), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Outlays made pursuant to warranty

(n) for the purpose of section 42, any outlay or expense made or incurred by the new corporation in a taxation year, pursuant to or by virtue of an obligation described in that section incurred by a predecessor corporation, that would, if the outlay or expense had been made or incurred by the predecessor corporation in that year, have been deemed to be a loss of the predecessor corporation for that year from the disposition of a capital property shall be deemed to be a loss of the new corporation for that year from the disposition of a capital property;

même société que chaque société remplacée et en être la continuation;

Montant éventuel — article 143.4

I.5) pour l'application de l'article 143.4, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Provisions

m) pour le calcul du revenu de la nouvelle société pour une année d'imposition, toute somme déduite en application des sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii) dans le calcul du gain d'une société remplacée pour sa dernière année d'imposition, tiré de la disposition d'un bien, est réputée :

(i) avoir été déduite en application des sous-alinéas 40(1) a)(iii) ou 44(1)e)(iii) dans le calcul du gain de la nouvelle société pour l'année d'imposition précédant sa première année d'imposition, tiré de la disposition de ce bien par elle avant sa première année d'imposition,

(ii) être le montant déterminé en application des sous-alinéas 40(1)a)(i) ou 44(1)e)(i) à l'égard de ce bien;

Don de titre non admissible

m.1) pour le calcul de son gain en application du paragraphe 40(1.01) pour une année d'imposition tiré de la disposition d'un bien, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Don de biens d'une société remplacée

m.2) lorsqu'il s'agit de calculer la juste valeur marchande d'un bien selon le paragraphe 248(35), la nouvelle société est réputée être la même société que la société remplacée et en être la continuation;

Dépenses faites en conformité avec une garantie

n) pour l'application de l'article 42, toute dépense engagée ou effectuée par la nouvelle société au cours d'une année d'imposition en vertu d'une obligation visée à cet article et contractée par une société remplacée qui, si la dépense avait été engagée ou effectuée par la société remplacée au cours de cette année, aurait été réputée être une perte de la société remplacée pour cette année, résultant de la disposition d'une immobilisation, est réputée être une perte de la nouvelle société pour cette année, résultant de la disposition d'une immobilisation;

Expiration des options octroyées antérieurement

o) pour l'application du paragraphe 49(2) :

Expiration of options previously granted

(o) for the purpose of subsection 49(2),

(i) any option granted by a predecessor corporation that expires after the amalgamation is deemed to have been granted by the new corporation, and any proceeds received by the predecessor corporation for the granting of the option is deemed to have been received by the new corporation,

(ii) any person to whom the option was granted who was not dealing at arm's length with the predecessor corporation at the time that the option was granted is deemed to have been dealing with the new corporation not at arm's length at the time that the option was granted, and

(iii) any person to whom the option was granted who was dealing at arm's length with the predecessor corporation at the time that the option was granted is deemed to have been dealing with the new corporation at arm's length at the time that the option was granted;

Consideration for resource property disposition

(p) for the purpose of computing a deduction from the income of the new corporation for a taxation year under section 64 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, any amount that has been included in computing the income of a predecessor corporation for its last taxation year or a previous taxation year by reason of subsection 59(1) or paragraph 59(3.2)(c) of this Act, of subsection 59(3) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, or of subsection 83A(5ba) or (5c) of that Act as it read in its application to a taxation year before the 1972 taxation year, shall be deemed to have been included in computing the income of the new corporation for a previous year by virtue thereof;

Registered plans

(q) for the purposes of sections 147, 147.1 and 147.2 and any regulations made under subsection 147.1(18), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Employees profit sharing plan

(r) an election made under subsection 144(10) by a predecessor corporation is deemed to be an election made by the new corporation;

Tax deferred cooperative shares

(s) for the purpose of section 135.1, if the new corporation is, at the beginning of its first taxation year, an

(i) toute option octroyée par une société remplacée qui expire après la fusion est réputée avoir été octroyée par la nouvelle société, et tout produit reçu par la société remplacée pour l'octroi de l'option est réputé avoir été reçu par la nouvelle société,

(ii) toute personne à qui l'option a été octroyée qui avait un lien de dépendance avec la société remplacée au moment de l'octroi est réputée avoir un lien de dépendance avec la nouvelle société à ce moment,

(iii) toute personne à qui l'option a été octroyée qui n'avait aucun lien de dépendance avec la société remplacée au moment de l'octroi est réputée ne pas avoir de lien de dépendance avec la nouvelle société à ce moment;

Contrepartie de la disposition d'un avoir minier

p) pour le calcul d'une déduction du revenu de la nouvelle société pour une année d'imposition en vertu de l'article 64 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, tout montant inclus dans le revenu d'une société remplacée pour sa dernière année d'imposition ou une année d'imposition antérieure en vertu du paragraphe 59(1) ou de l'alinéa 59(3.2)c) de la présente loi ou du paragraphe 59(3) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, ou du paragraphe 83A(5ba) ou (5c) de la même loi, dans sa version applicable aux années d'imposition antérieures à l'année d'imposition 1972, est réputé avoir été inclus dans le calcul du revenu de la nouvelle société pour une année antérieure en vertu de ceux-ci;

Régimes agréés

q) pour l'application des articles 147, 147.1 et 147.2 et des dispositions réglementaires prises en application du paragraphe 147.1(18), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Régime de participation des employés aux bénéfices

r) le choix qu'une société remplacée fait en vertu du paragraphe 144(10) est réputé être un choix fait par la nouvelle société;

Parts à imposition différée

s) pour l'application de l'article 135.1, dans le cas où la nouvelle société est une coopérative agricole, au sens du paragraphe 135.1(1), au début de sa première année d'imposition :

agricultural cooperative corporation (within the meaning assigned by subsection 135.1(1)),

(i) the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation that was an agricultural cooperative corporation at the end of the predecessor corporation's last taxation year, and

(ii) if, on the amalgamation, the new corporation issues a share (in this subparagraph and subsection 135.1(10) referred to as the "new share") that is described in all of paragraphs (b) to (d) of the definition ***tax deferred cooperative share*** in subsection 135.1(1) to a taxpayer in exchange for a share of a predecessor corporation (in this subparagraph and subsection 135.1(10) referred to as the "old share") that was, at the end of the predecessor corporation's last taxation year, a tax deferred cooperative share within the meaning assigned by that definition, and the amount of paid-up capital, and the amount, if any, that the taxpayer is entitled to receive on a redemption, acquisition or cancellation, of the new share are equal to those amounts, respectively, in respect of the old share, subsection 135.1(10) applies in respect of the exchange;

Deemed SIFT wind-up corporation

(s.1) if a predecessor corporation was a SIFT wind-up corporation immediately before the amalgamation, the new corporation is deemed to be a SIFT wind-up corporation;

Pre-1972 capital surplus on hand

(t) for the purpose of subsection 88(2.1), any capital property owned by a predecessor corporation on December 31, 1971 that was acquired by the new corporation by virtue of the amalgamation shall be deemed to have been acquired by the new corporation before 1972 at an actual cost to it equal to the actual cost of the property to the predecessor corporation;

Shares of foreign affiliate

(u) where one or more shares of the capital stock of a foreign affiliate of a predecessor corporation have, by virtue of the amalgamation, been acquired by the new corporation and as a result of the acquisition the affiliate has become a foreign affiliate of the new corporation,

(i) for the purposes of subsection 91(5) and paragraph 92(1)(b), any amount required by section 92 to be added or deducted, as the case may be, in computing the adjusted cost base of any such share to the predecessor corporation before the amalgamation shall be deemed to have been so required to

(i) la nouvelle société est réputée être la même société que chaque société remplacée qui était une coopérative agricole à la fin de sa dernière année d'imposition, et en être la continuation,

(ii) si, à l'occasion de la fusion, la nouvelle société émet à un contribuable une part (appelée « nouvelle part » au présent sous-alinéa et au paragraphe 135.1(10)) qui est visée aux alinéas b) à d) de la définition de ***part à imposition différée*** au paragraphe 135.1(1) en échange d'une part d'une société remplacée (appelée « ancienne part » au présent sous-alinéa et au paragraphe 135.1(10)) qui était, à la fin de la dernière année d'imposition de cette société, une part à imposition différée au sens du paragraphe 135.1(1) et que le capital versé au titre de la nouvelle part, ainsi que la somme que le contribuable peut éventuellement recevoir lors de son rachat, acquisition ou annulation, correspondent respectivement aux montants homologues relatifs à l'ancienne part, le paragraphe 135.1(10) s'applique relativement à l'échange;

Société de conversion d'EIPD réputée

s.1) si une société remplacée était une société de conversion d'EIPD immédiatement avant la fusion, la nouvelle société est réputée en être une;

Surplus de capital en main avant 1972

t) pour l'application du paragraphe 88(2.1), toute immobilisation appartenant à une société remplacée au 31 décembre 1971 et qui a été acquise par la nouvelle société du fait de la fusion est réputée avoir été acquise par cette dernière avant 1972 à un prix effectif égal au prix auquel la société remplacée a effectivement payé l'immobilisation;

Actions de sociétés étrangères affiliées

u) lorsqu'une ou plusieurs actions du capital-actions d'une société étrangère affiliée d'une société remplacée ont été acquises du fait de la fusion par la nouvelle société, et qu'en conséquence cette société étrangère affiliée est devenue une société étrangère affiliée de la nouvelle société :

(i) pour l'application du paragraphe 91(5) et de l'alinéa 92(1)b), toute somme dont l'article 92 exige l'inclusion ou la déduction pour le calcul du prix de base rajusté d'une telle action, pour la société remplacée, avant la fusion, est réputée avoir dû être incluse ou déduite, selon le cas, pour le calcul du prix de base rajusté de l'action, pour la nouvelle société,

(ii) pour l'application des paragraphes 93(2.01), (2.11), (2.21) et (2.31), tout dividende exonéré reçu

be added or deducted, as the case may be, in computing the adjusted cost base of the share to the new corporation, and

(ii) for the purposes of subsections 93(2.01), (2.11), (2.21) and (2.31), any exempt dividend received by the predecessor corporation on any such share is deemed to be an exempt dividend received by the new corporation on the share;

Gifts

(v) for the purposes of section 110.1, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation with respect to gifts;

Taxable dividends

(x) for the purposes of subsections 112(3) to 112(4.22),

(i) any taxable dividend received on a share that was deductible from the predecessor corporation's income for a taxation year under section 112 or subsection 138(6) is deemed to be a taxable dividend received on the share by the new corporation that was deductible from the new corporation's income under section 112 or subsection 138(6), as the case may be,

(ii) any dividend (other than a taxable dividend) received on a share by the predecessor corporation is deemed to have been received on the share by the new corporation, and

(iii) a share acquired by the new corporation from a predecessor corporation is deemed to have been owned by the new corporation throughout any period of time throughout which it was owned by a predecessor corporation;

Contributed surplus

(y) for the purposes of subsections 84(1) and 84(10), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(y.1) [Repealed, 1998, c. 19, s. 117]

Foreign tax carryover

(z) for the purposes of determining the new corporation's unused foreign tax credit (within the meaning of subsection 126(7)) in respect of a country for any taxation year and determining the extent to which subsection 126(2.3) applies to reduce the amount that may be claimed by the new corporation under paragraph 126(2)(a) in respect of an unused foreign tax credit in respect of a country for a taxation year, the new

par la société remplacée sur une telle action est réputé être un dividende exonéré reçu par la nouvelle société sur l'action;

Dons

v) pour l'application de l'article 110.1, la nouvelle société est réputée, en ce qui concerne les dons, être la même société que chaque société remplacée et en être la continuation;

Dividendes imposables

x) pour l'application des paragraphes 112(3) à (4.22) :

(i) un dividende imposable reçu sur une action et déductible du revenu de la société remplacée pour une année d'imposition en application de l'article 112 ou du paragraphe 138(6) est réputé être un dividende imposable reçu sur l'action par la nouvelle société et déductible du revenu de celle-ci en application de l'article 112 ou du paragraphe 138(6), selon le cas,

(ii) un dividende (sauf un dividende imposable) reçu sur une action par la société remplacée est réputé reçu sur l'action par la nouvelle société,

(iii) l'action que la nouvelle société acquiert auprès d'une société remplacée est réputée lui avoir appartenu tout au long d'une période où elle a appartenu à une société remplacée;

Surplus d'apport

y) pour l'application des paragraphes 84(1) et (10), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

y.1) [Abrogé, 1998, ch. 19, art. 117]

Report d'impôt étranger

z) pour le calcul de la fraction inutilisée du crédit pour impôt étranger (au sens du paragraphe 126(7)) de la nouvelle société, relativement à un pays pour une année d'imposition donnée et de la détermination de la mesure dans laquelle le paragraphe 126(2.3) s'applique pour réduire le montant de crédit que la nouvelle société peut déduire en vertu de l'alinéa 126(2) a) relativement à la fraction inutilisée du crédit pour impôt étranger relativement à un pays pour une année d'imposition, la nouvelle société est réputée être la même que chaque société remplacée et en être la continuation, sauf que le présent alinéa ne s'applique pas à la détermination :

(i) de l'exercice de la nouvelle société ou de l'une de ses sociétés remplacées,

corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this paragraph shall in no respect affect the determination of

(i) the fiscal period of the new corporation or any of its predecessor corporations, or

(ii) the tax payable under this Act by any predecessor corporation;

Capital dividend account

(z.1) for the purposes of computing the capital dividend account of the new corporation, it shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation, other than a predecessor corporation to which subsection 83(2.1) would, if a dividend were paid immediately before the amalgamation and an election were made under subsection 83(2) in respect of the full amount of that dividend, apply to deem any portion of the dividend to be paid by the predecessor corporation as a taxable dividend;

Application of Parts III and III.1

(z.2) for the purposes of Parts III and III.1, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Refundable dividend tax on hand

(aa) where the new corporation was a private corporation immediately after the amalgamation, for the purpose of computing the refundable dividend tax on hand (within the meaning assigned by subsection 129(3)) of the new corporation at the end of its first taxation year there shall be added to the total determined under subsection 129(3) in respect of the new corporation for the year the total of all amounts each of which is the amount, if any, by which the refundable dividend tax on hand of a predecessor corporation at the end of its last taxation year exceeds its dividend refund (within the meaning assigned by subsection 129(1)) for its last taxation year, except that no amount shall be added under this paragraph in respect of a predecessor corporation

(i) that was not a private corporation at the end of its last taxation year, or

(ii) where subsection 129(1.2) would have applied to deem a dividend paid by the predecessor corporation immediately before the amalgamation not to be a taxable dividend for the purpose of subsection 129(1);

(ii) de l'impôt payable en vertu de la présente loi par toute société remplacée;

Compte de dividendes en capital

z.1) pour le calcul du montant de son compte de dividendes en capital, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation, sauf s'il s'agit d'une société remplacée à laquelle le paragraphe 83(2.1) s'appliquerait, si un dividende était versé immédiatement avant la fusion et si le choix prévu au paragraphe 83(2) était fait relativement au plein montant de ce dividende, pour qu'une partie du dividende soit réputée être un dividende imposable versé par la société remplacée;

Application des parties III et III.1

z.2) pour l'application des parties III et III.1, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Impôt en main remboursable au titre de dividendes

aa) lorsque la nouvelle société est une société privée immédiatement après la fusion, pour le calcul de son impôt en main remboursable au titre de dividendes, au sens du paragraphe 129(3), à la fin de sa première année d'imposition, est ajouté au total calculé selon le paragraphe 129(3) à son égard pour l'année le total des montants représentant chacun l'excédent éventuel de l'impôt en main remboursable au titre de dividendes d'une société remplacée à la fin de sa dernière année d'imposition sur son remboursement au titre de dividendes, au sens du paragraphe 129(1), pour sa dernière année d'imposition; toutefois, aucun montant n'est à ajouter en application du présent alinéa à l'égard d'une société remplacée si, selon le cas :

(i) la société remplacée n'était pas une société privée à la fin de sa dernière année d'imposition,

(ii) un dividende versé par la société remplacée immédiatement avant la fusion serait réputé par l'effet du paragraphe 129(1.2), en cas d'application de ce paragraphe, ne pas être un dividende imposable pour l'application du paragraphe 129(1);

Sociétés de placement à capital variable ou de placement

bb) dans le cas où la nouvelle société est une société de placement à capital variable ou une société de placement, le montant déterminé selon chacun des alinéas a) et b) de la définition de ***compte de dividendes sur les gains en capital*** au paragraphe 131(6) et la valeur des éléments A et B de la formule figurant à la définition de ***impôt en main remboursable au titre de gains en capital*** au même paragraphe relativement à la nouvelle société à un moment

Mutual fund and investment corporations

(bb) where the new corporation is a mutual fund corporation or an investment corporation, there shall be added to

(i) the amount determined under each of paragraphs (a) and (b) of the definition ***capital gains dividend account*** in subsection 131(6), and

(ii) the values of A and B in the definition ***refundable capital gains tax on hand*** in that subsection

in respect of the new corporation at any time the amounts so determined and the values of those factors immediately before the amalgamation in respect of each predecessor corporation that was, immediately before the amalgamation, a mutual fund corporation or an investment corporation;

Flow-through entities

(bb.1) where a predecessor corporation was, immediately before the amalgamation, an investment corporation, a mortgage investment corporation or a mutual fund corporation and the new corporation is an investment corporation, a mortgage investment corporation or a mutual fund corporation, as the case may be, for the purpose of section 39.1, the new corporation is deemed to be the same corporation as, and a continuation of, the predecessor corporation;

Non-resident-owned investment corporation

(cc) in the case of a new corporation that is a non-resident-owned investment corporation,

(i) for the purpose of computing its allowable refundable tax on hand (within the meaning assigned by subsection 133(9)) at any time, where a predecessor corporation had allowable refundable tax on hand immediately before the amalgamation, the amount thereof shall be added to the total determined for A in the definition ***allowable refundable tax on hand*** in subsection 133(9),

(ii) for the purpose of computing its capital gains dividend account (within the meaning assigned by subsection 133(8)) at any time, where a predecessor corporation had an amount in its capital gains dividend account immediately before the amalgamation, that amount shall be added to the amount determined under paragraph (a) of the description of A in the definition ***capital gains dividend account*** in subsection 133(8), and

(iii) for the purpose of computing its cumulative taxable income (within the meaning assigned by subsection 133(9)) at any time, where a predecessor

donné est majoré du montant ainsi déterminé et de la valeur de ces éléments immédiatement avant la fusion relativement à chaque société remplacée qui était une société de placement à capital variable ou une société de placement immédiatement avant la fusion;

Entités intermédiaires

bb.1) lorsqu'une société remplacée était, immédiatement avant la fusion, une société de placement, une société de placement hypothécaire ou une société de placement à capital variable et que la nouvelle société l'est également, selon le cas, celle-ci est réputée, pour l'application de l'article 39.1, être la même société que la société remplacée et en être la continuation;

Société de placement appartenant à des non-résidents

cc) dans le cas d'une nouvelle société qui est une société de placement appartenant à des non-résidents :

(i) pour le calcul du montant admissible de l'impôt en main remboursable (au sens du paragraphe 133(9)) de cette société à un moment donné, lorsqu'une société remplacée avait un tel montant immédiatement avant la fusion, ce montant doit être ajouté au total représenté par l'élément A de la formule applicable figurant à la définition de ***montant admissible de l'impôt en main remboursable*** au paragraphe 133(9),

(ii) pour le calcul du compte de dividendes sur les gains en capital (au sens du paragraphe 133(8)) de cette société à un moment donné, lorsqu'une société remplacée avait immédiatement avant la fusion un montant dans son compte de dividendes sur les gains en capital, ce montant doit être ajouté au montant déterminé en vertu de l'alinéa a) de l'élément A de la formule applicable figurant à la définition de ***compte de dividendes sur les gains en capital*** au paragraphe 133(8),

(iii) pour le calcul du revenu imposable cumulatif (au sens du paragraphe 133(9)) de cette société à un moment donné, lorsqu'une société remplacée avait immédiatement avant la fusion un revenu imposable cumulatif, ce montant doit être ajouté au total représenté par l'élément A de la formule applicable figurant à la définition de ***revenu imposable cumulatif*** au paragraphe 133(9);

Société publique

ii) lorsqu'une société remplacée était une société publique immédiatement avant la fusion, la nouvelle société est réputée avoir été une société publique au début de sa première année d'imposition;

corporation had cumulative taxable income immediately before the amalgamation, the amount thereof shall be added to the total determined for A in the definition ***cumulative taxable income*** in subsection 133(9);

Public corporation

(ii) where a predecessor corporation was a public corporation immediately before the amalgamation, the new corporation shall be deemed to have been a public corporation at the commencement of its first taxation year;

Interest on certain obligations

(jj) for the purposes of paragraph 81(1)(m), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Disposition of shares of controlled corporation

(kk) for the purposes of paragraph 40(2)(h),

(i) where a corporation was controlled, directly or indirectly in any manner whatever, by a predecessor corporation immediately before the amalgamation and has, by reason of the amalgamation, become controlled, directly or indirectly in any manner whatever, by the new corporation, the new corporation shall be deemed to have acquired control of the corporation so controlled at the time control thereof was acquired by the predecessor corporation, and

(ii) where a predecessor corporation was immediately before the amalgamation controlled, directly or indirectly in any manner whatever, by a corporation that, immediately after the amalgamation, controlled, directly or indirectly in any manner whatever, the new corporation, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Para. 20(1)(n) and subpara. 40(1)(a)(iii) amounts

(ll) notwithstanding any other provision of this Act, where any property was disposed of by a predecessor corporation, the new corporation shall, in computing

(i) the amount of any deduction under paragraph 20(1)(n) as a reserve in respect of the property sold in the course of business, and

(ii) the amount of its claim under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in respect of the disposition of the property,

Intérêts sur certaines obligations

jj) pour l'application de l'alinéa 81(1)m), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Disposition d'actions d'une société contrôlée

kk) pour l'application de l'alinéa 40(2)h) :

(i) lorsqu'une société était contrôlée, directement ou indirectement, de quelque manière que ce soit, par une société remplacée, immédiatement avant la fusion, et est devenue contrôlée, directement ou indirectement, de quelque manière que ce soit, à cause de la fusion, par la nouvelle société, cette dernière est réputée avoir acquis le contrôle de la société ainsi contrôlée au moment où le contrôle de la société a été acquis par la société remplacée,

(ii) lorsqu'une société remplacée était, immédiatement avant la fusion, contrôlée, directement ou indirectement, de quelque manière que ce soit, par une société qui, immédiatement après la fusion contrôlait, directement ou indirectement, de quelque manière que ce soit, la nouvelle société, celle-ci est réputée être la même société que chaque société remplacée et en être la continuation;

Montants visés à l'al. 20(1)n) et au sous-alinéa 40(1)a)(iii)

ll) malgré les autres dispositions de la présente loi, lorsqu'une société remplacée a disposé d'un bien donné, la nouvelle société, dans le calcul :

(i) du montant d'une déduction en vertu de l'alinéa 20(1)n) à titre de provision à l'égard du bien vendu dans le cours des activités de l'entreprise,

(ii) du montant de sa déduction en application des sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii) à l'égard de la disposition du bien,

est réputée être la même société que la société remplacée et en être la continuation;

mm) [Abrogé, 2013, ch. 34, art. 223]

Impôt de la partie VII en main remboursable

nn) pour le calcul de l'impôt de la partie VII en main remboursable de la nouvelle société à la fin d'une année d'imposition donnée, il est ajouté au total déterminé en vertu de l'alinéa 192(3)a) le total des montants dont chacun représente l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

be deemed to be the same corporation as, and a continuation of, the predecessor corporation;

(mm) [Repealed, 2013, c. 34, s. 223]

Refundable Part VII tax on hand

(nn) for the purpose of computing the refundable Part VII tax on hand of the new corporation at the end of any taxation year, there shall be added to the total determined under paragraph 192(3)(a) the total of all amounts each of which is the amount, if any, by which

(i) a predecessor corporation's refundable Part VII tax on hand at the end of its last taxation year

exceeds

(ii) the predecessor corporation's Part VII refund for its last taxation year;

Investment tax credit

(oo) for the purpose of applying subsection 127(10.2) to any corporation, the new corporation is deemed to have had

(i) a particular taxation year that

(A) where it was associated with another corporation in the new corporation's first taxation year, ended in the calendar year that precedes the calendar year in which that first year ends, and

(B) in any other case, immediately precedes that first year, and

(ii) taxable income for the particular year (determined before taking into consideration the specified future tax consequences for the particular year) equal to the total of all amounts each of which is a predecessor corporation's taxable income for its taxation year that ended immediately before the amalgamation (determined before taking into consideration the specified future tax consequences for that year);

Refundable investment tax credit and balance-due day

(oo.1) for the purpose of applying the definition ***qualifying corporation*** in subsection 127.1(2), and subparagraph (d)(i) of the definition ***balance-due day*** in subsection 248(1), to any corporation, the new corporation is deemed to have had

(i) a particular taxation year that

(i) l'impôt de la partie VII en main remboursable de la société remplacée à la fin de sa dernière année d'imposition,

(ii) le remboursement de la partie VII de la société remplacée pour sa dernière année d'imposition;

Crédit d'impôt à l'investissement

oo) pour l'application du paragraphe 127(10.2) à une société, les présomptions suivantes s'appliquent à la nouvelle société :

(i) elle est réputée avoir eu une année d'imposition donnée qui :

(A) si elle est associée à une autre société au cours de sa première année d'imposition, s'est terminée dans l'année civile précédant celle au cours de laquelle cette première année a pris fin,

(B) sinon, a immédiatement précédé la première année visée à la division (A),

(ii) son revenu imposable pour l'année donnée, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année, est réputé égal au total des montants représentant chacun le revenu imposable d'une société remplacée pour son année d'imposition se terminant immédiatement avant la fusion, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année;

Crédit d'impôt à l'investissement remboursable et date d'exigibilité du solde

oo.1) pour l'application de la définition de ***société admissible*** au paragraphe 127.1(2) et du sous-alinéa d)(i) de la définition de ***date d'exigibilité du solde*** au paragraphe 248(1) à une société, les présomptions suivantes s'appliquent à la nouvelle société :

(i) elle est réputée avoir eu une année d'imposition donnée qui :

(A) si elle est associée à une autre société au cours de sa première année d'imposition, s'est terminée dans l'année civile précédant celle au cours de laquelle cette première année a pris fin,

(B) sinon, a immédiatement précédé la première année visée à la division (A),

(ii) son revenu imposable pour l'année donnée, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année, est réputé égal au total des montants représentant

(A) where it was associated with another corporation in the new corporation's first taxation year, ended in the calendar year that precedes the calendar year in which that first year ends, and

(B) where clause 87(2)(oo.1)(i)(A) does not apply, immediately precedes that first year,

(ii) taxable income for the particular year (determined before taking into consideration the specified future tax consequences for the particular year) equal to the total of all amounts each of which is a predecessor corporation's taxable income for its taxation year that ended immediately before the amalgamation (determined before taking into consideration the specified future tax consequences for that year),

(iii) a business limit for the particular year equal to the total of all amounts each of which is a predecessor corporation's business limit for its taxation year that ended immediately before the amalgamation, and

(iv) a qualifying income limit for the particular year equal to the total of all amounts each of which is a predecessor corporation's qualifying income limit for its taxation year that ended immediately before the amalgamation;

Cumulative offset account computation

(pp) for the purpose of computing the cumulative offset account (within the meaning assigned by subsection 66.5(2)) of the new corporation at any time, there shall be added to the total otherwise determined under paragraph 66.5(2)(a) the total of all amounts each of which is the amount, if any, by which

(i) a predecessor corporation's cumulative offset account at the end of its last taxation year

exceeds

(ii) the amount deducted under subsection 66.5(1) in computing the predecessor corporation's income for its last taxation year;

Continuation of corporation

(qq) for the purpose of computing the new corporation's investment tax credit at the end of any taxation year, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this paragraph does not

chacun le revenu imposable d'une société remplacée pour son année d'imposition se terminant immédiatement avant la fusion, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année,

(iii) son plafond des affaires pour l'année donnée est réputé égal au total des montants représentant chacun le plafond des affaires d'une société remplacée pour son année d'imposition se terminant immédiatement avant la fusion,

(iv) son plafond de revenu admissible pour l'année donnée est réputé être égal au total des sommes dont chacune représente le plafond de revenu admissible d'une société remplacée pour son année d'imposition ayant pris fin immédiatement avant la fusion;

Calcul du solde du compte compensatoire cumulatif

pp) pour le calcul du solde du compte compensatoire cumulatif (au sens du paragraphe 66.5(2)) de la nouvelle société à un moment donné, est ajouté au total calculé par ailleurs selon l'alinéa 66.5(2)a) l'ensemble des montants dont chacun représente l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) le solde du compte compensatoire cumulatif d'une société remplacée à la fin de sa dernière année d'imposition,

(ii) le montant déduit en vertu du paragraphe 66.5(1) dans le calcul du revenu de la société remplacée pour sa dernière année d'imposition;

Continuation d'une société

qq) pour le calcul du crédit d'impôt à l'investissement de la nouvelle société à la fin d'une année d'imposition, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation; toutefois, le présent alinéa n'a pas pour effet de changer l'exercice d'une société ou de modifier l'impôt payable par une société remplacée;

Impôt concernant les actions privilégiées imposables

rr) pour l'application des paragraphes 112(2.9), 191(4) et 191.1(2) et (4), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Transfert de l'impôt prévu par la partie VI.1

ss) pour l'application de l'article 191.3, la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

affect the determination of the fiscal period of any corporation or the tax payable by any predecessor corporation;

Tax on taxable preferred shares

(rr) for the purposes of subsections 112(2.9), 191(4), and 191.1(2) and 191.1(4), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Transferred liability for Part VI.1 tax

(ss) for the purposes of section 191.3, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Livestock — inclusion of deferred amount

(tt) for the purposes of subsections 80.3(3) and 80.3(5), the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

Fuel tax rebates

(uu) for the purposes of paragraph 12(1)(x.1), the description of D.1 in the definition ***non-capital loss*** in subsection 111(8), and subsections 111(10) and 111(11), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

General rate income pool

(vv) if the new corporation is a Canadian-controlled private corporation or a deposit insurance corporation in its first taxation year, in computing its general rate income pool at the end of that first taxation year there shall be added the total of all amounts determined under subsection 89(5) in respect of the corporation for that first taxation year; and

Low rate income pool

(ww) if the new corporation is neither a Canadian-controlled private corporation nor a deposit insurance corporation in its first taxation year, there shall be added in computing its low rate income pool at any time in that first taxation year the total of all amounts determined under subsection 89(9) in respect of the corporation for that first taxation year.

Application of s. 37.1(5)

(2.01) The definitions in subsection 37.1(5) apply to subsection 87(2).

Non-capital losses, etc., of predecessor corporations

(2.1) Where there has been an amalgamation of two or more corporations, for the purposes only of

Bétail — Inclusion du montant reporté

tt) pour l'application des paragraphes 80.3(3) et (5), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Remise de la taxe sur le combustible

uu) pour l'application de l'alinéa 12(1)x.1), de l'élément D.1 de la formule figurant dans la définition de ***perte autre qu'une perte en capital*** au paragraphe 111(8) et des paragraphes 111(10) et (11), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

Compte de revenu à taux général

vv) si la nouvelle société est une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts au cours de sa première année d'imposition, est inclus dans le calcul de son compte de revenu à taux général à la fin de cette première année le total des sommes déterminées à son égard selon le paragraphe 89(5) pour cette même année;

Compte de revenu à taux réduit

ww) si la nouvelle société n'est ni une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts au cours de sa première année d'imposition, est inclus dans le calcul de son compte de revenu à taux réduit à un moment quelconque de cette première année le total des sommes déterminées à son égard selon le paragraphe 89(9) pour cette même année.

Application du par. 37.1(5)

(2.01) Les définitions figurant au paragraphe 37.1(5) s'appliquent au paragraphe (2).

Pertes autres que des pertes en capital, etc. de sociétés remplacées

(2.1) Lorsqu'il y a eu fusion de plusieurs sociétés, aux seules fins suivantes :

(a) determining the new corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for any taxation year, and

(b) determining the extent to which subsections 111(3) to 111(5.4) and paragraph 149(10)(c) apply to restrict the deductibility by the new corporation of any non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be,

the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation, except that this subsection shall in no respect affect the determination of

(c) the fiscal period of the new corporation or any of its predecessors,

(d) the income of the new corporation or any of its predecessors, or

(e) the taxable income of, or the tax payable under this Act by, any predecessor corporation.

a) déterminer, pour une année d'imposition, la perte autre qu'une perte en capital, la perte en capital nette, la perte agricole restreinte, la perte agricole ou la perte comme commanditaire de la nouvelle société;

b) déterminer dans quelle mesure les paragraphes 111(3) à (5.4) et l'alinéa 149(10)c) s'appliquent de manière que soit restreint le montant que la nouvelle société peut déduire à titre de perte autre qu'une perte en capital, de perte en capital nette, de perte agricole restreinte, de perte agricole ou de perte comme commanditaire,

la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation, sauf que le présent paragraphe ne doit en aucun cas influer sur la détermination :

c) de l'exercice de la nouvelle société, ou de toute société remplacée;

d) du revenu de la nouvelle société, ou de toute société remplacée;

e) du revenu imposable de toute société remplacée ou de l'impôt payable par celle-ci en vertu de la présente loi.

Vertical amalgamations

(2.11) Where a new corporation is formed by the amalgamation of a particular corporation and one or more of its subsidiary wholly-owned corporations, the new corporation is deemed to be the same corporation as, and a continuation of, the particular corporation for the purposes of applying sections 111 and 126, subsections 127(5) to 127(26) and 181.1(4) to 181.1(7), Part IV and subsections 190.1(3) to 190.1(6) in respect of the particular corporation.

Fusion verticale

(2.11) La société issue de la fusion d'une société donnée et d'une ou plusieurs de ses filiales à cent pour cent est réputée être la même société que la société donnée et en être la continuation pour l'application des articles 111 et 126, des paragraphes 127(5) à (26) et 181.1(4) à (7), de la partie IV et des paragraphes 190.1(3) à (6) à la société donnée.

Amalgamation of insurers

(2.2) Where there has been an amalgamation and one or more of the predecessor corporations was an insurer, the new corporation is, notwithstanding subsection (2), deemed, for the purposes of paragraphs 12(1)(d), (e), (e.1), (i) and (s), subsection 12.5(8), paragraphs 20(1)(l), (l.1), (p) and (jj) and 20(7)(c), subsections 20(22) and 20.4(4), sections 138, 138.1, 140, 142 and 148 and Part XII.3, to be the same corporation as, and a continuation of, each of those predecessor corporations.

Fusion d'assureurs

(2.2) Pour l'application des alinéas 12(1)d), e), e.1), i) et s), du paragraphe 12.5(8), des alinéas 20(1)l), l.1), p) et jj) et 20(7)c), des paragraphes 20(22) et 20.4(4), des articles 138, 138.1, 140, 142 et 148 et de la partie XII.3 et malgré le paragraphe (2), la société issue de la fusion de plusieurs sociétés, dont au moins une était un assureur, est réputée être la même société que chaque société remplacée, et en être la continuation.

Quebec credit unions

(2.3) For the purpose of applying this section to an amalgamation governed by section 689 of *An Act respecting financial services cooperatives*, R.S.Q., c. C-67.3, an investment deposit of a credit union is deemed to be a share of a separate class of the capital stock of a

Caisses de crédit du Québec

(2.3) Pour l'application du présent article à une fusion régie par l'article 689 de la *Loi sur les coopératives de services financiers*, L.R.Q., ch. C-67.3, le dépôt à participation d'une caisse de crédit est réputé être une action d'une catégorie distincte du capital-actions d'une société

predecessor corporation in respect of the amalgamation the adjusted cost base and paid up capital of which to the credit union is equal to the adjusted cost base to the credit union of the investment deposit immediately before the amalgamation if

(a) immediately before the amalgamation, the investment deposit is an investment deposit to which section 425 of the *Savings and Credit Unions Act*, R.S.Q., c. C-4.1, applies to the investment fund of that predecessor corporation; and

(b) on the amalgamation the credit union disposes of the investment deposit for consideration that consists solely of shares of a class of the capital stock of the new corporation.

Computation of paid-up capital

(3) Subject to subsection 87(3.1), where there is an amalgamation or a merger of 2 or more Canadian corporations, in computing at any particular time the paid-up capital in respect of any particular class of shares of the capital stock of the new corporation,

(a) there shall be deducted that proportion of the amount, if any, by which the paid-up capital, determined without reference to this subsection, in respect of all the shares of the capital stock of the new corporation immediately after the amalgamation or merger exceeds the total of all amounts each of which is the paid-up capital in respect of a share (except a share held by any other predecessor corporation) of the capital stock of a predecessor corporation immediately before the amalgamation or merger, that

(i) the paid-up capital, determined without reference to this subsection, of the particular class of shares of the capital stock of the new corporation immediately after the amalgamation or merger

is of

(ii) the paid-up capital, determined without reference to this subsection, in respect of all of the issued and outstanding shares of the capital stock of the new corporation immediately after the amalgamation or merger; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of the

remplacée relativement à la fusion dont le prix de base rajusté et le capital versé, pour la caisse, correspondent au prix de base rajusté, pour elle, du dépôt immédiatement avant la fusion si, à la fois :

a) immédiatement avant la fusion, le dépôt est un dépôt à participation, auquel s'applique l'article 425 de la *Loi sur les caisses d'épargne et de crédit*, L.R.Q., ch. C-4.1, d'un fonds d'investissement de la société remplacée;

b) au moment de la fusion, la caisse dispose du dépôt pour une contrepartie qui consiste uniquement en actions d'une catégorie du capital-actions de la société issue de la fusion.

Calcul du capital versé

(3) Sous réserve du paragraphe (3.1), en cas de fusion ou d'unification de plusieurs sociétés canadiennes, il faut, dans le calcul à un moment donné du capital versé au titre d'une catégorie donnée d'actions du capital-actions de la nouvelle société :

a) déduire la fraction de l'excédent éventuel du capital versé, calculé compte non tenu du présent paragraphe, à l'égard de toutes les actions du capital-actions de la nouvelle société immédiatement après la fusion ou l'unification sur le total des montants dont chacun représente le capital versé à l'égard d'une action (exception faite d'une action détenue par toute autre société remplacée) du capital-actions d'une société remplacée, immédiatement avant la fusion ou l'unification, qui est représentée par le rapport entre :

(i) d'une part, le capital versé, calculé compte non tenu du présent paragraphe, à l'égard de la catégorie d'actions donnée du capital-actions de la nouvelle société immédiatement après la fusion ou l'unification,

(ii) d'autre part, le capital versé, calculé compte non tenu du présent paragraphe, à l'égard de toutes les actions émises et en circulation du capital-actions de la nouvelle société immédiatement après la fusion ou l'unification;

b) ajouter un montant égal au moins élevé des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B) :

(A) le total des montants dont chacun est réputé être, en vertu des paragraphes 84(3), (4) ou (4.1), un dividende sur des actions de la catégorie

particular class paid by the new corporation before the particular time

exceeds

(B) the total that would be determined under clause 87(3)(b)(i)(A) if this Act were read without reference to paragraph 87(3)(a), and

(ii) the amount required by paragraph 87(3)(a) to be deducted in computing the paid-up capital of shares of the particular class.

donnée qui a été versé par la nouvelle société avant le moment donné,

(B) le total qui serait déterminé en vertu de la division (A), compte non tenu de l'alinéa a),

(ii) le montant qui doit, en vertu de l'alinéa a), être déduit dans le calcul du capital versé à l'égard des actions de la catégorie donnée.

Election for non-application of subsection (3)

(3.1) Where,

(a) there is an amalgamation of 2 or more corporations,

(b) all of the issued shares, immediately before the amalgamation, of each class of shares (other than a class of shares all of the issued shares of which were cancelled on the amalgamation) of the capital stock of each predecessor corporation (in this subsection referred to as the "exchanged class") are converted into all of the issued shares, immediately after the amalgamation, of a separate class of shares of the capital stock of the new corporation (in this subsection referred to as the "substituted class"),

(c) immediately after the amalgamation, the number of shareholders of each substituted class, the number of shares of each substituted class owned by each shareholder, the number of issued shares of each substituted class, the terms and conditions of each share of a substituted class, and the paid-up capital of each substituted class determined without reference to the provisions of this Act are identical to the number of shareholders of the exchanged class from which the substituted class was converted, the number of shares of each such exchanged class owned by each shareholder, the number of issued shares of each such exchanged class, the terms and conditions of each share of such exchanged class, and the paid-up capital of each such exchanged class determined without reference to the provisions of this Act, respectively, immediately before the amalgamation, and

(d) the new corporation elects in its return of income filed in accordance with section 150 for its first taxation year to have the provisions of this subsection apply,

for the purpose of computing at any particular time the paid-up capital in respect of any particular class of shares of the capital stock of the new corporation,

Choix

(3.1) Lorsque les conditions suivantes sont réunies :

a) il y a fusion de plusieurs sociétés;

b) les actions émises, immédiatement avant la fusion, de chaque catégorie d'actions (sauf une catégorie dont toutes les actions émises sont annulées lors de la fusion) du capital-actions de chaque société remplacée (appelée « catégorie échangée » au présent paragraphe) sont converties en actions émises, immédiatement après la fusion, d'une autre catégorie d'actions du capital-actions de la nouvelle société (appelée « catégorie remplaçante » au présent paragraphe);

c) immédiatement après la fusion, le nombre d'actionnaires de chaque catégorie remplaçante, le nombre d'actions de chaque catégorie remplaçante appartenant à chaque actionnaire, le nombre d'actions émises de chaque catégorie remplaçante, les modalités de chaque action d'une catégorie remplaçante ainsi que le capital versé au titre de chaque catégorie remplaçante, déterminé compte non tenu des dispositions de la présente loi, sont identiques, respectivement, au nombre d'actionnaires de la catégorie échangée qui a été convertie en la catégorie remplaçante, au nombre d'actions de chaque semblable catégorie échangée appartenant à chaque actionnaire, au nombre d'actions émises de chaque semblable catégorie échangée, aux modalités de chaque action d'une telle catégorie échangée ainsi qu'au capital versé au titre de chaque semblable catégorie échangée, déterminé compte non tenu des dispositions de la présente loi, immédiatement avant la fusion;

d) la nouvelle société fait un choix, dans sa déclaration de revenu produite en conformité avec l'article 150 pour sa première année d'imposition, pour que les dispositions du présent paragraphe s'appliquent,

les règles suivantes s'appliquent au calcul du capital versé au titre d'une catégorie donnée d'actions du capital-actions de la nouvelle société :

(e) subsection 87(3) does not apply in respect of the amalgamation, and

(f) each substituted class shall be deemed to be the same as, and a continuation of, the exchanged class from which it was converted.

e) le paragraphe (3) ne s'applique pas à la fusion;

f) chaque catégorie remplaçante est réputée être la même catégorie que la catégorie échangée avant la conversion et en être la continuation.

Shares of predecessor corporation

(4) Where there has been an amalgamation of two or more corporations after May 6, 1974, each shareholder (except any predecessor corporation) who, immediately before the amalgamation, owned shares of the capital stock of a predecessor corporation (in this subsection referred to as the "old shares") that were capital property to the shareholder and who received no consideration for the disposition of those shares on the amalgamation, other than shares of the capital stock of the new corporation (in this subsection referred to as the "new shares"), shall be deemed

(a) to have disposed of the old shares for proceeds equal to the total of the adjusted cost bases to the shareholder of those shares immediately before the amalgamation, and

(b) to have acquired the new shares of any particular class of the capital stock of the new corporation at a cost to the shareholder equal to that proportion of the proceeds described in paragraph 87(4)(a) that

(i) the fair market value, immediately after the amalgamation, of all new shares of that particular class so acquired by the shareholder,

is of

(ii) the fair market value, immediately after the amalgamation, of all new shares so acquired by the shareholder,

except that, where the fair market value of the old shares immediately before the amalgamation exceeds the fair market value of the new shares immediately after the amalgamation and it is reasonable to regard any portion of the excess (in this subsection referred to as the "gift portion") as a benefit that the shareholder desired to have conferred on a person related to the shareholder, the following rules apply:

(c) the shareholder shall be deemed to have disposed of the old shares for proceeds of disposition equal to the lesser of

(i) the total of the adjusted cost bases to the shareholder, immediately before the amalgamation, of the old shares and the gift portion, and

Actions d'une société remplacée

(4) En cas de fusion de plusieurs sociétés après le 6 mai 1974, chaque actionnaire (à l'exclusion d'une société remplacée) qui était propriétaire, immédiatement avant la fusion, d'actions du capital-actions de l'une des sociétés remplacées (appelées les « anciennes actions » au présent paragraphe), constituant pour lui des immobilisations, et qui n'a reçu, en contrepartie de la disposition de ces actions lors de la fusion, que des actions du capital-actions de la nouvelle société (appelées les « nouvelles actions » au présent paragraphe), est réputé :

a) avoir disposé des anciennes actions pour un produit égal au total des prix de base rajustés, pour lui, de ces actions immédiatement avant la fusion;

b) avoir acquis les nouvelles actions d'une catégorie donnée du capital-actions de la nouvelle société à un coût égal à la fraction du produit visé à l'alinéa a) représentée par le rapport entre :

(i) d'une part, la juste valeur marchande, immédiatement après la fusion, de toutes les nouvelles actions de cette catégorie donnée qu'il a acquises à cette occasion,

(ii) d'autre part, la juste valeur marchande, immédiatement après la fusion, de toutes les nouvelles actions qu'il a acquises à cette occasion;

toutefois, lorsque la juste valeur marchande des anciennes actions immédiatement avant la fusion est supérieure à la juste valeur marchande des nouvelles actions immédiatement après la fusion et qu'il est raisonnable de considérer une partie quelconque de cet excédent (appelée la « partie donnée » au présent paragraphe) comme un avantage que l'actionnaire désirait voir conféré à une personne à laquelle il est lié, les règles suivantes s'appliquent :

c) l'actionnaire est réputé avoir disposé des anciennes actions pour un produit de disposition égal au moindre des montants suivants :

(i) le total des prix de base rajustés supportés par lui, immédiatement avant la fusion, des anciennes actions et de la partie donnée,

(ii) la juste valeur marchande des anciennes actions immédiatement avant la fusion;

(ii) the fair market value of the old shares immediately before the amalgamation,

(d) the shareholder's capital loss from the disposition of the old shares shall be deemed to be nil, and

(e) the cost to the shareholder of any new shares of any class of the capital stock of the new corporation acquired by the shareholder on the amalgamation shall be deemed to be that proportion of the lesser of

(i) the total of the adjusted cost bases to the shareholder, immediately before the amalgamation, of the old shares, and

(ii) the total of the fair market value, immediately after the amalgamation, of all new shares so acquired by the shareholder and the amount that, but for paragraph 87(4)(d), would have been the shareholder's capital loss from the disposition of the old shares

that

(iii) the fair market value, immediately after the amalgamation, of the new shares of that class so acquired by the shareholder

is of

(iv) the fair market value, immediately after the amalgamation, of all new shares so acquired by the shareholder,

and where the old shares were taxable Canadian property of the shareholder, the new shares are deemed to be, at any time that is within 60 months after the amalgamation, taxable Canadian property of the shareholder.

d) la perte en capital subie par l'actionnaire lors de la disposition des anciennes actions est réputée nulle;

e) le coût supporté par l'actionnaire de nouvelles actions d'une catégorie quelconque du capital-actions de la nouvelle société acquises par lui lors de la fusion est réputé être la fraction du moindre des montants suivants :

(i) le total des prix de base rajustés supportés par lui, immédiatement avant la fusion, des anciennes actions,

(ii) le total de la juste valeur marchande, immédiatement après la fusion, de toutes les nouvelles actions ainsi acquises par lui et du montant qui, sans l'alinéa d), aurait constitué la perte en capital subie par l'actionnaire lors de la disposition des anciennes actions,

représentée par le rapport entre :

(iii) d'une part, la juste valeur marchande, immédiatement après la fusion, de toutes les nouvelles actions de cette catégorie ainsi acquises par lui,

(iv) d'autre part, la juste valeur marchande, immédiatement après la fusion, de toutes les nouvelles actions ainsi acquises par lui;

en outre, lorsque les anciennes actions étaient des biens canadiens imposables de l'actionnaire, les nouvelles actions sont réputées l'être également à tout moment de la période de 60 mois suivant la fusion.

Exchanged shares

(4.1) For the purposes of the definition ***term preferred share*** in subsection 248(1), where there has been an amalgamation of two or more corporations after November 16, 1978 and a share of any class of the capital stock of the new corporation (in this subsection referred to as the "new share") was issued in consideration for the disposition of a share of any class of the capital stock of a predecessor corporation (in this subsection referred to as the "exchanged share") and the terms and conditions of the new share were the same as, or substantially the same as, the terms and conditions of the exchanged share,

(a) the new share shall be deemed to have been issued at the time the exchanged share was issued;

Actions échangées

(4.1) Pour l'application de la définition de ***action privilégiée à terme***, au paragraphe 248(1), lorsqu'il y a eu fusion de plusieurs sociétés après le 16 novembre 1978 et qu'une action de toute catégorie du capital-actions de la nouvelle société (appelée la « nouvelle action » au présent paragraphe) a été émise en contrepartie de la disposition d'une action de toute catégorie du capital-actions d'une société remplacée (appelée l'« action échangée » au présent paragraphe), et les caractéristiques de la nouvelle action étaient les mêmes ou essentiellement les mêmes que celles de l'action échangée :

a) la nouvelle action est réputée avoir été émise au moment où l'action échangée a été émise;

(b) if the exchanged share was issued under an agreement in writing, the new share shall be deemed to have been issued under that agreement; and

(c) the new corporation shall be deemed to be the same corporation as, and a continuation of, each such predecessor corporation.

b) si l'action échangée a été émise en vertu d'une convention écrite, la nouvelle action est réputée avoir été émise en vertu de cette convention;

c) la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation.

Idem

(4.2) Where there has been an amalgamation or merger of two or more corporations after November 27, 1986 and a share of any class of the capital stock of the new corporation (in this subsection referred to as the "new share") was issued to a shareholder in consideration for the disposition of a share by that shareholder of any class of the capital stock of a predecessor corporation (in this subsection referred to as the "exchanged share") and the terms and conditions of the new share were the same as, or substantially the same as, the terms and conditions of the exchanged share, for the purposes of applying the provisions of this subsection, subsections 112(2.2) and 112(2.4), Parts IV.1 and VI.1, section 258 and the definitions ***grandfathered share***, ***short-term preferred share***, ***taxable preferred share*** and ***taxable RFI share*** in subsection 248(1) to the new share, the following rules apply:

(a) the new share shall be deemed to have been issued at the time the exchanged share was issued;

(b) where the exchanged share was a share described in paragraph (a), (b), (c) or (d) of the definition ***grandfathered share*** in subsection 248(1), the new share shall be deemed to be the same share as the exchanged share for the purposes of that definition;

(c) the new share shall be deemed to have been acquired by the shareholder at the time the exchanged share was acquired by the shareholder;

(d) the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(e) an election made under subsection 191.2(1) by a predecessor corporation with respect to the class of shares of its capital stock to which the exchanged share belonged shall be deemed to be an election made by the new corporation with respect to the class of shares of its capital stock to which the new share belongs; and

(f) where the terms or conditions of the exchanged share or an agreement in respect of the exchanged share specify an amount in respect of the exchanged share for the purposes of subsection 191(4) and an

Actions échangées après le 27 novembre 1986

(4.2) En cas de fusion ou d'unification de plusieurs sociétés après le 27 novembre 1986, si une action d'une catégorie du capital-actions de la nouvelle société — appelée « nouvelle action » au présent paragraphe — est émise à un actionnaire en contrepartie de la disposition par cet actionnaire d'une action d'une catégorie du capital-actions d'une société remplacée — appelée « action échangée » au présent paragraphe — et si les caractéristiques de la nouvelle action sont les mêmes ou essentiellement les mêmes que celles de l'action échangée, pour l'application à la nouvelle action du présent paragraphe, des paragraphes 112(2.2) et (2.4), des parties IV.1 et VI.1 et de l'article 258, ainsi que des définitions de ***action de régime transitoire***, de ***action particulière à une institution financière***, de ***action privilégiée à court terme*** et de ***action privilégiée imposable*** au paragraphe 248(1) :

a) la nouvelle action est réputée émise au moment où l'action échangée a été émise;

b) si l'action échangée était une action visée à l'un des alinéas a) à d) de la définition de ***action de régime transitoire*** au paragraphe 248(1), la nouvelle action est réputée être la même action que l'action échangée pour l'application de cette définition;

c) l'actionnaire est réputé avoir acquis la nouvelle action au moment où il a acquis l'action échangée;

d) la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

e) le choix fait par une société remplacée en application du paragraphe 191.2(1) en ce qui concerne la catégorie d'actions de son capital-actions dont l'action échangée faisait partie est réputé être un choix fait par la nouvelle société en ce qui concerne la catégorie d'actions de son capital-actions dont la nouvelle action fait partie;

f) lorsque les caractéristiques de l'action échangée ou une convention concernant cette action indiquent un montant au titre de l'action échangée pour l'application du paragraphe 191(4), les présomptions suivantes s'appliquent, à condition que le montant indiqué au

amount equal to the amount so specified in respect of the exchanged share is specified in respect of the new share for the purposes of subsection 191(4),

(i) for the purposes of subparagraphs 191(4)(d)(i) and 191(4)(e)(i), the new share shall be deemed to have been issued for the same consideration as that for which the exchanged share was issued and to have been issued for the purpose for which the exchanged share was issued,

(ii) for the purposes of subparagraphs 191(4)(d)(ii) and 191(4)(e)(ii), the new share shall be deemed to be the same share as the exchanged share and to have been issued for the purpose for which the exchanged share was issued, and

(iii) where the shareholder received no consideration for the disposition of the exchanged share other than the new share, for the purposes of subsection 191(4),

(A) in the case of an exchanged share to which subsection 191(4) applies because of paragraph 191(4)(a), the new share shall be deemed to have been issued for consideration having a fair market value equal to the consideration for which the exchanged share was issued, and

(B) in the case of an exchanged share to which subsection 191(4) applies because of an event described in paragraph 191(4)(b) or 191(4)(c), the consideration for which the new share was issued shall be deemed to have a fair market value equal to the fair market value of the exchanged share immediately before the time that event occurred.

titre de la nouvelle action pour l'application de ce paragraphe soit égal à celui ainsi indiqué au titre de l'action échangée :

(i) pour l'application des sous-alinéas 191(4)d)(i) et e)(i), la nouvelle action est réputée avoir été émise pour la même contrepartie et à la même fin que l'action échangée,

(ii) pour l'application des sous-alinéas 191(4)d)(ii) et e)(ii), la nouvelle action est réputée être la même action que l'action échangée et avoir été émise à la même fin que celle-ci,

(iii) pour l'application du paragraphe 191(4), dans le cas où l'actionnaire n'a reçu que la nouvelle action en contrepartie de la disposition de l'action échangée :

(A) si le paragraphe 191(4) s'applique à l'action échangée par l'effet de l'alinéa 191(4)a), la nouvelle action est réputée avoir été émise pour une contrepartie dont la juste valeur marchande est égale à la contrepartie de l'émission de l'action échangée,

(B) si le paragraphe 191(4) s'applique à l'action échangée en raison d'un événement visé à l'alinéa 191(4)b) ou c), la juste valeur marchande de la contrepartie pour laquelle la nouvelle action a été émise est réputée égale à la juste valeur marchande de l'action échangée immédiatement avant le moment où l'événement s'est produit.

Exchanged rights

(4.3) Where there has been an amalgamation or merger of two or more corporations after June 18, 1987 and a right listed on a designated stock exchange to acquire a share of any class of the capital stock of the new corporation (in this subsection referred to as the "new right") was acquired by a shareholder in consideration for the disposition of a right described in paragraph (d) of the definition ***grandfathered share*** in subsection 248(1) to acquire a share of any class of the capital stock of a predecessor corporation (in this subsection referred to as the "exchanged right"), the new right shall be deemed to be the same right as the exchanged right for the purposes of paragraph (d) of the definition ***grandfathered share*** in subsection 248(1) where the terms and conditions of the new right were the same as, or substantially the same as, the terms and conditions of the exchanged right and the terms and conditions of the share receivable on an

Droits échangés

(4.3) En cas de fusion ou d'unification de plusieurs sociétés après le 18 juin 1987, si un droit, coté à une bourse de valeurs désignée, permettant d'acquérir une action d'une catégorie du capital-actions de la nouvelle société — appelé « nouveau droit » au présent paragraphe — est acquis par un actionnaire en contrepartie de la disposition d'un droit, visé à l'alinéa d) de la définition de ***action de régime transitoire***, au paragraphe 248(1), permettant d'acquérir une action d'une catégorie du capital-actions d'une société remplacée — appelé « droit échangé » au présent paragraphe —, si les caractéristiques du nouveau droit sont les mêmes ou essentiellement les mêmes que les caractéristiques du droit échangé et, enfin, si les caractéristiques de l'action à recevoir sur exercice du nouveau droit sont les mêmes ou essentiellement les mêmes que les caractéristiques de l'action qui aurait été reçue sur exercice du droit échangé, le nouveau droit est réputé

exercise of the new right were the same as, or substantially the same as, the terms and conditions of the share that would have been received on an exercise of the exchanged right.

Flow-through shares

(4.4) Where

(a) there is an amalgamation of two or more corporations each of which is a principal-business corporation (within the meaning assigned by subsection 66(15)) or a corporation that at no time carried on business,

(b) a predecessor corporation entered into an agreement with a person at a particular time for consideration given by the person to the predecessor corporation,

(c) for the consideration under the agreement

(i) a share (in this subsection referred to as the "old share") of the predecessor corporation that was a flow-through share (other than a right to acquire a share) was issued to the person before the amalgamation, or

(ii) a right was issued to the person before the amalgamation to acquire a share that would, if it were issued, be a flow-through share, and

(d) the new corporation

(i) issues, on the amalgamation and in consideration for the disposition of the old share, a share (in this subsection referred to as a "new share") of any class of its capital stock to the person (or to any person or partnership that subsequently acquired the old share) and the terms and conditions of the new share are the same as, or substantially the same as, the terms and conditions of the old share, or

(ii) is, because of the right referred to in subparagraph (c)(ii), obliged after the amalgamation to issue to the person a share of any class of the new corporation's capital stock that would, if it were issued, be a flow-through share,

for the purposes of subsection 66(12.66) and Part XII.6 and for the purposes of renouncing an amount under subsection 66(12.6), 66(12.601) or 66(12.62) in respect of Canadian exploration expenses or Canadian development expenses that would, but for the renunciation, be incurred by the new corporation after the amalgamation,

être le même droit que le droit échangé pour l'application de l'alinéa d) de la définition de ***action de régime transitoire***, au paragraphe 248(1).

Actions accréditives

(4.4) Dans le cas où, à la fois :

a) il y a fusion de plusieurs sociétés dont chacune est une société exploitant une entreprise principale, au sens du paragraphe 66(15), ou une société qui n'a jamais exploité d'entreprise;

b) une société remplacée conclut à un moment donné une convention avec une personne pour une contrepartie que celle-ci s'engage à lui donner;

c) pour la contrepartie prévue par la convention :

(i) une action (appelée « ancienne action » au présent paragraphe) de la société remplacée qui était une action accréditive (sauf un droit d'acquérir une action) a été émise à la personne avant la fusion,

(ii) un droit d'acquérir une action, qui serait une action accréditive si elle était émise, a été émis à la personne avant la fusion;

d) la nouvelle société, selon le cas :

(i) émet, à l'occasion de la fusion et en contrepartie de la disposition de l'ancienne action, une action (appelée « nouvelle action » au présent paragraphe) d'une catégorie de son capital-actions à la personne (ou à toute personne ou société de personnes ayant acquis l'ancienne action ultérieurement), et les caractéristiques de la nouvelle action sont les mêmes, ou essentiellement les mêmes, que celles de l'ancienne action,

(ii) est obligée après la fusion, en raison du droit visé au sous-alinéa c)(ii), d'émettre à la personne une action d'une catégorie de son capital-actions qui serait une action accréditive si elle était émise,

pour l'application du paragraphe 66(12.66) et de la partie XII.6 et pour ce qui est de la renonciation d'un montant en vertu des paragraphes 66(12.6), (12.601) ou (12.62) concernant des frais d'exploration au Canada ou des frais d'aménagement au Canada que la nouvelle société engagerait après la fusion si ce n'était la renonciation, les présomptions suivantes s'appliquent :

e) la personne est réputée avoir donné à la nouvelle société la contrepartie prévue par la convention pour l'émission de la nouvelle action;

(e) the person shall be deemed to have given the consideration under the agreement to the new corporation for the issue of the new share,

(f) the agreement shall be deemed to have been entered into between the new corporation and the person at the particular time,

(g) the new share shall be deemed to be a flow-through share of the new corporation, and

(h) the new corporation shall be deemed to be the same corporation as, and a continuation of, the predecessor corporation.

f) la convention est réputée avoir été conclue entre la nouvelle société et la personne au moment donné;

g) la nouvelle action est réputée être une action accréditive de la nouvelle société;

h) la nouvelle société est réputée être la même société que la société remplacée et en être la continuation.

Options to acquire shares of predecessor corporation

(5) Where there has been an amalgamation of two or more corporations after May 6, 1974, each taxpayer (except any predecessor corporation) who immediately before the amalgamation owned a capital property that was an option to acquire shares of the capital stock of a predecessor corporation (in this subsection referred to as the "old option") and who received no consideration for the disposition of that option on the amalgamation, other than an option to acquire shares of the capital stock of the new corporation (in this subsection referred to as the "new option"), shall be deemed

(a) to have disposed of the old option for proceeds equal to the adjusted cost base to the taxpayer of that option immediately before the amalgamation, and

(b) to have acquired the new option at a cost to the taxpayer equal to the proceeds described in paragraph 87(5)(a),

and where the old option was taxable Canadian property of the taxpayer, the new option is deemed to be, at any time that is within 60 months after the amalgamation, taxable Canadian property of the taxpayer.

Options d'acquisition d'actions d'une société remplacée

(5) En cas de fusion de plusieurs sociétés après le 6 mai 1974, un contribuable (à l'exclusion d'une société remplacée) qui, immédiatement avant la fusion, était propriétaire d'une immobilisation consistant en une option d'acquisition d'actions du capital-actions de l'une des sociétés remplacées (appelée l'« ancienne option » au présent paragraphe) et qui n'a reçu, en contrepartie de la disposition de cette option lors de la fusion, qu'une nouvelle option d'acquisition d'actions du capital-actions de la nouvelle société (appelée la « nouvelle option » au présent paragraphe) est réputé :

a) avoir disposé de l'ancienne option pour un produit égal au prix de base rajusté, pour lui, de cette option immédiatement avant la fusion;

b) avoir acquis la nouvelle option à un coût égal au produit visé à l'alinéa a).

En outre, lorsque l'ancienne option était un bien canadien imposable du contribuable, la nouvelle option est réputée l'être également à tout moment de la période de 60 mois suivant la fusion.

Adjusted cost base of option

(5.1) Where the cost to a taxpayer of a new option is determined at any time under subsection 87(5),

(a) there shall be deducted after that time in computing the adjusted cost base to the taxpayer of the new option the total of all amounts deducted under paragraph 53(2)(g.1) in computing, immediately before that time, the adjusted cost base to the taxpayer of the old option; and

(b) the amount determined under paragraph 87(5.1)(a) shall be added after that time in computing the adjusted cost base to the taxpayer of the new option.

Prix de base rajusté d'une option

(5.1) Dans le cas où le coût d'une nouvelle option pour un contribuable est déterminé à un moment donné selon le paragraphe (5), les règles suivantes s'appliquent :

a) est à déduire, après ce moment, dans le calcul du prix de base rajusté de la nouvelle option pour le contribuable le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul, immédiatement avant ce moment, du prix de base rajusté de l'ancienne option pour le contribuable;

b) le montant déterminé selon l'alinéa a) est à ajouter, après ce moment, dans le calcul du prix de base rajusté de la nouvelle option pour le contribuable.

Obligations of predecessor corporation

(6) Notwithstanding subsection (7), where there has been an amalgamation of two or more corporations after May 6, 1974, each taxpayer (except any predecessor corporation) who, immediately before the amalgamation, owned a capital property that was a bond, debenture, mortgage, hypothecary claim, note or other similar obligation of a predecessor corporation (in this subsection referred to as the "old property") and who received no consideration for the disposition of the old property on the amalgamation other than a bond, debenture, mortgage, hypothecary claim, note or other similar obligation respectively, of the new corporation (in this subsection referred to as the "new property") is, if the amount payable to the holder of the new property on its maturity is the same as the amount that would have been payable to the holder of the old property on its maturity, deemed

(a) to have disposed of the old property for proceeds equal to the adjusted cost base to the taxpayer of that property immediately before the amalgamation; and

(b) to have acquired the new property at a cost to the taxpayer equal to the proceeds described in paragraph 87(6)(a).

Adjusted cost base

(6.1) Where the cost to a taxpayer of a particular property that is a bond, debenture or note is determined at any time under subsection 87(6) and the terms of the bond, debenture or note conferred upon the holder the right to exchange that bond, debenture or note for shares,

(a) there shall be deducted after that time in computing the adjusted cost base to the taxpayer of the bond, debenture or note the total of all amounts deducted under paragraph 53(2)(g.1) in computing, immediately before that time, the adjusted cost base to the taxpayer of the property for which the particular property was exchanged at that time; and

(b) the amount determined under paragraph 87(6.1)(a) in respect of the particular property shall be added after that time in computing the adjusted cost base to the taxpayer of the particular property.

Idem

(7) Where there has been an amalgamation of two or more corporations after May 6, 1974 and

(a) a debt or other obligation of a predecessor corporation that was outstanding immediately before the amalgamation became a debt or other obligation of the new corporation on the amalgamation, and

Obligations de la société remplacée

(6) Malgré le paragraphe (7), en cas de fusion de plusieurs sociétés après le 6 mai 1974, un contribuable (à l'exclusion d'une société remplacée) qui, immédiatement avant la fusion, était propriétaire d'une immobilisation consistant en une obligation, une créance hypothécaire, un billet ou un autre titre semblable de l'une des sociétés remplacées (appelé l'« ancien bien » au présent paragraphe) et qui n'a reçu, en contrepartie de la disposition de l'ancien bien lors de la fusion, qu'une obligation, une créance hypothécaire, un billet ou autre titre semblable, respectivement, de la nouvelle société (appelé le « nouveau bien » au présent paragraphe) lorsque le montant payable au détenteur du nouveau bien à l'échéance de celui-ci est le même que celui qui aurait été payable au détenteur de l'ancien bien à l'échéance de celui-ci, est réputé :

a) avoir disposé de l'ancien bien pour un produit égal au prix de base rajusté, pour lui, de ce bien immédiatement avant la fusion;

b) avoir acquis le nouveau bien à un coût égal au produit visé à l'alinéa a).

Prix de base rajusté

(6.1) Lorsque le coût, pour un contribuable, d'un bien donné qui est une obligation ou un billet est déterminé à un moment donné selon le paragraphe (6) et que les conditions de l'obligation ou du billet sont telles que le détenteur a le droit d'échanger l'obligation ou le billet contre des actions, les règles suivantes s'appliquent :

a) est à déduire, après ce moment, dans le calcul du prix de base rajusté de l'obligation ou du billet pour le contribuable le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul, immédiatement avant ce moment, du prix de base rajusté, pour le contribuable, du bien reçu en échange du bien donné à ce moment;

b) le montant déterminé selon l'alinéa a) relativement au bien donné est à ajouter, après ce moment, dans le calcul du prix de base rajusté de ce bien pour le contribuable.

Idem

(7) Lorsqu'il y a eu fusion de plusieurs sociétés après le 6 mai 1974 et que :

a) d'une part, une dette ou autre engagement d'une société remplacée qui n'avait pas été réglé immédiatement avant la fusion est devenu une dette ou autre engagement de la nouvelle société lors de la fusion;

(b) the amount payable by the new corporation on the maturity of the debt or other obligation, as the case may be, is the same as the amount that would have been payable by the predecessor corporation on its maturity,

the provisions of this Act

(c) shall not apply in respect of the transfer of the debt or other obligation to the new corporation, and

(d) shall apply as if the new corporation had incurred or issued the debt or other obligation at the time it was incurred or issued by the predecessor corporation under the agreement made on the day on which the predecessor corporation made an agreement under which the debt or other obligation was issued,

except that, for the purposes of the definition ***income bond*** or ***income debenture*** in subsection 248(1), paragraph 87(7)(d) shall not apply to any debt or other obligation of the new corporation unless the terms and conditions thereof immediately after the amalgamation are the same as, or substantially the same as, the terms and conditions of the debt or obligation that was an income bond or income debenture of the predecessor corporation immediately before the amalgamation.

b) d'autre part, le montant que doit payer la nouvelle société à l'échéance de la dette ou de l'engagement est le même que celui que la société remplacée aurait dû payer à l'échéance,

les dispositions de la présente loi :

c) ne s'appliquent pas à l'égard du transfert de cette dette ou de cet autre engagement à la nouvelle société;

d) s'appliquent comme si la nouvelle société avait contracté la dette ou l'engagement au moment où la société remplacée l'a contracté en vertu de la convention conclue le jour où la société remplacée a conclu une convention en vertu de laquelle la dette ou l'engagement a été contracté.

Toutefois, pour l'application de la définition de ***obligation à intérêt conditionnel***, au paragraphe 248(1), l'alinéa d) ne s'applique pas à une dette ou à un engagement de la nouvelle société à moins que les modalités qui y sont applicables immédiatement après la fusion soient les mêmes ou essentiellement les mêmes que celles propres à la dette ou à l'engagement qui était une obligation à intérêt conditionnel de la société remplacée immédiatement avant la fusion.

Foreign merger

(8) Subject to subsection 95(2), where there has been a foreign merger in which a taxpayer's shares or options to acquire shares of the capital stock of a corporation that was a predecessor foreign corporation immediately before the merger were exchanged for or became shares or options to acquire shares of the capital stock of the new foreign corporation or the foreign parent corporation, unless the taxpayer elects in the taxpayer's return of income for the taxation year in which the foreign merger took place not to have this subsection apply, subsections (4) and (5) apply to the taxpayer as if the references in those subsections to

(a) "amalgamation" were read as "foreign merger";

(b) "predecessor corporation" were read as "predecessor foreign corporation"; and

(c) "new corporation" were read as "new foreign corporation or the foreign parent corporation".

Fusion étrangère

(8) Sous réserve du paragraphe 95(2), en cas de fusion étrangère dans le cadre de laquelle les actions, appartenant à un contribuable, du capital-actions d'une société qui était une société étrangère remplacée immédiatement avant la fusion, ou les options d'acquisition de telles actions appartenant au contribuable, ont été échangées contre des actions du capital-actions de la nouvelle société étrangère ou de la société mère étrangère, ou contre des options d'acquisition de telles actions, ou sont devenues de telles actions ou options, les paragraphes (4) et (5) s'appliquent au contribuable, avec les modifications suivantes, sauf s'il choisit de ne pas se prévaloir du présent paragraphe dans sa déclaration de revenu pour l'année d'imposition de la fusion :

a) les mentions de « fusion » valent mention de « fusion étrangère »;

b) les mentions de « société remplacée » valent mention de « société étrangère remplacée »;

c) les mentions de « nouvelle société » valent mention de « nouvelle société étrangère ou de la société mère étrangère ».

Definition of *foreign merger*

(8.1) For the purposes of this section, ***foreign merger*** means a merger or combination of two or more

Définition de *fusion étrangère*

(8.1) Pour l'application du présent article, ***fusion étrangère*** s'entend de l'unification ou de la combinaison de

corporations each of which was, immediately before the merger or combination, resident in a country other than Canada (each of which is in this section referred to as a "predecessor foreign corporation") to form one corporate entity resident in a country other than Canada (in this section referred to as the "new foreign corporation") in such a manner that, and otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation,

(a) all or substantially all the property (except amounts receivable from any predecessor foreign corporation or shares of the capital stock of any predecessor foreign corporation) of the predecessor foreign corporations immediately before the merger or combination becomes property of the new foreign corporation as a consequence of the merger or combination;

(b) all or substantially all the liabilities (except amounts payable to any predecessor foreign corporation) of the predecessor foreign corporations immediately before the merger or combination become liabilities of the new foreign corporation as a consequence of the merger or combination; and

(c) all or substantially all of the shares of the capital stock of the predecessor foreign corporations (except any shares or options owned by any predecessor foreign corporation) are exchanged for or become, because of the merger or combination,

(i) shares of the capital stock of the new foreign corporation, or

(ii) if, immediately after the merger, the new foreign corporation was controlled by another corporation (in this section referred to as the "foreign parent corporation") that was resident in a country other than Canada, shares of the capital stock of the foreign parent corporation.

plusieurs sociétés dont chacune résidait, immédiatement avant l'unification ou la combinaison, dans un pays étranger (chacune de ces sociétés étant appelée « société étrangère remplacée » au présent article) destinée à former une entité constituée résidant dans un pays étranger (appelée « nouvelle société étrangère » au présent article) de façon que, à la fois :

a) la totalité ou la presque totalité des biens (à l'exception des sommes à recevoir d'une société étrangère remplacée et des actions du capital-actions d'une telle société) appartenant aux sociétés étrangères remplacées, immédiatement avant l'unification ou la combinaison, deviennent des biens de la nouvelle société étrangère par suite de l'unification ou de la combinaison, et autrement que par suite de l'attribution de biens à une société lors de la liquidation d'une autre société;

b) la totalité ou la presque totalité des engagements (à l'exception des sommes payables à une société étrangère remplacée) des sociétés étrangères remplacées, existant immédiatement avant l'unification ou la combinaison, deviennent des engagements de la nouvelle société étrangère par suite de l'unification ou de la combinaison, et autrement que par suite de l'attribution de biens à une société lors de la liquidation d'une autre société;

c) la totalité ou la presque totalité des actions du capital-actions des sociétés étrangères remplacées (à l'exception des actions et options appartenant à une société étrangère remplacée) soient échangées contre les actions ci-après, ou deviennent de telles actions, par suite de l'unification ou de la combinaison, et autrement que par suite de l'attribution de biens à une société lors de la liquidation d'une autre société :

(i) soit des actions du capital-actions de la nouvelle société étrangère,

(ii) soit, dans le cas où, immédiatement après l'unification, la nouvelle société étrangère était contrôlée par une autre société (appelée « société mère étrangère » au présent article) résidant dans un pays étranger, des actions du capital-actions de la société mère étrangère.

Absorptive mergers

(8.2) For the purposes of the definition ***foreign merger*** in subsection (8.1), if there is a merger or combination, otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation, of two or more non-resident corporations (each of which is referred to in this subsection as a "predecessor foreign corporation"), as a result of which one or more

Fusion absorption

(8.2) Pour l'application de la définition de ***fusion étrangère*** au paragraphe (8.1), s'il y a fusion ou combinaison, autrement que par suite d'une distribution de biens à une société lors de la liquidation d'une autre société, de plusieurs sociétés non-résidentes (appelées chacune « société étrangère remplacée » au présent paragraphe) par suite de laquelle une ou plusieurs sociétés étrangères

predecessor foreign corporations ceases to exist and, immediately after the merger or combination, another predecessor foreign corporation (referred to in this subsection as the "survivor corporation") owns properties (except amounts receivable from, or shares of the capital stock of, any predecessor foreign corporation) representing all or substantially all of the fair market value of all such properties owned by each predecessor foreign corporation immediately before the merger or combination, then

(a) the merger or combination is deemed to be a merger or combination of the predecessor foreign corporations to form one non-resident corporation;

(b) the survivor corporation is deemed to be the non-resident corporation so formed;

(c) all of the properties of the survivor corporation immediately before the merger or combination that are properties of the survivor corporation immediately after the merger or combination are deemed to become properties of the survivor corporation as a consequence of the merger or combination;

(d) all of the liabilities of the survivor corporation immediately before the merger or combination that are liabilities of the survivor corporation immediately after the merger or combination are deemed to become liabilities of the survivor corporation as a consequence of the merger or combination;

(e) all of the shares of the capital stock of the survivor corporation that were outstanding immediately before the merger or combination that are shares of the capital stock of the survivor corporation immediately after the merger or combination are deemed to become shares of the capital stock of the survivor corporation as a consequence of the merger or combination; and

(f) all of the shares of the capital stock of each predecessor foreign corporation (other than the survivor corporation) that were outstanding immediately before the merger or combination and that cease to exist as a consequence of the merger or combination are deemed to be exchanged by the shareholders of each such predecessor corporation for shares of the survivor corporation as a consequence of the merger or combination.

remplacées cessent d'exister et que, immédiatement après la fusion ou la combinaison, une autre société étrangère remplacée (appelée « société survivante » au présent paragraphe) est propriétaire de biens (à l'exclusion d'actions du capital-actions ou de sommes à recevoir d'une société étrangère remplacée) représentant la totalité ou la presque totalité de la juste valeur marchande de l'ensemble de tels biens dont était propriétaire chacune des sociétés étrangères remplacées immédiatement avant la fusion ou la combinaison, les règles ci-après s'appliquent :

a) la fusion ou la combinaison est réputée être celle de sociétés étrangères remplacées dont est issue une société non-résidente;

b) la société survivante est réputée être la société non-résidente issue de la fusion ou de la combinaison;

c) les biens de la société survivante immédiatement avant la fusion ou la combinaison qui sont des biens de celle-ci immédiatement après la fusion ou la combinaison sont réputés devenir des biens de celle-ci par suite de la fusion ou de la combinaison;

d) les dettes de la société survivante immédiatement avant la fusion ou la combinaison qui sont des dettes de celle-ci immédiatement après la fusion ou la combinaison sont réputées devenir des dettes de celle-ci par suite de la fusion ou de la combinaison;

e) les actions du capital-actions de la société survivante qui étaient en circulation immédiatement avant la fusion ou la combinaison et qui sont des actions de son capital-actions immédiatement après celle-ci sont réputées devenir des actions de son capital-actions par suite de la fusion ou de la combinaison;

f) les actions du capital-actions de chaque société étrangère remplacée, sauf la société survivante, qui étaient en circulation immédiatement avant la fusion ou la combinaison et qui cessent d'exister par suite de celle-ci sont réputées être échangées par les actionnaires de chacune de ces sociétés remplacées contre des actions de la société survivante par suite de la fusion ou de la combinaison.

Anti-avoidance

(8.3) Subsection (8) does not apply in respect of a taxpayer's shares of the capital stock of a predecessor foreign corporation that are exchanged for or become, on a foreign merger, shares of the capital stock of the new foreign corporation or the foreign parent corporation, if

Anti-évitement

(8.3) Le paragraphe (8) ne s'applique pas relativement aux actions, appartenant à un contribuable, du capital-actions d'une société étrangère remplacée qui, à l'occasion d'une fusion étrangère, sont échangées contre des actions du capital-actions de la nouvelle société étrangère

(a) the new foreign corporation is, at the time that is immediately after the foreign merger, a foreign affiliate of the taxpayer;

(b) shares of the capital stock of the new foreign corporation are, at that time, excluded property (as defined in subsection 95(1)) of another foreign affiliate of the taxpayer; and

(c) the foreign merger is part of a transaction or event or a series of transactions or events that includes a disposition of shares of the capital stock of the new foreign corporation, or property substituted for the shares, to

(i) a person (other than a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest (within the meaning assigned by paragraph 95(2)(m)) at the time of the transaction or event or throughout the series, as the case may be) with whom the taxpayer was dealing at arm's length immediately after the transaction, event or series, or

(ii) a partnership a member of which is, immediately after the transaction, event or series, a person described in subparagraph (i).

ou de la société mère étrangère, ou deviennent de telles actions, si les conditions ci-après sont réunies :

a) la nouvelle société étrangère est une société étrangère affiliée du contribuable immédiatement après la fusion étrangère;

b) les actions du capital-actions de la nouvelle société étrangère sont, à ce moment, des biens exclus, au sens du paragraphe 95(1), d'une autre société étrangère affiliée du contribuable;

c) la fusion étrangère fait partie d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend une disposition d'actions du capital-actions de la nouvelle société étrangère, ou de biens substitués à ces actions, effectuée au profit :

(i) soit d'une personne (sauf une société étrangère affiliée du contribuable dans laquelle le contribuable a une participation admissible, au sens de l'alinéa 95(2)m), au moment de l'opération ou de l'événement ou tout au long de la série, selon le cas) avec laquelle le contribuable n'avait aucun lien de dépendance immédiatement après l'opération, l'événement ou la série,

(ii) soit d'une société de personnes dont l'un des associés est, immédiatement après l'opération, l'événement ou la série, une personne visée au sous-alinéa (i).

Rules applicable in respect of certain mergers

(9) Where there has been a merger of two or more taxable Canadian corporations to form a new corporation that was controlled, immediately after the merger, by a taxable Canadian corporation (in this subsection referred to as the "parent") and, on the merger, shares of the capital stock of the parent (in this subsection referred to as "parent shares") were issued by the parent to persons who were, immediately before the merger, shareholders of a predecessor corporation, the following rules apply:

(a) for the purposes of paragraph 87(1)(c), subsection 87(4) and the *Income Tax Application Rules*, any parent shares received by a shareholder of a predecessor corporation shall be deemed to be shares of the capital stock of the new corporation received by the shareholder by virtue of the merger;

(a.1) for the purposes of subsections 87(4.1) and 87(4.2), a parent share issued to a shareholder in consideration for the disposition of a share of a class of the capital stock of a predecessor corporation shall be deemed to be a share of a class of the capital stock of the new corporation that was issued in consideration

Règles qui s'appliquent à certaines unifications

(9) Lorsqu'il y a eu unification de plusieurs sociétés canadiennes imposables visant à former une nouvelle société qui était contrôlée, immédiatement après l'unification, par une société canadienne imposable (appelée la « société mère » au présent paragraphe) et lorsque, dès l'unification, des actions du capital-actions de la société mère (appelées « actions de la société mère » au présent paragraphe) ont été émises par la société mère à des personnes qui, immédiatement avant l'unification, étaient actionnaires d'une société remplacée, les règles suivantes s'appliquent :

a) pour l'application de l'alinéa (1)c), du paragraphe (4) et des *Règles concernant l'application de l'impôt sur le revenu*, toute action de la société mère reçue par un actionnaire d'une société remplacée est réputée être une action du capital-actions de la nouvelle société qui a été reçue par l'actionnaire en vertu de l'unification;

a.1) pour l'application des paragraphes (4.1) et (4.2), l'action de la société mère qui est émise en faveur d'un actionnaire en contrepartie de la disposition d'une

for the disposition of a share of a class of the capital stock of a predecessor corporation by that shareholder;

(a.2) for the purposes of subsection 87(4.3), a right listed on a designated stock exchange to acquire a share of a class of the capital stock of the parent shall be deemed to be a right listed on a designated stock exchange to acquire a share of a class of the capital stock of the new corporation;

(a.21) for the purpose of paragraph (4.4)(d)

(i) each parent share received by a shareholder of a predecessor corporation is deemed to be a share of the capital stock of the new corporation issued to the shareholder by the new corporation on the merger, and

(ii) any obligation of the parent to issue a share of any class of its capital stock to a person in circumstances described in subparagraph (4.4)(d)(ii) is deemed to be an obligation of the new corporation to issue a share to the person;

(a.3) for the purpose of applying subsection 87(5) in respect of the merger, the reference in that subsection to "the new corporation" shall be read as a reference to "the parent";

(a.4) for the purpose of paragraph 87(9)(c), any shares of the new corporation acquired by the parent on the merger shall be deemed to be new shares;

(a.5) for the purpose of applying subsection 87(10) in respect of the merger,

(i) the reference in paragraph 87(10)(b) to "the new corporation" shall be read as a reference to "the new corporation or the parent, within the meaning assigned by subsection 87(9)", and

(ii) the references in paragraphs 87(10)(c) and 87(10)(f) to "the new corporation" shall be read as references to "the public corporation described in paragraph 87(9)(b)".

(b) in computing, at any particular time, the paid-up capital in respect of any particular class of shares of the capital stock of the parent that included parent shares immediately after the merger

(i) there shall be deducted that proportion of the amount, if any, by which the paid-up capital, determined without reference to this paragraph, in respect of all the shares of the capital stock of the parent immediately after the merger exceeds the total

action d'une catégorie du capital-actions d'une société remplacée est réputée être une action d'une catégorie du capital-actions de la nouvelle société, émise en contrepartie de la disposition, par cet actionnaire, d'une action d'une catégorie du capital-actions d'une société remplacée;

a.2) pour l'application du paragraphe (4.3), le droit, coté à une bourse de valeurs désignée, qui permet d'acquérir une action d'une catégorie du capital-actions de la société mère est réputé être un droit, ainsi coté, qui permet d'acquérir une action d'une catégorie du capital-actions de la nouvelle société;

a.21) pour l'application de l'alinéa (4.4)d) :

(i) chaque action de la société mère reçue par un actionnaire d'une société remplacée est réputée être une action du capital-actions de la nouvelle société que celle-ci a émise à l'actionnaire au moment de l'unification,

(ii) toute obligation de la société mère d'émettre une action d'une catégorie de son capital-actions à une personne dans les circonstances visées au sous-alinéa (4.4)d)(ii) est réputée être une obligation de la nouvelle société d'émettre une action à la personne;

a.3) pour l'application du paragraphe (5) relativement à l'unification, la mention de « la nouvelle société » vaut mention de « la société mère »;

a.4) pour l'application de l'alinéa c), les actions de la nouvelle société que la société mère acquiert lors de l'unification sont réputées constituer de nouvelles actions;

a.5) pour l'application du paragraphe (10) relativement à l'unification :

(i) le passage « la nouvelle société » à l'alinéa (10)b) est remplacé par « la nouvelle société ou la société mère au sens du paragraphe (90 »,

(ii) le passage « la nouvelle société » aux alinéas (10)c) et f) est remplacé par « la société publique visée à l'alinéa b) »;

b) dans le calcul, à un moment donné, du capital versé à l'égard de toute catégorie d'actions donnée du capital-actions de la société mère qui comprenait des actions de la société mère immédiatement après l'unification :

of all amounts each of which is the paid-up capital in respect of a share of the capital stock of the parent or a predecessor corporation (other than any share of a predecessor corporation owned by the parent or by another predecessor corporation and any share of a predecessor corporation owned by a shareholder other than the parent or another predecessor corporation that was not exchanged on the merger for parent shares) immediately before the merger that

(A) the paid-up capital, determined without reference to this paragraph, in respect of that particular class of shares of the capital stock of the parent immediately after the merger

is of

(B) the paid-up capital, determined without reference to this paragraph, in respect of all the issued and outstanding shares of the classes of the capital stock of the parent that included parent shares immediately after the merger, and

(ii) there shall be added an amount equal to the lesser of

(A) the amount, if any, by which

(I) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of the particular class paid by the parent before the particular time

exceeds

(II) the total that would be determined under subclause 87(9)(b)(ii)(A)(I) if this Act were read without reference to subparagraph 87(9)(b)(i), and

(B) the amount required by subparagraph 87(9)(b)(i) to be deducted in computing the paid-up capital of shares of the particular class; and

(c) notwithstanding paragraph 87(4)(b), the parent shall be deemed to have acquired the new shares of any particular class of the capital stock of the new corporation at a cost equal to the total of

(i) the amount otherwise determined under paragraph 87(4)(b) to be the cost of those shares, and

(ii) in any case where the parent owned, immediately after the merger, all the issued shares of the

(i) il faut déduire la fraction de l'excédent éventuel du capital versé, calculé compte non tenu du présent alinéa, à l'égard de toutes les actions du capital-actions de la société mère immédiatement après l'unification, sur le total des montants dont chacun représente le capital versé à l'égard d'une action du capital-actions de la société mère ou d'une société remplacée (exception faite d'une action d'une société remplacée qui appartient à la société mère ou à une autre société remplacée et d'une action d'une société remplacée qui appartient à un actionnaire autre que la société mère ou à une autre société remplacée qui n'a pas été échangée, à l'unification, contre des actions de la société mère), immédiatement avant l'unification, que représente le rapport entre :

(A) d'une part, le capital versé, calculé compte non tenu du présent alinéa, à l'égard de cette catégorie d'actions donnée du capital-actions de la société mère immédiatement après l'unification,

(B) d'autre part, le capital versé, calculé compte non tenu du présent alinéa, à l'égard de toutes les actions émises et en circulation des catégories du capital-actions de la société mère qui comprenaient des actions de la société mère immédiatement après l'unification,

(ii) il faut ajouter un montant égal au moins élevé des montants suivants :

(A) l'excédent éventuel du total visé à la subdivision (I) sur le total visé à la subdivision (II) :

(I) le total des montants dont chacun est un montant réputé être, en vertu des paragraphes 84(3), (4) ou (4.1), un dividende sur des actions de la catégorie donnée qui a été versé par la société mère avant le moment donné,

(II) le total qui serait déterminé en vertu de la subdivision (I), compte non tenu du sous-alinéa (i),

(B) le montant qui doit, en vertu du sous-alinéa (i), être déduit dans le calcul du capital versé à l'égard des actions de la catégorie donnée;

c) malgré l'alinéa (4)b), la société mère est réputée avoir acquis les nouvelles actions d'une catégorie donnée du capital-actions de la nouvelle société à un coût égal au total des montants suivants :

(i) la somme par ailleurs déterminée en vertu de l'alinéa (4)b) comme étant le coût de telles actions,

capital stock of the new corporation, such portion of

(A) the amount, if any, by which

(I) the amount by which the total of the money on hand of the new corporation and all amounts each of which is the cost amount to the new corporation of a property owned by it, immediately after the merger, exceeds the total of all amounts each of which is the amount of any debt owing by the new corporation, or of any other obligation of the new corporation to pay any amount, that was outstanding immediately after the merger,

exceeds

(II) the total of the adjusted cost bases to the parent of all shares of the capital stock of each predecessor corporation beneficially owned by it immediately before the merger

as is designated by the parent in respect of the shares of that particular class in its return of income under this Part for its taxation year in which the merger occurred, except that

(B) in no case shall the amount so designated in respect of the shares of a particular class exceed the amount, if any, by which the total fair market value, immediately after the merger, of the shares of that particular class issued by virtue of the merger exceeds the cost of those shares to the parent determined without reference to this paragraph, and

(C) in no case shall the total of the amounts so designated in respect of the shares of each class of the capital stock of the new corporation exceed the amount determined under clause 87(9)(c)(ii)(A).

ii) dans les cas où la société mère possédait, immédiatement après l'unification, toutes les actions émises du capital-actions de la nouvelle société, la partie :

(A) de l'excédent éventuel du total visé à la subdivision (I) sur le total visé à la subdivision (II) :

(I) l'excédent du total de la somme d'argent que la nouvelle société a en sa possession et des sommes dont chacune est le coût indiqué d'un bien, pour la nouvelle société, qu'elle possède immédiatement après l'unification sur le total des sommes dont chacune représente le montant d'une dette de la nouvelle société ou de toute autre obligation de celle-ci de verser une somme d'argent qui était impayée, immédiatement après l'unification,

(II) le total des prix de base rajustés, pour la société mère, de toutes les actions du capital-actions de chaque société remplacée sur lesquelles la société mère avait, immédiatement avant l'unification, la propriété effective,

désignée par la société mère relativement aux actions de cette catégorie donnée dans sa déclaration de revenu produite en vertu de la présente partie pour son année d'imposition au cours de laquelle l'unification a été opérée, sauf que :

(B) le montant ainsi fixé, relativement aux actions d'une catégorie donnée, ne peut en aucun cas dépasser l'excédent éventuel du total de la juste valeur marchande, immédiatement après l'unification, des actions de cette catégorie donnée émises en vertu de l'unification sur le coût de telles actions, pour la société mère, déterminé compte non tenu du présent alinéa,

(C) le total des montants ainsi fixés, relativement aux actions de chaque catégorie du capital-actions de la nouvelle société, ne peut en aucun cas dépasser le montant déterminé en vertu de la division (A).

Share deemed listed

(10) Where

(a) a new corporation is formed as a result of an amalgamation,

(b) the new corporation is a public corporation,

(c) the new corporation issues a share (in this subsection referred to as the "new share") of its capital stock,

Action réputée cotée en bourse

(10) Dans le cas où les conditions suivantes sont réunies :

a) une nouvelle société est constituée par suite d'une fusion,

b) la nouvelle société est une société publique,

(d) the new share is issued in exchange for a share (in this subsection referred to as the "old share") of the capital stock of a predecessor corporation,

(e) immediately before the amalgamation, the old share was listed on a designated stock exchange, and

(f) the new share is redeemed, acquired or cancelled by the new corporation within 60 days after the amalgamation,

the new share is deemed, for the purposes of subsection 116(6), the definitions ***qualified investment*** in subsections 146(1), 146.1(1) and 146.3(1), in section 204 and in subsections 205(1) and 207.01(1), and the definition ***taxable Canadian property*** in subsection 248(1), to be listed on the exchange until the earliest time at which it is so redeemed, acquired or cancelled.

c) la nouvelle société émet une action (appelée « nouvelle action » au présent paragraphe) de son capital-actions,

d) la nouvelle action est émise en échange d'une action (appelée « ancienne action » au présent paragraphe) du capital-actions d'une société remplacée,

e) immédiatement avant la fusion, l'ancienne action était cotée à une bourse de valeurs désignée,

f) la nouvelle action est rachetée, acquise ou annulée par la nouvelle société dans les 60 jours suivant la fusion,

la nouvelle action est réputée, pour l'application du paragraphe 116(6), de la définition de ***placement admissible*** aux paragraphes 146(1), 146.1(1) et 146.3(1), à l'article 204 et aux paragraphes 205(1) et 207.01(1) et de la définition de ***bien canadien imposable*** au paragraphe 248(1), être inscrite à la cote de la bourse jusqu'au premier en date des moments où elle est ainsi rachetée, acquise ou annulée.

Vertical amalgamations

(11) Where at any time there is an amalgamation of a corporation (in this subsection referred to as the "parent") and one or more other corporations (each of which in this subsection is referred to as the "subsidiary") each of which is a subsidiary wholly-owned corporation of the parent,

(a) the shares of the subsidiary are deemed to have been disposed of by the parent immediately before the amalgamation for proceeds equal to the proceeds that would be determined under paragraph 88(1)(b) if subsections 88(1) and 88(1.7) applied, with any modifications that the circumstances require, to the amalgamation; and

(b) the cost to the new corporation of each capital property of the subsidiary acquired on the amalgamation is deemed to be the amount that would have been the cost to the parent of the property if the property had been distributed at that time to the parent on a winding-up of the subsidiary and subsections 88(1) and 88(1.7) had applied to the winding-up.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts R.S., 1985, c. 1 (5th Supp.), s. 87; 1994, c. 7, Sch. II, s. 65, Sch. VI, s. 3, Sch. VIII, s. 37, c. 8, s. 9, c. 21, s. 39; 1995, c. 3, s. 23, c. 21, ss. 30, 54; 1996, c. 21, s. 15; 1997, c. 25, s. 18, c. 26, s. 83; 1998, c. 19, s. 15, 117; 1999, c. 22, s. 24; 2000, c. 19, s. 13; 2001, c. 17, ss. 65, 211; 2002, c. 9, s. 30; 2006, c. 4, s. 55; 2007, c. 2, s. 45, c. 35, ss. 68, 108; 2008, c. 28, s. 9; 2009, c. 2, s. 19; 2010, c. 12, s. 8, c. 25, s. 15; 2012, c. 31, s. 17; 2013, c. 33, s. 6, c. 34, ss. 6, 64, 223, c. 40, s. 39; 2014, c. 39, s. 19; 2016, c. 12, s. 27.

Fusion verticale

(11) En cas de fusion d'une société (appelée « société mère » au présent paragraphe) et d'une ou plusieurs de ses filiales à cent pour cent, les présomptions suivantes s'appliquent :

a) la société mère est réputée avoir disposé des actions de chaque filiale immédiatement avant la fusion pour un produit égal à celui qui serait déterminé selon l'alinéa 88(1)b) si les paragraphes 88(1) et (1.7) s'appliquaient, avec les adaptations nécessaires, à la fusion;

b) le coût, pour la société issue de la fusion, de chaque immobilisation de chaque filiale acquise lors de la fusion est réputé égal au montant qui aurait représenté le coût de l'immobilisation pour la société mère si l'immobilisation lui avait été distribuée au moment de la fusion et lors d'une liquidation de la filiale à laquelle se sont appliqués les paragraphes 88(1) et (1.7).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 87; 1994, ch. 7, ann. II, art. 65, ann. VI, art. 3, ann. VIII, art. 37, ch. 8, art. 9, ch. 21, art. 39; 1995, ch. 3, art. 23, ch. 21, art. 30 et 54; 1996, ch. 21, art. 15; 1997, ch. 25, art. 18, ch. 26, art. 83; 1998, ch. 19, art. 15 et 117; 1999, ch. 22, art. 24; 2000, ch. 19, art. 13; 2001, ch. 17, art. 65 et 211; 2002, ch. 9, art. 30; 2006, ch. 4, art. 55; 2007, ch. 2, art. 45, ch. 35, art. 68 et 108; 2008, ch. 28, art. 9; 2009, ch. 2, art. 19; 2010, ch. 12, art. 8, ch. 25, art. 15; 2012, ch. 31, art. 17; 2013, ch. 33, art. 6, ch. 34, art. 6, 64 et 223, ch. 40, art. 39; 2014, ch. 39, art. 19; 2016, ch. 12, art. 27.

Winding-up

88 (1) Where a taxable Canadian corporation (in this subsection referred to as the "subsidiary") has been

Liquidation

88 (1) Lorsqu'une société canadienne imposable (appelée « filiale » au présent paragraphe) a été liquidée après

wound up after May 6, 1974 and not less than 90% of the issued shares of each class of the capital stock of the subsidiary were, immediately before the winding-up, owned by another taxable Canadian corporation (in this subsection referred to as the "parent") and all of the shares of the subsidiary that were not owned by the parent immediately before the winding-up were owned at that time by persons with whom the parent was dealing at arm's length, notwithstanding any other provision of this Act other than subsection 69(11), the following rules apply:

(a) subject to paragraphs 88(1)(a.1) and 88(1)(a.3), each property (other than an interest in a partnership) of the subsidiary that was distributed to the parent on the winding-up shall be deemed to have been disposed of by the subsidiary for proceeds equal to

(i) in the case of a Canadian resource property, a foreign resource property or a right to receive production (as defined in subsection 18.1(1)) to which a matchable expenditure (as defined in subsection 18.1(1)) relates, nil, and

(ii) [Repealed, 1994, c. 7, Sch. VIII, s. 38]

(iii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding-up;

(a.1) each property of the subsidiary that was distributed to the parent on the winding-up shall, for the purpose of paragraph 88(2.1)(b) or 88(2.1)(e), be deemed not to have been disposed of;

(a.2) each interest of the subsidiary in a partnership that was distributed to the parent on the winding-up shall, except for the purpose of paragraph 98(5)(g), be deemed not to have been disposed of by the subsidiary;

(a.3) where

(i) the subsidiary was a financial institution in its taxation year in which its assets were distributed to the parent on the winding up, and

(ii) the parent was a financial institution in its taxation year in which it received the assets of the subsidiary on the winding up,

each specified debt obligation (other than a mark-to-market property) of the subsidiary that was distributed to the parent on the winding-up shall, except for the purpose of subsection 69(11), be deemed not to have been disposed of, and for the purpose of this paragraph, ***financial institution***, ***mark-to-market***

le 6 mai 1974, qu'au moins 90 % des actions émises de chaque catégorie de son capital-actions appartenaient, immédiatement avant la liquidation, à une autre société canadienne imposable (appelée « société mère » au présent paragraphe) et que toutes les actions de la filiale qui n'appartenaient pas à la société mère immédiatement avant la liquidation appartenaient alors à des personnes avec lesquelles la société mère n'avait pas de lien de dépendance, les règles suivantes s'appliquent malgré les autres dispositions de la présente loi, exception faite du paragraphe 69(11):

a) sous réserve des alinéas a.1) et a.3), tout bien de la filiale, à l'exception d'une participation dans une société de personnes, attribué à la société mère lors de la liquidation est réputé avoir fait l'objet d'une disposition par la filiale pour un produit égal :

(i) à zéro, dans le cas d'un avoir minier canadien, d'un avoir minier étranger ou d'un droit aux produits, au sens du paragraphe 18.1(1), auquel se rapporte une dépense à rattacher, au sens de ce paragraphe,

(ii) [Abrogé, 1994, ch. 7, ann. VIII, art. 38]

(iii) au coût indiqué du bien, pour la filiale, immédiatement avant la liquidation, dans le cas de tout autre bien;

a.1) tout bien de la filiale attribué à la société mère lors de la liquidation est réputé, pour l'application des alinéas (2.1)b) ou e), ne pas avoir fait l'objet d'une disposition;

a.2) toute participation de la filiale dans une société de personnes, attribuée à la société mère lors de la liquidation, est réputée, sauf pour l'application de l'alinéa 98(5)g), ne pas avoir fait l'objet d'une disposition par la filiale;

a.3) chaque titre de créance déterminé de la filiale, à l'exception d'un bien évalué à la valeur du marché, attribué à la société mère lors de la liquidation est réputé, sauf pour l'application du paragraphe 69(11), ne pas avoir fait l'objet d'une disposition dans le cas où, à la fois :

(i) la filiale était une institution financière au cours de son année d'imposition où ses actifs ont été attribués à la société mère lors de la liquidation,

(ii) la société mère était une institution financière au cours de son année d'imposition où elle a reçu les actifs de la filiale lors de la liquidation,

property and ***specified debt obligation*** have the meanings assigned by subsection 142.2(1);

(b) the shares of the capital stock of the subsidiary owned by the parent immediately before the winding-up shall be deemed to have been disposed of by the parent on the winding-up for proceeds equal to the greater of

(i) the lesser of the paid-up capital in respect of those shares immediately before the winding-up and the amount determined under subparagraph 88(1)(d)(i), and

(ii) the total of all amounts each of which is an amount in respect of any share of the capital stock of the subsidiary so disposed of by the parent on the winding-up, equal to the adjusted cost base to the parent of the share immediately before the winding-up;

(c) subject to paragraph 87(2)(e.3) (as modified by paragraph 88(1)(e.2)), and notwithstanding paragraph 87(2)(e.1) (as modified by paragraph 88(1)(e.2)), the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up shall be deemed to be

(i) in the case of a property that is an interest in a partnership, the amount that but for this paragraph would be the cost to the parent of the property, and

(ii) in any other case, the amount, if any, by which

(A) the amount that would, but for subsection 69(11), be deemed by paragraph 88(1)(a) to be the proceeds of disposition of the property

exceeds

(B) any reduction of the cost amount to the subsidiary of the property made because of section 80 on the winding-up,

plus where the property was a capital property (other than an ineligible property) of the subsidiary at the time that the parent last acquired control of the subsidiary and was owned by the subsidiary thereafter without interruption until such time as it was distributed to the parent on the winding-up, the amount determined under paragraph 88(1)(d) in respect of the property and, for the purposes of this paragraph, ***ineligible property*** means

(iii) depreciable property,

pour l'application du présent alinéa, ***bien évalué à la valeur du marché***, ***institution financière*** et ***titre de créance déterminé*** s'entendent au sens du paragraphe 142.2(1);

b) les actions du capital-actions de la filiale que possédait la société mère immédiatement avant la liquidation sont réputées avoir fait l'objet d'une disposition par la société mère lors de la liquidation pour un produit égal au plus élevé des montants suivants :

(i) soit le capital versé à l'égard de ces actions, immédiatement avant la liquidation, soit le montant déterminé en vertu du sous-alinéa d)(i), le moins élevé de ces montants étant à retenir,

(ii) le total des sommes dont chacune se rapporte à une action du capital-actions de la filiale dont la société mère a ainsi disposé lors de la liquidation, égale au prix de base rajusté de l'action, pour la société mère, immédiatement avant la liquidation;

c) sous réserve de l'alinéa 87(2)e.3), modifié par l'alinéa e.2), et malgré l'alinéa 87(2)e.1), modifié par l'alinéa e.2), le coût, pour la société mère, de chaque bien de la filiale attribué à la société mère lors de la liquidation est réputé être :

(i) le coût du bien pour la société mère, compte non tenu de présent alinéa, si le bien est une participation dans une société de personnes,

(ii) sinon, l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le montant qui, sans le paragraphe 69(11), serait réputé en application de l'alinéa a) être le produit de disposition du bien,

(B) le montant qui, par l'effet de l'article 80, est appliqué en réduction du coût indiqué du bien pour la filiale lors de la liquidation,

plus le montant déterminé selon l'alinéa d) relativement à ce bien, s'il était une immobilisation, autre qu'un bien non admissible, de la filiale au moment où la société mère a acquis pour la dernière fois le contrôle de la filiale et si, par la suite sans interruption jusqu'au moment où il a été attribué à la société mère lors de la liquidation, il appartenait à la filiale; pour l'application du présent alinéa, les biens suivants sont des biens non admissibles :

(iii) les biens amortissables,

(iv) le bien transféré à la société mère lors de la liquidation, dans le cas où le transfert fait partie

(iv) property transferred to the parent on the winding-up where the transfer is part of a distribution (within the meaning assigned by subsection 55(1)) made in the course of a reorganization in which a dividend was received to which subsection 55(2) would, but for paragraph 55(3)(b), apply,

(v) property acquired by the subsidiary from the parent or from any person or partnership that was not (otherwise than because of a right referred to in paragraph 251(5)(b)) dealing at arm's length with the parent, or any other property acquired by the subsidiary in substitution for it, where the acquisition was part of the series of transactions or events in which the parent last acquired control of the subsidiary, and

(vi) property distributed to the parent on the winding-up where, as part of the series of transactions or events that includes the winding-up,

(A) the parent acquired control of the subsidiary, and

(B) any property distributed to the parent on the winding-up or any other property acquired by any person in substitution therefor is acquired by

(I) a particular person (other than a specified person) that, at any time during the course of the series and before control of the subsidiary was last acquired by the parent, was a specified shareholder of the subsidiary,

(II) 2 or more persons (other than specified persons), if a particular person would have been, at any time during the course of the series and before control of the subsidiary was last acquired by the parent, a specified shareholder of the subsidiary if all the shares that were then owned by those 2 or more persons were owned at that time by the particular person, or

(III) a corporation (other than a specified person or the subsidiary)

1 of which a particular person referred to in subclause 88(1)(c)(vi)(B)(I) is, at any time during the course of the series and after control of the subsidiary was last acquired by the parent, a specified shareholder, or

2 of which a particular person would be, at any time during the course of the series

d'une attribution, au sens du paragraphe 55(1), effectuée lors d'une réorganisation dans le cadre de laquelle un dividende — auquel le paragraphe 55(2) s'appliquerait n'eût été l'alinéa 55(3)b) — a été reçu,

(v) le bien acquis par la filiale de la société mère ou d'une personne ou société de personnes qui avait un lien de dépendance avec la société mère autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), ou tout autre bien acquis par la filiale en remplacement de ce bien, dans le cas où l'acquisition faisait partie d'une série d'opérations ou d'événements dans le cadre de laquelle la société mère a acquis le contrôle de la filiale pour la dernière fois,

(vi) le bien distribué à la société mère lors de la liquidation si, dans le cadre de la série d'opérations ou d'événements qui comprend la liquidation, les conditions suivantes sont réunies :

(A) la société mère a acquis le contrôle de la filiale,

(B) un bien distribué à la société mère lors de la liquidation, ou un bien de remplacement acquis par une personne, est acquis, selon le cas :

(I) par une personne, sauf une personne exclue au sens du sous-alinéa c.2)(i), qui était un actionnaire déterminé de la filiale au cours de la série et avant le moment où la société mère a acquis pour la dernière fois le contrôle de la filiale,

(II) par deux personnes ou plus, sauf des personnes exclues au sens du sous-alinéa c.2)(i), dans le cas où une personne donnée aurait été un actionnaire déterminé de la filiale à un moment au cours de la série et avant que la société mère acquière pour la dernière fois le contrôle de la filiale si l'ensemble des actions appartenant alors à ces deux personnes ou plus avaient appartenu à la personne donnée à ce moment,

(III) par une société (sauf une personne exclue au sens du sous-alinéa c.2)(i) et la filiale) à l'égard de laquelle l'un des faits suivants se vérifie :

1. la personne visée à la subdivision (I) est un actionnaire déterminé de la société au cours de la série et après le moment où la société mère a acquis pour la dernière fois le contrôle de la filiale,

and after control of the subsidiary was last acquired by the parent, a specified shareholder if all the shares then owned by persons (other than specified persons) referred to in subclause 88(1)(c)(vi)(B)(II) and acquired by those persons as part of the series were owned at that time by the particular person;

(c.1) [Repealed, 2016, c. 12, s. 28]

(c.2) for the purposes of this paragraph and subparagraph 88(1)(c)(vi),

(i) ***specified person***, at any time, means

(A) the parent,

(B) each person who would be related to the parent at that time if

(I) this Act were read without reference to paragraph 251(5)(b), and

(II) each person who is the child of a deceased individual were related to each brother or sister of the individual and to each child of a deceased brother or sister of the individual, and

(C) if the time is before the incorporation of the parent, each person who is described in clause (B) throughout the period that begins at the time the parent is incorporated and ends at the time that is immediately before the beginning of the winding-up,

(i.1) a person described in clause (i)(B) or (C) is deemed not to be a specified person if it can reasonably be considered that one of the main purposes of one or more transactions or events is to cause the person to be a specified person so as to prevent a property that is distributed to the parent on the winding-up from being an ineligible property for the purposes of paragraph (c),

(ii) where at any time a property is owned or acquired by a partnership or a trust,

(A) the partnership or the trust, as the case may be, shall be deemed to be a person that is a corporation having one class of issued shares, which shares have full voting rights under all circumstances,

(B) each member of the partnership or beneficiary under the trust, as the case may be, shall be deemed to own at that time the proportion of the

2. une personne donnée serait un actionnaire déterminé de la société à un moment au cours de la série et après que la société mère acquiert le contrôle de la filiale pour la dernière fois si l'ensemble des actions appartenant alors à des personnes visées à la subdivision (II), sauf des personnes exclues au sens du sous-alinéa c.2)(i), et acquises par ces personnes dans le cadre de la série appartenaient à la personne donnée à ce moment;

c.1) [Abrogé, 2016, ch. 12, art. 28]

c.2) pour l'application du présent alinéa et du sous-alinéa c)(vi):

(i) sont des personnes exclues à un moment donné :

(A) la société mère,

(B) chaque personne qui serait liée à la société mère à ce moment si, à la fois :

(I) la présente loi s'appliquait compte non tenu de l'alinéa 251(5)b),

(II) chaque personne qui est l'enfant d'un particulier décédé était liée à chacun des frères ou sœurs de celui-ci ainsi qu'à chacun des enfants des frères ou sœurs décédés du particulier,

(C) si ce moment est antérieur à la constitution de la société mère, chaque personne qui est visée à la division (B) tout au long de la période commençant au moment de la constitution de la société mère et se terminant au moment immédiatement avant le début de la liquidation,

(i.1) toute personne visée aux divisions (i)(B) ou (C) est réputée ne pas être une personne exclue s'il est raisonnable de considérer que l'un des principaux motifs d'un ou de plusieurs événements ou opérations consiste à faire en sorte qu'elle soit une personne exclue afin d'éviter qu'un bien attribué à la société mère lors de la liquidation soit un bien non admissible pour l'application de l'alinéa c),

(ii) dans le cas où une société de personnes ou une fiducie acquiert un bien à un moment donné ou en est alors propriétaire :

(A) la société de personnes ou la fiducie est réputée être une personne qui est une société

number of issued shares of the capital stock of the corporation that

(I) the fair market value at that time of that member's interest in the partnership or that beneficiary's interest in the trust, as the case may be,

is of

(II) the fair market value at that time of all the members' interests in the partnership or beneficiaries' interests in the trust, as the case may be, and

(C) the property shall be deemed to have been owned or acquired at that time by the corporation,

(iii) in determining whether a person is a specified shareholder of a corporation,

(A) the reference in the definition ***specified shareholder*** in subsection 248(1) to "the issued shares of any class of the capital stock of the corporation or of any other corporation that is related to the corporation" shall be read as "the issued shares of any class (other than a specified class) of the capital stock of the corporation or of any other corporation that is related to the corporation and that has a significant direct or indirect interest in any issued shares of the capital stock of the corporation",

(A.1) a corporation controlled by another corporation is, at any time, deemed not to own any shares of the capital stock of the other corporation if, at that time, the corporation does not have a direct or an indirect interest in any of the shares of the capital stock of the other corporation,

(A.2) the definition ***specified shareholder*** in subsection 248(1) is to be read without reference to its paragraph (a) in respect of any share of the capital stock of the subsidiary that the person would, but for this clause, be deemed to own solely because the person has a right described in paragraph 251(5)(b) to acquire shares of the capital stock of a corporation that

(I) is controlled by the subsidiary, and

(II) does not have a direct or an indirect interest in any of the shares of the capital stock of the subsidiary, and

ayant une seule catégorie d'actions émises, lesquelles actions comportent plein droit de vote en toutes circonstances,

(B) chaque associé de la société de personnes ou bénéficiaire de la fiducie est réputé être propriétaire, à ce moment, d'un nombre d'actions émises du capital-actions de la société égal au produit de la multiplication du nombre d'actions émises du capital-actions de la société par le rapport entre :

(I) d'une part, la juste valeur marchande, à ce moment, de la participation de l'associé dans la société de personnes ou de la participation du bénéficiaire dans la fiducie,

(II) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des participations des associés dans la société de personnes ou des participations des bénéficiaires dans la fiducie,

(C) la société est réputée avoir acquis le bien à ce moment ou en être alors propriétaire,

(iii) pour déterminer si une personne est un actionnaire déterminé d'une société :

(A) le passage « des actions émises d'une catégorie donnée du capital-actions de la société ou de toute autre société qui est liée à celle-ci » à la définition de ***actionnaire déterminé*** au paragraphe 248(1) est remplacé par « des actions émises d'une catégorie donnée (sauf une catégorie exclue) du capital-actions de la société ou de toute autre société qui est liée à celle-ci et qui a une participation directe ou indirecte importante dans des actions émises de son capital-actions »,

(A.1) une société contrôlée par une autre société est réputée, à un moment donné, ne pas détenir d'actions du capital-actions de l'autre société si, à ce moment, elle n'a de participation directe ou indirecte dans aucune des actions du capital-actions de celle-ci,

(A.2) la définition de ***actionnaire déterminé*** au paragraphe 248(1) s'applique compte non tenu de son alinéa a) relativement à toute action du capital-actions de la filiale que la personne serait réputée détenir en l'absence de la présente division du seul fait qu'elle a un droit visé à l'alinéa 251(5)b) d'acquérir des actions du capital-actions d'une société qui, à la fois :

(I) est contrôlée par la filiale,

(B) a corporation is deemed not to be a specified shareholder of itself, and

(iv) property that is distributed to the parent on the winding-up is deemed not to be acquired by a person if the person acquired the property before the acquisition of control referred to in clause (c)(vi)(A) and the property is not owned by the person at any time after that acquisition of control;

(c.3) for the purpose of clause 88(1)(c)(vi)(B), property acquired by any person in substitution for particular property or properties distributed to the parent on the winding-up includes

(i) property (other than a specified property) owned by the person at any time after the acquisition of control referred to in clause (c)(vi)(A) more than 10% of the fair market value of which is, at that time, attributable to the particular property or properties, and

(ii) property owned by the person at any time after the acquisition of control referred to in clause 88(1)(c)(vi)(A) the fair market value of which is, at that time, determinable primarily by reference to the fair market value of, or to any proceeds from a disposition of, the particular property or properties

but does not include

(iii) money,

(iv) property that was not owned by the person at any time after the acquisition of control referred to in clause 88(1)(c)(vi)(A),

(v) property described in subparagraph 88(1)(c.3)(i) if the only reason the property is described in that subparagraph is because a specified property described in any of subparagraphs 88(1)(c.4)(i) to 88(1)(c.4)(iv) was received as consideration for the acquisition of a share of the capital stock of the subsidiary in the circumstances described in subparagraphs 88(1)(c.4)(i) to 88(1)(c.4)(iv),

(vi) a share of the capital stock of the subsidiary or a debt owing by it, if the share or debt, as the case may be, was owned by the parent immediately before the winding-up, or

(vii) a share of the capital stock of a corporation or a debt owing by a corporation, if the fair market value of the share or debt, as the case may be, was

(II) n'a de participation directe ou indirecte dans aucune des actions du capital-actions de la filiale,

(B) une société est réputée ne pas être son propre actionnaire déterminé,

(iv) tout bien qui est distribué à la société mère lors de la liquidation est réputé ne pas être acquis par une personne si celle-ci l'a acquis avant l'acquisition de contrôle visé à la division c)(vi)(A) et que le bien ne lui appartient à aucun moment après cette acquisition de contrôle;

c.3) pour l'application de la division c)(vi)(B), le bien qu'une personne acquiert en remplacement d'un ou plusieurs autres biens (appelés « bien distribué » au présent alinéa) distribués à la société mère lors de la liquidation comprend les biens suivants :

(i) un bien (sauf un bien déterminé) appartenant à la personne à un moment postérieur à l'acquisition de contrôle visée à la division c)(vi)(A) et dont plus de 10 % de la juste valeur marchande à ce moment est attribuable au bien distribué,

(ii) un bien appartenant à la personne à un moment postérieur à l'acquisition de contrôle visée à la division c)(vi)(A) et dont la juste valeur marchande à ce moment peut être déterminée principalement par rapport à la juste valeur marchande du bien distribué ou au produit provenant de la disposition de ce bien,

mais ne comprend pas les biens suivants :

(iii) de l'argent,

(iv) un bien n'appartenant pas à la personne à un moment postérieur à l'acquisition de contrôle visée à la division c)(vi)(A),

(v) un bien visé au sous-alinéa (i), s'il y est visé uniquement du fait qu'un bien déterminé visé à l'un des sous-alinéas c.4)(i) à (iv) a été reçu en contrepartie de l'acquisition d'une action du capital-actions de la filiale dans les circonstances visées aux sous-alinéas c.4)(i) à (iv),

(vi) une action du capital-actions de la filiale ou une dette dont elle est débitrice, si l'action ou la dette, selon le cas, appartenait à la société mère immédiatement avant la liquidation,

(vii) une action du capital-actions d'une société ou une dette dont elle est débitrice, si nulle partie de la juste valeur marchande de l'action ou de la dette,

not, at any time after the beginning of the winding-up, wholly or partly attributable to property distributed to the parent on the winding-up;

(c.4) for the purposes of subparagraphs 88(1)(c.3)(i) and 88(1)(c.3)(v), a specified property is

(i) a share of the capital stock of the parent that was

(A) received as consideration for the acquisition of a share of the capital stock of the subsidiary by the parent or by a corporation that was a specified subsidiary corporation of the parent immediately before the acquisition, or

(B) issued for consideration that consists solely of money,

(ii) an indebtedness that was issued

(A) by the parent as consideration for the acquisition of a share of the capital stock of the subsidiary by the parent, or

(B) for consideration that consists solely of money,

(iii) a share of the capital stock of a taxable Canadian corporation that was received as consideration for the acquisition of a share of the capital stock of the subsidiary by the taxable Canadian corporation or by the parent where the parent was a specified subsidiary corporation of the taxable Canadian corporation immediately before the acquisition,

(iv) an indebtedness of a taxable Canadian corporation that was issued by it as consideration for the acquisition of a share of the capital stock of the subsidiary by the taxable Canadian corporation or by the parent where the parent was a specified subsidiary corporation of the taxable Canadian corporation immediately before the acquisition, and

(v) if the subsidiary was formed on the amalgamation of two or more predecessor corporations at least one of which was a subsidiary wholly-owned corporation of the parent,

(A) a share of the capital stock of the subsidiary that was issued on the amalgamation and that is, before the beginning of the winding-up,

(I) redeemed, acquired or cancelled by the subsidiary for consideration that consists solely of money or shares of the capital stock

selon le cas, n'était attribuable, après le début de la liquidation, à un bien distribué à la société mère dans le cadre de la liquidation;

c.4) pour l'application des sous-alinéas c.3)(i) et (v), est un bien déterminé :

(i) une action du capital-actions de la société mère qui, selon le cas :

(A) a été reçue en contrepartie de l'acquisition d'une action du capital-actions de la filiale par la société mère ou par une société qui était une filiale déterminée de la société mère immédiatement avant l'acquisition,

(B) a été émise pour une contrepartie qui ne comprend que de l'argent,

(ii) une dette émise, selon le cas :

(A) par la société mère en contrepartie de l'acquisition par elle d'une action du capital-actions de la filiale,

(B) pour une contrepartie constituée uniquement d'argent,

(iii) une action du capital-actions d'une société canadienne imposable qui a été reçue en contrepartie de l'acquisition d'une action du capital-actions de la filiale par la société canadienne imposable ou par la société mère dans le cas où la société mère était une filiale déterminée de la société canadienne imposable immédiatement avant l'acquisition,

(iv) une dette d'une société canadienne imposable qu'elle a émise en contrepartie de l'acquisition d'une action du capital-actions de la filiale par la société canadienne imposable ou par la société mère dans le cas où la société mère était une filiale déterminée de la société canadienne imposable immédiatement avant l'acquisition,

(v) si la filiale est issue de la fusion de plusieurs sociétés remplacées dont au moins une était une filiale à cent pour cent de la société mère :

(A) toute action du capital-actions de la filiale qui a été émise au moment de la fusion et qui, avant le début de la liquidation :

(I) a été rachetée, acquise ou annulée par la filiale pour une contrepartie constituée uniquement d'argent, d'actions du capital-actions de la société mère ou d'une combinaison des deux,

of the parent, or of any combination of the two, or

(II) exchanged for shares of the capital stock of the parent, or

(B) a share of the capital stock of the parent issued on the amalgamation in exchange for a share of the capital stock of a predecessor corporation;

(vi) [Repealed, 2013, c. 40, s. 40]

(c.5) for the purpose of paragraph 88(1)(c.4), a corporation is a specified subsidiary corporation of another corporation, at any time, where the other corporation holds, at that time, shares of the corporation

(i) that give the shareholder 90% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation, and

(ii) having a fair market value of 90% or more of the fair market value of all the issued shares of the capital stock of the corporation;

(c.6) for the purpose of paragraph 88(1)(c.3) and notwithstanding subsection 256(9), where control of a corporation is acquired by way of articles of arrangement, that control is deemed to have been acquired at the end of the day on which the arrangement becomes effective;

(c.7) for the purpose of subparagraph 88(1)(c)(iii), a leasehold interest in a depreciable property and an option to acquire a depreciable property are depreciable properties;

(c.8) for the purpose of clause (c.2)(iii)(A), a specified class of the capital stock of a corporation is a class of shares of the capital stock of the corporation where

(i) the paid-up capital in respect of the class was not, at any time, less than the fair market value of the consideration for which the shares of that class then outstanding were issued,

(ii) the shares are non-voting in respect of the election of the board of directors of the corporation, except in the event of a failure or default under the terms or conditions of the shares,

(iii) under neither the terms and conditions of the shares nor any agreement in respect of the shares are the shares convertible into or exchangeable for

(II) a été échangée contre des actions du capital-actions de la société mère,

(B) toute action du capital-actions de la société mère qui a été émise au moment de la fusion en échange d'une action du capital-actions d'une société remplacée;

(vi) [Abrogé, 2013, ch. 40, art. 40]

c.5) pour l'application de l'alinéa c.4), une société est une filiale déterminée d'une autre société à un moment donné si cette dernière détient, à ce moment, des actions de la société qui répondent aux conditions suivantes :

(i) elles confèrent à l'actionnaire au moins 90 % des voies pouvant être exprimées en toutes circonstances à l'assemblée annuelle des actionnaires de la société,

(ii) leur juste valeur marchande compte pour au moins 90 % de la juste valeur marchande des actions émises du capital-actions de la société;

c.6) pour l'application de l'alinéa c.3) et malgré le paragraphe 256(9), le contrôle d'une société, s'il est acquis au moyen de statuts réglementant un arrangement, est réputé avoir été acquis à la fin du jour de l'entrée en vigueur de l'arrangement;

c.7) pour l'application du sous-alinéa c)(iii), sont assimilés à des biens amortissables les droits de tenure à bail dans ces biens et les options d'achat visant ces biens;

c.8) pour l'application de la division c.2)(iii)(A), est une catégorie exclue du capital-actions d'une société la catégorie d'actions de son capital-actions qui présente les caractéristiques suivantes :

(i) le capital versé au titre de la catégorie n'est, à aucun moment, inférieur à la juste valeur marchande de la contrepartie de l'émission des actions de cette catégorie alors en circulation,

(ii) les actions ne confèrent pas le droit d'élire les membres du conseil d'administration, sauf en cas d'inexécution des conditions des actions,

(iii) ni les conditions des actions ni une convention concernant ces actions ne prévoient que les actions sont convertibles en actions autres que des actions d'une catégorie exclue du capital-actions de la société, ou échangeables contre de telles actions,

shares other than shares of a specified class of the capital stock of the corporation, and

(iv) under neither the terms and conditions of the shares nor any agreement in respect of the shares is any holder of the shares entitled to receive on the redemption, cancellation or acquisition of the shares by the corporation or by any person with whom the corporation does not deal at arm's length an amount (excluding any premium for early redemption) greater than the total of the fair market value of the consideration for which the shares were issued and the amount of any unpaid dividends on the shares;

(c.9) for the purposes of paragraph (c.4), a reference to a share of the capital stock of a corporation includes a right to acquire a share of the capital stock of the corporation;

(d) the amount determined under this paragraph in respect of each property of the subsidiary distributed to the parent on the winding-up is such portion of the amount, if any, by which the total determined under subparagraph 88(1)(b)(ii) exceeds the total of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding-up, equal to the cost amount to the subsidiary of the property immediately before the winding-up, plus the amount of any money of the subsidiary on hand immediately before the winding-up,

exceeds the total of

(B) all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding-up, and

(C) the amount of any reserve (other than a reserve referred to in paragraph 20(1)(n), subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) of this Act or in subsection 64(1) or (1.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as those two provisions read immediately before November 3, 1981) deducted in computing the subsidiary's income for its taxation year during which its assets were distributed to the parent on the winding-up, and

(i.1) the total of all amounts each of which is an amount in respect of any share of the capital stock

(iv) ni les conditions des actions ni une convention concernant ces actions ne confèrent à leur détenteur le droit de recevoir, au rachat, à l'annulation ou à l'acquisition des actions par la société ou par une personne avec laquelle celle-ci a un lien de dépendance, un montant, sauf une prime pour rachat anticipé, qui dépasse la somme de la juste valeur marchande de la contrepartie de l'émission des actions et du montant des dividendes impayés sur les actions;

c.9) pour l'application de l'alinéa c.4), la mention d'une action du capital-actions d'une société vaut mention du droit d'acquérir une telle action;

d) le montant déterminé selon le présent alinéa relativement à chaque bien de la filiale qui a été attribué à la société mère lors de la liquidation correspond à la partie de l'excédent éventuel du total déterminé selon le sous-alinéa b)(ii) sur le total des montants suivants :

(i) l'excédent éventuel :

(A) du total des sommes dont chacune se rapporte à un bien donné qui appartenait à la filiale, immédiatement avant la liquidation, égale au coût indiqué du bien, pour la filiale, immédiatement avant la liquidation, plus tout argent que la filiale a en sa possession immédiatement avant la liquidation,

sur le total des montants suivants :

(B)les sommes dont chacune représente le montant d'une dette de la filiale ou de toute autre obligation de celle-ci de verser une somme d'argent qui était impayée, immédiatement avant la liquidation,

(C) le montant de toute provision (sauf celle visée à l'alinéa 20(1)n) ou aux sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii) de la présente loi ou aux paragraphes 64(1) ou (1.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version antérieure au 3 novembre 1981) déduite dans le calcul du revenu de la filiale pour son année d'imposition au cours de laquelle ses éléments d'actif ont été attribués à la société mère lors de la liquidation,

(i.1) le total des montants dont chacun se rapporte à une action du capital-actions de la filiale dont la société mère a disposé lors de la liquidation ou en vue de la liquidation, égal au total des montants reçus par la société mère ou par une société avec laquelle elle avait un lien de dépendance (autrement

of the subsidiary disposed of by the parent on the winding-up or in contemplation of the winding-up, equal to the total of all amounts received by the parent or by a corporation with which the parent was not dealing at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b) in respect of the subsidiary) in respect of

(A) taxable dividends on the share or on any share (in this subparagraph referred to as a "replaced share") for which the share or a replaced share was substituted or exchanged to the extent that the amounts thereof were deductible from the recipient's income for any taxation year by virtue of section 112 or subsection 138(6) and were not amounts on which the recipient was required to pay tax under Part VII of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on March 31, 1977, or

(B) capital dividends and life insurance capital dividends on the share or on any share (in this subparagraph referred to as a "replaced share") for which a share or a replaced share was substituted or exchanged,

as is designated by the parent in respect of that capital property in its return of income under this Part for its taxation year in which the subsidiary was so wound up, except that

(ii) the amount designated in respect of any such capital property may not exceed the amount determined by the formula

A – (B + C)

where

A is the fair market value of the property at the time the parent last acquired control of the subsidiary,

B is the greater of the cost amount to the subsidiary of the property at the time the parent last acquired control of the subsidiary and the cost amount to the subsidiary of the property immediately before the winding-up, and

C is the prescribed amount, and

(ii.1) for the purpose of calculating the amount in subparagraph (ii) in respect of an interest of the subsidiary in a partnership, the fair market value of the interest at the time the parent last acquired control of the subsidiary is deemed to be the amount determined by the formula

A – B

qu'à cause d'un droit visé à l'alinéa 251(5) b) relativement à la filiale), à l'égard :

(A) soit de dividendes imposables sur l'action, ou sur toute action (appelée « action remplacée » au présent sous-alinéa) à laquelle a été substituée ou contre laquelle a été échangée l'action ou une action remplacée, dans la mesure où les sommes afférentes à ces dividendes étaient déductibles du revenu du bénéficiaire, en vertu de l'article 112 ou du paragraphe 138(6), pour toute année d'imposition, et n'étaient pas des sommes sur lesquelles le bénéficiaire était tenu de payer de l'impôt aux termes de la partie VII de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable au 31 mars 1977,

(B) soit de dividendes en capital et dividendes en capital d'assurance-vie, sur l'action ou sur toute action (appelée « action remplacée » au présent sous-alinéa) à laquelle a été substituée ou contre laquelle a été échangée l'action ou une action remplacée,

désignée par la société mère relativement à cette immobilisation dans sa déclaration de revenu produite en vertu de la présente partie pour son année d'imposition au cours de laquelle la filiale a été ainsi liquidée, sauf que :

(ii) la somme ainsi désignée, relativement à toute immobilisation semblable, ne peut dépasser la somme obtenue par la formule suivante :

A – (B + C)

où :

A représente la juste valeur marchande de l'immobilisation au moment où la société mère a acquis la dernière fois le contrôle de la filiale,

B le coût indiqué de l'immobilisation pour la filiale au moment où la société mère a acquis la dernière fois le contrôle de la filiale ou, s'il est plus élevé, le coût indiqué de l'immobilisation pour la filiale immédiatement avant la liquidation,

C la somme visée par règlement,

(ii.1) pour le calcul de la somme visée au sous-alinéa (ii) relativement à une participation de la filiale dans une société de personnes, la juste valeur marchande de la participation au moment où la société mère a acquis la dernière fois le contrôle de la filiale

where

A is the fair market value (determined without reference to this subparagraph) of the interest at that time, and

B is the portion of the amount by which the fair market value (determined without reference to this subparagraph) of the interest at that time exceeds its cost amount at that time as may reasonably be regarded as being attributable at that time to the total of all amounts each of which is

(A) in the case of a depreciable property held directly by the partnership or held indirectly by the partnership through one or more other partnerships, the amount by which the fair market value (determined without reference to liabilities) of the property exceeds its cost amount,

(B) in the case of a Canadian resource property or a foreign resource property held directly by the partnership or held indirectly by the partnership through one or more other partnerships, the fair market value (determined without reference to liabilities) of the property, or

(C) in the case of a property that is not a capital property, a Canadian resource property or a foreign resource property and that is held directly by the partnership or held indirectly through one or more other partnerships, the amount by which the fair market value (determined without reference to liabilities) of the property exceeds its cost amount, and

(iii) in no case shall the total of amounts so designated in respect of all such capital properties exceed the amount, if any, by which the total determined under subparagraph 88(1)(b)(ii) exceeds the total of the amounts determined under subparagraphs 88(1)(d)(i) and 88(1)(d)(i.1),

(d.1) subsection 84(2) and section 21 of the *Income Tax Application Rules* do not apply to the winding-up of the subsidiary, and subsection 13(21.2) does not apply to the winding-up of the subsidiary with respect to property acquired by the parent on the winding-up;

(d.2) in determining, for the purposes of this paragraph and paragraphs 88(1)(c) and 88(1)(d), the time at which a person or group of persons (in this paragraph and paragraph 88(1)(d.3) referred to as the "acquirer") last acquired control of the subsidiary, where control of the subsidiary was acquired from another

est réputée correspondre à la somme obtenue par la formule suivante :

A – B

où :

A représente la juste valeur marchande de la participation à ce moment, déterminée compte non tenu du présent sous-alinéa,

B la partie de l'excédent de la juste valeur marchande de la participation à ce moment, déterminée compte non tenu du présent sous-alinéa, sur son coût indiqué à ce moment qu'il est raisonnable de considérer comme étant attribuable à ce même moment au total des sommes dont chacune représente :

(A) dans le cas d'un bien amortissable que la société de personnes détient soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes, l'excédent de la juste valeur marchande du bien, déterminée compte non tenu des dettes et autres obligations, sur son coût indiqué,

(B) dans le cas d'un avoir minier canadien ou d'un avoir minier étranger que la société de personnes détient soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes, la juste valeur marchande de l'avoir, déterminée compte non tenu des dettes et autres obligations,

(C) dans le cas d'un bien qui n'est ni une immobilisation, ni un avoir minier canadien, ni un avoir minier étranger et que la société de personnes détient soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes, l'excédent de la juste valeur marchande du bien, déterminée compte non tenu des dettes et autres obligations, sur son coût indiqué,

(iii) le total des sommes ainsi désignées, relativement à toute immobilisation semblable, ne peut en aucun cas dépasser l'excédent du total déterminé selon le sous-alinéa b)(ii) sur le total des sommes déterminées selon les sous-alinéas (i) et (i.1);

d.1) le paragraphe 84(2) et l'article 21 des *Règles concernant l'application de l'impôt sur le revenu* ne s'appliquent pas à la liquidation de la filiale et le paragraphe 13(21.2) ne s'applique pas à la liquidation de la filiale pour ce qui est des biens acquis par la société mère lors de la liquidation;

person or group of persons (in this paragraph referred to as the "vendor") with whom the acquirer was not (otherwise than solely because of a right referred to in paragraph 251(5)(b)) dealing at arm's length, the acquirer is deemed to have last acquired control of the subsidiary at the earlier of

(i) the time at which the vendor last acquired control (within the meaning that would be assigned by subsection 186(2) if the reference in that subsection to "another corporation" were read as "a person" and the references in that subsection to "the other corporation" were read as "the person") of the subsidiary, and

(ii) the time at which the vendor was deemed for the purpose of this paragraph to have last acquired control of the subsidiary;

(d.3) for the purposes of paragraphs 88(1)(c), 88(1)(d) and 88(1)(d.2), where at any time control of a corporation is last acquired by an acquirer because of an acquisition of shares of the capital stock of the corporation as a consequence of the death of an individual, the acquirer is deemed to have last acquired control of the corporation immediately after the death from a person who dealt at arm's length with the acquirer;

(e) for the purposes of the description of A in subparagraph (d)(ii.1), the fair market value of an interest in a particular partnership held by the subsidiary at the time the parent last acquired control of the subsidiary is deemed not to include the amount that is the total of each amount that is the fair market value of a property that would otherwise be included in the fair market value of the interest, if

(i) as part of the transaction or event or series of transactions or events in which control of the subsidiary is last acquired by the parent and on or before the acquisition of control,

(A) the subsidiary disposes of the property to the particular partnership or any other partnership and subsection 97(2) applies to the disposition, or

(B) where the property is an interest in a partnership, the subsidiary acquires the interest in the particular partnership or any other partnership from a person or partnership with whom the subsidiary does not deal at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b)) and section 85 applies in respect of the acquisition of the interest, and

d.2) pour déterminer, pour l'application du présent alinéa et des alinéas c) et d), le moment auquel une personne ou un groupe de personnes (appelé « acquéreur » au présent alinéa et à l'alinéa d.3)) a acquis le contrôle de la filiale pour la dernière fois — lequel contrôle a été acquis auprès d'une autre personne ou d'un autre groupe de personnes (appelé « vendeur » au présent alinéa) avec lequel l'acquéreur avait un lien de dépendance (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b) — l'acquéreur est réputé avoir acquis ce contrôle au premier en date des moments suivants :

(i) le moment auquel le vendeur a acquis le contrôle de la filiale pour la dernière fois (***contrôle*** s'entendant ici au sens du paragraphe 186(2), si l'expression « une autre société » était remplacée par « une personne » et les expressions « l'autre société » et « cette autre société » , par « la personne »),

(ii) le moment auquel le vendeur est réputé, pour l'application du présent alinéa, avoir acquis le contrôle de la filiale pour la dernière fois;

d.3) pour l'application des alinéas c), d) et d.2), lorsque le contrôle d'une société est acquis par un acquéreur pour la dernière fois en raison d'une acquisition d'actions du capital-actions de la société découlant du décès d'un particulier, l'acquéreur est réputé avoir acquis ce contrôle immédiatement après le décès auprès d'une personne avec laquelle il n'avait aucun lien de dépendance;

e) pour l'application de l'élément A de la formule figurant au sous-alinéa d)(ii.1), la juste valeur marchande d'une participation dans une société de personnes donnée détenue par la filiale au moment où la société mère a acquis le contrôle de la filiale la dernière fois est réputée ne pas comprendre la somme qui correspond au total des sommes représentant chacune la juste valeur marchande d'un bien qui serait incluse par ailleurs dans la juste valeur marchande de la participation si, à la fois :

(i) dans le cadre de l'opération, de l'événement ou de la série d'opérations ou d'événements par lesquels le contrôle de la filiale est acquis la dernière fois par la société mère et au plus tard au moment où le contrôle est acquis, l'un des faits ci-après s'avère :

(A) la filiale dispose du bien en faveur de la société de personnes donnée ou d'une autre société de personnes et le paragraphe 97(2) s'applique à la disposition,

(ii) at the time of the acquisition of control, the particular partnership holds directly, or indirectly through one or more other partnerships, property described in clauses (A) to (C) of the description of B in subparagraph (d)(ii.1);

(e.1) the subsidiary may, for the purposes of computing its income for its taxation year during which its assets were transferred to, and its obligations were assumed by, the parent on the winding-up, claim any reserve that would have been allowed under this Part if its assets had not been transferred to, or its obligations had not been assumed by, the parent on the winding-up and notwithstanding any other provision of this Part, no amount shall be included in respect of any reserve so claimed in computing the income of the subsidiary for its taxation year, if any, following the year in which its assets were transferred to or its obligations were assumed by the parent;

(e.2) paragraphs 87(2)(c), (d.1), (e.1), (e.3), (g) to (l), (l.3) to (u), (x), (z.1), (z.2), (aa), (cc), (ll), (nn), (pp), (rr) and (tt) to (ww), subsection 87(6) and, subject to section 78, subsection 87(7) apply to the winding-up as if the references in those provisions to

(i) "amalgamation" were read as "winding-up",

(ii) "predecessor corporation" were read as "subsidiary",

(iii) "new corporation" were read as "parent",

(iv) "its first taxation year" were read as "its taxation year during which it received the assets of the subsidiary on the winding-up",

(v) "its last taxation year" were read as "its taxation year during which its assets were distributed to the parent on the winding-up",

(vi) "predecessor corporation's gain" were read as "subsidiary's gain",

(vii) "predecessor corporation's income" were read as "subsidiary's income",

(viii) "new corporation's income" were read as "parent's income",

(ix) "subsection 89(5)" and "subsection 89(9)" were read as "subsection 89(6)" and "subsection 89(10)", respectively,

(x) "any predecessor private corporation" were read as "the subsidiary (if it was a private corporation at the time of the winding-up)",

(B) dans le cas où le bien est une participation dans une société de personnes, la filiale acquiert la participation dans la société de personnes donnée ou dans une autre société de personnes auprès d'une personne ou d'une société de personnes avec laquelle elle a un lien de dépendance (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b) et l'article 85 s'applique relativement à l'acquisition de la participation,

(ii) au moment où le contrôle est acquis, la société de personnes donnée détient soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes, un bien visé aux divisions (A) à (C) de l'élément B de la formule figurant au sous-alinéa d)(ii.1);

e.1) la filiale peut, pour le calcul de son revenu pour son année d'imposition au cours de laquelle ses biens ont été transférés à la société mère, et ses obligations assumées par celle-ci, à la liquidation, déduire la provision qu'elle aurait pu déduire en application de la présente partie si ses biens n'avaient pas été transférés à la société mère, ni ses obligations assumées par celle-ci, à la liquidation; malgré les autres dispositions de la présente partie, aucune somme n'est à inclure, au titre d'une provision ainsi déduite, dans le calcul du revenu de la filiale pour son année d'imposition qui suit celle où ses biens ont été transférés à la société mère ou ses obligations assumées par celle-ci;

e.2) les alinéas 87(2)c), d.1), e.1), e.3), g) à l), l.3) à u), x), z.1), z.2), aa), cc), ll), nn), pp), rr) et tt) à ww), le paragraphe 87(6) et, sous réserve de l'article 78, le paragraphe 87(7) s'appliquent à la liquidation, avec les modifications suivantes :

(i) « fusion » devient « liquidation »,

(ii) « société remplacée » devient « filiale »,

(iii) « nouvelle société » devient « société mère »,

(iv) « sa première année d'imposition » devient « l'année d'imposition au cours de laquelle elle a reçu l'actif de la filiale lors de la liquidation »,

(v) « sa dernière année d'imposition » devient « l'année d'imposition au cours de laquelle son actif a été attribué à la société mère lors de la liquidation »,

(vi) « gain d'une société remplacée » devient « gain de la filiale »,

(vii) « revenu d'une société remplacée » devient « revenu de la filiale »,

(xi) and (xii) [Repealed, 1994, c. 7, Sch. II, s. 66]

(xiii) "two or more corporations" were read as "a subsidiary",

(xiv) and (xv) [Repealed, 1998, c. 19, s. 118]

(xvi) "the life insurance capital dividend account of any predecessor corporation immediately before the amalgamation" were read as "the life insurance capital dividend account of the subsidiary at the time the subsidiary was wound-up",

(xvii) "predecessor corporation's refundable Part VII tax on hand" were read as "subsidiary's refundable Part VII tax on hand",

(xviii) "predecessor corporation's Part VII refund" were read as "subsidiary's Part VII refund",

(xix) "predecessor corporation's refundable Part VIII tax on hand" were read as "subsidiary's refundable Part VIII tax on hand",

(xx) "predecessor corporation's Part VIII refund" were read as "subsidiary's Part VIII refund", and

(xxi) "predecessor corporation's cumulative offset account" were read as "subsidiary's cumulative offset account";

(e.3) for the purpose of computing the parent's investment tax credit at the end of any particular taxation year ending after the subsidiary was wound up,

(i) property acquired or expenditures made by the subsidiary or an amount included in the investment tax credit of the subsidiary by virtue of paragraph (b) of the definition ***investment tax credit*** in subsection 127(9) in a taxation year (in this paragraph referred to as the "expenditure year") shall be deemed to have been acquired, made or included, as the case may be, by the parent in its taxation year in which the expenditure year of the subsidiary ended, and

(ii) there shall be added to the amounts otherwise determined for the purposes of paragraphs (f) to (k) of the definition ***investment tax credit*** in subsection 127(9) in respect of the parent for the particular year

(A) the amounts that would have been determined in respect of the subsidiary for the purposes of paragraph (f) of the definition ***investment tax credit*** in subsection 127(9) for its taxation year in which it was wound up if the

(viii) « revenu de la nouvelle société » devient « revenu de la société mère »,

(ix) « paragraphe 89(5) » et « paragraphe 89(9) » deviennent respectivement « paragraphe 89(6) » et « paragraphe 89(10) »,

(x) « une société privée remplacée » devient « la filiale (si elle était une société privée au moment de la liquidation) »,

(xi) et (xii) [Abrogés, 1994, ch. 7, ann. II, art. 66]

(xiii) « plusieurs sociétés » devient « une filiale »,

(xiv) et (xv) [Abrogés, 1998, ch. 19, art. 118]

(xvi) « le compte de dividendes en capital d'assurance-vie de toute société remplacée immédiatement avant la fusion » devient « le compte de dividendes en capital d'assurance-vie de la filiale au moment de sa liquidation »,

(xvii) « impôt de la partie VII en main remboursable de la société remplacée » devient « impôt de la partie VII en main remboursable de la filiale »,

(xviii) « remboursement de la partie VII de la société remplacée » devient « remboursement de la partie VII de la filiale »,

(xix) « impôt de la partie VIII en main remboursable de la société remplacée » devient « impôt de la partie VIII en main remboursable de la filiale »,

(xx) « remboursement de la partie VIII de la société remplacée » devient « remboursement de la partie VIII de la filiale »,

(xxi) « compte compensatoire cumulatif de la société remplacée » devient « compte compensatoire cumulatif de la filiale »;

e.3) pour le calcul du crédit d'impôt à l'investissement de la société mère à la fin d'une année d'imposition donnée se terminant après la liquidation de la filiale :

(i) les biens acquis et les dépenses faites par la filiale ainsi que les montants inclus dans le crédit d'impôt à l'investissement de la filiale en vertu de l'alinéa b) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9) au cours d'une année d'imposition — appelée « année de la dépense » au présent alinéa — sont réputés avoir été respectivement acquis, faites et inclus par la société mère au cours de l'année d'imposition de celle-ci au

reference therein to "a preceding taxation year" were read as a reference to "the year or a preceding taxation year",

(B) the amounts determined in respect of the subsidiary for the purposes of paragraphs (g) to (i) and (k) of the definition ***investment tax credit*** in subsection 127(9) for its taxation year in which it was wound up, and

(C) the amount determined in respect of the subsidiary for the purposes of paragraph (j) of the definition ***investment tax credit*** in subsection 127(9) for its taxation year in which it was wound up except that, for the purpose of the calculation in this clause, where control of the subsidiary has been acquired by a person or group of persons (each of whom is referred to in this clause as the "purchaser") at any time (in this clause referred to as "that time") before the end of the taxation year in which the subsidiary was wound up, there may be added to the amount determined under subparagraph 127(9.1)(d)(i) in respect of the subsidiary the amount, if any, by which that proportion of the amount that, but for subsections 127(3) and 127(5) and sections 126, 127.2 and 127.3, would be the parent's tax payable under this Part for the particular year, that,

(I) where the subsidiary carried on a particular business in the course of which a property was acquired, or an expenditure was made, before that time in respect of which an amount was included in computing the subsidiary's investment tax credit for its taxation year in which it was wound up, and the parent carried on the particular business throughout the particular year, the amount, if any, by which the total of all amounts each of which is the parent's income for the particular year from the particular business, or the parent's income for the particular year from any other business substantially all the income of which was derived from the sale, leasing, rental or development of properties or the rendering of services similar to the properties sold, leased, rented or developed, or the services rendered, as the case may be, by the subsidiary in carrying on the particular business before that time, exceeds the total of the amounts, if any, deducted for the particular year under paragraph 111(1)(a) or 111(1)(d) by the parent in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of the particular business

cours de laquelle s'est terminée l'année de la dépense de la filiale,

(ii) sont ajoutés aux montants calculés par ailleurs pour l'application des alinéas f) à k) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9) à l'égard de la société mère pour l'année donnée :

(A) les montants qui auraient été calculés à l'égard de la filiale pour l'application de l'alinéa f) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9) pour l'année d'imposition de cette filiale au cours de laquelle elle a été liquidée, si la mention « une année d'imposition antérieure » à cet alinéa était remplacée par la mention « l'année ou une année d'imposition antérieure »,

(B) les montants calculés à l'égard de la filiale pour l'application des alinéas g) à i) et k) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9) pour l'année d'imposition de cette filiale au cours de laquelle elle a été liquidée,

(C) le montant calculé à l'égard de la filiale pour l'application de l'alinéa j) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9) pour l'année d'imposition de cette filiale au cours de laquelle elle a été liquidée; toutefois, pour l'application de la présente division, en cas d'acquisition du contrôle de la filiale par une personne ou un groupe de personnes à un moment antérieur à la fin de l'année d'imposition au cours de laquelle la filiale a été liquidée, peut être ajouté au montant calculé en vertu du sous-alinéa 127(9.1)d)(i) à l'égard de la filiale l'excédent éventuel du produit du montant qui, sans les paragraphes 127(3) et (5) et les articles 126, 127.2 et 127.3, serait l'impôt payable par la société mère pour l'année donnée en vertu de la présente partie par le rapport entre :

(I) d'une part, lorsque la filiale exploitait une entreprise donnée dans le cadre de laquelle un bien a été acquis, ou une dépense faite, avant ce moment antérieur, qu'un montant au titre de ce bien ou de cette dépense a été inclus dans le calcul du crédit d'impôt à l'investissement de la filiale pour son année d'imposition au cours de laquelle elle a été liquidée et que la société mère exploitait l'entreprise donnée tout au long de l'année donnée, l'excédent éventuel du total des montants représentant

is of the greater of

(II) the amount determined under subclause 88(1)(e.3)(ii)(C)(I), and

(III) the parent's taxable income for the particular year

exceeds the amount, if any, calculated under subparagraph 127(9.1)(d)(i) in respect of the particular business or the other business, as the case may be, in respect of the parent at the end of the particular year

to the extent that those amounts determined in respect of the subsidiary may reasonably be considered to have been included in computing the parent's investment tax credit at the end of the particular year by virtue of subparagraph 88(1)(e.3)(i);

and, for the purposes of the definitions ***first term shared-use-equipment*** and ***second term shared-use-equipment*** in subsection 127(9), the parent shall be deemed to be the same corporation as, and a continuation of, the subsidiary;

(e.4) for the purpose of computing the parent's employment tax credit at the end of any particular taxation year ending after the subsidiary was wound up,

(i) the subsidiary's taxpayer employment credits for any taxation year (in this paragraph referred to as the "employment year") and any amounts required to be added by virtue of subsection 127(15) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in computing the subsidiary's employment tax credit at the end of the employment year shall be deemed to be taxpayer employment credits of the parent for, and amounts required to be added by virtue of that subsection in computing the parent's employment tax credit at the end of, its taxation year in which the employment year of the subsidiary ended, and

(ii) there shall be added to the amounts otherwise determined under paragraphs 127(16)(c) and (d) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in respect of the parent for the particular taxation year, the amounts that would have been determined under those paragraphs in respect of the subsidiary for its taxation year in which it was wound-up if the reference in paragraph 127(16)(c) of that Act to "the five immediately preceding taxation years" were read as a reference to "that taxation year or the five immediately preceding taxation years" to the extent that those

chacun le revenu de la société mère pour l'année donnée provenant de l'entreprise donnée ou provenant d'une autre entreprise dont la presque totalité du revenu provient soit de la vente, de la location ou de la mise en valeur de biens semblables aux biens vendus, loués ou mis en valeur par la filiale dans le cadre de l'exploitation de l'entreprise donnée, soit de la prestation de services semblables aux services rendus par la filiale dans ce cadre, avant ce moment antérieur, sur le total des montants déduits par la société mère pour l'année donnée en vertu des alinéas 111(1)a) ou d) au titre d'une perte autre qu'une perte en capital ou d'une perte agricole subie dans le cadre de l'entreprise donnée pour une année d'imposition,

(II) d'autre part, le plus élevé de l'excédent calculé à la subdivision (I) et du revenu imposable de la société mère pour l'année donnée,

sur le montant calculé en vertu du sous-alinéa 127(9.1)d)(i) pour l'entreprise donnée ou pour l'autre entreprise, selon le cas, à l'égard de la société mère à la fin de l'année donnée,

dans la mesure où il est raisonnable de considérer que les montants calculés à l'égard de la filiale ont été inclus dans le calcul du crédit d'impôt à l'investissement de la société mère à la fin de l'année donnée à cause du sous-alinéa (i);

par ailleurs, pour l'application des définitions de ***matériel à vocations multiples de première période*** et ***matériel à vocations multiples de deuxième période***, au paragraphe 127(9), la société mère est réputée être la même société que la filiale et en être la continuation;

e.4) pour le calcul du crédit d'impôt à l'emploi de la société mère à la fin d'une année d'imposition donnée se terminant après la liquidation de la filiale :

(i) les crédits à l'emploi de la filiale pour une année d'imposition — appelée « année du crédit » au présent alinéa — et les montants à ajouter, à cause du paragraphe 127(15) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul du crédit d'impôt à l'emploi de la filiale à la fin de l'année du crédit sont réputés être respectivement les crédits à l'emploi de la société mère pour l'année d'imposition de celle-ci au cours de laquelle s'est terminée l'année du crédit de la filiale et les montants à ajouter, à cause de ce paragraphe, dans le calcul du crédit d'impôt à l'emploi

amounts determined in respect of the subsidiary may reasonably be considered to be in respect of a taxpayer employment credit or an amount required to be added by virtue of subsection 127(15) of that Act that is included in computing the parent's employment tax credit at the end of the particular year by virtue of subparagraph 88(1)(e.4)(i);

(e.5) [Repealed, 1996, c. 21, s. 16]

(e.6) if a subsidiary has made a gift in a taxation year (in this section referred to as the "gift year"), for the purposes of computing the amount deductible under section 110.1 by the parent for its taxation years that end after the subsidiary was wound up, the parent is deemed to have made a gift, in each of its taxation years in which a gift year of the subsidiary ended, equal to the amount, if any, by which the total of all amounts, each of which is the amount of a gift or, in the case of a gift made after December 20, 2002, the eligible amount of the gift, made by the subsidiary in the gift year exceeds the total of all amounts deducted under section 110.1 by the subsidiary in respect of those gifts;

(e.61) the parent is deemed for the purpose of section 110.1 to have made any gift deemed by subsection 118.1(13) to have been made by the subsidiary after the subsidiary ceased to exist;

(e.7) for the purposes of

(i) determining the amount deductible by the parent under subsection 126(2) for any taxation year commencing after the commencement of the winding-up, and

(ii) determining the extent to which subsection 126(2.3) applies to reduce the amount that may be claimed by the parent under paragraph 126(2)(a),

any unused foreign tax credit (within the meaning of subsection 126(7)) of the subsidiary in respect of a country for a particular taxation year (in this section referred to as the "foreign tax year"), to the extent that it exceeds the total of all amounts each of which is claimed in respect thereof under paragraph 126(2)(a) in computing the tax payable by the subsidiary under this Part for any taxation year, shall be deemed to be an unused foreign tax credit of the parent for its taxation year in which the subsidiary's foreign tax year ended;

(e.8) for the purpose of applying subsection 127(10.2) to any corporation (other than the subsidiary)

de la société mère à la fin de l'année d'imposition de celle-ci au cours de laquelle s'est terminée l'année du crédit de la filiale,

(ii) sont ajoutés aux montants calculés par ailleurs selon les alinéas 127(16)c) et d) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, à l'égard de la société mère pour l'année d'imposition donnée les montants qui auraient été calculés selon ces alinéas à l'égard de la filiale pour l'année d'imposition de celle-ci au cours de laquelle elle a été liquidée si la mention « l'une quelconque des cinq années d'imposition précédentes » à l'alinéa 127(16)c) de la même loi était remplacée par la mention « cette année d'imposition ou pour les cinq années d'imposition précédentes », dans la mesure où il est raisonnable de considérer que ces montants, calculés à l'égard de la filiale, se rapportent à un crédit à l'emploi ou à un montant à ajouter à cause du paragraphe 127(15) de la même loi, inclus dans le calcul du crédit d'impôt à l'emploi de la société mère à la fin de l'année donnée à cause du sous-alinéa (i);

e.5) [Abrogé, 1996, ch. 21, art. 16]

e.6) si une filiale a fait un don au cours d'une année d'imposition (appelée « année du don » au présent article), la société mère est réputée, pour ce qui est du calcul du montant qu'elle peut déduire en application de l'article 110.1 pour ses années d'imposition se terminant après la liquidation de la filiale, avoir fait, au cours de chacune de ses années d'imposition où s'est terminée une année du don de la filiale, un don égal à l'excédent du total des montants représentant chacun le montant d'un don ou, s'il s'agit d'un don fait après le 20 décembre 2002, le montant admissible du don, fait par la filiale au cours de l'année du don sur le total des montants déduits par la filiale en application de l'article 110.1 à l'égard de ces dons;

e.61) pour l'application de l'article 110.1, la société mère est réputée avoir fait tout don qui est réputé par le paragraphe 118.1(13) avoir été fait par la filiale après qu'elle a cessé d'exister;

e.7) aux fins suivantes :

(i) le calcul du montant déductible par la société mère en vertu du paragraphe 126(2) pour une année d'imposition qui a commencé après le début de la liquidation,

(ii) la détermination de la mesure dans laquelle le paragraphe 126(2.3) s'applique pour réduire le

(i) where the parent is associated with another corporation in a taxation year (in this paragraph referred to as the "current year") of the parent that begins after the parent received an asset of the subsidiary on the winding-up and that ends in a calendar year,

(A) the parent's taxable income for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year) is deemed to be the total of

(I) its taxable income for that last year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that last year), and

(II) the total of the subsidiary's taxable incomes for its taxation years that ended in that preceding calendar year (determined without reference to clause 88(1)(e.8)(i)(B) and before taking into consideration the specified future tax consequences for those years), and

(B) the subsidiary's taxable income for each of its taxation years that ends after the first time that the parent receives an asset of the subsidiary on the winding-up of the subsidiary is deemed to be nil, and

(ii) where the parent received an asset of the subsidiary on the winding-up before the current year and is not associated with any corporation in the current year, the parent's taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year) is deemed to be the total of

(A) its taxable income for that preceding taxation year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that preceding taxation year), and

(B) the total of the subsidiary's taxable incomes for its taxation years that ended in the calendar year in which that preceding taxation year ended (determined before taking into consideration the specified future tax consequences for those years);

montant de crédit que la société mère peut déduire en vertu de l'alinéa 126(2)a),

toute fraction inutilisée du crédit pour impôt étranger (au sens du paragraphe 126(7)) de la filiale relativement à un pays pour une année d'imposition donnée (appelée « l'année d'impôt étranger » au présent article), dans la mesure où elle dépasse le total des montants dont chacun est déduit à ce titre en vertu de l'alinéa 126(2)a) dans le calcul de l'impôt à payer par la filiale en vertu de la présente partie pour une année d'imposition, est réputée être une fraction inutilisée du crédit pour impôt étranger de la société mère pour son année d'imposition au cours de laquelle l'année d'impôt étranger de la filiale s'est terminée;

e.8) pour l'application du paragraphe 127(10.2) à une société, sauf la filiale :

(i) si la société mère est associée à une autre société au cours d'une année d'imposition (appelée « année courante » au présent alinéa) de la société mère commençant après que celle-ci a reçu un actif de la filiale lors de la liquidation et se terminant dans une année civile :

(A) le revenu imposable de la société mère pour sa dernière année d'imposition terminée dans l'année civile précédente, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette dernière année, est réputé égal au total des montants suivants :

(I) son revenu imposable pour cette dernière année, calculé avant l'application du présent alinéa à la liquidation ainsi qu'avant la prise en compte des conséquences fiscales futures déterminées pour cette même année,

(II) le total des revenus imposables de la filiale pour ses années d'imposition terminées dans cette année civile précédente, calculés compte non tenu de la division (B) et avant la prise en compte des conséquences fiscales futures déterminées pour ces années,

(B) le revenu imposable de la filiale pour chacune de ses années d'imposition se terminant après que la société mère reçoit, pour la première fois, un de ses actifs lors de la liquidation est réputé nul,

(ii) si la société mère a reçu un actif de la filiale lors de liquidation avant l'année courante et n'est associée à aucune société au cours de cette année, le revenu imposable de la société mère pour son année d'imposition précédente, calculé avant la prise en

(e.9) for the purpose of applying the definition ***qualifying corporation*** in subsection 127.1(2), and subparagraph (d)(i) of the definition ***balance-due day*** in subsection 248(1), to any corporation (other than the subsidiary)

(i) where the parent is associated with another corporation in a taxation year (in this paragraph referred to as the "current year") of the parent that begins after the parent received an asset of the subsidiary on the winding-up and ends in a calendar year,

(A) the parent's taxable income for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year) is deemed to be the total of

(I) its taxable income for that last year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that last year), and

(II) the total of the subsidiary's taxable incomes for its taxation years that ended in that preceding calendar year (determined without reference to subparagraph 88(1)(e.9)(iii) and before taking into consideration the specified future tax consequences for those years),

(B) the parent's business limit for that last year is deemed to be the total of

(I) its business limit (determined before applying this paragraph to the winding-up) for that last year, and

(II) the total of the subsidiary's business limits (determined without reference to subparagraph 88(1)(e.9)(iii)) for its taxation years that ended in that preceding calendar year, and

(C) the parent's qualifying income limit for that last year is deemed to be the total of

(I) its qualifying income limit (determined before applying this paragraph to the winding-up) for that last year, and

(II) the total of the subsidiary's qualifying income limits (determined without reference to subparagraph (iii)) for its taxation years that ended in that preceding calendar year,

compte des conséquences fiscales futures déterminées pour cette année précédente, est réputé égal au total des montants suivants :

(A) le revenu imposable de la société mère pour cette année précédente, calculé avant l'application du présent alinéa à la liquidation ainsi qu'avant la prise en compte des conséquences fiscales futures déterminées pour cette même année,

(B) le total des revenus imposables de la filiale pour ses années d'imposition terminées dans l'année civile au cours de laquelle cette année précédente a pris fin, calculés avant la prise en compte des conséquences fiscales futures déterminées pour ces années;

e.9) pour l'application de la définition de ***société admissible*** au paragraphe 127.1(2) et du sous-alinéa d)(i) de la définition de ***date d'exigibilité du solde*** au paragraphe 248(1) à une société, sauf la filiale :

(i) si la société mère est associée à une autre société au cours d'une année d'imposition (appelée « année courante » au présent alinéa) de la société mère commençant après que celle-ci a reçu un actif de la filiale lors de la liquidation et se terminant dans une année civile :

(A) le revenu imposable de la société mère pour sa dernière année d'imposition terminée dans l'année civile précédente, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette dernière année, est réputé égal au total des montants suivants :

(I) son revenu imposable pour cette dernière année, calculé avant l'application du présent alinéa à la liquidation ainsi qu'avant la prise en compte des conséquences fiscales futures déterminées pour cette même année,

(II) le total des revenus imposables de la filiale pour ses années d'imposition terminées dans cette année civile précédente, calculés compte non tenu du sous-alinéa (iii) et avant la prise en compte des conséquences fiscales futures déterminées pour ces années,

(B) le plafond des affaires de la société mère pour cette dernière année d'imposition est réputé égal au total des montants suivants :

(I) son plafond des affaires, calculé avant l'application du présent alinéa à la liquidation, pour cette même année,

(ii) where the parent received an asset of the subsidiary on the winding-up before the current year and subparagraph 88(1)(e.9)(i) does not apply,

(A) the parent's taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year) is deemed to be the total of

(I) its taxable income for that preceding taxation year (determined before applying this paragraph to the winding-up and before taking into consideration the specified future tax consequences for that preceding taxation year), and

(II) the total of the subsidiary's taxable incomes for the subsidiary's taxation years that end in the calendar year in which that preceding taxation year ended (determined before taking into consideration the specified future tax consequences for those years),

(B) the parent's business limit for that preceding taxation year is deemed to be the total of

(I) its business limit (determined before applying this paragraph to the winding-up) for that preceding taxation year, and

(II) the total of the subsidiary's business limits (determined without reference to subparagraph 88(1)(e.9)(iii)) for the subsidiary's taxation years that end in the calendar year in which that preceding taxation year ended, and

(C) the parent's qualifying income limit for that preceding taxation year is deemed to be the total of

(I) its qualifying income limit (determined before applying this paragraph to the winding-up) for that preceding taxation year, and

(II) the total of the subsidiary's qualifying income limits (determined without reference to subparagraph (iii)) for the subsidiary's taxation years that end in the calendar year in which that preceding taxation year ended, and

(iii) where the parent and the subsidiary are associated with each other in the current year, the subsidiary's taxable income, the subsidiary's business limit and the subsidiary's qualifying income limit for each taxation year that ends after the first time

(II) le total des plafonds des affaires de la filiale, calculés compte non tenu du sous-alinéa (iii), pour ses années d'imposition terminées dans cette année civile précédente,

(C) le plafond de revenu admissible de la société mère pour cette dernière année d'imposition est réputé être égal au total des sommes suivantes :

(I) son plafond de revenu admissible, calculé avant l'application du présent alinéa à la liquidation, pour cette même année,

(II) le total des plafonds de revenu admissible de la filiale, calculés compte non tenu du sous-alinéa (iii), pour ses années d'imposition terminées dans cette année civile précédente,

(ii) si la société mère a reçu un actif de la filiale lors de liquidation avant l'année courante et si le sous-alinéa (i) ne s'applique pas :

(A) le revenu imposable de la société mère pour son année d'imposition précédente, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année précédente, est réputé égal au total des montants suivants :

(I) son revenu imposable pour cette année précédente, calculé avant l'application du présent alinéa à la liquidation ainsi qu'avant la prise en compte des conséquences fiscales futures déterminées pour cette même année,

(II) le total des revenus imposables de la filiale pour ses années d'imposition terminées dans l'année civile au cours de laquelle cette année précédente a pris fin, calculés avant la prise en compte des conséquences fiscales futures déterminées pour ces années,

(B) le plafond des affaires de la société mère pour cette année précédente est réputé égal au total des montants suivants :

(I) son plafond des affaires, calculé avant l'application du présent alinéa à la liquidation, pour cette année précédente,

(II) le total des plafonds des affaires de la filiale, calculés compte non tenu du sous-alinéa (iii), pour ses années d'imposition se terminant dans l'année civile au cours de laquelle cette année précédente a pris fin,

that the parent receives an asset of the subsidiary on the winding-up are deemed to be nil;

(f) where property that was depreciable property of a prescribed class of the subsidiary has been distributed to the parent on the winding-up and the capital cost to the subsidiary of the property exceeds the amount deemed by paragraph 88(1)(a) to be the subsidiary's proceeds of disposition of the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) notwithstanding paragraph 88(1)(c), the capital cost to the parent of the property shall be deemed to be the amount that was the capital cost of the property to the subsidiary, and

(ii) the excess shall be deemed to have been allowed to the parent in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the parent of the property;

(g) where the subsidiary was an insurance corporation,

(i) for the purposes of paragraphs 12(1)(d), (e), (e.1), (i) and (s), subsection 12.5(8), paragraphs 20(1)(l), (l.1), (p) and (jj) and 20(7)(c), subsections 20(22) and 20.4(4), sections 138, 138.1, 140, 142 and 148 and Part XII.3, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary, and

(ii) for the purpose of determining the amount of the gross investment revenue required to be included under subsection 138(9) in the income of the subsidiary and the parent and the amount of gains and losses of the subsidiary and the parent from property used by them in the year or held by them in the year in the course of carrying on an insurance business in Canada

(A) the subsidiary and the parent shall, in addition to their normal taxation years, be deemed to have had a taxation year ending immediately before the time when the property of the subsidiary was transferred to, and the obligations of the subsidiary were assumed by, the parent on the winding-up, and

(B) for the taxation years of the subsidiary and the parent following the time referred to in clause 88(1)(g)(ii)(A), the property transferred to, and the obligations assumed by, the parent on the winding-up shall be deemed to have been transferred or assumed, as the case may be, on

(C) le plafond de revenu admissible de la société mère pour cette année précédente est réputé être égal au total des sommes suivantes :

(I) son plafond de revenu admissible, calculé avant l'application du présent alinéa à la liquidation, pour cette année précédente,

(II) le total des plafonds de revenu admissible de la filiale, calculés compte non tenu du sous-alinéa (iii), pour ses années d'imposition terminées dans l'année civile dans laquelle cette année précédente a pris fin,

(iii) si la société mère et la filiale sont associées l'une à l'autre au cours de l'année courante, le revenu imposable, le plafond des affaires et le plafond de revenu admissible de la filiale pour chaque année d'imposition se terminant après que la société mère reçoit, pour la première fois, un de ses actifs lors de la liquidation sont réputés être nuls;

f) lorsqu'un bien qui était un bien amortissable d'une catégorie prescrite de la filiale a été attribué à la société mère lors de la liquidation, et que le coût en capital du bien, pour la filiale, dépasse le montant réputé être, en vertu de l'alinéa a), le produit que la filiale a tiré de la disposition de ce bien, pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a):

(i) malgré l'alinéa c), le coût en capital de ce bien, pour la société mère, est réputé être le coût en capital de ce bien, pour la filiale,

(ii) la société mère est réputée avoir été autorisée à déduire l'excédent relatif à ce bien, en vertu des dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu pour les années d'imposition antérieures à l'acquisition du bien par la société mère;

g) si la filiale est une compagnie d'assurance :

(i) la société mère est réputée être la même société que la filiale, et en être la continuation, pour l'application des alinéas 12(1)d), e), e.1), i) et s), du paragraphe 12.5(8), des alinéas 20(1)l), l.1), p) et jj) et 20(7)c), des paragraphes 20(22) et 20.4(4), des articles 138, 138.1, 140, 142 et 148 et de la partie XII.3,

(ii) pour le calcul des revenus bruts de placements à inclure en application du paragraphe 138(9) dans le revenu de la filiale et de la société mère et des

the last day of the taxation year ending immediately before that time and the parent shall be deemed to be the same corporation as and a continuation of the subsidiary with respect to that property, those obligations and the insurance businesses carried on by the subsidiary;

(h) for the purposes of subsections 112(5) to 112(5.2) and 112(5.4) and the definition ***mark-to-market property*** in subsection 142.2(1), the parent shall be deemed, in respect of each property distributed to it on the winding-up, to be the same corporation as, and a continuation of, the subsidiary; and

(i) for the purpose of subsection 142.5(2), the subsidiary's taxation year in which its assets were distributed to the parent on the winding-up shall be deemed to have ended immediately before the time when the assets were distributed.

gains et pertes de la filiale et de la société mère résultant de biens utilisés ou détenus par elles pendant l'année dans le cadre de l'exploitation d'une entreprise d'assurance au Canada :

(A) la filiale et la société mère sont réputées avoir, outre leur année d'imposition normale, une année d'imposition se terminant immédiatement avant le moment où les biens de la filiale ont été transférés à la société mère, et les obligations de la filiale assumées par la société mère, à la liquidation,

(B) pour les années d'imposition de la filiale et de la société mère suivant le moment visé à la division (A), les biens transférés à la société mère, et les obligations assumées par celle-ci, à la liquidation sont réputés transférés ou assumées, selon le cas, le dernier jour de l'année d'imposition se terminant immédiatement avant ce moment et la société mère est réputée être la même société que la filiale et en être la continuation en ce qui concerne ces biens, ces obligations et les entreprises d'assurance exploitées par la filiale;

h) pour l'application des paragraphes 112(5) à (5.2) et (5.4) et de la définition de ***bien évalué à la valeur du marché*** au paragraphe 142.2(1), la société mère est réputée, pour ce qui est de chaque bien qui lui est attribué lors de la liquidation, être la même société que la filiale et en être la continuation;

i) pour l'application du paragraphe 142.5(2), l'année d'imposition de la filiale au cours de laquelle ses actifs ont été attribués à la société mère lors de la liquidation est réputée avoir pris fin immédiatement avant l'attribution des actifs.

Non-capital losses, etc., of subsidiary

(1.1) Where a Canadian corporation (in this subsection referred to as the "subsidiary") has been wound up and not less than 90% of the issued shares of each class of the capital stock of the subsidiary were, immediately before the winding-up, owned by another Canadian corporation (in this subsection referred to as the "parent") and all the shares of the subsidiary that were not owned by the parent immediately before the winding-up were owned at that time by a person or persons with whom the parent was dealing at arm's length, for the purpose of computing the taxable income of the parent under this Part and the tax payable under Part IV by the parent for any taxation year commencing after the commencement of the winding-up, such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary as may reasonably be regarded as its loss from carrying on a particular business (in this subsection

Pertes autres que des pertes en capital, etc. de filiales

(1.1) Lorsqu'une société canadienne (appelée « filiale » au présent paragraphe) a été liquidée, qu'au moins 90 % des actions émises de chaque catégorie du capital-actions de la filiale appartenaient, immédiatement avant la liquidation, à une autre société canadienne (appelée « société mère » au présent paragraphe) et que toutes les actions de la filiale n'appartenant pas à la société mère immédiatement avant la liquidation appartenaient à ce moment à une ou plusieurs personnes avec lesquelles la société mère n'avait aucun de dépendance, pour le calcul du revenu imposable de la société mère en vertu de la présente partie et de l'impôt payable par elle en vertu de la partie IV pour toute année d'imposition commençant après le début de la liquidation, la fraction d'une perte autre qu'une perte en capital, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire subie par la filiale qu'il est raisonnable de

referred to as the "subsidiary's loss business") and any other portion of any non-capital loss or limited partnership loss of the subsidiary as may reasonably be regarded as being derived from any other source or being in respect of a claim made under section 110.5 for any particular taxation year of the subsidiary (in this subsection referred to as the "subsidiary's loss year"), to the extent that it

(a) was not deducted in computing the taxable income of the subsidiary for any taxation year of the subsidiary, and

(b) would have been deductible in computing the taxable income of the subsidiary for any taxation year beginning after the commencement of the winding-up, on the assumption that it had such a taxation year and that it had sufficient income for that year,

shall, for the purposes of this subsection, paragraphs 111(1)(a), 111(1)(c), 111(1)(d) and 111(1)(e), subsection 111(3) and Part IV,

(c) in the case of such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary as may reasonably be regarded as its loss from carrying on the subsidiary's loss business, be deemed, for the taxation year of the parent in which the subsidiary's loss year ended, to be a non-capital loss, restricted farm loss, farm loss or limited partnership loss, respectively, of the parent from carrying on the subsidiary's loss business, that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up,

(d) in the case of any other portion of any non-capital loss or limited partnership loss of the subsidiary as may reasonably be regarded as being derived from any other source, be deemed, for the taxation year of the parent in which the subsidiary's loss year ended, to be a non-capital loss or a limited partnership loss, respectively, of the parent that was derived from the source from which the subsidiary derived the loss and that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up, and

(d.1) in the case of any other portion of any non-capital loss of the subsidiary as may reasonably be regarded as being in respect of a claim made under section 110.5, be deemed, for the taxation year of the parent in which the subsidiary's loss year ended, to be a non-capital loss of the parent in respect of a claim made under section 110.5 that was not deductible by the parent in computing its taxable income for any taxation

considérer comme résultant de l'exploitation d'une entreprise donnée (appelée « entreprise déficitaire de la filiale » au présent paragraphe), de même que toute autre fraction d'une perte autre qu'une perte en capital ou d'une perte comme commanditaire subie par la filiale qu'il est raisonnable de considérer comme dérivant d'une autre source et toute autre fraction d'une perte autre qu'une perte en capital subie par la filiale qu'il est raisonnable de considérer comme relative à une demande faite en vertu de l'article 110.5 pour une année d'imposition donnée de la filiale (appelée « année de la perte subie par la filiale » au présent paragraphe), dans la mesure où la fraction :

a) n'a pas été déduite dans le calcul du revenu imposable de la filiale pour une année d'imposition de celle-ci;

b) aurait été déductible dans le calcul du revenu imposable de la filiale pour une année d'imposition qui commence après le début de la liquidation, à supposer qu'elle ait eu une telle année d'imposition et un montant suffisant de revenu pour cette année,

est, pour l'application du présent paragraphe, des alinéas 111(1)a), c), d) et e), du paragraphe 111(3) et de la partie IV :

c) dans le cas de la fraction d'une perte autre qu'une perte en capital, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire subie par la filiale qu'il est raisonnable de considérer comme la perte qu'elle a subie dans l'exploitation de son entreprise déficitaire, réputée être, pour l'année d'imposition de la société mère au cours de laquelle s'est terminée l'année de la perte subie par la filiale, une perte autre qu'une perte en capital, une perte agricole restreinte, une perte agricole ou une perte comme commanditaire, respectivement, subie par la société mère et résultant de l'exploitation de l'entreprise déficitaire de la filiale, et qui n'était pas déductible par la société mère dans le calcul de son revenu imposable pour toute année d'imposition qui a commencé avant le début de la liquidation;

d) dans le cas d'une autre fraction d'une perte autre qu'une perte en capital ou d'une perte comme commanditaire subie par la filiale qu'il est raisonnable de considérer comme dérivant d'une autre source, réputée être, pour l'année d'imposition de la société mère au cours de laquelle s'est terminée l'année de la perte subie par la filiale, une perte autre qu'une perte en capital ou une perte comme commanditaire subie par la société mère qui dérivait de la même source que la fraction de la perte autre qu'une perte en capital ou de la perte comme commanditaire, respectivement, subie par la filiale, et qui n'était pas déductible par la société

year that commenced before the commencement of the winding-up,

except that

(e) if control of the parent has been acquired by a person or group of persons at any time after the commencement of the winding-up, or control of the subsidiary has been acquired by a person or group of persons at any time whatever, no amount in respect of the subsidiary's non-capital loss or farm loss for a taxation year ending before that time is deductible in computing the taxable income of the parent for a particular taxation year ending after that time, except that such portion of the subsidiary's non-capital loss or farm loss as may reasonably be regarded as its loss from carrying on a business and, where a business was carried on by the subsidiary in that year, such portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing its taxable income for the year is deductible only

(i) if that business is carried on by the subsidiary or the parent for profit or with a reasonable expectation of profit throughout the particular year, and

(ii) to the extent of the total of the parent's income for the particular year from that business and, where properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, from any other business substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

and for the purpose of this paragraph, where this subsection applied to the winding-up of another corporation in respect of which the subsidiary was the parent and this paragraph applied in respect of losses of that other corporation, the subsidiary shall be deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses, and

(f) any portion of a loss of the subsidiary that would otherwise be deemed by paragraph 88(1.1)(c), 88(1.1)(d) or 88(1.1)(d.1) to be a loss of the parent for a particular taxation year beginning after the commencement of the winding-up shall be deemed, for the purpose of computing the parent's taxable income for taxation years beginning after the commencement of the winding-up, to be such a loss of the parent for its immediately preceding taxation year and not for the particular year, where the parent so elects in its return of income under this Part for the particular year.

mère dans le calcul de son revenu imposable pour toute année d'imposition qui a commencé avant le début de la liquidation;

d.1) dans le cas d'une autre fraction d'une perte autre qu'une perte en capital subie par la filiale qu'il est raisonnable de considérer comme relative à une demande faite en vertu de l'article 110.5, réputée, pour l'année d'imposition de la société mère au cours de laquelle s'est terminée l'année de la perte subie par la filiale, être une perte autre qu'une perte en capital subie par la société mère et relative à une demande faite en vertu de l'article 110.5, laquelle perte n'était pas déductible par la société d'imposition qui a commencé avant le début de la liquidation;

toutefois :

e) en cas d'acquisition du contrôle de la société mère par une personne ou un groupe de personnes après le début de la liquidation, ou en cas d'acquisition du contrôle de la filiale par une personne ou un groupe de personnes à un moment quelconque, aucun montant n'est déductible au titre de la perte autre qu'une perte en capital ou de la perte agricole de la filiale pour une année d'imposition se terminant avant le moment de l'acquisition, dans le calcul du revenu imposable de la société mère pour une année d'imposition donnée se terminant après ce moment; toutefois, la fraction de la perte autre qu'une perte en capital ou de la perte agricole de la filiale qu'il est raisonnable de considérer comme résultant de l'exploitation d'une entreprise et, si la filiale exploitait une entreprise au cours de cette année, la fraction de la perte autre qu'une perte en capital qu'il est raisonnable de considérer comme se rapportant à un montant déductible en application de l'alinéa 110(1)k) dans le calcul de son revenu imposable pour l'année, sont déductibles :

(i) d'une part, seulement si cette entreprise est exploitée par la filiale ou par la société mère à profit ou dans une attente raisonnable de profit tout au long de l'année donnée,

(ii) d'autre part, seulement jusqu'à concurrence du total du revenu de la société mère provenant de cette entreprise pour l'année donnée et — dans le cas où des biens sont vendus, loués ou mis en valeur ou des services rendus dans le cadre de l'exploitation de cette entreprise avant ce moment — de toute autre entreprise dont la presque totalité du revenu est dérivée de la vente, de la location ou de la mise en valeur de biens semblables ou de la prestation de services semblables;

pour l'application du présent alinéa, dans le cas où le présent paragraphe s'applique à la liquidation d'une

autre société dont la filiale était la société mère et où le présent alinéa s'applique aux pertes de cette autre société, la filiale est réputée être la même société que cette autre société et en être la continuation en ce qui concerne ces pertes;

f) la société mère peut faire un choix, dans sa déclaration de revenu produite en vertu de la présente partie pour une année d'imposition donnée commençant après le début de la liquidation, pour que la partie d'une perte de la filiale qui autrement serait réputée, en application des alinéas c), d) ou d.1), être la perte de la société mère pour l'année donnée soit réputée, pour le calcul du revenu imposable de la société mère pour les années d'imposition commençant après le début de la liquidation, être une telle perte de la société mère pour son année d'imposition précédente et non pour l'année donnée.

Net capital losses of subsidiary

(1.2) Where the winding-up of a Canadian corporation (in this subsection referred to as the "subsidiary") commenced after March 31, 1977 and not less than 90% of the issued shares of each class of the capital stock of the subsidiary were, immediately before the winding-up, owned by another Canadian corporation (in this subsection referred to as the "parent") and all the shares of the subsidiary that were not owned by the parent immediately before the winding-up were owned at that time by persons with whom the parent was dealing at arm's length, for the purposes of computing the taxable income of the parent for any taxation year commencing after the commencement of the winding-up, any net capital loss of the subsidiary for any particular taxation year of the subsidiary (in this subsection referred to as the "subsidiary's loss year"), to the extent that it

(a) was not deducted in computing the taxable income of the subsidiary for any taxation year of the subsidiary, and

(b) would have been deductible in computing the taxable income of the subsidiary for any taxation year beginning after the commencement of the winding-up, on the assumption that it had such a taxation year and that it had sufficient income and taxable capital gains for that year,

shall, for the purposes of this subsection, paragraph 111(1)(b) and subsection 111(3), be deemed to be a net capital loss of the parent for its taxation year in which the particular taxation year of the subsidiary ended, except that

(c) where at any time control of the parent or subsidiary has been acquired by a person or group of

Pertes en capital nettes d'une filiale

(1.2) Lorsque la liquidation d'une société canadienne (appelée la « filiale » au présent paragraphe) a débuté après le 31 mars 1977 et qu'au moins 90 % des actions émises de chaque catégorie du capital-actions de la filiale appartenaient, immédiatement avant la liquidation, à une autre société canadienne (appelée la « société mère » au présent paragraphe) et que toutes les actions de la filiale qui n'appartenaient pas à la société mère immédiatement avant la liquidation appartenaient à cette date à des personnes avec lesquelles la société mère n'avait pas de lien de dépendance, pour le calcul du revenu imposable de la société mère pour toute année d'imposition commençant après le début de la liquidation, toute perte en capital nette de la filiale pour une année d'imposition donnée de celle-ci (appelée « année de la perte subie par la filiale » au présent paragraphe), dans la mesure où:

a) d'une part, elle n'a pas été déduite dans le calcul du revenu imposable de la filiale pour une année d'imposition de celle-ci;

b) d'autre part, elle aurait été déductible dans le calcul du revenu imposable de la filiale pour une année d'imposition qui commence après le début de la liquidation, à supposer qu'elle ait eu une telle année d'imposition et un montant suffisant de revenus et de gains en capital imposables pour cette année,

est réputé, pour l'application du présent paragraphe, de l'alinéa 111(1)b) et du paragraphe 111(3), être une perte en capital nette de la société mère pour son année d'imposition au cours de laquelle a pris fin l'année d'imposition donnée de la filiale; toutefois :

c) dans le cas où une personne ou un groupe de personnes acquiert le contrôle de la société mère ou de la

persons, no amount in respect of the subsidiary's net capital loss for a taxation year ending before that time is deductible in computing the parent's taxable income for a taxation year ending after that time, and

(d) any portion of a net capital loss of the subsidiary that would otherwise be deemed by this subsection to be a loss of the parent for a particular taxation year beginning after the commencement of the winding-up shall be deemed, for the purposes of computing its taxable income for taxation years beginning after the commencement of the winding-up, to be a net capital loss of the parent for its immediately preceding taxation year and not for the particular year, where the parent so elects in its return of income under this Part for the particular year.

filiale à un moment donné, aucun montant au titre de la perte en capital nette de la filiale pour une année d'imposition se terminant avant ce moment n'est déductible dans le calcul du revenu imposable de la société mère pour une année d'imposition se terminant après ce moment;

d) la société mère peut faire un choix, dans sa déclaration de revenu produite en vertu de la présente partie pour une année d'imposition donnée commençant après le début de la liquidation, pour que la partie d'une perte en capital nette de la filiale qui autrement serait réputée, en application du présent paragraphe, être la perte de la société mère pour l'année donnée soit réputée, pour le calcul du revenu imposable de la société mère pour les années d'imposition commençant après le début de la liquidation, être une perte en capital nette de la société mère pour son année d'imposition précédente et non pour l'année donnée.

Computation of income and tax of parent

(1.3) For the purpose of paragraphs 88(1)(e.3), 88(1)(e.6) and 88(1)(e.7), subsections 88(1.1) and 88(1.2), section 110.1, subsections 111(1) and 111(3) and Part IV, where a parent corporation has been incorporated or otherwise formed after the end of an expenditure year, gift year, foreign tax year or loss year, as the case may be, of a subsidiary of the parent, for the purpose of computing the taxable income of, and the tax payable under this Part and Part IV by, the parent for any taxation year,

(a) it shall be deemed to have been in existence during the particular period beginning immediately before the end of the subsidiary's first expenditure year, gift year, foreign tax year or loss year, as the case may be, and ending immediately after it was incorporated or otherwise formed;

(b) it shall be deemed to have had, throughout the particular period, fiscal periods ending on the day of the year on which its first fiscal period ended; and

(c) it shall be deemed to have been controlled, throughout the particular period, by the person or persons who controlled it immediately after it was incorporated or otherwise formed.

Calcul du revenu et de l'impôt à payer de la société mère

(1.3) Pour l'application des alinéas (1)e.3), e.6) et e.7), des paragraphes (1.1) et (1.2), de l'article 110.1, des paragraphes 111(1) et (3) et de la partie IV, lorsqu'une société mère a été constituée après la fin d'une année d'impôt étranger, d'une année de la dépense, d'une année de perte ou d'une année du don d'une de ses filiales, pour le calcul du revenu imposable de la société mère et de son impôt payable en vertu de la présente partie et de la partie IV pour une année d'imposition :

a) elle est réputée avoir existé au cours de la période donnée commençant immédiatement avant la fin de la première année de la dépense, année du don, année d'impôt étranger ou année de la perte de la filiale et se terminant immédiatement après qu'elle a été constituée;

b) elle est réputée avoir eu, tout au long de la période donnée, des exercices se terminant le jour de l'année où a pris fin son premier exercice;

c) elle est réputée avoir été contrôlée, tout au long de la période donnée, par la personne ou le groupe de personnes qui la contrôlait immédiatement après qu'elle a été constituée.

Qualified expenditure of subsidiary

(1.4) For the purposes of this subsection and section 37.1, where the rules in subsection 88(1) applied to the winding-up of a subsidiary, for the purpose of computing the income of its parent for any taxation year commencing after the subsidiary has been wound up, the following rules apply:

Dépenses admissibles d'une filiale

(1.4) Pour l'application du présent paragraphe et de l'article 37.1, lorsque les règles du paragraphe (1) s'appliquent à la liquidation d'une filiale, les règles suivantes s'appliquent au calcul du revenu de la société m toute année d'imposition commençant après la liquidation de la filiale :

(a) where the parent's base period consists of fewer than three taxation years, its base period shall be determined on the assumption that it had taxation years in each of the calendar years preceding the year in which it was incorporated, each of which commenced on the same day of the year as the day of its incorporation;

(b) the qualified expenditure made by the parent in a particular taxation year in its base period shall be deemed to be the total of the amount thereof otherwise determined and the qualified expenditure made by the subsidiary in its taxation year ending in the same calendar year as the particular year;

(c) the total of the amounts paid to the parent by persons referred to in subparagraphs (b)(i) to (iii) of the definition ***expenditure base*** in subsection 37.1(5) in a particular taxation year in its base period shall be deemed to be the total otherwise determined and all those amounts paid to the subsidiary by a person referred to in those subparagraphs in the subsidiary's taxation year ending in the same calendar year as the particular year; and

(d) there shall be added to the total of the amounts otherwise determined in respect of the parent under subparagraphs 37.1(3)(b)(i) and 37.1(3)(b)(iii) respectively, the total of the amounts determined under those subparagraphs in respect of the subsidiary.

a) lorsque la période de base de la société mère comprend moins de 3 années d'imposition, sa période de base est déterminée à supposer qu'elle ait eu des années d'imposition dans chacune des années civiles précédant l'année où elle a été constituée et que chacune de ces années ait commencé le jour anniversaire de sa constitution;

b) les dépenses admissibles faites par la société mère au cours d'une année d'imposition donnée comprise dans sa période de base sont réputées être la somme du montant par ailleurs déterminé et des dépenses admissibles faites par la filiale au cours de son année d'imposition se terminant dans la même année civile que l'année donnée;

c) le total des montants versés à la société mère par des personnes visées aux sous-alinéas b)(i) à (iii) de la définition de ***base de dépenses*** au paragraphe 37.1(5) au cours d'une année d'imposition donnée comprise dans sa période de base est réputé être le total du montant par ailleurs déterminé et de tels montants versés à la filiale par une personne visée à ces sous-alinéas au cours de l'année d'imposition de la filiale se terminant dans la même année civile que l'année donnée;

d) il doit être ajouté au total des montants par ailleurs déterminés à l'égard de la société mère, respectivement en vertu des sous-alinéas 37.1(3)b)(i) et (iii), le total des montants déterminés en vertu de ces sous-alinéas à l'égard de la filiale.

Application of s. 37.1(5)

(1.41) The definitions in subsection 37.1(5) apply to subsection 88(1.4).

Application du par. 37.1(5)

(1.41) Les définitions figurant au paragraphe 37.1(5) s'appliquent au paragraphe (1.4).

Parent continuation of subsidiary

(1.5) For the purposes of section 29 of the *Income Tax Application Rules*, subsection 59(3.3) and sections 66, 66.1, 66.2, 66.21, 66.4 and 66.7, where the rules in subsection (1) applied to the winding-up of a subsidiary, its parent is deemed to be the same corporation as, and a continuation of, the subsidiary.

Continuation de la filiale par la société mère

(1.5) Pour l'application de l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*, du paragraphe 59(3.3) et des articles 66, 66.1, 66.2, 66.21, 66.4 et 66.7, lorsque les règles prévues au paragraphe (1) s'appliquent à la liquidation d'une filiale, la société mère est réputée être la même société que la filiale et en être la continuation.

Idem

(1.6) Where a corporation that carries on a farming business and computes its income from that business in accordance with the cash method is wound up in circumstances to which subsection 88(1) applies and, at the time that is immediately before the winding-up of the corporation, owned inventory that was used in connection with that business,

Idem

(1.6) En cas de liquidation, à laquelle le paragraphe (1) s'applique, d'une société qui exploite une entreprise agricole, qui calcule son revenu tiré de cette entreprise selon la méthode de comptabilité de caisse et qui, immédiatement avant la liquidation, était propriétaire de biens, à porter à l'inventaire, qu'elle utilisait dans le cadre de cette entreprise, les présomptions suivantes s'appliquent :

(a) for the purposes of subparagraph 88(1)(a)(iii), the cost amount to the corporation at that time of property purchased by it that is included in that inventory shall be deemed to be the amount determined by the formula

(A × B/C) + D

where

A is the amount, if any, that would be included under paragraph 28(1)(c) in computing the corporation's income for its last taxation year beginning before that time if that year had ended at that time,

B is the value (determined in accordance with subsection 28(1.2)) to the corporation at that time of the purchased inventory that is distributed to the parent on the winding-up,

C is the value (determined in accordance with subsection 28(1.2)) of all of the inventory purchased by the corporation that was owned by it in connection with that business at that time, and

D is the lesser of

(i) such additional amount as the corporation designates in respect of the property, and

(ii) the amount, if any, by which the fair market value of the property at that time exceeds the amount determined for A in respect of the property;

(b) for the purpose of subparagraph 28(1)(a)(i), the disposition of the inventory and the receipt of the proceeds of disposition therefor shall be deemed to have occurred at that time and in the course of carrying on the business; and

(c) where the parent carries on a farming business and computes its income therefrom in accordance with the cash method, for the purposes of section 28,

(i) an amount equal to the cost to the parent of the inventory shall be deemed to have been paid by it, and

(ii) the parent shall be deemed to have purchased the inventory for an amount equal to that cost,

in the course of carrying on that business and at the time it acquired the inventory.

a) pour l'application du sous-alinéa (1)a)(iii), le coût indiqué, pour la société immédiatement avant la liquidation, d'un bien qu'elle a acheté et qui est à porter à cet inventaire est réputé égal au montant déterminé selon la formule suivante :

(A × B/C) + D

où :

A représente le montant qui serait inclus en application de l'alinéa 28(1)c) dans le calcul du revenu de la société pour sa dernière année d'imposition commençant avant ce moment si cette année se terminait à ce moment,

B la valeur (déterminée en conformité avec le paragraphe 28(1.2)) pour la société à ce moment, des biens à porter à l'inventaire qui sont attribués à la société mère lors de la liquidation,

C la valeur, déterminée en conformité avec le paragraphe 28(1.2), de l'ensemble des biens à porter à l'inventaire achetés par la société et dont elle était propriétaire dans le cadre de cette entreprise à ce moment,

D le moins élevé des montants suivants :

(i) tout montant supplémentaire désigné par la société relativement au bien,

(ii) l'excédent éventuel de la juste valeur marchande du bien à ce moment sur le montant déterminé en application de l'élément A au titre du bien;

b) pour l'application du sous-alinéa 28(1)a)(i), la disposition des biens à porter à l'inventaire et la réception du produit de disposition y afférent sont réputées s'être produites immédiatement avant la liquidation et dans le cadre de l'exploitation de l'entreprise;

c) pour l'application de l'article 28, lorsque la société mère exploite une entreprise agricole et calcule le revenu qu'elle en tire selon la méthode de comptabilité de caisse, les présomptions suivantes s'appliquent :

(i) un montant égal au coût, pour la société mère, des biens à porter à l'inventaire est réputé avoir été payé par la société mère au moment où elle a acquis ces biens et dans le cadre de l'exploitation de cette entreprise,

(ii) la société mère est réputée avoir acheté les biens à porter à l'inventaire pour un montant égal à ce coût au moment où elle a acquis ces biens et dans le cadre de l'exploitation de cette entreprise.

Interpretation

(1.7) For the purposes of paragraphs 88(1)(c) and 88(1)(d), where a parent of a subsidiary did not deal at arm's length with another person (other than a corporation the control of which was acquired by the parent from a person with whom the parent dealt at arm's length) at any time before the winding-up of the subsidiary, the parent and the other person are deemed never to have dealt with each other at arm's length, whether or not the parent and the other person coexisted.

Application of subsection (1.9)

(1.8) Subsection (1.9) applies if

(a) a corporation has made a designation (referred to in this subsection and subsection (1.9) as the "initial designation") under paragraph (1)(d) in respect of a share of the capital stock of a foreign affiliate of the corporation, or an interest in a partnership that, based on the assumptions contained in paragraph 96(1)(c), owns a share of the capital stock of a foreign affiliate of the corporation, on or before the filing-due date for its return of income under this Part for the taxation year in which a disposition of the share or the partnership interest, as the case may be, occurred in the course of a winding-up referred to in subsection (1) or an amalgamation referred to in subsection 87(11);

(b) the corporation made reasonable efforts to determine the foreign affiliate's tax-free surplus balance (within the meaning assigned by subsection 5905(5.5) of the *Income Tax Regulations*), in respect of the corporation, that was relevant in the computation of the maximum amount available under subparagraph (1)(d)(ii) to be designated in respect of that disposition; and

(c) the corporation amends the initial designation on or before the day that is 10 years after the filing-due date referred to in paragraph (a).

Amended designation

(1.9) If this subsection applies and, in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the initial designation to be amended, the amended designation under paragraph (1.8)(c) is deemed to have been made on the day on which the initial designation was made and the initial designation is deemed not to have been made.

Winding-up of Canadian corporation

(2) Where a Canadian corporation (other than a subsidiary to the winding-up of which the rules in subsection

Application

(1.7) Pour l'application des alinéas (1)c) et d), lorsque la société mère d'une filiale avait un lien de dépendance avec une autre personne (sauf une société dont le contrôle a été acquis par la société mère auprès d'une personne avec laquelle celle-ci n'avait aucun lien de dépendance) avant la liquidation de la filiale, la société mère et l'autre personne sont réputées avoir eu entre elles un lien de dépendance même si elles ne coexistaient pas.

Application du paragraphe (1.9)

(1.8) Le paragraphe (1.9) s'applique si les conditions ci-après sont réunies :

a) une société a fait la désignation prévue à l'alinéa (1)d) (appelée « désignation initiale » au présent paragraphe et au paragraphe (1.9)) relativement à une action du capital-actions d'une de ses sociétés étrangères affiliées, ou relativement à une participation dans une société de personnes à qui appartient, d'après les hypothèses formulées à l'alinéa 96(1)c), une action du capital-actions d'une société étrangère affiliée de la société, au plus tard à la date d'échéance de production de sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition au cours de laquelle il a été disposé de l'action ou de la participation, selon le cas, dans le cadre d'une liquidation visée au paragraphe (1) ou d'une fusion visée au paragraphe 87(11);

b) la société a fait les efforts voulus pour déterminer le solde de surplus libre d'impôt (au sens du paragraphe 5905(5.5) du *Règlement de l'impôt sur le revenu*) de la société affiliée, relativement à la société, devant entrer dans le calcul de la somme maximale pouvant être désignée selon le sous-alinéa (1)d)(ii) relativement à cette disposition;

c) la société modifie la désignation initiale au plus tard le jour qui suit de dix ans la date d'échéance de production mentionnée à l'alinéa a).

Désignation modifiée

(1.9) Si le présent paragraphe s'applique et que, de l'avis du ministre, les circonstances sont telles qu'il serait juste et équitable de permettre la modification de la désignation initiale, la désignation modifiée aux termes de l'alinéa (1.8)c) est réputée avoir été faite à la date de la désignation initiale et cette dernière est réputée ne pas avoir été faite.

Liquidation d'une société canadienne

(2) Lorsqu'une société canadienne (à l'exclusion d'une filiale à la liquidation de laquelle les règles du paragraphe

88(1) applied) has been wound up after 1978 and, at a particular time in the course of the winding-up, all or substantially all of the property owned by the corporation immediately before that time was distributed to the shareholders of the corporation,

(a) for the purposes of computing the corporation's

(i) capital dividend account,

(i.1) capital gains dividend account (within the meaning assigned by subsection 131(6), where the corporation is an investment corporation,

(ii) capital gains dividend account (within the meaning assigned by section 133), and

(iii) pre-1972 capital surplus on hand,

at the time (in this paragraph referred to as the "time of computation") immediately before the particular time,

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

(v) each property of the corporation that was so distributed at the particular time shall be deemed to have been disposed of by the corporation immediately before the end of the taxation year so deemed to have ended for proceeds equal to the fair market value of the property immediately before the particular time,

(vi) [Repealed, 1994, c. 7, Sch. II, s. 66]

(b) where the corporation is, by virtue of subsection 84(2), deemed to have paid at the particular time a dividend (in this paragraph referred to as the "winding-up dividend") on shares of any class of its capital stock, the following rules apply:

(i) such portion of the winding-up dividend as does not exceed the corporation's capital dividend account immediately before that time or capital gains dividend account immediately before that time, as the case may be, shall be deemed, for the purposes of an election in respect thereof under subsection 83(2), 131(1) (as that subsection applies for the purposes of section 130) or 133(7.1), as the case may be, and where the corporation has so elected, for all other purposes, to be the full amount of a separate dividend,

(1) s'appliquent) a été liquidée après 1978 et que, à un moment donné au cours de la liquidation, la totalité, ou presque, des biens appartenant à la société immédiatement avant ce moment ont été attribués aux actionnaires de la société :

a) pour le calcul, pour la société :

(i) de son compte de dividendes en capital,

(i.1) de son compte de dividendes sur les gains en capital, au sens du paragraphe 131(6), dans le cas où la société est une société de placement,

(ii) de son compte de dividendes sur les gains en capital (au sens de l'article 133),

(iii) de son surplus de capital en main avant 1972,

au moment (appelé « moment du calcul » au présent alinéa) immédiatement avant le moment donné :

(iv) l'année d'imposition de la société qui aurait autrement compris le moment donné est réputée s'être terminée immédiatement avant le moment du calcul, et une nouvelle année d'imposition est réputée avoir commencé à ce moment,

(v) chacun des biens de la société qui ont été ainsi attribués au moment donné est réputé avoir fait l'objet d'une disposition par la société immédiatement avant la fin de l'année d'imposition réputée s'être ainsi terminée, à un produit égal à la juste valeur marchande du bien immédiatement avant le moment donné,

(vi) [Abrogé, 1994, ch. 7, ann. II, art. 66]

b) lorsque la société est réputée, en vertu du paragraphe 84(2), avoir payé, au moment donné, un dividende (appelé « dividende de liquidation » au présent alinéa) relatif à des actions d'une catégorie quelconque de son capital-actions, les règles suivantes s'appliquent :

(i) la partie du dividende de liquidation qui n'excède pas le compte de dividendes en capital de la société immédiatement avant ce moment ou son compte de dividendes sur les gains en capital immédiatement avant ce moment est réputée, pour le choix prévu aux paragraphes 83(2), 131(1) (dans son application à l'article 130) ou 133(7.1), et, si la société en fait le choix, à toutes autres fins, être le montant total d'un dividende distinct,

(ii) est réputée ne pas être un dividende la partie du dividende de liquidation qui correspond au

(ii) the portion of the winding-up dividend equal to the lesser of the corporation's pre-1972 capital surplus on hand immediately before that time and the amount by which the winding-up dividend exceeds

(A) the portion thereof in respect of which the corporation has made an election under subsection 83(2), or

(B) the portion thereof in respect of which the corporation has made an election under subsection 133(7.1),

as the case may be, shall be deemed not to be a dividend,

(iii) notwithstanding the definition ***taxable dividend*** in subsection 89(1), the winding-up dividend, to the extent that it exceeds the total of the portion thereof deemed by subparagraph 88(2)(b)(i) to be a separate dividend for all purposes and the portion deemed by subparagraph 88(2)(b)(ii) not to be a dividend, shall be deemed to be a separate dividend that is a taxable dividend, and

(iv) each person who held any of the issued shares of that class at the particular time shall be deemed to have received that proportion of any separate dividend determined under subparagraph 88(2)(b)(i) or 88(2)(b)(iii) that the number of shares of that class held by the person immediately before the particular time is of the number of issued shares of that class outstanding immediately before that time, and

(c) for the purpose of computing the income of the corporation for its taxation year that includes the particular time, paragraph 12(1)(t) shall be read as follows:

"12(1)(t) the amount deducted under subsection 127(5) or 127(6) in computing the taxpayer's tax payable for the year or a preceding taxation year to the extent that it was not included under this paragraph in computing the taxpayer's income for a preceding taxation year or is not included in an amount determined under paragraph 13(7.1)(e) or 37(1)(e) or subparagraph 53(2)(c)(vi) or 53(2)(h)(ii) or the amount determined for I in the definition ***undepreciated capital cost*** in subsection 13(21) or L in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6);".

moindre du surplus de capital en main avant 1972 de la société immédiatement avant ce moment et de l'excédent du dividende de liquidation sur, selon le cas :

(A) la partie de ce dividende à l'égard de laquelle la société fait le choix prévu au paragraphe 83(2),

(B) la partie de ce dividende à l'égard de laquelle la société fait le choix prévu au paragraphe 133(7.1),

(iii) malgré la définition de ***dividende imposable*** au paragraphe 89(1), le dividende de liquidation est réputé être un dividende distinct qui est un dividende imposable, dans la mesure où il dépasse le total de la partie de ce dividende réputée, en vertu du sous-alinéa (i), être un dividende distinct à toutes fins et de la partie réputée, en vertu du sous-alinéa (ii), ne pas être un dividende,

(iv) chaque personne détenant une ou plusieurs actions émises de cette catégorie au moment donné est réputée avoir reçu un montant correspondant au produit de la multiplication de tout dividende distinct, calculé selon le sous-alinéa (i) ou (iii), par le rapport entre le nombre d'actions de cette catégorie qu'elle détenait immédiatement avant le moment donné et le nombre d'actions émises de cette catégorie en circulation immédiatement avant ce moment;

c) pour le calcul du revenu de la société pour son année d'imposition qui comprend le moment donné, l'alinéa 12(1)t) est remplacé par ce qui suit :

« 12(1)t) la somme déduite en application des paragraphes 127(5) ou (6) dans le calcul de l'impôt payable par le contribuable pour l'année ou pour une année d'imposition antérieure dans la mesure où cette somme n'a pas été incluse dans le calcul du revenu du contribuable pour une année d'imposition antérieure en application du présent alinéa ou n'est pas incluse dans une somme déterminée en vertu des alinéas 13(7.1)e) ou 37(1)e) ou des sous-alinéas 53(2)c)(vi) ou h)(ii) ou représentée par l'élément I de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe 13(21) ou l'élément L de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6); ».

Definition of *pre-1972 capital surplus on hand*

(2.1) For the purposes of subsection 88(2), ***pre-1972 capital surplus on hand*** of a particular corporation at a

Définition de *surplus de capital en main avant 1972*

(2.1) Pour l'application du paragraphe (2), le ***surplus de capital en main avant 1972*** d'une société donnée à un

particular time means the amount, if any, by which the total of

(a) the corporation's 1971 capital surplus on hand on December 31, 1978 within the meaning of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on that date,

(b) the total of all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after 1978 and before the particular time, equal to the amount, if any, by which the lesser of its fair market value on valuation day (within the meaning assigned by section 24 of the *Income Tax Application Rules*) and the corporation's proceeds of disposition of that capital property exceeds its actual cost to the corporation determined without reference to the *Income Tax Application Rules* other than subsections 26(15), (17) and (21) to (27) of that Act,

(c) where before the particular time a subsidiary (to the winding-up of which the rules in subsection 88(1) applied) of the particular corporation has been wound up after 1978, an amount equal to the pre-1972 capital surplus on hand of the subsidiary immediately before the commencement of the winding-up, and

(d) where the particular corporation is a new corporation formed as a result of an amalgamation (within the meaning of section 87) after 1978 and before the particular time, the total of all amounts each of which is an amount in respect of a predecessor corporation, equal to the predecessor corporation's pre-1972 capital surplus on hand immediately before the amalgamation

exceeds

(e) the total of all amounts each of which is an amount in respect of a capital property (other than depreciable property) of the corporation owned by it on December 31, 1971 and disposed of by it after 1978 and before the particular time equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Income Tax Application Rules*, other than subsections 26(15), (17) and (21) to (27) of that Act, exceeds the greater of the fair market value of the property on valuation day (within the meaning assigned by section 24 of that Act) and the corporation's proceeds of disposition of the property.

Determination of pre-1972 capital surplus on hand

(2.2) For the purposes of determining the pre-1972 capital surplus on hand of any corporation at a particular time after 1978, the following rules apply:

moment donné s'entend de l'excédent éventuel du total des montants suivants :

a) le surplus de capital en main en 1971 de la société au 31 décembre 1978, au sens de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à cette date;

b) le total des montants dont chacun correspond à une immobilisation de la société qui lui appartenait au 31 décembre 1971 et dont elle a disposé après 1978 et avant le moment donné, égal à l'excédent éventuel de la juste valeur marchande de l'immobilisation au jour de l'évaluation — au sens de l'article 24 des *Règles concernant l'application de l'impôt sur le revenu* — ou du produit qu'elle a tiré de la disposition de l'immobilisation, le moindre de ces montants étant à retenir, sur le coût effectif de l'immobilisation, pour la société, déterminé compte non tenu des *Règles concernant l'application de l'impôt sur le revenu*, autres que les paragraphes 26(15), (17) et (21) à (27);

c) lorsque, avant le moment donné, une filiale (à la liquidation de laquelle les règles du paragraphe (1) s'appliquent) de la société donnée a été liquidée après 1978, le montant égal au surplus de capital en main avant 1972 de la filiale immédiatement avant le début de la liquidation;

d) lorsque la société donnée est une nouvelle société formée à la suite d'une fusion (au sens de l'article 87) après 1978 et avant le moment donné, le total des montants dont chacun est égal, à l'égard d'une société remplacée, au surplus de capital en main avant 1972 de celle-ci immédiatement avant la fusion,

sur :

e) le total des montants dont chacun correspond à une immobilisation (autre qu'un bien amortissable) de la société qui lui appartenait au 31 décembre 1971 et dont elle a disposé après 1978 et avant le moment donné, égal à l'excédent éventuel du coût effectif de l'immobilisation, pour la société, déterminé compte non tenu des *Règles concernant l'application de l'impôt sur le revenu*, autres que les paragraphes 26(15), (17) et (21) à (27), sur le plus élevé des montants suivants : la juste valeur marchande de l'immobilisation au jour de l'évaluation — au sens de l'article 24 de cette loi — et le produit de disposition de l'immobilisation obtenu par la société.

Calcul du surplus de capital en main avant 1972

(2.2) Pour l'application du calcul du surplus de capital en main avant 1972 d'une société à un moment donné après 1978, les règles suivantes s'appliquent :

(a) an amount referred to in paragraphs 88(2.1)(b) and 88(2.1)(e) in respect of the corporation shall be deemed to be nil, where the property disposed of is

(i) a share of the capital stock of a subsidiary, within the meaning of subsection 88(1), that was disposed of on the winding-up of the subsidiary where that winding-up commenced after 1978,

(ii) a share of the capital stock of another Canadian corporation that was controlled, within the meaning assigned by subsection 186(2), by the corporation immediately before the disposition and that was disposed of by the corporation after 1978 to a person with whom the corporation was not dealing at arm's length immediately after the disposition, other than by a disposition referred to in paragraph 88(2.2)(b), or

(iii) subject to subsection 26(21) of the *Income Tax Application Rules*, a share of the capital stock of a particular corporation that was disposed of by the corporation after 1978, on an amalgamation, within the meaning assigned by subsection 87(1), where the corporation controlled, within the meaning assigned by subsection 186(2), both the particular corporation immediately before the amalgamation and the new corporation immediately after the amalgamation; and

(b) where another corporation that is a Canadian corporation owned a capital property on December 31, 1971 and subsequently disposed of it to the corporation in a transaction to which section 85 applied, the other corporation shall be deemed not to have disposed of that property in the transaction and the corporation shall be deemed to have owned that property on December 31, 1971 and to have acquired it at an actual cost equal to the actual cost of that property to the other corporation.

a) le montant visé aux alinéas (2.1)b) et e) à l'égard de la société est réputé être nul, si le bien ayant fait l'objet d'une disposition est :

(i) soit une action du capital-actions d'une filiale, au sens du paragraphe (1), qui a fait l'objet d'une disposition au moment de la liquidation de la filiale, lorsque la liquidation a commencé après 1978,

(ii) soit une action du capital-actions d'une autre société canadienne — qui était contrôlée, au sens du paragraphe 186(2), par la société immédiatement avant la disposition — dont la société a disposé, après 1978, en faveur d'une personne avec laquelle elle avait un lien de dépendance immédiatement après la disposition, autre qu'une disposition prévue à l'alinéa b),

(iii) soit, sous réserve du paragraphe 26(21) des *Règles concernant l'application de l'impôt sur le revenu*, une action du capital-actions d'une société donnée dont la société a disposé après 1978, au moment d'une fusion au sens du paragraphe 87(1), lorsque la société contrôlait, au sens du paragraphe 186(2), à la fois la société donnée immédiatement avant la fusion et la nouvelle société immédiatement après la fusion;

b) lorsqu'une autre société canadienne possédait une immobilisation le 31 décembre 1971 et en a par la suite disposé en faveur d'une société dans le cadre d'une opération visée par l'article 85, cette autre société est réputée ne pas avoir ainsi disposé de l'immobilisation au cours de l'opération et la société est réputée avoir possédé l'immobilisation le 31 décembre 1971 et l'avoir acquise à un coût effectif égal au coût effectif de l'immobilisation pour l'autre société.

Actual cost of certain depreciable property

(2.3) For the purpose of subsection 88(2.1), the actual cost of the depreciable property that was acquired by a corporation before the commencement of its 1949 taxation year that is capital property referred to in that subsection shall be deemed to be the capital cost of that property to the corporation (within the meaning assigned by section 144 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1971 taxation year).

Coût effectif de certains biens amortissables

(2.3) Pour l'application du paragraphe (2.1), le coût effectif d'un bien amortissable qu'une société a acquis avant le début de son année d'imposition 1949 et qui est une immobilisation prévue dans ce paragraphe est réputé être le coût en capital du bien, pour la société (au sens de l'article 144 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1971).

Liquidation and dissolution of foreign affiliate

(3) Notwithstanding subsection 69(5), if at any time a taxpayer receives a property (referred to in this

Liquidation et dissolution d'une société étrangère affiliée

(3) Malgré le paragraphe 69(5), si un contribuable reçoit, à un moment donné, un bien (appelé « bien distribué »

subsection as the "distributed property") from a foreign affiliate (referred to in this subsection as the "disposing affiliate") of the taxpayer on a liquidation and dissolution of the disposing affiliate and the distributed property is received in respect of shares of the capital stock of the disposing affiliate that are disposed of on the liquidation and dissolution,

(a) subject to subsections (3.3) and (3.5), the distributed property is deemed to have been disposed of at that time by the disposing affiliate to the taxpayer for proceeds of disposition equal to the relevant cost base (within the meaning assigned by subsection 95(4)) to the disposing affiliate of the distributed property in respect of the taxpayer, immediately before that time, if

(i) the liquidation and dissolution is a qualifying liquidation and dissolution of the disposing affiliate, or

(ii) the distributed property is a share of the capital stock of another foreign affiliate of the taxpayer that was, immediately before that time, excluded property (within the meaning assigned by subsection 95(1)) of the disposing affiliate;

(b) if paragraph (a) does not apply to the distributed property, the distributed property is deemed to have been disposed of at that time by the disposing affiliate to the taxpayer for proceeds of disposition equal to the distributed property's fair market value at that time;

(c) the distributed property is deemed to have been acquired, at that time, by the taxpayer at a cost equal to the amount determined under paragraph (a) or (b) to be the disposing affiliate's proceeds of disposition of the distributed property;

(d) each share (referred to in paragraph (e) and subsections (3.3) and (3.4) as a "disposed share") of a class of the capital stock of the disposing affiliate that is disposed of by the taxpayer on the liquidation and dissolution is deemed to be disposed of for proceeds of disposition equal to the amount determined by the formula

A/B

where

A is the total of all amounts each of which is the net distribution amount in respect of a distribution of distributed property made, at any time, in respect of the class, and

B is the total number of issued and outstanding shares of the class that are owned by the taxpayer during the liquidation and dissolution; and

au présent paragraphe) d'une de ses sociétés étrangères affiliées (appelée « société distributrice » au présent paragraphe) lors de la liquidation et dissolution de celle-ci et que le bien distribué est reçu relativement à des actions du capital-actions de la société distributrice dont il est disposé lors de la liquidation et dissolution, les règles ci-après s'appliquent :

a) sous réserve des paragraphes (3.3) et (3.5), la société distributrice est réputée avoir disposé, à ce moment, du bien distribué en faveur du contribuable pour un produit de disposition égal à son prix de base approprié, au sens du paragraphe 95(4), pour elle, relativement au contribuable, immédiatement avant ce moment, si, selon le cas :

(i) la liquidation et dissolution est une liquidation et dissolution admissibles de la société distributrice,

(ii) le bien distribué est une action du capital-actions d'une autre société étrangère affiliée du contribuable qui était, immédiatement avant ce moment, un bien exclu, au sens du paragraphe 95(1), de la société distributrice;

b) si l'alinéa a) ne s'applique pas au bien distribué, la société distributrice est réputée avoir disposé de ce bien à ce moment en faveur du contribuable pour un produit de disposition égal à sa juste valeur marchande à ce moment;

c) le contribuable est réputé avoir acquis, à ce moment, le bien distribué à un coût égal à la somme qui, selon les alinéas a) ou b), représente le produit de disposition du bien pour la société distributrice;

d) chaque action (appelée « action cédée » à l'alinéa e) et aux paragraphes (3.3) et (3.4)) d'une catégorie du capital-actions de la société distributrice dont le contribuable dispose lors de la liquidation et dissolution est réputée avoir donner lieu à un produit de disposition égal à la somme obtenue par la formule suivante :

A/B

où :

A représente le total des sommes dont chacune représente le montant de distribution net relatif à une distribution de biens distribués effectuée, à un moment quelconque, à l'égard de la catégorie,

B le nombre total d'actions émises et en circulation de la catégorie qui appartiennent au contribuable pendant la liquidation et dissolution;

(e) if the liquidation and dissolution is a qualifying liquidation and dissolution of the disposing affiliate, any loss of the taxpayer in respect of the disposition of a disposed share is deemed to be nil.

e) si la liquidation et dissolution est une liquidation et dissolution admissibles de la société distributrice, toute perte subie par le contribuable relativement à la disposition d'une action cédée est réputée être nulle.

Qualifying liquidation and dissolution

(3.1) For the purposes of subsections (3), (3.3) and (3.5), a ***qualifying liquidation and dissolution*** of a foreign affiliate (referred to in this subsection as the "disposing affiliate") of a taxpayer means a liquidation and dissolution of the disposing affiliate in respect of which the taxpayer elects in accordance with prescribed rules and

(a) the taxpayer owns not less than 90% of the issued and outstanding shares of each class of the capital stock of the disposing affiliate throughout the liquidation and dissolution; or

(b) both

(i) the percentage determined by the following formula is greater than or equal to 90%:

A/B

where

A is the amount, if any, by which

(A) the total of all amounts each of which is the fair market value, at the time at which it is distributed, of a property that is distributed by the disposing affiliate to the taxpayer in the course of the liquidation and dissolution in respect of shares of the capital stock of the disposing affiliate

exceeds

(B) the total of all amounts each of which is an amount owing (other than an unpaid dividend) by, or an obligation of, the disposing affiliate that was assumed or cancelled by the taxpayer in consideration for a property referred to in clause (A), and

B is the amount, if any, by which

(A) the total of all amounts each of which is the fair market value, at the time at which it is distributed, of a property that is distributed by the disposing affiliate to a shareholder of the disposing affiliate in the course of the liquidation and dissolution in respect of shares of the capital stock of the disposing affiliate

exceeds

(B) the total of all amounts each of which is an amount owing (other than an unpaid

Liquidation et dissolution admissibles

(3.1) Pour l'application des paragraphes (3), (3.3) et (3.5), est une ***liquidation et dissolution admissibles*** d'une société étrangère affiliée (appelée « société distributrice » au présent paragraphe) d'un contribuable toute liquidation et dissolution de celle-ci à l'égard de laquelle le contribuable fait un choix selon les règles prévues par règlement et relativement à laquelle l'un des faits ci-après s'avère :

a) au moins 90 % des actions émises et en circulation de chaque catégorie du capital-actions de la société distributrice appartiennent au contribuable tout au long de la liquidation et dissolution;

b) à la fois :

(i) le pourcentage obtenu par la formule ci-après est égal ou supérieur à 90 % :

A/B

où :

A représente l'excédent du total visé à la division (A) sur celui visé à la division (B) :

(A) le total des sommes dont chacune représente la juste valeur marchande, au moment de sa distribution, d'un bien que la société distributrice distribue au contribuable au cours de la liquidation et dissolution relativement à des actions du capital-actions de la société distributrice,

(B) le total des sommes dont chacune représente une somme due (sauf un dividende non versé) par la société distributrice, ou une obligation de celle-ci, qui a été assumée ou annulée par le contribuable en contrepartie d'un bien visé à la division (A),

B l'excédent du total visé à la division (A) sur celui visé à la division (B) :

(A) le total des sommes dont chacune représente la juste valeur marchande, au moment de sa distribution, d'un bien que la société distributrice distribue à l'un de ses actionnaires au cours de la liquidation et dissolution relativement à des actions du capital-actions de la société distributrice,

(B) le total des sommes dont chacune représente une somme due (sauf un dividende

dividend) by, or an obligation of, the disposing affiliate that was assumed or cancelled by a shareholder of the disposing affiliate in consideration for a property referred to in clause (A), and

(ii) at the time of each distribution of property by the disposing affiliate in the course of the liquidation and dissolution in respect of shares of the capital stock of the disposing affiliate, the taxpayer holds shares of that capital stock that would, if an annual general meeting of the shareholders of the disposing affiliate were held at that time, entitle it to 90% or more of the votes that could be cast under all circumstances at the meeting.

non versé) par la société distributrice, ou une obligation de celle-ci, qui a été assumée ou annulée par l'un de ses actionnaires en contrepartie d'un bien visé à la division (A),

(ii) au moment de chaque distribution de bien effectuée par la société distributrice au cours de la liquidation et dissolution relativement à des actions de son capital-actions, le contribuable détient des actions de ce capital-actions qui lui donneraient droit, si l'assemblée générale annuelle des actionnaires de la société distributrice avait lieu à ce moment, à au moins 90 % des voix pouvant être exprimées en toutes circonstances à l'assemblée.

Net distribution amount

(3.2) For the purposes of the description of A in paragraph (3)(d), ***net distribution amount*** in respect of a distribution of distributed property means the amount determined by the formula

A – B

where

A is the cost to the taxpayer of the distributed property as determined under paragraph (3)(c), and

B is the total of all amounts each of which is an amount owing (other than an unpaid dividend) by, or an obligation of, the disposing affiliate that was assumed or cancelled by the taxpayer in consideration for the distribution of the distributed property.

Montant de distribution net

(3.2) Pour l'application de l'élément A de la formule figurant à l'alinéa (3)d), le ***montant de distribution net*** relatif à la distribution d'un bien distribué correspond à la somme obtenue par la formule suivante :

A – B

où :

A représente le coût du bien pour le contribuable, déterminé selon l'alinéa (3)c);

B le total des sommes dont chacune représente une somme due (sauf un dividende non versé) par la société distributrice, ou une obligation de celle-ci, qui a été assumée ou annulée par le contribuable en contrepartie de la distribution du bien.

Suppression election

(3.3) For the purposes of paragraph (3)(a), if the liquidation and dissolution is a qualifying liquidation and dissolution of the disposing affiliate and the taxpayer would, in the absence of this subsection and, for greater certainty, after taking into account any election under subsection 93(1), realize a capital gain (the amount of which is referred to in subsection (3.4) as the "capital gain amount") from the disposition of a disposed share, the taxpayer may elect, in accordance with prescribed rules, that distributed property that was, immediately before the disposition, capital property of the disposing affiliate be deemed to have been disposed of by the disposing affiliate to the taxpayer for proceeds of disposition equal to the amount claimed (referred to in subsection (3.4) as the "claimed amount") by the taxpayer in the election.

Choix de supprimer le produit de disposition

(3.3) Pour l'application de l'alinéa (3)a), dans le cas où la liquidation et dissolution est une liquidation et dissolution admissibles de la société distributrice et où le contribuable, en l'absence du présent paragraphe (étant entendu que le choix prévu au paragraphe 93(1) a été pris en compte), réaliserait un gain en capital (appelé « montant de gain en capital » au paragraphe (3.4)) de la disposition d'une action cédée, le contribuable peut faire un choix, selon les règles prévues par règlement, afin que le bien distribué qui était une immobilisation de la société distributrice immédiatement avant la disposition soit réputé avoir fait l'objet d'une disposition par celle-ci en faveur du contribuable pour un produit de disposition égal à la somme qu'il demande dans le document concernant le choix (appelée « somme demandée » au paragraphe (3.4)).

Conditions for subsection (3.3) election

(3.4) An election under subsection (3.3) in respect of distributed property disposed of in the course of the liquidation and dissolution is not valid unless

Conditions

(3.4) Le choix prévu au paragraphe (3.3) visant des biens distribués qui font l'objet d'une disposition au cours

(a) the claimed amount in respect of each distributed property does not exceed the amount that would, in the absence of subsection (3.3), be determined under paragraph (3)(a) in respect of the distributed property; and

(b) the amount determined by the following formula does not exceed the total of all amounts each of which is the capital gain amount in respect of a disposed share:

A – B

where

A is the total of all amounts that would, in the absence of subsection (3.3), be determined under paragraph (3)(a) to be the proceeds of disposition of a distributed property in respect of which an election under subsection (3.3) is made by the taxpayer, and

B is the total of all amounts each of which is the claimed amount in respect of a distributed property referred to in the description of A.

a) la somme demandée relativement à chaque bien n'excède pas la somme qui, en l'absence du paragraphe (3.3), serait déterminée selon l'alinéa (3)a) relativement au bien;

b) la somme obtenue par la formule ci-après n'excède pas le total des sommes dont chacune représente le montant de gain en capital relatif à une action cédée :

A – B

où :

A représente le total des sommes qui, en l'absence du paragraphe (3.3), constitueraient selon l'alinéa (3)a) le produit de disposition d'un bien distribué relativement auquel le contribuable fait le choix prévu au paragraphe (3.3),

B le total des sommes dont chacune représente la somme demandée relativement à un bien distribué visé à l'élément A.

Taxable Canadian property

(3.5) For the purposes of paragraph (3)(a), the distributed property is deemed to have been disposed of by the disposing affiliate to the taxpayer for proceeds of disposition equal to the adjusted cost base of the distributed property to the disposing affiliate immediately before the time of its disposition, if

(a) the liquidation and dissolution is a qualifying liquidation and dissolution of the disposing affiliate;

(b) the distributed property is, at the time of its disposition, taxable Canadian property (other than treaty-protected property) of the disposing affiliate that is a share of the capital stock of a corporation resident in Canada; and

(c) the taxpayer and the disposing affiliate have jointly elected in accordance with prescribed rules.

Bien canadien imposable

(3.5) Pour l'application de l'alinéa (3)a), la société distributrice est réputée avoir disposé du bien distribué en faveur du contribuable pour un produit de disposition égal au prix de base rajusté du bien pour elle immédiatement avant sa disposition si, à la fois :

a) la liquidation et dissolution est une liquidation et dissolution admissibles de la société distributrice;

b) le bien distribué est, au moment de sa disposition, un bien canadien imposable (sauf un bien protégé par traité) de la société distributrice qui est une action du capital-actions d'une société résidant au Canada;

c) le contribuable et la société distributrice ont fait un choix conjoint selon les règles prévues par règlement.

Amalgamation deemed not to be acquisition of control

(4) For the purposes of paragraphs (1)(c), (c.2), (d) and (d.2) and, for greater certainty, paragraphs (c.3) to (c.8) and (d.3),

(a) subject to paragraph 88(4)(c), control of any corporation shall be deemed not to have been acquired because of an amalgamation;

(b) any corporation formed as a result of an amalgamation shall be deemed to be the same corporation as,

Fusion réputée ne pas être une acquisition de contrôle

(4) Les présomptions suivantes s'appliquent dans le cadre des alinéas (1)c), c.2), d) et d.2), étant entendu qu'elles s'appliquent également dans le cadre des alinéas c.3) à c.8) et d.3):

a) sous réserve de l'alinéa c), le contrôle d'une société est réputé ne pas avoir été acquis en raison d'une fusion;

and a continuation of, each predecessor corporation; and

(c) in the case of an amalgamation described in subsection 87(9), control of a predecessor corporation that was not controlled by the parent before the amalgamation shall be deemed to have been acquired by the parent immediately before the amalgamation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 88; 1994, c. 7, Sch. II, s. 66, Sch. VI, s. 4, Sch. VIII, s. 38, c. 8, s. 10, c. 21, s. 40; 1995, c. 3, s. 24, c. 21, ss. 31, 55; 1996, c. 21, s. 16; 1997, c. 25, s. 19; 1998, c. 19, ss. 16, 118; 2001, c. 17, s. 66; 2002, c. 9, s. 31; 2007, c. 2, s. 46; 2009, c. 2, s. 20; 2012, c. 31, s. 18; 2013, c. 34, ss. 30, 65, 224, c. 40, s. 40; 2016, c. 12, s. 28.

b) la société issue d'une fusion est réputée être la même société que chaque société remplacée et en être la continuation;

c) s'agissant d'une fusion visée au paragraphe 87(9), le contrôle d'une société remplacée que la société mère ne contrôlait pas avant la fusion est réputé avoir été acquis par celle-ci immédiatement avant la fusion.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 88; 1994, ch. 7, ann. II, art. 66, ann. VI, art. 4, ann. VIII, art. 38, ch. 8, art. 10, ch. 21, art. 40; 1995, ch. 3, art. 24, ch. 21, art. 31 et 55; 1996, ch. 21, art. 16; 1997, ch. 25, art. 19; 1998, ch. 19, art. 16 et 118; 2001, ch. 17, art. 66; 2002, ch. 9, art. 31; 2007, ch. 2, art. 46; 2009, ch. 2, art. 20; 2012, ch. 31, art. 18; 2013, ch. 34, art. 30, 65 et 224, ch. 40, art. 40; 2016, ch. 12, art. 28.

Application

88.1 (1) Subsection (2) applies to a trust's distribution of property to a taxpayer if

(a) the distribution is a SIFT trust wind-up event;

(b) the trust is

(i) a SIFT wind-up entity whose only beneficiary, at all times at which the trust makes a distribution that is a SIFT trust wind-up event, is a taxable Canadian corporation, or

(ii) a trust whose only beneficiary, at all times at which the trust makes a distribution that is a SIFT trust wind-up event, is another trust described by subparagraph (i);

(c) where the trust is a SIFT wind-up entity, the distribution occurs no more than 60 days after the earlier of

(i) the first SIFT trust wind-up event of the trust, and

(ii) the first distribution to the trust that is a SIFT trust wind-up event of another trust; and

(d) if the property is shares of the capital stock of a taxable Canadian corporation,

(i) the property was not acquired by the trust on a distribution to which subsection 107(3.1) applies, and

(ii) the trust elects in writing, filed with the Minister on or before the trust's filing-due date for its taxation year that includes the time of the distribution, that this section apply to the distribution.

Application

88.1 (1) Le paragraphe (2) s'applique à une distribution de biens, effectuée par une fiducie au profit d'un contribuable, si les conditions suivantes sont réunies :

a) la distribution constitue un fait lié à la conversion d'une EIPD-fiducie;

b) la fiducie est :

(i) soit une EIPD convertible dont le seul bénéficiaire, à tout moment où la fiducie effectue une distribution qui constitue un fait lié à la conversion d'une EIPD-fiducie, est une société canadienne imposable,

(ii) soit une fiducie dont le seul bénéficiaire, à tout moment où la fiducie effectue une distribution qui constitue un fait lié à la conversion d'une EIPD-fiducie, est une autre fiducie visée au sous-alinéa (i);

c) si la fiducie est une EIPD convertible, la distribution est effectuée au plus tard 60 jours après le premier en date des moments suivants :

(i) le moment du premier fait lié à la conversion d'une EIPD-fiducie de la fiducie,

(ii) le moment de la première distribution, effectuée au profit de la fiducie, qui constitue un fait lié à la conversion d'une EIPD-fiducie d'une autre fiducie;

d) si les biens sont des actions du capital-actions d'une société canadienne imposable :

(i) ils n'ont pas été acquis par la fiducie lors d'une distribution à laquelle le paragraphe 107(3.1) s'applique,

(ii) la fiducie fait un choix, dans un document qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable

SIFT trust wind-up event

(2) If this subsection applies to a trust's distribution of property to a taxpayer, subsections 88(1) to (1.7), and section 87 and paragraphs 256(7)(a) to (e) as they apply for the purposes of those subsections, apply, with any modifications that the circumstances require, as if

(a) the trust were a taxable Canadian corporation (in this subsection referred to as the "subsidiary") that is not a private corporation;

(b) where the taxpayer is a SIFT wind-up entity, the taxpayer were a taxable Canadian corporation that is not a private corporation;

(c) the distribution were a winding-up of the subsidiary;

(d) the taxpayer's interest as a beneficiary under the trust were shares of a single class of shares of the capital stock of the subsidiary owned by the taxpayer;

(e) paragraph 88(1)(b) deemed the taxpayer's proceeds of disposition of the shares described in paragraph (d) and owned by the taxpayer immediately before the distribution to be equal to the adjusted cost base to the taxpayer of the taxpayer's interest as a beneficiary under the trust immediately before the distribution;

(f) each trust, a majority-interest beneficiary (in this subsection, within the meaning assigned by section 251.1) of which is another trust that is by operation of this subsection treated as if it were a corporation, were a corporation; and

(g) except for the purposes of subsections 88(1.1) and (1.2), the taxpayer last acquired control of the subsidiary and of each corporation (including a trust that is by operation of this subsection treated as if it were a corporation) controlled by the subsidiary at the time, if any, at which the taxpayer last became a majority-interest beneficiary of the trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 88.1; 1994, c. 21, s. 41; 2009, c. 2, s. 21.

Definitions

89 (1) In this subdivision,

pour son année d'imposition qui comprend le moment de la distribution, afin que le présent article s'applique à la distribution.

Fait lié à la conversion d'une EIPD-fiducie

(2) Si le présent paragraphe s'applique à une distribution de biens effectuée par une fiducie au profit d'un contribuable, les paragraphes 88(1) à (1.7), ainsi que l'article 87 et les alinéas 256(7)a) à e) dans la mesure où ils s'appliquent dans le cadre de ces paragraphes, s'appliquent, avec les adaptations nécessaires, comme si :

a) la fiducie était une société canadienne imposable (appelée « filiale » au présent paragraphe) qui n'est pas une société privée;

b) le contribuable, s'il est une EIPD convertible, était une société canadienne imposable qui n'est pas une société privée;

c) la distribution se traduisait par la liquidation de la filiale;

d) la participation du contribuable à titre de bénéficiaire de la fiducie était constituée d'actions d'une seule catégorie d'actions du capital-actions de la filiale appartenant au contribuable;

e) le produit de disposition, pour le contribuable, des actions visées à l'alinéa d) qui lui appartenaient immédiatement avant la distribution était réputé, en vertu de l'alinéa 88(1)b), être égal au prix de base rajusté pour lui de sa participation à titre de bénéficiaire de la fiducie immédiatement avant la distribution;

f) chaque fiducie, dont un bénéficiaire détenant une participation majoritaire, au sens de l'article 251.1, est une autre fiducie qui est considérée comme une société par l'effet du présent paragraphe, était une société;

g) sauf pour l'application des paragraphes 88(1.1) et (1.2), la dernière acquisition de contrôle, par le contribuable, de la filiale et de chaque société (y compris une fiducie qui est considérée comme une société par l'effet du présent paragraphe) contrôlée par la filiale s'était produite la dernière fois qu'il est devenu un bénéficiaire détenant une participation majoritaire, au sens de l'article 251.1, de la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 88.1; 1994, ch. 21, art. 41; 2009, ch. 2, art. 21.

Définitions

89 (1) Les définitions qui suivent s'appliquent à la présente sous-section.

bien désigné

adjusted taxable income of a corporation for a taxation year is the amount determined by the formula

A – B – C

where

A is

(a) unless paragraph (b) applies, the corporation's taxable income for the taxation year, and

(b) if the corporation is a deposit insurance corporation in the taxation year, nil,

B is the amount determined by multiplying the amount, if any, deducted by the corporation under subsection 125(1) for the taxation year by the quotient obtained by dividing 100 by the rate of the deduction provided under that subsection for the taxation year, and

C is

(a) if the corporation is a Canadian-controlled private corporation in the taxation year, the lesser of the corporation's aggregate investment income for the taxation year and the corporation's taxable income for the taxation year, and

(b) in any other case, nil; (*revenu imposable rajusté*)

Canadian corporation at any time means a corporation that is resident in Canada at that time and was

(a) incorporated in Canada, or

(b) resident in Canada throughout the period that began on June 18, 1971 and that ends at that time,

and for greater certainty, a corporation formed at any particular time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, 2 or more corporations (otherwise than as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or as a result of the distribution of the property to the other corporation on the winding-up of the corporation) is a Canadian corporation because of paragraph (a) only if

(c) that reorganization took place under the laws of Canada or a province, and

(d) each of those corporations was, immediately before the particular time, a Canadian corporation; (*société canadienne*)

capital dividend account of a corporation at any particular time means the amount, if any, by which the total of

a) Bien d'une société privée, devenue société privée pour la dernière fois avant le 13 novembre 1981, que celle-ci a acquis :

(i) avant le 13 novembre 1981,

(ii) après le 12 novembre 1981 conformément à une convention écrite conclue au plus tard à cette date;

b) bien d'une société privée que celle-ci a acquis auprès d'une autre société privée avec qui la société privée avait un lien de dépendance (autrement qu'en vertu d'un droit visé à l'alinéa 251(5)b)) à la date d'acquisition du bien, si celui-ci était un bien désigné de l'autre société privée;

c) action acquise par une société privée lors d'une opération à laquelle l'article 51, le paragraphe 85(1) ou l'article 85.1, 86 ou 87 s'appliquait, en échange d'une action qui était un bien désigné de la société;

d) bien de remplacement (au sens de l'article 44) d'un bien désigné dont il a été disposé à cause d'un événement visé à l'alinéa b), c) ou d) de la définition de ***produit de disposition*** à l'article 54. (*designated property*)

capital versé À un moment donné :

a) à l'égard d'une action d'une catégorie quelconque du capital-actions d'une société, somme égale au capital versé à ce moment, relativement à la catégorie d'actions du capital-actions de la société à laquelle appartient cette action et divisé par le nombre des actions émises de cette catégorie qui sont en circulation à ce moment;

b) à l'égard d'une catégorie d'actions du capital-actions d'une société :

(i) lorsque le moment donné est antérieur au 7 mai 1974, somme égale au capital versé au moment donné à l'égard de cette catégorie d'actions, calculée compte non tenu de la présente loi,

(ii) lorsque le moment donné est postérieur au 6 mai 1974 et antérieur au 1er avril 1977, somme égale au capital versé au moment donné à l'égard de cette catégorie d'actions, calculée conformément à la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable au 31 mars 1977,

(iii) si le moment donné est postérieur au 31 mars 1977, somme égale au capital versé au moment donné au titre de cette catégorie d'actions, calculée compte non tenu des dispositions de la présente loi,

(a) the amount, if any, by which

(i) the total of all amounts each of which is the amount if any, by which

(A) the amount of the corporation's capital gain — computed without reference to subclause 52(3)(a)(ii)(A)(II) and subparagraph 53(1)(b)(ii) — from the disposition (other than a disposition under paragraph 40(3.1)(a) or subsection 40(12) or a disposition that is the making of a gift after December 8, 1997 that is not a gift described in subsection 110.1(1)) of a property in the period beginning at the beginning of its first taxation year that began after the corporation last became a private corporation and that ended after 1971 and ending immediately before the particular time (in this definition referred to as the ***period***)

exceeds the total of

(B) the portion of the capital gain referred to in clause (A) that is the corporation's taxable capital gain,

(B.1) the corporation's taxable capital gain from a disposition in the period under subsection 40(12), and

(C) the portion of the amount, if any, by which the amount determined under clause (A) exceeds the amount determined under clause (B) from the disposition by it of a property that can reasonably be regarded as having accrued while the property, or a property for which it was substituted,

(I) except in the case of a disposition of a designated property, was a property of a corporation (other than a private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation),

(II) where, after November 26, 1987, the property became a property of a Canadian-controlled private corporation (otherwise than by reason of a change in the residence of one or more shareholders of the corporation), was a property of a corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons, or

(III) where, after November 26, 1987, the property became a property of a private corporation that was not exempt from tax under this Part on its taxable income, was a property

à l'exception des paragraphes 51(3) et 66.3(2) et (4), des articles 84.1 et 84.2, des paragraphes 85(2.1), 85.1(2.1) et (8), 86(2.1) et 87(3) et (9), de l'alinéa 128.1(1)c.3), des paragraphes 128.1(2) et (3), de l'article 135.2, des paragraphes 138(11.7), 139.1(6) et (7), 148(7), 192(4.1) et 194(4.1) et des articles 212.1 et 212.3;

toutefois dans le cas d'une société coopérative, au sens du paragraphe 136(2), ou d'une caisse de crédit dont la loi constitutive ne prévoit pas de capital versé au titre d'une catégorie d'actions, le capital versé au titre de cette catégorie d'actions au moment donné, calculé compte non tenu de la présente loi, est réputé égal à l'excédent éventuel du total visé au sous-alinéa (iv) sur le total visé au sous-alinéa (v):

(iv) le total des montants que la société a reçus relativement aux actions de cette catégorie, émises et en circulation à ce moment,

(v) le total des montants dont chacun représente tout ou partie d'un montant visé au sous-alinéa (iv) que la société a remboursé aux détenteurs des actions émises de cette catégorie avant ce moment;

c) à l'égard de toutes les actions du capital-actions d'une société, somme égale au total des montants dont chacun est une somme égale au capital versé à l'égard d'une catégorie quelconque d'actions du capital-actions de la société au moment donné. (*paid-up capital*)

compte de dividendes en capital S'agissant du compte de dividendes en capital d'une société, à un moment donné, l'excédent éventuel du total des montants suivants :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants dont chacun représente l'excédent éventuel :

(A) d'un gain en capital de la société — calculé compte non tenu de la subdivision 52(3)a)(ii)(A)(II) ni du sous-alinéa 53(1)b)(ii) — provenant de la disposition (sauf celle qui est visée à l'alinéa 40(3.1)a) ou au paragraphe 40(12) ou qui constitue un don effectué après le 8 décembre 1997 qui n'est pas un don visé au paragraphe 110.1(1)) d'un bien au cours de la période commençant au début de sa première année d'imposition (ayant commencé après le moment où elle est devenue la dernière fois une société

of a corporation exempt from tax under this Part on its taxable income,

exceeds

(ii) the total of all amounts each of which is the amount, if any, by which

(A) the amount of the corporation's capital loss — computed without reference to subclause 52(3)(a)(ii)(A)(II) and subparagraph 53(1)(b)(ii) — from the disposition (other than a disposition under subsection 40(3.12) or a disposition that is the making of a gift after December 8, 1997 that is not a gift described in subsection 110.1(1)) of a property in the period

exceeds the total of

(B) the part of the capital loss referred to in clause (A) that is the corporation's allowable capital loss, and

(C) the portion of the amount, if any, by which the amount determined under clause (A) exceeds the amount determined under clause (B) from the disposition by it of a property that can reasonably be regarded as having accrued while the property, or a property for which it was substituted,

(I) except in the case of a disposition of a designated property, was a property of a corporation (other than a private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation),

(II) where, after November 26, 1987, the property became a property of a Canadian-controlled private corporation (otherwise than by reason of a change in the residence of one or more shareholders of the corporation), was a property of a corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons, or

(III) where, after November 26, 1987, the property became a property of a private corporation that was not exempt from tax under this Part on its taxable income, was a property of a corporation exempt from tax under this Part on its taxable income,

(b) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation in the period,

privée et s'étant terminée après 1971) et se terminant immédiatement avant le moment donné (appelée ***période*** à la présente définition),

sur le total des montants suivants :

(B) le gain en capital imposable de la société correspondant,

(B.1) le gain en capital imposable de la société provenant d'une disposition au cours de la période, prévue au paragraphe 40(12),

(C) la partie de l'excédent éventuel du montant calculé à la division (A) sur le montant calculé à la division (B), provenant de la disposition d'un bien par la société, qu'il est raisonnable de considérer comme s'étant accumulée pendant que le bien, ou un bien qui lui est substitué :

(I) sauf dans le cas de la disposition d'un bien désigné, soit appartenait à une société — sauf une société privée, une société de placement, une société de placement hypothécaire ou une société de placement à capital variable —,

(II) soit appartenait à une société contrôlée, directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes non-résidentes, si le bien est devenu, après le 26 novembre 1987, un bien d'une société privée sous contrôle canadien — autrement qu'à cause d'un changement de résidence d'un ou de plusieurs actionnaires de la société —,

(III) soit appartenait à une société exonérée de l'impôt prévu à la présente partie sur son revenu imposable, si le bien est devenu, après le 26 novembre 1987, un bien d'une société privée qui n'était pas exonérée de l'impôt prévu à la présente partie sur son revenu imposable,

(ii) le total des montants dont chacun représente l'excédent éventuel :

(A) d'une perte en capital de la société — calculée compte non tenu de la subdivision 52(3)a)(ii)(A)(II) ni du sous-alinéa 53(1)b)(ii) — résultant de la disposition (sauf celle qui est visée au paragraphe 40(3.12) ou qui constitue un don effectué après le 8 décembre 1997 qui n'est pas un don visé au paragraphe 110.1(1)) d'un bien au cours de cette période,

sur le total des montants suivants :

which amount was, by virtue of subsection 83(2), not included in computing the income of the corporation,

(c) the total of all amounts each of which is an amount required to have been included under this paragraph as it read in its application to a taxation year that ended before February 28, 2000,

(c.1) the amount, if any, by which

(i) 1/2 of the total of all amounts each of which is an amount required by paragraph 14(1)(b) (as it read before 2017) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000,

exceeds

(ii) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt established by it to have become a bad debt in a taxation year that is included in the period and that ended after February 27, 2000 and before October 18, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

V + W

where

V is 1/2 of the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

W is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(iii) in any other case, nil,

(c.2) the amount, if any, by which

(i) the total of all amounts each of which is an amount required by paragraph 14(1)(b) (as it read before 2017) or subparagraph 13(38)(d)(iii) to be included in computing the corporation's income in respect of a business carried on by the corporation for a taxation year that is included in the period and that ends after October 17, 2000,

exceeds

(ii) where the corporation has deducted an amount under subsection 20(4.2) in respect of a debt

(B) la perte en capital déductible de la société correspondante,

(C) la partie de l'excédent éventuel du montant calculé à la division (A) sur le montant calculé à la division (B), provenant de la disposition d'un bien par la société, qu'il est raisonnable de considérer comme s'étant accumulée pendant que le bien, ou un bien qui lui est substitué :

(I) sauf dans le cas de la disposition d'un bien désigné, soit appartenait à une société — sauf une société privée, une société de placement, une société de placement hypothécaire ou une société de placement à capital variable —,

(II) soit appartenait à une société contrôlée, directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes non-résidentes, si le bien est devenu, après le 26 novembre 1987, un bien d'une société privée sous contrôle canadien — autrement qu'à cause d'un changement de résidence d'un ou de plusieurs actionnaires de la société —,

(III) soit appartenait à une société exonérée de l'impôt prévu à la présente partie sur son revenu imposable, si le bien est devenu, après le 26 novembre 1987, un bien d'une société privée qui n'était pas exonérée de l'impôt prévu à la présente partie sur son revenu imposable;

b) les sommes dont chacune constitue une somme reçue par la société au cours de la période, à titre de dividende versé sur une action du capital-actions d'une autre société, somme qui, en vertu du paragraphe 83(2), n'a pas été incluse dans le calcul du revenu de la société;

c) les sommes représentant chacune une somme qui était à inclure selon le présent alinéa, dans sa version applicable à une année d'imposition terminée avant le 28 février 2000;

c.1) l'excédent éventuel du montant suivant :

(i) la moitié du total des montants représentant chacun un montant à inclure en application de l'alinéa 14(1)b) (dans sa version applicable avant 2017) dans le calcul du revenu de la société, relativement à une entreprise qu'elle exploite, pour une année d'imposition comprise dans la période et terminée après le 27 février 2000 et avant le 18 octobre 2000,

sur le montant applicable suivant :

established by it to have become a bad debt in a taxation year that is included in the period and that ends after October 17, 2000, or has an allowable capital loss for such a year because of the application of subsection 20(4.3), the amount determined by the formula

X + Y

where

X is the value determined for A under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

Y is 1/3 of the value determined for B under subsection 20(4.2) in respect of the corporation for the last such taxation year that ended in the period, and

(iii) in any other case, nil,

(d) the amount, if any, by which the total of

(i) all amounts each of which is the proceeds of a life insurance policy of which the corporation was a beneficiary on or before June 28, 1982 received by the corporation in the period and after 1971 in consequence of the death of any person, and

(ii) all amounts each of which is the proceeds of a life insurance policy (other than an LIA policy) of which the corporation was not a beneficiary on or before June 28, 1982 received by the corporation in the period and after May 23, 1985 in consequence of the death of any person

exceeds the total of all amounts each of which is

(iii) the ***adjusted cost basis*** (in this paragraph as defined in subsection 148(9)), immediately before the death, of

(A) if the death occurs before March 22, 2016, a policy referred to in subparagraph (i) or (ii) to the corporation, and

(B) if the death occurs after March 21, 2016, a policyholder's interest in a policy referred to in subparagraph (i) or (ii),

(iv) if the policy is a 10/8 policy immediately before the death and the death occurs after 2013, the amount outstanding, immediately before the death, of the borrowing that is described in subparagraph (a)(i) of the definition ***10/8 policy*** in subsection 248(1) in respect of the policy,

(ii) si la société a établi qu'une somme est devenue une créance irrécouvrable au cours d'une année d'imposition comprise dans la période et terminée après le 27 février 2000 et avant le 18 octobre 2000 et a déduit un montant au titre de cette somme en application du paragraphe 20(4.2), ou si elle a une perte en capital déductible pour une telle année par l'effet du paragraphe 20(4.3), le montant obtenu par la formule suivante :

V + W

où :

V représente la moitié de la valeur de l'élément A de la formule figurant au paragraphe 20(4.2), déterminée relativement à la société pour la dernière année d'imposition semblable terminée dans la période,

W le tiers de la valeur de l'élément B de cette formule, déterminée relativement à la société pour cette dernière année d'imposition,

(iii) dans les autres cas, zéro;

c.2) l'excédent éventuel du montant suivant :

(i) le total des montants représentant chacun un montant à inclure en application de l'alinéa 14(1)b) (dans sa version applicable avant 2017) ou du sous-alinéa 13(38)d)(iii) dans le calcul du revenu de la société, relativement à une entreprise qu'elle exploite, pour une année d'imposition comprise dans la période et se terminant après le 17 octobre 2000,

sur le montant applicable suivant :

(ii) si la société a établi qu'une somme est devenue une créance irrécouvrable au cours d'une année d'imposition comprise dans la période et se terminant après le 17 octobre 2000 et a déduit un montant au titre de cette somme en application du paragraphe 20(4.2), ou si elle a une perte en capital déductible pour une telle année par l'effet du paragraphe 20(4.3), le montant obtenu par la formule suivante :

X + Y

où :

X représente la valeur de l'élément A de la formule figurant au paragraphe 20(4.2), déterminée relativement à la société pour la dernière année d'imposition semblable terminée dans la période,

(v) if the death occurs after March 21, 2016, an interest in the policy was disposed of by a policyholder (other than a taxable Canadian corporation) after 1999 and before March 22, 2016 and subsection 148(7) applied to the disposition, the total of

(A) the amount, if any, by which the fair market value of consideration given in respect of the disposition exceeds the total of

(I) the greater of the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition and the adjusted cost basis to the policyholder of the interest immediately before the disposition, and

(II) the amount by which the paid-up capital of any class of the capital stock of a corporation resulting from the disposition is reduced at the beginning of March 22, 2016 because of the application of paragraphs 148(7)(c) and (f) in respect of the disposition, and

(B) if the paid-up capital in respect of a class of shares of the capital stock of a corporation was increased before March 22, 2016 as described in subparagraph 148(7)(f)(iii) in respect of the disposition, the amount, if any, by which the total reduction in the paid-up capital in respect of that class — not exceeding the amount of that increase — after that increase and before March 22, 2016 (except to the extent that the amount of the reduction was deemed by subsection 84(4) or (4.1) to be a dividend received by a taxpayer) exceeds the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition, or

(vi) if the death occurs after March 21, 2016, an interest in the policy was disposed of by a policyholder (other than a taxable Canadian corporation) after 1999 and before March 22, 2016 and subsection 148(7) applied to the disposition, the amount, if any, determined by the formula

A – B

where

A is the amount, if any, by which the lesser of the adjusted cost basis to the policyholder of the interest immediately before the disposition and the fair market value of consideration given in respect of the disposition exceeds the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition, and

Y le tiers de la valeur de l'élément B de cette formule, déterminée relativement à la société pour cette dernière année d'imposition,

(iii) dans les autres cas, zéro;

d) l'excédent éventuel du total des montants suivants :

(i) les montants dont chacun représente le produit d'une police d'assurance-vie dont la société était bénéficiaire au plus tard le 28 juin 1982 que la société a reçu au cours de la période et après 1971 par suite du décès d'une personne,

(ii) les montants dont chacun représente le produit d'une police d'assurance-vie (sauf une police RAL) dont la société n'était pas bénéficiaire au plus tard le 28 juin 1982 que la société a reçu au cours de la période et après le 23 mai 1985 par suite du décès d'une personne,

sur le total des montants dont chacun représente :

(iii) le ***coût de base rajusté*** (s'entendant au présent alinéa au sens du paragraphe 148(9)) immédiatement avant le décès :

(A) si le décès survient avant le 22 mars 2016, d'une police mentionnée au sous-alinéa (i) ou (ii) pour la société,

(B) si le décès survient après le 21 mars 2016, d'un intérêt d'un titulaire de police dans une police mentionnée au sous-alinéa (i) ou (ii),

(iv) si la police est une police 10/8 immédiatement avant le décès et que le décès survient après 2013, le montant impayé, immédiatement avant le décès, de l'emprunt visé au sous-alinéa a)(i) de la définition de ***police 10/8*** au paragraphe 248(1) relativement à la police,

(v) si le décès survient après le 21 mars 2016 et qu'un intérêt dans la police a fait l'objet d'une disposition — à laquelle le paragraphe 148(7) s'est appliqué — par un titulaire de police (sauf une société canadienne imposable) après 1999 mais avant le 22 mars 2016, le total des sommes suivantes :

(A) l'excédent éventuel de la juste valeur marchande de la contrepartie donnée relativement à la disposition sur le total des sommes suivantes :

(I) la plus élevée de la somme déterminée en application du sous-alinéa 148(7)a)(i) relativement à la disposition et de la somme qui est

B is the absolute value of the negative amount, if any, that would be, in the absence of section 257, the adjusted cost basis, immediately before the death, of the interest in the policy,

(e) the amount of the corporation's life insurance capital dividend account immediately before May 24, 1985, and

(f) all amounts each of which is an amount in respect of a distribution made in the period by a trust to the corporation in respect of capital gains of the trust equal to the lesser of

(i) the amount, if any, by which

(A) the amount of the distribution

exceeds

(B) the amount designated under subsection 104(21) by the trust (other than a designation to which subsection 104(21.4), as it read in its application to the corporation's last taxation year that began before November 2011, applied) in respect of the net taxable capital gains of the trust attributable to those capital gains, and

(ii) the amount determined by the formula

A × B

where

A is the fraction or whole number determined when 1 is subtracted from the reciprocal of the fraction under paragraph 38(a) applicable to the trust for the year, and

B is the amount referred to in clause (i) (B), and

(g) all amounts each of which is an amount in respect of a distribution made by a trust to the corporation in the period in respect of a dividend (other than a taxable dividend) paid on a share of the capital stock of another corporation resident in Canada to the trust during a taxation year of the trust throughout which the trust was resident in Canada equal to the lesser of

(i) the amount of the distribution, and

(ii) the amount designated under subsection 104(20) by the trust in respect of the corporation in respect of that dividend,

exceeds the total of all capital dividends that became payable by the corporation after the commencement of the period and before the particular time; (*compte de dividendes en capital*)

le coût de base rajusté pour le titulaire de police immédiatement avant la disposition,

(II) le montant qui, par l'effet des alinéas 148(7)c) et f), est appliqué en réduction au début du 22 mars 2016, relativement à la disposition, du capital versé relatif à une catégorie d'actions du capital-actions d'une société découlant de la disposition,

(B) si le capital versé relatif à une catégorie d'actions du capital-actions d'une société a été augmenté avant le 22 mars 2016 de la manière visée au sous-alinéa 148(7)f)(iii) relativement à la disposition, l'excédent éventuel de la réduction totale du capital versé relatif à cette catégorie — qui ne peut dépasser le montant de cette augmentation — après cette augmentation et avant le 22 mars 2016 (sauf dans la mesure où le montant de la réduction était réputé, par les paragraphes 84(4) ou (4.1), être un dividende reçu par un contribuable) sur la somme déterminée en application du sous-alinéa 148(7)a)(i) relativement à la disposition,

(vi) si le décès survient après le 21 mars 2016 et qu'un intérêt dans la police a fait l'objet d'une disposition — à laquelle le paragraphe 148(7) s'est appliqué — par un titulaire de police (sauf une société canadienne imposable) après 1999 mais avant le 22 mars 2016, la somme obtenue par la formule suivante :

A – B

où :

A représente l'excédent éventuel de la moins élevée de la somme qui est le coût de base rajusté pour le titulaire de police de l'intérêt immédiatement avant la disposition et de la juste valeur marchande de la contrepartie donnée relativement à une disposition sur la somme déterminée en vertu du sous-alinéa 148(7)a)(i) relativement à la disposition,

B la valeur absolue de la somme négative éventuelle qui serait, compte non tenu de l'article 257, le coût de base rajusté, immédiatement avant le décès, de l'intérêt dans la police;

e) le montant du compte de dividendes en capital d'assurance-vie de la société immédiatement avant le 24 mai 1985, sur le total des dividendes en capital devenus payables par la société après le début de la période et avant le moment donné;

designated property means

(a) any property of a private corporation that last became a private corporation before November 13, 1981 and that was acquired by it

(i) before November 13, 1981, or

(ii) after November 12, 1981 pursuant to an agreement in writing entered into on or before that date,

(b) any property of a private corporation that was acquired by it from another private corporation with which the private corporation was not dealing at arm's length (otherwise than by virtue of a right referred to in paragraph 251(5)(b)) at the time the property was acquired, where the property was a designated property of the other private corporation,

(c) a share acquired by a private corporation in a transaction to which section 51, subsection 85(1) or section 85.1, 86 or 87 applied in exchange for another share that was a designated property of the corporation, or

(d) a replacement property (within the meaning assigned by section 44) for a designated property disposed of by virtue of an event referred to in paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in section 54; (*bien désigné*)

eligible dividend means

(a) an amount that is equal to the portion of a taxable dividend that is received by a person resident in Canada, paid by a corporation resident in Canada and designated under subsection (14) to be an eligible dividend, and

(b) in respect of a person resident in Canada, an amount that is deemed by subsection 96(1.11) or 104(16) to be a taxable dividend that is received by the person; (*dividende déterminé*)

excessive eligible dividend designation, made by a corporation in respect of an eligible dividend paid by the corporation at any time in a taxation year, means

(a) unless paragraph (c) applies to the dividend, if the corporation is in the taxation year a Canadian-controlled private corporation or a deposit insurance corporation, the amount, if any, determined by the formula

(A - B) × C/A

where

f) le total des montants représentant chacun un montant relatif à une distribution qu'une fiducie a effectuée sur ses gains en capital en faveur de la société au cours de la période et dont le montant est égal au moins élevé des montants suivants :

(i) l'excédent du montant visé à la division (A) sur le montant visé à la division (B) :

(A) le montant de la distribution,

(B) le montant que la fiducie a attribué à la société en application du paragraphe 104(21) (sauf s'il s'agit d'une attribution à laquelle s'applique le paragraphe 104(21.4), dans sa version applicable à la dernière année d'imposition de la société ayant commencé avant novembre 2011) sur ses gains en capital imposables nets qui sont imputables aux gains en capital en question,

(ii) le montant obtenu par la formule suivante :

A × B

où :

A représente le nombre entier ou la fraction obtenu lorsque 1 est soustrait de l'inverse de la fraction figurant à l'alinéa 38a) qui s'applique à la fiducie pour l'année,

B B le montant mentionné à la division (i)(B);

g) le total des montants représentant chacun un montant relatif à une distribution qu'une fiducie a effectuée en faveur de la société au cours de la période au titre d'un dividende (sauf un dividende imposable) qui a été versé à la fiducie au cours d'une année d'imposition de celle-ci tout au long de laquelle elle a résidé au Canada, sur une action du capital-actions d'une autre société résidant au Canada, et dont le montant est égal au moins élevé des montants suivants :

(i) le montant de la distribution,

(ii) le montant que la fiducie a attribué à la société en application du paragraphe 104(20) au titre du dividende,

sur le total des dividendes en capital devenus payables par la société après le début de la période et avant le moment donné. (*capital dividend account*)

compte de revenu à taux général Le compte de revenu à taux général, à la fin d'une année d'imposition donnée, d'une société canadienne imposable qui est une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts au cours de cette année correspond à la

A is the total of all amounts each of which is the amount of an eligible dividend paid by the corporation in the taxation year,

B is the greater of nil and the corporation's general rate income pool at the end of the taxation year, and

C is the amount of the eligible dividend,

(b) unless paragraph (c) applies to the dividend, if the corporation is not a corporation described in paragraph (a), the amount, if any, determined by the formula

A × B/C

where

A is the lesser of

(i) the total of all amounts each of which is an eligible dividend paid by the corporation at that time, and

(ii) the corporation's low rate income pool at that time,

B is the amount of the eligible dividend, and

C is the amount determined under subparagraph (i) of the description of A, and

(c) an amount equal to the amount of the eligible dividend, if it is reasonable to consider that the eligible dividend was paid in a transaction, or as part of a series of transactions, one of the main purposes of which was to artificially maintain or increase the corporation's general rate income pool, or to artificially maintain or decrease the corporation's low rate income pool; (*désignation excessive de dividende déterminé*)

general rate factor of a corporation for a taxation year is the total of

(a) that proportion of 0.68 that the number of days in the taxation year that are before 2010 is of the number of days in the taxation year,

(b) that proportion of 0.69 that the number of days in the taxation year that are in 2010 is of the number of days in the taxation year,

(c) that proportion of 0.70 that the number of days in the taxation year that are in 2011 is of the number of days in the taxation year, and

(d) that proportion of 0.72 that the number of days in the taxation year that are after 2011 is of the number

somme positive ou négative obtenue par la formule suivante :

A – B

où :

A représente la somme positive ou négative obtenue par la formule ci-après, avant la prise en compte des conséquences fiscales futures déterminées pour l'année donnée :

C + D + E + F – G

où :

C représente le compte de revenu à taux général de la société à la fin de son année d'imposition précédente;

D le produit de la multiplication du facteur du taux général applicable à la société pour l'année donnée par son revenu imposable rajusté pour cette année;

E le total des sommes représentant chacune :

a) un dividende déterminé reçu par la société au cours de l'année donnée;

b) une somme déductible en application de l'article 113 dans le calcul du revenu imposable de la société pour l'année donnée;

F le total des sommes déterminées selon les paragraphes (4) à (6) relativement à la société pour l'année donnée;

G :

a) sauf en cas d'application de l'alinéa b), l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune le montant d'un dividende déterminé versé par la société au cours de son année d'imposition précédente,

(ii) le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé effectuée par la société au cours de son année d'imposition précédente;

b) si le paragraphe (4) s'applique à la société au cours de l'année donnée, zéro;

B la somme obtenue par la formule suivante :

H × (I – J)

où :

H représente le facteur du taux général applicable à la société pour l'année donnée;

of days in the taxation year; (*facteur du taux général*)

general rate income pool at the end of a particular taxation year, of a taxable Canadian corporation that is a Canadian-controlled private corporation or a deposit insurance corporation in the particular taxation year, is the positive or negative amount determined by the formula

A – B

where

A is the positive or negative amount that would, before taking into consideration the specified future tax consequences for the particular taxation year, be determined by the formula

C + D + E + F – G

where

C is the corporation's general rate income pool at the end of its preceding taxation year,

D is the amount, if any, that is the product of the corporation's general rate factor for the particular taxation year multiplied by its adjusted taxable income for the particular taxation year,

E is the total of all amounts each of which is

(a) an eligible dividend received by the corporation in the particular taxation year, or

(b) an amount deductible under section 113 in computing the taxable income of the corporation for the particular taxation year,

F is the total of all amounts determined under subsections (4) to (6) in respect of the corporation for the particular taxation year, and

G is

(a) unless paragraph (b) applies, the amount, if any, by which

(i) the total of all amounts each of which is the amount of an eligible dividend paid by the corporation in its preceding taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the corporation in its preceding taxation year, or

(b) if subsection (4) applies to the corporation in the particular taxation year, nil, and

B is the amount determined by the formula

H × (I – J)

I le total des revenus imposables au taux complet (au sens de la définition de ***revenu imposable au taux complet*** au paragraphe 123.4(1), mais compte non tenu de ses sous-alinéas a)(i) à (iii)) de la société pour ses trois années d'imposition précédentes, calculé avant la prise en compte des conséquences fiscales futures déterminées, pour ces années, qui se présentent relativement à l'année donnée;

J le total des revenus imposables au taux complet (au sens de la définition de ***revenu imposable au taux complet*** au paragraphe 123.4(1), mais compte non tenu de ses sous-alinéas a)(i) à (iii)), de la société pour ces années précédentes. (*general rate income pool*)

compte de revenu à taux réduit Le compte de revenu à taux réduit, à un moment donné d'une année d'imposition donnée, d'une société donnée résidant au Canada qui n'est ni une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts au cours de l'année correspond à la somme obtenue par la formule suivante :

(A + B + C + D + E + F) - (G + H)

où :

A représente le compte de revenu à taux réduit de la société donnée à la fin de son année d'imposition précédente;

B le total des sommes représentant chacune une somme déductible en application de l'article 112 dans le calcul du revenu imposable de la société donnée pour l'année au titre d'un dividende imposable (sauf un dividende déterminé) qui est devenu payable, au cours de l'année donnée mais avant le moment donné, à cette société par une société résidant au Canada;

C le total des sommes déterminées selon les paragraphes (8) à (10) relativement à la société donnée pour l'année donnée;

D :

a) dans le cas où la société donnée serait, en l'absence de l'alinéa d) de la définition de ***société privée sous contrôle canadien*** au paragraphe 125(7), une société privée sous contrôle canadien au cours de son année d'imposition précédente, 80 % de son revenu de placement total pour cette année,

b) dans les autres cas, zéro;

E :

a) si la société donnée n'était pas une société privée sous contrôle canadien au cours de son année

where

H is the corporation's general rate factor for the particular taxation year,

I is the total of the corporation's full rate taxable incomes (as would be defined in the definition ***full rate taxable income*** in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) to (iii)) for the corporation's preceding three taxation years, determined without taking into consideration the specified future tax consequences, for those preceding taxation years, that arise in respect of the particular taxation year, and

J is the total of the corporation's full rate taxable incomes (as would be defined in the definition ***full rate taxable income*** in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) to (iii)) for those preceding taxation years; (*compte de revenu à taux général*)

low rate income pool, at any particular time in a particular taxation year, of a corporation (in this definition referred to as the "non-CCPC") that is resident in Canada and is in the particular taxation year neither a Canadian-controlled private corporation nor a deposit insurance corporation, is the amount determined by the formula

(A + B + C + D + E + F) - (G + H)

where

A is the non-CCPC's low rate income pool at the end of its preceding taxation year,

B is the total of all amounts each of which is an amount deductible under section 112 in computing the non-CCPC's taxable income for the year in respect of a taxable dividend (other than an eligible dividend) that became payable, in the particular taxation year but before the particular time, to the non-CCPC by a corporation resident in Canada,

C is the total of all amounts determined under subsections (8) to (10) in respect of the non-CCPC for the particular taxation year,

D is

(a) if the non-CCPC would, but for paragraph (d) of the definition ***Canadian-controlled private corporation*** in subsection 125(7), be a Canadian-controlled private corporation in its preceding taxation year, 80% of its aggregate investment income for its preceding taxation year, and

(b) in any other case, nil,

d'imposition précédente, 80 % du produit de la multiplication de la somme qu'elle a déduite en application du paragraphe 125(1) pour cette année par le quotient de 100 par le taux de la déduction prévue à ce paragraphe pour cette même année,

b) dans les autres cas, zéro;

F :

a) si la société donnée était une société de placement au cours de son année d'imposition précédente, quatre fois la somme qu'elle a déduite en application du paragraphe 130(1) pour cette année,

b) dans les autres cas, zéro;

G le total des sommes représentant chacune un dividende imposable (sauf un dividende déterminé, un dividende sur les gains en capital au sens des paragraphes 130.1(4) ou 131(1) et un dividende imposable déductible par la société donnée en application du paragraphe 130.1(1) dans le calcul de son revenu pour l'année donnée ou pour son année d'imposition précédente) qui est devenu payable, au cours de l'année donnée mais avant le moment donné, par la société donnée;

H le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé effectuée par la société donnée au cours de l'année donnée mais avant le moment donné. (*low rate income pool*)

désignation excessive de dividende déterminé Est une désignation excessive de dividende déterminé effectuée par une société relativement à un dividende déterminé qu'elle a versé à un moment donné d'une année d'imposition :

a) sauf dans le cas où l'alinéa c) s'applique au dividende, si la société est, au cours de l'année, une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts, la somme obtenue par la formule suivante :

(A - B) × C/A

où :

A représente le total des sommes représentant chacune le montant de tout dividende déterminé versé par la société au cours de l'année,

B zéro ou, s'il est plus élevé, le compte de revenu à taux général de la société à la fin de l'année,

C le montant du dividende déterminé;

E is

(a) if the non-CCPC was not a Canadian-controlled private corporation in its preceding taxation year, 80% of the amount determined by multiplying the amount, if any, deducted by the corporation under subsection 125(1) for that preceding taxation year by the quotient obtained by dividing 100 by the rate of the deduction provided under that subsection for that preceding taxation year, and

(b) in any other case, nil,

F is

(a) if the non-CCPC was an investment corporation in its preceding taxation year, four times the amount, if any, deducted by it under subsection 130(1) for its preceding taxation year, and

(b) in any other case, nil,

G is the total of all amounts each of which is a taxable dividend (other than an eligible dividend, a capital gains dividend within the meaning assigned by subsection 130.1(4) or 131(1) or a taxable dividend deductible by the non-CCPC under subsection 130.1(1) in computing its income for the particular taxation year or for its preceding taxation year) that became payable, in the particular taxation year but before the particular time, by the non-CCPC, and

H is the total of all amounts each of which is an excessive eligible dividend designation made by the non-CCPC in the particular taxation year but before the particular time; (*compte de revenu à taux réduit*)

paid-up capital at any particular time means,

(a) in respect of a share of any class of the capital stock of a corporation, an amount equal to the paid-up capital at that time, in respect of the class of shares of the capital stock of the corporation to which that share belongs, divided by the number of issued shares of that class outstanding at that time,

(b) in respect of a class of shares of the capital stock of a corporation,

(i) where the particular time is before May 7, 1974, an amount equal to the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act,

(ii) where the particular time is after May 6, 1974, and before April 1, 1977, an amount equal to the paid-up capital in respect of that class of shares at the particular time, computed in accordance with the *Income Tax Act*, chapter 148 of the Revised

b) sauf dans le cas où l'alinéa c) s'applique au dividende, si la société n'est pas visée à l'alinéa a), la somme obtenue par la formule suivante :

A × B/C

où :

A représente la moins élevée des sommes suivantes :

(i) le total des sommes représentant chacune un dividende déterminé versé par la société au moment donné,

(ii) le compte de revenu à taux réduit de la société à ce moment,

B le montant du dividende déterminé,

C la somme déterminée selon le sous-alinéa (i) de l'élément A;

c) une somme égale au montant du dividende déterminé, s'il est raisonnable de considérer que celui-ci a été versé dans le cadre d'une opération, ou d'une série d'opérations, dont l'un des principaux objets consistait à maintenir ou à augmenter artificiellement le compte de revenu à taux général de la société ou à maintenir ou à diminuer artificiellement son compte de revenu à taux réduit. (*excessive eligible dividend designation*)

dividende déterminé

a) La somme qui correspond à la partie d'un dividende imposable qui est, à la fois, reçue par une personne résidant au Canada, versée par une société résidant au Canada et désignée à titre de dividende déterminé conformément au paragraphe (14);

b) en ce qui concerne une personne résidant au Canada, toute somme qui est réputée, en vertu des paragraphes 96(1.11) ou 104(16), être un dividende imposable reçu par la personne. (*eligible dividend*)

dividende imposable Dividende autre :

a) qu'un dividende relativement auquel la société qui le verse a fait soit le choix prévu au paragraphe 83(1) dans sa version antérieure à 1979, soit le choix prévu au paragraphe 83(2);

b) qu'un dividende admissible versé par une société publique aux actionnaires d'une catégorie prescrite d'actions privilégiées à impôt différé de la société, au sens du paragraphe 83(1). (*taxable dividend*)

facteur du taux général Le facteur du taux général applicable à une société pour une année d'imposition correspond au total des sommes suivantes :

Statutes of Canada, 1952, as it read on March 31, 1977, and

(iii) if the particular time is after March 31, 1977, an amount equal to the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act except subsections 51(3) and 66.3(2) and (4), sections 84.1 and 84.2, subsections 85(2.1), 85.1(2.1) and (8), 86(2.1), 87(3) and (9), paragraph 128.1(1)(c.3), subsections 128.1(2) and (3), section 135.2, subsections 138(11.7), 139.1(6) and (7), 148(7), 192(4.1) and 194(4.1) and sections 212.1 and 212.3,

except that, where the corporation is a cooperative corporation (within the meaning assigned by subsection 136(2)) or a credit union and the statute by or under which it was incorporated does not provide for paid-up capital in respect of a class of shares, the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act, shall be deemed to be the amount, if any, by which

(iv) the total of the amounts received by the corporation in respect of shares of that class issued and outstanding at that time

exceeds

(v) the total of all amounts each of which is an amount or part thereof described in subparagraph (iv) repaid by the corporation to persons who held any of the issued shares of that class before that time, and

(c) in respect of all the shares of the capital stock of a corporation, an amount equal to the total of all amounts each of which is an amount equal to the paid-up capital in respect of any class of shares of the capital stock of the corporation at the particular time; (*capital versé*)

private corporation at any particular time means a corporation that, at the particular time, is resident in Canada, is not a public corporation and is not controlled by one or more public corporations (other than prescribed venture capital corporations) or prescribed federal Crown corporations or by any combination thereof and, for greater certainty, for the purposes of determining at any particular time when a corporation last became a private corporation,

(a) a corporation that was a private corporation at the commencement of its 1972 taxation year and thereafter without interruption until the particular time

a) la proportion de 0,68 que représente le nombre de jours de l'année d'imposition qui sont antérieurs à 2010 par rapport au nombre total de jours de l'année d'imposition;

b) la proportion de 0,69 que représente le nombre de jours de l'année d'imposition qui sont en 2010 par rapport au nombre total de jours de l'année d'imposition;

c) la proportion de 0,70 que représente le nombre de jours de l'année d'imposition qui sont en 2011 par rapport au nombre total de jours de l'année d'imposition;

d) la proportion de 0,72 que représente le nombre de jours de l'année d'imposition qui sont postérieurs à 2011 par rapport au nombre total de jours de l'année d'imposition. (*general rate factor*)

revenu imposable rajusté Le revenu imposable rajusté d'une société pour une année d'imposition correspond à la somme obtenue par la formule suivante :

A – B – C

où :

A représente :

a) sauf en cas d'application de l'alinéa b), le revenu imposable de la société pour l'année;

b) si la société est une compagnie d'assurance-dépôts au cours de l'année, zéro;

B le produit de la multiplication de la somme déduite par la société pour l'année en application du paragraphe 125(1) par le quotient de 100 par le taux de la déduction prévue par ce paragraphe pour l'année;

C :

a) si la société est une société privée sous contrôle canadien au cours de l'année, son revenu de placement total pour l'année ou, s'il est moins élevé, son revenu imposable pour l'année;

b) sinon, zéro. (*adjusted taxable income*)

société canadienne À un moment donné, société qui réside au Canada et qui :

a) soit a été constituée au Canada;

b) soit a résidé au Canada tout au long de la période qui a commencé le 18 juin 1971 et se termine à ce moment.

Il est entendu que la société issue, à un moment quelconque, de la fusion ou de l'unification de plusieurs sociétés, ou de la mise sur pied d'un arrangement ou autre réorganisation les concernant (autrement que par suite

shall be deemed to have last become a private corporation at the end of its 1971 taxation year, and

(b) a corporation incorporated after 1971 that was a private corporation at the time of its incorporation and thereafter without interruption until the particular time shall be deemed to have last become a private corporation immediately before the time of its incorporation; (*société privée*)

public corporation at any particular time means

(a) a corporation that is resident in Canada at the particular time if at that time a class of shares of the capital stock of the corporation is listed on a designated stock exchange in Canada,

(b) a corporation (other than a prescribed labour-sponsored venture capital corporation) that is resident in Canada at the particular time if at any time after June 18, 1971 and

(i) before the particular time, it elected in prescribed manner to be a public corporation, and at the time of the election it complied with prescribed conditions relating to the number of its shareholders, the dispersal of ownership of its shares and the public trading of its shares, or

(ii) before the day that is 30 days before the day that includes the particular time it was, by notice in writing to the corporation, designated by the Minister to be a public corporation and at the time it was so designated it complied with the conditions referred to in subparagraph (i),

unless after the election or designation, as the case may be, was made and before the particular time, it ceased to be a public corporation because of an election or designation under paragraph (c), or

(c) a corporation (other than a prescribed labour-sponsored venture capital corporation) that is resident in Canada at the particular time if, at any time after June 18, 1971 and before the particular time it was a public corporation, unless after the time it last became a public corporation and

(i) before the particular time, it elected in prescribed manner not to be a public corporation, and at the time it so elected it complied with prescribed conditions relating to the number of its shareholders, the dispersal of ownership of its shares and the public trading of its shares, or

(ii) before the day that is 30 days before the day that includes the particular time, it was, by notice

de l'acquisition des biens d'une société par une autre soit par achat, soit par la distribution de biens à l'occasion d'une liquidation), n'est une société canadienne par l'effet de l'alinéa a) que si :

c) d'une part, la réorganisation a été effectuée en conformité avec les lois fédérales ou celles d'une province;

d) d'autre part, chacune des sociétés était une société canadienne immédiatement avant le moment quelconque. (*Canadian corporation*)

société canadienne imposable Société qui, au moment où l'expression est pertinente :

a) d'une part, était une société canadienne;

b) d'autre part, n'était pas, en vertu d'une disposition législative, sauf l'alinéa 149(1)t), exonérée de l'impôt prévu à la présente partie. (*taxable Canadian corporation*)

société privée À un moment donné, société qui, à ce moment, réside au Canada, n'est pas une société publique et n'est pas contrôlée par une ou plusieurs sociétés publiques (sauf des sociétés à capital de risque visées par règlement) ou sociétés d'État prévues par règlement, ou par l'une et l'autre de celles-ci; il est entendu que, pour ce qui est de déterminer, à un moment donné, le moment où une société est devenue une société privée pour la dernière fois :

a) une société qui était une société privée au début de son année d'imposition 1972 et qui l'a été sans interruption par la suite jusqu'au moment donné est réputée être devenue une société privée pour la dernière fois à la fin de son année d'imposition 1971;

b) une société constituée postérieurement à 1971 et qui était une société privée au moment de sa constitution et qui l'a été sans interruption par la suite jusqu'au moment donné est réputée être devenue une société privée pour la dernière fois immédiatement avant le moment de sa constitution. (*private corporation*)

société publique Est une société publique à un moment donné :

a) la société qui réside au Canada au moment donné et dont une catégorie d'actions du capital-actions est cotée, à ce moment, à une bourse de valeurs désignée située au Canada;

b) la société, sauf une société à capital de risque de travailleurs visée par règlement, qui réside au Canada

in writing to the corporation, designated by the Minister not to be a public corporation and at the time it was so designated it complied with the conditions referred to in subparagraph (i),

and where a corporation has, on or before its filing-due date for its first taxation year, become a public corporation, it is, if it so elects in its return of income for the year, deemed to have been a public corporation from the beginning of the year until the time when it so became a public corporation; (*société publique*)

taxable Canadian corporation means a corporation that, at the time the expression is relevant,

(a) was a Canadian corporation, and

(b) was not, by reason of a statutory provision other than paragraph 149(1)(t), exempt from tax under this Part; (*société canadienne imposable*)

taxable dividend means a dividend other than

(a) a dividend in respect of which the corporation paying the dividend has elected in accordance with subsection 83(1) as it read prior to 1979 or in accordance with subsection 83(2), and

(b) a qualifying dividend paid by a public corporation to shareholders of a prescribed class of tax-deferred preferred shares of the corporation within the meaning of subsection 83(1). (*dividende imposable*)

au moment donné et qui, après le 18 juin 1971 et avant le moment donné, remplit la condition énoncée au sous-alinéa (i) ou qui, après cette date et avant le trentième jour précédant le jour comprenant le moment donné, remplit la condition énoncée au sous-alinéa (ii):

(i) elle a choisi, selon les modalités réglementaires, d'être une société publique et, au moment de ce choix, remplissait les conditions réglementaires concernant le nombre de ses actionnaires, la répartition de la propriété de ses actions et le commerce public de celles-ci,

(ii) elle a été désignée par le ministre, par avis écrit adressé à son intention, comme étant une société publique et remplissait, au moment de cette désignation, les conditions mentionnées au sous-alinéa (i);

n'est pas une société publique aux termes du présent alinéa la société qui, après le choix ou la désignation, selon le cas, et avant le moment donné, a cessé d'être une société publique par l'effet du choix ou de la désignation prévu à l'alinéa c);

c) une société, sauf une société à capital de risque de travailleurs visée par règlement, qui réside au Canada au moment donné et qui était une société publique après le 18 juin 1971 et avant le moment donné; n'est pas une société publique aux termes du présent alinéa, la société qui, après qu'elle est devenue la dernière fois une société publique et avant le moment donné, remplit la condition énoncée au sous-alinéa (i) ou qui, après qu'elle est devenue la dernière fois une société publique et avant le trentième jour précédant le jour comprenant le moment donné, remplit la condition énoncée au sous-alinéa (ii):

(i) elle a choisi, selon les modalités réglementaires, de ne pas être une société publique et, au moment de ce choix, remplissait les conditions réglementaires concernant le nombre de ses actionnaires, la répartition de la propriété de ses actions et le commerce public de celles-ci,

(ii) elle a été désignée par le ministre, par avis écrit adressé à son intention, comme n'étant pas une société publique et, au moment de cette désignation, remplissait les conditions mentionnées au sous-alinéa (i).

Par ailleurs, la société qui est devenue une société publique à la date d'échéance de production qui lui est applicable pour sa première année d'imposition, ou antérieurement, est réputée, si elle en fait le choix dans sa déclaration de revenu produite pour l'année, avoir été

une société publique depuis le début de cette année jusqu'au moment où elle est ainsi devenue une société publique. (*public corporation*)

Application of s. 138(12)

(1.01) The definitions in subsection 138(12) apply to this section.

Application du par. 138(12)

(1.01) Les définitions figurant au paragraphe 138(12) s'appliquent au présent article.

Capital dividend account where control acquired

(1.1) Where at any particular time after March 31, 1977 a corporation that was, at a previous time, a private corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons becomes a Canadian-controlled private corporation (otherwise than by reason of a change in the residence of one or more of its shareholders), in computing the corporation's capital dividend account at and after the particular time there shall be deducted the amount of the corporation's capital dividend account immediately before the particular time.

Compte de dividendes en capital d'une société privée contrôlée

(1.1) Lorsque, à un moment donné postérieur au 31 mars 1977, une société qui était, à un moment antérieur, une société privée contrôlée, directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes non-résidentes devient une société privée sous contrôle canadien — autrement qu'à cause d'un changement de résidence d'un ou de plusieurs de ses actionnaires —, le montant de son compte de dividendes en capital immédiatement avant le moment donné doit être déduit dans le calcul de son compte de dividendes en capital au moment donné et après ce moment.

Capital dividend account of tax-exempt corporation

(1.2) Where at any particular time after November 26, 1987 a corporation ceases to be exempt from tax under this Part on its taxable income, in computing the corporation's capital dividend account at and after the particular time there shall be deducted the amount of the corporation's capital dividend account (computed without reference to this subsection) immediately after the particular time.

Compte de dividendes en capital d'une société cessant d'être exonérée d'impôt

(1.2) Lorsque, à un moment donné postérieur au 26 novembre 1987, une société cesse d'être exonérée de l'impôt prévu à la présente partie sur son revenu imposable, le montant de son compte de dividendes en capital immédiatement après le moment donné — calculé compte non tenu de présent paragraphe — doit être déduit dans le calcul de son compte de dividendes en capital au moment donné et après ce moment.

Where corporation is beneficiary

(2) For the purposes of this section,

(a) where a corporation was a beneficiary under a life insurance policy on June 28, 1982, it shall be deemed not to have been a beneficiary under such a policy on or before June 28, 1982 where at any time after December 1, 1982 a prescribed premium has been paid under the policy or there has been a prescribed increase in any benefit on death under the policy; and

(b) where a corporation becomes a beneficiary under a life insurance policy by virtue of an amalgamation or a winding-up to which subsection 87(1) or 88(1) applies, it shall be deemed to have been a beneficiary under the policy throughout the period during which its predecessor or subsidiary, as the case may be, was a beneficiary under the policy.

Cas où une société est un bénéficiaire

(2) Pour l'application du présent article :

a) lorsqu'une société était un bénéficiaire en vertu d'une police d'assurance-vie le 28 juin 1982, elle est réputée ne pas avoir été un bénéficiaire en vertu d'une telle police au plus tard le 28 juin 1982 si, à un moment donné après le 1er décembre 1982, une prime prévue par règlement a été payée en vertu de la police ou s'il y a eu une augmentation prévue par règlement de toute prestation de décès en vertu de la police;

b) lorsqu'une société devient un bénéficiaire en vertu d'une police d'assurance-vie, suite à une fusion ou une liquidation à laquelle s'applique le paragraphe 87(1) ou 88(1), elle est réputée avoir été un bénéficiaire en vertu de la police tout au long de la période au cours de laquelle la société qu'elle remplaçait ou sa filiale, selon le cas, était un bénéficiaire en vertu de la police.

Simultaneous dividends

(3) Where a dividend becomes payable at the same time on more than one class of shares of the capital stock of a corporation, for the purposes of sections 83, 84 and 88, the dividend on any such class of shares shall be deemed to become payable at a different time than the dividend on the other class or classes of shares and to become payable in the order designated

(a) by the corporation on or before the day on or before which its return of income for its taxation year in which such dividends become payable is required to be filed; or

(b) in any other case, by the Minister.

GRIP addition — becoming CCPC

(4) If, in a particular taxation year, a corporation is a Canadian-controlled private corporation or a deposit insurance corporation but was, in its preceding taxation year, a corporation resident in Canada other than a Canadian-controlled private corporation or a deposit insurance corporation, there may be included in computing the corporation's general rate income pool at the end of the particular taxation year, the amount determined by the formula

A + B + C - D - E - F - G - H

where

A is the total of all amounts each of which is the cost amount to the corporation of a property immediately before the end of its preceding taxation year;

B is the amount of any money of the corporation on hand immediately before the end of its preceding taxation year;

C is the amount, if any, by which

(a) the total of all amounts that, if the corporation had had unlimited income for its preceding taxation year from each business carried on, and from each property held, by it in that preceding taxation year and had realized an unlimited amount of capital gains for that preceding taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that preceding taxation year

exceeds

(b) the total of all amounts deducted under subsection 111(1) in computing the corporation's taxable income for that preceding taxation year;

D is the total of all amounts each of which is the amount of any debt owing by the corporation, or of

Dividendes simultanés

(3) Lorsqu'un dividende devient payable en même temps sur plus d'une catégorie d'actions du capital-actions d'une société, pour l'application des articles 83, 84 et 88, le dividende relatif à l'une quelconque de ces catégories d'actions est réputé ne pas devenir payable au même moment que le dividende relatif à l'autre ou aux autres catégories d'actions et devenir payable dans l'ordre indiqué :

a) par la société, au plus tard le jour où elle est tenue de produire sa déclaration de revenu pour son année d'imposition au cours de laquelle de tels dividendes deviennent payables;

b) par le ministre, dans les autres cas.

Majoration du compte de revenu à taux général — société devenue SPCC

(4) La société qui est une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts au cours d'une année d'imposition donnée et qui, au cours de son année d'imposition précédente, résidait au Canada mais n'était pas une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts, peut inclure dans le calcul de son compte de revenu à taux général à la fin de l'année donnée la somme obtenue par la formule suivante :

A + B + C - D - E - F - G - H

où :

A représente le total des sommes représentant chacune le coût indiqué d'un bien pour la société immédiatement avant la fin de son année d'imposition précédente;

B toute somme d'argent que la société avait en mains immédiatement avant la fin de son année d'imposition précédente,

C l'excédent éventuel de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total des sommes qui auraient été déductibles en application du paragraphe 111(1) dans le calcul du revenu imposable de la société pour son année d'imposition précédente si elle avait eu, pour cette année, un revenu illimité provenant de chaque entreprise qu'elle exploitait, et de chaque bien qu'elle détenait, au cours de cette même année et avait réalisé, pour cette année, un montant illimité de gains en capital,

b) le total des sommes déduites en application du paragraphe 111(1) dans le calcul du revenu imposable de la société pour cette année d'imposition précédente;

any other obligation of the corporation to pay any amount, that was outstanding immediately before the end of its preceding taxation year;

E is the paid up capital, immediately before the end of its preceding taxation year, of all of the issued and outstanding shares of the capital stock of the corporation;

F is the total of all amounts each of which is a reserve deducted in computing the corporation's income for its preceding taxation year;

G is the corporation's capital dividend account, if any, immediately before the end of its preceding taxation year; and

H is the corporation's low rate income pool immediately before the end of its preceding taxation year.

D le total des sommes représentant chacune le montant de toute dette de la société, ou autre obligation de la société de payer une somme, qui était impayée immédiatement avant la fin de son année d'imposition précédente;

E le capital versé, immédiatement avant la fin de l'année d'imposition précédente de la société, au titre de l'ensemble des actions émises et en circulation de son capital-actions;

F le total des sommes représentant chacune une provision déduite dans le calcul du revenu de la société pour son année d'imposition précédente;

G le compte de dividendes en capital, s'il y a lieu, de la société immédiatement avant la fin de son année d'imposition précédente;

H le compte de revenu à taux réduit de la société immédiatement avant la fin de son année d'imposition précédente.

GRIP addition — post-amalgamation

(5) If a Canadian-controlled private corporation or a deposit insurance corporation (in this subsection referred to as the "new corporation") is formed as a result of an amalgamation (within the meaning assigned by subsection 87(1)), there shall be included in computing the new corporation's general rate income pool at the end of its first taxation year the total of all amounts each of which is

(a) in respect of a predecessor corporation that was, in its taxation year that ended immediately before the amalgamation (in this paragraph referred to as its "last taxation year"), a Canadian-controlled private corporation or a deposit insurance corporation, the positive or negative amount determined in respect of the predecessor corporation by the formula

A - B

where

A is the predecessor corporation's general rate income pool at the end of its last taxation year, and

B is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the predecessor corporation in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the predecessor corporation in its last taxation year; or

Compte de revenu à taux général — société fusionnée

(5) La société privée sous contrôle canadien ou la compagnie d'assurance-dépôts (appelées « nouvelle société » au présent paragraphe) issue d'une fusion, au sens du paragraphe 87(1), est tenue d'inclure dans le calcul de son compte de revenu à taux général à la fin de sa première année d'imposition le total des sommes représentant chacune :

a) en ce qui concerne une société remplacée qui était une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts au cours de son année d'imposition ayant pris fin immédiatement avant la fusion (appelée « dernière année d'imposition » au présent alinéa), la somme positive ou négative déterminée à l'égard de la société remplacée selon la formule suivante :

A - B

où :

A représente le compte de revenu à taux général de la société remplacée à la fin de sa dernière année d'imposition,

B l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune un dividende déterminé versé par la société remplacée au cours de sa dernière année d'imposition,

(ii) le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé qu'elle a effectuée au cours de cette même année;

(b) in respect of a predecessor corporation (in this paragraph referred to as the "non-CCPC predecessor") that was, in its taxation year that ended immediately before the amalgamation (in this paragraph referred to as its "last taxation year"), not a Canadian-controlled private corporation or a deposit insurance corporation, the amount determined by the formula

A + B + C - D - E - F - G - H

where

A is the total of all amounts each of which is the cost amount to the non-CCPC predecessor of a property immediately before the end of its last taxation year,

B is the amount of any money of the non-CCPC predecessor on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the non-CCPC predecessor had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the non-CCPC predecessor's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the non-CCPC predecessor, or of any other obligation of the non-CCPC predecessor to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the non-CCPC predecessor,

F is the total of all amounts each of which is a reserve deducted in computing the non-CCPC predecessor's income for its last taxation year,

G is the non-CCPC predecessor's capital dividend account, if any, immediately before the end of its last taxation year, and

b) en ce qui concerne une société remplacée qui, au cours de son année d'imposition ayant pris fin immédiatement avant la fusion (appelée « dernière année d'imposition » au présent alinéa), n'était pas une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts, la somme obtenue par la formule suivante :

A + B + C - D - E - F - G - H

où :

A représente le total des sommes représentant chacune le coût indiqué d'un bien pour la société remplacée immédiatement avant la fin de sa dernière année d'imposition,

B toute somme d'argent que la société remplacée avait en mains immédiatement avant la fin de sa dernière année d'imposition,

C l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes qui auraient été déductibles en application du paragraphe 111(1) dans le calcul du revenu imposable de la société remplacée pour sa dernière année d'imposition si elle avait eu, pour cette année, un revenu illimité provenant de chaque entreprise qu'elle exploitait, et de chaque bien qu'elle détenait, au cours de cette même année et avait réalisé, pour cette année, un montant illimité de gains en capital,

(ii) le total des sommes déduites en application du paragraphe 111(1) dans le calcul du revenu imposable de la société remplacée pour sa dernière année d'imposition;

D le total des sommes représentant chacune le montant de toute dette de la société remplacée, ou autre obligation de la société remplacée de payer une somme, qui était impayée immédiatement avant la fin de sa dernière année d'imposition;

E le capital versé, immédiatement avant la fin de la dernière année d'imposition de la société remplacée, de l'ensemble des actions émises et en circulation de son capital-actions;

F le total des sommes représentant chacune une provision déduite dans le calcul du revenu de la société remplacée pour sa dernière année d'imposition;

G le compte de dividendes en capital, s'il y a lieu, de la société remplacée immédiatement avant la fin de sa dernière année d'imposition;

H is the non-CCPC predecessor's low rate income pool immediately before the end of its last taxation year.

H le compte de revenu à taux réduit de la société remplacée immédiatement avant la fin de sa dernière année d'imposition.

GRIP addition — post-winding-up

(6) If subsection 88(1) applies to the winding-up of a subsidiary into a parent (within the meanings assigned by that subsection) that is a Canadian-controlled private corporation or a deposit insurance corporation, there shall be included in computing the parent's general rate income pool at the end of its taxation year that immediately follows the taxation year during which it receives the assets of the subsidiary on the winding-up

(a) if the subsidiary was, in its taxation year during which its assets were distributed to the parent on the winding-up (in this paragraph referred to as its "last taxation year"), a Canadian-controlled private corporation or a deposit insurance corporation, the positive or negative amount determined by the formula

A - B

where

A is the subsidiary's general rate income pool at the end of its last taxation year, and

B is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the subsidiary in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the subsidiary in its last taxation year; and

(b) in any other case, the amount determined by the formula

A + B + C - D - E - F - G - H

where

A is the total of all amounts each of which is the cost amount to the subsidiary of a property immediately before the end of its taxation year during which its assets were distributed to the parent on the winding-up (in this paragraph referred to as its "last taxation year"),

B is the amount of any money of the subsidiary on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the subsidiary had had unlimited income for its last

Compte de revenu à taux général — société liquidée

(6) En cas d'application du paragraphe 88(1) à la liquidation de la filiale d'une société mère (« filiale » et « société mère » s'entendant au sens de ce paragraphe) qui est une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts, est à inclure dans le calcul du compte de revenu à taux général de la société mère à la fin de son année d'imposition suivant l'année d'imposition au cours de laquelle elle reçoit les biens de la filiale par suite de la liquidation celle des sommes ci-après qui est applicable :

a) si la filiale était une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts au cours de son année d'imposition où la société mère reçoit les biens de la filiale par suite de la liquidation (appelée « dernière année d'imposition » au présent alinéa), la somme positive ou négative obtenue par la formule suivante :

A - B

où :

A représente le compte de revenu à taux général de la filiale à la fin de sa dernière année d'imposition,

B l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune un dividende déterminé versé par la filiale au cours de sa dernière année d'imposition,

(ii) le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé effectuée par la filiale au cours de cette même année;

b) sinon, la somme obtenue par la formule suivante :

A + B + C - D - E - F - G - H

où :

A représente le total des sommes représentant chacune le coût indiqué d'un bien pour la filiale immédiatement avant la fin de son année d'imposition au cours de laquelle la société mère reçoit les biens de la filiale par suite de la liquidation (appelée « dernière année d'imposition » au présent alinéa),

B toute somme d'argent que la filiale avait en mains immédiatement avant la fin de sa dernière année d'imposition,

taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the subsidiary's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the subsidiary,

F is the total of all amounts each of which is a reserve deducted in computing the subsidiary's income for its last taxation year,

G is the subsidiary's capital dividend account, if any, immediately before the end of its last taxation year, and

H is the subsidiary's low rate income pool immediately before the end of its last taxation year.

C l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes qui auraient été déductibles en application du paragraphe 111(1) dans le calcul du revenu imposable de la filiale pour sa dernière année d'imposition si elle avait eu, pour cette année, un revenu illimité provenant de chaque entreprise qu'elle exploitait, et de chaque bien qu'elle détenait, au cours de cette même année et avait réalisé, pour cette année, un montant illimité de gains en capital,

(ii) le total des sommes déduites en application du paragraphe 111(1) dans le calcul du revenu imposable de la filiale pour sa dernière année d'imposition,

D le total des sommes représentant chacune le montant de toute dette de la filiale, ou autre obligation de la filiale de payer une somme, qui était impayée immédiatement avant la fin de sa dernière année d'imposition,

E le capital versé, immédiatement avant la fin de la dernière année d'imposition de la filiale, au titre de l'ensemble des actions émises et en circulation de son capital-actions,

F le total des sommes représentant chacune une provision déduite dans le calcul du revenu de la filiale pour sa dernière année d'imposition,

G le compte de dividendes en capital, s'il y a lieu, de la filiale immédiatement avant la fin de sa dernière année d'imposition,

H le compte de revenu à taux réduit de la filiale immédiatement avant la fin de sa dernière année d'imposition.

GRIP addition for 2006

(7) If a corporation was (or, but for an election under subsection (11), would have been), throughout its first taxation year that includes any part of January 1, 2006, a Canadian-controlled private corporation, its general rate income pool at the end of its immediately preceding taxation year is deemed to be the greater of nil and the amount determined by the formula

A - B

where

A is the total of

(a) 63% of the total of all amounts each of which is the corporation's full rate taxable income (as defined in subsection 123.4(1)), for a taxation year of the corporation that ended after 2000 and

Majoration du compte de revenu à taux général — 2006

(7) Dans le cas où une société a été une société privée sous contrôle canadien, ou aurait été une telle société en l'absence du choix prévu au paragraphe (11), tout au long de sa première année d'imposition comprenant une partie quelconque du 1er janvier 2006, son compte de revenu à taux général à la fin de son année d'imposition précédente correspond à zéro ou, si elle est plus élevée, à la somme obtenue par la formule suivante :

A - B

où :

A représente le total des sommes suivantes :

a) 63 % du total des sommes représentant chacune son revenu imposable au taux complet, au sens du paragraphe 123.4(1), pour une de ses

before 2004, determined before taking into consideration the specified future tax consequences for that taxation year,

(b) 63% of the total of all amounts each of which is the corporation's full rate taxable income (as would be defined in subsection 123.4(1), if that definition were read without reference to its subparagraphs (a)(i) and (ii)), for a taxation year of the corporation that ended after 2003 and before 2006, determined before taking into consideration the specified future tax consequences for that taxation year, and

(c) all amounts each of which was deductible under subsection 112(1) in computing the corporation's taxable income for a taxation year of the corporation (in this paragraph referred to as the "particular corporation") that ended after 2000 and before 2006, and is in respect of a dividend received from a corporation (in this paragraph referred to as the "payer corporation") that was, at the time it paid the dividend, connected (within the meaning assigned by subsection 186(4)) with the particular corporation, to the extent that it is reasonable to consider, having regard to all the circumstances (including but not limited to other shareholders having received dividends from the payer corporation), that the dividend was attributable to an amount that is, or if this subsection applied to the payer corporation would be, described in this paragraph or in paragraph (a) or (b) in respect of the payer corporation; and

B is the total of all amounts each of which is a taxable dividend paid by the corporation in those taxation years.

années d'imposition s'étant terminée après 2000 et avant 2004, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année d'imposition,

b) 63 % du total des sommes représentant chacune son revenu imposable au taux complet, au sens du paragraphe 123.4(1), mais compte non tenu des sous-alinéas a)(i) et (ii) de cette définition, pour une de ses années d'imposition s'étant terminée après 2003 et avant 2006, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année d'imposition,

c) le total des sommes dont chacune était déductible en application du paragraphe 112(1) dans le calcul de son revenu imposable pour une de ses années d'imposition s'étant terminée après 2000 et avant 2006 et se rapporte à un dividende qu'elle a reçu d'une société (appelée « société payeuse » au présent alinéa) qui lui était rattachée (au sens du paragraphe 186(4)) au moment du versement du dividende, dans la mesure où il est raisonnable de considérer, compte tenu des circonstances (notamment la réception par d'autres actionnaires de dividendes de la société payeuse), que le dividende était attribuable à une somme qui est visée au présent alinéa ou aux alinéas a) ou b) relativement à la société payeuse, ou le serait si le présent paragraphe s'appliquait à cette société;

B le total des sommes représentant chacune un dividende imposable qu'elle a versé au cours de ces années.

LRIP addition — ceasing to be CCPC

(8) If, in a particular taxation year, a corporation is neither a Canadian-controlled private corporation nor a deposit insurance corporation but was, in its preceding taxation year, a Canadian-controlled private corporation or a deposit insurance corporation, there shall be included in computing the corporation's low rate income pool at any time in the particular taxation year the amount determined by the formula

A + B + C - D - E - F - G - H

where

A is the total of all amounts each of which is the cost amount to the corporation of a property immediately before the end of its preceding taxation year;

Majoration du compte de revenu à taux réduit — société qui cesse d'être une SPCC

(8) La société qui n'est pas une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts au cours d'une année d'imposition donnée, mais qui l'était au cours de son année d'imposition précédente est tenue d'inclure dans le calcul de son compte de revenu à taux réduit à un moment de l'année donnée la somme obtenue par la formule suivante :

A + B + C - D - E - F - G - H

où :

A représente le total des sommes représentant chacune le coût indiqué d'un bien pour la société immédiatement avant la fin de son année d'imposition précédente;

B is the amount of any money of the corporation on hand immediately before the end of its preceding taxation year;

C is the amount, if any, by which

(a) the total of all amounts that, if the corporation had had unlimited income for its preceding taxation year from each business carried on, and from each property held, by it in that preceding taxation year and had realized an unlimited amount of capital gains for that preceding taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that preceding taxation year

exceeds

(b) the total of all amounts deducted under subsection 111(1) in computing the corporation's taxable income for its preceding taxation year;

D is the total of all amounts each of which is the amount of any debt owing by the corporation, or of any other obligation of the corporation to pay any amount, that was outstanding immediately before the end of its preceding taxation year;

E is the paid up capital, immediately before the end of its preceding taxation year, of all of the issued and outstanding shares of the capital stock of the corporation;

F is the total of all amounts each of which is a reserve deducted in computing the corporation's income for its preceding taxation year;

G is

(a) if the corporation is not a private corporation in the particular taxation year, the corporation's capital dividend account, if any, immediately before the end of its preceding taxation year, and

(b) in any other case, nil; and

H is the positive or negative amount determined by the formula

I - J

where

I is the corporation's general rate income pool at the end of its preceding taxation year, and

J is the amount, if any, by which

(a) the total of all amounts each of which is an eligible dividend paid by the corporation in its preceding taxation year

exceeds

B toute somme d'argent que la société avait en mains immédiatement avant la fin de son année d'imposition précédente;

C l'excédent éventuel de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total des sommes qui auraient été déductibles en application du paragraphe 111(1) dans le calcul du revenu imposable de la société pour son année d'imposition précédente si elle avait eu, pour cette année, un revenu illimité provenant de chaque entreprise qu'elle exploitait, et de chaque bien qu'elle détenait, au cours de cette même année et avait réalisé, pour cette année, un montant illimité de gains en capital,

b) le total des sommes déduites en application du paragraphe 111(1) dans le calcul du revenu imposable de la société pour son année d'imposition précédente;

D le total des sommes représentant chacune le montant de toute dette de la société, ou autre obligation de la société de payer une somme, qui était impayée immédiatement avant la fin de son année d'imposition précédente;

E le capital versé, immédiatement avant la fin de l'année d'imposition précédente de la société, de l'ensemble des actions émises et en circulation de son capital-actions;

F le total des sommes représentant chacune une provision déduite dans le calcul du revenu de la société pour son année d'imposition précédente;

G :

a) si la société n'est pas une société privée au cours de l'année donnée, son compte de dividendes en capital, s'il y a lieu, immédiatement avant la fin de son année d'imposition précédente,

b) dans les autres cas, zéro;

H la somme positive ou négative obtenue par la formule suivante :

I - J

où :

I représente le compte de revenu à taux général de la société à la fin de son année d'imposition précédente,

J l'excédent éventuel de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total des sommes représentant chacune un dividende déterminé versé par la société

(b) the total of all amounts each of which is an excessive eligible dividend designation made by the corporation in its preceding taxation year.

LRIP addition — amalgamation

(9) If a corporation that is resident in Canada and that is neither a Canadian-controlled private corporation nor a deposit insurance corporation (in this subsection referred to as the "new corporation") is formed as a result of the amalgamation or merger of two or more corporations one or more of which is a taxable Canadian corporation, there shall be included in computing the new corporation's low rate income pool at any time in its first taxation year the total of all amounts each of which is

(a) in respect of a predecessor corporation that was, in its taxation year that ended immediately before the amalgamation, neither a Canadian-controlled private corporation nor a deposit insurance corporation, the predecessor corporation's low rate income pool at the end of that taxation year; and

(b) in respect of a predecessor corporation (in this paragraph referred to as the "CCPC predecessor") that was, throughout its taxation year that ended immediately before the amalgamation (in this paragraph referred to as its "last taxation year"), a Canadian-controlled private corporation or a deposit insurance corporation, the amount determined by the formula

A + B + C - D - E - F - G - H

where

A is the total of all amounts each of which is the cost amount to the CCPC predecessor of a property immediately before the end of its last taxation year,

B is the amount of any money of the CCPC predecessor on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the CCPC predecessor had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

au cours de son année d'imposition précédente,

b) le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé effectuée par la société au cours de son année d'imposition précédente.

Majoration du compte de revenu à taux réduit — fusion

(9) La société résidant au Canada qui n'est ni une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts (appelée « nouvelle société » au présent paragraphe) et qui est issue de la fusion ou de l'unification de plusieurs sociétés dont au moins une est une société canadienne imposable est tenue d'inclure dans le calcul de son compte de revenu à taux réduit à un moment de sa première année d'imposition le total des sommes représentant chacune :

a) en ce qui concerne une société remplacée qui n'était ni une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts au cours de son année d'imposition ayant pris fin immédiatement avant la fusion, le compte de revenu à taux réduit de la société remplacée à la fin de cette année;

b) en ce qui concerne une société remplacée qui a été une société privée sous contrôle canadien ou une compagnie d'assurance-dépôts tout au long de son année d'imposition ayant pris fin immédiatement avant la fusion (appelée « dernière année d'imposition » au présent alinéa), la somme obtenue par la formule suivante :

A + B + C - D - E - F - G - H

où :

A représente le total des sommes représentant chacune le coût indiqué d'un bien pour la société remplacée immédiatement avant la fin de sa dernière année d'imposition,

B toute somme d'argent que la société remplacée avait en mains immédiatement avant la fin de sa dernière année d'imposition,

C l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes qui auraient été déductibles en application du paragraphe 111(1) dans le calcul du revenu imposable de la société remplacée pour sa dernière année d'imposition si elle avait eu, pour cette année, un revenu illimité provenant de chaque entreprise qu'elle exploitait, et de chaque bien qu'elle détenait, au cours de cette même année et avait réalisé,

(ii) the total of all amounts deducted under subsection 111(1) in computing the CCPC predecessor's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the CCPC predecessor, or of any other obligation of the CCPC predecessor to pay any amount, that was outstanding immediately before the end of its last taxation year,

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the CCPC predecessor,

F is the total of all amounts each of which is a reserve deducted in computing the CCPC predecessor's income for its last taxation year,

G is

(i) if the new corporation is not a private corporation in its first taxation year, the CCPC predecessor's capital dividend account, if any, immediately before the end of its last taxation year, and

(ii) in any other case, nil, and

H is the positive or negative amount determined by the formula

I - J

where

I is the CCPC predecessor's general rate income pool at the end of its last taxation year, and

J is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the CCPC predecessor in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the CCPC predecessor in its last taxation year.

pour cette année, un montant illimité de gains en capital,

(ii) le total des sommes déduites en application du paragraphe 111(1) dans le calcul du revenu imposable de la société remplacée pour sa dernière année d'imposition,

D le total des sommes représentant chacune le montant de toute dette de la société remplacée, ou autre obligation de la société remplacée de payer une somme, qui était impayée immédiatement avant la fin de sa dernière année d'imposition,

E le capital versé, immédiatement avant la fin de la dernière année d'imposition de la société remplacée, de l'ensemble des actions émises et en circulation de son capital-actions,

F le total des sommes représentant chacune une provision déduite dans le calcul du revenu de la société remplacée pour sa dernière année d'imposition,

G :

(i) si la nouvelle société n'est pas une société privée au cours de sa première année d'imposition, le compte de dividendes en capital, s'il y a lieu, de la société remplacée immédiatement avant la fin de sa dernière année d'imposition,

(ii) dans les autres cas, zéro,

H la somme positive ou négative obtenue par la formule suivante :

I - J

où :

I représente le compte de revenu à taux général de la société remplacée à la fin de sa dernière année d'imposition,

J l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune un dividende déterminé versé par la société remplacée au cours de sa dernière année d'imposition,

(ii) le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé effectuée par la société remplacée au cours de sa dernière année d'imposition.

LRIP addition — winding-up

(10) If, in a particular taxation year, a corporation (in this subsection referred to as the "parent") is neither a Canadian-controlled private corporation nor a deposit insurance corporation and in the particular taxation year all or substantially all of the assets of another corporation (in this subsection referred to as the "subsidiary") were distributed to the parent on a dissolution or winding-up of the subsidiary, there shall be included in computing the parent's low rate income pool at any time in the particular taxation year that is at or after the end of the subsidiary's taxation year (in this subsection referred to as the subsidiary's "last taxation year") during which its assets were distributed to the parent on the winding-up,

(a) if the subsidiary was, in its last taxation year, neither a Canadian-controlled private corporation nor a deposit insurance corporation, the subsidiary's low rate income pool immediately before the end of that taxation year; and

(b) in any other case, the amount determined by the formula

A + B + C - D - E - F - G - H

where

A is the total of all amounts each of which is the cost amount to the subsidiary of a property immediately before the end of its last taxation year,

B is the amount of any money of the subsidiary on hand immediately before the end of its last taxation year,

C is the amount, if any, by which

(i) the total of all amounts that, if the subsidiary had had unlimited income for its last taxation year from each business carried on, and from each property held, by it in that last taxation year and had realized an unlimited amount of capital gains for that last taxation year, would have been deductible under subsection 111(1) in computing its taxable income for that last taxation year

exceeds

(ii) the total of all amounts deducted under subsection 111(1) in computing the subsidiary's taxable income for its last taxation year,

D is the total of all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the end of its last taxation year,

Majoration du compte de revenu à taux réduit — liquidation

(10) La société (appelée « société mère » au présent paragraphe) qui n'est ni une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts au cours d'une année d'imposition donnée et qui reçoit, au cours de cette année, la totalité ou la presque totalité des biens d'une autre société (appelée « filiale » au présent paragraphe) par suite de la dissolution ou de la liquidation de celle-ci est tenue d'inclure dans le calcul de son compte de revenu à taux réduit, à un moment de l'année donnée qui correspond ou est postérieur à la fin de l'année d'imposition de la filiale (appelée « dernière année d'imposition » au présent paragraphe) au cours de laquelle la société mère reçoit les biens de la filiale, celle des sommes ci-après qui est applicable :

a) si la filiale n'était pas une société privée sous contrôle canadien ni une compagnie d'assurance-dépôts au cours de sa dernière année d'imposition, son compte de revenu à taux réduit immédiatement avant la fin de cette année;

b) dans les autres cas, la somme obtenue par la formule suivante :

A + B + C - D - E - F - G - H

où :

A représente le total des sommes représentant chacune le coût indiqué d'un bien pour la filiale immédiatement avant la fin de sa dernière année d'imposition,

B toute somme d'argent que la filiale avait en mains immédiatement avant la fin de sa dernière année d'imposition,

C l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes qui auraient été déductibles en application du paragraphe 111(1) dans le calcul du revenu imposable de la filiale pour sa dernière année d'imposition si elle avait eu, pour cette année, un revenu illimité provenant de chaque entreprise qu'elle exploitait, et de chaque bien qu'elle détenait, au cours de cette même année et avait réalisé, pour cette année, un montant illimité de gains en capital,

(ii) le total des sommes déduites en application du paragraphe 111(1) dans le calcul du revenu imposable de la filiale pour sa dernière année d'imposition,

D le total des sommes représentant chacune le montant de toute dette de la filiale, ou autre obligation de la filiale de payer une somme, qui était impayée

E is the paid up capital, immediately before the end of its last taxation year, of all of the issued and outstanding shares of the capital stock of the subsidiary,

F is the total of all amounts each of which is a reserve deducted in computing the subsidiary's income for its last taxation year,

G is

(i) if the parent is not a private corporation in the particular taxation year, the subsidiary's capital dividend account, if any, immediately before the end of its last taxation year, and

(ii) in any other case, nil, and

H is the positive or negative amount determined by the formula

I - J

where

I is the subsidiary's general rate income pool at the end of its last taxation year, and

J is the amount, if any, by which

(i) the total of all amounts each of which is an eligible dividend paid by the subsidiary in its last taxation year

exceeds

(ii) the total of all amounts each of which is an excessive eligible dividend designation made by the subsidiary in its last taxation year.

Election: non-CCPC

(11) Subject to subsection (12), a corporation that files with the Minister on or before its filing-due date for a particular taxation year an election in prescribed form to have this subsection apply is deemed for the purposes described in paragraph (d) of the definition ***Canadian-controlled private corporation*** in subsection 125(7) not to be a Canadian-controlled private corporation at any time in or after the particular taxation year.

immédiatement avant la fin de sa dernière année d'imposition,

E le capital versé, immédiatement avant la fin de la dernière année d'imposition de la filiale, de l'ensemble des actions émises et en circulation de son capital-actions,

F le total des sommes représentant chacune une provision déduite dans le calcul du revenu de la filiale pour sa dernière année d'imposition,

G :

(i) si la société mère n'est pas une société privée au cours de l'année donnée, le compte de dividendes en capital, s'il y a lieu, de la filiale immédiatement avant la fin de sa dernière année d'imposition,

(ii) dans les autres cas, zéro,

H la somme positive ou négative obtenue par la formule suivante :

I - J

où :

I représente le compte de revenu à taux général de la filiale à la fin de sa dernière année d'imposition,

J l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune un dividende déterminé versé par la filiale au cours de sa dernière année d'imposition,

(ii) le total des sommes représentant chacune le montant d'une désignation excessive de dividende déterminé effectuée par la filiale au cours de sa dernière année d'imposition.

Choix d'une société de ne pas être une SPCC

(11) Pour l'application des dispositions énumérées à l'alinéa d) de la définition de ***société privée sous contrôle canadien*** au paragraphe 125(7), une société est réputée, sous réserve du paragraphe (12), ne pas être une société privée sous contrôle canadien au cours d'une année d'imposition ou par la suite si elle en fait le choix sur le formulaire prescrit présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année.

Revoking election

(12) If a corporation files with the Minister on or before its filing-due date for a particular taxation year a notice in prescribed form revoking, as of the end of the particular taxation year, an election described in subsection (11), the election ceases to apply to the corporation at the end of the particular taxation year.

Repeated elections — consent required

(13) If a corporation has, under subsection (12), revoked an election, any subsequent election under subsection (11) or subsequent revocation under subsection (12) is invalid unless

(a) the Minister consents in writing to the subsequent election or the subsequent revocation, as the case may be; and

(b) the corporation complies with any conditions imposed by the Minister.

Dividend designation

(14) A corporation designates a portion of a dividend it pays at any time to be an eligible dividend by notifying in writing at that time each person or partnership to whom the dividend is paid that the portion of the dividend is an eligible dividend.

Late designation

(14.1) If, in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit a designation under subsection (14) to be made before the day that is three years after the day on which the designation was required to be made, the designation is deemed to have been made at the time the designation was required to be made.

Meaning of expression *deposit insurance corporation*

(15) For the purposes of paragraphs 87(2)(vv) and (ww) (including, for greater certainty, in applying those paragraphs as provided under paragraph 88(1)(e.2)), the definitions ***excessive eligible dividend designation***, ***general rate income pool***, and ***low rate income pool*** in subsection (1) and subsections (4) to (6) and (8) to (10), a corporation is a deposit insurance corporation if it would be a deposit insurance corporation as defined in the definition ***deposit insurance corporation*** in subsection 137.1(5) were that definition read without reference to its paragraph (b) and were this Act read without reference to subsection 137.1(5.1).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 89; 1994, c. 7, Sch. II, s. 67, c. 21, s. 42; 1998, c. 19, ss. 17, 119; 2000, c. 19, s. 14; 2001, c. 17, s. 67; 2007, c. 2, s. 47, c. 29, s. 6, c. 35, s. 23; 2009, c. 2, s. 22; 2011, c. 24, s. 19; 2012, c. 19, s. 4, c. 31, s. 19; 2013, c. 34, s. 225, c. 40, s. 41; 2016, c. 7, s. 10, c. 12, s. 29.

Révocation du choix

(12) Le choix cesse de s'appliquer à une société à la fin d'une année d'imposition si la société présente au ministre sur le formulaire prescrit, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, un avis le révoquant à compter de la fin de l'année.

Choix répétés — consentement requis

(13) La société qui a révoqué le choix ne peut faire de choix subséquent en vertu du paragraphe (11) ni de révocation subséquente en vertu du paragraphe (12) que si, à la fois :

a) le ministre y consent par écrit;

b) la société se conforme à toute condition imposée par le ministre.

Désignation de dividende

(14) Une partie d'un dividende versé par une société à un moment donné est désignée à titre de dividende déterminé par avis écrit, envoyé à ce moment à chaque personne ou société de personnes à laquelle le dividende est versé, indiquant que la partie du dividende constitue un dividende déterminé.

Désignation tardive

(14.1) Si le ministre est d'avis que les circonstances sont telles qu'il serait juste et équitable de permettre que la désignation prévue au paragraphe (14) soit effectuée avant la date qui suit de trois ans la date où elle devait être effectuée, la désignation est réputée avoir été effectuée au moment où elle devait l'être.

Définition de *compagnie d'assurance- dépôts*

(15) Pour l'application des alinéas 87(2)vv) et ww) (compte tenu des modifications apportées à ces alinéas par l'effet de l'alinéa 88(1)e.2)), des définitions de ***compte de revenu à taux général***, ***compte de revenu à taux réduit*** et ***désignation excessive de dividende déterminé*** au paragraphe (1) et des paragraphes (4) à (6) et (8) à (10), est une compagnie d'assurance-dépôts la société qui serait une ***compagnie d'assurance-dépôts*** au sens du paragraphe 137.1(5) si cette définition s'appliquait compte non tenu de son alinéa b) et si la présente loi s'appliquait compte non tenu du paragraphe 137.1(5.1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 89; 1994, ch. 7, ann. II, art. 67, ch. 21, art. 42; 1998, ch. 19, art. 17 et 119; 2000, ch. 19, art. 14; 2001, ch. 17, art. 67; 2007, ch. 2, art. 47, ch. 29, art. 6, ch. 35, art. 23; 2009, ch. 2, art. 22;

2011, ch. 24, art. 19; 2012, ch. 19, art. 4, ch. 31, art. 19; 2013, ch. 34, art. 225, ch. 40, art. 41; 2016, ch. 7, art. 10, ch. 12, art. 29.

SUBDIVISION I

Shareholders of Corporations Not Resident in Canada

Dividend from non-resident corporation

90 (1) In computing the income for a taxation year of a taxpayer resident in Canada, there is to be included any amount received by the taxpayer at any time in the year as, on account or in lieu of payment of, or in satisfaction of, a dividend on a share owned by the taxpayer of the capital stock of a non-resident corporation.

Dividend from foreign affiliate

(2) For the purposes of this Act, an amount is deemed to be a dividend paid or received, as the case may be, at any time on a share of a class of the capital stock of a non-resident corporation that is a foreign affiliate of a taxpayer if the amount is the share's portion of a pro rata distribution (other than a distribution made in the course of a liquidation and dissolution of the corporation, on a redemption, acquisition or cancellation of the share by the corporation, or on a qualifying return of capital in respect of the share) made at that time by the corporation in respect of all the shares of that class.

Qualifying return of capital

(3) For the purposes of subsection (2), a distribution made at any time by a foreign affiliate of a taxpayer in respect of a share of the capital stock of the affiliate that is a reduction of the paid-up capital of the affiliate in respect of the share and that would, in the absence of this subsection, be deemed under subsection (2) to be a dividend paid or received, at that time, on the share is a qualifying return of capital, at that time, in respect of the share if an election is made under this subsection, in respect of the distribution and in accordance with prescribed rules,

(a) by the taxpayer, where there is no person or partnership that meets the conditions in subparagraphs (b)(i) and (ii); or

(b) jointly by the taxpayer and each person or partnership that is, at that time,

(i) a connected person or partnership in respect of the taxpayer, and

(ii) a person or partnership of which the affiliate would, at that time, be a foreign affiliate if

SOUS-SECTION I

Actionnaires de sociétés ne résidant pas au Canada

Dividendes de sociétés non-résidentes

90 (1) Est à inclure dans le calcul du revenu pour une année d'imposition d'un contribuable résidant au Canada toute somme qu'il a reçue au cours de l'année au titre ou en paiement intégral ou partiel d'un dividende sur une action lui appartenant du capital-actions d'une société non-résidente.

Dividendes de sociétés étrangères affiliées

(2) Pour l'application de la présente loi, une somme est réputée être un dividende versé ou reçu à un moment donné sur une action d'une catégorie du capital-actions d'une société non-résidente qui est une société étrangère affiliée d'un contribuable si elle représente la part de l'action sur une distribution au prorata (sauf une distribution effectuée au cours de la liquidation et dissolution de la société, lors du rachat, de l'acquisition ou de l'annulation de l'action par la société ou lors d'un remboursement de capital admissible relativement à l'action) effectuée par la société à ce moment relativement à l'ensemble des actions de la catégorie.

Remboursement de capital admissible

(3) Pour l'application du paragraphe (2), toute distribution effectuée à un moment donné par une société étrangère affiliée d'un contribuable relativement à une action du capital-actions de la société affiliée qui constitue une réduction du capital versé de celle-ci au titre de l'action et qui, en l'absence du présent paragraphe, serait réputée en vertu du paragraphe (2) être un dividende versé ou reçu sur l'action à ce moment est un remboursement de capital admissible à ce moment relativement à l'action si un choix est fait, relativement à la distribution et conformément aux dispositions réglementaires :

a) par le contribuable, dans le cas où il n'existe pas de personnes ou de sociétés de personnes qui remplissent les conditions énoncées aux sous-alinéas b)(i) et (ii);

b) conjointement par le contribuable et par chaque personne ou société de personnes qui est, à ce moment, à la fois :

(i) une personne ou société de personnes rattachée relativement au contribuable,

paragraph (b) of the definition ***equity percentage*** in subsection 95(4) were read as if the reference in that paragraph to "any corporation" were a reference to "any corporation other than a corporation resident in Canada".

Connected person or partnership

(4) For the purposes of subsection (3), a ***connected person or partnership*** in respect of a taxpayer, at any time, is

(a) a person that is, at that time, related to the taxpayer, and

(b) a partnership a member of which is, at that time,

(i) the taxpayer, or

(ii) a person that is related to the taxpayer.

Exclusion

(5) No amount paid or received at any time is, for the purposes of this Act, a dividend paid or received on a share of the capital stock of a non-resident corporation that is a foreign affiliate of a taxpayer unless it is so deemed under this Part.

Loan from foreign affiliate

(6) Except where subsection 15(2) applies, if a person or partnership receives at any time a loan from, or becomes at that time indebted to, a creditor that is at that time a foreign affiliate (referred to in subsections (9), (11) and (15) as the "creditor affiliate") of a taxpayer resident in Canada or that is at that time a partnership (referred to in subsections (9), (11) and (15) as the "creditor partnership") of which such an affiliate is a member and the person or partnership is at that time a specified debtor in respect of the taxpayer, then the specified amount in respect of the loan or indebtedness is to be included in computing the income of the taxpayer for the taxpayer's taxation year that includes that time.

Back-to-back loans

(7) For the purposes of this subsection and subsections (6) and (8) to (15), if at any time a person or partnership (referred to in this subsection as the "intermediate lender") makes a loan to another person or partnership (in this subsection referred to as the "intended borrower") because the intermediate lender received a loan from another person or partnership (in this subsection referred to as the "initial lender")

(ii) une personne ou une société de personnes dont la société affiliée serait, à ce moment, une société étrangère affiliée si la mention « toute société » à l'alinéa b) de la définition de ***pourcentage d'intérêt*** au paragraphe 95(4) était remplacée par « toute société autre qu'une société résidant au Canada ».

Personne ou société de personnes rattachée

(4) Pour l'application du paragraphe (3), est une personne ou société de personnes rattachée relativement à un contribuable à un moment donné :

a) toute personne qui est liée au contribuable à ce moment;

b) toute société de personnes dont l'un des associés est, à ce moment :

(i) le contribuable,

(ii) une personne liée au contribuable.

Exclusion

(5) Une somme versée ou reçue à un moment donné n'est, pour l'application de la présente loi, un dividende versé ou reçu sur une action du capital-actions d'une société non-résidente qui est une société étrangère affiliée d'un contribuable que si elle est réputée l'être en vertu de la présente partie.

Prêt d'une société étrangère affiliée

(6) Sauf en cas d'application du paragraphe 15(2), si une personne ou une société de personnes reçoit un prêt ou devient la débitrice, à un moment donné, d'un créancier qui est, à ce moment, soit une société étrangère affiliée (appelée « société affiliée créancière » aux paragraphes (9), (11) et (15)) d'un contribuable résidant au Canada, soit une société de personnes (appelée « société de personnes créancière » à ces mêmes paragraphes) dont une telle société affiliée est un associé et que la personne ou la société de personnes est à ce moment un débiteur déterminé relativement au contribuable, le montant déterminé relativement au prêt ou à la dette est à inclure dans le calcul du revenu du contribuable pour son année d'imposition qui comprend ce moment.

Prêts adossés

(7) Pour l'application du présent paragraphe et des paragraphes (6) et (8) à (15), dans le cas où une personne ou une société de personnes (appelées « prêteur intermédiaire » au présent paragraphe) consent un prêt à une autre personne ou société de personnes (appelées « emprunteur visé » au présent paragraphe) à un moment donné du fait qu'elle a reçu un prêt d'une tierce personne

(a) the loan made by the intermediate lender to the intended borrower is deemed, at that time, to have been made by the initial lender to the intended borrower (to the extent of the lesser of the amount of the loan made by the initial lender to the intermediate lender and the amount of the loan made by the intermediate lender to the intended borrower) under the same terms and conditions and at the same time as it was made by the intermediate lender; and

(b) the loan made by the initial lender to the intermediate lender and the loan made by the intermediate lender to the intended borrower are deemed not to have been made to the extent of the amount of the loan deemed to have been made under paragraph (a).

a) le prêt consenti par le prêteur intermédiaire à l'emprunteur visé est réputé, à ce moment, avoir été consenti par le prêteur initial à l'emprunteur visé (jusqu'à concurrence du prêt consenti par le prêteur initial au prêteur intermédiaire ou, s'il est moins élevé, du prêt consenti par le prêteur intermédiaire à l'emprunteur visé) selon les mêmes modalités que celles auxquelles il a été consenti par le prêteur intermédiaire et au même moment que celui où il a été consenti par lui;

b) le prêt consenti par le prêteur initial au prêteur intermédiaire et le prêt consenti par le prêteur intermédiaire à l'emprunteur visé sont réputés ne pas avoir été consentis jusqu'à concurrence du prêt réputé avoir été consenti aux termes de l'alinéa a).

Exceptions to subsection (6)

(8) Subsection (6) does not apply to

(a) a loan or indebtedness that is repaid, other than as part of a series of loans or other transactions and repayments, within two years of the day the loan was made or the indebtedness arose;

(b) indebtedness that arose in the ordinary course of the business of the creditor or a loan made in the ordinary course of the creditor's ordinary business of lending money if, at the time the indebtedness arose or the loan was made, *bona fide* arrangements were made for repayment of the indebtedness or loan within a reasonable time;

(c) a loan that was made, or indebtedness that arose, in the ordinary course of carrying on a life insurance business outside Canada if

(i) the loan or indebtedness is owed by the taxpayer or by a subsidiary wholly-owned corporation of the taxpayer,

(ii) the taxpayer, or the subsidiary wholly-owned corporation, as the case may be, is a life insurance corporation resident in Canada,

(iii) the loan or indebtedness directly relates to a business of the taxpayer, or of the subsidiary wholly-owned corporation, that is carried on outside Canada, and

(iv) the interest on the loan or indebtedness is, or would be if it were otherwise income from property,

Exceptions

(8) Le paragraphe (6) ne s'applique pas à ce qui suit :

a) un prêt ou une dette qui est remboursé, autrement que dans le cadre d'une série de prêts ou d'autres opérations et remboursements, dans les deux ans suivant la date où le prêt a été consenti ou la dette, contractée;

b) une dette contractée dans le cours normal des activités de l'entreprise du créancier ou un prêt consenti dans le cours normal des activités de son entreprise habituelle de prêt d'argent dans le cas où, au moment où la dette a été contractée ou le prêt consenti, des arrangements ont été conclus de bonne foi en vue du remboursement de la dette ou du prêt dans un délai raisonnable;

c) un prêt consenti, ou une dette contractée, dans le cours normal de l'exploitation d'une entreprise d'assurance-vie à l'étranger, dans le cas où, à la fois :

(i) le contribuable ou l'une de ses filiales à cent pour cent est débiteur du prêt ou de la dette,

(ii) le contribuable ou la filiale, selon le cas, est une compagnie d'assurance-vie résidant au Canada,

(iii) le prêt ou la dette est directement lié à une entreprise du contribuable ou de la filiale qui est exploitée à l'étranger,

(iv) les intérêts sur le prêt ou la dette sont inclus, en application de la division 95(2)a)(ii)(A), dans le revenu provenant d'une entreprise exploitée activement du créancier ou, si celui-ci est une société de personnes, de son associé, ou seraient ainsi inclus s'il s'agissait par ailleurs d'un revenu tiré d'un bien;

included in the active business income of the creditor, or if the creditor is a partnership, a member of the partnership, under clause 95(2)(a)(ii)(A); and

(d) subject to subsection (8.1), an upstream deposit owing to an eligible bank affiliate.

d) sous réserve du paragraphe (8.1), un dépôt en amont détenu par une filiale bancaire admissible.

Upstream deposit — eligible bank affiliate

(8.1) For the purposes of this section, if a taxpayer is an eligible Canadian bank and an eligible bank affiliate of the taxpayer is owed, at any time in a particular taxation year of the affiliate or the immediately preceding taxation year, an upstream deposit,

(a) the affiliate is deemed to make a loan to the taxpayer immediately before the end of the particular year equal to the amount determined by the following formula, where all amounts referred to in the formula are to be determined using Canadian currency:

A – B – C

where

A is 90% of the average of all amounts each of which is, in respect of a calendar month that ends in the particular year, the greatest total amount at any time in the month of the upstream deposits owing to the affiliate,

B is the lesser of

(i) the amount, if any, by which the affiliate's excess liquidity for the particular year exceeds the average of all amounts each of which is, in respect of a calendar month that ends in the particular year, the greatest total amount at any time in the month of eligible Canadian indebtedness owing to the affiliate, and

(ii) the amount determined for A, and

C is the amount, if any, by which the amount determined for A for the immediately preceding year exceeds the amount determined for B for the immediately preceding year; and

(b) if the formula in paragraph (a) would, in the absence of section 257, result in a negative amount for the particular year,

(i) the taxpayer is deemed to repay immediately before the end of the particular year — in an amount equal to the absolute value of the negative amount and in the order in which they arose — loans made by the affiliate under paragraph (a) in a prior taxation year and not previously repaid, and

(ii) the repayment is deemed to not be part of a series of loans or other transactions and repayments.

Dépôt en amont — filiale bancaire admissible

(8.1) Pour l'application du présent article, si la filiale bancaire admissible d'un contribuable qui est une banque canadienne admissible détient un dépôt en amont au cours de son année d'imposition (appelée « année donnée » au présent paragraphe) ou de l'année d'imposition précédente, les règles ci-après s'appliquent :

a) la filiale est réputée consentir au contribuable, immédiatement avant la fin de l'année donnée, un prêt d'un montant égal à la somme obtenue par la formule ci-après, les sommes y figurant devant toutes être exprimées en dollars canadiens :

A – B – C

où :

A représente 90 % de la moyenne des sommes dont chacune représente, pour un mois civil se terminant dans l'année donnée, le montant le plus élevé, au cours du mois, des dépôts en amont détenus par la filiale,

B la moins élevée des sommes suivantes :

(i) l'excédent des liquidités excédentaires de la filiale pour l'année donnée sur la moyenne des sommes dont chacune représente, pour un mois civil se terminant dans l'année donnée, le montant le plus élevé, au cours du mois, des dettes canadiennes admissibles détenues par la filiale,

(ii) la valeur de l'élément A,

C l'excédent de la valeur de l'élément A pour l'année précédente sur la valeur de l'élément B pour cette année;

b) si la somme obtenue par la formule figurant à l'alinéa a) était un montant négatif pour l'année donnée en l'absence de l'article 257 :

(i) le contribuable est réputé verser immédiatement avant la fin de l'année donnée, en remboursement des prêts qui ont été consentis par la filiale en vertu de l'alinéa a) au cours d'une année d'imposition antérieure et qui n'ont pas été remboursés antérieurement, une somme égale à la valeur absolue du montant négatif, dans l'ordre dans lequel les prêts ont pris naissance,

(ii) the repayment is deemed not to be part of a series of loans or other transactions and repayments.

Corporations: deduction for amounts included under subsection (6) or (12)

(9) There may be deducted in computing the income for a taxation year of a corporation resident in Canada a particular amount, in respect of a specified amount included under subsection (6), or an amount included under subsection (12), in computing the corporation's income for the taxation year in respect of a particular loan or indebtedness, if

(a) the corporation demonstrates that the particular amount is the total of all amounts (not to exceed the amount so included) each of which would — if the specified amount in respect of the particular loan or indebtedness were, at the time (referred to in subparagraph (i) and subsection (11) as the "lending time") the particular loan was made or the particular indebtedness was incurred, instead paid by the creditor affiliate, or the creditor partnership, as the case may be, to the corporation directly as part of one dividend, or indirectly as part of one or more dividends and, if applicable, partnership distributions — reasonably be considered to have been deductible, in respect of the payment, for the corporation's taxation year in which the specified amount was included in its income under subsection (6), in computing

(i) the taxable income of the corporation under any of

(A) paragraph 113(1)(a), in respect of the exempt surplus — at the lending time, in respect of the corporation — of a foreign affiliate of the corporation,

(B) paragraph 113(1)(a.1), in respect of the hybrid surplus — at the lending time, in respect of the corporation — of a foreign affiliate of the corporation, if the amount of that hybrid surplus is less than or equal to the amount determined by the formula

[A × (B – 0.5)] + (C × 0.5)

where

A is the affiliate's hybrid underlying tax in respect of the corporation at the lending time,

B is the corporation's relevant tax factor (within the meaning assigned by subsection 95(1)) for the corporation's taxation year that includes the lending time, and

(ii) le remboursement est réputé ne pas faire partie d'une série de prêts ou d'autres opérations et remboursements.

Sociétés : déduction de sommes incluses selon les paragraphes (6) ou (12)

(9) Est déductible dans le calcul du revenu pour une année d'imposition d'une société résidant au Canada une somme donnée relative au montant déterminé visé au paragraphe (6) ou à la somme visée au paragraphe (12) qui sont inclus dans le calcul du revenu de la société pour l'année relativement à un prêt donné ou à une dette donnée si les conditions ci-après sont réunies :

a) la société démontre que la somme donnée correspond au total des sommes (n'excédant pas le montant ou la somme ainsi inclus) dont chacune serait raisonnablement considérée — si le montant déterminé relativement au prêt donné ou à la dette donnée avait plutôt été payé, au moment (appelé « moment du prêt » au sous-alinéa (i) et au paragraphe (11)) où le prêt donné a été consenti ou la dette donnée, contractée, par la société affiliée créancière ou la société de personnes créancière, selon le cas, à la société directement dans le cadre du versement d'un dividende unique ou indirectement dans le cadre du versement d'un ou de plusieurs dividendes et, le cas échéant, d'une ou de plusieurs distributions provenant de la société de personnes — comme ayant été déductible, relativement au paiement, pour l'année d'imposition de la société dans laquelle le montant déterminé a été inclus dans son revenu en application du paragraphe (6), dans le calcul :

(i) soit du revenu imposable de la société en application d'un ou de plusieurs des alinéas suivants :

(A) l'alinéa 113(1)a), relativement au surplus exonéré — au moment du prêt, relativement à la société — d'une société étrangère affiliée de celle-ci,

(B) l'alinéa 113(1)a.1), relativement au surplus hybride — au moment du prêt, relativement à la société — d'une société étrangère affiliée de celle-ci, dans le cas où le montant de ce surplus est égal ou inférieur à la somme obtenue par la formule suivante :

[A × (B – 0,5)] + (C × 0,5)

où :

A représente le montant intrinsèque d'impôt hybride de la société affiliée relativement à la société au moment du prêt,

C is the affiliate's hybrid surplus in respect of the corporation at the lending time,

(C) paragraph 113(1)(b), in respect of the taxable surplus — at the lending time, in respect of the corporation — of a foreign affiliate of the corporation, and

(D) paragraph 113(1)(d), in respect of the pre-acquisition surplus — at the lending time, in respect of the corporation — of a foreign affiliate of the corporation to the extent of the adjusted cost base to the corporation, at the lending time, of the shares of the capital stock of the affiliate, and except if the specified debtor is

(I) a non-resident person with which the corporation does not deal at arm's length, or

(II) a partnership any member of which is a person described in subclause (I), or

(ii) the income of the corporation under subsection 91(5), in respect of the taxable surplus of a foreign affiliate of the corporation, if the specified debtor is a person or partnership described in subclause (i)(D)(I) or (II);

(b) that exempt surplus, hybrid surplus, taxable surplus, or adjusted cost base is not relevant in applying this subsection in respect of any other loan made or indebtedness incurred, or in respect of any deduction claimed under subsection 91(5) or 113(1) in respect of a dividend paid, during the period in which the particular loan or indebtedness is outstanding; and

(c) that adjusted cost base is not relevant in determining the taxability of any other distribution made during the period in which the particular loan or indebtedness is outstanding.

B le facteur fiscal approprié, au sens du paragraphe 95(1), applicable à la société pour son année d'imposition qui comprend le moment du prêt,

C le surplus hybride de la société affiliée relativement à la société au moment du prêt,

(C) l'alinéa 113(1)b), relativement au surplus imposable — au moment du prêt, relativement à la société — d'une société étrangère affiliée de celle-ci,

(D) l'alinéa 113(1)d), relativement au surplus antérieur à l'acquisition — au moment du prêt, relativement à la société — d'une société étrangère affiliée de celle-ci, jusqu'à concurrence du prix de base rajusté pour la société, au moment du prêt, des actions du capital-actions de la société affiliée et sauf dans le cas où le débiteur déterminé est :

(I) une personne non-résidente avec laquelle la société a un lien de dépendance,

(II) une société de personnes dont l'un des associés est une personne visée à la subdivision (I),

(ii) soit du revenu de la société en application du paragraphe 91(5), relativement au surplus imposable d'une société étrangère affiliée de celle-ci, si le débiteur déterminé est une personne ou une société de personnes visée aux subdivisions (i)(D)(I) ou (II);

b) le surplus exonéré, le surplus hybride, le surplus imposable ou le prix de base rajusté en cause ne sont pas pris en compte pour l'application du présent paragraphe relativement à tout autre prêt consenti ou dette contractée, ou relativement à toute déduction demandée en application des paragraphes 91(5) ou 113(1) au titre d'un dividende versé, au cours de la période où le prêt donné ou la dette donnée est impayé;

c) le prix de base rajusté en cause n'est pas pris en compte lorsqu'il s'agit de déterminer si une autre distribution effectuée au cours de la période où le prêt donné ou la dette donnée est impayé est assujettie à l'impôt.

Corporate partners: application of subsection (9)

(10) In applying subsection (9) to a corporation resident in Canada that is a member of a partnership at the end of a fiscal period of the partnership,

Associés : application du paragraphe (9)

(10) Pour l'application du paragraphe (9) à une société résidant au Canada qui est un associé d'une société de personnes à la fin d'un exercice de celle-ci, les règles ci-après s'appliquent :

(a) each amount that may reasonably be considered to be the corporation's share (determined in a manner consistent with the determination of the corporation's share of the income of the partnership under subsection 96(1)) of each specified amount that is required to be included in computing the income of the partnership for that fiscal period under subsection (6), in respect of a particular loan or indebtedness, is deemed to be a specified amount in respect of the particular loan or indebtedness that was included in the corporation's income, for its taxation year that includes the last day of that fiscal period, under subsection (6);

(b) subparagraph (9)(a)(i) is to be read without reference to its clause (D);

(c) subparagraph (9)(a)(ii) is to be read as follows:

(ii) the income of the partnership, referred to in subsection (10), under subsection 91(5), in respect of the taxable surplus of a foreign affiliate of the partnership, to the extent of the amount that may reasonably be considered to be the corporation's share of that deduction (determined in a manner consistent with the determination of the corporation's share of the income of the partnership under subsection 96(1));

(d) paragraph (9)(b) is to be read as follows:

(b) that exempt surplus, hybrid surplus, or taxable surplus is not relevant in applying this subsection in respect of any other loan made or indebtedness incurred, or in respect of any deduction claimed under subsection 91(5) or 113(1) in respect of a dividend paid, during the period in which the particular loan or indebtedness is outstanding; and

(e) subsection (9) is to be read without reference to its paragraph (c).

a) chaque somme qu'il est raisonnable de considérer comme représentant la part de la société (déterminée d'une manière conforme au calcul de sa part sur le revenu de la société de personnes selon le paragraphe 96(1)) sur chaque montant déterminé qui est à inclure dans le calcul du revenu de la société de personnes pour l'exercice en cause en application du paragraphe (6), relativement à un prêt donné ou à une dette donnée, est réputée être un montant déterminé relativement au prêt donné ou à la dette donnée qui a été inclus dans le revenu de la société, pour son année d'imposition qui comprend le dernier jour de cet exercice, en application du paragraphe (6);

b) le sous-alinéa (9)a)(i) s'applique compte non tenu de sa division (D);

c) le sous-alinéa (9)a)(ii) est réputé avoir le libellé suivant :

(ii) soit du revenu de la société de personnes, visée au paragraphe (10), en application du paragraphe 91(5), relativement au surplus imposable d'une société étrangère affiliée de celle-ci, jusqu'à concurrence de la somme qu'il est raisonnable de considérer comme étant la part de la société sur la déduction (déterminée d'une manière conforme au calcul de sa part sur le revenu de la société de personnes selon le paragraphe 96(1));

d) l'alinéa (9)b) est réputé avoir le libellé suivant :

b) le surplus exonéré, le surplus hybride ou le surplus imposable en cause ne sont pas pris en compte pour l'application du présent paragraphe relativement à tout autre prêt consenti ou dette contractée, ou relativement à toute déduction demandée en application des paragraphes 91(5) ou 113(1) au titre d'un dividende versé, au cours de la période où le prêt donné ou la dette donnée est impayé;

e) le paragraphe (9) s'applique compte non tenu de son alinéa c).

Downstream surplus

(11) For the purposes of subparagraph (9)(a)(i), the amounts of exempt surplus or exempt deficit, hybrid surplus or hybrid deficit, hybrid underlying tax, taxable surplus or taxable deficit, and underlying foreign tax of the creditor affiliate, or of each foreign affiliate of the corporation that is a member of the creditor partnership, as the case may be, in respect of the corporation, at the lending time are deemed to be the amounts that would be determined, at the lending time, under subparagraph 5902(1)(a)(i) of the *Income Tax Regulations* if that subparagraph were applicable at the lending time and the

Surplus en aval

(11) Pour l'application du sous-alinéa (9)a)(i), les montants de surplus exonéré ou de déficit exonéré, de surplus hybride ou de déficit hybride, de surplus imposable ou de déficit imposable, de montant intrinsèque d'impôt hybride et de montant intrinsèque d'impôt étranger de la société affiliée créancière, ou de chaque société étrangère affiliée de la société qui est un associé de la société de personnes créancière, selon le cas, relativement à la société, au moment du prêt sont réputés être les montants qui seraient déterminés à ce moment selon le sous-alinéa 5902(1)a)(i) du *Règlement de l'impôt sur le revenu* si ce

references in that subparagraph to "the dividend time" were references to the lending time.

sous-alinéa s'appliquait à ce moment et si la mention « moment du dividende » à ce sous-alinéa était remplacée par « moment du prêt ».

Add-back for subsection (9) deduction

(12) There is to be included in computing the income of a corporation resident in Canada for a particular taxation year any amount deducted by the corporation under subsection (9) in computing the corporation's income for the taxation year that immediately precedes the particular year.

Somme à rajouter pour l'application du paragraphe (9)

(12) Est à inclure dans le calcul du revenu d'une société résidant au Canada pour une année d'imposition toute somme qu'elle a déduite en application du paragraphe (9) dans le calcul de son revenu pour l'année d'imposition précédente.

No double deduction

(13) A corporation may not claim a deduction for a taxation year under subsection (9) in respect of the same portion of the specified amount in respect of a loan or indebtedness for which a deduction is claimed for that year or a preceding year by the corporation, or by a partnership of which the corporation is a member, under subsection (14).

Déduction interdite

(13) Une société ne peut déduire pour une année d'imposition en application du paragraphe (9) une somme au titre de la même partie du montant déterminé, relativement à un prêt ou à une dette, à l'égard de laquelle une déduction est demandée en application du paragraphe (14), pour cette année ou pour une année antérieure, par la société ou par une société de personnes dont elle est un associé.

Repayment of loan

(14) There may be deducted in computing the income of a taxpayer for a particular taxation year the amount determined by the formula

A × B/C

where

A is the specified amount, in respect of a loan or indebtedness, that is included under subsection (6) in computing the taxpayer's income for a preceding taxation year,

B is the portion of the loan or indebtedness that was repaid in the particular year, to the extent it is established, by subsequent events or otherwise, that the repayment was not part of a series of loans or other transactions and repayments, and

C is the amount, in respect of the loan or indebtedness, that is referred to in the description of A in the definition ***specified amount*** in subsection (15).

Remboursement d'un prêt

(14) Est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition donnée la somme obtenue par la formule suivante :

A × B/C

où :

A représente le montant déterminé, relativement à un prêt ou à une dette, qui est inclus en application du paragraphe (6) dans le calcul du revenu du contribuable pour une année d'imposition antérieure;

B la partie du prêt ou de la dette qui a été remboursée au cours de l'année donnée, dans la mesure où il est établi, à cause d'événements subséquents ou autrement, que le remboursement ne fait pas partie d'une série de prêts ou d'autres opérations et remboursements;

C le montant, relatif au prêt ou à la dette, qui est mentionné à l'élément A de la formule figurant à la définition de ***montant déterminé*** au paragraphe (15).

Definitions

(15) The following definitions apply in this section.

eligible bank affiliate has the same meaning as in subsection 95(2.43). (*filiale bancaire admissible*)

eligible Canadian bank has the same meaning as in subsection 95(2.43). (*banque canadienne admissible*)

Définitions

(15) Les définitions qui suivent s'appliquent au présent article.

banque canadienne admissible S'entend au sens du paragraphe 95(2.43). (*eligible Canadian bank*)

eligible Canadian indebtedness has the same meaning as in subsection 95(2.43). (*dettes canadiennes admissibles*)

excess liquidity has the same meaning as in subsection 95(2.43). (*liquidités excédentaires*)

specified amount, in respect of a loan or indebtedness that is required by subsection (6) to be included in computing the income of a taxpayer for a taxation year, means the amount determined by the formula

A × (B – C)

where

A is the amount of the loan or indebtedness, and

B is, in the case of

(a) a creditor affiliate of the taxpayer, the percentage that is or would be, if the taxpayer referred to in subsection (6) were a corporation resident in Canada, the taxpayer's surplus entitlement percentage (in this definition determined without reference to subsection 5908(1) of the *Income Tax Regulations*) in respect of the creditor affiliate at the time (referred to in this definition as the "determination time") referred to in subsection (6), or

(b) a creditor partnership of which a foreign affiliate of the taxpayer is a member, the total of each percentage determined, in respect of a member (referred to in this paragraph as a "member affiliate") of the creditor partnership that is a foreign affiliate of the taxpayer, by the formula

D × E/F

where

D is the percentage that is or would be, if the taxpayer were a corporation resident in Canada, the taxpayer's surplus entitlement percentage in respect of a particular member affiliate at the determination time,

E is the fair market value, at the determination time, of the particular member affiliate's direct or indirect interest in the creditor partnership, and

F is the fair market value, at the determination time, of all interests in the creditor partnership, and

C is,

(a) if the debtor under the loan or indebtedness is

(i) another foreign affiliate of the taxpayer, the percentage that is or would be, if the taxpayer

débiteur déterminé Est un débiteur déterminé à un moment donné relativement à un contribuable résidant au Canada :

a) le contribuable;

b) une personne avec laquelle le contribuable a un lien de dépendance à ce moment, à l'exception d'une société non-résidente qui est à ce moment une société étrangère affiliée contrôlée du contribuable, au sens de l'article 17;

c) une société de personnes dont l'un des associés est à ce moment une personne ou une société de personnes qui est un débiteur déterminé relativement au contribuable par l'effet des alinéas a) ou b);

d) si le contribuable est une société de personnes :

(i) tout associé de la société de personnes qui est une société résidant au Canada, dans le cas où la société affiliée créancière ou un associé de la société de personnes créancière, selon le cas, est une société étrangère affiliée de la société à ce moment,

(ii) une personne avec laquelle une société visée au sous-alinéa (i) a un lien de dépendance à ce moment, à l'exception d'une société étrangère affiliée contrôlée, au sens de l'article 17, de la société de personnes ou d'un associé de celle-ci qui détient dans celle-ci, directement ou indirectement, une participation qui représente au moins 90 % de la juste valeur marchande de l'ensemble de ces participations,

(iii) une société de personnes dont l'un des associés est à ce moment une personne qui est un débiteur déterminé relativement au contribuable par l'effet des sous-alinéas (i) ou (ii). (*specified debtor*)

dépôt en amont S'entend au sens du paragraphe 95(2.43). (*upstream deposit*)

dettes canadiennes admissibles S'entend au sens du paragraphe 95(2.43). (*eligible Canadian indebtedness*)

filiale bancaire admissible S'entend au sens du paragraphe 95(2.43). (*eligible bank affiliate*)

liquidités excédentaires S'entend au sens du paragraphe 95(2.43). (*excess liquidity*)

montant déterminé En ce qui concerne un prêt ou une dette qui est à inclure en application du paragraphe (6)

were a corporation resident in Canada, the taxpayer's surplus entitlement percentage in respect of the other affiliate at the determination time, or

(ii) a partnership (referred to in this paragraph as the "borrower partnership") of which one or more other foreign affiliates of the taxpayer are members, the total of each percentage that is determined by the following formula in respect of each such member

G × H/I

where

G is the percentage that is or would be, if the taxpayer were a corporation resident in Canada, the taxpayer's surplus entitlement percentage in respect of a particular member of the borrower partnership at the determination time,

H is the fair market value, at the determination time, of the particular member's direct or indirect interest in the borrower partnership, and

I is the fair market value, at the determination time, of all interests in the borrower partnership, and

(b) in any other case, nil. (*montant déterminé*)

specified debtor, in respect of a taxpayer resident in Canada, at any time, means

(a) the taxpayer;

(b) a person with which the taxpayer does not, at that time, deal at arm's length, other than a non-resident corporation that is at that time a controlled foreign affiliate, within the meaning assigned by section 17, of the taxpayer;

(c) a partnership a member of which is at that time a person or partnership that is a specified debtor in respect of the taxpayer because of paragraph (a) or (b); and

(d) if the taxpayer is a partnership,

(i) any member of the partnership that is a corporation resident in Canada if the creditor affiliate, or member of the creditor partnership, as the case may be, is, at that time, a foreign affiliate of the corporation,

(ii) a person with which a corporation referred to in subparagraph (i) does not, at that time, deal at

dans le calcul du revenu d'un contribuable pour une année d'imposition, la somme obtenue par la formule suivante :

A × (B – C)

où :

A représente le montant du prêt ou de la dette;

B celui des pourcentages ci-après qui est applicable :

a) dans le cas d'une société affiliée créancière du contribuable, le pourcentage qui est ou serait, si le contribuable visé au paragraphe (6) était une société résidant au Canada, son pourcentage de droit au surplus (déterminé, dans la présente définition, compte non tenu du paragraphe 5908(1) du *Règlement de l'impôt sur le revenu*) relativement à la société affiliée créancière au moment (appelé « moment du calcul » dans la présente définition) visé au paragraphe (6),

b) dans le cas d'une société de personnes créancière dont une société étrangère affiliée du contribuable est un associé, le total des pourcentages dont chacun s'obtient, relativement à un associé (appelé « société affiliée associée » au présent alinéa) de la société de personnes créancière qui est une société étrangère affiliée du contribuable, par la formule suivante :

D × E/F

où :

D représente le pourcentage qui est ou serait, si le contribuable était une société résidant au Canada, son pourcentage de droit au surplus relativement à une société affiliée associée donnée au moment du calcul,

E la juste valeur marchande, à ce moment, de la participation directe ou indirecte de la société affiliée associée donnée dans la société de personnes créancière,

F la juste valeur marchande, à ce moment, de l'ensemble des participations dans la société de personnes créancière;

C :

a) selon le cas :

(i) si le débiteur du prêt ou de la dette est une autre société étrangère affiliée du contribuable, le pourcentage qui est ou serait, si le contribuable était une société résidant au Canada, son pourcentage de droit au surplus relativement à l'autre société affiliée au moment du calcul,

arm's length, other than a controlled foreign affiliate, within the meaning assigned by section 17, of the partnership or of a member of the partnership that owns, directly or indirectly, an interest in the partnership representing at least 90% of the fair market value of all such interests, or

(iii) a partnership a member of which is at that time a person that is a specified debtor in respect of the taxpayer because of subparagraph (i) or (ii). (*débiteur déterminé*)

upstream deposit has the same meaning as in subsection 95(2.43). (*dépôt en amont*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 90; 2013, c. 34, s. 66; 2014, c. 39, s. 20.

(ii) s'il est une société de personnes (appelée « société de personnes emprunteuse » au présent alinéa) dont une ou plusieurs sociétés étrangères affiliées du contribuable sont des associés, le total des pourcentages dont chacun s'obtient par la formule ci-après relativement à chacun de ces associés :

G × H/I

où :

G représente le pourcentage qui est ou serait, si le contribuable était une société résidant au Canada, son pourcentage de droit au surplus relativement à un associé donné de la société de personnes emprunteuse au moment du calcul,

H la juste valeur marchande, à ce moment, de la participation directe ou indirecte de l'associé donné dans la société de personnes emprunteuse,

I la juste valeur marchande, à ce moment, de l'ensemble des participations dans la société de personnes emprunteuse,

b) dans les autres cas, zéro. (*specified amount*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 90; 2013, ch. 34, art. 66; 2014, ch. 39, art. 20.

Amounts to be included in respect of share of foreign affiliate

91 (1) In computing the income for a taxation year of a taxpayer resident in Canada, there shall be included, in respect of each share owned by the taxpayer of the capital stock of a controlled foreign affiliate of the taxpayer, as income from the share, the percentage of the foreign accrual property income of any controlled foreign affiliate of the taxpayer, for each taxation year of the affiliate ending in the taxation year of the taxpayer, equal to that share's participating percentage in respect of the affiliate, determined at the end of each such taxation year of the affiliate.

Reserve where foreign exchange restriction

(2) Where an amount in respect of a share has been included in computing the income of a taxpayer for a taxation year by virtue of subsection 91(1) or 91(3) and the Minister is satisfied that, by reason of the operation of monetary or exchange restrictions of a country other than Canada, the inclusion of the whole amount with no deduction for a reserve in respect thereof would impose undue hardship on the taxpayer, there may be deducted in computing the taxpayer's income for the year such

Sommes à inclure au titre d'une action dans une société étrangère affiliée

91 (1) Dans le calcul du revenu pour une année d'imposition d'un contribuable résidant au Canada, il doit être inclus, relativement à chaque action qui lui appartient dans le capital-actions d'une société étrangère affiliée contrôlée du contribuable, à titre de revenu tiré de l'action, le pourcentage du revenu étranger accumulé, tiré de biens, de toute société étrangère affiliée contrôlée du contribuable, pour chaque année d'imposition de la société affiliée qui se termine au cours de l'année d'imposition du contribuable, égal au pourcentage de participation de cette action, afférent à la société affiliée et déterminé à la fin de chaque telle année d'imposition de cette dernière.

Provision en cas de restrictions relatives au change

(2) Lorsqu'une somme relative à une action a été incluse dans le calcul du revenu d'un contribuable pour une année d'imposition en vertu du paragraphe (1) ou (3) et que le ministre est convaincu que, en raison de l'application de restrictions relatives à la monnaie ou au change imposées par la législation d'un pays étranger, l'inclusion de la totalité de la somme, sans déduction à titre de provision afférente à ces restrictions, porterait indûment préjudice au contribuable, il peut être déduit, dans le calcul de son

amount as a reserve in respect of the amount so included as the Minister deems reasonable in the circumstances.

Reserve for preceding year to be included

(3) In computing the income of a taxpayer for a taxation year, there shall be included each amount in respect of a share that was deducted by virtue of subsection 91(2) in computing the taxpayer's income for the immediately preceding year.

Amounts deductible in respect of foreign taxes

(4) Where, by virtue of subsection 91(1), an amount in respect of a share has been included in computing the income of a taxpayer for a taxation year or for any of the 5 immediately preceding taxation years (in this subsection referred to as the "income amount"), there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the product obtained when

(i) the portion of the foreign accrual tax applicable to the income amount that was not deductible under this subsection in any previous year

is multiplied by

(ii) the taxpayer's relevant tax factor for the year, and

(b) the amount, if any, by which the income amount exceeds the total of the amounts in respect of that share deductible under this subsection in any of the 5 immediately preceding taxation years in respect of the income amount.

Denial of foreign accrual tax

(4.1) For the purposes of the definition ***foreign accrual tax*** in subsection 95(1), foreign accrual tax applicable to a particular amount included in computing a taxpayer's income under subsection (1) for a taxation year of the taxpayer in respect of a particular foreign affiliate of the taxpayer is not to include the amount that would, in the absence of this subsection, be foreign accrual tax applicable to the particular amount if, at any time in the taxation year (referred to in this subsection as the "affiliate year") of the particular affiliate that ends in the taxation year of the taxpayer,

(a) a specified owner in respect of the taxpayer is considered,

revenu pour l'année, à titre de provision afférente à la somme ainsi incluse, une somme que le ministre juge raisonnable dans les circonstances.

Inclusion de la provision au titre de l'année précédente

(3) Dans le calcul du revenu d'un contribuable pour une année d'imposition, doit être incluse chaque somme relative à une action, déduite, en vertu du paragraphe (2), dans le calcul de son revenu pour l'année précédente.

Montants déductibles au titre des impôts étrangers

(4) Lorsqu'un montant afférent à une action a été inclus, en vertu du paragraphe (1), dans le calcul du revenu d'un contribuable pour une année d'imposition ou pour l'une des 5 années d'imposition précédentes (appelé le « revenu indiqué » au présent paragraphe), il peut être déduit dans le calcul du revenu du contribuable pour l'année, la moins élevée des sommes suivantes :

a) le produit de la multiplication du montant visé au sous-alinéa (i) par le facteur visé au sous-alinéa (ii):

(i) la partie de l'impôt étranger accumulé applicable au revenu indiqué qui n'était pas déductible en vertu du présent paragraphe au cours d'une année antérieure,

(ii) le facteur fiscal approprié applicable au contribuable pour l'année;

b) l'excédent éventuel du revenu indiqué sur le total des montants afférents à cette action qui sont déductibles en vertu du présent paragraphe au cours de l'une quelconque des 5 années d'imposition précédentes à l'égard du revenu indiqué.

Sommes exclues de l'impôt étranger accumulé

(4.1) Pour l'application de la définition de ***impôt étranger accumulé*** au paragraphe 95(1), l'impôt étranger accumulé applicable à un montant donné inclus, en vertu du paragraphe (1), dans le calcul du revenu d'un contribuable pour son année d'imposition à l'égard d'une société étrangère affiliée donnée de celui-ci ne comprend pas la somme qui, en l'absence du présent paragraphe, correspondrait à l'impôt étranger accumulé applicable au montant donné si, au cours de l'année d'imposition de la société affiliée donnée (appelée « année de la société affiliée » au présent paragraphe) se terminant dans l'année d'imposition du contribuable, l'un des faits ci-après s'avère :

a) un propriétaire déterminé relativement au contribuable est considéré, selon le cas :

(i) under the income tax laws (referred to in subsections (4.5) and (4.6) as the "relevant foreign tax law") of any country other than Canada under the laws of which any income of a particular corporation — that is, at any time in the affiliate year, a pertinent person or partnership in respect of the particular affiliate — is subject to income taxation, to own less than all of the shares of the capital stock of the particular corporation that are considered to be owned by the specified owner for the purposes of this Act, or

(ii) under the income tax laws (referred to in subsections (4.5) and (4.6) as the "relevant foreign tax law") of any country other than Canada under the laws of which any income of a particular partnership — that is, at any time in the affiliate year, a pertinent person or partnership in respect of the particular affiliate — is subject to income taxation, to have a lesser direct or indirect share of the income of the particular partnership than the specified owner is considered to have for the purposes of this Act; or

(b) where the taxpayer is a partnership, the direct or indirect share of the income of the partnership of any member of the partnership that is, at any time in the affiliate year, a person resident in Canada or a foreign affiliate of such a person is, under the income tax laws (referred to in subsection (4.6) as the "relevant foreign tax law") of any country other than Canada under the laws of which any income of the partnership is subject to income taxation, less than the member's direct or indirect share of that income for the purposes of this Act.

(i) selon la législation fiscale (appelée « législation étrangère applicable » aux paragraphes (4.5) et (4.6)) d'un pays étranger sous le régime des lois duquel le revenu d'une société donnée — qui est, au cours de l'année de la société affiliée, une personne ou société de personnes intéressée par rapport à la société affiliée donnée — est assujetti à l'impôt sur le revenu, être propriétaire de moins que la totalité des actions du capital-actions de la société donnée qui sont considérées lui appartenir pour l'application de la présente loi,

(ii) selon la législation fiscale (appelée « législation étrangère applicable » aux paragraphes (4.5) et (4.6)) d'un pays étranger sous le régime des lois duquel le revenu d'une société de personnes donnée — qui est, au cours de l'année de la société affiliée, une personne ou société de personnes intéressée par rapport à la société affiliée donnée — est assujetti à l'impôt sur le revenu, avoir une part directe ou indirecte du revenu de la société de personnes donnée qui est inférieure à celle qu'il est considéré avoir pour l'application de la présente loi;

b) dans le cas où le contribuable est une société de personnes, la part directe ou indirecte de son revenu qui revient à l'un de ses associés — qui est, au cours de l'année de la société affiliée, soit une personne résidant au Canada, soit une société étrangère affiliée d'une telle personne — selon la législation fiscale (appelée « législation étrangère applicable » au paragraphe (4.6)) d'un pays étranger sous le régime des lois duquel le revenu de la société de personnes est assujetti à l'impôt sur le revenu, est inférieure à la part qui lui revient pour l'application de la présente loi.

Specified owner

(4.2) For the purposes of subsections (4.1) and (4.5), a ***specified owner***, at any time, in respect of a taxpayer means the taxpayer or a person or partnership that is, at that time,

(a) a partnership of which the taxpayer is a member;

(b) a foreign affiliate of the taxpayer;

(c) a partnership a member of which is a foreign affiliate of the taxpayer; or

(d) a person or partnership referred to in any of subparagraphs (4.4)(a)(i) to (iii).

Propriétaire déterminé

(4.2) Pour l'application des paragraphes (4.1) et (4.5), est un propriétaire déterminé relativement à un contribuable à un moment donné le contribuable ou une personne ou une société de personnes qui est, à ce moment :

a) une société de personnes dont le contribuable est un associé;

b) une société étrangère affiliée du contribuable;

c) une société de personnes dont l'un des associés est une société étrangère affiliée du contribuable;

d) une personne ou une société de personnes mentionnée à l'un des sous-alinéas (4.4)a)(i) à (iii).

Pertinent person or partnership

(4.3) For the purposes of this subsection and subsection (4.1), a ***pertinent person or partnership***, at any time, in

Personnes ou société de personnes intéressée

(4.3) Pour l'application du présent paragraphe et du paragraphe (4.1), est une personne ou société de personnes

respect of a particular foreign affiliate of a taxpayer means the particular affiliate or a person or partnership that is, at that time,

(a) another foreign affiliate of the taxpayer

(i) in which the particular affiliate has an equity percentage, or

(ii) that has an equity percentage in the particular affiliate;

(b) a partnership a member of which is at that time a pertinent person or partnership in respect of the particular affiliate under this subsection; or

(c) a person or partnership referred to in any of subparagraphs (4.4)(b)(i) to (iii).

intéressée par rapport à une société étrangère affiliée donnée d'un contribuable à un moment donné la société affiliée donnée ou une personne ou une société de personnes qui est, à ce moment :

a) une autre société étrangère affiliée du contribuable :

(i) soit dans laquelle la société affiliée donnée a un pourcentage d'intérêt,

(ii) soit qui a un pourcentage d'intérêt dans la société affiliée donnée;

b) une société de personnes dont l'un des associés est, à ce moment, une personne ou société de personnes intéressée par rapport à la société affiliée donnée en vertu du présent paragraphe;

c) une personne ou une société de personnes mentionnée à l'un des sous-alinéas (4.4)b)(i) à (iii).

Series of transactions

(4.4) For the purposes of subsections (4.2) and (4.3), if, as part of a series of transactions or events that includes the earning of the foreign accrual property income that gave rise to the particular amount referred to in subsection (4.1), a foreign affiliate (referred to in this subsection as the "funding affiliate") of the taxpayer or of a person (referred to in this subsection as the "related person") resident in Canada that is related to the taxpayer, or a partnership (referred to in this subsection as the "funding partnership") of which such an affiliate is a member, directly or indirectly provided funding to the particular affiliate, or a partnership of which the particular affiliate is a member, otherwise than by way of loans or other indebtedness that are subject to terms or conditions made or imposed, in respect of the loans or other indebtedness, that do not differ from those that would be made or imposed between persons dealing at arm's length or by way of an acquisition of shares of the capital stock of any corporation, then

(a) if the funding affiliate is, or the funding partnership has a member that is, a foreign affiliate of the related person, the following persons and partnerships are deemed, at all times during which the foreign accrual property income is earned by the particular affiliate, to be specified owners in respect of the taxpayer:

(i) the related person,

(ii) each foreign affiliate of the related person, and

(iii) each partnership a member of which is a person referred to in subparagraph (i) or (ii); and

Série d'opérations

(4.4) Pour l'application des paragraphes (4.2) et (4.3), si, dans le cadre d'une série d'opérations ou d'événements ayant permis notamment de gagner le revenu étranger accumulé, tiré de biens qui a donné naissance au montant donné mentionné au paragraphe (4.1), une société étrangère affiliée (appelée « société de financement » au présent paragraphe) du contribuable ou d'une personne résidant au Canada qui lui est liée (appelée « personne liée » au présent paragraphe), ou une société de personnes (appelée « société de personnes de financement » au présent paragraphe) dont une telle société affiliée est un associé, a fourni des fonds directement ou indirectement à la société affiliée donnée ou à une société de personnes dont elle est un associé, autrement qu'au moyen de prêts ou d'autres dettes qui sont assujettis à des modalités conclues ou imposées, relativement aux prêts ou autres dettes, qui ne diffèrent pas de celles qui auraient été conclues ou imposées entre personnes sans lien de dépendance ou autrement qu'au moyen d'une acquisition d'actions du capital-actions d'une société, les règles ci-après s'appliquent :

a) si la société de financement est une société étrangère affiliée de la personne liée ou si la société de personnes de financement compte un associé qui est une telle société affiliée, les personnes et les sociétés de personnes ci-après sont réputées être des propriétaires déterminés relativement au contribuable à tout moment où le revenu étranger accumulé, tiré de biens est gagné par la société affiliée donnée :

(i) la personne liée,

(b) the following persons and partnerships are deemed, at all times during which the foreign accrual property income is earned by the particular affiliate, to be pertinent persons or partnerships in respect of the particular affiliate:

(i) the funding affiliate or the funding partnership,

(ii) a non-resident corporation

(A) in which the funding affiliate has an equity percentage, or

(B) that has an equity percentage in the funding affiliate, and

(iii) a partnership a member of which is a person or partnership referred to in subparagraph (i) or (ii).

b) les personnes et les sociétés de personnes ci-après sont réputées être des personnes ou sociétés de personnes intéressées par rapport à la société affiliée donnée à tout moment où le revenu étranger accumulé, tiré de biens est gagné par celle-ci :

(i) la société de financement ou la société de personnes de financement,

(ii) une société non-résidente :

(A) soit dans laquelle la société de financement a un pourcentage d'intérêt,

(B) soit qui a un pourcentage d'intérêt dans la société de financement,

(iii) une société de personnes dont l'un des associés est une personne ou une société de personnes mentionnée aux sous-alinéas (i) ou (ii).

Exception — hybrid entities

(4.5) For the purposes of subparagraph (4.1)(a)(i), a specified owner in respect of the taxpayer is not to be considered, under the relevant foreign tax law, to own less than all of the shares of the capital stock of a corporation that are considered to be owned for the purposes of this Act solely because the specified owner is not treated as a corporation under the relevant foreign tax law.

Exception — entités hybrides

(4.5) Pour l'application du sous-alinéa (4.1)a)(i), un propriétaire déterminé relativement au contribuable n'est pas considéré, selon la législation étrangère applicable, être propriétaire de moins que la totalité des actions du capital-actions d'une société qui sont considérées appartenir à quelqu'un pour l'application de la présente loi du seul fait qu'il n'est pas traité comme une société selon la législation étrangère applicable.

Exceptions — partnerships

(4.6) For the purposes of subparagraph (4.1)(a)(ii) and paragraph (4.1)(b), a member of a partnership is not to be considered to have a lesser direct or indirect share of the income of the partnership under the relevant foreign tax law than for the purposes of this Act solely because of one or more of the following:

(a) a difference between the relevant foreign tax law and this Act in the manner of

(i) computing the income of the partnership, or

(ii) allocating the income of the partnership because of the admission to, or withdrawal from, the partnership of any of its members;

Exceptions — sociétés de personnes

(4.6) Pour l'application du sous-alinéa (4.1)a)(ii) et de l'alinéa (4.1)b), l'associé d'une société de personnes n'est pas considéré, selon la législation étrangère applicable avoir une part directe ou indirecte du revenu de la société de personnes qui est inférieure à celle qu'il a pour l'application de la présente loi du seul fait :

a) que la législation étrangère applicable et la présente loi diffèrent sur l'un des plans suivants :

(i) la méthode de calcul du revenu de la société de personnes,

(ii) la méthode de répartition du revenu de la société de personnes par suite de l'entrée de nouveaux associés ou du retrait d'associés;

(b) the treatment of the partnership as a corporation under the relevant foreign tax law; or

(c) the fact that the member is not treated as a corporation under the relevant foreign tax law.

b) que la société de personnes est traitée comme une société selon la législation étrangère applicable;

c) que l'associé n'est pas traité comme une société selon la législation étrangère applicable.

Deemed ownership

(4.7) For the purposes of subsection (4.1), if a specified owner owns, for the purposes of this Act, shares of the capital stock of a corporation and the dividends, or similar amounts, in respect of those shares are treated under the income tax laws of any country other than Canada under the laws of which any income of the corporation is subject to income taxation as interest or another form of deductible payment, the specified owner is deemed to be considered, under those tax laws, to own less than all of the shares of the capital stock of the corporation that are considered to be owned by the specified owner for the purposes of this Act.

Propriété réputée

(4.7) Pour l'application du paragraphe (4.1), si un propriétaire déterminé est propriétaire, pour l'application de la présente loi, d'actions du capital-actions d'une société et que les dividendes, ou des sommes semblables, relatifs à ces actions sont traités selon la législation fiscale d'un pays étranger sous le régime des lois duquel tout revenu de la société est assujetti à l'impôt sur le revenu à titre d'intérêts ou d'une autre forme de paiement déductible, le propriétaire déterminé est réputé être considéré, selon cette législation, être propriétaire de moins que la totalité des actions du capital-actions de la société qui sont considérées lui appartenir pour l'application de la présente loi.

Amounts deductible in respect of dividends received

(5) Where in a taxation year a taxpayer resident in Canada has received a dividend on a share of the capital stock of a corporation that was at any time a controlled foreign affiliate of the taxpayer, there may be deducted, in respect of such portion of the dividend as is prescribed to have been paid out of the taxable surplus of the affiliate, in computing the taxpayer's income for the year, the lesser of

(a) the amount by which that portion of the dividend exceeds the amount, if any, deductible in respect thereof under paragraph 113(1)(b), and

(b) the amount, if any, by which

(i) the total of all amounts required by paragraph 92(1)(a) to be added in computing the adjusted cost base to the taxpayer of the share before the dividend was so received by the taxpayer

exceeds

(ii) the total of all amounts required by paragraph 92(1)(b) to be deducted in computing the adjusted cost base to the taxpayer of the share before the dividend was so received by the taxpayer.

Montants déductibles à l'égard de dividendes reçus

(5) Lorsque, au cours d'une année d'imposition, un contribuable résidant au Canada a reçu un dividende sur une action du capital-actions d'une société qui était à un moment donné une société étrangère affiliée contrôlée du contribuable, il peut être déduit, à l'égard de la partie du dividende qui, aux termes du règlement, a été payée à partir du surplus imposable de la société affiliée, dans le calcul du revenu du contribuable pour l'année, la moins élevée des sommes suivantes :

a) l'excédent de la partie du dividende sur le montant déductible à cet égard en vertu de l'alinéa 113(1)b);

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants qui doivent, aux termes de l'alinéa 92(1)a), être ajoutés dans le calcul du prix de base rajusté de l'action, pour lui, avant qu'il ait reçu le dividende,

(ii) le total des montants qui doivent, aux termes de l'alinéa 92(1)b), être déduits dans le calcul du prix de base rajusté de l'action, pour lui, avant qu'il ait reçu ce dividende.

(5.1) to (5.3) [Repealed, 2009, c. 2, s. 23]

(5.1) à (5.3) [Abrogés, 2009, ch. 2, art. 23]

Idem

(6) Where a share of the capital stock of a foreign affiliate of a taxpayer that is a taxable Canadian corporation is acquired by the taxpayer from another corporation resident in Canada with which the taxpayer is not dealing at arm's length, for the purpose of subsection 91(5), any

Idem

(6) Pour l'application du paragraphe (5), dans le cas où un contribuable — société canadienne imposable — acquiert une action du capital-actions de sa société étrangère affiliée auprès d'une autre société résidant au Canada avec laquelle il a un lien de dépendance, le

amount required by section 92 to be added or deducted, as the case may be, in computing the adjusted cost base to the other corporation of the share shall be deemed to have been so required to be added or deducted, as the case may be, in computing the adjusted cost base to the taxpayer of the share.

Shares acquired from a partnership

(7) For the purpose of subsection (5), where a taxpayer resident in Canada acquires a share of the capital stock of a corporation that is immediately after the acquisition a foreign affiliate of the taxpayer from a partnership of which the taxpayer, or a corporation resident in Canada with which the taxpayer was not dealing at arm's length at the time the share was acquired, was a member (each such person referred to in this subsection as the "member") at any time during any fiscal period of the partnership that began before the acquisition,

(a) that portion of any amount required by subsection 92(1) to be added to the adjusted cost base to the partnership of the share of the capital stock of the foreign affiliate equal to the amount included in the income of the member because of subsection 96(1) in respect of the amount that was included in the income of the partnership because of subsection (1) or (3) in respect of the foreign affiliate and added to that adjusted cost base, and

(b) that portion of any amount required by subsection 92(1) to be deducted from the adjusted cost base to the partnership of the share of the capital stock of the foreign affiliate equal to the amount by which the income of the member from the partnership under subsection 96(1) was reduced because of the amount deducted in computing the income of the partnership under subsection (2), (4) or (5) and deducted from that adjusted cost base

is deemed to be an amount required by subsection 92(1) to be added or deducted, as the case may be, in computing the adjusted cost base to the taxpayer of the share.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 91; 1994, c. 7, Sch. II, s. 68; 2001, c. 17, s. 68; 2007, c. 35, s. 24; 2009, c. 2, s. 23; 2013, c. 34, s. 226.

Adjusted cost base of share of foreign affiliate

92 (1) In computing, at any time in a taxation year, the adjusted cost base to a taxpayer resident in Canada of any share owned by the taxpayer of the capital stock of a foreign affiliate of the taxpayer,

(a) there shall be added in respect of that share any amount included in respect of that share under

montant à ajouter ou à déduire en application de l'article 92 dans le calcul du prix de base rajusté de l'action pour l'autre société est réputé être ainsi à ajouter ou à déduire dans le calcul du prix de base rajusté de l'action pour le contribuable.

Actions acquises d'une société de personnes

(7) Pour l'application du paragraphe (5), lorsqu'un contribuable résidant au Canada acquiert d'une société de personnes une action du capital-actions d'une société qui, immédiatement après l'acquisition, est une société étrangère affiliée du contribuable et que le contribuable, ou une société résidant au Canada et avec laquelle il avait un lien de dépendance au moment de l'acquisition de l'action, était un associé de la société de personnes au cours d'un exercice de celle-ci ayant commencé avant l'acquisition, les présomptions suivantes s'appliquent :

a) la partie d'un montant à ajouter, en application du paragraphe 92(1), au prix de base rajusté, pour la société de personnes, de l'action du capital-actions de la société affiliée qui correspond au montant inclus dans le revenu de l'associé par l'effet du paragraphe 96(1) au titre du montant inclus dans le revenu de la société de personnes par l'effet des paragraphes (1) ou (3) relativement à la société affiliée et ajouté à ce prix de base rajusté est réputée être un montant à ajouter, en application du paragraphe 92(1), dans le calcul du prix de base rajusté de l'action pour le contribuable;

b) la partie d'un montant à déduire, en application du paragraphe 92(1), du prix de base rajusté, pour la société de personnes, de l'action du capital-actions de la société affiliée qui correspond au montant dont le revenu de l'associé provenant de la société de personnes selon le paragraphe 96(1) a été réduit en raison du montant déduit dans le calcul du revenu de la société de personnes en application des paragraphes (2), (4) ou (5) et déduit de ce prix de base rajusté est réputée être un montant à déduire, en application du paragraphe 92(1), dans le calcul du prix de base rajusté de l'action pour le contribuable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 91; 1994, ch. 7, ann. II, art. 68; 2001, ch. 17, art. 68; 2007, ch. 35, art. 24; 2009, ch. 2, art. 23; 2013, ch. 34, art. 226.

Prix de base rajusté d'une action d'une société étrangère affiliée

92 (1) Dans le calcul, à un moment donné d'une année d'imposition, du prix de base rajusté, pour un contribuable qui réside au Canada, d'une action lui appartenant du capital-actions d'une de ses sociétés étrangères affiliées :

subsection 91(1) or (3) in computing the taxpayer's income for the year or any preceding taxation year (or that would have been required to have been so included in computing the taxpayer's income but for subsection 56(4.1) and sections 74.1 to 75 of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952); and

(b) there shall be deducted in respect of that share

(i) any amount deducted by the taxpayer under subsection 91(2) or (4), and

(ii) any dividend received by the taxpayer before that time, to the extent of the amount deducted by the taxpayer, in respect of the dividend, under subsection 91(5)

in computing the taxpayer's income for the year or any preceding taxation year (or that would have been deductible by the taxpayer but for subsection 56(4.1) and sections 74.1 to 75 of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952).

a) est ajoutée relativement à l'action toute somme qui est incluse relativement à l'action, en application des paragraphes 91(1) ou (3), dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure (ou qui aurait été à inclure dans ce calcul en l'absence du paragraphe 56(4.1) et des articles 74.1 à 75 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952);

b) sont déduits relativement à l'action :

(i) toute somme qui est déduite par le contribuable, en application des paragraphes 91(2) ou (4), dans le calcul de son revenu pour une année ou pour une année d'imposition antérieure (ou qui aurait été déductible par lui en l'absence du paragraphe 56(4.1) et des articles 74.1 à 75 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952),

(ii) tout dividende reçu par le contribuable avant le moment donné, jusqu'à concurrence de la somme qu'il a déduite relativement au dividende, en application du paragraphe 91(5), dans le calcul de son revenu pour une année ou pour une année d'imposition antérieure (ou qui aurait été déductible par lui en l'absence du paragraphe 56(4.1) et des articles 74.1 à 75 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952).

Adjustment for prescribed amount

(1.1) The prescribed amount shall be added in computing the adjusted cost base of a share of the capital stock of a foreign affiliate of a corporation resident in Canada to

(a) another foreign affiliate of the corporation; or

(b) a partnership of which another foreign affiliate of the corporation is a member.

Rajustement — somme visée par règlement

(1.1) La somme visée par règlement est ajoutée dans le calcul du prix de base rajusté, pour l'une des entités ci-après, d'une action du capital-actions d'une société étrangère affiliée d'une société résidant au Canada :

a) une autre société étrangère affiliée de la société;

b) une société de personnes dont une autre société étrangère affiliée de la société est un associé.

Adjustment re adjusted cost base

(1.2) There is to be added in computing the adjusted cost base to a taxpayer of a share of the capital stock of a foreign affiliate of the taxpayer any amount required by paragraph 93(4)(b) to be so added.

Rajustement du prix de base rajusté

(1.2) Est à ajouter dans le calcul du prix de base rajusté pour un contribuable d'une action du capital-actions d'une société étrangère affiliée de celui-ci toute somme devant être ajoutée dans ce calcul aux termes de l'alinéa 93(4)b).

Deduction in computing adjusted cost base

(2) In computing, at any time in a taxation year,

(a) the adjusted cost base to a corporation resident in Canada (in this subsection referred to as an "owner")

Déduction dans le calcul du prix de base rajusté

(2) Dans le calcul, à un moment donné d'une année d'imposition :

of any share of the capital stock of a foreign affiliate of the corporation, or

(b) the adjusted cost base to a foreign affiliate (in this subsection referred to as an "owner") of a person resident in Canada of any share of the capital stock of another foreign affiliate of that person,

there shall be deducted, in respect of any dividend received on the share before that time by the owner of the share, an amount equal to the amount, if any, by which

(c) such portion of the amount of the dividend so received as was deductible by virtue of paragraph 113(1)(d) from the income of the owner for the year in computing the owner's taxable income for the year or as would have been so deductible if the owner had been a corporation resident in Canada,

exceeds

(d) such portion of any income or profits tax paid by the owner to the government of a country other than Canada as may reasonably be regarded as having been paid in respect of the portion described in paragraph 92(2)(c).

a) du prix de base rajusté, pour une société résidant au Canada (appelée un « propriétaire » au présent paragraphe), d'une action du capital-actions d'une société étrangère affiliée de cette société;

b) du prix de base rajusté, pour une société étrangère affiliée (appelée un « propriétaire » au présent paragraphe) d'une personne résidant au Canada, d'une action du capital-actions d'une autre société étrangère affiliée de cette personne,

il doit être déduit, relativement à tout dividende sur cette action reçu par le propriétaire de celle-ci avant ce moment, une somme égale à l'excédent éventuel du montant calculé à l'alinéa c) sur le montant calculé à l'alinéa d):

c) la partie du montant du dividende ainsi reçu qui était déductible, en vertu de l'alinéa 113(1)d), du revenu du propriétaire pour l'année dans le calcul de son revenu imposable pour l'année ou qui aurait été déductible si le propriétaire avait été une société résidant au Canada;

d) la fraction de tout impôt sur le revenu ou sur les bénéfices, payé par le propriétaire au gouvernement d'un pays étranger, qu'il est raisonnable de considérer comme ayant été payée relativement à la partie de la somme visée à l'alinéa c).

Idem

(3) In computing, at any time in a taxation year, the adjusted cost base to a corporation resident in Canada of any share of the capital stock of a foreign affiliate of the corporation, there shall be deducted an amount in respect of any dividend received on the share by the corporation before that time equal to such portion of the amount so received as was deducted under subsection 113(2) from the income of the corporation for the year or any preceding year in computing its taxable income.

Idem

(3) Dans le calcul, à un moment donné d'une année d'imposition, du prix de base rajusté, pour une société qui réside au Canada, de toute action du capital-actions d'une société étrangère affiliée de la société, il est déduit une somme, relative à tout dividende reçu sur l'action par la société avant ce moment, égale à la fraction du montant ainsi reçu qui a été déduite, en vertu du paragraphe 113(2), du revenu de la société pour l'année ou toute année d'imposition antérieure dans le calcul de son revenu imposable.

Disposition of a partnership interest

(4) Where a corporation resident in Canada or a foreign affiliate of a corporation resident in Canada has at any time disposed of all or a portion of an interest in a partnership of which it was a member, there shall be added, in computing the proceeds of disposition of that interest, the amount determined by the formula

(A - B) × (C/D)

where

A is the amount, if any, by which

(a) the total of all amounts each of which is an amount that was deductible under paragraph

Disposition d'une participation dans une société de personnes

(4) Lorsqu'une société résidant au Canada ou une société étrangère affiliée d'une telle société dispose, à un moment donné, de la totalité ou d'une partie d'une participation dans une société de personnes dont elle est un associé, le montant obtenu par la formule suivante doit être ajouté dans le calcul du produit de disposition de cette participation :

(A - B) × (C/D)

où :

A représente l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

113(1)(d) by the member from its income in computing its taxable income for any taxation year of the member that began before that time in respect of any portion of a dividend received by the partnership, or would have been so deductible if the member were a corporation resident in Canada,

exceeds

(b) the total of all amounts each of which is the portion of any income or profits tax paid by the partnership or the member of the partnership to a government of a country other than Canada that can reasonably be considered as having been paid in respect of the member's share of the dividend described in paragraph (a);

B is the total of

(a) the total of all amounts each of which was an amount added under this subsection in computing the member's proceeds of a disposition before that time of another interest in the partnership, and

(b) the total of all amounts each of which was an amount deemed by subsection (5) to be a gain of the member from a disposition before that time of a share by the partnership;

C is the adjusted cost base, immediately before that time, of the portion of the member's interest in the partnership disposed of by the member at that time; and

D is the adjusted cost base, immediately before that time, of the member's interest in the partnership immediately before that time.

a) le total des montants représentant chacun un montant que l'associé pouvait déduire de son revenu, en application de l'alinéa 113(1)d), dans le calcul de son revenu imposable pour une de ses années d'imposition ayant commencé avant le moment donné, ou aurait pu ainsi déduire s'il avait été une société résidant au Canada, au titre d'une partie d'un dividende reçu par la société de personnes,

b) le total des montants représentant chacun la partie de l'impôt sur le revenu ou sur les bénéfices payé par la société de personnes, ou l'un de ses associés, au gouvernement d'un pays étranger qu'il est raisonnable de considérer comme ayant été payée au titre de la part du dividende visé à l'alinéa a) qui revient à l'associé;

B la somme des totaux suivants :

a) le total des montants représentant chacun un montant ajouté, en application du présent paragraphe, dans le calcul du produit que l'associé a tiré de la disposition, effectuée avant le moment donné, d'une autre participation dans la société de personnes,

b) le total des montants représentant chacun un montant réputé par le paragraphe (5) être un gain que l'associé a tiré de la disposition d'une action effectuée par la société de personnes avant le moment donné;

C le prix de base rajusté, immédiatement avant le moment donné, de la partie de la participation de l'associé dans la société de personnes dont celui-ci a disposé au moment donné;

D le prix de base rajusté, immédiatement avant le moment donné, de la participation de l'associé dans la société de personnes immédiatement avant le moment donné.

Deemed gain from the disposition of a share

(5) Where a partnership has, at any time in a fiscal period of the partnership at the end of which a corporation resident in Canada or a foreign affiliate of a corporation resident in Canada was a member, disposed of a share of the capital stock of a corporation, the amount determined under subsection (6) in respect of such a member is deemed to be a gain of the member from the disposition of the share by the partnership for the member's taxation year in which the fiscal period of the partnership ends.

Présomption de gain provenant de la disposition d'une action

(5) Lorsqu'une société de personnes dispose, à un moment donné, d'une action du capital-actions d'une société au cours de son exercice et que, à la fin de cet exercice, une société résidant au Canada ou une société étrangère affiliée d'une telle société est un associé de la société de personnes, le montant déterminé selon le paragraphe (6) relativement à cet associé est réputé être un gain de ce dernier provenant de la disposition de l'action par la société de personnes pour l'année d'imposition de l'associé dans laquelle l'exercice de la société de personnes prend fin.

Formula

(6) The amount determined for the purposes of subsection (5) is the amount determined by the formula

A - B

where

A is the amount, if any, by which

(a) the total of all amounts each of which is an amount that was deductible under paragraph 113(1)(d) by the member from its income in computing its taxable income for a taxation year in respect of any portion of a dividend received by the partnership on the share in a fiscal period of the partnership that began before the time referred to in subsection (5) and ends in the member's taxation year, or would have been so deductible if the member were a corporation resident in Canada,

exceeds

(b) the total of all amounts each of which is the portion of any income or profits tax paid by the partnership or the member to a government of a country other than Canada that can reasonably be considered as having been paid in respect of the member's share of the dividend described in paragraph (a); and

B is the total of all amounts each of which is an amount that was added under subsection (4) in computing the member's proceeds of a disposition before the time referred to in subsection (5) of an interest in the partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 92; 2001, c. 17, s. 69; 2007, c. 35, s. 25; 2009, c. 2, s. 24; 2013, c. 34, ss. 31, 67.

Calcul

(6) Le montant déterminé pour l'application du paragraphe (5) s'obtient par la formule suivante :

A - B

où :

A représente l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentant chacun un montant que l'associé pouvait déduire de son revenu, en application de l'alinéa 113(1)d), dans le calcul de son revenu imposable pour une année d'imposition, ou aurait pu ainsi déduire s'il avait été une société résidant au Canada, au titre d'une partie d'un dividende reçu par la société de personnes sur l'action au cours d'un exercice de la société de personnes ayant commencé avant le moment donné visé au paragraphe (5) et se terminant dans l'année d'imposition de l'associé,

b) le total des montants représentant chacun la partie de l'impôt sur le revenu ou sur les bénéfices payé par la société de personnes ou l'associé au gouvernement d'un pays étranger qu'il est raisonnable de considérer comme ayant été payée au titre de la part du dividende visé à l'alinéa a) qui revient à l'associé;

B le total des montants représentant chacun un montant qui a été ajouté, en application du paragraphe (4), dans le calcul du produit que l'associé a tiré d'une disposition, effectuée avant le moment donné visé au paragraphe (5), d'une participation dans la société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 92; 2001, ch. 17, art. 69; 2007, ch. 35, art. 25; 2009, ch. 2, art. 24; 2013, ch. 34, art. 31 et 67.

Election re disposition of share of foreign affiliate

93 (1) For the purposes of this Act, if a corporation resident in Canada elects, in accordance with prescribed rules, in respect of any share of the capital stock of a particular foreign affiliate of the corporation that is disposed of, at any time, by the corporation (referred to in this subsection as the "disposing corporation") or by another foreign affiliate (referred to in this subsection as the "disposing affiliate") of the corporation,

(a) the amount (referred to in this subsection as the "elected amount") designated by the corporation in its election not exceeding the amount that would, in the absence of this subsection, be the gain of the disposing corporation or disposing affiliate, as the case may be, from the disposition of the share, is deemed

Choix relatif à la disposition de l'action d'une société étrangère affiliée

93 (1) Pour l'application de la présente loi, dans le cas où une société résidant au Canada (appelée « société cédante » au présent paragraphe) fait un choix, selon les règles prévues par règlement, concernant une action du capital-actions d'une société étrangère affiliée donnée de la société cédante dont celle-ci ou une autre de ses sociétés étrangères affiliées (appelée « société affiliée cédante » au présent paragraphe) dispose à un moment donné, les règles ci-après s'appliquent :

a) le montant que la société indique dans le choix, ne dépassant pas la somme qui, en l'absence du présent paragraphe, représenterait le gain de la société cédante ou de la société affiliée cédante, selon le cas, provenant de la disposition de l'action, est réputé :

(i) to have been a dividend received on the share from the particular affiliate by the disposing corporation or disposing affiliate, as the case may be, immediately before that time, and

(ii) not to have been received by the disposing corporation or disposing affiliate, as the case may be, as proceeds of disposition in respect of the disposition of the share; and

(b) if subsection 40(3) applies to the disposing corporation or disposing affiliate, as the case may be, in respect of the share, the amount deemed by that subsection to be the gain of the disposing corporation or disposing affiliate, as the case may be, from the disposition of the share is, except for the purposes of paragraph 53(1)(a), deemed to be equal to the amount, if any, by which

(i) the amount deemed by that subsection to be the gain from the disposition of the share determined without reference to this paragraph

exceeds

(ii) the elected amount.

(i) être un dividende que la société cédante ou la société affiliée cédante, selon le cas, a reçu sur l'action de la société affiliée donnée immédiatement avant ce moment,

(ii) ne pas avoir été reçu par la société cédante ou la société affiliée cédante, selon le cas, à titre de produit de disposition relativement à la disposition de l'action;

b) en cas d'application du paragraphe 40(3) à la société cédante ou la société affiliée cédante, selon le cas, relativement à l'action, le montant réputé en vertu de ce paragraphe être le gain de cette société tiré de la disposition de l'action est réputé, sauf pour l'application de l'alinéa 53(1)a), être égal à l'excédent du montant visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le montant réputé, en vertu de ce paragraphe, être le gain tiré de la disposition de l'action, déterminé compte non tenu du présent alinéa,

(ii) le montant indiqué dans le document concernant le choix.

Application of subsection (1.11)

(1.1) Subsection (1.11) applies if

(a) a particular foreign affiliate of a corporation resident in Canada disposes at any time of a share (referred to in this paragraph and subsection (1.11) as the "disposed share") of the capital stock of another foreign affiliate of the corporation and the particular affiliate would, in the absence of subsections (1) and (1.11), have a capital gain from the disposition of the disposed share; or

(b) a corporation resident in Canada would, in the absence of subsections (1) and (1.11), be deemed under subsection 40(3), because of an election under subsection 90(3) or subparagraph 5901(2)(b)(i) of the *Income Tax Regulations*, to have realized a gain from a disposition at any time of a share (referred to in subsection (1.11) as the "disposed share") of the capital stock of a foreign affiliate of the corporation.

Application du paragraphe (1.11)

(1.1) Le paragraphe (1.11) s'applique si l'un des faits ci-après s'avère :

a) une société étrangère affiliée donnée d'une société résidant au Canada dispose, à un moment donné, d'une action (appelée « action cédée » au présent alinéa et au paragraphe (1.11)) du capital-actions d'une autre société étrangère affiliée de la société et aurait, en l'absence des paragraphes (1) et (1.11), un gain en capital provenant de la disposition de l'action cédée;

b) en l'absence des paragraphes (1) et (1.11), une société résidant au Canada serait réputée en vertu du paragraphe 40(3), en raison du choix prévu au paragraphe 90(3) ou au sous-alinéa 5901(2)b)(i) du *Règlement de l'impôt sur le revenu*, avoir réalisé un gain de la disposition, effectuée à un moment donné, d'une action (appelée « action cédée » au paragraphe (1.11)) du capital-actions d'une de ses sociétés étrangères affiliées.

Deemed election

(1.11) If this subsection applies, the corporation resident in Canada referred to in subsection (1.1) is deemed

(a) to have made an election, at the time referred to in subsection (1.1), under subsection (1) in respect of the disposition of the disposed share; and

Choix réputé

(1.11) En cas d'application du présent paragraphe, la société résidant au Canada visée au paragraphe (1.1) est réputée :

(b) to have designated, in the election, the prescribed amount in respect of the disposition of the disposed share.

b) d'autre part, avoir indiqué, dans le document concernant le choix, la somme visée par règlement relativement à la disposition de l'action cédée.

Disposition of shares of a foreign affiliate held by a partnership

(1.2) Where a particular corporation resident in Canada or a foreign affiliate of the particular corporation (each of which is referred to in this subsection as the "disposing corporation") would, but for this subsection, have a taxable capital gain from a disposition by a partnership, at any time, of shares of a class of the capital stock of a foreign affiliate of the particular corporation and the particular corporation so elects in prescribed manner in respect of the disposition,

(a) twice

(i) the amount designated by the particular corporation (which amount shall not exceed the amount that is equal to the proportion of the taxable capital gain of the partnership that the number of shares of that class of the capital stock of the foreign affiliate, determined as the amount, if any, by which the number of those shares that were deemed to have been owned by the disposing corporation for the purposes of subsection 93.1(1) immediately before the disposition exceeds the number of those shares that were deemed to have been owned for those purposes by the disposing corporation immediately after the disposition, is of the number of those shares of the foreign affiliate that were owned by the partnership immediately before the disposition), or

(ii) if subsection (1.3) applies, the prescribed amount

in respect of those shares is deemed to have been a dividend received immediately before that time on the number of those shares of the foreign affiliate which shall be determined as the amount, if any, by which the number of those shares that the disposing corporation was deemed to own for the purpose of subsection 93.1(1) immediately before the disposition exceeds the number of those shares of the foreign affiliate that the disposing corporation was deemed to own for the purposes of subsection 93.1 (1) immediately after the disposition;

(b) notwithstanding section 96, the disposing corporation's taxable capital gain from the disposition of those

Disposition d'actions d'une société étrangère affiliée détenues par une société de personnes

(1.2) Dans le cas où une société donnée résidant au Canada ou une société étrangère affiliée de celle-ci (chacune étant appelée « société cédante » au présent paragraphe) tirerait, si ce n'était le présent paragraphe, un gain en capital imposable de la disposition, effectuée à un moment donné par une société de personnes, d'actions d'une catégorie du capital-actions d'une société étrangère affiliée de la société donnée, les présomptions suivantes s'appliquent si cette dernière en fait le choix selon les modalités réglementaires relativement à la disposition :

a) est réputé avoir été un dividende reçu immédiatement avant le moment donné sur le nombre d'actions de cette catégorie du capital-actions de la société étrangère affiliée qui correspond à l'excédent éventuel du nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application du paragraphe 93.1(1) immédiatement avant la disposition sur le nombre de ces actions de la société étrangère affiliée qui était réputées appartenir à la société cédante pour l'application de ce paragraphe immédiatement après la disposition, le montant représentant le double du montant applicable suivant :

(i) le montant indiqué par la société donnée relativement à ces actions, lequel montant ne peut dépasser la proportion du gain en capital imposable de la société de personnes que représente le nombre de ces actions de la société étrangère affiliée, qui correspond à l'excédent éventuel du nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application du paragraphe 93.1(1) immédiatement avant la disposition sur le nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application de ce paragraphe immédiatement après la disposition, par rapport au nombre d'actions de la société étrangère affiliée qui appartenaient à la société de personnes immédiatement avant la disposition,

(ii) en cas d'application du paragraphe (1.3), la somme visée par règlement;

b) malgré l'article 96, le gain en capital imposable de la société cédante tiré de la disposition de ces actions est réputé égal à l'excédent éventuel de ce gain,

shares is deemed to be the amount, if any, by which the disposing corporation's taxable capital gain from the disposition of the shares otherwise determined exceeds the amount designated by the particular corporation in respect of the shares;

(c) for the purpose of any regulation made under this subsection, the disposing corporation is deemed to have disposed of the number of those shares of the foreign affiliate which shall be determined as the amount, if any, by which the number of those shares that the disposing corporation was deemed to own for the purposes of subsection 93.1(1) immediately before the disposition exceeds the number of those shares that the disposing corporation was deemed to own for those purposes immediately after the disposition;

(d) for the purposes of section 113 in respect of the dividend referred to in paragraph (a), the disposing corporation is deemed to have owned the shares on which that dividend was received; and

(e) where the disposing corporation has a taxable capital gain from the partnership because of the application of subsection 40(3) to the partnership in respect of those shares, for the purposes of this subsection, the shares are deemed to have been disposed of by the partnership.

déterminé par ailleurs, sur le montant indiqué par la société donnée relativement aux actions;

c) pour l'application des dispositions réglementaires prises en application du présent paragraphe, la société cédante est réputée avoir disposé du nombre de ces actions de la société étrangère affiliée qui correspond à l'excédent éventuel du nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application du paragraphe 93.1(1) immédiatement avant la disposition sur le nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application de ce paragraphe immédiatement après la disposition;

d) pour l'application de l'article 113 relativement au dividende visé à l'alinéa a), la société cédante est réputée avoir été propriétaire des actions qui ont donné lieu à ce dividende;

e) lorsque la société cédante obtient un gain en capital imposable de la société de personnes du fait que le paragraphe 40(3) s'applique à cette dernière relativement à ces actions, la société de personnes est réputée avoir disposé des actions pour l'application du présent paragraphe.

Deemed election

(1.3) Where a foreign affiliate of a particular corporation resident in Canada has a gain from the disposition by a partnership at any time of shares of a class of the capital stock of a foreign affiliate of the particular corporation that are excluded property, the particular corporation is deemed to have made an election under subsection (1.2) in respect of the number of shares of the foreign affiliate which shall be determined as the amount, if any, by which the number of those shares that the disposing corporation was deemed to own for the purposes of subsection 93.1(1) immediately before the disposition exceeds the number of those shares that the disposing corporation was deemed to own for those purposes immediately after the disposition.

Application of subsection (2.01)

(2) Subsection (2.01) applies if

(a) a particular corporation (referred to in subparagraph (2.01)(b)(ii) as the "vendor", as the context requires) resident in Canada has a particular loss, determined without reference to this section, from the disposition by it at any time (referred to in subsection (2.01) as the "disposition time") of a share (referred to

Présomption

(1.3) Lorsqu'une société étrangère affiliée d'une société donnée résidant au Canada tire un gain de la disposition, effectuée à un moment donné par une société de personnes, d'actions d'une catégorie du capital-actions d'une société étrangère affiliée de la société donnée qui sont des biens exclus, la société donnée est réputée avoir fait le choix prévu au paragraphe (1.2) relativement au nombre d'actions de la société étrangère affiliée qui correspond à l'excédent éventuel du nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application du paragraphe 93.1(1) immédiatement avant la disposition sur le nombre de ces actions qui étaient réputées appartenir à la société cédante pour l'application de ce paragraphe immédiatement après la disposition.

Application du paragraphe (2.01)

(2) Le paragraphe (2.01) s'applique si l'un des faits ci-après s'avère :

a) une société donnée (appelée « vendeur » au sous-alinéa (2.01)b)(ii), selon le contexte) résidant au Canada a une perte donnée, déterminée compte non tenu du présent article, du fait qu'elle dispose, à un moment donné (appelé « moment de la disposition » au paragraphe (2.01)), d'une action (appelée « action

in subsection (2.01) as the "affiliate share") of the capital stock of a foreign affiliate of the particular corporation; or

(b) a foreign affiliate (referred to in subparagraph (2.01)(b)(ii) as the "vendor") of a particular corporation resident in Canada has a particular loss, determined without reference to this section, from the disposition by it at any time (referred to in subsection (2.01) as the "disposition time") of a share (referred to in subsection (2.01) as the "affiliate share") of the capital stock of another foreign affiliate of the particular corporation that is not excluded property.

Loss limitation on disposition of share of foreign affiliate

(2.01) If this subsection applies, the amount of the particular loss referred to in paragraph (2)(a) or (b) is deemed to be the greater of

(a) the amount determined by the formula

A – (B – C)

where

A is the amount of the particular loss determined without reference to this section,

B is the total of all amounts each of which is an amount received before the disposition time, in respect of an exempt dividend on the affiliate share or on a share for which the affiliate share was substituted, by

(i) the particular corporation referred to in subsection (2),

(ii) another corporation that is related to the particular corporation,

(iii) a foreign affiliate of the particular corporation, or

(iv) a foreign affiliate of another corporation that is related to the particular corporation, and

C is the total of

(i) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign affiliate described in the description of B, of the affiliate share or a share for which the affiliate share was substituted, was reduced under this paragraph in respect of the exempt dividends referred to in the description of B,

(ii) the total of all amounts each of which is twice the amount by which an allowable capital

de société affiliée » à ce même paragraphe) du capital-actions d'une de ses sociétés étrangères affiliées;

b) une société étrangère affiliée (appelée « vendeur » au sous-alinéa (2.01)b)(ii)) d'une société donnée résidant au Canada a une perte donnée, déterminée compte non tenu du présent article, du fait qu'elle dispose, à un moment donné (appelé « moment de la disposition » au paragraphe (2.01)), d'une action (appelée « action de société affiliée » à ce même paragraphe) du capital-actions d'une autre société étrangère affiliée de la société donnée qui n'est pas un bien exclu.

Limitation des pertes — disposition d'une action de société étrangère affiliée

(2.01) En cas d'application du présent paragraphe, le montant de la perte donnée visée aux alinéas (2)a) ou b) est réputé correspondre à la plus élevée des sommes suivantes :

a) la somme obtenue par la formule suivante :

A – (B – C)

où :

A représente le montant de la perte donnée, déterminé compte non tenu du présent article,

B le total des sommes dont chacune représente une somme reçue, avant le moment de la disposition, au titre d'un dividende exonéré sur l'action de société affiliée, ou sur une action de remplacement, par l'une des entités suivantes :

(i) la société donnée visée au paragraphe (2),

(ii) une autre société qui est liée à la société donnée,

(iii) une société étrangère affiliée de la société donnée,

(iv) une société étrangère affiliée d'une autre société qui est liée à la société donnée,

C le total des sommes suivantes :

(i) le total des sommes dont chacune représente le montant retranché, en application du présent alinéa au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, de l'action de société affiliée ou d'une action de remplacement,

(ii) le total des sommes dont chacune représente le double du montant retranché, en application de l'alinéa (2.11)a) au titre des

loss (determined without reference to this section), of a corporation or a foreign affiliate described in the description of B, from a previous disposition by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under paragraph (2.11)(a) in respect of the exempt dividends referred to in the description of B,

(iii) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign affiliate described in the description of B, of an interest in a partnership, was reduced under paragraph (2.21)(a) in respect of the exempt dividends referred to in the description of B, and

(iv) the total of all amounts each of which is twice the amount by which an allowable capital loss (determined without reference to this section), of a corporation, or a foreign affiliate described in the description of B, from a previous disposition by a partnership of an interest in another partnership, was reduced under paragraph (2.31)(a) in respect of the exempt dividends referred to in the description of B, and

(b) the lesser of

(i) the portion of the particular loss, determined without reference to this section, that can reasonably be considered to be attributable to a fluctuation in the value of a currency other than Canadian currency relative to Canadian currency, and

(ii) the amount determined in respect of the vendor that is

(A) if the particular loss is a capital loss, the amount of a gain (other than a specified gain) that

(I) was made within 30 days before or after the disposition time by the vendor and that

1. is deemed under subsection 39(2) to be a capital gain of the vendor for the taxation year that includes the time the gain was made from the disposition of currency other than Canadian currency, and

2. is in respect of the settlement or extinguishment of a foreign currency debt that was issued or incurred by the vendor within 30 days before or after the acquisition of the affiliate share by the vendor and that

dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, de l'action de société affiliée ou d'une action de remplacement,

(iii) le total des sommes dont chacune représente le montant retranché, en application de l'alinéa (2.21)a) au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, d'une participation dans une société de personnes,

(iv) le total des sommes dont chacune représente le double du montant retranché, en application de l'alinéa (2.31)a) au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, d'une participation dans une autre société de personnes;

b) la moins élevée des sommes suivantes :

(i) la partie de la perte donnée, déterminée compte non tenu du présent article, qu'il est raisonnable de considérer comme étant attribuable à une fluctuation de la valeur d'une monnaie (sauf la monnaie canadienne) par rapport à la monnaie canadienne,

(ii) la somme déterminée relativement au vendeur qui représente :

(A) dans le cas où la perte donnée est une perte en capital, le montant d'un gain (sauf un gain déterminé) qui :

(I) soit a été fait par le vendeur dans les trente jours précédant ou suivant le moment de la disposition et, à la fois :

1. est réputé en vertu du paragraphe 39(2) être un gain en capital du vendeur pour l'année d'imposition qui comprend le moment où le gain a été fait, provenant de la disposition d'une monnaie autre que la monnaie canadienne,

was, at all times at which it was a debt obligation of the vendor owing to a person or partnership that dealt, at all times during which the foreign currency debt was outstanding, at arm's length with the particular corporation and can reasonably be considered to have been issued or incurred in relation to the acquisition of the affiliate share, or

(II) is a capital gain realized within 30 days before or after the disposition time by the vendor under an agreement that

1. was entered into by the vendor within 30 days before or after the acquisition of the affiliate share by the vendor with a person or partnership that dealt, at all times during which the agreement was in force, at arm's length with the particular corporation,

2. provides for the purchase, sale or exchange of currency, and

3. can reasonably be considered to have been entered into by the vendor for the principal purpose of hedging the foreign exchange exposure arising in connection with the acquisition of the affiliate share, or

(B) in any other case, the amount of a gain (other than a specified gain or a capital gain) that was realized within 30 days before or after the disposition time by the vendor that is included in computing the income of the vendor for the taxation year that includes the time the gain was realized and

(I) that is in respect of the settlement or extinguishment of a foreign currency debt that

1. was issued or incurred by the vendor within 30 days before or after the acquisition of the affiliate share by the vendor,

2. was, at all times at which it was a debt obligation of the vendor owing to a person or partnership that dealt, at all times during which the foreign currency debt was outstanding, at arm's length with the particular corporation, and

3. can reasonably be considered to have been issued or incurred in relation to the acquisition of the affiliate share, or

2. se rapporte au règlement ou à l'extinction d'une dette en monnaie étrangère qui, à la fois : a été émise ou contractée par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de l'action de société affiliée; à tout moment où elle représentait une créance dont le vendeur était débiteur, était due à une personne ou à une société de personnes qui, à tout moment où la dette en monnaie étrangère était impayée, n'avait aucun lien de dépendance avec la société donnée; peut raisonnablement être considérée comme ayant été émise ou contractée relativement à l'acquisition de l'action de société affiliée,

(II) soit est un gain en capital réalisé par le vendeur dans les trente jours précédant ou suivant le moment de la disposition aux termes d'une convention qui, à la fois :

1. a été conclue par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de l'action de société affiliée, avec une personne ou une société de personnes qui, à tout moment où la convention était en vigueur, n'avait aucun lien de dépendance avec la société donnée,

2. prévoit l'achat, la vente ou l'échange de monnaie,

3. peut raisonnablement être considérée comme ayant été conclue par le vendeur principalement dans le but de couvrir le risque de change découlant de l'acquisition de l'action de société affiliée,

(B) dans les autres cas, le montant d'un gain (sauf un gain déterminé ou un gain en capital) qui a été réalisé par le vendeur dans les trente jours précédant ou suivant le moment de la disposition, qui est inclus dans le calcul du revenu du vendeur pour l'année d'imposition qui comprend le moment où le gain a été réalisé et qui :

(I) soit se rapporte au règlement ou à l'extinction d'une dette en monnaie étrangère qui, à la fois :

1. a été émise ou contractée par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de l'action de société affiliée,

2. à tout moment où elle représentait une créance dont le vendeur était débiteur,

(II) under an agreement that

1. was entered into by the vendor within 30 days before or after the acquisition of the affiliate share by the vendor with a person or partnership that dealt, at all times during which the agreement was in force, at arm's length with the particular corporation,

2. provides for the purchase, sale or exchange of currency, and

3. can reasonably be considered to have been entered into by the vendor for the principal purpose of hedging the foreign exchange exposure arising in connection with the acquisition of the affiliate share.

était due à une personne ou à une société de personnes qui, à tout moment où la dette en monnaie étrangère était impayée, n'avait aucun lien de dépendance avec la société donnée,

3. peut raisonnablement être considérée comme ayant été émise ou contractée relativement à l'acquisition de l'action de société affiliée,

(II) soit est prévu par une convention qui, à la fois :

1. a été conclue par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de l'action de société affiliée, avec une personne ou une société de personnes qui, à tout moment où la convention était en vigueur, n'avait aucun lien de dépendance avec la société donnée,

2. prévoit l'achat, la vente ou l'échange de monnaie,

3. peut raisonnablement être considérée comme ayant été conclue par le vendeur principalement dans le but de couvrir le risque de change découlant de l'acquisition de l'action de société affiliée.

Specified gain

(2.02) For the purposes of clauses (2.01)(b)(ii)(A) and (B), a ***specified gain*** means a gain in respect of the settlement or extinguishment of a foreign currency debt referred to in sub-subclause (2.01)(b)(ii)(A)(I)2 or subclause (2.01)(b)(ii)(B)(I), as the case may be, or that arises under a particular agreement referred to in subclause (2.01)(b)(ii)(A)(II) or (B)(II), if the particular corporation, or any person or partnership with which the particular corporation was not — at any time during which the foreign currency debt was outstanding or the particular agreement was in force, as the case may be — dealing at arm's length, entered into an agreement that may reasonably be considered to have been entered into for the principal purpose of hedging any foreign exchange exposure arising in connection with the foreign currency debt or the particular agreement.

Gain déterminé

(2.02) Pour l'application des divisions (2.01)b)(ii)(A) ou (B), ***gain déterminé*** s'entend d'un gain relatif au règlement ou à l'extinction d'une dette en monnaie étrangère visée à la sous-subdivision (2.01)b)(ii)(A)(I)2 ou à la subdivision (2.01)b)(ii)(B)(I) ou d'un gain qui découle d'une convention donnée visée aux subdivisions (2.01)b)(ii)(A)(II) ou (B)(II), si la société donnée, ou toute personne ou société de personnes avec laquelle elle avait un lien de dépendance à un moment où la dette était impayée ou la convention donnée était en vigueur, selon le cas, a conclu une convention qu'il est raisonnable de considérer comme ayant été conclue principalement dans le but de couvrir un risque de change découlant de la dette ou de la convention donnée.

Application of subsection (2.11)

(2.1) Subsection (2.11) applies if

(a) a particular corporation resident in Canada has a particular allowable capital loss, determined without reference to this section, from the disposition at any time (referred to in subsection (2.11) as the

Application du paragraphe (2.11)

(2.1) Le paragraphe (2.11) s'applique si l'un des faits ci-après s'avère :

a) une société donnée résidant au Canada a une perte en capital déductible donnée, déterminée compte non tenu du présent article, résultant de la disposition,

"disposition time") by a partnership (referred to in subsections (2.11) and (2.12) as the "disposing partnership") of a share (referred to in subsection (2.11) as the "affiliate share") of the capital stock of a foreign affiliate of the particular corporation; or

(b) a foreign affiliate of a particular corporation resident in Canada has a particular allowable capital loss, determined without reference to this section, from the disposition at any time (referred to in subsection (2.11) as the "disposition time") by a partnership (referred to in subsections (2.11) and (2.12) as the "disposing partnership") of a share (referred to in subsection (2.11) as the "affiliate share") of the capital stock of another foreign affiliate of the particular corporation that would not be excluded property of the affiliate if the affiliate had owned the share immediately before the disposition time.

effectuée à un moment donné (appelé « moment de la disposition » au paragraphe (2.11)) par une société de personnes (appelée « société de personnes cédante » aux paragraphes (2.11) et (2.12)), d'une action (appelée « action de société affiliée » au paragraphe (2.11)) du capital-actions d'une de ses sociétés étrangères affiliées;

b) une société étrangère affiliée d'une société donnée résidant au Canada a une perte en capital déductible donnée, déterminée compte non tenu du présent article, résultant de la disposition, effectuée à un moment donné (appelé « moment de la disposition » au paragraphe (2.11)) par une société de personnes (appelée « société de personnes cédante » aux paragraphes (2.11) et (2.12)), d'une action (appelée « action de société affiliée » au paragraphe (2.11)) du capital-actions d'une autre société étrangère affiliée de la société donnée qui ne serait pas un bien exclu de la société affiliée si celle-ci en avait été propriétaire immédiatement avant le moment de la disposition.

Loss limitation on disposition of foreign affiliate share by a partnership

(2.11) If this subsection applies, the amount of the particular allowable capital loss referred to in paragraph (2.1)(a) or (b) is deemed to be the greater of

(a) the amount determined by the formula

A – (B – C)

where

A is the amount of the particular allowable capital loss determined without reference to this section,

B is ½ of the total of all amounts each of which is an amount received before the disposition time, in respect of an exempt dividend on the affiliate share or on a share for which the affiliate share was substituted, by

(i) the particular corporation referred to in subsection (2.1),

(ii) another corporation that is related to the particular corporation,

(iii) a foreign affiliate of the particular corporation, or

(iv) a foreign affiliate of another corporation that is related to the particular corporation, and

C is the total of

(i) the total of all amounts each of which is ½ of the amount by which a loss (determined

Limitation des pertes — disposition d'une action de société étrangère affiliée par une société de personnes

(2.11) En cas d'application du présent paragraphe, le montant de la perte en capital déductible donnée visée aux alinéas (2.1)a) ou b) est réputé correspondre à la plus élevée des sommes suivantes :

a) la somme obtenue par la formule suivante :

A – (B – C)

où :

A représente le montant de la perte en capital déductible donnée, déterminé compte non tenu du présent article,

B la moitié du total des sommes dont chacune représente une somme reçue, avant le moment de la disposition, au titre d'un dividende exonéré sur l'action de société affiliée, ou sur une action de remplacement, par l'une des entités suivantes :

(i) la société donnée visée au paragraphe (2.1),

(ii) une autre société qui est liée à la société donnée,

(iii) une société étrangère affiliée de la société donnée,

(iv) une société étrangère affiliée d'une autre société qui est liée à la société donnée,

C le total des sommes suivantes :

(i) le total des sommes dont chacune représente la moitié du montant retranché, en

without reference to this section), from a previous disposition by a corporation, or a foreign affiliate described in the description of B, of the affiliate share or a share for which the affiliate share was substituted, was reduced under paragraph (2.01)(a) in respect of the exempt dividends referred to in the description of B,

(ii) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation or a foreign affiliate described in the description of B, from a previous disposition by a partnership of the affiliate share or a share for which the affiliate share was substituted, was reduced under this paragraph in respect of the exempt dividends referred to in the description of B,

(iii) the total of all amounts each of which is ½ of the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign affiliate described in the description of B, of an interest in a partnership, was reduced under paragraph (2.21)(a) in respect of the exempt dividends referred to in the description of B, and

(iv) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation, or a foreign affiliate described in the description of B, from a previous disposition by a partnership of an interest in another partnership, was reduced under paragraph (2.31)(a) in respect of the exempt dividends referred to in the description of B, and

(b) the lesser of

(i) the portion of the particular allowable capital loss, determined without reference to this section, that can reasonably be considered to be attributable to a fluctuation in the value of a currency other than Canadian currency relative to Canadian currency, and

(ii) ½ of the amount determined in respect of the particular corporation, or the foreign affiliate (that is referred to in paragraph (2.1)(b)) of the particular corporation, that is the amount of a gain (other than a specified gain) that

(A) was made within 30 days before or after the disposition time by the disposing partnership to

application de l'alinéa (2.01)a) au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, de l'action de société affiliée ou d'une action de remplacement,

(ii) le total des sommes dont chacune représente le montant retranché, en application du présent alinéa au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, de l'action de société affiliée ou d'une action de remplacement,

(iii) le total des sommes dont chacune représente la moitié du montant retranché, en application de l'alinéa (2.21)a) au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, d'une participation dans une société de personnes,

(iv) le total des sommes dont chacune représente le montant retranché, en application de l'alinéa (2.31)a) au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, d'une participation dans une autre société de personnes;

b) la moins élevée des sommes suivantes :

(i) la partie de la perte en capital déductible donnée, déterminée compte non tenu du présent article, qu'il est raisonnable de considérer comme étant attribuable à une fluctuation de la valeur d'une monnaie (sauf la monnaie canadienne) par rapport à la monnaie canadienne,

(ii) la moitié de la somme déterminée relativement à la société donnée ou à la société étrangère affiliée de celle-ci visée à l'alinéa (2.1)b) qui représente le montant d'un gain (sauf un gain déterminé) qui :

(A) soit a été fait par la société de personnes cédante dans les trente jours précédant ou suivant le moment de la disposition, dans la mesure où il

the extent that the gain is reasonably attributable to the particular corporation or the foreign affiliate, as the case may be, and that

(I) is deemed under subsection 39(2) to be a capital gain of the disposing partnership for the taxation year that includes the time the gain was made from the disposition of currency other than Canadian currency, and

(II) is in respect of the settlement or extinguishment of a foreign currency debt that

1. was issued or incurred by the disposing partnership within 30 days before or after the acquisition of the affiliate share by the disposing partnership,

2. was, at all times at which it was a debt obligation of the disposing partnership, owing to a person or partnership that dealt, at all times during which the foreign currency debt was outstanding, at arm's length with the particular corporation, and

3. can reasonably be considered to have been issued or incurred in relation to the acquisition of the affiliate share, or

(B) is a capital gain (to the extent that the capital gain is reasonably attributable to the particular corporation or the foreign affiliate, as the case may be) realized within 30 days before or after the disposition time by the disposing partnership under an agreement that

(I) was entered into by the disposing partnership, within 30 days before or after the acquisition of the affiliate share by the disposing partnership, with a person or partnership that dealt, at all times during which the agreement was in force, at arm's length with the particular corporation,

(II) provides for the purchase, sale or exchange of currency, and

(III) can reasonably be considered to have been entered into by the disposing partnership for the principal purpose of hedging the foreign exchange exposure arising in connection with the acquisition of the affiliate share.

est raisonnable d'attribuer le gain à la société donnée ou à la société affiliée, selon le cas, et, à la fois :

(I) est réputé en vertu du paragraphe 39(2) être un gain en capital de la société de personnes cédante pour l'année d'imposition qui comprend le moment où le gain a été fait, provenant de la disposition d'une monnaie autre que la monnaie canadienne,

(II) se rapporte au règlement ou à l'extinction d'une dette en monnaie étrangère qui, à la fois :

1. a été émise ou contractée par la société de personnes cédante dans les trente jours précédant ou suivant l'acquisition par celle-ci de l'action de société affiliée,

2. à tout moment où elle était une créance dont la société de personnes cédante était débitrice, était due à une personne ou à une société de personnes qui, à tout moment où la dette en monnaie étrangère était impayée, n'avait aucun lien de dépendance avec la société donnée,

3. peut raisonnablement être considérée comme ayant été émise ou contractée relativement à l'acquisition de l'action de société affiliée,

(B) soit est un gain en capital (dans la mesure où il est raisonnable de l'attribuer à la société donnée ou à la société affiliée, selon le cas) réalisé par la société de personnes cédante dans les trente jours précédant ou suivant le moment de la disposition aux termes d'une convention qui, à la fois :

(I) a été conclue par la société de personnes cédante, dans les trente jours précédant ou suivant l'acquisition par celle-ci de l'action de société affiliée, avec une personne ou une société de personnes qui, à tout moment où la convention était en vigueur, n'avait aucun lien de dépendance avec la société donnée,

(II) prévoit l'achat, la vente ou l'échange de monnaie,

(III) peut raisonnablement être considérée comme ayant été conclue par la société de personnes cédante principalement dans le but de couvrir le risque de change découlant de l'acquisition de l'action de société affiliée.

Specified gain

(2.12) For the purposes of subparagraph (2.11)(b)(ii), a ***specified gain*** means a gain in respect of the settlement or extinguishment of a foreign currency debt referred to in subclause (2.11)(b)(ii)(A)(II), or that arises under a particular agreement referred to in clause (2.11)(b)(ii)(B), if the disposing partnership, or any person or partnership with which the particular corporation was not — at any time during which the foreign currency debt was outstanding or the particular agreement was in force, as the case may be — dealing at arm's length, entered into an agreement that may reasonably be considered to have been entered into for the principal purpose of hedging any foreign exchange exposure arising in connection with the foreign currency debt or the particular agreement.

Application of subsection (2.21)

(2.2) Subsection (2.21) applies if

(a) a particular corporation (referred to in subparagraph (2.21)(b)(ii) as the "vendor", as the context requires) resident in Canada has a particular loss, determined without reference to this section, from the disposition by it at any time (referred to in subsection (2.21) as the "disposition time") of an interest (referred to in subsection (2.21) as the "partnership interest") in a partnership that has a direct or indirect interest, or, for civil law, a direct or indirect right, in shares (referred to in subsection (2.21) as the "affiliate shares") of the capital stock of a foreign affiliate of the particular corporation; or

(b) a foreign affiliate (referred to in subparagraph (2.21)(b)(ii) as the "vendor") of a particular corporation resident in Canada has a particular loss, determined without reference to this section, from the disposition by it at any time (referred to in subsection (2.21) as the "disposition time") of an interest (referred to in subsection (2.21) as the "partnership interest") in a partnership that has a direct or indirect interest, or, for civil law, a direct or indirect right, in shares (referred to in subsection (2.21) as the "affiliate shares") of the capital stock of another foreign affiliate of the particular corporation that would not be excluded property of the affiliate if the affiliate had owned the shares immediately before the disposition time.

Gain déterminé

(2.12) Pour l'application du sous-alinéa (2.11)b)(ii), ***gain déterminé*** s'entend d'un gain relatif au règlement ou à l'extinction d'une dette en monnaie étrangère visée à la subdivision (2.11)b)(ii)(A)(II) ou d'un gain qui découle d'une convention donnée visée à la division (2.11)b)(ii)(B), si la société de personnes cédante, ou toute personne ou société de personnes avec laquelle la société donnée avait un lien de dépendance à un moment où la dette était impayée ou la convention donnée était en vigueur, selon le cas, a conclu une convention qu'il est raisonnable de considérer comme ayant été conclue principalement dans le but de couvrir un risque de change découlant de la dette ou de la convention donnée.

Application du paragraphe (2.21)

(2.2) Le paragraphe (2.21) s'applique si l'un des faits ci-après s'avère :

a) une société donnée (appelée « vendeur » au sous-alinéa (2.21)b)(ii), selon le contexte) résidant au Canada a une perte donnée, déterminée compte non tenu du présent article, résultant de la disposition, effectuée par elle à un moment donné (appelé « moment de la disposition » au paragraphe (2.21)), d'une participation (appelée « participation de société de personnes » à ce paragraphe) dans une société de personnes qui a un intérêt direct ou indirect ou, pour l'application du droit civil, un droit direct ou indirect, sur des actions (appelées « actions de société affiliée » à ce même paragraphe) du capital-actions d'une société étrangère affiliée de la société donnée;

b) une société étrangère affiliée (appelée « vendeur » au sous-alinéa (2.21)b)(ii)) d'une société donnée résidant au Canada a une perte donnée, déterminée compte non tenu du présent article, résultant de la disposition, effectuée par elle à un moment donné (appelé « moment de la disposition » au paragraphe (2.21)), d'une participation (appelée « participation de société de personnes » à ce paragraphe) dans une société de personnes qui a un intérêt direct ou indirect ou, pour l'application du droit civil, un droit direct ou indirect, sur des actions (appelées « actions de société affiliée » à ce même paragraphe) du capital-actions d'une autre société étrangère affiliée de la société donnée qui ne seraient pas des biens exclus de la société affiliée si celle-ci en avait été propriétaire immédiatement avant le moment de la disposition.

Loss limitation on disposition of partnership that has foreign affiliate shares

(2.21) If this subsection applies, the amount of the particular loss referred to in paragraph (2.2)(a) or (b) is deemed to be the greater of

(a) the amount determined by the formula

A – (B – C)

where

A is the amount of the particular loss determined without reference to this section,

B is the total of all amounts each of which is an amount received before the disposition time, in respect of an exempt dividend on affiliate shares or on shares for which affiliate shares were substituted, by

(i) the particular corporation referred to in subsection (2.2),

(ii) another corporation that is related to the particular corporation,

(iii) a foreign affiliate of the particular corporation, or

(iv) a foreign affiliate of another corporation that is related to the particular corporation, and

C is the total of

(i) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign affiliate described in the description of B, of the affiliate shares or shares for which the affiliate shares were substituted, was reduced under paragraph (2.01)(a) in respect of the exempt dividends referred to in the description of B,

(ii) the total of all amounts each of which is twice the amount by which an allowable capital loss (determined without reference to this section), of a corporation or a foreign affiliate described in the description of B, from a previous disposition by a partnership of the affiliate shares or shares for which the affiliate shares were substituted, was reduced under paragraph (2.11)(a) in respect of the exempt dividends referred to in the description of B,

(iii) the total of all amounts each of which is the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign

Limitation des pertes — disposition d'une participation dans une société de personnes ayant des actions de sociétés étrangères affiliées

(2.21) En cas d'application du présent paragraphe, le montant de la perte donnée visée aux alinéas (2.2)a) ou b) est réputé correspondre à la plus élevée des sommes suivantes :

a) la somme obtenue par la formule suivante :

A – (B – C)

où :

A représente le montant de la perte donnée, déterminé compte non tenu du présent article,

B le total des sommes dont chacune représente une somme reçue, avant le moment de la disposition, au titre d'un dividende exonéré sur les actions de société affiliée, ou sur des actions de remplacement, par l'une des entités suivantes :

(i) la société donnée visée au paragraphe (2.2),

(ii) une autre société qui est liée à la société donnée,

(iii) une société étrangère affiliée de la société donnée,

(iv) une société étrangère affiliée d'une autre société qui est liée à la société donnée,

C le total des sommes suivantes :

(i) le total des sommes dont chacune représente le montant retranché, en application de l'alinéa (2.01)a) au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, des actions de société affiliée ou d'actions de remplacement,

(ii) le total des sommes dont chacune représente le double du montant retranché, en application de l'alinéa (2.11)a) au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, des actions de société affiliée ou d'actions de remplacement,

(iii) le total des sommes dont chacune représente le montant retranché, en application du présent alinéa au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée

affiliate described in the description of B, of an interest in a partnership, was reduced under this paragraph in respect of the exempt dividends referred to in the description of B, and

(iv) the total of all amounts each of which is twice the amount by which an allowable capital loss (determined without reference to this section), of a corporation, or a foreign affiliate described in the description of B, from a previous disposition by a partnership of an interest in another partnership, was reduced under paragraph (2.31)(a) in respect of the exempt dividends referred to in the description of B, and

(b) the lesser of

(i) the portion of the particular loss, determined without reference to this section, that can reasonably be considered to be attributable to a fluctuation in the value of a currency other than Canadian currency relative to Canadian currency, and

(ii) the amount determined in respect of the vendor that is

(A) if the particular loss is a capital loss, the amount of a gain (other than a specified gain) that

(I) was made within 30 days before or after the disposition time by the vendor and that

1. is deemed under subsection 39(2) to be a capital gain of the vendor for the taxation year that includes the time the gain was made from the disposition of currency other than Canadian currency, and

2. is in respect of the settlement or extinguishment of a foreign currency debt that was issued or incurred by the vendor within 30 days before or after the acquisition of the partnership interest by the vendor and that was, at all times at which it was a debt obligation of the vendor owing to a person or partnership that dealt, at all times during which the foreign currency debt was outstanding, at arm's length with the particular corporation and can reasonably be considered to have been issued or incurred in relation to the acquisition of the partnership interest, or

(II) is a capital gain realized within 30 days before or after the disposition time by the vendor under an agreement that

compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, d'une participation dans une société de personnes,

(iv) le total des sommes dont chacune représente le double du montant retranché, en application de l'alinéa (2.31)a) au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, d'une participation dans une autre société de personnes;

b) la moins élevée des sommes suivantes :

(i) la partie de la perte donnée, déterminée compte non tenu du présent article, qu'il est raisonnable de considérer comme étant attribuable à une fluctuation de la valeur d'une monnaie (sauf la monnaie canadienne) par rapport à la monnaie canadienne,

(ii) la somme déterminée relativement au vendeur qui représente :

(A) dans le cas où la perte donnée est une perte en capital, le montant d'un gain (sauf un gain déterminé) qui :

(I) soit a été fait par le vendeur dans les trente jours précédant ou suivant le moment de la disposition et, à la fois :

1. est réputé en vertu du paragraphe 39(2) être un gain en capital du vendeur pour l'année d'imposition qui comprend le moment où le gain a été fait, provenant de la disposition d'une monnaie autre que la monnaie canadienne,

2. se rapporte au règlement ou à l'extinction d'une dette en monnaie étrangère qui, à la fois : a été émise ou contractée par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de la participation de société de personnes; à tout moment où elle représentait une créance dont le vendeur était débiteur, était due à une personne ou à une société de personnes qui, à tout moment où la dette en monnaie étrangère était impayée, n'avait aucun lien de dépendance avec la société

1. was entered into by the vendor within 30 days before or after the acquisition of the partnership interest by the vendor with a person or partnership that dealt, at all times during which the agreement was in force, at arm's length with the particular corporation,

2. provides for the purchase, sale or exchange of currency, and

3. can reasonably be considered to have been entered into by the vendor for the principal purpose of hedging the foreign exchange exposure arising in connection with the acquisition of the partnership interest, or

donnée; peut raisonnablement être considérée comme ayant été émise ou contractée relativement à l'acquisition de la participation de société de personnes,

(II) soit est un gain en capital réalisé par le vendeur dans les trente jours précédant ou suivant le moment de la disposition aux termes d'une convention qui, à la fois :

1. a été conclue par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de la participation de société de personnes, avec une personne ou une société de personnes qui, à tout moment où la convention était en vigueur, n'avait aucun lien de dépendance avec la société donnée,

2. prévoit l'achat, la vente ou l'échange de monnaie,

3. peut raisonnablement être considérée comme ayant été conclue par le vendeur principalement dans le but de couvrir le risque de change découlant de l'acquisition de la participation de société de personnes,

(B) in any other case, the amount of a gain (other than a specified gain or a capital gain) that was realized within 30 days before or after the disposition time by the vendor that is included in computing the income of the vendor for the taxation year that includes the time the gain was realized and

(I) that is in respect of the settlement or extinguishment of a foreign currency debt that

1. was issued or incurred by the vendor within 30 days before or after the acquisition of the partnership interest by the vendor,

2. was, at all times at which it was a debt obligation of the vendor owing to a person or partnership that dealt, at all times during which the foreign currency debt was outstanding, at arm's length with the particular corporation, and

3. can reasonably be considered to have been issued or incurred in relation to the acquisition of the partnership interest, or

(II) under an agreement that

1. was entered into by the vendor within 30 days before or after the acquisition of the partnership interest by the vendor with a person or partnership that dealt, at all times during which the agreement was in force, at arm's length with the particular corporation,

2. provides for the purchase, sale or exchange of currency, and

(B) dans les autres cas, le montant d'un gain (sauf un gain déterminé ou un gain en capital) qui a été réalisé par le vendeur dans les trente jours précédant ou suivant le moment de la disposition, qui est inclus dans le calcul du revenu du vendeur pour l'année d'imposition qui comprend le moment où le gain a été réalisé et qui :

(I) soit se rapporte au règlement ou à l'extinction d'une dette en monnaie étrangère qui, à la fois :

1. a été émise ou contractée par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de la participation de société de personnes,

2. à tout moment où elle représentait une créance dont le vendeur était débiteur, était due à une personne ou à une société de personnes qui, à tout moment où la dette en monnaie étrangère était impayée, n'avait aucun lien de dépendance avec la société donnée,

3. peut raisonnablement être considérée comme ayant été émise ou contractée relativement à l'acquisition de la participation de société de personnes,

3. can reasonably be considered to have been entered into by the vendor for the principal purpose of hedging the foreign exchange exposure arising in connection with the acquisition of the partnership interest.

(II) soit est prévu par une convention qui, à la fois :

1. a été conclue par le vendeur dans les trente jours précédant ou suivant l'acquisition par celui-ci de la participation de société de personnes, avec une personne ou une société de personnes qui, à tout moment où la convention était en vigueur, n'avait aucun lien de dépendance avec la société donnée,

2. prévoit l'achat, la vente ou l'échange de monnaie,

3. peut raisonnablement être considérée comme ayant été conclue par le vendeur principalement dans le but de couvrir le risque de change découlant de l'acquisition de la participation de société de personnes.

Specified gain

(2.22) For the purposes of clauses (2.21)(b)(ii)(A) and (B), a ***specified gain*** means a gain in respect of the settlement or extinguishment of a foreign currency debt referred to in sub-subclause (2.21)(b)(ii)(A)(I)2 or subclause (2.21)(b)(ii)(B)(I), as the case may be, or that arises under a particular agreement referred to in subclause (2.21)(b)(ii)(A)(II) or (B)(II), if the particular corporation, or any person or partnership with which the particular corporation was not — at any time during which the foreign currency debt was outstanding or the particular agreement was in force, as the case may be — dealing at arm's length, entered into an agreement that may reasonably be considered to have been entered into for the principal purpose of hedging any foreign exchange exposure arising in connection with the foreign currency debt or the particular agreement.

Gain déterminé

(2.22) Pour l'application des divisions (2.21)b)(ii)(A) et (B), ***gain déterminé*** s'entend d'un gain relatif au règlement ou à l'extinction d'une dette en monnaie étrangère visée à la sous-subdivision (2.21)b)(ii)(A)(I)2 ou à la subdivision (2.21)b)(ii)(B)(I) ou d'un gain qui découle d'une convention donnée visée aux subdivisions (2.21)b)(ii)(A)(II) ou (B)(II), si la société donnée, ou toute personne ou société de personnes avec laquelle celle-ci avait un lien de dépendance à un moment où la dette était impayée ou la convention donnée était en vigueur, selon le cas, a conclu une convention qu'il est raisonnable de considérer comme ayant été conclue principalement dans le but de couvrir un risque de change découlant de la dette ou de la convention donnée.

Application of subsection (2.31)

(2.3) Subsection (2.31) applies if

(a) a particular corporation resident in Canada has a particular allowable capital loss, determined without reference to this section, from the disposition at any time (referred to in subsection (2.31) as the "disposition time") by a particular partnership of an interest (referred to in subsection (2.31) as the "partnership interest") in another partnership that has a direct or indirect interest, or, for civil law, a direct or indirect right, in shares (referred to in subsection (2.31) as the "affiliate shares") of the capital stock of a foreign affiliate of the particular corporation; or

(b) a foreign affiliate of a particular corporation resident in Canada has a particular allowable capital loss,

Application du paragraphe (2.31)

(2.3) Le paragraphe (2.31) s'applique si l'un des faits ci-après s'avère :

a) une société donnée résidant au Canada a une perte en capital déductible donnée, déterminée compte non tenu du présent article, résultant de la disposition, effectuée à un moment donné (appelé « moment de la disposition » au paragraphe (2.31)) par une société de personnes donnée, d'une participation (appelée « participation de société de personnes » à ce paragraphe) dans une autre société de personnes qui a un intérêt direct ou indirect ou, pour l'application du droit civil, un droit direct ou indirect, sur des actions (appelées « actions de société affiliée » à ce même paragraphe)

determined without reference to this section, from the disposition at any time (referred to in subsection (2.31) as the "disposition time") by a particular partnership of an interest (referred to in subsection (2.31) as the "partnership interest") in another partnership that has a direct or indirect interest, or, for civil law, a direct or indirect right, in shares (referred to in subsection (2.31) as the "affiliate shares") of the capital stock of a foreign affiliate of the particular corporation that would not be excluded property of the affiliate if the affiliate had owned the shares immediately before the disposition time.

Loss limitation on disposition by a partnership of an indirect interest in foreign affiliate shares

(2.31) If this subsection applies, the amount of the particular allowable capital loss referred to in paragraph (2.3)(a) or (b) is deemed to be the greater of

(a) the amount determined by the formula

A – (B – C)

where

A is the amount of the particular allowable capital loss determined without reference to this section,

B is ½ of the total of all amounts each of which is an amount received before the disposition time, in respect of an exempt dividend on the affiliate shares or on shares for which the affiliate shares were substituted, by

(i) the particular corporation referred to in subsection (2.3),

(ii) another corporation that is related to the particular corporation,

(iii) a foreign affiliate of the particular corporation, or

(iv) a foreign affiliate of another corporation that is related to the particular corporation, and

C is the total of

(i) the total of all amounts each of which is ½ of the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign

du capital-actions d'une société étrangère affiliée de la société donnée;

b) une société étrangère affiliée d'une société donnée résidant au Canada a une perte en capital déductible donnée, déterminée compte non tenu du présent article, résultant de la disposition, effectuée à un moment donné (appelé « moment de la disposition » au paragraphe (2.31)) par une société de personnes donnée, d'une participation (appelée « participation de société de personnes » à ce paragraphe) dans une autre société de personnes qui a un intérêt direct ou indirect ou, pour l'application du droit civil, un droit direct ou indirect, sur des actions (appelées « actions de société affiliée » à ce même paragraphe) du capital-actions d'une société étrangère affiliée de la société donnée qui ne seraient pas des biens exclus de la société affiliée si celle-ci en avait été propriétaire immédiatement avant le moment de la disposition.

Limitation des pertes — disposition par une société de personnes d'une participation indirecte dans des actions de sociétés étrangères affiliées

(2.31) En cas d'application du présent paragraphe, le montant de la perte en capital déductible donnée visée aux alinéas (2.3)a) ou b) est réputé correspondre à la plus élevée des sommes suivantes :

a) la somme obtenue par la formule suivante :

A – (B – C)

où :

A représente le montant de la perte en capital déductible donnée, déterminé compte non tenu du présent article,

B la moitié du total des sommes dont chacune représente une somme reçue, avant le moment de la disposition, au titre d'un dividende exonéré sur les actions de société affiliée, ou sur des actions de remplacement, par l'une des entités suivantes :

(i) la société donnée visée au paragraphe (2.3),

(ii) une autre société qui est liée à la société donnée,

(iii) une société étrangère affiliée de la société donnée,

(iv) une société étrangère affiliée d'une autre société qui est liée à la société donnée,

C le total des sommes suivantes :

(i) le total des sommes dont chacune représente la moitié du montant retranché, en application de l'alinéa (2.01)a) au titre des dividendes exonérés visés à l'élément B, d'une

affiliate described in the description of B, of the affiliate shares or shares for which the affiliate shares were substituted, was reduced under paragraph (2.01)(a) in respect of the exempt dividends referred to in the description of B,

(ii) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation or a foreign affiliate described in the description of B, from a previous disposition by a partnership of the affiliate shares or shares for which the affiliate shares were substituted, was reduced under paragraph (2.11)(a) in respect of the exempt dividends referred to in the description of B,

(iii) the total of all amounts each of which is ½ of the amount by which a loss (determined without reference to this section), from a previous disposition by a corporation, or a foreign affiliate described in the description of B, of an interest in a partnership, was reduced under paragraph (2.21)(a) in respect of the exempt dividends referred to in the description of B, and

(iv) the total of all amounts each of which is the amount by which an allowable capital loss (determined without reference to this section), of a corporation, or a foreign affiliate described in the description of B, from a previous disposition by a partnership of an interest in another partnership, was reduced under this paragraph in respect of the exempt dividends referred to in the description of B, and

(b) the lesser of

(i) the portion of the particular allowable capital loss, determined without reference to this section, that can reasonably be considered to be attributable to a fluctuation in the value of a currency other than Canadian currency relative to Canadian currency, and

(ii) ½ of the amount determined in respect of the particular corporation, or the foreign affiliate (that is referred to in paragraph (2.3)(b)), of the particular corporation, that is the amount of a gain (other than a specified gain) that

(A) was made within 30 days before or after the disposition time by the particular partnership to the extent that the gain is reasonably attributable to the particular corporation or the foreign affiliate, as the case may be, and that

perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, des actions de société affiliée ou d'actions de remplacement,

(ii) le total des sommes dont chacune représente le montant retranché, en application de l'alinéa (2.11)a) au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, des actions de société affiliée ou d'actions de remplacement,

(iii) le total des sommes dont chacune représente la moitié du montant retranché, en application de l'alinéa (2.21)a) au titre des dividendes exonérés visés à l'élément B, d'une perte (déterminée compte non tenu du présent article) résultant d'une disposition antérieure, effectuée par une société ou par une société étrangère affiliée visée à cet élément, d'une participation dans une société de personnes,

(iv) le total des sommes dont chacune représente le montant retranché, en application du présent alinéa au titre des dividendes exonérés visés à l'élément B, d'une perte en capital déductible (déterminée compte non tenu du présent article) d'une société ou d'une société étrangère affiliée visée à cet élément résultant d'une disposition antérieure, effectuée par une société de personnes, d'une participation dans une autre société de personnes;

b) la moins élevée des sommes suivantes :

(i) la partie de la perte en capital déductible donnée, déterminée compte non tenu du présent article, qu'il est raisonnable de considérer comme étant attribuable à une fluctuation de la valeur d'une monnaie (sauf la monnaie canadienne) par rapport à la monnaie canadienne,

(ii) la moitié de la somme déterminée relativement à la société donnée ou à la société étrangère affiliée de celle-ci visée à l'alinéa (2.3)b) qui représente le montant d'un gain (sauf un gain déterminé) qui :

(A) soit a été fait par la société de personnes donnée dans les trente jours précédant ou suivant le moment de la disposition, dans la mesure

(I) is deemed under subsection 39(2) to be a capital gain of the particular partnership for the taxation year that includes the time the gain was made from the disposition of currency other than Canadian currency, and

(II) is in respect of the settlement or extinguishment of a foreign currency debt that

1. was issued or incurred by the particular partnership within 30 days before or after the acquisition of the partnership interest by the particular partnership,

2. was, at all times at which it was a debt obligation of the particular partnership, owing to a person or partnership that dealt, at all times during which the foreign currency debt was outstanding, at arm's length with the particular corporation, and

3. can reasonably be considered to have been issued or incurred in relation to the acquisition of the partnership interest, or

(B) is a capital gain (to the extent that the capital gain is reasonably attributable to the particular corporation or the foreign affiliate, as the case may be) realized within 30 days before or after the disposition time by the particular partnership under an agreement that

(I) was entered into by the particular partnership, within 30 days before or after the acquisition of the partnership interest by the particular partnership, with a person or partnership that dealt, at all times during which the agreement was in force, at arm's length with the particular corporation,

(II) provides for the purchase, sale or exchange of currency, and

(III) can reasonably be considered to have been entered into by the particular partnership for the principal purpose of hedging the foreign exchange exposure arising in connection with the acquisition of the partnership interest.

où il est raisonnable d'attribuer le gain à la société donnée ou à la société affiliée, selon le cas, et qui, à la fois :

(I) est réputé en vertu du paragraphe 39(2) être un gain en capital de la société de personnes donnée pour l'année d'imposition qui comprend le moment où le gain a été fait, provenant de la disposition d'une monnaie autre que la monnaie canadienne,

(II) se rapporte au règlement ou à l'extinction d'une dette en monnaie étrangère qui, à la fois :

1. a été émise ou contractée par la société de personnes donnée dans les trente jours précédant ou suivant l'acquisition par celle-ci de la participation de société de personnes,

2. à tout moment où elle était une créance dont la société de personnes donnée était débitrice, était due à une personne ou à une société de personnes qui, à tout moment où la dette en monnaie étrangère était impayée, n'avait aucun lien de dépendance avec la société donnée,

3. peut raisonnablement être considérée comme ayant été émise ou contractée relativement à l'acquisition de la participation de société de personnes,

(B) soit est un gain en capital (dans la mesure où il est raisonnable de l'attribuer à la société donnée ou à la société affiliée, selon le cas) réalisé par la société de personnes donnée dans les trente jours précédant ou suivant le moment de la disposition aux termes d'une convention qui, à la fois :

(I) a été conclue par la société de personnes donnée, dans les trente jours précédant ou suivant l'acquisition par celle-ci de la participation de société de personnes, avec une personne ou une société de personnes qui, à tout moment où la convention était en vigueur, n'avait aucun lien de dépendance avec la société donnée,

(II) prévoit l'achat, la vente ou l'échange de monnaie,

(III) peut raisonnablement être considérée comme ayant été conclue par la société de personnes donnée principalement dans le but

de couvrir le risque de change découlant de l'acquisition de la participation de société de personnes.

Specified gain

(2.32) For the purposes of subparagraph (2.31)(b)(ii), a ***specified gain*** means a gain in respect of the settlement or extinguishment of a foreign currency debt referred to in subclause (2.31)(b)(ii)(A)(II), or that arises under a particular agreement referred to in clause (2.31)(b)(ii)(B), if the particular partnership, or any person or partnership with which the particular corporation was not — at any time during which the foreign currency debt was outstanding or the particular agreement was in force, as the case may be — dealing at arm's length, entered into an agreement that may reasonably be considered to have been entered into for the principal purpose of hedging any foreign exchange exposure arising in connection with the foreign currency debt or the particular agreement.

Gain déterminé

(2.32) Pour l'application du sous-alinéa (2.31)b)(ii), ***gain déterminé*** s'entend d'un gain relatif au règlement ou à l'extinction d'une dette en monnaie étrangère visée à la subdivision (2.31)b)(ii)(A)(II) ou d'un gain qui découle d'une convention donnée visée à la division (2.31)b)(ii)(B), si la société de personnes donnée, ou toute personne ou société de personnes avec laquelle la société donnée avait un lien de dépendance à un moment où la dette était impayée ou la convention donnée était en vigueur, selon le cas, a conclu une convention qu'il est raisonnable de considérer comme ayant été conclue principalement dans le but de couvrir un risque de change découlant de la dette ou de la convention donnée.

Exempt dividends

(3) For the purposes of subsections (2.01), (2.11), (2.21) and (2.31),

(a) a dividend received by a corporation resident in Canada is an exempt dividend to the extent of the amount in respect of the dividend that is deductible from the income of the corporation for the purpose of computing the taxable income of the corporation because of any of paragraphs 113(1)(a) to (c); and

(b) a dividend received by a particular foreign affiliate of a corporation resident in Canada from another foreign affiliate of the corporation is an exempt dividend to the extent of the amount, if any, by which the portion of the dividend that was not prescribed to have been paid out of the pre-acquisition surplus of the other affiliate exceeds the total of such portion of the income or profits tax that can reasonably be considered to have been paid in respect of that portion of the dividend by the particular affiliate or by a partnership in which the particular affiliate had, at the time of the payment of the income or profits tax, a partnership interest, either directly or indirectly; and

(c) the prescribed amount is deemed to be an amount that is received, at the adjustment time referred to in subsection 5905(7.7) of the *Income Tax Regulations,* by a particular foreign affiliate of a corporation resident in Canada from another foreign affiliate of the corporation and that is in respect of an exempt dividend on a share of the capital stock of the other affiliate.

Dividendes exonérés

(3) Les règles ci-après s'appliquent aux paragraphes (2.01), (2.11), (2.21) et (2.31) :

a) le dividende reçu par une société résidant au Canada est un dividende exonéré jusqu'à concurrence du montant relatif au dividende qui est déductible du revenu de la société dans le calcul de son revenu imposable par l'effet de l'un des alinéas 113(1)a) à c);

b) le dividende qu'une société étrangère affiliée donnée d'une société résidant au Canada reçoit d'une autre société étrangère affiliée de cette société est un dividende exonéré jusqu'à concurrence de l'excédent éventuel de la partie du dividende non considérée par règlement comme payée sur le surplus de l'autre société affiliée antérieur à l'acquisition, sur la partie de l'impôt sur le revenu ou sur les bénéfices qu'il est raisonnable de considérer comme payée au titre de cette partie de dividende par la société affiliée donnée ou par une société de personnes dans laquelle cette dernière avait une participation directe ou indirecte au moment du paiement de l'impôt sur le revenu ou sur les bénéfices;

c) la somme visée par règlement est réputée être une somme qu'une société étrangère affiliée donnée d'une société résidant au Canada reçoit, au moment du rajustement mentionné au paragraphe 5905(7.7) du *Règlement de l'impôt sur le revenu*, d'une autre société étrangère affiliée de la société et qui se rapporte à un dividende exonéré sur une action du capital-actions de l'autre société affiliée.

Loss on disposition of shares of foreign affiliate

(4) If a taxpayer resident in Canada or a foreign affiliate (which taxpayer or foreign affiliate is referred to in this subsection as the "transferee") of the taxpayer has acquired shares of the capital stock of one or more foreign affiliates (each referred to in this subsection as an "acquired affiliate") of the taxpayer on a disposition of shares (such shares disposed of being referred to in this subsection as the "disposed shares") of the capital stock of any other foreign affiliate of the taxpayer (other than, where the transferee is a foreign affiliate of the taxpayer, a disposition of shares that are, immediately before the acquisition, excluded property of the transferee or a disposition to which subsection 40(3.4) applies), the following rules apply:

(a) the capital loss, if any, of the transferee from the disposition, is deemed to be nil; and

(b) in computing the adjusted cost base to the transferee of a share of a particular class of the capital stock of an acquired affiliate that is owned by the transferee immediately after the disposition, there is to be added the amount determined by the formula

[(A – B) × C/D]/E

where

A is the total of all amounts each of which is the cost amount to the transferee, immediately before the disposition, of a disposed share,

B is the total of

(i) the total of all amounts each of which is the proceeds of disposition of a disposed share, and

(ii) the total of all amounts in respect of the computation of losses of the transferee from the dispositions of the disposed shares, each of which is, in respect of the disposition of a disposed share, the amount by which the amount for A in the formula in paragraph (2.01)(a) exceeds the amount determined by that formula,

C is the fair market value, immediately after the disposition, of all shares of the particular class owned, immediately after the disposition, by the transferee,

D is the fair market value, immediately after the disposition, of all shares owned, immediately after the disposition, by the transferee of the capital stock of all acquired affiliates, and

E is the number of shares of the particular class that are owned by the transferee immediately after the disposition.

Perte provenant de la disposition d'actions d'une société étrangère affiliée

(4) Dans le cas où un contribuable résidant au Canada ou l'une de ses sociétés étrangères affiliées (appelés « cessionnaire » au présent paragraphe) a acquis des actions du capital-actions d'une ou de plusieurs sociétés étrangères affiliées du contribuable (appelées chacune « société affiliée acquise » au présent paragraphe) lors de la disposition d'actions (appelées « actions cédées » au présent paragraphe) du capital-actions d'une autre société étrangère affiliée du contribuable (sauf, dans le cas où le cessionnaire est une société étrangère affiliée du contribuable, une disposition d'actions qui sont, immédiatement avant l'acquisition, des biens exclus ou une disposition à laquelle le paragraphe 40(3.4) s'applique), les règles ci-après s'appliquent :

a) la perte en capital du cessionnaire résultant de la disposition est réputée être nulle;

b) est à ajouter dans le calcul du prix de base rajusté pour le cessionnaire d'une action d'une catégorie donnée du capital-actions d'une société affiliée acquise dont il est propriétaire immédiatement après la disposition la somme obtenue par la formule suivante :

[(A – B) × C/D]/E

où :

A représente le total des sommes dont chacune représente le coût indiqué d'une action cédée pour le cessionnaire immédiatement avant la disposition,

B le total des sommes suivantes :

(i) le total des sommes dont chacune représente le produit de disposition d'une action cédée,

(ii) le total des sommes relatives au calcul des pertes du cessionnaire résultant de la disposition des actions cédées, dont chacune représente, relativement à la disposition d'une action cédée, l'excédent de la valeur de l'élément A de la formule figurant à l'alinéa (2.01)a) sur la somme obtenue par cette formule,

C la juste valeur marchande, immédiatement après la disposition, de toutes les actions de la catégorie donnée dont le cessionnaire est alors propriétaire,

D la juste valeur marchande, immédiatement après la disposition, de toutes les actions du capital-actions des sociétés affiliées acquises dont le cessionnaire est alors propriétaire,

E le nombre d'actions de la catégorie donnée dont le cessionnaire est propriétaire immédiatement après la disposition.

Late filed elections

(5) Where the election referred to in subsection 93(1) was not made on or before the day on or before which the election was required by that subsection to be made, the election shall be deemed to have been made on that day if, on or before the day that is 3 years after that day,

(a) the election is made in prescribed manner; and

(b) an estimate of the penalty in respect of that election is paid by the corporation when that election is made.

Choix communiqués en retard

(5) Lorsque le choix visé au paragraphe (1) n'a pas été fait au plus tard à la date à laquelle une société était tenue de le faire, le choix est réputé avoir été fait à cette date si, au plus tard dans les 3 ans suivant cette date :

a) le choix est fait selon les modalités réglementaires;

b) la société verse le montant estimatif de la pénalité relative à ce choix au moment où celui-ci est fait.

Special cases

(5.1) Where, in the opinion of the Minister, the circumstances of a case are such that it would be just and equitable

(a) to permit an election under subsection 93(1) to be made after the day that is 3 years after the day on or before which the election was required by that subsection to be made, or

(b) to permit an election made under subsection 93(1) to be amended,

the election or amended election shall be deemed to have been made on the day on or before which the election was so required to be made if

(c) the election or amended election is made in prescribed form, and

(d) an estimate of the penalty in respect of the election or amended election is paid by the corporation when the election or amended election is made,

and where this subsection applies to the amendment of an election, that election shall be deemed not to have been effective.

Cas spéciaux

(5.1) Lorsque le ministre est d'avis que les circonstances d'un cas sont telles qu'il serait juste et équitable :

a) de permettre qu'un choix visé au paragraphe (1) soit fait plus de 3 ans après la date à laquelle une société était tenue de le faire en vertu de ce paragraphe;

b) de permettre qu'un choix antérieur fait en vertu du paragraphe (1) soit modifié,

le choix ou le choix modifié est réputé avoir été fait à la date à laquelle la société était tenue de le faire, si :

c) d'une part, le choix ou le choix modifié est fait selon le formulaire prescrit;

d) d'autre part, la société paie le montant estimatif de la pénalité relative au choix ou au choix modifié, au moment où celui-ci est fait;

en outre, lorsque le présent paragraphe s'applique à la modification d'un choix, ce choix est réputé n'avoir jamais été en vigueur.

Amended election

(5.2) An election (referred to in this subsection as the "amended election") by a taxpayer under subsection (1) in respect of a disposition of shares of the capital stock of a foreign affiliate of the taxpayer is deemed to have been made on the day on or before which the election was required to be made and any previous election (referred to in this subsection as the "old election") under subsection (1) in respect of that disposition is deemed not to have been made if

Choix modifié

(5.2) Le choix (appelé « choix modifié » au présent paragraphe) qu'un contribuable fait aux termes du paragraphe (1) à l'égard d'une disposition d'actions du capital-actions d'une de ses sociétés étrangères affiliées est réputé avoir été fait à la date limite où il devait l'être, et tout choix antérieur (appelé « ancien choix » au présent paragraphe) fait aux termes du paragraphe (1) à l'égard de cette disposition est réputé ne pas avoir été fait si les conditions ci-après sont réunies :

(a) the taxpayer has not elected under section 51 of the *Technical Tax Amendments Act, 2012*;

(b) the taxpayer made the old election on or before December 18, 2009;

(c) in the opinion of the Minister, the circumstances are such that it would be just and equitable to permit the old election to be amended; and

(d) the amended election is made in prescribed form on or before December 31, 2013.

a) le contribuable n'a pas fait le choix prévu à l'article 51 de la *Loi de 2012 apportant des modifications techniques concernant l'impôt et les taxes*;

b) le contribuable a fait l'ancien choix avant le 19 décembre 2009;

c) de l'avis du ministre, les circonstances sont telles qu'il serait juste et équitable de permettre la modification de l'ancien choix;

d) le choix modifié est fait, sur le formulaire prescrit, avant 2014.

Penalty for late filed election

(6) For the purposes of this section, the penalty in respect of an election or amended election referred to in paragraph 93(5)(a) or 93(5.1)(c) is an amount equal to the lesser of

(a) 1/4 of 1% of the amount designated in the election or amended election for each month or part of a month during the period commencing with the day on or before which the election is required by subsection 93(1) to be made and ending on the day the election is made, and

(b) an amount, not exceeding $8,000, equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period referred to in paragraph 93(6)(a).

Pénalités pour choix tardifs

(6) Pour l'application du présent article, la pénalité relative au choix ou au choix modifié visé à l'alinéa (5)a) ou (5.1)c) est un montant égal à la moins élevée des sommes suivantes :

a) 1/4 de 1 % du montant indiqué dans le choix ou le choix modifié pour chaque mois ou partie de mois de la période commençant à la date à laquelle une société était tenue de faire le choix aux termes du paragraphe (1) et se terminant à la date où le choix est fait;

b) le produit, ne dépassant pas 8 000 $, de la multiplication de 100 $ par le nombre de mois tombant, en tout ou en partie, dans la période visée à l'alinéa a).

Unpaid balance of penalty

(7) The Minister shall, with all due dispatch, examine each election and amended election referred to in paragraph 93(5)(a) or 93(5.1)(c), assess the penalty payable and send a notice of assessment to the corporation, and the corporation shall pay forthwith to the Receiver General the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 93; 1994, c. 7, Sch. II, s. 69; 1998, c. 19, s. 120; 2001, c. 17, s. 70; 2013, c. 34, ss. 32, 68.

Solde impayé de pénalité

(7) Le ministre, avec diligence, examine chaque choix et choix modifié visé à l'alinéa (5)a) ou (5.1)c), calcule la pénalité payable et envoie un avis de cotisation à la société; celle-ci doit payer sans délai au receveur général l'excédent éventuel de la pénalité ainsi calculée sur le total des sommes antérieurement versées au titre de cette pénalité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 93; 1994, ch. 7, ann. II, art. 69; 1998, ch. 19, art. 120; 2001, ch. 17, art. 70; 2013, ch. 34, art. 32 et 68.

Shares held by partnership

93.1 (1) For the purpose of determining whether a non-resident corporation is a foreign affiliate of a corporation resident in Canada for the purposes of a specified provision, if, based on the assumptions contained in paragraph 96(1)(c), at any time shares of a class of the capital stock of a corporation are owned by a partnership or are deemed under this subsection to be owned by a partnership, then each member of the partnership is deemed to

Actions détenues par une société de personnes

93.1 (1) Pour déterminer si une société non-résidente est une société étrangère affiliée d'une société résidant au Canada pour l'application d'une disposition déterminée, les actions d'une catégorie du capital-actions d'une société qui, d'après les hypothèses formulées à l'alinéa 96(1)c), appartiennent à une société de personnes ou sont réputées, en vertu du présent paragraphe, lui appartenir, à un moment donné, sont réputées appartenir, à ce moment, à

own at that time the number of those shares that is equal to the proportion of all those shares that

(a) the fair market value of the member's interest in the partnership at that time

is of

(b) the fair market value of all members' interests in the partnership at that time.

chacun de ses associés en un nombre égal à la proportion du total de ces actions que représente le rapport entre :

a) d'une part, la juste valeur marchande de la participation de l'associé dans la société de personnes à ce moment;

b) d'autre part, la juste valeur marchande de l'ensemble des participations des associés dans la société de personnes à ce moment.

Specified provisions for subsection (1)

(1.1) For the purposes of subsection (1), the specified provisions are

(a) subsections (2), (5), 20(12) and 39(2.1), sections 90, 93, 93.3 and 113, paragraphs 128.1(1)(c.3) and (d), section 212.3, subsection 219.1(2) and section 233.4;

(b) section 95 to the extent that section is applied for the purposes of the provisions referred to in paragraph (a);

(c) any regulations made for the purposes of the provisions referred to in paragraph (a); and

(d) paragraph 95(2)(g.04), subsection 95(2.2) and section 126.

Dispositions déterminées

(1.1) Pour l'application du paragraphe (1), les dispositions déterminées sont les suivantes :

a) les paragraphes (2), (5), 20(12) et 39(2.1), les articles 90, 93, 93.3 et 113, les alinéas 128.1(1)c.3) et d), l'article 212.3, le paragraphe 219.1(2) et l'article 233.4;

b) l'article 95, dans la mesure où il s'applique aux dispositions visées à l'alinéa a);

c) les dispositions réglementaires prises pour l'application des dispositions visées à l'alinéa a);

d) l'alinéa 95(2)g.04), le paragraphe 95(2.2) et l'article 126.

Where dividends received by a partnership

(2) Where, based on the assumptions contained in paragraph 96(1)(c), at any time shares of a class of the capital stock of a foreign affiliate of a corporation resident in Canada (in this subsection referred to as "affiliate shares") are owned by a partnership and at that time the affiliate pays a dividend on affiliate shares to the partnership (in this subsection referred to as the "partnership dividend"),

(a) for the purposes of sections 93 and 113 and any regulations made for the purposes of those sections, each member of the partnership (other than another partnership) is deemed to have received the proportion of the partnership dividend that

(i) the fair market value of the member's interest held, directly or indirectly through one or more other partnerships, in the partnership at that time

is of

(ii) the fair market value of all the interests in the partnership held directly by members of the partnership at that time;

Dividendes reçus par une société de personnes

(2) Lorsque, d'après les hypothèses formulées à l'alinéa 96(1)c), des actions d'une catégorie du capital-actions d'une société étrangère affiliée d'une société résidant au Canada (appelées « actions de société affiliée » au présent paragraphe) appartiennent à une société de personnes à un moment où la société affiliée verse un dividende sur de telles actions à la société de personnes, les règles suivantes s'appliquent :

a) pour l'application des articles 93 et 113 et des dispositions réglementaires prises pour l'application de ces articles, chaque associé de la société de personnes (sauf une autre société de personnes) est réputé avoir reçu la proportion du dividende que représente le rapport entre :

(i) d'une part, la juste valeur marchande de la participation qu'il détient, directement ou indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes, dans la société de personnes à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes détenues directement par des associés de celle-ci à ce moment;

(b) for the purposes of sections 93 and 113 and any regulations made for the purposes of those sections, the proportion of the partnership dividend deemed by paragraph (a) to have been received by a member of the partnership at that time is deemed to have been received by the member in equal proportions on each affiliate share that is property of the partnership at that time;

(c) for the purpose of applying section 113, in respect of the dividend referred to in paragraph (a), each affiliate share referred to in paragraph (b) is deemed to be owned by each member of the partnership; and

(d) notwithstanding paragraphs (a) to (c),

(i) where the corporation resident in Canada is a member of the partnership, the amount deductible by it under section 113 in respect of the dividend referred to in paragraph (a) shall not exceed the portion of the amount of the dividend included in its income pursuant to subsection 96(1), and

(ii) where another foreign affiliate of the corporation resident in Canada is a member of the partnership, the amount included in that other affiliate's income in respect of the dividend referred to in paragraph (a) shall not exceed the amount that would be included in its income pursuant to subsection 96(1) in respect of the partnership dividend received by the partnership if the value for H in the definition ***foreign accrual property income*** in subsection 95(1) were nil and this Act were read without reference to this subsection.

b) pour l'application des articles 93 et 113 et des dispositions réglementaires prises en application de ces articles, la partie de dividende qu'un associé de la société de personnes est réputé, par l'alinéa a), avoir reçue à ce moment est réputée avoir été reçue par lui dans des proportions égales sur chaque action de société affiliée qui est un bien de la société de personnes à ce moment;

c) pour l'application de l'article 113 relativement au dividende visé à l'alinéa a), chaque action de société affiliée visée à l'alinéa b) est réputée appartenir à chaque associé de la société de personnes;

d) malgré les alinéas a) à c):

(i) lorsque la société résidant au Canada est un associé de la société de personnes, le montant qu'elle peut déduire, en application de l'article 113, au titre du dividende visé à l'alinéa a) ne peut dépasser la partie du dividende qui est incluse dans son revenu en application du paragraphe 96(1),

(ii) lorsqu'une autre société étrangère affiliée de la société résidant au Canada est un associé de la société de personnes, le montant inclus dans son revenu au titre du dividende visé à l'alinéa a) ne peut dépasser le montant qui serait inclus dans son revenu en application du paragraphe 96(1) au titre du dividende reçu par la société de personnes si la valeur de l'élément H de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe 95(1) était nul et s'il était fait abstraction du présent paragraphe.

Tiered partnerships

(3) A person or partnership that is (or is deemed by this subsection to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership, and the person or partnership is deemed to have, directly, rights to the income or capital of the other partnership to the extent of the person or partnership's direct and indirect rights to that income or capital, for the purposes of applying

(a) except to the extent that the context otherwise requires, a provision of this subdivision;

(b) any of paragraphs 13(21.2)(a), 14(12)(a), 18(13)(a), 40(2)(e.1), (e.3) and (g) and (3.3)(a); and

(c) subsections 39(2.1), 40(3.6) and 87(8.3).

Paliers de sociétés de personnes

(3) Une personne ou une société de personnes qui est ou est réputée, en vertu du présent paragraphe, être l'associé d'une société de personnes donnée qui est elle-même l'associé d'une autre société de personnes est réputée être l'associé de cette dernière et est réputée avoir, directement, des droits sur le revenu ou le capital de l'autre société de personnes, jusqu'à concurrence de ses droits directs ou indirects sur ce revenu ou ce capital, pour l'application des dispositions suivantes :

a) sauf indication contraire du contexte, toute disposition de la présente sous-section;

b) les alinéas 13(21.2)a), 14(12)a), 18(13)a) et 40(2)e.1), e.3) et g) et (3.3)a);

c) les paragraphes 39(2.1), 40(3.6) et 87(8.3).

Partnership deemed to be corporation

(4) For the purpose of applying clause 95(2)(a)(ii)(D) in respect of an amount paid or payable by a partnership to a foreign affiliate, of a taxpayer, that is a member of the partnership or to another foreign affiliate of the taxpayer,

(a) if, at any time, all the members (in this subsection referred to as "member affiliates") of the partnership are foreign affiliates of the taxpayer,

(i) the partnership is deemed to be, at that time in respect of the taxpayer and the member affiliates, a non-resident corporation without share capital, and

(ii) all the membership interests in the partnership are deemed to be, at that time, equity interests in the corporation held by the member affiliates; and

(b) if, at any time, all the member affiliates are resident in a particular country and the partnership does not carry on business outside the particular country, the partnership is deemed to be, at that time, resident in the particular country.

Computing FAPI in respect of partnership

(5) For the purpose of applying a relevant provision in respect of a foreign affiliate of a taxpayer resident in Canada, if at any time the taxpayer is a partnership of which a particular corporation resident in Canada, or a foreign affiliate of the particular corporation, is a member and if, based on the relevant assumptions, the particular corporation and the taxpayer would be related, then

(a) a non-resident corporation that is, at that time, a foreign affiliate of the particular corporation is deemed to be, at that time, a foreign affiliate of the taxpayer; and

(b) the taxpayer is deemed to have, at that time, a qualifying interest in respect of that foreign affiliate if the particular corporation has, at that time, a qualifying interest in respect of the non-resident corporation.

Relevant provisions and assumptions

(6) For the purposes of subsection (5),

(a) the relevant provisions are

Société de personnes réputée être une société

(4) Pour l'application de la division 95(2)a)(ii)(D) relativement à une somme payée ou à payer par une société de personnes à une société étrangère affiliée d'un contribuable, laquelle est un associé de la société de personnes, ou à une autre société étrangère affiliée du contribuable, les règles ci-après s'appliquent :

a) si tous les associés (appelés « associés déterminés » au présent paragraphe) de la société de personnes sont, à un moment donné, des sociétés étrangères affiliées du contribuable :

(i) la société de personnes est réputée être à ce moment, relativement au contribuable et aux associés déterminés, une société non-résidente sans capital-actions,

(ii) les participations dans la société de personnes sont réputées être, à ce moment, des participations dans la société détenues par les associés déterminés;

b) si, à un moment donné, tous les associés déterminés résident dans un pays donné et la société de personnes exploite une entreprise seulement dans ce pays, la société de personnes est réputée résider dans ce pays à ce moment.

Calcul du REATB relativement à une société de personnes

(5) Pour l'application d'une disposition pertinente relativement à une société étrangère affiliée d'un contribuable résidant au Canada, si le contribuable est, à un moment donné, une société de personnes dont une société donnée résidant au Canada, ou l'une des sociétés étrangères affiliées de celle-ci, est un associé et que, selon les hypothèses pertinentes, la société donnée et le contribuable seraient liés :

a) toute société non-résidente qui est une société étrangère affiliée de la société donnée à ce moment est réputée être, à ce moment, une société étrangère affiliée du contribuable;

b) le contribuable est réputé avoir, à ce moment, une participation admissible dans cette société étrangère affiliée si la société donnée a, à ce moment, une telle participation dans la société non-résidente.

Dispositions et hypothèses pertinentes

(6) Pour l'application du paragraphe (5) :

a) les dispositions pertinentes sont les suivantes :

(i) paragraph (b) of the description of A in the definition ***foreign accrual property income*** in subsection 95(1),

(ii) in determining whether a property of a foreign affiliate of a taxpayer is excluded property of the affiliate, the description of B in the definition ***foreign accrual property income*** in subsection 95(1),

(iii) paragraphs 95(2)(a) and (g), and

(iv) subsections 95(2.2) and (2.21); and

(b) the relevant assumptions are that

(i) the partnership is a non-resident corporation having capital stock of a single class divided into 100 issued shares that each have full voting rights, and

(ii) each member of the partnership (other than another partnership) owns, at any time, the proportion of the issued shares of that class that

(A) the fair market value of the member's interest held, directly or indirectly through one or more partnerships, in the partnership at that time

is of

(B) the fair market value of all the interests in the partnership held directly by members of the partnership at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 71; 2012, c. 31, s. 20; 2013, c. 34, ss. 69, 427; 2014, c. 39, s. 21.

(i) l'alinéa b) de l'élément A de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe 95(1),

(ii) lorsqu'il s'agit de déterminer si un bien d'une société étrangère affiliée d'un contribuable est un bien exclu de celle-ci, l'élément B de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe 95(1),

(iii) les alinéas 95(2)a) et g),

(iv) les paragraphes 95(2.2) et (2.21);

b) les hypothèses pertinentes sont les suivantes :

(i) la société de personnes est une société non-résidente dont le capital-actions compte une seule catégorie de 100 actions émises ayant chacune plein droit de vote,

(ii) chaque associé de la société de personnes (sauf une autre société de personnes) détient, à un moment donné, la proportion des actions émises de cette catégorie que représente le rapport entre :

(A) d'une part, la juste valeur marchande de la participation de l'associé dans la société de personnes à ce moment, détenue directement ou indirectement par l'intermédiaire d'une ou de plusieurs sociétés de personnes,

(B) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes détenues directement par des associés de celle-ci à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 71; 2012, ch. 31, art. 20; 2013, ch. 34, art. 69 et 427; 2014, ch. 39, art. 21.

Definitions

93.2 (1) The definitions in this subsection apply in this section.

equity interest, in a non-resident corporation without share capital, means any right, whether absolute or contingent, conferred by the non-resident corporation to receive, either immediately or in the future, an amount that can reasonably be regarded as all or any part of the capital, revenue or income of the non-resident corporation, but does not include a right as creditor. (*participation*)

non-resident corporation without share capital means a non-resident corporation that, determined without reference to this section, does not have capital divided into shares. (*société non-résidente sans capital-actions*)

Définitions

93.2 (1) Les définitions qui suivent s'appliquent au présent article.

participation Est une participation dans une société non-résidente sans capital-actions tout droit, absolu ou conditionnel, conféré par la société, de recevoir, dans l'immédiat ou dans le futur, une somme qu'il est raisonnable de considérer comme représentant tout ou partie de son capital ou de son revenu, à l'exclusion d'un droit à titre de créancier. (*equity interest*)

société non-résidente sans capital-actions Est une société non-résidente sans capital-actions la société non-résidente dont le capital, déterminé compte non tenu du présent article, n'est pas divisé en actions. (*non-resident corporation without share capital*)

Non-resident corporation without share capital

(2) For the purposes of this Act,

(a) equity interests in a non-resident corporation without share capital that have identical rights and obligations, determined without reference to proportionate differences in all of those rights and obligations, are deemed to be shares of a separate class of the capital stock of the corporation;

(b) the corporation is deemed to have 100 issued and outstanding shares of each class of its capital stock;

(c) each person or partnership that holds, at any time, an equity interest in a particular class of the capital stock of the corporation is deemed to own, at that time, that number of shares of the particular class that is equal to the proportion of 100 that

(i) the fair market value, at that time, of all the equity interests of the particular class held by the person or partnership

is of

(ii) the fair market value, at that time, of all the equity interests of the particular class; and

(d) shares of a particular class of the capital stock of the corporation are deemed to have rights and obligations that are the same as those of the corresponding equity interests.

Non-resident corporation without share capital

(3) For the purposes of section 51, subsection 85.1(3), section 86 and paragraph 95(2)(c),

(a) subject to paragraph (b), if at any time a taxpayer resident in Canada or a foreign affiliate of the taxpayer (in this subsection referred to as the "vendor") disposes of capital property that is shares of the capital stock of a foreign affiliate of the taxpayer, or a debt obligation owing to the taxpayer by the affiliate, to — or exchanges the shares or debt for shares of the capital stock of — a non-resident corporation without share capital, that is immediately after that time a foreign affiliate of the taxpayer, in a manner that increases the fair market value of a class of shares of the capital stock of the non-resident corporation, the non-resident corporation is deemed to have issued, and the vendor is deemed to have received, new shares of the class as consideration in respect of the disposition or exchange; and

Société non-résidente sans capital-actions

(2) Les règles ci-après s'appliquent à la présente loi :

a) les participations dans une société non-résidente sans capital-actions dont les droits et obligations, déterminés compte non tenu des différences proportionnelles qu'ils présentent, sont identiques sont réputées être des actions d'une catégorie distincte du capital-actions de la société;

b) la société est réputée avoir 100 actions émises et en circulation de chaque catégorie de son capital-actions;

c) chaque personne ou société de personnes qui détient, à un moment donné, une participation dans une catégorie donnée du capital-actions de la société est réputée être propriétaire, à ce moment, du nombre d'actions de la catégorie donnée qui correspond à la proportion de 100 que représente le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, de l'ensemble des participations de la catégorie donnée détenues par la personne ou la société de personnes,

(ii) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des participations de la catégorie donnée;

d) les actions d'une catégorie donnée du capital-actions de la société sont réputées présenter des droits et obligations qui sont identiques à ceux des participations correspondantes.

Société non-résidente sans capital-actions

(3) Pour l'application de l'article 51, du paragraphe 85.1(3), de l'article 86 et de l'alinéa 95(2)c), les règles ci-après s'appliquent :

a) sous réserve de l'alinéa b), si, à un moment donné, un contribuable résidant au Canada ou une société étrangère affiliée du contribuable (chacun étant appelé « vendeur » au présent paragraphe) dispose de certaines immobilisations qui sont des actions du capital-actions d'une société étrangère affiliée du contribuable, ou d'une créance que la société affiliée doit au contribuable, en faveur — ou échange les actions ou la créance contre des actions du capital-actions — d'une société non-résidente sans capital-actions qui est, immédiatement après ce moment, une société étrangère affiliée du contribuable d'une manière qui augmente la juste valeur marchande d'une catégorie d'actions du capital-actions de la société non-résidente, celle-ci est réputée avoir émis, et le vendeur est réputé avoir reçu, des nouvelles actions de la catégorie en contrepartie relativement à la disposition ou à l'échange;

(b) if the taxpayer elects under this paragraph and files the election in writing with the Minister on or before its filing-due date for the taxation year that includes the day on which the disposition or exchange occurs, paragraph (a) does not apply to the disposition or exchange.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 39, s. 22.

b) si le contribuable fait le choix prévu au présent alinéa, dans un document qu'il présente au ministre au plus tard à sa date d'échéance de production pour l'année d'imposition qui comprend la date à laquelle la disposition ou l'échange se produit, l'alinéa a) ne s'applique pas à la disposition ou à l'échange.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 39, art. 22.

Definition of *Australian trust*

93.3 (1) In this section, ***Australian trust***, at any time, means a trust in respect of which the following apply at that time:

(a) in the absence of subsection (3), the trust would be described in paragraph (h) of the definition ***exempt foreign trust*** in subsection 94(1);

(b) the trust is resident in Australia;

(c) the interest of each beneficiary under the trust is described by reference to units of the trust; and

(d) the liability of each beneficiary under the trust is limited by the operation of any law governing the trust.

Définition de *fiducie australienne*

93.3 (1) Au présent article, ***fiducie australienne***, à un moment donné, s'entend d'une fiducie à l'égard de laquelle les énoncés ci-après se vérifient à ce moment :

a) en l'absence du paragraphe (3), la fiducie serait visée à l'alinéa h) de la définition de ***fiducie étrangère exempte*** au paragraphe 94(1);

b) la fiducie réside en Australie;

c) la participation de chaque bénéficiaire de la fiducie est définie par rapport aux unités de celle-ci;

d) la responsabilité de chaque bénéficiaire de la fiducie est limitée par la loi qui régit la fiducie.

Conditions for subsection (3)

(2) Subsection (3) applies at any time to a taxpayer resident in Canada in respect of a trust if

(a) a non-resident corporation is at that time beneficially interested in the trust;

(b) the non-resident corporation is at that time a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest;

(c) the trust is at that time an Australian trust;

(d) the total fair market value at that time of all fixed interests (in this section as defined in subsection 94(1)) of a class in the trust held by the non-resident corporation, or persons or partnerships that do not deal at arm's length with the non-resident corporation, is at least 10% of the total fair market value at that time of all fixed interests of the class; and

(e) unless the non-resident corporation first acquires a beneficial interest in the trust at that time, immediately before that time (referred to in this paragraph as the "preceding time") subsection (3) applied

(i) to the taxpayer in respect of the trust, or

Conditions d'application du paragraphe (3)

(2) Le paragraphe (3) s'applique à un moment donné à un contribuable résidant au Canada relativement à une fiducie si les conditions ci-après sont réunies :

a) une société non-résidente a un droit de bénéficiaire dans la fiducie à ce moment;

b) la société non-résidente est, à ce moment, une société étrangère affiliée du contribuable dans laquelle il a une participation admissible;

c) la fiducie est une fiducie australienne à ce moment;

d) la juste valeur marchande totale à ce moment de l'ensemble des participations fixes, au sens du paragraphe 94(1) au présent article, d'une catégorie dans la fiducie qui est détenue par la société non-résidente, ou par des personnes ou des sociétés de personnes ayant un lien de dépendance avec la société non-résidente, correspond à au moins 10 % de la juste valeur marchande totale à ce moment de l'ensemble des participations fixes de la catégorie;

e) à moins que la société non-résidente n'acquière un droit de bénéficiaire dans la fiducie pour la première fois à ce moment, le paragraphe (3) s'est appliqué immédiatement avant ce moment, selon le cas :

(i) au contribuable relativement à la fiducie,

(ii) to a corporation resident in Canada, that at the preceding time did not deal at arm's length with the taxpayer, in respect of the trust.

(ii) à une société résidant au Canada qui, immédiatement avant ce moment, avait un lien de dépendance avec le contribuable relativement à la fiducie.

Australian trusts

(3) If this subsection applies at any time to a taxpayer resident in Canada in respect of a trust, the following rules apply at that time for the specified purposes:

(a) the trust is deemed to be a non-resident corporation that is resident in Australia and not to be a trust;

(b) each particular class of fixed interests in the trust is deemed to be a separate class of 100 issued shares, of the capital stock of the non-resident corporation, that have the same attributes as the interests of the particular class;

(c) each beneficiary under the trust is deemed to hold the number of shares of each separate class described in paragraph (b) equal to the proportion of 100 that the fair market value at that time of that beneficiary's fixed interests in the corresponding particular class of fixed interests in the trust is of the fair market value at that time of all fixed interests in the particular class;

(d) the non-resident corporation is deemed to be controlled by the taxpayer resident in Canada — a foreign affiliate of which is referred to in paragraph (2)(b) and is beneficially interested in the trust — that has the greatest equity percentage in the non-resident corporation;

(e) a particular foreign affiliate of the taxpayer in which the taxpayer has a direct equity percentage (as defined in subsection 95(4)) at a particular time, and that is not a controlled foreign affiliate of the taxpayer at that time, is deemed to be a controlled foreign affiliate of the taxpayer at that time if, at that time,

(i) the particular affiliate has an equity percentage (as defined in subsection 95(4)) in the foreign affiliate referred to in paragraph (2)(b), or

(ii) the particular affiliate is the foreign affiliate referred to in paragraph (2)(b); and

(f) section 94.2 does not apply to the taxpayer in respect of the trust.

Fiducies australiennes

(3) En cas d'application du présent paragraphe à un moment donné à un contribuable résidant au Canada relativement à une fiducie, les règles ci-après s'appliquent à ce moment aux fins déterminées :

a) la fiducie est réputée être une société non-résidente qui réside en Australie et ne pas être une fiducie;

b) chaque catégorie donnée de participations fixes dans la fiducie est réputée être une catégorie distincte de 100 actions émises du capital-actions de la société non-résidente qui présentent les mêmes caractéristiques que les participations de la catégorie donnée;

c) chaque bénéficiaire de la fiducie est réputé détenir le nombre d'actions de chaque catégorie distincte visée à l'alinéa b) égal à la proportion de 100 que représente le rapport entre la juste valeur marchande, à ce moment, des participations fixes de ce bénéficiaire de la catégorie donnée correspondante de participations fixes dans la fiducie et la juste valeur marchande, à ce moment, de l'ensemble des participations fixes de la catégorie donnée;

d) la société non-résidente est réputée être contrôlée par le contribuable résidant au Canada — dont la société étrangère affiliée est visée à l'alinéa (2)b) et a un droit de bénéficiaire dans la fiducie — qui a le pourcentage d'intérêt le plus élevé dans la société non-résidente;

e) une société étrangère affiliée donnée du contribuable dans laquelle il a un pourcentage d'intérêt direct, au sens du paragraphe 95(4), à un moment donné, et qui n'est pas une société étrangère affiliée contrôlée du contribuable à ce moment, est réputée être une société étrangère affiliée contrôlée du contribuable à ce moment si, à ce moment :

(i) soit la société affiliée donnée a un pourcentage d'intérêt, au sens du paragraphe 95(4), dans la société étrangère affiliée visée à l'alinéa (2)b),

(ii) soit la société affiliée donnée est la société étrangère affiliée visée à l'alinéa (2)b);

f) l'article 94.2 ne s'applique pas à la société donnée relativement à la fiducie.

Specified purposes

(4) For the purposes of subsection (3), the specified purposes are

(a) the determination, in respect of an interest in an Australian trust, of the Canadian tax results (as defined in subsection 261(1)) of the taxpayer resident in Canada referred to in subsection (3) for a taxation year in respect of shares of the capital stock of a foreign affiliate of the taxpayer;

(b) the filing obligations of the taxpayer under section 233.4; and

(c) if the taxpayer is a corporation resident in Canada, the application of section 212.3 in respect of an investment (as defined in subsection 212.3(10)) by the taxpayer.

Mergers

(5) For the purposes of this section,

(a) if there has been an amalgamation to which subsection 87(1) applies, the new corporation referred to in that subsection is deemed to be the same corporation as, and a continuation of, each predecessor corporation referred to in that subsection; and

(b) if there has been a winding-up to which subsection 88(1) applies, the parent referred to in that subsection is deemed to be the same corporation as, and a continuation of, the subsidiary referred to in that subsection.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 39, s. 22.

Definitions

94 (1) The following definitions apply in this section and section 94.2.

arm's length transfer, at any time by a person or partnership (referred to in this definition as the "transferor") means a transfer or loan (which transfer or loan is referred to in this definition as the "transfer") of property (other than restricted property) that is made at that time (referred to in this definition as the "transfer time") by the transferor to a particular person or partnership (referred to in this definition as the "recipient") if

(a) it is reasonable to conclude that none of the reasons (determined by reference to all the circumstances including the terms of a trust, an intention, the laws of a country or the existence of an agreement, a memorandum, a letter of wishes or any other arrangement) for the transfer is the acquisition at any time by any

Fins déterminées

(4) Pour l'application du paragraphe (3), les fins déterminées sont les suivantes :

a) la détermination relativement à une participation dans une fiducie australienne des résultats fiscaux canadiens, au sens du paragraphe 261(1), du contribuable résidant au Canada visé au paragraphe (3) pour une année d'imposition relativement aux actions du capital-actions d'une société étrangère affiliée du contribuable;

b) les obligations en matière de déclaration du contribuable prévues à l'article 233.4;

c) si le contribuable est une société résidant au Canada, l'application de l'article 212.3 relativement à un placement, au sens du paragraphe 212.3(10), par le contribuable.

Fusions

(5) Les règles ci-après s'appliquent au présent article :

a) en cas de fusion à laquelle le paragraphe 87(1) s'applique, la nouvelle société visée à ce paragraphe est réputée être la même société que chaque société remplacée visée à ce paragraphe et en être la continuation;

b) en cas de liquidation à laquelle le paragraphe 88(1) s'applique, la société mère visée à ce paragraphe est réputée être la même société que la filiale visée à ce paragraphe et en être la continuation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 39, art. 22.

Définitions

94 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 94.2.

action déterminée Action du capital-actions d'une société, à l'exception d'une action visée par règlement pour l'application de l'alinéa 110(1)d). (***specified share***)

apport Est un apport fait à une fiducie par une personne ou une société de personnes donnée :

a) le transfert ou prêt de bien (sauf un transfert sans lien de dépendance) effectué à la fiducie par la personne ou la société de personnes donnée;

b) si un transfert ou prêt donné de bien (sauf un transfert sans lien de dépendance) est effectué par la personne ou la société de personnes donnée dans le cadre d'une série d'opérations qui comporte un autre transfert ou prêt de bien (sauf un transfert sans lien de

person or partnership of an interest as a beneficiary under a non-resident trust; and

(b) the transfer is

(i) a payment of interest, of a dividend, of rent, of a royalty or of any other return on investment, or any substitute for such a return on investment, in respect of a particular property held by the recipient, if the amount of the payment is not more than the amount that the transferor would have paid if the transferor dealt at arm's length with the recipient,

(ii) a payment made by a corporation on a reduction of the paid-up capital in respect of shares of a class of its capital stock held by the recipient, if the amount of the payment is not more than the lesser of the amount of the reduction in the paid-up capital and the consideration for which the shares were issued,

(iii) a transfer in exchange for which the recipient transfers or loans property to the transferor, or becomes obligated to transfer or loan property to the transferor, and for which it is reasonable to conclude

(A) having regard only to the transfer and the exchange, that the transferor would have been willing to make the transfer if the transferor dealt at arm's length with the recipient, and

(B) that the terms and conditions, and circumstances, under which the transfer was made would have been acceptable to the transferor if the transferor dealt at arm's length with the recipient,

(iv) a transfer made in satisfaction of an obligation referred to in subparagraph (iii) and for which it is reasonable to conclude

(A) having regard only to the transfer and the obligation, that the transferor would have been willing to make the transfer if the transferor dealt at arm's length with the recipient, and

(B) that the terms and conditions, and circumstances, under which the transfer was made would have been acceptable to the transferor if the transferor dealt at arm's length with the recipient,

(v) a payment of an amount owing by the transferor under a written agreement the terms and conditions of which, when entered into, were terms and conditions that, having regard only to the amount

dépendance) à la fiducie par une autre personne ou société de personnes, cet autre transfert ou prêt dans la mesure où il est raisonnable de considérer qu'il a été effectué relativement au transfert ou prêt donné;

c) si la personne ou la société de personnes donnée contracte l'obligation d'effectuer un transfert ou prêt donné de bien (sauf un transfert ou prêt qui serait un transfert sans lien de dépendance s'il était effectué) dans le cadre d'une série d'opérations qui comporte un autre transfert ou prêt de bien (sauf un transfert sans lien de dépendance) à la fiducie par une autre personne ou société de personnes, cet autre transfert ou prêt dans la mesure où il est raisonnable de considérer qu'il a été effectué relativement à l'obligation. (*contribution*)

bénéficiaire Sont compris parmi les bénéficiaires d'une fiducie :

a) la personne ou la société de personnes qui a un droit de bénéficiaire dans la fiducie;

b) la personne ou la société de personnes qui aurait un droit de bénéficiaire dans la fiducie si, au sous-alinéa 248(25)b)(ii) :

(i) la mention « tout arrangement la concernant » valait mention de « tout arrangement la concernant — étant entendu qu'un tel arrangement comprend les caractéristiques d'une action du capital-actions d'une société qui a un droit de bénéficiaire dans la fiducie ou tout arrangement relatif à une telle action — »,

(ii) la mention « la personne ou société de personnes donnée pourrait » valait mention de « la personne ou société de personnes donnée devient, directement ou indirectement, en droit de recevoir une somme provenant, directement ou indirectement, du revenu ou du capital de la fiducie — ou pourrait ainsi devenir en droit de recevoir une telle somme en raison de l'exercice d'un pouvoir discrétionnaire par une personne ou une société de personnes — ou pourrait ». (*beneficiary*)

bénéficiaire remplaçant S'entend, relativement à une fiducie à un moment donné, d'une personne qui est bénéficiaire de la fiducie du seul fait qu'elle a le droit de recevoir tout ou partie du revenu ou du capital de la fiducie si, en vertu de ce droit, elle ne peut ainsi recevoir ce revenu ou ce capital qu'au décès ou après le décès, survenu après ce moment, d'un particulier qui, à ce moment, est vivant et, selon le cas :

a) est un contribuant de la fiducie;

owing and the agreement, would have been acceptable to the transferor if the transferor dealt at arm's length with the recipient of the payment,

(vi) a payment made before 2002 to a trust, to a corporation controlled by a trust or to a partnership of which a trust is a majority-interest partner in repayment of or otherwise in respect of a loan made by a trust, corporation or partnership to the transferor, or

(vii) a payment made after 2001 to a trust, to a corporation controlled by the trust or to a partnership of which the trust is a majority-interest partner, in repayment of or otherwise in respect of a particular loan made by the trust, corporation or partnership to the transferor and either

(A) the payment is made before 2011 and they would have been willing to enter into the particular loan if they dealt at arm's length with each other, or

(B) the payment is made before 2005 in accordance with fixed repayment terms agreed to before June 23, 2000. (*transfert sans lien de dépendance*)

beneficiary under a trust includes

(a) a person or partnership that is beneficially interested in the trust; and

(b) a person or partnership that would be beneficially interested in the trust if the reference in subparagraph 248(25)(b)(ii) to

(i) "any arrangement in respect of the particular trust" were read as a reference to "any arrangement (including, for greater certainty, the terms or conditions of a share, or any arrangement in respect of a share, of the capital stock of a corporation that is beneficially interested in the particular trust) in respect of the particular trust", and

(ii) "the particular person or partnership might" were read as a reference to "the particular person or partnership becomes (or could become on the exercise of any discretion by any person or partnership), directly or indirectly, entitled to any amount derived, directly or indirectly, from the income or capital of the particular trust or might". (*bénéficiaire*)

closely held corporation at any time means a corporation, other than a corporation in respect of which

b) est une personne liée à un tel contribuant (y compris, dans la présente définition, les oncles, tantes, neveux et nièces d'un tel contribuant);

c) aurait été lié à un tel contribuant si chaque particulier qui était vivant avant ce moment l'était à ce moment. (*successor beneficiary*)

bénéficiaire résident S'entend, relativement à une fiducie à un moment donné, d'une personne (sauf celle qui est, à ce moment, un bénéficiaire remplaçant de la fiducie ou une personne exemptée) qui, à ce moment, réside au Canada et est bénéficiaire de la fiducie, laquelle compte à ce moment un contribuant rattaché. (*resident beneficiary*)

bien d'exception Est un bien d'exception d'une personne ou d'une société de personnes le bien qu'elle détient et qui est :

a) une action du capital-actions d'une société à peu d'actionnaires, ou un droit d'acquérir une telle action, si cette action ou ce droit, ou un bien auquel cette action ou ce droit a été substitué, a été acquis par la personne ou la société de personnes à l'occasion d'une opération ou d'une série d'opérations dans le cadre de laquelle, selon le cas :

(i) une action déterminée du capital-actions d'une société à peu d'actionnaires a été acquise par une personne ou une société de personnes en échange ou en contrepartie d'un bien ou à l'occasion de la conversion d'un bien, et le coût de l'action déterminée pour la personne qui l'a acquise était inférieur à sa juste valeur marchande au moment de l'acquisition,

(ii) une action (sauf une action déterminée) du capital-actions d'une société à peu d'actionnaires devient une action déterminée du capital-actions de celle-ci;

b) une dette ou une autre obligation d'une société à peu d'actionnaires, ou un droit d'acquérir telle dette ou autre obligation, si, à la fois :

(i) la dette, l'obligation ou le droit, ou un bien auquel la dette, l'obligation ou le droit a été substitué, est devenu le bien de la personne ou de la société de personnes à l'occasion d'une opération ou d'une série d'opérations dans le cadre de laquelle, selon le cas :

(A) une action déterminée du capital-actions d'une société à peu d'actionnaires a été acquise par une personne ou une société de personnes en

(a) there is at least one class of shares of its capital stock that includes shares prescribed for the purpose of paragraph 110(1)(d);

(b) it is reasonable to conclude that at that time, in respect of each class of shares described in paragraph (a), shares of the class are held by at least 150 shareholders each of whom holds shares of the class that have a total fair market value of at least $500; and

(c) it is reasonable to conclude that at that time in no case does a particular shareholder (or particular shareholder together with any other shareholder with whom the particular shareholder does not deal at arm's length) hold shares of the corporation

(i) that would give the particular shareholder (or the particular shareholder together with those other shareholders referred to in this paragraph) 10% or more of the votes that could be cast under any circumstance at an annual meeting of shareholders of the corporation if the meeting were held at that time, or

(ii) that have a fair market value of 10% or more of the fair market value of all of the issued and outstanding shares of the corporation. (*société à peu d'actionnaires*)

connected contributor, to a trust at a particular time, means a contributor to the trust at the particular time, other than a person all of whose contributions to the trust made at or before the particular time were made at a non-resident time of the person. (*contribuant rattaché*)

contribution to a trust by a particular person or partnership means

(a) a transfer or loan (other than an arm's length transfer) of property to the trust by the particular person or partnership;

(b) if a particular transfer or loan (other than an arm's length transfer) of property is made by the particular person or partnership as part of a series of transactions that includes another transfer or loan (other than an arm's length transfer) of property to the trust by another person or partnership, that other transfer or loan to the extent that it can reasonably be considered to have been made in respect of the particular transfer or loan; and

(c) if the particular person or partnership becomes obligated to make a particular transfer or loan (other than a transfer or loan that would, if it were made, be

échange ou en contrepartie d'un bien ou à l'occasion de la conversion d'un bien, et le coût de l'action déterminée pour la personne qui l'a acquise était inférieur à sa juste valeur marchande au moment de l'acquisition,

(B) une action (sauf une action déterminée) d'une société à peu d'actionnaires devient une action déterminée du capital-actions de celle-ci,

(ii) le montant de tout paiement découlant de la dette, de l'obligation ou du droit — indépendamment du fait que le droit au montant soit immédiat ou futur, absolu ou conditionnel ou soumis ou non à l'exercice d'un pouvoir discrétionnaire par une personne ou une société de personnes — est déterminé principalement, directement ou indirectement, d'après l'un ou plusieurs des critères suivants :

(A) l'utilisation d'un bien de la société à peu d'actionnaires, la production provenant d'un tel bien ou la juste valeur marchande d'un tel bien,

(B) les gains ou bénéfices provenant de la disposition d'un bien de la société à peu d'actionnaires,

(C) le revenu, les bénéfices, les produits ou les flux de trésorerie de la société à peu d'actionnaires,

(D) tout autre critère semblable aux critères mentionnés aux divisions (A) à (C);

c) un bien, à la fois :

(i) que la personne ou la société de personnes a acquis à l'occasion d'une série d'opérations visée aux alinéas a) ou b) relativement à un autre bien,

(ii) dont la juste valeur marchande provient, en tout ou en partie, directement ou indirectement, de cet autre bien. (*restricted property*)

contribuant S'entend, relativement à une fiducie à un moment donné, d'une personne (autre qu'une personne exemptée, mais incluant une personne qui a cessé d'exister) qui a fait un apport à la fiducie au plus tard à ce moment. (*contributor*)

contribuant conjoint S'entend, à un moment donné relativement à un apport fait à une fiducie, de chacun des contribuants ayant fait l'apport qui est un contribuant résident de la fiducie à ce moment. (*joint contributor*)

an arm's length transfer) of property as part of a series of transactions that includes another transfer or loan (other than an arm's length transfer) of property to the trust by another person or partnership, that other transfer or loan to the extent that it can reasonably be considered to have been made in respect of the obligation. (*apport*)

contributor to a trust at any time means a person (other than an exempt person but including a person that has ceased to exist) that, at or before that time, has made a contribution to the trust. (*contribuant*)

electing contributor at any time in respect of a trust means a resident contributor, to the trust, who has elected to have subsection (16) apply in respect of the contributor and the trust for a taxation year of the contributor that includes that time or that ends before that time and for all subsequent taxation years, if

(a) the election was in writing filed with the Minister on or before the contributor's filing-due date for the first taxation year of the contributor for which the election was to take effect (referred to in this definition as the "initial year"); and

(b) the election included both the trust's account number as assigned by the Minister and evidence that the contributor notified, no later than 30 days after the end of the trust's taxation year that ends in the initial year, the trust that the election would be made. (*contribuant déterminé*)

electing trust in respect of a trust's particular taxation year means the trust, if the trust

(a) holds at any time in the particular taxation year, or in a prior taxation year of the trust throughout which it was deemed by subsection (3) to be resident in Canada for the purpose of computing its income, property that is at that time part of its non-resident portion;

(b) elects to have paragraph (3)(f) apply to it for

(i) its first taxation year

(A) throughout which it is deemed by subsection (3) to be resident in Canada for the purpose of computing its income, and

(B) in which it holds property that is at a time in the year part of its non-resident portion, and

(ii) all of its taxation years that end after its taxation year described in subparagraph (i); and

contribuant déterminé S'entend, relativement à une fiducie à un moment donné, d'un contribuant résident de la fiducie qui a fait un choix afin que le paragraphe (16) s'applique à lui ainsi qu'à la fiducie pour une année d'imposition du contribuant qui comprend ce moment ou se termine avant ce moment et pour les années d'imposition subséquentes, si, à la fois :

a) le document concernant le choix est présenté au ministre au plus tard à la date d'échéance de production qui est applicable au contribuant pour sa première année d'imposition pour laquelle le choix est en vigueur (appelée « année initiale » dans la présente définition);

b) ce document comporte à la fois le numéro de compte que le ministre a attribué à la fiducie ainsi qu'une preuve que le contribuant a avisé la fiducie, au plus tard trente jours après la fin de l'année de l'imposition de la fiducie se terminant dans l'année initiale, que le choix serait fait. (*electing contributor*)

contribuant rattaché S'entend, relativement à une fiducie à un moment donné, d'un contribuant de la fiducie à ce moment, à l'exception d'une personne dont l'ensemble des apports à la fiducie faits à ce moment ou antérieurement ont été faits à un moment de non-résidence de la personne. (*connected contributor*)

contribuant résident S'entend, relativement à une fiducie à un moment donné, de la personne qui, à ce moment, est à la fois un résident du Canada et un contribuant de la fiducie, à l'exclusion, si la fiducie a été établie avant 1960 par une personne qui était un non-résident au moment de l'établissement de la fiducie, du particulier (sauf une fiducie) qui n'a pas fait d'apport à la fiducie après 1959. (*resident contributor*)

fiducie Il est entendu que les successions sont comprises parmi les fiducies. (*trust*)

fiducie déterminée Est une fiducie déterminée relativement à une année d'imposition donnée la fiducie qui remplit les conditions suivantes :

a) elle détient, à un moment de l'année donnée ou d'une année d'imposition antérieure tout au long de laquelle elle était réputée, en vertu du paragraphe (3), résider au Canada pour le calcul de son revenu, un bien qui fait partie de sa partie non-résidente à ce moment;

b) elle fait un choix afin que l'alinéa (3)f) s'applique à elle pour les années d'imposition suivantes :

(i) sa première année d'imposition, à la fois :

(c) files the election described in paragraph (b) in writing filed with the Minister with the trust's return of income for its taxation year described in subparagraph (b)(i). (*fiducie déterminée*)

exempt amount in respect of a trust's particular taxation year means an amount that is

(a) paid or credited (in this definition within the meaning assigned by Part XIII) by the trust before 2004;

(b) paid or credited by the trust and referred to in paragraph 104(7.01)(b) in respect of the trust for the particular taxation year; or

(c) paid in the particular taxation year (or within 60 days after the end of the particular taxation year) by the trust directly to a beneficiary (determined without reference to subsection 248(25)) under the trust if

(i) the beneficiary is a natural person none of whose interests as a beneficiary under the trust was ever acquired for consideration,

(ii) the amount is described in subparagraph 212(1)(c)(i) and is not included in computing an exempt amount in respect of any other taxation year of the trust,

(iii) the trust was created before October 30, 2003, and

(iv) no contribution has been made to the trust on or after July 18, 2005. (*somme exclue*)

exempt foreign trust at a particular time means

(a) a non-resident trust if

(i) each beneficiary under the trust at the particular time is

(A) an individual who, at the time that the trust was created, was, because of mental or physical infirmity, dependent on an individual who is a contributor to the trust or on an individual related to such a contributor (which beneficiary is referred to in this paragraph as an "infirm beneficiary"), or

(B) a person who is entitled, only after the particular time, to receive or otherwise obtain the use of any of the trust's income or capital,

(ii) at the particular time there is at least one infirm beneficiary who suffers from a mental or physical

(A) tout au long de laquelle elle est réputée, en vertu du paragraphe (3), résider au Canada pour le calcul de son revenu,

(B) au cours de laquelle elle détient un bien qui fait partie de sa partie non-résidente à un moment de l'année,

(ii) l'ensemble de ses années d'imposition se terminant après l'année d'imposition visée au sous-alinéa (i);

c) elle présente le document concernant le choix prévu à l'alinéa b) au ministre avec sa déclaration de revenu pour l'année d'imposition visée au sous-alinéa b)(i). (*electing trust*)

fiducie étrangère exempte Est une fiducie étrangère exempte à un moment donné :

a) la fiducie non-résidente à l'égard de laquelle les conditions ci-après sont réunies :

(i) chacun de ses bénéficiaires au moment donné est :

(A) soit un particulier qui, au moment de l'établissement de la fiducie, était, en raison d'une déficience mentale ou physique, à la charge d'un particulier qui est un contribuant de la fiducie ou d'un particulier lié à celui-ci (ce bénéficiaire étant appelé « bénéficiaire ayant une déficience » au présent alinéa),

(B) soit une personne qui a le droit, mais seulement après le moment donné, de recevoir tout ou partie du revenu ou du capital de la fiducie ou d'en obtenir autrement l'usage,

(ii) au moins un des bénéficiaires ayant une déficience a, au moment donné, une déficience mentale ou physique qui fait de lui une personne à charge,

(iii) chaque bénéficiaire ayant une déficience est un non-résident à tout moment où il est bénéficiaire de la fiducie au cours de l'année d'imposition de celle-ci qui comprend le moment donné,

(iv) il est raisonnable de considérer que chaque apport fait à la fiducie au moment donné ou antérieurement a été fait, au moment où il a été fait, pour subvenir aux besoins d'un bénéficiaire ayant une déficience, pendant la durée prévue de sa déficience;

b) la fiducie non-résidente à l'égard de laquelle les conditions ci-après sont réunies :

infirmity that causes the beneficiary to be dependent on a person,

(iii) each infirm beneficiary is, at all times that the infirm beneficiary is a beneficiary under the trust during the trust's taxation year that includes the particular time, non-resident, and

(iv) each contribution to the trust made at or before the particular time can reasonably be considered to have been, at the time that the contribution was made, made to provide for the maintenance of an infirm beneficiary during the expected period of the beneficiary's infirmity;

(b) a non-resident trust if

(i) the trust was created as a consequence of the breakdown of a marriage or common-law partnership of two particular individuals to provide for the maintenance of a beneficiary under the trust who was, during that marriage or common-law partnership,

(A) a child of both of those particular individuals (which beneficiary is referred to in this paragraph as a "child beneficiary"), or

(B) one of those particular individuals (which beneficiary is referred to in this paragraph as the "adult beneficiary"),

(ii) each beneficiary under the trust at the particular time is

(A) a child beneficiary under 21 years of age,

(B) a child beneficiary under 31 years of age who is enrolled at any time in the trust's taxation year that includes the particular time at an educational institution that is described in subclause (iv)(B)(I) or (II),

(C) the adult beneficiary, or

(D) a person who is entitled, only after the particular time, to receive or otherwise obtain the use of any of the trust's income or capital,

(iii) each beneficiary described in any of clauses (ii)(A) to (C) is, at all times that the beneficiary is a beneficiary under the trust during the trust's taxation year that includes the particular time, non-resident, and

(iv) each contribution to the trust, at the time that the contribution was made, was

(i) elle a été établie par suite de l'échec du mariage ou de l'union de fait de deux particuliers pour subvenir aux besoins d'un bénéficiaire de la fiducie qui, pendant la durée de ce mariage ou de cette union, était :

(A) l'enfant des deux particuliers en cause (ce bénéficiaire étant appelé « enfant bénéficiaire » au présent alinéa),

(B) l'un des particuliers en cause (ce bénéficiaire étant appelé « adulte bénéficiaire » au présent alinéa),

(ii) chacun de ses bénéficiaires au moment donné est :

(A) soit un enfant bénéficiaire âgé de moins de 21 ans,

(B) soit un enfant bénéficiaire âgé de moins de 31 ans qui, au cours de l'année d'imposition de la fiducie qui comprend ce moment, est inscrit à un établissement d'enseignement visé aux subdivisions (iv)(B)(I) ou (II),

(C) soit un adulte bénéficiaire,

(D) soit une personne qui a le droit, mais seulement après ce moment, de recevoir tout ou partie du revenu ou du capital de la fiducie ou d'en obtenir autrement l'usage,

(iii) chaque bénéficiaire visé aux divisions (ii)(A) à (C) est un non-résident à tout moment où il est bénéficiaire de la fiducie au cours de l'année d'imposition de celle-ci qui comprend le moment donné,

(iv) chaque apport fait à la fiducie, au moment où il a été fait, était :

(A) une somme versée par le particulier autre que l'adulte bénéficiaire qui serait une pension alimentaire au sens du paragraphe 56.1(4) si elle avait été versée par ce particulier directement à l'adulte bénéficiaire,

(B) une somme versée par l'un des particuliers en cause ou par une personne liée à l'un d'eux pour subvenir aux besoins d'un enfant bénéficiaire pendant qu'il était soit âgé de moins de 21 ans, soit âgé de moins de 31 ans et inscrit à un établissement d'enseignement à l'étranger qui est :

(A) an amount paid by the particular individual other than the adult beneficiary that would be a support amount as defined in subsection 56.1(4) if it had been paid by that particular individual directly to the adult beneficiary, or

(B) made by one of those particular individuals or a person related to one of those particular individuals to provide for the maintenance of a child beneficiary while the child was either under 21 years of age or was under 31 years of age and enrolled at an educational institution located outside Canada that is

(I) a university, college or other educational institution that provides courses at a post-secondary school level, or

(II) an educational institution that provides courses designed to furnish a person with skills for, or improve a person's skills in, an occupation;

(c) a non-resident trust if

(i) at the particular time the trust is an agency of the United Nations,

(ii) at the particular time the trust owns and administers a university described in subparagraph (a)(iv) of the definition ***qualified donee*** in subsection 149.1(1),

(iii) at any time in the trust's taxation year that includes the particular time or at any time in the preceding calendar year Her Majesty in right of Canada has made a gift to the trust, or

(iv) the trust is established under the *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992*, or any protocol to it that has been ratified by the Government of Canada;

(d) a non-resident trust

(i) that throughout the particular period that began at the time it was created and ends at the particular time would be non-resident if this Act were read without reference to subsection (1) as that subsection read in its application to taxation years that include December 31, 2000,

(ii) that was created exclusively for charitable purposes and has been operated throughout the particular period exclusively for charitable purposes,

(I) un établissement d'enseignement — université, collège ou autre — offrant des cours de niveau postsecondaire,

(II) un établissement d'enseignement offrant des cours visant à donner ou à accroître la compétence nécessaire à l'exercice d'une activité professionnelle;

c) la fiducie non-résidente qui, selon le cas :

(i) au moment donné, est une institution reliée à l'Organisation des Nations Unies,

(ii) à ce moment, est propriétaire et administratrice d'une université visée au sous-alinéa a)(iv) de la définition de ***donataire reconnu*** au paragraphe 149.1(1),

(iii) au cours de l'année d'imposition de la fiducie qui comprend ce moment ou de l'année civile précédente, a reçu un don de la part de Sa Majesté du chef du Canada,

(iv) est établie en vertu de la *Convention internationale portant création d'un fonds international d'indemnisation pour les dommages dus à la pollution par les hydrocarbures de 1992* ou de tout protocole de cette convention qui a été ratifié par le gouvernement du Canada;

d) la fiducie non-résidente à l'égard de laquelle les conditions ci-après sont réunies :

(i) elle serait un non-résident tout au long de la période donnée ayant commencé au moment de son établissement et se terminant au moment donné si la présente loi s'appliquait compte non tenu du paragraphe (1), dans sa version applicable aux années d'imposition comprenant le 31 décembre 2000,

(ii) elle a été établie exclusivement à des fins de bienfaisance et a été administrée exclusivement à ces fins tout au long de la période donnée,

(iii) si le moment donné suit de plus de 24 mois la date de son établissement, il existe, à ce moment, un groupe d'au moins vingt personnes (sauf des fiducies) dont chacune répond aux conditions ci-après à ce moment :

(A) elle est un contribuant de la fiducie,

(B) elle existe,

(iii) if the particular time is more than 24 months after the day on which the trust was created, in respect of which, there are at the particular time at least 20 persons (other than trusts) each of whom at the particular time

(A) is a contributor to the trust,

(B) exists, and

(C) deals at arm's length with at least 19 other contributors to the trust,

(iv) the income of which (determined in accordance with the laws described in subparagraph (v)) for each of its taxation years that ends at or before the particular time would, if the income were not distributed and the laws described in subparagraph (v) did not apply, be subject to an income or profits tax in the country in which it was resident in each of those taxation years, and

(v) that was, for each of its taxation years that ends at or before the particular time, exempt under the laws of the country in which it was resident from the payment of income or profits tax to the government of that country in recognition of the charitable purposes for which the trust is operated;

(e) a non-resident trust that throughout the trust's taxation year that includes the particular time is a trust governed by an employees profit sharing plan, a retirement compensation arrangement or a foreign retirement arrangement;

(f) a non-resident trust if

(i) throughout the particular period that began when it was created and ends at the particular time it has been operated exclusively for the purpose of administering or providing employee benefits in respect of employees or former employees, and

(ii) throughout the trust's taxation year that includes the particular time

(A) the trust is a trust governed by an employee benefit plan or is a trust described in paragraph (a.1) of the definition ***trust*** in subsection 108(1),

(B) the trust is maintained for the benefit of natural persons the majority of whom are non-resident, and

(C) no benefits are provided under the trust other than benefits in respect of qualifying services;

(C) il n'existe aucun lien de dépendance entre elle et au moins dix-neuf autres contribuants de la fiducie,

(iv) son revenu, déterminé conformément aux lois visées au sous-alinéa (v), pour chacune de ses années d'imposition se terminant au plus tard au moment donné, serait assujetti à l'impôt sur le revenu ou sur les bénéfices dans le pays où elle résidait au cours de chacune de ces années s'il n'était pas distribué et si les lois en cause ne s'appliquaient pas,

(v) pour chacune de ses années d'imposition se terminant au plus tard au moment donné, les lois du pays où elle résidait avaient pour effet de l'exempter du paiement de tout impôt sur le revenu ou sur les bénéfices au gouvernement de ce pays en reconnaissance des fins de bienfaisance auxquelles elle est administrée;

e) la fiducie non-résidente qui, tout au long de son année d'imposition qui comprend le moment donné, est régie par un régime de participation des employés aux bénéfices, une convention de retraite ou un mécanisme de retraite étranger;

f) la fiducie non-résidente à l'égard de laquelle les conditions ci-après sont réunies :

(i) tout au long de la période donnée ayant commencé au moment de son établissement et se terminant au moment donné, elle a été administrée exclusivement pour assurer ou verser des prestations relativement à des employés actuels ou anciens employés,

(ii) tout au long de son année d'imposition qui comprend le moment donné, à la fois :

(A) elle est une fiducie régie par un régime de prestations aux employés ou une fiducie visée à l'alinéa a.1) de la définition de ***fiducie*** au paragraphe 108(1),

(B) elle est administrée au profit de personnes physiques dont la majorité sont des non-résidents,

(C) les seules prestations prévues par la fiducie sont celles relatives à des services admissibles;

g) la fiducie non-résidente (sauf une fiducie visée par règlement ou une fiducie visée à l'alinéa a.1) de la définition de ***fiducie*** au paragraphe 108(1)) qui, tout au long de la période donnée ayant commencé au moment de son établissement et se terminant au moment donné, répond aux conditions suivantes :

(g) a non-resident trust (other than a prescribed trust or a trust described in paragraph (a.1) of the definition ***trust*** in subsection 108(1)) that throughout the particular period that began when it was created and ends at the particular time

(i) has been resident in a particular country (other than Canada) the laws of which have, throughout the particular period,

(A) imposed an income or profits tax, and

(B) exempted the trust from the payment of all income tax, and all profits tax, to the government of that particular country in recognition of the purposes for which the trust is operated, and

(ii) has been operated exclusively for the purpose of administering or providing superannuation or pension benefits that are primarily in respect of services rendered in the particular country by natural persons who were non-resident at the time those services were rendered;

(h) a non-resident trust (other than a trust that elects, in writing filed with the Minister on or before the trust's filing-due date for the trust's taxation year that includes the particular time, not to be an exempt foreign trust under this paragraph for the taxation year in which the election is made and for each subsequent taxation year), if at the particular time

(i) the only beneficiaries who may for any reason receive, at or after the particular time and directly from the trust, any of the income or capital of the trust are beneficiaries that hold fixed interests in the trust, and

(ii) any of the following applies:

(A) there are at least 150 beneficiaries described in subparagraph (i) under the trust each of whose fixed interests in the trust have at the particular time a total fair market value of at least $500,

(B) all fixed interests in the trust are listed on a designated stock exchange and in the 30 days immediately preceding the particular time fixed interests in the trust were traded on a designated stock exchange on at least 10 days,

(C) each outstanding fixed interest in the trust

(I) was issued by the trust in exchange for consideration that was not less than 90% of the interest's proportionate share of the net

(i) elle a résidé dans un pays étranger dont les lois prévoient ce qui suit tout au long de la période donnée :

(A) un impôt sur le revenu ou sur les bénéfices,

(B) une disposition ayant pour effet de l'exempter du paiement de cet impôt au gouvernement de ce pays en reconnaissance des fins auxquelles elle est administrée,

(ii) elle a été administrée exclusivement pour assurer ou verser des prestations de retraite ou de pension se rapportant principalement à des services rendus dans le pays en cause par des personnes physiques qui étaient des non-résidents au moment où les services ont été rendus;

h) la fiducie non-résidente (sauf une fiducie qui fait le choix, dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année d'imposition qui comprend le moment donné, de ne pas être une fiducie étrangère exempte selon le présent alinéa pour l'année d'imposition au cours de laquelle elle fait ce choix et pour chaque année d'imposition subséquente) à l'égard de laquelle les conditions ci-après sont réunies au moment donné :

(i) les seuls bénéficiaires qui, pour une raison quelconque, sont en mesure de recevoir au moment donné ou par la suite, directement de la fiducie, tout ou partie du revenu ou du capital de celle-ci sont des bénéficiaires qui détiennent des participations fixes dans la fiducie,

(ii) l'un ou plusieurs des faits ci-après s'avèrent :

(A) il existe au moins 150 bénéficiaires de la fiducie, visés au sous-alinéa (i), ayant chacun des participations fixes dans celle-ci d'une juste valeur marchande, au moment donné, d'au moins 500 $,

(B) l'ensemble des participations fixes dans la fiducie sont inscrites à la cote d'une bourse de valeurs désignée, et des participations fixes dans la fiducie se sont négociées sur une telle bourse pendant au moins dix des trente jours précédant le moment donné,

(C) chaque participation fixe dans la fiducie en circulation :

(I) soit a été émise par la fiducie en échange d'une contrepartie au moins égale à 90 % de sa part proportionnelle sur la valeur nette des

asset value of the trust's property at the time of its issuance, or

(II) was acquired in exchange for consideration equal to the fair market value of the interest at the time of its acquisition, or

(D) the trust is governed by

(I) a Roth IRA, within the meaning of section 408A of the *Internal Revenue Code* of the United States, or

(II) a plan or arrangement that was created after September 21, 2007, that is subject to that Code and that the Minister agrees is substantially similar to a Roth IRA; or

(i) a trust that is at the particular time a prescribed trust. (*fiducie étrangère exempte*)

exempt person at any time means

(a) Her Majesty in right of Canada or a province;

(b) a person whose taxable income for the taxation year that includes that time is exempt from tax under this Part because of subsection 149(1);

(c) a trust resident in Canada or a Canadian corporation

(i) that was established by or arises under an Act of Parliament or of the legislature of a province, and

(ii) the principal activities of which at that time are to administer, manage or invest the monies of one or more pension funds or plans established under an Act of Parliament or of the legislature of a province;

(d) a trust or corporation established by or arising by reason of an Act of Parliament or the legislature of a province in connection with a scheme or program for the compensation of workers injured in an accident arising out of or in the course of their employment;

(e) a trust resident in Canada all the beneficiaries under which are at that time exempt persons;

(f) a Canadian corporation all the shares, or rights to shares, of which are held at that time by exempt persons;

(g) a Canadian corporation without share capital all the property of which is held at that time exclusively for the benefit of exempt persons;

biens de la fiducie au moment de son émission,

(II) soit a été acquise en échange d'une contrepartie égale à sa juste valeur marchande au moment de son acquisition,

(D) la fiducie est régie :

(I) soit par un régime d'épargne-retraite individuel (*Roth IRA*) au sens de l'article 408A de la loi des États-Unis intitulée *Internal Revenue Code*,

(II) soit par un régime ou mécanisme créé après le 21 septembre 2007 qui est assujetti à cette loi et qui, selon l'appréciation du ministre, correspond essentiellement à un tel régime d'épargne-retraite individuel;

i) la fiducie qui, au moment donné, est visée par règlement. (*exempt foreign trust*)

fonds commun de placement S'entend, à un moment donné, d'une fiducie de fonds commun de placement ou d'une société de placement à capital variable (appelées « fonds » dans la présente définition), à l'exclusion d'un fonds à l'égard duquel des déclarations ou des annonces ont été faites au plus tard au moment donné — par le fonds ou par un promoteur ou autre représentant du fonds relativement à l'acquisition ou à l'offre d'une participation dans le fonds — selon lesquelles les impôts prévus par la présente partie sur le revenu, les bénéfices ou les gains pour une année donnée — relativement à des biens détenus par le fonds qui sont des participations dans une fiducie ou dont la valeur provient de telles participations — sont moins élevés, ou seront vraisemblablement moins élevés, que l'impôt qui aurait été applicable en vertu de la présente partie si le revenu, les bénéfices ou les gains provenant des biens avaient été gagnés directement par une personne faisant l'acquisition d'une participation dans le fonds. (*mutual fund*)

moment de non-résidence Est un moment de non-résidence d'une personne relativement à un moment donné et à un apport fait à une fiducie le moment (appelé « moment de l'apport » dans la présente définition), antérieur au moment donné, où la personne a fait un apport à une fiducie et où elle était un non-résident (ou, si la personne n'existe pas au moment de l'apport, était un non-résident tout au long de la période de 18 mois avant de cesser d'exister), à condition qu'elle ait été un non-résident, ou n'ait pas existé, tout au long de la période ayant commencé soit 60 mois avant le moment de l'apport, soit, si la personne est un particulier et que la fiducie a commencé à exister au décès du particulier et par suite de ce décès,

(h) a partnership all the members of which are at that time exempt persons; and

(i) a trust or corporation that is at that time a mutual fund. (*personne exemptée*)

exempt service means a service rendered at any time by a person or partnership (referred to in this definition as the "service provider") to, for or on behalf of, another person or partnership (referred to in this definition as the "recipient") if

(a) the recipient is a trust and the service relates to the administration of the trust; or

(b) the following conditions apply in respect of the service, namely,

(i) the service is rendered in the service provider's capacity at that time as an employee or agent of the recipient,

(ii) in exchange for the service, the recipient transfers or loans property or becomes obligated to transfer or loan property, and

(iii) it is reasonable to conclude

(A) having regard only to the service and the exchange, that the service provider would be willing to carry out the service if the service provider were dealing at arm's length with the recipient, and

(B) that the terms, conditions and circumstances under which the service is provided would be acceptable to the service provider if the service provider were dealing at arm's length with the recipient. (*service exempté*)

fixed interest at any time of a person or partnership in a trust means an interest of the person or partnership as a beneficiary (in this definition, determined without reference to subsection 248(25)) under the trust provided that no amount of the income or capital of the trust to be distributed at any time in respect of any interest in the trust depends on the exercise by any person or partnership of, or the failure by any person or partnership to exercise, any discretionary power, other than a power in respect of which it is reasonable to conclude that

(a) the power is consistent with normal commercial practice;

(b) the power is consistent with terms that would be acceptable to the beneficiaries under the trust if the

18 mois avant ce moment, et se terminant au premier en date des moments suivants :

a) le moment qui suit de 60 mois le moment de l'apport;

b) le moment donné. (*non-resident time*)

moment déterminé En ce qui concerne une fiducie pour son année d'imposition, celui des moments ci-après qui est applicable :

a) si la fiducie existe à la fin de l'année d'imposition, la fin de cette année;

b) dans les autres cas, le moment de l'année d'imposition qui précède immédiatement le moment où la fiducie cesse d'exister. (*specified time*)

opération Comprend les arrangements et les événements. (*transaction*)

participation fixe Est une participation fixe d'une personne ou d'une société de personnes dans une fiducie à un moment donné la participation de la personne ou de la société de personnes à titre de bénéficiaire de la fiducie (cette qualité étant déterminée, dans la présente définition, compte non tenu du paragraphe 248(25)), à condition qu'aucun montant de revenu ou de capital de la fiducie à distribuer à un moment quelconque au titre d'une participation dans la fiducie ne dépende de l'exercice ou du non-exercice par une personne ou une société de personnes d'un pouvoir discrétionnaire, sauf s'il s'agit d'un pouvoir à l'égard duquel il est raisonnable de conclure ce qui suit :

a) il est conforme aux pratiques commerciales normales;

b) il est conforme à des conditions qui seraient acceptables pour les bénéficiaires de la fiducie si ceux-ci n'avaient entre eux aucun lien de dépendance;

c) l'exercice ou le non-exercice du pouvoir n'aura pas d'incidence appréciable sur la valeur d'une participation à titre de bénéficiaire de la fiducie par rapport à celle d'autres participations dans la fiducie. (*fixed interest*)

partie non-résidente En ce qui concerne une fiducie à un moment donné, l'ensemble des biens qu'elle détient dans la mesure où ils ne font pas partie à ce moment de sa partie résidente. (*non-resident portion*)

partie résidente En ce qui concerne une fiducie à un moment donné, l'ensemble des biens ci-après de la fiducie :

beneficiaries were dealing with each other at arm's length; and

(c) the exercise of, or failure to exercise, the power will not materially affect the value of an interest as a beneficiary under the trust relative to the value of other such interests under the trust. (*participation fixe*)

joint contributor at any time in respect of a contribution to a trust means, if more than one contributor has made the contribution, each of those contributors that is at that time a resident contributor to the trust. (*contribuant conjoint*)

mutual fund at a particular time means a mutual fund trust or mutual fund corporation (referred to in this definition as the "fund"), but does not include a fund in respect of which statements or representations have been made at or before the particular time — by the fund, or by a promoter or other representative of the fund, in respect of the acquisition or offering of an interest in the fund — that the taxes, if any, under this Part on the income, profit or gains for any particular year — in respect of property that is held by the fund and that is, or derives its value from, an interest in a trust — are less than, or are expected to be less than, the tax that would have been applicable under this Part if the income, profits or gains from the property had been earned directly by a person who acquires an interest in the fund. (*fonds commun de placement*)

non-resident portion of a trust at any time means all property held by the trust to the extent that it is not at that time part of the resident portion of the trust. (*partie non-résidente*)

non-resident time of a person in respect of a contribution to a trust and a particular time means a time (referred to in this definition as the "contribution time") at which the person made a contribution to a trust that is before the particular time and at which the person was non-resident (or, if the person is not in existence at the contribution time, the person was non-resident throughout the 18 months before ceasing to exist), if the person was non-resident or not in existence throughout the period that began 60 months before the contribution time (or, if the person is an individual and the trust arose on and as a consequence of the death of the individual, 18 months before the contribution time) and ends at the earlier of

(a) the time that is 60 months after the contribution time, and

(b) the particular time. (*moment de non-résidence*)

a) les biens qui ont fait l'objet d'un apport à la fiducie, au moment donné ou antérieurement, par un contribuant qui est, à ce moment, un contribuant résident de la fiducie ou, si la fiducie compte un bénéficiaire résident à ce moment, un contribuant rattaché de celle-ci et, pour l'application du présent alinéa :

(i) tout bien qu'un contribuant détient en commun ou en partenariat immédiatement avant son apport à la fiducie ne fait l'objet d'un apport par le contribuant que dans la mesure où il était ainsi détenu par celui-ci,

(ii) si l'apport est un transfert visé à l'un des alinéas (2)a), c), d) ou f), le bien à l'égard duquel il a été fait est réputé être :

(A) s'il s'agit d'un transfert visé à l'alinéa (2)a) :

(I) en cas d'application de la division (2)a)(ii)(A), un bien dont la juste valeur marchande a augmenté en raison d'un transfert ou d'un prêt visé au sous-alinéa (2)a)(i),

(II) en cas d'application de la division (2)a)(ii)(B), un bien qui ne ferait pas par ailleurs partie de la partie résidente de la fiducie, qui est choisi par la fiducie ou, à défaut, par le ministre et dont la juste valeur marchande est au moins égale à la valeur absolue d'une diminution d'une obligation réelle ou éventuelle de la fiducie, laquelle diminution découle d'un transfert ou d'un prêt visé au sous-alinéa (2)a)(i),

(B) s'il s'agit d'un transfert visé à l'alinéa (2)c), un bien visé au sous-alinéa (2)c)(ii),

(C) s'il s'agit d'un transfert visé à l'alinéa (2)d), un bien acquis par suite d'un engagement — notamment une garantie, un accord ou une convention conclu par une personne ou une société de personnes autre que la fiducie afin d'assurer le remboursement total ou partiel d'un prêt ou d'une autre dette contracté par la fiducie aux termes de l'alinéa (2)d),

(D) s'il s'agit d'un transfert visé à l'alinéa (2)f), un bien choisi par la fiducie ou, à défaut, par le ministre dont la juste valeur marchande est au moins égale à celle d'un bien qui est réputé être transféré à la fiducie aux termes de l'alinéa (2)f);

b) les biens qui sont acquis, au plus tard au moment donné, au moyen d'une dette contractée par la fiducie (appelés « biens déterminés » au présent alinéa) si, selon le cas :

promoter of a trust or corporation at any time means

(a) a person or partnership that at or before that time establishes, organizes or substantially reorganizes the undertakings of the trust or corporation, as the case may be; and

(b) for the purposes of the definition ***mutual fund*** in this subsection, a person or partnership described by paragraph (a) and a person or partnership who in the course of a business

(i) sells or issues, or promotes the sale, issuance or acquisition of, an interest in a mutual fund corporation or mutual fund trust,

(ii) acts as an agent or advisor in respect of the sale or issuance, or the promotion of the sale, issuance or acquisition of, an interest in a mutual fund corporation or mutual fund trust, or

(iii) accepts, whether as a principal or agent, consideration in respect of an interest in a mutual fund corporation or mutual fund trust. (*promoteur*)

qualifying services means services that are

(a) rendered to an employer by an employee of the employer, which employee was non-resident throughout the period during which the services were rendered;

(b) rendered to an employer by an employee of the employer, other than services that were

(i) rendered primarily in Canada,

(ii) rendered primarily in connection with a business carried on by the employer in Canada, or

(iii) a combination of services described in subparagraphs (i) and (ii);

(c) rendered in a particular calendar month to an employer by an employee of the employer, which employee

(i) was resident in Canada throughout no more than 60 months during the 72-month period that ends at the end of the particular month, and

(ii) became a member of, or a beneficiary under, the plan or trust under which benefits in respect of the services may be provided (or a similar plan or trust for which the plan or the trust was substituted) before the end of the calendar month following

(i) tout ou partie de la dette est garantie par des biens (sauf les biens déterminés) qui font partie de la partie résidente de la fiducie,

(ii) au moment où la dette est contractée, il est raisonnable de conclure qu'elle serait remboursée à l'aide de biens (sauf les biens déterminés) qui font partie de la partie résidente de la fiducie à un moment quelconque,

(iii) une personne résidant au Canada ou une société de personnes dont une telle personne est un associé a l'obligation, absolue ou conditionnelle, de prendre un engagement — notamment une garantie, un accord ou une convention conclu afin d'assurer le remboursement total ou partiel de la dette, ou a fourni toute autre aide financière relativement à la dette;

c) les biens qui proviennent directement ou indirectement, de quelque manière que ce soit, de biens visés à l'un des alinéas a), b) et d), y compris des biens provenant du revenu (calculé compte non tenu de l'alinéa (16)f) ni des paragraphes 104(6) et (12)) de la fiducie pour une année d'imposition de celle-ci se terminant au plus tard au moment donné et des biens relativement auxquels une somme serait visée, à ce moment relativement à la fiducie, à la définition de ***compte de dividendes en capital*** au paragraphe 89(1) si la fiducie était une société à ce moment;

d) les biens qui sont substitués au moment donné à des biens visés aux alinéas a) à c). (*resident portion*)

personne exemptée Est une personne exemptée à un moment donné :

a) Sa Majesté du chef du Canada ou d'une province;

b) toute personne dont le revenu imposable pour l'année d'imposition qui comprend ce moment est exonéré de l'impôt prévu par la présente partie par l'effet du paragraphe 149(1);

c) toute fiducie résidant au Canada ou toute société canadienne, à la fois :

(i) qui a été établie en vertu d'une loi fédérale ou provinciale ou qui existe par l'effet d'une telle loi,

(ii) dont les activités principales à ce moment consistent à administrer, à gérer ou à investir les fonds d'un ou de plusieurs fonds ou régimes de pension établis sous le régime d'une loi fédérale ou provinciale;

the month in which the employee became resident in Canada; or

(d) any combination of services that are qualifying services determined without reference to this paragraph. (*services admissibles*)

resident beneficiary under a trust at any time means a person (other than a person that is at that time a successor beneficiary under the trust or an exempt person) that is, at that time, a beneficiary under the trust if, at that time,

(a) the person is resident in Canada; and

(b) there is a connected contributor to the trust. (*bénéficiaire résident*)

resident contributor, to a trust at any time, means a person that is, at that time, resident in Canada and a contributor to the trust, but — if the trust was created before 1960 by a person who was non-resident when the trust was created — does not include an individual (other than a trust) who has not, after 1959, made a contribution to the trust. (*contribuant résident*)

resident portion of a trust at a particular time means all of the trust's property that is

(a) property in respect of which a contribution has been made at or before the particular time to the trust by a contributor that is at the particular time a resident contributor, or if there is at the particular time a resident beneficiary under the trust a connected contributor, to the trust and, for the purposes of this paragraph,

(i) if a property is held by a contributor in common or in partnership immediately before the property is contributed to the trust, it is contributed by the contributor only to the extent that the contributor so held the property, and

(ii) if the contribution is a transfer described by any of paragraphs (2)(a), (c), (d) or (f), the property in respect of which the contribution has been made is deemed to be

(A) in respect of a transfer under paragraph (2)(a), property

(I) if clause (2)(a)(ii)(A) applies, the fair market value of which has increased because of a transfer or loan described by subparagraph (2)(a)(i), or

d) toute fiducie ou société qui a été établie par une loi fédérale ou provinciale, ou qui existe par l'effet d'une telle loi, relativement à un mécanisme ou programme d'indemnisation de travailleurs blessés lors d'un accident survenu dans le cadre de leur emploi;

e) toute fiducie résidant au Canada dont l'ensemble des bénéficiaires sont, à ce moment, des personnes exemptées;

f) toute société canadienne dont l'ensemble des actions, ou des droits afférents, sont détenus à ce moment par des personnes exemptées;

g) toute société canadienne sans capital-actions dont l'ensemble des biens sont détenus à ce moment exclusivement au profit de personnes exemptées;

h) toute société de personnes dont l'ensemble des associés sont, à ce moment, des personnes exemptées;

i) toute fiducie ou société qui est un fonds commun de placement à ce moment. (*exempt person*)

promoteur S'entend, relativement à une fiducie ou à une société à un moment donné :

a) d'une personne ou d'une société de personnes qui procède, à ce moment ou antérieurement, à l'établissement, à l'organisation ou à une réorganisation importante des activités de la fiducie ou de la société, selon le cas;

b) pour l'application de la définition de ***fonds commun de placement*** au présent paragraphe, d'une personne ou d'une société de personnes visée à l'alinéa a) et d'une personne ou d'une société de personnes qui, dans le cadre des activités d'une entreprise, selon le cas :

(i) vend ou émet une participation dans une société de placement à capital variable ou une fiducie de fonds commun de placement ou fait la promotion de la vente, de l'émission ou de l'acquisition d'une telle participation,

(ii) agit à titre de mandataire ou de conseiller relativement à la vente ou à l'émission, ou à la promotion de la vente, de l'émission ou de l'acquisition, d'une participation dans une société de placement à capital variable ou une fiducie de fonds commun de placement,

(iii) accepte, en qualité de mandant ou de mandataire, la contrepartie relative à une participation dans une société de placement à capital variable ou

(II) if clause (2)(a)(ii)(B) applies, that would not otherwise be included in the resident portion of the trust, that is selected by the trust (or, failing which, is selected by the Minister) and that has a fair market value at least equal to the absolute value of a decrease in a liability or potential liability of the trust that arose because of a transfer or loan described by subparagraph (2)(a)(i),

(B) in respect of a transfer under paragraph (2)(c), property described by subparagraph (2)(c)(ii),

(C) in respect of a transfer under paragraph (2)(d), property acquired as a result of any undertaking including a guarantee, covenant or agreement given by a person or partnership other than the trust to ensure the repayment, in whole or in part, of a loan or other indebtedness incurred by the trust as described by paragraph (2)(d), and

(D) in respect of a transfer under paragraph (2)(f), property selected by the trust (or, failing which, is selected by the Minister) that has a fair market value at least equal to the fair market value of property deemed to be transferred to the trust as described by paragraph (2)(f);

(b) property that is acquired, at or before the particular time, by way of indebtedness incurred by the trust (referred to in this paragraph as the "subject property"), if

(i) all or part of the indebtedness is secured on property (other than the subject property) that is held in the trust's resident portion,

(ii) it was reasonable to conclude, at the time that the indebtedness was incurred, that the indebtedness would be repaid with recourse to any property (other than the subject property) held at any time in the trust's resident portion, or

(iii) a person resident in Canada or partnership of which a person resident in Canada is a member has become obligated, either absolutely or contingently, to effect any undertaking including a guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of the indebtedness, or provided any other financial assistance in respect of the indebtedness;

(c) property to the extent that it is derived, directly or indirectly, in any manner whatever, from property described by any of paragraphs (a), (b) and (d), and,

une fiducie de fonds commun de placement. (*promoter*)

service exempté Service rendu à un moment donné par une personne ou une société de personnes (appelée « fournisseur » dans la présente définition) à ou pour une autre personne ou société de personnes (appelée « destinataire » dans la présente définition), ou pour son compte, si, selon le cas :

a) le destinataire est une fiducie et le service a trait à son administration;

b) les conditions ci-après sont réunies relativement au service :

(i) le service est rendu par le fournisseur en sa qualité, à ce moment, d'employé ou de mandataire du destinataire,

(ii) en échange du service, le destinataire transfère ou prête un bien, ou contracte une obligation en ce sens,

(iii) il est raisonnable de conclure :

(A) d'une part, eu égard seulement au service et à l'échange, que le fournisseur serait disposé à exécuter le service en l'absence de lien de dépendance avec le destinataire,

(B) d'autre part, que les modalités du service, et les circonstances dans lesquelles il est fourni, seraient acceptables pour le fournisseur en l'absence de lien de dépendance avec le destinataire. (*exempt service*)

services admissibles

a) Les services rendus à un employeur par son employé qui était un non-résident tout au long de la période où il a rendu les services;

b) les services rendus à un employeur par son employé, à l'exception :

(i) des services rendus principalement au Canada,

(ii) des services rendus principalement dans le cadre d'une entreprise exploitée par l'employeur au Canada,

(iii) d'une combinaison des services visés aux sous-alinéas (i) et (ii);

c) les services rendus à un employeur au cours d'un mois civil donné par son employé qui, à la fois :

without limiting the generality of the foregoing, including property derived from the income (computed without reference to paragraph (16)(f) and subsections 104(6) and (12)) of the trust for a taxation year of the trust that ends at or before the particular time and property in respect of which an amount would be described at the particular time in respect of the trust by the definition ***capital dividend account*** in subsection 89(1) if the trust were at the particular time a corporation; and

(d) property to the extent that it is at the particular time substituted for a property described by any of paragraphs (a) to (c). (*partie résidente*)

restricted property of a person or partnership means property that the person or partnership holds and that is

(a) a share (or a right to acquire a share) of the capital stock of a closely held corporation if the share or right, or a property for which the share or right was substituted, was at any time acquired by the person or partnership as part of a transaction or series of transactions under which

(i) a specified share of the capital stock of a closely held corporation was acquired by any person or partnership in exchange for, as consideration for or upon the conversion of any property and the cost of the specified share to the person who acquired it was less than the fair market value of the specified share at the time of the acquisition, or

(ii) a share (other than a specified share) of the capital stock of a closely held corporation becomes a specified share of the capital stock of the corporation;

(b) an indebtedness or other obligation, or a right to acquire an indebtedness or other obligation, of a closely held corporation if

(i) the indebtedness, obligation or right, or property for which the indebtedness, obligation or right was substituted, became property of the person or partnership as part of a transaction or series of transactions under which

(A) a specified share of the capital stock of a closely held corporation was acquired by any person or partnership in exchange for, as consideration for or upon the conversion of any property and the cost of the specified share to the person who acquired it was less than the fair market value of the specified share at the time of the acquisition, or

(i) a résidé au Canada pendant au plus 60 mois de la période de 72 mois se terminant à la fin du mois donné,

(ii) est devenu participant ou bénéficiaire du régime ou de la fiducie dans le cadre duquel des prestations au titre des services peuvent être servies (ou d'un régime ou d'une fiducie semblable auquel le régime ou la fiducie en cause a été substitué) avant la fin du mois civil suivant celui au cours duquel il a commencé à résider au Canada;

d) toute combinaison de services qui sont des services admissibles compte non tenu du présent alinéa. (*qualifying services*)

société à peu d'actionnaires Toute société à un moment donné, à l'exception de celle à l'égard de laquelle les conditions ci-après sont réunies :

a) au moins une catégorie d'actions de son capital-actions comprend des actions visées par règlement pour l'application de l'alinéa 110(1)d);

b) en ce qui concerne chaque catégorie d'actions visée à l'alinéa a), il est raisonnable de conclure que des actions de la catégorie sont détenues à ce moment par au moins 150 actionnaires dont chacun détient des actions de cette catégorie ayant une juste valeur marchande totale d'au moins 500 $;

c) il est raisonnable de conclure qu'aucun actionnaire ne détient à ce moment, seul ou avec d'autres actionnaires avec lesquels il a un lien de dépendance, des actions de la société qui, selon le cas :

(i) lui conféreraient, à lui seul ou avec les autres actionnaires en cause, au moins 10 % des voix pouvant être exprimées en toutes circonstances à l'assemblée annuelle des actionnaires de la société, si cette assemblée avait lieu à ce moment,

(ii) ont une juste valeur marchande égale à au moins 10 % de celle de l'ensemble des actions émises et en circulation de la société. (*closely held corporation*)

somme exclue Est une somme exclue pour l'année d'imposition d'une fiducie la somme qui, selon le cas :

a) est payée ou créditée (au sens de la partie XIII dans la présente définition) par la fiducie avant 2004;

b) est payée ou créditée par la fiducie et est visée à l'alinéa 104(7.01)b) relativement à celle-ci pour l'année;

(B) a share (other than a specified share) of a closely held corporation becomes a specified share of the capital stock of the corporation, and

(ii) the amount of any payment under the indebtedness, obligation or right (whether the right to the amount is immediate or future, absolute or contingent or conditional on or subject to the exercise of any discretion by any person or partnership) is, directly or indirectly, determined primarily by one or more of the following criteria:

(A) the fair market value of, production from or use of any of the property of the closely held corporation,

(B) gains or profits from the disposition of any of the property of the closely held corporation,

(C) income, profits, revenue or cash flow of the closely held corporation, or

(D) any other criterion similar to a criterion referred to in any of clauses (A) to (C); and

(c) property

(i) that the person or partnership acquired as part of a series of transactions described in paragraph (a) or (b) in respect of another property, and

(ii) the fair market value of which is derived in whole or in part, directly or indirectly, from that other property. (*bien d'exception*)

specified party in respect of a particular person at any time means

(a) the particular person's spouse or common-law partner at that time;

(b) a corporation that at that time

(i) is a controlled foreign affiliate of the particular person or their spouse or common-law partner, or

(ii) would be a controlled foreign affiliate of a partnership, of which the particular person is a majority-interest partner, if the partnership were a person resident in Canada at that time;

(c) a person, or a partnership of which the particular person is a majority-interest partner, for which it is reasonable to conclude that the benefit referred to in subparagraph (8)(a)(iv) was conferred

c) est payée au cours de l'année (ou dans les 60 jours suivant la fin de cette année) par la fiducie directement à l'un de ses bénéficiaires (cet état étant déterminé compte non tenu du paragraphe 248(25)) si, à la fois :

(i) le bénéficiaire est une personne physique dont aucune des participations à titre de bénéficiaire de la fiducie n'a été acquise moyennant contrepartie,

(ii) la somme est visée au sous-alinéa 212(1)c)(i) et n'est pas incluse dans le calcul d'une somme exclue pour une autre année d'imposition de la fiducie,

(iii) la fiducie a été établie avant le 30 octobre 2003,

(iv) aucun apport n'a été fait à la fiducie après le 17 juillet 2005. (*exempt amount*)

tiers déterminé S'entend, par rapport à une personne donnée à un moment donné :

a) de l'époux ou du conjoint de fait de la personne donnée à ce moment;

b) d'une société qui, à ce moment :

(i) est une société étrangère affiliée contrôlée de la personne donnée ou de son époux ou conjoint de fait,

(ii) serait une société étrangère affiliée contrôlée d'une société de personnes, dont la personne donnée est un associé détenant une participation majoritaire, si la société de personnes était une personne résidant au Canada à ce moment;

c) d'une personne, ou d'une société de personnes dont la personne donnée est un associé détenant une participation majoritaire, à l'égard de laquelle il est raisonnable de conclure que l'avantage visé au sous-alinéa (8)a)(iv) a été conféré :

(i) soit du fait que la personne deviendra, après ce moment, une société visée à l'alinéa b),

(ii) soit afin de permettre que soit évitée ou réduite au minimum une obligation qui découle, ou aurait découlé par ailleurs, de l'application de la présente partie relativement à la personne donnée;

d) d'une société dont la personne donnée, ou une société de personnes dont celle-ci est un associé détenant une participation majoritaire, est un actionnaire si, à la fois :

(i) in contemplation of the person becoming after that time a corporation described by paragraph (b), or

(ii) to avoid or minimize a liability that arose, or that would otherwise have arisen, under this Part with respect to the particular person; or

(d) a corporation in which the particular person, or partnership of which the particular person is a majority-interest partner, is a shareholder if

(i) the corporation is at or before that time a beneficiary under a trust, and

(ii) the particular person or the partnership is a beneficiary under the trust solely because of the application of paragraph (b) of the definition ***beneficiary*** in this subsection to the particular person or the partnership in respect of the corporation. (*tiers déterminé*)

specified share means a share of the capital stock of a corporation other than a share that is a prescribed share for the purpose of paragraph 110(1)(d). (*action déterminée*)

specified time in respect of a trust for a taxation year of the trust means

(a) if the trust exists at the end of the taxation year, the time that is the end of that taxation year; and

(b) in any other case, the time in that taxation year that is immediately before the time at which the trust ceases to exist. (*moment déterminé*)

successor beneficiary at any time under a trust means a person that is a beneficiary under the trust solely because of a right of the person to receive any of the trust's income or capital, if under that right the person may so receive that income or capital only on or after the death after that time of an individual who, at that time, is alive and

(a) is a contributor to the trust;

(b) is related to (in this definition including an uncle, aunt, niece or nephew of) a contributor to the trust; or

(c) would have been related to a contributor to the trust if every individual who was alive before that time were alive at that time. (*bénéficiaire remplaçant*)

transaction includes an arrangement or event. (*opération*)

(i) la société est bénéficiaire d'une fiducie à ce moment ou antérieurement,

(ii) la personne donnée ou la société de personnes est bénéficiaire de la fiducie du seul fait que l'alinéa b) de la définition de ***bénéficiaire*** au présent paragraphe s'applique à elle relativement à la société. (*specified party*)

transfert sans lien de dépendance Transfert ou prêt (appelés « transfert » dans la présente définition) d'un bien (sauf un bien d'exception) effectué à un moment donné (appelé « moment du transfert » dans la présente définition) par une personne ou une société de personnes (appelée « cédant » dans la présente définition) à une autre personne ou une société de personnes (appelée « destinataire » dans la présente définition), si, à la fois :

a) il est raisonnable de conclure qu'aucune des raisons du transfert (déterminées d'après les circonstances l'entourant, y compris les modalités d'une fiducie, une intention quelconque, les lois d'un pays ou l'existence d'un accord, d'un mémoire, d'une lettre de souhaits ou d'un autre arrangement) ne consiste à permettre l'acquisition par une personne ou une société de personnes, à un moment quelconque, d'une participation à titre de bénéficiaire d'une fiducie non-résidente;

b) le transfert, selon le cas :

(i) constitue un paiement d'intérêts, de dividende, de loyer, de redevance ou d'un autre rendement sur placement, ou un paiement se substituant à un tel rendement, relatif à un bien donné détenu par le destinataire, si le montant du paiement n'excède pas la somme que le cédant aurait payée en l'absence de lien de dépendance avec le destinataire,

(ii) constitue un paiement effectué par une société à l'occasion d'une réduction du capital versé au titre des actions d'une catégorie de son capital-actions détenues par le destinataire, si le montant du paiement n'excède pas le montant de la réduction du capital versé ou, si elle est moins élevée, la contrepartie de l'émission des actions,

(iii) est un transfert en échange duquel le destinataire transfère ou prête un bien au cédant ou contracte l'obligation de lui transférer ou de lui prêter un bien et à l'égard duquel il est raisonnable de conclure :

(A) d'une part, eu égard seulement au transfert et à l'échange, que le cédant aurait été disposé à effectuer le transfert en l'absence de lien de dépendance avec le destinataire,

trust includes, for greater certainty, an estate. (*fiducie*)

(B) d'autre part, que les modalités du transfert, et les circonstances dans lesquelles il a été effectué, auraient été acceptables pour le cédant en l'absence de lien de dépendance avec le destinataire,

(iv) est un transfert effectué en règlement d'une obligation visée au sous-alinéa (iii) et à l'égard duquel il est raisonnable de conclure :

(A) d'une part, eu égard seulement au transfert et à l'obligation, que le cédant aurait été disposé à effectuer le transfert en l'absence de lien de dépendance avec le destinataire,

(B) d'autre part, que les modalités du transfert, et les circonstances dans lesquelles il a été effectué, auraient été acceptables pour le cédant en l'absence de lien de dépendance avec le destinataire,

(v) constitue le paiement d'une somme dont le cédant est débiteur aux termes d'un accord écrit dont les modalités, au moment où elles ont été établies, étaient telles que, eu égard seulement à la somme et à l'accord, elles auraient été acceptables pour le cédant en l'absence de lien de dépendance avec le destinataire,

(vi) constitue un paiement effectué avant 2002 à une fiducie, à une société qu'elle contrôle ou à une société de personnes dont elle est un associé détenant une participation majoritaire, en remboursement d'un prêt consenti au cédant par la fiducie, par la société ou par la société de personnes, ou relativement à un tel prêt,

(vii) constitue un paiement effectué après 2001 à une fiducie, à une société qu'elle contrôle ou à une société de personnes dont elle est un associé détenant une participation majoritaire, en remboursement d'un prêt consenti au cédant par la fiducie, par la société ou par la société de personnes, ou relativement à un tel prêt, et, selon le cas :

(A) le paiement est effectué avant 2011 et les parties auraient été disposées à conclure le prêt en l'absence de lien de dépendance entre elles,

(B) le paiement est effectué avant 2005 conformément à des modalités de remboursement fixes conclues avant le 23 juin 2000. (*arm's length transfer*)

Rules of application

(2) In this section and section 94.2,

(a) a person or partnership is deemed to have transferred, at any time, a property to a trust if

(i) at that time the person or partnership transfers or loans property (other than by way of an arm's length transfer) to another person or partnership, and

(ii) because of that transfer or loan

(A) the fair market value of one or more properties held by the trust increases at that time, or

(B) a liability or potential liability of the trust decreases at that time;

(b) the fair market value, at any time, of a property deemed by paragraph (a) to be transferred at that time by a person or partnership is deemed to be the amount of the absolute value of the increase or decrease, as the case may be, referred to in subparagraph (a)(ii) in respect of the property, and if that time is after August 27, 2010, and the property that the person or partnership transfers or loans at that time is restricted property of the person or partnership, the property deemed by paragraph (a) to be transferred at that time to a trust is deemed to be restricted property transferred at that time to the trust;

(c) a person or partnership is deemed to have transferred, at any time, property to a trust if

(i) at that time the person or partnership transfers restricted property, or loans property other than by way of an arm's length transfer, to another person (referred to in this paragraph and paragraph (c.1) as the "intermediary"),

(ii) at or after that time, the trust holds property (other than property described by paragraph (14)(b)) the fair market value of which is derived in whole or in part, directly or indirectly, from property held by the intermediary, and

(iii) it is reasonable to conclude that one of the reasons the transfer or loan is made is to avoid or minimize a liability under this Part;

(c.1) the fair market value, at any time, of a property deemed by paragraph (c) to be transferred at that time by a person or partnership is deemed to be the fair market value of the property referred to in subparagraph (c)(i), and if that time is after October 24, 2012 and the property that the person or partnership

Règles d'application

(2) Les règles ci-après s'appliquent au présent article et à l'article 94.2 :

a) une personne ou une société de personnes est réputée avoir transféré un bien à une fiducie à un moment donné si, à la fois :

(i) à ce moment, elle transfère ou prête un bien à une autre personne ou société de personnes autrement qu'au moyen d'un transfert sans lien de dépendance,

(ii) ce prêt ou transfert donne lieu à l'un des événements suivants :

(A) l'augmentation, à ce moment, de la juste valeur marchande d'un ou de plusieurs biens détenus par la fiducie,

(B) la diminution, à ce moment, d'une obligation réelle ou éventuelle de la fiducie;

b) la juste valeur marchande, à un moment donné, d'un bien réputé par l'alinéa a) être transféré à ce moment par une personne ou une société de personnes est réputée correspondre à la valeur absolue de l'augmentation ou de la diminution, selon le cas, mentionnée au sous-alinéa a)(ii) relativement au bien et, si ce moment est postérieur au 27 août 2010 et que le bien que la personne ou la société de personnes transfère ou prête à ce moment est un bien d'exception de celle-ci, le bien qui est réputé par l'alinéa a) être transféré à une fiducie à ce moment est réputé être un bien d'exception transféré à ce moment à la fiducie;

c) une personne ou une société de personnes est réputée avoir transféré un bien à une fiducie à un moment donné si, à la fois :

(i) à ce moment, elle transfère un bien d'exception, ou prête un bien autrement qu'au moyen d'un transfert sans lien de dépendance, à une autre personne (appelée « intermédiaire » au présent alinéa et à l'alinéa c.1)),

(ii) à ce moment ou par la suite, la fiducie détient un bien, sauf un bien visé à l'alinéa (14)b), dont la juste valeur marchande provient, en tout ou en partie, directement ou indirectement, de biens détenus par l'intermédiaire,

(iii) il est raisonnable de conclure que l'une des raisons du transfert ou du prêt consiste à permettre que soit évitée ou réduite au minimum une obligation prévue par la présente partie;

transfers or loans to the intermediary is restricted property of the intermediary, the property deemed by paragraph (c) to be transferred at that time by the person or partnership to a trust is deemed to be restricted property transferred at that time to the trust throughout the period in which the intermediary holds the restricted property;

(d) if, at any time, a particular person or partnership becomes obligated, either absolutely or contingently, to effect any undertaking including a guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan or other indebtedness incurred by another person or partnership, or has provided any other financial assistance to another person or partnership,

(i) the particular person or partnership is deemed to have transferred, at that time, property to that other person or partnership, and

(ii) the property, if any, transferred to the particular person or partnership from the other person or partnership in exchange for the guarantee or other financial assistance is deemed to have been transferred to the particular person or partnership in exchange for the property deemed by subparagraph (i) to have been transferred;

(e) the fair market value at any time of a property deemed by subparagraph (d)(i) to have been transferred at that time to another person or partnership is deemed to be the amount at that time of the loan or indebtedness incurred by the other person or partnership to which the property relates;

(f) if, at any time after June 22, 2000, a particular person or partnership renders any service (other than an exempt service) to, for or on behalf of another person or partnership,

(i) the particular person or partnership is deemed to have transferred, at that time, property to that other person or partnership, and

(ii) the property, if any, transferred to the particular person or partnership from the other person or partnership in exchange for the service is deemed to have been transferred to the particular person or partnership in exchange for the property deemed by subparagraph (i) to have been transferred;

(g) each of the following acquisitions of property by a particular person or partnership is deemed to be a transfer of the property, at the time of the acquisition of the property, to the particular person or partnership from the person or partnership from which the

c.1) la juste valeur marchande, à un moment donné, d'un bien qui est réputé, en vertu de l'alinéa c), être transféré à ce moment par une personne ou une société de personnes est réputée correspondre à la juste valeur marchande du bien visé au sous-alinéa c)(i); si ce moment est postérieur au 24 octobre 2012 et que le bien que la personne ou la société de personnes transfère ou prête à l'intermédiaire est un bien d'exception de celui-ci, le bien qui est réputé, en vertu de l'alinéa c), être transféré à ce moment par la personne ou la société de personnes à une fiducie est réputé être un bien d'exception transféré à ce moment à la fiducie tout au long de la période au cours de laquelle l'intermédiaire le détient;

d) si, à un moment donné, une personne ou une société de personnes donnée contracte l'obligation absolue ou conditionnelle d'exécuter un engagement — notamment une garantie, un accord ou une convention conclu afin d'assurer le remboursement total ou partiel d'un prêt ou d'une autre dette contracté par une autre personne ou société de personnes — ou a consenti toute autre aide financière à une autre personne ou société de personnes :

(i) d'une part, la personne ou la société de personnes donnée est réputée avoir transféré à ce moment un bien à l'autre personne ou société de personnes,

(ii) d'autre part, le bien éventuellement transféré à la personne ou la société de personnes donnée par l'autre personne ou société de personnes en échange de la garantie ou de l'autre aide financière est réputé lui avoir été transféré en échange du bien réputé par le sous-alinéa (i) avoir été transféré;

e) la juste valeur marchande à un moment donné d'un bien qui est réputé par le sous-alinéa d)(i) avoir été transféré à ce moment à une autre personne ou société de personnes est réputée correspondre au montant, à ce moment, du prêt ou de la dette contractée par l'autre personne ou société de personnes auquel le bien se rapporte;

f) si, à un moment postérieur au 22 juin 2000, une personne ou une société de personnes donnée rend un service, sauf un service exempté, à ou pour une autre personne ou société de personnes, ou pour son compte :

(i) d'une part, la personne ou la société de personnes donnée est réputée avoir transféré à ce moment un bien à l'autre personne ou société de personnes,

property was acquired, namely, the acquisition by the particular person or partnership of

(i) a share of a corporation from the corporation,

(ii) an interest as a beneficiary under a trust (otherwise than from a beneficiary under the trust),

(iii) an interest in a partnership (otherwise than from a member of the partnership),

(iv) a debt owing by a person or partnership from the person or partnership, and

(v) a right (granted after June 22, 2000, by the person or partnership from which the right was acquired) to acquire or to be loaned property;

(h) the fair market value at any time of a property deemed by subparagraph (f)(i) to have been transferred at that time is deemed to be the fair market value at that time of the service to which the property relates;

(i) a person or partnership that at any time becomes obligated to do an act that would, if done, constitute the transfer or loan of a property to another person or partnership is deemed to have become obligated at that time to transfer or loan, as the case may be, property to that other person or partnership;

(j) in applying at any time the definition ***non-resident time*** in subsection (1), if a trust acquires property of an individual as a consequence of the death of the individual and the individual was immediately before death resident in Canada, the individual is deemed to have transferred the property to the trust immediately before the individual's death;

(k) a transfer or loan of property at any time is deemed to be made at that time jointly by a particular person or partnership and a second person or partnership (referred to in this paragraph as the "specified person") if

(i) the particular person or partnership transfers or loans property at that time to another person or partnership,

(ii) the transfer or loan is made at the direction, or with the acquiescence, of the specified person, and

(iii) it is reasonable to conclude that one of the reasons the transfer or loan is made is to avoid or minimize the liability, of any person or partnership, under this Part that arose, or that would otherwise

(ii) d'autre part, le bien éventuellement transféré à la personne ou la société de personnes donnée par l'autre personne ou société de personnes en échange du service est réputé lui avoir été transféré en échange du bien réputé par le sous-alinéa (i) avoir été transféré;

g) chacune des acquisitions de biens ci-après, effectuées par une personne ou une société de personnes donnée, est réputée être un transfert du bien à celle-ci, effectué au moment de l'acquisition du bien, par la personne ou la société de personnes de laquelle le bien a été acquis :

(i) l'acquisition auprès d'une société d'une action de celle-ci,

(ii) l'acquisition d'une participation à titre de bénéficiaire d'une fiducie, sauf si la participation est acquise d'un bénéficiaire de la fiducie,

(iii) l'acquisition d'une participation dans une société de personnes, sauf si la participation est acquise d'un associé de la société de personnes,

(iv) l'acquisition auprès d'une personne ou d'une société de personnes d'une créance dont elle est débitrice,

(v) l'acquisition du droit d'acquérir un bien ou d'obtenir un prêt de bien, lequel droit est consenti après le 22 juin 2000 par la personne ou la société de personnes auprès de laquelle il a été acquis;

h) la juste valeur marchande, à un moment donné, d'un bien réputé par le sous-alinéa f)(i) avoir été transféré à ce moment est réputée correspondre à la juste valeur marchande, à ce moment, du service auquel le bien se rapporte;

i) la personne ou la société de personnes qui, à un moment donné, contracte l'obligation d'accomplir un acte qui, s'il était accompli, constituerait le transfert ou le prêt d'un bien à une autre personne ou société de personnes est réputée avoir contracté, à ce moment, l'obligation de transférer ou de prêter, selon le cas, un bien à cette autre personne ou société de personnes;

j) pour l'application, à un moment donné, de la définition de ***moment de non-résidence*** au paragraphe (1), si une fiducie acquiert un bien d'un particulier par suite de son décès, lequel résidait au Canada immédiatement avant son décès, le particulier est réputé lui avoir transféré le bien immédiatement avant son décès;

have arisen, because of the application of this section;

(k.1) a transfer or loan of property made at any time on or after November 9, 2006, is deemed to be made at that time jointly by a particular person or partnership and a second person or partnership (referred to in this paragraph as the "specified person") if

(i) the particular person or partnership transfers or loans property at that time to another person or partnership, and

(ii) a purpose or effect of the transfer or loan may reasonably be considered to be to provide benefits in respect of services rendered by a person as an employee of the specified person (whether the provision of the benefits is because of a right that is immediate or future, absolute or contingent, or conditional on or subject to the exercise of any discretion by any person or partnership);

(l) a transfer or loan of property at any time is deemed to be made at that time jointly by a corporation and a person or partnership (referred to in this paragraph as the "specified person") if

(i) the corporation transfers or loans property at that time to another person or partnership,

(ii) the transfer or loan is made at the direction, or with the acquiescence, of the specified person,

(iii) that time is not, or would not be if the transfer or loan were a contribution of the specified person,

(A) a non-resident time of the specified person, or

(B) if the specified person is a partnership, a non-resident time of one or more members of the partnership, and

(iv) either

(A) the corporation is, at that time, a controlled foreign affiliate of the specified person, or would at that time be a controlled foreign affiliate of the specified person if the specified person were at that time resident in Canada, or

(B) it is reasonable to conclude that the transfer or loan was made in contemplation of the corporation becoming after that time a corporation described in clause (A);

k) un transfert ou prêt de bien, effectué à un moment donné, est réputé être effectué à ce moment conjointement par une personne ou une société de personnes donnée et par une seconde personne ou société de personnes (appelée « personne déterminée » au présent alinéa) si les conditions ci-après sont réunies :

(i) la personne ou la société de personnes donnée transfère ou prête un bien à ce moment à une autre personne ou société de personnes,

(ii) le transfert ou le prêt est effectué suivant les instructions ou avec l'accord de la personne déterminée,

(iii) il est raisonnable de conclure que l'une des raisons du transfert ou du prêt consiste à permettre que soit évitée ou réduite au minimum l'obligation d'une personne ou d'une société de personnes quelconque, prévue par la présente partie, qui découle, ou aurait découlé par ailleurs, de l'application du présent article;

k.1) un transfert ou prêt de bien, effectué à un moment donné après le 8 novembre 2006, est réputé être effectué à ce moment conjointement par une personne ou une société de personnes donnée et par une seconde personne ou société de personnes (appelée « personne déterminée » au présent alinéa) si les conditions ci-après sont réunies :

(i) la personne ou la société de personnes donnée transfère ou prête un bien à ce moment à une autre personne ou société de personnes,

(ii) il est raisonnable de considérer que l'un des buts ou effets du transfert ou du prêt consiste à prévoir des prestations au titre de services rendus par une personne à titre d'employé de la personne déterminée, indépendamment du fait que le service des prestations découle d'un droit immédiat ou futur, absolu ou conditionnel ou soumis ou non à l'exercice d'un pouvoir discrétionnaire par une personne ou une société de personnes;

l) un transfert ou prêt de bien, effectué à un moment donné, est réputé être effectué à ce moment conjointement par une société et par une personne ou une société de personnes (appelée « personne déterminée » au présent alinéa) si les conditions ci-après sont réunies :

(i) la société transfère ou prête un bien à ce moment à une autre personne ou société de personnes,

(m) a particular person or partnership is deemed to have transferred, at a particular time, a particular property or particular part of it, as the case may be, to a corporation described in subparagraph (i) or a second person or partnership described in subparagraph (ii) if

(i) the particular property is a share of the capital stock of a corporation held at the particular time by the particular person or partnership, and as consideration for the disposition at or before the particular time of the share, the particular person or partnership received at the particular time (or became entitled at the particular time to receive) from the corporation a share of the capital stock of the corporation, or

(ii) the particular property (or property for which the particular property is substituted) was acquired, before the particular time, from the second person or partnership by any person or partnership, in circumstances that are described by any of subparagraphs (g)(i) to (v) (or would be so described if it applied at the time of that acquisition) and at the particular time,

(A) the terms or conditions of the particular property change,

(B) the second person or partnership redeems, acquires or cancels the particular property or the particular part of it,

(C) if the particular property is a debt owing by the second person or partnership, the debt or the particular part of it is settled or cancelled, or

(D) if the particular property is a right to acquire or to be loaned property, the particular person or partnership exercises the right;

(n) a contribution made at any time by a particular trust to another trust is deemed to have been made at that time jointly by the particular trust and by each person or partnership that is at that time a contributor to the particular trust;

(o) a contribution made at any time by a particular partnership to a trust is deemed to have been made at that time jointly by the particular partnership and by each person or partnership that is at that time a member of the particular partnership;

(p) subject to paragraph (q) and subsection (9), the amount of a contribution to a trust at the time it was made is deemed to be the fair market value, at that

(ii) le transfert ou le prêt est effectué suivant les instructions ou avec l'accord de la personne déterminée,

(iii) le moment donné n'est pas, ou ne serait pas si le transfert ou le prêt était un apport de la personne déterminée :

(A) un moment de non-résidence de cette personne,

(B) si cette personne est une société de personnes, un moment de non-résidence d'un ou de plusieurs de ses associés,

(iv) selon le cas :

(A) la société est, au moment donné, une société étrangère affiliée contrôlée de la personne déterminée, ou le serait à ce moment si cette dernière résidait au Canada à ce moment,

(B) il est raisonnable de conclure que le transfert ou le prêt a été effectué du fait que la société deviendra, après ce moment, une société visée à la division (A);

m) une personne ou une société de personnes donnée est réputée avoir transféré, à un moment donné, un bien donné ou une partie donnée de ce bien à une société visée au sous-alinéa (i) ou à une seconde personne ou société de personnes visée au sous-alinéa (ii) si l'un des faits ci-après se vérifie :

(i) le bien donné est une action du capital-actions d'une société que la personne ou la société de personnes donnée détient à ce moment et en contrepartie de la disposition de laquelle, effectuée au plus tard à ce moment, elle a reçu de la société à ce moment, ou est devenue en droit de recevoir de celle-ci à ce moment, une action du capital-actions de la société,

(ii) avant ce moment, le bien donné, ou un bien auquel il est substitué, a été acquis de la seconde personne ou société de personnes par une personne ou société de personnes quelconque dans les circonstances qui sont visées à l'un des sous-alinéas g)(i) à (v), ou le seraient si le sous-alinéa en cause s'appliquait au moment de cette acquisition, et, au moment donné, selon le cas :

(A) les caractéristiques du bien donné changent,

(B) la seconde personne ou société de personnes rachète, acquiert ou annule le bien donné ou la partie donnée de ce bien,

time, of the property that was the subject of the contribution;

(q) a person or partnership that at any time acquires a fixed interest in a trust (or a right, issued by the trust, to acquire a fixed interest in the trust) from another person or partnership (other than from the trust that issued the interest or the right) is deemed to have made at that time a contribution to the trust and the amount of the contribution is deemed to be equal to the fair market value at that time of the interest or right, as the case may be;

(r) a particular person or partnership that has acquired a fixed interest in a trust as a consequence of making a contribution to the trust — or that has made a contribution to the trust as a consequence of having acquired a fixed interest in the trust or a right described in paragraph (q) — is, for the purpose of applying this section at any time after the time that the particular person or partnership transfers the fixed interest or the right, as the case may be, to another person or partnership (which transfer is referred to in this paragraph as the "sale"), deemed not to have made the contribution in respect of the fixed interest, or right, that is the subject of the sale if

(i) in exchange for the sale, the other person or partnership transfers or loans, or becomes obligated to transfer or loan, property (which property is referred to in subparagraph (ii) as the "consideration") to the particular person or partnership, and

(ii) it is reasonable to conclude

(A) having regard only to the sale and the consideration that the particular person or partnership would be willing to make the sale if the particular person or partnership were dealing at arm's length with the other person or partnership, and

(B) that the terms and conditions made or imposed in respect of the exchange would be acceptable to the particular person or partnership if the particular person or partnership were dealing at arm's length with the other person or partnership;

(s) a transfer to a trust by a particular person or partnership is deemed not to be, at a particular time, a contribution to the trust if

(i) the particular person or partnership has transferred, at or before the particular time and in the ordinary course of business of the particular person or partnership, property to the trust,

(C) si le bien donné est une dette de la seconde personne ou société de personnes, la dette ou la partie donnée de cette dette est réglée ou annulée,

(D) si le bien donné est un droit d'acquérir ou d'emprunter un bien, la personne ou la société de personnes donnée exerce ce droit;

n) l'apport qu'une fiducie donnée fait à une autre fiducie à un moment donné est réputé avoir été fait à ce moment conjointement par la fiducie donnée et par chaque personne ou société de personnes qui, à ce moment, est un contribuant de la fiducie donnée;

o) l'apport qu'une société de personnes fait à une fiducie à un moment donné est réputé avoir été fait à ce moment conjointement par la société de personnes et par chaque personne ou société de personnes qui, à ce moment, est l'associé de la société de personnes;

p) sous réserve de l'alinéa q) et du paragraphe (9), le montant d'un apport fait à une fiducie, au moment où il est fait, est réputé correspondre à la juste valeur marchande, à ce moment, du bien qui a fait l'objet de l'apport;

q) la personne ou la société de personnes qui, à un moment donné, acquiert une participation fixe dans une fiducie (ou un droit, émis par la fiducie, d'acquérir une telle participation dans la fiducie) d'une autre personne ou société de personnes, à l'exception de la fiducie émettrice de la participation ou du droit, est réputée avoir fait un apport à la fiducie à ce moment, et le montant de l'apport est réputé correspondre à la juste valeur marchande, à ce moment, de la participation ou du droit, selon le cas;

r) la personne ou la société de personnes donnée qui a acquis une participation fixe dans une fiducie du fait qu'elle a fait un apport à la fiducie (ou qui a fait un apport à la fiducie du fait qu'elle a acquis une participation fixe dans la fiducie ou un droit visé à l'alinéa q)) est réputée, pour l'application du présent article après le moment où elle transfère la participation ou le droit, selon le cas, à une autre personne ou société de personnes (ce transfert étant appelé « vente » au présent alinéa), ne pas avoir fait l'apport relativement à la participation, ou au droit, qui fait l'objet de la vente, si les conditions ci-après sont réunies :

(i) en échange de la vente, l'autre personne ou société de personnes transfère ou prête un bien (appelé « contrepartie » au sous-alinéa (ii)) à la personne ou la société de personnes donnée, ou contracte une obligation en ce sens,

(ii) the transfer is not an arm's length transfer, but would be an arm's length transfer if the definition ***arm's length transfer*** in subsection (1) were read without reference to paragraph (a) and subparagraphs (b)(i), (ii) and (iv) to (vii) of that definition,

(iii) it is reasonable to conclude that the particular person or partnership was the only person or partnership that acquired, in respect of the transfer, an interest as a beneficiary under the trust,

(iv) the particular person or partnership was required, under the securities law of a country or of a political subdivision of the country in respect of the issuance by the trust of interests as a beneficiary under the trust, to acquire an interest because of the particular person or partnership's status at the time of the transfer as a manager or promoter of the trust,

(v) at the particular time the trust is not an exempt foreign trust, but would be at that time an exempt foreign trust if it had not made an election under paragraph (h) of the definition ***exempt foreign trust*** in subsection (1), and

(vi) the particular time is before the earliest of

(A) the first time at which the trust becomes an exempt foreign trust,

(B) the first time at which the particular person or partnership ceases to be a manager or promoter of the trust, and

(C) the time that is 24 months after the first time at which the total fair market value of consideration received by the trust in exchange for interests as a beneficiary (other than the particular person or partnership's interest referred to in subparagraph (iii)) under the trust is greater than $500,000;

(t) a transfer, by a Canadian corporation of particular property, that is at a particular time a contribution by the Canadian corporation to a trust, is deemed not to be, after the particular time, a contribution by the Canadian corporation to the trust if

(i) the trust acquired the property before the particular time from the Canadian corporation in circumstances described in subparagraph (g)(i) or (iv),

(ii) as a result of a transfer (which transfer is referred to in this paragraph as the "sale") at the particular time by any person or partnership (referred to in this paragraph as the "seller") to another

(ii) il est raisonnable de conclure ce qui suit :

(A) eu égard seulement à la vente et à la contrepartie, la personne ou la société de personnes donnée serait disposée à effectuer la vente en l'absence de lien de dépendance avec l'autre personne ou société de personnes,

(B) les modalités établies ou imposées relativement à l'échange seraient acceptables pour la personne ou la société de personnes donnée en l'absence de lien de dépendance avec l'autre personne ou société de personnes;

s) le transfert effectué à une fiducie par une personne ou une société de personnes donnée est réputé ne pas être, à un moment donné, un apport fait à la fiducie si les conditions ci-après sont réunies :

(i) la personne ou la société de personnes donnée a transféré un bien à la fiducie au plus tard à ce moment dans le cours normal des activités de son entreprise,

(ii) le transfert n'est pas un transfert sans lien de dépendance, mais le serait si la définition de ***transfert sans lien de dépendance*** au paragraphe (1) s'appliquait compte non tenu de son alinéa a) et de ses sous-alinéas b)(i), (ii) et (iv) à (vii),

(iii) il est raisonnable de conclure que la personne ou la société de personnes donnée était la seule personne ou société de personnes ayant acquis, relativement au transfert, une participation à titre de bénéficiaire de la fiducie,

(iv) la personne ou la société de personnes donnée était tenue, par la législation sur les valeurs mobilières d'un pays, ou d'une de ses subdivisions politiques, concernant l'émission par la fiducie de participations à titre de bénéficiaire de cette fiducie, d'acquérir une participation en raison de sa qualité de gestionnaire ou de promoteur de la fiducie au moment du transfert,

(v) au moment donné, la fiducie n'est pas une fiducie étrangère exempte, mais le serait si elle n'avait pas fait le choix prévu à l'alinéa h) de la définition de ***fiducie étrangère exempte*** au paragraphe (1),

(vi) le moment donné est antérieur au premier en date des moments suivants :

(A) le premier moment où la fiducie devient une fiducie étrangère exempte,

person or partnership (referred to in this paragraph as the "buyer") the trust

(A) no longer holds any property that is shares of the capital stock of, or debt issued by, the Canadian corporation, and

(B) no longer holds any property that is property the fair market value of which is derived in whole or in part, directly or indirectly, from shares of the capital stock of, or debt issued by, the Canadian corporation,

(iii) the buyer deals at arm's length immediately before the particular time with the Canadian corporation, the trust and the seller,

(iv) in exchange for the sale, the buyer transfers or becomes obligated to transfer property (which property is referred to in this paragraph as the "consideration") to the seller, and

(v) it is reasonable to conclude

(A) having regard only to the sale and the consideration that the seller would be willing to make the sale if the seller were dealing at arm's length with the buyer,

(B) that the terms and conditions made or imposed in respect of the exchange would be acceptable to the seller if the seller were dealing at arm's length with the buyer, and

(C) that the value of the consideration is not, at or after the particular time, determined in whole or in part, directly or indirectly, by reference to shares of the capital stock of, or debt issued by, the Canadian corporation;

(u) a transfer, before October 11, 2002, to a personal trust by an individual (other than a trust) of particular property is deemed not to be a contribution of the particular property by the individual to the trust if

(i) the individual identifies the trust in prescribed form filed with the Minister on or before the individual's filing-due date for the individual's 2003 taxation year (or a later date that is acceptable to the Minister), and

(ii) the Minister is satisfied that

(A) the individual (and any person or partnership not dealing at any time at arm's length with the individual) has never loaned or transferred,

(B) le premier moment où la personne ou la société de personnes donnée cesse d'être gestionnaire ou promoteur de la fiducie,

(C) le moment qui suit de 24 mois le premier moment où la juste valeur marchande totale de la contrepartie reçue par la fiducie en échange de participations à titre de bénéficiaire de la fiducie, à l'exclusion de la participation de la personne ou société de personnes donnée visée au sous-alinéa (iii), excède 500 000 $;

t) le transfert, effectué par une société canadienne, d'un bien qui est, à un moment donné, un apport de la société à une fiducie est réputé ne pas être, après ce moment, un apport de la société à la fiducie si les conditions ci-après sont réunies :

(i) la fiducie a acquis le bien de la société avant le moment donné dans les circonstances visées aux sous-alinéas g)(i) ou (iv),

(ii) par suite d'un transfert (appelé « vente » au présent alinéa) effectué au moment donné par une personne ou une société de personnes (appelée « vendeur » au présent alinéa) à une autre personne ou société de personnes (appelée « acheteur » au présent alinéa), la fiducie ne détient plus de biens qui sont :

(A) des actions du capital-actions de la société ou des créances émises par celle-ci,

(B) des biens dont la juste valeur marchande provient en tout ou en partie, directement ou indirectement, d'actions du capital-actions de la société ou de créances émises par celle-ci,

(iii) immédiatement avant le moment donné, l'acheteur n'a de lien de dépendance ni avec la société, ni avec la fiducie, ni avec le vendeur,

(iv) en échange de la vente, l'acheteur transfère un bien (appelé « contrepartie » au présent alinéa) au vendeur, ou contracte une obligation en ce sens,

(v) il est raisonnable de conclure ce qui suit :

(A) eu égard seulement à la vente et à la contrepartie, le vendeur serait disposé à effectuer la vente en l'absence de lien de dépendance avec l'acheteur,

(B) les modalités établies ou imposées relativement à l'échange seraient acceptables pour le vendeur en l'absence de lien de dépendance avec l'acheteur,

directly or indirectly, restricted property to the trust,

(B) in respect of each contribution (determined without reference to this paragraph) made before October 11, 2002, by the individual to the trust, none of the reasons (determined by reference to all the circumstances including the terms of the trust, an intention, the laws of a country or the existence of an agreement, a memorandum, a letter of wishes or any other arrangement) for the contribution was to permit or facilitate, directly or indirectly, the conferral at any time of a benefit (for greater certainty, including an interest as a beneficiary under the trust) on

(I) the individual,

(II) a descendant of the individual, or

(III) any person or partnership with whom the individual or descendant does not, at any time, deal at arm's length, and

(C) the total of all amounts each of which is the amount of a contribution (determined without reference to this paragraph) made before October 11, 2002, by the individual to the trust does not exceed the greater of

(I) 1% of the total of all amounts each of which is the amount of a contribution (determined without reference to this paragraph) made to the trust before October 11, 2002, and

(II) $500; and

(v) a loan made by a particular specified financial institution to a trust is deemed not to be a contribution to the trust if

(i) the loan is made on terms and conditions that would have been agreed to by persons dealing at arm's length, and

(ii) the loan is made by the specified financial institution in the ordinary course of the business carried on by it.

(C) au moment donné ou par la suite, la valeur de la contrepartie n'est pas déterminée en tout ou en partie, directement ou indirectement, par rapport à des actions du capital-actions de la société ou à des créances émises par celle-ci;

u) le transfert d'un bien, effectué avant le 11 octobre 2002, à une fiducie personnelle par un particulier (sauf une fiducie), est réputé ne pas être un apport du bien fait par le particulier à la fiducie si les conditions ci-après sont réunies :

(i) le particulier désigne la fiducie dans un formulaire prescrit présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition 2003, ou à toute date postérieure que le ministre estime acceptable,

(ii) le ministre est convaincu de ce qui suit :

(A) le particulier (et toute personne ou société de personnes avec laquelle il a un lien de dépendance) n'a jamais prêté ou transféré, ni directement ni indirectement, de biens d'exception à la fiducie,

(B) en ce qui concerne chaque apport — déterminé compte non tenu du présent alinéa — fait avant le 11 octobre 2002 par le particulier à la fiducie, aucune des raisons de l'apport (déterminées d'après les circonstances l'entourant, y compris les modalités de la fiducie, une intention quelconque, les lois d'un pays ou l'existence d'un accord, d'un mémoire, d'une lettre de souhaits ou d'un autre arrangement) ne consistaient à permettre ou à faciliter, directement ou indirectement, l'octroi à un moment donné d'un avantage à l'une des entités ci-après — étant entendu qu'un avantage comprend une participation à titre de bénéficiaire de la fiducie :

(I) le particulier,

(II) un descendant du particulier,

(III) une personne ou une société de personnes avec laquelle le particulier ou le descendant a un lien de dépendance à un moment donné,

(C) le total des sommes représentant chacune un apport — déterminé compte non tenu du présent alinéa — fait avant le 11 octobre 2002 par le particulier à la fiducie n'excède pas la plus élevée des sommes suivantes :

(I) 1 % du total des sommes représentant chacune un apport — déterminé compte non tenu du présent alinéa — fait à la fiducie avant le 11 octobre 2002,

(II) 500 $;

v) un prêt effectué par une institution financière déterminée à une fiducie est réputé ne pas être un apport à la fiducie si, à la fois :

(i) les modalités du prêt sont telles qu'elles auraient été acceptées par des personnes sans lien de dépendance,

(ii) le prêt est effectué par l'institution financière déterminée dans le cours normal des activités de son entreprise.

Liabilities of non-resident trusts and others

(3) If at a specified time in a trust's particular taxation year (other than a trust that is, at that time, an exempt foreign trust) the trust is non-resident (determined without reference to this subsection) and, at that time, there is a resident contributor to the trust or a resident beneficiary under the trust,

(a) the trust is deemed to be resident in Canada throughout the particular taxation year for the purposes of

(i) section 2,

(ii) computing the trust's income for the particular taxation year,

(iii) applying subsections 104(13.1) to (28) and 107(2.1), in respect of the trust and a beneficiary under the trust,

(iv) applying clause 53(2)(h)(i.1)(B), the definition ***non-resident entity*** in subsection 94.1(2), subsection 107(2.002) and section 115, in respect of a beneficiary under the trust,

(v) paragraph (c) and subsection 111(9),

(vi) determining an obligation of the trust to file a return under section 233.3 or 233.4,

(vii) determining the rights and obligations of the trust under Divisions I and J,

(viii) determining the liability of the trust for tax under Part I, and under Part XIII on amounts paid

Obligations de fiducies non-résidentes et d'autres entités

(3) Les règles ci-après s'appliquent à l'égard d'une fiducie qui, à un moment déterminé de son année d'imposition donnée, compte un contribuant résident ou un bénéficiaire résident, n'est pas une fiducie étrangère exempte et est, compte non tenu du présent paragraphe, un non-résident :

a) la fiducie est réputée résider au Canada tout au long de l'année donnée en vue :

(i) d'appliquer l'article 2,

(ii) de calculer son revenu pour l'année donnée,

(iii) d'appliquer les paragraphes 104(13.1) à (28) et 107(2.1) à son égard et à l'égard de ses bénéficiaires,

(iv) d'appliquer la division 53(2)h)(i.1)(B), la définition de ***entité non-résidente*** au paragraphe 94.1(2), le paragraphe 107(2.002) et l'article 115, à l'égard d'un de ses bénéficiaires,

(v) d'appliquer l'alinéa c) et le paragraphe 111(9),

(vi) d'établir son obligation de produire une déclaration en vertu des articles 233.3 ou 233.4,

(vii) d'établir ses droits et obligations en vertu des sections I et J,

(viii) d'établir son assujettissement à l'impôt prévu par la partie I et à l'impôt prévu par la partie XIII sur les sommes qui lui sont payées ou qui sont portées à son crédit, au sens de la partie XIII,

or credited (in this paragraph having the meaning assigned by Part XIII) to the trust,

(ix) applying Part XIII in respect of an amount (other than an exempt amount) paid or credited by the trust to any person, and

(x) determining whether a foreign affiliate of a taxpayer (other than the trust) is a controlled foreign affiliate of the taxpayer;

(b) no deduction shall be made under subsection 20(11) by the trust in computing its income for the particular taxation year, and for the purposes of applying subsection 20(12) and section 126 to the trust for the particular taxation year

(i) in determining the non-business-income tax (in this paragraph as defined by subsection 126(7)) paid by the trust for the particular taxation year, paragraph (b) of the definition ***non-business-income tax*** does not apply, and

(ii) if, at that specified time, the trust is resident in a country other than Canada,

(A) the trust's income for the particular taxation year is deemed to be from sources in that country and not to be from any other source, and

(B) the business-income tax (in this paragraph as defined by subsection 126(7)), and the non-business-income tax, paid by the trust for the particular taxation year are deemed to have been paid by the trust to the government of that country and not to any other government;

(c) if the trust was non-resident throughout its taxation year (referred to in this paragraph as the "preceding year") immediately preceding the particular taxation year, the trust is deemed to have

(i) immediately before the end of the preceding year, disposed of each property (other than property described in any of subparagraphs 128.1(1)(b)(i) to (iv)) held by the trust at that time for proceeds of disposition equal to its fair market value at that time, and

(ii) at the beginning of the particular taxation year, acquired each of those properties so disposed of at a cost equal to its proceeds of disposition;

(d) each person that at any time in the particular taxation year is a resident contributor to the trust (other than an electing contributor in respect of the trust at

(ix) d'appliquer la partie XIII relativement à une somme (sauf une somme exclue) que la fiducie paie à une personne, ou porte à son crédit, au sens de cette partie,

(x) d'établir si une société étrangère affiliée d'un contribuable (sauf la fiducie) est une société étrangère affiliée contrôlée du contribuable;

b) aucune somme n'est déduite par la fiducie en application du paragraphe 20(11) dans le calcul de son revenu pour l'année donnée et, pour l'application du paragraphe 20(12) et de l'article 126 à la fiducie pour cette année :

(i) l'alinéa b) de la définition de ***impôt sur le revenu ne provenant pas d'une entreprise*** au paragraphe 126(7) ne s'applique pas au calcul de l'impôt payé par la fiducie pour l'année donnée,

(ii) si la fiducie réside dans un pays étranger au moment déterminé :

(A) son revenu pour l'année donnée est réputé provenir de sources situées dans ce pays et ne pas provenir d'autres sources,

(B) l'impôt sur le revenu tiré d'une entreprise, au sens du paragraphe 126(7), et l'impôt sur le revenu ne provenant pas d'une entreprise, au sens du même paragraphe, payés par la fiducie pour l'année donnée sont réputés avoir été payés par la fiducie au gouvernement de ce pays et non à un autre gouvernement;

c) la fiducie, si elle a été un non-résident tout au long de son année d'imposition (appelée « année précédente » au présent alinéa) précédant l'année donnée, est réputée :

(i) d'une part, avoir disposé, immédiatement avant la fin de l'année précédente, de chaque bien (sauf ceux visés aux sous-alinéas 128.1(1)b)(i) à (iv)) qu'elle détenait à ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment,

(ii) d'autre part, avoir acquis, au début de l'année donnée, chacun de ces biens à un coût égal à son produit de disposition;

d) chaque personne qui, au cours de l'année donnée, est un contribuant résident de la fiducie (sauf un contribuant déterminé relativement à la fiducie au moment déterminé) ou un bénéficiaire résident de la fiducie :

the specified time) or a resident beneficiary under the trust

(i) has jointly and severally, or solidarily, with the trust and with each other such person, the rights and obligations of the trust in respect of the particular taxation year under Divisions I and J, and

(ii) is subject to Part XV in respect of those rights and obligations;

(e) each person that at any time in the particular taxation year is a beneficiary under the trust and was a person from whom an amount would be recoverable at the end of the trust's 2006 taxation year under subsection (2) (as it read in its application to taxation years that end before 2007) in respect of the trust if the person had received before the trust's 2007 taxation year amounts described under paragraph (2)(a) or (b) in respect of the trust (as those paragraphs read in their application to taxation years that end before 2007)

(i) has, to the extent of the person's recovery limit for the year, jointly and severally, or solidarily, with the trust and with each other such person, the rights and obligations of the trust in respect of the taxation years, of the trust, that end before 2007 under Divisions I and J, and

(ii) is, to the extent of the person's recovery limit for the year, subject to Part XV in respect of those rights and obligations;

(f) if the trust (referred to in this paragraph as the "particular trust") is an electing trust in respect of the particular taxation year,

(i) an *inter vivos* trust (in this paragraph referred to as the "non-resident portion trust") is deemed for the purposes of this Act (other than for the purposes of subsection 104(2))

(A) to be created at the first time at which the particular trust exists in its first taxation year in respect of which the particular trust is an electing trust, and

(B) to continue in existence until the earliest of

(I) the time at which the particular trust ceases to be resident in Canada because of subsection (5) or (5.1),

(II) the time at which the particular trust ceases to exist, and

(i) d'une part, partage solidairement, avec la fiducie et avec chacune des autres personnes en cause, les droits et obligations de la fiducie pour l'année donnée en vertu des sections I et J,

(ii) d'autre part, est assujettie à la partie XV relativement à ces droits et obligations;

e) chaque personne qui, au cours de l'année donnée, est, à la fois, un bénéficiaire de la fiducie et une personne de laquelle une somme serait recouvrable à la fin de l'année d'imposition 2006 de la fiducie en vertu du paragraphe (2) (dans sa version applicable aux années d'imposition se terminant avant 2007) relativement à la fiducie si la personne avait reçu, avant l'année d'imposition 2007 de la fiducie, des sommes visées aux alinéas (2)a) ou b) (dans leur version applicable aux années d'imposition se terminant avant 2007) relativement à la fiducie :

(i) d'une part, partage solidairement, avec la fiducie et avec chacune des autres personnes en cause, jusqu'à concurrence de son plafond de recouvrement pour l'année, les droits et obligations de la fiducie en vertu des sections I et J pour les années d'imposition de celle-ci se terminant avant 2007,

(ii) d'autre part, est assujettie, jusqu'à concurrence de son plafond de recouvrement pour l'année, à la partie XV relativement à ces droits et obligations;

f) si la fiducie (appelée « fiducie donnée » au présent alinéa) est une fiducie déterminée relativement à l'année donnée :

(i) une fiducie non testamentaire (appelée « fiducie relative à la partie non-résidente » au présent alinéa) est réputée pour l'application des dispositions de la présente loi, à l'exception du paragraphe 104(2) :

(A) d'une part, être établie dès que la fiducie donnée existe au cours de sa première année d'imposition pour laquelle elle est une fiducie déterminée,

(B) d'autre part, continuer à exister jusqu'au premier en date des moments suivants :

(I) le moment où la fiducie donnée cesse de résider au Canada par l'effet des paragraphes (5) ou (5.1),

(II) le moment où la fiducie donnée cesse d'exister,

(III) the time at which the particular trust becomes resident in Canada otherwise than because of this subsection,

(ii) all of the particular trust's property that is part of the particular trust's non-resident portion is deemed to be the property of the non-resident portion trust and not to be, except for the purposes of this paragraph and the definition ***electing trust*** in subsection (1), the particular trust's property,

(iii) the terms and conditions of, and rights and obligations of beneficiaries under, the particular trust (determined by reference to all the circumstances including the terms of a trust, an intention, the laws of a country or the existence of an agreement, a memorandum, a letter of wishes or any other arrangement) are deemed to be the terms and conditions of, and rights and obligations of beneficiaries under, the non-resident portion trust,

(iv) for greater certainty

(A) the trustees of the particular trust are deemed to be the trustees of the non-resident portion trust,

(B) the beneficiaries under the particular trust are deemed to be the beneficiaries under the non-resident portion trust, and

(C) the non-resident portion trust is deemed not to have a resident contributor or connected contributor to it,

(v) the non-resident portion trust is deemed to be, without affecting the liability of its trustees for their own income tax, in respect of its property an individual,

(vi) if all or part of a property becomes at a particular time part of the particular trust's non-resident portion and immediately before that time the property or that part, as the case may be, was part of its resident portion, the particular trust is deemed to have transferred at the particular time the property or that part, as the case may be, to the non-resident portion trust,

(vii) if all or part of a property becomes at a particular time part of the particular trust's resident portion and immediately before that time the property or that part, as the case may be, was part of its non-resident portion, the non-resident portion trust is deemed to have transferred at the particular time the property or that part, as the case may be, to the particular trust,

(III) le moment où la fiducie donnée commence à résider au Canada autrement que par l'effet du présent paragraphe,

(ii) les biens de la fiducie donnée qui font partie de sa partie non-résidente sont réputés être les biens de la fiducie relative à la partie non-résidente et ne pas être ceux de la fiducie donnée, sauf pour l'application du présent alinéa et de la définition de ***fiducie déterminée*** au paragraphe (1),

(iii) les modalités de la fiducie donnée et les droits et obligations de ses bénéficiaires (déterminés d'après les circonstances, y compris les modalités d'une fiducie, une intention quelconque, les lois d'un pays ou l'existence d'un accord, d'un mémoire, d'une lettre de souhaits ou d'un autre arrangement) sont réputés être respectivement les modalités de la fiducie relative à la partie non-résidente et les droits et obligations des bénéficiaires de celle-ci,

(iv) il est entendu :

(A) que les fiduciaires de la fiducie donnée sont réputés être ceux de la fiducie relative à la partie non-résidente,

(B) que les bénéficiaires de la fiducie donnée sont réputés être ceux de la fiducie relative à la partie non-résidente,

(C) que la fiducie relative à la partie non-résidente est réputée ne pas avoir de contribuant résident ni de contribuant rattaché,

(v) sans que l'assujettissement de ses fiduciaires à leur propre impôt sur le revenu en soit atteint, la fiducie relative à la partie non-résidente est réputée être un particulier en ce qui concerne ses biens,

(vi) si un bien ou une partie de bien commence, à un moment donné, à faire partie de la partie non-résidente de la fiducie donnée alors qu'il faisait partie de sa partie résidente immédiatement avant ce moment, la fiducie donnée est réputée l'avoir transféré à ce moment à la fiducie relative à la partie non-résidente,

(vii) si un bien ou une partie de bien commence, à un moment donné, à faire partie de la partie résidente de la fiducie donnée alors qu'il faisait partie de sa partie non-résidente immédiatement avant ce moment, la fiducie relative à la partie non-résidente est réputée l'avoir transféré à ce moment à la fiducie donnée,

(viii) the particular trust and the non-resident portion trust are deemed at all times to be affiliated with each other and to not deal with each other at arm's length,

(ix) the particular trust

(A) has jointly and severally, or solidarily, with the non-resident portion trust, the rights and obligations of the non-resident portion trust in respect of any taxation year under Divisions I and J, and

(B) is subject to Part XV in respect of those rights and obligations, and

(x) if the non-resident portion trust ceases to exist at a particular time (for greater certainty, as determined by clause (i)(B))

(A) the non-resident portion trust is deemed, at the time (referred to in this subparagraph as the "disposition time") that is immediately before the time that is immediately before the particular time, to have

(I) in the case of each property of the non-resident portion trust that is property described in any of subparagraphs 128.1(1)(b)(i) to (iv), disposed of the property for proceeds of disposition equal to the cost amount to it of the property at the disposition time, and

(II) in the case of each other property of the non-resident portion trust, disposed of the property for proceeds of disposition equal to its fair market value of the property at the disposition time,

(B) the particular trust is deemed to have acquired, at the time that is immediately before the particular time, each property described in subclause (A)(I) or (II) at a cost equal to the proceeds determined under that subclause in respect of the property, and

(C) each person or partnership that is at the time immediately before the particular time a beneficiary under the non-resident portion trust is deemed

(I) at the disposition time to have disposed of the beneficiary's interest as a beneficiary under the non-resident portion trust for proceeds equal to the beneficiary's cost amount in the interest at the disposition time, and

(viii) la fiducie donnée et la fiducie relative à la partie non-résidente sont réputées, à tout moment, être affiliées l'une à l'autre et avoir entre elles un lien de dépendance,

(ix) la fiducie donnée :

(A) d'une part, partage solidairement, avec la fiducie relative à la partie non-résidente, les droits et obligations de celle-ci en vertu des sections I et J pour toute année d'imposition,

(B) d'autre part, est assujettie à la partie XV relativement à ces droits et obligations,

(x) si la fiducie relative à la partie non-résidente cesse d'exister à un moment donné (étant entendu que ce moment est celui visé à la division (i)(B)) :

(A) elle est réputée, au moment (appelé « moment de la disposition » au présent sous-alinéa) immédiatement avant le moment immédiatement avant le moment donné :

(I) dans le cas de chacun de ses biens qui est un bien visé à l'un des sous-alinéas 128.1(1)b)(i) à (iv), avoir disposé du bien pour un produit de disposition égal à son coût indiqué au moment de la disposition,

(II) dans le cas de chacun de ses autres biens, avoir disposé du bien pour un produit de disposition égal à sa juste valeur marchande au moment de la disposition,

(B) la fiducie donnée est réputée avoir acquis, au moment immédiatement avant le moment donné, chacun des biens visés aux subdivisions (A)(I) ou (II) à un coût égal au produit déterminé selon celle de ces subdivisions qui est applicable au bien,

(C) chaque personne ou société de personnes qui est bénéficiaire de la fiducie relative à la partie non-résidente au moment immédiatement avant le moment donné est réputée :

(I) d'une part, avoir disposé, au moment de la disposition, de sa participation à titre de bénéficiaire de cette fiducie pour un produit égal au coût indiqué, pour elle, de la participation à ce moment,

(II) d'autre part, avoir cessé, au moment de la disposition, d'être bénéficiaire de cette fiducie, autrement que pour l'application de la présente division;

(II) at the disposition time, to have ceased to be, other than for purposes of this clause, a beneficiary under the non-resident portion trust; and

(g) if a person deducts or withholds any amount (referred to in this paragraph as the "withholding amount") as required by section 215 from a particular amount paid or credited or deemed to have been paid or credited to the trust, and the particular amount has been included in the trust's income for the particular taxation year, the withholding amount is deemed to have been paid on account of the trust's tax under this Part for the particular taxation year.

Excluded provisions

(4) For greater certainty, paragraph (3)(a) does not deem a trust to be resident in Canada for the purposes of

(a) the definitions ***arm's length transfer*** and ***exempt foreign trust*** in subsection (1);

(b) subsections (8.1) and (8.2), paragraph (14)(a), subsections 70(6) and 73(1), the definition ***Canadian partnership*** in subsection 102(1), paragraph 107.4(1)(c), the definition ***qualified disability trust*** in subsection 122(3), paragraph (a) of the definition ***mutual fund trust*** in subsection 132(6), the definition ***eligible trust*** in subsection 135.2(1) and subparagraph (b)(i) of the definition ***investment fund*** in subsection 251.2(1);

(c) determining the liability of a person (other than the trust) that would arise under section 215;

(d) determining whether, in applying subsection 128.1(1), the trust becomes resident in Canada at a particular time;

(e) determining whether, in applying subsection 128.1(4), the trust ceases to be resident in Canada at a particular time;

(f) subparagraph (f)(i) of the definition ***disposition*** in subsection 248(1);

(g) determining whether subsection 107(5) applies to a distribution on or after July 18, 2005, of property to the trust; and

(h) determining whether subsection 75(2) applies.

g) si une personne déduit ou retient une somme (appelée « retenue » au présent alinéa) comme l'exige l'article 215 sur une somme donnée qui a été payée à la fiducie donnée ou portée à son crédit, ou qui est réputée l'avoir été, et que la somme donnée a été incluse dans le revenu de la fiducie donnée pour l'année donnée, la retenue est réputée avoir été payée au titre de l'impôt de la fiducie donnée prévu par la présente partie pour cette année.

Dispositions inapplicables

(4) Il est entendu que l'alinéa (3)a) ne s'applique pas de manière qu'une fiducie soit réputée résider au Canada :

a) pour l'application des définitions de ***fiducie étrangère exempte*** et ***transfert sans lien de dépendance*** au paragraphe (1);

b) pour l'application des paragraphes (8.1) et (8.2), de l'alinéa (14)a), des paragraphes 70(6) et 73(1), de la définition de ***société de personnes canadienne*** au paragraphe 102(1), de l'alinéa 107.4(1)c), de la définition de ***fiducie admissible pour personne handicapée*** au paragraphe 122(3), de l'alinéa a) de la définition de ***fiducie de fonds commun de placement*** au paragraphe 132(6), de la définition de ***fiducie admissible*** au paragraphe 135.2(1) et du sous-alinéa b)(i) de la définition de ***fiducie de placement déterminée*** au paragraphe 251.2(1);

c) lorsqu'il s'agit de déterminer les obligations d'une personne, sauf la fiducie, découlant de l'application de l'article 215;

d) lorsqu'il s'agit d'établir, pour l'application du paragraphe 128.1(1), si la fiducie commence à résider au Canada à un moment donné;

e) lorsqu'il s'agit d'établir, pour l'application du paragraphe 128.1(4), si la fiducie cesse de résider au Canada à un moment donné;

f) pour l'application du sous-alinéa f)(i) de la définition de ***disposition*** au paragraphe 248(1);

g) lorsqu'il s'agit d'établir si le paragraphe 107(5) s'applique à une distribution de biens à la fiducie effectuée après le 17 juillet 2005;

h) lorsqu'il s'agit d'établir si le paragraphe 75(2) s'applique.

Deemed cessation of residence — loss of resident contributor or resident beneficiary

(5) A trust is deemed to cease to be resident in Canada at the earliest time at which there is neither a resident contributor to the trust nor a resident beneficiary under the trust in a taxation year (determined without reference to subsection 128.1(4)) of the trust

(a) that immediately follows a taxation year of the trust throughout which it was deemed by subsection (3) to be resident in Canada for the purpose of computing its income; and

(b) at a specified time in which the trust

(i) is non-resident,

(ii) is not an exempt foreign trust, and

(iii) has no resident contributor to it or resident beneficiary under it.

Deemed cessation of residence — becoming an exempt foreign trust

(5.1) A trust is deemed to cease to be resident in Canada at the earliest time at which the trust becomes an exempt foreign trust in a taxation year (determined without reference to subsection 128.1(4)) of the trust

(a) that immediately follows a taxation year of the trust throughout which it was deemed by subsection (3) to be resident in Canada for the purpose of computing its income; and

(b) at a specified time in which

(i) there is a resident contributor to the trust or a resident beneficiary under the trust, and

(ii) the trust is an exempt foreign trust.

Administrative relief — changes in status

(5.2) If a trust is deemed by subsection (5) or (5.1) to cease to be resident in Canada at a particular time, the following rules apply to the trust in respect of the particular taxation year that is, as a result of that cessation of residence, deemed by subparagraph 128.1(4)(a)(i) to end immediately before the particular time:

(a) the trust's return of income for the particular taxation year is deemed to be filed with the Minister on a timely basis if it is filed with the Minister within 90 days from the end of the trust's taxation year that is

Cessation de résidence réputée — aucun contribuant résident ou bénéficiaire résident

(5) Une fiducie est réputée cesser de résider au Canada dès qu'elle ne compte ni contribuant résident ni bénéficiaire résident au cours d'une année d'imposition (déterminée compte non tenu du paragraphe 128.1(4)), à la fois :

a) qui suit immédiatement une année d'imposition tout au long de laquelle la fiducie est réputée, en vertu du paragraphe (3), résider au Canada pour le calcul de son revenu;

b) à un moment déterminé de laquelle la fiducie remplit les conditions suivantes :

(i) elle est un non-résident,

(ii) elle n'est pas une fiducie étrangère exempte,

(iii) elle ne compte ni contribuant résident ni bénéficiaire résident.

Cessation de résidence réputée — fiducie devenue une fiducie étrangère exempte

(5.1) Une fiducie est réputée cesser de résider au Canada dès qu'elle devient une fiducie étrangère exempte au cours d'une année d'imposition (déterminée compte non tenu du paragraphe 128.1(4)), à la fois :

a) que suit immédiatement une année d'imposition tout au long de laquelle la fiducie est réputée, en vertu du paragraphe (3), résider au Canada pour le calcul de son revenu;

b) à un moment déterminé de laquelle la fiducie remplit les conditions suivantes :

(i) elle compte un contribuant résident ou un bénéficiaire résident,

(ii) elle est une fiducie étrangère exempte.

Allègement administratif — changement de statut

(5.2) Si une fiducie est réputée en vertu des paragraphes (5) ou (5.1) cesser de résider au Canada à un moment donné, les règles ci-après s'appliquent à elle pour l'année d'imposition donnée qui, en raison de cette cessation, est réputée en vertu du sous-alinéa 128.1(4)a)(i) prendre fin immédiatement avant ce moment :

a) la déclaration de revenu de la fiducie pour l'année donnée est réputée être présentée au ministre dans le

deemed by subparagraph 128.1(4)(a)(i) to start at the particular time; and

(b) an amount that is included in the trust's income (determined without reference to subsections 104(6) and (12)) for the particular taxation year but that became payable (determined without regard to this paragraph) by the trust in the period after the particular taxation year and before the end of the trust's taxation year that is deemed by subparagraph 128.1(4)(a)(i) to start at the particular time, is deemed to have become payable by the trust immediately before the end of the particular taxation year and not at any other time.

délai imparti si elle lui est présentée dans les quatre-vingt-dix jours suivant la fin de son année d'imposition qui est réputée en vertu du sous-alinéa 128.1(4)a)(i) commencer au moment donné;

b) toute somme qui est incluse dans le revenu de la fiducie (déterminé compte non tenu des paragraphes 104(6) et (12)) pour l'année donnée, mais qui est devenue payable (compte non tenu du présent alinéa) par la fiducie au cours de la période postérieure à l'année donnée et antérieure à la fin de son année d'imposition qui est réputée en vertu du sous-alinéa 128.1(4)a)(i) commencer au moment donné, est réputée être devenue payable par la fiducie immédiatement avant la fin de l'année donnée et non à un autre moment.

Ceasing to be an exempt foreign trust

(6) If at a specified time in a trust's taxation year it is an exempt foreign trust, at a particular time in the immediately following taxation year (determined without reference to this subsection) the trust ceases to be an exempt foreign trust (otherwise than because of becoming resident in Canada), and at the particular time there is a resident contributor to, or resident beneficiary under, the trust,

(a) the trust's taxation year (determined without reference to this subsection) that includes the particular time is deemed to have ended immediately before the particular time and a new taxation year of the trust is deemed to begin at the particular time; and

(b) for the purpose of determining the trust's fiscal period after the particular time, the trust is deemed not to have established a fiscal period before the particular time.

Fiducie qui cesse d'être une fiducie étrangère exempte

(6) Si une fiducie est une fiducie étrangère exempte à un moment déterminé de son année d'imposition, qu'elle cesse d'être une telle fiducie à un moment donné de l'année d'imposition suivante (déterminée compte non tenu du présent paragraphe) et qu'elle compte un contribuant résident ou un bénéficiaire résident au moment donné, les règles ci-après s'appliquent :

a) son année d'imposition (déterminée compte non tenu du présent paragraphe) qui comprend le moment donné est réputée avoir pris fin immédiatement avant ce moment et une nouvelle année d'imposition est réputée commencer à ce même moment;

b) afin de déterminer son exercice après le moment donné, la fiducie est réputée ne pas avoir établi d'exercice avant ce moment.

Limit to amount recoverable

(7) The maximum amount recoverable under the provisions referred to in paragraph (3)(d) at any particular time from a person in respect of a trust (other than a person that is deemed, under subsection (12) or (13), to be a contributor or a resident contributor to the trust) and a particular taxation year of the trust is the person's recovery limit at the particular time in respect of the trust and the particular year if

(a) either

(i) the person is liable under a provision referred to in paragraph (3)(d) in respect of the trust and the particular year solely because the person was a resident beneficiary under the trust at a specified time in respect of the trust in the particular year, or

Plafond de la somme recouvrable

(7) La somme maximale qui est recouvrable d'une personne à un moment donné, en vertu des dispositions visées à l'alinéa (3)d), relativement à une fiducie (sauf une personne réputée, en vertu des paragraphes (12) ou (13), être un contribuant ou un contribuant résident de la fiducie) et à une année d'imposition donnée de la fiducie correspond au plafond de recouvrement de la personne à ce moment relativement à la fiducie et à l'année donnée si, à la fois :

a) selon le cas :

(i) la personne est assujettie aux obligations imposées par les dispositions visées à l'alinéa (3)d) relativement à la fiducie et à l'année donnée du seul fait qu'elle était bénéficiaire résident de la fiducie à un

(ii) at a specified time in respect of the trust in the particular year, the total of all amounts each of which is the amount, at the time it was made, of a contribution to the trust made before the specified time by the person or by another person or partnership not dealing at arm's length with the person, is not more than the greater of

(A) $10,000, and

(B) 10% of the total of all amounts each of which was the amount, at the time it was made, of a contribution made to the trust before the specified time;

(b) except if the total determined in subparagraph (a)(ii) in respect of the person and all persons or partnerships not dealing at arm's length with the person is $10,000 or less, the person has filed on a timely basis under section 233.2 all information returns required to be filed by the person before the particular time in respect of the trust (or on any later day that is acceptable to the Minister); and

(c) it is reasonable to conclude that for each transaction that occurred before the end of the particular year at the direction of, or with the acquiescence of, the person

(i) none of the purposes of the transaction was to enable the person to avoid or minimize any liability under a provision referred to in paragraph (3)(d) in respect of the trust, and

(ii) the transaction was not part of a series of transactions any of the purposes of which was to enable the person to avoid or minimize any liability under a provision referred to in paragraph (3)(d) in respect of the trust.

moment déterminé relativement à la fiducie au cours de cette année,

(ii) à un moment déterminé relativement à la fiducie au cours de l'année donnée, le total des sommes représentant chacune le montant d'un apport, au moment où il est fait, que fait à la fiducie avant le moment déterminé la personne ou une autre personne ou société de personnes ayant un lien de dépendance avec celle-ci, n'excède pas la plus élevée des sommes suivantes :

(A) 10 000 $,

(B) 10 % du total des sommes représentant chacune le montant d'un apport, au moment où il est fait, fait à la fiducie avant le moment déterminé;

b) la personne a produit, dans le délai fixé à l'article 233.2 ou dans un délai plus long que le ministre estime acceptable, toutes les déclarations de renseignements qu'elle était tenue de produire avant le moment donné relativement à la fiducie; le présent alinéa ne s'applique pas si le total déterminé selon le sous-alinéa a)(ii) relativement à la personne et à l'ensemble des personnes ou sociétés de personnes avec lesquelles elle a un lien de dépendance est de 10 000 $ ou moins;

c) il est raisonnable de conclure que, en ce qui concerne chaque opération effectuée avant la fin de l'année donnée suivant les instructions ou avec l'accord de la personne :

(i) d'une part, l'opération n'était aucunement motivée par le désir de permettre à la personne de réduire au minimum les obligations imposées en vertu des dispositions visées à l'alinéa (3)d) relativement à la fiducie, ou de s'y soustraire,

(ii) d'autre part, l'opération ne faisait pas partie d'une série d'opérations conclues notamment en vue de permettre à la personne de réduire au minimum les obligations imposées en vertu des dispositions visées à l'alinéa (3)d) relativement à la fiducie, ou de s'y soustraire.

Recovery limit

(8) The recovery limit referred to in paragraph (3)(e) and subsection (7) at a particular time of a particular person in respect of a trust and a particular taxation year of the trust is the amount, if any, by which the greater of

(a) the total of all amounts each of which is

Plafond de recouvrement

(8) Le plafond de recouvrement, visé à l'alinéa (3)e) et au paragraphe (7), à un moment donné d'une personne donnée relativement à une fiducie et à une année d'imposition donnée de celle-ci correspond à l'excédent de la plus élevée des sommes suivantes :

a) le total des sommes représentant chacune :

(i) an amount received or receivable after 2000 and before the particular time

(A) by the particular person on the disposition of all or part of the person's interest as a beneficiary under the trust, or

(B) by a person or partnership (that was, when the amount became receivable, a specified party in respect of the particular person) on the disposition of all or part of the specified party's interest as a beneficiary under the trust,

(ii) an amount (other than an amount described in subparagraph (i)) made payable by the trust after 2000 and before the particular time to

(A) the particular person because of the interest of the particular person as a beneficiary under the trust, or

(B) a person or partnership (that was, when the amount became payable, a specified party in respect of the particular person) because of the interest of the specified party as a beneficiary under the trust,

(iii) an amount received after August 27, 2010, by the particular person, or a person or partnership (that was, when the amount was received, a specified party in respect of the particular person), as a loan from the trust to the extent that the amount has not been repaid,

(iv) an amount (other than an amount described in any of subparagraphs (i) to (iii)) that is the fair market value of a benefit received or enjoyed, after 2000 and before the particular time, from or under the trust by

(A) the particular person, or

(B) a person or partnership that was, when the benefit was received or enjoyed, a specified party in respect of the particular person, or

(v) the maximum amount that would be recoverable from the particular person at the end of the trust's 2006 taxation year under subsection (2) (as it read in its application to taxation years that end before 2007) if the trust had tax payable under this Part at the end of the trust's 2006 taxation year and that tax payable exceeded the total of the amounts described in respect of the particular person under paragraphs (2)(a) and (b) (as they read in their application to taxation years that end before 2007), except to the extent that the amount so recoverable is

(i) la somme reçue ou à recevoir après 2000 et avant le moment donné :

(A) soit par la personne donnée à l'occasion de la disposition de tout ou partie de sa participation à titre de bénéficiaire de la fiducie,

(B) soit par une personne ou une société de personnes — qui, au moment où la somme est devenue à recevoir, était un tiers déterminé par rapport à la personne donnée — à l'occasion de la disposition de tout ou partie de sa participation à titre de bénéficiaire de la fiducie,

(ii) la somme, sauf celle visée au sous-alinéa (i), à payer par la fiducie après 2000 et avant le moment donné :

(A) soit à la personne donnée en raison de sa participation à titre de bénéficiaire de la fiducie,

(B) soit à une personne ou une société de personnes — qui, au moment où la somme est devenue à payer, était un tiers déterminé par rapport à la personne donnée — en raison de sa participation à titre de bénéficiaire de la fiducie,

(iii) la somme reçue après le 27 août 2010 par la personne donnée ou par une personne ou une société de personnes — qui, au moment où la somme a été reçue, était un tiers déterminé par rapport à la personne donnée — à titre de prêt de la fiducie, dans la mesure où la somme n'a pas été remboursée,

(iv) la somme, sauf celle visée aux sous-alinéas (i) à (iii), qui représente la juste valeur marchande d'un avantage qu'a reçu de la fiducie, ou dont a joui, l'une des entités ci-après après 2000 et avant le moment donné :

(A) la personne donnée,

(B) une personne ou une société de personnes qui, au moment où elle a reçu l'avantage ou en a joui, était un tiers déterminé par rapport à la personne donnée,

(v) la somme maximale qui serait recouvrable de la personne donnée à la fin de l'année d'imposition 2006 de la fiducie en vertu du paragraphe (2) (dans sa version applicable aux années d'imposition se terminant avant 2007) si la fiducie avait un impôt à payer en vertu de la présente partie à la fin de son année d'imposition 2006 et si cet impôt dépassait le total des sommes visées, relativement à la personne donnée, aux alinéas (2)a) et b) (dans leur version

in respect of an amount that is included in the particular person's recovery limit because of subparagraph (i) or (ii), and

(b) the total of all amounts each of which is the amount, when made, of a contribution to the trust before the particular time by the particular person,

exceeds the total of all amounts each of which is

(c) an amount recovered before the particular time from the particular person in connection with a liability of the particular person (in respect of the trust and the particular year or a preceding taxation year of the trust) that arose because of the application of subsection (3) (or the application of this section as it read in its application to taxation years that end before 2007),

(d) an amount (other than an amount in respect of which this paragraph has applied in respect of any other person) recovered before the particular time from a specified party in respect of the particular person in connection with a liability of the particular person (in respect of the trust and the particular year or a preceding taxation year of the trust) that arose because of the application of subsection (3) (or the application of this section as it read in its application to taxation years that end before 2007), or

(e) the amount, if any, by which the particular person's tax payable under this Part for any taxation year in which an amount described in any of subparagraphs (a)(i) to (iv) was paid, became payable, was received, became receivable or was enjoyed by the particular person exceeds the amount that would have been the particular person's tax payable under this Part for that taxation year if no such amount were paid, became payable, were received, became receivable or were enjoyed by the particular person in that taxation year.

applicable aux années d'imposition se terminant avant 2007), sauf dans la mesure où la somme ainsi recouvrable se rapporte à une somme qui est incluse dans le plafond de recouvrement de la personne donnée par l'effet des sous-alinéas (i) ou (ii);

b) le total des sommes représentant chacune le montant d'un apport, au moment où il est fait, que la personne donnée a fait à la fiducie avant le moment donné,

sur le total des sommes représentant chacune :

c) la somme recouvrée de la personne donnée avant le moment donné au titre de ses obligations découlant de l'application du paragraphe (3) (ou de l'application du présent article, dans sa version applicable aux années d'imposition se terminant avant 2007) relativement à la fiducie et à l'année donnée ou à une année d'imposition antérieure de la fiducie;

d) la somme, sauf celle au titre de laquelle le présent alinéa s'est appliqué relativement à une autre personne, recouvrée, avant le moment donné, d'un tiers déterminé par rapport à la personne donnée au titre des obligations de celle-ci découlant de l'application du paragraphe (3) (ou de l'application du présent article, dans sa version applicable aux années d'imposition se terminant avant 2007) relativement à la fiducie et à l'année donnée ou à une année d'imposition antérieure de la fiducie;

e) l'excédent de l'impôt à payer par la personne donnée en vertu de la présente partie pour une année d'imposition au cours de laquelle la somme visée à l'un des sous-alinéas a)(i) à (iv) a été payée, est devenue à payer, a été reçue ou est devenue à recevoir par la personne donnée, ou au cours de laquelle la personne donnée a joui d'une telle somme, sur la somme qui représenterait l'impôt à payer par la personne donnée en vertu de la présente partie pour cette année si aucune somme semblable n'était payée, ne devenait à payer, n'était reçue ou ne devenait à recevoir par la personne donnée au cours de cette année ou si la personne donnée ne jouissait d'aucune somme semblable au cours de cette année.

Application of subsection (8.2)

(8.1) Subsection (8.2) applies at any time to a particular person, and to a particular property, in respect of a non-resident trust, if at that time

(a) the particular person is resident in Canada; and

(b) the trust holds the particular property on condition that the particular property or property substituted for the particular property

Application du paragraphe (8.2)

(8.1) Le paragraphe (8.2) s'applique à une personne donnée et à un bien donné, à un moment donné, relativement à une fiducie non-résidente si les faits ci-après s'avèrent à ce moment :

a) la personne donnée réside au Canada;

b) la fiducie détient le bien donné, à condition que celui-ci ou tout bien qui y est substitué, selon le cas :

(i) may

(A) revert to the particular person, or

(B) pass to one or more persons or partnerships to be determined by the particular person, or

(ii) shall not be disposed of by the trust during the existence of the particular person, except with the particular person's consent or in accordance with the particular person's direction.

Deemed transfer of restricted property

(8.2) If this subsection applies at any time to a particular person, and to a particular property, in respect of a non-resident trust, then in applying this section in respect of the trust for a taxation year of the trust that includes that time

(a) every transfer or loan made at or before that time by the particular person (or by a trust or partnership of which the particular person was a beneficiary or member, as the case may be) of the particular property, of another property for which the particular property is a substitute, or of property from which the particular property derives, or the other property derived, its value in whole or in part, directly or indirectly, is deemed to be a transfer or loan, as the case may be, by the particular person

(i) that is not an arm's length transfer, and

(ii) that is, for the purposes of paragraph (2)(c) and subsection (9), a transfer or loan of restricted property; and

(b) paragraph (2)(c) is to be read without reference to subparagraph (2)(c)(iii) in its application to each transfer and loan described in paragraph (a).

Determination of contribution amount — restricted property

(9) If a person or partnership contributes at any time restricted property to a trust, the amount of the contribution at that time is deemed, for the purposes of this section, to be the greater of

(a) the amount, determined without reference to this subsection, of the contribution at that time, and

(b) the amount that is the greatest fair market value of the restricted property, or property substituted for it, in the period that begins immediately after that time and ends at the end of the third calendar year that ends after that time.

(i) puisse :

(A) soit revenir à la personne donnée,

(B) soit être transporté à une ou plusieurs personnes ou sociétés de personnes devant être désignées par la personne donnée,

(ii) ne fasse pas l'objet d'une disposition par la fiducie pendant l'existence de la personne donnée, à moins que celle-ci n'y consente ou ne l'ordonne.

Transfert réputé d'un bien d'exception

(8.2) En cas d'application du présent paragraphe à une personne donnée et à un bien donné, à un moment donné, relativement à une fiducie non-résidente, les règles ci-après s'appliquent pour l'application du présent article relativement à la fiducie pour une année d'imposition de celle-ci qui comprend ce moment :

a) tout transfert ou prêt, effectué au plus tard à ce moment par la personne donnée (ou par une fiducie ou une société de personnes dont elle est un bénéficiaire ou un associé, selon le cas), du bien donné, d'un autre bien auquel celui-ci a été substitué ou d'un bien dont le bien donné tire, ou dont l'autre bien tirait, tout ou partie de sa valeur, directement ou indirectement, est réputé être un transfert ou un prêt, selon le cas, effectué par la personne donnée, qui :

(i) n'est pas un transfert sans lien de dépendance,

(ii) est, pour l'application de l'alinéa (2)c) et du paragraphe (9), le transfert ou le prêt d'un bien d'exception;

b) l'alinéa (2)c) s'applique compte non tenu de son sous-alinéa (iii) en ce qui a trait à tout transfert ou prêt visé à l'alinéa a).

Calcul de l'apport — bien d'exception

(9) Si une personne ou une société de personnes fait un apport de bien d'exception à une fiducie à un moment donné, le montant de l'apport à ce moment est réputé, pour l'application du présent article, correspondre à la plus élevée des sommes suivantes :

a) le montant de l'apport à ce moment, déterminé compte non tenu du présent paragraphe;

b) la juste valeur marchande la plus élevée du bien d'exception, ou d'un bien substitué à celui-ci, au cours de la période commençant immédiatement après ce moment et se terminant à la fin de la troisième année civile se terminant après ce moment.

Contributor — resident in Canada within 60 months after contribution

(10) In applying this section at each specified time, in respect of a trust's taxation year, that is before the particular time at which a contributor to the trust becomes resident in Canada within 60 months after making a contribution to the trust, the contribution is deemed to have been made at a time other than a non-resident time of the contributor if

(a) in applying the definition ***non-resident time*** in subsection (1) at each of those specified times, the contribution was made at a non-resident time of the contributor; and

(b) in applying the definition ***non-resident time*** in subsection (1) immediately after the particular time, the contribution is made at a time other than a non-resident time of the contributor.

Application of subsections (12) and (13)

(11) Subsections (12) and (13) apply to a trust or a person in respect of a trust if

(a) at any time property of a trust (referred to in this subsection and subsections (12) and (13) as the "original trust") is transferred or loaned, directly or indirectly, in any manner, to another trust (referred to in this subsection and subsections (12) and (13) as the "transferee trust");

(b) the original trust

(i) is deemed to be resident in Canada immediately before that time because of paragraph (3)(a),

(ii) would be deemed to be resident in Canada immediately before that time because of paragraph (3)(a) if this section, as it read in its application to the 2013 taxation year, were read without reference to paragraph (a) of the definition ***connected contributor*** in subsection (1) and paragraph (a) of the definition ***resident contributor*** in that subsection,

(iii) was deemed to be resident in Canada immediately before that time because of subsection (1) as it read in its application to taxation years that end before 2007, or

(iv) would have been deemed to be resident in Canada immediately before that time because of subsection (1) as it read in its application to taxation years that end before 2007 if that subsection were read in that application without reference to subclause (b)(i)(A)(III) of that subsection; and

Début de résidence dans les 60 mois suivant l'apport

(10) Pour l'application du présent article à chaque moment déterminé, relativement à une année d'imposition d'une fiducie, qui est antérieur au moment donné où l'un des contribuants de la fiducie commence à résider au Canada dans les 60 mois après avoir fait un apport à la fiducie, l'apport est réputé avoir été fait à un moment autre qu'un moment de non-résidence du contribuant si, à la fois :

a) pour l'application de la définition de ***moment de non-résidence*** au paragraphe (1) à chacun de ces moments déterminés, l'apport a été fait à un moment de non-résidence du contribuant;

b) pour l'application de cette définition immédiatement après le moment donné, l'apport est fait à un moment autre qu'un moment de non-résidence du contribuant.

Application des paragraphes (12) et (13)

(11) Les paragraphes (12) et (13) s'appliquent à une fiducie ou à une personne relativement à une fiducie si les conditions ci-après sont réunies :

a) à un moment donné, un bien d'une fiducie (appelée « fiducie d'origine » au présent paragraphe et aux paragraphes (12) et (13)) est transféré ou prêté, directement ou indirectement, de quelque manière que ce soit, à une autre fiducie (appelée « fiducie cessionnaire » au présent paragraphe et aux paragraphes (12) et (13));

b) la fiducie d'origine, selon le cas :

(i) est réputée résider au Canada immédiatement avant ce moment par l'effet de l'alinéa (3)a),

(ii) serait réputée résider au Canada immédiatement avant ce moment par l'effet de l'alinéa (3)a) si le présent article, dans sa version applicable à l'année d'imposition 2013, s'appliquait compte non tenu de l'alinéa a) de la définition de ***contribuant rattaché*** au paragraphe (1) ni de l'alinéa a) de la définition de ***contribuant résident*** à ce paragraphe,

(iii) était réputée résider au Canada immédiatement avant ce moment par l'effet du paragraphe (1), dans sa version applicable aux années d'imposition se terminant avant 2007,

(iv) aurait été réputée résider au Canada immédiatement avant ce moment par l'effet du paragraphe (1), dans sa version applicable aux années

(c) it is reasonable to conclude that one of the reasons the transfer or loan is made is to avoid or minimize a liability under this Part that arose, or that would otherwise have arisen, because of the application of this section (or the application of this section as it read in its application to taxation years that end before 2007).

c) il est raisonnable de conclure que l'une des raisons du transfert ou du prêt consiste à permettre que soit évitée ou réduite au minimum une obligation prévue par la présente partie qui découle, ou aurait découlé par ailleurs, de l'application du présent article (ou de l'application du présent article, dans sa version applicable aux années d'imposition se terminant avant 2007).

Deemed resident contributor

(12) The original trust described in subsection (11) (including a trust that has ceased to exist) is deemed to be, at and after the time of the transfer or loan referred to in that subsection, a resident contributor to the transferee trust for the purpose of applying this section in respect of the transferee trust.

Contribuant résident réputé

(12) La fiducie d'origine visée au paragraphe (11) — y compris la fiducie qui a cessé d'exister — est réputée être, à compter du moment du transfert ou du prêt visé à ce même paragraphe, un contribuant résident de la fiducie cessionnaire pour l'application du présent article à cette dernière.

Deemed contributor

(13) A person (including any person that has ceased to exist) that is, at the time of the transfer or loan referred to in subsection (11), a contributor to the original trust, is deemed to be at and after that time

(a) a contributor to the transferee trust; and

(b) a connected contributor to the transferee trust, if at that time the person is a connected contributor to the original trust.

Contribuant réputé

(13) La personne — y compris celle qui a cessé d'exister — qui est un contribuant de la fiducie d'origine au moment du transfert ou du prêt visé au paragraphe (11) est réputée être, à compter de ce moment, à la fois :

a) un contribuant de la fiducie cessionnaire;

b) un contribuant rattaché de la fiducie cessionnaire si, à ce moment, la personne est un contribuant rattaché de la fiducie d'origine.

Restricted property — exception

(14) A particular property that is, or will be, at any time held, loaned or transferred, as the case may be, by a particular person or partnership is not restricted property held, loaned or transferred, as the case may be, at that time by the particular person or partnership if

(a) the following conditions are met:

(i) the particular property (and property, if any, for which it is, or is to be, substituted) was not, and will not be, at any time acquired, held, loaned or transferred by the particular person or partnership (or any person or partnership with whom the particular person or partnership does not at any time deal at arm's length) in whole or in part for the purpose of permitting any change in the value of the property of a corporation (that is, at any time, a closely held corporation) to accrue directly or indirectly in any manner whatever to the value of property held by a non-resident trust,

Biens d'exception — exception

(14) Le bien donné qui est ou sera détenu, prêté ou transféré par une personne ou une société de personnes donnée à un moment donné n'est pas un bien d'exception qu'elle détient, prête ou transfère, selon le cas, à ce moment si, selon le cas :

a) les conditions ci-après sont réunies :

(i) le bien donné (et, le cas échéant, un bien auquel il est ou doit être substitué) n'a jamais été — et ne sera jamais — acquis, détenu, prêté ou transféré, en tout ou en partie, par la personne ou la société de personnes donnée, ou par toute personne ou société de personnes avec laquelle celle-ci a un lien de dépendance, dans le but de permettre que tout changement de la valeur des biens d'une société — qui est une société à peu d'actionnaires à un moment quelconque — soit attribué directement ou indirectement, de quelque manière que ce soit, à la valeur d'un bien détenu par une fiducie non-résidente,

(ii) the Minister is satisfied that the particular property (and property, if any, for which it is, or is to be, substituted) is described by subparagraph (i), and

(iii) the particular property is identified in prescribed form, containing prescribed information, filed, by or on behalf of the particular person or partnership, with the Minister on or before

(A) in the case of a person, the particular person's filing-due date for the particular person's taxation year that includes that time,

(B) in the case of a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the fiscal period of the particular partnership or would be required to be so filed if that section applied to the partnership, or

(C) another date that is acceptable to the Minister; or

(b) at that time

(i) the particular property is

(A) a share of the capital stock of a corporation,

(B) a fixed interest in a trust, or

(C) an interest, as a member of a partnership, under which, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited,

(ii) there are at least 150 persons each of whom holds at that time property that at that time

(A) is identical to the particular property, and

(B) has a total fair market value of at least $500,

(iii) the total of all amounts each of which is the fair market value, at that time, of the particular property (or of identical property that is held, at that time, by the particular person or partnership or a person or partnership with whom the particular person or partnership does not deal at arm's length) does not exceed 10% of the total of all amounts each of which is the fair market value, at that time, of the particular property or of identical property held by any person or partnership,

(ii) le ministre est convaincu que le bien donné (et, le cas échéant, un bien auquel il est ou doit être substitué) est visé au sous-alinéa (i),

(iii) le bien donné est indiqué dans un formulaire prescrit, contenant les renseignements prescrits, qui est présenté au ministre par la personne ou la société de personnes donnée, ou pour son compte, au plus tard :

(A) dans le cas d'une personne, à la date d'échéance de production qui lui est applicable pour son année d'imposition qui comprend ce moment,

(B) dans le cas d'une société de personnes, à la date limite où une déclaration doit être produite aux termes de l'article 229 du *Règlement de l'impôt sur le revenu* relativement à son exercice ou serait ainsi à produire si cet article s'appliquait à elle,

(C) toute autre date que le ministre estime acceptable;

b) à ce moment :

(i) le bien donné est :

(A) une action du capital-actions d'une société,

(B) une participation fixe dans une fiducie,

(C) une participation, à titre d'associé d'une société de personnes, aux termes de laquelle la responsabilité de l'associé à ce titre est limitée par la loi qui régit le contrat de société,

(ii) au moins 150 personnes détiennent chacune, à ce moment, des biens qui, à ce moment :

(A) d'une part, sont identiques au bien donné,

(B) d'autre part, ont une juste valeur marchande totale d'au moins 500 $,

(iii) le total des sommes représentant chacune la juste valeur marchande, à ce moment, du bien donné (ou d'un bien identique détenu, à ce moment, par la personne ou la société de personnes donnée ou par une personne ou une société de personnes avec laquelle celle-ci a un lien de dépendance) n'excède pas 10 % du total des sommes représentant chacune la juste valeur marchande, à ce moment, du bien donné ou d'un bien identique détenu par une personne ou une société de personnes quelconque,

(iv) property that is identical to the particular property can normally be acquired by and sold by members of the public in the open market, and

(v) the particular property, or identical property, is listed on a designated stock exchange.

(iv) des biens qui sont identiques au bien donné peuvent normalement être acquis et vendus par le public sur le marché libre,

(v) le bien donné, ou un bien identique, est inscrit à la cote d'une bourse de valeurs désignée.

Anti-avoidance

(15) In applying this section,

(a) if it can reasonably be considered that one of the main reasons that a person or partnership

(i) is at any time a shareholder of a corporation is to cause the condition in paragraph (b) of the definition ***closely held corporation*** in subsection (1) to be satisfied in respect of the corporation, the condition is deemed not to have been satisfied at that time in respect of the corporation,

(ii) holds at any time an interest in a trust is to cause the condition in clause (h)(ii)(A) of the definition ***exempt foreign trust*** in subsection (1) to be satisfied in respect of the trust, the condition is deemed not to have been satisfied at that time in respect of the trust, and

(iii) holds at any time a property is to cause the condition described in subparagraph (14)(b)(ii) to be satisfied in respect of the property or an identical property held by any person, the condition is deemed not to have been satisfied at that time in respect of the property or the identical property;

(b) if at any time at or before a specified time in a trust's taxation year, a resident contributor to the trust contributes to the trust property that is restricted property of the trust, or property for which restricted property of the trust is substituted, and the trust is at that specified time an exempt foreign trust by reason of paragraph (f) of the definition ***exempt foreign trust*** in subsection (1), the amount of the trust's income for the taxation year from the restricted property, and the amount of any taxable capital gain from the disposition in the taxation year by the trust of the restricted property, shall be included in computing the income of the resident contributor for its taxation year in which that taxation year of the trust ends and not in computing the income of the trust for that taxation year of the trust; and

(c) if at a specified time in a trust's taxation year it is an exempt foreign trust by reason of paragraph (h) of the definition ***exempt foreign trust*** in subsection (1), at a time immediately before a particular time in the immediately following taxation year (determined

Anti-évitement

(15) Les règles ci-après s'appliquent au présent article :

a) s'il est raisonnable de considérer, à l'égard d'une personne ou d'une société de personnes :

(i) que l'une des principales raisons pour lesquelles elle est actionnaire d'une société à un moment donné consiste à faire en sorte que la condition énoncée à l'alinéa b) de la définition de ***société à peu d'actionnaires*** au paragraphe (1) soit remplie relativement à la société, la condition est réputée ne pas avoir été remplie à ce moment relativement à la société,

(ii) que l'une des principales raisons pour lesquelles elle détient une participation dans une fiducie à un moment donné consiste à faire en sorte que la condition énoncée à la division h)(ii)(A) de la définition de ***fiducie étrangère exempte*** au paragraphe (1) soit remplie relativement à la fiducie, la condition est réputée ne pas avoir été remplie à ce moment relativement à la fiducie,

(iii) que l'une des principales raisons pour lesquelles elle détient un bien à un moment donné consiste à faire en sorte que la condition énoncée au sous-alinéa (14)b)(ii) soit remplie relativement au bien ou à un bien identique détenu par une personne, la condition est réputée ne pas avoir été remplie à ce moment relativement au bien ou au bien identique;

b) si, au moment déterminé d'une année d'imposition donnée d'une fiducie ou antérieurement, un contribuant résident d'une fiducie fait un apport à la fiducie d'un bien qui est un bien d'exception de la fiducie ou un bien auquel un bien d'exception de la fiducie est substitué et que la fiducie est une fiducie étrangère exempte à ce moment par l'effet de l'alinéa f) de la définition de ***fiducie étrangère exempte*** au paragraphe (1), le montant du revenu de la fiducie pour l'année donnée provenant du bien d'exception et le montant de tout gain en capital imposable provenant de la disposition de ce bien par la fiducie au cours de l'année donnée entrent dans le calcul du revenu du contribuant résident pour son année d'imposition dans laquelle l'année donnée prend fin et non dans le calcul du revenu de la fiducie pour l'année donnée;

without reference to subsection (6)) there is a resident contributor to, or resident beneficiary under, the trust, at the time that is immediately before the particular time a beneficiary holds a fixed interest in the trust, and at the particular time the interest ceases to be a fixed interest in the trust,

(i) the trust is deemed, other than for purposes of subsection (6), not to be an exempt foreign trust at any time in the trust's taxation year (referred to in this paragraph as its "assessment year") that ends (for greater certainty as determined under paragraph (6)(a)) at the time that is immediately before the particular time,

(ii) the trust shall include in computing its income for its assessment year an amount equal to the amount determined by the formula

A – B – C

where

A is the amount by which the total of all amounts each of which is the fair market value of a property held by the trust at the end of its assessment year exceeds the total of all amounts each of which is the principal amount outstanding at the end of its assessment year of a liability of the trust,

B is the amount by which the total of all amounts each of which is the fair market value of a property held by the trust at the earliest time at which there is a resident contributor to, or resident beneficiary under, the trust and at which the trust is an exempt foreign trust (referred to in this paragraph as the "initial time") exceeds the total of all amounts each of which is the principal amount outstanding at the initial time of a liability of the trust, and

C is the total of all amounts each of which is the amount of a contribution made to the trust in the period that begins at the initial time and ends at the end of its assessment year (in this paragraph referred to as the "interest gross-up period"), and

(iii) if the trust is liable for tax for its assessment year, then throughout the period that begins at the trust's balance-due day for each taxation year that ends in the interest gross-up period and ends at the balance-due day for its assessment year, the trust is (in addition to any excess otherwise determined in respect of the trust under that subsection) deemed to have an excess for the purposes of subsection

c) si une fiducie est une fiducie étrangère exempte, par l'effet de l'alinéa h) de la définition de ce terme au paragraphe (1), à un moment déterminé de son année d'imposition, qu'elle compte un contribuant résident ou un bénéficiaire résident à un moment immédiatement avant un moment donné de l'année d'imposition suivante (déterminée compte non tenu du paragraphe (6)), qu'un bénéficiaire détient une participation fixe dans la fiducie au moment immédiatement avant le moment donné et que cette participation cesse d'être une telle participation au moment donné :

(i) la fiducie est réputée, sauf pour l'application du paragraphe (6), ne pas être une fiducie étrangère exempte au cours de son année d'imposition (appelée « année de cotisation » au présent alinéa) se terminant (selon l'alinéa (6)a)) au moment immédiatement avant le moment donné,

(ii) la fiducie est tenue d'inclure dans le calcul de son revenu pour son année de cotisation une somme égale à la somme obtenue par la formule suivante :

A – B – C

où :

A représente l'excédent du total des sommes représentant chacune la juste valeur marchande d'un bien détenu par la fiducie à la fin de son année de cotisation sur le total des sommes représentant chacune le principal impayé, à la fin de cette année, d'une dette de la fiducie,

B l'excédent du total des sommes représentant chacune la juste valeur marchande d'un bien détenu par la fiducie au premier moment où elle compte un contribuant résident ou un bénéficiaire résident et où elle est une fiducie étrangère exempte (appelé « moment initial » au présent alinéa) sur le total des sommes représentant chacune le principal impayé, à ce moment, d'une dette de la fiducie,

C le total des sommes représentant chacune le montant d'un apport fait à la fiducie au cours de la période commençant au moment initial et se terminant à la fin de son année de cotisation (appelée « période de majoration des intérêts » au présent alinéa),

(iii) si la fiducie est redevable d'un impôt pour son année de cotisation, elle réputée avoir (en plus de tout excédent déterminé par ailleurs à son égard en vertu du paragraphe 161(1)), tout au long de la période commençant à la date d'exigibilité du solde

161(1) equal to the amount determined by the formula

A/B × 42.92%

where

A is the amount determined under subparagraph (ii) in respect of the trust for the particular taxation year, and

B is the number of the trust's taxation years that end in the interest gross-up period.

qui lui est applicable pour chaque année d'imposition se terminant à la fois dans la période de majoration des intérêts et à la date d'exigibilité du solde qui lui est applicable pour son année de cotisation, un excédent pour l'application de ce paragraphe égal à la somme obtenue par la formule suivante :

A/B × 42,92 %

où :

A représente la somme déterminée selon le sous-alinéa (ii) relativement à la fiducie pour l'année donnée,

B le nombre d'années d'imposition de la fiducie se terminant dans la période de majoration des intérêts.

Attribution to electing contributors

(16) If at a specified time in respect of a trust for a taxation year of the trust (referred to in this subsection as the "trust's year"), there is an electing contributor in respect of the trust, the following rules apply:

(a) the electing contributor is required to include in computing their income for their taxation year (referred to in this subsection as the "contributor's year") in which the trust's year ends, the amount determined by the formula

A/B × (C – D)

where

A is the total of all amounts each of which is

(i) if at or before the specified time the electing contributor has made a contribution to the trust and is not a joint contributor in respect of the trust and the contribution, the amount of the contribution, or

(ii) if at or before the specified time the electing contributor has made a contribution to the trust and is a joint contributor in respect of the trust and the contribution, the amount obtained when the amount of the contribution is divided by the number of joint contributors in respect of the contribution,

B is the total of all amounts each of which is the amount that would be determined under A for each resident contributor, or connected contributor, to the trust at the specified time if all of those contributors were electing contributors in respect of the trust,

C is the trust's income, computed without reference to paragraph (f), for the trust's year, and

Attribution à des contribuants déterminés

(16) Les règles ci-après s'appliquent dans le cas où une fiducie compte un contribuant déterminé à un moment déterminé de son année d'imposition (appelée « année de la fiducie » au présent paragraphe) :

a) le contribuant déterminé est tenu d'inclure, dans le calcul de son revenu pour son année d'imposition (appelée « année du contribuant » au présent paragraphe) dans laquelle l'année de la fiducie prend fin, la somme obtenue par la formule suivante :

A/B × (C – D)

où :

A représente le total des sommes représentant chacune :

(i) si, au moment déterminé ou antérieurement, le contribuant a fait un apport à la fiducie et n'est pas un contribuant conjoint relativement à celle-ci et à l'apport, le montant de l'apport,

(ii) si, au moment déterminé ou antérieurement, le contribuant a fait un apport à la fiducie et est un contribuant conjoint relativement à celle-ci et à l'apport, le résultat de la division du montant de l'apport par le nombre de contribuants conjoints relativement à l'apport,

B le total des sommes représentant chacune la valeur qu'aurait l'élément A pour chaque contribuant résident ou contribuant rattaché de la fiducie au moment déterminé si tous ces contribuants étaient des contribuants déterminés de la fiducie,

C le revenu de la fiducie, calculé compte non tenu de l'alinéa f), pour l'année de la fiducie,

D is the amount deducted by the trust under section 111 in computing its taxable income for the trust's year;

(b) subject to paragraph (c), the amount, if any, required by paragraph (a) to be included in the electing contributor's income for the contributor's year is deemed to be income from property from a source in Canada;

(c) for the purposes of this paragraph, paragraph (d) and section 126, an amount in respect of the trust's income for the trust's year from a source in a country other than Canada is deemed to be income of the electing contributor for the contributor's year from that source if

(i) the amount is designated by the trust, in respect of the electing contributor, in the trust's return of income under this Part for the trust's year,

(ii) the amount may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust) to be part of the amount that because of paragraph (a) was included in computing the income of the electing contributor for the contributor's year, and

(iii) the total of all amounts designated by the trust, under this paragraph or subsection 104(22) in respect of that source, in the trust's return of income under this Part for the trust's year is not greater than the trust's income for the trust's year from that source;

(d) for the purposes of this paragraph and section 126, the electing contributor is deemed to have paid as business-income tax (in this subsection as defined by subsection 126(7)) or non-business-income tax (in this subsection as defined by subsection 126(7)), as the case may be, for the contributor's year in respect of a source the amount determined by the formula

A × B/C

where

A is the amount that, in the absence of subparagraph (e)(i), would be the business-income tax or non-business-income tax, as the case may be, paid by the trust in respect of that source for the trust's year,

B is the total of all amounts each of which is an amount designated under paragraph (c) in respect of that source by the trust in respect of the electing contributor in the trust's return of income under this Part for the trust's year, and

D la somme déduite par la fiducie en application de l'article 111 dans le calcul de son revenu imposable pour l'année de la fiducie;

b) sous réserve de l'alinéa c), la somme à inclure aux termes de l'alinéa a) dans le revenu du contribuant déterminé pour l'année du contribuant est réputée être un revenu de biens provenant d'une source située au Canada;

c) pour l'application du présent alinéa, de l'alinéa d) et de l'article 126, toute somme relative au revenu de la fiducie pour l'année de la fiducie provenant d'une source située dans un pays étranger est réputée être un revenu du contribuant déterminé pour l'année du contribuant provenant de cette source si, à la fois :

(i) la somme est attribuée au contribuant déterminé par la fiducie dans sa déclaration de revenu produite en vertu de la présente partie pour l'année de la fiducie,

(ii) il est raisonnable de considérer, compte tenu des circonstances, y compris les modalités de la fiducie, que la somme fait partie de celle qui, par l'effet de l'alinéa a), a été incluse dans le calcul du revenu du contribuant déterminé pour l'année du contribuant,

(iii) le total des sommes attribuées par la fiducie, en vertu du présent alinéa ou du paragraphe 104(22), relativement à cette source, dans sa déclaration de revenu produite en vertu de la présente partie pour l'année de la fiducie, n'excède pas son revenu provenant de cette source pour cette année;

d) pour l'application du présent alinéa et de l'article 126, le contribuant déterminé est réputé avoir payé, à titre d'impôt sur le revenu tiré d'une entreprise ou d'impôt sur le revenu ne provenant pas d'une entreprise (ces termes s'entendant, au présent paragraphe, au sens du paragraphe 126(7)), pour l'année du contribuant relativement à une source, la somme obtenue par la formule suivante :

A × B/C

où :

A représente la somme qui, en l'absence du sous-alinéa e)(i), représenterait l'impôt sur le revenu tiré d'une entreprise ou l'impôt sur le revenu ne provenant pas d'une entreprise, selon le cas, payé par la fiducie relativement à cette source pour l'année de la fiducie,

B le total des sommes représentant chacune une somme attribuée au contribuant déterminé par la

C is the trust's income for the trust's year from that source;

(e) in applying subsection 20(12) and section 126 in respect of the trust's year there shall be deducted

(i) in computing the trust's income from a source for the trust's year the total of all amounts each of which is an amount deemed by paragraph (c) to be income from that source of the electing contributor for the contributor's year, and

(ii) in computing the business-income tax or non-business-income tax paid by the trust for the trust's year in respect of a source the total of all amounts in respect of that source each of which is an amount deemed by paragraph (d) to be paid by the electing contributor as business-income tax or non-business-income tax, as the case may be, in respect of that source;

(f) in computing the trust's income for the trust's year there may be deducted the amount that does not exceed the amount included by reason of paragraph (a) in the electing contributor's income for the contributor's year; and

(g) if before the specified time the electing contributor made a contribution to the trust as part of a series of transactions in which another person made the same contribution, in applying paragraphs (a) to (f) in respect of the electing contributor and the other person, the other person is deemed not to be a joint contributor in respect of the contribution if it can reasonably be considered that one of the main purposes of the series was to obtain the benefit of any deduction in computing income, taxable income or tax payable under this Act or any balance of undeducted outlays, expenses or other amounts available to the other person or any exemption available to the other person from tax payable under this Act.

C le revenu de la fiducie pour l'année de la fiducie provenant de cette source;

e) pour l'application du paragraphe 20(12) et de l'article 126 relativement à l'année de la fiducie :

(i) d'une part, est déduit dans le calcul du revenu de la fiducie provenant d'une source pour l'année de la fiducie le total des sommes représentant chacune une somme réputée par l'alinéa c) être un revenu du contribuant déterminé provenant de cette source pour l'année du contribuant,

(ii) d'autre part, est déduit dans le calcul de l'impôt sur le revenu tiré d'une entreprise ou de l'impôt sur le revenu ne provenant pas d'une entreprise payé par la fiducie pour l'année de la fiducie relativement à une source le total des sommes relatives à cette source dont chacune représente une somme réputée par l'alinéa d) être payée par le contribuant déterminé à titre d'impôt sur le revenu tiré d'une entreprise ou d'impôt sur le revenu ne provenant pas d'une entreprise, selon le cas, relativement à cette source;

f) est déductible dans le calcul du revenu de la fiducie pour l'année de la fiducie une somme n'excédant pas la somme incluse, par l'effet de l'alinéa a), dans le revenu du contribuant déterminé pour l'année du contribuant;

g) si, avant le montant déterminé, le contribuant déterminé a fait un apport à la fiducie à l'occasion d'une série d'opérations dans le cadre de laquelle une autre personne a fait le même apport, pour l'application des alinéas a) à f) relativement au contribuant déterminé et à l'autre personne, celle-ci est réputée ne pas être un contribuant conjoint relativement à l'apport s'il est raisonnable de considérer que l'un des principaux objets de la série était d'obtenir l'avantage, selon le cas, d'une déduction dans le calcul du revenu, du revenu imposable ou de l'impôt à payer sous le régime de la présente loi, d'un solde de dépenses ou d'autres sommes non déduites ou d'une exemption d'impôt à payer sous le régime de la présente loi dont l'autre personne peut se prévaloir.

Liability for joint contribution

(17) If, at or before a specified time in a trust's taxation year (referred to in this subsection as the "trust's year"), there is an electing contributor in respect of the trust who

Responsabilité — apport conjoint

(17) Les règles ci-après s'appliquent dans le cas où une fiducie compte, à un moment déterminé de son année d'imposition (appelée « année de la fiducie » au présent

is a joint contributor in respect of a contribution to the trust,

(a) each person who is a joint contributor in respect of the contribution

(i) has, in respect of the contribution, jointly and severally, or solidarily, the rights and obligations under Divisions I and J of each other person (referred to in this subsection as the "specified person") who is, at or before the specified time, a joint contributor in respect of that contribution, for the specified person's taxation year in which the trust's year ends, and

(ii) is subject to Part XV in respect of those rights and obligations; and

(b) the maximum amount recoverable under the provisions referred to in paragraph (a) at a particular time from the person in respect of the contribution and a taxation year, of another person who is the specified person, in which the trust's year ends is the amount determined by the formula

A – B – C

where

A is the total of the amounts payable by the specified person under this Part for the specified person's taxation year in which the trust's year ends,

B is the amount that would be determined for A if the total of the amounts payable by the specified person under this Part for the particular specified person's taxation year in which the trust's year ends were computed without reference to the contribution, and

C is the amount recovered before the particular time from the specified person, and any other joint contributor in respect of the trust and the contribution, in connection with the liability of the specified person in respect of the contribution.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 94; 1994, c. 7, Sch. II, s. 70, Sch. VIII, s. 39; 1997, c. 25, s. 20; 2001, c. 17, s. 72; 2013, c. 34, s. 7, c. 40, s. 42; 2014, c. 39, s. 23; 2016, c. 7, s. 11, c. 12, s. 30.

paragraphe) ou antérieurement, un contribuant déterminé qui est un contribuant conjoint relativement à un apport fait à la fiducie :

a) chaque personne qui est un contribuant conjoint relativement à l'apport :

(i) d'une part, partage solidairement, en ce qui concerne l'apport, les droits et obligations qu'a, en vertu des sections I et J, chaque autre personne (appelée « personne déterminée » au présent paragraphe) qui est, au moment déterminé ou antérieurement, un contribuant conjoint relativement à cet apport, pour l'année d'imposition de la personne déterminée dans laquelle l'année de la fiducie prend fin,

(ii) d'autre part, est assujettie à la partie XV relativement à ces droits et obligations;

b) la somme maximale qui est recouvrable en vertu des dispositions mentionnées à l'alinéa a) à un moment donné de la personne relativement à l'apport et à une année d'imposition, d'une autre personne qui est la personne déterminée, dans laquelle l'année de la fiducie prend fin correspond à la somme obtenue par la formule suivante :

A – B – C

où :

A représente le total des sommes payables par la personne déterminée en vertu de la présente partie pour son année d'imposition dans laquelle l'année de la fiducie prend fin,

B la somme qui représenterait la valeur de l'élément A si le total des sommes payables par la personne déterminée en vertu de la présente partie pour son année d'imposition dans laquelle l'année de la fiducie prend fin était calculé compte non tenu de l'apport,

C la somme recouvrée avant le moment donné de la personne déterminée et de tout autre contribuant conjoint relativement à la fiducie et à l'apport, au titre de l'obligation de la personne déterminée relativement à l'apport.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 94; 1994, ch. 7, ann. II, art. 70, ann. VIII, art. 39; 1997, ch. 25, art. 20; 2001, ch. 17, art. 72; 2013, ch. 34, art. 7, ch. 40, art. 42; 2014, ch. 39, art. 23; 2016, ch. 7, art. 11, ch. 12, art. 30.

Offshore investment fund property

94.1 (1) If in a taxation year a taxpayer holds or has an interest in property (referred to in this section as an "offshore investment fund property")

Bien d'un fonds de placement non-résident

94.1 (1) Lorsque, au cours d'une année d'imposition, un contribuable détient un bien ou a un droit sur un bien (appelé « bien d'un fonds de placement non-résident » au présent article) qui répond aux conditions suivantes :

(a) that is a share of the capital stock of, an interest in, or a debt of, a non-resident entity (other than a controlled foreign affiliate of the taxpayer or a prescribed non-resident entity) or an interest in or a right or option to acquire such a share, interest or debt, and

(b) that may reasonably be considered to derive its value, directly or indirectly, primarily from portfolio investments of that or any other non-resident entity in

(i) shares of the capital stock of one or more corporations,

(ii) indebtedness or annuities,

(iii) interests in one or more corporations, trusts, partnerships, organizations, funds or entities,

(iv) commodities,

(v) real estate,

(vi) Canadian or foreign resource properties,

(vii) currency of a country other than Canada,

(viii) rights or options to acquire or dispose of any of the foregoing, or

(ix) any combination of the foregoing,

and it may reasonably be concluded, having regard to all the circumstances, including

(c) the nature, organization and operation of any non-resident entity and the form of, and the terms and conditions governing, the taxpayer's interest in, or connection with, any non-resident entity,

(d) the extent to which any income, profits and gains that may reasonably be considered to be earned or accrued, whether directly or indirectly, for the benefit of any non-resident entity are subject to an income or profits tax that is significantly less than the income tax that would be applicable to such income, profits and gains if they were earned directly by the taxpayer, and

(e) the extent to which the income, profits and gains of any non-resident entity for any fiscal period are distributed in that or the immediately following fiscal period,

that one of the main reasons for the taxpayer acquiring, holding or having the interest in such property was to derive a benefit from portfolio investments in assets described in any of subparagraphs 94.1(1)(b)(i) to 94.1(1)(b)(ix) in such a manner that the taxes, if any, on the income, profits and gains from such assets for any

a) il est une action du capital-actions d'une entité non-résidente (autre qu'une société étrangère affiliée contrôlée du contribuable ou une entité non-résidente visée par règlement) ou une participation dans une tell entité, ou une créance sur elle, ou un droit sur une telle action, participation ou créance ou un droit ou une option d'achat d'une telle action, participation ou créance;

b) sa valeur peut raisonnablement être considérée comme découlant principalement, directement ou indirectement, de placements de portefeuille de cette même entité ou de toute autre entité non-résidente :

(i) en actions du capital-actions d'une ou de plusieurs sociétés,

(ii) en créances ou en rentes,

(iii) en participations dans un ou plusieurs fonds ou organismes ou dans une ou plusieurs sociétés, fiducies, sociétés de personnes ou entités,

(iv) en marchandises,

(v) en biens immeubles,

(vi) en avoirs miniers canadiens ou étrangers,

(vii) en monnaie autre que la monnaie canadienne,

(viii) en droits ou options d'achat ou de disposition de l'une des valeurs qui précèdent,

(ix) en toute combinaison de ce qui précède,

et que l'on peut raisonnablement conclure, compte tenu des circonstances, y compris :

c) la nature, l'organisation et les activités de toute entité non-résidente, ainsi que les formalités et les conditions régissant la participation du contribuable dans toute entité non-résidente ou les liens qu'il a avec une telle entité;

d) la mesure dans laquelle les revenus, bénéfices et gains qu'il est raisonnable de considérer comme ayant été gagnés ou accumulés, directement ou indirectement, au profit de toute entité non-résidente sont assujettis à un impôt sur le revenu ou sur les bénéfices qui est considérablement moins élevé que l'impôt sur le revenu dont ces revenus, bénéfices et gains seraient frappés s'ils étaient gagnés directement par le contribuable;

e) la mesure dans laquelle les revenus, bénéfices et gains de toute entité non-résidente pour un exercice

particular year are significantly less than the tax that would have been applicable under this Part if the income, profits and gains had been earned directly by the taxpayer, there shall be included in computing the taxpayer's income for the year the amount, if any, by which

(f) the total of all amounts each of which is the product obtained when

(i) the designated cost to the taxpayer of the offshore investment fund property at the end of a month in the year

is multiplied by

(ii) 1/12 of the total of

(A) the prescribed rate of interest for the period that includes that month, and

(B) two per cent

exceeds

(g) the taxpayer's income for the year (other than a capital gain) from the offshore investment fund property determined without reference to this subsection.

donné sont distribués au cours de ce même exercice ou de celui qui le suit,

que l'une des raisons principales pour le contribuable d'acquérir, de détenir ou de posséder un droit sur un tel bien était de tirer un bénéfice de placements de portefeuille dans des biens visés à l'un des sous-alinéas b) (i) à (ix) de façon que les impôts sur les revenus, bénéfices et gains provenant de ces biens pour une année donnée soient considérablement moins élevés que l'impôt dont ces revenus, bénéfices et gains auraient été frappés en vertu de la présente partie s'ils avaient été gagnés directement par le contribuable, celui-ci doit inclure dans le calcul de son revenu pour l'année l'excédent éventuel du total visé à l'alinéa f) sur le montant visé à l'alinéa g):

f) le total des montants dont chacun est le produit de la multiplication du montant visé au sous-alinéa (i) par le quotient visé au sous-alinéa (ii):

(i) le coût désigné, pour le contribuable, du bien d'un fonds de placement non-résident à la fin d'un mois donné de l'année,

(ii) 1/12 du total des pourcentages suivants :

(A) le taux d'intérêt prescrit pour la période comprenant ce mois,

(B) deux pour cent;

g) le revenu du contribuable pour l'année (autre qu'un gain en capital) tiré d'un bien d'un fonds de placement non-résident et déterminé compte non tenu du présent paragraphe.

Definitions

(2) In this section,

designated cost to a taxpayer at any time in a taxation year of an offshore investment fund property that the taxpayer holds or has an interest in means the amount determined by the formula

A + B + C + D

where

A is the cost amount to the taxpayer of the property at that time (determined without reference to paragraphs 53(1)(m) and 53(1)(q), subparagraph 53(2)(c)(i.3), paragraphs 53(2)(g) and 53(2)(g.1) and section 143.2),

B is, where an additional amount has been made available by a person to another person after 1984 and before that time, whether by way of gift, loan, payment for a share, transfer of property at less than its fair market value or otherwise, in circumstances such

Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

coût désigné S'agissant du coût désigné, pour un contribuable à un moment donné d'une année d'imposition, d'un bien d'un fonds de placement non-résident qu'il détient ou sur lequel il a un droit, le montant calculé selon la formule suivante :

A + B + C + D

où :

A représente le coût indiqué du bien pour le contribuable à ce moment, déterminé compte non tenu des alinéas 53(1)m) et q), du sous-alinéa 53(2)c)(i.3), des alinéas 53(2)g) et g.1) et de l'article 143.2;

B lorsqu'une personne a mis un montant supplémentaire à la disposition d'une autre personne après 1984 et avant ce moment, sous forme de don, de prêt, de paiement d'une action, d'un transfert de biens à un

that it may reasonably be concluded that one of the main reasons for so making the additional amount available to the other person was to increase the value of the property, the total of all amounts each of which is the amount, if any, by which such an additional amount exceeds any increase in the cost amount to the taxpayer of the property by virtue of that additional amount,

C is the total of all amounts each of which is an amount included in respect of the offshore investment fund property by virtue of this section in computing the taxpayer's income for a preceding taxation year, and

D is

(a) where the taxpayer has held or has had the interest in the property at all times since the end of 1984, the amount, if any, by which the fair market value of the property at the end of 1984 exceeds the cost amount to the taxpayer of the property at the end of 1984, or

(b) in any other case, the total of

(i) the amount, if any, by which the fair market value of the property at the particular time the taxpayer acquired the property exceeds the cost amount to the taxpayer of the property at the particular time, and

(ii) the amount, if any, by which

(A) the total of all amounts each of which is an amount that would have been included in respect of the property because of this section in computing the taxpayer's income for a taxation year that began before June 20, 1996 if the cost to the taxpayer of the property were equal to the fair market value of the property at the particular time

exceeds

(B) the total of all amounts each of which is an amount that was included in respect of the property because of this section in computing the taxpayer's income for a taxation year that began before June 20, 1996,

except that the designated cost of an offshore investment fund property that is a prescribed offshore investment fund property is nil; (*coût désigné*)

non-resident entity at any time means

(a) a corporation that is at that time non-resident,

(b) a partnership, organization, fund or entity that is at that time non-resident or is not at that time situated in Canada, or

montant inférieur à la juste valeur marchande de celui-ci ou autrement, dans des circonstances telles que l'on peut raisonnablement conclure que l'une des raisons principales d'avoir mis ce montant supplémentaire à la disposition de cette autre personne était d'augmenter la valeur du bien, le total des montants dont chacun constitue l'excédent éventuel d'un tel montant supplémentaire sur toute augmentation du coût indiqué du bien pour le contribuable en raison de ce montant supplémentaire;

C le total des montants dont chacun constitue un montant inclus, en vertu du présent article, dans le calcul du revenu du contribuable pour une année d'imposition précédente à l'égard d'un bien d'un fonds de placement non-résident;

D :

a) lorsque le contribuable détient le bien, ou a un droit sur celui-ci, sans interruption depuis la fin de 1984, l'excédent éventuel de la juste valeur marchande du bien à la fin de 1984 sur son coût indiqué pour lui à la fin de 1984,

b) dans les autres cas, le total des montants suivants :

(i) l'excédent éventuel de la juste valeur marchande du bien au moment où le contribuable l'a acquis sur le coût indiqué du bien pour lui à ce moment,

(ii) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun un montant qui, par l'effet du présent article, aurait été inclus au titre du bien dans le calcul du revenu du contribuable pour une année d'imposition qui a commencé avant le 20 juin 1996 si le coût du bien pour lui avait été égal à sa juste valeur marchande au moment où il l'a acquis,

(B) le total des montants représentant chacun un montant qui, par l'effet du présent article, a été inclus au titre du bien dans le calcul du revenu du contribuable pour une année d'imposition qui a commencé avant le 20 juin 1996.

Toutefois le coût désigné d'un bien d'un fonds de placement non-résident qui est un bien, visé par règlement, d'un fonds de placement non-résident est nul. (*designated cost*)

entité non-résidente Est une entité non-résidente à un moment donné :

(c) an exempt foreign trust (other than a trust described in any of paragraphs (a) to (g) of the definition ***exempt foreign trust*** in subsection 94(1)). (*entité non-résidente*)

(c) une fiducie étrangère exempte, sauf une fiducie visée à l'un des alinéas a) à g) de la définition de ***fiducie étrangère exempte*** au paragraphe 94(1). (*non-resident entity*)

Interpretation

(3) Where subsection 94.1(1) is applied with respect to an offshore investment fund property that was

(a) held by the taxpayer on February 15, 1984,

(b) received as a stock dividend in respect of a share of the capital stock of a non-resident entity held by the taxpayer on February 15, 1984,

(c) received as a stock dividend in respect of a share of the capital stock of a non-resident entity that the taxpayer had previously received as described in paragraph 94.1(3)(b), or

(d) substituted for a property held by the taxpayer on February 15, 1984 pursuant to an arrangement that existed on that date,

the reference to "1984" in the descriptions of B and in the definition ***designated cost*** in subsection 94.1(2) shall be read as a reference to "1985".

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 94.1; 1998, c. 19, s. 121; 2013, c. 34, s. 8.

Interprétation

(3) Pour l'application du paragraphe (1) en ce qui concerne un droit sur un bien d'un fonds de placement non-résident :

a) détenu par le contribuable le 15 février 1984;

b) reçu comme dividende en actions à l'égard d'une action du capital-actions d'une entité non-résidente détenue par le contribuable le 15 février 1984;

c) reçu comme dividende en actions à l'égard d'une action du capital-actions d'une entité non-résidente que le contribuable avait précédemment reçue à titre de dividende conformément à l'alinéa b);

d) substitué à un bien détenu par le contribuable le 15 février 1984 conformément à un arrangement qui existait à cette date,

la mention « 1984 », aux éléments B et D figurant à la définition de ***coût désigné***, au paragraphe (2), doit être remplacée par la mention « 1985 ».

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 94.1; 1998, ch. 19, art. 121; 2013, ch. 34, art. 8.

Investments in non-resident commercial trusts

94.2 (1) Subsection (2) applies to a beneficiary under a trust, and to any particular person of which any such beneficiary is a controlled foreign affiliate, at any time if

(a) the trust is at that time an exempt foreign trust (other than a trust described in any of paragraphs (a) to (g) of the definition ***exempt foreign trust*** in subsection 94(1));

(b) either

(i) the total fair market value at that time of all fixed interests of a particular class in the trust held by the beneficiary, persons or partnerships not dealing at arm's length with the beneficiary, or persons or partnerships that acquired their interests in the trust in exchange for consideration given to the

Placements dans des fiducies commerciales non-résidentes

94.2 (1) Le paragraphe (2) s'applique, à un moment donné, au bénéficiaire d'une fiducie et à une personne donnée dont un tel bénéficiaire est une société étrangère affiliée contrôlée si les conditions ci-après sont réunies :

a) la fiducie est, à ce moment, une fiducie étrangère exempte, sauf une fiducie visée à l'un des alinéas a) à g) de la définition de ***fiducie étrangère exempte*** au paragraphe 94(1);

b) selon le cas :

(i) la juste valeur marchande totale, à ce moment, des participations fixes d'une catégorie donnée de la fiducie, détenues par le bénéficiaire, par des personnes ou des sociétés de personnes ayant un lien de dépendance avec celui-ci ou par des personnes

trust by the beneficiary, is at least 10% of the total fair market value at that time of all fixed interests of the particular class, or

(ii) the beneficiary or the particular person has at or before that time contributed restricted property to the trust; and

(c) the beneficiary is at that time a

(i) resident beneficiary,

(ii) mutual fund,

(iii) controlled foreign affiliate of the particular person, or

(iv) partnership of which a person described in any of subparagraphs (i) to (iii) is a member.

ou des sociétés de personnes ayant acquis leur participation dans la fiducie en échange d'une contrepartie donnée à la fiducie par le bénéficiaire, correspond à au moins 10 % de la juste valeur marchande totale, à ce moment, de l'ensemble des participations fixes de la catégorie donnée,

(ii) le bénéficiaire ou la personne donnée a fait un apport de biens d'exception à la fiducie au plus tard à ce moment;

c) à ce moment, le bénéficiaire est :

(i) un bénéficiaire résident,

(ii) un fonds commun de placement,

(iii) une société étrangère affiliée contrôlée de la personne donnée,

(iv) une société de personnes dont une personne visée à l'un des sous-alinéas (i) à (iii) est un associé.

Deemed corporation

(2) If this subsection applies at any time to a beneficiary under, or a particular person in respect of, a trust, then for the purposes of applying this section, subsections 91(1) to (4), paragraph 94.1(1)(a) and sections 95 and 233.4 to the beneficiary under, and, if applicable, to the particular person in respect of, the trust

(a) the trust is deemed to be at that time a non-resident corporation

(i) controlled by each of the beneficiary and the particular person, and

(ii) having, for each particular class of fixed interests in the trust, a separate class of capital stock of 100 issued shares that have the same attributes as the interests of the particular class; and

(b) each beneficiary under the trust is deemed to hold at that time the number of shares of each separate class described in subparagraph (a)(ii) equal to the proportion of 100 that the fair market value at that time of that beneficiary's fixed interests in the corresponding particular class of fixed interests in the trust is of the fair market value at that time of all fixed interests in the particular class.

Société réputée

(2) En cas d'application du présent paragraphe à un moment donné au bénéficiaire d'une fiducie ou à une personne donnée relativement à une fiducie, pour l'application du présent article, des paragraphes 91(1) à (4), de l'alinéa 94.1(1)a) et des articles 95 et 233.4 au bénéficiaire et, le cas échéant, à la personne donnée relativement à la fiducie :

a) la fiducie est réputée être, à ce moment, une société non-résidente qui, à la fois :

(i) est contrôlée par le bénéficiaire ainsi que par la personne donnée,

(ii) a, pour chaque catégorie donnée de participations fixes dans la fiducie, une catégorie distincte de capital-actions de 100 actions émises qui présentent les mêmes caractéristiques que les participations de la catégorie donnée;

b) chaque bénéficiaire de la fiducie est réputé détenir, à ce moment, le nombre d'actions de chaque catégorie distincte visée au sous-alinéa a)(ii) égal à la proportion de 100 que représente le rapport entre la juste valeur marchande à ce moment des participations fixes de ce bénéficiaire de la catégorie donnée correspondante de participations fixes dans la fiducie et la juste valeur marchande à ce moment de l'ensemble des participations fixes de la catégorie donnée.

Relief from double tax

(3) For the purposes of applying subsection 91(1) to the beneficiary, and, if applicable, to the particular person, to whom subsection (2) applies

(a) there may be deducted in computing the foreign accrual property income of the trust referred to in paragraph (2)(a) (in this subsection referred to as the "entity") for a particular taxation year of the entity the amount that would, in the absence of this paragraph, be the portion of the entity's foreign accrual property income that would reasonably be considered to have been if this Part were applicable to all beneficiaries of the entity, included under subsection 104(13) in computing the income of any beneficiary of the entity for the taxation year in which the particular taxation year of the entity ends; and

(b) subsection 5904(2) of the *Income Tax Regulations* is to be read without reference to its paragraph (a) in determining the distribution entitlement of all the shares of a class of the capital stock of the entity at the end of the particular taxation year.

Request for information

(4) If the Minister sends a written request, served personally or by registered mail, to a taxpayer requesting additional information for the purpose of enabling the Minister to determine the fair market value of interests in a trust for the purpose of determining the application of subsections (1) to (3) for a taxation year to the taxpayer, and information that may reasonably be considered to be sufficient to make the determination is not received by the Minister within 120 days (or within any longer period that is acceptable to the Minister) after the Minister sends the request, then in applying this section for the taxation year to the taxpayer the fair market value of those interests is deemed to be the fair market value as reasonably determined by the Minister based on the information received by the Minister within 120 days (or within any longer period that is acceptable to the Minister) after the Minister sends the request and any other information the Minister considers reasonable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 9; 2014, c. 39, s. 24.

Definitions for this subdivision

95 (1) In this subdivision,

active business of a foreign affiliate of a taxpayer means any business carried on by the foreign affiliate other than

Élimination de la double imposition

(3) Pour l'application du paragraphe 91(1) au bénéficiaire et, le cas échéant, à la personne donnée auxquels le paragraphe (2) s'applique :

a) est déductible dans le calcul du revenu étranger accumulé, tiré de biens de la fiducie visée à l'alinéa (2)a) (appelée « entité » au présent paragraphe) pour une année d'imposition donnée de l'entité la somme qui, en l'absence du présent alinéa, correspondrait à la partie du revenu étranger accumulé, tiré de biens de l'entité qu'il serait raisonnable de considérer, si la présente partie s'appliquait à l'ensemble des bénéficiaires de l'entité, comme ayant été incluse en application du paragraphe 104(13) dans le calcul du revenu d'un bénéficiaire de l'entité pour l'année d'imposition dans laquelle l'année donnée prend fin;

b) le paragraphe 5904(2) du *Règlement de l'impôt sur le revenu* s'applique compte non tenu de son alinéa a) lorsqu'il s'agit de déterminer le droit à l'attribution de l'ensemble des actions d'une catégorie du capital-actions de l'entité à la fin de l'année donnée.

Demande de renseignements

(4) Si le ministre présente à un contribuable une demande écrite signifiée à personne ou par courrier recommandé afin d'obtenir des renseignements supplémentaires qui lui permettront de déterminer la juste valeur marchande des participations dans une fiducie pour l'application des paragraphes (1) à (3) au contribuable pour une année d'imposition, mais qu'il ne reçoit pas, dans les 120 jours suivant l'envoi de la demande (ou dans tout délai plus long qu'il estime acceptable), des renseignements qu'il est raisonnable de considérer comme étant suffisants pour faire cette détermination, pour l'application du présent article au contribuable pour l'année d'imposition en cause, la juste valeur marchande de ces participations est réputée être égale à celle qui est raisonnablement déterminée par le ministre d'après les renseignements qu'il a reçus dans les 120 jours suivant l'envoi de la demande (ou dans tout délai plus long qu'il estime acceptable) et d'autres renseignements qu'il considère raisonnables.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 9; 2014, ch. 39, art. 24.

Définitions applicables à la présente sous-section

95 (1) Les définitions qui suivent s'appliquent à la présente sous-section.

acheteur déterminé Est un acheteur déterminé à un moment donné relativement à un contribuable résidant au Canada l'entité qui est, à ce moment :

(a) an investment business carried on by the foreign affiliate,

(b) a business that is deemed by subsection (2) to be a business other than an active business carried on by the foreign affiliate, or

(c) a non-qualifying business of the foreign affiliate; (*entreprise exploitée activement*)

antecedent corporation of a particular corporation means

(a) a predecessor corporation (within the meaning assigned by subsection 87(1)) in respect of an amalgamation to which subsection 87(11) applied and by which the particular corporation was formed,

(b) a predecessor corporation (within the meaning of subsection 87(1)) of the corporation (referred to in this definition as the "first amalco") that was formed on an amalgamation of the predecessor corporation and another corporation, where

(i) shares of the capital stock of the predecessor corporation that were not owned by the other corporation, or by a corporation of which the other corporation is a subsidiary wholly-owned corporation, were exchanged on the amalgamation for shares of the capital stock of the first amalco that were, during the series of transactions or events that includes the amalgamation, redeemed, acquired or cancelled by the first amalco for money,

(ii) the first amalco was a predecessor corporation (within the meaning assigned by subsection 87(1)) in respect of an amalgamation to which subsection 87(11) applied and by which the particular corporation was formed, and

(iii) the amalgamation referred to in subparagraph (i) occurred in a series of transactions or events that included the amalgamation referred to in subparagraph (ii),

(c) a corporation that was wound-up into the particular corporation in a winding-up to which subsection 88(1) applied, or

(d) an antecedent corporation of an antecedent corporation of the particular corporation; (*société antécédente*)

calculating currency for a taxation year of a foreign affiliate of a taxpayer means

a) le contribuable;

b) une entité résidant au Canada avec laquelle le contribuable a un lien de dépendance;

c) une société étrangère affiliée d'une entité visée à l'un des alinéas a), b) et d) à f);

d) une fiducie, sauf une fiducie exonérée, dans laquelle une entité visée à l'un des alinéas a) à c), e) et f) a un droit de bénéficiaire;

e) une société de personnes dont une entité visée à l'un des alinéas a) à d) et f) est un associé;

f) une entité, sauf une entité visée à l'un des alinéas a) à e), avec laquelle une entité visée à l'un de ces alinéas a un lien de dépendance. (*specified purchaser*)

année d'imposition À l'égard d'une société étrangère affiliée d'un contribuable, la période dans le cadre de laquelle les comptes de la société étrangère affiliée sont habituellement dressés, cette période ne pouvant cependant dépasser 53 semaines. (*taxation year*)

banque étrangère Entité qui serait une banque étrangère au sens de la définition de cette expression à l'article 2 de la *Loi sur les banques* si, à la fois :

a) il n'était pas tenu compte du passage de cette définition suivant l'alinéa g);

b) cette entité n'était pas exemptée du statut de banque étrangère par l'effet de l'article 12 de cette loi. (*foreign bank*)

bien de placement Sont compris parmi les biens de placement d'une société étrangère affiliée d'un contribuable :

a) les actions du capital-actions d'une société, à l'exclusion des actions d'une autre société étrangère affiliée du contribuable qui constituent des biens exclus de la société affiliée;

b) les participations dans des sociétés de personnes, à l'exclusion de celles qui constituent des biens exclus de la société affiliée;

c) les participations dans des fiducies, à l'exclusion de celles qui constituent des biens exclus de la société affiliée;

d) les dettes ou les annuités;

(a) the currency of the country in which the foreign affiliate is resident at the end of the taxation year, or

(b) any currency that the taxpayer demonstrates to be reasonable in the circumstances; (*monnaie de calcul*)

controlled foreign affiliate, at any time, of a taxpayer resident in Canada, means

(a) a foreign affiliate of the taxpayer that is, at that time, controlled by the taxpayer, or

(b) a foreign affiliate of the taxpayer that would, at that time, be controlled by the taxpayer if the taxpayer owned

(i) all of the shares of the capital stock of the foreign affiliate that are owned at that time by the taxpayer,

(ii) all of the shares of the capital stock of the foreign affiliate that are owned at that time by persons who do not deal at arm's length with the taxpayer,

(iii) all of the shares of the capital stock of the foreign affiliate that are owned at that time by the persons (each of whom is referred to in this definition as a "relevant Canadian shareholder"), in any set of persons not exceeding four (which set of persons shall be determined without reference to the existence of or the absence of any relationship, connection or action in concert between those persons), who

(A) are resident in Canada,

(B) are not the taxpayer or a person described in subparagraph (ii), and

(C) own, at that time, shares of the capital stock of the foreign affiliate, and

(iv) all of the shares of the capital stock of the foreign affiliate that are owned at that time by persons who do not deal at arm's length with any relevant Canadian shareholder; (*société étrangère affiliée contrôlée*)

designated acquired corporation of a taxpayer means a particular antecedent corporation of the taxpayer if

(a) the taxpayer or another antecedent corporation of the taxpayer acquired control of

(i) the particular antecedent corporation, or

e) les marchandises ou les contrats à terme de marchandises, vendus ou achetés, directement ou indirectement, de quelque manière que ce soit, à une bourse de marchandises ou sur un marché à terme de marchandises, sauf les marchandises manufacturées, produites, cultivées, extraites ou transformées par la société affiliée ou par une personne à laquelle celle-ci est liée autrement qu'à cause d'un droit visé à l'alinéa 251(5) b) et les contrats à terme de marchandises se rapportant à de telles marchandises;

f) la monnaie;

g) les immeubles ou les biens réels;

h) les avoirs miniers canadiens et étrangers;

i) les participations dans des fonds ou des entités autres que des sociétés, des sociétés de personnes et des fiducies;

j) les intérêts ou, pour l'application du droit civil, les droits, ou les options, sur des biens visés à l'un des alinéas a) à i). (*investment property*)

bien exclu Est un bien exclu d'une société étrangère affiliée d'un contribuable à un moment donné tout bien de celle-ci :

a) soit qu'elle utilise ou détient principalement en vue de tirer un revenu provenant de son entreprise exploitée activement;

b) soit qui consiste en actions du capital-actions d'une autre société étrangère affiliée du contribuable si la totalité ou la presque totalité de la juste valeur marchande des biens de cette autre société étrangère affiliée est attribuable à des biens de celle-ci qui sont des biens exclus;

c) soit qui consiste en biens dont la totalité ou la presque totalité du revenu est ou serait, si les biens produisaient un revenu, un revenu provenant d'une entreprise exploitée activement (lequel revenu comprend, à cette fin, un revenu qui serait réputé, par l'alinéa (2)a), être un revenu provenant d'une entreprise exploitée activement s'il n'était pas tenu compte du sous-alinéa (2)a)(v));

c.1) soit qui consiste en biens découlant d'une convention :

(i) d'une part, qui prévoit l'achat, la vente ou l'échange de monnaie,

(ii) d'autre part, qu'il est raisonnable de considérer comme ayant été conclue par la société affiliée en

(ii) a corporation (referred to in this definition as a "successor corporation") of which the particular antecedent corporation is an antecedent corporation, and

(b) immediately before the acquisition of control or a series of transactions or events that includes the acquisition of control, the taxpayer, the other antecedent corporation or a corporation resident in Canada of which the taxpayer or the other antecedent corporation is a subsidiary wholly-owned corporation, as the case may be, dealt at arm's length (otherwise than because of a right referred to in paragraph 251(5)(b)) with the particular antecedent corporation or the successor corporation, as the case may be; (*société acquise désignée*)

designated liquidation and dissolution, of a foreign affiliate (referred to in this definition as the "disposing affiliate") of a taxpayer, means a liquidation and dissolution of the disposing affiliate in respect of which

(a) the taxpayer had, immediately before the time of the earliest distribution of property by the disposing affiliate in the course of the liquidation and dissolution, a surplus entitlement percentage in respect of the disposing affiliate of not less than 90%,

(b) both

(i) the percentage determined by the following formula is greater than or equal to 90%:

A/B

where

A is the amount, if any, by which

(A) the total of all amounts each of which is the fair market value, at the time at which it is distributed, of a property that is distributed by the disposing affiliate, in respect of shares of the capital stock of the disposing affiliate, in the course of the liquidation and dissolution to one particular shareholder of the disposing affiliate that was, immediately before the time of the distribution, a foreign affiliate of the taxpayer

exceeds

(B) the total of all amounts each of which is an amount owing (other than an unpaid dividend) by, or an obligation of, the disposing affiliate that was assumed or cancelled by the particular shareholder in consideration for a property referred to in clause (A), and

B is the amount, if any, by which

vue de réduire le risque que présentent pour elle les fluctuations suivantes :

(A) dans le cas d'une somme qui était à recevoir aux termes d'une convention concernant la vente de biens exclus ou d'une somme à recevoir qui était un bien visé à l'alinéa c), les fluctuations de la valeur de la monnaie dans laquelle la somme à recevoir était libellée,

(B) dans le cas des sommes ci-après, les fluctuations de la valeur de la monnaie dans laquelle la somme était libellée :

(I) toute somme qui était payable aux termes d'une convention concernant l'achat de biens qui sont des biens exclus de la société affiliée tout au long de la période commençant au moment de l'acquisition des biens et se terminant au moment donné,

(II) toute dette, dans la mesure où il est raisonnable de considérer que le produit provenant de l'émission ou de la constitution de la dette a servi à acquérir des biens qui sont des biens exclus de la société affiliée tout au long de la période commençant au moment de l'acquisition des biens et se terminant au moment donné,

(III) toute dette, dans la mesure où il est raisonnable de considérer que le produit provenant de l'émission ou de la constitution de la dette a servi à rembourser le solde impayé de l'une des sommes suivantes :

1 toute somme qui, immédiatement avant le moment du remboursement, est visée à la subdivision (I),

2 toute dette de la société affiliée qui, immédiatement avant le moment du remboursement, est visée à la subdivision (II),

3 toute dette de la société affiliée qui, immédiatement avant le moment du remboursement, est visée à la présente subdivision.

En outre, pour l'application de la définition de ***société étrangère affiliée*** au présent paragraphe et de celle de ***pourcentage d'intérêt direct*** au paragraphe (4) dans le cadre de la présente définition, dans le cas où une société étrangère affiliée d'un contribuable a une participation dans une société de personnes à un moment donné :

(A) the total of all amounts each of which is the fair market value, at the time at which it is distributed, of a property that is distributed by the disposing affiliate, in respect of shares of the capital stock of the disposing affiliate, to a shareholder of the disposing affiliate in the course of the liquidation and dissolution

exceeds

(B) the total of all amounts each of which is an amount owing (other than an unpaid dividend) by, or an obligation of, the disposing affiliate that was assumed or cancelled by a shareholder of the disposing affiliate in consideration for a property referred to in clause (A), and

(ii) at the time of each distribution of property by the disposing affiliate in the course of the liquidation and dissolution in respect of shares of the capital stock of the disposing affiliate, the particular shareholder holds shares of that capital stock that would, if an annual general meeting of the shareholders of the disposing affiliate were held at that time, entitle it to 90% or more of the votes that could be cast under all circumstances at the meeting, or

(c) one particular shareholder of the disposing affiliate that was, throughout the liquidation and dissolution, a foreign affiliate of the taxpayer owns not less than 90% of the issued shares of each class of the capital stock of the disposing affiliate throughout the liquidation and dissolution; (*liquidation et dissolution désignées*)

eligible trust, at any time, means a trust, other than a trust

(a) created or maintained for charitable purposes,

(b) governed by an employee benefit plan,

(c) described in paragraph (a.1) of the definition ***trust*** in subsection 108(1),

(d) governed by a salary deferral arrangement,

(e) operated for the purpose of administering or providing superannuation, pension, retirement or employee benefits, or

(f) where the amount of income or capital that any entity may receive directly from the trust at any time as a beneficiary under the trust depends on the exercise by

d) la société de personnes est réputée être une société non-résidente dont le capital-actions est composé de 100 actions émises d'une catégorie donnée;

e) la société affiliée est réputée être propriétaire à ce moment de la fraction des actions émises de cette catégorie représentée par le rapport entre :

(i) d'une part, la juste valeur marchande de sa participation dans la société de personnes à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes à ce moment. (*excluded property*)

concession d'une licence sur un bien Consiste notamment à permettre l'utilisation, la production ou la reproduction d'un bien, y compris de l'information ou toute autre chose. (*licensing of property*)

entité S'entend notamment d'une association, d'une coentreprise, d'une fiducie, d'un fonds, d'une organisation, d'une personne physique, d'une société, d'une société de personnes ou d'un syndicat. (*entity*)

entreprise canadienne imposable À un moment donné, toute entreprise d'un exploitant — société étrangère affiliée d'un contribuable résidant au Canada ou société de personnes dont une telle société affiliée est un associé — dont le revenu :

a) d'une part, est inclus dans le calcul du revenu imposable de la société affiliée gagné au Canada pour une année d'imposition en vertu du sous-alinéa 115(1)a)(ii) ou serait ainsi inclus si l'entreprise produisait un revenu pour l'année d'imposition ou l'exercice de l'exploitant qui comprend ce moment;

b) d'autre part, n'est pas exonéré de l'impôt prévu par la présente partie par l'effet d'un traité fiscal conclu avec un pays ou ne serait pas ainsi exonéré si l'entreprise produisait un revenu pour l'année d'imposition ou l'exercice de l'exploitant qui comprend ce moment. (*taxable Canadian business*)

entreprise de placement Entreprise exploitée par une société étrangère affiliée d'un contribuable au cours d'une année d'imposition (à l'exception d'une entreprise qui est réputée par le paragraphe (2) être une entreprise autre qu'une entreprise exploitée activement de la société affiliée et autre qu'une entreprise non admissible de cette société) dont le principal objet consiste à tirer un revenu de biens (y compris des intérêts, dividendes, loyers, redevances et rendements semblables et tous montants de

any entity of, or the failure by any entity to exercise, a discretionary power; (*fiducie admissible*)

entity includes an association, a corporation, a fund, a natural person, a joint venture, an organization, a partnership, a syndicate and a trust; (*entité*)

excluded property, at a particular time, of a foreign affiliate of a taxpayer means any property of the foreign affiliate that is

(a) used or held by the foreign affiliate principally for the purpose of gaining or producing income from an active business carried on by it,

(b) shares of the capital stock of another foreign affiliate of the taxpayer where all or substantially all of the fair market value of the property of the other foreign affiliate is attributable to property, of that other foreign affiliate, that is excluded property,

(c) property all or substantially all of the income from which is, or would be, if there were income from the property, income from an active business (which, for this purpose, includes income that would be deemed to be income from an active business by paragraph (2)(a) if that paragraph were read without reference to subparagraph (v)), or

(c.1) property arising under or as a result of an agreement that

(i) provides for the purchase, sale or exchange of currency, and

(ii) either

(A) can reasonably be considered to have been made by the affiliate to reduce its risk, with respect to an amount that was receivable under an agreement that relates to the sale of excluded property or with respect to an amount that was receivable and was a property described in paragraph (c), of fluctuations in the value of the currency in which the amount receivable was denominated, or

(B) can reasonably be considered to have been made by the affiliate to reduce its risk, with respect to any of the following amounts, of fluctuations in the value of the currency in which that amount was denominated:

(I) an amount that was payable under an agreement that relates to the purchase of property that (at all times between the time of the acquisition of the property and the

remplacement de tels intérêts, dividendes, loyers, redevances ou rendements), un revenu de l'assurance ou de la réassurance de risques, un revenu provenant de l'affacturage de comptes clients ou des bénéfices provenant de la disposition de biens de placement, sauf si le contribuable ou la société affiliée établissent que les conditions ci-après étaient réunies tout au long de la période de l'année pendant laquelle la société affiliée a exploité l'entreprise :

a) l'entreprise, sauf celle menée principalement avec des personnes avec lesquelles la société affiliée a un lien de dépendance, présente l'une des caractéristiques suivantes :

(i) il s'agit d'une entreprise que la société affiliée exploite à titre de banque étrangère, de société de fiducie, de caisse de crédit, de compagnie d'assurance ou de négociateur ou courtier en valeurs mobilières ou en marchandises et dont les activités sont réglementées par les lois des pays suivants, selon le cas :

(A) chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays, et le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

(B) le pays où l'entreprise est principalement exploitée,

(C) si la société affiliée est liée à une société non-résidente, le pays sous le régime des lois duquel cette dernière est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, si ces lois sont reconnues par les lois du pays où l'entreprise est principalement exploitée et si ces pays sont tous membres de l'Union européenne,

(ii) elle consiste à mettre en valeur des immeubles ou des biens réels en vue de leur vente, à prêter de l'argent, à louer des biens, à concéder des licences sur des biens ou à assurer ou à réassurer des risques;

b) selon le cas :

(i) la société affiliée exploite l'entreprise autrement qu'à titre d'associé d'une société de personnes (la société affiliée étant appelée « exploitant » à l'alinéa c) pour ce qui est des moments, compris dans la période en cause, où elle exploite ainsi l'entreprise),

particular time) is excluded property of the affiliate,

(II) an amount of indebtedness, to the extent that the proceeds derived from the issuance or incurring of the indebtedness can reasonably be considered to have been used to acquire property that (at all times between the time of the acquisition of that property and the particular time) is excluded property of the affiliate, or

(III) an amount of indebtedness, to the extent that the proceeds derived from the issuance or incurring of the indebtedness can reasonably be considered to have been used to repay the outstanding balance of

1 an amount that, immediately before the time of that repayment, is described by subclause (I),

2 an amount of indebtedness of the affiliate that, immediately before the time of that repayment, is described by subclause (II), or

3 an amount of indebtedness of the affiliate that, immediately before the time of that repayment, is described by this subclause,

and, for the purposes of the definitions ***foreign affiliate*** in this subsection and ***direct equity percentage*** in subsection 95(4) as they apply to this definition, where at any time a foreign affiliate of a taxpayer has an interest in a partnership,

(d) the partnership shall be deemed to be a non-resident corporation having capital stock of a single class divided into 100 issued shares, and

(e) the affiliate shall be deemed to own at that time that proportion of the issued shares of that class that

(i) the fair market value of the affiliate's interest in the partnership at that time

is of

(ii) the fair market value of all interests in the partnership at that time; (*bien exclu*)

exempt trust, at a particular time in respect of a taxpayer resident in Canada, means a trust that, at that time, is a trust under which the interest of each beneficiary under the trust is, at all times that the interest exists during the

(ii) la société affiliée exploite l'entreprise à titre d'associé admissible d'une société de personnes (cette dernière étant appelée « exploitant » à l'alinéa c) pour ce qui est des moments, compris dans la période en cause, où la société affiliée exploite ainsi l'entreprise;

c) l'exploitant emploie, selon le cas :

(i) plus de cinq personnes à plein temps pour assurer la conduite active de l'entreprise,

(ii) l'équivalent de plus de cinq personnes à plein temps pour assurer la conduite active de l'entreprise, compte tenu uniquement des services suivants :

(A) les services fournis par ses employés,

(B) les services que lui fournissent à l'étranger une ou plusieurs personnes dont chacune est, pendant la période où elle a exécuté les services, l'employé d'une des entités suivantes :

(I) une société liée à la société affiliée autrement qu'à cause d'un droit visé à l'alinéa 251(5)b),

(II) dans le cas où l'exploitant est la société affiliée :

1 une société (appelée « actionnaire fournisseur » au présent sous-alinéa) qui est un actionnaire admissible de la société affiliée,

2 une société désignée relativement à la société affiliée,

3 une société de personnes désignée relativement à la société affiliée,

(III) dans le cas où l'exploitant est la société de personnes visée au sous-alinéa b)(ii) :

1 une personne (appelée « associé fournisseur » au présent sous-alinéa) qui est un associé admissible de la société de personnes,

2 une société désignée relativement à la société affiliée,

3 une société de personnes désignée relativement à la société affiliée,

trust's taxation year that includes the particular time, a specified fixed interest of the beneficiary in the trust, if at the particular time

(a) the trust is an eligible trust,

(b) there are at least 150 beneficiaries each of whom holds a specified fixed interest, in the trust, that has a fair market value of at least $500, and

(c) the total of all amounts each of which is the fair market value of an interest as a beneficiary under the trust held by a specified purchaser in respect of the taxpayer is not more than 10% of the total fair market value of all interests as a beneficiary under the trust; (*fiducie exonérée*)

foreign accrual property income of a foreign affiliate of a taxpayer, for any taxation year of the affiliate, means the amount determined by the formula

(A + A.1 + A.2 + B + C) – (D + E + F + F.1 + G + H)

where

A is the amount that would, if section 80 did not apply to the affiliate for the year or a preceding taxation year, be the total of all amounts, each of which is the affiliate's income for the year from property, the affiliate's income for the year from a business other than an active business or the affiliate's income for the year from a non-qualifying business of the affiliate, in each case that amount being determined as if each amount described in clause (2)(a)(ii)(D) that was paid or payable, directly or indirectly, by the affiliate to another foreign affiliate of the taxpayer or of a person with whom the taxpayer does not deal at arm's length were nil where an amount in respect of the income derived by the other foreign affiliate from that amount that was paid or payable to it by the affiliate was added in computing its income from an active business, other than

(a) interest that would, by virtue of paragraph 81(1)(m), not be included in computing the income of the affiliate if it were resident in Canada,

(b) a dividend from another foreign affiliate of the taxpayer,

(c) a taxable dividend to the extent that the amount thereof would, if the dividend were received by the taxpayer, be deductible by the taxpayer under section 112, or

à condition que les sociétés visées à la subdivision (B)(I) et les sociétés désignées, sociétés de personnes désignées, actionnaires fournisseurs ou associés fournisseurs visés aux subdivisions (B)(II) et (III) reçoivent de l'exploitant, en règlement des services qui lui sont fournis par ces employés, une rétribution d'une valeur au moins égale au coût, pour ces sociétés, sociétés de personnes, actionnaires ou associés, de la rétribution payée aux employés ayant exécuté les services, ou constituée pour leur compte, pendant l'exécution de ces services. (*investment business*)

entreprise exploitée activement Entreprise exploitée par une société étrangère affiliée d'un contribuable, à l'exclusion des entreprises suivantes :

a) une entreprise de placement exploitée par la société affiliée;

b) une entreprise qui est réputée par le paragraphe (2) être une entreprise autre qu'une entreprise exploitée activement de la société affiliée;

c) une entreprise non admissible de la société affiliée. (*active business*)

entreprise non admissible Est une entreprise non admissible d'une société étrangère affiliée d'un contribuable à un moment donné l'entreprise que la société affiliée exploite par l'intermédiaire d'un établissement stable situé dans un territoire qui est un pays non admissible à la fin de l'année d'imposition de la société affiliée qui comprend ce moment, à l'exception des entreprises suivantes :

a) une entreprise de placement de la société affiliée;

b) une entreprise qui est réputée par le paragraphe (2) être une entreprise autre qu'une entreprise exploitée activement de la société affiliée. (*non-qualifying business*)

établissement stable S'entend au sens prévu par règlement. (*permanent establishment*)

facteur fiscal approprié En ce qui concerne une personne ou une société de personnes pour une année d'imposition :

a) dans le cas d'une société ou d'une société de personnes dont l'ensemble des associés, à l'exception des personnes non-résidentes, sont des sociétés, le quotient obtenu par la formule suivante :

1/(A – B)

où :

(d) any amount included because of subsection 80.4(2) in the affiliate's income in respect of indebtedness to another corporation that is a foreign affiliate of the taxpayer or of a person resident in Canada with whom the taxpayer does not deal at arm's length,

A.1 is twice the total of all amounts included in computing the affiliate's income from property or businesses (other than active businesses) for the year because of subsection 80(13),

A.2 is the amount determined for G in respect of the affiliate for the preceding taxation year,

B is the total of all amounts each of which is the portion of the affiliate's income (to the extent that the income is not included under the description of A) for the year, or of the affiliate's taxable capital gain for the year that can reasonably be considered to have accrued after its 1975 taxation year, from a disposition of property

(a) that is not, at the time of disposition, excluded property of the affiliate, or

(b) that is, at the time of disposition, excluded property of the affiliate, if any of paragraphs (2)(c), (d) and (d.1), subparagraph (2)(e)(i) and paragraph 88(3)(a) applies to the disposition,

C is, where the affiliate is a controlled foreign affiliate of the taxpayer, the amount that would be required to be included in computing its income for the year if

(a) subsection 94.1(1) were applicable in computing that income,

(b) the words "earned directly by the taxpayer" in that subsection were replaced by the words "earned by the person resident in Canada in respect of whom the taxpayer is a foreign affiliate",

(c) the words "other than a controlled foreign affiliate of the taxpayer or a prescribed non-resident entity" in paragraph 94.1(1)(a) were replaced by the words "other than a prescribed non-resident entity or a controlled foreign affiliate of a person resident in Canada of whom the taxpayer is a controlled foreign affiliate", and

(d) the words "other than a capital gain" in paragraph 94.1(1)(g) were replaced by the words "other than any income that would not be included in the taxpayer's foreign accrual property income for the year if the value of C in the definition ***foreign accrual property income*** in subsection 95(1) were nil and other than a capital gain",

D is the total of all amounts, each of which is the affiliate's loss for the year from property, the affiliate's

A représente le pourcentage fixé à l'alinéa 123(1)a),

B :

(i) dans le cas d'une société, le pourcentage qui correspond à son pourcentage de réduction du taux général, au sens de l'article 123.4, pour l'année,

(ii) dans le cas d'une société de personnes, le pourcentage qui serait déterminé à son égard selon le sous-alinéa (i) si elle était une société dont l'année d'imposition correspond à l'exercice de la société de personnes;

b) dans les autres cas, 1,9. (*relevant tax factor*)

fiducie admissible Fiducie autre que les suivantes :

a) la fiducie établie ou administrée à des fins de bienfaisance;

b) la fiducie régie par un régime de prestations aux employés;

c) la fiducie visée à l'alinéa a.1) de la définition de ***fiducie*** au paragraphe 108(1);

d) la fiducie régie par une entente d'échelonnement du traitement;

e) la fiducie administrée pour assurer ou verser des prestations de retraite ou de pension ou des prestations à des employés;

f) la fiducie dans le cadre de laquelle le montant de revenu ou de capital qu'une entité peut recevoir à un moment donné, directement de la fiducie, à titre de bénéficiaire de celle-ci dépend de l'exercice ou du non-exercice par une entité d'un pouvoir discrétionnaire. (*eligible trust*)

fiducie exonérée Est une fiducie exonérée à un moment donné relativement à un contribuable résidant au Canada la fiducie qui, à ce moment, est une fiducie dans le cadre de laquelle la participation de chaque bénéficiaire est, à tout moment où cette participation existe pendant l'année d'imposition de la fiducie qui comprend le moment donné, une participation fixe désignée du bénéficiaire dans la fiducie si, au moment donné, à la fois :

a) la fiducie est une fiducie admissible;

b) il existe au moins 150 bénéficiaires dont chacun détient, dans la fiducie, une participation fixe désignée ayant une juste valeur marchande d'au moins 500 $;

loss for the year from a business other than an active business of the affiliate or the affiliate's loss for the year from a non-qualifying business of the affiliate, in each case that amount being determined as if there were not included in the affiliate's income any amount described in any of paragraphs (a) to (d) of the description of A and as if each amount described in clause (2)(a)(ii)(D) that was paid or payable, directly or indirectly, by the affiliate to another foreign affiliate of the taxpayer or of a person with whom the taxpayer does not deal at arm's length were nil where an amount in respect of the income derived by the other foreign affiliate from that amount that was paid or payable to it by the affiliate was added in computing its income from an active business,

E is the lesser of

(a) the amount of the affiliate's allowable capital losses for the year from dispositions of property (other than excluded property and property in respect of which an election is made by the taxpayer under subsection 88(3.3)) that can reasonably be considered to have accrued after its 1975 taxation year, and

(b) the total of all amounts each of which is the portion of a taxable capital gain of the affiliate that is included in the amount determined for B in respect of the affiliate for the year,

F is the prescribed amount for the year,

F.1 is the lesser of

(a) the prescribed amount for the year, and

(b) the amount, if any, by which

(i) the total of all amounts each of which is the portion of a taxable capital gain of the affiliate that is included in the amount determined for B in respect of the affiliate for the year

exceeds

(ii) the amount determined for E in respect of the affiliate for the year,

G is the amount, if any, by which

(a) the total of amounts determined for A.1 and A.2 in respect of the affiliate for the year

exceeds

(b) the total of all amounts determined for D to F.1 in respect of the affiliate for the year, and

H is

(a) if the affiliate was a member of a partnership at the end of the fiscal period of the partnership that ended in the year and the partnership

c) le total des sommes représentant chacune la juste valeur marchande d'une participation à titre de bénéficiaire de la fiducie, détenue par un acheteur déterminé relativement au contribuable, représente au plus 10 % de la juste valeur marchande totale des participations à titre de bénéficiaire de la fiducie. (*exempt trust*)

impôt étranger accumulé S'agissant de l'impôt étranger accumulé applicable à toute somme incluse, en vertu du paragraphe 91(1), dans le calcul du revenu d'un contribuable pour son année d'imposition à l'égard d'une société étrangère affiliée donnée de celui-ci, sous réserve du paragraphe 91(4.1) :

a) la partie de tout impôt sur le revenu ou sur les bénéfices qu'il est raisonnable de considérer comme étant applicable à cette somme et qui est payée :

(i) soit par la société affiliée donnée,

(ii) soit par une autre société étrangère affiliée (appelée « société affiliée actionnaire » à l'alinéa b)) du contribuable si, à la fois :

(A) l'autre société affiliée a un pourcentage d'intérêt dans la société affiliée donnée,

(B) l'impôt sur le revenu ou sur les bénéfices est payé à un pays étranger,

(C) l'autre société affiliée, et non la société affiliée donnée, est redevable de cet impôt sous le régime des lois de ce pays,

(iii) soit par une autre société étrangère affiliée du contribuable à l'égard d'un dividende reçu, directement ou indirectement, de la société affiliée donnée, si cette autre société affiliée a un pourcentage d'intérêt dans la société affiliée donnée;

b) tout montant visé par règlement qui constitue à l'égard de la société affiliée donnée ou de la société affiliée actionnaire, selon le cas, un impôt étranger accumulé applicable à cette somme. (*foreign accrual tax*)

liquidation et dissolution désignées Liquidation et dissolution d'une société étrangère affiliée (appelée « société cédante » dans la présente définition) d'un contribuable relativement à laquelle, selon le cas :

a) le contribuable avait, immédiatement avant le moment de la première distribution de biens effectuée par la société cédante au cours de la liquidation et dissolution, un pourcentage de droit au surplus relativement à la société cédante d'au moins 90 %;

received a dividend at a particular time in that fiscal period from a corporation that would be, if the reference in subsection 93.1(1) to "corporation resident in Canada" were a reference to "taxpayer resident in Canada", a foreign affiliate of the taxpayer for the purposes of sections 93 and 113 at that particular time, then the portion of the amount of that dividend that is included in the value determined for A in respect of the affiliate for the year and that would be, if the reference in subsection 93.1(2) to "corporation resident in Canada" were a reference to "taxpayer resident in Canada", deemed by paragraph 93.1(2)(a) to have been received by the affiliate for the purposes of sections 93 and 113, and

(b) in any other case, nil; (*revenu étranger accumulé, tiré de biens*)

foreign accrual tax applicable to any amount included under subsection 91(1) in computing a taxpayer's income for a taxation year of the taxpayer in respect of a particular foreign affiliate of the taxpayer means, subject to subsection 91(4.1),

(a) the portion of any income or profits tax that may reasonably be regarded as applicable to that amount and that is paid by

(i) the particular affiliate,

(ii) another foreign affiliate (in paragraph (b) referred to as the "shareholder affiliate") of the taxpayer where

(A) the other affiliate has an equity percentage in the particular affiliate,

(B) the income or profits tax is paid to a country other than Canada, and

(C) the other affiliate, and not the particular affiliate, is liable for that tax under the laws of that country, or

(iii) another foreign affiliate of the taxpayer in respect of a dividend received, directly or indirectly, from the particular affiliate, if that other affiliate has an equity percentage in the particular affiliate, and

(b) any amount prescribed in respect of the particular affiliate or the shareholder affiliate, as the case may be, to be foreign accrual tax applicable to that amount; (*impôt étranger accumulé*)

b) à la fois :

(i) le pourcentage obtenu par la formule ci-après est égal ou supérieur à 90 % :

A/B

où :

A représente l'excédent du total visé à la division (A) sur celui visé à la division (B) :

(A) le total des sommes dont chacune représente la juste valeur marchande, au moment de sa distribution, d'un bien qui est distribué par la société cédante, relativement à des actions de son capital-actions, au cours de la liquidation et dissolution à un actionnaire donné de celle-ci qui était, immédiatement avant ce moment, une société étrangère affiliée du contribuable,

(B) le total des sommes dont chacune représente une somme due (sauf un dividende non versé) par la société cédante, ou une obligation de celle-ci, qui a été assumée ou annulée par l'actionnaire donné en contrepartie d'un bien visé à la division (A),

B l'excédent du total visé à la division (A) sur celui visé à la division (B) :

(A) le total des sommes dont chacune représente la juste valeur marchande, au moment de sa distribution, d'un bien qui est distribué par la société cédante, relativement à des actions de son capital-actions, à un actionnaire de celle-ci au cours de la liquidation et dissolution,

(B) le total des sommes dont chacune représente une somme due (sauf un dividende non versé) par la société cédante, ou une obligation de celle-ci, qui a été assumée ou annulée par un actionnaire de celle-ci en contrepartie d'un bien visé à la division (A),

(ii) au moment de chaque distribution de bien effectuée par la société cédante au cours de la liquidation et dissolution relativement à des actions de son capital-actions, l'actionnaire donné détient des actions de ce capital-actions qui lui donneraient droit, si l'assemblée générale annuelle des actionnaires de la société cédante avait lieu à ce moment, à au moins 90 % des voix pouvant être exprimées en toutes circonstances à l'assemblée;

c) un actionnaire donné de la société cédante qui était, tout au long de la liquidation et dissolution, une

foreign affiliate, at any time, of a taxpayer resident in Canada means a non-resident corporation in which, at that time,

(a) the taxpayer's equity percentage is not less than 1%, and

(b) the total of the equity percentages in the corporation of the taxpayer and of each person related to the taxpayer (where each such equity percentage is determined as if the determinations under paragraph (b) of the definition ***equity percentage*** in subsection 95(4) were made without reference to the equity percentage of any person in the taxpayer or in any person related to the taxpayer) is not less than 10%,

except that a corporation is not a foreign affiliate of a non-resident-owned investment corporation; (*société étrangère affiliée*)

foreign bank means an entity that would be a foreign bank within the meaning assigned by the definition of that expression in section 2 of the *Bank Act* if

(a) that definition were read without reference to the portion thereof after paragraph (g) thereof, and

(b) the entity had not been exempt under section 12 of that Act from being a foreign bank; (*banque étrangère*)

income from an active business of a foreign affiliate of a taxpayer for a taxation year includes the foreign affiliate's income for the taxation year that pertains to or is incident to that active business but does not include

(a) the foreign affiliate's income from property for the taxation year,

(b) the foreign affiliate's income for the taxation year from a business that is deemed by subsection (2) to be a business other than an active business of the foreign affiliate, or

(c) the foreign affiliate's income from a non-qualifying business of the foreign affiliate for the taxation year; (*revenu provenant d'une entreprise exploitée activement*)

income from a non-qualifying business of a foreign affiliate of a taxpayer resident in Canada for a taxation year includes the foreign affiliate's income for the taxation year that pertains to or is incident to that non-qualifying business, but does not include

(a) the foreign affiliate's income from property for the taxation year, or

société étrangère affiliée du contribuable est propriétaire d'au moins 90 % des actions émises de chaque catégorie du capital-actions de la société cédante tout au long de la liquidation et dissolution. (*designated liquidation and dissolution*)

monnaie de calcul La monnaie de calcul pour une année d'imposition d'une société étrangère affiliée d'un contribuable est, selon le cas :

a) la monnaie du pays dont la société affiliée est un résident à la fin de l'année;

b) toute monnaie qui est établie par le contribuable comme étant raisonnable dans les circonstances. (*calculating currency*)

obligation découlant d'un bail Est assimilée à l'obligation découlant d'un bail une obligation prévue par une convention qui permet d'utiliser, de produire ou de reproduire un bien, y compris de l'information ou toute autre chose. (*lease obligation*)

participation fixe désignée Est une participation fixe désignée d'une entité dans une fiducie à un moment donné la participation de l'entité à titre de bénéficiaire de la fiducie si, à la fois :

a) la participation comprend, à ce moment, des droits de l'entité, à titre de bénéficiaire de la fiducie, de recevoir, à ce moment ou par la suite et directement de la fiducie, tout ou partie du revenu et du capital de celle-ci;

b) la participation a été émise par la fiducie à une entité, à ce moment ou antérieurement, pour une contrepartie dont la juste valeur marchande, au moment de l'émission de la participation, était égale à la juste valeur marchande de la participation au moment de son émission;

c) une partie quelconque de la participation ne peut cesser d'appartenir à l'entité que si elle fait l'objet d'une disposition (déterminée compte non tenu de l'alinéa i) de la définition de ***disposition*** au paragraphe 248(1) ni de l'alinéa 248(8)c)) par l'entité;

d) nul montant de revenu ou de capital de la fiducie qu'une entité peut recevoir à un moment donné, directement de la fiducie, à titre de bénéficiaire de celle-ci, ne dépend de l'exercice ou du non-exercice par une entité d'un pouvoir discrétionnaire. (*specified fixed interest*)

pays non admissible Est un pays non admissible à un moment donné le pays ou autre territoire, à la fois :

(b) the foreign affiliate's income for the taxation year from a business that is deemed by subsection (2) to be a business other than an active business of the foreign affiliate; (*revenu provenant d'une entreprise non admissible*)

income from property of a foreign affiliate of a taxpayer for a taxation year includes the foreign affiliate's income for the taxation year from an investment business and the foreign affiliate's income for the taxation year from an adventure or concern in the nature of trade, but does not include

(a) the foreign affiliate's income for the taxation year from a business that is deemed by subsection (2) to be a business other than an active business of the foreign affiliate, or

(b) the foreign affiliate's income for the taxation year that pertains to or is incident to

(i) an active business of the foreign affiliate, or

(ii) a non-qualifying business of the foreign affiliate; (*revenu de biens*)

investment business of a foreign affiliate of a taxpayer means a business carried on by the foreign affiliate in a taxation year (other than a business deemed by subsection (2) to be a business other than an active business carried on by the foreign affiliate and other than a non-qualifying business of the foreign affiliate) the principal purpose of which is to derive income from property (including interest, dividends, rents, royalties or any similar returns or substitutes for such interest, dividends, rents, royalties or returns), income from the insurance or reinsurance of risks, income from the factoring of trade accounts receivable, or profits from the disposition of investment property, unless it is established by the taxpayer or the foreign affiliate that, throughout the period in the taxation year during which the business was carried on by the foreign affiliate,

(a) the business (other than any business conducted principally with persons with whom the affiliate does not deal at arm's length) is

(i) a business carried on by it as a foreign bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities, the activities of which are regulated under the laws

(A) of each country in which the business is carried on through a permanent establishment in that country and of the country under whose laws the affiliate is governed and any of exists,

a) avec lequel le Canada n'a pas de traité fiscal à ce moment ni n'a signé, avant ce moment, un accord qui sera un traité fiscal dès son entrée en vigueur;

a.1) lorsque ce moment est postérieur à février 2014, à l'égard duquel la Convention concernant l'assistance administrative mutuelle en matière fiscale — faite à Strasbourg le 25 janvier 1988, modifiée de temps à autre par protocole ou autre instrument international et ratifiée par le Canada — n'est pas en vigueur à ce moment et n'est pas exécutoire;

b) avec lequel le Canada n'a pas d'accord général d'échange de renseignements fiscaux qui est en vigueur et exécutoire à ce moment;

c) avec lequel le Canada a, plus de 60 mois avant ce moment :

(i) soit engagé des négociations en vue de la conclusion d'un accord général d'échange de renseignements fiscaux (sauf si le moment en cause est antérieur à 2014 et que le Canada avait engagé, le 19 mars 2007, des négociations en vue de la conclusion d'un tel accord avec ce pays ou territoire),

(ii) soit tenté, au moyen d'une invitation écrite en ce sens, d'engager des négociations en vue de la conclusion d'un accord général d'échange de renseignements fiscaux (sauf si le moment en cause est antérieur à 2014 et que le Canada avait engagé, le 19 mars 2007, des négociations en vue de la conclusion d'un tel accord avec ce pays ou territoire). (*non-qualifying country*)

personne ou société de personnes déterminée Est une personne ou société de personnes déterminée quant à un contribuable à un moment donné le contribuable ou toute personne (sauf une société acquise désignée du contribuable) ou société de personnes qui est, à ce moment :

a) une personne (sauf une société de personnes) qui réside au Canada et a, à ce moment, un lien de dépendance avec le contribuable;

b) une société remplacée déterminée du contribuable ou d'une personne ou société de personnes déterminée quant au contribuable;

c) une société étrangère affiliée :

(i) du contribuable,

(ii) d'une personne qui, à ce moment, est une personne ou société de personnes déterminée quant au

was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued,

(B) of the country in which the business is principally carried on, or

(C) if the affiliate is related to a non-resident corporation, of the country under whose laws that non-resident corporation is governed and any of exists, was (unless that non-resident corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all of those countries are members of the European Union, or

(ii) the development of real property or immovables for sale, the lending of money, the leasing or licensing of property or the insurance or reinsurance of risks,

(b) either

(i) the affiliate (otherwise than as a member of a partnership) carries on the business (the affiliate being, in respect of those times, in that period of the year, that it so carries on the business, referred to in paragraph (c) as the "operator"), or

(ii) the affiliate carries on the business as a qualifying member of a partnership (the partnership being, in respect of those times, in that period of the year, that the affiliate so carries on the business, referred to in paragraph (c) as the "operator"), and

(c) the operator employs

(i) more than five employees full time in the active conduct of the business, or

(ii) the equivalent of more than five employees full time in the active conduct of the business taking into consideration only

(A) the services provided by employees of the operator, and

(B) the services provided outside Canada to the operator by any one or more persons each of whom is, during the time at which the services were performed by the person, an employee of

(I) a corporation related to the affiliate (otherwise than because of a right referred to in paragraph 251(5)(b)),

contribuable selon la présente définition par l'effet des alinéas a) ou b),

(iii) d'une société de personnes qui, à ce moment, est une personne ou société de personnes déterminée quant au contribuable selon la présente définition par l'effet de l'alinéa d);

d) une société de personnes dont l'un des associés est, à ce moment, une personne ou société de personnes déterminée quant au contribuable selon la présente définition. (*specified person or partnership*)

pourcentage de droit au surplus S'agissant du pourcentage de droit au surplus, à un moment donné, d'un contribuable, à l'égard d'une société étrangère affiliée, s'entend au sens du règlement. (*surplus entitlement percentage*)

pourcentage de participation Le pourcentage de participation d'une action donnée, appartenant à un contribuable, du capital-actions d'une société relativement à une société étrangère affiliée de ce contribuable qui était, à la fin de son année d'imposition, une société étrangère affiliée contrôlée de ce contribuable est :

a) lorsque le revenu étranger accumulé, tiré de biens, de la société affiliée pour cette année est de 5 000 $ au plus, nul;

b) lorsque le revenu étranger accumulé, tiré de biens, de la société affiliée pour cette année dépasse 5 000 $, égal :

(i) au pourcentage qui équivaudrait au pourcentage d'intérêt du contribuable dans la société affiliée à la fin de cette année à supposer qu'il ne possède aucune autre action que l'action donnée (supposition qui, en aucun cas, n'est faite dans le but de déterminer si une société est ou non une société étrangère affiliée du contribuable) si, à la fois :

(A) la société affiliée et chaque société qui est prise en compte dans le calcul du pourcentage d'intérêt du contribuable dans la société affiliée ne détiennent, à ce moment, qu'une seule catégorie d'actions émises,

(B) aucune société étrangère affiliée (appelée « société affiliée de palier supérieur » à la présente division) du contribuable qui est prise en compte dans le calcul du pourcentage d'intérêt du contribuable dans la société affiliée n'a, à ce

(II) in the case where the operator is the affiliate,

1 a corporation (referred to in this subparagraph as a "providing shareholder") that is a qualifying shareholder of the affiliate,

2 a designated corporation in respect of the affiliate, or

3 a designated partnership in respect of the affiliate, and

(III) in the case where the operator is the partnership described in subparagraph (b)(ii),

1 any person (referred to in this subparagraph as a "providing member") who is a qualifying member of that partnership,

2 a designated corporation in respect of the affiliate, or

3 a designated partnership in respect of the affiliate,

if the corporations referred to in subclause (B)(I) and the designated corporations, designated partnerships, providing shareholders or providing members referred to in subclauses (B)(II) and (III) receive compensation from the operator for the services provided to the operator by those employees the value of which is not less than the cost to those corporations, partnerships, shareholders or members of the compensation paid or accruing to the benefit of those employees that performed the services during the time at which the services were performed by those employees; (*entreprise de placement*)

investment property of a foreign affiliate of a taxpayer includes

(a) a share of the capital stock of a corporation other than a share of another foreign affiliate of the taxpayer that is excluded property of the affiliate,

(b) an interest in a partnership other than an interest in a partnership that is excluded property of the affiliate,

(c) an interest in a trust other than an interest in a trust that is excluded property of the affiliate,

(d) indebtedness or annuities,

moment, de pourcentage d'intérêt dans une société étrangère affiliée du contribuable (y compris la société affiliée en cause) qui a un pourcentage d'intérêt dans la société affiliée de palier supérieur,

(ii) dans tout autre cas, au pourcentage déterminé selon les modalités réglementaires. (*participating percentage*)

prêt d'argent Sont assimilés au prêt d'argent par une personne (appelée « prêteur » pour l'application de la présente définition):

a) l'acquisition par le prêteur de créances clients auprès d'une autre personne, ou d'un droit sur ces créances, sauf les créances clients dont le débiteur est une personne avec laquelle le prêteur a un lien de dépendance;

b) l'acquisition par le prêteur de prêts consentis par une autre personne et de titres de crédit d'une autre personne, ou d'un droit sur ces prêts ou titres, sauf les prêts et les titres de crédit dont le débiteur est une personne avec laquelle le prêteur a un lien de dépendance;

c) l'acquisition par le prêteur d'avoirs miniers étrangers d'une autre personne, sauf les avoirs qui constituent des loyers ou des redevances payables par une personne avec laquelle le prêteur a un lien de dépendance;

d) la vente par le prêteur de prêts ou de titres de crédit, ou d'un droit sur ces prêts ou titres, sauf les prêts et les titres de crédit dont le débiteur est une personne avec laquelle le prêteur a un lien de dépendance.

Pour l'application de la présente définition, il n'est pas tenu compte du passage « , à l'exclusion d'un bien visé par règlement » dans la définition de ***titre de crédit*** au paragraphe 248(1). (*lending of money*)

revenu de biens Sont inclus dans le revenu de biens d'une société étrangère affiliée d'un contribuable pour une année d'imposition le revenu de la société affiliée pour l'année provenant d'une entreprise de placement ainsi que son revenu pour l'année tiré d'un projet comportant un risque ou d'une affaire de caractère commercial. En sont toutefois exclus :

a) le revenu de la société affiliée pour l'année provenant d'une entreprise qui est réputée par le paragraphe (2) être son entreprise autre qu'une entreprise exploitée activement;

(e) commodities or commodities futures purchased or sold, directly or indirectly in any manner whatever, on a commodities or commodities futures exchange (except commodities manufactured, produced, grown, extracted or processed by the affiliate or a person to whom the affiliate is related (otherwise than because of a right referred to in paragraph 251(5)(b)) or commodities futures in respect of such commodities),

(f) currency,

(g) real property or immovables,

(h) Canadian and foreign resource properties,

(i) interests in funds or entities other than corporations, partnerships and trusts, and

(j) interests in, or for civil law rights in, or options in respect of, property that is included in any of paragraphs (a) to (i); (*bien de placement*)

lease obligation of a person includes an obligation under an agreement that authorizes the use of or the production or reproduction of property including information or any other thing; (*obligation découlant d'un bail*)

lending of money by a person (for the purpose of this definition referred to as the "lender") includes

(a) the acquisition by the lender of trade accounts receivable (other than trade accounts receivable owing by a person with whom the lender does not deal at arm's length) from another person or the acquisition by the lender of any interest in any such accounts receivable,

(b) the acquisition by the lender of loans made by and lending assets (other than loans or lending assets owing by a person with whom the lender does not deal at arm's length) of another person or the acquisition by the lender of any interest in such a loan or lending asset,

(c) the acquisition by the lender of a foreign resource property (other than a foreign resource property that is a rental or royalty payable by a person with whom the lender does not deal at arm's length) of another person, and

(d) the sale by the lender of loans or lending assets (other than loans or lending assets owing by a person with whom the lender does not deal at arm's length) or the sale by the lender of any interest in such loans or lending assets;

b) le revenu de la société affiliée pour l'année qui se rapporte ou est accessoire :

(i) soit à son entreprise exploitée activement,

(ii) soit à son entreprise non admissible. (*income from property*)

revenu étranger accumulé, tiré de biens S'agissant du revenu étranger accumulé, tiré de biens, d'une société étrangère affiliée d'un contribuable, pour une année d'imposition de la société affiliée, le montant calculé selon la formule suivante :

(A + A.1 + A.2 + B + C) – (D + E + F + F.1 + G + H)

où :

A représente la somme qui, si l'article 80 ne s'appliquait pas à la société affiliée pour l'année ou pour une année d'imposition antérieure, constituerait le total des sommes représentant chacune le revenu de la société affiliée pour l'année tiré de biens, son revenu pour l'année tiré d'une entreprise autre qu'une entreprise exploitée activement ou son revenu pour l'année tiré de son entreprise non admissible, déterminé dans chaque cas comme si chaque somme visée à la division (2)a)(ii)(D) qui a été payée ou était payable, directement ou indirectement, par la société affiliée à une autre société étrangère affiliée du contribuable ou d'une personne avec laquelle celui-ci a un lien de dépendance était nulle, dans le cas où une somme relative au revenu que cette autre société affiliée tire de la somme qui lui a été payée ou lui était payable par la société affiliée a été ajoutée dans le calcul de son revenu provenant d'une entreprise exploitée activement, à l'exception :

a) de l'intérêt qui, en vertu de l'alinéa 81(1)m), ne serait pas inclus dans le calcul du revenu de la société affiliée si elle résidait au Canada;

b) d'un dividende d'une autre société étrangère affiliée du contribuable;

c) d'un dividende imposable dans la mesure où le montant de celui-ci serait, si le dividende était reçu par le contribuable, déductible par lui en vertu de l'article 112;

d) d'un montant inclus en application du paragraphe 80.4(2) dans le revenu de la société affiliée au titre d'une dette envers une autre société qui est une société étrangère affiliée du contribuable ou d'une personne résidant au Canada avec laquelle le contribuable a un lien de dépendance;

A.1 le double du total des montants inclus, par l'effet du paragraphe 80(13), dans le calcul du revenu tiré par la société affiliée, pour l'année, de biens ou

and for the purpose of this definition, the definition ***lending asset*** in subsection 248(1) shall be read without the words "but does not include a prescribed property"; (*prêt d'argent*)

licensing of property includes authorizing the use of or the production or reproduction of property including information or any other thing; (*concession d'une licence sur un bien*)

non-qualifying business of a foreign affiliate of a taxpayer at any time means a business carried on by the foreign affiliate through a permanent establishment in a jurisdiction that, at the end of the foreign affiliate's taxation year that includes that time, is a non-qualifying country, other than

(a) an investment business of the foreign affiliate, or

(b) a business that is deemed by subsection (2) to be a business other than an active business of the foreign affiliate; (*entreprise non admissible*)

non-qualifying country, at any time, means a country or other jurisdiction

(a) with which Canada neither has a tax treaty at that time nor has, before that time, signed an agreement that will, on coming into effect, be a tax treaty,

(a.1) for which, if the time is after February 2014, the Convention on Mutual Administrative Assistance in Tax Matters — concluded at Strasbourg on January 25, 1988, as amended from time to time by a protocol, or other international instrument, as ratified by Canada — is at that time not in force and does not have effect,

(b) with which Canada does not have a comprehensive tax information exchange agreement that is in force and has effect at that time, and

(c) with which Canada has, more than 60 months before that time, either

(i) begun negotiations for a comprehensive tax information exchange agreement (unless that time is before 2014 and Canada was, on March 19, 2007, in the course of negotiating a comprehensive tax information exchange agreement with that jurisdiction), or

(ii) sought, by written invitation, to enter into negotiations for a comprehensive tax information exchange agreement (unless that time is before 2014 and Canada was, on March 19, 2007, in the course

d'entreprises autres que des entreprises exploitées activement;

A.2 le montant représenté par l'élément G relativement à la société affiliée pour l'année d'imposition précédente;

B le total des sommes dont chacune représente la partie du revenu de la société affiliée (dans la mesure où il n'est pas inclus dans la valeur de l'élément A) pour l'année, ou la partie de son gain en capital imposable pour l'année qu'il est raisonnable de considérer comme s'étant accumulée après son année d'imposition 1975, provenant de la disposition d'un bien qui :

a) n'est pas un bien exclu de la société affiliée au moment de la disposition,

b) est un bien exclu de la société affiliée au moment de la disposition, si les alinéas (2)c), d) ou d.1), le sous-alinéa (2)e)(i) ou l'alinéa 88(3)a) s'appliquent à la disposition;

C lorsque la société affiliée est une société étrangère affiliée contrôlée du contribuable, le montant qui serait inclus dans le calcul du revenu de la société affiliée pour l'année si :

a) le paragraphe 94.1(1) s'appliquait au calcul d'un tel revenu;

b) les passages « gagnés directement par le contribuable » au paragraphe 94.1(1) étaient remplacés par « gagnés par la personne résidant au Canada pour qui le contribuable est une société étrangère affiliée »;

c) le passage « (autre qu'une société étrangère affiliée contrôlée du contribuable ou une entité non-résidente visée par règlement) » à l'alinéa 94.1(1)a) était remplacé par « (autre qu'une entité non-résidente visée par règlement ou une société étrangère affiliée contrôlée d'une personne résidant au Canada et dont le contribuable est une société étrangère affiliée contrôlée) »;

d) le passage « (autre qu'un gain en capital) » à l'alinéa 94.1(1)g) était remplacé par « (autre qu'un revenu qui ne serait pas inclus dans le revenu étranger accumulé, tiré de biens du contribuable pour l'année si la valeur de l'élément C de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe 95(1) était nulle et autre qu'un gain en capital) »;

D le total des sommes représentant chacune la perte de la société affiliée pour l'année provenant de biens, sa perte pour l'année provenant d'une entreprise autre qu'une entreprise exploitée activement ou sa perte

of negotiating a comprehensive tax information exchange agreement with that jurisdiction); (*pays non admissible*)

participating percentage of a particular share owned by a taxpayer of the capital stock of a corporation in respect of any foreign affiliate of the taxpayer that was, at the end of its taxation year, a controlled foreign affiliate of the taxpayer is

(a) where the foreign accrual property income of the affiliate for that year is $5,000 or less, nil, and

(b) where the foreign accrual property income of the affiliate for that year exceeds $5,000,

(i) the percentage that would be the taxpayer's equity percentage in the affiliate at the end of that taxation year on the assumption that the taxpayer owned no shares other than the particular share (but in no case shall that assumption be made for the purpose of determining whether or not a corporation is a foreign affiliate of the taxpayer) if

(A) the affiliate and each corporation that is relevant to the determination of the taxpayer's equity percentage in the affiliate have, at that time, only one class of issued shares, and

(B) no foreign affiliate (referred to in this clause as the "upper-tier affiliate") of the taxpayer that is relevant to the determination of the taxpayer's equity percentage in the affiliate has, at that time, an equity percentage in a foreign affiliate (including, for greater certainty, the affiliate) of the taxpayer that has an equity percentage in the upper-tier affiliate, and

(ii) in any other case, the percentage determined in prescribed manner; (*pourcentage de participation*)

permanent establishment has the meaning assigned by regulation; (*établissement stable*)

relevant tax factor, of a person or partnership for a taxation year, means

(a) in the case of a corporation, or of a partnership all the members of which, other than non-resident persons, are corporations, the quotient obtained by the formula

1/(A – B)

where

provenant de son entreprise non admissible, déterminée dans chaque cas comme si aucune somme visée à l'un des alinéas a) à d) de l'élément A n'était incluse dans le revenu de la société affiliée et comme si chaque somme visée à la division (2)a)(ii)(D) qui a été payée ou était payable, directement ou indirectement, par la société affiliée à une autre société étrangère affiliée du contribuable ou d'une personne avec laquelle celui-ci a un lien de dépendance était nulle, dans le cas où une somme relative au revenu que cette autre société affiliée tire de la somme qui lui a été payée ou lui était payable par la société affiliée a été ajoutée dans le calcul de son revenu provenant d'une entreprise exploitée activement;

E la moins élevée des sommes suivantes :

a) le montant des pertes en capital déductibles de la société affiliée pour l'année provenant de la disposition de biens (sauf des biens exclus et des biens à l'égard desquels le contribuable a fait le choix prévu au paragraphe 88(3.3)) qu'il est raisonnable de considérer comme s'étant accumulé après son année d'imposition 1975,

b) le total des sommes dont chacune représente la partie d'un gain en capital imposable de la société affiliée qui est incluse dans la valeur de l'élément B, déterminée relativement à la société affiliée pour l'année;

F la somme visée par règlement pour l'année;

F.1 la moins élevée des sommes suivantes :

a) la somme visée par règlement pour l'année,

b) l'excédent du total visé au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes dont chacune représente la partie d'un gain en capital imposable de la société affiliée qui est incluse dans la valeur de l'élément B, déterminée relativement à la société affiliée pour l'année,

(ii) la valeur de l'élément E, déterminée relativement à la société affiliée pour l'année;

G l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentés par les éléments A.1 et A.2 relativement à la société affiliée pour l'année,

b) le total des valeurs des éléments D à F.1, déterminées relativement à la société affiliée pour l'année;

H :

A is the percentage set out in paragraph 123(1)(a), and

B is

(i) in the case of a corporation, the percentage that is the corporation's general rate reduction percentage (as defined by section 123.4) for the taxation year, and

(ii) in the case of a partnership, the percentage that would be determined under subparagraph (i) in respect of the partnership if the partnership were a corporation whose taxation year is the partnership's fiscal period, and

(b) in any other case, 1.9; (*facteur fiscal approprié*)

specified fixed interest, at any time, of an entity in a trust, means an interest of the entity as a beneficiary under the trust if

(a) the interest includes, at that time, rights of the entity as a beneficiary under the trust to receive, at or after that time and directly from the trust, income and capital of the trust,

(b) the interest was issued by the trust, at or before that time, to an entity, in exchange for consideration and the fair market value, at the time at which the interest was issued, of that consideration was equal to the fair market value, at the time at which it was issued, of the interest,

(c) the only manner in which any part of the interest may cease to be the entity's is by way of a disposition (determined without reference to paragraph (i) of the definition ***disposition*** in subsection 248(1) and paragraph 248(8)(c)) by the entity of that part, and

(d) no amount of income or capital of the trust that any entity may receive directly from the trust at any time as a beneficiary under the trust depends on the exercise by any entity of, or the failure by any entity to exercise, a discretionary power; (*participation fixe désignée*)

specified person or partnership, in respect of a taxpayer, at any time means the taxpayer or a person (other than a designated acquired corporation of the taxpayer), or a partnership, that is at that time

(a) a person (other than a partnership) that is resident in Canada and does not, at that time, deal at arm's length with the taxpayer,

a) si la société affiliée est un associé d'une société de personnes à la fin de l'exercice de celle-ci s'étant terminé dans l'année et que la société de personnes a reçu, à un moment donné de cet exercice, un dividende d'une société qui serait une société étrangère affiliée du contribuable à ce moment pour l'application des articles 93 et 113 si le passage « une société résidant au Canada » au paragraphe 93.1(1) était remplacé par « un contribuable résidant au Canada », la partie de ce dividende qui est incluse dans la valeur de l'élément A relativement à la société affiliée pour l'année et qui serait réputée, en vertu de l'alinéa 93.1(2)a), avoir été reçue par elle pour l'application de ces articles si le passage « une société résidant au Canada » au paragraphe 93.1(2) était remplacé par « un contribuable résidant au Canada », avec les adaptations grammaticales nécessaires,

b) dans les autres cas, zéro. (*foreign accrual property income*)

revenu provenant d'une entreprise exploitée activement Est inclus dans le revenu provenant d'une entreprise exploitée activement d'une société étrangère affiliée d'un contribuable pour une année d'imposition le revenu de la société affiliée pour l'année qui se rapporte ou est accessoire à cette entreprise. En sont toutefois exclus :

a) le revenu de la société affiliée tiré de biens pour l'année;

b) le revenu de la société affiliée pour l'année provenant d'une entreprise qui est réputée par le paragraphe (2) être son entreprise autre qu'une entreprise exploitée activement;

c) le revenu provenant d'une entreprise non admissible de la société affiliée pour l'année. (*income from an active business*)

revenu provenant d'une entreprise non admissible Est inclus dans le revenu provenant d'une entreprise non admissible d'une société étrangère affiliée d'un contribuable résidant au Canada pour une année d'imposition le revenu de la société affiliée pour l'année qui se rapporte ou est accessoire à l'entreprise non admissible. En sont toutefois exclus :

a) le revenu de biens de la société affiliée pour l'année;

b) le revenu de la société affiliée pour l'année provenant d'une entreprise qui est réputée par le paragraphe (2) être une entreprise autre qu'une entreprise exploitée activement de la société affiliée. (*income from a non-qualifying business*)

(b) a specified predecessor corporation of the taxpayer or of a specified person or partnership in respect of the taxpayer,

(c) a foreign affiliate of

(i) the taxpayer,

(ii) a person that is at that time a specified person or partnership in respect of the taxpayer under this definition because of paragraph (a) or (b), or

(iii) a partnership that is at that time a specified person or partnership in respect of the taxpayer under this definition because of paragraph (d), or

(d) a partnership a member of which is at that time a specified person or partnership in respect of the taxpayer under this definition; (*personne ou société de personnes déterminée*)

specified predecessor corporation of a particular corporation means

(a) an antecedent corporation of the particular corporation,

(b) a predecessor corporation (within the meaning assigned by subsection 87(1)) in respect of an amalgamation by which the particular corporation was formed, or

(c) a specified predecessor corporation of a specified predecessor corporation of the particular corporation; (*société remplacée déterminée*)

specified purchaser, at any time, in respect of a particular taxpayer resident in Canada, means an entity that is, at that time,

(a) the particular taxpayer,

(b) an entity resident in Canada with which the particular taxpayer does not deal at arm's length,

(c) a foreign affiliate of an entity described in any of paragraphs (a) and (b) and (d) to (f),

(d) a trust (other than an exempt trust) in which an entity described in any of paragraphs (a) to (c) and (e) and (f) is beneficially interested,

(e) a partnership of which an entity described in any of paragraphs (a) to (d) and (f) is a member, or

(f) an entity (other than an entity described in any of paragraphs (a) to (e)) with which an entity described

société acquise désignée Société antécédente donnée d'un contribuable à l'égard de laquelle les faits suivants se vérifient :

a) le contribuable ou une autre de ses sociétés antécédentes a acquis le contrôle :

(i) soit de la société antécédente donnée,

(ii) soit d'une société (appelée « société remplaçante » à la présente définition) dont la société antécédente donnée est une société antécédente;

b) immédiatement avant l'acquisition de contrôle ou une série d'opérations ou d'événements la comprenant, le contribuable, l'autre société antécédente ou une société résidant au Canada dont le contribuable ou l'autre société antécédente est une filiale à cent pour cent, selon le cas, n'avait aucun lien de dépendance (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b)) avec la société antécédente donnée ou la société remplaçante, selon le cas. (*designated acquired corporation*)

société antécédente En ce qui concerne une société donnée :

a) toute société remplacée, au sens du paragraphe 87(1), relativement à une fusion à laquelle le paragraphe 87(11) s'est appliqué et dont la société donnée est issue;

b) toute société remplacée, au sens du paragraphe 87(1), de la société (appelée « première société fusionnée » à la présente définition) issue de la fusion de la société remplacée et d'une autre société si, à la fois :

(i) des actions du capital-actions de la société remplacée qui n'appartenaient pas à l'autre société, ou à une société dont l'autre société est une filiale à cent pour cent, ont été échangées lors de la fusion contre des actions du capital-actions de la première société fusionnée que celle-ci a rachetées, acquises ou annulées en contrepartie d'argent dans le cadre de la série d'opérations ou d'événements comprenant la fusion,

(ii) la première société fusionnée était une société remplacée, au sens du paragraphe 87(1), relativement à une fusion à laquelle le paragraphe 87(11) s'est appliqué et dont la société donnée est issue,

(iii) la fusion visée au sous-alinéa (i) a été effectuée dans le cadre d'une série d'opérations ou d'événements comprenant la fusion visée au sous-alinéa (ii);

in any of paragraphs (a) to (e) does not deal at arm's length; (*acheteur déterminé*)

surplus entitlement percentage, at any time, of a taxpayer in respect of a foreign affiliate has the meaning assigned by regulation; (*pourcentage de droit au surplus*)

taxable Canadian business, at any time, of a foreign affiliate of a taxpayer resident in Canada or of a partnership of which a foreign affiliate of a taxpayer resident in Canada is a member (which foreign affiliate or partnership is referred to in this definition as the "operator"), means a business the income from which

(a) is, or would be if there were income from the business for the operator's taxation year or fiscal period that includes that time, included in computing the foreign affiliate's taxable income earned in Canada for a taxation year under subparagraph 115(1)(a)(ii), and

(b) is not, or would not be if there were income from the business for the operator's taxation year or fiscal period that includes that time, exempt, because of a tax treaty with a country, from tax under this Part; (*entreprise canadienne imposable*)

taxation year in relation to a foreign affiliate of a taxpayer means the period for which the accounts of the foreign affiliate have been ordinarily made up, but no such period may exceed 53 weeks; (*année d'imposition*)

trust company includes a corporation that is resident in Canada and that is a loan company as defined in subsection 2(1) of the *Canadian Payments Association Act*. (*société de fiducie*)

c) toute société qui a été liquidée dans la société donnée lors d'une liquidation à laquelle le paragraphe 88(1) s'est appliqué;

d) toute société antécédente d'une société antécédente de la société donnée. (*antecedent corporation*)

société de fiducie Comprend une société résidant au Canada qui est une société de prêt au sens du paragraphe 2(1) de la *Loi sur l'Association canadienne des paiements*. (*trust company*)

société étrangère affiliée Quant à une société qui, à un moment donné, est une société étrangère affiliée d'un contribuable qui réside au Canada, société non-résidente dans laquelle, à la fois :

a) le pourcentage d'intérêt du contribuable est d'au moins 1 % à ce moment;

b) le total du pourcentage d'intérêt du contribuable et de celui de chacune des personnes qui lui est liée est d'au moins 10 % à ce moment, chaque pourcentage étant déterminé comme si le calcul prévu à l'alinéa b) de la définition de ***pourcentage d'intérêt*** au paragraphe (4) était effectué compte non tenu du pourcentage d'intérêt d'une personne dans le contribuable ou dans une personne liée à celui-ci.

Toutefois nulle société ne peut être une société étrangère affiliée d'une société de placement appartenant à des non-résidents. (*foreign affiliate*)

société étrangère affiliée contrôlée Société étrangère affiliée d'un contribuable résidant au Canada qui, à un moment donné, selon le cas :

a) est contrôlée par le contribuable;

b) serait contrôlée par le contribuable s'il était propriétaire des actions suivantes :

(i) les actions du capital-actions de la société affiliée qui lui appartiennent à ce moment,

(ii) les actions du capital-actions de la société affiliée qui appartiennent, à ce moment, à des personnes ayant un lien de dépendance avec lui,

(iii) les actions du capital-actions de la société affiliée qui appartiennent, à ce moment, à des personnes (appelées chacune « actionnaire canadien intéressé » à la présente définition), faisant partie d'un groupe d'au plus quatre personnes (ce nombre étant déterminé indépendamment de l'existence ou de l'absence de tout lien, rapport ou action concertée entre les membres du groupe), qui, à la fois :

(A) résident au Canada,

(B) ne sont pas le contribuable ni une personne visée au sous-alinéa (ii),

(C) sont propriétaires, à ce moment, d'actions du capital-actions de la société affiliée,

(iv) les actions du capital-actions de la société affiliée qui appartiennent, à ce moment, à des personnes ayant un lien de dépendance avec un actionnaire canadien intéressé. (*controlled foreign affiliate*)

société remplacée déterminée En ce qui concerne une société donnée :

a) toute société antécédente de la société donnée;

b) toute société remplacée, au sens du paragraphe 87(1), relativement à une fusion dont la société donnée est issue;

c) toute société remplacée déterminée d'une société remplacée déterminée de la société donnée. (*specified predecessor corporation*)

British Virgin Islands

(1.1) For the purposes of paragraph (b) of the definition ***non-qualifying country*** in subsection (1), the British Overseas Territory of the British Virgin Islands is deemed to have a comprehensive tax information exchange agreement with Canada that is in force and has effect after 2013 and before March 11, 2014.

Îles Vierges britanniques

(1.1) Pour l'application de l'alinéa b) de la définition de ***pays non admissible*** au paragraphe (1), le territoire britannique d'outre-mer des îles Vierges britanniques est réputé avoir conclu avec le Canada un accord général d'échange de renseignements fiscaux qui est en vigueur et exécutoire après 2013 et avant le 11 mars 2014.

Determination of certain components of foreign accrual property income

(2) For the purposes of this subdivision,

(a) in computing the income or loss from an active business for a taxation year of a particular foreign affiliate of a taxpayer in respect of which the taxpayer has a qualifying interest throughout the year or that is a controlled foreign affiliate of the taxpayer throughout the year, there shall be included any income or loss of the particular foreign affiliate for the year from sources in a country other than Canada that would otherwise be income or loss from property of the particular foreign affiliate for the year to the extent that

(i) the income or loss

(A) is derived by the particular foreign affiliate from activities of the particular foreign affiliate, or of a particular partnership of which the particular foreign affiliate is a member, to the extent

Détermination de certains éléments du revenu étranger accumulé, tiré de biens

(2) Pour l'application de la présente sous-section :

a) est à inclure dans le calcul du revenu ou de la perte pour une année d'imposition, provenant d'une entreprise exploitée activement d'une société étrangère affiliée donnée d'un contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année ou qui est une société étrangère affiliée contrôlée du contribuable tout au long de l'année, le revenu ou la perte de la société affiliée donnée pour l'année qui provient de sources situées dans un pays étranger et qui serait par ailleurs un revenu ou une perte de biens de la société affiliée donnée pour l'année dans la mesure où, selon le cas :

(i) le revenu ou la perte :

(A) d'une part, est tiré par la société étrangère affiliée donnée d'activités de celle-ci, ou d'une

that the activities occur while the particular affiliate is a qualifying member of the particular partnership that can reasonably be considered to be directly related to active business activities carried on in a country other than Canada by

(I) another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year,

(II) a life insurance corporation that is resident in Canada throughout the year and that is

1 the taxpayer,

2 a person who controls the taxpayer,

3 a person controlled by the taxpayer, or

4 a person controlled by a person who controls the taxpayer,

(III) the particular foreign affiliate or a partnership of which the particular foreign affiliate is a member, to the extent that the activities occur while the particular affiliate is a qualifying member of the partnership, or

(IV) a partnership of which another foreign affiliate of the taxpayer, in respect of which the taxpayer has a qualifying interest throughout the year, is a member, to the extent that the activities occur while the other affiliate is a qualifying member of the partnership, and

(B) if any of subclauses (A)(I), (II) and (IV) applies, would be included in computing the amount prescribed to be the earnings or loss, from an active business carried on in a country other than Canada, of

(I) that other foreign affiliate referred to in subclause (A)(I) or (IV), if the income were earned by it, or

(II) the life insurance corporation referred to in subclause (A)(II), if that life insurance corporation were a foreign affiliate of the taxpayer and the income were earned by it,

(ii) the income or loss is derived from amounts that were paid or payable, directly or indirectly, to the particular foreign affiliate or a partnership of which the particular foreign affiliate was a member

société de personnes donnée dont elle est un associé, dans la mesure où les activités se produisent pendant que la société affiliée donnée est un associé admissible de la société de personnes donnée, qu'il est raisonnable de considérer comme étant directement liées à des activités d'entreprise exploitée activement qu'une des personnes ci-après exerce dans un pays étranger :

(I) une autre société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année,

(II) une compagnie d'assurance-vie qui réside au Canada tout au long de l'année et qui est :

1 le contribuable,

2 une personne qui contrôle le contribuable,

3 une personne contrôlée par le contribuable,

4 une personne contrôlée par une personne qui contrôle le contribuable,

(III) la société étrangère affiliée donnée ou une société de personnes dont elle est un associé, dans la mesure où les activités se produisent pendant que la société affiliée donnée est un associé admissible de la société de personnes,

(IV) une société de personnes dont une autre société étrangère affiliée du contribuable, dans laquelle celui-ci a une participation admissible tout au long de l'année, est un associé, dans la mesure où les activités se produisent pendant que l'autre société affiliée est un associé admissible de la société de personnes,

(B) d'autre part, en cas d'application des subdivisions (A)(I), (II) ou (IV), serait inclus dans le calcul du montant qui constitue, aux termes du règlement, les gains ou les pertes de l'une des personnes ci-après provenant d'une entreprise exploitée activement dans un pays étranger :

(I) l'autre société étrangère affiliée visée aux subdivisions (A)(I) ou (IV), à supposer que le revenu soit gagné par elle,

(II) la compagnie d'assurance-vie visée à la subdivision (A)(II), à supposer qu'elle soit

(A) by a life insurance corporation that is resident in Canada and that is the taxpayer, a person who controls the taxpayer, a person controlled by the taxpayer or a person controlled by a person who controls the taxpayer, to the extent that those amounts that were paid or payable were for expenditures that are deductible in a taxation year of the life insurance corporation by the life insurance corporation in computing its income or loss for a taxation year from carrying on its life insurance business outside Canada and are not deductible in computing its income or loss for a taxation year from carrying on its life insurance business in Canada,

(B) by

(I) another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year, to the extent that those amounts that were paid or payable are for expenditures that were deductible by that other foreign affiliate in computing the amounts prescribed to be its earnings or loss for a taxation year from an active business (other than an active business carried on in Canada), or

(II) a partnership of which another foreign affiliate of the taxpayer (in respect of which other foreign affiliate the taxpayer has a qualifying interest throughout the year) is a qualifying member throughout each period, in the fiscal period of the partnership that ends in the year, in which that other foreign affiliate was a member of the partnership, to the extent that those amounts that were paid or payable are for expenditures that are deductible by the partnership in computing that other foreign affiliate's share of any income or loss of the partnership, for a fiscal period, that is included in computing the amounts prescribed to be that other foreign affiliate's earnings or loss for a taxation year from an active business (other than an active business carried on in Canada),

(C) by a partnership of which the particular foreign affiliate is a qualifying member throughout each period, in the fiscal period of the partnership that ends in the year, in which the particular foreign affiliate was a member of the partnership, to the extent that those amounts that were paid or payable are for expenditures that are deductible by the partnership in computing the particular foreign affiliate's share of any income

une société étrangère affiliée du contribuable et que le revenu soit gagné par elle,

(ii) le revenu ou la perte est tiré de sommes payées ou payables, directement ou indirectement, à la société affiliée donnée ou à une société de personnes dont elle est un associé par l'une des entités suivantes :

(A) une compagnie d'assurance-vie qui réside au Canada et qui est le contribuable, une personne qui le contrôle ou qu'il contrôle ou une personne contrôlée par une personne qui le contrôle, dans la mesure où les sommes en cause se rapportent à des dépenses qui sont déductibles par la compagnie d'assurance-vie au cours de son année d'imposition dans le calcul de son revenu ou de sa perte pour une année d'imposition provenant de l'exploitation de son entreprise d'assurance-vie à l'étranger, mais qui ne sont pas déductibles dans le calcul de son revenu ou de sa perte pour une année d'imposition provenant de l'exploitation de son entreprise d'assurance-vie au Canada,

(B) selon le cas :

(I) une autre société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année, dans la mesure où les sommes en cause se rapportent à des dépenses qui sont déductibles par cette autre société affiliée dans le calcul des sommes qui constituent, aux termes du règlement, ses gains ou ses pertes pour une année d'imposition provenant d'une entreprise exploitée activement, sauf une entreprise exploitée activement au Canada,

(II) une société de personnes dont une autre société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année est un associé admissible tout au long de chaque période, comprise dans l'exercice de la société de personnes se terminant dans l'année, au cours de laquelle cette autre société affiliée était un associé de la société de personnes, dans la mesure où les sommes en cause se rapportent à des dépenses qui sont déductibles par la société de personnes dans le calcul de la part de cette autre société affiliée sur le revenu ou la perte de la société de personnes, pour un exercice, qui est incluse dans le calcul des sommes qui constituent, aux termes du règlement, les gains ou les pertes de l'autre société

or loss of the partnership, for a fiscal period, that is included in computing the amounts prescribed to be the particular foreign affiliate's earnings or loss for a taxation year from an active business (other than an active business carried on in Canada), or

(D) by another foreign affiliate (referred to in this clause as the "second affiliate") of the taxpayer — in respect of which the taxpayer has a qualifying interest throughout the year — to the extent that the amounts are paid or payable by the second affiliate, in respect of any particular period in the year,

(I) under a legal obligation to pay interest on borrowed money used for the purpose of earning income from property, or

(II) on an amount payable for property acquired for the purpose of gaining or producing income from property

where

(III) the property is, throughout the particular period, excluded property of the second affiliate that is shares of the capital stock of a corporation (referred to in this clause as the "third affiliate") which is, throughout the particular period, a foreign affiliate (other than the particular foreign affiliate) of the taxpayer in respect of which the taxpayer has a qualifying interest, and

(IV) in respect of each of the second affiliate and the third affiliate, for each of their taxation years (each of which is referred to in this subclause as a "relevant taxation year") that end in the year, either

1 that affiliate is subject to income taxation in a country other than Canada in that relevant taxation year, or

2 the members or shareholders of that affiliate (which, for the purposes of this subsubclause, includes a person that has, directly or indirectly, an interest, or for civil law a right, in a share of the capital stock of, or in an equity interest in, the affiliate) at the end of that relevant taxation year are subject to income taxation in a country other than Canada on, in aggregate, all or substantially all of the income of that affiliate for that relevant taxation year in their

affiliée pour une année d'imposition provenant d'une entreprise exploitée activement, sauf une entreprise exploitée activement au Canada,

(C) une société de personnes dont la société affiliée donnée est un associé admissible tout au long de chaque période, comprise dans l'exercice de la société de personnes se terminant dans l'année, au cours de laquelle la société affiliée donnée était un associé de la société de personnes, dans la mesure où les sommes en cause se rapportent à des dépenses qui sont déductibles par la société de personnes dans le calcul de la part de la société affiliée donnée sur le revenu ou la perte de la société de personnes, pour un exercice, qui est incluse dans le calcul des sommes qui constituent, aux termes du règlement, les gains ou les pertes de la société affiliée donnée pour une année d'imposition provenant d'une entreprise exploitée activement, sauf une entreprise exploitée activement au Canada,

(D) une autre société étrangère affiliée du contribuable (appelée « deuxième société affiliée » à la présente division) dans laquelle celui-ci a une participation admissible tout au long de l'année, dans la mesure où les sommes en cause sont payées ou payables par la deuxième société affiliée, pour une période donnée de l'année, soit en règlement d'une obligation légale de payer des intérêts sur de l'argent emprunté et utilisé pour gagner un revenu de biens, soit sur une somme payable pour un bien acquis en vue de gagner un revenu de biens, dans le cas où les conditions suivantes sont réunies :

(I) les biens en cause sont, tout au long de la période donnée, des biens exclus de la deuxième société affiliée qui constituent des actions du capital-actions d'une société (appelée « troisième société affiliée » à la présente division) qui est, tout au long de cette période, une société étrangère affiliée (sauf la société affiliée donnée) du contribuable dans laquelle celui-ci a une participation admissible,

(II) en ce qui concerne chacune de la deuxième société affiliée et de la troisième société affiliée pour chacune de leurs années d'imposition (appelée chacune « année pertinente » à la présente subdivision) se terminant dans l'année, selon le cas :

taxation years in which that relevant taxation year ends,

(V) [Repealed, 2014, c. 39, s. 25]

(iii) the income or loss is derived by the particular foreign affiliate from the factoring of trade accounts receivable acquired by the particular foreign affiliate, or a partnership of which the particular foreign affiliate was a member, from another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year to the extent that the accounts receivable arose in the course of an active business carried on in a country other than Canada by that other foreign affiliate,

(iv) the income or loss is derived by the particular foreign affiliate from loans or lending assets acquired by the particular foreign affiliate, or a partnership of which the particular foreign affiliate was a member, from another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year, to the extent that the loans or lending assets arose in the course of an active business carried on in a country other than Canada by that other foreign affiliate,

(v) the income or loss is derived by the particular foreign affiliate from the disposition of excluded property that is not capital property, or

(vi) the income or loss is derived by the particular foreign affiliate under or as a result of an agreement that provides for the purchase, sale or exchange of currency and that can reasonably be considered to have been made by the particular foreign affiliate to reduce

(A) its risk — with respect to an amount that increases the amount required by this paragraph to be included in computing the particular foreign affiliate's income for a taxation year from an active business or that decreases the amount required by this paragraph to be included in computing the particular foreign affiliate's loss for a taxation year from an active business — of fluctuations in the value of the currency in which the amount was denominated, or

(B) its risk — with respect to an amount that decreases the amount required by this paragraph to be included in computing the particular foreign affiliate's income for a taxation year from an active business or that increases the amount required by this paragraph to be included in computing the particular foreign affiliate's loss for a taxation year from an active business — of

1 la société affiliée en cause est assujettie à l'impôt sur le revenu dans un pays étranger au cours de cette année pertinente,

2 les membres ou les actionnaires de la société affiliée en cause (qui, pour l'application de la présente sous-subdivision, comprend une personne qui a, directement ou indirectement, un intérêt ou, pour l'application du droit civil, un droit sur une action du capital-actions de cette société affiliée ou une participation dans celle-ci) à la fin de cette année pertinente sont assujettis à l'impôt sur le revenu dans un pays étranger, sur la totalité ou la presque totalité du revenu de la société affiliée en cause pour cette année pertinente, au cours de leur année d'imposition dans laquelle cette année pertinente prend fin,

(III) [Abrogée, 2014, ch. 39, art. 25]

(iii) le revenu ou la perte est tiré par la société affiliée donnée de l'affacturage de comptes clients qu'elle a acquis, ou qu'a acquis une société de personnes dont elle est un associé, auprès d'une autre société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année, dans la mesure où les créances ont pris naissance dans le cours des activités d'une entreprise exploitée activement dans un pays étranger par cette autre société affiliée,

(iv) le revenu ou la perte est tiré par la société affiliée donnée de prêts ou de titres de crédit qu'elle a acquis, ou qu'a acquis une société de personnes dont elle est un associé, auprès d'une autre société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année, dans la mesure où les prêts ont été consentis, ou les titres de crédit, émis, dans le cours des activités d'une entreprise exploitée activement dans un pays étranger par cette autre société affiliée,

(v) le revenu ou la perte est tiré par la société affiliée donnée de la disposition d'un bien exclu qui n'est pas une immobilisation,

(vi) le revenu ou la perte est tiré par la société affiliée donnée en vertu ou par suite d'une convention qui prévoit l'achat, la vente ou l'échange de monnaie et qu'il est raisonnable de considérer comme ayant été conclue par la société affiliée donnée en vue de réduire, selon le cas :

fluctuations in the value of the currency in which the amount was denominated;

(a.1) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer there shall be included the income of the affiliate for the year from the sale of property (which, for the purposes of this paragraph, includes the income of the affiliate for the year from the performance of services as an agent in relation to a purchase or sale of property) where

(i) it is reasonable to conclude that the cost to any person of the property (other than property that is designated property) is relevant in computing the income from a business carried on by the taxpayer or by a person resident in Canada with whom the taxpayer does not deal at arm's length or is relevant in computing the income from a business carried on in Canada by a non-resident person with whom the taxpayer does not deal at arm's length, and

(ii) the property was not

(A) manufactured, produced, grown, extracted or processed in the country

(I) under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued, and

(II) in which the affiliate's business is principally carried on,

(B) an interest in real property, or a real right in an immovable, located in, or a foreign resource property in respect of, the country

(I) under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued, and

(II) in which the affiliate's business is principally carried on, or

(C) an indebtedness, or a lease obligation, of a person resident in Canada or in respect of a business carried on in Canada, that was purchased and sold by the affiliate on its own account,

unless more than 90% of the gross revenue of the affiliate for the year from the sale of property is derived from the sale of such property (other than a property described in subparagraph (ii) the cost of which to any person is a cost referred to in subparagraph (i) or a

(A) le risque que présentent pour elle — pour ce qui est d'une somme qui accroît la somme à inclure en application du présent alinéa dans le calcul de son revenu pour une année d'imposition provenant d'une entreprise exploitée activement ou qui réduit la somme à inclure en application du présent alinéa dans le calcul de sa perte pour une année d'imposition provenant d'une entreprise exploitée activement — les fluctuations de la valeur de la monnaie dans laquelle la somme était libellée,

(B) le risque que présentent pour elle — pour ce qui est d'une somme qui réduit la somme à inclure en application du présent alinéa dans le calcul de son revenu pour une année d'imposition provenant d'une entreprise exploitée activement ou qui accroît la somme à inclure en application du présent alinéa dans le calcul de sa perte pour une année d'imposition provenant d'une entreprise exploitée activement — les fluctuations de la valeur de la monnaie dans laquelle la somme était libellée;

a.1) est à inclure dans le calcul du revenu, pour une année d'imposition, provenant d'une entreprise autre qu'une entreprise exploitée activement d'une société étrangère affiliée d'un contribuable le revenu de la société affiliée pour l'année tiré de la vente de biens (y compris, pour l'application du présent alinéa, son revenu pour l'année tiré de la prestation de services à titre de mandataire dans le cadre de l'achat ou de la vente de biens), dans le cas où, à la fois :

(i) il est raisonnable de conclure que le coût des biens pour une personne (sauf des biens qui sont des biens désignés) entre soit dans le calcul du revenu provenant d'une entreprise exploitée par le contribuable ou par une personne résidant au Canada avec laquelle celui-ci a un lien de dépendance, soit dans le calcul du revenu provenant d'une entreprise exploitée au Canada par une personne non-résidente avec laquelle le contribuable a un lien de dépendance,

(ii) les biens, à la fois :

(A) n'ont pas été manufacturés, produits, cultivés, extraits ou transformés dans le pays où l'entreprise de la société affiliée est principalement exploitée et sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

property the income from the sale of which is not included in computing the income from a business other than an active business of the affiliate under this paragraph because of subsection (2.31)) to persons with whom the affiliate deals at arm's length (which, for this purpose, includes a sale of property to a non-resident corporation with which the affiliate does not deal at arm's length for sale to persons with whom the affiliate deals at arm's length) and, where this paragraph applies to include income of the affiliate from the sale of property in the income of the affiliate from a business other than an active business,

(iii) the sale of such property shall be deemed to be a separate business, other than an active business, carried on by the affiliate, and

(iv) any income of the affiliate that pertains to or is incident to that business shall be deemed to be income from a business other than an active business;

(a.2) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer

(i) there shall be included the income of the affiliate for the year from the insurance of specified Canadian risks (which, for the purposes of this paragraph, includes income for the year from the reinsurance of specified Canadian risks), unless more than 90% of the gross premium revenue of the affiliate for the year from the insurance of risks (net of reinsurance ceded) was in respect of the insurance of risks (other than specified Canadian risks) of persons with whom the affiliate deals at arm's length,

(ii) if subparagraph (i) applies to include income of the affiliate from the insurance of specified Canadian risks,

(A) the insurance of those risks is deemed to be a separate business, other than an active business, carried on by the affiliate, and

(B) any income of the affiliate that pertains to or is incident to that business is deemed to be income from a business other than an active business,

(iii) there shall be included the income of the affiliate for the year in respect of the ceding of specified Canadian risks — except to the extent that the income is included because of subparagraph (i) or (ii) — which, for the purposes of this paragraph, includes

(B) ne sont pas des droits réels sur des immeubles, ou des intérêts sur des biens réels, situés dans le pays où l'entreprise de la société affiliée est principalement exploitée et sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, ni des avoirs miniers étrangers à l'égard de ce pays,

(C) ne sont pas des dettes ou des obligations découlant de baux d'une personne résidant au Canada, ou des dettes ou des obligations découlant de baux relatives à une entreprise exploitée au Canada, qui ont été achetées et vendues par la société affiliée pour son propre compte,

de plus, lorsque l'application du présent alinéa donne lieu à une telle inclusion :

(iii) la vente des biens est réputée constituer une entreprise distincte, autre qu'une entreprise exploitée activement, que la société affiliée exploite,

(iv) tout revenu de la société affiliée qui se rapporte ou est accessoire à l'entreprise distincte est réputé être un revenu provenant d'une entreprise autre qu'une entreprise exploitée activement,

toutefois, aucun montant n'est à inclure en vertu du présent alinéa si plus de 90 % du revenu brut de la société affiliée pour l'année tiré de la vente de biens provient de la vente de tels biens (sauf un bien visé au sous-alinéa (ii) dont le coût pour une personne est visé au sous-alinéa (i) ou un bien dont la vente a donné lieu à un revenu qui n'est pas inclus dans le calcul du revenu tiré d'une entreprise autre qu'une entreprise exploitée activement de la société affiliée en vertu du présent alinéa par l'effet du paragraphe (2.31)) à des personnes avec lesquelles la société affiliée n'a aucun lien de dépendance; à cette fin, la vente en question comprend la vente, à une société non-résidente avec laquelle la société affiliée a un lien de dépendance, de biens destinés à être vendus à des personnes avec lesquelles la société affiliée n'a aucun lien de dépendance;

a.2) aux fins du calcul du revenu, pour une année d'imposition, provenant d'une entreprise autre qu'une entreprise exploitée activement d'une société étrangère affiliée d'un contribuable, les règles ci-après s'appliquent :

(i) est à inclure le revenu de la société affiliée pour l'année tiré de l'assurance de risques canadiens déterminés (lequel comprend, pour l'application du présent alinéa, son revenu pour l'année tiré de la

(A) income of the affiliate from services in respect of the ceding of specified Canadian risks, and

(B) except to the extent the amount is included under clause (A), the amount, if any, by which the fair market value of the consideration provided in respect of the ceding of the specified Canadian risks exceeds the affiliate's cost in respect of those specified Canadian risks, and

(iv) if subparagraph (iii) applies to include income of the affiliate in respect of the ceding of specified Canadian risks,

(A) the ceding of those risks is deemed to be a separate business, other than an active business, carried on by the affiliate, and

(B) any income of the affiliate that pertains to or is incident to that business is deemed to be income from a business other than an active business;

(a.21) for the purposes of paragraph (a.2), one or more risks insured by a foreign affiliate of a taxpayer that, if this Act were read without reference to this paragraph, would not be specified Canadian risks (in this paragraph referred to as the ***foreign policy pool***) are deemed to be specified Canadian risks if

(i) the affiliate, or a person or partnership that does not deal at arm's length with the affiliate, enters into one or more agreements or arrangements in respect of the foreign policy pool,

(ii) the affiliate's risk of loss or opportunity for gain or profit in respect of the foreign policy pool, in combination with its risk of loss or opportunity for gain in respect of the agreements or arrangements, can reasonably be considered to be — or could reasonably be considered to be if the affiliate had entered into the agreements or arrangements entered into by the person or partnership — determined, in whole or in part, by reference to one or more criteria in respect of one or more risks insured by another person or partnership (in this paragraph referred to as the ***tracked policy pool***), which criteria are

(A) the fair market value of the tracked policy pool,

(B) the revenue, income, loss or cash flow from the tracked policy pool, or

(C) any other similar criteria, and

réassurance de risques canadiens déterminés), sauf si plus de 90 % du revenu brut tiré de primes de la société affiliée pour l'année provenant de l'assurance de risques (moins les risques cédés à un réassureur) se rapporte à l'assurance de risques, autres que des risques canadiens déterminés, de personnes avec lesquelles la société affiliée n'a aucun lien de dépendance,

(ii) si, par l'effet du sous-alinéa (i), un montant de revenu de la société affiliée tiré de l'assurance de risques canadiens déterminés est inclus dans le calcul de son revenu provenant d'une entreprise autre qu'une entreprise exploitée activement, les règles ci-après s'appliquent :

(A) l'assurance de ces risques est réputée constituer une entreprise distincte, autre qu'une entreprise exploitée activement, que la société affiliée exploite,

(B) tout revenu de la société affiliée qui se rapporte ou est accessoire à l'entreprise distincte est réputé être un revenu provenant d'une entreprise autre qu'une entreprise exploitée activement,

(iii) est à inclure dans le calcul du revenu provenant d'une entreprise autre qu'une entreprise exploitée activement de la société affiliée, le revenu de la société affiliée pour l'année relatif à la cession de risques canadiens déterminés, sauf dans la mesure où le revenu est inclus par l'effet des sous-alinéas (i) ou (ii), lequel comprend pour l'application du présent alinéa :

(A) d'une part, le revenu de la société affiliée provenant de services relatifs à la cession de ces risques,

(B) d'autre part, sauf dans la mesure où le montant est inclus par l'application de la division (A), le montant qui représente l'excédent de la juste valeur marchande de la contrepartie fournie relativement à la cession des risques canadiens déterminés sur les frais engagés par la société affiliée relativement à ces risques,

(iv) si, par l'effet du sous-alinéa (iii), un montant de revenu de la société affiliée relatif à la cession de risques canadiens déterminés est inclus dans le calcul de son revenu provenant d'une entreprise autre qu'une entreprise exploitée activement, les règles ci-après s'appliquent :

(iii) 10% or more of the tracked policy pool consists of specified Canadian risks;

(a.22) if the conditions in paragraph (a.21) are satisfied in respect of a foreign affiliate of a taxpayer, or a foreign affiliate of another taxpayer if that other taxpayer does not deal at arm's length with the taxpayer, and a particular foreign affiliate of the taxpayer, or a partnership of which the particular affiliate is a member, has entered into one or more agreements or arrangements described in that paragraph,

(i) activities performed in connection with those agreements or arrangements are deemed to be a separate business, other than an active business, carried on by the particular affiliate to the extent that those activities can reasonably be considered to be performed for the purpose of obtaining the result described in subparagraph (a.21)(ii), and

(ii) any income of the particular affiliate from the business (including income that pertains to or is incident to the business) is deemed to be income from a business other than an active business;

(a.23) for the purposes of paragraphs (a.2) and (a.21), ***specified Canadian risk*** means a risk in respect of

(i) a person resident in Canada,

(ii) a property situated in Canada, or

(iii) a business carried on in Canada;

(a.3) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer there shall be included the income of the affiliate for the year derived directly or indirectly from indebtedness and lease obligations (which, for the purposes of this paragraph, includes the income of the affiliate for the year from the purchase and sale of indebtedness and lease obligations on its own account, but does not include excluded income)

(i) of persons resident in Canada, or

(ii) in respect of businesses carried on in Canada

unless more than 90% of the gross revenue of the affiliate derived directly or indirectly from indebtedness and lease obligations (other than excluded revenue or revenue that is not included in computing the income from a business other than an active business of the affiliate under this paragraph because of subsection (2.31)) was derived directly or indirectly from indebtedness and lease obligations of non-resident persons

(A) la cession de ces risques est réputée constituer une entreprise distincte, autre qu'une entreprise exploitée activement, que la société affiliée exploite,

(B) tout revenu de la société affiliée qui se rapporte ou est accessoire à l'entreprise distincte est réputé être un revenu provenant d'une entreprise autre qu'une entreprise exploitée activement;

a.21) pour l'application de l'alinéa a.2), un ou plusieurs risques (appelés ***groupe de polices étrangères*** au présent alinéa) qui sont assurés par une société étrangère affiliée d'un contribuable et qui, en l'absence du présent alinéa, ne seraient pas des risques canadiens déterminés sont réputés être des risques canadiens déterminés si, à la fois :

(i) la société affiliée, ou une personne ou une société de personnes avec laquelle elle a un lien de dépendance, conclut un ou plusieurs accords ou arrangements relatifs au groupe de polices étrangères,

(ii) il est raisonnable — ou le serait si la société affiliée avait conclu les accords ou arrangements conclus par la personne ou la société de personnes — de considérer que les possibilités, pour la société affiliée, de subir des pertes ou de réaliser des gains ou des bénéfices relativement au groupe de polices étrangères, de concert avec les possibilités pour elle de subir des pertes ou de réaliser des gains ou des bénéfices relativement aux accords ou arrangements, sont déterminées, en tout ou en partie, par rapport à un ou à plusieurs des critères ci-après relatifs à un ou à plusieurs risques assurés par une autre personne ou société de personnes (appelés ***groupe de polices de repère*** au présent alinéa) :

(A) la juste valeur marchande du groupe de polices de repère,

(B) les recettes, le revenu, la perte ou le flux de trésorerie provenant du groupe de polices de repère,

(C) tout autre critère semblable,

(iii) au moins 10 % du groupe de polices de repère est constitué de risques canadiens déterminés;

a.22) si les conditions énoncées à l'alinéa a.21) sont réunies relativement à une société étrangère affiliée d'un contribuable, ou à une société étrangère affiliée d'un autre contribuable avec lequel le contribuable en cause a un lien de dépendance, et qu'une société

with whom the affiliate deals at arm's length and, where this paragraph applies to include income of the affiliate for the year in the income of the affiliate from a business other than an active business,

(iii) those activities carried out to earn such income shall be deemed to be a separate business, other than an active business, carried on by the affiliate, and

(iv) any income of the affiliate that pertains to or is incident to that business shall be deemed to be income from a business other than an active business;

(a.4) in computing the income from a business other than an active business for a taxation year of a foreign affiliate of a taxpayer there shall be included (to the extent not included under paragraph 95(2)(a.3) in such income of the affiliate for the year) that proportion of the income of the affiliate for the year derived directly or indirectly from indebtedness and lease obligations (which, for the purposes of this paragraph, includes the income of the affiliate for the year from the purchase and sale of indebtedness and lease obligations on its own account) in respect of a business carried on outside Canada by a partnership (any portion of the income or loss of which for fiscal periods of the partnership that end in the year is included or would, if the partnership had an income or loss for such fiscal periods, be included directly or indirectly in computing the income or loss of the taxpayer or a person resident in Canada with whom the taxpayer does not deal at arm's length) that

(i) the total of all amounts each of which is the income or loss of the partnership for fiscal periods of the partnership that end in the year that are included directly or indirectly in computing the income or loss of the taxpayer or a person resident in Canada with whom the taxpayer does not deal at arm's length

is of

(ii) the total of all amounts each of which is the income or loss of the partnership for fiscal periods of the partnership that end in the year

unless more than 90% of the gross revenue of the affiliate derived directly or indirectly from indebtedness and lease obligations was derived directly or indirectly from indebtedness and lease obligations of non-resident persons with whom the affiliate deals at arm's length (other than indebtedness and lease obligations of a partnership described in this paragraph) and where this paragraph applies to include a proportion

étrangère affiliée donnée du contribuable, ou une société de personnes dont celle-ci est un associé, a conclu un ou plusieurs accords ou arrangements visés à cet alinéa, les règles ci-après s'appliquent :

(i) les activités exercées dans le cadre de ces accords ou arrangements sont réputées constituer une entreprise distincte, autre qu'une entreprise exploitée activement, exploitée par la société affiliée donnée dans la mesure où il est raisonnable de considérer qu'elles sont exercées dans le but d'obtenir le résultat visé au sous-alinéa a.21)(ii),

(ii) tout revenu de la société affiliée donnée provenant de l'entreprise (y compris le revenu accessoire à l'entreprise ou s'y rapportant) est réputé être un revenu provenant d'une entreprise autre qu'une entreprise exploitée activement;

a.23) pour l'application des alinéas a.2) et a.21), ***risques canadiens déterminés*** s'entend d'un risque visant, selon le cas :

(i) une personne résidant au Canada,

(ii) un bien situé au Canada,

(iii) une entreprise exploitée au Canada;

a.3) est à inclure dans le calcul du revenu, pour une année d'imposition, provenant d'une entreprise, autre qu'une entreprise exploitée activement, d'une société étrangère affiliée d'un contribuable le revenu de la société affiliée pour l'année tiré, directement ou indirectement, de dettes et d'obligations découlant de baux de personnes résidant au Canada ou de dettes et de telles obligations se rapportant à des entreprises exploitées au Canada (y compris, pour l'application du présent alinéa, le revenu de la société affiliée pour l'année tiré de l'achat et de la vente de dettes et de telles obligations pour son propre compte, mais à l'exclusion du revenu exclu); de plus, lorsque l'application du présent alinéa donne lieu à une telle inclusion :

(i) les activités exercées afin de gagner un tel revenu sont réputées constituer une entreprise distincte, autre qu'une entreprise exploitée activement, que la société affiliée exploite,

(ii) tout revenu de la société affiliée qui se rapporte ou est accessoire à l'entreprise distincte est réputé être un revenu provenant d'une entreprise autre qu'une entreprise exploitée activement;

toutefois, aucun montant n'est à inclure en vertu du présent alinéa si plus de 90 % du revenu brut de la société affiliée tiré, directement ou indirectement, de

of the income of the affiliate for the year in the income of the affiliate from a business other than an active business

(iii) those activities carried out to earn such income of the affiliate for the year shall be deemed to be a separate business, other than an active business, carried on by the affiliate, and

(iv) any income of the affiliate that pertains to or is incident to that business shall be deemed to be income from a business other than an active business

and for the purpose of this paragraph, where the income or loss of a partnership for a fiscal period that ends in the year is nil, the proportion of the income of the affiliate that is to be included in the income of the affiliate for the year from a business other than an active business shall be determined as if the partnership had income of $1,000,000 for that fiscal period;

(b) the provision, by a foreign affiliate of a taxpayer, of services or of an undertaking to provide services

(i) is deemed to be a separate business, other than an active business, carried on by the affiliate, and any income from that business or that pertains to or is incident to that business is deemed to be income from a business other than an active business, to the extent that the amounts paid or payable in consideration for those services or for the undertaking to provide services

(A) are deductible, or can reasonably be considered to relate to amounts that are deductible, in computing the income from a business carried on in Canada, by

(I) any taxpayer of whom the affiliate is a foreign affiliate, or

(II) another taxpayer who does not deal at arm's length with

1 the affiliate, or

2 any taxpayer of whom the affiliate is a foreign affiliate, or

(B) are deductible, or can reasonably be considered to relate to an amount that is deductible, in computing the foreign accrual property income of a foreign affiliate of

(I) any taxpayer of whom the affiliate is a foreign affiliate, or

dettes et d'obligations découlant de baux (sauf un revenu exclu ou un revenu qui n'est pas inclus dans le calcul du revenu tiré d'une entreprise autre qu'une entreprise exploitée activement de la société affiliée en vertu du présent alinéa par l'effet du paragraphe (2.31)) est tiré, directement ou indirectement, de dettes et de telles obligations de personnes non-résidentes avec lesquelles la société affiliée n'a aucun lien de dépendance;

a.4) est à inclure dans le calcul du revenu, pour une année d'imposition, provenant d'une entreprise, autre qu'une entreprise exploitée activement, d'une société étrangère affiliée d'un contribuable partie — dans la mesure où elle n'est pas incluse dans ce revenu en application de l'alinéa a.3) — du revenu de la société affiliée pour l'année tiré directement ou indirectement de dettes et d'obligations découlant de baux (y compris, pour l'application du présent alinéa, son revenu pour l'année tiré de l'achat et de la vente de dettes et de telles obligations pour son propre compte) relativement à une entreprise exploitée à l'étranger par une société de personnes dont une partie quelconque du revenu ou de la perte pour ses exercices qui se terminent dans l'année est incluse directement ou indirectement dans le calcul du revenu ou de la perte du contribuable ou d'une personne résidant au Canada avec laquelle celui-ci a un lien de dépendance, ou serait ainsi incluse si la société de personnes avait un revenu ou une perte pour ces exercices, représentée par le rapport entre :

(i) d'une part, le total des montants représentant chacun le revenu ou la perte de la société de personnes pour ses exercices se terminant dans l'année qui sont inclus directement ou indirectement dans le calcul du revenu ou de la perte du contribuable ou d'une personne résidant au Canada avec laquelle celui-ci a un lien de dépendance,

(ii) d'autre part, le total des montants représentant chacun le revenu ou la perte de la société de personnes pour ses exercices qui se terminent dans l'année,

de plus, lorsque l'application du présent alinéa donne lieu à une telle inclusion :

(iii) les activités exercées afin de gagner cette partie du revenu de la société affiliée pour l'année sont réputées constituer une entreprise distincte, autre qu'une entreprise exploitée activement, que la société affiliée exploite,

(iv) tout revenu de la société affiliée qui se rapporte ou est accessoire à l'entreprise distincte est réputé

(II) another taxpayer who does not deal at arm's length with

1 the affiliate, or

2 any taxpayer of whom the affiliate is a foreign affiliate, and

(ii) is deemed to be a separate business, other than an active business, carried on by the affiliate, and any income from that business or that pertains to or is incident to that business is deemed to be income from a business other than an active business, to the extent that the services are, or are to be, performed by

(A) any taxpayer of whom the affiliate is a foreign affiliate,

(B) a relevant person who does not deal at arm's length with

(I) the affiliate, or

(II) any taxpayer of whom the affiliate is a foreign affiliate,

(C) a partnership any member of which is a person described in clause (A) or (B), or

(D) a partnership in which any person or partnership described in any of clauses (A) to (C) has, directly or indirectly, a partnership interest;

(c) if a foreign affiliate (referred to in this paragraph as the "disposing affiliate") of a taxpayer has, at any time, disposed of capital property (other than property the adjusted cost base of which, at that time, is greater than the amount that would, in the absence of this paragraph, be the disposing affiliate's proceeds of disposition of the property in respect of the disposition) that was shares (referred to in this paragraph as the "shares disposed of") of the capital stock of another foreign affiliate of the taxpayer to any other corporation that was, immediately after that time, a foreign affiliate (referred to in this paragraph as the "acquiring affiliate") of the taxpayer for consideration that includes shares of the capital stock of the acquiring affiliate,

(i) the cost to the disposing affiliate of any property (other than shares of the capital stock of the acquiring affiliate) receivable by the disposing affiliate as consideration for the disposition is deemed to be the fair market value of the property at that time,

être un revenu tiré d'une entreprise autre qu'une entreprise exploitée activement,

pour l'application du présent alinéa, lorsque le revenu ou la perte d'une société de personnes pour un exercice qui se termine dans l'année est nul, la partie du revenu de la société affiliée qui est à inclure dans son revenu pour l'année tiré d'une entreprise autre qu'une entreprise exploitée activement est déterminée comme si la société de personnes avait un revenu de 1 000 000 $ pour cet exercice; toutefois, aucun montant n'est à inclure en vertu du présent alinéa si plus de 90 % du revenu brut de la société affiliée tiré directement ou indirectement de dettes et d'obligations découlant de baux est tiré directement ou indirectement de dettes et d'obligations découlant de baux de personnes non-résidentes avec lesquelles la société affiliée n'a aucun lien de dépendance (sauf les dettes et les obligations découlant de baux d'une société de personnes visée au présent alinéa);

b) la fourniture, par une société étrangère affiliée d'un contribuable, de services ou d'un engagement de fournir des services est réputée constituer une entreprise distincte, autre qu'une entreprise exploitée activement, que la société affiliée exploite, et le revenu qui est tiré de cette entreprise, qui s'y rapporte ou qui y est accessoire est réputé être un revenu tiré d'une entreprise autre qu'une entreprise exploitée activement, dans la mesure où, à la fois :

(i) les sommes payées ou payables en contrepartie de ces services ou de cet engagement :

(A) soit sont déductibles dans le calcul du revenu tiré d'une entreprise exploitée au Canada par l'un des contribuables ci-après, ou peuvent raisonnablement être considérées comme se rapportant à des sommes qui sont déductibles dans ce calcul :

(I) un contribuable dont la société affiliée est une société étrangère affiliée,

(II) un autre contribuable ayant un lien de dépendance avec la société affiliée ou avec un contribuable dont celle-ci est une société étrangère affiliée,

(B) soit sont déductibles dans le calcul du revenu étranger accumulé, tiré de biens d'une société étrangère affiliée d'un des contribuables ci-après, ou peuvent raisonnablement être considérées comme se rapportant à des sommes qui sont déductibles dans ce calcul :

(ii) the cost to the disposing affiliate of each share of a class of the capital stock of the acquiring affiliate that is receivable by the disposing affiliate as consideration for the disposition is deemed to be the amount determined by the formula

(A – B) × C/D

where

A is the total of all amounts each of which is the relevant cost base to the disposing affiliate at that time, in respect of the taxpayer, of a share disposed of,

B is the fair market value at that time of the consideration receivable for the disposition (other than shares of the capital stock of the acquiring affiliate),

C is the fair market value, immediately after that time, of the share, and

D is the fair market value, immediately after that time, of all shares of the capital stock of the acquiring affiliate receivable by the disposing affiliate as consideration for the disposition,

(iii) the disposing affiliate's proceeds of disposition of the shares are deemed to be an amount equal to the cost to it of all shares and other property receivable by it from the acquiring affiliate as consideration for the disposition, and

(iv) the cost to the acquiring affiliate of the shares acquired from the disposing affiliate is deemed to be an amount equal to the disposing affiliate's proceeds of disposition referred to in subparagraph (iii);

(d) where there has been a foreign merger in which the shares owned by a foreign affiliate of a taxpayer of the capital stock of a corporation that was a predecessor foreign corporation immediately before the merger were exchanged for or became shares of the capital stock of the new foreign corporation or the foreign parent corporation, subsection 87(4) applies to the foreign affiliate as if the references in that subsection to

(i) "amalgamation" were read as "foreign merger",

(ii) "predecessor corporation" were read as "predecessor foreign corporation",

(iii) "new corporation" were read as "new foreign corporation or the foreign parent corporation", and

(iv) "adjusted cost bases" were read as "relevant cost bases, in respect of the taxpayer,";

(I) un contribuable dont la société affiliée est une société étrangère affiliée,

(II) un autre contribuable qui a un lien de dépendance avec la société affiliée ou avec un contribuable dont celle-ci est une société étrangère affiliée,

(ii) les services sont exécutés ou doivent l'être par :

(A) tout contribuable dont la société affiliée est une société étrangère affiliée,

(B) une personne déterminée qui a un lien de dépendance :

(I) soit avec la société affiliée,

(II) soit avec un contribuable dont la société affiliée est une société étrangère affiliée,

(C) une société de personnes dont l'un des associés est une personne visée aux divisions (A) ou (B),

(D) une société de personnes dans laquelle une personne ou une société de personnes visée à l'une des divisions (A) à (C) a, directement ou indirectement, une participation;

c) lorsqu'une société étrangère affiliée d'un contribuable (appelée « société cédante » au présent alinéa) a disposé d'une immobilisation (sauf un bien dont le prix de base rajusté, au moment de la disposition, excède la somme qui, en l'absence du présent alinéa, représenterait le produit de disposition du bien pour la société cédante relativement à la disposition) constituée d'actions du capital-actions d'une autre société étrangère affiliée du contribuable (appelées « actions cédées » au présent alinéa) en faveur d'une autre société qui, immédiatement après la disposition, était une société étrangère affiliée du contribuable (appelée « acquéreur » au présent alinéa) moyennant une contrepartie comprenant des actions du capital-actions de l'acquéreur, les règles ci-après s'appliquent :

(i) le coût, pour la société cédante, de tout bien (sauf des actions du capital-actions de l'acquéreur) à recevoir par elle en contrepartie de la disposition est réputé correspondre à la juste valeur marchande de ce bien au moment de la disposition,

(d.1) if there has been a foreign merger of two or more predecessor foreign corporations to form a new foreign corporation that is, immediately after the merger, a foreign affiliate of a taxpayer and one or more of the predecessor foreign corporations (each being referred to in this paragraph as a "foreign affiliate predecessor") was, immediately before the merger, a foreign affiliate of the taxpayer,

(i) each property of the new foreign corporation that was a property of a foreign affiliate predecessor immediately before the merger is deemed to have been

(A) disposed of by the foreign affiliate predecessor immediately before the merger for proceeds of disposition equal to the relevant cost base of the property to the foreign affiliate predecessor, in respect of the taxpayer, at that time, and

(B) acquired by the new foreign corporation, at that time, at a cost equal to the amount determined under clause (A),

(ii) the new foreign corporation is deemed to be the same corporation as, and a continuation of, each foreign affiliate predecessor for the purposes of applying

(A) this subsection and the definition ***foreign accrual property income*** in subsection (1) with respect to any disposition by the new foreign corporation of any property to which subparagraph (i) applied,

(B) subsections 13(21.2), 18(15) and 40(3.4) in respect of any property that was disposed of, at any time before the merger, by a foreign affiliate predecessor, and

(C) paragraph 40(3.5)(c) in respect of any share that was deemed under that paragraph to be owned, at any time before the merger, by a foreign affiliate predecessor, and

(iii) for the purposes of the description of A.2 in the definition ***foreign accrual property income*** in subsection (1), the total of all amounts each of which is the amount determined for G in respect of a foreign affiliate predecessor for its last taxation year that ends on or before the time of the merger is deemed to be the amount determined for G in respect of the new foreign corporation for its taxation year that immediately precedes its first taxation year;

(ii) le coût, pour la société cédante, de chaque action d'une catégorie du capital-actions de l'acquéreur à recevoir par elle en contrepartie de la disposition est réputé correspondre à la somme obtenue par la formule suivante :

(A – B) × C/D

où :

A représente le total des sommes dont chacune représente le prix de base approprié d'une action cédée pour la société cédante au moment de la disposition, relativement au contribuable,

B la juste valeur marchande, au moment de la disposition, de la contrepartie à recevoir pour la disposition (sauf des actions du capital-actions de l'acquéreur),

C la juste valeur marchande de l'action immédiatement après la disposition,

D la juste valeur marchande, immédiatement après la disposition, des actions du capital-actions de l'acquéreur qui sont à recevoir par la société cédante en contrepartie de la disposition,

(iii) le produit de disposition des actions pour la société cédante est réputé correspondre au coût, pour elle, de l'ensemble des actions et des autres biens à recevoir par elle de l'acquéreur en contrepartie de la disposition,

(iv) le coût pour l'acquéreur des actions acquises de la société cédante est réputé correspondre au produit de disposition mentionné au sous-alinéa (iii);

d) en cas de fusion étrangère dans le cadre de laquelle les actions, appartenant à une société étrangère affiliée d'un contribuable, du capital-actions d'une société qui était une société étrangère remplacée immédiatement avant la fusion ont été échangées contre des actions du capital-actions de la nouvelle société étrangère ou de la société mère étrangère, ou sont devenues de telles actions, le paragraphe 87(4) s'applique à la société étrangère affiliée, avec les modifications suivantes :

(i) les mentions de « fusion » valent mention de « fusion étrangère »,

(ii) les mentions de « société remplacée » valent mention de « société étrangère remplacée »,

(iii) les mentions de « nouvelle société » valent mention de « nouvelle société étrangère ou de la société mère étrangère »,

(e) notwithstanding subsection 69(5), if at any time a foreign affiliate (referred to in this paragraph as the "shareholder affiliate") of a taxpayer receives a property (referred to in this paragraph as the "distributed property") from another foreign affiliate (referred to in this paragraph as the "disposing affiliate") of the taxpayer on a liquidation and dissolution of the disposing affiliate and the distributed property is received in respect of shares of the capital stock of the disposing affiliate that are disposed of on the liquidation and dissolution,

(i) the distributed property is deemed to have been disposed of at that time by the disposing affiliate to the shareholder affiliate for proceeds of disposition equal to the relevant cost base to the disposing affiliate of the distributed property in respect of the taxpayer, immediately before that time, if

(A) the liquidation and dissolution is a designated liquidation and dissolution of the disposing affiliate, or

(B) the distributed property is a share of the capital stock of another foreign affiliate of the taxpayer that was, immediately before that time, excluded property of the disposing affiliate,

(ii) if subparagraph (i) does not apply to the distributed property, the distributed property is deemed to have been disposed of at that time by the disposing affiliate to the shareholder affiliate for proceeds of disposition equal to the distributed property's fair market value at that time,

(iii) the distributed property is deemed to have been acquired, at that time, by the shareholder affiliate at a cost equal to the amount determined under subparagraph (i) or (ii) to be the disposing affiliate's proceeds of disposition of the distributed property,

(iv) each share of a class of the capital stock of the disposing affiliate that is disposed of by the shareholder affiliate on the liquidation and dissolution of the disposing affiliate is deemed to be disposed of for proceeds of disposition equal to

(A) if the liquidation and dissolution is a designated liquidation and dissolution of the disposing affiliate

(I) where the amount that would, if clause (B) applied, be determined under that clause in respect of the share is greater than or equal to the adjusted cost base of the share to the

(iv) les mentions « prix de base rajustés, pour lui » et « prix de base rajustés supportés par lui » valent mention de « prix de bases appropriés, relativement au contribuable, pour l'actionnaire »;

d.1) s'il y a fusion étrangère de plusieurs sociétés étrangères remplacées dont est issue une nouvelle société étrangère qui est, immédiatement après la fusion, une société étrangère affiliée d'un contribuable et qu'une ou plusieurs des sociétés remplacées (appelées chacune « société affiliée remplacée » au présent alinéa) étaient, immédiatement avant la fusion, une société étrangère affiliée du contribuable, les règles ci-après s'appliquent :

(i) chaque bien de la nouvelle société étrangère qui était un bien d'une société affiliée remplacée immédiatement avant la fusion est réputé :

(A) d'une part, avoir fait l'objet d'une disposition par la société affiliée remplacée immédiatement avant la fusion pour un produit de disposition égal au prix de base approprié du bien pour elle, relativement au contribuable, à ce moment,

(B) d'autre part, avoir été acquis à ce moment par la nouvelle société étrangère à un coût égal à la somme déterminée selon la division (A),

(ii) la nouvelle société étrangère est réputée être la même société que chaque société affiliée remplacée et en être la continuation pour l'application des dispositions suivantes :

(A) le présent paragraphe et la définition de ***revenu étranger accumulé, tiré de biens***, au paragraphe (1), relativement à toute disposition, effectuée par la nouvelle société étrangère, d'un bien auquel le sous-alinéa (i) s'applique,

(B) les paragraphes 13(21.2), 18(15) et 40(3.4) relativement à un bien dont une société affiliée remplacée a disposé avant la fusion,

(C) l'alinéa 40(3.5)c) relativement à une action qui était réputée en vertu de cet alinéa appartenir, avant la fusion, à une société affiliée remplacée,

(iii) pour l'application de l'élément A.2 de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe (1), le total des sommes dont chacune représente la valeur de l'élément G, déterminée relativement à une société

shareholder affiliate immediately before the disposition, that adjusted cost base, or

(II) where the adjusted cost base of the share to the shareholder affiliate immediately before the disposition exceeds the amount that would, if clause (B) applied, be determined under that clause in respect of the share

1 if the share is not excluded property of the shareholder affiliate, that adjusted cost base, and

2 in any other case, the amount that would be determined under clause (B), and

(B) in any other case, the amount determined by the formula

(A – B)/C

where

A is the total of all amounts each of which is the cost to the shareholder affiliate of a distributed property, as determined under subparagraph (iii), received, at any time, in respect of the class,

B is the total of all amounts each of which is an amount owing (other than an unpaid dividend) by, or an obligation of, the disposing affiliate that was assumed or cancelled by the shareholder affiliate in consideration for the distribution of a distributed property referred to in the description of A, and

C is the total number of issued and outstanding shares of the class that are owned by the shareholder affiliate during the liquidation and dissolution, and

(v) if the liquidation and dissolution is a designated liquidation and dissolution of the disposing affiliate,

(A) the shareholder affiliate is deemed to be the same corporation as, and a continuation of, the disposing affiliate for the purposes of applying

(I) this subsection and the definition ***foreign accrual property income*** in subsection (1) with respect to any disposition by the shareholder affiliate of any property to which clause (i)(A) applied,

(II) subsections 13(21.2), 18(15) and 40(3.4) in respect of any property that was disposed of,

affiliée remplacée pour sa dernière année d'imposition se terminant au plus tard au moment de la fusion, est réputé correspondre à la valeur de cet élément, déterminée relativement à la nouvelle société étrangère pour son année d'imposition qui précède sa première année d'imposition;

e) malgré le paragraphe 69(5), si une société étrangère affiliée (appelée « société actionnaire » au présent alinéa) d'un contribuable reçoit, à un moment donné, un bien (appelé « bien distribué » au présent alinéa) d'une autre société étrangère affiliée (appelée « société cédante » au présent alinéa) du contribuable lors de la liquidation et dissolution de la société cédante et que le bien distribué est reçu au titre d'actions du capital-actions de celle-ci dont il est disposé lors de la liquidation et dissolution, les règles ci-après s'appliquent :

(i) la société cédante est réputée avoir disposé du bien distribué à ce moment en faveur de la société actionnaire pour un produit de disposition égal à son prix de base approprié pour la société cédante, relativement au contribuable, immédiatement avant ce moment si, selon le cas :

(A) la liquidation et dissolution est une liquidation et dissolution désignées de la société cédante,

(B) le bien distribué est une action du capital-actions d'une autre société étrangère affiliée du contribuable qui était, immédiatement avant ce moment, un bien exclu de la société cédante,

(ii) si le sous-alinéa (i) ne s'applique pas au bien distribué, la société cédante est réputée avoir disposé de ce bien à ce moment en faveur de la société actionnaire pour un produit de disposition égal à sa juste valeur marchande à ce moment,

(iii) la société actionnaire est réputée avoir acquis le bien distribué à ce moment à un coût égal à la somme qui, selon les sous-alinéas (i) ou (ii), représente le produit de disposition du bien pour la société cédante,

(iv) chaque action d'une catégorie du capital-actions de la société cédante dont la société actionnaire dispose lors de la liquidation et dissolution de la société cédante est réputée avoir donné lieu à un produit de disposition égal à celle des sommes ci-après qui est applicable :

(A) si la liquidation et dissolution est une liquidation et dissolution désignées de la société cédante :

at any time before the liquidation and dissolution, by the disposing affiliate, and

(III) paragraph 40(3.5)(c) in respect of any share that was deemed under that paragraph to be owned, at any time before the liquidation and dissolution, by the disposing affiliate, and

(B) for the purposes of the description of A.2 in the definition ***foreign accrual property income*** in subsection (1), the amount, if any, determined for G in respect of the disposing affiliate for its first taxation year that ends after the beginning of the liquidation and dissolution is to be added to the amount otherwise determined for G in respect of the shareholder affiliate for its taxation year that immediately precedes its taxation year that includes the time at which the liquidation and dissolution began;

(e.1) [Repealed, 2013, c. 34, s. 70]

(f) except as otherwise provided in this subdivision and except to the extent that the context otherwise requires, a foreign affiliate of a taxpayer is deemed to be at all times resident in Canada for the purposes of determining, in respect of the taxpayer for a taxation year of the foreign affiliate, each amount that is the foreign affiliate's

(i) capital gain, capital loss, taxable capital gain or allowable capital loss from a disposition of a property, or

(ii) income or loss from a property, from a business other than an active business or from a non-qualifying business;

(f.1) in computing an amount described in paragraph (f) in respect of a property or a business, there is not to be included any portion of that amount that can reasonably be considered to have accrued, in respect of the property (including for the purposes of this paragraph any property for which the property was substituted) or the business, while no person or partnership that held the property or carried on the business was a specified person or partnership in respect of the taxpayer referred to in paragraph (f);

(f.11) in determining an amount described in paragraph (f) for a taxation year of a foreign affiliate of a taxpayer,

(i) if the amount is described in subparagraph (f)(i), this Act is to be

(I) dans le cas où la somme qui serait déterminée selon la division (B) relativement à l'action si cette division s'appliquait est égale ou supérieure au prix de base rajusté de l'action pour la société actionnaire immédiatement avant la disposition, ce prix de base rajusté,

(II) dans le cas où le prix de base rajusté de l'action pour la société actionnaire immédiatement avant la disposition excède la somme qui serait déterminée selon la division (B) relativement à l'action si cette division s'appliquait :

1 si l'action n'est pas un bien exclu de la société actionnaire, ce prix de base rajusté,

2 dans les autres cas, la somme qui serait déterminée selon la division (B),

(B) dans les autres cas, la somme obtenue par la formule suivante :

(A – B)/C

où :

A représente le total des sommes dont chacune représente le coût pour la société actionnaire d'un bien distribué, déterminé selon le sous-alinéa (iii), reçu à un moment quelconque au titre de la catégorie,

B le total des sommes dont chacune représente une somme due (sauf un dividende non versé) par la société cédante, ou une obligation de celle-ci, qui a été assumée ou annulée par la société actionnaire en contrepartie de la distribution d'un bien distribué visé à l'élément A,

C le nombre total d'actions émises et en circulation de la catégorie qui appartiennent à la société actionnaire pendant la liquidation et dissolution,

(v) si la liquidation et dissolution est une liquidation et dissolution désignées de la société cédante :

(A) la société actionnaire est réputée être la même société que la société cédante et en être la continuation pour l'application des dispositions suivantes :

(I) le présent paragraphe et la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe (1), relativement à toute disposition par la société actionnaire d'un bien auquel la division (i)(A) s'applique,

(A) read without reference to section 26 of the *Income Tax Application Rules*, and

(B) applied as if, in respect of any debt obligation owing by the foreign affiliate or a partnership of which the foreign affiliate is a member (which foreign affiliate or partnership is referred to in this clause as the "debtor"), each capital gain or loss of the debtor that is deemed to arise under subsection 39(2) or (3) in respect of the debt obligation were from a disposition of property that was held by the debtor throughout the period during which the debt obligation was owed by the debtor and, for greater certainty, at the time of the disposition,

(ii) if the amount is described in subparagraph (f)(ii),

(A) this Act is to be read without reference to subsections 17(1) and 18(4) and section 91, except that, where the foreign affiliate is a member of a partnership, section 91 is to be applied to determine the income or loss of the partnership and for that purpose subsection 96(1) is to be applied to determine the foreign affiliate's share of that income or loss of the partnership,

(B) if the foreign affiliate has, in the taxation year, disposed of a foreign resource property in respect of a country, it is deemed to have designated, in respect of the disposition and in accordance with subparagraph 59(1)(b)(ii) for the taxation year, the amount, if any, by which

(I) the amount determined under paragraph 59(1)(a) in respect of the disposition

exceeds

(II) the amount determined under subparagraph 59(1)(b)(i) in respect of the disposition, and

(C) this Act is to be applied as if, in respect of any debt obligation owing by the foreign affiliate or a partnership of which the foreign affiliate is a member (which foreign affiliate or partnership is referred to in this clause as the "debtor"), each amount of income or loss of the debtor — from a property, from a business other than an active business or from a non-qualifying business — in respect of the debt obligation were from such a property that was held, or such a business that was carried on, as the case may be, by the debtor throughout the period during which the debt obligation was owed by the debtor and at the

(II) les paragraphes 13(21.2), 18(15) et 40(3.4) relativement à tout bien dont la société cédante a disposé avant la liquidation et dissolution,

(III) l'alinéa 40(3.5)c) relativement à toute action qui était réputée en vertu de cet alinéa appartenir à la société cédante avant la liquidation et dissolution,

(B) pour l'application de l'élément A.2 de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens***, au paragraphe (1), la valeur de l'élément G, déterminée relativement à la société cédante pour sa première année d'imposition se terminant après la début de la liquidation et dissolution, est à ajouter à la valeur de cet élément, déterminée par ailleurs relativement à la société actionnaire pour son année d'imposition précédant celle qui comprend le début de la liquidation et dissolution;

e.1) [Abrogé, 2013, ch. 34, art. 70]

f) sauf disposition contraire énoncée dans la présente sous-section et sauf indication contraire du contexte, une société étrangère affiliée d'un contribuable est réputée résider au Canada en tout temps lorsqu'il s'agit de déterminer, relativement au contribuable pour une année d'imposition de la société affiliée, chaque somme qui représente, selon le cas :

(i) le gain en capital, la perte en capital, le gain en capital imposable ou la perte en capital déductible de la société affiliée provenant de la disposition d'un bien,

(ii) le revenu ou la perte de la société affiliée provenant d'un bien, d'une entreprise autre qu'une entreprise exploitée activement ou d'une entreprise non admissible;

f.1) n'est pas à inclure dans le calcul d'une somme visée à l'alinéa f) relativement à un bien ou à une entreprise toute partie de la somme qu'il est raisonnable de considérer comme s'étant accumulée relativement au bien (y compris, pour l'application du présent alinéa, tout bien qui lui est substitué) ou à l'entreprise pendant qu'aucune personne ou société de personnes détenant le bien ou exploitant l'entreprise n'était une personne ou société de personnes déterminée quant au contribuable visé à l'alinéa f);

f.11) les règles ci-après s'appliquent au calcul d'une somme visée à l'alinéa f) pour une année d'imposition d'une société étrangère affiliée d'un contribuable :

time at which the debt obligation was settled or extinguished;

(f.12) a foreign affiliate of a taxpayer shall determine each of the following amounts using its calculating currency for a taxation year:

(i) subject to paragraph (f.13), each capital gain, capital loss, taxable capital gain and allowable capital loss (other than a gain or loss in respect of a debt referred to in subparagraph (i)(i) or (ii)) of the foreign affiliate for the taxation year from the disposition, at any time, of a property that, at that time, was an excluded property of the foreign affiliate,

(ii) its income or loss for the taxation year from each active business carried on by it in the taxation year in a country, and

(iii) its income or loss that is included in computing its income or loss from an active business for the taxation year because of paragraph (a);

(f.13) where the calculating currency of a foreign affiliate of a taxpayer is a currency other than Canadian currency, the foreign affiliate shall determine the amount included in computing its foreign accrual property income, in respect of the taxpayer for a taxation year of the foreign affiliate, attributable to its capital gain or taxable capital gain, from the disposition of an excluded property in the taxation year, in Canadian currency by converting the amount of the capital gain, or taxable capital gain, otherwise determined under subparagraph (f.12)(i) using its calculating currency for the taxation year into Canadian currency using the rate of exchange quoted by the Bank of Canada at noon on the day on which the disposition was made;

(f.14) a foreign affiliate of a taxpayer is to determine using Canadian currency each amount of its income, loss, capital gain, capital loss, taxable capital gain or allowable capital loss for a taxation year, other than an amount to which paragraph (f.12), (f.13) or (f.15) applies;

(f.15) for the purposes of applying subparagraph (f)(i) in respect of a debt obligation owing by a foreign affiliate of a taxpayer, or a partnership of which the foreign affiliate is a member, that is a debt referred to in subparagraph (i)(i) or (ii), the references in subsection 39(2) to "Canadian currency" are to be read as references to "the taxpayer's calculating currency";

(g) income earned, a loss incurred or a capital gain or capital loss realized, as the case may be, in a taxation year by a particular foreign affiliate of a taxpayer in

(i) si la somme est visée au sous-alinéa f)(i), la présente loi s'applique, à la fois :

(A) compte non tenu de l'article 26 des *Règles concernant l'application de l'impôt sur le revenu*,

(B) comme si, en ce qui concerne une créance dont est débitrice la société affiliée ou une société de personnes dont elle est un associé (appelées « débitrice » à la présente division), chaque gain en capital ou perte en capital de la débitrice qui est réputé se produire en vertu des paragraphes 39(2) ou (3) relativement à la créance provenait de la disposition d'un bien qu'elle détenait tout au long de la période où elle était débitrice de la créance et notamment au moment de la disposition,

(ii) si la somme est visée au sous-alinéa f)(ii) :

(A) la présente loi s'applique compte non tenu des paragraphes 17(1) et 18(4) et de l'article 91; toutefois, lorsque la société affiliée est l'associé d'une société de personnes, le revenu ou la perte de la société de personnes est déterminé selon l'article 91 et la part de ce revenu ou de cette perte qui revient à la société affiliée est déterminée selon le paragraphe 96(1),

(B) la société affiliée, si elle a disposé au cours de l'année d'un avoir minier étranger à l'égard d'un pays, est réputée avoir indiqué, relativement à la disposition et conformément au sous-alinéa 59(1)b)(ii) pour l'année, l'excédent de la somme visée à la subdivision (I) sur celle visée à la subdivision (II) :

(I) la somme déterminée selon l'alinéa 59(1)a) relativement à la disposition,

(II) la somme déterminée selon le sous-alinéa 59(1)b)(i) relativement à la disposition,

(C) la présente loi s'applique comme si, en ce qui concerne une créance dont est débitrice la société affiliée ou une société de personnes dont elle est un associé (appelées « débitrice » à la présente division), chaque montant de revenu ou de perte de la débitrice — provenant d'un bien, d'une entreprise autre qu'une entreprise exploitée activement ou d'une entreprise non admissible — relativement à cette créance provenait d'un tel bien qu'elle détenait ou d'une telle entreprise qu'elle exploitait, selon le cas, tout au long de la période où elle était débitrice de la créance et au moment où la créance est réglée ou éteinte;

respect of which the taxpayer has a qualifying interest throughout the taxation year or a particular foreign affiliate of a taxpayer that is a controlled foreign affiliate of the taxpayer throughout the taxation year, because of a fluctuation in the value of the currency of a country other than Canada relative to the value of Canadian currency, is deemed to be nil if it is earned, incurred or realized in reference to any of the following sources:

(i) a debt obligation that was owing to

(A) another foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout the year (which other foreign affiliate is referred to in this paragraph as a "qualified foreign affiliate") by the particular affiliate, or

(B) the particular affiliate by a qualified foreign affiliate,

(ii) the redemption, acquisition or cancellation of, or a qualifying return of capital (within the meaning assigned by subsection 90(3)) in respect of, a share of the capital stock of a qualified foreign affiliate by the qualified foreign affiliate, or

(iii) the disposition to a qualified foreign affiliate of a share of the capital stock of another qualified foreign affiliate;

(g.01) any income, loss, capital gain or capital loss, derived by a foreign affiliate of a taxpayer under or as a result of an agreement that provides for the purchase, sale or exchange of currency and that can reasonably be considered to have been made by the foreign affiliate to reduce its risk (with respect to any source, any particular income, gain or loss determined in reference to which is deemed by paragraph (g) to be nil) of fluctuations in the value of currency, is, to the extent of the absolute value of the particular income, gain or loss, deemed to be nil;

(g.02) [Repealed, 2013, c. 34, s. 70]

(g.03) if at any time a particular foreign affiliate referred to in paragraph (g) is a member of a partnership or a qualified foreign affiliate referred to in that paragraph is a member of a partnership,

(i) in applying this paragraph, where a debt obligation is owing at that time by a debtor to the partnership of which the particular foreign affiliate is a member, the debt obligation is deemed to be owing at that time by the debtor to the particular foreign affiliate in the proportion that the particular foreign

f.12) toute société étrangère affiliée d'un contribuable est tenue de déterminer chacune des sommes ci-après au moyen de sa monnaie de calcul pour une année d'imposition :

(i) sous réserve de l'alinéa f.13), chacun de ses gains en capital, pertes en capital, gains en capital imposables et pertes en capital déductibles (sauf un gain ou une perte relatif à une dette visée aux sous-alinéas i)(i) ou (ii)) pour l'année provenant de la disposition, à un moment donné, d'un bien qui était son bien exclu à ce moment,

(ii) son revenu ou sa perte pour l'année provenant de chaque entreprise exploitée activement par elle au cours de l'année dans un pays,

(iii) son revenu ou sa perte qui est inclus, par l'effet de l'alinéa a), dans le calcul de son revenu ou de sa perte provenant d'une entreprise exploitée activement pour l'année;

f.13) dans le cas où la monnaie de calcul d'une société étrangère affiliée d'un contribuable est une monnaie autre que le dollar canadien, la société affiliée est tenue de déterminer en dollars canadiens la somme incluse dans le calcul de son revenu étranger accumulé, tiré de biens, relativement au contribuable pour une année d'imposition de la société affiliée, qui est attribuable à son gain en capital ou gain en capital imposable provenant de la disposition d'un bien exclu au cours de l'année; à cette fin, le montant du gain en capital ou du gain en capital imposable déterminé par ailleurs selon le sous-alinéa f.12)(i) au moyen de la monnaie de calcul de la société affiliée pour l'année est converti en son équivalence en dollars canadiens selon le taux de change affiché par la Banque du Canada à midi le jour où la disposition a été effectuée;

f.14) toute société étrangère affiliée d'un contribuable est tenue de déterminer au moyen de la monnaie canadienne chaque montant de ses revenu, perte, gain en capital, perte en capital, gain en capital imposable ou perte en capital déductible pour une année d'imposition, sauf s'il s'agit d'une somme à laquelle les alinéas f.12), f.13) ou f.15) s'appliquent;

f.15) pour l'application du sous-alinéa f)(i) relativement à une créance dont est débitrice une société étrangère affiliée d'un contribuable, ou une société de personnes dont elle est un associé, qui est une dette visée aux sous-alinéas i)(i) ou (ii), la mention « monnaie canadienne » au paragraphe 39(2) vaut mention de « monnaie de calcul du contribuable »;

affiliate shared in any income earned, loss incurred or capital gain or capital loss realized by the partnership in respect of the debt obligation,

(ii) in applying this paragraph, where a debt obligation is owing at that time to a creditor by the partnership of which the particular foreign affiliate is a member, the debt obligation is deemed to be owing at that time to the creditor by the particular foreign affiliate in the proportion that the particular foreign affiliate shared in any income earned, loss incurred or capital gain or capital loss realized by the partnership in respect of the debt obligation,

(iii) in applying paragraph (g) and this paragraph, where a debt obligation is owing at that time by a debtor to the partnership of which the qualified foreign affiliate is a member, the debt obligation is deemed to be owing at that time by the debtor to the qualified foreign affiliate in the proportion that the qualified foreign affiliate shared in any income earned, loss incurred or capital gain or capital loss realized by the partnership in respect of the debt obligation,

(iv) in applying paragraph (g) and this paragraph, where a debt obligation is owing at that time to a creditor by the partnership of which the qualified foreign affiliate is a member, the debt obligation is deemed to be owing at that time to the creditor by the qualified foreign affiliate in the proportion that the qualified foreign affiliate shared in any income earned, loss incurred or capital gain or capital loss realized by the partnership in respect of the debt obligation, and

(v) in computing the particular foreign affiliate's income or loss from a partnership, any income earned, loss incurred or capital gain or capital loss realized, as the case may be, by the partnership — in respect of the portion of a debt obligation owing to or owing by the partnership that is deemed by any of subparagraphs (i) to (iv) to be a debt obligation owing to or owing by the particular foreign affiliate (referred to in this subparagraph as the "allocated debt obligation") — because of a fluctuation in the value of the currency of a country other than Canada relative to the value of Canadian currency, that is attributable to the allocated debt obligation is deemed to be nil to the extent that paragraph (g) would, if the rules in subparagraphs (i) to (iv) were applied, have applied to the particular foreign affiliate, to deem to be nil the income earned, loss incurred or capital gain or capital loss realized, as the case may be, by the particular foreign affiliate in respect of the allocated debt obligation, because of a

g) le revenu gagné, la perte subie ou le gain en capital ou la perte en capital réalisé, selon le cas, au cours d'une année d'imposition, par une société étrangère affiliée donnée d'un contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année ou qui est une société étrangère affiliée contrôlée du contribuable tout au long de l'année, en raison d'une fluctuation de la valeur de la monnaie d'un pays étranger par rapport à la valeur de la monnaie canadienne, est réputé être nul s'il est gagné, subi ou réalisé par rapport à l'une des sources suivantes :

(i) une dette due :

(A) soit à une autre société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année (cette société étant appelée « société étrangère admissible » au présent alinéa) par la société affiliée donnée,

(B) soit à la société affiliée donnée par une société étrangère admissible,

(ii) le rachat, l'annulation ou l'acquisition d'une action du capital-actions d'une société étrangère admissible par celle-ci ou un remboursement de capital admissible, au sens du paragraphe 90(3), relatif à une telle action,

(iii) la disposition, en faveur d'une société étrangère admissible, d'une action du capital-actions d'une autre société étrangère admissible;

g.01) tout revenu ou gain en capital ou toute perte ou perte en capital d'une société étrangère affiliée d'un contribuable découlant d'une convention qui prévoit l'achat, la vente ou l'échange de monnaie et qu'il est raisonnable de considérer comme ayant été conclue par la société affiliée afin de réduire le risque que présentent pour elle — pour ce qui est d'une source à l'égard de laquelle a été déterminé un revenu, un gain ou une perte donné qui est réputé être nul en vertu de l'alinéa g) — les fluctuations de la valeur de la monnaie, est réputé être nul jusqu'à concurrence de la valeur absolue du revenu, du gain ou de la perte donné;

g.02) [Abrogé, 2013, ch. 34, art. 70]

g.03) dans le cas où la société affiliée étrangère donnée visée à l'alinéa g), ou la société étrangère admissible visée à cet alinéa, est l'associé d'une société de personnes à un moment donné :

(i) pour l'application du présent alinéa, toute somme due, à ce moment, par un débiteur à la société de personnes dont la société affiliée donnée

fluctuation in the value of the currency of a country other than Canada relative to the value of Canadian currency;

(g.04) if at any time a corporation resident in Canada or a partnership of which such a corporation is a member (such corporation or partnership referred to in this paragraph as the "borrowing party") has received a loan from, or become indebted to, a creditor that is a foreign affiliate (referred to in this paragraph as a "creditor affiliate") of the borrowing party or that is a partnership (referred to in this paragraph as a "creditor partnership") of which such an affiliate is a member, the loan or indebtedness is at a later time repaid, in whole or in part, and the amount of the borrowing party's capital gain or capital loss determined, in the absence of subsection 39(2.1), under subsection 39(2) in respect of the repayment is equal to the amount of the creditor affiliate's or creditor partnership's capital loss or capital gain, as the case may be, determined, in respect of the borrowing party and in the absence of this paragraph, in respect of the repayment, then that capital loss or capital gain is deemed to be nil;

(g.1) in computing the foreign accrual property income of a foreign affiliate of a taxpayer the Act shall be read

(i) as if the expression "income, taxable income or taxable income earned in Canada, as the case may be" in the definition ***commercial debt obligation*** in subsection 80(1) were read as "foreign accrual property income (within the meaning assigned by subsection 95(1))", and

(ii) without reference to subsections 80(3) to 80(12) and 80(15) and 80.01(5) to 80.01(11) and sections 80.02 to 80.04;

(g.2) for the purpose of computing the foreign accrual property income of a foreign affiliate of any taxpayer resident in Canada for a taxation year of the affiliate, an election made pursuant to paragraph 86.1(2)(f) in respect of a distribution received by the affiliate in a particular taxation year of the affiliate is deemed to have been filed under that paragraph by the affiliate if

(i) where there is only one taxpayer resident in Canada in respect of whom the affiliate is a controlled foreign affiliate, the election is filed by the taxpayer with the taxpayer's return of income for the taxpayer's taxation year in which the particular year of the affiliate ends, and

est un associé est réputée être due à ce moment par le débiteur à la société affiliée donnée dans la proportion correspondant à la part de celle-ci sur tout revenu gagné, perte subie ou gain en capital ou perte en capital réalisé par la société de personnes au titre de la somme due,

(ii) pour l'application du présent alinéa, toute somme due, à ce moment, à un créancier par la société de personnes dont la société affiliée donnée est un associé est réputée être due à ce moment au créancier par la société affiliée donnée dans la proportion correspondant à la part de celle-ci sur tout revenu gagné, perte subie ou gain en capital ou perte en capital réalisé par la société de personnes au titre de la somme due,

(iii) pour l'application de l'alinéa g) et du présent alinéa, toute somme due, à ce moment, par un débiteur à la société de personnes dont la société étrangère admissible est un associé est réputée être due à ce moment par le débiteur à la société étrangère admissible dans la proportion correspondant à la part de celle-ci sur tout revenu gagné, perte subie ou gain en capital ou perte en capital réalisé par la société de personnes au titre de la somme due,

(iv) pour l'application de l'alinéa g) et du présent alinéa, toute somme due, à ce moment, à un créancier par la société de personnes dont la société étrangère admissible est un associé est réputée être due à ce moment au créancier par la société étrangère admissible dans la proportion correspondant à la part de celle-ci sur tout revenu gagné, perte subie ou gain en capital ou perte en capital réalisé par la société de personnes au titre de la somme due,

(v) pour le calcul du revenu ou de la perte de la société affiliée donnée provenant d'une société de personnes, tout revenu gagné, perte subie ou gain en capital ou perte en capital réalisé, selon le cas, par la société de personnes — au titre de la partie d'une somme qui lui est due ou qu'elle doit qui est réputée, par l'un des sous-alinéas (i) à (iv), être une somme qui est due à la société affiliée donnée ou qu'elle doit (cette somme étant appelée « créance attribuée » au présent sous-alinéa) — en raison de la fluctuation de la valeur de la monnaie d'un pays étranger par rapport à la valeur de la monnaie canadienne, qui est attribuable à la créance attribuée est réputé être nul dans la mesure où l'alinéa g) se serait appliqué à la société affiliée donnée, si les règles énoncées aux sous-alinéas (i) à (iv) étaient appliquées, de façon que le revenu gagné, la perte

(ii) where there is more than one taxpayer resident in Canada in respect of whom the affiliate is a controlled foreign affiliate, all of those taxpayers jointly elect in writing and each of them files the joint election with the Minister with their return of income for their taxation year in which the particular year of the affiliate ends;

(h) [Repealed, 2001, c. 17, s. 73]

(i) any income, gain or loss of a foreign affiliate of a taxpayer or of a partnership of which a foreign affiliate of a taxpayer is a member (which foreign affiliate or partnership is referred to in this paragraph as the "debtor"), for a taxation year or fiscal period of the debtor, as the case may be, is deemed to be income, a gain or a loss, as the case may be, from the disposition of an excluded property of the debtor, if the income, gain or loss is

(i) derived from the settlement or extinguishment of a debt of the debtor all or substantially all of the proceeds from which

(A) were used to acquire property, if at all times after the time at which the debt became debt of the debtor and before the time of that settlement or extinguishment, the property (or property substituted for the property) was property of the debtor and was, or would if the debtor were a foreign affiliate of the taxpayer be, excluded property of the debtor,

(B) were used at all times to earn income from an active business carried on by the debtor, or

(C) were used by the debtor for a combination of the uses described in clause (A) or (B),

(ii) derived from the settlement or extinguishment of a debt of the debtor all or substantially all of the proceeds from which were used to settle or extinguish a debt referred to in subparagraph (i) or in this subparagraph, or

(iii) derived under or as a result of an agreement that provides for the purchase, sale or exchange of currency and that can reasonably be considered to have been made by the debtor to reduce its risk, with respect to a debt referred to in subparagraph (i) or (ii), of fluctuations in the value of the currency in which the debt was denominated;

(j) the adjusted cost base to a foreign affiliate of a taxpayer of an interest in a partnership at any time shall be such amount as is prescribed by regulation; and

subie ou le gain en capital ou la perte en capital réalisé, selon le cas, par la société affiliée donnée relativement à la créance attribuée soit réputé être nul en raison de la fluctuation de la valeur de la monnaie d'un pays étranger par rapport à la valeur de la monnaie canadienne;

g.04) si, à un moment donné, une société résidant au Canada ou une société de personnes dont une telle société est un associé (appelées « emprunteur » au présent alinéa) a reçu un prêt ou est devenue débitrice d'un créancier qui est soit une société étrangère affiliée (appelée « société affiliée créancière » au présent alinéa) de l'emprunteur, soit une société de personnes (appelée « société de personnes créancière » au présent alinéa) dont une telle société affiliée est un associé, que le prêt ou la dette est remboursé en tout ou en partie à un moment ultérieur et que le montant du gain en capital ou de la perte en capital de l'emprunteur, déterminé, en l'absence du paragraphe 39(2.1), selon le paragraphe 39(2) relativement au remboursement, correspond au montant de la perte en capital ou du gain en capital de la société affiliée créancière ou de la société de personnes créancière, selon le cas, déterminé, à l'égard de l'emprunteur et en l'absence du présent alinéa, relativement au remboursement, le gain en capital ou la perte en capital en cause est réputé être nul;

g.1) dans le calcul du revenu étranger accumulé, tiré de biens d'une société étrangère affiliée d'un contribuable :

(i) le passage « revenu, du revenu imposable ou du revenu imposable gagné au Canada » à la définition de ***créance commerciale***, au paragraphe 80(1), est remplacé par « revenu étranger accumulé, tiré de biens (au sens du paragraphe 95(1)) »,

(ii) il n'est pas tenu compte des paragraphes 80(3) à (12) et (15) et 80.01(5) à (11) et des articles 80.02 à 80.04;

g.2) pour ce qui est du calcul du revenu étranger accumulé, tiré de biens d'une société étrangère affiliée d'un contribuable résidant au Canada, pour une année d'imposition de la société affiliée, le choix prévu à l'alinéa 86.1(2)f) relativement à une distribution que la société affiliée a reçue au cours d'une de ses années d'imposition (appelée « année donnée » au présent alinéa) est réputé avoir été fait en application de cet alinéa par la société affiliée si :

(j.1) paragraph (j.2) applies if, in a particular taxation year of a foreign affiliate of a taxpayer or in a particular fiscal period of a partnership (which foreign affiliate or partnership is referred to in this paragraph and paragraph (j.2) as the "operator" and which particular taxation year or particular fiscal period is referred to in this paragraph and paragraph (j.2) as the "specified taxation year") a member of which is, at the end of the period, a foreign affiliate of a taxpayer,

(i) the operator carries on a business,

(ii) the business includes the insuring of risks,

(iii) the business is not, at any time, a taxable Canadian business,

(iv) the business is

(A) an investment business,

(B) a non-qualifying business, or

(C) a business whose activities include activities deemed by paragraph (a.2) or (b) to be a separate business, other than an active business, carried on by the affiliate, and

(v) in respect of the investment business, non-qualifying business or separate business (each of these businesses being referred to in this subparagraph and paragraph (j.2) as a "foreign business"), as the case may be, the operator would, if it were a corporation carrying on the foreign business in Canada, be required by law to report to, and be subject to the supervision of, a regulatory authority that is the Superintendent of Financial Institutions or is a similar authority of a province;

(j.2) if this paragraph applies, in computing the operator's income or loss from the foreign business for the specified taxation year and each subsequent taxation year or fiscal period in which the foreign business is carried on by the operator

(i) the operator is deemed to carry on the foreign business in Canada throughout that part of the specified taxation year, and of each of those subsequent taxation years or fiscal periods, in which the foreign business is carried on by the operator, and

(ii) for the purposes of Part XIV of the *Income Tax Regulations*,

(A) the operator is deemed to be required by law to report to, and to be subject to the supervision

(i) la société affiliée étant une société étrangère affiliée contrôlée à l'égard d'un seul contribuable résidant au Canada, le choix est présenté par ce contribuable avec sa déclaration de revenu pour son année d'imposition dans laquelle l'année donnée se termine,

(ii) la société affiliée étant une société étrangère affiliée contrôlée à l'égard de plus d'un contribuable résidant au Canada, le choix est fait conjointement par l'ensemble de ces contribuables et chacun d'eux le présente au ministre avec sa déclaration de revenu pour son année d'imposition dans laquelle l'année donnée se termine;

h) [Abrogé, 2001, ch. 17, art. 73]

i) tout revenu, gain ou perte d'une société étrangère affiliée d'un contribuable ou d'une société de personnes dont une société étrangère affiliée d'un contribuable est un associé (la société étrangère affiliée ou la société de personnes étant appelée « débiteur » au présent alinéa) pour une année d'imposition ou un exercice, selon le cas, du débiteur est réputé être un revenu, un gain ou une perte, selon le cas, provenant de la disposition d'un bien exclu du débiteur si, selon le cas :

(i) il découle du règlement ou de l'extinction d'une dette du débiteur dont la totalité ou la presque totalité du produit, selon le cas :

(A) a servi à acquérir un bien si, à tout moment après que la dette est devenue une dette du débiteur et avant le règlement ou l'extinction, le bien (ou un bien substitué à ce bien) était un bien du débiteur ainsi qu'un bien exclu du débiteur (ou le serait si le débiteur était une société étrangère affiliée du contribuable),

(B) a servi, à tout moment, à tirer un revenu d'une entreprise exploitée activement par le débiteur,

(C) a servi à plusieurs des fins visées aux divisions (A) ou (B),

(ii) il découle du règlement ou de l'extinction d'une dette du débiteur dont la totalité ou la presque totalité du produit a servi à régler ou à éteindre une dette visée au sous-alinéa (i) ou au présent sous-alinéa,

(iii) il découle d'une convention qui prévoit l'achat, la vente ou l'échange de monnaie et qu'il est raisonnable de considérer comme ayant été conclue par le débiteur en vue de réduire le risque que présentent

of, the regulatory authority referred to in subparagraph (j.1)(v), and

(B) if the operator is a life insurer and the foreign business is part of a life insurance business, the life insurance policies issued in the conduct of the foreign business are deemed to be life insurance policies in Canada;

(k) paragraph (k.1) applies if

(i) in a particular taxation year of a foreign affiliate of a taxpayer or in a particular fiscal period of a partnership (which foreign affiliate or partnership is referred to in this paragraph and paragraph (k.1) as the "operator" and which particular taxation year or particular fiscal period is referred to in this paragraph and paragraph (k.1) as the "specified taxation year") a member of which is, at the end of the period, a foreign affiliate of a taxpayer,

(A) the operator carries on a business,

(B) the business is not, at any time, a taxable Canadian business, and

(C) the business is

(I) an investment business,

(II) a non-qualifying business,

(III) a business whose activities include activities deemed by any of paragraphs (a.1) to (b) to be a separate business, other than an active business, carried on by the affiliate, or

(IV) a business the income from which is included by paragraph (l) in computing the affiliate's income from property for the specified taxation year, and

(ii) in the taxation year of the affiliate or the fiscal period of the partnership that includes the day that is immediately before the beginning of the specified taxation year,

(A) the affiliate or partnership carried on the business, or the activities so deemed to be a separate business, as the case may be,

(B) the business was not, or the activities were not, as the case may be, at any time, part of a taxable Canadian business, and

(C) the business was not described in any of subclauses (i)(C)(I), (II) and (IV), or the

pour lui, pour ce qui est d'une dette visée aux sous-alinéas (i) ou (ii), les fluctuations de la valeur de la monnaie dans laquelle la dette est libellée;

j) le prix de base rajusté, pour une société étrangère affiliée d'un contribuable, d'une participation dans une société de personnes, à un moment donné, est le montant prescrit;

j.1) l'alinéa j.2) s'applique si, au cours d'une année d'imposition donnée d'une société étrangère affiliée d'un contribuable ou d'un exercice donné d'une société de personnes (la société affiliée ou la société de personnes étant appelée « exploitant », et l'année d'imposition donnée ou l'exercice donné étant appelé « année déterminée », au présent alinéa et à l'alinéa j.2)) dont l'un des associés est une société étrangère affiliée d'un contribuable à la fin de l'exercice, les conditions ci-après sont réunies :

(i) l'exploitant exploite une entreprise,

(ii) l'entreprise comprend l'assurance de risques,

(iii) l'entreprise n'est, à aucun moment, une entreprise canadienne imposable,

(iv) l'entreprise est :

(A) soit une entreprise de placement,

(B) soit une entreprise non admissible,

(C) soit une entreprise exerçant notamment des activités qui sont réputées, en vertu des alinéas a.2) ou b), être une entreprise distincte, sauf une entreprise exploitée activement, exploitée par la société affiliée,

(v) en ce qui concerne l'entreprise de placement, l'entreprise non admissible ou l'entreprise distincte (appelées chacune « entreprise étrangère » au présent sous-alinéa et à l'alinéa j.2)), selon le cas, l'exploitant serait légalement tenu, s'il était une société exploitant l'entreprise étrangère au Canada, d'adresser un rapport à un organisme de réglementation — le surintendant des institutions financières ou un organisme provincial semblable — et d'être sous sa surveillance;

j.2) en cas d'application du présent alinéa, les règles ci-après s'appliquent au calcul du revenu ou de la perte de l'exploitant provenant de l'entreprise étrangère pour l'année déterminée et pour chaque année d'imposition ou exercice postérieur au cours duquel l'exploitant exploite l'entreprise étrangère :

activities were not described in subclause (i)(C)(III), as the case may be;

(k.1) if this paragraph applies, in computing the operator's income or loss from the investment business, non-qualifying business, separate business or business described in paragraph (l) (each of these businesses being referred to in this paragraph as a "foreign business"), as the case may be, and the operator's capital gain or capital loss from the disposition of property used or held in the course of carrying on the foreign business, for the specified taxation year and each subsequent taxation year or fiscal period in which the foreign business is carried on by the operator

(i) the operator is deemed

(A) to begin to carry on the foreign business in Canada at the beginning of the specified taxation year, and

(B) to carry on the foreign business in Canada throughout that part of the specified taxation year, and of each of those subsequent taxation years or fiscal periods, in which the foreign business is carried on by the operator,

(ii) where, in respect of the foreign business, the operator would, if it were a corporation carrying on the foreign business in Canada, be required by law to report to, and be subject to the supervision of, a regulatory authority that is the Superintendent of Financial Institutions or a similar authority of a province,

(A) the operator is deemed to be required by law to report to, and to be subject to the supervision of, the regulatory authority, and

(B) if the operator is a life insurer and the foreign business is part of a life insurance business, the life insurance policies issued in the conduct of the foreign business are deemed to be life insurance policies in Canada, and

(iii) paragraphs 138(11.91)(c) to (e) apply to the operator for the specified taxation year in respect of the foreign business as if

(A) the operator were the insurer referred to in subsection 138(11.91),

(B) the specified taxation year of the operator were the particular taxation year of the insurer referred to in that subsection,

(i) l'exploitant est réputé exploiter l'entreprise étrangère au Canada tout au long de la partie de l'année déterminée et de chacun de ces années d'imposition ou exercices postérieurs où il l'exploite,

(ii) pour l'application de la partie XIV du *Règlement de l'impôt sur le revenu* :

(A) l'exploitant est réputé être légalement tenu d'adresser un rapport à l'organisme de réglementation visé au sous-alinéa j.1)(v) et être sous sa surveillance,

(B) si l'exploitant est un assureur sur la vie et que l'entreprise étrangère fait partie d'une entreprise d'assurance-vie, les polices d'assurance-vie établies dans la conduite de l'entreprise étrangère sont réputées être des polices d'assurance-vie au Canada;

k) l'alinéa k.1) s'applique dans le cas où les conditions ci-après sont réunies :

(i) au cours d'une année d'imposition donnée d'une société étrangère affiliée d'un contribuable ou d'un exercice donné d'une société de personnes (la société affiliée ou la société de personnes étant appelée « exploitant », et l'année d'imposition donnée ou l'exercice donné étant appelé « année déterminée », au présent alinéa et à l'alinéa k.1)) dont l'un des associés est une société étrangère affiliée d'un contribuable à la fin de l'exercice :

(A) l'exploitant exploite une entreprise,

(B) l'entreprise n'est, à aucun moment, une entreprise canadienne imposable,

(C) l'entreprise est :

(I) soit une entreprise de placement,

(II) soit une entreprise non admissible,

(III) soit une entreprise exerçant notamment des activités qui sont réputées, en vertu des alinéas a.1) à b), être une entreprise distincte, sauf une entreprise exploitée activement, exploitée par la société affiliée,

(IV) soit une entreprise dont le revenu est inclus, en vertu de l'alinéa l), dans le calcul du revenu de la société affiliée provenant d'un bien pour l'année déterminée,

(C) the foreign business of the operator were the business of the insurer referred to in that subsection, and

(D) the reference in paragraph 138(11.91)(e) to "property owned by it at that time that is designated insurance property in respect of the business" were read as a reference to "property owned or held by it at that time that is used or held by it in the particular taxation year in the course of carrying on the insurance business";

(k.2) for the purposes of paragraphs (j.1) to (k.1) and the definition ***taxable Canadian business*** in subsection (1), any portion of a business carried on by a person or partnership that is carried on in Canada is deemed to be a business that is separate from any other portion of the business carried on by the person or partnership;

(l) in computing the income from property for a taxation year of a foreign affiliate of a taxpayer there shall be included the income of the affiliate for the year from a business (other than an investment business of the affiliate) the principal purpose of which is to derive income from trading or dealing in indebtedness (which for the purpose of this paragraph includes the earning of interest on indebtedness) other than

(i) indebtedness owing by persons with whom the affiliate deals at arm's length who are resident in the country in which the affiliate was formed or continued and exists and is governed and in which the business is principally carried on, or

(ii) trade accounts receivable owing by persons with whom the affiliate deals at arm's length,

unless

(iii) the business is carried on by the affiliate as a foreign bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities, the activities of which are regulated under the laws

(A) of each country in which the business is carried on through a permanent establishment in that country and of the country under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued,

(B) of the country in which the business is principally carried on, or

(ii) au cours de l'année d'imposition de la société affiliée ou de l'exercice de la société de personnes qui comprend la veille du début de l'année déterminée :

(A) la société affiliée ou la société de personnes exploitait l'entreprise ou exerçait les activités ainsi réputées être une entreprise distincte, selon le cas,

(B) ni l'entreprise ni les activités, selon le cas, ne faisaient partie, à un moment quelconque, d'une entreprise canadienne imposable,

(C) l'entreprise n'était pas visée aux subdivisions (i)(C)(I), (II) et (IV) ou les activités n'étaient pas visées à la subdivision (i)(C)(III), selon le cas;

k.1) en cas d'application du présent alinéa, les règles ci-après s'appliquent au calcul du revenu ou de la perte de l'exploitant provenant de l'entreprise de placement, de l'entreprise non admissible, de l'entreprise distincte ou de l'entreprise visée à l'alinéa l) (appelées chacune « entreprise étrangère » au présent alinéa), selon le cas, et du gain en capital ou de la perte en capital de l'exploitant provenant de la disposition d'un bien utilisé ou détenu dans le cadre de l'exploitation de l'entreprise étrangère, pour l'année déterminée et chaque année d'imposition ou exercice postérieur au cours duquel l'exploitant exploite l'entreprise étrangère :

(i) l'exploitant est réputé :

(A) avoir commencé à exploiter l'entreprise étrangère au Canada au début de l'année déterminée,

(B) exploiter l'entreprise étrangère au Canada tout au long de la partie de l'année déterminée et de chacun de ces années d'imposition ou exercices postérieurs où il exploite l'entreprise étrangère,

(ii) dans le cas où, en ce qui concerne l'entreprise étrangère, l'exploitant serait légalement tenu, s'il était une société exploitant l'entreprise étrangère au Canada, d'adresser un rapport à un organisme de réglementation — le surintendant des institutions financières ou un organisme provincial semblable — et d'être sous sa surveillance :

(A) l'exploitant est réputé être légalement tenu d'adresser un rapport à l'organisme de réglementation et être sous sa surveillance,

(C) if the affiliate is related to a non-resident corporation, of the country under whose laws that non-resident corporation is governed and any of exists, was (unless that non-resident corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all of those countries are members of the European Union, and

(iv) the taxpayer is

(A) a bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities resident in Canada, the business activities of which are subject by law to the supervision of a regulating authority such as the Superintendent of Financial Institutions or a similar authority of a province,

(B) a subsidiary wholly-owned corporation of a corporation described in clause 95(2)(l)(iv)(A),

(C) a corporation of which a corporation described in clause 95(2)(l)(iv)(A) is a subsidiary wholly-owned corporation, or

(D) a partnership each member of which is a corporation described in any of clauses (A) to (C);

(m) a taxpayer has a qualifying interest in respect of a foreign affiliate of the taxpayer at any time if, at that time, the taxpayer owned

(i) not less than 10% of the issued and outstanding shares (having full voting rights under all circumstances) of the affiliate, and

(ii) shares of the affiliate having a fair market value of not less than 10% of the fair market value of all the issued and outstanding shares of the affiliate

and for the purpose of this paragraph

(iii) where, at any time, shares of a corporation are owned or are deemed for the purposes of this paragraph to be owned by another corporation (in this paragraph referred to as the "holding corporation"), those shares shall be deemed to be owned at that time by each shareholder of the holding corporation in a proportion equal to the proportion of all such shares that

(B) si l'exploitant est un assureur sur la vie et que l'entreprise étrangère fait partie d'une entreprise d'assurance-vie, les polices d'assurance-vie établies dans la conduite de l'entreprise étrangère sont réputées être des polices d'assurance-vie au Canada,

(iii) les alinéas 138(11.91)a) à c) s'appliquent à l'exploitant pour l'année déterminée relativement à l'entreprise étrangère comme si, à la fois :

(A) l'exploitant était l'assureur visé au paragraphe 138(11.91),

(B) l'année déterminée de l'exploitant correspondait à l'année d'imposition donnée de l'assureur visée à ce paragraphe,

(C) l'entreprise étrangère de l'exploitant était l'entreprise de l'assureur visée à ce paragraphe,

(D) le passage « bien qui lui appartenait à ce moment et qui est un bien d'assurance désigné relatif à l'entreprise d'assurance » à l'alinéa 138(11.91)c) était remplacé par « bien qui lui appartient, ou qu'il détient, à ce moment et qu'il utilise ou détient au cours de l'année donnée dans le cadre de l'exploitation de l'entreprise d'assurance »;

k.2) pour l'application des alinéas j.1) à k.1) et de la définition de ***entreprise canadienne imposable*** au paragraphe (1), toute partie d'une entreprise exploitée par une personne ou une société de personnes qui est exploitée au Canada est réputée être une entreprise qui est distincte de toute autre partie de l'entreprise exploitée par la personne ou la société de personnes;

l) est à inclure dans le calcul du revenu tiré de biens d'une société étrangère affiliée d'un contribuable pour une année d'imposition le revenu de la société affiliée pour l'année provenant d'une entreprise (sauf une entreprise de placement de la société affiliée) dont le principal objet consiste à tirer un revenu du commerce de dettes (lequel comprend, pour l'application du présent alinéa, le fait de tirer des intérêts de dettes) autres que les suivantes :

(i) les dettes dont sont débitrices les personnes avec lesquelles la société affiliée n'a aucun lien de dépendance qui résident dans le pays dans lequel celle-ci a été constituée ou prorogée, existe et est régie et dans lequel l'entreprise est principalement exploitée,

(A) the fair market value of the shares of the holding corporation owned at that time by the shareholder

is of

(B) the fair market value of all the issued shares of the holding corporation outstanding at that time,

(iv) where, at any time, shares of a corporation are property of a partnership or are deemed for the purposes of this paragraph to be property of a partnership, those shares shall be deemed to be owned at that time by each member of the partnership in a proportion equal to the proportion of all such shares that

(A) the member's share of the income or loss of the partnership for its fiscal period that includes that time

is of

(B) the income or loss of the partnership for its fiscal period that includes that time

and for the purpose of this subparagraph, where the income and loss of the partnership for its fiscal period that includes that time are nil, that proportion shall be computed as if the partnership had income for the period in the amount of $1,000,000, and

(v) where, at any time, a person is a holder of convertible property issued by the affiliate before June 23, 1994 the terms of which confer on the holder the right to exchange the convertible property for shares of the affiliate and the taxpayer elects in its return of income for its first taxation year that ends after 1994 to have the provisions of this subparagraph apply to the taxpayer in respect of all the convertible property issued by the affiliate and outstanding at that time, each holder shall, in respect of the convertible property held by it at that time, be deemed to have, immediately before that time,

(A) exchanged the convertible property for shares of the affiliate, and

(B) acquired shares of the affiliate in accordance with the terms and conditions of the convertible property;

(n) in applying paragraphs (a) and (g), paragraph (b) of the description of A in the formula in the definition ***foreign accrual property income*** in subsection (1),

(ii) les comptes clients dont sont débitrices les personnes avec lesquelles la société affiliée n'a aucun lien de dépendance,

toutefois aucun montant n'est à inclure en vertu du présent alinéa si, à la fois :

(iii) la société affiliée exploite l'entreprise à titre de banque étrangère, de société de fiducie, de caisse de crédit, de compagnie d'assurance ou de négociateur ou courtier en valeurs mobilières ou en marchandises, dont les activités sont réglementées par les lois des pays suivants, selon le cas :

(A) chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays, et le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

(B) le pays où l'entreprise est principalement exploitée,

(C) si la société affiliée est liée à une société non-résidente, le pays sous le régime des lois duquel la société non-résidente est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, si ces lois sont reconnues par les lois du pays où l'entreprise est principalement exploitée et si ces pays sont tous membres de l'Union européenne,

(iv) le contribuable est :

(A) soit une banque, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises qui réside au Canada et dont les activités d'entreprise sont légalement sous la surveillance d'un organisme de réglementation, comme le surintendant des institutions financières ou un organisme provincial semblable,

(B) soit une filiale à cent pour cent d'une société visée à la division (A),

(C) soit une société dont une société visée à la division (A) est une filiale à cent pour cent,

(D) soit une société de personnes dont chacun des associés est une société visée à l'une des divisions (A) à (C);

subsections (2.2), (2.21) and 93.1(5) and paragraph (d) of the definition ***exempt earnings***, and paragraph (c) of the definition ***exempt loss***, in subsection 5907(1) of the *Income Tax Regulations*, a non-resident corporation is deemed to be, at any time, a foreign affiliate of a particular corporation resident in Canada, and a foreign affiliate of the particular corporation in respect of which the particular corporation has a qualifying interest, if at that time

(i) the non-resident corporation is a foreign affiliate of another corporation that is resident in Canada and that is related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the particular corporation, and

(ii) that other corporation has a qualifying interest in respect of the non-resident corporation;

(o) a particular person is a qualifying member of a partnership at a particular time if, at that time, the particular person is a member of the partnership and

(i) throughout the period, in the fiscal period of the partnership that includes the particular time, during which the member was a member of the partnership, the particular person is, on a regular, continuous and substantial basis

(A) actively engaged in those activities, of the principal business of the partnership carried on in that fiscal period by the partnership, that are other than activities connected with the provision of or the acquisition of funds required for the operation of that principal business, or

(B) actively engaged in those activities, of a particular business carried on in that fiscal period by the particular person (otherwise than as a member of a partnership) that is similar to the principal business carried on in that fiscal period by the partnership, that are other than activities connected with the provision of or the acquisition of funds required for the operation of the particular business, or

(ii) throughout the period, in the fiscal period of the partnership that includes the particular time, during which the particular person was a member of the partnership

(A) the total of the fair market value of all partnership interests in the partnership owned by the particular person was equal to or greater than 1% of the total of the fair market value of all partnership interests in the partnership owned by all members of the partnership, and

m) un contribuable a une participation admissible dans une de ses sociétés étrangères affiliées à un moment donné s'il est propriétaire, à ce moment, des actions suivantes :

(i) au moins 10 % des actions de la société affiliée, émises, en circulation et comportant plein droit de vote en toutes circonstances,

(ii) des actions de la société affiliée dont la juste valeur marchande représente au moins 10 % de la juste valeur marchande de l'ensemble de ses actions émises et en circulation,

les présomptions suivantes s'appliquent dans le cadre du présent alinéa :

(iii) les actions d'une société qui, à un moment donné, appartiennent à une autre société (appelée « société détentrice » au présent alinéa) ou sont réputées lui appartenir pour l'application du présent alinéa sont réputées appartenir alors à chaque actionnaire de la société détentrice dans une proportion égale à la fraction de ces actions représentée par le rapport entre :

(A) d'une part, la juste valeur marchande des actions de la société détentrice qui appartiennent à l'actionnaire à ce moment,

(B) d'autre part, la juste valeur marchande de l'ensemble des actions émises de la société détentrice qui sont en circulation à ce moment,

(iv) les actions d'une société qui, à un moment donné, appartiennent à une société de personnes ou sont réputées lui appartenir pour l'application du présent alinéa sont réputées appartenir alors à chaque associé de la société de personnes dans une proportion égale à la fraction de ces actions représentée par le rapport entre :

(A) d'une part, la part qui revient à l'associé du revenu ou de la perte de la société de personnes pour son exercice qui comprend ce moment,

(B) d'autre part, le revenu ou la perte de la société de personnes pour son exercice qui comprend ce moment,

pour l'application du présent sous-alinéa, lorsque le revenu ou la perte de la société de personnes pour cet exercice est nul, la proportion en question est calculée comme si le revenu de la société de personnes pour cet exercice s'élevait à 1000 000 $,

(B) the total of the fair market value of all partnership interests in the partnership owned by the particular person or persons (other than trusts) related to the particular person was equal to or greater than 10% of the total of the fair market value of all partnership interests in the partnership owned by all members of the partnership;

(p) a particular person is a qualifying shareholder of a corporation at any time if throughout the period, in the taxation year of the corporation that includes that time, during which the particular person was a shareholder of the corporation

(i) the particular person owned 1% or more of the issued and outstanding shares (having full voting rights under all circumstances) of the capital stock of the corporation,

(ii) the particular person, or the particular person and persons (other than trusts) related to the particular person, owned 10% or more of the issued and outstanding shares (having full voting rights under all circumstances) of the capital stock of the corporation,

(iii) the total of the fair market value of all the issued and outstanding shares of the capital stock of the corporation owned by the particular person is 1% or more of the total fair market value of all the issued and outstanding shares of the capital stock of the corporation, and

(iv) the total of the fair market value of all the issued and outstanding shares of the capital stock of the corporation owned by the particular person or by persons (other than trusts) related to the particular person is 10% or more of the total fair market value of all the issued and outstanding shares of the capital stock of the corporation;

(q) in applying paragraphs (o) and (p),

(i) where interests in any partnership or shares of the capital stock of any corporation (which interests or shares are referred to in this subparagraph as "equity interests") are, at any time, property of a particular partnership or are deemed under this paragraph to be, at any time, property of the particular partnership, the equity interests are deemed to be owned at that time by each member of the particular partnership in a proportion equal to the proportion of the equity interests that

(v) lorsqu'une personne détient, à un moment donné, un bien convertible émis par la société affiliée avant le 23 juin 1994 dont les conditions confèrent à la personne le droit d'échanger le bien convertible contre des actions de la société affiliée et que le contribuable choisit, dans sa déclaration de revenu produite pour sa premières année d'imposition qui se termine après 1994, de se prévaloir des dispositions du présent sous-alinéa pour ce qui est de l'ensemble des biens convertibles émis par la société affiliée qui sont en circulation au moment donné, chaque détenteur est réputé, quant aux biens convertibles qu'il détient à ce moment :

(A) avoir échangé les biens convertibles contre des actions de la société affiliée immédiatement avant ce moment,

(B) avoir acquis, immédiatement avant ce moment, des actions de la société affiliée en conformité avec les modalités des biens convertibles;

n) pour l'application des alinéas a) et g), de l'alinéa b) de l'élément A de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe (1), des paragraphes (2.2), (2.21) et 93.1(5) et de l'alinéa d) de la définition de ***gains exonérés***, et de l'alinéa c) de la définition de ***perte exonérée***, au paragraphe 5907(1) du *Règlement de l'impôt sur le revenu*, une société non-résidente est réputée être, à un moment donné, une société étrangère affiliée d'une société donnée résidant au Canada ainsi qu'une société étrangère affiliée de la société donnée dans laquelle celle-ci a une participation admissible si, à ce moment, à la fois :

(i) la société non-résidente est une société étrangère affiliée d'une autre société qui réside au Canada et qui est liée, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), à la société donnée,

(ii) cette autre société a une participation admissible dans la société non-résidente;

o) une personne donnée est un associé admissible d'une société de personnes à un moment donné si elle est un associé de la société de personnes à ce moment et si, selon le cas :

(i) tout au long de la période, incluse dans l'exercice de la société de personnes qui comprend ce moment, au cours de laquelle l'associé était un associé de la société de personnes, elle prend une part active, de façon régulière, continue et importante :

(A) the fair market value, at that time, of the member's partnership interest in the particular partnership

is of

(B) the fair market value, at that time, of all members' partnership interests in the particular partnership, and

(ii) where interests in a partnership or shares of the capital stock of a corporation (which interests or shares are referred to in this subparagraph as "equity interests") are, at any time, property of a non-discretionary trust (within the meaning assigned by subsection 17(15)) or are deemed under this paragraph to be, at any time, property of such a non-discretionary trust, the equity interests are deemed to be owned at that time by each beneficiary under that trust in a proportion equal to that proportion of the equity interests that

(A) the fair market value, at that time, of the beneficiary's beneficial interest in the trust

is of

(B) the fair market value, at that time, of all beneficial interests in the trust;

(r) in applying paragraph (a) and in applying paragraph (d) of the definition ***exempt earnings***, and paragraph (c) of the definition ***exempt loss***, in subsection 5907(1) of the Regulations, a partnership is deemed to be, at any time, a partnership of which a foreign affiliate — of a particular corporation resident in Canada and in respect of which foreign affiliate the particular corporation has a qualifying interest — is a qualifying member, if at that time

(i) a particular foreign affiliate — of another corporation that is resident in Canada and that is related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the particular corporation — is a member of the partnership,

(ii) that other corporation has a qualifying interest in respect of the particular foreign affiliate, and

(iii) the particular foreign affiliate is a qualifying member of the partnership;

(s) in applying the definition ***investment business*** in subsection (1), a particular corporation is, at any time, a designated corporation in respect of a foreign affiliate of a taxpayer, if at that time

(A) soit aux activités de l'entreprise principale de la société de personnes, que celle-ci exerce au cours de l'exercice en cause, qui ne sont pas des activités liées à la fourniture ou à l'acquisition de fonds nécessaires à l'exploitation de cette entreprise principale,

(B) soit aux activités d'une entreprise donnée qu'elle exploite au cours de l'exercice en cause, autrement qu'à titre d'associé d'une société de personnes, qui est semblable à l'entreprise principale que la société de personnes exploite au cours de cet exercice, qui ne sont pas des activités liées à la fourniture ou à l'acquisition de fonds nécessaires à l'exploitation de l'entreprise donnée,

(ii) tout au long de la période, incluse dans l'exercice de la société de personnes qui comprend ce moment, au cours de laquelle la personne donnée était un associé de la société de personnes, à la fois :

(A) la juste valeur marchande totale des participations dans la société de personnes qui appartiennent à la personne donnée représente au moins 1 % de la juste valeur marchande totale des participations dans la société de personnes qui appartiennent à l'ensemble des associés de celle-ci,

(B) la juste valeur marchande totale des participations dans la société de personnes qui appartiennent à la personne donnée ou à des personnes, sauf des fiducies, qui lui sont liées représente au moins 10 % de la juste valeur marchande totale des participations dans la société de personnes qui appartiennent à l'ensemble des associés de celle-ci;

p) une personne donnée est un actionnaire admissible d'une société à un moment donné si, tout au long de la période, incluse dans l'année d'imposition de la société qui comprend ce moment, au cours de laquelle elle était un actionnaire de la société, à la fois :

(i) la personne donnée était propriétaire d'au moins 1 % des actions émises, en circulation et comportant plein droit de vote en toutes circonstances du capital-actions de la société,

(ii) la personne donnée, ou la personne donnée et des personnes, sauf des fiducies, qui lui sont liées, étaient propriétaires d'au moins 10 % des actions émises, en circulation et comportant plein droit de vote en toutes circonstances du capital-actions de la société,

(i) a qualifying shareholder of the foreign affiliate or a person related to such a qualifying shareholder is a qualifying shareholder of the particular corporation,

(ii) the particular corporation

(A) is controlled by a qualifying shareholder of the foreign affiliate, or

(B) would be controlled by a particular qualifying shareholder of the foreign affiliate if the particular qualifying shareholder of the foreign affiliate owned each share of the capital stock of the particular corporation that is owned by a qualifying shareholder of the foreign affiliate or by a person related to a qualifying shareholder of the foreign affiliate, and

(iii) the total of all amounts each of which is the fair market value of a share of the capital stock of the particular corporation owned by a qualifying shareholder of the foreign affiliate or by a person related to a qualifying shareholder of the foreign affiliate is greater than 50% of the total fair market value of all the issued and outstanding shares of the capital stock of the particular corporation;

(t) in applying the definition ***investment business*** in subsection (1) in respect of a business carried on by a foreign affiliate of a taxpayer in a taxation year, a particular partnership is, at any time, a designated partnership in respect of the foreign affiliate of the taxpayer, if at that time

(i) the foreign affiliate or a person related to the foreign affiliate is a qualifying member of the particular partnership, and

(ii) the total of all amounts — each of which is the fair market value of a partnership interest in the particular partnership held by the foreign affiliate, by a person related to the foreign affiliate or (where the foreign affiliate carries on, at that time, the business as a qualifying member of another partnership) by a qualifying member of the other partnership — is greater than 50% of the total fair market value of all partnership interests in the particular partnership owned by all members of the particular partnership;

(u) [Repealed, 2013, c. 34, s. 70]

(v) in applying paragraph (p),

(i) where shares of the capital stock of any corporation (referred to in this paragraph as the "issuing

(iii) la juste valeur marchande totale des actions émises et en circulation du capital-actions de la société appartenant à la personne donnée représente au moins 1 % de la juste valeur marchande totale des actions émises et en circulation du capital-actions de la société,

(iv) la juste valeur marchande totale des actions émises et en circulation du capital-actions de la société appartenant à la personne donnée ou à des personnes, sauf des fiducies, qui lui sont liées représente au moins 10 % de la juste valeur marchande totale des actions émises et en circulation du capital-actions de la société;

q) pour l'application des alinéas o) et p) :

(i) les participations dans une société de personnes ou les actions du capital-actions d'une société qui font partie des biens d'une société de personnes, ou sont réputées par le présent alinéa en faire partie, à un moment donné sont réputées appartenir à ce moment à chaque associé de la société de personnes dans une proportion égale à la proportion de ces participations ou actions que représente le rapport entre :

(A) d'une part, la juste valeur marchande, à ce moment, des participations de l'associé dans la société de personnes,

(B) d'autre part, la juste valeur marchande, à ce moment, des participations de l'ensemble des associés dans la société de personnes,

(ii) les participations dans une société de personnes ou les actions du capital-actions d'une société qui font partie des biens d'une fiducie non discrétionnaire, au sens du paragraphe 17(15), ou sont réputées par le présent alinéa en faire partie, à un moment donné sont réputées appartenir à ce moment à chaque bénéficiaire de la fiducie dans une proportion égale à la proportion de ces participations ou actions que représente le rapport entre :

(A) d'une part, la juste valeur marchande, à ce moment, du droit de bénéficiaire du bénéficiaire dans la fiducie,

(B) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des droits de bénéficiaire dans la fiducie;

r) pour l'application de l'alinéa a) et pour l'application de l'alinéa d) de la définition de ***gains exonérés***, et de l'alinéa c) de la définition de ***perte exonérée***, au paragraphe 5907(1) du *Règlement de l'impôt sur le revenu*,

corporation") are, at any time, owned by a corporation (referred to in this paragraph as the "holding corporation") or are deemed under this paragraph to be, at any time, owned by a corporation (referred to in this paragraph as the "holding corporation"), those shares are deemed to be owned at that time by each shareholder of the holding corporation in a proportion equal to the proportion of those shares that

(A) the fair market value, at that time, of the shares of the capital stock of the issuing corporation that are owned by the shareholder

is of

(B) the fair market value, at that time, of all the issued and outstanding shares of the capital stock of the issuing corporation, and

(ii) a person who is deemed by subparagraph (i) to own, at any time, shares of the capital stock of a corporation is deemed to be, at that time, a shareholder of the corporation;

(w) where a foreign affiliate of a corporation resident in Canada carries on an active business in more than one country,

(i) where the business is carried on in a country other than Canada, it is deemed to carry on that business in that country only to the extent that the profit or loss from that business can reasonably be attributed to a permanent establishment situated in that country, and

(ii) where the business is carried on in Canada, it is deemed to carry on that business in Canada only to the extent that the income from the active business is subject to tax under this Part;

(x) the loss from an active business, from a non-qualifying business or from property (as the case may be) of a foreign affiliate of a taxpayer resident in Canada for a taxation year is the amount of that loss, if any, that is computed by applying the provisions in this subdivision with respect to the computation of income from the active business, from the non-qualifying business or from property (as the case may be) of the foreign affiliate for the taxation year with any modifications that the circumstances require;

(y) in determining — for the purpose of paragraph (a) and for the purpose of applying subsections (2.2) and (2.21) for the purpose of applying that paragraph — whether a non-resident corporation is, at any time, a foreign affiliate of a taxpayer in respect of which the

une société de personnes est réputée être, à un moment donné, une société de personnes qui compte parmi ses associés admissibles une société étrangère affiliée d'une société donnée résidant au Canada dans laquelle cette dernière a une participation admissible, si, à ce moment, à la fois :

(i) est l'associé de la société de personnes une société étrangère affiliée donnée d'une autre société qui, à la fois, réside au Canada et est liée à la société donnée autrement qu'à cause d'un droit visé à l'alinéa 251(5)b),

(ii) cette autre société a une participation admissible dans la société affiliée donnée,

(iii) la société affiliée donnée est un associé admissible de la société de personnes;

s) pour l'application de la définition de ***entreprise de placement*** au paragraphe (1), une société donnée est, à un moment donné, une société désignée quant à une société étrangère affiliée d'un contribuable si, à ce moment, à la fois :

(i) un actionnaire admissible de la société affiliée, ou une personne liée à un tel actionnaire, est un actionnaire admissible de la société donnée,

(ii) la société donnée, selon le cas :

(A) est contrôlée par un actionnaire admissible de la société affiliée,

(B) serait contrôlée par un actionnaire admissible de la société affiliée si ce dernier était propriétaire de chaque action du capital-actions de la société donnée qui appartient à un actionnaire admissible de la société affiliée ou à une personne liée à un tel actionnaire,

(iii) le total des sommes représentant chacune la juste valeur marchande d'une action du capital-actions de la société donnée appartenant à un actionnaire admissible de la société affiliée ou à une personne liée à un tel actionnaire représente plus de 50 % de la juste valeur marchande totale des actions émises et en circulation du capital-actions de la société donnée;

t) pour l'application de la définition de ***entreprise de placement*** au paragraphe (1) relativement à une entreprise exploitée par une société étrangère affiliée d'un contribuable au cours d'une année d'imposition, une société de personnes donnée est, à un moment donné, une société de personnes désignée quant à la société affiliée si, à ce moment, à la fois :

taxpayer has a qualifying interest, where interests in any partnership or shares of the capital stock of any corporation (which interests or shares are referred to in this paragraph as "equity interests") are, at that time, property of a particular partnership or are deemed under this paragraph to be, at any time, property of the particular partnership, the equity interests are deemed to be owned at that time by each member of the particular partnership in a proportion equal to the proportion of the equity interests that

(i) the fair market value, at that time, of the member's partnership interest in the particular partnership

is of

(ii) the fair market value, at that time, of all members' partnership interests in the particular partnership; and

(z) where a particular foreign affiliate of a taxpayer — in respect of which the taxpayer has a qualifying interest or that is a controlled foreign affiliate of the taxpayer — is a member of a partnership, the particular foreign affiliate's foreign accrual property income or loss in respect of the taxpayer for a taxation year shall not include any income or loss of the partnership to the extent that the income or loss

(i) is attributable to the foreign accrual property income or loss of a foreign affiliate of the partnership that is also a foreign affiliate of the taxpayer (referred to in this paragraph as the "second foreign affiliate") in respect of which the taxpayer has a qualifying interest or that is a controlled foreign affiliate of the taxpayer, and

(ii) is, because of paragraph (a) as applied in respect of the taxpayer, included in computing the income or loss from an active business of the second foreign affiliate for a taxation year.

(i) la société affiliée ou une personne qui lui est liée est un associé admissible de la société de personnes donnée,

(ii) le total des sommes représentant chacune la juste valeur marchande d'une participation dans la société de personnes donnée détenue par la société affiliée, par une personne liée à celle-ci ou (dans le cas où la société affiliée exploite l'entreprise à ce moment à titre d'associé admissible d'une autre société de personnes) par un associé admissible de l'autre société de personnes représente plus de 50 % de la juste valeur marchande totale des participations dans la société de personnes donnée appartenant à l'ensemble des associés de celle-ci;

u) [Abrogé, 2013, ch. 34, art. 70]

v) pour l'application de l'alinéa p) :

(i) les actions du capital-actions d'une société (appelée « société émettrice » au présent alinéa) qui appartiennent à une société (appelée « société détentrice » au présent alinéa), ou sont réputées lui appartenir en vertu du présent alinéa, à un moment donné sont réputées appartenir, à ce moment, à chaque actionnaire de la société détentrice dans une proportion égale à la proportion de ces actions que représente le rapport entre :

(A) d'une part, la juste valeur marchande, à ce moment, des actions du capital-actions de la société émettrice qui appartiennent à l'actionnaire,

(B) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des actions émises et en circulation du capital-actions de la société émettrice,

(ii) la personne qui est réputée, en vertu du sous-alinéa (i), être propriétaire d'actions du capital-actions d'une société à un moment donné est réputée, à ce moment, être actionnaire de la société;

w) lorsqu'une société étrangère affiliée d'une société résidant au Canada exploite une entreprise exploitée activement dans plus d'un pays, les règles suivantes s'appliquent :

(i) si l'entreprise est exploitée dans un pays étranger, la société affiliée est réputée l'exploiter dans ce pays, mais seulement dans la mesure où il est raisonnable d'attribuer les bénéfices ou les pertes en provenant à un établissement stable situé dans ce pays,

(ii) si l'entreprise est exploitée au Canada, la société affiliée est réputée l'exploiter au Canada, mais seulement dans la mesure où le revenu en provenant est assujetti à l'impôt prévu par la présente partie;

x) la perte provenant d'une entreprise exploitée activement, d'une entreprise non admissible ou d'un bien d'une société étrangère affiliée d'un contribuable résidant au Canada pour une année d'imposition correspond au montant de cette perte qui est calculé par application des dispositions de la présente sous-section au calcul du revenu provenant de l'entreprise exploitée activement, de l'entreprise non admissible ou d'un bien de la société affiliée pour l'année, compte tenu des adaptations nécessaires;

y) lorsqu'il s'agit d'établir, pour l'application de l'alinéa a) et pour l'application des paragraphes (2.2) et (2.21) dans le cadre de cet alinéa, si une société nonrésidente est, à un moment donné, une société étrangère affiliée d'un contribuable dans laquelle celui-ci a une participation admissible, et que des participations dans une société de personnes ou des actions du capital-actions d'une société font partie des biens d'une société de personnes donnée, ou sont réputées par le présent alinéa en faire partie, à ce moment, ces participations ou actions sont réputées appartenir à ce moment à chaque associé de la société de personnes donnée dans une proportion égale à la proportion de ces participations ou actions que représentent le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, de la participation de l'associé dans la société de personnes donnée,

(ii) d'autre part, la juste valeur marchande, à ce moment, des participations de l'ensemble des associés dans la société de personnes donnée;

z) dans le cas où une société étrangère affiliée donnée d'un contribuable — dans laquelle celui-ci a une participation admissible ou qui est une société étrangère affiliée contrôlée du contribuable — est l'associé d'une société de personnes, son revenu étranger accumulé, tiré de biens, ou sa perte étrangère accumulée, relative à des biens, relativement au contribuable pour une année d'imposition ne comprend aucun revenu ni perte de la société de personnes dans la mesure où le revenu ou la perte, à la fois :

(i) est attribuable au revenu étranger accumulé, tiré de biens, ou à la perte étrangère accumulée, relative à des biens, d'une société étrangère affiliée de la société de personnes qui est également une société

étrangère affiliée du contribuable (appelée « deuxième société affiliée » au présent alinéa) dans laquelle celui-ci a une participation admissible ou qui est une société étrangère affiliée contrôlée du contribuable,

(ii) est inclus, par l'effet de l'alinéa a) relativement au contribuable, dans le calcul du revenu ou de la perte provenant d'une entreprise exploitée activement de la deuxième société affiliée pour une année d'imposition.

Rules for the definition *controlled foreign affiliate*

(2.01) In applying paragraph (b) of the definition ***controlled foreign affiliate*** in subsection (1) and in applying this subsection,

(a) shares of the capital stock of a corporation that are at any time owned by, or that are deemed by this subsection to be at any time owned by, another corporation are deemed to be, at that time, owned by, or property of, as the case may be, each shareholder of the other corporation in the proportion that

(i) the fair market value at that time of the shares of the capital stock of the other corporation that, at that time, are owned by, or are property of, the shareholder

is of

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

(b) shares of the capital stock of a corporation that are, or are deemed by this subsection to be, at any time, property of a partnership, are deemed to be, at that time, owned by, or property of, as the case may be, each member of the partnership in the proportion that

(i) the fair market value at that time of the member's partnership interest in the partnership

is of

(ii) the fair market value at that time of all partnership interests in the partnership;

(c) shares of the capital stock of a corporation that are at any time owned by, or that are deemed by this subsection to be at any time owned by, a non-discretionary trust (within the meaning assigned by subsection 17(15)) other than an exempt trust (within the meaning assigned by subsection (1)) are deemed to be,

Règles applicables à la définition de *société étrangère affiliée contrôlée*

(2.01) Pour l'application de l'alinéa b) de la définition de ***société étrangère affiliée contrôlée*** au paragraphe (1) et pour l'application du présent paragraphe :

a) les actions du capital-actions d'une société qui appartiennent à une autre société à un moment donné, ou qui sont réputées en vertu du présent paragraphe lui appartenir à un moment donné, sont réputées appartenir, à ce moment, à chaque actionnaire de l'autre société, ou compter parmi ses biens à ce moment, dans la proportion que représente le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, des actions du capital-actions de l'autre société qui, à ce moment, appartiennent à l'actionnaire ou comptent parmi ses biens,

(ii) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des actions émises et en circulation du capital-actions de l'autre société;

b) les actions du capital-actions d'une société qui comptent parmi les biens d'une société de personnes à un moment donné, ou qui sont réputées en vertu du présent paragraphe compter parmi ses biens à un moment donné, sont réputées appartenir, à ce moment, à chaque associé de la société de personnes, ou compter parmi ses biens à ce moment, dans la proportion que représente le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, de la participation de l'associé dans la société de personnes,

(ii) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des participations dans la société de personnes;

c) les actions du capital-actions d'une société qui, à un moment donné, appartiennent à une fiducie non discrétionnaire (au sens du paragraphe 17(15)) autre qu'une fiducie exonérée (au sens du paragraphe (1)),

at that time, owned by, or property of, as the case may be, each beneficiary of the trust in the proportion that

(i) the fair market value at that time of the beneficiary's beneficial interest in the trust

is of

(ii) the fair market value at that time of all beneficial interests in the trust; and

(d) all of the shares of the capital stock of a corporation that are at any time owned by, or that are deemed by this subsection to be at any time owned by, a particular trust (other than an exempt trust within the meaning assigned by subsection (1) or a non-discretionary trust within the meaning assigned by subsection 17(15)) are deemed to be, at that time, owned by, or property of, as the case may be,

(i) each beneficiary of the particular trust at that time, and

(ii) each settlor (within the meaning assigned by subsection 17(15)) in respect of the particular trust at that time.

ou qui sont réputées en vertu du présent paragraphe lui appartenir à un moment donné, sont réputées appartenir, à ce moment, à chaque bénéficiaire de la fiducie, ou compter parmi ses biens à ce moment, dans la proportion que représente le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, du droit de bénéficiaire du bénéficiaire dans la fiducie,

(ii) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des droits de bénéficiaire dans la fiducie;

d) l'ensemble des actions du capital-actions d'une société qui, à un moment donné, appartiennent à une fiducie donnée (à l'exception d'une fiducie exonérée au sens du paragraphe (1) et d'une fiducie non discrétionnaire au sens du paragraphe 17(15)), ou qui sont réputées en vertu du présent paragraphe lui appartenir à un moment donné, sont réputées appartenir aux personnes ci-après à ce moment, ou compter parmi leurs biens à ce moment :

(i) chaque bénéficiaire de la fiducie donnée à ce moment,

(ii) chaque auteur, au sens du paragraphe 17(15), de la fiducie donnée à ce moment.

Rule against double-counting

(2.02) In applying the assumption in paragraph (b) of the definition ***controlled foreign affiliate*** in subsection (1) in respect of a taxpayer resident in Canada to determine whether a foreign affiliate of the taxpayer is at any time a controlled foreign affiliate of the taxpayer, nothing in that paragraph or in subsection (2.01) is to be read or construed as requiring an interest, or for civil law a right, in a share of the capital stock of the foreign affiliate of the taxpayer owned at that time by the taxpayer to be taken into account more than once.

Règle contre la double comptabilisation

(2.02) Pour l'application de l'hypothèse énoncée à l'alinéa b) de la définition de ***société étrangère affiliée contrôlée*** au paragraphe (1), relativement à un contribuable résidant au Canada, qui sert à établir si une société étrangère affiliée du contribuable est, à un moment donné, une société étrangère affiliée contrôlée du contribuable, ni cet alinéa ni le paragraphe (2.01) n'ont pour effet d'exiger que l'intérêt ou, pour l'application du droit civil, le droit sur une action du capital-actions de la société affiliée du contribuable qui appartient à celui-ci à ce moment soit pris en compte plus d'une fois.

Rule for definition *investment business*

(2.1) For the purposes of the definition ***investment business*** in subsection 95(1), a foreign affiliate of a taxpayer, the taxpayer and, where the taxpayer is a corporation all the issued shares of which are owned by a corporation described in subparagraph 95(2.1)(a)(i), such corporation described in subparagraph 95(2.1)(a)(i) shall be considered to be dealing with each other at arm's length in respect of the entering into of agreements that provide for the purchase, sale or exchange of currency and the execution of such agreements where

Règle applicable à la définition de *entreprise de placement*

(2.1) Pour l'application de la définition de ***entreprise de placement*** au paragraphe (1), une société étrangère affiliée d'un contribuable, le contribuable et, dans le cas où le contribuable est une société dont l'ensemble des actions émises appartiennent à une société visée au sous-alinéa a)(i), cette société sont réputés n'avoir entre eux aucun lien de dépendance pour ce qui est de la conclusion et de l'exécution de conventions prévoyant l'achat, la vente ou l'échange de monnaie, dans le cas où, à la fois :

a) le contribuable est :

(a) the taxpayer is

(i) a bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities resident in Canada, the business activities of which are subject by law to the supervision of a regulating authority such as the Superintendent of Financial Institutions or a similar authority of a province, or

(ii) a subsidiary wholly-owned corporation of a corporation described in subparagraph 95(2.1)(a)(i);

(b) the agreements are swap agreements, forward purchase or sale agreements, forward rate agreements, futures agreements, options or rights agreements or similar agreements;

(c) the affiliate entered into the agreements in the course of a business carried on by the affiliate, if

(i) the business is carried on by the affiliate principally in a country (other than Canada) and principally with persons with whom the affiliate deals at arm's length, and

(ii) the business activities of the affiliate are regulated in that country; and

(d) the terms and conditions of such agreements are substantially the same as the terms and conditions of similar agreements made by persons dealing at arm's length.

Rule for definition *investment business*

(2.11) A taxpayer or a foreign affiliate of the taxpayer, as the case may be, is deemed not to have established that the conditions in subparagraph (a)(i) of the definition ***investment business*** in subsection (1) have been satisfied throughout a period in a particular taxation year of the affiliate unless

(a) throughout the period the taxpayer is

(i) a particular corporation resident in Canada

(A) that is a bank listed in Schedule I to the *Bank Act*, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities that is a registered securities dealer, the business activities of which are subject to the supervision of a regulating authority such as the Superintendent of Financial Institutions, a similar regulating authority of a province or an authority of, or approved by, a

(i) soit une banque, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises qui réside au Canada et dont les activités d'entreprise sont légalement sous la surveillance d'un organisme de réglementation, comme le surintendant des institutions financières ou un organisme provincial semblable,

(ii) soit une filiale à cent pour cent d'une société visée au sous-alinéa (i);

b) les conventions sont des contrats d'échange, des contrats d'achat ou de vente à terme, des contrats de garantie de taux d'intérêt, des contrats à terme normalisés, des contrats d'option ou de droits ou des contrats semblables;

c) la société affiliée a conclu les conventions dans le cours des activités d'une entreprise qu'elle exploite, si, à la fois :

(i) elle exploite cette entreprise principalement dans un pays étranger et principalement avec des personnes avec lesquelles elle n'a aucun lien de dépendance,

(ii) ses activités d'entreprise sont réglementées dans ce pays;

d) les modalités des conventions sont sensiblement les mêmes que celles de conventions semblables conclues par des personnes sans lien de dépendance.

***entreprise de placement* — conditions supplémentaires**

(2.11) Pour l'application de la définition de ***entreprise de placement*** au paragraphe (1), un contribuable ou une société étrangère affiliée de celui-ci est réputé ne pas avoir établi que les conditions énoncées au sous-alinéa a)(i) de cette définition sont réunies, tout au long d'une période au cours d'une année d'imposition donnée de la société affiliée, à moins que les faits ci-après ne s'avèrent :

a) tout au long de la période, le contribuable est, selon le cas :

(i) une société donnée résidant au Canada qui, à la fois :

(A) est une banque figurant à l'annexe I de la *Loi sur les banques*, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises qui est un courtier en

province to regulate traders or dealers in securities or commodities, and

(B) that is not a corporation the fair market value of any share of the capital stock of which is determined primarily by reference to one or more of the fair market value of, any revenue, income or cash flow from, any profits or gains from the disposition of, or any other similar criteria in respect of, property the fair market value of which is less than 90% of the fair market value of all of the property of the corporation,

(ii) a corporation resident in Canada

(A) of which

(I) the particular corporation described in subparagraph (i) is a subsidiary controlled corporation, or

(II) a corporation described in this subparagraph is a subsidiary wholly-owned corporation, and

(B) that is not a corporation the fair market value of any share of the capital stock of which is determined primarily by reference to one or more of the fair market value of, any revenue, income or cash flow from, any profits or gains from the disposition of, or any other similar criteria in respect of, property the fair market value of which is less than 90% of the fair market value of all of the property of the corporation,

(iii) a corporation resident in Canada each of the shares of the capital stock of which is owned by a corporation that is described in this subparagraph or in subparagraph (i) or (ii), or

(iv) a partnership

(A) each member of which is a corporation described in any of subparagraphs (i) to (iii), or another partnership described in this subparagraph, or

(B) in respect of which the following conditions are satisfied:

(I) the partnership is a registered securities dealer, the business activities of which are subject to the supervision of a regulating authority described in clause (a)(i)(A), and

(II) the share of the total income or loss of the partnership of a majority-interest partner of

valeurs mobilières inscrit, dont les activités d'entreprise sont sous la surveillance d'un organisme de réglementation, comme le surintendant des institutions financières, un organisme de réglementation provincial semblable ou un organisme de réglementation des négociateurs ou courtiers en valeurs mobilières ou en marchandises mandaté ou approuvé par une province,

(B) n'est pas une société dont la juste valeur marchande d'une action du capital-actions est déterminée principalement par rapport à un ou plusieurs des critères suivants :

(I) la juste valeur marchande de biens dont la juste valeur marchande est inférieure à 90 % de celle de l'ensemble des biens de la société,

(II) les recettes, le revenu ou les rentrées provenant de tels biens,

(III) les bénéfices ou gains provenant de la disposition de tels biens,

(IV) tout autre critère semblable applicable à de tels biens,

(ii) une société résidant au Canada à l'égard de laquelle les faits ci-après s'avèrent :

(A) elle est une société, selon le cas :

(I) dont la société donnée visée au sous-alinéa (i) est une filiale contrôlée,

(II) dont une société visée au présent sous-alinéa est une filiale à cent pour cent,

(B) elle n'est pas une société dont la juste valeur marchande d'une action du capital-actions est déterminée principalement par rapport à un ou plusieurs des critères suivants :

(I) la juste valeur marchande de biens dont la juste valeur marchande est inférieure à 90 % de celle de l'ensemble des biens de la société,

(II) les recettes, le revenu ou les rentrées provenant de tels biens,

(III) les bénéfices ou gains provenant de la disposition de tels biens,

(IV) tout autre critère semblable applicable à de tels biens,

the partnership that is either a corporation resident in Canada or a Canadian partnership — together with the share of each corporation resident in Canada that is affiliated with the majority-interest partner — is equal to all or substantially all of the total income or loss of the partnership; and

(b) either

(i) throughout the period the particular corporation described in subparagraph (a)(i) has, or is deemed for certain purposes to have, $2 billion or more of equity

(A) if the particular corporation is a bank, under the *Bank Act*,

(B) if the particular corporation is a trust company, under the *Trust and Loan Companies Act*, or

(C) if the particular corporation is an insurance corporation, under the *Insurance Companies Act*, or

(ii) more than 50% of the total of all amounts each of which is an amount of taxable capital employed in Canada (within the meaning assigned by Part I.3) of the taxpayer — or of a corporation resident in Canada that is affiliated with the taxpayer — for the taxation year of the taxpayer or of the affiliated corporation, as the case may be, that ends in the particular year is attributable to a business carried on in Canada, the activities of which are subject to the supervision of a regulating authority such as the Superintendent of Financial Institutions, a similar regulating authority of a province or an authority of, or approved by, a province to regulate traders or dealers in securities or commodities.

(iii) une société résidant au Canada dont chacune des actions du capital-actions appartient à une société visée au présent sous-alinéa ou aux sous-alinéas (i) ou (ii),

(iv) une société de personnes à l'égard de laquelle l'un des énoncés ci-après se vérifie :

(A) chacun de ses associés est une société visée à l'un des sous-alinéas (i) à (iii) ou une autre société de personnes visée au présent sous-alinéa,

(B) les faits ci-après se vérifient à son égard :

(I) la société de personnes est un courtier en valeurs mobilières inscrit dont les activités d'entreprise sont sous la surveillance d'un organisme de réglementation visé à la division a)(i)(A),

(II) la part du revenu total ou de la perte totale de la société de personnes d'un associé détenant une participation majoritaire dans la société de personnes qui est une société résidant au Canada ou une société de personnes canadienne — conjointement avec la part de chaque société résidant au Canada qui est affiliée à cet associé — est égale à la totalité, ou presque, du revenu total ou de la perte totale de la société de personnes;

b) selon le cas :

(i) tout au long de la période, la société donnée visée au sous-alinéa a)(i) a, ou est réputée avoir à certaines fins, des capitaux propres d'au moins deux milliards de dollars en vertu de celle des lois ci-après qui est applicable :

(A) s'agissant d'une banque, la *Loi sur les banques*,

(B) s'agissant d'une société de fiducie, la *Loi sur les sociétés de fiducie et de prêt*,

(C) s'agissant d'une compagnie d'assurance, la *Loi sur les sociétés d'assurances*,

(ii) plus de 50 % du total des sommes dont chacune représente un montant de capital imposable utilisé au Canada, au sens de la partie I.3, du contribuable, ou d'une société résidant au Canada qui est affiliée au contribuable, pour l'année d'imposition du contribuable ou de la société affiliée, selon le cas, se terminant au cours de l'année donnée est attribuable à une entreprise exploitée au Canada dont

les activités sont sous la surveillance d'un organisme de réglementation, comme le surintendant des institutions financières, un organisme de réglementation provincial semblable ou un organisme de réglementation des négociateurs ou courtiers en valeurs mobilières ou en marchandises mandaté ou approuvé par une province.

Qualifying interest throughout year

(2.2) For the purposes of paragraphs (2)(a) and (g), a non-resident corporation that is not a foreign affiliate of a taxpayer in respect of which the taxpayer has a qualifying interest throughout a particular taxation year is deemed to be a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest throughout that particular taxation year if

(a) a person or partnership has, in that particular taxation year, acquired or disposed of shares of the capital stock of that non-resident corporation or of any other corporation and, because of that acquisition or disposition, that non-resident corporation becomes or ceases to be a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest, and

(b) at the beginning of that particular taxation year or at the end of that particular taxation year, the non-resident corporation is a foreign affiliate of the taxpayer in respect of which the taxpayer has a qualifying interest.

Participation admissible tout au long de l'année

(2.2) Pour l'application des alinéas (2)a) et g), la société non-résidente qui n'est pas une société étrangère affiliée d'un contribuable dans laquelle celui-ci a une participation admissible tout au long d'une année d'imposition est réputée être une société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible tout au long de l'année si, à la fois :

a) au cours de l'année, une personne ou une société de personnes a acquis des actions du capital-actions de la société non-résidente ou d'une autre société, ou en a disposé, et, en raison de cette acquisition ou disposition, la société non-résidente devient une société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible, ou cesse de l'être;

b) au début ou à la fin de l'année, la société non-résidente est une société étrangère affiliée du contribuable dans laquelle celui-ci a une participation admissible.

Controlled foreign affiliate throughout year

(2.201) For the purposes of paragraphs (2)(a) and (g), a non-resident corporation is deemed to be a controlled foreign affiliate of a taxpayer throughout a taxation year of the non-resident corporation if

(a) in the taxation year, a person or partnership acquires or disposes of shares of the capital stock of a corporation and, because of the acquisition or disposition, the non-resident corporation becomes or ceases to be a controlled foreign affiliate of the taxpayer; and

(b) at either or both of the beginning and end of the taxation year, the non-resident corporation is a controlled foreign affiliate of the taxpayer.

Société étrangère affiliée contrôlée tout au long de l'année

(2.201) Pour l'application des alinéas (2)a) et g), une société non-résidente est réputée être une société étrangère affiliée contrôlée d'un contribuable tout au long d'une année d'imposition de la société non-résidente si, à la fois :

a) au cours de l'année, une personne ou une société de personnes acquiert des actions du capital-actions d'une société, ou en dispose, et la société non-résidente devient de ce fait une société étrangère affiliée contrôlée du contribuable, ou cesse de l'être;

b) au début et à la fin de l'année ou à l'un de ces moments, la société non-résidente est une société étrangère affiliée contrôlée du contribuable.

Rule re subsection (2.2)

(2.21) Subsection (2.2) does not apply for the purpose of paragraph (2)(a) in respect of any income or loss referred to in that paragraph, of a particular foreign affiliate of the

Règle — application du par. (2.2)

(2.21) Le paragraphe (2.2) ne s'applique pas, dans le cadre de l'alinéa (2)a), au revenu ou à la perte, visé à cet alinéa, d'une société étrangère affiliée donnée d'un contribuable, dans la mesure où il est raisonnable de considérer que ce revenu ou cette perte a été réalisé ou

taxpayer, to the extent that that income or loss can reasonably be considered to have been realized or to have accrued before the earlier of

(a) the time at which the particular affiliate became, as determined without reference to subsection (2.2), a foreign affiliate of the taxpayer in respect of which the taxpayer had a qualifying interest, and

(b) the time at which the particular affiliate became, as determined without reference to subsection (2.2), a foreign affiliate of another person resident in Canada in respect of which the other person resident in Canada had a qualifying interest, where

(i) the taxpayer is a corporation,

(ii) the taxpayer did not exist at the beginning of the taxation year,

(iii) the particular affiliate became a foreign affiliate of the taxpayer in the taxation year because of a disposition, in the taxation year, of shares of the capital stock of the particular affiliate to the taxpayer by the other person resident in Canada, and

(iv) the other person resident in Canada was, immediately before that disposition, related to the taxpayer.

Application of paragraph (2)(a.1)

(2.3) Paragraph 95(2)(a.1) does not apply to a foreign affiliate of a taxpayer in respect of a sale or exchange of property that is currency or a right to purchase, sell or exchange currency where

(a) the taxpayer is

(i) a bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities resident in Canada, the business activities of which are subject by law to the supervision of a regulating authority such as the Superintendent of Financial Institutions or a similar authority of a province, or

(ii) a subsidiary wholly-owned corporation of a corporation described in subparagraph 95(2.3)(a)(i);

(b) the sale or exchange was made by the affiliate in the course of a business conducted principally with persons with whom the affiliate deals at arm's length, if

(i) the business is principally carried on in the country (other than Canada) under whose laws the affiliate is governed and any of exists, was (unless

s'est accumulé avant le premier en date des moments suivants :

a) le moment auquel la société affiliée donnée est devenue, compte non tenu du paragraphe (2.2), une société étrangère affiliée du contribuable dans laquelle celui-ci avait une participation admissible;

b) le moment auquel la société affiliée donnée est devenue, compte non tenu du paragraphe (2.2), une société étrangère affiliée d'une autre personne résidant au Canada dans laquelle celle-ci avait une participation admissible, dans le cas où, à la fois :

(i) le contribuable est une société,

(ii) le contribuable n'existait pas au début de l'année d'imposition,

(iii) la société affiliée donnée est devenue une société étrangère affiliée du contribuable au cours de l'année d'imposition en raison de la disposition, au cours de cette année, d'actions du capital-actions de la société affiliée donnée, effectuée en faveur du contribuable par l'autre personne,

(iv) l'autre personne était liée au contribuable immédiatement avant cette disposition.

Application de l'alinéa (2)a.1)

(2.3) L'alinéa (2)a.1) ne s'applique pas à une société étrangère affiliée d'un contribuable relativement à la vente ou à l'échange d'un bien qui constitue de la monnaie ou un droit d'acheter, de vendre ou d'échanger de la monnaie, dans le cas où, à la fois :

a) le contribuable est :

(i) soit une banque, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises qui réside au Canada et dont les activités d'entreprise sont légalement sous la surveillance d'un organisme de réglementation, comme le surintendant des institutions financières ou un organisme provincial semblable,

(ii) soit une filiale à cent pour cent d'une société visée au sous-alinéa (i);

b) la vente ou l'échange a été effectué par la société affiliée dans le cours des activités d'une entreprise menée principalement avec des personnes avec lesquelles elle n'a aucun lien de dépendance, si, selon le cas :

the affiliate was continued in any jurisdiction) formed or organized, or was last continued, or

(ii) the affiliate is a foreign bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities and the activities of the business are regulated

(A) under the laws of the country under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued, and under the laws of each country in which the business is carried on through a permanent establishment in that country,

(B) under the laws of the country (other than Canada) in which the business is principally carried on, or

(C) if the affiliate is related to a corporation, under the laws of the country under the laws of which that related corporation is governed and any of exists, was (unless that related corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all of those countries are members of the European Union; and

(c) the terms and conditions of the sale or exchange of such property are substantially the same as the terms and conditions of similar sales or exchanges of such property by persons dealing at arm's length.

(i) l'entreprise est principalement exploitée dans le pays étranger sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

(ii) la société affiliée est une banque étrangère, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises et les activités de l'entreprise sont réglementées par les lois des pays suivants, selon le cas :

(A) le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois et chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays,

(B) le pays étranger où l'entreprise est principalement exploitée,

(C) si la société affiliée est liée à une société, le pays sous le régime des lois duquel cette société liée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, si ces lois sont reconnues par les lois du pays où l'entreprise est principalement exploitée et si ces pays sont tous membres de l'Union européenne;

c) les modalités de la vente ou de l'échange du bien sont sensiblement les mêmes que celles de ventes ou d'échanges semblables de tels biens effectués par des personnes sans lien de dépendance.

Application of paragraphs (2)(a.1) and (a.3)

(2.31) Paragraphs (2)(a.1) and (a.3) do not apply to a controlled foreign affiliate (for the purposes of section 17) of an eligible Canadian bank (as defined in subsection (2.43)) in respect of activities carried out to earn income from a property, other than a specified property of the affiliate, if

(a) the affiliate sells the property, or performs services as an agent in relation to a purchase or sale of the property, and it is reasonable to conclude that the cost to any person of the property is relevant in computing the income from

Application des alinéas (2)a.1) et a.3)

(2.31) Les alinéas (2)a.1) et a.3) ne s'appliquent pas à une société étrangère affiliée contrôlée (pour l'application de l'article 17) d'une banque canadienne admissible, au sens du paragraphe (2.43), relativement aux activités exercées dans le but de tirer un revenu d'un bien, sauf un bien déterminé de la société affiliée, si les conditions ci-après sont réunies :

a) la société affiliée vend le bien ou fournit des services à titre de mandataire dans le cadre de l'achat ou de la vente du bien, et il est raisonnable de conclure que le coût du bien pour une personne est pris en compte dans le calcul du revenu tiré :

(i) a business carried on by the bank or a person resident in Canada with whom the bank does not deal at arm's length, or

(ii) a business carried on in Canada by a non-resident person with whom the bank does not deal at arm's length;

(b) the property has a readily available fair market value and

(i) is listed on a recognized stock exchange,

(ii) would be a mark-to-market property (as defined in subsection 142.2(1)) of the bank if it were owned by the bank, or

(iii) is a debt obligation owing by the bank that would be a mark-to-market property (as defined in subsection 142.2(1)) of the affiliate if

(A) the affiliate were the taxpayer referred to in that definition, and

(B) the definition ***specified debt obligation*** in subsection 142.2(1) were read without reference to its paragraph (d);

(c) the purchase and sale of the property by the affiliate, or services performed by the affiliate as agent in respect of the purchase or sale, are made

(i) on terms and conditions that are substantially the same as the terms and conditions of similar purchases or sales of, or services performed in respect of the purchase or sale of, such property by persons dealing at arm's length,

(ii) in the course of a business

(A) that regularly includes trading or dealing in securities principally with persons with whom the affiliate deals at arm's length, and

(B) that is principally carried on through a permanent establishment in a country other than Canada, and

(iii) for the purpose of enabling the purchase or sale of the property by a particular person who deals at arm's length with the affiliate and the bank; and

(d) the affiliate is a foreign bank or a trader or dealer in securities and the activities of the business are regulated

(i) soit d'une entreprise exploitée par la banque ou par une personne résidant au Canada avec laquelle la banque a un lien de dépendance,

(ii) soit d'une entreprise exploitée au Canada par une personne non-résidente avec laquelle la banque a un lien de dépendance;

b) la juste valeur marchande du bien peut être obtenue facilement et le bien, selon le cas :

(i) est inscrit à la cote d'une bourse de valeurs reconnue,

(ii) serait un bien évalué à la valeur du marché, au sens du paragraphe 142.2(1), de la banque s'il appartenait à celle-ci,

(iii) est une créance due par la banque qui serait un bien évalué à la valeur du marché, au sens du paragraphe 142.2(1), de la société affiliée si, à la fois :

(A) la société affiliée était le contribuable visé à cette définition,

(B) la définition de ***titre de créance déterminé*** au paragraphe 142.2(1) s'appliquait compte non tenu de son alinéa d);

c) l'achat et la vente du bien par la société affiliée, ou les services qu'elle fournit à titre de mandataire dans le cadre de l'achat ou de la vente, sont exécutés, à la fois :

(i) selon des modalités qui sont sensiblement les mêmes que celles d'achats ou de ventes semblables de tels biens, ou de services semblables dans le cadre de l'achat ou de la vente de tels biens, exécutés par des personnes sans lien de dépendance,

(ii) dans le cadre d'une entreprise qui, à la fois :

(A) comporte régulièrement le commerce de valeurs mobilières principalement avec des personnes avec lesquelles la société affiliée n'a aucun lien de dépendance,

(B) est exploitée principalement par l'intermédiaire d'un établissement stable situé dans un pays étranger,

(iii) dans le but de permettre l'achat ou la vente du bien par une personne donnée qui n'a de lien de dépendance ni avec la société affiliée ni avec la banque;

(i) under the laws of the country under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued, and under the laws of each country in which the business is carried on through a permanent establishment in that country,

(ii) under the laws of the country (other than Canada) in which the business is principally carried on, or

(iii) if the affiliate is related to a corporation, under the laws of the country under whose laws that related corporation is governed and any of exists, was (unless that related corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all those countries are members of the European Union.

d) la société affiliée est une banque étrangère ou un négociateur ou courtier en valeurs mobilières et les activités de l'entreprise sont régies par les lois d'un ou plusieurs des pays ci-après :

(i) le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, et les lois de chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays,

(ii) le pays (sauf le Canada) où l'entreprise est exploitée principalement,

(iii) si la société affiliée est liée à une société, le pays sous le régime des lois duquel cette dernière est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, pourvu que ces lois soient reconnues par les lois du pays où l'entreprise est principalement exploitée et que ces pays soient tous membres de l'Union européenne.

Definition of *specified property*

(2.32) For the purposes of subsection (2.31), ***specified property***, of a foreign affiliate, means a property that is owned by the affiliate for more than 10 days and that is

(a) a share of the capital stock of a corporation resident in Canada;

(b) a property traded on a stock exchange located in Canada and not traded on a stock exchange located in the jurisdiction in which the affiliate is resident; or

(c) a debt obligation

(i) of a corporation resident in Canada,

(ii) of a trust or partnership, units of which are traded on a stock exchange located in Canada, or

(iii) of, or guaranteed by, the Government of Canada, the government of a province, an agent of a province, a municipality in Canada or a municipal or public body performing a function of government in Canada.

Définition de *bien déterminé*

(2.32) Pour l'application du paragraphe (2.31), ***bien déterminé*** s'entend de l'un des biens ci-après qui appartient à une société étrangère affiliée pendant plus de dix jours :

a) une action du capital-actions d'une société résidant au Canada;

b) un bien qui est négocié sur une bourse de valeurs située au Canada et non sur une bourse de valeurs située dans le territoire de résidence de la société affiliée;

c) un titre de créance :

(i) émis par une société résidant au Canada,

(ii) émis par une fiducie ou par une société de personnes, dont les unités sont négociées sur une bourse de valeurs située au Canada,

(iii) émis ou garanti par le gouvernement du Canada, le gouvernement d'une province, un mandataire d'une province, une municipalité du Canada ou un organisme municipal ou public remplissant une fonction gouvernementale au Canada.

Application of paragraph (2)(a.3)

(2.4) Paragraph 95(2)(a.3) does not apply to a foreign affiliate of a taxpayer in respect of its income derived directly or indirectly from indebtedness to the extent that

(a) the income is derived by the affiliate in the course of a business conducted principally with persons with whom the affiliate deals at arm's length carried on by it as a foreign bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities, the activities of which are regulated under the laws

(i) of the country under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued and of each country in which the business is carried on through a permanent establishment in that country,

(ii) of the country in which the business is principally carried on, or

(iii) if the affiliate is related to a corporation, of the country under the laws of which that related corporation is governed and any of exists, was (unless that related corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all of those countries are members of the European Union, and

(b) all the following conditions are satisfied:

(i) the income is derived by the affiliate from trading or dealing in the indebtedness (which, for this purpose, consists of income from the actual trading or dealing in the indebtedness and interest earned by the affiliate during a short term holding period on indebtedness acquired by it for the purpose of the trading or dealing) directly or indirectly with persons (in this subsection referred to as "regular customers") that

(A) deal at arm's length with the affiliate, and

(B) are resident, or carry on business through a permanent establishment, in a country other than Canada,

(ii) the affiliate has a substantial market presence in the country, and

(iii) one or more persons that deal at arm's length with the affiliate and are resident, or carry on

Application de l'alinéa (2)a.3)

(2.4) L'alinéa (2)a.3) ne s'applique pas à une société étrangère affiliée d'un contribuable pour ce qui est du revenu qu'elle tire directement ou indirectement de dettes, dans la mesure où, à la fois :

a) elle a tiré ce revenu dans le cours des activités d'une entreprise menée principalement avec des personnes avec lesquelles elle n'a aucun lien de dépendance et qu'elle exploite à titre de banque étrangère, de société de fiducie, de caisse de crédit, de compagnie d'assurance ou de négociateur ou courtier en valeurs mobilières ou en marchandises, dont les activités sont régies par les lois des pays ci-après, selon le cas :

(i) le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois et chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays,

(ii) le pays où l'entreprise est principalement exploitée,

(iii) si la société affiliée est liée à une société, le pays sous le régime des lois duquel la société liée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, si ces lois sont reconnues par les lois du pays où l'entreprise est principalement exploitée et si ces pays sont tous membres de l'Union européenne;

b) les conditions ci-après sont remplies :

(i) elle a tiré ce revenu du commerce des dettes en cause (à cette fin, le revenu est le revenu qui provient du commerce effectif de ces dettes et des intérêts gagnés par la société affiliée au cours d'une période de détention à court terme sur les dettes qu'elle a acquises en vue d'en faire le commerce) effectué directement ou indirectement avec des personnes (appelées « clients réguliers » au présent paragraphe) qui, à la fois :

(A) n'ont aucun lien de dépendance avec elle,

(B) résident dans un pays étranger ou y exploitent une entreprise par l'intermédiaire d'un établissement stable,

(ii) elle a une présence importante sur les marchés du pays,

business through a permanent establishment, in the country

(A) carry on a business

(I) that competes in the country with the business of the affiliate, and

(II) the activities of which are regulated under the laws of the country or, where the country is a member of the European Union, any country that is a member of the European Union, in the same manner as are the activities of the business of the affiliate, and

(B) have a substantial market presence in the country,

and, for the purpose of this subsection, an acquisition of indebtedness from the taxpayer shall be deemed to be part of the trading or dealing in indebtedness described in paragraph 95(2.4)(b) where the indebtedness is acquired by the affiliate and sold to regular customers and the terms and conditions of the acquisition and the sale are substantially the same as the terms and conditions of similar acquisitions and sales made by the affiliate in transactions with persons with whom it deals at arm's length.

Application of paragraph (2)(a.3)

(2.41) Paragraph (2)(a.3) does not apply to a foreign affiliate of a taxpayer resident in Canada in respect of the foreign affiliate's income for a taxation year derived, directly or indirectly, from indebtedness of persons resident in Canada or from indebtedness in respect of businesses carried on in Canada (referred to in this subsection as the "Canadian indebtedness") if

(a) the taxpayer is, at the end of the foreign affiliate's taxation year

(i) a life insurance corporation resident in Canada, the business activities of which are subject by law to the supervision of the Superintendent of Financial Institutions or a similar authority of a province, or

(ii) a corporation resident in Canada that is a subsidiary controlled corporation of a corporation described in subparagraph (i);

(b) the Canadian indebtedness is used or held by the foreign affiliate, throughout the period in the taxation year that that Canadian indebtedness was used or held by the foreign affiliate, in the course of carrying on a business (referred to in this subsection as the "foreign

(iii) une ou plusieurs personnes qui n'ont aucun lien de dépendance avec elle et qui résident dans le pays ou y exploitent une entreprise par l'intermédiaire d'un établissement stable :

(A) d'une part, exploitent une entreprise qui, à la fois :

(I) fait concurrence dans le pays à l'entreprise de la société affiliée,

(II) exerce des activités qui sont régies par les lois du pays ou, si le pays est membre de l'Union européenne, d'un des pays membres de l'Union européenne, de la même manière que le sont les activités de l'entreprise de la société affiliée,

(B) d'autre part, ont une présence importante sur les marchés du pays.

Pour l'application du présent paragraphe, une acquisition de dettes auprès du contribuable est réputée faire partie du commerce de dettes visé à l'alinéa b), dans le cas où les dettes sont acquises par la société affiliée et vendues à des clients réguliers et où les modalités de l'acquisition et de la vente sont sensiblement les mêmes que celles d'acquisitions et de ventes semblables effectuées par la société affiliée dans le cadre d'opérations avec des personnes avec lesquelles elle n'a aucun lien de dépendance.

Application de l'al. (2)a.3)

(2.41) L'alinéa (2)a.3) ne s'applique pas à une société étrangère affiliée d'un contribuable résidant au Canada pour ce qui est du revenu de la société affiliée pour une année d'imposition provenant, directement ou indirectement, de dettes de personnes résidant au Canada ou de dettes relatives à des entreprises exploitées au Canada (appelées « dettes canadiennes » au présent paragraphe) si, à la fois :

a) le contribuable est, à la fin de l'année d'imposition de la société affiliée :

(i) soit une compagnie d'assurance-vie résidant au Canada dont les activités d'entreprise sont légalement sous la surveillance du surintendant des institutions financières ou d'un organisme provincial semblable,

(ii) soit une société résidant au Canada qui est une filiale contrôlée d'une compagnie visée au sous-alinéa (i);

b) les dettes canadiennes sont utilisées ou détenues par la société affiliée, tout au long de la période de l'année d'imposition où elle les a utilisées ou détenues,

life insurance business") that is a life insurance business carried on outside Canada (other than a business deemed by paragraph (2)(a.2) to be a separate business other than an active business), the activities of which are regulated

(i) under the laws of the country under whose laws the foreign affiliate is governed and any of exists, was (unless the foreign affiliate was continued in any jurisdiction) formed or organized, or was last continued, and

(ii) under the laws of the country, if any, in which the business is principally carried on;

(c) more than 90% of the gross premium revenue of the foreign affiliate for the taxation year in respect of the foreign life insurance business was derived from the insurance or reinsurance of risks (net of reinsurance ceded) in respect of persons

(i) that were non-resident at the time at which the policies in respect of those risks were issued or effected, and

(ii) that were at that time dealing at arm's length with the foreign affiliate, the taxpayer and all persons that were related at that time to the foreign affiliate or the taxpayer; and

(d) it is reasonable to conclude that the foreign affiliate used or held the Canadian indebtedness

(i) to fund a liability or reserve of the foreign life insurance business, or

(ii) as capital that can reasonably be considered to have been required for the foreign life insurance business.

dans le cadre de l'exploitation d'une entreprise (appelée « entreprise étrangère d'assurance-vie » au présent paragraphe) qui est une entreprise d'assurance-vie exploitée à l'étranger (sauf une entreprise réputée par l'alinéa (2)a.2) être une entreprise distincte autre qu'une entreprise exploitée activement) dont les activités sont réglementées par les lois des pays suivants :

(i) le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

(ii) le pays, s'il y a lieu, où l'entreprise est exploitée principalement;

c) plus de 90 % du revenu brut tiré de primes de la société affiliée pour l'année d'imposition relativement à l'entreprise étrangère d'assurance-vie provient de l'assurance ou de la réassurance de risques (moins les risques cédés à un réassureur) de personnes qui, à la fois :

(i) étaient des non-résidents au moment de l'établissement ou de la souscription des polices relatives à ces risques,

(ii) à ce moment, n'avaient aucun lien de dépendance avec la société affiliée, le contribuable et les personnes liées à la société affiliée ou au contribuable à ce moment;

d) il est raisonnable de conclure que la société affiliée a utilisé ou détenu les dettes canadiennes :

(i) soit en vue de financer une obligation ou une provision de l'entreprise étrangère d'assurance-vie,

(ii) soit à titre de capital qu'il est raisonnable de considérer comme ayant été nécessaire à l'entreprise étrangère d'assurance-vie.

Exception re paragraph (2)(a.3)

(2.42) If, at any time in a taxation year of a foreign affiliate of a taxpayer referred to in paragraph (2)(a.3), a life insurance corporation resident in Canada is the taxpayer referred to in paragraph (2)(a.3) or is a person who controls, or is controlled by, such a taxpayer, a particular indebtedness or a particular lease obligation of the life insurance corporation is, for the purposes of that paragraph, deemed, at that time, not to be an indebtedness or a lease obligation of a person resident in Canada, to the extent of the portion of the particular indebtedness or lease obligation that can reasonably be considered to

Exception — al. (2)a.3)

(2.42) Dans le cas où, à un moment donné de l'année d'imposition d'une société étrangère affiliée d'un contribuable visé à l'alinéa (2)a.3), une compagnie d'assurance-vie résidant au Canada est le contribuable visé à cet alinéa ou est une personne qui le contrôle ou qu'il contrôle, toute dette ou toute obligation découlant d'un bail de la compagnie est réputée, pour l'application de cet alinéa, ne pas être une dette ou une telle obligation d'une personne résidant au Canada, jusqu'à concurrence de la partie de cette dette ou obligation qu'il est raisonnable de considérer comme ayant été émise par la compagnie en faveur de la société affiliée :

have been issued by the life insurance corporation to the foreign affiliate

(a) in respect of the life insurance corporation's life insurance business carried on outside Canada; and

(b) not in respect of

(i) the life insurance corporation's life insurance business carried on in Canada, or

(ii) any other use.

Definitions — subsections (2.43) to (2.45)

(2.43) The following definitions apply in this subsection and subsections (2.44) and (2.45).

Canadian indebtedness means indebtedness (other than upstream deposits) owed by persons resident in Canada or in respect of businesses carried on in Canada. (*dettes canadiennes*)

eligible bank affiliate, of an eligible Canadian bank at any time, means a foreign bank that, at that time, is a controlled foreign affiliate (for the purposes of section 17) of the eligible Canadian bank and is described in subparagraph (a)(i) of the definition ***investment business*** in subsection (1). (*filiale bancaire admissible*)

eligible Canadian bank means a bank listed in Schedule I to the *Bank Act*. (*banque canadienne admissible*)

eligible Canadian indebtedness, owing to an eligible bank affiliate of an eligible Canadian bank, means bonds, debentures, notes or similar obligations of the Government of Canada, the government of a province, an agent of a province, a municipality in Canada or a municipal or public body performing a function of government in Canada, that are owing to the affiliate, other than property in respect of which paragraph (2)(a.3) does not apply because of subsection (2.31). (*dettes canadiennes admissibles*)

eligible currency hedge, of an eligible bank affiliate of an eligible Canadian bank, means an agreement that provides for the purchase, sale or exchange of currency and that

(a) can reasonably be considered to have been made by the affiliate to reduce its risk of fluctuations in the value of currency with respect to eligible Canadian indebtedness and upstream deposits owing to the affiliate; and

(b) cannot reasonably be considered to have been made by the affiliate to reduce its risk with respect to

a) à l'égard de l'entreprise d'assurance-vie de la compagnie exploitée à l'étranger;

b) mais non à l'égard :

(i) de l'entreprise d'assurance-vie de la compagne exploitée au Canada,

(ii) de toute autre fin.

Définitions — paragraphes (2.43) à (2.45)

(2.43) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (2.44) et (2.45).

actif organique L'actif organique de la filiale bancaire admissible d'une banque canadienne admissible pour un mois correspond au total des sommes relatives à la filiale dont chacune représente :

a) une somme incluse dans les sommes déclarées à titre de prêts dans la section de l'actif du bilan mensuel consolidé accepté par le surintendant des institutions financières qui est produit pour le mois par la banque ou par une autre société résidant au Canada qui lui est liée à la fin du mois;

b) une somme due à la filiale par une personne qui lui est liée, à l'exception de la somme visée à l'alinéa a).

En sont exclus les dettes canadiennes admissibles et les dépôts en amont détenus par la filiale. (*organic assets*)

banque canadienne admissible Banque figurant à l'annexe I de la *Loi sur les banques*. (*eligible Canadian bank*)

couverture de change admissible Est une couverture de change admissible de la filiale bancaire admissible d'une banque canadienne admissible toute convention qui prévoit l'achat, la vente ou l'échange de monnaie et à l'égard de laquelle les énoncés ci-après s'avèrent :

a) il est raisonnable de considérer qu'elle a été conclue par la filiale dans le but de réduire le risque que présentent pour elle les fluctuations de la valeur de la monnaie relativement aux dettes canadiennes admissibles et aux dépôts en amont qu'elle détient;

b) il n'est pas raisonnable de considérer qu'elle a été conclue par la filiale dans le but de réduire le risque que présentent pour elle des biens autres que les dettes canadiennes admissibles et les dépôts en amont qu'elle détient. (*eligible currency hedge*)

property other than eligible Canadian indebtedness and upstream deposits owing to the affiliate. (*couverture de change admissible*)

excess liquidity, of an eligible bank affiliate of an eligible Canadian bank for a taxation year of the affiliate, means the amount, if any, by which

(a) the average of all amounts each of which is, in respect of a month that ends in the 12-month period that begins 60 days prior to the beginning of the year — or, if the affiliate was formed after the beginning of the period, in respect of a month that ends in the year — the amount of the affiliate's relationship deposits for the month, expressed in the affiliate's calculating currency for the year unless the context requires otherwise,

exceeds

(b) the average of all amounts each of which is, in respect of a month that ends in the period — or, if the affiliate was formed after the beginning of the period, in respect of a month that ends in the year — the amount of the affiliate's organic assets for the month, expressed in the affiliate's calculating currency for the year unless the context requires otherwise. (*liquidités excédentaires*)

organic assets, of an eligible bank affiliate of an eligible Canadian bank for a month, means the total of all amounts in respect of the affiliate each of which is

(a) included in the amounts reported as loans in the assets section of the consolidated monthly balance sheet accepted by the Superintendent of Financial Institutions that is filed for the month by the bank, or another corporation resident in Canada that is related to the bank at the end of the month, or

(b) an amount owing to the affiliate by a person that is related to the affiliate (other than an amount described in paragraph (a))

but does not include the amount of an eligible Canadian indebtedness or upstream deposit owing to the affiliate. (*actif organique*)

qualifying indebtedness, owing to an eligible bank affiliate of an eligible Canadian bank, means an upstream deposit owing to, or an eligible Canadian indebtedness of, the affiliate, to the extent that it can reasonably be considered that

(a) the upstream deposit or the acquisition of eligible Canadian indebtedness, as the case may be, is funded by

dépôt en amont Dettes d'une banque canadienne admissible envers sa filiale bancaire admissible. (*upstream deposit*)

dépôts apparentés Les dépôts apparentés de la filiale bancaire admissible d'une banque canadienne admissible pour un mois correspondent au total des sommes incluses dans les sommes déclarées à titre de dépôts à vue, de dépôts à préavis et de dépôts à terme dans la section du passif du bilan mensuel consolidé accepté par le surintendant des institutions financières qui est produit pour le mois par la banque, ou par une autre société résidant au Canada qui lui est liée à la fin du mois, qui sont des dépôts (sauf les dépôts de nature temporaire) de la filiale faits par une personne qui, à la fin du mois, à la fois :

a) n'a aucun lien de dépendance avec la filiale;

b) ne réside pas au Canada. (*relationship deposits*)

dettes canadiennes Dettes de personnes résidant au Canada ou dettes relatives à des entreprises exploitées au Canada. En sont exclus les dépôts en amont. (*Canadian indebtedness*)

dettes canadiennes admissibles Obligations, débentures, billets ou titres semblables du gouvernement du Canada, du gouvernement d'une province, d'un mandataire d'une province, d'une municipalité du Canada ou d'un organisme municipal ou public remplissant une fonction gouvernementale au Canada qui sont dus à la filiale bancaire admissible d'une banque canadienne admissible. En sont exclus les biens relativement auxquels l'alinéa (2)a.3) ne s'applique pas en raison du paragraphe (2.31). (*eligible Canadian indebtedness*)

dettes désignées totales Les dettes désignées totales détenues par la filiale bancaire admissible d'une banque canadienne admissible pour une année d'imposition de la filiale correspondent à la moyenne des sommes dont chacune représente, pour un mois se terminant dans l'année, le montant le plus élevé, au cours du mois, du total des sommes dont chacune représente :

a) le montant d'un dépôt en amont détenu par la filiale;

b) le montant d'une dette canadienne admissible détenue par la filiale;

c) la juste valeur marchande positive ou négative d'une couverture de change admissible de la filiale. (*total specified indebtedness*)

(i) property transferred or lent by a person other than the bank or a person resident in Canada that was not, at the time of the transfer or loan, dealing at arm's length with the bank,

(ii) a repayment of all or part of an upstream deposit owing to the affiliate, or

(iii) the purchase of eligible Canadian indebtedness by the bank or a person resident in Canada that was not, at the time of the transfer or loan, dealing at arm's length with the bank; and

(b) the proceeds of the upstream deposit or the proceeds received by the vendor of the eligible Canadian indebtedness, as the case may be, are used for a purpose other than to fund a transfer or loan of property by the bank — or another person resident in Canada that was not, at the time of the transfer or loan, dealing at arm's length with the bank — to the affiliate or another foreign affiliate of the bank or of the other person. (*dettes déterminées*)

relationship deposits, of an eligible bank affiliate of an eligible Canadian bank for a month, means the total of all amounts included in the amounts reported as demand and notice deposits, and fixed-term deposits in the liabilities section of the consolidated monthly balance sheet accepted by the Superintendent of Financial Institutions that is filed for the month by the bank, or another corporation resident in Canada that is related to the bank at the end of the month, that are deposits (other than of a temporary nature) of the affiliate made by a person who at the end of the month

(a) deals at arm's length with the affiliate; and

(b) is not resident in Canada. (*dépôts apparentés*)

total specified indebtedness, owing to an eligible bank affiliate of an eligible Canadian bank for a taxation year of the affiliate, means the average of all amounts each of which is, in respect of a month that ends in the year, the greatest total amount at any time in the month that is the total of all amounts each of which is

(a) the amount of an upstream deposit owing to the affiliate;

(b) the amount of an eligible Canadian indebtedness owing to the affiliate; or

(c) the positive or negative fair market value of an eligible currency hedge of the affiliate. (*dettes désignées totales*)

dettes déterminées Dépôts en amont ou dettes canadiennes admissibles détenus par la filiale bancaire admissible d'une banque canadienne admissible, dans la mesure où il est raisonnable de considérer :

a) d'une part, que les dépôts en amont ou l'acquisition des dettes canadiennes admissibles, selon le cas, sont financés :

(i) soit par des biens transférés ou prêtés par une personne autre que la banque ou une personne résidant au Canada qui, au moment du transfert ou du prêt, avait un lien de dépendance avec celle-ci,

(ii) soit par le remboursement de tout ou partie d'un dépôt en amont détenu par la filiale,

(iii) soit par l'achat de dettes canadiennes admissibles par la banque ou par une personne résidant au Canada qui, au moment du transfert ou du prêt, avait un lien de dépendance avec celle-ci;

b) d'autre part, que le produit des dépôts en amont ou le produit reçu par le vendeur des dettes canadiennes admissibles, selon le cas, sert à une fin autre que le financement d'un transfert ou d'un prêt de biens par la banque — ou par une autre personne résidant au Canada qui, au moment du transfert ou du prêt, avait un lien de dépendance avec la banque — à la filiale ou à une autre société étrangère affiliée de la banque ou de l'autre personne. (*qualifying indebtedness*)

filiale bancaire admissible Est une filiale bancaire admissible d'une banque canadienne admissible à un moment donné toute banque étrangère qui, à ce moment, est une société étrangère affiliée contrôlée de la banque pour l'application de l'article 17 et est visée au sous-alinéa a)(i) de la définition de ***entreprise de placement*** au paragraphe (1). (*eligible bank affiliate*)

liquidités excédentaires Les liquidités excédentaires de la filiale bancaire admissible d'une banque canadienne admissible pour une année d'imposition de la filiale correspondent à l'excédent de la moyenne visée à l'alinéa a) sur celle visée à l'alinéa b) :

a) la moyenne des sommes dont chacune représente, relativement à un mois se terminant dans la période de douze mois commençant 60 jours avant le début de l'année ou, si la filiale a été constituée après le début de cette période, relativement à un mois se terminant dans l'année, le montant des dépôts apparentés de la filiale pour le mois, exprimé dans la monnaie de calcul de celle-ci pour l'année, sauf indication contraire du contexte;

upstream deposit, owing to an eligible bank affiliate of an eligible Canadian bank, means indebtedness owing by the bank to the affiliate. (*dépôt en amont*)

b) la moyenne des sommes dont chacune représente, relativement à un mois se terminant dans la période ou, si la filiale a été établie après le début de la période, relativement à un mois se terminant dans l'année, le montant des actifs organiques de la filiale pour le mois, exprimé dans la monnaie de calcul de celle-ci pour l'année, sauf indication contraire du contexte. (*excess liquidity*)

FAPI adjustment — eligible bank affiliate

(2.44) If a non-resident corporation (in this subsection referred to as the "affiliate") is, throughout a taxation year of the affiliate, an eligible bank affiliate of an eligible Canadian bank, and the bank elects in writing under this subsection, in respect of the affiliate for the year, and files the election with the Minister on or before the filing-due date of the bank for the particular taxation year of the bank in which the year ends,

(a) there is to be deducted in computing the amount determined for A in the definition ***foreign accrual property income*** in subsection (1) in respect of the affiliate for the year, the lesser of

(i) the amount determined, without reference to this paragraph, for A in that definition in respect of the affiliate for the year, and

(ii) the amount determined by the following formula, where each amount referred to in the formula is to be determined using Canadian currency:

A – B – C – D

where

A is the total of all amounts each of which is the affiliate's income for the year that is from a qualifying indebtedness owing to, or an eligible currency hedge of, the affiliate and that would, in the absence of this subsection, be included in computing the income of the affiliate from a business other than an active business of the affiliate,

B is the total of all amounts each of which is the affiliate's loss for the year that is from a qualifying indebtedness owing to, or an eligible currency hedge of, the affiliate and that would, in the absence of this subsection, be deducted in computing the income of the affiliate from a business other than an active business of the affiliate,

C is the total of all amounts each of which is the amount, if any, by which an amount included in computing the amount determined for A or B in respect of an upstream deposit exceeds the

Ajustement du REATB — filiale bancaire admissible

(2.44) Si une société non-résidente (appelée « filiale » au présent paragraphe) est, tout au long de son année d'imposition, une filiale bancaire admissible d'une banque canadienne admissible et que la banque en fait le choix en vertu du présent paragraphe, relativement à la filiale pour l'année, dans un document qu'elle présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition dans laquelle l'année d'imposition de la filiale prend fin, les règles ci-après s'appliquent :

a) est à déduire dans le calcul de la valeur de l'élément A de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe (1) relativement à la filiale pour l'année la moins élevée des sommes suivantes :

(i) la valeur de l'élément A de cette formule déterminée relativement à la filiale pour l'année compte non tenu du présent alinéa,

(ii) la somme obtenue par la formule ci-après, les sommes figurant dans cette formule devant toutes être exprimées en dollars canadiens :

A – B – C – D

où :

A représente le total des sommes dont chacune représente le revenu de la filiale pour l'année qui provient d'une couverture de change admissible de celle-ci, ou d'une dette déterminée qu'elle détient, et qui, en l'absence du présent paragraphe, serait inclus dans le calcul de son revenu provenant d'une entreprise autre qu'une entreprise exploitée activement par elle,

B le total des sommes dont chacune représente la perte de la filiale pour l'année qui découle d'une couverture de change admissible de celle-ci, ou d'une dette déterminée qu'elle détient, et qui, en l'absence du présent paragraphe, serait déduite dans le calcul de son revenu provenant d'une entreprise autre qu'une entreprise exploitée activement par elle,

amount that would be the affiliate's income, or is less than the amount that would be the affiliate's loss, as the case may be, for the year from the upstream deposit if the interest received or receivable by the affiliate in respect of the upstream deposit were computed at an interest rate equal to the lesser of

(A) the rate of interest in respect of the upstream deposit, and

(B) the benchmark rate of interest, acceptable to the Minister, that is

(I) if the upstream deposit is denominated in a qualifying currency (as defined in subsection 261(1)), the average, for the year, of a daily interbank offered rate for loans denominated in that currency with a term to maturity of three months, or

(II) in any other case, the average, for the year, of a daily rate for Canadian dollar denominated bankers' acceptances with a term to maturity of three months, and

D is the amount determined by the formula

E × F/G

where

E is the amount, if any, by which the amount determined for A exceeds the total of the amounts determined for B and C,

F is the amount, if any, by which the total specified indebtedness owing to the affiliate for the year exceeds the affiliate's excess liquidity for the year, and

G is the total specified indebtedness owing to the affiliate for the year; and

(b) there is to be included, in computing the income of the affiliate from an active business for the year, an amount equal to the proportion of the amount computed under the formula in subparagraph (a)(ii), computed as if each amount referred to in that formula were determined using the affiliate's calculating currency, that the amount that is required to be deducted under paragraph (a) for the year is of the amount described in subparagraph (a)(ii).

C le total des sommes dont chacune représente la partie éventuelle d'une somme incluse dans le calcul de la valeur des éléments A ou B relativement à un dépôt en amont qui est soit en sus de la somme qui correspondrait au revenu de la filiale pour l'année tiré du dépôt, soit en deçà de la somme qui correspondrait à sa perte pour l'année découlant du dépôt, si les intérêts reçus ou à recevoir par la filiale relativement au dépôt étaient calculés à un taux égal au moins élevé des taux suivants :

(A) le taux d'intérêt relatif au dépôt,

(B) le taux d'intérêt de référence que le ministre estime acceptable et qui correspond à celle des moyennes ci-après qui est applicable :

(I) si le dépôt est libellé dans une monnaie admissible, au sens du paragraphe 261(1), la moyenne, pour l'année, d'un taux interbancaire quotidien offert à l'égard de prêts libellés dans cette monnaie d'une durée à l'échéance de trois mois,

(II) dans les autres cas, la moyenne, pour l'année, d'un taux quotidien à l'égard des acceptations bancaires en dollars canadiens d'une durée à l'échéance de trois mois,

D la somme obtenue par la formule suivante :

E × F/G

où :

E représente l'excédent de la valeur de l'élément A sur le total des valeurs des éléments B et C,

F l'excédent des dettes désignées totales détenues par la filiale pour l'année sur ses liquidités excédentaires pour l'année,

G les dettes désignées totales détenues par la filiale pour l'année;

b) est à inclure dans le calcul du revenu de la filiale provenant d'une entreprise exploitée activement pour l'année une somme égale à la proportion de la somme obtenue par la formule figurant au sous-alinéa a)(ii), calculée comme si chaque somme figurant dans cette formule était exprimée dans la monnaie de calcul de la filiale, que représente le rapport entre la somme à déduire en application de l'alinéa a) pour l'année et la somme visée au sous-alinéa a)(ii).

Investment business and excluded property

(2.45) If an election is made under subsection (2.44) in respect of an eligible bank affiliate of an eligible Canadian bank for a taxation year of the affiliate,

(a) for the purposes of the definition ***investment business*** in subsection (1), the bank, and any other person resident in Canada that does not deal at arm's length with the bank, are deemed to deal at arm's length with the affiliate in respect of the making of upstream deposits, and acquisitions of Canadian indebtedness from the bank or the other person, by the affiliate in the course of a business carried on by the affiliate in the year if the affiliate's excess liquidity for the year is at least 90% of the total specified indebtedness owing to the affiliate for the year; and

(b) for the purposes of paragraph (b) of the definition ***excluded property*** in subsection (1),

(i) the fair market value of each upstream deposit and Canadian indebtedness owing to, and eligible currency hedge of, the affiliate is deemed to be nil,

(ii) at any particular time, the lesser of the following amounts is deemed to be the fair market value of a property of the affiliate that is excluded property at that particular time:

(A) the total of all amounts each of which is the fair market value of an upstream deposit or Canadian indebtedness owing to, or an eligible currency hedge of, the affiliate, and

(B) the amount, if any, by which

(I) the affiliate's relationship deposits for the calendar month that is two months prior to the particular time (or if the affiliate was formed less than two months prior to the particular time, for the calendar month that includes the particular time)

exceeds

(II) the amount of the affiliate's organic assets for the calendar month that is two months prior to the particular time (or if the affiliate was formed less than two months prior to the particular time, for the calendar month that includes the particular time), and

(iii) the amount, if any, by which the amount in clause (ii)(A) exceeds the amount in subparagraph

Entreprise de placement et biens exclus

(2.45) Si le choix prévu au paragraphe (2.44) est fait relativement à une filiale bancaire admissible d'une banque canadienne admissible pour une année d'imposition de la filiale, les règles ci-après s'appliquent :

a) pour l'application de la définition de ***entreprise de placement*** au paragraphe (1), la banque et toute autre personne résidant au Canada avec laquelle elle a un lien de dépendance sont réputées ne pas avoir de lien de dépendance avec la filiale en ce qui a trait aux dépôts en amont faits par la filiale, et aux dettes canadiennes acquises par celle-ci auprès de la banque ou de l'autre personne, dans le cadre d'une entreprise que la filiale exploite au cours de l'année, dans le cas où les liquidités excédentaires de la filiale pour l'année représentent au moins 90 % des dettes désignées totales qu'elle détient pour l'année;

b) pour l'application de l'alinéa b) de la définition de ***bien exclu*** au paragraphe (1) :

(i) la juste valeur marchande de chaque couverture de change admissible de la filiale et de chaque dépôt en amont et dette canadienne qu'elle détient est réputée être nulle,

(ii) la moins élevée des sommes ci-après est réputée, à un moment donné, correspondre à la juste valeur marchande d'un bien de la filiale qui est un bien exclu à ce moment :

(A) le total des sommes dont chacune représente la juste valeur marchande d'une couverture de change admissible de la filiale ou d'un dépôt en amont ou d'une dette canadienne qu'elle détient,

(B) l'excédent du montant visé à la subdivision (I) sur celui visé à la subdivision (II) :

(I) le montant des dépôts apparentés de la filiale pour le mois civil qui précède de deux mois le moment donné ou, si la filiale a été constituée moins de deux mois avant ce moment, pour le mois civil qui comprend ce moment,

(II) le montant de l'actif organique de la filiale pour le mois civil qui précède de deux mois le moment donné ou, si la filiale a été constituée moins de deux mois avant ce moment, pour le mois civil qui comprend ce moment,

(iii) l'excédent de la somme visée à la division (ii)(A) sur celle visée au sous-alinéa (ii) est réputé

(ii) is deemed to be the fair market value of a property of the eligible bank affiliate that is not excluded property at that time.

Definitions for paragraph (2)(a.3)

(2.5) For the purpose of paragraph 95(2)(a.3),

excluded income and ***excluded revenue*** for a taxation year in respect of a foreign affiliate of a taxpayer mean, respectively, income or revenue, that is

(a) derived directly or indirectly from a specified deposit with a prescribed financial institution,

(b) derived directly or indirectly from a lease obligation of a person (other than the taxpayer or a person that does not deal at arm's length with the taxpayer) resident in Canada relating to property used by the person in the course of carrying on a business through a permanent establishment outside Canada,

(c) included in computing the affiliate's income for the year from carrying on a business through a permanent establishment in Canada, or

(d) included in computing the affiliate's income or loss from an active business for the year because of subparagraph (2)(a)(ii); (*revenu exclu*)

indebtedness does not include obligations of a particular person under agreements with non-resident corporations providing for the purchase, sale or exchange of currency where

(a) the agreements are swap agreements, forward purchase or sale agreements, forward rate agreements, futures agreements, options or rights agreements, or similar agreements,

(b) the particular person is a bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities resident in Canada, the business activities of which are subject by law to the supervision of a regulating authority in Canada such as the Superintendent of Financial Institutions or a similar authority of a province,

(c) the agreements are entered into by the non-resident corporation in the course of a business conducted principally with persons with whom the non-resident corporation deals at arm's length, if

(i) the business is principally carried on in the country (other than Canada) under whose laws the non-resident corporation is governed and any of exists, was (unless the non-resident corporation was

correspondre à la juste valeur marchande d'un bien de la filiale qui n'est pas un bien exclu au moment donné.

Définitions applicables à l'alinéa (2)a.3)

(2.5) Les définitions qui suivent s'appliquent à l'alinéa (2)a.3).

dépôt déterminé Dépôt d'une société étrangère affiliée d'un contribuable effectué auprès d'un établissement stable, situé dans un pays étranger, d'une institution financière visée par règlement qui réside au Canada, si le revenu provenant du dépôt est un revenu de la société affiliée pour l'année qui, en l'absence de l'alinéa (2)a.3), serait un revenu provenant d'une entreprise exploitée activement par elle dans un pays étranger, à l'exception d'une entreprise dont le principal objet consiste à tirer un revenu de biens (y compris tous intérêts, dividendes, loyers, redevances et rendements semblables ainsi que tous montants remplaçant de tels rendements) ou des bénéfices de la disposition de biens de placement. (*specified deposit*)

dette Ne sont pas des dettes les obligations d'une personne donnée prévues par des conventions d'achat, de vente ou d'échange de monnaie conclues avec des sociétés non-résidentes, dans le cas où, à la fois :

a) les conventions en cause sont des contrats d'échange, des contrats d'achat ou de vente à terme, des contrats de garantie de taux d'intérêt, des contrats à terme normalisés, des contrats d'option ou de droits ou des contrats semblables;

b) la personne donnée est une banque, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises qui réside au Canada et dont les activités d'entreprise sont légalement sous la surveillance d'un organisme de réglementation au Canada, comme le surintendant des institutions financières ou un organisme provincial semblable;

c) les conventions sont conclues par la société non-résidente dans le cours des activités d'une entreprise menée principalement avec des personnes avec lesquelles elle n'a aucun lien de dépendance, si, selon le cas :

(i) l'entreprise est principalement exploitée dans le pays étranger sous le régime des lois duquel la société non-résidente est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

continued in any jurisdiction) formed or organized, or was last continued, or

(ii) the non-resident corporation is a foreign affiliate of the particular person, or of a person related to the particular person, and

(A) the non-resident corporation is a foreign bank, a trust company, a credit union, an insurance corporation or a trader or dealer in securities or commodities, and

(B) the activities of the business are regulated

(I) under the laws of the country under whose laws the non-resident corporation is governed and any of exists, was (unless the non-resident corporation was continued in any jurisdiction) formed or organized, or was last continued and under the laws of each country in which the business is carried on through a permanent establishment in that country,

(II) under the laws of the country (other than Canada) in which the business is principally carried, or

(III) if the affiliate is related to a corporation, under the laws of the country under the laws of which a corporation related to the non-resident corporation is governed and any of exists, was (unless that related corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all of those countries are members of the European Union, and

(d) the terms and conditions of such agreements are substantially the same as the terms and conditions of similar agreements made by persons dealings at arm's length; (*dette*)

specified deposit, of a foreign affiliate of a taxpayer, means a deposit of the affiliate made with a permanent establishment in a country other than Canada of a prescribed financial institution resident in Canada if the income from the deposit is income of the affiliate for the year that would, in the absence of paragraph (2)(a.3), be income from an active business carried on by the affiliate in a country other than Canada, other than a business the principal purpose of which is to derive income from property (including any interest, dividends, rents, royalties or similar returns, or any substitutes for any of those) or profits from the disposition of investment property. (*dépôt déterminé*)

(ii) la société non-résidente est une société étrangère affiliée de la personne donnée ou d'une personne liée à celle-ci et, à la fois :

(A) la société non-résidente est une banque étrangère, une société de fiducie, une caisse de crédit, une compagnie d'assurance ou un négociateur ou courtier en valeurs mobilières ou en marchandises,

(B) les activités de l'entreprise sont réglementées par les lois des pays suivants, selon le cas :

(I) le pays sous le régime des lois duquel la société non-résidente est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois et chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays,

(II) le pays étranger où l'entreprise est principalement exploitée,

(III) si la société affiliée est liée à une société, le pays sous le régime des lois duquel une société liée à la société non-résidente est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, si ces lois sont reconnues par les lois du pays où l'entreprise est principalement exploitée et si ces pays sont tous membres de l'Union européenne;

d) les modalités des conventions sont sensiblement les mêmes que celles de conventions semblables conclues par des personnes sans lien de dépendance. (*indebtedness*)

revenu exclu S'agissant du revenu exclu pour une année d'imposition relativement à une société étrangère affiliée d'un contribuable, le revenu qui, selon le cas :

a) est tiré, directement ou indirectement, d'un dépôt déterminé auprès d'une institution financière visée par règlement;

b) est tiré, directement ou indirectement, d'une obligation découlant d'un bail d'une personne (sauf le contribuable ou une personne ayant un lien de dépendance avec lui) résidant au Canada liée à l'utilisation d'un bien par la personne dans le cadre de l'exploitation d'une entreprise par l'entremise d'un établissement stable à l'étranger;

c) est inclus dans le calcul du revenu de la société affiliée pour l'année provenant de l'exploitation d'une entreprise par l'entremise d'un établissement stable au Canada;

d) est inclus dans le calcul du revenu ou de la perte de la société affiliée provenant d'une entreprise exploitée activement pour l'année par l'effet du sous-alinéa (2)a)(ii). (*excluded income* and *excluded revenue*)

Rule for the definition *specified person or partnership*

(2.6) For the purposes of paragraphs (a) to (d) of the definition ***specified person or partnership*** in subsection (1), if a person or partnership (referred to in this subsection as the "taxpayer") is not dealing at arm's length with another person or partnership (referred to in this subsection as the "particular person") at a particular time, the taxpayer is deemed to have existed and not to have dealt at arm's length with the particular person, nor with each specified predecessor corporation of the particular person, throughout the period that began when the particular person or the specified predecessor corporation, as the case may be, came into existence and that ends at the particular time.

Application de la définition de *personne ou société de personnes déterminée*

(2.6) Pour l'application des alinéas a) à d) de la définition de ***personne ou société de personnes déterminée*** au paragraphe (1), si une personne ou une société de personnes (appelée « contribuable » au présent paragraphe) a un lien de dépendance avec une autre personne ou société de personnes (appelée « personne donnée » au présent paragraphe) à un moment donné, le contribuable est réputé avoir existé et avoir eu un lien de dépendance avec la personne donnée, ainsi qu'avec chaque société remplacée déterminée de celle-ci, tout au long de la période ayant commencé au moment où la personne donnée ou la société remplacée déterminée, selon le cas, a commencé à exister et se terminant au moment donné.

Definition of *services*

(3) For the purposes of paragraph 95(2)(b), ***services*** includes the insurance of Canadian risks but does not include

(a) the transportation of persons or goods;

(b) services performed in connection with the purchase or sale of goods;

(c) the transmission of electronic signals or electricity along a transmission system located outside Canada; or

(d) the manufacturing or processing outside Canada, in accordance with the taxpayer's specifications and under a contract between the taxpayer and the affiliate, of tangible property, or for civil law corporeal property, that is owned by the taxpayer if the property resulting from the manufacturing or processing is used or held by the taxpayer in the ordinary course of the taxpayer's business carried on in Canada.

Définition de *services*

(3) Pour l'application de l'alinéa (2)b), l'assurance de risques canadiens est comprise parmi les services mais le terme ***services*** ne vise pas :

a) le transport de personnes ou de marchandises;

b) les services rendus à l'occasion de l'achat ou de la vente de marchandises;

c) la transmission de signaux électroniques ou d'électricité au moyen d'un système de transmission situé à l'étranger;

d) la fabrication ou la transformation à l'étranger, selon les spécifications du contribuable et en vertu d'un contrat entre le contribuable et la société affiliée, d'un bien tangible ou, pour l'application du droit civil, d'un bien corporel appartenant au contribuable, à condition que le bien issue de la fabrication ou de la transformation soit utilisé ou détenu par le contribuable dans le cours normal des activités de son entreprise exploitée au Canada.

Application of paragraph (2)(b) — eligible Canadian bank

(3.01) Paragraph (2)(b) does not apply to a controlled foreign affiliate (for the purposes of section 17) of an eligible Canadian bank (as defined in subsection (2.43)) in

Application de l'alinéa (2)b) — banque canadienne admissible

(3.01) L'alinéa (2)b) ne s'applique pas à une société étrangère affiliée contrôlée (pour l'application de l'article 17) d'une banque canadienne admissible, au sens du

respect of services performed in connection with the purchase or sale of a property described in paragraph (2.31)(b) if

(a) the services have been performed by the affiliate

(i) under terms and conditions that are substantially the same as the terms and conditions that would have been made between persons who deal at arm's length with each other,

(ii) in the course of a business

(A) that regularly includes trading or dealing in securities principally with persons with whom the affiliate deals at arm's length, and

(B) that is principally carried on through a permanent establishment in a country other than Canada, and

(iii) for the purpose of enabling the acquisition or disposition of the property by a person who, at the time of the acquisition or disposition, deals at arm's length with the affiliate and the eligible Canadian bank; and

(b) the affiliate is a foreign bank or a trader or dealer in securities and the activities of the business are regulated

(i) under the laws of the country under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued, and under the laws of each country in which the business is carried on through a permanent establishment in that country,

(ii) under the laws of the country (other than Canada) in which the business is principally carried on, or

(iii) if the affiliate is related to a corporation, under the laws of the country under whose laws that related corporation is governed and any of exists, was (unless that related corporation was continued in any jurisdiction) formed or organized, or was last continued, if those regulating laws are recognized under the laws of the country in which the business is principally carried on and all those countries are members of the European Union.

Rules for clause (2)(b)(ii)(B)

(3.02) For the purposes of clause (2)(b)(ii)(B),

paragraphe (2.43), relativement aux services rendus à l'occasion de l'achat ou de la vente d'un bien visé à l'alinéa (2.31)b) si les conditions ci-après sont réunies :

a) les services ont été rendus par la société affiliée, à la fois :

(i) selon des modalités qui sont sensiblement les mêmes que celles qui auraient été conclues entre personnes sans lien de dépendance,

(ii) dans le cadre d'une entreprise qui, à la fois :

(A) comporte régulièrement le commerce de valeurs mobilières principalement avec des personnes avec lesquelles la société affiliée n'a aucun lien de dépendance,

(B) est exploitée principalement par l'intermédiaire d'un établissement stable situé dans un pays étranger,

(iii) dans le but de permettre l'acquisition ou la disposition du bien par une personne qui, au moment de l'acquisition ou de la disposition, n'a de lien de dépendance ni avec la société affiliée ni avec la banque;

b) la société affiliée est une banque étrangère ou un négociateur ou courtier en valeurs mobilières et les activités de l'entreprise sont régies par les lois des pays ci-après, selon le cas :

(i) le pays sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, et les lois de chaque pays où l'entreprise est exploitée par l'intermédiaire d'un établissement stable situé dans ce pays,

(ii) le pays (sauf le Canada) où l'entreprise est exploitée principalement,

(iii) si la société affiliée est liée à une société, les lois du pays sous le régime des lois duquel cette dernière est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois, pourvu que ces lois soient reconnues par les lois du pays où l'entreprise est principalement exploitée et que ces pays soient tous membres de l'Union européenne.

Règles d'application — division (2)b)(ii)(B)

(3.02) Les règles ci-après s'appliquent à la division (2)b)(ii)(B) :

(a) a relevant person is

(i) a person resident in Canada, or

(ii) a non-resident person if the non-resident person performs the services referred to in subparagraph (2)(b)(ii) in the course of a business (other than a treaty-protected business) carried on in Canada; and

(b) any portion of a business carried on by a non-resident person that is carried on in Canada is deemed to be a business that is separate from any other portion of the business carried on by the person.

Designated property — subparagraph (2)(a.1)(i)

(3.1) Designated property referred to in subparagraph (2)(a.1)(i) is property that is described in the portion of paragraph (2)(a.1) that is before subparagraph (i) that is

(a) property that was sold to non-resident persons other than the affiliate, or sold to the affiliate for sale to non-resident persons, and

(i) that

(A) was — in the course of carrying on a business in Canada — manufactured, produced, grown, extracted or processed in Canada by the taxpayer, or by a person with whom the taxpayer does not deal at arm's length, or

(B) was — in the course of a business carried on by a foreign affiliate of the taxpayer outside Canada — manufactured or processed from tangible property, or for civil law corporeal property, that, at the time of the manufacturing or processing, was owned by the taxpayer or by a person related to the taxpayer and used or held by the owner in the course of carrying on a business in Canada, if the manufacturing or processing was in accordance with the specifications of the owner of that tangible or corporeal property and under a contract between that owner and that foreign affiliate,

(ii) that was acquired, in the course of carrying on a business in Canada, by a purchaser from a vendor, if

(A) the purchaser is the taxpayer or is a person resident in Canada with whom the taxpayer does not deal at arm's length, and

(B) the vendor is a person

a) chacune des personnes ci-après est une personne déterminée :

(i) une personne résidant au Canada,

(ii) une personne non-résidente qui exécute les services visés au sous-alinéa (2)b)(ii) dans le cadre d'une entreprise (sauf une entreprise protégée par traité) exploitée au Canada;

b) toute partie d'une entreprise exploitée par une personne non-résidente qui est exploitée au Canada est réputée être une entreprise qui est distincte de toute autre partie de l'entreprise qu'elle exploite.

Biens désignés — sous-al. (2)a.1)(i)

(3.1) Les biens désignés mentionnés au sous-alinéa (2)a.1)(i) sont les biens visés dans le passage de l'alinéa (2)a.1) précédant le sous-alinéa (i) qui sont, selon le cas :

a) des biens qui ont été vendus soit à des personnes non-résidentes autres que la société étrangère affiliée, soit à cette dernière en vue de leur vente à des personnes non-résidentes et qui ont fait l'objet des opérations suivantes :

(i) selon le cas :

(A) ils ont été fabriqués, produits, cultivés, extraits ou transformés au Canada par le contribuable, ou par une personne avec laquelle il a un lien de dépendance, dans le cadre de l'exploitation d'une entreprise au Canada,

(B) ils ont été fabriqués ou transformés, dans le cadre d'une entreprise exploitée à l'étranger par une société étrangère affiliée du contribuable, à partir de biens tangibles ou, pour l'application du droit civil, de biens corporels qui, au moment de la fabrication ou de la transformation, appartenaient au contribuable ou à une personne qui lui est liée et étaient utilisés ou détenus par le propriétaire dans le cadre de l'exploitation d'une entreprise au Canada, pourvu que les biens aient été fabriqués ou transformés selon les spécifications de leur propriétaire et en vertu d'un contrat entre le propriétaire et cette société affiliée,

(ii) ils ont été acquis, dans le cadre de l'exploitation d'une entreprise au Canada, par un acheteur d'un vendeur si, à la fois :

(A) l'acheteur est le contribuable ou est une personne résidant au Canada avec laquelle le contribuable a un lien de dépendance,

(B) le vendeur est une personne qui, à la fois :

(I) with whom the taxpayer deals at arm's length,

(II) who is not a foreign affiliate of the taxpayer, and

(III) who is not a foreign affiliate of a person resident in Canada with whom the taxpayer does not deal at arm's length, or

(iii) that was acquired by a purchaser from a vendor, if

(A) the purchaser is the taxpayer or is a person resident in Canada with whom the taxpayer does not deal at arm's length,

(B) the vendor is a foreign affiliate of

(I) the taxpayer, or

(II) a person resident in Canada with whom the taxpayer does not deal at arm's length, and

(C) that property was manufactured, produced, grown, extracted or processed in the country

(I) under whose laws the vendor is governed and any of exists, was (unless the vendor was continued in any jurisdiction) formed or organized, or was last continued, and

(II) in which the vendor's business is principally carried on; or

(b) property that is an interest in real property, or a real right in an immovable, located in, or a foreign resource property in respect of, the country

(i) under whose laws the affiliate is governed and any of exists, was (unless the affiliate was continued in any jurisdiction) formed or organized, or was last continued, and

(ii) in which the affiliate's business is principally carried on.

(I) n'a aucun lien de dépendance avec le contribuable,

(II) n'est pas une société étrangère affiliée du contribuable,

(III) n'est pas une société étrangère affiliée d'une personne résidant au Canada avec laquelle le contribuable a un lien de dépendance,

(iii) ils ont été acquis par un acheteur d'un vendeur si, à la fois :

(A) l'acheteur est le contribuable ou est une personne résidant au Canada avec laquelle le contribuable a un lien de dépendance,

(B) le vendeur est une société étrangère affiliée :

(I) soit du contribuable,

(II) soit d'une personne résidant au Canada avec laquelle le contribuable a un lien de dépendance,

(C) les biens ont été fabriqués, produits, cultivés, extraits ou transformés dans le pays, à la fois :

(I) sous le régime des lois duquel le vendeur est régi et, selon le cas, existe, a été constitué ou organisé (sauf s'il a été prorogé dans un territoire quelconque) ou a été prorogé la dernière fois,

(II) où l'entreprise du vendeur est principalement exploitée;

b) des droits réels sur des immeubles, ou des intérêts sur des biens réels, situés dans le pays, ou des avoirs miniers étrangers à l'égard du pays, à la fois :

(i) sous le régime des lois duquel la société affiliée est régie et, selon le cas, existe, a été constituée ou organisée (sauf si elle a été prorogée dans un territoire quelconque) ou a été prorogée la dernière fois,

(ii) où l'entreprise de la société affiliée est principalement exploitée.

Contract manufacturing

(3.2) For the purposes of clause (2)(a.1)(ii)(A), property of a particular foreign affiliate of a taxpayer is deemed to have been manufactured by the particular affiliate in a particular country if the property is

Fabrication en sous-traitance

(3.2) Pour l'application de la division (2)a.1)(ii)(A), un bien d'une société étrangère affiliée donnée est réputé avoir été fabriqué par la société affiliée donnée dans un pays donné s'il est, à la fois :

(a) developed and designed by the particular affiliate in the particular country in the course of an active business carried on by the particular affiliate in the particular country; and

(b) manufactured, produced or processed outside the particular country by another foreign affiliate of the taxpayer, during a period throughout which the taxpayer has a qualifying interest in the other affiliate,

(i) under a contract between the particular affiliate and the other affiliate, and

(ii) in accordance with specifications provided by the particular affiliate.

Definitions

(4) In this section,

direct equity percentage at any time of any person in a corporation is the percentage determined by the following rules:

(a) for each class of the issued shares of the capital stock of the corporation, determine the proportion of 100 that the number of shares of that class owned by that person at that time is of the total number of issued shares of that class at that time, and

(b) select the proportion determined under paragraph (a) for that person in respect of the corporation that is not less than any other proportion so determined for that person in respect of the corporation at that time,

and the proportion selected under paragraph (b), when expressed as a percentage, is that person's direct equity percentage in the corporation at that time; (*pourcentage d'intérêt direct*)

eligible controlled foreign affiliate, of a taxpayer, at any time, means a foreign affiliate at that time of the taxpayer in respect of which the following conditions are met:

(a) the affiliate is a controlled foreign affiliate of the taxpayer at that time and at the end of the affiliate's taxation year that includes that time, and

(b) the total of all amounts each of which would be, if this definition were read without reference to this paragraph, the participating percentage (determined at the end of the taxation year) of a share owned by the taxpayer of the capital stock of a corporation, in respect of the affiliate, is not less than 90%; (*société étrangère affiliée contrôlée admissible*)

a) conçu et mis au point par la société affiliée donnée dans le pays donné dans le cadre d'une entreprise exploitée activement par cette société dans ce pays;

b) fabriqué, produit ou transformé à l'extérieur du pays donné par une autre société étrangère affiliée du contribuable au cours d'une période tout au long de laquelle le contribuable a une participation admissible dans l'autre société affiliée, à la fois :

(i) aux termes d'un contrat conclu entre la société affiliée donnée et l'autre société affiliée,

(ii) conformément aux spécifications fournies par la société affiliée donnée.

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

pourcentage d'intérêt Le pourcentage d'intérêt d'une personne à un moment donné dans une société donnée est le total des montants suivants :

a) le pourcentage d'intérêt direct de cette personne dans la société donnée à ce moment;

b) tous les pourcentages dont chacun est le produit de la multiplication du pourcentage d'intérêt de cette personne à ce moment dans toute société par le pourcentage d'intérêt direct de cette société à ce moment dans la société donnée;

toutefois dans le cadre de la définition de ***pourcentage de participation*** au paragraphe (1), l'alinéa b) s'applique comme si la mention de « toute société » était remplacée par la mention de « toute société autre qu'une société résidant au Canada ». (*equity percentage*)

pourcentage d'intérêt direct Le pourcentage d'intérêt direct d'une personne dans une société à un moment donné est le pourcentage déterminé selon les règles suivantes :

a) pour chaque catégorie des actions émises du capital-actions de la société, déterminer le pourcentage que représente le nombre d'actions de cette catégorie, appartenant à cette personne à ce moment, par rapport au nombre total d'actions émises de cette catégorie à ce moment;

b) choisir le pourcentage déterminé en vertu de l'alinéa a) pour cette personne, à l'égard de la société, qui est au moins égal à tout autre pourcentage ainsi déterminé pour cette personne à l'égard de la société à ce moment,

equity percentage at any time of a person, in any particular corporation, is the total of

(a) the person's direct equity percentage at that time in the particular corporation, and

(b) all percentages each of which is the product obtained when the person's equity percentage at that time in any corporation is multiplied by that corporation's direct equity percentage at that time in the particular corporation

except that for the purposes of the definition ***participating percentage*** in subsection 95(1), paragraph (b) shall be read as if the reference to "any corporation" were a reference to "any corporation other than a corporation resident in Canada"; (*pourcentage d'intérêt*)

relevant cost base, of a property at any time to a foreign affiliate of a taxpayer, in respect of the taxpayer, means the greater of

(a) the amount determined — or, if the taxpayer is not a corporation, the amount that would be determined if the taxpayer were a corporation resident in Canada — by the formula

A + B – C

where

A is the amount for which the property could be disposed of at that time that would not, in the absence of paragraph (2)(f.1), result in any amount being added to, or deducted from, any of the affiliate's

(i) exempt earnings, exempt loss, taxable earnings and taxable loss (all within the meaning of subsection 5907(1) of the *Income Tax Regulations*), in respect of the taxpayer, for the taxation year of the affiliate that includes that time, and

(ii) hybrid surplus and hybrid deficit, in respect of the taxpayer, at that time,

B is the amount, if any, by which any income or gain from a disposition of the property would, if the property were disposed of at that time for proceeds of disposition equal to its fair market value at that time be reduced under paragraph (2)(f.1), and

C is the amount, if any, by which any loss from a disposition of the property would, if the property were disposed of at that time for proceeds of disposition equal to its fair market value at that time be reduced under paragraph (2)(f.1), and

et le pourcentage choisi en vertu de l'alinéa b) est le pourcentage d'intérêt direct de cette personne dans la société à ce moment. (*direct equity percentage*)

prix de base approprié Le prix de base approprié d'un bien à un moment donné pour une société étrangère affiliée d'un contribuable, relativement à celui-ci, correspond à la plus élevée des sommes suivantes :

a) la somme obtenue par la formule ci-après ou, dans le cas où le contribuable n'est pas une société, la somme qui serait ainsi obtenue s'il était une société résidant au Canada :

A + B – C

où :

A représente la somme pour laquelle il pourrait être disposé du bien à ce moment et qui, en l'absence de l'alinéa (2)f.1), n'entraînerait pas d'ajout ni de déduction de somme dans le calcul des montants ci-après de la société affiliée :

(i) les gains exonérés, la perte exonérée, les gains imposables et la perte imposable (ces termes s'entendant au sens du paragraphe 5907(1) du *Règlement de l'impôt sur le revenu*), relativement au contribuable, pour l'année d'imposition de la société affiliée qui comprend ce moment,

(ii) le surplus hybride et le déficit hybride, relativement au contribuable, à ce moment,

B la somme qui serait retranchée, en application de l'alinéa (2)f.1), d'un montant de revenu ou de gain provenant d'une disposition du bien s'il était disposé de celui-ci à ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment,

C la somme qui serait retranchée, en application de l'alinéa (2)f.1), d'un montant de perte provenant d'une disposition du bien s'il était disposé de celui-ci à ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment;

b) selon le cas :

(i) si la société affiliée est une société étrangère affiliée contrôlée admissible du contribuable à ce moment, la somme que le contribuable choisit selon les règles prévues par règlement, relativement au bien, n'excédant pas la juste valeur marchande du bien à ce moment,

(ii) dans les autres cas, zéro. (*relevant cost base*)

(b) either

(i) if the affiliate is an eligible controlled foreign affiliate of the taxpayer at that time, the amount that the taxpayer elects, in accordance with prescribed rules, in respect of the property not exceeding the fair market value at that time of the property, or

(ii) in any other case, nil. (*prix de base approprié*)

société étrangère affiliée contrôlée admissible S'entend, relativement à un contribuable à un moment donné, d'une société étrangère affiliée de celui-ci à ce moment à l'égard de laquelle les conditions ci-après sont réunies :

a) elle est une société étrangère affiliée contrôlée du contribuable à ce moment ainsi qu'à la fin de son année d'imposition qui comprend ce moment;

b) le total des sommes dont chacune représenterait, si la présente définition s'appliquait compte non tenu du présent alinéa, le pourcentage de participation (déterminé à la fin de l'année d'imposition) d'une action, appartenant au contribuable, du capital-actions d'une société relativement à la société affiliée est d'au moins 90 %. (*eligible controlled foreign affiliate*)

Application of s. 87(8.1)

(4.1) In this section, the expressions ***foreign merger***, ***predecessor foreign corporation***, ***new foreign corporation*** and ***foreign parent corporation*** have the meanings assigned by subsection 87(8.1).

Application du par. 87(8.1)

(4.1) Pour l'application du présent article, les termes ***fusion étrangère***, ***nouvelle société étrangère***, ***société étrangère remplacée***, et ***société mère étrangère*** s'entendent au sens du paragraphe 87(8.1).

Income bonds or debentures issued by foreign affiliates

(5) For the purposes of this subdivision, an income bond or income debenture issued by a corporation (other than a corporation resident in Canada) shall be deemed to be a share of the capital stock of the corporation unless any interest or other similar periodic amount paid by the corporation on or in respect of the bond or debenture was, under the laws of the country in which the corporation was resident, deductible in computing the amount for the year on which the corporation was liable to pay income or profits tax imposed by the government of that country.

Obligations à intérêt conditionnel émises par une société étrangère affiliée

(5) Pour l'application de la présente sous-section, une obligation à intérêt conditionnel émise par une société (autre qu'une société résidant au Canada) est réputée être une action du capital-actions de la société à moins que tout intérêt ou autre montant périodique semblable payé par la société sur l'obligation ou à son égard n'ait été, selon la loi du pays où la société résidait, déductible dans le calcul du montant pour l'année sur lequel la société était tenue de payer un impôt sur le revenu ou les bénéfices levé par le gouvernement de ce pays.

Where rights or shares issued, acquired or disposed of to avoid tax

(6) For the purposes of this subdivision (other than section 90),

a) where any person or partnership has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of the capital stock of a corporation or interests in a partnership and

(i) it can reasonably be considered that the principal purpose for the existence of the right is to cause 2 or more corporations to be related for the purpose of paragraph 95(2)(a), those corporations shall be deemed not to be related for that purpose, or

Émission, acquisition et disposition de droits ou d'actions pour éviter l'impôt

(6) Pour l'application de la présente sous-section, sauf l'article 90:

a) dans le cas où une personne ou une société de personnes a, en vertu d'un contrat, en equity ou autrement, un droit, immédiat ou futur, conditionnel ou non, sur des actions du capital-actions d'une société ou sur des participations dans une société de personnes, ou un tel droit d'acquérir de telles actions ou participations, les présomptions suivantes s'appliquent :

(i) s'il est raisonnable de considérer que la principale raison de l'existence du droit est de faire en sorte que des sociétés soient liées entre elles pour l'application de l'alinéa (2)a), les sociétés sont

(ii) it can reasonably be considered that the principal purpose for the existence of the right is to permit any person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act, those shares or partnership interests, as the case may be, are deemed to be owned by that person or partnership; and

(b) where a person or partnership acquires or disposes of shares of the capital stock of a corporation or interests in a partnership, either directly or indirectly, and it can reasonably be considered that the principal purpose for the acquisition or disposition is to permit a person to avoid, reduce or defer the payment of tax or any other amount that would otherwise be payable under this Act, that acquisition or disposition is deemed not to have taken place, and where the shares or partnership interests were unissued by the corporation or partnership immediately before the acquisition, those shares or partnership interests, as the case may be, are deemed not to have been issued.

Stock dividends from foreign affiliates

(7) For the purposes of this subdivision and subsection 52(3), the amount of any stock dividend paid by a foreign affiliate of a corporation resident in Canada shall, in respect of the corporation, be deemed to be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 95; 1994, c. 7, Sch. II, s. 71, c. 21, s. 43; 1995, c. 21, ss. 32, 46, 78; 1998, c. 19, ss. 122, 305; 1999, c. 22, s. 25; 2001, c. 17, s. 73; 2007, c. 35, s. 26; 2009, c. 2, s. 25; 2013, c. 34, ss. 33, 70, 121, 227; 2014, c. 39, s. 25; 2016, c. 7, ss. 12, 62, c. 12, s. 31.

réputées ne pas être liées pour l'application de cet alinéa,

(ii) s'il est raisonnable de considérer que la principale raison de l'existence du droit est de permettre à une personne d'éviter, de réduire ou de reporter le paiement d'un impôt ou d'un autre montant qui serait payable par ailleurs en vertu de la présente loi, les actions ou les participations, selon le cas, sont réputées appartenir à la personne ou à la société de personnes;

b) dans le cas où une personne ou une société de personnes acquiert des actions du capital-actions d'une société ou des participations dans une société de personnes, ou en dispose, directement ou indirectement et où il est raisonnable de considérer que la principale raison de l'acquisition ou de la disposition est de permettre à une personne d'éviter, de réduire ou de reporter le paiement d'un impôt ou d'un autre montant qui serait payable par ailleurs en vertu de la présente loi, les actions ou les participations sont réputées ne pas avoir été acquises ou ne pas avoir fait l'objet d'une disposition et, dans le cas où elles n'avaient pas été émises par la société ou la société de personnes immédiatement avant l'acquisition, ne pas avoir été émises.

Dividendes en actions payés par une société étrangère affiliée

(7) Pour l'application de la présente sous-section et du paragraphe 52(3), le montant de tout dividende en actions payé par une société étrangère affiliée d'une société résidant au Canada est, à l'égard de cette dernière société, réputé être nul.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 95; 1994, ch. 7, ann. II, art. 71, ch. 21, art. 43; 1995, ch. 21, art. 32, 46 et 78; 1998, ch. 19, art. 122 et 305; 1999, ch. 22, art. 25; 2001, ch. 17, art. 73; 2007, ch. 35, art. 26; 2009, ch. 2, art. 25; 2013, ch. 34, art. 33, 70, 121 et 227; 2014, ch. 39, art. 25; 2016, ch. 7, art. 12 et 62, ch. 12, art. 31.

SUBDIVISION J

Partnerships and their Members

General Rules

96 (1) Where a taxpayer is a member of a partnership, the taxpayer's income, non-capital loss, net capital loss, restricted farm loss and farm loss, if any, for a taxation year, or the taxpayer's taxable income earned in Canada for a taxation year, as the case may be, shall be computed as if

(a) the partnership were a separate person resident in Canada;

SOUS-SECTION J

Les sociétés de personnes et leurs associés

Règles générales

96 (1) Lorsqu'un contribuable est un associé d'une société de personnes, son revenu, le montant de sa perte autre qu'une perte en capital, de sa perte en capital nette, de sa perte agricole restreinte et de sa perte agricole, pour une année d'imposition, ou son revenu imposable gagné au Canada pour une année d'imposition, selon le cas, est calculé comme si :

(b) the taxation year of the partnership were its fiscal period;

(c) each partnership activity (including the ownership of property) were carried on by the partnership as a separate person, and a computation were made of the amount of

(i) each taxable capital gain and allowable capital loss of the partnership from the disposition of property, and

(ii) each income and loss of the partnership from each other source or from sources in a particular place,

for each taxation year of the partnership;

(d) each income or loss of the partnership for a taxation year were computed as if

(i) this Act were read without reference to sections 34.1 and 34.2, subsection 59(1), paragraph 59(3.2)(c.1) and subsections 66.1(1), 66.2(1) and 66.4(1), and

(ii) no deduction were permitted under any of section 29 of the *Income Tax Application Rules*, subsection 65(1) and sections 66, 66.1, 66.2, 66.21 and 66.4;

(e) each gain of the partnership from the disposition of land used in a farming business of the partnership were computed as if this Act were read without reference to paragraph 53(1)(i);

(e.1) the amount, if any, by which

(i) the total of all amounts determined under paragraphs 37(1)(a) to 37(1)(c.1) in respect of the partnership at the end of the taxation year

exceeds

(ii) the total of all amounts determined under paragraphs 37(1)(d) to 37(1)(g) in respect of the partnership at the end of the year

were deducted under subsection 37(1) by the partnership in computing its income for the year;

(f) the amount of the income of the partnership for a taxation year from any source or from sources in a particular place were the income of the taxpayer from that source or from sources in that particular place, as the case may be, for the taxation year of the taxpayer

a) la société de personnes était une personne distincte résidant au Canada;

b) l'année d'imposition de la société de personnes correspondait à son exercice;

c) chaque activité de la société de personnes (y compris une activité relative à la propriété de biens) était exercée par celle-ci en tant que personne distincte, et comme si était établi le montant :

(i) de chaque gain en capital imposable et de chaque perte en capital déductible de la société de personnes, découlant de la disposition de biens,

(ii) de chaque revenu et perte de la société de personnes afférents à chacune des autres sources ou à des sources situées dans un endroit donné,

pour chaque année d'imposition de la société de personnes;

d) chaque revenu ou perte de la société de personnes pour une année d'imposition était calculé comme si :

(i) d'une part, il n'était pas tenu compte des articles 34.1 et 34.2, du paragraphe 59(1), de l'alinéa 59(3.2)c.1) ni des paragraphes 66.1(1), 66.2(1) et 66.4(1),

(ii) d'autre part, aucune déduction n'était permise par le paragraphe 65(1) et les articles 66, 66.1, 66.2, 66.21 et 66.4 ni par l'article 29 des *Règles concernant l'application de l'impôt sur le revenu*;

e) chaque gain de la société de personnes résultant de la disposition de fonds de terre utilisés dans une entreprise agricole de la société de personnes était calculé compte non tenu de l'alinéa 53(1)i);

e.1) était déduit, en application du paragraphe 37(1), par la société de personnes dans le calcul de son revenu pour l'année l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants déterminés aux alinéas 37(1)a) à c.1) quant à la société de personnes à la fin d'une année d'imposition,

(ii) le total des montants déterminés aux alinéas 37(1)d) à g) quant à la société de personnes à la fin de l'année;

f) le montant du revenu de la société de personnes, pour une année d'imposition, tiré d'une source quelconque ou de sources situées dans un endroit donné, constituait le revenu du contribuable tiré de cette

in which the partnership's taxation year ends, to the extent of the taxpayer's share thereof; and

(g) the amount, if any, by which

(i) the loss of the partnership for a taxation year from any source or sources in a particular place,

exceeds

(ii) in the case of a specified member (within the meaning of the definition ***specified member*** in subsection 248(1) if that definition were read without reference to paragraph (b) thereof) of the partnership in the year, the amount, if any, deducted by the partnership by virtue of section 37 in calculating its income for the taxation year from that source or sources in the particular place, as the case may be, and

(iii) in any other case, nil

were the loss of the taxpayer from that source or from sources in that particular place, as the case may be, for the taxation year of the taxpayer in which the partnership's taxation year ends, to the extent of the taxpayer's share thereof.

source ou de sources situées dans cet endroit donné, selon le cas, pour l'année d'imposition du contribuable au cours de laquelle l'année d'imposition de la société de personnes se termine, jusqu'à concurrence de la part du contribuable;

g) la perte du contribuable — à concurrence de la part dont il est tenu — résultant d'une source ou de sources situées dans un endroit donné, pour l'année d'imposition du contribuable au cours de laquelle l'année d'imposition de la société de personnes se termine, équivalait à l'excédent éventuel :

(i) de la perte de la société de personnes, pour une année d'imposition, résultant de cette source ou de ces sources,

sur :

(ii) dans le cas d'un associé déterminé (au sens de la définition d'***associé déterminé*** figurant au paragraphe 248(1), mais compte non tenu de l'alinéa b) de celle-ci) de la société de personnes au cours de l'année, le montant déduit par la société de personnes en application de l'article 37 dans le calcul de son revenu pour l'année d'imposition provenant de cette source ou de ces sources,

(iii) dans les autres cas, zéro.

Income allocation to former member

(1.01) If, at any time in a fiscal period of a partnership, a taxpayer ceases to be a member of the partnership

(a) for the purposes of subsection (1), sections 34.1, 101 and 103 and paragraph 249.1(1)(b), and notwithstanding paragraph 98.1(1)(d), the taxpayer is deemed to be a member of the partnership at the end of the fiscal period; and

(b) for the purposes of the application of paragraph (2.1)(b), subsection 40(3.12) and subparagraphs 53(1)(e)(i) and (viii) and (2)(c)(i) to the taxpayer, the fiscal period of the partnership is deemed to end

(i) immediately before the time at which the taxpayer is deemed by subsection 70(5) to have disposed of the interest in the partnership, where the taxpayer ceased to be a member of the partnership because of the taxpayer's death, and

(ii) immediately before the time that is immediately before the time that the taxpayer ceased to be a member of the partnership, in any other case.

Attribution du revenu à un ancien associé

(1.01) Les règles ci-après s'appliquent dans le cas où un contribuable cesse d'être un associé d'une société de personnes au cours d'un exercice de celle-ci :

a) pour l'application du paragraphe (1), des articles 34.1, 101 et 103 et de l'alinéa 249.1(1)b) et malgré l'alinéa 98.1(1)d), le contribuable est réputé être un associé de la société de personnes à la fin de l'exercice;

b) pour l'application de l'alinéa (2.1)b), du paragraphe 40(3.12) et des sous-alinéas 53(1)e)(i) et (viii) et (2)c)(i) au contribuable, l'exercice est réputé prendre fin :

(i) immédiatement avant le moment où le contribuable est réputé par le paragraphe 70(5) avoir disposé de la participation dans la société de personnes, s'il a cessé d'être un associé de celle-ci en raison de son décès,

(ii) immédiatement avant le moment qui est immédiatement avant le moment où le contribuable a cessé d'être un associé de la société de personnes, dans les autres cas.

Allocation of share of income to retiring partner

(1.1) For the purposes of subsection 96(1) and sections 34.1, 34.2, 101, 103 and 249.1,

(a) where the principal activity of a partnership is carrying on a business in Canada and its members have entered into an agreement to allocate a share of the income or loss of the partnership from any source or from sources in a particular place, as the case may be, to any taxpayer who at any time ceased to be a member of

(i) the partnership, or

(ii) a partnership that at any time has ceased to exist or would, but for subsection 98(1), have ceased to exist, and either

(A) the members of that partnership, or

(B) the members of another partnership in which, immediately after that time, any of the members referred to in clause 96(1.1)(a)(ii)(A) became members

have agreed to make such an allocation

or to the taxpayer's spouse, or common-law partner, estate or heirs or to any person referred to in subsection 96(1.3), the taxpayer, spouse, or common-law partner, estate, heirs or person, as the case may be, shall be deemed to be a member of the partnership; and

(b) all amounts each of which is an amount equal to the share of the income or loss referred to in this subsection allocated to a taxpayer from a partnership in respect of a particular fiscal period of the partnership shall, notwithstanding any other provision of this Act, be included in computing the taxpayer's income for the taxation year in which that fiscal period of the partnership ends.

Deemed dividend of SIFT partnership

(1.11) If a SIFT partnership is liable to tax for a taxation year under Part IX.1,

(a) paragraph (1)(f) is to be read as if the expression "the amount of the income of the partnership for a taxation year from any source or from sources in a particular place" were read as "the amount, if any, by which the income of the partnership for a taxation year from any source or from sources in a particular place exceeds, in respect of each such source, the portion of the partnership's taxable non-portfolio

Part du revenu versée à un associé qui se retire

(1.1) Pour l'application du paragraphe (1), des articles 34.1, 34.2, 101, 103 et 249.1:

a) lorsque la principale activité d'une société de personnes consiste à exploiter une entreprise au Canada et que ses associés ont conclu une convention afin d'allouer une part du revenu ou de la perte de la société de personnes provenant d'une ou de plusieurs sources en un endroit donné soit à tout contribuable qui, à un moment donné, a cessé d'être un associé :

(i) de la société de personnes,

(ii) d'une société de personnes qui, à un moment donné, a cessé d'exister ou qui, sans le paragraphe 98(1), aurait cessé d'exister et dont ont conclu une telle convention d'allocation :

(A) ou bien les associés,

(B) ou bien les associés d'une autre société de personnes dont, immédiatement après ce moment, les associés mentionnés à la division (A) sont devenus associés,

soit à son époux ou conjoint de fait, à sa succession ou à ses héritiers, ou à toute personne mentionnée au paragraphe (1.3), ce contribuable, son époux ou conjoint de fait, sa succession ou ses héritiers, ou cette personne, selon le cas, sont réputés être des associés de la société de personnes;

b) les montants dont chacun est égal à la part du revenu ou de la perte mentionnée au présent paragraphe et qu'alloue une société de personnes à un contribuable pour un exercice donné de la société de personnes doivent, malgré les autres dispositions de la présente loi, être inclus dans le calcul du revenu du contribuable pour son année d'imposition au cours de laquelle se termine cet exercice de la société de personnes.

Dividende réputé d'une société de personnes intermédiaire de placement déterminée

(1.11) Les règles ci-après s'appliquent à la société de personnes intermédiaire de placement déterminée qui est redevable de l'impôt prévu à la partie IX.1 pour une année d'imposition :

a) l'alinéa (1)f) s'applique comme si le passage « le montant du revenu de la société de personnes, pour une année d'imposition, tiré d'une source quelconque ou de sources situées dans un endroit donné » était remplacé par « la fraction éventuelle du revenu de la société de personnes, pour une année d'imposition,

earnings for the taxation year that is applicable to that source"; and

(b) the partnership is deemed to have received a dividend in the taxation year from a taxable Canadian corporation equal to the amount by which the partnership's taxable non-portfolio earnings for the taxation year exceeds the tax payable by the partnership for the taxation year under Part IX.1.

tiré d'une source quelconque ou de sources situées dans un endroit donné qui excède, pour chacune de ces sources, la partie de ses gains hors portefeuille imposables pour l'année qui est applicable à cette source »;

b) la société de personnes est réputée avoir reçu au cours de l'année, d'une société canadienne imposable, un dividende égal à l'excédent de ses gains hors portefeuille imposables pour l'année sur son impôt à payer pour l'année en vertu de la partie IX.1.

Disposal of right to share in income, etc.

(1.2) Where in a taxation year a taxpayer who has a right to a share of the income or loss of a partnership under an agreement referred to in subsection 96(1.1) disposes of that right,

(a) there shall be included in computing the taxpayer's income for the year the proceeds of the disposition; and

(b) for greater certainty, the cost to the taxpayer of each property received by the taxpayer as consideration for the disposition is the fair market value of the property at the time of the disposition.

Disposition du droit de partager le revenu, etc.

(1.2) Lorsque, au cours d'une année d'imposition, un contribuable dispose d'un droit qu'il a à une part du revenu ou d'une perte d'une société de personnes, aux termes d'une convention mentionnée au paragraphe (1.1):

a) le contribuable doit inclure le produit de disposition dans le calcul de son revenu pour l'année;

b) il demeure entendu que le coût pour le contribuable de chaque bien reçu en contrepartie de la disposition équivaut à la juste valeur marchande du bien au moment de la disposition.

Deductions

(1.3) Where, by virtue of subsection 96(1.1) or 96(1.2), an amount has been included in computing a taxpayer's income for a taxation year, there may be deducted in computing the taxpayer's income for the year the lesser of

(a) the amount so included in computing the taxpayer's income for the year, and

(b) the amount, if any, by which the cost to the taxpayer of the right to a share of the income or loss of a partnership under an agreement referred to in subsection 96(1.1) exceeds the total of all amounts in respect of that right that were deductible by virtue of this subsection in computing the taxpayer's income for previous taxation years.

Déductions

(1.3) Lorsqu'un montant a été inclus en vertu du paragraphe (1.1) ou (1.2) dans le calcul du revenu d'un contribuable pour une année d'imposition, le contribuable peut déduire du calcul de son revenu pour l'année le moins élevé des montants suivants :

a) le montant ainsi inclus dans le calcul de son revenu pour l'année;

b) l'excédent éventuel du coût, pour le contribuable, du droit à une part du revenu ou de la perte de la société de personnes, aux termes d'une convention mentionnée au paragraphe (1.1), sur le total des montants relatifs à ce droit qui étaient déductibles en vertu du présent paragraphe dans le calcul de son revenu pour les années d'imposition antérieures.

Right deemed not to be capital property

(1.4) For the purposes of this Act, a right to a share of the income or loss of a partnership under an agreement referred to in subsection 96(1.1) shall be deemed not to be capital property.

Ce droit n'est pas réputé être une immobilisation

(1.4) Pour l'application de la présente loi, le droit à une part du revenu ou de la perte d'une société de personnes, aux termes d'une convention mentionnée au paragraphe (1.1), est réputé ne pas être une immobilisation.

Disposition by virtue of death of taxpayer

(1.5) Where, at the time of a taxpayer's death, the taxpayer has a right to a share of the income or loss of a

Disposition à la suite du décès du contribuable

(1.5) Lorsque, au moment de son décès, un contribuable a droit à une part du revenu ou de la perte d'une société de personnes, aux termes d'une convention mentionnée

partnership under an agreement referred to in subsection 96(1.1), subsections 70(2) to 70(4) apply.

Members deemed carrying on business

(1.6) If a partnership carries on a business in Canada at any time, each taxpayer who is deemed by paragraph (1.1)(a) to be a member of the partnership at that time is deemed to carry on the business in Canada at that time for the purposes of subsection 2(3), sections 34.1 and 150 and (subject to subsection 34.2(18)) section 34.2.

Gains and losses

(1.7) Notwithstanding subsection (1) or section 38, if in a particular taxation year of a taxpayer, the taxpayer is a member of a partnership with a fiscal period that ends in the particular year, the amount of a taxable capital gain, allowable capital loss or allowable business investment loss of the taxpayer for the particular year determined in respect of the partnership is the amount determined by the formula

A × B/C

where

A is the amount of the taxpayer's taxable capital gain, allowable capital loss or allowable business investment loss, as the case may be, for the particular year otherwise determined under this section in respect of the partnership;

B is the relevant fraction that applies under paragraph 38(a), (a.1), (a.2), (b) or (c) for the particular year in respect of the taxpayer; and

C is the fraction that was used under section 38 for the fiscal period of the partnership.

Application

(1.71) Where the fraction referred to in the description of C in subsection (1.7) cannot be determined by a taxpayer in respect of a fiscal period of a partnership that ended before February 28, 2000, or includes February 28, 2000 or October 17, 2000, for the purposes of subsection (1.7), the fraction is deemed to be

(a) where the fiscal period ended before or began before February 28, 2000, 3/4;

(b) where the fiscal period began after February 27, 2000 and before October 18, 2000, 2/3; and

(c) in any other case, 1/2.

Associés d'une société de personnes réputés exploiter une entreprise au Canada

(1.6) Si une société de personnes exploite une entreprise au Canada à un moment donné, chaque contribuable qui est réputé, en vertu de l'alinéa (1.1)a), en être un associé à ce moment est réputé exploiter l'entreprise au Canada à ce moment pour l'application du paragraphe 2(3), des articles 34.1 et 150 et, sous réserve du paragraphe 34.2(18), de l'article 34.2.

Gains et pertes

(1.7) Malgré le paragraphe (1) et l'article 38, si un contribuable est, au cours de son année d'imposition, un associé d'une société de personnes dont l'exercice se termine dans cette année, le montant qui représente son gain en capital imposable, sa perte en capital déductible ou sa perte déductible au titre d'un placement d'entreprise pour l'année, déterminé relativement à la société de personnes, correspond au montant obtenu par la formule suivante :

A × B/C

où :

A représente la part du contribuable déterminée par ailleurs en application du présent article sur le gain en capital imposable, la perte en capital déductible et la perte déductible au titre d'un placement d'entreprise, selon le cas, de la société de personnes;

B la fraction applicable, figurant aux alinéas 38a), a.1), a.2), b) ou c), pour l'année donnée en ce qui concerne le contribuable;

C la fraction utilisée, pour l'application de l'article 38, pour l'exercice de la société de personnes.

Application

(1.71) Si elle ne peut être déterminée par un contribuable pour l'exercice d'une société de personnes qui s'est terminé avant le 28 février 2000 ou qui comprend le 28 février 2000 ou le 17 octobre 2000, la fraction mentionnée à l'élément C de la formule figurant au paragraphe (1.7) est réputée, pour l'application de ce paragraphe, être la suivante :

a) si l'exercice s'est terminé avant le 28 février 2000 ou a commencé avant cette date, 3/4;

b) si l'exercice a commencé après le 27 février 2000 et avant le 18 octobre 2000, 2/3;

c) dans les autres cas, 1/2.

Loan of property

(1.8) For the purposes of subsection 56(4.1) and sections 74.1 and 74.3, where an individual has transferred or lent property, either directly or indirectly, by means of a trust or by any other means whatever, to a person and the property or property substituted therefor is an interest in a partnership, the person's share of the amount of any income or loss of the partnership for a fiscal period in which the person was a specified member of the partnership shall be deemed to be income or loss, as the case may be, from the property or substituted property.

Construction

(2) The provisions of this subdivision shall be read and construed as if each of the assumptions in paragraphs 96(1)(a) to 96(1)(g) were made.

Limited partnership losses

(2.1) Notwithstanding subsection 96(1), where a taxpayer is, at any time in a taxation year, a limited partner of a partnership, the amount, if any, by which

(a) the total of all amounts each of which is the taxpayer's share of the amount of any loss of the partnership, determined in accordance with subsection 96(1), for a fiscal period of the partnership ending in the taxation year from a business (other than a farming business) or from property

exceeds

(b) the amount, if any, by which

(i) the taxpayer's at-risk amount in respect of the partnership at the end of the fiscal period

exceeds the total of

(ii) the amount required by subsection 127(8) in respect of the partnership to be added in computing the investment tax credit of the taxpayer for the taxation year,

(iii) the taxpayer's share of any losses of the partnership for the fiscal period from a farming business, and

(iv) the taxpayer's share of

(A) the foreign resource pool expenses, if any, incurred by the partnership in the fiscal period,

(B) the Canadian exploration expense, if any, incurred by the partnership in the fiscal period,

Prêt d'un bien

(1.8) Pour l'application du paragraphe 56(4.1) et des articles 74.1 et 74.3, lorsqu'un particulier transfère ou prête un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne et que le bien, ou un bien qui y est substitué, est une participation dans une société de personnes, la part de la personne sur le revenu ou la perte de la société de personnes pour un exercice au cours duquel la personne est un associé déterminé de la société de personnes est réputée être un revenu ou une perte résultant du bien ou du bien qui y est substitué.

Interprétation

(2) Les dispositions de la présente sous-section doivent s'interpréter comme si chacune des hypothèses formulées aux alinéas (1)a) à g) s'appliquait.

Perte comme commanditaire

(2.1) Malgré le paragraphe (1), dans le cas où un contribuable est commanditaire d'une société de personnes au cours d'une année d'imposition, l'excédent éventuel :

a) du total des montants dont chacun représente la part, dont il est tenu, d'une perte de la société de personnes résultant d'une entreprise — à l'exclusion d'une entreprise agricole — ou d'un bien, calculée conformément au paragraphe (1), pour un exercice de la société de personnes se terminant au cours de l'année,

sur :

b) l'excédent éventuel :

(i) de la fraction à risques de l'intérêt du contribuable dans la société de personnes à la fin de l'exercice,

sur le total des montants suivants :

(ii) la partie du montant déterminé à l'égard de la société de personnes que le paragraphe 127(8) prévoit d'ajouter dans le calcul du crédit d'impôt à l'investissement du contribuable pour l'année,

(iii) la part, dont le contribuable est tenu, des pertes de la société de personnes résultant d'une entreprise agricole pour l'exercice,

(iv) la part attribuable au contribuable des frais globaux relatifs à des ressources à l'étranger, frais d'exploration au Canada, frais d'aménagement au Canada et frais à l'égard de biens canadiens relatifs au pétrole et au gaz, engagés par la société de personnes au cours de l'exercice,

(C) the Canadian development expense, if any, incurred by the partnership in the fiscal period, and

(D) the Canadian oil and gas property expense, if any, incurred by the partnership in the fiscal period,

shall

(c) not be deducted in computing the taxpayer's income for the year,

(d) not be included in computing the taxpayer's non-capital loss for the year, and

(e) be deemed to be the taxpayer's limited partnership loss in respect of the partnership for the year.

At-risk amount

(2.2) For the purposes of this section and sections 111 and 127, the at-risk amount of a taxpayer, in respect of a partnership of which the taxpayer is a limited partner, at any particular time is the amount, if any, by which the total of

(a) the adjusted cost base to the taxpayer of the taxpayer's partnership interest at that time, computed in accordance with subsection 96(2.3) where applicable,

(b) where the particular time is the end of the fiscal period of the partnership, the taxpayer's share of the income of the partnership from a source for that fiscal period computed under the method described in subparagraph 53(1)(e)(i), and

(b.1) where the particular time is the end of the fiscal period of the partnership, the amount referred to in subparagraph 53(1)(e)(viii) in respect of the taxpayer for that fiscal period

exceeds the total of

(c) all amounts each of which is an amount owing at that time to the partnership, or to a person or partnership not dealing at arm's length with the partnership, by the taxpayer or by a person or partnership not dealing at arm's length with the taxpayer, other than any amount deducted under subparagraph 53(2)(c)(i.3) in computing the adjusted cost base, or under section 143.2 in computing the cost, to the taxpayer of the taxpayer's partnership interest at that time, and

(d) any amount or benefit that the taxpayer or a person not dealing at arm's length with the taxpayer is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain,

est à la fois :

c) non déductible dans le calcul de son revenu pour l'année;

d) exclu du calcul de sa perte autre qu'une perte en capital pour l'année;

e) réputé être la perte comme commanditaire subie par le contribuable dans la société de personnes pour l'année.

Fraction à risques d'un intérêt dans une société de personnes

(2.2) Pour l'application du présent article et des articles 111 et 127, la fraction à risques de l'intérêt d'un contribuable dans une société de personnes dont il est commanditaire à un moment donné correspond à l'excédent éventuel du total des montants suivants :

a) le prix de base rajusté, pour le contribuable, de sa participation dans la société de personnes à ce moment donné, calculé conformément au paragraphe (2.3) s'il est applicable;

b) si ce moment donné est le dernier de l'exercice de la société de personnes, la part qui revient au contribuable du revenu de la société de personnes provenant d'une source donnée pour l'exercice et calculé de la même façon qu'au sous-alinéa 53(1)e)(i);

b.1) si ce moment donné est le dernier de l'exercice de la société de personnes, le montant visé au sous-alinéa 53(1)e)(viii) à l'égard du contribuable pour cet exercice,

sur le total des montants suivants :

c) le total des montants représentant chacun un montant dû, au moment donné, à la société de personnes, ou à une personne ou une société de personnes avec laquelle la société de personnes a un lien de dépendance, par le contribuable ou par une personne ou une société de personnes avec laquelle celui-ci a un lien de dépendance, à l'exception d'un montant déduit en application du sous-alinéa 53(2)c)(i.3) ou de l'article 143.2 dans le calcul du prix de base rajusté ou du coût, selon le cas, pour le contribuable, de sa participation dans la société de personnes à ce moment;

whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain because the taxpayer is a member of the partnership or holds or disposes of an interest in the partnership, except to the extent that the amount or benefit is included in the determination of the value of J in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6), of M in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) or of I in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) in respect of the taxpayer, or the entitlement arises

(i) by virtue of a contract of insurance with an insurance corporation dealing at arm's length with each member of the partnership under which the taxpayer is insured against any claim arising as a result of a liability incurred in the ordinary course of carrying on the partnership business,

(ii) [Repealed, 1996, c. 21, s. 17]

(iii) as a consequence of the death of the taxpayer,

(iv) and (v) [Repealed, 1998, c. 19, s. 123]

(vi) in respect of an amount not included in the at-risk amount of the taxpayer determined without reference to this paragraph, or

(vii) because of an excluded obligation (as defined in subsection 6202.1(5) of the *Income Tax Regulations*) in relation to a share issued to the partnership by a corporation,

and, for the purposes of this subsection,

(e) where the amount or benefit to which the taxpayer or the person is entitled at any time is provided by way of an agreement or other arrangement under which the taxpayer or the person has a right, either immediately or in the future and either absolutely or contingently (otherwise than as a consequence of the death of the taxpayer), to acquire other property in exchange for all or any part of the partnership interest, for greater certainty the amount or benefit to which the taxpayer or the person is entitled under the agreement or arrangement is considered to be not less than the fair market value of the other property at that time, and

(f) where the amount or benefit to which the taxpayer or the person is entitled at any time is provided by way

d) le montant ou l'avantage que le contribuable ou une personne avec qui il a un lien de dépendance a le droit, immédiat ou futur et absolu ou conditionnel, de recevoir — sous forme de remboursement, de compensation, de garantie de recettes, de produit de disposition, de prêt ou autre forme de dette ou sous toute autre forme — et qui est accordé en vue de supprimer ou de réduire l'effet d'une perte que le contribuable peut subir en tant qu'associé de la société de personnes ou du fait qu'il a une participation dans la société de personnes ou qu'il en dispose, sauf dans la mesure où le montant ou l'avantage est inclus dans le calcul de la valeur de l'élément J de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6), de l'élément M de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) ou de l'élément I de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) relativement au contribuable ou sauf si ce droit résulte :

(i) d'un contrat d'assurance avec une compagnie d'assurance qui n'a de lien de dépendance avec aucun associé de la société de personnes, et par lequel le contribuable est assuré contre toute réclamation pouvant découler d'une obligation dans le cours normal des activités de l'entreprise de la société de personnes,

(ii) [Abrogé, 1996, ch. 21, art. 17]

(iii) du décès du contribuable,

(iv) et (v) [Abrogés, 1998, ch. 19, art. 123]

(vi) d'un montant non compris dans la fraction à risques de l'intérêt du contribuable calculée compte non tenu du présent alinéa,

(vii) d'une obligation exclue, au sens du paragraphe 6202.1(5) du *Règlement de l'impôt sur le revenu*, relativement à l'action qu'une société émet en faveur de la société de personnes.

Pour l'application du présent paragraphe :

e) il est entendu que le montant ou l'avantage auquel le contribuable ou la personne a droit à un moment donné et qui est prévu par une convention ou un autre mécanisme par lesquels le contribuable ou la personne a le droit immédiat ou futur, et absolu ou conditionnel — sauf par suite de son décès — d'acquérir un autre bien en échange de tout ou partie de sa participation dans la société de personnes doit être considéré comme étant au moins égal à la juste valeur marchande de l'autre bien à ce moment;

of a guarantee, security or similar indemnity or covenant in respect of any loan or other obligation of the taxpayer or the person, for greater certainty the amount or benefit to which the taxpayer or the person is entitled under the guarantee or indemnity at any particular time is considered to be not less than the total of the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.

f) il est entendu que le montant ou l'avantage auquel le contribuable ou la personne a droit à un moment donné sous forme de garantie, d'indemnité ou d'engagement semblable dans le cadre d'un prêt ou d'une autre obligation du contribuable ou de la personne doit être considéré comme étant au moins égal au total du montant impayé du prêt ou de l'obligation à ce moment et des autres montants non remboursés sur le prêt ou l'obligation à ce moment.

Idem

(2.3) For the purposes of subsection 96(2.2), where a taxpayer has acquired the taxpayer's partnership interest at any time from a transferor other than the partnership, the adjusted cost base to the taxpayer of that interest shall be computed as if the cost to the taxpayer of the interest were the lesser of

(a) the taxpayer's cost otherwise determined, and

(b) the greater of

(i) the adjusted cost base of that interest to the transferor immediately before that time, and

(ii) nil,

and where the adjusted cost base of the transferor cannot be determined, it shall be deemed to be equal to the total of the amounts determined in respect of the taxpayer under paragraphs 96(2.2)(c) and 96(2.2)(d) immediately after that time.

Prix de base rajusté de la participation dans la société de personnes

(2.3) Pour l'application du paragraphe (2.2), le prix de base rajusté d'une participation dans une société de personnes pour le contribuable qui, à un moment donné, acquiert cette participation auprès d'un autre cédant que la société de personnes est calculé à supposer que le coût de cette participation soit pour le contribuable le moindre :

a) de son coût déterminé par ailleurs pour le contribuable;

b) du plus élevé de son prix de base rajusté pour le cédant immédiatement avant ce moment et de zéro.

Le prix de base rajusté pour le cédant, s'il ne peut être déterminé, est réputé égal au total des montants visés aux alinéas (2.2)c) et d) déterminé pour le contribuable immédiatement après ce moment.

Limited partner

(2.4) For the purposes of this section and sections 111 and 127, a taxpayer who is a member of a partnership at a particular time is a limited partner of the partnership at that time if the member's partnership interest is not an exempt interest (within the meaning assigned by subsection (2.5)) at that time and if, at that time or within 3 years after that time,

(a) by operation of any law governing the partnership arrangement, the liability of the member as a member of the partnership is limited (except by operation of a provision of a statute of Canada or a province that limits the member's liability only for debts, obligations and liabilities of the partnership, or any member of the partnership, arising from negligent acts or omissions, from misconduct or from fault of another member of the partnership or an employee, an agent or a representative of the partnership in the course of the partnership business while the partnership is a limited liability partnership);

Commanditaire

(2.4) Pour l'application du présent article et des articles 111 et 127, le contribuable qui est, à un moment donné, un associé d'une société de personnes est commanditaire de cette société de personnes si sa participation dans celle-ci n'est pas, à ce moment, une participation exonérée au sens du paragraphe (2.5) et si, à ce moment ou dans les trois ans suivants :

a) soit sa responsabilité comme associé est limitée par la loi qui régit le contrat de société (sauf s'il s'agit d'une disposition législative fédérale ou provinciale qui limite sa responsabilité en ce qui a trait aux dettes, obligations et engagements de la société de personnes, ou d'un de ses associés, découlant d'actes ou d'omissions négligents ou de fautes commis par un autre associé de la société de personnes, ou par un employé, mandataire ou représentant de celle-ci, dans le cours des activités de l'entreprise de la société de personnes pendant qu'elle est une société de personnes à responsabilité limitée);

(b) the member or a person not dealing at arm's length with the member is entitled, either immediately or in the future and either absolutely or contingently, to receive an amount or to obtain a benefit that would be described in paragraph (2.2)(d) if that paragraph were read without reference to subparagraphs (ii) and (vi);

(c) one of the reasons for the existence of the member who owns the interest

(i) can reasonably be considered to be to limit the liability of any person with respect to that interest, and

(ii) cannot reasonably be considered to be to permit any person who has an interest in the member to carry on that person's business (other than an investment business) in the most effective manner; or

(d) there is an agreement or other arrangement for the disposition of an interest in the partnership and one of the main reasons for the agreement or arrangement can reasonably be considered to be to attempt to avoid the application of this subsection to the member.

b) soit l'associé ou une personne avec qui il a un lien de dépendance a le droit, immédiat ou futur et absolu ou conditionnel, de recevoir un montant ou un avantage qui serait visé à l'alinéa (2.2)d), compte non tenu des sous-alinéas (2.2)d)(ii) et (vi);

c) soit il est raisonnable de considérer que l'associé propriétaire de la participation en question existe, entre autres :

(i) d'une part, pour limiter la responsabilité d'une personne, liée à cette participation,

(ii) d'autre part, non pour permettre à une personne qui a une participation dans l'associé d'exploiter son entreprise — à l'exclusion d'une entreprise de placements — de la manière la plus efficace;

d) soit il existe une convention ou un autre mécanisme prévoyant la disposition d'une participation dans la société de personnes et dont il est raisonnable de considérer qu'un des principaux objets consiste à tenter de soustraire l'associé à l'application du présent paragraphe.

Exempt interest

(2.5) For the purposes of subsection 96(2.4), an exempt interest in a partnership at any time means a prescribed partnership interest or an interest in a partnership that was actively carrying on business on a regular and a continuous basis immediately before February 26, 1986 and continuously thereafter until that time or that was earning income from the rental or leasing of property immediately before February 26, 1986 and continuously thereafter until that time, where there has not after February 25, 1986 and before that time been a substantial contribution of capital to the partnership or a substantial increase in the indebtedness of the partnership and, for this purpose, an amount will not be considered to be substantial where

(a) the amount was used by the partnership to make an expenditure required to be made pursuant to the terms of a written agreement entered into by it before February 26, 1986, or to repay a loan, debt or contribution of capital that had been received or incurred in respect of any such expenditure,

(b) the amount was raised pursuant to the terms of a prospectus, preliminary prospectus or registration statement filed before February 26, 1986 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any

Participation exonérée

(2.5) Pour l'application du paragraphe (2.4), une participation exonérée dans une société de personnes à un moment donné est une participation, visée par règlement, dans une société de personnes ou une participation dans une société de personnes qui, immédiatement avant le 26 février 1986, exploitait activement une entreprise sur une base régulière et continue ou tirait un revenu de la location d'un bien, et a continué de faire l'un ou l'autre jusqu'au moment donné, à condition qu'il n'y ait eu après le 25 février 1986 et avant le moment donné ni apport important de capital à la société de personnes ni augmentation importante de la dette de la société de personnes; à cette fin, le montant d'un apport ou d'une dette n'est pas considéré comme important si, selon le cas :

a) la société de personnes s'en est servie pour faire une dépense qu'elle s'est obligée à faire par une convention écrite conclue avant le 26 février 1986 ou pour rembourser un prêt ou une dette contracté ou un apport de capital reçu en vue de faire la dépense;

b) il y a été fait appel conformément à un prospectus, un prospectus provisoire ou une déclaration d'enregistrement, produit avant le 26 février 1986 auprès d'une administration au Canada selon la législation fédérale ou provinciale sur les valeurs mobilières applicable et, si la loi le prévoit, approuvé par une telle administration;

province, and, where required by law, accepted for filing by that public authority, or

(c) the amount was used for the activity that was carried on by the partnership on February 25, 1986 but was not used for a significant expansion of the activity

and, for the purposes of this subsection,

(d) a partnership in respect of which paragraph 96(2.5)(b) applies shall be considered to have been actively carrying on a business on a regular and a continuous basis immediately before February 26, 1986 and continuously thereafter until the earlier of the closing date, if any, stipulated in the document referred to in that paragraph and January 1, 1987, and

(e) an expenditure shall not be considered to have been required to be made pursuant to the terms of an agreement where the obligation to make the expenditure is conditional in any way on the consequences under this Act relating to the expenditure and the condition has not been satisfied or waived before June 12, 1986.

c) il a servi à l'activité que la société de personnes exerçait le 25 février 1986, sauf s'il a servi à un accroissement majeur de cette activité.

Pour l'application du présent paragraphe : d'une part, une société de personnes à laquelle l'alinéa b) s'applique est considérée comme ayant exploité activement une entreprise, immédiatement avant le 26 février 1986, sur une base régulière et continue et comme ayant continué de le faire jusqu'au premier en date du jour de clôture indiqué dans le prospectus, le prospectus provisoire ou la déclaration d'enregistrement ou du 1er janvier 1987; d'autre part, une société de personnes n'est pas considérée comme s'étant obligée à faire une dépense par une convention si l'obligation est assortie d'une condition quant aux conséquences découlant de la présente loi en ce qui concerne cette dépense et si cette condition ne s'est pas réalisée avant le 12 juin 1986 ou il n'y a pas été renoncé avant le 12 juin 1986.

Artificial transactions

(2.6) For the purposes of paragraph 96(2.2)(c), where at any time an amount owing by a taxpayer or a person with whom the taxpayer does not deal at arm's length is repaid and it is established, by subsequent events or otherwise, that the repayment was made as part of a series of loans or other transactions and repayments, the amount owing shall be deemed not to have been repaid.

Idem

(2.7) For the purposes of paragraph 96(2.2)(a), where at any time a taxpayer makes a contribution of capital to a partnership and the partnership or a person or partnership with whom or which the partnership does not deal at arm's length makes a loan to the taxpayer or to a person with whom the taxpayer does not deal at arm's length or repays the contribution of capital, and it is established, by subsequent events or otherwise, that the loan or repayment, as the case may be, was made as part of a series of loans or other transactions and repayments, the contribution of capital shall be deemed not to have been made to the extent of the loan or repayment, as the case may be.

Agreement or election of partnership members

(3) If a taxpayer who was a member of a partnership at any time in a fiscal period has, for any purpose relevant to the computation of the taxpayer's income from the partnership for the fiscal period, made or executed an agreement, designation or election under or in respect of the application of any of subsections 13(4), (4.2) and (16),

Opération factice

(2.6) Pour l'application de l'alinéa (2.2)c), le montant dû par un contribuable ou par une personne avec qui celui-ci a un lien de dépendance et qui est remboursé à un moment donné est réputé ne pas être remboursé si, à cause d'événements subséquents ou autrement, il est établi que ce remboursement fait partie d'une série de prêts ou d'autres opérations et remboursements.

Idem

(2.7) Pour l'application de l'alinéa (2.2)a), en cas d'apport de capital à un moment donné par un contribuable à une société de personnes, si la société de personnes ou une personne ou société de personnes avec qui la société de personnes a un lien de dépendance consent un prêt au contribuable ou à une personne avec qui celui-ci a un lien de dépendance ou rembourse l'apport de capital et s'il est établi, par des événements subséquents ou autrement, que le prêt ou le remboursement, selon le cas, fait partie d'une série de prêts ou d'autres opérations et remboursements, cet apport de capital est réputé ne pas avoir été fait à concurrence du montant prêté ou remboursé.

Convention ou choix d'un associé

(3) Si un contribuable qui est l'associé d'une société de personnes au cours d'un exercice a fait ou signé un choix ou une convention à une fin quelconque liée au calcul de son revenu tiré de la société de personnes pour l'exercice, ou a indiqué une somme à une telle fin, en application de l'un des paragraphes 13(4), (4.2) et (16), de l'article 15.2,

section 15.2, subsections 20(9) and 21(1) to (4), section 22, subsection 29(1), section 34, clause 37(8)(a)(ii)(B), subsections 44(1) and (6), 50(1) and 80(5) and (9) to (11), section 80.04, subsections 86.1(2), 88(3.1), (3.3) and (3.5) and 90(3), the definition ***relevant cost base*** in subsection 95(4) and subsections 97(2), 139.1(16) and (17) and 249.1(4) and (6) that, if this Act were read without reference to this subsection, would be a valid agreement, designation or election,

(a) the agreement, designation or election is not valid unless

(i) it was made or executed on behalf of the taxpayer and each other person who was a member of the partnership during the fiscal period, and

(ii) the taxpayer had authority to act for the partnership;

(b) unless the agreement, designation or election is invalid because of paragraph 96(3)(a), each other person who was a member of the partnership during the fiscal period shall be deemed to have made or executed the agreement, designation or election; and

(c) notwithstanding paragraph 96(3)(a), any agreement, designation or election deemed by paragraph 96(3)(b) to have been made or executed by any person shall be deemed to be a valid agreement, designation or election made or executed by that person.

des paragraphes 20(9) et 21(1) à (4), de l'article 22, du paragraphe 29(1), de l'article 34, de la division 37(8)a)(ii)(B), des paragraphes 44(1) et (6), 50(1) et 80(5) et (9) à (11), de l'article 80.04, des paragraphes 86.1(2), 88(3.1), (3.3) et (3.5) et 90(3), de la définition de ***prix de base approprié*** au paragraphe 95(4) et des paragraphes 97(2), 139.1(16) et (17) et 249.1(4) et (6), lequel choix ou laquelle convention ou indication de somme serait valide en l'absence du présent paragraphe, les règles ci-après s'appliquent :

a) le choix, la convention ou l'indication de montant n'est pas valide à moins que :

(i) d'une part, il n'ait été fait ou signé au nom du contribuable et de toute personne qui était un associé de la société de personnes au cours de cet exercice,

(ii) d'autre part, le contribuable n'ait eu le pouvoir d'agir au nom de la société de personnes;

b) à moins que le choix, la convention ou l'indication de montant ne soit pas valide par l'effet de l'alinéa a), toute autre personne qui était un associé de la société de personnes au cours de cet exercice est réputée avoir fait ou signé le choix ou la convention ou indiqué le montant;

c) malgré l'alinéa a), tout choix ou toute convention ou indication de montant réputé fait ou signé par une personne aux termes de l'alinéa b) est réputé être un choix, une convention ou une indication de montant valide fait ou signé par elle.

Election

(4) Any election under subsection 97(2) or 98(3) shall be made on or before the day that is the earliest of the days on or before which any taxpayer making the election is required to file a return of income pursuant to section 150 for the taxpayer's taxation year in which the transaction to which the election relates occurred.

Late filing

(5) Where an election referred to in subsection 96(4) was not made on or before the day on or before which the election was required by that subsection to be made and that day was after May 6, 1974, the election shall be deemed to have been made on that day if, on or before the day that is 3 years after that day,

(a) the election is made in prescribed form; and

(b) an estimate of the penalty in respect of that election is paid by the taxpayer referred to in subsection

Choix

(4) Le choix prévu au paragraphe 97(2) ou 98(3) doit être fait au plus tard à la date qui survient la première parmi les dates auxquelles un contribuable procédant à ce choix doit produire une déclaration de revenu, conformément à l'article 150, pour l'année d'imposition au cours de laquelle a eu lieu l'opération à laquelle se rapporte le choix.

Présentation tardive

(5) Lorsqu'un choix visé au paragraphe (4) n'a pas été fait à la date qui y est prévue et que cette date est postérieure au 6 mai 1974, le choix est réputé avoir été fait à cette date si, 3 années au plus tard après cette date :

a) d'une part, le choix est fait selon le formulaire prescrit;

b) d'autre part, un montant estimatif de la pénalité à l'égard de ce choix est payé par le contribuable visé au paragraphe 97(2) ou par les personnes visées au paragraphe 98(3) lorsque ce choix est fait.

97(2) or by the persons referred to in subsection 98(3), as the case may be, when that election is made.

Special cases

(5.1) Where, in the opinion of the Minister, the circumstances of a case are such that it would be just and equitable

(a) to permit an election under subsection 97(2) or 98(3) to be made after the day that is 3 years after the day on or before which the election was required by subsection 96(4) to be made, or

(b) to permit an election made under subsection 97(2) to be amended,

the election or amended election shall be deemed to have been made on the day on or before which the election was so required to be made if

(c) the election or amended election is made in prescribed form, and

(d) an estimate of the penalty in respect of the election or amended election is paid by the taxpayer referred to in subsection 97(2) or by the persons referred to in subsection 98(3), as the case may be, when the election or amended election is made,

and where this subsection applies to the amendment of an election, that election shall be deemed not to have been effective.

Penalty for late-filed election

(6) For the purposes of this section, the penalty in respect of an election or an amended election referred to in paragraph 96(5)(a) or 96(5.1)(c) is

(a) where the election or amended election is made under subsection 97(2), an amount equal to the lesser of

(i) 1/4 of 1% of the amount by which the fair market value of the property disposed of by the taxpayer referred to therein at the time of disposition exceeds the amount agreed on by the taxpayer and the members of the partnership in the election or amended election, for each month or part of a month during the period commencing with the day on or before which the election is required by subsection 96(4) to be made and ending on the day the election or amended election is made, and

(ii) an amount, not exceeding $8,000, equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part

Cas spéciaux

(5.1) Lorsque le ministre est d'avis que les circonstances d'un cas sont telles qu'il serait juste et équitable :

a) de permettre qu'un choix soit fait en vertu du paragraphe 97(2) ou 98(3) plus de 3 ans après la date prévue au paragraphe (4);

b) de permettre qu'un choix fait en vertu du paragraphe 97(2) soit modifié,

le choix ou le choix modifié est réputé avoir été fait à la date à laquelle le choix devait au plus tard être ainsi fait, si :

c) d'une part, le choix ou le choix modifié est fait selon le formulaire prescrit;

d) d'autre part, un montant estimatif de la pénalité relative à ce choix ou à ce choix modifié est payé par le contribuable visé au paragraphe 97(2) ou par les personnes visées au paragraphe 98(3), selon le cas, au moment où le choix ou le choix modifié est fait;

lorsque le présent paragraphe s'applique à la modification d'un choix, ce choix est réputé n'avoir jamais été en vigueur.

Pénalité en cas de présentation tardive du choix

(6) Pour l'application du présent article, la pénalité relative à un choix ou à un choix modifié visé à l'alinéa (5)a) ou (5.1)c) est égale :

a) dans le cas d'un choix ou d'un choix modifié fait en vertu du paragraphe 97(2), au moins élevé des montants suivants :

(i) 1/4 de 1 % de l'excédent de la juste valeur marchande, au moment de la disposition, du bien dont le contribuable visé à ce paragraphe a disposé sur la somme dont le contribuable et les associés de la société de personnes sont convenus dans le choix ou dans le choix modifié pour chaque mois ou partie de mois compris dans la période commençant au plus tard le jour où le paragraphe (4) exigerait que ce choix soit fait et se terminant le jour où le choix ou le choix modifié est fait,

(ii) le produit, ne dépassant pas 8 000 $, de la multiplication de 100 $ par le nombre de mois tombant, en tout ou en partie, dans la période visée au sous-alinéa (i);

of which is during the period referred to in subparagraph 96(6)(a)(i); and

(b) where the election is made under subsection 98(3), an amount equal to the lesser of

(i) 1/4 of 1% of the amount by which

(A) the total of all amounts of money and the fair market value of partnership property received by the persons referred to therein as consideration for their interests in the partnership at the time that the partnership ceased to exist

exceeds

(B) the total of each such person's proceeds of disposition of that person's interest in the partnership as determined under paragraph 98(3)(a),

for each month or part of a month during the period commencing with the day on or before which the election is required by subsection 96(4) to be made and ending on the day the election or amended election is made, and

(ii) an amount, not exceeding $8,000, equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period referred to in subparagraph 96(6)(b)(i).

b) dans le cas d'un choix fait en vertu du paragraphe 98(3), au moins élevé des montants suivants :

(i) 1/4 de 1 % de l'excédent du total visé à la division (A) sur le total visé à la division (B):

(A) le total des sommes d'argent et de la juste valeur marchande du bien de la société de personnes que les personnes visées à ce paragraphe ont reçues en contrepartie de leur participation dans la société de personnes au moment où la société de personnes a cessé d'exister,

(B) le total du produit tiré par chaque personne de la disposition de sa participation dans la société de personnes, selon la détermination faite en vertu de l'alinéa 98(3)a),

pour chaque mois ou partie de mois compris dans la période commençant au plus tard le jour où le paragraphe (4) exige que ce choix soit fait et se terminant le jour où le choix ou le choix modifié est fait,

(ii) le produit, ne dépassant pas 8 000 $, de la multiplication de 100 $ par le nombre de mois tombant, en tout ou en partie, dans la période visée au sous-alinéa (i).

Unpaid balance of penalty

(7) The Minister shall, with all due dispatch, examine each election and amended election referred to in paragraph 96(5)(a) or 96(5.1)(c), assess the penalty payable and send a notice of assessment to the taxpayer or persons, as the case may be, and the taxpayer or persons, as the case may be, shall pay forthwith to the Receiver General the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

Solde impayé de la pénalité

(7) Le ministre, avec diligence, examine chaque choix ou choix modifié visé à l'alinéa (5)a) ou (5.1)c), fixe la pénalité payable et envoie un avis de cotisation au contribuable ou aux personnes, selon le cas; le contribuable ou les personnes, selon le cas, doivent, sans délai, payer au receveur général l'excédent éventuel de la pénalité ainsi imposée sur le total des sommes antérieurement versées au titre de cette pénalité.

Foreign partnerships

(8) For the purposes of this Act, where at a particular time a person resident in Canada becomes a member of a partnership, or a person who is a member of a partnership becomes resident in Canada, and immediately before the particular time no member of the partnership is resident in Canada, the following rules apply for the purpose of computing the partnership's income for fiscal periods ending after the particular time:

(a) where, at or before the particular time, the partnership held depreciable property of a prescribed class (other than taxable Canadian property),

Sociétés de personnes étrangères

(8) Pour l'application de la présente loi, lorsque, à un moment donné, une personne qui réside au Canada devient l'associé d'une société de personnes, ou une personne qui est l'associé d'une société de personnes commence à résider au Canada, alors qu'aucun associé de la société de personnes ne résidait au Canada immédiatement avant ce moment, les règles suivantes s'appliquent aux fins du calcul du revenu de la société de personnes pour les exercices se terminant après ce moment :

(i) no amount shall be included in determining the amounts for any of A, C, D and F to I in the definition ***undepreciated capital cost*** in subsection 13(21) in respect of the acquisition or disposition before the particular time of the property, and

(ii) where the property is the partnership's property at the particular time, the property shall be deemed to have been acquired, immediately after the particular time, by the partnership at a capital cost equal to the lesser of its fair market value and its capital cost to the partnership otherwise determined;

(b) in the case of the partnership's property that is inventory (other than inventory of a business carried on in Canada) or non-depreciable capital property (other than taxable Canadian property) of the partnership at the particular time, its cost to the partnership shall be deemed to be, immediately after the particular time, equal to the lesser of its fair market value and its cost to the partnership otherwise determined; and

(c) any loss in respect of the disposition of a property (other than inventory of a business carried on in Canada or taxable Canadian property) by the partnership before the particular time shall be deemed to be nil.

(d) [Repealed, 2016, c. 12, s. 32]

a) dans le cas où la société de personnes détenait, au moment donné ou avant, un bien amortissable d'une catégorie prescrite, sauf un bien canadien imposable :

(i) aucun montant n'est à inclure dans le calcul des montants que représentent les éléments A, C, D et F à I de la définition de ***fraction non amortie du coût en capital*** au paragraphe 13(21), relativement à l'acquisition ou à la disposition du bien, effectuée avant le moment donné,

(ii) si le bien appartient à la société de personnes au moment donné, il est réputé avoir été acquis par elle immédiatement après ce moment à un coût en capital égal au moins élevé de sa juste valeur marchande et de son coût en capital pour elle, déterminé par ailleurs;

b) dans le cas où la société de personnes est propriétaire d'un bien à porter à son inventaire, sauf l'inventaire d'une entreprise exploitée au Canada, ou d'une immobilisation non amortissable, sauf un bien canadien imposable, au moment donné, le coût du bien ou de l'immobilisation, pour la société de personnes, est réputé égal, immédiatement après ce moment, au moins élevé de sa juste valeur marchande et de son coût pour la société de personnes, déterminé par ailleurs;

c) toute perte subie relativement à la disposition d'un bien, sauf un bien à porter à l'inventaire d'une entreprise exploitée au Canada ou un bien canadien imposable, par la société de personnes avant le moment donné est réputée nulle.

d) [Abrogé, 2016, ch. 12, art. 32]

Application of foreign partnership rule

(9) For the purposes of applying subsection (8) and this subsection,

(a) where it can reasonably be considered that one of the main reasons that a member of a partnership is resident in Canada is to avoid the application of subsection (8), the member is deemed not to be resident in Canada; and

(b) where at any time a particular partnership is a member of another partnership,

(i) each person or partnership that is, at that time, a member of the particular partnership is deemed to be a member of the other partnership at that time,

Application de la règle sur les sociétés de personnes étrangères

(9) Les règles ci-après s'appliquent au paragraphe (8) et au présent paragraphe :

a) s'il est raisonnable de considérer que l'une des principales raisons pour lesquelles un associé d'une société de personnes réside au Canada est de se soustraire à l'application du paragraphe (8), l'associé est réputé ne pas résider au Canada;

b) si, à un moment donné, une société de personnes donnée est l'associé d'une autre société de personnes :

(i) chaque personne ou société de personnes qui est l'associé de la société de personnes donnée à ce moment est réputée être l'associé de l'autre société de personnes à ce moment,

(ii) each person or partnership that becomes a member of the particular partnership at that time is deemed to become a member of the other partnership at that time, and

(iii) each person or partnership that ceases to be a member of the particular partnership at that time is deemed to cease to be a member of the other partnership at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 96; 1994, c. 7, Sch. II, s. 72, Sch. VIII, s. 40, c. 8, s. 11, c. 21, s. 44; 1995, c. 3, s. 25, c. 21, s. 33; 1996, c. 21, s. 17; 1997, c. 25, s. 21; 1998, c. 19, s. 123; 2000, c. 12, s. 142, c. 19, s. 15; 2001, c. 17, s. 74; 2003, c. 28, s. 10; 2007, c. 29, s. 7; 2011, c. 24, s. 20; 2013, c. 34, ss. 71, 228, c. 40, s. 43; 2016, c. 12, s. 32.

(ii) chaque personne ou société de personnes qui devient l'associé de la société de personnes donnée à ce moment est réputée devenir l'associé de l'autre société de personnes à ce moment,

(iii) chaque personne ou société de personnes qui cesse d'être l'associé de la société de personnes donnée à ce moment est réputée cesser d'être l'associé de l'autre société de personnes à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 96; 1994, ch. 7, ann. II, art. 72, ann. VIII, art. 40, ch. 8, art. 11, ch. 21, art. 44; 1995, ch. 3, art. 25, ch. 21, art. 33; 1996, ch. 21, art. 17; 1997, ch. 25, art. 21; 1998, ch. 19, art. 123; 2000, ch. 12, art. 142, ch. 19, art. 15; 2001, ch. 17, art. 74; 2003, ch. 28, art. 10; 2007, ch. 29, art. 7; 2011, ch. 24, art. 20; 2013, ch. 34, art. 71 et 228, ch. 40, art. 43; 2016, ch. 12, art. 32.

Contribution of property to partnership

97 (1) Where at any time after 1971 a partnership has acquired property from a taxpayer who was, immediately after that time, a member of the partnership, the partnership shall be deemed to have acquired the property at an amount equal to its fair market value at that time and the taxpayer shall be deemed to have disposed of the property for proceeds equal to that fair market value.

Apport de biens dans une société de personnes

97 (1) Lorsque, après 1971, une société de personnes a acquis des biens auprès d'un contribuable qui, immédiatement après le moment de l'acquisition, faisait partie de la société de personnes, cette dernière est réputée les avoir acquis à un prix égal à leur juste valeur marchande à ce moment et le contribuable est réputé en avoir disposé et en avoir tiré un produit égal à cette juste valeur marchande.

Rules if election by partners

(2) Notwithstanding any other provision of this Act other than subsections (3) and 13(21.2), where a taxpayer at any time disposes of any property that is a capital property, Canadian resource property, foreign resource property or inventory of the taxpayer to a partnership that immediately after that time is a Canadian partnership of which the taxpayer is a member, if the taxpayer and all the other members of the partnership jointly so elect in prescribed form within the time referred to in subsection 96(4),

(a) the provisions of paragraphs 85(1)(a) to 85(1)(f) apply to the disposition as if

(i) the reference therein to "corporation's cost" were read as a reference to "partnership's cost",

(ii) the references therein to "other than any shares of the capital stock of the corporation or a right to receive any such shares" and to "other than shares of the capital stock of the corporation or a right to receive any such shares" were read as references to "other than an interest in the partnership",

(iii) the references therein to "shareholder of the corporation" were read as references to "member of the partnership",

(iv) the references therein to "the corporation" were read as references to "all the other members of the partnership", and

Choix par des associés

(2) Malgré les autres dispositions de la présente loi, sauf les paragraphes (3) et 13(21.2), dans le cas où un contribuable dispose de son bien — immobilisation, avoir minier canadien, avoir minier étranger ou bien à porter à l'inventaire — en faveur d'une société de personnes qui est, immédiatement après la disposition, une société de personnes canadienne dont il est un associé, les règles ci-après s'appliquent si le contribuable et les autres associés de la société de personnes en font conjointement le choix sur le formulaire prescrit dans le délai mentionné au paragraphe 96(4) :

a) les alinéas 85(1)a) à f) s'appliquent à la disposition comme si la mention :

(i) « pour la société » était remplacée par la mention « pour la société de personnes »,

(ii) « autre que toutes actions du capital-actions de la société ou un droit d'en recevoir » était remplacée par la mention « autre qu'une participation dans la société de personnes »,

(iii) « actionnaire de la société » était remplacée par la mention « associé de la société de personnes »,

(iv) « la société » était remplacée par la mention « tous les autres associés de la société de personnes »,

(v) the references therein to "to the corporation" were read as references to "to the partnership";

(b) in computing, at any time after the disposition, the adjusted cost base to the taxpayer of the taxpayer's interest in the partnership immediately after the disposition,

(i) there shall be added the amount, if any, by which the taxpayer's proceeds of disposition of the property exceed the fair market value, at the time of the disposition, of the consideration (other than an interest in the partnership) received by the taxpayer for the property, and

(ii) there shall be deducted the amount, if any, by which the fair market value, at the time of the disposition, of the consideration (other than an interest in the partnership) received by the taxpayer for the property so disposed of by the taxpayer exceeds the fair market value of the property at the time of the disposition; and

(c) where the property so disposed of by the taxpayer to the partnership is taxable Canadian property of the taxpayer, the interest in the partnership received by the taxpayer as consideration for the property is deemed to be, at any time that is within 60 months after the disposition, taxable Canadian property of the taxpayer.

(v) « à la société » était remplacée par la mention « à la société de personnes »;

b) dans le calcul, à un moment donné après la disposition, du prix de base rajusté, pour le contribuable, de sa participation dans la société de personnes, immédiatement après la disposition :

(i) il doit être ajouté l'excédent éventuel du produit que le contribuable a tiré de la disposition des biens sur la juste valeur marchande, au moment de la disposition, de la contrepartie (autre qu'une participation dans la société de personnes) reçue par le contribuable pour les biens,

(ii) il doit être déduit l'excédent éventuel de la juste valeur marchande, au moment de la disposition, de la contrepartie (autre qu'une participation dans la société de personnes) reçue par le contribuable pour les biens dont il a ainsi disposé sur leur juste valeur marchande au moment de la disposition;

c) lorsque les biens dont le contribuable a ainsi disposé en faveur de la société de personnes sont des biens canadiens imposables du contribuable, la participation dans la société de personnes qu'il a reçue en contrepartie est réputée être, à tout moment de la période de 60 mois suivant la disposition, un bien canadien imposable lui appartenant.

Election not available — section 88

(3) Subsection (2) does not apply to a disposition of a property by a taxpayer to a particular partnership if

(a) as part of a transaction or event or series of transactions or events that includes the disposition

(i) control of a taxable Canadian corporation (in this subsection referred to as the "subsidiary") is acquired by another taxable Canadian corporation (in this paragraph referred to as the "parent"),

(ii) the subsidiary is wound up under subsection 88(1) or amalgamated with one or more other corporations under subsection 87(11), and

(iii) the parent makes a designation under paragraph 88(1)(d) in respect of an interest in a partnership;

(b) the disposition occurs after the acquisition of control of the subsidiary;

(c) the property

Choix non permis — article 88

(3) Le paragraphe (2) ne s'applique pas à la disposition d'un bien effectuée par un contribuable en faveur d'une société de personnes donnée si les conditions ci-après sont réunies :

a) dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend la disposition :

(i) le contrôle d'une société canadienne imposable (appelée « filiale » au présent paragraphe) est acquis par une autre société canadienne imposable (appelée « société mère » au présent alinéa),

(ii) la filiale est liquidée en vertu du paragraphe 88(1) ou est fusionnée avec une ou plusieurs autres sociétés en vertu du paragraphe 87(11),

(iii) la société mère fait une désignation aux termes de l'alinéa 88(1)d) relativement à une participation dans une société de personnes;

b) la disposition est effectuée après l'acquisition du contrôle de la filiale;

(i) is referred to in clauses (A) to (C) of the description of B in subparagraph 88(1)(d)(ii.1), or

(ii) is an interest in a partnership that holds, directly or indirectly through one or more partnerships, property referred to in clauses (A) to (C) of the description of B in subparagraph 88(1)(d)(ii.1); and

(d) the subsidiary is the taxpayer or has, before the disposition of the property, directly or indirectly in any manner whatever, an interest in the taxpayer.

c) le bien, selon le cas :

(i) est visé à l'une des divisions (A) à (C) de l'élément B de la formule figurant au sous-alinéa 88(1)d)(ii.1),

(ii) est une participation dans une société de personnes qui détient soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs sociétés de personnes, un bien visé à l'une de ces divisions;

d) la filiale est le contribuable ou elle détient, avant la disposition du bien, directement ou indirectement, de quelque manière que ce soit, une participation dans le contribuable.

(3.1) [Repealed, 1998, c. 19, s. 124]

(3.1) [Abrogé, 1998, ch. 19, art. 124]

Where capital cost to partner exceeds proceeds of disposition

(4) Where subsection 97(2) has been applicable in respect of the acquisition of any depreciable property by a partnership from a taxpayer who was, immediately after the taxpayer disposed of the property, a member of the partnership and the capital cost to the taxpayer of the property exceeds the taxpayer's proceeds of the disposition, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(a) the capital cost to the partnership of the property shall be deemed to be the amount that was the capital cost thereof to the taxpayer; and

(b) the excess shall be deemed to have been allowed to the partnership in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the partnership of the property.

Cas où le coût en capital supporté par l'associé est supérieur au produit de disposition

(4) Lorsque le paragraphe (2) s'appliquait à l'égard de biens amortissables acquis par une société de personnes auprès d'un contribuable qui, immédiatement après avoir disposé de ces biens, était un associé de la société de personnes et que le coût en capital supporté par le contribuable pour les biens dépasse le produit qu'il a tiré de leur disposition, pour l'application des articles 13 et 20 ainsi que des dispositions réglementaires prises en vertu de l'alinéa 20(1)a):

a) le coût en capital supporté par la société de personnes pour les biens est réputé être celui qui a été supporté par le contribuable pour ces mêmes biens;

b) l'excédent est réputé avoir été admis en déduction en faveur de la société de personnes au titre des biens, en vertu des dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul de son revenu pour des années d'imposition antérieures à l'acquisition de ces biens par la société de personnes.

Acquisition of certain tools — capital cost and deemed depreciation

(5) If subsection (2) has applied in respect of the acquisition at any particular time of any depreciable property by a partnership from an individual, the cost of the property to the individual was included in computing an amount under paragraph 8(1)(r) or (s) in respect of the individual, and the amount that would be the cost of the property to the individual immediately before the transfer if this Act were read without reference to subsection 8(7) (which amount is in this subsection referred to as the "individual's original cost") exceeds the individual's proceeds of disposition of the property,

Acquisition de certains outils — coût en capital et amortissement réputé

(5) Lorsque le paragraphe (2) s'est appliqué relativement à l'acquisition, à un moment donné, d'un bien amortissable par une société de personnes d'un particulier, que le coût du bien pour le particulier a été inclus dans le calcul de la somme prévue aux alinéas 8(1)r) ou s) relativement au particulier et que le montant (appelé « coût initial » au présent paragraphe) qui représenterait le coût du bien pour le particulier immédiatement avant le transfert si la présente loi s'appliquait compte non tenu du paragraphe 8(7) excède le produit de disposition du bien pour le particulier, les règles suivantes s'appliquent :

(a) the capital cost to the partnership of the property is deemed to be equal to the individual's original cost; and

(b) the amount by which the individual's original cost exceeds the individual's proceeds of disposition in respect of the property is deemed to have been deducted by the partnership under paragraph 20(1)(a) in respect of the property in computing income for taxation years that ended before that particular time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 97; 1995, c. 21, s. 34; 1998, c. 19, s. 124; 2002, c. 9, s. 32; 2007, c. 2, s. 14; 2010, c. 12, s. 9; 2012, c. 31, s. 21; 2016, c. 12, s. 33.

a) le coût en capital du bien pour la société de personnes est réputé être égal au coût initial;

b) l'excédent du coût initial sur le produit de disposition du bien pour le particulier est réputé avoir été déduit par la société de personnes en application de l'alinéa 20(1)a) relativement au bien dans le calcul du revenu pour les années d'imposition s'étant terminées avant le moment donné.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 97; 1995, ch. 21, art. 34; 1998, ch. 19, art. 124; 2002, ch. 9, art. 32; 2007, ch. 2, art. 14; 2010, ch. 12, art. 9; 2012, ch. 31, art. 21; 2016, ch. 12, art. 33.

Disposition of partnership property

98 (1) For the purposes of this Act, where, but for this subsection, at any time after 1971 a partnership would be regarded as having ceased to exist, the following rules apply:

(a) until such time as all the partnership property and any property substituted therefor has been distributed to the persons entitled by law to receive it, the partnership shall be deemed not to have ceased to exist, and each person who was a partner shall be deemed not to have ceased to be a partner,

(b) the right of each such person to share in that property shall be deemed to be an interest in the partnership, and

(c) notwithstanding subsection 40(3), where at the end of a fiscal period of the partnership, in respect of an interest in the partnership,

(i) the total of all amounts required by subsection 53(2) to be deducted in computing the adjusted cost base to the taxpayer of the interest at that time

exceeds

(ii) the total of the cost to the taxpayer of the interest determined for the purpose of computing the adjusted cost base to the taxpayer of that interest at that time and all amounts required by subsection 53(1) to be added to the cost to the taxpayer of the interest in computing the adjusted cost base to the taxpayer of that interest at that time,

the amount of the excess shall be deemed to be a gain of the taxpayer for the taxpayer's taxation year that includes that time from a disposition at that time of that interest.

Disposition de biens d'une société de personnes

98 (1) Pour l'application de la présente loi, dans le cas où une société de personnes, à un moment donné après 1971, serait, sans le présent paragraphe, considérée comme ayant cessé d'exister, les règles suivantes s'appliquent :

a) aussi longtemps que tous les biens de la société de personnes et tous ceux qui leur ont été substitués n'ont pas été attribués aux personnes qui ont le droit de les recevoir, en vertu de la loi, la société de personnes est réputée ne pas avoir cessé d'exister et chaque personne qui était un associé est réputée ne pas avoir cessé d'être un associé;

b) le droit de chacune de ces personnes dans le partage de ces biens est réputé être une participation dans la société de personnes;

c) malgré le paragraphe 40(3), lorsque, à la fin d'un exercice de la société de personnes, relativement à une participation dans la société de personnes :

(i) le total des montants dont le paragraphe 53(2) exige la déduction dans le calcul du prix de base rajusté pour le contribuable à ce moment de la participation,

excède :

(ii) le total du coût, pour lui, de la participation déterminé pour le calcul du prix de base rajusté de cette participation pour lui, à ce moment, et des montants dont le paragraphe 53(1) exige l'addition au coût, pour lui, de la participation dans le calcul du prix de base rajusté de cette participation pour lui, à ce moment,

l'excédent est réputé être un gain du contribuable pour son année d'imposition qui comprend ce moment, tiré de la disposition à ce moment de cette participation.

Deemed proceeds

(2) Subject to subsections 98(3) and 98(5) and 85(3), where at any time after 1971 a partnership has disposed of property to a taxpayer who was, immediately before that time, a member of the partnership, the partnership shall be deemed to have disposed of the property for proceeds equal to its fair market value at that time and the taxpayer shall be deemed to have acquired the property at an amount equal to that fair market value.

Rules applicable if partnership ceases to exist

(3) If at any particular time after 1971 a Canadian partnership has ceased to exist and all the partnership property has been distributed to persons who were members of the partnership immediately before that time so that immediately after that time each such person has, in each such property, an undivided interest, or for civil law an undivided right (which undivided interest or undivided right is referred to in this subsection as an "undivided interest or right", as the case may be) that, when expressed as a percentage (referred to in this subsection as that person's "percentage") of all undivided interests or rights in the property, is equal to the person's undivided interest or right, when so expressed, in each other such property, if each such person has jointly so elected in respect of the property in prescribed form and within the time referred to in subsection 96(4), the following rules apply:

(a) each such person's proceeds of the disposition of the person's interest in the partnership shall be deemed to be an amount equal to the greater of

(i) the adjusted cost base to the person, immediately before the particular time, of the person's interest in the partnership, and

(ii) the amount of any money received by the person on the cessation of the partnership's existence, plus the person's percentage of the total of amounts each of which is the cost amount to the partnership of each such property immediately before its distribution;

(b) the cost to each such person of that person's undivided interest or right in each such property is deemed to be an amount equal to the total of

(i) that person's percentage of the cost amount to the partnership of the property immediately before its distribution, and

(i.1) [Repealed, 2016, c. 12, s. 34]

(ii) where the amount determined under subparagraph (a)(i) exceeds the amount determined under

Produit présumé de la disposition

(2) Sous réserve des paragraphes (3) et (5) et 85(3), lorsque, après 1971, une société de personne a disposé de biens en faveur d'un contribuable qui, immédiatement avant le moment de la disposition, en était un associé, la société de personnes est réputée avoir tiré de cette disposition un produit égal à la juste valeur marchande de ces biens à ce moment et le contribuable est réputé les avoir acquis à un prix égal à cette juste valeur marchande.

Règles applicables lorsqu'une société de personnes cesse d'exister

(3) Lorsque, à un moment donné après 1971, une société de personnes canadienne a cessé d'exister et que tous ses biens ont été attribués à des personnes qui étaient des associés de la société de personnes immédiatement avant ce moment de sorte que, immédiatement après ce moment, chacune de ces personnes possède, sur chacun de ces biens, un intérêt indivis ou, pour l'application du droit civil, un droit indivis (lesquels intérêt indivis ou droit indivis sont appelés « intérêt ou droit indivis » au présent paragraphe) qui, lorsqu'il est exprimé en pourcentage (appelé le « pourcentage » de cette personne au présent paragraphe) de tous les intérêts ou droits indivis sur ces biens, est égal à son intérêt ou droit indivis, lorsqu'il est ainsi exprimé, sur chacun de ces autres biens, les règles ci-après s'appliquent si toutes ces personnes ont fait le choix ensemble relativement à ces biens, selon le formulaire prescrit et dans le délai mentionné au paragraphe 96(4) :

a) le produit que reçoit chacune de ces personnes lors de la disposition de sa participation dans la société de personnes est réputé être un montant égal à la plus élevée des sommes suivantes :

(i) le prix de base rajusté, pour elle, immédiatement avant le moment donné, de sa participation dans la société de personnes,

(ii) le montant qu'elle a reçu en argent lorsque la société de personnes a cessé d'exister, augmenté de son pourcentage du total des montants qui constituent chacun le coût indiqué, pour la société de personnes, de chacun de ces biens, immédiatement avant leur attribution;

b) le coût que chacune de ces personnes supporte pour son intérêt ou droit indivis sur chacun de ces biens est réputé être égal au total des montants suivants :

(i) le pourcentage, pour cette personne, du coût indiqué du bien pour la société de personnes immédiatement avant son attribution,

subparagraph (a)(ii), the amount determined under paragraph (c) in respect of the person's undivided interest or right in the property;

(c) the amount determined under this paragraph in respect of each such person's undivided interest or right in each such property that was a capital property (other than depreciable property) of the partnership is such portion of the excess, if any, described in subparagraph (b)(ii) as is designated by the person in respect of the property, except that

(i) in no case shall the amount so designated in respect of the person's undivided interest or right in any such property exceed the amount, if any, by which the person's percentage of the fair market value of the property immediately after its distribution exceeds the person's percentage of the cost amount to the partnership of the property immediately before its distribution, and

(ii) in no case shall the total of amounts so designated in respect of the person's undivided interest or right in all such capital properties (other than depreciable property) exceed the excess, if any, described in subparagraph (b)(ii);

(e) if the property so distributed by the partnership was depreciable property of the partnership of a prescribed class and any such person's percentage of the amount that was the capital cost to the partnership of that property exceeds the amount determined under paragraph (b) to be the cost to the person of the person's undivided interest or right in the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(i) the capital cost to the person of the person's undivided interest or right in the property is deemed to be the person's percentage of the amount that was the capital cost to the partnership of the property, and

(ii) the excess is deemed to have been allowed to the person in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the person of the undivided interest or right; and

(f) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before its distribution.

(g) [Repealed, 2016, c. 12, s. 34]

(i.1) [Abrogé, 2016, ch. 12, art. 34]

(ii) lorsque le montant déterminé en vertu du sous-alinéa a)(i) dépasse le montant déterminé en vertu du sous-alinéa a)(ii), le montant déterminé en vertu de l'alinéa c) relativement à son intérêt ou droit indivis sur ces biens;

c) la somme déterminée en vertu du présent alinéa, relativement à l'intérêt ou droit indivis de chacune de ces personnes sur chacun de ces biens qui étaient des immobilisations (autres que des biens amortissables) de la société de personnes, est la fraction de l'excédent visé au sous-alinéa b)(ii) qui est désignée par elle, relativement aux biens, sauf que :

(i) en aucun cas la somme ainsi désignée relativement à son intérêt ou droit indivis sur un de ces biens ne peut dépasser l'excédent de son pourcentage de la juste valeur marchande de ce bien, immédiatement après son attribution, sur son pourcentage du coût indiqué de ce bien, supporté par la société de personnes, immédiatement avant son attribution,

(ii) en aucun cas le total des sommes ainsi désignées relativement à ses intérêts ou droits indivis sur toutes ces immobilisations (autres que les biens amortissables) ne peut être supérieur à l'excédent visé au sous-alinéa b)(ii);

e) lorsque le bien ainsi attribué par la société de personnes était un bien amortissable d'une catégorie prescrite de la société de personnes et que le montant que représente le pourcentage, afférent à l'une de ces personnes, de la somme représentant le coût en capital de ce bien supporté par la société de personnes dépasse le montant déterminé en vertu de l'alinéa b) comme étant le coût, supporté par cette personne, de son intérêt ou droit indivis sur le bien, pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a) :

(i) le coût en capital, supporté par elle, de son intérêt ou droit indivis sur le bien est réputé être son pourcentage de la somme représentant le coût en capital du bien supporté par la société de personnes,

(ii) l'excédent est réputé lui avoir été alloué au titre du bien selon les dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu pour les années d'imposition antérieures à l'acquisition, par elle, de son intérêt ou droit indivis;

f) la société de personnes est réputée avoir disposé de chacun de ces biens et en avoir tiré un produit égal au coût indiqué des biens supporté par la société de personnes immédiatement avant leur attribution.

g) [Abrogé, 2016, ch. 12, art. 34]

Where s. (3) does not apply

(4) Subsection 98(3) is not applicable in any case in which subsection 98(5) or 85(3) is applicable.

Non-application du par. (3)

(4) Le paragraphe (3) n'est pas applicable lorsque le paragraphe (5) ou 85(3) s'applique.

Where partnership business carried on as sole proprietorship

(5) Where at any particular time after 1971 a Canadian partnership has ceased to exist and within 3 months after the particular time one, but not more than one, of the persons who were, immediately before the particular time, members of the partnership (which person is in this subsection referred to as the "proprietor", whether an individual, a trust or a corporation) carries on alone the business that was the business of the partnership and continues to use, in the course of the business, any property that was, immediately before the particular time, partnership property and that was received by the proprietor as proceeds of disposition of the proprietor's interest in the partnership, the following rules apply:

(a) the proprietor's proceeds of disposition of the proprietor's interest in the partnership shall be deemed to be an amount equal to the greater of

(i) the total of the adjusted cost base to the proprietor, immediately before the particular time, of the proprietor's interest in the partnership, and the adjusted cost base to the proprietor of each other interest in the partnership deemed by paragraph 98(5)(g) to have been acquired by the proprietor at the particular time, and

(ii) the total of

(A) the cost amount to the partnership, immediately before the particular time, of each such property so received by the proprietor, and

(B) the amount of any other proceeds of the disposition of the proprietor's interest in the partnership received by the proprietor;

(b) the cost to the proprietor of each such property shall be deemed to be an amount equal to the total of

(i) the cost amount to the partnership of the property immediately before that time, and

(i.1) [Repealed, 2016, c. 12, s. 34]

Entreprise de la société de personnes exploitée par un seul et unique propriétaire

(5) Lorsque, à un moment donné après 1971, une société de personnes canadienne a cessé d'exister et que, dans les 3 mois suivant ce moment, au plus une seule des personnes (appelée « propriétaire » au présent paragraphe qu'il s'agisse d'un individu, d'une fiducie ou d'une société) qui étaient, immédiatement avant le moment donné, des associés de la société de personnes, poursuit lui-même, à titre de propriétaire unique, l'exploitation de l'entreprise antérieurement exploitée par la société de personnes et continue à utiliser, dans le cours des activités de l'entreprise, un bien qui appartenait à la société de personnes immédiatement avant le moment donné et qu'il a reçu à titre de produit de disposition de sa participation dans la société de personnes, les règles suivantes s'appliquent :

a) le produit que le propriétaire a tiré de la disposition de sa participation dans la société de personnes est réputé être le plus élevé des montants suivants :

(i) le total du prix de base rajusté, pour lui, de sa participation dans la société de personnes immédiatement avant la date donnée, et du prix de base rajusté, pour lui, de chacune des autres participations dans la société de personnes qu'il est réputé avoir acquises aux termes de l'alinéa g) à la date donnée,

(ii) le total des montants suivants :

(A) le coût indiqué, pour la société de personnes, immédiatement avant le moment donné, de chacun de ces biens qu'il a reçus,

(B) le montant de tout autre produit qu'il a tiré de la disposition de sa participation dans la société de personnes;

b) le coût que le propriétaire supporte pour chacun des biens est réputé égal au total des montants suivants :

(ii) where the amount determined under subparagraph 98(5)(a)(i) exceeds the amount determined under subparagraph 98(5)(a)(ii), the amount determined under paragraph 98(5)(c) in respect of the property;

(c) the amount determined under this paragraph in respect of each such property so received by the proprietor that is a capital property (other than depreciable property) of the proprietor is such portion of the excess, if any, described in subparagraph 98(5)(b)(ii) as is designated by the proprietor in respect of the property, except that

(i) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and

(ii) in no case shall the total of amounts so designated in respect of all such capital properties (other than depreciable property) exceed the excess, if any, described in subparagraph 98(5)(b)(ii);

(e) where any such property so received by the proprietor was depreciable property of a prescribed class of the partnership and the amount that was the capital cost to the partnership of that property exceeds the amount determined under paragraph 98(5)(b) to be the cost to the proprietor of the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(i) the capital cost to the proprietor of the property shall be deemed to be the amount that was the capital cost to the partnership of the property, and

(ii) the excess shall be deemed to have been allowed to the proprietor in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the proprietor of the property;

(f) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before the particular time; and

(g) where, at the particular time, all other persons who were members of the partnership immediately before that time have disposed of their interests in the partnership to the proprietor, the proprietor shall be

(i) le coût indiqué du bien pour la société de personnes immédiatement avant le moment donné,

(i.1) [Abrogé, 2016, ch. 12, art. 34]

(ii) lorsque la somme déterminée en vertu du sous-alinéa a)(i) dépasse la somme déterminée en vertu du sous-alinéa a)(ii), la somme déterminée en vertu de l'alinéa c) relativement aux biens;

(c) la somme déterminée en vertu du présent alinéa, relativement à chacun des biens qu'il a ainsi reçus et qui constituent des immobilisations (autres que des biens amortissables) du propriétaire, est la fraction de l'excédent visé au sous-alinéa b)(ii) qui est désignée par lui relativement aux biens, sauf que :

(i) en aucun cas la somme ainsi désignée relativement à tout bien de ce genre ne peut dépasser l'excédent éventuel de la juste valeur marchande du bien immédiatement après le moment donné sur le coût indiqué de ce bien supporté par la société de personnes immédiatement avant ce moment,

(ii) en aucun cas le total des sommes ainsi désignées relativement à toutes ces immobilisations (autres que des biens amortissables) ne peut être supérieur à l'excédent visé au sous-alinéa b)(ii);

e) lorsqu'un tel bien ainsi reçu par lui était un bien amortissable d'une catégorie prescrite de la société de personnes et que la somme représentant le coût en capital de ce bien supporté par la société de personnes dépasse le montant déterminé en vertu de l'alinéa b) comme étant le coût du bien supporté par le propriétaire, pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a):

(i) le coût en capital du bien supporté par le propriétaire est réputé être la somme qui représentait le coût en capital du bien supporté par la société de personnes,

(ii) l'excédent est réputé avoir été alloué au propriétaire, au titre du bien, selon les dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu pour les années d'imposition antérieures à l'acquisition du bien par ce propriétaire;

f) la société de personnes est réputée avoir disposé de chacun de ces biens et en avoir tiré un produit égal au coût indiqué des biens supporté par la société de personnes immédiatement avant le moment donné;

deemed at that time to have acquired partnership interests from those other persons and not to have acquired any property that was property of the partnership.

(h) [Repealed, 2016, c. 12, s. 34]

g) lorsque, au moment donné, toutes les autres personnes qui étaient des associés de la société de personnes immédiatement avant ce moment ont disposé de leur participation dans la société de personnes en faveur du propriétaire, ce dernier est réputé, à ce moment, avoir acquis les participations dans la société de personnes de ces autres personnes et ne pas avoir acquis de biens appartenant à la société de personnes.

h) [Abrogé, 2016, ch. 12, art. 34]

Continuation of predecessor partnership by new partnership

(6) Where a Canadian partnership (in this subsection referred to as the "predecessor partnership") has ceased to exist at any particular time after 1971 and, at or before that time, all of the property of the predecessor partnership has been transferred to another Canadian partnership (in this subsection referred to as the "new partnership") the only members of which were members of the predecessor partnership, the new partnership shall be deemed to be a continuation of the predecessor partnership and any member's partnership interest in the new partnership shall be deemed to be a continuation of the member's partnership interest in the predecessor partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 98; 1994, c. 7, Sch. II, s. 73, Sch. VIII, s. 41; 1995, c. 3, s. 26; 2001, c. 17, s. 75; 2013, c. 34, s. 122; 2016, c. 12, s. 34.

Nouvelle société de personnes continuant une société de personnes remplacée

(6) Lorsqu'une société de personnes canadienne (appelée « société de personnes remplacée » au présent paragraphe) a cessé d'exister à un moment donné après 1971, et que, à ce moment ou avant ce moment, tous les biens de la société de personnes remplacée ont été cédés à une autre société de personnes canadienne (appelée « nouvelle société de personnes » au présent paragraphe), composée uniquement des associés de la société de personnes remplacée, la nouvelle société de personnes est réputée être la continuation de la société de personnes remplacée et la participation de tout associé dans la nouvelle société de personnes est réputée être la continuation de sa participation dans la société de personnes remplacée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 98; 1994, ch. 7, ann. II, art. 73, ann. VIII, art. 41; 1995, ch. 3, art. 26; 2001, ch. 17, art. 75; 2013, ch. 34, art. 122; 2016, ch. 12, art. 34.

Residual interest in partnership

98.1 (1) Where, but for this subsection, at any time after 1971 a taxpayer has ceased to be a member of a partnership of which the taxpayer was a member immediately before that time, the following rules apply:

(a) until such time as all the taxpayer's rights (other than a right to a share of the income or loss of the partnership under an agreement referred to in subsection 96(1.1)) to receive any property of or from the partnership in satisfaction of the taxpayer's interest in the partnership immediately before the time at which the taxpayer ceased to be a member of the partnership are satisfied in full, that interest (in this section referred to as a "residual interest") is, subject to sections 70, 110.6 and 128.1 but notwithstanding any other section of this Act, deemed not to have been disposed of by the taxpayer and to continue to be an interest in the partnership;

(b) where all of the taxpayer's rights described in paragraph 98.1(1)(a) are satisfied in full before the end of the fiscal period of the partnership in which the taxpayer ceased to be a member thereof, the taxpayer shall, notwithstanding paragraph 98.1(1)(a), be

Participation résiduelle dans la société de personnes

98.1 (1) Lorsque, sans le présent paragraphe, un contribuable a, à un moment donné après 1971, cessé d'être un associé d'une société de personnes dont il était un associé immédiatement avant ce moment, les règles suivantes s'appliquent :

a) jusqu'au règlement complet des droits du contribuable (sauf le droit à une part du revenu ou de la perte de la société de personnes résultant d'une convention visée au paragraphe 96(1.1)) de recevoir des biens appartenant à la société de personnes, ou en provenant, en contrepartie de sa participation dans la société de personnes immédiatement avant le moment où il a cessé d'en être un associé, cette participation (appelée « participation résiduelle » au présent article) est réputée, sous réserve des articles 70, 110.6 et 128.1 mais malgré les autres articles de la présente loi, ne pas avoir fait l'objet d'une disposition par le contribuable et demeurer une participation dans la société de personnes;

b) lorsque tous les droits du contribuable visés à l'alinéa a) sont complètement réglés avant la fin de l'exercice de la société de personnes au cours duquel il a

deemed not to have disposed of the taxpayer's residual interest until the end of that fiscal period;

(c) notwithstanding subsection 40(3), where at the end of a fiscal period of the partnership, in respect of a residual interest in the partnership,

(i) the total of all amounts required by subsection 53(2) to be deducted in computing the adjusted cost base to the taxpayer of the residual interest at that time

exceeds

(ii) the total of the cost to the taxpayer of the residual interest determined for the purpose of computing the adjusted cost base to the taxpayer of that interest at that time and all amounts required by subsection 53(1) to be added to the cost to the taxpayer of the residual interest in computing the adjusted cost base to the taxpayer of that interest at that time

the amount of the excess shall be deemed to be a gain of the taxpayer, for the taxpayer's taxation year that includes that time, from a disposition at that time of that residual interest; and

(d) where a taxpayer has a residual interest

(i) by reason of paragraph (b), the taxpayer shall, except for the purposes of subsections 110.1(4) and 118.1(8), be deemed not to be a member of the partnership, and

(ii) in any other case, the taxpayer shall, except for the purposes of subsection 85(3), be deemed not to be a member of the partnership.

c) malgré le paragraphe 40(3), lorsque, à la fin d'un exercice de la société de personnes, relativement à une participation résiduelle dans la société de personnes :

(i) le total des montants dont le paragraphe 53(2) exige la déduction dans le calcul du prix de base rajusté pour le contribuable à ce moment de la participation résiduelle,

excède :

(ii) le total du coût, pour lui, de la participation résiduelle déterminé pour le calcul du prix de base rajusté de cette participation pour lui, à ce moment, et des montants dont le paragraphe 53(1) exige l'addition au coût, pour lui, de la participation résiduelle dans le calcul du prix de base rajusté de cette participation pour lui, à ce moment,

l'excédent est réputé être un gain du contribuable pour son année d'imposition qui comprend ce moment, tiré de la disposition à ce moment de cette participation résiduelle;

d) lorsqu'un contribuable détient une participation résiduelle :

(i) par l'effet de l'alinéa b), il est, sauf pour l'application des paragraphes 110.1(4) et 118.1(8), réputé ne pas être un associé de la société de personnes,

(ii) dans les autres cas, il est, sauf pour l'application du paragraphe 85(3), réputé ne pas être un associé de la société de personnes.

Continuation of original partnership

(2) Where a partnership (in this subsection referred to as the "original partnership") has or would but for subsection 98(1) have ceased to exist at a time when a taxpayer had rights described in paragraph 98.1(1)(a) in respect of that partnership and the members of another partnership agree to satisfy all or part of those rights, that other partnership shall, for the purposes of that paragraph, be deemed to be a continuation of the original partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 98.1; 1994, c. 7, Sch. II, s. 74, c. 21, s. 45; 1995, c. 3, s. 27; 1998, c. 19, s. 125; 2006, c. 9, s. 63.

Continuation d'une première société de personnes

(2) Lorsqu'une société de personnes (appelée la « première société de personnes » au présent paragraphe) a ou aurait, sans le paragraphe 98(1), cessé d'exister à un moment où un contribuable avait des droits visés à l'alinéa (1)a) relativement à cette société de personnes et que les associés d'une autre société de personnes sont convenus de régler tout ou partie de ces droits, cette autre société de personnes est réputée, pour l'application de cet alinéa, être la continuation de la première société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 98.1; 1994, ch. 7, ann. II, art. 74, ch. 21, art. 45; 1995, ch. 3, art. 27; 1998, ch. 19, art. 125; 2006, ch. 9, art. 63.

Transfer of interest on death

98.2 Where by virtue of the death of an individual a taxpayer has acquired a property that was an interest in a

Transfert d'une participation en cas de décès

98.2 Lorsque, par suite du décès d'un particulier, un contribuable a acquis un bien constituant une

partnership to which, immediately before the individual's death, section 98.1 applied,

(a) the taxpayer shall be deemed to have acquired a right to receive partnership property and not to have acquired an interest in a partnership;

(b) the taxpayer shall be deemed to have acquired the right referred to in paragraph 98.2(a) at a cost equal to the amount determined to be the proceeds of disposition of the interest in the partnership to the deceased individual by virtue of paragraph 70(5)(a) or (6)(d), as the case may be; and

(c) section 43 is not applicable to the right.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1974-75-76, c. 26, s. 63.

participation dans une société de personnes à laquelle, immédiatement avant le décès du particulier, l'article 98.1 s'appliquait :

a) le contribuable est réputé avoir acquis un droit de recevoir un bien de la société de personnes et non avoir acquis une participation dans la société de personnes;

b) le contribuable est réputé avoir acquis le droit visé à l'alinéa a) à un coût égal au montant réputé, en vertu de l'alinéa 70(5)a) ou (6)d), être le produit de disposition de la participation dans la société de personnes en faveur du particulier décédé;

c) l'article 43 ne s'applique pas à ce droit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1974-75-76, ch. 26, art. 63.

Fiscal period of terminated partnership

99 (1) Subject to subsection (2), if, at any particular time in a fiscal period of a partnership, the partnership would, if this Act were read without reference to subsection 98(1), have ceased to exist, the fiscal period is deemed to have ended immediately before the time that is immediately before that particular time.

Fiscal period of terminated partnership for individual member

(2) Where an individual was a member of a partnership that, at any time in a fiscal period of a partnership, has or would have, but for subsection 98(1), ceased to exist, for the purposes of computing the individual's income for a taxation year the partnership's fiscal period may, if the individual so elects and subsection 249.1(4) does not apply in respect of the partnership, be deemed to have ended immediately before the time when the fiscal period of the partnership would have ended if the partnership had not so ceased to exist.

Validity of election

(3) An election under subsection 99(2) is not valid unless the individual was resident in Canada at the time when the fiscal period of the partnership would, if the election were valid, be deemed to have ended.

Idem

(4) An election under subsection 99(2) is not valid if, for the individual's taxation year in which a fiscal period of the partnership would not, if the election were valid, be deemed to have ended but in which it would otherwise have ended, the individual elects to have applicable the rules set out in the *Income Tax Application Rules* that

Exercice d'une société de personnes ayant cessé d'exister

99 (1) Sous réserve du paragraphe (2), dans le cas où une société de personnes aurait cessé d'exister à un moment donné de son exercice si la présente loi s'appliquait compte non tenu du paragraphe 98(1), l'exercice est réputé avoir pris fin immédiatement avant le moment immédiatement avant le moment donné.

Exercice d'une société de personnes ayant cessé d'exister

(2) Lorsqu'un particulier était un associé d'une société de personnes qui, au cours de l'exercice de celle-ci, a cessé d'exister ou aurait cessé d'exister n'eût été le paragraphe 98(1), pour le calcul du revenu du particulier pour une année d'imposition, l'exercice de la société de personnes peut, si le particulier en fait le choix et que le paragraphe 249.1(4) ne s'applique pas relativement à la société de personnes, être réputé avoir pris fin immédiatement avant le moment où il aurait pris fin si la société de personnes n'avait pas ainsi cessé d'exister.

Validité du choix

(3) Le choix fait en vertu du paragraphe (2) n'est pas valide si le particulier ne résidait pas au Canada au moment où l'exercice de la société de personnes serait, si le choix était valide, réputé s'être terminé.

Idem

(4) Le choix fait en vertu du paragraphe (2) n'est pas valide si, pour l'année d'imposition du particulier au cours de laquelle un exercice de la société de personnes ne serait pas réputé, si le choix était valide, s'être terminé, mais pendant laquelle il se serait par ailleurs terminé, le particulier opte pour l'application de celles parmi les *Règles concernant l'application de l'impôt sur le revenu*

apply when two or more fiscal periods of a partnership end in the same taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 99; 1996, c. 21, s. 17.1; 2013, c. 34, s. 229.

qui s'appliquent lorsque plusieurs exercices d'une société de personnes se terminent au cours de la même année d'imposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 99; 1996, ch. 21, art. 17.1; 2013, ch. 34, art. 229.

Disposition of interest in partnership

100 (1) If, as part of a transaction or event or series of transactions or events, a taxpayer disposes of an interest in a partnership and an interest in the partnership is acquired by a person or partnership described in any of paragraphs (1.1)(a) to (d), then notwithstanding paragraph 38(a), the taxpayer's taxable capital gain for a taxation year from the disposition of the interest is deemed to be the total of

(a) 1/2 of such portion of the taxpayer's capital gain for the year from the disposition as may reasonably be regarded as attributable to increases in the value of any partnership property of the partnership that is capital property other than depreciable property held directly by the partnership or held indirectly by the partnership through one or more other partnerships, and

(b) the whole of the remaining portion of that capital gain.

Disposition d'une participation dans une société de personnes

100 (1) Si un contribuable dispose d'une participation dans une société de personnes dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements et qu'une participation dans la société de personnes est acquise par une personne ou une société de personnes visée à l'un des alinéas (1.1)a) à d), le gain en capital imposable du contribuable pour une année d'imposition provenant de la disposition de la participation est réputé correspondre, malgré l'alinéa 38a), au total des sommes suivantes :

a) la moitié de la partie du gain en capital du contribuable pour l'année provenant de la disposition qu'il est raisonnable de considérer comme étant attribuable à l'augmentation de la valeur de tout bien de la société de personnes qui est une immobilisation autre qu'un bien amortissable qu'elle détient soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes;

b) la totalité de la partie restante de ce gain en capital.

Acquisition by certain persons or partnerships

(1.1) Subject to subsection (1.2), subsection (1) applies in respect of a disposition of a partnership interest by a taxpayer if the interest is acquired by

(a) a person exempt from tax under section 149;

(b) a non-resident person;

(c) another partnership to the extent that the interest can reasonably be considered to be held, at the time of its acquisition by the other partnership, indirectly through one or more partnerships, by a person that is

(i) exempt from tax under section 149,

(ii) a non-resident, or

(iii) a trust resident in Canada (other than a mutual fund trust) if

(A) an interest as a beneficiary (in this subsection and subsection (1.2) having the meaning assigned by subsection 108(1)) under the trust is held, directly or indirectly through one or more

Acquisition par certaines personnes ou sociétés de personnes

(1.1) Sous réserve du paragraphe (1.2), le paragraphe (1) s'applique relativement à la disposition d'une participation dans une société de personnes si la participation est acquise :

a) par une personne exonérée d'impôt en vertu de l'article 149;

b) par une personne non-résidente;

c) par une autre société de personnes, dans la mesure où il est raisonnable de considérer que la participation est détenue, au moment de son acquisition par l'autre société de personnes, indirectement par l'intermédiaire d'une ou de plusieurs sociétés de personnes, par une personne qui est, selon le cas :

(i) exonérée d'impôt en vertu de l'article 149,

(ii) un non-résident,

(iii) une fiducie résidant au Canada (sauf une fiducie de fonds commun de placement) si, à la fois :

other partnerships, by a person that is exempt from tax under section 149 or that is a trust (other than a mutual fund trust), and

(B) the total fair market value of the interests as beneficiaries under the trust held by persons referred to in clause (A) exceeds 10% of the fair market value of all the interests as beneficiaries under the trust; or

(d) a trust resident in Canada (other than a mutual fund trust) to the extent that the trust can reasonably be considered to have a beneficiary that is

(i) exempt from tax under section 149,

(ii) a partnership, if

(A) an interest in the partnership is held, whether directly or indirectly through one or more other partnerships, by one or more persons that are exempt from tax under section 149 or are trusts (other than mutual fund trusts), and

(B) the total fair market value of the interests held by persons referred to in clause (A) exceeds 10% of the fair market value of all the interests in the partnership, or

(iii) another trust (other than a mutual fund trust), if

(A) one or more beneficiaries under the other trust are a person exempt from tax under section 149, a partnership or a trust (other than a mutual fund trust), and

(B) the total fair market value of the interests as beneficiaries under the other trust held by the beneficiaries referred to in clause (A) exceeds 10% of the fair market value of all the interests as beneficiaries under the other trust.

(A) une participation à titre de bénéficiaire (ce terme s'entendant, au présent paragraphe et au paragraphe (1.2), au sens du paragraphe 108(1)) de la fiducie est détenue soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes par une personne qui est exonérée d'impôt en vertu de l'article 149 ou qui est une fiducie (sauf une fiducie de fonds commun de placement),

(B) la juste valeur marchande totale des participations à titre de bénéficiaire de la fiducie détenues par des personnes visées à la division (A) excède 10 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire de la fiducie;

d) par une fiducie résidant au Canada (sauf une fiducie de fonds commun de placement), dans la mesure où il est raisonnable de considérer que l'un des bénéficiaires de la fiducie est, selon le cas :

(i) exonéré d'impôt en vertu de l'article 149,

(ii) une société de personnes si, à la fois :

(A) une participation dans la société de personnes est détenue soit directement, soit indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes par une ou plusieurs personnes qui sont exonérées d'impôt en vertu de l'article 149 ou qui sont des fiducies (sauf des fiducies de fonds commun de placement),

(B) la juste valeur marchande totale des participations détenues par des personnes visées à la division (A) excède 10 % de la juste valeur marchande de l'ensemble des participations dans la société de personnes,

(iii) soit une autre fiducie (sauf une fiducie de fonds commun de placement) si, à la fois :

(A) un ou plusieurs bénéficiaires de l'autre fiducie sont des personnes exonérées d'impôt en vertu de l'article 149, des sociétés de personnes ou des fiducies (sauf des fiducies de fonds communs de placement),

(B) la juste valeur marchande totale des participations à titre de bénéficiaire de l'autre fiducie détenues par les bénéficiaires visés à la division (A) excède 10 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire de l'autre fiducie.

De minimis

(1.2) Subsection (1) does not apply to a taxpayer's disposition of a partnership interest to a partnership or trust described in paragraph (1.1)(c) or (d) — other than a trust under which the amount of the income or capital to be distributed at any time in respect of any interest as a beneficiary under the trust depends on the exercise by any person or partnership of, or the failure by any person or partnership to exercise, any discretionary power — if the extent to which subsection (1) would, but for this subsection, apply to the taxpayer's disposition of the interest because of subsection (1.1) does not exceed 10% of the taxpayer's interest.

Exception — non-resident person

(1.3) Subsection (1) does not apply in respect of a disposition of an interest in a partnership by a taxpayer to a person referred to in paragraph (1.1)(b) if

(a) property of the partnership is used, immediately before and immediately after the acquisition of the interest by the non-resident person, in carrying on business through one or more permanent establishments in Canada; and

(b) the total fair market value of the property referred to in paragraph (a) equals at least 90% of the total fair market value of all property of the partnership.

Anti-avoidance — dilution

(1.4) Subsection (1.5) applies in respect of a taxpayer's interest in a partnership if

(a) it is reasonable to conclude that one of the purposes of a dilution, reduction or alteration of the interest was to avoid the application of subsection (1) in respect of the interest; and

(b) as part of a transaction or event or series of transactions or events that includes the dilution, reduction or alteration, there is

(i) an acquisition of an interest in the partnership by a person or partnership described in any of paragraphs (1.1)(a) to (d), or

(ii) an increase in, or alteration of, an interest in the partnership held by a person or partnership described in any of paragraphs (1.1)(a) to (d).

Seuil minimum

(1.2) Le paragraphe (1) ne s'applique pas à la disposition d'une participation dans une société de personnes effectuée par un contribuable en faveur d'une société de personnes ou d'une fiducie visée aux alinéas (1.1)c) ou d) — sauf une fiducie dans le cadre de laquelle le montant de revenu ou de capital à distribuer à un moment donné relativement à une participation à titre de bénéficiaire de la fiducie est fonction de l'exercice ou de l'absence d'exercice, par une personne ou une société de personnes, d'un pouvoir discrétionnaire — si la mesure dans laquelle le paragraphe (1) s'appliquerait, en l'absence du présent paragraphe, à la disposition de la participation par le contribuable par l'effet du paragraphe (1.1) n'excède pas 10 % de la participation du contribuable.

Exception — personne non-résidente

(1.3) Le paragraphe (1) ne s'applique pas relativement à la disposition d'une participation dans une société de personnes effectuée par un contribuable en faveur d'une personne visée à l'alinéa (1.1)b) si, à la fois :

a) immédiatement avant l'acquisition de la participation par la personne non-résidente et immédiatement après cette acquisition, des biens de la société de personnes sont utilisés dans le cadre de l'exploitation d'une entreprise par l'intermédiaire d'un ou de plusieurs établissements stables au Canada;

b) la juste valeur marchande totale des biens visés à l'alinéa a) correspond à au moins 90 % de la juste valeur marchande de l'ensemble des biens de la société de personnes.

Anti-évitement — dilution

(1.4) Le paragraphe (1.5) s'applique relativement à la participation d'un contribuable dans une société de personnes si, à la fois :

a) il est raisonnable de conclure que toute dilution, réduction ou modification de la participation a notamment pour objet de soustraire la participation à l'application du paragraphe (1);

b) une opération, un événement ou une série d'opérations ou d'événements qui comprend la dilution, la réduction ou la modification comporte :

(i) soit l'acquisition d'une participation dans la société de personnes par une personne ou une société de personnes visée à l'un des alinéas (1.1)a) à d),

(ii) soit l'augmentation ou la modification d'une participation dans la société de personnes détenue

par une personne ou une société de personnes visée à l'un de ces alinéas.

Deemed gain — dilution

(1.5) If this subsection applies in respect of a particular interest in a partnership of a taxpayer, then for the purposes of subsection (1),

(a) the taxpayer is deemed to have disposed of an interest in the partnership at the time of the dilution, reduction or alteration;

(b) the taxpayer is deemed to have a capital gain from the disposition equal to the amount by which the fair market value of the particular interest immediately before the dilution, reduction or alteration exceeds its fair market value immediately thereafter; and

(c) the person or partnership referred to in paragraph (1.4)(b) is deemed to have acquired an interest in the partnership as part of the transaction or event or series of transactions or events that includes the disposition referred to in paragraph (a).

Gain réputé — dilution

(1.5) En cas d'application du présent paragraphe relativement à une participation donnée d'un contribuable dans une société de personnes, les règles ci-après s'appliquent au paragraphe (1) :

a) le contribuable est réputé avoir disposé d'une participation dans la société de personnes au moment de la dilution, de la réduction ou de la modification;

b) le contribuable est réputé tirer de la disposition un gain en capital égal à l'excédent de la juste valeur marchande de la participation donnée immédiatement avant la dilution, la réduction ou la modification sur sa juste valeur marchande immédiatement après celles-ci;

c) la personne ou la société de personnes visée à l'alinéa (1.4)b) est réputée avoir acquis une participation dans la société de personnes dans le cadre de l'opération, de l'événement ou de la série d'opérations ou d'événements qui comprend la disposition visée à l'alinéa a).

Gain from disposition of interest in partnership

(2) In computing a taxpayer's gain for a taxation year from the disposition of an interest in a partnership, there shall be included, in addition to the amount thereof determined under subsection 40(1), the amount, if any, by which

(a) the total of all amounts required by subsection 53(2) to be deducted in computing the adjusted cost base to the taxpayer, immediately before the disposition, of the interest in the partnership,

exceeds

(b) the total of

(i) the cost to the taxpayer of the interest in the partnership determined for the purpose of computing the adjusted cost base to the taxpayer of that interest at that time, and

(ii) all amounts required by subsection 53(1) to be added to the cost to the taxpayer of that interest in computing the adjusted cost base to the taxpayer of that interest at that time.

Gain tiré de la disposition d'une participation dans une société de personnes

(2) Dans le calcul du gain d'un contribuable, pour une année d'imposition, tiré de la disposition d'une participation dans une société de personnes, il doit être inclus, en plus du montant de ce gain, déterminé en vertu du paragraphe 40(1), l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des sommes déductibles en vertu du paragraphe 53(2) dans le calcul du prix de base rajusté, pour le contribuable, de sa participation dans cette société de personnes, immédiatement avant la disposition;

b) le total des montants suivants :

(i) le coût de sa participation, supporté par le contribuable, déterminé pour le calcul du prix de base rajusté, pour le contribuable, de sa participation à ce moment,

(ii) les sommes qui, aux termes du paragraphe 53(1), doivent dans le calcul du prix de base rajusté, pour le contribuable, de sa participation à ce moment, être ajoutées au coût, pour lui, de sa participation.

Idem

(2.1) Where, as a result of an amalgamation or merger, an interest in a partnership owned by a predecessor corporation has become property of the new corporation formed as a result of the amalgamation or merger and the predecessor corporation was not related to the new corporation, the predecessor corporation shall be deemed to have disposed of the interest in the partnership to the new corporation immediately before the amalgamation or merger for proceeds of disposition equal to the adjusted cost base to the predecessor corporation of the interest in the partnership at the time of the disposition and the new corporation shall be deemed to have acquired the interest in the partnership from the predecessor corporation immediately after that time at a cost equal to the proceeds of disposition.

Disposition d'une participation dans une société de personnes suite à une fusion

(2.1) Dans le cas où, par suite d'une fusion ou d'une unification, la participation dans une société de personnes d'une société remplacée devient un bien de la nouvelle société qui est issue de la fusion ou de l'unification et à laquelle la société remplacée n'était pas liée, la société remplacée est réputée avoir disposé de cette participation en faveur de la nouvelle société immédiatement avant la fusion ou l'unification pour un produit de disposition égal au prix de base rajusté de la participation pour la société remplacée au moment de la disposition et la nouvelle société est réputée l'avoir acquise auprès de la société remplacée immédiatement après ce moment à un coût égal à ce produit de disposition.

Transfer of interest on death

(3) Where by virtue of the death of an individual a taxpayer has acquired a property that was an interest in a partnership immediately before the individual's death (other than an interest to which, immediately before the individual's death, section 98.1 applied) and the taxpayer is not a member of the partnership and does not become a member of the partnership by reason of that acquisition,

(a) the taxpayer shall be deemed to have acquired a right to receive partnership property and not to have acquired an interest in a partnership;

(b) the taxpayer shall be deemed to have acquired the right referred to in paragraph 100(3)(a) at a cost equal to the amount determined to be the proceeds of disposition of the interest in the partnership to the deceased individual by virtue of paragraph 70(5)(a) or 70(6)(d), as the case may be; and

(c) section 43 is not applicable to the right.

Transfert d'une participation en cas de décès

(3) Lorsque, par suite du décès d'un particulier, un contribuable a acquis un bien constituant une participation dans une société de personnes immédiatement avant le décès du particulier (autre qu'une participation à laquelle, immédiatement avant le décès du particulier, l'article 98.1 s'appliquait) et que le contribuable n'est pas un associé de cette société de personnes et qu'il ne devient pas un associé de cette société de personnes par suite de cette acquisition :

a) le contribuable est réputé avoir acquis un droit de recevoir un bien de la société de personnes et non avoir acquis une participation dans la société de personnes;

b) le contribuable est réputé avoir acquis le droit visé à l'alinéa a) à un coût égal au montant réputé, en vertu de l'alinéa 70(5)a) ou (6)d), être le produit de disposition de la participation dans la société de personnes en faveur du particulier décédé;

c) l'article 43 ne s'applique pas à ce droit.

Loss re interest in partnership

(4) Notwithstanding paragraph 39(1)(b), the capital loss of a taxpayer from the disposition at any time of an interest in a partnership is deemed to be the amount of the loss otherwise determined minus the total of all amounts each of which is the amount by which the taxpayer's share of the partnership's loss, in respect of a share of the capital stock of a corporation that was property of a particular partnership at that time, would have been reduced under subsection 112(3.1) if the fiscal period of every partnership that includes that time had ended immediately before that time and the particular partnership had

Perte relative à une participation dans une société de personnes

(4) Malgré l'alinéa 39(1)b), la perte en capital qu'un contribuable subit lors de la disposition d'une participation dans une société de personnes est réputée égale à la perte déterminée par ailleurs moins le total des montants représentant chacun le montant qui aurait été appliqué, par l'effet du paragraphe 112(3.1), en réduction de la part qui revient au contribuable de la perte de la société de personnes, relativement à une action du capital-actions d'une société qui était un bien d'une société de personnes donnée au moment de la disposition, si l'exercice de chaque société de personnes qui comprend ce moment

disposed of the share immediately before the end of that fiscal period for proceeds equal to its fair market value at that time.

Replacement of partnership capital

(5) A taxpayer who pays an amount at any time in a taxation year is deemed to have a capital loss from a disposition of property for the year if

(a) the taxpayer disposed of an interest in a partnership before that time or, because of subsection (3), acquired before that time a right to receive property of a partnership;

(b) that time is after the disposition or acquisition, as the case may be;

(c) the amount would have been described in subparagraph 53(1)(e)(iv) had the taxpayer been a member of the partnership at that time; and

(d) the amount is paid pursuant to a legal obligation of the taxpayer to pay the amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 100; 1998, c. 19, s. 126; 2001, c. 17, s. 76; 2012, c. 31, s. 22; 2013, c. 34, s. 230.

Disposition of farmland by partnership

101 Where a taxpayer was a member of a partnership at the end of a taxation year of the partnership in which the partnership disposed of land used in a farming business of the partnership, there may be deducted in computing the taxpayer's income for the taxpayer's taxation year in which the taxation year of the partnership ended, 1/2 of the total of all amounts each of which is an amount in respect of that taxation year of the taxpayer or any preceding taxation year of the taxpayer ending after 1971, equal to the taxpayer's loss, if any, for the year from the farming business, to the extent that the loss

(a) was, by virtue of section 31, not deductible in computing the taxpayer's income for the year;

(b) was not deducted for the purpose of computing the taxpayer's taxable income for the taxpayer's taxation year in which the partnership's taxation year in which the land was disposed of ended, or for any preceding taxation year of the taxpayer;

(c) did not exceed that proportion of the total of

(i) taxes (other than income or profits taxes or taxes imposed by reference to the transfer of the property) paid by the partnership in its taxation year

s'était terminé immédiatement avant ce moment et si la société de personnes donnée avait disposé de l'action immédiatement avant la fin de cet exercice pour un produit égal à sa juste valeur marchande à ce moment.

Remplacement du capital d'une société de personnes

(5) Le contribuable qui verse une somme au cours d'une année d'imposition est réputé subir une perte en capital résultant de la disposition d'un bien pour l'année dans le cas où, à la fois :

a) il a disposé d'une participation dans une société de personnes avant le moment du versement ou a acquis avant ce moment, par l'effet du paragraphe (3), un droit de recevoir un bien d'une société de personnes;

b) la somme est versée après la disposition ou l'acquisition, selon le cas;

c) la somme aurait été visée au sous-alinéa 53(1)e)(iv) si le contribuable avait été un associé de la société de personnes au moment du versement;

d) la somme est versée en exécution de l'obligation légale du contribuable de la verser.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 100; 1998, ch. 19, art. 126; 2001, ch. 17, art. 76; 2012, ch. 31, art. 22; 2013, ch. 34, art. 230.

Disposition d'un fonds de terre utilisé dans une exploitation agricole d'une société de personnes

101 Lorsque, à la fin d'une année d'imposition d'une société de personnes, un contribuable en est un associé et qu'au cours de cette année la société de personnes dispose d'un fonds de terre utilisé dans une exploitation agricole de la société de personnes, la moitié du total des montants dont chacun représente la perte du contribuable résultant de l'exploitation agricole pour l'année d'imposition du contribuable au cours de laquelle l'année d'imposition de la société de personnes se termine ou pour une année d'imposition antérieure du contribuable se terminant après 1971 sont déductibles dans le calcul du revenu du contribuable pour l'année d'imposition de celui-ci au cours de laquelle l'année d'imposition de la société de personnes se termine dans la mesure où cette perte, à la fois :

a) n'était pas, en raison de l'article 31, déductible dans le calcul du revenu du contribuable pour l'année;

b) n'a pas été déduite dans le calcul du revenu imposable du contribuable pour son année d'imposition au cours de laquelle s'est terminée l'année d'imposition de la société de personnes au cours de laquelle il a été disposé du fonds de terre, ou pour toute année d'imposition antérieure du contribuable;

ending in the year or payable by it in respect of that taxation year to a province or a Canadian municipality in respect of the property, and

(ii) interest paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

(to the extent that the taxes and interest were included in computing the loss of the partnership for that taxation year from the farming business), that

(iii) the taxpayer's loss from the farming business for the year

is of

(iv) the partnership's loss from the farming business for its taxation year ending in the year; and

(d) did not exceed the remainder obtained when

(i) the total of each of the taxpayer's losses from the farming business for taxation years preceding the year (to the extent that those losses are included in computing the amount determined under this section in respect of the taxpayer)

is deducted from

(ii) twice the amount of the taxpayer's taxable capital gain from the disposition of the land.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 101; 2001, c. 17, s. 77.

c) n'a pas dépassé la fraction du total des montants suivants :

(i) les impôts (autres que les impôts sur le revenu ou sur les bénéfices ou les impôts établis relativement au transfert du bien) payés par la société de personnes, au cours de son année d'imposition se terminant au cours de l'année, ou qu'elle doit payer pour cette année d'imposition, à une province ou à une municipalité canadienne relativement à ce bien,

(ii) les intérêts payés par la société de personnes, au cours de son année d'imposition se terminant au cours de l'année, ou qu'elle doit payer pour cette année d'imposition, conformément à une obligation légale de payer des intérêts sur l'argent emprunté utilisé pour l'acquisition du bien ou sur toute somme, à titre de contrepartie, payable pour ce bien,

(dans la mesure où ces impôts et intérêts ont été inclus dans le calcul de la perte subie par la société de personnes pour cette année d'imposition, résultant de l'exploitation agricole) représentée par le rapport entre :

(iii) d'une part, la perte subie par le contribuable, pour l'année, résultant de l'exploitation agricole,

(iv) d'autre part, la perte subie par la société de personnes, pour son année d'imposition se terminant au cours de l'année, et résultant de l'exploitation agricole;

d) n'a pas dépassé le reste obtenu lorsque :

(i) le total de chacune des pertes subies par le contribuable, du fait de l'exploitation agricole, pour les années d'imposition précédant l'année (dans la mesure où ces pertes sont incluses dans le calcul de la somme déterminée en vertu du présent article à l'égard du contribuable),

est déduit :

(ii) du double du gain en capital imposable du contribuable, tiré de la disposition du fonds de terre.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 101; 2001, ch. 17, art. 77.

Definition of *Canadian partnership*

102 (1) In this subdivision, ***Canadian partnership*** means a partnership all of the members of which were, at

Définition de *société de personnes canadienne*

102 (1) Pour l'application de la présente sous-section, une société de personnes canadienne est une société de

any time in respect of which the expression is relevant, resident in Canada.

Member of a partnership

(2) In this subdivision, a reference to a person or a taxpayer who is a member of a particular partnership shall include a reference to another partnership that is a member of the particular partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"102"; 1986, c. 55, s. 27.

Agreement to share income, etc., so as to reduce or postpone tax otherwise payable

103 (1) Where the members of a partnership have agreed to share, in a specified proportion, any income or loss of the partnership from any source or from sources in a particular place, as the case may be, or any other amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of any of the members thereof, and the principal reason for the agreement may reasonably be considered to be the reduction or postponement of the tax that might otherwise have been or become payable under this Act, the share of each member of the partnership in the income or loss, as the case may be, or in that other amount, is the amount that is reasonable having regard to all the circumstances including the proportions in which the members have agreed to share profits and losses of the partnership from other sources or from sources in other places.

Agreement to share income, etc., in unreasonable proportions

(1.1) Where two or more members of a partnership who are not dealing with each other at arm's length agree to share any income or loss of the partnership or any other amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of those members and the share of any such member of that income, loss or other amount is not reasonable in the circumstances having regard to the capital invested in or work performed for the partnership by the members thereof or such other factors as may be relevant, that share shall, notwithstanding any agreement, be deemed to be the amount that is reasonable in the circumstances.

Definition of *losses*

(2) For the purposes of this section, the word ***losses*** when used in the expression "profits and losses" means

personnes dont tous les associés résident au Canada au moment considéré.

Associé d'une société de personnes

(2) Pour l'application de la présente sous-section, la mention d'une personne ou d'un contribuable qui est un associé d'une société de personnes vaut également mention d'une société de personnes qui fait partie de la société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 102 »; 1986, ch. 55, art. 27.

Entente au sujet du partage des revenus, etc. visant à réduire l'impôt ou en différer le paiement

103 (1) Lorsque les associés d'une société de personnes sont convenus de partager en proportions déterminées tout revenu ou perte de la société de personnes provenant d'une source donnée ou de sources situées dans un endroit déterminé ou tout autre montant qui se rapporte à une activité quelconque de la société de personnes et qui doit entrer en ligne de compte dans le calcul du revenu ou du revenu imposable de tout associé de cette société de personnes et lorsqu'il est raisonnable de considérer que cette convention a pour objet principal de réduire les impôts ou de différer le paiement des impôts qui auraient pu être ou devenir payables par ailleurs en vertu de la présente loi, la part du revenu ou de la perte, selon le cas, ou de l'autre montant, revenant à chaque associé de la société de personnes est le montant qui est raisonnable, compte tenu des circonstances, y compris les proportions dans lesquelles les associés sont convenus de partager les profits et les pertes de la société de personnes provenant d'autres sources ou de sources situées à d'autres endroits.

Entente au sujet des revenus, etc. en proportions déraisonnables

(1.1) Lorsque plusieurs associés d'une société de personnes qui ont, entre eux, un lien de dépendance conviennent de partager tout revenu ou toute perte de la société de personnes, ou tout autre montant qui se rapporte à une activité quelconque de la société de personnes, et qui doit entrer en ligne de compte dans le calcul du revenu ou du revenu imposable de ces associés et que la part du revenu, de la perte ou de cet autre montant revenant à l'un de ces associés n'est pas raisonnable dans les circonstances, compte tenu du capital qu'il a investi dans la société de personnes ou du travail qu'il a accompli pour elle ou de tout autre facteur pertinent, cette part est réputée, indépendamment de toute convention, être le montant qui est raisonnable dans les circonstances.

Définition de *pertes*

(2) Pour l'application du présent article, le mot ***pertes*** dans l'expression « profits et pertes » s'entend du

losses determined without reference to other provisions of this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"103"; 1980-81-82-83, c. 48, s. 53.

montant des pertes calculé compte non tenu des autres dispositions de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 103 »; 1980-81-82-83, ch. 48, art. 53.

SUBDIVISION K

Trusts and their Beneficiaries

Reference to trust or estate

104 (1) In this Act, a reference to a trust or estate (in this subdivision referred to as a "trust") shall, unless the context otherwise requires, be read to include a reference to the trustee, executor, administrator, liquidator of a succession, heir or other legal representative having ownership or control of the trust property, but, except for the purposes of this subsection, subsection (1.1), subparagraph (b)(v) of the definition ***disposition*** in subsection 248(1) and paragraph (k) of that definition, a trust is deemed not to include an arrangement under which the trust can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property unless the trust is described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1).

Restricted meaning of *beneficiary*

(1.1) Notwithstanding subsection 248(25), for the purposes of subsection (1), paragraph (4)(a.4), subparagraph 73(1.02)(b)(ii) and paragraph 107.4(1)(e), a person or partnership is deemed not to be a beneficiary under a trust at a particular time if the person or partnership is beneficially interested in the trust at the particular time solely because of

(a) a right that may arise as a consequence of the terms of the will or other testamentary instrument of an individual who, at the particular time, is a beneficiary under the trust;

(b) a right that may arise as a consequence of the law governing the intestacy of an individual who, at that time, is a beneficiary under the trust;

(c) a right as a shareholder under the terms of the shares of the capital stock of a corporation that, at the particular time, is a beneficiary under the trust;

(d) a right as a member of a partnership under the terms of the partnership agreement, where, at the particular time, the partnership is a beneficiary under the trust; or

SOUS-SECTION K

Les fiducies et leurs bénéficiaires

Fiducie ou succession

104 (1) Dans la présente loi, la mention d'une fiducie ou d'une succession (appelées « fiducie » à la présente sous-section) vaut également mention, sauf indication contraire du contexte, du fiduciaire, de l'exécuteur testamentaire, de l'administrateur successoral, du liquidateur de succession, de l'héritier ou d'un autre représentant légal ayant la propriété ou le contrôle des biens de la fiducie. Toutefois, sauf pour l'application du présent paragraphe, du paragraphe (1.1), du sous-alinéa b)(v) de la définition de ***disposition*** au paragraphe 248(1) et de l'alinéa k) de cette définition, l'arrangement dans le cadre duquel il est raisonnable de considérer qu'une fiducie agit en qualité de mandataire de l'ensemble de ses bénéficiaires pour ce qui est des opérations portant sur ses biens est réputé ne pas être une fiducie, sauf si la fiducie est visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1).

Sens restreint de *bénéficiaire*

(1.1) Malgré le paragraphe 248(25), pour l'application du paragraphe (1), de l'alinéa (4)a.4), du sous-alinéa 73(1.02)b)(ii) et de l'alinéa 107.4(1)e), une personne ou une société de personnes est réputée ne pas être le bénéficiaire d'une fiducie à un moment donné si son droit de bénéficiaire dans la fiducie à ce moment n'existe qu'en raison de l'un des droits suivants :

a) un droit pouvant découler des dispositions du testament ou autre instrument testamentaire d'un particulier qui est bénéficiaire de la fiducie à ce moment;

b) un droit pouvant découler de la loi régissant le décès ab intestat d'un particulier qui est bénéficiaire de la fiducie à ce moment;

c) un droit à titre d'actionnaire, prévu par les modalités des actions du capital-actions d'une société qui est bénéficiaire de la fiducie à ce moment;

d) un droit à titre d'associé d'une société de personnes, prévu par les modalités du contrat de société, si la société de personnes est bénéficiaire de la fiducie à ce moment;

e) plusieurs des droits visés aux alinéas a) à d).

(e) any combination of rights described in paragraphs (a) to (d).

Taxed as individual

(2) A trust shall, for the purposes of this Act, and without affecting the liability of the trustee or legal representative for that person's own income tax, be deemed to be in respect of the trust property an individual, but where there is more than one trust and

(a) substantially all of the property of the various trusts has been received from one person, and

(b) the various trusts are conditioned so that the income thereof accrues or will ultimately accrue to the same beneficiary, or group or class of beneficiaries,

such of the trustees as the Minister may designate shall, for the purposes of this Act, be deemed to be in respect of all the trusts an individual whose property is the property of all the trusts and whose income is the income of all the trusts.

Deemed disposition by trust

(4) Every trust is, at the end of each of the following days, deemed to have disposed of each property of the trust (other than exempt property) that was capital property (other than excluded property or depreciable property) or land included in the inventory of a business of the trust for proceeds equal to its fair market value (determined with reference to subsection 70(5.3)) at the end of that day and to have reacquired the property immediately after that day for an amount equal to that fair market value, and for the purposes of this Act those days are

(a) where the trust

(i) is a trust that was created by the will of a taxpayer who died after 1971 and that, at the time it was created, was a trust,

(i.1) is a trust that was created by the will of a taxpayer who died after 1971 to which property was transferred in circumstances to which paragraph 70(5.2)(c) (or, in the case of a transfer that occurred in a taxation year before 2007, (b) or (d), as those paragraphs read in their application to that taxation year) or (6)(d) applied, and that, immediately after any such property vested indefeasibly in the trust as a consequence of the death of the taxpayer, was a trust,

Impôt à titre de particulier

(2) Pour l'application de la présente loi, et sans que l'assujettissement du fiduciaire ou des représentants légaux à leur propre impôt sur le revenu en soit atteint, une fiducie est réputée être un particulier relativement aux biens de la fiducie; mais lorsqu'il existe plus d'une fiducie et que :

a) d'une part, dans l'ensemble, tous les biens des diverses fiducies proviennent d'une seule personne;

b) d'autre part, les diverses fiducies sont telles que le revenu en découlant revient ou reviendra finalement au même bénéficiaire ou groupe ou catégorie de bénéficiaires,

ceux des fiduciaires que le ministre peut désigner sont réputés être, pour l'application de la présente loi, relativement à toutes les fiducies, un particulier dont les biens sont les biens de toutes les fiducies et dont le revenu est le revenu de toutes les fiducies.

Présomption de disposition

(4) Toute fiducie est réputée, à la fin de chacun des jours suivants, avoir disposé de chacun de ses biens (sauf les biens exonérés) qui constituait une immobilisation (sauf un bien exclu ou un bien amortissable) ou un fonds de terre compris dans les biens à porter à l'inventaire d'une de ses entreprises, pour un produit égal à la juste valeur marchande du bien (déterminée par rapport au paragraphe 70(5.3)) à la fin de ce jour, et avoir acquis le bien de nouveau immédiatement après ce jour pour un montant égal à cette valeur. Pour l'application de la présente loi, ces jours sont :

a) le jour du décès de l'époux ou du conjoint de fait ou, en cas d'application des divisions (ii.1)(A), (B) ou (C), le jour du décès du contribuable ou, s'il est postérieur, le jour du décès de l'époux ou du conjoint de fait, lorsque la fiducie est :

(i) soit une fiducie établie par le testament d'un contribuable décédé après 1971 et qui, au moment où elle a été établie, était une fiducie dans le cadre de laquelle :

(A) d'une part, l'époux ou le conjoint de fait du contribuable avait le droit de recevoir sa vie durant tous les revenus de la fiducie,

(B) d'autre part, nulle autre personne que l'époux ou le conjoint de fait ne pouvait, avant le décès de celui-ci, recevoir tout ou partie du

(ii) is a trust that was created after June 17, 1971 by a taxpayer during the taxpayer's lifetime that, at any time after 1971, was a trust, or

(ii.1) is a trust (other than a trust the terms of which are described in clause (iv)(A) that elects in its return of income under this Part for its first taxation year that this subparagraph not apply) that was created after 1999 by a taxpayer during the taxpayer's lifetime and that, at any time after 1999, was a trust

under which

(iii) the taxpayer's spouse or common-law partner was entitled to receive all of the income of the trust that arose before the spouse's or common-law partner's death and no person except the spouse or common-law partner could, before the spouse's or common-law partner's death, receive or otherwise obtain the use of any of the income or capital of the trust, or

(iv) in the case of a trust described in subparagraph (ii.1) created by a taxpayer who had attained 65 years of age at the time the trust was created,

(A) the taxpayer was entitled to receive all of the income of the trust that arose before the taxpayer's death and no person except the taxpayer could, before the taxpayer's death, receive or otherwise obtain the use of any of the income or capital of the trust,

(B) the taxpayer or the taxpayer's spouse was, in combination with the spouse or the taxpayer, as the case may be, entitled to receive all of the income of the trust that arose before the later of the death of the taxpayer and the death of the spouse and no other person could, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust, or

(C) the taxpayer or the taxpayer's common-law partner was, in combination with the common-law partner or the taxpayer, as the case may be, entitled to receive all of the income of the trust that arose before the later of the death of the taxpayer and the death of the common-law partner and no other person could, before the later of those deaths, receive or otherwise obtain the use of any of the income or capital of the trust,

the day on which the death or the later death, as the case may be, occurs;

revenu ou du capital de la fiducie, ou autrement en obtenir l'usage,

(i.1) soit une fiducie qui a été établie par le testament d'un contribuable décédé après 1971 et à laquelle un bien a été transféré dans les circonstances visées aux alinéas 70(5.2)c) (ou, s'il s'agit d'un transfert effectué au cours d'une année d'imposition antérieure à 2007, aux alinéas b) ou d), dans leur version applicable à cette année d'imposition) ou (6)d), et qui, immédiatement après que ce bien lui a été dévolu irrévocablement par suite du décès du contribuable, était une fiducie présentant les caractéristiques visées aux divisions (i)(A) et (B),

(ii) soit une fiducie établie après le 17 juin 1971 par un contribuable pendant sa vie et qui, à un moment après 1971, était une fiducie présentant les caractéristiques visées aux divisions (i)(A) et (B),

(ii.1) soit une fiducie (sauf celle dont les modalités sont visées à la division (A) qui choisit de se soustraire à l'application du présent sous-alinéa, dans la déclaration de revenu qu'elle produit en vertu de la présente partie pour sa première année d'imposition) qui a été établie après 1999 par un contribuable pendant sa vie et qui, après 1999, était soit une fiducie présentant les caractéristiques visées aux divisions (i)(A) et (B), soit une fiducie établie après que le contribuable a atteint l'âge de 65 ans et dans le cadre de laquelle, selon le cas :

(A) le contribuable avait le droit de recevoir sa vie durant tous les revenus de la fiducie, et nulle autre personne que lui ne pouvait, avant le décès de celui-ci, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage,

(B) le contribuable et son époux avait tous deux le droit leur vie durant de recevoir tous les revenus de la fiducie, et nulle autre personne ne pouvait, avant le décès du contribuable ou, s'il est postérieur, le décès de l'époux, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage,

(C) le contribuable et son conjoint de fait avait tous deux le droit leur vie durant de recevoir tous les revenus de la fiducie, et nulle autre personne ne pouvait, avant le décès du contribuable ou, s'il est postérieur, le décès du conjoint de fait, recevoir une partie quelconque du revenu ou du capital de la fiducie ni autrement en obtenir l'usage;

(a.1) where the trust is a pre-1972 spousal trust on January 1, 1993 and the spouse or common-law partner referred to in the definition ***pre-1972 spousal trust*** in subsection 108(1) in respect of the trust was

(i) in the case of a trust created by the will of a taxpayer, alive on January 1, 1976, and

(ii) in the case of a trust created by a taxpayer during the taxpayer's lifetime, alive on May 26, 1976,

the day that is the later of

(iii) the day on which that spouse or common-law partner dies, and

(iv) January 1, 1993;

(a.2) where the trust makes a distribution to a beneficiary in respect of the beneficiary's capital interest in the trust, it is reasonable to conclude that the distribution was financed by a liability of the trust and one of the purposes of incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of any individual, the day on which the distribution is made (determined as if a day ends for the trust immediately after the time at which each distribution is made by the trust to a beneficiary in respect of the beneficiary's capital interest in the trust);

(a.3) where property (other than property described in any of subparagraphs 128.1(4)(b)(i) to (iii)) has been transferred by a taxpayer after December 17, 1999 to the trust in circumstances to which subsection 73(1) applied, it is reasonable to conclude that the property was so transferred in anticipation that the taxpayer would subsequently cease to reside in Canada and the taxpayer subsequently ceases to reside in Canada, the first day after that transfer during which the taxpayer ceases to reside in Canada (determined as if a day ends for the trust immediately after each time at which the taxpayer ceases to be resident in Canada);

(a.4) where the trust is a trust to which property was transferred by a taxpayer who is an individual (other than a trust) in circumstances in which section 73 or subsection 107.4(3) applied, the transfer did not result in a change in beneficial ownership of that property and no person (other than the taxpayer) or partnership has any absolute or contingent right as a beneficiary under the trust (determined with reference to subsection (1.1)), the day on which the death of the taxpayer occurs;

(b) the day that is 21 years after the latest of

a.1) lorsque la fiducie est, le 1er janvier 1993, une fiducie au profit de l'époux ou conjoint de fait antérieure à 1972 et que l'époux ou conjoint de fait visé à la définition de ***fiducie au profit de l'époux ou conjoint de fait antérieure à 1972***, au paragraphe 108(1), relativement à la fiducie était vivant le 1er janvier 1976, s'il s'agit d'une fiducie établie par le testament d'un contribuable, ou le 26 mai 1976, s'il s'agit d'une fiducie établie par un contribuable de son vivant, le dernier en date des jours suivants :

(i) le jour du décès de cet époux ou conjoint de fait,

(ii) le 1er janvier 1993;

a.2) lorsque la fiducie effectue une distribution à un bénéficiaire au titre de la participation de celui-ci à son capital, qu'il est raisonnable de conclure que la distribution a été financée par une dette de la fiducie et que l'une des raisons pour lesquelles la dette a été contractée était d'éviter des impôts payables par ailleurs en vertu de la présente partie par suite du décès d'un particulier, le jour où la distribution est effectuée (déterminé comme si, pour la fiducie, la fin d'un jour correspondait au moment immédiatement après celui où elle distribue un bien à un bénéficiaire au titre de la participation de celui-ci à son capital);

a.3) lorsqu'un bien (sauf un bien visé à l'un des sous-alinéas 128.1(4)b)(i) à (iii)) a été transféré par un contribuable à la fiducie après le 17 décembre 1999 dans les circonstances visées au paragraphe 73(1), qu'il est raisonnable de considérer que le bien a été ainsi transféré en prévision de la cessation de la résidence du contribuable au Canada et que le contribuable cesse ultérieurement d'y résider, le premier jour postérieur au transfert, au cours duquel le contribuable cesse de résider au Canada (déterminé comme si, pour la fiducie, la fin d'un jour correspondait au moment immédiatement après chaque moment où le contribuable cesse de résider au Canada);

a.4) lorsque la fiducie est une fiducie à laquelle un contribuable qui est un particulier (mais non une fiducie) a transféré un bien dans les circonstances visées à l'article 73 ou au paragraphe 107.4(3), que le transfert n'a donné lieu à aucun changement de propriété effective de ce bien et qu'aucune personne (sauf le contribuable) ni société de personnes n'a de droit absolu ou conditionnel à titre de bénéficiaire de la fiducie (déterminé par rapport au paragraphe (1.1)), le jour du décès du contribuable;

b) le jour qui tombe 21 ans après le dernier en date des jours suivants :

(i) January 1, 1972,

(ii) the day on which the trust was created, and

(iii) where applicable, the day determined under paragraph (a), (a.1) or (a.4) as those paragraphs applied from time to time after 1971; and

(c) the day that is 21 years after any day (other than a day determined under any of paragraphs (a) to (a.4)) that is, because of this subsection, a day on which the trust is deemed to have disposed of each such property.

(i) le 1er janvier 1972,

(ii) le jour où la fiducie a été établie,

(iii) le cas échéant, le jour déterminé selon les alinéas a), a.1) ou a.4), dans leurs versions applicables après 1971;

c) le jour qui suit de 21 ans le jour (sauf celui déterminé selon l'un des alinéas a) à a.4)) qui est, par l'effet du présent paragraphe, un jour où la fiducie est réputée avoir disposé de chacun de ces biens.

Depreciable property

(5) Every trust is, at the end of each day determined under subsection (4) in respect of the trust, deemed to have disposed of each property of the trust (other than exempt property) that was a depreciable property of a prescribed class of the trust for proceeds equal to its fair market value at the end of that day and to have reacquired the property immediately after that day at a capital cost (in this subsection referred to as the "deemed capital cost") equal to that fair market value, except that

(a) where the amount that was the capital cost to the trust of the property immediately before the end of the day (in this paragraph referred to as the "actual capital cost") exceeds the deemed capital cost to the trust of the property, for the purpose of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a) as they apply in respect of the property at any subsequent time,

(i) the capital cost to the trust of the property on its reacquisition shall be deemed to be the amount that was the actual capital cost to the trust of the property, and

(ii) the excess shall be deemed to have been allowed under paragraph 20(1)(a) to the trust in respect of the property in computing its income for taxation years that ended before the trust reacquired the property;

(b) for the purposes of this subsection, the reference to "at the end of a taxation year" in subsection 13(1) shall be read as a reference to "at the particular time a trust is deemed by subsection 104(5) to have disposed of depreciable property of a prescribed class"; and

(c) for the purpose of computing the excess, if any, referred to in subsection 13(1) at the end of the taxation year of a trust that included a day on which the trust is deemed by this subsection to have disposed of a depreciable property of a prescribed class, any amount

Biens amortissables

(5) Toute fiducie est réputée, à la fin de chaque jour déterminé à son égard selon le paragraphe (4), avoir disposé de chacun de ses biens (sauf les biens exonérés) qui constituait un bien amortissable d'une catégorie prescrite, pour un produit égal à la juste valeur marchande du bien à la fin de ce jour, et avoir acquis le bien de nouveau immédiatement après ce jour à un coût en capital présumé égal à cette valeur. Toutefois :

a) lorsque le coût en capital réel du bien pour la fiducie immédiatement avant la fin de ce jour excède son coût en capital présumé pour elle, les présomptions suivantes s'appliquent aux fins des articles 13 et 20 et des dispositions réglementaires prises en application de l'alinéa 20(1)a), tels qu'ils s'appliquent au bien ultérieurement :

(i) le coût en capital du bien pour la fiducie au moment où il est acquis de nouveau est réputé correspondre au coût en capital réel du bien pour elle,

(ii) l'excédent est réputé avoir été accordé à la fiducie comme déduction relative au bien en application de l'alinéa 20(1)a) dans le calcul de son revenu pour les années d'imposition qui se sont terminées avant qu'elle acquière le bien de nouveau;

b) pour l'application du présent paragraphe, le passage « à la fin de l'année » au paragraphe 13(1) est remplacé par le passage« , au moment où une fiducie est réputée par le paragraphe 104(5) avoir disposé d'un bien amortissable d'une catégorie prescrite, »;

c) pour le calcul de l'excédent visé au paragraphe 13(1) à la fin de l'année d'imposition d'une fiducie qui comprend un jour où la fiducie est réputée par le présent paragraphe avoir disposé d'un bien amortissable d'une catégorie prescrite, tout montant qui, ce jour-là, était inclus dans le revenu de la fiducie pour l'année en application du paragraphe 13(1), tel qu'il s'applique selon l'alinéa b), est réputé être un montant inclus, en

that, on that day, was included in the trust's income for the year under subsection 13(1) as it reads because of paragraph 104(5)(b), shall be deemed to be an amount included under section 13 in the trust's income for a preceding taxation year.

application de l'article 13, dans le revenu de la fiducie pour une année d'imposition antérieure.

NISA Fund No. 2

(5.1) Every trust that holds an interest in a NISA Fund No. 2 that was transferred to it in circumstances to which paragraph 70(6.1)(b) applied is deemed, at the end of the day on which the spouse or common-law partner referred to in that paragraph dies, to have been paid an amount out of the fund equal to the balance at the end of that day in the fund so transferred.

Second fonds du compte de stabilisation du revenu net

(5.1) Lorsqu'une fiducie détient un droit dans un second fonds du compte de stabilisation du revenu net, qui lui a été transféré dans les circonstances visées à l'alinéa 70(6.1)b), une somme égale au solde du fonds ainsi transféré est réputée, à la fin du jour du décès de l'époux ou du conjoint de fait mentionné à l'alinéa 70(6.1)b), avoir été payée à la fiducie sur le fonds.

Resource property

(5.2) Where at the end of a day determined under subsection (4) in respect of a trust, the trust owns a Canadian resource property (other than an exempt property) or a foreign resource property (other than an exempt property),

(a) for the purposes of determining the amounts under subsection 59(1), paragraphs 59(3.2)(c) and (c.1), subsections 66(4) and 66.2(1), the definition ***cumulative Canadian development expense*** in subsection 66.2(5), the definition ***cumulative foreign resource expense*** in subsection 66.21(1), subsection 66.4(1) and the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5), the trust is deemed

(i) to have a taxation year (in this subsection referred to as the "old taxation year") that ended at the end of that day and a new taxation year that begins immediately after that day, and

(ii) to have disposed, immediately before the end of the old taxation year, of each of those properties for proceeds that became receivable at that time equal to its fair market value at that time and to have reacquired, at the beginning of the new taxation year, each such property for an amount equal to that fair market value; and

(b) for the particular taxation year of the trust that included that day, the trust shall

(i) include in computing its income for the particular taxation year the amount, if any, determined under paragraph 59(3.2)(c) in respect of the old taxation year and the amount so included shall, for the purposes of the determination of B in the definition ***cumulative Canadian development expense*** in

Avoirs miniers

(5.2) Lorsque, à la fin d'un jour déterminé à l'égard d'une fiducie selon le paragraphe (4), celle-ci est propriétaire d'un avoir minier canadien (sauf un bien exonéré) ou d'un avoir minier étranger (sauf un bien exonéré), les règles suivantes s'appliquent :

a) pour ce qui est du calcul des montants prévus au paragraphe 59(1), aux alinéas 59(3.2)c) et c.1), aux paragraphes 66(4) et 66.2(1), à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5), à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1), au paragraphe 66.4(1) et à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5), la fiducie est réputée :

(i) d'une part, avoir une année d'imposition (appelée « ancienne année d'imposition » au présent paragraphe) qui s'est terminée à la fin de ce jour et une nouvelle année d'imposition qui commence immédiatement après ce jour,

(ii) d'autre part, avoir disposé, immédiatement avant la fin de l'ancienne année d'imposition, de chacun de ces avoirs pour un produit, devenu à recevoir à ce moment, égal à sa juste valeur marchande à ce moment, et avoir acquis de nouveau, au début de la nouvelle année d'imposition, chacun de ces avoirs pour un montant égal à cette valeur;

b) pour l'année d'imposition donnée de la fiducie qui comprend ce jour-là, la fiducie doit :

(i) inclure, dans le calcul de son revenu pour l'année d'imposition donnée, le montant déterminé en vertu de l'alinéa 59(3.2)c) au titre de l'ancienne année d'imposition; le montant ainsi inclus est réputé,

subsection 66.2(5), be deemed to have been included in computing its income for a preceding taxation year,

(i.1) include in computing its income for the particular taxation year the amount, if any, determined under paragraph 59(3.2)(c.1) in respect of the old taxation year and the amount so included is, for the purpose of determining the value of B in the definition ***cumulative foreign resource expense*** in subsection 66.21(1), deemed to have been included in computing its income for a preceding taxation year, and

(ii) deduct in computing its income for the particular taxation year the amount, if any, determined under subsection 66(4) in respect of the old taxation year and the amount so deducted shall, for the purposes of paragraph 66(4)(a), be deemed to have been deducted for a preceding taxation year.

pour la détermination de l'élément B de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5), avoir été inclus dans le calcul de son revenu pour une année d'imposition antérieure,

(i.1) inclure, dans le calcul de son revenu pour l'année d'imposition donnée, le montant éventuel déterminé selon l'alinéa 59(3.2)c.1) relativement à l'ancienne année d'imposition, et le montant ainsi inclus est réputé, pour ce qui est du calcul de la valeur de l'élément B de la formule figurant à la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1), avoir été inclus dans le calcul de son revenu pour une année d'imposition antérieure,

(ii) déduire, dans le calcul de son revenu pour l'année d'imposition donnée, le montant déterminé en vertu du paragraphe 66(4) au titre de l'ancienne année d'imposition; le montant ainsi déduit est réputé, pour l'application de l'alinéa 66(4)a), avoir été déduit pour une année d'imposition antérieure.

(5.3) to (5.7) [Repealed, 2013, c. 34, s. 231]

(5.3) à (5.7) [Abrogés, 2013, ch. 34, art. 231]

Trust transfers

(5.8) Where capital property (other than excluded property), land included in inventory, Canadian resource property or foreign resource property is transferred at a particular time by a trust (in this subsection referred to as the "transferor trust") to another trust (in this subsection referred to as the "transferee trust") in circumstances in which subsection 107(2) or 107.4(3) or paragraph (f) of the definition ***disposition*** in subsection 248(1) applies,

(a) for the purposes of applying subsections 104(4) to 104(5.2) after the particular time,

(i) subject to paragraphs (b) to (b.3), the first day (in this subsection referred to as the "disposition day") that ends at or after the particular time that would, if this section were read without reference to paragraphs (4)(a.2) and (a.3), be determined in respect of the transferee trust is deemed to be the earliest of

(A) the first day ending at or after the particular time that would be determined under subsection 104(4) in respect of the transferor trust without regard to the transfer and any transaction or event occurring after the particular time,

(B) the first day ending at or after the particular time that would otherwise be determined under

Transferts de fiducie

(5.8) Lorsqu'une fiducie (appelée « fiducie cédante » au présent paragraphe) transfère à un moment donné à une autre fiducie (appelée « fiducie cessionnaire » au présent paragraphe) des immobilisations (sauf des biens exclus), des fonds de terre compris dans les biens à porter à son inventaire, des avoirs miniers canadiens ou des avoirs miniers étrangers dans les circonstances visées aux paragraphes 107(2) ou 107.4(3) ou à l'alinéa f) de la définition de ***disposition*** au paragraphe 248(1), les règles suivantes s'appliquent :

a) pour l'application des paragraphes (4) à (5.2) après le moment donné :

(i) sous réserve des alinéas b) à b.3), le premier jour (appelé « jour de disposition » au présent paragraphe) se terminant au moment donné ou postérieurement qui serait déterminé à l'égard de la fiducie cessionnaire si le présent article s'appliquait compte non tenu des alinéas (4)a.2) et a.3) est réputé être le premier en date des jours suivants :

(A) le premier jour, se terminant au moment donné ou après, qui serait déterminé selon le paragraphe (4) à l'égard de la fiducie cédante s'il n'était pas tenu compte du transfert ou d'une opération ou d'un événement survenant après le moment donné,

subsection 104(4) in respect of the transferee trust without regard to any transaction or event occurring after the particular time,

(C) the first day that ends at or after the particular time, where

(I) the transferor trust is a joint spousal or common-law partner trust, a post-1971 spousal or common-law partner trust or a trust described in the definition ***pre-1972 spousal trust*** in subsection 108(1), and

(II) the spouse or common-law partner referred to in paragraph (4)(a) or in the definition ***pre-1972 spousal trust*** in subsection 108(1) is alive at the particular time,

(C.1) the first day that ends at or after the particular time, where

(I) the transferor trust is an alter ego trust, a trust to which paragraph (4)(a.4) applies or a joint spousal or common-law partner trust, and

(II) the taxpayer referred to in paragraph (4)(a) or (a.4), as the case may be, is alive at the particular time, and

(D) where

(I) the disposition day would, but for the application of this subsection to the transfer, be determined under paragraph 104(5.3)(a) in respect of the transferee trust, and

(II) the particular time is after the day that would, but for subsection 104(5.3), be determined under paragraph 104(4)(b) in respect of the transferee trust,

the first day ending at or after the particular time, and

(ii) where the disposition day determined in respect of the transferee trust under subparagraph 104(5.8)(a)(i) is earlier than the day referred to in clause 104(5.8)(a)(i)(B) in respect of the transferee trust, subsections 104(4) to 104(5.2) do not apply to the transferee trust on the day referred to in clause 104(5.8)(a)(i)(B) in respect of the transferee trust;

(b) paragraph (a) does not apply in respect of the transfer where

(B) le premier jour, se terminant au moment donné ou après, qui serait déterminé par ailleurs selon le paragraphe (4) à l'égard de la fiducie cessionnaire s'il n'était pas tenu compte d'une opération ou d'un événement survenant après le moment donné,

(C) le premier jour se terminant au moment donné ou postérieurement, lorsque les conditions suivantes sont réunies :

(I) la fiducie cédante est une fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971, une fiducie mixte au profit de l'époux ou du conjoint de fait ou une fiducie visée à la définition de ***fiducie au profit du conjoint antérieure à 1972*** au paragraphe 108(1),

(II) l'époux ou le conjoint de fait mentionné à l'alinéa (4)a) ou à cette définition est vivant au moment donné,

(C.1) le premier jour se terminant au moment donné ou postérieurement, lorsque les conditions suivantes sont réunies :

(I) la fiducie cédante est une fiducie en faveur de soi-même, une fiducie à laquelle l'alinéa (4)a.4) s'applique ou une fiducie mixte au profit de l'époux ou du conjoint de fait,

(II) le contribuable mentionné aux alinéas (4)a) ou a.4), selon le cas, est vivant au moment donné,

(D) le premier jour se terminant au moment donné ou après, lorsque les conditions suivantes sont réunies :

(I) le jour de disposition serait déterminé selon l'alinéa (5.3)a) à l'égard de la fiducie cessionnaire si le présent paragraphe ne s'appliquait pas au transfert,

(II) le moment donné est postérieur au jour qui, sans le paragraphe (5.3), serait déterminé selon l'alinéa (4)b) à l'égard de la fiducie cessionnaire,

(ii) lorsque le jour de disposition déterminé selon le sous-alinéa (i) à l'égard de la fiducie cessionnaire est antérieur au jour déterminé à son égard selon la division (i)(B), les paragraphes (4) à (5.2) ne s'appliquent pas à la fiducie cessionnaire le jour déterminé à son égard selon la division (i)(B);

(i) the transferor trust is a post-1971 spousal or common-law partner trust or a trust described in the definition ***pre-1972 spousal trust*** in subsection 108(1),

(ii) the spouse or common-law partner referred to in paragraph (4)(a) or in the definition ***pre-1972 spousal trust*** in subsection 108(1) is alive at the particular time, and

(iii) the transferee trust is a post-1971 spousal or common-law partner trust or a trust described in the definition ***pre-1972 spousal trust*** in subsection 108(1);

(b.1) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is an alter ego trust,

(ii) the taxpayer referred to in paragraph (4)(a) is alive at the particular time, and

(iii) the transferee trust is an alter ego trust;

(b.2) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is a joint spousal or common-law partner trust,

(ii) either the taxpayer referred to in paragraph (4)(a), or the spouse or common-law partner referred to in that paragraph, is alive at the particular time, and

(iii) the transferee trust is a joint spousal or common-law partner trust;

(b.3) paragraph (a) does not apply in respect of the transfer where

(i) the transferor trust is a trust to which paragraph (4)(a.4) applies,

(ii) the taxpayer referred to in paragraph (4)(a.4) is alive at the particular time, and

(iii) the transferee trust is a trust to which paragraph (4)(a.4) applies; and

(c) for the purposes of subsection 104(5.3), unless a day ending before the particular time has been determined under paragraph 104(4)(a.1) or 104(4)(b) or would, but for subsection 104(5.3), have been so determined, a day determined under subparagraph 104(5.8)(a)(i) shall be deemed to be a day determined

b) l'alinéa a) ne s'applique pas au transfert si les conditions suivantes sont réunies :

(i) la fiducie cédante est une fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971 ou une fiducie visée à la définition de ***fiducie au profit du conjoint antérieure à 1972*** au paragraphe 108(1),

(ii) l'époux ou le conjoint de fait mentionné à l'alinéa (4)a) ou à cette définition est vivant au moment donné,

(iii) la fiducie cessionnaire est une fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971 ou une fiducie visée à cette définition;

b.1) l'alinéa a) ne s'applique pas au transfert si les conditions suivantes sont réunies :

(i) la fiducie cédante est une fiducie en faveur de soi-même,

(ii) le contribuable mentionné à l'alinéa (4)a) est vivant au moment donné,

(iii) la fiducie cessionnaire est une fiducie en faveur de soi-même;

b.2) l'alinéa a) ne s'applique pas au transfert si les conditions suivantes sont réunies :

(i) la fiducie cédante est une fiducie mixte au profit de l'époux ou du conjoint de fait,

(ii) le contribuable mentionné à l'alinéa (4)a), ou l'époux ou le conjoint de fait mentionné à cet alinéa, est vivant au moment donné,

(iii) la fiducie cessionnaire est une fiducie mixte au profit de l'époux ou du conjoint de fait;

b.3) l'alinéa a) ne s'applique pas au transfert si les conditions suivantes sont réunies :

(i) la fiducie cédante est une fiducie à laquelle l'alinéa (4)a.4) s'applique,

(ii) le contribuable mentionné à l'alinéa (4)a.4) est vivant au moment donné,

(iii) la fiducie cessionnaire est une fiducie à laquelle l'alinéa (4)a.4) s'applique;

under paragraph 104(4)(a.1) or 104(4)(b), as the case may be, in respect of the transferee trust.

c) pour l'application du paragraphe (5.3), sauf si un jour se terminant avant le moment donné est déterminé selon les alinéas (4)a.1) ou b) ou serait ainsi déterminé sans le paragraphe (5.3), un jour déterminé selon le sous-alinéa a)(i) est réputé être un jour déterminé selon les alinéas (4)a.1) ou b) à l'égard de la fiducie cessionnaire.

Deduction in computing income of trust

(6) Subject to subsections (7) to (7.1), for the purposes of this Part, there may be deducted in computing the income of a trust for a taxation year

(a) in the case of an employee trust, the amount by which the amount that would, but for this subsection, be its income for the year exceeds the amount, if any, by which

(i) the total of all amounts each of which is its income for the year from a business

exceeds

(ii) the total of all amounts each of which is its loss for the year from a business;

(a.1) in the case of a trust governed by an employee benefit plan, such part of the amount that would, but for this subsection, be its income for the year as was paid in the year to a beneficiary;

(a.2) where the taxable income of the trust for the year is subject to tax under this Part because of paragraph 146(4)(c) or subsection 146.3(3.1), the part of the amount that, but for this subsection, would be the income of the trust for the year that was paid in the year to a beneficiary;

(a.3) in the case of a trust deemed by subsection 143(1) to exist in respect of a congregation that is a constituent part of a religious organization, such part of its income for the year as became payable in the year to a beneficiary;

(a.4) in the case of an employee life and health trust, an amount that became payable by the trust in the year as a designated employee benefit (as defined in subsection 144.1(1)); and

(b) in any other case, the amount that the trust claims not exceeding the amount, if any, determined by the formula

A – B

where

Déduction dans le calcul du revenu d'une fiducie

(6) Pour l'application de la présente partie mais sous réserve des paragraphes (7) à (7.1), est déductible dans le calcul du revenu d'une fiducie pour une année d'imposition :

a) dans le cas d'une fiducie d'employés, le montant par lequel le montant qui aurait constitué, sans le présent paragraphe, son revenu pour l'année dépasse l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des sommes dont chacune représente son revenu tiré d'une entreprise pour l'année,

(ii) le total des sommes dont chacune représente sa perte au titre d'une entreprise pour l'année;

a.1) dans le cas d'une fiducie régie par un régime de prestations aux employés, la partie de la somme qui aurait constitué, sans le présent paragraphe, son revenu pour l'année, telle que versée au cours de l'année à un bénéficiaire;

a.2) dans le cas où le revenu imposable de la fiducie pour l'année est assujetti à l'impôt en vertu de la présente partie par l'effet de l'alinéa 146(4)c) ou du paragraphe 146.3(3.1), la partie du montant qui correspondrait, si ce n'était le présent paragraphe, au revenu de la fiducie pour l'année payée à un bénéficiaire au cours de l'année;

a.3) dans le cas d'une fiducie qui est réputée, en vertu du paragraphe 143(1), exister à l'égard d'une congrégation qui est une partie constituante d'un organisme religieux, toute partie de son revenu pour l'année qui est devenue à payer à un bénéficiaire au cours de l'année;

a.4) dans le cas d'une fiducie de soins de santé au bénéfice d'employés, la somme qui est devenue payable par la fiducie au cours de l'année à titre de prestation désignée au sens du paragraphe 144.1(1);

b) dans les autres cas, la somme dont la fiducie demande la déduction et ne dépassant pas l'excédent établi selon la formule suivante :

A – B

A is the part of its income (determined without reference to this subsection and subsection (12)) for the year that became payable in the year to, or that was included under subsection 105(2) in computing the income of, a beneficiary, and

B is

(i) if the trust is a trust for which a day is to be determined under paragraph (4)(a) or (a.4) by reference to a death or later death, as the case may be, that has not occurred before the beginning of the year, the total of

(A) the part of its income (determined without reference to this subsection and subsection (12)) for the year that became payable in the year to, or that was included under subsection 105(2) in computing the income of, a beneficiary (other than an individual whose death is that death or later death, as the case may be), and

(B) the total of all amounts each of which

(I) is included in its income (determined without reference to this subsection and subsection (12)) for the year — if the year is the year in which that death or later death, as the case may be, occurs and paragraph (13.4)(b) does not apply in respect of the trust for the year — because of the application of subsection (4), (5), (5.1) or (5.2) or 12(10.2), and

(II) is not included in the amount determined for clause (A) for the year, and

(ii) if the trust is a SIFT trust for the year, the amount, if any, by which

(A) the amount determined for A for the trust for the year

exceeds

(B) the amount, if any, by which the amount determined for A for the trust for the year exceeds its non-portfolio earnings for the year.

où :

A est la partie de son revenu (déterminé compte non tenu du présent paragraphe ni du paragraphe (12)) pour l'année qui est devenue à payer à un bénéficiaire au cours de l'année ou qui est incluse en application du paragraphe 105(2) dans le calcul du revenu d'un bénéficiaire,

B est, selon le cas :

(i) lorsque la fiducie est une fiducie à l'égard de laquelle un jour est déterminé en application des alinéas (4)a) ou a.4) relativement à un décès ou à un décès postérieur, selon le cas, qui ne s'est pas produit avant le début de l'année, le total des sommes suivantes :

(A) la partie du revenu de la fiducie pour l'année, déterminée compte non tenu du présent paragraphe et du paragraphe (12), qui est devenue à payer à un bénéficiaire au cours de l'année, ou qui est incluse en application du paragraphe 105(2) dans le calcul du revenu d'un bénéficiaire, autre qu'un particulier dont le décès est, selon le cas, le décès ou le décès postérieur,

(B) le total des sommes dont chacune :

(I) d'une part, est incluse dans le revenu de la fiducie (déterminé compte non tenu du présent paragraphe et du paragraphe (12)) pour l'année — si l'année est celle au cours de laquelle le décès ou le décès postérieur, selon le cas, se produit et que l'alinéa (13.4)b) ne s'applique pas relativement à la fiducie pour l'année — en raison de l'application des paragraphes (4), (5), (5.1) ou (5.2) ou 12(10.2),

(II) d'autre part, n'est pas incluse dans la valeur de la division (A) pour l'année,

(ii) lorsque la fiducie est une fiducie intermédiaire de placement déterminée pour l'année, l'excédent éventuel de la somme visée à la division (A) sur la somme visée à la division (B) :

(A) la partie visée à l'élément A relativement à la fiducie pour l'année,

(B) l'excédent de la somme visée à l'élément A relativement à la fiducie pour l'année sur ses gains hors portefeuille pour l'année.

Non-resident beneficiary

(7) No deduction may be made under subsection 104(6) in computing the income for a taxation year of a trust in respect of such part of an amount that would otherwise

Déduction admise sous condition en cas de bénéficiaires non-résidents

(7) Un montant n'est déductible en application du paragraphe (6) dans le calcul du revenu d'une fiducie pour une année d'imposition, relativement à la partie devenue

be its income for the year as became payable in the year to a beneficiary who was, at any time in the year, a designated beneficiary of the trust (as that expression applies for the purposes of section 210.3) unless, throughout the year, the trust was resident in Canada.

Trusts deemed to be resident in Canada

(7.01) If a trust is deemed by subsection 94(3) to be resident in Canada for a taxation year for the purpose of computing the trust's income for the year, the maximum amount deductible under subsection (6) in computing its income for the year is the amount, if any, by which

(a) the maximum amount that, if this Act were read without reference to this subsection, would be deductible under subsection (6) in computing its income for the year,

exceeds

(b) the total of

(i) the portion of the trust's designated income for the year (within the meaning assigned by section 210) that became payable in the year to a non-resident beneficiary under the trust in respect of an interest of the non-resident as a beneficiary under the trust, and

(ii) all amounts each of which is determined by the formula

A × B

where

A is an amount (other than an amount described in subparagraph (i)) that

(A) is paid or credited (having the meaning assigned by Part XIII) in the year to the trust,

(B) would, if this Act were read without reference to subparagraph 94(3)(a)(viii), paragraph 212(2)(b) and sections 216 and 217, be an amount as a consequence of the payment or crediting of which the trust would have been liable to tax under Part XIII, and

(C) becomes payable in the year by the trust to a non-resident beneficiary under the trust in respect of an interest of the non-resident as a beneficiary under the trust, and

B is

(A) 0.35, if the trust can establish to the satisfaction of the Minister that the non-resident beneficiary to whom the amount described in the description of A is payable is

payable au cours de l'année, sur le revenu de la fiducie calculé par ailleurs pour l'année, à quiconque est, à un moment de l'année, bénéficiaire étranger ou assimilé de la fiducie au sens de l'article 210.3, que si la fiducie a résidé au Canada tout au long de l'année.

Fiducie réputée résider au Canada

(7.01) Si une fiducie est réputée, en vertu du paragraphe 94(3), résider au Canada pour une année d'imposition en vue du calcul de son revenu pour l'année, la somme maximale déductible en application du paragraphe (6) dans le calcul de son revenu pour l'année correspond à l'excédent de la somme visée à l'alinéa a) sur le total visé à l'alinéa b) :

a) la somme maximale qui serait déductible en application du paragraphe (6) dans le calcul de son revenu pour l'année en l'absence du présent paragraphe;

b) le total des sommes suivantes :

(i) la partie du revenu de distribution de la fiducie pour l'année, au sens de l'article 210, qui est devenue payable au cours de l'année à un bénéficiaire non-résident de la fiducie relativement à la participation de celui-ci à titre de bénéficiaire de la fiducie,

(ii) le total des sommes dont chacune s'obtient par la formule suivante :

A × B

où :

A représente une somme, sauf celle visée au sous-alinéa (i), qui, à la fois :

(A) est payée à la fiducie, ou portée à son crédit, (au sens de la partie XIII) au cours de l'année,

(B) serait, en l'absence du sous-alinéa 94(3)a)(viii), de l'alinéa 212(2)b) et des articles 216 et 217, une somme sur laquelle la fiducie serait redevable d'un impôt en vertu de la partie XIII du fait qu'elle lui a été payée ou a été portée à son crédit,

(C) devient payable au cours de l'année par la fiducie à l'un de ses bénéficiaires non-résidents relativement à la participation de celui-ci à titre de bénéficiaire de la fiducie,

B :

(A) 0,35, si la fiducie peut établir, à la satisfaction du ministre, que le bénéficiaire non-résident auquel la somme représentée par l'élément A est payable réside dans un pays

resident in a country with which Canada has a tax treaty under which the income tax that Canada may impose on the beneficiary in respect of the amount is limited, and

(B) 0.6, in any other case.

avec lequel le Canada a conclu un traité fiscal qui limite l'impôt sur le revenu que le Canada peut imposer au bénéficiaire au titre de la somme,

(B) 0,6, dans les autres cas.

Limitation — amount claimed as gift

(7.02) No deduction may be made under subsection (6) in computing the income for a taxation year of an estate that arose on and as a consequence of an individual's death in respect of a payment to the extent that the payment is a gift in respect of which an amount is deducted under section 118.1 for any taxation year in computing the individual's tax payable under this Part.

Plafond — somme demandée à titre de don

(7.02) Aucune somme n'est déductible en application du paragraphe (6) dans le calcul du revenu d'une fiducie, pour une année d'imposition, qui est établie le jour du décès d'un particulier et par suite de ce décès relativement à un versement, dans la mesure où le versement est un don à l'égard duquel une somme est déduite en application de l'article 118.1 dans le calcul de l'impôt payable par le particulier pour une année d'imposition en vertu de la présente partie.

Capital interest greater than income interest

(7.1) Where it is reasonable to consider that one of the main purposes for the existence of any term, condition, right or other attribute of an interest in a trust (other than a personal trust) is to give a beneficiary a percentage interest in the property of the trust that is greater than the beneficiary's percentage interest in the income of the trust, no amount may be deducted under paragraph 104(6)(b) in computing the income of the trust.

Déduction non admise

(7.1) Aucun montant n'est déductible en application de l'alinéa (6)b) dans le calcul du revenu d'une fiducie qui n'est pas une fiducie personnelle s'il est raisonnable de considérer qu'un des principaux objets d'une condition, d'un droit ou d'une autre caractéristique attaché à une participation dans la fiducie consiste à donner à un bénéficiaire une quote-part des biens de la fiducie supérieure à sa quote-part du revenu de la fiducie.

Avoidance of s. (7.1)

(7.2) Notwithstanding any other provision of this Act, where

(a) a taxpayer has acquired a right to or to acquire an interest in a trust, or a right to or to acquire a property of a trust, and

(b) it is reasonable to consider that one of the main purposes of the acquisition was to avoid the application of subsection 104(7.1) in respect of the trust,

on a disposition of the right (other than pursuant to the exercise thereof), the interest or the property, there shall be included in computing the income of the taxpayer for the taxation year in which the disposition occurs the amount, if any, by which

(c) the proceeds of disposition of the right, interest or property, as the case may be,

exceed

(d) the cost amount to the taxpayer of the right, interest or property, as the case may be.

Règle anti-évitement

(7.2) Malgré les autres dispositions de la présente loi, dans le cas où:

a) d'une part, un contribuable a acquis un droit à une participation dans une fiducie ou à un bien d'une fiducie ou le droit d'acquérir une telle participation ou un tel bien;

b) d'autre part, il est raisonnable de considérer qu'un des principaux objets de cette acquisition consistait à soustraire la fiducie à l'application du paragraphe (7.1),

doit être ajouté, dans le calcul du revenu du contribuable pour l'année d'imposition au cours de laquelle celui-ci dispose du droit (sans l'exercer), de la participation ou du bien, l'excédent éventuel du produit de disposition du droit, de la participation ou du bien, selon le cas, sur son coût indiqué pour le contribuable.

(10) and (11) [Repealed, 2013, c. 34, s. 231]

(10) et (11) [Abrogés, 2013, ch. 34, art. 231]

Deduction of amounts included in preferred beneficiaries' incomes

(12) There may be deducted in computing the income of a trust for a taxation year the lesser of

(a) the total of all amounts designated under subsection 104(14) by the trust in respect of the year, and

(b) the accumulating income of the trust for the year.

Income of beneficiary

(13) There shall be included in computing the income for a particular taxation year of a beneficiary under a trust such of the following amounts as are applicable:

(a) in the case of a trust (other than a trust referred to in paragraph (a) of the definition ***trust*** in subsection 108(1)), such part of the amount that, but for subsections (6) and (12), would be the trust's income for the trust's taxation year that ended in the particular year as became payable in the trust's year to the beneficiary; and

(b) in the case of a trust governed by an employee benefit plan to which the beneficiary has contributed as an employer, such part of the amount that, but for subsections (6) and (12), would be the trust's income for the trust's taxation year that ended in the particular year as was paid in the trust's year to the beneficiary.

Amounts deemed not paid

(13.1) Where a trust, in its return of income under this Part for a taxation year throughout which it was resident in Canada and not exempt from tax under Part I by reason of subsection 149(1), designates an amount in respect of a beneficiary under the trust, not exceeding the amount determined by the formula

A/B × (C - D - E)

where

A is the beneficiary's share of the income of the trust for the year computed without reference to this Act,

B is the total of all amounts each of which is a beneficiary's share of the income of the trust for the year computed without reference to this Act,

C is the total of all amounts each of which is an amount that, but for this subsection or subsection 104(13.2), would be included in computing the income of a beneficiary under the trust by reason of subsection 104(13) or 105(2) for the year,

Déduction de montants inclus dans le revenu des bénéficiaires privilégiées

(12) Le moins élevé des montants suivants peut être déduit dans le calcul du revenu d'une fiducie pour une année d'imposition :

a) le total des montants que la fiducie a indiqués pour l'année en application du paragraphe (14);

b) le revenu accumulé de la fiducie pour l'année.

Revenu des bénéficiaires

(13) Les montants applicables suivants sont à inclure dans le calcul du revenu du bénéficiaire d'une fiducie pour une année d'imposition donnée :

a) dans le cas d'une fiducie qui n'est pas visée à l'alinéa a) de la définition de ***fiducie*** au paragraphe 108(1), la partie du montant qui, si ce n'était les paragraphes (6) et (12), représenterait son revenu pour son année d'imposition s'étant terminée dans l'année donnée, qui est devenue payable au bénéficiaire au cours de l'année de la fiducie;

b) dans le cas d'une fiducie régie par un régime de prestations aux employés auquel le bénéficiaire a cotisé comme employeur, la partie du montant qui, si ce n'était les paragraphes (6) et (12), représenterait le revenu de la fiducie pour son année d'imposition s'étant terminée dans l'année donnée, qui a été payée au bénéficiaire au cours de l'année de la fiducie.

Exception

(13.1) Le montant qu'une fiducie attribue à un bénéficiaire dans sa déclaration de revenu produite en vertu de la présente partie pour une année d'imposition tout au long de laquelle elle a résidé au Canada et n'était pas, par application du paragraphe 149(1), exonérée de l'impôt prévu à la partie I, et qui ne dépasse pas le montant calculé selon la formule suivante est réputé, pour l'application des paragraphes (13) et 105(2), ne pas être payé ni être devenu payable au cours de l'année au bénéficiaire ou à son profit ou ne pas provenir du revenu de la fiducie :

A/B × (C - D - E)

où :

A représente la part du bénéficiaire sur le revenu de la fiducie pour l'année calculé compte non tenu de la présente loi;

B le total des parts de tous les bénéficiaires sur le revenu de la fiducie pour l'année calculé compte non tenu de la présente loi;

D is the amount deducted under subsection 104(6) in computing the income of the trust for the year, and

E is equal to the amount determined by the trust for the year and used as the value of C for the purposes of the formula in subsection 104(13.2) or, if no amount is so determined, nil,

the amount so designated shall be deemed, for the purposes of subsections 104(13) and 105(2), not to have been paid or to have become payable in the year to or for the benefit of the beneficiary or out of income of the trust.

C le total des montants inclus — compte non tenu du présent paragraphe et du paragraphe (13.2) — en application des paragraphes (13) et 105(2) dans le calcul du revenu de tous les bénéficiaires de la fiducie pour l'année;

D le montant déduit en application du paragraphe (6) dans le calcul du revenu de la fiducie pour l'année;

E le montant calculé par la fiducie pour l'année et représenté par l'élément C au paragraphe (13.2) ou, à défaut de ce montant, zéro.

Idem

(13.2) Where a trust, in its return of income under this Part for a taxation year throughout which it was resident in Canada and not exempt from tax under Part I by reason of subsection 149(1), designates an amount in respect of a beneficiary under the trust, not exceeding the amount determined by the formula

A/B × C

where

A is the amount designated by the trust for the year in respect of the beneficiary under subsection 104(21),

B is the total of all amounts each of which has been designated for the year in respect of a beneficiary of the trust under subsection 104(21), and

C is the amount determined by the trust and used in computing all amounts each of which is designated by the trust for the year under this subsection, not exceeding the amount by which

(i) the total of all amounts each of which is an amount that, but for this subsection or subsection 104(13.1), would be included in computing the income of a beneficiary under the trust by reason of subsection 104(13) or 105(2) for the year

exceeds

(ii) the amount deducted under subsection 104(6) in computing the income of the trust for the year,

the amount so designated shall

(a) for the purposes of subsections (13) and 105(2) (except in the application of subsection (13) for the purposes of subsection (21)), be deemed not to have been paid or to have become payable in the year to or for the benefit of the beneficiary or out of income of the trust; and

(b) except for the purposes of subsection 104(21) as it applies for the purposes of subsections 104(21.1) and 104(21.2), reduce the amount of the taxable capital gains of the beneficiary otherwise included in

Réduction

(13.2) Dans le cas où une fiducie attribue un montant à un bénéficiaire dans sa déclaration de revenu produite en vertu de la présente partie pour une année d'imposition tout au long de laquelle elle a résidé au Canada et n'était pas, par application du paragraphe 149(1), exonérée de l'impôt prévu à la partie I, qui ne dépasse pas le montant calculé selon la formule suivante :

A/B × C

où :

A représente le montant attribué au bénéficiaire par la fiducie pour l'année en application du paragraphe (21);

B le total des montants attribués à tous les bénéficiaires de la fiducie pour l'année en application du paragraphe (21);

C le montant déterminé par la fiducie, qui entre dans le calcul de tous les montants qu'elle a attribués pour l'année en application du présent paragraphe et qui ne dépasse pas l'excédent du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants qui, compte non tenu du présent paragraphe et du paragraphe (13.1), seraient inclus dans le calcul du revenu de tous les bénéficiaires de la fiducie pour l'année en application du paragraphe (13) ou 105(2),

(ii) le montant déduit en application du paragraphe (6) dans le calcul du revenu de la fiducie pour l'année;

le montant ainsi attribué :

a) est réputé, pour l'application du paragraphe (13) (sauf pour son application dans le cadre du paragraphe (21)) et du paragraphe 105(2), ne pas avoir été payé ni être devenu payable au cours de l'année au bénéficiaire ou à son profit ou sur le revenu de la fiducie;

b) réduit, sauf pour l'application du paragraphe (21) aux paragraphes (21.1) et (21.2), le montant des gains en capital imposables du bénéficiaire inclus par

computing the beneficiary's income for the year by reason of subsection 104(21).

Invalid designation

(13.3) Any designation made under subsection (13.1) or (13.2) by a trust in its return of income under this Part for a taxation year is invalid if the trust's taxable income for the year, determined without reference to this subsection, is greater than nil.

Death of beneficiary — spousal and similar trusts

(13.4) If an individual's death occurs on a day in a particular taxation year of a trust and the death is the death or later death, as the case may be, referred to in paragraph (4)(a), (a.1) or (a.4) in respect of the trust,

(a) the particular year is deemed to end at the end of that day, a new taxation year of the trust is deemed to begin immediately after that day and, for the purpose of determining the trust's fiscal period after the new taxation year began, the trust is deemed not to have established a fiscal period before the new taxation year began;

(b) subject to paragraph (b.1), the trust's income (determined without reference to subsections (6) and (12)) for the particular year is, notwithstanding subsection (24), deemed

(i) to have become payable in the year to the individual, and

(ii) not

(A) to have become payable to another beneficiary, or

(B) to be included under subsection 105(2) in computing the individual's income;

(b.1) paragraph (b) does not apply in respect of the trust for the particular year, unless

(i) the individual is resident in Canada immediately before the death,

(ii) the trust is, immediately before the death, a testamentary trust that

(A) is a post-1971 spousal or common-law partner trust, and

(B) was created by the will of a taxpayer who died before 2017, and

ailleurs en application du paragraphe (21) dans le calcul du revenu de celui-ci pour l'année.

Attribution non valide

(13.3) Toute attribution effectuée par une fiducie aux termes des paragraphes (13.1) ou (13.2) dans sa déclaration de revenu produite en vertu de la présente partie pour une année d'imposition n'est pas valide si le revenu imposable de la fiducie pour l'année, déterminé compte non tenu du présent paragraphe, est supérieur à zéro.

Décès d'un bénéficiaire — fiducie au profit du conjoint ou fiducie semblable

(13.4) Dans le cas où le décès d'un particulier survient à une date au cours d'une année d'imposition donnée d'une fiducie et que le décès est le décès ou le décès postérieur, selon le cas, visé aux alinéas (4)a), a.1) ou a.4) relativement à la fiducie, les règles ci-après s'appliquent :

a) l'année donnée est réputée se terminer à la fin de cette date, une nouvelle année d'imposition est réputée débuter immédiatement après cette date et, pour déterminer l'exercice applicable à la fiducie après le début de la nouvelle année d'imposition, la fiducie est réputée n'avoir établi aucune période d'imposition avant le début de la nouvelle année d'imposition;

b) sous réserve de l'alinéa b.1) et malgré le paragraphe (24), le revenu de la fiducie (déterminé compte non tenu des paragraphes (6) et (12)) pour l'année donnée est réputé, à la fois :

(i) être devenu payable au particulier au cours de l'année,

(ii) selon le cas :

(A) ne pas être devenu payable à un autre bénéficiaire,

(B) ne pas être inclus en application du paragraphe 105(2) dans le calcul du revenu du particulier;

b.1) l'alinéa b) ne s'applique relativement à la fiducie pour l'année donnée que si les énoncés ci-après se vérifient :

(i) le particulier réside au Canada immédiatement avant le décès,

(ii) la fiducie est, immédiatement avant le décès, une fiducie testamentaire qui est, à la fois :

(A) une fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971,

(iii) an election — made jointly between the trust and the legal representative administering the individual's graduated rate estate in prescribed form — that paragraph (b) applies is filed with

(A) the individual's return of income under this Part for the individual's year, and

(B) the trust's return of income under this Part for the particular year; and

(c) in respect of the particular year

(i) the references in paragraph 150(1)(c) to "year" and in subparagraph (a)(ii) of the definition ***balance-due day*** in subsection 248(1) to "taxation year" are to be read as "calendar year in which the taxation year ends", and

(ii) the reference in subsection 204(2) of the *Income Tax Regulations* to "end of the taxation year" is to be read as "end of the calendar year in which the taxation year ends".

(B) une fiducie établie par le testament d'un contribuable décédé avant 2017,

(iii) un choix — fait conjointement sur le formulaire prescrit par la fiducie et le représentant légal qui gère la succession assujettie à l'imposition à taux progressifs du particulier — pour que l'alinéa b) s'applique est présenté avec les documents suivants :

(A) la déclaration de revenu que le particulier produit en vertu de la présente partie pour son année,

(B) la déclaration de revenu que la fiducie produit en vertu de la présente partie pour l'année donnée;

c) relativement à l'année donnée, à la fois :

(i) les mentions « année », à l'alinéa 150(1)c), et « année d'imposition en cause », au sous-alinéa a)(ii) de la définition de ***date d'exigibilité du solde*** au paragraphe 248(1), s'entendent respectivement de l'« année civile au cours de laquelle l'année d'imposition se termine » et de l'« année civile au cours de laquelle l'année d'imposition en cause se termine »,

(ii) la mention, au paragraphe 204(2) du *Règlement de l'impôt sur le revenu*, de la « fin de l'année d'imposition » s'entend de la « fin de l'année civile au cours de laquelle l'année d'imposition se termine ».

Election by trust and preferred beneficiary

(14) Where a trust and a preferred beneficiary under the trust for a particular taxation year of the trust jointly so elect in respect of the particular year in prescribed manner, such part of the accumulating income of the trust for the particular year as is designated in the election, not exceeding the allocable amount for the preferred beneficiary in respect of the trust for the particular year, shall be included in computing the income of the preferred beneficiary for the beneficiary's taxation year in which the particular year ended and shall not be included in computing the income of any beneficiary of the trust for a subsequent taxation year.

(14.01) to (14.1) [Repealed, 2014, c. 39, s. 26]

Allocable amount for preferred beneficiary

(15) For the purpose of subsection 104(14), the allocable amount for a preferred beneficiary under a trust in respect of the trust for a taxation year is

Choix fait par une fiducie et un bénéficiaire privilégié

(14) Lorsqu'une fiducie et son bénéficiaire privilégié pour une année d'imposition de la fiducie font un choix conjoint, pour cette année, selon les modalités réglementaires, la partie du revenu accumulé de la fiducie pour cette année qui est indiquée dans l'écrit concernant le choix et qui ne dépasse pas le montant attribuable au bénéficiaire privilégié relativement à la fiducie pour cette année est à inclure dans le calcul du revenu du bénéficiaire privilégié pour son année d'imposition au cours de laquelle l'année de la fiducie s'est terminée et n'est à inclure dans le calcul du revenu d'aucun bénéficiaire de la fiducie pour une année d'imposition postérieure.

(14.01) à (14.1) [Abrogés, 2014, ch. 39, art. 26]

Montant attribuable au bénéficiaire privilégié

(15) Pour l'application du paragraphe (14), le montant attribuable au bénéficiaire privilégié d'une fiducie relativement à celle-ci pour une année d'imposition est le suivant :

(a) where the trust is an alter ego trust, a joint spousal or common-law partner trust, a post-1971 spousal or common-law partner trust or a trust described in the definition ***pre-1972 spousal trust*** in subsection 108(1) at the end of the year and a beneficiary, referred to in paragraph (4)(a) or in that definition, is alive at the end of the year, an amount equal to

(i) if the preferred beneficiary is a beneficiary so referred to, the trust's accumulating income for the year, and

(ii) in any other case, nil;

(b) where paragraph (a) does not apply and the preferred beneficiary's interest in the trust is not solely contingent on the death of another beneficiary who has a capital interest in the trust and who does not have an income interest in the trust, the trust's accumulating income for the year; and

(c) in any other case, nil.

a) lorsque la fiducie est une fiducie en faveur de soi-même, une fiducie mixte au profit de l'époux ou du conjoint de fait, une fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971 ou une fiducie visée à la définition de ***fiducie au profit du conjoint antérieure à 1972***, au paragraphe 108(1), à la fin de l'année et qu'un bénéficiaire mentionné à l'alinéa (4)a) ou à cette définition est vivant à la fin de l'année :

(i) si le bénéficiaire privilégié est le bénéficiaire ainsi mentionné, le revenu accumulé de la fiducie pour l'année,

(ii) sinon, zéro;

b) lorsque l'alinéa a) ne s'applique pas et que la participation du bénéficiaire privilégié dans la fiducie ne dépend pas uniquement du décès d'un autre bénéficiaire qui a une participation au capital de la fiducie, mais non une participation à son revenu, le revenu accumulé de la fiducie pour l'année;

c) dans les autres cas, zéro.

SIFT deemed dividend

(16) If an amount (in this subsection and section 122 referred to as the trust's "non-deductible distributions amount" for the taxation year) is determined under subparagraph (ii) of the description of B in paragraph (6)(b) in respect of a SIFT trust for a taxation year

(a) each beneficiary under the SIFT trust to whom at any time in the taxation year an amount became payable by the trust is deemed to have received at that time a taxable dividend that was paid at that time by a taxable Canadian corporation;

(b) the amount of a dividend described in paragraph (a) as having been received by a beneficiary at any time in a taxation year is equal to the amount determined by the formula

A/B × C

where

A is the amount that became payable at that time by the SIFT trust to the beneficiary,

B is the total of all amounts, each of which became payable in the taxation year by the SIFT trust to a beneficiary under the SIFT trust, and

C is the SIFT trust's non-deductible distributions amount for the taxation year;

(c) the amount of a dividend described in paragraph (a) in respect of a beneficiary under the SIFT trust is

Dividende réputé — fiducies intermédiaires de placement déterminées

(16) Dans le cas où une somme (appelée « montant de distribution non déductible » de la fiducie au présent paragraphe et à l'article 122) est déterminée selon le sous-alinéa (ii) de l'élément B de la formule figurant à l'alinéa (6)b) relativement à une fiducie intermédiaire de placement déterminée pour une année d'imposition, les règles ci-après s'appliquent :

a) chaque bénéficiaire de la fiducie auquel une somme est devenue payable par la fiducie à un moment de l'année est réputé avoir reçu, à ce moment, un dividende imposable qui a été versé à ce moment par une société canadienne imposable;

b) le montant du dividende qui, selon l'alinéa a), est réputé avoir été reçu par un bénéficiaire à un moment d'une année d'imposition correspond à la somme obtenue par la formule suivante :

A/B × C

où :

A représente la somme qui est devenue payable à ce moment au bénéficiaire par la fiducie,

B le total des sommes dont chacune est devenue payable par la fiducie au cours de l'année à son bénéficiaire,

C le montant de distribution non déductible de la fiducie pour l'année;

deemed for the purpose of subsection (13) not to be an amount payable to the beneficiary; and

(d) for the purposes of applying Part XIII in respect of each dividend described in paragraph (a), the SIFT trust is deemed to be a corporation resident in Canada that paid the dividend.

c) le montant du dividende visé à l'alinéa a) relativement à un bénéficiaire de la fiducie est réputé, pour l'application du paragraphe (13), ne pas être une somme payable au bénéficiaire;

d) pour l'application de la partie XIII relativement à chaque dividende visé à l'alinéa a), la fiducie est réputée être une société résidant au Canada qui a versé le dividende.

Trust for minor

(18) Where any part of the amount that, but for subsections 104(6) and 104(12), would be the income of a trust for a taxation year throughout which it was resident in Canada

(a) has not become payable in the year,

(b) was held in trust for an individual who did not attain 21 years of age before the end of the year,

(c) the right to which vested at or before the end of the year otherwise than because of the exercise by any person of, or the failure of any person to exercise, any discretionary power, and

(d) the right to which is not subject to any future condition (other than a condition that the individual survive to an age not exceeding 40 years),

notwithstanding subsection 104(24), that part of the amount is, for the purposes of subsections 104(6) and 104(13), deemed to have become payable to the individual in the year.

Fiducie au profit d'un mineur

(18) Malgré le paragraphe (24), la partie du montant qui, n'eût été les paragraphes (6) et (12), représenterait le revenu d'une fiducie pour une année d'imposition tout au long de laquelle elle a résidé au Canada est réputée, pour l'application des paragraphes (6) et (13), être devenue payable à un particulier au cours de l'année si les conditions suivantes sont réunies :

a) la partie de montant n'est pas devenue payable au cours de l'année;

b) la partie de montant était détenue en fiducie pour le compte du particulier qui n'a pas atteint 21 ans avant la fin de l'année;

c) le droit à la partie de montant est devenu acquis au particulier à la fin de l'année ou antérieurement, autrement qu'en raison de l'exercice ou de l'absence d'exercice, par une personne, d'un pouvoir discrétionnaire;

d) le droit à la partie de montant n'est assujetti à aucune condition future, exception faite de celle de vivre jusqu'à un âge ne dépassant pas 40 ans.

Designation in respect of taxable dividends

(19) A portion of a taxable dividend received by a trust, in a particular taxation year of the trust, on a share of the capital stock of a taxable Canadian corporation is, for the purposes of this Act other than Part XIII, deemed to be a taxable dividend on the share received by a taxpayer, in the taxpayer's taxation year in which the particular taxation year ends, and is, for the purposes of paragraphs 82(1)(b) and 107(1)(c) and (d) and section 112, deemed not to have been received by the trust, if

(a) an amount equal to that portion

(i) is designated by the trust, in respect of the taxpayer, in the trust's return of income under this Part for the particular taxation year, and

(ii) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust) to be part of the amount that,

Attribution de dividendes imposables

(19) La partie d'un dividende imposable qu'une fiducie reçoit, au cours de son année d'imposition donnée, sur une action du capital-actions d'une société canadienne imposable est réputée, pour l'application de la présente loi, sauf la partie XIII, être un dividende imposable sur l'action reçu par un contribuable au cours de son année d'imposition dans laquelle l'année donnée prend fin, et est réputée, pour l'application des alinéas 82(1)b) et 107(1)c) et d) et de l'article 112, ne pas avoir été reçue par la fiducie, si, à la fois :

a) une somme égale à cette partie :

(i) d'une part, est attribuée au contribuable par la fiducie dans la déclaration de revenu qu'elle produit pour l'année donnée en vertu de la présente partie,

(ii) d'autre part, peut raisonnablement être considérée, compte tenu des circonstances, y compris les

because of paragraph (13)(a), subsection (14) or section 105, was included in computing the income for that taxation year of the taxpayer;

(b) the taxpayer is in the particular taxation year a beneficiary under the trust;

(c) the trust is, throughout the particular taxation year, resident in Canada; and

(d) the total of all amounts each of which is an amount designated, under this subsection, by the trust in respect of a beneficiary under the trust in the trust's return of income under this Part for the particular taxation year is not greater than the total of all amounts each of which is the amount of a taxable dividend, received by the trust in the particular taxation year, on a share of the capital stock of a taxable Canadian corporation.

modalités de l'acte de fiducie, comme faisant partie du montant qui, par l'effet de l'alinéa (13)a), du paragraphe (14) ou de l'article 105, a été inclus dans le calcul du revenu du contribuable pour l'année d'imposition en cause de celui-ci;

b) le contribuable est bénéficiaire de la fiducie au cours de l'année donnée;

c) la fiducie réside au Canada tout au long de l'année donnée;

d) le total des sommes représentant chacune une somme que la fiducie a attribuée à l'un de ses bénéficiaires, aux termes du présent paragraphe, dans la déclaration de revenu qu'elle produit pour l'année donnée en vertu de la présente partie n'excède pas le total des sommes dont chacune est un dividende imposable qu'elle a reçu au cours de cette année sur une action du capital-actions d'une société canadienne imposable.

Designation in respect of non-taxable dividends

(20) The portion of the total of all amounts, each of which is the amount of a dividend (other than a taxable dividend) paid on a share of the capital stock of a corporation resident in Canada to a trust during a taxation year of the trust throughout which the trust was resident in Canada, that can reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of an amount that became payable in the year to a particular beneficiary under the trust shall be designated by the trust in respect of the particular beneficiary in the return of the trust's income for the year for the purposes of subclause 53(2)(h)(i.1)(B)(II), paragraphs 107(1)(c) and 107(1)(d) and subsections 112(3.1), 112(3.2), 112(3.31) and 112(4.2).

Attribution de dividendes non imposables

(20) Pour l'application de la subdivision 53(2)h)(i.1)(B)(II), des alinéas 107(1)c) et d) et des paragraphes 112(3.1), (3.2), (3.31) et (4.2), une fiducie doit attribuer à un bénéficiaire, dans sa déclaration de revenu produite pour une année d'imposition tout au long de laquelle elle a résidé au Canada, la fraction du total des montants représentant chacun un dividende, sauf un dividende imposable, qui lui a été versé au cours de l'année sur une action du capital-actions d'une société qui réside au Canada, s'il est raisonnable de considérer que cette fraction — compte tenu des circonstances, y compris les modalités de l'acte de fiducie — fait partie d'une somme qui est devenue payable au bénéficiaire au cours de l'année dans le cadre de la fiducie.

Designation in respect of taxable capital gains

(21) For the purposes of sections 3 and 111, except as they apply for the purposes of section 110.6, and subject to paragraph 132(5.1)(b), an amount in respect of a trust's net taxable capital gains for a particular taxation year of the trust is deemed to be a taxable capital gain, for the taxation year of a taxpayer in which the particular taxation year ends, from the disposition by the taxpayer of capital property if

(a) the amount

(i) is designated by the trust, in respect of the taxpayer, in the trust's return of income under this Part for the particular taxation year, and

Attribution de gains en capital imposables

(21) Pour l'application des articles 3 et 111, sauf dans la mesure où ils s'appliquent à l'article 110.6, et sous réserve de l'alinéa 132(5.1)b), la somme relative aux gains en capital imposables nets d'une fiducie, pour une année d'imposition donnée de celle-ci, est réputée être un gain en capital imposable, pour l'année d'imposition d'un contribuable dans laquelle l'année donnée prend fin, provenant de la disposition d'une immobilisation par le contribuable, si, à la fois :

a) la somme :

(i) d'une part, est attribuée au contribuable par la fiducie dans la déclaration de revenu qu'elle produit pour l'année donnée en vertu de la présente partie,

(ii) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust) to be part of the amount that, because of paragraph (13)(a), subsection (14) or section 105, was included in computing the income for that taxation year of the taxpayer;

(b) the taxpayer is

(i) in the particular taxation year, a beneficiary under the trust, and

(ii) resident in Canada, unless the trust is, throughout the particular taxation year, a mutual fund trust;

(c) the trust is, throughout the particular taxation year, resident in Canada; and

(d) the total of all amounts each of which is an amount designated, under this subsection, by the trust in respect of a beneficiary under the trust in the trust's return of income under this Part for the particular taxation year is not greater than the trust's net taxable capital gains for the particular taxation year.

ii) d'autre part, peut raisonnablement être considérée, compte tenu des circonstances, y compris les modalités de l'acte de fiducie, comme faisant partie du montant qui, par l'effet de l'alinéa (13)a), du paragraphe (14) ou de l'article 105, a été inclus dans le calcul du revenu du contribuable pour l'année d'imposition en cause de celui-ci;

b) le contribuable, à la fois :

(i) est bénéficiaire de la fiducie au cours de l'année donnée,

(ii) réside au Canada, sauf si la fiducie est une fiducie de fonds commun de placement tout au long de l'année donnée;

c) la fiducie réside au Canada tout au long de l'année donnée;

d) le total des sommes représentant chacune une somme que la fiducie a attribuée à l'un de ses bénéficiaires, aux termes du présent paragraphe, dans la déclaration de revenu qu'elle produit pour l'année donnée en vertu de la présente partie n'excède pas les gains en capital imposables nets de la fiducie pour cette année.

Late, amended or revoked designation

(21.01) A trust that has filed its return of income for its taxation year that includes February 22, 1994 may subsequently designate an amount under subsection 104(21), or amend or revoke a designation made under that subsection where the designation, amendment or revocation

(a) is made solely because of an increase or decrease in the net taxable capital gains of the trust for the year that results from an election or revocation to which subsection 110.6(25), 110.6(26) or 110.6(27) applies; and

(b) is filed with the Minister, with an amended return of income for the year, when the election or revocation referred to in paragraph 104(21.01)(a) is filed with the Minister.

Late, amended or revoked designation

(21.02) A designation, amendment or revocation under subsection 104(21.01) that affects an amount determined in respect of a beneficiary under subsection 104(21.2) may be made only where the trust

(a) designates an amount, or amends or revokes a designation made, under subsection 104(21.2) in respect of the beneficiary; and

Attribution modifiée, révoquée ou tardive

(21.01) La fiducie qui a produit sa déclaration de revenu pour son année d'imposition qui comprend le 22 février 1994 peut attribuer un montant en application du paragraphe (21), ou modifier ou révoquer pareille attribution, dans le cas où l'attribution, la modification ou la révocation, à la fois :

a) est faite uniquement à cause de l'augmentation ou de la diminution des gains en capital imposables nets de la fiducie pour l'année qui découle d'un choix ou d'une révocation auquel s'appliquent les paragraphes 110.6(25), (26) ou (27);

b) est présentée au ministre, accompagnée d'une déclaration de revenu modifiée pour l'année, en même temps que le choix ou la révocation visée à l'alinéa a).

Conditions

(21.02) L'attribution, la modification et la révocation visées au paragraphe (21.01) qui touchent un montant déterminé selon le paragraphe (21.2) relativement à un bénéficiaire ne peuvent être faites que dans le cas où la fiducie, à la fois :

a) attribue un montant au bénéficiaire en application du paragraphe (21.2), ou modifie ou révoque une telle attribution;

(b) files the designation, amendment or revocation referred to in paragraph 104(21.02)(a) with the Minister when required by paragraph 104(21.01)(b).

(b) présente au ministre, au moment visé à l'alinéa (21.01)b), l'attribution, la modification ou la révocation visée à l'alinéa a).

Late, amended or revoked designation

(21.03) Where a trust designates an amount, or amends or revokes a designation, under subsection 104(21) or 104(21.2) in accordance with subsection 104(21.01),

(a) the designation or amended designation, as the case may be, is deemed to have been made in the trust's return of income for the trust's taxation year that includes February 22, 1994; and

(b) the designation that was revoked is deemed, other than for the purposes of this subsection and subsections 104(21.01) and 104(21.02), never to have been made.

Présomptions

(21.03) Dans le cas où une fiducie attribue un montant en application des paragraphes (21) ou (21.2) en conformité avec le paragraphe (21.01), ou modifie ou révoque une telle attribution, les présomptions suivantes s'appliquent :

a) l'attribution ou l'attribution modifiée est réputée avoir été faite dans la déclaration de revenu de la fiducie pour son année d'imposition qui comprend le 22 février 1994;

b) l'attribution qui a été révoquée est réputée, autrement que pour l'application du présent paragraphe et des paragraphes (21.01) et (21.02), ne jamais avoir été faite.

(21.1) [Repealed, 2013, c. 34, s. 231]

(21.1) [Abrogé, 2013, ch. 34, art. 231]

Beneficiaries' taxable capital gain

(21.2) Where, for the purposes of subsection (21), a personal trust or a trust referred to in subsection 7(2) designates an amount in respect of a beneficiary in respect of its net taxable capital gains for a taxation year (in this subsection referred to as the "designation year"),

(a) the trust shall in its return of income under this Part for the designation year designate an amount in respect of its eligible taxable capital gains, if any, for the designation year in respect of the beneficiary equal to the amount determined in respect of the beneficiary under each of subparagraphs 104(21.2)(b)(i) and 104(21.2)(b)(ii); and

(b) the beneficiary is, for the purposes of sections 3, 74.3 and 111 as they apply for the purposes of section 110.6,

(i) deemed to have disposed of the capital property referred to in clause (ii)(A), (B) or (C) if a taxable capital gain is determined in respect of the beneficiary for the beneficiary's taxation year in which the designation year ends under those clauses, and

(ii) deemed to have a taxable capital gain for the beneficiary's taxation year in which the designation year ends

(A) from a disposition of a capital property that is qualified farm or fishing property (as defined

Gains en capital imposables des bénéficiaires

(21.2) Dans le cas où, pour l'application du paragraphe (21), une fiducie personnelle ou une fiducie visée au paragraphe 7(2) attribue un montant à un bénéficiaire au titre de ses gains en capital imposables nets pour une année d'imposition (appelée « année d'attribution » au présent paragraphe), les règles suivantes s'appliquent :

a) la fiducie attribue au bénéficiaire, dans la déclaration de revenu qu'elle produit en vertu de la présente partie pour l'année d'attribution, au titre de ses gains en capital imposables admissibles pour cette année, le montant calculé selon chacun des sous-alinéas b)(i) et (ii);

b) pour l'application des articles 3, 74.3 et 111 dans le cadre de l'article 110.6, le bénéficiaire est réputé :

(i) d'une part, avoir disposé des immobilisations visées aux divisions (ii)(A), (B) ou (C), si un gain en capital imposable est déterminé à son égard selon ces divisions pour son année d'imposition dans laquelle l'année d'attribution prend fin,

(ii) d'autre part, tirer de la disposition des immobilisations ci-après, pour son année d'imposition dans laquelle l'année d'attribution prend fin, un gain en capital imposable égal à la somme obtenue par la formule applicable suivante :

(A) si l'immobilisation est son bien agricole ou de pêche admissible, au sens de l'article 110.6 :

(A × B × C)/(D × E)

for the purpose of section 110.6) of the beneficiary equal to the amount determined by the formula

(A × B × C)/(D × E)

and

(B) from a disposition of a capital property that is a qualified small business corporation share (as defined for the purpose of section 110.6) of the beneficiary equal to the amount determined by the formula

(A × B × F)/(D × E)

where

A is the lesser of

(I) the amount determined by the formula

G - H

where

G is the total of amounts designated under subsection (21) for the designation year by the trust, and

H is the total of amounts designated under subsection (13.2) for the designation year by the trust, and

(II) the trust's eligible taxable capital gains for the designation year,

B is the amount, if any, by which the amount designated under subsection (21) for the designation year by the trust in respect of the beneficiary exceeds the amount designated under subsection (13.2) for the year by the trust in respect of the beneficiary for the taxation year,

C is the amount, if any, that would be determined under paragraph 3(b) for the designation year in respect of the trust's capital gains and capital losses if the only properties referred to in that paragraph were properties that, at the time they were disposed of, were qualified farm properties, qualified fishing properties or qualified farm or fishing properties of the trust,

D is the total of all amounts each of which is the amount determined for B for the designation year in respect of a beneficiary under the trust,

(B) si l'immobilisation est son action admissible de petite entreprise, au sens de l'article 110.6 :

(A × B × F)/(D × E)

où :

A représente la moins élevée des sommes suivantes :

(I) la somme obtenue par la formule suivante :

G - H

où :

G représente le total des sommes attribuées par la fiducie en application du paragraphe (21) pour l'année d'attribution,

H le total des sommes attribuées par la fiducie en application du paragraphe (13.2) pour l'année d'attribution,

(II) les gains en capital imposables admissibles de la fiducie pour l'année d'attribution,

B l'excédent éventuel de la somme que la fiducie a attribuée au bénéficiaire en application du paragraphe (21) pour l'année d'attribution sur la somme qu'elle lui a attribuée pour l'année d'imposition en application du paragraphe (13.2),

C l'excédent qui serait calculé selon l'alinéa 3b) pour l'année d'attribution au titre des gains en capital et des pertes en capital de la fiducie si les seuls biens visés à cet alinéa étaient des biens qui, au moment où il en a été disposé, étaient des biens agricoles admissibles, des biens de pêche admissibles ou des biens agricoles ou de pêche admissibles de la fiducie,

D le total des sommes représentant chacune la valeur de l'élément B pour l'année d'attribution relativement à un bénéficiaire de la fiducie,

E le total des valeurs des éléments C et F pour l'année d'attribution relativement au bénéficiaire,

F l'excédent qui serait calculé selon l'alinéa 3b) pour l'année d'attribution au titre des gains en capital et des pertes en capital de la fiducie si les seuls biens visés à cet alinéa étaient des biens qui, au moment où il en a été disposé, étaient des actions admissibles de petite entreprise de la fiducie, autres que des

E is the total of the amounts determined for C and F for the designation year in respect of the beneficiary, and

F is the amount, if any, that would be determined under paragraph 3(b) for the designation year in respect of the trust's capital gains and capital losses if the only properties referred to in that paragraph were properties that, at the time they were disposed of, were qualified small business corporation shares of the trust, other than qualified farm property, qualified fishing property or qualified farm or fishing property.

I [Repealed, 2014, c. 39, s. 26]

(C) [Repealed, 2014, c. 39, s. 26]

Beneficiaries QFFP taxable capital gain

(21.21) If clause (21.2)(b)(ii)(A) applies to deem, for the purposes of section 110.6, the beneficiary under a trust to have a taxable capital gain (referred to in this subsection as the "QFFP taxable capital gain") from a disposition of capital property that is qualified farm or fishing property of the beneficiary, for the beneficiary's taxation year that ends on or after April 21, 2015, and in which the designation year of the trust ends, for the purposes of subsection 110.6(2.2), the beneficiary is, if the trust complies with the requirements of subsection (21.22), deemed to have a taxable capital gain from the disposition of qualified farm or fishing property of the beneficiary on or after April 21, 2015 equal to the amount determined by the formula

A × B/C

where

A is the amount of the QFFP taxable capital gain;

B is, if the designation year of the trust ends on or after April 21, 2015, the amount that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm or fishing properties of the trust that were disposed of by the trust on or after April 21, 2015; and

C is, if the designation year of the trust ends on or after April 21, 2015, the amount that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm or fishing properties.

Trusts to designate amounts

(21.22) A trust shall determine and designate, in its return of income under this Part for a designation year of

biens agricoles admissibles, des biens de pêche admissibles ou des biens agricoles ou de pêche admissibles.

I [Abrogée, 2014, ch. 39, art. 26]

(C) [Abrogée, 2014, ch. 39, art. 26]

Gain en capital imposable (BAPA) des bénéficiaires

(21.21) Le bénéficiaire d'une fiducie qui, par l'effet de la division (21.2)b)(ii)(A), est réputé, pour l'application de l'article 110.6, tirer un gain en capital imposable de la disposition d'une immobilisation qui est son bien agricole ou de pêche admissible (appelé « gain en capital imposable (BAPA) » au présent paragraphe), pour son année d'imposition qui se termine après le 20 avril 2015 et dans laquelle l'année d'attribution de la fiducie prend fin, est réputé, pour l'application du paragraphe 110.6(2.2), tirer de la disposition de son bien agricole ou de pêche admissible après le 20 avril 2015 un gain en capital imposable égal à la somme obtenue par la formule ci-après, si la fiducie remplit les exigences énoncées au paragraphe (21.22) :

A × B/C

où :

A représente le montant de gain en capital (BAPA),

B si l'année d'attribution de la fiducie se termine après le 20 avril 2015, la somme qui serait déterminée relativement à la fiducie pour cette année en vertu de l'alinéa 3b) au titre de gains en capital et de pertes en capital si les seuls biens visés à cet alinéa étaient des biens agricoles ou de pêche admissibles de la fiducie dont celle-ci a disposé après le 20 avril 2015,

C si l'année d'attribution de la fiducie se termine après le 20 avril 2015, la somme qui serait déterminée relativement à la fiducie pour cette année en vertu de l'alinéa 3b) au titre de gains en capital et de pertes en capital si les seuls biens visés à cet alinéa étaient des biens agricoles ou de pêche admissibles.

Attribution de sommes par la fiducie

(21.22) Une fiducie est tenue de déterminer et d'attribuer, dans la déclaration de revenu qu'elle produit en

the trust, the amount that is determined under subsection (21.21) to be the beneficiary's taxable capital gain from the disposition on or after April 21, 2015 of qualified farm or fishing property of the beneficiary.

(21.23) and (21.24) [Repealed, 2014, c. 39, s. 26]

Net taxable capital gains of trust determined

(21.3) For the purposes of this section, the net taxable capital gains of a trust for a taxation year is the amount, if any, determined by the formula

A + B – C – D

where

A is the total of all amounts each of which is a taxable capital gain of the trust for the year from the disposition of a capital property that was held by the trust immediately before the disposition,

B is the total of all amounts each of which is deemed by subsection (21) to be a taxable capital gain of the trust for the year,

C is the total of all amounts each of which is an allowable capital loss (other than an allowable business investment loss) of the trust for the year from the disposition of a capital property, and

D is the amount, if any, deducted under paragraph 111(1)(b) in computing the trust's taxable income for the year.

(21.4) to (21.7) [Repealed, 2013, c. 34, s. 231]

Designation in respect of foreign source income

(22) For the purposes of this subsection, subsection (22.1) and section 126, an amount in respect of a trust's income for a particular taxation year of the trust from a source in a country other than Canada is deemed to be income of a taxpayer, for the taxation year of the taxpayer in which the particular taxation year ends, from that source if

(a) the amount

(i) is designated by the trust, in respect of the taxpayer, in the trust's return of income under this Part for the particular taxation year, and

(ii) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust) to be part of the amount that,

vertu de la présente partie pour son année d'attribution, la somme qui représente, selon le paragraphe (21.21), le gain en capital imposable du bénéficiaire tiré de la disposition après le 20 avril 2015 de son bien agricole ou de pêche admissible.

(21.23) et (21.24) [Abrogés, 2014, ch. 39, art. 26]

Calcul des gains en capital imposables nets d'une fiducie

(21.3) Pour l'application du présent article, les gains en capital imposables nets d'une fiducie pour une année d'imposition correspondent à la somme obtenue par la formule suivante :

A + B – C – D

où :

A représente le total des sommes dont chacune représente un gain en capital imposable de la fiducie pour l'année provenant de la disposition d'une immobilisation qu'elle détenait immédiatement avant la disposition;

B le total des sommes dont chacune est réputée, en vertu du paragraphe (21), être un gain en capital imposable de la fiducie pour l'année;

C le total des sommes dont chacune représente une perte en capital déductible (sauf une perte déductible au titre d'un placement d'entreprise) de la fiducie pour l'année résultant de la disposition d'une immobilisation;

D la somme déduite en application de l'alinéa 111(1)b) dans le calcul du revenu imposable de la fiducie pour l'année.

(21.4) à (21.7) [Abrogés, 2013, ch. 34, art. 231]

Attribution du revenu de source étrangère

(22) Pour l'application du présent paragraphe, du paragraphe (22.1) et de l'article 126, la somme relative au revenu d'une fiducie, pour une année d'imposition donnée de celle-ci, provenant d'une source située dans un pays étranger est réputée être un revenu d'un contribuable, pour son année d'imposition dans laquelle l'année donnée prend fin, provenant de cette source si, à la fois :

a) la somme :

(i) d'une part, est attribuée au contribuable par la fiducie dans la déclaration de revenu qu'elle produit pour l'année donnée en vertu de la présente partie,

(ii) d'autre part, peut raisonnablement être considérée, compte tenu des circonstances, y compris les modalités de l'acte de fiducie, comme faisant partie

because of paragraph (13)(a) or subsection (14), was included in computing the income for that taxation year of the taxpayer;

(b) the taxpayer is in the particular taxation year a beneficiary under the trust;

(c) the trust is, throughout the particular taxation year, resident in Canada; and

(d) the total of all amounts each of which is an amount designated, under this subsection in respect of that source, by the trust in respect of a beneficiary under the trust in the trust's return of income under this Part for the particular taxation year is not greater than the trust's income for the particular taxation year from that source.

du montant qui, par l'effet de l'alinéa (13)a) ou du paragraphe (14), a été inclus dans le calcul du revenu du contribuable pour l'année d'imposition en cause de celui-ci;

b) le contribuable est bénéficiaire de la fiducie au cours de l'année donnée;

c) la fiducie réside au Canada tout au long de l'année donnée;

d) le total des sommes représentant chacune une somme que la fiducie a attribuée à l'un de ses bénéficiaires, aux termes du présent paragraphe relativement à cette source, dans la déclaration de revenu qu'elle produit pour l'année donnée en vertu de la présente partie n'excède pas le revenu de la fiducie pour cette année provenant de cette source.

Foreign tax deemed paid by beneficiary

(22.1) Where a taxpayer is a beneficiary under a trust, for the purposes of this subsection and section 126, the taxpayer shall be deemed to have paid as business-income tax or non-business-income tax, as the case may be, for a particular taxation year in respect of a source the amount determined by the formula

A × B/C

where

A is the amount that, but for subsection 104(22.3), would be the business-income tax or non-business-income tax, as the case may be, paid by the trust in respect of the source for a taxation year (in this subsection referred to as "that year") of the trust that ends in the particular year;

B is the amount deemed, because of a designation under subsection 104(22) for that year by the trust, to be the taxpayer's income from the source; and

C is the trust's income for that year from the source.

Impôt étranger réputé payé par un bénéficiaire

(22.1) Pour l'application du présent paragraphe et de l'article 126, le contribuable qui est bénéficiaire d'une fiducie est réputé avoir payé à titre d'impôt sur le revenu tiré d'une entreprise ou d'impôt sur le revenu ne provenant pas d'une entreprise, selon le cas, pour une année d'imposition donnée relativement à une source donnée, le montant calculé selon la formule suivante :

A × B/C

où :

A représente le montant qui, n'eût été le paragraphe (22.3), représenterait l'impôt sur le revenu tiré d'une entreprise ou l'impôt sur le revenu ne provenant pas d'une entreprise, selon le cas, payé par la fiducie relativement à la source donnée pour une année d'imposition déterminée de la fiducie qui se termine au cours de l'année donnée;

B le montant réputé, à cause de l'attribution effectuée par la fiducie pour l'année déterminée selon le paragraphe (22), être un revenu du contribuable tiré de la source donnée;

C le revenu de la fiducie pour l'année déterminée, tiré de la source donnée.

Recalculation of trust's foreign source income

(22.2) For the purpose of section 126, there shall be deducted in computing a trust's income from a source for a taxation year the total of all amounts deemed, because of designations under subsection 104(22) by the trust for the year, to be income of beneficiaries under the trust from that source.

Nouveau calcul du revenu de source étrangère d'une fiducie

(22.2) Pour l'application de l'article 126, est déduit dans le calcul du revenu d'une fiducie tiré d'une source donnée pour une année d'imposition le total des montants réputés, à cause de l'attribution effectuée par la fiducie pour l'année selon le paragraphe (22), être un revenu des bénéficiaires de la fiducie, tiré de cette source.

Recalculation of trust's foreign tax

(22.3) For the purpose of section 126, there shall be deducted in computing the business-income tax or non-business-income tax paid by a trust for a taxation year in respect of a source the total of all amounts deemed, because of designations under subsection 104(22) by the trust for the year, to be paid by beneficiaries under the trust as business-income tax or non-business-income tax, as the case may be, in respect of the source.

Nouveau calcul de l'impôt étranger d'une fiducie

(22.3) Pour l'application de l'article 126, est déduit dans le calcul de l'impôt sur le revenu tiré d'une entreprise ou de l'impôt sur le revenu ne provenant pas d'une entreprise, payé par une fiducie pour une année d'imposition relativement à une source donnée, le total des montants réputés, à cause de l'attribution effectuée par la fiducie pour l'année selon le paragraphe (22), payé par les bénéficiaires de la fiducie à titre d'impôt sur le revenu tiré d'une entreprise ou d'impôt sur le revenu ne provenant pas d'une entreprise, selon le cas, relativement à cette source.

Definitions

(22.4) For the purposes of subsections 104(22) to 104(22.3), the expressions ***business-income tax*** and ***non-business-income tax*** have the meanings assigned by subsection 126(7).

Définitions

(22.4) Pour l'application des paragraphes (22) à (22.3), les expressions ***impôt sur le revenu tiré d'une entreprise*** et ***impôt sur le revenu ne provenant pas d'une entreprise*** s'entendent au sens du paragraphe 126(7).

Deceased beneficiary of graduated rate estate

(23) In the case of a trust that is a graduated rate estate,

(a) and (b) [Repealed, 2013, c. 34, s. 231]

(c) the income of a person for a taxation year from the trust shall be deemed to be the person's benefits from or under the trust for the taxation year or years of the trust that ended in the year determined as provided by this section and section 105; and

(d) where an individual having income from the trust died after the end of a taxation year of the trust but before the end of the calendar year in which the taxation year ended, the individual's income from the trust for the period commencing immediately after the end of the taxation year and ending at the time of death shall be included in computing the individual's income for the individual's taxation year in which the individual died unless the individual's legal representative has elected otherwise, in which case the legal representative shall file a separate return of income for the period under this Part and pay the tax for the period under this Part as if

(i) the individual were another person,

(ii) the period were a taxation year,

(iii) that other person's only income for the period were the individual's income from the trust for that period, and

(iv) subject to sections 114.2 and 118.93, that other person were entitled to the deductions to which the

Règles — successions assujetties à l'imposition à taux progressifs

(23) Les règles ci-après s'appliquent à la fiducie qui est une succession assujettie à l'imposition à taux progressifs :

a) et b) [Abrogés, 2013, ch. 34, art. 231]

c) le revenu d'une personne, pour une année d'imposition, tiré d'une fiducie est réputé être le bénéfice qu'elle en retire pour l'année d'imposition ou les années d'imposition de la fiducie qui se sont terminées au cours de cette année, déterminé en vertu du présent article et de l'article 105;

d) lorsqu'un particulier tirant un revenu de la fiducie décède après la fin d'une année d'imposition de la fiducie, mais avant la fin de l'année civile où cette année d'imposition s'est terminée, ce revenu, pour la période commençant immédiatement après la fin de l'année d'imposition et se terminant lors du décès du particulier, doit être inclus dans le calcul du revenu de celui-ci pour l'année d'imposition où il est décédé, sauf si son représentant légal a fait un choix à cet égard; dans ce cas, le représentant légal doit produire une déclaration de revenu distincte pour cette période en vertu de la présente partie et payer l'impôt pour cette période en vertu de la présente partie comme si :

(i) le particulier était une autre personne,

(ii) cette période était une année d'imposition,

(iii) le seul revenu de cette autre personne pour cette période était le revenu du particulier tiré de la fiducie pour cette période,

individual was entitled under sections 110, 118 to 118.7 and 118.9 for the period in computing the individual's taxable income or tax payable under this Part, as the case may be, for the period.

(e) [Repealed, 2014, c. 39, s. 26]

iv) sous réserve des articles 114.2 et 118.93, cette autre personne avait droit aux déductions auxquelles le particulier avait droit en application des articles 110, 118 à 118.7 et 118.9 pour cette période dans le calcul de son revenu imposable ou de son impôt payable en vertu de la présente partie, selon le cas, pour cette période.

e) [Abrogé, 2014, ch. 39, art. 26]

Amount payable

(24) For the purposes of subsections (6), (7), (7.01), (13), (16) and (20), subparagraph 53(2)(h)(i.1) and subsections 94(5.2) and (8), an amount is deemed not to have become payable to a beneficiary in a taxation year unless it was paid in the year to the beneficiary or the beneficiary was entitled in the year to enforce payment of it.

Somme devenue payable

(24) Pour l'application des paragraphes (6), (7), (7.01), (13), (16) et (20), du sous-alinéa 53(2)h)(i.1) et des paragraphes 94(5.2) et (8), une somme est réputée ne pas être devenue payable à un bénéficiaire au cours d'une année d'imposition à moins qu'elle ne lui ait été payée au cours de l'année ou que le bénéficiaire n'eût le droit au cours de l'année d'en exiger le paiement.

Pension benefits

(27) If a trust, in a taxation year in which it is resident in Canada and is the graduated rate estate of an individual, receives a superannuation or pension benefit or a benefit out of or under a foreign retirement arrangement and designates, in its return of income for the year under this Part, an amount in respect of a beneficiary under the trust equal to the portion (in this subsection referred to as the "beneficiary's share") of the benefit that

(a) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the amount that, by reason of subsection 104(13), was included in computing the income for a particular taxation year of the beneficiary, and

(b) was not designated by the trust in respect of any other beneficiary under the trust,

the following rules apply:

(c) where

(i) the benefit is an amount described in subparagraph (a)(i) of the definition ***pension income*** in subsection 118(7), and

(ii) the beneficiary was a spouse or common-law partner of the individual,

the beneficiary's share of the benefit shall be deemed, for the purposes of subsections 118(3) and 118(7), to be a payment described in subparagraph (a)(i) of the definition ***pension income*** in subsection 118(7) that is included in computing the beneficiary's income for the particular year,

Prestations de retraite

(27) Lorsqu'une fiducie qui reçoit une prestation de retraite ou de pension, ou un avantage dans le cadre d'un mécanisme de retraite étranger, au cours d'une année d'imposition au cours de laquelle elle réside au Canada et est la succession assujettie à l'imposition à taux progressifs d'un particulier, indique, dans sa déclaration de revenu pour l'année produite en vertu de la présente partie, un montant pour un de ses bénéficiaires, égal à la fraction de la prestation — appelée « part du bénéficiaire » au présent paragraphe — qu'elle n'a attribuée à aucun autre de ses bénéficiaires et qu'il est raisonnable de considérer (compte tenu des circonstances, y compris les modalités de l'acte de fiducie) comme faisant partie du montant qui, par l'application du paragraphe (13), a été inclus dans le calcul du revenu du bénéficiaire pour une année d'imposition donnée, les règles ci-après s'appliquent :

a) la part du bénéficiaire sur la prestation est réputée, pour l'application des paragraphes 118(3) et (7), être un versement visé au sous-alinéa a)(i) de la définition de ***revenu de pension*** au paragraphe 118(7) qui est inclus dans le calcul du revenu du bénéficiaire pour l'année donnée si :

(i) d'une part, la prestation est un montant visé à ce sous-alinéa,

(ii) d'autre part, le bénéficiaire était l'époux ou le conjoint de fait du particulier;

b) la part du bénéficiaire sur la prestation est, pour l'application de l'alinéa 60j), un montant admissible pour le bénéficiaire pour l'année donnée si la prestation, selon le cas :

(d) where the benefit

(i) is a single amount (as defined in subsection 147.1(1)), other than an amount that relates to an actuarial surplus, paid by a registered pension plan to the trust as a consequence of the individual's death and the individual was, at the time of death, a spouse or common-law partner of the beneficiary, or

(ii) would be an amount included in the total determined under paragraph 60(j) in respect of the beneficiary for the taxation year of the beneficiary in which the benefit was received by the trust if the benefit had been received by the beneficiary at the time it was received by the trust,

the beneficiary's share of the benefit is, for the purposes of paragraph 60(j), an eligible amount in respect of the beneficiary for the particular year, and

(e) where the benefit is a single amount (as defined in subsection 147.1(1)) paid by a registered pension plan to the trust as a consequence of the individual's death,

(i) if the beneficiary was, immediately before the death, a child or grandchild of the individual who, because of mental or physical infirmity, was financially dependent on the individual for support, the beneficiary's share of the benefit (other than any portion of it that relates to an actuarial surplus) is deemed, for the purposes of paragraph 60(l), to be an amount from a registered pension plan included in computing the beneficiary's income for the particular year as a payment described in clause 60(l)(v)(B.01), and

(ii) if the beneficiary was, at the time of the death, under 18 years of age and a child or grandchild of the individual, the beneficiary's share of the benefit (other than any portion of it that relates to an actuarial surplus) is deemed, for the purposes of paragraph 60(l), to be an amount from a registered pension plan included in computing the beneficiary's income for the particular year as a payment described in subclause 60(l)(v)(B.1)(II).

(i) est un montant unique, au sens du paragraphe 147.1(1), à l'exception d'un montant afférent à un surplus actuariel, qu'un régime de pension agréé a versé à la fiducie par suite du décès, le particulier étant, au moment de son décès, l'époux ou le conjoint de fait du bénéficiaire,

(ii) est un montant inclus dans le total calculé selon l'alinéa 60j) au titre du bénéficiaire pour son année d'imposition au cours de laquelle la fiducie a reçu la prestation, à la condition que le bénéficiaire ait reçu celle-ci au même moment que la fiducie;

c) lorsque la prestation est un montant unique, au sens du paragraphe 147.1(1), qu'un régime de pension agréé verse à la fiducie par suite du décès du particulier :

(i) si le bénéficiaire était, immédiatement avant le décès, l'enfant ou le petit-enfant du particulier et était financièrement à sa charge en raison d'une déficience mentale ou physique, la part du bénéficiaire sur la prestation (à l'exception de toute fraction de celle-ci qui se rapporte à un surplus actuariel) est réputée, pour l'application de l'alinéa 60l), être un montant provenant d'un régime de pension agréé qui est inclus dans le calcul du revenu du bénéficiaire pour l'année donnée à titre de paiement visé à la division 60l)(v)(B.01),

(ii) si le bénéficiaire — enfant ou petit-enfant du particulier — avait moins de 18 ans au décès, la part du bénéficiaire sur la prestation (à l'exception de toute fraction de celle-ci qui se rapporte à un surplus actuariel) est réputée, pour l'application de l'alinéa 60l), être un montant provenant d'un régime de pension agréé qui est inclus dans le calcul du revenu du bénéficiaire pour l'année donnée à titre de paiement visé à la subdivision 60l)(v)(B.1)(II).

DPSP benefits

(27.1) Where

(a) a trust, in a taxation year (in this subsection referred to as the "trust year") in which it is resident in Canada and is the graduated rate estate of an individual, receives an amount from a deferred profit sharing plan as a consequence of the individual's death,

Prestations d'un régime de participation différée aux bénéfices

(27.1) Si une fiducie qui est la succession assujettie à l'imposition à taux progressifs d'un particulier reçoit, au cours d'une année d'imposition (appelée « année de la fiducie » au présent paragraphe) au cours de laquelle elle réside au Canada, un montant par suite du décès du particulier, lequel montant ne fait pas partie d'une série de paiements périodiques et provient d'un régime de

(b) the individual was an employee of an employer who participated in the plan on behalf of the individual, and

(c) the amount is not part of a series of periodic payments,

such portion of the amount as

(d) is included under subsection 147(10) in computing the income of the trust for the trust year,

(e) can reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the amount that was included under subsection (13) in computing the income for a particular taxation year of a beneficiary under the trust who was, at the time of the death, the individual's spouse or common-law partner, and

(f) is designated by the trust in respect of the beneficiary in the trust's return of income under this Part for the trust year

is, for the purposes of paragraph 60(j), an eligible amount inrespect of the beneficiary for the particular year.

participation différée aux bénéfices auquel a participé, au profit du particulier, l'employeur de celui-ci, la fraction du montant qui répond aux conditions ci-après est, pour l'application de l'alinéa 60j), un montant admissible pour le bénéficiaire pour une année d'imposition donnée :

a) elle est incluse selon le paragraphe 147(10) dans le calcul du revenu de la fiducie pour l'année de la fiducie;

b) il est raisonnable de considérer (compte tenu des circonstances, y compris les modalités de l'acte de fiducie) qu'elle fait partie du montant qui a été inclus en application du paragraphe (13) dans le calcul du revenu pour l'année donnée d'un bénéficiaire de la fiducie qui était l'époux ou le conjoint de fait du particulier au moment du décès;

c) la fiducie l'indique, pour le bénéficiaire, dans sa déclaration de revenu produite pour l'année de la fiducie en vertu de la présente partie.

Death benefit

(28) If the graduated rate estate of an individual receives an amount on or after the individual's death in recognition of the individual's service in an office or employment, the portion of the amount that can reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be paid or payable at any time to a beneficiary under the estate is deemed

(a) to be an amount received by the beneficiary at that time on or after the death in recognition of the individual's service in an office or employment; and

(b) except for purposes of this subsection, not to have been received by the estate.

Prestation de décès

(28) Si la succession assujettie à l'imposition à taux progressifs d'un particulier reçoit une somme au moment du décès du particulier ou par la suite en reconnaissance des services rendus par lui dans le cadre d'une charge ou d'un emploi, la fraction de la somme qu'il est raisonnable de considérer (compte tenu des circonstances, y compris les modalités de l'acte de fiducie) comme étant payée ou à payer à un moment donné à un bénéficiaire de la succession est réputée :

a) être une somme reçue par le bénéficiaire à ce moment au décès ou par la suite en reconnaissance des services rendus par le particulier dans le cadre d'une charge ou d'un emploi;

b) ne pas être une somme reçue par la succession, sauf pour l'application du présent paragraphe.

(29) [Repealed, 2003, c. 28, s. 11(2)]

(29) [Abrogé, 2003, ch. 28, art. 11(2)]

Tax under Part XII.2

(30) For the purposes of this Part, there shall be deducted in computing the income of a trust for a taxation year the tax paid by the trust for the year under Part XII.2.

Impôt prévu à la partie XII.2

(30) Pour l'application de la présente partie, l'impôt payé par une fiducie en application de la partie XII.2 pour une année d'imposition doit être déduit dans le calcul de son revenu pour l'année.

Idem

(31) The amount in respect of a taxation year of a trust that is deemed under subsection 210.2(3) to have been

Idem

(31) Pour l'application du paragraphe (13), le montant qui, par rapport à une année d'imposition d'une fiducie,

paid by a beneficiary under the trust on account of the beneficiary's tax under this Part shall, for the purposes of subsection 104(13), be deemed to be an amount in respect of the income of the trust for the year that has become payable by the trust to the beneficiary at the end of the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 104; 1994, c. 7, Sch. II, s. 75, Sch. VIII, s. 42, c. 8, s. 12, c. 21, s. 46; 1995, c. 3, s. 28; 1996, c. 21, s. 18; 1998, c. 19, s. 127; 2000, c. 12, s. 142; 2001, c. 17, s. 78; 2003, c. 15, s. 72, c. 28, s. 11; 2005, c. 19, s. 17; 2007, c. 2, s. 15, c. 29, s. 8, c. 35, s. 27; 2010, c. 25, s. 16; 2013, c. 34, ss. 10, 231; 2014, c. 39, s. 26; 2015, c. 36, s. 5; 2016, c. 12, s. 35.

est réputé par le paragraphe 210.2(3) payé par le bénéficiaire de la fiducie au titre de son impôt payable en vertu de la présente partie est réputé être un montant devenu payable par la fiducie au bénéficiaire à la fin de l'année sur le revenu de la fiducie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 104; 1994, ch. 7, ann. II, art. 75, ann. VIII, art. 42, ch. 8, art. 12, ch. 21, art. 46; 1995, ch. 3, art. 28; 1996, ch. 21, art. 18; 1998, ch. 19, art. 127; 2000, ch. 12, art. 142; 2001, ch. 17, art. 78; 2003, ch. 15, art. 72, ch. 28, art. 11; 2005, ch. 19, art. 17; 2007, ch. 2, art. 15, ch. 29, art. 8, ch. 35, art. 27; 2010, ch. 25, art. 16; 2013, ch. 34, art. 10 et 231; 2014, ch. 39, art. 26; 2015, ch. 36, art. 5; 2016, ch. 12, art. 35.

Benefits under trust

105 (1) The value of all benefits to a taxpayer during a taxation year from or under a trust, irrespective of when created, shall, subject to subsection 105(2), be included in computing the taxpayer's income for the year except to the extent that the value

(a) is otherwise required to be included in computing the taxpayer's income for a taxation year; or

(b) has been deducted under paragraph 53(2)(h) in computing the adjusted cost base of the taxpayer's interest in the trust or would be so deducted if that paragraph

(i) applied in respect of the taxpayer's interest in the trust, and

(ii) were read without reference to clause 53(2)(h)(i.1)(B).

Avantages provenant de fiducies

105 (1) Sous réserve du paragraphe (2), la valeur des avantages conférés à un contribuable pendant une année d'imposition par une fiducie ou en vertu d'une fiducie, indépendamment du moment où celle-ci a été constituée, doit être incluse dans le calcul du revenu du contribuable pour l'année, sauf dans la mesure où la valeur des avantages :

a) soit doit être incluse par ailleurs dans le calcul du revenu du contribuable pour une année d'imposition;

b) soit a été déduite en application de l'alinéa 53(2)h) dans le calcul du prix de base rajusté de la participation du contribuable dans la fiducie ou l'aurait été si cet alinéa s'était appliqué à cette participation compte non tenu de la division 53(2)h)(i.1)(B).

Upkeep, etc.

(2) Such part of an amount paid by a trust out of income of the trust for the upkeep, maintenance or taxes of or in respect of property that, under the terms of the trust arrangement, is required to be maintained for the use of a tenant for life or a beneficiary as is reasonable in the circumstances shall be included in computing the income of the tenant for life or other beneficiary from the trust for the taxation year for which it was paid.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"105"; 1988, c. 55, s. 72.

Impenses, etc.

(2) La partie d'une somme versée par une fiducie sur ses propres revenus, pour impenses, pour entretien de biens ou pour impôts concernant ces biens qui, en vertu de l'acte de fiducie, doivent être entretenus pour l'usage d'un tenant viager ou d'un bénéficiaire, selon ce qui est raisonnable dans les circonstances, est incluse dans le calcul du revenu de ces derniers, tiré de la fiducie, pour l'année d'imposition relativement à laquelle elle a été versée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 105 »; 1988, ch. 55, art. 72.

Income interest in trust

106 (1) Where an amount in respect of a taxpayer's income interest in a trust has been included in computing the taxpayer's income for a taxation year by reason of subsection 106(2) or 104(13), except to the extent that an amount in respect of that income interest has been deducted in computing the taxpayer's taxable income pursuant to subsection 112(1) or 138(6), there may be deducted in computing the taxpayer's income for the year the lesser of

Participation au revenu d'une fiducie

106 (1) Lorsqu'une somme relative à la participation d'un contribuable au revenu d'une fiducie est incluse en application du paragraphe (2) ou 104(13) dans le calcul du revenu de ce contribuable pour une année d'imposition, la moins élevée des sommes suivantes est déductible dans ce calcul, sauf dans la mesure où une somme relative à cette participation a déjà été déduite dans le calcul du revenu imposable du contribuable conformément au paragraphe 112(1) ou 138(6):

(a) the amount so included in computing the taxpayer's income for the year, and

(b) the amount, if any, by which the cost to the taxpayer of the income interest exceeds the total of all amounts in respect of the interest that were deductible under this subsection in computing the taxpayer's income for previous taxation years.

a) la somme ainsi incluse dans le calcul de son revenu pour l'année;

b) l'excédent éventuel du prix que le contribuable a payé en contrepartie du droit de participer au revenu sur le total des sommes qui étaient déductibles au titre de cette participation, en vertu du présent paragraphe, dans le calcul de son revenu pour les années d'imposition antérieures.

Cost of income interest in a trust

(1.1) The cost to a taxpayer of an income interest of the taxpayer in a trust is deemed to be nil unless

(a) any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before that acquisition; or

(b) the cost of any part of the interest would otherwise be determined not to be nil under paragraph 128.1(1)(c) or (4)(c).

Coût d'une participation au revenu d'une fiducie

(1.1) Le coût, pour un contribuable, de sa participation au revenu d'une fiducie est réputé nul, sauf si l'un des faits suivants se vérifie :

a) le contribuable a acquis une partie de la participation d'une personne qui était le bénéficiaire quant à la participation immédiatement avant cette acquisition;

b) le coût d'une partie de la participation serait déterminé par ailleurs comme n'étant pas nul selon les alinéas 128.1(1)c) ou (4)c).

Disposition by taxpayer of income interest

(2) Where in a taxation year a taxpayer disposes of an income interest in a trust,

(a) except where subsection (3) applies to the disposition, there shall be included in computing the taxpayer's income for the year the amount, if any, by which

(i) the proceeds of disposition

exceed

(ii) where that interest includes a right to enforce payment of an amount by the trust, the amount in respect of that right that has been included in computing the taxpayer's income for a taxation year because of subsection 104(13);

(b) any taxable capital gain or allowable capital loss of the taxpayer from the disposition shall be deemed to be nil; and

(c) for greater certainty, the cost to the taxpayer of each property received by the taxpayer as consideration for the disposition is the fair market value of the property at the time of the disposition.

Disposition par un contribuable d'une participation au revenu

(2) Lorsque, au cours d'une année d'imposition, un contribuable dispose d'une participation au revenu d'une fiducie, les règles suivantes s'appliquent :

a) sauf dans le cas où le paragraphe (3) s'applique à la disposition, l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) doit être inclus dans le calcul du revenu du contribuable pour l'année :

(i) le produit de disposition,

(ii) si la participation en question comprend le droit d'exiger de la fiducie le versement d'une somme, le montant relatif à ce droit qui a été inclus dans le calcul du revenu du contribuable pour une année d'imposition par l'effet du paragraphe 104(13);

b) le montant de tout gain en capital imposable et de toute perte en capital déductible du contribuable, provenant de la disposition, est réputé nul;

c) il est entendu que le coût supporté par le contribuable pour chaque bien qu'il a reçu en contrepartie de la disposition est la juste valeur marchande de chaque bien au moment de la disposition.

Proceeds of disposition of income interest

(3) For greater certainty, where at any time any property of a trust has been distributed by the trust to a taxpayer

Produit de disposition d'une participation au revenu

(3) Il est entendu que la fiducie qui, à un moment donné, distribue un de ses biens à un contribuable qui était un

who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer's income interest in the trust, the trust shall be deemed to have disposed of the property for proceeds of disposition equal to the fair market value of the property at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 106; 2001, c. 17, s. 79; 2013, c. 34, s. 232(F).

Disposition by taxpayer of capital interest

107 (1) Where a taxpayer has disposed of all or any part of the taxpayer's capital interest in a trust,

(a) where the trust is a personal trust or a prescribed trust, for the purpose of computing the taxpayer's capital gain, if any, from the disposition, the adjusted cost base to the taxpayer of the interest or the part of the interest, as the case may be, immediately before the disposition is, unless any part of the interest has ever been acquired for consideration and, at the time of the disposition, the trust is non-resident, deemed to be the greater of

(i) its adjusted cost base, otherwise determined, to the taxpayer immediately before the disposition, and

(ii) the amount, if any, by which

(A) its cost amount to the taxpayer immediately before the disposition

exceeds

(B) the total of all amounts deducted under paragraph 53(2)(g.1) in computing its adjusted cost base to the taxpayer immediately before the disposition;

(b) [Repealed, 2001, c. 17, s. 80]

(c) where the taxpayer is not a mutual fund trust, the taxpayer's loss from the disposition is deemed to be the amount, if any, by which the amount of that loss otherwise determined exceeds the amount, if any, by which

(i) the total of all amounts each of which was received or would, but for subsection 104(19), have been received by the trust on a share of the capital stock of a corporation before the disposition (and, where the trust is a unit trust, after 1987) and

(A) where the taxpayer is a corporation,

(I) was a taxable dividend designated under subsection 104(19) by the trust in respect of

de ses bénéficiaires, en règlement total ou partiel de la participation du contribuable au revenu de la fiducie, est réputée avoir disposé du bien pour un produit égal à la juste valeur marchande du bien à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 106; 2001, ch. 17, art. 79; 2013, ch. 34, art. 232(F).

Disposition par un contribuable d'une participation au capital

107 (1) Lorsqu'un contribuable a disposé de la totalité ou d'une partie de sa participation au capital d'une fiducie :

a) pour le calcul de son gain en capital provenant de la disposition, s'il s'agit d'une participation dans une fiducie personnelle ou dans une fiducie visée par règlement, le prix de base rajusté, pour lui, de la totalité ou de la partie de la participation, selon le cas, immédiatement avant la disposition, est réputé égal au plus élevé des montants ci-après, sauf dans le cas où une partie de la participation a déjà été acquise moyennant contrepartie et où la fiducie est un non-résident au moment de la disposition :

(i) son prix de base rajusté, pour lui, déterminé par ailleurs immédiatement avant la disposition,

(ii) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) son coût indiqué, pour lui, immédiatement avant la disposition,

(B) le total des montants déduits en application de l'alinéa 53(2)g.1) dans le calcul de son prix de base rajusté, pour lui, immédiatement avant la disposition,

b) [Abrogé, 2001, ch. 17, art. 80]

c) lorsque le contribuable n'est pas une fiducie de fonds commun de placement, sa perte résultant de la disposition est réputée égale à l'excédent éventuel de cette perte déterminée par ailleurs sur l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un montant que la fiducie a reçu, ou aurait reçu n'eût été le paragraphe 104(19), sur une action du capital-actions d'une société avant la disposition et, s'il s'agit d'une fiducie d'investissement à participation unitaire, après 1987 et qui constitue :

the taxpayer, to the extent of the amount of the dividend that was deductible under section 112 or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year, or

(II) was an amount designated under subsection 104(20) by the trust in respect of the taxpayer,

(B) where the taxpayer is another trust, was an amount designated under subsection 104(19) or 104(20) by the trust in respect of the taxpayer, and

(C) where the taxpayer is not a corporation, trust or partnership, was an amount designated under subsection 104(20) by the trust in respect of the taxpayer

exceeds

(ii) the portion of the total determined under subparagraph 107(1)(c)(i) that can reasonably be considered to have resulted in a reduction, under this paragraph, of the taxpayer's loss otherwise determined from a previous disposition of an interest in the trust;

(d) where the taxpayer is a partnership, the share of a person (other than another partnership or a mutual fund trust) of any loss of the partnership from the disposition is deemed to be the amount, if any, by which that loss otherwise determined exceeds the amount, if any, by which

(i) the total of all amounts each of which is a dividend that was received or would, but for subsection 104(19), have been received by the trust on a share of the capital stock of a corporation before the disposition (and, where the trust is a unit trust, after 1987) and

(A) where the person is a corporation,

(I) was a taxable dividend that was designated under subsection 104(19) by the trust in respect of the taxpayer, to the extent of the amount of the dividend that was deductible under section 112 or subsection 115(1) or 138(6) in computing the person's taxable income or taxable income earned in Canada for any taxation year, or

(II) was a dividend designated under subsection 104(20) by the trust in respect of the

(A) dans le cas où le contribuable est une société :

(I) soit un dividende imposable que la fiducie lui a attribué en application du paragraphe 104(19), jusqu'à concurrence de la fraction de ce dividende qui était déductible selon l'article 112 ou les paragraphes 115(1) ou 138(6) dans le calcul du revenu imposable du contribuable, ou de son revenu imposable gagné au Canada, pour une année d'imposition,

(II) soit un montant que la fiducie lui a attribué en application du paragraphe 104(20),

(B) dans le cas où le contribuable est une autre fiducie, un montant que la fiducie lui a attribué en application des paragraphes 104(19) ou (20),

(C) dans le cas où le contribuable n'est pas une société, une fiducie ou une société de personnes, un montant que la fiducie lui a attribué en application du paragraphe 104(20),

(ii) la partie du total déterminé selon le sous-alinéa (i) qu'il est raisonnable de considérer comme ayant entraîné une réduction, selon le présent alinéa, de la perte, déterminée par ailleurs, que le contribuable a subie lors d'une disposition antérieure d'une participation dans la fiducie;

d) lorsque le contribuable est une société de personnes, la part d'une personne (sauf une autre société de personnes ou une fiducie de fonds commun de placement) sur une perte de la société de personnes résultant de la disposition est réputée égale à l'excédent éventuel de cette perte déterminée par ailleurs sur l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un dividende que la fiducie a reçu, ou aurait reçu n'eût été le paragraphe 104(19), sur une action du capital-actions d'une société avant la disposition et, s'il s'agit d'une fiducie d'investissement à participation unitaire, après 1987 et qui constitue :

(A) dans le cas où la personne est une société :

(I) soit un dividende imposable que la fiducie a attribué au contribuable en application du paragraphe 104(19), jusqu'à concurrence de la fraction de ce dividende qui était déductible selon l'article 112 ou les paragraphes 115(1) ou 138(6) dans le calcul du revenu imposable de la personne, ou de son revenu imposable

taxpayer and was an amount received by the person,

(B) where the person is an individual other than a trust, was a dividend designated under subsection 104(20) by the trust in respect of the taxpayer and was an amount received by the person, and

(C) where the person is another trust, was a dividend designated under subsection 104(19) or 104(20) by the trust in respect of the taxpayer and was an amount received by the person (or that would have been received by the person if this Act were read without reference to subsection 104(19)),

exceeds

(ii) the portion of the total determined under subparagraph 107(1)(d)(i) that can reasonably be considered to have resulted in a reduction, under this paragraph, of the person's loss otherwise determined from a previous disposition of an interest in the trust; and

(e) if the capital interest is not a capital property of the taxpayer, notwithstanding the definition ***cost amount*** in subsection 108(1), its cost amount is deemed to be the amount, if any, by which

(i) the amount that would, if this Act were read without reference to this paragraph and the definition ***cost amount*** in subsection 108(1), be its cost amount

exceeds

(ii) the total of all amounts, each of which is an amount in respect of the capital interest that has become payable to the taxpayer before the disposition and that would be described in subparagraph 53(2)(h)(i.1) if that subparagraph were read without reference to its subclause (B)(I).

gagné au Canada, pour une année d'imposition,

(II) soit un dividende que la fiducie a attribué au contribuable en application du paragraphe 104(20) et un montant que la personne a reçu,

(B) dans le cas où la personne est un particulier, sauf une fiducie, un dividende que la fiducie a attribué au contribuable en application du paragraphe 104(20) et un montant que la personne a reçu,

(C) dans le cas où la personne est une autre fiducie, un dividende que la fiducie a attribué au contribuable en application des paragraphes 104(19) ou (20) et un montant que la personne a reçu (ou aurait reçu s'il n'était pas tenu compte du paragraphe 104(19)),

(ii) la partie du total déterminé selon le sous-alinéa (i) qu'il est raisonnable de considérer comme ayant entraîné une réduction, selon le présent alinéa, de la perte, déterminée par ailleurs, que la personne a subie lors d'une disposition antérieure d'une participation dans la fiducie;

e) si la participation au capital n'est pas une immobilisation du contribuable, son coût indiqué est réputé, malgré la définition de ***coût indiqué*** au paragraphe 108(1), correspondre à l'excédent de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) la somme qui correspondrait à son coût indiqué en l'absence du présent alinéa et de cette définition,

(ii) le total des sommes représentant chacune une somme relative à la participation qui est devenue payable au contribuable avant la disposition et qui serait visée au sous-alinéa 53(2)h)(i.1) s'il n'était pas tenu compte de sa subdivision (B)(I).

Cost of capital interest in a trust

(1.1) The cost to a taxpayer of a capital interest of the taxpayer in a personal trust or a prescribed trust is deemed to be,

(a) where the taxpayer elected under subsection 110.6(19) in respect of the interest and the trust does not elect under that subsection in respect of any property of the trust, the taxpayer's cost of the interest determined under paragraph 110.6(19)(a); and

Coût d'une participation au capital d'une fiducie

(1.1) Le coût, pour un contribuable, de sa participation au capital d'une fiducie personnelle ou d'une fiducie visée par règlement est réputé égal au montant applicable suivant :

a) lorsque le contribuable a fait le choix prévu au paragraphe 110.6(19) relativement à la participation et que la fiducie ne fait pas ce choix relativement à l'un de ses biens, le coût de la participation pour le contribuable, déterminé selon l'alinéa 110.6(19)a);

(b) in any other case, nil, unless

(i) any part of the interest was acquired by the taxpayer from a person who was the beneficiary in respect of the interest immediately before that acquisition, or

(ii) the cost of any part of the interest would otherwise be determined not to be nil under section 48 as it read in its application before 1993 or under paragraph 111(4)(e) or 128.1(1)(c) or (4)(c).

b) dans les autres cas, zéro, sauf si l'un des faits suivants se vérifie :

(i) le contribuable a acquis une partie de la participation d'une personne qui était le bénéficiaire quant à la participation immédiatement avant cette acquisition,

(ii) il serait déterminé par ailleurs que le coût d'une partie de la participation n'est pas nul selon l'article 48, en son état avant 1993, ou selon les alinéas 111(4)e) ou 128.1(1)c) ou (4)c).

Deemed fair market value — non-capital property

(1.2) For the purpose of section 10, the fair market value at any time of a capital interest in a trust is deemed to be equal to the amount that is the total of

(a) the amount that would, if this Act were read without reference to this subsection, be its fair market value at that time, and

(b) the total of all amounts, each of which is an amount that would be described, in respect of the capital interest, in subparagraph 53(2)(h)(i.1) if that subparagraph were read without reference to its subclause (B)(I), that has become payable to the taxpayer before that time.

Juste valeur marchande réputée — bien autre qu'une immobilisation

(1.2) Pour l'application de l'article 10, la juste valeur marchande, à un moment donné, d'une participation au capital d'une fiducie est réputée correspondre au total des sommes suivantes :

a) la somme qui correspondrait à sa juste valeur marchande à ce moment en l'absence du présent paragraphe;

b) le total des sommes représentant chacune une somme qui serait visée, relativement à la participation, au sous-alinéa 53(2)h)(i.1) s'il n'était pas tenu compte de sa subdivision (B)(I) et qui est devenue payable au contribuable avant ce moment.

Distribution by personal trust

(2) Subject to subsections (2.001), (2.002) and (4) to (5), if at any time a property of a personal trust or a prescribed trust is distributed (otherwise than as a SIFT trust wind-up event) by the trust to a taxpayer who was a beneficiary under the trust and there is a resulting disposition of all or any part of the taxpayer's capital interest in the trust,

(a) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;

(b) subject to subsection (2.2), the taxpayer is deemed to have acquired the property at a cost equal to the total of its cost amount to the trust immediately before that time and the specified percentage of the amount, if any, by which

(i) the adjusted cost base to the taxpayer of the capital interest or part of it, as the case may be, immediately before that time (determined without reference to paragraph (1)(a))

exceeds

Distribution par une fiducie personnelle

(2) Sous réserve des paragraphes (2.001), (2.002) et (4) à (5), les règles ci-après s'appliquent dans le cas où, à un moment donné, une fiducie personnelle ou une fiducie visée par règlement effectue, au profit d'un contribuable bénéficiaire, une distribution (qui ne constitue pas un fait lié à la conversion d'une EIPD-fiducie) de ses biens qui donne lieu à la disposition de la totalité ou d'une partie de la participation du contribuable au capital de la fiducie :

a) la fiducie est réputée avoir disposé de ces biens et en avoir tiré un produit égal au coût indiqué de ces biens, pour la fiducie, immédiatement avant ce moment;

b) sous réserve du paragraphe (2.2), le contribuable est réputé avoir acquis les biens à un coût égal à la somme de leur coût indiqué pour la fiducie immédiatement avant ce moment et du pourcentage déterminé de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le prix de base rajusté pour lui de la participation au capital ou de la partie de cette participation,

(ii) the cost amount to the taxpayer of the capital interest or part of it, as the case may be, immediately before that time;

(b.1) for the purpose of paragraph (b), the specified percentage is,

(i) where the property is capital property (other than depreciable property), 100%, and

(ii) [Repealed, 2016, c. 12, s. 36]

(iii) in any other case, 50%;

(c) the taxpayer's proceeds of disposition of the capital interest in the trust (or of the part of it) disposed of by the taxpayer on the distribution are deemed to be equal to the amount, if any, by which

(i) the cost at which the taxpayer would be deemed by paragraph (b) to have acquired the property if the specified percentage referred to in that paragraph were 100%

exceeds

(ii) the total of all amounts each of which is an eligible offset at that time of the taxpayer in respect of the capital interest or the part of it;

(d) where the property so distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by this section to have acquired the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(i) the capital cost to the taxpayer of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and

(ii) the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the taxpayer of the property.

(d.1) [Repealed, 2010, c. 12, s. 10]

(e) [Repealed, 1994, c. 7, Sch. VIII, s. 43]

(f) [Repealed, 2016, c. 12, s. 36]

selon le cas, immédiatement avant ce moment (déterminé compte non tenu de l'alinéa (1)a)),

(ii) le coût indiqué pour lui de la participation au capital ou de la partie de cette participation, selon le cas, immédiatement avant ce moment;

b.1) pour l'application de l'alinéa b), le pourcentage déterminé correspond au pourcentage applicable suivant :

(i) si les biens sont des immobilisations (sauf des biens amortissables), 100 %,

(ii) [Abrogé, 2016, ch. 12, art. 36]

(iii) dans les autres cas, 50 %;

c) le produit de disposition de la totalité ou de la partie de la participation au capital dont le contribuable a disposé à l'occasion de la distribution est réputé être égal à l'excédent du coût visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le coût auquel il serait réputé par l'alinéa b) avoir acquis les biens, si le pourcentage déterminé visé à cet alinéa était de 100 %,

(ii) le total des montants représentant chacun un montant de réduction admissible à ce moment pour le contribuable quant à la participation au capital ou à la partie de participation;

d) lorsque les biens ainsi distribués étaient des biens amortissables de la fiducie, appartenant à une catégorie prescrite, et que le montant du coût en capital de ces biens, supporté par la fiducie, dépasse le coût que le contribuable est réputé, en vertu du présent article, avoir supporté pour les acquérir, pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a) :

(i) le coût en capital des biens, supporté par le contribuable, est réputé être celui supporté par la fiducie,

(ii) l'excédent est réputé avoir été déductible par le contribuable, relativement aux biens, en vertu des dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul de son revenu pour des années d'imposition antérieures à son acquisition de ces biens.

d.1) [Abrogé, 2010, ch. 12, art. 10]

e) [Abrogé, 1994, ch. 7, ann. VIII, art. 43]

f) [Abrogé, 2016, ch. 12, art. 36]

No rollover on election by a trust

(2.001) Where a trust makes a distribution of a property to a beneficiary of the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and so elects in prescribed form filed with the Minister with the trust's return of income for its taxation year in which the distribution occurred, subsection (2) does not apply to the distribution if

(a) the trust is resident in Canada at the time of the distribution;

(b) the property is taxable Canadian property; or

(c) the property is capital property used in, or property described in the inventory of, a business carried on by the trust through a ***permanent establishment*** (as defined by regulation) in Canada immediately before the time of the distribution.

Roulement — choix d'une fiducie

(2.001) Lorsqu'une fiducie distribue un bien à l'un de ses bénéficiaires en règlement total ou partiel de la participation de celui-ci à son capital, le paragraphe (2) ne s'applique pas à la distribution si la fiducie en fait le choix dans un formulaire prescrit présenté au ministre avec sa déclaration de revenu pour son année d'imposition où le bien est distribué et si l'un des faits ci-après se vérifie :

a) la fiducie réside au Canada au moment de la distribution;

b) le bien est un bien canadien imposable;

c) le bien est soit une immobilisation utilisée dans le cadre d'une entreprise que la fiducie exploite par l'entremise d'un ***établissement stable*** (au sens du règlement) au Canada immédiatement avant la distribution, soit un bien à porter à l'inventaire d'une telle entreprise.

No rollover on election by a beneficiary

(2.002) Where a non-resident trust makes a distribution of a property (other than a property described in paragraph (2.001)(b) or (c)) to a beneficiary of the trust in full or partial satisfaction of the beneficiary's capital interest in the trust and the beneficiary makes an election under this subsection in prescribed form filed with the Minister with the beneficiary's return of income for the beneficiary's taxation year in which the distribution occurred,

(a) subsection (2) does not apply to the distribution; and

(b) for the purpose of subparagraph (1)(a)(ii), the cost amount of the interest to the beneficiary is deemed to be nil.

Roulement — choix d'un bénéficiaire

(2.002) Lorsqu'une fiducie non-résidente distribue un bien (sauf celui visé aux alinéas (2.001)b) ou c)) à l'un de ses bénéficiaires en règlement total ou partiel de la participation de celui-ci à son capital, les règles ci-après s'appliquent si le bénéficiaire en fait le choix en vertu du présent paragraphe dans un formulaire prescrit présenté au ministre avec sa déclaration de revenu pour son année d'imposition où le bien est distribué :

a) le paragraphe (2) ne s'applique pas à la distribution;

b) pour l'application du sous-alinéa (1)a)(ii), le coût indiqué de la participation pour le bénéficiaire est réputé nul.

Distribution of principal residence

(2.01) Where property that would, if a personal trust had designated the property under paragraph (c.1) of the definition ***principal residence*** in section 54, be a principal residence (within the meaning of that definition) of the trust for a taxation year, is at any time (in this subsection referred to as "that time") distributed by the trust to a taxpayer in circumstances in which subsection (2) applies and the trust so elects in its return of income for the taxation year that includes that time,

(a) the trust shall be deemed to have disposed of the property immediately before the particular time that is immediately before that time for proceeds of

Distribution de résidence principale

(2.01) Lorsqu'une fiducie personnelle distribue à un moment donné, à un contribuable dans les circonstances visées au paragraphe (2), un bien qui serait sa résidence principale, au sens de l'article 54, pour une année d'imposition si elle l'avait désigné comme telle en application de l'alinéa c.1) de la définition de ***résidence principale*** à cet article, les règles ci-après s'appliquent si la fiducie en fait le choix dans sa déclaration de revenu pour l'année d'imposition qui comprend ce moment :

a) la fiducie est réputée avoir disposé du bien immédiatement avant le moment juste avant le moment

disposition equal to the fair market value of the property at that time; and

(b) the trust shall be deemed to have reacquired the property at the particular time at a cost equal to that fair market value.

Other distributions

(2.1) Where at any time a property of a trust is distributed by the trust to a beneficiary under the trust, there would, if this Act were read without reference to paragraphs (h) and (i) of the definition ***disposition*** in subsection 248(1), be a resulting disposition of all or any part of the beneficiary's capital interest in the trust (which interest or part, as the case may be, is in this subsection referred to as the "former interest") and the rules in subsections (2) and (3.1) and sections 88.1 and 132.2 do not apply in respect of the distribution,

(a) the trust is deemed to have disposed of the property for proceeds equal to its fair market value at that time;

(b) the beneficiary is deemed to have acquired the property at a cost equal to the proceeds determined under paragraph (a);

(c) subject to paragraph (e), the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount, if any, by which

(i) the proceeds determined under paragraph (a) (other than the portion, if any, of the proceeds that is a payment to which paragraph (h) or (i) of the definition ***disposition*** in subsection 248(1) applies)

exceed the total of

(ii) where the property is not a Canadian resource property or foreign resource property, the amount, if any, by which

(A) the fair market value of the property at that time

exceeds the total of

(B) the cost amount to the trust of the property immediately before that time, and

(C) the portion, if any, of the excess that would be determined under this subparagraph if this subparagraph were read without reference to this clause that represents a payment to which paragraph (h) or (i) of the definition ***disposition*** in subsection 248(1) applies, and

donné, pour un produit égal à la juste valeur marchande du bien au moment donné;

b) la fiducie est réputée avoir acquis le bien de nouveau au moment juste avant le moment donné à un coût égal à cette juste valeur marchande.

Autres distributions

(2.1) Lorsque, à un moment donné, une fiducie effectue, au profit d'un de ses bénéficiaires, une distribution de biens qui donnerait lieu à la disposition de la totalité ou d'une partie de la participation du bénéficiaire au capital de la fiducie (laquelle participation ou partie de participation est appelée « ancienne participation » au présent paragraphe) s'il était fait abstraction des alinéas h) et i) de la définition de ***disposition*** au paragraphe 248(1), et que les règles énoncées aux paragraphes (2) et (3.1) et aux articles 88.1 et 132.2 ne s'appliquent pas à la distribution, les règles suivantes s'appliquent :

a) la fiducie est réputée avoir disposé du bien pour un produit égal à sa juste valeur marchande à ce moment;

b) le bénéficiaire est réputé avoir acquis le bien à un coût égal au produit déterminé selon l'alinéa a);

c) sous réserve de l'alinéa e), le produit de disposition, pour le bénéficiaire, de la partie de l'ancienne participation dont il a disposé au moment de la distribution est réputé être égal à l'excédent :

(i) du produit déterminé selon l'alinéa a) (sauf la partie éventuelle de ce produit qui représente un paiement auquel s'applique l'alinéa h) ou i) de la définition de ***disposition*** au paragraphe 248(1)),

sur la somme des montants suivants :

(ii) si le bien n'est pas un avoir minier canadien ou un avoir minier étranger, l'excédent éventuel de sa juste valeur marchande à ce moment sur la somme des montants suivants :

(A) le coût indiqué du bien pour la fiducie immédiatement avant ce moment,

(B) la partie éventuelle de l'excédent qui serait déterminé selon le présent sous-alinéa s'il n'était pas tenu compte de la présente division, qui représente un paiement auquel s'applique l'alinéa h) ou i) de la définition de ***disposition*** au paragraphe 248(1),

(iii) le total des montants représentant chacun un montant de réduction admissible à ce moment pour le contribuable quant à l'ancienne participation;

(iii) all amounts each of which is an eligible offset at that time of the taxpayer in respect of the former interest;

(d) notwithstanding paragraphs (a) to (c), where the trust is non-resident at that time, the property is not described in paragraph (2.001)(b) or (c) and, if this Act were read without reference to this paragraph, there would be no income, loss, taxable capital gain or allowable capital loss of a taxpayer in respect of the property because of the application of subsection 75(2) to the disposition at that time of the property,

(i) the trust is deemed to have disposed of the property for proceeds equal to the cost amount of the property,

(ii) the beneficiary is deemed to have acquired the property at a cost equal to the fair market value of the property, and

(iii) the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount, if any, by which

(A) the fair market value of the property

exceeds the total of

(B) the portion, if any, of the amount of the distribution that is a payment to which paragraph (h) or (i) of the definition ***disposition*** in subsection 248(1) applies, and

(C) all amounts each of which is an eligible offset at that time of the taxpayer in respect of the former interest; and

(e) where the trust is a mutual fund trust, the distribution occurs in a taxation year of the trust before its 2003 taxation year, the trust has elected under subsection (2.11) in respect of the year and the trust so elects in respect of the distribution in prescribed form filed with the trust's return of income for the year,

(i) this subsection shall be read without reference to paragraph (c), and

(ii) the beneficiary's proceeds of disposition of the portion of the former interest disposed of by the beneficiary on the distribution are deemed to be equal to the amount determined under paragraph (a).

d) malgré les alinéas a) à c), lorsque la fiducie ne réside pas au Canada à ce moment, que le bien n'est pas visé aux alinéas (2.001)b) ou c) et que, en l'absence du présent alinéa, un contribuable n'aurait pas de revenu, de perte, de gain en capital imposable ou de perte en capital déductible relativement au bien en raison de l'application du paragraphe 75(2) à la disposition du bien à ce moment :

(i) la fiducie est réputée avoir disposé du bien pour un produit égal à son coût indiqué,

(ii) le bénéficiaire est réputé avoir acquis le bien à un coût égal à sa juste valeur marchande,

(iii) le produit de disposition, pour le bénéficiaire, de la partie de l'ancienne participation dont il a disposé au moment de la distribution est réputé être égal à l'excédent de la juste valeur marchande du bien sur le total des montants suivants :

(A) la partie du montant de la distribution qui est un paiement auquel s'applique l'alinéa h) ou i) de la définition de ***disposition*** au paragraphe 248(1),

(B) le total des montants représentant chacun un montant de réduction admissible à ce moment pour le contribuable quant à l'ancienne participation;

e) lorsque la fiducie est une fiducie de fonds commun de placement, que la distribution est effectuée au cours d'une de ses années d'imposition qui est antérieure à son année d'imposition 2003, qu'elle a fait, pour l'année, le choix prévu au paragraphe (2.11) et qu'elle en fait le choix relativement à la distribution dans le formulaire prescrit produit avec sa déclaration de revenu pour l'année :

(i) il n'est pas tenu compte de l'alinéa c),

(ii) le produit de disposition, pour le bénéficiaire, de la partie de l'ancienne participation dont il a disposé lors de la distribution est réputé être égal au montant déterminé selon l'alinéa a).

Gains not distributed to beneficiaries

(2.11) If a trust that is resident in Canada for a taxation year makes in the taxation year one or more distributions to which subsection (2.1) applies and the trust elects in prescribed form filed with the trust's return for the year or a preceding taxation year to have one of the following paragraphs apply, the income of the trust for the year (determined without reference to subsection 104(6)) shall, for the purposes of subsections 104(6) and (13), be computed without regard

(a) if the election is to have this paragraph apply, to all of those distributions (other than distributions of cash denominated in Canadian dollars) to non-resident persons (including a partnership other than a Canadian partnership); and

(b) if the election is to have this paragraph apply, to all of those distributions (other than distributions of cash denominated in Canadian dollars).

Gains non distribués aux bénéficiaires

(2.11) Si une fiducie résidant au Canada pour une année d'imposition effectue au cours de l'année une ou plusieurs distributions auxquelles le paragraphe (2.1) s'applique et fait, sur le formulaire prescrit produit avec sa déclaration pour l'année ou pour une année d'imposition antérieure, un choix afin que l'un des alinéas ci-après s'applique, son revenu pour l'année, déterminé compte non tenu du paragraphe 104(6), est calculé, pour l'application des paragraphes 104(6) et (13), sans égard aux distributions suivantes :

a) si le choix prévoit l'application du présent alinéa, celles des distributions en cause, sauf les distributions d'espèces libellées en dollars canadiens, qui ont été effectuées au profit de personnes non-résidentes, y compris les sociétés de personnes autres que les sociétés de personnes canadiennes;

b) si le choix prévoit l'application du présent alinéa, l'ensemble des distributions en cause, sauf les distributions d'espèces libellées en dollars canadiens.

Election — subsection (2.11)

(2.12) An election made under subsection (2.11) by a mutual fund trust is deemed, for the trust's 2003 and subsequent taxation years, not to have been made if

(a) the election is made after December 20, 2000 and applies to any taxation year that ends before 2003; and

(b) the proceeds of disposition of a beneficiary's interest in the trust have been determined under paragraph (2.1)(e).

Choix — paragraphe (2.11)

(2.12) Le choix qu'une fiducie de fonds commun de placement fait en vertu du paragraphe (2.11) est réputé, pour les années d'imposition 2003 et suivantes de la fiducie, ne pas avoir été fait si, à la fois :

a) il est fait après le 20 décembre 2000 et s'applique à une année d'imposition se terminant avant 2003;

b) le produit de disposition de la participation d'un bénéficiaire de la fiducie a été déterminé selon l'alinéa (2.1)e).

Flow-through entity

(2.2) Where at any time before 2005 a beneficiary under a trust described in paragraph (h), (i) or (j) of the definition ***flow-through entity*** in subsection 39.1(1) received a distribution of property from the trust in satisfaction of all or a portion of the beneficiary's interests in the trust and the beneficiary files with the Minister on or before the beneficiary's filing-due date for the taxation year that includes that time an election in respect of the property in prescribed form, there shall be included in the cost to the beneficiary of a particular property (other than money) received by the beneficiary as part of the distribution of property the least of

(a) the amount, if any, by which the beneficiary's exempt capital gains balance (as defined in subsection 39.1(1)) in respect of the trust for the beneficiary's taxation year that includes that time exceeds the total of all amounts each of which is

Entité intermédiaire

(2.2) Lorsque, à un moment antérieur à 2005, une fiducie visée aux alinéas h), i) ou j) de la définition de ***entité intermédiaire*** au paragraphe 39.1(1) distribue des biens à l'un de ses bénéficiaires en règlement de tout ou partie des participations de celui-ci dans la fiducie et que le bénéficiaire présente au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition qui comprend ce moment, un choix concernant les biens sur le formulaire prescrit, le moins élevé des montants ci-après est à inclure dans le coût, pour le bénéficiaire, d'un bien (sauf de l'argent) qu'il a reçu dans le cadre de la distribution :

a) l'excédent éventuel du solde des gains en capital exonérés, au sens du paragraphe 39.1(1), du bénéficiaire relativement à la fiducie pour l'année sur le total des montants représentant chacun :

(i) an amount by which a capital gain is reduced under section 39.1 in the year because of the beneficiary's exempt capital gains balance in respect of the trust,

(ii) twice an amount by which a taxable capital gain is reduced under section 39.1 in the year because of the beneficiary's exempt capital gains balance in respect of the trust, or

(iii) an amount included in the cost to the beneficiary of another property received by the beneficiary at or before that time in the year because of this subsection,

(b) the amount by which the fair market value of the particular property at that time exceeds the adjusted cost base to the trust of the particular property immediately before that time, and

(c) the amount designated in respect of the particular property in the election.

(i) un montant qui, par l'effet de l'article 39.1 et pour l'année, est appliqué en réduction d'un gain en capital, en raison du solde des gains en capital exonérés du bénéficiaire relativement à la fiducie,

(ii) le double du montant qui, par l'effet de l'article 39.1 et pour l'année, est appliqué en réduction d'un gain en capital imposable, en raison du solde des gains en capital exonérés du bénéficiaire relativement à la fiducie,

(iii) un montant inclus dans le coût pour le bénéficiaire d'un autre bien qu'il a reçu à ce moment ou à un moment antérieur de l'année par l'effet du présent paragraphe;

b) l'excédent de la juste valeur marchande du bien à ce moment sur son prix de base rajusté pour la fiducie immédiatement avant ce moment;

c) le montant indiqué au titre du bien dans le formulaire concernant le choix.

Application of subsection (3.1)

(3) Subsection (3.1) applies to a trust's distribution of property to a taxpayer if

(a) the distribution is a SIFT trust wind-up event to which section 88.1 does not apply;

(b) the property is a share and the only shares distributed on any SIFT trust wind-up event of the trust are of a single class of the capital stock of a taxable Canadian corporation; and

(c) where the trust is a SIFT wind-up entity, the distribution occurs no more than 60 days after the earlier of

(i) the first SIFT trust wind-up event of the trust, and

(ii) the first distribution to the trust that is a SIFT trust wind-up event of another trust.

Application du par. (3.1)

(3) Le paragraphe (3.1) s'applique à la distribution d'un bien, effectuée par une fiducie au profit d'un contribuable, si les conditions suivantes sont réunies :

a) la distribution constitue un fait lié à la conversion d'une EIPD-fiducie auquel l'article 88.1 ne s'applique pas;

b) le bien est une action et les seules actions distribuées à l'occasion d'un fait lié à la conversion d'une EIPD-fiducie de la fiducie font partie d'une seule catégorie du capital-actions d'une société canadienne imposable;

c) si la fiducie est une EIPD convertible, la distribution est effectuée au plus tard 60 jours après le premier en date des moments suivants :

(i) le moment du premier fait lié à la conversion d'un EIPD-fiducie de la fiducie,

(ii) le moment de la première distribution, effectuée au profit de la fiducie, qui constitue un fait lié à la conversion d'une EIPD-fiducie d'une autre fiducie.

SIFT trust wind-up event

(3.1) If this subsection applies to a trust's distribution of property, the following rules apply:

(a) the trust is deemed to have disposed of the property for proceeds of disposition equal to the adjusted

Fait lié à la conversion d'une EIPD-fiducie

(3.1) Si le présent paragraphe s'applique à la distribution d'un bien effectuée par une fiducie, les règles suivantes s'appliquent :

cost base to the trust of the property immediately before the distribution;

(b) the taxpayer is deemed to have disposed of the taxpayer's interest as a beneficiary under the trust for proceeds of disposition equal to the cost amount to the taxpayer of the interest immediately before the distribution;

(c) the taxpayer is deemed to have acquired the property at a cost equal to

(i) if, at all times at which the trust makes a distribution that is a SIFT trust wind-up event, the taxpayer is the only beneficiary under the trust and is a SIFT wind-up entity or a taxable Canadian corporation, the adjusted cost base to the trust of the property immediately before the distribution, and

(ii) in any other case, the cost amount to the taxpayer of the taxpayer's interest as a beneficiary under the trust immediately before the distribution;

(d) if the taxpayer's interest as a beneficiary under the trust was immediately before the disposition taxable Canadian property of the taxpayer, the property is deemed to be, at any time that is within 60 months after the distribution, taxable Canadian property of the taxpayer; and

(e) if a liability of the trust becomes as a consequence of the distribution a liability of the corporation described in paragraph (3)(b) in respect of the distribution, and the amount payable by the corporation on the maturity of the liability is the same as the amount that would have been payable by the trust on its maturity,

(i) the transfer of the liability by the trust to the corporation is deemed not to have occurred, and

(ii) the liability is deemed

(A) to have been incurred or issued by the corporation at the time at which, and under the agreement under which, it was incurred or issued by the trust, and

(B) not to have been incurred or issued by the trust.

a) la fiducie est réputée avoir disposé du bien pour un produit de disposition égal à son prix de base rajusté pour elle immédiatement avant la distribution;

b) le contribuable est réputé avoir disposé de sa participation à titre de bénéficiaire de la fiducie pour un produit de disposition égal à son coût indiqué pour lui immédiatement avant la distribution;

c) le contribuable est réputé avoir acquis le bien à un coût égal à celle des sommes suivantes qui est applicable :

(i) si, à tout moment où la fiducie effectue une distribution qui constitue un fait lié à la conversion d'une EIPD-fiducie, le contribuable est le seul bénéficiaire de la fiducie et est une EIPD convertible ou une société canadienne imposable, le prix de base rajusté du bien pour la fiducie immédiatement avant la distribution,

(ii) dans les autres cas, le coût indiqué pour le contribuable de sa participation à titre de bénéficiaire de la fiducie immédiatement avant la distribution;

d) si la participation du contribuable à titre de bénéficiaire de la fiducie était un bien canadien imposable du contribuable immédiatement avant la disposition, le bien est réputé l'être également à tout moment de la période de 60 mois suivant la distribution;

e) si une dette de la fiducie devient, par suite de la distribution, une dette de la société visée à l'alinéa (3)b) relativement à la distribution et que la somme à payer par la société à l'échéance de la dette correspond à celle qui aurait été à payer par la fiducie au même moment :

(i) d'une part, le transfert de la dette par la fiducie à la société est réputé ne pas avoir été effectué,

(ii) d'autre part, la dette est réputée :

(A) avoir été contractée ou émise par la société au moment où elle l'a été par la fiducie et aux termes de la convention selon laquelle elle a été contractée ou émise,

(B) ne pas avoir été contractée ou émise par la fiducie.

Trusts in favour of spouse, common-law partner or self

(4) Subsection (2.1) applies (and subsection (2) does not apply) at any time to property distributed to a beneficiary by a trust described in paragraph 104(4)(a) where

Fiducie en faveur de l'époux, du conjoint de fait ou de soi-même

(4) Si les conditions ci-après sont réunies, le paragraphe (2.1), mais non le paragraphe (2), s'applique au bien

(a) the beneficiary is not

(i) in the case of a post-1971 spousal or common-law partner trust, the spouse or common-law partner referred to in paragraph 104(4)(a),

(ii) in the case of an alter ego trust, the taxpayer referred to in paragraph 104(4)(a), and

(iii) in the case of a joint spousal or common-law partner trust, the taxpayer, spouse or common-law partner referred to in paragraph 104(4)(a); and

(b) the distribution of the property occurs on or before the earlier of

(i) a reacquisition, in respect of any property of the trust, that occurs immediately after the day described by paragraph 104(4)(a), and

(ii) the cessation of the trust's existence.

qu'une fiducie visée à l'alinéa 104(4)a) distribue à un bénéficiaire :

a) le bénéficiaire n'est pas :

(i) l'époux ou le conjoint de fait mentionné à l'alinéa 104(4)a), dans le cas d'une fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971,

(ii) le contribuable mentionné à l'alinéa 104(4)a), dans le cas d'une fiducie en faveur de soi-même,

(iii) le contribuable, l'époux ou le conjoint de fait mentionné à l'alinéa 104(4)a), dans le cas d'une fiducie mixte au profit de l'époux ou du conjoint de fait;

b) la distribution du bien est effectuée au plus tard au premier en date des moments suivants :

(i) le moment d'une nouvelle acquisition, relative à un bien de la fiducie, effectuée immédiatement après le jour visé à l'alinéa 104(4)a),

(ii) le moment où la fiducie cesse d'exister.

Where subsection 75(2) applicable to trust

(4.1) Subsection (2.1) applies (and subsection (2) does not apply) in respect of a distribution of any property of a particular personal trust or prescribed trust by the particular trust to a taxpayer who was a beneficiary under the particular trust where

(a) the distribution was in satisfaction of all or any part of the taxpayer's capital interest in the particular trust;

(b) subsection 75(2) was applicable (determined without its reference to "while the person is resident in Canada" and as if subsection 75(3) as it read before March 21, 2013 were read without reference to its paragraph (c.2)), or subsection 94(8.2) was applicable (determined without reference to paragraph 94(8.1)(a)), at a particular time in respect of any property of

(i) the particular trust, or

(ii) a trust the property of which included a property that, through one or more dispositions to which subsection 107.4(3) applied, became a property of the particular trust, and the property was not, at any time after the particular time and before the distribution, the subject of a disposition for proceeds of disposition equal to the fair market value of the property at the time of the disposition;

Cas d'application du paragraphe 75(2) à une fiducie

(4.1) Si les conditions ci-après sont réunies, le paragraphe (2.1), mais non le paragraphe (2), s'applique à la distribution d'un bien d'une fiducie personnelle donnée ou une fiducie donnée visée par règlement, effectuée par la fiducie donnée à un contribuable bénéficiaire de cette fiducie :

a) la distribution a été effectuée en règlement de la totalité ou d'une partie de la participation du contribuable au capital de la fiducie donnée;

b) le paragraphe 75(2) était applicable (déterminé compte non tenu du passage « et pendant qu'elle réside au Canada » à ce paragraphe et comme si le paragraphe 75(3), en son état avant le 21 mars 2013, s'appliquait compte non tenu de son alinéa c.2)) ou le paragraphe 94(8.2) était applicable (déterminé compte non tenu de l'alinéa 94(8.1)a)) à un moment donné aux biens :

(i) soit de la fiducie donnée,

(ii) soit d'une fiducie comptant parmi ses biens un bien qui, par suite d'une ou de plusieurs dispositions auxquelles le paragraphe 107.4(3) s'est appliqué, est devenu un bien de la fiducie donnée, lequel bien, après le moment donné et avant la distribution, n'a pas fait l'objet d'une disposition pour un produit de disposition égal à sa juste valeur marchande au moment de la disposition;

(c) the taxpayer was neither

(i) the person (other than a trust described in subparagraph (b)(ii)) from whom the particular trust directly or indirectly received the property, or property for which the property was substituted, nor

(ii) an individual in respect of whom subsection 73(1) would be applicable on the transfer of capital property from the person described in subparagraph (i); and

(d) the person described in subparagraph (c)(i) was in existence at the time the property was distributed.

c) le contribuable n'était :

(i) ni la personne (sauf une fiducie visée au sous-alinéa b)(ii)) de laquelle la fiducie donnée a reçu, directement ou indirectement, le bien ou un bien qui lui est substitué,

(ii) ni un particulier auquel le paragraphe 73(1) s'appliquerait lors du transfert d'une immobilisation de la personne visée au sous-alinéa (i);

d) la personne visée au sous-alinéa c)(i) existait au moment de la distribution du bien.

Distribution of property received on qualifying disposition

(4.2) Subsection (2.1) applies (and subsection (2) does not apply) at any time to property distributed after December 20, 2002 to a beneficiary by a personal trust or a trust prescribed for the purpose of subsection (2), if

(a) at a particular time before December 21, 2002 there was a qualifying disposition (within the meaning assigned by subsection 107.4(1)) of the property, or of other property for which the property is substituted, by a particular partnership or a particular corporation, as the case may be, to a trust; and

(b) the beneficiary is neither the particular partnership nor the particular corporation.

Distribution d'un bien reçu à l'occasion d'une disposition admissible

(4.2) Le paragraphe (2.1), mais non le paragraphe (2), s'applique au bien qu'une fiducie personnelle ou une fiducie visée par règlement pour l'application du paragraphe (2) distribue à un bénéficiaire après le 20 décembre 2002 si, à la fois :

a) à un moment donné avant le 21 décembre 2002, le bien, ou un autre bien auquel il a été substitué, fait l'objet d'une disposition admissible, au sens du paragraphe 107.4(1), par une société de personnes donnée ou une société donnée, selon le cas, en faveur d'une fiducie;

b) le bénéficiaire n'est ni la société de personnes donnée, ni la société donnée.

Distribution to non-resident

(5) Subsection (2.1) applies (and subsection (2) does not apply) in respect of a distribution of a property (other than a share of the capital stock of a non-resident-owned investment corporation or property described in any of subparagraphs 128.1(4)(b)(i) to (iii)) by a trust to a non-resident taxpayer (including a partnership other than a Canadian partnership) in satisfaction of all or part of the taxpayer's capital interest in the trust.

Distribution à des non-résidents

(5) Le paragraphe (2.1), mais non le paragraphe (2), s'applique à la distribution d'un bien par une fiducie à un contribuable non-résident (y compris une société de personnes autre qu'une société de personnes canadienne), effectuée en règlement de la totalité ou d'une partie de la participation du contribuable au capital de la fiducie, sauf si le bien est une action du capital-actions d'une société de placement appartenant à des non-résidents ou est visé à l'un des sous-alinéas 128.1(4)b)(i) à (iii).

Instalment interest

(5.1) If, solely because of the application of subsection (5), paragraphs (2)(a) to (c) do not apply to a distribution in a taxation year of taxable Canadian property by a trust, in applying sections 155 and 156 and subsections 156.1(1) to (3) and 161(2), (4) and (4.01) and any regulations made for the purposes of those provisions, the trust's tax payable under this Part for the year is deemed to be the lesser of

Intérêts sur acomptes provisionnels

(5.1) Dans le cas où, par le seul effet du paragraphe (5), les alinéas (2)a) à c) ne s'appliquent pas à une distribution de biens canadiens imposables effectuée par une fiducie au cours d'une année d'imposition, l'impôt payable par la fiducie en vertu de la présente partie pour l'année est réputé, pour l'application des articles 155 et 156 et des paragraphes 156.1(1) à (3) et 161(2), (4) et (4.01) et des dispositions réglementaires prises en application de ces dispositions, correspondre à la moins élevée des sommes suivantes :

(a) the trust's tax payable under this Part for the year, determined before taking into consideration the specified future tax consequences for the year, and

(b) the amount that would be determined under paragraph (a) if subsection (5) did not apply to each distribution in the year of taxable Canadian property to which the rules in subsection (2) do not apply solely because of the application of subsection (5).

a) l'impôt payable par la fiducie en vertu de la présente partie pour l'année, calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année;

b) le montant qui serait déterminé selon l'alinéa a) si le paragraphe (5) ne s'appliquait pas à chaque distribution, effectuée au cours de l'année, de biens canadiens imposables auxquels les règles énoncées au paragraphe (2) ne s'appliquent pas par le seul effet du paragraphe (5).

Loss reduction

(6) Notwithstanding any other provision of this Act, where a person or partnership (in this subsection referred to as the "vendor") has disposed of property and would, but for this subsection, have had a loss from the disposition, the vendor's loss otherwise determined in respect of the disposition shall be reduced by such portion of that loss as may reasonably be considered to have accrued during a period in which

(a) the property or property for which it was substituted was held by a trust; and

(b) either

(i) the trust was non-resident and the property (or property for which it was substituted) was not taxable Canadian property of the trust, or

(ii) neither the vendor — nor a person that would, if section 251.1 were read without reference to the definition ***controlled*** in subsection 251.1(3), be affiliated with the vendor — had a capital interest in the trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 107; 1994, c. 7, Sch. II, s. 76, Sch. VIII, s. 43, c. 21, s. 47; 1995, c. 3, s. 29, c. 21, s. 35; 1998, c. 19, s. 128; 2000, c. 12, s. 142; 2001, c. 17, s. 80; 2009, c. 2, s. 26; 2010, c. 12, s. 10; 2013, c. 34, ss. 11, 233, c. 40, s. 44; 2016, c. 12, s. 36.

Réduction de la perte résultant de la disposition d'un bien

(6) Malgré les autres dispositions de la présente loi, en cas de disposition d'un bien par une personne ou société de personnes — appelée « vendeur » au présent paragraphe —, la perte du vendeur, déterminée par ailleurs, qui a pu en résulter doit être réduite de la partie qu'il est raisonnable de considérer comme s'étant accumulée au cours de la période où:

a) d'une part, le bien ou un bien y substitué était détenu par une fiducie;

b) d'autre part, l'un des faits suivants s'avère :

(i) la fiducie ne résidait pas au Canada et le bien ou un bien y substitué n'était pas un bien canadien imposable de la fiducie,

(ii) ni le vendeur, ni une personne qui serait affiliée à celui-ci si l'article 251.1 s'appliquait compte non tenu de la définition de ***contrôlé*** au paragraphe 251.1(3), n'avait de participation au capital de la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 107; 1994, ch. 7, ann. II, art. 76, ann. VIII, art. 43, ch. 21, art. 47; 1995, ch. 3, art. 29, ch. 21, art. 35; 1998, ch. 19, art. 128; 2000, ch. 12, art. 142; 2001, ch. 17, art. 80; 2009, ch. 2, art. 26; 2010, ch. 12, art. 10; 2013, ch. 34, art. 11 et 233, ch. 40, art. 44; 2016, ch. 12, art. 36.

Distribution by certain employment-related trusts

107.1 If at any time any property of an employee life and health trust, an employee trust, a trust governed by an employee benefit plan or a trust described in paragraph (a.1) of the definition ***trust*** in subsection 108(1) has been distributed by the trust to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer's interest in the trust, the following rules apply:

(a) in the case of an employee life and health trust, an employee trust or a trust described in paragraph (a.1) of the definition ***trust*** in subsection 108(1),

Distribution par certaines fiducies liées à l'emploi

107.1 Lorsque, à un moment donné, des biens d'une fiducie d'employés, d'une fiducie de soins de santé au bénéfice d'employés, d'une fiducie régie par un régime de prestations aux employés ou d'une fiducie visée à l'alinéa a.1) de la définition de ***fiducie*** au paragraphe 108(1) ont été distribués par la fiducie à un contribuable bénéficiaire de la fiducie, en règlement de la totalité ou d'une partie de sa participation dans la fiducie, les règles suivantes s'appliquent :

(i) the trust shall be deemed to have disposed of the property immediately before that time for proceeds of disposition equal to its fair market value at that time, and

(ii) the taxpayer shall be deemed to have acquired the property at a cost equal to its fair market value at that time;

(b) in the case of a trust governed by an employee benefit plan,

(i) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time, and

(ii) the taxpayer shall be deemed to have acquired the property at a cost equal to the greater of

(A) its fair market value at that time, and

(B) the adjusted cost base to the taxpayer of the taxpayer's interest or part thereof, as the case may be, immediately before that time;

(c) the taxpayer shall be deemed to have disposed of the taxpayer's interest or part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to the taxpayer of that interest or part thereof immediately before that time; and

(d) where the property was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by this section to have acquired the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) the capital cost to the taxpayer of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and

(ii) the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the taxpayer of the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 107.1; 2001, c. 17, s. 81; 2010, c. 25, s. 17.

a) dans le cas d'une fiducie d'employés, d'une fiducie de soins de santé au bénéfice d'employés ou d'une fiducie visée à l'alinéa a.1) de la définition de ***fiducie*** au paragraphe 108(1) :

(i) la fiducie est réputée avoir disposé de ces biens immédiatement avant ce moment et en avoir tiré un produit égal à sa juste valeur marchande à ce moment,

(ii) le contribuable est réputé avoir acquis ces biens à un coût égal à leur juste valeur marchande à ce moment;

b) dans le cas d'une fiducie régie par un régime de prestations aux employés :

(i) la fiducie est réputée avoir disposé de ces biens et en avoir tiré un produit égal au coût indiqué de ces biens, pour la fiducie, immédiatement avant ce moment,

(ii) le contribuable est réputé avoir acquis ces biens à un coût égal au plus élevé des montants suivants :

(A) la juste valeur marchande des biens à ce moment,

(B) le prix de base rajusté de sa participation ou de la partie de celle-ci, selon le cas, immédiatement avant ce moment;

c) le contribuable est réputé avoir disposé de la totalité ou d'une partie de sa participation, selon le cas, et en avoir tiré un produit égal au prix de base rajusté de sa participation ou de la partie de celle-ci immédiatement avant ce moment;

d) lorsque les biens étaient des biens amortissables de la fiducie appartenant à une catégorie prescrite et que le montant du coût en capital de ces biens, supporté par la fiducie, dépasse le coût que le contribuable est réputé, aux termes du présent article, avoir supporté pour les acquérir, pour l'application des articles 13 et 20 ainsi que des dispositions réglementaires prises en vertu de l'alinéa 20(1)a):

(i) le coût en capital des biens, supporté par le contribuable, est réputé être celui supporté par la fiducie,

(ii) l'excédent est réputé avoir été déductible par le contribuable, relativement aux biens, en vertu des dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul de son revenu pour

Distribution by a retirement compensation arrangement

107.2 Where, at any time, any property of a trust governed by a retirement compensation arrangement has been distributed by the trust to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of the taxpayer's interest in the trust, for the purposes of this Part and Part XI.3, the following rules apply:

(a) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its fair market value at that time;

(b) the trust shall be deemed to have paid to the taxpayer as a distribution an amount equal to that fair market value;

(c) the taxpayer shall be deemed to have acquired the property at a cost equal to that fair market value;

(d) the taxpayer shall be deemed to have disposed of the taxpayer's interest or part thereof, as the case may be, for proceeds of disposition equal to the adjusted cost base to the taxpayer of that interest or part thereof immediately before that time; and

(e) where the property was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the taxpayer is deemed by this section to have acquired the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) the capital cost to the taxpayer of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and

(ii) the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing the taxpayer's income for taxation years before the acquisition by the taxpayer of the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 107.2; 2013, c. 34, s. 234(F).

Montant provenant d'une fiducie de convention de retraite

107.2 Pour l'application de la présente partie et de la partie XI.3, dans le cas où, à un moment donné, une fiducie régie par une convention de retraite distribue un de ses biens à un contribuable bénéficiaire de la fiducie, en règlement de la totalité ou d'une partie de la participation de celui-ci dans la fiducie, les règles ci-après s'appliquent :

a) la fiducie est réputée disposer du bien pour un produit de disposition égal à la juste valeur marchande du bien à ce moment;

b) la fiducie est réputée verser au contribuable, au titre d'une distribution, une somme égale à cette juste valeur marchande;

c) le contribuable est réputé acquérir le bien à un coût égal à cette juste valeur marchande;

d) le contribuable est réputé disposer de la totalité ou de la partie de sa participation, selon le cas, pour un produit de disposition égal au prix de base rajusté, pour lui, de la totalité ou de la partie immédiatement avant ce moment;

e) si le bien est un bien amortissable d'une catégorie prescrite et si son coût en capital pour la fiducie excède le coût auquel le contribuable est réputé par le présent article acquérir le bien, pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a):

(i) le coût en capital du bien pour le contribuable est réputé être le coût en capital du bien pour la fiducie,

(ii) cet excédent est réputé être une déduction autorisée pour ce bien par les dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu du contribuable pour les années d'imposition antérieures à l'acquisition du bien par celui-ci.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 107.2; 2013, ch. 34, art. 234(F).

Treatment of beneficiaries under qualifying environmental trusts

107.3 (1) Where a taxpayer is a beneficiary under a qualifying environmental trust in a taxation year of the trust (in this subsection referred to as the "trust's year") that ends in a particular taxation year of the taxpayer,

(a) subject to paragraph 107.3(1)(b), the taxpayer's income, non-capital loss and net capital loss for the particular year shall be computed as if the amount of the income or loss of the trust for the trust's year from any source or from sources in a particular place were the income or loss of the taxpayer from that source or from sources in that particular place for the particular year, to the extent of the portion thereof that can reasonably be considered to be the taxpayer's share of such income or loss; and

(b) if the taxpayer is non-resident at any time in the particular year and an income or loss described in paragraph 107.3(1)(a) or an amount to which paragraph 12(1)(z.1) or (z.2) applies would not otherwise be included in computing the taxpayer's taxable income or taxable income earned in Canada, as the case may be, notwithstanding any other provision of this Act, the income, the loss or the amount shall be attributed to the carrying on of business in Canada by the taxpayer through a fixed place of business located in the province in which the site to which the trust relates is situated.

Transfers to beneficiaries

(2) Where property of a qualifying environmental trust is transferred at any time to a beneficiary under the trust in satisfaction of all or any part of the beneficiary's interest as a beneficiary under the trust,

(a) the trust shall be deemed to have disposed of the property at that time for proceeds of disposition equal to its fair market value at that time; and

(b) the beneficiary shall be deemed to have acquired the property at that time at a cost equal to its fair market value at that time.

Ceasing to be qualifying environmental trust

(3) If at any time a trust ceases to be a qualifying environmental trust,

Régime applicable aux bénéficiaires de fiducies pour l'environnement admissibles

107.3 (1) Dans le cas où un contribuable est bénéficiaire d'une fiducie pour l'environnement admissible au cours d'une année d'imposition de celle-ci (appelée « année de la fiducie » au présent paragraphe) qui se termine dans une année d'imposition donnée du contribuable, les règles suivantes s'appliquent :

a) sous réserve de l'alinéa b), le revenu, la perte autre qu'une perte en capital et la perte en capital nette du contribuable pour l'année donnée sont calculés comme si le revenu ou la perte de la fiducie pour l'année de la fiducie provenant d'une source déterminée ou de sources situées dans un endroit déterminé était le revenu ou la perte du contribuable provenant de cette source ou de sources situées dans cet endroit pour l'année donnée, jusqu'à concurrence de la partie de ce revenu ou de cette perte qu'il est raisonnable de considérer comme représentant la part qui revient au contribuable;

b) lorsque le contribuable est un non-résident au cours de l'année donnée et qu'un revenu ou une perte visé à l'alinéa a), ou une somme à laquelle s'appliquent les alinéas 12(1)z.1) ou z.2), ne serait pas par ailleurs inclus dans le calcul de son revenu imposable ou de son revenu imposable gagné au Canada, le revenu, la perte ou la somme est, malgré les autres dispositions de la présente loi, attribué à une entreprise qu'il exploite au Canada par l'entremise d'un lieu fixe d'affaires situé dans la province où se trouve l'emplacement visé par la fiducie.

Transferts aux bénéficiaires

(2) En cas de transfert d'un bien d'une fiducie pour l'environnement admissible à l'un de ses bénéficiaires en règlement de tout ou partie de la participation de celui-ci en tant que bénéficiaire de la fiducie, les présomptions suivantes s'appliquent :

a) la fiducie est réputée avoir disposé du bien au moment du transfert pour un produit de disposition égal à sa juste valeur marchande à ce moment;

b) le bénéficiaire est réputé avoir acquis le bien au moment du transfert à un coût égal à sa juste valeur marchande à ce moment.

Changement d'état de la fiducie

(3) Dans le cas où une fiducie cesse d'être une fiducie pour l'environnement admissible à un moment donné, les règles ci-après s'appliquent :

(a) for the purposes of subsections 111(5.5) and 149(10), the trust is deemed to cease at that time to be exempt from tax under this Part on its taxable income;

(b) each beneficiary under the trust immediately before that time is deemed to receive at that time from the trust an amount equal to the percentage of the fair market value of the properties of the trust immediately after that time that can reasonably be considered to be the beneficiary's interest in the trust; and

(c) each beneficiary under the trust is deemed to acquire immediately after that time an interest in the trust at a cost equal to the amount deemed by paragraph (b) to be received by the beneficiary from the trust.

a) pour l'application des paragraphes 111(5.5) et 149(10), la fiducie est réputée cesser à ce moment d'être exonérée de l'impôt payable en vertu de la présente partie sur son revenu imposable;

b) chaque bénéficiaire de la fiducie immédiatement avant ce moment est réputé recevoir de la fiducie à ce moment une somme correspondant au pourcentage de la juste valeur marchande des biens de la fiducie immédiatement après ce moment qu'il est raisonnable de considérer comme représentant sa participation dans la fiducie;

c) chaque bénéficiaire de la fiducie est réputé acquérir immédiatement après ce moment une participation dans la fiducie à un coût égal à la somme qu'il est réputé, en vertu de l'alinéa b), avoir reçue de la fiducie.

Application

(4) Subsection 104(13) and sections 105 to 107 do not apply to a trust with respect to a taxation year during which it is a qualifying environmental trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 3, s. 30; 1998, c. 19, s. 18; 2013, c. 40, s. 45.

Application

(4) Le paragraphe 104(13) et les articles 105 à 107 ne s'appliquent pas à une fiducie pour une année d'imposition au cours de laquelle est elle une fiducie pour l'environnement admissible.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 3, art. 30; 1998, ch. 19, art. 18; 2013, ch. 40, art. 45.

Qualifying disposition

107.4 (1) In this section, a ***qualifying disposition*** of a property means a disposition of the property before December 21, 2002 by a person or partnership, and a disposition of property after December 20, 2002 by an individual, (which person, partnership or individual is referred to in this subsection as the "contributor") as a result of a transfer of the property to a particular trust where

(a) the disposition does not result in a change in the beneficial ownership of the property;

(b) the proceeds of disposition would, if this Act were read without reference to this section and sections 69 and 73, not be determined under any provision of this Act;

(c) the particular trust is resident in Canada at the time of the transfer;

(d) [Repealed, 2013, c. 34, s. 235]

(e) unless the contributor is a trust, there is immediately after the disposition no absolute or contingent right of a person or partnership (other than the contributor or, where the property was co-owned, each of the joint contributors) as a beneficiary (determined with reference to subsection 104(1.1)) under the particular trust;

Disposition admissible

107.4 (1) Pour l'application du présent article, ***disposition admissible*** s'entend de la disposition d'un bien effectuée par une personne ou une société de personnes avant le 21 décembre 2002, et de la disposition d'un bien effectuée par un particulier après le 20 décembre 2002, (la personne, la société de personnes ou le particulier étant appelé « cédant » au présent paragraphe) par suite du transfert du bien à une fiducie donnée, si les conditions ci-après sont réunies :

a) la disposition n'a pas pour effet de changer la propriété effective du bien;

b) le produit de disposition ne serait pas déterminé selon la présente loi s'il était fait abstraction du présent article et des articles 69 et 73;

c) la fiducie donnée réside au Canada au moment du transfert;

d) [Abrogé, 2013, ch. 34, art. 235]

e) à moins que le cédant ne soit une fiducie, aucune personne ou société de personnes (sauf le cédant ou, dans le cas où le bien est détenu en copropriété, chacun des co-cédants) n'a, immédiatement après la disposition, de droit absolu ou conditionnel à titre de bénéficiaire (déterminé par rapport au paragraphe 104(1.1)) de la fiducie donnée;

(f) the contributor is not an individual (other than a trust described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1)), if the particular trust is described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1);

(g) the disposition is not part of a series of transactions or events

(i) that begins after December 17, 1999 and that includes the subsequent acquisition, for consideration given to a personal trust, of a capital interest or an income interest in the trust,

(ii) that begins after December 17, 1999 and that includes the disposition of all or part of a capital interest or an income interest in a personal trust, other than a disposition solely as a consequence of a distribution from a trust to a person or partnership in satisfaction of all or part of that interest, or

(iii) that begins after June 5, 2000 and that includes the transfer to the particular trust of particular property as consideration for the acquisition of a capital interest in the particular trust, if the particular property can reasonably be considered to have been received by the particular trust in order to fund a distribution (other than a distribution that is proceeds of disposition of a capital interest in the particular trust);

(h) the disposition is not, and is not part of, a transaction

(i) that occurs after December 17, 1999, and

(ii) that includes the giving to the contributor, for the disposition, of any consideration (other than consideration that is an interest of the contributor as a beneficiary under the particular trust or that is the assumption by the particular trust of debt for which the property can, at the time of the disposition, reasonably be considered to be security);

(i) subsection 73(1) does not apply to the disposition and would not apply to the disposition if

(i) no election had been made under that subsection, and

(ii) section 73 were read without reference to subsection 73(1.02); and

(j) if the contributor is an amateur athlete trust, a cemetery care trust, an employee life and health trust, an employee trust, a trust deemed by subsection 143(1) to exist in respect of a congregation that is a

f) le cédant n'est pas un particulier (sauf une fiducie visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1)), dans le cas où la fiducie donnée est visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1);

g) la disposition ne fait pas partie d'une des séries d'opérations ou d'événements suivantes :

(i) celle commençant après le 17 décembre 1999 et comprenant l'acquisition ultérieure, moyennant contrepartie à une fiducie personnelle, d'une participation au capital ou d'une participation au revenu de la fiducie,

(ii) celle commençant après le 17 décembre 1999 et comprenant la disposition de la totalité ou d'une partie d'une participation au capital ou d'une participation au revenu d'une fiducie personnelle, sauf une disposition effectuée uniquement par suite de la distribution d'un bien, d'une fiducie à une personne ou à une société de personnes, en règlement de la totalité ou d'une partie de cette participation,

(iii) celle commençant après le 5 juin 2000 et comprenant le transfert d'un bien à la fiducie donnée, effectué en contrepartie de l'acquisition d'une participation au capital de cette fiducie, s'il est raisonnable de considérer que celle-ci a reçu le bien en vue de financer une distribution (sauf celle qui correspond au produit de disposition d'une participation au capital de la fiducie);

h) la disposition n'est pas une opération qui se produit après le 17 décembre 1999 et qui comprend la remise au cédant, pour la disposition, d'une contrepartie (sauf celle qui est une participation du cédant à titre de bénéficiaire de la fiducie donnée ou qui consiste en la prise en charge par la fiducie donnée d'une dette pour laquelle il est raisonnable de considérer, au moment de la disposition, que le bien est une garantie), ni ne fait partie d'une telle opération;

i) le paragraphe 73(1) ne s'applique pas à la disposition et ne s'y appliquerait pas si, à la fois :

(i) aucun choix n'avait été fait en vertu de ce paragraphe,

(ii) l'article 73 s'appliquait compte non tenu de son paragraphe (1.02);

j) si le cédant est une fiducie au profit d'un athlète amateur, une fiducie créée à l'égard du fonds réservé, au sens de l'alinéa 138.1(1)a), une fiducie d'employés, une fiducie de soins de santé au bénéfice d'employés, une fiducie réputée en vertu du paragraphe 143(1)

constituent part of a religious organization, a related segregated fund trust (within the meaning assigned by paragraph 138.1(1)(a)), a trust described in paragraph 149(1)(o.4) or a trust governed by an eligible funeral arrangement, an employees profit sharing plan, a registered disability savings plan, a registered education savings plan, a registered supplementary unemployment benefit plan or a TFSA, the particular trust is the same type of trust.

Application of paragraph (1)(a)

(2) For the purpose of paragraph (1)(a),

(a) except where paragraph (b) applies, where a trust (in this paragraph and subsection (2.1) referred to as the "transferor trust"), in a period that does not exceed one day, disposes of one or more properties in the period to one or more other trusts, there is deemed to be no resulting change in the beneficial ownership of those properties if

(i) the transferor trust receives no consideration for the disposition, and

(ii) as a consequence of the disposition, the value of each beneficiary's beneficial ownership at the beginning of the period under the transferor trust in each particular property of the transferor trust (or group of two or more properties of the transferor trust that are identical to each other) is the same as the value of the beneficiary's beneficial ownership at the end of the period under the transferor trust and the other trust or trusts in each particular property (or in property that was immediately before the disposition included in the group of identical properties referred to above); and

(b) where a trust (in this paragraph referred to as the "transferor") governed by a registered retirement savings plan or by a registered retirement income fund transfers a property to a trust (in this paragraph referred to as the "transferee") governed by a registered retirement savings plan or by a registered retirement income fund, the transfer is deemed not to result in a change in the beneficial ownership of the property if the annuitant of the plan or fund that governs the transferor is also the annuitant of the plan or fund that governs the transferee.

Fractional interests

(2.1) For the purpose of applying paragraph (2)(a) in respect of a transfer by a transferor trust of property that includes a share and money, the other trust or trusts

exister à l'égard d'une congrégation qui est une partie constituante d'un organisme religieux, une fiducie pour l'entretien d'un cimetière, une fiducie visée à l'alinéa 149(1)o.4) ou une fiducie régie par un arrangement de services funéraires, un compte d'épargne libre d'impôt, un régime de participation des employés aux bénéfices, un régime enregistré d'épargne-études, un régime enregistré d'épargne-invalidité ou un régime enregistré de prestations supplémentaires de chômage, la fiducie donnée est une fiducie de même type.

Application de l'alinéa (1)a)

(2) Les présomptions suivantes s'appliquent dans le cadre de l'alinéa (1)a) :

a) sauf en cas d'application de l'alinéa b), lorsqu'une fiducie (appelée « fiducie cédante » au présent alinéa et au paragraphe (2.1)) dispose, au cours d'une période d'une durée maximale d'un jour, d'un ou de plusieurs biens en faveur d'une ou de plusieurs autres fiducies, la disposition est réputée ne pas avoir pour effet de changer la propriété effective des biens si les conditions suivantes sont réunies :

(i) la fiducie cédante ne reçoit aucune contrepartie pour la disposition,

(ii) par suite de la disposition, la valeur de la propriété effective de chaque bénéficiaire, au début de la période relativement à la fiducie cédante, en ce qui concerne chaque bien donné de cette fiducie (ou d'un groupe de plusieurs biens de cette fiducie qui sont identiques les uns aux autres) est la même que la valeur de la propriété effective du bénéficiaire, à la fin de la période relativement à la fiducie cédante et de l'autre ou des autres fiducies, en ce qui concerne chaque bien donné (ou un bien qui, immédiatement avant la disposition, était compris dans le groupe de biens identiques susmentionnés);

b) lorsqu'une fiducie (appelée « cédant » au présent alinéa) qui est régie par un régime enregistré d'épargne-retraite ou un fonds enregistré de revenu de retraite transfère des biens à une fiducie (appelée « cessionnaire » au présent alinéa) qui est régie par un tel régime ou un tel fonds, le transfert est réputé ne pas avoir pour effet de changer la propriété effective des biens si le rentier du régime ou fonds qui régit le cédant est également le rentier du régime ou fonds qui régit le cessionnaire.

Droit fractionnaire

(2.1) Pour l'application de l'alinéa (2)a) au transfert par une fiducie cédante d'un bien qui comprend une action et de l'argent, l'autre ou les autres fiducies visées à cet

referred to in that paragraph may receive, in lieu of a transfer of a fractional interest in a share that would otherwise be required, a disproportionate amount of money or interest in the share (the value of which does not exceed the lesser of $200 and the fair market value of the fractional interest).

Tax consequences of qualifying dispositions

(3) Where at a particular time there is a qualifying disposition of a property by a person or partnership (in this subsection referred to as the "transferor") to a trust (in this subsection referred to as the "transferee trust"),

(a) the transferor's proceeds of disposition of the property are deemed to be

(i) where the transferor so elects in writing and files the election with the Minister on or before the transferor's filing-due date for its taxation year that includes the particular time, or at any later time that is acceptable to the Minister, the amount specified in the election that is not less than the cost amount to the transferor of the property immediately before the particular time and not more than the fair market value of the property at the particular time, and

(ii) in any other case, the cost amount to the transferor of the property immediately before the particular time;

(b) the transferee trust's cost of the property is deemed to be the amount, if any, by which

(i) the proceeds determined under paragraph (a) in respect of the qualifying disposition

exceed

(ii) the amount by which the transferor's loss otherwise determined from the qualifying disposition would be reduced because of subsection 100(4), paragraph 107(1)(c) or (d) or any of subsections 112(3) to (4.2), if the proceeds determined under paragraph (a) were equal to the fair market value of the property at the particular time;

(c) [Repealed, 2005, c. 30, s. 4]

(d) if the property was depreciable property of a prescribed class of the transferor and its capital cost to the transferor exceeds the cost at which the transferee trust is deemed by this subsection to have acquired the property, for the purposes of sections 13 and 20 and

alinéa peuvent recevoir, en remplacement du transfert d'une participation fractionnaire dans une action qui serait à effectuer par ailleurs, une somme d'argent disproportionnée ou une participation dans l'action disproportionnée (dont la valeur n'excède pas 200 $ ou, si elle est moins élevée, la juste valeur marchande de la participation fractionnaire).

Conséquences fiscales des dispositions admissibles

(3) Dans le cas où une personne ou une société de personnes (appelée « cédant » au présent paragraphe) effectue, à un moment donné, la disposition admissible d'un bien en faveur d'une fiducie (appelée « fiducie cessionnaire » au présent paragraphe), les règles suivantes s'appliquent :

a) le produit de disposition du bien pour le cédant est réputé égal au montant suivant :

(i) si le cédant en fait le choix dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition qui comprend le moment donné, ou à tout moment postérieur que le ministre estime acceptable, le montant indiqué dans le document qui est au moins égal au coût indiqué du bien pour lui immédiatement avant le moment donné, sans excéder la juste valeur marchande du bien au moment donné,

(ii) dans les autres cas, le coût indiqué du bien pour le cédant immédiatement avant le moment donné;

b) le coût du bien pour la fiducie cessionnaire est réputé égal à l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) le produit déterminé selon l'alinéa a) relativement à la disposition admissible,

(ii) le montant qui, par l'effet du paragraphe 100(4), des alinéas 107(1)c) ou d) ou de l'un des paragraphes 112(3) à (4.2), serait appliqué en réduction de la perte du cédant, déterminée par ailleurs, résultant de la disposition admissible si le produit déterminé selon l'alinéa a) était égal à la juste valeur marchande du bien au moment donné;

c) [Abrogé, 2005, ch. 30, art. 4]

d) si le bien est un bien amortissable d'une catégorie prescrite du cédant et si son coût en capital pour celui-ci excède le coût auquel la fiducie cessionnaire est réputée, par le présent paragraphe, l'avoir acquis, pour l'application des articles 13 et 20 et des dispositions réglementaires prises en application de l'alinéa 20(1)a):

any regulations made for the purpose of paragraph 20(1)(a),

(i) the capital cost of the property to the transferee trust is deemed to be the amount that was the capital cost of the property to the transferor, and

(ii) the excess is deemed to have been allowed to the transferee trust in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation years that ended before the particular time;

(e) [Repealed, 2016, c. 12, s. 37]

(f) if, as a result of a transaction or event, the property was deemed to be taxable Canadian property of the transferor by this paragraph or any of paragraphs 44.1(2)(c), 51(1)(f), 85(1)(i) and 85.1(1)(a), subsection 85.1(5), paragraph 85.1(8)(b), subsections 87(4) and (5) and paragraphs 97(2)(c) and 107(3.1)(d), the property is also deemed to be, at any time that is within 60 months after the transaction or event, taxable Canadian property of the transferee trust;

(g) where the transferor is a related segregated fund trust (in this paragraph having the meaning assigned by section 138.1),

(i) paragraph 138.1(1)(i) does not apply in respect of a disposition of an interest in the transferor that occurs in connection with the qualifying disposition, and

(ii) in computing the amount determined under paragraph 138.1(1)(i) in respect of a subsequent disposition of an interest in the transferee trust where the interest is deemed to exist in connection with a particular life insurance policy, the acquisition fee (as defined by subsection 138.1(6)) in respect of the particular policy shall be determined as if each amount determined under any of paragraphs 138.1(6)(a) to (d) in respect of the policyholder's interest in the transferor had been determined in respect of the policyholder's interest in the transferee trust;

(h) if the transferor is a trust to which property had been transferred by an individual (other than a trust),

(i) where subsection 73(1) applied in respect of the property so transferred and it is reasonable to consider that the property was so transferred in anticipation of the individual ceasing to be resident in Canada, for the purposes of paragraph 104(4)(a.3) and the application of this paragraph to a disposition by the transferee trust after the particular time,

(i) le coût en capital du bien pour la fiducie cessionnaire est réputé égal au montant qui en était le coût en capital pour le cédant,

(ii) l'excédent est réputé avoir été accordé à la fiducie cessionnaire à titre de déduction relative au bien, selon les dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul de son revenu pour les années d'imposition terminées avant le moment donné;

e) [Abrogé, 2016, ch. 12, art. 37]

f) si, par suite d'une opération ou d'un événement, le bien était réputé être un bien canadien imposable du cédant en vertu du présent alinéa, des alinéas 44.1(2)c), 51(1)d), 85(1)i) ou 85.1(1)a), du paragraphe 85.1(5), de l'alinéa 85.1(8)b), des paragraphes 87(4) ou (5) ou des alinéas 97(2)c) ou 107(3.1)d), le bien est également réputé être un bien canadien imposable de la fiducie cessionnaire à tout moment de la période de 60 mois suivant l'opération ou l'événement;

g) si le cédant est une fiducie créée à l'égard du fonds réservé, au sens de l'article 138.1:

(i) l'alinéa 138.1(1)i) ne s'applique pas à la disposition d'une participation dans le cédant qui est effectuée dans le cadre de la disposition admissible,

(ii) dans le calcul du montant déterminé selon l'alinéa 138.1(1)i) relativement à la disposition ultérieure d'une participation dans la fiducie cessionnaire, laquelle participation est réputée exister relativement à une police d'assurance-vie donnée, les frais d'acquisition, au sens du paragraphe 138.1(6), afférents à la police donnée sont déterminés comme si chaque montant déterminé selon l'un des alinéas 138.1(6)a) à d) au titre de la participation du titulaire de police dans le cédant avait été déterminé relativement à sa participation dans la fiducie cessionnaire;

h) si le cédant est une fiducie à laquelle un particulier (sauf une fiducie) a transféré un bien :

(i) lorsque le paragraphe 73(1) s'applique au bien ainsi transféré et qu'il est raisonnable de considérer que le bien a été ainsi transféré en prévision de la cessation de la résidence du particulier au Canada, pour l'application de l'alinéa 104(4)a.3) et pour l'application du présent alinéa à une disposition effectuée par la fiducie cessionnaire après le moment donné, celle-ci est réputée, après ce moment, être une fiducie à laquelle le particulier avait transféré un bien en prévision de la cessation de sa résidence

the transferee trust is deemed after the particular time to be a trust to which the individual had transferred property in anticipation of the individual ceasing to reside in Canada and in circumstances to which subsection 73(1) applied, and

(ii) for the purposes of paragraph (j) of the definition ***excluded right or interest*** in subsection 128.1(10) and the application of this paragraph to a disposition by the transferee trust after the particular time, where the property so transferred was transferred in circumstances to which this subsection would apply if subsection (1) were read without reference to paragraphs (1)(h) and (i), the transferee trust is deemed after the particular time to be a trust an interest in which was acquired by the individual as a consequence of a qualifying disposition;

(i) if the transferor is a trust (other than a personal trust or a trust prescribed for the purposes of subsection 107(2)), the transferee trust is deemed to be neither a personal trust nor a trust prescribed for the purposes of subsection 107(2);

(j) if the transferor is a trust and a taxpayer disposes of all or part of a capital interest in the transferor because of the qualifying disposition and, as a consequence, acquires a capital interest or part of it in the transferee trust

(i) the taxpayer is deemed to dispose of the capital interest or part of it in the transferor for proceeds equal to the cost amount to the taxpayer of that interest or part of it immediately before the particular time, and

(ii) the taxpayer is deemed to acquire the capital interest or part of it in the transferee trust at a cost equal to the amount, if any, by which

(A) that cost amount

exceeds

(B) the amount by which the taxpayer's loss otherwise determined from the disposition referred to in subparagraph (i) would be reduced because of paragraph 107(1)(c) or (d) if the proceeds under that subparagraph were equal to the fair market value of the capital interest or part of it in the transferor immediately before the particular time;

(k) where the transferor is a trust, a taxpayer's beneficial ownership in the property ceases to be derived from the taxpayer's capital interest in the transferor

au Canada et dans les circonstances visées au paragraphe 73(1),

(ii) pour l'application de l'alinéa j) de la définition de ***droit, participation ou intérêt exclu*** au paragraphe 128.1(10) et pour l'application du présent alinéa à une disposition effectuée par la fiducie cessionnaire après le moment donné, lorsque le bien ainsi transféré l'a été dans les circonstances qui seraient visées au présent paragraphe si le paragraphe (1) s'appliquait compte non tenu de ses alinéas h) et i), la fiducie cessionnaire est réputée, après le moment donné, être une fiducie dans laquelle le particulier a acquis une participation par suite d'une disposition admissible;

i) si le cédant est une fiducie (sauf une fiducie personnelle ou une fiducie visée par règlement pour l'application du paragraphe 107(2)), la fiducie cessionnaire est réputée n'être ni une fiducie personnelle ni une fiducie visée par règlement pour l'application du paragraphe 107(2);

j) si le cédant est une fiducie et qu'un contribuable dispose de la totalité ou d'une partie de sa participation au capital du cédant par suite de la disposition admissible et acquière, en conséquence, une participation au capital de la fiducie cessionnaire ou une partie d'une telle participation :

(i) le contribuable est réputé disposer de la participation au capital du cédant, ou de la partie de cette participation, pour un produit égal au coût indiqué pour lui de cette participation ou partie de participation immédiatement avant le moment donné,

(ii) le contribuable est réputé acquérir la participation au capital de la fiducie cessionnaire, ou la partie de cette participation, à un coût égal à l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) le coût indiqué visé au sous-alinéa (i),

(B) le montant qui, par l'effet des alinéas 107(1)c) ou d), serait appliqué en réduction de la perte du contribuable, déterminée par ailleurs, résultant de la disposition visée au sous-alinéa (i) si le produit déterminé selon ce sous-alinéa était égal à la juste valeur marchande de la participation au capital du cédant, ou de la partie de cette participation, immédiatement avant le moment donné;

k) lorsque le cédant est une fiducie, que la propriété effective d'un contribuable dans le bien cesse, en raison de la disposition admissible, de découler de sa

because of the qualifying disposition and no part of the taxpayer's capital interest in the transferor was disposed of because of the qualifying disposition, there shall, immediately after the particular time, be added to the cost otherwise determined of the taxpayer's capital interest in the transferee trust, the amount determined by the formula

A × [(B - C)/B] - D

where

A is the cost amount to the taxpayer of the taxpayer's capital interest in the transferor immediately before the particular time,

B is the fair market value immediately before the particular time of the taxpayer's capital interest in the transferor,

C is the fair market value at the particular time of the taxpayer's capital interest in the transferor (determined as if the only property disposed of at the particular time were the particular property), and

D is the lesser of

(i) the amount, if any, by which the cost amount to the taxpayer of the taxpayer's capital interest in the transferor immediately before the particular time exceeds the fair market value of the taxpayer's capital interest in the transferor immediately before the particular time, and

(ii) the maximum amount by which the taxpayer's loss from a disposition of a capital interest otherwise determined could have been reduced because of paragraph 107(1)(c) or (d) if the taxpayer's capital interest in the transferor had been disposed of immediately before the particular time;

(l) where paragraph (k) applies to the qualifying disposition in respect of a taxpayer, the amount that would be determined under that paragraph in respect of the qualifying disposition if the amount determined for D in that paragraph were nil shall, immediately after the particular time, be deducted in computing the cost otherwise determined of the taxpayer's capital interest in the transferor;

(m) where paragraphs (j) and (k) do not apply in respect of the qualifying disposition, the transferor is deemed to acquire the capital interest or part of it in the transferee trust that is acquired as a consequence of the qualifying disposition

participation au capital du cédant et que nulle partie de la participation du contribuable au capital du cédant n'a fait l'objet d'une disposition par suite de la disposition admissible, le montant obtenu par la formule ci-après est ajouté, immédiatement après le moment donné, au coût déterminé par ailleurs de la participation du contribuable au capital de la fiducie cessionnaire :

A × [(B - C)/B] - D

où :

A représente le coût indiqué, pour le contribuable, de sa participation au capital du cédant immédiatement avant le moment donné,

B la juste valeur marchande, immédiatement avant le moment donné, de la participation du contribuable au capital du cédant,

C la juste valeur marchande, au moment donné, de la participation du contribuable au capital du cédant (déterminée comme si le seul bien dont il a été disposé à ce moment était le bien donné),

D le moins élevé des montants suivants :

(i) l'excédent éventuel du coût indiqué, pour le contribuable, de sa participation au capital du cédant immédiatement avant le moment donné, sur la juste valeur marchande de cette participation immédiatement avant ce moment,

(ii) le montant maximal qui, par l'effet des alinéas 107(1)c) ou d), aurait pu être appliqué en réduction de la perte du contribuable, déterminée par ailleurs, résultant de la disposition d'une participation au capital si la participation du contribuable au capital du cédant avait fait l'objet d'une disposition immédiatement avant le moment donné;

l) lorsque l'alinéa k) s'applique à la disposition admissible relativement à un contribuable, le montant qui serait déterminé selon cet alinéa relativement à la disposition admissible, si la valeur de l'élément D de la formule figurant à cet alinéa était nulle, est déduit, immédiatement après le moment donné, dans le calcul du coût, déterminé par ailleurs, de la participation du contribuable au capital du cédant;

m) lorsque les alinéas j) et k) ne s'appliquent pas à la disposition admissible, le cédant est réputé acquérir la participation au capital de la fiducie cessionnaire, ou la partie de cette participation, qui est acquise par suite de la disposition admissible, au coût applicable suivant :

(i) where the transferee trust is a personal trust, at a cost equal to nil, and

(ii) in any other case, at a cost equal to the excess determined under paragraph (b) in respect of the qualifying disposition; and

(n) if the transferor is a trust and a taxpayer disposes of all or part of an income interest in the transferor because of the qualifying disposition and, as a consequence, acquires an income interest or a part of an income interest in the transferee trust, for the purpose of subsection 106(2), the taxpayer is deemed not to dispose of any part of the income interest in the transferor at the particular time.

Fair market value of vested interest in trust

(4) Where

(a) a particular capital interest in a trust is held by a beneficiary at any time,

(b) the particular interest is vested indefeasibly at that time,

(c) the trust is not described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1), and

(d) interests under the trust are not ordinarily disposed of for consideration that reflects the fair market value of the net assets of the trust,

the fair market value of the particular interest at that time is deemed to be not less than the amount determined by the formula

(A - B) × (C/D)

where

A is the total fair market value at that time of all properties of the trust,

B is the total of all amounts each of which is the amount of a debt owing by the trust at that time or the amount of any other obligation of the trust to pay any amount that is outstanding at that time,

C is the fair market value at that time of the particular interest (determined without reference to this subsection), and

D is the total fair market value at that time of all interests as beneficiaries under the trust (determined without reference to this subsection).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 82; 2005, c. 30, s. 4; 2007, c. 35, s. 109; 2008, c. 28, s. 10; 2009, c. 2, s. 27; 2010, c. 12, s. 11, c. 25, s. 18; 2013, c. 34, s. 235; 2014, c. 39, s. 27; 2016, c. 12, s. 37.

(i) si la fiducie cessionnaire est une fiducie personnelle, un coût nul,

(ii) dans les autres cas, un coût égal à l'excédent déterminé selon l'alinéa b) relativement à la disposition admissible;

n) si le cédant est une fiducie et que le contribuable dispose de la totalité ou d'une partie d'une participation au revenu du cédant par suite de la disposition admissible et acquière, en conséquence, une participation au revenu de la fiducie cessionnaire ou une partie d'une telle participation, le contribuable est réputé, pour l'application du paragraphe 106(2), ne disposer d'aucune partie de la participation au revenu du cédant au moment donné.

Juste valeur marchande d'une participation dévolue

(4) Dans le cas où les conditions suivantes sont réunies :

a) une participation au capital d'une fiducie est détenue par un bénéficiaire à un moment donné;

b) la participation est dévolue irrévocablement à ce moment;

c) la fiducie n'est visée à aucun des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1);

d) les participations dans la fiducie ne font pas habituellement l'objet de dispositions pour une contrepartie qui tient compte de la juste valeur marchande de l'actif net de la fiducie,

la juste valeur marchande de la participation, à ce moment, est réputée être au moins égale au montant obtenu par la formule suivante :

(A - B) × (C/D)

où :

A représente la juste valeur marchande totale, à ce moment, de l'ensemble des biens de la fiducie,

B le total des montants représentant chacun le montant d'une dette dont la fiducie est débitrice à ce moment ou le montant de toute autre obligation de la fiducie de payer un montant impayé à ce moment,

C la juste valeur marchande, à ce moment, de la participation (déterminée compte non tenu du présent paragraphe),

D la juste valeur marchande totale, à ce moment, de l'ensemble des participations de bénéficiaire dans la fiducie (déterminée compte non tenu du présent paragraphe).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 82; 2005, ch. 30, art. 4;

2007, ch. 35, art. 109; 2008, ch. 28, art. 10; 2009, ch. 2, art. 27; 2010, ch. 12, art. 11, ch. 25, art. 18; 2013, ch. 34, art. 235; 2014, ch. 39, art. 27; 2016, ch. 12, art. 37.

Definitions

108 (1) In this subdivision,

accumulating income of a trust for a taxation year means the amount that would be the income of the trust for the year if that amount were computed

(a) without reference to paragraphs 104(4)(a) and (a.1) and subsections 104(5.1), (5.2) and (12) and 107(4),

(b) as if the greatest amount that the trust was entitled to claim under subsection 104(6) in computing its income for the year were so claimed, and

(c) without reference to subsection 12(10.2), except to the extent that that subsection applies to amounts paid to a trust to which paragraph 70(6.1)(b) applies and before the death of the spouse or common-law partner referred to in that paragraph; (*revenu accumulé*)

beneficiary under a trust includes a person beneficially interested therein; (*bénéficiaire*)

capital interest of a taxpayer in a trust means all rights of the taxpayer as a beneficiary under the trust, and after 1999 includes a right (other than a right acquired before 2000 and disposed of before March 2000) to enforce payment of an amount by the trust that arises as a consequence of any such right, but does not include an income interest in the trust; (*participation au capital*)

cost amount to a taxpayer at any time of a capital interest or part of it, as the case may be, in a trust, means (notwithstanding subsection 248(1) and except for the purposes of subsection 107(3.1) and section 107.4 and except in respect of a capital interest in a trust that is at that time a foreign affiliate of the taxpayer),

(a) where any money or other property of the trust has been distributed by the trust to the taxpayer in satisfaction of all or part of the taxpayer's capital interest (whether on the winding-up of the trust or otherwise), the total of

(i) the money so distributed, and

(ii) all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such other property,

(a.1) where that time (in this paragraph referred to as the "particular time") is immediately before the time

Définitions

108 (1) Les définitions qui suivent s'appliquent à la présente sous-section.

action admissible de petite entreprise [Abrogée, 2014, ch. 39, art. 28]

auteur ou disposant

a) Relativement à une fiducie testamentaire, le particulier mentionné à la définition de ***fiducie testamentaire*** au présent paragraphe;

b) relativement à une fiducie non testamentaire :

(i) si la fiducie a été créée par transfert, cession ou autre disposition de biens en sa faveur (appelés biens « remis » à la présente définition) par un seul particulier et si la juste valeur marchande des biens de la fiducie qui ont été remis par lui au moment de la création de la fiducie ou à un moment postérieur est supérieure à la juste valeur marchande des biens de la fiducie qui ont été remis par une autre ou d'autres personnes à un moment postérieur (ces justes valeurs marchandes étant déterminées au moment de cette remise), ce particulier,

(ii) si la fiducie a été créée par la remise de biens à celle-ci, par un particulier et son époux ou conjoint de fait, et par nulle autre personne, et si la juste valeur marchande des biens de la fiducie qui ont été remis par eux au moment de la création de la fiducie ou à un moment postérieur est supérieure à la juste valeur marchande des biens de la fiducie qui ont été remis par une autre ou d'autres personnes à un moment postérieur (ces justes valeurs marchandes étant déterminées au moment de cette remise), ce particulier et son époux ou conjoint de fait. (*settlor*)

bénéficiaire Sont comprises dans les bénéficiaires d'une fiducie les personnes ayant un droit de bénéficiaire sur celle-ci. (*beneficiary*)

bénéficiaire privilégié Quant à une fiducie pour une année d'imposition de celle-ci, bénéficiaire de la fiducie à la fin de cette année qui réside au Canada à ce moment et qui répond aux conditions suivantes :

a) il est :

(i) soit un particulier auquel s'appliquent les alinéas 118.3(1)a) à b) pour son année d'imposition

that is immediately before the time of the death of the taxpayer and subsection 104(4) or (5) deems the trust to dispose of property at the end of the day that includes the particular time, the amount that would be determined under paragraph (b) if the taxpayer had died on a day that ended immediately before the time that is immediately before the particular time, and

(b) in any other case, the amount determined by the formula

(A - B) × C/D

where

A is the total of

(i) all money of the trust on hand immediately before that time, and

(ii) all amounts each of which is the cost amount to the trust, immediately before that time, of each other property of the trust,

B is the total of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay any amount, that was outstanding immediately before that time,

C is the fair market value at that time of the capital interest or part thereof, as the case may be, in the trust, and

D is the fair market value at that time of all capital interests in the trust; (*coût indiqué*)

eligible offset at any time of a taxpayer in respect of all or part of the taxpayer's capital interest in a trust is the portion of any debt or obligation that is assumed by the taxpayer and that can reasonably be considered to be applicable to property distributed at that time in satisfaction of the interest or part of the interest, as the case may be, if the distribution is conditional upon the assumption by the taxpayer of the portion of the debt or obligation; (*montant de réduction admissible*)

eligible real property gain [Repealed, 1995, c. 3, s. 31]

eligible real property loss [Repealed, 1995, c. 3, s. 31]

eligible taxable capital gains of a personal trust for a taxation year means the lesser of

(a) its annual gains limit (within the meaning assigned by subsection 110.6(1)) for the year, and

(b) the amount determined by the formula

A - B

where

(appelée « année du bénéficiaire » dans la présente définition) se terminant dans l'année de la fiducie,

(ii) soit un particulier, à la fois :

(A) qui a atteint 18 ans avant la fin de l'année du bénéficiaire et était une personne à charge, au sens du paragraphe 118(6), pour cette année à cause d'une déficience mentale ou physique,

(B) dont le revenu, déterminé compte non tenu du paragraphe 104(14), pour l'année du bénéficiaire ne dépasse pas le montant applicable pour l'année selon l'alinéa 118(1)c);

b) il est :

(i) l'auteur de la fiducie,

(ii) l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait de l'auteur de la fiducie,

(iii) l'enfant, le petit-enfant ou l'arrière-petit-enfant de l'auteur de la fiducie, ou l'époux ou conjoint de fait d'une de ces personnes. (*preferred beneficiary*)

bien agricole admissible [Abrogée, 2014, ch. 39, art. 28]

bien de pêche admissible [Abrogée, 2014, ch. 39, art. 28]

bien exclu Action du capital-actions d'une société de placement appartenant à des non-résidents qui n'est pas un bien canadien imposable. (*excluded property*)

bien exonéré En ce qui concerne un contribuable à un moment donné, bien dont la disposition, effectuée par le contribuable à ce moment, donne naissance à un revenu ou à un gain qui n'aurait pas pour effet d'augmenter l'impôt payable par le contribuable en vertu de la présente partie, du fait qu'il est un non-résident ou en raison d'une disposition d'un traité fiscal. (*exempt property*)

coût indiqué S'agissant du coût indiqué pour un contribuable, à un moment donné, d'une participation au capital d'une fiducie ou d'une partie d'une telle participation, s'entend, sauf pour l'application du paragraphe 107(3.1) et de l'article 107.4 et malgré le paragraphe 248(1) et sauf à l'égard d'une participation au capital d'une fiducie qui est une société étrangère affiliée du contribuable à ce moment :

a) dans le cas où de l'argent ou un autre bien de la fiducie a été distribué par celle-ci au contribuable en règlement de tout ou partie de sa participation au capital

A is its cumulative gains limit (within the meaning assigned by subsection 110.6(1)) at the end of the year, and

B is the total of all amounts designated under subsection 104(21.2) by the trust in respect of beneficiaries for taxation years before that year; (*gains en capital imposables admissibles*)

excluded property means a share of the capital stock of a non-resident-owned investment corporation that is not taxable Canadian property; (*bien exclu*)

exempt property of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would, because the taxpayer is non-resident or because of a provision contained in a tax treaty, not cause an increase in the taxpayer's tax payable under this Part; (*bien exonéré*)

income interest of a taxpayer in a trust means a right (whether immediate or future and whether absolute or contingent) of the taxpayer as a beneficiary under a personal trust to, or to receive, all or any part of the income of the trust and, after 1999, includes a right (other than a right acquired before 2000 and disposed of before March 2000) to enforce payment of an amount by the trust that arises as a consequence of any such right; (*participation au revenu*)

inter vivos trust means a trust other than a testamentary trust; (*fiducie non testamentaire*)

non-qualifying real property [Repealed, 1995, c. 3, s. 31]

pre-1972 spousal trust at a particular time means a trust that was

(a) created by the will of a taxpayer who died before 1972, or

(b) created before June 18, 1971 by a taxpayer during the taxpayer's lifetime

that throughout the period beginning at the time it was created and ending at the earliest of January 1, 1993, the day on which the taxpayer's spouse or common-law partner died and the particular time, was a trust under which the taxpayer's spouse or common-law partner was entitled to receive all of the income of the trust that arose before the spouse's or common-law partner's death, unless a person other than the spouse or common-law partner received or otherwise obtained the use of any of the income or capital of the trust before the end of that period; (*fiducie au profit du conjoint antérieure à 1972*)

(lors de la liquidation de la fiducie ou autrement), du total des montants suivants :

(i) l'argent ainsi distribué,

(ii) les sommes représentant chacune le coût indiqué pour la fiducie, immédiatement avant la distribution, de chacun de ces autres biens;

a.1) dans le cas où le moment donné est immédiatement avant le moment qui précède le décès du contribuable et où la fiducie est réputée, en vertu des paragraphes 104(4) ou (5), disposer du bien à la fin du jour qui comprend le moment donné, du montant qui serait déterminé selon l'alinéa b) si le contribuable était décédé le jour se terminant immédiatement avant le moment qui précède le moment donné;

b) dans les autres cas, du montant calculé selon la formule suivante :

(A - B) × C/D

où :

A représente le total des montants suivants :

(i) l'argent de la fiducie, en main immédiatement avant ce moment,

(ii) les sommes représentant chacune le coût indiqué pour la fiducie, immédiatement avant ce moment, de chacun de ses autres biens,

B le total des sommes dont chacune représente une dette de la fiducie, ou la valeur d'une autre obligation de la fiducie de verser une somme quelconque, qui était impayée immédiatement avant ce moment,

C la juste valeur marchande à ce moment de la participation ou de la partie au capital de la fiducie,

D la juste valeur marchande à ce moment de l'ensemble des participations au capital de la fiducie. (*cost amount*)

fiducie Sont comprises parmi les fiducies tant la fiducie non testamentaire que la fiducie testamentaire; le terme ne vise toutefois pas, aux paragraphes 104(4), (5), (5.2), (12), (13.1), (13.2), (14) et (15) ainsi qu'aux articles 105 à 107:

a) une fiducie au profit d'un athlète amateur, une fiducie d'employés, une fiducie de soins de santé au bénéfice d'employés, une fiducie visée à l'alinéa 149(1)o.4) ni une fiducie régie par un compte d'épargne libre d'impôt, un fonds enregistré de revenu de retraite, un mécanisme de retraite étranger, un régime

preferred beneficiary under a trust for a particular taxation year of the trust means a beneficiary under the trust at the end of the particular year who is resident in Canada at that time if

(a) the beneficiary is

(i) an individual in respect of whom paragraphs 118.3(1)(a) to (b) apply for the individual's taxation year (in this definition referred to as the "beneficiary's year") that ends in the particular year, or

(ii) an individual

(A) who attained the age of 18 years before the end of the beneficiary's year, was a dependant (within the meaning assigned by subsection 118(6)) of another individual for the beneficiary's year and was dependent on the other individual because of mental or physical infirmity, and

(B) whose income (computed without reference to subsection 104(14)) for the beneficiary's year does not exceed the amount used under paragraph (c) of the description of B in subsection 118(1) for the year, and

(b) the beneficiary is

(i) the settlor of the trust,

(ii) the spouse or common-law partner or former spouse or common-law partner of the settlor of the trust, or

(iii) a child, grandchild or great grandchild of the settlor of the trust or the spouse or common-law partner of any such person; (*bénéficiaire privilégié*)

qualified farm property [Repealed, 2014, c. 39, s. 28]

qualified fishing property [Repealed, 2014, c. 39, s. 28]

qualified small business corporation share [Repealed, 2014, c. 39, s. 28]

settlor,

(a) in relation to a testamentary trust, means the individual referred to in the definition ***testamentary trust*** in this subsection, and

(b) in relation to an *inter vivos* trust,

(i) if the trust was created by the transfer, assignment or other disposition of property thereto (in

de participation des employés aux bénéfices, un régime de participation différée aux bénéfices, un régime de pension agréé, un régime de pension agréé collectif, un régime de prestations aux employés, un régime enregistré d'épargne-études, un régime enregistré d'épargne-invalidité, un régime enregistré d'épargne-retraite ou un régime enregistré de prestations supplémentaires de chômage;

a.1) la fiducie (sauf celle visée aux alinéas a) ou d), celle à laquelle les paragraphes 7(2) ou (6) s'appliquent et celle qui est visée par règlement pour l'application du paragraphe 107(2)) dont la totalité ou la presque totalité des biens sont détenus en vue d'assurer des prestations à des particuliers auxquels des prestations sont assurées dans le cadre ou au titre de la charge ou de l'emploi actuel ou ancien d'un particulier;

b) une fiducie créée à l'égard du fonds réservé, au sens de l'article 138.1;

c) une fiducie réputée, aux termes du paragraphe 143(1), exister à l'égard d'une congrégation qui est une partie constituante d'un organisme religieux;

d) une fiducie de convention de retraite, au sens du paragraphe 207.5(1);

e) une fiducie dont chacun des bénéficiaires est, depuis l'établissement de la fiducie, soit une fiducie visée aux alinéas a), b) ou d), soit une personne qui est bénéficiaire de la fiducie du seul fait qu'elle est bénéficiaire d'une fiducie visée à l'un de ces alinéas;

e.1) une fiducie pour l'entretien d'un cimetière ou une fiducie régie par un arrangement de services funéraires;

Par ailleurs, n'est pas considérée comme une fiducie pour l'application, à un moment quelconque, des paragraphes 104(4), (5), (5.2), (12), (14) et (15) :

f) la fiducie qui est une fiducie d'investissement à participation unitaire à ce moment;

g) la fiducie dont l'ensemble des participations, à ce moment, ont été dévolues irrévocablement, à l'exception des fiducies suivantes :

(i) les fiducies au profit de l'époux ou du conjoint de fait postérieures à 1971, les fiducies en faveur de soi-même, les fiducies mixtes au profit de l'époux ou du conjoint de fait ou les fiducies auxquelles l'alinéa 104(4)a.4) s'applique,

(ii) [Abrogé, 2013, ch. 34, art. 236]

this definition referred to as property "contributed") by not more than one individual and the fair market value of such of the property of the trust as was contributed by the individual at the time of the creation of the trust or at any subsequent time exceeds the fair market value of such of the property of the trust as was contributed by any other person or persons at any subsequent time (such fair market values being determined at the time of the making of any such contribution), means that individual, and

(ii) if the trust was created by the contribution of property thereto jointly by an individual and the individual's spouse or common-law partner and by no other person and the fair market value of such of the property of the trust as was contributed by them at the time of the creation of the trust or at any subsequent time exceeds the fair market value of such of the property of the trust as was contributed by any other person or persons at any subsequent time (such fair market values being determined at the time of the making of any such contribution), means that individual and the spouse or common-law partner; (*auteur ou disposant*)

testamentary trust, in a taxation year, means a trust that arose on and as a consequence of the death of an individual (including a trust referred to in subsection 248(9.1)), other than

(a) a trust created by a person other than the individual,

(b) a trust created after November 12, 1981 if, before the end of the taxation year, property has been contributed to the trust otherwise than by an individual on or after the individual's death and as a consequence thereof,

(c) a trust created before November 13, 1981 if

(i) after June 28, 1982 property has been contributed to the trust otherwise than by an individual on or after the individual's death and as a consequence thereof, or

(ii) before the end of the taxation year, the total fair market value of the property owned by the trust that was contributed to the trust otherwise than by an individual on or after the individual's death and as a consequence thereof and the property owned by the trust that was substituted for such property exceeds the total fair market value of the property owned by the trust that was contributed by an

(iii) la fiducie qui a choisi, dans sa déclaration de revenu en vertu de la présente partie pour sa première année d'imposition se terminant après 1992, de se soustraire à l'application du présent alinéa,

(iv) la fiducie qui réside au Canada à ce moment, dans le cas où la juste valeur marchande globale, à ce moment, de l'ensemble des participations dans la fiducie alors détenues par ceux de ses bénéficiaires qui ne résident pas au Canada à ce moment représente plus de 20 % de la juste valeur marchande globale, à ce moment, de l'ensemble des participations dans la fiducie alors détenues par ses bénéficiaires,

(v) la fiducie dont les modalités prévoient, à ce moment, que la totalité ou une partie de la participation d'une personne dans la fiducie doit prendre fin par rapport à une période (y compris celle déterminée par rapport au décès de la personne), autrement que par l'effet des modalités de la fiducie selon lesquelles une participation dans la fiducie doit prendre fin par suite de la distribution à la personne (ou à sa succession) d'un bien de la fiducie, si la juste valeur marchande du bien à distribuer doit être proportionnelle à celle de cette participation immédiatement avant la distribution,

(vi) la fiducie qui, avant ce moment et après le 17 décembre 1999, a effectué une distribution en faveur d'un bénéficiaire au titre de la participation de celui-ci à son capital, s'il est raisonnable de considérer que la distribution a été financée par une dette de la fiducie et si l'une des raisons pour lesquelles la dette a été contractée était d'éviter des impôts payables par ailleurs en vertu de la présente partie par suite du décès d'un particulier. (*trust*)

fiducie au profit du conjoint antérieure à 1972 À un moment donné, fiducie établie par le testament d'un contribuable décédé avant 1972 ou établie avant le 18 juin 1971 par un contribuable durant sa vie, et qui, tout au long de la période commençant au moment où elle a été établie et se terminant au premier en date du 1er janvier 1993, du jour du décès de l'époux ou du conjoint de fait du contribuable et du moment donné, était une fiducie dans le cadre de laquelle l'époux ou le conjoint de fait du contribuable avait le droit de recevoir sa vie durant tous les revenus de la fiducie, sauf si une personne autre que l'époux ou le conjoint de fait a reçu tout ou partie du revenu ou du capital de la fiducie, ou en a autrement obtenu l'usage, avant la fin de cette période. (*pre-1972 spousal trust*)

fiducie non testamentaire Fiducie autre qu'une fiducie testamentaire. (*inter vivos trust*)

individual on or after the individual's death and as a consequence thereof and the property owned by the trust that was substituted for such property, and for the purposes of this subparagraph the fair market value of any property shall be determined as at the time it was acquired by the trust, and

(d) a trust that, at any time after December 20, 2002 and before the end of the taxation year, incurs a debt or any other obligation owed to, or guaranteed by, a beneficiary or any other person or partnership (which beneficiary, person or partnership is referred to in this paragraph as the "specified party") with whom any beneficiary of the trust does not deal at arm's length, other than a debt or other obligation

(i) incurred by the trust in satisfaction of the specified party's right as a beneficiary under the trust

(A) to enforce payment of an amount of the trust's income or capital gains payable at or before that time by the trust to the specified party, or

(B) to otherwise receive any part of the capital of the trust,

(ii) owed to the specified party, if the debt or other obligation arose because of a service (for greater certainty, not including any transfer or loan of property) rendered by the specified party to, for or on behalf of the trust,

(iii) owed to the specified party, if

(A) the debt or other obligation arose because of a payment made by the specified party for or on behalf of the trust,

(B) in exchange for the payment (and in full settlement of the debt or other obligation), the trust transfers property, the fair market value of which is not less than the principal amount of the debt or other obligation, to the specified party within 12 months after the payment was made (or, if written application has been made to the Minister by the trust within that 12-month period, within any longer period that the Minister considers reasonable in the circumstances), and

(C) it is reasonable to conclude that the specified party would have been willing to make the payment if the specified party dealt at arm's length with the trust, except where the trust is the individual's estate and that payment was made within the first 12 months after the individual's death (or, if written application has been made to the

fiducie testamentaire Relativement à une année d'imposition, fiducie qui a commencé à exister au décès d'un particulier et par suite de ce décès (y compris une fiducie visée au paragraphe 248(9.1)), à l'exception :

a) d'une fiducie créée par une personne autre que le particulier;

b) d'une fiducie créée après le 12 novembre 1981 si, avant la fin de l'année d'imposition, des biens ont été remis à la fiducie autrement que par un particulier lors de son décès ou postérieurement et par suite de ce décès;

c) d'une fiducie créée avant le 13 novembre 1981:

(i) si, après le 28 juin 1982, des biens ont été remis à la fiducie autrement que par un particulier lors de son décès ou postérieurement et par suite de ce décès,

(ii) si, avant la fin de l'année d'imposition, le total de la juste valeur marchande des biens appartenant à la fiducie et qui ont été remis à celle-ci autrement que par un particulier lors de son décès ou postérieurement et par suite de ce décès et de la juste valeur marchande des biens appartenant à la fiducie qui ont remplacé les biens remis dépasse le total de la juste valeur marchande des biens appartenant à la fiducie qui ont été remis par un particulier lors de son décès ou postérieurement et par suite de ce décès et de la juste valeur marchande des biens appartenant à la fiducie qui ont remplacé les biens remis; pour l'application du présent sous-alinéa, la juste valeur marchande d'un bien est déterminée au moment de son acquisition par la fiducie;

d) d'une fiducie qui, à un moment après le 20 décembre 2002 et avant la fin de l'année d'imposition, contracte une dette ou une autre obligation dont est créancier ou garant un bénéficiaire ou une autre personne ou société de personnes (appelés « partie déterminée » au présent alinéa) avec lequel un bénéficiaire de la fiducie a un lien de dépendance, sauf s'il s'agit :

(i) d'une dette ou d'une autre obligation contractée par la fiducie en règlement du droit de la partie déterminée à titre de bénéficiaire de la fiducie :

(A) soit d'exiger le versement d'une somme sur le revenu ou les gains en capital de la fiducie qui est payable au plus tard à ce moment par la fiducie à la partie déterminée,

(B) soit de recevoir par ailleurs une partie du capital de la fiducie,

Minister by the estate within that 12-month period, within any longer period that the Minister considers reasonable in the circumstances), or

(iv) incurred by the trust before October 24, 2012 if, in full settlement of the debt or other obligation the trust transfers property, the fair market value of which is not less than the principal amount of the debt or other obligation, to the person or partnership to whom the debt or other obligation is owed within 12 months after the day on which the *Technical Tax Amendments Act, 2012* receives royal assent (or if written application has been made to the Minister by the trust within that 12-month period, within any longer period that the Minister considers reasonable in the circumstances); (*fiducie testamentaire*)

trust includes an *inter vivos* trust and a testamentary trust but in subsections 104(4), (5), (5.2), (12), (13.1), (13.2), (14) and (15) and sections 105 to 107 does not include

(a) an amateur athlete trust, an employee life and health trust, an employee trust, a trust described in paragraph 149(1)(o.4) or a trust governed by a deferred profit sharing plan, an employee benefit plan, an employees profit sharing plan, a foreign retirement arrangement, a pooled registered pension plan, a registered disability savings plan, a registered education savings plan, a registered pension plan, a registered retirement income fund, a registered retirement savings plan, a registered supplementary unemployment benefit plan or a TFSA,

(a.1) a trust (other than a trust described in paragraph (a) or (d), a trust to which subsection 7(2) or (6) applies or a trust prescribed for the purpose of subsection 107(2)) all or substantially all of the property of which is held for the purpose of providing benefits to individuals each of whom is provided with benefits in respect of, or because of, an office or employment or former office or employment of any individual,

(b) a related segregated fund trust (within the meaning assigned by section 138.1),

(c) a trust deemed by subsection 143(1) to exist in respect of a congregation that is a constituent part of a religious organization,

(d) an RCA trust (within the meaning assigned by subsection 207.5(1)),

(e) a trust each of the beneficiaries under which was at all times after it was created a trust referred to in

(ii) d'une dette ou d'une autre obligation envers la partie déterminée, si la dette ou l'autre obligation découle d'un service (excluant, bien entendu, tout transfert ou prêt de bien) rendu par la partie déterminée à ou pour la fiducie ou pour son compte,

(iii) d'une dette ou d'une autre obligation envers la partie déterminée, si, à la fois :

(A) la dette ou l'autre obligation découle d'un paiement effectué par la partie déterminée pour la fiducie ou pour son compte,

(B) en échange du paiement et en règlement complet de la dette ou de l'autre obligation, la fiducie transfère, à la partie déterminée dans les douze mois suivant le paiement ou, si la fiducie en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre estime raisonnable dans les circonstances, un bien dont la juste valeur marchande est égale ou supérieure au principal de la dette ou de l'autre obligation,

(C) il est raisonnable de conclure que la partie déterminée aurait été prête à faire le paiement si elle n'avait pas eu de lien de dépendance avec la fiducie, sauf si la fiducie est la succession du particulier et que le paiement a été fait dans les douze mois suivant le décès du particulier ou, si la succession en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre estime raisonnable dans les circonstances,

(iv) d'une dette ou d'une autre obligation contractée par la fiducie avant le 24 octobre 2012, si, en règlement complet de la dette ou de l'autre obligation, la fiducie transfère à la personne ou à la société de personnes qui en est créancière, dans les douze mois suivant la date de sanction de la *Loi de 2012 apportant des modifications techniques concernant l'impôt et les taxes* ou, si la fiducie en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre estime raisonnable dans les circonstances, un bien dont la juste valeur marchande est égale ou supérieure au principal de la dette ou de l'autre obligation. (*testamentary trust*)

gain admissible sur immeuble [Abrogée, 1995, ch. 3, art. 31]

gains en capital imposables admissibles Quant à une fiducie personnelle pour une année d'imposition, le moins élevé des montants suivants :

paragraph (a), (b) or (d) or a person who is a beneficiary of the trust only because of being a beneficiary under a trust referred to in any of those paragraphs, or

(e.1) a cemetery care trust or a trust governed by an eligible funeral arrangement,

and, in applying subsections 104(4), (5), (5.2), (12), (14) and (15) at any time, does not include

(f) a trust that, at that time, is a unit trust, or

(g) a trust all interests in which, at that time, have vested indefeasibly, other than

(i) an alter ego trust, a joint spousal or common-law partner trust, a post-1971 spousal or common-law partner trust or a trust to which paragraph 104(4)(a.4) applies,

(ii) [Repealed, 2013, c. 34, s. 236]

(iii) a trust that has, in its return of income under this Part for its first taxation year that ends after 1992, elected that this paragraph not apply,

(iv) a trust that is at that time resident in Canada where the total fair market value at that time of all interests in the trust held at that time by beneficiaries under the trust who at that time are non-resident is more than 20% of the total fair market value at that time of all interests in the trust held at that time by beneficiaries under the trust,

(v) a trust under the terms of which, at that time, all or part of a person's interest in the trust is to be terminated with reference to a period of time (including a period of time determined with reference to the person's death), otherwise than as a consequence of terms of the trust under which an interest in the trust is to be terminated as a consequence of a distribution to the person (or the person's estate) of property of the trust if the fair market value of the property to be distributed is required to be commensurate with the fair market value of that interest immediately before the distribution, or

(vi) a trust that, before that time and after December 17, 1999, has made a distribution to a beneficiary in respect of the beneficiary's capital interest in the trust, if the distribution can reasonably be considered to have been financed by a liability of the trust and one of the purposes of incurring the liability was to avoid taxes otherwise payable under this Part as a consequence of the death of any individual. (*fiducie*)

a) son plafond annuel des gains, au sens du paragraphe 110.6(1), pour l'année;

b) le résultat du calcul suivant :

A - B

où :

A représente son plafond des gains cumulatifs, au sens du paragraphe 110.6(1), à la fin de l'année,

B le total des montants qu'elle a attribués à des bénéficiaires, en application du paragraphe 104(21.2), pour les années d'imposition antérieures à l'année. (*eligible taxable capital gains*)

immeuble non admissible [Abrogée, 1995, ch. 3, art. 31]

montant de réduction admissible En ce qui concerne un contribuable à un moment donné relativement à la totalité ou à une partie de sa participation au capital d'une fiducie, toute partie de dette ou d'obligation qui est prise en charge par le contribuable et qu'il est raisonnable de considérer comme étant imputable à un bien distribué à ce moment en règlement de la participation ou de la partie de participation, si la distribution est conditionnelle à la prise en charge par le contribuable de la partie de dette ou d'obligation. (*eligible offset*)

participation au capital S'agissant de la participation d'un contribuable au capital d'une fiducie, les droits du contribuable à titre de bénéficiaire de la fiducie, y compris, après 1999, le droit (sauf celui acquis avant 2000 et dont il est disposé avant mars 2000), découlant de tels droits, d'exiger de la fiducie le versement d'une somme. N'est pas une participation au capital la participation au revenu de la fiducie. (*capital interest*)

participation au revenu S'agissant de la participation d'un contribuable au revenu d'une fiducie, le droit, immédiat ou futur, conditionnel ou non, du contribuable à titre de bénéficiaire d'une fiducie personnelle à tout ou partie du revenu de la fiducie, ou de recevoir tout ou partie de ce revenu, y compris, après 1999, le droit (sauf celui acquis avant 2000 et dont il est disposé avant mars 2000), découlant d'un tel droit, d'exiger de la fiducie le versement d'une somme. (*income interest*)

perte admissible sur immeuble [Abrogée, 1995, ch. 3, art. 31]

revenu accumulé Le revenu d'une fiducie pour une année d'imposition, calculé, à la fois :

a) compte non tenu des alinéas 104(4)a) et a.1) ni des paragraphes 104(5.1), (5.2) et (12) et 107(4);

b) comme si la fiducie déduisait en application du paragraphe 104(6), dans le calcul de son revenu pour l'année, le montant le plus élevé auquel elle a droit;

c) compte non tenu du paragraphe 12(10.2), sauf dans la mesure où ce paragraphe s'applique à des montants payés à une fiducie à laquelle l'alinéa 70(6.1)b) s'applique, avant le décès de l'époux ou du conjoint de fait mentionné à cet alinéa. (*accumulating income*)

Testamentary trust not disqualified

(1.1) For the purpose of the definition ***testamentary trust*** in subsection (1), a contribution to a particular trust does not include

(a) a ***qualifying expenditure*** (within the meaning of section 118.04 or 118.041) of a beneficiary under the trust; or

(b) an amount paid to, or on behalf of, the trust by another trust if

(i) the trust is an individual's graduated rate estate (determined without regard to the payment and this subsection),

(ii) paragraph 104(13.4)(b) applies to the other trust, for a taxation year that ends at a time determined by reference to the individual's death, because of a joint election made under subparagraph 104(13.4)(b.1)(iii) by the other trust and the legal representative administering the estate,

(iii) the payment is on account of the tax payable by the individual, for the individual's taxation year that includes the day on which the individual dies, under

(A) this Part, or

(B) the law of the province, in which the individual was resident immediately before the individual's death, that imposes a tax on the taxable income of individuals resident in that province, and

(iv) the amount of the payment does not exceed the amount by which that tax payable is greater than it would have been if paragraph 104(13.4)(b) did not apply to the other trust in respect of the taxation year referred to in subparagraph (ii).

When trust is a unit trust

(2) For the purposes of this Act, a trust is a unit trust at any particular time if, at that time, it was an *inter vivos*

Crédits — rénovation domiciliaire

(1.1) Pour l'application de la définition de ***fiducie testamentaire*** au paragraphe (1), ne constituent pas un apport à une fiducie les sommes suivantes :

a) la ***dépense admissible***, au sens des articles 118.04 ou 118.041, de tout bénéficiaire de la fiducie;

b) une somme versée à la fiducie, ou pour son compte, par une autre fiducie, si les énoncés ci-après se vérifient :

(i) la fiducie est une succession assujettie à l'imposition à taux progressifs d'un particulier (cette détermination étant faite compte non tenu de la somme versée et du présent paragraphe),

(ii) l'alinéa 104(13.4)b) s'applique à l'autre fiducie, pour une année d'imposition qui se termine à un moment qui est déterminé en fonction du décès du particulier, en raison d'un choix conjoint fait en vertu du sous-alinéa 104(134)b.1)(iii) entre l'autre fiducie et le représentant légal qui administre la succession,

(iii) la somme est versée au titre de l'impôt à payer par le particulier pour son année d'imposition qui comprend le jour de son décès :

(A) soit en vertu de la présente partie,

(B) soit en vertu d'une loi provinciale applicable dans la province dans laquelle le particulier résidait immédiatement avant son décès et prévoyant un impôt relatif au revenu imposable des particuliers qui résident dans cette province,

(iv) la somme versée ne dépasse pas l'excédent de cet impôt à payer sur le montant qui serait cet impôt à payer si l'alinéa 104(13.4)b) ne s'était pas appliqué à l'autre fiducie relativement à l'année d'imposition mentionnée au sous-alinéa (ii).

Fiducie d'investissement à participation unitaire

(2) Pour l'application de la présente loi, une fiducie est une fiducie d'investissement à participation unitaire à un

trust the interest of each beneficiary under which was described by reference to units of the trust, and

(a) the issued units of the trust included

(i) units having conditions attached thereto that included conditions requiring the trust to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the units, or fractions or parts thereof, that are fully paid, or

(ii) units qualified in accordance with prescribed conditions relating to the redemption of the units by the trust,

and the fair market value of such of the units as had conditions attached thereto that included such conditions or as were so qualified, as the case may be, was not less than 95% of the fair market value of all of the issued units of the trust (such fair market values being determined without regard to any voting rights attaching to units of the trust);

(b) each of the following conditions was satisfied:

(i) throughout the taxation year that includes the particular time (in this paragraph referred to as the "current year"), the trust was resident in Canada,

(ii) throughout the period or periods (in this paragraph referred to as the "relevant periods") that are in the current year and throughout which the conditions in paragraph (a) are not satisfied in respect of the trust, its only undertaking was

(A) the investing of its funds in property (other than real property or an interest in real property or an immovable or a real right in an immovable),

(B) the acquiring, holding, maintaining, improving, leasing or managing of any real property or an interest in real property, or of any immovable or a real right in immovables, that is capital property of the trust, or

(C) any combination of the activities described in clauses (A) and (B),

(iii) throughout the relevant periods at least 80% of its property consisted of any combination of

(A) shares,

(B) any property that, under the terms or conditions of which or under an agreement, is

moment donné si, à ce moment, elle est une fiducie non testamentaire dans laquelle chaque bénéficiaire possède une participation qui est définie par rapport aux unités de la fiducie, et si :

a) soit les unités émises de la fiducie comprennent :

(i) ou bien des unités qui comportent des conditions, entre autres celles exigeant que la fiducie accepte, à la demande du détenteur de ces unités et à un prix déterminé et payable conformément aux conditions fixées, de racheter les unités, ou les parties ou fractions de celles-ci, qui sont entièrement libérées,

(ii) ou bien des unités qui satisfont à certaines conditions prescrites relatives au rachat des unités par la fiducie,

et si la juste valeur marchande des unités qui comportent certaines conditions, entre autres celles qui sont mentionnées ci-dessus ou qui satisfont aux conditions susmentionnées, selon le cas, n'est pas inférieure à 95 % de la juste valeur marchande de toutes les unités émises de la fiducie (cette juste valeur marchande étant déterminée compte non tenu des droits de vote afférents aux unités de la fiducie);

b) soit les conditions suivantes sont réunies :

(i) tout au long de l'année d'imposition comprenant le moment donné (appelée « année en cours » au présent alinéa), la fiducie réside au Canada,

(ii) tout au long de la ou des périodes (appelées « périodes applicables » au présent alinéa) qui font partie de l'année en cours et tout au long desquelles les conditions énoncées à l'alinéa a) ne sont pas réunies relativement à la fiducie, la seule activité de la fiducie consiste :

(A) soit à investir ses fonds dans des biens, sauf des immeubles ou des droits réels sur ceux-ci ou des biens réels ou des intérêts sur ceux-ci,

(B) soit à acquérir, à détenir, à entretenir, à améliorer, à louer ou à gérer des immeubles — ou des droits réels sur ceux-ci — ou des biens réels — ou des intérêts sur ceux-ci — qui font partie de ses immobilisations,

(C) soit à exercer plusieurs des activités visées aux divisions (A) et (B),

(iii) tout au long des périodes applicables, au moins 80 % des biens de la fiducie consistent en une combinaison des biens suivants :

convertible into, is exchangeable for or confers a right to acquire, shares,

(C) cash,

(D) bonds, debentures, mortgages, hypothecary claims, notes and other similar obligations,

(E) marketable securities,

(F) real property situated in Canada, and interests in such real property, or immovables situated in Canada and real rights in such immovables, and

(G) rights to and interests in — or, for civil law, rights in or to — any rental or royalty computed by reference to the amount or value of production from a natural accumulation of petroleum or natural gas in Canada, from an oil or gas well in Canada or from a mineral resource in Canada,

(iv) either

(A) not less than 95% of its income for the current year (computed without regard to subsections 39(2), 49(2.1) and 104(6)) was derived from, or from the disposition of, investments described in subparagraph (iii), or

(B) not less than 95% of its income for each of the relevant periods (computed without regard to subsections 39(2), 49(2.1) and 104(6) and as though each of those periods were a taxation year) was derived from, or from the disposition of, investments described in subparagraph (iii),

(v) throughout the relevant periods, not more than 10% of its property consisted of bonds, securities or shares in the capital stock of any one corporation or debtor other than Her Majesty in right of Canada or a province or a Canadian municipality, and

(vi) where the trust would not be a unit trust at the particular time if this paragraph were read without reference to this subparagraph and subparagraph (iii) were read without reference to clause (F), the units of the trust are listed at any time in the current year or in the following taxation year on a designated stock exchange in Canada, or

(c) the fair market value of the property of the trust at the end of 1993 was primarily attributable to real property or an interest in real property — or to immovables or a real right in immovables — and the trust was a unit trust throughout any calendar year that ended before 1994 and the fair market value of the

(A) actions,

(B) biens qui, en vertu de leurs modalités ou d'une convention, sont convertibles en actions ou échangeables contre des actions, ou confèrent le droit d'acquérir des actions,

(C) espèces,

(D) obligations, créances hypothécaires, billets et autres titres semblables,

(E) valeurs négociables,

(F) immeubles situés au Canada — et droits réels sur ceux-ci — ou biens réels situés au Canada — et intérêts sur ceux-ci,

(G) droits ou intérêts sur des valeurs locatives ou redevances calculées par rapport à la quantité ou à la valeur de la production provenant d'un gisement naturel de pétrole ou de gaz naturel, d'un puits de pétrole ou de gaz ou de ressources minérales, situés au Canada, ou, pour l'application du droit civil, droits relatifs à ces valeurs ou redevances,

(iv) selon le cas :

(A) au moins 95 % du revenu de la fiducie pour l'année en cours, déterminé compte non tenu des paragraphes 39(2), 49(2.1) et 104(6), est tiré de placements dans des valeurs visées au sous-alinéa (iii) ou de la disposition de celles-ci,

(B) au moins 95 % du revenu de la fiducie pour chacune des périodes applicables, déterminé compte non tenu des paragraphes 39(2), 49(2.1) et 104(6) et comme si chacune de ces périodes était une année d'imposition, est tiré de placements dans des valeurs visées au sous-alinéa (iii) ou de la disposition de celles-ci,

(v) tout au long des périodes applicables, au plus 10 % des biens de la fiducie consistent en obligations, en valeurs ou en actions du capital-actions d'une société donnée ou d'un débiteur donné, autre que Sa Majesté du chef du Canada ou d'une province ou qu'une municipalité canadienne,

(vi) dans le cas où la fiducie ne serait pas une fiducie d'investissement à participation unitaire au moment donné s'il n'était pas tenu compte du présent sous-alinéa ni de la division (iii)(F), ses unités sont inscrites, pendant l'année en cours ou l'année d'imposition suivante, à la cote d'une bourse de valeurs désignée située au Canada;

property of the trust at the particular time is primarily attributable to property described in paragraph (a) or (b) of the definition ***qualified investment*** in section 204, real property or an interest in real property — or immovables or a real right in immovables — or any combination of those properties.

c) soit les faits ci-après se vérifient :

(i) la juste valeur marchande de ses biens à la fin de 1993 était principalement attribuable à des immeubles — ou droits réels sur ceux-ci — ou des biens réels — ou intérêts sur ceux-ci,

(ii) elle était une fiducie d'investissement à participation unitaire tout au long d'une année civile qui s'est terminée avant 1994,

(iii) la juste valeur marchande de ses biens au moment donné est principalement attribuable à des biens visés aux alinéas a) ou b) de la définition de ***placement admissible*** à l'article 204, à des immeubles — ou droits réels sur ceux-ci — ou des biens réels — ou intérêts sur ceux-ci — ou à l'un et l'autre de ces types de biens.

Income of a trust in certain provisions

(3) For the purposes of the definitions ***income interest*** in subsection (1), ***lifetime benefit trust*** in subsection 60.011(1) and ***exempt foreign trust*** in subsection 94(1), the income of a trust is its income computed without reference to the provisions of this Act and, for the purposes of the definition ***pre-1972 spousal trust*** in subsection (1) and paragraphs 70(6)(b) and (6.1)(b), 73(1.01)(c) and 104(4)(a), the income of a trust is its income computed without reference to the provisions of this Act, minus any dividends included in that income

(a) that are amounts not included by reason of section 83 in computing the income of the trust for the purposes of the other provisions of this Act;

(b) that are described in subsection 131(1); or

(c) to which subsection 131(1) applies by reason of subsection 130(2).

Revenu d'une fiducie

(3) Pour l'application de la définition de ***participation au revenu*** au paragraphe (1), le revenu d'une fiducie correspond à son revenu calculé compte non tenu des dispositions de la présente loi et, pour l'application de la définition de ***fiducie au profit du conjoint antérieure à 1972*** au paragraphe (1) et des alinéas 70(6)b) et (6.1)b), 73(1.01)c) et 104(4)a), il correspond à son revenu calculé compte non tenu des dispositions de la présente loi, moins les dividendes inclus dans ce revenu soit qui, à cause de l'article 83, ne sont pas inclus dans le calcul du revenu de la fiducie dans le cadre des autres dispositions de la présente loi, soit qui sont visés au paragraphe 131(1), soit auxquels le paragraphe 131(1) s'applique à cause du paragraphe 130(2).

Trust not disqualified

(4) For the purposes of the definition ***pre-1972 spousal trust*** in subsection (1), subparagraphs 70(6)(b)(ii) and (6.1)(b)(ii) and paragraphs 73(1.01)(c) and 104(4)(a), where a trust was created by a taxpayer whether by the taxpayer's will or otherwise, no person is deemed to have received or otherwise obtained or to be entitled to receive or otherwise obtain the use of any income or capital of the trust solely because of the payment, or provision for payment, as the case may be, by the trust of

(a) any estate, legacy, succession or inheritance duty payable, in consequence of the death of the taxpayer, or a spouse or common-law partner of the taxpayer

Fiducie non déchue de ses droits en raison du paiement de certains droits et impôts

(4) Pour l'application de la définition de ***fiducie au profit du conjoint antérieure à 1972*** au paragraphe (1), des sous-alinéas 70(6)b)(ii) et (6.1)b)(ii) et des alinéas 73(1.01)c) et 104(4)a), dans le cas où une fiducie a été établie par un contribuable, par testament ou autrement, nulle personne n'est réputée avoir reçu une partie quelconque du revenu ou du capital de la fiducie, ou n'en avoir autrement obtenu l'usage, ni avoir le droit d'en recevoir ou d'en obtenir autrement l'usage, du seul fait du paiement, ou des dispositions prises pour le paiement, par la fiducie :

a) soit de tout droit sur les biens transmis par décès payable par suite du décès du contribuable, ou de son

who is a beneficiary under the trust, in respect of any property of, or interest in, the trust; or

(b) any income or profits tax payable by the trust in respect of any income of the trust.

époux ou conjoint de fait bénéficiaire de la fiducie, pour un bien de la fiducie ou une participation dans celle-ci;

b) soit de tout impôt sur le revenu ou les bénéfices payable par la fiducie relativement à tout revenu de celle-ci.

Interpretation

(5) Except as otherwise provided in this Part,

(a) an amount included in computing the income for a taxation year of a beneficiary of a trust under subsection 104(13) or (14) or section 105 shall be deemed to be income of the beneficiary for the year from a property that is an interest in the trust and not from any other source, and

(b) an amount deductible in computing the amount that would, but for subsections 104(6) and (12), be the income of a trust for a taxation year shall not be deducted by a beneficiary of the trust in computing the beneficiary's income for a taxation year,

but, for greater certainty, nothing in this subsection shall affect the application of subsection 56(4.1), sections 74.1 to 75 and 120.4 and subsection 160(1.2) of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952.

Interprétation

(5) Sauf disposition contraire de la présente partie :

a) un montant inclus, en vertu du paragraphe 104(13) ou (14) ou de l'article 105, dans le calcul du revenu d'un bénéficiaire d'une fiducie pour une année d'imposition est réputé être un revenu que le bénéficiaire a tiré, pour l'année, d'un bien qui constitue une participation dans la fiducie et non un revenu tiré d'une autre source;

b) un montant qui peut être déduit dans le calcul du montant qui, sans les paragraphes 104(6) et (12), serait le revenu d'une fiducie pour une année d'imposition ne peut être déduit par un bénéficiaire de la fiducie dans le calcul de son revenu pour une année d'imposition;

Il est entendu cependant que le présent paragraphe n'a pas pour effet de modifier l'application du paragraphe 56(4.1), des articles 74.1 à 75 et 120.4 et du paragraphe 160(1.2) de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952.

Variation of trusts

(6) Where at any time the terms of a trust are varied

(a) for the purposes of subsections 104(4), (5) and (5.2) and subject to paragraph (b), the trust is, at and after that time, deemed to be the same trust as, and a continuation of, the trust immediately before that time;

(b) for greater certainty, paragraph (a) does not affect the application of paragraph 104(4)(a.1); and

(c) for the purposes of paragraph 53(2)(h), subsection 107(1), paragraph (j) of the definition ***excluded right or interest*** in subsection 128.1(10) and the definition ***personal trust*** in subsection 248(1), no interest of a beneficiary under the trust before it was varied is considered to be consideration for the interest of the beneficiary in the trust as varied.

Modification des modalités d'une fiducie

(6) En cas de modification des modalités d'une fiducie à un moment donné, les règles suivantes s'appliquent :

a) pour l'application des paragraphes 104(4), (5) et (5.2) et sous réserve de l'alinéa b), la fiducie est réputée, à partir de ce moment, être la même fiducie qu'avant ce moment et en être la continuation;

b) il est entendu que l'alinéa a) ne porte pas atteinte à l'application de l'alinéa 104(4)a.1);

c) pour l'application de l'alinéa 53(2)h), du paragraphe 107(1), de l'alinéa j) de la définition de ***droit, participation ou intérêt exclu*** au paragraphe 128.1(10) et de la définition de ***fiducie personnelle*** au paragraphe 248(1), nulle participation d'un bénéficiaire dans la fiducie avant la modification des modalités de celle-ci ne peut être considérée comme la contrepartie de sa participation dans la fiducie une fois les modalités modifiées.

Interests acquired for consideration

(7) For the purposes of paragraph 53(2)(h), subparagraph (c)(i) of the definition ***exempt amount*** in subsection 94(1), subsection 107(1), paragraph (j) of the definition ***excluded right or interest*** in subsection 128.1(10) and paragraph (b) of the definition ***personal trust*** in subsection 248(1),

(a) an interest in a trust is deemed not to be acquired for consideration solely because it was acquired in satisfaction of any right as a beneficiary under the trust to enforce payment of an amount by the trust; and

(b) if all the beneficial interests in a particular trust acquired by way of the transfer, assignment or other disposition of property to the particular trust were acquired by

(i) one person, or

(ii) two or more persons who would be related to each other if

(A) a trust and another person were related to each other, where the other person is a beneficiary under the trust or is related to a beneficiary under the trust, and

(B) a trust and another trust were related to each other, where a beneficiary under the trust is a beneficiary under the other trust or is related to a beneficiary under the other trust,

any beneficial interest in the particular trust acquired by such a person is deemed to have been acquired for no consideration.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 108; 1994, c. 7, Sch. II, s. 77, Sch. VIII, s. 44, c. 21, s. 48; 1995, c. 3, s. 31, c. 21, ss. 61, 66; 1996, c. 21, s. 19; 1998, c. 19, ss. 19, 129; 2000, c. 12, s. 142, c. 19, s. 16; 2001, c. 17, ss. 83, 241; 2007, c. 2, s. 16, c. 35, ss. 28, 110; 2008, c. 28, s. 11; 2009, c. 2, s. 28, c. 31, s. 3; 2010, c. 25, s. 19; 2012, c. 31, s. 23; 2013, c. 34, ss. 12, 123, 236; 2014, c. 39, s. 28; 2015, c. 36, s. 6; 2016, c. 12, s. 38.

Participations acquises moyennant contrepartie

(7) Pour l'application de l'alinéa 53(2)h), du sous-alinéa c)(i) de la définition de ***somme exclue*** au paragraphe 94(1), du paragraphe 107(1), de l'alinéa j) de la définition de ***droit, participation ou intérêt exclu*** au paragraphe 128.1(10) et de l'alinéa b) de la définition de ***fiducie personnelle*** au paragraphe 248(1), les règles ci-après s'appliquent :

a) une participation dans une fiducie est réputée ne pas être acquise moyennant contrepartie du seul fait qu'elle a été acquise en règlement d'un droit à titre de bénéficiaire de la fiducie d'exiger de celle-ci le versement d'une somme;

b) dans le cas où l'ensemble des droits de bénéficiaire dans une fiducie, acquis par transfert, cession ou autre disposition de bien en faveur de la fiducie, ont été acquis par la ou les personnes ci-après, tout droit de bénéficiaire dans la fiducie ainsi acquis est réputé l'avoir été à titre gratuit :

(i) une seule personne,

(ii) plusieurs personnes qui seraient liées entre elles si, à la fois :

(A) une fiducie et une autre personne étaient liées l'une à l'autre, dans le cas où l'autre personne est bénéficiaire de la fiducie ou est liée à l'un de ses bénéficiaires,

(B) une fiducie et une autre fiducie étaient liées l'une à l'autre, dans le cas où un bénéficiaire de la fiducie est bénéficiaire de l'autre fiducie ou est lié à l'un de ses bénéficiaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 108; 1994, ch. 7, ann. II, art. 77, ann. VIII, art. 44, ch. 21, art. 48; 1995, ch. 3, art. 31, ch. 21, art. 61 et 66; 1996, ch. 21, art. 19; 1998, ch. 19, art. 19 et 129; 2000 ch. 12, art. 142, ch. 19, art. 16; 2001, ch. 17, art. 83 et 241; 2007, ch. 2, art. 16, ch. 35, art. 28 et 110; 2008, ch. 28, art. 11; 2009, ch. 2, art. 28, ch. 31, art. 3; 2010, ch. 25, art. 19; 2012, ch. 31, art. 23; 2013, ch. 34, art. 12, 123 et 236; 2014, ch. 39, art. 28; 2015, ch. 36, art. 6; 2016, ch. 12, art. 38.

DIVISION C

Computation of Taxable Income

Deductions permitted

110 (1) For the purpose of computing the taxable income of a taxpayer for a taxation year, there may be deducted such of the following amounts as are applicable

Employee options

(d) an amount equal to 1/2 of the amount of the benefit deemed by subsection 7(1) to have been received by the taxpayer in the year in respect of a security that a

SECTION C

Calcul du revenu imposable

Déductions

110 (1) Pour le calcul du revenu imposable d'un contribuable pour une année d'imposition, il peut être déduit celles des sommes suivantes qui sont appropriées :

Options d'employés

d) la moitié de la valeur de l'avantage que le contribuable est réputé par le paragraphe 7(1) avoir reçu au cours de l'année relativement à un titre qu'une

particular qualifying person has agreed after February 15, 1984 to sell or issue under an agreement, or in respect of the transfer or other disposition of rights under the agreement, if

(i) the security was acquired under the agreement by the taxpayer or a person not dealing at arm's length with the taxpayer in circumstances described in paragraph 7(1)(c),

(i.1) the security

(A) is a prescribed share at the time of its sale or issue, as the case may be,

(B) would have been a prescribed share if it were issued or sold to the taxpayer at the time the taxpayer disposed of rights under the agreement,

(C) would have been a unit of a mutual fund trust at the time of its sale or issue if those units issued by the trust that were not identical to the security had not been issued, or

(D) would have been a unit of a mutual fund trust if

(I) it were issued or sold to the taxpayer at the time the taxpayer disposed of rights under the agreement, and

(II) those units issued by the trust that were not identical to the security had not been issued,

(ii) where rights under the agreement were not acquired by the taxpayer as a result of a disposition of rights to which subsection 7(1.4) applied,

(A) the amount payable by the taxpayer to acquire the security under the agreement is not less than the amount by which

(I) the fair market value of the security at the time the agreement was made

exceeds

(II) the amount, if any, paid by the taxpayer to acquire the right to acquire the security, and

(B) at the time immediately after the agreement was made, the taxpayer was dealing at arm's length with

(I) the particular qualifying person,

personne admissible donnée est convenue, après le 15 février 1984, d'émettre ou de vendre aux termes d'une convention, ou relativement au transfert ou à une autre forme de disposition des droits prévus par la convention, dans le cas où les conditions suivantes sont réunies :

(i) le titre a été acquis en vertu de la convention par le contribuable ou par une personne avec laquelle il a un lien de dépendance dans les circonstances prévues à l'alinéa 7(1)c),

(i.1) le titre, selon le cas :

(A) est une action visée par règlement au moment de sa vente ou de son émission,

(B) aurait été une action visée par règlement s'il avait été vendu au contribuable, ou émis en sa faveur, au moment où celui-ci a disposé de droits prévus par la convention,

(C) aurait été une unité d'une fiducie de fonds commun de placement au moment de sa vente ou de son émission si les unités émises par la fiducie qui n'étaient pas identiques au titre n'avaient pas été émises,

(D) aurait été une unité d'une fiducie de fonds commun de placement si, à la fois :

(I) il avait été vendu au contribuable, ou émis en sa faveur, au moment où celui-ci a disposé de droits prévus par la convention,

(II) les unités émises par la fiducie qui n'étaient pas identiques au titre n'avaient pas été émises,

(ii) si les droits prévus par la convention n'ont pas été acquis par le contribuable par suite d'une disposition de droits à laquelle le paragraphe 7(1.4) s'applique, à la fois :

(A) le montant que le contribuable doit payer pour acquérir le titre aux termes de la convention est au moins égal à l'excédent du montant visé à la subdivision (I) sur le montant visé à la subdivision (II):

(I) la juste valeur marchande du titre au moment de la conclusion de la convention,

(II) le montant éventuel que le contribuable a payé pour acquérir le droit d'acquérir le titre,

(II) each other qualifying person that, at the time, was an employer of the taxpayer and was not dealing at arm's length with the particular qualifying person, and

(III) the qualifying person of which the taxpayer had, under the agreement, a right to acquire a security, and

(iii) where rights under the agreement were acquired by the taxpayer as a result of one or more dispositions to which subsection 7(1.4) applied,

(A) the amount payable by the taxpayer to acquire the security under the agreement is not less than the amount that was included, in respect of the security, in the amount determined under subparagraph 7(1.4)(c)(ii) with respect to the most recent of those dispositions,

(B) at the time immediately after the agreement the rights under which were the subject of the first of those dispositions (in this subparagraph referred to as the "original agreement") was made, the taxpayer was dealing at arm's length with

(I) the qualifying person that made the original agreement,

(II) each other qualifying person that, at the time, was an employer of the taxpayer and was not dealing at arm's length with the qualifying person that made the original agreement, and

(III) the qualifying person of which the taxpayer had, under the original agreement, a right to acquire a security,

(C) the amount that was included, in respect of each particular security that the taxpayer had a right to acquire under the original agreement, in the amount determined under subparagraph 7(1.4)(c)(iv) with respect to the first of those dispositions was not less than the amount by which

(I) the fair market value of the particular security at the time the original agreement was made

exceeded

(II) the amount, if any, paid by the taxpayer to acquire the right to acquire the security, and

(B) immédiatement après la conclusion de la convention, le contribuable n'avait de lien de dépendance avec aucune des personnes suivantes :

(I) la personne admissible donnée,

(II) chacune des autres personnes admissibles qui, immédiatement après la conclusion de la convention, était un employeur du contribuable et avait un lien de dépendance avec la personne admissible donnée,

(III) la personne admissible dont le contribuable avait le droit d'acquérir un titre aux termes de la convention,

(iii) si les droits prévus par la convention ont été acquis par le contribuable par suite d'une ou de plusieurs dispositions auxquelles le paragraphe 7(1.4) s'applique, à la fois :

(A) le montant que le contribuable doit payer pour acquérir le titre aux termes de la convention est au moins égal au montant qui a été inclus, relativement au titre, dans le montant total payable visé à l'alinéa 7(1.4)c) à l'égard de la plus récente de ces dispositions,

(B) immédiatement après la conclusion de la convention prévoyant les droits qui ont fait l'objet de la première de ces dispositions (appelée « convention initiale » au présent sous-alinéa), le contribuable n'avait de lien de dépendance avec aucune des personnes suivantes :

(I) la personne admissible ayant conclu la convention initiale,

(II) chacune des autres personnes admissibles qui, immédiatement après la conclusion de la convention, était un employeur du contribuable et avait un lien de dépendance avec la personne admissible ayant conclu la convention initiale,

(III) la personne admissible dont le contribuable avait le droit d'acquérir un titre aux termes de la convention initiale,

(C) le montant qui a été inclus, relativement à chaque titre donné que le contribuable avait le droit d'acquérir aux termes de la convention initiale, dans le montant payable visé à l'alinéa 7(1.4)c) à l'égard de la première de ces dispositions était au moins égal à l'excédent du montant visé à la subdivision (I) sur le montant visé à la subdivision (II):

(D) for the purpose of determining if the condition in paragraph 7(1.4)(c) was satisfied with respect to each of the particular dispositions following the first of those dispositions,

(I) the amount that was included, in respect of each particular security that could be acquired under the agreement the rights under which were the subject of the particular disposition, in the amount determined under subparagraph 7(1.4)(c)(iv) with respect to the particular disposition

was not less than

(II) the amount that was included, in respect of the particular security, in the amount determined under subparagraph 7(1.4)(c)(ii) with respect to the last of those dispositions preceding the particular disposition;

(I) la juste valeur marchande du titre donné au moment de la conclusion de la convention initiale,

(II) le montant éventuel que le contribuable a payé pour acquérir le droit d'acquérir le titre,

(D) pour ce qui est de déterminer si la condition énoncée à l'alinéa 7(1.4)c) a été remplie à l'égard de chacune des dispositions données suivant la première de ces dispositions, le montant visé à la subdivision (I) était au moins égal au montant visé à la subdivision (II):

(I) le montant qui a été inclus, relativement à chaque titre donné pouvant être acquis aux termes de la convention prévoyant les droits qui ont fait l'objet de la disposition donnée, dans le montant payable visé à l'alinéa 7(1.4)c) à l'égard de la disposition donnée,

(II) le montant qui a été inclus, relativement au titre donné, dans le montant total payable visé à l'alinéa 7(1.4)c) à l'égard de la dernière de ces dispositions précédant la disposition donnée;

Charitable donation of employee option securities

(d.01) subject to subsection (2.1), if the taxpayer disposes of a security acquired in the year by the taxpayer under an agreement referred to in subsection 7(1) by making a gift of the security to a qualified donee, an amount in respect of the disposition of the security equal to 1/2 of the lesser of the benefit deemed by paragraph 7(1)(a) to have been received by the taxpayer in the year in respect of the acquisition of the security and the amount that would have been that benefit had the value of the security at the time of its acquisition by the taxpayer been equal to the value of the security at the time of the disposition, if

(i) the security is a security described in subparagraph 38(a.1)(i),

(ii) [Repealed, 2002, c. 9, s. 33(1)]

(iii) the gift is made in the year and on or before the day that is 30 days after the day on which the taxpayer acquired the security, and

(iv) the taxpayer is entitled to a deduction under paragraph (d) in respect of the acquisition of the security;

Don d'un titre constatant une option d'employé

d.01) sous réserve du paragraphe (2.1), lorsque le contribuable dispose d'un titre qu'il a acquis au cours de l'année aux termes d'une convention mentionnée au paragraphe 7(1) en faisant don du titre à un donataire reconnu, un montant, relatif à la disposition du titre, égal à la moitié de l'avantage qu'il est réputé par l'alinéa 7(1)a) avoir reçu au cours de l'année relativement à l'acquisition du titre ou, si elle est inférieure, à la moitié du montant qui aurait représenté cet avantage si la valeur du titre, au moment où le contribuable l'a acquis, avait été égale à sa valeur au moment où il en a disposé, si, à la fois :

(i) le titre est visé au sous-alinéa 38a.1)(i),

(ii) [Abrogé, 2002, ch. 9, art. 33(1)]

(iii) le don est fait au cours de l'année et au plus tard le trentième jour suivant le jour où le contribuable a acquis le titre,

(iv) le contribuable peut déduire un montant en application de l'alinéa d) relativement à l'acquisition du titre;

Idem

(d.1) where the taxpayer

(i) is deemed, under paragraph 7(1)(a) by virtue of subsection 7(1.1), to have received a benefit in the year in respect of a share acquired by the taxpayer after May 22, 1985,

Idem

d.1) la moitié de la valeur de l'avantage dans le cas où le contribuable, à la fois :

(ii) has not disposed of the share (otherwise than as a consequence of the taxpayer's death) or exchanged the share within two years after the date the taxpayer acquired it, and

(iii) has not deducted an amount under paragraph 110(1)(d) in respect of the benefit in computing the taxpayer's taxable income for the year,

an amount equal to 1/2 of the amount of the benefit;

Prospector's and grubstaker's shares

(d.2) where the taxpayer has, under paragraph 35(1)(d), included an amount in the taxpayer's income for the year in respect of a share received after May 22, 1985, an amount equal to 1/2 of that amount unless that amount is exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada;

Employer's shares

(d.3) where the taxpayer has, under subsection 147(10.4), included an amount in computing the taxpayer's income for the year, an amount equal to 1/2 of that amount;

Deductions for payments

(f) any social assistance payment made on the basis of a means, needs or income test and included because of clause 56(1)(a)(i)(A) or paragraph 56(1)(u) in computing the taxpayer's income for the year or any amount that is

(i) an amount exempt from income tax in Canada because of a provision contained in a tax convention or agreement with another country that has the force of law in Canada,

(ii) compensation received under an employees' or workers' compensation law of Canada or a province in respect of an injury, disability or death, except any such compensation received by a person as the employer or former employer of the person in respect of whose injury, disability or death the compensation was paid,

(iii) income from employment with a prescribed international organization,

(iv) the taxpayer's income from employment with a prescribed international non-governmental organization, where the taxpayer

(A) was not, at any time in the year, a Canadian citizen,

(i) est réputé, selon l'alinéa 7(1)a) à cause du paragraphe 7(1.1), avoir reçu un avantage au cours de l'année au titre d'une action qu'il a acquise après le 22 mai 1985,

(ii) n'a pas disposé de l'action (autrement que par suite de son décès) ou ne l'a pas échangée dans les deux ans suivant la date où il l'a acquise,

(iii) n'a pas déduit de montant en vertu de l'alinéa d) pour l'avantage, dans le calcul de son revenu imposable pour l'année;

Actions de prospecteur ou de commanditaire en prospection

d.2) la moitié de la somme qu'un contribuable a incluse en application de l'alinéa 35(1)d) dans le calcul de son revenu pour l'année au titre d'une action qu'il a reçue après le 22 mai 1985, sauf si cette somme est exonérée de l'impôt sur le revenu au Canada à cause d'une disposition de quelque convention ou accord fiscal conclu avec un autre pays et qui a force de loi au Canada;

Actions d'employeur

d.3) la moitié de l'excédent que le contribuable a inclus en application du paragraphe 147(10.4) dans le calcul de son revenu pour l'année;

Déduction des paiements

f) toute prestation d'assistance sociale payée après examen des ressources, des besoins ou du revenu et incluse en application de la division 56(1)a)(i)(A) ou de l'alinéa 56(1)u) dans le calcul du revenu du contribuable pour l'année ou toute somme dans la mesure où elle a été incluse dans le calcul du revenu du contribuable pour l'année, représentant, selon le cas :

(i) une somme exonérée de l'impôt sur le revenu au Canada par l'effet d'une disposition de quelque convention ou accord fiscal avec un autre pays qui a force de loi au Canada,

(ii) une indemnité reçue aux termes d'une loi fédérale ou provinciale sur les accidents du travail pour blessure, invalidité ou décès, à l'exception d'une indemnité qu'une personne reçoit à titre d'employeur ou d'ancien employeur de la personne pour laquelle une indemnité pour blessure, invalidité ou décès a été payée;

(iii) un revenu tiré d'un emploi auprès d'une organisation internationale visée par règlement;

(B) was a non-resident person immediately before beginning that employment in Canada, and

(C) if the taxpayer is resident in Canada, became resident in Canada solely for the purpose of that employment, or

(v) the lesser of

(A) the employment income earned by the taxpayer as a member of the Canadian Forces, or as a police officer, while serving on a deployed operational mission (as determined by the Department of National Defence) that is

(I) assessed for risk allowance at level 3 or higher (as determined by the Department of National Defence), or

(II) assessed at a risk score greater than 1.99 and less than 2.50 (as determined by the Department of National Defence) and designated by the Minister of Finance, and

(B) the employment income that would have been so earned by the taxpayer if the taxpayer had been paid at the maximum rate of pay that applied, from time to time during the mission, to a non-commissioned member of the Canadian Forces;

to the extent that it is included in computing the taxpayer's income for the year;

Financial assistance

(g) any amount that

(i) is received by the taxpayer in the year under a program referred to in subparagraph 56(1)(r)(ii) or (iii), a program established under the authority of the *Department of Employment and Social Development Act* or a prescribed program,

(ii) is financial assistance for the payment of tuition fees of the taxpayer that are not included in computing an amount deductible under subsection 118.5(1) in computing the taxpayer's tax payable under this Part for any taxation year,

(iii) is included in computing the taxpayer's income for the year, and

(iv) is not otherwise deductible in computing the taxpayer's taxable income for the year;

(h) 35 per cent of the total of all benefits (in this paragraph referred to as "U.S. social security benefits")

(iv) le revenu du contribuable tiré d'un emploi auprès d'une organisation non gouvernementale internationale visée par règlement, si le contribuable répond aux conditions suivantes :

(A) il n'a été citoyen canadien à aucun moment de l'année,

(B) il était une personne non-résidente immédiatement avant de commencer à occuper cet emploi au Canada,

(C) s'il réside au Canada, il a commencé à y résider uniquement aux fins de cet emploi;

(v) la moins élevée des sommes suivantes :

(A) le revenu d'emploi gagné par le contribuable, à titre de membre des Forces canadiennes ou d'agent de police, lors d'une mission opérationnelle internationale, déterminée par le ministère de la Défense nationale, qui, selon le cas :

(I) est assortie d'une prime de risque de niveau 3 ou plus, déterminé par ce ministère,

(II) a une cote de risque de plus 1,99 et de moins de 2,50, déterminée par ce ministère, et est désignée par le ministre des Finances,

(B) le revenu d'emploi qui aurait été ainsi gagné par le contribuable s'il avait été rémunéré au taux maximal atteint pendant la mission par un militaire de rang des Forces canadiennes;

Aide financière

g) toute somme qui, à la fois :

(i) est reçue par le contribuable au cours de l'année dans le cadre d'un programme mentionné aux sous-alinéas 56(1)r)(ii) ou (iii), d'un programme établi sous le régime de la *Loi sur le ministère de l'Emploi et du Développement social* ou d'un programme visé par règlement,

(ii) constitue une aide financière pour le paiement des frais de scolarité du contribuable qui ne sont pas inclus dans le calcul d'un montant déductible en application du paragraphe 118.5(1) en vue du calcul de l'impôt payable par le contribuable en vertu de la présente partie pour une année d'imposition,

(iii) est incluse dans le calcul du revenu du contribuable pour l'année,

that are received by the taxpayer in the taxation year and to which paragraph 5 of Article XVIII of the *Convention between Canada and the United States of America with respect to Taxes on Income and on Capital* as set out in Schedule I to the *Canada-United States Tax Convention Act, 1984*, S.C. 1984, c. 20, applies, if

(i) the taxpayer has continuously during a period that begins before 1996 and ends in the taxation year, been resident in Canada, and has received U.S. social security benefits in each taxation year that ends in that period, or

(ii) in the case where the benefits are payable to the taxpayer in respect of a deceased individual,

(A) the taxpayer was, immediately before the deceased individual's death, the deceased individual's spouse or common-law partner,

(B) the taxpayer has continuously during a period that begins at the time of the deceased individual's death and ends in the taxation year, been resident in Canada,

(C) the deceased individual was, in respect of the taxation year in which the deceased individual died, a taxpayer described in subparagraph (i), and

(D) in each taxation year that ends in a period that begins before 1996 and that ends in the taxation year, the taxpayer, the deceased individual, or both of them, received U.S. social security benefits.

(i) [Repealed, 1994, c. 7, Sch. II, s. 78(3)]

Home relocation loan

(j) where the taxpayer has, by virtue of section 80.4, included an amount in the taxpayer's income for the year in respect of a benefit received by the taxpayer in respect of a home relocation loan, the least of

(i) the amount of the benefit that would have been deemed to have been received by the taxpayer under section 80.4 in the year if that section had applied only in respect of the home relocation loan,

(ii) the amount of interest for the year that would be computed under paragraph 80.4(1)(a) in respect of the home relocation loan if that loan were in the amount of $25,000 and were extinguished on the earlier of

(iv) n'est pas déductible par ailleurs dans le calcul du revenu imposable du contribuable pour l'année;

h) 35 % du total des prestations (appelées « prestations de la sécurité sociale des États-Unis » au présent alinéa) que le contribuable a reçues au cours de l'année d'imposition et auxquelles s'applique le paragraphe 5 de l'article XVIII de la *Convention entre le Canada et les États-Unis d'Amérique en matière d'impôts sur le revenu et sur la fortune*, figurant à l'annexe I de la *Loi de 1984 sur la Convention Canada-États-Unis en matière d'impôts*, L.C. 1984, ch. 20, si, selon le cas :

(i) tout au long d'une période ayant commencé avant 1996 et se terminant dans l'année d'imposition, le contribuable réside au Canada et a reçu des prestations de la sécurité sociale des États-Unis au cours de chaque année d'imposition se terminant dans cette période,

(ii) dans le cas où les prestations sont payables au contribuable relativement à un particulier décédé, les conditions suivantes sont réunies :

(A) le contribuable était, immédiatement avant le décès du particulier décédé, l'époux ou le conjoint de fait de celui-ci,

(B) tout au long d'une période commençant au moment du décès du particulier décédé et se terminant dans l'année d'imposition, le contribuable réside au Canada,

(C) le particulier décédé était un contribuable visé au sous-alinéa (i) pour l'année d'imposition où il est décédé,

(D) au cours de chaque année d'imposition se terminant dans une période ayant commencé avant 1996 et se terminant dans l'année d'imposition, le contribuable ou le particulier décédé, ou l'un et l'autre, ont reçu des prestations de la sécurité sociale des États-Unis.

i) [Abrogé, 1994, ch. 7, ann. II, art. 78(3)]

Prêt à la réinstallation

j) lorsque le contribuable a inclus, en vertu de l'article 80.4, un montant dans son revenu pour l'année au titre d'un avantage qu'il a reçu sous forme de prêt à la réinstallation, le moindre des montants suivants :

(i) le montant de l'avantage qui serait réputé reçu par le contribuable au cours de l'année selon l'article 80.4 si cet article ne s'appliquait qu'au prêt à la réinstallation,

(A) the day that is five years after the day on which the home relocation loan was made, and

(B) the day on which the home relocation loan was extinguished, and

(iii) the amount of the benefit deemed to have been received by the taxpayer under section 80.4 in the year; and

Part VI.1 tax

(k) the amount determined by multiplying the taxpayer's tax payable under subsection 191.1(1) for the year by

(i) if the taxation year ends before 2010, 3,

(ii) if the taxation year ends after 2009 and before 2012, 3.2, and

(iii) if the taxation year ends after 2011, 3.5.

Election by particular qualifying person

(1.1) For the purpose of computing the taxable income of a taxpayer for a taxation year, paragraph (1)(d) shall be read without reference to its subparagraph (i) in respect of all rights granted to the taxpayer under an agreement to sell or issue securities referred to in subsection 7(1) if

(a) the particular qualifying person elects in prescribed form that neither the particular qualifying person nor any person not dealing at arm's length with the particular qualifying person will deduct in computing its income for a taxation year any amount (other than a designated amount described in subsection (1.2)) in respect of a payment to or for the benefit of a taxpayer for the taxpayer's transfer or disposition of rights under the agreement;

(b) the particular qualifying person files the election with the Minister;

(c) the particular qualifying person provides the taxpayer with evidence in writing of the election; and

(d) the taxpayer files the evidence with the Minister with the taxpayer's return of income for the year in which a deduction under paragraph (1)(d) is claimed.

(ii) le montant des intérêts pour l'année qui serait calculé selon l'alinéa 80.4(1)a) sur le prêt à la réinstallation s'il s'agissait d'un prêt de 25 000 $ éteint au premier en date des jours suivants :

(A) le jour qui tombe cinq ans après la date où le prêt à la réinstallation a été consenti,

(B) le jour où le prêt à la réinstallation a été éteint,

(iii) le montant au titre de l'avantage réputé reçu par le contribuable en vertu de l'article 80.4 au cours de l'année;

Impôt de la partie VI.1

k) le résultat de la multiplication de l'impôt payable par le contribuable pour l'année en vertu du paragraphe 191.1(1) par :

(i) 3, si l'année prend fin avant 2010,

(ii) 3,2, si elle prend fin après 2009 et avant 2012,

(iii) 3,5, si elle prend fin après 2011.

Choix d'une personne admissible donnée

(1.1) Pour le calcul du revenu imposable d'un contribuable pour une année d'imposition, l'alinéa (1)d) s'applique compte non tenu de son sous-alinéa (i) en ce qui concerne les droits consentis au contribuable en vertu d'une convention de vente ou d'émission de titres mentionnée au paragraphe 7(1) si les conditions suivantes sont réunies :

a) la personne admissible donnée fait, sur le formulaire prescrit, un choix selon lequel ni elle ni une personne avec laquelle elle a un lien de dépendance ne déduira, dans le calcul de son revenu pour une année d'imposition, de somme (sauf un montant désigné visé au paragraphe (1.2)) au titre d'un paiement fait à un contribuable ou pour son compte relativement au transfert ou à la disposition par celui-ci de droits prévus par la convention;

b) elle présente le choix au ministre;

c) elle remet au contribuable un document constatant le choix;

d) le contribuable présente ce document au ministre avec sa déclaration de revenu visant l'année pour laquelle la déduction prévue à l'alinéa (1)d) est demandée.

Designated amount

(1.2) For the purposes of subsection (1.1), an amount is a designated amount if the following conditions are met:

(a) the amount would otherwise be deductible in computing the income of the particular qualifying person in the absence of subsection (1.1);

(b) the amount is payable to a person

(i) with whom the particular qualifying person deals at arm's length, and

(ii) who is neither an employee of the particular qualifying person nor of any person not dealing at arm's length with the particular qualifying person; and

(c) the amount is payable in respect of an arrangement entered into for the purpose of managing the particular qualifying person's financial risk associated with a potential increase in value of the securities under the agreement described in subsection (1.1).

Designated mission

(1.3) The Minister of Finance may, on the recommendation of the Minister of National Defence (in respect of members of the Canadian Forces) or the Minister of Public Safety (in respect of police officers), designate a deployed operational mission for the purposes of subclause (1)(f)(v)(A)(II). The designation shall specify the day on which it comes into effect, which may precede the day on which the designation is made.

Replacement of home relocation loan

(1.4) For the purposes of paragraph 110(1)(j), a loan received by a taxpayer that is used to repay a home relocation loan shall be deemed to be the same loan as the relocation loan and to have been made on the same day as the relocation loan.

Determination of amounts relating to employee security options

(1.5) For the purpose of paragraph (1)(d),

(a) the amount payable by a taxpayer to acquire a security under an agreement referred to in subsection 7(1) shall be determined without reference to any change in the value of a currency of a country other than Canada, relative to Canadian currency, occurring after the agreement was made;

(b) the fair market value of a security at the time an agreement in respect of the security was made shall be determined on the assumption that all specified events

Montant désigné

(1.2) Pour l'application du paragraphe (1.1), une somme est un montant désigné si les conditions suivantes sont réunies :

a) la somme serait déductible par ailleurs dans le calcul du revenu de la personne admissible donnée en l'absence du paragraphe (1.1);

b) la somme est payable à une personne qui, à la fois :

(i) n'a aucun lien de dépendance avec la personne admissible donnée,

(ii) n'est l'employé ni de la personne admissible donnée ni d'une personne avec laquelle celle-ci a un lien de dépendance;

c) la somme est payable relativement à un arrangement conclu dans le but de gérer le risque financier de la personne admissible donnée lié à l'augmentation éventuelle de la valeur des titres visés par la convention mentionnée au paragraphe (1.1).

Mission désignée

(1.3) Le ministre des Finances, sur la recommandation du ministre de la Défense nationale, dans le cas des membres des Forces canadiennes, ou du ministre de la Sécurité publique, dans le cas des agents de police, peut désigner une mission opérationnelle internationale pour l'application de la subdivision (1)f)(v)(A)(II). La désignation précise le moment de son entrée en vigueur, lequel peut être antérieur au moment où elle est effectuée.

Prêt réputé prêt à la réinstallation

(1.4) Pour l'application de l'alinéa (1)j), un prêt reçu par un contribuable et qui sert à rembourser un prêt à la réinstallation est réputé être le même prêt que le prêt à la réinstallation et avoir été consenti le même jour que celui-ci.

Calcul des montants liés aux options d'achat de titres

(1.5) Les règles suivantes s'appliquent dans le cadre de l'alinéa (1)d):

a) le montant qu'un contribuable doit payer pour acquérir un titre aux termes d'une convention mentionnée au paragraphe 7(1) est déterminé compte non tenu d'un changement de la valeur de la monnaie d'un pays étranger par rapport à la valeur du dollar canadien survenant après la conclusion de la convention;

b) la juste valeur marchande d'un titre au moment de la conclusion d'une convention visant le titre est

associated with the security that occurred after the agreement was made and before the sale or issue of the security or the disposition of the taxpayer's rights under the agreement in respect of the security, as the case may be, had occurred immediately before the agreement was made; and

(c) in determining the amount that was included, in respect of a security that a qualifying person has agreed to sell or issue to a taxpayer, in the amount determined under subparagraph 7(1.4)(c)(ii) for the purpose of determining if the condition in paragraph 7(1.4)(c) was satisfied with respect to a particular disposition, an assumption shall be made that all specified events associated with the security that occurred after the particular disposition and before the sale or issue of the security or the taxpayer's subsequent disposition of rights under the agreement in respect of the security, as the case may be, had occurred immediately before the particular disposition.

Meaning of *specified event*

(1.6) For the purpose of subsection (1.5), a specified event associated with a security is

(a) where the security is a share of the capital stock of a corporation,

(i) a subdivision or consolidation of shares of the capital stock of the corporation,

(ii) a reorganization of share capital of the corporation, and

(iii) a stock dividend of the corporation; and

(b) where the security is a unit of a mutual fund trust,

(i) a subdivision or consolidation of the units of the trust, and

(ii) an issuance of units of the trust as payment, or in satisfaction of a person's right to enforce payment, out of the trust's income (determined before the application of subsection 104(6)) or out of the trust's capital gains.

Reduction in exercise price

(1.7) If the amount payable by a taxpayer to acquire securities under an agreement referred to in subsection 7(1) is reduced at any particular time and the conditions

déterminée selon l'hypothèse que les événements déterminés rattachés au titre qui se sont produits après la conclusion de la convention et avant la vente ou l'émission du titre ou la disposition des droits du contribuable aux termes de la convention concernant le titre, selon le cas, se sont produits immédiatement avant la conclusion de la convention;

c) pour ce qui est de déterminer le montant qui a été inclus, relativement à un titre qu'une personne admissible est convenue de vendre ou d'émettre à un contribuable, dans le montant total payable visé à l'alinéa 7(1.4)c) lorsqu'il s'agit de déterminer si la condition énoncée à cet alinéa a été remplie à l'égard d'une disposition donnée, il est supposé que tous les événements déterminés rattachés au titre qui se sont produits après la disposition donnée et avant la vente ou l'émission du titre ou la disposition subséquente par le contribuable de droits prévus par la convention concernant le titre, selon le cas, se sont produits immédiatement avant la disposition donnée.

Sens de *événement déterminé*

(1.6) Pour l'application du paragraphe (1.5), les événements suivants sont des événements déterminés rattachés à un titre :

a) si le titre est une action du capital-actions d'une société :

(i) la subdivision ou la consolidation des actions du capital-actions de la société,

(ii) la réorganisation du capital-actions de la société,

(iii) le versement d'un dividende en actions de la société;

b) si le titre est une unité d'une fiducie de fonds commun de placement :

(i) la subdivision ou la consolidation des unités de la fiducie,

(ii) l'émission d'unités de la fiducie à titre de paiement sur son revenu (déterminé avant l'application du paragraphe 104(6)) ou ses gains en capital, ou en règlement du droit d'une personne d'exiger un tel paiement.

Réduction du prix de levée

(1.7) Si le montant qu'un contribuable doit payer pour acquérir des titres aux termes d'une convention mentionnée au paragraphe 7(1) est réduit à un moment donné et que les conditions énoncées au paragraphe (1.8) sont

in subsection (1.8) are satisfied in respect of the reduction,

(a) the rights (referred to in this subsection and subsection (1.8) as the "old rights") that the taxpayer had under the agreement immediately before the particular time are deemed to have been disposed of by the taxpayer immediately before the particular time;

(b) the rights (referred to in this subsection and subsection (1.8) as the "new rights") that the taxpayer has under the agreement at the particular time are deemed to be acquired by the taxpayer at the particular time; and

(c) the taxpayer is deemed to receive the new rights as consideration for the disposition of the old rights.

Conditions for subsection (1.7) to apply

(1.8) The following are the conditions in respect of the reduction:

(a) that the taxpayer would not be entitled to a deduction under paragraph (1)(d) if the taxpayer acquired securities under the agreement immediately after the particular time and this section were read without reference to subsection (1.7); and

(b) that the taxpayer would be entitled to a deduction under paragraph (1)(d) if the taxpayer

(i) disposed of the old rights immediately before the particular time,

(ii) acquired the new rights at the particular time as consideration for the disposition, and

(iii) acquired securities under the agreement immediately after the particular time.

Charitable gifts

(2) Where an individual is, during a taxation year, a member of a religious order and has, as such, taken a vow of perpetual poverty, the individual may deduct in computing the individual's taxable income for the year an amount equal to the total of the individual's superannuation or pension benefits and the individual's earned income for the year (within the meaning assigned by section 63) if, of the individual's income, that amount is paid in the year to the order.

Charitable donation — proceeds of disposition of employee option securities

(2.1) Where a taxpayer, in exercising a right to acquire a security that a particular qualifying person has agreed to sell or issue to the taxpayer under an agreement referred

remplies relativement à la réduction, les règles ci-après s'appliquent :

a) le contribuable est réputé avoir disposé, immédiatement avant le moment donné, des droits (appelés « anciens droits » au présent paragraphe et au paragraphe (1.8)) qu'il avait aux termes de la convention immédiatement avant le moment donné;

b) il est réputé avoir acquis, au moment donné, les droits (appelés « nouveaux droits » au présent paragraphe et au paragraphe (1.8)) qu'il a aux termes de la convention à ce moment;

c) il est réputé recevoir les nouveaux droits en contrepartie de la disposition des anciens droits.

Conditions d'application du paragraphe (1.7)

(1.8) Les conditions à remplir relativement à la réduction sont les suivantes :

a) le contribuable n'aurait pas droit à la déduction prévue à l'alinéa (1)d) s'il acquérait les titres aux termes de la convention immédiatement après le moment donné et si le présent article s'appliquait compte non tenu de son paragraphe (1.7);

b) le contribuable aurait droit à la déduction prévue à l'alinéa (1)d) si, à la fois :

(i) il disposait des anciens droits immédiatement avant le moment donné,

(ii) il acquérait les nouveaux droits au moment donné en contrepartie de la disposition,

(iii) il acquérait les titres aux termes de la convention immédiatement après le moment donné.

Déduction pour dons applicable aux religieux

(2) Le particulier qui est, au cours d'une année d'imposition, membre d'un ordre religieux et a, à ce titre, prononcé des vœux de pauvreté perpétuelle peut déduire dans le calcul de son revenu imposable pour l'année une somme égale au total de ses prestations de retraite ou de pension et de son revenu gagné pour l'année, au sens de l'article 63, si cette somme a été versée, sur son revenu, à l'ordre au cours de l'année.

Don du produit de disposition d'un titre constatant une option d'employé

(2.1) Lorsqu'un contribuable, lors de l'exercice d'un droit d'acquérir un titre qu'une personne admissible donnée est convenue de lui vendre ou émettre aux termes

to in subsection 7(1), directs a broker or dealer appointed or approved by the particular qualifying person (or by a qualifying person that does not deal at arm's length with the particular qualifying person) to immediately dispose of the security and pay all or a portion of the proceeds of disposition of the security to a qualified donee,

(a) if the payment is a gift, the taxpayer is deemed, for the purpose of paragraph (1)(d.01), to have disposed of the security by making a gift of the security to the qualified donee at the time the payment is made; and

(b) the amount deductible under paragraph (1)(d.01) by the taxpayer in respect of the disposition of the security is the amount determined by the formula

A × B/C

where

A is the amount that would be deductible under paragraph (1)(d.01) in respect of the disposition of the security if this subsection were read without reference to this paragraph,

B is the amount of the payment, and

C is the amount of the proceeds of disposition of the security.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 110; 1994, c. 7, Sch. II, s. 78, Sch. VIII, s. 45, c. 21, s. 49; 1999, c. 22, s. 26; 2001, c. 17, s. 84; 2002, c. 9, s. 33; 2005, c. 19, s. 18, c. 34, s. 81; 2006, c. 4, s. 56; 2007, c. 35, s. 29; 2010, c. 12, s. 12, c. 25, s. 20; 2013, c. 33, s. 7, c. 34, s. 237, c. 40, s. 236.

d'une convention mentionnée au paragraphe 7(1), ordonne au courtier ou négociant nommé ou autorisé par la personne admissible donnée (ou par une personne admissible ayant un lien de dépendance avec celle-ci) de disposer du titre sans délai et de verser la totalité ou une partie du produit de disposition à un donataire reconnu, les règles suivantes s'appliquent :

a) si le versement est un don, le contribuable est réputé, pour l'application de l'alinéa (1)d.01), avoir disposé du titre en faisant don au donataire reconnu au moment du versement;

b) le montant déductible en application de l'alinéa (1)d.01) par le contribuable relativement à la disposition du titre correspond au montant obtenu par la formule suivante :

A × B/C

où :

A représente le montant qui serait déductible en application de cet alinéa relativement à la disposition du titre s'il n'était pas tenu compte du présent alinéa,

B le montant du versement,

C le produit de disposition du titre.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 110; 1994, ch. 7, ann. II, art. 78, ann. VIII, art. 45, ch. 21, art. 49; 1999, ch. 22, art. 26; 2001, ch. 17, art. 84; 2002, ch. 9, art. 33; 2005, ch. 19, art. 18, ch. 34, art. 81; 2006, ch. 4, art. 56; 2007, ch. 35, art. 29; 2010, ch. 12, art. 12, ch. 25, art. 20; 2013, ch. 33, art. 7, ch. 34, art. 237, ch. 40, art. 236.

Deduction for gifts

110.1 (1) For the purpose of computing the taxable income of a corporation for a taxation year, there may be deducted such of the following amounts as the corporation claims

Charitable gifts

(a) the total of all amounts each of which is the eligible amount of a gift (other than a gift described in paragraph (c) or (d)) made by the corporation in the year or in any of the five preceding taxation years to a qualified donee, not exceeding the lesser of the corporation's income for the year and the amount determined by the formula

0.75A + 0.25(B + C + D)

where

A is the corporation's income for the year computed without reference to subsection 137(2),

B is the total of all amounts, each of which is that proportion of the corporation's taxable capital gain for the taxation year in respect of a gift made

Déductions pour dons applicables aux sociétés

110.1 (1) Les montants suivants peuvent être déduits par une société dans le calcul de son revenu imposable pour une année d'imposition :

Dons de bienfaisance

a) le total des sommes représentant chacune le montant admissible d'un don (sauf un don visé aux alinéas c) ou d)) que la société a fait au cours de l'année ou d'une des cinq années d'imposition précédentes à un donataire reconnu, jusqu'à concurrence du revenu de la société pour l'année ou, si elle est moins élevée, de la somme obtenue par la formule suivante :

0,75A + 0,25(B + C + D)

où :

A représente le revenu de la société pour l'année, calculé compte non tenu du paragraphe 137(2),

B le total des montants représentant chacun la proportion du gain en capital imposable de la société pour l'année relativement à un don qu'elle a fait au cours de l'année et à l'égard duquel un montant

by the corporation in the taxation year (in respect of which gift an eligible amount is described in this paragraph for the taxation year) that the eligible amount of the gift is of the corporation's proceeds of disposition in respect of the gift,

C is the total of all amounts each of which is a taxable capital gain of the corporation for the year, because of subsection 40(1.01), from a disposition of a property in a preceding taxation year, and

D is the total of all amounts each of which is determined in respect of the corporation's depreciable property of a prescribed class and equal to the lesser of

(A) the amount included under subsection 13(1) in respect of the class in computing the corporation's income for the year, and

(B) the total of all amounts each of which is determined in respect of a disposition that is the making of a gift of property of the class by the corporation in the year (in respect of which gift an eligible amount is described in this paragraph for the taxation year) equal to the lesser of

(I) that proportion, of the amount by which the proceeds of disposition of the property exceeds any outlays and expenses, to the extent that they were made or incurred by the corporation for the purpose of making the disposition, that the eligible amount of the gift is of the corporation's proceeds of disposition in respect of the gift, and

(II) that proportion, of the capital cost to the corporation of the property, that the eligible amount of the gift is of the corporation's proceeds of disposition in respect of the gift;

(a.1) [Repealed, 2017, c. 20, s. 9]

(b) [Repealed, 2014, c. 39, s. 29]

Gifts to institutions

(c) the total of all amounts each of which is the eligible amount of a gift (other than a gift described in paragraph (d)) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act*, which gift was made by the corporation in the year or in any of the five preceding taxation years to an institution or a public authority in Canada that was, at the time the gift was made, designated under subsection 32(2) of that Act either generally or for a specified purpose related to that object; and

admissible est visé au présent alinéa pour l'année, que représente le rapport entre le montant admissible du don et le produit de disposition relatif au don pour elle,

C le total des montants représentant chacun un gain en capital imposable de la société pour l'année, par l'effet du paragraphe 40(1.01), tiré de la disposition d'un bien effectué au cours d'une année d'imposition antérieure,

D le total des montants représentant chacun le moins élevé des montants suivants, déterminé relativement aux biens amortissables d'une catégorie prescrite de la société :

(A) le montant inclus selon le paragraphe 13(1), relativement à la catégorie, dans le calcul du revenu de la société pour l'année,

(B) le total des montants représentant chacun le moins élevé des montants ci-après, déterminé relativement à une disposition qui consiste, pour la société, à faire au cours de l'année un don d'un bien de la catégorie, à l'égard duquel un montant admissible est visé au présent alinéa pour l'année :

(I) la proportion de l'excédent du produit de disposition du bien sur les dépenses engagées ou effectuées — dans la mesure où la société les a engagées ou effectuées en vue d'effectuer la disposition — que représente le rapport entre le montant admissible du don et le produit de disposition relatif au don pour la société,

(II) la proportion du coût en capital du bien pour la société, que représente le rapport entre le montant admissible du don et le produit de disposition relatif au don pour elle;

a.1) [Abrogé, 2017, ch. 20, art. 9]

b) [Abrogé, 2014, ch. 39, art. 29]

Dons d'objets culturels à des administrations

c) le total des montants représentant chacun le montant admissible d'un don (sauf un don visé à l'alinéa d)) d'un objet qui, selon la Commission canadienne d'examen des exportations de biens culturels, est conforme aux critères d'intérêt et d'importance énoncés au paragraphe 29(3) de la *Loi sur l'exportation et l'importation de biens culturels*, lequel don a été fait par la société au cours de l'année ou des cinq années d'imposition précédentes à un établissement ou une administration au Canada qui, au moment du don, était désigné, en application du paragraphe 32(2) de

Ecological gifts

(d) the total of all amounts each of which is the eligible amount of a gift of land (including a covenant or an easement to which land is subject or, in the case of land in the Province of Quebec, a real servitude) if

(i) the fair market value of the gift is certified by the Minister of the Environment,

(ii) the land is certified by that Minister, or by a person designated by that Minister, to be ecologically sensitive land, the conservation and protection of which is, in the opinion of that Minister or the designated person, important to the preservation of Canada's environmental heritage, and

(iii) the gift was made by the corporation in the year or in any of the 10 preceding taxation years to a qualified donee that is

(A) Her Majesty in right of Canada or of a province,

(B) a municipality in Canada,

(C) a municipal or public body performing a function of government in Canada, or

(D) a registered charity one of the main purposes of which is, in the opinion of that Minister, the conservation and protection of Canada's environmental heritage, and that is approved by that Minister or the designated person in respect of the gift.

Limitation on deductibility

(1.1) For the purpose of determining the amount deductible under subsection 110.1(1) in computing a corporation's taxable income for a taxation year,

(a) an amount in respect of a gift is deductible only to the extent that it exceeds amounts in respect of the gift deducted under that subsection in computing the corporation's taxable income for preceding taxation years; and

(b) no amount in respect of a gift made in a particular taxation year is deductible under any of paragraphs 110.1(1)(a) to (d) until amounts deductible under that paragraph in respect of gifts made in taxation years preceding the particular year have been deducted.

cette loi, à des fins générales ou à une fin particulière liée à l'objet;

Dons de biens écosensibles

d) le total des montants représentant chacun le montant admissible d'un don de fonds de terre, y compris un covenant ou une servitude, visant un fonds de terre, la servitude devant être une servitude réelle si le fonds de terre est situé au Québec, si, à la fois :

(i) la juste valeur marchande du don est attestée par le ministre de l'Environnement,

(ii) selon l'attestation de ce ministre ou d'une personne qu'il désigne, le fonds de terre est sensible sur le plan écologique, et sa préservation et sa conservation sont, de l'avis de ce ministre ou de cette personne, importantes pour la protection du patrimoine environnemental du Canada,

(iii) le don a été fait par la société au cours de l'année ou des dix années d'imposition précédentes à l'un des donataires reconnus suivants :

(A) Sa Majesté du chef du Canada ou d'une province,

(B) une municipalité du Canada,

(C) un organisme municipal ou public remplissant une fonction gouvernementale au Canada,

(D) un organisme de bienfaisance enregistré qui est approuvé par ce ministre ou par la personne désignée pour ce qui est du don et dont l'une des principales missions, de l'avis de ce ministre, est de conserver et de protéger le patrimoine environnemental du Canada.

Restriction

(1.1) Pour déterminer le montant qui est déductible en application du paragraphe (1) dans le calcul du revenu imposable d'une société pour une année d'imposition, les règles suivantes s'appliquent :

a) un montant relatif à un don n'est déductible que dans la mesure où il dépasse les montants relatifs au don qui ont été déduits en application de ce paragraphe dans le calcul du revenu imposable de la société pour les années d'imposition précédentes;

b) aucun montant relatif à un don fait au cours d'une année d'imposition n'est déductible en application de l'un des alinéas (1)a) à d) tant que les montants déductibles en application du même alinéa relatifs aux

dons faits au cours des années d'imposition précédant l'année en question n'ont pas été déduits.

Where control acquired

(1.2) Notwithstanding paragraph 88(1)(e.6), if control of a particular corporation is acquired at any time by a person or group of persons,

(a) no amount is deductible under any of paragraphs (1)(a) to (d) in computing any corporation's taxable income for a taxation year that ends on or after that time in respect of a gift made by the particular corporation before that time; and

(b) no amount is deductible under any of paragraphs (1)(a) to (d) in computing any corporation's taxable income for a taxation year that ends on or after that time in respect of a gift made by any corporation on or after that time if the property that is the subject of the gift was acquired by the particular corporation under an arrangement under which it was expected that control of the particular corporation would be so acquired by a person or group of persons, other than a qualified donee that received the gift, and the gift would be so made.

Acquisition du contrôle

(1.2) Malgré l'alinéa 88(1)e.6), les règles suivantes s'appliquent en cas d'acquisition du contrôle d'une société donnée par une personne ou un groupe de personnes :

a) aucune somme n'est déductible en application des alinéas (1)a) à d) dans le calcul du revenu imposable d'une société quelconque pour toute année d'imposition se terminant au moment de l'acquisition du contrôle, ou par la suite, au titre d'un don fait par la société donnée avant ce moment;

b) aucune somme n'est déductible en application des alinéas (1)a) à d) dans le calcul du revenu imposable d'une société quelconque pour toute année d'imposition se terminant au moment de l'acquisition du contrôle, ou par la suite, au titre d'un don fait par une société à ce moment ou par la suite, si le bien objet du don a été acquis par la société donnée aux termes d'un arrangement dans le cadre duquel on pouvait s'attendre, d'une part, à ce que le contrôle de la société donnée soit acquis par une personne ou un groupe de personnes autre que le donataire reconnu ayant reçu le don et, d'autre part, à ce que le don soit ainsi fait.

Proof of gift

(2) An eligible amount of a gift shall not be included for the purpose of determining a deduction under subsection (1) unless the making of the gift is evidenced by filing with the Minister

(a) a receipt for the gift that contains prescribed information;

(b) in the case of a gift described in paragraph (1)(c), the certificate issued under subsection 33(1) of the *Cultural Property Export and Import Act*; and

(c) in the case of a gift described in paragraph (1)(d), both certificates referred to in that paragraph.

Attestation des dons

(2) Pour que le montant admissible d'un don soit inclus dans le calcul d'une déduction en application du paragraphe (1), le versement du don doit être attesté par la présentation au ministre des documents suivants :

a) un reçu contenant les renseignements prescrits;

b) s'il s'agit d'un don visé à l'alinéa (1)c), le certificat délivré en vertu du paragraphe 33(1) de la *Loi sur l'exportation et l'importation de biens culturels*;

c) s'il s'agit d'un don visé à l'alinéa (1)d), les deux attestations mentionnées à cet alinéa.

Where subsection (3) applies

(2.1) Subsection (3) applies in circumstances where

(a) a corporation makes a gift at any time of

(i) capital property to a qualified donee, or

(ii) in the case of a corporation not resident in Canada, real or immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to

Application du paragraphe (3)

(2.1) Le paragraphe (3) s'applique dans les circonstances suivantes :

a) une société, selon le cas :

(i) fait don d'une immobilisation à un donataire reconnu,

(ii) si elle ne réside pas au Canada, fait don d'un bien immeuble ou réel situé au Canada à un donataire visé par règlement qui prend l'engagement,

the effect that the property will be held for use in the public interest; and

(b) the fair market value of the property otherwise determined at that time exceeds

(i) in the case of depreciable property of a prescribed class, the lesser of the undepreciated capital cost of that class at the end of the taxation year of the corporation that includes that time (determined without reference to the proceeds of disposition designated in respect of the property under subsection (3)) and the adjusted cost base to the corporation of the property immediately before that time, and

(ii) in any other case, the adjusted cost base to the corporation of the property immediately before that time.

sous une forme que le ministre juge acceptable, que le bien sera détenu en vue d'un usage lié à l'intérêt public;

b) la juste valeur marchande du bien, déterminée par ailleurs au moment du don, excède :

(i) s'il s'agit d'un bien amortissable d'une catégorie prescrite, la fraction non amortie du coût en capital de cette catégorie à la fin de l'année d'imposition de la société qui comprend ce moment, déterminée compte non tenu du produit de disposition indiqué à l'égard du bien en vertu du paragraphe (3), ou, s'il est moins élevé, le prix de base rajusté du bien pour la société immédiatement avant ce moment,

(ii) dans les autres cas, le prix de base rajusté du bien pour la société immédiatement avant ce moment.

Gifts of capital property

(3) If this subsection applies in respect of a gift by a corporation of property, and the corporation designates an amount in respect of the gift in its return of income under section 150 for the year in which the gift is made, the amount so designated is deemed to be its proceeds of disposition of the property and, for the purpose of subsection 248(31), the fair market value of the gift, but the amount so designated may not exceed the fair market value of the property otherwise determined and may not be less than the greater of

(a) in the case of a gift made after December 20, 2002, the amount of the advantage, if any, in respect of the gift, and

(b) the amount determined under subparagraph (2.1)(b)(i) or (ii), as the case may be, in respect of the property.

Don d'une immobilisation

(3) Si le présent paragraphe s'applique au don d'un bien par une société à l'égard duquel elle a indiqué un montant dans sa déclaration de revenu produite conformément à l'article 150 pour l'année du don, le montant ainsi indiqué est réputé correspondre à la fois au produit de disposition du bien pour la société et, pour l'application du paragraphe 248(31), à la juste valeur marchande du don. Il ne peut toutefois ni excéder la juste valeur du bien déterminée par ailleurs ni être inférieur au plus élevé des montants suivants :

a) s'il s'agit d'un don fait après le 20 décembre 2002, le montant de l'avantage au titre du don;

b) le montant déterminé selon les sous-alinéas (2.1)b)(i) ou (ii), selon le cas, relativement au bien.

Gifts made by partnership

(4) If at the end of a fiscal period of a partnership a corporation is a member of the partnership, its share of any amount that would, if the partnership were a person, be the eligible amount of a gift made by the partnership to any donee is, for the purpose of this section, deemed to be the eligible amount of a gift made to that donee by the corporation in its taxation year in which the fiscal period of the partnership ends.

Don par une société de personnes

(4) Si une société est un associé d'une société de personnes à la fin d'un exercice de celle-ci, sa part de tout montant qui, si la société de personnes était une personne, représenterait le montant admissible d'un don fait à un donataire par la société de personnes est réputée, pour l'application du présent article, représenter le montant admissible d'un don fait à ce donataire par la société au cours de son année d'imposition dans laquelle l'exercice de la société de personnes se termine.

Ecological gifts

(5) For the purposes of applying subparagraph 69(1)(b)(ii), this section and section 207.31 in respect of a gift described in paragraph (1)(d) that is made by a

Dons de biens écosensibles

(5) Pour l'application du sous-alinéa 69(1)b)(ii), du présent article et de l'article 207.31 au don visé à l'alinéa (1)d) qui est fait par un contribuable, le montant qui

taxpayer, the amount that is the fair market value (or, for the purpose of subsection (3), the fair market value otherwise determined) of the gift at the time the gift was made and, subject to subsection (3), the taxpayer's proceeds of disposition of the gift, is deemed to be the amount determined by the Minister of the Environment to be

(a) where the gift is land, the fair market value of the gift; or

(b) where the gift is a covenant or an easement to which land is subject or, in the case of land in the Province of Quebec, a real servitude, the greater of

(i) the fair market value otherwise determined of the gift, and

(ii) the amount by which the fair market value of the land is reduced as a result of the making of the gift.

Non-qualifying securities

(6) Subsections 118.1(13) to (14) and (16) to (20) apply to a corporation as if the references in those subsections to an individual were read as references to a corporation and as if a non-qualifying security of a corporation included a share (other than a share listed on a designated stock exchange) of the capital stock of the corporation.

Corporation ceasing to exist

(7) If, but for this subsection, a corporation (other than a corporation that was a predecessor corporation in an amalgamation to which subsection 87(1) applied or a corporation that was wound up in a winding-up to which subsection 88(1) applied) would be deemed by subsection 118.1(13) to have made a gift after the corporation ceased to exist, for the purpose of this section, the corporation is deemed to have made the gift in its last taxation year, except that the amount of interest payable under any provision of this Act is the amount that it would be if this subsection did not apply to the gift.

(8) and (9) [Repealed, 2017, c. 20, s. 9]

Options

(10) Subject to subsections (12) and (13), if a corporation has granted an option to a qualified donee in a taxation year, no amount in respect of the option is to be included in computing an amount under any of paragraphs (1)(a) to (d) in respect of the corporation for any year.

représente à la fois la juste valeur marchande du don au moment où il a été fait (ou, pour l'application du paragraphe (3), sa juste valeur marchande à ce moment, déterminée par ailleurs) et, sous réserve du paragraphe (3), son produit de disposition pour le contribuable est réputé correspondre au montant, fixé par le ministre de l'Environnement, qui représente :

a) s'il s'agit d'un don de fonds de terre, la juste valeur marchande du don;

b) s'il s'agit d'un don de covenant ou de servitude visant un fonds de terre, la servitude devant être une servitude réelle si le fonds de terre est situé au Québec, le plus élevé des montants suivants :

(i) la juste valeur marchande du don, déterminée par ailleurs,

(ii) le montant appliqué en réduction de la juste valeur marchande du fonds de terre par suite du don.

Titres non admissibles

(6) Les paragraphes 118.1(13) à (14) et (16) à (20) s'appliquent à une société comme si la mention « particulier » dans ces paragraphes était remplacée par « société » et comme si une action du capital-actions d'une société (sauf celle cotée à une bourse de valeurs désignée) faisait partie de ses titres non admissibles.

Cessation d'une société

(7) La société (sauf celle qui était une société remplaçante dans le cadre d'une fusion à laquelle s'applique le paragraphe 87(1) ou celle qui a fait l'objet d'une liquidation à laquelle s'applique le paragraphe 88(1)) qui, si ce n'était le présent paragraphe, serait réputée par le paragraphe 118.1(13) avoir fait un don après avoir cessé d'exister est réputée, pour l'application du présent article, avoir fait le don au cours de sa dernière année d'imposition. Toutefois, les intérêts payables en vertu d'une disposition de la présente loi sont ceux qui seraient payables si le présent paragraphe ne s'appliquait pas au don.

(8) et (9) [Abrogés, 2017, ch. 20, art. 9]

Options

(10) Sous réserve des paragraphes (12) et (13), aucune somme relative à une option qu'une société a consentie à un donataire reconnu au cours d'une année d'imposition n'est à inclure dans le calcul d'une somme prévue à l'un des alinéas (1)a) à d) relativement à la société pour une année.

Application of subsection (12)

(11) Subsection (12) applies if

(a) an option to acquire a property of a corporation is granted to a qualified donee;

(b) the option is exercised so that the property is disposed of by the corporation and acquired by the qualified donee at a particular time; and

(c) either

(i) the amount that is 80% of the fair market value of the property at the particular time is greater than or equal to the total of

(A) the consideration received by the corporation from the qualified donee for the property, and

(B) the consideration received by the corporation from the qualified donee for the option, or

(ii) the corporation establishes to the satisfaction of the Minister that the granting of the option or the disposition of the property was made by the corporation with the intention to make a gift to the qualified donee.

Granting of an option

(12) If this subsection applies, notwithstanding subsection 49(3),

(a) the corporation is deemed to have received proceeds of disposition of the property equal to the property's fair market value at the particular time; and

(b) there shall be included in the total referred to in paragraph (1)(a), for the corporation's taxation year that includes the particular time, the amount by which the property's fair market value exceeds the total described in subparagraph (11)(c)(i).

Disposition of an option

(13) If an option to acquire a particular property of a corporation is granted to a qualified donee and the option is disposed of by the qualified donee (otherwise than by the exercise of the option) at a particular time

(a) the corporation is deemed to have disposed of a property at the particular time

(i) the adjusted cost base of which to the corporation immediately before the particular time is equal to the consideration, if any, paid by the qualified donee for the option, and

Application du paragraphe (12)

(11) Le paragraphe (12) s'applique si les conditions ci-après sont réunies :

a) une option portant sur l'acquisition d'un bien d'une société est consentie à un donataire reconnu;

b) l'option est exercée de sorte que le bien fait l'objet d'une disposition par la société et d'une acquisition par le donataire reconnu à un moment donné;

c) selon le cas :

(i) la somme représentant 80 % de la juste valeur marchande du bien à ce moment est égale ou supérieure au total des sommes suivantes :

(A) la contrepartie que la société a reçue du donataire reconnu pour le bien,

(B) la contrepartie que la société a reçue du donataire reconnu pour l'option,

(ii) la société convainc le ministre qu'elle a consenti l'option ou disposé du bien avec l'intention de faire un don au donataire reconnu.

Octroi d'une option

(12) En cas d'application du présent paragraphe, les règles ci-après s'appliquent malgré le paragraphe 49(3) :

a) la société est réputée avoir reçu pour le bien un produit de disposition égal à sa juste valeur marchande au moment donné;

b) l'excédent de la juste valeur marchande du bien sur le total visé au sous-alinéa (11)c)(i) est inclus dans le total visé à l'alinéa (1)a) pour l'année d'imposition de la société qui comprend le moment donné.

Disposition d'une option

(13) Si un donataire reconnu à qui une option portant sur l'acquisition d'un bien donné d'une société a été consentie dispose de l'option à un moment donné (autrement qu'en l'exerçant), les règles ci-après s'appliquent :

a) la société est réputée avoir disposé à ce moment d'un bien :

(i) dont le prix de base rajusté pour elle, immédiatement avant ce moment, correspond à la contrepartie que le donataire reconnu a payée pour l'option,

(ii) the proceeds of disposition of which are equal to the lesser of the fair market value of the particular property at the particular time and the fair market value of any consideration (other than a non-qualifying security of any person) received by the qualified donee for the option; and

(b) there shall be included in the total referred to in paragraph (1)(a) for the corporation's taxation year that includes the particular time the amount, if any, by which the proceeds of disposition as determined by paragraph (a) exceed the consideration, if any, paid by the qualified donee for the option.

(ii) dont le produit de disposition correspond à la juste valeur marchande du bien donné à ce moment ou, si elle est moins élevée, à la juste valeur marchande de la contrepartie (sauf un titre non admissible d'une personne quelconque) que le donataire reconnu a reçue pour l'option;

b) l'excédent du produit de disposition déterminé selon l'alinéa a) sur la contrepartie que le donataire reconnu a payée pour l'option est inclus dans le total visé à l'alinéa (1)a) pour l'année d'imposition de la société qui comprend le moment donné.

Returned property

(14) Subsection (15) applies if a qualified donee has issued to a corporation a receipt referred to in subsection (2) in respect of a transfer of a property (in this subsection and subsection (15) referred to as the "original property") and a particular property that is

(a) the original property is later transferred to the corporation (unless that later transfer is reasonable consideration or remuneration for property acquired by or services rendered to a person); or

(b) any other property that may reasonably be considered compensation for or a substitute for, in whole or in part, the original property, is later transferred to the corporation.

Bien retourné

(14) Le paragraphe (15) s'applique si un donataire reconnu a délivré à une société un reçu visé au paragraphe (2) relativement au transfert d'un bien (appelé « bien initial » au présent paragraphe et au paragraphe (15)) et qu'un bien donné qui est l'un des biens ci-après est subséquemment transféré à la société :

a) le bien initial, sauf si le transfert subséquent représente une contrepartie ou rémunération raisonnable pour un bien acquis par une personne ou pour des services rendus à une personne;

b) tout autre bien qu'il est raisonnable de considérer comme étant transféré en compensation ou en remplacement de tout ou partie du bien initial.

Returned property

(15) If this subsection applies, then

(a) irrespective of whether the transfer of the original property by the corporation to the qualified donee referred to in subsection (14) was a gift, the corporation is deemed not to have disposed of the original property at the time of that transfer nor to have made a gift;

(b) if the particular property is identical to the original property, the particular property is deemed to be the original property; and

(c) if the particular property is not the original property, then

(i) the corporation is deemed to have disposed of the original property at the time that the particular property is transferred to the corporation for proceeds of disposition equal to the greater of the fair market value of the particular property at that time and the fair market value of the original property at the time that it was transferred by the corporation to the donee, and

Bien retourné

(15) En cas d'application du présent paragraphe, les règles ci-après s'appliquent :

a) que le transfert du bien initial par la société au donataire reconnu visé au paragraphe (14) ait été ou non un don, la société est réputée ne pas avoir disposé de ce bien au moment du transfert ni avoir fait un don;

b) le bien donné, s'il est identique au bien initial, est réputé être celui-ci;

c) si le bien donné n'est pas le bien initial :

(i) la société est réputée avoir disposé du bien initial au moment où le bien donné lui est transféré pour un produit de disposition égal à la juste valeur marchande du bien donné à ce moment ou, si elle est plus élevée, à la juste valeur marchande du bien initial au moment où il a été transféré par la société au donataire,

(ii) dans le cas où le transfert du bien initial par la société constituerait un don s'il n'était pas tenu compte de l'alinéa a), la société est réputée avoir

(ii) if the transfer of the original property by the corporation would be a gift if this section were read without reference to paragraph (a), the corporation is deemed to have, at the time of that transfer, transferred to the donee a property that is the subject of a gift having a fair market value equal to the amount, if any, by which the fair market value of the original property at the time of that transfer exceeds the fair market value of the particular property at the time that it is transferred to the corporation.

Information return

(16) If subsection (15) applies in respect of a transfer of property to a corporation and that property has a fair market value greater than $50, the transferor must file an information return containing prescribed information with the Minister not later than 90 days after the day on which the property was transferred and provide a copy of the return to the corporation.

Reassessment

(17) If subsection (15) applies in respect of a transfer of property to a corporation, the Minister may reassess a return of income of any person to the extent that the reassessment can reasonably be regarded as relating to the transfer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 110.1; 1994, c. 7, Sch. II, s. 79, Sch. VIII, s. 46; 1996, c. 21, s. 20; 1997, c. 25, s. 22; 1998, c. 19, s. 20; 2001, c. 17, s. 85; 2005, c. 19, s. 19; 2007, c. 35, ss. 30, 68; 2008, c. 28, s. 12; 2009, c. 2, s. 29; 2011, c. 24, s. 21; 2013, c. 33, ss. 196, 198, c. 34, s. 238; 2014, c. 20, s. 5, c. 39, s. 29; 2017, c. 20, s. 9.

transféré au donataire, au moment du transfert du bien initial, un bien qui fait l'objet d'un don dont la juste valeur marchande est égale à l'excédent de la juste valeur marchande du bien initial au moment de son transfert sur la juste valeur marchande du bien donné au moment où il est transféré à la société.

Déclaration de renseignements

(16) Si le paragraphe (15) s'applique relativement au transfert d'un bien à une société et que la juste valeur marchande de ce bien est supérieure à 50 $, le cédant est tenu de présenter au ministre, au plus tard le quatre-vingt-dixième jour suivant le transfert du bien, une déclaration de renseignements contenant les renseignements prescrits et d'en fournir une copie à la société.

Nouvelle cotisation

(17) En cas d'application du paragraphe (15) relativement au transfert d'un bien à une société, le ministre peut établir une nouvelle cotisation à l'égard de la déclaration de revenu d'une personne dans la mesure où il est raisonnable de considérer qu'elle a trait au transfert.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 110.1; 1994, ch. 7, ann. II, art. 79, ann. VIII, art. 46; 1996, ch. 21, art. 20; 1997, ch. 25, art. 22; 1998, ch. 19, art. 20; 2001, ch. 17, art. 85; 2005, ch. 19, art. 19; 2007, ch. 35, art. 30 et 68; 2008, ch. 28, art. 12; 2009, ch. 2, art. 29; 2011, ch. 24, art. 21; 2013, ch. 33, art. 196 et 198, ch. 34, art. 238; 2014, ch. 20, art. 5, ch. 39, art. 29; 2017, ch. 20, art. 9.

Lump-sum Payments

Definitions

110.2 (1) The definitions in this subsection apply in this section and section 120.31.

eligible taxation year, in respect of a qualifying amount received by an individual, means a taxation year

(a) that ended after 1977 and before the year in which the individual received the qualifying amount;

(b) throughout which the individual was resident in Canada;

(c) that did not end in a calendar year in which the individual became a bankrupt; and

(d) that was not included in an averaging period, within the meaning assigned by section 119 (as it read in its application to the 1987 taxation year), pursuant to an election that was made and not revoked by the

Paiements forfaitaires

Définitions

110.2 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 120.31.

année d'imposition admissible Quant à un montant admissible reçu par un particulier, l'année d'imposition qui remplit les conditions suivantes :

a) elle s'est terminée après 1977 et avant l'année au cours de laquelle le particulier a reçu le montant admissible;

b) il s'agit d'une année tout au long de laquelle le particulier a résidé au Canada;

c) elle ne s'est pas terminée dans une année civile au cours de laquelle le particulier a fait faillite;

d) elle ne fait pas partie d'une période d'établissement de la moyenne, au sens de l'article 119 en son état applicable à l'année d'imposition 1987, conformément à

individual under that section. (*année d'imposition admissible*)

qualifying amount received by an individual in a taxation year means an amount (other than the portion of the amount that can reasonably be considered to be received as, on account of, in lieu of payment of or in satisfaction of, interest) that is included in computing the individual's income for the year and is

(a) an amount

(i) that is received pursuant to an order or judgment of a competent tribunal, an arbitration award or a contract by which the payor and the individual terminate a legal proceeding, and

(ii) that is

(A) included in computing the individual's income from an office or employment, or

(B) received as, on account of, in lieu of payment of or in satisfaction of, damages in respect of the individual's loss of an office or employment,

(b) a superannuation or pension benefit (other than a benefit referred to in clause 56(1)(a)(i)(B)) received on account of, in lieu of payment of or in satisfaction of, a series of periodic payments (other than payments that would have otherwise been made in the year or in a subsequent taxation year),

(c) an amount described in paragraph 6(1)(f) or (f.1), subparagraph 56(1)(a)(iv) or paragraph 56(1)(b), or

(d) a prescribed amount or benefit,except to the extent that the individual may deduct for the year an amount under paragraph 8(1)(b), (n) or (n.1), 60(n) or (o.1) or 110(1)(f) in respect of the amount so included. (*montant admissible*)

specified portion, in relation to an eligible taxation year, of a qualifying amount received by an individual means the portion of the qualifying amount that relates to the year, to the extent that the individual's eligibility to receive the portion existed in the year. (*partie déterminée*)

Deduction for lump-sum payments

(2) There may be deducted in computing the taxable income of an individual (other than a trust) for a particular taxation year the total of all amounts each of which is a specified portion of a qualifying amount received by the individual in the particular year, if that total is $3,000 or more.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 17; 2013, c. 34, s. 239.

un choix fait par le particulier en vertu de cet article mais non révoqué. (*eligible taxation year*)

montant admissible Montant reçu par un particulier au cours d'une année d'imposition (sauf la partie du montant qu'il est raisonnable de considérer comme étant reçue à titre ou en paiement intégral ou partiel d'intérêts) qui est inclus dans le calcul de son revenu pour l'année et qui représente l'un des montants suivants, sauf dans la mesure où le particulier peut déduire pour l'année, en application des alinéas 8(1)b), n) ou n.1), 60n) ou o.1) ou 110(1)f), un montant relatif au montant ainsi inclus :

a) un montant qui, à la fois :

(i) est reçu en exécution d'une ordonnance ou d'un jugement d'un tribunal compétent, d'une sentence arbitrale ou d'un contrat par lequel le payeur et le particulier mettent fin à une procédure judiciaire,

(ii) est :

(A) soit inclus dans le calcul du revenu du particulier tiré d'une charge ou d'un emploi,

(B) soit reçu à titre ou en règlement total ou partiel de dommages-intérêts pour la perte d'une charge ou d'un emploi du particulier;

b) une prestation de retraite ou de pension (sauf une prestation visée à la division 56(1)a)(i)(B)) reçue au titre ou en paiement intégral ou partiel d'une série de paiements périodiques (à l'exclusion de paiements qui auraient autrement été effectués au cours de l'année ou d'une année d'imposition postérieure);

c) un montant visé aux alinéas 6(1)f) ou f.1), au sous-alinéa 56(1)a)(iv) ou à l'alinéa 56(1)b);

d) un montant ou une prestation visés par règlement. (*qualifying amount*)

partie déterminée Quant à une année d'imposition admissible, la partie d'un montant admissible reçu par un particulier qui se rapporte à l'année, dans la mesure où le particulier était en droit, au cours de l'année, de la recevoir. (*specified portion*)

Déduction pour paiements forfaitaires

(2) Peut être déduit dans le calcul du revenu imposable d'un particulier (sauf une fiducie) pour une année d'imposition le total des montants représentant chacun la partie déterminée d'un montant admissible qu'il a reçu au cours de l'année, si ce total s'établit à 3 000 $ ou plus.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 17; 2013, ch. 34, art. 239.

110.4 [Repealed, 2000, c. 19, s. 18]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 110.4; 1994, c. 7, Sch. II, s. 80; 2000, c. 19, s. 18.

110.4 [Abrogé, 2000, ch. 19, art. 18]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 110.4; 1994, ch. 7, ann. II, art. 80; 2000, ch. 19, art. 18.

Additions for foreign tax deductions

110.5 There shall be added to a corporation's taxable income otherwise determined for a taxation year such amount as the corporation may claim to the extent that the addition thereof

(a) increases any amount deductible by the corporation under subsection 126(1) or (2) for the year; and

(b) does not increase an amount deductible by the corporation under any of sections 125, 125.1, 127, 127.2 and 127.3 for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1985, c. 45, s. 56.

Ajout concernant la déduction pour impôt étranger

110.5 Doit être ajouté au revenu imposable d'une société, par ailleurs déterminé pour une année d'imposition, le montant que la société demande dans la mesure où cet ajout :

a) d'une part, majore tout montant déductible par la société en vertu du paragraphe 126(1) ou (2) pour l'année;

b) d'autre part, ne majore pas un montant déductible par la société en vertu d'un des articles 125, 125.1, 127, 127.2 et 127.3 pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1985, ch. 45, art. 56.

Definitions

110.6 (1) For the purposes of this section,

annual gains limit of an individual for a taxation year means the amount determined by the formula

A - B

where

A is the lesser of

(a) the amount determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses, and

(b) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and losses if the only properties referred to in that paragraph were properties that, at the time they were disposed of, were qualified farm properties, qualified fishing properties, qualified farm or fishing properties and qualified small business corporation shares, and

B is the total of

(a) the amount, if any, by which

(i) the individual's net capital losses for other taxation years deducted under paragraph 111(1)(b) in computing the individual's taxable income for the year

exceeds

(ii) the amount, if any, by which the amount determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses exceeds the amount

Définitions

110.6 (1) Les définitions qui suivent s'appliquent au présent article.

action admissible de petite entreprise S'agissant d'une action admissible de petite entreprise d'un particulier (à l'exception d'une fiducie qui n'est pas une fiducie personnelle) à un moment donné, action du capital-actions d'une société qui, à la fois :

a) au moment donné, est une action du capital-actions d'une société exploitant une petite entreprise, action dont le particulier, son époux ou conjoint de fait ou une société de personnes liée au particulier est propriétaire;

b) tout au long de la période de 24 mois qui précède le moment donné, n'est la propriété de nul autre que le particulier ou une personne ou société de personnes qui lui est liée;

c) tout au long de la partie de la période de 24 mois qui précède le moment donné, où l'action est la propriété du particulier ou d'une personne ou société de personnes qui lui est liée, est une action du capital-actions d'une société privée sous contrôle canadien et dont plus de 50 % de la juste valeur marchande de l'actif est attribuable à des éléments visés aux sous-alinéas (i) ou (ii):

(i) des éléments utilisés principalement dans une entreprise que la société ou une société qui lui est liée exploite activement, principalement au Canada,

(ii) des actions du capital-actions ou des dettes d'une ou plusieurs autres sociétés rattachées à la

determined for A in respect of the individual for the year, and

(b) all of the individual's allowable business investment losses for the year; (*plafond annuel des gains*)

child has the meaning assigned by subsection 70(10); (*enfant*)

cumulative gains limit of an individual at the end of a taxation year means the amount, if any, by which

(a) the total of all amounts determined in respect of the individual for the year or preceding taxation years that end after 1984 for A in the definition ***annual gains limit***

exceeds the total of

(b) all amounts determined in respect of the individual for the year or preceding taxation years that end after 1984 for B in the definition ***annual gains limit***,

(c) the amount, if any, deducted under paragraph 3(e) in computing the individual's income for the 1985 taxation year,

(d) all amounts deducted under this section in computing the individual's taxable incomes for preceding taxation years, and

(e) the individual's cumulative net investment loss at the end of the year; (*plafond des gains cumulatifs*)

cumulative net investment loss of an individual at the end of a taxation year means the amount, if any, by which

(a) the total of all amounts each of which is the investment expense of the individual for the year or a preceding taxation year ending after 1987

exceeds

(b) the total of all amounts each of which is the investment income of the individual for the year or a preceding taxation year ending after 1987; (*perte nette cumulative sur placements*)

eligible real property gain [Repealed, 1995, c. 3, s. 32]

eligible real property loss [Repealed, 1995, c. 3, s. 32]

interest in a family farm or fishing partnership, of an individual (other than a trust that is not a personal trust)

société — au sens du paragraphe 186(4), selon l'hypothèse que chacune de ces autres sociétés est une société payante au sens du même paragraphe — dans le cas où, à la fois :

(A) tout au long de la partie de la période de 24 mois qui précède le moment donné se terminant au moment où la société a acquis ces actions ou ces dettes, nul autre que la société, qu'une personne ou société de personnes qui lui est liée ou qu'une personne ou société de personnes liée à une telle personne ou société de personnes n'en est propriétaire,

(B) tout au long de la partie de la période de 24 mois qui précède le moment donné, où ces actions ou ces dettes sont la propriété de la société, d'une personne ou société de personnes qui lui est liée ou d'une personne ou société de personnes liée à une telle personne ou société de personnes, il s'agit d'actions ou de dettes de sociétés privées sous contrôle canadien et dont plus de 50 % de la juste valeur marchande de l'actif est attribuable à des éléments visés au sous-alinéa (i) ou au présent sous-alinéa.

Toutefois :

d) dans le cas où, pour une période donnée comprise dans la période de 24 mois se terminant au moment donné, la totalité, ou presque, de la juste valeur marchande de l'actif d'une société donnée qui est la société ou une autre société rattachée à celle-ci n'est attribuable ni à des éléments visés au sous-alinéa c)(i), ni à des actions ou dettes de sociétés visées à la division c)(ii)(B), ni à une combinaison de tels éléments, actions ou dettes, le passage « plus de 50 % », à cette division, est remplacé, pour cette période donnée, par le passage « la totalité, ou presque, » quant à chacune des autres sociétés rattachées à la société donnée; pour l'application du présent alinéa, une corporation n'est rattachée à une autre que si, à la fois :

(i) elle y est rattachée, au sens du paragraphe 186(4), selon l'hypothèse qu'elle est une société payante au sens du même paragraphe,

(ii) l'autre société est propriétaire d'actions du capital-actions de la société et est réputée, pour l'application du présent sous-alinéa, propriétaire des actions du capital-actions d'une société quelconque qui sont la propriété d'une société dont les actions du capital-actions sont la propriété de l'autre société ou sont réputées l'être en application du présent sous-alinéa;

at any time, means a partnership interest owned by the individual at that time if

(a) throughout any 24-month period ending before that time, more than 50% of the fair market value of the property of the partnership was attributable to

(i) property that was used principally in the course of carrying on a farming or fishing business in Canada in which the individual, a beneficiary referred to in clause (C) or a spouse, common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C) was actively engaged on a regular and continuous basis, by

(A) the partnership,

(B) the individual,

(C) if the individual is a personal trust, a beneficiary of the trust,

(D) a spouse, common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C),

(E) a corporation, a share of the capital stock of which was a share of the capital stock of a family farm or fishing corporation of the individual, a beneficiary referred to in clause (C) or a spouse, common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C), or

(F) a partnership, a partnership interest in which was an interest in a family farm or fishing partnership of the individual, a beneficiary referred to in clause (C) or a spouse, common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C),

(ii) shares of the capital stock or indebtedness of one or more corporations of which all or substantially all of the fair market value of the property was attributable to properties described in subparagraph (iv),

(iii) a partnership interest in or indebtedness of one or more partnerships of which all or substantially all of the fair market value of the property was attributable to properties described in subparagraph (iv), or

(iv) properties described in any of subparagraphs (i) to (iii), and

e) l'action qui, au cours de la période de 24 mois se terminant au moment donné, remplace une autre action n'est censée remplir les conditions de la présente définition que si l'autre action, à la fois :

(i) n'est la propriété de nul autre qu'une personne ou société de personnes visée à l'alinéa b) tout au long de la période commençant 24 mois avant le moment donné et se terminant au moment du remplacement,

(ii) est une action du capital-actions d'une société visée à l'alinéa c) tout au long de la partie de la période visée au sous-alinéa (i) au cours de laquelle une telle action est la propriété d'une personne ou société de personnes visée à l'alinéa b);

f) l'action visée au sous-alinéa c)(ii) qui, au cours de la période de 24 mois se terminant au moment donné, remplace une autre action n'est censée remplir les conditions de ce sous-alinéa que si l'autre action, à la fois :

(i) n'est la propriété de nul autre qu'une personne ou société de personnes visée à la division c)(ii)(A) tout au long de la période commençant 24 mois avant le moment donné et se terminant au moment du remplacement,

(ii) est une action du capital-actions d'une société visée à l'alinéa c) tout au long de la partie de la période visée au sous-alinéa (i) au cours de laquelle une telle action est la propriété d'une personne ou société de personnes visée à la division c)(ii)(A). (*qualified small business corporation share*)

action du capital-actions d'une société agricole familiale [Abrogée, 2014, ch. 39, art. 30]

action du capital-actions d'une société agricole ou de pêche familiale Est une action du capital-actions d'une société agricole ou de pêche familiale d'un particulier, sauf une fiducie qui n'est pas une fiducie personnelle, à un moment donné l'action du capital-actions d'une société dont le particulier est propriétaire à ce moment et à l'égard de laquelle les faits ci-après s'avèrent :

a) tout au long de toute période de 24 mois se terminant avant ce moment, plus de 50 % de la juste valeur marchande des biens dont la société est propriétaire est attribuable aux biens suivants :

(i) des biens qui ont été utilisés par l'une des personnes ou sociétés de personnes ci-après, principalement dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada dans laquelle le particulier, un bénéficiaire visé à la division (C)

(b) at that time, all or substantially all of the fair market value of the property of the partnership was attributable to property described in subparagraph (a)(iv); (*participation dans une société de personnes agricole ou de pêche familiale*)

interest in a family farm partnership [Repealed, 2014, c. 39, s. 30]

interest in a family fishing partnership [Repealed, 2014, c. 39, s. 30]

investment expense of an individual for a taxation year means the total of

(a) all amounts deducted in computing the individual's income for the year from property (except to the extent that the amounts were otherwise taken into account in computing the individual's investment expense or investment income for the year) other than any amounts deducted under

(i) paragraph 20(1)(c), 20(1)(d), 20(1)(e) or 20(1)(e.1) of this Act or paragraph 20(1)(k) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in respect of borrowed money that was used by the individual, or that was used to acquire property that was used by the individual,

(A) to make a payment as consideration for an income-averaging annuity contract,

(B) to pay a premium under a registered retirement savings plan, or

(C) to make a contribution to a pooled registered pension plan, registered pension plan or deferred profit sharing plan, or

(ii) paragraph 20(1)(j) or subsection 65(1), 66(4), 66.1(3), 66.2(2), 66.21(4) or 66.4(2),

(b) the total of

(i) all amounts deducted under paragraph 20(1)(c), 20(1)(d), 20(1)(e), 20(1)(e.1), 20(1)(f) or 20(1)(bb) of this Act or paragraph 20(1)(k) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952 in computing the individual's income for the year from a partnership of which the individual was a specified member in the fiscal period of the partnership ending in the year, and

(ii) all amounts deducted under subparagraph 20(1)(e)(vi) in computing the individual's income for the year in respect of an expense incurred by a partnership of which the individual was a specified

ou l'époux ou le conjoint de fait, l'enfant, le père ou la mère du particulier ou d'un tel bénéficiaire prenait une part active de façon régulière et continue :

(A) la société,

(B) le particulier,

(C) si le particulier est une fiducie personnelle, un bénéficiaire de celle-ci,

(D) l'époux ou le conjoint de fait, l'enfant, le père ou la mère du particulier ou d'un bénéficiaire visé à la division (C),

(E) une autre société qui est liée à la société en cause et dont une action du capital-actions est une action du capital-actions d'une société agricole ou de pêche familiale du particulier, d'un bénéficiaire visé à la division (C) ou de l'époux ou du conjoint de fait, de l'enfant, du père ou de la mère du particulier ou d'un tel bénéficiaire,

(F) une société de personnes dont une participation est une participation dans une société de personnes agricole ou de pêche familiale du particulier, d'un bénéficiaire visé à la division (C) ou de l'époux ou du conjoint de fait, de l'enfant, du père ou de la mère du particulier ou d'un tel bénéficiaire,

(ii) des actions du capital-actions, ou des dettes, d'une ou de plusieurs sociétés dont la totalité ou la presque totalité de la juste valeur marchande des biens est attribuable à des biens visés au sous-alinéa (iv),

(iii) des participations dans une ou plusieurs sociétés de personnes, ou des dettes d'une ou de plusieurs sociétés de personnes, dont la totalité ou la presque totalité de la juste valeur marchande des biens est attribuable à des biens visés au sous-alinéa (iv),

(iv) des biens visés à l'un des sous-alinéas (i) à (iii);

b) à ce moment, la totalité ou la presque totalité de la juste valeur marchande des biens de la société de personnes est attribuable à des biens visés au sous-alinéa a)(iv). (*share of the capital stock of a family farm or fishing corporation*)

action du capital-actions d'une société de pêche familiale [Abrogée, 2014, ch. 39, art. 30]

bien agricole admissible [Abrogée, 2014, ch. 39, art. 30]

member in the fiscal period of the partnership ending immediately before it ceased to exist,

(c) the total of

(i) all amounts (other than allowable capital losses) deducted in computing the individual's income for the year in respect of the individual's share of the amount of any loss of a partnership of which the individual was a specified member in the partnership's fiscal period ending in the year, and

(ii) all amounts each of which is an amount deducted under paragraph 111(1)(e) in computing the individual's taxable income for the year,

(d) 50% of the total of all amounts each of which is an amount deducted under subsection 66(4), 66.1(3), 66.2(2), 66.21(4) or 66.4(2) in computing the individual's income for the year in respect of expenses

(i) incurred and renounced under subsection 66(12.6), (12.601), (12.62) or (12.64) by a corporation, or

(ii) incurred by a partnership of which the individual was a specified member in the fiscal period of the partnership in which the expense was incurred, and

(e) the total of all amounts each of which is the amount of the individual's loss for the year from

(i) property, or

(ii) renting or leasing a rental property (within the meaning assigned by subsection 1100(14) of the *Income Tax Regulations*) or a property described in Class 31 or 32 of Schedule II to the *Income Tax Regulations*

owned by the individual or by a partnership of which the individual was a member, other than a partnership of which the individual was a specified member in the partnership's fiscal period ending in the year, and

(f) the amount, if any, by which the total of the individual's net capital losses for other taxation years deducted under paragraph 111(1)(b) in computing the individual's taxable income for the year exceeds the amount determined in respect of the individual for the year under paragraph (a) of the description of B in the definition ***annual gains limit***; (*frais de placement*)

investment income of an individual for a taxation year means the total of

bien agricole ou de pêche admissible Est un bien agricole ou de pêche admissible d'un particulier, sauf une fiducie qui n'est pas une fiducie personnelle, à un moment donné tout bien ci-après qui, à ce moment, appartient au particulier, à son époux ou conjoint de fait ou à une société de personnes dont une participation est une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait :

a) un bien réel ou immeuble ou un navire de pêche qui a été utilisé dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada par l'une des personnes ou sociétés de personnes suivantes :

(i) le particulier,

(ii) si le particulier est une fiducie personnelle, un bénéficiaire de celle-ci qui a le droit de recevoir tout ou partie du revenu ou du capital de la fiducie directement de celle-ci,

(iii) l'époux ou le conjoint de fait, l'enfant, le père ou la mère d'une personne visée aux sous-alinéas (i) ou (ii),

(iv) une société dont une action du capital-actions est une action du capital-actions d'une société agricole ou de pêche familiale d'un particulier visé à l'un des sous-alinéas (i) à (iii),

(v) une société de personnes dont une participation est une participation dans une société de personnes agricole ou de pêche familiale d'un particulier visé à l'un des sous-alinéas (i) à (iii);

b) une action du capital-actions d'une société agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait;

c) une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait;

d) un bien compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* qui a été utilisé par une personne ou une société de personnes visée à l'un des sous-alinéas a)(i) à (v), ou par une fiducie personnelle dont le particulier a acquis le bien, dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada. (*qualified farm or fishing property*)

bien de pêche admissible [Abrogée, 2014, ch. 39, art. 30]

enfant S'entend au sens du paragraphe 70(10). (*child*)

(a) all amounts included in computing the individual's income for the year from property (other than an amount included under subsection 15(2) or paragraph 56(1)(d) of this Act or paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada 1952), including, for greater certainty, any amount so included under subsection 13(1) in respect of a property any income from which would be income from property (except to the extent that the amount was otherwise taken into account in computing the individual's investment income or investment expense for the year),

(b) all amounts (other than taxable capital gains) included in computing the individual's income for the year in respect of the individual's share of the income of a partnership of which the individual was a specified member in the partnership's fiscal period ending in the year, including, for greater certainty, the individual's share of all amounts included under subsection 13(1) in computing the income of the partnership,

(c) 50% of all amounts included under subsection 59(3.2) in computing the individual's income for the year,

(d) all amounts each of which is the amount of the individual's income for the year from

(i) a property, or

(ii) renting or leasing a rental property (within the meaning assigned by subsection 1100(14) of the *Income Tax Regulations*) or a property described in Class 31 or 32 of Schedule II to the *Income Tax Regulations*

owned by the individual or by a partnership of which the individual was a member (other than a partnership of which the individual was a specified member in the partnership's fiscal period ending in the year), including, for greater certainty, any amount included under subsection 13(1) in computing the individual's income for the year in respect of a rental property of the individual or the partnership or in respect of a property any income from which would be income from property,

(e) the amount, if any, by which

(i) the total of all amounts (other than amounts in respect of income-averaging annuity contracts or annuity contracts purchased under deferred profit sharing plans or plans referred to in subsection 147(15) as revoked plans) included under paragraph 56(1)(d) of this Act or paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised

frais de placement Le total des montants suivants applicable à un particulier pour une année d'imposition :

a) le total des montants déduits dans le calcul du revenu du particulier pour l'année tiré de biens (sauf dans la mesure où ces montants entrent par ailleurs dans le calcul de ses frais de placement ou de son revenu de placements pour l'année), à l'exception de ceux déduits, selon le cas :

(i) en application des alinéas 20(1)c), d), e) ou e.1) de la présente loi ou de l'alinéa 20(1)k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, relativement à de l'argent emprunté et que le particulier a soit utilisé à l'une des fins suivantes, soit utilisé pour acquérir des biens qu'il a utilisés à ces fins :

(A) faire un paiement en contrepartie d'un contrat de rente à versements invariables,

(B) verser une prime dans le cadre d'un régime enregistré d'épargne-retraite,

(C) cotiser à un régime de pension agréé, à un régime de pension agréé collectif ou à un régime de participation différée aux bénéfices,

(ii) en application de l'alinéa 20(1)j) ou des paragraphes 65(1), 66(4), 66.1(3), 66.2(2), 66.21(4) ou 66.4(2);

b) le total des montants suivants :

(i) les montants déduits en application des alinéas 20(1)c), d), e), e.1), f) ou bb) de la présente loi ou de l'alinéa 20(1)k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul du revenu du particulier pour l'année provenant d'une société de personnes dont il est un associé déterminé au cours de l'exercice de la société de personnes se terminant pendant l'année,

(ii) les montants déduits en application du sous-alinéa 20(1)e)(vi) dans le calcul du revenu du particulier pour l'année au titre des frais engagés par une société de personnes dont le particulier est un associé déterminé au cours de l'exercice de la société de personnes se terminant immédiatement avant qu'elle ait cessé d'exister;

c) le total des montants suivants :

(i) les montants (sauf les pertes en capital déductibles) déduits dans le calcul du revenu du particulier pour l'année comme sa part sur les pertes subies par une société de personnes dont il est un

Statutes of Canada, 1952, in computing the individual's income for the year

exceeds

(ii) the total of all amounts deducted under paragraph 60(a) in computing the individual's income for the year, and

(f) the amount, if any, by which the total of all amounts included under paragraph 3(b) in respect of capital gains and capital losses in computing the individual's income for the year exceeds the amount determined in respect of the individual for the year for A in the definition ***annual gains limit***; (*revenu de placements*)

non-qualifying real property [Repealed, 1995, c. 3, s. 32]

qualified farm or fishing property, of an individual (other than a trust that is not a personal trust) at any time, means a property that is owned at that time by the individual, the spouse or common-law partner of the individual or a partnership, an interest in which is an interest in a family farm or fishing partnership of the individual or the individual's spouse or common-law partner and that is

(a) real or immovable property or a fishing vessel that was used in the course of carrying on a farming or fishing business in Canada by,

(i) the individual,

(ii) if the individual is a personal trust, a beneficiary of the trust that is entitled to receive directly from the trust any income or capital of the trust,

(iii) a spouse, common-law partner, child or parent of an individual referred to in subparagraph (i) or (ii),

(iv) a corporation, a share of the capital stock of which is a share of the capital stock of a family farm or fishing corporation of an individual referred to in any of subparagraphs (i) to (iii), or

(v) a partnership, an interest in which is an interest in a family farm or fishing partnership of an individual referred to in any of subparagraphs (i) to (iii),

(b) a share of the capital stock of a family farm or fishing corporation of the individual or the individual's spouse or common-law partner,

associé déterminé au cours de l'exercice de celle-ci se terminant pendant l'année,

(ii) les montants déduits en application de l'alinéa 111(1)e) dans le calcul du revenu imposable du particulier pour l'année;

d) 50 % du total des montants déduits en application des paragraphes 66(4), 66.1(3), 66.2(2), 66.21(4) ou 66.4(2), dans le calcul du revenu du particulier pour l'année, au titre :

(i) soit des frais qu'une société a engagés et auxquels elle a renoncé en application des paragraphes 66(12.6), (12.601), (12.62) ou (12.64),

(ii) soit des frais engagés par une société de personnes dont le particulier était un associé déterminé au cours de l'exercice de celle-ci pendant lequel les frais ont été engagés;

e) le total des pertes subies par le particulier pour l'année résultant de biens ou de la location de biens locatifs — au sens du paragraphe 1100(14) du *Règlement de l'impôt su le revenu* — ou de biens visés aux catégories 31 ou 32 de l'annexe II du même règlement, appartenant au particulier ou à une société de personnes dont il est un associé, à l'exclusion d'une société de personnes dont il est un associé déterminé au cours de l'exercice de la société de personnes se terminant pendant l'année;

f) l'excédent éventuel du total des pertes en capital nettes du particulier pour d'autres années d'imposition, déduites en application de l'alinéa 111(1)b) dans le calcul de son revenu imposable pour l'année, sur l'excédent calculé quant à lui pour l'année selon l'alinéa a) de l'élément B de la formule figurant à la définition de ***plafond annuel des gains***. (*investment expense*)

gain admissible sur immeuble [Abrogée, 1995, ch. 3, art. 32]

immeuble non admissible [Abrogée, 1995, ch. 3, art. 32]

participation dans une société de personnes agricole familiale [Abrogée, 2014, ch. 39, art. 30]

participation dans une société de personnes agricole ou de pêche familiale Est une participation dans une société de personnes agricole ou de pêche familiale d'un particulier, sauf une fiducie qui n'est pas une fiducie personnelle, à un moment donné la participation dans une société dont le particulier est propriétaire à ce moment et à l'égard de laquelle les faits ci-après s'avèrent :

(c) an interest in a family farm or fishing partnership of the individual or the individual's spouse or common-law partner, or

(d) a property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, used by a person or partnership referred to in any of subparagraphs (a)(i) to (v), or by a personal trust from which the individual acquired the property, in the course of carrying on a farming or fishing business in Canada; (*bien agricole ou de pêche admissible*)

qualified farm property [Repealed, 2014, c. 39, s. 30]

qualified fishing property [Repealed, 2014, c. 39, s. 30]

qualified small business corporation share of an individual (other than a trust that is not a personal trust) at any time (in this definition referred to as the "determination time") means a share of the capital stock of a corporation that,

(a) at the determination time, is a share of the capital stock of a small business corporation owned by the individual, the individual's spouse or common-law partner or a partnership related to the individual,

(b) throughout the 24 months immediately preceding the determination time, was not owned by anyone other than the individual or a person or partnership related to the individual, and

(c) throughout that part of the 24 months immediately preceding the determination time while it was owned by the individual or a person or partnership related to the individual, was a share of the capital stock of a Canadian-controlled private corporation more than 50% of the fair market value of the assets of which was attributable to

(i) assets used principally in an active business carried on primarily in Canada by the corporation or by a corporation related to it,

(ii) shares of the capital stock or indebtedness of one or more other corporations that were connected (within the meaning of subsection 186(4) on the assumption that each of the other corporations was a ***payer corporation*** within the meaning of that subsection) with the corporation where

(A) throughout that part of the 24 months immediately preceding the determination time that ends at the time the corporation acquired such a share or indebtedness, the share or indebtedness was not owned by anyone other than the corporation, a person or partnership related to the

a) tout au long d'une période de 24 mois se terminant avant ce moment, plus de 50 % de la juste valeur marchande des biens de la société de personnes est attribuable aux biens suivants :

(i) des biens qui ont été utilisés par l'une des personnes ou sociétés de personnes ci-après, principalement dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada dans laquelle le particulier, un bénéficiaire visé à la division (C) ou l'époux ou le conjoint de fait, l'enfant, le père ou la mère du particulier ou d'un tel bénéficiaire prenait une part active de façon régulière et continue :

(A) la société de personnes,

(B) le particulier,

(C) si le particulier est une fiducie personnelle, un bénéficiaire de celle-ci,

(D) l'époux ou le conjoint de fait, l'enfant, le père ou la mère du particulier ou d'un bénéficiaire visé à la division (C),

(E) une société dont une action du capital-actions est une action du capital-actions d'une société agricole ou de pêche familiale du particulier, d'un bénéficiaire visé à la division (C) ou de l'époux ou du conjoint de fait, de l'enfant, du père ou de la mère du particulier ou d'un tel bénéficiaire,

(F) une société de personnes dont une participation est une participation dans une société de personnes agricole ou de pêche familiale du particulier, d'un bénéficiaire visé à la division (C) ou de l'époux ou du conjoint de fait, de l'enfant, du père ou de la mère du particulier ou d'un tel bénéficiaire,

(ii) des actions du capital-actions, ou des dettes, d'une ou de plusieurs sociétés dont la totalité ou la presque totalité de la juste valeur marchande des biens est attribuable à des biens visés au sous-alinéa (iv),

(iii) des participations dans une ou plusieurs sociétés de personnes, ou des dettes d'une ou de plusieurs sociétés de personnes, dont la totalité ou la presque totalité de la juste valeur marchande des biens est attribuable à des biens visés au sous-alinéa (iv),

(iv) des biens visés à l'un des sous-alinéas (i) à (iii);

corporation or a person or partnership related to such a person or partnership, and

(B) throughout that part of the 24 months immediately preceding the determination time while such a share or indebtedness was owned by the corporation, a person or partnership related to the corporation or a person or partnership related to such a person or partnership, it was a share or indebtedness of a Canadian-controlled private corporation more than 50% of the fair market value of the assets of which was attributable to assets described in subparagraph (iii), or

(iii) assets described in either of subparagraph (i) or (ii)

except that

(d) where, for any particular period of time in the 24-month period ending at the determination time, all or substantially all of the fair market value of the assets of a particular corporation that is the corporation or another corporation that was connected with the corporation cannot be attributed to assets described in subparagraph (i), shares or indebtedness of corporations described in clause (B), or any combination thereof, the reference in clause (B) to "more than 50%" shall, for the particular period of time, be read as a reference to "all or substantially all" in respect of each other corporation that was connected with the particular corporation and, for the purpose of this paragraph, a corporation is connected with another corporation only where

(i) the corporation is connected (within the meaning of subsection 186(4) on the assumption that the corporation was a ***payer corporation*** within the meaning of that subsection) with the other corporation, and

(ii) the other corporation owns shares of the capital stock of the corporation and, for the purpose of this subparagraph, the other corporation shall be deemed to own the shares of the capital stock of any corporation that are owned by a corporation any shares of the capital stock of which are owned or are deemed by this subparagraph to be owned by the other corporation,

(e) where, at any time in the 24-month period ending at the determination time, the share was substituted for another share, the share shall be considered to have met the requirements of this definition only where the other share

b) à ce moment, la totalité ou la presque totalité de la juste valeur marchande des biens de la société de personnes est attribuable à des biens visés au sous-alinéa a)(iv). (*interest in a family farm or fishing partnership*)

participation dans une société de personnes de pêche familiale [Abrogée, 2014, ch. 39, art. 30]

perte admissible sur immeuble [Abrogée, 1995, ch. 3, art. 32]

perte nette cumulative sur placements L'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) applicable à un particulier à la fin d'une année d'imposition :

a) le total des montants dont chacun représente les frais de placement du particulier pour l'année ou pour une année d'imposition antérieure se terminant après 1987;

b) le total des montants dont chacun représente le revenu de placements du particulier pour l'année ou pour une année d'imposition antérieure se terminant après 1987. (*cumulative net investment loss*)

plafond annuel des gains Limite permise à un particulier pour une année d'imposition, correspondant au résultat du calcul suivant :

A - B

où :

A représente le moins élevé des montants suivants :

a) l'excédent calculé quant au particulier pour l'année en application de l'alinéa 3b) en ce qui concerne les gains en capital et les pertes en capital;

b) l'excédent qui serait calculé selon l'alinéa 3b) à l'égard du particulier pour l'année au titre des gains en capital et des pertes en capital si les seuls biens visés à cet alinéa étaient des biens qui, au moment où il en a été disposé, étaient des biens agricoles admissibles, des biens de pêche admissibles, ou des biens agricoles ou de pêche admissibles et des actions admissibles de petite entreprise;

B le total des montants suivants :

a) l'excédent éventuel du montant visé au sous-alinéa(i) sur le montant visé au sous-alinéa (ii):

(i) les pertes en capital nettes du particulier pour d'autres années d'imposition, déduites en

(i) was not owned by any person or partnership other than a person or partnership described in paragraph (b) throughout the period beginning 24 months before the determination time and ending at the time of substitution, and

(ii) was a share of the capital stock of a corporation described in paragraph (c) throughout that part of the period referred to in subparagraph (i) during which such share was owned by a person or partnership described in paragraph (b), and

(f) where, at any time in the 24-month period ending at the determination time, a share referred to in subparagraph (ii) is substituted for another share, that share shall be considered to meet the requirements of subparagraph (ii) only where the other share

(i) was not owned by any person or partnership other than a person or partnership described in clause (A) throughout the period beginning 24 months before the determination time and ending at the time of substitution, and

(ii) was a share of the capital stock of a corporation described in paragraph (c) throughout that part of the period referred to in subparagraph (i) during which the share was owned by a person or partnership described in clause (A); (*action admissible de petite entreprise*)

share of the capital stock of a family farm corporation [Repealed, 2014, c. 39, s. 30]

share of the capital stock of a family farm or fishing corporation, of an individual (other than a trust that is not a personal trust) at any time, means a share of the capital stock of a corporation owned by the individual at that time if

(a) throughout any 24-month period ending before that time, more than 50% of the fair market value of the property owned by the corporation was attributable to

(i) property that was used principally in the course of carrying on a farming or fishing business in Canada in which the individual, a beneficiary referred to in clause (C) or a spouse or common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C), was actively engaged on a regular and continuous basis, by

(A) the corporation,

(B) the individual,

application de l'alinéa 111(1)b) dans le calcul de son revenu imposable pour l'année,

(ii) la fraction de l'excédent calculé quant au particulier pour l'année en application de l'alinéa 3b) en ce qui concerne les gains en capital et les pertes en capital qui dépasse éventuellement le montant déterminé selon l'élément A quant au particulier pour l'année;

b) le total des pertes déductibles au titre de placements d'entreprise du particulier pour l'année. (*annual gains limit*)

plafond des gains cumulatifs Limite permise à un particulier à la fin d'une année d'imposition, correspondant à l'excédent éventuel :

a) du total des montants calculés selon l'élément A de la formule figurant à la définition de ***plafond annuel des gains***, quant au particulier pour l'année ou pour les années d'imposition antérieures qui se terminent après 1984;

sur le total des montants suivants :

b) le total des montants calculés selon l'élément B de la formule figurant à la définition de ***plafond annuel des gains***, quant au particulier pour l'année ou pour les années d'imposition antérieures qui se terminent après 1984;

c) le montant éventuel déduit en application de l'alinéa 3e) dans le calcul du revenu du particulier pour l'année d'imposition 1985;

d) le total des montants déduits en application du présent article dans le calcul du revenu imposable du particulier pour les années d'imposition antérieures;

e) la perte nette cumulative sur placements du particulier à la fin de l'année. (*cumulative gains limit*)

revenu de placements Le total des montants suivants applicable à un particulier pour une année d'imposition :

a) les montants inclus dans le calcul du revenu du particulier pour l'année tiré de biens (sauf ceux inclus en application du paragraphe 15(2) ou de l'alinéa 56(1)d) de la présente loi ou de l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952), y compris tout montant inclus en application du paragraphe 13(1) au titre de biens dont le revenu constituerait un revenu de biens, sauf dans la mesure où ces montants entrent par ailleurs dans le calcul de son revenu de placements ou de ses frais de placement pour l'année;

(C) if the individual is a personal trust, a beneficiary of the trust,

(D) a spouse, common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C),

(E) another corporation that is related to the corporation and of which a share of the capital stock was a share of the capital stock of a family farm or fishing corporation of the individual, a beneficiary referred to in clause (C) or a spouse, common-law partner, child or parent of the individual or of a beneficiary referred to in clause (C), or

(F) a partnership, an interest in which was an interest in a family farm or fishing partnership of the individual, a beneficiary referred to in clause (C) or a spouse, common-law partner, child or parent of the individual or of such a beneficiary,

(ii) shares of the capital stock or indebtedness of one or more corporations of which all or substantially all of the fair market value of the property was attributable to property described in subparagraph (iv),

(iii) a partnership interest in or indebtedness of one or more partnerships of which all or substantially all of the fair market value of the property was attributable to properties described in subparagraph (iv), or

(iv) properties described in any of subparagraphs (i) to (iii), and

(b) at that time, all or substantially all of the fair market value of the property owned by the corporation was attributable to property described in subparagraph (a)(iv). (*action du capital-actions d'une société agricole ou de pêche familiale*)

share of the capital stock of a family fishing corporation [Repealed, 2014, c. 39, s. 30]

b) les montants (sauf les gains en capital imposables) inclus dans le calcul du revenu du particulier pour l'année comme sa part sur le revenu d'une société de personnes dont il est un associé déterminé au cours de l'exercice de la société de personnes se terminant pendant l'année, y compris sa part sur les montants inclus, en application du paragraphe 13(1), dans le calcul du revenu de la société de personnes;

c) 50 % du total des montants inclus dans le calcul du revenu du particulier pour l'année en application du paragraphe 59(3.2);

d) les montants dont chacun représente le revenu du particulier pour l'année tiré de biens ou de la location de biens locatifs — au sens du paragraphe 1100(14) du *Règlement de l'impôt sur le revenu* — ou de biens visés aux catégories 31 ou 32 de l'annexe II du même règlement, appartenant au particulier ou à une société de personnes dont il est un associé (à l'exclusion d'une société de personnes dont il est un associé déterminé au cours de l'exercice de la société de personnes se terminant pendant l'année), y compris tout montant inclus, en application du paragraphe 13(1), dans le calcul du revenu du particulier pour l'année au titre de biens locatifs du particulier ou de la société de personnes ou de biens dont le revenu constituerait un revenu de biens;

e) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants (sauf ceux relatifs à des contrats de rente à versements invariables ou des contrats de rente achetés en conformité avec des régimes de participation différée aux bénéfices ou des régimes appelés « régimes dont l'agrément est retiré » au paragraphe 147(15)) inclus en application de l'alinéa 56(1)d) de la présente loi ou de l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul du revenu du particulier pour l'année,

(ii) le total des montants déduits en application de l'alinéa 60a) dans le calcul du revenu du particulier pour l'année;

f) l'excédent éventuel du total des montants inclus, en application de l'alinéa 3b) au titre des gains en capital et des pertes en capital, dans le calcul du revenu du particulier pour l'année sur le montant calculé quant à lui pour l'année selon l'élément A de la formule figurant à la définition de ***plafond annuel des gains***. (*investment income*)

Value of NISA

(1.1) For the purposes of the definitions ***qualified small business corporation share*** and ***share of the capital stock of a family farm or fishing corporation*** in subsection (1), the fair market value of a net income stabilization account is deemed to be nil.

(1.2) [Repealed, 2014, c. 39, s. 30]

Farming or fishing property — conditions

(1.3) For the purpose of applying the definition ***qualified farm or fishing property***, in subsection (1), of an individual, at any time, a property owned at that time by the individual, the spouse or common-law partner of the individual, or a partnership, an interest in which is an interest in a family farm or fishing partnership of the individual or of the individual's spouse or common-law partner, will not be considered to have been used in the course of carrying on a farming or fishing business in Canada, unless

(a) the following apply in respect of the property or property for which the property was substituted (in this paragraph referred to as "the property"),

(i) the property was owned throughout the period of at least 24 months immediately preceding that time by one or more of

(A) the individual, or a spouse, common-law partner, child or parent of the individual,

(B) a partnership, an interest in which is an interest in a family farm or fishing partnership of the individual or of the individual's spouse or common-law partner,

(C) if the individual is a personal trust, the individual from whom the trust acquired the property or a spouse, common-law partner, child or parent of that individual, or

(D) a personal trust from which the individual or a child or parent of the individual acquired the property, and

(ii) either

(A) in at least two years while the property was owned by one or more persons or partnerships referred to in subparagraph (i),

(I) the gross revenue of a person (in this subclause referred to as the "operator") referred to in subparagraph (i) from the farming or fishing business referred to in subclause (II)

Valeur d'un compte de stabilisation du revenu net

(1.1) Pour l'application des définitions de ***action admissible de petite entreprise*** et ***action du capital-actions d'une société agricole ou de pêche familiale*** au paragraphe (1), la juste valeur marchande d'un compte de stabilisation du revenu net est réputée nulle.

(1.2) [Abrogé, 2014, ch. 39, art. 30]

Bien agricole ou de pêche — conditions

(1.3) Pour l'application de la définition de ***bien agricole ou de pêche admissible***, au paragraphe (1), à un moment donné, le bien qui, à ce moment, appartient à un particulier, à son époux ou conjoint de fait ou à une société de personnes, une participation dans laquelle est une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait n'est considéré comme ayant été utilisé dans le cadre de l'exploitation d'une entreprise agricole ou de pêche au Canada que si les conditions ci-après sont réunies :

a) les faits ci-après s'appliquent relativement au bien ou à un bien qui lui est substitué (appelés « bien » au présent alinéa) :

(i) le bien appartenait à l'une ou plusieurs des personnes ou sociétés de personnes ci-après tout au long de la période d'au moins 24 mois précédant ce moment :

(A) le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère,

(B) une société de personnes, une participation dans laquelle est une participation dans une société de personnes agricole ou de pêche familiale du particulier ou de son époux ou conjoint de fait,

(C) si le particulier est une fiducie personnelle, le particulier auprès duquel la fiducie a acquis le bien ou l'époux ou le conjoint de fait, l'enfant, le père ou la mère de ce particulier,

(D) la fiducie personnelle auprès de laquelle le particulier, son enfant, son père ou sa mère a acquis le bien,

(ii) selon le cas :

(A) pendant au moins deux ans où le bien appartenait à une ou plusieurs des personnes ou des sociétés de personnes visées au sous-alinéa (i) :

for the period during which the property was owned by a person or partnership described in subparagraph (i) exceeded the income of the operator from all other sources for that period, and

(II) the property was used principally in a farming or fishing business carried on in Canada in which an individual referred to in subparagraph (i), or where the individual is a personal trust, a beneficiary of the trust, was actively engaged on a regular and continuous basis, or

(B) throughout a period of at least 24 months while the property was owned by one or more persons or partnerships referred to in subparagraph (i), the property was used by a corporation referred to in subparagraph (a)(iv) of the definition ***qualified farm or fishing property*** in subsection (1) or by a partnership referred to in subparagraph (a)(v) of that definition in a farming or fishing business in which an individual referred to in any of subparagraphs (a)(i) to (iii) of that definition was actively engaged on a regular and continuous basis; or

(b) [Repealed, 2013, c. 34, s. 240]

(c) if the property or property for which the property was substituted was last acquired by the individual or partnership before June 18, 1987 or after June 17, 1987 under an agreement in writing entered into before that date,

(i) in the year the property was disposed of by the individual, the property was used principally in the course of carrying on the business of farming in Canada by

(A) the individual, or a spouse, common-law partner, child or parent of the individual,

(B) a beneficiary referred to in subparagraph (a)(ii) of the definition ***qualified farm or fishing property*** in subsection (1) or a spouse, common-law partner, child or parent of that beneficiary,

(C) a corporation referred to in subparagraph (a)(iv) of the definition ***qualified farm or fishing property*** in subsection (1),

(D) a partnership referred to in subparagraph (a)(v) of the definition ***qualified farm or fishing property*** in subsection (1), or

(I) d'une part, le revenu brut d'une personne visée au sous-alinéa (i) (appelée « exploitant » à la présente subdivision) provenant de l'entreprise agricole ou de pêche visée à la subdivision (II) pour la période pendant laquelle le bien appartenait à une personne ou à une société de personnes visée à ce sous-alinéa dépassait le revenu de l'exploitant provenant de toutes les autres sources pour cette période,

(II) d'autre part, le bien était utilisé principalement dans le cadre d'une entreprise agricole ou de pêche exploitée au Canada dans laquelle un particulier visé au sous-alinéa (i) ou, si le particulier est une fiducie personnelle, un bénéficiaire de celle-ci prenait une part active de façon régulière et continue,

(B) tout au long d'une période d'au moins 24 mois pendant que le bien appartenait à une ou plusieurs personnes ou sociétés de personnes visées au sous-alinéa (i), le bien était utilisé soit par une société visée au sous-alinéa a)(iv) de la définition de ***bien agricole ou de pêche admissible*** au paragraphe (1), soit par une société de personnes visée au sous-alinéa a)(v) de cette définition, dans le cadre d'une entreprise agricole ou de pêche dans laquelle un particulier visé à l'un des sous-alinéas a)(i) à (iii) de cette définition prenait une part active de façon régulière et continue;

b) [Abrogé, 2013, ch. 34, art. 240]

c) si le bien ou un bien qui lui est substitué a été acquis la dernière fois par le particulier ou la société de personnes avant le 18 juin 1987 ou après le 17 juin 1987 aux termes d'une convention écrite conclue avant cette date :

(i) au cours de l'année où le particulier en a disposé, le bien a été utilisé principalement dans le cadre de l'exploitation d'une entreprise agricole au Canada par une des personnes ou sociétés de personnes suivantes :

(A) le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère,

(B) un bénéficiaire visé au sous-alinéa a)(ii) de la définition de ***bien agricole ou de pêche admissible***, au paragraphe (1), ou son époux ou conjoint de fait, son enfant, son père ou sa mère,

(C) une société visée au sous-alinéa a)(iv) de cette définition,

(E) a personal trust from which the individual acquired the property, or

(ii) in at least five years during which the property was owned by a person described in any of clauses (A) to (E), the property was used principally in the course of carrying on the business of farming in Canada by

(A) the individual, or a spouse, common-law partner, child or parent of the individual,

(B) a beneficiary referred to in subparagraph (a)(ii) of the definition ***qualified farm or fishing property*** in subsection (1) or a spouse, common-law partner, child or parent of that beneficiary,

(C) a corporation referred to in subparagraph (a)(iv) of the definition ***qualified farm or fishing property*** in subsection (1),

(D) a partnership referred to in subparagraph (a)(v) of the definition ***qualified farm or fishing property*** in subsection (1), or

(E) a personal trust from which the individual acquired the property.

Capital gains deduction — qualified farm or fishing property

(2) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of qualified farm or fishing property in the year or a preceding taxation year (or who disposed of before 2014 property that was qualified farm property or qualified fishing property at the time of disposition), there may be deducted such amount as the individual may claim not exceeding the least of

(a) the amount determined by the formula

[$400,000 – (A + B + C + D)] × E

where

A is the total of all amounts each of which is an amount deducted under this section in computing the individual's taxable income for a preceding taxation year that ended

(i) before 1988, or

(ii) after October 17, 2000,

B is the total of all amounts each of which is

(D) une société de personnes visée au sous-alinéa a)(v) de cette même définition,

(E) une fiducie personnelle auprès de laquelle le particulier a acquis le bien,

(ii) pendant au moins cinq ans où il appartenait à une personne visée à l'une des divisions (A) à (E), le bien a été utilisé principalement dans le cadre de l'exploitation d'une entreprise agricole au Canada par une des personnes ou sociétés de personnes suivantes :

(A) le particulier ou son époux ou conjoint de fait, son enfant, son père ou sa mère,

(B) un bénéficiaire visé au sous-alinéa a)(ii) de la définition de ***bien agricole ou de pêche admissible***, au paragraphe (1), ou son époux ou conjoint de fait, son enfant, son père ou sa mère,

(C) une société visée au sous-alinéa a)(iv) de cette définition,

(D) une société de personnes visée au sous-alinéa a)(v) de cette même définition,

(E) une fiducie personnelle auprès de laquelle le particulier a acquis le bien.

Déduction pour gains en capital — biens agricoles ou de pêche admissibles

(2) Le particulier — à l'exception d'une fiducie — qui réside au Canada tout au long d'une année d'imposition donnée et qui dispose de biens agricoles ou de pêche admissibles au cours de cette année ou d'une année d'imposition antérieure ou qui a disposé avant 2014 de biens qui étaient des biens agricoles admissibles ou des biens de pêche admissibles au moment de la disposition peut déduire, dans le calcul de son revenu imposable pour l'année donnée, une somme n'excédant pas la moins élevée des sommes suivantes :

a) le montant obtenu par la formule suivante :

[400 000 $ – (A + B + C + D)] × E

où :

A représente le total des sommes représentant chacune une somme déduite en application du présent article dans le calcul du revenu imposable du particulier pour une année d'imposition antérieure terminée :

(i) soit avant 1988,

(ii) soit après le 17 octobre 2000,

(i) 3/4 of an amount deducted under this section in computing the individual's taxable income for a preceding taxation year that ended after 1987 and before 1990 (other than amounts deducted under this section for a taxation year in respect of an amount that was included in computing an individual's income for that year because of subparagraph 14(1)(a)(v) as that subparagraph applied for taxation years that ended before February 28, 2000), or

(ii) 3/4 of an amount deducted under this section in computing the individual's taxable income for a preceding taxation year that began after February 27, 2000 and ended before October 18, 2000,

C is 2/3 of the total of all amounts each of which is an amount deducted under this section in computing the individual's taxable income

(i) for a preceding taxation year that ended after 1989 and before February 28, 2000, or

(ii) in respect of an amount that was included because of subparagraph 14(1)(a)(v) (as that subparagraph applied for taxation years that ended before February 28, 2000) in computing the individual's income for a taxation year that began after 1987 and ended before 1990,

D is the product obtained when the reciprocal of the fraction determined for E that applied to the taxpayer for a preceding taxation year that began before and included February 28, 2000 or October 17, 2000 is multiplied by the amount deducted under this subsection in computing the individual's taxable income for that preceding year, and

E is

(i) in the case of a taxation year that includes February 28, 2000 or October 17, 2000, the amount determined by the formula

2 × (F + G)/H

where

F is the amount deemed by subsection 14(1.1) to be a taxable capital gain of the taxpayer for the taxation year,

G is the amount by which the amount determined in respect of the taxpayer for the year under paragraph 3(b) exceeds the amount determined for F, and

H is the total of

(A) the amount deemed by subsection 14(1.1) to be a taxable capital gain of the

B le total des montants représentant chacun :

(i) soit les 3/4 du montant déduit en application du présent article dans le calcul du revenu imposable du particulier pour une année d'imposition antérieure terminée après 1987 et avant 1990 (à l'exclusion de montants déduits, en application du présent article pour une année d'imposition, au titre d'un montant inclus dans le calcul du revenu d'un particulier pour cette année par l'effet du sous-alinéa 14(1)a)(v), dans sa version applicable aux années d'imposition terminées avant le 28 février 2000),

(ii) soit les 3/4 du montant déduit en application du présent article dans le calcul du revenu imposable du particulier pour une année d'imposition antérieure ayant commencé après le 27 février 2000 et s'étant terminée avant le 18 octobre 2000,

C les 2/3 du total des montants représentant chacun un montant déduit en application du présent article dans le calcul du revenu imposable du particulier, selon le cas :

(i) pour une année d'imposition antérieure terminée après 1989 et avant le 28 février 2000,

(ii) au titre d'un montant inclus par l'effet du sous-alinéa 14(1)a)(v) (dans sa version applicable aux années d'imposition terminées avant le 28 février 2000) dans le calcul du revenu du particulier pour une année d'imposition ayant commencé après 1987 et s'étant terminée avant 1990,

D le produit de la multiplication de l'inverse de la fraction déterminée selon l'élément E qui s'est appliquée au particulier pour une année d'imposition antérieure ayant commencé avant le 28 février 2000 ou le 17 octobre 2000 et comprenant l'une de ces dates, par le montant déduit en application du présent paragraphe dans le calcul du revenu imposable du particulier pour cette année antérieure,

E :

(i) en ce qui concerne une année d'imposition qui comprend le 28 février 2000 ou le 17 octobre 2000, le montant obtenu par la formule suivante :

2 × (F + G)/H

où :

F représente le montant réputé par le paragraphe 14(1.1) être un gain en capital imposable du contribuable pour l'année,

taxpayer for the taxation year multiplied by

(I) where that amount is determined by reference to paragraph 14(1.1)(a), the reciprocal of the fraction obtained by multiplying the fraction 3/4 by the fraction in paragraph 14(1)(b) that applies to the taxpayer for the taxation year,

(II) where that amount is determined by reference to paragraph 14(1.1)(b), and the taxation year does not end after February 27, 2000 and before October 18, 2000, 2, and

(III) where that amount is determined by reference to paragraph 14(1.1)(b), and the taxation year ends after February 27, 2000 and before October 18, 2000, 3/2, and

(B) the amount determined for G multiplied by the reciprocal of the fraction in paragraph 38(a) that applies to the taxpayer for the taxation year, and

(ii) in any other case, 1,

(b) the individual's cumulative gains limit at the end of the year,

(c) the individual's annual gains limit for the year, and

(d) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties that, at the time they were disposed of, were qualified farm properties, qualified fishing properties or qualified farm or fishing properties.

G l'excédent du montant déterminé relativement au contribuable pour l'année selon l'alinéa 3b) sur la valeur de l'élément F,

H la somme des montants suivants :

(A) le montant réputé par le paragraphe 14(1.1) être un gain en capital imposable du contribuable pour l'année, multiplié par le montant applicable suivant :

(I) si ce montant est déterminé par rapport à l'alinéa 14(1.1)a), l'inverse de la fraction obtenue lorsque la fraction 3/4 est multipliée par la fraction figurant à l'alinéa 14(1)b) qui s'applique au contribuable pour l'année,

(II) si ce montant est déterminé par rapport à l'alinéa 14(1.1)b) et si l'année ne se termine pas après le 27 février 2000 et avant le 18 octobre 2000, 2,

(III) si ce montant est déterminé par rapport à l'alinéa 14(1.1)b) et si l'année se termine après le 27 février 2000 et avant le 18 octobre 2000, 3/2,

(B) la valeur de l'élément G multipliée par l'inverse de la fraction figurant à l'alinéa 38a) qui s'applique au contribuable pour l'année,

(ii) dans les autres cas, 1;

b) son plafond des gains cumulatifs à la fin de l'année;

c) son plafond annuel des gains pour l'année;

d) l'excédent qui serait calculé selon l'alinéa 3b) à l'égard du particulier pour l'année au titre des gains en capital et des pertes en capital si les seuls biens visés à cet alinéa étaient des biens qui, au moment où il en a été disposé, étaient des biens agricoles admissibles, des biens de pêche admissibles ou des biens agricoles ou de pêche admissibles.

Capital gains deduction — qualified small business corporation shares

(2.1) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of a share of a corporation in the year or a preceding taxation year and after June 17, 1987 that, at the time of disposition, was a qualified small business corporation share of the individual, there may be deducted such amount as the individual may claim not exceeding the least of

Déduction pour gains en capital — actions admissibles de petite entreprise

(2.1) Le particulier — à l'exception d'une fiducie — qui réside au Canada tout au long d'une année d'imposition donnée et qui dispose au cours de cette année donnée ou d'une année d'imposition antérieure et après le 17 juin 1987 d'actions qui sont alors des actions admissibles de petite entreprise peut déduire, dans le calcul de son revenu imposable pour l'année donnée, le montant qu'il peut demander et qui ne dépasse pas le moins élevé des montants suivants :

(a) the amount determined by the formula in paragraph (2)(a) in respect of the individual for the year,

(b) the amount, if any, by which the individual's cumulative gains limit at the end of the year exceeds the amount deducted under subsection 110.6(2) in computing the individual's taxable income for the year,

(c) the amount, if any, by which the individual's annual gains limit for the year exceeds the amount deducted under subsection 110.6(2) in computing the individual's taxable income for the year, and

(d) the amount that would be determined in respect of the individual for the year under paragraph 3(b) (to the extent that that amount is not included in computing the amount determined under paragraph (2)(d) in respect of the individual) in respect of capital gains and capital losses if the only properties referred to in paragraph 3(b) were qualified small business corporation shares of the individual.

a) le montant déterminé selon la formule figurant à l'alinéa (2)a) à l'égard du particulier pour l'année;

b) l'excédent éventuel de son plafond des gains cumulatifs à la fin de l'année donnée sur le montant déduit en application du paragraphe (2) dans le calcul de son revenu imposable pour l'année donnée;

c) l'excédent éventuel de son plafond annuel des gains pour l'année donnée sur le montant déduit en application du paragraphe (2) dans le calcul de son revenu imposable pour l'année donnée;

d) l'excédent qui serait calculé selon l'alinéa 3b) à l'égard du particulier pour l'année donnée (dans la mesure où il n'est pas inclus dans le calcul de la somme déterminée selon l'alinéa (2)d) à l'égard du particulier) au titre des gains en capital et des pertes en capital si les seuls biens visés à l'alinéa 3b) étaient des actions admissibles de petite entreprise du particulier.

Additional deduction — qualified farm or fishing property

(2.2) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of qualified farm or fishing property in the year or a preceding taxation year and after April 20, 2015, there may be deducted an amount claimed by the individual that does not exceed the least of

(a) the amount, if any, by which $500,000 exceeds the total of

(i) $400,000 adjusted for each year after 2014 in the manner set out by section 117.1, and

(ii) the total of all amounts each of which is an amount deducted under this subsection in computing the individual's taxable income for a preceding taxation year that ended after 2014,

(b) the amount, if any, by which the individual's cumulative gains limit at the end of the year exceeds the total of all amounts each of which is an amount deducted by the individual under subsection (2) or (2.1) in computing the individual's taxable income for the year,

(c) the amount, if any, by which the individual's annual gains limit for the year exceeds the total of all amounts each of which is an amount deducted by the individual under subsection (2) or (2.1) in computing the individual's taxable income for the year, and

Déduction supplémentaire — biens agricoles ou de pêche admissibles

(2.2) Le particulier — à l'exception d'une fiducie — qui réside au Canada tout au long d'une année d'imposition donnée et qui dispose de biens agricoles ou de pêche admissibles au cours de cette année ou d'une année d'imposition antérieure et après le 20 avril 2015 peut déduire, dans le calcul de son revenu imposable pour l'année donnée, une somme n'excédant pas la moins élevée des sommes suivantes :

a) l'excédent éventuel de 500 000 $ sur le total des sommes suivantes :

(i) la somme de 400 000 $ rajustée pour chaque année postérieure à 2014 selon la méthode de rajustement prévue à l'article 117.1,

(ii) le total des sommes représentant chacune une somme déduite en application du présent paragraphe dans le calcul de son revenu imposable pour une année d'imposition antérieure ayant pris fin après 2014;

b) l'excédent éventuel de son plafond des gains cumulatifs à la fin de l'année donnée sur le total des sommes représentant chacune une somme qu'il a déduite en application des paragraphes (2) ou (2.1) dans le calcul de son revenu imposable pour l'année donnée;

c) l'excédent éventuel de son plafond annuel des gains pour l'année donnée sur le total des sommes représentant chacune une somme qu'il a déduite en application

(d) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm or fishing properties disposed of by the individual after April 20, 2015.

d) l'excédent qui serait calculé selon l'alinéa 3b) à l'égard du particulier pour l'année donnée au titre des gains en capital et des pertes en capital si les seuls biens visés à cet alinéa étaient des biens agricoles ou de pêche admissibles dont le particulier a disposé après le 20 avril 2015.

Additional deduction — ordering rule

(2.3) Subsection (2.2) does not apply in computing the taxable income for a taxation year of an individual unless the individual has claimed the maximum amount that could be claimed under subsections (2) and (2.1) for the taxation year.

Déduction supplémentaire — ordre

(2.3) Le paragraphe (2.2) ne s'applique aux fins du calcul du revenu imposable d'un particulier pour une année d'imposition que s'il a demandé la somme maximale qu'il peut déduire en application des paragraphes (2) et (2.1) pour l'année.

(3) [Repealed, 1995, c. 3, s. 32]

(3) [Abrogé, 1995, ch. 3, art. 32]

Maximum capital gains deduction

(4) Notwithstanding subsections (2) and (2.1), the total amount that may be deducted under this section in computing an individual's income for a taxation year shall not exceed the total of the amount determined by the formula in paragraph (2)(a) and the amount that may be deducted under subsection (2.2), in respect of the individual for the year.

Déduction maximale pour gains en capital

(4) Malgré les paragraphes (2) et (2.1), le montant total qu'un particulier peut déduire en application du présent article dans le calcul de son revenu pour une année d'imposition ne peut dépasser le total de la somme déterminée à son égard pour l'année selon la formule figurant à l'alinéa (2)a) et de la somme déductible à son égard pour l'année en application du paragraphe (2.2).

Deemed resident in Canada

(5) For the purposes of subsections (2) to (2.2), an individual is deemed to have been resident in Canada throughout a particular taxation year if

(a) the individual was resident in Canada at any time in the particular taxation year; and

(b) the individual was resident in Canada throughout the immediately preceding taxation year or throughout the immediately following taxation year.

Résidence réputée

(5) Pour l'application des paragraphes (2) à (2.2), un particulier est réputé résider au Canada tout au long d'une année d'imposition donnée s'il y réside au cours de cette année et :

a) soit tout au long de l'année d'imposition précédente;

b) soit tout au long de l'année d'imposition suivante.

Failure to report capital gain

(6) Notwithstanding subsections (2) to (2.2), no amount may be deducted under this section in respect of a capital gain of an individual for a particular taxation year in computing the individual's taxable income for the particular taxation year or any subsequent year, if

(a) the individual knowingly or under circumstances amounting to gross negligence

(i) fails to file the individual's return of income for the particular taxation year within one year after the taxpayer's filing-due date for the particular taxation year, or

Gain en capital non déclaré

(6) Malgré les paragraphes (2) à (2.2), aucune somme n'est déductible en vertu du présent article, dans le calcul du revenu imposable d'un particulier pour une année d'imposition donnée ou pour une année postérieure, au titre d'un gain en capital du particulier pour l'année donnée si les conditions ci-après sont réunies :

a) le particulier, sciemment ou dans des circonstances équivalant à faute lourde :

(i) soit ne produit pas de déclaration de revenu pour l'année donnée dans un délai de un an suivant la date d'échéance de production qui lui est applicable pour cette année,

(ii) fails to report the capital gain in the individual's return of income for the particular taxation year; and

(b) the Minister establishes the facts justifying the denial of such an amount under this section.

(ii) soit ne déclare pas le gain en capital dans sa déclaration de revenu pour l'année donnée;

b) le ministre établit les faits qui justifient le rejet d'une déduction demandée aux termes du présent article.

Deduction not permitted

(7) Notwithstanding subsections (2) to (2.2), no amount may be deducted under this section in computing an individual's taxable income for a taxation year in respect of a capital gain of the individual for the taxation year if the capital gain is from a disposition of property which disposition is part of a series of transactions or events

(a) that includes a dividend received by a corporation to which dividend subsection 55(2) does not apply but would apply if this Act were read without reference to paragraph 55(3)(b); or

(b) in which any property is acquired by a corporation or partnership for consideration that is significantly less than the fair market value of the property at the time of acquisition (other than an acquisition as the result of an amalgamation or merger of corporations or the winding-up of a corporation or partnership or a distribution of property of a trust in satisfaction of all or part of a corporation's capital interest in the trust).

Déduction non permise

(7) Malgré les paragraphes (2) à (2.2), aucune somme n'est déductible en vertu du présent article, dans le calcul du revenu imposable d'un particulier pour une année d'imposition, au titre d'un gain en capital du particulier pour l'année si le gain provient d'une disposition de bien qui fait partie d'une série d'opérations ou d'événements :

a) soit qui comprend un dividende reçu par une société et auquel le paragraphe 55(2) ne s'applique pas, mais auquel il s'appliquerait en l'absence de l'alinéa 55(3)b);

b) soit dans le cadre de laquelle une société ou une société de personnes acquiert un bien pour une contrepartie bien inférieure à sa juste valeur marchande au moment de l'acquisition, sauf si l'acquisition résulte d'une fusion ou d'une unification de sociétés, de la liquidation d'une société ou d'une société de personnes ou d'une distribution de biens d'une fiducie en règlement de tout ou partie d'une participation d'une société au capital de la fiducie.

Deduction not permitted

(8) Notwithstanding subsections (2) to (2.2), if an individual has a capital gain for a taxation year from the disposition of a property and it can reasonably be concluded, having regard to all the circumstances, that a significant part of the capital gain is attributable to the fact that dividends were not paid on a share (other than a prescribed share) or that dividends paid on such a share in the taxation year or in any preceding taxation year were less than 90% of the average annual rate of return on that share for that year, no amount in respect of that capital gain shall be deducted under this section in computing the individual's taxable income for the year.

Déduction non permise

(8) Malgré les paragraphes (2) à (2.2), aucune somme n'est déductible en vertu du présent article, dans le calcul du revenu imposable d'un particulier pour une année d'imposition, au titre d'un gain en capital du particulier pour l'année provenant de la disposition d'un bien s'il est raisonnable de conclure, compte tenu des circonstances, qu'une partie importante du gain en capital est attribuable au fait que les dividendes n'ont pas été versés sur une action (sauf une action visée par règlement) ou que des dividendes versés sur une telle action au cours de l'année ou d'une année d'imposition antérieure étaient inférieurs au montant correspondant à 90 % du taux de rendement annuel moyen sur l'action pour cette année.

Average annual rate of return

(9) For the purpose of subsection 110.6(8), the average annual rate of return on a share (other than a prescribed share) of a corporation for a taxation year is the annual rate of return by way of dividends that a knowledgeable and prudent investor who purchased the share on the day it was issued would expect to receive in that year, other than the first year after the issue, in respect of the share if

Signification de taux de rendement annuel moyen

(9) Pour l'application du paragraphe (8), le taux de rendement annuel moyen sur une action d'une société — à l'exclusion d'une action visée par règlement — pour une année d'imposition est égal au taux de rendement annuel sous forme de dividendes qu'un investisseur avisé et prudent qui a acheté l'action le jour où elle a été émise s'attendrait à recevoir sur cette action au cours de l'année — à l'exclusion de la première année suivant l'émission — si les conditions suivantes étaient réunies :

(a) there was no delay or postponement of the payment of dividends and no failure to pay dividends in respect of the share;

(b) there was no variation from year to year in the amount of dividends payable in respect of the share (other than where the amount of dividends payable is expressed as an invariant percentage of or by reference to an invariant difference between the dividend expressed as a rate of interest and a generally quoted market interest rate); and

(c) the proceeds to be received by the investor on the disposition of the share are the same amount the corporation received as consideration on the issue of the share.

a) il n'y a eu ni retard ou report dans le versement des dividendes, ni défaut de versement des dividendes, sur l'action;

b) le montant des dividendes payables sur l'action n'a pas varié d'une année sur l'autre (sauf si le montant des dividendes payables est exprimé en pourcentage invariable ou est fonction d'une différence invariable entre le dividende exprimé en taux d'intérêt et le taux d'intérêt généralement affiché du marché);

c) le produit à recevoir par l'investisseur à la disposition de l'action est le même montant que la société a reçu en contrepartie de l'émission de l'action.

Where deduction not permitted

(11) Where it is reasonable to consider that one of the main reasons for an individual acquiring, holding or having an interest in a partnership or trust (other than an interest in a personal trust) or a share of an investment corporation, mortgage investment corporation or mutual fund corporation, or for the existence of any terms, conditions, rights or other attributes of the interest or share, is to enable the individual to receive or have allocated to the individual a percentage of any capital gain or taxable capital gain of the partnership, trust or corporation that is larger than the individual's percentage of the income of the partnership, trust or corporation, as the case may be, notwithstanding any other provision of this Act,

(a) no amount may be deducted under this section by the individual in respect of any such gain allocated or distributed to the individual after November 21, 1985; and

(b) where the individual is a trust, any such gain allocated or distributed to it after November 21, 1985 shall not be included in computing its eligible taxable capital gain (within the meaning assigned by subsection 108(1)).

Déduction non admise

(11) Malgré les autres dispositions de la présente loi, lorsqu'il est raisonnable de considérer que l'un des principaux motifs pour lesquels un particulier acquiert, détient ou a une participation dans une société de personnes ou une fiducie — à l'exclusion d'une participation dans une fiducie personnelle — ou une action d'une société de placement, d'une société de placement hypothécaire ou d'une société de placement à capital variable, ou que l'un des principaux motifs de l'existence de certaines conditions, de certains droits ou d'autres caractéristiques de la participation ou de l'action, consiste à permettre au particulier de recevoir ou de se voir attribuer une quote-part d'un gain en capital ou d'un gain en capital imposable de la société de personnes, de la fiducie ou de la société, supérieure à sa quote-part du revenu de la société de personnes, de la fiducie ou de la société, selon le cas :

a) le particulier ne peut déduire aucun montant en vertu du présent article au titre d'un tel gain qu'il reçoit ou qui lui est attribué après le 21 novembre 1985;

b) si le particulier est une fiducie, un tel gain que celle-ci reçoit ou qui lui est attribué après le 21 novembre 1985 ne peut être inclus dans le calcul de ses gains en capital imposables admissibles au sens du paragraphe 108(1).

(12) [Repealed, 2014, c. 39, s. 30]

(12) [Abrogé, 2014, ch. 39, art. 30]

Determination under para. 3(b)

(13) For the purposes of this section, the amount determined under paragraph 3(b) in respect of an individual for a period throughout which the individual was not resident in Canada is nil.

Calcul selon l'al. 3b)

(13) Pour l'application du présent article, le montant calculé selon l'alinéa 3b) à l'égard d'un particulier pour une période tout au long de laquelle il ne réside pas au Canada est nul.

Related persons, etc.

(14) For the purposes of the definition ***qualified small business corporation share*** in subsection 110.6(1),

(a) a taxpayer shall be deemed to have disposed of shares that are identical properties in the order in which the taxpayer acquired them;

(b) in determining whether a corporation is a small business corporation or a Canadian-controlled private corporation at any time, a right referred to in paragraph 251(5)(b) shall not include a right under a purchase and sale agreement relating to a share of the capital stock of a corporation;

(c) a personal trust shall be deemed

(i) to be related to a person or partnership for any period throughout which the person or partnership was a beneficiary of the trust, and

(ii) in respect of shares of the capital stock of a corporation, to be related to the person from whom it acquired those shares where, at the time the trust disposed of the shares, all of the beneficiaries (other than registered charities) of the trust were related to that person or would have been so related if that person were living at that time;

(d) a partnership shall be deemed to be related to a person for any period throughout which the person was a member of the partnership;

(d.1) a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership;

(e) where a corporation acquires shares of a class of the capital stock of another corporation from any person, it shall be deemed in respect of those shares to be related to the person where all or substantially all the consideration received by that person from the corporation in respect of those shares was common shares of the capital stock of the corporation;

(f) shares issued after June 13, 1988 by a corporation to a particular person or partnership shall be deemed to have been owned immediately before their issue by a person who was not related to the particular person or partnership unless the shares were issued

(i) as consideration for other shares,

(ii) as part of a transaction or series of transactions in which the person or partnership disposed of property to the corporation that consisted of

Précisions sur les actions admissibles de petite entreprise

(14) Pour l'application de la définition de ***action admissible de petite entreprise*** au paragraphe (1):

a) un contribuable est réputé disposer des actions qui sont des biens identiques dans l'ordre où il les a acquises;

b) pour déterminer si une société est une société exploitant une petite entreprise ou une société privée sous contrôle canadien, à un moment donné, le droit visé à l'alinéa 251(5)b) ne comprend pas un droit prévu par convention d'achat-vente portant sur une action du capital-actions d'une société;

c) une fiducie personnelle est réputée, à la fois :

(i) être liée à une personne ou société de personnes pendant chaque période tout au long de laquelle cette personne ou société de personnes est bénéficiaire de la fiducie,

(ii) en ce qui concerne les actions du capital-actions d'une société, être liée à la personne auprès de laquelle elle a acquis ces actions si, au moment où la fiducie a disposé des actions, l'ensemble de ses bénéficiaires (sauf les organismes de bienfaisance enregistrés) étaient liés à cette personne ou l'auraient été si celle-ci avait été vivante à ce moment;

d) une société de personnes est réputée liée à une personne pendant chaque période tout au long de laquelle cette personne est un associé de la société de personnes;

d.1) l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes est réputé être l'associé de cette dernière;

e) la société qui acquiert auprès d'une personne des actions d'une catégorie du capital-actions d'une autre société est réputée, quant à ces actions, liée à cette personne si la totalité, ou presque, de la contrepartie que cette personne reçoit de la société pour ces actions consiste en actions ordinaires du capital-actions de la société;

f) les actions émises après le 13 juin 1988 par une société en faveur d'une personne ou société de personnes donnée sont réputées avoir été la propriété, immédiatement avant leur émission, d'une personne qui n'était pas liée à la personne ou société de personnes donnée, sauf si les actions ont été émises :

(i) soit en contrepartie d'autres actions,

(A) all or substantially all the assets used in an active business carried on by that person or the members of that partnership, or

(B) an interest in a partnership all or substantially all the assets of which were used in an active business carried on by the members of the partnership, or

(iii) as payment of a stock dividend; and

(g) where, immediately before the death of an individual, or, in the case of a deemed transfer under subsection 248(23), immediately before the time that is immediately before the death of an individual, a share would, but for paragraph (a) of the definition ***qualified small business corporation share*** in subsection 110.6(1), be a qualified small business corporation share of the individual, the share shall be deemed to be a qualified small business corporation share of the individual if it was a qualified small business corporation share of the individual at any time in the 12-month period immediately preceding the death of the individual.

Value of assets of corporations

(15) For the purposes of the definitions ***qualified small business corporation share*** and ***share of the capital stock of a family farm or fishing corporation*** in subsection (1), the definition ***share of the capital stock of a family farm or fishing corporation*** in subsection 70(10) and the definition ***small business corporation*** in subsection 248(1),

(a) where a person (in this subsection referred to as the "insured"), whose life was insured under an insurance policy owned by a particular corporation, owned shares of the capital stock (in this subsection referred to as the "subject shares") of the particular corporation, any corporation connected with the particular corporation or with which the particular corporation is connected or any corporation connected with any such corporation or with which any such corporation is connected (within the meaning of subsection 186(4) on the assumption that the corporation referred to in this subsection was a payer corporation within the meaning of that subsection),

(i) the fair market value of the life insurance policy shall, at any time before the death of the insured, be deemed to be its cash surrender value (within the

(ii) soit dans le cadre d'une opération ou d'une série d'opérations dans laquelle la personne ou société de personnes donnée a disposé, en faveur de la société, de biens qui représentent :

(A) soit la totalité, ou presque, des éléments d'actif utilisés dans une entreprise exploitée activement par cette personne ou par les associés de cette société de personnes,

(B) soit une participation dans une société de personnes dont la totalité, ou presque, des éléments d'actif sont utilisés dans une entreprise exploitée activement par les associés de la société de personnes;

(iii) soit en paiement d'un dividende en actions;

g) l'action qui, immédiatement avant le décès d'un particulier ou, dans le cas d'un transfert réputé visé au paragraphe 248(23), juste avant le moment qui est immédiatement avant le décès d'un particulier, aurait été une action admissible de petite entreprise du particulier sans l'alinéa a) de la définition de cette expression au paragraphe (1) est réputée être une telle action du particulier si elle l'a été à un moment donné au cours de la période de douze mois précédant le décès du particulier.

Valeur des éléments d'actif d'une société

(15) Pour l'application des définitions de ***action admissible de petite entreprise*** et ***action du capital-actions d'une société agricole ou de pêche familiale*** au paragraphe (1), de la définition de ***action du capital-actions d'une société agricole ou de pêche familiale*** au paragraphe 70(10) et de la définition de ***société exploitant une petite entreprise*** au paragraphe 248(1), les règles ci-après s'appliquent :

a) lorsque la personne (appelée « assuré » au présent paragraphe) dont la vie est assurée aux termes d'une police d'assurance qui est la propriété d'une société donnée est propriétaire d'actions données du capital-actions de la société donnée, d'une société rattachée à celle-ci ou à laquelle la société donnée est rattachée ou d'une société rattachée à une telle société ou à laquelle une telle société est rattachée (au sens du paragraphe 186(4), selon l'hypothèse que l'une de ces sociétés est une société payante au sens de ce paragraphe):

(i) la juste valeur marchande de la police d'assurance-vie est réputée correspondre, à un moment antérieur au décès de l'assuré, à la valeur de rachat, au sens du paragraphe 148(9), de la police à ce moment,

meaning assigned by subsection 148(9)) at that time, and

(ii) the total fair market value of assets — other than assets described in any of subparagraphs (c)(i) to (iii) of the definition ***qualified small business corporation share*** in subsection (1), any of subparagraphs (a)(i) to (iii) of the definition ***share of the capital stock of a family farm or fishing corporation*** in subsection (1) or any of paragraphs (a) to (c) of the definition ***small business corporation*** in subsection 248(1), as the case may be — of any of those corporations that are

(A) the proceeds, the right to receive the proceeds or attributable to the proceeds, of the life insurance policy of which the particular corporation was a beneficiary, and

(B) used, directly or indirectly, within the 24-month period beginning at the time of the death of the insured or, where written application therefor is made by the particular corporation within that period, within such longer period as the Minister considers reasonable in the circumstances, to redeem, acquire or cancel the subject shares owned by the insured immediately before the death of the insured,

not in excess of the fair market value of the assets immediately after the death of the insured, shall, until the later of

(C) the redemption, acquisition or cancellation, and

(D) the day that is 60 days after the payment of the proceeds under the policy,

be deemed not to exceed the cash surrender value (within the meaning assigned by subsection 148(9)) of the policy immediately before the death of the insured; and

(b) the fair market value of an asset of a particular corporation that is a share of the capital stock or indebtedness of another corporation with which the particular corporation is connected shall be deemed to be nil and, for the purpose of this paragraph, a particular corporation is connected with another corporation only where

(i) the particular corporation is connected (within the meaning assigned by paragraph (d) of the definition ***qualified small business corporation***

(ii) la juste valeur marchande globale des éléments d'actif d'une de ces sociétés — n'excédant pas la juste valeur marchande des éléments d'actif immédiatement après le décès de l'assuré et à l'exclusion de tout élément d'actif visé à un des sous-alinéas c)(i) et (ii) de la définition de ***action admissible de petite entreprise*** au paragraphe (1), à l'un des sous-alinéas a)(i) à (iii) de la définition de ***action du capital-actions d'une société agricole ou de pêche familiale*** au paragraphe (1) ou à l'un des alinéas a) à c) de la définition de ***société exploitant une petite entreprise*** au paragraphe 248(1) — qui, à la fois :

(A) constituent le produit de la police d'assurance-vie dont la société donnée est bénéficiaire, le droit de recevoir ce produit ou un montant attribuable à ce produit,

(B) sont utilisés, directement ou indirectement, au cours de la période de 24 mois commençant au moment du décès de l'assuré ou au cours de toute période plus longue que le ministre estime raisonnable dans les circonstances après examen d'une demande écrite à cet effet présentée par la société donnée au cours de la période de 24 mois, afin de racheter, d'acquérir ou d'annuler les actions données dont l'assuré était propriétaire immédiatement avant son décès,

est réputée, jusqu'au dernier en date des jours suivants, ne pas dépasser la valeur de rachat, au sens du paragraphe 148(9), de la police immédiatement avant le décès de l'assuré :

(C) le jour de ce rachat, de cette acquisition ou de cette annulation,

(D) le soixantième jour suivant le paiement du produit dans le cadre de la police;

b) la juste valeur marchande d'un élément d'actif d'une société donnée qui constitue une action du capital-actions ou une dette d'une autre société avec laquelle la société donnée est rattachée est réputée être nulle; pour l'application du présent alinéa, une société donnée n'est rattachée à une autre société que si les conditions suivantes sont réunies :

(i) la société donnée est rattachée à l'autre société, au sens de l'alinéa d) de la définition de ***action admissible de petite entreprise*** au paragraphe (1),

(ii) l'autre société n'est pas rattachée à la société donnée au sens du paragraphe 186(4), compte non tenu du paragraphe 186(2) et à supposer que l'autre

share in subsection 110.6(1)) with the other corporation, and

(ii) the other corporation is not connected (within the meaning of subsection 186(4) as determined without reference to subsection 186(2) and on the assumption that the other corporation is a payer corporation within the meaning of subsection 186(4)) with the particular corporation,

except that this paragraph applies only in determining whether a share of the capital stock of another corporation with which the particular corporation is connected is a qualified small business corporation share or a share of the capital stock of a family farm or fishing corporation and in determining whether the other corporation is a small business corporation.

société soit une société payante au sens du paragraphe 186(4),

toutefois, le présent alinéa sert uniquement à déterminer si une action du capital-actions d'une autre société à laquelle la société donnée est rattachée est une action admissible de petite entreprise ou une action du capital-actions d'une société agricole ou de pêche familiale et si l'autre société est une société exploitant une petite entreprise.

Personal trust

(16) For the purposes of the definition ***qualified small business corporation share*** in subsection 110.6(1) and of paragraph 110.6(14)(c), a personal trust shall be deemed to include a trust described in subsection 7(2).

Fiducie personnelle

(16) La fiducie visée au paragraphe 7(2) est réputée être une fiducie personnelle pour l'application de la définition de ***action admissible de petite entreprise***, au paragraphe (1), et de l'alinéa (14)c).

Order of deduction

(17) For the purpose of clause 110.6(2)(a)(iii)(A), amounts deducted under this section in computing an individual's taxable income for a taxation year that ended before 1990 shall be deemed to have first been deducted in respect of amounts that were included in computing the individual's income under this Part for the year because of subparagraph 14(1)(a)(v) before being deducted in respect of any other amounts that were included in computing the individual's income under this Part for the year.

Ordre des déductions

(17) Pour l'application de la division (2)a)(iii)(A), les montants déduits en application du présent article dans le calcul du revenu imposable d'un particulier pour une année d'imposition qui s'est terminée avant 1990 sont réputés avoir été déduits au titre des montants inclus dans le calcul de son revenu en vertu de la présente partie pour l'année par l'effet du sous-alinéa 14(1)a)(v) avant d'avoir été déduits au titre d'autres montants ainsi inclus dans le calcul de son revenu pour l'année.

(18) [Repealed, 1995, c. 3, s. 32]

(18) [Abrogé, 1995, ch. 3, art. 32]

Election for property owned on February 22, 1994

(19) Subject to subsection 110.6(20), where an individual (other than a trust) or a personal trust (each of which is referred to in this subsection and subsections 110.6(20) to 110.6(29) as the "elector"), elects in prescribed form to have the provisions of this subsection apply in respect of

(a) a capital property (other than an interest in a trust referred to in any of paragraphs (f) to (j) of the definition ***flow-through entity*** in subsection 39.1(1)) owned at the end of February 22, 1994 by the elector, the property shall be deemed, except for the purposes of sections 7 and 35 and subparagraph 110(1)(d.1)(ii),

Choix concernant les biens appartenant à un contribuable le 22 février 1994

(19) Sous réserve du paragraphe (20), dans le cas où un particulier (sauf une fiducie) ou une fiducie personnelle (appelés chacun « auteur du choix » au présent paragraphe et aux paragraphes (20) à (29)) fait un choix, sur formulaire prescrit, pour que les dispositions du présent paragraphe s'appliquent à l'un des biens ou entreprises suivants, les présomptions suivantes s'appliquent :

a) s'il s'agit d'une immobilisation dont l'auteur du choix est propriétaire à la fin du 22 février 1994 (sauf une participation dans une fiducie visée à l'un des alinéas f) à j) de la définition de ***entité intermédiaire*** au paragraphe 39.1(1)), l'immobilisation est réputée, sauf pour l'application des articles 7 et 35 et du sous-alinéa 110(1) d.1)(ii):

(i) to have been disposed of by the elector at that time for proceeds of disposition equal to the greater of

(A) the amount determined by the formula

A - B

where

A is the amount designated in respect of the property in the election, and

B is the amount, if any, that would, if the disposition were a disposition for the purpose of section 7 or 35, be included under that section as a result of the disposition in computing the income of the elector, and

(B) the adjusted cost base to the elector of the property immediately before the disposition, and

(ii) to have been reacquired by the elector immediately after that time at a cost equal to

(A) where the property is an interest in or a share of the capital stock of a flow-through entity (within the meaning assigned by subsection 39.1(1)) of the elector, the cost to the elector of the property immediately before the disposition referred to in subparagraph 110.6(19)(a)(i),

(B) where an amount would, if the disposition referred to in subparagraph 110.6(19)(a)(i) were a disposition for the purpose of section 7 or 35, be included under that section as a result of the disposition in computing the income of the elector, the lesser of

(I) the elector's proceeds of disposition of the property determined under subparagraph 110.6(19)(a)(i), and

(II) the amount determined by the formula

A - B

where

A is the amount, if any, by which the fair market value of the property at that time exceeds the amount that would, if the disposition referred to in subparagraph 110.6(19)(a)(i) were a disposition for the purpose of section 7 or 35, be included under that section as a result of the disposition in computing the income of the elector, and

B is the amount that would be determined by the formula in subclause

(i) d'une part, avoir fait l'objet d'une disposition par l'auteur du choix à ce moment pour un produit de disposition égal au plus élevé des montants suivants :

(A) le résultat du calcul suivant :

A - B

où :

A représente le montant indiqué au titre de l'immobilisation dans le formulaire concernant le choix,

B le montant qui serait inclus, en application des articles 7 ou 35, dans le calcul du revenu de l'auteur du choix par suite de la disposition, s'il s'agissait d'une disposition visée à ces articles,

(B) le prix de base rajusté de l'immobilisation pour l'auteur du choix immédiatement avant la disposition,

(ii) d'autre part, avoir été acquise de nouveau par l'auteur du choix immédiatement après ce moment à un coût égal à l'un des montants suivants :

(A) dans le cas où l'immobilisation est une participation dans une entité intermédiaire, au sens du paragraphe 39.1(1), de l'auteur du choix, ou une action du capital-actions d'une telle entité, son coût pour l'auteur du choix immédiatement avant la disposition visée au sous-alinéa (i),

(B) dans le cas où un montant serait inclus, en application des articles 7 ou 35, dans le calcul du revenu de l'auteur du choix par suite de la disposition visée au sous-alinéa (i), s'il s'agissait d'une disposition visée à ces articles, le moins élevé des montants suivants :

(I) le produit de disposition de l'immobilisation pour l'auteur du choix, déterminé selon le sous-alinéa (i),

(II) le résultat du calcul suivant :

A - B

où :

A représente l'excédent éventuel de la juste valeur marchande de l'immobilisation à ce moment sur le montant qui serait inclus, en application des articles 7 ou 35, dans le calcul du revenu de l'auteur du choix par suite de la disposition visée au

110.6(19)(a)(ii)(C)(II) in respect of the property if clause 110.6(19)(a)(ii)(C) applied to the property, and

(C) in any other case, the lesser of

(I) the designated amount, and

(II) the amount, if any, by which the fair market value of the property at that time exceeds the amount determined by the formula

A - 1.1B

where

A is the designated amount, and

B is the fair market value of the property at that time;

(b) a business carried on by the elector (otherwise than as a member of a partnership) on February 22, 1994,

(i) the amount that would be determined under subparagraph 14(1)(a)(v) at the end of that day in respect of the elector if

(A) all the eligible capital property owned at that time by the elector in respect of the business were disposed of by the elector immediately before that time for proceeds of disposition equal to the amount designated in the election in respect of the business, and

(B) the fiscal period of the business ended at that time

shall be deemed to be a taxable capital gain of the elector for the taxation year in which the fiscal period of the business that includes that time ends from the disposition of a particular property and, for the purposes of this section, the particular property shall be deemed to have been disposed of by the elector at that time, and

(ii) for the purpose of paragraph 14(3)(b), the amount of the taxable capital gain determined under subparagraph 110.6(19)(b)(i) shall be deemed to have been claimed, by a person who does not deal at arm's length with each person or partnership that does not deal at arm's length with the elector, as a deduction under this section in respect of a disposition at that time of the eligible capital property; and

(c) an interest owned at the end of February 22, 1994 by the elector in a trust referred to in any of

sous-alinéa (i), s'il s'agissait d'une disposition visée à ces articles,

B le montant qui serait calculé selon la formule figurant à la subdivision (C)(II) relativement à l'immobilisation si la division (C) s'appliquait à celle-ci,

(C) dans les autres cas, le moins élevé des montants suivants :

(I) le montant indiqué dans le formulaire concernant le choix,

(II) l'excédent éventuel de la juste valeur marchande de l'immobilisation à ce moment sur le résultat du calcul suivant :

A - 1,1B

où :

A représente le montant indiqué dans le formulaire concernant le choix,

B la juste valeur marchande de l'immobilisation à ce moment;

b) s'il s'agit d'une entreprise que l'auteur du choix exploitait le 22 février 1994 autrement qu'à titre d'associé d'une société de personnes :

(i) est réputé être un gain en capital imposable de l'auteur du choix provenant de la disposition d'un bien quelconque pour l'année d'imposition au cours de laquelle se termine l'exercice de son entreprise qui comprend la fin de ce jour, le montant qui serait calculé quant à lui selon le sous-alinéa 14(1)a)(v) à ce moment si, à la fois :

(A) il disposait, immédiatement avant ce moment, de l'ensemble des immobilisations admissibles dont il est propriétaire à ce moment dans le cadre de l'entreprise, pour un produit de disposition égal au montant indiqué dans le formulaire concernant le choix relativement à l'entreprise,

(B) l'exercice de l'entreprise se terminait à ce moment,

pour l'application du présent article, l'auteur du choix est réputé avoir disposé du bien quelconque à ce moment,

(ii) pour l'application de l'alinéa 14(3)b), le montant du gain en capital imposable, déterminé selon le sous-alinéa (i), est réputé avoir été demandé par une personne qui a un lien de dépendance avec

paragraphs (f) to (j) of the definition ***flow-through entity*** in subsection 39.1(1), the elector shall be deemed to have a capital gain for the year from the disposition on February 22, 1994 of property equal to the lesser of

(i) the total of amounts designated in elections made under this subsection by the elector in respect of interests in the trust, and

(ii) 4/3 of the amount that would, if all of the trust's capital properties were disposed of at the end of February 22, 1994 for proceeds of disposition equal to their fair market value at that time and that portion of the trust's capital gains and capital losses or its net taxable capital gains, as the case may be, arising from the dispositions as can reasonably be considered to represent the elector's share thereof were allocated to or designated in respect of the elector, be the increase in the annual gains limit of the elector for the 1994 taxation year as a result of the dispositions.

chaque personne ou société de personnes qui a un tel lien avec l'auteur du choix à titre de déduction en vertu du présent article relativement à une disposition, effectuée à ce moment, des immobilisations admissibles en question;

c) s'il s'agit d'une participation, dont l'auteur du choix était propriétaire à la fin du 22 février 1994, dans une fiducie visée à l'un des alinéas f) à j) de la définition de ***entité intermédiaire*** au paragraphe 39.1(1), l'auteur du choix est réputé avoir un gain en capital pour l'année provenant de la disposition d'un bien effectuée le 22 février 1994, égal au moins élevé des montants suivants :

(i) le total des montants indiqués dans des formulaires concernant des choix faits par l'auteur du choix en application du présent paragraphe relativement aux participations dans la fiducie,

(ii) si l'ensemble des immobilisations de la fiducie faisaient l'objet d'une disposition à la fin du 22 février 1994 pour un produit de disposition égal à leur juste valeur marchande à ce moment et si la partie des gains en capital et des pertes en capital de la fiducie, ou de ses gains en capital imposables nets, provenant des dispositions qu'il est raisonnable de considérer comme représentant la part revenant à l'auteur du choix était attribuée à ce dernier, 4/3 du montant qui représenterait l'augmentation du plafond annuel des gains de l'auteur du choix pour l'année d'imposition 1994 par suite de ces dispositions.

Application of subsection (19)

(20) Subsection 110.6(19) applies to a property or to a business, as the case may be, of an elector only if

(a) where the elector is an individual (other than a trust),

(i) its application to all of the properties in respect of which elections were made under that subsection by the elector or a spouse or common-law partner of the elector and to all the businesses in respect of which elections were made under that subsection by the elector

(A) would result in an increase in the amount deductible under subsection 110.6(3) in computing the taxable income of the elector or a spouse or common- law partner of the elector, and

(B) in respect of each of the 1994 and 1995 taxation years,

Application du paragraphe (19)

(20) Le paragraphe (19) ne s'applique au bien ou à l'entreprise de l'auteur du choix que dans les cas suivants :

a) l'auteur du choix étant un particulier, sauf une fiducie :

(i) soit l'application de ce paragraphe à l'ensemble des biens à l'égard desquels l'auteur du choix ou son époux ou conjoint de fait a fait le choix prévu à ce paragraphe et à l'ensemble des entreprises à l'égard desquelles l'auteur du choix a fait pareil choix :

(A) d'une part, donne lieu à une augmentation du montant déductible en application du paragraphe (3) dans le calcul du revenu imposable de l'auteur du choix ou de son époux ou conjoint de fait,

(B) d'autre part, pour chacune des années d'imposition 1994 et 1995:

(I) where no part of the taxable capital gain resulting from an election by the elector is included in computing the income of a spouse of the elector, would not result in the amount determined under paragraph 110.6(3)(a) for the year in respect of the elector being exceeded by the lesser of the amounts determined under paragraphs 110.6(3)(b) and 110.6(3)(c) for the year in respect of the elector, and

(II) where no part of the taxable capital gain resulting from an election by the elector is included in computing the income of the elector, would not result in the amount determined under paragraph 110.6(3)(a) for the year in respect of a spouse or common-law partner of the elector being exceeded by the lesser of the amounts determined under paragraphs 110.6(3)(b) and 110.6(3)(c) for the year in respect of the spouse or common-law partner,

(ii) the amount designated in the election in respect of the property exceeds 11/10 of its fair market value at the end of February 22, 1994, or

(iii) the amount designated in the election in respect of the business is $1.00 or exceeds 11/10 of the fair market value at the end of February 22, 1994 of all the eligible capital property owned at that time by the elector in respect of the business; and

(b) where the elector is a personal trust, its application to all of the properties in respect of which an election was made under that subsection by the elector would result in

(i) an increase in the amount deemed by subsection 104(21.2) to be a taxable capital gain of an individual (other than a trust) who was a beneficiary under the trust at the end of February 22, 1994 and resident in Canada at any time in the individual's taxation year in which the trust's taxation year that includes that day ends, or

(ii) where subsection 110.6(12) applies to the trust for the trust's taxation year that includes that day, an increase in the amount deductible under that subsection in computing the trust's taxable income for that year.

(I) dans le cas où aucune partie du gain en capital imposable découlant d'un choix fait par l'auteur du choix n'est incluse dans le calcul du revenu de son époux ou conjoint de fait, ne donne pas lieu au dépassement du montant déterminé selon l'alinéa (3)a) relativement à l'auteur du choix pour l'année par le moins élevé des montants déterminés quant à lui pour l'année selon les alinéas (3)b) et c),

(II) dans le cas où aucune partie du gain en capital imposable découlant d'un choix fait par l'auteur du choix n'est incluse dans le calcul de son revenu, ne donne pas lieu au dépassement du montant déterminé selon l'alinéa (3)a) relativement à l'époux ou conjoint de fait de l'auteur du choix pour l'année par le moins élevé des montants déterminés quant à l'époux ou conjoint de fait pour l'année selon les alinéas (3)b) et c),

(ii) soit le montant indiqué relativement au bien dans le formulaire concernant le choix dépasse 11/10 de la juste valeur marchande du bien à la fin du 22 février 1994,

(iii) soit le montant indiqué relativement à l'entreprise dans le formulaire concernant le choix correspond à 1 $ ou dépasse 11/10 de la juste valeur marchande, à la fin du 22 février 1994, de l'ensemble des immobilisations admissibles dont l'auteur du choix est alors propriétaire dans le cadre de l'entreprise;

b) l'auteur du choix étant une fiducie personnelle, l'application de ce paragraphe à l'ensemble des biens à l'égard desquels il a fait le choix prévu à ce paragraphe donne lieu à l'une des augmentations suivantes :

(i) une augmentation du montant réputé par le paragraphe 104(21.2) être un gain en capital imposable d'un particulier (sauf une fiducie) qui était un bénéficiaire de la fiducie à la fin du 22 février 1994 et résidait au Canada pendant son année d'imposition au cours de laquelle se termine l'année d'imposition de la fiducie qui comprend ce jour,

(ii) dans le cas où le paragraphe (12) s'applique à la fiducie pour son année d'imposition qui comprend ce jour, une augmentation du montant déductible en application de ce paragraphe dans le calcul du revenu imposable de la fiducie pour cette année.

Effect of election on non-qualifying real property

(21) Where an elector is deemed by subsection 110.6(19) to have disposed of a non-qualifying real property,

(a) in computing the elector's taxable capital gain from the disposition, there shall be deducted the amount determined by the formula

0.75(A - B)

where

A is the elector's capital gain from the disposition, and

B is the elector's eligible real property gain from the disposition; and

(b) in determining at any time after the disposition the capital cost to the elector of the property where it is a depreciable property and the adjusted cost base to the elector of the property in any other case (other than where the property was at the end of February 22, 1994 an interest in or a share of the capital stock of a flow-through entity within the meaning assigned by subsection 39.1(1)), there shall be deducted 4/3 of the amount determined under paragraph 110.6(21)(a) in respect of the property.

Adjusted cost base

(22) Where an elector is deemed by paragraph 110.6(19)(a) to have reacquired a property, there shall be deducted in computing the adjusted cost base to the elector of the property at any time after the reacquisition the amount, if any, by which

(a) the amount determined by the formula

A - 1.1B

where

A is the amount designated in the election under subsection 110.6(19) in respect of the property, and

B is the fair market value of the property at the end of February 22, 1994

exceeds

(b) where the property is an interest in or a share of the capital stock of a flow-through entity (within the meaning assigned by subsection 39.1(1)), 4/3 of the axable capital gain that would have resulted from the election if the amount designated in the election were equal to the fair market value of the property at the end of February 22, 1994 and, in any other case, the

Effet du choix sur les immeubles non admissibles

(21) Dans le cas où l'auteur du choix est réputé par le paragraphe (19) avoir disposé d'un immeuble non admissible, les règles suivantes s'appliquent :

a) le résultat du calcul suivant est à déduire dans le calcul du gain en capital imposable de l'auteur du choix provenant de la disposition :

0,75(A - B)

où :

A représente le gain en capital de l'auteur du choix provenant de la disposition,

B le gain admissible sur immeuble de l'auteur du choix provenant de la disposition;

b) les 4/3 du montant déterminé selon l'alinéa a) relativement à l'immeuble est à déduire dans le calcul, à un moment postérieur à la disposition, du coût en capital de l'immeuble pour l'auteur du choix, s'il s'agit d'un bien amortissable, ou du prix de base rajusté de l'immeuble pour lui, dans les autres cas (sauf dans le cas où l'immeuble était, à la fin du 22 février 1994, une participation dans une entité intermédiaire, au sens du paragraphe 39.1(1), ou une action du capital-actions d'une telle entité).

Prix de base rajusté

(22) Dans le cas où l'auteur du choix est réputé par l'alinéa (19)a) avoir acquis un bien de nouveau, l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) est à déduire dans le calcul du prix de base rajusté du bien pour lui à un moment postérieur à la nouvelle acquisition :

a) le résultat du calcul suivant :

A - 1,1B

où :

A représente le montant indiqué relativement au bien dans le formulaire concernant le choix prévu au paragraphe (19),

B la juste valeur marchande du bien à la fin du 22 février 1994;

b) l'un des montants suivants :

(i) dans le cas où le bien est une participation dans une entité intermédiaire, au sens du paragraphe 39.1(1), ou une action du capital-actions d'une telle entité, 4/3 du gain en capital imposable qui résulterait du choix si le montant indiqué dans le formulaire le concernant était égal à la juste valeur marchande du bien à la fin du 22 février 1994,

fair market value of the property at the end of February 22, 1994.

(ii) dans les autres cas, la juste valeur marchande du bien à la fin du 22 février 1994.

Disposition of partnership interest

(23) Where an elector is deemed by subsection 110.6(19) to have disposed of an interest in a partnership, in computing the adjusted cost base to the elector of the interest immediately before the disposition

(a) there shall be added the amount determined by the formula

(A - B) × C/D + E

where

A is the total of all amounts each of which is the elector's share of the partnership's income (other than a taxable capital gain from the disposition of a property) from a source or from sources in a particular place for its fiscal period that includes February 22, 1994,

B is the total of all amounts each of which is the elector's share of the partnership's loss (other than an allowable capital loss from the disposition of a property) from a source or from sources in a particular place for that fiscal period,

C is the number of days in the period that begins the first day of that fiscal period and ends February 22, 1994,

D is the number of days in that fiscal period, and

E is 4/3 of the amount that would be determined under paragraph 3(b) in computing the elector's income for the taxation year in which that fiscal period ends if the elector had no taxable capital gains or allowable capital losses other than those arising from dispositions of property by the partnership that occurred before February 23, 1994; and

(b) there shall be deducted the amount that would be determined under paragraph 110.6(23)(a) if the formula in that paragraph were read as

"(B - A) × C/D - E"

Disposition d'une participation dans une société de personnes

(23) Dans le cas où l'auteur du choix est réputé par le paragraphe (19) avoir disposé d'une participation dans une société de personnes, les règles suivantes s'appliquent au calcul du prix de base rajusté de la participation pour l'auteur du choix immédiatement avant la disposition :

a) est à ajouter dans ce calcul le résultat du calcul suivant :

(A - B) × C/D + E

où :

A représente le total des montants représentant chacun la part qui revient à l'auteur du choix du revenu de la société de personnes (sauf un gain en capital imposable résultant de la disposition d'un bien) pour son exercice qui comprend le 22 février 1994, provenant d'une source, ou de sources situées dans un endroit déterminé,

B le total des montants représentant chacun la part qui revient à l'auteur du choix des pertes de la société de personnes (sauf une perte en capital déductible résultant de la disposition d'un bien) pour cet exercice, provenant d'une source, ou de sources situées dans un endroit déterminé,

C le nombre de jours compris dans la période qui commence le premier jour de cet exercice et se termine le 22 février 1994,

D le nombre total de jours de cet exercice,

E 4/3 de l'excédent qui serait déterminé selon l'alinéa 3b) dans le calcul du revenu de l'auteur du choix pour l'année d'imposition au cours de laquelle cet exercice se termine si ses seuls gains en capital imposables et pertes en capital déductibles provenaient de la disposition de biens effectuée par la société de personnes avant le 23 février 1994;

b) est à déduire dans le calcul le montant qui serait déterminé selon l'alinéa a) si la formule y figurant était remplacée par la formule suivante :

« (B - A) × C/D - E »

Time for election

(24) An election made under subsection 110.6(19) shall be filed with the Minister

(a) where the elector is an individual (other than a trust),

Présentation du choix

(24) Le formulaire concernant le choix prévu au paragraphe (19) doit être présenté au ministre dans les délais suivants :

(i) if the election is in respect of a business of the elector, on or before the individual's filing-due date for the taxation year in which the fiscal period of the business that includes February 22, 1994 ends, and

(ii) in any other case, on or before the individual's balance-due day for the 1994 taxation year; and

(b) where the elector is a personal trust, on or before March 31 of the calendar year following the calendar year in which the taxation year of the trust that includes February 22, 1994 ends.

a) l'auteur du choix étant un particulier, sauf une fiducie :

(i) si le choix vise une entreprise de l'auteur du choix, au plus tard à la date d'échéance de production applicable au particulier pour l'année d'imposition dans laquelle se termine l'exercice de l'entreprise qui comprend le 22 février 1994,

(ii) dans les autres cas, au plus tard à la date d'exigibilité du solde applicable au particulier pour l'année d'imposition 1994;

b) l'auteur du choix étant une fiducie personnelle, au plus tard le 31 mars de l'année civile suivant celle au cours de laquelle se termine son année d'imposition qui comprend le 22 février 1994.

Revocation of election

(25) Subject to subsection 110.6(28), an elector may revoke an election made under subsection 110.6(19) by filing a written notice of the revocation with the Minister before 1998.

Révocation du choix

(25) Sous réserve du paragraphe (28), l'auteur du choix peut révoquer le choix fait en application du paragraphe (19) en présentant au ministre un avis écrit à cet effet avant 1998.

Late election

(26) Where an election made under subsection 110.6(19) is filed with the Minister after the day (referred to in this subsection and subsections 110.6(27) and 110.6(29) as the "election filing date") on or before which the election is required by subsection 110.6(24) to have been filed and on or before the day that is 2 years after the election filing date, the election shall be deemed for the purposes of this section (other than subsection 110.6(29)) to have been filed on the election filing date if an estimate of the penalty in respect of the election is paid by the elector when the election is filed with the Minister.

Choix produit en retard

(26) S'il est présenté au ministre après le jour (appelé « date du choix » au présent paragraphe et aux paragraphes (27) et (29)) où il doit être produit selon le paragraphe (24), mais au plus tard deux ans suivant ce jour, le formulaire concernant le choix fait en application du paragraphe (19) est réputé, pour l'application du présent article, à l'exception du paragraphe (29), avoir été produit à la date du choix si un montant estimatif de la pénalité relative au choix est payé par l'auteur du choix au moment de la présentation du formulaire au ministre.

Amended election

(27) Subject to subsection 110.6(28), an election under subsection 110.6(19) in respect of a property or a business is deemed to be amended and the election, as amended, is deemed for the purpose of this section (other than subsection 110.6(29)) to have been filed on the election filing date if

(a) an amended election in prescribed form in respect of the property or the business is filed with the Minister before 1998; and

(b) an estimate of the penalty, if any, in respect of the amended election is paid by the elector when the amended election is filed with the Minister.

Modification du choix

(27) Sous réserve du paragraphe (28), le choix fait en application du paragraphe (19) relativement à un bien ou à une entreprise est réputé être modifié et, pour l'application du présent article, sauf le paragraphe (29), produit, dans sa version modifiée, à la date du choix, si les conditions suivantes sont réunies :

a) un formulaire prescrit concernant le choix modifié relatif au bien ou à l'entreprise est présenté au ministre avant 1998;

b) un montant estimatif de la pénalité relative au choix modifié est payé par l'auteur du choix au moment où le formulaire concernant ce choix est présenté au ministre.

Election that cannot be revoked or amended

(28) An election under subsection 110.6(19) cannot be revoked or amended where the amount designated in the election exceeds 11/10 of

(a) if the election is in respect of a property other than an interest in a partnership, the fair market value of the property at the end of February 22, 1994;

(b) if the election is in respect of an interest in a partnership, the greater of $1 and the fair market value of the property at the end of February 22, 1994; and

(c) if the election is in respect of a business, the greater of $1 and the fair market value at the end of February 22, 1994 of all the eligible capital property owned at that time by the elector in respect of the business.

Amount of penalty

(29) The penalty in respect of an election to which subsection 110.6(26) or 110.6(27) applies is the amount determined by the formula

(A × B)/300

where

A is the number of months each of which is a month all or part of which is during the period that begins the day after the election filing date and ends the day the election or amended election is filed with the Minister; and

B is the total of all amounts each of which is the taxable capital gain of the elector or a spouse or common-law partner of the elector that results from the application of subsection 110.6(19) to the property or the business in respect of which the election is made less, where subsection 110.6(27) applies to the election, the total of all amounts each of which would, if the Act were read without reference to subsections 110.6(20) and 110.6(27), be the taxable capital gain of the elector or a spouse or common-law partner of the elector that resulted from the application of subsection 110.6(19) to the property or the business.

Unpaid balance of penalty

(30) The Minister shall, with all due dispatch, examine each election to which subsection 110.6(26) or 110.6(27) applies, assess the penalty payable and send a notice of assessment to the elector who made the election, and the elector shall pay forthwith to the Receiver General the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

Interdiction de révocation ou de modification

(28) Le choix fait en application du paragraphe (19) ne peut être révoqué ni modifié si le montant indiqué dans le formulaire concernant le choix dépasse 11/10 de l'un des montants suivants :

a) si le choix vise un bien autre qu'une participation dans une société de personnes, la juste valeur marchande du bien à la fin du 22 février 1994;

b) si le choix vise une participation dans une société de personnes, 1 $ ou, si elle est supérieure, la juste valeur marchande du bien à la fin du 22 février 1994;

c) si le choix vise une entreprise, 1 $ ou, si elle est supérieure, la juste valeur marchande, à la fin du 22 février 1994, de l'ensemble des immobilisations admissibles dont l'auteur du choix est propriétaire à ce moment dans le cadre de l'entreprise.

Pénalité

(29) La pénalité relative à un choix auquel les paragraphes (26) ou (27) s'appliquent correspond au résultat du calcul suivant :

A × B/300

où :

A représente le nombre de mois représentant chacun un mois qui tombe, en tout ou en partie, dans la période commençant le lendemain de la date du choix et se terminant le jour où le formulaire concernant le choix ou le choix modifié est présenté au ministre;

B le total des montants représentant chacun le gain en capital imposable de l'auteur du choix ou de son époux ou conjoint de fait qui découle de l'application du paragraphe (19) au bien ou à l'entreprise visé par le choix, moins, dans le cas où le paragraphe (27) s'applique au choix, le total des montants qui représenteraient chacun le gain en capital imposable de l'auteur du choix ou de son époux ou conjoint de fait résultant de l'application du paragraphe (19) au bien ou à l'entreprise, compte non tenu des paragraphes (20) et (27).

Solde impayé de la pénalité

(30) Le ministre, avec diligence, examine chaque choix auquel les paragraphes (26) ou (27) s'appliquent, calcule le montant de la pénalité payable et envoie un avis de cotisation à l'auteur du choix; ce dernier doit, sans délai, payer au receveur général l'excédent éventuel du montant de la pénalité ainsi calculée sur l'ensemble des montants payés antérieurement au titre de cette pénalité.

Reserve limit

(31) If an amount is included in an individual's income for a particular taxation year because of subparagraph 40(1)(a)(ii) in respect of a disposition of property in a preceding taxation year that, at the time of the disposition, is qualified farm or fishing property, a qualified small business corporation share, qualified farm property or qualified fishing property, the total of all amounts deductible by the individual for the particular year under this section is reduced by the amount, if any, determined by the formula

A – B

where

A is the total of all amounts each of which is an amount deductible under this section by the individual for the particular year or a preceding taxation year, computed without reference to this subsection; and

B is the total of all amounts each of which is an amount that would be deductible under this section by the individual for the particular year or a preceding taxation year if the individual had not for any preceding taxation year claimed a reserve under subparagraph 40(1)(a)(iii) and had claimed, for each taxation year ending before the particular year, the amount that would have been deductible under this section.

(32) [Repealed, 2013, c. 40, s. 46]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 110.6; 1994, c. 7, Sch. II, s. 81, Sch. VIII, s. 47, c. 8, s. 13, c. 21, s. 50; 1995, c. 3, s. 32; 1996, c. 21, s. 21; 1998, c. 19, s. 130; 2000, c. 12, s. 142; 2001, c. 17, ss. 86, 242(E); 2007, c. 2, s. 17, c. 35, s. 31; 2012, c. 31, s. 24; 2013, c. 34, s. 240, c. 40, s. 46; 2014, c. 39, s. 30; 2015, c. 36, s. 7; 2016, c. 12, s. 39.

Plafond de la provision

(31) Si une somme est incluse dans le revenu d'un particulier pour une année d'imposition donnée par l'effet du sous-alinéa 40(1)a)(ii) relativement à la disposition, effectuée au cours d'une année d'imposition antérieure, d'un bien qui, au moment de la disposition, est une action admissible de petite entreprise, un bien agricole admissible, un bien agricole ou de pêche admissible ou un bien de pêche admissible, la somme obtenue par la formule ci-après est retranchée du total des sommes déductibles par le particulier pour l'année donnée en application du présent article :

A – B

où :

A représente le total des sommes représentant chacune une somme déductible par le particulier en application du présent article pour l'année donnée ou pour une année d'imposition antérieure, déterminé compte non tenu du présent paragraphe;

B le total des sommes représentant chacune une somme qui serait déductible par le particulier en application du présent article pour l'année donnée ou pour une année d'imposition antérieure s'il n'avait pas déduit de montant à titre de provision en application du sous-alinéa 40(1)a)(iii) pour une année d'imposition antérieure et avait déduit, pour chaque année d'imposition se terminant avant l'année donnée, la somme qui aurait été déductible en application du présent article.

(32) [Abrogé, 2013, ch. 40, art. 46]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 110.6; 1994, ch. 7, ann. II, art. 81, ann. VIII, art. 47, ch. 8, art. 13, ch. 21, art. 50; 1995, ch. 3, art. 32; 1996, ch. 21, art. 21; 1998, ch. 19, art. 130; 2000, ch. 12, art. 142; 2001, ch. 17, art. 86 et 242(A); 2007, ch. 2, art. 17, ch. 35, art. 31; 2012, ch. 31, art. 24; 2013, ch. 34, art. 240, ch. 40, art. 46; 2014, ch. 39, art. 30; 2015, ch. 36, art. 7; 2016, ch. 12, art. 39.

Residing in prescribed zone

110.7 (1) Where, throughout a period (in this section referred to as the "qualifying period") of not less than 6 consecutive months beginning or ending in a taxation year, a taxpayer who is an individual has resided in one or more particular areas each of which is a prescribed northern zone or prescribed intermediate zone for the year and files for the year a claim in prescribed form, there may be deducted in computing the taxpayer's taxable income for the year

(a) the total of all amounts each of which is the product obtained by multiplying the specified percentage for a particular area for the year in which the taxpayer so resided by an amount received, or the value of a benefit received or enjoyed, in the year by the taxpayer in respect of the taxpayer's employment in the

Habitants des régions visées par règlement

110.7 (1) Le contribuable, étant un particulier, qui, tout au long d'une période (appelée « période admissible » au présent article) d'au moins six mois consécutifs commençant ou se terminant au cours d'une année d'imposition, réside dans une ou plusieurs régions — chacune étant, pour l'année, une zone nordique visée par règlement ou une zone intermédiaire visée par règlement — et qui en fait la demande pour l'année sur formulaire prescrit peut déduire les montants suivants dans le calcul de son revenu imposable pour l'année :

a) le total des montants représentant chacun le produit de la multiplication du pourcentage déterminé applicable à la région pour l'année où le contribuable y réside par le montant que le contribuable reçoit, ou la valeur d'un avantage qu'il reçoit ou dont il a joui, au

particular area by a person with whom the taxpayer was dealing at arm's length in respect of travel expenses incurred by the taxpayer or another individual who was a member of the taxpayer's household during the part of the year in which the taxpayer resided in the particular area, to the extent that

(i) the amount received or the value of the benefit, as the case may be,

(A) does not exceed a prescribed amount in respect of the taxpayer for the period in the year in which the taxpayer resided in the particular area,

(B) is included and is not otherwise deducted in computing the taxpayer's income for the year or any other taxation year, and

(C) is not included in determining an amount deducted under subsection 118.2(1) for the year or any other taxation year,

(ii) the travel expenses were incurred in respect of trips made in the year by the taxpayer or another individual who was a member of the taxpayer's household during the part of the year in which the taxpayer resided in the particular area, and

(iii) neither the taxpayer nor a member of the taxpayer's household is at any time entitled to a reimbursement or any form of assistance (other than a reimbursement or assistance included in computing the income of the taxpayer or the member) in respect of travel expenses to which subparagraph 110.7(1)(a)(ii) applies; and

(b) the lesser of

(i) 20% of the taxpayer's income for the year, and

(ii) the total of all amounts each of which is the product obtained by multiplying the specified percentage for a particular area for the year in which the taxpayer so resided by the total of

(A) $11.00 multiplied by the number of days in the year included in the qualifying period in which the taxpayer resided in the particular area, and

(B) $11.00 multiplied by the number of days in the year included in that portion of the qualifying period throughout which the taxpayer maintained and resided in a self-contained domestic establishment in the particular area (except any day included in computing a deduction claimed

cours de l'année en rapport avec l'emploi qu'il exerce dans la région auprès d'une personne avec laquelle il n'a aucun lien de dépendance, au titre des frais de déplacement engagés par le contribuable ou par un autre particulier qui est membre de sa maisonnée pendant la partie de l'année au cours de laquelle le contribuable réside dans la région, dans la mesure où, à la fois :

(i) ce montant ou cette valeur répond aux conditions suivantes :

(A) il ne dépasse pas le montant prescrit à l'égard du contribuable pour la période de l'année au cours de laquelle il réside dans la région,

(B) il est inclus, et n'est pas par ailleurs déduit, dans le calcul du revenu du contribuable pour l'année ou pour une autre année d'imposition,

(C) il n'est pas inclus dans le calcul d'une déduction en application du paragraphe 118.2(1) pour l'année ou pour une autre année d'imposition,

(ii) les frais de déplacement concernent des voyages effectués au cours de l'année par le contribuable ou par un autre particulier qui est membre de sa maisonnée pendant la partie de l'année au cours de laquelle le contribuable réside dans la région;

(iii) ni le contribuable, ni un membre de sa maisonnée n'a, à aucun moment, droit à un remboursement ou à une forme d'aide (sauf un remboursement ou une aide dont le montant est inclus dans le calcul du revenu du contribuable ou du membre) relativement aux frais de déplacement auxquels le sous-alinéa (ii) s'applique;

b) le moins élevé des montants suivants :

(i) 20 % du revenu du contribuable pour l'année,

(ii) le total des montants représentant chacun le produit de la multiplication du pourcentage déterminé applicable à la région pour l'année où le contribuable y réside par le total des montants suivants :

(A) le produit de 11,00 $ par le nombre de jours de l'année compris dans la période admissible où le contribuable réside dans la région,

(B) le produit de 11,00 $ par le nombre de jours de l'année compris dans la partie de la période

under this paragraph by another person who resided on that day in the establishment).

admissible tout au long de laquelle le contribuable tient et habite un établissement domestique autonome dans la région (sauf les jours déjà comptés dans le calcul de la déduction que demande, en application du présent alinéa, une autre personne qui habite alors cet établissement).

Specified percentage

(2) For the purpose of subsection 110.7(1), the specified percentage for a particular area for a taxation year is

(a) where the area is a prescribed northern zone for the year, 100%; and

(b) where the area is a prescribed intermediate zone for the year, 50%.

Pourcentage déterminé

(2) Pour l'application du paragraphe (1), le pourcentage déterminé applicable à une région pour une année d'imposition s'établit comme suit :

a) si la région est une zone nordique visée par règlement pour l'année, 100 %;

b) si la région est une zone intermédiaire visée par règlement pour l'année, 50 %.

Restriction

(3) The total determined under paragraph 110.7(1)(a) for a taxpayer in respect of travel expenses incurred in a taxation year in respect of an individual shall not be in respect of more than 2 trips made by the individual in the year, other than trips to obtain medical services that are not available in the locality in which the taxpayer resided.

Restriction

(3) Le total calculé selon l'alinéa (1)a) à l'égard d'un contribuable relativement aux frais de déplacement engagés au cours d'une année d'imposition au titre d'un particulier ne peut viser plus de deux voyages effectués par le particulier au cours de l'année, autres que des voyages effectués afin d'obtenir des services médicaux qui ne sont pas dispensés dans la localité où le contribuable réside.

Board and lodging allowances, etc.

(4) The amount determined under subparagraph (1)(b)(ii) for a particular area for a taxpayer for a taxation year shall not exceed the amount by which the amount otherwise determined under that subparagraph for the particular area for the year exceeds the value of, or an allowance in respect of expenses incurred by the taxpayer for, the taxpayer's board and lodging in the particular area (other than at a work site described in paragraph 67.1(2)(e)) that

(a) would, but for subparagraph 6(6)(a)(i), be included in computing the taxpayer's income for the year; and

(b) can reasonably be considered to be attributable to that portion of the qualifying period that is in the year and during which the taxpayer maintained a self-contained domestic establishment as the taxpayer's principal place of residence in an area other than a prescribed northern zone or a prescribed intermediate zone for the year.

Allocation pour pension et logement

(4) Le total déterminé selon le sous-alinéa (1)b)(ii) pour un contribuable pour une année d'imposition relativement a une région ne peut dépasser l'excédent du total déterminé par ailleurs selon ce sous-alinéa pour l'année relativement à la région sur la valeur de la pension et du logement du contribuable dans la région (ailleurs que sur un chantier visé à l'alinéa 67.1(2)e)), ou l'allocation pour les frais qu'il supporte à cet égard, qui, à la fois :

a) sans le sous-alinéa 6(6)a)(i), serait incluse dans le calcul de son revenu pour l'année;

b) peut raisonnablement être considérée comme attribuable à la partie de la période admissible comprise dans l'année et pendant laquelle il tient un établissement domestique autonome comme lieu principal de résidence dans une région qui n'est, pour l'année, ni une zone nordique visée par règlement, ni une zone intermédiaire visée par règlement.

Idem

(5) Where on any day an individual resides in more than one particular area referred to in subsection 110.7(1), for

Résidence unique

(5) Le particulier qui, un jour donné, réside dans plusieurs régions visées au paragraphe (1) est réputé, pour

the purpose of that subsection, the individual shall be deemed to reside in only one such area on that day.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 110.7; 1994, c. 7, Sch. II, s. 82, Sch. VIII, s. 48; 1999, c. 22, s. 27; 2008, c. 28, s. 13; 2016, c. 7, s. 13.

l'application de ce paragraphe, ne résider que dans une seule de ces régions ce jour-là.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 110.7; 1994, ch. 7, ann. II, art. 82, ann. VIII, art. 48; 1999, ch. 22, art. 27; 2008, ch. 28, art. 13; 2016, ch. 7, art. 13.

Losses deductible

111 (1) For the purpose of computing the taxable income of a taxpayer for a taxation year, there may be deducted such portion as the taxpayer may claim of the taxpayer's

Non-capital losses

(a) non-capital losses for the 20 taxation years immediately preceding and the 3 taxation years immediately following the year;

Net capital losses

(b) net capital losses for taxation years preceding and the three taxation years immediately following the year;

Restricted farm losses

(c) restricted farm losses for the 20 taxation years immediately preceding and the 3 taxation years immediately following the year, but no amount is deductible for the year in respect of restricted farm losses except to the extent of the taxpayer's incomes for the year from all farming businesses carried on by the taxpayer;

Farm losses

(d) farm losses for the 20 taxation years immediately preceding and the 3 taxation years immediately following the year; and

Limited partnership losses

(e) limited partnership losses in respect of a partnership for taxation years preceding the year, but no amount is deductible for the year in respect of a limited partnership loss except to the extent of the amount by which

(i) the taxpayer's at-risk amount in respect of the partnership (within the meaning assigned by subsection 96(2.2)) at the end of the last fiscal period of the partnership ending in the taxation year

exceeds

(ii) the total of all amounts each of which is

(A) the amount required by subsection 127(8) in respect of the partnership to be added in computing the investment tax credit of the taxpayer for the taxation year,

Pertes déductibles

111 (1) Pour le calcul du revenu imposable d'un contribuable pour une année d'imposition, peuvent être déduites les sommes appropriées suivantes :

Pertes autres que des pertes en capital

a) ses pertes autres que des pertes en capital subies au cours des 20 années d'imposition précédentes et des 3 années d'imposition suivantes;

Pertes en capital nettes

b) les pertes en capital nettes que le contribuable subit pour les années d'imposition qui précèdent et pour les trois années d'imposition qui suivent l'année;

Pertes agricoles restreintes

c) ses pertes agricoles restreintes subies au cours des 20 années d'imposition précédentes et des 3 années d'imposition suivantes; toutefois, la somme déductible pour l'année à titre de pertes agricoles restreintes ne peut excéder le revenu tiré, pour l'année, des entreprises agricoles exploitées par le contribuable;

Pertes agricoles

d) ses pertes agricoles subies au cours des 20 années d'imposition précédentes et des 3 années d'imposition suivantes;

Pertes comme commanditaire

e) les pertes comme commanditaire subies dans une société de personnes par le contribuable pour les années d'imposition précédant l'année; toutefois, le montant déductible pour l'année au titre d'une perte comme commanditaire ne l'est qu'à concurrence de l'excédent du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) la fraction à risques de l'intérêt du contribuable dans la société de personnes, au sens du paragraphe 96(2.2), à la fin du dernier exercice de la société de personnes se terminant au cours de l'année,

(ii) le total des montants dont chacun représente :

(A) la partie du montant déterminé à l'égard de la société de personnes que le paragraphe 127(8) prévoit d'ajouter au crédit d'impôt à l'investissement du contribuable pour l'année,

(B) the taxpayer's share of any losses of the partnership for that fiscal period from a business or property, or

(C) the taxpayer's share of

(I) the foreign resource pool expenses, if any, incurred by the partnership in that fiscal period,

(II) the Canadian exploration expense, if any, incurred by the partnership in that fiscal period,

(III) the Canadian development expense, if any, incurred by the partnership in that fiscal period, and

(IV) the Canadian oil and gas property expense, if any, incurred by the partnership in that fiscal period.

(B) la part dont le contribuable est tenu des pertes de la société de personnes résultant d'une entreprise ou d'un bien pour le dernier exercice de la société de personnes se terminant au cours de l'année,

(C) la part attribuable au contribuable des frais globaux relatifs à des ressources à l'étranger, des frais d'exploration au Canada, des frais d'aménagement au Canada et des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, engagés par la société de personnes au cours de cet exercice.

Net capital losses

(1.1) Notwithstanding paragraph 111(1)(b), the amount that may be deducted under that paragraph in computing a taxpayer's taxable income for a particular taxation year is the total of

(a) the lesser of

(i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the particular year, and

(ii) the total of all amounts each of which is an amount determined by the formula

A × B/C

where

A is the amount claimed under paragraph 111(1)(b) for the particular year by the taxpayer in respect of a net capital loss for a taxation year (in this paragraph referred to as the "loss year"),

B is the fraction that would be used for the particular year under section 38 in respect of the taxpayer if the taxpayer had a capital loss for the particular year, and

C is the fraction required to be used under section 38 in respect of the taxpayer for the loss year;

(b) where the taxpayer is an individual, the least of

(i) $2,000,

Pertes en capital nettes

(1.1) Malgré l'alinéa (1)b), le montant qu'un contribuable peut déduire en application de cet alinéa dans le calcul de son revenu imposable pour une année d'imposition donnée correspond au total des montants suivants :

a) le moins élevé des montants suivants :

(i) l'excédent calculé selon l'alinéa 3b) à l'égard du contribuable pour l'année donnée,

(ii) le total des montants dont chacun représente un montant calculé selon la formule suivante :

A × B/C

où :

A représente le montant dont le contribuable a demandé la déduction pour l'année donnée selon l'alinéa (1)b) au titre d'une perte en capital nette pour une année d'imposition (appelée « année de la perte » au présent alinéa),

B la fraction qui serait utilisée pour l'année donnée pour l'application de l'article 38 en ce qui concerne le contribuable s'il avait subi une perte en capital pour l'année donnée,

C la fraction à utiliser pour l'application de l'article 38 en ce qui concerne le contribuable pour l'année de la perte;

b) si le contribuable est un particulier, le moins élevé des montants suivants :

(i) 2 000 $,

(ii) the taxpayer's pre-1986 capital loss balance for the particular year, and

(iii) the amount, if any, by which

(A) the amount claimed under paragraph 111(1)(b) in respect of the taxpayer's net capital losses for the particular year

exceeds

(B) the total of the amounts in respect of the taxpayer's net capital losses that, using the formula in subparagraph 111(1.1)(a)(ii), would be required to be claimed under paragraph 111(1)(b) for the particular year to produce the amount determined under paragraph 111(1.1)(a) for the particular year; and

(c) the amount, if any, that the Minister determines to be reasonable in the circumstances for the particular year and after considering the application to the taxpayer of subsections 104(21.6), 130.1(4), 131(1) and 138.1(3.2) as they read in their application to the taxpayer's last taxation year that began before November 2011.

(ii) le solde, pour l'année donnée, des pertes en capital subies par le contribuable avant 1986,

(iii) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B) :

(A) le montant dont le contribuable a demandé la déduction selon l'alinéa (1)b) pour l'année donnée au titre de ses pertes en capital nettes,

(B) le total — déterminé au moyen de la formule visée au sous-alinéa a)(ii) — des montants au titre des pertes en capital nettes du contribuable, dont celui-ci devrait demander la déduction pour l'année donnée selon l'alinéa (1)b) afin d'obtenir le montant calculé selon l'alinéa a) pour l'année donnée;

c) la somme que le ministre estime raisonnable dans les circonstances pour l'année donnée et compte tenu de l'application au contribuable des paragraphes 104(21.6), 130.1(4), 131(1) et 138.1(3.2), dans leur version applicable à la dernière année d'imposition du contribuable ayant commencé avant novembre 2011.

Year of death

(2) Where a taxpayer dies in a taxation year, for the purpose of computing the taxpayer's taxable income for that year and the immediately preceding taxation year, the following rules apply:

(a) paragraph 111(1)(b) shall be read as follows:

"111(1)(b) the taxpayer's net capital losses for all taxation years not claimed for the purpose of computing the taxpayer's taxable income for any other taxation year;"; and

(b) paragraph 111(1.1)(b) shall be read as follows:

"111(1.1)(b) the amount, if any, by which

(i) the amount claimed under paragraph 111(1)(b) in respect of the taxpayer's net capital losses for the particular year

exceeds the total of

(ii) all amounts in respect of the taxpayer's net capital losses that, using the formula in subparagraph 111(2)(a)(ii), would be required to be claimed under paragraph 111(1)(b) for the particular year to produce the amount determined under paragraph 111(2)(a) for the particular year, and

Pertes en capital nettes en cas de décès

(2) En cas de décès d'un contribuable, les règles suivantes s'appliquent au calcul du revenu imposable du contribuable pour l'année d'imposition au cours de laquelle il est décédé et pour l'année d'imposition précédente :

a) l'alinéa (1)b) est remplacé par ce qui suit :

« b) les pertes en capital nettes pour les années d'imposition dont le contribuable n'a pas demandé la déduction pour le calcul de son revenu imposable pour une autre année d'imposition; »

b) l'alinéa (1.1)b) est remplacé par ce qui suit

« b) l'excédent éventuel :

(i) du montant dont le contribuable a demandé la déduction au titre de ses pertes en capital nettes selon l'alinéa (1)b) pour l'année donnée,

sur le total des montants suivants :

(ii) l'ensemble — déterminé au moyen de la formule visée au sous-alinéa a)(ii) — des montants au titre des pertes en capital nettes du contribuable, dont celui-ci devrait demander la déduction pour l'année donnée selon l'alinéa (1)b) afin d'obtenir le

(iii) all amounts each of which is an amount deducted under section 110.6 in computing the taxpayer's taxable income for a taxation year, except to the extent that, where the particular year is the year in which the taxpayer died, the amount, if any, by which the amount determined under subparagraph 111(2)(b)(i) in respect of the taxpayer for the immediately preceding taxation year exceeds the amount so determined under subparagraph 111(2)(b)(ii)."

Limitation on deductibility

(3) For the purposes of subsection 111(1),

(a) an amount in respect of a non-capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year is deductible, and an amount in respect of a net capital loss for a taxation year may be claimed, in computing the taxable income of a taxpayer for a particular taxation year only to the extent that it exceeds the total of

(i) amounts deducted under this section in respect of that non-capital loss, restricted farm loss, farm loss or limited partnership loss in computing taxable income for taxation years preceding the particular taxation year,

(i.1) the amount that was claimed under paragraph 111(1)(b) in respect of that net capital loss for taxation years preceding the particular taxation year, and

(ii) amounts claimed in respect of that loss under paragraph 186(1)(c) for the year in which the loss was incurred or under paragraph 186(1)(d) for the particular taxation year and taxation years preceding the particular taxation year, and

(b) no amount is deductible in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year until

(i) in the case of a non-capital loss, the deductible non-capital losses,

(ii) in the case of a net capital loss, the deductible net capital losses,

(iii) in the case of a restricted farm loss, the deductible restricted farm losses,

montant calculé selon l'alinéa a) pour l'année donnée,

(iii) l'ensemble des montants dont chacun représente un montant que le contribuable a déduit en application de l'article 110.6 dans le calcul de son revenu imposable pour une année d'imposition, sauf dans la mesure où, l'année donnée étant l'année du décès du contribuable, l'excédent du montant calculé selon le sous-alinéa (i) à l'égard du contribuable pour l'année d'imposition précédente dépasse le montant ainsi déterminé selon le sous-alinéa (ii). »

Restriction des déductions

(3) Pour l'application du paragraphe (1) :

a) une somme au titre d'une perte autre qu'une perte en capital, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire pour une année d'imposition n'est déductible, et la déduction d'une somme au titre d'une perte en capital nette pour une année d'imposition ne peut être demandée, dans le calcul du revenu imposable d'un contribuable pour une année d'imposition donnée que dans la mesure où la somme dépasse le total des montants suivants :

(i) les sommes déduites selon le présent article, au titre de cette perte autre qu'une perte en capital, perte agricole restreinte, perte agricole ou perte comme commanditaire, dans le calcul du revenu imposable pour les années d'imposition antérieures à l'année donnée,

(i.1) le montant demandé en déduction selon l'alinéa (1)b) au titre de cette perte en capital nette pour les années d'imposition antérieures à l'année donnée,

(ii) les sommes réclamées au titre de cette perte en vertu de l'alinéa 186(1)c) pour l'année au cours de laquelle la perte a été subie ou en vertu de l'alinéa 186(1)d) pour l'année d'imposition donnée et les années d'imposition antérieures à l'année d'imposition donnée;

b) aucune somme n'est déductible au titre d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire pour une année d'imposition avant que :

(i) dans le cas d'une perte autre qu'une perte en capital, les pertes autres que les pertes en capital déductibles,

(iv) in the case of a farm loss, the deductible farm losses, and

(v) in the case of a limited partnership loss, the deductible limited partnership losses,

for preceding taxation years have been deducted.

(ii) dans le cas d'une perte en capital nette, les pertes en capital nettes déductibles,

(iii) dans le cas d'une perte agricole restreinte, les pertes agricoles restreintes déductibles,

(iv) dans le cas d'une perte agricole, les pertes agricoles déductibles,

(v) dans le cas d'une perte comme commanditaire, les pertes comme commanditaire déductibles,

pour les années d'imposition antérieures n'aient été déduites.

Loss restriction event — capital losses

(4) Notwithstanding subsection (1), and subject to subsection (5.5), if at any time (in this subsection referred to as "that time") a taxpayer is subject to a loss restriction event,

(a) no amount in respect of a net capital loss for a taxation year that ended before that time is deductible in computing the taxpayer's taxable income for a taxation year that ends after that time;

(b) no amount in respect of a net capital loss for a taxation year that ends after that time is deductible in computing the taxpayer's taxable income for a taxation year that ends before that time;

(c) in computing the adjusted cost base to the taxpayer at and after that time of each capital property, other than a depreciable property, of the taxpayer immediately before that time, there is to be deducted the amount, if any, by which the adjusted cost base to the taxpayer of the property immediately before that time exceeds its fair market value immediately before that time;

(d) each amount required by paragraph (c) to be deducted in computing the adjusted cost base to the taxpayer of a property is deemed to be a capital loss of the taxpayer for the taxation year that ended immediately before that time from the disposition of the property;

(e) if the taxpayer designates — in its return of income under this Part for the taxation year that ended immediately before that time or in a prescribed form filed with the Minister on or before the day that is 90 days after the day on which a notice of assessment of tax payable for the year or notification that no tax is payable for the year is sent to the taxpayer — a property that was a capital property of the taxpayer immediately before that time (other than a property in respect of which an amount would, but for this paragraph, be

Fait lié à la restriction de pertes — pertes en capital

(4) Malgré le paragraphe (1), sous réserve du paragraphe (5.5), dans le cas où un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné, les règles ci-après s'appliquent :

a) aucune somme au titre d'une perte en capital nette pour une année d'imposition s'étant terminée avant ce moment n'est déductible dans le calcul du revenu imposable du contribuable pour une année d'imposition se terminant après ce moment;

b) aucune somme au titre d'une perte en capital nette pour une année d'imposition se terminant après ce moment n'est déductible dans le calcul du revenu imposable du contribuable pour une année d'imposition s'étant terminée avant ce moment;

c) l'excédent éventuel du prix de base rajusté pour le contribuable, immédiatement avant ce moment, de chaque immobilisation (sauf un bien amortissable) lui appartenant immédiatement avant ce moment sur la juste valeur marchande de l'immobilisation immédiatement avant ce moment est à déduire dans le calcul du prix de base rajusté de l'immobilisation pour le contribuable à ce moment et par la suite;

d) cet excédent est réputé être une perte en capital du contribuable provenant de la disposition de l'immobilisation pour l'année d'imposition s'étant terminée immédiatement avant ce moment;

e) si le contribuable désigne — dans sa déclaration de revenu produite en vertu de la présente partie pour l'année d'imposition s'étant terminée immédiatement avant ce moment ou sur le formulaire prescrit présenté au ministre au plus tard le quatre-vingt-dixième jour suivant l'envoi au contribuable d'un avis de cotisation concernant l'impôt payable pour l'année ou d'un avis portant qu'aucun impôt n'est payable pour l'année — un bien qui était une immobilisation lui

required by paragraph (c) to be deducted in computing its adjusted cost base to the taxpayer or a depreciable property of a prescribed class to which, but for this paragraph, subsection (5.1) would apply),

(i) the taxpayer is deemed to have disposed of the property at the time that is immediately before the time that is immediately before that time for proceeds of disposition equal to the lesser of

(A) the fair market value of the property immediately before that time, and

(B) the greater of the adjusted cost base to the taxpayer of the property immediately before the disposition and such amount as is designated by the taxpayer in respect of the property,

(ii) subject to subparagraph (iii), the taxpayer is deemed to have reacquired the property at that time at a cost equal to those proceeds of disposition, and

(iii) if the property is depreciable property of the taxpayer the capital cost of which to the taxpayer immediately before the disposition exceeds those proceeds of disposition, for the purposes of sections 13 and 20 and any regulations made for the purposes of paragraph 20(1)(a),

(A) the capital cost of the property to the taxpayer at that time is deemed to be the amount that was its capital cost immediately before the disposition, and

(B) the excess is deemed to have been allowed to the taxpayer in respect of the property under regulations made for the purposes of paragraph 20(1)(a) in computing the taxpayer's income for taxation years that ended before that time; and

(f) for the purposes of the definition ***capital dividend account*** in subsection 89(1), each amount that because of paragraph (d) or (e) is a capital loss or gain of the taxpayer from a disposition of a property for the taxation year that ended immediately before that time is deemed to be a capital loss or gain, as the case may be, of the taxpayer from the disposition of the property immediately before the time that a capital property of the taxpayer in respect of which paragraph (e) would be applicable would be deemed by that paragraph to have been disposed of by the taxpayer.

appartenant immédiatement avant ce moment (sauf un bien pour lequel une somme serait à déduire en application de l'alinéa c), en l'absence du présent alinéa, dans le calcul de son prix de base rajusté pour le contribuable ou un bien amortissable d'une catégorie prescrite auquel le paragraphe (5.1) s'appliquerait en l'absence du présent alinéa) :

(i) le contribuable est réputé avoir disposé du bien immédiatement avant le moment qui est immédiatement avant le moment donné pour un produit de disposition égal à la moins élevée des sommes suivantes :

(A) la juste valeur marchande du bien immédiatement avant le moment donné,

(B) son prix de base rajusté pour le contribuable immédiatement avant la disposition ou, si elle est plus élevée, la somme qu'il a désignée relativement au bien,

(ii) sous réserve du sous-alinéa (iii), le contribuable est réputé avoir acquis le bien de nouveau au moment donné à un coût égal à ce produit de disposition,

(iii) si le bien est un bien amortissable du contribuable dont le coût en capital, pour lui, immédiatement avant la disposition excède ce produit de disposition, pour l'application des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) :

(A) le coût en capital du bien pour le contribuable au moment donné est réputé être le montant qui correspondait à son coût en capital immédiatement avant la disposition,

(B) la déduction de l'excédent par le contribuable est réputée avoir été autorisée relativement au bien selon les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) dans le calcul de son revenu pour les années d'imposition s'étant terminées avant le moment donné;

f) pour l'application de la définition de ***compte de dividendes en capital*** au paragraphe 89(1), chaque somme qui constitue, par l'effet des alinéas d) ou e), une perte en capital ou un gain en capital du contribuable provenant de la disposition d'un bien pour l'année d'imposition s'étant terminée immédiatement avant le moment donné est réputée être une perte en

Loss restriction event — non-capital losses and farm losses

(5) If at any time a taxpayer is subject to a loss restriction event,

(a) no amount in respect of the taxpayer's non-capital loss or farm loss for a taxation year that ended before that time is deductible by the taxpayer for a taxation year that ends after that time, except that the portion of the taxpayer's non-capital loss or farm loss, as the case may be, for a taxation year that ended before that time as may reasonably be regarded as the taxpayer's loss from carrying on a business and, if a business was carried on by the taxpayer in that year, the portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing the taxpayer's taxable income for that year is deductible by the taxpayer for a particular taxation year that ends after that time

(i) only if that business was carried on by the taxpayer for profit or with a reasonable expectation of profit throughout the particular year, and

(ii) only to the extent of the total of the taxpayer's income for the particular year from

(A) that business, and

(B) if properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services; and

(b) no amount in respect of the taxpayer's non-capital loss or farm loss for a taxation year that ends after that time is deductible by the taxpayer for a taxation year that ended before that time, except that the portion of the taxpayer's non-capital loss or farm loss, as the case may be, for a taxation year that ended after that time as may reasonably be regarded as the taxpayer's loss from carrying on a business and, if a business was carried on by the taxpayer in that year, the portion of the non-capital loss as may reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing the taxpayer's taxable capital gain or allowable capital loss, as the case may be, from the disposition of property immediately before the time at which the taxpayer is deemed by paragraph (e) to have disposed of a capital property to which that paragraph applies.

Fait lié à la restriction de pertes — pertes autres qu'en capital et pertes agricoles

(5) Si un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné, les règles ci-après s'appliquent :

a) aucune somme au titre d'une perte autre qu'une perte en capital ou d'une perte agricole pour une année d'imposition s'étant terminée avant ce moment n'est déductible par le contribuable pour une année d'imposition se terminant après ce moment; toutefois, la partie de la perte autre qu'une perte en capital ou de la perte agricole, selon le cas, du contribuable pour une année d'imposition s'étant terminée avant ce moment qu'il est raisonnable de considérer comme provenant de l'exploitation d'une entreprise et, si le contribuable exploitait une entreprise au cours de cette année, la partie de la perte autre qu'une perte en capital qu'il est raisonnable de considérer comme se rapportant à une somme déductible en application de l'alinéa 110(1)k) dans le calcul de son revenu imposable pour l'année, ne sont déductibles par le contribuable pour une année d'imposition donnée se terminant après ce moment :

(i) que si le contribuable a exploité cette entreprise à profit ou dans une attente raisonnable de profit tout au long de l'année donnée,

(ii) concurrence du total du revenu du contribuable pour l'année donnée provenant :

(A) de cette entreprise,

(B) si des biens ont été vendus, loués ou mis en valeur, ou des services rendus, dans le cadre de l'exploitation de cette entreprise avant ce moment, de toute autre entreprise dont la presque totalité du revenu est dérivée de la vente, de la location ou de la mise en valeur, selon le cas, de biens semblables ou de la prestation de services semblables;

b) aucune somme au titre d'une perte autre qu'une perte en capital ou d'une perte agricole pour une année d'imposition se terminant après ce moment n'est déductible par le contribuable pour une année d'imposition s'étant terminée avant ce moment; toutefois, la partie de la perte autre qu'une perte en capital ou de la perte agricole, selon le cas, du contribuable pour une

income for that year is deductible by the taxpayer for a particular taxation year that ends before that time

(i) only if throughout the taxation year and in the particular year that business was carried on by the taxpayer for profit or with a reasonable expectation of profit, and

(ii) only to the extent of the taxpayer's income for the particular year from

(A) that business, and

(B) if properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services.

année d'imposition se terminant après ce moment qu'il est raisonnable de considérer comme provenant de l'exploitation d'une entreprise et, si le contribuable exploitait une entreprise au cours de cette année, la partie de la perte autre qu'une perte en capital qu'il est raisonnable de considérer comme se rapportant à une somme déductible en application de l'alinéa 110(1)k) dans le calcul de son revenu imposable pour l'année, ne sont déductibles par le contribuable pour une année d'imposition donnée s'étant terminée avant ce moment :

(i) que si le contribuable a exploité cette entreprise à profit ou dans une attente raisonnable de profit tout au long de l'année d'imposition et au cours de l'année donnée,

(ii) concurrence du revenu du contribuable pour l'année donnée provenant :

(A) de cette entreprise,

(B) si des biens ont été vendus, loués ou mis en valeur, ou des services rendus, dans le cadre de l'exploitation de cette entreprise avant ce moment, de toute autre entreprise dont la presque totalité du revenu est dérivée de la vente, de la location ou de la mise en valeur, selon le cas, de biens semblables ou de la prestation de services semblables.

Loss restriction event — UCC computation

(5.1) Subject to subsection (5.5), if at any time a taxpayer is subject to a loss restriction event and, if this Act were read without reference to subsection 13(24), the undepreciated capital cost to the taxpayer of depreciable property of a prescribed class immediately before that time would have exceeded the total of

(a) the fair market value of all the property of that class immediately before that time, and

(b) the amount in respect of property of that class otherwise allowed under regulations made under paragraph 20(1)(a) or deductible under subsection 20(16) in computing the taxpayer's income for the taxation year that ended immediately before that time,

the excess is to be deducted in computing the taxpayer's income for the taxation year that ended immediately before that time and is deemed to have been allowed in respect of property of that class under regulations made under paragraph 20(1)(a).

Fait lié à la restriction de pertes — calcul de la FNACC

(5.1) Sous réserve du paragraphe (5.5), dans le cas où un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné et où la fraction non amortie du coût en capital pour lui de biens amortissables d'une catégorie prescrite immédiatement avant ce moment aurait excédé le total des sommes ci-après si la présente loi s'appliquait compte non tenu du paragraphe 13(24) :

a) la juste valeur marchande de tous les biens de cette catégorie immédiatement avant ce moment,

b) la somme relative aux biens de cette catégorie dont la déduction est autorisée par ailleurs par les dispositions réglementaires prises en application de l'alinéa 20(1)a) ou qui est déductible en application du paragraphe 20(16) dans le calcul du revenu du contribuable pour l'année d'imposition s'étant terminée immédiatement avant ce moment,

l'excédent est à déduire dans le calcul du revenu du contribuable pour l'année d'imposition s'étant terminée immédiatement avant ce moment et est réputé être une déduction autorisée par les dispositions réglementaires prises en application de l'alinéa 20(1)a) pour les biens de cette catégorie.

(5.2) [Repealed, 2016, c. 12, s. 40]

Loss restriction event — doubtful debts and bad debts

(5.3) Subject to subsection (5.5), if at any time a taxpayer is subject to a loss restriction event,

(a) no amount may be deducted under paragraph 20(1)(l) in computing the taxpayer's income for the taxation year that ended immediately before that time; and

(b) in respect of each debt owing to the taxpayer immediately before that time

(i) the amount that is the greatest amount that would, but for this subsection and subsection 26(2) of this Act and subsection 33(1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, have been deductible under paragraph 20(1)(l)

(A) is deemed to be a separate debt, and

(B) notwithstanding any other provision of this Act, is to be deducted as a bad debt under paragraph 20(1)(p) in computing the taxpayer's income for its taxation year that ended immediately before that time, and

(ii) the amount by which the debt exceeds that separate debt is deemed to be a separate debt incurred at the same time and under the same circumstances as the debt was incurred.

Non-capital loss

(5.4) Where, at any time, control of a corporation has been acquired by a person or persons, such portion of the corporation's non-capital loss for a taxation year ending before that time as

111(5.4)(a) was not deductible in computing the corporation's income for a taxation year ending before that time, and

(b) can reasonably be considered to be a non-capital loss of a subsidiary corporation (in this subsection referred to as the "former subsidiary corporation") from carrying on a particular business (in this subsection referred to as the "former subsidiary corporation's loss business") that was deemed by subsection 88(1.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on November 12,

(5.2) [Abrogé, 2016, ch. 12, art. 40]

Fait lié à la restriction de pertes — créances douteuses ou irrécouvrables

(5.3) Sous réserve du paragraphe (5.5), si un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné, les règles ci-après s'appliquent :

a) aucune somme n'est déductible en application de l'alinéa 20(1)l) dans le calcul du revenu du contribuable pour l'année d'imposition s'étant terminée immédiatement avant ce moment;

b) en ce qui a trait à chaque créance du contribuable immédiatement avant ce moment :

(i) la somme maximale qui, en l'absence du présent paragraphe, du paragraphe 26(2) de la présente loi et du paragraphe 33(1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, aurait été déductible en application de l'alinéa 20(1)l) :

(A) d'une part, est réputée être une créance distincte,

(B) d'autre part, est à déduire, malgré les autres dispositions de la présente loi, à titre de créance irrécouvrable en application de l'alinéa 20(1)p) dans le calcul du revenu du contribuable pour son année d'imposition s'étant terminée immédiatement avant ce moment,

(ii) l'excédent du montant de la créance sur le montant de cette créance distincte est réputé être une créance distincte née au même moment et dans les mêmes circonstances que la créance.

Perte autre qu'une perte en capital

(5.4) Lorsque, à un moment donné, le contrôle d'une société a été acquis par une ou plusieurs personnes, la partie de la perte autre qu'une perte en capital de la société pour une année d'imposition se terminant avant ce moment, dans la mesure où :

a) d'une part, elle n'était pas déductible dans le calcul du revenu de la société pour une année d'imposition se terminant avant ce moment;

b) d'autre part, il est raisonnable de la considérer comme étant une perte autre qu'une perte en capital d'une filiale (appelée l'« ancienne filiale » au présent paragraphe) résultant de l'exploitation d'une entreprise donnée (appelée l'« entreprise déficitaire de l'ancienne filiale » au présent paragraphe) et réputée, en vertu du paragraphe 88(1.1) de la *Loi de l'impôt sur le*

1981 to be the non-capital loss of the corporation for the taxation year of the corporation in which the former subsidiary corporation's loss year ended

shall be deemed to be a non-capital loss of the corporation from carrying on the former subsidiary corporation's loss business.

revenu, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable au 12 novembre 1981, être la perte autre qu'une perte en capital de la société pour l'année d'imposition de la société pendant laquelle l'année au cours de laquelle a été subie la perte de l'ancienne filiale s'est terminée,

est réputée être une perte autre qu'une perte en capital subie par la société résultant de l'exploitation de l'entreprise déficitaire de l'ancienne filiale.

Loss restriction event — special rules

(5.5) If at any time a taxpayer is subject to a loss restriction event,

(a) paragraphs (4)(c) to (f) and subsections (5.1) to (5.3) do not apply to the taxpayer in respect of the loss restriction event if at that time the taxpayer becomes or ceases to be exempt from tax under this Part on its taxable income; and

(b) if it can reasonably be considered that the main reason that the taxpayer is subject to the loss restriction event is to cause paragraph (4)(d) or any of subsections (5.1) to (5.3) to apply with respect to the loss restriction event, the following do not apply with respect to the loss restriction event:

(i) that provision and paragraph (4)(e), and

(ii) if that provision is paragraph (4)(d), paragraph (4)(c).

Fait lié à la restriction de pertes — règles spéciales

(5.5) Si un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné, les règles ci-après s'appliquent :

a) les alinéas (4)c) à f) et les paragraphes (5.1) à (5.3) ne s'appliquent pas au contribuable relativement au fait lié à la restriction de pertes si, à ce moment, il devient exonéré de l'impôt payable en vertu de la présente partie sur son revenu imposable ou cesse de l'être;

b) s'il est raisonnable de considérer que la principale raison pour laquelle le contribuable est assujetti au fait lié à la restriction de pertes consiste à rendre l'alinéa (4)d) ou l'un des paragraphes (5.1) à (5.3) applicables au fait, les dispositions ci-après ne s'appliquent pas relativement à ce fait :

(i) la disposition en cause et l'alinéa (4)e),

(ii) si la disposition en cause est l'alinéa (4)d), l'alinéa (4)c).

Limitation

(6) For the purposes of this section and paragraph 53(1)(i), any loss of a taxpayer for a taxation year from a farming business shall, after the taxpayer disposes of the land used in that farming business and to the extent that the amount of the loss is required by paragraph 53(1)(i) to be added in computing the adjusted cost base to the taxpayer of the land immediately before the disposition, be deemed not to be a loss.

Restriction

(6) Pour l'application du présent article et de l'alinéa 53(1)i), toute perte subie par un contribuable pour une année d'imposition et découlant d'une entreprise agricole est réputée, après que le contribuable a disposé du fonds de terre utilisé dans cette entreprise agricole et dans la mesure où cette perte doit, en vertu de l'alinéa 53(1)i), être ajoutée dans le calcul du prix de base rajusté du fonds de terre du contribuable, immédiatement avant la disposition, ne pas être une perte.

Idem

(7) For the purposes of this section, any loss of a taxpayer for a taxation year from a farming business shall, to the extent that the loss is included in the amount of any deduction permitted by section 101 in computing the taxpayer's income for any subsequent taxation year, be deemed not to be a loss of the taxpayer for the purpose of computing the taxpayer's taxable income for that subsequent year or any taxation year subsequent thereto.

Idem

(7) Pour l'application du présent article, toute perte subie par un contribuable pour une année d'imposition et résultant de l'exploitation d'une entreprise agricole est réputée, dans la mesure où cette perte est incluse dans le montant de toute déduction permise par l'article 101, dans le calcul de son revenu pour toute année d'imposition suivante, ne pas être une perte pour le contribuable pour le calcul de son revenu imposable pour cette année

(7.1) to (7.2) [Repealed, 2013, c. 34, s. 241]

Non-capital losses of employee life and health trusts

(7.3) Paragraph (1)(a) does not apply in computing the taxable income of a trust for a taxation year if the trust is, in the year, an employee life and health trust.

Non-capital losses of employee life and health trusts

(7.4) For the purposes of computing the taxable income of an employee life and health trust for a taxation year, there may be deducted such portion as the trust may claim of the trust's non-capital losses for the three taxation years immediately preceding and the three taxation years immediately following the year.

Non-capital losses of employee life and health trusts

(7.5) Notwithstanding paragraph (1)(a) and subsection (7.4), no amount in respect of the trust's non-capital losses for a taxation year in which the trust was an employee life and health trust may be deducted in computing the trust's taxable income for another taxation year (referred to in this subsection as the "specified year") if

(a) the trust was not an employee life and health trust for the specified year; or

(b) the trust is an employee life and health trust that, because of the application of subsection 144.1(3), is not permitted to deduct any amount under subsection 104(6) for the specified year.

Definitions

(8) In this section,

exchange rate at any time in respect of a currency of a country other than Canada means the rate of exchange between that currency and Canadian currency quoted by the Bank of Canada at noon on the day that includes that time or, if that day is not a business day, on the day that immediately precedes that day, or a rate of exchange acceptable to the Minister; (*taux de change*)

farm loss of a taxpayer for a taxation year means the amount determined by the formula

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(7.1) à (7.2) [Abrogés, 2013, ch. 34, art. 241]

Pertes autres qu'en capital d'une fiducie de soins de santé au bénéfice d'employés

(7.3) L'alinéa (1)a) ne s'applique pas au calcul du revenu imposable pour une année d'imposition de toute fiducie qui est une fiducie de soins de santé au bénéfice d'employés au cours de l'année.

Pertes autres qu'en capital d'une fiducie de soins de santé au bénéfice d'employés

(7.4) Est déductible dans le calcul du revenu imposable d'une fiducie de soins de santé au bénéfice d'employés pour une année d'imposition toute partie qu'elle peut déduire de ses pertes autres que des pertes en capital subies au cours des trois années d'imposition précédentes et des trois années d'imposition suivantes.

Pertes autres qu'en capital d'une fiducie de soins de santé au bénéfice d'employés

(7.5) Malgré l'alinéa (1)a) et le paragraphe (7.4), aucune somme au titre des pertes autres que des pertes en capital subies par une fiducie au cours d'une année d'imposition où elle était une fiducie de soins de santé au bénéfice d'employés n'est déductible dans le calcul de son revenu imposable pour une autre année d'imposition (appelée « année déterminée » au présent paragraphe) s'il s'avère que, selon le cas :

a) la fiducie n'était pas une fiducie de soins de santé au bénéfice d'employés pour l'année déterminée;

b) la fiducie est une fiducie de soins de santé au bénéfice d'employés qui, en raison de l'application du paragraphe 144.1(3), n'est pas autorisée à déduire une somme en application du paragraphe 104(6) pour l'année déterminée.

Définitions

(8) Les définitions qui suivent s'appliquent au présent article.

dette en monnaie étrangère Titre de créance libellé dans la monnaie d'un pays étranger. (*foreign currency debt*)

perte agricole S'agissant de la perte agricole d'un contribuable pour une année d'imposition, le montant calculé selon la formule suivante :

A - C

où :

where

A is the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is the taxpayer's loss for the year from a farming or fishing business

exceeds

(ii) the total of all amounts each of which is the taxpayer's income for the year from a farming or fishing business, and

(b) the amount that would be the taxpayer's non-capital loss for the year if the amount determined for D in the definition ***non-capital loss*** in this subsection were nil, and

B [Repealed, 2000, c. 19, s. 19]

C is the total of all amounts by which the farm loss of the taxpayer for the year is required to be reduced because of section 80; (*perte agricole*)

foreign currency debt means a debt obligation denominated in a currency of a country other than Canada; (*dette en monnaie étrangère*)

net capital loss of a taxpayer for a taxation year means the amount determined by the formula

A - B + C - D

where

A is the amount, if any, determined under subparagraph 3(b)(ii) in respect of the taxpayer for the year,

B is the lesser of the total determined under subparagraph 3(b)(i) in respect of the taxpayer for the year and the amount determined for A in respect of the taxpayer for the year,

C is the least of

(a) the amount of the allowable business investment losses of the taxpayer for the taxpayer's tenth preceding taxation year,

(b) the amount, if any, by which the amount of the non-capital loss of the taxpayer for the taxpayer's tenth preceding taxation year exceeds the total of all amounts in respect of that non-capital loss deducted in computing the taxpayer's taxable income or claimed by the taxpayer under paragraph 186(1)(c) or (d) for the year or for any preceding taxation year, and

(c) if the taxpayer was subject to a loss restriction event before the end of the year and after the end

A représente le moins élevé des montants suivants :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des montants dont chacun représente la perte qu'il a subie pour l'année relativement à une entreprise agricole ou à une entreprise de pêche,

(ii) le total des montants dont chacun représente son revenu tiré pour l'année d'une entreprise agricole ou d'une entreprise de pêche;

b) le montant qui constituerait la perte autre qu'une perte en capital du contribuable pour l'année si la valeur de l'élément D de la formule applicable figurant à la définition de ***perte autre qu'une perte en capital*** au présent paragraphe était nulle;

B [Abrogé, 2000, ch. 19, art. 19]

C le total des montants à appliquer en réduction de la perte agricole du contribuable pour l'année par l'effet de l'article 80. (*farm loss*)

perte autre qu'une perte en capital La perte autre qu'une perte en capital d'un contribuable pour une année d'imposition correspond, à un moment donné, au montant obtenu par la formule suivante :

(A + B) - (D + D.1 + D.2)

où :

A représente le montant obtenu par la formule suivante :

E - F

où :

E représente le total des sommes représentant chacune :

a) la perte que le contribuable a subie pour l'année relativement à une charge, à un emploi, à une entreprise ou à un bien,

a.1) une somme déductible en application de l'alinéa 104(6)a.4) dans le calcul du revenu du contribuable pour l'année,

b) une somme déduite en application de l'alinéa (1)b) ou de l'article 110.6 dans le calcul de son revenu imposable pour l'année ou une somme déductible en application de l'un des alinéas 110(1)d) à d.3), f), g), j) et k), de l'article 112 et des paragraphes 113(1) et 138(6) dans le calcul de son revenu imposable pour l'année,

of the taxpayer's tenth preceding taxation year, nil, and

D is the total of all amounts by which the net capital loss of the taxpayer for the year is required to be reduced because of section 80; (*perte en capital nette*)

non-capital loss of a taxpayer for a taxation year means, at any time, the amount determined by the formula

(A + B) - (D + D.1 + D.2)

where

A is the amount determined by the formula

E - F

where

E is the total of all amounts each of which is

(a) the taxpayer's loss for the year from an office, employment, business or property,

(a.1) an amount deductible under paragraph 104(6)(a.4) in computing the taxpayer's income for the year,

(b) an amount deducted under paragraph (1)(b) or section 110.6, or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g), (j) and (k), section 112 and subsections 113(1) and 138(6), in computing the taxpayer's taxable income for the year, or

(c) if that time is before the taxpayer's eleventh following taxation year, the taxpayer's allowable business investment loss for the year, and

F is the amount determined under paragraph 3(c) in respect of the taxpayer for the year,

B is the amount, if any, determined in respect of the taxpayer for the year under section 110.5 or subparagraph 115(1)(a)(vii),

C [Repealed, 2000, c. 19, s. 19]

D is the amount that would be the taxpayer's farm loss for the year if the amount determined for B in the definition ***farm loss*** in this subsection were zero,

D.1 is the total of all amounts deducted under subsection 111(10) in respect of the taxpayer for the year, and

D.2 is the total of all amounts by which the non-capital loss of the taxpayer for the year is required to be reduced because of section 80; (*perte autre qu'une perte en capital*)

perte en capital nette S'agissant de la perte en capital nette subie par un contribuable pour une année d'imposition, le résultat du calcul suivant :

A - B + C - D

où :

A représente le montant éventuel calculé selon le sous-alinéa 3b)(ii) à l'égard du contribuable pour l'année;

B le moins élevé du total calculé selon le sous-alinéa 3b)(i) à l'égard du contribuable pour l'année ou de l'élément A déterminé à l'égard du contribuable pour l'année;

C le moins élevé des montants suivants :

a) le montant des pertes déductibles au titre d'un placement d'entreprise du contribuable pour sa dixième année d'imposition précédente,

b) l'excédent éventuel de la perte autre qu'une perte en capital du contribuable pour sa dixième année d'imposition précédente sur le total des montants à l'égard de cette perte que le contribuable a déduits dans le calcul de son revenu imposable ou demandés en vertu des alinéas 186(1)c) ou d) pour l'année ou pour une année d'imposition antérieure,

c) si le contribuable est assujetti à un fait lié à la restriction de pertes avant la fin de l'année et après la fin de la dixième année d'imposition précédente, zéro;

c) si le moment donné est antérieur à la onzième année d'imposition postérieure du contribuable, sa perte déductible au titre d'un placement d'entreprise pour l'année,

F la fraction calculée selon l'alinéa 3c) à l'égard du contribuable pour l'année;

B le montant déterminé à l'égard du contribuable pour l'année selon l'article 110.5 ou le sous-alinéa 115(1)a)(vii);

C [Abrogé, 2000, ch. 19, art. 19]

D le montant qui constituerait sa perte agricole pour l'année, si le montant représenté par l'élément B dans la formule figurant à la définition de ***perte agricole*** au présent paragraphe était zéro;

D.1 le total des montants déduits en application du paragraphe (10) relativement au contribuable pour l'année;

D.2 le total des montants à appliquer en réduction de la perte autre qu'une perte en capital du contribuable pour l'année par l'effet de l'article 80. (*non-capital loss*)

pre-1986 capital loss balance of an individual for a particular taxation year means the amount determined by the formula

(A + B) - (C + D + E + E.1)

where

A is the total of all amounts each of which is an amount determined by the formula

F - G

where

F is the individual's net capital loss for a taxation year ending before 1985, and

G is the total of all amounts claimed under this section by the individual in respect of that loss in computing the individual's taxable income for taxation years preceding the particular taxation year, and

B is the amount determined by the formula

H - I

where

H is the lesser of

(a) the amount of the individual's net capital loss for the 1985 taxation year, and

(b) the amount, if any, by which the amount determined under subparagraph 3(e)(ii) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in respect of the individual for the 1985 taxation year exceeds the amount deductible by reason of paragraph 3(e) of that Act in computing the individual's taxable income for the 1985 taxation year, andI is the total of all amounts claimed under this section by the individual in respect of the individual's net capital loss for the 1985 taxation year in computing the individual's taxable income for taxation years preceding the particular taxation year, and

I is the total of all amounts claimed under this section by the individual in respect of the individual's net capital loss for the 1985 taxation year in computing the individual's taxable income for taxation years preceding the particular taxation year,

C is the total of all amounts deducted under section 110.6 in computing the individual's taxable income for taxation years that ended before 1988 or begin after October 17, 2000,

D is 3/4 of the total of all amounts each of which is an amount deducted under section 110.6 in computing

D le total des montants à appliquer en réduction de la perte en capital nette du contribuable pour l'année par l'effet de l'article 80. (*net capital loss*)

solde des pertes en capital subies avant 1986 À l'égard d'un particulier pour une année d'imposition donnée, le montant calculé selon la formule suivante :

(A + B) - (C + D + E + E.1)

où :

A représente le total des montants dont chacun est un montant calculé selon la formule suivante :

F - G

où :

F représente la perte en capital nette que ce particulier a subie pour une année d'imposition se terminant avant 1985,

G le total des montants dont il a demandé la déduction selon le présent article au titre de cette perte dans le calcul de son revenu imposable pour les années d'imposition précédant l'année d'imposition donnée;

B le montant calculé selon la formule suivante :

H - I

où :

H représente le moins élevé des montants suivants :

a) le montant de la perte en capital nette que le particulier a subie pour l'année d'imposition 1985,

b) l'excédent du montant calculé selon le sous-alinéa 3e)(ii) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, à l'égard du particulier pour l'année d'imposition 1985 sur le montant déductible en vertu de l'alinéa 3e) de la même loi dans le calcul de son revenu imposable pour l'année d'imposition 1985,

I le total des montants dont il a demandé la déduction selon le présent article au titre de la perte en capital nette qu'il a subie pour l'année d'imposition 1985 dans le calcul de son revenu imposable pour les années d'imposition précédant l'année d'imposition donnée;

C le total des montants déduits en application de l'article 110.6 dans le calcul de son revenu imposable pour les années d'imposition s'étant terminées avant 1988 ou commençant après le 17 octobre 2000;

the individual's taxable income for a taxation year, preceding the particular year, that

(a) ended after 1987 and before 1990, or

(b) began after February 27, 2000 and ended before October 18, 2000,

E is 2/3 of the total of all amounts deducted under section 110.6 in computing the individual's taxable income for taxation years, preceding the particular year, that ended after 1989 and before February 28, 2000, and

E.1 is the amount determined by the formula

J × (0.5/K)

where

J is the amount deducted by the individual under section 110.6 for a taxation year of the individual, preceding the particular year, that includes February 28, 2000 or October 17, 2000, and

K is the fraction in paragraph 38(a) that applies to the individual for the individual's taxation year referred to in the description of J. (*solde des pertes en capital subies avant 1986*)

D les 3/4 du total des montants déduits en application de l'article 110.6 dans le calcul de son revenu imposable pour les années d'imposition antérieures à l'année donnée qui :

a) soit se sont terminées après 1987 et avant 1990,

b) soit ont commencé après le 27 février 2000 et se sont terminées avant le 18 octobre 2000;

E les 2/3 du total des montants déduits en application de l'article 110.6 dans le calcul de son revenu imposable pour les années d'imposition antérieures à l'année donnée qui se sont terminées après 1989 et avant le 28 février 2000;

E.1 le montant obtenu par la formule suivante :

J × (0,5/K)

où :

J représente le montant qu'il a déduit en application de l'article 110.6 pour une année d'imposition, antérieure à l'année donnée, qui comprend le 28 février 2000 ou le 17 octobre 2000,

K la fraction figurant à l'alinéa 38a) qui s'applique à lui pour l'année d'imposition mentionnée à l'élément J. (*pre-1986 capital loss balance*)

taux de change En ce qui concerne la monnaie d'un pays étranger à un moment donné, le taux de change entre cette monnaie et le dollar canadien, affiché par la Banque du Canada à midi le jour qui comprend ce moment ou, si ce jour n'est pas un jour ouvrable, la veille de ce jour, ou tout taux de change que le ministre estime acceptable. (*exchange rate*)

Exception

(9) In this section, a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for a taxation year during which the taxpayer was not resident in Canada shall be determined as if

(a) in the part of the year throughout which the taxpayer was non-resident, if section 114 applies to the taxpayer in respect of the year, and

(b) throughout the year, in any other case,

the taxpayer had no income other than income described in any of subparagraphs 115(1)(a)(i) to (vi), the taxpayer's only taxable capital gains, allowable capital losses and allowable business investment losses were from dispositions of taxable Canadian property (other than treaty-protected property) and the taxpayer's only other

Exception

(9) Au présent article, la perte autre qu'une perte en capital, la perte en capital nette, la perte agricole restreinte, la perte agricole et la perte comme commanditaire subies par un contribuable pour une année d'imposition pendant laquelle il ne résidait pas au Canada sont calculées comme si :

a) pendant la partie de l'année tout au long de laquelle le contribuable était un non-résident, si l'article 114 s'applique à lui pour l'année,

b) tout au long de l'année, dans les autres cas,

le seul revenu du contribuable était celui visé à l'un des sous-alinéas 115(1)a)(i) à (vi), ses seuls gains en capital imposables, seules pertes en capital déductibles et seules pertes déductibles au titre de placements d'entreprise résultaient de la disposition de biens canadiens imposables (sauf des biens protégés par traité) et ses seules autres pertes étaient des pertes résultant des fonctions d'une

losses were losses from the duties of an office or employment performed by the taxpayer in Canada and businesses (other than treaty-protected businesses) carried on by the taxpayer in Canada.

Fuel tax rebate loss abatement

(10) Where in a particular taxation year a taxpayer received an amount (in this subsection referred to as a "rebate") as a fuel tax rebate under subsection 68.4(2) or (3.1) of the *Excise Tax Act*, in computing the taxpayer's non-capital loss for a taxation year (in this subsection referred to as the "loss year") that is one of the 7 taxation years preceding the particular year, there shall be deducted the lesser of

(a) the amount determined by the formula

10(A - B) - C

where

A is the total of all rebates received by the taxpayer in the particular year,

B is the total of all amounts, in respect of rebates received by the taxpayer in the particular year, repaid by the taxpayer under subsection 68.4(7) of that Act, and

C is the total of all amounts, in respect of rebates received in the particular year, deducted under this subsection in computing the taxpayer's non-capital losses for other taxation years; and

(b) such amount as the taxpayer claims, not exceeding the portion of the taxpayer's non-capital loss for the loss year (determined without reference to this subsection) that would be deductible in computing the taxpayer's taxable income for the particular year if the taxpayer had sufficient income for the particular year from businesses carried on by the taxpayer in the particular year.

Fuel tax rebate — partnerships

(11) Where a taxpayer was a member of a partnership at any time in a fiscal period of the partnership during which it received a fuel tax rebate under subsection 68.4(2), (3) or (3.1) of the *Excise Tax Act*, the taxpayer is deemed

(a) to have received at that time as a rebate under subsection 68.4(2), 68.4(3) or 68.4(3.1), as the case may be, of that Act an amount equal to that proportion of the amount of the rebate received by the partnership

charge ou d'un emploi qu'il exerce au Canada et d'entreprises (sauf des entreprises protégées par traité) qu'il y exploite.

Réduction de perte pour remise de taxe sur le combustible

(10) Le contribuable qui reçoit, au cours d'une année d'imposition donnée, un montant (appelé « remise » au présent paragraphe) à titre de remise de taxe sur le combustible en vertu des paragraphes 68.4(2) ou (3.1) de la *Loi sur la taxe d'accise* déduit, dans le calcul de sa perte autre qu'une perte en capital pour une année d'imposition (appelée « année de perte » au présent paragraphe) qui compte parmi les sept années d'imposition précédant l'année donnée, le moins élevé des montants suivants :

a) le résultat du calcul suivant :

10(A - B) - C

où :

A représente le total des remises reçues par le contribuable au cours de l'année donnée,

B le total des sommes, relatives aux remises reçues par le contribuable au cours de l'année donnée, restituées par le contribuable en application du paragraphe 68.4(7) de cette loi,

C le total des montants, relatifs aux remises reçues au cours de l'année donnée, déduits en application du présent paragraphe dans le calcul des pertes autres que les pertes en capital du contribuable pour d'autres années d'imposition;

b) le montant que le contribuable demande en déduction, n'excédant pas la fraction de sa perte autre qu'une perte en capital pour l'année de perte (déterminée compte non tenu du présent paragraphe) qui serait déductible dans le calcul de son revenu imposable pour l'année donnée s'il avait suffisamment de revenu pour cette année provenant d'entreprises qu'il exploite au cours de cette même année.

Remise de la taxe sur le combustible — sociétés de personnes

(11) Le contribuable qui est l'associé d'une société de personnes à un moment d'un exercice de celle-ci au cours duquel elle reçoit une remise de taxe sur le combustible en vertu des paragraphes 68.4(2), (3) ou (3.1) de la *Loi sur la taxe d'accise* est réputé :

a) avoir reçu à ce moment, à titre de remise en vertu des paragraphes 68.4(2), (3) ou (3.1) de cette loi, un montant correspondant au produit de la remise reçue par la société de personnes par le rapport entre la part

that the member's share of the partnership's income or loss for that fiscal period is of the whole of that income or loss, determined without reference to any rebate under section 68.4 of that Act; and

(b) to have paid as a repayment under subsection 68.4(7) of that Act an amount equal to that proportion of all amounts repaid under subsection 68.4(7) of that Act in respect of the rebate that the member's share of the partnership's income or loss for that fiscal period is of the whole of that income or loss, determined without reference to any rebate under section 68.4 of that Act.

Foreign currency debt on loss restriction event

(12) For the purposes of subsection (4), if at any time a taxpayer owes a foreign currency debt in respect of which the taxpayer would have had, if the foreign currency debt had been repaid at that time, a capital loss or gain, the taxpayer is deemed to own at the time (in this subsection referred to as the "measurement time") that is immediately before that time a property

(a) the adjusted cost base of which at the measurement time is the amount determined by the formula

A + B – C

where

A is the amount of principal owed by the taxpayer under the foreign currency debt at the measurement time, calculated, for greater certainty, using the exchange rate applicable at the measurement time,

B is the portion of any gain, previously recognized in respect of the foreign currency debt because of this section, that is reasonably attributable to the amount described in A, and

C is the portion of any capital loss previously recognized in respect of the foreign currency debt because of this section, that is reasonably attributable to the amount described in A; and

(b) the fair market value of which is the amount that would be the amount of the principal owed by the taxpayer under the foreign currency debt at the measurement time if that amount were calculated using the exchange rate applicable at the time of the original borrowing.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 111; 1994, c. 7, Sch. II, s. 83, Sch. VI, s. 5, Sch. VIII, s. 49; 1995, c. 21, s. 36; 1997, c. 26, s. 84; 1999, c. 22, s. 28; 2000, c. 19, s. 19; 2001, c. 17, s. 87; 2002, c. 9, s. 34; 2005, c. 19, s. 20; 2006, c. 4, s. 57; 2009, c. 2, s. 30; 2010, c. 25, s. 21; 2013, c. 34, s. 241, c. 40, s. 47; 2016, c. 12, s. 40.

de l'associé sur le revenu ou la perte de la société de personnes pour cet exercice et le total de ce revenu ou de cette perte, déterminé compte non tenu d'une remise prévue à l'article 68.4 de cette loi;

b) avoir restitué en application du paragraphe 68.4(7) de cette loi un montant correspondant au produit des sommes restituées en application de ce paragraphe au titre de la remise par le rapport entre la part de l'associé sur le revenu ou la perte de la société de personnes pour cet exercice et le total de ce revenu ou de cette perte, déterminé compte non tenu d'une remise prévue à l'article 68.4 de cette loi.

Dette en monnaie étrangère — fait lié à la restriction de pertes

(12) Pour l'application du paragraphe (4), le contribuable qui est débiteur, à un moment donné, d'une dette en monnaie étrangère relativement à laquelle il aurait eu une perte en capital ou un gain en capital si la dette avait été remboursée à ce moment est réputé être propriétaire, au moment (appelé « moment d'évaluation » au présent paragraphe) immédiatement avant le moment donné, d'un bien :

a) d'une part, dont le prix de base rajusté au moment d'évaluation correspond à la somme obtenue par la formule suivante :

A + B – C

où :

A représente le montant de principal dont le contribuable est débiteur relativement à la dette en monnaie étrangère au moment d'évaluation, étant entendu que ce montant est calculé selon le taux de change en vigueur à ce moment,

B la partie de tout gain, constaté antérieurement relativement à la dette en monnaie étrangère par l'effet du présent article, qu'il est raisonnable d'attribuer à la valeur de l'élément A,

C la partie de toute perte en capital, constatée antérieurement relativement à la dette en monnaie étrangère par l'effet du présent article, qu'il est raisonnable d'attribuer à la valeur de l'élément A;

b) d'autre part, dont la juste valeur marchande correspond à la somme qui correspondrait au montant de principal dont le contribuable est débiteur relativement à la dette en monnaie étrangère au moment d'évaluation si cette somme était calculée selon le taux de change en vigueur au moment de l'emprunt initial.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 111; 1994, ch. 7, ann. II, art. 83, ann. VI, art. 5, ann. VIII, art. 49; 1995, ch. 21, art. 36; 1997, ch. 26, art. 84; 1999, ch. 22, art. 28; 2000, ch. 19, art. 19; 2001, ch. 17, art. 87; 2002, ch. 9, art.

34; 2005, ch. 19, art. 20; 2006, ch. 4, art. 57; 2009, ch. 2, art. 30; 2010, ch. 25, art. 21; 2013, ch. 34, art. 241, ch. 40, art. 47; 2016, ch. 12, art. 40.

Order of applying provisions

111.1 In computing an individual's taxable income for a taxation year, the provisions of this Division shall be applied in the following order: sections 110, 110.2, 111, 110.6 and 110.7.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 111.1; 2000, c. 19, s. 20.

Ordre d'application

111.1 Le calcul du revenu imposable d'un particulier pour une année d'imposition s'effectue par l'application des dispositions de la présente section dans l'ordre suivant : articles 110, 110.2, 111, 110.6 et 110.7.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 111.1; 2000, ch. 19, art. 20.

Deduction of taxable dividends received by corporation resident in Canada

112 (1) Where a corporation in a taxation year has received a taxable dividend from

(a) a taxable Canadian corporation, or

(b) a corporation resident in Canada (other than a non-resident-owned investment corporation or a corporation exempt from tax under this Part) and controlled by it,

an amount equal to the dividend may be deducted from the income of the receiving corporation for the year for the purpose of computing its taxable income.

Déduction des dividendes imposables reçus par une société résidant au Canada

112 (1) Lorsqu'une société a reçu, au cours d'une année d'imposition, un dividende imposable :

a) soit d'une société canadienne imposable;

b) soit d'une société résidant au Canada (autre qu'une société de placement appartenant à des non-résidents et une société exonérée d'impôt en vertu de la présente partie) et dont elle a le contrôle,

une somme égale au dividende peut être déduite du revenu pour l'année de la société qui le reçoit, dans le calcul de son revenu imposable.

Dividends received from non-resident corporation

(2) Where a taxpayer that is a corporation has, in a taxation year, received a dividend from a corporation (other than a foreign affiliate of the taxpayer) that was taxable under subsection 2(3) for the year and that has, throughout the period from June 18, 1971 to the time when the dividend was received, carried on a business in Canada through a permanent establishment as defined by regulation, an amount equal to that proportion of the dividend that the paying corporation's taxable income earned in Canada for the immediately preceding year is of the whole of the amount that its taxable income for that year would have been if it had been resident in Canada throughout that year, may be deducted from the income of the receiving corporation for the taxation year for the purpose of computing its taxable income.

Dividendes reçus d'une société non-résidente

(2) Lorsqu'un contribuable qui est une société a, au cours d'une année d'imposition, reçu un dividende imposable d'une société (à l'exclusion d'une société étrangère affiliée du contribuable) qui était imposable pour l'année en vertu du paragraphe 2(3) et qui a, tout au long de la période allant du 18 juin 1971 à la date de réception du dividende, exploité une entreprise au Canada par l'entremise d'un établissement stable défini par règlement, une somme égale à la fraction du dividende représentée par le rapport existant entre le revenu imposable gagné au Canada pour l'année précédente par la société payant le dividende et le montant total qui aurait été son revenu imposable pour cette année, si elle avait résidé au Canada tout au long de l'année, peut être déduite du revenu de la société recevant le dividende, pour l'année d'imposition, dans le calcul de son revenu imposable.

No deduction permitted

(2.1) No deduction may be made under subsection (1) or (2) in computing the taxable income of a specified financial institution in respect of a dividend received by it on a share that was, at the time the dividend was received, a term preferred share, other than a dividend on a share of the capital stock of a corporation that was not acquired in the ordinary course of the business carried on by the institution, and for the purposes of this subsection, if a restricted financial institution received the dividend on a share of the capital stock of a mutual fund corporation or

Déduction non permise

(2.1) Aucune déduction ne peut être faite en application des paragraphes (1) ou (2) dans le calcul du revenu imposable d'une institution financière déterminée relativement à un dividende que celle-ci a reçu sur une action qui était, au moment de la réception du dividende, une action privilégiée à terme, à l'exception d'un dividende sur une action du capital-actions d'une société qui n'a pas été acquise dans le cours normal des activités de l'entreprise exploitée par l'institution. Pour l'application du présent paragraphe, si une institution financière

an investment corporation at any time after the mutual fund or investment corporation has elected under subsection 131(10) not to be a restricted financial institution, the share is deemed to be a term preferred share acquired in the ordinary course of business.

véritable a reçu le dividende sur une action du capital-actions d'une société de placement à capital variable ou d'une société de placement après que cette société de placement à capital variable ou cette société de placement a choisi, conformément au paragraphe 131(10), de ne pas être une institution financière véritable, l'action est réputée être une action privilégiée à terme acquise dans le cours normal des activités de l'entreprise.

Guaranteed shares

(2.2) No deduction may be made under subsection (1), (2) or 138(6) in computing the taxable income of a particular corporation in respect of a dividend received on a share of the capital stock of a corporation that was issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 where

(a) a person or partnership (in this subsection and subsection (2.21) referred to as the "guarantor") that is a specified financial institution or a specified person in relation to a specified financial institution, but that is not the issuer of the share or an individual other than a trust, is, at or immediately before the time the dividend was received, obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking (in this subsection and subsections (2.21) and (2.22) referred to as a "guarantee agreement"), including any guarantee, covenant or agreement to purchase or repurchase the share and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the particular corporation or any specified person in relation to the particular corporation given to ensure that

(i) any loss that the particular corporation or a specified person in relation to the particular corporation may sustain by reason of the ownership, holding or disposition of the share or any other property is limited in any respect, or

(ii) the particular corporation or a specified person in relation to the particular corporation will derive earnings by reason of the ownership, holding or disposition of the share or any other property; and

(b) the guarantee agreement was given as part of a transaction or event or a series of transactions or events that included the issuance of the share.

Actions garanties

(2.2) Aucune déduction ne peut être faite en application des paragraphes (1) ou (2) ou 138(6) dans le calcul du revenu imposable d'une société donnée relativement à un dividende reçu sur une action du capital-actions d'une société émise après 20 heures, heure avancée de l'Est, le 18 juin 1987, si les conditions suivantes sont réunies :

a) au moment de la réception du dividende ou juste avant, une personne ou société de personnes (appelée « garant » au présent paragraphe et au paragraphe (2.21)) — autre que l'émetteur de l'action ou qu'un particulier qui n'est pas une fiducie — qui est une institution financière déterminée ou une personne apparentée à celle-ci a l'obligation, conditionnelle ou non, immédiate ou future, d'exécuter un engagement — notamment une garantie, un accord ou une convention d'achat ou de rachat de l'action, y compris le dépôt de montants ou le prêt de fonds à la société donnée ou à une personne apparentée à celle-ci, ou pour le compte de l'une ou l'autre — pris en vue, selon le cas :

(i) que soit limitée d'une façon quelconque toute perte que la société donnée ou une personne apparentée à celle-ci peut subir parce qu'elle détient l'action ou un autre bien, en est propriétaire ou en dispose,

(ii) que la société donnée ou une personne apparentée à celle-ci obtienne des gains parce qu'elle détient l'action ou un autre bien, en est propriétaire ou en dispose;

b) l'engagement a été pris dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend l'émission de l'action.

Exceptions

(2.21) Subsection (2.2) does not apply to a dividend received by a particular corporation on

(a) a share that is at the time the dividend is received a share described in paragraph (e) of the definition *term preferred share* in subsection 248(1);

Exceptions

(2.21) Le paragraphe (2.2) ne s'applique pas aux dividendes qu'une société donnée reçoit sur les actions suivantes :

(b) a grandfathered share, a taxable preferred share issued before December 16, 1987 or a prescribed share;

(c) a taxable preferred share issued after December 15, 1987 and of a class of the capital stock of a corporation that is listed on a designated stock exchange where all guarantee agreements in respect of the share were given by one or more of the issuer of the share and persons that are related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the issuer unless, at the time the dividend is paid to the particular corporation, dividends in respect of more than 10 per cent of the issued and outstanding shares to which the guarantee agreement applies are paid to the particular corporation or the particular corporation and specified persons in relation to the particular corporation; or

(d) a share

(i) that was not acquired by the particular corporation in the ordinary course of its business,

(ii) in respect of which the guarantee agreement was not given in the ordinary course of the guarantor's business, and

(iii) the issuer of which is, at the time the dividend is paid, related (otherwise than because of a right referred to in paragraph 251(5)(b)) to both the particular corporation and the guarantor.

a) une action qui est, au moment de la réception du dividende, une action visée à l'alinéa e) de la définition de *action privilégiée à terme* au paragraphe 248(1);

b) une action privilégiée imposable émise avant le 16 décembre 1987, une action de régime transitoire ou une action visée par règlement;

c) une action privilégiée imposable d'une catégorie du capital-actions d'une société, émise après le 15 décembre 1987 et inscrite à la cote d'une bourse de valeurs désignée, si tous les engagements concernant l'action ont été pris par l'émetteur de l'action, par une ou plusieurs personnes qui lui seraient liées (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b)) ou par l'émetteur et une ou plusieurs de ces personnes, sauf si, au moment où le dividende est versé à la société donnée, des dividendes sur plus de 10 % des actions émises et en circulation auxquelles l'engagement s'applique sont versés à la société donnée ou à cette société et aux personnes qui lui sont apparentées;

d) une action qui répond aux conditions suivantes :

(i) elle n'a pas été acquise par la société donnée dans le cours normal des activités de son entreprise,

(ii) l'engagement la concernant n'a pas été pris dans le cours normal des activités de l'entreprise du garant,

(iii) au moment du versement du dividende, son émetteur est lié (autrement qu'à cause d'un droit visé à l'alinéa 251(5)b)) à la société donnée ainsi qu'au garant.

Interpretation

(2.22) For the purposes of subsections (2.2) and (2.21),

(a) where a guarantee agreement in respect of a share is given at any particular time after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, otherwise than under a written arrangement to do so entered into before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, the share is deemed to have been issued at the particular time and the guarantee agreement is deemed to have been given as part of a series of transactions that included the issuance of the share; and

(b) *specified person* has the meaning assigned by paragraph (h) of the definition *taxable preferred share* in subsection 248(1).

Interprétation

(2.22) Les règles suivantes s'appliquent dans le cadre des paragraphes (2.2) et (2.21):

a) si l'engagement concernant une action est pris à un moment donné après 20 heures, heure avancée de l'Est, le 18 juin 1987, autrement que par accord écrit conclu avant 20 heures, heure avancée de l'Est, le 18 juin 1987, l'action est réputée avoir été émise au moment donné et l'engagement est réputé pris dans le cadre d'une série d'opérations qui comprend l'émission de l'action;

b) *personne apparentée* s'entend au sens de l'alinéa h) de la définition de *action privilégiée imposable* au paragraphe 248(1).

Where no deduction permitted

(2.3) No deduction may be made under subsection (1) or (2) or 138(6) in computing the taxable income of a particular corporation in respect of a dividend received on a share of the capital stock of a corporation where there is, in respect of the share, a dividend rental arrangement of the particular corporation, a partnership of which the particular corporation is directly or indirectly a member or a trust under which the particular corporation is a beneficiary.

Dividend rental arrangements — exception

(2.31) Subsection (2.3) does not apply to a dividend received on a share where there is, in respect of the share, a dividend rental arrangement of a person or partnership (referred to in this subsection and subsection (2.32) as the *taxpayer*) throughout a particular period during which the synthetic equity arrangement referred to in paragraph (c) of the definition *dividend rental arrangement* in subsection 248(1) is in effect if

(a) the dividend rental arrangement is a dividend rental arrangement because of that paragraph; and

(b) the taxpayer establishes that, throughout the particular period, no tax-indifferent investor or group of tax-indifferent investors, each member of which is affiliated with every other member, has all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share because of the synthetic equity arrangement or a specified synthetic equity arrangement.

Representations

(2.32) A taxpayer is considered to have satisfied the condition described in paragraph (2.31)(b) in respect of a share if

(a) the taxpayer or the connected person referred to in paragraph (a) of the definition ***synthetic equity arrangement*** in subsection 248(1) (either of which is referred to in this subsection as the *synthetic equity arrangement party*) obtains accurate representations in writing from its counterparty, or from each member of a group comprised of all its counterparties each of which is affiliated with each other (each member of this group of counterparties is referred to in this subsection as an *affiliated counterparty*), with respect to the synthetic equity arrangement, as appropriate, that

Déduction non admise

(2.3) Aucune déduction ne peut être faite en application des paragraphes (1) ou (2) ou 138(6) dans le calcul du revenu imposable d'une société donnée à l'égard d'un dividende reçu sur une action du capital-actions d'une société s'il existe, relativement à l'action, un mécanisme de transfert de dividendes de la société donnée, d'une fiducie dont la société donnée est bénéficiaire ou d'une société de personnes dont la société donnée est, directement ou indirectement, un associé.

Mécanisme de transfert de dividendes — exception

(2.31) Le paragraphe (2.3) ne s'applique pas à un dividende reçu sur une action s'il existe, relativement à l'action, un mécanisme de transfert de dividendes d'une personne ou d'une société de personnes (appelées « contribuable » au présent paragraphe et au paragraphe (2.32)) tout au long d'une période donnée au cours de laquelle l'arrangement de capitaux propres synthétiques visé à l'alinéa c) de la définition de *mécanisme de transfert de dividendes* au paragraphe 248(1) est en vigueur, si les énoncés ci-après se vérifient :

a) le mécanisme de transfert de dividendes est un mécanisme de transfert de dividendes par l'effet de cet alinéa;

b) le contribuable démontre que, tout au long de la période donnée, ni un investisseur indifférent relativement à l'impôt ni un groupe d'investisseurs indifférents relativement à l'impôt dont chaque membre est affilié à chaque autre membre n'a, en totalité ou en presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action en raison de l'arrangement de capitaux propres synthétiques ou d'un arrangement de capitaux propres synthétiques déterminé.

Représentations

(2.32) Le contribuable est considéré avoir fait la démonstration visée à l'alinéa (2.31)b) relativement à une action si l'un des énoncés ci-après se vérifie :

a) le contribuable ou la personne rattachée visée à l'alinéa a) de la définition de *arrangement de capitaux propres synthétiques* au paragraphe 248(1) (chacun étant appelé « partie à l'arrangement de capitaux propres synthétiques » au présent paragraphe) obtient de sa contrepartie, ou de chaque membre de tout groupe constitué de toutes ses contreparties dont chacune est affiliée à chaque autre contrepartie (chaque membre de ce groupe étant appelé « contrepartie affiliée » au présent paragraphe), un document contenant

(i) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31), and

(ii) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31);

(b) the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, with respect to the synthetic equity arrangement that the counterparty, or each affiliated counterparty, as appropriate

(i) is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31),

(ii) has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit, in respect of the share, in one of the following circumstances:

(A) in the case of a counterparty, that counterparty

(I) has entered into a specified synthetic equity arrangement with its own counterparty (a counterparty of a counterparty or of an affiliated counterparty is referred to in this subsection as a *specified counterparty*), or

(II) has entered into a specified synthetic equity arrangement with each member of a group of its own counterparties each member of which is affiliated with each other member (each member of this group of counterparties is referred to in this subsection as an *affiliated specified counterparty*), or

(B) in the case of an affiliated counterparty, each affiliated counterparty

(I) has entered into a specified synthetic equity arrangement with the same specified counterparty, or

(II) has entered into a specified synthetic equity arrangement with an affiliated specified counterparty that is part of the same group of affiliated specified counterparties, and

les représentations fiables ci-après relativement à l'arrangement de capitaux propres synthétiques, comme il convient :

(i) la contrepartie ou la contrepartie affiliée n'est pas un investisseur indifférent relativement à l'impôt et ne s'attend pas raisonnablement à le devenir au cours de la période donnée visée au paragraphe (2.31),

(ii) la contrepartie ou la contrepartie affiliée n'a pas éliminé et ne s'attend pas raisonnablement à éliminer, en totalité ou en presque totalité, les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action au cours de la période donnée visée au paragraphe (2.31);

b) la partie à l'arrangement de capitaux propres synthétiques obtient de sa contrepartie, ou de chaque contrepartie affiliée, relativement à l'arrangement, un document contenant les représentations fiables ci-après relatives à la contrepartie, ou à chaque contrepartie affiliée, comme il convient :

(i) elle n'est pas un investisseur indifférent relativement à l'impôt et elle ne s'attend pas raisonnablement à le devenir au cours de la période donnée visée au paragraphe (2.31),

(ii) elle a conclu un ou plusieurs arrangements de capitaux propres synthétiques déterminés dans le cadre desquels elle a éliminé, en totalité ou en presque totalité, les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action si :

(A) s'agissant d'une contrepartie, cette contrepartie :

(I) soit a conclu un arrangement de capitaux propres synthétiques déterminé avec sa propre contrepartie (la contrepartie d'une contrepartie ou d'une contrepartie affiliée étant appelée « contrepartie déterminée » au présent paragraphe),

(II) soit a conclu un arrangement de capitaux propres synthétiques déterminé avec chacune des contreparties d'un groupe constitué de ses contreparties dont chaque contrepartie est affiliée à chaque autre contrepartie (chaque contrepartie de ce groupe étant appelée « contrepartie déterminée affiliée » au présent paragraphe),

(iii) has obtained accurate representations in writing from each of its specified counterparties, or from each member of the group of affiliated specified counterparties referred to in subclause (A)(II) or (B)(II), as appropriate, that

(A) it is not a tax-indifferent investor and it does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31), and

(B) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31);

(c) the synthetic equity arrangement party obtains accurate representations in writing from its counterparty, or from each affiliated counterparty, with respect to the synthetic equity arrangement that the counterparty, or each affiliated counterparty, as appropriate

(i) is not a tax-indifferent investor and does not reasonably expect to become a tax-indifferent investor during the particular period referred to in subsection (2.31),

(ii) has entered into specified synthetic equity arrangements

(A) that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share,

(B) where no single specified counterparty or group of affiliated specified counterparties has been provided with all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share, and

(C) where each specified counterparty or affiliated specified counterparty deals at arm's length with each other (other than in the case of affiliated specified counterparties, within the same group, of affiliated specified counterparties), and

(iii) has obtained accurate representations in writing from each of its specified counterparties, or from each of its affiliated specified counterparties, that

(A) it is a person resident in Canada and it does not reasonably expect to cease to be resident in Canada during the particular period referred to in subsection (2.31), and

(B) s'agissant d'une contrepartie affiliée, chaque contrepartie affiliée :

(I) soit a conclu un arrangement de capitaux propres synthétiques déterminé avec la même contrepartie déterminée,

(II) soit a conclu un arrangement de capitaux propres synthétiques déterminé avec une contrepartie déterminée affiliée qui fait partie du même groupe de contreparties déterminées affiliées,

(iii) elle a obtenu de chacune de ses propres contreparties déterminées ou de chacune des contreparties du groupe de contreparties déterminées affiliées visé aux subdivisions (A)(II) ou (B)(II), comme il convient, un document contenant les représentations fiables ci-après relatives à chacune de ses propres contreparties déterminées ou des contreparties de ce groupe :

(A) elle n'est pas un investisseur indifférent relativement à l'impôt et elle ne s'attend pas raisonnablement à le devenir au cours de la période donnée visée au paragraphe (2.31),

(B) elle n'a pas éliminé et elle ne s'attend pas raisonnablement à éliminer, en totalité ou en presque totalité, les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action au cours de la période donnée visée au paragraphe (2.31);

c) la partie à l'arrangement de capitaux propres synthétiques obtient de sa contrepartie, ou de chaque contrepartie affiliée, relativement à l'arrangement, un document contenant les représentations fiables ci-après relatives à la contrepartie, ou à chaque contrepartie affiliée, comme il convient :

(i) elle n'est pas un investisseur indifférent relativement à l'impôt et elle ne s'attend pas raisonnablement à le devenir au cours de la période donnée visée au paragraphe (2.31),

(ii) elle a conclu des arrangements de capitaux propres synthétiques déterminés dans le cadre desquels, à la fois :

(A) les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action sont éliminées en totalité ou en presque totalité,

(B) aucune contrepartie déterminée ni aucun groupe de contreparties déterminées affiliées ne

(B) it has not eliminated and it does not reasonably expect to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share during the particular period referred to in subsection (2.31); or

(d) where a person or partnership is a party to a synthetic equity arrangement chain in respect of the share, the person or partnership

(i) has obtained all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share under the synthetic equity arrangement chain,

(ii) has entered into one or more specified synthetic equity arrangements that have the effect of eliminating all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share, and

(iii) obtains accurate representations in writing of the type described in paragraph (a), (b) or (c), as if it were a synthetic equity arrangement party, from each of its counterparties where each such counterparty deals at arm's length with that person or partnership.

(B) elle n'a pas éliminé et elle ne s'attend pas raisonnablement à éliminer, en totalité ou en presque totalité, les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action au cours de la période donnée visée au paragraphe (2.31);

d) si une personne ou une société de personnes fait partie d'une chaîne d'arrangements de capitaux propres synthétiques relativement à l'action, la personne ou la société de personnes, à la fois :

(i) a obtenu, en totalité ou presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action dans le cadre de la chaîne,

(ii) a conclu un ou plusieurs arrangements de capitaux propres synthétiques dans le cadre desquels elle a éliminé, en totalité ou en presque totalité, les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action,

(iii) n'a pas de lien de dépendance avec ses contreparties et obtient de chacune d'elles un document contenant les représentations fiables du genre visé aux alinéas a), b) ou c), comme si la personne ou la société de personnes était partie à un arrangement de capitaux propres synthétiques.

End of particular period

(2.33) If, at a time during a particular period referred to in subsection (2.31), a counterparty, specified

Fin de la période donnée

(2.33) Si, à un moment au cours d'une période donnée visée au paragraphe (2.31), une contrepartie, une

counterparty, affiliated counterparty or affiliated specified counterparty reasonably expects to become a tax-indifferent investor or, if it has provided a representation described by subparagraph (2.32)(a)(ii) or clause (2.32)(b)(iii)(B) or (c)(iii)(B) in respect of a share, to eliminate all or substantially all of its risk of loss and opportunity for gain or profit in respect of the share, the particular period for which it has provided a representation in respect of the share is deemed to end at that time.

Interpretation

(2.34) For greater certainty, each reference in subsection (2.32) to a "counterparty", a "specified counterparty", an "affiliated counterparty" or an "affiliated specified counterparty" is to be read as referring only to a person or partnership that obtains all or any portion of the risk of loss or opportunity for gain or profit in respect of the share.

Where no deduction permitted

(2.4) No deduction may be made under subsection 112(1) or 112(2) or subsection 138(6) in computing the taxable income of a particular corporation in respect of a dividend received on a share (in this subsection referred to as the "subject share"), other than an exempt share, of the capital stock of another corporation where

(a) any person or partnership was obligated, either absolutely or contingently, to effect an undertaking, including any guarantee, covenant or agreement to purchase or repurchase the subject share, under which an investor is entitled, either immediately or in the future, to receive or obtain any amount or benefit for the purpose of reducing the impact, in whole or in part, of any loss that an investor may sustain by virtue of the ownership, holding or disposition of the subject share, and any property is used, in whole or in part, either directly or indirectly in any manner whatever, to secure the undertaking; or

(b) the consideration for which the subject share was issued or any other property received, either directly or indirectly, by an issuer from an investor, or any property substituted therefor, is or includes

(i) an obligation of an investor to make payments that are required to be included, in whole or in part, in computing the income of the issuer, other than an obligation of a corporation that, immediately before the subject share was issued, would be related to the corporation that issued the subject share if this Act were read without reference to paragraph 251(5)(b), or

contrepartie déterminée, une contrepartie affiliée ou une contrepartie déterminée affiliée s'attend raisonnablement soit à devenir un investisseur indifférent relativement à l'impôt soit, si elle a fourni une représentation visée au sous-alinéa (2.32)a)(ii) ou aux divisions (2.32)b)(iii)(B) ou c)(iii)(B) relativement à une action, à éliminer, en totalité ou en presque totalité, les possibilités pour elle de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action, la période donnée pour laquelle elle a fourni une représentation relative à l'action est réputée prendre fin à ce moment.

Interprétation

(2.34) Il est entendu que chaque mention de « contrepartie », « contrepartie déterminée », « contrepartie affiliée » ou « contrepartie déterminée affiliée » au paragraphe (2.32) vaut mention seulement d'une personne ou société de personnes qui obtient tout ou partie des possibilités de subir des pertes ou de réaliser des gains ou des bénéfices relativement à l'action visée à ce paragraphe.

Déduction non admise

(2.4) Aucune déduction ne peut être faite en application des paragraphes (1) ou (2) ou 138(6) dans le calcul du revenu imposable d'une société investisseuse à l'égard d'un dividende reçu sur une action d'une autre société qui est la société émettrice — sauf s'il s'agit d'une action exclue — dans les cas suivants :

a) une personne ou société de personnes a l'obligation, absolue ou conditionnelle, d'exécuter un engagement — notamment une garantie, un accord ou une convention d'achat ou de rachat de l'action — par lequel un investisseur a un droit, immédiat ou futur, de recevoir un montant ou d'obtenir un avantage afin de réduire ou supprimer l'effet d'une perte qu'un investisseur peut subir du fait qu'il est propriétaire ou détenteur de l'action ou qu'il en dispose, et un bien sert, en totalité ou en partie, directement ou indirectement, de quelque manière que ce soit, à garantir l'exécution de cet engagement;

b) la contrepartie pour laquelle l'action est émise ou un autre bien reçu, directement ou indirectement, d'un investisseur par un émetteur ou encore un bien substitué à la contrepartie ou à l'autre bien, comprend une obligation ou un droit visés aux sous-alinéas (i) et (ii) si cette obligation est contractée, ou ce droit acquis, par l'émetteur dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprennent l'émission ou l'acquisition de l'action ou d'une action y substituée :

(i) l'obligation d'un investisseur de faire des versements à inclure, en totalité ou en partie, dans le

(ii) any right to receive payments that are required to be included, in whole or in part, in computing the income of the issuer where that right is held on condition that it or property substituted therefor may revert or pass to an investor or a person or partnership to be determined by an investor,

where that obligation or right was acquired by the issuer as part of a transaction or event or a series of transactions or events that included the issuance or acquisition of the subject share, or a share for which the subject share was substituted.

calcul du revenu de l'émetteur — à l'exception de l'obligation d'une société qui, juste avant l'émission de l'action, serait liée à la société émettrice compte non tenu l'alinéa 251(1)b) —,

(ii) un droit de recevoir des versements à inclure, en totalité ou en partie, dans le calcul du revenu de l'émetteur, si ce droit est détenu sous condition qu'il — ou un bien y substitué — puisse revenir ou passer à un investisseur ou à une personne ou société de personnes qu'un investisseur indique.

Application of s. (2.4)

(2.5) Subsection 112(2.4) applies only in respect of a dividend on a share where, having regard to all the circumstances, it may reasonably be considered that the share was issued or acquired as part of a transaction or event or a series of transactions or events that enabled any corporation to earn investment income, or any income substituted therefor, and, as a result, the amount of its taxes payable under this Act for a taxation year is less than the amount that its taxes payable under this Act would be for the year if that investment income were the only income of the corporation for the year and all other taxation years and no amount were deductible under subsections 127(5) and 127.2(1) in computing its taxes payable under this Act.

Application du par. (2.4)

(2.5) Le paragraphe (2.4) ne s'applique à un dividende reçu sur une action que dans le cas où il est raisonnable de considérer en contexte que l'action a été émise ou acquise dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui ont permis à une société de gagner un revenu de placement ou un revenu y substitué et où, en conséquence, les impôts payables par celle-ci en vertu de la présente loi pour une année d'imposition sont inférieurs à ce qu'ils seraient si ce revenu de placement était le seul revenu de la société pour cette année et pour toutes les autres années d'imposition et si aucun montant n'était déductible en application des paragraphes 127(5) et 127.2(1) dans le calcul de ses impôts payables en vertu de la présente loi.

Definitions

(2.6) For the purposes of this subsection and subsection 112(2.4),

exempt share means

(a) a prescribed share,

(b) a share of the capital stock of a corporation issued before 5:00 p.m. Eastern Standard Time, November 27, 1986, other than a share held at that time

(i) by the issuer, or

(ii) by any person or partnership where the issuer may become entitled to receive any amount after that time by way of subscription proceeds or contribution of capital with respect to that share pursuant to an agreement made before that time, or

(c) a share that was, at the time the dividend referred to in subsection 112(2.4) was received, a share described in paragraph (e) of the definition *term preferred share* in subsection 248(1) during the applicable period referred to in that paragraph; (*action exclue*)

Définitions

(2.6) Les définitions qui suivent s'appliquent au présent paragraphe et au paragraphe (2.4).

action exclue

a) Action visée par règlement;

b) action qu'une société a émise avant 17 heures, heure normale de l'Est, le 27 novembre 1986, sauf si elle était détenue à ce moment soit par l'émetteur, soit par une personne ou société de personnes dans le cas où, conformément à une convention conclue avant ce moment, l'émetteur peut devenir en droit de recevoir un montant pour cette action après ce moment — par voie de produit de souscription ou d'apport de capital;

c) action qui, au moment de la réception du dividende visé au paragraphe (2.4), était une action visée à l'alinéa e) de la définition de *action privilégiée à terme*, au paragraphe 248(1), pendant la durée visée à cet alinéa. (*exempt share*)

émetteur La société émettrice visée au paragraphe (2.4), une autre personne avec laquelle celle-ci a un lien de dépendance et toute société de personnes ou fiducie dont cette société ou l'autre personne est un associé ou un

investor means the particular corporation referred to in subsection 112(2.4) and a person with whom that corporation does not deal at arm's length and any partnership or trust of which that corporation, or a person with whom that corporation does not deal at arm's length, is a member or beneficiary, but does not include the other corporation referred to in that subsection; (*investisseur*)

issuer means the other corporation referred to in subsection 112(2.4) and a person with whom that corporation does not deal at arm's length and any partnership or trust of which that corporation, or a person with whom that corporation does not deal at arm's length, is a member or beneficiary, but does not include the particular corporation referred to in that subsection. (*émetteur*)

bénéficiaire. La société investisseuse visée au paragraphe (2.4) ne peut toutefois être un émetteur. (*issuer*)

investisseur La société investisseuse visée au paragraphe (2.4), une autre personne avec laquelle celle-ci a un lien de dépendance et toute société de personnes ou fiducie dont cette société ou l'autre personne est un associé ou un bénéficiaire. La société émettrice visée au paragraphe (2.4) ne peut toutefois être un investisseur. (*investor*)

Change in agreement or condition

(2.7) For the purposes of the definition *exempt share* in subsection 112(2.6), where at any time after 5:00 p.m. Eastern Standard Time, November 27, 1986 the terms or conditions of a share of the capital stock of a corporation have been changed or any agreement in respect of the share has been changed or entered into by the corporation, the share shall be deemed to have been issued at that time.

Moment réputé d'émission d'une action exclue

(2.7) Pour l'application de la définition d'*action exclue*, au paragraphe (2.6), l'action du capital-actions d'une société dont les conditions sont modifiées après 17 heures, heure normale de l'Est, le 27 novembre 1986 ou concernant laquelle la société conclut ou modifie une convention après ce moment est réputée émise au moment de la modification en question ou de la conclusion ou modification de la convention, selon le cas.

Loss sustained by investor

(2.8) For the purposes of paragraph 112(2.4)(a), any loss that an investor may sustain by virtue of the ownership, holding or disposition of the subject share referred to in that paragraph shall be deemed to include any loss with respect to an obligation or share that was issued or acquired as part of a transaction or event or a series of transactions or events that included the issuance or acquisition of the subject share, or a share for which the subject share was substituted.

Perte subie par l'investisseur

(2.8) Pour l'application de l'alinéa (2.4)a), la perte qu'un investisseur peut subir du fait qu'il est propriétaire ou détenteur d'une action donnée ou qu'il en dispose est réputée comprendre une perte sur un titre ou une action émis ou acquis dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprennent l'émission ou l'acquisition de l'action donnée ou d'une action y substituée.

Related corporations

(2.9) For the purposes of subparagraph 112(2.4)(b)(i), where it may reasonably be considered having regard to all the circumstances that a corporation has become related to any other corporation for the purpose of avoiding any limitation on the deduction of a dividend under subsection 112(1), 112(2) or 138(6), the corporation shall be deemed not to be related to the other corporation.

Sociétés réputées non liées

(2.9) Pour l'application du sous-alinéa (2.4)b)(i), la société qu'il est raisonnable de considérer dans les circonstances comme devenue liée à une autre société en vue de se soustraire à une restriction à la déduction d'un dividende en application des paragraphes (1) ou (2) ou 138(6) est réputée ne pas être liée à cette autre société.

Loss on share that is capital property

(3) Subject to subsections 112(5.5) and 112(5.6), the amount of any loss of a taxpayer (other than a trust) from the disposition of a share that is capital property of the taxpayer (other than a share that is property of a partnership) is deemed to be the amount of the loss determined without reference to this subsection minus,

Perte sur une action qui est une immobilisation

(3) Sous réserve des paragraphes (5.5) et (5.6), le montant de toute perte qu'un contribuable, sauf une fiducie, subit lors de la disposition d'une action qui fait partie de ses immobilisations (sauf une action qui est un bien d'une société de personnes) est réputé égal au montant

(a) where the taxpayer is an individual, the lesser of

(i) the total of all amounts each of which is a dividend received by the taxpayer on the share in respect of which an election was made under subsection 83(2) where subsection 83(2.1) does not deem the dividend to be a taxable dividend, and

(ii) the loss determined without reference to this subsection minus all taxable dividends received by the taxpayer on the share; and

(b) where the taxpayer is a corporation, the total of all amounts received by the taxpayer on the share each of which is

(i) a taxable dividend, to the extent of the amount of the dividend that was deductible under this section or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year,

(ii) a dividend in respect of which an election was made under subsection 83(2) where subsection 83(2.1) does not deem the dividend to be a taxable dividend, or

(iii) a life insurance capital dividend.

de cette perte, déterminé compte non tenu du présent paragraphe, moins :

a) dans le cas où le contribuable est un particulier, le moins élevé des montants suivants :

(i) le total des montants représentant chacun un dividende que le contribuable a reçu sur l'action et qui a fait l'objet du choix prévu au paragraphe 83(2), dans le cas où le dividende n'est pas réputé par le paragraphe 83(2.1) être un dividende imposable,

(ii) la perte déterminée compte non tenu du présent paragraphe moins l'ensemble des dividendes imposables reçus par le contribuable sur l'action;

b) dans le cas où le contribuable est une société, le total des montants qu'il a reçus sur l'action représentant chacun :

(i) un dividende imposable, jusqu'à concurrence de la fraction du dividende qui était déductible selon le présent article ou les paragraphes 115(1) ou 138(6) dans le calcul du revenu imposable du contribuable, ou de son revenu imposable gagné au Canada, pour une année d'imposition,

(ii) un dividende qui a fait l'objet du choix prévu au paragraphe 83(2), dans le cas où le dividende n'est pas réputé par le paragraphe 83(2.1) être un dividende imposable,

(iii) un dividende en capital d'assurance-vie.

Loss on share that is capital property — excluded dividends

(3.01) A qualified dividend shall not be included in the total determined under subparagraph (3)(a)(i) or paragraph (3)(b) if the taxpayer establishes that

(a) it was received when the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the taxpayer owned throughout the 365-day period that ended immediately before the disposition.

Perte sur une action qui est une immobilisation — dividendes exclus

(3.01) Un dividende désigné n'est pas inclus dans le total déterminé selon le sous-alinéa (3)a)(i) ou l'alinéa (3)b) si le contribuable établit qu'il a été reçu, à la fois :

a) à un moment où le contribuable et des personnes avec lesquelles il avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) sur une action qui a appartenu au contribuable tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Loss on share held by partnership

(3.1) Subject to subsections 112(5.5) and 112(5.6), where a taxpayer (other than a partnership or a mutual fund trust) is a member of a partnership, the taxpayer's share

Perte sur une action détenue par une société de personnes

(3.1) Sous réserve des paragraphes (5.5) et (5.6), la part qui revient à un contribuable (sauf une société de personnes et une fiducie de fonds commun de placement) de

of any loss of the partnership from the disposition of a share that is held by a particular partnership as capital property is deemed to be that share of the loss determined without reference to this subsection minus,

(a) where the taxpayer is an individual, the lesser of

(i) the total of all amounts each of which is a dividend received by the taxpayer on the share in respect of which an election was made under subsection 83(2) where subsection 83(2.1) does not deem the dividend to be a taxable dividend, and

(ii) that share of the loss determined without reference to this subsection minus all taxable dividends received by the taxpayer on the share;

(b) where the taxpayer is a corporation, the total of all amounts received by the taxpayer on the share each of which is

(i) a taxable dividend, to the extent of the amount of the dividend that was deductible under this section or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year,

(ii) a dividend in respect of which an election was made under subsection 83(2) where subsection 83(2.1) does not deem the dividend to be a taxable dividend, or

(iii) a life insurance capital dividend; and

(c) where the taxpayer is a trust, the total of all amounts each of which is

(i) a taxable dividend, or

(ii) a life insurance capital dividend

received on the share and designated under subsection 104(19) or 104(20) by the trust in respect of a beneficiary that was a corporation, partnership or trust.

toute perte subie par une société de personnes dont il est un associé, lors de la disposition d'une action détenue par une société de personnes donnée à titre d'immobilisation, est réputée égale à cette part de la perte, déterminée compte non tenu du présent paragraphe, moins :

a) dans le cas où le contribuable est un particulier, le moins élevé des montants suivants :

(i) le total des montants représentant chacun un dividende que le contribuable a reçu sur l'action et qui a fait l'objet du choix prévu au paragraphe 83(2), dans le cas où le dividende n'est pas réputé par le paragraphe 83(2.1) être un dividende imposable,

(ii) cette part de la perte déterminée compte non tenu du présent paragraphe moins l'ensemble des dividendes imposables reçus par le contribuable sur l'action;

b) dans le cas où le contribuable est une société, le total des montants qu'il a reçus sur l'action représentant chacun :

(i) un dividende imposable, jusqu'à concurrence de la fraction du dividende qui était déductible selon le présent article ou les paragraphes 115(1) ou 138(6) dans le calcul de son revenu imposable, ou de son revenu imposable gagné au Canada, pour une année d'imposition,

(ii) un dividende qui a fait l'objet du choix prévu au paragraphe 83(2), dans le cas où le dividende n'est pas réputé par le paragraphe 83(2.1) être un dividende imposable,

(iii) un dividende en capital d'assurance-vie;

c) dans le cas où le contribuable est une fiducie, le total des montants représentant chacun un dividende imposable ou un dividende en capital d'assurance-vie reçu sur l'action et attribué par la fiducie en application des paragraphes 104(19) ou (20) à un bénéficiaire qui était une société, une société de personnes ou une fiducie.

Loss on share held by partnership — excluded dividends

(3.11) A qualified dividend shall not be included in the total determined under subparagraph (3.1)(a)(i) or paragraph (3.1)(b) or (c) if the taxpayer establishes that

(a) it was received when the particular partnership, the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not hold in total more than 5% of the issued shares of any class of the capital

Perte sur une action détenue par une société de personnes — dividendes exclus

(3.11) Un dividende désigné n'est pas inclus dans le total déterminé selon le sous-alinéa (3.1)a)(i) ou les alinéas (3.1)b) ou c) si le contribuable établit qu'il a été reçu, à la fois :

a) à un moment où la société de personnes donnée, le contribuable et des personnes avec lesquelles celui-ci avait un lien de dépendance ne détenaient pas, au

stock of the corporation from which the dividend was received; and

(b) it was received on a share that the particular partnership held throughout the 365-day period that ended immediately before the disposition.

Loss on share held by partnership — excluded dividends

(3.12) A taxable dividend received on a share and designated under subsection 104(19) by a particular trust in respect of a beneficiary that was a partnership or trust shall not be included in the total determined under paragraph 112(3.1)(c) where the particular trust establishes that the dividend was received by an individual (other than a trust).

Loss on share held by trust

(3.2) Subject to subsections 112(5.5) and 112(5.6), the amount of any loss of a trust (other than a mutual fund trust) from the disposition of a share of the capital stock of a corporation that is capital property of the trust is deemed to be the amount of the loss determined without reference to this subsection minus the total of

(a) the amount, if any, by which the lesser of

(i) the total of all amounts each of which is a dividend received by the trust on the share in respect of which an election was made under subsection 83(2) where subsection 83(2.1) does not deem the dividend to be a taxable dividend, and

(ii) the loss determined without reference to this subsection minus the total of all amounts each of which is the amount of a taxable dividend

(A) received by the trust on the share,

(B) received on the share and designated under subsection 104(19) by the trust in respect of a beneficiary who is an individual (other than a trust), or

(C) that is a qualified dividend received on the share and designated under subsection 104(19) by the trust in respect of a beneficiary that was a corporation, partnership or another trust where the trust establishes that

(I) it owned the share throughout the 365-day period that ended immediately before the disposition, and

total, plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) sur une action que la société de personnes donnée a détenue tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Perte sur une action détenue par une société de personnes — dividendes exclus

(3.12) Le dividende imposable reçu sur une action et attribué par une fiducie donnée en application du paragraphe 104(19) à un bénéficiaire qui était une société de personnes ou une fiducie n'est pas inclus dans le total déterminé selon l'alinéa (3.1)c) si la fiducie donnée établit qu'il a été reçu par un particulier (autre qu'une fiducie).

Perte sur une action détenue par une fiducie

(3.2) Sous réserve des paragraphes (5.5) et (5.6), le montant de toute perte subie par une fiducie (sauf une fiducie de fonds commun de placement) lors de la disposition d'une action du capital-actions d'une société qui fait partie des immobilisations de la fiducie est réputé égal au montant de cette perte, déterminé compte non tenu du présent paragraphe, moins le total des montants suivants :

a) l'excédent éventuel du moins élevé des montants suivants :

(i) le total des montants représentant chacun un dividende que la fiducie a reçu sur l'action et qui a fait l'objet du choix prévu au paragraphe 83(2), dans le cas où le dividende n'est pas réputé par le paragraphe 83(2.1) être un dividende imposable,

(ii) la perte déterminée compte non tenu du présent paragraphe moins le total des montants représentant chacun un dividende imposable :

(A) reçu par la fiducie sur l'action,

(B) reçu sur l'action et attribué par la fiducie en vertu du paragraphe 104(19) à un bénéficiaire qui est un particulier (autre qu'une fiducie),

(C) qui est un dividende désigné reçu sur l'action et attribué par la fiducie, en application du paragraphe 104(19), à un bénéficiaire qui est une société, une société de personnes ou une autre fiducie, dans le cas où la fiducie établit ce qui suit :

(I) l'action lui a appartenu tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition,

(II) the dividend was received while the trust, the beneficiary and persons not dealing at arm's length with the beneficiary owned in total less than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received

exceeds

(iii) if the trust is an individual's graduated rate estate, the share was acquired as a consequence of the individual's death and the disposition occurs during the trust's first taxation year, 1/2 of the lesser of

(A) the loss determined without reference to this subsection, and

(B) the individual's capital gain from the disposition of the share immediately before the individual's death, and

(b) the total of all amounts each of which is

(i) a taxable dividend, or

(ii) a life insurance capital dividend

received on the share and designated under subsection 104(19) or 104(20) by the trust in respect of a beneficiary that was a corporation, partnership or trust.

(II) le dividende a été reçu pendant que la fiducie, le bénéficiaire et des personnes ayant un lien de dépendance avec celui-ci étaient propriétaires, au total, de moins de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende,

sur le montant suivant :

(iii) lorsque la fiducie est la succession assujettie à l'imposition à taux progressifs d'un particulier, que l'action a été acquise par suite du décès de celui-ci et que la disposition est effectuée au cours de la première année d'imposition de la fiducie, la moitié de la moins élevée des sommes suivantes :

(A) la perte déterminée compte non tenu du présent paragraphe,

(B) le gain en capital du particulier provenant de la disposition de l'action immédiatement avant le décès;

b) le total des montants représentant chacun un dividende imposable ou un dividende en capital d'assurance-vie reçu sur l'action et attribué par la fiducie en application des paragraphes 104(19) ou (20) à un bénéficiaire qui était une société, une société de personnes ou une fiducie.

Loss on share held by trust — special cases

(3.3) Notwithstanding subsection 112(3.2), where a trust has at any time acquired a share of the capital stock of a corporation because of subsection 104(4), the amount of any loss of the trust from a disposition after that time is deemed to be the amount of the loss determined without reference to subsection 112(3.2) and this subsection minus the total of

(a) the amount, if any, by which the lesser of

(i) the total of all amounts each of which is a dividend received after that time by the trust on the share in respect of which an election was made under subsection 83(2) where subsection 83(2.1) does not deem the dividend to be a taxable dividend, and

(ii) the loss determined without reference to subsection 112(3.2) and this subsection minus the total of all amounts each of which is the amount of a taxable dividend

(A) received by the trust on the share after that time,

Perte sur une action détenue par une fiducie — cas spéciaux

(3.3) Malgré le paragraphe (3.2), lorsqu'une fiducie acquiert une action du capital-actions d'une société à un moment donné par l'effet du paragraphe 104(4), le montant de toute perte qu'elle subit lors d'une disposition effectuée après ce moment est réputé égal au montant de cette perte, déterminée compte non tenu du paragraphe (3.2) et du présent paragraphe, moins le total des montants suivants :

a) l'excédent éventuel du moins élevé des montants suivants :

(i) le total des montants représentant chacun un dividende que la fiducie a reçu sur l'action après ce moment et qui a fait l;objet du choix prévu au paragraphe 83(2), dans le cas où le dividende n'est pas réputé par le paragraphe 83(2.1) être un dividende imposable,

(ii) la perte déterminée compte non tenu du paragraphe (3.2) et du présent paragraphe moins le total des montants représentant chacun un dividende imposable :

(B) received on the share after that time and designated under subsection 104(19) by the trust in respect of a beneficiary who is an individual (other than a trust), or

(C) that is a qualified dividend received on the share after that time and designated under subsection 104(19) by the trust in respect of a beneficiary that was a corporation, partnership or another trust where the trust establishes that

(I) it owned the share throughout the 365-day period that ended immediately before the disposition, and

(II) the dividend was received when the trust, the beneficiary and persons not dealing at arm's length with the beneficiary owned in total less than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received

exceeds

(iii) 1/2 of the lesser of

(A) the loss from the disposition, determined without reference to subsection 112(3.2) and this subsection, and

(B) the trust's capital gain from the disposition immediately before that time of the share because of subsection 104(4), and

(b) the total of all amounts each of which is a taxable dividend received on the share after that time and designated under subsection 104(19) by the trust in respect of a beneficiary that was a corporation, partnership or trust.

(A) reçu par la fiducie sur l'action après ce moment,

(B) reçu sur l'action après ce moment et attribué par la fiducie, en application du paragraphe 104(19), à un bénéficiaire qui est un particulier (autre qu'une fiducie),

(C) qui est un dividende désigné reçu sur l'action après ce moment et attribué par la fiducie, en application du paragraphe 104(19), à un bénéficiaire qui est une société, une société de personnes ou une autre fiducie, dans le cas où la fiducie établit ce qui suit :

(I) l'action lui a appartenu tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition,

(II) le dividende a été reçu pendant que la fiducie, le bénéficiaire et des personnes ayant un lien de dépendance avec celui-ci étaient propriétaires, au total, de moins de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende,

sur le montant suivant :

(iii) la moitié du moins élevé des montants suivants :

(A) la perte résultant de la disposition, déterminée compte non tenu du paragraphe (3.2) et du présent paragraphe,

(B) le gain en capital de la fiducie provenant de la disposition de l'action effectuée immédiatement avant ce moment par l'effet du paragraphe 104(4);

b) le total des montants représentant chacun un dividende imposable reçu sur l'action après ce moment et attribué par la fiducie, en application du paragraphe 104(19), à un bénéficiaire qui était une société, une société de personnes ou une fiducie.

Loss on share held by trust — excluded dividends

(3.31) A qualified dividend received by a trust shall not be included under subparagraph (3.2)(a)(i) or (b)(ii) or (3.3)(a)(i) if the trust establishes that the dividend

(a) was received,

(i) in any case where the dividend was designated under subsection 104(19) or 104(20) by the trust, when the trust, the beneficiary and persons with

Perte sur une action détenue par une fiducie — dividendes exclus

(3.31) Un dividende désigné reçu par une fiducie n'est pas inclus selon le sous-alinéa (3.2)a)(i), l'alinéa (3.2)b) (dans la mesure où il s'agit d'un dividende en capital d'assurance-vie) ou le sous-alinéa (3.3)a)(i) si la fiducie établit que le dividende, à la fois :

a) a été reçu :

whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, or

(ii) in any other case, when the trust and persons with whom the trust was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, and

(b) was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

(i) dans le cas où il a été attribué par la fiducie, en application des paragraphes 104(19) ou (20), à un des bénéficiaires de la fiducie, à un moment où la fiducie, le bénéficiaire et des personnes avec lesquelles celui-ci avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende,

(ii) dans les autres cas, à un moment où la fiducie et des personnes avec lesquelles elle avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) a été reçu sur une action qui a appartenu à la fiducie tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Loss on share held by trust — excluded dividends

(3.32) A qualified dividend that is a taxable dividend received on the share and that is designated under subsection 104(19) by the trust in respect of a beneficiary that was a corporation, partnership or trust, shall not be included under paragraph (3.2)(b) or (3.3)(b) if the trust establishes that the dividend was received by an individual (other than a trust), or

(a) was received when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

Perte sur une action détenue par une fiducie — dividendes exclus

(3.32) Un dividende désigné qui est un dividende imposable reçu sur une action et qui est attribué par une fiducie, en application du paragraphe 104(19), à un bénéficiaire qui était une société, une société de personnes ou une fiducie n'est pas inclus en vertu des alinéas (3.2)b) ou (3.3)b) si la fiducie établit qu'il a été reçu par un particulier autre qu'une fiducie ou a été reçu, à la fois :

a) à un moment où la fiducie, le bénéficiaire et des personnes avec lesquelles celui-ci avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) sur une action qui a appartenu à la fiducie tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Loss on share that is not capital property

(4) Subject to subsections 112(5.5) and 112(5.6), the amount of any loss of a taxpayer (other than a trust) from the disposition of a share of the capital stock of a corporation that is property (other than capital property) of the taxpayer is deemed to be the amount of the loss determined without reference to this subsection minus,

(a) where the taxpayer is an individual and the corporation is resident in Canada, the total of all dividends received by the individual on the share;

(b) where the taxpayer is a partnership, the total of all dividends received by the partnership on the share; and

Perte sur une action qui n'est pas une immobilisation

(4) Sous réserve des paragraphes (5.5) et (5.6), le montant de toute perte subie par un contribuable (sauf une fiducie) lors de la disposition d'une action du capital-actions d'une société qui est un bien, sauf une immobilisation, du contribuable est réputé égal au montant de cette perte, déterminé compte non tenu du présent paragraphe, moins :

a) dans le cas où le contribuable est un particulier et où la société réside au Canada, le total des dividendes qu'il a reçus sur l'action;

(c) where the taxpayer is a corporation, the total of all amounts received by the taxpayer on the share each of which is

(i) a taxable dividend, to the extent of the amount of the dividend that was deductible under this section, section 113 or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year, or

(ii) a dividend (other than a taxable dividend).

b) dans le cas où le contribuable est une société de personnes, le total des dividendes qu'il a reçus sur l'action;

c) dans le cas où le contribuable est une société, le total des montants qu'il a reçus sur l'action représentant chacun :

(i) un dividende imposable, jusqu'à concurrence de la fraction du dividende qui était déductible selon le présent article ou les paragraphes 115(1) ou 138(6) dans le calcul de son revenu imposable, ou de son revenu imposable gagné au Canada, pour une année d'imposition,

(ii) un dividende, sauf un dividende imposable.

Loss on share that is not capital property — excluded dividends

(4.01) A qualified dividend shall not be included in the total determined under paragraph (4)(a), (b) or (c) if the taxpayer establishes that

(a) it was received when the taxpayer and persons with whom the taxpayer was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the taxpayer owned throughout the 365-day period that ended immediately before the disposition.

Perte sur une action qui n'est pas une immobilisation — dividendes exclus

(4.01) Un dividende désigné n'est pas inclus dans le total déterminé selon les alinéas (4)a), b) ou c) si le contribuable établit qu'il a été reçu, à la fois :

a) à un moment où le contribuable et des personnes avec lesquelles il avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) sur une action qui a appartenu au contribuable tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Fair market value of shares held as inventory

(4.1) For the purpose of section 10, the fair market value at any time of a share of the capital stock of a corporation is deemed to be equal to the fair market value of the share at that time, plus

(a) where the shareholder is a corporation, the total of all amounts received by the shareholder on the share before that time each of which is

(i) a taxable dividend, to the extent of the amount of the dividend that was deductible under this section, section 113 or subsection 115(1) or 138(6) in computing the shareholder's taxable income or taxable income earned in Canada for any taxation year, or

(ii) a dividend (other than a taxable dividend);

(b) where the shareholder is a partnership, the total of all amounts each of which is a dividend received by the shareholder on the share before that time; and

Juste valeur marchande d'une action à porter à l'inventaire

(4.1) Pour l'application de l'article 10, la juste valeur marchande, à un moment donné, d'une action du capital-actions d'une société est réputée égale à la juste valeur marchande de l'action à ce moment, plus :

a) dans le cas où l'actionnaire est une société, le total des montants qu'il a reçus sur l'action avant ce moment représentant chacun :

(i) un dividende imposable, jusqu'à concurrence de la fraction du dividende qui était déductible selon le présent article, l'article 113 ou les paragraphes 115(1) ou 138(6) dans le calcul de son revenu imposable, ou de son revenu imposable gagné au Canada, pour une année d'imposition,

(ii) un dividende, sauf un dividende imposable;

b) dans le cas où l'actionnaire est une société de personnes, le total des montants représentant chacun un dividende qu'il a reçu sur l'action avant ce moment;

(c) where the shareholder is an individual and the corporation is resident in Canada, the total of all amounts each of which is a dividend received by the shareholder on the share before that time (or, where the shareholder is a trust, that would have been so received if this Act were read without reference to subsection 104(19)).

c) dans le cas où l'actionnaire est un particulier et où la société réside au Canada, le total des montants représentant chacun un dividende qu'il a reçu sur l'action avant ce moment ou, s'il est une fiducie, qu'il aurait ainsi reçu compte non tenu du paragraphe 104(19).

Fair market value of shares held as inventory — excluded dividends

(4.11) A qualified dividend shall not be included in the total determined under paragraph (4.1)(a), (b) or (c) if the shareholder establishes that

(a) it was received while the shareholder and persons with whom the shareholder was not dealing at arm's length did not hold in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the shareholder held throughout the 365-day period that ended at the time referred to in subsection 112(4.1).

Juste valeur marchande des actions à porter à l'inventaire — dividendes exclus

(4.11) Un dividende désigné n'est pas inclus dans le total déterminé selon les alinéas (4.1)a), b) ou c) si l'actionnaire établit qu'il a été reçu, à la fois :

a) à un moment où l'actionnaire et des personnes avec lesquelles il avait un lien de dépendance ne détenaient pas, au total, plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) sur une action que l'actionnaire a détenue tout au long de la période de 365 jours qui s'est terminée au moment visé au paragraphe (4.1).

Loss on share held by trust

(4.2) Subject to subsections 112(5.5) and 112(5.6), the amount of any loss of a trust from the disposition of a share that is property (other than capital property) of the trust is deemed to be the amount of the loss determined without reference to this subsection minus

(a) the total of all amounts each of which is a dividend received by the trust on the share, to the extent that the amount was not designated under subsection 104(20) in respect of a beneficiary of the trust; and

(b) the total of all amounts each of which is a dividend received on the share that was designated under subsection 104(19) or 104(20) by the trust in respect of a beneficiary of the trust.

Perte sur une action détenue par une fiducie

(4.2) Sous réserve des paragraphes (5.5) et (5.6), le montant de toute perte subie par une fiducie lors de la disposition d'une action qui est un bien, sauf une immobilisation, de la fiducie est réputé égal au montant de cette perte, déterminé compte non tenu du présent paragraphe, moins :

a) le total des montants représentant chacun un dividende reçu par la fiducie sur l'action, dans la mesure où le montant n'a pas été attribué à l'un des bénéficiaires de la fiducie en application du paragraphe 104(20);

b) le total des montants représentant chacun un dividende reçu sur l'action et attribué par la fiducie à l'un de ses bénéficiaires en application des paragraphes 104(19) ou (20).

Loss on share held by trust — excluded dividends

(4.21) A qualified dividend shall not be included in the total determined under paragraph (4.2)(a) if the taxpayer establishes that

(a) it was received when the trust and persons with whom the trust was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

Perte sur une action détenue par une fiducie — dividendes exclus

(4.21) Un dividende désigné n'est pas inclus dans le total déterminé selon l'alinéa (4.2)a) si le contribuable établit qu'il a été reçu, à la fois :

a) à un moment où la fiducie et des personnes avec lesquelles elle avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

(b) it was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

(b) sur une action qui a appartenu à la fiducie tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Loss on share held by trust — excluded dividends

(4.22) A qualified dividend shall not be included in the total determined under paragraph (4.2)(b) if the taxpayer establishes that

(a) it was received when the trust, the beneficiary and persons with whom the beneficiary was not dealing at arm's length did not own in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; and

(b) it was received on a share that the trust owned throughout the 365-day period that ended immediately before the disposition.

Perte sur une action détenue par une fiducie — dividendes exclus

(4.22) Un dividende désigné n'est pas inclus dans le total déterminé selon l'alinéa (4.2)b) si le contribuable établit qu'il a été reçu, à la fois :

a) à un moment où la fiducie, le bénéficiaire et des personnes avec lesquelles celui-ci avait un lien de dépendance n'étaient pas propriétaires, au total, de plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) sur une action qui a appartenu à la fiducie tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

(4.3) [Repealed, 1998, c. 19, s. 131]

(4.3) [Abrogé, 1998, ch. 19, art. 131]

Disposition of share by financial institution

(5) Subsection 112(5.2) applies to the disposition of a share by a taxpayer in a taxation year where

(a) the taxpayer is a financial institution in the year;

(b) the share is a mark-to-market property for the year; and

(c) the taxpayer received

(i) a dividend on the share at a time when the taxpayer and persons with whom the taxpayer was not dealing at arm's length held in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received, or

(ii) a dividend on the share under subsection 84(3).

Disposition d'une action par une institution financière

(5) Le paragraphe (5.2) s'applique à la disposition d'une action par un contribuable au cours d'une année d'imposition lorsque les conditions suivantes sont réunies :

a) le contribuable est une institution financière au cours de l'année;

b) l'action est un bien évalué à la valeur du marché pour l'année;

c) le contribuable a reçu :

(i) soit un dividende sur l'action à un moment où il détenait, avec des personnes avec lesquelles il avait un lien de dépendance, plus de 5 %, au total, des actions émises d'une catégorie du capital-actions de la société de laquelle le dividende a été reçu,

(ii) soit un dividende sur l'action en vertu du paragraphe 84(3).

Share held for less than one year

(5.1) Subsection 112(5.2) applies to the disposition of a share by a taxpayer in a taxation year where

(a) the disposition is an actual disposition;

(b) the taxpayer did not hold the share throughout the 365-day period that ended immediately before the disposition; and

Action détenue pendant moins d'un an

(5.1) Le paragraphe (5.2) s'applique à la disposition d'une action par un contribuable au cours d'une année d'imposition lorsque les conditions suivantes sont réunies :

a) il s'agit d'une disposition réelle;

b) le contribuable n'a pas détenu l'action tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition;

(c) the share was a mark-to-market property of the taxpayer for a taxation year that begins after October 1994 and in which the taxpayer was a financial institution.

c) l'action était un bien évalué à la valeur du marché du contribuable pour une année d'imposition qui commence après octobre 1994 et au cours de laquelle le contribuable était une institution financière.

Adjustment re dividends

(5.2) Subject to subsection 112(5.3), where subsection 112(5) or 112(5.1) provides that this subsection applies to the disposition of a share by a taxpayer at any time, the taxpayer's proceeds of disposition shall be deemed to be the amount determined by the formula

A + B - (C - D)

where

A is the taxpayer's proceeds determined without reference to this subsection,

B is the lesser of

(a) the loss, if any, from the disposition of the share that would be determined before the application of this subsection if the cost of the share to any taxpayer were determined without reference to

(i) paragraphs 87(2)(e.2) and 87(2)(e.4), 88(1)(c), 138(11.5)(e) and 142.5(2)(b),

(ii) subsection 85(1), where the provisions of that subsection are required by paragraph 138(11.5)(e) to be applied, and

(iii) paragraph 142.6(1)(d), and

(b) the total of all amounts each of which is

(i) where the taxpayer is a corporation, a taxable dividend received by the taxpayer on the share, to the extent of the amount that was deductible under this section or subsection 115(1) or 138(6) in computing the taxpayer's taxable income or taxable income earned in Canada for any taxation year,

(ii) where the taxpayer is a partnership, a taxable dividend received by the taxpayer on the share, to the extent of the amount that was deductible under this section or subsection 115(1) or 138(6) in computing the taxable income or taxable income earned in Canada for any taxation year of members of the partnership,

(iii) where the taxpayer is a trust, an amount designated under subsection 104(19) in respect of a taxable dividend on the share, or

(iv) a dividend (other than a taxable dividend) received by the taxpayer on the share,

C is the total of all amounts each of which is the amount by which

Redressement pour dividendes

(5.2) Sous réserve du paragraphe (5.3), dans le cas où le présent paragraphe s'applique, par l'effet des paragraphes (5) ou (5.1), à la disposition d'une action par un contribuable à un moment donné, le produit de disposition pour le contribuable est réputé égal au résultat du calcul suivant :

A + B - (C - D)

où :

A représente le produit pour le contribuable, déterminé compte non tenu du présent paragraphe;

B le moins élevé des montants suivants :

a) la perte, résultant de la disposition de l'action, qui serait déterminée avant l'application du présent paragraphe si le coût de l'action pour un contribuable était calculé compte non tenu du paragraphe 85(1), dans le cas où il s'applique par l'effet de l'alinéa 138(11.5)e), et des alinéas 87(2)e.2) et e.4), 88(1)c), 138(11.5)e), 142.5(2)b) et 142.6(1)d),

b) le total des montants représentant chacun :

(i) si le contribuable est une société, un dividende imposable qu'il a reçu sur l'action, jusqu'à concurrence du montant qui était déductible en application du présent article ou des paragraphes 115(1) ou 138(6) dans le calcul de son revenu imposable, ou de son revenu imposable gagné au Canada, pour une année d'imposition,

(ii) si le contribuable est une société de personnes, un dividende imposable qu'il a reçu sur l'action, jusqu'à concurrence du montant qui était déductible en application du présent article ou des paragraphes 115(1) ou 138(6) dans le calcul du revenu imposable, ou du revenu imposable gagné au Canada, pour une année d'imposition des associés de la société de personnes,

(iii) si le contribuable est une fiducie, un montant attribué, en application du paragraphe 104(19), au titre d'un dividende imposable sur l'action,

(iv) un dividende, sauf un dividende imposable, que le contribuable a reçu sur l'action;

(a) the taxpayer's proceeds of disposition on a deemed disposition of the share before that time were increased because of this subsection,

(b) where the taxpayer is a corporation or trust, a loss of the taxpayer on a deemed disposition of the share before that time was reduced because of subsection 112(3), 112(3.2), 112(4) or 112(4.2), or

(c) where the taxpayer is a partnership, a loss of a member of the partnership on a deemed disposition of the share before that time was reduced because of subsection 112(3.1) or 112(4.2), and

D is the total of all amounts each of which is the amount by which the taxpayer's proceeds of disposition on a deemed disposition of the share before that time were decreased because of this subsection.

C le total des montants représentant chacun, selon le cas :

a) le montant ajouté, par l'effet du présent paragraphe, au produit de disposition que le contribuable a obtenu lors d'une disposition réputée de l'action avant le moment donné,

b) si le contribuable est une société ou une fiducie, le montant appliqué en réduction, par l'effet des paragraphes (3), (3.2), (4) ou (4.2), d'une perte qu'il a subie lors d'une disposition réputée de l'action avant le moment donné,

c) si le contribuable est une société de personnes, le montant appliqué en réduction, par l'effet des paragraphes (3.1) ou (4.2), d'une perte qu'un associé de la société de personnes a subie lors d'une disposition réputée de l'action avant le moment donné;

D le total des montants représentant chacun le montant appliqué en réduction, par l'effet du présent paragraphe, du produit de disposition que le contribuable a obtenu lors d'une disposition réputée de l'action avant le moment donné.

Subsection (5.2) — excluded dividends

(5.21) A dividend, other than a dividend received under subsection 84(3), shall not be included in the total determined under paragraph (b) of the description of B in subsection (5.2) unless

(a) the dividend was received when the taxpayer and persons with whom the taxpayer did not deal at arm's length held in total more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received; or

(b) the share was not held by the taxpayer throughout the 365-day period that ended immediately before the disposition.

Dividendes exclus — paragraphe (5.2)

(5.21) Un dividende, sauf un dividende reçu en vertu du paragraphe 84(3), n'est inclus dans le total déterminé selon l'alinéa b) de l'élément B de la formule figurant au paragraphe (5.2) que si, selon le cas :

a) le dividende a été reçu à un moment où le contribuable et des personnes avec lesquelles il avait un lien de dépendance détenaient, au total, plus de 5 % des actions émises d'une catégorie du capital-actions de la société qui a versé le dividende;

b) l'action n'a pas été détenue par le contribuable tout au long de la période de 365 jours qui s'est terminée immédiatement avant la disposition.

Adjustment not applicable

(5.3) For the purpose of determining the cost of a share to a taxpayer on a deemed reacquisition of the share after a deemed disposition of the share, the taxpayer's proceeds of disposition shall be determined without regard to subsection 112(5.2).

Redressement inapplicable

(5.3) Pour calculer le coût, pour un contribuable, d'une action qui est réputée avoir été acquise de nouveau après avoir fait l'objet d'une disposition réputée, le produit de disposition de l'action pour le contribuable est déterminé compte non tenu du paragraphe (5.2).

Deemed dispositions

(5.4) Where a taxpayer disposes of a share at any time,

(a) for the purpose of determining whether subsection 112(5.2) applies to the disposition, the conditions in

Présomption de disposition

(5.4) Les règles suivantes s'appliquent dans le cas où un contribuable dispose d'une action à un moment donné :

a) pour déterminer si le paragraphe (5.2) s'applique à la disposition, les conditions énoncées aux paragraphes (5) et (5.1) s'appliquent compte non tenu des

subsections 112(5) and 112(5.1) shall be applied without regard to a deemed disposition and reacquisition of the share before that time; and

(b) total amounts under subsection 112(5.2) in respect of the disposition shall be determined from the time when the taxpayer actually acquired the share.

dispositions et des nouvelles acquisitions dont l'action est réputée avoir fait l'objet avant ce moment;

b) les totaux prévus au paragraphe (5.2) relativement à la disposition sont déterminés à partir du moment où le contribuable a réellement acquis l'action.

Stop-loss rules not applicable

(5.5) Subsections 112(3) to 112(4) and 112(4.2) do not apply to the disposition of a share by a taxpayer in a taxation year that begins after October 1994 where

(a) the share is a mark-to-market property for the year and the taxpayer is a financial institution in the year; or

(b) subsection 112(5.2) applies to the disposition.

Règles sur la minimisation des pertes inapplicables

(5.5) Les paragraphes (3) à (4) et (4.2) ne s'appliquent pas à la disposition d'une action effectuée par un contribuable au cours d'une année d'imposition qui commence après octobre 1994 si, selon le cas :

a) l'action est un bien évalué à la valeur du marché pour l'année et le contribuable est une institution financière pendant l'année;

b) le paragraphe (5.2) s'applique à la disposition.

Stop-loss rules restricted

(5.6) In determining whether any of subsections 112(3) to 112(4) and 112(4.2) apply to reduce a loss of a taxpayer from the disposition of a share, this Act shall be read without reference to paragraphs 112(3.01)(b) and 112(3.11)(b), subclauses 112(3.2)(a)(ii)(C)(I) and 112(3.3)(a)(ii)(C)(I) and paragraphs 112(3.31)(b), 112(3.32)(b), 112(4.01)(b), 112(4.21)(b) and 112(4.22)(b) where

(a) the disposition occurs

(i) because of subsection 142.5(2) in a taxation year that includes October 31, 1994, or

(ii) because of paragraph 142.6(1)(b) after October 30, 1994; or

(b) the share was a mark-to-market property of the taxpayer for a taxation year that begins after October 1994 in which the taxpayer was a financial institution.

Application restreinte des règles sur la minimisation des pertes

(5.6) Il n'est pas tenu compte des alinéas (3.01)b) et (3.11)b), des subdivisions (3.2)a)(ii)(C)(I) et (3.3)a)(ii)(C)(I) et des alinéas (3.31)b), (3.32)b), (4.01) b), (4.21)b) et (4.22)b) pour déterminer si les paragraphes (3) à (4) et (4.2) ont pour effet de réduire une perte qu'un contribuable a subie lors de la disposition d'une action, lorsque, selon le cas :

a) la disposition est effectuée par l'effet :

(i) soit du paragraphe 142.5(2) au cours d'une année d'imposition qui comprend le 31 octobre 1994,

(ii) soit de l'alinéa 142.6(1)b) après le 30 octobre 1994;

b) l'action est un bien évalué à la valeur du marché du contribuable pour une année d'imposition qui commence après octobre 1994 et au cours de laquelle il est une institution financière.

Meaning of certain expressions

(6) For the purposes of this section,

(a) "dividend" and "taxable dividend" do not include a capital gains dividend (within the meaning assigned by subsection 131(1)) or any dividend received by a taxpayer on which the taxpayer was required to pay tax under Part VII of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on March 31, 1977;

b) one corporation is controlled by another corporation if more than 50% of its issued share capital

Sens de certaines expressions

(6) Pour l'application du présent article :

a) ne sont pas compris parmi les dividendes ou les dividendes imposables les dividendes sur les gains en capital au sens du paragraphe 131(1), ni les dividendes qu'un contribuable a reçus et sur lesquels il était tenu de payer l'impôt prévu à la partie VII de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, en son état au 31 mars 1977;

b) une société est contrôlée par une autre société si plus de 50 % des actions émises de son capital-actions

(having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length; and

(c) *financial institution* and *mark-to-market property* have the meanings assigned by subsection 142.2(1).

(comportant plein droit de vote en toutes circonstances) appartiennent à l'autre société, à des personnes avec lesquelles l'autre société a un lien de dépendance, ou à la fois à l'autre société et à des personnes avec lesquelles l'autre société a un lien de dépendance;

c) les expressions *bien évalué à la valeur du marché* et *institution financière* s'entendent au sens du paragraphe 142.2(1).

Interpretation — qualified dividend

(6.1) For the purposes of this section, a dividend on a share is a qualified dividend to the extent that

(a) it is a dividend other than a dividend received under subsection 84(3); or

(b) it is received under subsection 84(3) and,

(i) if the share is held by an individual other than a trust, the dividend is received by the individual,

(ii) if the share is held by a corporation, the dividend is received by the corporation while it is a private corporation, and is paid by another private corporation,

(iii) if the share is held by a trust,

(A) the dividend is received by the trust,

(B) the dividend is designated under subsection 104(19) by the trust in respect of a beneficiary and

(I) the beneficiary is an individual other than a trust,

(II) the beneficiary is a private corporation when the dividend is received by it and the dividend is paid by another private corporation,

(III) the beneficiary is another trust that does not designate the dividend under subsection 104(19), or

(IV) the beneficiary is a partnership all of the members of which are, when the dividend is received, a person described by any of subclauses (I) to (III), or

(C) the dividend is designated by the trust under subsection 104(19) in respect of a beneficiary that is another trust or a partnership and the trust establishes that the dividend is received by

Dividende désigné

(6.1) Pour l'application du présent article, un dividende sur une action est un dividende désigné dans la mesure où :

a) il est un dividende autre qu'un dividende reçu en vertu du paragraphe 84(3);

b) il est reçu en vertu du paragraphe 84(3) et l'un ou l'autre des faits ci-après se vérifie :

(i) si l'action est détenue par un particulier autre qu'une fiducie, le dividende est reçu par le particulier,

(ii) si l'action est détenue par une société, le dividende est reçu par la société à un moment où elle est une société privée et il est versé par une autre société privée,

(iii) si l'action est détenue par une fiducie, le dividende est :

(A) soit reçu par la fiducie,

(B) soit attribué par la fiducie en application du paragraphe 104(19) à un bénéficiaire qui est :

(I) un particulier autre qu'une fiducie,

(II) une société privée au moment où il reçoit le dividende et celui-ci est versé par une autre société privée,

(III) une autre fiducie qui n'attribue pas le dividende en application du paragraphe 104(19),

(IV) une société de personnes dont l'ensemble des associés sont, au moment où le dividende est reçu, des personnes visées aux subdivisions (I) à (III),

(C) soit attribué par la fiducie en application du paragraphe 104(19) à un bénéficiaire qui est une autre fiducie ou une société de personnes et la

a person described by any of subclauses (B)(I) to (III), and

(iv) if the share is held by a partnership,

(A) the dividend is included in the income of a member of a partnership and

(I) the member is an individual, or

(II) the member is a private corporation when the dividend is received by it and the dividend is paid by another private corporation, or

(B) the dividend is designated under subsection 104(19) by a member of a partnership that is a trust in respect of a beneficiary described by any of subclauses (iii)(B)(I) to (IV) or is described by clause (iii)(C).

fiducie établit que le dividende est reçu par une personne visée à l'une des subdivisions (B)(I) à (III),

(iv) si l'action est détenue par une société de personnes, le dividende est :

(A) soit inclus dans le revenu d'un associé d'une société de personnes, lequel associé est :

(I) un particulier,

(II) une société privée au moment où il reçoit le dividende et celui-ci est versé par une autre société privée,

(B) soit attribué, en application du paragraphe 104(19), par un associé d'une société de personnes qui est une fiducie à un bénéficiaire visé à l'une des subdivisions (iii)(B)(I) à (IV) ou à la division (iii)(C).

Rules where shares exchanged

(7) Where a share (in this subsection referred to as the "new share") has been acquired in exchange for another share (in this subsection referred to as the "old share") in a transaction to which section 51, 85.1, 86 or 87 applies, for the purposes of the application of any of subsections 112(3) to 112(3.32) in respect of a disposition of the new share, the new share is deemed to be the same share as the old share, except that

(a) any dividend received on the old share is deemed for those purposes to have been received on the new share only to the extent of the proportion of the dividend that

(i) the shareholder's adjusted cost base of the new share immediately after the exchange

is of

(ii) the shareholder's adjusted cost base of all new shares immediately after the exchange acquired in exchange for the old share; and

(b) the amount, if any, by which a loss from the disposition of the new share is reduced because of the application of this subsection shall not exceed the proportion of the shareholder's adjusted cost base of the old share immediately before the exchange that

(i) the shareholder's adjusted cost base of the new share immediately after the exchange

is of

Échange d'actions

(7) Dans le cas où une action (appelée « nouvelle action » au présent paragraphe) est acquise en échange d'une autre action (appelée « ancienne action » au présent paragraphe) dans le cadre d'une opération à laquelle s'appliquent les articles 51, 85.1, 86 ou 87, la nouvelle action est réputée, pour l'application de l'un des paragraphes (3) à (3.32) à sa disposition, être la même action que l'ancienne action. Toutefois :

a) tout dividende reçu sur l'ancienne action est réputé, pour l'application de ces mêmes paragraphes, n'avoir été reçu sur la nouvelle action que jusqu'à concurrence de la proportion du dividende représentée par le rapport entre :

(i) d'une part, le prix de base rajusté de la nouvelle action pour l'actionnaire immédiatement après l'échange,

(ii) d'autre part, le prix de base rajusté, pour l'actionnaire, de l'ensemble des nouvelles actions immédiatement après l'échange qui ont été acquises en échange de l'ancienne action;

b) le montant qui est appliqué, par l'effet du présent paragraphe, en réduction d'une perte subie lors de la disposition de la nouvelle action ne peut dépasser le produit de la multiplication du prix de base rajusté de l'ancienne action pour l'actionnaire immédiatement avant l'échange par le rapport entre :

(i) d'une part, le prix de base rajusté de la nouvelle action pour l'actionnaire immédiatement après l'échange,

(ii) the shareholder's adjusted cost base of all new shares, immediately after the exchange, acquired in exchange for the old share.

(ii) d'autre part, le prix de base rajusté, pour l'actionnaire, de l'ensemble des nouvelles actions immédiatement après l'échange qui ont été acquises en échange de l'ancienne action.

Synthetic disposition — holding period

(8) If a synthetic disposition arrangement is entered into in respect of a property owned by a taxpayer and the synthetic disposition period of the arrangement is 30 days or more, for the purposes of paragraphs (3.01)(b) and (3.11)(b), subclauses (3.2)(a)(ii)(C)(I) and (3.3)(a)(ii)(C)(I) and paragraphs (3.31)(b), (3.32)(b), (4.01)(b), (4.11)(b), (4.21)(b), (4.22)(b), (5.1)(b) and (5.21)(b) and subsection (9), the taxpayer is deemed not to own the property during the synthetic disposition period.

Disposition factice — période de détention

(8) Si un arrangement de disposition factice est conclu relativement à un bien appartenant à un contribuable et que la période de disposition factice relative à cet arrangement dure 30 jours ou plus, pour l'application des alinéas (3.01)b) et (3.11)b), des subdivisions (3.2)a)(ii)(C)(I) et (3.3)a)(ii)(C)(I), des alinéas (3.31)b), (3.32)b), (4.01)b), (4.11)b), (4.21)b), (4.22)b), (5.1)b) et (5.21)b) et du paragraphe (9), le bien est réputé ne pas appartenir au contribuable pendant cette période.

Exception

(9) Subsection (8) does not apply in respect of a property owned by a taxpayer in respect of a synthetic disposition arrangement if the taxpayer owned the property throughout the 365-day period (determined without reference to this subsection) that ended immediately before the synthetic disposition period of the arrangement.

Exception

(9) Le paragraphe (8) ne s'applique pas à l'égard d'un bien appartenant à un contribuable relativement à un arrangement de disposition factice si le bien lui a appartenu tout au long de la période de 365 jours (déterminée compte non tenu du présent paragraphe) s'étant terminée immédiatement avant la période de disposition factice relative à l'arrangement.

Synthetic equity arrangements — ordering

(10) For the purposes of subsections (3), (3.1), (4), (4.1) and (5.2), if a synthetic equity arrangement is in respect of a number of shares that are identical properties (referred to in this subsection as *identical shares*) that is less than the total number of such identical shares owned by a person or partnership at that time and in respect of which there is no other synthetic equity arrangement, the synthetic equity arrangement is deemed to be in respect of those identical shares in the order in which the person or partnership acquired them.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 112; 1994, c. 7, Sch. II, s. 84, c. 21, s. 51; 1995, c. 21, s. 56; 1998, c. 19, s. 131; 2001, c. 17, ss. 88, 251; 2007, c. 35, s. 68; 2011, c. 24, s. 22; 2013, c. 34, s. 242, c. 40, s. 48; 2014, c. 39, s. 31; 2016, c. 7, s. 14.

Arrangements de capitaux propres synthétiques — ordre

(10) Pour l'application des paragraphes (3), (3.1), (4), (4.1) et (5.2), si un arrangement de capitaux propres synthétiques s'applique à un nombre d'actions qui sont des biens identiques (appelées « actions identiques » au présent paragraphe) et que le nombre donné est inférieur au total de ces actions identiques dont une personne ou une société de personnes est propriétaire à ce moment et à l'égard desquelles il n'existe aucun autre arrangement de capitaux propres synthétiques, l'arrangement de capitaux propres synthétiques est réputé s'appliquer à ces actions identiques dans l'ordre de leur acquisition par la personne ou la société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 112; 1994, ch. 7, ann. II, art. 84, ch. 21, art. 51; 1995, ch. 21, art. 56; 1998, ch. 19, art. 131; 2001, ch. 17, art. 88 et 251; 2007, ch. 35, art. 68; 2011, ch. 24, art. 22; 2013, ch. 34, art. 242, ch. 40, art. 48; 2014, ch. 39, art. 31; 2016, ch. 7, art. 14.

Deduction in respect of dividend received from foreign affiliate

113 (1) Where in a taxation year a corporation resident in Canada has received a dividend on a share owned by it of the capital stock of a foreign affiliate of the corporation, there may be deducted from the income for the year of the corporation for the purpose of computing its taxable income for the year, an amount equal to the total of

Déduction au titre d'un dividende reçu d'une société étrangère affiliée

113 (1) Une société résidant au Canada qui, au cours d'une année d'imposition, a reçu un dividende sur une action lui appartenant du capital-actions d'une société étrangère affiliée de cette société peut déduire de son revenu pour l'année, pour le calcul de son revenu imposable pour cette année, le total des sommes suivantes :

(a) an amount equal to such portion of the dividend as is prescribed to have been paid out of the exempt surplus, as defined by regulation (in this Part referred to as "exempt surplus") of the affiliate,

(a.1) an amount equal to the total of

(i) one-half of the portion of the dividend that is prescribed to have been paid out of the hybrid surplus, as defined by regulation (in this Part referred to as "hybrid surplus"), of the affiliate, and

(ii) the lesser of

(A) the total of

(I) the product obtained when the foreign tax prescribed to be applicable to the portion of the dividend referred to in subparagraph (i) is multiplied by the amount by which

1. the corporation's relevant tax factor for the year

exceeds

2. one-half, and

(II) the product obtained when

1. the non-business-income tax paid by the corporation applicable to the portion of the dividend referred to in subparagraph (i)

is multiplied by

2. the corporation's relevant tax factor for the year, and

(B) the amount determined under subparagraph (i),

(b) an amount equal to the lesser of

(i) the product obtained when the foreign tax prescribed to be applicable to such portion of the dividend as is prescribed to have been paid out of the taxable surplus, as defined by regulation (in this Part referred to as "taxable surplus") of the affiliate is multiplied by the amount by which

(A) the corporation's relevant tax factor for the year

exceeds

(B) one, and

a) la fraction du dividende qui est, par règlement, considérée comme ayant été prélevée sur le surplus exonéré défini par règlement (appelé « surplus exonéré » à la présente partie) de la société affiliée;

a.1) une somme égale au total des sommes suivantes :

(i) la moitié de la partie du dividende qui est considérée, par règlement, comme ayant été versée sur le surplus hybride, au sens prévu par règlement, (appelé « surplus hybride » dans la présente partie) de la société affiliée,

(ii) la moins élevée des sommes suivantes :

(A) le total des résultats suivants :

(I) le résultat de la multiplication de l'impôt étranger qui est considéré, par règlement, comme étant applicable à la partie du dividende visée au sous-alinéa (i) par l'excédent de la fraction visée à la sous-subdivision 1 sur celle visée à la sous-subdivision 2 :

1. le facteur fiscal approprié applicable à la société pour l'année,

2. une demie,

(II) le résultat de la multiplication de la somme visée à la sous-subdivision 1 par la fraction visée à la sous-subdivision 2 :

1. l'impôt sur le revenu ne provenant pas d'une entreprise payé par la société et applicable à la partie du dividende visée au sous-alinéa (i),

2. le facteur fiscal approprié applicable à la société pour l'année,

(B) la somme déterminée selon le sous-alinéa (i);

b) le moindre des montants suivants :

(i) le produit de la multiplication de l'impôt étranger qui est, par règlement, considéré comme applicable à la fraction du dividende qui est, par règlement, considérée comme ayant été prélevée sur le surplus imposable défini par règlement (appelé « surplus imposable » à la présente partie) de la société affiliée, par l'excédent de l'élément visé à la division (A) sur l'élément visé à la division (B):

(A) le facteur fiscal approprié applicable à la société pour l'année,

(ii) that portion of the dividend,

(c) an amount equal to the lesser of

(i) the product obtained when

(A) the non-business-income tax paid by the corporation applicable to such portion of the dividend as is prescribed to have been paid out of the taxable surplus of the affiliate

is multiplied by

(B) the corporation's relevant tax factor for the year, and

(ii) the amount by which such portion of the dividend as is prescribed to have been paid out of the taxable surplus of the affiliate exceeds the deduction in respect thereof referred to in paragraph 113(1)(b), and

(d) an amount equal to such portion of the dividend as is prescribed to have been paid out of the pre-acquisition surplus of the affiliate,

and for the purposes of this subsection and subdivision i of Division B, the corporation may make such elections as may be prescribed.

(B) l'unité,

(ii) cette fraction du dividende;

c) le moindre des montants suivants :

(i) le produit de la multiplication des éléments suivants :

(A) l'impôt sur le revenu ne provenant pas d'une entreprise, versé par la société et applicable à la fraction du dividende qui est, par règlement, considérée comme ayant été prélevée sur le surplus imposable de la société affiliée,

(B) le facteur fiscal approprié applicable à la société pour l'année,

(ii) l'excédent de la fraction du dividende qui est, par règlement, considérée comme ayant été prélevée sur le surplus imposable de la société affiliée sur la déduction à l'égard de ce dividende visée à l'alinéa b);

d) la fraction du dividende qui est, par règlement, considérée comme ayant été prélevée sur le surplus antérieur à l'acquisition de la société affiliée.

Pour l'application du présent paragraphe et de la sous-section i de la section B, la société peut faire tout choix visé par règlement.

Additional deduction

(2) Where, at any particular time in a taxation year ending after 1975, a corporation resident in Canada has received a dividend on a share owned by it at the end of its 1975 taxation year of the capital stock of a foreign affiliate of the corporation, there may be deducted from the income for the year of the corporation for the purpose of computing its taxable income for the year, an amount in respect of the dividend equal to the lesser of

(a) the amount, if any, by which the amount of the dividend so received exceeds the total of

(i) the deduction in respect of the dividend permitted by subsection 91(5) in computing the corporation's income for the year, and

(ii) the deduction in respect of the dividend permitted by subsection 113(1) from the income for the year of the corporation for the purpose of computing its taxable income, and

(b) the amount, if any, by which

Déductions supplémentaires

(2) Lorsque, à un moment donné au cours d'une année d'imposition se terminant après 1975, une société qui réside au Canada a reçu un dividende sur une action qui lui appartenait à la fin de son année d'imposition 1975 et qui faisait partie du capital-actions d'une société étrangère affiliée de la société, peut être déduite du revenu de la société pour l'année, pour le calcul de son revenu imposable pour l'année, une somme relative au dividende, égale au moins élevé des montants suivants :

a) l'excédent éventuel du montant du dividende ainsi reçu sur le total des éléments suivants :

(i) la déduction relative au dividende permise par le paragraphe 91(5) dans le calcul du revenu de la société pour l'année,

(ii) la déduction relative au dividende et permise par le paragraphe (1) à l'égard du revenu de la société pour l'année, pour le calcul de son revenu imposable;

b) l'excédent éventuel :

(i) the adjusted cost base to the corporation of the share at the end of its 1975 taxation year

exceeds the total of

(iii) such amounts in respect of dividends received by the corporation on the share after the end of its 1975 taxation year and before the particular time as are deductible under paragraph 113(1)(d) in computing the taxable income of the corporation for taxation years ending after 1975,

(iii.1) the total of all amounts received by the corporation on the share after the end of its 1975 taxation year and before the particular time

(A) on a reduction, before August 20, 2011, of the paid-up capital of the foreign affiliate in respect of the share, or

(B) on a reduction, after August 19, 2011, of the paid-up capital of the foreign affiliate in respect of the share that is a qualifying return of capital (within the meaning assigned by subsection 90(3)) in respect of the share, and

(iv) the total of all amounts deducted under this subsection in respect of dividends received by the corporation on the share before the particular time.

(i) du prix de base rajusté de l'action, pour la société, à la fin de son année d'imposition 1975,

sur le total des éléments suivants :

(iii) les montants relatifs aux dividendes, reçus par la société sur l'action après la fin de son année d'imposition 1975 et avant le moment donné, et déductibles en vertu de l'alinéa (1)d) dans le calcul du revenu imposable de la société pour les années d'imposition se terminant après 1975,

(iii.1) le total des montants reçus par la société sur l'action, après la fin de son année d'imposition 1975 et avant le moment donné, à la suite :

(A) d'une réduction, effectuée avant le 20 août 2011, du capital versé de la société étrangère affiliée au titre de l'action,

(B) d'une réduction, effectuée après le 19 août 2011, du capital versé de la société étrangère affiliée au titre de l'action qui constitue un remboursement de capital admissible, au sens du paragraphe 90(3), relativement à l'action,

(iv) le total des sommes déduites en vertu du présent paragraphe à l'égard des dividendes reçus sur l'action par la société avant le moment donné.

Definitions

(3) In this section,

non-business-income tax paid by a taxpayer has the meaning assigned by subsection 126(7); (*impôt sur le revenu ne provenant pas d'une entreprise*)

relevant tax factor has the meaning assigned by subsection 95(1). (*facteur fiscal approprié*)

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

facteur fiscal approprié S'entend au sens du paragraphe 95(1). (*relevant tax factor*)

impôt sur le revenu ne provenant pas d'une entreprise S'entend au sens du paragraphe 126(7). (*non-business-income tax*)

Portion of dividend deemed paid out of exempt surplus

(4) Such portion of any dividend received at any time in a taxation year by a corporation resident in Canada on a share owned by it of the capital stock of a foreign affiliate of the corporation, that was received after the 1971 taxation year of the affiliate and before the affiliate's 1976 taxation year, as exceeds the amount deductible in respect of the dividend under paragraph 113(1)(d) in computing the corporation's taxable income for the year shall, for the purposes of paragraph 113(1)(a), be deemed to be the portion of the dividend prescribed to have been paid out of the exempt surplus of the affiliate.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 113; 2013, c. 34, ss. 72, 243.

Fraction du dividende réputée payée sur le surplus exonéré

(4) La fraction de tout dividende reçu, à un moment donné d'une année d'imposition, par une société résidant au Canada sur une action — appartenant à cette société — du capital-actions d'une société étrangère affiliée de cette société, reçue entre la fin de l'année d'imposition 1971 de la société étrangère affiliée et le début de son année d'imposition 1976 et que est en sus de la somme déductible au titre du dividende en vertu de l'alinéa (1)d), dans le calcul du revenu imposable de la société pour l'année, est réputée, pour l'application de l'alinéa (1)a), être la fraction du dividende indiquée comme ayant été

Individual resident in Canada for only part of year

114 Notwithstanding subsection 2(2), the taxable income for a taxation year of an individual who is resident in Canada throughout part of the year and non-resident throughout another part of the year is the amount, if any, by which

(a) the amount that would be the individual's income for the year if the individual had no income or losses, for the part of the year throughout which the individual was non-resident, other than

(i) income or losses described in paragraphs 115(1)(a) to (c), and

(ii) income that would have been included in the individual's taxable income earned in Canada for the year under subparagraph 115(1)(a)(v) if the part of the year throughout which the individual was non-resident were the whole taxation year,

exceeds the total of

(b) the deductions permitted by subsection 111(1) and, to the extent that they relate to amounts included in computing the amount determined under paragraph (a), the deductions permitted by any of paragraphs 110(1)(d) to (d.2) and (f), and

(c) any other deduction permitted for the purpose of computing taxable income to the extent that

(i) it can reasonably be considered to be applicable to the part of the year throughout which the individual was resident in Canada, or

(ii) if all or substantially all of the individual's income for the part of the year throughout which the individual was non-resident is included in the amount determined under paragraph (a), it can reasonably be considered to be applicable to that part of the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 114; 1994, c. 7, Sch. II, s. 85, c. 21, s. 52; 1995, c. 21, s. 37; 2001, c. 17, s. 89.

114.1 [Repealed, 2001, c. 17, s. 89]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 114.1; 2001, c. 17, s. 89.

Particulier résidant au Canada pendant une partie de l'année seulement

114 Malgré le paragraphe 2(2), le revenu imposable pour une année d'imposition du particulier qui réside au Canada tout au long d'une partie de l'année mais qui, tout au long d'une autre partie de l'année, est un non-résident correspond à l'excédent éventuel du montant visé à l'alinéa a):

a) le montant qui correspondrait au revenu du particulier pour l'année s'il n'avait, pour la partie de l'année tout au long de laquelle il était un non-résident, que le revenu ou les pertes suivants :

(i) le revenu ou les pertes visés aux alinéas 115(1)a) à c),

(ii) le revenu qui aurait été inclus dans son revenu imposable gagné au Canada pour l'année en application du sous-alinéa 115(1)a)(v) si la partie de l'année tout au long de laquelle il était un non-résident constituait l'année d'imposition entière,

sur la somme des montants suivants :

b) les déductions permises par le paragraphe 111(1) et, dans la mesure où elles se rapportent à des montants inclus dans le calcul du montant déterminé selon l'alinéa a), les déductions permises par l'un des alinéas 110(1)d) à d.2) et f);

c) toute autre déduction permise pour le calcul du revenu imposable, dans la mesure où, selon le cas :

(i) il est raisonnable de considérer qu'elle s'applique à la partie de l'année tout au long de laquelle le particulier a résidé au Canada,

(ii) si la totalité ou la presque totalité du revenu du particulier pour la partie de l'année tout au long de laquelle il était un non-résident est incluse dans le montant déterminé selon l'alinéa a), il est raisonnable de considérer qu'elle s'applique à cette partie de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 114; 1994, ch. 7, ann. II, art. 85, ch. 21, art. 52; 1995, ch. 21, art. 37; 2001, ch. 17, art. 89.

114.1 [Abrogé, 2001, ch. 17, art. 89]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 114.1; 2001, ch. 17, art. 89.

Deductions in separate returns

114.2 Where a separate return of income with respect to a taxpayer is filed under subsection 70(2), 104(23) or 150(4) for a particular period and another return of income under this Part with respect to the taxpayer is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the taxable income under this Part of the taxpayer in those returns, the total of all deductions claimed in all those returns under section 110 shall not exceed the total that could be deducted under that section for the year with respect to the taxpayer if no separate returns were filed under subsections 70(2), 104(23) and 150(4).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1985, c. 45, s. 59; 1988, c. 55, s. 87.

Déductions dans des déclarations distinctes

114.2 Lorsqu'une déclaration de revenu distincte est produite à l'égard d'un contribuable en application du paragraphe 70(2), 104(23) ou 150(4) pour une période donnée et qu'une autre déclaration de revenu à l'égard du contribuable est produite en vertu de la présente partie pour une période se terminant au cours de l'année civile où la période donnée se termine, pour le calcul du revenu imposable du contribuable en vertu de la présente partie dans ces déclarations, le total des déductions demandées dans ces déclarations en application de l'article 110 ne peut dépasser le total qui pourrait être déduit en application de cet article pour l'année à l'égard du contribuable si aucune déclaration distincte n'était produite en application des paragraphes 70(2), 104(23) et 150(4).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1985, ch. 45, art. 59; 1988, ch. 55, art. 87.

DIVISION D

Taxable Income Earned in Canada by Non-Residents

Non-resident's taxable income in Canada

115 (1) For the purposes of this Act, the taxable income earned in Canada for a taxation year of a person who at no time in the year is resident in Canada is the amount, if any, by which the amount that would be the non-resident person's income for the year under section 3 if

(a) the non-resident person had no income other than

(i) incomes from the duties of offices and employments performed by the non-resident person in Canada and, if the person was resident in Canada at the time the person performed the duties, outside Canada,

(ii) incomes from businesses carried on by the non-resident person in Canada which, in the case of the Canadian banking business of an authorized foreign bank, is, subject to this Part, the profit from that business computed using the bank's branch financial statements (within the meaning assigned by subsection 20.2(1),

(iii) taxable capital gains from dispositions described in paragraph 115(1)(b),

(iii.1) the amount by which the amount required by paragraph 59(3.2)(c) to be included in computing the non-resident person's income for the year exceeds any portion of that amount that was included in computing the non-resident person's

SECTION D

Revenu imposable gagné au Canada par des non-résidents

Revenu imposable au Canada des non-résidents

115 (1) Pour l'application de la présente loi, le revenu imposable gagné au Canada pour une année d'imposition d'une personne qui ne réside au Canada à aucun moment de l'année correspond à l'excédent éventuel du montant qui représenterait son revenu pour l'année selon l'article 3:

a) si elle n'avait pas de revenu autre :

(i) que les revenus tirés des fonctions de charges et d'emplois exercées par elle au Canada et, si elle résidait au Canada au moment où elle exerçait les fonctions, à l'étranger,

(ii) que les revenus tirés d'entreprises exploitées par elle au Canada qui, dans le cas de l'entreprise bancaire canadienne d'une banque étrangère autorisée, sont constitués, sous réserve de la présente partie, des bénéfices provenant de cette entreprise calculés d'après les états financiers de succursale (au sens du paragraphe 20.2(1)) de la banque,

(iii) que des gains en capital tirés des dispositions indiquées à l'alinéa b),

(iii.1) que l'excédent du montant qu'elle doit, en vertu de l'alinéa 59(3.2)c), inclure dans le calcul de son revenu pour l'année sur la fraction de ce montant qui était incluse dans le calcul du revenu

income from a business carried on by the non-resident person in Canada,

(iii.2) amounts required by section 13 to be included in computing the non-resident person's income for the year in respect of dispositions of properties to the extent that those amounts were not included in computing the non-resident person's income from a business carried on by the non-resident person in Canada,

(iii.21) the total of all amounts, each of which is an amount included under subparagraph 56(1)(r)(v) or section 56.3 in computing the non-resident person's income for the year,

(iii.3) in any case where, in the year, the non-resident person carried on a business in Canada described in any of paragraphs (a) to (g) of the definition ***principal-business corporation*** in subsection 66(15), all amounts in respect of a Canadian resource property that would be required to be included in computing the non-resident person's income for the year under this Part if the non-resident person were resident in Canada at any time in the year, to the extent that those amounts are not included in computing the non-resident person's income by virtue of subparagraph 115(1)(a)(ii) or 115(1)(a)(iii.1),

(iv) the amount, if any, by which any amount required by subsection 106(2) to be included in computing the non-resident person's income for the year as proceeds of the disposition of an income interest in a trust resident in Canada exceeds the amount in respect of that income interest that would, if the non-resident person had been resident in Canada throughout the year, be deductible under subsection 106(1) in computing the non-resident person's income for the year,

(iv.1) the amount, if any, by which any amount required by subsection 96(1.2) to be included in computing the non-resident person's income for the year as proceeds of the disposition of a right to a share of the income or loss under an agreement referred to in paragraph 96(1.1)(a) exceeds the amount in respect of that right that would, if the non-resident person had been resident in Canada throughout the year, be deductible under subsection 96(1.3) in computing the non-resident person's income for the year,

(v) in the case of a non-resident person described in subsection 115(2), the total determined under

qu'elle a tiré d'une entreprise exploitée par elle au Canada,

(iii.2) que des montants qu'elle est tenue, en vertu de l'article 13, d'inclure dans le calcul du revenu qu'elle a tiré, au cours de l'année, de la disposition de biens dans la mesure où ces montants n'ont pas été inclus dans le calcul du revenu qu'elle a tiré d'une entreprise exploitée par elle au Canada,

(iii.21) que le total des sommes représentant chacune une somme incluse en application du sous-alinéa 56(1)r)(v) ou de l'article 56.3 dans le calcul de son revenu pour l'année,

(iii.3) dans le cas où, au cours de l'année, la personne non-résidente a exploité au Canada une entreprise visée à l'un des alinéas a) à g) de la définition de ***société exploitant une entreprise principale*** au paragraphe 66(15), que les montants relatifs à un avoir minier canadien qu'elle serait tenue d'inclure dans le calcul de son revenu pour l'année en vertu de la présente partie si elle avait résidé au Canada à un moment donné de l'année, dans la mesure où ces montants ne sont pas inclus dans le calcul de son revenu en vertu du sous-alinéa (ii) ou (iii.1),

(iv) que l'excédent éventuel d'une somme à inclure, selon le paragraphe 106(2), dans le calcul de son revenu pour l'année comme produit de disposition d'une participation au revenu d'une fiducie qui réside au Canada sur le montant relatif à cette participation au revenu et qui, si elle avait résidé au Canada tout au long de l'année, serait déductible en vertu du paragraphe 106(1) dans le calcul de son revenu pour l'année,

(iv.1) que l'excédent éventuel d'une somme à inclure, selon le paragraphe 96(1.2), dans le calcul de son revenu pour l'année comme produit de disposition d'un droit à une partie des revenus ou des pertes en vertu d'une convention visée à l'alinéa 96(1.1)a) sur le montant relatif à ce droit et qui, si elle avait résidé au Canada tout au long de l'année, serait déductible en vertu du paragraphe 96(1.3) dans le calcul de son revenu pour l'année,

(v) dans le cas d'une personne non-résidente visée au paragraphe (2), que le total déterminé en vertu de l'alinéa (2)e) pour cette personne,

(vi) que le montant qui aurait dû être inclus dans le calcul de son revenu à l'égard d'une police d'assurance-vie au Canada, en vertu du paragraphe 148(1)

paragraph 115(2)(e) in respect of the non-resident person,

(vi) the amount that would have been required to be included in computing the non-resident person's income in respect of a life insurance policy in Canada by virtue of subsection 148(1) or 148(1.1) if the non-resident person had been resident in Canada throughout the year, and

(vii) in the case of an authorized foreign bank, the amount claimed by the bank to the extent that the inclusion of the amount in income

(A) increases any amount deductible by the bank under subsection 126(1) for the year, and

(B) does not increase an amount deductible by the bank under section 127 for the year,

(b) the only taxable capital gains and allowable capital losses referred to in paragraph 3(b) were taxable capital gains and allowable capital losses from dispositions, other than dispositions deemed under subsection 218.3(2), of taxable Canadian properties (other than treaty-protected properties), and

(b.1) [Repealed, 2001, c. 17, s. 90(4)]

(c) the only losses for the year referred to in paragraph 3(d) were losses from duties of an office or employment performed by the person in Canada and businesses (other than treaty-protected businesses) carried on by the person in Canada and allowable business investment losses in respect of property any gain from the disposition of which would, because of this subsection, be included in computing the person's taxable income earned in Canada,

exceeds the total of

(d) the deductions permitted by subsection 111(1) and, to the extent that they relate to amounts included in computing the amount determined under any of paragraphs (a) to (c), the deductions permitted by any of paragraphs 110(1)(d) to (d.2) and (f) and subsection 110.1(1),

(e) the deductions permitted by any of subsections 112(1) and (2) and 138(6) in respect of a dividend received by the non-resident person, to the extent that the dividend is included in computing the non-resident person's taxable income earned in Canada for the year,

(e.1) the deduction permitted by subsection (4.1), and

ou (1.1), si elle avait résidé au Canada tout au long de l'année,

(vii) dans le cas d'une banque étrangère autorisée, que le montant qu'elle demande dans la mesure où l'inclusion du montant dans son revenu a pour effet :

(A) d'une part, d'augmenter le montant qu'elle peut déduire en application du paragraphe 126(1) pour l'année,

(B) d'autre part, de ne pas augmenter un montant qu'elle peut déduire en application de l'article 127 pour l'année;

b) si les seuls gains en capital imposables et les seules pertes en capital déductibles visés à l'alinéa 3b) étaient de semblables gains et de semblables pertes provenant de la disposition (sauf la disposition réputée effectuée selon le paragraphe 218.3(2)) de biens canadiens imposables (sauf des biens protégés par traité);

b.1) [Abrogé, 2001, ch. 17, art. 90(4)]

c) si les seules pertes pour l'année visées à l'alinéa 3d) étaient des pertes résultant des fonctions d'une charge ou d'un emploi que la personne exerce au Canada et d'entreprises (sauf des entreprises protégées par traité) qu'elle y exploite et des pertes déductibles au titre de placements d'entreprise relatives à des biens dont la disposition donnerait naissance à des gains qui, par l'effet du présent paragraphe, seraient inclus dans le calcul de son revenu imposable gagné au Canada,

sur le total des montants suivants :

d) les déductions permises par le paragraphe 111(1) et, dans la mesure où elles se rapportent à des montants inclus dans le calcul du montant déterminé selon l'un des alinéas a) à c), les déductions permises par l'un des alinéas 110(1)d) à d.2) et f) ou par le paragraphe 110.1(1);

e) les déductions permises par l'un des paragraphes 112(1) et (2) et 138(6) au titre d'un dividende reçu par la personne, dans la mesure où il est inclus dans le calcul de son revenu imposable gagné au Canada pour l'année;

e.1) la déduction permise par le paragraphe (4.1);

f) lorsque la totalité, ou presque, du revenu de la personne non-résidente pour l'année est incluse dans le calcul de son revenu imposable gagné au Canada pour l'année, les autres déductions permises pour le calcul

(f) where all or substantially all of the non-resident person's income for the year is included in computing the non-resident person's taxable income earned in Canada for the year, such of the other deductions permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable.

Idem

(2) Where, in a taxation year, a non-resident person was

(a) a student in full-time attendance at an educational institution in Canada that is a university, college or other educational institution providing courses at a post-secondary school level in Canada,

(b) a student attending, or a teacher teaching at, an educational institution outside Canada that is a university, college or other educational institution providing courses at a post-secondary school level, who in any preceding taxation year ceased to be resident in Canada in the course of or subsequent to moving to attend or to teach at the institution,

(b.1) an individual who in any preceding taxation year ceased to be resident in Canada in the course of or subsequent to moving to carry on research or any similar work under a grant received by the individual to enable the individual to carry on the research or work,

(c) an individual

(i) who had, in any previous year, ceased to be resident in Canada,

(ii) who received, in the taxation year, salary or wages or other remuneration in respect of an office or employment that was paid to the individual directly or indirectly by a person resident in Canada, and

(iii) who was, under an agreement or a convention with one or more countries that has the force of law in Canada, entitled to an exemption from an income tax otherwise payable in any of those countries in respect of the salary or wages or other remuneration, or

(c.1) a person who received in the year an amount, under a contract, that was or will be deductible in computing the income of a taxpayer subject to tax under this Part and the amount can, irrespective of when the contract was entered into or the form or legal effect of the contract, reasonably be regarded as having been received, in whole or in part,

du revenu imposable et qu'il est raisonnable de considérer comme étant entièrement applicables.

Idem

(2) Lorsque, au cours d'une année d'imposition, une personne non-résidente était :

a) un étudiant fréquentant à plein temps un établissement d'enseignement — université, collège ou autre établissement d'enseignement dispensant, au Canada, des cours de niveau postsecondaire — situé au Canada;

b) un étudiant fréquentant un établissement d'enseignement — université, collège ou autre établissement d'enseignement dispensant des cours de niveau postsecondaire — situé à l'étranger, ou un professeur enseignant dans un tel établissement, qui avait cessé, au cours d'une année d'imposition antérieure, de résider au Canada, à l'occasion ou à la suite de son départ, pour fréquenter cet établissement ou y enseigner;

b.1) un particulier qui avait cessé, au cours d'une année d'imposition antérieure, de résider au Canada, à l'occasion ou à la suite de son départ, pour effectuer des recherches ou tous travaux similaires grâce à une bourse qu'il a reçue pour effectuer ces recherches ou ces travaux;

c) un particulier qui, à la fois :

(i) avait cessé, au cours d'une année antérieure, de résider au Canada,

(ii) recevait, au cours de l'année d'imposition, relativement à une charge ou à un emploi un traitement, un salaire ou autre rémunération que lui versait directement ou indirectement une personne résidant au Canada,

(iii) avait droit, aux termes d'un accord ou d'une convention conclu avec un ou plusieurs pays étrangers et ayant force de loi au Canada, à une exemption de l'impôt sur le revenu payable par ailleurs dans l'un de ces pays relativement au traitement, salaire ou autre rémunération;

c.1) une personne qui, au cours de l'année, a reçu, en vertu d'un contrat, une somme qui était déductible ou le sera dans le calcul du revenu d'un contribuable assujetti à l'impôt en vertu de la présente partie et que, indépendamment de la date de signature du contrat

(i) as consideration or partial consideration for entering into a contract of service or an agreement to perform a service where any such service is to be performed in Canada, or for undertaking not to enter into such a contract or agreement with another party, or

(ii) as remuneration or partial remuneration from the duties of an office or employment or as compensation or partial compensation for services to be performed in Canada,

the following rules apply:

(d) for the purposes of subsection 2(3) the non-resident person shall be deemed to have been employed in Canada in the year,

(e) for the purposes of subparagraph 115(1)(a)(v), the total determined under this paragraph in respect of the non-resident person is the total of

(i) any remuneration in respect of an office or employment that was paid to the non-resident person directly or indirectly by a person resident in Canada and was received by the non-resident person in the year, except to the extent that the remuneration is attributable to the duties of an office or employment performed by the non-resident person anywhere outside Canada and

(A) is subject to an income or profits tax imposed by the government of a country other than Canada, or

(B) is paid in connection with the selling of property, the negotiating of contracts or the rendering of services for the non-resident person's employer, or a foreign affiliate of the employer, or any other person with whom the employer does not deal at arm's length, in the ordinary course of a business carried on by the employer, that foreign affiliate or that person,

(ii) amounts that would be required by paragraph 56(1)(n) or 56(1)(o) to be included in computing the non-resident person's income for the year if the non-resident person were resident in Canada throughout the year and the reference in the applicable paragraph to "received by the taxpayer in the year" were read as a reference to "received by the taxpayer in the year from a source in Canada",

(iii) [Repealed, 1994, c. 7, Sch. VII, s. 5(2)]

ainsi que sa forme et son effet, il est raisonnable de considérer comme ayant été reçue, en tout ou en partie :

(i) soit en contrepartie intégrale ou partielle de la conclusion d'un contrat ou d'une convention de prestation de services, lorsque de tels services doivent être rendus au Canada ou de l'engagement de ne pas conclure un tel contrat ou une telle convention avec une autre partie,

(ii) soit à titre de rémunération intégrale ou partielle pour les fonctions afférentes à une charge ou à un emploi ou d'indemnisation intégrale ou partielle pour les services rendus au Canada,

les règles suivantes s'appliquent :

d) pour l'application du paragraphe 2(3), la personne non-résidente est réputée avoir été employée au Canada pendant l'année;

e) pour l'application du sous-alinéa (1)a)(v), le total déterminé en vertu du présent alinéa, au sujet de la personne non-résidente, est le total des montants suivants :

(i) toute rémunération relative à une charge ou à un emploi, que lui a payée directement ou indirectement une personne résidant au Canada et qui a été reçue par la personne non-résidente au cours de l'année, sauf dans la mesure où cette rémunération est attribuable aux fonctions d'une charge ou d'un emploi qu'elle a remplies n'importe où à l'étranger et :

(A) soit est soumise à un impôt sur le revenu ou sur les bénéfices par le gouvernement d'un pays étranger,

(B) soit est payée à l'occasion de la vente de biens, de la négociation de contrats ou de la prestation de services pour son employeur, pour une société étrangère affiliée à son employeur ou pour toute autre personne avec laquelle son employeur a un lien de dépendance, dans le cours normal des activités d'une entreprise exploitée par son employeur, cette société étrangère affiliée ou cette autre personne,

(ii) les sommes qui, en vertu de l'alinéa 56(1)n) ou o), seraient incluses dans le calcul de son revenu pour l'année si elle avait résidé au Canada tout au long de l'année, et si les mentions « reçue(s) au cours de l'année par le contribuable » y étaient remplacées par « reçue(s) au cours de l'année par le

(iv) amounts that would be required by paragraph 56(1)(q) to be included in computing the non-resident person's income for the year if the non-resident person were resident in Canada throughout the year, and

(v) amounts described in paragraph 115(2)(c.1) received by the non-resident person in the year, except to the extent that they are otherwise required to be included in computing the non-resident person's taxable income earned in Canada for the year, and

(f) there may be deducted in computing the taxable income of the non-resident person for the year the amount that would be deductible in computing the non-resident person's income for the year by virtue of section 62 if

(i) the definition ***eligible relocation*** in subsection 248(1) were read without reference to subparagraph (a)(i) of that definition, and

(ii) the amounts described in subparagraph 62(1)(c)(ii) were the amounts described in subparagraph (e)(ii) of this subsection.

(iii) [Repealed, 1999, c. 22, s. 29(4)].

contribuable, provenant d'une source située au Canada, »,

(iii) [Abrogé, 1994, ch. 7, ann. VII, art. 5(2)]

(iv) les montants qu'il faudrait, en vertu de l'alinéa 56(1)q), inclure dans le calcul de son revenu pour l'année, si elle avait résidé au Canada tout au long de l'année,

(v) les sommes visées à l'alinéa c.1) et reçues par elle au cours de l'année, sauf dans la mesure où elles doivent par ailleurs être incluses dans le calcul de son revenu imposable gagné au Canada pour l'année;

f) il peut être déduit dans le calcul du revenu imposable de la personne non-résidente pour l'année la somme qui serait déductible dans le calcul de son revenu pour l'année en vertu de l'article 62 si, à la fois :

(i) il n'était pas tenu compte du sous-alinéa a)(i) de la définition de ***réinstallation admissible*** au paragraphe 248(1),

(ii) les montants visés au sous-alinéa 62(1)c)(ii) étaient les sommes visées au sous-alinéa e)(ii) du présent paragraphe.

(iii) [Abrogé, 1999, ch. 22, art. 29(4)]

Non-resident actors

(2.1) Notwithstanding subsection (1), where a non-resident person is liable to tax under subsection 212(5.1), or would if this Act were read without reference to subsection 212(5.2) be so liable, in respect of an amount paid, credited or provided in a particular taxation year, the amount shall not be included in computing the non-resident person's taxable income earned in Canada for any taxation year unless a valid election is made under subsection 216.1(1) in respect of the non-resident person for the particular year.

Acteurs non-résidents

(2.1) Malgré le paragraphe (1), lorsqu'une personne non-résidente est redevable de l'impôt prévu au paragraphe 212(5.1), ou le serait s'il n'était pas tenu compte du paragraphe 212(5.2), au titre d'une somme payée, créditée ou fournie au cours d'une année d'imposition donnée, la somme n'est incluse dans le calcul de son revenu imposable gagné au Canada pour une année d'imposition que si un choix valide est fait à son égard en vertu du paragraphe 216.1(1) pour l'année donnée.

Deferred payment by actor's corporation

(2.2) Where a corporation is liable to tax under subsection 212(5.1) in respect of a corporation payment (within the meaning assigned by subsection 212(5.2)) made in a taxation year in respect of an actor and, in a subsequent year, the corporation makes an actor payment (within the meaning assigned by subsection 212(5.2)) to or for the benefit of the actor, the amount of the actor payment is not deductible in computing the income of the corporation for any taxation year and is not included in computing the taxable income earned in Canada of the actor for any taxation year.

Paiement différé par une société d'acteur

(2.2) Lorsqu'une société est redevable de l'impôt prévu au paragraphe 212(5.1) au titre d'un paiement de société (au sens du paragraphe 212(5.2)) effectué au cours d'une année d'imposition à l'égard d'un acteur et fait, au cours d'une année postérieure, un paiement d'acteur (au sens du paragraphe 212(5.2)) à l'acteur, ou pour son compte, le montant du paiement d'acteur n'est ni déductible dans le calcul du revenu de la société pour une année d'imposition ni inclus dans le calcul du revenu imposable gagné au Canada de l'acteur pour une année d'imposition.

Non-resident persons — 2010 Olympic and Paralympic Winter Games

(2.3) Notwithstanding subsection (1), no amount is to be included in computing the taxable income earned in Canada for any taxation year of a non-resident person, in respect of any amount paid or payable to that person in respect of activities performed in Canada by that person in connection with the 2010 Olympic Winter Games or the 2010 Paralympic Winter Games, after 2009 and before April 2010, if that person is

(a) an athlete who represents a country other than Canada;

(b) a member of an officially registered support staff associated with a team from a country other than Canada;

(c) a person who serves as a games official;

(d) the International Olympic Committee;

(e) the International Paralympic Committee;

(f) an international sports federation that is a member of the General Association of International Sports Federations;

(g) an accredited foreign media organization; or

(h) an individual, other than a trust, who is an employee, an officer or a member of a person described in any one or more of paragraphs (a) to (g), or who provides services under contract with one or more persons described in those paragraphs.

Non-resident employed as aircraft pilot

(3) For the purpose of applying subparagraph (1)(a)(i) to a non-resident person employed as an aircraft pilot, income of the non-resident person that is attributable to a flight (including a leg of a flight) and paid directly or indirectly by a person resident in Canada is attributable to duties performed in Canada in the following proportions:

(a) all of the income attributable to the flight if the flight departs from a location in Canada and arrives at a location in Canada;

(b) one-half of the income attributable to the flight if the flight departs from a location in Canada and arrives at a location outside Canada;

(c) one-half of the income attributable to the flight if the flight departs from a location outside Canada and arrives at a location in Canada; and

Personnes non-résidentes — Jeux olympiques et paralympiques d'hiver de 2010

(2.3) Malgré le paragraphe (1), aucune somme n'est à inclure dans le calcul du revenu imposable gagné au Canada pour une année d'imposition par les personnes non-résidentes ci-après, au titre d'une somme qui leur est payée ou payable relativement à des activités qu'elles exercent au Canada, après 2009 et avant avril 2010, dans le cadre des Jeux olympiques d'hiver de 2010 ou des Jeux paralympiques d'hiver de 2010 :

a) les athlètes représentant des pays étrangers;

b) les membres de tout personnel de soutien officiellement inscrit qui est associé aux équipes de pays étrangers;

c) les personnes agissant en qualité d'officiels;

d) le Comité international olympique;

e) le Comité international paralympique;

f) les fédérations internationales de sports membres de l'Association Générale des Fédérations Internationales de Sports;

g) les organisations étrangères accréditées de presse;

h) les particuliers (sauf les fiducies) qui sont des employés, cadres ou membres des personnes visées à l'un ou plusieurs des alinéas a) à g) ou qui fournissent des services aux termes de contrats conclus avec l'une ou plusieurs de ces personnes.

Non-résident occupant un emploi de pilote d'avion

(3) Pour l'application du sous-alinéa (1)a)(i) à une personne non-résidente qui occupe un emploi de pilote d'avion, le revenu de la personne qui est attribuable à un vol (y compris une étape d'un vol) et qui est payé directement ou indirectement par une personne résidant au Canada est attribuable aux fonctions exécutées au Canada dans les proportions suivantes :

a) la totalité du revenu attribuable au vol, s'il fait la liaison entre deux endroits au Canada;

b) la moitié du revenu attribuable au vol, s'il part d'un endroit au Canada et arrive à un endroit à l'étranger;

c) la moitié du revenu attribuable au vol, s'il part d'un endroit à l'étranger et arrive à un endroit au Canada;

d) aucune partie du revenu attribuable au vol, s'il fait la liaison entre deux endroits à l'étranger.

(d) none of the income attributable to the flight if the flight departs from a location outside Canada and arrives at a location outside Canada.

Non-resident's income from Canadian resource property

(4) Where a non-resident person ceases at any particular time in a taxation year to carry on such of the businesses described in any of paragraphs (a) to (g) of the definition ***principal business corporation*** in subsection 66(15) as were carried on by the non-resident person immediately before that time at one or more fixed places of business in Canada and either does not commence after that time and during the year to carry on any business so described at a fixed place of business in Canada or disposes of Canadian resource property at any time in the year during which the non-resident person was not carrying on any business so described at a fixed place of business in Canada, the following rules apply:

(a) the taxation year of the non-resident person that would otherwise have included the particular time shall be deemed to have ended at that time and a new taxation year shall be deemed to have commenced immediately thereafter;

(b) the non-resident person or any partnership of which the non-resident person was a member immediately after the particular time shall be deemed, for the purpose only of computing the non-resident person's income earned in Canada for the taxation year that is deemed to have ended, to have disposed immediately before the particular time of each Canadian resource property that was owned by the non-resident person or by the partnership immediately after the particular time and to have received therefor immediately before the particular time proceeds of disposition equal to the fair market value thereof at the particular time; and

(c) the non-resident person or any partnership of which the non-resident person was a member immediately after the particular time shall be deemed, for the purpose only of computing the non-resident person's income earned in Canada for a taxation year commencing after the particular time, to have reacquired immediately after the particular time, at a cost equal to the amount deemed by paragraph 115(4)(b) to have been received by the non-resident person or the partnership as the proceeds of disposition therefor, each property deemed by that paragraph to have been disposed of.

Revenu tiré d'un avoir minier canadien par un non-résident

(4) Lorsque, à un moment donné d'une année d'imposition, une personne non-résidente cesse l'exploitation d'une entreprise visée à l'un des alinéas a) à g) de la définition de ***société exploitant une entreprise principale*** au paragraphe 66(15) et qu'elle exploitait, immédiatement avant ce moment, à un ou plusieurs lieux fixes d'affaires situés au Canada, et qu'au cours de l'année, après ce moment, elle ne commence à exploiter aucune entreprise ainsi visée à un lieu fixe d'affaires situé au Canada ou dispose d'un avoir minier canadien à un moment quelconque de l'année où elle n'a exploité aucune telle entreprise à un tel lieu, les règles suivantes s'appliquent :

a) l'année d'imposition de la personne non-résidente qui aurait par ailleurs compris le moment donné est réputée s'être terminée à ce moment et une nouvelle année d'imposition est réputée avoir commencé immédiatement après;

b) pour le calcul du revenu que la personne non-résidente a gagné au Canada pour l'année d'imposition réputée s'être terminée, la personne non-résidente ou toute société de personnes dont elle était un associé immédiatement après le moment donné est réputée avoir disposé, immédiatement avant le moment donné, de chaque avoir minier canadien qui lui appartenait ou qui appartenait à la société de personnes immédiatement après le moment donné et en avoir reçu, immédiatement avant le moment donné, un produit de disposition égal à la juste valeur marchande de chacun de ces avoirs au moment donné;

c) la personne non-résidente ou toute société de personnes dont elle était un associé immédiatement après le moment donné est réputée, seulement pour le calcul du revenu gagné au Canada par la personne non-résidente pour une année d'imposition commençant après le moment donné, avoir acquis de nouveau immédiatement après le moment donné, à un coût égal au montant réputé en vertu de l'alinéa b) avoir été reçu par elle ou par la société de personnes à titre de produit de disposition, chaque bien réputé, en vertu de cet alinéa, avoir fait l'objet d'une disposition.

Foreign resource pool expenses

(4.1) Where a taxpayer ceases at any time after February 27, 2000 to be resident in Canada, a particular taxation year of the taxpayer ends after that time and the taxpayer was non-resident throughout the period (in this subsection referred to as the "non-resident period") that begins at that time and ends at the end of the particular year,

(a) in computing the taxpayer's taxable income earned in Canada for the particular year, there may be deducted each amount that would be permitted to be deducted in computing the taxpayer's income for the particular year under subsection 66(4) or 66.21(4) if

(i) subsection 66(4) were read without reference to the words "who is resident throughout a taxation year in Canada" and as if the amount determined under subparagraph 66(4)(b)(ii) were nil, and

(ii) subsection 66.21(4) were read without reference to the words "throughout which the taxpayer is resident in Canada" and as if the amounts determined under subparagraph 66.21(4)(a)(ii) and paragraph 66.21(4)(b) were nil; and

(b) an amount deducted under this subsection in computing the taxpayer's taxable income earned in Canada for the particular year is deemed, for the purpose of applying subsection 66(4) or 66.21(4), as the case may be, to a subsequent taxation year, to have been deducted in computing the taxpayer's income for the particular year.

Interpretation of *partnership*

(5) For the purposes of subsection 115(4), ***partnership*** does not include a prescribed partnership.

Application of s. 138(12)

(6) The definitions in subsection 138(12) apply to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 115; 1994, c.7, Sch. II, s. 86, Sch. VII, s. 5, Sch. VIII, s. 50; 1995, c. 21, s. 38; 1997, c. 25, s. 23; 1998, c. 19, s. 132; 1999, c. 22, s. 29; 2001, c. 17, s. 90; 2005, c. 19, s. 21; 2007, c. 35, s. 32; 2009, c. 2, s. 31; 2013, c. 33, s. 8.

Competent authority agreements

115.1 (1) Notwithstanding any other provision of this Act, where the Minister and another person have, under a provision contained in a tax convention or agreement with another country that has the force of law in Canada, entered into an agreement with respect to the taxation of the other person, all determinations made in accordance

Frais globaux relatifs à des ressources à l'étranger

(4.1) Lorsqu'un contribuable cesse de résider au Canada à un moment postérieur au 27 février 2000, qu'une de ses années d'imposition (appelée « année donnée » au présent paragraphe) se termine après ce moment et qu'il a été un non-résident tout au long de la période (appelée « période de non-résidence » au présent paragraphe) commençant à ce moment et se terminant à la fin de l'année d'imposition en question, les règles suivantes s'appliquent :

a) est déductible, dans le calcul de son revenu imposable gagné au Canada pour l'année donnée, chaque montant qui lui serait permis de déduire dans le calcul de son revenu pour cette année en vertu des paragraphes 66(4) ou 66.21(4) si, à la fois :

(i) il n'était pas tenu compte du passage « qui réside au Canada pendant toute l'année d'imposition » au paragraphe 66(4) et le montant déterminé selon le sous-alinéa 66(4)b)(ii) était nul,

(ii) il n'était pas tenu compte du passage « tout au long de laquelle il réside au Canada » au paragraphe 66.21(4) et les montants déterminés selon le sous-alinéa 66.21(4)a)(ii) et l'alinéa 66.21(4)b) étaient nuls;

b) un montant déduit en application du présent paragraphe dans le calcul de son revenu imposable gagné au Canada pour l'année donnée est réputé, pour l'application des paragraphes 66(4) ou 66.21(4), selon le cas, à une année d'imposition ultérieure, avoir été déduit dans le calcul de son revenu pour l'année donnée.

Définition de *société de personnes*

(5) Pour l'application du paragraphe (4), le terme ***société de personnes*** ne vise pas une société de personnes visée par règlement.

Application du par. 138(12)

(6) Les définitions figurant au paragraphe 138(12) s'appliquent au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 115; 1994, ch. 7, ann. II, art. 86, ann. VII, art. 5, ann. VIII, art. 50; 1995, ch. 21, art. 38; 1997, ch. 25, art. 23; 1998, ch. 19, art. 132; 1999, ch. 22, art. 29; 2001, ch. 17, art. 90; 2005, ch. 19, art. 21; 2007, ch. 35, art. 32; 2009, ch. 2, art. 31; 2013, ch. 33, art. 8.

Conventions entre autorités compétentes

115.1 (1) Malgré les autres dispositions de la présente loi, les montants déterminés et les décisions prises en conformité avec une convention qui est conclue entre le ministre et une autre personne, en conformité avec une disposition de quelque convention ou accord fiscal entre le Canada et un autre pays qui a force de loi au Canada, et

with the terms and conditions of the agreement shall be deemed to be in accordance with this Act.

Transfer of rights and obligations

(2) Where rights and obligations under an agreement described in subsection 115.1(1) have been transferred to another person with the concurrence of the Minister, that other person shall be deemed, for the purpose of subsection 115.1(1), to have entered into the agreement with the Minister.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 115.1; 1994, c. 7, Sch. VIII, s. 51.

Non-Residents with Canadian Investment Service Providers

Definitions

115.2 (1) The definitions in this subsection apply in this section.

Canadian investor, at any time in respect of a non-resident person, means a person that the non-resident person knows, or ought to know after reasonable inquiry, is at that time resident in Canada. (*investisseur canadien*)

Canadian service provider means a corporation resident in Canada, a trust resident in Canada or a Canadian partnership. (*fournisseur de services canadien*)

designated investment services provided to a person or partnership means any one or more of the services described in the following paragraphs:

(a) investment management and advice with respect to qualified investments, regardless of whether the manager has discretionary authority to buy or sell;

(b) purchasing and selling qualified investments, exercising rights incidental to the ownership of qualified investments such as voting, conversion and exchange, and entering into and executing agreements with respect to such purchasing and selling and the exercising of such rights;

(c) investment administration services, such as receiving, delivering and having custody of investments, calculating and reporting investment values, receiving subscription amounts from, and paying distributions and proceeds of disposition to, investors in and beneficiaries of the person or partnership, record keeping, accounting and reporting to the person or partnership and its investors and beneficiaries; and

(d) in the case of a corporation, trust or partnership the only undertaking of which is the investing of its funds in qualified investments, marketing investments

qui vise l'imposition de l'autre personne, sont réputés conformes à la présente loi.

Transfert de droits et d'obligations

(2) La personne à laquelle les droits et obligations prévus par la convention visée au paragraphe (1) sont transférés avec le consentement du ministre est réputée, pour l'application de ce paragraphe, avoir conclu la convention avec le ministre.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 115.1; 1994, ch. 7, ann. VIII, art. 51.

Non-résidents et fournisseurs de services de placement canadiens

Définitions

115.2 (1) Les définitions qui suivent s'appliquent au présent article.

fournisseur de services canadien Société résidant au Canada, fiducie résidant au Canada ou société de personnes canadienne. (*Canadian service provider*)

investisseur canadien Est un investisseur canadien à un moment donné relativement à une personne non-résidente la personne dont la personne non-résidente sait ou devrait savoir, après enquête raisonnable, qu'elle réside au Canada à ce moment. (*Canadian investor*)

non-résident admissible [Abrogée, 2002, ch. 9, art. 35]

placement admissible Sont des placements admissibles d'une personne ou d'une société de personnes :

a) les actions du capital-actions d'une société, les participations dans une société de personnes, une fiducie, une entité ou une organisation ou les droits dans un fonds, à l'exception des actions, participations et droits qui remplissent les conditions suivantes :

(i) selon le cas :

(A) ils ne sont pas cotés à une bourse de valeurs désignée,

(B) ils sont cotés à une bourse de valeurs désignée, à condition que la personne ou la société de personnes soit propriétaire, avec les personnes avec lesquelles elle a un lien de dépendance, d'au moins 25 % des actions émises d'une catégorie du capital-actions de la société ou de la valeur totale des participations dans la société de personnes, la fiducie, l'entité ou l'organisation ou des droits dans le fonds, selon le cas,

in the corporation, trust or partnership to non-resident investors. (*services de placement déterminés*)

promoter of a corporation, trust or partnership means a particular person or partnership that initiates or directs the founding, organization or substantial reorganization of the corporation, trust or partnership, and a person or partnership that is affiliated with the particular person or partnership. (*promoteur*)

qualified investment of a person or partnership means

(a) a share of the capital stock of a corporation, or an interest in a partnership, trust, entity, fund or organization, other than a share or an interest

(i) that is either

(A) not listed on a designated stock exchange, or

(B) listed on a designated stock exchange, if the person or partnership, together with all persons with whom the person or partnership does not deal at arm's length, owns 25% or more of the issued shares of any class of the capital stock of the corporation or of the total value of interests in the partnership, entity, trust, fund or organization, as the case may be, and

(ii) of which more than 50% of the fair market value is derived from one or more of

(A) real or immovable property situated in Canada,

(B) Canadian resource property, and

(C) timber resource property;

(b) indebtedness;

(c) annuities;

(d) commodities or commodities futures purchased or sold, directly or indirectly in any manner whatever, on a commodities or commodities futures exchange;

(e) currency; and

(f) options, interests, rights and forward and futures agreements in respect of property described in any of paragraphs (a) to (e) or this paragraph, and agreements under which obligations are derived from interest rates, from the price of property described in any of those paragraphs, from payments made in respect of such a property by its issuer to holders of the property, or from an index reflecting a composite measure

(ii) plus de 50 % de leur juste valeur marchande provient d'un ou de plusieurs des biens suivants :

(A) biens immeubles ou réels situés au Canada,

(B) avoirs miniers canadiens,

(C) avoirs forestiers;

b) les dettes;

c) les rentes;

d) les marchandises ou les contrats à terme de marchandises achetés ou vendus, directement ou indirectement, de quelque manière que ce soit, à une bourse de marchandises ou sur un marché à terme de marchandises;

e) les monnaies;

f) les options, participations, droits et contrats à terme afférents à des biens visés à l'un des alinéas a) à e) ou au présent alinéa, ainsi que les contrats prévoyant des obligations qui sont fonction soit de taux d'intérêt, soit du prix des biens visés à l'un de ces alinéas, soit de paiements effectués au titre d'un tel bien par son émetteur à ses détenteurs, soit d'un indice traduisant une mesure composite de ces taux, prix ou paiements, indépendamment du fait que le contrat crée des droits sur le bien proprement dit ou des obligations y afférentes. (*qualified investment*)

promoteur En ce qui concerne une société, une fiducie ou une société de personnes, personne ou société de personnes donnée qui entreprend ou dirige l'établissement, l'organisation ou la réorganisation en profondeur de la société, de la fiducie ou de la société de personnes, ou personne ou société de personnes qui est affiliée à la personne ou société de personnes donnée. (*promoter*)

services de placement déterminés Les services ci-après, dans le cas où ils sont fournis à une personne ou à une société de personnes :

a) la gestion de placements admissibles et la prestation de conseils en matière de tels placements, que le gestionnaire ait ou non le pouvoir discrétionnaire d'acheter ou de vendre;

b) l'achat et la vente de placements admissibles, l'exercice de droits rattachés à la propriété de placements admissibles, tels le droit de vote, de conversion et d'échange, et la conclusion et la signature de conventions concernant pareil achat ou vente et l'exercice de tels droits;

of such rates, prices or payments, whether or not the agreement creates any rights in or obligations regarding the referenced property itself. (*placement admissible*)

qualified non-resident [Repealed, 2002, c. 9, s. 35]

Not carrying on business in Canada

(2) For the purposes of subsections 115(1) and 150(1) and Part XIV, a non-resident person is not considered to be carrying on business in Canada at any particular time solely because of the provision to the person, or to a partnership of which the person is a member, at the particular time of designated investment services by a Canadian service provider if

(a) in the case of services provided to a non-resident individual other than a trust, the individual is not affiliated at the particular time with the Canadian service provider;

(b) in the case of services provided to a non-resident person that is a corporation or trust,

(i) the person has not, before the particular time, directly or through its agents,

(A) directed any promotion of investments in itself principally at Canadian investors, or

(B) sold an investment in itself that is outstanding at the particular time to a person who was a Canadian investor at the time of the sale and who is a Canadian investor at the particular time,

(ii) the person has not, before the particular time, directly or through its agents, filed any document with a public authority in Canada in accordance with the securities legislation of Canada or of any province in order to permit the distribution of interests in the person to persons resident in Canada, and

c) les services administratifs relatifs à des placements, comme la réception, la livraison et la garde des placements, le calcul et la déclaration de la valeur des placements, la réception de montants de souscription des investisseurs et des bénéficiaires de la personne ou de la société de personnes, l'attribution de biens et le versement de produits de disposition à ces investisseurs et bénéficiaires, la tenue de livres, la comptabilité et la communication de rapports à la personne ou à la société de personnes et à ses investisseurs et bénéficiaires;

d) si le service est fourni à une société, à une fiducie ou à une société de personnes dont la seule activité consiste à investir ses fonds dans des placements admissibles, la commercialisation de ses placements auprès d'investisseurs non-résidents. (*designated investment services*)

Non-exploitation d'une entreprise au Canada

(2) Pour l'application des paragraphes 115(1) et 150(1) et de la partie XIV, une personne non-résidente n'est pas considérée comme exploitant une entreprise au Canada à un moment donné du seul fait qu'un fournisseur de services canadien, à ce moment, lui fournit, ou fournit à une société de personnes dont elle est un associé, des services de placement déterminés si :

a) dans le cas de services fournis à un particulier non-résident, à l'exception d'une fiducie, le particulier n'est pas affilié, à ce moment, au fournisseur de services canadien;

b) dans le cas de services fournis à une personne non-résidente qui est une société ou une fiducie :

(i) avant ce moment, la personne n'avait pas, ni directement ni par l'intermédiaire de ses mandataires :

(A) fait la promotion de ses propres placements principalement auprès d'investisseurs canadiens,

(B) vendu un de ses propres placements qui est en circulation au moment donné à une personne qui était un investisseur canadien au moment de la vente et qui est un tel investisseur au moment donné,

(ii) avant le moment donné, la personne n'avait pas, ni directement ni par l'intermédiaire de ses mandataires, présenté de documents à une administration au Canada conformément à la législation fédérale ou provinciale sur les valeurs mobilières

(iii) when the particular time is more than one year after the time at which the person was created, the total of the fair market value, at the particular time, of investments in the person that are beneficially owned by persons and partnerships (other than a designated entity in respect of the Canadian service provider) that are affiliated with the Canadian service provider does not exceed 25% of the fair market value, at the particular time, of all investments in the person; and

(c) in the case of services provided to a partnership of which the non-resident person is a member,

(i) the particular time is not more than one year after the partnership was formed,

(ii) where the non-resident person is, or is affiliated with, a person or partnership described in clause (A) or (B), the total of the fair market value of all investments in the partnership at the particular time is not less than four times the total of the fair market value of each investment in the partnership beneficially owned at the particular time by

(A) a person or partnership (other than a designated entity in respect of the Canadian service provider), more than 25% of the total of the fair market value, at the particular time, of investments in which are beneficially owned by persons and partnerships (other than a designated entity in respect of the Canadian service provider) that are affiliated with the Canadian service provider, or

(B) a person or partnership (other than a designated entity in respect of the Canadian service provider) that is affiliated with the Canadian service provider, or

(iii) at the particular time, the non-resident person is not affiliated with the Canadian service provider and is not affiliated with any person or partnership (other than the partnership to which the services are provided) described in clause (ii)(A) or (B).

Interpretation

(3) For the purposes of this subsection and subparagraphs (2)(b)(iii) and (c)(ii),

afin de permettre le placement de droits dans la personne auprès de personnes résidant au Canada,

(iii) si le moment donné suit de plus d'une année le moment auquel la personne a été créée, la juste valeur marchande, au moment donné, des placements dans la personne dont sont propriétaires effectifs des personnes ou des sociétés de personnes (sauf une entité désignée à l'égard du fournisseur de services canadien) qui sont affiliées au fournisseur de services canadien n'excède pas 25 % de la juste valeur marchande, au moment donné, de l'ensemble des placements dans la personne;

c) dans le cas de services fournis à une société de personnes dont la personne non-résidente est un associé :

(i) le moment donné suit d'au plus une année le moment auquel la société de personnes a été formée,

(ii) si la personne non-résidente est une personne ou une société de personnes visée aux divisions (A) ou (B) ou est affiliée à une telle personne ou société de personnes, le total de la juste valeur marchande des placements dans la société de personnes au moment donné est égal ou supérieur à quatre fois le total de la juste valeur marchande des placements dans la société de personnes dont est propriétaire effectif à ce moment :

(A) soit une personne ou une société de personnes (sauf une entité désignée à l'égard du fournisseur de services canadien) dans laquelle plus de 25 % du total de la juste valeur marchande, à ce moment, des placements sont la propriété effective de personnes ou de sociétés de personnes (sauf une entité désignée à l'égard du fournisseur de services canadien) qui sont affiliées au fournisseur de services canadien,

(B) soit une personne ou une société de personnes (sauf une entité désignée à l'égard du fournisseur de services canadien) qui est affiliée au fournisseur de services canadien,

(iii) au moment donné, la personne non-résidente n'est pas affiliée au fournisseur de services canadien ni à une personne ou société de personnes (sauf la société de personnes à laquelle les services sont fournis) visée aux divisions (ii)(A) ou (B).

Interprétation

(3) Pour l'application du présent paragraphe et des sous-alinéas (2)b)(iii) et c)(ii) :

(a) the fair market value of an investment in a corporation, trust or partnership shall be determined without regard to any voting rights attaching to that investment; and

(b) a person or partnership is, at a particular time, a designated entity in respect of a Canadian service provider if the total of the fair market value at the particular time, of investments in the entity that are beneficially owned by persons and partnerships (other than another designated entity in respect of the Canadian service provider) that are affiliated with the Canadian service provider does not exceed 25% of the fair market value, at the particular time, of all investments in the entity.

a) la juste valeur marchande d'un placement dans une société, une fiducie ou une société de personnes est déterminée compte non tenu des droits de vote rattachés au placement;

b) une personne ou une société de personnes est, à un moment donné, une entité désignée à l'égard d'un fournisseur de services canadien si la juste valeur marchande, à ce moment, des placements dans l'entité dont sont propriétaires effectifs des personnes ou des sociétés de personnes (sauf une autre entité désignée à l'égard du fournisseur de services canadien) qui sont affiliées au fournisseur de services canadien n'excède pas 25 % de la juste valeur marchande, à ce moment, de l'ensemble des placements dans l'entité.

Transfer pricing

(4) For the purpose of section 247, where subsection (2) applies in respect of services provided to a person that is a corporation or trust or to a partnership, if the Canadian service provider referred to in that subsection does not deal at arm's length with the promoter of the person or of the partnership, the service provider is deemed not to deal at arm's length with the person or partnership.

Prix de transfert

(4) Pour l'application de l'article 247, lorsque le paragraphe (2) s'applique relativement à des services fournis à une personne qui est une société ou une fiducie ou à une société de personnes, le fournisseur de services canadien visé à ce paragraphe qui a un lien de dépendance avec le promoteur de la personne ou de la société de personnes est réputé avoir un tel lien avec la personne ou la société de personnes.

(5) [Repealed, 2013, c. 34, s. 244]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 21; 2002, c. 9, s. 35; 2007, c. 35, s. 68; 2013, c. 34, ss. 124, 244.

(5) [Abrogé, 2013, ch. 34, art. 244]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 21; 2002, ch. 9, art. 35; 2007, ch. 35, art. 68; 2013, ch. 34, art. 124 et 244.

Disposition by non-resident person of certain property

116 (1) If a non-resident person proposes to dispose of any taxable Canadian property (other than property described in subsection (5.2) and excluded property) the non-resident person may, at any time before the disposition, send to the Minister a notice setting out

(a) the name and address of the person to whom he proposes to dispose of the property (in this section referred to as the "proposed purchaser");

(b) a description of the property sufficient to identify it;

(c) the estimated amount of the proceeds of disposition to be received by the non-resident person for the property; and

(d) the amount of the adjusted cost base to the non-resident person of the property at the time of the sending of the notice.

Disposition par une personne non-résidente

116 (1) La personne non-résidente qui se propose de disposer d'un bien canadien imposable, sauf un bien visé au paragraphe (5.2) et un bien exclu, peut envoyer au ministre au préalable un avis contenant les renseignements suivants :

a) les nom et adresse de la personne en faveur de laquelle elle se propose de disposer de ce bien (appelée l' « acheteur éventuel » au présent article);

b) une description du bien permettant de le reconnaître;

c) le montant estimatif du produit de disposition qu'elle recevra pour ce bien;

d) le montant du prix de base rajusté du bien, pour elle, au moment de l'envoi de l'avis au ministre.

Certificate in respect of proposed disposition

(2) Where a non-resident person who has sent to the Minister a notice under subsection 116(1) in respect of a proposed disposition of any property has

(a) paid to the Receiver General, as or on account of tax under this Part payable by the non-resident person for the year, 25% of the amount, if any, by which the estimated amount set out in the notice in accordance with paragraph 116(1)(c) exceeds the amount set out in the notice in accordance with paragraph 116(1)(d), or

(b) furnished the Minister with security acceptable to the Minister in respect of the proposed disposition of the property,

the Minister shall forthwith issue to the non-resident person and the proposed purchaser a certificate in prescribed form in respect of the proposed disposition, fixing therein an amount (in this section referred to as the "certificate limit") equal to the estimated amount set out in the notice in accordance with paragraph 116(1)(c).

Notice to Minister

(3) Every non-resident person who in a taxation year disposes of any taxable Canadian property of that person (other than property described in subsection 116(5.2) and excluded property) shall, not later than 10 days after the disposition, send to the Minister, by registered mail, a notice setting out

(a) the name and address of the person to whom the non-resident person disposed of the property (in this section referred to as the "purchaser"),

(b) a description of the property sufficient to identify it, and

(c) a statement of the proceeds of disposition of the property and the amount of its adjusted cost base to the non-resident person immediately before the disposition,

unless the non-resident person has, at any time before the disposition, sent to the Minister a notice under subsection 116(1) in respect of any proposed disposition of that property and

(d) the purchaser was the proposed purchaser referred to in that notice,

(e) the estimated amount set out in that notice in accordance with paragraph 116(1)(c) is equal to or greater than the proceeds of disposition of the property, and

Certificat relatif à une disposition éventuelle

(2) Lorsqu'une personne non-résidente qui, en vertu du paragraphe (1), a envoyé un avis au ministre concernant la disposition éventuelle d'un bien quelconque, a :

a) soit payé au receveur général, au titre de l'impôt payable par cette personne pour l'année en vertu de la présente partie, 25 % de l'excédent éventuel du montant estimatif mentionné dans l'avis conformément à l'alinéa (1)c) sur le montant mentionné dans l'avis conformément à l'alinéa (1)d);

b) soit fourni au ministre une garantie acceptable par ce dernier concernant la disposition éventuelle du bien,

le ministre délivre sans délai à la personne non-résidente ainsi qu'à l'acheteur éventuel un certificat selon le formulaire prescrit, en ce qui concerne la disposition éventuelle, y fixant un montant (appelé la « limite prévue par le certificat » au présent article) égal au montant estimatif mentionné dans l'avis conformément à l'alinéa (1)c).

Avis au ministre

(3) La personne non-résidente qui dispose de son bien canadien imposable, sauf un bien visé au paragraphe (5.2) et un bien exclu, au cours d'une année d'imposition est tenue d'envoyer au ministre, dans les dix jours suivant la disposition, sous pli recommandé, un avis contenant les renseignements suivants :

a) les nom et adresse de la personne en faveur de qui elle a disposé du bien (appelée l'« acheteur » au présent article);

b) une description du bien permettant de le reconnaître;

c) un état indiquant le produit de disposition du bien ainsi que le montant du prix de base rajusté du bien, pour elle, immédiatement avant la disposition,

sauf si la personne non-résidente a envoyé au ministre, à un moment donné avant la disposition, et conformément au paragraphe (1), un avis concernant toute disposition éventuelle de ce bien, et si, à la fois :

d) l'acheteur est l'acheteur éventuel mentionné dans cet avis;

e) le montant estimatif mentionné dans cet avis conformément à l'alinéa (1)c) est égal ou supérieur au produit de disposition du bien;

f) le montant mentionné dans cet avis conformément à l'alinéa (1)d) ne dépasse pas le prix de base rajusté

(f) the amount set out in that notice in accordance with paragraph 116(1)(d) does not exceed the adjusted cost base to the non-resident person of the property immediately before the disposition.

Certificate in respect of property disposed of

(4) Where a non-resident person who has sent to the Minister a notice under subsection 116(3) in respect of a disposition of any property has

(a) paid to the Receiver General, as or on account of tax under this Part payable by the non-resident person for the year, 25% of the amount, if any, by which the proceeds of disposition of the property exceed the adjusted cost base to the non-resident person of the property immediately before the disposition, or

(b) furnished the Minister with security acceptable to the Minister in respect of the disposition of the property,

the Minister shall forthwith issue to the non-resident person and the purchaser a certificate in prescribed form in respect of the disposition.

Liability of purchaser

(5) Where in a taxation year a purchaser has acquired from a non-resident person any taxable Canadian property (other than depreciable property or excluded property) of the non-resident person, the purchaser, unless

(a) after reasonable inquiry the purchaser had no reason to believe that the non-resident person was not resident in Canada,

(a.1) subsection (5.01) applies to the acquisition, or

(b) a certificate under subsection 116(4) has been issued to the purchaser by the Minister in respect of the property,

is liable to pay, and shall remit to the Receiver General within 30 days after the end of the month in which the purchaser acquired the property, as tax under this Part for the year on behalf of the non-resident person, 25% of the amount, if any, by which

(c) the cost to the purchaser of the property so acquired

exceeds

(d) the certificate limit fixed by the certificate, if any, issued under subsection 116(2) in respect of the disposition of the property by the non-resident person to the purchaser,

du bien, pour la personne non-résidente, immédiatement avant la disposition.

Certificat relatif à un bien dont il a été disposé

(4) Lorsqu'une personne non-résidente qui, en vertu du paragraphe (3), a envoyé au ministre un avis concernant la disposition d'un bien, a :

a) soit payé au receveur général, au titre de l'impôt payable par cette personne pour l'année en vertu de la présente partie, 25 % de l'excédent éventuel du produit de disposition du bien sur le prix de base rajusté du bien pour la personne immédiatement avant la disposition;

b) soit fourni au ministre une garantie acceptable par ce dernier concernant la disposition du bien,

le ministre délivre sans délai à la personne non-résidente ainsi qu'à l'acheteur un certificat selon le formulaire prescrit concernant la disposition.

Assujettissement de l'acheteur

(5) L'acheteur qui, au cours d'une année d'imposition, acquiert auprès d'une personne non-résidente un bien canadien imposable (sauf un bien amortissable ou un bien exclu) d'une telle personne est redevable, pour le compte de cette personne, d'un impôt en vertu de la présente partie pour l'année, sauf si, selon le cas :

a) après enquête sérieuse, l'acheteur n'avait aucune raison de croire que la personne ne résidait pas au Canada;

a.1) le paragraphe (5.01) s'applique à l'acquisition;

b) le ministre a délivré à l'acheteur, en application du paragraphe (4), un certificat concernant le bien.

Cet impôt — à remettre au receveur général dans les 30 jours suivant la fin du mois au cours duquel l'acheteur a acquis le bien — est égal à 25 % de l'excédent éventuel du coût visé à l'alinéa c) sur la limite visée à l'alinéa d):

c) le coût pour l'acheteur du bien ainsi acquis;

d) la limite prévue par le certificat délivré en application du paragraphe (2) concernant la disposition du bien par la personne non-résidente en faveur de l'acheteur.

L'acheteur a le droit de déduire d'un montant qu'il a versé à la personne non-résidente, ou porté à son crédit, ou de retenir sur un tel montant, ou de recouvrer autrement

and is entitled to deduct or withhold from any amount paid or credited by the purchaser to the non-resident person or otherwise recover from the non-resident person any amount paid by the purchaser as such a tax.

d'une telle personne, tout montant qu'il a payé au titre de cet impôt.

Treaty-protected property

(5.01) This subsection applies to the acquisition of a property by a person (referred to in this subsection as the "purchaser") from a non-resident person if

(a) the purchaser concludes after reasonable inquiry that the non-resident person is, under a tax treaty that Canada has with a particular country, resident in the particular country;

(b) the property would be treaty-protected property of the non-resident person if the non-resident person were, under the tax treaty referred to in paragraph (a), resident in the particular country; and

(c) the purchaser provides notice under subsection (5.02) in respect of the acquisition.

Biens protégés par traité

(5.01) Le présent paragraphe s'applique à l'acquisition d'un bien effectuée par une personne (appelée « acheteur » au présent paragraphe) auprès d'une personne non-résidente si les conditions suivantes sont réunies :

a) après enquête sérieuse, l'acheteur en vient à la conclusion que la personne non-résidente est, aux termes d'un traité fiscal que le Canada a conclu avec un pays donné, un résident de ce pays;

b) le bien serait un bien protégé par traité de la personne non-résidente si celle-ci était, aux termes du traité visé à l'alinéa a), un résident du pays donné;

c) l'acheteur donne avis aux termes du paragraphe (5.02) relativement à l'acquisition.

Notice by purchaser in respect of an acquisition of property

(5.02) A person (referred to in this subsection as the "purchaser") who acquires property from a non-resident person provides notice under this subsection in respect of the acquisition if the purchaser sends to the Minister, on or before the day that is 30 days after the date of the acquisition, a notice setting out

(a) the date of the acquisition;

(b) the name and address of the non-resident person;

(c) a description of the property sufficient to identify it;

(d) the amount paid or payable, as the case may be, by the purchaser for the property; and

(e) the name of the country with which Canada has concluded a tax treaty under which the property is a treaty-protected property for the purposes of subsection (5.01) or (6.1), as the case may be.

Avis de l'acheteur relativement à l'acquisition d'un bien

(5.02) La personne (appelée « acheteur » au présent paragraphe) qui acquiert un bien d'une personne non-résidente donne avis relativement à l'acquisition si elle envoie au ministre, au plus tard le trentième jour suivant la date de l'acquisition, un avis contenant les renseignements suivants :

a) la date de l'acquisition;

b) les nom et adresse de la personne non-résidente;

c) une description suffisamment détaillée du bien;

d) la somme payée ou payable par l'acheteur pour le bien;

e) le nom du pays ayant conclu avec le Canada un traité fiscal en vertu duquel le bien est un bien protégé par traité pour l'application des paragraphes (5.01) ou (6.1), selon le cas.

Gifts, etc.

(5.1) If a non-resident person has disposed of or proposes to dispose of a life insurance policy in Canada, a Canadian resource property or a taxable Canadian property other than

(a) excluded property, or

Donation

(5.1) Lorsqu'une personne non-résidente a disposé ou se propose de disposer d'une police d'assurance-vie au Canada, d'un avoir minier canadien ou d'un bien canadien imposable, à l'exception :

a) d'un bien exclu;

(b) property that has been transferred or distributed on or after the non-resident person's death and as a consequence thereof

to any person by way of gift *inter vivos* or to a person with whom the non-resident person was not dealing at arm's length for no proceeds of disposition or for proceeds of disposition less than the fair market value of the property at the time the non-resident person so disposed of it or proposes to dispose of it, as the case may be, the following rules apply:

(c) the reference in paragraph 116(1)(c) to "the proceeds of disposition to be received by the non-resident person for the property" shall be read as a reference to "the fair market value of the property at the time the non-resident person proposes to dispose of it",

(d) the references in subsections 116(3) and (4) to "the proceeds of disposition of the property" shall be read as references to "the fair market value of the property immediately before the disposition",

(e) the references in subsection 116(5) to "the cost to the purchaser of the property so acquired" shall be read as references to "the fair market value of the property at the time it was so acquired", and

(f) the reference in subsection 116(5.3) to "the amount payable by the taxpayer for the property so acquired" shall be read as a reference to "the fair market value of the property at the time it was so acquired".

b) d'un bien qui a été cédé ou partagé lors de son décès ou par la suite et en conséquence de ce décès,

en faveur d'une personne par voie de donation entre vifs ou en faveur d'une personne avec laquelle elle avait un lien de dépendance, pour un produit de disposition nul ou inférieur à la juste valeur marchande du bien au moment où elle en a disposé ou se propose d'en disposer, selon le cas, les règles suivantes s'appliquent :

c) la mention à l'alinéa (1)c) du « produit de disposition qu'elle recevra pour ce bien » vaut mention de « la juste valeur marchande du bien au moment où elle se propose d'en disposer »;

d) les mentions aux paragraphes (3) et (4) du « produit de disposition du bien » valent mention de « la juste valeur marchande du bien immédiatement avant la disposition »;

e) les mentions au paragraphe (5) du « prix auquel lui revient le bien ainsi acquis » valent mention de « la juste valeur marchande du bien au moment où il a été acquis »;

f) la mention au paragraphe (5.3) du « montant payable par le contribuable pour le bien ainsi acquis » vaut mention de « la juste valeur marchande du bien au moment où il a été ainsi acquis ».

Certificates for dispositions

(5.2) If a non-resident person has, in respect of a disposition, or a proposed disposition, in a taxation year to a taxpayer of property (other than excluded property) that is a life insurance policy in Canada, a Canadian resource property, a property (other than capital property) that is real property, or an immovable, situated in Canada, a timber resource property, depreciable property that is a taxable Canadian property or any interest in, or for civil law any right in, or any option in respect of, a property to which this subsection applies (whether or not that property exists),

(a) paid to the Receiver General, as or on account of tax under this Part payable by the non-resident person for the year, such amount as is acceptable to the Minister in respect of the disposition or proposed disposition of the property, or

(b) furnished the Minister with security acceptable to the Minister in respect of the disposition or proposed disposition of the property,

Certificat concernant les dispositions

(5.2) Lorsqu'une personne non-résidente a effectué, ou se propose d'effectuer, la disposition en faveur d'un contribuable au cours d'une année d'imposition d'un bien, sauf un bien exclu, qui est une police d'assurance-vie au Canada, un avoir minier canadien, un bien (sauf une immobilisation) qui est un bien immeuble ou réel situé au Canada, un avoir forestier, un bien amortissable qui est un bien canadien imposable ou un intérêt ou, pour l'application du droit civil, un droit, ou une option, sur un bien auquel s'applique le présent paragraphe, que ce bien existe ou non, le ministre délivre sans délai à la personne non-résidente et au contribuable un certificat selon le formulaire prescrit à l'égard de la disposition effectuée ou proposée sur lequel est indiqué un montant égal au produit de disposition réel ou proposé, ou un autre montant raisonnable dans les circonstances, si la personne non-résidente a, selon le cas :

a) payé au receveur général, au titre de l'impôt prévu à la présente partie et payable par elle pour l'année, le montant que le ministre considère acceptable à l'égard de la disposition;

the Minister shall forthwith issue to the non-resident person and to the taxpayer a certificate in prescribed form in respect of the disposition or proposed disposition fixing therein an amount equal to the proceeds of disposition, proposed proceeds of disposition or such other amount as is reasonable in the circumstances.

b) fourni au ministre une garantie qu'il juge acceptable à l'égard de la disposition.

Liability of purchaser in certain cases

(5.3) Where in a taxation year a taxpayer has acquired from a non-resident person property referred to in subsection 116(5.2),

(a) the taxpayer, unless subsection (5.01) applies to the acquisition or unless after reasonable inquiry the taxpayer had no reason to believe that the non-resident person was not resident in Canada, is liable to pay, as tax under this Part for the year on behalf of the non-resident person, 50% of the amount, if any, by which

(i) the amount payable by the taxpayer for the property so acquired

exceeds

(ii) the amount fixed in the certificate, if any, issued under subsection 116(5.2) in respect of the disposition of the property by the non-resident person to the taxpayer

and is entitled to deduct or withhold from any amount paid or credited by the taxpayer to the non-resident person or to otherwise recover from the non-resident person any amount paid by the taxpayer as such a tax; and

(b) the taxpayer shall, within 30 days after the end of the month in which the taxpayer acquired the property, remit to the Receiver General the tax for which the taxpayer is liable under paragraph 116(5.3)(a).

Responsabilité de l'acheteur dans certains cas

(5.3) Lorsque, au cours d'une année d'imposition, un contribuable a acquis auprès d'une personne non-résidente un bien visé au paragraphe (5.2):

a) le contribuable, sauf si le paragraphe (5.01) s'applique à l'acquisition ou si, après enquête sérieuse, le contribuable n'avait pas de raison de croire que la personne non-résidente n'était pas un résident du Canada, est tenu de payer, au titre de l'impôt prévu par la présente partie pour l'année pour le compte de la personne non-résidente, 50 % de l'excédent du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) le montant payable par le contribuable pour le bien ainsi acquis,

(ii) le montant indiqué dans le certificat émis en vertu du paragraphe (5.2) relativement à la disposition du bien par la personne non-résidente en faveur du contribuable,

et a droit de déduire ou de retenir sur tout montant qu'il paie ou qu'il porte au crédit de la personne non-résidente ou de recouvrer d'une autre manière auprès de la personne non-résidente tout montant qu'il a payé au titre de ce impôt;

b) le contribuable doit, dans les 30 jours suivant la fin du mois au cours duquel il a acquis le bien, remettre au receveur général l'impôt qu'il est tenu de payer en vertu de l'alinéa a).

Presumption

(5.4) Where there has been a disposition by a non-resident of a life insurance policy in Canada by virtue of subsection 148(2) or any of paragraphs (a) to (c) and (e) of the definition ***disposition*** in subsection 148(9), the insurer under the policy shall, for the purposes of subsections 116(5.2) and (5.3) be deemed to be the taxpayer who acquired the property for an amount equal to the proceeds of disposition as determined under section 148.

Présomption

(5.4) Lorsqu'une personne non-résidente a disposé d'une police d'assurance-vie au Canada en vertu du paragraphe 148(2) ou de l'un des alinéas a) à c) et e) de la définition de ***disposition*** au paragraphe 148(9), l'assureur en vertu de la police est, pour l'application des paragraphes (5.2) et (5.3), réputé être le contribuable qui a acquis le bien pour un montant égal au produit de disposition, déterminé en vertu de l'article 148.

Definition of *excluded property*

(6) For the purposes of this section, ***excluded property*** of a non-resident person means

Définition de *bien exclu*

(6) Pour l'application du présent article, ***bien exclu***, relativement à une personne non-résidente, s'entend :

(a) a property that is a taxable Canadian property solely because a provision of this Act deems it to be a taxable Canadian property;

(a.1) a property (other than real or immovable property situated in Canada, a Canadian resource property or a timber resource property) that is described in an inventory of a business carried on in Canada by the person;

(b) a security that is

(i) listed on a recognized stock exchange, and

(ii) either

(A) a share of the capital stock of a corporation, or

(B) SIFT wind-up entity equity;

(c) a unit of a mutual fund trust;

(d) a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation;

(e) property of a non-resident insurer that

(i) is licensed or otherwise authorized under the laws of Canada or a province to carry on an insurance business in Canada, and

(ii) carries on an insurance business, within the meaning of subsection 138(1) of the Act, in Canada;

(f) property of an authorized foreign bank that carries on a Canadian banking business;

(g) an option in respect of property referred to in any of paragraphs (a) to (f) whether or not such property is in existence;

(h) an interest, or for civil law a right, in property referred to in any of paragraphs (a) to (g); and

(i) a property that is, at the time of its disposition, a treaty-exempt property of the person.

a) d'un bien qui est un bien canadien imposable du seul fait qu'il est réputé être un tel bien par une disposition de la présente loi;

a.1) d'un bien (sauf un bien immeuble ou réel situé au Canada, un avoir minier canadien et un avoir forestier) qui figure à l'inventaire d'une entreprise exploitée au Canada par la personne;

b) d'un titre qui est, à la fois :

(i) inscrit à la cote d'une bourse de valeurs reconnue,

(ii) selon le cas :

(A) une action du capital-actions d'une société,

(B) un intérêt dans une EIPD convertible;

c) d'une unité d'une fiducie de fonds commun de placement;

d) d'une obligation, d'un effet, d'un billet, d'une créance hypothécaire ou de tout titre semblable;

e) d'un bien d'un assureur non-résident qui, à la fois :

(i) est autorisé par licence ou autrement, en vertu de la législation fédérale ou provinciale, à exploiter au Canada une entreprise d'assurance,

(ii) exploite une entreprise d'assurance, au sens du paragraphe 138(1), au Canada;

f) d'un bien d'une banque étrangère autorisée qui exploite une entreprise bancaire canadienne;

g) d'une option relative à un bien visé à l'un des alinéas a) à f), que ce bien existe ou non;

h) d'un intérêt ou, pour l'application du droit civil, d'un droit sur un bien visé à l'un des alinéas a) à g);

i) d'un bien qui est, au moment de sa disposition, un bien exempté par traité de la personne.

Treaty-exempt property

(6.1) For the purpose of subsection (6), a property is a treaty-exempt property of a non-resident person, at the time of the non-resident person's disposition of the property to another person (referred to in this subsection as the "purchaser"), if

(a) it is, at that time, a treaty-protected property of the non-resident person; and

Bien exempté par traité

(6.1) Pour l'application du paragraphe (6), un bien est un bien exempté par traité d'une personne non-résidente au moment où elle dispose du bien en faveur d'une autre personne (appelée « acheteur » au présent paragraphe) si, à la fois :

a) le bien est un bien protégé par traité de la personne non-résidente à ce moment;

(b) where the purchaser and the non-resident person are related at that time, the purchaser provides notice under subsection (5.02) in respect of the disposition.

b) dans le cas où l'acheteur et la personne non-résidente sont liés à ce moment, l'acheteur donne avis aux termes du paragraphe (5.02) relativement à la disposition.

Application of s. 138(12)

(7) The definitions in subsection 138(12) apply to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 116; 1994, c.7, Sch. II, s. 87; 1998, c. 19, s. 133; 2001, c. 17, ss. 91, 212; 2007, c. 35, s. 33; 2008, c. 28, s. 14; 2009, c. 2, s. 32; 2013, c. 34, ss. 125, 245; 2016, c. 12, s. 41.

Application du par. 138(12)

(7) Les définitions figurant au paragraphe 138(12) s'appliquent au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 116; 1994, ch. 7, ann. II, art. 87; 1998, ch. 19, art. 133; 2001, ch. 17, art. 91 et 212; 2007, ch. 35, art. 33; 2008, ch. 28, art. 14; 2009, ch. 2, art. 32; 2013, ch. 34, art. 125 et 245; 2016, ch. 12, art. 41.

DIVISION E

Computation of Tax

SUBDIVISION A

Rules Applicable to Individuals

Tax payable under this Part

117 (1) For the purposes of this Division, except section 120 (other than subparagraph (a)(ii) of the definition ***tax otherwise payable under this Part*** in subsection 120(4)), tax payable under this Part, tax otherwise payable under this Part and tax under this Part shall be computed as if this Part were read without reference to Division E.1.

Rates for taxation years after 2015

(2) The tax payable under this Part by an individual on the individual's taxable income or taxable income earned in Canada, as the case may be (in this subdivision referred to as the "amount taxable") for a taxation year is

(a) 15% of the amount taxable, if the amount taxable is equal to or less than the amount determined for the taxation year in respect of $45,282;

(b) if the amount taxable is greater than $45,282, but is equal to or less than $90,563, the maximum amount determinable in respect of the taxation year under paragraph (a), plus 20.5% of the amount by which the amount taxable exceeds $45,282 for the year;

(c) if the amount taxable is greater than $90,563, but is equal to or less than $140,388, the maximum

SECTION E

Calcul de l'impôt

SOUS-SECTION A

Règles applicables aux particuliers

Impôt payable en vertu de la présente partie

117 (1) Pour l'application de la présente section, à l'exception de l'article 120 (sauf le sous-alinéa a)(ii) de la définition de ***impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie*** au paragraphe 120(4)), l'impôt payable en vertu de la présente partie, l'impôt payable par ailleurs en vertu de la présente partie, l'impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie, l'impôt en vertu de la présente partie, l'impôt prévu par la présente partie, l'impôt prévu à la présente partie, l'impôt prévu sous le régime de la présente partie et l'impôt à payer en vertu de la présente partie sont calculés compte non tenu de la section E.1 de la présente partie.

Taux pour les années d'imposition 2016 et suivantes

(2) L'impôt payable par un particulier en vertu de la présente partie sur, selon le cas, son revenu imposable ou son revenu imposable gagné au Canada (appelé « montant imposable » à la présente sous-section) pour une année d'imposition correspond à ce qui suit :

a) si le montant imposable n'excède pas la somme déterminée pour l'année par rapport à 45 282 $, 15 % de ce montant;

b) si le montant imposable excède 45 282 $ sans excéder 90 563 $, la somme maximale déterminable pour l'année selon l'alinéa a) plus 20,5 % de l'excédent du montant imposable sur 45 282 $ pour l'année;

c) si le montant imposable excède 90 563 $ sans excéder 140 388 $, la somme maximale déterminable pour

amount determinable in respect of the taxation year under paragraph (b), plus 26% of the amount by which the amount taxable exceeds $90,563 for the year;

(d) if the amount taxable is greater than $140,388, but is equal to or less than $200,000, the maximum amount determinable in respect of the taxation year under paragraph (c), plus 29% of the amount by which the amount taxable exceeds $140,388 for the year; and

(e) if the amount taxable is greater than $200,000, the maximum amount determinable in respect of the taxation year under paragraph (d), plus 33% of the amount by which the amount taxable exceeds $200,000 for the year.

l'année selon l'alinéa b) plus 26 % de l'excédent du montant imposable sur 90 563 $ pour l'année;

d) si le montant imposable excède 140 388 $ sans excéder 200 000 $, la somme maximale déterminable pour l'année selon l'alinéa c) plus 29 % de l'excédent du montant imposable sur 140 388 $ pour l'année;

e) si le montant imposable excède 200 000 $, la somme maximale déterminable pour l'année selon l'alinéa d) plus 33 % de l'excédent du montant imposable sur 200 000 $ pour l'année.

Tax payable — WITB advance payment

(2.1) The tax payable under this Part on the individual's taxable income for a taxation year, as computed under subsection (2), is deemed to be the total of the amount otherwise computed under that subsection and, except for the purposes of sections 118 to 118.9, 120.2, 121, 122.3 and subdivision c, the total of all amounts received by the individual in respect of the taxation year under subsection 122.7(7).

Minimum thresholds for 2004

(3) Each of the amounts of $30,754, $61,509 and $100,000 referred to in subsection (2) is deemed, for the purposes of applying subsection (2) to the 2004 taxation year, to be the greater of

(a) the amount that would be used for the 2004 taxation year if this section were read without reference to this subsection, and

(b) in the case of

(i) the amount of $30,754, $35,000,

(ii) the amount of $61,509, $70,000, and

(iii) the amount of $100,000, $113,804.

(6) [Repealed, 2000, c. 19, s. 22]

(7) [Repealed, 1994, c. 7, Sch. VII, s. 6]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 117; 1994, c.7, Sch. VII, s. 6; 2000, c. 19, s. 22; 2001, c. 17, s. 92; 2006, c. 4, s. 58; 2007, c. 2, s. 18, c. 35, ss. 34, 179; 2009, c. 2, s. 33; 2016, c. 11, s. 1.

Impôt payable — versement anticipé de la PFRT

(2.1) L'impôt payable en vertu de la présente partie sur le revenu imposable d'un particulier pour une année d'imposition, déterminé selon le paragraphe (2), est réputé correspondre au total de la somme déterminée par ailleurs selon ce paragraphe et, sauf pour l'application des articles 118 à 118.9, 120.2, 121 et 122.3 et de la sous-section c, des sommes reçues par le particulier pour l'année selon le paragraphe 122.7(7).

Seuils minimaux pour 2004

(3) Chacune des sommes de 30 754 $, 61 509 $ et 100 000 $ mentionnées au paragraphe (2) est réputée égale à la plus élevée des sommes ci-après pour ce qui est de l'application de ce paragraphe à l'année d'imposition 2004:

a) la somme qui s'appliquerait à cette année si le présent article s'appliquait compte non tenu du présent paragraphe;

b) en ce qui concerne :

(i) la somme de 30 754 $: 35 000 $,

(ii) la somme de 61 509 $: 70 000 $,

(iii) la somme de 100 000 $: 113 804 $.

(6) [Abrogé, 2000, ch. 19, art. 22]

(7) [Abrogé, 1994, ch. 7, ann. VII, art. 6]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 117; 1994, ch. 7, ann. VII, art. 6; 2000, ch. 19, art. 22; 2001, ch. 17, art. 92; 2006, ch. 4, art. 58; 2007, ch. 2, art. 18, ch. 35, art. 34 et 179; 2009, ch. 2, art. 33; 2016, ch. 11, art. 1.

Annual Adjustment of Deductions and Other Amounts

Annual adjustment

117.1 (1) The amount of $1,000 referred to in the formula in paragraph 8(1)(s), each of the amounts expressed in dollars in subparagraph 6(1)(b)(v.1), subsection 117(2), the description of B in subsection 118(1), subsection 118(2), paragraph (a) of the description of B in subsection 118(10), subsection 118.01(2), the descriptions of C and F in subsection 118.2(1) and subsections 118.3(1), 122.5(3) and 122.51(1) and (2), the amount of $400,000 referred to in the formula in paragraph 110.6(2)(a), the amounts of $925 and $1,680 referred to in the description of A, and the amounts of $10,500 and $14,500 referred to in the description of B, in the formula in subsection 122.7(2), the amount of $462.50 referred to in the description of C, and the amounts of $16,667 and $25,700 referred to in the description of D, in the formula in subsection 122.7(3), and each of the amounts expressed in dollars in Part I.2 in relation to tax payable under this Part or Part I.2 for a taxation year shall be adjusted so that the amount to be used under those provisions for the year is the total of

(a) the amount that would, but for subsection (3), be the amount to be used under those provisions for the preceding taxation year, and

(b) the product obtained by multiplying

(i) the amount referred to in paragraph (a)

by

(ii) the amount, adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth, or, where the result obtained is equidistant from two consecutive one-thousandths, to the higher thereof, that is determined by the formula

(A/B) - 1

where

A is the Consumer Price Index for the 12 month period that ended on September 30 next before that year, and

B is the Consumer Price Index for the 12 month period immediately preceding the period mentioned in the description of A.

(1.1) [Repealed, 2017, c. 20, s. 11]

(2) [Repealed, 2000, c. 19, s. 23]

Rajustement annuel des déductions et autres sommes

Ajustement annuel

117.1 (1) La somme de 1 000 $ de la formule figurant à l'alinéa 8(1)s), chacune des sommes exprimées en dollars visées au sous-alinéa 6(1)b)(v.1), au paragraphe 117(2), aux alinéas 118(1)a) à e), au paragraphe 118(2), à l'alinéa a) de l'élément B de la formule figurant au paragraphe 118(10), au paragraphe 118.01(2), aux éléments C et F de la formule figurant au paragraphe 118.2(1) et aux paragraphes 118.3(1), 122.5(3) et 122.51(1) et (2), la somme de 400 000 $ visée à la formule figurant à l'alinéa 110.6(2)a), les sommes de 925 $ et de 1 680 $ visées à l'élément A de la formule figurant au paragraphe 122.7(2), les sommes de 10 500 $ et de 14 500 $ visées à l'élément B de cette formule, la somme de 462,50 $ visée à l'élément C de la formule figurant au paragraphe 122.7(3), les sommes de 16 667 $ et de 25 700 $ visées à l'élément D de cette formule et chacune des sommes exprimées en dollars visées par la partie I.2 relativement à l'impôt à payer en vertu de la présente partie ou de la partie I.2 pour une année d'imposition sont rajustées de façon que la somme applicable à l'année soit égale au total de la somme applicable — compte non tenu du paragraphe (3) — à l'année d'imposition précédente et du produit de cette dernière somme par le montant — rajusté de la manière prévue par règlement et arrêté à la troisième décimale, les résultats ayant au moins cinq en quatrième décimale étant arrondis à la troisième décimale supérieure — obtenu par la formule suivante :

(A/B) - 1

où :

A représente l'indice des prix à la consommation pour la période de 12 mois se terminant le 30 septembre précédant l'année;

B l'indice des prix à la consommation pour la période de 12 mois qui précède la période visée à l'élément A.

(1.1) [Abrogé, 2017, ch. 20, art. 11]

(2) [Abrogé, 2000, ch. 19, art. 23]

Rounding

(3) Where an amount referred to in this section, when adjusted as provided in this section, is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, where it is equidistant from two such consecutive multiples, to the higher thereof.

Consumer Price Index

(4) In this section, the Consumer Price Index for any 12 month period is the result arrived at by

(a) aggregating the Consumer Price Index for Canada, as published by Statistics Canada under the authority of the *Statistics Act*, adjusted in such manner as is prescribed, for each month in that period;

(b) dividing the aggregate obtained under paragraph 117.1(4)(a) by twelve; and

(c) rounding the result obtained under paragraph 117.1(4)(b) to the nearest one-thousandth or, where the result obtained is equidistant from two consecutive one-thousandths, to the higher thereof.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 117.1; 1994, c. 7, Sch. VII, s. 7; 1996, c. 21, s. 22; 1997, c. 25, s. 24; 1998, c. 19, s. 21; 1999, c. 22, s. 30; 2000, c. 14, s. 37, c. 19, s. 23; 2005, c. 19, s. 22; 2006, c. 4, s. 59; 2007, c. 2, s. 19, c. 16, ss. 2, 4, c. 35, s. 35; 2010, c. 25, s. 22; 2013, c. 40, s. 49; 2017, c. 20, s. 11.

Personal credits

118 (1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

A × B

where

A is the appropriate percentage for the year, and

B is the total of,

Married or common-law partnership status

(a) in the case of an individual who at any time in the year is a married person or a person who is in a common-law partnership who supports the individual's spouse or common-law partner and is not living separate and apart from the spouse or common-law partner by reason of a breakdown of their marriage or common-law partnership, an amount equal to the total of

(i) $10,527, and

(ii) the amount determined by the formula

$10,527 + C – C.1

where

Arrondissement

(3) Pour toute somme visée au présent article qui est à rajuster conformément au présent article, les résultats sont arrêtés à l'unité, ceux qui ont au moins cinq en première décimale étant arrondis à l'unité supérieure.

Indice des prix à la consommation pour 12 mois

(4) Au présent article, l'indice des prix à la consommation pour une période de 12 mois est obtenu par :

a) l'addition des indices mensuels des prix à la consommation de la période pour le Canada, publiés par Statistique Canada en application de la *Loi sur la statistique*, rajustés de la manière prévue par règlement;

b) la division de ce total par 12;

c) l'arrêt du quotient ainsi obtenu à la troisième décimale, les résultats ayant au moins cinq en quatrième décimale étant arrondis à la troisième décimale supérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 117.1; 1994, ch. 7, ann. VII, art. 7; 1996, ch. 21, art. 22; 1997, ch. 25, art. 24; 1998, ch. 19, art. 21; 1999, ch. 22, art. 30; 2000, ch. 14, art. 37, ch. 19, art. 23; 2005, ch. 19, art. 22; 2006, ch. 4, art. 59; 2007, ch. 2, art. 19, ch. 16, art. 2 et 4, ch. 35, art. 35; 2010, ch. 25, art. 22; 2013, ch. 40, art. 49; 2017, ch. 20, art. 11.

Crédits d'impôt personnels

118 (1) Le produit de la multiplication du total des montants visés aux alinéas a) à e) par le taux de base pour l'année est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition;

Crédit de personne mariée ou vivant en union de fait

a) si, à un moment de l'année, le particulier est marié ou vit en union de fait et subvient aux besoins de son époux ou conjoint de fait dont il ne vit pas séparé pour cause d'échec de leur mariage ou union de fait, le total de 10 527 $ et de la somme obtenue par la formule suivante :

10 527 $ + C – C.1

où :

C représente :

(i) 2 150 $, si l'époux ou le conjoint de fait est à la charge du particulier en raison d'une infirmité mentale ou physique,

(ii) zéro, dans les autres cas,

C.1 le revenu de l'époux ou du conjoint de fait pour l'année ou, si le particulier et son époux ou conjoint de fait vivent séparés à la fin de

C is

(A) $2,150 if the spouse or common-law partner is dependent on the individual by reason of mental or physical infirmity, and

(B) in any other case, nil, and

C.1 is the income of the individual's spouse or common-law partner for the year or, if the individual and the individual's spouse or common-law partner are living separate and apart at the end of the year because of a breakdown of their marriage or common-law partnership, the spouse's or common-law partner's income for the year while married to, or in a common-law partnership with, the individual and not so separated,

Wholly dependent person

(b) in the case of an individual who does not claim a deduction for the year because of paragraph 118(1)(a) and who, at any time in the year,

(i) is

(A) a person who is unmarried and who does not live in a common-law partnership, or

(B) a person who is married or in a common-law partnership, who neither supported nor lived with their spouse or common law-partner and who is not supported by that spouse or common-law partner, and

(ii) whether alone or jointly with one or more other persons, maintains a self-contained domestic establishment (in which the individual lives) and actually supports in that establishment a person who, at that time, is

(A) except in the case of a child of the individual, resident in Canada,

(B) wholly dependent for support on the individual, or the individual and the other person or persons, as the case may be,

(C) related to the individual, and

(D) except in the case of a parent or grandparent of the individual, either under 18 years of age or so dependent by reason of mental or physical infirmity,

an amount equal to the total of

(iii) $10,527, and

l'année pour cause d'échec de leur mariage ou union de fait, le revenu de l'époux ou du conjoint de fait pour l'année pendant le mariage ou l'union de fait, selon le cas, et pendant qu'il ne vivait pas ainsi séparé du particulier;

Crédit équivalent pour personne entièrement à charge

b) le total de 10 527 $ et de la somme obtenue par la formule ci-après si le particulier ne demande pas de déduction pour l'année par l'effet de l'alinéa a) et si, à un moment de l'année :

(i) d'une part, il n'est pas marié ou ne vit pas en union de fait ou, dans le cas contraire, ne vit pas avec son époux ou conjoint de fait ni ne subvient aux besoins de celui-ci, pas plus que son époux ou conjoint de fait ne subvient à ses besoins,

(ii) d'autre part, il tient, seul ou avec une ou plusieurs autres personnes, et habite un établissement domestique autonome où il subvient aux besoins d'une personne qui, à ce moment, remplit les conditions suivantes :

(A) elle réside au Canada, sauf s'il s'agit d'un enfant du particulier,

(B) elle est entièrement à charge soit du particulier, soit du particulier et d'une ou de plusieurs de ces autres personnes,

(C) elle est liée au particulier,

(D) sauf s'il s'agit du père, de la mère, du grand-père ou de la grand-mère du particulier, elle est soit âgée de moins de 18 ans, soit à charge en raison d'une infirmité mentale ou physique,

10 527 $ + D – D.1

où :

D représente :

(i) 2 150 $, si :

(A) la personne à charge est âgée de 18 ans ou plus à la fin de l'année et était à la charge du particulier au cours de l'année en raison d'une infirmité mentale ou physique,

(B) la personne à charge est une personne, sauf un enfant du particulier relativement auquel l'alinéa b.1) s'applique, qui, à la fin de l'année, est âgée de moins de 18 ans et qui, en raison d'une infirmité mentale ou physique, dépendra vraisemblablement d'autrui, pour une longue période continue d'une durée indéterminée, pour ses besoins et soins personnels, et ce dans une mesure

(iv) the amount determined by the formula

$10,527 + D – D.1

where

D is

(A) $2,150 if

(I) the dependent person is, at the end of the taxation year, 18 years of age or older and is, at any time in the year, dependent on the individual by reason of mental or physical infirmity, or

(II) the dependent person is a person, other than a child of the individual in respect of whom paragraph (b.1) applies, who, at the end of the taxation year, is under the age of 18 years and who, by reason of mental or physical infirmity, is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to the dependent person's personal needs and care, when compared to persons of the same age, and is so dependent on the individual at any time in the year, and

(B) in any other case, nil, and

D.1 is the dependent person's income for the year,

Caregiver amount for infirm child

(b.1) $2,150 for each child, who is under the age of 18 years at the end of the taxation year, of the individual and who, by reason of mental or physical infirmity, is likely to be, for a long and continuous period of indefinite duration, dependent on others for significantly more assistance in attending to the child's personal needs and care, when compared to children of the same age if

(i) the child ordinarily resides throughout the taxation year with the individual together with another parent of the child, or

(ii) except if subparagraph (i) applies, the individual

(A) may deduct an amount under paragraph (b) in respect of the child, or

(B) could deduct an amount under paragraph (b) in respect of the child if

plus importante que d'autres personnes du même âge, et qui dépendait ainsi du particulier au cours de l'année,

(ii) zéro, dans les autres cas,

D.1 le revenu de la personne à charge pour l'année;

Montant pour aidant naturel — enfant ayant une infirmité

b.1) 2 150 $ pour chaque enfant du particulier qui est âgé de moins de 18 ans à la fin de l'année et qui, en raison d'une infirmité mentale ou physique, dépendra vraisemblablement d'autrui, pour une longue période continue d'une durée indéterminée, pour ses besoins et soins personnels dans une mesure plus importante que d'autres enfants du même âge si l'une des conditions ci-après est remplie :

(i) l'enfant réside habituellement, tout au long de l'année, avec le particulier et un autre parent de l'enfant,

(ii) sauf en cas d'application du sous-alinéa (i), le particulier :

(A) soit peut déduire une somme en application de l'alinéa b) relativement à l'enfant,

(B) soit pourrait déduire une somme en application de l'alinéa b) relativement à l'enfant si les faits ci-après étaient avérés :

(I) l'alinéa (4)a) et le passage « ou pour le même établissement domestique autonome » à l'alinéa (4)b) ne s'appliquaient pas au particulier pour l'année,

(II) l'enfant n'avait pas de revenu pour l'année.

Crédit de base

c) 10 320 $, sauf si le particulier a droit à une déduction en application de l'alinéa a) ou b);

c.1) [Abrogé, 2017, ch. 20, art. 12]

Crédit canadien pour aidant naturel

d) le montant obtenu par la formule ci-après, pour chaque personne qui, à un moment de l'année, remplit les conditions suivantes :

(i) elle est à la charge du particulier en raison d'une infirmité mentale ou physique,

(ii) l'un des énoncés ci-après se vérifie à l'égard d'elle :

(I) paragraph (4)(a) and the reference in paragraph (4)(b) to "or the same domestic establishment" did not apply to the individual for the taxation year, and

(II) the child had no income for the year,

Single status

(c) except in the case of an individual entitled to a deduction because of paragraph (a) or (b), $10,320,

(c.1) [Repealed, 2017, c. 20, s. 12]

Canada caregiver credit

(d) for each person who, at any time in the year,

(i) is dependent on the individual because of mental or physical infirmity, and

(ii) either

(A) is a spouse or common-law partner of the individual, or

(B) has attained the age of 18 years and is a dependant of the individual,

the amount determined by the formula

$6,883 – E

where

E is the amount, if any, by which the dependant's income for the year exceeds $16,163, and

Additional amount

(e) in the case of an individual entitled to a deduction in respect of a person because of paragraph (a) or (b) and who would also be entitled, but for paragraph (4)(c), to a deduction because of paragraph (d) in respect of the person, the amount by which the amount that would be determined under paragraph (d) exceeds the amount determined under paragraph (a) or (b), as the case may be, in respect of the person.

Age credit

(2) For the purpose of computing the tax payable under this Part for a taxation year by an individual who, before the end of the year, has attained the age of 65 years, there may be deducted the amount determined by the formula

A × ($6,408 – B)

where

A is the appropriate percentage for the year; and

B is 15% of the amount, if any, by which the individual's income for the year would exceed $25,921 if no

(A) elle est l'époux ou le conjoint de fait du particulier,

(B) elle est âgée d'au moins 18 ans et est une personne à charge du particulier,

6 883 $ – E

où :

E représente l'excédent éventuel du revenu de la personne pour l'année sur 16 163 $;

Montant supplémentaire

e) dans le cas où le particulier a droit à une déduction pour une personne par l'effet des alinéas a) ou b) et aurait droit à une déduction pour la même personne par l'effet de l'alinéa d) si ce n'était l'alinéa (4)c), l'excédent du montant qui serait déterminé selon l'alinéa d) sur celui déterminé selon les alinéas a) ou b), selon le cas, relativement à la personne.

Crédit pour personnes âgées

(2) Le particulier qui a atteint l'âge de 65 ans avant la fin d'une année d'imposition peut déduire le résultat du calcul suivant dans le calcul de son impôt payable en vertu de la présente partie pour l'année :

A × (6 408 $ – B)

où :

A représente le taux de base pour l'année;

B le montant qui représenterait 15 % de l'excédent éventuel du revenu du particulier pour l'année sur

amount were included in respect of a gain from a disposition of property to which section 79 applies in computing that income.

Pension credit

(3) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

A × B

where

A is the appropriate percentage for the year; and

B is the lesser of $2,000 and the eligible pension income of the individual for the taxation year.

(3.1) and (3.2) [Repealed, 2009, c. 2, s. 34]

(3.3) [Repealed, 2007, c. 29, s. 9]

Limitations re s. (1)

(4) For the purposes of subsection 118(1), the following rules apply:

(a) no amount may be deducted under subsection 118(1) because of paragraphs (a) and (b) of the description of B in subsection 118(1) by an individual in a taxation year for more than one other person;

(a.1) no amount may be deducted under subsection (1) because of paragraph (b) of the description of B in subsection (1) by an individual for a taxation year for a person in respect of whom an amount is deducted because of paragraph (a) of that description by another individual for the year if, throughout the year, the person and that other individual are married to each other or in a common-law partnership with each other and are not living separate and apart because of a breakdown of their marriage or the common-law partnership, as the case may be;

(b) not more than one individual is entitled to a deduction under subsection (1) because of paragraph (b) of the description of B in that subsection for a taxation year in respect of the same person or the same domestic establishment and where two or more individuals otherwise entitled to such a deduction fail to agree as to the individual by whom the deduction may be made, no such deduction for the year shall be allowed to either or any of them;

(b.1) not more than one individual is entitled to a deduction under subsection (1) because of paragraph (b.1) of the description of B in that subsection for a

25 921 $ si aucun montant n'était inclus dans le calcul de ce revenu au titre d'un gain provenant d'une disposition de bien à laquelle s'applique l'article 79.

Crédit pour pension

(3) Le montant déterminé selon la formule suivante est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

A × B

où :

A représente le taux de base pour l'année;

B 2 000 $ ou, s'il est moins élevé, le revenu de pension déterminé du particulier pour l'année.

(3.1) et (3.2) [Abrogés, 2009, ch. 2, art. 34]

(3.3) [Abrogé, 2007, ch. 29, art. 9]

Restriction au crédit pour personne entièrement à charge

(4) Les règles suivantes s'appliquent aux déductions prévues au paragraphe (1):

a) un montant ne peut être déduit par un particulier pour une année d'imposition en application de l'alinéa (1)a) ou b) pour plus qu'une seule autre personne;

a.1) aucun montant n'est déductible en application du paragraphe (1) par l'effet de l'alinéa (1)b) par un particulier pour une année d'imposition relativement à une personne à l'égard de laquelle un montant est déduit par l'effet de l'alinéa (1)a) par un autre particulier pour l'année si, tout au long de l'année, la personne et l'autre particulier sont mariés l'un à l'autre, ou vivent en union de fait l'un avec l'autre, et ne vivent pas séparés en raison de l'échec de leur mariage ou de leur union de fait;

b) un seul particulier a droit pour une année d'imposition à une déduction prévue au paragraphe (1), par application de l'alinéa (1)b), pour la même personne ou pour le même établissement domestique autonome; dans le cas où plusieurs particuliers auraient droit par ailleurs à cette déduction, mais ne s'entendent pas sur celui d'entre eux qui la fait, elle n'est accordée à aucun d'eux pour l'année;

b.1) un seul particulier a droit pour une année d'imposition à une déduction prévue au paragraphe (1), par application de l'alinéa (1)b.1), pour le même enfant; dans le cas où plusieurs particuliers auraient

taxation year in respect of the same child and where two or more individuals otherwise entitled to such a deduction fail to agree as to the individual by whom the deduction may be made, no such deduction for the year shall be allowed to either or any of them;

(c) if an individual is entitled to a deduction under subsection (1) because of paragraph (a) or (b) of the description of B in subsection (1) for a taxation year in respect of any person, no amount may be deducted because of paragraph (d) of that description by any individual for the year in respect of the person; and

(d) if more than one individual is entitled to a deduction under subsection (1) because of paragraph (d) of the description of B in subsection (1) for a taxation year in respect of the same person,

(i) the total of all amounts so deductible for the year shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals for that person if that individual were the only individual entitled to deduct an amount for the year because of that paragraph for that person, and

(ii) if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

(e) [Repealed, 2017, c. 20, s. 12]

droit par ailleurs à cette déduction, mais ne s'entendent pas sur celui d'entre eux qui la fait, elle n'est accordée à aucun d'eux pour l'année;

c) si un particulier a droit, pour une année d'imposition, à la déduction prévue au paragraphe (1) par l'effet des alinéas (1)a) ou b) à l'égard d'une personne, aucun montant n'est déductible par l'effet de l'alinéa (1)d) par un particulier pour l'année à l'égard de la personne;

d) si plus d'un particulier a droit, pour une année d'imposition, à la déduction prévue au paragraphe (1) par l'effet de l'alinéa (1)d) relativement à la même personne, les règles ci-après s'appliquent :

(i) le total des montants ainsi déductibles pour l'année ne peut dépasser le maximum qu'un seul de ces particuliers pourrait déduire pour l'année pour cette personne,

(ii) si ces particuliers ne s'entendent pas sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

e) [Abrogé, 2017, ch. 20, art. 12]

Support

(5) No amount may be deducted under subsection (1) in computing an individual's tax payable under this Part for a taxation year in respect of a person where the individual is required to pay a support amount (within the meaning assigned by subsection 56.1(4)) to the individual's spouse or common-law partner or former spouse or common-law partner in respect of the person and the individual

(a) lives separate and apart from the spouse or common-law partner or former spouse or common-law partner throughout the year because of the breakdown of their marriage or common-law partnership; or

(b) claims a deduction for the year because of section 60 in respect of a support amount paid to the spouse or common-law partner or former spouse or common-law partner.

Pension alimentaire

(5) Aucun montant n'est déductible en application du paragraphe (1) relativement à une personne dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition si le particulier, d'une part, est tenu de payer une pension alimentaire au sens du paragraphe 56.1(4) à son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait pour la personne et, d'autre part, selon le cas :

a) vit séparé de son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait tout au long de l'année pour cause d'échec de leur mariage ou union de fait;

b) demande une déduction pour l'année par l'effet de l'article 60 au titre de la pension alimentaire versée à son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait.

Where subsection (5) does not apply

(5.1) Where, if this Act were read without reference to this subsection, solely because of the application of subsection (5), no individual is entitled to a deduction under

Non-application du par. (5)

(5.1) À supposer que la présente loi s'applique compte non tenu du présent paragraphe, dans le cas où personne n'a droit, par le seul effet du paragraphe (5), à la

paragraph (b) or (b.1) of the description of B in subsection (1) for a taxation year in respect of a child, subsection (5) shall not apply in respect of that child for that taxation year.

Definition of *dependant*

(6) For the purposes of paragraph (d) of the description of B in subsection (1), ***dependant***, of an individual for a taxation year, means a person who at any time in the year is dependent on the individual for support and is

(a) the child or grandchild of the individual or of the individual's spouse or common-law partner; or

(b) the parent, grandparent, brother, sister, uncle, aunt, niece or nephew, if resident in Canada at any time in the year, of the individual or of the individual's spouse or common-law partner.

Definitions

(7) Subject to subsections (8) and (8.1), for the purposes of this subsection and subsection (3),

eligible pension income of an individual for a taxation year means

(a) if the individual has attained the age of 65 years before the end of the taxation year, the pension income received by the individ-ual in the taxation year, and

(b) if the individual has not attained the age of 65 years before the end of the taxation year, the qualified pension income received by the individual in the taxation year; (*revenu de pension déterminé*)

pension income received by an individual in a taxation year means the total of

(a) the total of all amounts each of which is an amount included in computing the individual's income for the year that is

(i) a payment in respect of a life annuity out of or under a superannuation or pension plan (other than a pooled registered pension plan) or a specified pension plan,

(ii) an annuity payment under a registered retirement savings plan, under an "amended plan" as referred to in subsection 146(12) or under an annuity in respect of which an amount is included in computing the individual's income by reason of paragraph 56(1)(d.2),

déduction prévue aux alinéas (1)b) ou b.1) pour une année d'imposition relativement à un enfant, le paragraphe (5) ne s'applique pas relativement à l'enfant pour l'année en cause.

***Personne à charge* — définition**

(6) Pour l'application de l'alinéa (1)d), est une ***personne à charge***, relativement à un particulier au cours d'une année d'imposition, la personne aux besoins de laquelle le particulier subvient à un moment de l'année si elle est, par rapport au particulier ou à son époux ou conjoint de fait :

a) son enfant ou petit-enfant;

b) son père ou sa mère, son grand-père ou sa grand-mère, son oncle ou sa tante, son frère ou sa sœur, son neveu ou sa nièce, qui réside au Canada à un moment de l'année.

Définitions

(7) Sous réserve des paragraphes (8) et (8.1), les définitions qui suivent s'appliquent au présent paragraphe et au paragraphe (3) :

revenu de pension S'agissant du revenu de pension qu'un particulier a reçu au cours d'une année d'imposition, le total des montants suivants :

a) les montants que le particulier inclut dans le calcul de son revenu pour l'année :

(i) à titre de rente viagère reçue dans le cadre d'un régime de retraite ou de pension (sauf un régime de pension agréé collectif) ou d'un régime de pension déterminé,

(ii) à titre de versement de rente dans le cadre d'un régime enregistré d'épargne-retraite, d'un régime modifié visé au paragraphe 146(12) ou d'une rente au titre de laquelle une somme est incluse dans le calcul du revenu du particulier par application de l'alinéa 56(1)d.2),

(iii) à titre de paiement prévu par un fonds enregistré de revenu de retraite, ou en provenant, ou prévu par un fonds modifié visé au paragraphe 146.3(11),

(iii.1) à titre de paiement périodique (sauf le versement visé au sous-alinéa (i)) prévu par la disposition à cotisations déterminées, au sens du paragraphe 147.1(1), d'un régime de pension agréé,

(iii.2) en application de l'article 147.5,

(iii) a payment out of or under a registered retirement income fund or under an "amended fund" as referred to in subsection 146.3(11),

(iii.1) a payment (other than a payment described in subparagraph (i)) payable on a periodic basis under a money purchase provision (within the meaning assigned by subsection 147.1(1)) of a registered pension plan,

(iii.2) an amount included under section 147.5,

(iv) an annuity payment under a deferred profit sharing plan or under a "revoked plan" as referred to in subsection 147(15),

(v) a payment described in subparagraph 147(2)(k)(v), or

(vi) the amount by which an annuity payment included in computing the individual's income for the year by reason of paragraph 56(1)(d) exceeds the capital element of that payment as determined or established under paragraph 60(a), and

(b) the total of all amounts each of which is an amount included in computing the individual's income for the year by reason of section 12.2 of this Act or paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952; (*revenu de pension*)

qualified pension income received by an individual in a taxation year means the total of all amounts each of which is an amount included in computing the individual's income for the year and described in

(a) subparagraph (a)(i) of the definition *pension income* in this subsection, or

(b) any of subparagraphs 118(7) qualified pension income (a)(ii) to 118(7) qualified pension income (a)(vi) or paragraph (b) of the definition *pension income* in this subsection received by the individual as a consequence of the death of a spouse or common-law partner of the individual. (*revenu de pension admissible*)

Interpretation

(8) For the purposes of subsection (7), ***pension income*** and ***qualified pension income*** received by an individual in a taxation year do not include any amount that is

(a) the amount of a pension or supplement under the *Old Age Security Act* or of any similar payment under a law of a province;

(iv) à titre de versement de rente d'un régime de participation différée aux bénéfices ou d'un régime dont l'enregistrement est révoqué visé au paragraphe 147(15),

(v) à titre de versement visé au sous-alinéa 147(2)k)(v),

(vi) à titre d'excédent d'un versement de rente inclus dans le calcul du revenu du particulier pour l'année par application de l'alinéa 56(1)d) sur la partie représentant le capital de ce versement visée à l'alinéa 60a);

b) les montants inclus dans le calcul du revenu du particulier pour l'année par application de l'article 12.2 de la présente loi ou de l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952. (*pension income*)

revenu de pension admissible S'agissant du revenu de pension admissible qu'un particulier a reçu au cours d'une année d'imposition, le total des montants suivants inclus dans le calcul de son revenu pour l'année :

a) les montants visés au sous-alinéa a)(i) de la définition de ***revenu de pension*** au présent paragraphe;

b) les montants visés aux sous-alinéas a)(ii) à (vi) et à l'alinéa b) de la définition de ***revenu de pension*** au présent paragraphe, reçus par le particulier par suite du décès de son époux ou conjoint de fait. (*qualified pension income*)

revenu de pension déterminé Le revenu de pension déterminé d'un particulier pour une année d'imposition correspond à ce qui suit :

a) si le particulier a atteint 65 ans avant la fin de l'année d'imposition, le revenu de pension qu'il a reçu au cours de l'année;

b) sinon, le revenu de pension admissible qu'il a reçu au cours de l'année d'imposition. (*eligible pension income*)

Restriction

(8) Pour l'application du paragraphe (7), sont exclues du revenu de pension et du revenu de pension admissible qu'un particulier reçoit au cours d'une année d'imposition les sommes reçues :

(b) the amount of a benefit under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of that Act;

(c) a death benefit;

(d) the amount, if any, by which

(i) an amount required to be included in computing the individual's income for the year

exceeds

(ii) the amount, if any, by which the amount referred to in subparagraph (i) exceeds the total of all amounts deducted (other than under paragraph 60(c)) by the individual for the year in respect of that amount;

(e) a payment received out of or under a salary deferral arrangement, a retirement compensation arrangement, an employee benefit plan or an employee trust; or

(f) a payment (other than a payment under the *Judges Act* or the *Lieutenant Governors Superannuation Act*) received out of or under an unfunded supplemental plan or arrangement, being a plan or arrangement where

(i) the payment was in respect of services rendered to an employer by the individual or the individual's spouse or common-law partner or former spouse or common-law partner as an employee, and

(ii) the plan or arrangement would have been a retirement compensation arrangement or an employee benefit plan had the employer made a contribution in respect of the payment to a trust governed by the plan or arrangement.

a) au titre de la pension ou du supplément prévu par la *Loi sur la sécurité de la vieillesse* ou d'un paiement analogue prévu par une loi provinciale;

b) au titre d'une prestation prévue par le *Régime de pensions du Canada* ou par un régime provincial de pensions au sens de l'article 3 de cette loi;

c) à titre de prestation consécutive au décès;

d) au titre de l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) toute somme à inclure dans le calcul du revenu du particulier pour l'année,

(ii) l'excédent éventuel de la somme visée au sous-alinéa (i) sur le total des sommes déduites par le particulier pour l'année (sauf celle visée à l'alinéa 60c)) au titre de cette somme;

e) au titre d'un paiement reçu dans le cadre d'une convention de retraite, d'une entente d'échelonnement du traitement, d'un régime de prestations aux employés ou d'une fiducie d'employés;

f) au titre d'un paiement (sauf un paiement prévu par la *Loi sur les juges* ou la *Loi sur la pension de retraite des lieutenants-gouverneurs*) reçu dans le cadre d'un régime ou mécanisme complémentaire sans capitalisation, à savoir un régime ou mécanisme à l'égard duquel il s'avère, à la fois :

(i) que le paiement se rapporte à des services que le particulier, son époux ou conjoint de fait ou son ex-époux ou ancien conjoint de fait a rendus, à titre d'employé, à un employeur,

(ii) que le régime ou mécanisme aurait été une convention de retraite ou un régime de prestations aux employés si l'employeur avait versé, au titre du paiement, une cotisation à une fiducie régie par le régime ou mécanisme.

Bridging benefits

(8.1) For the purposes of subsection (7), a payment in respect of a life annuity under a superannuation or pension plan is deemed to include a payment in respect of bridging benefits, being benefits payable under a registered pension plan on a periodic basis and not less frequently than annually to an individual where

(a) the individual or the individual's spouse or common-law partner or former spouse or common-law partner was a member (as defined in subsection 147.1(1)) of the registered pension plan;

Prestations de raccordement

(8.1) Pour l'application du paragraphe (7), tout paiement au titre d'une rente viagère prévue par un régime de retraite ou de pension est réputé comprendre un paiement au titre de prestations de raccordement, à savoir des prestations prévues par un régime de pension agréé qui sont payables périodiquement et au moins annuellement à un particulier, dans le cas où, à la fois :

a) le particulier, son époux ou conjoint de fait ou son ex-époux ou ancien conjoint de fait était un participant, au sens du paragraphe 147.1(1), au régime de pension agréé;

(b) the benefits are payable for a period ending no later than the end of the month following the month in which the member attains 65 years of age or would have attained that age if the member had survived to that day; and

(c) the amount (expressed on an annualized basis) of the benefits payable to the individual for a calendar year does not exceed the total of the maximum amount of benefits payable for that year under Part I of the *Old Age Security Act* and the maximum amount of benefits (other than disability, death or survivor benefits) payable for that year under either the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act.

(9) [Repealed, 2009, c. 2, s. 34]

b) les prestations sont payables pendant une période se terminant au plus tard le jour qui marque la fin du mois suivant celui au cours duquel le participant atteint 65 ans ou aurait atteint cet âge s'il avait survécu jusqu'à ce jour;

c) le montant, calculé sur une année, des prestations payables au particulier pour une année civile n'excède pas le total du maximum des prestations payables pour cette année en vertu de la partie I de la *Loi sur la sécurité de la vieillesse* et du maximum des prestations (sauf les prestations pour invalidité, les prestations de décès et les prestations au survivant) payables pour cette année en vertu du *Régime de pensions du Canada* ou d'un régime provincial de pensions au sens de l'article 3 de cette loi.

(9) [Abrogé, 2009, ch. 2, art. 34]

Child tax credit

(9.1) For greater certainty, in the case of a child who in a taxation year is born, adopted or dies, the reference to "throughout the taxation year" in subparagraph 118(1)(b.1)(i) is to be read as a reference to "throughout the portion of the taxation year that is after the child's birth or adoption or before the child's death".

Crédit d'impôt pour enfants

(9.1) Il est entendu que, dans le cas d'un enfant qui naît, est adopté ou décède dans une année d'imposition, la mention « tout au long de l'année » au sous-alinéa 118(1)b.1)(i) vaut mention de « tout au long de la partie de l'année qui est postérieure à sa naissance ou son adoption ou antérieure à son décès ».

Canada Employment Credit

(10) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the taxation year; and

B is the lesser of

(a) $1,000, and

(b) the total of all amounts, each of which is an amount included in computing the individual's income for the taxation year from an office or employment or an amount included in the taxpayer's income for the taxation year because of subparagraph 56(1)(r)(v).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118; 1994, c. 7, Sch. VII, s. 8, Sch. VIII, s. 52; 1995, c. 3, s. 33; 1997, c. 25, s. 25; 1998, c. 19, s. 134; 1999, c. 22, s. 31; 2000, c. 12, ss. 131, 142, c. 19, s. 24; 2001, c. 17, ss. 93, 243(E); 2005, c. 30, s. 5; 2006, c. 4, s. 60; 2007, c. 2, s. 20, c. 29, s. 9, c. 35, ss. 36, 180; 2009, c. 2, s. 34; 2011, c. 24, s. 23; 2012, c. 31, s. 25; 2013, c. 34, s. 246; 2015, c. 36, s. 30; 2017, c. 20, s. 12.

Crédit canadien pour emploi

(10) Est déductible dans le calcul de l'impôt à payer par un particulier en vertu de la présente partie pour une année d'imposition la somme obtenue par la formule suivante :

A × B

où :

A représente le taux de base pour l'année;

B la moins élevée des sommes suivantes :

a) 1 000 $,

b) le total des sommes représentant chacune une somme incluse dans le calcul du revenu du particulier pour l'année provenant d'une charge ou d'un emploi ou une somme incluse dans le calcul de son revenu pour l'année par l'effet du sous-alinéa 56(1)r)(v).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118; 1994, ch. 7, ann. VII, art. 8, ann. VIII, art. 52; 1995, ch. 3, art. 33; 1997, ch. 25, art. 25; 1998, ch. 19, art. 134; 1999, ch. 22, art. 31; 2000, ch. 12, art. 131, 142, ch. 19, art. 24; 2001, ch. 17, art. 93 et 243(A); 2005, ch. 30, art. 5; 2006, ch. 4, art. 60; 2007, ch. 2, art. 20, ch. 29, art. 9, ch. 35, art. 36 et 180; 2009, ch. 2, art. 34; 2011, ch. 24, art. 23; 2012, ch. 31, art. 25; 2013, ch. 34, art. 246; 2015, ch. 36, art. 30; 2017, ch. 20, art. 12.

Definitions

118.01 (1) The following definitions apply in this section.

Définitions

118.01 (1) Les définitions qui suivent s'appliquent au présent article.

adoption period, in respect of an eligible child of an individual, means the period that

(a) begins at the earlier of the time that an application is made for registration with a provincial ministry responsible for adoption (or with an adoption agency licensed by a provincial government) and the time, if any, that an application related to the adoption is made to a Canadian court; and

(b) ends at the later of the time an adoption order is issued by, or recognized by, a government in Canada in respect of that child, and the time that the child first begins to reside permanently with the individual. (*période d'adoption*)

eligible adoption expense, in respect of an eligible child of an individual, means an amount paid for expenses incurred during the adoption period in respect of the adoption of that child, including

(a) fees paid to an adoption agency licensed by a provincial government;

(b) court costs and legal and administrative expenses related to an adoption order in respect of that child;

(c) reasonable and necessary travel and living expenses of that child and the adoptive parents;

(d) document translation fees;

(e) mandatory fees paid to a foreign institution;

(f) mandatory expenses paid in respect of the immigration of that child; and

(g) any other reasonable expenses related to the adoption required by a provincial government or an adoption agency licensed by a provincial government. (*dépense d'adoption admissible*)

eligible child, of an individual, means a child who has not attained the age of 18 years at the time that an adoption order is issued or recognized by a government in Canada in respect of the adoption of that child by that individual. (*enfant admissible*)

dépense d'adoption admissible En ce qui concerne l'enfant admissible d'un particulier, somme payée au titre de dépenses engagées pendant la période d'adoption relativement à l'adoption de l'enfant, notamment :

a) les sommes versées à un organisme d'adoption agréé par une administration provinciale;

b) les frais de justice et les frais juridiques et administratifs afférents à une ordonnance d'adoption à l'égard de l'enfant;

c) les frais de déplacement et de subsistance raisonnables et nécessaires de l'enfant et des parents adoptifs;

d) les frais de traduction de documents;

e) les frais obligatoires payés à une institution étrangère;

f) les sommes obligatoires payées relativement à l'immigration de l'enfant;

g) toutes autres sommes raisonnables relatives à l'adoption et exigées par une administration provinciale ou par un organisme d'adoption agréé par une telle administration. (*eligible adoption expense*)

enfant admissible Par rapport à un particulier, enfant qui n'a pas atteint l'âge de 18 ans au moment où une ordonnance d'adoption est délivrée ou reconnue par une administration au Canada relativement à l'adoption de l'enfant par le particulier. (*eligible child*)

période d'adoption En ce qui concerne l'enfant admissible d'un particulier, période qui commence au moment visé à l'alinéa a) et se termine au moment visé à l'alinéa b) :

a) le moment de la présentation d'une demande d'inscription auprès du ministère provincial responsable des adoptions ou auprès d'un organisme d'adoption agréé par une administration provinciale ou, s'il est antérieur, le moment où un tribunal canadien est saisi de la requête en adoption;

b) le moment où l'ordonnance d'adoption à l'égard de l'enfant est délivrée ou reconnue par une administration au Canada ou, s'il est postérieur, le moment où l'enfant commence à résider en permanence avec le particulier. (*adoption period*)

Adoption expense tax credit

(2) For the purpose of computing the tax payable under this Part by an individual for the taxation year that

Crédit d'impôt pour frais d'adoption

(2) Est déductible dans le calcul de l'impôt à payer en vertu de la présente partie par un particulier pour l'année

includes the end of the adoption period in respect of an eligible child of the individual, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the taxation year; and

B is the lesser of

(a) $15,000, and

(b) the amount determined by the formula

C - D

where

C is the total of all eligible adoption expenses in respect of the eligible child, and

D is the total of all amounts each of which is the amount of a reimbursement or any other form of assistance (other than an amount that is included in computing the individual's income and that is not deductible in computing the individual's taxable income) that any individual is or was entitled to receive in respect of an amount included in computing the value of C.

d'imposition qui comprend la fin de la période d'adoption relative à un enfant admissible du particulier la somme obtenue par la formule suivante :

A × B

où :

A représente le taux de base pour l'année;

B la moins élevée des sommes suivantes :

a) 15 000 $,

b) la somme obtenue par la formule suivante :

C - D

où :

C représente le total des dépenses d'adoption admissibles relatives à l'enfant,

D le total des sommes représentant chacune le montant d'un remboursement ou de toute autre aide (à l'exception d'une somme qui est incluse dans le calcul du revenu du particulier, mais qui n'est pas déductible dans le calcul de son revenu imposable) qu'un particulier a reçu ou pouvait recevoir au titre d'une somme incluse dans le calcul de la valeur de l'élément C.

Apportionment of credit

(3) Where more than one individual is entitled to a deduction under this section for a taxation year in respect of the adoption of an eligible child, the total of all amounts so deductible shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals for that child if that individual were the only individual entitled to deduct an amount for the year under this section, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2006, c. 4, s. 61; 2013, c. 33, s. 9; 2014, c. 20, s. 6.

Restriction

(3) Si plus d'un particulier a droit, pour une année d'imposition, à la déduction prévue au présent article relativement à l'adoption d'un enfant admissible, le total des sommes ainsi déductibles ne peut dépasser le maximum qu'un seul de ces particuliers pourrait déduire pour l'année pour cet enfant. Si ces particuliers ne s'entendent pas sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2006, ch. 4, art. 61; 2013, ch. 33, art. 9; 2014, ch. 20, art. 6.

Definitions

118.02 (1) The following definitions apply in this section.

eligible electronic payment card means an electronic payment card that is

(a) used by an individual for at least 32 one-way trips, between the place of origin of the trip and its termination, during an uninterrupted period not exceeding 31 days, and

Définitions

118.02 (1) Les définitions qui suivent s'appliquent au présent article.

carte de paiement électronique admissible Carte de paiement électronique qui, à la fois :

a) est utilisée par un particulier afin de régler le coût d'au moins 32 parcours aller simple, entre le point de départ du parcours et sa destination, au cours d'une période ininterrompue n'excédant pas 31 jours;

(b) issued by or on behalf of a qualified Canadian transit organization, which organization records and receipts the cost and usage of the electronic payment card and identifies the right, of the individual who is the holder or owner of such a card, to use public commuter transit services of that qualified Canadian transit organization. (*carte de paiement électronique admissible*)

eligible public transit pass means a document

(a) issued by or on behalf of a qualified Canadian transit organization; and

(b) identifying the right of an individual who is the holder or owner of the document to use public commuter transit services of that qualified Canadian transit organization

(i) on an unlimited number of occasions and on any day on which the public commuter transit services are offered during an uninterrupted period of at least 28 days, or

(ii) on an unlimited number of occasions during an uninterrupted period of at least five consecutive days, if the combination of that document and one or more other such documents gives the right to the individual to use those public commuter transit services on at least 20 days in a 28-day period. (*laissez-passer de transport admissible*)

public commuter transit services means services offered to the general public, ordinarily for a period of at least five days per week, of transporting individuals, from a place in Canada to another place in Canada, by means of bus, ferry, subway, train or tram, and in respect of which it can reasonably be expected that those individuals would return daily to the place of their departure. (*services de transport en commun*)

qualified Canadian transit organization means a person authorised, under a law of Canada or a province, to carry on in Canada a business that is the provision of public commuter transit services, which is carried on through a permanent establishment (as defined by regulation) in Canada. (*organisme de transport canadien admissible*)

qualifying relation of an individual for a taxation year means a person who is

(a) the individual's spouse or common-law partner at any time in the taxation year; or

b) est délivrée par un organisme de transport canadien admissible, ou pour son compte, lequel tient compte du coût et de l'utilisation de la carte, délivre des reçus et reconnaît le droit du particulier titulaire ou propriétaire de la carte d'utiliser les services de transport en commun qu'il offre. (*eligible electronic payment card*)

laissez-passer de transport admissible Document qui, à la fois :

a) est délivré par un organisme de transport canadien admissible ou pour son compte;

b) fait état du droit du particulier titulaire ou propriétaire du document d'utiliser les services de transport en commun de l'organisme :

(i) soit un nombre illimité de fois et à n'importe quel jour — où les services de transport en commun sont offerts — d'une période ininterrompue d'au moins 28 jours,

(ii) soit un nombre illimité de fois au cours d'une période ininterrompue d'au moins cinq jours consécutifs, pourvu que le document en cause, jumelé avec un ou plusieurs autres documents semblables, confèrent au contribuable le droit d'utiliser les services de transport en commun pendant au moins 20 jours au cours d'une période de 28 jours. (*eligible public transit pass*)

organisme de transport canadien admissible Personne autorisée, sous le régime d'une loi fédérale ou provinciale, à exploiter au Canada — par l'intermédiaire d'un établissement stable, au sens prévu par règlement, situé au Canada — une entreprise qui consiste à fournir des services de transport en commun. (*qualified Canadian transit organization*)

proche admissible Est le proche admissible d'un particulier pour une année d'imposition la personne qui, selon le cas :

a) est l'époux ou le conjoint de fait du particulier au cours de l'année;

b) est un enfant du particulier, âgé de moins de 19 ans à la fin de l'année. (*qualifying relation*)

services de transport en commun Services offerts au grand public, habituellement pendant une période d'au moins cinq jours par semaine, qui consistent à transporter des particuliers entre deux endroits au Canada par autobus, métro, train, tramway ou traversier et à l'égard

(b) a child of the individual who has not, during the taxation year, attained the age of 19 years. (*proche admissible*)

Transit pass tax credit

(2) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the taxation year; and

B is the amount determined by the formula

C - D

where

C is the total of all amounts each of which is the portion of the cost of an eligible public transit pass or of an eligible electronic payment card, attributable to the use of public commuter transit services in the taxation year and before July 2017 by the individual or by a person who is in the taxation year a qualifying relation of the individual, and

D is the total of all amounts each of which is the amount of a reimbursement, allowance or any other form of assistance that any person is or was entitled to receive in respect of an amount included in computing the value of C (other than an amount that is included in computing the income for any taxation year of that person and that is not deductible in computing the taxable income of that person).

Apportionment of credit

(3) If more than one individual is entitled to a deduction under this section for a taxation year in respect of an eligible public transit pass or of an eligible electronic payment card, the total of all amounts so deductible shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals for that eligible public transit pass or eligible electronic payment card if that individual were the only individual entitled to deduct an amount for the year under this section, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 2, s. 21, c. 35, s. 37; 2013, c. 34, s. 247; 2017, c. 20, s. 13.

desquels il est raisonnable de s'attendre à ce que ces particuliers reviennent quotidiennement à leur point de départ. (*public commuter transit services*)

Crédit d'impôt pour laissez-passer de transport

(2) Est déductible dans le calcul de l'impôt à payer par un particulier en vertu de la présente partie pour une année d'imposition la somme obtenue par la formule suivante :

A × B

où :

A représente le taux de base pour l'année;

B la somme obtenue par la formule suivante :

C - D

où :

C représente le total des sommes représentant chacune la partie du coût d'un laissez-passer de transport admissible ou d'une carte de paiement électronique admissible qui est attribuable à l'utilisation de services de transport en commun au cours de l'année, mais avant juillet 2017, par le particulier ou par une personne qui est son proche admissible au cours de l'année,

D le total des sommes représentant chacune le montant d'un remboursement ou d'une allocation ou toute autre forme d'aide qu'une personne a ou avait le droit de recevoir au titre d'une somme incluse dans le calcul de la valeur de l'élément C, sauf une somme qui est incluse dans le calcul du revenu de cette personne pour une année d'imposition et qui n'est pas déductible dans le calcul de son revenu imposable.

Répartition du crédit

(3) Si plus d'un particulier a droit, pour une année d'imposition, à la déduction prévue au présent article au titre d'un laissez-passer de transport admissible ou d'une carte de paiement électronique admissible, le total des sommes ainsi déductibles ne peut excéder le maximum qu'un seul de ces particuliers pourrait déduire pour l'année. En cas de désaccord entre les particuliers sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 2, art. 21, ch. 35, art. 37; 2013, ch. 34, art. 247; 2017, ch. 20, art. 13.

118.03 [Repealed, 2014, c. 39, s. 32]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 2, s. 21, c. 35, s. 38; 2014, c. 39, s. 32].

118.031 [Repealed, 2016, c. 7, s. 15]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2011, c. 24, s. 24; 2014, c. 39, s. 33; 2016, c. 7, s. 15.

Definitions

118.04 (1) The following definitions apply in this section.

eligible dwelling of an individual, at any time, means a housing unit (including the land subjacent to the housing unit and the immediately contiguous land, but not including the portion of such land that exceeds the greater of 1/2 hectare and the portion of such land that the individual establishes is necessary for the use and enjoyment of the housing unit as a residence) located in Canada if

(a) the individual (or a trust under which the individual is a beneficiary) owns, whether jointly with another person or otherwise, at that time, the housing unit or a share of the capital stock of a co-operative housing corporation acquired for the sole purpose of acquiring the right to inhabit the housing unit owned by the corporation; and

(b) the housing unit is ordinarily inhabited at any time during the eligible period by the individual, by the individual's spouse or common-law partner or former spouse or common-law partner or by a child of the individual. (*logement admissible*)

eligible period means the period that begins on January 28, 2009 and that ends on January 31, 2010. (*période d'admissibilité*)

individual does not include a trust. (*particulier*)

qualifying expenditure of an individual means an outlay or expense that is made or incurred, by the individual or by a qualifying relation in respect of the individual during the eligible period, that is directly attributable to a qualifying renovation by the individual and that is the cost of goods acquired or services received during the eligible period and includes such an outlay or expense for permits required for, or for the rental of equipment used in the course of, the qualifying renovation, but does not include such an outlay or expense

(a) to acquire goods that have been used, or acquired for use or lease, by the individual or by a qualifying relation in respect of the individual, for any purpose whatever before they were acquired by the individual or the qualifying relation in respect of the individual;

118.03 [Abrogé, 2014, ch. 39, art. 32]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 2, art. 21, ch. 35, art. 38; 2014, ch. 39, art. 32.

118.031 [Abrogé, 2016, ch. 7, art. 15]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2011, ch. 24, art. 24; 2014, ch. 39, art. 33; 2016, ch. 7, art. 15.

Définitions

118.04 (1) Les définitions qui suivent s'appliquent au présent article.

dépense admissible Est une dépense admissible d'un particulier toute dépense engagée ou effectuée par lui ou par son proche admissible au cours de la période d'admissibilité, qui est directement attribuable à des travaux de rénovation admissibles effectués par le particulier et qui représente le coût de marchandises acquises ou de services reçus au cours de cette période, y compris les dépenses engagées ou effectuées afin d'obtenir les permis nécessaires à la réalisation des travaux ou de louer l'équipement utilisé lors de ces travaux. Ne sont pas des dépenses admissibles les dépenses engagées ou effectuées :

a) afin d'acquérir des marchandises qui ont été utilisées, ou acquises en vue d'être utilisées ou louées, par le particulier ou par son proche admissible dans un but quelconque avant d'être acquises par eux;

b) aux termes d'un accord conclu avant la période d'admissibilité;

c) afin d'acquérir un bien qui peut être utilisé indépendamment des travaux de rénovation admissibles;

d) qui représentent le coût de travaux de réparation ou d'entretien annuels, périodiques ou courants;

e) afin d'acquérir un appareil électroménager;

f) afin d'acquérir un appareil électronique de divertissement;

g) afin de financer le coût des travaux de rénovation admissibles;

h) dans le but de tirer un revenu d'une entreprise ou d'un bien;

i) relativement à des marchandises ou des services fournis par une personne ayant un lien de dépendance avec le particulier, sauf si cette personne est inscrite sous le régime de la partie IX de la *Loi sur la taxe d'accise*. (*qualifying expenditure*)

(b) made or incurred under the terms of an agreement entered into before the eligible period;

(c) to acquire a property that can be used independently of the qualifying renovation;

(d) that is the cost of annual, recurring or routine repair or maintenance;

(e) to acquire a household appliance;

(f) to acquire an electronic home-entertainment device;

(g) for financing costs in respect of the qualifying renovation;

(h) made or incurred for the purpose of gaining or producing income from a business or property; or

(i) in respect of goods or services provided by a person not dealing at arm's length with the individual, unless the person is registered for the purposes of Part IX of the *Excise Tax Act*. (*dépense admissible*)

qualifying relation in respect of an individual means a person who is the individual's spouse or common-law partner, or a child of the individual who has not attained the age of 18 years before the end of 2009 (other than a child who was, at any time during the eligible period, a married person, a person who is in a common-law partnership or a person who has a child). (*proche admissible*)

qualifying renovation by an individual, at any time, means a renovation or alteration, of a property that is at that time an eligible dwelling of the individual or of a qualifying relation in respect of the individual, that is of an enduring nature and that is integral to the eligible dwelling. (*travaux de rénovation admissibles*)

logement admissible S'entend, relativement à un particulier à un moment donné, d'un logement (y compris le fonds de terre sous-jacent au logement et le fonds de terre adjacent, mais à l'exclusion de la partie de ce fonds de terre dont la superficie excède un demi-hectare ou, si elle est supérieure, celle de la partie de ce même fonds de terre que le particulier établit comme étant nécessaire à l'usage du logement comme résidence) situé au Canada à l'égard duquel les conditions suivantes sont réunies :

a) à ce moment, le particulier, ou une fiducie dont il est bénéficiaire, est propriétaire, conjointement avec une autre personne ou autrement, du logement ou d'une part du capital social d'une société coopérative d'habitation acquise dans l'unique but d'acquérir le droit d'occuper le logement dont la coopérative est propriétaire;

b) le logement est normalement occupé au cours de la période d'admissibilité par le particulier, par son époux ou conjoint de fait ou son ex-époux ou ancien conjoint de fait ou par un enfant du particulier. (*eligible dwelling*)

particulier Ne vise pas les fiducies. (*individual*)

période d'admissibilité La période commençant le 28 janvier 2009 et se terminant le 31 janvier 2010. (*eligible period*)

proche admissible Est le proche admissible d'un particulier la personne qui est son époux ou conjoint de fait ou son enfant âgé de moins de 18 ans à la fin de 2009, à l'exclusion d'un enfant qui, au cours de la période d'admissibilité, est marié, vit en union de fait ou a un enfant. (*qualifying relation*)

travaux de rénovation admissibles Travaux de rénovation ou de modification à caractère durable qui sont effectués par un particulier à un moment donné à l'égard d'un bien qui est, à ce moment, son logement admissible ou celui de son proche admissible et qui font partie intégrante du logement. (*qualifying renovation*)

Rules of application

(2) For the purposes of this section,

(a) a qualifying expenditure of an individual includes an outlay or expense made or incurred by a co-operative housing corporation, a condominium corporation (or, for civil law, a syndicate of co-owners) or a similar entity (in this paragraph referred to as the "corporation"), in respect of a property that is owned, administered or managed by that corporation, and that includes an eligible dwelling of the individual, to the

Règles d'application

(2) Les règles ci-après s'appliquent au présent article :

a) la dépense admissible d'un particulier comprend toute dépense engagée ou effectuée par une société coopérative d'habitation, une association condominiale ou, pour l'application du droit civil, un syndicat de copropriétaires ou une entité semblable (appelés « société » au présent alinéa), relativement à un bien dont la société est propriétaire, administrateur ou gestionnaire et qui comprend un logement admissible du particulier, jusqu'à concurrence de la part de cette

extent of the individual's share of that outlay or expense, if

(i) the outlay or expense would be a qualifying expenditure of the corporation if the corporation were a natural person and the property were an eligible dwelling of that natural person, and

(ii) the corporation has notified the individual, in writing, of the individual's share of the outlay or expense; and

(b) a qualifying expenditure of an individual includes an outlay or expense made or incurred by a trust, in respect of a property owned by the trust that includes an eligible dwelling of the individual, to the extent of the share of that outlay or expense that is reasonably attributable to the individual, having regard to the amount of the outlays or expenses made or incurred in respect of the eligible dwelling of the individual (including, for this purpose, common areas relevant to more than one eligible dwelling), if

(i) the outlay or expense would be a qualifying expenditure of the trust if the trust were a natural person and the property were an eligible dwelling of that natural person, and

(ii) the trust has notified the individual, in writing, of the individual's share of the outlay or expense.

dépense qui revient au particulier, dans le cas où, à la fois :

(i) la dépense serait une dépense admissible de la société si elle était une personne physique et le bien, un logement admissible de cette personne,

(ii) la société a avisé le particulier par écrit de la part de la dépense qui lui revient;

b) la dépense admissible d'un particulier comprend toute dépense engagée ou effectuée par une fiducie, relativement à un bien dont celle-ci est propriétaire et qui comprend un logement admissible du particulier, jusqu'à concurrence de la part de cette dépense qu'il est raisonnable d'attribuer au particulier, compte tenu du montant des dépenses engagées ou effectuées relativement au logement admissible du particulier (y compris, à cette fin, les aires communes de plus d'un logement admissible), dans le cas où, à la fois :

(i) la dépense serait une dépense admissible de la fiducie si elle était une personne physique et le bien, un logement admissible de cette personne,

(ii) la fiducie a avisé le particulier par écrit de la part de la dépense qui lui revient.

Home renovation tax credit

(3) For the purposes of computing the tax payable under this Part by an individual for the individual's 2009 taxation year, there may be deducted the amount determined by the formula

A × (B – $1,000)

where

A is the appropriate percentage for the taxation year; and

B is the lesser of $10,000 and the total of all amounts, each of which is a qualifying expenditure of the individual.

Crédit d'impôt pour la rénovation domiciliaire

(3) Est déductible dans le calcul de l'impôt à payer par un particulier en vertu de la présente partie pour son année d'imposition 2009 la somme obtenue par la formule suivante :

A × (B – 1 000 $)

où :

A représente le taux de base pour l'année;

B le total des sommes représentant chacune une dépense admissible du particulier, jusqu'à concurrence de 10 000 $.

Interaction with medical expense credit

(4) Notwithstanding paragraph 248(28)(b), an amount may be included in determining both an amount under subsection (3) and under section 118.2 if those amounts otherwise qualify to be included for the purposes of those provisions.

Interaction avec le crédit d'impôt pour frais médicaux

(4) Malgré l'alinéa 248(28)b), une somme peut être incluse dans le calcul de la somme prévue au paragraphe (3) et de la somme prévue à l'article 118.2 si celles-ci peuvent être incluses par ailleurs dans le calcul prévu à ces dispositions.

Apportionment of credit

(5) If more than one individual is entitled to a deduction under this section for a taxation year in respect of a qualifying expenditure of an individual, the total of all amounts so deductible shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals in respect of the qualifying expenditure, if that individual were the only individual entitled to deduct an amount for the year under this section, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2009, c. 31, s. 4.

Definitions

118.041 (1) The following definitions apply in this section.

eligible dwelling of an individual, at any time in a taxation year, means a housing unit (including the land subjacent to the housing unit and the immediately contiguous land, but not including the portion of that land that exceeds the greater of ½ hectare and the portion of that land that the individual establishes is necessary for the use and enjoyment of the housing unit as a residence) located in Canada if

(a) the individual (or a trust under which the individual is a beneficiary) owns — whether jointly with another person or otherwise — at that time, the housing unit or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit the housing unit owned by the corporation; and

(b) the housing unit is ordinarily inhabited, or is reasonably expected to be ordinarily inhabited, at any time in the taxation year

(i) by the individual, if the individual is a qualifying individual, or

(ii) by the individual and a qualifying individual, if

(A) the individual is an eligible individual in respect of the qualifying individual, and

(B) the qualifying individual does not, throughout the taxation year, own — whether jointly with another person or otherwise — and ordinarily inhabit another housing unit in Canada. (*logement admissible*)

eligible individual, in respect of a qualifying individual for a taxation year, means

Restriction

(5) Si plus d'un particulier a droit, pour une année d'imposition, à la déduction prévue au présent article relativement à une dépense admissible d'un particulier, le total des sommes ainsi déductibles ne peut dépasser le maximum qu'un seul de ces particuliers pourrait déduire pour l'année au titre de la dépense. Si ces particuliers ne s'entendent pas sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2009, ch. 31, art. 4.

Définitions

118.041 (1) Les définitions qui suivent s'appliquent au présent article.

dépense admissible Est une dépense admissible d'un particulier toute dépense engagée ou effectuée, au cours d'une année d'imposition, qui est directement attribuable à des travaux de rénovation admissibles — apportés au logement admissible d'un particulier déterminé ou d'un particulier admissible relativement à un particulier déterminé — et qui représente le coût de marchandises acquises ou de services reçus au cours de l'année, y compris les dépenses engagées ou effectuées afin d'obtenir les permis nécessaires à la réalisation des travaux ou de louer l'équipement utilisé lors de ces travaux. Ne sont pas des dépenses admissibles les dépenses engagées ou effectuées :

a) afin d'acquérir un bien qui peut être utilisé indépendamment des travaux de rénovation admissibles;

b) qui représentent le coût de travaux de réparation ou d'entretien annuels, périodiques ou courants;

c) afin d'acquérir un appareil électroménager;

d) afin d'acquérir un appareil électronique de divertissement;

e) qui représentent le coût de travaux ménagers, de surveillance de la sécurité, de travaux de jardinage, de l'entretien extérieur ou d'autres services semblables;

f) afin de financer le coût des travaux de rénovation admissibles;

g) principalement en vue de faire augmenter ou de maintenir la valeur du logement admissible;

h) dans le but de tirer un revenu d'une entreprise ou d'un bien;

(a) an individual who is the qualifying individual's spouse or common-law partner in the year;

(b) except if paragraph (c) applies, an individual who is entitled to deduct an amount under subsection 118.3(2) for the year in respect of the qualifying individual or would be if no amount was claimed for the year by the qualifying individual under subsection 118.3(1) or by the qualifying individual's spouse or common-law partner under section 118.8; or

(c) in the case of a qualifying individual who has attained the age of 65 before the end of the year, an individual who

(i) claimed for the year a deduction under subsection 118(1) in respect of the qualifying individual because of

(A) paragraph (b) of the description of B in that subsection, or

(B) paragraph (d) of the description of B in that subsection where the qualifying individual is a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, nephew or niece of the individual, or of the individual's spouse or common-law partner, or

(ii) could have claimed for the year a deduction referred to in subparagraph (i) in respect of the qualifying individual if

(A) the qualifying individual had no income for the year,

(B) in the case of a deduction referred to in clause (i)(A), the individual were not married and not in a common-law partnership, and

(C) in the case of a deduction under subsection 118(1) because of paragraph (d) of the description of B in that subsection in respect of a qualifying individual who is a dependant (within the meaning of subsection 118(6)) of the individual, the qualifying individual was dependent on the individual because of mental or physical infirmity. (*particulier admissible*)

individual does not include a trust. (*particulier*)

qualifying expenditure of an individual means an outlay or expense that is made or incurred, during a taxation year, that is directly attributable to a qualifying renovation — of an eligible dwelling of a qualifying individual or an eligible individual in respect of a qualifying individual — and that is the cost of goods acquired or services

i) relativement à des marchandises ou à des services fournis par une personne ayant un lien de dépendance avec le particulier déterminé ou le particulier admissible, sauf si cette personne est inscrite sous le régime de la partie IX de la *Loi sur la taxe d'accise*;

j) dans la mesure où il peut être raisonnable de considérer la dépense comme ayant été remboursée, autrement qu'au titre d'une aide du gouvernement fédéral ou d'un gouvernement provincial, y compris celle fournie sous la forme de prime, de subvention, de prêt à remboursement conditionnel ou de déduction de l'impôt. (*qualifying expenditure*)

logement admissible S'entend, relativement à un particulier à un moment donné d'une année d'imposition, d'un logement (y compris le fonds de terre sous-jacent au logement et le fonds de terre adjacent, mais à l'exclusion de la partie de ce fonds de terre dont la superficie excède un demi-hectare ou, si elle est supérieure, celle de la partie de ce même fonds de terre que le particulier établit comme étant nécessaire à l'usage du logement comme résidence) situé au Canada à l'égard duquel les conditions suivantes sont réunies :

a) à ce moment, le particulier, ou une fiducie dont il est bénéficiaire, est propriétaire — conjointement avec une autre personne ou autrement — du logement ou d'une part du capital social d'une société coopérative d'habitation acquise dans l'unique but d'acquérir le droit d'occuper le logement dont la coopérative est propriétaire;

b) le logement est normalement occupé, ou il est raisonnable de s'attendre à ce qu'il le soit, à un moment de l'année d'imposition :

(i) soit par le particulier si celui-ci est un particulier déterminé,

(ii) soit par le particulier et un particulier déterminé si les faits ci-après s'avèrent :

(A) le particulier est un particulier admissible relativement au particulier déterminé,

(B) le particulier déterminé, tout au long de l'année d'imposition, n'est pas propriétaire — conjointement avec une autre personne ou autrement — d'un autre logement au Canada qu'il occupe normalement. (*eligible dwelling*)

particulier Ne vise pas les fiducies. (*individual*)

particulier admissible S'entend, relativement à un particulier déterminé pour une année d'imposition, selon le cas :

received during the year and includes an outlay or expense for permits required for, or for the rental of equipment used in the course of, the qualifying renovation, but does not include an outlay or expense

(a) to acquire a property that can be used independently of the qualifying renovation;

(b) that is the cost of annual, recurring or routine repair or maintenance;

(c) to acquire a household appliance;

(d) to acquire an electronic home-entertainment device;

(e) that is the cost of housekeeping, security monitoring, gardening, outdoor maintenance or similar services;

(f) for financing costs in respect of the qualifying renovation;

(g) made or incurred primarily for the purpose of increasing or maintaining the value of the eligible dwelling;

(h) made or incurred for the purpose of gaining or producing income from a business or property;

(i) in respect of goods or services provided by a person not dealing at arm's length with the qualifying individual or the eligible individual, unless the person is registered for the purposes of Part IX of the *Excise Tax Act*; or

(j) to the extent that the outlay or expense can reasonably be considered to have been reimbursed, otherwise than as assistance from the federal or a provincial government including a grant, subsidy, forgivable loan or a deduction from tax. (*dépense admissible*)

qualifying individual, in respect of a taxation year, means an individual

(a) who has attained the age of 65 years before the end of the taxation year; or

(b) in respect of whom an amount is deductible, or would be deductible if this Act were read without reference to paragraph 118.3(1)(c), under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year. (*particulier déterminé*)

qualifying renovation means a renovation or alteration of an eligible dwelling of a qualifying individual or an eligible individual in respect of a qualifying individual that

a) d'un particulier qui est l'époux ou le conjoint de fait du particulier déterminé au cours de l'année;

b) sauf en cas d'application de l'alinéa c), d'un particulier qui a droit à la déduction d'un montant en application du paragraphe 118.3(2) pour l'année relativement au particulier déterminé ou y aurait droit si aucun montant n'était demandé pour l'année par le particulier déterminé en application du paragraphe 118.3(1) ou par son époux ou conjoint de fait en application de l'article 118.8;

c) dans le cas d'un particulier déterminé qui a atteint 65 ans avant la fin de l'année, d'un particulier qui, selon le cas :

(i) demande pour l'année, relativement au particulier déterminé, une déduction prévue au paragraphe 118(1) :

(A) soit par l'application de l'alinéa b) de ce paragraphe,

(B) soit par l'application de l'alinéa d) de ce paragraphe si le particulier déterminé est le père, la mère, le grand-père, la grand-mère, un enfant, un petit-enfant, le frère, la sœur, la tante, l'oncle, le neveu ou la nièce du particulier déterminé ou de son époux ou conjoint de fait,

(ii) aurait pu demander, relativement au particulier déterminé, une déduction visée au sous-alinéa (i) pour l'année si les conditions ci-après étaient remplies :

(A) le particulier déterminé n'avait eu aucun revenu pour l'année,

(B) dans le cas d'une déduction visée à la division (i)(A), le particulier n'avait pas été marié ou n'avait pas vécu en union de fait,

(C) dans le cas d'une déduction prévue au paragraphe 118(1), par l'application de l'alinéa d) de ce paragraphe, relativement à un particulier déterminé qui est une personne à charge, au sens du paragraphe 118(6), relativement au particulier, le particulier déterminé était à la charge du particulier en raison d'une infirmité mentale ou physique. (*eligible individual*)

particulier déterminé Est un particulier déterminé pour une année d'imposition le particulier qui remplit l'une des conditions suivantes :

a) il a atteint 65 ans avant la fin de l'année;

(a) is of an enduring nature and integral to the eligible dwelling; and

(b) is undertaken to

(i) enable the qualifying individual to gain access to, or to be mobile or functional within, the eligible dwelling, or

(ii) reduce the risk of harm to the qualifying individual within the eligible dwelling or in gaining access to the dwelling. (*travaux de rénovation admissibles*)

Qualifying expenditure rules

(2) For the purpose of this section,

(a) a qualifying expenditure in respect of an eligible dwelling of a particular individual — who is a qualifying individual or an eligible individual in respect of a qualifying individual — includes an outlay or expense made or incurred by a cooperative housing corporation, a condominium corporation (or, for civil law, a syndicate of co-owners) or a similar entity (in this paragraph referred to as the "corporation"), in respect of a property that is owned, administered or managed by that corporation and that includes the eligible dwelling, to the extent of the share of that outlay or expense that is reasonably attributable to the eligible dwelling, if

(i) the outlay or expense would be a qualifying expenditure of the corporation if the corporation were an individual and the property were an eligible dwelling of that individual, and

(ii) the corporation has notified, in writing, either the particular individual or, if the particular individual is an eligible individual in respect of a qualifying individual, the qualifying individual, of the share of the outlay or expense that is attributable to the eligible dwelling; and

(b) a qualifying expenditure in respect of an eligible dwelling of a particular individual — who is a

b) une somme est déductible à son égard en application de l'article 118.3, ou le serait en l'absence de l'alinéa 118.3(1)c), dans le calcul de l'impôt payable par un contribuable en vertu de la présente partie pour l'année. (*qualifying individual*)

travaux de rénovation admissibles S'entend de travaux de rénovation ou de transformation apportés au logement admissible d'un particulier déterminé ou d'un particulier admissible relativement à un particulier déterminé qui, à la fois :

a) sont des travaux à caractère durable qui font partie intégrante du logement admissible;

b) sont effectués à l'une des fins suivantes :

(i) permettre au particulier déterminé d'avoir accès au logement admissible, de s'y déplacer ou d'y accomplir les tâches de la vie quotidienne,

(ii) réduire le risque que le particulier déterminé ne se blesse à l'intérieur du logement admissible ou en y accédant. (*qualifying renovation*)

Dépense admissible — règles

(2) Les règles ci-après s'appliquent au présent article :

a) une dépense admissible relative au logement admissible d'un particulier donné — qui est un particulier déterminé ou un particulier admissible relativement à un particulier déterminé — comprend toute dépense engagée ou effectuée par une société coopérative d'habitation, une association condominiale — ou, pour l'application du droit civil, un syndicat de copropriétaires — ou une entité semblable (appelés « société » au présent alinéa), relativement à un bien dont la société est propriétaire, administrateur ou gestionnaire et qui comprend le logement admissible, jusqu'à concurrence de la part de cette dépense qu'il est raisonnable d'attribuer au logement admissible, dans le cas où, à la fois :

(i) la dépense serait une dépense admissible de la société si elle était un particulier et le bien, un logement admissible de ce particulier,

(ii) la société a avisé par écrit soit le particulier donné soit, si celui-ci est un particulier admissible relativement à un particulier déterminé, le particulier déterminé de la part de la dépense qui est attribuable au logement admissible;

b) une dépense admissible relativement au logement admissible d'un particulier donné — qui est un particulier déterminé ou un particulier admissible

qualifying individual or an eligible individual in respect of a qualifying individual — includes an outlay or expense made or incurred by a trust, in respect of a property owned by the trust that includes the eligible dwelling, to the extent of the share of that outlay or expense that is reasonably attributable to the eligible dwelling, having regard to the amount of the outlays or expenses made or incurred in respect of the eligible dwelling (including, for this purpose, common areas relevant to more than one eligible dwelling), if

(i) the outlay or expense would be a qualifying expenditure of the trust if the trust were an individual and the property were an eligible dwelling of that individual, and

(ii) the trust has notified, in writing, either the particular individual or, if the particular individual is an eligible individual in respect of a qualifying individual, the qualifying individual, of the share of the outlay or expense that is attributable to the eligible dwelling.

relativement à un particulier déterminé — comprend toute dépense engagée ou effectuée par une fiducie, relativement à un bien dont celle-ci est propriétaire et qui comprend le logement admissible, jusqu'à concurrence de la part de cette dépense qu'il est raisonnable d'attribuer au logement admissible, compte tenu du montant des dépenses engagées ou effectuées relativement au logement admissible (y compris, à cette fin, les aires communes de plus d'un logement admissible), dans le cas où, à la fois :

(i) la dépense serait une dépense admissible de la fiducie si elle était une personne physique et le bien, un logement admissible de cette personne,

(ii) la fiducie a avisé par écrit soit le particulier donné soit, si celui-ci est un particulier admissible relativement à un particulier déterminé, le particulier déterminé de la part de la dépense qui est attribuable au logement admissible.

Home accessibility tax credit

(3) For the purpose of computing the tax payable under this Part by a qualifying individual or an eligible individual, in respect of an eligible dwelling for a taxation year, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the taxation year; and

B is the lesser of

(a) $10,000, and

(b) the total of all amounts, each of which is a qualifying expenditure of the individual in respect of the eligible dwelling for the taxation year.

Crédit d'impôt pour l'accessibilité domiciliaire

(3) Est déductible dans le calcul de l'impôt payable en vertu de la présente partie par un particulier déterminé ou un particulier admissible relativement à un logement admissible pour une année d'imposition la somme obtenue par la formule suivante :

A × B

où :

A représente le taux de base pour l'année;

B la moindre des sommes suivantes :

a) 10 000 $,

b) le total des sommes représentant chacune une dépense admissible du particulier relativement au logement admissible pour l'année.

Interaction with medical expense credit

(4) Despite paragraph 248(28)(b), an amount may be included in determining both an amount under subsection (3) and under section 118.2 if those amounts otherwise qualify to be included for the purposes of those provisions.

Interaction avec le crédit d'impôt pour frais médicaux

(4) Malgré l'alinéa 248(28)b), une somme peut être incluse dans le calcul de la somme prévue au paragraphe (3) et de la somme prévue à l'article 118.2 si celles-ci peuvent être incluses par ailleurs dans le calcul prévu à ces dispositions.

Limits

(5) For the purpose of this section,

(a) a maximum of $10,000 of qualifying expenditures for a taxation year in respect of a qualifying individual can be claimed under subsection (3) by the qualifying

Limites

(5) Les règles ci-après s'appliquent au présent article :

a) un maximum de 10 000 $ en dépenses admissibles pour une année d'imposition relativement à un particulier déterminé peut être demandé en application du

individual and all eligible individuals in respect of the qualifying individual;

(b) if there is more than one qualifying individual in respect of an eligible dwelling, a maximum of $10,000 of qualifying expenditures for a taxation year in respect of the eligible dwelling can be claimed under subsection (3) by the qualifying individuals and all eligible individuals in respect of the qualifying individuals; and

(c) if more than one individual is entitled to a deduction under subsection (3) for a taxation year in respect of the same qualifying individual or the same eligible dwelling and the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

paragraphe (3) par le particulier déterminé et tous les particuliers admissibles relativement au particulier déterminé;

b) s'il existe plus d'un particulier déterminé relativement au même logement admissible, un maximum de 10 000 $ en dépenses admissibles pour une année d'imposition relativement au logement admissible peut être demandé en application du paragraphe (3) par les particuliers déterminés et tous les particuliers admissibles relativement aux particuliers déterminés;

c) si plus d'un particulier a droit, pour une année d'imposition, à la déduction prévue au paragraphe (3) relativement au même particulier déterminé ou au même logement admissible et que ces particuliers ne s'entendent pas sur la répartition entre eux du montant à déduire, le ministre peut faire cette répartition.

Effect of bankruptcy

(6) For the purpose of subsection (5), if an individual becomes bankrupt in a particular calendar year, despite subsection 128(2), any reference to the taxation year of the individual is deemed to be a reference to the particular calendar year.

Effet de la faillite

(6) Pour l'application du paragraphe (5), si un particulier devient un failli au cours d'une année civile donnée, malgré le paragraphe 128(2), toute mention de l'année d'imposition du particulier vaut mention de cette année civile.

In the event of death and bankruptcy

(7) For the purpose of this section,

(a) if an individual dies during a calendar year and would have attained 65 years of age if the individual were alive at the end of the year, the individual is deemed to have attained 65 years of age at the beginning of the year;

(b) if an individual becomes a qualifying individual during a calendar year and becomes bankrupt in that year, the individual is deemed to be a qualifying individual at the beginning of that year; and

(c) if an individual becomes a qualifying individual during a calendar year and an eligible individual in respect of the qualifying individual becomes bankrupt in that year, the individual is deemed to be a qualifying individual at the beginning of the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2015, c. 36, s. 8; 2017, c. 20, s. 14.

Décès ou faillite du particulier

(7) Les règles ci-après s'appliquent au présent article :

a) si un particulier décède au cours d'une année civile à la fin de laquelle il aurait atteint 65 ans s'il était demeuré vivant, il est réputé avoir atteint 65 ans au début de l'année;

b) si un particulier devient un particulier déterminé au cours d'une année civile dans laquelle il devient un failli, il est réputé être un particulier déterminé au début de cette année;

c) si un particulier devient un particulier déterminé au cours d'une année civile et qu'un particulier admissible relativement à ce particulier déterminé devient un failli dans l'année, le particulier est réputé être un particulier déterminé au début de cette année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2015, ch. 36, art. 8; 2017, ch. 20, art. 14.

Definitions

118.05 (1) The following definitions apply in this section.

qualifying home in respect of an individual, means a ***qualifying home*** as defined in subsection 146.01(1) that is acquired, whether jointly or otherwise, after January 27, 2009 if

Définitions

118.05 (1) Les définitions qui suivent s'appliquent au présent article.

habitation admissible S'entend, relativement à un particulier, d'une habitation admissible, au sens du paragraphe 146.01(1), qui est acquise, conjointement ou autrement, après le 27 janvier 2009 si, selon le cas :

(a) the home is acquired by the individual, or by the individual's spouse or common-law partner, and

(i) the individual intends to inhabit the home as a principal place of residence not later than one year after its acquisition,

(ii) the individual did not own, whether jointly or otherwise, a home that was occupied by the individual in the period

(A) that began at the beginning of the fourth preceding calendar year that ended before the acquisition, and

(B) that ended on the day before the acquisition, and

(iii) the individual's spouse or common-law partner did not, in the period referred to in subparagraph (ii), own, whether jointly or otherwise, a home

(A) that was inhabited by the individual during the marriage to or common-law partnership with the individual, or

(B) that was a share of the capital stock of a co-operative housing corporation that relates to a housing unit inhabited by the individual during the marriage to or common-law partnership with the individual; or

(b) the home is acquired by the individual for the benefit of a specified person in respect of the individual, and

(i) the individual intends that the home be inhabited by the specified person as a principal place of residence not later than one year after its acquisition by the individual, and

(ii) the purpose of the acquisition of the home by the individual is to enable the specified person to live in

(A) a home that is more accessible by the specified person or in which the specified person is more mobile or functional, or

(B) an environment better suited to the specified person's personal needs and care. (*habitation admissible*)

specified person in respect of an individual, at any time, means a person who

a) l'habitation est acquise par le particulier ou par son époux ou conjoint de fait et, à la fois :

(i) le particulier a l'intention d'en faire son lieu principal de résidence au plus tard un an après son acquisition,

(ii) le particulier n'a pas été propriétaire, conjointement ou autrement, d'une habitation qu'il a occupée au cours de la période :

(A) ayant commencé au début de la quatrième année civile précédente ayant pris fin avant l'acquisition,

(B) s'étant terminée la veille de l'acquisition,

(iii) l'époux ou le conjoint de fait du particulier n'a pas été propriétaire, conjointement ou autrement, au cours de la période visée au sous-alinéa (ii) d'une habitation qui était :

(A) soit une habitation que le particulier occupait pendant leur mariage ou union de fait,

(B) soit une part du capital social d'une société coopérative d'habitation se rattachant à un logement que le particulier occupait pendant leur mariage ou union de fait;

b) l'habitation est acquise par le particulier au profit d'une personne déterminée en ce qui le concerne et, à la fois :

(i) le particulier a l'intention d'en faire le lieu principal de résidence de la personne déterminée au plus tard un an après qu'il en a fait l'acquisition,

(ii) la raison pour laquelle le particulier a acquis l'habitation est de permettre à la personne déterminée de vivre :

(A) soit dans une habitation qui lui est plus facile d'accès ou dans laquelle elle peut se déplacer ou accomplir les tâches de la vie quotidienne plus facilement,

(B) soit dans un milieu qui est mieux adapté à ses besoins personnels ou aux soins qu'elle requiert. (*qualifying home*)

personne déterminée S'entend, en ce qui concerne un particulier à un moment donné, d'une personne qui, à la fois :

a) est le particulier ou est liée à celui-ci à ce moment;

(a) is the individual or is related at that time to the individual; and

(b) would be entitled to a deduction under subsection 118.3(1) in computing tax payable under this Part for the person's taxation year that includes that time if that subsection were read without reference to paragraph (c) of that subsection. (*personne déterminée*)

b) aurait droit à la déduction prévue au paragraphe 118.3(1) dans le calcul de l'impôt à payer en vertu de la présente partie pour son année d'imposition qui comprend ce moment si ce paragraphe s'appliquait compte non tenu de son alinéa c). (*specified person*)

Rules of application

(2) For the purposes of this section, an individual is considered to have acquired a qualifying home only if the individual's interest (or for civil law, right) in it is registered in accordance with the land registration system or other similar system applicable where it is located.

Règles d'application

(2) Pour l'application du présent article, il est considéré qu'un particulier a acquis une habitation admissible seulement si son intérêt ou, pour l'application du droit civil, son droit sur l'habitation est enregistré conformément au système d'enregistrement des titres fonciers ou à tout autre système semblable en vigueur là où l'habitation est située.

First-time home buyers' tax credit

(3) In computing the tax payable under this Part by an individual for a taxation year in which a qualifying home in respect of the individual is acquired, there may be deducted the amount determined by multiplying $5,000 by the appropriate percentage for the taxation year.

Crédit d'impôt pour l'achat d'une première habitation

(3) Est déductible dans le calcul de l'impôt à payer par un particulier en vertu de la présente partie pour une année d'imposition au cours de laquelle une habitation admissible relative au particulier est acquise le produit de 5 000 $ par le taux de base pour l'année.

Apportionment of credit

(4) If more than one individual is entitled to a deduction under this section for a taxation year in respect of a particular qualifying home, the total of all amounts so deductible shall not exceed the maximum amount that would be so deductible for the year by any one of those individuals in respect of the qualifying home, if that individual were the only individual entitled to deduct an amount for the year under this section, and if the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2009, c. 31, s. 4.

Restriction

(4) Si plus d'un particulier a droit, pour une année d'imposition, à la déduction prévue au présent article relativement à une habitation admissible, le total des sommes ainsi déductibles ne peut dépasser le maximum qu'un seul de ces particuliers pourrait déduire pour l'année à l'égard de l'habitation. Si ces particuliers ne s'entendent pas sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2009, ch. 31, art. 4.

Definition of *eligible volunteer firefighting services*

118.06 (1) In this section and section 118.07, ***eligible volunteer firefighting services*** means services provided by an individual in the individual's capacity as a volunteer firefighter to a fire department that consist primarily of responding to and being on call for firefighting and related emergency calls, attending meetings held by the fire department and participating in required training related to the prevention or suppression of fires, but does not include services provided to a particular fire department if the individual provides firefighting services to the department otherwise than as a volunteer.

Définition de *services admissibles de pompier volontaire*

118.06 (1) Au présent article et à l'article 118.07, ***services admissibles de pompier volontaire*** s'entend des services fournis par un particulier en sa qualité de pompier volontaire auprès d'un service d'incendie, qui consistent principalement à intervenir et à être de permanence en cas d'incendie ou de situations d'urgence connexes, à assister à des réunions tenues par le service d'incendie et à participer aux activités de formation indispensable liées à la prévention ou à l'extinction d'incendies. En sont exclus les services de lutte contre les incendies fournis à un service d'incendie autrement qu'à titre de volontaire.

Volunteer firefighter tax credit

(2) For the purpose of computing the tax payable under this Part for a taxation year by an individual who performs eligible volunteer firefighting services in the year, there may be deducted the amount determined by multiplying $3,000 by the appropriate percentage for the taxation year if the individual

(a) performs in the year not less than 200 hours of service each of which is an hour of

(i) eligible volunteer firefighting service for a fire department, or

(ii) eligible search and rescue volunteer service for an eligible search and rescue organization; and

(b) provides the certificates referred to in subsections (3) and 118.07(3) as and when requested by the Minister.

Certificate

(3) If the Minister so demands, an individual making a claim under this section in respect of a taxation year shall provide to the Minister a written certificate from the fire chief or a delegated official of each fire department to which the individual provided eligible volunteer firefighting services for the year, attesting to the number of hours of eligible volunteer firefighting services performed in the year by the individual for the particular fire department.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2011, c. 24, s. 25; 2014, c. 20, s. 7.

Definitions

118.07 (1) The following definitions apply in this section and section 118.06.

eligible search and rescue organization means a search and rescue organization

(a) that is a member of the Search and Rescue Volunteer Association of Canada, the Civil Air Search and Rescue Association or the Canadian Coast Guard Auxiliary; or

(b) whose status as a search and rescue organization is recognized by a provincial, municipal or public authority. (*organisme admissible de recherche et sauvetage*)

eligible search and rescue volunteer services means services, other than eligible volunteer firefighting services, provided by an individual in the individual's capacity as a volunteer to an eligible search and rescue organization that consist primarily of responding to and being

Crédit d'impôt pour les pompiers volontaires

(2) Est déductible dans le calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par un particulier qui fournit des services admissibles de pompier volontaire au cours de l'année le produit de 3 000 $ par le taux de base pour l'année si le particulier, à la fois :

a) effectue au cours de l'année au moins deux cents heures de service dont chacune représente :

(i) une heure de services admissibles de pompier volontaire auprès d'un service d'incendie,

(ii) une heure de services admissibles de volontaire en recherche et sauvetage auprès d'un organisme admissible de recherche et sauvetage;

b) fournit, conformément à la demande du ministre, les certificats visés aux paragraphes (3) et 118.07(3).

Certificat

(3) Sur demande du ministre, le particulier qui demande pour une année d'imposition la déduction prévue au présent article doit fournir au ministre un certificat écrit, provenant du chef ou d'un cadre délégué de chaque service d'incendie auquel il a fourni des services admissibles de pompier volontaire pour l'année, attestant le nombre d'heures de services admissibles de pompier volontaire qu'il a effectuées au cours de l'année pour le service d'incendie en cause.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2011, ch. 24, art. 25; 2014, ch. 20, art. 7.

Définitions

118.07 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 118.06.

organisme admissible de recherche et sauvetage Organisme de recherche et sauvetage à l'égard duquel l'un des énoncés ci-après se vérifie :

a) il est membre de l'Association canadienne des volontaires en recherche et sauvetage, de l'Association civile de recherche et de sauvetage aériens ou de la Garde côtière auxiliaire canadienne;

b) son statut d'organisme de recherche et sauvetage est reconnu par une autorité provinciale, municipale ou publique. (*eligible search and rescue organization*)

services admissibles de volontaire en recherche et sauvetage Services, sauf les services admissibles de pompier volontaire, fournis par un particulier en sa qualité de volontaire auprès d'un organisme admissible de

on call for search and rescue and related emergency calls, attending meetings held by the organization and participating in required training related to search and rescue services, but does not include services provided to an organization if the individual provides search and rescue services to the organization otherwise than as a volunteer. (*services admissibles de volontaire en recherche et sauvetage*)

recherche et sauvetage, qui consistent principalement à intervenir et à être de permanence en cas de situations de recherche et sauvetage ou de situations d'urgence connexes, à assister à des réunions tenues par l'organisme et à participer aux activités de formation indispensable liées à la prestation de services de recherche et sauvetage. En sont exclus les services de recherche et sauvetage fournis à un organisme autrement qu'à titre de volontaire. (*eligible search and rescue volunteer services*)

Search and rescue volunteer tax credit

(2) For the purpose of computing the tax payable under this Part for a taxation year by an individual who performs eligible search and rescue volunteer services in the year, there may be deducted the amount determined by multiplying $3,000 by the appropriate percentage for the taxation year if the individual

(a) performs in the year not less than 200 hours of service each of which is an hour of

(i) eligible search and rescue volunteer service for an eligible search and rescue organization, or

(ii) eligible volunteer firefighting services for a fire department;

(b) provides the certificates referred to in subsections (3) and 118.06(3) as and when requested by the Minister; and

(c) has not deducted an amount under section 118.06 for the year.

Crédit d'impôt pour les volontaires en recherche et sauvetage

(2) Est déductible dans le calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par un particulier qui fournit des services admissibles de volontaire en recherche et sauvetage au cours de l'année le produit de 3 000 $ par le taux de base pour l'année si le particulier, à la fois :

a) effectue au cours de l'année au moins deux cents heures de service dont chacune représente :

(i) une heure de services admissibles de volontaire en recherche et sauvetage auprès d'un organisme admissible de recherche et sauvetage,

(ii) une heure de services admissibles de pompier volontaire auprès d'un service d'incendie;

b) fournit, conformément à la demande du ministre, les certificats visés aux paragraphes (3) et 118.06(3);

c) n'a pas déduit de somme en application de l'article 118.06 pour l'année.

Certificate

(3) If the Minister so demands, an individual making a claim under this section in respect of a taxation year shall provide to the Minister a written certificate from the team president, or other individual who fulfils a similar role, of each eligible search and rescue organization to which the individual provided eligible search and rescue volunteer services for the year, attesting to the number of hours of eligible search and rescue volunteer services performed in the year by the individual for the particular organization.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 8.

Certificat

(3) Sur demande du ministre, le particulier qui demande pour une année d'imposition la déduction prévue au présent article doit fournir au ministre un certificat écrit, provenant du dirigeant d'équipe, ou d'un autre particulier qui remplit un rôle semblable, de chaque organisme admissible de recherche et sauvetage auquel il a fourni des services admissibles de volontaire en recherche et sauvetage pour l'année, attestant le nombre d'heures de services admissibles de volontaire en recherche et sauvetage qu'il a effectuées au cours de l'année pour l'organisme en cause.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 8.

Definitions

118.1 (1) In this section,

first-time donor, for a taxation year, means an individual (other than a trust)

Définitions

118.1 (1) Les définitions qui suivent s'appliquent au présent article.

(a) who has not deducted an amount under subsection (3) for a preceding taxation year that ends after 2007, and

(b) who is not, at the end of the year, married to a person (other than a person who was at that time separated from the individual by reason of a breakdown of their marriage), or in a common-law partnership with a person, who has deducted an amount under subsection (3) for a preceding taxation year that ends after 2007; (*premier donateur*)

total charitable gifts, of an individual for a particular taxation year, means the total of all amounts each of which is the eligible amount — to the extent it is not otherwise included in determining an amount that is deducted under this section in computing any individual's tax payable under this Part for any taxation year — of a gift (other than a gift any part of the eligible amount of which is included in the total cultural gifts or the total ecological gifts of any individual for any taxation year) that is made

(a) to a qualified donee,

(b) in a taxation year that is not a year for which an amount is deducted under subsection 110(2) in computing the individual's taxable income, and

(c) if the individual is

(i) not a trust,

(A) by the individual, or the individual's spouse or common-law partner, in the particular year or any of the five preceding taxation years,

(B) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or

(C) by the individual's estate if subsection (5.1) applies to the gift and the particular year is the taxation year in which the individual dies or the preceding taxation year, or

(ii) a trust

(A) by the trust in the particular year or any of the five preceding taxation years,

(B) by the trust if

(I) the trust is an individual's estate,

(II) subsection (5.1) applies to the gift, and

premier donateur Pour une année d'imposition donnée, particulier, à l'exception d'une fiducie, qui, à la fois :

a) n'a pas déduit de somme en application du paragraphe (3) pour une année d'imposition antérieure se terminant après 2007;

b) à la fin de l'année donnée, n'est pas marié à une personne (sauf une personne dont il est séparé à ce moment pour cause d'échec du mariage) qui a déduit une somme en application du paragraphe (3) pour une année d'imposition antérieure se terminant après 2007, ni ne vit en union de fait avec une personne ayant déduit une telle somme. (*first-time donor*)

total des dons S'agissant du total des dons d'un particulier pour une année d'imposition, le total des montants suivants :

a) le moins élevé des montants suivants :

(i) le total des dons de bienfaisance du particulier pour l'année,

(ii) si le particulier est décédé au cours de l'année ou de l'année d'imposition subséquente, son revenu pour l'année,

(iii) sinon, le revenu du particulier pour l'année ou, s'il est inférieur, le résultat du calcul suivant :

0,75A + 0,25(B + C + D - E)

où :

A représente le revenu du particulier pour l'année,

B le total des montants représentant chacun la proportion du gain en capital imposable du particulier pour l'année relativement à un don qu'il a fait au cours de l'année et à l'égard duquel un montant admissible est inclus dans le total des dons de bienfaisance qui lui est applicable pour l'année, que représente le rapport entre le montant admissible du don et le produit de disposition relatif au don pour lui,

C le total des montants représentant chacun un gain en capital imposable du particulier pour l'année, par l'effet du paragraphe 40(1.01), tiré de la disposition d'un bien effectuée au cours d'une année d'imposition antérieure,

D le total des montants représentant chacun le moins élevé des montants suivants, déterminé relativement à ses biens amortissables d'une catégorie prescrite :

(III) the particular year is a taxation year

1 in which the estate is the individual's graduated rate estate, and

2 that precedes the taxation year in which the gift is made, or

(C) by the trust if

(I) the end of the particular year is determined by paragraph 104(13.4)(a) because of an individual's death,

(II) the gift is made after the particular year and on or before the trust's filing-due date for the particular year, and

(III) the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; (*total des dons de bienfaisance*)

total Crown gifts [Repealed, 2014, c. 39, s. 34]

total cultural gifts, of an individual for a particular taxation year, means the total of all amounts each of which is the eligible amount — to the extent it is not otherwise included in determining an amount that is deducted under this section in computing any individual's tax payable under this Part for any taxation year — of a gift

(a) of an object that the Canadian Cultural Property Export Review Board has determined meets the criteria set out in paragraphs 29(3)(b) and (c) of the *Cultural Property Export and Import Act*,

(b) that is made to an institution or a public authority in Canada that is, at the time the gift is made, designated under subsection 32(2) of the *Cultural Property Export and Import Act* either generally or for a specified purpose related to that object, and

(c) that is made

(i) if the individual is not a trust,

(A) by the individual, or the individual's spouse or common-law partner, in the particular year or any of the five preceding taxation years,

(B) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or

(A) le montant inclus selon le paragraphe 13(1), relativement à la catégorie, dans le calcul du revenu du particulier pour l'année,

(B) le total des montants représentant chacun le moins élevé des montants ci-après, déterminé relativement à une disposition qui consiste, pour le particulier, à faire au cours de l'année un don d'un bien de la catégorie, à l'égard duquel un montant admissible est inclus dans le total des dons de bienfaisance qui lui est applicable pour l'année :

(I) la proportion de l'excédent du produit de disposition du bien sur les dépenses engagées ou effectuées — dans la mesure où le particulier les a engagées ou effectuées en vue d'effectuer la disposition — que représente le rapport entre le montant admissible du don et le produit de disposition relatif au don pour le particulier,

(II) la proportion du coût en capital du bien pour le particulier, que représente le rapport entre le montant admissible du don et le produit de disposition relatif au don pour lui,

E le total des montants représentant chacun la partie d'un montant déduit en application de l'article 110.6 dans le calcul du revenu imposable du particulier pour l'année qu'il est raisonnable de considérer comme se rapportant au don visé aux éléments B ou C;

b) [Abrogé, 2014, ch. 39, art. 34]

c) le total des dons de biens culturels du particulier pour l'année;

d) le total des dons de biens écosensibles du particulier pour l'année. (*total gifts*)

total des dons à l'État [Abrogée, 2014, ch. 39, art. 34]

total des dons de bienfaisance En ce qui concerne un particulier pour une année d'imposition donnée, le total des sommes représentant chacune le montant admissible — dans la mesure où il n'est pas inclus par ailleurs dans le calcul d'une somme déduite en application du présent article dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition — d'un don (sauf un don dont le montant admissible est inclus en tout ou en partie dans le total des dons de biens culturels ou le total des dons de biens écosensibles

(C) by the individual's estate if subsection (5.1) applies to the gift and the particular year is the taxation year in which the individual dies or the preceding taxation year, or

(ii) if the individual is a trust,

(A) by the trust in the particular year or any of the five preceding taxation years,

(B) by the trust if

(I) the trust is an individual's estate,

(II) subsection (5.1) applies to the gift, and

(III) the particular year is a taxation year

1 in which the estate is the individual's graduated rate estate, and

2 that precedes the taxation year in which the gift is made, or

(C) by the trust if

(I) the end of the particular year is determined by paragraph 104(13.4)(a) because of an individual's death,

(II) the gift is made after the particular year and on or before the trust's filing-due date for the particular year, and

(III) the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; (*total des dons de biens culturels*)

total ecological gifts, of an individual for a particular taxation year, means the total of all amounts each of which is the eligible amount — to the extent it is not otherwise included in determining an amount that is deducted under this section in computing any individual's tax payable under this Part for any taxation year — of a gift (other than a gift any part of the eligible amount of which is included in the total cultural gifts of any individual for any taxation year)

(a) of land (including a covenant or an easement to which land is subject or, in the case of land in the Province of Quebec, a real servitude)

(i) the fair market value of which is certified by the Minister of the Environment, and

d'un particulier pour une année d'imposition) à l'égard duquel les faits ci-après s'avèrent :

a) le don est fait à un donataire reconnu;

b) le don est fait au cours d'une année d'imposition autre qu'une année pour laquelle une somme est déduite en application du paragraphe 110(2) dans le calcul du revenu imposable du particulier;

c) selon le cas :

(i) si le particulier n'est pas une fiducie, un des énoncés ci-après s'applique :

(A) le don est fait par le particulier, ou par son époux ou conjoint de fait, au cours de l'année donnée ou des cinq années d'imposition précédentes,

(B) le don est fait par le particulier au cours de l'année de son décès et l'année donnée est l'année d'imposition qui précède celle de son décès,

(C) le don est fait par la succession du particulier, le paragraphe (5.1) s'applique au don et l'année donnée est l'année d'imposition du décès du particulier ou l'année d'imposition précédente,

(ii) si le particulier est une fiducie, un des énoncés ci-après s'applique :

(A) le don est fait par la fiducie au cours de l'année donnée ou des cinq années d'imposition précédentes,

(B) le don est fait par la fiducie et les énoncés ci-après se vérifient :

(I) la fiducie est la succession d'un particulier,

(II) le paragraphe (5.1) s'applique au don,

(III) l'année donnée est une année d'imposition :

1 d'une part, dans laquelle la succession est la succession assujettie à l'imposition à taux progressifs du particulier,

2 d'autre part, qui précède l'année d'imposition dans laquelle le don est fait,

(C) le don est fait par la fiducie et les énoncés ci-après se vérifient :

(ii) that is certified by that Minister, or by a person designated by that Minister, to be ecologically sensitive land, the conservation and protection of which is, in the opinion of that Minister or the designated person, important to the preservation of Canada's environmental heritage,

(b) that is made to a qualified donee that is

(i) Her Majesty in right of Canada or of a province, a municipality in Canada or a municipal or public body performing a function of government in Canada, or

(ii) a registered charity one of the main purposes of which is, in the opinion of that Minister, the conservation and protection of Canada's environmental heritage, and that is approved by that Minister or the designated person in respect of the gift, and

(c) that is made

(i) if the individual is not a trust,

(A) by the individual, or the individual's spouse or common-law partner, in the particular year or any of the 10 preceding taxation years,

(B) by the individual in the year in which the individual dies if the particular year is the taxation year that precedes the taxation year in which the individual dies, or

(C) by the individual's estate if subsection (5.1) applies to the gift and the particular year is the taxation year in which the individual dies or the preceding taxation year, or

(ii) if the individual is a trust,

(A) by the trust in the particular year or any of the 10 preceding taxation years,

(B) by the trust if

(I) the trust is an individual's estate,

(II) subsection (5.1) applies to the gift, and

(III) the particular year is a taxation year

1 in which the estate is the individual's graduated rate estate, and

2 that precedes the taxation year in which the gift is made, or

(C) by the trust if

(I) la fin de l'année donnée est déterminée selon l'alinéa 104(13.4)a) en raison du décès d'un particulier,

(II) le don est fait après l'année donnée et au plus tard à la date d'échéance de production qui est applicable à la fiducie pour l'année donnée,

(III) l'objet du don est un bien donné détenu par la fiducie au moment du décès du particulier ou un bien substitué au bien donné. (*total charitable gifts*)

total des dons de biens culturels En ce qui concerne un particulier pour une année d'imposition donnée, le total des sommes représentant chacune le montant admissible — dans la mesure où il n'est pas inclus par ailleurs dans le calcul d'une somme déduite en application du présent article dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition — d'un don à l'égard duquel les faits ci-après s'avèrent :

a) il s'agit du don d'un objet qui, selon la Commission canadienne d'examen des exportations de biens culturels, est conforme aux critères d'intérêt et d'importance énoncés au paragraphe 29(3) de la *Loi sur l'exportation et l'importation de biens culturels*;

b) le don est fait à un établissement ou une administration au Canada qui, au moment du don, est désigné, en application du paragraphe 32(2) de la *Loi sur l'exportation et l'importation de biens culturels*, à des fins générales ou à une fin particulière liée à cet objet;

c) selon le cas :

(i) si le particulier n'est pas une fiducie, un des énoncés ci-après s'applique :

(A) le don est fait par le particulier, ou par son époux ou conjoint de fait, au cours de l'année donnée ou des cinq années d'imposition précédentes,

(B) le don est fait par le particulier au cours de l'année de son décès et l'année donnée est l'année d'imposition qui précède celle de son décès,

(C) le don est fait par la succession du particulier, le paragraphe (5.1) s'applique au don et l'année donnée est l'année d'imposition du décès du particulier ou l'année d'imposition précédente,

(ii) si le particulier est une fiducie, un des énoncés ci-après s'applique :

(I) the end of the particular year is determined by paragraph 104(13.4)(a) because of an individual's death,

(II) the gift is made after the particular year and on or before the trust's filing-due date for the particular year, and

(III) the subject of the gift is property that is held by the trust at the time of the individual's death or is property that was substituted for that property; (*total des dons de biens écosensibles*)

total gifts of an individual for a taxation year means the total of

(a) the least of

(i) the individual's total charitable gifts for the year,

(ii) the individual's income for the year where the individual dies in the year or in the following taxation year, and

(iii) in any other case, the lesser of the individual's income for the year and the amount determined by the formula

0.75A + 0.25 (B + C + D - E)

where

A is the individual's income for the year,

B is the total of all amounts, each of which is that proportion of the individual's taxable capital gain for the taxation year in respect of a gift made by the individual in the taxation year (in respect of which gift an eligible amount is included in the individual's total charitable gifts for the taxation year) that the eligible amount of the gift is of the individual's proceeds of disposition in respect of the gift,

C is the total of all amounts each of which is a taxable capital gain of the individual for the year, because of subsection 40(1.01), from a disposition of a property in a preceding taxation year,

D is the total of all amounts each of which is determined in respect of the individual's depreciable property of a prescribed class and equal to the lesser of

(A) the amount included under subsection 13(1) in respect of the class in computing the individual's income for the year, and

(A) le don est fait par la fiducie au cours de l'année donnée ou des cinq années d'imposition précédentes,

(B) le don est fait par la fiducie et les énoncés ci-après se vérifient :

(I) la fiducie est la succession d'un particulier,

(II) le paragraphe (5.1) s'applique au don,

(III) l'année donnée est une année d'imposition :

1 d'une part, dans laquelle la succession est la succession assujettie à l'imposition à taux progressifs du particulier,

2 d'autre part, qui précède l'année d'imposition dans laquelle le don est fait,

(C) le don est fait par la fiducie et les énoncés ci-après se vérifient :

(I) la fin de l'année donnée est déterminée selon l'alinéa 104(13.4)a) en raison du décès d'un particulier,

(II) le don est fait après l'année donnée et au plus tard à la date d'échéance de production qui est applicable à la fiducie pour l'année donnée,

(III) l'objet du don est un bien donné détenu par la fiducie au moment du décès du particulier ou un bien substitué au bien donné. (*total cultural gifts*)

total des dons de biens écosensibles En ce qui concerne un particulier pour une année d'imposition donnée, le total des sommes représentant chacune le montant admissible — dans la mesure où il n'est pas inclus par ailleurs dans le calcul d'une somme déduite en application du présent article dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition — d'un don (sauf un don dont le montant admissible est inclus en tout ou en partie dans le total des dons de biens culturels d'un contribuable pour une année d'imposition) à l'égard duquel les faits ci-après s'avèrent :

a) il s'agit du don d'un fonds de terre (y compris un covenant ou une servitude, visant un fonds de terre, la servitude devant être une servitude réelle si le fonds de terre est situé au Québec) :

(B) the total of all amounts each of which is determined in respect of a disposition that is the making of a gift of property of the class made by the individual in the year (in respect of which gift an eligible amount is included in the individual's total charitable gifts for the taxation year) equal to the lesser of

(I) that proportion, of the amount by which the proceeds of disposition of the property exceed any outlays and expenses, to the extent that they were made or incurred by the individual for the purpose of making the disposition, that the eligible amount of the gift is of the individual's proceeds of disposition in respect of the gift, and

(II) that proportion, of the capital cost to the individual of the property, that the eligible amount of the gift is of the individual's proceeds of disposition in respect of the gift, and

E is the total of all amounts each of which is the portion of an amount deducted under section 110.6 in computing the individual's taxable income for the year that can reasonably be considered to be in respect of a gift referred to in the description of B or C,

(b) [Repealed, 2014, c. 39, s. 34]

(c) the individual's total cultural gifts for the year, and

(d) the individual's total ecological gifts for the year. (*total des dons*)

(i) dont la juste valeur marchande est attestée par le ministre de l'Environnement,

(ii) qui, selon l'attestation de ce ministre ou d'une personne qu'il désigne, est sensible sur le plan écologique et dont la préservation et la conservation sont, de l'avis de ce ministre ou de cette personne, importantes pour la protection du patrimoine environnemental du Canada;

b) le don est fait à un donataire reconnu qui est, selon le cas :

(i) Sa Majesté du chef du Canada ou d'une province, une municipalité du Canada ou un organisme municipal ou public remplissant une fonction gouvernementale au Canada,

(ii) un organisme de bienfaisance enregistré qui est approuvé par le ministre de l'Environnement ou par la personne désignée pour ce qui est du don et dont l'une des principales missions, de l'avis de ce ministre, est de conserver et de protéger le patrimoine environnemental du Canada;

c) selon le cas :

(i) si le particulier n'est pas une fiducie, un des énoncés ci-après s'applique :

(A) le don est fait par le particulier, ou par son époux ou conjoint de fait, au cours de l'année donnée ou des dix années d'imposition précédentes,

(B) le don est fait par le particulier au cours de l'année de son décès et l'année donnée est l'année d'imposition qui précède celle de son décès,

(C) le don est fait par la succession du particulier, le paragraphe (5.1) s'applique au don et l'année donnée est l'année d'imposition du décès du particulier ou l'année d'imposition précédente,

(ii) si le particulier est une fiducie, un des énoncés ci-après s'applique :

(A) le don est fait par la fiducie au cours de l'année donnée ou des dix années d'imposition précédentes,

(B) le don est fait par la fiducie et les énoncés ci-après se vérifient :

(I) la fiducie est la succession d'un particulier,

(II) le paragraphe (5.1) s'applique au don,

(III) l'année donnée est une année d'imposition :

1 d'une part, dans laquelle la succession est la succession assujettie à l'imposition à taux progressifs du particulier,

2 d'autre part, qui précède l'année d'imposition dans laquelle le don est fait,

(C) le don est fait par la fiducie et les énoncés ci-après se vérifient :

(I) la fin de l'année donnée est déterminée selon l'alinéa 104(13.4)a) en raison du décès d'un particulier,

(II) le don est fait après l'année donnée et au plus tard à la date d'échéance de production qui est applicable à la fiducie pour l'année donnée,

(III) l'objet du don est un bien donné détenu par la succession au moment du décès du particulier ou un bien substitué au bien donné. (*total ecological gifts*)

Proof of gift

(2) An eligible amount of a gift is not to be included in the total charitable gifts, total cultural gifts or total ecological gifts of an individual unless the making of the gift is evidenced by filing with the Minister

(a) a receipt for the gift that contains prescribed information;

(b) in the case of a gift described in the definition ***total cultural gifts*** in subsection (1), the certificate issued under subsection 33(1) of the *Cultural Property Export and Import Act*; and

(c) in the case of a gift described in the definition ***total ecological gifts*** in subsection (1), both certificates referred to in that definition.

Attestation du don

(2) Pour que le montant admissible d'un don soit inclus dans le total des dons de bienfaisance, le total des dons de biens culturels ou le total des dons de biens écosensibles, le versement du don doit être attesté par la présentation au ministre des documents suivants :

a) un reçu contenant les renseignements prescrits;

b) s'il s'agit d'un don visé à la définition de ***total des dons de biens culturels*** au paragraphe (1), le certificat délivré en vertu du paragraphe 33(1) de la *Loi sur l'exportation et l'importation de biens culturels*;

c) s'il s'agit d'un don visé à la définition de ***total des dons de biens écosensibles*** au paragraphe (1), les deux attestations mentionnées à cette définition.

Ordering of gifts

(2.1) For the purpose of determining an individual's total charitable gifts, total cultural gifts and total ecological gifts for a taxation year, no amount in respect of a gift described in any of the definitions of those expressions and made in a particular taxation year is to be considered to have been included in determining an amount that was deducted under this section in computing the individual's tax payable under this Part for a taxation year until amounts in respect of such gifts made in taxation years

Ordre d'application

(2.1) Pour déterminer le total des dons de bienfaisance, le total des dons de biens culturels et le total des dons de biens écosensibles d'un particulier pour une année d'imposition, aucune somme relative à un don visé à la définition de l'une de ces expressions et fait au cours d'une année d'imposition donnée n'est considérée comme ayant été incluse dans le calcul d'une somme déduite en application du présent article dans le calcul de l'impôt payable par le particulier en vertu de la présente partie pour une année d'imposition tant que les sommes relatives à ces

preceding the particular year that can be so considered are so considered.

dons faits au cours des années d'imposition précédant l'année donnée qui peuvent être ainsi considérées ne le sont pas.

Deduction by individuals for gifts

(3) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted such amount as the individual claims not exceeding the amount determined by the formula

A × B + C × D + E × F

where

A is the appropriate percentage for the year;

B is the lesser of $200 and the individual's total gifts for the year;

C is the highest individual percentage for the year;

D is

(a) in the case of a trust (other than a graduated rate estate or a ***qualified disability trust*** as defined in subsection 122(3)), the amount, if any, by which its total gifts for the year exceeds $200, and

(b) in any other case, the lesser of

(i) the amount, if any, by which the individual's total gifts for the year exceeds $200, and

(ii) the amount, if any, by which the individual's amount taxable for the year for the purposes of subsection 117(2) exceeds the first dollar amount for the year referred to in paragraph 117(2)(e);

E is 29%; and

F is the amount, if any, by which the individual's total gifts for the year exceeds the total of $200 and the amount determined for D.

Crédits d'impôt pour dons

(3) Un particulier peut déduire dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition un montant qui ne dépasse pas le montant calculé selon la formule suivante :

A × B + C × D + E × F

où :

A représente le taux de base pour l'année;

B le moins élevé de 200 $ et du total des dons du particulier pour l'année;

C le taux d'imposition supérieur pour l'année;

D :

a) dans le cas d'une fiducie (sauf une ***fiducie admissible pour personne handicapée***, au sens du paragraphe 122(3), ou une succession assujettie à l'imposition à taux progressifs), l'excédent éventuel du total de ses dons pour l'année sur 200 $,

b) dans les autres cas, le moindre des montants suivants :

(i) l'excédent éventuel du total des dons du particulier pour l'année sur 200 $,

(ii) l'excédent éventuel du montant imposable du particulier pour l'année pour l'application du paragraphe 117(2) sur la première somme pour l'année mentionnée à l'alinéa 117(2)e);

E 29 %;

F l'excédent éventuel du total des dons du particulier pour l'année sur le total de 200 $ et du montant déterminé selon l'élément D.

First-time donor credit

(3.1) For the purpose of computing the tax payable under this Part by a first-time donor for a taxation year that begins after 2012 and ends before 2018, the first-time donor may deduct an amount not exceeding the lesser of $250 and the amount that is 25% of the total of all amounts, each of which is an eligible amount of a gift of money in the year or in any of the four preceding taxation years and in respect of which the first-time donor — or a person who is, at the end of the year, the first-time donor's spouse (other than a person who was at that time separated from the first-time donor by reason of a breakdown of their marriage) or common-law partner — has deducted an amount for the year under subsection (3).

Crédit pour premier don de bienfaisance

(3.1) Un premier donateur peut déduire, dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition commençant après 2012 et se terminant avant 2018, une somme n'excédant pas 250 $ ou, s'il est moins élevé, le montant correspondant à 25 % du total des sommes dont chacune représente un montant admissible d'un don d'argent fait au cours de l'année ou d'une des quatre années d'imposition précédentes et au titre duquel le premier donateur, ou une personne qui est, à la fin de l'année, son époux (sauf une personne dont il est séparé à ce moment pour cause d'échec du mariage) ou son conjoint de fait, a déduit une somme pour l'année en application du paragraphe (3).

Apportionment of credit

(3.2) If, at the end of a taxation year, both an individual and a person with whom the individual is married (other than a person who was at that time separated from the individual by reason of a breakdown of their marriage) or is in a common-law partnership may deduct an amount under subsection (3.1) for the year, the total of all amounts so deductible by the individual and the other person shall not exceed the maximum amount that would be deductible for the year by either person if the individual were the only one entitled to deduct an amount under subsection (3.1), and where the individual and the other person cannot agree as to what portion of the amount each can deduct, the Minister may fix the portions.

Répartition du crédit

(3.2) Si, à la fin d'une année d'imposition, un particulier et une personne à laquelle il est marié (sauf une personne dont il est séparé à ce moment pour cause d'échec du mariage) ou avec laquelle il vit en union de fait peuvent tous deux déduire une somme en application du paragraphe (3.1) pour l'année, le total des sommes ainsi déductibles par eux ne peut dépasser le maximum qu'un seul d'entre eux pourrait déduire pour l'année. Si le particulier et la personne ne s'entendent pas sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

Gifts — deaths before 2016

(4) If an individual dies before 2016 and any of this subsection and subsections (5), (5.2), (5.3), (7) and (7.1) (as they read for the taxation year in which the death occurred) applied to deem the individual to have made a gift at a time before the death, then for the purposes of this section the gift is deemed not to have been made by any other taxpayer or at any other time.

Don — décès avant 2016

(4) Le don qu'un particulier décédé avant 2016 est réputé, par l'effet du présent paragraphe ou d'un des paragraphes (5), (5.2), (5.3), (7) ou (7.1) dans leur version applicable à l'année d'imposition du décès, avoir fait avant son décès est réputé, pour l'application du présent article, ne pas avoir été fait par un autre contribuable ou à un autre moment.

Gifts — deaths after 2015

(4.1) Subsection (5) applies to a gift if an estate arises on and as a consequence of the death after 2015 of an individual and the gift is

(a) made by the individual by the individual's will;

(b) deemed by subsection (5.2) to have been made in respect of the death; or

(c) made by the estate.

Don — décès après 2015

(4.1) Le paragraphe (5) s'applique à un don à l'égard duquel un des énoncés ci-après s'avère si une succession commence à exister au décès d'un particulier qui survient après 2015 et par suite de ce décès :

a) le don est fait par le particulier par testament;

b) il est réputé, en vertu du paragraphe (5.2), avoir été fait relativement au décès;

c) il est fait par la succession.

Gifts — deaths after 2015

(5) If this subsection applies to a gift, then for the purposes of the Act (other than subsections (4.1) and (5.2)) the gift is deemed to be made

(a) by the estate referred to in subsection (4.1) and not by any other taxpayer; and

(b) subject to subsection (13), at the time that the property that is the subject of the gift is transferred to the donee and not at any other time.

Don — décès après 2015

(5) Pour l'application de la présente loi (sauf les paragraphes (4.1) et (5.2)), le don auquel le présent paragraphe s'applique est réputé être fait :

a) par la succession visée au paragraphe (4.1) et non par un autre contribuable;

b) sous réserve du paragraphe (13), au moment où le bien qui fait l'objet du don est transféré au donataire et non à un autre moment.

Gifts by graduated rate estate

(5.1) This subsection applies to a gift made by an individual's graduated rate estate (determined without reference to paragraph (a) of the definition ***graduated rate estate*** in subsection 248(1)) if the gift is made no more

Don — succession assujettie à l'imposition à taux progressifs

(5.1) Le présent paragraphe s'applique au don — fait par la succession assujettie à l'imposition à taux progressifs (ou une succession qui serait une succession assujettie à l'imposition à taux progressifs s'il n'était pas tenu compte

than 60 months after the individual's death, the death occurs after 2015 and either

(a) the gift is deemed by subsection (5.2) to have been made in respect of the death, or

(b) the subject of the gift is property that was acquired by the estate on and as a consequence of the death or is property that was substituted for that property.

de l'alinéa a) de la définition de ***succession assujettie à l'imposition à taux progressifs*** au paragraphe 248(1)) d'un particulier dont le décès survient après 2015 — qui suit le décès d'au plus 60 mois si l'un des faits ci-après s'avère :

a) le don est réputé, en vertu du paragraphe (5.2), avoir été fait relativement au décès;

b) l'objet du don est un bien donné qui a été acquis par la succession au moment du décès et par suite de ce décès ou un bien substitué au bien donné.

Deemed gifts — eligible transfers

(5.2) For the purposes of this section, money or a negotiable instrument transferred to a qualified donee is deemed to be property that is the subject of a gift, in respect of an individual's death, made to the qualified donee, if the death occurs after 2015 and the transfer is

(a) a transfer — other than a transfer the amount of which is not included in computing the income of the individual or the individual's estate for any taxation year but would have been included in computing the income of the individual or the estate for a taxation year if the transfer had been made to the individual's legal representative for the estate's benefit and this Act were read without reference to subsection 70(3) — made

(i) as a consequence of the death,

(ii) solely because of the obligations under a life insurance policy under which, immediately before the death, the individual's life was insured, and the individual's consent would have been required to change the recipient of the transfer, and

(iii) from an insurer to a person that is the qualified donee and that was, immediately before the death, neither a policyholder under the policy nor an assignee of the individual's interest under the policy; or

(b) a transfer made

(i) as a consequence of the death,

(ii) solely because of the qualified donee's interest or, for civil law a right, as a beneficiary under an arrangement (other than an arrangement of which a licensed annuities provider is the issuer or carrier)

(A) that is a registered retirement savings plan or registered retirement income fund or that was, immediately before the death, a TFSA, and

Dons réputés — transferts admissibles

(5.2) Pour l'application du présent article, une somme d'argent ou un titre négociable qui est transféré à un donataire reconnu est réputé être un bien qui fait l'objet d'un don à celui-ci, relativement au décès d'un particulier, si ce décès survient après 2015 et que le transfert, selon le cas :

a) est un transfert — sauf un transfert dont le montant n'est pas inclus dans le calcul du revenu du particulier ou de sa succession pour une année d'imposition, mais y aurait été inclus pour une année d'imposition si le transfert avait été effectué au représentant légal du particulier au profit de la succession et si la présente loi s'appliquait compte non tenu du paragraphe 70(3) — qui est effectué, à la fois :

(i) par suite du décès,

(ii) uniquement en exécution des obligations prévues par une police d'assurance-vie aux termes de laquelle la vie du particulier était assurée immédiatement avant son décès, un changement de bénéficiaire du transfert ne pouvant se faire sans le consentement du particulier,

(iii) d'un assureur à une personne qui est le donataire reconnu et qui, immédiatement avant le décès, n'était ni titulaire de la police ni cessionnaire de l'intérêt du particulier dans la police;

b) est un transfert qui est effectué, à la fois :

(i) par suite du décès,

(ii) en raison seulement de l'intérêt ou, pour l'application du droit civil, du droit du donataire reconnu à titre de bénéficiaire d'un arrangement (sauf un arrangement dont l'émetteur est un fournisseur de rentes autorisé) qui, à la fois :

(A) est un régime enregistré d'épargne-retraite ou un fonds enregistré de revenu de retraite ou

(B) under which the individual was, immediately before the death, the annuitant or holder, and

(iii) from the arrangement to the qualified donee.

(5.3) [Repealed, 2014, c. 39, s. 34]

Where subsection (6) applies

(5.4) Subsection (6) applies in circumstances where

(a) an individual

(i) makes a gift at any time of capital property to a qualified donee, or

(ii) who is non-resident, makes a gift at any time of real or immovable property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that the property will be held for use in the public interest; and

(b) the fair market value of the property otherwise determined at that time exceeds

(i) in the case of depreciable property of a prescribed class, the lesser of the undepreciated capital cost of that class at the end of the taxation year of the individual that includes that time (determined without reference to proceeds of disposition designated in respect of the property under subsection (6)) and the adjusted cost base to the individual of the property immediately before that time, and

(ii) in any other case, the adjusted cost base to the individual of the property immediately before that time.

Gifts of capital property

(6) If this subsection applies in respect of a gift by an individual of property, and the individual or the individual's legal representative designates an amount in respect of the gift in the individual's return of income under section 150 for the year in which the gift is made, the amount so designated is deemed to be the individual's proceeds of disposition of the property and, for the purpose of subsection 248(31), the fair market value of the gift, but the amount so designated may not exceed the fair market value of the property otherwise determined and may not be less than the greater of

était, immédiatement avant le décès, un compte d'épargne libre d'impôt,

(B) est un arrangement dont le particulier était le rentier ou le titulaire immédiatement avant son décès,

(iii) au donataire reconnu en raison de l'arrangement.

(5.3) [Abrogé, 2014, ch. 39, art. 34]

Application du paragraphe (6)

(5.4) Le paragraphe (6) s'applique dans les circonstances suivantes :

a) un particulier, selon le cas :

(i) fait don d'une immobilisation à un donataire reconnu,

(ii) s'il ne réside pas au Canada, fait don d'un bien immeuble ou réel situé au Canada à un donataire visé par règlement qui prend l'engagement, sous une forme que le ministre juge acceptable, que le bien sera détenu en vue d'un usage lié à l'intérêt public;

b) la juste valeur marchande du bien, déterminée par ailleurs au moment du don, excède :

(i) s'il s'agit d'un bien amortissable d'une catégorie prescrite, la fraction non amortie du coût en capital de cette catégorie à la fin de l'année d'imposition du particulier qui comprend ce moment, déterminée compte non tenu du produit de disposition indiqué à l'égard du bien en vertu du paragraphe (6), ou, s'il est moins élevé, le prix de base rajusté du bien pour le particulier immédiatement avant ce moment,

(ii) dans les autres cas, le prix de base rajusté du bien pour le particulier immédiatement avant ce moment.

Don d'une immobilisation

(6) Si le présent paragraphe s'applique au don d'un bien par un particulier à l'égard duquel le particulier ou son représentant légal a indiqué un montant dans la déclaration de revenu du particulier produite conformément à l'article 150 pour l'année du don, le montant ainsi indiqué est réputé correspondre à la fois au produit de disposition du bien pour le particulier et, pour l'application du paragraphe 248(31), à la juste valeur marchande du don. Il ne peut toutefois ni excéder la juste valeur du bien déterminée par ailleurs ni être inférieur au plus élevé des montants suivants :

(a) in the case of a gift made after December 20, 2002, the amount of the advantage, if any, in respect of the gift, and

(b) the amount determined under subparagraph (5.4)(b)(i) or (ii), as the case may be, in respect of the property.

a) s'il s'agit d'un don fait après le 20 décembre 2002, le montant de l'avantage au titre du don;

b) le montant déterminé selon les sous-alinéas (5.4)b)(i) ou (ii), selon le cas, relativement au bien.

Gift of art

(7) Subsection (7.1) applies to a gift made by an individual if the gift is described in the definition ***total charitable gifts*** or ***total cultural gifts*** in subsection (1) and the property that is the subject of the gift is a work of art that

(a) was created by the individual and is in the individual's inventory;

(b) was acquired by the individual under circumstances where subsection 70(3) applies; or

(c) if the individual is an estate that arose on and as a consequence of the death of a particular individual who created the work of art, was in the particular individual's inventory immediately before the death.

Don d'une œuvre d'art

(7) Le paragraphe (7.1) s'applique au don qui est fait par un particulier, qui est visé à la définition de ***total des dons de bienfaisance*** ou ***total des dons de biens culturels*** au paragraphe (1) et dont l'objet est une œuvre d'art qui, selon le cas :

a) a été créée par le particulier et est un bien à porter à son inventaire;

b) a été acquise par le particulier dans les circonstances visées au paragraphe 70(3);

c) si le particulier est une succession qui a commencé à exister au décès du créateur de l'œuvre d'art et par suite de ce décès, était un bien à porter à l'inventaire de ce dernier immédiatement avant son décès.

Gift of art

(7.1) If this subsection applies to a gift made by an individual, the following rules apply:

(a) in the case of a gift described in the definition ***total cultural gifts*** in subsection (1),

(i) if at the time the gift is made the fair market value of the work of art that is the subject of the gift exceeds its cost amount to the individual, the individual is deemed to receive at that time proceeds of disposition in respect of the work of art equal to the greater of its cost amount to the individual at that time and the amount of the advantage, if any, in respect of the gift, and

(ii) if the individual is the graduated rate estate of a particular individual who created the work of art that is the subject of the gift and at the time immediately before the particular individual's death the fair market value of the work of art exceeds its cost amount to the particular individual, the particular individual is deemed to receive at that time proceeds of disposition in respect of the work of art equal to the cost amount to the particular individual at that time and the estate is deemed to have acquired the work of art at a cost equal to those proceeds; and

Don d'une œuvre d'art

(7.1) En cas d'application du présent paragraphe à un don fait par un particulier, les règles ci-après s'appliquent :

a) s'agissant d'un don visé à la définition de ***total des dons de biens culturels*** au paragraphe (1) :

(i) si, au moment où le don est fait, la juste valeur marchande de l'œuvre d'art qui fait l'objet du don excède son coût indiqué pour le particulier, celui-ci est réputé recevoir à ce moment, relativement à l'œuvre d'art, un produit de disposition égal au coût indiqué de l'œuvre d'art pour lui à ce moment ou, s'il est plus élevé, au montant de l'avantage au titre du don,

(ii) si, au décès du créateur de l'œuvre d'art qui fait l'objet du don et par suite de ce décès, le particulier est la succession assujettie à l'imposition à taux progressifs du créateur et que, au moment immédiatement avant ce décès, la juste valeur marchande de l'œuvre d'art excède son coût indiqué pour le créateur, celui-ci est réputé recevoir à ce moment, relativement à l'œuvre d'art, un produit de disposition égal au coût indiqué de l'œuvre d'art pour lui à ce moment, et la succession est réputée avoir acquis l'œuvre d'art à un coût égal à ce produit;

(b) in the case of a gift described in the definition ***total charitable gifts*** in subsection (1),

(i) if at the time the gift is made the fair market value of the work of art that is the subject of the gift exceeds its cost amount to the individual, then the amount designated in the individual's return of income under section 150 for the taxation year that includes that time is deemed to be

(A) the individual's proceeds of disposition in respect of the work of art, and

(B) the fair market value of the work of art for the purposes of subsection 248(31),

(ii) a designation under subparagraph (i) is of no effect to the extent that the amount designated

(A) exceeds the fair market value of the work of art otherwise determined, or

(B) is less than the greater of the amount of the advantage, if any, in respect of the gift, and the cost amount to the individual of the work of art,

(iii) if the individual is the graduated rate estate of a particular individual who created the work of art that is the subject of the gift and at the time immediately before the particular individual's death the fair market value of the work of art exceeds its cost amount to the particular individual,

(A) the amount designated in the particular individual's return of income under section 150 for the taxation year that includes that time is deemed to be the value of the work of art at the time of the death, and

(B) the estate is deemed to have acquired the work of art at a cost equal to that value, and

(iv) a designation under subparagraph (iii) is of no effect to the extent that the amount designated

(A) exceeds the fair market value of the work of art otherwise determined, or

(B) is less than the cost amount to the particular individual of the work of art.

b) s'agissant d'un don visé à la définition de ***total des dons de bienfaisance*** au paragraphe (1) :

(i) si, au moment où le don est fait, la juste valeur marchande de l'œuvre d'art qui fait l'objet du don excède son coût indiqué pour le particulier, la somme désignée dans la déclaration de revenu du particulier produite conformément à l'article 150 pour l'année d'imposition qui comprend ce moment est réputée correspondre, à la fois :

(A) au produit de disposition relatif à l'œuvre d'art pour le particulier,

(B) à la juste valeur marchande de l'œuvre d'art pour l'application du paragraphe 248(31),

(ii) la désignation visée au sous-alinéa (i) est sans effet dans la mesure où la somme désignée, selon le cas :

(A) excède la juste valeur marchande de l'œuvre d'art déterminée par ailleurs,

(B) est inférieure au montant de l'avantage au titre du don ou, s'il est plus élevé, au coût indiqué de l'œuvre d'art pour le particulier,

(iii) si, au décès du créateur de l'œuvre d'art qui fait l'objet du don et par suite de ce décès, le particulier est la succession assujettie à l'imposition aux taux progressifs du créateur et que, au moment immédiatement avant ce décès, la juste valeur marchande de l'œuvre d'art excède son coût indiqué pour le créateur,

(A) la somme désignée dans la déclaration de revenu du créateur produite conformément à l'article 150 pour l'année d'imposition qui comprend ce moment est réputée correspondre à la valeur de l'œuvre d'art au moment de ce décès,

(B) la succession est réputée avoir acquis l'œuvre d'art à un coût égal à cette somme,

(iv) la désignation visée au sous-alinéa (iii) est sans effet dans la mesure où la somme désignée, selon le cas :

(A) excède la juste valeur marchande de l'œuvre d'art déterminée par ailleurs,

(B) est inférieure au coût indiqué de l'œuvre d'art pour le créateur.

Gifts made by partnership

(8) If at the end of a fiscal period of a partnership an individual is a member of the partnership, the individual's share of any amount that would, if the partnership were a person, be the eligible amount of a gift made by the partnership to any donee is, for the purpose of this section, deemed to be the eligible amount of a gift made to that donee by the individual in the individual's taxation year in which the fiscal period of the partnership ends.

Commuter's charitable donations

(9) Where throughout a taxation year an individual resided in Canada near the boundary between Canada and the United States, if

(a) the individual commuted to the individual's principal place of employment or business in the United States, and

(b) the individual's chief source of income for the year was that employment or business,

a gift made by the individual in the year to a religious, charitable, scientific, literary or educational organization created or organized in or under the laws of the United States that would be allowed as a deduction under the United States Internal Revenue Code shall, for the purpose of the definition ***total charitable gifts*** in subsection 118.1(1), be deemed to have been made to a registered charity.

Determination of fair market value

(10) For the purposes of paragraph 110.1(1)(c) and the definition ***total cultural gifts*** in subsection 118.1(1), the fair market value of an object is deemed to be the fair market value determined by the Canadian Cultural Property Export Review Board.

Determination of fair market value

(10.1) For the purposes of this section, subparagraph 69(1)(b)(ii), subsection 70(5) and sections 110.1 and 207.31, if at any time the Canadian Cultural Property Export Review Board or the Minister of the Environment determines or redetermines an amount to be the fair market value of a property that is the subject of a gift described in paragraph 110.1(1)(a), or in the definition ***total charitable gifts*** in subsection (1), made by a taxpayer within the two-year period that begins at that time, an amount equal to the last amount so determined or redetermined within the period is deemed to be the fair market value of the gift at the time the gift was made and, subject to subsections (6), (7.1) and 110.1(3), to be the taxpayer's proceeds of disposition of the gift.

Don par une société de personnes

(8) Si un particulier est un associé d'une société de personnes à la fin d'un exercice de celle-ci, sa part de tout montant qui, si la société de personnes était une personne, représenterait le montant admissible d'un don fait à un donataire par la société de personnes est réputée, pour l'application du présent article, représenter le montant admissible d'un don fait à ce donataire par le particulier au cours de son année d'imposition dans laquelle l'exercice de la société de personnes se termine.

Don de bienfaisance par un frontalier

(9) Pour l'application de la définition de ***total des dons de bienfaisance***, au paragraphe (1), le don qu'un particulier — qui tout au long d'une année d'imposition réside au Canada près de la frontière entre le Canada et les État-Unis — fait au cours de l'année à une organisation religieuse, scientifique, littéraire ou à caractère éducatif ou à une œuvre de bienfaisance constituées aux États-Unis ou régies par la législation des États-Unis et dont la déduction serait permise par le United States Internal Revenue Code est réputé fait à un organisme de bienfaisance enregistré, si ce particulier fait régulièrement la navette entre sa résidence et le lieu principal de son emploi ou de son entreprise aux États-Unis et que sa source principale de revenu pour l'année soit cet emploi ou cette entreprise.

Détermination de la juste valeur marchande

(10) Pour l'application de l'alinéa 110.1(1)c) et de la définition de ***total des dons de biens culturels*** au paragraphe (1), la juste valeur marchande d'un objet est réputée être celle qui est fixée par la Commission canadienne d'examen des exportations de biens culturels.

Calcul de la juste valeur marchande

(10.1) Pour l'application du présent article, du sous-alinéa 69(1)b)(ii), du paragraphe 70(5) et des articles 110.1 et 207.31, dans le cas où la Commission canadienne d'examen des exportations de biens culturels ou le ministre de l'Environnement fixe ou fixe de nouveau la somme qui représente la juste valeur marchande d'un bien qui fait l'objet d'un don visé à l'alinéa 110.1(1)a) ou à la définition de ***total des dons de bienfaisance*** au paragraphe (1) qu'un contribuable fait au cours de la période de deux ans commençant au moment où la somme est fixée ou fixée de nouveau, une somme égale à la dernière somme ainsi fixée ou fixée de nouveau au cours de la période est réputée représenter à la fois la juste valeur marchande du don au moment où il a été fait et, sous réserve

Request for determination by the Minister of the Environment

(10.2) Where a person disposes or proposes to dispose of a property that would, if the disposition were made and the certificates described in paragraph 110.1(1)(d) or in the definition ***total ecological gifts*** in subsection (1) were issued by the Minister of the Environment, be a gift described in those provisions, the person may request, by notice in writing to that Minister, a determination of the fair market value of the property.

Duty of Minister of the Environment

(10.3) In response to a request made under subsection (10.2), the Minister of the Environment shall with all due dispatch make a determination in accordance with subsection (12) or 110.1(5), as the case may be, of the fair market value of the property referred to in that request and give notice of the determination in writing to the person who has disposed of, or who proposes to dispose of, the property, except that no such determination shall be made if the request is received by that Minister after three years after the end of the person's taxation year in which the disposition occurred.

Ecological gifts — redetermination

(10.4) Where the Minister of the Environment has, under subsection (10.3), notified a person of the amount determined by that Minister to be the fair market value of a property in respect of its disposition or proposed disposition,

(a) that Minister shall, on receipt of a written request made by the person on or before the day that is 90 days after the day that the person was so notified of the first such determination, with all due dispatch confirm or redetermine the fair market value;

(b) that Minister may, on that Minister's own initiative, at any time redetermine the fair market value;

(c) that Minister shall in either case notify the person in writing of that Minister's confirmation or redetermination; and

(d) any such redetermination is deemed to replace all preceding determinations and redeterminations of the fair market value of that property from the time at which the first such determination was made.

Certificate of Fair Market Value

(10.5) Where the Minister of the Environment determines under subsection (10.3) the fair market value of a

Demande au ministre de l'Environnement

(10.2) La personne qui dispose, ou se propose de disposer, d'un bien qui serait un don visé à l'alinéa 110.1(1)d) ou à la définition de ***total des dons de biens écosensibles*** au paragraphe (1) si la disposition était effectuée et les attestations visées à ces dispositions, délivrées par le ministre de l'Environnement, peut demander à ce ministre, par écrit, de fixer la juste valeur marchande du bien.

Obligation du ministre de l'Environnement

(10.3) Sur réception de la demande, le ministre de l'Environnement fixe avec diligence, conformément au paragraphe 110.1(5) ou au paragraphe (12), selon le cas, la juste valeur marchande du bien mentionné dans la demande et en avise par écrit la personne qui a disposé du bien ou qui se propose d'en disposer. Toutefois, il n'est pas donné suite à la demande si celle-ci parvient à ce ministre une fois écoulée la période de trois ans suivant la fin de l'année d'imposition de la personne au cours de laquelle il a été disposé du bien.

Biens écosensibles — valeur fixée de nouveau

(10.4) Une fois la personne avisée, conformément au paragraphe (10.3), de la juste valeur marchande d'un bien relativement à sa disposition ou à sa disposition projetée, les règles suivantes s'appliquent :

a) sur réception d'une demande écrite de la personne présentée au plus tard 90 jours suivant l'avis, le ministre de l'Environnement, avec diligence, confirme cette juste valeur marchande ou la fixe de nouveau;

b) ce ministre peut à tout moment, de sa propre initiative, fixer de nouveau la juste valeur marchande;

c) dans un cas comme dans l'autre, ce ministre avise la personne par écrit de la confirmation ou de la valeur fixée de nouveau;

d) la valeur fixée de nouveau est réputée remplacer celles qui ont été fixées ou fixées de nouveau antérieurement, à compter de la date où la valeur a été fixée pour la première fois.

Attestation de la juste valeur marchande

(10.5) Lorsque le ministre de l'Environnement fixe la juste valeur marchande d'un bien aux termes du

property, or redetermines that value under subsection (10.4), and the property has been disposed of to a qualified donee described in paragraph 110.1(1)(d) or in the definition ***total ecological gifts*** in subsection (1), that Minister shall issue to the person who made the disposition a certificate that states the fair market value of the property so determined or redetermined and, where more than one certificate has been so issued, the last certificate is deemed to replace all preceding certificates from the time at which the first certificate was issued.

Assessments

(11) Notwithstanding subsections 152(4) to (5), such assessments or reassessments of a taxpayer's tax, interest or penalties payable under this Act for any taxation year shall be made as are necessary to give effect

(a) to a certificate issued under subsection 33(1) of the *Cultural Property Export and Import Act or to a decision of a court resulting from an appeal made pursuant to section 33.1 of that Act*; or

(b) to a certificate issued under subsection (10.5) or to a decision of a court resulting from an appeal made pursuant to subsection 169(1.1).

Ecological gifts

(12) For the purposes of applying subparagraph 69(1)(b)(ii), subsection 70(5), this section and section 207.31 in respect of a gift described in the definition ***total ecological gifts*** in subsection (1) that is made by an individual, the amount that is the fair market value (or, for the purpose of subsection (6), the fair market value otherwise determined) of the gift at the time the gift was made and, subject to subsection (6), the individual's proceeds of disposition of the gift, is deemed to be the amount determined by the Minister of the Environment to be

(a) where the gift is land, the fair market value of the gift; or

(b) where the gift is a servitude, covenant or easement to which land is subject, the greater of

(i) the fair market value otherwise determined of the gift, and

(ii) the amount by which the fair market value of the land is reduced as a result of the making of the gift.

paragraphe (10.3), ou la fixe de nouveau aux termes du paragraphe (10.4), et qu'il a été disposé du bien à un donataire reconnu visé à l'alinéa 110.1(1)d) ou à la définition de ***total des dons de biens écosensibles*** au paragraphe (1), ce ministre délivre à la personne ayant disposé du bien une attestation de la juste valeur marchande du bien ainsi fixée ou fixée de nouveau. En cas de délivrance de plus d'une telle attestation, la dernière est réputée remplacer les précédentes à compter de la date de délivrance de la première attestation.

Cotisations

(11) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations ou les nouvelles cotisations voulues concernant l'impôt, les intérêts ou les pénalités payables par un contribuable en vertu de la présente loi pour une année d'imposition pour donner effet, selon le cas :

a) à un certificat délivré en vertu du paragraphe 33(1) de la *Loi sur l'exportation et l'importation de biens culturels* ou à une décision d'un tribunal résultant de l'appel prévu à l'article 33.1 de cette loi;

b) à une attestation délivrée en vertu du paragraphe (10.5) ou à une décision d'un tribunal résultant de l'appel prévu au paragraphe 169(1.1).

Dons de biens écosensibles

(12) Pour l'application du sous-alinéa 69(1)b)(ii), du paragraphe 70(5), du présent article et de l'article 207.31 au don visé à la définition de ***total des dons de biens écosensibles*** au paragraphe (1) qui est fait par un particulier, le montant qui représente à la fois la juste valeur marchande du don au moment où il a été fait (ou, pour l'application du paragraphe (6), sa juste valeur marchande à ce moment, déterminée par ailleurs) et, sous réserve du paragraphe (6), son produit de disposition pour le particulier est réputé correspondre au montant, fixé par le ministre de l'Environnement, qui représente :

a) s'il s'agit d'un don de fonds de terre, la juste valeur marchande du don;

b) s'il s'agit d'un don de servitude ou de convention visant un fonds de terre, le plus élevé des montants suivants :

(i) la juste valeur marchande du don, déterminée par ailleurs,

(ii) le montant appliqué en réduction de la juste valeur marchande du fonds de terre par suite du don.

Non-qualifying securities

(13) For the purposes of this section (other than this subsection), if at any particular time an individual makes a gift (including a gift that, but for this subsection, would be deemed by subsection (5) to be made at the particular time) of a non-qualifying security of the individual and the gift is not an excepted gift,

(a) except for the purpose of applying subsection 118.1(6) to determine the individual's proceeds of disposition of the security, the gift is deemed not to have been made;

(b) if the security ceases to be a non-qualifying security of the individual at a subsequent time that is within 60 months after the particular time and the donee has not disposed of the security at or before the subsequent time, the individual is deemed to have made a gift to the donee of property at the subsequent time and the fair market value of that property is deemed to be the lesser of the fair market value of the security at the subsequent time and the fair market value of the security at the particular time that would, if this Act were read without reference to this subsection, have been included in calculating the individual's total charitable gifts for a taxation year;

(c) if the security is disposed of by the donee within 60 months after the particular time and paragraph (b) does not apply to the security, the individual is deemed to have made a gift to the donee of property at the time of the disposition and the fair market value of that property is deemed to be the lesser of the fair market value of any consideration (other than a non-qualifying security of any person) received by the donee for the disposition and the fair market value of the security at the particular time that would, if this Act were read without reference to this subsection, have been included in calculating the individual's total charitable gifts for a taxation year; and

(d) a designation under subsection 118.1(6) or 110.1(3) in respect of the gift made at the particular time may be made in the individual's return of income for the year that includes the subsequent time referred to in paragraph 118.1(13)(b) or the time of the disposition referred to in paragraph 118.1(13)(c).

Application of subsection (13.2)

(13.1) Subsection (13.2) applies if, as part of a series of transactions,

(a) an individual makes, at a particular time, a gift of a particular property to a qualified donee;

Titres non admissibles

(13) Pour l'application du présent article (sauf le présent paragraphe), si un particulier fait don de son titre non admissible à un moment donné (y compris un don qui, en l'absence du présent paragraphe, serait réputé, en vertu du paragraphe (5), être fait à ce moment) et que le don n'est pas un don exclu, les règles ci-après s'appliquent :

a) sauf pour l'application du paragraphe (6) aux fins du calcul du produit de disposition du titre pour le particulier, le don est réputé ne pas avoir été fait;

b) si le titre cesse d'être un titre non admissible du particulier à un moment ultérieur au cours des 60 mois suivant le moment donné et que le donataire ne dispose pas du titre au plus tard au moment ultérieur, le particulier est réputé avoir fait un don de bien au donataire au moment ultérieur, et la juste valeur marchande de ce bien est réputée être égale à la juste valeur marchande du titre au moment ultérieur ou, si elle est moins élevée, à la juste valeur marchande du titre au moment donné qui, en l'absence du présent paragraphe, aurait été incluse dans le calcul du total des dons de bienfaisance du particulier pour une année d'imposition;

c) si le donataire dispose du titre dans les 60 mois suivant le moment donné et que l'alinéa b) ne s'applique pas au titre, le particulier est réputé avoir fait un don de bien au donataire au moment de la disposition, et la juste valeur marchande de ce bien est réputée être égale à la juste valeur marchande de toute contrepartie (sauf un titre non admissible d'une personne) reçue par le donataire pour la disposition ou, si elle est moins élevée, à la juste valeur marchande du titre au moment donné qui, en l'absence du présent paragraphe, aurait été incluse dans le calcul du total des dons de bienfaisance du particulier pour une année d'imposition;

d) le don fait au moment donné peut être indiqué, aux termes des paragraphes (6) ou 110.1(3), dans la déclaration de revenu du particulier pour l'année qui comprend le moment ultérieur visé à l'alinéa b) ou le moment de la disposition visé à l'alinéa c).

Application du paragraphe (13.2)

(13.1) Le paragraphe (13.2) s'applique si, dans le cadre d'une série d'opérations, à la fois :

a) un particulier, à un moment donné, fait don d'un bien donné à un donataire reconnu;

(b) a particular person holds a non-qualifying security of the individual; and

(c) the qualified donee acquires, directly or indirectly, a non-qualifying security of the individual or of the particular person.

Non-qualifying securities — third-party accommodation

(13.2) If this subsection applies,

(a) for the purposes of this section, the fair market value of the particular property is deemed to be reduced by an amount equal to the fair market value of the non-qualifying security acquired by the qualified donee; and

(b) for the purposes of subsection (13),

(i) if the non-qualifying security acquired by the qualified donee is a non-qualifying security of the particular person, it is deemed to be a non-qualifying security of the individual,

(ii) the individual is deemed to have made, at the particular time referred to in subsection (13.1), a gift of the non-qualifying security acquired by the qualified donee, the fair market value of which does not exceed the amount, if any, by which

(A) the fair market value of the particular property determined without reference to paragraph (a)

exceeds

(B) the fair market value of the particular property determined under paragraph (a), and

(iii) paragraph (13)(b) does not apply in respect of the gift.

Non-qualifying securities — anti-avoidance

(13.3) For the purposes of subsections (13.1) and (13.2), if, as part of a series of transactions, an individual makes a gift to a qualified donee and the qualified donee acquires a non-qualifying security of a person (other than the individual or particular person referred to in subsection (13.1)) and it may reasonably be considered, having regard to all the circumstances, that one of the purposes or results of the acquisition of the non-qualifying security by the qualified donee was to facilitate, directly or indirectly, the making of the gift by the individual, then the non-qualifying security acquired by the qualified donee is deemed to be a non-qualifying security of the individual.

b) une personne donnée détient un titre non admissible du particulier;

c) le donataire reconnu acquiert, directement ou indirectement, un titre non admissible du particulier ou de la personne donnée.

Titres non admissibles — tiers

(13.2) En cas d'application du présent paragraphe :

a) pour l'application du présent article, la juste valeur marchande du bien donné est réputée être réduite d'une somme égale à la juste valeur marchande du titre non admissible acquis par le donataire reconnu;

b) pour l'application du paragraphe (13) :

(i) si le titre non admissible acquis par le donataire reconnu est un titre non admissible de la personne donnée, il est réputé être un titre non admissible du particulier,

(ii) le particulier est réputé avoir fait don, au moment donné visé au paragraphe (13.1), du titre non admissible acquis par le donataire reconnu, dont la juste valeur marchande ne dépasse pas l'excédent de la somme visée à la division (A) sur celle visée à la division (B) :

(A) la juste valeur marchande du bien donné, déterminée compte non tenu de l'alinéa a),

(B) la juste valeur marchande du bien donné, déterminée selon l'alinéa a),

(iii) l'alinéa (13)b) ne s'applique pas relativement au don.

Titres non admissibles — anti-évitement

(13.3) Pour l'application des paragraphes (13.1) et (13.2), si, dans le cadre d'une série d'opérations, un particulier fait un don à un donataire reconnu, que ce dernier acquiert un titre non admissible d'une personne (sauf le particulier ou la personne donnée visée au paragraphe (13.1)) et qu'il est raisonnable de considérer, compte tenu des circonstances, que l'un des objets ou des résultats de l'acquisition de ce titre par le donataire reconnu a été de faciliter, directement ou indirectement, le don par le particulier, le titre non admissible acquis par le donataire reconnu est réputé être un titre non admissible du particulier.

Exchanged security

(14) Where a share (in this subsection referred to as the "new share") that is a non-qualifying security of an individual has been acquired by a donee referred to in subsection 118.1(13) in exchange for another share (in this subsection referred to as the "original share") that is a non-qualifying security of the individual by means of a transaction to which section 51, subparagraphs 85.1(1)(a)(i) and 85.1(1)(a)(ii) or section 86 or 87 applies, the new share is deemed for the purposes of this subsection and subsection 118.1(13) to be the same share as the original share.

Exchange of beneficial interest in trust

(14.1) Where a donee disposes of a beneficial interest in a trust that is a non-qualifying security of an individual in circumstances where paragraph (13)(c) would, but for this subsection, apply in respect of the disposition, and in respect of which the donee receives no consideration other than other non-qualifying securities of the individual, for the purpose of subsection (13) the gift referred to in that subsection is to be read as a reference to a gift of those other non-qualifying securities.

Death of donor

(15) If, but for this subsection, an individual would be deemed by subsection 118.1(13) to have made a gift after the individual's death, for the purpose of this section the individual is deemed to have made the gift in the taxation year in which the individual died, except that the amount of interest payable under any provision of this Act is the amount that it would be if this subsection did not apply to the gift.

Loanbacks

(16) For the purpose of this section, where

(a) at any particular time an individual makes a gift of property,

(b) if the property is a non-qualifying security of the individual, the gift is an excepted gift, and

(c) within 60 months after the particular time

(i) the donee holds a non-qualifying security of the individual that was acquired by the donee after the time that is 60 months before the particular time, or

(ii) the individual or any person or partnership with which the individual does not deal at arm's length uses property of the donee under an agreement that was made or modified after the time that is 60 months before the particular time, and the

Échange de titres

(14) Dans le cas où une action (appelée « nouvelle action » au présent paragraphe) qui est un titre non admissible d'un particulier est acquise par le donataire visé au paragraphe (13) en échange d'une autre action (appelée « action originale » au présent paragraphe) qui est un titre non admissible du particulier au moyen d'une opération à laquelle s'appliquent l'article 51, les sous-alinéas 85.1(1)a)(i) et (ii) ou les articles 86 ou 87, la nouvelle action est réputée, pour l'application du présent paragraphe et du paragraphe (13), être la même action que l'action originale.

Échange d'un droit de bénéficiaire dans une fiducie

(14.1) Dans le cas où un donataire dispose d'un droit de bénéficiaire dans une fiducie qui est un titre non admissible d'un particulier, dans des circonstances où l'alinéa (13)c) s'appliquerait à la disposition en l'absence du présent paragraphe, et ne reçoit en contrepartie que d'autres titres non admissibles du particulier, le don visé au paragraphe (13) est réputé, pour l'application de ce paragraphe, être un don de ces autres titres.

Décès du donateur

(15) Le particulier qui, si ce n'était le présent paragraphe, serait réputé par le paragraphe (13) avoir fait un don après son décès est réputé, pour l'application du présent article, avoir fait le don au cours de l'année d'imposition de son décès. Toutefois, les intérêts payables en vertu d'une disposition de la présent loi sont ceux qui seraient payables si le présent paragraphe ne s'appliquait pas au don.

Auto-prêts

(16) Pour l'application du présent article, dans le cas où les conditions suivantes sont réunies :

a) un particulier fait un don de bien,

b) si le bien est un titre non admissible du particulier, le don est un don exclu,

c) dans les 60 mois suivant le moment du don, l'un des faits suivants se vérifie :

(i) le donataire détient un titre non admissible du particulier, qu'il a acquis après la date qui précède de 60 mois ce moment,

(ii) le particulier ou toute personne ou société de personnes avec laquelle il a un lien de dépendance utilise un bien du donataire aux termes d'une convention conclue ou modifiée après la date qui précède de 60 mois ce moment, et le bien n'a pas

property was not used in the carrying on of the donee's charitable activities,

the fair market value of the gift is deemed to be that value otherwise determined minus the total of all amounts each of which is the fair market value of the consideration given by the donee to so acquire a non-qualifying security so held or the fair market value of such a property so used, as the case may be.

été utilisé dans le cadre des activités de bienfaisance du donataire,

la juste valeur marchande du don est réputée égale à cette valeur déterminée par ailleurs diminuée du total des montants représentant chacun, selon le cas, la juste valeur marchande de la contrepartie donnée par le donataire pour ainsi acquérir un tel titre non admissible ou la juste valeur marchande d'un tel bien ainsi utilisé.

Ordering rule

(17) For the purpose of applying subsection (16) to determine the fair market value of a gift made at any time by a taxpayer, the fair market value of consideration given to acquire property described in subparagraph (16)(c)(i) or of property described in subparagraph (16)(c)(ii) is deemed to be that value otherwise determined minus any portion of it that has been applied under that subsection to reduce the fair market value of another gift made before that time by the taxpayer.

Ordre d'application

(17) Pour déterminer, en application du paragraphe (16), la juste valeur marchande d'un don fait à un moment donné par un contribuable, la juste valeur marchande de la contrepartie donnée pour acquérir le titre visé au sous-alinéa (16)c)(i) ou la juste valeur marchande du bien visé au sous-alinéa (16)c)(ii) est réputée égale à cette valeur déterminée par ailleurs diminuée de la partie de cette valeur qui a été appliquée, en vertu de ce paragraphe, en réduction de la juste valeur marchande d'un autre don fait avant ce moment par le contribuable.

Non-qualifying security defined

(18) For the purposes of this section, ***non-qualifying security*** of an individual at any time means

(a) an obligation (other than an obligation of a financial institution to repay an amount deposited with the institution or an obligation listed on a designated stock exchange) of the individual or the individual's estate or of any person or partnership with which the individual or the estate does not deal at arm's length immediately after that time;

(b) a share (other than a share listed on a designated stock exchange) of the capital stock of a corporation with which the individual or the estate or, where the individual is a trust, a person affiliated with the trust, does not deal at arm's length immediately after that time;

(b.1) a beneficial interest of the individual or the estate in a trust that

(i) immediately after that time is affiliated with the individual or the estate, or

(ii) holds, immediately after that time, a non-qualifying security of the individual or estate, or held, at or before that time, a share described in paragraph (b) that is, after that time, held by the donee; or

(c) any other security (other than a security listed on a designated stock exchange) issued by the individual or the estate or by any person or partnership with which the individ-ual or the estate does not deal at arm's

Définition de *titre non admissible*

(18) Pour l'application du présent article, est un titre non admissible d'un particulier à un moment donné :

a) une créance (à l'exception de l'obligation d'une institution financière de rembourser un montant déposé auprès d'elle et d'une créance cotée à une bourse de valeurs désignée) dont est débiteur le particulier, sa succession ou une personne ou société de personnes avec laquelle le particulier ou sa succession a un lien de dépendance immédiatement après ce moment;

b) une action (à l'exception d'une action cotée à une bourse de valeurs désignée) du capital-actions d'une société avec laquelle le particulier, sa succession ou, si le particulier est une fiducie, toute personne qui lui est affiliée a un lien de dépendance immédiatement après ce moment;

b.1) un droit de bénéficiaire du particulier ou de sa succession dans une fiducie qui, selon le cas :

(i) est affiliée au particulier ou la succession immédiatement après ce moment,

(ii) détient, immédiatement après ce moment, un titre non admissible du particulier ou de la succession ou détenait, à ce moment ou antérieurement, une action visée à l'alinéa b) qui est détenue par le donataire après ce moment;

c) tout autre titre (à l'exception d'un titre coté à une bourse de valeurs désignée) émis par le particulier, par sa succession ou par toute personne ou société de

length (or, in the case where the person is a trust, with which the individual or estate is affiliated) immediately after that time.

personnes avec laquelle le particulier ou sa succession a un lien de dépendance (ou, dans le cas où la personne est une fiducie, avec laquelle le particulier ou sa succession est affiliée) immédiatement après ce moment.

Excepted gift

(19) For the purposes of this section, a gift made by a taxpayer is an excepted gift if

(a) the security is a share;

(b) the donee is not a private foundation;

(c) either,

(i) if the taxpayer is an individual's graduated rate estate,

(A) the individual dealt at arm's length with the donee immediately before the individual's death, and

(B) the graduated rate estate deals at arm's length with the donee (determined without reference to paragraph 251(1)(b)), or

(ii) if subparagraph (i) does not apply, the taxpayer deals at arm's length with the donee; and

(d) where the donee is a charitable organization or a public foundation, the taxpayer deals at arm's length with each director, trustee, officer and like official of the donee.

Don exclu

(19) Pour l'application du présent article, le don fait par un contribuable est un don exclu si les conditions suivantes sont réunies :

a) le titre est une action;

b) le donataire n'est pas une fondation privée;

c) l'un ou l'autre des énoncés ci-après se vérifie :

(i) si le contribuable est la succession assujettie à l'imposition à taux progressifs d'un particulier, les énoncés ci-après se vérifient :

(A) le particulier n'avait, immédiatement avant son décès, aucun lien de dépendance avec le donataire,

(B) la succession assujettie à l'imposition à taux progressifs n'a aucun lien de dépendance avec le donataire (cette détermination étant faite compte non tenu de l'alinéa 251(1)b)),

(ii) si le sous-alinéa (i) ne s'applique pas, le contribuable n'a aucun lien de dépendance avec le donataire;

d) si le donataire est une œuvre de bienfaisance ou une fondation publique, le contribuable n'a aucun lien de dépendance avec les administrateurs, fiduciaires, cadres ou représentants semblables du donataire.

Financial institution defined

(20) For the purpose of subsection 118.1(18), ***financial institution*** means a corporation that is

(a) a member of the Canadian Payments Association; or

(b) a credit union that is a shareholder or member of a body corporate or organization that is a central for the purposes of the *Canadian Payments Association Act*.

Définition de *institution financière*

(20) Pour l'application du paragraphe (18), est une institution financière la société qui, selon le cas :

a) est membre de l'Association canadienne des paiements;

b) est une caisse de crédit qui est actionnaire ou membre d'une personne morale ou d'une organisation qui est une centrale pour l'application de la *Loi sur l'Association canadienne des paiements*.

Options

(21) Subject to subsections (23) and (24), if an individual has granted an option to a qualified donee in a taxation year, no amount in respect of the option is to be included in computing the total charitable gifts, total cultural gifts

Options

(21) Sous réserve des paragraphes (23) et (24), aucune somme relative à une option qu'un particulier a consentie à un donataire reconnu au cours d'une année d'imposition n'est à inclure dans le calcul du total des dons de

or total ecological gifts in respect of any taxpayer for any taxation year.

Application of subsection (23)

(22) Subsection (23) applies if

(a) an option to acquire a property of an individual is granted to a qualified donee;

(b) the option is exercised so that the property is disposed of by the individual and acquired by the qualified donee at a particular time; and

(c) either

(i) the amount that is 80% of the fair market value of the property at the particular time is greater than or equal to the total of

(A) the consideration received by the individual from the qualified donee for the property, and

(B) the consideration received by the individual from the qualified donee for the option, or

(ii) the individual establishes to the satisfaction of the Minister that the granting of the option or the disposition of the property was made by the individual with the intention to make a gift to the qualified donee.

Granting of an option

(23) If this subsection applies, notwithstanding subsection 49(3),

(a) the individual is deemed to have received proceeds of disposition of the property equal to the property's fair market value at the particular time; and

(b) there shall be included in the individual's total charitable gifts, for the taxation year that includes the particular time, the amount by which the property's fair market value exceeds the total described in subparagraph (22)(c)(i).

Disposition of an option

(24) If an option to acquire a particular property of an individual is granted to a qualified donee and the option is disposed of by the qualified donee (otherwise than by the exercise of the option) at a particular time

(a) the individual is deemed to have disposed of a property at the particular time

bienfaisance, du total des dons de biens culturels ou du total des dons de biens écosensibles relativement à un contribuable pour une année d'imposition.

Application du paragraphe (23)

(22) Le paragraphe (23) s'applique si les conditions ci-après sont réunies :

a) une option portant sur l'acquisition d'un bien d'un particulier est consentie à un donataire reconnu;

b) l'option est exercée de sorte que le bien fait l'objet d'une disposition par le particulier et d'une acquisition par le donataire reconnu à un moment donné;

c) selon le cas :

(i) la somme représentant 80 % de la juste valeur marchande du bien à ce moment est égale ou supérieure au total des sommes suivantes :

(A) la contrepartie que le particulier a reçue du donataire reconnu pour le bien,

(B) la contrepartie que le particulier a reçue du donataire reconnu pour l'option,

(ii) le particulier convainc le ministre qu'il a consenti l'option ou disposé du bien avec l'intention de faire un don au donataire reconnu.

Octroi d'une option

(23) En cas d'application du présent paragraphe, les règles ci-après s'appliquent malgré le paragraphe 49(3) :

a) le particulier est réputé avoir reçu pour le bien un produit de disposition égal à sa juste valeur marchande au moment donné;

b) l'excédent de la juste valeur marchande du bien sur le total visé au sous-alinéa (22)c)(i) est inclus dans le total des dons de bienfaisance du particulier pour l'année d'imposition qui comprend le moment donné.

Disposition d'une option

(24) Si un donataire reconnu à qui une option portant sur l'acquisition d'un bien donné d'un particulier a été consentie dispose de l'option à un moment donné (autrement qu'en l'exerçant), les règles ci-après s'appliquent :

a) le particulier est réputé avoir disposé à ce moment d'un bien :

(i) the adjusted cost base of which to the individual immediately before the particular time is equal to the consideration, if any, paid by the qualified donee for the option, and

(ii) the proceeds of disposition of which are equal to the lesser of the fair market value of the particular property at the particular time and the fair market value of any consideration (other than a non-qualifying security of any person) received by the qualified donee for the option; and

(b) there shall be included in the total charitable gifts of the individual for the individual's taxation year that includes the particular time the amount, if any, by which the proceeds of disposition as determined by paragraph (a) exceed the consideration, if any, paid by the donee for the option.

(i) dont le prix de base rajusté pour lui, immédiatement avant ce moment, correspond à la contrepartie que le donataire reconnu a payée pour l'option,

(ii) dont le produit de disposition correspond à la juste valeur marchande du bien donné à ce moment ou, si elle est moins élevée, à la juste valeur marchande de la contrepartie (sauf un titre non admissible d'une personne quelconque) que le donataire reconnu a reçue pour l'option;

b) l'excédent du produit de disposition déterminé selon l'alinéa a) sur la contrepartie que le donataire reconnu a payée pour l'option est inclus dans le total des dons de bienfaisance du particulier pour son année d'imposition qui comprend le moment donné.

Returned property

(25) Subsection (26) applies if a qualified donee has issued to an individual a receipt referred to in subsection (2) in respect of a transfer of a property (in this subsection and subsection (26) referred to as the "original property") and a particular property that is

(a) the original property is later transferred to the individual (unless that later transfer is reasonable consideration or remuneration for property acquired by or services rendered to a person); or

(b) any other property that may reasonably be considered compensation for or a substitute for, in whole or in part, the original property, is later transferred to the individual.

Bien retourné

(25) Le paragraphe (26) s'applique si un donataire reconnu a délivré à un particulier un reçu visé au paragraphe (2) relativement au transfert d'un bien (appelé « bien initial » au présent paragraphe et au paragraphe (26)) et qu'un bien donné qui est l'un des biens ci-après est subséquemment transféré au particulier :

a) le bien initial, sauf si le transfert subséquent représente une contrepartie ou rémunération raisonnable pour un bien acquis par une personne ou pour des services rendus à une personne;

b) tout autre bien qu'il est raisonnable de considérer comme étant transféré en compensation ou en remplacement de tout ou partie du bien initial.

Returned property

(26) If this subsection applies, then

(a) irrespective of whether the transfer of the original property by the individual to the qualified donee referred to in subsection (25) was a gift, the individual is deemed not to have disposed of the original property at the time of that transfer nor to have made a gift;

(b) if the particular property is identical to the original property, the particular property is deemed to be the original property; and

(c) if the particular property is not the original property, then

(i) the individual is deemed to have disposed of the original property at the time that the particular property is transferred to the individual for proceeds of disposition equal to the greater of the fair

Bien retourné

(26) En cas d'application du présent paragraphe, les règles ci-après s'appliquent :

a) que le transfert du bien initial par le particulier au donataire reconnu visé au paragraphe (25) ait été ou non un don, le particulier est réputé ne pas avoir disposé de ce bien au moment du transfert ni avoir fait un don;

b) le bien donné, s'il est identique au bien initial, est réputé être celui-ci;

c) si le bien donné n'est pas le bien initial :

(i) le particulier est réputé avoir disposé du bien initial au moment où le bien donné lui est transféré pour un produit de disposition égal à la juste valeur marchande du bien donné à ce moment ou, si elle est plus élevée, à la juste valeur marchande du bien

market value of the particular property at that time and the fair market value of the original property at the time that it was transferred by the individual to the donee, and

(ii) if the transfer of the original property by the individual would be a gift if this section were read without reference to paragraph (a), the individual is deemed to have, at the time of that transfer, transferred to the donee a property that is the subject of a gift having a fair market value equal to the amount, if any, by which the fair market value of the original property at the time of that transfer exceeds the fair market value of the particular property at the time that it is transferred to the individual.

initial au moment où il a été transféré par le particulier au donataire,

(ii) dans le cas où le transfert du bien initial par le particulier constituerait un don s'il n'était pas tenu compte de l'alinéa a), le particulier est réputé avoir transféré au donataire, au moment du transfert du bien initial, un bien qui fait l'objet d'un don dont la juste valeur marchande est égale à l'excédent de la juste valeur marchande du bien initial au moment de son transfert sur la juste valeur marchande du bien donné au moment où il est transféré au particulier.

Information return

(27) If subsection (26) applies in respect of a transfer of property to an individual and that property has a fair market value greater than $50, the transferor must file an information return containing prescribed information with the Minister not later than 90 days after the day on which the property was transferred and provide a copy of the return to the individual.

Reassessment

(28) If subsection (26) applies in respect of a transfer of property to an individual, the Minister may reassess a return of income of any person to the extent that the reassessment can reasonably be regarded as relating to the transfer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.1; 1994, c. 7, Sch. II, s. 88, Sch. VIII, s. 53; 1995, c. 3, s. 34, c. 38, s. 3; 1996, c. 21, s. 23; 1997, c. 25, s. 26; 1998, c. 19, s. 22; 1999, c. 22, s. 32, c. 31, s. 136; 2001, c. 17, s. 94; 2005, c. 19, s. 23; 2007, c. 35, ss. 39, 68; 2008, c. 28, s. 15; 2009, c. 2, s. 35; 2011, c. 24, s. 26; 2013, c. 33, s. 10, c. 34, s. 248; 2014, c. 20, s. 9, c. 39, s. 34; 2016, c. 7, s. 62, c. 11, s. 2, c. 12, s. 42.

Déclaration de renseignements

(27) Si le paragraphe (26) s'applique relativement au transfert d'un bien à un particulier et que la juste valeur marchande de ce bien est supérieure à 50 $, le cédant est tenu de présenter au ministre, au plus tard le quatre-vingt-dixième jour suivant le transfert du bien, une déclaration de renseignements contenant les renseignements prescrits et d'en fournir une copie au particulier.

Nouvelle cotisation

(28) En cas d'application du paragraphe (26) au transfert d'un bien à un particulier, le ministre peut établir une nouvelle cotisation à l'égard de la déclaration de revenu d'une personne dans la mesure où il est raisonnable de considérer qu'elle a trait au transfert.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.1; 1994, ch. 7, ann. II, art. 88, ann. VIII, art. 53; 1995, ch. 3, art. 34, ch. 38, art. 3; 1996, ch. 21, art. 23; 1997, ch. 25, art. 26; 1998, ch. 19, art. 22; 1999, ch. 22, art. 32, ch. 31, art. 136; 2001, ch. 17, art. 94; 2005, ch. 19, art. 23; 2007, ch. 35, art. 39 et 68; 2008, ch. 28, art. 15; 2009, ch. 2, art. 35; 2011, ch. 24, art. 26; 2013, ch. 33, art. 10, ch. 34, art. 248; 2014, ch. 20, art. 9, ch. 39, art. 34; 2016, ch. 7, art. 62, ch. 11, art. 2, ch. 12, art. 42.

Medical expense credit

118.2 (1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted the amount determined by the formula

A x [(B - C) + D]

where

A is the appropriate percentage for the taxation year;

B is the total of the individual's medical expenses in respect of the individual, the individual's spouse or common-law partner or a child of the individual who has not attained the age of 18 years before the end of the taxation year

(a) that are evidenced by receipts filed with the Minister,

Crédit d'impôt pour frais médicaux

118.2 (1) La somme obtenue par la formule ci-après est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

A x [(B - C) + D]

où :

A représente le taux de base pour l'année;

B le total des frais médicaux du particulier, engagés à son égard ou à l'égard de son époux ou conjoint de fait ou de son enfant qui n'a pas atteint l'âge de 18 ans avant la fin de l'année et qui, à la fois :

a) sont attestés par des reçus présentés au ministre,

(b) that were not included in determining an amount under this subsection, section 64 or subsection 122.51(2), for a preceding taxation year,

(c) that are not included in determining an amount under this subsection, section 64 or subsection 122.51(2), by any other taxpayer for any taxation year, and

(d) that were paid by the individual or the individual's legal representative within any period of 12 months that ends in the taxation year or, if those expenses were in respect of a person (including the individual) who died in the taxation year, within any period of 24 months that includes the day of the person's death;

C is the lesser of $1,813 and 3% of the individual's income for the taxation year; and

D is the total of all amounts each of which is, in respect of a dependant of the individual (within the meaning assigned by subsection 118(6), other than a child of the individual who has not attained the age of 18 years before the end of the taxation year), the amount determined by the formula

E - F

where

E is the total of the individual's medical expenses in respect of the dependant

(a) that are evidenced by receipts filed with the Minister,

(b) that were not included in determining an amount under this subsection, or subsection 122.51(2), in respect of the individual for a preceding taxation year,

(c) that are not included in determining an amount under this subsection, or subsection 122.51(2), by any other taxpayer for any taxation year, and

(d) that were paid by the individual or the individual's legal representative within the period referred to in paragraph (d) of the description of B; and

F is the lesser of $1,813 and 3% of the dependant's income for the taxation year.

b) n'ont pas été inclus dans le calcul d'un montant selon le présent paragraphe, l'article 64 ou le paragraphe 122.51(2) pour une année d'imposition antérieure,

c) ne sont pas inclus dans le calcul d'un montant selon le présent paragraphe, l'article 64 ou le paragraphe 122.51(2) par un autre contribuable pour une année d'imposition quelconque,

d) ont été payés par le particulier ou par son représentant légal au cours de toute période de 12 mois se terminant dans l'année ou, s'ils ont été engagés à l'égard d'une personne, y compris le particulier, qui est décédée dans l'année, au cours de toute période de 24 mois comprenant le jour du décès;

C 1 813 $ ou, si elle est moins élevée, la somme représentant 3 % du revenu du particulier pour l'année;

D le total des sommes dont chacune représente, à l'égard d'une personne à charge du particulier, au sens du paragraphe 118(6), à l'exception d'un enfant du particulier qui n'a pas atteint l'âge de 18 ans avant la fin de l'année, la somme obtenue par la formule suivante :

E - F

où :

E représente le total des frais médicaux du particulier, engagés à l'égard de la personne à charge et qui, à la fois :

a) sont attestés par des reçus présentés au ministre,

b) n'ont pas été inclus dans le calcul d'un montant selon le présent paragraphe ou le paragraphe 122.51(2) à l'égard du particulier pour une année d'imposition antérieure,

c) ne sont pas inclus dans le calcul d'un montant selon le présent paragraphe ou le paragraphe 122.51(2) par un autre contribuable pour une année d'imposition quelconque,

d) ont été payés par le particulier ou par son représentant légal au cours de la période visée à l'alinéa d) de l'élément B,

F 1 813 $ ou, si elle est moins élevée, la somme représentant 3 % du revenu de la personne à charge pour l'année.

Medical expenses

(2) For the purposes of subsection (1), a medical expense of an individual is an amount paid

Frais médicaux

(2) Pour l'application du paragraphe (1), les frais médicaux d'un particulier sont les frais payés :

(a) to a medical practitioner, dentist or nurse or a public or licensed private hospital in respect of medical or dental services provided to a person (in this subsection referred to as the "patient") who is the individual, the individual's spouse or common-law partner or a dependant of the individual (within the meaning assigned by subsection 118(6)) in the taxation year in which the expense was incurred;

(b) as remuneration for one full-time attendant (other than a person who, at the time the remuneration is paid, is the individual's spouse or common-law partner or is under 18 years of age) on, or for the full-time care in a nursing home of, the patient in respect of whom an amount would, but for paragraph 118.3(1)(c), be deductible under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year in which the expense was incurred;

(b.1) as remuneration for attendant care provided in Canada to the patient if

(i) the patient is a person in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year in which the expense was incurred,

(ii) no part of the remuneration is included in computing a deduction claimed in respect of the patient under section 63 or 64 or paragraph (b), (b.2), (c), (d) or (e) for any taxation year,

(iii) at the time the remuneration is paid, the attendant is neither the individual's spouse or common-law partner nor under 18 years of age, and

(iv) each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number,

to the extent that the total of amounts so paid does not exceed $10,000 (or $20,000 if the individual dies in the year);

(b.2) as remuneration for the patient's care or supervision provided in a group home in Canada maintained and operated exclusively for the benefit of individuals who have a severe and prolonged impairment, if

(i) because of the patient's impairment, the patient is a person in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year in which the expense is incurred,

a) à un médecin, à un dentiste, à une infirmière ou un infirmier, à un hôpital public ou à un hôpital privé agréé, pour les services médicaux ou dentaires fournis au particulier, à son époux ou conjoint de fait ou à une personne à la charge du particulier (au sens du paragraphe 118(6)) au cours de l'année d'imposition où les frais ont été engagés;

b) à titre de rémunération d'un préposé à plein temps (sauf une personne qui, au moment où la rémunération est versée, est l'époux ou conjoint de fait du particulier ou est âgée de moins de 18 ans) aux soins du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) — pour qui un montant serait, sans l'alinéa 118.3(1)c), déductible en application de l'article 118.3 dans le calcul de l'impôt payable par un contribuable en vertu de la présente partie pour l'année d'imposition au cours de laquelle les frais sont engagés — ou à titre de frais dans une maison de santé ou de repos pour le séjour à plein temps d'une de ces personnes;

b.1) à titre de rémunération pour les soins de préposé fournis au Canada au particulier, à son époux ou conjoint de fait ou à une personne à charge visée à l'alinéa a), dans la mesure où le total des sommes payées ne dépasse pas 10 000 $ (ou 20 000 $ en cas de décès du particulier dans l'année) et si les conditions suivantes sont réunies :

(i) le particulier, l'époux ou conjoint de fait ou la personne à charge est quelqu'un pour qui un montant est déductible en application de l'article 118.3 dans le calcul de l'impôt payable par un contribuable en vertu de la présente partie pour l'année d'imposition au cours de laquelle les frais sont engagés,

(ii) aucune partie de la rémunération n'est incluse dans le calcul d'une déduction demandée pour le particulier, l'époux ou conjoint de fait ou la personne à charge en application des articles 63 ou 64 ou des alinéas b), b.2), c), d) ou e) pour une année d'imposition,

(iii) au moment où la rémunération est versée, le préposé n'est ni l'époux ou conjoint de fait du particulier ni âgé de moins de 18 ans,

(iv) chacun des reçus présentés au ministre comme attestation du paiement de la rémunération est délivré par le bénéficiaire de la rémunération et comporte, si celui-ci est un particulier, son numéro d'assurance sociale;

(ii) no part of the remuneration is included in computing a deduction claimed in respect of the patient under section 63 or 64 or paragraph (b), (b.1), (c), (d) or (e) for any taxation year, and

(iii) each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(c) as remuneration for one full-time attendant on the patient in a self-contained domestic establishment in which the patient lives, if

(i) the patient is, and has been certified in writing by a medical practitioner to be, a person who, by reason of mental or physical infirmity, is and is likely to be for a long-continued period of indefinite duration dependent on others for the patient's personal needs and care and who, as a result, requires a full-time attendant,

(ii) at the time the remuneration is paid, the attendant is neither the individual's spouse or common-law partner nor under 18 years of age, and

(iii) each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(d) for the full-time care in a nursing home of the patient, who has been certified in writing by a medical practitioner to be a person who, by reason of lack of normal mental capacity, is and in the foreseeable future will continue to be dependent on others for the patient's personal needs and care;

(e) for the care, or the care and training, at a school, an institution or another place of the patient, who has been certified in writing by an appropriately qualified person to be a person who, by reason of a physical or mental handicap, requires the equipment, facilities or personnel specially provided by that school, institution or other place for the care, or the care and training, of individuals suffering from the handicap suffered by the patient;

(f) for transportation by ambulance to or from a public or licensed private hospital for the patient;

(g) to a person engaged in the business of providing transportation services, to the extent that the payment is made for the transportation of

(i) the patient, and

b.2) à titre de rémunération pour le soin ou la surveillance du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) dans un foyer de groupe au Canada tenu exclusivement pour le bénéfice de personnes ayant une déficience grave et prolongée si les conditions suivantes sont réunies :

(i) en raison de sa déficience, le particulier, l'époux ou conjoint de fait ou la personne à charge est une personne à l'égard de laquelle un montant peut être déduit en application de l'article 118.3 dans le calcul de l'impôt payable en vertu de la présente partie par un particulier pour l'année d'imposition au cours de laquelle la dépense est engagée,

(ii) aucune partie de la rémunération n'est incluse dans le calcul d'une déduction demandée pour le particulier, l'époux ou conjoint de fait ou la personne à charge en application des articles 63 ou 64 ou des alinéas b), b.1), c), d) ou e) pour une année d'imposition,

(iii) chacun des reçus présentés au ministre comme attestation du paiement de la rémunération a été délivré par le bénéficiaire de la rémunération et comporte, si celui-ci est un particulier, son numéro d'assurance sociale;

c) à titre de rémunération d'un préposé à plein temps aux soins du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) dans un établissement domestique autonome où le particulier, l'époux ou conjoint de fait ou la personne à charge vit, si les conditions suivantes sont réunies :

(i) le particulier, l'époux ou le conjoint de fait ou la personne à charge est, en raison d'une infirmité mentale ou physique, quelqu'un qui, d'après l'attestation écrite d'un médecin, dépend et dépendra vraisemblablement d'autrui, pour une période prolongée d'une durée indéterminée, pour ses besoins et soins personnels et a, par conséquent, besoin de la présence d'un préposé à plein temps,

(ii) au moment où la rémunération est versée, le préposé n'est ni l'époux ou conjoint de fait du particulier ni âgé de moins de 18 ans,

(iii) chacun des reçus présentés au ministre comme attestation du paiement de la rémunération est délivré par le bénéficiaire de la rémunération et comporte, si celui-ci est un particulier, son numéro d'assurance sociale;

d) à titre de frais dans une maison de santé ou de repos pour le séjour à plein temps du particulier, de son

(ii) one individual who accompanied the patient, where the patient was, and has been certified in writing by a medical practitioner to be, incapable of travelling without the assistance of an attendant

from the locality where the patient dwells to a place, not less than 40 kilometres from that locality, where medical services are normally provided, or from that place to that locality, if

(iii) substantially equivalent medical services are not available in that locality,

(iv) the route travelled by the patient is, having regard to the circumstances, a reasonably direct route, and

(v) the patient travels to that place to obtain medical services for himself or herself and it is reasonable, having regard to the circumstances, for the patient to travel to that place to obtain those services;

(h) for reasonable travel expenses (other than expenses described in paragraph (g)) incurred in respect of the patient and, where the patient was, and has been certified in writing by a medical practitioner to be, incapable of travelling without the assistance of an attendant, in respect of one individual who accompanied the patient, to obtain medical services in a place that is not less than 80 km from the locality where the patient dwells if the circumstances described in subparagraphs (g)(iii) to (v) apply;

(i) for, or in respect of, an artificial limb, an iron lung, a rocking bed for poliomyelitis victims, a wheel chair, crutches, a spinal brace, a brace for a limb, an ileostomy or colostomy pad, a truss for hernia, an artificial eye, a laryngeal speaking aid, an aid to hearing, an artificial kidney machine, phototherapy equipment for the treatment of psoriasis or other skin disorders, or an oxygen concentrator, for the patient;

(i.1) for or in respect of diapers, disposable briefs, catheters, catheter trays, tubing or other products required by the patient by reason of incontinence caused by illness, injury or affliction;

(j) for eye glasses or other devices for the treatment or correction of a defect of vision of the patient as prescribed by a medical practitioner or optometrist;

(k) for an oxygen tent or other equipment necessary to administer oxygen or for insulin, oxygen, liver extract injectible for pernicious anaemia or vitamin B12 for pernicious anaemia, for use by the patient as prescribed by a medical practitioner;

époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a), qu'un médecin atteste par écrit être quelqu'un qui, faute d'une capacité mentale normale, dépend d'autrui pour ses besoins et soins personnels et continuera d'en dépendre ainsi dans un avenir prévisible;

e) pour le soin dans une école, une institution ou un autre endroit — ou le soin et la formation — du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a), qu'une personne habilitée à cette fin atteste par écrit être quelqu'un qui, en raison d'un handicap physique ou mental, a besoin d'équipement, d'installations ou de personnel spécialisés fournis par cette école ou institution ou à cet autre endroit pour le soin — ou le soin et la formation — de particuliers ayant un handicap semblable au sien;

f) pour le transport par ambulance du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a), à destination ou en provenance d'un hôpital public ou d'un hôpital privé agréé;

g) à une personne dont l'activité est une entreprise de transport, dans la mesure où ce paiement se rapporte au transport, entre la localité où habitent le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a) et le lieu — situé à 40 kilomètres au moins de cette localité — où des services médicaux sont habituellement dispensés, ou vice-versa, des personnes suivantes :

(i) le particulier, l'époux ou conjoint de fait ou la personne à charge,

(ii) un seul particulier accompagnant le particulier, l'époux ou le conjoint de fait ou la personne à charge, si ceux-ci sont, d'après l'attestation écrite d'un médecin, incapables de voyager sans l'aide d'un préposé à leurs soins,

si les conditions suivantes sont réunies :

(iii) il n'est pas possible d'obtenir dans cette localité des services médicaux sensiblement équivalents,

(iv) l'itinéraire emprunté par le particulier, l'époux ou conjoint de fait ou la personne à charge est, compte tenu des circonstances, un itinéraire raisonnablement direct,

(v) le particulier, l'époux ou conjoint de fait ou la personne à charge se rendent en ce lieu afin d'obtenir des services médicaux pour eux-mêmes et il est raisonnable, compte tenu des circonstances, qu'ils s'y rendent à cette fin;

(l) on behalf of the patient who is blind or profoundly deaf or has severe autism, severe diabetes, severe epilepsy or a severe and prolonged impairment that markedly restricts the use of the patient's arms or legs,

(i) for an animal specially trained to assist the patient in coping with the impairment and provided by a person or organization one of whose main purposes is such training of animals,

(ii) for the care and maintenance of such an animal, including food and veterinary care,

(iii) for reasonable travel expenses of the patient incurred for the purpose of attending a school, institution or other facility that trains, in the handling of such animals, individuals who are so impaired, and

(iv) for reasonable board and lodging expenses of the patient incurred for the purpose of the patient's full-time attendance at a school, institution or other facility referred to in subparagraph (iii);

(l.1) on behalf of the patient who requires a bone marrow or organ transplant,

(i) for reasonable expenses (other than expenses described in subparagraph (ii)), including legal fees and insurance premiums, to locate a compatible donor and to arrange for the transplant, and

(ii) for reasonable travel, board and lodging expenses (other than expenses described in paragraphs (g) and (h)) of the donor (and one other person who accompanies the donor) and the patient (and one other person who accompanies the patient) incurred in respect of the transplant;

(l.2) for reasonable expenses relating to renovations or alterations to a dwelling of the patient who lacks normal physical development or has a severe and prolonged mobility impairment, to enable the patient to gain access to, or to be mobile or functional within, the dwelling, provided that such expenses

(i) are not of a type that would typically be expected to increase the value of the dwelling, and

(ii) are of a type that would not normally be incurred by persons who have normal physical development or who do not have a severe and prolonged mobility impairment;

(l.21) for reasonable expenses relating to the construction of the principal place of residence of the patient who lacks normal physical development or has a

h) pour les frais raisonnables de déplacement, à l'exclusion des frais visés à l'alinéa g), engagés à l'égard du particulier, de l'époux ou du conjoint de fait ou d'une personne à charge visée à l'alinéa a) et, si ceux-ci sont, d'après l'attestation écrite d'un médecin, incapables de voyager sans l'aide d'un préposé à leurs soins, à l'égard d'un seul particulier les accompagnant, afin d'obtenir des services médicaux dans un lieu situé à 80 kilomètres au moins de la localité où le particulier, l'époux ou le conjoint de fait ou la personne à charge habitent, si les conditions visées aux sous-alinéas g)(iii) à (v) sont réunies;

i) au titre d'un membre artificiel, d'un poumon d'acier, d'un lit berceur pour les personnes atteintes de poliomyélite, d'un fauteuil roulant, de béquilles, d'un corset dorsal, d'un appareil orthopédique pour un membre, d'un tampon d'iléostomie ou de colostomie, d'un bandage herniaire, d'un œil artificiel, d'un appareil de prothèse vocale ou auditive, d'un rein artificiel, de matériel de photothérapie pour le traitement du psoriasis ou d'autres maladies de la peau ou d'un concentrateur d'oxygène, pour le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a);

i.1) au titre de sous-vêtements jetables, de couches, de cathéters, de plateaux à cathéters, de tubes ou d'autres produits dont le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a) a besoin pour cause d'incontinence due à une maladie, à une blessure ou à une infirmité;

j) pour des lunettes ou autres dispositifs de traitement ou de correction des troubles de la vue, destinés au particulier, à son époux ou conjoint de fait ou à une personne à charge visée à l'alinéa a), sur ordonnance d'un médecin ou d'un optométriste;

k) pour une tente à oxygène ou tout autre équipement nécessaire à l'administration d'oxygéne, pour de l'insuline, de l'oxygène, de l'extrait hépatique injectable pour le traitement de l'anémie pernicieuse ou des vitamines B12 pour le traitement de l'anémie pernicieuse, destinés au particulier, à son époux ou conjoint de fait ou à une personne à charge visée à l'alinéa a), sur ordonnance d'un médecin;

l) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a), qui est atteint d'autisme grave, de cécité, de diabète grave, d'épilepsie grave ou de surdité profonde ou qui a une déficience grave et prolongée qui limite de façon marquée l'usage des bras ou des jambes :

severe and prolonged mobility impairment, that can reasonably be considered to be incremental costs incurred to enable the patient to gain access to, or to be mobile or functional within, the patient's principal place of residence, provided that such expenses

(i) are not of a type that would typically be expected to increase the value of the dwelling, and

(ii) are of a type that would not normally be incurred by persons who have normal physical development or who do not have a severe and prolonged mobility impairment;

(I.3) for reasonable expenses relating to rehabilitative therapy, including training in lip reading and sign language, incurred to adjust for the patient's hearing or speech loss;

(I.4) on behalf of the patient who has a speech or hearing impairment, for sign language interpretation services or real-time captioning services, to the extent that the payment is made to a person in the business of providing such services;

(I.41) on behalf of the patient who has a mental or physical impairment, for note-taking services, if

(i) the patient has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires such services, and

(ii) the payment is made to a person in the business of providing such services;

(I.42) on behalf of the patient who has a physical impairment, for the cost of voice recognition software, if the patient has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires that software;

(I.43) on behalf of the patient who is blind or has a severe learning disability, for reading services, if

(i) the patient has been certified in writing by a medical practitioner to be a person who, because of that impairment, requires such services, and

(ii) the payment is made to a person in the business of providing such services;

(I.44) on behalf of the patient who is blind and profoundly deaf, for deaf-blind intervening services, if the payment is made to a person in the business of providing those services;

(i) pour un animal spécialement dressé pour aider le particulier, l'époux ou conjoint de fait ou la personne à charge à vivre avec sa déficience et fourni par une personne ou une organisation dont l'un des buts principaux est de dresser ainsi les animaux,

(ii) pour le soin et l'entretien d'un tel animal, y compris la nourriture et les soins de vétérinaire,

(iii) pour les frais raisonnables de déplacement du particulier, de l'époux ou conjoint de fait ou de la personne à charge, engagés en vue de permettre à ceux-ci de fréquenter une école, une institution ou autre établissement où des particuliers qui ont une telle déficience sont initiés à la conduite de tels animaux,

(iv) pour les frais raisonnables de pension et de logement du particulier, de l'époux ou conjoint de fait ou de la personne à charge, engagés en vue de permettre à ceux-ci de fréquenter à plein temps une école, une institution ou autre établissement visé au sous-alinéa (iii);

I.1) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a), qui doit subir une transplantation de la moelle osseuse ou d'un organe :

(i) pour les frais raisonnables, excluant les frais visés au sous-alinéa (ii) mais incluant les frais judiciaires et les primes d'assurance, engagés dans la recherche d'un donneur compatible et dans les préparatifs de la transplantation,

(ii) pour les frais raisonnables de déplacement, de pension et de logement, à l'exclusion des frais visés aux alinéas g) et h), du donneur (et d'une autre personne qui l'accompagne) et du particulier (et d'une autre personne qui l'accompagne) engagés relativement à la transplantation;

I.2) pour les frais raisonnables afférents à des rénovations ou transformations apportées à l'habitation du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) — ne jouissant pas d'un développement physique normal ou ayant un handicap moteur grave et prolongé — pour lui permettre d'avoir accès à son habitation, de s'y déplacer ou d'y accomplir les tâches de la vie quotidienne, pourvu que ces frais, à la fois :

(i) ne soient pas d'un type dont on pourrait normalement s'attendre à ce qu'ils aient pour effet d'augmenter la valeur de l'habitation,

(I.5) for reasonable moving expenses (within the meaning of subsection 62(3), but not including any expense deducted under section 62 for any taxation year) of the patient, who lacks normal physical development or has a severe and prolonged mobility impairment, incurred for the purpose of the patient's move to a dwelling that is more accessible by the patient or in which the patient is more mobile or functional, if the total of the expenses claimed under this paragraph by all persons in respect of the move does not exceed $2,000;

(I.6) for reasonable expenses relating to alterations to the driveway of the principal place of residence of the patient who has a severe and prolonged mobility impairment, to facilitate the patient's access to a bus;

(I.7) for a van that, at the time of its acquisition or within 6 months after that time, has been adapted for the transportation of the patient who requires the use of a wheelchair, to the extent of the lesser of $5,000 and 20% of the amount by which

(i) the amount paid for the acquisition of the van

exceeds

(ii) the portion, if any, of the amount referred to in subparagraph (i) that is included because of paragraph (m) in computing the individual's deduction under this section for any taxation year;

(I.8) for reasonable expenses (other than amounts paid to a person who was at the time of the payment the individual's spouse or common-law partner or a person under 18 years of age) to train the individual, or a person related to the individual, if the training relates to the mental or physical infirmity of a person who

(i) is related to the individual, and

(ii) is a member of the individual's household or is dependent on the individual for support;

(I.9) as remuneration for therapy provided to the patient because of the patient's severe and prolonged impairment, if

(i) because of the patient's impairment, an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year in which the remuneration is paid,

(ii) the therapy is prescribed by, and administered under the general supervision of,

(ii) soient d'un type que n'engagerait pas normalement la personne jouissant d'un développement physique normal ou n'ayant pas un handicap moteur grave et prolongé;

I.21) pour les frais raisonnables afférents à la construction du lieu principal de résidence du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) — ne jouissant pas d'un développement physique normal ou ayant un handicap moteur grave et prolongé — qu'il est raisonnable de considérer comme des frais supplémentaires engagés afin de lui permettre d'avoir accès à son lieu principal de résidence, de s'y déplacer ou d'y accomplir les tâches de la vie quotidienne, pourvu que ces frais, à la fois :

(i) ne soient pas d'un type dont on pourrait normalement s'attendre à ce qu'ils aient pour effet d'augmenter la valeur de l'habitation,

(ii) soient d'un type que n'engagerait pas normalement la personne jouissant d'un développement physique normal ou n'ayant pas un handicap moteur grave et prolongé;

I.3) pour les frais raisonnables engagés relativement à des programmes de rééducation conçus pour pallier la perte de la parole ou de l'ouïe, y compris les cours de lecture labiale et de langage gestuel;

I.4) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui a un trouble de la parole ou une déficience auditive, pour des services d'interprétation gestuelle ou des services de sous-titrage en temps réel, dans la mesure où le paiement est effectué à une personne dont l'entreprise consiste à offrir ces services;

I.41) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui a une déficience mentale ou physique, pour des services de prise de notes si, à la fois :

(i) le particulier, l'époux ou le conjoint de fait ou la personne à charge est quelqu'un qui, d'après l'attestation d'un médecin, a besoin de ces services en raison de sa déficience,

(ii) le paiement est effectué à une personne dont l'entreprise consiste à offrir ces services;

I.42) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui a une déficience physique, pour le coût d'un logiciel de reconnaissance de la voix, si le particulier, l'époux ou le conjoint de fait ou la personne à charge est

(A) a medical doctor or a psychologist, in the case of mental impairment, and

(B) a medical doctor or an occupational therapist, in the case of a physical impairment,

(iii) at the time the remuneration is paid, the payee is neither the individual's spouse or common-law partner nor under 18 years of age, and

(iv) each receipt filed with the Minister to prove payment of the remuneration was issued by the payee and contains, where the payee is an individual, that individual's Social Insurance Number;

(I.91) as remuneration for tutoring services that are rendered to, and are supplementary to the primary education of, the patient who

(i) has a learning disability or a mental impairment, and

(ii) has been certified in writing by a medical practitioner to be a person who, because of that disability or impairment, requires those services,

if the payment is made to a person ordinarily engaged in the business of providing such services to individuals who are not related to the payee;

(I.92) as remuneration for the design of an individualized therapy plan for the patient because of the patient's severe and prolonged impairment, if

(i) because of the patient's impairment, an amount would be, if this Act were read without reference to paragraph 118.3(1)(c), deductible under section 118.3 in computing a taxpayer's tax payable under this Part for the taxation year in which the remuneration is paid,

(ii) the plan is required to access public funding for specialized therapy or is prescribed by

(A) a medical doctor or a psychologist, in the case of mental impairment, or

(B) a medical doctor or an occupational therapist, in the case of a physical impairment,

(iii) the therapy set out in the plan is prescribed by and, if undertaken, administered under the general supervision of

(A) a medical doctor or a psychologist, in the case of mental impairment, or

quelqu'un qui, d'après l'attestation d'un médecin, a besoin de ce logiciel en raison de sa déficience;

I.43) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui est aveugle ou a des troubles d'apprentissage graves, pour des services de lecture si, à la fois :

(i) le particulier, l'époux ou le conjoint de fait ou la personne à charge est quelqu'un qui, d'après l'attestation écrite d'un médecin, a besoin de ces services en raison de sa déficience,

(ii) le paiement est effectué à une personne dont l'entreprise consiste à fournir de tels services;

I.44) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui est atteint de cécité et de surdité profonde, pour des services d'intervention pour les personnes sourdes et aveugles, si le paiement est effectué à une personne dont l'entreprise consiste à fournir de tels services;

I.5) pour des frais de déménagement raisonnables (au sens du paragraphe 62(3), mais à l'exclusion des dépenses déduites en application de l'article 62 pour une année d'imposition) du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) — n'ayant pas un développement physique normal ou ayant un handicap moteur grave et prolongé — engagés en vue de son déménagement dans un logement qui lui est plus accessible ou dans lequel il peut se déplacer plus facilement ou accomplir plus facilement les tâches de la vie quotidienne, pourvu que le total des dépenses déduites en application du présent alinéa par l'ensemble des personnes relativement au déménagement ne dépasse pas 2 000 $;

I.6) pour des dépenses raisonnables afférentes aux transformations apportées à la voie d'accès au lieu principal de résidence du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) ayant un handicap moteur grave et prolongé, en vue de lui faciliter l'accès à un autobus;

I.7) pour une fourgonnette qui, au moment de son acquisition ou dans les six mois suivant son acquisition, est adaptée pour le transport du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui se déplace en fauteuil roulant, jusqu'à concurrence de 5 000 $ ou, s'il est inférieur, du montant représentant 20 % de l'excédent du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant payé pour acquérir la fourgonnette,

(B) a medical doctor or an occupational therapist, in the case of a physical impairment, and

(iv) the payment is made to a person ordinarily engaged in a business that includes the design of such plans for individuals who are not related to the payee;

(m) for any device or equipment for use by the patient that

(i) is of a prescribed kind,

(ii) is prescribed by a medical practitioner,

(iii) is not described in any other paragraph of this subsection, and

(iv) meets such conditions as are prescribed as to its use or the reason for its acquisition;

to the extent that the amount so paid does not exceed the amount, if any, prescribed in respect of the device or equipment;

(n) for

(i) drugs, medicaments or other preparations or substances (other than those described in paragraph (k))

(A) that are manufactured, sold or represented for use in the diagnosis, treatment or prevention of a disease, disorder or abnormal physical state, or its symptoms, or in restoring, correcting or modifying an organic function,

(B) that can lawfully be acquired for use by the patient only if prescribed by a medical practitioner or dentist, and

(C) the purchase of which is recorded by a pharmacist, or

(ii) drugs, medicaments or other preparations or substances that are prescribed by regulation;

(o) for laboratory, radiological or other diagnostic procedures or services together with necessary interpretations, for maintaining health, preventing disease or assisting in the diagnosis or treatment of any injury, illness or disability, for the patient as prescribed by a medical practitioner or dentist;

(p) to a person authorized under the laws of a province to carry on the business of a dental mechanic, for the making or repairing of an upper or lower

(ii) la partie éventuelle du montant visé au sous-alinéa (i) qui est incluse par l'effet de l'alinéa m) dans le calcul de la déduction du particulier en vertu du présent article pour une année d'imposition;

I.8) pour les frais raisonnables (sauf les sommes versées à une personne qui, au moment du versement, était l'époux ou conjoint de fait du particulier ou une personne âgée de moins de 18 ans) consacrés à la formation du particulier, ou d'une personne qui lui est liée, dans le cas où la formation a trait à la déficience mentale ou physique d'une personne qui, à la fois :

(i) est liée au particulier,

(ii) habite chez le particulier ou est à sa charge;

I.9) à titre de rémunération pour le traitement administré au particulier, à son époux ou conjoint de fait ou à une personne à charge visée à l'alinéa a) en raison de sa déficience grave et prolongée, si les conditions suivantes sont réunies :

(i) en raison de la déficience du particulier, de l'époux ou conjoint de fait ou de la personne à charge, un montant peut être déduit en application de l'article 118.3 dans le calcul de l'impôt payable en vertu de la présente partie par un particulier pour l'année d'imposition au cours de laquelle la rémunération est payée,

(ii) le traitement est prescrit par l'une des personnes suivantes et est administré sous sa surveillance générale :

(A) un médecin en titre ou un psychologue, dans le cas d'une déficience mentale,

(B) un médecin en titre ou un ergothérapeute, dans le cas d'une déficience physique,

(iii) au moment où la rémunération est payée, le bénéficiaire du paiement n'est ni l'époux ou conjoint de fait du particulier, ni âgé de moins de 18 ans,

(iv) chacun des reçus présentés au ministre comme attestation du paiement de la rémunération a été délivré par le bénéficiaire de la rémunération et comporte, si celui-ci est un particulier, son numéro d'assurance sociale;

I.91) à titre de rémunération pour des services de tutorat, s'ajoutant à l'enseignement général, rendus au particulier, à son époux ou conjoint de fait ou à une personne à charge visée à l'alinéa a) qui a une difficulté d'apprentissage ou une déficience mentale et qui,

denture, or for the taking of impressions, bite registrations and insertions in respect of the making, producing, constructing and furnishing of an upper or lower denture, for the patient;

(q) as a premium, contribution or other consideration under a private health services plan in respect of one or more of the individual, the individual's spouse or common-law partner and any member of the individual's household with whom the individual is connected by blood relationship, marriage, common-law partnership or adoption, except to the extent that the premium, contribution or consideration is deducted under subsection 20.01(1) in computing an individual's income from a business for any taxation year;

(r) on behalf of the patient who has celiac disease, the incremental cost of acquiring gluten-free food products as compared to the cost of comparable non-gluten-free food products, if the patient has been certified in writing by a medical practitioner to be a person who, because of that disease, requires a gluten-free diet;

(s) for drugs obtained under Health Canada's Special Access Programme in accordance with sections C.08.010 and C.08.011 of the *Food and Drug Regulations* and purchased for use by the patient;

(t) for medical devices obtained under Health Canada's Special Access Programme in accordance with Part 2 of the *Medical Devices Regulations* and purchased for use by the patient; or

(u) on behalf of the patient who is authorized to possess marihuana for medical purposes under the *Marihuana Medical Access Regulations* or section 56 of the *Controlled Drugs and Substances Act*, for

(i) the cost of medical marihuana or marihuana seeds purchased from Health Canada, or

(ii) the cost of marihuana purchased from an individual who possesses, on behalf of that patient, a designated-person production licence to produce marihuana under the *Marihuana Medical Access Regulations* or an exemption for cultivation or production under section 56 of the *Controlled Drugs and Substances Act*.

d'après le certificat d'un médecin, a besoin de ces services en raison de cette difficulté ou de cette déficience, si le bénéficiaire du paiement est une personne dont l'entreprise habituelle consiste à offrir de tels services à des personnes avec lesquelles elle n'a aucun lien;

I.92) à titre de rémunération pour la conception d'un plan de traitement personnalisé pour le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a) en raison de sa déficience grave et prolongée, si les conditions ci-après sont réunies :

(i) en raison de la déficience du particulier, de l'époux ou du conjoint de fait ou de la personne à charge, une somme serait déductible en application de l'article 118.3 dans le calcul de l'impôt payable en vertu de la présente partie par un contribuable pour l'année d'imposition au cours de laquelle la rémunération est payée si la présente loi s'appliquait compte non tenu de l'alinéa 118.3(1)c),

(ii) le plan est requis pour l'accès au financement public d'un traitement spécialisé ou est prescrit par :

(A) un médecin en titre ou un psychologue, dans le cas d'une déficience mentale,

(B) un médecin en titre ou un ergothérapeute, dans le cas d'une déficience physique,

(iii) le traitement prévu par le plan est prescrit par l'une des personnes ci-après et, s'il est mis en œuvre, est administré sous sa surveillance générale :

(A) un médecin en titre ou un psychologue, dans le cas d'une déficience mentale,

(B) un médecin en titre ou un ergothérapeute, dans le cas d'une déficience physique,

(iv) le bénéficiaire du paiement est une personne dont l'entreprise habituelle comprend la conception de tels plans à l'intention de particuliers auxquels elle n'est pas liée;

m) pour tout dispositif ou équipement destiné à être utilisé par le particulier, par son époux ou conjoint de fait ou par une personne à charge visée à l'alinéa a) et qui répond aux conditions suivantes, dans la mesure où le montant payé ne dépasse pas le montant fixé par règlement, le cas échéant, relativement au dispositif ou à l'équipement :

(i) il est d'un genre visé par règlement,

(ii) il est utilisé sur ordonnance d'un médecin,

(iii) il n'est pas visé à un autre alinéa du présent paragraphe,

(iv) il répond aux conditions prescrites quant à son utilisation ou à la raison de son acquisition;

n) pour ce qui suit :

(i) les médicaments, les produits pharmaceutiques et les autres préparations ou substances, sauf s'ils sont déjà visés à l'alinéa k), qui répondent aux conditions suivantes :

(A) ils sont fabriqués, vendus ou offerts pour servir au diagnostic, au traitement ou à la prévention d'une maladie, d'une affection ou d'un état physique anormal, ou de leurs symptômes, ou en vue de rétablir, de corriger ou de modifier une fonction organique,

(B) ils ne peuvent légalement être acquis afin d'être utilisés par le particulier, par son époux ou conjoint de fait ou par une personne à charge visée à l'alinéa a) que s'ils sont prescrits par un médecin ou un dentiste,

(C) leur achat est enregistré par un pharmacien,

(ii) les médicaments, les produits pharmaceutiques et les autres préparations ou substances qui sont visés par règlement;

o) pour les actes de laboratoires, de radiologie ou autres actes de diagnostic et les interprétations nécessaires, sur ordonnance d'un médecin ou d'un dentiste, en vue de maintenir la santé, de prévenir les maladies et de diagnostiquer ou traiter une blessure, une maladie ou une invalidité du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a);

p) à une personne autorisée par la législation d'une province à exercer la profession de prothésiste dentaire, pour la fabrication ou réparation de dentiers ou pour la prise d'empreintes et la réalisation de mises en place en vue de la fabrication, production, construction et fourniture de dentiers, pour le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a);

q) à un régime privé d'assurance-maladie, à titre de prime, cotisation ou autre contrepartie à l'égard du particulier, de son époux ou conjoint de fait ou d'une

personne habitant chez le particulier et avec laquelle le particulier est uni par les liens du sang, du mariage, de l'union de fait ou de l'adoption ou à l'égard de plusieurs de ces personnes, sauf dans la mesure où la prime, cotisation ou autre contrepartie est déduite en application du paragraphe 20.01(1) dans le calcul du revenu du particulier tiré d'une entreprise pour une année d'imposition;

r) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui a la maladie cœliaque, la somme supplémentaire à débourser pour l'achat de produits alimentaires sans gluten, laquelle consiste en la différence entre le coût de ces produits et le coût de produits comparables avec gluten, si le particulier, l'époux ou le conjoint de fait ou la personne à charge est quelqu'un qui, d'après l'attestation d'un médecin, doit suivre un régime sans gluten en raison de sa maladie;

s) pour les drogues obtenues en vertu du Programme d'accès spécial de Santé Canada, conformément aux articles C.08.010 et C.08.011 du *Règlement sur les aliments et drogues*, et achetées en vue d'être utilisées par le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a);

t) pour les instruments médicaux obtenus en vertu du Programme d'accès spécial de Santé Canada, conformément à la partie 2 du *Règlement sur les instruments médicaux*, et achetés en vue d'être utilisés par le particulier, son époux ou conjoint de fait ou une personne à charge visée à l'alinéa a);

u) au nom du particulier, de son époux ou conjoint de fait ou d'une personne à charge visée à l'alinéa a) qui est autorisé à posséder de la marihuana à des fins médicales en vertu du *Règlement sur l'accès à la marihuana à des fins médicales* ou de l'article 56 de la *Loi réglementant certaines drogues et autres substances* :

(i) soit pour le coût de marihuana ou de graines de marihuana à des fins médicales achetées auprès de Santé Canada,

(ii) soit pour le coût de marihuana achetée auprès d'un particulier qui possède, au nom du particulier, de son époux ou conjoint de fait ou de la personne à charge, une licence de production à titre de personne désignée en vertu du *Règlement sur l'accès à la marihuana à des fins médicales* ou une exemption à titre de personne désignée de culture/production en vertu de l'article 56 de la *Loi réglementant certaines drogues et autres substances*.

Cosmetic purposes

(2.1) The medical expenses referred to in subsection (2) do not include amounts paid for medical or dental services, nor any related expenses, provided purely for cosmetic purposes, unless necessary for medical or reconstructive purposes.

Fertility expenses

(2.2) An amount is deemed to be a medical expense of an individual for the purposes of this section if the amount

(a) is paid for the purpose of a patient (within the meaning of subsection (2)) conceiving a child; and

(b) would be a medical expense of the individual (within the meaning of subsection (2)) if the patient were incapable of conceiving a child because of a medical condition.

Deemed medical expense

(3) For the purposes of subsection (1),

(a) any amount included in computing an individual's income for a taxation year from an office or employment in respect of a medical expense described in subsection (2) paid or provided by an employer at a particular time shall be deemed to be a medical expense paid by the individual at that time; and

(b) there shall not be included as a medical expense of an individual any expense to the extent that

(i) the individual,

(ii) the person referred to in subsection (2) as the patient,

(iii) any person related to a person referred to in subparagraph (i) or (ii), or

(iv) the legal representative of any person referred to in any of subparagraphs (i) to (iii)

is entitled to be reimbursed for the expense, except to the extent that the amount of the reimbursement is required to be included in computing income and is not deductible in computing taxable income.

Fins esthétiques

(2.1) Sont exclues des frais médicaux visés au paragraphe (2) les sommes payées pour des services médicaux ou dentaires exécutés purement à des fins esthétiques, ainsi que les dépenses connexes, sauf si les services sont requis à des fins médicales ou restauratrices.

Frais liés à la fertilité

(2.2) Pour l'application du présent article, est réputé constituer des frais médicaux d'un particulier le montant qui, à la fois :

a) est versé aux fins de la conception d'un enfant par un particulier, l'époux ou le conjoint de fait d'un particulier, ou une personne à charge d'un particulier, mentionné à l'alinéa (2)a);

b) constituerait des frais médicaux, au sens du paragraphe (2), du particulier si celui-ci, son époux ou conjoint de fait, ou une personne à charge du particulier, mentionné à l'alinéa (2)a) était incapable de concevoir un enfant en raison d'un trouble médical.

Frais médicaux réputés et frais médicaux non admis en déduction

(3) Pour l'application du paragraphe (1):

a) tout montant inclus dans le calcul du revenu d'un particulier provenant d'une charge ou d'un emploi pour une année d'imposition, au titre des frais médicaux visés au paragraphe (2) et qui sont payés ou fournis par un employeur à un moment donné, est considéré comme des frais médicaux payés par le particulier à ce moment;

b) des frais ne sont pas considérés comme des frais médicaux dans la mesure où l'une des personnes suivantes a droit à un remboursement à leur titre :

(i) le particulier,

(ii) l'époux ou conjoint de fait du particulier ou une personne à la charge du particulier (au sens du paragraphe 118(6)),

(iii) une personne liée à une personne visée aux sous-alinéas (i) ou (ii),

(iv) le représentant légal d'une personne visée à l'un des sous-alinéas (i) à (iii),

sauf dans la mesure où le montant du remboursement est à inclure dans le calcul du revenu et n'est pas déductible dans le calcul du revenu imposable.

Deemed payment of medical expenses

(4) Where, in circumstances in which a person engaged in the business of providing transportation services is not readily available, an individual makes use of a vehicle for a purpose described in paragraph (2)(g), the individual or the individual's legal representative shall be deemed to have paid to a person engaged in the business of providing transportation services, in respect of the operation of the vehicle, such amount as is reasonable in the circumstances.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.2; 1994, c. 7, Sch. II, s. 89, Sch. VII, s. 9, Sch. VIII, s. 54; 1998, c. 19, s. 23; 1999, c. 22, s. 34; 2000, c. 12, s. 142, c. 19, s. 25; 2001, c. 17, ss. 95, 244(E); 2003, c. 15, s. 73; 2005, c. 19, s. 24; 2006, c. 4, s. 62; 2008, c. 28, s. 16; 2010, c. 12, s. 13; 2011, c. 24, s. 27; 2013, c. 34, s. 249; 2014, c. 20, s. 10; 2017, c. 20, s. 15.

Credit for mental or physical impairment

118.3 (1) Where

(a) an individual has one or more severe and prolonged impairments in physical or mental functions,

(a.1) the effects of the impairment or impairments are such that the individual's ability to perform more than one basic activity of daily living is significantly restricted where the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a basic activity of daily living or are such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be markedly restricted but for therapy that

(i) is essential to sustain a vital function of the individual,

(ii) is required to be administered at least three times each week for a total duration averaging not less than 14 hours a week, and

(iii) cannot reasonably be expected to be of significant benefit to persons who are not so impaired,

(a.2) in the case of an impairment in physical or mental functions the effects of which are such that the individual's ability to perform a single basic activity of daily living is markedly restricted or would be so restricted but for therapy referred to in paragraph (a.1), a medical practitioner has certified in prescribed form that the impairment is a severe and prolonged impairment in physical or mental functions the effects of which are such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be markedly restricted, but for therapy referred to in paragraph (a.1), where the medical practitioner is a medical doctor, a nurse practitioner or, in the case of

(i) a sight impairment, an optometrist,

Paiement réputé de frais médicaux

(4) Dans le cas où une personne dont l'activité est une entreprise de transport n'est pas immédiatement disponible, le particulier qui utilise un véhicule à une fin décrite à l'alinéa (2)g) ou son représentant légal est réputé avoir payé à une telle personne la somme jugée raisonnable dans les circonstances pour le fonctionnement du véhicule.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.2; 1994, ch. 7, ann. II, art. 89, ann. VII, art. 9, ann. VIII, art. 54; 1998, ch. 19, art. 23; 1999, ch. 22, art. 34; 2000, ch. 12, art. 142, ch. 19, art. 25; 2001, ch. 17, art. 95 et 244(A); 2003, ch. 15, art. 73; 2005, ch. 19, art. 24; 2006, ch. 4, art. 62; 2008, ch. 28, art. 16; 2010, ch. 12, art. 13; 2011, ch. 24, art. 27; 2013, ch. 34, art. 249; 2014, ch. 20, art. 10; 2017, ch. 20, art. 15.

Crédit d'impôt pour déficience mentale ou physique

118.3 (1) Un montant est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition, si les conditions suivantes sont réunies :

a) le particulier a une ou plusieurs déficiences graves et prolongées des fonctions physiques ou mentales;

a.1) les effets de la ou des déficiences sont tels que la capacité du particulier d'accomplir plus d'une activité courante de la vie quotidienne est limitée de façon importante si les effets cumulatifs de ces limitations sont équivalents au fait d'être limité de façon marquée dans la capacité d'accomplir une activité courante de la vie quotidienne, ou sont tels que la capacité du particulier d'accomplir une activité courante de la vie quotidienne est limitée de façon marquée ou le serait en l'absence de soins thérapeutiques qui, à la fois :

(i) sont essentiels au maintien d'une fonction vitale du particulier,

(ii) doivent être administrés au moins trois fois par semaine pendant une durée totale moyenne d'au moins 14 heures par semaine,

(iii) selon ce à quoi il est raisonnable de s'attendre, n'ont pas d'effet bénéfique sur des personnes n'ayant pas une telle déficience;

a.2) s'il s'agit d'une déficience des fonctions physiques ou mentales dont les effets sont tels que la capacité du particulier d'accomplir une seule activité courante de la vie quotidienne est limitée de façon marquée ou le serait en l'absence des soins thérapeutiques mentionnés à l'alinéa a.1), un médecin en titre, un infirmier praticien ou, dans chacun des cas ci-après, la personne mentionnée en regard du cas atteste, sur le formulaire prescrit, qu'il s'agit d'une déficience grave et prolongée des fonctions physiques ou

(ii) a speech impairment, a speech-language pathologist,

(iii) a hearing impairment, an audiologist,

(iv) an impairment with respect to an individual's ability in feeding or dressing themself, an occupational therapist,

(v) an impairment with respect to an individual's ability in walking, an occupational therapist, or after February 22, 2005, a physiotherapist, and

(vi) an impairment with respect to an individual's ability in mental functions necessary for everyday life, a psychologist,

(a.3) in the case of one or more impairments in physical or mental functions the effects of which are such that the individual's ability to perform more than one basic activity of daily living is significantly restricted, a medical practitioner has certified in prescribed form that the impairment or impairments are severe and prolonged impairments in physical or mental functions the effects of which are such that the individual's ability to perform more than one basic activity of daily living is significantly restricted and that the cumulative effect of those restrictions is equivalent to having a marked restriction in the ability to perform a single basic activity of daily living, where the medical practitioner is, in the case of

(i) an impairment with respect to the individual's ability in feeding or dressing themself, or in walking, a medical doctor, a nurse practitioner or an occupational therapist, and

(ii) in the case of any other impairment, a medical doctor or nurse practitioner,

has certified in prescribed form that the impairment is a severe and prolonged mental or physical impairment the effects of which are such that the individual's ability to perform a basic activity of daily living is markedly restricted or would be markedly restricted but for therapy referred to in paragraph (a.1),

(b) the individual has filed for a taxation year with the Minister the certificate described in paragraph (a.2) or (a.3), and

(c) no amount in respect of remuneration for an attendant or care in a nursing home, in respect of the individual, is included in calculating a deduction under section 118.2 (otherwise than because of paragraph 118.2(2)(b.1)) for the year by the individual or by any other person,

mentales dont les effets sont tels que la capacité du particulier d'accomplir une activité courante de la vie quotidienne est limitée de façon marquée ou le serait en l'absence de ces soins :

(i) s'il s'agit d'une déficience visuelle, un optométriste,

(ii) s'il s'agit d'un trouble de la parole, un orthophoniste,

(iii) s'il s'agit d'une déficience auditive, un audiologiste,

(iv) s'il s'agit d'une déficience quant à la capacité de s'alimenter ou de s'habiller, un ergothérapeute,

(v) s'il s'agit d'une déficience quant à la capacité de marcher, un ergothérapeute ou, après le 22 février 2005, un physiothérapeute,

(vi) s'il s'agit d'une déficience des fonctions mentales nécessaires aux activités de la vie courante, un psychologue;

a.3) s'il s'agit d'une ou de plusieurs déficiences des fonctions physiques ou mentales dont les effets sont tels que la capacité du particulier d'accomplir plus d'une activité courante de la vie quotidienne est limitée de façon importante, l'une des personnes ci-après atteste, sur le formulaire prescrit, que la ou les déficiences sont des déficiences graves et prolongées des fonctions physiques ou mentales dont les effets sont tels que la capacité du particulier d'accomplir plus d'une activité courante de la vie quotidienne est limitée de façon importante et que les effets cumulatifs de ces limitations sont équivalents au fait d'être limité de façon marquée dans la capacité d'accomplir une seule activité courante de la vie quotidienne :

(i) s'il s'agit d'une déficience quant à la capacité de marcher, de s'alimenter ou de s'habiller, un médecin en titre, un infirmier praticien ou un ergothérapeute,

(ii) s'il s'agit d'une autre déficience, un médecin en titre ou un infirmier praticien;

b) le particulier présente au ministre l'attestation visée aux alinéas a.2) ou a.3) pour une année d'imposition;

c) aucun montant représentant soit une rémunération versée à un préposé aux soins du particulier, soit des frais de séjour du particulier dans une maison de santé ou de repos, n'est inclus par le particulier ou par une

there may be deducted in computing the individual's tax payable under this Part for the year the amount determined by the formula

A × (B + C)

where

A is the appropriate percentage for the year,

B is $6,000, and

C is

(a) where the individual has not attained the age of 18 years before the end of the year, the amount, if any, by which

(i) $3,500

exceeds

(ii) the amount, if any, by which

(A) the total of all amounts each of which is an amount paid in the year for the care or supervision of the individual and included in computing a deduction under section 63, 64 or 118.2 for a taxation year

exceeds

(B) $2,050, and

(b) in any other case, zero.

autre personne dans le calcul d'une déduction en application de l'article 118.2 pour l'année (autrement que par application de l'alinéa 118.2(2)b.1)).

Le montant déductible est déterminé selon la formule suivante :

A × (B + C)

où :

A représente le taux de base pour l'année;

B 6 000 $;

C :

a) si le particulier n'a pas atteint l'âge de 18 ans avant la fin de l'année, l'excédent éventuel de 3 500 $ sur l'excédent éventuel, sur 2 050 $, du total des montants représentant chacun un montant payé au cours de l'année pour le soin ou la surveillance du particulier et inclus dans le calcul de la déduction prévue aux articles 63, 64 ou 118.2 pour une année d'imposition,

b) dans les autres cas, zéro.

Time spent on therapy

(1.1) For the purpose of paragraph 118.3(1)(a.1), in determining whether therapy is required to be administered at least three times each week for a total duration averaging not less than an average of 14 hours a week, the time spent on administering therapy

(a) includes only time spent on activities that require the individual to take time away from normal everyday activities in order to receive the therapy;

(b) in the case of therapy that requires a regular dosage of medication that is required to be adjusted on a daily basis, includes (subject to paragraph (d)) time spent on activities that are directly related to the determination of the dosage of the medication;

(c) in the case of a child who is unable to perform the activities related to the administration of the therapy as a result of the child's age, includes the time, if any, spent by the child's primary caregivers performing or supervising those activities for the child; and

(d) does not include time spent on activities related to dietary or exercise restrictions or regimes (even if those restrictions or regimes are a factor in determining the daily dosage of medication), travel time,

Temps consacré aux soins thérapeutiques

(1.1) Pour l'application de l'alinéa 118.3(1)a.1), lorsqu'il s'agit d'établir si des soins thérapeutiques sont donnés au moins trois fois par semaine pendant une durée totale moyenne d'au moins 14 heures par semaine, le temps consacré à donner les soins est calculé selon les critères suivants :

a) n'est compté que le temps consacré aux activités qui obligent le particulier à interrompre ses activités courantes habituelles pour recevoir les soins;

b) s'il s'agit de soins dans le cadre desquels il est nécessaire de déterminer un dosage régulier de médicaments qui doit être ajusté quotidiennement, est compté, sous réserve de l'alinéa d), le temps consacré aux activités entourant directement la détermination de ce dosage;

c) dans le cas d'un enfant qui n'est pas en mesure d'accomplir les activités liées aux soins en raison de son âge, est compté le temps que consacrent les principaux fournisseurs de soins de l'enfant à accomplir ces activités pour l'enfant ou à les surveiller;

d) n'est pas compté le temps consacré aux activités liées au respect d'un régime ou de restrictions

medical appointments, shopping for medication or recuperation after therapy.

alimentaires ou d'un programme d'exercices (même si ce régime, ces restrictions ou ce programme sont pris en compte dans la détermination du dosage quotidien de médicaments), aux déplacements, aux rendez-vous médicaux, à l'achat de médicaments ou à la récupération après les soins.

Dependant having impairment

(2) Where

(a) an individual has, in respect of a person (other than a person in respect of whom the person's spouse or common-law partner deducts for a taxation year an amount under section 118 or 118.8) who is resident in Canada at any time in the year and who is entitled to deduct an amount under subsection (1) for the year,

(i) claimed for the year a deduction under subsection 118(1) because of

(A) paragraph (b) of the description of B in that subsection, or

(B) paragraph (d) of that description where the person is a parent, grandparent, child, grandchild, brother, sister, aunt, uncle, nephew or niece of the individual, or of the individual's spouse or common-law partner, or

(ii) could have claimed for the year a deduction referred to in subparagraph (i) in respect of the person if

(A) the person had no income for the year and had attained the age of 18 years before the end of the year, and

(B) in the case of a deduction referred to in clause (i)(A), the individual were not married or not in a common-law partnership, and

(b) no amount in respect of remuneration for an attendant, or care in a nursing home, because of that person's mental or physical impairment, is included in calculating a deduction under section 118.2 (otherwise than under paragraph 118.2(2)(b.1)) for the year by the individual or by any other person,

there may be deducted, for the purpose of computing the tax payable under this Part by the individual for the year, the amount, if any, by which

(c) the amount deductible under subsection 118.3(1) in computing that person's tax payable under this Part for the year

exceeds

Personne déficiente à charge

(2) L'excédent du montant déductible en application du paragraphe (1) dans le calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par une personne (sauf une personne à l'égard de laquelle l'époux ou le conjoint de fait déduit un montant pour l'année en application des articles 118 ou 118.8) qui réside au Canada à un moment donné de l'année et qui a le droit de déduire un montant pour l'année en application du paragraphe (1) sur l'impôt payable par cette personne en vertu de la présente partie pour l'année calculé avant toute déduction en application de la présente section — à l'exception des articles 118 à 118.07 et 118.7 — est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour l'année dans le cas où :

a) d'une part, le particulier demande pour l'année, pour cette personne, une déduction prévue au paragraphe 118(1), soit par application de l'alinéa 118(1)b), soit, si la personne est le père, la mère, le grand-père, la grand-mère, un enfant, un petit-enfant, le frère, la sœur, la tante, l'oncle, le neveu ou la nièce du particulier ou de son époux ou conjoint de fait, par application de l'alinéa 118(1)d), ou aurait pu demander une telle déduction pour l'année si cette personne n'avait eu aucun revenu pour l'année et avait atteint l'âge de 18 ans avant la fin de l'année et, dans le cas de la déduction prévue à l'alinéa 118(1)b), si le particulier n'avait pas été marié ou n'avait pas vécu en union de fait;

b) d'autre part, le particulier ou une autre personne n'inclut dans le calcul d'une déduction en application de l'article 118.2 pour l'année aucun montant représentant une rémunération versée à un préposé ou des frais de séjour dans une maison de santé ou de repos, en raison de la déficience mentale ou physique de cette personne (autrement que par application de l'alinéa 118.2(2)b.1)).

(d) the amount of that person's tax payable under this Part for the year computed before any deductions under this Division (other than under sections 118 to 118.07 and 118.7).

Partial dependency

(3) Where more than one individual is entitled to deduct an amount under subsection 118.3(2) for a taxation year in respect of the same person, the total of all amounts so deductible for the year shall not exceed the maximum amount that would be deductible under that subsection for the year by an individual in respect of that person if that individual were the only individual entitled to deduct an amount under that subsection in respect of that person, and where the individuals cannot agree as to what portion of the amount each can deduct, the Minister may fix the portions.

Additional information

(4) Where a claim under this section or under section 118.8 is made in respect of an individual's impairment

(a) if the Minister requests in writing information with respect to the individual's impairment, its effects on the individual and, where applicable, the therapy referred to in paragraph (1)(a.1) that is required to be administered, from any person referred to in subsection (1) or (2) or section 118.8 in connection with such a claim, that person shall provide the information so requested to the Minister in writing; and

(b) if the information referred to in paragraph (a) is provided by a person referred to in paragraph (1)(a.2) or (a.3), the information so provided is deemed to be included in a certificate in prescribed form.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.3; 1994, c. 7, Sch. II, s. 90, Sch. VIII, s. 55, c. 21, s. 53; 1996, c. 11, s. 97; 1997, c. 25, s. 27; 1998, c. 19, s. 24; 1999, c. 22, s. 35; 2000, c. 12, ss. 132, 142; 2001, c. 17, s. 96; 2003, c. 15, s. 74; 2006, c. 4, s. 63; 2007, c. 2, s. 22; 2009, c. 31, s. 5; 2011, c. 24, s. 28; 2013, c. 34, s. 250; 2014, c. 20, s. 11; 2017, c. 20, s. 16.

Nature of impairment

118.4 (1) For the purposes of subsection 6(16), sections 118.2 and 118.3 and this subsection,

(a) an impairment is prolonged where it has lasted, or can reasonably be expected to last, for a continuous period of at least 12 months;

(b) an individual's ability to perform a basic activity of daily living is markedly restricted only where all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual is blind or is unable (or requires an inordinate

Personne déficiente à la charge de plusieurs contribuables

(3) Dans le cas où plus d'un particulier a le droit de déduire un montant pour une année d'imposition en application du paragraphe (2) pour la même personne, le total des montants ainsi déductibles pour l'année ne peut dépasser le maximum qu'un seul d'entre ces particuliers aurait le droit de déduire pour l'année pour cette personne en application de ce paragraphe; si ces particuliers ne s'entendent pas sur la répartition de ce maximum entre eux, le ministre peut faire cette répartition.

Renseignements supplémentaires

(4) Lorsqu'une déduction est demandée en vertu du présent article ou de l'article 118.8 relativement à la déficience d'un particulier, les règles suivantes s'appliquent :

a) toute personne visée aux paragraphes (1) ou (2) ou à l'article 118.8 relativement à la demande doit fournir par écrit les renseignements que le ministre lui a demandés par écrit concernant la déficience du particulier, ses effets sur lui et, le cas échéant, les soins thérapeutiques mentionnés à l'alinéa (1)a.1) qui doivent être administrés;

b) les renseignements ainsi fournis par une personne visée aux alinéas (1)a.2) ou a.3) sont réputés figurer dans une attestation établie en la forme prescrite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.3; 1994, ch. 7, ann. II, art. 90, ann. VIII, art. 55, ch. 21, art. 53; 1996, ch. 11, art. 97; 1997, ch. 25, art. 27; 1998, ch. 19, art. 24; 1999, ch. 22, art. 35; 2000, ch. 12, art. 132, 142; 2001, ch. 17, art. 96; 2003, ch. 15, art. 74; 2006, ch. 4, art. 63; 2007, ch. 2, art. 22; 2009, ch. 31, art. 5; 2011, ch. 24, art. 28; 2013, ch. 34, art. 250; 2014, ch. 20, art. 11; 2017, ch. 20, art. 16.

Déficience grave et prolongée

118.4 (1) Pour l'application du paragraphe 6(16), des articles 118.2 et 118.3 et du présent paragraphe :

a) une déficience est prolongée si elle dure au moins 12 mois d'affilée ou s'il est raisonnable de s'attendre à ce qu'elle dure au moins 12 mois d'affilée;

b) la capacité d'un particulier d'accomplir une activité courante de la vie quotidienne est limitée de façon

amount of time) to perform a basic activity of daily living;

(b.1) an individual is considered to have the equivalent of a marked restriction in a basic activity of daily living only where all or substantially all of the time, even with therapy and the use of appropriate devices and medication, the individual's ability to perform more than one basic activity of daily living (including for this purpose, the ability to see) is significantly restricted, and the cumulative effect of those restrictions is tantamount to the individual's ability to perform a basic activity of daily living being markedly restricted;

(c) a basic activity of daily living in relation to an individual means

(i) mental functions necessary for everyday life,

(ii) feeding oneself or dressing oneself,

(iii) speaking so as to be understood, in a quiet setting, by another person familiar with the individual,

(iv) hearing so as to understand, in a quiet setting, another person familiar with the individual,

(v) eliminating (bowel or bladder functions), or

(vi) walking;

(c.1) mental functions necessary for everyday life include

(i) memory,

(ii) problem solving, goal-setting and judgement (taken together), and

(iii) adaptive functioning;

(d) for greater certainty, no other activity, including working, housekeeping or a social or recreational activity, shall be considered as a basic activity of daily living; and

(e) feeding oneself does not include

(i) any of the activities of identifying, finding, shopping for or otherwise procuring food, or

(ii) the activity of preparing food to the extent that the time associated with the activity would not have been necessary in the absence of a dietary restriction or regime; and

marquée seulement si, même avec des soins thérapeutiques et l'aide des appareils et des médicaments indiqués, il est toujours ou presque toujours aveugle ou incapable d'accomplir une activité courante de la vie quotidienne sans y consacrer un temps excessif;

b.1) un particulier n'est considéré comme ayant une limitation équivalant au fait d'être limité de façon marquée dans la capacité d'accomplir une activité courante de la vie quotidienne que si sa capacité d'accomplir plus d'une activité courante de la vie quotidienne (y compris, à cette fin, la capacité de voir) est toujours ou presque toujours limitée de façon importante malgré le fait qu'il reçoit des soins thérapeutiques et fait usage des instruments et médicaments indiqués, et que si les effets cumulatifs de ces limitations sont équivalents au fait d'être limité de façon marquée dans la capacité d'accomplir une activité courante de la vie quotidienne;

c) sont des activités courantes de la vie quotidienne pour un particulier :

(i) les fonctions mentales nécessaires aux activités de la vie courante,

(ii) le fait de s'alimenter ou de s'habiller,

(iii) le fait de parler de façon à se faire comprendre, dans un endroit calme, par une personne de sa connaissance,

(iv) le fait d'entendre de façon à comprendre, dans un endroit calme, une personne de sa connaissance,

(v) les fonctions d'évacuation intestinale ou vésicale,

(vi) le fait de marcher;

c.1) sont compris parmi les fonctions mentales nécessaires aux activités de la vie courante :

(i) la mémoire,

(ii) la résolution de problèmes, l'atteinte d'objectifs et le jugement (considérés dans leur ensemble),

(iii) l'apprentissage fonctionnel à l'indépendance;

d) il est entendu qu'aucune autre activité, y compris le travail, les travaux ménagers et les activités sociales ou récréatives, n'est considérée comme une activité courante de la vie quotidienne;

e) le fait de s'alimenter ne comprend pas :

(f) dressing oneself does not include any of the activities of identifying, finding, shopping for or otherwise procuring clothing.

i) les activités qui consistent à identifier, à rechercher, à acheter ou à se procurer autrement des aliments,

ii) l'activité qui consiste à préparer des aliments, dans la mesure où le temps associé à cette activité n'y aurait pas été consacré en l'absence d'une restriction ou d'un régime alimentaire;

f) le fait de s'habiller ne comprend pas les activités qui consistent à identifier, à rechercher, à acheter ou à se procurer autrement des vêtements.

Reference to medical practitioners, etc.

(2) For the purposes of sections 63, 64, 118.2, 118.3 and 118.6, a reference to an audiologist, dentist, medical doctor, medical practitioner, nurse, nurse practitioner, occupational therapist, optometrist, pharmacist, physiotherapist, psychologist or speech-language pathologist is a reference to a person authorized to practise as such,

(a) where the reference is used in respect of a service rendered to a taxpayer, pursuant to the laws of the jurisdiction in which the service is rendered;

(b) where the reference is used in respect of a certificate issued by the person in respect of a taxpayer, pursuant to the laws of the jurisdiction in which the taxpayer resides or of a province; and

(c) where the reference is used in respect of a prescription issued by the person for property to be provided to or for the use of a taxpayer, pursuant to the laws of the jurisdiction in which the taxpayer resides, of a province or of the jurisdiction in which the property is provided.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.4; 1994, c. 7, Sch. II, s. 91; 1998, c. 19, s. 25; 1999, c. 22, s. 36; 2001, c. 17, s. 97; 2003, c. 15, s. 75; 2006, c. 4, s. 64; 2017, c. 20, s. 17.

Professionnels de la santé titulaires d'un permis d'exercice

(2) Tout audiologiste, dentiste, ergothérapeute, infirmier, infirmier praticien, médecin, médecin en titre, optométriste, orthophoniste, pharmacien, physiothérapeute ou psychologue visé aux articles 63, 64, 118.2, 118.3 et 118.6 doit être autorisé à exercer sa profession :

a) par la législation applicable là où il rend ses services, s'il est question de services;

b) s'il doit délivrer une attestation concernant un particulier, soit par la législation applicable là où le particulier réside, soit par la législation provinciale applicable;

c) s'il doit délivrer une ordonnance pour des biens à fournir à un particulier ou destinés à être utilisés par un particulier, soit par la législation applicable là où le particulier réside, soit par la législation provinciale applicable, soit enfin par la législation applicable là où les biens sont fournis.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.4; 1994, ch. 7, ann. II, art. 91; 1998, ch. 19, art. 25; 1999, ch. 22, art. 36; 2001, ch. 17, art. 97; 2003, ch. 15, art. 75; 2006, ch. 4, art. 64; 2017, ch. 20, art. 17.

Tuition credit

118.5 (1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted,

(a) subject to subsection (1.1), where the individual was during the year a student enrolled at an educational institution in Canada that is

(i) a university, college or other educational institution providing courses at a post-secondary school level, or

(ii) certified by the Minister of Employment and Social Development to be an educational institution

Crédit d'impôt pour frais de scolarité

118.5 (1) Les montants suivants sont déductibles dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

a) sous réserve du paragraphe (1.1), si le particulier est inscrit au cours de l'année à l'un des établissements d'enseignement ci-après situés au Canada :

(i) établissement d'enseignement — université, collège ou autre — offrant des cours de niveau postsecondaire,

(ii) établissement d'enseignement reconnu par le ministre de l'Emploi et du Développement social

providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation,

an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for the individual's tuition paid in respect of the year to the educational institution, except to the extent that those fees

(ii.1) are paid to an educational institution described in subparagraph (i) in respect of courses that are not at the post-secondary school level, if

(A) the individual had not attained the age of 16 years before the end of the year, or

(B) the purpose of the individual's enrolment at the institution cannot reasonably be regarded as being to provide the individual with skills, or to improve the individual's skills, in an occupation,

(ii.2) are paid to an educational institution described in subparagraph (ii) if

(A) the individual had not attained the age of 16 years before the end of the year, or

(B) the purpose of the individual's enrolment at the institution cannot reasonably be regarded as being to provide the individual with skills, or to improve the individual's skills, in an occupation,

(iii) are paid on behalf of, or reimbursed to, the individual by the individual's employer and the amount paid or reimbursed is not included in the individual's income,

(iii.1) are fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of Her Majesty in right of Canada or a province designed to facilitate the entry or re-entry of workers into the labour force, where the amount of the reimbursement or assistance is not included in computing the individual's income,

(iv) were included as part of an allowance received by the individual's parent on the individual's behalf from an employer and are not included in computing the income of the parent by reason of subparagraph 6(1)(b)(ix), or

(v) are paid on the individual's behalf, or are fees in respect of which the individual is or was entitled to receive a reimbursement, under a program of Her Majesty in right of Canada designed to assist

comme offrant des cours — sauf les cours permettant d'obtenir des crédits universitaires — qui visent à donner ou à augmenter la compétence nécessaire à l'exercice d'une activité professionnelle,

le résultat de la multiplication du taux de base pour l'année par les frais de scolarité payés pour l'année à l'établissement, à l'exception des frais :

(ii.1) soit qui sont payés à un établissement visé au sous-alinéa (i) relativement à des cours qui ne sont pas de niveau postsecondaire si, selon le cas :

(A) le particulier n'avait pas atteint l'âge de 16 ans avant la fin de l'année,

(B) il n'est pas raisonnable de considérer que le motif de l'inscription du particulier à l'établissement consistait à lui permettre d'acquérir ou d'améliorer la compétence nécessaire à l'exercice d'une activité professionnelle,

(ii.2) soit qui sont payés à un établissement visé au sous-alinéa (ii) si, selon le cas :

(A) le particulier n'avait pas atteint l'âge de 16 ans avant la fin de l'année,

(B) il n'est pas raisonnable de considérer que le motif de l'inscription du particulier à l'établissement consistait à lui permettre d'acquérir ou d'améliorer la compétence nécessaire à l'exercice d'une activité professionnelle,

(iii) soit qui sont payés pour son compte, ou lui sont remboursés, par son employeur dans le cas où la somme payée ou remboursée n'est pas incluse dans son revenu,

(iii.1) soit qui sont des frais au titre desquels le particulier a ou avait le droit de recevoir un remboursement ou une autre forme d'aide aux termes d'un programme de Sa Majesté du chef du Canada ou d'une province, destiné à faciliter l'entrée ou le retour de travailleurs sur le marché du travail, si le montant du remboursement ou de l'aide n'est pas inclus dans le calcul du revenu du particulier,

(iv) soit qui font partie d'une allocation que son père ou sa mère a reçue pour son compte d'un employeur et no sont pas inclus dans le calcul de revenu de son père ou de sa mère par application du sous-alinéa 6(1)b)(ix);

(v) soit qui sont payés pour le compte du particulier, ou sont des frais pour lesquels il a ou avait

athletes, where the payment or reimbursement is not included in computing the individual's income;

(b) where the individual was during the year a student in full-time attendance at a university outside Canada in a course leading to a degree, an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for the individual's tuition paid in respect of the year to the university, except any such fees

(i) paid in respect of a course of less than three consecutive weeks duration,

(ii) paid on the individual's behalf by the individual's employer to the extent that the amount of the fees is not included in computing the individual's income, or

(iii) paid on the individual's behalf by the employer of the individual's parent, to the extent that the amount of the fees is not included in computing the income of the parent by reason of subparagraph 6(1)(b)(ix);

(c) where the individual resided throughout the year in Canada near the boundary between Canada and the United States if the individual

(i) was at any time in the year a student enrolled at an educational institution in the United States that is a university, college or other educational institution providing courses at a post-secondary school level, and

(ii) commuted to that educational institution in the United States,

an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for the individual's tuition paid in respect of the year to the educational institution if those fees exceeds $100, except to the extent that those fees

(iii) are paid on the individual's behalf by the individual's employer and are not included in computing the individual's income, or

(iv) were included as part of an allowance received by the individual's parent on the individual's behalf from an employer and are not included in computing the income of the parent by reason of subparagraph 6(1)(b)(ix); and

(d) subject to subsection (1.1), if the individual has taken an examination (in this section referred to as an

droit à un remboursement, dans le cadre d'un programme de Sa Majesté du chef du Canada d'aide aux athlètes, à condition que le paiement ou le montant du remboursement ne soit pas inclus dans le calcul du revenu du particulier;

b) si, au cours de l'année, le particulier fréquente comme étudiant à plein temps une université située à l'étranger, où il suit des cours conduisant à un diplôme, le produit de la multiplication du taux de base pour l'année par le total des frais de scolarité payés à l'université pour l'année, à l'exception des frais qui ont été :

(i) soit payés pour des cours d'une durée inférieure à trois semaines consécutives,

(ii) soit payés pour son compte par son employeur, dans la mesure où ils ne sont pas inclus dans le calcul de son revenu,

(iii) soit payés pour son compte par l'employeur de son père ou de sa mère, dans la mesure où ces frais ne sont pas inclus dans le calcul du revenu de son père ou de sa mère par application du sous-alinéa 6(1)b)(ix);

c) si, tout au long de l'année, le particulier réside au Canada près de la frontière entre le Canada et les État-Unis et si :

(i) d'une part, il est inscrit à un moment de l'année à un établissement d'enseignement situé aux États-Unis — université, collège ou autre — offrant des cours de niveau postsecondaire,

(ii) d'autre part, il fait régulièrement la navette entre sa résidence et cet établissement,

le produit de la multiplication du taux de base pour l'année par le total des frais de scolarité payés à l'établissement pour l'année si ces frais dépassent 100 $ et à l'exception des frais :

(iii) soit qui ont été payés pour son compte par son employeur et ne sont pas inclus dans le calcul de son revenu,

(iv) soit qui font partie d'une allocation que son père ou sa mère a reçue pour son compte d'un employeur et ne sont pas inclus dans le calcul du revenu de son père ou de sa mère par application du sous-alinéa 6(1)b)(ix);

"occupational, trade or professional examination") in the year that is required to obtain a professional status recognized under a federal or provincial statute, or to be licensed or certified as a tradesperson, where that status, licence or certification allows the individual to practise the profession or trade in Canada, an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees paid in respect of the occupational, trade or professional examination to an educational institution referred to in paragraph (a), a professional association, a provincial ministry or other similar institution, except to the extent that the occupational, trade or professional examination fees

(i) are paid on behalf of, or reimbursed to, the individual by the individual's employer and the amount paid or reimbursed is not included in the individual's income, or

(ii) are fees in respect of which the individual is or was entitled to receive a reimbursement or any form of assistance under a program of Her Majesty in right of Canada or a province designed to facilitate the entry or re-entry of workers into the labour force, where the amount of the reimbursement or assistance is not included in computing the individual's income.

d) sous réserve du paragraphe (1.1), si le particulier a passé au cours de l'année un examen (appelé « examen professionnel » au présent article) qui est nécessaire à l'obtention d'un statut professionnel reconnu sous le régime d'une loi fédérale ou provinciale ou à l'obtention d'un permis ou d'une qualification pour exercer un métier, dans le cas où ce statut, ce permis ou cette qualification permet au particulier d'exercer la profession ou le métier au Canada, une somme égale au résultat de la multiplication du taux de base pour l'année par les frais payés relativement à l'examen professionnel à un établissement d'enseignement visé à l'alinéa a), à une association professionnelle, à un ministère provincial ou à une institution semblable, à l'exception des frais d'examen professionnel :

(i) soit qui sont payés pour le compte du particulier, ou lui sont remboursés, par son employeur, dans le cas où la somme payée ou remboursée n'est pas incluse dans son revenu,

(ii) soit qui sont des frais au titre desquels le particulier a ou avait droit à un remboursement ou à une forme d'aide dans le cadre d'un programme de Sa Majesté du chef du Canada ou d'une province destiné à faciliter l'entrée ou le retour de travailleurs sur le marché du travail, dans le cas où le montant du remboursement ou de l'aide n'est pas inclus dans le calcul du revenu du particulier.

Minimum amount

(1.1) No amount may be deducted for a taxation year by an individual under paragraph (1)(a) or (d) in respect of any fees paid to a particular institution unless the total of the fees described in those paragraphs and paid to the particular institution in the year by the individual exceeds $100.

Montant minimal

(1.1) Une somme n'est déductible par un particulier pour une année d'imposition en application des alinéas (1)a) ou d) au titre de frais payés à un établissement d'enseignement donné ou à une institution donnée que si le total des frais visés à ces alinéas et payés pour l'année par le particulier à l'établissement ou à l'institution dépasse 100 $.

Application to deemed residents

(2) Where an individual is deemed by section 250 to be resident in Canada throughout all or part of a taxation year, in applying subsection (1) in respect of the individual for the period when the individual is so deemed to be resident in Canada, paragraph (1)(a) shall be read without reference to the words "in Canada".

Application aux particuliers réputés résider au Canada

(2) Lorsque, en application de l'article 250, un particulier est réputé résider au Canada tout au long d'une année d'imposition ou d'une partie de celle-ci, le paragraphe (1) lui est applicable pour cette année ou partie d'année, selon le cas, compte non tenu des mots « situés au Canada » à l'alinéa (1)a).

Inclusion of ancillary fees and charges

(3) For the purpose of this section, ***fees for an individual's tuition*** includes ancillary fees and charges that are paid

(a) to an educational institution referred to in subparagraph 118.5(1)(a)(i), and

Frais accessoires

(3) Pour l'application du présent article, sont compris parmi les frais de scolarité d'un particulier les frais accessoires qui sont payés, à la fois :

a) à un établissement d'enseignement visé au sous-alinéa (1)a)(i);

(b) in respect of the individual's enrolment at the institution in a program at a post-secondary school level,

but does not include

(c) any fee or charge to the extent that it is levied in respect of

(i) a student association,

(ii) property to be acquired by students,

(iii) services not ordinarily provided at educational institutions in Canada that offer courses at a post-secondary school level,

(iv) the provision of financial assistance to students, except to the extent that, if this Act were read without reference to subsection 56(3), the amount of the assistance would be required to be included in computing the income, and not be deductible in computing the taxable income, of the students to whom the assistance is provided, or

(v) the construction, renovation or maintenance of any building or facility, except to the extent that the building or facility is owned by the institution and used to provide

(A) courses at the post-secondary school level, or

(B) services for which, if fees or charges in respect of the services were required to be paid by all students of the institution, the fees or charges would be included because of this subsection in the fees for an individual's tuition, and

(d) any fee or charge for a taxation year that, but for this paragraph, would be included because of this subsection in the fees for the individual's tuition and that is not required to be paid by

(i) all of the institution's full-time students, where the individual is a full-time student at the institution, and

(ii) all of the institution's part-time students, where the individual is a part-time student at the institution,

to the extent that the total for the year of all such fees and charges paid in respect of the individual's enrolment at the institution exceeds $250.

b) au titre de l'inscription du particulier à l'établissement à un programme de niveau postsecondaire.

Ne sont pas des frais de scolarité :

c) les frais de toute nature dans la mesure où ils sont exigés relativement à ce qui suit :

(i) une association d'étudiants,

(ii) des biens à être acquis par les étudiants,

(iii) des services qui ne sont pas habituellement fournis dans des établissements d'enseignement au Canada qui offrent des cours de niveau postsecondaire,

(iv) la prestation d'aide financière aux étudiants, sauf dans la mesure où, en l'absence du paragraphe 56(3), le montant d'aide serait à inclure dans le calcul du revenu des étudiants bénéficiaires et ne serait pas déductible dans le calcul de leur revenu imposable,

(v) la construction, la rénovation ou l'entretien de tout bâtiment ou de toute installation, sauf dans la mesure où ils appartiennent à l'établissement et servent à offrir :

(A) soit des cours de niveau postsecondaire,

(B) soit des services relativement auxquels des frais, s'ils étaient exigés de l'ensemble des étudiants de l'établissement, seraient inclus par l'effet du présent paragraphe dans les frais de scolarité d'un particulier;

d) les frais pour une année d'imposition qui, si ce n'était le présent alinéa, seraient inclus par l'effet du présent paragraphe dans les frais de scolarité du particulier et qui n'ont pas à être payés par :

(i) l'ensemble des étudiants à temps plein de l'établissement, si le particulier est un étudiant à temps plein de l'établissement,

(ii) l'ensemble des étudiants à temps partiel de l'établissement, si le particulier est un étudiant à temps partiel de l'établissement,

dans la mesure où le total pour l'année des frais de cette nature qui sont payés au titre de l'inscription du particulier à l'établissement dépasse 250 $.

Ancillary fees and charges for examinations

(4) For the purpose of this section, ***fees paid in respect of the occupational, trade or professional examination*** of an individual includes ancillary fees and charges, other than fees and charges included in subsection (3), that are paid to an educational institution referred to in subparagraph (1)(a)(i), a professional association, a provincial ministry or other similar institution, in respect of an occupation, trade or professional examination taken by the individual, but does not include any fee or charge to the extent that it is levied in respect of

(a) property to be acquired by an individual;

(b) the provision of financial assistance to an individual, except to the extent that, if this Act were read without reference to subsection 56(3), the financial assistance would be required to be included in computing the income, and would not be deductible in computing the taxable income, of the individual;

(c) the construction, renovation or maintenance of any building or facility; or

(d) any fee or charge for a taxation year that, but for this paragraph, would be included because of this subsection in the fees for the individual's occupational, trade or professional examination and that is not required to be paid by all the individuals taking the occupational, trade or professional examination to the extent that the total for the year of all such fees and charges paid in respect of the individual's fees for the occupational, trade or professional examination exceeds $250.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.5; 1994, c. 7, Sch II, s. 92, Sch. VIII, s. 56, c. 21, s. 54; 1996, c. 11, s. 95; 1998, c. 19, ss. 26, 135; 2005, c. 34, s. 80; 2011, c. 24, s. 29; 2013, c. 34, s. 251, c. 40, ss. 50, 238; 2017, c. 20, s. 18.

Frais accessoires et frais d'examen professionnel

(4) Pour l'application du présent article, sont compris dans les frais payés relativement à un examen professionnel d'un particulier les frais accessoires, sauf ceux visés au paragraphe (3), qui sont payés à un établissement d'enseignement visé au sous-alinéa (1)a)(i), à une association professionnelle, à un ministère provincial ou à une institution semblable relativement à un examen professionnel passé par le particulier, à l'exclusion des frais perçus au titre :

a) de biens à acquérir par un particulier;

b) de la prestation d'aide financière à un particulier, sauf dans la mesure où le montant de l'aide serait à inclure dans le calcul du revenu du particulier et ne serait pas déductible dans le calcul de son revenu imposable s'il n'était pas tenu compte du paragraphe 56(3);

c) de la construction, de la rénovation ou de l'entretien d'un bâtiment ou d'une installation;

d) de sommes pour une année d'imposition qui, en l'absence du présent alinéa, seraient incluses par l'effet du présent paragraphe dans les frais d'examen professionnel du particulier et qui n'ont pas à être payées par tous les particuliers qui passent l'examen professionnel, dans la mesure où le total pour l'année de telles sommes payées au titre des frais d'examen du particulier dépasse 250 $.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.5; 1994, ch. 7, ann. II, art. 92, ann. VIII, art. 56, ch. 21, art. 54; 1996, ch. 11, art. 95; 1998, ch. 19, art. 26 et 135; 2005, ch. 34, art. 80; 2011, ch. 24, art. 29; 2013, ch. 34, art. 251, ch. 40, art. 50 et 238; 2017, ch. 20, art. 18.

Definitions

118.6 (1) For the purposes of sections 63 and 64 and this subdivision,

designated educational institution means

(a) an educational institution in Canada that is

(i) a university, college or other educational institution designated by the lieutenant governor in council of a province as a specified educational institution under the *Canada Student Loans Act*, designated by an appropriate authority under the *Canada Student Financial Assistance Act*, or designated, for the purposes of *An Act respecting financial assistance for education expenses*, R.S.Q, c. A-13.3, by the Minister of the Province of Quebec responsible for the administration of that Act, or

Définitions

118.6 (1) Les définitions qui suivent s'appliquent aux articles 63 et 64 et à la présente sous-section.

établissement d'enseignement agréé

a) Un des établissements d'enseignement suivants situés au Canada :

(i) université, collège ou autre établissement d'enseignement agréé soit par le lieutenant-gouverneur en conseil d'une province au titre de la *Loi fédérale sur les prêts aux étudiants*, soit par une autorité compétente en application de la *Loi fédérale sur l'aide financière aux étudiants*, ou désigné, pour l'application de la *Loi sur l'aide financière aux études*, L.R.Q., ch. A-13.3, par le ministre de la province de Québec chargé de l'application de cette loi,

(ii) certified by the Minister of Employment and Social Development to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation,

(b) a university outside Canada at which the individual referred to in the definition ***qualifying student*** in this subsection was enrolled in a course, of not less than three consecutive weeks duration, leading to a degree, or

(c) if the individual referred to in the definition ***qualifying student*** in this subsection resided, throughout the year referred to in that definition, in Canada near the boundary between Canada and the United States, an educational institution in the United States to which the individual commuted that is a university, college or other educational institution providing courses at a post-secondary school level; (*établissement d'enseignement agréé*)

qualifying educational program means a program of not less than three consecutive weeks duration that provides that each student taking the program spend not less than 10 hours per week on courses or work in the program and, in respect of a program at an institution described in the definition *designated educational institution* (other than an institution described in subparagraph (a)(ii) of that definition), that is a program that does not consist primarily of research (unless the program leads to a diploma from a college or a Collège d'enseignement général et professionnel, or a bachelor, masters, doctoral or equivalent degree) but, in relation to any particular student, does not include a program if the student receives, from a person with whom the student is dealing at arm's length, any allowance, benefit, grant or reimbursement for expenses in respect of the program other than

(a) an amount received by the student as or on account of a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the student,

(b) a benefit, if any, received by the student because of a loan made to the student in accordance with the requirements of the *Canada Student Loans Act*, the *Apprentice Loans Act* or *An Act respecting financial assistance for education expenses*, R.S.Q., c. A-13.3, or because of financial assistance given to the student in accordance with the requirements of the *Canada Student Financial Assistance Act*, or

(c) an amount that is received by the student in the year under a program referred to in subparagraph

(ii) établissement d'enseignement reconnu par le ministre de l'Emploi et du Développement social comme offrant des cours — sauf les cours permettant d'obtenir des crédits universitaires — qui visent à donner ou augmenter la compétence nécessaire à l'exercice d'une activité professionnelle;

b) université située à l'étranger, où le particulier mentionné à la définition de *étudiant admissible* à ce paragraphe est inscrit à des cours d'une durée minimale de trois semaines consécutives qui conduisent à un diplôme;

c) établissement d'enseignement situé aux États-Unis — université, collège ou autre — offrant des cours de niveau postsecondaire si, tout au long de l'année mentionnée à la définition de *étudiant admissible* à ce paragraphe, le particulier mentionné à cette définition réside au Canada près de la frontière entre le Canada et les États-Unis et qu'il fasse régulièrement la navette entre sa résidence et cet établissement. (*designated educational institution*)

étudiant admissible Est un étudiant admissible pour un mois d'une année d'imposition, le particulier qui, à la fois :

a) au cours du mois :

(i) soit est inscrit à un programme de formation admissible comme étudiant à temps plein d'un établissement d'enseignement agréé,

(ii) soit n'est pas visé au sous-alinéa (i) et est inscrit à un programme de formation déterminé d'un établissement d'enseignement agréé exigeant que chaque étudiant du programme y consacre au moins douze heures au cours du mois;

b) sur demande du ministre, atteste l'inscription au moyen d'un certificat qui est délivré par l'établissement sur le formulaire prescrit contenant les renseignements prescrits et qu'il présente au ministre;

c) s'agissant d'un particulier qui est inscrit à un programme (autre qu'un programme de niveau postsecondaire) d'un établissement d'enseignement agréé visé au sous-alinéa a)(i) de la définition de *établissement d'enseignement agréé* ou qui est inscrit à un programme d'un établissement d'enseignement agréé visé au sous-alinéa a)(ii) de cette définition :

(i) d'une part, a atteint l'âge de 16 ans avant la fin de l'année,

56(1)(r)(ii) or (iii), a program established under the authority of the *Department of Employment and Social Development Act* or a prescribed program; (*programme de formation admissible*)

qualifying student, for a month in a taxation year, means an individual who,

(a) in the month,

(i) is enrolled in a qualifying educational program as a full-time student at a designated educational institution, or

(ii) is not described in subparagraph (i) and is enrolled at a designated educational institution in a specified educational program that provides that each student in the program spend not less than 12 hours in the month on courses in the program,

(b) if requested by the Minister, proves the enrolment by filing with the Minister a certificate in prescribed form issued by the designated educational institution and containing prescribed information,

(c) in the case of an individual who is enrolled in a program (other than a program at the post-secondary school level) at a designated educational institution described in subparagraph (a)(i) of the definition *designated educational institution* or who is enrolled in a program at a designated educational institution described in subparagraph (a)(ii) of that definition,

(i) has attained the age of 16 years before the end of the year, and

(ii) is enrolled in the program to obtain skills for, or improve the individual's skills in, an occupation, and

(d) in the case of an individual who is enrolled at a designated educational institution described in paragraph (c) of the definition *designated educational institution*, is enrolled in a program that is at the post-secondary level; (*étudiant admissible*)

specified educational program means a program that would be a qualifying educational program if the definition *qualifying educational program* were read without reference to the words "that provides that each student taking the program spend not less than 10 hours per week on courses or work in the program". (*programme de formation déterminé*)

(2) and (2.1) [Repealed, 2016, c. 7, s. 16]

(ii) d'autre part, est inscrit au programme en vue d'acquérir ou d'améliorer sa compétence à exercer une activité professionnelle;

d) s'agissant d'un particulier qui est inscrit à un programme d'un établissement d'enseignement agréé visé à l'alinéa c) de la définition de *établissement d'enseignement agréé*, est inscrit à un programme de niveau postsecondaire. (*qualifying student*)

programme de formation admissible Programme d'une durée minimale de trois semaines consécutives, aux cours ou aux travaux duquel l'étudiant doit consacrer dix heures par semaine au moins et qui, s'il s'agit d'un programme d'un établissement visé à la définition de *établissement d'enseignement agréé* (sauf un établissement visé au sous-alinéa a)(ii) de cette définition), est un programme qui ne consiste pas principalement à faire de la recherche, à moins qu'il ne mène à un diplôme décerné par un collège ou un collège d'enseignement général et professionnel ou à un baccalauréat, une maîtrise ou un doctorat ou à un grade équivalent. En est exclu tout programme au titre des frais duquel l'étudiant reçoit d'une personne avec laquelle il n'a aucun lien de dépendance une allocation, un avantage, une subvention ou un remboursement, qui n'est :

a) ni une somme reçue au titre d'une bourse d'études, d'une bourse de perfectionnement (*fellowship*) ou d'une récompense couronnant une œuvre remarquable réalisée dans son domaine d'activité habituel;

b) ni un avantage reçu en raison d'un prêt consenti à l'étudiant conformément à la *Loi fédérale sur les prêts aux étudiants*, à la *Loi sur les prêts aux apprentis* ou à la *Loi sur l'aide financière aux études*, L.R.Q., ch. A-13.3, ou en raison d'une aide financière consentie à l'étudiant conformément à la *Loi fédérale sur l'aide financière aux étudiants*;

c) ni une somme que l'étudiant reçoit au cours de l'année dans le cadre d'un programme mentionné aux sous-alinéas 56(1)r)(ii) ou (iii), d'un programme établi sous le régime de la *Loi sur le ministère de l'Emploi et du Développement social* ou d'un programme visé par règlement. (*qualifying educational program*)

programme de formation déterminé Programme qui serait un programme de formation admissible s'il n'était pas tenu compte du passage « aux cours ou aux travaux duquel l'étudiant doit consacrer 10 heures par semaine au moins » dans la définition de *programme de formation admissible*. (*specified educational program*)

(2) et (2.1) [Abrogés, 2016, ch. 7, art. 16]

Students eligible for disability tax credit

(3) For the purposes of subparagraph (a)(i) of the definition *qualifying student* in subsection (1), the reference to "full-time student" is to be read as "student" if

(a) an amount may be deducted under section 118.3 in respect of the individual for the year; or

(b) the individual has in the year a mental or physical impairment the effects of which on the individual have been certified in writing, to be such that the individual cannot reasonably be expected to be enrolled as a full-time student while so impaired, by a medical doctor or, where the impairment is

(i) an impairment of sight, by a medical doctor or an optometrist,

(i.1) a speech impairment, by a medical doctor or a speech-language pathologist,

(ii) a hearing impairment, by a medical doctor or an audiologist,

(iii) an impairment with respect to the individual's ability in feeding or dressing themself, by a medical doctor or an occupational therapist,

(iii.1) an impairment with respect to the individual's ability in walking, by a medical doctor, an occupational therapist or a physiotherapist, or

(iv) an impairment with respect to the individual's ability in mental functions necessary for everyday life (within the meaning assigned by paragraph 118.4(1)(c.1)), by a medical doctor or a psychologist.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.6; 1994, c. 7, Sch. II, s. 93, Sch. VIII, s. 57, c. 28, s. 28; 1996, c. 11, s. 95; 1997, c. 25, s. 28; 1998, c. 19, s. 27; 1999, c. 22, s. 37; 2001, c. 17, s. 98; 2002, c. 9, s. 36; 2003, c. 15, s. 76; 2005, c. 19, s. 25, c. 34, ss. 80, 81; 2007, c. 2, s. 23; 2011, c. 24, s. 30; 2013, c. 34, s. 252, c. 40, ss. 236, 238; 2016, c. 7, s. 16; 2017, c. 20, s. 19.

Unused tuition, textbook and eduction tax credits

118.61 (1) In this section, an individual's unused tuition, textbook and education tax credits at the end of a taxation year is the amount determined by the formula

A + (B - C) - (D + E)

where

A is the amount determined under this subsection in respect of the individual at the end of the preceding taxation year;

Étudiants admissibles au crédit d'impôt pour personnes handicapées

(3) Pour l'application du sous-alinéa a)(i) de la définition de *étudiant admissible* au paragraphe (1), la mention « étudiant à temps plein » vaut mention de « étudiant » si, selon le cas :

a) un montant est déductible en application de l'article 118.3 relativement au particulier pour l'année;

b) le particulier a, au cours de l'année, une déficience mentale ou physique dont les effets, selon l'attestation écrite d'une des personnes suivantes, sont tels qu'il est vraisemblable de s'attendre à ce que le particulier ne puisse être inscrit comme étudiant à temps plein tant qu'il a cette déficience :

(i) un médecin en titre,

(ii) s'il s'agit d'une déficience visuelle, un médecin en titre ou un optométriste,

(ii.1) s'il s'agit d'un trouble de la parole, un médecin en titre ou un orthophoniste,

(iii) s'il s'agit d'une déficience auditive, un médecin en titre ou un audiologiste,

(iv) s'il s'agit d'une déficience quant à la capacité de s'alimenter ou de s'habiller, un médecin en titre ou un ergothérapeute,

(iv.1) s'il s'agit d'une déficience quant à la capacité de marcher, un médecin en titre, un ergothérapeute ou un physiothérapeute,

(v) s'il s'agit d'une déficience des fonctions mentales nécessaires aux activités de la vie courante, un médecin en titre ou un psychologue.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.6; 1994, ch. 7, ann. II, art. 93, ann. VIII, art. 57, ch. 28, art. 28; 1996, ch. 11, art. 95; 1997, ch. 25, art. 28; 1998, ch. 19, art. 27; 1999, ch. 22, art. 37; 2001, ch. 17, art. 98; 2002, ch. 9, art. 36; 2003, ch. 15, art. 76; 2005, ch. 19, art. 25, ch. 34, art. 80 et 81; 2007, ch. 2, art. 23; 2011, ch. 24, art. 30; 2013, ch. 34, art. 252, ch. 40, art. 236 et 238; 2016, ch. 7, art. 16; 2017, ch. 20, art. 19.

Crédits d'impôt inutilisés pour études, frais de scolarité et manuels

118.61 (1) Pour l'application du présent article, la partie inutilisée des crédits d'impôt pour études, pour frais de scolarité et pour manuels d'un particulier à la fin d'une année d'imposition correspond à la somme obtenue par la formule suivante :

A + (B - C) - (D + E)

où :

B is the total of all amounts each of which may be deducted under section 118.5 in computing the individual's tax payable under this Part for the year;

C is the lesser of the value of B and the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under this section and any of sections 118 to 118.07, 118.3 and 118.7);

D is the amount that the individual may deduct under subsection (2) for the year; and

E is the tuition tax credit transferred for the year by the individual to the individual's spouse, common-law partner, parent or grandparent.

A représente la somme déterminée selon le présent paragraphe relativement au particulier à la fin de l'année d'imposition précédente;

B le total des sommes dont chacune est déductible en application de l'article 118.5 dans le calcul de l'impôt payable par le particulier en vertu de la présente partie pour l'année;

C la valeur de l'élément B ou, si elle est inférieure, la somme qui correspondrait à l'impôt payable par le particulier en vertu de la présente partie pour l'année si aucune somme, sauf celles visées au présent article ou à l'un des articles 118 à 118.07, 118.3 et 118.7, n'était déductible en application de la présente section;

D la somme que le particulier peut déduire en application du paragraphe (2) pour l'année;

E le crédit d'impôt pour frais de scolarité que le particulier a transféré pour l'année à son époux ou conjoint de fait, son père, sa mère, son grand-père ou sa grand-mère.

Deduction of carryforward

(2) For the purpose of computing an individual's tax payable under this Part for a taxation year, there may be deducted the lesser of

(a) the amount determined under subsection (1) in respect of the individual at the end of the preceding taxation year, and

(b) the amount that would be the individual's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under this section and any of sections 118 to 118.07, 118.3 and 118.7).

(3) [Repealed, 2007, c. 2, s. 24]

Change of appropriate percentage

(4) For the purpose of determining the amount that may be deducted under subsection (2) in computing an individual's tax payable for a taxation year, in circumstances where the appropriate percentage for the taxation year is different from the appropriate percentage for the preceding taxation year, the individual's unused tuition, textbook and education tax credits at the end of the preceding taxation year is deemed to be the amount determined by the formula

A/B × C

where

A is the appropriate percentage for the current taxation year;

Déduction du montant reporté

(2) Le moins élevé des montants suivants est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

a) la somme déterminée selon le paragraphe (1) relativement au particulier à la fin de l'année d'imposition précédente;

b) la somme qui correspondrait à son impôt payable en vertu de la présente partie pour l'année si aucune somme, sauf celles visées au présent article ou à l'un des articles 118 à 118.07, 118.3 et 118.7, n'était déductible en application de la présente section.

(3) [Abrogé, 2007, ch. 2, art. 24]

Modification du taux de base

(4) Pour ce qui est du calcul du montant déductible en application du paragraphe (2) dans le calcul de l'impôt payable par un particulier pour une année d'imposition dans le cas où le taux de base pour l'année diffère de celui pour l'année d'imposition précédente, la partie inutilisée des crédits d'impôt pour études, pour frais de scolarité et pour manuels du particulier à la fin de l'année précédente est réputée correspondre à la somme obtenue par la formule suivante :

A/B × C

où :

A représente le taux de base pour l'année;

B le taux de base pour l'année précédente;

B is the appropriate percentage for the preceding taxation year; and

C is the amount that would be the individual's unused tuition, textbook and education tax credits at the end of the preceding taxation year if this section were read without reference to this subsection.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 28; 2000, c. 12, s. 142; 2001, c. 17, s. 99; 2006, c. 4, s. 65; 2007, c. 2, s. 24; 2009, c. 31, s. 6; 2011, c. 24, s. 31; 2014, c. 20, s. 12; 2016, c. 7, s. 17.

Credit for interest on student loan

118.62 For the purpose of computing an individual's tax payable under this Part for a taxation year, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the year; and

B is the total of all amounts (other than any amount paid on account of or in satisfaction of a judgement) each of which is an amount of interest paid in the year (or in any of the five preceding taxation years that are after 1997, to the extent that it was not included in computing a deduction under this section for any other taxation year) by the individual or a person related to the individual on a loan made to, or other amount owing by, the individual under the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act*, the *Apprentice Loans Act* or a law of a province governing the granting of financial assistance to students at the post-secondary school level.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1999, c. 22, s. 38; 2014, c. 39, s. 35.

Credit for EI and QPIP premiums and CPP contributions

118.7 For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted the amount determined by the formula

A × B

where

A is the appropriate percentage for the year; and

B is the total of

(a) the total of all amounts each of which is an amount payable by the individual as an employee's premium or a self-employment premium for the year under the *Employment Insurance Act*,

C la somme qui correspondrait à la partie inutilisée des crédits d'impôt pour études, pour frais de scolarité et pour manuels du particulier à la fin de l'année précédente si le présent article s'appliquait compte non tenu du présent paragraphe.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 28; 2000, ch. 12, art. 142; 2001, ch. 17, art. 99; 2006, ch. 4, art. 65; 2007, ch. 2, art. 24; 2009, ch. 31, art. 6; 2011, ch. 24, art. 31; 2014, ch. 20, art. 12; 2016, ch. 7, art. 17.

Crédit pour intérêts sur les prêts aux étudiants

118.62 Le montant obtenu par la formule suivante est déductible dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition :

A × B

où :

A représente le taux de base pour l'année;

B le total des montants (sauf un montant versé en paiement intégral ou partiel d'un jugement) représentant chacun un montant d'intérêt payé au cours de l'année (ou d'une des cinq années d'imposition précédentes postérieures à 1997, dans la mesure où il n'a pas été inclus, pour une autre année d'imposition, dans le calcul de la déduction prévue par le présent article) par le particulier ou une personne qui lui est liée sur un prêt consenti au particulier, ou tout autre montant dont il est débiteur, en vertu de la *Loi fédérale sur les prêts aux étudiants*, de la *Loi fédérale sur l'aide financière aux étudiants*, de la *Loi sur les prêts aux apprentis* ou d'une loi provinciale régissant l'octroi d'aide financière aux étudiants de niveau postsecondaire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1999, ch. 22, art. 38; 2014, ch. 39, art. 35.

Crédit pour cotisations à l'A-E, au RQAP et au RPC

118.7 La somme obtenue par la formule ci-après est déductible dans le calcul de l'impôt à payer par un particulier en vertu de la présente partie pour une année d'imposition :

A × B

où :

A représente le taux de base pour l'année;

B le total des sommes suivantes :

a) le total des sommes représentant chacune une somme à payer par le particulier à titre de cotisation ouvrière ou de cotisation de travailleur indépendant pour l'année en application de la *Loi sur l'assurance-emploi*, jusqu'à concurrence du

not exceeding the maximum amount of such premiums payable by the individual for the year under that Act,

(a.1) the total of all amounts each of which is an amount payable by the individual as an employee's premium for the year under the *Act respecting parental insurance*, R.S.Q., c. A-29.011, not exceeding the maximum amount of such premiums payable by the individual for the year under that Act,

(a.2) the amount, if any, by which the total of all amounts each of which is an amount payable by the individual in respect of self-employed earnings for the year as a premium under the *Act respecting parental insurance*, R.S.Q., c. A-29.011, (not exceeding the maximum amount of such premiums payable by the individual for the year under that Act) exceeds the amount deductible under paragraph 60(g) in computing the individual's income for the year,

(b) the total of all amounts each of which is an amount payable by the individual for the year as an employee's contribution under the *Canada Pension Plan* or under a provincial pension plan defined in section 3 of that Act, not exceeding the maximum amount of such contributions payable by the individual for the year under the plan, and

(c) the amount by which

(i) the total of all amounts each of which is an amount payable by the individual in respect of self-employed earnings for the year as a contribution under the *Canada Pension Plan* or under a provincial pension plan within the meaning assigned by section 3 of that Act (not exceeding the maximum amount of such contributions payable by the individual for the year under the plan)

exceeds

(ii) the amount deductible under paragraph 60(e) in computing the individual's income for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.7; 1996, c. 23, par. 187(d); 2001, c. 17, s. 100; 2013, c. 34, s. 253.

maximum à payer par lui à ces titres pour l'année en application de cette loi,

a.1) le total des sommes représentant chacune une somme à payer par le particulier à titre de cotisation d'employé pour l'année en application de la *Loi sur l'assurance parentale*, L.R.Q., ch. A-29.011, jusqu'à concurrence du maximum à payer par lui à ce titre pour l'année en application de cette loi,

a.2) l'excédent du total des sommes représentant chacune une somme à payer par le particulier à titre de cotisation en application de la *Loi sur l'assurance parentale*, L.R.Q., ch. A-29.011, sur les gains provenant d'un travail qu'il exécute pour son propre compte (jusqu'à concurrence du maximum à payer par lui à ce titre pour l'année en application de cette loi) sur la somme déductible en application de l'alinéa 60g) dans le calcul de son revenu pour l'année,

b) le total des sommes représentant chacune une somme à payer par le particulier pour l'année à titre de cotisation d'employé en application du *Régime de pensions du Canada* ou d'un régime provincial de pensions, au sens de l'article 3 de cette loi, jusqu'à concurrence du maximum à payer par lui à ce titre pour l'année en application du régime,

c) l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune une somme à payer par le particulier pour l'année à titre de cotisation en application du *Régime de pensions du Canada* ou d'un régime provincial de pensions, au sens de l'article 3 de cette loi, sur les gains provenant d'un travail qu'il exécute pour son propre compte, jusqu'à concurrence du maximum à payer par lui à ce titre pour l'année en application du régime,

(ii) la somme déductible en application de l'alinéa 60e) dans le calcul du revenu du particulier pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.7; 1996, ch. 23, art. 187d); 2001, ch. 17, art. 100; 2013, ch. 34, art. 253.

Transfer of unused credits to spouse or common-law partner

118.8 For the purpose of computing the tax payable under this Part for a taxation year by an individual who, at any time in the year, is a married person or a person who is in a common-law partnership (other than an individual who, by reason of a breakdown of their marriage or common-law partnership, is living separate and apart from

Transfert à l'époux ou au conjoint de fait de certains crédits d'impôt inutilisés

118.8 Le particulier qui, à un moment d'une année d'imposition, est marié ou vit en union de fait peut déduire dans le calcul de son impôt payable en vertu de la présente partie pour cette année — sauf si, pour cause d'échec du mariage ou de l'union de fait, il vit séparé de son époux ou conjoint de fait à la fin de l'année et

the individual's spouse or common-law partner at the end of the year and for a period of 90 days commencing in the year), there may be deducted an amount determined by the formula

A + B - C

where

A is the tuition tax credit transferred for the year by the spouse or common-law partner to the individual;

B is the total of all amounts each of which is deductible under subsection 118(1), because of paragraph (b.1) of the description of B in that subsection, or subsection 118(2) or (3) or 118.3(1) in computing the spouse's or common-law partner's tax payable under this Part for the year; and

C is the amount, if any, by which

(a) the amount that would be the spouse's or common-law partner's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under subsection 118(1) because of paragraph (c) of the description of B in that subsection, under subsection 118(10) or under any of sections 118.01 to 118.07, 118.3, 118.61 and 118.7)

exceeds

(b) the lesser of

(i) the total of all amounts that may be deducted under section 118.5 in computing the spouse's or common-law partner's tax payable under this Part for the year, and

(ii) the amount that would be the spouse's or common-law partner's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under any of sections 118 to 118.07, 118.3, 118.61 and 118.7).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.8; 1994, c. 7, Sch. VIII, s. 58; 1997, c. 25, s. 29; 1998, c. 19, s. 29; 1999, c. 22, s. 39; 2000, c. 12, ss. 133, 142, c. 19, s. 26; 2007, c. 2, s. 25, c. 29, s. 10; 2009, c. 31, s. 7; 2011, c. 24, s. 32; 2014, c. 20, s. 13; 2016, c. 7, s. 18.

Tuition tax credit transferred

118.81 In this subdivision, the tuition tax credit transferred for a taxation year by a person to an individual is the lesser of

(a) the amount determined by the formula

A - B

where

A is the lesser of

pendant une période de 90 jours commençant au cours de l'année —, le montant calculé selon la formule suivante :

A + B - C

où :

A représente le crédit d'impôt pour frais de scolarité transféré au particulier pour l'année par son époux ou conjoint de fait;

B le total des montants dont chacun est déductible en application du paragraphe 118(1), par application de son alinéa b.1), ou des paragraphes 118(2) ou (3) ou 118.3(1) dans le calcul de l'impôt à payer par l'époux ou le conjoint de fait en vertu de la présente partie pour l'année;

C l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant qui représenterait l'impôt payable par l'époux ou le conjoint de fait en vertu de la présente partie pour l'année si aucune somme, sauf celles visées à l'alinéa 118(1)c), au paragraphe 118(10) ou à l'un des articles 118.01 à 118.07, 118.3, 118.61 et 118.7, n'était déductible en application de la présente section,

b) le moins élevé des montants suivants :

(i) le total des montants déductibles en application de l'article 118.5 dans le calcul de l'impôt payable par l'époux ou le conjoint de fait en vertu de la présente partie pour l'année,

(ii) le montant qui représenterait l'impôt payable par l'époux ou le conjoint de fait en vertu de la présente partie pour l'année si aucune somme, sauf celles visées à l'un des articles 118 à 118.07, 118.3, 118.61 et 118.7, n'était déductible en application de la présente section.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.8; 1994, ch. 7, ann. VIII, art. 58; 1997, ch. 25, art. 29; 1998, ch. 19, art. 29; 1999, ch. 22, art. 39; 2000, ch. 12, art. 133 et 142, ch. 19, art. 26; 2007, ch. 2, art. 25, ch. 29, art. 10; 2009, ch. 31, art. 7; 2011, ch. 24, art. 32; 2014, ch. 20, art. 13; 2016, ch. 7, art. 18.

Transfert du crédit d'impôt pour frais de scolarité

118.81 Pour l'application de la présente sous-section, le montant du crédit d'impôt pour frais de scolarité qu'une personne transfère à un particulier pour une année d'imposition est la moins élevée des sommes suivantes :

a) le résultat du calcul suivant :

A - B

où :

A représente le moins élevé des montants suivants :

(i) the total of all amounts that may be deducted under section 118.5 in computing the person's tax payable under this Part for the year, and

(ii) the amount determined by the formula

C × D

where

C is the appropriate percentage for the taxation year, and

D is $5,000.

B is the amount that would be the person's tax payable under this Part for the year if no amount were deductible under this Division (other than an amount deductible under any of sections 118 to 118.07, 118.3, 118.61 and 118.7), and

(b) the amount for the year that the person designates in writing for the purpose of section 118.8 or 118.9.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 30; 2001, c. 17, s. 101; 2006, c. 4, s. 66; 2007, c. 2, s. 26; 2009, c. 31, s. 8; 2011, c. 24, s. 33; 2014, c. 20, s. 14; 2016, c. 7, s. 19.

(i) le total des montants déductibles en application de l'article 118.5 dans le calcul de l'impôt payable par la personne en vertu de la présente partie pour l'année,

(ii) la somme obtenue par la formule suivante :

C × D

où :

C représente le taux de base pour l'année,

D 5 000 $;

B la somme qui correspondrait à l'impôt payable par la personne en vertu de la présente partie pour l'année si aucune somme, sauf celles visées à l'un des articles 118 à 118.07, 118.3, 118.61 et 118.7, n'était déductible en application de la présente section;

b) le montant pour l'année que la personne désigne par écrit pour l'application des articles 118.8 ou 118.9.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 30; 2001, ch. 17, art. 101; 2006, ch. 4, art. 66; 2007, ch. 2, art. 26; 2009, ch. 31, art. 8; 2011, ch. 24, art. 33; 2014, ch. 20, art. 14; 2016, ch. 7, art. 19.

Transfer to parent or grandparent

118.9 If for a taxation year a parent or grandparent of an individual (other than an individual in respect of whom the individual's spouse or common-law partner deducts an amount under section 118 or 118.8 for the year) is the only person designated in writing by the individual for the year for the purpose of this section, there may be deducted in computing the tax payable under this Part for the year by the parent or grandparent, as the case may be, the tuition tax credit transferred for the year by the individual to the parent or grandparent, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.9; 1994, c. 7, Sch. II, s. 94, Sch. VIII, s. 59; 1997, c. 25, s. 30; 1998, c. 19, s. 30; 2000, c. 12, s. 142; 2007, c. 2, s. 27; 2016, c. 7, s. 20.

Transfert à l'un des parents ou grands-parents

118.9 Si, pour une année d'imposition, la personne qui est le père, la mère, le grand-père ou la grand-mère d'un particulier (à l'exception d'un particulier dont l'époux ou le conjoint de fait déduit une somme à son égard pour l'année en application des articles 118 ou 118.8) est la seule que le particulier ait désignée par écrit pour l'année pour l'application du présent article, le crédit d'impôt pour frais de scolarité que le particulier lui a transféré pour l'année est déductible dans le calcul de l'impôt payable par la personne en vertu de la présente partie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.9; 1994, ch. 7, ann. II, art. 94, ann. VIII, art. 59; 1997, ch. 25, art. 30; 1998, ch. 19, art. 30; 2000 ch. 12, art. 142; 2007, ch. 2, art. 27; 2016, ch. 7, art. 20.

Part-year residents

118.91 Notwithstanding sections 118 to 118.9, where an individual is resident in Canada throughout part of a taxation year and throughout another part of the year is non-resident, for the purpose of computing the individual's tax payable under this Part for the year,

(a) the amount deductible for the year under each such provision in respect of the part of the year that is not included in the period or periods referred to in paragraph 118.91(b) shall be computed as though such part were the whole taxation year; and

(b) the individual shall be allowed only

Particulier résidant au Canada pendant une partie de l'année seulement

118.91 Malgré les articles 118 à 118.9, dans le cas où un particulier réside au Canada tout au long d'une partie d'une année d'imposition et, tout au long d'une autre partie de l'année, est un non-résident, les règles suivantes s'appliquent au calcul de son impôt payable en vertu de la présent partie pour l'année :

a) le montant déductible pour l'année en application de chacune de ces dispositions relativement à la partie de l'année qui n'est pas comprise dans la ou les périodes visées à l'alinéa b) est calculé comme si cette partie constituait l'année d'imposition entière;

(i) such of the deductions permitted under subsections 118(3) and (10) and sections 118.01 to 118.2, 118.5, 118.62 and 118.7 as can reasonably be considered wholly applicable to the period or periods in the year throughout which the individual is resident in Canada, computed as though that period or those periods were the whole taxation year, and

(ii) such part of the deductions permitted under sections 118 (other than subsections 118(3) and (10)), 118.3, 118.8 and 118.9 as can reasonably be considered applicable to the period or periods in the year throughout which the individual is resident in Canada, computed as though that period or those periods were the whole taxation year,

except that the amount deductible for the year by the individual under each such provision shall not exceed the amount that would have been deductible under that provision had the individual been resident in Canada throughout the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.91; 1994, c. 7, Sch. II, s. 95, c. 21, s. 55; 1999, c. 22, s. 40; 2006, c. 4, s. 67; 2007, c. 2, s. 28; 2009, c. 31, s. 9; 2016, c. 7, s. 21.

b) seules les déductions suivantes sont permises au particulier :

(i) les déductions que permettent les paragraphes 118(3) et (10) et les articles 118.01 à 118.2, 118.5, 118.62 et 118.7 et qu'il est raisonnable de considérer comme étant entièrement applicables à la ou aux périodes de l'année tout au long desquelles il réside au Canada, calculées comme si cette période ou ces périodes constituaient l'année d'imposition entière,

(ii) la partie des déductions que permettent les articles 118 (sauf les paragraphes 118(3) et (10)), 118.3, 118.8 et 118.9 et qu'il est raisonnable de considérer comme étant applicables à la ou aux périodes de l'année tout au long desquelles il réside au Canada, calculée comme si cette période ou ces périodes constituaient l'année d'imposition entière.

Toutefois le montant que le particulier peut déduire pour l'année en application de chacune de ces dispositions ne peut dépasser le montant qu'il aurait pu ainsi déduire s'il avait résidé au Canada tout au long de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.91; 1994, ch. 7, ann. II, art. 95, ch. 21, art. 55; 1999, ch. 22, art. 40; 2006, ch. 4, art. 67; 2007, ch. 2, art. 28; 2009, ch. 31, art. 9; 2016, ch. 7, art. 21.

Ordering of credits

118.92 In computing an individual's tax payable under this Part, the following provisions shall be applied in the following order: subsections 118(1) and (2), section 118.7, subsections 118(3) and (10) and sections 118.01, 118.02, 118.04, 118.041, 118.05, 118.06, 118.07, 118.3, 118.61, 118.5, 118.9, 118.8, 118.2, 118.1, 118.62 and 121.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.92; 1998, c. 19, s. 31; 1999, c. 22, s. 41; 2006, c. 4, s. 68; 2007, c. 2, s. 29; 2009, c. 31, s. 10; 2011, c. 24, s. 34; 2014, c. 20, s. 15, c. 39, s. 36; 2015, c. 36, ss. 9, 31; 2016, c. 7, s. 22.

Ordre d'application des crédits

118.92 Pour le calcul de l'impôt payable par un particulier en vertu de la présente partie, les dispositions ci-après sont appliquées dans l'ordre suivant : paragraphes 118(1) et (2), article 118.7, paragraphes 118(3) et (10) et articles 118.01, 118.02, 118.04, 118.041, 118.05, 118.06, 118.07, 118.3, 118.61, 118.5, 118.9, 118.8, 118.2, 118.1, 118.62 et 121.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.92; 1998, ch. 19, art. 31; 1999, ch. 22, art. 41; 2006, ch. 4, art. 68; 2007, ch. 2, art. 29; 2009, ch. 31, art. 10; 2011, ch. 24, art. 34; 2014, ch. 20, art. 15, ch. 39, art. 36; 2015, ch. 36, art. 9 et 31; 2016, ch. 7, art. 22.

Credits in separate returns

118.93 If a separate return of income with respect to a taxpayer is filed under subsection 70(2), 104(23) or 150(4) for a particular period and another return of income under this Part with respect to the taxpayer is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the tax payable under this Part by the taxpayer in those returns, the total of all deductions claimed in all those returns under any of subsections 118(3) and (10) and sections 118.01 to 118.7 and 118.9 shall not exceed the total that could be deducted under those provisions for the year with respect to the taxpayer if no separate returns were filed under any of subsections 70(2), 104(23) and 150(4).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.93; 2006, c. 4, s. 68; 2007, c. 2, s. 29.

Crédits dans des déclarations de revenu distinctes

118.93 Lorsqu'une déclaration de revenu distincte est produite à l'égard d'un contribuable en application des paragraphes 70(2), 104(23) ou 150(4) pour une période donnée et qu'une autre déclaration de revenu à l'égard du contribuable est produite en vertu de la présente partie pour une période se terminant dans l'année civile où la période donnée se termine, pour le calcul de l'impôt à payer par le contribuable en vertu de la présente partie dans ces déclarations, le total des déductions demandées dans ces déclarations en application des paragraphes 118(3) et (10) et des articles 118.01 à 118.7 et 118.9 ne peut dépasser le total qui pourrait être déduit en application de ces dispositions pour l'année à l'égard du contribuable si aucune déclaration de revenu distincte n'était

Tax payable by non-residents (credits restricted)

118.94 Sections 118 to 118.07 and 118.2, subsections 118.3(2) and (3) and sections 118.8 and 118.9 do not apply for the purpose of computing the tax payable under this Part for a taxation year by an individual who at no time in the year is resident in Canada unless all or substantially all the individual's income for the year is included in computing the individual's taxable income earned in Canada for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 118.94; 1994, c. 7, Sch. II, s. 96; 2006, c. 4, s. 68; 2007, c. 2, s. 29; 2009, c. 31, s. 11; 2011, c. 24, s. 35; 2014, c. 20, s. 16; 2016, c. 7, s. 23.

Credits in year of bankruptcy

118.95 Notwithstanding sections 118 to 118.9, for the purpose of computing an individual's tax payable under this Part for a taxation year that ends in a calendar year in which the individual becomes bankrupt, the individual shall be allowed only

(a) such of the deductions as the individual is entitled to under any of subsections 118(3) and (10) and sections 118.01 to 118.2, 118.5, 118.62 and 118.7, as can reasonably be considered wholly applicable to the taxation year, and

(b) such part of the deductions as the individual is entitled to under any of sections 118 (other than subsections 118(3) and (10)), 118.3, 118.8 and 118.9 as can reasonably be considered applicable to the taxation year,

except that the total of the amounts so deductible for all taxation years of the individual in the calendar year under any of those provisions shall not exceed the amount that would have been deductible under that provision in respect of the calendar year if the individual had not become bankrupt.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 136; 1999, c. 22, s. 42; 2006, c. 4, s. 69; 2007, c. 2, s. 30; 2009, c. 31, s. 12; 2016, c. 7, s. 24.

Former resident — credit for tax paid

119 If at any particular time an individual was deemed by subsection 128.1(4) to have disposed of a capital property that was a taxable Canadian property of the individual throughout the period that began at the particular time and that ends at the first time, after the particular time, at which the individual disposes of the property, there may be deducted in computing the individual's tax

Impôt payable par les non-résidents

118.94 Les articles 118 à 118.07 et 118.2, les paragraphes 118.3(2) et (3) et les articles 118.8 et 118.9 ne s'appliquent pas aux fins du calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par un particulier qui ne réside au Canada à aucun moment de l'année, sauf si la totalité ou la presque totalité de son revenu pour l'année est incluse dans le calcul de son revenu imposable gagné au Canada pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 118.94; 1994, ch. 7, ann. II, art. 96; 2006, ch. 4, art. 68; 2007, ch. 2, art. 29; 2009, ch. 31, art. 11; 2011, ch. 24, art. 35; 2014, ch. 20, art. 16; 2016, ch. 7, art. 23.

Crédits au cours de l'année de la faillite

118.95 Malgré les paragraphes 118 à 118.9, un particulier ne peut opérer que les déductions suivantes dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition qui se termine au cours de l'année civile où il devient un failli :

a) les déductions auxquelles il a droit aux termes des paragraphes 118(3) ou (10) ou de l'un des articles 118.01 à 118.2, 118.5, 118.62 et 118.7 et qu'il est raisonnable de considérer comme étant entièrement applicables à l'année d'imposition;

b) la partie des déductions auxquelles il a droit aux termes des articles 118 (sauf les paragraphes 118(3) et (10)), 118.3, 118.8 et 118.9 qu'il est raisonnable de considérer comme étant applicable à l'année d'imposition.

Toutefois, le total des montants ainsi déductibles, en application d'une des dispositions énumérées, pour l'ensemble des années d'imposition du particulier dans l'année civile ne peut dépasser le montant qui aurait été déductible en application de cette disposition pour l'année civile si le particulier n'était pas devenu un failli.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 136; 1999, ch. 22, art. 42; 2006, ch. 4, art. 69; 2007, ch. 2, art. 30; 2009, ch. 31, art. 12; 2016, ch. 7, art. 24.

Ancien résident — crédit pour impôt payé

119 Lorsque, à un moment donné, un particulier est réputé par le paragraphe 128.1(4) avoir disposé d'une immobilisation qui était un bien canadien imposable lui appartenant tout au long de la période ayant commencé au moment donné et se terminant au premier moment, postérieur au moment donné, où il a disposé du bien, le moins élevé des produits ci-après est déductible dans le calcul de son impôt payable en vertu de la présente partie

payable under this Part for the taxation year that includes the particular time the lesser of

(a) that proportion of the individual's tax for the year otherwise payable under this Part (within the meaning assigned by paragraph (a) of the definition ***tax for the year otherwise payable under this Part*** in subsection 126(7)) that

(i) the individual's taxable capital gain from the disposition of the property at the particular time

is of

(ii) the amount determined under paragraph 114(a) in respect of the individual for the year, and

(b) that proportion of the individual's tax payable under Part XIII in respect of dividends received during the period by the individual in respect of the property and amounts deemed under Part XIII to have been paid during the period to the individual as dividends from corporations resident in Canada, to the extent that the amounts can reasonably be considered to relate to the property, that

(i) the amount by which the individual's loss from the disposition of the property at the end of the period is reduced by subsection 40(3.7)

is of

(ii) the total amount of those dividends.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 119; 2001, c. 17, s. 102.

119.1 [Repealed, 2016, c. 7, s. 25]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2015, c. 36, s. 32; 2016, c. 7, s. 25.

Income not earned in a province

120 (1) There shall be added to the tax otherwise payable under this Part by an individual for a taxation year the amount that bears the same relation to 48% of the tax otherwise payable under this Part by the individual for the year that

(a) the individual's income for the year, other than the individual's income earned in the year in a province,

bears to

(b) the individual's income for the year.

Amount deemed paid in prescribed manner

(2) Each individual is deemed to have paid, in prescribed manner and on prescribed dates, on account of the

pour l'année d'imposition qui comprend le moment donné :

a) le produit de la multiplication de son impôt payable par ailleurs pour l'année en vertu de la présente partie, au sens de l'alinéa a) de la définition de ***impôt payable par ailleurs pour l'année en vertu de la présente partie*** au paragraphe 126(7), par le rapport entre :

(i) d'une part, son gain en capital imposable provenant de la disposition du bien au moment donné,

(ii) d'autre part, le montant déterminé selon l'alinéa 114a) à son égard pour l'année;

b) le produit de la multiplication de son impôt payable en vertu de la partie XIII relativement à des dividendes qu'il a reçus au cours de la période au titre du bien et à des montants réputés par cette partie lui avoir été payés au cours de la période à titre de dividendes provenant de sociétés résidant au Canada, dans la mesure où il est raisonnable de considérer que les montants se rapportent au bien, par le rapport entre :

(i) d'une part, le montant appliqué en réduction, par l'effet du paragraphe 40(3.7), de la perte qu'il subit par suite de la disposition du bien à la fin de la période,

(ii) d'autre part, le montant total de ces dividendes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 119; 2001, ch. 17, art. 102.

119.1 [Abrogé, 2016, ch. 7, art. 25]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2015, ch. 36, art. 32; 2016, ch. 7, art. 25.

Revenu non gagné dans une province

120 (1) Est ajoutée à l'impôt qu'un particulier est par ailleurs tenu de payer en vertu de la présente partie pour une année d'imposition la somme qui est, par rapport à 48 % de cet impôt, ce que :

a) son revenu pour l'année, autre qu'un revenu gagné dans une province pour l'année,

est par rapport :

b) à son revenu pour l'année.

Somme réputée versée selon les modalités réglementaires

(2) Chaque particulier est réputé avoir payé, selon les modalités et aux dates réglementaires, au titre de son

individual's tax under this Part for a taxation year an amount that bears the same relation to 3% of the tax otherwise payable under this Part by the individual for the year that

(a) the individual's income earned in the year in a province that, on January 1, 1973, was a province providing schooling allowances within the meaning of the *Youth Allowances Act*, chapter Y-1 of the Revised Statutes of Canada, 1970,

bears to

(b) the individual's income for the year.

(2.1) [Repealed, 2001, c. 17, s. 103]

Amount deemed paid

(2.2) An individual is deemed to have paid on the last day of a taxation year, on account of the individual's tax under this Part for the year, an amount equal to the individual's income tax payable for the year to an Aboriginal government pursuant to a law of that government made in accordance with a tax sharing agreement between that government and the Government of Canada.

Definition of *the individual's income for the year*

(3) For the purpose of this section, ***the individual's income for the year*** means

(a) if section 114 applies to the individual in respect of the year, the amount determined under paragraph 114(a) in respect of the individual for the year;

(b) if the individual was non-resident throughout the year, the individual's taxable income earned in Canada for the year determined without reference to paragraphs 115(1)(d) to (f);

(c) in the case of an individual who is a specified individual in relation to the year, the individual's income for the year computed without reference to paragraph 20(1)(ww); and

(d) in the case of a SIFT trust, the amount, if any, by which its income for the year determined without reference to this paragraph exceeds its taxable SIFT trust distributions (as defined in subsection 122(3)) for the year.

Definitions

(4) In this section,

income earned in the year in a province means amounts determined under rules prescribed for the

impôt pour une année d'imposition, payable en vertu de la présente partie, une somme qui est par rapport à 3 % de l'impôt qu'il est par ailleurs tenu de payer pour l'année, en vertu de la présente partie, ce que :

a) son revenu gagné au cours de l'année dans une province qui, le 1er janvier 1973, était une province accordant des allocations scolaires au sens de la *Loi sur les allocations aux jeunes*, chapitre Y-1 des Statuts revisés du Canada de 1970,

est par rapport :

b) à son revenu pour l'année.

(2.1) [Abrogé, 2001, ch. 17, art. 103]

Somme réputée payée

(2.2) Un particulier est réputé avoir payé le dernier jour d'une année d'imposition, au titre de son impôt en vertu de la présente partie pour l'année, une somme égale à son impôt sur le revenu payable pour l'année à un gouvernement autochtone aux termes d'un texte législatif de ce gouvernement pris en conformité avec les modalités d'une entente de partage fiscal conclue entre ce gouvernement et le gouvernement du Canada.

Définition de *son revenu pour l'année*

(3) Aux paragraphes (1) et (2), ***son revenu pour l'année*** s'entend du montant applicable suivant :

a) si l'article 114 s'applique au particulier pour l'année, le montant déterminé selon l'alinéa 114a) à son égard pour l'année;

b) si le particulier a été un non-résident tout au long de l'année, son revenu imposable gagné au Canada pour l'année, déterminé compte non tenu des alinéas 115(1)d) à f);

c) dans le cas d'un particulier qui est un particulier déterminé pour l'année, son revenu pour l'année, calculé compte non tenu de l'alinéa 20(1)ww);

d) dans le cas d'une fiducie intermédiaire de placement déterminée, l'excédent éventuel de son revenu pour l'année, déterminé compte non tenu du présent alinéa, sur son montant de distribution imposable, au sens du paragraphe 122(3), pour l'année.

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

purpose of regulations made on the recommendation of the Minister of Finance; (*revenu gagné au cours de l'année dans une province*)

tax otherwise payable under this Part by an individual for a taxation year means the total of

(a) the greater of

(i) the individual"s minimum amount for the year determined under section 127.51, and

(ii) the amount that, but for this section, would be the individual's tax payable under this Part for the year if this Part were read without reference to

(A) subsection 117(2.1), section 119, subsection 120.4(2) and sections 126, 127, 127.4 and 127.41, and

(B) where the individual is a specified individual in relation to the year, section 121 in its application to dividends included in computing the individual's split income for the year, and

(b) where the individual is a specified individual in relation to the year, the amount, if any, by which

(i) the highest individual percentage for the year multiplied by the individual's split income for the year

exceeds

(ii) the total of all amounts each of which is an amount that may be deducted under section 121 and that can reasonably be considered to be in respect of a dividend included in computing the individual's split income for the year. (*impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie* ou *impôt payable par ailleurs en vertu de la présente partie*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 120; 1999, c. 22, s. 43; 2000, c. 19, s. 27; 2001, c. 17, s. 103; 2007, c. 29, s. 11, c. 35, s. 40; 2016, c. 11, s. 3.

impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie ou ***impôt payable par ailleurs en vertu de la présente partie*** Quant à un particulier pour une année d'imposition, la somme des montants suivants :

a) le plus élevé des montants suivants :

(i) l'impôt minimum applicable au particulier pour l'année, calculé selon l'article 127.51,

(ii) le montant qui, si ce n'était le présent article, correspondrait à l'impôt payable en vertu de la présente partie par le particulier pour l'année compte non tenu des dispositions suivantes :

(A) le paragraphe 117(2.1), l'article 119, le paragraphe 120.4(2) et les articles 126, 127, 127.4 et 127.41,

(B) si le particulier est un particulier déterminé pour l'année, l'article 121 pour ce qui est de son application aux dividendes inclus dans le calcul du revenu fractionné du particulier pour l'année;

b) si le particulier est un particulier déterminé pour l'année, l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le produit du taux d'imposition supérieur pour l'année par le revenu fractionné du particulier pour l'année,

(ii) le total des montants représentant chacun un montant qui est déductible en application de l'article 121 et qu'il est raisonnable de considérer comme se rapportant à un dividende inclus dans le calcul du revenu fractionné du particulier pour l'année. (*tax otherwise payable under this Part*)

revenu gagné au cours de l'année dans une province Les montants déterminés conformément aux règles établies à cette fin par règlement pris sur recommandation du ministre des Finances. (*income earned in the year in a province*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 120; 1999, ch. 22, art. 43; 2000, ch. 19, art. 27; 2001, ch. 17, art. 103; 2007, ch. 29, art. 11, ch. 35, art. 40; 2016, ch. 11, art. 3.

120.1 [Repealed, 2000, c. 19, s. 28]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 120.1; 1994, c. 7, Sch. II, s. 97; 2000, c. 19, s. 28.

120.1 [Abrogé, 2000, ch. 19, art. 28]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 120.1; 1994, ch. 7, ann. II, art. 97; 2000, ch. 19, art. 28.

Minimum tax carry-over

120.2 (1) There may be deducted from the amount that, but for this section, section 120 and subsection 120.4(2),

Report de l'impôt minimum

120.2 (1) Est déductible de l'impôt payable en vertu de la présente partie par un particulier, compte non tenu du

would be an individual's tax payable under this Part for a particular taxation year such amount as the individual claims not exceeding the lesser of

(a) the portion of the total of the individual's additional taxes determined under subsection 120.2(3) for the 7 taxation years immediately preceding the particular year that was not deducted in computing the individual's tax payable under this Part for a taxation year preceding the particular year, and

(b) the amount, if any, by which

(i) the amount that, but for this section, section 120 and subsection 120.4(2), would be the individual's tax payable under this Part for the particular year if the individual were not entitled to any deduction under any of sections 126, 127 and 127.4

exceeds

(ii) the individual's minimum amount for the particular year determined under section 127.51.

Additional tax determined

(3) For the purposes of subsection 120.2(1), additional tax of an individual for a taxation year is the amount, if any, by which

(a) the individual's minimum amount for the year determined under section 127.51

exceeds the total of

(b) the amount that, if this Act were read without reference to section 120, would be the individual's tax payable under this Part for the year if the individual were not entitled to any deduction under any of sections 126, 127 and 127.4, and

(c) that proportion of the amount, if any, by which

(i) the individual's special foreign tax credit for the year determined under section 127.54

exceeds

(ii) the total of all amounts deductible under section 126 from the individual's tax for the year

that

(iii) the amount of the individual's foreign taxes for the year within the meaning assigned by subsection 127.54(1)

is of

présent article, de l'article 120 et du paragraphe 120.4(2), pour une année d'imposition donnée, un montant qui ne dépasse pas le moindre des montants suivants :

a) la partie du total des suppléments d'impôt du particulier, calculés selon le paragraphe (3), pour les sept années d'imposition précédant l'année donnée qui n'a pas déjà été déduite dans le calcul de l'impôt payable par le particulier en vertu de la présente partie pour ces années précédentes;

b) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) ce que serait, sans le présent article, l'article 120 et le paragraphe 120.4(2), l'impôt payable en vertu de la présente partie par le particulier pour l'année donnée si celui-ci n'avait droit à aucune des déductions prévues aux articles 126, 127 et 127.4,

(ii) l'impôt minimum applicable au particulier pour l'année donnée, calculé selon l'article 127.51.

Supplément d'impôt

(3) Pour l'application du paragraphe (1), le supplément d'impôt d'un particulier pour une année d'imposition est l'excédent éventuel :

a) de l'impôt minimum applicable à ce particulier pour cette année, calculé selon l'article 127.51,

sur le total des montants suivants :

b) ce que serait, en l'absence de l'article 120, l'impôt payable en vertu de la présente partie par le particulier pour l'année si celui-ci n'avait droit à aucune des déductions prévues aux articles 126, 127 et 127.4;

c) le produit de la multiplication de l'excédent éventuel de l'élément visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le crédit spécial pour impôts étrangers du particulier pour l'année, calculé selon l'article 127.54,

(ii) le total des montants déductibles de l'impôt du particulier pour l'année en vertu de l'article 126,

par le rapport entre :

(iii) d'une part, ses impôts payés à l'étranger pour l'année au sens du paragraphe 127.54(1),

(iv) d'autre part, le montant qui représenterait ses impôts payés à l'étranger pour l'année si la mention « des 2/3 » dans la définition de ***impôts payés à***

(iv) the amount that would be the individual's foreign taxes for the year within the meaning assigned by subsection 127.54(1) if the definition ***foreign taxes*** in that subsection were read without reference to "2/3 of".

Where subsection (1) does not apply

(4) Subsection (1) does not apply in respect of an individual's return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(f) or subsection 150(4).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 120.2; 1998, c. 19, s. 137; 2000, c. 19, s. 29; 2001, c. 17, s. 104; 2013, c. 34, s. 254.

CPP/QPP disability benefits for previous years

120.3 There shall be added in computing an individual's tax payable under this Part for a particular taxation year the total of all amounts each of which is the amount, if any, by which

(a) the amount that would have been the tax payable under this Part by the individual for a preceding taxation year if that portion of any amount not included in computing the individual's income for the particular year because of subsection 56(8) and that relates to the preceding year had been included in computing the individual's income for the preceding year

exceeds

(b) the tax payable under this Part by the individual for the preceding year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 98.

Lump-sum Payments

Definitions

120.31 (1) The definitions in subsection 110.2(1) apply in this section.

Addition to tax payable

(2) There shall be added in computing an individual's tax payable under this Part for a particular taxation year the total of all amounts each of which is the amount, if any, by which

(a) the individual's notional tax payable for an eligible taxation year to which a specified portion of a qualifying amount received by the individual relates and in respect of which an amount is deducted under section 110.2 in computing the individual's taxable income for the particular year

l'étranger au paragraphe 127.54(1) était supprimée.

Non-application du paragraphe (1)

(4) Le paragraphe (1) ne s'applique pas à la déclaration de revenu d'un particulier produite en vertu du paragraphe 70(2), des alinéas 104(23)d) ou 128(2)f) ou du paragraphe 150(4).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 120.2; 1998, ch. 19, art. 137; 2000, ch. 19, art. 29; 2001, ch. 17, art. 104; 2013, ch. 34, art. 254.

Prestations d'invalidité du RPC/RRQ pour années antérieures

120.3 Est ajouté dans le calcul de l'impôt payable par un particulier en vertu de la présente partie pour une année d'imposition donnée le total des montants représentant chacun l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant qui représenterait l'impôt payable par le particulier en vertu de la présente partie pour une année d'imposition antérieure si la fraction d'un montant non incluse, par application du paragraphe 56(8), dans le calcul du revenu du particulier pour l'année donnée et se rapportant à l'année antérieure, était incluse dans le calcul du revenu du particulier pour l'année antérieure;

b) l'impôt payable par le particulier en vertu de la présente partie pour l'année antérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 98.

Paiements forfaitaires

Définitions

120.31 (1) Les définitions figurant au paragraphe 110.2(1) s'appliquent au présent article.

Montant ajouté à l'impôt payable

(2) Est ajouté dans le calcul de l'impôt payable en vertu de la présente partie par un particulier pour une année d'imposition donnée le total des montants représentant chacun l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) l'impôt hypothétique payable par le particulier pour une année d'imposition admissible à laquelle se rapporte une partie déterminée d'un montant admissible qu'il a reçu et à l'égard de laquelle un montant est déduit en application de l'article 110.2 dans le calcul de son revenu imposable pour l'année donnée;

exceeds

(b) the individual's tax payable under this Part for the eligible taxation year.

Notional tax payable

(3) For the purpose of subsection (2), an individual's notional tax payable for an eligible taxation year, calculated for the purpose of computing the individual's tax payable under this Part for a taxation year (in this subsection referred to as "the year of receipt") in which the individual received a qualifying amount, is the total of

(a) the amount, if any, by which

(i) the amount that would be the individual's tax payable under this Part for the eligible taxation year if the total of all amounts, each of which is the specified portion, in relation to the eligible taxation year, of a qualifying amount received by the individual before the end of the year of receipt, were added in computing the individual's taxable income for the eligible taxation year

exceeds

(ii) the total of all amounts each of which is an amount, in respect of a qualifying amount received by the individual before the year of receipt, that was included because of this paragraph in computing the individual's notional tax payable under this Part for the eligible taxation year, and

(b) if the eligible taxation year ended before the taxation year preceding the year of receipt, an amount equal to the amount that would be calculated as interest payable on the amount, if any, by which the amount determined under paragraph (a) in respect of the eligible taxation year exceeds the taxpayer's tax payable under this Part for that year, if the amount that would be calculated as interest payable on that excess were calculated

(i) for the period that began on May 1 of the year following the eligible taxation year and that ended immediately before the year of receipt, and

(ii) at the prescribed rate that is applicable for the purpose of subsection 164(3) with respect to the period.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 30; 2013, c. 34, s. 255.

b) l'impôt payable en vertu de la présente partie par le particulier pour l'année d'imposition admissible.

Impôt hypothétique payable

(3) Pour l'application du paragraphe (2), l'impôt hypothétique payable par un particulier pour une année d'imposition admissible, déterminé aux fins du calcul de son impôt payable en vertu de la présente partie pour une année d'imposition (appelée « année de réception » au présent paragraphe) au cours de laquelle il a reçu un montant admissible, correspond à la somme des montants suivants :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le montant qui correspondrait à l'impôt payable en vertu de la présente partie par le particulier pour l'année d'imposition admissible si le total des montants, représentant chacun la partie déterminée relative à cette année d'un montant admissible reçu par le particulier avant la fin de l'année de réception, était pris en compte dans le calcul de son revenu imposable pour l'année d'imposition admissible,

(ii) le total des montants représentant chacun un montant, relatif à un montant admissible reçu par le particulier avant l'année de réception, qui a été inclus par l'effet du présent alinéa dans le calcul de l'impôt hypothétique payable en vertu de la présente partie par le particulier pour l'année d'imposition admissible;

b) si l'année d'imposition admissible s'est terminée avant l'année d'imposition précédant l'année de réception, un montant égal à la somme qui serait calculée au titre des intérêts payables sur l'excédent du montant déterminé selon l'alinéa a) pour l'année d'imposition admissible sur l'impôt payable par le contribuable en vertu de la présente partie pour cette année si cette somme était calculée, à la fois :

(i) pour la période ayant commencé le 1er mai de l'année suivant l'année d'imposition admissible et s'étant terminée immédiatement avant l'année de réception,

(ii) au taux prescrit qui est applicable dans le cadre du paragraphe 164(3) pour la période.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 30; 2013, ch. 34, art. 255.

Tax on Split Income

Definitions

120.4 (1) The definitions in this subsection apply in this section.

excluded amount, in respect of an individual for a taxation year, means an amount that is the income from, or the taxable capital gain from the disposition of, a property acquired by or for the benefit of the individual as a consequence of the death of

(a) a parent of the individual; or

(b) any person, if the individual is

(i) enrolled as a full-time student during the year at a post-secondary educational institution (as defined in subsection 146.1(1)), or

(ii) an individual in respect of whom an amount may be deducted under section 118.3 in computing a taxpayer's tax payable under this Part for the year. (*montant exclu*)

specified individual, in relation to a taxation year, means an individual who

(a) had not attained the age of 17 years before the year;

(b) at no time in the year was non-resident; and

(c) has a parent who is resident in Canada at any time in the year. (*particulier déterminé*)

split income, of a specified individual for a taxation year, means the total of all amounts (other than excluded amounts) each of which is

(a) an amount required to be included in computing the individual's income for the year

(i) in respect of taxable dividends received by the individual in respect of shares of the capital stock of a corporation (other than shares of a class listed on a designated stock exchange or shares of the capital stock of a mutual fund corporation), or

(ii) because of the application of section 15 in respect of the ownership by any person of shares of the capital stock of a corporation (other than shares of a class listed on a designated stock exchange),

Impôt sur le revenu fractionné

Définitions

120.4 (1) Les définitions qui suivent s'appliquent au présent article.

montant exclu Quant à un particulier pour une année d'imposition, montant qui représente soit le revenu tiré d'un bien acquis par le particulier, ou pour son compte, par suite du décès d'une des personnes ci-après, soit le gain en capital imposable provenant de la disposition d'un tel bien :

a) le père ou la mère du particulier;

b) une personne quelconque, si le particulier est :

(i) soit inscrit au cours de l'année comme étudiant à temps plein dans un établissement d'enseignement postsecondaire au sens du paragraphe 146.1(1),

(ii) soit une personne à l'égard de laquelle un montant est déductible en application de l'article 118.3 dans le calcul de l'impôt payable en vertu de la présente partie par un contribuable pour l'année. (*excluded amount*)

particulier déterminé Quant à une année d'imposition, particulier qui répond aux conditions suivantes :

a) il n'avait pas atteint l'âge de 17 ans avant l'année;

b) il n'a été un non-résident à aucun moment de l'année;

c) son père ou sa mère a résidé au Canada à un moment de l'année. (*specified individual*)

revenu fractionné S'agissant du revenu fractionné d'un particulier déterminé pour une année d'imposition, le total des montants (sauf les montants exclus) représentant chacun, selon le cas :

a) un montant à inclure dans le calcul du revenu du particulier pour l'année :

(i) soit au titre de dividendes imposables reçus par le particulier relativement à des actions du capital-actions d'une société (sauf des actions d'une catégorie cotée à une bourse de valeurs désignée et des actions du capital-actions d'une société de placement à capital variable),

(ii) soit par l'effet de l'article 15 du fait qu'une personne est propriétaire d'actions du capital-actions

(b) a portion of an amount included because of the application of paragraph 96(1)(f) in computing the individual's income for the year, to the extent that the portion

(i) is not included in an amount described in paragraph (a), and

(ii) can reasonably be considered to be income derived

(A) from the provision of property or services by a partnership or trust to, or in support of, a business carried on by

(I) a person who is related to the individual at any time in the year,

(II) a corporation of which a person who is related to the individual is a specified shareholder at any time in the year, or

(III) a professional corporation of which a person related to the individual is a shareholder at any time in the year, or

(B) from a business of, or the rental of property by, a particular partnership or trust, if a person who is related to the individual at any time in the year

(I) is actively engaged on a regular basis in the activities of the particular partnership or trust related to earning income from a business or the rental of property, or

(II) in the case of a particular partnership, has an interest in the particular partnership directly or indirectly through one or more other partnerships, or

(c) a portion of an amount included because of the application of subsection 104(13) or 105(2) in respect of a trust (other than a mutual fund trust or a trust that is deemed to be in existence by subsection 143(1)) in computing the individual's income for the year, to the extent that the portion

(i) is not included in an amount described in paragraph (a), and

(ii) can reasonably be considered

(A) to be in respect of taxable dividends received in respect of shares of the capital stock of a corporation (other than shares of a class listed on a

d'une société, sauf des actions d'une catégorie cotée à une bourse de valeurs désignée;

b) une partie d'un montant inclus, par l'effet de l'alinéa 96(1)f), dans le calcul du revenu du particulier pour l'année, dans la mesure où la partie répond aux conditions suivantes :

(i) elle n'est pas incluse dans le montant visé à l'alinéa a),

(ii) il est raisonnable de considérer qu'elle est un revenu provenant, selon le cas :

(A) de la fourniture de biens ou de services par une société de personnes ou fiducie à une entreprise exploitée par une des personnes ci-après, ou à l'appui d'une telle entreprise :

(I) une personne qui est liée au particulier à un moment de l'année,

(II) une société dont une personne liée au particulier est un actionnaire déterminé à un moment de l'année,

(III) une société professionnelle dont une personne liée au particulier est un actionnaire à un moment de l'année,

(B) d'une entreprise d'une société de personnes ou fiducie, ou de la location de biens par une société de personnes ou fiducie, dans le cas où une personne qui est liée au particulier à un moment de l'année, selon le cas :

(I) prend une part active, de façon régulière, aux activités de la société de personnes ou fiducie se rapportant au fait de tirer un revenu d'une entreprise ou de la location de biens,

(II) a une participation dans la société de personnes, directement ou indirectement, par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes;

c) une partie d'un montant inclus, par l'effet des paragraphes 104(13) ou 105(2) relativement à une fiducie (sauf une fiducie de fonds commun de placement ou une fiducie qui est réputée exister en vertu du paragraphe 143(1)), dans le calcul du revenu du particulier pour l'année, dans la mesure où la partie répond aux conditions suivantes :

(i) elle n'est pas incluse dans le montant visé à l'alinéa a),

designated stock exchange or shares of the capital stock of a mutual fund corporation),

(B) to arise because of the application of section 15 in respect of the ownership by any person of shares of the capital stock of a corporation (other than shares of a class listed on a designated stock exchange),

(C) to be income derived from the provision of property or services by a partnership or trust to, or in support of, a business carried on by

(I) a person who is related to the individual at any time in the year,

(II) a corporation of which a person who is related to the individual is a specified shareholder at any time in the year, or

(III) a professional corporation of which a person related to the individual is a shareholder at any time in the year, or

(D) to be income derived from a business of, or the rental of property by, a particular partnership or trust, if a person who is related to the individual at any time in the year is actively engaged on a regular basis in the activities of the particular partnership or trust related to earning income from a business or the rental of property. (*revenu fractionné*)

(ii) il est raisonnable de considérer que la partie, selon le cas :

(A) se rapporte à des dividendes imposables reçus au titre d'actions du capital-actions d'une société (sauf des actions d'une catégorie cotée à une bourse de valeurs désignée et des actions du capital-actions d'une société de placement à capital variable),

(B) découle de l'application de l'article 15 au fait qu'une personne est propriétaire d'actions du capital-actions d'une société, sauf des actions d'une catégorie cotée à une bourse de valeurs désignée,

(C) est un revenu provenant de la fourniture de biens ou de services par une société de personnes ou une fiducie à une entreprise exploitée par l'une des personnes suivantes, ou à l'appui d'une telle entreprise :

(I) une personne qui est liée au particulier à un moment de l'année,

(II) une société dont une personne liée au particulier est un actionnaire déterminé à un moment de l'année,

(III) une société professionnelle dont une personne liée au particulier est un actionnaire à un moment de l'année,

(D) est un revenu provenant d'une entreprise d'une société de personnes ou fiducie, ou de la location de biens par une société de personnes ou fiducie, dans le cas où une personne qui est liée au particulier à un moment de l'année prend une part active, de façon régulière, aux activités de la société de personnes ou fiducie se rapportant au fait de tirer un revenu d'une entreprise ou de la location de biens. (*split income*)

Tax on split income

(2) There shall be added to a specified individual's tax payable under this Part for a taxation year the highest individual percentage for the year multiplied by the individual's split income for the year.

Impôt sur le revenu fractionné

(2) Est ajouté à l'impôt payable en vertu de la présente partie par un particulier déterminé pour une année d'imposition le produit du taux d'imposition supérieur pour l'année par le revenu fractionné du particulier pour l'année.

Tax payable by a specified individual

(3) Notwithstanding any other provision of this Act, where an individual is a specified individual in relation to a taxation year, the individual's tax payable under this Part for the year shall not be less than the amount by which

Impôt payable par un particulier déterminé

(3) Malgré les autres dispositions de la présente loi, lorsqu'un particulier est un particulier déterminé pour une année d'imposition, son impôt payable en vertu de la présente partie pour l'année est au moins égal à l'excédent du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

(a) the amount added under subsection (2) to the individual's tax payable under this Part for the year

exceeds

(b) the total of all amounts each of which is an amount that

(i) may be deducted under section 121 or 126 in computing the individual's tax payable under this Part for the year, and

(ii) can reasonably be considered to be in respect of an amount included in computing the individual's split income for the year.

a) le montant ajouté, en application du paragraphe (2), à son impôt payable en vertu de la présente partie pour l'année;

b) le total des montants représentant chacun un montant qui répond aux conditions suivantes :

(i) il est déductible en application des articles 121 ou 126 dans le calcul de l'impôt payable en vertu de la présente partie par le particulier pour l'année,

(ii) il est raisonnable de considérer qu'il se rapporte à un montant inclus dans le calcul du revenu fractionné du particulier pour l'année.

Taxable capital gain

(4) If a specified individual would have for a taxation year, if this Act were read without reference to this section, a taxable capital gain (other than an excluded amount) from a disposition of shares (other than shares of a class listed on a designated stock exchange or shares of a mutual fund corporation) that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, then the amount of that taxable capital gain is deemed not to be a taxable capital gain and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend that is not an eligible dividend.

Gain en capital imposable

(4) Dans le cas où un particulier déterminé aurait pour une année d'imposition, en l'absence du présent article, un gain en capital imposable (sauf un montant exclu) provenant d'une disposition d'actions (sauf des actions d'une catégorie inscrite à la cote d'une bourse de valeurs désignée ou des actions d'une société de placement à capital variable) qui sont transférées, directement ou indirectement, de quelque manière que ce soit, à une personne avec laquelle il a un lien de dépendance, le montant du gain est réputé ne pas être un gain en capital imposable et le particulier est réputé recevoir le double de ce montant au cours de l'année à titre de dividende imposable autre qu'un dividende déterminé.

Taxable capital gain of trust

(5) If a specified individual would be, if this Act were read without reference to this section, required under paragraph 104(13)(a) or subsection 105(2) to include an amount in computing the specified individual's income for a taxation year, then to the extent that the amount can reasonably be considered to be attributable to a taxable capital gain (other than an excluded amount) of a trust from a disposition of shares (other than shares of a class listed on a designated stock exchange or shares of a mutual fund corporation) that are transferred, either directly or indirectly, in any manner whatever, to a person with whom the specified individual does not deal at arm's length, paragraph 104(13)(a) and subsection 105(2) do not apply in respect of the amount and twice the amount is deemed to be received by the specified individual in the year as a taxable dividend that is not an eligible dividend.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 30; 2007, c. 35, s. 68; 2011, c. 24, s. 36; 2013, c. 34, s. 256(E); 2014, c. 39, s. 37; 2016, c. 11, s. 4.

Gain en capital imposable d'une fiducie

(5) Dans le cas où un particulier déterminé serait tenu en vertu de l'alinéa 104(13)a) ou du paragraphe 105(2), en l'absence du présent article, d'inclure une somme dans le calcul de son revenu pour une année d'imposition, dans la mesure où il est raisonnable d'attribuer cette somme à un gain en capital imposable (sauf un montant exclu) d'une fiducie provenant d'une disposition d'actions (sauf des actions d'une catégorie inscrite à la cote d'une bourse de valeurs désignée ou des actions d'une société de placement à capital variable) qui sont transférées, directement ou indirectement, de quelque manière que ce soit, à une personne avec laquelle le particulier a un lien de dépendance, l'alinéa 104(13)a) et le paragraphe 105(2) ne s'appliquent pas relativement à la somme et le particulier est réputé recevoir le double de cette somme au cours de l'année à titre de dividende imposable autre qu'un dividende déterminé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 30; 2007, ch. 35, art. 68; 2011, ch. 24, art. 36; 2013, ch. 34, art. 256(A); 2014, ch. 39, art. 37; 2016, ch. 11, art. 4.

Deduction for taxable dividends

121 There may be deducted from the tax otherwise payable under this Part by an individual for a taxation year the total of

(a) the product of the amount, if any, that is required by subparagraph 82(1)(b)(i) to be included in computing the individual's income for the year multiplied by 21/29, and

(b) the product of the amount, if any, that is required by subparagraph 82(1)(b)(ii) to be included in computing the individual's income for the year multiplied by

(i) for the 2009 taxation year, 11/18,

(ii) for the 2010 taxation year, 10/17,

(iii) for the 2011 taxation year, 13/23, and

(iv) for taxation years after 2011, 6/11.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 121; 2007, c. 2, s. 48; 2008, c. 28, s. 17; 2013, c. 33, s. 11; 2015, c. 36, s. 10; 2016, c. 7, s. 26.

Tax payable by trust

122 (1) Notwithstanding section 117, the tax payable under this Part for a taxation year by a trust (other than a graduated rate estate or qualified disability trust) is the total of

(a) the highest individual percentage for the taxation year multiplied by the trust's amount taxable for the taxation year,

(b) if the trust is a SIFT trust for the taxation year, the positive or negative amount determined by the formula

A × B

where

A is the positive or negative decimal fraction determined by the formula

C + D - E

where

C is the net corporate income tax rate in respect of the SIFT trust for the taxation year,

D is the provincial SIFT tax rate of the SIFT trust for the taxation year, and

E is the decimal fraction equivalent of the percentage rate of tax provided in paragraph (a) for the taxation year, and

Déduction pour dividendes imposables

121 Est déductible de l'impôt qu'un particulier est par ailleurs tenu de payer en vertu de la présente partie pour une année d'imposition le total des sommes suivantes :

a) le produit de la somme qui est à inclure dans le calcul de son revenu pour l'année selon le sous-alinéa 82(1)b)(i) par 21/29;

b) le produit de la somme qui est à inclure dans le calcul de son revenu pour l'année selon le sous-alinéa 82(1)b)(ii) par la fraction applicable suivante :

(i) 11/18 pour l'année d'imposition 2009,

(ii) 10/17 pour l'année d'imposition 2010,

(iii) 13/23 pour l'année d'imposition 2011,

(iv) 6/11 pour les années d'imposition postérieures à 2011.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 121; 2007, ch. 2, art. 48; 2008, ch. 28, art. 17; 2013, ch. 33, art. 11; 2015, ch. 36, art. 10; 2016, ch. 7, art. 26.

Impôt payable par une fiducie

122 (1) Malgré l'article 117, l'impôt payable en vertu de la présente partie pour une année d'imposition par une fiducie (autre qu'une succession assujettie à l'imposition à taux progressifs ou une fiducie admissible pour personne handicapée) correspond au total des sommes suivantes :

a) le produit du taux d'imposition supérieur pour l'année par le montant imposable de la fiducie pour l'année;

b) si elle est une fiducie intermédiaire de placement déterminée pour l'année, la somme positive ou négative obtenue par la formule suivante :

A × B

où :

A représente la fraction décimale positive ou négative obtenue par la formule suivante :

C + D - E

où :

C représente le taux net d'imposition du revenu des sociétés applicable à la fiducie pour l'année,

D le taux d'imposition provincial des EIPD applicable à la fiducie pour l'année,

B is the SIFT trust's taxable SIFT trust distributions for the taxation year, and

(c) if subsection (2) applies to the trust for the taxation year, the amount determined by the formula

A – B

where

A is the amount that would be determined for B for the year if

(i) the rate of tax payable under this Part by the trust for each taxation year referred to in the description of B were the highest individual percentage for the taxation year, and

(ii) the trust's taxable income for a particular taxation year referred to in the description of B were reduced by the total of

(A) the amount, if any, that was paid or distributed in satisfaction of all or part of an individual's interest as a beneficiary under the trust if

(I) the individual was an electing beneficiary of the trust for the particular year,

(II) the payment or distribution can reasonably be considered to be made out of that taxable income, and

(III) the payment or distribution was made in a taxation year referred to in the description of B,

(B) the amount that is the portion of the tax payable under this Part by the trust for the particular year that can reasonably be considered to relate to the amount determined under clause (A), and

(C) the amount that is the portion of the tax payable, under the law of the province in which the trust is resident for the particular year, that can reasonably be considered to relate to the amount determined under clause (A), and

B is the total of all amounts each of which is the amount of tax payable under this Part by the trust for a taxation year that precedes the year if that preceding taxation year is

(i) the later of

(A) the first taxation year for which the trust was a qualified disability trust, and

(B) the last taxation year, if any, for which subsection (2) applied to the trust, or

E la fraction décimale correspondant au pourcentage figurant à l'alinéa a) pour l'année,

B le montant de distribution imposable de la fiducie pour l'année;

c) si le paragraphe (2) s'applique à la fiducie pour l'année d'imposition, la somme obtenue par la formule suivante :

A – B

où :

A représente la somme qui serait déterminée pour l'élément B pour l'année si, à la fois :

(i) le taux d'impôt de la fiducie prévu par la présente partie pour chaque année d'imposition visée à l'élément B était le taux d'imposition supérieur pour l'année,

(ii) le revenu imposable de la fiducie pour une année d'imposition donnée visée à l'élément B est réduit du total des sommes suivantes :

(A) une somme qui est payée ou distribuée à un particulier en règlement de tout ou partie de sa participation dans la fiducie à titre de bénéficiaire si les conditions ci-après sont réunies :

(I) le particulier était un bénéficiaire optant de la fiducie pour l'année donnée,

(II) il peut être raisonnable de considérer que la somme a été payée ou distribuée sur le revenu imposable pour l'année donnée,

(III) la somme a été payée ou distribuée au cours d'une année d'imposition visée à l'élément B,

(B) la somme qui est la partie de l'impôt payable en vertu de la présente partie par la fiducie pour l'année donnée et qu'il est raisonnable de considérer liée à la somme déterminée selon la division (A),

(C) la somme qui est la partie de l'impôt payable en vertu du droit applicable dans la province dans laquelle la fiducie réside pour l'année d'imposition donnée et qu'il est raisonnable de considérer liée à la somme déterminée selon la division (A),

B le total des sommes dont chacune représente le montant d'impôt payable par la fiducie en vertu de la présente partie pour une année d'imposition qui précède l'année en cause et qui est, selon le cas :

(ii) a taxation year that ends after the taxation year described in subparagraph (i).

(i) la dernière en date des années applicables suivantes :

(A) la première année d'imposition pour laquelle la fiducie était une fiducie admissible pour personne handicapée,

(B) la dernière année d'imposition pour laquelle le paragraphe (2) s'appliquait à la fiducie,

(ii) une année d'imposition qui se termine après l'année d'imposition visée au sous-alinéa (i).

Credits available to trusts

(1.1) No deduction may be made under this subdivision (other than section 118.1, 120.2 or 121) in computing the tax payable by a trust for a taxation year.

Crédits non admis

(1.1) Aucune somme ne peut être déduite en application des dispositions de la présente sous-section, à l'exception des articles 118.1, 120.2 et 121, dans le calcul de l'impôt payable par une fiducie pour une année d'imposition.

Qualified disability trust — application of (1)(c)

(2) This subsection applies to a trust for a particular taxation year if the trust was a qualified disability trust for a preceding taxation year and

(a) none of the beneficiaries under the trust at the end of the particular year was an electing beneficiary of the trust for a preceding year;

(b) the particular year ended immediately before the trust ceased to be resident in Canada; or

(c) an amount is paid or distributed in the particular year to a beneficiary under the trust in satisfaction of all or part of the beneficiary's interest in the trust unless

(i) the beneficiary is an electing beneficiary of the trust for the particular year or a preceding year,

(ii) the amount is deducted under paragraph 104(6)(b) in computing the trust's income for the particular year, or

(iii) the amount is paid or distributed in satisfaction of a right to enforce payment of an amount that was deducted under paragraph 104(6)(b) in computing the trust's income for a preceding year.

Fiducie admissible pour personne handicapée — application de l'alinéa (1)c)

(2) Le présent paragraphe s'applique à une fiducie pour une année d'imposition donnée si la fiducie était une fiducie admissible pour personne handicapée pour une année d'imposition antérieure et qu'un des faits ci-après s'avère :

a) aucun des bénéficiaires de la fiducie à la fin de l'année donnée n'était un bénéficiaire optant de la fiducie pour une année antérieure;

b) l'année donnée a pris fin immédiatement avant que la fiducie cesse de résider au Canada;

c) une somme est payée ou distribuée au cours de l'année donnée à un bénéficiaire de la fiducie en règlement de tout ou partie de sa participation dans la fiducie, sauf si, selon le cas :

(i) le bénéficiaire est un bénéficiaire optant de la fiducie pour l'année donnée ou pour une année antérieure,

(ii) la somme est déduite en application de l'alinéa 104(6)b) dans le calcul du revenu de la fiducie pour l'année donnée,

(iii) la somme est payée ou distribuée en règlement du droit d'exiger le paiement d'une somme qui a été déduite en application de l'alinéa 104(6)b) dans le calcul du revenu de la fiducie pour une année antérieure.

Definitions

(3) The following definitions apply in this section.

beneficiary, under a trust, includes a person beneficially interested in the trust. (*bénéficiaire*)

elected beneficiary, for a taxation year of a qualified disability trust, means a beneficiary under the trust that for the year

(a) makes an election described in clause (a)(iii)(A) of the definition ***qualified disability trust*** in this subsection; and

(b) is described in paragraph (b) of that definition. (*bénéficiaire optant*)

non-deductible distributions amount for a taxation year has the meaning assigned by subsection 104(16). (*montant de distribution non déductible*)

qualified disability trust, for a taxation year (in this definition referred to as the "trust year"), means a trust, if

(a) the trust

(i) is, at the end of the trust year, a testamentary trust that arose on and as a consequence of a particular individual's death,

(ii) is resident in Canada for the trust year, and

(iii) includes in its return of income under this Part for the trust year

(A) an election, made jointly with one or more beneficiaries under the trust in prescribed form, to be a qualified disability trust for the trust year, and

(B) the Social Insurance Number of each of those beneficiaries;

(b) each of those beneficiaries is an individual, named as a beneficiary by the particular individual in the instrument under which the trust was created,

(i) in respect of whom paragraphs 118.3(1)(a) to (b) apply for the individual's taxation year (in this definition referred to as the "beneficiary year") in which the trust year ends, and

(ii) who does not jointly elect with any other trust, for a taxation year of the other trust that ends in the beneficiary year, to be a qualified disability trust; and

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

bénéficiaire Sont comprises parmi les bénéficiaires d'une fiducie les personnes ayant un droit de bénéficiaire dans la fiducie. (*beneficiary*)

bénéficiaire optant Pour une année d'imposition d'une fiducie, bénéficiaire de la fiducie qui, pour cette année, à la fois :

a) fait le choix prévu à la division a)(iii)(A) de la définition de ***fiducie admissible pour personne handicapée*** au présent paragraphe;

b) est visé à l'alinéa b) de cette définition. (*elected beneficiary*)

fiducie admissible pour personne handicapée Est une fiducie admissible pour personne handicapée pour une année d'imposition (appelée « année de la fiducie » à la présente définition) la fiducie à l'égard de laquelle les faits ci-après s'avèrent :

a) la fiducie, à la fois :

(i) est, à la fin de l'année de la fiducie, une fiducie testamentaire qui a commencé à exister au décès d'un particulier donné ou par suite de ce décès,

(ii) réside au Canada pour l'année de la fiducie,

(iii) inclut ce qui suit dans sa déclaration de revenu produite en vertu de la présente partie pour l'année de la fiducie :

(A) son choix, fait sur le formulaire prescrit conjointement avec un ou plusieurs de ses bénéficiaires, d'être une fiducie admissible pour personne handicapée pour l'année de la fiducie,

(B) le numéro d'assurance sociale de chacun de ces bénéficiaires;

b) chacun de ces bénéficiaires est un particulier qui est nommé, par le particulier donné dans l'acte aux termes duquel la fiducie a été établie, à titre de bénéficiaire et à l'égard duquel les faits ci-après s'avèrent :

(i) les alinéas 118.3(1)a) à b) s'appliquent à lui pour son année d'imposition (appelée « année du bénéficiaire » à la présente définition) dans laquelle l'année de la fiducie prend fin,

(c) subsection (2) does not apply to the trust for the trust year. (*fiducie admissible pour personne handicapée*)

taxable SIFT trust distributions, of a SIFT trust for a taxation year, means the lesser of

(a) its amount taxable for the taxation year, and

(b) the amount determined by the formula

A/(1 - (B + C))

where

A is its non-deductible distributions amount for the taxation year,

B is the net corporate income tax rate in respect of the SIFT trust for the taxation year, and

C is the provincial SIFT tax rate of the SIFT trust for the taxation year. (*montant de distribution imposable*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 122; 2001, c. 17, s. 105; 2007, c. 29, s. 12; 2008, c. 28, s. 18; 2013, c. 34, ss. 13, 257; 2014, c. 39, s. 38; 2016, c. 7, s. 62, c. 11, s. 5.

ii) il ne fait pas le choix, conjointement avec une autre fiducie pour une année d'imposition de celle-ci se terminant dans l'année du bénéficiaire, d'être une fiducie admissible pour personne handicapée;

c) le paragraphe (2) ne s'applique pas à la fiducie pour l'année de la fiducie. (*qualified disability trust*)

montant de distribution imposable Le montant de distribution imposable d'une fiducie intermédiaire de placement déterminée pour une année d'imposition correspond à la moins élevée des sommes suivantes :

a) son montant imposable pour l'année;

b) la somme obtenue par la formule suivante :

A/(1 - (B + C))

où :

A représente son montant de distribution non déductible pour l'année,

B le taux net d'imposition du revenu des sociétés qui lui est applicable pour l'année,

C le taux d'imposition provincial des EIPD applicable à la fiducie pour l'année. (*taxable SIFT trust distributions*)

montant de distribution non déductible S'entend au sens du paragraphe 104(16). (*non-deductible distributions amount*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 122; 2001, ch. 17, art. 105; 2007, ch. 29, art. 12; 2008, ch. 28, art. 18; 2013, ch. 34, art. 13 et 257; 2014, ch. 39, art. 38; 2016, ch. 7, art. 62, ch. 11, art. 5.

Definitions

122.1 (1) The following definitions apply in this section and in sections 104 and 122.

eligible resale property, of an entity, means real or immovable property (other than capital property) of the entity

(a) that is contiguous to a particular real or immovable property that is capital property or eligible resale property, held by

(i) the entity, or

(ii) another entity affiliated with the entity; and

(b) the holding of which is ancillary to the holding of the particular property. (*bien de revente admissible*)

entity means a corporation, trust or partnership. (*entité*)

Définitions

122.1 (1) Les définitions qui suivent s'appliquent au présent article et aux articles 104 et 122.

bien admissible de FPI Est un bien admissible de FPI d'une fiducie à un moment donné le bien qu'elle détient à ce moment et qui est, à ce même moment :

a) un bien immeuble ou réel qui est une immobilisation, un bien de revente admissible, une dette d'une société canadienne représentée par une acceptation bancaire, un bien visé aux alinéas a) ou b) de la définition de ***placement admissible*** à l'article 204 ou un dépôt auprès d'une caisse de crédit;

b) un titre d'une entité déterminée dont la totalité ou la presque totalité du revenu brut de FPI, pour son année d'imposition se terminant dans l'année d'imposition de la fiducie qui comprend ce moment, provient de l'entretien, de l'amélioration, de la location ou de la gestion de biens immeubles ou réels qui sont des

equity, of an entity, means

(a) if the entity is a corporation, a share of the capital stock of the corporation;

(b) if the entity is a trust, an income or capital interest in the trust;

(c) if the entity is a partnership, an interest as a member of the partnership;

(d) a liability of the entity (and, for purposes of the definition ***publicly-traded liability*** in this section, a security of the entity that is a liability of another entity) if

(i) the liability is convertible into, or exchangeable for, equity of the entity or of another entity, or

(ii) any amount paid or payable in respect of the liability is contingent or dependent on the use of or production from property, or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation, or to income or capital paid or payable to any member of a partnership or beneficiary under a trust; and

(e) a right to, or to acquire, anything described in this paragraph and any of paragraphs (a) to (d). (*capitaux propres*)

equity value, of an entity at any time, means the total fair market value at that time of

(a) if the entity is a corporation, all of the issued and outstanding shares of the capital stock of the corporation;

(b) if the entity is a trust, all of the income or capital interests in the trust; or

(c) if the entity is a partnership, all of the interests in the partnership. (*valeur des capitaux propres*)

excluded subsidiary entity, for a taxation year, means an entity none of the equity of which is at any time in the taxation year

(a) listed or traded on a stock exchange or other public market; nor

(b) held by any person or partnership other than

(i) a real estate investment trust,

immobilisations de la fiducie ou d'une entité dont elle détient une action ou dans laquelle elle détient une participation, y compris les biens immeubles ou réels que la fiducie ou une telle entité détient de concert avec une ou plusieurs autres personnes ou sociétés de personnes;

c) un titre d'une entité déterminée dont les seuls biens sont constitués des biens suivants :

(i) le titre de propriété de biens immeubles ou réels de la fiducie ou d'une autre entité déterminée dont l'ensemble des titres sont détenus par la fiducie, y compris les biens immeubles ou réels que la fiducie ou cette autre entité déterminée détient de concert avec une ou plusieurs autres personnes ou sociétés de personnes,

(ii) tout bien visé à l'alinéa d);

d) un bien qui est accessoire à l'activité de la fiducie qui consiste à gagner les sommes visées aux sous-alinéas b)(i) et (iii) de la définition de ***fiducie de placement immobilier***, à l'exception des biens suivants :

(i) des capitaux propres d'une entité,

(ii) une créance hypothécaire, un prêt mezzanine ou une créance semblable. (*qualified REIT property*)

bien de revente admissible Est un bien de revente admissible d'une entité son bien immeuble ou réel (sauf une immobilisation) à l'égard duquel les faits ci-après s'avèrent :

a) le bien est contigu à un bien immeuble ou réel donné qui est une immobilisation ou un bien de revente admissible, détenu :

(i) soit par l'entité,

(ii) soit par une autre entité affiliée à l'entité;

b) sa détention est accessoire à la détention du bien donné. (*eligible resale property*)

bien hors portefeuille Sont des biens hors portefeuille d'une entité donnée pour une année d'imposition les biens ci-après qu'elle détient à un moment de l'année :

a) des titres d'une entité déterminée (sauf une entité de placement de portefeuille), si l'entité donnée détient, à ce moment, des titres de cette entité qui, selon le cas :

(ii) a taxable Canadian corporation,

(iii) a SIFT trust (determined without reference to subsection (2)),

(iv) a SIFT partnership (determined without reference to subsection 197(8)),

(v) a person or partnership that does not have, in connection with the holding of a security of the entity, property the value of which is determined, all or in part, by reference to a security that is listed or traded on a stock exchange or other public market, or

(vi) an excluded subsidiary entity for the taxation year. (*filiale exclue*)

gross REIT revenue, of an entity for a taxation year, means the amount, if any, by which the total of all amounts received or receivable in the year (depending on the method regularly followed by the entity in computing the entity's income) by the entity exceeds the total of all amounts each of which is the cost to the entity of a property disposed of in the year. (*revenu brut de FPI*)

investment, in a trust or partnership,

(a) means

(i) a property that is a security of the trust or partnership, or

(ii) a right which may reasonably be considered to replicate a return on, or the value of, a security of the trust or partnership; but

(b) does not include

(i) an unaffiliated publicly-traded liability of the trust or partnership, nor

(ii) regulated innovative capital. (*placement*)

non-portfolio earnings, of a SIFT trust for a taxation year, means the total of

(a) the amount, if any, by which

(i) the total of all amounts each of which is the SIFT trust's income for the taxation year from a business carried on by it in Canada or from a non-portfolio property, other than income that is a taxable dividend received by the SIFT trust,

exceeds

(i) ont une juste valeur marchande totale qui excède 10 % de la valeur des capitaux propres de l'entité déterminée,

(ii) compte tenu des titres d'entités affiliées à l'entité déterminée que l'entité donnée détient, ont une juste valeur marchande totale qui excède 50 % de la valeur des capitaux propres de l'entité donnée;

b) des biens canadiens immeubles, réels ou miniers, si, au cours de l'année, la juste valeur marchande totale des biens détenus par l'entité donnée qui sont des biens canadiens immeubles, réels ou miniers excède 50 % de la valeur de ses capitaux propres;

c) des biens que l'entité donnée, ou une personne ou une société de personnes avec laquelle elle a un lien de dépendance, utilise à ce moment dans le cadre de l'exploitation d'une entreprise au Canada. (*non-portfolio property*)

bien immeuble ou réel

a) Sont compris parmi les biens immeubles ou réels d'un contribuable :

(i) les titres détenus par lui qui sont des titres d'une fiducie qui remplit les conditions énoncées aux alinéas a) à d) de la définition de ***fiducie de placement immobilier*** ou des titres d'une autre entité qui remplirait ces conditions si elle était une fiducie,

(ii) les droits réels sur les immeubles ou les intérêts sur les biens réels, sauf les droits à un loyer ou une redevance visé aux alinéas d) ou e) de la définition de ***avoir minier canadien*** au paragraphe 66(15);

b) en sont exclus les biens amortissables, sauf les suivants :

(i) les biens compris dans les catégories 1, 3 ou 31 de l'annexe II du *Règlement de l'impôt sur le revenu* autrement que par suite d'un choix prévu par règlement,

(ii) les biens qui sont accessoires à la propriété ou à l'utilisation d'un bien visé au sous-alinéa (i),

(iii) les baux ou les droits de tenure à bail visant les fonds de terre ou les biens visés au sous-alinéa (i). (*real or immovable property*)

capital innovateur réglementé Capitaux propres d'une fiducie, dans le cas où, à la fois :

(ii) the total of all amounts each of which is the SIFT trust's loss for the taxation year from a business carried on by it in Canada or from a non-portfolio property, and

(b) the amount, if any, by which

(i) the total of

(A) all taxable capital gains of the SIFT trust from dispositions of non-portfolio properties during the taxation year, and

(B) one-half of the total of all amounts each of which is deemed under subsection 131(1) to be a capital gain of the SIFT trust for the taxation year in respect of a non-portfolio property of the SIFT trust for the taxation year

exceeds

(ii) the total of the allowable capital losses of the SIFT trust for the taxation year from dispositions of non-portfolio properties during the taxation year. (*gains hors portefeuille*)

non-portfolio property, of a particular entity for a taxation year, means a property, held by the particular entity at any time in the taxation year, that is

(a) a security of a subject entity (other than a portfolio investment entity), if at that time the particular entity holds

(i) securities of the subject entity that have a total fair market value that is greater than 10% of the equity value of the subject entity, or

(ii) securities of the subject entity that, together with all the securities that the particular entity holds of entities affiliated with the subject entity, have a total fair market value that is greater than 50% of the equity value of the particular entity;

(b) a Canadian real, immovable or resource property, if at any time in the taxation year the total fair market value of all properties held by the particular entity that are Canadian real, immovable or resource properties is greater than 50% of the equity value of the particular entity; or

(c) a property that the particular entity, or a person or partnership with whom the particular entity does not deal at arm's length, uses at that time in the course of carrying on a business in Canada. (*bien hors portefeuille*)

a) depuis novembre 2006, les capitaux propres sont autorisés par le surintendant des institutions financières, ou par un organisme de réglementation provincial doté de pouvoirs semblables à ceux du surintendant, à titre de fonds propres de catégorie 1 ou de catégorie 2 d'une institution financière, au sens du paragraphe 181(1);

b) les modalités des capitaux propres n'ont pas changées après le 1er août 2008;

c) la fiducie n'a pas émis de capitaux propres après le 31 octobre 2006;

d) les seuls biens hors portefeuille détenus par la fiducie sont :

(i) des dettes de l'institution financière,

(ii) des actions du capital-actions de l'institution financière que la fiducie a acquises dans le seul but de satisfaire un droit d'exiger de la fiducie qu'elle accepte, comme l'exige un détenteur des capitaux propres, le rachat de ces capitaux. (*regulated innovative capital*)

capitaux propres Les biens ci-après d'une entité :

a) si l'entité est une société, une action de son capital-actions;

b) si elle est une fiducie, une participation au revenu ou au capital de la fiducie;

c) si elle est une société de personnes, une participation à titre d'associé de la société de personnes;

d) une dette de l'entité (et, pour l'application de la définition de ***dette transigée publiquement*** au présent article, un titre de l'entité qui est une dette d'une autre entité), si, selon le cas :

(i) la dette est convertible en capitaux propres de l'entité ou d'une autre entité ou est échangeable contre de tels capitaux,

(ii) toute somme payée ou payable au titre de la dette est conditionnelle à l'utilisation de biens, ou dépend de la production en provenant, ou est calculée en fonction soit des recettes, des bénéfices, de la marge d'autofinancement, du prix des marchandises ou d'un critère semblable, soit des dividendes payés ou payables aux actionnaires d'une catégorie d'actions du capital-actions d'une société, soit du revenu ou du capital payé ou payable à tout associé d'une société de personnes ou à tout bénéficiaire d'une fiducie;

portfolio investment entity at any time means an entity that does not at that time hold any non-portfolio property. (*entité de placement de portefeuille*)

publicly-traded liability, of an entity, means a liability that is a security of the entity, that is not equity of the entity and that is listed or traded on a stock exchange or other public market. (*dette transigée publiquement*)

public market includes any trading system or other organized facility on which securities that are qualified for public distribution are listed or traded, but does not include a facility that is operated solely to carry out the issuance of a security or its redemption, acquisition or cancellation by its issuer. (*marché public*)

qualified REIT property, of a trust at any time, means a property that, at that time, is held by the trust and is

(a) a real or immovable property that is capital property, an eligible resale property, an indebtedness of a Canadian corporation represented by a bankers' acceptance, a property described by paragraph (a) or (b) of the definition ***qualified investment*** in section 204 or a deposit with a credit union;

(b) a security of a subject entity all or substantially all of the gross REIT revenue of which, for its taxation year that ends in the trust's taxation year that includes that time, is from maintaining, improving, leasing or managing real or immovable properties that are capital properties of the trust or of an entity of which the trust holds a share or an interest, including real or immovable properties that the trust, or an entity of which the trust holds a share or an interest, holds together with one or more other persons or partnerships;

(c) a security of a subject entity, if the entity holds no property other than

(i) legal title to real or immovable property of the trust or of another subject entity all of the securities of which are held by the trust (including real or immovable property that the trust or the other subject entity holds together with one or more other persons or partnerships), and

(ii) property described in paragraph (d); or

(d) ancillary to the earning by the trust of amounts described in subparagraphs (b)(i) and (iii) of the definition ***real estate investment trust***, other than

(i) an equity of an entity, or

e) le droit à l'un des éléments visés au présent alinéa ou aux alinéas a) à d) ou le droit d'acquérir l'un de ces éléments. (*equity*)

dette non affiliée transigée publiquement Est une dette non affiliée transigée publiquement d'une entité à un moment donné toute dette transigée publiquement de l'entité si, à ce moment, la juste valeur marchande totale de ses dettes transigées publiquement qui sont détenues à ce moment par des personnes ou des sociétés de personnes qui ne lui sont pas affiliées représente au moins 90 % de la juste valeur marchande totale de l'ensemble de ses dettes transigées publiquement. (*unaffiliated publicly-traded liability*)

dette transigée publiquement Est une dette transigée publiquement d'une entité la dette qui, à la fois, est un titre de l'entité, ne fait pas partie de ses capitaux propres et est cotée ou négociée sur une bourse de valeurs ou un autre marché public. (*publicly-traded liability*)

entité Société, fiducie ou société de personnes. (*entity*)

entité de placement de portefeuille Est une entité de placement de portefeuille à un moment donné toute entité qui ne détient aucun bien hors portefeuille à ce moment. (*portfolio investment entity*)

entité déterminée Personne ou société de personnes qui est, selon le cas :

a) une société résidant au Canada;

b) une fiducie résidant au Canada;

c) une société de personnes résidant au Canada;

d) une personne non-résidente, ou une société de personnes non visée à l'alinéa c), dont la principale source de revenu est une ou plusieurs sources situées au Canada. (*subject entity*)

fiducie de placement immobilier Est une fiducie de placement immobilier pour une année d'imposition la fiducie qui réside au Canada tout au long de l'année et qui remplit les conditions suivantes :

a) la juste valeur marchande totale des biens hors portefeuille qui sont des biens admissibles de FPI qu'elle détient n'est à aucun moment de l'année inférieure à 90 % de la juste valeur marchande totale de l'ensemble des biens hors portefeuille qu'elle détient;

b) au moins 90 % de son revenu brut de FPI pour l'année provient d'une ou de plusieurs des sources suivantes :

(ii) a mortgage, hypothecary claim, mezzanine loan or similar obligation. (*bien admissible de FPI*)

real estate investment trust, for a taxation year, means a trust that is resident in Canada throughout the taxation year, if

(a) at each time in the taxation year the total fair market value at that time of all non-portfolio properties that are qualified REIT properties held by the trust is at least 90% of the total fair market value at that time of all non-portfolio properties held by the trust;

(b) not less than 90% of the trust's gross REIT revenue for the taxation year is from one or more of the following:

(i) rent from real or immovable properties,

(ii) interest,

(iii) dispositions of real or immovable properties that are capital properties,

(iv) dividends,

(v) royalties, and

(vi) dispositions of eligible resale properties;

(c) not less than 75% of the trust's gross REIT revenue for the taxation year is from one or more of the following:

(i) rent from real or immovable properties,

(ii) interest from mortgages, or hypothecs, on real or immovable properties, and

(iii) dispositions of real or immovable properties that are capital properties;

(d) at each time in the taxation year an amount, that is equal to 75% or more of the equity value of the trust at that time, is the amount that is the total fair market value of all properties held by the trust each of which is a real or immovable property that is capital property, an eligible resale property, an indebtedness of a Canadian corporation represented by a bankers' acceptance, a property described by paragraph (a) or (b) of the definition ***qualified investment*** in section 204 or a deposit with a credit union; and

(e) investments in the trust are, at any time in the taxation year, listed or traded on a stock exchange or other public market. (*fiducie de placement immobilier*)

(i) loyers de biens immeubles ou réels,

(ii) intérêts,

(iii) dispositions de biens immeubles ou réels qui sont des immobilisations,

(iv) dividendes,

(v) redevances,

(vi) dispositions de biens de revente admissibles;

c) au moins 75 % de son revenu brut de FPI pour l'année provient d'une ou de plusieurs des sources suivantes :

(i) loyers de biens immeubles ou réels,

(ii) intérêts d'hypothèques sur des biens immeubles ou réels,

(iii) dispositions de biens immeubles ou réels qui sont des immobilisations;

d) la juste valeur marchande totale des biens qu'elle détient, dont chacun est un bien immeuble ou réel qui est une immobilisation, un bien de revente admissible, une dette d'une société canadienne représentée par une acceptation bancaire, un bien visé aux alinéas a) ou b) de la définition de ***placement admissible*** à l'article 204 ou un dépôt auprès d'une caisse de crédit, n'est à aucun moment de l'année inférieure à 75 % de la valeur de ses capitaux propres au moment considéré;

e) les placements qui y sont faits sont cotés ou négociés, au cours de l'année, sur une bourse de valeurs ou un autre marché public. (*real estate investment trust*)

fiducie intermédiaire de placement déterminée Est une fiducie intermédiaire de placement déterminée pour une année d'imposition la fiducie (sauf celle qui est une filiale exclue ou une fiducie de placement immobilier pour l'année) qui répond aux conditions suivantes au cours de l'année :

a) elle réside au Canada;

b) les placements qui y sont faits sont cotés ou négociés sur une bourse de valeurs ou un autre marché public;

c) elle détient un ou plusieurs biens hors portefeuille. (*SIFT trust*)

real or immovable property, of a taxpayer,

(a) includes

(i) a security held by the taxpayer, if the security is a security of a trust that satisfies (or of any other entity that would, if it were a trust, satisfy) the conditions set out in paragraphs (a) to (d) of the definition ***real estate investment trust***, or

(ii) an interest in real property or a real right in immovables (other than a right to a rental or royalty described in paragraph (d) or (e) of the definition "Canadian resource property" in subsection 66(15)); but

(b) does not include any depreciable property, other than

(i) a property included, otherwise than by an election permitted by regulation, in Class 1, 3 or 31 of Schedule II to the *Income Tax Regulations*,

(ii) a property ancillary to the ownership or utilization of a property described in subparagraph (i), or

(iii) a lease in, or a leasehold interest in respect of, land or property described in subparagraph (i). (*bien immeuble ou réel*)

regulated innovative capital means equity of a trust, where

(a) since November 2006, the equity has been authorized, by the Superintendent of Financial Institutions or by a provincial regulatory authority having powers similar to those of the Superintendent, as Tier 1 or Tier 2 capital of a financial institution (as defined by subsection 181(1));

(b) the terms and conditions of the equity have not changed after August 1, 2008;

(c) the trust has not issued any equity after October 31, 2006; and

(d) the trust does not hold any non-portfolio property other than

(i) liabilities of the financial institution, and

(ii) shares of the capital stock of the financial institution that were acquired by the trust for the sole purpose of satisfying a right to require the trust to accept, as demanded by a holder of the equity, the surrender of the equity. (*capital innovateur réglementé*)

filiale exclue Est une filiale exclue pour une année d'imposition l'entité dont les capitaux propres ne sont, à aucun moment de l'année :

a) ni cotés ou négociés sur une bourse de valeurs ou un autre marché public;

b) ni détenus par une personne ou une société de personnes autre que les suivantes :

(i) une fiducie de placement immobilier,

(ii) une société canadienne imposable,

(iii) une fiducie intermédiaire de placement déterminée (compte non tenu du paragraphe (2)),

(iv) une société de personnes intermédiaire de placement déterminée (compte non tenu du paragraphe 197(8)),

(v) une personne ou une société de personnes qui n'a pas, relativement à la détention d'un titre de l'entité, de biens dont la valeur est déterminée en tout ou en partie par rapport à un titre qui est coté ou négocié sur une bourse de valeurs ou un autre marché public,

(vi) une filiale exclue pour l'année. (*excluded subsidiary entity*)

gains hors portefeuille Les gains hors portefeuille d'une fiducie intermédiaire de placement déterminée pour une année d'imposition correspondent au total des sommes suivantes :

a) l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune le revenu de la fiducie pour l'année provenant soit d'une entreprise qu'elle exploite au Canada, soit d'un bien hors portefeuille, à l'exception du revenu qui est un dividende imposable qu'elle a reçu,

(ii) le total des sommes représentant chacune la perte de la fiducie pour l'année résultant soit d'une entreprise qu'elle exploite au Canada, soit d'un bien hors portefeuille;

b) l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes suivantes :

rent from real or immovable properties

(a) includes

(i) rent or similar payments for the use of, or right to use, real or immovable properties, and

(ii) payment for services ancillary to the rental of real or immovable properties and customarily supplied or rendered in connection with the rental of real or immovable properties; but

(iii) [Repealed, 2013, c. 34, s. 258]

(b) does not include

(i) payment for services supplied or rendered, other than those described in subparagraph (a)(ii), to the tenants of such properties,

(ii) fees for managing or operating such properties,

(iii) payment for the occupation of, use of, or right to use a room in a hotel or other similar lodging facility, or

(iv) rent based on profits. (*loyer de biens immeubles ou réels*)

security of a particular entity means any right, whether absolute or contingent, conferred by the particular entity or by an entity that is affiliated with the particular entity, to receive, either immediately or in the future, an amount that can reasonably be regarded as all or any part of the capital, of the revenue or of the income of the particular entity, or as interest paid or payable by the particular entity, and for greater certainty includes

(a) a liability of the particular entity;

(b) if the particular entity is a corporation,

(i) a share of the capital stock of the corporation, and

(ii) a right to control in any manner whatever the voting rights of a share of the capital stock of the corporation;

(c) if the particular entity is a trust, an income or a capital interest in the trust;

(d) if the particular entity is a partnership, an interest as a member of the partnership; and

(e) a right to, or to acquire, anything described in this paragraph and any of paragraphs (a) to (d). (*titre*)

(A) les gains en capital imposables de la fiducie provenant de la disposition au cours de l'année de biens hors portefeuille,

(B) la moitié du total des sommes dont chacune est réputée en vertu du paragraphe 131(1) être un gain en capital de la fiducie pour l'année relatif à l'un de ses biens hors portefeuille pour l'année,

(ii) le total des pertes en capital déductibles de la fiducie pour l'année résultant de la disposition au cours de l'année de biens hors portefeuille. (*non-portfolio earnings*)

loyer de biens immeubles ou réels

a) Sont compris parmi les loyers de biens immeubles ou réels :

(i) les loyers et paiements semblables pour l'usage, ou le droit d'usage, de biens immeubles ou réels,

(ii) les sommes payées contre des services accessoires à la location de biens immeubles ou réels, qui sont habituellement fournis ou rendus dans le cadre de la location de tels biens;

(iii) [Abrogé, 2013, ch. 34, art. 258]

b) ne sont pas compris parmi ces loyers :

(i) les sommes payées contre des services fournis ou rendus aux locataires de biens immeubles ou réels, à l'exception des services visés au sous-alinéa a)(ii),

(ii) les frais de gestion ou d'exploitation de biens immeubles ou réels,

(iii) les sommes payées pour l'occupation, l'usage ou le droit d'usage d'une chambre dans un hôtel ou un autre établissement semblable,

(iv) le loyer fondé sur les bénéfices. (*rent from real or immovable properties*)

marché public S'entend notamment d'un système de commerce, ou d'un autre mécanisme organisé, où des titres, susceptibles d'émission publique, sont cotés ou négociés. En est exclu tout mécanisme qui est mis en œuvre dans le seul but de permettre l'émission d'un titre ou d'en permettre le rachat, l'acquisition ou l'annulation par l'émetteur. (*public market*)

placement

SIFT trust, being a specified investment flow-through trust, for a taxation year means a trust (other than an excluded subsidiary entity, or a real estate investment trust, for the taxation year) that meets the following conditions at any time during the taxation year:

(a) the trust is resident in Canada;

(b) investments in the trust are listed or traded on a stock exchange or other public market; and

(c) the trust holds one or more non-portfolio properties. (*fiducie intermédiaire de placement déterminée*)

subject entity means a person or partnership that is

(a) a corporation resident in Canada;

(b) a trust resident in Canada;

(c) a Canadian resident partnership; or

(d) a non-resident person, or a partnership that is not described in paragraph (c), the principal source of income of which is one or any combination of sources in Canada. (*entité déterminée*)

unaffiliated publicly-traded liability, of an entity at any time means a publicly-traded liability of the entity if, at that time the total fair market value of all publicly-traded liabilities of the entity that are held at that time by persons or partnerships that are not affiliated with the entity is at least 90% of the total fair market value of all publicly-traded liabilities of the entity. (*dette non affiliée transigée publiquement*)

a) Sont des placements dans une fiducie ou une société de personnes :

(i) le bien qui est un titre de la fiducie ou de la société de personnes,

(ii) le droit qu'il est raisonnable de considérer comme reproduisant le rendement ou la valeur d'un titre de la fiducie ou de la société de personnes;

b) ne sont pas visés :

(i) la dette non affiliée transigée publiquement d'une fiducie ou d'une société de personnes,

(ii) le capital innovateur réglementé. (*investment*)

revenu brut de FPI Le revenu brut de FPI d'une entité pour une année d'imposition s'entend de l'excédent du total des sommes reçues ou à recevoir par l'entité au cours de l'année, selon la méthode qu'elle emploie habituellement pour le calcul de son revenu, sur le total des sommes dont chacune représente le coût pour elle d'un bien dont il est disposé au cours de l'année. (*gross REIT revenue*)

titre Est un titre d'une entité donnée le droit, absolu ou conditionnel, conféré par l'entité ou par une entité qui lui est affiliée, de recevoir, dans l'immédiat ou dans le futur, une somme qu'il est raisonnable de considérer comme représentant soit tout ou partie du capital ou du revenu de l'entité donnée, soit des intérêts payés ou à payer par celle-ci. Il est entendu que les éléments ci-après constituent des titres :

a) toute dette de l'entité donnée;

b) si l'entité donnée est une société :

(i) toute action de son capital-actions,

(ii) tout droit de contrôler, de quelque manière que ce soit, les droits de vote rattachés à une action de son capital-actions;

c) si elle est une fiducie, toute participation au revenu ou au capital de la fiducie;

d) si elle est une société de personnes, toute participation à titre d'associé de la société de personnes;

e) le droit à l'un des éléments visés au présent alinéa ou aux alinéas a) à d) ou le droit d'acquérir l'un de ces éléments. (*security*)

valeur des capitaux propres La valeur des capitaux propres d'une entité à un moment donné correspond à la juste valeur marchande totale, à ce moment, de ce qui suit :

a) si l'entité est une société, l'ensemble des actions émises et en circulation de son capital-actions;

b) si elle est une fiducie, l'ensemble des participations au revenu ou au capital de la fiducie;

c) si elle est une société de personnes, l'ensemble des participations dans la société de personnes. (*equity value*)

Application of subsection (1.2)

(1.1) Subsection (1.2) applies to an entity for a taxation year in respect of an amount and another entity (referred to in this subsection and subsection (1.2) as the "parent entity", "specified amount" and "source entity", respectively), if

(a) at any time in the taxation year the parent entity

(i) is affiliated with the source entity, or

(ii) holds securities of the source entity that

(A) are described by any of paragraphs (a) to (c) of the definition ***equity*** in subsection (1), and

(B) have a total fair market value that is greater than 10% of the equity value of the source entity;

(b) the specified amount is included in computing the parent entity's gross REIT revenue for the taxation year in respect of a security of the source entity held by the parent entity; and

(c) in the case of a source entity that is a subject entity described in paragraph (b) of the definition ***qualified REIT property*** in subsection (1) in respect of the parent entity at each time during the taxation year at which the parent entity holds securities of the source entity, the specified amount cannot reasonably be considered to be derived from the source entity's gross REIT revenue from maintaining, improving, leasing or managing real or immovable properties that are capital properties of the parent entity or of an entity of which the parent entity holds a share or an interest, including real or immovable properties that the parent entity, or an entity of which the parent entity holds a share or an interest, holds together with one or more other persons or partnerships.

Application du paragraphe (1.2)

(1.1) Le paragraphe (1.2) s'applique à une entité pour une année d'imposition relativement à une somme et à une autre entité (appelées respectivement « entité mère », « somme déterminée » et « entité d'origine » au présent paragraphe et au paragraphe (1.2)) si les conditions ci-après sont réunies :

a) à un moment de l'année, l'entité mère, selon le cas :

(i) est affiliée à l'entité d'origine,

(ii) détient des titres de l'entité d'origine qui :

(A) d'une part, sont visés à l'un des alinéas a) à c) de la définition de ***capitaux propres*** au paragraphe (1),

(B) d'autre part, ont une juste valeur marchande totale qui excède 10 % de la valeur des capitaux propres de l'entité d'origine;

b) la somme déterminée est incluse dans le calcul du revenu brut de FPI de l'entité mère pour l'année relativement à un titre de l'entité d'origine que l'entité mère détient;

c) dans le cas d'une entité d'origine qui est une entité déterminée visée à l'alinéa b) de la définition de ***bien admissible de FPI*** au paragraphe (1) relativement à l'entité mère à tout moment de l'année où celle-ci détient des titres de l'entité d'origine, il n'est pas raisonnable de considérer que la somme déterminée provient du revenu brut de FPI de l'entité d'origine tiré de l'entretien, de l'amélioration, de la location ou de la gestion de biens immeubles ou réels qui sont des immobilisations de l'entité mère ou d'une entité dont elle détient une action ou dans laquelle elle détient une participation, y compris les biens immeubles ou réels que l'entité mère ou une telle entité détient de concert

Character preservation rule

(1.2) If this subsection applies to a parent entity for a taxation year in respect of a specified amount and a source entity, then for the purposes of the definition ***real estate investment trust*** in subsection (1), to the extent that the specified amount can reasonably be considered to be derived from gross REIT revenue of the source entity having a particular character, the specified amount is deemed to be gross REIT revenue of the parent entity having the same character and not having any other character.

Character of revenue — hedging arrangements

(1.3) For the purposes of the definition ***real estate investment trust*** in subsection (1),

(a) if an amount is included in gross REIT revenue of a trust for a taxation year and it results from an agreement that can reasonably be considered to have been made by the trust to reduce its risk from fluctuations in interest rates in respect of debt incurred by the trust to acquire or refinance real or immovable property, the amount is deemed to have the same character as gross REIT revenue in respect of the real or immovable property and not any other character; and

(b) if a real or immovable property is situated in a country other than Canada and an amount included in gross REIT revenue of a trust for a taxation year

(i) is a gain from fluctuations in the value of the currency of that country relative to Canadian currency recognized on

(A) revenue in respect of the real or immovable property, or

(B) debt incurred by the trust for the purpose of earning revenue in respect of the real or immovable property, or

(ii) results from an agreement that

(A) provides for the purchase, sale or exchange of currency, and

(B) can reasonably be considered to have been made by the trust to reduce its risk from currency fluctuations described in subparagraph (i),

the amount is deemed to have the same character as gross REIT revenue in respect of the real or immovable property and not any other character.

avec une ou plusieurs autres sociétés ou sociétés de personnes.

Revenu de même nature

(1.2) Si le présent paragraphe s'applique à une entité mère pour une année d'imposition relativement à une somme déterminée et à une entité d'origine, pour l'application de la définition de ***fiducie de placement immobilier*** au paragraphe (1) et dans la mesure où il est raisonnable de considérer que la somme déterminée provient du revenu brut de FPI de l'entité d'origine, la somme déterminée est réputée être un revenu brut de FPI de l'entité mère de même nature que celui de l'entité d'origine et ne pas être un revenu d'une autre nature.

Nature du revenu — arrangements de couverture

(1.3) Les règles ci-après s'appliquent à la définition de ***fiducie de placement immobilier*** au paragraphe (1) :

a) toute somme qui est incluse dans le revenu brut de FPI d'une fiducie pour une année d'imposition et qui découle d'une convention qu'il est raisonnable de considérer comme ayant été conclue par la fiducie dans le but de réduire le risque que présentent pour elle les fluctuations des taux d'intérêt relatifs aux dettes qu'elle contracte en vue d'acquérir ou de refinancer des biens immeubles ou réels est réputée être de même nature que le revenu brut de FPI relatif aux biens immeubles ou réels et ne pas être d'une autre nature;

b) si un bien immeuble ou réel est situé dans un pays étranger et que l'un des faits ci-après se vérifie à l'égard d'une somme incluse dans le revenu brut de FPI d'une fiducie pour une année d'imposition, la somme est réputée être de même nature que le revenu brut de FPI relativement au bien immeuble ou réel et ne pas être d'une autre nature :

(i) la somme représente un gain provenant des fluctuations de la valeur de la monnaie de ce pays par rapport au dollar canadien, constaté :

(A) soit sur un revenu relatif au bien immeuble ou réel,

(B) soit sur une dette contractée par la fiducie dans le but de tirer un revenu relatif à ce bien,

(ii) la somme découle d'une convention qui, à la fois :

(A) prévoit l'achat, la vente ou l'échange de monnaie,

(B) selon ce qu'il est raisonnable de considérer, a été conclue par la fiducie dans le but de réduire le risque que représentent pour elle les fluctuations visées au sous-alinéa (i).

Application of definition *SIFT trust*

(2) The definition ***SIFT trust*** applies to a trust for a taxation year of the trust that ends after 2006, except that if the trust would have been a SIFT trust on October 31, 2006 had that definition been in force and applied to the trust as of that date, that definition does not apply to the trust for a taxation year of the trust that ends before the earlier of

(a) 2011, and

(b) the first day after December 15, 2006 on which the trust exceeds normal growth as determined by reference to the normal growth guidelines issued by the Department of Finance on December 15, 2006, as amended from time to time, unless that excess arose as a result of a prescribed transaction.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 29, s. 13, c. 35, s. 41; 2009, c. 2, s. 36; 2013, c. 34, s. 258, c. 40, s. 51.

Application de la définition de *fiducie intermédiaire de placement déterminée*

(2) La définition de ***fiducie intermédiaire de placement déterminée*** s'applique à une fiducie pour ses années d'imposition se terminant après 2006. Toutefois, dans le cas où la fiducie aurait été une fiducie intermédiaire de placement déterminée le 31 octobre 2006 si cette définition avait été en vigueur et s'était appliquée à la fiducie à compter de cette date, la définition ne s'applique pas à la fiducie pour ses années d'imposition qui se terminent avant 2011 ou, s'il est antérieur, avant le premier jour après le 15 décembre 2006 où sa croissance excède ce qui constitue une croissance normale d'après les précisions publiées par le ministère des Finances le 15 décembre 2006, et leurs modifications successives, sauf si l'excédent découle d'une opération visée par règlement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 29, art. 13, ch. 35, art. 41; 2009, ch. 2, art. 36; 2013, ch. 34, art. 258, ch. 40, art. 51.

122.2 [Repealed, 1994, c. 7, Sch. VII, s. 10]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 122.2; 1994, c. 7, Sch. VII, s. 10; 1998, c. 19, s. 138.

122.2 [Abrogé, 1994, ch. 7, ann. VII, art. 10]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 122.2; 1994, ch. 7, ann. VII, art. 10; 1998, ch. 19, art. 138.

Overseas employment tax credit

122.3 (1) If an individual is resident in Canada in a taxation year and, throughout any period of more than six consecutive months that began before the end of the year and included any part of the year (in this section referred to as the "qualifying period")

(a) was employed by a person who was a specified employer, other than for the performance of services under a prescribed international development assistance program of the Government of Canada, and

(b) performed all or substantially all the duties of the individual's employment outside Canada

(i) in connection with a contract under which the specified employer carried on business outside Canada with respect to

(A) the exploration for or exploitation of petroleum, natural gas, minerals or other similar resources,

(B) any construction, installation, agricultural or engineering activity, or

Crédit d'impôt pour emploi à l'étranger

122.3 (1) Si un particulier réside au Canada au cours d'une année d'imposition et que, tout au long d'une période de plus de six mois consécutifs ayant commencé avant la fin de l'année et comprenant une partie de l'année (appelée « période admissible » au présent article) :

a) d'une part, il a été employé par une personne qui était un employeur déterminé, dans un but autre que celui de fournir des services en vertu d'un programme, visé par règlement, d'aide au développement international du gouvernement du Canada;

b) d'autre part, il a exercé la totalité, ou presque, des fonctions de son emploi à l'étranger :

(i) dans le cadre d'un contrat en vertu duquel l'employeur déterminé exploitait une entreprise à l'étranger se rapportant à, selon le cas :

(A) l'exploration pour la découverte ou l'exploitation de pétrole, de gaz naturel, de minéraux ou d'autres ressources semblables,

(B) un projet de construction ou d'installation, ou un projet agricole ou d'ingénierie,

(C) any prescribed activity, or

(ii) for the purpose of obtaining, on behalf of the specified employer, a contract to undertake any of the activities referred to in clause 122.3(1)(b)(i)(A), 122.3(1)(b)(i)(B) or 122.3(1)(b)(i)(C),

there may be deducted, from the amount that would, but for this section, be the individual's tax payable under this Part for the year, an amount equal to that proportion of the tax otherwise payable under this Part for the year by the individual that the lesser of

(c) an amount equal to that proportion of the specified amount for the year that the number of days

(i) in that portion of the qualifying period that is in the year, and

(ii) on which the individual was resident in Canada

is of 365, and

(d) the specified percentage for the year of the individual's income for the year from that employment that is reasonably attributable to duties performed on the days referred to in paragraph (c)

is of

(e) the amount, if any, by which

(i) if the individual is resident in Canada throughout the year, the individual's income for the year, and

(ii) if the individual is non-resident at any time in the year, the amount determined under paragraph 114(a) in respect of the taxpayer for the year

exceeds

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under paragraph 110(1)(d.2), (d.3), (f), (g) or (j), in computing the individual's taxable income for the year.

(C) toute activité visée par règlement,

(ii) dans le but d'obtenir, pour le compte de l'employeur déterminé, un contrat pour la réalisation des activités visées à la division (i)(A), (B) ou (C),

peut être déduite du montant qui serait, sans le présent article, l'impôt à payer par le contribuable pour l'année en vertu de la présente partie une somme égale à la fraction de l'impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie que représente le moindre des éléments suivants :

c) la proportion de la somme déterminée pour l'année que représente par rapport à 365 le nombre de jours :

(i) d'une part, compris dans la partie de la période admissible qui est au cours de l'année,

(ii) d'autre part, au cours desquels le particulier résidait au Canada;

d) le pourcentage déterminé pour l'année de son revenu pour l'année tiré de cet emploi qu'il est raisonnable d'attribuer aux fonctions exercées au cours des jours mentionnés à l'alinéa c),

par rapport à :

e) l'excédent éventuel du montant applicable suivant :

(i) si le particulier réside au Canada tout au long de l'année, son revenu pour l'année,

(ii) s'il est un non-résident à un moment de l'année, le montant déterminé selon l'alinéa 114a) à son égard pour l'année,

sur :

(iii) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b) ou déductible en application des alinéas 110(1)d.2), d.3), f), g) ou j) dans le calcul de son revenu imposable pour l'année.

Specified amount

(1.01) For the purposes of paragraph (1)(c), the specified amount for a taxation year of an individual is

(a) for the 2013 to 2015 taxation years, the amount determined by the formula

[$80,000 × A/(A + B)] + [C × B/(A + B)]

where

Somme déterminée

(1.01) Pour l'application de l'alinéa (1)c), la somme déterminée pour une année d'imposition d'un particulier correspond à ce qui suit :

a) s'agissant des années d'imposition 2013 à 2015, la somme obtenue par la formule suivante :

[80 000 $ × A/(A + B)] + [C × B/(A + B)]

où :

A is the individual's income described in paragraph (1)(d) for the taxation year that is earned in connection with a contract that was committed to in writing before March 29, 2012 by a specified employer of the individual,

B is the individual's income described in paragraph (1)(d) for the taxation year, other than income included in the description of A, and

C is

(i) for the 2013 taxation year, $60,000,

(ii) for the 2014 taxation year, $40,000, and

(iii) for the 2015 taxation year, $20,000; and

(b) for the 2016 and subsequent taxation years, nil.

A représente le revenu du particulier visé à l'alinéa (1)d) pour l'année qui est gagné dans le cadre d'un contrat faisant suite à un engagement qu'un employeur déterminé du particulier a pris par écrit avant le 29 mars 2012,

B le revenu du particulier visé à l'alinéa (1)d) pour l'année, à l'exclusion du revenu compris dans la valeur de l'élément A,

C :

(i) pour l'année d'imposition 2013, 60 000 $,

(ii) pour l'année d'imposition 2014, 40 000 $,

(iii) pour l'année d'imposition 2015, 20 000 $;

b) s'agissant des années d'imposition 2016 et suivantes, zéro.

Specified percentage

(1.02) For the purposes of paragraph (1)(d), the specified percentage for a taxation year of an individual is

(a) for the 2013 to 2015 taxation years, the amount determined by the formula

[80% × A/(A + B)] + [C × B/(A + B)]

where

A is the value of A in subsection (1.01),

B is the value of B in subsection (1.01), and

C is

(i) for the 2013 taxation year, 60%,

(ii) for the 2014 taxation year, 40%, and

(iii) for the 2015 taxation year, 20%; and

(b) for the 2016 and subsequent taxation years, 0%.

Pourcentage déterminé

(1.02) Pour l'application de l'alinéa (1)d), le pourcentage déterminé pour une année d'imposition d'un particulier correspond à ce qui suit :

a) s'agissant des années d'imposition 2013 à 2015, le pourcentage obtenu par la formule suivante :

[80 % × A/(A + B)] + [C × B/(A + B)]

où :

A représente la valeur de l'élément A de la formule figurant au paragraphe (1.01),

B la valeur de l'élément B de cette formule,

C :

(i) pour l'année d'imposition 2013, 60 %,

(ii) pour l'année d'imposition 2014, 40 %,

(iii) pour l'année d'imposition 2015, 20 %;

b) s'agissant des années d'imposition 2016 et suivantes, 0 %.

Excluded income

(1.1) No amount may be included under paragraph (1)(d) in respect of an individual's income for a taxation year from the individual's employment by an employer

(a) if

(i) the employer carries on a business of providing services and does not employ in the business throughout the year more than five full-time employees,

(ii) the individual

Revenu exclu

(1.1) Aucun montant ne peut être inclus en application de l'alinéa (1)d) au titre du revenu d'un particulier pour une année d'imposition tiré de son emploi auprès d'un employeur si l'un des faits ci-après se vérifie :

a) à la fois :

(i) l'employeur exploite une entreprise de services qui compte un maximum de cinq employés à plein temps tout au long de l'année,

(ii) le particulier :

(A) does not deal at arm's length with the employer, or is a specified shareholder of the employer, or

(B) where the employer is a partnership, does not deal at arm's length with a member of the partnership, or is a specified shareholder of a member of the partnership, and

(iii) but for the existence of the employer, the individual would reasonably be regarded as being an employee of a person or partnership that is not a specified employer; or

(b) if at any time in that portion of the qualifying period that is in the taxation year

(i) the employer provides the services of the individual to a corporation, partnership or trust with which the employer does not deal at arm's length, and

(ii) the fair market value of all the issued shares of the capital stock of the corporation or of all interests in the partnership or trust, as the case may be, that are held, directly or indirectly, by persons who are resident in Canada is less than 10% of the fair market value of all those shares or interests.

Definitions

(2) In subsection 122.3(1),

specified employer means

(a) a person resident in Canada,

(b) a partnership in which interests that exceed in total value 10% of the fair market value of all interests in the partnership are owned by persons resident in Canada or corporations controlled by persons resident in Canada, or

(c) a corporation that is a foreign affiliate of a person resident in Canada; (*employeur déterminé*)

tax otherwise payable under this Part for the year means the amount that, but for this section, sections 120 and 120.2, subsection 120.4(2) and sections 121, 126, 127 and 127.4, would be the tax payable under this Part for the year. (*impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 122.3; 1994, c. 7, Sch. II, s. 99, c. 21, s. 56; 1997, c. 25, s. 31; 2000, c. 19, s. 31; 2001, c. 17, s. 106; 2002, c. 9, s. 37; 2012, c. 31, s. 26; 2013, c. 34, s. 259.

(A) soit a un lien de dépendance avec l'employeur ou est son actionnaire déterminé,

(B) soit, si l'employeur est une société de personnes, a un lien de dépendance avec l'un de ses associés ou est l'actionnaire déterminé de l'un de ceux-ci,

(iii) n'était l'existence de l'employeur, il serait raisonnable de considérer le particulier comme l'employé d'une personne ou d'une société de personnes qui n'est pas un employeur déterminé;

b) au cours de la partie de la période admissible qui est comprise dans l'année d'imposition :

(i) d'une part, l'employeur fournit les services du particulier à une société, société de personnes ou fiducie avec laquelle l'employeur a un lien de dépendance,

(ii) d'autre part, la juste valeur marchande des actions émises du capital-actions de la société ou des participations dans la société de personnes ou la fiducie, selon le cas, qui sont détenues, directement ou indirectement, par des personnes résidant au Canada représente moins de 10 % de la juste valeur marchande de l'ensemble de ces actions ou participations.

Définitions

(2) Les définitions qui suivent s'appliquent au paragraphe (1).

employeur déterminé

a) Personne résidant au Canada;

b) société de personnes dont la valeur totale des participations appartenant à des personnes résidant au Canada ou à des sociétés contrôlées par des personnes résidant au Canada est supérieure à 10 % de la juste valeur marchande totale de toutes les participations dans la société de personnes;

c) société qui est une société étrangère affiliée d'une personne résidant au Canada. (*specified employer*)

impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie ou ***impôt payable par ailleurs en vertu de la présente partie pour l'année*** Le montant qui, sans le présent article, les articles 120 et 120.2, le paragraphe 120.4(2) et les articles 121, 126, 127 et 127.4, correspondrait à l'impôt payable en vertu de

la présente partie pour l'année. (*tax otherwise payable under this Part for the year*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 122.3; 1994, ch. 7, ann. II, art. 99, ch. 21, art. 56; 1997, ch. 25, art. 31; 2000, ch. 19, art. 31; 2001, ch. 17, art. 106; 2002, ch. 9, art. 37; 2012, ch. 31, art. 26; 2013, ch. 34, art. 259.

Definitions

122.5 (1) The following definitions apply in this section.

adjusted income, of an individual for a taxation year in relation to a month specified for the taxation year, means the total of the individual's income for the taxation year and the income for the taxation year of the individual's qualified relation, if any, in relation to the specified month, both calculated as if in computing that income no amount were

(a) included

(i) under paragraph 56(1)(q.1) or subsection 56(6),

(ii) in respect of any gain from a disposition of property to which section 79 applies, or

(iii) in respect of a gain described in subsection 40(3.21); or

(b) deductible under paragraph 60(y) or (z). (*revenu rajusté*)

cohabiting spouse or common-law partner of an individual at any time has the meaning assigned by section 122.6. (*époux ou conjoint de fait visé*)

eligible individual, in relation to a month specified for a taxation year, means an individual (other than a trust) who

(a) has, before the specified month, attained the age of 19 years; or

(b) was, at any time before the specified month,

(i) a parent who resided with their child, or

(ii) married or in a common-law partnership. (*particulier admissible*)

qualified dependant of an individual, in relation to a month specified for a taxation year, means a person who at the beginning of the specified month

(a) is the individual's child or is dependent for support on the individual or on the individual's cohabiting spouse or common-law partner;

Définitions

122.5 (1) Les définitions qui suivent s'appliquent au présent article.

déclaration de revenu En ce qui concerne une personne pour une année d'imposition :

a) si la personne réside au Canada à la fin de l'année, la déclaration de revenu, sauf celle prévue aux paragraphes 70(2) ou 104(23), à l'alinéa 128(2)e) ou au paragraphe 150(4), qu'elle est tenue de produire pour l'année ou qu'elle serait tenue de produire si elle avait un impôt payable en vertu de la présente partie pour l'année;

b) dans les autres cas, le formulaire prescrit contenant les renseignements prescrits qui est présenté au ministre pour l'année. (*return of income*)

époux ou conjoint de fait visé S'entend au sens de l'article 122.6. (*cohabiting spouse or common-law partner*)

particulier admissible Par rapport à un mois déterminé d'une année d'imposition, particulier, à l'exception d'une fiducie, qui, avant ce mois, selon le cas :

a) a atteint l'âge de 19 ans;

b) a résidé avec un enfant dont il était le père ou la mère;

c) était marié ou vivait en union de fait. (*eligible individual*)

personne à charge admissible Est une personne à charge admissible d'un particulier par rapport à un mois déterminé d'une année d'imposition la personne qui, au début de ce mois, répond aux conditions suivantes :

a) elle est l'enfant du particulier ou est à sa charge ou à la charge de l'époux ou du conjoint de fait visé du particulier;

b) elle vit avec le particulier;

c) elle est âgée de moins de 19 ans;

d) elle n'est pas un particulier admissible par rapport au mois déterminé;

(b) resides with the individual;

(c) is under the age of 19 years;

(d) is not an eligible individual in relation to the specified month; and

(e) is not a qualified relation of any individual in relation to the specified month. (*personne à charge admissible*)

qualified relation of an individual, in relation to a month specified for a taxation year, means the person, if any, who, at the beginning of the specified month, is the individual's cohabiting spouse or common-law partner. (*proche admissible*)

return of income, in respect of a person for a taxation year, means

(a) for a person who is resident in Canada at the end of the taxation year, the person's return of income (other than a return of income under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is required to be filed for the taxation year or that would be required to be filed if the person had tax payable under this Part for the taxation year; and

(b) in any other case, a prescribed form containing prescribed information that is filed for the taxation year with the Minister. (*déclaration de revenu*)

Persons not eligible individuals, qualified relations or qualified dependants

(2) Notwithstanding subsection (1), a person is not an eligible individual, is not a qualified relation and is not a qualified dependant, in relation to a month specified for a taxation year, if the person

(a) died before the specified month;

(b) is confined to a prison or similar institution for a period of at least 90 days that includes the first day of the specified month;

(c) is at the beginning of the specified month a non-resident person, other than a non-resident person who

(i) is at that time the cohabiting spouse or common-law partner of a person who is deemed under subsection 250(1) to be resident in Canada throughout the taxation year that includes the first day of the specified month, and

(ii) was resident in Canada at any time before the specified month;

e) elle n'est pas le proche admissible d'un particulier par rapport au mois déterminé. (*qualified dependant*)

proche admissible Est un proche admissible d'un particulier par rapport à un mois déterminé d'une année d'imposition la personne qui, au début de ce mois, est l'époux ou le conjoint de fait visé du particulier. (*qualified relation*)

revenu rajusté En ce qui concerne un particulier pour une année d'imposition par rapport à un mois déterminé de l'année, le total de son revenu pour l'année et du revenu pour l'année de son proche admissible par rapport à ce mois, calculés chacun comme si, dans le calcul de ce revenu, aucune somme :

a) n'était incluse :

(i) en application de l'alinéa 56(1)q.1) ou du paragraphe 56(6),

(ii) au titre d'un gain provenant d'une disposition de bien à laquelle s'applique l'article 79,

(iii) au titre d'un gain visé au paragraphe 40(3.21);

b) n'était déductible en application des alinéas 60y) ou z). (*adjusted income*)

Personnes autres que particuliers admissibles, proches admissibles ou personnes à charge admissibles

(2) Malgré le paragraphe (1), n'est ni un particulier admissible, ni un proche admissible, ni une personne à charge admissible, par rapport à un mois déterminé d'une année d'imposition, la personne qui, selon le cas :

a) est décédée avant ce mois;

b) est détenue dans une prison ou dans un établissement semblable pendant une période d'au moins 90 jours qui comprend le premier jour de ce mois;

c) est une personne non-résidente au début de ce mois, à l'exception d'une personne non-résidente qui, à la fois :

(i) est, à ce moment, l'époux ou le conjoint de fait visé d'une personne qui est réputée, par le paragraphe 250(1), résider au Canada tout au long de l'année d'imposition qui comprend le premier jour de ce mois,

(d) is at the beginning of the specified month a person described in paragraph 149(1)(a) or (b); or

(e) is a person in respect of whom a special allowance under the *Children's Special Allowances Act* is payable for the specified month.

(ii) a résidé au Canada à un moment antérieur à ce mois;

d) est, au début de ce mois, une personne visée à l'alinéa 149(1)a) ou b);

e) est quelqu'un pour qui une allocation spéciale prévue par la *Loi sur les allocations spéciales pour enfants* est payable pour ce mois.

Deemed payment on account of tax

(3) An eligible individual in relation to a month specified for a taxation year who files a return of income for the taxation year is deemed to have paid during the specified month on account of their tax payable under this Part for the taxation year an amount equal to ¼ of the amount, if any, determined by the formula

A - B

where

A is the total of

(a) $213,

(b) $213 for the qualified relation, if any, of the individual in relation to the specified month,

(c) if the individual has no qualified relation in relation to the specified month and is entitled to deduct an amount for the taxation year under subsection 118(1) because of paragraph (b) of the description of B in that subsection in respect of a qualified dependant of the individual in relation to the specified month, $213,

(d) $112 times the number of qualified dependants of the individual in relation to the specified month, other than a qualified dependant in respect of whom an amount is included under paragraph (c) in computing the total for the specified month,

(e) if the individual has no qualified relation and has one or more qualified dependants, in relation to the specified month, $112, and

(f) if the individual has no qualified relation and no qualified dependant, in relation to the specified month, the lesser of $112 and 2% of the amount, if any, by which the individual's income for the taxation year exceeds $6,911; and

B is 5% of the amount, if any, by which the individual's adjusted income for the taxation year in relation to the specified month exceeds $27,749.

Montant réputé versé au titre de l'impôt

(3) Le particulier admissible par rapport à un mois déterminé d'une année d'imposition qui produit une déclaration de revenu pour l'année est réputé avoir payé au cours de ce mois, au titre de son impôt payable en vertu de la présente partie pour l'année, un montant égal au quart du montant obtenu par la formule suivante :

A - B

où :

A représente la somme des montants suivants :

a) 213 $,

b) 213 $ pour son proche admissible par rapport à ce mois,

c) 213 $, s'il n'a pas de proche admissible par rapport à ce mois, mais peut déduire un montant pour l'année en application du paragraphe 118(1), par l'effet de l'alinéa 118(1)b), pour une de ses personnes à charge admissibles par rapport à ce mois,

d) le produit de la multiplication de 112 $ par le nombre de ses personnes à charge admissibles par rapport à ce mois, à l'exclusion d'une telle personne pour laquelle un montant est inclus par application de l'alinéa c) dans le calcul du total pour le mois déterminé,

e) si, par rapport à ce mois, il n'a pas de proche admissible, mais a une ou plusieurs personnes à charge admissibles, 112 $,

f) si, par rapport à ce mois, il n'a ni proche admissible ni personne à charge admissible, 112 $ ou, s'il est moins élevé, le montant représentant 2 % de l'excédent éventuel de son revenu pour l'année sur 6 911 $;

B 5 % de l'excédent éventuel de son revenu rajusté pour l'année par rapport à ce mois sur 27 749 $.

Shared-custody parent

(3.01) Notwithstanding subsection (3), if an eligible individual is a shared-custody parent (within the meaning

Parent ayant la garde partagée

(3.01) Malgré le paragraphe (3), si un particulier admissible est un parent ayant la garde partagée (au sens de

assigned by section 122.6, but with the words ***qualified dependant*** in that section having the meaning assigned by subsection (1)) in respect of one or more qualified dependants at the beginning of a month, the amount deemed by subsection (3) to have been paid during a specified month is equal to the amount determined by the following formula:

1/2 × (A + B)

where

A is the amount determined by the formula in subsection (3), calculated without reference to this subsection, and

B is the amount determined by the formula in subsection (3), calculated without reference to this subsection and subparagraph (b)(ii) of the definition ***eligible individual*** in section 122.6.

When advance payment applies

(3.1) Subsection (3.2) applies in respect of an eligible individual in relation to a particular month specified for a taxation year, and each subsequent month specified for the taxation year, if

(a) the amount deemed by that subsection to have been paid by the eligible individual during the particular month specified for the taxation year is less than $50; and

(b) it is reasonable to conclude that the amount deemed by that subsection to have been paid by the eligible individual during each subsequent month specified for the taxation year will be less than $50.

Advance payment

(3.2) If this subsection applies, the total of the amounts that would otherwise be deemed by subsection (3) to have been paid on account of the eligible individual's tax payable under this Part for the taxation year during the particular month specified for the taxation year, and during each subsequent month specified for the taxation year, is deemed to have been paid by the eligible individual on account of their tax payable under this Part for the taxation year during the particular specified month for the taxation year, and the amount deemed by subsection (3) to have been paid by the eligible individual during those subsequent months specified for the taxation year is deemed, except for the purpose of this subsection, not to have been paid to the extent that it is included in an amount deemed to have been paid by this subsection.

Months specified

(4) For the purposes of this section, the months specified for a taxation year are July and October of the

l'article 122.6, le terme « personne à charge admissible » à cet article s'entendant au sens du paragraphe (1)) à l'égard d'une ou de plusieurs personnes à charge admissibles au début d'un mois, le montant qui est réputé, en vertu du paragraphe (3), avoir été payé au cours d'un mois déterminé correspond à la somme obtenue par la formule suivante :

1/2 × (A + B)

où :

A représente la somme obtenue par la formule figurant au paragraphe (3), compte non tenu du présent paragraphe;

B la somme obtenue par la formule figurant au paragraphe (3), compte non tenu du présent paragraphe ni du sous-alinéa b)(ii) de la définition de ***particulier admissible*** à l'article 122.6.

Conditions d'application du par. (3.2)

(3.1) Le paragraphe (3.2) s'applique relativement à un particulier admissible par rapport à un mois déterminé donné d'une année d'imposition et à chaque mois déterminé postérieur de l'année si, à la fois :

a) le montant qui est réputé, par ce paragraphe, avoir été payé par le particulier au cours du mois donné est inférieur à 50 $;

b) il est raisonnable de conclure que le montant qui est réputé, par ce paragraphe, avoir été payé par le particulier au cours de chaque mois déterminé postérieur de l'année sera inférieur à 50 $.

Paiement anticipé

(3.2) Si le présent paragraphe s'applique, le total des montants qui par ailleurs seraient réputés, par le paragraphe (3), avoir été payés, au titre de l'impôt payable du particulier admissible en vertu de la présente partie pour l'année d'imposition, au cours du mois déterminé donné de l'année et au cours de chaque mois déterminé postérieur de l'année est réputé avoir été payé par lui, au titre de son impôt payable en vertu de la présente partie pour l'année, au cours du mois donné, et le montant qui est réputé, par le paragraphe (3), avoir été payé par lui au cours des mois déterminés postérieurs de l'année est réputé, sauf pour l'application du présent paragraphe, ne pas avoir été payé dans la mesure où il est inclus dans un montant réputé, par le présent paragraphe, avoir été payé.

Mois déterminés

(4) Pour l'application du présent article, les mois déterminés d'une année d'imposition sont juillet et octobre de

immediately following taxation year and January and April of the second immediately following taxation year.

Only one eligible individual

(5) If an individual is a qualified relation of another individual in relation to a month specified for a taxation year and both those individuals would be, but for this subsection, eligible individuals in relation to the specified month, only the individual that the Minister designates is the eligible individual in relation to the specified month.

(5.1) [Repealed, 2002, c. 9, s. 38(2)]

Exception re qualified dependant

(6) If a person would, if this Act were read without reference to this subsection, be the qualified dependant of two or more individuals, in relation to a month specified for a taxation year,

(a) the person is deemed to be a qualified dependant, in relation to that month, of the one of those individuals on whom those individuals agree;

(b) in the absence of an agreement referred to in paragraph (a), the person is deemed to be, in relation to that month, a qualified dependant of the individuals, if any, who are, at the beginning of that month, eligible individuals (within the meaning assigned by section 122.6, but with the words ***qualified dependant*** in that section having the meaning assigned by subsection (1)) in respect of that person; and

(c) in any other case, the person is deemed to be, in relation to that month, a qualified dependant only of the individual that the Minister designates.

Notification to Minister

(6.1) An individual shall notify the Minister of the occurrence of any of the following events before the end of the month following the month in which the event occurs:

(a) the individual ceases to be an eligible individual;

(b) a person becomes or ceases to be the individual's qualified relation; and

(c) a person ceases to be a qualified dependant of the individual, otherwise than because of attaining the age of 19 years.

Non-residents and part-year residents

(6.2) For the purpose of this section, the income of a person who is non-resident at any time in a taxation year

l'année d'imposition suivante et janvier et avril de la deuxième année d'imposition suivante.

Un seul particulier admissible

(5) Si un particulier est le proche admissible d'un autre particulier par rapport à un mois déterminé d'une année d'imposition et que les deux particuliers seraient, en l'absence du présent paragraphe, des particuliers admissibles par rapport à ce mois, seul le particulier désigné par le ministre est le particulier admissible par rapport à ce mois.

(5.1) [Abrogé, 2002, ch. 9, art. 38(2)]

Personne à charge admissible d'un seul particulier

(6) La personne qui, en l'absence du présent paragraphe, serait la personne à charge admissible de plusieurs particuliers par rapport à un mois déterminé d'une année d'imposition est réputée être la personne à charge admissible par rapport à ce mois :

a) soit de celui parmi ces particuliers sur lequel ceux-ci se sont mis d'accord;

b) soit, en l'absence d'accord, des particuliers qui, au début de ce mois, sont des particuliers admissibles (au sens de l'article 122.6, le terme « personne à charge admissible » à cet article s'entendant au sens du paragraphe (1)) à son égard;

c) soit, dans les autres cas, de nul autre que le particulier désigné par le ministre.

Avis au ministre

(6.1) Un particulier est tenu d'aviser le ministre des événements ci-après avant la fin du mois suivant celui où l'événement se produit :

a) le particulier cesse d'être un particulier admissible;

b) une personne devient le proche admissible du particulier ou cesse de l'être;

c) une personne cesse d'être une personne à charge admissible du particulier pour une autre raison que celle d'avoir atteint l'âge de 19 ans.

Non-résidents et résidents pendant une partie de l'année seulement

(6.2) Pour l'application du présent article, le revenu d'une personne qui ne réside pas au Canada à un

is deemed to be equal to the amount that would, if the person were resident in Canada throughout the year, be the person's income for the year.

Effect of bankruptcy

(7) For the purpose of this section, if in a taxation year an individual becomes bankrupt, the individual's income for the taxation year shall include the individual's income for the taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 122.5; 1994, c. 7, Sch. VII, s. 11, Sch. VIII, s. 60, c. 21, s. 57; 1997, c. 25, s. 32; 1998, c. 19, s. 139; 1999, c. 26, s. 37; 2000, c. 12, s. 142, c. 14, s. 38; 2001, c. 17, s. 107; 2002, c. 9, s. 38; 2006, c. 4, s. 175; 2007, c. 35, s. 111; 2010, c. 25, s. 23; 2011, c. 24, s. 37; 2013, c. 34, s. 260; 2014, c. 20, s. 17.

Definitions

122.51 (1) The definitions in this subsection apply in this section.

adjusted income of an individual for a taxation year has the meaning assigned by section 122.6. (*revenu modifié*)

eligible individual for a taxation year means an individual (other than a trust)

(a) who is resident in Canada throughout the year (or, if the individual dies in the year, throughout the portion of the year before the individual's death);

(b) who, before the end of the year, has attained the age of 18 years; and

(c) the total of whose incomes for the year from the following sources is at least $2,500:

(i) offices and employments (computed without reference to paragraph 6(1)(f)),

(ii) businesses each of which is a business carried on by the individual either alone or as a partner actively engaged in the business, and

(iii) the program established under the *Wage Earner Protection Program Act*. (*particulier admissible*)

Deemed payment on account of tax

(2) Where a return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) is filed in respect of an eligible individual for a particular taxation year that ends at the end of a calendar year, there is deemed to be paid

moment d'une année d'imposition est réputé être le montant qui correspondrait à son revenu pour l'année si elle résidait au Canada tout au long de l'année.

Effet de la faillite

(7) Pour l'application du présent article, dans le cas où un particulier devient un failli au cours d'une année d'imposition, son revenu pour l'année comprend son revenu pour l'année d'imposition qui commence le 1er janvier de l'année civile qui comprend la date de la faillite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 122.5; 1994, ch. 7, ann. VII, art. 11, ann. VIII, art. 60, ch. 21, art. 57; 1997, ch. 25, art. 32; 1998, ch. 19, art. 139; 1999, ch. 26, art. 37; 2000, ch. 12, art. 142, ch. 14, art. 38; 2001, ch. 17, art. 107; 2002, ch. 9, art. 38; 2006, ch. 4, art. 175; 2007, ch. 35, art. 111; 2010, ch. 25, art. 23; 2011, ch. 24, art. 37; 2013, ch. 34, art. 260; 2014, ch. 20, art. 17.

Définitions

122.51 (1) Les définitions qui suivent s'appliquent au présent article.

particulier admissible Est un particulier admissible pour une année d'imposition le particulier, à l'exception d'une fiducie, qui répond aux conditions suivantes :

a) il réside au Canada tout au long de l'année ou, s'il est décédé dans l'année, tout au long de la partie de l'année ayant précédé son décès;

b) il atteint l'âge de dix-huit ans avant la fin de l'année;

c) le total de ses revenus pour l'année provenant des sources ci-après est d'au moins 2 500 $:

(i) les charges et emplois qu'il a occupés (le revenu en provenant étant calculé compte non tenu de l'alinéa 6(1)f)),

(ii) les entreprises dont chacune est une entreprise qu'il a exploitée soit seul, soit à titre d'associé participant activement à l'exploitation de l'entreprise,

(iii) le programme établi en vertu de la *Loi sur le Programme de protection des salariés*. (*eligible individual*)

revenu modifié Quant à un particulier pour une année d'imposition, s'entend au sens de l'article 122.6. (*adjusted income*)

Présomption de paiement au titre de l'impôt

(2) Lorsqu'une déclaration de revenu (sauf celle produite en application du paragraphe 70(2), des alinéas 104(23)d) ou 128(2)e) ou du paragraphe 150(4)) est produite relativement à un particulier admissible pour une année d'imposition donnée se terminant à la fin d'une année civile,

at the end of the particular year on account of the individual's tax payable under this Part for the particular year the amount determined by the formula

A - B

where

A is the lesser of

(a) $1000, and

(b) the total of

(i) the amount determined by the formula

(25/C) × D

where

C is the appropriate percentage for the particular taxation year, and

D is the total of all amounts each of which is the amount determined by the formula in subsection 118.2(1) for the purpose of computing the individual's tax payable under this Part for a taxation year that ends in the calendar year, and

(ii) 25% of the total of all amounts each of which is the amount deductible under section 64 in computing the individual's income for a taxation year that ends in the calendar year; and

B is 5% of the amount, if any, by which

(a) the total of all amounts each of which is the individual's adjusted income for a taxation year that ends in the calendar year

exceeds

(b) $21,663.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 32; 2000, c. 14, s. 39, c. 19, s. 32; 2001, c. 17, s. 108; 2005, c. 19, s. 26, c. 30, s. 7; 2006, c. 4, s. 70; 2007, c. 2, s. 31; 2009, c. 2, s. 37.

le montant déterminé selon la formule suivante est réputé avoir été payé à la fin de l'année donnée au titre de l'impôt payable par le particulier en vertu de la présente partie pour cette année :

A - B

où :

A représente le moins élevé des montants suivants :

a) 1 000 $,

b) le total des sommes suivantes :

(i) la somme obtenue par la formule suivante :

(25/C) × D

où :

C représente le taux de base pour l'année donnée,

D le total des sommes représentant chacune la somme obtenue par la formule figurant au paragraphe 118.2(1) pour le calcul de l'impôt payable par le particulier en vertu de la présente partie pour une année d'imposition se terminant dans l'année civile,

(Ii) 25 % du total des montants représentant chacun la somme déductible en application de l'article 64 dans le calcul du revenu du particulier pour une année d'imposition se terminant dans l'année civile;

B 5 % de l'excédent éventuel, sur 17 419 $ [devrait être 21 663 $, voir 2006, ch. 4, art. 70(2)], du total des montants représentant chacun le revenu modifié du particulier pour une année d'imposition se terminant dans l'année civile.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 32; 2000, ch. 14, art. 39, ch. 19, art. 32; 2001, ch. 17, art. 108; 2005, ch. 19, art. 26, ch. 30, art. 7; 2006, ch. 4, art. 70; 2007, ch. 2, art. 31; 2009, ch. 2, art. 37.

SUBDIVISION A.1

Canada Child Benefit

Definitions

122.6 In this subdivision,

adjusted earned income [Repealed, 1998, c. 21, s. 92]

adjusted income, of an individual for a taxation year, means the total of all amounts each of which would be the income for the year of the individual or of the person who was the individual's cohabiting spouse or common-law partner at the end of the year if in computing that income no amount were

SOUS-SECTION A.1

Allocation canadienne pour enfants

Définitions

122.6 Les définitions qui suivent s'appliquent à la présente sous-section.

année de base S'entend, par rapport à un mois, de l'année d'imposition suivante :

a) si le mois compte parmi les six premiers mois d'une année civile, celle qui a pris fin le 31 décembre de la deuxième année civile précédente;

(a) included

(i) under paragraph 56(1)(q.1) or subsection 56(6),

(ii) in respect of any gain from a disposition of property to which section 79 applies, or

(iii) in respect of a gain described in subsection 40(3.21), or

(b) deductible under paragraph 60(y) or (z); (*revenu modifié*)

base taxation year in relation to a month means

(a) where the month is any of the first 6 months of a calendar year, the taxation year that ended on December 31 of the second preceding calendar year, and

(b) where the month is any of the last 6 months of a calendar year, the taxation year that ended on December 31 of the preceding calendar year; (*année de base*)

cohabiting spouse or common-law partner of an individual at any time means the person who at that time is the individual's spouse or common-law partner and who is not at that time living separate and apart from the individual and, for the purpose of this definition, a person shall not be considered to be living separate and apart from an individual at any time unless they were living separate and apart at that time, because of a breakdown of their marriage or common-law partnership, for a period of at least 90 days that includes that time; (*époux ou conjoint de fait visé*)

earned income [Repealed, 1998, c. 21, s. 92]

eligible individual in respect of a qualified dependant at any time means a person who at that time

(a) resides with the qualified dependant,

(b) is a parent of the qualified dependant who

(i) is the parent who primarily fulfils the responsibility for the care and upbringing of the qualified dependant and who is not a shared-custody parent in respect of the qualified dependant, or

(ii) is a shared-custody parent in respect of the qualified dependant,

(c) is resident in Canada or, where the person is the cohabiting spouse or common-law partner of a person who is deemed under subsection 250(1) to be resident in Canada throughout the taxation year that includes

b) si le mois compte parmi les six derniers mois d'une année civile, celle qui a pris fin le 31 décembre de l'année civile précédente. (*base taxation year*)

déclaration de revenu Le document suivant produit par un particulier pour une année d'imposition :

a) si le particulier a résidé au Canada tout au long de l'année, sa déclaration de revenu (sauf celle produite en vertu des paragraphes 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4)) produite ou à produire pour l'année en vertu de la présente partie;

b) dans les autres cas, un formulaire prescrit contenant les renseignements prescrits, présenté au ministre. (*return of income*)

époux ou conjoint de fait visé Personne qui, à un moment donné, est l'époux ou conjoint de fait d'un particulier dont il ne vit pas séparé à ce moment. Pour l'application de la présente définition, une personne n'est considérée comme vivant séparée d'un particulier à un moment donné que si elle vit séparée du particulier à ce moment, pour cause d'échec de leur mariage ou union de fait, pendant une période d'au moins 90 jours qui comprend ce moment. (*cohabiting spouse or common-law partner*)

parent ayant la garde partagée S'entend, à l'égard d'une personne à charge admissible à un moment donné, dans le cas où la présomption énoncée à l'alinéa f) de la définition de ***particulier admissible*** ne s'applique pas à celle-ci, du particulier qui est l'un des deux parents de la personne à charge qui, à la fois :

a) ne sont pas, à ce moment, des époux ou conjoints de fait visés l'un par rapport à l'autre;

b) résident avec la personne à charge sur une base d'égalité ou de quasi-égalité;

c) lorsqu'ils résident avec la personne à charge, assument principalement la responsabilité pour le soin et l'éducation de celle-ci, ainsi qu'il est déterminé d'après des critères prévus par règlement. (*shared-custody parent*)

particulier admissible S'agissant, à un moment donné, du particulier admissible à l'égard d'une personne à charge admissible, personne qui répond aux conditions suivantes à ce moment :

a) elle réside avec la personne à charge;

b) elle est la personne — père ou mère de la personne à charge — qui :

that time, was resident in Canada in any preceding taxation year,

(d) is not described in paragraph 149(1)(a) or 149(1)(b), and

(e) is, or whose cohabiting spouse or common-law partner is, a Canadian citizen or a person who

(i) is a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*,

(ii) is a temporary resident within the meaning of the *Immigration and Refugee Protection Act*, who was resident in Canada throughout the 18 month period preceding that time,

(iii) is a protected person within the meaning of the *Immigration and Refugee Protection Act*,

(iv) was determined before that time to be a member of a class defined in the *Humanitarian Designated Classes Regulations* made under the *Immigration Act*, or

(v) is an Indian within the meaning of the *Indian Act*,

and for the purposes of this definition,

(f) where the qualified dependant resides with the dependant's female parent, the parent who primarily fulfils the responsibility for the care and upbringing of the qualified dependant is presumed to be the female parent,

(g) the presumption referred to in paragraph 122.6 eligible individual (f) does not apply in prescribed circumstances, and

(h) prescribed factors shall be considered in determining what constitutes care and upbringing; (*particulier admissible*)

qualified dependant at any time means a person who at that time

(a) has not attained the age of 18 years,

(b) is not a person in respect of whom an amount was deducted under paragraph (a) of the description of B in subsection 118(1) in computing the tax payable under this Part by the person's spouse or common-law partner for the base taxation year in relation to the month that includes that time, and

(i) assume principalement la responsabilité pour le soin et l'éducation de la personne à charge et qui n'est pas un parent ayant la garde partagée à l'égard de celle-ci,

(ii) est un parent ayant la garde partagée à l'égard de la personne à charge;

c) elle réside au Canada ou, si elle est l'époux ou conjoint de fait visé d'une personne qui est réputée, par le paragraphe 250(1), résider au Canada tout au long de l'année d'imposition qui comprend ce moment, y a résidé au cours d'une année d'imposition antérieure;

d) elle n'est pas visée aux alinéas 149(1)a) ou b);

e) elle est, ou son époux ou conjoint de fait visé est, soit citoyen canadien, soit :

(i) résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*,

(ii) résident temporaire ou titulaire d'un permis de séjour temporaire visés par la *Loi sur l'immigration et la protection des réfugiés* ayant résidé au Canada durant la période de 18 mois précédant ce moment,

(iii) personne protégée au titre de la *Loi sur l'immigration et la protection des réfugiés*,

(iv) quelqu'un qui fait partie d'une catégorie précisée dans le *Règlement sur les catégories d'immigrants* précisées pour des motifs d'ordre humanitaire pris en application de la *Loi sur l'immigration*,

(v) un Indien au sens de la *Loi sur les Indiens*.

Pour l'application de la présente définition :

f) si la personne à charge réside avec sa mère, la personne qui assume principalement la responsabilité pour le soin et l'éducation de la personne à charge est présumée être la mère;

g) la présomption visée à l'alinéa f) ne s'applique pas dans les circonstances prévues par règlement;

h) les critère prévus par règlement serviront à déterminer en quoi consistent le soin et l'éducation d'une personne. (*eligible individual*)

personne à charge admissible S'agissant de la personne à charge admissible d'un particulier à un moment

(c) is not a person in respect of whom a special allowance under the *Children's Special Allowances Act* is payable for the month that includes that time; (*personne à charge admissible*)

return of income filed by an individual for a taxation year means

(a) where the individual was resident in Canada throughout the year, the individual's return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is filed or required to be filed under this Part for the year, and

(b) in any other case, a prescribed form containing prescribed information, that is filed with the Minister; (*déclaration de revenu*)

shared-custody parent in respect of a qualified dependant at a particular time means, where the presumption referred to in paragraph (f) of the definition ***eligible individual*** does not apply in respect of the qualified dependant, an individual who is one of the two parents of the qualified dependant who

(a) are not at that time cohabitating spouses or common-law partners of each other,

(b) reside with the qualified dependant on an equal or near equal basis, and

(c) primarily fulfil the responsibility for the care and upbringing of the qualified dependant when residing with the qualified dependant, as determined in consideration of prescribed factors. (*parent ayant la garde partagée*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VII, s. 12; 1996, c. 11, s. 95; 1998, c. 19, s. 140, c. 21, s. 92; 1999, c. 22, s. 44; 2000, c. 12, s. 142; 2001, c. 17, s. 109, c. 27, s. 254; 2006, c. 4, s. 176; 2007, c. 35, s. 112; 2010, c. 25, s. 24; 2016, c. 7, s. 28.

donné, personne qui répond aux conditions suivantes à ce moment :

a) elle est âgée de moins de 18 ans;

b) elle n'est pas quelqu'un pour qui un montant a été déduit en application de l'alinéa 118(1)a) dans le calcul de l'impôt payable par son époux ou conjoint de fait en vertu de la présente partie pour l'année de base se rapportant au mois qui comprend ce moment;

c) elle n'est pas quelqu'un pour qui une allocation spéciale prévue par la *Loi sur les allocations spéciales pour enfants* est payable pour le mois qui comprend ce moment. (*qualified dependant*)

revenu gagné [Abrogée, 1998, ch. 21, art. 92]

revenu gagné modifié [Abrogée, 1998, ch. 21, art. 92]

revenu modifié En ce qui concerne un particulier pour une année d'imposition, le total des sommes qui représenteraient chacune le revenu pour l'année du particulier ou de la personne qui était son époux ou conjoint de fait visé à la fin de l'année si, dans le calcul de ce revenu, aucune somme :

a) n'était incluse :

(i) en application de l'alinéa 56(1)q.1) ou du paragraphe 56(6),

(ii) au titre d'un gain provenant d'une disposition de bien à laquelle s'applique l'article 79,

(iii) au titre d'un gain visé au paragraphe 40(3.21);

b) n'était déductible en application des alinéas 60y) ou z). (*adjusted income*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VII, art. 12; 1996, ch. 11, art. 95; 1998, ch. 19, art. 140, ch. 21, art. 92; 1999, ch. 22, art. 44; 2000, ch. 12, art. 142; 2001, ch. 17, art. 109, ch. 27, art. 254; 2006, ch. 4, art. 176; 2007, ch. 35, art. 112; 2010, ch. 25, art. 24; 2016, ch. 7, art. 28.

Deemed overpayment

122.61 (1) If a person and, if the Minister so demands, the person's cohabiting spouse or common-law partner at the end of a taxation year have filed a return of income for the year, an overpayment on account of the person's liability under this Part for the year is deemed to have arisen during a month in relation to which the year is the base taxation year, equal to the amount determined by the formula

(A + C + M)/12

where

Paiement en trop réputé

122.61 (1) Lorsqu'une personne et, sur demande du ministre, son époux ou conjoint de fait visé à la fin d'une année d'imposition produisent une déclaration de revenu pour l'année, un paiement en trop au titre des sommes dont la personne est redevable en vertu de la présente partie pour l'année est réputé se produire au cours d'un mois par rapport auquel l'année est l'année de base. Ce paiement correspond à la somme obtenue par la formule suivante :

(A + C + M)/12

où :

A is the amount determined by the formula

E – Q – R

where

E is the total of

(a) the product obtained by multiplying $6,400 by the number of qualified dependants in respect of whom the person was an eligible individual at the beginning of the month who have not reached the age of six years at the beginning of the month, and

(b) the product obtained by multiplying $5,400 by the number of qualified dependants, other than those qualified dependants referred to in paragraph (a), in respect of whom the person was an eligible individual at the beginning of the month,

Q is

(a) if the person's adjusted income for the year is less than or equal to $30,000, nil,

(b) if the person's adjusted income for the year is greater than $30,000 but less than or equal to $65,000, and if the person is, at the beginning of the month, an eligible individual in respect of

(i) only one qualified dependant, 7% of the person's adjusted income for the year in excess of $30,000,

(ii) only two qualified dependants, 13.5% of the person's adjusted income for the year in excess of $30,000,

(iii) only three qualified dependants, 19% of the person's adjusted income for the year in excess of $30,000, or

(iv) more than three qualified dependants, 23% of the person's adjusted income for the year in excess of $30,000, and

(c) if the person's adjusted income for the year is greater than $65,000, and if the person is, at the beginning of the month, an eligible individual in respect of

(i) only one qualified dependant, the total of $2,450 and 3.2% of the person's adjusted income for the year in excess of $65,000,

(ii) only two qualified dependants, the total of $4,725 and 5.7% of the person's adjusted income for the year in excess of $65,000,

A représente la somme obtenue par la formule suivante :

E – Q – R

où :

E représente le total des sommes suivantes :

a) le produit de 6 400 $ par le nombre de personnes à charge admissibles à l'égard desquelles la personne était un particulier admissible au début du mois et qui n'ont pas atteint l'âge de six ans au début du mois,

b) le produit de 5 400 $ par le nombre de personnes à charge admissibles, sauf celles visées à l'alinéa a), à l'égard desquelles la personne était un particulier admissible au début du mois,

Q :

a) si le revenu modifié de la personne pour l'année n'excède pas 30 000 $, zéro,

b) si le revenu modifié de la personne pour l'année excède 30 000 $ sans excéder 65 000 $ et qu'elle est, au début du mois, un particulier admissible, selon le cas :

(i) à l'égard d'une seule personne à charge admissible, 7 % de l'excédent de son revenu modifié pour l'année sur 30 000 $,

(ii) à l'égard de seulement deux personnes à charge admissibles, 13,5 % de l'excédent de son revenu modifié pour l'année sur 30 000 $,

(iii) à l'égard de seulement trois personnes à charge admissibles, 19 % de l'excédent de son revenu modifié pour l'année sur 30 000 $,

(iv) à l'égard de plus de trois personnes à charge admissibles, 23 % de l'excédent de son revenu modifié pour l'année sur 30 000 $,

c) si le revenu modifié de la personne pour l'année excède 65 000 $ et qu'elle est, au début du mois, un particulier admissible, selon le cas :

(i) à l'égard d'une seule personne à charge admissible, le total de 2 450 $ et de 3,2 % de l'excédent de son revenu modifié pour l'année sur 65 000 $,

(ii) à l'égard de seulement deux personnes à charge admissibles, le total de 4 725 $ et de 5,7 % de l'excédent de son revenu modifié pour l'année sur 65 000 $,

(iii) only three qualified dependants, the total of $6,650 and 8% of the person's adjusted income for the year in excess of $65,000, or

(iv) more than three qualified dependants, the total of $8,050 and 9.5% of the person's adjusted income for the year in excess of $65,000, and

R is the amount determined for C;

C is the amount determined by the formula

F – (G × H)

where

F is, if the person is, at the beginning of the month, an eligible individual in respect of

(a) only one qualified dependant, $2,308, and

(b) two or more qualified dependants, the total of

(i) $2,308 for the first qualified dependant,

(ii) $2,042 for the second qualified dependant, and

(iii) $1,943 for each of the third and subsequent qualified dependants,

G is the amount determined by the formula

J – [K – (L/0.122)]

where

J is the person's adjusted income for the year,

K is $45,282, and

L is the amount referred to in paragraph (a) of the description of F, and

H is

(a) if the person is an eligible individual in respect of only one qualified dependant, 12.2%, and

(b) if the person is an eligible individual in respect of two or more qualified dependants, the fraction (expressed as a percentage rounded to the nearest one-tenth of one per cent) of which

(i) the numerator is the total that would be determined under the description of F in respect of the eligible individual if that description were applied without reference to the fourth and subsequent qualified dependants in respect of whom the person is an eligible individual, and

(iii) à l'égard de seulement trois personnes à charge admissibles, le total de 6 650 $ et de 8 % de l'excédent de son revenu modifié pour l'année sur 65 000 $,

(iv) à l'égard de plus de trois personnes à charge admissibles, le total de 8 050 $ et de 9,5 % de l'excédent de son revenu modifié pour l'année sur 65 000 $,

R la somme obtenue à l'élément C;

C la somme obtenue par la formule suivante :

F – (G × H)

où :

F représente :

a) si la personne est, au début du mois, un particulier admissible à l'égard d'une seule personne à charge admissible, 2 308 $,

b) si elle est, au début du mois, un particulier admissible à l'égard de plusieurs personnes à charge admissibles, le total des sommes suivantes :

(i) 2 308 $ pour la première,

(ii) 2 042 $ pour la deuxième,

(iii) 1 943 $ pour chacune des autres,

G la somme obtenue par la formule suivante :

J – [K – (L/0,122)]

où :

J représente le revenu modifié de la personne pour l'année,

K 45 282 $,

L la somme visée à l'alinéa a) de l'élément F,

H :

a) si la personne est un particulier admissible à l'égard d'une seule personne à charge admissible, 12,2 %,

b) si elle est un particulier admissible à l'égard de plusieurs personnes à charge admissibles, la fraction (exprimée en pourcentage arrêté à la première décimale) dont le numérateur correspond au total visé au sous-alinéa (i) et le dénominateur, à la somme visée au sous-alinéa (ii) :

(i) le total qui serait déterminé selon l'élément F à l'égard du particulier admissible si cet élément ne s'appliquait qu'aux trois premières personnes à charge admissibles

(ii) the denominator is the amount referred to in paragraph (a) of the description of F, divided by 0.122; and

M is the amount determined by the formula

N – O

where

N is the product obtained by multiplying $2,730 by the number of qualified dependants in respect of whom both

(a) an amount may be deducted under section 118.3 for the taxation year that includes the month, and

(b) the person is an eligible individual at the beginning of the month, and

O is

(a) if the person's adjusted income for the year is less than or equal to $65,000, nil, and

(b) if the person's adjusted income for the year is greater than $65,000,

(i) where the person is an eligible individual in respect of only one qualified dependant described in N, 3.2% of the person's adjusted income for the year in excess of $65,000, and

(ii) where the person is an eligible individual in respect of two or more qualified dependants described in N, 5.7% of the person's adjusted income for the year in excess of $65,000.

Shared-custody parent

(1.1) Notwithstanding subsection (1), if an eligible individual is a shared-custody parent in respect of one or more qualified dependants at the beginning of a month, the overpayment deemed by subsection (1) to have arisen during the month is equal to the amount determined by the formula

1/2 × (A + B)

where

A is the amount determined by the formula in subsection (1), calculated without reference to this subsection, and

B is the amount determined by the formula in subsection (1), calculated without reference to this subsection and subparagraph (b)(ii) of the definition ***eligible individual*** in section 122.6.

à l'égard desquelles la personne est un particulier admissible,

(ii) le quotient de la somme visée à l'alinéa a) de l'élément F par 0,122;

M la somme obtenue par la formule suivante :

N – O

où :

N représente le produit de 2 730 $ par le nombre de personnes à charge admissibles à l'égard desquelles, à la fois :

a) un montant est déductible en application de l'article 118.3 pour l'année d'imposition qui comprend le mois,

b) la personne est un particulier admissible au début du mois,

O :

a) si le revenu modifié de la personne pour l'année n'excède pas 65 000 $, zéro,

b) si le revenu modifié de la personne pour l'année excède 65 000 $ et qu'elle est un particulier admissible, selon le cas :

(i) à l'égard d'une seule personne à charge admissible visée à l'élément N, 3,2 % de l'excédent de son revenu modifié pour l'année sur 65 000 $,

(ii) à l'égard de plusieurs personnes à charge admissibles visées à l'élément N, 5,7 % de l'excédent de son revenu modifié pour l'année sur 65 000 $.

Parent ayant la garde partagée

(1.1) Malgré le paragraphe (1), si un particulier admissible est un parent ayant la garde partagée à l'égard d'une ou de plusieurs personnes à charge admissibles au début d'un mois, le paiement en trop qui est réputé, en vertu du paragraphe (1), s'être produit au cours du mois correspond à la somme obtenue par la formule suivante :

1/2 × (A + B)

où :

A représente la somme obtenue par la formule figurant au paragraphe (1), compte non tenu du présent paragraphe;

B la somme obtenue par la formule figurant au paragraphe (1), compte non tenu du présent paragraphe ni du sous-alinéa b)(ii) de la définition de ***particulier admissible*** à l'article 122.6.

Exceptions

(2) Notwithstanding subsection (1), if a particular month is the first month during which an overpayment that is less than $20 (or such other amount as is prescribed) is deemed under that subsection to have arisen on account of a person's liability under this Part for the base taxation year in relation to the particular month, any such overpayment that would, but for this subsection, reasonably be expected at the end of the particular month to arise during another month in relation to which the year is the base taxation year is deemed to arise under that subsection during the particular month and not during the other month.

Non-residents and part-year residents

(3) For the purposes of this section, if a person was non-resident at any time in a taxation year, the person's income for the year is, for greater certainty, deemed to be the amount that would have been the person's income for the year had the person been resident in Canada throughout the year.

Effect of bankruptcy

(3.1) For the purposes of this subdivision, where in a taxation year an individual becomes bankrupt,

(a) the individual's income for the year shall include the individual's income for the taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy; and

(b) the total of all amounts deducted under section 63 in computing the individual's income for the year shall include the amount deducted under that section for the individual's taxation year that begins on January 1 of the calendar year that includes the date of bankruptcy.

(c) [Repealed, 1998, c. 21, s. 94]

Amount not to be charged, etc.

(4) A refund of an amount deemed by this section to be an overpayment on account of a person's liability under this Part for a taxation year

(a) shall not be subject to the operation of any law relating to bankruptcy or insolvency;

(b) cannot be assigned, charged, attached or given as security;

(c) does not qualify as a refund of tax for the purposes of the *Tax Rebate Discounting Act*;

Exceptions

(2) Malgré le paragraphe (1), lorsqu'un mois donné est le premier mois au cours duquel un paiement en trop inférieur à 20 $ (ou à tout autre montant fixé par règlement) est réputé par ce paragraphe se produire au titre des sommes dont une personne est redevable en vertu de la présente partie pour l'année de base se rapportant au mois donné, tout semblable paiement en trop dont on pourrait, sans le présent paragraphe, s'attendre à juste titre, à la fin du mois donné, qu'il se produise au cours d'un autre mois se rapportant à la même année de base est réputé se produire selon ce paragraphe au cours du mois donné et non au cours de l'autre mois.

Non-résidents et résidents pendant une partie de l'année

(3) Pour l'application du présent article, il est entendu que le revenu d'une personne pour une année d'imposition au cours de laquelle elle ne réside pas au Canada est réputé être égal à la somme qui aurait correspondu à son revenu pour cette année si elle avait résidé au Canada tout au long de l'année.

Effet de la faillite

(3.1) Pour l'application de la présente sous-section, dans le cas où un particulier devient un failli au cours d'une année d'imposition, les règles suivantes s'appliquent :

a) son revenu pour l'année comprend son revenu pour l'année d'imposition qui commence le 1er janvier de l'année civile qui comprend la date de la faillite;

b) le total des montants déduits en application de l'article 63 dans le calcul de son revenu pour l'année comprend le montant déduit en application de cet article pour son année d'imposition qui commence le 1er janvier de l'année civile qui comprend la date de la faillite.

c) [Abrogé, 1998, ch. 21, art. 94]

Incessibilité

(4) Les remboursements de montants réputés par le présent article être des paiements en trop au titre des sommes dont une personne est redevable en vertu de la présente partie pour une année d'imposition sont soumis aux règles suivantes :

a) ils sont soustraits à l'application des règles de droit relatives à la faillite ou à l'insolvabilité;

b) ils sont incessibles, insaisissables et ne peuvent être grevés ni donnés pour sûreté;

(d) cannot be retained by way of deduction or set-off under the *Financial Administration Act*; and

(e) is not garnishable moneys for the purposes of the *Family Orders and Agreements Enforcement Assistance Act*.

c) ils ne constituent pas des remboursements d'impôt pour l'application de la *Loi sur la cession du droit au remboursement en matière d'impôt*;

d) ils ne peuvent être retenus par voie de déduction ou de compensation en application de la *Loi sur la gestion des finances publiques*;

e) ils ne constituent pas des sommes saisissables pour l'application de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales*.

Annual adjustment

(5) Each amount expressed in dollars in subsection (1) shall be adjusted so that, where the base taxation year in relation to a particular month is after 2018, the amount to be used under that subsection for the month is the total of

(a) the amount that would, but for subsection (7), be the relevant amount used under subsection (1) for the month that is one year before the particular month, and

(b) the product obtained by multiplying

(i) the amount referred to in paragraph (a)

by

(ii) the amount, adjusted in such manner as is prescribed and rounded to the nearest one-thousandth or, where the result obtained is equidistant from 2 such consecutive one-thousandths, to the higher thereof, that is determined by the formula

(A/B) – 1

where

A is the *Consumer Price Index* (within the meaning assigned by subsection 117.1(4)) for the 12-month period that ended on September 30 of the base taxation year, and

B is the Consumer Price Index for the 12 month period preceding the period referred to in the description of A.

Rajustement annuel

(5) Les sommes exprimées en dollars au paragraphe (1) sont rajustées de façon que, lorsque l'année de base se rapportant à un mois donné est postérieure à 2018, la somme applicable pour le mois selon ce paragraphe soit égale au total des montants suivants :

a) le montant qui, sans le paragraphe (7), serait applicable selon le paragraphe (1) pour le mois qui tombe une année avant le mois donné;

b) le produit des montants suivants :

(i) le montant visé à l'alinéa a),

(ii) le résultat du calcul suivant, rajusté de la manière prévue par règlement et arrêté à la troisième décimale, les résultats ayant au moins cinq en quatrième décimale étant arrondis à la troisième décimale supérieure :

(A/B) – 1

où :

A représente l'*indice des prix à la consommation* (au sens du paragraphe 117.1(4)) pour la période de 12 mois prenant fin le 30 septembre de l'année de base,

B l'indice des prix à la consommation pour la période de 12 mois qui précède la période visée à l'élément A.

(5.1) [Repealed, 1998, c. 21, s. 93]

(5.1) [Abrogé, 1998, ch. 21, art. 93]

Additions to NCB supplement — July 2005 and 2006

(6) Each amount referred to in the description of F in subsection (1) that is to be used for the purpose of determining the amount deemed to be an overpayment arising during months that are

Ajouts au supplément de la PNE

(6) Chaque montant visé à l'élément F de la troisième formule figurant au paragraphe (1) qui entre dans le calcul du montant réputé être un paiement en trop se produisant au cours de mois donnés :

(a) after June 2005 and before July 2006, is to be replaced with the amount that is the total of $185 and the amount otherwise determined under subsection (5) for those months; and

(b) after June 2006 and before July 2007, is to be replaced with the amount that is the total of $185 and the amount otherwise determined, for those months, by applying subsection (5) to the amount determined under paragraph (a).

a) postérieurs à juin 2005 et antérieurs à juillet 2006, sont remplacés par le montant qui correspond au total de 185 $ et du montant déterminé par ailleurs selon le paragraphe (5) pour ces mois;

b) postérieurs à juin 2006 et antérieurs à juillet 2007, sont remplacés par le montant qui correspond au total de 185 $ et du montant déterminé par ailleurs pour ces mois, par l'application du paragraphe (5) au montant déterminé selon l'alinéa a).

Agreement with a province

(6.1) Notwithstanding subsection (5), for the purposes of any agreement referred to in section 122.63 with respect to overpayments deemed to arise during months that are after June 2001 and before July 2002, the amount determined under subparagraph (5)(b)(ii) for a month referred to in paragraph (6)(b) is deemed to be 0.012.

Accord avec une province

(6.1) Malgré le paragraphe (5), le montant déterminé selon le sous-alinéa (5)b)(ii) pour un mois mentionné à l'alinéa (6)b) est réputé correspondre à 0,012 pour l'application de tout accord mentionné à l'article 122.63 concernant des paiements en trop réputés se produire au cours des mois postérieurs à juin 2001 et antérieurs à juillet 2002.

Rounding

(7) If an amount referred to in subsection (1), when adjusted as provided in subsection (5), is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, where it is equidistant from 2 such consecutive multiples, to the higher thereof.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VII, s. 12; 1997, c. 26, s. 80; 1998, c. 19, s. 141, c. 21, ss. 93, 94; 1999, c. 26, s. 36; 2000, c. 12, s. 142, c. 14, s. 40, c. 19, s. 33, 73; 2001, c. 17, s. 110; 2003, c. 15, s. 77; 2005, c. 30, s. 8; 2006, c. 4, ss. 71, 177; 2010, c. 25, s. 25; 2011, c. 24, s. 38; 2013, c. 40, s. 52; 2016, c. 7, s. 29, c. 12, s. 43.

Arrondissement

(7) Pour toute somme visée au paragraphe (1), qui est à rajuster en conformité avec le paragraphe (5), les résultats sont arrêtés à l'unité, ceux qui ont au moins cinq en première décimale étant arrondis à l'unité supérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VII, art. 12; 1997, ch. 26, art. 80; 1998, ch. 19, art. 141, ch. 21, art. 93 et 94; 1999, ch. 26, art. 36; 2000, ch. 12, art. 142, ch. 14, art. 40, ch. 19, art. 33 et 73; 2001, ch. 17, art. 110; 2003, ch. 15, art. 77; 2005, ch. 30, art. 8; 2006, ch. 4, art. 71 et 177; 2010, ch. 25, art. 25; 2011, ch. 24, art. 38; 2013, ch. 40, art. 52; 2016, ch. 7, art. 29, ch. 12, art. 43.

Eligible individuals

122.62 (1) For the purposes of this subdivision, a person may be considered to be an eligible individual in respect of a particular qualified dependant at the beginning of a month only if the person has, no later than 11 months after the end of the month, filed with the Minister a notice in prescribed form containing prescribed information.

Particuliers admissibles

122.62 (1) Pour l'application de la présente sous-section, une personne ne peut être considérée comme un particulier admissible à l'égard d'une personne à charge admissible au début d'un mois que si elle a présenté un avis au ministre, sur formulaire prescrit contenant les renseignements prescrits, au plus tard onze mois après la fin du mois.

Extension for notices

(2) The Minister may, on or before the day that is 10 years after the beginning of the month referred to in subsection (1), extend the time for filing a notice under that subsection.

Prorogation

(2) Le ministre peut, au plus tard au dixième anniversaire du début du mois visé au paragraphe (1), proroger le délai prévu à ce paragraphe.

Exception

(3) Where at the beginning of 1993 a person is an eligible individual in respect of a qualified dependant, subsection 122.62(1) does not apply to the person in respect of the qualified dependant if the qualified dependant was an eligible child (within the meaning assigned by subsection 122.2(2) because of subparagraph (a)(i) of the definition ***eligible child*** in that subsection) of the individual for the 1992 taxation year.

Exception

(3) Dans le cas où, au début de 1993, une personne est un particulier admissible à l'égard d'une personne à charge admissible, le paragraphe (1) ne s'applique pas à la personne quant à la personne à charge si celle-ci est aussi son enfant admissible (au sens du paragraphe 122.2(2) par l'effet du sous-alinéa a)(i) de cette définition) pour l'année d'imposition 1992.

Person ceasing to be an eligible individual

(4) Where during a particular month a person ceases to be an eligible individual in respect of a particular qualified dependant (otherwise than because of the qualified dependant attaining the age of 18 years), the person shall notify the Minister of that fact before the end of the first month following the particular month.

Death of cohabiting spouse

(5) If the cohabiting spouse or common-law partner of an eligible individual in respect of a qualified dependant dies,

(a) the eligible individual shall notify the Minister in prescribed form of that event before the end of the first calendar month that begins after that event; and

(b) subject to subsection (8), for the purpose of determining the amount deemed under subsection 122.61(1) to be an overpayment arising in that first month and any subsequent month on account of the eligible individual's liability under this Part for the base taxation year in relation to that first month, the eligible individual's adjusted income for the year is deemed to be equal to the eligible individual's income for the year.

Separation from cohabiting spouse

(6) If a person ceases to be an eligible individual's cohabiting spouse or common-law partner,

(a) the eligible individual shall notify the Minister in prescribed form of that event before the end of the first calendar month that begins after that event; and

(b) subject to subsection (8), for the purpose of determining the amount deemed under subsection 122.61(1) to be an overpayment arising in that first month and any subsequent month on account of the eligible individual's liability under this Part for the base taxation year in relation to that first month, the eligible individual's adjusted income for the year is deemed to be equal to the eligible individual's income for the year.

Person becoming a cohabiting spouse

(7) If a taxpayer becomes the cohabiting spouse or common-law partner of an eligible individual,

(a) the eligible individual shall notify the Minister in prescribed form of that event before the end of the first calendar month that begins after that event; and

(b) subject to subsection (8), for the purpose of determining the amount deemed under subsection

Avis de cessation d'admissibilité

(4) La personne qui cesse, au cours d'un mois donné, d'être un particulier admissible à l'égard d'une personne à charge admissible, autrement que parce que celle-ci atteint l'âge de 18 ans, est tenue d'en aviser le ministre avant la fin du premier mois suivant le mois donné.

Décès de l'époux ou du conjoint de fait visé

(5) En cas de décès de l'époux ou du conjoint de fait visé d'un particulier admissible à l'égard d'une personne à charge admissible, les règles ci-après s'appliquent :

a) le particulier est tenu d'aviser le ministre de cet événement, sur le formulaire prescrit, avant la fin du premier mois civil commençant après l'événement;

b) sous réserve du paragraphe (8), pour le calcul du montant réputé, en vertu du paragraphe 122.61(1), être un paiement en trop, se produisant au cours de ce premier mois et de tout mois postérieur, au titre des sommes dont le particulier est redevable en vertu de la présente partie pour l'année de base se rapportant à ce premier mois, le revenu modifié du particulier pour l'année est réputé être égal à son revenu pour l'année.

Séparation

(6) Dans le cas où une personne cesse d'être l'époux ou le conjoint de fait visé d'un particulier admissible, les règles ci-après s'appliquent :

a) le particulier est tenu d'aviser le ministre de cet événement, sur le formulaire prescrit, avant la fin du premier mois civil commençant après l'événement;

b) sous réserve du paragraphe (8), pour le calcul du montant réputé, en vertu du paragraphe 122.61(1), être un paiement en trop, se produisant au cours de ce premier mois et de tout mois postérieur, au titre des sommes dont le particulier est redevable en vertu de la présente partie pour l'année de base se rapportant à ce premier mois, le revenu modifié du particulier pour l'année est réputé être égal à son revenu pour l'année.

Nouvel époux ou conjoint de fait visé

(7) Dans le cas où un contribuable devient l'époux ou le conjoint de fait visé d'un particulier admissible, les règles ci-après s'appliquent :

a) le particulier est tenu d'aviser le ministre de cet événement, sur le formulaire prescrit, avant la fin du premier mois civil commençant après l'événement;

122.61(1) to be an overpayment arising in that first month and any subsequent month on account of the eligible individual's liability under this Part for the base taxation year in relation to that first month, the taxpayer is deemed to have been the eligible individual's cohabiting spouse or common-law partner at the end of the base taxation year in relation to that month.

b) sous réserve du paragraphe (8), pour le calcul du montant réputé, en vertu du paragraphe 122.61(1), être un paiement en trop, se produisant au cours de ce premier mois et de tout mois postérieur, au titre des sommes dont le particulier est redevable en vertu de la présente partie pour l'année de base se rapportant à ce premier mois, le contribuable est réputé avoir été l'époux ou le conjoint de fait visé du particulier à la fin de l'année de base se rapportant à ce mois.

Ordering of events

(8) If more than one event referred to in subsections (5) to (7) occur in a calendar month, only the subsection relating to the last of those events to have occurred applies.

Ordre des événements

(8) Si plus d'un des événements visés aux paragraphes (5) à (7) se produisent au cours d'un mois civil, seul le paragraphe qui porte sur le dernier en date de ces événements s'applique.

(9) [Repealed, 1998, c. 19, s. 142]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VII, s. 12; 1996, c. 11, ss. 95, 97; 1998, c. 19, s. 142, c. 21, s. 95; 2000, c. 12, s. 142; 2011, c. 24, s. 39; 2016, c. 7, s. 30.

(9) [Abrogé, 1998, ch. 19, art. 142]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VII, art. 12; 1996, ch. 11, art. 95 et 97; 1998, ch. 19, art. 142, ch. 21, art. 95; 2000, ch. 12, art. 142; 2011, ch. 24, art. 39; 2016, ch. 7, art. 30.

Agreement

122.63 (1) The Minister of Finance may enter into an agreement with the government of a province whereby the amounts determined under the description of E in subsection 122.61(1) with respect to persons resident in the province shall, for the purpose of calculating overpayments deemed to arise under that subsection, be replaced by amounts determined in accordance with the agreement.

Accord

122.63 (1) Le ministre des Finances peut conclure avec le gouvernement d'une province un accord aux termes duquel les montants déterminés selon l'élément E de la formule applicable figurant au paragraphe 122.61(1) à l'égard de personnes qui résident dans la province sont remplacés, dans le cadre du calcul des paiements en trop qui sont réputés se produire en application de ce paragraphe, par des montants déterminés en conformité avec l'accord.

Agreement

(2) The amounts determined under the description of E in subsection 122.61(1) for a base taxation year because of any agreement entered into with a province and referred to in subsection (1) shall be based on the age of qualified dependants of eligible individuals, or on the number of such qualified dependants, or both, and shall result in an amount in respect of a qualified dependant that is not less, in respect of that qualified dependant, than 85% of the amount that would otherwise be determined under that description in respect of that qualified dependant for that year.

Accord

(2) Les montants déterminés selon l'élément E de la formule applicable figurant au paragraphe 122.61(1) pour une année de base par suite de la conclusion de l'accord visé au paragraphe (1) sont fondés sur l'âge des personnes à charge admissibles de particuliers admissibles ou sur leur nombre, ou sur ces deux critères. Ils donnent lieu à un montant, relatif à une personne à charge admissible, qui est au moins égal, quant à cette personne, à 85 % du montant qui serait déterminé par ailleurs à son égard pour cette année selon cet élément.

Agreement

(3) Any agreement entered into with a province and referred to in subsection (1) shall provide that, where the operation of the agreement results in a total of all amounts, each of which is an amount deemed under subsection 122.61(1) to be an overpayment on account of the liability under this Part for a taxation year of a person subject to the agreement, that exceeds 101% of the total of such overpayments that would have otherwise been deemed to have arisen under subsection 122.61(1), the

Accord

(3) L'accord visé au paragraphe (1) doit prévoir le remboursement par le gouvernement de la province au gouvernement fédéral de la fraction du total des montants représentant chacun un montant réputé par le paragraphe 122.61(1) être un paiement en trop au titre des sommes dont une personne visée par l'accord est redevable en vertu de la présente partie pour une année d'imposition, qui dépasse, par suite de l'application de l'accord, le montant représentant 101 % du total de

excess shall be reimbursed by the government of the province to the Government of Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VII, s. 12; 1996, c. 11, s. 95; 1998, c. 19, s. 143; 2016, c. 7, s. 31.

122.64 [Repealed, 2013, c. 40, s. 53]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VII, s. 12; 1996, c. 11, ss. 95, 97; 1998, c. 19, s. 144; 2005, c. 35, ss. 66, 67; 2012, c. 19, ss. 694, 695; 2013, c. 40, s. 53.

SUBDIVISION A.2

Working Income Tax Benefit

Definitions

122.7 (1) The following definitions apply in this section.

adjusted net income of an individual for a taxation year means the amount that would be the individual's income for the taxation year if

(a) this Act were read without reference to paragraph 81(1)(a) and subsection 81(4);

(b) in computing that income, no amount were included under paragraph 56(1)(q.1) or subsection 56(6), in respect of any gain from a disposition of property to which section 79 applies or in respect of a gain described in subsection 40(3.21); and

(c) in computing that income, no amount were deductible under paragraph 60(y) or (z). (*revenu net rajusté*)

cohabiting spouse or common-law partner of an individual at any time has the meaning assigned by section 122.6. (*conjoint visé*)

designated educational institution has the meaning assigned by subsection 118.6(1). (*établissement d'enseignement agréé*)

eligible dependant of an individual for a taxation year means a child of the individual who, at the end of the year,

(a) resided with the individual;

(b) was under the age of 19 years; and

(c) was not an eligible individual. (*personne à charge admissible*)

semblables paiements en trop qui seraient par ailleurs réputés se produire en application du paragraphe 122.61(1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VII, art. 12; 1996, ch. 11, art. 95; 1998, ch. 19, art. 143; 2016, ch. 7, art. 31.

122.64 [Abrogé, 2013, ch. 40, art. 53]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VII, art. 12; 1996, ch. 11, art. 95 et 97; 1998, ch. 19, art. 144; 2005, ch. 35, art. 66 et 67; 2012, ch. 19, art. 694 et 695; 2013, ch. 40, art. 53.

SOUS-SECTION A.2

Prestation fiscale pour le revenu de travail

Définitions

122.7 (1) Les définitions qui suivent s'appliquent au présent article.

conjoint admissible Est le conjoint admissible d'un particulier admissible pour une année d'imposition le particulier (sauf un particulier non admissible) qui a résidé au Canada tout au long de l'année et qui était, à la fin de l'année, le conjoint visé du particulier admissible. (*eligible spouse*)

conjoint visé S'entend au sens de l'article 122.6. (*cohabiting spouse or common-law partner*)

déclaration de revenu Déclaration de revenu, sauf celle qui est à produire aux termes des paragraphes 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4), qu'un particulier est tenu de produire pour une année d'imposition ou qu'il serait tenu de produire s'il avait un impôt à payer en vertu de la présente partie pour l'année. (*return of income*)

établissement d'enseignement agréé S'entend au sens du paragraphe 118.6(1). (*designated educational institution*)

particulier admissible Est un particulier admissible pour une année d'imposition le particulier (sauf un particulier non admissible) qui a résidé au Canada tout au long de l'année et qui était, à la fin de l'année :

a) soit âgé de 19 ans ou plus;

b) soit le conjoint visé d'un autre particulier;

c) soit le parent d'un enfant avec lequel le particulier réside. (*eligible individual*)

eligible individual for a taxation year means an individual (other than an ineligible individ-ual) who was resident in Canada throughout the taxation year and who was, at the end of the taxation year,

(a) 19 years of age or older;

(b) the cohabiting spouse or common-law partner of another individual; or

(c) the parent of a child with whom the individual resides. (*particulier admissible*)

eligible spouse of an eligible individual for a taxation year means an individual (other than an ineligible individual) who was resident in Canada throughout the taxation year and who was, at the end of the taxation year, the cohabiting spouse or common-law partner of the eligible individual. (*conjoint admissible*)

ineligible individual for a taxation year means an individual

(a) who is described in paragraph 149(1)(a) or (b) at any time in the taxation year;

(b) who, except where the individual has an eligible dependant for the taxation year, was enrolled as a full-time student at a designated educational institution for a total of more than 13 weeks in the taxation year; or

(c) who was confined to a prison or similar institution for a period of at least 90 days during the taxation year. (*particulier non admissible*)

return of income filed by an individual for a taxation year means a return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is required to be filed for the taxation year or that would be required to be filed if the individual had tax payable under this Part for the taxation year. (*déclaration de revenu*)

working income of an individual for a taxation year means the total of

(a) the total of all amounts each of which would, if this Act were read without reference to section 8, paragraph 81(1)(a) and subsection 81(4), be the individual's income for the taxation year from an office or employment;

(b) all amounts that are included, or that would, but for paragraph 81(1)(a), be included, because of paragraph 56(1)(n) or (o) or subparagraph 56(1)(r)(v) in

particulier non admissible Est un particulier non admissible pour une année d'imposition le particulier qui, selon le cas :

a) est visé aux alinéas 149(1)a) ou b) à un moment de l'année;

b) sauf s'il a une personne à charge admissible pour l'année, est inscrit comme étudiant à temps plein à un établissement d'enseignement agréé pendant une période de plus de treize semaines comprise dans l'année;

c) est détenu dans une prison ou dans un établissement semblable pendant une période d'au moins 90 jours comprise dans l'année. (*ineligible individual*)

personne à charge admissible Est une personne à charge admissible d'un particulier pour une année d'imposition l'enfant du particulier qui, à la fin de l'année, à la fois :

a) réside avec le particulier;

b) est âgé de moins de 19 ans;

c) n'est pas un particulier admissible. (*eligible dependant*)

revenu de travail Le revenu de travail d'un particulier pour une année d'imposition correspond au total des sommes suivantes :

a) le total des sommes dont chacune représenterait le revenu du particulier pour l'année tiré d'une charge ou d'un emploi si la présente loi s'appliquait compte non tenu de l'article 8, de l'alinéa 81(1)a) et du paragraphe 81(4);

b) les sommes qui sont incluses, par l'effet des alinéas 56(1)n) ou o) ou du sous-alinéa 56(1)r)(v), dans le calcul du revenu du particulier pour une période de l'année ou qui seraient ainsi incluses en l'absence de l'alinéa 81(1)a);

c) le total des sommes dont chacune représenterait le revenu du particulier pour l'année tiré d'une entreprise qu'il exploite autrement qu'à titre d'associé déterminé d'une société de personnes si la présente loi s'appliquait compte non tenu de l'alinéa 81(1)a). (*working income*)

revenu net rajusté Le revenu net rajusté d'un particulier pour une année d'imposition correspond à la somme qui représenterait son revenu pour l'année si, à la fois :

computing the individual's income for a period in the taxation year; and

(c) the total of all amounts each of which would, if this Act were read without reference to paragraph 81(1)(a), be the individual's income for the taxation year from a business carried on by the individual otherwise than as a specified member of a partnership. (*revenu de travail*)

a) la présente loi s'appliquait compte non tenu de l'alinéa 81(1)a) ni du paragraphe 81(4);

b) dans le calcul de ce revenu, aucune somme n'était incluse en application de l'alinéa 56(1)q.1) ou du paragraphe 56(6), au titre d'un gain provenant d'une disposition de bien à laquelle s'applique l'article 79 ou au titre d'un gain visé au paragraphe 40(3.21);

c) dans le calcul de ce revenu, aucune somme n'était déductible en application des alinéas 60y) ou z). (*adjusted net income*)

Deemed payment on account of tax

(2) Subject to subsections (4) and (5), an eligible individual for a taxation year who files a return of income for the taxation year and who makes a claim under this subsection, is deemed to have paid, at the end of the taxation year, on account of tax payable under this Part for the taxation year, an amount equal to the amount, if any, determined by the formula

A - B

where

A is

(a) if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, the lesser of $925 and 25% of the amount, if any, by which the individual's working income for the taxation year exceeds $3,000, or

(b) if the individual had an eligible spouse or an eligible dependant, for the taxation year, the lesser of $1,680 and 25% of the amount, if any, by which the total of the working incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds $3,000; and

B is

(a) if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, 15% of the amount, if any, by which the adjusted net income of the individual for the taxation year exceeds $10,500, or

(b) if the individual had an eligible spouse or an eligible dependant, for the taxation year, 15% of the amount, if any, by which the total of the adjusted net incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds $14,500.

Paiement réputé au titre de l'impôt

(2) Sous réserve des paragraphes (4) et (5), le particulier admissible pour une année d'imposition qui produit une déclaration de revenu pour l'année et qui fait une demande en vertu du présent paragraphe est réputé avoir payé, à la fin de l'année, au titre de son impôt à payer en vertu de la présente partie pour l'année, une somme égale à la somme positive obtenue par la formule suivante :

A - B

où :

A représente :

a) si le particulier n'avait pas de conjoint admissible ni de personne à charge admissible pour l'année, 25 % de l'excédent, sur 3 000 $, de son revenu de travail pour l'année, jusqu'à concurrence de 925 $,

b) si le particulier avait un conjoint admissible ou une personne à charge admissible pour l'année, 25 % de l'excédent, sur 3 000 $, du total des revenus de travail pour l'année du particulier et, le cas échéant, de son conjoint admissible, jusqu'à concurrence de 1 680 $;

B :

a) si le particulier n'avait pas de conjoint admissible ni de personne à charge admissible pour l'année, 15 % de l'excédent, sur 10 500 $, de son revenu net rajusté pour l'année,

b) si le particulier avait un conjoint admissible ou une personne à charge admissible pour l'année, 15 % de l'excédent, sur 14 500 $, du total des revenus nets rajustés pour l'année du particulier et, le cas échéant, de son conjoint admissible.

Deemed payment on account of tax — disability supplement

(3) An eligible individual for a taxation year who files a return of income for the taxation year and who may deduct an amount under subsection 118.3(1) in computing tax payable under this Part for the taxation year is deemed to have paid, at the end of the taxation year, on account of tax payable under this Part for the taxation year, an amount equal to the amount, if any, determined by the formula

C - D

where

C is the lesser of $462.50 and 25% of the amount, if any, by which the individual's working income for the taxation year exceeds $1,150; and

D is

(a) if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, 15% of the amount, if any, by which the individual's adjusted net income for the taxation year exceeds $16,667,

(b) if the individual had an eligible spouse for the taxation year who was not entitled to deduct an amount under subsection 118.3(1) for the taxation year, or had an eligible dependant for the taxation year, 15% of the amount, if any, by which the total of the adjusted net incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds $25,700, or

(c) if the individual had an eligible spouse for the taxation year who was entitled to deduct an amount under subsection 118.3(1) for the taxation year, 7.5% of the amount, if any, by which the total of the adjusted net incomes of the individual and of the eligible spouse, for the taxation year, exceeds $25,700.

Paiement réputé au titre de l'impôt — supplément pour les personnes handicapées

(3) Le particulier admissible pour une année d'imposition qui produit une déclaration de revenu pour l'année et qui peut déduire une somme en application du paragraphe 118.3(1) dans le calcul de son impôt à payer en vertu de la présente partie pour l'année est réputé avoir payé, à la fin de l'année, au titre de son impôt à payer en vertu de la présente partie pour l'année, une somme égale à la somme positive obtenue par la formule suivante :

C - D

où :

C représente 25 % de l'excédent, sur 1 150 $, de son revenu de travail pour l'année, jusqu'à concurrence de 462,50 $;

D :

a) si le particulier n'avait pas de conjoint admissible ni de personne à charge admissible pour l'année, 15 % de l'excédent, sur 16 667 $, de son revenu net rajusté pour l'année,

b) si le particulier avait un conjoint admissible pour l'année qui n'avait pas droit à la déduction prévue au paragraphe 118.3(1) pour l'année, ou s'il avait une personne à charge admissible pour l'année, 15 % de l'excédent, sur 25 700 $, du total des revenus nets rajustés pour l'année du particulier et, le cas échéant, de son conjoint admissible,

c) si le particulier avait un conjoint admissible pour l'année qui avait droit à la déduction prévue au paragraphe 118.3(1) pour l'année, 7,5 % de l'excédent, sur 25 700 $, du total des revenus nets rajustés pour l'année du particulier et, le cas échéant, de son conjoint admissible.

Eligible spouse deemed not to be an eligible individual

(4) An eligible spouse of an eligible individual for a taxation year is deemed, for the purpose of subsection (2), not to be an eligible individual for the taxation year if the eligible spouse made a joint application described in subsection (6) with the eligible individual and the eligible individual received an amount under subsection (7) in respect of the taxation year.

Conjoint admissible réputé ne pas être un particulier admissible

(4) Le conjoint admissible d'un particulier admissible pour une année d'imposition est réputé, pour l'application du paragraphe (2), ne pas être un particulier admissible pour l'année s'il a fait la demande visée au paragraphe (6) conjointement avec le particulier et si ce dernier a reçu une somme en application du paragraphe (7) pour l'année.

Amount deemed to be nil

(5) If an eligible individual had an eligible spouse for a taxation year and both the eligible individual and the eligible spouse make a claim for the taxation year under

Somme réputée être nulle

(5) Si un particulier admissible avait un conjoint admissible pour une année d'imposition et qu'ils font tous deux une demande pour l'année en vertu du paragraphe (2), la

subsection (2), the amount deemed to have been paid under that subsection by each of them on account of tax payable under this Part for the taxation year, is nil.

Application for advance payment

(6) Subsection (7) applies to an individual for a taxation year if,

(a) at any time after January 1 and before September 1 of the taxation year, the individual makes an application (or in the case of an individual who has, at that time, a cohabiting spouse or common-law partner, the two of them make a joint application designating the individual for the purpose of subsection (7)), to the Minister in prescribed form, containing prescribed information; and

(b) where the individual and a cohabiting spouse or common-law partner have made a joint application referred to in paragraph (a)

(i) the individual's working income for the taxation year can reasonably be expected to be greater than the working income of the individual's cohabiting spouse or common-law partner for the taxation year, or

(ii) the individual can reasonably be expected to be deemed by subsection (3) to have paid an amount on account of tax payable under this Part for the taxation year.

Advance payment

(7) Subject to subsection (8), the Minister may pay to an individual before the end of January of the year following a taxation year, one or more amounts that, in total, do not exceed one-half of the total of the amounts that the Minister estimates will be deemed to be paid by the individual under subsection (2) or (3) at the end of the taxation year, and any amount paid by the Minister under this subsection is deemed to have been received by the individual in respect of the taxation year.

Limitation — advance payment

(8) No payment shall be made under subsection (7) to an individual in respect of a taxation year

(a) if the total amount that the Minister may pay under that subsection is less than $100; or

(b) before the day on which the individual has filed a return of income for a preceding taxation year in respect of which the individual received a payment under that subsection.

somme qui est réputée avoir été payée en vertu de ce paragraphe par chacun d'eux au titre de l'impôt à payer en vertu de la présente partie pour l'année est nulle.

Demande de paiement anticipé

(6) Le paragraphe (7) s'applique à un particulier pour une année d'imposition si les conditions suivantes sont réunies :

a) à un moment après le 1er janvier et avant le 1er septembre de l'année, le particulier présente au ministre une demande sur le formulaire prescrit contenant les renseignements prescrits ou, s'il a un conjoint visé à ce moment, il présente au ministre, conjointement avec son conjoint, une telle demande dans laquelle il est désigné pour l'application du paragraphe (7);

b) si le particulier et le conjoint visé ont fait la demande conjointe visée à l'alinéa a), il est raisonnable de s'attendre à ce que, selon le cas :

(i) le revenu de travail du particulier pour l'année soit supérieur à celui du conjoint visé pour l'année,

(ii) le particulier soit réputé, en vertu du paragraphe (3), avoir payé une somme au titre de l'impôt à payer en vertu de la présente partie pour l'année.

Paiement anticipé

(7) Sous réserve du paragraphe (8), le ministre peut verser à un particulier, avant la fin de janvier de l'année suivant une année d'imposition, une ou plusieurs sommes qui, au total, n'excèdent pas la moitié du total des sommes qui, selon son estimation, seront réputées être payées par le particulier en vertu des paragraphes (2) ou (3) à la fin de l'année; toute somme versée par le ministre en vertu du présent paragraphe est réputée avoir été reçue par le particulier pour l'année d'imposition.

Restriction — paiement anticipé

(8) Aucune somme n'est versée à un particulier en vertu du paragraphe (7) pour une année d'imposition si, selon le cas :

a) la somme que le ministre peut verser en vertu de ce paragraphe est inférieure à 100 $;

b) la date du versement est antérieure à la date à laquelle le particulier a produit une déclaration de revenu pour une année d'imposition antérieure pour laquelle il a reçu un versement en vertu de ce paragraphe.

Notification to Minister

(9) If, in a taxation year, an individual makes an application described in subsection (6), the individual shall notify the Minister of the occurrence of any of the following events before the end of the month following the month in which the event occurs

(a) the individual ceases to be resident in Canada in the taxation year;

(b) the individual ceases, before the end of the taxation year, to be a cohabiting spouse or common-law partner of another person with whom the individual made the application;

(c) the individual enrols as a full-time student at a designated educational institution in the taxation year; or

(d) the individual is confined to a prison or similar institution in the taxation year.

Avis au ministre

(9) Le particulier qui présente la demande visée au paragraphe (6) au cours d'une année d'imposition est tenu d'aviser le ministre de ceux des événements ci-après qui se produisent avant la fin du mois suivant celui où l'événement se produit :

a) le particulier cesse de résider au Canada au cours de l'année;

b) le particulier cesse, avant la fin de l'année, d'être le conjoint visé de la personne avec laquelle il a présenté la demande;

c) le particulier s'inscrit comme étudiant à temps plein dans un établissement d'enseignement agréé au cours de l'année;

d) le particulier est détenu dans une prison ou dans un établissement semblable au cours de l'année.

Special rule re eligible dependant

(10) For the purpose of applying subsections (2) and (3), an individual (referred to in this subsection as the "child") is deemed not to be an eligible dependant of an eligible individual for a taxation year if the child is an eligible dependant of another eligible individual for the taxation year and both eligible individuals identified the child as an eligible dependant for the purpose of claiming or computing an amount under this section for the taxation year.

Règle spéciale — personne à charge admissible

(10) Pour l'application des paragraphes (2) et (3), un particulier est réputé ne pas être la personne à charge admissible d'un particulier admissible pour une année d'imposition s'il est la personne à charge admissible d'un autre particulier admissible pour l'année et que les deux particuliers admissibles l'ont désigné comme personne à charge admissible pour l'application du présent article pour l'année.

Effect of bankruptcy

(11) For the purpose of this subdivision, if an individual becomes bankrupt in a particular calendar year

(a) notwithstanding subsection 128(2), any reference to the taxation year of the individual (other than in this subsection) is deemed to be a reference to the particular calendar year; and

(b) the individual's working income and adjusted net income for the taxation year ending on December 31 of the particular calendar year is deemed to include the individual's working income and adjusted net income for the taxation year that begins on January 1 of the particular calendar year.

Faillite

(11) Pour l'application de la présente sous-section, les règles ci-après s'appliquent à l'égard du particulier qui fait faillite au cours d'une année civile :

a) malgré le paragraphe 128(2), toute mention (sauf au présent paragraphe) de l'année d'imposition du particulier vaut mention de l'année civile en cause;

b) le revenu de travail et le revenu net rajusté du particulier pour l'année d'imposition se terminant le 31 décembre de l'année civile en cause sont réputés comprendre ses revenu de travail et revenu net rajusté pour l'année d'imposition qui commence le 1er janvier de l'année civile en cause.

Special rules in the event of death

(12) For the purpose of this subdivision, if an individual dies after June 30 of a calendar year

(a) the individual is deemed to be resident in Canada from the time of death until the end of the year and to reside at the same place in Canada as the place where the individual resided immediately before death;

(b) the individual is deemed to be the same age at the end of the year as the individual would have been if the individual were alive at the end of the year;

(c) the individual is deemed to be the cohabiting spouse or common-law partner of another individual (referred to in this paragraph as the "surviving spouse") at the end of the year if,

(i) immediately before death, the individual was the cohabiting spouse or common-law partner of the surviving spouse, and

(ii) the surviving spouse is not the cohabiting spouse or common-law partner of another individual at the end of the year; and

(d) any return of income filed by a legal representative of the individual is deemed to be a return of income filed by the individual.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 42; 2009, c. 2, s. 38, c. 31, s. 13; 2010, c. 25, s. 26.

Règles spéciales — décès

(12) Pour l'application de la présente sous-section, les règles ci-après s'appliquent à l'égard du particulier qui décède après le 30 juin d'une année civile :

a) le particulier est réputé résider au Canada depuis le moment de son décès jusqu'à la fin de l'année et avoir le même lieu de résidence au Canada que celui qu'il avait immédiatement avant son décès;

b) le particulier est réputé avoir le même âge à la fin de l'année que celui qu'il aurait eu s'il avait survécu jusqu'à la fin de l'année;

c) le particulier est réputé être le conjoint visé d'un autre particulier (appelé « conjoint survivant » au présent alinéa) à la fin de l'année si, à la fois :

(i) immédiatement avant son décès, il était le conjoint visé du conjoint survivant,

(ii) le conjoint survivant n'est pas le conjoint visé d'un autre particulier à la fin de l'année;

d) toute déclaration de revenu produite par le représentant légal du particulier est réputée être une déclaration de revenu produite par le particulier.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 42; 2009, ch. 2, art. 38, ch. 31, art. 13; 2010, ch. 25, art. 26.

Modification for purposes of provincial program

122.71 The Minister of Finance may enter into an agreement with the government of a province whereby the amounts determined under subsections 122.7(2) and (3) with respect to an eligible individual resident in the province at the end of the taxation year shall, for the purpose of calculating amounts deemed to be paid on account of the tax payable of an individual under those subsections, be replaced by amounts determined in accordance with the agreement.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 42.

Programme provincial

122.71 Le ministre des Finances peut conclure, avec le gouvernement d'une province, un accord selon lequel les sommes déterminées selon les paragraphes 122.7(2) et (3) relativement à un particulier admissible résidant dans la province à la fin d'une année d'imposition sont remplacées, en vue du calcul des sommes réputées être payées au titre de l'impôt à payer par un particulier en vertu de ces paragraphes, par des sommes déterminées conformément à l'accord.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 42.

SUBDIVISION A.3

[Repealed, 2016, c. 7, s. 32]

122.8 [Repealed, 2016, c. 7, s. 32]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 39, s. 39; 2016, c. 7, s. 32.

SOUS-SECTION A.3

[Abrogée, 2016, ch. 7, art. 32]

122.8 [Abrogé, 2016, ch. 7, art. 32]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 39, art. 39; 2016, ch. 7, art. 32.

SUBDIVISION A.4

School Supplies Tax Credit

Definitions

122.9 (1) The following definitions apply in this section.

eligible educator, in respect of a taxation year, means an individual who, at any time during the taxation year,

(a) is employed in Canada as a teacher or an early childhood educator at

(i) an elementary or secondary school, or

(ii) a regulated child care facility; and

(b) holds a valid and recognized (in the province or territory in which the individual is employed)

(i) teaching certificate, licence, permit or diploma, or

(ii) certificate or diploma in early childhood education. (*éducateur admissible*)

eligible supplies expense, of an eligible educator for a taxation year, means an amount (other than any amount deducted in computing any person's income for any taxation year or any amount otherwise included in computing a deduction from any person's tax payable under this Act for any taxation year) paid by the eligible educator in the taxation year for teaching supplies to the extent that

(a) the teaching supplies were

(i) purchased by the eligible educator for the purpose of teaching or facilitating students' learning, and

(ii) directly consumed or used in an elementary or secondary school or in a regulated child care facility in the performance of the duties of the eligible educator's employment; and

(b) the eligible educator is not entitled to receive a reimbursement, allowance or any other form of assistance (other than an amount that is included in computing the income for any taxation year of the eligible educator and that is not deductible in computing the taxable income of the eligible educator) in respect of the amount paid. (*dépense admissible*)

SOUS-SECTION A.4

Crédit d'impôt pour fournitures scolaires

Définitions

122.9 (1) Les définitions qui suivent s'appliquent au présent article.

déclaration de revenu En ce qui concerne un éducateur admissible pour une année d'imposition, la déclaration de revenu, sauf celle prévue aux paragraphes 70(2) ou 104(23), à l'alinéa 128(2)e) ou au paragraphe 150(4), qu'il est tenu de produire pour l'année ou qu'il serait tenu de produire s'il avait un impôt payable en vertu de la présente partie pour l'année. (*return of income*)

dépense admissible Est une dépense admissible d'un éducateur admissible pour une année d'imposition, la somme (sauf une somme déduite dans le calcul du revenu d'une personne pour une année d'imposition ou toute autre somme par ailleurs incluse dans le calcul d'une déduction de l'impôt payable par une personne en vertu de la présente loi pour une année d'imposition) versée par lui au cours de l'année au titre de fournitures scolaires, dans la mesure où :

a) les fournitures scolaires ont été, à la fois :

(i) achetées par lui à des fins d'enseignement ou d'aide à l'apprentissage des élèves,

(ii) consommées ou utilisées directement dans une école primaire ou secondaire ou dans un établissement réglementé de service de garde d'enfants dans l'accomplissement des fonctions liées à son emploi;

b) il n'a le droit de recevoir aucun remboursement, aucune allocation ni aucune autre forme d'aide (sauf une somme qui est incluse dans le calcul de son revenu pour une année d'imposition et qui n'est pas déductible dans le calcul de son revenu imposable) au titre de la somme versée. (*eligible supplies expense*)

éducateur admissible Relativement à une année d'imposition, le particulier qui, au cours de l'année, est :

a) d'une part, employé au Canada à titre d'enseignant ou d'éducateur de la petite enfance à l'un des établissements suivants :

(i) une école primaire ou secondaire,

(ii) un établissement réglementé d'aide à l'enfance;

return of income filed by an eligible educator for a taxation year means a return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is required to be filed for the year or that would be required to be filed if the eligible educator had tax payable under this Part for the year. (*déclaration de revenu*)

teaching supplies means

(a) consumable supplies; and

(b) prescribed durable goods. (*fournitures scolaires*)

b) d'autre part, titulaire de l'un des documents ci-après qui est en cours de validité et reconnu dans la province, ou le territoire, où il est employé :

(i) un brevet, permis ou diplôme, ou une licence, d'enseignement,

(ii) un brevet ou diplôme en éducation de la petite enfance. (*eligible educator*)

fournitures scolaires Les fournitures suivantes :

a) une fourniture consommable;

b) un bien durable visé par règlement. (*teaching supplies*)

Deemed overpayment

(2) An eligible educator who files a return of income for a taxation year and who makes a claim under this subsection is deemed to have paid, at the end of the year, on account of tax payable under this Part for the year, an amount equal to the amount determined by the formula

A × B

where

A is the appropriate percentage for the year; and

B is the least of

(a) $1,000,

(b) the total of all amounts each of which is an eligible supplies expense of the eligible educator for the year, and

(c) if the eligible educator fails to provide the certificate referred to in subsection (3) in respect of the year, as and when requested by the Minister, nil.

Paiement en trop réputé

(2) L'éducateur admissible qui produit une déclaration de revenu pour une année d'imposition et qui fait une demande en vertu du présent paragraphe est réputé avoir payé, à la fin de l'année, au titre de son impôt payable en vertu de la présente partie pour l'année, une somme égale à la somme obtenue par la formule suivante :

A × B

où :

A représente le taux de base pour l'année;

B la moindre des sommes suivantes :

a) 1 000 $,

b) le total des sommes dont chacune est une dépense admissible de l'éducateur pour l'année,

c) si l'éducateur admissible ne remet pas le certificat visé au paragraphe (3) relativement à l'année selon les modalités et dans le délai exigés par le ministre, zéro.

Certificate

(3) If the Minister so demands, an eligible educator making a claim under this section in respect of a taxation year shall provide to the Minister a written certificate from their employer, or a delegated official of the employer, attesting to the eligible supplies expenses of the eligible educator for the year.

Certificat

(3) Sur demande du ministre, l'éducateur admissible qui demande pour une année d'imposition le crédit prévu au présent article fournit au ministre un certificat écrit, provenant de son employeur ou d'un cadre délégué de l'employeur, attestant les dépenses admissibles de l'éducateur admissible pour l'année.

Effect of bankruptcy

(4) For the purposes of this subdivision, if an eligible educator becomes bankrupt in a particular calendar year, notwithstanding subsection 128(2), any reference to the taxation year of the eligible educator (other than in this subsection) is deemed to be a reference to the particular calendar year.

Effet de la faillite

(4) Pour l'application de la présente sous-section, si un éducateur admissible devient failli au cours d'une année civile, malgré le paragraphe 128(2), toute mention de l'année d'imposition de l'éducateur admissible (sauf au présent paragraphe) vaut mention de l'année civile.

Part-year residents

(5) If an eligible educator is resident in Canada throughout part of a taxation year and is non-resident throughout another part of the year, the total of the amounts that are deemed to be paid by the eligible educator under subsection (2) for the year cannot exceed the lesser of

(a) the total of

(i) the amounts deemed to be paid under subsection (2) that can reasonably be considered as wholly applicable to the period or periods in the year throughout which the eligible educator is not resident in Canada, computed as though that period or those periods were the whole taxation year, and

(ii) the amounts deemed to be paid under subsection (2) that can reasonably be considered as wholly applicable to the period or periods in the year throughout which the eligible educator is resident in Canada, computed as though that period or those periods were the whole taxation year; and

(b) the total of the amounts that would have been deemed to have been paid under subsection (2) for the year had the eligible educator been resident in Canada throughout the year.

Résident pendant une partie de l'année

(5) Si un éducateur admissible réside au Canada tout au long d'une partie d'une année d'imposition et, tout au long d'une autre partie de l'année, est un non-résident, le total des sommes qu'il est réputé avoir payées, en application du paragraphe (2), pour l'année ne peut dépasser le moindre des totaux suivants :

a) le total des sommes suivantes :

(i) les sommes réputées payées en application du paragraphe (2) qu'il est raisonnable de considérer comme étant entièrement applicables à la période ou aux périodes de l'année tout au long desquelles l'éducateur ne réside pas au Canada, calculées comme si cette période ou ces périodes constituaient l'année d'imposition entière,

(ii) les sommes réputées payées en application du paragraphe (2) qu'il est raisonnable de considérer comme étant entièrement applicables à la période ou aux périodes de l'année tout au long desquelles l'éducateur réside au Canada, calculées comme si cette période ou ces périodes constituaient l'année d'imposition entière;

b) le total des sommes qui auraient été réputées payées en application du paragraphe (2) pour l'année si l'éducateur avait résidé au Canada tout au long de l'année.

Non-residents

(6) Subsection (2) does not apply in respect of a taxation year of an eligible educator if the eligible educator is, at no time in the year, resident in Canada, unless all or substantially all the eligible educator's income for the year is included in computing the eligible educator's taxable income earned in Canada for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 7, s. 33.

Non-résidents

(6) Le paragraphe (2) ne s'applique pas relativement à une année d'imposition d'un éducateur admissible qui ne réside au Canada à aucun moment donné de l'année, sauf si la totalité ou la presque totalité de son revenu pour l'année est incluse dans le calcul de son revenu imposable gagné au Canada pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 7, art. 33.

SUBDIVISION B

Rules Applicable to Corporations

Rate for corporations

123 (1) The tax payable under this Part for a taxation year by a corporation on its taxable income or taxable income earned in Canada, as the case may be, (in this section referred to as its "amount taxable") for the year is, except where otherwise provided,

(a) 38% of its amount taxable for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"123"; 1984, c. 29, s. 90; 1986, c. 55, s. 42; 1988, c. 28, s. 250, c. 55, s. 100.

SOUS-SECTION B

Règles applicable aux sociétés

Taux afférents aux sociétés

123 (1) L'impôt payable par une société en vertu de la présente partie sur son revenu imposable ou sur son revenu imposable gagné au Canada, selon le cas (appelé le « montant imposable » au présent article), pour l'année est, sauf disposition contraire :

a) 38 % de son montant imposable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 123 »; 1984, ch. 29, art. 90; 1986, ch. 55, art. 42; 1988, ch. 28, art. 250, ch. 55, art. 100.

Corporation surtax

123.1 There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation (other than a corporation that was throughout the year an investment corporation or a non-resident-owned investment corporation) an amount equal to that proportion of 5% of the amount, if any, by which

(a) the tax payable under this Part by the corporation for the year determined without reference to this section, sections 123.2 and 126 (except for the purposes of subsection 125(1) and section 125.1), subsections 127(3) and (5), 127.2(1) and 127.3(1) of this Act and paragraph 123(1)(b) and subsection 127(13) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, and as if subsection 124(1) of this Act were read without reference to the words "in a province" in that subsection

exceeds

(b) in the case of a Canadian-controlled private corporation to which subsection 125(1) applies, the amount, if any, by which

(i) 15% of the least of the amounts, if any, determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year

exceeds

(ii) the amount, if any, determined under paragraph 125.1(1)(b) in respect of the corporation for the year,

(c) in the case of a mutual fund corporation, the least of the amounts that would be determined under paragraphs (a) to (c) of the description of A in the definition ***refundable capital gains tax on hand*** in subsection 131(6) in respect of the corporation for the year if this Act were read without reference to this section, and

(d) in any other case, nil

that the number of days in that portion of the year that is after June 30, 1985 and before 1987 is of the number of days in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1972, c. 9, s. 2; 1985, c. 45, s. 69; 1986, s. 6, s. 69, c. 55, s. 43.

123.2 [Repealed, 2006, c. 4, s. 72]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 123.2; 1994, c. 7, Sch. VIII, s. 61; 1996, c. 21, s. 24; 1999, c. 22, s. 45; 2001, c. 17, s. 111; 2005, c. 30, s. 9; 2006, c. 4, s. 72.

Surtaxe des sociétés

123.1 Doit être ajouté à l'impôt payable par ailleurs en vertu de la présente partie pour chaque année d'imposition par une société (à l'exclusion d'une société qui a été tout au long de l'année une société de placement ou une société de placement appartenant à des non-résidents) un montant égal au produit de la multiplication, par le rapport entre le nombre de jours de la partie de l'année qui tombe après le 30 juin 1985 et avant 1987, d'une part, et le nombre de jours de l'année, d'autre part, de 5 % de l'excédent éventuel :

a) de l'impôt payable en vertu de la présente partie par la société pour l'année, calculé compte non tenu du présent article, des articles 123.2 et 126 (sauf pour l'application du paragraphe 125(1) et de l'article 125.1), des paragraphes 127(3) et (5), 127.2(1) et 127.3(1) de la présente loi, ni de l'alinéa 123(1)b) et du paragraphe 127(13) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, ni de la mention « dans une province » au paragraphe 124(1) de la présente loi,

sur :

b) dans le cas d'une société privée sous contrôle canadien à laquelle le paragraphe 125(1) s'applique, l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) 15 % du moins élevé des montants calculés selon les alinéas 125(1)a) à c) pour celle-ci pour l'année,

(ii) le montant calculé selon l'alinéa 125.1(1)b) pour celle-ci pour l'année;

c) dans le cas d'une société de placement à capital variable, le moins élevé des montants qui seraient calculés selon les alinéas a) à c) de l'élément A de la formule figurant à la définition de ***impôt en main remboursable au titre des gains en capital*** au paragraphe 131(6) pour celle-ci pour l'année compte non tenu du présent article;

d) dans les autres cas, zéro.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1972, ch. 9, art. 2; 1985, ch. 45, art. 69; 1986, art. 6, art. 69, ch. 55, art. 43.

123.2 [Abrogé, 2006, ch. 4, art. 72]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 123.2; 1994, ch. 7, ann. VIII, art. 61; 1996, ch. 21, art. 24; 1999, ch. 22, art. 45; 2001, ch. 17, art. 111; 2005, ch. 30, art. 9; 2006, ch. 4, art. 72.

Refundable tax on CCPC's investment income

123.3 There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation that is throughout the year a Canadian-controlled private corporation an amount equal to 10 2/3% of the lesser of

(a) the corporation's aggregate investment income for the year (within the meaning assigned by subsection 129(4)), and

(b) the amount, if any, by which its taxable income for the year exceeds the least of the amounts determined in respect of it for the year under paragraphs 125(1)(a) to (c).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 25; 2016, c. 11, s. 6.

Impôt remboursable sur revenu de placement — SPCC

123.3 Est à ajouter à l'impôt payable par ailleurs en vertu de la présente partie pour chaque année d'imposition par une société qui est une société privée sous contrôle canadien tout au long de l'année le montant représentant 10 2/3 % du moins élevé des montants suivants :

a) son revenu de placement total pour l'année, au sens du paragraphe 129(4);

b) l'excédent éventuel de son revenu imposable pour l'année sur le moindre des montants déterminés à son égard pour l'année selon les alinéas 125(1)a) à c).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 25; 2016, ch. 11, art. 6.

Corporation Tax Reductions

Réductions de l'impôt des sociétés

Definitions

123.4 (1) The definitions in this subsection apply in this section.

CCPC rate reduction percentage [Repealed, 2003, c. 15, s. 78(1)]

full rate taxable income of a corporation for a taxation year is

(a) if the corporation is not a corporation described in paragraph (b) or (c) for the year, the amount by which that portion of the corporation's taxable income for the year (or, for greater certainty, if the corporation is non-resident, that portion of its taxable income earned in Canada for the year) that is subject to tax under subsection 123(1) exceeds the total of

(i) if an amount is deducted under subsection 125.1(1) from the corporation's tax otherwise payable under this Part for the year, the amount obtained by dividing the amount so deducted by the corporation's general rate reduction percentage for the taxation year,

(ii) if an amount is deducted under subsection 125.1(2) from the corporation's tax otherwise payable under this Part for the year, the amount determined, in respect of the deduction, by the formula in that subsection,

(iii) the corporation's income for the year from a personal services business, and

(iv) if the corporation is a credit union throughout the year and the corporation deducted an amount

Définitions

123.4 (1) Les définitions qui suivent s'appliquent au présent article.

pourcentage de réduction du taux des SPCC [Abrogée, 2003, ch. 15, art. 78(1)]

pourcentage de réduction du taux général En ce qui concerne une société pour une année d'imposition, le total de ce qui suit :

a) la proportion de 7 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont antérieurs à 2008 et le nombre total de jours de l'année d'imposition;

b) la proportion de 8,5 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2008 et le nombre total de jours de l'année d'imposition;

c) la proportion de 9 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2009 et le nombre total de jours de l'année d'imposition;

d) la proportion de 10 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2010 et le nombre total de jours de l'année d'imposition;

e) la proportion de 11,5 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2011 et le nombre total de jours de l'année d'imposition;

for the year under subsection 125(1) (because of the application of subsections 137(3) and (4)), the amount, if any, that is the product of the amount, if any, determined for B in subsection 137(3) multiplied by the amount determined for C in subsection 137(3) in respect of the corporation for the year;

(b) if the corporation is a Canadian-controlled private corporation throughout the year, the amount by which that portion of the corporation's taxable income for the year that is subject to tax under subsection 123(1) exceeds the total of

(i) the amounts that would, if paragraph (a) applied to the corporation, be determined under subparagraphs (a)(i) to (iv) in respect of the corporation for the year,

(ii) the least of the amounts, if any, determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year, and

(iii) except for a corporation that is, throughout the year, a cooperative corporation (within the meaning assigned by subsection 136(2)) or a credit union, the corporation's aggregate investment income for the year, within the meaning assigned by subsection 129(4); and

(iv) [Repealed, 2003, c. 15, s. 78(2)]

(c) if the corporation is throughout the year an investment corporation, a mortgage investment corporation or a mutual fund corporation, nil. (*revenu imposable au taux complet*)

general rate reduction percentage of a corporation for a taxation year is the total of

(a) that proportion of 7% that the number of days in the taxation year that are before 2008 is of the number of days in the taxation year,

(b) that proportion of 8.5% that the number of days in the taxation year that are in 2008 is of the number of days in the taxation year,

(c) that proportion of 9% that the number of days in the taxation year that are in 2009 is of the number of days in the taxation year,

(d) that proportion of 10% that the number of days in the taxation year that are in 2010 is of the number of days in the taxation year,

f) la proportion de 13 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont postérieurs à 2011 et le nombre total de jours de l'année d'imposition. (*general rate reduction percentage*)

revenu imposable au taux complet En ce qui concerne une société pour une année d'imposition :

a) si la société n'est pas visée aux alinéas b) ou c) pour l'année, l'excédent de la partie de son revenu imposable pour l'année qui est assujettie à l'impôt en vertu du paragraphe 123(1) (étant entendu qu'il s'agit, dans le cas d'une société non-résidente, de la partie de son revenu imposable gagné au Canada pour l'année qui est assujettie à cet impôt) sur le total des montants suivants :

(i) si un montant est déduit en application du paragraphe 125.1(1) de son impôt payable par ailleurs pour l'année en vertu de la présente partie, le quotient du montant ainsi déduit par le pourcentage de réduction du taux général qui lui est applicable pour l'année,

(ii) si un montant est déduit en application du paragraphe 125.1(2) de son impôt payable par ailleurs pour l'année en vertu de la présente partie, le montant déterminé, au titre de la déduction, selon la formule figurant à ce paragraphe,

(iii) son revenu pour l'année provenant d'une entreprise de prestation de services personnels,

(iv) si elle est une caisse de crédit tout au long de l'année et a déduit une somme en application du paragraphe 125(1) pour l'année par l'effet des paragraphes 137(3) et (4), la somme éventuelle qui correspond au résultat de la multiplication de la valeur de l'élément B de la formule figurant au paragraphe 137(3) par la valeur de l'élément C de cette formule, à son égard pour l'année;

b) si la société est une société privée sous contrôle canadien tout au long de l'année, l'excédent de la partie de son revenu imposable pour l'année qui est assujettie à l'impôt prévu au paragraphe 123(1) sur le total des montants suivants :

(i) les montants qui seraient déterminés à son égard pour l'année selon les sous-alinéas a)(i) à (iv) si l'alinéa a) s'appliquait à elle,

(ii) la moins élevée des sommes déterminées à son égard pour l'année selon les alinéas 125(1)a) à c),

(e) that proportion of 11.5% that the number of days in the taxation year that are in 2011 is of the number of days in the taxation year, and

(f) that proportion of 13% that the number of days in the taxation year that are after 2011 is of the number of days in the taxation year. (*pourcentage de réduction du taux général*)

(iii) son revenu de placement total, au sens du paragraphe 129(4), pour l'année, sauf si elle est, tout au long de l'année, une société coopérative, au sens du paragraphe 136(2), ou une caisse de crédit;

(iv) [Abrogé, 2003, ch. 15, art. 78(2)]

c) si la société est, tout au long de l'année, une société de placement, une société de placement hypothécaire ou une société de placement à capital variable, zéro. (*full rate taxable income*)

General deduction from tax

(2) There may be deducted from a corporation's tax otherwise payable under this Part for a taxation year the product obtained by multiplying the corporation's general rate reduction percentage for the year by the corporation's full rate taxable income for the year.

(3) [Repealed, 2003, c. 15, s. 78(5)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 112; 2003, c. 15, s. 78, c. 28, s. 12; 2006, c. 4, s. 73; 2007, c. 2, s. 32, c. 29, s. 14, c. 35, s. 181; 2013, c. 33, s. 12, c. 34, s. 261, c. 40, s. 54.

Déduction d'impôt générale

(2) Est déductible de l'impôt payable par ailleurs en vertu de la présente partie pour une année d'imposition par une société le produit de la multiplication du pourcentage de réduction du taux général qui lui est applicable pour l'année par son revenu imposable à taux complet pour l'année.

(3) [Abrogé, 2003, ch. 15, art. 78(5)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 112; 2003, ch. 15, art. 78, ch. 28, art. 12; 2006, ch. 4, art. 73; 2007, ch. 2, art. 32, ch. 29, art. 14, ch. 35, art. 181; 2013, ch. 33, art. 12, ch. 34, art. 261, ch. 40, art. 54.

Tax on personal services business income

123.5 There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation an amount equal to 5% of the corporation's taxable income for the year from a personal services business.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 7, s. 62.

Entreprise de prestation de services personnels – impôt

123.5 Est à ajouter à l'impôt par ailleurs payable en vertu de la présente partie pour chaque année d'imposition par une société la somme égale à 5 % de son revenu imposable pour l'année provenant d'une entreprise de prestation de services personnels.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 7, art. 62.

Deduction from corporation tax

124 (1) There may be deducted from the tax otherwise payable by a corporation under this Part for a taxation year an amount equal to 10% of the corporation's taxable income earned in the year in a province.

Déduction de l'impôt des sociétés

124 (1) Il peut être déduit de l'impôt par ailleurs payable par une société en vertu de la présente partie, pour une année d'imposition, une somme égale à 10 % du revenu imposable de la société, gagné au cours de l'année dans une province.

Crown agents

(3) Notwithstanding subsection 124(1), no deduction may be made under this section from the tax otherwise payable under this Part for a taxation year by a corporation in respect of any taxable income of the corporation for the year that is not, because of an Act of Parliament, subject to tax under this Part or by a prescribed federal Crown corporation that is an agent of Her Majesty.

Mandataires de Sa Majesté

(3) Malgré le paragraphe (1), aucune déduction ne peut être effectuée en vertu du présent article sur l'impôt par ailleurs payable, en vertu de la présente partie pour une année d'imposition, par une société au titre de son revenu imposable pour l'année qui n'est pas assujetti à l'impôt en vertu de la présente partie par l'effet de quelque loi fédérale, ni par une société d'État prévue par règlement et qui est un mandataire de Sa Majesté.

Definitions

(4) In this section,

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

province includes the Newfoundland offshore area and the Nova Scotia offshore area; (*province*)

taxable income earned in the year in a province means the amount determined under rules prescribed for the purpose by regulations made on the recommendation of the Minister of Finance. (*revenu imposable gagné au cours de l'année dans une province*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 124; 1994, c. 7, Sch. VIII, s. 62.

province S'entend en outre de la zone extracôtière de Terre-Neuve et de la zone extracôtière de la Nouvelle-Écosse. (*province*)

revenu imposable gagné au cours de l'année dans une province Le montant déterminé en vertu des règles établies à cette fin par règlement pris sur recommandation du ministre des Finances. (*taxable income earned in the year in a province*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 124; 1994, ch. 7, ann. VIII, art. 62.

Small business deduction

125 (1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout the taxation year, a Canadian-controlled private corporation, an amount equal to the corporation's small business deduction rate for the taxation year multiplied by the least of

(a) the amount, if any, by which the total of

(i) the total of all amounts each of which is the amount of income of the corporation for the year from an active business carried on in Canada, other than an amount that is

(A) described in paragraph (a) of the description of A in the definition ***specified partnership income*** in subsection (7) for the year,

(B) described in subparagraph (a)(i) of the definition ***specified corporate income*** in subsection (7) for the year, or

(C) paid or payable to the corporation by another corporation with which it is associated, that is deemed by subsection 129(6) to be income for the year from an active business carried on by the corporation in circumstances where the associated corporation is not a Canadian-controlled private corporation or is a Canadian-controlled private corporation that has made an election under subsection 256(2) in respect of its taxation year in which the amount was paid or payable,

(ii) the specified partnership income of the corporation for the year, and

(ii.1) the specified corporate income of the corporation for the year

exceeds the total of

(iii) the total of all amounts each of which is a loss of the corporation for the year from an active

Déduction accordée aux petites entreprises

125 (1) La société qui est tout au long d'une année d'imposition une société privée sous contrôle canadien peut déduire de son impôt payable par ailleurs pour l'année en vertu de la présente partie une somme égale au produit de la multiplication du taux de la déduction pour petite entreprise qui lui est applicable pour l'année par la moins élevée des sommes suivantes :

a) l'excédent éventuel du total des montants suivants :

(i) le total des sommes dont chacune est le montant de revenu de la société pour l'année provenant d'une entreprise exploitée activement au Canada, sauf l'une des sommes suivantes :

(A) celle qui est visée à l'alinéa a) de l'élément A de la première formule figurant à la définition de ***revenu de société de personnes déterminé*** au paragraphe (7) pour l'année,

(B) celle qui est visée au sous-alinéa a)(i) de la définition de ***revenu de société déterminé*** au paragraphe (7) pour l'année,

(C) celle qui est payée ou payable à la société par une autre société à laquelle elle est associée et qui est réputée, par le paragraphe 129(6), constituer un revenu pour l'année provenant d'une entreprise exploitée activement par la société dans des circonstances où l'autre société n'est pas une société privée sous contrôle canadien ou est une telle société qui a fait le choix visé au paragraphe 256(2) pour son année d'imposition au cours de laquelle cette somme a été payée ou était payable,

(ii) le revenu de société de personnes déterminé de la société pour l'année,

(ii.1) le revenu de société déterminé de la société pour l'année,

sur le total des montants suivants :

business carried on in Canada (other than a loss of the corporation for the year from a business carried on by it as a member of a partnership), and

(iv) the specified partnership loss of the corporation for the year,

(b) the amount, if any, by which the corporation's taxable income for the year exceeds the total of

(i) 100/28 of the total of the amounts that would be deductible under subsection 126(1) from the tax for the year otherwise payable under this Part by it if those amounts were determined without reference to sections 123.3 and 123.4,

(ii) the amount determined by multiplying the total of the amounts that would be deductible under subsection 126(2) from the tax for the year otherwise payable under this Part by it, if those amounts were determined without reference to section 123.4, by the relevant factor for the year, and

(iii) the amount, if any, of the corporation's taxable income for the year that is not, because of an Act of Parliament, subject to tax under this Part, and

(c) the corporation's business limit for the year.

(iii) l'ensemble de toutes les sommes dont chacune est une perte de la société pour l'année provenant de l'exploitation d'une entreprise exploitée activement au Canada (autre qu'une perte de la société pour l'année provenant d'une entreprise qu'elle exploite comme associé d'une société de personnes),

(iv) la perte de société de personnes déterminée de la société pour l'année;

b) l'excédent éventuel du revenu imposable de la société pour l'année sur le total des montants suivants :

(i) les 100/28e du total des sommes qui seraient déductibles, en application du paragraphe 126(1), de l'impôt payable par ailleurs par la société pour l'année en vertu de la présente partie si elles étaient déterminées compte non tenu des articles 123.3 et 123.4,

(ii) le résultat de la multiplication du total des sommes qui seraient déductibles, en application du paragraphe 126(2), de l'impôt payable par ailleurs par la société pour l'année en vertu de la présente partie si elles étaient déterminées compte non tenu de l'article 123.4, par le facteur de référence pour l'année,

(iii) la fraction du revenu imposable de la société pour l'année qui n'est pas assujettie à l'impôt en vertu de la présente partie par l'effet de quelque loi fédérale;

c) le plafond des affaires de la société pour l'année.

Small business deduction rate

(1.1) For the purpose of subsection (1), a corporation's small business deduction rate for a taxation year is the total of

(a) that proportion of 17% that the number of days in the taxation year that are in 2015 is of the number of days in the taxation year, and

(b) that proportion of 17.5% that the number of days in the taxation year that are after 2015 is of the number of days in the taxation year.

(c) to (e) [Repealed, 2016, c. 7, s. 34]

Taux de la déduction pour petite entreprise

(1.1) Pour l'application du paragraphe (1), le taux de la déduction pour petite entreprise applicable à une société pour une année d'imposition correspond au total des sommes suivantes :

a) la proportion de 17 % que représente le nombre de jours de l'année d'imposition qui sont en 2015 par rapport au nombre total de jours de l'année d'imposition;

b) la proportion de 17,5 % que représente le nombre de jours de l'année d'imposition qui sont postérieurs à 2015 par rapport au nombre total de jours de l'année d'imposition.

c) à e) [Abrogés, 2016, ch. 7, art. 34]

Business limit

(2) For the purpose of this section, a corporation's business limit for a taxation year is $500,000 unless the corporation is associated in the taxation year with one or

Définition de *plafond des affaires*

(2) Pour l'application du présent article, le ***plafond des affaires*** d'une société pour une année d'imposition est de 500 000 $, sauf si la société est associée, pendant l'année,

more other Canadian-controlled private corporations, in which case, except as otherwise provided in this section, its business limit is nil.

Associated corporations

(3) Notwithstanding subsection (2), if all the Canadian-controlled private corporations that are associated with each other in a taxation year file with the Minister in prescribed form an agreement that assigns for the purpose of this section a percentage to one or more of them for the year, the business limit for the year of each of the corporations is

(a) if the total of the percentages assigned in the agreement does not exceed 100%, $500,000 multiplied by the percentage assigned to that corporation in the agreement; and

(b) in any other case, nil.

Reduction — business limit

(3.1) The business limit for the year of a corporation under subsection (2), (3) or (4) is reduced by the total of all amounts each of which is the portion, if any, of the business limit that the corporation assigns to another corporation under subsection (3.2).

Assignment

(3.2) For the purpose of this section, a Canadian-controlled private corporation (in this subsection referred to as the ***first corporation***) may assign all or any portion of its business limit under subsection (2), (3) or (4) for a taxation year of the first corporation to another Canadian-controlled private corporation (in this subsection referred to as the ***second corporation***) for a taxation year of the second corporation if

(a) the second corporation has an amount of income, for its taxation year, referred to in subparagraph (a)(i) of the definition ***specified corporate income*** in subsection (7) from the provision of services or property directly to the first corporation;

(b) the first corporation's taxation year ends in the second corporation's taxation year;

(c) the amount assigned does not exceed the amount determined by the formula

A – B

where

A is the amount of income referred to in paragraph (a), and

à une ou plusieurs autres sociétés privées sous contrôle canadien, auquel cas son plafond des affaires pour l'année est nul, sauf disposition contraire du présent article.

Sociétés associées

(3) Malgré le paragraphe (2), si les sociétés privées sous contrôle canadien qui sont associées les unes aux autres pendant une année d'imposition présentent au ministre, selon le formulaire prescrit, une convention par laquelle est attribué, pour l'application du présent article, un pourcentage à une ou plusieurs d'entre elles pour l'année, le plafond des affaires, pour l'année, de chacune des sociétés correspond à ce qui suit :

a) si le total des pourcentages attribués selon la convention n'excède pas 100 %, le produit de 500 000 $ par le pourcentage attribué à la société selon la convention;

b) dans les autres cas, zéro.

Réduction — plafond des affaires

(3.1) Le plafond des affaires pour l'année d'une société visé aux paragraphes (2), (3) ou (4) est réduit du total des sommes dont chacune est la partie éventuelle du montant de ce plafond que la société attribue à une autre société en vertu du paragraphe (3.2).

Attribution

(3.2) Pour l'application du présent article, une société privée sous contrôle canadien (appelée ***première société*** au présent paragraphe) peut attribuer tout ou partie de son plafond des affaires visé aux paragraphes (2), (3) ou (4) pour une de ses années d'imposition à une autre société privée sous contrôle canadien (appelée ***seconde société*** au présent paragraphe) pour une année d'imposition de la seconde société si les conditions ci-après sont remplies :

a) la seconde société a, pour son année d'imposition, un montant de revenu mentionné au sous-alinéa a)(i) de la définition de ***revenu de société déterminé*** au paragraphe (7) provenant de la fourniture de biens ou services directement à la première société;

b) l'année d'imposition de la première société se termine dans celle de la seconde société;

c) la somme attribuée n'excède pas le montant obtenu par la formule suivante :

A – B

où :

A représente le montant de revenu mentionné à l'alinéa a),

B is the portion of the amount described in A that is deductible by the first corporation in respect of the amount of income referred to in clause (1)(a)(i)(A) or (B) for the year; and

d) a prescribed form is filed with the Minister by

(i) the first corporation in its return of income for its taxation year, and

(ii) the second corporation in its return of income for its taxation year.

B la partie du montant visé à l'élément A qui est déductible par la première société relativement à la somme, à titre de montant de revenu, mentionnée aux divisions (1)a)(i)(A) ou (B) pour l'année;

d) un formulaire prescrit est présenté au ministre, à la fois :

(i) par la première société dans sa déclaration de revenu pour son année d'imposition en cause,

(ii) par la seconde société dans sa déclaration de revenu pour son année d'imposition en cause.

Failure to file agreement

(4) If any of the Canadian-controlled private corporations that are associated with each other in a taxation year has failed to file with the Minister an agreement as contemplated by subsection (3) within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax under this Part, the Minister shall, for the purpose of this section, allocate an amount to one or more of them for the taxation year. The total amount so allocated must equal the least of the amounts that would, if none of the corporations were associated with any other corporation during the year and if this Act were read without reference to subsections (5) and (5.1), be the business limits of the corporations for the year.

Défaut de présenter la convention

(4) Si une ou plusieurs sociétés privées sous contrôle canadien qui sont associées les unes aux autres pendant une année d'imposition ne présentent pas au ministre une convention conforme au paragraphe (3) dans les 30 jours suivant l'envoi par le ministre, à une ou plusieurs d'entre elles, d'un avis portant qu'une telle convention est requise pour l'établissement d'une cotisation en vertu de la présente partie, le ministre attribue, pour l'application du présent article, un montant à une ou plusieurs d'entre elles pour l'année. Le montant total ainsi attribué doit correspondre au moins élevé des montants qui représenteraient les plafonds des affaires des sociétés pour l'année si aucune d'elles n'était associée à d'autres sociétés au cours de l'année et s'il n'était pas tenu compte des paragraphes (5) et (5.1).

Special rules for business limit

(5) Notwithstanding subsections (2), (3) and (4),

a) where a Canadian-controlled private corporation (in this paragraph referred to as the "first corporation") has more than one taxation year ending in the same calendar year and it is associated in 2 or more of those taxation years with another Canadian-controlled private corporation that has a taxation year ending in that calendar year, the business limit of the first corporation for each taxation year ending in the calendar year in which it is associated with the other corporation that ends after the first such taxation year ending in that calendar year is, subject to the application of paragraph 125(5)(b), an amount equal to the lesser of

(i) its business limit determined under subsection 125(3) or 125(4) for the first such taxation year ending in the calendar year, and

(ii) its business limit determined under subsection 125(3) or 125(4) for the particular taxation year ending in the calendar year; and

Détermination du plafond des affaires dans certains cas

(5) Malgré les paragraphes (2), (3) et (4) :

a) lorsqu'une société privée sous contrôle canadien a plus d'une année d'imposition se terminant au cours de la même année civile et qu'elle est associée au cours d'au moins deux de ces années avec une autre société privée sous contrôle canadien qui a une année d'imposition se terminant au cours de cette année civile, le plafond des affaires de la première société pour chaque année d'imposition donnée se terminant à la fois au cours de l'année civile où elle est associée avec l'autre société et après la première année d'imposition se terminant au cours de cette année civile correspond, sous réserve de l'alinéa b), au moins élevé des montants suivants :

(i) son plafond des affaires pour la première année d'imposition se terminant au cours de l'année civile, déterminé selon les paragraphes (3) ou (4),

(ii) son plafond des affaires pour l'année d'imposition donnée se terminant au cours de l'année civile, déterminé selon les paragraphes (3) ou (4);

(b) where a Canadian-controlled private corporation has a taxation year that is less than 51 weeks, its business limit for the year is that proportion of its business limit for the year determined without reference to this paragraph that the number of days in the year is of 365.

b) lorsqu'une société privée sous contrôle canadien a une année d'imposition d'une durée inférieure à 51 semaines, son plafond des affaires pour l'année est la fraction de son plafond des affaires pour l'année, déterminé compte non tenu du présent alinéa, représentée par le rapport qui existe entre le nombre de jours de l'année d'imposition et 365.

Business limit reduction

(5.1) Notwithstanding subsections (2), (3), (4) and (5), a Canadian-controlled private corporation's business limit for a particular taxation year ending in a calendar year is the amount, if any, by which its business limit otherwise determined for the particular year exceeds the amount determined by the formula

A × (B/$11,250)

where

A is the amount that would, but for this subsection, be the corporation's business limit for the particular year; and

B is the amount determined by the formula

0.225% × (D – $10 million)

where

D is

(a) if, in both the particular taxation year and the preceding taxation year, the corporation is not associated with any corporation, the taxable capital employed in Canada (within the meaning assigned by subsection 181.2(1) or 181.3(1) or section 181.4, as the case may be) of the corporation for the preceding taxation year,

(b) if, in the particular taxation year, the corporation is not associated with any corporation but was associated with one or more corporations in the preceding taxation year, the taxable capital employed in Canada (within the meaning assigned by subsection 181.2(1) or 181.3(1) or section 181.4, as the case may be) of the corporation for the particular taxation year, or

(c) if, in the particular taxation year, the corporation is associated with one or more particular corporations, the total of all amounts each of which is the taxable capital employed in Canada (within the meaning assigned by subsection 181.2(1) or 181.3(1) or section 181.4, as the case may be) of the corporation or of any of the particular corporations for its last taxation year that ended in the preceding calendar year.

Réduction du plafond des affaires

(5.1) Malgré les paragraphes (2), (3), (4) et (5), le plafond des affaires d'une société privée sous contrôle canadien pour une année d'imposition donnée se terminant au cours d'une année civile correspond à l'excédent éventuel de son plafond des affaires déterminé par ailleurs pour l'année donnée sur le résultat du calcul suivant :

A × B/11 250 $

où :

A représente le montant qui correspondrait au plafond des affaires de la société pour l'année donnée n'eût été le présent paragraphe;

B la somme obtenue par la formule suivante :

0,225 % × (D – 10 000 000 $)

où :

D représente, selon le cas :

a) si la société n'est associée à aucune société au cours de l'année donnée et de l'année d'imposition précédente, son capital imposable utilisé au Canada (au sens des paragraphes 181.2(1) ou 181.3(1) ou de l'article 181.4, selon le cas) pour l'année d'imposition précédente,

b) si la société n'est associée à aucune société au cours de l'année donnée, mais était associée à une ou plusieurs sociétés au cours de l'année d'imposition précédente, son capital imposable utilisé au Canada (au sens des paragraphes 181.2(1) ou 181.3(1) ou de l'article 181.4, selon le cas) pour l'année donnée,

c) si la société est associée à une ou plusieurs sociétés données au cours de l'année donnée, le total des sommes représentant chacune le capital imposable utilisé au Canada (au sens des paragraphes 181.2(1) ou 181.3(1) ou de l'article 181.4, selon le cas) de la société, ou d'une des sociétés données, pour sa dernière année d'imposition se terminant dans l'année civile précédente.

Corporate partnerships

(6) Where in a taxation year a corporation is a member of a particular partnership and in the year the corporation or a corporation with which it is associated in the year is a member of one or more other partnerships and it may reasonably be considered that one of the main reasons for the separate existence of the partnerships is to increase the amount of a deduction of any corporation under subsection 125(1), the specified partnership income of the corporation for the year shall, for the purposes of this section, be computed in respect of those partnerships as if all amounts each of which is the income of one of the partnerships for a fiscal period ending in the year from an active business carried on in Canada were nil except for the greatest of those amounts.

Revenu de société de personnes déterminé de la société associée d'une société de personnes

(6) Pour l'application du présent article, dans le cas où, au cours d'une année d'imposition, une société est un associé d'une société de personnes et cette société ou une société à laquelle elle est associée au cours de l'année sont les associés d'une ou de plusieurs autres sociétés de personnes, s'il est raisonnable de considérer qu'un des principaux motifs de l'existence distincte de ces sociétés de personnes est de faire augmenter une déduction prévue au paragraphe (1) pour une société, le revenu de société de personnes déterminé de la société pour l'année est calculé, quant à ces sociétés de personnes, comme si le revenu total que toutes ces sociétés de personnes tirent d'entreprises exploitées activement au Canada pour leurs exercices se terminant au cours de l'année était le revenu le plus élevé qu'une de ces sociétés de personnes tire de telles entreprises pour un tel exercice.

Corporation deemed member of partnership

(6.1) For the purposes of this section, a corporation that is a member, or is deemed by this subsection to be a member, of a partnership that is a member of another partnership shall be deemed to be a member of the other partnership and the corporation's share of the income of the other partnership for a fiscal period shall be deemed to be equal to the amount of that income to which the corporation was directly or indirectly entitled.

Société réputée être un associé d'une société de personnes

(6.1) Pour l'application du présent article, la société qui est un associé, ou réputée être un associé en application du présent paragraphe, d'une société de personnes qui est elle-même un associé d'une autre société de personnes est réputée être un associé de cette autre société de personnes et la part de la société sur le revenu de cette autre société de personnes pour un exercice est réputée égale à la fraction de ce revenu à laquelle la société a droit directement ou indirectement.

Specified partnership income deemed nil

(6.2) Notwithstanding any other provision of this section, where a corporation is a member of a partnership that was controlled, directly or indirectly in any manner whatever, by one or more non-resident persons, by one or more public corporations (other than a prescribed venture capital corporation) or by any combination thereof at any time in its fiscal period ending in a taxation year of the corporation, the income of the partnership for that fiscal period from an active business carried on in Canada shall, for the purposes of computing the specified partnership income of a corporation for the year, be deemed to be nil.

Revenu de société de personnes déterminé réputé nul

(6.2) Malgré les autres dispositions du présent article, dans le cas où, au cours d'une année d'imposition, une société est un associé d'une société de personnes qui est contrôlée, directement ou indirectement, de quelque manière que ce soit, à un moment de son exercice se terminant au cours de l'année, par une ou plusieurs personnes non-résidentes, par une ou plusieurs sociétés publiques — sauf s'il s'agit de sociétés à capital de risque visées par règlement — ou par ces deux sortes de personnes, le revenu que la société de personnes tire pour cet exercice d'une entreprise exploitée activement au Canada est réputé nul pour le calcul du revenu de société de personnes déterminé de la société pour l'année.

Partnership deemed to be controlled

(6.3) For the purposes of subsection 125(6.2), a partnership shall be deemed to be controlled by one or more persons at any time if the total of the shares of that person or those persons of the income of the partnership from any source for the fiscal period of the partnership that includes that time exceeds 1/2 of the income of the partnership from that source for that period.

Société de personnes réputée contrôlée

(6.3) Pour l'application du paragraphe (6.2), une société de personnes est réputée contrôlée par une ou plusieurs personnes à un moment donné si la part de cette personne ou le total des parts de ces personnes sur le revenu de la société de personnes provenant d'une source quelconque pour l'exercice qui comprend ce moment excède la moitié de ce revenu.

Definitions

(7) In this section,

active business carried on by a corporation means any business carried on by the corporation other than a specified investment business or a personal services business and includes an adventure or concern in the nature of trade; (*entreprise exploitée activement*)

Canadian-controlled private corporation means a private corporation that is a Canadian corporation other than

(a) a corporation controlled, directly or indirectly in any manner whatever, by one or more non-resident persons, by one or more public corporations (other than a prescribed venture capital corporation), by one or more corporations described in paragraph (c), or by any combination of them,

(b) a corporation that would, if each share of the capital stock of a corporation that is owned by a non-resident person, by a public corporation (other than a prescribed venture capital corporation), or by a corporation described in paragraph (c) were owned by a particular person, be controlled by the particular person,

(c) a corporation a class of the shares of the capital stock of which is listed on a designated stock exchange, or

(d) in applying subsection (1), paragraphs 87(2)(vv) and (ww) (including, for greater certainty, in applying those paragraphs as provided under paragraph 88(1)(e.2)), the definitions ***excessive eligible dividend designation***, ***general rate income pool*** and ***low rate income pool*** in subsection 89(1) and subsections 89(4) to (6), (8) to (10) and 249(3.1), a corporation that has made an election under subsection 89(11) and that has not revoked the election under subsection 89(12); (*société privée sous contrôle canadien*)

designated member, of a particular partnership in a taxation year, means a Canadian-controlled private corporation that provides (directly or indirectly, in any manner whatever) services or property to the particular partnership at any time in the corporation's taxation year where, at any time in the year,

(a) the corporation is not a member of the particular partnership, and

(b) either

Définitions

(7) Les définitions qui suivent s'appliquent au présent article.

associé désigné Est l'associé désigné d'une société de personnes donnée au cours d'une année d'imposition la société privée sous contrôle canadien qui fournit (directement ou indirectement, de quelque manière que ce soit) des biens ou services à la société de personnes donnée à un moment donné de l'année d'imposition de la société et à l'égard de laquelle, à un moment donné de l'année, les énoncés ci-après se vérifient :

a) d'une part, elle n'est pas un associé de la société de personnes donnée;

b) d'autre part, l'un des énoncés ci-après se vérifie :

(i) l'un de ses actionnaires détient une participation directe ou indirecte dans la société de personnes donnée,

(ii) le sous-alinéa (i) ne s'applique pas et les énoncés ci-après se vérifient :

(A) elle a un lien de dépendance avec une personne qui détient une participation directe ou indirecte dans la société de personnes donnée,

(B) il ne s'avère pas que la totalité ou la presque totalité de son revenu pour l'année provenant d'une entreprise exploitée activement provient de la fourniture de biens ou services :

(I) soit à des personnes avec lesquelles la société n'a aucun lien de dépendance,

(II) soit à des sociétés de personnes (à l'exception de la société de personnes donnée) avec lesquelles elle n'a aucun lien de dépendance, sauf une société de personnes dans laquelle une personne qui a un lien de dépendance avec la société détient une participation directe ou indirecte. (*designated member*)

entreprise de placement déterminée Entreprise, sauf une entreprise exploitée par une caisse de crédit ou une entreprise de location de biens autres que des biens immeubles ou réels, dont le but principal est de tirer un revenu de biens, notamment des intérêts, des dividendes, des loyers et des redevances. Toutefois, sauf dans le cas où la société est une société à capital de risque de travailleurs visée par règlement au cours de l'année, l'entreprise exploitée par une société au cours d'une année d'imposition n'est pas une entreprise déterminée si, selon le cas :

(i) one of its shareholders holds a direct or indirect interest in the particular partnership, or

(ii) if subparagraph (i) does not apply,

(A) the corporation does not deal at arm's length with a person that holds a direct or indirect interest in the particular partnership, and

(B) it is not the case that all or substantially all of the corporation's income for the year from an active business is from providing services or property to

(I) persons with which the corporation deals at arm's length, or

(II) partnerships (other than the particular partnership) with which the corporation deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest; (*associé désigné*)

income of the corporation for the year from an active business means the total of

(a) the corporation's income for the year from an active business carried on by it including any income for the year pertaining to or incident to that business, other than income for the year from a source in Canada that is a property (within the meaning assigned by subsection 129(4)), and

(b) the amount, if any, included under subsection 12(10.2) in computing the corporation's income for the year; (*revenu de la société pour l'année provenant d'une entreprise exploitée activement*)

personal services business carried on by a corporation in a taxation year means a business of providing services where

(a) an individual who performs services on behalf of the corporation (in this definition and paragraph 18(1)(p) referred to as an "incorporated employee"), or

(b) any person related to the incorporated employee

is a specified shareholder of the corporation and the incorporated employee would reasonably be regarded as an officer or employee of the person or partnership to whom or to which the services were provided but for the existence of the corporation, unless

(c) the corporation employs in the business throughout the year more than five full-time employees, or

a) la société emploie dans l'entreprise plus de cinq employés à plein temps tout au long de l'année;

b) une autre société associée à la société lui fournit au cours de l'année, dans le cadre de l'exploitation active d'une entreprise, des services de gestion ou d'administration, des services financiers, des services d'entretien ou d'autres services semblables et il est raisonnable de considérer que la société aurait eu besoin de plus de cinq employés à plein temps si ces services ne lui avaient pas été fournis. (*specified investment business*)

entreprise de prestation de services personnels S'agissant d'une entreprise de prestation de services personnels exploitée par une société au cours d'une année d'imposition, entreprise de fourniture de services dans les cas où:

a) soit un particulier qui fournit des services pour le compte de la société — appelé « employé constitué en société » à la présente définition et à l'alinéa 18(1)p);

b) soit une personne liée à l'employé constitué en société,

est un actionnaire déterminé de la société, et où il serait raisonnable de considérer l'employé constitué en société comme étant un cadre ou un employé de la personne ou de la société de personnes à laquelle les services sont fournis, si ce n'était de l'existence de la société, à moins :

c) soit que la société n'emploie dans l'entreprise tout au long de l'année plus de cinq employés à temps plein;

d) soit que le montant payé ou payable à la société au cours de l'année pour les services ne soit reçu ou à recevoir par celle-ci d'une société à laquelle elle était associée au cours de l'année. (*personal services business*)

entreprise exploitée activement Toute entreprise exploitée par une société, autre qu'une entreprise de placement déterminée ou une entreprise de prestation de services personnels mais y compris un projet comportant un risque ou une affaire de caractère commercial. (*active business carried on by a corporation*)

perte de société de personnes déterminée S'agissant de la perte de société de personnes déterminée d'une société pour une année d'imposition, le total des sommes dont chacune représente un montant relatif à une société de personnes dont la société est un associé au cours de l'année, égal au résultat du calcul suivant :

A + B

(d) the amount paid or payable to the corporation in the year for the services is received or receivable by it from a corporation with which it was associated in the year; (*entreprise de prestation de services personnels*)

specified corporate income, of a corporation for a taxation year, means the lesser of

(a) the lesser of

(i) the total of all amounts each of which is income from an active business of the corporation for the year from the provision of services or property to a private corporation (directly or indirectly, in any manner whatever) if

(A) at any time in the year, the corporation (or one of its shareholders) or a person who does not deal at arm's length with the corporation (or one of its shareholders) holds a direct or indirect interest in the private corporation, and

(B) it is not the case that all or substantially all of the corporation's income for the year from an active business is from the provision of services or property to

(I) persons (other than the private corporation) with which the corporation deals at arm's length, or

(II) partnerships with which the corporation deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest, and

(ii) the total of all amounts each of which is the portion, if any, of the business limit of a private corporation described in subparagraph (i) for a taxation year that the private corporation assigns to the corporation under subsection (3.2), and

(b) an amount that the Minister determines to be reasonable in the circumstances; (*revenu de société déterminé*)

specified investment business, carried on by a corporation in a taxation year, means a business (other than a business carried on by a credit union or a business of leasing property other than real or immovable property) the principal purpose of which is to derive income (including interest, dividends, rents and royalties) from property but, except where the corporation was a prescribed labour-sponsored venture capital corporation at

où :

A représente le total des montants dont chacun représente la part de la société sur la perte, déterminée conformément à la sous-section j de la section B, de la société de personnes pour un exercice se terminant au cours de l'année provenant d'une entreprise que la société exploitait activement au Canada comme associé de la société de personnes,

B le total des montants dont chacun est un montant calculé selon la formule suivante :

G - H

où :

G est le montant représenté par l'élément H de la formule applicable figurant à la définition de ***revenu de société de personnes déterminé*** au présent paragraphe pour l'année relativement au revenu que la société tire d'une entreprise qu'elle exploitait activement au Canada comme associé de la société de personnes,

H le montant représenté par l'élément G de la formule applicable figurant à la définition de ***revenu de société de personnes déterminé*** au présent paragraphe pour l'année relativement à la part de la société sur le revenu tiré de l'entreprise. (*specified partnership loss*)

plafond des affaires de société de personnes déterminé Est le plafond des affaires de société de personnes déterminé d'une personne pour une année d'imposition à un moment donné, la somme obtenue par la formule suivante :

(K/L) × M – T

où :

K représente le total des sommes dont chacune est la part qui revient à la personne du revenu, déterminé conformément à la sous-section J de la section B, d'une société de personnes dont la personne était un associé pour un exercice qui se termine dans l'année, provenant d'une entreprise exploitée activement au Canada;

L le total des sommes dont chacune est le revenu de la société de personnes, pour un exercice mentionné à l'alinéa a) de l'élément A de la première formule figurant à la définition de *revenu de société de personnes déterminé* au présent paragraphe, provenant d'une entreprise exploitée activement au Canada;

M la moins élevée des sommes suivantes :

a) le montant du plafond des affaires visé au paragraphe (2) d'une société qui n'est associée au

any time in the year, does not include a business carried on by the corporation in the year where

(a) the corporation employs in the business throughout the year more than 5 full-time employees, or

(b) any other corporation associated with the corporation provides, in the course of carrying on an active business, managerial, administrative, financial, maintenance or other similar services to the corporation in the year and the corporation could reasonably be expected to require more than 5 full-time employees if those services had not been provided; (*entreprise de placement déterminée*)

specified partnership business limit, of a person for a taxation year, at any particular time, means the amount determined by the formula

(K/L) × M – T

where

K is the total of all amounts each of which is the person's share of the income (determined in accordance with Subdivision J of Division B) of a partnership of which the person was a member for a fiscal period ending in the year from an active business carried on in Canada,

L is the total of all amounts each of which is the income of the partnership for a fiscal period referred to in paragraph (a) of the description of A in the definition *specified partnership income* in this subsection from an active business carried on in Canada,

M is the lesser of

(a) the amount of the business limit indicated in subsection (2) for a corporation that is not associated in a taxation year with one or more other Canadian-controlled private corporations, and

(b) the product obtained by the formula

(Q/R) × S

where

Q is the amount referred to in paragraph (a),

R is 365, and

S is the total of all amounts each of which is the number of days in a fiscal period of the partnership that ends in the year, and

T is the total of all amounts each of which is an amount, if any, that the person assigns under subsection (8); (*plafond des affaires de société de personnes déterminé*)

cours d'une année d'imposition à aucune société privée sous contrôle canadien,

b) la somme obtenue par la formule suivante :

(Q/R) × S

où :

Q représente la somme visée à l'alinéa a),

R 365,

S le total des sommes dont chacune est le nombre de jours d'un exercice de la société de personnes qui se termine dans l'année;

T le total des sommes dont chacune est une somme attribuée par la personne en vertu du paragraphe (8). (*specified partnership business limit*)

revenu de la société pour l'année provenant d'une entreprise exploitée activement Le total des montants suivants :

a) le revenu de la société pour l'année provenant d'une entreprise qu'elle exploite activement, y compris le revenu pour l'année qui se rapporte directement ou accessoirement à cette entreprise, mais à l'exclusion du revenu, au sens du paragraphe 129(4), pour l'année tiré d'une source au Canada qui est un bien;

b) le montant inclus en application du paragraphe 12(10.2) dans le calcul du revenu de la société pour l'année. (*income of the corporation for the year from an active business*)

revenu de société de personnes déterminé S'agissant du revenu de société de personnes déterminé d'une société pour une année d'imposition, le montant calculé selon la formule suivante :

A + B

où :

A représente le total des sommes dont chacune est un montant relatif à une société de personnes dont la société était un associé ou associé désigné au cours de l'année et égal au moins élevé des montants suivants :

a) le total des sommes dont chacune représente un montant relatif à une entreprise que la société exploitait activement au Canada comme associé ou associé désigné de la société de personnes, égal au résultat du calcul suivant :

G – H

où :

specified partnership income of a corporation for a taxation year means the amount determined by the formula

A + B

where

A is the total of all amounts each of which is an amount in respect of a partnership of which the corporation was a member, or a designated member, in the year equal to the least of

(a) the total of all amounts each of which is an amount in respect of an active business carried on in Canada by the corporation as a member, or a designated member, of the partnership determined by the formula

G – H

where

G is the total of all amounts each of which is

(i) the corporation's share of the income (determined in accordance with Subdivision J of Division B) of the partnership for a fiscal period of the business that ends in the year,

(ii) income of the corporation for the year from the provision (directly or indirectly, in any manner whatever) of services or property to the partnership, or

(iii) an amount included in the corporation's income for the year in respect of the business under any of subsections 34.2(2), (3) and (12), and

H is the total of all amounts deducted in computing the corporation's income for the year from the business (other than amounts that were deducted in computing the income of the partnership from the business or the income of the corporation described under subparagraph (ii) of the description of G) or in respect of the business under subsection 34.2(4) or (11),

(b) an amount equal to

(i) if the corporation was a member of the partnership, the corporation's specified partnership business limit for the year, and

(ii) if the corporation was a designated member of the partnership, the total of all amounts assigned to it under subsection (8) for the year and, where no such amounts have been assigned, nil, and

(c) nil, if

G représente le total des sommes représentant chacune l'un des montants suivants :

(i) la part qui revient à la société du revenu de la société de personnes, déterminé conformément à la sous-section J de la section B, pour un exercice de l'entreprise qui se termine dans l'année,

(ii) un montant de revenu de la société pour l'année provenant de la fourniture (directement ou indirectement, de quelque manière que ce soit) de biens ou services à la société de personnes,

(iii) un montant inclus, par l'effet de l'un des paragraphes 34.2(2), (3) et (12), dans le revenu de la société pour l'année relativement à l'entreprise,

H le total des sommes déduites dans le calcul du revenu de la société pour l'année tiré de l'entreprise (sauf les sommes déduites dans le calcul du revenu de la société de personnes tiré de l'entreprise ou du revenu de la société visé au sous-alinéa (ii) de l'élément G) ou de son revenu relatif à l'entreprise en vertu des paragraphes 34.2(4) ou (11),

b) une somme égale à, selon le cas :

(i) si la société était un associé de la société de personnes, le plafond des affaires de société de personnes déterminé de la société pour l'année,

(ii) si la société était un associé désigné de la société de personnes, le total des sommes qui lui ont été attribuées en vertu du paragraphe (8) pour l'année ou, en l'absence de telles sommes, zéro;

c) zéro, si, à la fois :

(i) la société est un associé ou associé désigné de la société de personnes (y compris indirectement, par l'entremise d'au moins une autre société de personnes) au cours de l'année,

(ii) la société de personnes fournit des biens ou services :

(A) soit à une société privée (directement ou indirectement, de quelque manière que ce soit) au cours de l'année et que les énoncés ci-après se vérifient :

(I) la société en cause (ou l'un de ses actionnaires) ou une personne qui a un lien de dépendance avec elle (ou avec l'un de ses actionnaires) détient une participation directe ou indirecte dans la société privée,

(i) the corporation is a member, or a designated member, of the partnership (including indirectly through one or more other partnerships) in the year, and

(ii) the partnership provides services or property to either

(A) a private corporation (directly or indirectly in any manner whatever) in the year, if

(I) the corporation (or one of its shareholders) or a person who does not deal at arm's length with the corporation (or one of its shareholders) holds a direct or indirect interest in the private corporation, and

(II) it is not the case that all or substantially all of the partnership's income for the year from an active business is from the provision of services or property to

1 persons (other than the private corporation) that deal at arm's length with the partnership and each person that holds a direct or indirect interest in the partnership, or

2 partnerships with which the partnership deals at arm's length, other than a partnership in which a person that does not deal at arm's length with the corporation holds a direct or indirect interest, or

(B) a particular partnership (directly or indirectly in any manner whatever) in the year, if

(I) the corporation (or one of its shareholders) does not deal at arm's length with the particular partnership or a person that holds a direct or indirect interest in the particular partnership, and

(II) it is not the case that all or substantially all of the partnership's income for the year from an active business is from the provision of services or property to

1 persons that deal at arm's length with the partnership and each person that holds a direct or indirect interest in the partnership, or

2 partnerships (other than the particular partnership) with which the partnership deals at arm's length, other than a partnership in which a person that does not deal at arm's length with

(II) il ne s'avère pas que la totalité ou la presque totalité du revenu de la société de personnes pour l'année provenant d'une entreprise exploitée activement provient de la fourniture de biens ou services :

1 soit à des personnes (autres que la société privée) qui n'ont aucun lien de dépendance avec la société de personnes et chaque personne qui détient une participation directe ou indirecte dans celle-ci,

2 soit à des sociétés de personnes avec lesquelles la société de personnes n'a aucun lien de dépendance, sauf une société de personnes dans laquelle une personne qui a un lien de dépendance avec la société en cause détient une participation directe ou indirecte,

(B) soit à une société de personnes donnée (directement ou indirectement, de quelque manière que ce soit) au cours de l'année et que les énoncés ci-après se vérifient :

(I) la société en cause (ou l'un de ses actionnaires) a un lien de dépendance avec la société de personnes donnée ou une personne qui détient une participation directe ou indirecte dans la société de personnes donnée,

(II) il ne s'avère pas que la totalité ou la presque totalité du revenu de la société de personnes pour l'année provenant d'une entreprise active provenant d'une entreprise exploitée activement provient de la fourniture de biens ou services :

1 soit à des personnes qui n'ont aucun lien de dépendance avec la société de personnes et chaque personne qui détient une participation directe ou indirecte dans celle-ci,

2 soit à des sociétés de personnes (à l'exception de la société de personnes donnée) avec lesquelles la société de personnes n'a aucun lien de dépendance, sauf une société de personnes dans laquelle une personne qui a un lien de dépendance avec la société en cause détient une participation directe ou indirecte;

B le moins élevé des montants suivants :

a) le total des pertes déterminées à l'égard de la société pour l'année, en vertu des sous-alinéas (1)a)(iii) et (iv);

the corporation holds a direct or indirect interest, and

B is the lesser of

(a) the total of the amounts determined in respect of the corporation for the year under subparagraphs 125(1)(a)(iii) and 125(1)(a)(iv), and

(b) the total of all amounts each of which is an amount in respect of a partnership of which the corporation was a member, or a designated member, in the year equal to the amount determined by the formula

N – O

where

N is the amount determined in respect of the partnership for the year under paragraph (a) of the description of A, and

O is the amount determined in respect of the partnership for the year

(i) if the corporation was a member of the partnership, under subparagraph (b)(i) of the description of A, and

(ii) if the corporation was a designated member of the partnership, under subparagraph (b)(ii) of the description of A; (*revenu de société de personnes déterminé*)

specified partnership loss of a corporation for a taxation year means the total of all amounts each of which is an amount in respect of a partnership of which the corporation was a member in the year determined by the formula

A + B

where

A is the total of all amounts each of which is the corporation's share of the loss (determined in accordance with subdivision j of Division B) of the partnership for a fiscal period ending in the year from an active business carried on in Canada by the corporation as a member of the partnership, and

B is the total of all amounts each of which is an amount determined by the formula

G - H

where

G is the amount determined for H in the definition ***specified partnership income*** in this subsection for the year in respect of the corporation's income from an active business carried on in

b) le total des sommes dont chacune est un montant relatif à une société de personnes dont la société était un associé ou associé désigné au cours de l'année et égal au montant calculé selon la formule suivante :

N – O

où :

N représente le montant déterminé à l'égard de la société de personnes pour l'année en vertu de l'alinéa a) de l'élément A,

O le montant déterminé à l'égard de la société de personnes pour l'année, selon le cas :

(i) si la société était un associé de la société de personnes, en vertu du sous-alinéa b)(i) de l'élément A,

(ii) si la société était un associé désigné de la société de personnes, en vertu du sous-alinéa b)(ii) de l'élément A. (*specified partnership income*)

revenu de société déterminé Est le revenu de société déterminé d'une société pour une année d'imposition la moins élevée des sommes suivantes :

a) la moins élevée des sommes suivantes :

(i) le total des sommes dont chacune est un montant de revenu de la société pour l'année provenant d'une entreprise exploitée activement qui provient de la fourniture de biens ou services à une société privée (directement ou indirectement, de quelque manière que ce soit), si les énoncés ci-après se vérifient :

(A) à un moment donné de l'année, la société (ou l'un de ses actionnaires) ou une personne qui a un lien de dépendance avec la société (ou avec l'un de ses actionnaires) détient une participation directe ou indirecte dans la société privée,

(B) il ne s'avère pas que la totalité ou la presque totalité de son revenu pour l'année provenant d'une entreprise exploitée activement provient de la fourniture de biens ou services :

(I) soit à des personnes (sauf la société privée) avec lesquelles elle n'a aucun lien de dépendance,

(II) soit à des sociétés de personnes avec lesquelles elle n'a aucun lien de dépendance, sauf une société de personnes dans laquelle une personne qui a un lien de dépendance

Canada by the corporation as a member of the partnership, and

H is the amount determined for G in the definition ***specified partnership income*** in this subsection for the year in respect of the corporation's share of the income from the business. (*perte de société de personnes déterminée*)

avec la société détient une participation directe ou indirecte,

(ii) le total des sommes dont chacune est la part éventuelle du plafond des affaires d'une société privée visée au sous-alinéa (i) pour une année d'imposition qui est attribuée par la société privée à la société en vertu du paragraphe (3.2);

b) une somme que le ministre juge raisonnable dans les circonstances. (*specified corporate income*)

société privée sous contrôle canadien Société privée qui est une société canadienne, à l'exception des sociétés suivantes :

a) la société contrôlée, directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes non-résidentes, par une ou plusieurs sociétés publiques (sauf une société à capital de risque visée par règlement), par une ou plusieurs sociétés visées à l'alinéa c) ou par une combinaison de ces personnes ou sociétés;

b) si chaque action du capital-actions d'une société appartenant à une personne non-résidente, à une société publique (sauf une société à capital de risque visée par règlement) ou à une société visée à l'alinéa c) appartenait à une personne donnée, la société qui serait contrôlée par cette dernière;

c) la société dont une catégorie d'actions du capital-actions est cotée à une bourse de valeurs désignée;

d) pour l'application du paragraphe (1), des alinéas 87(2)vv) et ww) (compte tenu des modifications apportées à ces alinéas par l'effet de l'alinéa 88(1)e.2)), des définitions de ***compte de revenu à taux général***, ***compte de revenu à taux réduit*** et ***désignation excessive de dividende déterminé*** au paragraphe 89(1) et des paragraphes 89(4) à (6) et (8) à (10) et 249(3.1), la société qui a fait le choix prévu au paragraphe 89(11) et qui ne l'a pas révoqué selon le paragraphe 89(12). (*Canadian-controlled private corporation*)

Assignment — specified partnership business limit

(8) For the purpose of the definition ***specified partnership income*** in subsection (7), a person that is a member of a partnership in a taxation year may assign to a designated member of the partnership — for a taxation year of the designated member — all or any portion of the person's specified partnership business limit (determined without reference to this assignment) in respect of the person's taxation year if

Attribution — plafond des affaires d'une société de personnes déterminé

(8) Aux fins de la définition de ***revenu de société de personnes déterminé*** au paragraphe (7), une personne qui est un associé d'une société de personnes au cours d'une année d'imposition peut attribuer à un associé désigné de la société de personnes pour une année d'imposition de celui-ci tout ou partie du plafond des affaires de société de personnes déterminé de la personne (déterminé compte non tenu de cette attribution) relativement à

(a) the person is described in paragraph (b) of the definition ***designated member*** in subsection (7) in respect of the designated member in the designated member's taxation year;

(b) the specified partnership business limit of the person is in respect of a fiscal period of the partnership that ends in the designated member's taxation year; and

(c) a prescribed form is filed with the Minister by

(i) the designated member in its return of income for the designated member's taxation year, and

(ii) the person in its return of income for the person's taxation year.

a) la personne est visée à l'alinéa b) de la définition de ***associé désigné*** au paragraphe (7) relativement à l'associé désigné au cours de l'année d'imposition de l'associé désigné;

b) le plafond des affaires de société de personnes déterminé de la personne se rapporte à un exercice de la société de personnes qui se termine au cours de l'année d'imposition de l'associé désigné;

c) un formulaire prescrit est présenté au ministre, à la fois :

(i) par l'associé désigné dans sa déclaration de revenu pour son année d'imposition en cause,

(ii) par la personne dans sa déclaration de revenu pour son année d'imposition en cause.

Anti-avoidance

(9) If a corporation provides services or property to a person or partnership that holds a direct or indirect interest in a particular partnership or corporation and one of the reasons for the provision of the services or property to the person or partnership, instead of to the particular partnership or corporation, is to avoid the application of subparagraph (1)(a)(ii) or (ii.1) in respect of the income from the provision of the services or property, no amount in respect of the corporation's income from the provision of the services or property is to be included in the total amount determined under paragraph (1)(a).

Anti-évitement

(9) Si une société fournit des biens ou services à une personne ou société de personnes qui détient une participation directe ou indirecte dans une société de personnes ou société donnée et que l'un des motifs de la fourniture des biens ou services à la personne ou société de personnes, plutôt qu'à la société de personnes ou société donnée, est d'éviter l'application des sous-alinéas (1)a)(ii) ou (ii.1) relativement au revenu provenant de la fourniture des biens ou services, aucune somme relative au revenu de la société provenant de la fourniture des biens ou services n'est à inclure dans l'excédent déterminé en application de l'alinéa (1)a).

Computational rule — specified corporate income

(10) For the purpose of determining an amount for a taxation year in respect of a corporation under clause (1)(a)(i)(B) or subparagraph (1)(a)(ii.1), an amount of income is to be excluded if the amount is

(a) income from an active business of the corporation for the year from the provision of services or property to another corporation with which the corporation is associated (in this subsection referred to as the *associated corporation*); and

(b) not deductible by the associated corporation for its taxation year in respect of an amount included in the income of the associated corporation that is

(i) referred to in any of clauses (1)(a)(i)(A) to (C), or

Règle de calcul – revenu de société déterminé

(10) Afin de déterminer une somme pour une année d'imposition relativement à une société en vertu de la division (1)a)(i)(B) ou du sous-alinéa (1)a)(ii.1), un montant de revenu est exclu si le montant, à la fois :

a) est un revenu pour l'année que la société tire d'une entreprise qu'elle exploite activement provenant de la fourniture de biens ou services à une autre société à laquelle la société est associée (appelée ***société associée*** au présent paragraphe);

b) n'est pas déductible par la société associée pour son année d'imposition relativement à une somme incluse dans son revenu :

(i) soit qui est mentionnée aux divisions (1)a)(i)(A) à (C),

(ii) reasonable to consider as being attributable to or derived from an amount referred to in clause (1)(a)(i)(C).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 125; 1994, c. 7, Sch. II, s. 100, Sch. VIII, s. 63; 1995, c. 3, s. 35; 1996, c. 21, s. 26; 1998, c. 19, s. 145; 2001, c. 17, s. 113; 2003, c. 15, s. 79; 2007, c. 2, ss. 33, 49, c. 35, ss. 68, 182; 2009, c. 2, s. 39; 2013, c. 34, ss. 126, 262, c. 40, s. 55; 2015, c. 36, s. 11; 2016, c. 7, s. 34, c. 12, s. 44.

(ii) soit qu'il est raisonnable de considérer comme étant imputable à une somme mentionnée à la division (1)a)(i)(C) ou comme découlant d'une telle somme.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 125; 1994, ch. 7, ann. II, art. 100, ann. VIII, art. 63; 1995, ch. 3, art. 35; 1996, ch. 21, art. 26; 1998, ch. 19, art. 145; 2001, ch. 17, art. 113; 2003, ch. 15, art. 79; 2007, ch. 2, art. 33 et 49, ch. 35, art. 68 et 182; 2009, ch. 2, art. 39; 2013, ch. 34, art. 126 et 262, ch. 40, art. 55; 2015, ch. 36, art. 11; 2016, ch. 7, art. 34, ch. 12, art. 44.

Manufacturing and processing profits deductions

125.1 (1) There may be deducted from the tax otherwise payable under this Part by a corporation for a taxation year an amount equal to the corporation's general rate reduction percentage for the taxation year (within the meaning assigned by subsection 123.4(1)) multiplied by the lesser of

(a) the amount, if any, by which the corporation's Canadian manufacturing and processing profits for the year exceed, where the corporation was a Canadian-controlled private corporation throughout the year, the least of the amounts determined under paragraphs 125(1)(a) to 125(1)(c) in respect of the corporation for the year, and

(b) the amount, if any, by which the corporation's taxable income for the year exceeds the total of

(i) where the corporation was a Canadian-controlled private corporation throughout the year, the least of the amounts determined under paragraphs 125(1)(a) to 125(1)(c) in respect of the corporation for the year,

(ii) the amount determined by multiplying the total of the amounts that would be deductible under subsection 126(2) from the tax for the year otherwise payable under this Part by it, if those amounts were determined without reference to section 123.4, by the relevant factor for the year, and

(iii) where the corporation was a Canadian-controlled private corporation throughout the year, its aggregate investment income for the year (within the meaning assigned by subsection 129(4)).

Déductions pour bénéfices de fabrication et de transformation

125.1 (1) Toute société peut déduire de son impôt payable par ailleurs pour une année d'imposition en vertu de la présente partie le produit du pourcentage de réduction du taux général (au sens du paragraphe 123.4(1)) qui lui est applicable pour l'année par le moins élevé des montants suivants :

a) l'excédent éventuel des bénéfices de fabrication et de transformation au Canada réalisés par la société pour l'année sur, si la société est tout au long de l'année une société privée sous contrôle canadien, le moins élevé des montants déterminés aux alinéas 125(1)a) à c) en ce qui concerne la société pour l'année;

b) l'excédent éventuel du revenu imposable de la société pour l'année sur le total des montants suivants :

(i) le moins élevé des montants déterminés aux alinéas 125(1)a) à c) en ce qui concerne la société pour l'année, si la société est tout au long de l'année une société privée sous contrôle canadien,

(ii) le résultat de la multiplication du total des sommes qui seraient déductibles, en application du paragraphe 126(2), de l'impôt payable par ailleurs par la société pour l'année en vertu de la présente partie si elles étaient déterminées compte non tenu de l'article 123.4, par le facteur de référence pour l'année,

(iii) le revenu de placement total, au sens du paragraphe 129(4), de la société pour l'année, si elle est une société privée sous contrôle canadien tout au long de l'année.

Electrical energy and steam

(2) A corporation that generates electrical energy for sale, or produces steam for sale, in a taxation year may deduct from its tax otherwise payable under this Part for the year an amount equal to the corporation's general rate reduction percentage for the taxation year (within

Énergie électrique et vapeur

(2) La société qui, au cours d'une année d'imposition, produit de l'énergie électrique, ou de la vapeur, en vue de sa vente peut déduire de son impôt payable par ailleurs en vertu de la présente partie pour l'année le produit du

the meaning assigned by subsection 123.4(1)) multiplied by the amount determined by the formula

A - B

where

A is the amount, if any, that would, if the definition ***manufacturing or processing*** in subsection (3), and in subsection 1104(9) of the *Income Tax Regulations*, were read without reference to paragraph (h) of those definitions (other than for the purpose of applying section 5201 of those Regulations and if subsection (5) applied for the purpose of subsection (1), be the lesser of

(a) the amount determined under paragraph (1)(a) in respect of the corporation for the year, and

(b) the amount determined under paragraph (1)(b) in respect of the corporation for the year; and

B is the amount, if any, that is the lesser of

(a) the amount determined under paragraph (1)(a) in respect of the corporation for the year, and

(b) the amount determined under paragraph (1)(b) in respect of the corporation for the year.

Definitions

(3) In this section,

Canadian manufacturing and processing profits of a corporation for a taxation year means such portion of the total of all amounts each of which is the income of the corporation for the year from an active business carried on in Canada as is determined under rules prescribed for that purpose by regulation made on the recommendation of the Minister of Finance to be applicable to the manufacturing or processing in Canada of goods for sale or lease; (*bénéfices de fabrication et de transformation au Canada*)

manufacturing or processing does not include

(a) farming or fishing,

(b) logging,

(c) construction,

(d) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas,

(e) extracting minerals from a mineral resource,

pourcentage de réduction du taux général (au sens du paragraphe 123.4(1)) qui lui est applicable pour l'année par le montant obtenu par la formule suivante :

A - B

où :

A représente le montant éventuel qui correspondrait au moins élevé des montants suivants s'il n'était pas tenu compte de l'alinéa h) de la définition de ***fabrication ou transformation*** au paragraphe (3) ni de l'alinéa 1104(9)h) du *Règlement de l'impôt sur le revenu* (sauf pour l'application de l'article 5201 de ce règlement) et si le paragraphe (5) s'appliquait dans le cadre du paragraphe (1):

a) le montant déterminé selon l'alinéa (1)a) relativement à la société pour l'année;

b) le montant déterminé selon l'alinéa (1)b) relativement à la société pour l'année;

B le montant éventuel représentant le moins élevé des montants suivants :

a) le montant déterminé selon l'alinéa (1)a) relativement à la société pour l'année;

b) le montant déterminé selon l'alinéa (1)b) relativement à la société pour l'année.

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

bénéfices de fabrication et de transformation au Canada En ce qui concerne une société pour une année d'imposition, la partie du total des montants représentant chacun le revenu que la société a tiré pour l'année d'une entreprise exploitée activement au Canada, déterminée en vertu des règles établies à cette fin par règlement pris sur recommandation du ministre des Finances, qui doit s'appliquer à la fabrication ou à la transformation au Canada de marchandises destinées à la vente ou à la location. (*Canadian manufacturing and processing profits*)

fabrication ou transformation Ne sont pas visés par ces termes :

a) l'exploitation agricole ou la pêche;

b) l'exploitation forestière;

c) la construction;

(f) processing

(i) ore (other than iron ore or tar sands ore) from a mineral resource located in Canada to any stage that is not beyond the prime metal stage or its equivalent,

(ii) iron ore from a mineral resource located in Canada to any stage that is not beyond the pellet stage or its equivalent, or

(iii) tar sands ore from a mineral resource located in Canada to any stage that is not beyond the crude oil stage or its equivalent,

(g) producing industrial minerals,

(h) producing or processing electrical energy or steam, for sale,

(i) processing natural gas as part of the business of selling or distributing gas in the course of operating a public utility,

(j) processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,

(k) Canadian field processing, or

(l) any manufacturing or processing of goods for sale or lease, if, for any taxation year of a corporation in respect of which the expression is being applied, less than 10% of its gross revenue from all active businesses carried on in Canada was from

(i) the selling or leasing of goods manufactured or processed in Canada by it, and

(ii) the manufacturing or processing in Canada of goods for sale or lease, other than goods for sale or lease by it. (*fabrication ou transformation*)

d) l'exploitation d'un puits de pétrole ou de gaz ou l'extraction de pétrole ou de gaz naturel d'un gisement naturel de pétrole ou de gaz naturel;

e) l'extraction de minéraux d'une ressource minérale;

f) la transformation des minerais suivants :

(i) les minerais tirés de ressources minérales situées au Canada, à l'exclusion du minerai de fer et du minerai de sables asphaltiques, jusqu'à un stade ne dépassant pas celui du métal primaire ou son équivalent,

(ii) le minerai de fer tiré de ressources minérales situées au Canada, jusqu'à un stade ne dépassant pas celui de la boulette ou son équivalent,

(iii) le minerai de sables asphaltiques tiré de ressources minérales situées au Canada, jusqu'à un stade ne dépassant pas celui du pétrole brut ou son équivalent;

g) la production de minéraux industriels;

h) la production ou la transformation d'énergie électrique ou de vapeur en vue de la vente;

i) le traitement du gaz naturel dans le cadre de l'exploitation, par un service public, d'une entreprise de vente ou de distribution de gaz;

j) la transformation du pétrole brut lourd extrait d'un réservoir naturel situé au Canada, jusqu'à un stade ne dépassant pas celui du pétrole brut ou son équivalent;

k) le traitement préliminaire au Canada;

l) toute fabrication ou transformation de marchandises en vue de la vente ou de la location, si, pour une année d'imposition d'une société à l'égard de laquelle l'expression s'applique, moins de 10 % de son revenu brut tiré de toutes les entreprises exploitées activement au Canada provenait :

(i) de la vente ou de la location de marchandises qu'elle a fabriquées ou transformées au Canada,

(ii) de la fabrication ou de la transformation au Canada de marchandises destinées à la vente ou à la location, sauf des marchandises qu'elle devait vendre ou louer elle-même. (*manufacturing or processing*)

Determination of gross revenue

(4) For the purposes of paragraph (l) of the definition ***manufacturing or processing*** in subsection 125.1(3),

Détermination du revenu brut

(4) Pour l'application de l'alinéa l) de la définition de ***fabrication ou transformation*** au paragraphe (3),

where a corporation was a member of a partnership at any time in a taxation year,

(a) there shall be included in the gross revenue of the corporation for the year from all active businesses carried on in Canada, that proportion of the gross revenue from each such business carried on in Canada by means of the partnership, for the fiscal period of the partnership coinciding with or ending in that year, that the corporation's share of the income of the partnership from that business for that fiscal period is of the income of the partnership from that business for that fiscal period; and

(b) there shall be included in the gross revenue of the corporation for the year from all activities described in subparagraphs (l)(i) and (ii) of the definition ***manufacturing or processing*** in subsection 125.1(3), that proportion of the gross revenue from each such activity engaged in in the course of a business carried on by means of the partnership, for the fiscal period of the partnership coinciding with or ending in that year, that the corporation's share of the income of the partnership from that business for that fiscal period is of the income of the partnership from that business for that fiscal period.

Interpretation

(5) For the purpose of the description of A in subsection (2) and for the purpose of applying the Income Tax Regulations (other than section 5201 of those Regulations) to that subsection other than the description of B,

(a) electrical energy and steam are deemed to be goods; and

(b) the generation of electrical energy for sale, and the production of steam for sale, are deemed to be, subject to paragraph (l) of the definition ***manufacturing or processing*** in subsection (3), manufacturing or processing.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 125.1; 1994, c. 7, Sch. II, s. 101, Sch. VIII, s. 64; 1996, c. 21, s. 27; 1997, c. 25, s. 33; 2000, c. 19, s. 34; 2001, c. 17, s. 114; 2006, c. 4, s. 74; 2013, c. 34, s. 263.

125.11 [Repealed, 2003, c. 28, s. 13(2)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2003, c. 28, s. 13.

lorsqu'une société a été un associé d'une société de personnes à un moment donné au cours d'une année d'imposition :

a) il doit être inclus dans le revenu brut de la société provenant, pour l'année, de toutes les entreprises exploitées activement au Canada, la partie du revenu brut provenant de chacune de ces entreprises ainsi exploitées au Canada au moyen de la société de personnes, pour l'exercice de la société de personnes qui coïncide avec cette année ou se termine au cours de celle-ci, que représente le rapport entre la part que recueille la société du revenu que la société de personnes tire de cette entreprise pour cet exercice et le revenu que la société de personnes tire de cette entreprise pour cet exercice;

b) il doit être inclus dans le revenu brut de la société provenant, pour l'année, de toutes les activités visées aux sous-alinéas l)(i) et (ii) de la définition de ***fabrication ou transformation*** au paragraphe (3), le pourcentage du revenu brut provenant de chacune de ces activités exercées dans le cadre d'une entreprise exploitée au moyen de la société de personnes, pour l'exercice de la société de personnes qui coïncide avec cette année ou se termine au cours de celle-ci, que représente le rapport entre la part que recueille la société du revenu que la société de personnes tire de cette entreprise pour cet exercice et le revenu que la société de personnes tire de cette entreprise pour cet exercice.

Présomptions

(5) Pour l'application de l'élément A de la formule figurant au paragraphe (2) et pour l'application des dispositions du *Règlement de l'impôt sur le revenu* (sauf l'article 5201 de ce règlement) à ce paragraphe, les présomptions suivantes s'appliquent :

a) l'énergie électrique et la vapeur sont réputées être des marchandises;

b) la production d'énergie électrique, ou de vapeur, en vue de sa vente est réputée être une activité de fabrication ou de transformation, sous réserve de l'alinéa l) de la définition de ***fabrication ou transformation*** au paragraphe (3).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 125.1; 1994, ch. 7, ann. II, art. 101, ann. VIII, art. 64; 1996, ch. 21, art. 27; 1997, ch. 25, art. 33; 2000, ch. 19, art. 34; 2001, ch. 17, art. 114; 2006, ch. 4, art. 74; 2013, ch. 34, art. 263.

125.11 [Abrogé, 2003, ch. 28, art. 13(2)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2003, ch. 28, art. 13.

125.2 [Repealed, 2013, c. 34, s. 265]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 125.2; 1994, c. 7, Sch. II, s. 102, Sch. VIII, s. 65, c. 21, s. 58; 2013, c. 34, s. 265.

125.2 [Abrogé, 2013, ch. 34, art. 265]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 125.2; 1994, ch. 7, ann. II, art. 102, ann. VIII, art. 65, ch. 21, art. 58; 2013, ch. 34, art. 265.

Part XIII tax — eligible bank affiliate

125.21 There may be deducted in computing the tax payable under this Part for a taxation year by a particular corporation that is throughout the year an eligible Canadian bank (as defined in subsection 95(2.43)) the total of all amounts, each of which is the amount, if any, by which

(a) an amount paid under paragraph 212(1)(b) in respect of interest paid or credited in the year by the particular corporation in respect of an upstream deposit (as defined in subsection 95(2.43)) owing to a non-resident corporation that is, throughout the year, an eligible bank affiliate (as defined in subsection 95(2.43)) of the particular corporation

exceeds

(b) the total of all amounts each of which is a portion of the amount described in paragraph (a) that is available to the non-resident corporation or any other person or partnership at any time as a credit or reduction of, or deduction from, any amount otherwise payable to the government of a country other than Canada, or a political subdivision of that country, having regard to all available provisions of the laws of that country, or political subdivision, as the case may be, any tax treaty with that country and any other agreements entered into by that country or political subdivision.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 39, s. 40.

Impôt de la partie XIII — filiale bancaire admissible

125.21 Est déductible dans le calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par une société donnée qui est une banque canadienne admissible, au sens du paragraphe 95(2.43), tout au long de l'année le total des sommes dont chacune représente l'excédent de la somme visée à l'alinéa a) sur le total visé à l'alinéa b) :

a) une somme payée en vertu de l'alinéa 212(1)b) au titre d'intérêts payés ou crédités au cours de l'année par la société donnée relativement à un dépôt en amont, au sens du paragraphe 95(2.43), détenu par une société non-résidente qui est une filiale bancaire admissible, au sens de ce paragraphe, de la société donnée tout au long de l'année;

b) le total des sommes dont chacune représente une partie de la somme visée à l'alinéa a) que la société non-résidente ou toute autre personne ou société de personnes peut demander, à un moment donné, à titre de crédit, de réduction ou de déduction au titre d'une somme payable par ailleurs au gouvernement d'un pays étranger ou d'une de ses subdivisions politiques, compte tenu des dispositions applicables des lois de ce pays ou de cette subdivision, selon le cas, des traités fiscaux conclus avec ce pays et de tous autres accords conclus par ce pays ou cette subdivision.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 39, art. 40.

Deduction of Part I.3 tax

125.3 (1) There may be deducted in computing the tax payable under this Part for a taxation year by a corporation (other than a corporation that was throughout the year a financial institution, within the meaning assigned by section 190) an amount equal to such part as the corporation claims of its unused Part I.3 tax credits for any of its 7 immediately preceding taxation years ending before 1992, to the extent that that amount does not exceed the amount, if any, by which

(a) its Canadian surtax payable for the year

exceeds

(b) the amount that would, but for subsection 181.1(4), be its tax payable under Part I.3 for the year.

Déduction de l'impôt de la partie I.3

125.3 (1) Est déductible dans le calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par une société (sauf une société qui est, tout au long de l'année, une institution financière, au sens de l'article 190) un montant égal à la partie, demandée en déduction par la société, de ses crédits d'impôt de la partie I.3 inutilisés pour les sept années d'imposition précédentes qui se terminent avant 1992, dans la mesure où ce montant ne dépasse pas l'excédent éventuel de sa surtaxe canadienne payable pour l'année sur le montant qui, sans le paragraphe 181.1(4), correspondrait à son impôt payable pour l'année en vertu de la partie I.3.

Idem

(1.1) There may be deducted in computing the tax payable under this Part for a taxation year by a corporation that was a financial institution (within the meaning assigned by section 190) throughout the year an amount equal to such part as the corporation claims of its unused Part I.3 tax credits for any of its 7 immediately preceding taxation years ending before 1992, to the extent that that amount does not exceed the lesser of

(a) the amount, if any, by which its Canadian surtax payable for the year exceeds the amount that would, but for subsection 181.1(4), be its tax payable under Part I.3 for the year, and

(b) the amount, if any, by which its tax payable under this Part (determined without reference to this section) for the year exceeds the amount that would, but for subsections 181.1(4) and 190.1(3), be the total of its taxes payable under Parts I.3 and VI for the year.

Special rules

(2) For the purposes of this section,

(a) no amount may be claimed under subsection 125.3(1) in computing a corporation's tax payable under this Part for a particular taxation year in respect of its unused Part I.3 tax credit for another taxation year until its unused Part I.3 tax credits for taxation years preceding the other year that may be claimed for the particular year have been claimed; and

(b) an amount in respect of a corporation's unused Part I.3 tax credit for a taxation year may be claimed under subsection 125.3(1) in computing its tax payable under this Part for another taxation year only to the extent that it exceeds the total of all amounts each of which is the amount claimed in respect of that unused Part I.3 tax credit in computing its tax payable under this Part for a taxation year preceding that other year.

Acquisition of control

(3) Where, at any time, control of a corporation has been acquired by a person or group of persons, no amount in respect of its unused Part I.3 tax credit for a taxation year ending before that time is deductible by the corporation for a taxation year ending after that time and no amount in respect of its unused Part I.3 tax credit for a taxation year ending after that time is deductible by the

Idem

(1.1) Est déductible dans le calcul de l'impôt payable en vertu de la présente partie pour une année d'imposition par une société qui est une institution financière, au sens de l'article 190, tout au long de l'année un montant égal à la partie, demandée en déduction par la société, de ses crédits d'impôt de la partie I.3 inutilisés pour les sept années d'imposition précédentes qui se terminent avant 1992, dans la mesure où ce montant ne dépasse pas le moins élevé des montants suivants :

a) l'excédent éventuel de sa surtaxe canadienne payable pour l'année sur le montant qui, sans le paragraphe 181.1(4), correspondrait à son impôt payable pour l'année en vertu de la partie I.3;

b) l'excédent éventuel de son impôt payable pour l'année en vertu de la présente partie, compte non tenu du présent article, sur le montant qui, en l'absence des paragraphes 181.1(4) et 190.1(3), correspondrait au total de ses impôts payables pour l'année en vertu des parties I.3 et VI.

Règles spéciales

(2) Pour l'application du présent article :

a) aucun montant n'est déductible en application du paragraphe (1) dans le calcul de l'impôt payable en vertu de la présente partie par une société pour une année d'imposition donnée au titre de son crédit d'impôt de la partie I.3 inutilisé pour une autre année d'imposition tant qu'elle n'a pas déduit les crédits d'impôt de la partie I.3 inutilisés pour les années d'imposition précédant cette autre année qu'elle peut déduire pour l'année donnée;

b) un montant au titre du crédit d'impôt de la partie I.3 inutilisé d'une société pour une année d'imposition n'est déductible en application du paragraphe (1) dans le calcul de son impôt payable en vertu de la présente partie pour une autre année d'imposition que dans la mesure où ce montant dépasse le total des montants dont chacun représente le montant déduit au titre de ce crédit dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition antérieure à cette autre année.

Acquisition de contrôle

(3) En cas d'acquisition, à un moment donné, du contrôle d'une société par une personne ou un groupe de personnes, aucun montant au titre du crédit d'impôt de la partie I.3 inutilisé pour une année d'imposition se terminant avant ce moment n'est déductible par la société pour une année d'imposition se terminant après ce moment et aucun montant au titre de crédit d'impôt de la

corporation for a taxation year ending before that time, except that

(a) where a business was carried on by the corporation in a taxation year ending before that time, its unused Part I.3 tax credit for that year is deductible by the corporation for a particular taxation year ending after that time only if that business was carried on by the corporation for profit or with a reasonable expectation of profit throughout the particular year and only to the extent of that proportion of the corporation's Canadian surtax payable for the particular year that

(i) the amount, if any, by which

(A) the total of its income for the particular year from that business and, where properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, its income for the particular year from any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

exceeds

(B) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or (d) for the particular year by the corporation in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of that business or the other business,

is of the greater of

(ii) the amount determined under subparagraph 125.3(3)(a)(i), and

(iii) the corporation's taxable income for the particular year; and

(b) where a business was carried on by the corporation throughout a taxation year ending after that time, its unused Part I.3 tax credit for that year is deductible by the corporation for a particular taxation year ending before that time only if that business was carried on by the corporation for profit or with a reasonable expectation of profit in the particular year and only to the extent of that proportion of the corporation's Canadian surtax payable for the particular year that

(i) the amount, if any, by which

(A) the total of its income for the particular year from that business and, where properties were

partie I.3 pour une année d'imposition se terminant après ce moment n'est déductible par la société pour une année d'imposition se terminant avant ce moment. Toutefois :

a) dans le cas où la société exploite une entreprise au cours d'une année d'imposition se terminant avant ce moment, elle peut déduire, pour une année d'imposition donnée se terminant après ce moment, son crédit d'impôt de la partie à.3 inutilisé pour cette année seulement si elle exploite cette entreprise à profit ou dans une attente raisonnable de profit tout au long de l'année donnée et seulement à concurrence du produit de la multiplication de sa surtaxe canadienne payable pour l'année donnée par le rapport entre :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total de son revenu pour l'année donnée provenant de cette entreprise et — dans le cas où des biens sont vendus, loués ou mis en valeur ou des services rendus dans le cadre de l'exploitation de cette entreprise avant ce moment — de son revenu pour cette année provenant de toute autre entreprise dont la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur de biens semblables ou de la prestation de services semblables,

(B) le total des montants dont chacun représente un montant qu'elle a déduit en application de l'alinéa 111(1)a) ou d) pour l'année donnée au titre d'une perte autre qu'une perte en capital ou au titre d'une perte agricole pour une année d'imposition relativement à cette entreprise ou à l'autre entreprise,

et le plus élevé des montants suivants :

(ii) l'excédent calculé au sous-alinéa (i),

(iii) le revenu imposable de la société pour l'année donnée;

b) dans le cas où la société exploite une entreprise tout au long d'une année d'imposition se terminant après ce moment, elle peut déduire, pour une année d'imposition donnée se terminant avant ce moment, son crédit d'impôt de la partie I.3 inutilisé pour cette année seulement si elle exploite cette entreprise à profit ou dans une attente raisonnable de profit au cours de l'année donnée et seulement à concurrence du produit de la multiplication de sa surtaxe canadienne payable pour l'année donnée par le rapport entre :

sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, its income for the particular year from any other business substantially all the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

exceeds

(B) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or (d) for the particular year by the corporation in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of that business or the other business,

is of the greater of

(ii) the amount determined under subparagraph 125.3(3)(b)(i), and

(iii) the corporation's taxable income for the particular year.

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total de son revenu pour l'année donnée provenant de cette entreprise et — dans le cas où des biens sont vendus, loués ou mis en valeur ou des services rendus dans le cadre de l'exploitation de cette entreprise avant ce moment — de son revenu pour cette année provenant de toute autre entreprise dont la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur de biens semblables ou de la prestation de services semblables,

(B) le total des montants dont chacun représente un montant qu'elle a déduit en application de l'alinéa 111(1)a) ou d) pour l'année donnée au titre d'une perte autre qu'une perte en capital ou au titre d'une perte agricole pour une année d'imposition relativement à cette entreprise ou à l'autre entreprise,

et le plus élevé des montants suivants :

(ii) l'excédent calculé au sous-alinéa (i),

(iii) le revenu imposable de la société pour l'année donnée.

Definitions

(4) For the purposes of this section,

Canadian surtax payable of a corporation for a taxation year means

(a) in the case of a corporation that is non-resident throughout the year, the lesser of

(i) the amount determined under section 123.2 in respect of the corporation for the year, and

(ii) its tax payable under this Part for the year, and

(b) in any other case, the lesser of

(i) the prescribed proportion of the amount determined under section 123.2 in respect of the corporation for the year, and

(ii) its tax payable under this Part for the year; (*surtaxe canadienne payable*)

unused Part I.3 tax credit of a corporation for a taxation year means

(a) where the year ended before 1992, the amount, if any, by which its tax payable under Part I.3 for the

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

crédit d'impôt de la partie I.3 inutilisé Le montant suivant applicable à une société pour une année d'imposition :

a) si l'année prend fin avant 1992, l'excédent éventuel de l'impôt payable par la société pour l'année en vertu de la partie I.3 sur le montant déductible en application du paragraphe (1) dans le calcul de son impôt payable pour l'année en vertu de la présente partie;

b) si l'année prend fin après 1991, l'excédent éventuel de l'impôt payable par la société pour l'année en vertu de la partie à.3, compte non tenu du paragraphe 181.1(4), sur sa surtaxe canadienne payable pour l'année en vertu de la présente partie. (*unused Part I.3 tax credit*)

surtaxe canadienne payable S'agissant de la surtaxe canadienne payable par une société pour une année d'imposition, l'un des montants suivants :

year exceeds the amount deductible under subsection 125.3(1) in computing its tax payable under this Part for the year, and

(b) where the year ends after 1991, the amount, if any, by which the corporation's tax payable under Part I.3 for the year (determined without reference to subsection 181.1(4)) exceeds its Canadian surtax payable under this Part for the year. (*crédit d'impôt de la partie I.3 inutilisé*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 125.3; 1994, c. 7, Sch. VIII, s. 66, c. 21, s. 59; 2013, c. 34, s. 266.

a) dans le cas d'une société qui est un non-résident tout au long de l'année, le moins élevé des montants suivants :

(i) le montant calculé selon l'article 123.2 relativement à la société pour l'année,

(ii) l'impôt payable par la société pour l'année en vertu de la présente partie;

b) dans les autres cas, le moins élevé des montants suivants :

(i) la proportion, déterminée par règlement, du montant calculé selon l'article 123.2 relativement à la société pour l'année,

(ii) l'impôt payable par la société pour l'année en vertu de la présente partie. (*Canadian surtax payable*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 125.3; 1994, ch. 7, ann. VIII, art. 66, ch. 21, art. 59; 2013, ch. 34, art. 266.

Canadian Film or Video Production Tax Credit

Definitions

125.4 (1) The definitions in this subsection apply in this section.

assistance means an amount, other than a prescribed amount or an amount deemed under subsection (3) to have been paid, that would be included under paragraph 12(1)(x) in computing a taxpayer's income for any taxation year if that paragraph were read without reference to

(a) subparagraphs 12(1)(x)(v) to (viii), if the amount were received

(i) from a person or partnership described in subparagraph 12(1)(x)(ii), or

(ii) in circumstances where clause 12(1)(x)(i)(C) applies; and

(b) subparagraphs 12(1)(x)(v) to (vii), in any other case. (*montant d'aide*)

Canadian film or video production has the meaning assigned by regulation. (*production cinématographique ou magnétoscopique canadienne*)

Canadian film or video production certificate means a certificate issued in respect of a production by the Minister of Canadian Heritage certifying that the production is a Canadian film or video production in respect of which

Crédit d'impôt pour production cinématographique ou magnétoscopique canadienne

Définitions

125.4 (1) Les définitions qui suivent s'appliquent au présent article.

certificat de production cinématographique ou magnétoscopique canadienne Certificat délivré par le ministre du Patrimoine canadien relativement à une production et attestant qu'il s'agit d'une production cinématographique ou magnétoscopique canadienne relativement à laquelle ce ministre est convaincu que, sauf s'il s'agit d'une coproduction prévue par un accord, au sens du paragraphe 1106(3) du *Règlement de l'impôt sur le revenu*, une part acceptable des recettes provenant de l'exploitation de la production sur les marchés étrangers est retenue, selon les modalités d'une convention, par :

a) une société admissible qui est ou était propriétaire d'un intérêt ou, pour l'application du droit civil, d'un droit sur la production;

b) une société canadienne imposable visée par règlement qui est liée à la société admissible;

c) toute combinaison de sociétés visées aux alinéas a) ou b). (*Canadian film or video production certificate*)

that Minister is satisfied that, except where the production is a treaty co-production (as defined in subsection 1106(3) of the *Income Tax Regulations*), an acceptable share of revenues from the exploitation of the production in non-Canadian markets is, under the terms of any agreement, retained by

(a) a qualified corporation that owns or owned an interest in, or for civil law a right in, the production;

(b) a prescribed taxable Canadian corporation related to the qualified corporation; or

(c) any combination of corporations described in paragraph (a) or (b). (*certificat de production cinématographique ou magnétoscopique canadienne*)

investor [Repealed, 2014, c. 39, s. 41]

labour expenditure, of a corporation for a taxation year in respect of a Canadian film or video production, means, in the case of a corporation that is not a qualified corporation for the taxation year, nil, and in the case of a corporation that is a qualified corporation for the taxation year, subject to subsection (2), the total of the following amounts to the extent that they are reasonable in the circumstances and included in the cost to, or in the case of depreciable property the capital cost to, the corporation, or any other person or partnership, of the production:

(a) the salary or wages directly attributable to the production that are incurred after 1994 and in the taxation year, or the preceding taxation year, by the corporation for the stages of production of the property, from the production commencement time to the end of the post-production stage, and paid by it in the taxation year or within 60 days after the end of the taxation year (other than amounts incurred in that preceding taxation year that were paid within 60 days after the end of that preceding taxation year),

(b) that portion of the remuneration (other than salary or wages and other than remuneration that relates to services rendered in the preceding taxation year and that was paid within 60 days after the end of that preceding taxation year) that is directly attributable to the production of property, that relates to services rendered after 1994 and in the taxation year, or that preceding taxation year, to the corporation for the stages of production, from the production commencement time to the end of the post-production stage, and that is paid by it in the taxation year or within 60 days after the end of the taxation year to

(i) an individual who is not an employee of the corporation, to the extent that the amount paid

début de la production En ce qui concerne une production cinématographique ou magnétoscopique canadienne, celui des moments ci-après qui est antérieur à l'autre :

a) le moment où débutent les principaux travaux de prise de vue relatifs à la production;

b) celui des moments ci-après qui est postérieur aux autres :

(i) le moment auquel une société admissible qui a un intérêt ou, pour l'application du droit civil, un droit sur la production, ou sa société mère, effectue une première dépense au titre du traitement ou salaire ou autre rémunération relatif aux activités de scénaristes qui sont directement attribuables à l'élaboration par la société de textes de la production,

(ii) le moment auquel la société, ou sa société mère, acquiert un bien, sur lequel la production est basée, qui est une œuvre littéraire publiée, un scénario de long métrage, une pièce de théâtre, une histoire vécue ou tout ou partie des textes de la production,

(iii) deux ans avant la date où débutent les principaux travaux de prise de vue relatifs à la production. (*production commencement time*)

dépense de main-d'œuvre En ce qui concerne une société qui est une société admissible pour une année d'imposition relativement à une production cinématographique ou magnétoscopique canadienne et sous réserve du paragraphe (2), le total des sommes ci-après, dans la mesure où elles sont raisonnables dans les circonstances et sont incluses dans le coût de la production ou, s'il s'agit d'un bien amortissable, dans son coût en capital, pour la société ou pour toute autre personne ou société de personnes :

a) les traitements ou salaires directement attribuables à la production que la société a engagés après 1994 et au cours de l'année d'imposition ou de l'année d'imposition précédente relativement aux étapes de la production du bien, allant du début de la production jusqu'à la fin de l'étape de la postproduction, et qu'elle a versés au cours de l'année d'imposition ou dans les 60 jours suivant la fin de cette année, à l'exception des sommes engagées au cours de l'année d'imposition précédente qui ont été payées dans les 60 jours suivant la fin de cette année;

b) la partie de la rémunération (sauf les traitements ou salaires et la rémunération qui se rapporte à des services rendus au cours de l'année d'imposition précédente et qui a été payée dans les 60 jours suivant la fin de cette année) qui est directement attribuable à la

(A) is attributable to services personally rendered by the individual for the production of the property, or

(B) is attributable to and does not exceed the salary or wages of the individual's employees for personally rendering services for the production of the property,

(ii) another taxable Canadian corporation, to the extent that the amount paid is attributable to and does not exceed the salary or wages of the other corporation's employees for personally rendering services for the production of the property,

(iii) another taxable Canadian corporation all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to an individual and the activities of which consist principally of the provision of the individual's services, to the extent that the amount paid is attributable to services rendered personally by the individual for the production of the property, or

(iv) a partnership that is carrying on business in Canada, to the extent that the amount paid

(A) is attributable to services personally rendered by an individual who is a member of the partnership for the production of the property, or

(B) is attributable to and does not exceed the salary or wages of the partnership's employees for personally rendering services for the production of the property, and

(c) where

(i) the corporation is a subsidiary wholly-owned corporation of another taxable Canadian corporation (in this section referred to as the "parent"), and

(ii) the corporation and the parent have agreed that this paragraph apply in respect of the production,

the reimbursement made by the corporation in the year, or within 60 days after the end of the year, of an expenditure that was incurred by the parent in a particular taxation year of the parent in respect of that production and that would be included in the labour expenditure of the corporation in respect of the property for the particular taxation year because of paragraph (a) or (b) if

(iii) the corporation had had such a particular taxation year, and

production du bien, qui se rapporte à des services rendus à la société après 1994 et au cours de l'année d'imposition ou de cette année précédente relativement aux étapes de production, allant du début de la production jusqu'à la fin de l'étape de la postproduction, et que la société a versée au cours de l'année d'imposition ou dans les 60 jours suivant la fin de cette année :

(i) soit à un particulier qui n'est pas un employé de la société, dans la mesure où le montant versé est, selon le cas :

(A) attribuable à des services rendus personnellement par le particulier dans le cadre de la production du bien,

(B) attribuable aux traitements ou salaires des employés du particulier pour les services qu'ils ont rendus personnellement dans le cadre de la production du bien, sans dépasser ces traitements ou salaires,

(ii) soit à une autre société canadienne imposable, dans la mesure où le montant versé est attribuable aux traitements ou salaires des employés de cette société pour les services qu'ils ont rendus personnellement dans le cadre de la production du bien, sans dépasser ces traitements ou salaires,

(iii) soit à une autre société canadienne imposable dont l'ensemble des actions du capital-actions émises et en circulation, exception faite des actions conférant l'admissibilité aux postes d'administrateurs, appartiennent à un particulier et dont les activités consistent principalement à fournir les services de ce particulier, dans la mesure où le montant versé est attribuable à des services rendus personnellement par le particulier dans le cadre de la production du bien,

(iv) soit à une société de personnes qui exploite une entreprise au Canada, dans la mesure où le montant versé est, selon le cas :

(A) attribuable à des services rendus personnellement par un particulier qui est un associé de la société de personnes, dans le cadre de la production du bien,

(B) attribuable aux traitements ou salaires des employés de la société de personnes pour les services qu'ils ont rendus personnellement dans le cadre de la production du bien, sans dépasser ces traitements ou salaires;

c) lorsque la société est une filiale à cent pour cent d'une autre société canadienne imposable (appelée

(iv) the expenditure were incurred by the corporation for the same purpose as it was by the parent and were paid at the same time and to the same person or partnership as it was by the parent. (*dépense de main-d'œuvre*)

production commencement time, in respect of a Canadian film or video production, means the earlier of

(a) the time at which principal photography of the production begins, and

(b) the latest of

(i) the time at which a qualified corporation that has an interest in, or for civil law a right in, the production, or the parent of the corporation, first makes an expenditure for salary or wages or other remuneration for activities, of scriptwriters, that are directly attributable to the development by the corporation of script material of the production,

(ii) the time at which the corporation or the parent of the corporation acquires a property, on which the production is based, that is a published literary work, screenplay, play, personal history or all or part of the script material of the production, and

(iii) two years before the date on which principal photography of the production begins. (*début de la production*)

qualified corporation for a taxation year means a corporation that is throughout the year a prescribed taxable Canadian corporation the activities of which in the year are primarily the carrying on through a permanent establishment (as defined by regulation) in Canada of a business that is a Canadian film or video production business. (*société admissible*)

qualified labour expenditure, of a corporation for a taxation year in respect of a Canadian film or video production, means the lesser of

(a) the amount, if any, by which

(i) the total of

(A) the labour expenditure of the corporation for the year in respect of the production, and

(B) the amount by which the total of all amounts each of which is the labour expenditure of the corporation for a preceding taxation year in respect of the production exceeds the total of all amounts each of which is a qualified labour expenditure of the corporation in respect of the

« société mère » au présent article) et a conclu une convention avec celle-ci pour que le présent alinéa s'applique au bien, le montant remboursé par la société au cours de l'année, ou dans les 60 jours suivant la fin de l'année, au titre d'une dépense que la société mère a engagée au cours d'une année d'imposition donnée de celle-ci relativement au bien et qui serait incluse dans la dépense de main-d'œuvre de la société relativement au bien pour l'année donnée par l'effet des alinéas a) ou b) si, à la fois :

(i) la société avait eu une telle année donnée,

(ii) la dépense avait été engagée par la société aux mêmes fins qu'elle l'a été par la société mère et avait été versée au même moment et à la même personne ou société de personnes qu'elle l'a été par la société mère.

La dépense de main-d'œuvre d'une société qui n'est pas une société admissible pour l'année est nulle. (*labour expenditure*)

dépense de main-d'œuvre admissible En ce qui concerne une société pour une année d'imposition relativement à une production cinématographique ou magnétoscopique canadienne, la moins élevée des sommes suivantes :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants suivants :

(A) la dépense de main-d'œuvre de la société pour l'année relativement au bien,

(B) l'excédent du total des montants représentant chacun la dépense de main-d'œuvre de la société pour une année d'imposition antérieure relativement au bien sur le total des montants représentant chacun une dépense de main-d'œuvre admissible de la société relativement au bien pour une année d'imposition antérieure avant la fin de laquelle les principaux travaux de prise de vue ou d'enregistrement du bien ont commencé,

(ii) dans le cas où la société est une société mère, le total des montants représentant chacun un montant qui est l'objet d'une convention, visée à l'alinéa c) de la définition de ***dépense de main-d'œuvre***, conclue relativement au bien entre la société et sa filiale à cent pour cent;

production for a preceding taxation year before the end of which the principal filming or taping of the production began

exceeds

(ii) where the corporation is a parent, the total of all amounts each of which is an amount that is the subject of an agreement in respect of the production referred to in paragraph (c) of the definition ***labour expenditure*** between the corporation and its wholly-owned corporation, and

(b) the amount determined by the formula

A - B

where

A is 60% of the amount by which

(i) the total of all amounts each of which is an expenditure by the corporation in respect of the production that is included in the cost to, or in the case of depreciable property the capital cost to, the corporation or any other person or partnership of the production at the end of the taxation year,

exceeds

(ii) the total of all amounts each of which is an amount of assistance in respect of that cost that, at the time of the filing of its return of income for the year, the corporation or any other person or partnership has received, is entitled to receive or can reasonably be expected to receive, that has not been repaid before that time pursuant to a legal obligation to do so (and that does not otherwise reduce that cost), and

B is the total of all amounts each of which is the qualified labour expenditure of the corporation in respect of the production for a preceding taxation year before the end of which the principal filming or taping of the production began. (*dépense de main-d'œuvre admissible*)

salary or wages does not include an amount

(a) described in section 7;

(b) determined by reference to profits or revenues; or

(c) paid to a person in respect of services rendered by the person at a time when the person was non-resident, unless the person was at that time a Canadian citizen. (*traitement ou salaire*)

b) le résultat du calcul suivant :

A - B

où :

A représente 60 % de l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le total des montants représentant chacun une dépense effectuée par la société relativement à la production qui est incluse dans le coût de la production ou, s'il s'agit d'un bien amortissable, dans son coût en capital, pour la société ou pour toute autre personne ou société de personnes à la fin de l'année,

(ii) le total des montants représentant chacun un montant d'aide relatif au coût visé au sous-alinéa (i) que la société ou une autre personne ou société de personnes a reçu, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir au moment de la production de sa déclaration de revenu pour l'année, qui n'a pas été remboursé avant ce moment en exécution d'une obligation légale de ce faire et qui n'est pas par ailleurs appliqué en réduction de ce coût,

B le total des montants représentant chacun la dépense de main-d'œuvre admissible de la société relativement au bien pour une année d'imposition antérieure avant la fin de laquelle les principaux travaux de prise de vue ou d'enregistrement du bien ont commencé. (*qualified labour expenditure*)

investisseur [Abrogée, 2014, ch. 39, art. 41]

montant d'aide Montant, sauf un montant prévu par règlement ou un montant réputé payé en vertu du paragraphe (3), qui serait inclus, en application de l'alinéa 12(1)x), dans le calcul du revenu d'un contribuable pour une année d'imposition s'il n'était pas tenu compte des dispositions suivantes :

a) les sous-alinéas 12(1)x)(v) à (viii), si le montant est reçu :

(i) soit d'une personne ou d'une société de personnes visée au sous-alinéa 12(1)x)(ii),

(ii) soit dans les circonstances visées à la division 12(1)x)(i)(C);

b) les sous-alinéas 12(1)x)(v) à (vii), dans les autres cas. (*assistance*)

script material, in respect of a production, means written material describing the story on which the production is based and, for greater certainty, includes a draft script, an original story, a screen story, a narration, a television production concept, an outline or a scene-by-scene schematic, synopsis or treatment. (*texte*)

production cinématographique ou magnétoscopique canadienne S'entend au sens du *Règlement de l'impôt sur le revenu*. (*Canadian film or video production*)

société admissible Société qui, tout au long d'une année d'imposition, est une société canadienne imposable visée par règlement dont les activités au cours de l'année consistent principalement à exploiter, par l'entremise d'un établissement stable au Canada, au sens du *Règlement de l'impôt sur le revenu*, une entreprise qui est une entreprise de production cinématographique ou magnétoscopique canadienne. (*qualified corporation*)

texte Toute matière écrite décrivant le récit sur lequel la production est basée. Il est entendu que les versions préliminaires, les idées originales, les synopsis-adaptations, les narrations, les concepts de production télévisuelle, les scène-à-scène, les sommaires, les synopsis et les traitements en font partie. (*script material*)

traitement ou salaire En sont exclues :

a) les sommes visées à l'article 7;

b) les sommes déterminées en fonction des bénéfices ou des recettes;

c) les sommes payées à une personne au titre de services qu'elle a rendus à un moment où elle était un non-résident, sauf s'il s'agit d'une personne qui était un citoyen canadien à ce moment. (*salary or wages*)

Rules governing labour expenditure of a corporation

(2) For the purposes of the definitions ***labour expenditure*** and ***qualified labour expenditure*** in subsection (1),

(a) remuneration does not include remuneration

(i) determined by reference to profits or revenues, or

(ii) in respect of services rendered by a person at a time when the person was non-resident, unless the person was at that time a Canadian citizen;

(b) services referred to in paragraph (b) of that definition that relate to the post-production stage of the production include only the services that are rendered at that stage by a person who performs the duties of animation cameraman, assistant colourist, assistant mixer, assistant sound-effects technician, boom operator, colourist, computer graphics designer, cutter, developing technician, director of post production, dubbing technician, encoding technician, inspection technician

Règles concernant la dépense de main-d'œuvre d'une société

(2) Les règles ci-après s'appliquent aux définitions de ***dépense de main-d'œuvre*** et ***dépense de main-d'œuvre admissible*** au paragraphe (1) :

a) est exclue de la rémunération :

(i) celle qui est déterminée en fonction des bénéfices ou des recettes,

(ii) celle qui se rapporte à des services rendus par une personne à un moment où elle était un non-résident, sauf s'il s'agit d'une personne qui était un citoyen canadien à ce moment;

b) les services visés à l'alinéa b) de cette définition qui se rapportent à l'étape de la postproduction du bien ne comprennent que les services que rend à cette étape la personne qui occupe la fonction d'assistant-bruiteur, d'assistant-coloriste, d'assistant-mixeur, d'assistant-monteur principal, de bruiteur, de cameraman d'animation, de chef de la postproduction, de coloriste, d'étalonneur, d'infographiste, de mixeur, de monteur

— clean up, mixer, optical effects technician, picture editor, printing technician, projectionist, recording technician, senior editor, sound editor, sound-effects technician, special effects editor, subtitle technician, timer, video-film recorder operator, videotape operator or by a person who performs a prescribed duty;

(c) that definition does not apply to an amount to which section 37 applies; and

(d) an expenditure incurred in respect of a film or video production by a qualified corporation (in this paragraph referred to as the "co-producer") in respect of goods supplied or services rendered by another qualified corporation to the co-producer in respect of the production is not a labour expenditure to the co-producer or, for the purpose of applying this section to the co-producer, a cost or capital cost of the production.

d'effets spéciaux, de monteur principal, de monteur sonore, de monteur vidéo, de preneur de son, de préposé au développement, de préposé à l'inspection et au nettoyage, de préposé au tirage, de projectionniste, de technicien à l'encodage, de technicien à l'enregistrement, de technicien au repiquage, de technicien en préparation de trucages optiques, de technicien en magnétoscopie, de technicien en sous-titrage ou de vidéographiste ou la personne qui occupe une fonction visée par règlement;

c) la définition ne s'applique pas aux montants auxquels s'applique l'article 37;

d) toute dépense engagée par une société admissible (appelée « coproducteur » au présent alinéa) dans le cadre d'une production cinématographique ou magnétoscopique pour des marchandises ou des services qui lui sont fournies ou rendus relativement à la production par une autre société admissible n'est pas une dépense de main-d'œuvre pour le coproducteur et, pour ce qui est de l'application du présent article à son égard, n'est pas un coût ni un coût en capital de la production.

Tax credit

(3) Where

(a) a qualified corporation for a taxation year files with its return of income for the year

(i) a Canadian film or video production certificate issued in respect of a Canadian film or video production of the corporation,

(ii) a prescribed form containing prescribed information, and

(iii) each other document prescribed in respect of the production, and

(b) the principal filming or taping of the production began before the end of the year,

the corporation is deemed to have paid on its balance-due day for the year an amount on account of its tax payable under this Part for the year equal to 25% of its qualified labour expenditure for the year in respect of the production.

Crédit d'impôt

(3) La société qui est une société admissible pour une année d'imposition est réputée avoir payé, à la date d'exigibilité du solde qui lui est applicable pour l'année, un montant au titre de son impôt payable pour l'année en vertu de la présente partie égal à 25 % de sa dépense de main-d'œuvre admissible pour l'année relativement à une production cinématographique ou magnétoscopique canadienne, si les conditions suivantes sont réunies :

a) la société joint les documents suivants à la déclaration de revenu qu'elle produit pour l'année :

(i) le certificat de production cinématographique ou magnétoscopique canadienne délivré relativement à la production,

(ii) un formulaire prescrit contenant les renseignements prescrits,

(iii) tout autre document visé par règlement relativement à la production;

b) les principaux travaux de prise de vue ou d'enregistrement de la production ont commencé avant la fin de l'année.

Exception

(4) This section does not apply to a Canadian film or video production if the production — or an interest in a person or partnership that has, directly or indirectly, an

Exception

(4) Le présent article ne s'applique pas à une production cinématographique ou magnétoscopique canadienne si la production, ou une participation dans une personne ou

interest in, or for civil law a right in, the production — is a tax shelter investment for the purpose of section 143.2.

une société de personnes qui a, directement ou indirectement, un intérêt ou, pour l'application du droit civil, un droit sur la production, est un abri fiscal déterminé pour l'application de l'article 143.2.

When assistance received

(5) For the purposes of this Act other than this section, and for greater certainty, the amount that a corporation is deemed under subsection 125.4(3) to have paid for a taxation year is assistance received by the corporation from a government immediately before the end of the year.

Moment de la réception d'un montant d'aide

(5) Pour l'application de la présente loi, à l'exception du présent article, il est entendu que le montant qu'une société est réputée, par le paragraphe (3), avoir payé pour une année d'imposition est réputé être un montant d'aide qu'elle a reçu d'un gouvernement immédiatement avant la fin de l'année.

Revocation of certificate

(6) If an omission or incorrect statement was made for the purpose of obtaining a Canadian film or video production certificate in respect of a production, or if the production is not a Canadian film or video production,

(a) the Minister of Canadian Heritage may

(i) revoke the certificate, or

(ii) if the certificate was issued in respect of productions included in an episodic television series, revoke the certificate in respect of one or more episodes in the series;

(b) for greater certainty, for the purposes of this section, the expenditures and cost of production in respect of productions included in an episodic television series that relate to an episode in the series in respect of which a certificate has been revoked are not attributable to a Canadian film or video production; and

(c) for the purpose of subparagraph (3)(a)(i), a certificate that has been revoked is deemed never to have been issued.

Révocation d'un certificat

(6) Si une omission ou un énoncé inexact a été fait en vue d'obtenir un certificat de production cinématographique ou magnétoscopique canadienne relativement à une production ou s'il ne s'agit pas d'une production cinématographique ou magnétoscopique canadienne, les règles ci-après s'appliquent :

a) le ministre du Patrimoine canadien peut :

(i) soit révoquer le certificat,

(ii) soit, si le certificat a été délivré relativement à des productions faisant partie d'une série télévisuelle à épisodes, révoquer le certificat relatif à un ou plusieurs épisodes de la série;

b) il est entendu que, pour l'application du présent article, les dépenses et le coût de production relatifs à des productions faisant partie d'une série télévisuelle à épisodes qui se rapportent à un épisode de la série relativement auquel un certificat a été révoqué ne sont pas attribuables à une production cinématographique ou magnétoscopique canadienne;

c) pour l'application du sous-alinéa (3)a)(i), le certificat révoqué est réputé ne jamais avoir été délivré.

Guidelines

(7) The Minister of Canadian Heritage shall issue guidelines respecting the circumstances under which the conditions in the definition ***Canadian film or video production certificate*** in subsection (1) are satisfied. For greater certainty, those guidelines are not statutory instruments as defined in the *Statutory Instruments Act*.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 28; 1997, c. 25, s. 34; 1999, c. 22, s. 46; 2001, c. 17, s. 115; 2014, c. 39, s. 41.

Lignes directrices

(7) Le ministre du Patrimoine canadien publie des lignes directrices sur les circonstances dans lesquelles les conditions énoncées dans la définition de ***certificat de production cinématographique ou magnétoscopique canadienne*** au paragraphe (1) sont remplies. Il est entendu que ces lignes directrices ne sont pas des textes réglementaires au sens de la *Loi sur les textes réglementaires*.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 28; 1997, ch. 25, art. 34; 1999, ch. 22, art. 46; 2001, ch. 17, art. 115; 2014, ch. 39, art. 41.

Film or Video Production Services Tax Credit

Definitions

125.5 (1) The definitions in this subsection apply in this section.

accredited film or video production certificate, in respect of a film or video production, means a certificate issued by the Minister of Canadian Heritage certifying that the production is an accredited production. (*certificat de production cinématographique ou magnétoscopique agréée*)

accredited production has the meaning assigned by regulation. (*production agréée*)

assistance means an amount, other than an amount deemed under subsection 125.5(3) to have been paid, that would be included under paragraph 12(1)(x) in computing the income of a taxpayer for any taxation year if that paragraph were read without reference to subparagraphs 12(1)(x)(v) to 12(1)(x)(vii). (*montant d'aide*)

Canadian labour expenditure of a corporation for a taxation year in respect of an accredited production means, in the case of a corporation that is not an eligible production corporation in respect of the production for the year, nil, and in any other case, subject to subsection 125.5(2), the total of the following amounts in respect of the production to the extent that they are reasonable in the circumstances:

(a) the salary or wages directly attributable to the production that are incurred by the corporation after October 1997, and in the year or the preceding taxation year, and that relate to services rendered in Canada for the stages of production of the production, from the final script stage to the end of the post-production stage, and paid by it in the year or within 60 days after the end of the year to employees of the corporation who were resident in Canada at the time the payments were made (other than amounts incurred in that preceding year that were paid within 60 days after the end of that preceding year),

(b) that portion of the remuneration (other than salary or wages and other than remuneration that relates to services rendered in the preceding taxation year and that was paid within 60 days after the end of that preceding year) that is directly attributable to the production, that relates to services rendered in Canada after October 1997 and in the year, or that preceding year, to the corporation for the stages of production of the production, from the final script stage to

Crédit d'impôt pour services de production cinématographique ou magnétoscopique

Définitions

125.5 (1) Les définitions qui suivent s'appliquent au présent article.

certificat de production cinématographique ou magnétoscopique agréée Quant à une production cinématographique ou magnétoscopique, certificat délivré par le ministre du Patrimoine canadien attestant que la production est une production agréée. (*accredited film or video production certificate*)

dépense de main-d'œuvre admissible au Canada Quant à une société de production admissible pour une année d'imposition relativement à une production agréée, l'excédent éventuel du montant suivant :

a) le total des montants représentant chacun la dépense de main-d'œuvre au Canada de la société pour l'année ou pour une année d'imposition antérieure,

sur le total des montants suivants :

b) le total des montants représentant chacun un montant d'aide qu'il est raisonnable de considérer comme se rapportant à des montants inclus dans le total déterminé selon l'alinéa a) relativement à la société pour l'année, que la société ou une autre personne ou société de personnes a reçu, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir au moment de la production de la déclaration de revenu de la société pour l'année, qui n'a pas été remboursé avant ce moment en exécution d'une obligation légale de ce faire et qui n'est pas par ailleurs appliqué en réduction de cette dépense;

c) le total des montants représentant chacun une dépense de main-d'œuvre admissible au Canada de la société relativement à la production agréée pour une année d'imposition antérieure avant la fin de laquelle les principaux travaux de prise de vue ou d'enregistrement de la production ont commencé;

d) dans le cas où la société est une société mère, le total des montants représentant chacun un montant qui est inclus dans le total déterminé selon l'alinéa a) relativement à la société pour l'année et qui est l'objet d'une convention, visée à l'alinéa c) de la définition de ***dépense de main-d'œuvre au Canada***, conclue relativement à la production agréée entre la société et sa filiale à cent pour cent. (*qualified Canadian labour expenditure*)

the end of the post-production stage, and that is paid by it in the year or within 60 days after the end of the year to a person or a partnership, that carries on a business in Canada through a permanent establishment (as defined by regulation), and that is

(i) an individual resident in Canada at the time the amount is paid and who is not an employee of the corporation, to the extent that the amount paid

(A) is attributable to services personally rendered by the individual in Canada in respect of the accredited production, or

(B) is attributable to and does not exceed the salary or wages paid by the individual to the individual's employees at a time when they were resident in Canada for personally rendering services in Canada in respect of the accredited production,

(ii) another corporation that is a taxable Canadian corporation, to the extent that the amount paid is attributable to and does not exceed the salary or wages paid to the other corporation's employees at a time when they were resident in Canada for personally rendering services in Canada in respect of the accredited production,

(iii) another corporation that is a taxable Canadian corporation, all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to an individual who was resident in Canada and the activities of which consist principally of the provision of the individual's services, to the extent that the amount paid is attributable to services rendered personally in Canada by the individual in respect of the accredited production, or

(iv) a partnership, to the extent that the amount paid

(A) is attributable to services personally rendered in respect of the accredited production by an individual who is resident in Canada and who is a member of the partnership, or

(B) is attributable to and does not exceed the salary or wages paid by the partnership to its employees at a time when they were resident in Canada for personally rendering services in Canada in respect of the accredited production, and

(c) where

dépense de main-d'œuvre au Canada Quant à une société qui est une société de production admissible pour une année d'imposition relativement à une production agréée et sous réserve du paragraphe (2), le total des montants suivants relatifs à la production, dans la mesure où il s'agit de montants raisonnables dans les circonstances :

a) les traitements ou salaires directement attribuables à la production que la société a engagés après octobre 1997 et au cours de l'année ou de l'année d'imposition précédente et qui se rapportent à des services rendus au Canada relativement aux étapes de production de la production, depuis l'étape du scénario version finale jusqu'à la fin de l'étape de la postproduction, et qu'elle a versés au cours de l'année ou dans les 60 jours suivant la fin de l'année à ses employés qui résidaient au Canada au moment des paiements (à l'exception des montants engagés au cours de cette année précédente qui ont été payés dans les 60 jours suivant la fin de cette année);

b) la partie de la rémunération (sauf les traitements et salaires et la rémunération qui se rapporte à des services rendus au cours de l'année d'imposition précédente et qui a été payée dans les 60 jours suivant la fin de cette année) qui est directement attribuable à la production, qui se rapporte à des services rendus à la société au Canada après octobre 1997 et au cours de l'année ou de cette année précédente relativement aux étapes de production de la production, depuis l'étape du scénario version finale jusqu'à la fin de l'étape de la postproduction, et que la société a versée au cours de l'année ou dans les 60 jours suivant la fin de l'année à une personne ou une société de personnes qui exploite une entreprise au Canada par l'entremise d'un établissement stable au sens du *Règlement de l'impôt sur le revenu* et qui est :

(i) soit un particulier résidant au Canada au moment du versement du montant et qui n'est pas un employé de la société, dans la mesure où le montant versé est, selon le cas :

(A) attribuable à des services rendus personnellement par le particulier au Canada relativement à la production agréée,

(B) attribuable aux traitements ou salaires versés par le particulier à ses employés à un moment où ils résidaient au Canada pour les services qu'ils ont rendus personnellement au Canada relativement à la production agréée, sans dépasser ces traitements ou salaires,

(i) the corporation is a subsidiary wholly-owned corporation of another corporation that is a taxable Canadian corporation (in this section referred to as the "parent"), and

(ii) the corporation and the parent have filed with the Minister an agreement that this paragraph apply in respect of the production,

the reimbursement made by the corporation in the year, or within 60 days after the end of the year, of an expenditure that was incurred by the parent in a particular taxation year of the parent in respect of the production and that would be included in the Canadian labour expenditure of the corporation in respect of the production for the particular taxation year because of paragraph (a) or (b) if

(iii) the corporation had had such a particular taxation year, and

(iv) the expenditure were incurred by the corporation for the same purpose as it was incurred by the parent and were paid at the same time and to the same person or partnership as it was paid by the parent. (*dépense de main-d'œuvre au Canada*)

eligible production corporation, in respect of an accredited production for a taxation year, means a corporation, the activities of which in the year in Canada are primarily the carrying on through a permanent establishment (as defined by regulation) in Canada of a film or video production business or a film or video production services business and that

(a) owns the copyright in the accredited production throughout the period during which the production is produced in Canada, or

(b) has contracted directly with the owner of the copyright in the accredited production to provide production services in respect of the production, where the owner of the copyright is not an eligible production corporation in respect of the production,except a corporation that is, at any time in the year,

(c) a person all or part of whose taxable income is exempt from tax under this Part,

(d) controlled directly or indirectly in any manner whatever by one or more persons all or part of whose taxable income is exempt from tax under this Part, or

(e) prescribed to be a labour-sponsored venture capital corporation for the purpose of section 127.4. (*société de production admissible*)

(ii) soit une autre société qui est une société canadienne imposable, dans la mesure où le montant versé est attribuable aux traitements ou salaires versés par cette société à ses employés à un moment où ils résidaient au Canada pour les services qu'ils ont rendus personnellement au Canada relativement à la production agréée, sans dépasser ces traitements ou salaires,

(iii) soit une autre société qui est une société canadienne imposable dont l'ensemble des actions du capital-actions émises et en circulation (exception faite des actions conférant l'admissibilité aux postes d'administrateurs) appartiennent à un particulier qui résidait au Canada, et dont les activités consistent principalement à fournir les services de ce particulier, dans la mesure où le montant versé est attribuable à des services rendus personnellement au Canada par le particulier relativement à la production agréée,

(iv) soit une société de personnes, dans la mesure où le montant versé est, selon le cas :

(A) attribuable à des services rendus personnellement par un particulier résidant au Canada qui est un associé de la société de personnes, relativement à production agréée,

(B) attribuable aux traitements ou salaires versés par la société de personnes à ses employés à un moment où ils résidaient au Canada pour des services rendus personnellement au Canada relativement à la production agréée, sans dépasser ces traitements ou salaires;

c) dans le cas où la société est une filiale à cent pour cent d'une autre société qui est une société canadienne imposable (appelée « société mère » au présent article) et a conclu avec celle-ci une convention qu'elle présente au ministre prévoyant que le présent alinéa s'applique à la production, le montant remboursé par la société au cours de l'année, ou dans les 60 jours suivant la fin de l'année, au titre d'une dépense que la société mère a engagée au cours d'une année d'imposition donnée de celle-ci relativement à la production et qui serait incluse dans la dépense de main-d'œuvre au Canada de la société relativement à la production pour l'année donnée par l'effet des alinéas a) ou b) si, à la fois :

(i) la société avait eu une telle année donnée,

(ii) la dépense avait été engagée par la société aux mêmes fins qu'elle l'a été par la société mère et

qualified Canadian labour expenditure of an eligible production corporation for a taxation year in respect of an accredited production means the amount, if any, by which

(a) the total of all amounts each of which is the corporation's Canadian labour expenditure for the year or a preceding taxation year

exceeds the aggregate of

(b) the total of all amounts, each of which is an amount of assistance that can reasonably be considered to be in respect of amounts included in the total determined under paragraph (a) in respect of the corporation for the year that, at the time of filing its return of income for the year, the corporation or any other person or partnership has received, is entitled to receive or can reasonably be expected to receive, that has not been repaid before that time pursuant to a legal obligation to do so (and that does not otherwise reduce that expenditure),

(c) the total of all amounts, each of which is the qualified Canadian labour expenditure of the corporation in respect of the accredited production for a preceding taxation year before the end of which the principal filming or taping of the production began, and

(d) where the corporation is a parent, the total of all amounts each of which is included in the total determined under paragraph (a) in respect of the corporation for the year and is the subject of an agreement in respect of the accredited production referred to in paragraph (c) of the definition ***Canadian labour expenditure*** between the corporation and its subsidiary wholly-owned corporation. (*dépense de main-d'œuvre admissible au Canada*)

salary or wages does not include an amount described in section 7 or an amount determined by reference to profits or revenues. (*traitement ou salaire*)

avait été versée au même moment et à la même personne ou société de personnes qu'elle l'a été par la société mère.

La dépense de main-d'œuvre d'une société qui n'est pas une société de production admissible pour l'année est nulle. (*Canadian labour expenditure*)

montant d'aide Montant, sauf un montant réputé payé par le paragraphe (3), qui serait inclus en application de l'alinéa 12(1)x) dans le calcul du revenu d'un contribuable pour une année d'imposition, compte non tenu des sous-alinéas 12(1)x)(v) à (vii). (*assistance*)

production agréée S'entend au sens du *Règlement de l'impôt sur le revenu*. (*accredited production*)

société de production admissible Quant à une production agréée pour une année d'imposition, société dont les activités au cours de l'année au Canada consistent principalement à exploiter, par l'entremise d'un établissement stable au Canada, au sens du *Règlement de l'impôt sur le revenu*, une entreprise de production cinématographique ou magnétoscopique ou une entreprise de services de production cinématographique ou magnétoscopique et qui, selon le cas :

a) est propriétaire des droits d'auteur sur la production agréée tout au long de la période au cours de laquelle la production est produite au Canada;

b) a conclu, directement avec le propriétaire des droits d'auteur sur la production agréée, un contrat en vue de la prestation de services de production relativement à la production, dans le cas où le propriétaire des droits d'auteur n'est pas une société de production admissible relativement à la production.

N'est pas une société de production admissible la société qui est, à un moment de l'année :

c) soit une personne dont le revenu imposable est exonéré, en tout ou en partie, de l'impôt prévu par la présente partie;

d) soit contrôlée directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes dont le revenu imposable est exonéré, en tout ou en partie, de l'impôt prévu par la présente partie;

e) soit une société à capital de risque de travailleurs visée par règlement pour l'application de l'article 127.4. (*eligible production corporation*)

traitement ou salaire En sont exclus les montants visés à l'article 7 et les montants déterminés en fonction des bénéfices ou des recettes. (*salary or wages*)

Rules governing Canadian labour expenditure of a corporation

(2) For the purpose of the definition ***Canadian labour expenditure*** in subsection 125.5(1),

(a) remuneration does not include remuneration determined by reference to profits or revenues;

(b) services referred to in paragraph (b) of that definition that relate to the post-production stage of the accredited production include only the services that are rendered at that stage by a person who performs the duties of animation cameraman, assistant colourist, assistant mixer, assistant sound-effects technician, boom operator, colourist, computer graphics designer, cutter, developing technician, director of post production, dubbing technician, encoding technician, inspection technician — clean up, mixer, optical effects technician, picture editor, printing technician, projectionist, recording technician, senior editor, sound editor, sound-effects technician, special effects editor, subtitle technician, timer, video-film recorder operator, videotape operator or by a person who performs a prescribed duty;

(c) that definition does not apply to an amount to which section 37 applies; and

(d) for greater certainty, that definition does not apply to an amount that is not a production cost including an amount in respect of advertising, marketing, promotion, market research or an amount related in any way to another film or video production.

Règles concernant la dépense de main-d'œuvre au Canada d'une société

(2) Les règles suivantes s'appliquent dans le cadre de la définition de ***dépense de main-d'œuvre au Canada*** au paragraphe (1):

a) est exclue de la rémunération celle qui est déterminée en fonction des bénéfices ou des recettes;

b) les services visés à l'alinéa b) de cette définition qui se rapportent à l'étape de la postproduction de la production agréée ne comprennent que les services que rend à cette étape la personne qui occupe la fonction d'assistant-bruiteur, d'assistant-coloriste, d'assistant-mixeur, d'assistant-monteur principal, de bruiteur, de cameraman d'animation, de chef de la postproduction, de coloriste, d'étalonneur, d'infographiste, de mixeur, de monteur d'effets spéciaux, de monteur principal, de monteur sonore, de monteur vidéo, de preneur de son, de préposé au développement, de préposé à l'inspection et au nettoyage, de préposé au tirage, de projectionniste, de technicien à l'encodage, de technicien à l'enregistrement, de technicien au repiquage, de technicien en préparation de trucages optiques, de technicien en magnétoscopie, de technicien en sous-titrage ou de vidéographiste ou la personne qui occupe une fonction visée par règlement;

c) cette définition ne s'applique pas au montant auquel s'applique l'article 37;

d) il est entendu que cette définition ne s'applique pas aux montants qui ne sont pas des coûts de production, y compris les montants se rapportant à la publicité, au marketing, à la promotion ou aux études de marché et les montants se rapportant de quelque manière que ce soit à une autre production cinématographique ou magnétoscopique.

Tax credit

(3) An eligible production corporation in respect of an accredited production for a taxation year is deemed to have paid on its balance-due day for the year an amount on account of its tax payable under this Part for the year equal to 16% of its qualified Canadian labour expenditure for the year in respect of the production, if

(a) the corporation files with its return of income for the year

(i) a prescribed form containing prescribed information in respect of the production,

(ii) an accredited film or video production certificate in respect of the production, and

Crédit d'impôt

(3) La société de production admissible quant à une production agréée pour une année d'imposition est réputée avoir payé, à la date d'exigibilité du solde qui lui est applicable pour l'année, un montant au titre de son impôt payable pour l'année en vertu de la présente partie égal à 16 % de sa dépense de main-d'œuvre admissible au Canada pour l'année relativement à la production, si les conditions suivantes sont réunies :

a) la société joint les documents suivants à la déclaration de revenu qu'elle produit pour l'année :

(i) un formulaire prescrit contenant les renseignements prescrits relatifs à la production,

(iii) each other document prescribed in respect of the production; and

(b) the principal filming or taping of the production began before the end of the year.

(ii) le certificat de production cinématographique ou magnétoscopique agréée délivré relativement à la production,

(iii) tout autre document visé par règlement relativement à la production;

b) les principaux travaux de prise de vue ou d'enregistrement de la production ont commencé avant la fin de l'année.

Canadian film or video production

(4) Subsection 125.5(3) does not apply in respect of a production in respect of which an amount is deemed to have been paid under subsection 125.4(3).

Exception

(4) Le paragraphe (3) ne s'applique pas à la production relativement à laquelle un montant est réputé avoir été payé par l'effet du paragraphe 125.4(3).

When assistance received

(5) For the purposes of this Act other than this section, and for greater certainty, the amount that a corporation is deemed under subsection 125.5(3) to have paid for a taxation year is assistance received by the corporation from a government immediately before the end of the year.

Moment de la réception d'un montant d'aide

(5) Pour l'application de la présente loi, à l'exception du présent article, il est entendu que le montant qu'une société est réputée, par le paragraphe (3), avoir payé pour une année d'imposition est un montant d'aide qu'elle a reçu d'un gouvernement immédiatement avant la fin de l'année.

Revocation of certificate

(6) An accredited film or video production certificate in respect of an accredited production may be revoked by the Minister of Canadian Heritage where

(a) an omission or incorrect statement was made for the purpose of obtaining the certificate, or

(b) the production is not an accredited production,

and, for the purpose of subparagraph 125.5(3)(a)(ii), a certificate that has been revoked is deemed never to have been issued.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 145.1; 2001, c. 17, s. 116; 2003, c. 15, s. 80.

Révocation d'un certificat

(6) Le ministre du Patrimoine canadien peut révoquer un certificat de production cinématographique ou magnétoscopique agréée relativement à une production agréée si l'un des faits suivants se vérifie :

a) une omission ou un énoncé inexact a été fait en vue d'obtenir le certificat;

b) la production n'est pas une production agréée.

Pour l'application du sous-alinéa (3)a)(ii), un certificat révoqué est réputé ne jamais avoir été délivré.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 145.1; 2001, ch. 17, art. 116; 2003, ch. 15, art. 80.

SUBDIVISION C

Rules Applicable to all Taxpayers

SOUS-SECTION C

Règles applicables à tous les contribuables

Foreign tax deduction

126 (1) A taxpayer who was resident in Canada at any time in a taxation year may deduct from the tax for the year otherwise payable under this Part by the taxpayer an amount equal to

(a) such part of any non-business-income tax paid by the taxpayer for the year to the government of a country other than Canada (except, where the taxpayer is a

Déduction pour impôt étranger

126 (1) Le contribuable qui résidait au Canada à un moment donné d'une année d'imposition peut déduire de l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie une somme égale à :

a) la partie de tout impôt sur le revenu ne provenant pas d'entreprises qu'il a payé pour l'année au gouvernement d'un pays étranger (sauf, lorsque le

corporation, any such tax or part thereof that may reasonably be regarded as having been paid by the taxpayer in respect of income from a share of the capital stock of a foreign affiliate of the taxpayer) as the taxpayer may claim,

not exceeding, however,

(b) that proportion of the tax for the year otherwise payable under this Part by the taxpayer that

(i) the amount, if any, by which the total of the taxpayer's qualifying incomes exceeds the total of the taxpayer's qualifying losses

(A) for the year, if the taxpayer is resident in Canada throughout the year, and

(B) for the part of the year throughout which the taxpayer is resident in Canada, if the taxpayer is non-resident at any time in the year,

from sources in that country, on the assumption that

(C) no businesses were carried on by the taxpayer in that country,

(D) where the taxpayer is a corporation, it had no income from shares of the capital stock of a foreign affiliate of the taxpayer, and

(E) where the taxpayer is an individual,

(I) no amount was deducted under subsection 91(5) in computing the taxpayer's income for the year, and

(II) if the taxpayer deducted an amount under subsection 122.3(1) from the taxpayer's tax otherwise payable under this Part for the year, the taxpayer's income from employment in that country was not from a source in that country to the extent of the lesser of the amounts determined in respect thereof under paragraphs 122.3(1)(c) and 122.3(1)(d) for the year,

is of

(ii) the total of

(A) the amount, if any, by which,

(I) if the taxpayer was resident in Canada throughout the year, the taxpayer's income for the year computed without reference to paragraph 20(1)(ww), and

contribuable est une société, tout impôt, ou toute partie d'impôt, de ce genre qu'il est raisonnable de considérer comme ayant été payé par le contribuable relativement au revenu qu'il a tiré d'une action du capital-actions d'une société étrangère affiliée lui appartenant) dont il peut demander la déduction;

cette somme ne peut toutefois dépasser :

b) la fraction de l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie que représente :

(i) l'excédent éventuel du total des revenus admissibles du contribuable provenant de sources situées dans ce pays sur le total de ses pertes admissibles résultant de telles sources :

(A) pour l'année, s'il réside au Canada tout au long de l'année,

(B) pour la partie de l'année tout au long de laquelle il réside au Canada, s'il est un non-résident à un moment de l'année,

à supposer :

(C) qu'il n'ait exploité aucune entreprise dans ce pays,

(D) lorsque le contribuable est une société, qu'il n'ait tiré aucun revenu d'actions du capital-actions d'une société étrangère affiliée lui appartenant,

(E) lorsque le contribuable est un particulier :

(I) qu'aucun montant n'ait été déduit en vertu du paragraphe 91(5) dans le calcul de son revenu pour l'année,

(II) que, si le contribuable a déduit un montant en vertu du paragraphe 122.3(1) de son impôt payable par ailleurs pour l'année en vertu de la présente partie, son revenu tiré d'un emploi dans ce pays n'ait pas été tiré d'une source située dans ce pays, jusqu'à concurrence du moins élevé des montants déterminés à ce titre pour l'année en vertu des alinéas 122.3(1)c) et d),

par rapport :

(ii) au total des montants suivants :

(A) l'excédent éventuel du montant applicable suivant :

(II) if the taxpayer was non-resident at any time in the year, the amount determined under paragraph 114(a) in respect of the taxpayer for the year

exceeds

(III) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j) and sections 112 and 113, in computing the taxpayer's taxable income for the year, and

(B) the amount, if any, added under section 110.5 in computing the taxpayer's taxable income for the year.

(I) si le contribuable a résidé au Canada tout au long de l'année, son revenu pour l'année, calculé compte non tenu de l'alinéa 20(1)ww),

(II) s'il a été un non-résident à un moment de l'année, le montant déterminé selon l'alinéa 114a) à son égard pour l'année,

sur :

(III) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application de l'un des alinéas 110(1)d) à d.3), f), g) et j) et des articles 112 et 113, dans le calcul de son revenu imposable pour l'année,

(B) le montant ajouté en vertu de l'article 110.5 dans le calcul de son revenu imposable pour l'année.

Authorized foreign bank

(1.1) In applying subsections 20(12) and (12.1) and this section in respect of an authorized foreign bank,

(a) the bank is deemed, for the purposes of subsections (1), (4) to (5), (6) and (7), to be resident in Canada in respect of its Canadian banking business;

(b) the references in subsection 20(12) and paragraph (1)(a) to "country other than Canada" shall be read as a reference to "country that is neither Canada nor a country in which the taxpayer is resident at any time in the taxation year";

(c) the reference in subparagraph (1)(b)(i) to "from sources in that country" shall be read as a reference to "in respect of its Canadian banking business from sources in that country";

(d) subparagraph (1)(b)(ii) shall be read as follows:

"(ii) the lesser of

(A) the taxpayer's taxable income earned in Canada for the year, and

(B) the total of the taxpayer's income for the year from its Canadian banking business and the amount determined in respect of the taxpayer under subparagraph 115(1)(a)(vii) for the year.";

(e) in computing the non-business income tax paid by the bank for a taxation year to the government of a country other than Canada, there shall be included only taxes that relate to amounts that are included in

Banque étrangère autorisée

(1.1) Pour l'application des paragraphes 20(12) et (12.1) et du présent article à l'égard d'une banque étrangère autorisée, les règles suivantes s'appliquent :

a) la banque est réputée, pour l'application des paragraphes (1), (4) à (5), (6) et (7), résider au Canada en ce qui a trait à son entreprise bancaire canadienne;

b) la mention « pays étranger » au paragraphe 20(12) et à l'alinéa (1)a) vaut mention de « pays qui n'est ni le Canada ni un pays où le contribuable réside au cours de l'année »;

c) les mentions « provenant de sources situées dans ce pays » et « résultant de telles sources » au sous-alinéa (1)b)(i) valent mention respectivement de « relatifs à son entreprise bancaire canadienne et provenant de sources situées dans ce pays » et « relatives à cette entreprise et résultant de telles sources »;

d) le sous-alinéa (1)b)(ii) est remplacé par ce qui suit :

« (ii) au moins élevé des montants suivants :

(A) le revenu imposable du contribuable gagné au Canada pour l'année,

(B) la somme de son revenu pour l'année tiré de son entreprise bancaire canadienne et du montant déterminé à son égard selon le sous-alinéa 115(1)a)(vii) pour l'année. »;

e) ne sont inclus dans le calcul de l'impôt sur le revenu ne provenant pas d'une entreprise payé par la

computing the bank's taxable income earned in Canada from its Canadian banking business; and

(f) the definition ***tax-exempt income*** in subsection (7) shall be read as follows:

"***tax-exempt income*** means income of a taxpayer from a source in a particular country in respect of which

(a) the taxpayer is, because of a comprehensive agreement or convention for the elimination of double taxation on income, which has the force of law in the particular country and to which a country in which the taxpayer is resident is a party, entitled to an exemption from all income or profits taxes, imposed in the particular country, to which the agreement or convention applies, and

(b) no income or profits tax to which the agreement or convention does not apply is imposed in the particular country;".

banque pour une année d'imposition au gouvernement d'un pays étranger que les impôts se rapportant à des montants qui sont inclus dans le calcul de son revenu imposable gagné au Canada et provenant de son entreprise bancaire canadienne;

f) la définition de ***revenu exonéré d'impôt*** au paragraphe (7) est remplacée par ce qui suit :

« ***revenu exonéré d'impôt*** Le revenu d'un contribuable provenant d'une source située dans un pays donné et relativement auquel, à la fois :

a) le contribuable a droit, par l'effet d'une entente ou convention globale pour l'élimination de la double imposition du revenu, ayant force de loi dans le pays donné et à laquelle est partie un pays où le contribuable réside, à une exemption des impôts sur le revenu ou sur les bénéfices prélevés dans le pays donné et auxquels l'entente ou la convention s'applique;

b) aucun impôt sur le revenu ou sur les bénéfices auquel l'entente ou la convention ne s'applique pas n'est prélevé dans le pays donné. ».

Idem

(2) Where a taxpayer who was resident in Canada at any time in a taxation year carried on business in the year in a country other than Canada, the taxpayer may deduct from the tax for the year otherwise payable under this Part by the taxpayer an amount not exceeding the least of

(a) such part of the total of the business-income tax paid by the taxpayer for the year in respect of businesses carried on by the taxpayer in that country and the taxpayer's unused foreign tax credits in respect of that country for the 10 taxation years immediately preceding and the 3 taxation years immediately following the year as the taxpayer may claim,

(b) the amount determined under subsection 126(2.1) for the year in respect of businesses carried on by the taxpayer in that country, and

(c) the amount by which

(i) the tax for the year otherwise payable under this Part by the taxpayer

exceeds

(ii) the amount or the total of amounts, as the case may be, deducted under subsection 126(1) by the taxpayer from the tax for the year otherwise payable under this Part.

Idem

(2) Le contribuable qui résidait au Canada à un moment donné d'une année d'imposition et exploitait une entreprise, pendant cette année, dans un pays étranger, peut déduire de l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie une somme ne dépassant pas le moindre des montants suivants :

a) la partie du total de l'impôt sur le revenu tiré d'une entreprise qu'il a payé pour l'année, relativement à des entreprises exploitées par lui dans ce pays, et de sa fraction inutilisée du crédit pour impôt étranger relativement à ce pays, pour les dix années d'imposition précédant l'année et les trois années d'imposition la suivant, dont il demande la déduction;

b) le montant déterminé en vertu du paragraphe (2.1) pour l'année relativement à des entreprises exploitées par lui dans ce pays;

c) l'excédent de l'élément visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie,

(ii) le montant ou la totalité des sommes, selon le cas, déduits par lui en vertu du paragraphe (1) de l'impôt payable par ailleurs pour l'année en vertu de la présente partie.

Amount determined for purposes of para. (2)(b)

(2.1) For the purposes of paragraph 126(2)(b), the amount determined under this subsection for a year in respect of businesses carried on by a taxpayer in a country other than Canada is the total of

(a) that proportion of the tax for the year otherwise payable under this Part by the taxpayer that

(i) the amount, if any, by which the total of the taxpayer's qualifying incomes exceeds the total of the taxpayer's qualifying losses

(A) for the year, if the taxpayer is resident in Canada throughout the year, and

(B) for the part of the year throughout which the taxpayer is resident in Canada, if the taxpayer is non-resident at any time in the year,

from businesses carried on by the taxpayer in that country

is of

(ii) the total of

(A) the amount, if any, by which

(I) if the taxpayer is resident in Canada throughout the year, the taxpayer's income for the year computed without reference to paragraph 20(1)(ww), and

(II) if the taxpayer is non-resident at any time in the year, the amount determined under paragraph 114(a) in respect of the taxpayer for the year

exceeds

(III) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j) and sections 112 and 113, in computing the taxpayer's taxable income for the year, and

(B) the amount, if any, added under section 110.5 in computing the taxpayer's taxable income for the year, and

(b) that proportion of the amount, if any, added under subsection 120(1) to the tax for the year otherwise payable under this Part by the taxpayer that

Détermination du montant pour l'application de l'al. (2)b)

(2.1) Pour l'application de l'alinéa (2)b), le montant déterminé en vertu du présent paragraphe pour l'année relativement à des entreprises exploitées par un contribuable dans un pays étranger est le total des montants suivants :

a) la fraction de l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie représentée par le rapport entre :

(i) d'une part, l'excédent éventuel du total des revenus admissibles du contribuable tiré d'entreprises qu'il exploite dans ce pays sur le total de ses pertes admissibles résultant de telles entreprises :

(A) pour l'année, s'il réside au Canada tout au long de l'année,

(B) pour la partie de l'année tout au long de laquelle il réside au Canada, s'il est un non-résident à un moment de l'année,

(ii) d'autre part, le total des montants suivants :

(A) l'excédent éventuel du montant applicable suivant :

(I) si le contribuable réside au Canada tout au long de l'année, son revenu pour l'année, calculé compte non tenu de l'alinéa 20(1)ww),

(II) s'il est un non-résident à un moment de l'année, le montant déterminé selon l'alinéa 114a) à son égard pour l'année,

sur :

(III) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application de l'un des alinéas 110(1)d) à d.3), f), g) et j) et des articles 112 et 113, dans le calcul de son revenu imposable pour l'année,

(B) le montant ajouté en vertu de l'article 110.5 dans le calcul de son revenu imposable pour l'année;

b) la fraction du montant ajouté en vertu du paragraphe 120(1) à l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie représentée par le rapport entre :

(i) the amount determined under subparagraph (a)(i) in respect of the country

is of

(ii) the amount, if any, by which,

(A) where section 114 does not apply to the taxpayer in respect of the year, the taxpayer's income for the year, and

(B) where section 114 applies to the taxpayer in respect of the year, the total of the taxpayer's income for the period or periods referred to in paragraph 114(a) and the amount that would be determined under paragraph 114(b) in respect of the taxpayer for the year if subsection 115(1) were read without reference to paragraphs 115(1)(d) to 115(1)(f)

exceeds

(C) the taxpayer's income earned in the year in a province (within the meaning assigned by subsection 120(4)).

(i) d'une part, le montant déterminé selon le sous-alinéa a)(i) relativement à ce pays,

(ii) d'autre part, l'excédent éventuel du montant applicable suivant :

(A) si l'article 114 ne s'applique pas au contribuable pour l'année, son revenu pour l'année,

(B) si l'article 114 s'applique au contribuable pour l'année, le total de son revenu pour la ou les périodes visées à l'alinéa 114a) et du montant qui serait déterminé selon l'alinéa 114b) relativement au contribuable pour l'année, compte non tenu des alinéas 115(1)d) à f),

sur :

(C) le revenu gagné au cours de l'année dans une province, au sens du paragraphe 120(4), par le contribuable.

Non-resident's foreign tax deduction

(2.2) If at any time in a taxation year a taxpayer who is not at that time resident in Canada disposes of a property that was deemed by subsection 48(2), as it read in its application before 1993, or by paragraph 128.1(4)(e), as it read in its application before October 2, 1996, to be taxable Canadian property of the taxpayer, the taxpayer may deduct from the tax for the year otherwise payable under this Part by the taxpayer an amount equal to the lesser of

(a) the amount of any non-business-income tax paid by the taxpayer for the year to the government of a country other than Canada that can reasonably be regarded as having been paid by the taxpayer in respect of any gain or profit from the disposition of the property, and

(b) that proportion of the tax for the year otherwise payable under this Part by the taxpayer that

(i) the taxable capital gain from the disposition of that property

is of

(ii) if the taxpayer is non-resident throughout the year, the taxpayer's taxable income earned in Canada for the year determined without reference to paragraphs 115(1)(d) to (f), and

Déduction pour impôt étranger au profit des non-résidents

(2.2) Le contribuable qui, à un moment d'une année d'imposition où il ne réside pas au Canada, dispose d'un bien qui est réputé, par le paragraphe 48(2), dans sa version applicable avant 1993, ou par l'alinéa 128.1(4)e), dans sa version applicable avant le 2 octobre 1996, être un bien canadien imposable lui appartenant peut déduire de son impôt payable par ailleurs pour l'année en vertu de la présente partie le moins élevé des montants suivants :

a) le montant de tout impôt sur le revenu ne provenant pas d'une entreprise qu'il a payé pour l'année au gouvernement d'un pays étranger et qu'il est raisonnable de considérer comme ayant été payé par lui sur le gain ou le bénéfice qu'il a tiré de la disposition du bien;

b) la fraction de l'impôt payable par ailleurs par lui pour l'année en vertu de la présente partie représentée par le rapport entre :

(i) d'une part, le gain en capital imposable provenant de la disposition de ce bien,

(ii) d'autre part, le montant applicable suivant :

(A) si le contribuable est un non-résident tout au long de l'année, son revenu imposable gagné

(iii) if the taxpayer is resident in Canada at any time in the year, the amount that would have been the taxpayer's taxable income earned in Canada for the year if the part of the year throughout which the taxpayer was non-resident were the whole taxation year.

Former resident — deduction

(2.21) If at any particular time in a particular taxation year a non-resident individual disposes of a property that the individual last acquired because of the application, at any time (in this subsection referred to as the "acquisition time") after October 1, 1996, of paragraph 128.1(4)(c), there may be deducted from the individual's tax otherwise payable under this Part for the year (in this subsection referred to as the "emigration year") that includes the time immediately before the acquisition time an amount not exceeding the lesser of

(a) the total of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the particular year

(i) where the property is real or immovable property situated in a country other than Canada,

(A) to the government of that country, or

(B) to the government of a country with which Canada has a tax treaty at the particular time and in which the individual is resident at the particular time, or

(ii) where the property is not real or immovable property, to the government of a country with which Canada has a tax treaty at the particular time and in which the individual is resident at the particular time,

that can reasonably be regarded as having been paid in respect of that portion of any gain or profit from the disposition of the property that accrued while the individual was resident in Canada and before the time the individual last ceased to be resident in Canada, and

(b) the amount, if any, by which

(i) the amount of tax under this Part that was, after taking into account the application of this subsection in respect of dispositions that occurred before the particular time, otherwise payable by the individual for the emigration year

exceeds

au Canada pour l'année, déterminé compte non tenu des alinéas 115(1)d) à f),

(B) s'il réside au Canada au cours de l'année, le montant qui correspondrait à son revenu imposable gagné au Canada pour l'année si la partie de l'année tout au long de laquelle il a été un non-résident constituait l'année entière.

Ancien résident — déduction

(2.21) Le particulier non-résident qui dispose, au cours d'une année d'imposition donnée, d'un bien qu'il a acquis la dernière fois en raison de l'application de l'alinéa 128.1(4)c) à un moment (appelé « moment de l'acquisition » au présent paragraphe) postérieur au 1er octobre 1996 peut déduire de son impôt payable par ailleurs en vertu de la présente partie pour l'année (appelée « année de l'émigration » au présent paragraphe) qui comprend le moment immédiatement avant le moment de l'acquisition un montant ne dépassant pas le moins élevé des montants suivants :

a) le total des montants représentant chacun le montant d'un impôt sur le revenu tiré d'une entreprise ou d'un impôt sur le revenu ne provenant pas d'une entreprise payé par le particulier pour l'année donnée au gouvernement ci-après, qu'il est raisonnable de considérer comme ayant été payé sur la partie de tout gain ou bénéfice tiré de la disposition du bien qui s'est accumulée pendant que le particulier résidait au Canada et avant le moment où il a cessé d'y résider la dernière fois :

(i) si le bien est un bien immeuble ou réel situé dans un pays étranger :

(A) soit le gouvernement de ce pays,

(B) soit le gouvernement du pays où le particulier réside au moment de la disposition et avec lequel le Canada a un traité fiscal à ce moment,

(ii) si le bien n'est pas un bien immeuble ou réel, le gouvernement du pays où le particulier réside au moment de la disposition et avec lequel le Canada a un traité fiscal à ce moment;

b) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) le montant d'impôt en vertu de la présente partie qui était payable par ailleurs par le particulier pour l'année de l'émigration, compte tenu de l'application du présent paragraphe aux dispositions effectuées avant le moment de la disposition,

(ii) the amount of such tax that would have been payable if the property had not been deemed by subsection 128.1(4) to have been disposed of in the emigration year.

(ii) le montant de cet impôt qui aurait été payable si le bien n'avait pas été réputé, par le paragraphe 128.1(4), avoir fait l'objet d'une disposition au cours de l'année de l'émigration.

Former resident — trust beneficiary

(2.22) If at any particular time in a particular taxation year a non-resident individual disposes of a property that the individual last acquired at any time (in this subsection referred to as the "acquisition time") on a distribution after October 1, 1996 to which paragraphs 107(2)(a) to (c) do not apply only because of subsection 107(5), the trust may deduct from its tax otherwise payable under this Part for the year (in this subsection referred to as the "distribution year") that includes the acquisition time an amount not exceeding the lesser of

(a) the total of all amounts each of which is the amount of any business-income tax or non-business-income tax paid by the individual for the particular year

(i) where the property is real or immovable property situated in a country other than Canada,

(A) to the government of that country, or

(B) to the government of a country with which Canada has a tax treaty at the particular time and in which the individual is resident at the particular time, or

(ii) where the property is not real or immovable property, to the government of a country with which Canada has a tax treaty at the particular time and in which the individual is resident at the particular time,

that can reasonably be regarded as having been paid in respect of that portion of any gain or profit from the disposition of the property that accrued before the distribution and after the latest of the times, before the distribution, at which

(iii) the trust became resident in Canada,

(iv) the individual became a beneficiary under the trust, or

(v) the trust acquired the property, and

(b) the amount, if any, by which

(i) the amount of tax under this Part that was, after taking into account the application of this subsection in respect of dispositions that occurred before

Ancien résident — bénéficiaire de fiducie

(2.22) Lorsqu'un particulier non-résident dispose, au cours d'une année d'imposition donnée, d'un bien qu'il a acquis la dernière fois à un moment (appelé « moment de l'acquisition » au présent paragraphe) à l'occasion d'une distribution effectuée après le 1er octobre 1996 et à laquelle les alinéas 107(2)a) à c) ne s'appliquent pas par le seul effet du paragraphe 107(5), la fiducie peut déduire de son impôt payable par ailleurs en vertu de la présente partie pour l'année (appelée « année de la distribution » au présent paragraphe) qui comprend le moment de l'acquisition un montant ne dépassant pas le moins élevé des montants suivants :

a) le total des montants représentant chacun le montant d'un impôt sur le revenu tiré d'une entreprise ou d'un impôt sur le revenu ne provenant pas d'une entreprise payé par le particulier pour l'année donnée au gouvernement suivant :

(i) si le bien est un bien immeuble ou réel situé dans un pays étranger :

(A) soit le gouvernement de ce pays,

(B) soit le gouvernement du pays où le particulier réside au moment de la disposition et avec lequel le Canada a un traité fiscal à ce moment,

(ii) si le bien n'est pas un bien immeuble ou réel, le gouvernement du pays où le particulier réside au moment de la disposition et avec lequel le Canada a un traité fiscal à ce moment,

s'il est raisonnable de considérer que le montant a été payé sur la partie de tout gain ou bénéfice tiré de la disposition du bien qui s'est accumulée avant la distribution et après le dernier en date des moments ci-après, antérieur à la distribution :

(iii) le moment où la fiducie est devenue un résident du Canada,

(iv) le moment où le particulier est devenu bénéficiaire de la fiducie,

(v) le moment où la fiducie a acquis le bien;

b) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

the particular time, otherwise payable by the trust for the distribution year

exceeds

(ii) the amount of such tax that would have been payable by the trust for the distribution year if the property had not been distributed to the individual.

(i) le montant d'impôt en vertu de la présente partie qui était payable par ailleurs par la fiducie pour l'année de la distribution, compte tenu de l'application du présent paragraphe aux dispositions effectuées avant le moment de la disposition,

(ii) le montant de cet impôt qui aurait été payable par la fiducie pour l'année de la distribution si le bien n'avait pas été distribué au particulier.

Where foreign credit available

(2.23) For the purposes of subsections (2.21) and (2.22), in computing, in respect of the disposition of a property by an individual in a taxation year, the total amount of taxes paid by the individual for the year to one or more governments of countries other than Canada, there shall be deducted any tax credit (or other reduction in the amount of a tax) to which the individual was entitled for the year, under the law of any of those countries or under a tax treaty between Canada and any of those countries, because of taxes paid or payable by the individual under this Act in respect of the disposition or a previous disposition of the property.

Déduction des crédits étrangers

(2.23) Pour l'application des paragraphes (2.21) et (2.22), dans le calcul, relatif à la disposition d'un bien effectuée par un particulier au cours d'une année d'imposition, du total des impôts payés par le particulier pour l'année à un ou plusieurs gouvernements de pays étrangers, est déduit tout crédit d'impôt (ou autre montant réduisant l'impôt) auquel il avait droit pour l'année, en vertu des lois de ces pays ou d'un traité fiscal entre le Canada et ces pays, en raison des impôts payés ou payables par lui en vertu de la présente loi relativement à la disposition ou à une disposition antérieure du bien.

Rules relating to unused foreign tax credit

(2.3) For the purposes of this section,

(a) the amount claimed under paragraph 126(2)(a) by a taxpayer for a taxation year in respect of a country shall be deemed to be in respect of the business-income tax paid by the taxpayer for the year in respect of businesses carried on by the taxpayer in that country to the extent of the amount of that tax, and the remainder, if any, of the amount so claimed shall be deemed to be in respect of the taxpayer's unused foreign tax credits

in respect of that country that may be claimed for the taxation year;

(b) no amount may be claimed under paragraph (2)(a) in computing a taxpayer's tax payable under this Part for a particular taxation year in respect of the taxpayer's unused foreign tax credit in respect of a country for a taxation year until the taxpayer's unused foreign tax credits in respect of that country for taxation years preceding the taxation year that may be claimed for the particular taxation year have been claimed; and

(c) an amount in respect of a taxpayer's unused foreign tax credit in respect of a country for a taxation year may be claimed under paragraph (2)(a) in computing the taxpayer's tax payable under this Part for a particular taxation year only to the extent that it exceeds the aggregate of all amounts each of which is the amount that may reasonably be considered to have

Règles concernant la fraction inutilisée du crédit pour impôt étranger

(2.3) Pour l'application du présent article :

a) le montant déduit en vertu de l'alinéa (2)a) par un contribuable pour une année d'imposition relativement à un pays est réputé se rapporter à l'impôt sur le revenu d'entreprise qu'il a payé pour l'année à l'égard des entreprises exploitées par lui dans ce pays, dans la mesure du montant de cet impôt, et le solde éventuel du montant ainsi déduit est réputé se rapporter à la fraction inutilisée de ses crédits pour impôt étranger à l'égard de ce pays et qui peuvent être déduits pour l'année d'imposition;

b) aucun montant ne peut être déduit, en vertu de l'alinéa (2)a), dans le calcul de l'impôt à payer en vertu de la présente partie par un contribuable pour une année d'imposition donnée, au titre de la fraction inutilisée de son crédit pour impôt étranger relativement à un pays pour une année d'imposition, tant que la fraction inutilisée de ses crédits pour impôts étrangers relativement à ce pays pour les années d'imposition précédant l'année donnée qui peut être déduite pour l'année donnée ne l'a pas été;

c) un montant, au titre de la fraction inutilisée du crédit pour impôt étranger d'un contribuable relativement à un pays pour une année d'imposition, peut être déduit en vertu de l'alinéa (2)a) dans le calcul de son impôt à payer en vertu de la présente partie pour une année d'imposition, uniquement dans la mesure où il

been claimed in respect of that unused foreign tax credit in computing the taxpayer's tax payable under this Part for a taxation year preceding the particular taxation year.

Employees of international organizations

(3) Where an individual is resident in Canada at any time in a taxation year, there may be deducted from the individual's tax for the year otherwise payable under this Part an amount equal to that proportion of the tax for the year otherwise payable under this Part by the individual that

(a) the individual's income

(i) for the year, if the individual is resident in Canada throughout the year, and

(ii) for the part of the year throughout which the individual was resident in Canada, if the individual is non-resident at any time in the year,

from employment with an international organization (other than a prescribed international organization), as defined for the purposes of section 2 of the *Foreign Missions and International Organizations Act*

is of

(b) the amount, if any, by which

(i) if the taxpayer is resident in Canada throughout the year, the taxpayer's income for the year computed without reference to paragraph 20(1)(ww), and

(ii) if the taxpayer is non-resident at any time in the year, the amount determined under paragraph 114(a) in respect of the taxpayer for the year

exceeds

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (j), in computing the taxpayer's taxable income for the year,

except that the amount deductible under this subsection in computing the individual's tax payable under this Part for the year may not exceed that proportion of the total of all amounts each of which is an amount paid by the individual to the organization as a levy (the proceeds of which are used to defray expenses of the organization), computed by reference to the

dépasse le total des montants représentant chacun le montant qu'il est raisonnable de considérer comme ayant été déduit au titre de cette fraction inutilisée du crédit pour impôt étranger dans le calcul de son impôt à payer en vertu de la présente partie pour une année d'imposition antérieure à l'année donnée.

Employés d'organisations internationales

(3) Est déductible de l'impôt payable par ailleurs en vertu de la présente partie pour une année d'imposition par un particulier qui réside au Canada à un moment donné de l'année le produit de la multiplication de l'impôt payable par ailleurs pour l'année en vertu de la présente partie par ce particulier par le rapport entre :

a) d'une part, son revenu tiré d'un emploi auprès d'une organisation internationale, sauf une organisation internationale visée par règlement, au sens de l'article 2 de la *Loi sur les missions étrangères et les organisations internationales* :

(i) pour l'année, s'il réside au Canada tout au long de l'année,

(ii) pour la partie de l'année tout au long de laquelle il a résidé au Canada, s'il est un non-résident à un moment de l'année;

b) d'autre part, l'excédent éventuel :

(i) soit de son revenu pour l'année, calculé compte non tenu de l'alinéa 20(1)ww), s'il réside au Canada tout au long de l'année,

(ii) soit du montant déterminé selon l'alinéa 114a) à son égard pour l'année, s'il est un non-résident à un moment de l'année,

sur :

(iii) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application de l'un des alinéas 110(1)d) à d.3), f), g) et j), dans le calcul de son revenu imposable pour l'année.

Toutefois, le montant déductible en application du présent paragraphe dans le calcul de l'impôt payable par le particulier en vertu de la présente partie pour l'année ne peut dépasser le produit de la multiplication du total des montants versés par le particulier à l'organisation à titre de contribution — dont le produit sert à couvrir les dépenses de l'organisation — et calculés de la même façon que l'impôt sur le revenu, c'est-à-dire en fonction du traitement que le particulier reçoit de l'organisation au cours de l'année, par le rapport entre :

remuneration received by the individual in the year from the organization in a manner similar to the manner in which income tax is computed, that

(c) the individual's income for the year from employment with the organization

is of

(d) the amount that would be the individual's income for the year from employment with the organization if this Act were read without reference to paragraph 81(1)(a).

c) d'une part, son revenu d'emploi dans l'organisation pour l'année;

d) d'autre part, le montant qui serait son revenu d'emploi dans l'organisation compte non tenu de l'alinéa 81(1)a).

Portion of foreign tax not included

(4) For the purposes of this Act, an income or profits tax paid by a person resident in Canada to the government of a country other than Canada does not include a tax, or that portion of a tax, imposed by that government that would not be imposed if the person were not entitled under section 113 or this section to a deduction in respect of the tax or that portion of the tax.

Exclusion d'une partie de l'impôt étranger

(4) Pour l'application de la présente loi, un impôt sur le revenu ou sur les bénéfices, payé au gouvernement d'un pays étranger par une personne résidant au Canada, ne comprend pas un impôt, ou la partie d'un impôt, prélevé par ce gouvernement et dont la personne serait exonérée si elle n'avait pas droit, en vertu de l'article 113 ou du présent article, à une déduction relative à cet impôt ou à cette partie d'impôt.

No economic profit

(4.1) If a taxpayer acquires a property, other than a capital property, at any time after February 23, 1998 and it is reasonable to expect at that time that the taxpayer will not realize an economic profit in respect of the property for the period that begins at that time and ends when the taxpayer next disposes of the property, the total amount of all income or profits taxes (referred to as the "foreign tax" for the purpose of subsection 20(12.1)) in respect of the property for the period, and in respect of related transactions, paid by the taxpayer for any year to the government of any country other than Canada, is not included in computing the taxpayer's business-income tax or non-business-income tax for any taxation year.

Absence de profit économique

(4.1) Lorsqu'un contribuable acquiert un bien, sauf une immobilisation, après le 23 février 1998 et qu'il est raisonnable de s'attendre, au moment de l'acquisition, à ce qu'il ne réalise pas de profit économique relativement au bien pour la période commençant à ce moment et se terminant au moment de la disposition subséquente du bien par le contribuable, le total des impôts sur le revenu ou sur les bénéfices (appelés « impôt étranger » pour l'application du paragraphe 20(12.1)) relatifs au bien pour la période, et relatifs aux opérations connexes, payés par le contribuable pour une année au gouvernement d'un pays étranger, n'est pas inclus dans le calcul de son impôt sur le revenu tiré d'une entreprise, ou de son impôt sur le revenu ne provenant pas d'une entreprise, pour une année d'imposition.

Denial of foreign tax credit

(4.11) If a taxpayer is a member of a partnership, any income or profits tax paid to the government of a particular country other than Canada — in respect of the income of the partnership for a period during which the taxpayer's direct or indirect share of the income of the partnership under the income tax laws (referred to in subsection (4.12) as the "relevant foreign tax law") of any country other than Canada under the laws of which any income of the partnership is subject to income taxation, is less than the taxpayer's direct or indirect share of the income for the purposes of this Act — is not included in computing the taxpayer's business-income tax or non-business-income tax for any taxation year.

Sommes exclues du crédit pour impôt étranger

(4.11) Si un contribuable est l'associé d'une société de personnes, n'est pas inclus dans le calcul de son impôt sur le revenu tiré d'une entreprise, ou de son impôt sur le revenu ne provenant pas d'une entreprise, pour une année d'imposition tout impôt sur le revenu ou sur les bénéfices payé au gouvernement d'un pays étranger au titre du revenu de la société de personnes pour une période au cours de laquelle la part directe ou indirecte du revenu de la société de personnes qui revient au contribuable selon la législation fiscale (appelée « législation étrangère applicable » au paragraphe (4.12)) d'un pays étranger sous le régime des lois duquel le revenu de la société de personnes est assujetti à l'impôt sur le revenu, est inférieure

Exceptions

(4.12) For the purposes of subsection (4.11), a taxpayer is not to be considered to have a lesser direct or indirect share of the income of a partnership under the relevant foreign tax law than for the purposes of this Act solely because of one or more of the following:

(a) a difference between the relevant foreign tax law and this Act in the manner of

(i) computing the income of the partnership, or

(ii) allocating the income of the partnership because of the admission to, or withdrawal from, the partnership of any of its members;

(b) the treatment of the partnership as a corporation under the relevant foreign tax law; or

(c) the fact that the taxpayer is not treated as a corporation under the relevant foreign tax law.

Tiered partnerships

(4.13) For the purposes of subsections (4.11) and (4.12), if a taxpayer is (or is deemed by this subsection to be) a member of a particular partnership that is a member of another partnership, the taxpayer is deemed to be a member of the other partnership.

Short-term securities acquisitions

(4.2) If at any particular time a taxpayer disposes of a property that is a share or debt obligation and the period that began at the time the taxpayer last acquired the property and ended at the particular time is one year or less, the amount included in business-income tax or non-business-income tax paid by the taxpayer for a particular taxation year on account of all taxes (referred to in this subsection and subsections (4.3) and 161(6.1) as the "foreign tax") that are

(a) paid by the taxpayer in respect of dividends or interest in respect of the period that are included in computing the taxpayer's income from the property for any taxation year,

(b) otherwise included in business-income tax or non-business-income tax for any taxation year, and

(c) similar to the tax levied under Part XIII

à la part qui lui revient pour l'application de la présente loi.

Exceptions

(4.12) Pour l'application du paragraphe (4.11), un contribuable n'est pas considéré, selon la législation étrangère applicable, avoir une part directe ou indirecte du revenu d'une société de personnes qui est inférieure à celle qu'il a pour l'application de la présente loi du seul fait :

a) que la législation étrangère applicable et la présente loi diffèrent sur l'un des plans suivants :

(i) la méthode de calcul du revenu de la société de personnes,

(ii) la méthode de répartition du revenu de la société de personnes par suite de l'entrée de nouveaux associés ou du retrait d'associés;

b) que la société de personnes est traitée comme une société selon la législation étrangère applicable;

c) que le contribuable n'est pas traité comme une société selon la législation étrangère applicable.

Sociétés de personnes étagées

(4.13) Pour l'application des paragraphes (4.11) et (4.12), le contribuable qui est, ou qui est réputé être en vertu du présent paragraphe, un associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes est réputé être un associé de cette dernière.

Acquisition de titres à court terme

(4.2) Lorsqu'un contribuable dispose d'un bien — action ou titre de créance — à un moment donné et que la période ayant commencé au moment où il a acquis le bien pour la dernière fois et s'étant terminée au moment donné est d'une durée d'une année ou moins, le montant inclus dans l'impôt sur le revenu tiré d'une entreprise, ou dans l'impôt sur le revenu ne provenant pas d'une entreprise, payé par le contribuable pour une année d'imposition donnée au titre des impôts (appelés « impôt étranger » au présent paragraphe et aux paragraphes (4.3) et 161(6.1)) qui sont, à la fois :

a) payés par le contribuable relativement à des dividendes ou des intérêts pour la période qui sont inclus dans le calcul de son revenu tiré du bien pour une année d'imposition,

b) inclus par ailleurs dans l'impôt sur le revenu tiré d'une entreprise ou l'impôt sur le revenu ne provenant pas d'une entreprise pour une année d'imposition,

shall, subject to subsection (4.3), not exceed the amount determined by the formula

A × (B - C) × D/E

where

A is

(a) if the foreign tax would otherwise be included in business-income tax, the total of

(i) that proportion of 26.5% that the number of days in the taxation year that are in 2011 is of the number of days in the taxation year, and

(ii) that proportion of 25% that the number of days in the taxation year that are after 2011 is of the number of days in the taxation year, and

(b) if the foreign tax would otherwise be included in non-business-income tax, the total of

(i) if the taxpayer is a corporation that is a Canadian-controlled private corporation throughout the taxation year, that proportion of 28% that the number of days in the taxation year that are after 2010 is of the number of days in the taxation year, and

(ii) if the taxpayer is not a Canadian-controlled private corporation throughout the taxation year, the total of

(A) that proportion of 16.5% that the number of days in the taxation year that are in 2011 is of the number of days in the taxation year, and

(B) that proportion of 15% that the number of days in the taxation year that are after 2011 is of the number of days in the taxation year,

B is the total of the taxpayer's proceeds from the disposition of the property at the particular time and the amount of all dividends or interest from the property in respect of the period included in computing the taxpayer's income for any taxation year,

C is the total of the cost at which the taxpayer last acquired the property and any outlays or expenses made or incurred by the taxpayer for the purpose of disposing of the property at the particular time,

D is the amount of foreign tax that would otherwise be included in computing the taxpayer's business-income tax or non-business-income tax for the particular year, and

E is the total amount of foreign tax that would otherwise be included in computing the taxpayer's business-income tax or non-business-income tax for all taxation years.

c) semblables à l'impôt perçu en vertu de la partie XIII,

ne peut dépasser, sous réserve du paragraphe (4.3), le montant obtenu par la formule suivante :

A × (B - C) × D/E

où :

A représente :

a) dans le cas où l'impôt étranger serait inclus par ailleurs dans l'impôt sur le revenu tiré d'une entreprise, le total de ce qui suit :

(i) la proportion de 26,5 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2011 et le nombre total de jours de l'année d'imposition,

(ii) la proportion de 25 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont postérieurs à 2011 et le nombre total de jours de l'année d'imposition,

b) dans le cas où l'impôt étranger serait inclus par ailleurs dans l'impôt sur le revenu ne provenant pas d'une entreprise, le total de ce qui suit :

(i) si le contribuable est une société privée sous contrôle canadien tout au long de l'année d'imposition, la proportion de 28 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont postérieurs à 2010 et le nombre total de jours de l'année d'imposition,

(ii) si le contribuable n'est pas une société privée sous contrôle canadien tout au long de l'année d'imposition, le total de ce qui suit :

(A) la proportion de 16,5 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2011 et le nombre total de jours de l'année d'imposition,

(B) la proportion de 15 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont postérieurs à 2011 et le nombre total de jours de l'année d'imposition,

B la somme du produit de disposition du bien pour le contribuable au moment donné et du montant des dividendes et intérêts relatifs au bien pour la période inclus dans le calcul de son revenu pour une année d'imposition;

C la somme du coût auquel le contribuable a acquis le bien la dernière fois et des dépenses qu'il a engagées ou effectuées en vue de disposer du bien au moment donné;

D le montant d'impôt étranger qui serait inclus par ailleurs dans le calcul de l'impôt sur le revenu tiré d'une entreprise du contribuable, ou dans le calcul de son impôt sur le revenu ne provenant pas d'une entreprise, pour l'année donnée;

E le montant total d'impôt étranger qui serait inclus par ailleurs dans le calcul de l'impôt sur le revenu tiré d'une entreprise du contribuable, ou dans le calcul de son impôt sur le revenu ne provenant pas d'une entreprise, pour toutes les années d'imposition.

Exceptions

(4.3) Subsection (4.2) does not apply to a property of a taxpayer

(a) that is a capital property;

(b) that is a debt obligation issued to the taxpayer that has a term of one year or less and that is held by no one other than the taxpayer at any time;

(c) that was last acquired by the taxpayer before February 24, 1998; or

(d) in respect of which any foreign tax is, because of subsection (4.1), not included in computing the taxpayer's business-income tax or non-business-income tax.

Exception

(4.3) Le paragraphe (4.2) ne s'applique pas au bien d'un contribuable à l'égard duquel l'un des faits suivants se vérifie :

a) il s'agit d'une immobilisation;

b) il s'agit d'un titre de créance d'une durée d'une année ou moins qui est émis au contribuable et qui n'est détenu par nulle autre personne que lui;

c) le contribuable l'a acquis pour la dernière fois avant le 24 février 1998;

d) un montant d'impôt étranger n'a pas été inclus à son égard, par l'effet du paragraphe (4.1), dans le calcul de l'impôt sur le revenu tiré d'une entreprise du contribuable ou de son impôt sur le revenu ne provenant pas d'une entreprise.

Dispositions ignored

(4.4) For the purposes of subsections (4.1) and (4.2) and the definition ***economic profit*** in subsection (7),

(a) a disposition or acquisition of property deemed to be made by subsection 10(12) or (13) or 45(1), section 70, 128.1 or 132.2, subsections 138(11.3) or 142.5(2), paragraph 142.6(1)(b) or subsections 142.6(1.1) or (1.2) or 149(10) is not a disposition or acquisition, as the case may be; and

(b) a disposition

(i) to which section 51.1 applies, of a convertible obligation in exchange for a new obligation,

(ii) to which subsection 86(1) applies, of old shares in exchange for new shares, or

(iii) to which subsections 87(4) and (8) apply, of old shares in exchange for new shares,

is not a disposition, and the convertible obligation and the new obligation, or the old shares and the new shares, as the case may be, are deemed to be the same property.

Présomptions inapplicables

(4.4) Pour l'application des paragraphes (4.1) et (4.2) et de la définition de ***profit économique*** au paragraphe (7), les règles suivantes s'appliquent :

a) la disposition ou l'acquisition d'un bien qui est réputée être effectuée par les paragraphes 10(12) ou (13) ou 45(1), les articles 70, 128.1 ou 132.2, les paragraphes 138(11.3) ou 142.5(2), l'alinéa 142.6(1)b) ou les paragraphes 142.6(1.1) ou (1.2) ou 149(10) n'est pas une disposition ou une acquisition, selon le cas;

b) les dispositions suivantes n'en sont pas :

(i) celle, à laquelle l'article 51.1 s'applique, d'un titre convertible en échange d'un nouveau titre,

(ii) celle, à laquelle le paragraphe 86(1) s'applique, d'anciennes actions en échange de nouvelles actions,

(iii) celle, à laquelle les paragraphes 87(4) et (8) s'appliquent, d'anciennes actions en échange de nouvelles actions;

de plus, le titre convertible et le nouveau titre, ou les anciennes actions et les nouvelles actions, sont réputés être le même bien.

Synthetic disposition — holding period

(4.5) If a synthetic disposition arrangement is entered into in respect of a property owned by a taxpayer and the synthetic disposition period of the arrangement is 30 days or more,

(a) for the purpose of determining whether the period referred to in subsection (4.2) is one year or less, the period is deemed to begin at the earlier of

(i) the time that is immediately before the particular time referred to in subsection (4.2), and

(ii) the end, if any, of the synthetic disposition period; and

(b) for the purposes of subsection (4.6), the taxpayer is deemed not to own the property during the synthetic disposition period.

Disposition factice — période de détention

(4.5) Si un arrangement de disposition factice est conclu relativement à un bien appartenant à un contribuable et que la période de disposition factice relative à l'arrangement dure 30 jours ou plus, les règles ci-après s'appliquent :

a) pour déterminer si la période visée au paragraphe (4.2) dure un an ou moins, cette période est réputée commencer au premier en date des moments suivants :

(i) le moment immédiatement avant le moment donné visé à ce paragraphe,

(ii) la fin de la période de disposition factice;

b) pour l'application du paragraphe (4.6), le bien est réputé ne pas appartenir au contribuable pendant la période de disposition factice.

Exception

(4.6) Subsection (4.5) does not apply in respect of a property owned by a taxpayer in respect of a synthetic disposition arrangement if the taxpayer owned the property throughout the one-year period (determined without reference to this subsection) that ended immediately before the synthetic disposition period of the arrangement.

Exception

(4.6) Le paragraphe (4.5) ne s'applique pas à l'égard d'un bien appartenant à un contribuable relativement à un arrangement de disposition factice si le bien lui a appartenu tout au long de la période d'un an (déterminée compte non tenu du présent paragraphe) s'étant terminée immédiatement avant la période de disposition factice relative à l'arrangement.

Foreign oil and gas levies

(5) A taxpayer who is resident in Canada throughout a taxation year and carries on a foreign oil and gas business in a taxing country in the year is deemed for the purposes of this section to have paid in the year as an income or profits tax to the government of the taxing country an amount equal to the lesser of

(a) the amount, if any, by which

(i) the amount obtained by multiplying the taxpayer's income from the business in the taxing country for the year by the total of

(A) that proportion of 26.5% that the number of days in the taxation year that are in 2011 is of the number of days in the taxation year, and

(B) that proportion of 25% that the number of days in the taxation year that are after 2011 is of the number of days in the taxation year

Prélèvements pétroliers et gaziers étrangers

(5) Le contribuable qui réside au Canada tout au long d'une année d'imposition et qui exploite une entreprise pétrolière et gazière à l'étranger dans un pays taxateur au cours de l'année est réputé, pour l'application du présent article, avoir payé au cours de l'année, à titre d'impôt sur le revenu ou sur les bénéfices au gouvernement du pays taxateur, un montant égal au moins élevé des montants suivants :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) le résultat de la multiplication de son revenu pour l'année tiré de l'entreprise exploitée dans le pays taxateur par le total de ce qui suit :

(A) la proportion de 26,5 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2011 et le nombre total de jours de l'année d'imposition,

exceeds

(ii) the total of all amounts that would, but for this subsection, be income or profits taxes paid in the year in respect of the business to the government of the taxing country, and

(b) the taxpayer's production tax amount for the business in the taxing country for the year.

(B) la proportion de 25 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont postérieurs à 2011 et le nombre total de jours de l'année d'imposition,

(ii) le total des montants qui, en l'absence du présent paragraphe, représenteraient les impôts sur le revenu ou les bénéfices payés au gouvernement du pays taxateur au cours de l'année relativement à l'entreprise;

b) l'impôt sur la production payé par le contribuable pour l'année relativement à l'entreprise exploitée dans le pays taxateur.

Deductions for specified capital gains

(5.1) Where in a taxation year an individual has claimed a deduction under section 110.6 in computing the individual's taxable income for the year, for the purposes of this section the individual shall be deemed to have claimed the deduction under section 110.6 in respect of such taxable capital gains or portion thereof as the individual may specify in the individual's return of income required to be filed pursuant to section 150 for the year or, where the individual has failed to so specify, in respect of such taxable capital gains as the Minister may specify in respect of the taxpayer for the year.

Déduction pour les seuls gains en capital indiqués

(5.1) Le particulier qui, au cours d'une année d'imposition, demande une déduction selon l'article 110.6 dans le calcul de son revenu imposable pour l'année est réputé, pour l'application du présent article, demander la déduction selon l'article 110.6 au titre de tout ou partie des gains en capital imposables qu'il indique dans la déclaration de revenu qu'il est tenu de produire conformément à l'article 150 pour l'année ou, s'il n'en indique pas, au titre des gains en capital imposables que le ministre indique à l'égard du contribuable pour l'année.

Rules of construction

(6) For the purposes of this section,

(a) the government of a country other than Canada includes the government of a state, province or other political subdivision of that country;

(b) where a taxpayer's income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsections (1) and (2) shall be read as providing for separate deductions in respect of each of the countries other than Canada;

(c) if any income from a source in a particular country would be tax-exempt income but for the fact that a portion of the income is subject to an income or profits tax imposed by the government of a country other than Canada, the portion is deemed to be income from a separate source in the particular country; and

(d) if, in computing a taxpayer's income for a taxation year from a business carried on by the taxpayer in Canada, an amount is included in respect of interest paid or payable to the taxpayer by a person resident in a country other than Canada, and the taxpayer has paid to the government of that other country a non-business income tax for the year with respect to the amount, the amount is, in applying the definition

Règles d'interprétation

(6) Les règles suivantes s'appliquent dans le cadre du présent article :

a) le gouvernement d'un pays étranger comprend le gouvernement d'un État, d'une province ou d'une autre subdivision politique du pays;

b) lorsque le revenu d'un contribuable pour une année d'imposition provient, en totalité ou en partie, de sources situées dans des pays étrangers, les paragraphes (1) et (2) doivent s'interpréter comme autorisant des déductions distinctes relativement à chacun des pays étrangers;

c) dans le cas où un revenu provenant d'une source située dans un pays donné serait un revenu exonéré d'impôt si ce n'était le fait qu'une partie du revenu est assujetti à un impôt sur le revenu ou sur les bénéfices prélevé par le gouvernement d'un pays étranger, la partie en question est réputée provenir d'une source distincte située dans le pays donné;

d) si une somme est incluse, dans le calcul du revenu d'un contribuable pour une année d'imposition tiré d'une entreprise qu'il exploite au Canada, au titre des intérêts payés ou à payer au contribuable par une personne résidant dans un pays étranger et que le

qualifying incomes in subsection (7) for the purpose of subsection (1), deemed to be income from a source in that other country.

Definitions

(7) In this section,

business-income tax paid by a taxpayer for a taxation year in respect of businesses carried on by the taxpayer in a country other than Canada (referred to in this definition as the "business country") means, subject to subsections (4.1) to (4.2), the portion of any income or profits tax paid by the taxpayer for the year to the government of a country other than Canada that can reasonably be regarded as tax in respect of the income of the taxpayer from a business carried on by the taxpayer in the business country, but does not include a tax, or the portion of a tax, that can reasonably be regarded as relating to an amount that

(a) any other person or partnership has received or is entitled to receive from that government, or

(b) was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income for the year; (*impôt sur le revenu tiré d'une entreprise*)

commercial obligation in respect of a taxpayer's foreign oil and gas business in a country means an obligation of the taxpayer to a particular person, undertaken in the course of carrying on the business or in contemplation of the business, if the law of the country would have allowed the taxpayer to undertake an obligation, on substantially the same terms, to a person other than the particular person; (*obligation commerciale*)

economic profit of a taxpayer in respect of a property for a period means the part of the taxpayer's profit, from the business in which the property is used, that is attributable to the property in respect of the period or to related transactions, determined as if the only amounts deducted in computing that part of the profit were

(a) interest and financing expenses incurred by the taxpayer and attributable to the acquisition or holding of the property in respect of the period or to a related transaction,

(b) income or profits taxes payable by the taxpayer for any year to the government of a country other than Canada, in respect of the property for the period or in respect of a related transaction, or

contribuable a payé au gouvernement de ce pays pour l'année, relativement à cette somme, un impôt sur le revenu ne provenant pas d'une entreprise, la somme est réputée, pour l'application dans le cadre du paragraphe (1) de la définition de ***revenus admissibles*** au paragraphe (7), être un revenu provenant d'une source située dans le pays étranger.

Définitions

(7) Les définitions qui suivent s'appliquent au présent article.

entreprise pétrolière et gazière à l'étranger Entreprise exploitée par un contribuable dans un pays taxateur, dont la principale activité consiste à extraire du pétrole, du gaz naturel ou des hydrocarbures connexes de gisements naturels ou de puits de pétrole ou de gaz. (*foreign oil and gas business*)

fraction inutilisée du crédit pour impôt étranger S'agissant de la fraction inutilisée du crédit pour impôt étranger d'un contribuable relativement à un pays pour une année d'imposition, l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) :

a) l'impôt sur le revenu tiré d'une entreprise qu'il a payé pour l'année relativement aux entreprises qu'il exploite dans ce pays;

b) le montant déductible en application du paragraphe (2) relativement à ce pays dans le calcul de son impôt payable en vertu de la présente partie pour l'année. (*unused foreign tax credit*)

impôt payable par ailleurs pour l'année en vertu de la présente partie S'agissant de l'impôt payable par ailleurs pour l'année en vertu de la présente partie par un contribuable :

a) à l'alinéa (1)b) et au paragraphe (3), le montant obtenu par la formule suivante :

A - B

où :

A représente l'impôt payable en vertu de la présente partie pour l'année par le contribuable, calculé compte non tenu de l'article 120.3 et avant toute déduction visée à l'un des articles 121, 122.3, 125 à 127.41 et, si le contribuable est une société privée sous contrôle canadien, 123.4,

B les sommes réputées, par les paragraphes 120(2) et (2.2), avoir été payées au titre de l'impôt payable en vertu de la présente partie par le contribuable;

(c) other outlays and expenses that are directly attributable to the acquisition, holding or disposition of the property in respect of the period or to a related transaction; (*profit économique*)

foreign oil and gas business of a taxpayer means a business, carried on by the taxpayer in a taxing country, the principal activity of which is the extraction from natural accumulations, or from oil or gas wells, of petroleum, natural gas or related hydrocarbons; (*entreprise pétrolière et gazière à l'étranger*)

non-business-income tax paid by a taxpayer for a taxation year to the government of a country other than Canada means, subject to subsections (4.1) to (4.2), the portion of any income or profits tax paid by the taxpayer for the year to the government of that country that

(a) was not included in computing the taxpayer's business-income tax for the year in respect of any business carried on by the taxpayer in any country other than Canada,

(b) was not deductible by virtue of subsection 20(11) in computing the taxpayer's income for the year, and

(c) was not deducted by virtue of subsection 20(12) in computing the taxpayer's income for the year,

but does not include a tax, or the portion of a tax,

(c.1) that is in respect of an amount deducted because of subsection 104(22.3) in computing the taxpayer's business-income tax,

(d) that would not have been payable had the taxpayer not been a citizen of that country and that cannot reasonably be regarded as attributable to income from a source outside Canada,

(e) that may reasonably be regarded as relating to an amount that any other person or partnership has received or is entitled to receive from that government,

(f) that, where the taxpayer deducted an amount under subsection 122.3(1) from the taxpayer's tax otherwise payable under this Part for the year, may reasonably be regarded as attributable to the taxpayer's income from employment to the extent of the lesser of the amounts determined in respect thereof under paragraphs 122.3(1)(c) and 122.3(1)(d) for the year,

(g) that can reasonably be attributed to a taxable capital gain or a portion thereof in respect of which the taxpayer or a spouse or common-law partner of the taxpayer has claimed a deduction under section 110.6, or

b) au sous-alinéa (2)c)(i) et à l'alinéa (2.2)b), l'impôt payable en vertu de la présente partie pour l'année par le contribuable, calculé compte non tenu des articles 120.3 et 123.3 et avant toute déduction visée à l'un des articles 121 et 122.3, du paragraphe 123.4(3) et des articles 124 à 127.41;

c) au paragraphe (2.1), l'impôt payable en vertu de la présente partie pour l'année par le contribuable, calculé compte non tenu du paragraphe 120(1) et des articles 120.3 et 123.3 et avant toute déduction visée à l'un des articles 121 et 122.3, du paragraphe 123.4(3) et des articles 124 à 127.41. (*tax for the year otherwise payable under this Part*)

impôt sur la production En ce qui concerne l'entreprise pétrolière et gazière à l'étranger exploitée par un contribuable dans un pays taxateur pour une année d'imposition, le total des montants répondant chacun aux conditions suivantes :

a) il est devenu à recevoir au cours de l'année par le gouvernement du pays en raison d'une obligation (sauf une obligation commerciale) du contribuable, relativement à l'entreprise, envers le gouvernement ou l'un de ses mandataires ou intermédiaires;

b) il est calculé en fonction de l'excédent de la mesure visée au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) la quantité ou la valeur du pétrole, du gaz naturel ou des hydrocarbures connexes produits ou extraits par le contribuable dans le cadre de l'exploitation de l'entreprise au cours de l'année,

(ii) une allocation ou autre déduction qui remplit les conditions suivantes :

(A) elle est déductible, en application de la convention ou de la loi qui crée l'obligation visée à l'alinéa a), dans le calcul du montant à recevoir par le gouvernement du pays,

(B) elle est censée tenir compte des coûts d'exploitation et en capital de la production ou de l'extraction pour le contribuable, et il est raisonnable de considérer qu'elle a cet effet;

c) il ne serait pas un impôt sur le revenu ou sur les bénéfices s'il n'était pas tenu compte du paragraphe (5);

d) il ne constitue pas une redevance aux termes de la convention qui crée l'obligation ou aux termes des lois du pays. (*production tax amount*)

(h) [Repealed, 2013, c. 33, s. 13]

(i) that can reasonably be regarded as relating to an amount that was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income for the year; (*impôt sur le revenu ne provenant pas d'une entreprise*)

production tax amount of a taxpayer for a foreign oil and gas business carried on by the taxpayer in a taxing country for a taxation year means the total of all amounts each of which

(a) became receivable in the year by the government of the country because of an obligation (other than a commercial obligation) of the taxpayer, in respect of the business, to the government or an agent or instrumentality of the government,

(b) is computed by reference to the amount by which

(i) the amount or value of petroleum, natural gas or related hydrocarbons produced or extracted by the taxpayer in the course of carrying on the business in the year

exceeds

(ii) an allowance or other deduction that

(A) is deductible, under the agreement or law that creates the obligation described in paragraph (a), in computing the amount receivable by the government of the country, and

(B) is intended to take into account the taxpayer's operating and capital costs of that production or extraction, and can reasonably be considered to have that effect,

(c) would not, if this Act were read without reference to subsection (5), be an income or profits tax, and

(d) is not identified as a royalty under the agreement that creates the obligation or under any law of the country; (*impôt sur la production*)

qualifying incomes of a taxpayer from sources in a country means incomes from sources in the country, determined in accordance with subsection (9); (*revenus admissibles*)

qualifying losses of a taxpayer from sources in a country means losses from sources in the country, determined in accordance with subsection (9); (*pertes admissibles*)

impôt sur le revenu ne provenant pas d'une entreprise S'agissant de l'impôt sur le revenu ne provenant pas d'une entreprise payé par un contribuable pour une année d'imposition au gouvernement d'un pays étranger, s'entend, sous réserve des paragraphes (4.1) à (4.2), de la fraction de l'impôt sur le revenu ou sur les bénéfices qu'il a payé pour l'année au gouvernement de ce pays, qui remplit les conditions suivantes :

a) elle n'a pas été incluse dans le calcul de l'impôt sur le revenu provenant d'entreprises du contribuable pour l'année, relativement à une entreprise exploitée par lui dans un pays étranger;

b) elle n'était pas déductible en vertu du paragraphe 20(11) dans le calcul de son revenu pour l'année;

c) elle n'a pas été déduite en vertu du paragraphe 20(12) dans le calcul de son revenu pour l'année.

Le terme ne vise toutefois pas un impôt ou la fraction d'un impôt :

c.1) qui se rapporte à un montant déduit par l'effet du paragraphe 104(22.3) dans le calcul de l'impôt sur le revenu tiré d'une entreprise payé par le contribuable;

d) qui n'aurait pas été payable si le contribuable n'avait pas été un citoyen de ce pays et qu'il n'est pas raisonnable de considérer comme étant attribuable à un revenu tiré d'une source située à l'étranger;

e) qu'il est raisonnable de considérer comme se rapportant à un montant que toute autre personne ou toute société de personnes a reçu ou a le droit de recevoir de ce gouvernement;

f) que, si le contribuable déduit une somme selon le paragraphe 122.3(1) de son impôt payable par ailleurs pour l'année en vertu de la présente partie, il est raisonnable de considérer comme se rapportant à son revenu d'emploi, à concurrence du moindre des montants déterminés à ce titre pour l'année en vertu de l'alinéa 122.3(1)c) ou d);

g) qu'il est raisonnable d'attribuer à tout ou partie d'un gain en capital imposable au titre duquel le contribuable ou son époux ou conjoint de fait demande une déduction selon l'article 110.6;

h) [Abrogé, 2013, ch. 33, art. 13]

i) qu'il est raisonnable de considérer comme se rapportant à un montant déductible en application du sous-alinéa 110(1)f)(i) dans le calcul du revenu imposable du contribuable pour l'année. (*non-business income tax*)

related transactions, in respect of a taxpayer's ownership of a property for a period, means transactions entered into by the taxpayer as part of the arrangement under which the property was owned; (*opérations connexes*)

tax-exempt income means income of a taxpayer from a source in a country in respect of which

(a) the taxpayer is, because of a tax treaty with that country, entitled to an exemption from all income or profits taxes, imposed in that country, to which the treaty applies, and

(b) no income or profits tax to which the treaty does not apply is imposed in any country other than Canada; (*revenu exonéré d'impôt*)

tax for the year otherwise payable under this Part by a taxpayer means

(a) in paragraph (1)(b) and subsection (3), the amount determined by the formula

A - B

where

A is the amount that would be the tax payable under this Part for the year by the taxpayer if that tax were determined without reference to section 120.3 and before making any deduction under any of sections 121, 122.3, 125 to 127.41 and, if the taxpayer is a Canadian-controlled private corporation throughout the year, section 123.4, and

B is the amounts deemed by subsections 120(2) and (2.2) to have been paid on account of tax payable under this Part by the taxpayer,

(b) in subparagraph (2)(c)(i) and paragraph (2.2)(b), the amount that would be the tax payable under this Part for the year by the taxpayer if that tax were determined without reference to sections 120.3 and 123.3 and before making any deduction under any of sections 121 and 122.3, subsection 123.4(3), and sections 124 to 127.41, and

(c) in subsection (2.1), the amount that would be the tax payable under this Part for the year by the taxpayer if that tax were determined without reference to subsection 120(1) and sections 120.3 and 123.3 and before making any deduction under any of sections 121 and 122.3, subsection 123.4(3) and sections 124 to 127.41; (*impôt payable par ailleurs pour l'année en vertu de la présente partie*)

impôt sur le revenu tiré d'une entreprise S'agissant de l'impôt sur le revenu tiré d'une entreprise payé par un contribuable pour une année d'imposition relativement à des entreprises qu'il exploite dans un pays étranger (appelé « pays des entreprises » dans la présente définition), s'entend, sous réserve des paragraphes (4.1) à (4.2), de la fraction de l'impôt sur le revenu ou sur les bénéfices qu'il a payé pour l'année au gouvernement d'un pays étranger qu'il est raisonnable de considérer comme un impôt frappant son revenu tiré d'une entreprise qu'il exploite dans le pays des entreprises. Est exclu de l'impôt sur le revenu tiré d'une entreprise l'impôt, ou la partie d'un impôt, qu'il est raisonnable de considérer comme se rapportant à un montant :

a) soit qu'une autre personne ou société de personnes a reçu ou est en droit de recevoir de ce gouvernement;

b) soit qui est déductible en application du sous-alinéa 110(1)f)(i) dans le calcul du revenu imposable du contribuable pour l'année. (*business-income tax*)

obligation commerciale En ce qui concerne l'entreprise pétrolière et gazière à l'étranger qu'un contribuable exploite dans un pays, obligation du contribuable envers une personne donnée, contractée dans le cadre de l'exploitation de l'entreprise ou en prévision de l'entreprise, dans le cas où les lois du pays lui auraient permis de contracter, envers une personne autre que la personne donnée, une obligation prévoyant sensiblement les mêmes conditions. (*commercial obligation*)

opérations connexes Quant à la propriété d'un bien par un contribuable pour une période, opérations qu'il a conclues dans le cadre de l'arrangement visant la propriété du bien. (*related transactions*)

pays taxateur Pays étranger dont le gouvernement impose régulièrement, relativement au revenu tiré d'entreprises exploitées dans le pays, un prélèvement ou un droit d'application générale qui serait un impôt sur le revenu ou sur les bénéfices s'il n'était pas tenu compte du paragraphe (5). (*taxing country*)

pertes admissibles Les pertes d'un contribuable résultant de sources situées dans un pays, déterminées conformément au paragraphe (9). (*qualifying losses*)

profit économique S'agissant du profit économique d'un contribuable relatif à un bien pour une période, la partie des bénéfices du contribuable, provenant de l'entreprise dans laquelle le bien est utilisé, qui est attribuable au bien pour la période ou à des opérations connexes, déterminée comme si les seuls montants déduits dans le calcul de cette partie de bénéfices étaient les suivants :

taxing country means a country (other than Canada) the government of which regularly imposes, in respect of income from businesses carried on in the country, a levy or charge of general application that would, if this Act were read without reference to subsection (5), be an income or profits tax; (*pays taxateur*)

unused foreign tax credit of a taxpayer in respect of a country for a taxation year means the amount, if any, by which

(a) the business-income tax paid by the taxpayer for the year in respect of businesses carried on by the taxpayer in that country

exceeds

(b) the amount, if any, deductible under subsection (2) in respect of that country in computing the taxpayer's tax payable under this Part for the year. (*fraction inutilisée du crédit pour impôt étranger*)

a) les intérêts et les frais de financement engagés par le contribuable et attribuables à l'acquisition ou à la détention du bien pour la période ou à une opération connexe;

b) les impôts sur le revenu ou sur les bénéfices payables par le contribuable pour une année au gouvernement d'un pays étranger relativement au bien pour la période ou relativement à une opération connexe;

c) les autres dépenses engagées ou effectuées qui sont directement attribuables à l'acquisition, à la détention ou à la disposition du bien pour la période ou à une opération connexe. (*economic profit*)

revenu exonéré d'impôt Le revenu d'un contribuable provenant d'une source située dans un pays, dans le cas où, à la fois :

a) le contribuable a droit relativement au revenu, par l'effet d'un traité fiscal conclu avec ce pays, à une exemption des impôts sur le revenu ou sur les bénéfices prélevés dans ce pays et auxquels le traité s'applique;

b) aucun impôt sur le revenu ou sur les bénéfices auquel le traité ne s'applique pas n'est prélevé sur le revenu dans un pays autre que le Canada. (*tax-exempt income*)

revenus admissibles Les revenus d'un contribuable tirés de sources situées dans un pays, déterminés conformément au paragraphe (9). (*qualifying incomes*)

Deemed dividend — partnership

(8) If an amount is deemed by subsection 96(1.11) to be a taxable dividend received by a person in a taxation year of the person in respect of a partnership, and it is reasonable to consider that all or part of the amount (in this subsection referred to as the "foreign-source portion") is attributable to income of the partnership from a source in a country other than Canada, the person is deemed for the purposes of this section to have an amount of income from that source for that taxation year equal to the amount determined by the formula

A × B/C

where

A is the total amount included under subsection 82(1) in computing the income of the person in respect of the taxable dividend for that taxation year;

B is the foreign-source portion; and

Dividende réputé — société de personnes

(8) Si une somme est réputée, en vertu du paragraphe 96(1.11), être un dividende imposable qu'une personne a reçu au cours d'une année d'imposition relativement à une société de personnes et qu'il est raisonnable de considérer que la totalité ou une partie de la somme (appelée « partie provenant d'une source à l'étranger » au présent paragraphe) est attribuable au revenu de la société de personnes provenant d'une source à l'étranger, la personne est réputée, pour l'application du présent article, tirer de cette source pour l'année un montant de revenu égal à la somme obtenue par la formule suivante :

A × B/C

où :

A représente le montant total inclus en application du paragraphe 82(1) dans le calcul du revenu de la personne au titre du dividende imposable pour l'année;

B la partie provenant d'une source à l'étranger;

C is the amount of the taxable dividend deemed to be received by the person.

C le montant du dividende imposable que la personne est réputée avoir reçu.

Computation of qualifying incomes and losses

(9) The qualifying incomes and qualifying losses for a taxation year of a taxpayer from sources in a country shall be determined

(a) without reference to

(i) any portion of income that was deductible under subparagraph 110(1)(f)(i) in computing the taxpayer's taxable income,

(ii) for the purpose of subparagraph (1)(b)(i), any portion of income in respect of which an amount was deducted under section 110.6 in computing the taxpayer's income, or

(iii) any income or loss from a source in the country if any income of the taxpayer from the source would be tax-exempt income; and

(b) as if the total of all amounts each of which is that portion of an amount deducted under subsection 66(4), 66.21(4), 66.7(2) or 66.7(2.3) in computing those qualifying incomes and qualifying losses for the year that applies to those sources were the greater of

(i) the total of all amounts each of which is that portion of an amount deducted under subsection 66(4), 66.21(4), 66.7(2) or 66.7(2.3) in computing the taxpayer's income for the year that applies to those sources, and

(ii) the total of

(A) the portion of the maximum amount that would be deductible under subsection 66(4) in computing the taxpayer's income for the year that applies to those sources if the amount determined under subparagraph 66(4)(b)(ii) for the taxpayer in respect of the year were equal to the amount, if any, by which the total of

(I) the taxpayer's foreign resource income (within the meaning assigned by subsection 66.21(1)) for the year in respect of the country, determined as if the taxpayer had claimed the maximum amounts deductible for the year under subsections 66.7(2) and (2.3), and

(II) all amounts each of which would have been an amount included in computing the taxpayer's income for the year under subsection 59(1) in respect of a disposition of a foreign resource property in respect of the

Calcul des revenus et pertes admissibles

(9) Les revenus admissibles et les pertes admissibles d'un contribuable pour une année d'imposition provenant de sources situées dans un pays sont déterminés, à la fois :

a) compte non tenu de ce qui suit :

(i) toute partie de revenu qui était déductible en application du sous-alinéa 110(1)f)(i) dans le calcul du revenu imposable du contribuable,

(ii) pour l'application du sous-alinéa (1)b)(i), toute partie de revenu relativement à laquelle un montant a été déduit en application de l'article 110.6 dans le calcul du revenu du contribuable,

(iii) tout revenu ou toute perte provenant d'une source située dans le pays, dans le cas où un revenu du contribuable provenant de cette source serait un revenu exonéré d'impôt;

b) comme si le total des montants représentant chacun la partie d'un montant déduit en application des paragraphes 66(4), 66.21(4) ou 66.7(2) ou (2.3) dans le calcul de ces revenus admissibles et de ces pertes admissibles pour l'année qui est attribuable à ces sources correspondait au plus élevé des montants suivants :

(i) le total des montants représentant chacun la partie d'un montant déduit en application des paragraphes 66(4), 66.21(4) ou 66.7(2) ou (2.3) dans le calcul du revenu du contribuable pour l'année qui est attribuable à ces sources,

(ii) la somme des montants suivants :

(A) la partie, qui est attribuable à ces sources, du montant maximal qui serait déductible en application du paragraphe 66(4) dans le calcul du revenu du contribuable pour l'année si le montant déterminé selon le sous-alinéa 66(4)b)(ii) pour le contribuable pour l'année correspondait à l'excédent éventuel de la somme des montants suivants :

(I) le revenu provenant de ressources à l'étranger (au sens du paragraphe 66.21(1)) du contribuable pour l'année se rapportant au pays, déterminé comme si le contribuable avait déduit les montants maximaux déductibles pour l'année en application des paragraphes 66.7(2) et (2.3),

country, determined as if each amount determined under subparagraph 59(1)(b)(ii) were nil,

exceeds

(III) the total of all amounts each of which is a portion of an amount (other than a portion that results in a reduction of the amount otherwise determined under subclause (I)) that applies to those sources and that would be deducted under subsection 66.7(2) in computing the taxpayer's income for the year if the maximum amounts deductible for the year under that subsection were deducted,

(B) the maximum amount that would be deductible under subsection 66.21(4) in respect of those sources in computing the taxpayer's income for the year if

(I) the amount deducted under subsection 66(4) in respect of those sources in computing the taxpayer's income for the year were the amount determined under clause (A),

(II) the amounts deducted under subsections 66.7(2) and (2.3) in respect of those sources in computing the taxpayer's income for the year were the maximum amounts deductible under those subsections,

(III) for the purposes of the definition ***cumulative foreign resource expense*** in subsection 66.21(1), the total of the amounts designated under subparagraph 59(1)(b)(ii) for the year in respect of dispositions by the taxpayer of foreign resource properties in respect of the country in the year were the maximum total that could be so designated without any reduction in the maximum amount that would be determined under clause (A) in respect of the taxpayer for the year in respect of the country if no assumption had been made under subclause (A)(II) in respect of designations made under subparagraph 59(1)(b)(ii), and

(IV) the amount determined under paragraph 66.21(4)(b) were nil, and

(C) the total of all amounts each of which is the maximum amount, applicable to one of those sources, that is deductible under subsection

(II) les montants dont chacun aurait été inclus dans le calcul du revenu du contribuable pour l'année en application du paragraphe 59(1) relativement à une disposition d'avoir minier étranger à l'égard du pays, déterminé comme si chaque montant déterminé selon le sous-alinéa 59(1)b)(ii) était nul,

sur :

(III) le total des montants représentant chacun une partie d'un montant (sauf celle qui entraîne la réduction du montant déterminé par ailleurs selon la subdivision (I)) qui est attribuable à ces sources et qui serait déduite en application du paragraphe 66.7(2) dans le calcul du revenu du contribuable pour l'année si les montants maximaux déductibles pour l'année en application de ce paragraphe étaient déduits,

(B) le montant maximal qui serait déductible en application du paragraphe 66.21(4) relativement à ces sources dans le calcul du revenu du contribuable pour l'année si, à la fois :

(I) le montant déduit en application du paragraphe 66(4) relativement à ces sources dans le calcul du revenu du contribuable pour l'année correspondait au montant déterminé selon la division (A),

(II) les montants déduits en application des paragraphes 66.7(2) et (2.3) relativement à ces sources dans le calcul du revenu du contribuable pour l'année étaient les montants maximaux déductibles en application de ces paragraphes,

(III) pour l'application de la définition de ***frais cumulatifs relatifs à des ressources à l'étranger*** au paragraphe 66.21(1), le total des montants indiqués conformément au sous-alinéa 59(1)b)(ii) pour l'année relativement à des dispositions par le contribuable d'avoirs miniers étrangers à l'égard du pays au cours de l'année était le total maximal qui pourrait être ainsi indiqué sans qu'il y ait réduction du montant maximal qui serait déterminé selon la division (A) relativement au contribuable et au pays pour l'année si l'hypothèse énoncée à la subdivision (A)(II) n'avait pas été formulée relativement à des montants indiqués conformément au sous-alinéa 59(1)b)(ii),

66.7(2) or (2.3) in computing the taxpayer's income for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 126; 1994, c. 7, Sch. II, s. 103, Sch. VIII, s. 67, c. 21, s. 60; 1995, c. 3, s. 36; 1996, c. 21, s. 29; 1999, c. 22, s. 47; 2000, c. 12, s. 142, c. 19, s. 35; 2001, c. 17, s. 117; 2002, c. 9, s. 39; 2005, c. 19, s. 27; 2007, c. 29, s. 15; 2013, c. 33, s. 13, c. 34, ss. 127, 267, c. 40, s. 56; 2016, c. 12, s. 45.

(IV) le montant déterminé selon l'alinéa 66.21(4)b) était nul,

(C) le total des montants représentant chacun le montant maximal, attribuable à l'une de ces sources, qui est déductible en application des paragraphes 66.7(2) ou (2.3) dans le calcul du revenu du contribuable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 126; 1994, ch. 7, ann. II, art. 103, ann. VIII, art. 67, ch. 21, art. 60; 1995, ch. 3, art. 36; 1996, ch. 21, art. 29; 1999, ch. 22, art. 47; 2000, ch. 12, art. 142, ch. 19, art. 35; 2001, ch. 17, art. 117; 2002, ch. 9, art. 39; 2005, ch. 19, art. 27; 2007, ch. 29, art. 15; 2013, ch. 33, art. 13, ch. 34, art. 127 et 267, ch. 40, art. 56; 2016, ch. 12, art. 45.

126.1 [Repealed, 2013, c. 34, s. 268]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 8, s. 14; 2013, c. 34, s. 268.

126.1 [Abrogé, 2013, ch. 34, art. 268]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 8, art. 14; 2013, ch. 34, art. 268.

Logging tax deduction

127 (1) There may be deducted from the tax otherwise payable by a taxpayer under this Part for a taxation year an amount equal to the lesser of

(a) 2/3 of any logging tax paid by the taxpayer to the government of a province in respect of income for the year from logging operations in the province, and

(b) 6 2/3% of the taxpayer's income for the year from logging operations in the province referred to in paragraph 127(1)(a),

except that in no case shall the total of amounts in respect of all provinces that would otherwise be deductible under this subsection from the tax otherwise payable under this Part for the year by the taxpayer exceed 6 2/3% of the amount that would be the taxpayer's taxable income for the year or taxable income earned in Canada for the year, as the case may be, if this Part were read without reference to paragraphs 60(b), 60(c) to 60(c.2), 60(i) and 60(v) and sections 62, 63 and 64.

Definitions

(2) In subsection 127(1),

income for the year from logging operations in the province has the meaning assigned by regulation; (*revenu pour l'année tiré des opérations forestières dans la province*)

logging tax means a tax imposed by the legislature of a province that is declared by regulation to be a tax of general application on income from logging operations. (*impôt sur les opérations forestières*)

Déduction relative à l'impôt sur les opérations forestières

127 (1) Il peut être déduit de l'impôt payable par ailleurs par un contribuable en vertu de la présente partie pour une année d'imposition une somme égale au moins élevé des montants suivants :

a) les 2/3 de tout impôt sur les opérations forestières, payé par le contribuable au gouvernement d'une province sur le revenu pour l'année tiré d'opérations forestières dans cette province;

b) 6 2/3 % du revenu du contribuable pour l'année, tiré d'opérations forestières dans la province, dont fait mention l'alinéa a).

Toutefois, le total des sommes, relatives aux provinces, qui seraient déductibles par ailleurs, en application du présent paragraphe, de l'impôt payable par ailleurs par le contribuable en vertu de la présente partie pour l'année ne peut en aucun cas dépasser 6 2/3 % du montant qui correspondrait, compte non tenu des alinéas 60b), c) à c.2), i) et v) et des articles 62, 63 et 64, au revenu imposable du contribuable pour l'année ou à son revenu imposable gagné au Canada pour l'année.

Définitions

(2) Les définitions qui suivent s'appliquent au paragraphe (1).

impôt sur les opérations forestières Impôt levé par la législature d'une province et qui est, par règlement, déclaré être un impôt d'application générale sur le revenu tiré d'opérations forestières. (*logging tax*)

revenu pour l'année tiré des opérations forestières dans la province [Abrogée, 2013, ch. 34, art. 269]

revenu pour l'année tiré d'opérations forestières dans la province S'entend au sens du règlement.

(*income for the year from logging operations in the province*)

Contributions to registered parties and candidates

(3) There may be deducted from the tax otherwise payable by a taxpayer under this Part for a taxation year in respect of the total of all amounts each of which is the eligible amount of a monetary contribution that is referred to in the *Canada Elections Act* and that is made by the taxpayer in the year to a registered party, a registered association or a candidate, as those terms are defined in that Act,

(a) when that total does not exceed $400, 75% of that total,

(b) when that total exceeds $400 and does not exceed $750, $300 plus 50% of the amount by which that total exceeds $400, and

(c) when that total exceeds $750, the lesser of

(i) $650, and

(ii) $475 plus 33 1/3% of the amount by which the total exceeds $750,

if payment of each monetary contribution that is included in that total is evidenced by filing with the Minister a receipt, signed by the agent authorized under that Act to accept that monetary contribution, that contains prescribed information.

Issue of receipts

(3.1) A receipt referred to in subsection (3) must be issued only in respect of the monetary contribution that it provides evidence for and only to the contributor who made it.

Authorization required for receipts from registered associations

(3.2) No agent of a registered association of a registered party shall issue a receipt referred to in subsection (3) unless the leader of the registered party has, in writing, notified the financial agent, as referred to in the *Canada Elections Act*, of the registered association that its agents are authorized to issue those receipts.

Prohibition — issuance of receipts

(3.3) If the Commissioner of Canada Elections makes an application under subsection 521.1(2) of the *Canada Elections Act* in respect of a registered party, no registered agent of the party — including, for greater certainty, a registered agent appointed by a provincial division of the party — and no electoral district agent of a registered association of the party shall issue a receipt

Contribution aux partis enregistrés et aux candidats

(3) Il peut être déduit de l'impôt payable par ailleurs par un contribuable en vertu de la présente partie pour une année d'imposition au titre du total des montants représentant chacun le montant admissible d'une contribution monétaire, visée par la *Loi électorale du Canada*, faite par le contribuable au cours de l'année à un parti enregistré, à une association enregistrée ou à un candidat, au sens donné à ces termes par cette loi :

a) 75 % de ce total, s'il ne dépasse pas 400 $;

b) 300 $ plus 50 % de l'excédent de ce total sur 400 $, si celui-ci dépasse 400 $ sans dépasser 750 $;

c) le moindre des montants suivants, si ce total dépasse 750 $:

(i) 650 $,

(ii) 475 $ plus 33 1/3 % de l'excédent de ce total sur 750 $.

Pour ce faire, le versement de chaque contribution monétaire comprise dans le total doit être constaté par la présentation au ministre d'un reçu contenant les renseignements prescrits et portant la signature de l'agent autorisé par cette loi à accepter la contribution.

Délivrance de reçus

(3.1) Le reçu visé au paragraphe (3) n'est délivré que relativement à la contribution monétaire dont il constate le versement et qu'à l'auteur de celle-ci.

Reçu d'associations enregistrées : autorisation

(3.2) L'agent de l'association enregistrée d'un parti enregistré ne peut délivrer le reçu visé au paragraphe (3) que si le chef du parti enregistré a avisé par écrit l'agent financier de l'association enregistrée, visé par la *Loi électorale du Canada*, que ses agents sont autorisés à délivrer ces reçus.

Interdiction de délivrer des reçus

(3.3) Si le commissaire aux élections fédérales a présenté la demande visée au paragraphe 521.1(2) de la *Loi électorale du Canada* à l'égard d'un parti enregistré, l'agent enregistré du parti — y compris l'agent enregistré nommé par une de ses divisions provinciales — ou l'agent de circonscription d'une association enregistrée du parti ne peut délivrer le reçu visé au paragraphe (3) que si le

referred to in subsection (3) unless the Commissioner withdraws the application or the court makes an order under subsection 521.1(6) of that Act or dismisses the application.

(4) [Repealed, 2003, c. 19, s. 73]

Monetary contributions — form and content

(4.1) For the purpose of subsections (3) and (3.1), a monetary contribution made by a taxpayer may be in the form of cash or of a negotiable instrument issued by the taxpayer. However, it does not include

(a) a monetary contribution that a taxpayer who is an agent authorized under the *Canada Elections Act* to accept monetary contributions makes in that capacity; or

(b) a monetary contribution in respect of which a taxpayer has received or is entitled to receive a financial benefit of any kind (other than a prescribed financial benefit or a deduction under subsection (3)) from a government, municipality or other public authority, whether as a grant, subsidy, forgivable loan or deduction from tax or an allowance or otherwise.

(4.2) [Repealed, 2006, c. 9, s. 64]

Investment tax credit

(5) There may be deducted from the tax otherwise payable by a taxpayer under this Part for a taxation year an amount not exceeding the lesser of

(a) the total of

(i) the taxpayer's investment tax credit at the end of the year in respect of property acquired before the end of the year, of the taxpayer's apprenticeship expenditure for the year or a preceding taxation year, of the taxpayer's flow-through mining expenditure for the year or a preceding taxation year, of the taxpayer's pre-production mining expenditure for the year or a preceding taxation year or of the taxpayer's SR&ED qualified expenditure pool at the end of the year or at the end of a preceding taxation year, and

(ii) the lesser of

(A) the taxpayer's investment tax credit at the end of the year in respect of property acquired in a subsequent taxation year, of the taxpayer's apprenticeship expenditure for a subsequent

commissaire a retiré la demande ou que le tribunal saisi de la demande a rendu l'ordonnance visée au paragraphe 521.1(6) de cette loi ou a rejeté la demande.

(4) [Abrogé, 2003, ch. 19, art. 73]

Contributions monétaires : conditions de forme et de fond

(4.1) Pour l'application des paragraphes (3) et (3.1), la contribution monétaire d'un contribuable peut être faite en argent liquide ou au moyen d'un effet négociable émis par le contribuable. Ne constitue pas une contribution monétaire :

a) celle qu'un contribuable fait en sa qualité d'agent autorisé par la *Loi électorale du Canada* à accepter des contributions monétaires;

b) celle au titre de laquelle un contribuable a reçu ou est en droit de recevoir un avantage financier quelconque (à l'exclusion d'un avantage financier prévu par règlement et d'une déduction prévue au paragraphe (3)) d'un gouvernement, d'une municipalité ou d'une autre administration, que ce soit sous forme de prime, de subvention, de prêt à remboursement conditionnel, d'avoir fiscal ou d'allocation, ou sous une autre forme.

(4.2) [Abrogé, 2006, ch. 9, art. 64]

Crédit d'impôt à l'investissement

(5) Est déductible de l'impôt payable par ailleurs par un contribuable en vertu de la présente partie pour une année d'imposition un montant qui ne dépasse pas le moins élevé des montants suivants :

a) le total des sommes suivantes :

(i) le crédit d'impôt à l'investissement du contribuable à la fin de l'année au titre de biens acquis avant la fin de l'année, de sa dépense d'apprentissage pour l'année ou pour une année d'imposition antérieure, de sa dépense minière déterminée pour l'année ou pour une année d'imposition antérieure, de sa dépense minière préparatoire pour l'année ou pour une année d'imposition antérieure ou de son compte de dépenses admissibles de recherche et de développement à la fin de l'année ou d'une année d'imposition antérieure,

(ii) la moins élevée des sommes suivantes :

(A) le crédit d'impôt à l'investissement du contribuable à la fin de l'année au titre de biens acquis au cours d'une année d'imposition

taxation year, of the taxpayer's flow-through mining expenditure for a subsequent taxation year, of the taxpayer's pre-production mining expenditure for a subsequent taxation year or of the taxpayer's SR&ED qualified expenditure pool at the end of the subsequent taxation year to the extent that an investment tax credit was not deductible under this subsection for the subsequent taxation year, and

(B) the amount, if any, by which the taxpayer's tax otherwise payable under this Part for the year exceeds the amount, if any, determined under subparagraph 127(5)(a)(i), and

(b) where Division E.1 applies to the taxpayer for the year, the amount, if any, by which

(i) the taxpayer's tax otherwise payable under this Part for the year

exceeds

(ii) the taxpayer's minimum amount for the year determined under section 127.51.

ultérieure, de sa dépense d'apprentissage pour une année d'imposition ultérieure, de sa dépense minière déterminée pour une année d'imposition ultérieure, de sa dépense minière préparatoire pour une année d'imposition ultérieure ou de son compte de dépenses admissibles de recherche et de développement à la fin d'une année d'imposition ultérieure, dans la mesure où un tel crédit n'était pas déductible pour l'année ultérieure en application du présent paragraphe,

(B) l'excédent éventuel de l'impôt payable par ailleurs par le contribuable en vertu de la présente partie pour l'année sur le montant éventuel calculé selon le sous-alinéa (i);

b) si la section E.1 s'applique au contribuable pour l'année, l'excédent éventuel de son impôt payable par ailleurs en vertu de la présente partie pour l'année sur l'impôt minimum qui lui est applicable pour l'année calculé selon l'article 127.51.

Investment tax credit of cooperative corporation

(6) Where at any particular time in a taxation year a taxpayer that is a cooperative corporation within the meaning assigned by subsection 136(2) has, as required by subsection 135(3), deducted or withheld an amount from a payment made by it to any person pursuant to an allocation in proportion to patronage, the taxpayer may deduct from the amount otherwise required by that subsection to be remitted to the Receiver General, an amount, not exceeding the amount, if any, by which

(a) its investment tax credit at the end of the immediately preceding taxation year in respect of property acquired and expenditures made before the end of that preceding taxation year

exceeds the total of

(b) the amount deducted under subsection 127(5) from its tax otherwise payable under this Part for the immediately preceding taxation year in respect of property acquired and expenditures made before the end of that preceding taxation year, and

(c) the total of all amounts each of which is the amount deducted by virtue of this subsection from any amount otherwise required to be remitted by subsection 135(3) in respect of payments made by it before the particular time and in the taxation year,

Crédit d'impôt à l'investissement d'une société coopérative

(6) Le contribuable qui est une société coopérative, au sens du paragraphe 136(2), et qui, à un moment donné au cours d'une année d'imposition, a déduit ou retenu un montant, en application du paragraphe 135(3), d'un paiement effectué par lui à une personne conformément à une répartition proportionnelle à l'apport commercial, peut déduire du montant qu'il serait par ailleurs tenu, aux termes de ce paragraphe, de remettre au receveur général un montant ne dépassant pas l'excédent éventuel :

a) de son crédit d'impôt à l'investissement à la fin de l'année d'imposition précédente concernant un bien acquis, ou une dépense faite, avant la fin de cette année d'imposition précédente,

sur le total des montants suivants :

b) le montant déduit en vertu du paragraphe (5) de son impôt payable par ailleurs en vertu de la présente partie pour l'année d'imposition précédente concernant un bien acquis, ou une dépense faite, avant la fin de cette année d'imposition précédente;

c) l'ensemble des montants dont chacun est un montant déduit conformément au présent paragraphe d'un montant dont le paragraphe 135(3) exige par ailleurs la remise à l'égard de paiements effectués par lui au cours de l'année d'imposition et avant le moment donné;

and the amount, if any, so deducted from the amount otherwise required to be remitted by subsection 135(3)

(d) shall be deducted in computing the taxpayer's investment tax credit at the end of the taxation year, and

(e) shall be deemed to have been remitted by the taxpayer to the Receiver General on account of tax under this Part of the person to whom that payment was made.

le montant ainsi déduit du montant qui devrait autrement être remis aux termes du paragraphe 135(3):

d) doit être déduit dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année d'imposition;

e) est réputé avoir été remis par le contribuable au receveur général au titre de l'impôt, prévu sous le régime de la présente partie, de la personne à qui ce paiement a été effectué.

Investment tax credit of certain trusts

(7) If, in a particular taxation year of a taxpayer who is a beneficiary under a trust that is a graduated rate estate or that is deemed to be in existence by section 143, an amount is determined in respect of the trust under paragraph (a), (a.1), (a.4), (b) or (e.1) of the definition *investment tax credit* in subsection (9) for its taxation year that ends in that particular taxation year, the trust may, in its return of income for its taxation year that ends in that particular taxation year, designate the portion of that amount that can, having regard to all the circumstances including the terms and conditions of the trust, reasonably be considered to be attributable to the taxpayer and was not designated by the trust in respect of any other beneficiary of the trust, and that portion is to be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year and is to be deducted in computing the investment tax credit of the trust at the end of its taxation year that ends in that particular taxation year.

Crédit d'impôt à l'investissement d'une fiducie

(7) Dans le cas où, au cours d'une année d'imposition donnée d'un contribuable bénéficiaire d'une fiducie qui est une succession assujettie à l'imposition à taux progressifs ou qui est réputée exister par l'effet de l'article 143, une somme est déterminée relativement à la fiducie selon les alinéas a), a.1), a.4), b) ou e.1) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9) pour son année d'imposition qui se termine dans l'année donnée, la fiducie peut, dans sa déclaration de revenu produite pour cette même année d'imposition, attribuer au contribuable la partie de cette somme qu'il est raisonnable de considérer, compte tenu des circonstances, y compris les modalités de la fiducie, comme se rapportant à lui et que la fiducie n'a attribuée à aucun autre de ses bénéficiaires. Cette partie doit être ajoutée dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année donnée et déduite dans le calcul du crédit d'impôt à l'investissement de la fiducie à la fin de son année d'imposition qui se termine dans l'année donnée.

Investment tax credit of partnership

(8) Subject to subsection (28), where, in a particular taxation year of a taxpayer who is a member of a partnership, an amount would be determined in respect of the partnership, for its taxation year that ends in the particular taxation year, under paragraph (a), (a.1), (a.4), (b) or (e.1) of the definition *investment tax credit* in subsection (9), if

(a) except for the purpose of subsection 127(13), the partnership were a person and its fiscal period were its taxation year, and

(b) in the case of a taxpayer who is a specified member of the partnership in the taxation year of the partnership, that definition were read without reference to paragraph (a.1) thereof, and paragraph (e.1) of that definition were read without reference to subparagraphs (ii) to (iv) thereof,

the portion of that amount that can reasonably be considered to be the taxpayer's share thereof shall be added

Crédit d'impôt à l'investissement d'une société de personnes

(8) Sous réserve du paragraphe (28), dans le cas où, au cours d'une année d'imposition donnée d'un contribuable qui est l'associé d'une société de personnes, un montant serait déterminé relativement à celle-ci selon les alinéas a), a.1), a.4), b) ou e.1) de la définition de *crédit d'impôt à l'investissement*, au paragraphe (9), pour son année d'imposition qui se termine dans l'année donnée si, à la fois :

a) sauf pour l'application du paragraphe (13), elle était une personne et son exercice, son année d'imposition,

b) dans le cas où le contribuable est un associé déterminé de la société de personnes au cours de l'année d'imposition de celle-ci, il n'était pas tenu compte de l'alinéa a.1) ni des sous-alinéas e.1)(ii) à (iv) de cette définition,

la partie de ce montant qu'il est raisonnable de considérer comme la part qui revient au contribuable est à

in computing the investment tax credit of the taxpayer at the end of the particular year.

Investment tax credit of limited partner

(8.1) Notwithstanding subsection (8), if a taxpayer is a limited partner of a partnership at the end of a fiscal period of the partnership, the amount, if any, determined under subsection (8) to be added in computing the taxpayer's investment tax credit at the end of the taxpayer's taxation year in which that fiscal period ends shall not exceed the lesser of

(a) the portion of the amount that would, if this section were read without reference to this subsection, be determined under subsection (8) to be the amount to be added in computing the taxpayer's investment tax credit at the end of the taxpayer's taxation year in which that fiscal period ends as is considered to have arisen because of the expenditure by the partnership of an amount equal to the taxpayer's expenditure base (as determined under subsection (8.2) in respect of the partnership) at the end of that fiscal period, and

(b) the taxpayer's at-risk amount in respect of the partnership at the end of that fiscal period.

Expenditure base

(8.2) For the purposes of subsection 127(8.1), a taxpayer's expenditure base in respect of a partnership at the end of a taxation year of the partnership is the lesser of

(a) the amount, if any, by which the total of

(i) the taxpayer's at-risk amount in respect of the partnership at the time the taxpayer last became a limited partner of the partnership,

(ii) all amounts described in subparagraph 53(1)(e)(iv) contributed by the taxpayer after the time the taxpayer last became a limited partner of the partnership and before the end of the year that may reasonably be considered to have increased the taxpayer's at-risk amount in respect of the partnership at the end of the taxation year in which the contribution was made, and

(iii) the amount, if any, by which

(A) the total of all amounts each of which is the taxpayer's share of any income of the partnership as determined under paragraph 96(1)(f) for the year, or a preceding year ending after the time the taxpayer last became a limited partner of the partnership,

exceeds

ajouter dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année donnée.

Crédit d'impôt à l'investissement d'un commanditaire

(8.1) Malgré le paragraphe (8), lorsqu'un contribuable est commanditaire d'une société de personnes à la fin d'un exercice de celle-ci, la somme (appelée « somme donnée » au présent paragraphe) qui, selon le paragraphe (8), est à ajouter dans le calcul de son crédit d'impôt à l'investissement à la fin de son année d'imposition dans laquelle cet exercice prend fin ne peut dépasser la moins élevée des sommes suivantes :

a) la partie de la somme donnée, déterminée compte non tenu du présent paragraphe, qui est considérée comme résultant de la dépense par la société de personnes d'une somme égale à l'investissement de base du contribuable, déterminé selon le paragraphe (8.2) relativement à la société de personnes, à la fin de l'exercice en cause;

b) la fraction à risques de l'intérêt du contribuable dans la société de personnes à la fin de l'exercice en cause.

Investissement de base d'un commanditaire

(8.2) Pour l'application du paragraphe (8.1), l'investissement de base d'un contribuable dans une société de personnes à la fin d'une année d'imposition de la société de personnes est le moindre des montants suivants :

a) l'excédent éventuel du total des montants suivants :

(i) la fraction à risques de l'intérêt du contribuable dans la société de personnes au moment où il en est devenu pour la dernière fois commanditaire,

(ii) les montants, visés au sous-alinéa 53(1)e)(iv), fournis par le contribuable après le moment où il est devenu pour la dernière fois commanditaire de la société de personnes et avant la fin de l'année et qu'il est raisonnable de considérer comme ayant augmenté la fraction à risques de l'intérêt du contribuable dans la société de personnes à la fin de l'année d'imposition au cours de laquelle cet apport a été fourni,

(iii) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente la part, revenant au contribuable, d'un revenu de la société de personnes, calculée à l'alinéa 96(1)f) pour l'année ou pour une année d'imposition antérieure se terminant après le

(B) the total of all amounts each of which is the taxpayer's share of any loss of the partnership as determined under paragraph 96(1)(g) for one of those years

exceeds the total of

(iv) all amounts received by the taxpayer after the time the taxpayer last became a limited partner of the partnership and before the end of the year as, on account or in lieu of payment of, or in satisfaction of, a distribution of the taxpayer's share of partnership profits or partnership capital, and

(v) the total of all amounts each of which is the amount of an expenditure of the partnership referred to in paragraph 127(8.1)(a) in respect of the taxpayer for a preceding year, and

(b) that proportion of the lesser of

(i) the total of all amounts each of which is, if the partnership were a person and its fiscal period were its taxation year,

(A) an amount a specified percentage of which would be determined in respect of the partnership under paragraph (a), (b) or (e.1) of the definition *investment tax credit* in subsection 127(9) for the year,

(A.1) an amount that would be the apprenticeship expenditure of the partnership if the reference to "$2,000" in paragraph (a) of the definition *apprenticeship expenditure* in subsection (9) were read as a reference to "$20,000" and paragraph (b) of that definition were read without reference to "10% of", or

(A.2) [Repealed, 2017, c. 20, s. 23]

(B) the amount that would be the SR&ED qualified expenditure pool of the partnership at the end of the year, and

(ii) the total of all amounts each of which is the amount determined under paragraph 127(8.2)(a) in respect of each of the limited partners of the partnership at the end of the year

that

(iii) the amount determined in respect of the taxpayer under paragraph 127(8.2)(a) for the year

is of

moment où il est devenu pour la dernière fois commanditaire de la société de personnes,

(B) le total des montants dont chacun représente la part dont le contribuable est tenu d'une perte de la société de personnes, calculée à l'alinéa 96(1)g) pour une de ces années d'imposition,

sur le total des montants suivants :

(iv) les montants reçus par le contribuable après le moment où il est devenu pour la dernière fois commanditaire de la société de personnes et avant la fin de l'année, au titre ou en paiement de sa part des bénéfices distribués ou du capital distribué de la société de personnes,

(v) le total des montants dont chacun représente une dépense par la société de personnes d'un montant égal à l'investissement de base du contribuable dans la société de personnes, pour une année d'imposition antérieure;

b) le produit de la multiplication du moindre des montants suivants par le rapport entre l'excédent calculé à l'égard du contribuable selon l'alinéa a) pour l'année et le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun :

(A) un montant auquel un pourcentage déterminé serait appliqué à l'égard de la société de personnes pour l'année selon les alinéas a), b) ou e.1) de la définition de *crédit d'impôt à l'investissement*, au paragraphe (9), si elle était une personne et son exercice, son année d'imposition,

(A.1) le montant qui correspondrait à la dépense d'apprentissage de la société de personnes si les mentions « 2 000 $ », à l'alinéa a) de la définition de *dépense d'apprentissage* au paragraphe (9), et « 10 % des » à l'alinéa b) de cette définition, étaient remplacées respectivement par « 20 000 $ » et « les »,

(A.2) [Abrogée, 2017, ch. 20, art. 23]

(B) le montant qui représenterait le compte de dépenses admissibles de recherche et de développement de la société de personnes à la fin de l'année, si elle était une personne et son exercice, son année d'imposition,

(ii) le total des montants dont chacun représente l'excédent calculé à l'alinéa a) à l'égard de chaque

(iv) the amount determined under subparagraph 127(8.2)(b)(ii).

Investment tax credit — allocation of unallocated partnership ITCs

(8.3) For the purpose of subsection (8), and subject to subsection (8.4), if a taxpayer is a member of a partnership (other than a specified member) throughout a fiscal period of the partnership, there shall be added to the amount that can reasonably be considered to be that member's share of the amount determined under subsection (8) the amount, if any, that is such portion of the amount determined under subsection (8.31) in respect of that fiscal period as is reasonable in the circumstances (having regard to the investment in the partnership, including debt obligations of the partnership, of each of those members of the partnership who was a member of the partnership throughout the fiscal period of the partnership and who was not a specified member of the partnership during the fiscal period of the partnership).

Amount of unallocated partnership ITC

(8.31) For the purpose of subsection (8.3), the amount determined under this subsection in respect of a fiscal period of a partnership is the amount, if any, by which

(a) the total of all amounts each of which is an amount that would, if the partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership under paragraph (a), (a.1), (a.4), (b) or (e.1) of the definition *investment tax credit* in subsection (9) for a taxation year that is the fiscal period,

exceeds

(b) the total of

(i) the total of all amounts each of which is the amount determined under subsection (8) in respect of the fiscal period to be the share of the total determined under paragraph (a) of a partner of the partnership (other than a member of the partnership who was at any time in the fiscal period of the partnership a specified member of the partnership), and

(ii) the total of all amounts each of which is the amount determined under subsection (8), with reference to subsection (8.1), in respect of the fiscal period to be the share of the total determined under paragraph (a) of a partner of the partnership who was at any time in the fiscal period of the partnership a specified member of the partnership.

(iii) [Repealed, 2007, c. 35, s. 43]

commanditaire de la société de personnes à la fin de l'année.

Crédit d'impôt à l'investissement — attribution de CII de société de personnes non attribués

(8.3) Pour l'application du paragraphe (8) et sous réserve du paragraphe (8.4), lorsqu'un contribuable est l'associé d'une société de personnes (autre qu'un associé déterminé) tout au long d'un exercice de celle-ci, la partie de la somme déterminée selon le paragraphe (8.31) relativement à l'exercice qui est raisonnable en l'espèce — étant donné l'investissement dans la société de personnes, y compris celui représenté par des titres de créance, de chacun de ses associés qui ont été ses associés tout au long de son exercice, mais qui n'étaient pas ses associés déterminés pendant cet exercice — est à ajouter à la somme qu'il est raisonnable de considérer comme la part de la somme déterminée selon le paragraphe (8) qui revient à l'associé.

CII de société de personnes non attribué

(8.31) Pour l'application du paragraphe (8.3), la somme déterminée selon le présent paragraphe relativement à l'exercice d'une société de personnes correspond à l'excédent éventuel de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total des sommes représentant chacune une somme qui serait déterminée relativement à la société de personnes selon les alinéas a), a.1), a.4), b) ou e.1) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9) pour une année d'imposition qui correspond à l'exercice si la société de personnes était une personne et son exercice, son année d'imposition;

b) le total des sommes suivantes :

(i) les sommes représentant chacune la somme qui, selon le paragraphe (8), correspond, pour l'exercice, à la part du total déterminé selon l'alinéa a) qui revient à un associé de la société de personnes (sauf celui qui était un associé déterminé de la société de personnes au cours de l'exercice de celle-ci),

(ii) le total des sommes représentant chacune la somme qui, selon le paragraphe (8), correspond, pour l'exercice et compte tenu du paragraphe (8.1), à la part du total déterminé selon l'alinéa a) qui revient à un associé de la société de personnes qui était un associé déterminé de celle-ci au cours de l'exercice.

(iii) [Abrogé, 2007, ch. 35, art. 43]

Idem

(8.4) Notwithstanding subsection 127(8), where, pursuant to subsections 127(8) and 127(8.3) an amount would, but for this subsection, be required to be added in computing the investment tax credit of a taxpayer for a taxation year, where the taxpayer so elects in prescribed form and manner in the taxpayer's return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) under this Part for the year, such portion of the amount as is elected by the taxpayer shall, for the purposes of this section, be deemed not to have been required by subsection 127(8) to have been added in computing the taxpayer's investment tax credit at the end of the year.

Definitions

(8.5) In subsections 127(8.1) to 127(8.4), the words *at-risk amount* of a taxpayer and *limited partner* of a partnership have the meanings assigned to those words by subsections 96(2.2) and 96(2.4), respectively.

Idem

(9) In this section,

annual investment tax credit limit [Repealed, 1994, c. 8, s. 15]

apprenticeship expenditure of a taxpayer for a taxation year in respect of an eligible apprentice is the lesser of

(a) $2,000, and

(b) 10% of the eligible salary and wages payable by the taxpayer in the taxation year to the eligible apprentice in respect of the eligible apprentice's employment, in the taxation year and on or after May 2, 2006, by the taxpayer in a business carried on in Canada by the taxpayer in the taxation year; (*dépense d'apprentissage*)

approved project means a project with a total capital cost of depreciable property, determined without reference to subsection 13(7.1) or 13(7.4), of not less than $25,000 that has, on application in writing before July, 1988, been approved by such member of the Queen's Privy Council for Canada as is designated by the Governor in Council for the purposes of this definition in relation to projects in the appropriate province or region of a province; (*ouvrage approuvé*)

approved project property [Repealed, 1996, c. 21, s. 30]

Choix

(8.4) Malgré le paragraphe (8), lorsqu'un montant doit être ajouté conformément aux paragraphes (8) et (8.3) dans le calcul du crédit d'impôt à l'investissement d'un contribuable pour une année d'imposition, la partie de ce montant que choisit le contribuable, sur le formulaire et selon les modalités réglementaires, dans sa déclaration de revenu produite en vertu de la présente partie pour son année d'imposition — à l'exclusion d'une déclaration de revenu produite en vertu du paragraphe 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4) — est réputée, pour l'application du présent article, ne pas devoir être ajoutée conformément au paragraphe (8) dans le calcul de son crédit d'impôt à l'investissement à la fin de cette année.

Définitions

(8.5) Pour l'application des paragraphes (8.1) à (8.4), *commanditaire* et *fraction à risques* s'entendent au sens des paragraphes 96(2.4) et (2.2) respectivement.

Idem

(9) Les définitions qui suivent s'appliquent au présent article.

aide gouvernementale Aide reçue d'un gouvernement, d'une municipalité ou d'une autre administration sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt ou allocation de placement ou sous toute autre forme, à l'exclusion d'une déduction prévue au paragraphe (5) ou (6). (*government assistance*)

aide non gouvernementale Somme qui serait incluse dans le revenu en application de l'alinéa 12(1)x) si cet alinéa s'appliquait compte non tenu de ses sous-alinéas (v) à (vii). (*non-government assistance*)

apprenti admissible Particulier qui exerce au Canada un métier visé par règlement relativement à une province ou au Canada au cours des vingt-quatre premiers mois de son contrat d'apprenti, lequel contrat est enregistré auprès de la province ou du Canada, selon le cas, dans le cadre d'un programme d'apprentissage menant à l'obtention par les personnes exerçant ce métier d'un certificat de qualification ou d'une licence. (*eligible apprentice*)

avantage relatif à la superdéduction Pour ce qui est d'une année d'imposition donnée relativement à une société et une province, le montant obtenu par la formule suivante :

(A - B) × C

où :

Cape Breton means Cape Breton Island and that portion of the Province of Nova Scotia within the following described boundary:

beginning at a point on the southwesterly shore of Chedabucto Bay near Red Head, said point being S70 degrees E (Nova Scotia grid meridian) from Geodetic Station Sand, thence in a southwesterly direction to a point on the northwesterly boundary of highway 344, said point being southwesterly 240 [FEET] from the intersection of King Brook with said highway boundary, thence northwesterly to Crown post 6678, thence continuing northwesterly to Crown post 6679, thence continuing northwesterly to Crown post 6680, thence continuing northwesterly to Crown post 6681, thence continuing northwesterly to Crown post 6632, thence continuing northwesterly to Crown post 6602, thence northerly to Crown post 8575; thence northerly to Crown post 6599, thence continuing northerly to Crown post 6600, thence northwesterly to the southwest angle of the Town of Mulgrave, thence along the westerly boundary of the Town of Mulgrave and a prolongation thereof northerly to the Antigonish-Guysborough county line, thence along said county line northeasterly to the southwesterly shore of the Strait of Canso, thence following the southwesterly shore of the Strait of Canso and the northwesterly shore of Chedabucto Bay southeasterly to the place of beginning; (*Cap-Breton*)

certified property of a taxpayer means any property (other than an approved project property) described in paragraph (a) or (b) of the definition *qualified property* in this subsection

(a) that was acquired by the taxpayer

(i) after October 28, 1980 and

(A) before 1987, or

(B) before 1988 where the property is

(I) a building under construction before 1987, or

(II) machinery and equipment ordered in writing by the taxpayer before 1987,

(ii) after 1986 and before 1989, other than a property included in subparagraph (i),

(iii) after 1988 and before 1995,

(iv) after 1994 and before 1996 where

A représente le total des montants représentant chacun un montant qui est ou peut devenir déductible par la société, dans le calcul de son revenu ou revenu imposable qui entre dans le calcul de son impôt sur le revenu payable en vertu d'une loi de la province pour une année d'imposition, au titre d'une dépense afférente à des activités de recherche scientifique et de développement expérimental engagée au cours de l'année donnée;

B l'excédent du montant de la dépense sur le total des montants qui, selon les paragraphes (18) à (20), seraient à appliquer en réduction des dépenses admissibles de la société, déterminées par ailleurs en vertu du présent article, si les définitions de *aide gouvernementale* et *aide non gouvernementale* ne s'appliquaient pas à l'aide fournie en vertu de cette loi;

C :

a) si le plafond des dépenses de la société pour l'année donnée est nul, le taux maximal d'impôt provincial sur le revenu qui s'applique, pour l'année, au revenu tiré d'une entreprise exploitée activement gagné dans la province par une société,

b) dans les autres cas, le taux d'impôt provincial sur le revenu pour l'année qui s'appliquerait à la société si, à la fois :

(i) elle n'était associée à aucune autre société au cours de l'année,

(ii) son revenu imposable pour l'année était inférieur à 200 000 $,

(iii) son revenu imposable pour l'année était gagné dans la province relativement à une entreprise exploitée activement dans la province. (*super-allowance benefit amount*)

bien admissible Relativement à un contribuable, bien (à l'exclusion d'un bien minier admissible) qui est :

a) soit un bâtiment visé par règlement, dans la mesure où le contribuable l'a acquis après le 23 juin 1975;

b) soit une machine ou du matériel visés par règlement et que le contribuable a acquis après le 23 juin 1975;

b.1) soit un bien pour la production et l'économie d'énergie visé par règlement, acquis par le contribuable après le 28 mars 2012,

qui avant l'acquisition, n'a été utilisé à aucune fin ni acquis pour être utilisé ou loué à quelque fin que ce soit, et :

c) soit qu'il compte utiliser au Canada principalement à l'une des fins suivantes :

(A) the property is acquired by the taxpayer for use in a project that was substantially advanced by or on behalf of the taxpayer, as evidenced in writing, before February 22, 1994, and

(B) construction of the project by or on behalf of the taxpayer begins before 1995, or

(v) after 1994 where the property

(A) is acquired by the taxpayer under a written agreement of purchase and sale entered into by the taxpayer before February 22, 1994,

(B) was under construction by or on behalf of the taxpayer on February 22, 1994, or

(C) is machinery or equipment that will be a fixed and integral part of property under construction by or on behalf of the taxpayer on February 22, 1994,

and that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer, and

(b) that is part of a facility as defined for the purposes of the *Regional Development Incentives Act*, chapter R-3 of the Revised Statutes of Canada, 1970, and was acquired primarily for use by the taxpayer in a prescribed area; (*bien certifié*)

child care space amount [Repealed, 2017, c. 20, s. 23]

contract payment means

(a) an amount paid or payable to a taxpayer, by a taxable supplier in respect of the amount, for scientific research and experimental development to the extent that it is performed

(i) for or on behalf of a person or partnership entitled to a deduction in respect of the amount because of subparagraph 37(1)(a)(i.01) or (i.1), and

(ii) at a time when the taxpayer is dealing at arm's length with the person or partnership, or

(b) an amount in respect of an expenditure of a current nature (within the meaning assigned by paragraph 37(8)(d)) of a taxpayer, other than a prescribed amount, payable by a Canadian government or municipality or other Canadian public authority or by a person exempt, because of section 149, from tax under this Part on all or part of the person's taxable income for scientific research and experimental development

(i) la fabrication ou la transformation de marchandises à vendre ou à louer,

(ii) l'exploitation agricole ou la pêche,

(iii) l'exploitation forestière,

(iv) l'entreposage du grain,

(v) la récolte de tourbe;

(vi) à (xiii) [Abrogés, 2012, ch. 31, art. 27]

c.1) soit qui est un bien (sauf un bien visé à l'alinéa b.1)) qu'il compte utiliser au Canada principalement pour la production ou la transformation d'énergie électrique ou de vapeur dans une région visée par règlement, dans le cas où, à la fois :

(i) la totalité, ou presque, de l'énergie ou de la vapeur est :

(A) soit utilisée par lui en vue de tirer un revenu d'une entreprise (sauf une entreprise qui consiste à vendre le produit du bien en question),

(B) soit vendue directement (ou indirectement à une installation d'électricité sous réglementation provinciale exploitée dans la région en question) à une personne qui lui est liée,

(ii) l'énergie ou la vapeur est utilisée par lui ou par la personne qui lui est liée principalement pour la fabrication ou la transformation, dans la région en question, de marchandises à vendre ou à louer;

d) soit qu'il compte louer à un preneur (à l'exclusion d'une personne exonérée, par l'effet de l'article 149, de l'impôt prévu par la présente partie) dont il est raisonnable de s'attendre à ce qu'il utilise ce bien au Canada principalement à l'une des fins visées à l'alinéa c); toutefois, le présent alinéa ne s'applique à un bien qui est visé par règlement pour l'application des alinéas b) ou b.1) que si, selon le cas :

(i) le bien est donné en location dans le cours normal de l'exploitation d'une entreprise au Canada par une société dont l'entreprise principale consiste à louer des biens, à prêter de l'argent, à acheter des contrats de vente conditionnelle, des comptes-clients, des contrats de vente, des créances hypothécaires mobilières, des lettres de change, des sûretés mobilières ou d'autres créances qui représentent tout ou partie du prix de vente de marchandises ou de services, ou consiste en une combinaison de ces activités,

to be performed for it or on its behalf; (*paiement contractuel*)

eligible apprentice means an individual who is employed in Canada in a trade prescribed in respect of a province or in respect of Canada, during the first twenty-four months of the individual's apprenticeship contract registered with the province or Canada, as the case may be, under an apprenticeship program designed to certify or license individuals in the trade; (*apprenti admissible*)

eligible child care space expenditure [Repealed, 2017, c. 20, s. 23]

eligible salary and wages payable by a taxpayer to an eligible apprentice means the amount, if any, that is the salary and wages payable by the taxpayer to the eligible apprentice in respect of the first 24 months of the apprenticeship (other than a qualified expenditure incurred by the taxpayer in a taxation year, remuneration that is based on profits, bonuses, amounts described in section 6 or 7, and amounts deemed to be incurred by subsection 78(4)); (*traitement et salaire admissibles*)

eligible taxpayer means

(a) a corporation other than a non-qualifying corporation,

(b) an individual other than a trust,

(c) a trust all the beneficiaries of which are eligible taxpayers, and

(d) a partnership all the members of which are eligible taxpayers,

and for the purpose of this definition, a beneficiary of a trust is a person or partnership that is beneficially interested in the trust; (*contribuable admissible*)

first term shared-use-equipment, of a taxpayer, means depreciable property of the taxpayer (other than prescribed depreciable property of a taxpayer) acquired before 2014 that is used by the taxpayer, during its operating time in the period (in this subsection and subsection (11.1) referred to as the "first period") beginning at the time the property was acquired by the taxpayer and ending at the end of the taxpayer's first taxation year ending at least 12 months after that time, primarily for the prosecution of scientific research and experimental development in Canada, but does not include general purpose office equipment or furniture; (*matériel à vocations multiples de première période*)

(ii) le bien est fabriqué et donné en location dans le cours normal de l'exploitation d'une entreprise au Canada par une société dont l'entreprise principale consiste à fabriquer des biens qu'elle vend ou loue,

(iii) le bien est loué dans le cours normal de l'exploitation d'une entreprise au Canada par une société dont l'entreprise principale consiste à vendre ou entretenir semblables biens,

(iv) le bien est un bateau de pêche, y compris le mobilier, les accessoires et le matériel qui y est fixé, qu'un particulier, à l'exception d'une fiducie, loue à une société qu'il contrôle et qui exploite une entreprise de pêche dans le cadre d'un ou plusieurs permis de pêche commerciale délivrés au particulier par le gouvernement du Canada.

Pour l'application de la présente définition, le Canada comprend la zone extracôtière visée par règlement dont il est question à la définition de *pourcentage déterminé*; (*qualified property*)

bien admissible de petite entreprise [Abrogée, 1996, ch. 21, art. 30]

bien certifié Relativement à un contribuable, bien (à l'exclusion d'un bien d'un ouvrage approuvé) visé à l'alinéa a) ou b) de la définition de *bien admissible* au présent paragraphe et qui remplit les conditions suivantes :

a) il a été acquis par le contribuable :

(i) après le 28 octobre 1980 et :

(A) soit avant 1987,

(B) soit avant 1988, si le bien est :

(I) ou bien un bâtiment en construction avant 1987,

(II) ou bien une machine ou du matériel que le contribuable a commandé par écrit avant 1987,

(ii) après 1986 et avant 1989, sauf s'il s'agit d'un bien visé au sous-alinéa (i),

(iii) après 1988 et avant 1995,

(iv) après 1994 et avant 1996, si, à la fois :

(A) le bien a été acquis par le contribuable pour utilisation dans le cadre d'un ouvrage, en construction par le contribuable ou pour son

flow-through mining expenditure of a taxpayer for a taxation year means an expense deemed by subsection 66(12.61) (or by subsection 66(18) as a consequence of the application of subsection 66(12.61) to the partnership, referred to in paragraph (c) of this definition, of which the taxpayer is a member) to be incurred by the taxpayer in the year

(a) that is a Canadian exploration expense incurred by a corporation after March 2017 and before 2019 (including, for greater certainty, an expense that is deemed by subsection 66(12.66) to be incurred before 2019) in conducting mining exploration activity from or above the surface of the earth for the purpose of determining the existence, location, extent or quality of a mineral resource described in paragraph (a) or (d) of the definition *mineral resource* in subsection 248(1),

(b) that

(i) is an expense described in paragraph (f) of the definition *Canadian exploration expense* in subsection 66.1(6), and

(ii) is not an expense in respect of

(A) trenching, if one of the purposes of the trenching is to carry out preliminary sampling (other than specified sampling),

(B) digging test pits (other than digging test pits for the purpose of carrying out specified sampling), and

(C) preliminary sampling (other than specified sampling),

(c) an amount in respect of which is renounced in accordance with subsection 66(12.6) by the corporation to the taxpayer (or a partnership of which the taxpayer is a member) under an agreement described in that subsection and made after March 2017 and before April 2018, and

(d) that is not an expense that was renounced under subsection 66(12.6) to the corporation (or a partnership of which the corporation is a member), unless that renunciation was under an agreement described in that subsection and made after March 2017 and before April 2018; (*dépense minière déterminée*)

(e) [Repealed, 2003, c. 15, s. 81]

Gaspé Peninsula means that portion of the Gaspé region of the Province of Quebec that extends to the western border of Kamouraska County and includes the Magdalen Islands; (*péninsule de Gaspé*)

compte, qui était fort avancé, documents à l'appui, avant le 22 février 1994,

(B) la construction de l'ouvrage commence avant 1995,

(v) après 1994, si le bien, selon le cas :

(A) est acquis par le contribuable en conformité avec une convention écrite d'achat-vente qu'il a conclue avant le 22 février 1994,

(B) était en construction par le contribuable, ou pour son compte, le 22 février 1994,

(C) est une machine ou du matériel qui sera fixé à un bien qui était en construction par le contribuable, ou pour son compte, le 22 février 1994, et en fera partie intégrante,

et avant cette acquisition, il n'a été utilisé à aucune fin ni acquis pour être utilisé ou loué à quelque fin que ce soit;

b) il fait partie d'un établissement défini pour l'application de la *Loi sur les subventions au développement régional*, chapitre R-3 des Statuts revisés du Canada de 1970, et il a été acquis principalement pour être utilisé par le contribuable dans une région visée par règlement. (*certified property*)

bien déterminé [Abrogée, 2017, ch. 20, art. 23]

bien d'un ouvrage approuvé [Abrogée, 1996, ch. 21, art. 30]

bien minier admissible Relativement à un contribuable, bien – bâtiment, machine ou matériel visés par règlement – qui est acquis par le contribuable après le 28 mars 2012, qui n'a pas été utilisé, ni acquis en vue d'être utilisé ou loué, à quelque fin que ce soit avant son acquisition par le contribuable et qui est destiné :

a) soit à être utilisé par le contribuable au Canada principalement à l'une des fins suivantes :

(i) l'exploitation d'un puits de pétrole ou de gaz ou l'extraction de pétrole ou de gaz naturel d'un gisement naturel de pétrole ou de gaz naturel,

(ii) l'extraction de minéraux d'une ressource minérale,

(iii) la transformation des minerais suivants :

(A) les minerais tirés de ressources minérales, à l'exclusion du minerai de fer et du minerai de

government assistance means assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance other than as a deduction under subsection 127(5) or 127(6); (*aide gouvernementale*)

investment tax credit of a taxpayer at the end of a taxation year means the amount, if any, by which the total of

(a) the total of all amounts each of which is the specified percentage of the capital cost to the taxpayer of qualified property or qualified resource property acquired by the taxpayer in the year,

(a.1) 15% of the amount by which the taxpayer's SR&ED qualified expenditure pool at the end of the year exceeds the total of all amounts each of which is the super-allowance benefit amount for the year in respect of the taxpayer in respect of a province,

(a.2) where the taxpayer is an individual (other than a trust), 15% of the taxpayer's flow-through mining expenditures for the year,

(a.3) if the taxpayer is a taxable Canadian corporation, the total of

(i) the specified percentage of the portion of the taxpayer's pre-production mining expenditure described in subparagraph (a)(i) of the definition *pre-production mining expenditure*, and

(ii) the specified percentage of the portion of the taxpayer's pre-production mining expenditure described in subparagraph (a)(ii) of the definition *pre-production mining expenditure*,

(a.4) the total of all amounts each of which is an apprenticeship expenditure of the taxpayer for the taxation year in respect of an eligible apprentice,

(a.5) [Repealed, 2017, c. 20, s. 23]

(b) the total of amounts required by subsection 127(7) or 127(8) to be added in computing the taxpayer's investment tax credit at the end of the year,

(c) the total of all amounts each of which is an amount determined under any of paragraphs (a) to (b) in respect of the taxpayer for any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year,

(d) [Repealed, 2006, c. 4, s. 75]

sables asphaltiques, jusqu'à un stade ne dépassant pas celui du métal primaire ou son équivalent,

(B) le minerai de fer tiré de ressources minérales jusqu'à un stade ne dépassant pas celui de la boulette ou son équivalent,

(C) le minerai de sables asphaltiques tiré de ressources minérales jusqu'à un stade ne dépassant pas celui du pétrole brut ou son équivalent,

(iv) la production de minéraux industriels,

(v) la transformation du pétrole brut lourd extrait d'un réservoir naturel situé au Canada jusqu'à un stade ne dépassant pas celui du pétrole brut ou son équivalent,

(vi) le traitement préliminaire au Canada,

(vii) l'exploration ou le forage en vue de découvrir du pétrole ou du gaz naturel,

(viii) la prospection ou l'exploration en vue de découvrir ou de mettre en valeur une ressource minérale;

b) soit à être donné en location par le contribuable à un preneur (à l'exclusion d'une personne qui est exonérée, par l'effet de l'article 149, de l'impôt prévu par la présente partie) dont il est raisonnable de s'attendre à ce qu'il utilise le bien au Canada principalement à l'une ou plusieurs des fins visées à l'alinéa a); toutefois, le présent alinéa ne s'applique aux machines et matériel visés par règlement que si, selon le cas :

(i) le bien est donné en location dans le cours normal de l'exploitation d'une entreprise au Canada par une société dont l'entreprise principale consiste à louer des biens, à prêter de l'argent ou à acheter des contrats de vente conditionnelle, des comptes-clients, des contrats de vente, des créances hypothécaires mobilières, des lettres de change ou d'autres créances qui représentent tout ou partie du prix de vente de marchandises et de services, ou consiste en plusieurs de ces activités,

(ii) le bien est fabriqué et donné en location dans le cours normal de l'exploitation d'une entreprise au Canada par une société dont l'entreprise principale consiste à fabriquer des biens qu'elle vend ou loue,

(iii) le bien est loué dans le cours normal de l'exploitation d'une entreprise au Canada par une société dont l'entreprise principale consiste à vendre ou à entretenir des biens de ce type.

(e) the total of all amounts each of which is an amount required by subsection 127(10.1) to be added in computing the taxpayer's investment tax credit at the end of the year or at the end of any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year,

(e.1) the total of all amounts each of which is the specified percentage of that part of a repayment made by the taxpayer in the year or in any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year that can reasonably be considered to be a repayment of government assistance, non-government assistance or a contract payment that reduced

(i) the capital cost to the taxpayer of a property under paragraph 127(11.1)(b),

(ii) the amount of a qualified expenditure incurred by the taxpayer under paragraph 127(11.1)(c) for taxation years that began before 1996,

(iii) the prescribed proxy amount of the taxpayer under paragraph 127(11.1)(f) for taxation years that began before 1996,

(iv) a qualified expenditure incurred by the taxpayer under any of subsections 127(18) to 127(20),

(v) the amount of a pre-production mining expenditure of the taxpayer under paragraph (11.1)(c.3), or

(vi) the amount of eligible salary and wages payable by the taxpayer to an eligible apprentice under paragraph (11.1)(c.4), to the extent that that reduction had the effect of reducing the amount of an apprenticeship expenditure of the taxpayer, and

(vii) [Repealed, 2017, c. 20, s. 23]

(e.2) the total of all amounts each of which is the specified percentage of 1/4 of that part of a repayment made by the taxpayer in the year or in any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year that can reasonably be considered to be a repayment of government assistance, non-government assistance or a contract payment that reduced

(i) the amount of a qualified expenditure incurred by the taxpayer under paragraph 127(11.1)(e) for taxation years that began before 1996, or

(ii) a qualified expenditure incurred by the taxpayer under any of subsections 127(18) to 127(20),

Pour l'application de la présente définition, *Canada* comprend la zone extracôtière qui est visée par règlement pour l'application de la définition de *pourcentage déterminé*. (*qualified resource property*)

Cap-Breton L'Île du Cap-Breton et la partie de la province de la Nouvelle-Écosse délimitée comme suit :

à partir du point situé sur la côte sud-ouest de la baie Chedabucto près de Red Head qui se trouve à S70 [degrés] E (ligne d'abscisse constante de la Nouvelle-Écosse) de la station géodésique Sand;

vers le sud-ouest, jusqu'au point, situé sur la limite nord-ouest de la route 344, qui se trouve à 240 [degrés] sud-ouest de l'intersection de King Brook et de cette limite;

de là, vers le nord-ouest, jusqu'au repère de la Couronne 6678, puis jusqu'au repère de la Couronne 6679, puis jusqu'au repère de la Couronne 6680, puis jusqu'au repère de la Couronne 6681, puis jusqu'au repère de la Couronne 6632, puis jusqu'au repère de la Couronne 6602;

de là, vers le nord, jusqu'au repère de la Couronne 8575, puis jusqu'au repère de la Couronne 6599, puis jusqu'au repère de la Couronne 6600;

de là, vers le nord-ouest, jusqu'à l'angle des limites sud et ouest de la ville de Mulgrave, puis le long de la limite ouest de cette ville, se prolongeant vers le nord jusqu'à la limite du comté d'Antigonish-Guysborough;

de là, le long de cette limite de comté, vers le nord-est, jusqu'à la côte sud-ouest du détroit de Canso; de là, le long de la côte sud-ouest du détroit de Canso et de la côte nord-ouest de la baie Chedabucto, vers le sud-est, jusqu'au point de départ. (*Cape Breton*)

compte de dépenses admissibles de recherche et de développement Quant à un contribuable à la fin d'une année d'imposition, le résultat du calcul suivant :

A + B - C

où :

A représente le total des montants représentant chacun une dépense admissible que le contribuable a engagée au cours de l'année;

B le total des montants représentant chacun un montant déterminé selon l'alinéa (13)e) pour l'année quant au contribuable, relativement auquel il présente au ministre un formulaire prescrit contenant les renseignements prescrits au plus tard douze mois après la date d'échéance de production qui lui est applicable pour l'année;

C le total des montants représentant chacun un montant déterminé selon l'alinéa (13)d) pour l'année

in respect of first term shared-use-equipment or second term shared-use-equipment, and, for that purpose, a repayment made by the taxpayer in any taxation year preceding the first taxation year that ends coincidentally with the first period or the second period in respect of first term shared-use-equipment or second term shared-use-equipment, respectively, is deemed to have been incurred by the taxpayer in that first taxation year,

exceeds the total of

(f) the total of all amounts each of which is an amount deducted under subsection 127(5) from the tax otherwise payable under this Part by the taxpayer for a preceding taxation year in respect of property acquired, or an expenditure incurred, in the year or in any of the 10 taxation years immediately preceding or the 2 taxation years immediately following the year, or in respect of the taxpayer's SR&ED qualified expenditure pool at the end of such a year,

(g) the total of all amounts each of which is an amount required by subsection 127(6) to be deducted in computing the taxpayer's investment tax credit

(i) at the end of the year, or

(ii) [Repealed, 1996, c. 21, s. 30]

(iii) at the end of any of the 9 taxation years immediately preceding or the 3 taxation years immediately following the year,

(h) the total of all amounts each of which is an amount required by subsection 127(7) to be deducted in computing the taxpayer's investment tax credit

(i) at the end of the year, or

(ii) [Repealed, 1996, c. 21, s. 30]

(iii) at the end of any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year,

(i) the total of all amounts each of which is an amount claimed under subparagraph 192(2)(a)(ii) by the taxpayer for the year or a preceding taxation year in respect of property acquired, or an expenditure made, in the year or the 10 taxation years immediately preceding the year,

(j) if the taxpayer is subject to a loss restriction event at any time before the end of the year, the amount determined under subsection (9.1) in respect of the taxpayer, and

quant au contribuable. (*SR&ED qualified expenditure pool*)

contribuable admissible L'une des entités suivantes :

a) une société autre qu'une société non admissible;

b) un particulier autre qu'une fiducie;

c) une fiducie dont l'ensemble des bénéficiaires sont des contribuables admissibles;

d) une société de personnes dont l'ensemble des associés sont des contribuables admissibles.

Pour l'application de la présente définition, est bénéficiaire d'une fiducie la personne ou la société de personnes qui a un droit de bénéficiaire dans la fiducie. (*eligible taxpayer*)

crédit annuel maximal d'impôt à l'investissement [Abrogée, 1994, ch. 8, art. 15]

crédit d'impôt à l'investissement Le crédit d'impôt à l'investissement d'un contribuable à la fin d'une année d'imposition correspond à l'excédent éventuel du total des montants suivants :

a) le total des sommes représentant chacune le pourcentage déterminé du coût en capital, pour le contribuable, d'un bien admissible ou d'un bien minier admissible qu'il a acquis au cours de l'année;

a.1) 15 % de l'excédent du compte de dépenses admissibles de recherche et de développement du contribuable à la fin de l'année sur le total des montants représentant chacun l'avantage relatif à la superdéduction pour l'année relativement au contribuable et à une province;

a.2) si le contribuable est un particulier (sauf une fiducie), 15 % de ses dépenses minières déterminées pour l'année;

a.3) si le contribuable est une société canadienne imposable, le total des sommes suivantes :

(i) la somme qui correspond au pourcentage déterminé de la partie de sa dépense minière préparatoire qui est visée au sous-alinéa a)(i) de la définition de *dépense minière préparatoire*,

(ii) la somme qui correspond au pourcentage déterminé de la partie de sa dépense minière préparatoire qui est visée au sous-alinéa a)(ii) de cette définition;

(k) if the taxpayer is subject to a loss restriction event at any time after the end of the year, the amount determined under subsection (9.2) in respect of the taxpayer,

except that no amount shall be included in the total determined under any of paragraphs (a) to (e.2) in respect of an outlay, expense or expenditure that would, if this Act were read without reference to subsections 127(26) and 78(4), be made or incurred by the taxpayer in the course of earning income in a particular taxation year, and no amount shall be added under paragraph (b) in computing the taxpayer's investment tax credit at the end of a particular taxation year in respect of an outlay, expense or expenditure made or incurred by a trust or a partnership in the course of earning income, if

(l) any of the income is exempt income or is exempt from tax under this Part,

(m) the taxpayer does not file with the Minister a prescribed form containing prescribed information in respect of the amount on or before the day that is one year after the taxpayer's filing-due date for the particular year; (*crédit d'impôt à l'investissement*)

non-government assistance means an amount that would be included in income under paragraph 12(1)(x) if that paragraph were read without reference to subparagraphs 12(1)(x)(v) to (vii); (*aide non gouvernementale*)

non-qualifying corporation at any time means

(a) a corporation that is, at that time, not a Canadian-controlled private corporation,

(b) a corporation that would be liable to pay tax under Part I.3 for the taxation year of the corporation that includes that time if that Part were read without reference to subsection 181.1(4) and if the amount determined under subsection 181.2(3) in respect of the corporation for the year were determined without reference to amounts described in any of paragraphs 181.2(3)(a), 181.2(3)(b), 181.2(3)(d) and 181.2(3)(f) to the extent that the amounts so described were used to acquire property that would be qualified small-business property if the corporation were not a non-qualifying corporation, or

(c) a corporation that at that time is related for the purposes of section 181.5 to a corporation described in paragraph (b); (*société non admissible*)

phase, of a project, means a discrete expansion in the extraction, processing or production capacity of the project

a.4) le total des sommes représentant chacune une dépense d'apprentissage du contribuable pour l'année relativement à un apprenti admissible;

a.5) [Abrogé, 2017, ch. 20, art. 23]

b) l'ensemble des montants à ajouter, en vertu du paragraphe (7) ou (8), dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année;

c) l'ensemble des montants représentant chacun la somme déterminée selon l'un des alinéas a) à b) relativement au contribuable pour l'une des 10 années d'imposition précédentes ou des 3 années d'imposition suivantes;

d) [Abrogé, 2006, ch. 4, art. 75]

e) l'ensemble des montants dont chacun représente un montant à ajouter, en vertu du paragraphe (10.1), dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année ou d'une des 10 années d'imposition précédentes ou des 3 années d'imposition suivantes;

e.1) l'ensemble des montants représentant chacun le pourcentage déterminé de la partie d'un remboursement fait par le contribuable au cours de l'année ou d'une des 10 années d'imposition précédentes ou des 3 années d'imposition suivantes, qu'il est raisonnable de considérer comme le remboursement d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel, qui a réduit, selon le cas :

(i) le coût en capital d'un bien pour lui selon l'alinéa (11.1)b),

(ii) le montant d'une dépense admissible qu'il a engagée en vertu de l'alinéa (11.1)c) pour les années d'imposition qui ont commencé avant 1996,

(iii) le montant de remplacement visé par règlement qui lui est applicable selon l'alinéa (11.1)f) pour les années d'imposition qui ont commencé avant 1996,

(iv) une dépense admissible qu'il a engagée selon l'un des paragraphes (18) à (20),

(v) le montant des dépenses minières préparatoires du contribuable en vertu de l'alinéa (11.1)c.3),

(vi) le montant des traitement et salaire admissibles payable par le contribuable à un apprenti admissible en vertu de l'alinéa (11.1)c.4), dans la mesure où cette réduction a eu pour effet de diminuer le montant de la dépense d'apprentissage du contribuable;

of a taxpayer beyond a capacity level that was attained before March 29, 2012 and which expansion in capacity was the taxpayer's demonstrated intention immediately before that date; (*phase*)

pre-production mining expenditure, of a taxable Canadian corporation for a taxation year, means the total of all amounts each of which is an expenditure incurred after 2002 by the taxable Canadian corporation in the taxation year that

(a) is a Canadian exploration expense and would be

(i) described in paragraph (f) of the definition *Canadian exploration expense* in subsection 66.1(6) if the expression *mineral resource* in that paragraph were defined to mean a mineral deposit from which the principal mineral to be extracted is diamond, a base or precious metal deposit, or a mineral deposit from which the principal mineral to be extracted is an industrial mineral that, when refined, results in a base or precious metal,

(ii) described in paragraph (g), (g.3) or (g.4) and not in paragraph (f), of the definition *Canadian exploration expense* in subsection 66.1(6) if the expression "mineral resource" in paragraph (g) of that definition were defined to mean a mineral deposit from which the principal mineral to be extracted is diamond, a base or precious metal deposit, or a mineral deposit from which the principal mineral to be extracted is an industrial mineral that, when refined, results in a base or precious metal, and

(b) is not an expense that

(i) was renounced under subsection 66(12.6) to the taxable Canadian corporation except if the corporation is, on the effective date of the renunciation,

(A) a corporation that would be a *principal business corporation*, as defined in subsection 66(15), if that definition were read without reference to its paragraphs (a), (a.1), (f), (h) and (i), and

(B) the sole shareholder of the corporation that renounced the expenditure, or

(ii) is a member's share of an expense incurred by a partnership unless the expense was deemed by subsection 66(18) to have been made or incurred at the end of the fiscal period of the partnership by the member and throughout the fiscal period of the partnership in which the expense was incurred

(vii) [Abrogé, 2017, ch. 20, art. 23]

e.2) l'ensemble des montants représentant chacun le pourcentage déterminé du quart de la partie d'un remboursement fait par le contribuable au cours de l'année ou d'une des 10 années d'imposition précédentes ou des 3 années d'imposition suivantes, qu'il est raisonnable de considérer comme le remboursement d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel, qui a réduit l'un des montants suivants relativement à du matériel à vocations multiples de première période ou du matériel à vocations multiples de deuxième période :

(i) le montant d'une dépense admissible qu'il a engagée selon l'alinéa (11.1)e) pour les années d'imposition qui ont commencé avant 1996,

(ii) une dépense admissible qu'il a engagée selon l'un des paragraphes (18) à (20);

à cette fin, le remboursement fait par le contribuable au cours d'une année d'imposition précédant la première année d'imposition qui se termine au même moment que la première ou la deuxième période relativement à du matériel à vocations multiples de première période ou du matériel à vocations multiples de deuxième période, respectivement, est réputé avoir été engagé par lui au cours de cette première année d'imposition,

sur le total des montants suivants :

f) l'ensemble des montants représentant chacun un montant déduit en application du paragraphe (5) de l'impôt payable par ailleurs par le contribuable en vertu de la présente partie pour une année d'imposition antérieure relativement soit à un bien acquis, ou à une dépense engagée, au cours de l'année ou d'une des 10 années d'imposition précédentes ou des 2 années d'imposition suivantes, soit au compte de dépenses admissibles de recherche et de développement du contribuable à la fin d'une telle année;

g) l'ensemble des montants dont chacun représente un montant à déduire, en vertu du paragraphe (6), dans le calcul de son crédit d'impôt à l'investissement :

(i) soit à la fin de l'année,

(ii) [Abrogé, 1996, ch. 21, art. 30]

(iii) soit à la fin d'une des 9 années d'imposition précédentes ou des 3 années d'imposition suivantes;

(A) each member of the partnership would (otherwise than because of being a member of the partnership) be a "principal-business corporation" as defined in subsection 66(15) of the Act, if that definition were read without reference to its paragraphs (a), (a.1), (f), (h) and (i), and

(B) the corporation is a member of the partnership at the time the expenditure is incurred and would not be a specified member of the partnership if the definition *specified member* in subsection 248(1) were read without reference to its subparagraph (b)(ii), (*dépense minière préparatoire*)

qualified Canadian exploration expenditure [Repealed, 1996, c. 21, s. 30]

qualified construction equipment [Repealed, 1996, c. 21, s. 30]

qualified expenditure incurred by a taxpayer in a taxation year means

(a) an amount that is an expenditure incurred in the year by the taxpayer in respect of scientific research and experimental development and is

(i) an expenditure described in subparagraph 37(1)(a)(i), or

(ii) 80% of an expenditure described in any of subparagraphs 37(1)(a)(i.01) to (iii), or

(iii) and (iv) [Repealed, 2012, c. 31, s. 27]

(b) a prescribed proxy amount of the taxpayer for the year,

but does not include

(c) a prescribed expenditure incurred in the year by the taxpayer,

(d) where the taxpayer is a corporation, an expenditure specified by the taxpayer for the year for the purpose of clause 194(2)(a)(ii)(A),

(e) [Repealed, 1998, c. 19, s. 33]

(f) an expenditure (other than an expenditure that is salary or wages of an employee of the taxpayer) incurred by the taxpayer in respect of scientific research and experimental development to the extent that it is performed by another person or partnership at a time when the taxpayer and the person or partnership to

h) l'ensemble des montants dont chacun représente un montant à déduire, en vertu du paragraphe (7), dans le calcul de son crédit d'impôt à l'investissement :

(i) soit à la fin de l'année,

(ii) [Abrogé, 1996, ch. 21, art. 30]

(iii) soit à la fin d'une des 10 années d'imposition précédentes ou des 3 années d'imposition suivantes;

i) l'ensemble des montants dont chacun représente un montant que le contribuable a déduit, en vertu du sous-alinéa 192(2)a)(ii), pour l'année ou pour une année d'imposition antérieure, relativement à un bien acquis, ou à une dépense faite, au cours de l'année ou des 10 années d'imposition précédentes;

j) si le contribuable est assujetti à un fait lié à la restriction de pertes à un moment antérieur à la fin de l'année, le montant calculé à son égard selon le paragraphe (9.1);

k) si le contribuable est assujetti à un fait lié à la restriction de pertes à un moment postérieur à la fin de l'année, le montant calculé à son égard selon le paragraphe (9.2).

Toutefois aucun montant n'est inclus dans le total calculé selon l'un des alinéas a) à e.2) au titre d'une dépense qui, s'il n'était pas tenu compte des paragraphes (26) et 78(4), serait engagée ou effectuée par le contribuable en vue de gagner un revenu au cours d'une année d'imposition, et aucun montant n'est ajouté, aux termes de l'alinéa b), dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin d'une année d'imposition au titre d'une dépense engagée ou effectuée par une fiducie ou une société de personnes en vue de gagner un revenu, si, selon le cas :

l) le revenu, en tout ou en partie, est un revenu exonéré ou est exonéré de l'impôt prévu par la présente partie;

m) le contribuable ne présente pas au ministre un formulaire prescrit contenant les renseignements prescrits relativement au montant au plus tard le jour qui suit d'une année la date d'échéance de production qui lui est applicable pour l'année en question. (*investment tax credit*)

dépense admissible Dépense engagée par un contribuable au cours d'une année d'imposition qui représente :

which the expenditure is paid or payable do not deal with each other at arm's length,

(g) an expenditure described in paragraph 37(1)(a) that is paid or payable by the taxpayer to or for the benefit of a person or partnership that is not a taxable supplier in respect of the expenditure, other than an expenditure in respect of scientific research and experimental development directly undertaken by the taxpayer, and

(h) an amount that would otherwise be a qualified expenditure incurred by the taxpayer in the year to the extent of any reduction in respect of the amount that is required under any of subsections 127(18) to 127(20) to be applied; (*dépense admissible*)

qualified property, of a taxpayer, means property (other than a qualified resource property) that is

(a) a prescribed building to the extent that it is acquired by the taxpayer after June 23, 1975,

(b) prescribed machinery and equipment acquired by the taxpayer after June 23, 1975, or

(b.1) prescribed energy generation and conservation property acquired by the taxpayer after March 28, 2012,

that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer and that is

(c) to be used by the taxpayer in Canada primarily for the purpose of

(i) manufacturing or processing goods for sale or lease,

(ii) farming or fishing,

(iii) logging,

(iv) storing grain, or

(v) harvesting peat,

(vi) to (xiii) [Repealed, 2012, c. 31, s. 27]

(c.1) property (other than property described in paragraph (b.1)) to be used by the taxpayer in Canada primarily for the purpose of producing or processing electrical energy or steam in a prescribed area, if

(i) all or substantially all of the energy or steam

a) soit une dépense relative à des activités de recherche scientifique et de développement expérimental qui, selon le cas :

(i) est visée au sous-alinéa 37(1)a)(i),

(ii) représente 80 % d'une dépense visée à l'un des sous-alinéas 37(1)a)(i.01) à (iii),

(iii) et (iv) [Abrogés, 2012, ch. 31, art. 27]

b) soit un montant de remplacement visé par règlement applicable au contribuable pour l'année.

Ne sont pas des dépenses admissibles :

c) une dépense prévue par r contribuable a engagée au cours de l'année;

d) si le contribuable est une société, une dépense qu'il a indiquée, pour l'application de la division 194(2)a)(ii)(A), dans sa déclaration de revenu produite en vertu de la partie I pour l'année;

e) [Abrogé, 1998, ch. 19, art. 33]

f) une dépense, sauf celle que représente le salaire ou le traitement de son employé, que le contribuable a engagée relativement à des activités de recherche scientifique et de développement expérimental, dans la mesure où ces activités sont exercées par une autre personne ou société de personnes à un moment où le contribuable et la personne ou la société de personnes à qui la dépense est payée ou payable ont entre eux un lien de dépendance;

g) une dépense visée à l'alinéa 37(1)a), à l'exception d'une dépense relative à des activités de recherche scientifique et de développement expérimental que le contribuable exerce directement, qui est payée ou payable par le contribuable à une personne ou une société de personnes qui n'est pas un fournisseur imposable pour ce qui est de la dépense, ou pour le compte d'une telle personne ou société de personnes;

h) un montant qui représenterait par ailleurs une dépense admissible que le contribuable a engagée au cours de l'année, jusqu'à concurrence de la somme qui est à appliquer en réduction de ce montant aux termes des paragraphes (18) à (20). (*qualified expenditure*)

dépense admissible d'exploration au Canada [Abrogée, 1996, ch. 21, art. 30]

dépense admissible relative à une place en garderie [Abrogée, 2017, ch. 20, art. 23]

(A) is used by the taxpayer for the purpose of gaining or producing income from a business (other than the business of selling the product of the particular property), or

(B) is sold directly (or indirectly by way of sale to a provincially regulated power utility operating in the prescribed area) to a person related to the taxpayer, and

(ii) the energy or steam is used by the taxpayer or the person related to the taxpayer primarily for the purpose of manufacturing or processing goods in the prescribed area for sale or lease, or

(d) to be leased by the taxpayer to a lessee (other than a person exempt from tax under this Part because of section 149) who can reasonably be expected to use the property in Canada primarily for any of the purposes referred to in paragraph (c), but this paragraph does not apply to property that is prescribed for the purposes of paragraph (b) or (b.1) unless

(i) the property is leased in the ordinary course of carrying on a business in Canada by a corporation whose principal business is leasing property, lending money, purchasing conditional sales contracts, accounts receivable, bills of sale, chattel mortgages or hypothecary claims on movables, bills of exchange or other obligations representing all or part of the sale price of merchandise or services, or any combination thereof,

(ii) the property is manufactured and leased in the ordinary course of carrying on business in Canada by a corporation whose principal business is manufacturing property that it sells or leases,

(iii) the property is leased in the ordinary course of carrying on business in Canada by a corporation whose principal business is selling or servicing property of that type, or

(iv) the property is a fishing vessel, including the furniture, fittings and equipment attached to it, leased by an individual (other than a trust) to a corporation, controlled by the individual, that carries on a fishing business in connection with one or more commercial fishing licences issued by the Government of Canada to the individual, and, for the purpose of this definition, *Canada* includes the offshore region prescribed for the purpose of the definition *specified percentage*; (*bien admissible*)

dépense d'apprentissage La dépense d'apprentissage d'un contribuable pour une année d'imposition relativement à un apprenti admissible correspond à la moins élevée des sommes suivantes :

a) 2 000 $;

b) 10 % des traitement et salaire admissibles payables par le contribuable au cours de l'année à l'apprenti admissible au titre de l'emploi que celui-ci occupe auprès du contribuable, au cours de l'année et après le 1er mai 2006, dans le cadre d'une entreprise que le contribuable exploite au Canada au cours de l'année. (*apprenticeship expenditure*)

dépense de démarrage déterminée pour la garde d'enfants [Abrogée, 2017, ch. 20, art. 23]

dépense minière déterminée Dépense réputée engagée par un contribuable au cours d'une année d'imposition en vertu du paragraphe 66(12.61) (ou du paragraphe 66(18) par suite de l'application du paragraphe 66(12.61) à la société de personnes, visée à l'alinéa c) de la présente définition, dont le contribuable est un associé) qui répond aux conditions suivantes :

a) elle représente des frais d'exploration au Canada engagés par une société après mars 2017 et avant 2019 (étant entendu que ces frais comprennent ceux qui sont réputés par le paragraphe 66(12.66) être engagés avant 2019) dans le cadre d'activités d'exploration minière effectuées à partir ou au-dessus de la surface terrestre en vue de déterminer l'existence, la localisation, l'étendue ou la qualité de matières minérales visées aux alinéas a) ou d) de la définition de *matières minérales* au paragraphe 248(1);

b) il s'agit d'une dépense qui, à la fois :

(i) est visée à l'alinéa f) de la définition de *frais d'exploration au Canada* au paragraphe 66.1(6),

(ii) n'a pas trait aux opérations suivantes :

(A) le creusage de tranchées en vue d'effectuer notamment un échantillonnage préliminaire (autre que l'échantillonnage déterminé),

(B) le creusage de trous d'exploration (sauf le creusage de tels trous en vue d'effectuer un échantillonnage déterminé),

(C) l'échantillonnage préliminaire (autre que l'échantillonnage déterminé);

c) elle fait l'objet d'une renonciation conformément au paragraphe 66(12.6) par la société en faveur du

qualified resource property, of a taxpayer, means property that is a prescribed building or prescribed machinery and equipment, that is acquired by the taxpayer after March 28, 2012, that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer and that is

(a) to be used by the taxpayer in Canada primarily for the purpose of

(i) operating an oil or gas well or extracting petroleum or natural gas from a natural accumulation of petroleum or natural gas,

(ii) extracting minerals from a mineral resource,

(iii) processing

(A) ore (other than iron ore or tar sands ore) from a mineral resource to any stage that is not beyond the prime metal stage or its equivalent,

(B) iron ore from a mineral resource to any stage that is not beyond the pellet stage or its equivalent, or

(C) tar sands ore from a mineral resource to any stage that is not beyond the crude oil stage or its equivalent,

(iv) producing industrial minerals,

(v) processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,

(vi) Canadian field processing,

(vii) exploring or drilling for petroleum or natural gas, or

(viii) prospecting or exploring for or developing a mineral resource, or

(b) to be leased by the taxpayer to a lessee (other than a person exempt from tax under this Part because of section 149) who can reasonably be expected to use the property in Canada primarily for any of the purposes referred to in paragraph (a), but this paragraph does not apply to prescribed machinery and equipment unless

(i) the property is leased in the ordinary course of carrying on a business in Canada by a corporation whose principal business is any of, or a combination of, leasing property, lending money, purchasing conditional sales contracts, accounts receivable,

contribuable (ou d'une société de personnes dont il est un associé) aux termes d'une convention mentionnée à ce paragraphe conclue après mars 2017 et avant avril 2018;

d) elle n'est pas une dépense à laquelle il a été renoncé en application du paragraphe 66(12.6) en faveur de la société (ou d'une société de personnes dont elle est un associé), sauf si la renonciation a été effectuée aux termes d'une convention mentionnée à ce paragraphe conclue après mars 2017 et avant avril 2018. (*flow-through mining expenditure*)

e) [Abrogé, 2003, ch. 15, art. 81]

dépense minière préparatoire En ce qui concerne une société canadienne imposable pour une année d'imposition, le total des sommes représentant chacune une dépense engagée par la société au cours de l'année, mais après 2002, qui :

a) d'une part, constitue des frais d'exploration au Canada et, selon le cas :

(i) serait visée à l'alinéa f) de la définition de *frais d'exploration au Canada* au paragraphe 66.1(6) si le terme « ressource minérale » à cet alinéa s'entendait d'un gisement minéral dont le principal minéral extrait est le diamant, d'un gisement de métal de base ou de métal précieux ou d'un gisement minéral dont le principal minéral extrait est un minéral industriel qui, une fois raffiné, donne un métal de base ou un métal précieux,

(ii) serait visée aux alinéas g), g.3) ou g.4) de la définition de *frais d'exploration au Canada* au paragraphe 66.1(6) mais non à l'alinéa f) de cette définition, si le terme « ressource minérale » à l'alinéa g) de cette même définition s'entendait d'un gisement minéral dont le principal minéral extrait est le diamant, d'un gisement de métal de base ou de métal précieux ou d'un gisement minéral dont le principal minéral extrait est un minéral industriel qui, une fois raffiné, donne un métal de base ou un métal précieux;

b) d'autre part, n'est pas :

(i) une dépense à laquelle il a été renoncé aux termes du paragraphe 66(12.6) en faveur de la société, sauf si celle-ci est, à la date d'entrée en vigueur de la renonciation, à la fois :

(A) une société qui serait une société exploitant une entreprise principale, au sens du paragraphe

bills of sale, chattel mortgages or hypothecary claims on movables, bills of exchange or other obligations representing all or part of the sale price of merchandise or services,

(ii) the property is manufactured and leased in the ordinary course of carrying on business in Canada by a corporation whose principal business is manufacturing property that it sells or leases, or

(iii) the property is leased in the ordinary course of carrying on business in Canada by a corporation the principal business of which is selling or servicing property of that type,

and, for the purpose of this definition, "Canada" includes the offshore region prescribed for the purpose of the definition *specified percentage*; (*bien minier admissible*)

qualified small-business property [Repealed, 1996, c. 21, s. 30]

qualified transportation equipment [Repealed, 1996, c. 21, s. 30]

second term shared-use-equipment of a taxpayer means property of the taxpayer that was first term shared-use-equipment of the taxpayer and that is used by the taxpayer, during its operating time in the period (in this subsection and subsection 127(11.1) referred to as the "second period") beginning at the time the property was acquired by the taxpayer and ending at the end of the taxpayer's first taxation year ending at least 24 months after that time, primarily for the prosecution of scientific research and experimental development in Canada; (*matériel à vocations multiples de deuxième période*)

specified child care start-up expenditure [Repealed, 2017, c. 20, s. 23]

specified percentage means

(a) in respect of a qualified property

(i) acquired before April, 1977, 5%,

(ii) acquired after March 31, 1977 and before November 17, 1978 primarily for use in

(A) the Province of Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland or the Gaspé Peninsula, 10%,

(B) a prescribed designated region, 7 1/2%, and

(C) any other area in Canada, 5%,

66(15), s'il n'était pas tenu compte des alinéas a), a.1), f), h) et i) de cette définition,

(B) l'unique actionnaire de la société ayant renoncé à la dépense,

(ii) une dépense qui représente la part d'un associé d'une dépense engagée par une société de personnes, sauf dans le cas où une dépense est réputée, en vertu du paragraphe 66(18), avoir été effectuée ou engagée par l'associé à la fin de l'exercice de la société de personnes et où, tout au long de l'exercice de celle-ci au cours duquel la dépense a été engagée :

(A) d'une part, chaque associé de la société de personnes serait (autrement qu'en raison de sa qualité d'associé de la société de personnes) une société exploitant une entreprise principale, au sens du paragraphe 66(15), s'il n'était pas tenu compte des alinéas a), a.1), f), h) et i) de cette définition,

(B) d'autre part, la société est un associé de la société de personnes au moment où la dépense est engagée et ne serait pas un associé déterminé de la société de personnes s'il n'était pas tenu compte du sous-alinéa b)(ii) de la définition de *associé déterminé* au paragraphe 248(1). (*preproduction mining expenditure*)

échantillonnage déterminé La collecte et la mise à l'essai d'échantillons relatifs à une ressource minérale, à l'exclusion :

a) de la collecte ou de la mise à l'essai d'un échantillon qui, au moment de sa collecte, pèse plus de 15 tonnes;

b) de la collecte ou de la mise à l'essai d'un échantillon recueilli relativement à une ressource minérale donnée à un moment d'une année civile, si le poids total de l'ensemble des échantillons recueillis par une personne ou une société de personnes, ou par toute combinaison de personnes et de sociétés de personnes, au cours de la période de l'année qui est antérieure à ce moment (à l'exception des échantillons pesant chacun moins d'une tonne) excède 1 000 tonnes. (*specified sampling*)

fournisseur imposable Pour ce qui est d'un montant :

a) personne qui réside au Canada ou société de personnes canadienne;

b) personne non-résidente, ou société de personnes qui n'est pas une société de personnes canadienne, par

(iii) acquired primarily for use in the Province of Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland or the Gaspé Peninsula,

(A) after November 16, 1978 and before 1989, 20%,

(B) after 1988 and before 1995, 15%,

(C) after 1994, 15% where the property

(I) is acquired by the taxpayer under a written agreement of purchase and sale entered into by the taxpayer before February 22, 1994,

(II) was under construction by or on behalf of the taxpayer on February 22, 1994, or

(III) is machinery or equipment that will be a fixed and integral part of property under construction by or on behalf of the taxpayer on February 22, 1994, and

(D) after 1994, 10% where the property is not property to which clause (C) applies,

(iv) acquired after November 16, 1978 and before February 26, 1986 primarily for use in a prescribed offshore region, 7%,

(v) acquired primarily for use in a prescribed offshore region and

(A) after February 25, 1986 and before 1989, 20%,

(B) after 1988 and before 1995, 15%,

(C) after 1994, 15% where the property

(I) is acquired by the taxpayer under a written agreement of purchase and sale entered into by the taxpayer before February 22, 1994,

(II) was under construction by or on behalf of the taxpayer on February 22, 1994, or

(III) is machinery or equipment that will be a fixed and integral part of property under construction by or on behalf of the taxpayer on February 22, 1994, and

(D) after 1994, 10% where the property is not property to which clause (C) applies,

(vi) acquired primarily for use in a prescribed designated region and

qui le montant était payable dans le cadre de l'exploitation d'une entreprise par l'entremise d'un établissement stable, au sens du *Règlement de l'impôt sur le revenu*, au Canada, ou par qui ou pour qui le montant était à recevoir dans ce cadre. (*taxable supplier*)

matériel à vocations multiples de deuxième période Bien d'un contribuable qui était du matériel à vocations multiples de première période du contribuable et qu'il utilise, pendant le temps d'exploitation du bien et au cours de la période (appelée « deuxième période » au présent paragraphe et au paragraphe (11.1)) commençant au moment de l'acquisition du bien par lui et se terminant à la fin de sa première année d'imposition qui prend fin au moins 24 mois après ce moment, principalement dans le cadre d'activités de recherche scientifique et de développement expérimental au Canada. (*second term shared-use-equipment*)

matériel à vocations multiples de première période Bien amortissable d'un contribuable, sauf un bien amortissable visé par règlement, acquis avant 2014, qu'il utilise, pendant le temps d'exploitation du bien et au cours de la période (appelée « première période » au présent paragraphe et au paragraphe (11.1)) commençant au moment où il a acquis le bien et se terminant à la fin de sa première année d'imposition qui prend fin au moins douze mois après ce moment, principalement dans le cadre d'activités de recherche scientifique et de développement expérimental au Canada. En est exclu le mobilier ou l'équipement de bureau de nature générale. (*first term shared-use-equipment*)

matériel de construction admissible [Abrogée, 1996, ch. 21, art. 30]

matériel de transport admissible [Abrogée, 1996, ch. 21, art. 30]

ouvrage approuvé Ouvrage dont les biens amortissables ont un coût en capital total, calculé compte non tenu du paragraphe 13(7.1) ou (7.4), d'au moins 25 000 $ et qui, sur demande écrite faite avant juillet 1988, est approuvé par le membre du Conseil privé de la Reine pour le Canada chargé par le gouverneur en conseil de l'application de la présente définition relativement aux ouvrages dans la province concernée ou région de celle-ci. (*approved project*)

paiement contractuel

a) Montant payé ou payable à un contribuable, par un fournisseur imposable pour ce qui est de ce montant, pour des activités de recherche scientifique et de développement expérimental, dans la mesure où elles sont exercées, à la fois :

(A) after November 16, 1978 and before 1987, 10%,

(B) in 1987, 7%,

(C) in 1988, 3%, and

(D) after 1988, 0%, and

(vii) acquired primarily for use in Canada (other than a property described in subparagraph (iii), (iv), (v) or (vi)), and

(A) after November 16, 1978 and before 1987, 7%,

(B) in 1987, 5%,

(C) in 1988, 3%, and

(D) after 1988, 0%,

(a.1) in respect of a qualified resource property acquired by a taxpayer primarily for use in Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, the Gaspé Peninsula or the prescribed offshore region, and that is acquired

(i) after March 28, 2012 and before 2014, 10%,

(ii) after 2013 and before 2017, 10% if the property

(A) is acquired by the taxpayer under a written agreement of purchase and sale entered into by the taxpayer before March 29, 2012, or

(B) is acquired as part of a phase of a project and

(I) the construction of the phase was started by, or on behalf of, the taxpayer before March 29, 2012 (and for this purpose construction does not include obtaining permits or regulatory approvals, conducting environmental assessments, community consultations or impact benefit studies, and similar activities), or

(II) the engineering and design work for the construction of the phase, as evidenced in writing, was started by, or on behalf of, the taxpayer before March 29, 2012 (and for this purpose engineering and design work does not include obtaining permits or regulatory approvals, conducting environmental assessments, community consultations or impact benefit studies, and similar activities), and

(iii) in any other case,

(i) pour une personne ou une société de personnes qui a droit à une déduction au titre du montant par l'effet des sous-alinéas 37(1)a)(i.01) ou (i.1), ou pour son compte,

(ii) à un moment où le contribuable n'a aucun lien de dépendance avec la personne ou la société de personnes visée au sous-alinéa (i);

b) montant relatif à une dépense de nature courante, au sens de l'alinéa 37(8)d), d'un contribuable, à l'exception d'un montant prescrit, payable par le gouvernement fédéral, un gouvernement provincial, une municipalité ou une autre administration canadienne ou par une personne exonérée, par l'effet de l'article 149, de l'impôt prévu par la présente partie sur tout ou partie de son revenu imposable, pour des activités de recherche scientifique et de développement expérimental à exercer pour une telle administration ou personne ou pour son compte. (*contract payment*)

péninsule de Gaspé La partie de la Gaspésie, dans la province de Québec, qui s'étend jusqu'à la limite ouest du comté de Kamouraska, y compris les Îles de la Madeleine. (*Gaspé Peninsula*)

phase Phase d'un projet d'un contribuable qui consiste en un élargissement distinct de la capacité d'extraction, de traitement, de transformation ou de production du projet au-delà de tout niveau atteint avant le 29 mars 2012, lequel élargissement correspond à l'intention manifeste du contribuable immédiatement avant cette date. (*phase*)

pourcentage déterminé Le pourcentage déterminé correspond aux pourcentages suivants :

a) dans le cas d'un bien admissible :

(i) acquis avant avril 1977, 5 %,

(ii) acquis après le 31 mars 1977 mais avant le 17 novembre 1978 pour être utilisé principalement :

(A) dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve ou dans la péninsule de Gaspé, 10 %,

(B) dans une région désignée visée par règlement, 7 1/2 %,

(C) dans les autres régions du Canada, 5 %,

(A) in 2014 and 2015, 5%, and

(B) after 2015, 0%,

(b) in respect of qualified transportation equipment acquired

(i) before 1987, 7%,

(ii) in 1987, 5%, and

(iii) in 1988, 3%,

(c) in respect of qualified construction equipment acquired

(i) before 1987, 7%,

(ii) in 1987, 5%, and

(iii) in 1988, 3%,

(d) in respect of certified property

(i) included in subparagraph (a)(i) of the definition *certified property* in this subsection, 50%,

(ii) included in subparagraph (a)(ii) of that definition, 40%, and

(iii) in any other case, 30%,

(e) in respect of a qualified expenditure

(i) made after March 31, 1977 and before November 17, 1978 in respect of scientific research and experimental development to be carried out in

(A) the Province of Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland or the Gaspé Peninsula, 10%,

(B) a prescribed designated region, 7 1/2%, and

(C) any other area in Canada, 5%,

(ii) made by a taxpayer after November 16, 1978 and before the taxpayer's taxation year that includes November 1, 1983 or made by the taxpayer in the taxpayer's taxation year that includes November 1, 1983 or a subsequent taxation year if the taxpayer deducted an amount under section 37.1 in computing the taxpayer's income for the year,

(A) where the expenditure was made by a Canadian-controlled private corporation in a taxation year of the corporation in which it is or would, if

(iii) acquis principalement pour être utilisé dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve ou dans la péninsule de Gaspé :

(A) après le 16 novembre 1978 et avant 1989, 20 %,

(B) après 1988 et avant 1995, 15 %,

(C) après 1994, 15 % si le bien, selon le cas :

(I) est acquis par le contribuable en conformité avec une convention écrite d'achat-vente qu'il a conclue avant le 22 février 1994,

(II) était en construction par le contribuable, ou pour son compte, le 22 février 1994,

(III) est une machine ou du matériel qui sera fixé à un bien qui était en construction par le contribuable, ou pour son compte, le 22 février 1994, et en fera partie intégrante,

(D) après 1994, 10 % s'il s'agit d'un bien auquel la division (C) ne s'applique pas,

(iv) acquis après le 16 novembre 1978 mais avant le 26 février 1986 pour être utilisé principalement dans une zone extracôtière visée par règlement, 7 %,

(v) acquis principalement pour être utilisé dans une zone extracôtière visée par règlement :

(A) après le 25 février 1986 et avant 1989, 20 %,

(B) après 1988 et avant 1995, 15 %,

(C) après 1994, 15 % si le bien, selon le cas :

(I) est acquis par le contribuable en conformité avec une convention écrite d'achat-vente qu'il a conclue avant le 22 février 1994,

(II) était en construction par le contribuable, ou pour son compte, le 22 février 1994,

(III) est une machine ou du matériel qui sera fixé à un bien qui était en construction par le contribuable, ou pour son compte, le 22 février 1994, et en fera partie intégrante,

(D) après 1994, 10 % s'il s'agit d'un bien auquel la division (C) ne s'applique pas,

(vi) acquis pour être utilisé principalement dans une région désignée visée par règlement :

it had sufficient taxable income for the year, be entitled to a deduction under section 125 in computing its tax payable under this Part for the year, 25%, and

(B) where clause (A) is not applicable and the qualified expenditure was in respect of scientific research and experimental development to be carried out in

(I) the Province of Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland or the Gaspé Peninsula, 20%, and

(II) any other area in Canada, 10%,

(iii) made by a taxpayer in the taxpayer's taxation year that ends after October 31, 1983 and before January 1, 1985, other than a qualified expenditure in respect of which subparagraph (ii) is applicable,

(A) where the expenditure was made by a Canadian-controlled private corporation in a taxation year of the corporation in which it is or would, if it had sufficient taxable income for the year, be entitled to a deduction under section 125 in computing its tax payable under this Part for the year, 35%, and

(B) where clause (A) is not applicable and the qualified expenditure was in respect of scientific research and experimental development to be carried out in

(I) the Province of Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland or the Gaspé Peninsula, 30%, and

(II) any other area in Canada, 20%,

(iv) made by a taxpayer

(A) after the taxpayer's 1984 taxation year and before 1995, or

(B) after 1994 under a written agreement entered into by the taxpayer before February 22, 1994,

(other than a qualified expenditure in respect of which subparagraph (ii) applies) in respect of scientific research and experimental development to be carried out in

(C) the Province of Newfoundland, Prince Edward Island, Nova Scotia or New Brunswick or the Gaspé Peninsula, 30%, and

(A) après le 16 novembre 1978 et avant 1987, 10 %,

(B) en 1987, 7 %,

(C) en 1988, 3 %,

(D) après 1988, zéro,

(vii) acquis pour être utilisé principalement au Canada — sauf s'il s'agit d'un bien visé au sous-alinéa (iii), (iv), (v) ou (vi) — :

(A) après le 16 novembre 1978 et avant 1987, 7 %,

(B) en 1987, 5 %,

(C) en 1988, 3 %,

(D) après 1988, zéro;

a.1) dans le cas d'un bien minier admissible acquis par un contribuable principalement pour être utilisé en Nouvelle-Écosse, au Nouveau-Brunswick, à l'Île-du-Prince-Édouard, à Terre-Neuve-et-Labrador, dans la péninsule de Gaspé ou dans la zone extracôtière visée par règlement, qui est acquis :

(i) après le 28 mars 2012 et avant 2014, 10 %,

(ii) après 2013 et avant 2017, 10 % si le bien, selon le cas :

(A) est acquis par le contribuable en conformité avec une convention écrite d'achat-vente qu'il a conclue avant le 29 mars 2012,

(B) est acquis dans le cadre d'une phase de projet à laquelle l'un des énoncés ci-après s'applique :

(I) la construction de la phase a été entreprise par le contribuable, ou pour son compte, avant le 29 mars 2012 (à cette fin, ne sont pas des travaux de construction l'obtention des permis ou des autorisations réglementaires, les évaluations environnementales, la consultation des collectivités, les études sur les répercussions et les avantages et les activités semblables),

(II) les travaux de conception et d'ingénierie pour la construction de la phase, documents à l'appui, ont été entrepris par le contribuable, ou pour son compte, avant le 29 mars 2012 (à

(D) in any other area in Canada, 20%, and

(v) made by a taxpayer after 1994, 20% where the amount is not an amount to which clause (B) applies,

(f) in respect of the repayment of government assistance, non-government assistance or a contract payment that reduced

(i) the capital cost to the taxpayer of a property under paragraph 127(11.1)(b),

(ii) the amount of a qualified expenditure incurred by the taxpayer under paragraph 127(11.1)(c) or 127(11.1)(e) for taxation years that began before 1996, or

(iii) the prescribed proxy amount of the taxpayer under paragraph 127(11.1)(f) for taxation years that began before 1996,

the specified percentage that applied in respect of the property, the expenditure or the prescribed proxy amount, as the case may be,

(f.1) in respect of the repayment of government assistance, non-government assistance or a contract payment that reduced

(i) a qualified expenditure incurred by the taxpayer under any of subsections (18) to (20), 20%, or

(ii) the amount of eligible salary and wages payable (by the taxpayer) to an eligible apprentice under paragraph (11.1)(c.4), 10%,

(iii) [Repealed, 2017, c. 20, s. 23]

(g) in respect of an approved project property acquired

(i) before 1989, 60%, and

(ii) after 1988, 45%,

(h) in respect of the qualified Canadian exploration expenditure of a taxpayer for a taxation year, 25%,

(i) in respect of qualified small-business property, 10%,

(j) in respect of a pre-production mining expenditure of the taxpayer that is described in subparagraph (a)(i) of the definition *pre-production mining expenditure* and that is incurred

(i) before 2013, 10%,

cette fin, ne sont pas des travaux de conception et d'ingénierie l'obtention des permis ou des autorisations réglementaires, les évaluations environnementales, la consultation des collectivités, les études sur les répercussions et les avantages et les activités semblables),

(iii) dans les autres cas :

(A) en 2014 et en 2015, 5 %,

(B) après 2015, 0 %;

b) dans le cas de matériel de transport admissible acquis :

(i) avant 1987, 7 %,

(ii) en 1987, 5 %,

(iii) en 1988, 3 %;

c) dans le cas de matériel de construction admissible acquis :

(i) avant 1987, 7 %,

(ii) en 1987, 5 %,

(iii) en 1988, 3 %;

d) dans le cas de biens certifiés :

(i) s'ils sont visés au sous-alinéa a)(i) de la définition de *bien certifié* au présent paragraphe, 50 %,

(ii) s'ils sont visés au sous-alinéa a)(ii) de cette définition, 40 %,

(iii) dans les autres cas, 30 %;

e) dans le cas d'une dépense admissible :

(i) faite après le 31 mars 1977 mais avant le 17 novembre 1978 pour des activités de recherche scientifique et de développement expérimental à effectuer :

(A) dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve ou dans la péninsule de Gaspé, 10 %,

(B) dans une région désignée visée par règlement, 7 1/2 %,

(C) dans les autres régions du Canada, 5 %,

(ii) in 2013, 5%, and

(iii) after 2013, 0%, and

(k) in respect of a pre-production mining expenditure of the taxpayer that is described in subparagraph (a)(ii) of the definition *pre-production mining expenditure* and that is incurred

(i) before 2014, 10%,

(ii) after 2013 and before 2016, 10% if the expenditure is incurred

(A) under a written agreement entered into by the taxpayer before March 29, 2012, or

(B) as part of the development of a new mine and

(I) the construction of the mine was started by, or on behalf of, the taxpayer before March 29, 2012 (and for this purpose construction does not include obtaining permits or regulatory approvals, conducting environmental assessments, community consultations or impact benefit studies, and similar activities), or

(II) the engineering and design work for the construction of the mine, as evidenced in writing, was started by, or on behalf of, the taxpayer before March 29, 2012 (and for this purpose engineering and design work does not include obtaining permits or regulatory approvals, conducting environmental assessments, community consultations or impact benefit studies, and similar activities), and

(iii) in any other case,

(A) in 2014, 7%,

(B) in 2015, 5% if the expense is described in paragraph (a)(ii) of the definition *pre-production mining expenditure* because of paragraph (g.4) of the definition *Canadian exploration expense* in subsection 66.1(6), and 4% otherwise, and

(C) after 2015, 0%; (*pourcentage déterminé*)

specified property [Repealed, 2017, c. 20, s. 23]

specified sampling means the collecting and testing of samples in respect of a mineral resource except that specified sampling does not include

(ii) faite par un contribuable après le 16 novembre 1978 mais avant le début de son année d'imposition qui comprend le 1er novembre 1983 ou faite par lui au cours de l'année d'imposition qui comprend cette dernière date ou au cours d'une année d'imposition ultérieure, s'il a déduit un montant en vertu de l'article 37.1 dans le calcul de son revenu pour l'année :

(A) lorsque la dépense a été faite par une société privée sous contrôle canadien au cours d'une année d'imposition de la société au cours de laquelle celle-ci a droit à une déduction aux termes de l'article 125 dans le calcul de son impôt payable pour l'année en vertu de la présente partie, ou y aurait droit si son revenu imposable pour l'année était suffisant, 25 %,

(B) lorsque la division (A) ne s'applique pas et que la dépense admissible concerne des activités de recherche scientifique et de développement expérimental à effectuer :

(I) dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve ou dans la péninsule de Gaspé, 20 %,

(II) dans les autres régions du Canada, 10 %,

(iii) faite par un contribuable au cours de son année d'imposition qui se termine après le 31 octobre 1983 et avant le 1er janvier 1985, à l'exclusion d'une dépense admissible à laquelle s'applique le sous-alinéa (ii):

(A) lorsque la dépense a été faite par une société privée sous contrôle canadien au cours d'une année d'imposition de la société au cours de laquelle celle-ci a droit à une déduction aux termes de l'article 125 dans le calcul de son impôt payable pour l'année en vertu de la présente partie, ou y aurait droit si son revenu imposable pour l'année était suffisant, 35 %,

(B) lorsque la division (A) ne s'applique pas et que la dépense admissible concerne des activités de recherche scientifique et de développement expérimental à effectuer :

(I) dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve ou dans la péninsule de Gaspé, 30 %,

(II) dans les autres régions du Canada, 20 %,

(a) the collecting or testing of a sample that, at the time the sample is collected, weighs more than 15 tonnes, and

(b) the collecting or testing of a sample collected at any time in a calendar year in respect of any one mineral resource if the total weight of all such samples collected (by any person or partnership or any combination of persons and partnerships) in the period in the calendar year that is before that time (other than samples each of which weighs less than one tonne) exceeds 1,000 tonnes; (*échantillonnage déterminé*)

SR&ED qualified expenditure pool of a taxpayer at the end of a taxation year means the amount determined by the formula

A + B - C

where

A is the total of all amounts each of which is a qualified expenditure incurred by the taxpayer in the year,

B is the total of all amounts each of which is an amount determined under paragraph 127(13)(e) for the year in respect of the taxpayer, and in respect of which the taxpayer files with the Minister a prescribed form containing prescribed information by the day that is 12 months after the taxpayer's filing-due date for the year, and

C is the total of all amounts each of which is an amount determined under paragraph 127(13)(d) for the year in respect of the taxpayer; (*compte de dépenses admissibles de recherche et de développement*)

super-allowance benefit amount for a particular taxation year in respect of a corporation in respect of a province means the amount determined by the formula

(A - B) × C

where

A is the total of all amounts each of which is an amount that is or may become deductible by the corporation, in computing income or taxable income relevant in calculating an income tax payable by the corporation under a law of the province for any taxation year, in respect of an expenditure on scientific research and experimental development incurred in the particular year,

B is the amount by which the amount of the expenditure exceeds the total of all amounts that would be required by subsections (18) to (20) to reduce the corporation's qualified expenditures otherwise determined under this section if the definitions *government assistance* and *non-government assistance*

(iv) faite par un contribuable soit après son année d'imposition 1984 et avant 1995, soit après 1994 en conformité avec une convention écrite qu'il a conclue avant le 22 février 1994, à l'exclusion d'une dépense admissible à laquelle s'applique le sous-alinéa (ii), pour des activités de recherche scientifique et de développement expérimental à effectuer :

(A) dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve ou dans la péninsule de Gaspé, 30 %,

(B) dans une autre région du Canada, 20 %,

(v) faite par un contribuable après 1994, 20 % s'il s'agit d'une dépense autre qu'une dépense faite après 1994 en conformité avec une convention écrite qu'il a conclue avant le 22 février 1994;

f) dans le cas du remboursement d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel, qui a réduit l'un des montants suivants, le pourcentage déterminé qui s'applique, selon le cas, au bien, à la dépense admissible ou au montant de remplacement visés aux sous-alinéas (i), (ii) et (iii) respectivement :

(i) le coût en capital d'un bien pour le contribuable en vertu de l'alinéa (11.1)b),

(ii) le montant d'une dépense admissible engagée par le contribuable en vertu des alinéas (11.1)c) ou e) pour les années d'imposition qui ont commencé avant 1996,

(iii) le montant de remplacement visé par règlement qui est applicable au contribuable en vertu de l'alinéa (11.1)f) pour les années d'imposition qui ont commencé avant 1996;

f.1) dans le cas du remboursement d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel, qui a réduit :

(i) une dépense admissible engagée par le contribuable en application de l'un des paragraphes (18) à (20), 20 %,

(ii) le montant des traitement et salaire admissibles payable par le contribuable à un apprenti admissible en vertu de l'alinéa (11.1)c.4), 10 %;

(iii) [Abrogé, 2017, ch. 20, art. 23]

g) dans le cas d'un bien d'un ouvrage approuvé :

did not apply to assistance provided under that law, and

C is

(a) where the corporation's expenditure limit for the particular year is nil, the maximum rate of the province's income tax that applies for that year to active business income earned in the province by a corporation, and

(b) in any other case, the rate of the province's income tax for that year that would apply to the corporation if

(i) it were not associated with any other corporation in the year,

(ii) its taxable income for the year were less than $200,000, and

(iii) its taxable income for the year were earned in the province in respect of an active business carried on in the province; (*avantage relatif à la superdéduction*)

taxable supplier in respect of an amount means

(a) a person resident in Canada or a Canadian partnership, or

(b) a non-resident person, or a partnership that is not a Canadian partnership,

(i) by which the amount was payable, or

(ii) by or for whom the amount was receivable

in the course of carrying on a business through a permanent establishment (as defined by regulation) in Canada. (*fournisseur imposable*)

(i) s'il est acquis avant 1989, 60 %,

(ii) s'il est acquis après 1988, 45 %;

h) dans le cas de la dépense admissible d'exploration au Canada faite par un contribuable pour une année d'imposition, 25 %;

i) dans le cas d'un bien admissible de petite entreprise, 10 %;

j) dans le cas d'une dépense minière préparatoire du contribuable visée au sous-alinéa a)(i) de la définition de ce terme qui est engagée :

(i) avant 2013, 10 %,

(ii) en 2013, 5 %,

(iii) après 2013, 0 %;

k) dans le cas d'une dépense minière préparatoire du contribuable visée au sous-alinéa a)(ii) de la définition de ce terme qui est engagée :

(i) avant 2014, 10 %,

(ii) après 2013 et avant 2016, 10 % si la dépense, selon le cas :

(A) est engagée aux termes d'une convention écrite conclue par le contribuable avant le 29 mars 2012,

(B) est engagée dans le cadre de la mise en valeur d'une nouvelle mine à laquelle l'un des énoncés ci-après s'applique :

(I) la construction de la mine a été entreprise par le contribuable, ou pour son compte, avant le 29 mars 2012 (à cette fin, ne sont pas des travaux de construction l'obtention des permis ou des autorisations réglementaires, les évaluations environnementales, la consultation des collectivités, les études sur les répercussions et les avantages et les activités semblables),

(II) les travaux de conception et d'ingénierie pour la construction de la mine, documents à l'appui, ont été entrepris par le contribuable, ou pour son compte, avant le 29 mars 2012 (à cette fin, ne sont pas des travaux de conception et d'ingénierie l'obtention des permis ou des autorisations réglementaires, les évaluations environnementales, la consultation des

collectivités, les études sur les répercussions et les avantages et les activités semblables),

(iii) dans les autres cas :

(A) en 2014, 7 %,

(B) en 2015, 5 %, si la dépense est visée au sous-alinéa a)(ii) de la définition de *dépense minière préparatoire* par l'effet de l'alinéa g.4) de la définition de *frais d'exploration au Canada* au paragraphe 66.1(6), et 4 %, dans les autres cas,

(C) après 2015, 0 %. (*specified percentage*)

sociétés non admissible L'une des sociétés suivantes à un moment donné :

a) une société qui, à ce moment, n'est pas une société privée sous le contrôle canadien;

b) une société qui serait redevable de l'impôt prévu à la partie I.3 pour son année d'imposition qui comprend ce moment s'il n'était pas tenu compte du paragraphe 181.1(4) et si le montant déterminé relativement à la société pour l'année selon le paragraphe 181.2(3) était déterminé compte non tenu des montants visés à l'un des alinéas 181.2(3)a), b), d) et f), dans la mesure où les montants ainsi visés ont servi à acquérir un bien qui serait un bien admissible de petite entreprise si la société n'était pas une société non admissible;

c) une société qui, à ce moment, est liée, pour l'application de l'article 181.5, à une société visée à l'alinéa b). (*non-qualifying corporation*)

somme relative à une place en garderie [Abrogée, 2017, ch. 20, art. 23]

traitement et salaire admissibles La somme qui correspond aux traitement et salaire payables par un contribuable à un apprenti admissible pour les 24 premiers mois de son apprentissage, à l'exception d'une dépense admissible engagée par le contribuable au cours d'une année d'imposition, de la rémunération fondée sur les bénéfices, des gratifications, des sommes visées aux articles 6 ou 7 et des sommes réputées être engagées par l'effet du paragraphe 78(4). (*eligible salary and wages*)

Transitional application of investment tax credit definition

(9.01) For the purpose of applying each of paragraphs (c) to (f), (h) and (i) of the definition *investment tax*

Application transitoire de la définition de *crédit d'impôt à l'investissement*

(9.01) Pour l'application des alinéas c) à f), h) et i) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9) relativement à un contribuable, la mention

credit in subsection (9) in respect of a taxpayer, the reference to "10" in that paragraph is to be read as a reference to the number that is the lesser of

(a) 20, and

(b) the number that is the total of 10 and the number of taxation years by which the number of taxation years of the taxpayer that have ended after 1997 exceeds 11.

« 10 » à ces alinéas vaut mention du moins élevé des nombres suivants :

a) 20;

b) le total de 10 et du nombre qui correspond à l'excédent, sur 11, du nombre d'années d'imposition du contribuable s'étant terminées après 1997.

Transitional application of investment tax credit definition

(9.02) For the purpose of applying paragraph (g) of the definition *investment tax credit* in subsection (9) in respect of a taxpayer, the reference to "9" in that paragraph is to be read as a reference to the number that is the lesser of

(a) 19, and

(b) the number that is the total of 9 and the number of taxation years by which the number of taxation years of the taxpayer that have ended after 1997 exceeds 11.

Application transitoire de la définition de *crédit d'impôt à l'investissement*

(9.02) Pour l'application de l'alinéa g) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9) relativement à un contribuable, la mention « 9 » à cet alinéa vaut mention du moins élevé des nombres suivants :

a) 19;

b) le total de 9 et du nombre qui correspond à l'excédent, sur 11, du nombre d'années d'imposition du contribuable s'étant terminées après 1997.

Loss restriction event before end of year

(9.1) If a taxpayer is subject to a loss restriction event at any time (in this subsection referred to as "that time") before the end of a taxation year of the taxpayer, the amount determined for the purposes of paragraph (j) of the definition *investment tax credit* in subsection (9) with respect to the taxpayer is the amount, if any, by which

(a) the amount, if any, by which

(i) the total of all amounts added in computing its investment tax credit at the end of the year in respect of a property acquired, or an expenditure made, before that time

exceeds

(ii) the total of all amounts each of which is an amount

(A) deducted in computing its investment tax credit at the end of the year under paragraph (f) or (g) of the definition *investment tax credit* in subsection 127(9), or

(B) deducted in computing its investment tax credit at the end of the taxation year immediately preceding the year under paragraph (i) of that definition,

Fait lié à la restriction de pertes avant la fin de l'année

(9.1) Lorsqu'un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné (appelé « ce moment » au présent paragraphe) antérieur à la fin d'une de ses années d'imposition, le montant calculé à son égard pour l'application de l'alinéa j) de la définition de *crédit d'impôt à l'investissement*, au paragraphe (9), correspond à l'excédent éventuel :

a) de l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants ajoutés dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année à l'égard d'un bien acquis, ou d'une dépense faite, avant ce moment,

(ii) le total des montants dont chacun représente un montant :

(A) soit déduit dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année en vertu de l'alinéa f) ou g) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9),

(B) soit déduit dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année d'imposition précédant l'année visée à l'alinéa i) de cette définition,

to the extent that the amount may reasonably be considered to have been so deducted in respect of a property or expenditure in respect of which an amount is included in subparagraph 127(9.1)(a)(i)

exceeds the total of

(c) the amount, if any, by which its refundable Part VII tax on hand at the end of the year exceeds the total of all amounts each of which is an amount designated under subsection 192(4) in respect of a share issued by it

(i) in the period commencing one month before that time and ending at that time, or

(ii) after that time,

and before the end of the year, and

(d) that proportion of the amount that, but for subsections 127(3) and 127(5) and sections 126, 127.2 and 127.3, would be its tax payable under this Part for the year that,

(i) if throughout the year the taxpayer carried on a particular business in the course of which a property was acquired, or an expenditure was made, before that time in respect of which an amount is included in computing its investment tax credit at the end of the year, the amount, if any, by which the total of all amounts each of which is

(A) its income for the year from the particular business, or

(B) its income for the year from any other business substantially all the income of which was derived from the sale, leasing, rental or development of properties or the rendering of services similar to the properties sold, leased, rented or developed, or the services rendered, as the case may be, by the taxpayer in carrying on the particular business before that time

exceeds

(C) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or (d) for the year by the taxpayer in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of the particular business or the other business,

is of the greater of

(ii) the amount determined under subparagraph 127(9.1)(d)(i), and

dans la mesure où il est raisonnable de considérer que ce montant a été ainsi déduit à l'égard d'un bien ou d'une dépense à l'égard desquels un montant est ajouté au sous-alinéa (i),

sur le total des montants suivants :

c) l'excédent éventuel de son impôt de la partie VII en main remboursable à la fin de l'année sur le total des montants dont chacun représente un montant désigné selon le paragraphe 192(4) au titre d'une action qu'elle a émise avant la fin de l'année et :

(i) soit dans la période commençant un mois avant ce moment et se terminant à ce moment,

(ii) soit après ce moment;

d) le produit de la multiplication du montant qui, sans les paragraphes (3) et (5) et les articles 126, 127.2 et 127.3, serait son impôt payable en vertu de la présente partie pour l'année par le rapport entre :

(i) d'une part, lorsque tout au long de l'année le contribuable a exploité une entreprise donnée dans le cours des activités de laquelle il a acquis un bien, ou fait une dépense, avant ce moment — bien ou dépense à l'égard desquels une somme est incluse dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année —, l'excédent éventuel du total des sommes dont chacune représente :

(A) soit son revenu pour l'année tiré de l'entreprise donnée,

(B) soit son revenu pour l'année tiré de toute autre entreprise dont la presque totalité du revenu est dérivée de la vente, de la location ou de la mise en valeur de biens ou de la prestation de services semblables aux biens vendus, loués ou mis en valeur ou aux services rendus, selon le cas, par le contribuable dans le cadre de l'exploitation de l'entreprise donnée avant ce moment,

sur :

(C) le total des sommes dont chacune représente une somme que le contribuable a déduite pour l'année en application des alinéas 111(1)a) ou d) au titre d'une perte autre qu'une perte en capital ou d'une perte agricole, selon le cas, pour une année d'imposition relativement à l'entreprise donnée ou à l'autre entreprise,

(ii) d'autre part, le plus élevé de cet excédent et de son revenu imposable pour l'année.

(iii) its taxable income for the year.

Loss restriction event after end of year

(9.2) If a taxpayer is subject to a loss restriction event at any time (in this subsection referred to as "that time") after the end of a taxation year of the taxpayer, the amount determined for the purposes of paragraph (k) of the definition *investment tax credit* in subsection (9) is the amount, if any, by which

(a) the total of all amounts each of which is an amount included in computing its investment tax credit at the end of the year in respect of a property acquired, or an expenditure made, after that time

exceeds the total of

(c) its refundable Part VII tax on hand at the end of the year, and

(d) that proportion of the amount that, but for subsections 127(3) and 127(5) and sections 126, 127.2 and 127.3, would be its tax payable under this Part for the year that,

(i) if the taxpayer acquired a property or made an expenditure, in the course of carrying on a particular business throughout the portion of a taxation year that is after that time, in respect of which an amount is included in computing its investment tax credit at the end of the year, the amount, if any, by which the total of all amounts each of which is

(A) its income for the year from the particular business, or

(B) if the taxpayer carried on a particular business in the year, its income for the year from any other business substantially all the income of which was derived from the sale, leasing, rental or development of properties or the rendering of services similar to the properties sold, leased, rented or developed, or the services rendered, as the case may be, by the taxpayer in carrying on the particular business before that time

exceeds

(C) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or (d) for the year by the taxpayer in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of the particular business or the other business

is of the greater of

Fait lié à la restriction de pertes après la fin de l'année

(9.2) Lorsqu'un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné (appelé « ce moment » au présent paragraphe) postérieur à la fin d'une de ses années d'imposition, le montant calculé pour l'application de l'alinéa k) de la définition de *crédit d'impôt à l'investissement*, au paragraphe (9), correspond à l'excédent éventuel :

a) du total des montants dont chacun représente un montant inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année à l'égard d'un bien acquis, ou d'une dépense faite, après ce moment,

sur le total des montants suivants :

c) son impôt de la partie VII en main remboursable à la fin de l'année;

d) le produit de la multiplication du montant qui, sans les paragraphes (3) et (5) et les articles 126, 127.2 et 127.3, serait son impôt payable en vertu de la présente partie pour l'année par le rapport entre :

(i) d'une part, lorsque le contribuable a acquis un bien ou fait une dépense dans le cadre de l'exploitation d'une entreprise donnée tout au long de la partie d'une année d'imposition qui est postérieure à ce moment — bien ou dépense à l'égard desquels une somme est incluse dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année —, l'excédent éventuel du total des sommes dont chacune représente :

(A) son revenu pour l'année tiré de l'entreprise donnée,

(B) lorsque le contribuable a exploité l'entreprise donnée au cours de l'année, son revenu pour l'année tiré d'une autre entreprise dont la presque totalité du revenu est dérivée de la vente, de la location ou de la mise en valeur de biens ou de la prestation de services semblables aux biens vendus, loués ou mis en valeur ou aux services rendus, selon le cas, par le contribuable dans le cadre de l'exploitation de l'entreprise donnée avant ce moment,

sur :

(C) le total des sommes dont chacune représente une somme que le contribuable a déduite pour l'année en application des alinéas 111(1)a) ou d) au titre d'une perte autre qu'une perte en capital ou d'une perte agricole, selon le cas, pour une

(ii) the amount determined under subparagraph 127(9.2)(d)(i), and

(iii) its taxable income for the year.

Ascertainment of certain property

(10) The Minister may

(a) obtain the advice of the appropriate minister for the purposes of the *Regional Development Incentives Act*, chapter R-3 of the Revised Statutes of Canada, 1970, as to whether any property is property as described in paragraph (b) of the definition *certified property* in subsection 127(9);

(b) obtain a certificate from the appropriate minister for the purposes of the *Regional Development Incentives Act* certifying that any property specified therein is property as described in paragraph (b) of that definition; or

(c) provide advice to the member of the Queen's Privy Council for Canada appointed to be the Minister for the purposes of the *Atlantic Canada Opportunities Agency Act* as to whether any property qualifies for certification under the definition *approved project property* in subsection 127(9).

Additions to investment tax credit

(10.1) For the purposes of paragraph (e) of the definition *investment tax credit* in subsection (9), if a corporation was throughout a taxation year a Canadian-controlled private corporation, there shall be added in computing the corporation's investment tax credit at the end of the year the amount that is 20% of the least of

(a) such amount as the corporation claims;

(b) the amount by which the corporation's SR&ED qualified expenditure pool at the end of the year exceeds the total of all amounts each of which is the super-allowance benefit amount for the year in respect of the corporation in respect of a province; and

(c) the corporation's expenditure limit for the year.

Expenditure limit determined

(10.2) For the purpose of subsection (10.1), a particular corporation's expenditure limit for a particular taxation year is the amount determined by the formula

($8 million - 10A) × [($40 million - B)/$40 million]

where

année d'imposition relativement à l'entreprise donnée ou à l'autre entreprise,

(ii) d'autre part, le plus élevé de cet excédent et de son revenu imposable pour l'année.

Biens certifiés

(10) Le ministre peut :

a) obtenir l'avis du ministre chargé de l'application de la *Loi sur les subventions au développement régional*, chapitre R-3 des Statuts revisés du Canada de 1970, sur la question de savoir si un bien est visé à l'alinéa b) de la définition de *bien certifié* au paragraphe (9);

b) obtenir un certificat du ministre chargé de l'application de la *Loi sur les subventions au développement régional*, chapitre R-3 des Statuts revisés du Canada de 1970, attestant qu'un bien qui y est mentionné est visé à l'alinéa b) de la définition de *bien certifié* au paragraphe (9);

c) donner son avis au membre du Conseil privé de la Reine pour le Canada chargé de l'application de la *Loi sur l'Agence de promotion économique du Canada atlantique* sur la question de savoir si un bien peut faire l'objet du certificat prévu à la définition de *bien d'un ouvrage approuvé* au paragraphe (9).

Crédit d'impôt à l'investissement majoré

(10.1) Pour l'application de l'alinéa e) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9), le montant correspondant à 20 % du moins élevé des montants ci-après est à ajouter dans le calcul du crédit d'impôt à l'investissement d'une société à la fin de l'année d'imposition tout au long de laquelle elle a été une société privée sous contrôle canadien :

a) le montant qu'elle demande;

b) l'excédent de son compte de dépenses admissibles de recherche et de développement à la fin de l'année sur le total des montants représentant chacun l'avantage relatif à la superdéduction pour l'année relativement à la société et à une province;

c) sa limite de dépenses pour l'année.

Limite de dépenses

(10.2) Pour l'application du paragraphe (10.1), la limite de dépenses d'une société donnée pour une année d'imposition donnée correspond à la somme obtenue par la formule suivante :

(8 000 000 $ - 10A) × [(40 000 000 $ - B)/40 000 000 $]

A is the greater of

(a) $500,000, and

(b) the amount that is

(i) if the particular corporation is not associated with any other corporation in the particular taxation year, the particular corporation's taxable income for its immediately preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding year), or

(ii) if the particular corporation is associated with one or more other corporations in the particular taxation year, the total of all amounts each of which is the taxable income of the particular corporation for its, or of one of the other corporations for its, last taxation year that ended in the last calendar year that ended before the end of the particular taxation year (determined before taking into consideration the specified future tax consequences for that last taxation year), and

B is

(a) nil, if the following amount is less than or equal to $10 million:

(i) if the particular corporation is not associated with any other corporation in the particular taxation year, the amount that is its taxable capital employed in Canada (within the meaning assigned by section 181.2 or 181.3) for its immediately preceding taxation year, or

(ii) if the particular corporation is associated with one or more other corporations in the particular taxation year, the amount that is the total of all amounts, each of which is the taxable capital employed in Canada (within the meaning assigned by section 181.2 or 181.3) of the particular corporation for its, or of one of the other corporations for its, last taxation year that ended in the last calendar year that ended before the end of the particular taxation year, or

(b) in any other case, the lesser of $40 million and the amount by which the amount determined under subparagraph (a)(i) or (ii), as the case may be, exceeds $10 million.

où :

A représente la plus élevée des sommes suivantes :

a) 500 000 $,

b) la somme applicable suivante :

(i) si la société donnée n'est associée à aucune autre société au cours de l'année donnée, son revenu imposable pour son année d'imposition précédente, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année,

(ii) si la société donnée est associée à une ou plusieurs autres sociétés au cours de l'année donnée, le total des sommes représentant chacune le revenu imposable de la société donnée, ou d'une de ces autres sociétés, pour sa dernière année d'imposition s'étant terminée dans la dernière année civile ayant pris fin avant la fin de l'année donnée, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette dernière année d'imposition;

B :

a) zéro, si la somme applicable ci-après est égale ou inférieure à 10 000 000 $:

(i) si la société donnée n'est associée à aucune autre société au cours de l'année donnée, le montant de son capital imposable utilisé au Canada, au sens des articles 181.2 ou 181.3, pour son année d'imposition précédente,

(ii) si la société donnée est associée à une ou plusieurs autres sociétés au cours de l'année donnée, le total des sommes représentant chacune le capital imposable utilisé au Canada, au sens des articles 181.2 ou 181.3, de la société donnée, ou d'une de ces autres sociétés, pour sa dernière année d'imposition s'étant terminée dans la dernière année civile ayant pris fin avant la fin de l'année donnée,

b) dans les autres cas, 40 000 000 $ ou, s'il est moins élevé, l'excédent, sur 10 000 000 $, de la somme déterminée selon les sous-alinéas a)(i) ou (ii), selon le cas.

Expenditure limits — associated CCPCs

(10.21) Notwithstanding subsection (10.2), the expenditure limit for a taxation year of a corporation that is associated in the taxation year with one or more other Canadian-controlled private corporations is, except as otherwise provided in this section, nil.

Deemed non-association of corporations

(10.22) If a particular Canadian-controlled private corporation is associated with another corporation in circumstances where those corporations would not be associated if the Act were read without reference to paragraph 256(1.2)(a), the particular corporation has issued shares to one or more persons who have been issued shares by the other corporation and there is at least one shareholder of the particular corporation who is not a shareholder of the other corporation or one shareholder of the other corporation who is not a shareholder of the particular corporation, the particular corporation is deemed not to be associated with the other corporation for the purpose of determining the particular corporation's expenditure limit under subsection (10.2).

Application of subsection (10.22)

(10.23) Subsection (10.22) applies to the particular corporation and the other corporation referred to in that subsection only if the Minister is satisfied that

(a) the particular corporation and the other corporation are not otherwise associated under this Act; and

(b) the existence of one or more shareholders of the particular corporation who is not a shareholder of the other corporation, or the existence of one or more shareholders of the other corporation who is not a shareholder of the particular corporation, is not for the purpose of satisfying the requirements of subsection (10.22) or 127.1(2.2).

Associated corporations

(10.3) If all of the Canadian-controlled private corporations that are associated with each other in a taxation year file with the Minister in prescribed form an agreement whereby, for the purpose of subsection 127(10.1), they allocate an amount to one or more of them for the year and the amount so allocated or the total of the amounts so allocated, as the case may be, does not exceed the amount determined for the year by the formula in subsection 127(10.2), the expenditure limit for the year of each of the corporations is the amount so allocated to it.

Limite de dépenses — SPCC associées

(10.21) Malgré le paragraphe (10.2), la limite de dépenses, pour une année d'imposition, d'une société qui est associée au cours de l'année à une ou plusieurs autres sociétés privées sous contrôle canadien est nul, sauf disposition contraire du présent article.

Limite de dépenses — SPCC associées

(10.22) Si une société privée sous contrôle canadien (appelée « société donnée » au présent paragraphe) et une autre société sont associées dans des circonstances où elles ne le seraient pas si la présente loi s'appliquait compte non tenu de l'alinéa 256(1.2)a), que la société donnée a émis des actions à une ou plusieurs personnes auxquelles l'autre société a émis des actions et qu'au moins un actionnaire de la société donnée n'est pas actionnaire de l'autre société, ou inversement, la société donnée est réputée ne pas être associée à l'autre société pour ce qui est du calcul de la limite de dépenses de la société donnée, prévu au paragraphe (10.2).

Application du par. (10.22)

(10.23) Le paragraphe (10.22) ne s'applique à la société donnée et à l'autre société qui y sont visées que si le ministre est convaincu de ce qui suit :

a) la société donnée et l'autre société ne sont pas associées par ailleurs sous le régime de la présente loi;

b) le fait qu'il existe un ou plusieurs actionnaires de la société donnée qui ne sont pas actionnaires de l'autre société, ou inversement, n'a pas pour objet de satisfaire les exigences des paragraphes (10.22) ou 127.1(2.2).

Sociétés associées

(10.3) Si toutes les sociétés privées sous contrôle canadien, associées entre elles au cours d'une année d'imposition, présentent au ministre, selon le formulaire prescrit, une convention qui stipule que, pour l'application du paragraphe (10.1), elles attribuent un montant à une ou plusieurs d'entre elles pour l'année, et si le montant ou total des montants, selon le cas, ainsi attribué ne dépasse pas le montant déterminé pour l'année selon la formule figurant au paragraphe (10.2), la limite de dépenses de chaque société pour l'année est le montant qui lui est ainsi attribué.

Failure to file agreement

(10.4) If any of the Canadian-controlled private corporations that are associated with each other in a taxation year fails to file with the Minister an agreement as contemplated by subsection 127(10.3) within 30 days after notice in writing by the Minister is forwarded to any of them that such an agreement is required for the purposes of this Part, the Minister shall, for the purpose of subsection 127(10.1), allocate an amount to one or more of them for the year, which amount or the total of which amounts, as the case may be, shall equal the amount determined for the year by the formula in subsection 127(10.2), and in any such case the expenditure limit for the year of each of the corporations is the amount so allocated to it.

Expenditure limit determination in certain cases

(10.6) Notwithstanding any other provision of this section,

(a) where a Canadian-controlled private corporation (in this paragraph referred to as the "first corporation") has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another Canadian-controlled private corporation that has a taxation year ending in that calendar year, the expenditure limit of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to the application of paragraph 127(10.6)(b), an amount equal to its expenditure limit for the first such taxation year determined without reference to paragraph 127(10.6)(b);

(b) where a Canadian-controlled private corporation has a taxation year that is less than 51 weeks, its expenditure limit for the year is that proportion of its expenditure limit for the year determined without reference to this paragraph that the number of days in the year is of 365; and

(c) for the purpose of subsection (10.2), where a Canadian-controlled private corporation has a taxation year that is less than 51 weeks, the taxable income of the corporation for the year shall be determined by multiplying that amount by the ratio that 365 is of the number of days in that year.

Further additions to investment tax credit

(10.7) Where a taxpayer has in a particular taxation year repaid an amount of government assistance, non-government assistance or a contract payment that was applied to reduce

Non-présentation d'une convention

(10.4) Faute de présentation d'une convention conforme au paragraphe (10.3) au ministre par une des sociétés privées sous contrôle canadien, associées entre elles au cours d'une année d'imposition, dans les 30 jours suivant l'envoi par le ministre, à l'une d'elles, d'un avis écrit indiquant la nécessité d'une convention pour l'application de la présente partie, le ministre attribue, pour l'application du paragraphe (10.1), un montant à une ou plusieurs d'entre elles pour l'année, lequel montant ou total des montants, selon le cas, ainsi attribué est égal au montant déterminé pour l'année selon la formule figurant au paragraphe (10.2); en pareil cas, la limite de dépenses de chaque société pour l'année est le montant qui lui est ainsi attribué.

Détermination de la limite de dépenses dans certains cas

(10.6) Malgré les autres dispositions du présent article :

a) lorsqu'une société privée sous contrôle canadien (appelée « première société » au présent alinéa) a plus d'une année d'imposition se terminant au cours de la même année civile et qu'elle est associée au cours d'au moins deux de ces années d'imposition avec une autre société privée sous contrôle canadien qui a une année d'imposition se terminant au cours de cette année civile, la limite de dépenses de la première société pour chaque année d'imposition au cours de laquelle elle est associée avec l'autre société se terminant au cours de cette année civile est, sous réserve de l'alinéa b), égale à la limite des dépenses pour la première année d'imposition, déterminée compte non tenu de l'alinéa b);

b) lorsqu'une société privée sous contrôle canadien a une année d'imposition de moins de 51 semaines, sa limite de dépenses pour l'année est la fraction de sa limite de dépenses pour l'année déterminée compte non tenu du présent alinéa que représente le nombre de jours de son année d'imposition par rapport à 365;

c) pour l'application du paragraphe (10.2), le revenu imposable d'une société privée sous contrôle canadien pour son année d'imposition qui compte moins de 51 semaines correspond au produit de la multiplication de cette somme par le rapport entre 365 jours et le nombre de jours de cette année.

Montant à ajouter au crédit d'impôt à l'investissement

(10.7) Le contribuable qui, au cours d'une année d'imposition donnée, rembourse le montant d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel qui a été appliqué en réduction soit

(a) the amount of a qualified expenditure incurred by the taxpayer under paragraph 127(11.1)(c) for a preceding taxation year that began before 1996,

(b) the prescribed proxy amount of the taxpayer under paragraph 127(11.1)(f) for a preceding taxation year that began before 1996, or

(c) a qualified expenditure incurred by the taxpayer under any of subsections 127(18) to 127(20) for a preceding taxation year,

there shall be added to the amount otherwise determined under subsection 127(10.1) in respect of the taxpayer for the particular year the amount, if any, by which

(d) the amount that would have been determined under subsection 127(10.1) in respect of the taxpayer for that preceding year if subsections 127(11.1) and 127(18) to 127(20) had not applied in respect of the government assistance, non-government assistance or contract payment, as the case may be, to the extent of the amount so repaid,

exceeds

(e) the amount determined under subsection 127(10.1) in respect of the taxpayer for that preceding year.

du montant d'une dépense admissible qu'il a engagée en application de l'alinéa (11.1)c) pour une année d'imposition antérieure qui a commencé avant 1996, soit du montant de remplacement visé par règlement qui lui est applicable selon l'alinéa (11.1)f) pour une telle année, soit d'une dépense admissible qu'il a engagée en application de l'un des paragraphes (18) à (20) pour une année d'imposition antérieure est tenu d'ajouter au montant calculé par ailleurs selon le paragraphe (10.1) à son égard pour l'année donnée l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant qui aurait été calculé selon le paragraphe (10.1) à son égard pour l'année antérieure si les paragraphes (11.1) et (18) à (20) ne s'étaient pas appliqués à l'aide gouvernementale, à l'aide non gouvernementale ou au paiement contractuel, jusqu'à concurrence du montant ainsi remboursé;

b) le montant calculé selon le paragraphe (10.1) à son égard pour l'année antérieure.

Further additions to investment tax credit

(10.8) For the purposes of paragraph (e.1) of the definition *investment tax credit* in subsection 127(9), subsection 127(10.7) and paragraph 37(1)(c), an amount of government assistance, non-government assistance or a contract payment that

(a) was applied to reduce

(i) the capital cost to a taxpayer of a property under paragraph 127(11.1)(b),

(ii) the amount of a qualified expenditure incurred by a taxpayer under paragraph 127(11.1)(c) for taxation years that began before 1996,

(iii) the prescribed proxy amount of a taxpayer under paragraph 127(11.1)(f) for taxation years that began before 1996, or

(iv) a qualified expenditure incurred by a taxpayer under any of subsections 127(18) to 127(20),

(b) was not received by the taxpayer, and

(c) ceased in a taxation year to be an amount that the taxpayer can reasonably be expected to receive,

Montant à ajouter au crédit d'impôt à l'investissement

(10.8) Pour l'application de l'alinéa e.1) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9), du paragraphe (10.7) et de l'alinéa 37(1)c), le montant d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel est réputé être un montant remboursé par un contribuable au cours d'une année d'imposition au titre de cette aide ou de ce paiement si les conditions suivantes sont réunies :

a) le montant a été appliqué en réduction d'un des montants suivants :

(i) le coût en capital d'un bien pour le contribuable en application de l'alinéa (11.1)b),

(ii) le montant d'une dépense admissible engagée par le contribuable en application de l'alinéa (11.1)c) pour les années d'imposition qui ont commencé avant 1996,

(iii) le montant de remplacement visé par règlement applicable au contribuable selon l'alinéa (11.1)f) pour les années d'imposition qui ont commencé avant 1996,

is deemed to be the amount of a repayment by the taxpayer in the year of the government assistance, non-government assistance or contract payment, as the case may be.

Interpretation

(11) For the purposes of the definitions *qualified property* and *qualified resource property* in subsection (9),

(a) *manufacturing or processing* does not include any of the activities

(i) referred to in any of paragraphs (a) to (e) and (g) to (i) of the definition *manufacturing or processing* in subsection 125.1(3),

(ii) that would be referred to in paragraph (f) of that definition if that paragraph were read without reference to the expression "located in Canada",

(iii) that would be referred to in paragraph (j) of that definition if that paragraph were read without reference to the expression "in Canada", or

(iv) that would be referred to in paragraph (k) of that definition if the definition *Canadian field processing* in subsection 248(1) were read without reference to the expression "in Canada"; and

(b) for greater certainty, the purposes referred to in paragraph (c) of the definition *qualified property* and paragraph (a) of the definition *qualified resource property* in subsection (9) do not include

(i) storing (other than the storing of grain), shipping, selling or leasing finished goods,

(ii) purchasing raw materials,

(iii) administration, including clerical and personnel activities,

(iv) purchase and resale operations,

(v) data processing, or

(vi) providing facilities for employees, including cafeterias, clinics and recreational facilities.

(iv) une dépense admissible engagée par le contribuable en application de l'un des paragraphes (18) à (20);

b) le montant n'a pas été reçu par le contribuable;

c) au cours de l'année, le montant a cessé d'être un montant que le contribuable pouvait raisonnablement s'attendre à recevoir.

Précisions

(11) Pour l'application des définitions de *bien admissible* et *bien minier admissible* au paragraphe (9) :

a) les activités suivantes ne constituent pas de la fabrication ou de la transformation :

(i) celles visées à l'un des alinéas a) à e) et g) à i) de la définition de *fabrication ou transformation* au paragraphe 125.1(3),

(ii) celles qui seraient visées à l'alinéa f) de cette définition s'il n'était pas tenu compte des passages « situées au Canada » figurant à cet alinéa,

(iii) celles qui seraient visées à l'alinéa j) de cette définition s'il n'était pas tenu compte du passage « situé au Canada » figurant à cet alinéa,

(iv) celles qui seraient visées à l'alinéa k) de cette définition s'il n'était pas tenu compte des passages « au Canada » figurant à la définition de *traitement préliminaire au Canada* au paragraphe 248(1);

b) il est entendu que les fins visées à l'alinéa c) de la définition de *bien admissible* et à l'alinéa a) de la définition de *bien minier admissible*, au paragraphe (9), ne comprennent pas :

(i) l'entreposage (sauf l'entreposage du grain), l'expédition, la vente ou la location de produits finis,

(ii) l'achat de matières premières,

(iii) l'administration, y compris le travail de bureau et la gestion du personnel,

(iv) les opérations d'achat et de revente,

(v) le traitement des données,

(vi) la fourniture aux employés d'installations, y compris de cafétérias, cliniques et installations récréatives.

Investment tax credit

(11.1) For the purposes of the definition *investment tax credit* in subsection 127(9),

(a) the capital cost to a taxpayer of a property shall be computed as if no amount were added thereto by virtue of section 21;

(b) the capital cost to a taxpayer of a property shall be deemed to be the capital cost to the taxpayer of the property, determined without reference to subsections 13(7.1) and 13(7.4), less the amount of any government assistance or non-government assistance that can reasonably be considered to be in respect of, or for the acquisition of, the property and that, at the time of the filing of the taxpayer's return of income under this Part for the taxation year in which the property was acquired, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;

(c) [Repealed, 1996, c. 21, s. 30]

(c.1) the amount of a taxpayer's qualified Canadian exploration expenditure for a taxation year shall be deemed to be the amount of the taxpayer's qualified Canadian exploration expenditure for the year as otherwise determined less the amount of any government assistance, non-government assistance or contract payment (other than assistance under the *Petroleum Incentives Program Act or the Petroleum Incentives Program Act*, Chapter P-4.1 of the Statutes of Alberta, 1981) in respect of expenditures included in determining the taxpayer's qualified Canadian exploration expenditure for the year that, at the time of the filing of the taxpayer's return of income for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;

(c.2) the amount of a taxpayer's flow-through mining expenditure for a taxation year is deemed to be the amount of the taxpayer's flow-through mining expenditure for the year as otherwise determined less the amount of any government assistance or non-government assistance in respect of expenses included in determining the taxpayer's flow-through mining expenditure for the year that, at the time of the filing of the taxpayer's return of income for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;

(c.3) the amount of a taxpayer's pre-production mining expenditure for a taxation year is deemed to be the amount of the taxpayer's pre-production mining expenditure for the year as otherwise determined less

Précisions quant à la définition de *crédit d'impôt à l'investissement*

(11.1) Pour l'application de la définition de *crédit d'impôt à l'investissement* au paragraphe (9):

a) le coût en capital d'un bien pour un contribuable est calculé comme si aucun montant n'y était ajouté en vertu de l'article 21;

b) le coût en capital d'un bien pour un contribuable est réputé être le coût en capital du bien pour lui, calculé compte non tenu des paragraphes 13(7.1) et (7.4), moins le montant de quelque aide gouvernementale ou aide non gouvernementale qu'il est raisonnable de considérer comme se rapportant au bien ou à son acquisition, que le contribuable a reçu, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir, au moment de la production de sa déclaration de revenu en vertu de la présente partie pour l'année d'imposition où le bien est acquis;

c) [Abrogé, 1996, ch. 21, art. 30]

c.1) la dépense admissible d'exploration au Canada faite par un contribuable pour une année d'imposition est réputée être diminuée de tout montant que, au moment de la production de sa déclaration de revenu pour l'année, le contribuable a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir, à titre d'aide gouvernementale, d'aide non gouvernementale ou de paiement contractuel — à l'exception d'une subvention prévue par la *Loi sur le programme d'encouragement du secteur pétrolier* ou la loi intitulée Petroleum Incentives Program Act, chapitre P-4.1 des lois intitulées Statutes of Alberta, 1981 de l'Alberta — au titre de frais compris dans le calcul de cette dépense admissible d'exploration au Canada;

c.2) la dépense minière déterminée d'un contribuable pour une année d'imposition est réputée correspondre au montant de sa dépense minière déterminée pour l'année, déterminé par ailleurs, moins le montant d'une aide gouvernementale ou aide non gouvernementale relative à des dépenses comprises dans le calcul de sa dépense minière déterminée pour l'année qu'il a reçue, a le droit de recevoir ou peut vraisemblablement s'attendre à recevoir au moment de la production de sa déclaration de revenu pour l'année;

c.3) le montant des dépenses minières préparatoires d'un contribuable pour une année d'imposition est réputé correspondre au montant de ces dépenses pour l'année, déterminé par ailleurs, moins le montant de toute aide gouvernementale ou non gouvernementale relative à des dépenses comprises dans le calcul de ses dépenses minières préparatoires pour l'année qu'il a

the amount of any government assistance or non-government assistance in respect of expenses included in determining the taxpayer's pre-production mining expenditure for the year that, at the time of the filing of the taxpayer's return of income for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;

(c.4) the amount of a taxpayer's eligible salary and wages for a taxation year is deemed to be the amount of the taxpayer's eligible salary and wages for the year otherwise determined less the amount of any government assistance or non-government assistance in respect of the eligible salary and wages for the year that, at the time of the filing of the taxpayer's return of income for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive; and

(c.5) [Repealed, 2017, c. 20, s. 23]

(d) where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received, is entitled to receive or can reasonably be expected to receive government assistance, non-government assistance or a contract payment, the amount thereof that may reasonably be considered to be in respect of, or for the acquisition of, depreciable property of the trust or partnership or in respect of an expenditure by the trust or partnership shall be deemed to have been received at that time by the trust or partnership, as the case may be, as government assistance, non-government assistance or as a contract payment in respect of the property or the expenditure, as the case may be.

(e) and (f) [Repealed, 1996, c. 21, s. 30]

reçue, a le droit de recevoir ou peut vraisemblablement s'attendre à recevoir, au moment de la production de sa déclaration de revenu pour l'année;

c.4) le montant des traitement et salaire admissibles d'un contribuable pour une année d'imposition est réputé être le montant de ces traitement et salaire pour l'année déterminé par ailleurs, diminué du montant de toute aide gouvernementale ou aide non gouvernementale se rapportant à ces traitement et salaire pour l'année que le contribuable a reçue, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir au moment de la production de sa déclaration de revenu pour l'année;

c.5) [Abrogé, 2017, ch. 20, art. 23]

d) lorsque, à un moment donné, un contribuable bénéficiaire d'une fiducie ou associé d'une société de personnes a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir une aide gouvernementale, une aide non gouvernementale ou un paiement contractuel, le montant de l'aide ou du paiement qu'il est raisonnable de considérer comme relatif à un bien amortissable de la fiducie ou de la société de personnes ou destiné à son acquisition ou comme relatif à une dépense de la fiducie ou de la société de personnes est réputé reçu à ce moment par la fiducie ou la société de personnes, selon le cas, à titre d'aide gouvernementale, d'aide non gouvernementale ou de paiement contractuel à l'égard du bien ou de la dépense, selon le cas.

e) et f) [Abrogés, 1996, ch. 21, art. 30]

Time of acquisition

(11.2) In applying subsections (5), (7) and (8), paragraphs (a) and (a.1) of the definition *investment tax credit* in subsection (9) and section 127.1, qualified property and qualified resource property are deemed not to have been acquired by a taxpayer before the property is considered to have become available for use by the taxpayer, determined without reference to paragraphs 13(27)(c) and (28)(d).

Moment de l'acquisition

(11.2) Pour l'application des paragraphes (5), (7) et (8), des alinéas a) et a.1) de la définition de *crédit d'impôt à l'investissement* au paragraphe (9) et de l'article 127.1, un bien admissible et un bien minier admissible sont réputés ne pas avoir été acquis par un contribuable avant le moment, déterminé compte non tenu des alinéas 13(27)c) et (28)d), où les biens sont considérés comme devenus prêts à être mis en service par lui.

Decertification of approved project property

(11.3) For the purposes of the definition *approved project property* in subsection 127(9), a property that has been certified by the Minister of Regional Industrial Expansion, the Minister of Industry, Science and Technology or the member of the Queen's Privy Council for Canada appointed to be the Minister for the purposes of

Révocation du certificat

(11.3) Pour l'application de la définition de *bien d'un ouvrage approuvé* au paragraphe (9), le membre du Conseil privé de la Reine pour le Canada chargé de l'application de la *Loi sur l'Agence de promotion économique du Canada atlantique* peut révoquer le certificat délivré, en ce qui concerne un bien, par lui-même, le

the *Atlantic Canada Opportunities Agency Act* may have its certification revoked by the latter Minister where

(a) an incorrect statement was made in the furnishing of information for the purpose of obtaining the certificate, or

(b) the taxpayer does not conform to the plan described in that definition,

and a certificate that has been so revoked shall be void from the time of its issue.

ministre de l'Expansion industrielle régionale ou le ministre de l'Industrie, des Sciences et de la Technologie :

a) lorsqu'une déclaration inexacte a été faite dans le cadre de la fourniture des renseignements nécessaires à l'obtention du certificat;

b) lorsque le contribuable ne se conforme pas au projet mentionné à cette définition.

Un certificat ainsi révoqué est nul rétroactivement au moment où il a été délivré.

Special rule for eligible salary and wages — apprentices

(11.4) For the purpose of the definition *eligible salary and wages* in subsection (9), the eligible salary and wages payable by a taxpayer in a taxation year to an eligible apprentice in respect of the eligible apprentice's employment in the taxation year is, if the eligible apprentice is employed by any other taxpayer who is related to the taxpayer (including a partnership that has a member that is related to the taxpayer) in the calendar year that includes the end of the taxpayer's taxation year, deemed to be nil unless the taxpayer is designated in prescribed form by all of those related taxpayers to be the only employer of the eligible apprentice for the purpose of the taxpayer applying that definition to the salary and wages payable by the taxpayer to the eligible apprentice in that taxation year, in which case

(a) the eligible salary and wages payable by the taxpayer in the taxation year to the eligible apprentice in respect of the eligible apprentice's employment in the taxation year shall be the amount determined without reference to this subsection; and

(b) the eligible salary and wages payable to the eligible apprentice by each of the other related taxpayers in their respective taxation years that end in the calendar year is deemed to be nil.

Règle spéciale — traitement et salaire admissibles d'apprentis

(11.4) Pour l'application de la définition de *traitement et salaire admissibles* au paragraphe (9), les traitement et salaire admissibles payables par un contribuable donné au cours d'une année d'imposition à un apprenti admissible au titre de l'emploi de celui-ci au cours de l'année sont réputés être nuls si l'apprenti est au service d'un autre contribuable qui est lié au contribuable donné (y compris une société de personnes dont l'un des associés est lié au contribuable donné) au cours de l'année civile qui comprend la fin de l'année d'imposition du contribuable donné. Toutefois, cette règle ne s'applique pas si l'ensemble des contribuables liés ont désigné le contribuable donné, dans le formulaire prescrit, comme étant le seul employeur de l'apprenti admissible pour l'application de cette définition, par le contribuable donné, aux traitement et salaire payables par lui à l'apprenti admissible au cours de l'année d'imposition en cause. Le cas échéant :

a) les traitement et salaire admissibles payables par le contribuable donné au cours de l'année d'imposition à l'apprenti admissible au titre de l'emploi de celui-ci au cours de l'année correspond à la somme déterminée compte non tenu du présent paragraphe;

b) les traitement et salaire admissibles payables à l'apprenti admissible par chacun des autres contribuables liés au cours de leur année d'imposition respective se terminant dans l'année civile sont réputés être nuls.

Adjustments to qualified expenditures

(11.5) For the purposes of the definition *qualified expenditure* in subsection (9), the amount of an expenditure (other than a prescribed proxy amount) incurred by a taxpayer in a taxation year is deemed to be the amount of the expenditure determined under subsection (11.6).

Rajustement des dépenses admissibles

(11.5) Pour l'application de la définition de *dépense admissible* au paragraphe (9), le montant d'une dépense, sauf un montant de remplacement visé par règlement, engagée par un contribuable au cours d'une année d'imposition est réputé égal au montant de la dépense, déterminé selon le paragraphe (11.6).

Non-arm's length costs

(11.6) For the purpose of subsection 127(11.5), where

(a) a taxpayer would, if this Act were read without reference to subsection 127(26), incur at any time an expenditure as consideration for a person or partnership (referred to in this subsection as the "supplier") rendering a service (other than a service rendered by a person as an employee of the taxpayer) or providing a property to the taxpayer, and

(b) at that time the taxpayer does not deal at arm's length with the supplier,

the amount of the expenditure incurred by the taxpayer for the service or property and the cost to the taxpayer of the property are deemed to be

(c) in the case of a service rendered to the taxpayer, the lesser of

(i) the amount of the expenditure otherwise incurred by the taxpayer for the service, and

(ii) the adjusted service cost to the supplier of rendering the service, and

(d) in the case of a property sold to the taxpayer, the lesser of

(i) the cost to the taxpayer of the property otherwise determined, and

(ii) the adjusted selling cost to the supplier of the property.

Coûts pour personnes ayant un lien de dépendance

(11.6) Pour l'application du paragraphe (11.5), lorsqu'un contribuable engagerait une dépense à un moment donné, compte non tenu du paragraphe (26), en contrepartie de la fourniture ou de la prestation, par une personne ou une société de personnes (appelées « fournisseur » au présent paragraphe) avec laquelle il a un lien de dépendance à ce moment, d'un bien ou d'un service, sauf un service qu'une personne lui rend à titre d'employé, le montant de la dépense qu'il engage relativement au bien ou au service et le coût du bien pour lui sont réputés correspondre à celle des sommes ci-après qui est applicable :

a) dans le cas d'un service rendu au contribuable, le moins élevé des montants suivants :

(i) le montant de la dépense que le contribuable a engagée par ailleurs pour le service,

(ii) le coût de service rajusté pour le fournisseur relativement à la prestation du service;

b) dans le cas d'un bien vendu au contribuable, le moins élevé des montants suivants :

(i) le coût du bien pour le contribuable, déterminé par ailleurs,

(ii) le coût de vente rajusté du bien pour le fournisseur.

Definitions

(11.7) The definitions in this subsection apply in this subsection and subsection 127(11.6).

adjusted service cost to a person or partnership (referred to in this definition as the "supplier") of rendering a particular service is the amount determined by the formula:

A - B - C - D - E

where

A is the cost to the supplier of rendering the particular service,

B is the total of all amounts each of which is the amount, if any, by which

(a) the cost to the supplier for a service (other than a service rendered by a person as an employee of the supplier) rendered by a person or partnership that does not deal at arm's length with the

Définitions

(11.7) Les définitions qui suivent s'appliquent au présent paragraphe et au paragraphe (11.6).

coût de service rajusté Quant à une personne ou une société de personnes (appelées « fournisseur » dans la présente définition) relativement à la prestation d'un service donné, le résultat du calcul suivant :

A - B - C - D - E

où :

A représente le coût de la prestation du service donné pour le fournisseur;

B le total des montants représentant chacun l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le coût, pour le fournisseur, d'un service (sauf un service rendu par une personne à titre d'employé du fournisseur) rendu par une personne ou

supplier to the extent that the cost is incurred for the purpose of rendering the particular service

exceeds

(b) the adjusted service cost to the person or partnership referred to in paragraph (a) of rendering the service referred to in that paragraph to the supplier,

C is the total of all amounts each of which is the amount, if any, by which

(a) the cost to the supplier of a property acquired by the supplier from a person or partnership that does not deal at arm's length with the supplier

exceeds

(b) the adjusted selling cost to the person or partnership referred to in paragraph (a) of the property,

to the extent that the excess relates to the cost of rendering the particular service,

D is the total of all amounts each of which is remuneration based on profits or a bonus paid or payable to an employee of the supplier to the extent that it is included in the cost to the supplier of rendering the particular service, and

E is the total of all amounts each of which is government assistance or non-government assistance that can reasonably be considered to be in respect of rendering the particular service and that the supplier has received, is entitled to receive or can reasonably be expected to receive. (*coût de service rajusté*)

adjusted selling cost to a person or partnership (referred to in this definition as the "supplier") of a property is the amount determined by the formula

A - B

where

A is

(a) where the property is purchased from another person or partnership with which the supplier does not deal at arm's length, the lesser of

(i) the cost to the supplier of the property, and

(ii) the adjusted selling cost to the other person or partnership of the property, and

(b) in any other case, the cost to the supplier of the property,

and for the purpose of paragraph (b),

(c) where part of the cost to a supplier of a particular property is attributable to another property

une société de personnes avec laquelle il a un lien de dépendance, dans le mesure où le coût est engagé en vue de rendre le service donné,

b) le coût de service rajusté pour la personne ou la société de personnes visée à l'alinéa a) relativement à la prestation, au fournisseur, du service visé à cet alinéa;

C le total des montants représentant chacun l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b), dans la mesure où l'excédent se rapporte au coût de la prestation du service donné :

a) le coût, pour le fournisseur, d'un bien qu'il a acquis auprès d'une personne ou d'une société de personnes avec laquelle il a un lien de dépendance,

b) le coût de vente rajusté du bien pour la personne ou la société de personnes visée à l'alinéa a);

D le total des montants représentant chacun la rémunération fondée sur les bénéfices ou une gratification payée ou payable à un employé du fournisseur, dans la mesure où elle est incluse dans le coût de la prestation du service donné pour le fournisseur;

E le total des montants représentant chacun l'aide gouvernementale ou l'aide non gouvernementale qu'il est raisonnable de considérer comme se rapportant à la prestation du service donné et que le fournisseur a reçue, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir. (*adjusted service cost*)

coût de vente rajusté Quant à une personne ou une société de personnes (appelées « fournisseur » dans la présente définition) relativement à un bien, le résultat du calcul suivant :

A - B

où :

A représente :

a) dans le cas où le bien est acheté auprès d'une autre personne ou société de personnes avec laquelle le fournisseur a un lien de dépendance, le moins élevé des montants suivants :

(i) le coût du bien pour le fournisseur,

(ii) le coût de vente rajusté du bien pour l'autre personne ou société de personnes,

b) dans les autres cas, le coût du bien pour le fournisseur; les règles suivantes s'appliquent dans le cadre du présent alinéa :

(i) la partie du coût d'un bien donné pour un fournisseur qui est attribuable à un autre bien

acquired by the supplier from a person or partnership with which the supplier does not deal at arm's length, that part of the cost is deemed to be the lesser of

(i) the amount of that part of the cost otherwise determined, and

(ii) the adjusted selling cost to the person or the partnership of the other property,

(d) where part of the cost to a supplier of a property is attributable to a service (other than a service rendered by a person as an employee of the supplier) rendered to the supplier by a person or partnership with which the supplier does not deal at arm's length, that part of the cost is deemed to be the lesser of

(i) the amount of that part of the cost otherwise determined, and

(ii) the adjusted service cost to the person or partnership of rendering the service, and

(e) no part of the cost to a supplier of a property that is attributable to remuneration based on profits or a bonus paid or payable to an employee of the supplier shall be included, and

B is the total of all amounts each of which is the amount of government assistance or non-government assistance that can reasonably be considered to be in respect of the property and that the supplier has received, is entitled to receive or can reasonably be expected to receive. (*coût de vente rajusté*)

qu'il a acquis auprès d'une personne ou d'une société de personnes avec laquelle il a un lien de dépendance est réputée égale au moins élevé des montants suivants :

(A) cette partie de coût, déterminée par ailleurs,

(B) le coût de vente rajusté de l'autre bien pour la personne ou la société de personnes,

(ii) la partie du coût d'un bien pour un fournisseur qui est attribuable à un service rendu à celui-ci par une personne ou une société de personnes avec laquelle il a un lien de dépendance (sauf un service qu'une personne lui rend du fait qu'elle est à son emploi) est réputée égale au moins élevé des montants suivants :

(A) cette partie de coût, déterminée par ailleurs,

(B) le coût de service rajusté, pour la personne ou la société de personnes, relativement à la prestation du service,

(iii) il n'est pas tenu compte de la partie du coût d'un bien pour un fournisseur qui est attribuable à la rémunération fondée sur les bénéfices ou à une gratification payée ou payable à son employé;

B le total des montants représentant chacun l'aide gouvernementale ou l'aide non gouvernementale qu'il est raisonnable de considérer comme se rapportant au bien et que le fournisseur a reçue, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir. (*adjusted selling cost*)

Interpretation for non-arm's length costs

(11.8) For the purposes of this subsection and subsections 127(11.6) and 127(11.7),

(a) the cost to a person or partnership (referred to in this paragraph as the "supplier") of rendering a service or providing a property to another person or partnership (referred to in this paragraph as the "recipient") with which the supplier does not deal at arm's length does not include,

(i) where the cost to the recipient of the service rendered or property provided by the supplier would, but for this paragraph, be a cost to the recipient incurred in rendering a particular service or providing a particular property to a person or partnership with which the recipient does not deal at arm's length, any expenditure of the supplier to the extent that it would, if it were incurred by the recipient in

Règles concernant les coût pour personnes ayant un lien de dépendance

(11.8) Les règles suivantes s'appliquent dans le cadre du présent paragraphe et des paragraphes (11.6) et (11.7):

a) les dépenses suivantes sont exclues du coût, pour une personne ou une société de personnes (appelées « fournisseur » au présent alinéa), lié à la prestation d'un service ou à la fourniture d'un bien à une autre personne ou société de personnes (appelées « bénéficiaire » au présent alinéa) avec laquelle le fournisseur a un lien de dépendance :

(i) dans le cas où le coût, pour le bénéficiaire, du service que rend le fournisseur, ou du bien qu'il fournit, représenterait, n'eût été le présent alinéa, un coût que le bénéficiaire a engagé en vue de rendre un service donné ou de fournir un bien donné à une personne ou une société de personnes avec laquelle il a un lien de dépendance, toute dépense

rendering the particular service or providing the particular property, be excluded from a cost to the recipient because of this paragraph, and

(ii) in any other case, any expenditure of the supplier to the extent that it would, if it were incurred by the recipient, not be a qualified expenditure of the recipient; and

(b) paragraph 69(1)(c) does not apply in determining the cost of a property.

(c) [Repealed, 2012, c. 31, s. 27]

du fournisseur, dans la mesure où elle serait exclue d'un coût pour le bénéficiaire par l'effet du présent alinéa si celui-ci l'engageait en vue de rendre le service donné ou de fournir le bien donné,

(ii) dans les autres cas, toute dépense du fournisseur, dans la mesure où elle ne serait pas une dépense admissible du bénéficiaire si celui-ci l'engageait;

b) l'alinéa 69(1)c) ne s'applique pas au calcul du coût d'un bien.

c) [Abrogé, 2012, ch. 31, art. 27]

Interpretation

(12) For the purposes of subsection 13(7.1), where, ursuant to a designation or an allocation from a trust or partnership, an amount is required by subsection 127(7) or 127(8) to be added in computing the investment tax credit of a taxpayer at the end of the taxpayer's taxation year, the portion thereof that can reasonably be considered to relate to depreciable property shall be deemed to have been received by the partnership or trust, as the case may be, at the end of its fiscal period in respect of which the designation or allocation was made as assistance from a government for the acquisition of depreciable property.

Interprétation

(12) Pour l'application du paragraphe 13(7.1), lorsqu'un montant, conformément à une attribution ou une allocation par une fiducie ou une société de personnes, doit être ajouté en vertu du paragraphe (7) ou (8) dans le calcul du crédit d'impôt à l'investissement d'un contribuable à la fin de son année d'imposition, la fraction de ce montant qu'il est raisonnable de considérer comme se rapportant à un bien amortissable est réputée avoir été reçue par la fiducie ou la société de personnes, selon le cas, à la fin de l'exercice à l'égard duquel l'attribution ou l'allocation a été faite, à titre d'aide d'un gouvernement relativement à l'acquisition de biens amortissables.

Idem

(12.1) For the purposes of section 37, where, pursuant to a designation or an allocation from a trust or partnership, an amount is required by subsection 127(7) or 127(8) to be added in computing the investment tax credit of a taxpayer at the end of the taxpayer's taxation year, the portion thereof that may reasonably be regarded as relating to expenditures of a current nature in respect of scientific research and experimental development that are qualified expenditures shall, at the end of the fiscal period of the trust or partnership, as the case may be, in respect of which the designation or allocation was made, reduce the total of such expenditures of a current nature as may be claimed by the trust or partnership in respect of scientific research and experimental development.

Idem

(12.1) Pour l'application de l'article 37, lorsqu'un montant attribué par une fiducie ou par une société de personnes doit être ajouté en vertu du paragraphe (7) ou (8) dans le calcul du crédit d'impôt à l'investissement d'un contribuable à la fin de son année d'imposition, la partie de ce montant qu'il est raisonnable de considérer comme liée à des dépenses courantes pour des activités de recherche scientifique et de développement expérimental qui sont des dépenses admissibles réduit le total de ces dépenses courantes, déductibles par la fiducie ou la société de personnes, à la fin de l'exercice de la fiducie ou de la société de personnes, selon le cas, pour lequel l'attribution a été faite.

Idem

(12.2) For the purposes of paragraphs 53(2)(c), 53(2)(h) and 53(2)(k), where in a taxation year a taxpayer has deducted under subsection 127(5) an amount that may reasonably be regarded as attributable to amounts included in computing the investment tax credit of the taxpayer at the end of the year in respect of property acquired, or an expenditure made, in a subsequent taxation year, the taxpayer shall be deemed to have made the deduction under that subsection in that subsequent taxation year.

Idem

(12.2) Pour l'application des alinéas 53(2)c), h) et k), un contribuable qui, au cours d'une année d'imposition, a déduit en vertu du paragraphe (5) un montant qu'il est raisonnable de considérer comme se rapportant aux montants inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année pour un bien acquis, ou une dépense faite, au cours d'une année d'imposition ultérieure, est réputé l'avoir déduit en vertu de ce paragraphe au cours de cette année d'imposition ultérieure.

Idem

(12.3) For the purposes of the determination of J in the definition *cumulative Canadian exploration expense* in subsection 66.1(6), where, pursuant to a designation by a trust, an amount is required by subsection 127(7) to be added in computing the investment tax credit of a taxpayer at the end of the taxpayer's taxation year, the portion thereof that can reasonably be considered to relate to a qualified Canadian exploration expenditure of the trust for a taxation year shall be deemed to have been received by the trust at the end of its taxation year in respect of which the designation was made as assistance from a government in respect of that expenditure.

Agreement to transfer qualified expenditures

(13) Where a taxpayer (referred to in this subsection and subsections 127(15) and 127(16) as the "transferor") and another taxpayer (referred to in this subsection and subsection 127(15) as the "transferee") file with the Minister an agreement or an amended agreement in respect of a particular taxation year of the transferor, the least of

(a) the amount specified in the agreement for the purpose of this subsection,

(b) the amount that but for the agreement would be the transferor's SR&ED qualified expenditure pool at the end of the particular year, and

(c) the total of all amounts each of which is an amount that, if the transferor were dealing at arm's length with the transferee, would be a contract payment

(i) for the performance of scientific research and experimental development for, or on behalf of, the transferee,

(ii) that is paid by the transferee to the transferor on or before the day that is 180 days after the end of the particular year, and

(iii) that would be in respect of

(A) a qualified expenditure that

(I) would be incurred by the transferor in the particular year (if this Act were read without reference to subsections 127(26) and 78(4)) in respect of that portion of the scientific research and experimental development that was performed at a time when the transferor did not deal at arm's length with the transferee, and

Idem

(12.3) Pour l'application de l'élément J de la formule figurant à la définition de *frais cumulatifs d'exploration au Canada* au paragraphe 66.1(6), lorsqu'un montant attribué par une fiducie doit être ajouté en vertu du paragraphe (7) dans le calcul du crédit d'impôt à l'investissement d'un contribuable à la fin de l'année d'imposition de celui-ci, la partie de ce montant qu'il est raisonnable de considérer comme se rapportant à une dépense admissible d'exploration au Canada faite par la fiducie pour une année d'imposition est réputée reçue par la fiducie à la fin de son année d'imposition pour laquelle le montant est attribué à titre d'aide gouvernementale au titre de cette dépense.

Convention pour le transfert de dépenses admissibles

(13) Dans le cas où deux contribuables (l'un étant appelé « cédant » et l'autre, « cessionnaire » au présent paragraphe et aux paragraphes (15) et (16)) présentent au ministre une convention ou une convention modifiée visant une année d'imposition du cédant, le moins élevé des montants suivants :

a) le montant indiqué dans la convention pour l'application du présent paragraphe,

b) le montant qui, n'eût été la convention, représenterait le compte de dépenses admissibles de recherche et de développement du cédant à la fin de l'année,

c) le total des montants représentant chacun un montant qui, si le cédant n'avait aucun lien de dépendance avec le cessionnaire, constituerait un paiement contractuel qui, à la fois :

(i) est affecté à des activités de recherche scientifique et de développement expérimental exercées pour le cessionnaire ou pour son compte,

(ii) est fait par le cessionnaire au cédant au plus tard le cent-quatre-vingtième jour suivant la fin de l'année,

(iii) se rapporte :

(A) soit à une dépense admissible qui :

(I) d'une part, est engagée par le cédant au cours de l'année, compte non tenu des paragraphes (26) et 78(4), relativement à la partie des activités de recherche scientifique et de développement expérimental qui a été exercée à un moment où il avait un lien de dépendance avec le cessionnaire,

(II) is paid by the transferor on or before the day that is 180 days after the end of the particular year, or

(B) an amount added because of this subsection to the transferor's SR&ED qualified expenditure pool at the end of the particular year where the amount is attributable to an expenditure in respect of the scientific research and experimental development

is deemed to be

(d) an amount determined in respect of the transferor for the particular year for the purpose of determining the value of C in the definition *SR&ED qualified expenditure pool* in subsection 127(9), and

(e) an amount determined in respect of the transferee for the transferee's first taxation year that ends at or after the end of the particular year for the purpose of determining the value of B in the definition *SR&ED qualified expenditure pool* in subsection 127(9),

and where the total of all amounts each of which is an amount specified in an agreement filed with the Minister under this subsection in respect of a particular taxation year of a transferor exceeds the amount that would be the transferor's SR&ED qualified expenditure pool at the end of the particular year if no agreement were filed with the Minister in respect of the particular year, the least of the amounts determined under paragraphs 127(13)(a) to 127(13)(c) in respect of each such agreement is deemed to be nil.

(II) d'autre part, est payée par le cédant au plus tard le cent-quatre-vingtième jour suivant la fin de l'année,

(B) soit à un montant ajouté, par l'effet du présent paragraphe, au compte de dépenses admissibles de recherche et de développement du cédant à la fin de l'année, dans le cas où ce montant est attribuable à une dépense relative à des activités de recherche scientifique et de développement expérimental,

est réputé être :

d) un montant déterminé quant au cédant pour l'année aux fins du calcul de la valeur de l'élément C de la formule figurant à la définition de *compte de dépenses admissibles de recherche et de développement* au paragraphe (9);

e) un montant déterminé quant au cessionnaire pour sa première année d'imposition qui se termine à la fin de l'année ou postérieurement aux fins du calcul de la valeur de l'élément B de la formule figurant à la définition de *compte de dépenses admissibles de recherche et de développement* au paragraphe (9).

De plus, lorsque le total des montants représentant chacun un montant indiqué dans une convention présentée au ministre en application du présent paragraphe pour l'année d'imposition d'un cédant dépasse le montant qui correspondrait à son compte de dépenses admissibles de recherche et de développement à la fin de cette année si aucune convention n'était présentée au ministre pour cette année, le moins élevé des montants déterminés selon les alinéas a) à c) relativement à une telle convention est réputé nul.

Identification of amounts transferred

(14) Where

(a) a transferor and a transferee have filed an agreement under subsection 127(13) in respect of a taxation year of the transferor,

(b) the agreement includes a statement identifying the amount specified in the agreement for the purpose of subsection 127(13), or a part of that amount, as being related to

(i) a particular qualified expenditure included in the value of A in the formula in the definition *SR&ED qualified expenditure pool* in subsection 127(9) for the purpose of determining the transferor's SR&ED qualified expenditure pool at the end of the year, or

Indication des montants transférés

(14) Dans le cas où les conditions suivantes sont réunies :

a) un cédant et un cessionnaire ont présenté, en vertu du paragraphe (13), une convention visant une année d'imposition du cédant,

b) la convention comprend un énoncé selon lequel le montant indiqué dans la convention pour l'application du paragraphe (13), ou une partie de ce montant, se rapporte :

(i) soit à une dépense admissible incluse à l'élément A de la formule figurant à la définition de *compte de dépenses admissibles de recherche et de développement*, au paragraphe (9), aux fins

(ii) a particular amount included in the value of B in the formula in that definition for the purpose of determining the transferor's SR&ED qualified expenditure pool at the end of the year that is deemed by paragraph 127(14)(d) to be a qualified expenditure, and

(c) the total of all amounts so identified in agreements filed by the transferor under subsection 127(13) as being related to the particular expenditure or the particular amount does not exceed the particular expenditure or the particular amount, as the case may be,

for the purposes of this section (other than the description of A in the definition *SR&ED qualified expenditure pool* in subsection 127(9)) and section 127.1,

(d) the amount so identified that is included in the value of B in the formula in that definition for the purpose of determining the transferee's SR&ED qualified expenditure pool at the end of the taxation year of the transferee is deemed to be a qualified expenditure either of a current nature or of a capital nature, incurred by the transferee in that year, where the particular expenditure or the particular amount was an expenditure of a current nature or of a capital nature, as the case may be, and

(e) except for the purpose of paragraph 127(14)(b), the amount of the transferor's qualified expenditures of a current nature incurred in the taxation year of the transferor in respect of which the agreement is made is deemed not to exceed the amount by which the amount of such expenditures otherwise determined exceeds the total of all amounts identified under paragraph 127(14)(b) by the transferor in agreements filed under subsection 127(13) in respect of the year as being related to expenditures of a current nature.

du calcul du compte de dépenses admissibles de recherche et de développement du cédant à la fin de l'année,

(ii) soit à un montant inclus à l'élément B de la formule visée au sous-alinéa (i) aux fins du calcul du compte de dépenses admissibles de recherche et de développement du cédant à la fin de l'année qui est réputé par l'alinéa d) être une dépense admissible,

c) le total des montants qui, selon l'énoncé accompagnant les conventions présentées par le cédant en vertu du paragraphe (13), se rapportent à la dépense visée au sous-alinéa b)(i) ou au montant visé au sous-alinéa b)(ii) ne dépasse pas cette dépense ou ce montant,

les présomptions suivantes s'appliquent dans le cadre du présent article (exception faite de l'élément A de la formule figurant à la définition de *compte de dépenses admissibles de recherche et de développement* au paragraphe (9)) et de l'article 127.1:

d) le montant dont l'énoncé fait état et qui est inclus à l'élément B de cette formule aux fins du calcul du compte de dépenses admissibles de recherche et de développement du cessionnaire à la fin d'une année d'imposition de celui-ci est réputé être une dépense admissible en capital ou de nature courante engagée par le cessionnaire au cours de cette année, à condition que la dépense visée au sous-alinéa b)(i) ou le montant visé au sous-alinéa b)(ii) ait été une dépense en capital ou de nature courante, selon le cas;

e) sauf pour l'application de l'alinéa b), le montant des dépenses admissibles de nature courante du cédant engagées au cours de son année d'imposition visée par la convention est réputé ne pas dépasser l'excédent du montant de ces dépenses déterminé par ailleurs sur le total des montants qui, selon l'énoncé accompagnant les conventions présentées par le cédant en vertu du paragraphe (13) pour l'année, se rapportent à des dépenses de nature courante.

Invalid agreements

(15) An agreement or amended agreement referred to in subsection 127(13) between a transferor and a transferee is deemed not to have been filed with the Minister for the purpose of that subsection where

(a) it is not in prescribed form;

(b) it is not filed

(i) on or before the transferor's filing-due date for the particular taxation year to which the agreement relates,

Modalités de présentation

(15) La convention ou la convention modifiée entre un cédant et un cessionnaire n'est considérée comme présentée au ministre pour l'application du paragraphe (13) que si :

a) elle est présentée sur formulaire prescrit;

b) elle est présentée :

(i) soit au plus tard à la date d'échéance de production applicable au cédant pour l'année d'imposition qu'elle vise,

(ii) in the period within which the transferor may serve a notice of objection to an assessment of tax payable under this Part for the particular year, or

(iii) in the period within which the transferee may serve a notice of objection to an assessment of tax payable under this Part for its first taxation year that ends at or after the end of the transferor's particular year;

(c) it is not accompanied by,

(i) where the transferor is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made,

(ii) where the transferor is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made,

(iii) where the transferee is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

(iv) where the transferee is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made; or

(d) an agreement amending the agreement has been filed in accordance with subsection 127(13) and this subsection, except where subsection 127(16) applies to the original agreement.

(ii) soit au cours de la période pendant laquelle le cédant peut signifier un avis d'opposition à une cotisation d'impôt payable en vertu de la présente partie pour l'année d'imposition qu'elle vise,

(iii) soit au cours de la période pendant laquelle le cessionnaire peut signifier un avis d'opposition à une cotisation d'impôt payable en vertu de la présente partie pour sa première année d'imposition que se termine à la fin de l'année d'imposition qu'elle vise ou postérieurement;

c) elle est accompagnée des documents suivants :

(i) dans le cas où le cédant est une société et ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(ii) dans le cas où le cédant est une société et ses administrateurs n'ont pas légalement le droit de gérer ses affaires, une copie certifiée conforme du document par lequel la personne qui a ce droit autorise la conclusion de la convention,

(iii) dans le cas où le cessionnaire est une société et ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(iv) dans le cas où le cessionnaire est une société et ses administrateurs n'ont pas légalement le droit de gérer ses affaires, une copie certifiée conforme du document par lequel la personne qui a ce droit autorise la conclusion de la convention.

La convention ou la convention modifiée est réputée ne pas avoir été présentée au ministre pour l'application du paragraphe (13) si une convention la modifiant a été présentée en conformité avec ce paragraphe et le présent paragraphe, sauf dans le cas où le paragraphe (16) s'applique à son égard.

Non-arm's length parties

(16) Where a taxpayer does not deal at arm's length with another taxpayer as a result of a transaction, event or arrangement, or a series of transactions or events, the principal purpose of which can reasonably be considered to have been to enable the taxpayers to enter into an agreement referred to in subsection 127(13), for the purpose of paragraph 127(13)(e) the least of the amounts determined under paragraphs 127(13)(a) to 127(13)(c) in respect of the agreement is deemed to be nil.

Lien de dépendance

(16) Dans le cas où des contribuables ont, entre eux, un lien de dépendance par suite d'une opération, d'un événement ou d'un arrangement, ou d'une série d'opérations ou d'événements, dont il est raisonnable de considérer que l'objet principal est de leur permettre de conclure la convention visée au paragraphe (13), le moins élevé des montants déterminés selon les alinéas (13)a) à c) relativement à la convention est réputé nul pour l'application de l'alinéa (13)e).

Assessment

(17) Notwithstanding subsections 152(4) and 152(5), such assessment of the tax, interest and penalties payable by any taxpayer in respect of any taxation year that began before the day an agreement or amended agreement is filed under subsection 127(13) or 127(20) shall be made as is necessary to take into account the agreement or the amended agreement.

Reduction of qualified expenditures

(18) Where on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection as the "taxpayer") the taxpayer has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development, the amount by which the particular amount exceeds all amounts applied for preceding taxation years under this subsection or subsection 127(19) or 127(20) in respect of the particular amount shall be applied to reduce the taxpayer's qualified expenditures otherwise incurred in the year that can reasonably be considered to be in respect of the scientific research and experimental development.

Reduction of qualified expenditures

(19) Where on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection as the "recipient") the recipient has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development and the particular amount exceeds the total of

(a) all amounts applied for preceding taxation years under this subsection or subsection 127(18) or 127(20) in respect of the particular amount,

(b) the total of all amounts each of which would be a qualified expenditure that is incurred in the year by the recipient and that can reasonably be considered to be in respect of the scientific research and experimental development if subsection 127(18) did not apply to the particular amount, and

(c) the total of all amounts each of which would, but for the application of this subsection to the particular amount, be a qualified expenditure

Cotisation

(17) Malgré les paragraphes 152(4) et (5), le ministre établit une cotisation concernant l'impôt, les intérêts et les pénalités payables par un contribuable pour une année d'imposition qui a commencé avant le jour où une convention ou une convention modifiée est présentée selon les paragraphes (13) ou (20), afin de tenir compte de la convention ou de la convention modifiée.

Réduction des dépenses admissibles

(18) Dans le cas où un contribuable — personne ou société de personnes — reçoit, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir, au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition, un montant qui représente une aide gouvernementale, une aide non gouvernementale ou un paiement contractuel qu'il est raisonnable de considérer comme se rapportant à des activités de recherche scientifique et de développement expérimental, l'excédent de ce montant sur les montants appliqués pour les années d'imposition antérieures en vertu du présent paragraphe ou des paragraphes (19) ou (20) relativement à ce montant est appliqué en réduction des dépenses admissibles du contribuable engagées par ailleurs au cours de l'année qu'il est raisonnable de considérer comme se rapportant aux activités de recherche scientifique et de développement expérimental.

Réduction des dépenses admissibles — bénéficiaire

(19) Dans le cas où une personne ou une société de personnes (appelées « bénéficiaire » au présent paragraphe) reçoit, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir, au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition, un montant donné qui représente une aide gouvernementale, une aide non gouvernementale ou un paiement contractuel qu'il est raisonnable de considérer comme se rapportant à des activités de recherche scientifique et de développement expérimental, le montant donné est appliqué en réduction de chaque dépense admissible, déterminée par ailleurs, qui est visée à l'alinéa c) s'il dépasse le total des montants suivants :

a) les montants appliqués pour les années d'imposition antérieures en vertu du présent paragraphe ou des paragraphes (18) ou (20) relativement au montant donné;

b) le total des montants dont chacun représenterait une dépense admissible que le bénéficiaire engagerait au cours de l'année et qu'il serait raisonnable de considérer comme se rapportant aux activités de recherche scientifique et de développement expérimental si le paragraphe (18) ne s'appliquait pas au montant donné;

(i) that was incurred by a person or partnership in a taxation year of the person or partnership that ended in the recipient's taxation year, and

(ii) that can reasonably be considered to be in respect of the scientific research and experimental development to the extent that it was performed by the person or partnership at a time when the person or partnership was not dealing at arm's length with the recipient,

the particular amount shall be applied to reduce each qualified expenditure otherwise determined that is referred to in paragraph 127(19)(c).

c) le total des montants dont chacun représenterait, n'eût été l'application du présent paragraphe au montant donné, une dépense admissible qui répond aux conditions suivantes :

(i) elle a été engagée par une personne ou une société de personnes au cours de son année d'imposition qui s'est terminée dans l'année d'imposition du bénéficiaire,

(ii) il est raisonnable de considérer qu'elle se rapporte aux activités de recherche scientifique et de développement expérimental, dans la mesure où celles-ci ont été exercées par la personne ou la société de personnes à un moment où elle avait un lien de dépendance avec le bénéficiaire.

Agreement to allocate

(20) Where

(a) on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection and subsection 127(22) as the "taxpayer") the taxpayer has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development,

(b) subsection 127(19) does not apply to the particular amount in respect of the year, and

(c) the taxpayer and a person or partnership (referred to in this subsection and subsection 127(22) as the "transferee") with which the taxpayer does not deal at arm's length file an agreement or amended agreement with the Minister,

the lesser of

(d) the amount specified in the agreement, and

(e) the total of all amounts each of which would, but for the agreement, be a qualified expenditure

(i) that was incurred by the transferee in a particular taxation year of the transferee that ended in the taxpayer's taxation year, and

(ii) that can reasonably be considered to be in respect of the scientific research and experimental development to the extent that it was performed by the transferee at a time when the transferee was not dealing at arm's length with the taxpayer

Convention pour l'attribution de dépenses

(20) Dans le cas où une personne ou une société de personnes (appelées « contribuable » au présent paragraphe et au paragraphe (22)) reçoit, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir, au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition, un montant qui représente une aide gouvernementale, une aide non gouvernementale ou un paiement contractuel qu'il est raisonnable de considérer comme se rapportant à des activités de recherche scientifique et de développement expérimental et auquel le paragraphe (19) ne s'applique pas pour l'année, et où le contribuable et une personne ou une société de personnes (appelées « cessionnaire » au présent paragraphe et au paragraphe (22)) avec laquelle il a un lien de dépendance présentent une convention ou une convention modifiée au ministre, le moins élevé des montants suivants est appliqué en réduction des dépenses admissibles, déterminées par ailleurs, qui sont visées à l'alinéa b):

a) le montant indiqué dans la convention;

b) le total des montants dont chacun représenterait, n'eût été la convention, une dépense admissible qui répond aux conditions suivantes :

(i) elle a été engagée par le cessionnaire au cours de son année d'imposition qui s'est terminée dans l'année d'imposition du contribuable,

(ii) il est raisonnable de considérer qu'elle se rapporte aux activités de recherche scientifique et de développement expérimental, dans la mesure où celles-ci ont été exercées par le cessionnaire à un moment où il avait un lien de dépendance avec le contribuable.

shall be applied to reduce the qualified expenditures otherwise determined that are described in paragraph 127(20)(e).

Failure to allocate

(21) Where on or before the filing-due date for a taxation year of a person or partnership (referred to in this subsection as the "recipient") the recipient has received, is entitled to receive or can reasonably be expected to receive a particular amount that is government assistance, non-government assistance or a contract payment that can reasonably be considered to be in respect of scientific research and experimental development and subsection 127(19) does not apply to the particular amount in respect of the year, the lesser of

(a) the total of all amounts each of which is a qualified expenditure

(i) that was incurred by a particular person or partnership in a taxation year of the particular person or partnership that ended in the recipient's taxation year, and

(ii) that can reasonably be considered to be in respect of the scientific research and experimental development to the extent that it was performed by the particular person or partnership at a time when the particular person or partnership was not dealing at arm's length with the recipient, and

(b) the amount, if any, by which the particular amount exceeds the total of amounts applied for the year and preceding taxation years under subsection 127(18), 127(19) or 127(20) in respect of the particular amount

is deemed for the purposes of this section to be an amount of government assistance received at the end of the particular year by the particular person or partnership in respect of the scientific research and experimental development.

Invalid agreements

(22) An agreement or amended agreement referred to in subsection 127(20) between a taxpayer and a transferee is deemed not to have been filed with the Minister where

(a) it is not in prescribed form;

(b) it is not filed

Non-attribution

(21) Dans le cas où une personne ou une société de personnes (appelées « bénéficiaire » au présent paragraphe) reçoit, est en droit de recevoir ou peut vraisemblablement s'attendre à recevoir, au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition, un montant qui représente une aide gouvernementale, une aide non gouvernementale ou un paiement contractuel qu'il est raisonnable de considérer comme se rapportant à des activités de recherche scientifique et de développement expérimental et auquel le paragraphe (19) ne s'applique pas pour l'année, le moins élevé des montants suivants est réputé, pour l'application du présent article, être une aide gouvernementale qu'une personne ou une société de personnes avec laquelle le bénéficiaire a un lien de dépendance a reçue relativement aux activités de recherche scientifique et de développement expérimental à la fin de son année d'imposition donnée qui s'est terminée dans l'année d'imposition du bénéficiaire :

a) le total des montants représentant chacun une dépense admissible qui répond aux conditions suivantes :

(i) elle a été engagée par une autre personne ou société de personnes au cours de son année d'imposition qui s'est terminée dans l'année d'imposition du bénéficiaire,

(ii) il est raisonnable de considérer qu'elle se rapporte aux activités de recherche scientifique et de développement expérimental, dans la mesure où celles-ci ont été exercées par l'autre personne ou société de personnes à un moment où elle avait un lien de dépendance avec le bénéficiaire;

b) l'excédent éventuel de ce montant sur le total des montants appliqués pour l'année et pour les années d'imposition antérieures en vertu des paragraphes (18), (19) ou (20) relativement à ce montant.

Modalités de présentation

(22) La convention ou la convention modifiée entre un contribuable et un cessionnaire n'est considérée comme présentée au ministre pour l'application du paragraphe (20) que si :

a) elle est présentée sur formulaire prescrit;

b) elle est présentée :

(i) on or before the taxpayer's filing-due date for the particular taxation year to which the agreement relates,

(ii) in the period within which the taxpayer may serve a notice of objection to an assessment of tax payable under this Part for the particular year, or

(iii) in the period within which the transferee may serve a notice of objection to an assessment of tax payable under this Part for its first taxation year that ends at or after the end of the taxpayer's particular year;

(c) it is not accompanied by,

(i) where the taxpayer is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made,

(ii) where the taxpayer is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made,

(iii) where the transferee is a corporation and its directors are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

(iv) where the transferee is a corporation and its directors are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer its affairs authorized the agreement to be made; or

(d) an agreement amending the agreement has been filed in accordance with subsection 127(20) and this subsection.

(i) soit au plus tard à la date d'échéance de production applicable au contribuable pour l'année d'imposition qu'elle vise,

(ii) soit au cours de la période pendant laquelle le contribuable peut signifier un avis d'opposition à une cotisation d'impôt payable en vertu de la présente partie pour l'année d'imposition qu'elle vise,

(iii) soit au cours de la période pendant laquelle le cessionnaire peut signifier un avis d'opposition à une cotisation d'impôt payable en vertu de la présente partie pour sa première année d'imposition qui se termine à la fine de l'année d'imposition qu'elle vise ou postérieurement;

c) elle est accompagnée des documents suivants :

(i) dans le cas où le contribuable est une société et ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(ii) dans le cas où le contribuable est une société et ses administrateurs n'ont pas légalement le droit de gérer ses affaires, une copie certifiée conforme du document par lequel la personne qui a ce droit autorise la conclusion de la convention,

(iii) dans le cas où le cessionnaire est une société et ses administrateurs ont légalement le droit de gérer ses affaires, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(iv) dans le cas où le cessionnaire est une société et ses administrateurs n'ont pas légalement le droit de gérer ses affaires, une copie certifiée conforme du document par lequel la personne qui a ce droit autorise la conclusion de la convention.

La convention ou la convention modifiée est réputée ne pas avoir été présentée au ministre pour l'application du paragraphe (20) si une convention la modifiant a été présentée en conformité avec ce paragraphe et le présent paragraphe.

Partnership's taxation year

(23) For the purposes of subsections 127(18) to 127(22), the taxation year of a partnership is deemed to be its fiscal period and its filing-due date for a taxation year is deemed to be the day that would be its filing-due date for the year if it were a corporation.

Année d'imposition d'une société de personnes

(23) Pour l'application des paragraphes (18) à (22), l'année d'imposition d'une société de personnes est réputée correspondre à son exercice et la date d'échéance de production qui lui est applicable pour une année d'imposition est réputée être le jour qui correspondrait à cette date pour l'année si elle était une société.

Exclusion from qualified expenditure

(24) Where

(a) a person or partnership (referred to in this subsection as the "first person") does not deal at arm's length with another person or partnership (referred to in this subsection as the "second person"),

(b) there is an arrangement under which an amount is paid or payable by the first person to a person or partnership with which the first person deals at arm's length and an amount is received or receivable by the second person from a person or partnership with which the second person deals at arm's length, and

(c) one of the main purposes of the arrangement can reasonably be considered to be to cause the amount paid or payable by the first person to be a qualified expenditure,

the amount paid or payable by the first person is deemed not to be a qualified expenditure.

Deemed contract payment

(25) Where

(a) a person or partnership (referred to in this subsection as the "first person") deals at arm's length with another person or partnership (referred to in this subsection as the "second person"),

(b) there is an arrangement under which an amount is paid or payable by the first person to a person or partnership (other than the second person) and a particular amount is received or receivable in respect of scientific research and experimental development by the second person from a person or partnership that is not a taxable supplier in respect of the particular amount, and

(c) one of the main purposes of the arrangement can reasonably be considered to be to cause the amount received or receivable by the second person not to be a contract payment,

the amount received or receivable by the second person is deemed to be a contract payment in respect of scientific research and experimental development.

Unpaid amounts

(26) For the purposes of subsections 127(5) to 127(25) and section 127.1, a taxpayer's expenditure described in paragraph 37(1)(a) that is unpaid on the day that is 180 days after the end of the taxation year in which the expenditure is otherwise incurred is deemed

Présomption — dépense admissible

(24) Est réputé ne pas être une dépense admissible le montant payé ou payable aux termes d'un arrangement par une personne ou une société de personnes donnée à une personne ou une société de personnes avec laquelle elle n'a aucun lien de dépendance dans le cas où, à la fois :

a) la personne ou la société de personnes donnée a un lien de dépendance avec une autre personne ou société de personnes;

b) l'arrangement prévoit qu'un montant est reçu ou à recevoir par l'autre personne ou société de personnes visée à l'alinéa a) d'une personne ou d'une société de personnes avec laquelle elle n'a aucun lien de dépendance;

c) il est raisonnable de considérer que l'un des principaux objets de l'arrangement est de faire en sorte que le montant payé ou payable par la personne ou société de personnes donnée soit une dépense admissible.

Présomption — paiement contractuel

(25) Est réputé être un paiement contractuel relativement à des activités de recherche scientifique et de développement expérimental le montant reçu ou à recevoir relativement à ces activités aux termes d'un arrangement par une personne ou une société de personnes donnée d'une personne ou d'une société de personnes qui n'est pas un fournisseur imposable pour ce qui est du montant dans le cas où, à la fois :

a) la personne ou la société de personnes donnée n'a aucun lien de dépendance avec une autre personne ou société de personnes;

b) l'arrangement prévoit qu'un montant est payé ou payable par l'autre personne ou société de personnes visée à l'alinéa a) à une personne ou une société de personnes, autre que la personne ou la société de personnes donnée;

c) il est raisonnable de considérer que l'un des principaux objets de l'arrangement est de faire en sorte que le montant reçu ou à recevoir par la personne ou la société de personnes donnée ne soit pas un paiement contractuel.

Montants impayés

(26) Pour l'application des paragraphes (5) à (25) et de l'article 127.1, la dépense d'un contribuable visée à l'alinéa 37(1)a) qui est impayée le cent-quatre-vingtième jour suivant la fin de l'année d'imposition au cours de laquelle elle est engagée par ailleurs est réputée :

(a) not to have been incurred in the year; and

(b) to be incurred at the time it is paid.

Recapture of investment tax credit

(27) Where

(a) a taxpayer acquired a particular property from a person or partnership in a taxation year of the taxpayer or in any of the 10 preceding taxation years,

(b) the cost, or a portion of the cost, of the particular property was a qualified expenditure, or would if this Act were read without reference to subsection (26) be a qualified expenditure, to the taxpayer,

(c) the cost, or the portion of the cost, of the particular property is included, or would if this Act were read without reference to subsection (26) be included, in an amount, a percentage of which can reasonably be considered to be included in computing the taxpayer's investment tax credit at the end of the taxation year, and

(d) in the year and after February 23, 1998, the taxpayer converts to commercial use, or disposes of without having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be added to the taxpayer's tax otherwise payable under this Part for the year the lesser of

(e) the amount that can reasonably be considered to be included in the taxpayer's investment tax credit at the end of any taxation year, or that would be so included if this Act were read without reference to subsection (26), in respect of the particular property, and

(f) the amount that is the percentage — that is the sum of each percentage described in paragraph (c) that has been applied to compute the taxpayer's investment tax credit in respect of the particular property — of

(i) in the case where the particular property or the other property is disposed of to a person who deals at arm's length with the taxpayer,

(A) the proceeds of disposition of the property, if the property

(I) is the particular property and is neither first term shared-use equipment nor second term shared-use equipment, or

(II) is the other property,

a) ne pas avoir été engagée au cours de l'année;

b) avoir été engagée au moment où elle est payée.

Récupération du crédit d'impôt à l'investissement

(27) Un montant est ajouté à l'impôt payable par ailleurs par un contribuable en vertu de la présente partie pour son année d'imposition si les conditions suivantes sont réunies :

a) le contribuable acquiert un bien donné d'une personne ou d'une société de personnes au cours de l'année ou de l'une des dix années d'imposition précédentes;

b) la totalité ou une partie du coût du bien donné représente une dépense admissible pour le contribuable ou représenterait une telle dépense pour lui en l'absence du paragraphe (26);

c) la totalité ou une partie du coût du bien donné est comprise dans un montant dont un pourcentage a été inclus, selon ce qu'il est raisonnable de considérer, dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année, ou serait comprise dans un tel montant en l'absence du paragraphe (26);

d) au cours de l'année et après le 23 février 1998, le contribuable affecte à un usage commercial le bien donné ou un autre bien auquel il est incorporé, ou dispose du bien donné ou de cet autre bien sans l'avoir affecté à cet usage.

Le montant ainsi ajouté correspond au moins élevé des montants suivants :

e) le montant qu'il est raisonnable de considérer comme étant inclus, relativement au bien donné, dans le crédit d'impôt à l'investissement du contribuable à la fin d'une année d'imposition, ou qu'il serait raisonnable de considérer comme étant ainsi inclus en l'absence du paragraphe (26);

f) le résultat de la multiplication du pourcentage — qui correspond au total de chacun des pourcentages visés à l'alinéa c) qui a servi au calcul du crédit d'impôt à l'investissement du contribuable relatif au bien donné — par celui des montants ci-après qui est applicable :

(i) dans le cas où il est disposé du bien donné ou de l'autre bien en faveur d'une personne sans lien de dépendance avec le contribuable :

(A) le produit de disposition du bien, si le bien, selon le cas :

(B) 25% of the proceeds of disposition of the property, if the property is the particular property, is first term shared-use equipment and is not second term shared-use equipment, and

(C) 50% of the proceeds of disposition of the property, if the property is the particular property and is second term shared-use equipment, and

(ii) in the case where the particular property or the other property is converted to commercial use or is disposed of to a person who does not deal at arm's length with the taxpayer,

(A) the fair market value of the property, if the property

(I) is the particular property and is neither first term shared-use equipment nor second term shared-use equipment, or

(II) is the other property,

(B) 25% of the fair market value of the property at the time of its conversion or disposition, if the particular property is first term shared-use equipment and is not second term shared-use equipment, and

(C) 50% of the fair market value of the property at the time of its conversion or disposition, if the particular property is second term shared-use equipment.

(I) est le bien donné et ne constitue ni du matériel à vocations multiples de première période ni du matériel à vocations multiples de deuxième période,

(II) est l'autre bien,

(B) 25 % du produit de disposition du bien, si le bien est le bien donné et constitue du matériel à vocations multiples de première période, mais non du matériel à vocations multiples de deuxième période,

(C) 50 % du produit de disposition du bien, si le bien est le bien donné et constitue du matériel à vocations multiples de deuxième période,

(ii) dans le cas où le bien donné ou l'autre bien est affecté à un usage commercial ou fait l'objet d'une disposition en faveur d'une personne ayant un lien de dépendance avec le contribuable :

(A) la juste valeur marchande du bien, si le bien, selon le cas :

(I) est le bien donné et ne constitue ni du matériel à vocations multiples de première période ni du matériel à vocations multiples de deuxième période,

(II) est l'autre bien,

(B) 25 % de la juste valeur marchande du bien au moment de son affectation à un usage commercial ou de sa disposition, si le bien donné constitue du matériel à vocations multiples de première période, mais non du matériel à vocations multiples de deuxième période,

(C) 50 % de la juste valeur marchande du bien au moment de son affectation à un usage commercial ou de sa disposition, si le bien donné constitue du matériel à vocations multiples de deuxième période.

(27.1) to (27.12) [Repealed, 2017, c. 20, s. 23]

(27.1) à (27.12) [Abrogés, 2017, ch. 20, art. 23]

Recapture of investment tax credit of partnership

(28) For the purpose of computing the amount determined under subsection (8) in respect of a partnership at the end of a particular fiscal period, where

(a) a particular property, the cost of which is a qualified expenditure, is acquired by the partnership from a person or partnership in the particular fiscal period or

Récupération du crédit d'impôt à l'investissement d'une société de personnes

(28) Un montant est déduit dans le calcul du montant déterminé selon le paragraphe (8) à l'égard d'une société de personnes à la fin d'un exercice donné si les conditions suivantes sont réunies :

a) la société de personnes acquiert d'une personne ou d'une société de personnes, au cours de l'exercice donné ou d'un de ses dix exercices précédents, un bien

in any of the 10 preceding fiscal periods of the partnership,

(b) the cost of the particular property is included in an amount, a percentage of which can reasonably be considered to have been included in computing the amount determined under subsection (8) in respect of the partnership at the end of a fiscal period, and

(c) in the particular fiscal period and after February 23, 1998, the partnership converts to commercial use, or disposes of without having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be deducted in computing the amount determined under subsection (8) in respect of the partnership at the end of the particular fiscal period the lesser of

(d) the amount that can reasonably be considered to have been included in respect of the particular property in computing the amount determined under subsection (8) in respect of the partnership, and

(e) the percentage (described in paragraph (b)) of

(i) where the particular property or the other property is disposed of to a person who deals at arm's length with the partnership, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the particular property or the other property at the time of the conversion or disposition.

donné dont le coût représente une dépense admissible;

b) le coût du bien donné est compris dans un montant dont un pourcentage a été inclus, selon ce qu'il est raisonnable de considérer, dans le calcul du montant déterminé selon le paragraphe (8) à l'égard de la société de personnes à la fin d'un exercice;

c) au cours de l'exercice donné et après le 23 février 1998, la société de personnes affecte à un usage commercial le bien donné ou un autre bien auquel il est incorporé, ou dispose du bien donné ou de cet autre bien sans l'avoir affecté à cet usage.

Le montant ainsi déduit correspond au moins élevé des montants suivants :

d) le montant qu'il est raisonnable de considérer comme ayant été inclus relativement au bien donné dans le calcul du montant déterminé selon le paragraphe (8) à l'égard de la société de personnes;

e) le pourcentage visé à l'alinéa b) multiplié par le montant applicable suivant :

(i) s'il est disposé du bien donné ou de l'autre bien en faveur d'une personne sans lien de dépendance avec la société de personnes, le produit de disposition du bien,

(ii) dans les autres cas, la juste valeur marchande du bien donné ou de l'autre bien au moment de son affectation à un usage commercial ou de sa disposition.

(28.1) [Repealed, 2017, c. 20, s. 23]

(28.1) [Abrogé, 2017, ch. 20, art. 23]

Recapture of investment tax credit of allocating taxpayer

(29) Where

(a) a taxpayer acquired a particular property from a person or partnership in a taxation year or in any of the 10 preceding taxation years,

(b) the cost of the particular property was a qualified expenditure to the taxpayer,

(c) all or part of the qualified expenditure can reasonably be considered to have been the subject of an agreement made under subsection (13) by the taxpayer and another taxpayer (in this subsection referred to as the "transferee"), and

(d) in the year and after February 23, 1998, the taxpayer converts to commercial use, or disposes of without

Récupération du crédit d'impôt à l'investissement du contribuable cédant

(29) Un montant est ajouté à l'impôt payable par ailleurs par un contribuable en vertu de la présente partie pour une année d'imposition si les conditions suivantes sont réunies :

a) le contribuable acquiert un bien donné d'une personne ou d'une société de personnes au cours de l'année ou de l'une des dix années d'imposition précédentes;

b) le coût du bien donné représente une dépense admissible pour le contribuable;

c) il est raisonnable de considérer que la totalité ou une partie de la dépense admissible a fait l'objet d'une convention conclue aux termes du paragraphe (13)

having previously converted to commercial use, the particular property or another property that incorporates the particular property,

there shall be added to the taxpayer's tax otherwise payable under this Part for the year the lesser of

(e) the amount that can reasonably be considered to have been included in computing the transferee's investment tax credit in respect of the qualified expenditure that was the subject of the agreement, and

(f) the amount determined by the formula

A × B - C

where

A is the percentage applied by the transferee in determining its investment tax credit in respect of the qualified expenditure that was the subject of the agreement,

B is

(i) where the particular property or the other property is disposed of to a person who deals at arm's length with the taxpayer, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the particular property or the other property at the time of the conversion or disposition, and

C is the amount, if any, added to the taxpayer's tax payable under subsection (27) in respect of the particular property.

entre le contribuable et un autre contribuable (appelé « cessionnaire » au présent paragraphe);

d) au cours de l'année et après le 23 février 1998, le contribuable affecte à un usage commercial le bien donné ou un autre bien auquel il est incorporé, ou dispose du bien donné ou de cet autre bien sans l'avoir affecté à cet usage.

Le montant ainsi ajouté correspond au moins élevé des montants suivants :

e) le montant qu'il est raisonnable de considérer comme ayant été inclus dans le calcul du crédit d'impôt à l'investissement du cessionnaire au titre de la dépense admissible qui a fait l'objet de la convention;

f) le résultat du calcul suivant :

A × B - C

où :

A représente le pourcentage appliqué par le cessionnaire dans le calcul de son crédit d'impôt à l'investissement au titre de la dépense admissible qui a fait l'objet de la convention,

B :

(i) s'il est disposé du bien donné ou de l'autre bien en faveur d'une personne sans lien de dépendance avec le contribuable, le produit de disposition du bien,

(ii) dans les autres cas, la juste valeur marchande du bien donné ou de l'autre bien au moment de son affectation à un usage commercial ou de sa disposition,

C le montant éventuel qui est ajouté, en application du paragraphe (27) relativement au bien donné, à l'impôt payable par le contribuable.

Addition to tax

(30) Where a taxpayer is a member of a partnership at the end of a fiscal period of the partnership, there shall be added to the taxpayer's tax otherwise payable under this Part for the taxpayer's taxation year in which that fiscal period ends the amount that can reasonably be considered to be the taxpayer's share of the amount, if any, by which

(a) the total of

(i) the total of all amounts each of which is the lesser of the amounts described in paragraphs (28)(d) and (e) in respect of the partnership in respect of the fiscal period, and

Somme à ajouter à l'impôt

(30) Lorsqu'un contribuable est l'associé d'une société de personnes à la fin d'un exercice de celle-ci, est ajoutée à son impôt payable par ailleurs en vertu de la présente partie pour son année d'imposition dans laquelle cet exercice prend fin la somme qu'il est raisonnable de considérer comme sa part de l'excédent de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total des sommes suivantes :

(i) le total des sommes représentant chacune la moins élevée des sommes visées aux alinéas (28)d) et e) relativement à la société de personnes pour l'exercice,

(ii) the total of all amounts each of which is the lesser of the amounts described in paragraphs (35)(c) and (d) in respect of the partnership in respect of the fiscal period,

(iii) [Repealed, 2017, c. 20, s. 23]

exceeds

(b) the amount that would be determined in respect of the partnership under subsection (8) if that subsection were read without reference to subsections (28) and (35).

(ii) le total des sommes représentant chacune la moins élevée des sommes visées aux alinéas (35)c) et d) relativement à la société de personnes pour l'exercice;

(iii) [Abrogé, 2017, ch. 20, art. 23]

b) la somme qui serait déterminée selon le paragraphe (8) à l'égard de la société de personnes si ce paragraphe s'appliquait compte non tenu des paragraphes (28) et (35).

Tiered partnership

(31) Where a taxpayer is a member of a particular partnership that is a member of another partnership and an amount would be added to the particular partnership's tax payable under this Part for the year pursuant to subsection (30) if the particular partnership were a person and its fiscal period were its taxation year, that amount is deemed to be an amount that is the lesser of the amounts described in paragraphs (28)(d) and (e), in respect of a property of the particular partnership, that is required by subsection (28) to be deducted in computing the amount under subsection (8) in respect of the particular partnership at the end of the fiscal period.

Sociétés de personnes multiples

(31) Dans le cas où un contribuable est l'associé d'une société de personnes donnée qui est l'associé d'une autre société de personnes et où un montant serait ajouté à l'impôt payable par la société de personnes donnée en vertu de la présente partie pour l'année conformément au paragraphe (30) si elle était une personne et son exercice, son année d'imposition, ce montant est réputé constituer le moins élevé des montants visés aux alinéas (28)d) et e), relativement à l'un de ses biens, qui est à déduire en application du paragraphe (28) dans le calcul du montant déterminé selon le paragraphe (8) à son égard à la fin de l'exercice.

Meaning of cost

(32) For the purposes of subsections (27), (28) and (29), *cost of the particular property* to a taxpayer shall not exceed the amount paid by the taxpayer to acquire the particular property from a transferor of the particular property and, for greater certainty, does not include amounts paid by the taxpayer to maintain, modify or transform the particular property.

Sens de coût

(32) Pour l'application des paragraphes (27), (28) et (29), le *coût du bien donné* pour un contribuable ne peut dépasser le montant qu'il paie pour acquérir le bien d'un cédant du bien. Il est entendu que ce coût ne comprend pas les montants que le contribuable paie pour entretenir, modifier ou transformer le bien.

Certain non-arm's length transfers

(33) Subsections (27) to (29), (34) and (35) do not apply to a taxpayer or partnership (in this subsection referred to as the "transferor") that disposes of a property to a person or partnership (in this subsection and subsections (34) and (35) referred to as the "purchaser"), that does not deal at arm's length with the transferor, if the purchaser acquired the property in circumstances where the cost of the property to the purchaser would have been an expenditure of the purchaser described in subclause 37(8)(a)(ii)(A)(III) or (B)(III) (as those subclauses read on March 29, 2012) but for subparagraph 2902(b)(iii) of the *Income Tax Regulations*.

Certains transferts entre parties ayant un lien de dépendance

(33) Les paragraphes (27) à (29), (34) et (35) ne s'appliquent pas au contribuable ou à la société de personnes (appelé « cédant » au présent paragraphe) qui dispose d'un bien en faveur d'une personne ou d'une société de personnes (appelée « acheteur » au présent paragraphe et aux paragraphes (34) et (35)) avec lequel il a un lien de dépendance si l'acheteur a acquis le bien dans des circonstances où son coût pour lui aurait été, pour lui, une dépense visée aux subdivisions 37(8)a)(ii)(A)(III) ou (B)(III), dans leur version applicable au 29 mars 2012, n'eût été le sous-alinéa 2902b)(iii) du *Règlement de l'impôt sur le revenu*.

Recapture of investment tax credit

(34) Where, at any particular time in a taxation year and after February 23, 1998, a purchaser (other than a

Récupération du crédit d'impôt à l'investissement

(34) Dans le cas où, à un moment donné d'une année d'imposition et après le 23 février 1998, un acheteur (sauf

partnership) converts to commercial use, or disposes of without having previously converted to commercial use, a property

(a) that was acquired by the purchaser in circumstances described in subsection (33) or that is another property that incorporates a property acquired in such circumstances; and

(b) that was first acquired, or that incorporates a property that was first acquired, by a person or partnership (in this subsection referred to as the "original user") with which the purchaser did not deal at arm's length at the time at which the purchaser acquired the property, in the original user's taxation year or fiscal period that includes the particular time (on the assumption that the original user had such a taxation year or fiscal period) or in any of the original user's 10 preceding taxation years or fiscal periods,

there shall be added to the purchaser's tax otherwise payable under this Part for the year the lesser of

(c) the amount

(i) included, in respect of the property, in the investment tax credit of the original user, or

(ii) where the original user is a partnership, that can reasonably be considered to have been included in respect of the property in computing the amount determined under subsection (8) in respect of the original user, and

(d) the amount determined by applying the percentage that was applied by the original user in determining the amount referred to in paragraph (c) to

(i) if the property or the other property is disposed of to a person who deals at arm's length with the purchaser, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the property or the other property at the time of the conversion or disposition.

une société de personnes) affecte à un usage commercial un bien qui répond aux conditions suivantes, ou dispose d'un tel bien sans l'avoir affecté à cet usage :

a) le bien a été acquis par l'acheteur dans les circonstances visées au paragraphe (33) ou constitue un autre bien auquel est incorporé un bien acquis dans ces circonstances,

b) le bien, ou un bien qui y est incorporé, a été acquis pour la première fois par une personne ou une société de personnes (appelée « utilisateur initial » au présent paragraphe) avec laquelle l'acheteur avait un lien de dépendance au moment où l'acheteur a acquis le bien, au cours de l'année d'imposition ou de l'exercice de l'utilisateur initial qui comprend le moment donné (à supposer qu'il avait une telle année d'imposition ou un tel exercice) ou au cours de l'une de ses dix années d'imposition précédentes, ou de l'un de ses dix exercices précédents,

le moins élevé des montants suivants doit être ajouté à l'impôt de l'acheteur payable par ailleurs pour l'année en vertu de la présente partie :

c) le montant :

(i) soit qui est inclus, relativement au bien, dans le crédit d'impôt à l'investissement de l'utilisateur initial,

(ii) soit, si l'utilisateur initial est une société de personnes, qu'il est raisonnable de considérer comme ayant été inclus, relativement au bien, dans le calcul du montant déterminé selon le paragraphe (8) à l'égard de l'utilisateur initial;

d) le produit de la multiplication du montant ci-après par le pourcentage que l'utilisateur initial a appliqué dans le calcul du montant visé à l'alinéa c):

(i) s'il est disposé du bien ou de l'autre bien en faveur d'une personne sans lien de dépendance avec l'acheteur, le produit de disposition de ce bien,

(ii) dans les autres cas, la juste valeur marchande du bien ou de l'autre bien au moment de l'affectation ou de la disposition.

Recapture of investment tax credit

(35) Where, at any particular time in a fiscal period and after February 23, 1998, a purchaser is a partnership that converts to commercial use, or disposes of without having previously converted to commercial use, a property

(a) that was acquired by the purchaser in circumstances described in subsection (33) or that is another

Récupération du crédit d'impôt à l'investissement

(35) Dans le cas où, à un moment donné d'un exercice financier et après le 23 février 1998, un acheteur est une société de personnes qui affecte à un usage commercial un bien qui répond aux conditions suivantes, ou qui dispose d'un tel bien sans l'avoir affecté à cet usage :

property that incorporates a property acquired in such circumstances, and

(b) that was first acquired, or that incorporates a property that was first acquired, by a person or partnership (in this subsection referred to as the "original user") with which the purchaser did not deal at arm's length at the time at which the purchaser acquired the property, in the original user's taxation year or fiscal period that includes the particular time (on the assumption that the original user had such a taxation year or fiscal period) or in any of the original user's 10 preceding taxation years or fiscal periods,

there shall be deducted in computing the amount determined under subsection (8) in respect of the purchaser at the end of the fiscal period the lesser of

(c) the amount

(i) included, in respect of the property, in the investment tax credit of the original user, or

(ii) where the original user is a partnership, that can reasonably be considered to have been included in respect of the property in computing the amount determined under subsection (8) in respect of the original user, and

(d) the amount determined by applying the percentage that was applied by the original user in determining the amount referred to in paragraph (c) to

(i) if the property or the other property is disposed of to a person who deals at arm's length with the purchaser, the proceeds of disposition of that property, and

(ii) in any other case, the fair market value of the property or the other property at the time of the conversion or disposition.

a) le bien a été acquis par l'acheteur dans les circonstances visées au paragraphe (33) ou constitue un autre bien auquel est incorporé un bien acquis dans ces circonstances,

b) le bien, ou un bien qui y est incorporé, a été acquis pour la première fois par une personne ou une société de personnes (appelée « utilisateur initial » au présent paragraphe) avec laquelle l'acheteur avait un lien de dépendance au moment où l'acheteur a acquis le bien, au cours de l'année d'imposition ou de l'exercice de l'utilisateur initial qui comprend le moment donné (à supposer qu'il avait une telle année d'imposition ou un tel exercice) ou au cours de l'une de ses dix années d'imposition précédentes, ou de l'un de ses dix exercices précédents,

le moins élevé des montants suivants doit être déduit dans le calcul du montant déterminé selon le paragraphe (8) à l'égard de l'acheteur à la fin de l'exercice :

c) le montant :

(i) soit qui est inclus, relativement au bien, dans le crédit d'impôt à l'investissement de l'utilisateur initial,

(ii) soit, si l'utilisateur initial est une société de personnes, qu'il est raisonnable de considérer comme ayant été inclus, relativement au bien, dans le calcul du montant déterminé selon le paragraphe (8) à l'égard de l'utilisateur initial;

d) le produit de la multiplication du montant ci-après par le pourcentage que l'utilisateur initial a appliqué dans le calcul du montant visé à l'alinéa c):

(i) s'il est disposé du bien ou de l'autre bien en faveur d'une personne sans lien de dépendance avec l'acheteur, le produit de disposition de ce bien,

(ii) dans les autres cas, la juste valeur marchande du bien ou de l'autre bien au moment de l'affectation ou de la disposition.

Transitional application of investment tax credit recapture

(36) For the purpose of applying each of subsection (27) or (29) in respect of a taxpayer, subsection (28) in respect of a partnership or subsection (34) or (35) in respect of a purchaser and an original user, as the case may be, (which taxpayer, partnership or original user is, in this subsection, referred to as the "taxpayer"), the reference to "10" in that subsection is to be read as a reference to the number that is the lesser of

(a) 20, and

Application transitoire de la récupération du crédit d'impôt à l'investissement

(36) Pour l'application des paragraphes (27) ou (29) relativement à un contribuable, du paragraphe (28) relativement à une société de personnes ou des paragraphes (34) ou (35) relativement à un acheteur et à un utilisateur initial (le contribuable, la société de personnes, l'acheteur ou l'utilisateur initial étant appelés « contribuable » au présent paragraphe), la mention « dix » à ces paragraphes vaut mention du moins élevé des nombres suivants :

(b) the number that is the total of 10 and the number of taxation years or fiscal periods, as the case may be, by which the number of taxation years or fiscal periods of the taxpayer that have ended after 1997 exceeds 11.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127; 1994, c. 7, Sch. II, s. 104, Sch. VIII, s. 68, c. 8, s. 15, c. 21, s. 61; 1995, c. 3, s. 37; 1996, c. 21, s. 30; 1997, c. 25, s. 35; 1998, c. 19, ss. 33, 146, 306; 1999, c. 22, s. 48; 2000, c. 9, s. 560; 2001, c. 17, ss. 118, 213; 2003, c. 15, s. 81, c. 19, s. 73, c. 28, s. 14; 2004 c. 24, s. 24; 2005, c. 19, s. 28; 2006, c. 4, s. 75, c. 9, s. 64; 2007, c. 2, s. 34, c. 35, s. 43; 2008, c. 28, s. 19; 2009, c. 2, ss. 40, 82; 2010, c. 12, s. 14; 2011, c. 24, s. 40; 2012, c. 19, s. 5, c. 31, s. 27; 2013, c. 33, s. 14, c. 34, s. 269, c. 40, s. 57; 2014, c. 20, s. 18, c. 39, s. 42; 2015, c. 36, s. 12; 2016, c. 7, s. 35; 2017, c. 20, s. 23.

a) 20;

b) le total de 10 et du nombre qui correspond à l'excédent, sur 11, du nombre d'années d'imposition ou d'exercices, selon le cas, du contribuable s'étant terminés après 1997.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127; 1994, ch. 7, ann. II, art. 104, ann. VIII, art. 68, ch. 8, art. 15, ch. 21, art. 61; 1995, ch. 3, art. 37; 1996, ch. 21, art. 30; 1997, ch. 25, art. 35; 1998, ch. 19, art. 33, 146 et 306; 1999, ch. 22, art. 48; 2000, ch. 9, art. 560; 2001, ch. 17, art. 118 et 213; 2003, ch. 15, art. 81, ch. 19, art. 73, ch. 28, art. 14; 2004, ch. 24, art. 24; 2005, ch. 19, art. 28; 2006, ch. 4, art. 75, ch. 9, art. 64; 2007, ch. 2, art. 34, ch. 35, art. 43; 2008, ch. 28, art. 19; 2009, ch. 2, art. 40 et 82; 2010, ch. 12, art. 14; 2011, ch. 24, art. 40; 2012, ch. 19, art. 5, ch. 31, art. 27; 2013, ch. 33, art. 14, ch. 34, art. 269, ch. 40, art. 57; 2014, ch. 20, art. 18, ch. 39, art. 42; 2015, ch. 36, art. 12; 2016, ch. 7, art. 35; 2017, ch. 20, art. 23.

Refundable investment tax credit

127.1 (1) Where a taxpayer (other than a person exempt from tax under section 149) files

(a) with the taxpayer's return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(f) or subsection 150(4)) for a taxation year, or

(b) with a prescribed form amending a return referred to in paragraph 127.1(1)(a)

a prescribed form containing prescribed information, the taxpayer is deemed to have paid on the taxpayer's balance-due day for the year an amount on account of the taxpayer's tax payable under this Part for the year equal to the lesser of

(c) the taxpayer's refundable investment tax credit for the year, and

(d) the amount designated by the taxpayer in the prescribed form.

Crédit d'impôt à l'investissement remboursable

127.1 (1) Lorsqu'un contribuable (à l'exception d'une personne exonérée d'impôt en vertu de l'article 149) présente :

a) avec sa déclaration de revenu produite pour une année d'imposition, à l'exception d'une déclaration de revenu produite en vertu des paragraphes 70(2) ou 104(23), de l'alinéa 128(2)f) ou du paragraphe 150(4);

b) avec un formulaire prescrit modifiant une déclaration visée à l'alinéa a),

un formulaire prescrit contenant les renseignements prescrits, il est réputé avoir payé, à la date d'exigibilité du solde qui lui est applicable pour l'année, une somme au titre de son impôt payable pour l'année en vertu de la présente partie égale à son crédit d'impôt à l'investissement remboursable pour l'année ou, s'il est inférieur, au montant qu'il a indiqué dans le formulaire prescrit.

Definitions

(2) In this section,

excluded corporation for a taxation year means a corporation that is, at any time in the year,

(a) controlled directly or indirectly, in any manner whatever, by

(i) one or more persons exempt from tax under this Part by virtue of section 149,

(ii) Her Majesty in right of a province, a Canadian municipality or any other public authority, or

(iii) any combination of persons each of whom is a person referred to in subparagraph (i) or (ii), or

Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

crédit d'impôt à l'investissement remboursable Crédit, pour une année d'imposition, d'un contribuable qui est soit une société admissible pour l'année, soit un particulier autre qu'une fiducie, soit une fiducie dont chaque bénéficiaire est une société admissible pour l'année ou un particulier autre qu'une fiducie. Le crédit correspond à 40 % de l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants inclus dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année :

(i) soit au titre d'un bien, sauf un bien admissible de petite entreprise, qu'il acquiert, ou d'une

(b) related to any person referred to in paragraph (a); (*société exclue*)

qualifying corporation, for a particular taxation year that ends in a calendar year, means a particular corporation that is a Canadian-controlled private corporation in the particular taxation year the taxable income of which for its immediately preceding taxation year — together with, if the particular corporation is associated in the particular taxation year with one or more other corporations (in this subsection referred to as "associated corporations"), the taxable income of each associated corporation for its last taxation year that ended in the preceding calendar year (determined before taking into consideration the specified future tax consequences for that last year) — does not exceed the qualifying income limit, if any, of the particular corporation for the particular taxation year; (*société admissible*)

qualifying income limit of a corporation for a particular taxation year is the amount determined by the formula

$500,000 × [($40 million – A)/$40 million]

where

A is

(a) nil, if $10 million is greater than or equal to the amount (in paragraph (b) referred to as the "taxable capital amount") that is the total of the corporation's taxable capital employed in Canada (within the meaning assigned by section 181.2 or 181.3) for its immediately preceding taxation year and the taxable capital employed in Canada (within the meaning assigned by section 181.2 or 181.3) of each associated corporation for the associated corporation's last taxation year that ended in the last calendar year that ended before the end of the particular taxation year, or

(b) in any other case, the lesser of $40 million and the amount by which the taxable capital amount exceeds $10 million; (*plafond de revenu admissible*)

refundable investment tax credit of a taxpayer for a taxation year means, in the case of a taxpayer who is

(a) a qualifying corporation for the year,

(b) an individual other than a trust, or

(c) a trust each beneficiary of which is a person referred to in paragraph (a) or (b),

an amount equal to 40% of the amount, if any, by which

dépense admissible qu'il engage, sauf une dépense à l'égard de laquelle un montant est inclus en vertu de l'alinéa c) dans le calcul de son crédit d'impôt à l'investissement remboursable pour l'année, au cours de l'année,

(ii) soit, conformément à l'alinéa b) de la définition de *crédit d'impôt à l'investissement* au paragraphe 127(9), au titre d'un bien acquis, sauf un bien admissible de petite entreprise, ou d'une dépense admissible engagée, sauf une dépense à l'égard de laquelle un montant est inclus en vertu de l'alinéa c) dans le calcul de son crédit d'impôt à l'investissement remboursable pour l'année;

b) le total des montants suivants :

(i) la partie du total des montants déduits en application du paragraphe 127(5) pour l'année ou pour une année d'imposition antérieure, sauf un montant réputé par le paragraphe (3) être ainsi déduit pour l'année, qu'il est raisonnable de considérer comme se rapportant au total calculé selon l'alinéa a),

(ii) la partie du total des montants à déduire selon les paragraphes 127(6) ou (7) dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année, qu'il est raisonnable de considérer comme se rapportant au total calculé selon l'alinéa a);

s'y ajoute, lorsque le contribuable est une société admissible autre qu'une société exclue, pour l'année, l'excédent éventuel du total visé à l'alinéa c) sur le total visé à l'alinéa d):

c) le total des montants suivants :

(i) le montant à ajouter selon le paragraphe 127(10.1) dans le calcul du crédit d'impôt à l'investissement de la société à la fin de l'année au titre d'une dépense admissible engagée par la société au cours de l'année,

(ii) les montants calculés selon l'alinéa a.1) de la définition de *crédit d'impôt à l'investissement*, au paragraphe 127(9), au titre d'une dépense pour laquelle un montant est inclus au sous-alinéa (i);

d) le total des montants suivants :

(i) la partie du total des montants que la société a déduits selon le paragraphe 127(5) pour l'année ou pour une année d'imposition antérieure, sauf un

(d) the total of all amounts included in computing the taxpayer's investment tax credit at the end of the year

(i) in respect of property (other than qualified small-business property) acquired, or a qualified expenditure (other than an expenditure in respect of which an amount is included under paragraph (f) in computing the taxpayer's refundable investment tax credit for the year) incurred, by the taxpayer in the year, or

(ii) because of paragraph (b) of the definition *investment tax credit* in subsection 127(9) in respect of a property (other than qualified small-business property) acquired or a qualified expenditure (other than an expenditure in respect of which an amount is included under paragraph (f) in computing the taxpayer's refundable investment tax credit for the year) incurred

exceeds

(e) the total of

(i) the portion of the total of all amounts deducted under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection 127.1(3) to be so deducted for the year) that can reasonably be considered to be in respect of the total determined under paragraph (d), and

(ii) the portion of the total of all amounts required by subsection 127(6) or 127(7) to be deducted in computing the taxpayer's investment tax credit at the end of the year that can reasonably be considered to be in respect of the total determined under paragraph (d),

plus where the taxpayer is a qualifying corporation (other than an excluded corporation) for the year, the amount, if any, by which

(f) the total of

(i) the portion of the amount required by subsection 127(10.1) to be added in computing the taxpayer's investment tax credit at the end of the year that is in respect of qualified expenditures incurred by the taxpayer in the year, and

(ii) all amounts determined under paragraph (a.1) of the definition *investment tax credit* in subsection 127(9) in respect of expenditures for which an amount is included in subparagraph (i)

exceeds

montant réputé par le paragraphe (3) être ainsi déduit pour l'année, qu'il est raisonnable de considérer comme se rapportant au total calculé selon l'alinéa c),

(ii) la partie du total des montants à déduire selon le paragraphe 127(6) dans le calcul du crédit d'impôt à l'investissement de la société à la fin de l'année, qu'il est raisonnable de considérer comme se rapportant au total calculé selon l'alinéa c). (*refundable investment tax credit*)

plafond de revenu admissible Le plafond de revenu admissible d'une société pour une année d'imposition donnée correspond à la somme obtenue par la formule suivante :

500 000 $ × [(40 000 000 $ – A)/40 000 000 $]

où :

A représente :

a) zéro, si la somme (appelée « montant de capital imposable » à l'alinéa b)) qui correspond au total du capital imposable utilisé au Canada de la société, au sens des articles 181.2 ou 181.3, pour son année d'imposition précédente et du capital imposable utilisé au Canada, au sens des mêmes articles, de chaque société associée pour sa dernière année d'imposition terminée dans la dernière année civile ayant pris fin avant la fin de l'année donnée est égale ou inférieure à 10 000 000 $;

b) 40 000 000 $ ou, s'il est moins élevé, l'excédent du montant de capital imposable sur 10 000 000 $, dans les autres cas. (*qualifying income limit*)

société admissible Est une société admissible pour une année d'imposition donnée se terminant dans une année civile la société donnée qui est une société privée sous contrôle canadien au cours de l'année donnée et dont le revenu imposable pour son année d'imposition précédente — compte tenu, si elle est associée au cours de l'année donnée à une ou plusieurs autres sociétés (appelées « sociétés associées » au présent paragraphe), du revenu imposable de chaque société associée pour sa dernière année d'imposition terminée dans l'année civile précédente (calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette dernière année d'imposition) — ne dépasse pas son plafond de revenu admissible éventuel pour l'année donnée. (*qualifying corporation*)

société exclue Société qui est, à un moment donné d'une année d'imposition :

a) soit contrôlée directement ou indirectement, de quelque manière que ce soit :

(g) the total of

(i) the portion of the total of all amounts deducted by the taxpayer under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection 127.1(3) to be so deducted for the year) that can reasonably be considered to be in respect of the total determined under paragraph (f), and

(ii) the portion of the total of all amounts required by subsection 127(6) to be deducted in computing the taxpayer's investment tax credit at the end of the year that can reasonably be considered to be in respect of the total determined under paragraph (f). (*crédit d'impôt à l'investissement remboursable*)

Addition to refundable investment tax credit

(2.01) In the case of a taxpayer that is a Canadian-controlled private corporation other than a qualifying corporation or an excluded corporation, the refundable investment tax credit of the taxpayer for a taxation year is the amount, if any, by which

(a) the total of

(i) the portion of the amount required by subsection 127(10.1) to be added in computing the taxpayer's investment tax credit at the end of the year that is in respect of qualified expenditures incurred by the taxpayer in the year, and

(ii) all amounts determined under paragraph (a.1) of the definition *investment tax credit* in subsection 127(9) in respect of expenditures for which an amount is included in subparagraph (i)

exceeds

(b) the total of

(i) the portion of the total of all amounts deducted by the taxpayer under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection (3) to have been so deducted for the year) that can reasonably be considered to be in respect of the total determined under paragraph (a), and

(ii) the portion of the total of all amounts required by subsection 127(6) to be deducted in computing the taxpayer's investment tax credit at the end of the year that can reasonably be considered to be in respect of the total determined under paragraph (a).

(i) par une ou plusieurs personnes exonérées de l'impôt en vertu de la présente partie à cause de l'article 149,

(ii) par Sa Majesté du chef d'une province, par une municipalité canadienne ou par une autre administration,

(iii) par des personnes visées aux sous-alinéas (i) et (ii);

b) soit liée à une personne visée à l'alinéa a). (*excluded corporation*)

Montant à ajouter au crédit d'impôt à l'investissement remboursable

(2.01) Le crédit d'impôt à l'investissement remboursable d'une société privée sous contrôle canadien, autre qu'une société admissible ou une société exclue, pour une année d'imposition correspond à l'excédent du total visé à l'alinéa a) sur celui visé à l'alinéa b) :

a) le total des sommes suivantes :

(i) la somme à ajouter selon le paragraphe 127(10.1) dans le calcul du crédit d'impôt à l'investissement de la société à la fin de l'année au titre d'une dépense admissible engagée par la société au cours de l'année,

(ii) les sommes calculées selon l'alinéa a.1) de la définition de *crédit d'impôt à l'investissement*, au paragraphe 127(9), au titre d'une dépense pour laquelle une somme est incluse au sous-alinéa (i);

b) le total des sommes suivantes :

(i) la partie du total des sommes déduites par la société en application du paragraphe 127(5) pour l'année ou pour une année d'imposition antérieure, sauf une somme réputée par le paragraphe (3) avoir été ainsi déduite pour l'année, qu'il est raisonnable de considérer comme se rapportant au total calculé selon l'alinéa a),

(ii) la partie du total des sommes à déduire en application du paragraphe 127(6) dans le calcul du crédit d'impôt à l'investissement de la société à la fin de l'année, qu'il est raisonnable de considérer comme se rapportant au total calculé selon l'alinéa a).

Application of s. 127(9)

(2.1) The definitions in subsection 127(9) apply to this section.

Refundable investment tax credit — associated CCPCs

(2.2) If a particular Canadian-controlled private corporation is associated with another corporation in circumstances where those corporations would not be associated if the Act were read without reference to paragraph 256(1.2)(a), the particular corporation has issued shares to one or more persons who have been issued shares by the other corporation and there is at least one shareholder of the particular corporation who is not a shareholder of the other corporation or one shareholder of the other corporation who is not a shareholder of the particular corporation, the particular corporation is not associated with the other corporation for the purpose of calculating that portion of the particular corporation's refundable investment tax credit that is in respect of qualified expenditures.

Application of subsection (2.2)

(2.3) Subsection (2.2) applies to the particular corporation and the other corporation referred to in that subsection only if the Minister is satisfied that

(a) the particular corporation and the other corporation are not otherwise associated under this Act; and

(b) the existence of one or more shareholders of the particular corporation who is not a shareholder of the other corporation, or the existence of one or more shareholders of the other corporation who is not a shareholder of the particular corporation, is not for the purpose of satisfying the requirements of subsection (2.2) or 127(10.22).

Deemed deduction

(3) For the purposes of this Act, the amount deemed under subsection 127.1(1) to have been paid by a taxpayer for a taxation year shall be deemed to have been deducted by the taxpayer under subsection 127(5) for the year.

Qualifying income limit determined in certain cases

(4) For the purpose of the definition of *qualifying corporation* in subsection (2), where a Canadian-controlled private corporation has a taxation year that is less than 51 weeks, the taxable income of the corporation for the year shall be determined by multiplying that amount by the ratio that 365 is of the number of days in that year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.1; 1994, c. 8, s. 16; 1995, c. 3, s. 38;

Application du par. 127(9)

(2.1) Les définitions figurant au paragraphe 127(9) s'appliquent au présent article.

Crédit d'impôt à l'investissement remboursable — SPCC associées

(2.2) Si une société privée sous contrôle canadien (appelée « société donnée » au présent paragraphe) et une autre société sont associées dans des circonstances où elles ne le seraient pas si la présente loi s'appliquait compte non tenu de l'alinéa 256(1.2)a), que la société donnée a émis des actions à une ou plusieurs personnes auxquelles l'autre société a émis des actions et qu'au moins un actionnaire de la société donnée n'est pas actionnaire de l'autre société, ou inversement, la société donnée et l'autre société ne sont pas associées pour ce qui est du calcul de la partie du crédit d'impôt à l'investissement remboursable de la société donnée qui se rapporte à des dépenses admissibles.

Application du par. (2.2)

(2.3) Le paragraphe (2.2) ne s'applique à la société donnée et à l'autre société qui y sont visées que si le ministre est convaincu de ce qui suit :

a) la société donnée et l'autre société ne sont pas associées par ailleurs sous le régime de la présente loi;

b) le fait qu'il existe un ou plusieurs actionnaires de la société donnée qui ne sont pas actionnaires de l'autre société, ou inversement, n'a pas pour objet de satisfaire les exigences des paragraphes (2.2) ou 127(10.22).

Déduction présumée

(3) Pour l'application de la présente loi, le montant réputé avoir été payé par un contribuable en application du paragraphe (1) pour une année d'imposition est réputé avoir été déduit par lui en vertu du paragraphe 127(5) pour l'année.

Calcul proportionnel

(4) Pour l'application de la définition de *société admissible* au paragraphe (2), le revenu imposable d'une société privée sous contrôle canadien pour son année d'imposition qui compte moins de 51 semaines correspond au produit de la multiplication de cette somme par le rapport entre 365 et le nombre de jours de cette année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.1; 1994, ch. 8, art. 16; 1995, ch. 3, art. 38; 1996, ch. 21, art. 31; 1997, ch. 25, art. 36; 1998,

1996, c. 21, s. 31; 1997, c. 25, s. 36; 1998, c. 19, s. 147; 2005, c. 19, s. 29; 2009, c. 2, s. 41; 2012, c. 31, s. 28; 2013, c. 40, s. 58.

ch. 19, art. 147; 2005, ch. 19, art. 29; 2009, ch. 2, art. 41; 2012, ch. 31, art. 28; 2013, ch. 40, art. 58.

Share-purchase tax credit

127.2 (1) There may be deducted from the tax otherwise payable under this Part by a taxpayer for a taxation year an amount not exceeding the total of

(a) the taxpayer's share-purchase tax credit for the year, and

(b) the taxpayer's unused share-purchase tax credit for the taxation year immediately following the year.

Persons exempt from tax

(2) Where a taxpayer who was throughout a taxation year a person described in any of paragraphs 149(1)(e) to (y) files with the taxpayer's return of income under this Part for the year a prescribed form containing prescribed information, the taxpayer shall be deemed to have paid, on the day on which the return is filed, an amount, on account of the taxpayer's tax under this Part for the year, equal to the taxpayer's share-purchase tax credit for the year.

Trust

(3) Where, in a particular taxation year of a taxpayer who is a beneficiary under a trust, an amount is included in computing the share-purchase tax credit of the trust for its taxation year ending in that particular taxation year, the trust may, in its return of income for its taxation year ending in that particular taxation year, designate as attributable to the taxpayer such portion of that amount

(a) as may, having regard to all the circumstances (including the terms and conditions of the trust arrangement), reasonably be considered to be attributable to the taxpayer, and

(b) as was not designated by the trust in respect of any other beneficiary of that trust,

and, where the trust so designates such a portion, an amount equal to that portion shall be

(c) added in computing the share-purchase tax credit of the taxpayer for the particular taxation year, and

(d) deducted in computing the share-purchase tax credit of the trust for its taxation year ending in the particular taxation year.

Crédit d'impôt à l'achat d'actions

127.2 (1) Il peut être déduit de l'impôt payable par ailleurs en vertu de la présente partie pour une année d'imposition par un contribuable un montant non supérieur au total des montants suivants :

a) son crédit d'impôt à l'achat d'actions pour l'année;

b) la partie inutilisée de son crédit d'impôt à l'achat d'actions pour l'année d'imposition suivant l'année.

Personnes exonérées d'impôt

(2) Lorsqu'un contribuable qui, tout au long d'une année d'imposition, était une personne visée à l'un des alinéas 149(1)e) à y) présente avec sa déclaration de revenu en vertu de la présente partie pour l'année un formulaire prescrit contenant des renseignements prescrits, il est réputé avoir payé, au moment de la production de la déclaration, au titre de l'impôt prévu à la présente partie pour l'année, un montant égal à son crédit d'impôt à l'achat d'actions pour l'année.

Fiducie

(3) Lorsque, au cours d'une année d'imposition donnée d'un contribuable qui est un bénéficiaire d'une fiducie, un montant est inclus dans le calcul du crédit d'impôt à l'achat d'actions de la fiducie pour son année d'imposition se terminant au cours de cette année d'imposition donnée, la fiducie peut, dans sa déclaration de revenu produite pour son année d'imposition se terminant au cours de cette année d'imposition donnée, attribuer à ce contribuable la fraction de ce montant :

a) d'une part, qu'il est raisonnable de considérer, compte tenu des circonstances (y compris les modalités de l'acte de fiducie), comme attribuable au contribuable;

b) d'autre part, qui n'a pas été attribuée par la fiducie à un autre de ses bénéficiaires;

lorsque la fiducie attribue ainsi une telle fraction, un montant égal à cette fraction est :

c) ajouté dans le calcul du crédit d'impôt à l'achat d'actions du contribuable pour l'année d'imposition donnée;

d) déduit dans le calcul du crédit d'impôt à l'achat d'actions de la fiducie pour son année d'imposition se terminant au cours de l'année d'imposition donnée.

Exclusion of certain trusts

(3.1) For the purposes of subsection 127.2(3), a trust does not include a trust that is

(a) governed by an employee benefit plan or a revoked deferred profit sharing plan; or

(b) exempt from tax under section 149.

Partnership

(4) Where, in a taxation year of a taxpayer who is a member of a partnership, an amount is included in computing the share-purchase tax credit of the partnership for its fiscal period ending in that year, such portion of that amount as may reasonably be considered to be the taxpayer's share thereof shall be

(a) added in computing the share-purchase tax credit of the taxpayer for that year; and

(b) deducted in computing the share-purchase tax credit of the partnership for that fiscal period.

Cooperative corporation

(5) Where at any particular time in a taxation year a taxpayer that is a cooperative corporation (within the meaning assigned by subsection 136(2)) has, as required by subsection 135(3), deducted or withheld an amount from a payment made by it to any person pursuant to an allocation in proportion to patronage, the taxpayer may deduct from the amount otherwise required by subsection 135(3) to be remitted to the Receiver General, an amount not exceeding the amount, if any, by which

(a) the amount that would, but for this subsection, be its share-purchase tax credit for the taxation year in which it made the payment if that year had ended immediately before the particular time

exceeds

(b) the total of all amounts each of which is the amount deducted by virtue of this subsection from any amount otherwise required to be remitted by subsection 135(3) in respect of payments made by it before the particular time and in the taxation year,

and the amount, if any, so deducted from the amount otherwise required to be remitted by subsection 135(3) shall be

(c) deducted in computing the share-purchase tax credit of the taxpayer for the taxation year, and

Exclusion de certaines fiducies

(3.1) Pour l'application du paragraphe (3), le terme ***fiducie*** ne vise pas une fiducie qui est :

a) soit régie par un régime de prestations aux employés ou par un régime annulé de participation différée aux bénéfices;

b) soit exonérée d'impôt en vertu de l'article 149.

Société de personnes

(4) Lorsque, au cours d'une année d'imposition donnée d'un contribuable qui est un associé d'une société de personnes, un montant est inclus dans le calcul du crédit d'impôt à l'achat d'actions de la société de personnes pour son exercice se terminant au cours de cette année, la fraction de ce montant qu'il est raisonnable de considérer comme représentant la part du contribuable est :

a) ajoutée dans le calcul du crédit d'impôt à l'achat d'actions du contribuable pour cette année;

b) déduite dans le calcul du crédit d'impôt à l'achat d'actions de la société de personnes pour cet exercice.

Société coopérative

(5) Lorsque, à un moment donné d'une année d'imposition, un contribuable qui est une société coopérative (au sens du paragraphe 136(2)) a déduit ou retenu, en application du paragraphe 135(3), un montant d'un paiement qu'il a fait à une personne conformément à une répartition proportionnelle à l'apport commercial, le contribuable peut déduire du montant qui doit par ailleurs être remis au receveur général, en application du paragraphe 135(3), un montant qui n'est pas supérieur à l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le montant qui serait, sans le présent paragraphe, son crédit d'impôt à l'achat d'actions pour l'année d'imposition au cours de laquelle il a effectué le paiement, si cette année s'était terminée immédiatement avant le moment donné;

b) le total des montants dont chacun représente le montant déduit, en application du présent paragraphe, d'un montant qui doit par ailleurs être remis, en application du paragraphe 135(3), à l'égard de paiements qu'il a effectués avant le moment donné au cours de l'année d'imposition;

le montant ainsi déduit du montant qui doit par ailleurs être remis en application du paragraphe 135(3) :

(d) deemed to have been remitted by the taxpayer to the Receiver General on account of tax under this Part of the person to whom that payment was made.

Definitions

(6) In this section,

share-purchase tax credit of a taxpayer for a taxation year means the amount determined by the formula

(A + B) - C

where

A is the total of all amounts each of which is an amount designated by a corporation under subsection 192(4) in respect of a share acquired by the taxpayer in the year where the taxpayer is the first person, other than a broker or dealer in securities, to be a registered holder,

B is the total of all amounts each of which is an amount required by subsection 127.2(3) or (4) to be added in computing the taxpayer's share-purchase tax credit for the year, and

C is the total of all amounts each of which is an amount required by subsection 127.2(3), (4) or (5) to be deducted in computing the taxpayer's share-purchase tax credit for the year; (*crédit d'impôt à l'achat d'actions*)

unused share-purchase tax credit of a taxpayer for a taxation year means the amount determined by the formula

A - (B + C)

where

A is the taxpayer's share-purchase tax credit for the year,

B is the taxpayer's tax otherwise payable under this Part for the year, the amount deemed by subsection 127.2(2) to have been paid on account of the taxpayer's tax payable under this Part for the year or, where Division E.1 is applicable to the taxpayer for the year, the amount, if any, by which the taxpayer's tax otherwise payable under this Part for the year exceeds the taxpayer's minimum amount for the year determined under section 127.51, as the case may be, and

C is the taxpayer's refundable Part VII tax on hand at the end of the year. (*partie inutilisée du crédit d'impôt à l'achat d'actions*)

c) doit être déduit dans le calcul du crédit d'impôt à l'achat d'actions du contribuable pour l'année d'imposition;

d) est réputé avoir été remis par le contribuable au receveur général au titre de l'impôt, prévu à la présente partie, de la personne à qui le paiement a été effectué.

Définitions

(6) Les définitions qui suivent s'appliquent au présent article.

crédit d'impôt à l'achat d'actions Le crédit d'impôt à l'achat d'actions d'un contribuable pour une année d'imposition correspond au montant calculé selon la formule suivante :

(A + B) - C

où :

A représente le total des montants dont chacun est un montant désigné par une société en vertu du paragraphe 192(4) à l'égard d'une action acquise par le contribuable au cours de l'année, à titre de premier contribuable, autre qu'un négociant ou un courtier en valeurs, qui est un détenteur inscrit;

B le total des montants dont chacun doit, en application du paragraphe (3) ou (4), être ajouté dans le calcul du crédit d'impôt à l'achat d'actions du contribuable pour l'année;

C le total des montants dont chacun doit, en application du paragraphe (3), (4) ou (5), être déduit dans le calcul du crédit d'impôt à l'achat d'actions du contribuable pour l'année. (*share-purchase tax credit*)

partie inutilisée du crédit d'impôt à l'achat d'actions La partie inutilisée du crédit d'impôt à l'achat d'actions d'un contribuable pour une année d'imposition correspond au montant calculé selon la formule suivante :

A - (B + C)

où :

A représente son crédit d'impôt à l'achat d'actions pour l'année;

B son impôt payable par ailleurs en vertu de la présente partie pour l'année ou le montant réputé par le paragraphe (2) avoir été payé au titre de son impôt payable en vertu de la présente partie pour l'année ou, si la section E.1 s'applique au contribuable pour l'année, l'excédent éventuel de son impôt payable par ailleurs en vertu de la présente partie pour l'année sur l'impôt minimum pour l'année qui lui est applicable calculé selon l'article 127.51, selon le cas;

C son impôt de la partie VII en main remboursable à la fin de l'année. (*unused share-purchase tax credit*)

Definition of *tax otherwise payable*

(7) In this section, ***tax otherwise payable*** under this Part by a taxpayer means the amount that would, but for this section and section 120.1, be the tax payable under this Part by the taxpayer.

Définition d'*impôt payable par ailleurs*

(7) Au présent article, ***impôt payable par ailleurs*** par un contribuable en vertu de la présente partie s'entend du montant qui, sans le présent article et l'article 120.1, serait l'impôt payable par le contribuable en vertu de la présente partie.

Deemed cost of acquisition

(8) For the purposes of this Act, where, at any time in a taxation year, a taxpayer has acquired a share and is the first registered holder of the share, other than a broker or dealer in securities, and an amount is, at any time, designated by a corporation under subsection 192(4) in respect of the share, the following rules apply:

(a) the taxpayer shall be deemed to have acquired the share at a cost to the taxpayer equal to the amount by which

(i) its cost to the taxpayer as otherwise determined

exceeds

(ii) the amount so designated in respect of the share; and

(b) where the amount determined under subparagraph 127.2(8)(a)(ii) exceeds the amount determined under subparagraph 127.2(8)(a)(i), the excess shall

(i) where the share is a capital property to the taxpayer, be deemed to be a capital gain of the taxpayer for the year from the disposition of that property, and

(ii) in any other case, be included in computing the income of the taxpayer for the year,

and the cost to the taxpayer of the share shall be deemed to be nil.

Prix présumé de l'acquisition

(8) Pour l'application de la présente loi, lorsque, à un moment donné d'une année d'imposition, un contribuable a acquis une action et est le premier détenteur inscrit de l'action, à l'exclusion du courtier ou du négociant en valeurs, et qu'un montant est désigné à un moment donné par une société en application du paragraphe 192(4) relativement à l'action, les règles suivantes s'appliquent :

a) il est réputé avoir acquis l'action à un coût pour lui égal à l'excédent de l'élément visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le coût pour lui déterminé par ailleurs,

(ii) le montant ainsi désigné relativement à l'action;

b) lorsque le montant déterminé en application du sous-alinéa a)(ii) est supérieur au montant déterminé en application du sous-alinéa a)(i), l'excédent est :

(i) lorsque l'action est pour lui une immobilisation, réputé être un gain en capital du contribuable pour l'année provenant de la disposition de cette immobilisation,

(ii) dans tout autre cas, inclus dans le calcul du revenu du contribuable pour l'année;

en outre, le coût pour lui de l'action est réputé égal à zéro.

Partnership

(9) For the purposes of this section and subsection 193(5), a partnership shall be deemed to be a person and its taxation year shall be deemed to be its fiscal period.

Société de personnes

(9) Pour l'application du présent article et du paragraphe 193(5), une société de personnes est réputée être une personne et son année d'imposition est réputée correspondre à son exercice.

Election re first holder

(10) Where a share of a public corporation has been lawfully distributed to the public in accordance with a prospectus, registration statement or similar document filed with a public authority in Canada pursuant to and in

Choix : premier détenteur

(10) Lorsqu'une action d'une société publique a été légalement distribuée au public conformément à un prospectus, un état d'enregistrement ou un document semblable produit auprès d'une administration au Canada

accordance with the law of Canada or of any province, and, where required by law, accepted for filing by such a public authority, the corporation, if it has designated an amount under subsection 192(4) in respect of the share, may, in the prescribed form required to be filed under that subsection, elect that, for the purposes of this section, the first person, other than a broker or dealer in securities, to have acquired the share (and no other person) shall be considered to be the first person to be a registered holder of the share.

Calculation of consideration

(11) For greater certainty,

(a) for the purposes of this section and Part VII, the amount of consideration for which a share is acquired and issued includes the amount of any consideration for the designation under subsection 192(4) in respect of the share; and

(b) the amount received by a corporation as consideration for a designation under subsection 192(4) in respect of a share issued by it shall not be included in computing its income.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1984, c. 1, s. 73, c. 45, s. 45; 1988, c. 55, s. 108.

Scientific research and experimental development tax credit

127.3 (1) There may be deducted from the tax otherwise payable under this Part by a taxpayer for a taxation year an amount not exceeding the total of the taxpayer's

(a) scientific research and experimental development tax credit for the year, and

(b) unused scientific research and experimental development tax credit for the taxation year immediately following the year.

Definitions

(2) In this section,

scientific research and experimental development tax credit of a taxpayer for a taxation year means the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount equal to

(a) where the taxpayer is a corporation, 50%, or

conformément à la législation fédérale ou provinciale et, si la loi l'exige, accepté par cette administration, la société, si elle a désigné un montant relativement à l'action en application du paragraphe 192(4), peut, dans le formulaire prescrit à présenter en application de ce paragraphe, faire un choix pour que, pour l'application du présent article, la première personne, autre qu'un courtier ou un négociant en valeurs, à avoir acquis l'action (et nulle autre) soit considérée comme le premier détenteur inscrit de l'action.

Calcul de la contrepartie

(11) Il est entendu que :

a) dans l'application du présent article et de la partie VII, le montant de la contrepartie de l'acquisition et de l'émission d'une action comprend toute contrepartie de la désignation faite relativement à l'action, en application du paragraphe 192(4);

b) le montant reçu par une société en contrepartie de la désignation faite, en application du paragraphe 192(4), relativement à l'action qu'elle a émise n'est pas inclus dans le calcul de son revenu.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1984, ch. 1, art. 73, ch. 45, art. 45; 1988, ch. 55, art. 108.

Crédit d'impôt pour des activités de recherche scientifique et de développement expérimental

127.3 (1) Un contribuable peut déduire de l'impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie pour une année d'imposition un montant ne dépassant pas le total des éléments suivants :

a) son crédit d'impôt pour des activités de recherche scientifique et de développement expérimental;

b) la partie inutilisée de son crédit d'impôt pour des activités de recherche scientifique et de développement expérimental pour l'année d'imposition suivant l'année.

Définitions

(2) Les définitions qui suivent s'appliquent au présent article.

crédit d'impôt pour des activités de recherche scientifique et de développement expérimental Le crédit d'impôt pour les activités de recherche scientifique et de développement expérimental auquel a droit un contribuable pour une année d'imposition correspond au montant calculé selon la formule suivante :

A - B

où :

(b) where the taxpayer is an individual other than a trust, 34%

of an amount designated by a corporation under subsection 194(4) in respect of

(c) a share acquired by the taxpayer in the year where the taxpayer is the first person, other than a broker or dealer in securities, to be a registered holder thereof,

(d) a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation (in this section referred to as a "debt obligation") acquired by the taxpayer in the year where the taxpayer is the first person, other than a broker or dealer in securities, to be a registered holder of that debt obligation, or

(e) a right acquired by the taxpayer in the year where the taxpayer is the first person, other than a broker or dealer in securities, to have acquired that right, and

B is the total of all amounts required by subsection 127.3(5) to be deducted in computing the taxpayer's scientific research and experimental development tax credit for the year; (*crédit d'impôt pour des activités de recherche scientifique et de développement expérimental*)

unused scientific research and experimental development tax credit of a taxpayer for a taxation year means the amount determined by the formula

A - (B + C)

where

A is the taxpayer's scientific research and experimental development tax credit for the year,

B is the taxpayer's tax otherwise payable under this Part for the year or, where Division E.1 is applicable to the taxpayer for the year, the amount, if any, by which the taxpayer's tax otherwise payable under this Part for the year exceeds the taxpayer's minimum amount for the year determined under section 127.51, as the case may be, and

C is the taxpayer's refundable Part VIII tax on hand at the end of the year. (*partie inutilisée du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental*)

A représente le total des sommes dont chacune est égale à :

a) lorsque le contribuable est une société, 50 %;

b) lorsque le contribuable est un particulier autre qu'une fiducie, 34 %,

d'un montant désigné par une société, en vertu du paragraphe 194(4), à l'égard :

c) soit d'une action acquise par le contribuable durant l'année et dont il est le premier détenteur inscrit, exception faite d'un courtier ou d'un négociant en valeurs;

d) soit d'une obligation, d'un effet, d'un billet, d'une hypothèque ou de tout autre semblable obligation (appelé « créance » au présent article) acquis par le contribuable durant l'année et dont il est le premier détenteur inscrit, exception faite d'un courtier ou d'un négociant en valeurs;

e) soit d'un droit acquis par le contribuable durant l'année et où il est le premier détenteur, exception faite d'un courtier ou d'un négociant en valeurs, à avoir acquis ce droit;

B le total des montants qui doivent être déduits en vertu du paragraphe (5) dans le calcul du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental du contribuable pour l'année. (*scientific research and experimental development tax credit*)

partie inutilisée du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental La partie inutilisée du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental d'un contribuable pour une année d'imposition correspond au montant calculé selon la formule suivante :

A - (B + C)

où :

A représente son crédit d'impôt pour des activités de recherche scientifique et de développement expérimental pour l'année;

B son impôt payable par ailleurs en vertu de la présente partie pour l'année ou, si la section E.1 s'applique au contribuable pour l'année, l'excédent éventuel de son impôt payable par ailleurs en vertu de la présente partie pour l'année sur l'impôt minimum pour l'année qui lui est applicable calculé selon l'article 127.51, selon le cas;

C son impôt de la partie VIII en main remboursable à la fin de l'année. (*unused scientific research and experimental development tax credit*)

Trust

(3) For the purposes of this section and section 53, where a taxpayer, other than a broker or dealer in securities, is a beneficiary under a trust and an amount is designated by a corporation under subsection 194(4) in respect of a share, debt obligation or right acquired by the trust in a taxation year of the trust where the trust is the first person, other than a broker or dealer in securities, to be a registered holder of the share or debt obligation or to have acquired the right, as the case may be,

(a) the trust may, in its return of income for that year, specify such portion of that amount as may, having regard to all the circumstances (including the terms and conditions of the trust arrangement), reasonably be considered to be attributable to the taxpayer and as was not specified by the trust in respect of any other beneficiary under that trust; and

(b) the portion specified pursuant to paragraph 127.3(3)(a) shall be deemed to be an amount designated on the last day of that year by the corporation under subsection 194(4) in respect of a share, debt obligation or right, as the case may be, acquired by the taxpayer on that day where the taxpayer is the first person, other than a broker or dealer in securities, to be a registered holder of the share or debt obligation or to have acquired the right, as the case may be.

Exclusion of certain trusts

(3.1) For the purposes of subsection (3), a trust does not include a trust that is

(a) governed by an employee benefit plan or a revoked deferred profit sharing plan; or

(b) exempt from tax under section 149.

Partnership

(4) For the purposes of this section and section 53, where a taxpayer, other than a broker or dealer in securities, is a member of a partnership and an amount is designated by a corporation under subsection 194(4) in respect of a share, debt obligation or right acquired by the partnership in a taxation year of the partnership where the partnership is the first person, other than a broker or dealer in securities, to be a registered holder of the share or debt obligation or to have acquired the right, as the case may be, such portion of that amount as may reasonably be considered to be the taxpayer's share thereof shall be deemed to be an amount designated on the last day of that year by the corporation under subsection 194(4) in respect of a share, debt obligation or right, as the case may be, acquired by the taxpayer on that day where the

Fiducie

(3) Pour l'application du présent article et de l'article 53, lorsqu'un contribuable, autre qu'un courtier ou un négociant en valeurs, est un bénéficiaire d'une fiducie, et qu'une société désigne un montant en vertu du paragraphe 194(4) à l'égard d'une action, d'une créance ou d'un droit acquis par la fiducie durant une année d'imposition de cette fiducie à titre de premier détenteur ou détenteur inscrit, selon le cas, exception faite d'un courtier ou d'un négociant en valeurs :

a) la fiducie peut préciser, dans sa déclaration de revenu de cette année, quelle fraction de ce montant il est, compte tenu des circonstances (y compris les modalités de l'acte de fiducie) raisonnable de considérer comme étant attribuable au contribuable et qui n'a pas été désignée par la fiducie au profit de quelque autre bénéficiaire de cette fiducie;

b) la fraction précisée en application de l'alinéa a) est réputée être un montant désigné par la société, en vertu du paragraphe 194(4), le dernier jour de cette année, à l'égard d'une action, d'une créance ou d'un droit, selon le cas, acquis par le contribuable à ce moment et dont il est le premier détenteur ou détenteur inscrit, selon le cas, exception faite d'un courtier ou d'un négociant en valeurs.

Exclusion de certaines fiducies

(3.1) Pour l'application du paragraphe (3), le terme ***fiducie*** ne vise pas une fiducie qui est :

a) soit régie par un régime de prestations aux employés ou par un régime annulé de participation différée aux bénéfices;

b) soit exonérée d'impôt en vertu de l'article 149.

Société de personnes

(4) Pour l'application du présent article et de l'article 53, lorsqu'un contribuable, autre qu'un courtier ou un négociant en valeurs, est un associé d'une société de personnes, et qu'une société désigne un montant, en vertu du paragraphe 194(4), à l'égard d'une action, d'une créance ou d'un droit acquis par la société de personnes durant une année d'imposition de cette société de personnes à titre de premier détenteur ou détenteur inscrit, selon le cas, exception faite d'un courtier ou d'un négociant en valeurs, toute fraction de ce montant qu'il est raisonnable de considérer comme la part du contribuable est réputée être un montant désigné par la société le dernier jour de cette année en vertu du paragraphe 194(4) à l'égard d'une action, d'une créance ou d'un droit, selon le cas, acquis par le contribuable à ce moment et dont il est

taxpayer is the first person, other than a broker or dealer in securities, to be a registered holder of the share or debt obligation or to have acquired the right, as the case may be.

le premier détenteur ou détenteur inscrit, selon le cas, exception faite d'un courtier ou d'un négociant en valeurs.

Cooperative corporation

(5) Where at any particular time in a taxation year a taxpayer that is a cooperative corporation (within the meaning assigned by subsection 136(2)) has, as required by subsection 135(3), deducted or withheld an amount from a payment made by it to any person pursuant to an allocation in proportion to patronage, the taxpayer may deduct from the amount otherwise required by subsection 135(3) to be remitted to the Receiver General, an amount not exceeding the amount, if any, by which

(a) the amount that would, but for this subsection, be its scientific research and experimental development tax credit for the taxation year in which it made the payment if that year had ended immediately before the particular time

exceeds

(b) the total of all amounts each of which is the amount deducted by virtue of this subsection from any amount otherwise required to be remitted by subsection 135(3) in respect of payments made by it before the particular time and in the taxation year,

and the amount, if any, so deducted from the amount otherwise required to be remitted by subsection 135(3) shall be

(c) deducted in computing the scientific research and experimental development tax credit of the taxpayer for the taxation year, and

(d) deemed to have been remitted by the taxpayer to the Receiver General on account of tax under this Part of the person to whom that payment was made.

Société coopérative

(5) Lorsque, à un moment donné d'une année d'imposition, un contribuable qui est une société coopérative (au sens du paragraphe 136(2)) a, en application du paragraphe 135(3), déduit ou retenu un montant sur un paiement qu'il a fait à une personne conformément à une répartition proportionnelle à l'apport commercial, le contribuable peut déduire du montant devant par ailleurs être remis au receveur général, en application du paragraphe 135(3), un montant ne dépassant pas l'excédent éventuel du montant visé à l'alinéa a) sur la somme visée à l'alinéa b):

a) le montant qui, sans le présent paragraphe, correspondrait à son crédit d'impôt pour des activités de recherche scientifique et de développement expérimental pour l'année d'imposition durant laquelle il a fait le paiement, si cette année s'était terminée immédiatement avant le moment donné;

b) la somme de chacun des montants déduits en vertu du présent paragraphe de tout montant devant par ailleurs être versé, en application du paragraphe 135(3), au titre des paiements qu'il a faits avant le moment donné et au cours de l'année d'imposition;

le montant ainsi déduit du montant devant par ailleurs être versé en application du paragraphe 135(3) est :

c) déduit dans le calcul du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental auquel a droit le contribuable pour l'année d'imposition;

d) réputé avoir été versé par le contribuable au receveur général en paiement de l'impôt à payer en vertu de la présente partie par le bénéficiaire du paiement.

Deduction from cost

(6) For the purposes of this Act, where at any time in a taxation year a taxpayer has acquired a share, debt obligation or right and is the first registered holder of the share or debt obligation or the first person to have acquired the right, as the case may be, other than a broker or dealer in securities, and an amount is, at any time, designated by a corporation under subsection 194(4), in respect of the share, debt obligation or right, the following rules apply:

Déduction à l'égard du coût

(6) Pour l'application de la présente loi, lorsque, à un moment donné au cours d'une année d'imposition, un contribuable a acquis une action, une créance ou un droit dont il est le premier détenteur ou détenteur inscrit, selon le cas, exception faite d'un courtier ou d'un négociant en valeurs, et à l'égard duquel une société a, à un moment donné, désigné un montant en vertu du paragraphe 194(4), dans le calcul du coût d'acquisition de l'action, de la créance ou du droit, les règles suivantes s'appliquent :

a) il est réputé avoir acquis l'action, la créance ou le droit à un coût pour lui égal à l'excédent de l'élément

(a) the taxpayer shall be deemed to have acquired the share, debt obligation or right at a cost to the taxpayer equal to the amount by which

(i) its cost to the taxpayer as otherwise determined

exceeds

(ii) 50% of the amount so designated in respect thereof; and

(b) where the amount determined under subparagraph 127.3(6)(a)(ii) exceeds the amount determined under subparagraph (a)(i), the excess shall

(i) where the share, debt obligation or right, as the case may be, is a capital property to the taxpayer, be deemed to be a capital gain of the taxpayer for the year from the disposition of that property, and

(ii) in any other case, be included in computing the income of the taxpayer for the year,

and the cost to the taxpayer of the share, debt obligation or right, as the case may be, shall be deemed to be nil.

visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le coût pour lui déterminé par ailleurs,

(ii) 50 % du montant désigné à l'égard de l'action, de la créance ou du droit;

b) lorsque le montant déterminé en vertu du sous-alinéa a)(ii) dépasse le montant déterminé en vertu du sous-alinéa a)(i), l'excédent est :

(i) lorsque l'action, la créance ou le droit, selon le cas, est pour lui une immobilisation, réputé être un gain en capital du contribuable pour l'année provenant de la disposition de cette immobilisation,

(ii) dans tout autre cas, inclus dans le calcul du revenu du contribuable pour l'année;

en outre, le coût pour lui de l'action, de la créance ou du droit, selon le cas, est réputé égal à zéro.

Partnership

(7) For the purposes of this section and Part VIII, a partnership shall be deemed to be a person and its taxation year shall be deemed to be its fiscal period.

Société de personnes

(7) Pour l'application du présent article et de la partie VIII, une société de personnes est réputée être une personne et son année d'imposition est réputée correspondre à son exercice.

Definition of *tax otherwise payable*

(8) In this section, ***tax otherwise payable*** under this Part by a taxpayer means the amount that would, but for this section and section 120.1, be the tax payable under this Part by the taxpayer.

Définition de *impôt payable par ailleurs*

(8) Pour l'application du présent article, ***impôt payable par ailleurs*** en vertu de la présente partie, à l'égard d'un contribuable, s'entend du montant que celui-ci devrait payer en vertu de la présente partie sans le présent article et l'article 120.1.

Election re first holder

(9) Where a share or debt obligation of a public corporation has been lawfully distributed to the public in accordance with a prospectus, registration statement or similar document filed with a public authority in Canada pursuant to and in accordance with the law of Canada or of any province, and, where required by law, accepted for filing by that public authority, the corporation, if it has designated an amount under subsection 194(4) in respect of the share or debt obligation, may, in the prescribed form required to be filed under that subsection, elect that, for the purposes of this section, the first person, other than a broker or dealer in securities, to have acquired the share or debt obligation, as the case may be,

Choix : premier détenteur

(9) Lorsqu'une action ou une créance d'une société publique a été légalement distribuée au public conformément à un prospectus, un état d'enregistrement ou un document semblable produit auprès d'une administration au Canada conformément à la législation fédérale ou provinciale et, si la loi l'exige, accepté par cette administration, la société, si elle a désigné un montant relativement à l'action ou à la créance en application du paragraphe 194(4), peut, dans le formulaire prescrit à présenter en application de ce paragraphe, faire un choix pour que, pour l'application du présent article, la première personne, autre qu'un courtier ou un négociant en valeurs, à avoir acquis l'action ou la créance, selon le cas,

(and no other person) shall be considered to be the first person to be a registered holder thereof.

Calculation of consideration

(10) For greater certainty,

(a) for the purposes of this section and Part VIII, the amount of consideration for which a share, debt obligation or right was acquired and issued or granted includes the amount of any consideration for the designation under subsection 194(4) in respect of the share, debt obligation or right; and

(b) the amount received by a corporation as consideration for a designation under subsection 194(4) in respect of a share, debt obligation or right issued or granted by it shall not be included in computing its income.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.3; 2013, c. 34, s. 128(E).

Definitions

127.4 (1) In this section,

approved share means a share of the capital stock of a prescribed labour-sponsored venture capital corporation, but does not include

(a) a share issued by a registered labour-sponsored venture capital corporation the venture capital business of which was discontinued before the time of the issue, and

(b) a share issued by a prescribed labour-sponsored venture capital corporation that is not a registered labour-sponsored venture capital corporation if, at the time of the issue, no province under the laws (described in section 6701 of the *Income Tax Regulations*) of which the corporation is registered or established provides assistance in respect of the acquisition of the share; (*action approuvée*)

labour-sponsored funds tax credit [Repealed, 1997, c. 25, s. 37]

net cost to an individual of an approved share means the amount, if any, by which

(a) the amount of consideration paid by the individual to acquire or subscribe for the share

exceeds

(b) the amount of any assistance (other than an amount included in computing a tax credit of the individual in respect of that share) provided or to be

(et nulle autre) soit considérée comme le premier détenteur inscrit de l'action ou de la créance.

Calcul de la contrepartie

(10) Il est entendu que :

a) dans l'application du présent article et de la partie VIII, le montant de la contrepartie de l'acquisition et de l'émission d'une action, d'une créance ou de l'attribution d'un droit comprend toute contrepartie de la désignation faite relativement à l'action, à la créance ou au droit, en application du paragraphe 194(4);

b) le montant reçu par une société en contrepartie de la désignation faite relativement à une action, à une créance qu'elle a émise ou à un droit qu'elle a attribué, en application du paragraphe 194(4), n'est pas inclus dans le calcul de son revenu.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.3; 2013, ch. 34, art. 128(A).

Définitions

127.4 (1) Les définitions qui suivent s'appliquent au présent article.

acquisition initiale Opération par laquelle une action est acquise pour la première fois. Toutefois :

a) sous réserve des alinéas b) et c), l'action qui est souscrite irrévocablement et payée avant d'être acquise pour la première fois fait l'objet d'une acquisition initiale lorsqu'elle est ainsi souscrite et payée pour la première fois;

b) une action est réputée n'avoir jamais été acquise ou souscrite irrévocablement et payée, sauf si son premier détenteur inscrit est, sous réserve de l'alinéa c), la première personne à l'acquérir ou à la souscrire irrévocablement et la payer;

c) pour l'application de la présente définition, la personne qui agit en qualité de courtier en valeurs est réputée ne jamais acquérir ou souscrire et payer l'action et ne jamais en être le détenteur inscrit. (*original acquisition*)

action approuvée Action du capital-actions d'une société à capital de risque de travailleurs visée par règlement, à l'exclusion des actions suivantes :

a) l'action émise par une société agréée à capital de risque de travailleurs après l'abandon de son entreprise à capital de risque;

b) l'action émise par une société à capital de risque de travailleurs visée par règlement qui n'est pas une

provided by a government, municipality or any public authority in respect of, or for the acquisition of, the share; (*coût net*)

original acquisition of a share means the first acquisition of the share, except that

(a) where the share is irrevocably subscribed and paid for before its first acquisition, subject to paragraphs (b) and (c), the original acquisition of the share is the first transaction whereby the share is irrevocably subscribed and paid for,

(b) a share is deemed never to have been acquired and never to have been irrevocably subscribed and paid for unless the first registered holder of the share is, subject to paragraph (c), the first person to either acquire or irrevocably subscribe and pay for the share, and

(c) for the purpose of this definition, a broker or dealer in securities acting in that capacity is deemed never to acquire or subscribe and pay for the share and never to be the registered holder of the share; (*acquisition initiale*)

qualifying trust for an individual in respect of a share means

(a) a trust governed by a registered retirement savings plan, under which the individual is the annuitant, that is not a spousal or common-law partner plan (in this definition having the meaning assigned by subsection 146(1)) in relation to another individual,

(b) a trust governed by a registered retirement savings plan, under which the individual or the individual's spouse or common-law partner is the annuitant, that is a spousal or common-law partner plan in relation to the individual or the individual's spouse or common-law partner, if the individual and no other person claims a deduction under subsection (2) in respect of the share, or

(c) a trust governed by a TFSA of which the individual is the holder; (*fiducie admissible*)

tax otherwise payable by an individual means the amount that, but for this section, would be the individual's tax payable under this Part. (*impôt payable par ailleurs*)

Amalgamations or mergers

(1.1) Subsections 204.8(2) and 204.85(3) apply for the purpose of this section.

société agréée à capital de risque de travailleurs, si, au moment de l'émission, aucune des provinces sous le régime des lois desquelles (visées à l'article 6701 du *Règlement de l'impôt sur le revenu*) la société est constituée, enregistrée, inscrite ou agréée, selon le cas, n'offre d'aide relativement à l'acquisition de l'action. (*approved share*)

coût net Coût, pour un particulier, d'une action approuvée correspondant à l'excédent du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant payé par le particulier en contrepartie de l'acquisition ou de la souscription de l'action;

b) le montant d'une aide, sauf un montant inclus dans le calcul d'un crédit d'impôt du particulier pour cette action, fournie ou à fournir par un gouvernement, une municipalité ou une administration au titre de l'action ou en vue de son acquisition. (*net cost*)

crédit d'impôt relatif à un fonds de travailleurs [Abrogée, 1997, ch. 25, art. 37]

fiducie admissible Quant à un particulier relativement à une action :

a) fiducie régie par un régime enregistré d'épargne-retraite, dont le particulier est le rentier, qui n'est pas un régime au profit de l'époux ou du conjoint de fait, au sens du paragraphe 146(1), quant à un autre particulier;

b) fiducie régie par un régime enregistré d'épargne-retraite, dont le particulier ou son époux ou conjoint de fait est le rentier, qui est un régime au profit de l'époux ou du conjoint de fait, au sens du paragraphe 146(1), quant au particulier ou à son époux ou conjoint de fait, pourvu que le particulier, et non une autre personne, demande la déduction prévue au paragraphe (2) relativement à l'action;

c) fiducie régie par un compte d'épargne libre d'impôt dont le particulier est le titulaire. (*qualifying trust*)

impôt payable par ailleurs Le montant qui, sans le présent article, serait l'impôt payable en vertu de la présente partie par un particulier. (*tax otherwise payable*)

Fusions ou unifications

(1.1) Les paragraphes 204.8(2) et 204.85(3) s'appliquent dans le cadre du présent article.

Deduction of labour-sponsored funds tax credit

(2) There may be deducted from the tax otherwise payable by an individual (other than a trust) for a taxation year such amount as the individual claims not exceeding the individual's labour-sponsored funds tax credit limit for the year.

(3) and (4) [Repealed, 1999, c. 22, s. 49]

Labour-sponsored funds tax credit limit

(5) For the purpose of subsection 127.4(2), an individual's labour-sponsored funds tax credit limit for a taxation year is the lesser of

(a) $750, and

(b) the amount, if any, by which

(i) the total of all amounts each of which is the individual's labour-sponsored funds tax credit in respect of an original acquisition in the year or in the first 60 days of the following taxation year of an approved share

exceeds

(ii) the portion of the total described in subparagraph 127.4(5)(b)(i) that was deducted under subsection 127.4(2) in computing the individual's tax payable under this Part for the preceding taxation year.

Crédit d'impôt relatif à un fonds de travailleurs

(2) Est déductible de l'impôt payable par ailleurs par un particulier, sauf une fiducie, pour une année d'imposition un montant ne dépassant pas le plafond du crédit d'impôt relatif à un fonds de travailleurs qui lui est applicable pour l'année.

(3) et (4) [Abrogés, 1999, ch. 22, art. 49]

Plafond du crédit d'impôt relatif à un fonds de travailleurs

(5) Pour l'application du paragraphe (2), le plafond du crédit d'impôt relatif à un fonds de travailleurs applicable à un particulier pour une année d'imposition correspond au moins élevé des montants suivants :

a) 750 $;

0,15 × A + 0,05 × B

où :

A représente le moins élevé des montants suivants :

(i) 5 000 $,

(ii) le total des montants dont chacun est le coût net de l'acquisition initiale d'une action d'une société à capital de risque de travailleurs visée par règlement (à l'exception d'une société qui est une société à capital de risque de travailleurs visée par règlement du seul fait qu'il s'agit d'une société agréée à capital de risque de travailleurs),

B le moins élevé des montants suivants :

(i) l'excédent éventuel de 5 000 $ sur le total visé au sous-alinéa (ii) de l'élément A,

(ii) le total des montants dont chacun est le coût net de l'acquisition initiale d'une action d'une société qui est une société à capital de risque de travailleurs visée par règlement du seul fait qu'il s'agit d'une société agréée à capital de risque de travailleurs;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants représentant chacun le crédit d'impôt relatif à un fonds de travailleurs du particulier relativement à l'acquisition initiale d'une action approuvée, effectuée au cours de l'année ou des 60 premiers jours de l'année d'imposition subséquente,

(ii) la partie du total visé au sous-alinéa (i) qui a été déduite en application du paragraphe (2) dans le calcul de l'impôt payable par le particulier en vertu

Deemed original acquisition

(5.1) If the Minister so directs, an original acquisition of an approved share that occurs in an individual's taxation year (other than in the first 60 days of the year) is deemed for the purpose of this section to have occurred at the beginning of the year and not at the time it actually occurred.

Labour-sponsored funds tax credit

(6) For the purpose of subsection (5), an individual's labour-sponsored funds tax credit in respect of an original acquisition of an approved share is equal to the least of

(a) 15% of the net cost to the individual (or to a qualifying trust for the individual in respect of the share) for the original acquisition of the share by the individual or by the trust, if the share is a share of a prescribed labour-sponsored venture capital corporation (other than a corporation that is a prescribed labour-sponsored venture capital corporation solely because it is a registered labour-sponsored venture capital corporation),

(a.1) 5% of the net cost to the individual (or to a qualifying trust for the individual in respect of the share) for the original acquisition of the share by the individual or by the trust, if

(i) the taxation year for which a claim is made under subsection (2) in respect of the original acquisition is 2016, and

(ii) the share is a share of a corporation that is a prescribed labour-sponsored venture capital corporation solely because it is a registered labour-sponsored venture capital corporation,

(a.2) nil, if

(i) the taxation year for which a claim is made under subsection (2) in respect of the original acquisition is after 2016, and

(ii) the share is a share of a corporation that is a prescribed labour-sponsored venture capital corporation solely because it is a registered labour-sponsored venture capital corporation,

(b) nil, where the share was issued by a registered labour-sponsored venture capital corporation unless the information return described in paragraph 204.81(6)(c) is filed with the individual's return of

de la présente partie pour l'année d'imposition précédente.

Présomption d'acquisition initiale

(5.1) Si le ministre l'ordonne, l'acquisition initiale d'une action approuvée qui est effectuée au cours de l'année d'imposition d'un particulier (sauf les 60 premiers jours de l'année) est réputée, pour l'application du présent article, avoir été effectuée au début de l'année et non au moment où elle a réellement été effectuée.

Crédit d'impôt relatif à un fonds de travailleurs

(6) Pour l'application du paragraphe (5), le crédit d'impôt relatif à un fonds de travailleurs d'un particulier au titre de l'acquisition initiale d'une action approuvée correspond au moins élevé des montants suivants :

a) 15 % du coût net, pour le particulier ou une fiducie admissible quant à lui relativement à l'action, de l'acquisition initiale de l'action par le particulier ou la fiducie, si l'action est une action d'une société à capital de risque de travailleurs visée par règlement (à l'exception d'une société qui est une société à capital de risque de travailleurs visée par règlement du seul fait qu'il s'agit d'une société agréée à capital de risque de travailleurs);

a.1) 5 % du coût net, pour le particulier ou une fiducie admissible quant à lui relativement à l'action, de l'acquisition initiale de l'action par le particulier ou la fiducie, si les énoncés ci-après se vérifient :

(i) l'année d'imposition 2016 est celle pour laquelle un montant est déduit en application du paragraphe (2) au titre de l'acquisition initiale,

(ii) l'action est une action d'une société qui est une société à capital de risque de travailleurs visée par règlement du seul fait qu'il s'agit d'une société agréée à capital de risque de travailleurs;

a.2) zéro, si :

(i) d'une part, une année d'imposition postérieure à 2016 est celle pour laquelle un montant est déduit en application du paragraphe (2) au titre de l'acquisition initiale,

(ii) d'autre part, l'action est une action d'une société qui est une société à capital de risque de travailleurs visée par règlement du seul fait qu'il s'agit d'une société agréée à capital de risque de travailleurs;

b) zéro, dans le cas où l'action a été émise par une société agréée à capital de risque de travailleurs, sauf si

income for the taxation year for which a claim is made under subsection 127.4(2) in respect of the original acquisition of the share (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)),

(c) nil, where the individual dies after December 5, 1996 and before the original acquisition of the share,

(d) nil, where a payment in respect of the disposition of the share has been made under section 211.9, and

(e) nil, if the share is issued in exchange for another share of the corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.4; 1994, c. 7, Sch. II, s. 105, Sch. VIII, s. 69, c. 8, s. 17; 1997, c. 25, s. 37; 1999, c. 22, s. 49; 2000, c. 12, s. 142, c. 19, s. 36; 2009, c. 2, s. 42; 2013, c. 34, s. 270, c. 40, s. 59; 2016, c. 7, s. 36.

la déclaration de renseignements visée à l'alinéa 204.81(6)c) est produite avec la déclaration de revenu du particulier pour l'année d'imposition pour laquelle un montant est déduit en application du paragraphe (2) au titre de l'acquisition initiale de l'action (à l'exception d'une déclaration de revenu produite ou présentée en vertu du paragraphe 70(2), des alinéas 104(23)d) ou 128(2)e) ou du paragraphe 150(4));

c) zéro, dans le cas où le particulier décède après le 5 décembre 1996 et avant l'acquisition initiale de l'action;

d) zéro, dans le cas où un paiement au titre de la disposition de l'action est effectué en application de l'article 211.9;

e) zéro, dans le cas où l'action est émise en échange d'une autre action de la société.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.4; 1994, ch. 7, ann. II, art. 105, ann. VIII, art. 69, ch. 8, art. 17; 1997, ch. 25, art. 37; 1999, ch. 22, art. 49; 2000, ch. 12, art. 142, ch. 19, art. 36; 2009, ch. 2, art. 42; 2013, ch. 34, art. 270, ch. 40, art. 59; 2016, ch. 7, art. 36.

Part XII.4 tax credit

127.41 (1) In this section, the Part XII.4 tax credit of a taxpayer for a particular taxation year means the total of

(a) all amounts each of which is an amount determined by the formula

A × B/C

where

A is the tax payable under Part XII.4 by a qualifying environmental trust for a taxation year (in this paragraph referred to as the "trust's year") that ends in the particular year,

B is the amount, if any, by which the total of all amounts in respect of the trust that were included (otherwise than because of being a member of a partnership) because of the application of subsection 107.3(1) in computing the taxpayer's income for the particular year exceeds the total of all amounts in respect of the trust that were deducted (otherwise than because of being a member of a partnership) because of the application of subsection 107.3(1) in computing that income, and

C is the trust's income for the trust's year, computed without reference to subsections 104(4) to 104(31) and sections 105 to 107, and

(b) in respect of each partnership of which the taxpayer was a member, the total of all amounts each of which is the amount that can reasonably be considered to be the taxpayer's share of the relevant credit in

Crédit d'impôt de la partie XII.4

127.41 (1) Pour l'application du présent article, le crédit d'impôt de la partie XII.4 d'un contribuable pour une année d'imposition donnée correspond au total des montants suivants :

a) le total des montants représentant chacun le résultat du calcul suivant :

A × B/C

où :

A représente l'impôt payable en vertu de la partie XII.4 par une fiducie pour l'environnement admissible pour une année d'imposition (appelée « année de la fiducie » au présent alinéa) qui se termine dans l'année donnée,

B l'excédent éventuel du total des montants relatifs à la fiducie qui ont été inclus, par l'effet du paragraphe 107.3(1) mais non parce que le contribuable est l'associé d'une société de personnes, dans le calcul du revenu du contribuable pour l'année donnée sur le total des montants relatifs à la fiducie qui ont été déduits, par l'effet de ce paragraphe mais non parce que le contribuable est un tel associé, dans le calcul de ce revenu,

C le revenu de la fiducie pour l'année de la fiducie, calculé compte non tenu des paragraphes 104(4) à (31) et des articles 105 à 107;

b) pour ce qui est de chaque société de personnes dont le contribuable est un associé, le total des

respect of the partnership and, for this purpose, the relevant credit in respect of a partnership is the amount that would, if a partnership were a person and its fiscal period were its taxation year, be the Part XII.4 tax credit of the partnership for its taxation year that ends in the particular year.

Reduction of Part I tax

(2) There may be deducted from a taxpayer's tax otherwise payable under this Part for a taxation year such amount as the taxpayer claims not exceeding the taxpayer's Part XII.4 tax credit for the year.

Deemed payment of Part I tax

(3) There is deemed to have been paid on account of the tax payable under this Part by a taxpayer (other than a taxpayer exempt from such tax) for a taxation year on the taxpayer's balance-due day for the year, such amount as the taxpayer claims not exceeding the amount, if any, by which

(a) the taxpayer's Part XII.4 tax credit for the year

exceeds

(b) the amount deducted under subsection 127.41(2) in computing the taxpayer's tax payable under this Part for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 3, s. 39; 1997, c. 25, s. 38; 1998, c. 19, ss. 34, 148.

montants représentant chacun le montant qu'il est raisonnable de considérer comme la part qui revient au contribuable du crédit applicable relativement à la société de personnes; à cette fin, le crédit applicable relativement à une société de personnes correspond au montant qui, si la société de personnes était une personne et son exercice, une année d'imposition, représenterait son crédit d'impôt de la partie XII.4 pour son année d'imposition qui se termine au cours de l'année donnée.

Réduction de l'impôt de la partie I

(2) Un contribuable peut déduire de son impôt payable par ailleurs en vertu de la présente partie pour une année d'imposition un montant ne dépassant pas son crédit d'impôt de la partie XII.4 pour l'année.

Présomption de paiement de l'impôt de la partie I

(3) Est réputé avoir été payé au titre de l'impôt payable en vertu de la présente partie par un contribuable pour une année d'imposition, sauf un contribuable exonéré de cet impôt, à la date d'exigibilité du solde qui lui est applicable pour l'année un montant ne dépassant pas l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le crédit d'impôt de la partie XII.4 du contribuable pour l'année;

b) le montant déduit en application du paragraphe (2) dans le calcul de l'impôt payable par le contribuable en vertu de la présente partie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 3, art. 39; 1997, ch. 25, art. 38; 1998, ch. 19, art. 34 et 148.

DIVISION E.1

Minimum Tax

Obligation to pay minimum tax

127.5 Notwithstanding any other provision of this Act but subject to subsection 120.4(3) and section 127.55, where the amount that, but for section 120, would be determined under Division E to be an individual's tax payable for a taxation year is less than the amount determined under paragraph (a) in respect of the individual for the year, the individual's tax payable under this Part for the year is the total of

(a) the amount, if any, by which

(i) the individual's minimum amount for the year determined under section 127.51

SECTION E.1

Impôt minimum

Assujettissement à l'impôt minimum

127.5 Malgré les autres dispositions de la présente loi, mais sous réserve du paragraphe 120.4(3) et de l'article 127.55, lorsque l'impôt payable par un particulier, calculé selon la section E compte non tenu de l'article 120, pour une année d'imposition est inférieur à l'excédent visé à l'alinéa a) concernant le particulier pour l'année, l'impôt payable par celui-ci pour l'année en vertu de la présente partie est égal à la somme des montants suivants :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) l'impôt minimum applicable au particulier pour l'année, calculé selon l'article 127.51,

exceeds

(ii) the individual's special foreign tax credit determined under section 127.54 for the year, and

(b) the amount, if any, required by section 120 to be added to the individual's tax otherwise payable under this Part for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.5; 1998, c. 19, s. 149; 2000, c. 19, s. 37.

Minimum amount determined

127.51 An individual's minimum amount for a taxation year is the amount determined by the formula

A(B - C) - D

where

A is the appropriate percentage for the year;

B is the individual's adjusted taxable income for the year determined under section 127.52;

C is

(a) $40,000, in the case of an individual (other than a trust) or a graduated rate estate; and

(b) nil, in any other case; and

D is the individual's basic minimum tax credit for the year determined under section 127.531.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1986, c. 55, s. 50; 1988, c. 55, s. 111; 2014, c. 39, s. 43.

Adjusted taxable income determined

127.52 (1) Subject to subsection 127.52(2), an individual's adjusted taxable income for a taxation year is the amount that would be the individual's taxable income for the year or the individual's taxable income earned in Canada for the year, as the case may be, if it were computed on the assumption that

(a) [Repealed, 1999, c. 22, s. 50(2)]

(b) the total of all amounts each of which is an amount deductible under paragraph 20(1)(a) or any of paragraphs 20(1)(c) to 20(1)(f) in computing the individual's income for the year in respect of a rental or leasing property (other than an amount included in the individual's share of a loss referred to in paragraph 127.52(1)(c.1)) were the lesser of the total of all amounts otherwise so deductible and the amount, if any, by which the total of

(ii) le crédit spécial pour impôts étrangers du particulier pour l'année, calculé selon l'article 127.54;

b) le montant éventuel à ajouter, en application de l'article 120, à l'impôt payable par ailleurs en vertu de la présente partie par le particulier pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.5; 1998, ch. 19, art. 149; 2000, ch. 19, art. 37.

Taux de l'impôt minimum

127.51 L'impôt minimum applicable à un particulier pour une année d'imposition est le montant calculé selon la formule suivante :

A(B - C) - D

où :

A représente le taux de base pour l'année;

B le revenu imposable modifié du particulier pour l'année, calculé selon l'article 127.52;

C :

a) 40 000 $, dans le cas d'un particulier (sauf une fiducie) ou d'une succession assujettie à l'imposition à taux progressifs,

b) zéro, dans les autres cas;

D son crédit d'impôt minimum de base pour l'année, calculé selon l'article 127.531.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1986, ch. 55, art. 50; 1988, ch. 55, art. 111; 2014, ch. 39, art. 43.

Revenu imposable modifié

127.52 (1) Sous réserve du paragraphe (2), le revenu imposable modifié d'un particulier pour une année d'imposition correspond à son revenu imposable ou son revenu imposable gagné au Canada, selon le cas, déterminé pour l'année à supposer que :

a) [Abrogé, 1999, ch. 22, art 50(2)]

b) le total des montants représentant chacun un montant déductible en application de l'alinéa 20(1)a) ou de l'un des alinéas 20(1)c) à f) dans le calcul du revenu du particulier pour l'année relativement à un bien de location — à l'exception d'un montant inclus dans la part qui lui revient d'une perte visée à l'alinéa c.1) — corresponde au total des montants ainsi déductibles par ailleurs ou, s'il est inférieur, à l'excédent éventuel du total des montants suivants :

(i) le total des montants représentant chacun le revenu du particulier pour l'année provenant de la

(i) the total of all amounts each of which is the individual's income for the year from the renting or leasing of a rental or leasing property owned by the individual or by a partnership, computed without reference to paragraphs 20(1)(a) and 20(1)(c) to 20(1)(f), and

(ii) the amount, if any, by which

(A) the total of all amounts each of which is the individual's taxable capital gain for the year from the disposition of a rental or leasing property owned by the individual or by a partnership

exceeds

(B) the total of all amounts each of which is the individual's allowable capital loss for the year from the disposition of a rental or leasing property owned by the individual or by a partnership

exceeds the total of all amounts each of which is the individual's loss for the year from the renting or leasing of a rental or leasing property owned by the individual or by a partnership (other than an amount included in the individual's share of a loss referred to in paragraph 127.52(1)(c.1)), computed without reference to paragraphs 20(1)(a) and 20(1)(c) to 20(1)(f);

(c) the total of all amounts each of which is an amount deductible under paragraph 20(1)(a) or any of paragraphs 20(1)(c) to 20(1)(f) in computing the individual's income for the year in respect of a film property referred to in paragraph 127.52(1)(w) of Class 10 of Schedule II to the *Income Tax Regulations* (other than an amount included in the individual's share of a loss referred to in paragraph 127.52(1)(c.1)) were the lesser of the total of all amounts otherwise so deductible by the individual for the year and the amount, if any, by which the total of

(i) the total of all amounts each of which is the individual's income for the year from the renting or leasing of a film property owned by the individual or by a partnership, computed without reference to paragraphs 20(1)(a) and 20(1)(c) to 20(1)(f), and

(ii) the amount, if any, by which

(A) the total of all amounts each of which is the individual's taxable capital gain for the year from the disposition of such a film property owned by the individual or by a partnership

exceeds

location d'un bien de location dont le particulier ou une société de personnes est propriétaire, calculé compte non tenu des alinéas 20(1)a) et c) à f),

(ii) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun le gain en capital imposable du particulier pour l'année provenant de la disposition d'un bien de location dont le particulier ou une société de personnes est propriétaire,

(B) le total des montants représentant chacun la perte en capital déductible du particulier pour l'année provenant de la disposition d'un bien de location dont le particulier ou une société de personnes est propriétaire,

sur le total des montants représentant chacun la perte du particulier pour l'année provenant de la location d'un bien de location dont le particulier ou une société de personnes est propriétaire — à l'exception d'un montant inclus dans la part qui revient au particulier d'une perte visée à l'alinéa c.1) — calculé compte non tenu des alinéas 20(1)a) et c) à f);

c) le total des montants représentant chacun un montant déductible en application de l'alinéa 20(1)a) ou de l'un des alinéas 20(1)c) à f) dans le calcul du revenu du particulier pour l'année relativement à une production cinématographique visée à l'alinéa w) de la catégorie 10 de l'annexe II du *Règlement de l'impôt sur le revenu* — à l'exception d'un montant inclus dans la part qui lui revient d'une perte visée à l'alinéa c.1) — corresponde au total des montants ainsi déductibles par ailleurs par le particulier pour l'année ou, s'il est inférieur, à l'excédent éventuel du total des montants suivants :

(i) le total des montants représentant chacun le revenu du particulier pour l'année provenant de la location d'une production cinématographique dont le particulier ou une société de personnes est propriétaire, calculé compte non tenu des alinéas 20(1)a) et c) à f),

(ii) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun le gain en capital imposable du particulier pour l'année provenant de la disposition d'une telle production cinématographique dont le particulier ou une société de personnes est propriétaire,

(B) the total of all amounts each of which is the individual's allowable capital loss for the year from the disposition of such a film property owned by the individual or by a partnership

exceeds the total of all amounts each of which is the individual's loss for the year from such a film property owned by the individual or by a partnership (other than amounts included in the individual's share of a loss referred to in paragraph 127.52(1)(c.1)), computed without reference to paragraphs 20(1)(a) and 20(1)(c) to 20(1)(f);

(c.1) if, during a partnership's fiscal period that ends in the year (other than a fiscal period that ends because of subsection 99(1)), the individual's interest in the partnership is an interest for which an identification number is required to be, or has been, obtained under section 237.1,

(i) the individual's share of allowable capital losses of the partnership for the fiscal period were the lesser of

(A) the total of all amounts each of which is the individual's

(I) share of a taxable capital gain for the fiscal period from the disposition of property (other than property acquired by the partnership in a transaction to which subsection 97(2) applied), or

(II) taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person who does not deal at arm's length with the individual, does not have an interest in the partnership (otherwise than because of the application of paragraph 98(1)(a) or 98.1(1)(a)) throughout the following taxation year, and

(B) the individual's share of allowable capital losses of the partnership for the fiscal period,

(ii) the individual's share of each loss from a business of the partnership for the fiscal period were the lesser of

(A) the individual's share of the loss, and

(B) the amount, if any, by which

(I) the total of all amounts each of which is the individual's

(B) le total des montants représentant chacun la perte en capital déductible du particulier pour l'année provenant de la disposition d'une telle production cinématographique dont le particulier ou une société de personnes est propriétaire,

sur le total des montants représentant chacun la perte du particulier pour l'année provenant d'une telle production cinématographique dont le particulier ou une société de personnes est propriétaire — à l'exception d'un montant inclus dans la part qui revient au particulier d'une perte visée à l'alinéa c.1) — calculé compte non tenu des alinéas 20(1)a) et c) à f);

c.1) si, au cours de l'exercice d'une société de personnes qui se termine dans l'année (sauf un exercice qui prend fin par l'effet du paragraphe 99(1)), la participation du particulier dans la société de personnes est une participation à laquelle un numéro d'inscription doit être ou a été attribué en application de l'article 237.1 :

(i) la part qui lui revient des pertes en capital déductibles de la société de personnes pour l'exercice corresponde au moins élevé des montants suivants :

(A) le total des montants représentant chacun :

(I) soit la part qui lui revient du gain en capital imposable pour l'exercice provenant de la disposition d'un bien, sauf un bien acquis par la société de personnes dans le cadre d'une opération à laquelle s'applique le paragraphe 97(2),

(II) soit son gain en capital imposable pour l'année provenant de la disposition de sa participation dans la société de personnes, si le particulier, ou une personne avec laquelle il a un lien de dépendance, n'a de participation dans la société de personnes à aucun moment de l'année d'imposition subséquente (autrement que par l'effet des alinéas 98(1)a) ou 98.1(1)a)),

(B) la part qui lui revient des pertes en capital déductibles de la société de personnes pour l'exercice,

(ii) la part qui lui revient de chaque perte résultant d'une entreprise de la société de personnes pour l'exercice corresponde au moins élevé des montants suivants :

(A) la part qui lui revient de la perte,

1. share of a taxable capital gain for the fiscal period from the disposition of property used by the partnership in the business (other than property acquired by the partnership in a transaction to which subsection 97(2) applied), or

2. taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person who does not deal at arm's length with the individual, does not have an interest in the partnership (otherwise than because of the application of paragraph 98(1)(a) or 98.1(1)(a)) throughout the following taxation year

exceeds

(II) the total of all amounts each of which is the individual's share of an allowable capital loss for the fiscal period, and

(iii) the individual's share of losses from property of the partnership for the fiscal period were the lesser of

(A) the total of

(I) the individual's share of incomes for the fiscal period from properties of the partnership, and

(II) the amount, if any, by which the total of all amounts each of which is the individual's

1. share of a taxable capital gain for the fiscal period from the disposition of property held by the partnership for the purpose of earning income from property (other than property acquired by the partnership in a transaction to which subsection 97(2) applied), or

2. taxable capital gain for the year from the disposition of the individual's interest in the partnership if the individual, or a person who does not deal at arm's length with the individual, does not have an interest in the partnership (otherwise than because of the application of paragraph 98(1)(a) or 98.1(1)(a)) throughout the following taxation year,

exceeds the total of all amounts each of which is the individual's share of an allowable capital loss for the fiscal period, and

(B) l'excédent éventuel du total visé à la subdivision (I) sur le total visé à la subdivision (II):

(I) le total des montants représentant chacun :

1. soit la part qui lui revient du gain en capital imposable pour l'exercice provenant de la disposition d'un bien que la société de personnes utilise dans le cadre de l'entreprise, sauf un bien qu'elle a acquis dans le cadre d'une opération à laquelle s'applique le paragraphe 97(2),

2. soit son gain en capital imposable pour l'année provenant de la disposition de sa participation dans la société de personnes, si le particulier, ou une personne avec laquelle il a un lien de dépendance, n'a de participation dans la société de personnes à aucun moment de l'année d'imposition subséquente (autrement que par l'effet des alinéas 98(1)a) ou 98.1(1)a)),

(II) le total des montants représentant chacun la part qui lui revient d'une perte en capital déductible pour l'exercice,

(iii) la part qui lui revient des pertes résultant de biens de la société de personnes pour l'exercice correspond au moins élevé des montants suivants :

(A) le total des montants suivants :

(I) la part qui lui revient des revenus tirés de biens de la société de personnes pour l'exercice,

(II) l'excédent éventuel du total des montants représentant chacun :

1. soit la part qui lui revient du gain en capital imposable pour l'exercice provenant de la disposition d'un bien que la société de personnes détient en vue de tirer un revenu d'un bien, sauf un bien qu'elle a acquis dans le cadre d'une opération à laquelle s'applique le paragraphe 97(2),

2. soit son gain en capital imposable pour l'année provenant de la disposition de sa participation dans la société de personnes, si le particulier, ou une personne avec laquelle il a un lien de dépendance, n'a de participation dans la société de personnes à aucun moment de l'année d'imposition

(B) the individual's share of losses from property of the partnership for the fiscal period;

(c.2) where, during a fiscal period of a partnership that ends in the year (other than a fiscal period that ends because of the application of subsection 99(1)),

(i) the individual is a limited partner of the partnership, or is a member of the partnership who was a specified member of the partnership at all times since becoming a member of the partnership, or

(ii) the partnership owns a rental or leasing property or a film property and the individual is a member of the partnership,

the total of all amounts each of which is an amount deductible under any of paragraphs 20(1)(c) to 20(1)(f) in computing the individual's income for the year in respect of the individual's acquisition of the partnership interest were the lesser of

(iii) the total of all amounts otherwise so deductible, and

(iv) the total of all amounts each of which is the individual's share of any income of the partnership for the fiscal period, determined in accordance with subsection 96(1);

(c.3) the total of all amounts each of which is an amount deductible in computing the individual's income for the year in respect of a property for which an identification number is required to be, or has been, obtained under section 237.1 (other than an amount to which any of paragraphs 127.52(1)(b) to 127.52(1)(c.2) applies) were nil;

(d) except in respect of dispositions of property occurring before 1986 or to which section 79 applies,

(i) the references to the fraction applicable to the individual for the year in each of paragraphs 38(a), (b) and (c) and section 41 were read as a reference to "4/5", other than in the case of a capital gain from a disposition that is the making of a gift of property to a qualified donee, and

(ii) each amount that is designated by a trust for a particular year of the trust in respect of the individual and deemed by subsection 104(21) to be a taxable capital gain for the year of the individual were equal to the amount obtained by the formula

4/5(A × 1/B)

where

subséquente (autrement que par l'effet des alinéas 98(1)a) ou 98.1(1)a)),

sur le total des montants représentant chacun la part qui lui revient d'une perte en capital déductible pour l'exercice,

(B) la part qui lui revient des pertes résultant de biens de la société de personnes pour l'exercice;

c.2) dans le cas où, au cours de l'exercice d'une société de personnes qui se termine dans l'année (sauf un exercice qui prend fin en raison de l'application du paragraphe 99(1)), selon le cas :

(i) le particulier est, par rapport à la société de personnes, soit un commanditaire, soit un associé déterminé depuis qu'il en est un associé,

(ii) la société de personnes est propriétaire d'un bien de location ou d'une production cinématographique et le particulier en est un associé,

le total des montants représentant chacun un montant déductible selon les alinéas 20(1)c) à f) dans le calcul du revenu du particulier pour l'année relativement à l'acquisition, par lui, de la participation dans la société de personnes corresponde au moins élevé des montants suivants :

(iii) le total des montants ainsi déductibles par ailleurs,

(iv) le total des montants représentant chacun la part qui revient au particulier du revenu de la société de personnes pour l'exercice, déterminé en conformité avec le paragraphe 96(1);

c.3) le total des montants représentant chacun un montant déductible dans le calcul du revenu du particulier pour l'année relativement à un bien auquel un numéro d'inscription doit être ou a été attribué en application de l'article 237.1 (à l'exception d'un montant auquel s'applique l'un des alinéas b) à c.2)) soit nul;

d) sauf pour les dispositions de biens effectuées avant 1986 ou auxquelles l'article 79 s'applique :

(i) la mention de la fraction qui s'applique au particulier pour l'année dans chacun des alinéas 38a), b) et c) et à l'article 41 soit remplacée par « 4/5 », sauf dans le cas d'un gain en capital provenant d'une disposition qui consiste à faire don d'un bien à un donataire reconnu,

(ii) chaque montant qu'une fiducie attribue au particulier pour une année donnée de la fiducie et qui

A is the amount so deemed to be a taxable capital gain for the year of the individual, and

B is the fraction in paragraph 38(a) applicable to the trust for the particular year of the trust for which the designation is made;

(iii) [Repealed, 2013, c. 34, s. 271]

(e) the total of all amounts deductible under section 65, 66, 66.1, 66.2, 66.21 or 66.4 or under subsection 29(10) or (12) of the *Income Tax Application Rules* in computing the individual's income for the year were the lesser of the amounts otherwise so deductible by the individual for the year and the total of

(i) the individual's income for the year from royalties in respect of, and such part of the individual's income, other than royalties, for the year as may reasonably be considered as attributable to, the production of petroleum, natural gas and minerals, determined before deducting those amounts,

(i.1) the individual's income for the year from property, or from the business of selling the product of property, described in Class 43.1 or 43.2 in Schedule II to the *Income Tax Regulations*, determined before deducting those amounts, and

(ii) all amounts included in computing the individual's income for the year under section 59;

(e.1) the total of all amounts each of which is an amount deductible under any of paragraphs 20(1)(c) to 20(1)(f) in computing the individual's income for the year in respect of a property that is a flow-through share (if the individual is the person to whom the share was issued under an agreement referred to in the definition ***flow-through share*** in subsection 66(15)), a Canadian resource property or a foreign resource property were the lesser of the total of the amounts otherwise so determined for the year and the amount, if any, by which

(i) the total of all amounts each of which is an amount described in subparagraph 127.52(1)(e)(i) or 127.52(1)(e)(ii), determined without reference to paragraphs 20(1)(c) to 20(1)(f),

exceeds

(ii) the total of all amounts each of which is an amount deductible under section 65, 66, 66.1, 66.2, 66.21 or 66.4 or under subsection 29(10) or (12) of the *Income Tax Application Rules* in computing the individual's income for the year;

est réputé, en vertu du paragraphe 104(21), être un gain en capital imposable du particulier pour l'année soit égal à la somme obtenue par la formule suivante :

4/5(A × 1/B)

où :

A représente le montant ainsi réputé être un gain en capital imposable du particulier pour l'année,

B la fraction figurant à l'alinéa 38a) qui s'applique à la fiducie pour l'année donnée de la fiducie pour laquelle l'attribution est effectuée;

(iii) [Abrogé, 2013, ch. 34, art. 271]

e) le total des montants déductibles selon les articles 65, 66, 66.1, 66.2, 66.21 ou 66.4 et selon les paragraphes 29(10) ou (12) des *Règles concernant l'application de l'impôt sur le revenu* dans le calcul du revenu du particulier pour l'année corresponde aux montants ainsi déductibles par ailleurs ou, s'il est inférieur, au total des montants suivants :

(i) son revenu pour l'année tiré de redevances relatives à la production de pétrole, gaz naturel ou minéraux, additionné de la partie de son revenu pour l'année, non tiré de redevances, qu'il est raisonnable de considérer comme attribuable à une telle production, calculés l'un et l'autre avant que ces déductions soient faites,

(i.1) le revenu du particulier pour l'année, calculé avant que ces déductions soient faites, qui est tiré soit d'un bien visé aux catégories 43.1 ou 43.2 de l'annexe II du *Règlement de l'impôt sur le revenu*, soit d'une entreprise qui consiste à vendre le produit d'un tel bien,

(ii) les montants inclus dans le calcul de son revenu pour l'année en vertu de l'article 59;

e.1) le total des montants représentant chacun un montant déductible selon les alinéas 20(1)c) à f) dans le calcul du revenu du particulier pour l'année relativement à une action accréditive (si le particulier est la personne à laquelle l'action a été émise aux termes d'une convention visée à la définition de ***action accréditive*** au paragraphe 66(15)), à un avoir minier canadien ou à un avoir minier étranger corresponde au total des montants ainsi déterminés par ailleurs pour l'année ou, s'il est inférieur, à l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(f) subsection 82(1) were read without reference to paragraph 82(1)(b);

(g) the total of all amounts deductible under section 104 in computing the income of a trust for the year were equal to the total of

(i) the total of all amounts otherwise deductible under that section, and

(ii) the total of all amounts each of which is 3/5 of

(A) an amount designated by the trust under subsection 104(21) for the year, or

(B) that portion of a net taxable capital gain of the trust that may reasonably be considered to

(I) be part of an amount included, by virtue of subsection 104(13) or section 105, in computing the income for the year of a non-resident beneficiary of the trust, or

(II) have been paid in the year by a trust governed by an employee benefit plan to a beneficiary thereunder;

(h) the only amounts deductible under sections 110 to 110.7 in computing the individual's taxable income for the year or taxable income earned in Canada for the year, as the case may be, were

(i) the amounts deducted under any of subsections 110(2), 110.6(2) and (2.1) and 110.7(1),

(ii) the amount deducted under paragraph 110(1)(d), not exceeding the total of

(A) the amount deducted under paragraph 110(1)(d.01), and

(B) 2/5 of the amount, if any, by which

(I) the amount deducted under paragraph 110(1)(d)

exceeds

(II) the amount determined under clause (A),

(iii) the amount deducted under paragraph 110(1)(d.01),

(iv) 2/5 of the amounts deducted under any of paragraphs 110(1)(d.1) to (d.3),

(v) the amount that would be deductible under paragraph 110(1)(f) if paragraph (d) were

(i) le total des montants représentant chacun un montant visé aux sous-alinéas e)(i) ou (ii), déterminé compte non tenu des alinéas 20(1)c) à f),

(ii) le total des montants représentant chacun un montant déductible selon les articles 65, 66, 66.1, 66.2, 66.21 ou 66.4 ou selon les paragraphes 29(10) ou (12) des *Règles concernant l'application de l'impôt sur le revenu* dans le calcul du revenu du particulier pour l'année;

f) le paragraphe 82(1) ne comporte pas l'alinéa b);

g) le total des montants déductibles selon l'article 104 dans le calcul du revenu d'une fiducie pour l'année soit égal au total des montants suivants :

(i) le total des montants ainsi déductibles par ailleurs,

(ii) le total des montants représentant chacun les 3/5:

(A) d'un montant attribué par la fiducie en application du paragraphe 104(21) pour l'année,

(B) de la partie d'un gain en capital imposable net de la fiducie qu'il est raisonnable de considérer :

(I) soit comme comprise dans un montant inclus, en application du paragraphe 104(13) ou de l'article 105, dans le calcul du revenu pour l'année d'un bénéficiaire non-résident de la fiducie,

(II) soit comme versée au cours de l'année par la fiducie, s'il s'agit d'une fiducie régie par un régime de prestations aux employés, à un bénéficiaire du régime;

h) les seuls montants déductibles selon les articles 110 à 110.7 dans le calcul, pour l'année, du revenu imposable ou du revenu imposable gagné au Canada du particulier soient les montants suivants :

(i) les montants déduits en application de l'un des paragraphes 110(2), 110.6(2) et (2.1) et 110.7(1),

(ii) le montant déduit en application de l'alinéa 110(1)d), jusqu'à concurrence de la somme des montants suivants :

(A) la somme déduite en application de l'alinéa 110(1)d.01),

applicable in computing the individual's income for the year, and

(vi) the amount deducted under paragraph 110(1)(g);

(h.1) the formula in paragraph 110.6(21)(a) were read as

A - B

(i) in computing the individual's taxable income for the year or the individual's taxable income earned in Canada for the year, as the case may be, the only amounts deductible under

(i) paragraphs 111(1)(a), 111(1)(c), 111(1)(d) and 111(1)(e) were the lesser of

(A) the amount deducted under those paragraphs for the year, and

(B) the total of all amounts that would be deductible under those paragraphs for the year if

(I) paragraphs (b), (c) and (e) of this subsection, as they read in respect of taxation years that began after 1985 and before 1995, applied in computing the individual's non-capital loss, restricted farm loss, farm loss and limited partnership loss for any of those years,

(II) paragraphs (b) to (c.3), (e) and (e.1) of this subsection, as they read in respect of taxation years that began after 1994 and ended before 2012, applied in computing the individual's non-capital loss, restricted farm loss, farm loss and limited partnership loss for any of those years, and

(III) paragraphs (b) to (c.3), (e) and (e.1) of this subsection applied in computing the individual's non-capital loss, restricted farm loss, farm loss and limited partnership loss for any taxation year that ends after 2011, and

(ii) paragraph 111(1)(b) were the lesser of

(A) the total of all amounts each of which is an amount that can reasonably be considered to be the amount that the individual would have deducted under paragraph 111(1)(b) had paragraph (d) of this subsection been applicable in computing the amount deductible under paragraph 111(1)(b), and

(B) the total of all amounts that would be deductible under that paragraph for the year if

(B) les 2/5 de l'excédent éventuel du montant visé à la subdivision (I) sur le montant visé à la subdivision (II):

(I) le montant déduit en application de l'alinéa 110(1)d),

(II) le montant déterminé selon la division (A),

(iii) le montant déduit en application de l'alinéa 110(1)d.01),

(iv) les 2/5 des montants déduits en application de l'un des alinéas 110(1)d.1) à d.3),

(v) le montant qui serait déductible selon l'alinéa 110(1)f) si l'alinéa d) s'appliquait au calcul du revenu du particulier pour l'année,

(vi) le montant déduit en application de l'alinéa 110(1)g);

h.1) la formule figurant à l'alinéa 110.6(21)a) se lise sans la fraction qui y figure;

i) les seuls montants déductibles selon le paragraphe 111(1) dans le calcul, pour l'année, du revenu imposable ou du revenu imposable gagné au Canada, selon le cas, du particulier soient :

(i) pour ce qui est de chacun des alinéas 111(1)a), c), d) et e), le montant déduit en application de ces alinéas pour l'année ou, s'il est inférieur, le total des montants qui seraient déductibles selon ces alinéas pour l'année si, à la fois :

(A) les alinéas b), c) et e) du présent paragraphe, dans leur version applicable aux années d'imposition qui ont commencé après 1985 et avant 1995, s'appliquaient au calcul de la perte autre qu'une perte en capital du particulier, de sa perte agricole restreinte, de sa perte agricole et de sa perte comme commanditaire pour une ou plusieurs de ces années,

(B) les alinéas b) à c.3), e) et e.1) du présent paragraphe, dans leur version applicable aux années d'imposition ayant commencé après 1994 et s'étant terminées avant 2012, s'appliquaient au calcul de la perte autre qu'une perte en capital du particulier, de sa perte agricole restreinte, de sa perte agricole et de sa perte comme commanditaire pour une de ces années d'imposition,

(C) les alinéas b) à c.3), e) et e.1) du présent paragraphe s'appliquaient au calcul de la perte

(I) paragraph (d) of this subsection applied in computing the individual's net capital loss for any taxation year that began before 1995,

(II) paragraphs (c.1) and (d) of this subsection, as they read in respect of taxation years that began after 1994 and ended before 2012, applied in computing the individual's net capital loss for any of those years, and

(III) paragraphs (c.1) and (d) of this subsection applied in computing the individual's net capital loss for any taxation year that ends after 2011; and

(j) the *Income Tax Application Rules* were read without reference to section 40 of that Act.

autre qu'une perte en capital du particulier, de sa perte agricole restreinte, de sa perte agricole et de sa perte comme commanditaire pour une année d'imposition se terminant après 2011,

(ii) pour ce qui est de l'alinéa 111(1)b), le total des montants qu'il serait raisonnable de considérer comme déduits en application de cet alinéa — à supposer que l'alinéa d) du présent paragraphe s'applique au calcul des montants déductibles selon l'alinéa 111(1)b) — ou, s'il est inférieur, le total des montants qui seraient déductibles selon cet alinéa si, à la fois :

(A) l'alinéa d) du présent paragraphe s'appliquait au calcul de la perte en capital nette du particulier pour une année d'imposition qui a commencé avant 1995,

(B) les alinéas c.1) et d) du présent paragraphe, dans leur version applicable aux années d'imposition ayant commencé après 1994 et s'étant terminées avant 2012, s'appliquaient au calcul de la perte en capital nette du particulier pour une de ces années d'imposition,

(C) les alinéas c.1) et d) du présent paragraphe s'appliquaient au calcul de la perte en capital nette du particulier pour une année d'imposition se terminant après 2011;

j) les *Règles concernant l'application de l'impôt sur le revenu* ne comportent pas l'article 40.

Partnerships

(2) For the purposes of subsection 127.52(1) and this subsection, any amount deductible under a provision of this Act in computing the income or loss of a partnership for a fiscal period is, to the extent of a member's share of the partnership's income or loss, deemed to be deductible by the member under that provision in computing the member's income for the taxation year in which the fiscal period ends.

Specified member of a partnership

(2.1) Where it can reasonably be considered that one of the main reasons that a member of a partnership was not a specified member of the partnership at all times since becoming a member of the partnership is to avoid the application of this section to the member's interest in the partnership, the member is deemed for the purpose of this section to have been a specified member of the partnership at all times since becoming a member of the partnership.

Sociétés de personnes

(2) Pour l'application du paragraphe (1) et du présent paragraphe, tout montant déductible selon une disposition de la présente loi dans le calcul du revenu ou de la perte d'une société de personnes pour un exercice est réputé être déductible par un associé selon cette disposition, jusqu'à concurrence de la part qui lui revient, dans le calcul de son revenu pour l'année d'imposition dans laquelle l'exercice se termine.

Associé déterminé d'une société de personnes

(2.1) L'associé d'une société de personnes au sujet duquel il est raisonnable de considérer que l'une des principales raisons pour lesquelles il n'est pas un associé déterminé de la société de personnes depuis qu'il en est un associé est d'éviter l'application du présent article à sa participation dans la société de personnes est réputé, pour l'application de cet article, avoir été un associé déterminé de la société de personnes sans interruption depuis qu'il en est un associé.

Definitions

(3) For the purposes of this section,

film property means a property described in paragraph (n) of Class 12, or paragraph (w) of Class 10, of Schedule II to the *Income Tax Regulations*; (*production cinématographique*)

limited partner has the meaning that would be assigned by subsection 96(2.4) if that subsection were read without reference to "if the member's partnership interest is not an exempt interest (within the meaning assigned by subsection 127.52(2.5)) at that time and"; (*commanditaire*)

rental or leasing property means a property that is a rental property or a leasing property for the purpose of section 1100 of the *Income Tax Regulations*. (*bien de location*)

residential property [Repealed, 1998, c. 19, s. 150(8)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.52; 1994, c. 7, Sch. II, s. 106, Sch. VIII, s. 70; 1998, c. 19, ss. 35, 150; 1999, c. 22, s. 50; 2001, c. 17, s. 119; 2002, c. 9, s. 40; 2006, c. 4, s. 75.1; 2007, c. 2, ss. 34.1, 50; 2013, c. 34, s. 271, c. 40, s. 60; 2014, c. 39, s. 44.

127.53 [Repealed, 2014, c. 39, s. 45]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1986, c. 55, s. 50; 2014, c. 39, s. 45].

Basic minimum tax credit determined

127.531 An individual's basic minimum tax credit for a taxation year is the total of all amounts each of which is

(a) an amount deducted under any of subsections 118(1), (2) and (10), sections 118.01 to 118.07, subsection 118.3(1), sections 118.5 to 118.7 and 119 and subsection 127(1) in computing the individual's tax payable for the year under this Part; or

(b) the amount that was claimed under section 118.1 or 118.2 in computing the individual's tax payable for the year under this Part, determined without reference to this Division, to the extent that the amount claimed does not exceed the maximum amount deductible under that section in computing the individual's tax payable for the year under this Part, determined without reference to this Division.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.531; 2006, c. 4, s. 76; 2007, c. 2, s. 35; 2009, c. 31, s. 14; 2011, c. 24, s. 41; 2014, c. 20, s. 19.

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

bien de location Bien qui est un bien locatif ou un bien de location pour l'application de l'article 1100 du *Règlement de l'impôt sur le revenu*. (*rental or leasing property*)

commanditaire S'entend au sens du paragraphe 96(2.4), compte non tenu du passage « si sa participation dans celle-ci n'est pas, à ce moment, une participation exonérée au sens du paragraphe (2.5) et ». (*limited partner*)

immeuble d'habitation [Abrogée, 1998, ch. 19, art. 150(8)]

production cinématographique Bien visé à l'alinéa n) de la catégorie 12 ou à l'alinéa w) de la catégorie 10 de l'annexe II du *Règlement de l'impôt sur le revenu*. (*film property*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.52; 1994, ch. 7, ann. II, art. 106, ann. VIII, art. 70; 1998, ch. 19, art. 35 et 150; 1999, ch. 22, art. 50; 2001, ch. 17, art. 119; 2002, ch. 9, art. 40; 2006, ch. 4, art. 75.1; 2007, ch. 2, art. 34.1 et 50; 2013, ch. 34, art. 271, ch. 40, art. 60; 2014, ch. 39, art. 44.

127.53 [Abrogé, 2014, ch. 39, art. 45]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1986, ch. 55, art. 50; 2014, ch. 39, art. 45].

Crédit d'impôt minimum de base

127.531 Le crédit d'impôt minimum de base d'un particulier pour une année d'imposition correspond au total des sommes représentant chacune :

a) la somme déduite, en application des paragraphes 118(1), (2) ou (10), de l'un des articles 118.01 à 118.07, du paragraphe 118.3(1), de l'un des articles 118.5 à 118.7 et 119 ou du paragraphe 127(1), dans le calcul de l'impôt payable par le particulier pour l'année en vertu de la présente partie;

b) la somme qui a été demandée en application des articles 118.1 ou 118.2 dans le calcul de l'impôt payable par le particulier pour l'année en vertu de la présente partie, déterminée compte non tenu de la présente section, dans la mesure où elle n'excède pas la somme maximale déductible en application de cet article dans le calcul de l'impôt payable par le particulier pour l'année en vertu de la présente partie, déterminée compte non tenu de la présente section.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.531; 2006, ch. 4, art. 76; 2007, ch. 2, art. 35; 2009, ch. 31, art. 14; 2011, ch. 24, art. 41; 2014, ch. 20, art. 19.

Definitions

127.54 (1) In this section,

foreign income of an individual for a taxation year means the total of

(a) the individual's incomes for the year from businesses carried on by the individual in countries other than Canada, and

(b) the individual's incomes for the year from sources in countries other than Canada in respect of which the individual has paid non-business-income taxes, within the meaning assigned by subsection 126(7), to governments of countries other than Canada; (*impôts payés à l'étranger*)

foreign taxes of an individual for a taxation year means the total of the business-income taxes, within the meaning assigned by subsection 126(7), paid by the individual for the year in respect of businesses carried on by the individual in countries other than Canada and 2/3 of the non-business-income taxes, within the meaning assigned by that subsection, paid by the individual for the year to the governments of countries other than Canada. (*revenu de source étrangère*)

Foreign tax credit

(2) For the purposes of section 127.5, an individual's special foreign tax credit for a taxation year is the greater of

(a) the total of all amounts deductible under section 126 from the individual's tax for the year, and

(b) the lesser of

(i) the individual's foreign taxes for the year, and

(ii) the amount determined by the formula

A × B

where

A is the appropriate percentage for the taxation year, and

B is the individual's foreign income for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.54; 2001, c. 17, s. 120; 2006, c. 4, s. 77.

Application of s. 127.5

127.55 Section 127.5 does not apply in respect of

Définitions applicables au crédit spécial pour impôts étrangers

127.54 (1) Les définitions qui suivent s'appliquent au présent article.

impôts payés à l'étranger Le total, pour une année d'imposition, des impôts sur le revenu tiré d'une entreprise, au sens du paragraphe 126(7), payés par un particulier à l'égard des entreprises qu'il exploite à l'étranger et des 2/3 des impôts sur le revenu ne provenant pas d'une entreprise, au sens du même paragraphe, payés par ce particulier aux gouvernements de pays étrangers. (*foreign taxes*)

revenu de source étrangère Le total, pour une année d'imposition, des revenus qu'un particulier tire d'entreprises qu'il exploite à l'étranger et des revenus de sources situées à l'étranger et sur lesquels il a payé aux gouvernements de pays étrangers des impôts sur le revenu ne provenant pas d'une entreprise, au sens du paragraphe 126(7). (*foreign income*)

Crédit spécial pour impôts étrangers

(2) Pour l'application de l'article 127.5, le crédit spécial pour impôts étrangers d'un particulier pour une année d'imposition correspond au plus élevé des montants suivants :

a) le total des montants déductibles de l'impôt du particulier pour l'année en vertu de l'article 126;

b) le moindre des montants suivants :

(i) ses impôts payés à l'étranger pour l'année,

(ii) la somme obtenue par la formule suivante :

A × B

où :

A représente le taux de base pour l'année,

B le revenu de source étrangère du particulier pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 127.54; 2001, ch. 17, art. 120; 2006, ch. 4, art. 77.

Impôt minimum inapplicable

127.55 L'article 127.5 ne s'applique :

(a) a return of income of an individual filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4);

(b) [Repealed, 2001, c. 17, s. 121(1)]

(c) an individual for the taxation year in which the individual dies;

(d) an individual for the 1986 taxation year if the individual dies in 1987;

(e) a trust described in paragraph 104(4)(a) or (a.1) for its taxation year that includes the day determined in respect of the trust under that paragraph; and

(f) a taxation year of a trust throughout which the trust is

(i) a related segregated fund trust (within the meaning assigned by paragraph 138.1(1)(a)),

(ii) a mutual fund trust,

(iii) a trust prescribed to be a master trust, or

(iv) an employee life and health trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 127.55; 1994, c. 7, Sch. II, s. 107, Sch. VIII, s. 71; 1998, c. 19, s. 151; 2001, c. 17, s. 121; 2010, c. 25, s. 27.

a) ni à une déclaration de revenu d'un particulier produite en vertu du paragraphe 70(2), de l'alinéa 104(23)d) ou 128(2)e) ou du paragraphe 150(4);

b) [Abrogé, 2001, ch. 17, art. 121(1)]

c) ni à l'année d'imposition au cours de laquelle un particulier est décédé;

d) ni à l'année d'imposition 1986 d'un particulier qui est décédé en 1987;

e) ni à une fiducie visée aux alinéas 104(4)a) ou a.1) pour son année d'imposition qui comprend le jour déterminé à son égard selon ces alinéas;

f) ni à l'année d'imposition d'une fiducie tout au long de laquelle elle est, selon le cas :

(i) une fiducie créée à l'égard du fonds réservé, au sens de l'alinéa 138.1(1)a),

(ii) une fiducie de fonds commun de placement,

(iii) une fiducie principale visée par règlement,

(iv) une fiducie de soins de santé au bénéfice d'employés.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 127.55; 1994, ch. 7, ann. II, art. 107, ann. VIII, art. 71; 1998, ch. 19, art. 151; 2001, ch. 17, art. 121; 2010, ch. 25, art. 27.

DIVISION F

Special Rules Applicable in Certain Circumstances

Bankruptcies

Where corporation bankrupt

128 (1) Where a corporation has become a bankrupt, the following rules are applicable:

(a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;

(b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;

(c) the income and the taxable income of the corporation for any taxation year of the corporation during which it was a bankrupt and for any subsequent year shall be calculated as if

SECTION F

Règles spéciale applicables en certains cas

Faillites

Faillite d'une société

128 (1) Lorsqu'une société est en faillite, les règles suivantes s'appliquent :

a) pour l'application générale de la présente loi, le syndic de faillite est réputé être le mandataire du failli;

b) l'actif du failli est, pour l'application de la présente loi, considéré comme ne constituant ni une fiducie, ni une succession;

c) le revenu et le revenu imposable de la société pour toute année d'imposition de celle-ci au cours de laquelle elle était en faillite et pour toute année postérieure doivent être calculés :

(i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the bankruptcy order being made or the assignment filed but remained vested in the bankrupt, and

(ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from such dealing or carrying on is income of the bankrupt and not of the trustee;

(d) a taxation year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a taxation year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt;

(e) if, in the case of any taxation year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay any tax payable by it under this Act for any such year, the corporation and the trustee in bankruptcy are jointly and severally, or solidarily, liable to pay the tax, except that

(i) the trustee is only liable to the extent of the property of the bankrupt in the trustee's possession, and

(ii) payment by either of them discharges the liability to the extent of the amount paid;

(f) in the case of any taxation year of the corporation ending during the period the corporation is a bankrupt, the corporation shall be deemed not to be associated with any other corporation in the year; and

(g) where an absolute order of discharge is granted in respect of the corporation, for the purposes of section 111 any loss of the corporation for any taxation year preceding the year in which the order of discharge was granted is not deductible by the corporation in computing its taxable income for the taxation year of the corporation in which the order was granted or any subsequent year.

(i) comme si le syndic de faillite n'était ni saisi ni mis en possession des biens du failli dès que l'ordonnance de faillite est rendue ou que la cession est produite, mais comme si le failli en restait saisi,

(ii) comme si le syndic accomplissait les opérations portant sur l'actif du failli ou les actes concernant la poursuite des activités de l'entreprise en faillite à titre de mandataire agissant pour le compte du failli et comme si tout revenu du syndic tiré de ces opérations ou actes était le revenu du failli et non du syndic;

d) une année d'imposition de la société est réputée avoir commencé le jour où la société est entrée en faillite et une année d'imposition de la société qui, par ailleurs, se serait terminée après que la société est entrée en faillite, est réputée avoir pris fin le jour précédant celui où cette société est entrée en faillite;

e) lorsque, dans le cas d'une année d'imposition de la société se terminant durant la période au cours de laquelle la société est en faillite, la société n'acquitte pas l'impôt qu'elle doit payer en vertu de la présente loi relativement à l'année considérée, la société et le syndic de faillite sont solidairement tenus d'acquitter l'impôt, sauf que :

(i) le syndic est uniquement responsable des biens du failli qu'il a en sa possession,

(ii) le paiement par le failli ou le syndic éteint d'autant l'obligation;

f) dans le cas d'une année d'imposition donnée de la société se terminant durant la période où la société est en faillite, celle-ci est réputée n'être associée à aucune autre société au cours de l'année considérée;

g) lorsqu'une ordonnance de libération ne comportant aucune réserve est rendue à l'égard de la société, pour l'application de l'article 111, aucune perte subie par la société au cours d'une année d'imposition antérieure à l'année au cours de laquelle l'ordonnance de libération est rendue n'est déductible par la société dans le calcul de son revenu imposable pour son année d'imposition au cours de laquelle cette ordonnance a été rendue ou pour toute année postérieure.

Where individual bankrupt

(2) Where an individual has become a bankrupt, the following rules are applicable:

(a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;

Faillite d'un particulier

(2) Lorsqu'un particulier est en faillite, les règles suivantes s'appliquent :

a) pour l'application générale de la présente loi, le syndic de faillite est réputé être le mandataire du failli;

(b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;

(c) the income and the taxable income of the individual for any taxation year during which the individual was a bankrupt and for any subsequent year shall be calculated as if

(i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the bankruptcy order being made or the assignment filed but remained vested in the bankrupt, and

(ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from such dealing or carrying on is income of the bankrupt and not of the trustee;

(d) except for the purposes of subsections 146(1), 146.01(4) and 146.02(4) and Part X.1,

(i) a taxation year of the individual is deemed to have begun at the beginning of the day on which the individual became a bankrupt, and

(ii) the individual's last taxation year that began before that day is deemed to have ended immediately before that day;

(d.1) where, by reason of paragraph (d), a taxation year of the individual is not a calendar year,

(i) paragraph 146(5)(b) shall, for the purpose of the application of subsection 146(5) to the taxation year, be read as follows:

"(b) the amount, if any, by which

(i) the amount, if any, by which the taxpayer's RRSP deduction limit for the particular calendar year in which the taxation year ends exceeds the total of all contributions made by an employer in the particular calendar year to a pooled registered pension plan in respect of the taxpayer

exceeds

(ii) the total of the amounts deducted under this subsection and subsection (5.1) in computing the taxpayer's income for any preceding taxation year that ends in the particular calendar year.",

and

b) l'actif du failli est, pour l'application de la présente loi, considéré comme ne constituant ni une fiducie ni une succession;

c) le revenu et le revenu imposable du particulier pour toute année d'imposition au cours de laquelle il était en faillite et pour toute année postérieure doivent être calculés :

(i) comme si le syndic de faillite n'était ni saisi ni mis en possession des biens du failli dès que l'ordonnance de faillite est rendue ou que la cession est produite, mais comme si le failli en restait saisi,

(ii) comme si le syndic accomplissait les opérations portant sur l'actif du failli ou les actes concernant la poursuite des activités de l'entreprise en faillite à titre de mandataire agissant pour le compte du failli et comme si tout revenu du syndic tiré de ces opérations ou actes était le revenu du failli et non du syndic;

d) sauf pour l'application des paragraphes 146(1), 146.01(4) et 146.02(4) et de la partie X.1:

(i) l'année d'imposition du particulier est réputée avoir commencé au début du jour où il est mis en faillite,

(ii) sa dernière année d'imposition ayant commencé avant ce jour est réputée avoir pris fin immédiatement avant ce jour;

d.1) dans le cas où, par l'effet de l'alinéa d), l'année d'imposition du particulier n'est pas une année civile, les règles ci-après s'appliquent :

(i) pour l'application du paragraphe 146(5) à cette année d'imposition, l'alinéa 146(5)b) est remplacé par ce qui suit :

b) l'excédent de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) l'excédent du maximum déductible au titre des REER du contribuable pour l'année civile donnée dans laquelle l'année d'imposition prend fin sur le total des cotisations versées par un employeur au cours de l'année civile donnée dans un régime de pension agréé collectif relativement au contribuable,

(ii) le total des sommes déduites en application du présent paragraphe et du paragraphe (5.1) dans le calcul du revenu du contribuable pour une année d'imposition antérieure qui prend fin dans l'année civile donnée,

(ii) paragraph 146(5.1)(b) shall, for the purpose of the application of subsection 146(5.1) to the taxation year, be read as follows:

"(b) the amount, if any, by which

(i) the amount, if any, by which the taxpayer's RRSP deduction limit for the particular calendar year in which the taxation year ends exceeds the total of all contributions made by an employer in the particular calendar year to a pooled registered pension plan in respect of the taxpayer

exceeds

(ii) the total of the amount deducted under subsection (5) in computing the taxpayer's income for the year and the amounts deducted under this subsection and subsection (5) in computing the taxpayer's income for any preceding taxation year that ends in the particular calendar year.";

(d.2) where, by reason of paragraph 128(2)(d), the individual has two taxation years ending in a calendar year, each amount deducted in computing the individual's income for either of the taxation years shall be deemed, for the purposes of the definition *unused RRSP deduction room* in subsection 146(1) and Part X.1, to have been deducted in computing the individual's income for the calendar year;

(e) where the individual was a bankrupt at any time in a calendar year the trustee shall, within 90 days from the end of the year, file a return with the Minister, in prescribed form, on behalf of the individual of the individual's income for any taxation year occurring in the calendar year computed as if

(i) the only income of the individual for that taxation year was the income for the year, if any, arising from dealings in the estate of the bankrupt or acts performed in the carrying on of the business of the bankrupt by the trustee,

(ii) in computing the individual's taxable income for that taxation year, no deduction were permitted by Division C, other than

(A) an amount under any of paragraphs 110(1)(d) to (d.3) and section 110.6 to the extent that the amount is in respect of an amount included in income under subparagraph (i) for that taxation year, and

(B) an amount under section 111 to the extent that the amount was in respect of a loss of the individual for any taxation year that ended before

(ii) pour l'application du paragraphe 146(5.1) à cette année d'imposition, l'alinéa 146(5.1)b) est remplacé par ce qui suit :

b) l'excédent de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) l'excédent du maximum déductible au titre des REER du contribuable pour l'année civile donnée dans laquelle l'année d'imposition prend fin sur le total des cotisations versées par un employeur au cours de l'année civile donnée dans un régime de pension agréé collectif relativement au contribuable,

(ii) le total de la somme déduite en application du paragraphe (5) dans le calcul du revenu du contribuable pour l'année et des sommes déduites en application du présent paragraphe et du paragraphe (5) dans le calcul de son revenu pour une année d'imposition antérieure qui prend fin dans l'année civile donnée;

d.2) dans le cas où, par l'effet de l'alinéa d), deux années d'imposition du particulier se terminent au cours d'une année civile, chaque montant déduit dans le calcul de son revenu pour l'une ou l'autre des années d'imposition est réputé, pour l'application de la définition de ***déductions inutilisées au titre des REER*** au paragraphe 146(1) et de la partie X.1, avoir été déduit dans le calcul de son revenu pour l'année civile;

e) lorsqu'un particulier était en faillite à un moment donné au cours d'une année civile, le syndic doit, dans les 90 jours qui suivent la fin de l'année, présenter au ministre, pour le compte de ce particulier, une déclaration selon le formulaire prescrit indiquant le revenu du particulier pour toute année d'imposition survenant au cours de l'année civile, calculé :

(i) comme si le seul revenu du particulier pour une telle année d'imposition était le revenu de l'année éventuellement tiré des opérations portant sur l'actif du failli ou des actes dans le cadre de l'exploitation de l'entreprise du failli, accomplis par le syndic,

(ii) comme si, dans le calcul du revenu imposable du particulier pour l'année d'imposition en question, il n'était permis de déduire selon la section C que les montants suivants :

(A) un montant prévu par l'un des alinéas 110(1)d) à d.3) ou par l'article 110.6, dans la mesure où il se rapporte à un montant inclus dans le revenu en application du sous-alinéa (i) pour cette année,

the individual was discharged absolutely from bankruptcy,

(iii) in computing the individual's tax payable under this Part for that taxation year, no deduction were allowed

(A) under any of sections 118 to 118.07, 118.2, 118.3, 118.5, 118.8 and 118.9,

(B) under section 118.1 with respect to a gift made by the individual on or after the day the individual became bankrupt,

(B.1) under section 118.62 with respect to interest paid on or after the day on which the individual became bankrupt, and

(C) under subsection 127(5) with respect to an expenditure incurred or property acquired by the individual in any taxation year that ends after the individual was discharged absolutely from bankruptcy,

and the trustee is liable to pay any tax so determined for that taxation year;

(f) notwithstanding paragraph 128(2)(e), the individual shall file a separate return of the individual's income for any taxation year during which the individual was a bankrupt, computed as if

(i) the income required to be reported in respect of the year by the trustee under paragraph 128(2)(e) was not the income of the individual,

(ii) in computing income, the individual was not entitled to deduct any loss sustained by the trustee in the year in dealing with the estate of the bankrupt or in carrying on the business of the bankrupt,

(iii) in computing the individual's taxable income for the year, no amount were deductible under any of paragraphs 110(1)(d) to (d.3) and section 110.6 in respect of an amount included in income under subparagraph (e)(i), and no amount were deductible under section 111, and

(iv) in computing the individual's tax payable under this Part for the year, no amount were deductible under

(A) section 118.1 in respect of a gift made before the day on which the individual became bankrupt,

(B) un montant prévu par l'article 111, dans la mesure où il se rapporte à une perte du particulier pour une année d'imposition qui s'est terminée avant sa libération inconditionnelle,

(iii) comme si, dans le calcul de l'impôt payable en vertu de la présente partie par le particulier pour l'année d'imposition en question, aucune déduction n'était permise en application :

(A) de l'un des articles 118 à 118.07, 118.2, 118.3, 118.5, 118.8 et 118.9,

(B) de l'article 118.1 au titre d'un don fait par le particulier le jour de sa faillite ou postérieurement,

(B.1) de l'article 118.62 au titre des intérêts payés le jour de sa faillite ou postérieurement,

(C) du paragraphe 127(5) au titre d'une dépense engagée par le particulier, ou d'un bien acquis par lui, au cours d'une année d'imposition se terminant après sa libération inconditionnelle;

le syndic est en outre tenu d'acquitter tout impôt ainsi déterminé pour l'année d'imposition en question;

f) malgré l'alinéa e), le particulier doit produire une déclaration distincte de son revenu pour toute année d'imposition durant laquelle il a été en faillite, calculé comme si :

(i) le revenu que le syndic était tenu de déclarer pour l'année sous le régime de l'alinéa e) n'était pas le revenu du particulier,

(ii) dans le calcul du revenu, le particulier n'avait pas le droit de déduire une perte quelconque subie par le syndic pour l'année dans le cadre de l'administration de l'actif du failli ou de l'exploitation de l'entreprise du failli,

(iii) dans le calcul du revenu imposable du particulier pour l'année, aucun montant n'était déductible en application de l'un des alinéas 110(1)d) à d.3) ou de l'article 110.6 au titre d'un montant inclus dans le revenu en application du sous-alinéa e)(i), et aucun montant n'était déductible selon l'article 111,

(iv) dans le calcul de l'impôt payable par le particulier pour l'année en vertu de la présente partie, aucun montant n'était déductible selon les dispositions suivantes :

(A) l'article 118.1 au titre d'un don effectué avant le jour de la faillite du particulier,

(B) section 118.62 in respect of interest paid before the day on which the individual became bankrupt, or

(C) section 118.61 or 120.2 or subsection 127(5),

and the individual is liable to pay any tax so determined for that taxation year;

(g) notwithstanding subparagraphs 128(2)(e)(ii) and 128(2)(e)(iii) and 128(2)(f)(iii) and 128(2)(f)(iv), where at any time an individual was discharged absolutely from bankruptcy,

(i) in computing the individual's taxable income for any taxation year that ends after that time, no amount shall be deducted under section 111 in respect of losses for taxation years that ended before that time,

(ii) in computing the individual's tax payable under this Part for any taxation year that ends after that time,

(A) no amount shall be deducted under section 118.61 or 120.2 in respect of an amount for any taxation year that ended before that time,

(B) no amount shall be deducted under section 118.1 in respect of a gift made before the individual became bankrupt,

(B.1) no amount shall be deducted under section 118.62 in respect of interest paid before the day on which the individual became bankrupt, and

(C) no amount shall be deducted under subsection 127(5) in respect of an expenditure incurred or a property acquired by the individual in any taxation year that ended before that time, and

(iii) the individual's unused tuition, textbook and education tax credits (as determined under subsection 118.61(1)) at the end of the last taxation year that ended before that time is deemed to be nil;

(h) where, in a taxation year commencing after an order of discharge has been granted in respect of the individual, the trustee deals in the estate of the individual who was a bankrupt or performs any act in the carrying on of the business of the individual, paragraphs 128(2)(e), 128(2)(f) and 128(2)(g) shall apply as if the individual were a bankrupt in the year; and

(i) the portion of the individual's non-capital loss for a particular taxation year in which paragraph 128(2)(e)

(B) l'article 118.62 au titre des intérêts payés avant sa faillite,

(C) les articles 118.61 ou 120.2 ou le paragraphe 127(5);

le particulier est en outre tenu d'acquitter tout impôt ainsi déterminé pour l'année d'imposition en question;

g) malgré les sous-alinéas e)(ii) et (iii) et f)(iii) et (iv), lorsque le particulier obtient sa libération inconditionnelle :

(i) dans le calcul de son revenu imposable pour une année d'imposition se terminant après la libération, aucun montant ne peut être déduit en application de l'article 111 au titre de pertes pour les années d'imposition s'étant terminées avant la libération,

(ii) dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition se terminant après la libération :

(A) aucun montant ne peut être déduit en application des articles 118.61 ou 120.2 au titre d'un montant pour une année d'imposition s'étant terminée avant la libération,

(B) aucun montant ne peut être déduit en application de l'article 118.1 au titre d'un don effectué avant la faillite du particulier,

(B.1) aucun montant ne peut être déduit en application de l'article 118.62 au titre des intérêts payés avant le jour de la faillite du particulier,

(C) aucun montant ne peut être déduit en application du paragraphe 127(5) au titre d'une dépense engagée ou d'un bien acquis par le particulier au cours d'une année d'imposition s'étant terminée avant la libération,

(iii) la partie inutilisée de ses crédits d'impôt pour études, pour frais de scolarité et pour manuels, déterminée selon le paragraphe 118.61(1), à la fin de la dernière année d'imposition s'étant terminée avant la libération est réputée nulle;

h) lorsque, au cours d'une année d'imposition commençant après qu'une ordonnance de libération a été rendue à l'égard du particulier, le syndic accomplit des opérations portant sur l'actif du particulier qui était en faillite, ou des actes dans le cadre de l'exploitation de l'entreprise de ce dernier, les alinéas e), f) et g) s'appliquent comme si ce particulier avait été en faillite au cours de l'année;

applied in respect of the individual and any preceding taxation year that does not exceed the lesser of

(i) the amount of the individual's allowable business investment losses for the particular taxation year, and

(ii) any portion of the individual's non-capital loss for that particular year that was not deducted in computing the individual's taxable income for any taxation year in which paragraph 128(2)(e) applied in respect of the individual or any preceding taxation year,

shall, for the purpose of determining the individual's cumulative gains limit under section 110.6 for taxation years following the taxation year in which paragraph 128(2)(e) was last applicable in respect of the individual, be deemed not to have been an allowable business investment loss.

(3) [Repealed, 1998, c. 19, s. 152]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 128; 1994, c. 7, Sch. V, s. 90, Sch. VIII, s. 72, c. 8, s. 18; 1998, c. 19, s. 152; 1999, c. 22, s. 51; 2001, c. 17, s. 122; 2004, c. 25, s. 201; 2006, c. 4, s. 78; 2007, c. 2, s. 36; 2009, c. 31, s. 15; 2011, c. 24, s. 42; 2012, c. 31, s. 29; 2013, c. 34, ss. 129, 272; 2014, c. 20, s. 20; 2015, c. 36, s. 33; 2016, c. 7, s. 37.

Changes in Residence

Immigration

128.1 (1) For the purposes of this Act, where at a particular time a taxpayer becomes resident in Canada,

Year-end, fiscal period

(a) where the taxpayer is a corporation or a trust,

(i) the taxpayer's taxation year that would otherwise include the particular time shall be deemed to have ended immediately before the particular time and a new taxation year of the taxpayer shall be deemed to have begun at the particular time, and

(ii) for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer shall be deemed not to have established a fiscal period before the particular time;

Deemed disposition

(b) the taxpayer is deemed to have disposed, at the time (in this subsection referred to as the "time of disposition") that is immediately before the time that is

i) la perte autre qu'une perte en capital que le particulier subit pour une année d'imposition donnée au cours de laquelle l'alinéa e) s'applique à lui et pour une année d'imposition antérieure est réputée ne pas être une perte déductible au titre d'un placement d'entreprise, pour la partie de cette perte qui ne dépasse pas le moindre des montants visés aux sous-alinéas (i) et (ii), pour le calcul, selon l'article 110.6, du plafond des gains cumulatifs du particulier pour les années d'imposition qui suivent celle où l'alinéa e) s'applique pour la dernière fois au particulier :

(i) le montant des pertes déductibles au titre d'un placement d'entreprise qu'il subit pour l'année d'imposition donnée,

(ii) toute partie de la perte autre qu'une perte en capital qu'il subit pour cette année donnée et qui n'est pas déduite dans le calcul de son revenu imposable pour une année d'imposition au cours de laquelle l'alinéa e) s'applique au particulier ou pour une année d'imposition antérieure.

(3) [Abrogé, 1998, ch. 19, art. 152]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 128; 1994, ch. 7, ann. V, art. 90, ann. VIII, art. 72, ch. 8, art. 18; 1998, ch. 19, art. 152; 1999, ch. 22, art. 51; 2001, ch. 17, art. 122; 2004, ch. 25, art. 201; 2006, ch. 4, art. 78; 2007, ch. 2, art. 36; 2009, ch. 31, art. 15; 2011, ch. 24, art. 42; 2012, ch. 31, art. 29; 2013, ch. 34, art. 129 et 272; 2014, ch. 20, art. 20; 2015, ch. 36, art. 33; 2016, ch. 7, art. 37.

Changement de résidence

Immigration

128.1 (1) Pour l'application de la présente loi, les règles suivantes s'appliquent au contribuable qui commence à résider au Canada à un moment donné :

Fin d'année et exercice

a) lorsque le contribuable est une société ou une fiducie, les présomptions suivantes s'appliquent :

(i) son année d'imposition qui comprendrait par ailleurs le moment donné est réputée avoir pris fin immédiatement avant ce moment et sa nouvelle année d'imposition, avoir commencé à ce moment,

(ii) aux fins de déterminer l'exercice du contribuable après le moment donné, le contribuable est réputé ne pas avoir établie d'exercice avant ce moment;

Présomption de disposition

b) le contribuable est réputé avoir disposé, au moment (appelé « moment de la disposition » au présent paragraphe) immédiatement avant le moment immédiatement avant le moment donné, de chaque bien lui

immediately before the particular time, of each property owned by the taxpayer, other than, if the taxpayer is an individual,

(i) property that is a taxable Canadian property,

(ii) property that is described in the inventory of a business carried on by the taxpayer in Canada at the time of disposition,

(iii) property included in Class 14.1 of Schedule II to the *Income Tax Regulations*, in respect of a business carried on by the taxpayer in Canada at the time of disposition, and

(iv) an excluded right or interest of the taxpayer, other than an interest described in paragraph (k) of the definition ***excluded right or interest*** in subsection (10),

(v) [Repealed, 2001, c. 17, s. 123]

for proceeds equal to its fair market value at the time of disposition;

Deemed acquisition

(c) the taxpayer shall be deemed to have acquired at the particular time each property deemed by paragraph 128.1(1)(b) to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property;

Deemed dividend to immigrating corporation

(c.1) if the taxpayer is a particular corporation that immediately before the time of disposition owned a share of the capital stock of another corporation resident in Canada, a dividend is deemed to have been paid by the other corporation, and received by the particular corporation, immediately before the time of disposition, equal to the amount, if any, by which the fair market value of the share immediately before the time of disposition exceeds the total of

(i) the paid-up capital in respect of the share immediately before the time of disposition, and

(ii) if the share immediately before the time of disposition was taxable Canadian property that is not treaty-protected property, the amount by which, at the time of disposition, the fair market value of the share exceeds its cost amount;

Deemed dividend to shareholder of immigrating corporation

(c.2) if the taxpayer is a corporation and an amount has been added to the paid-up capital in respect of a

appartenant, à l'exception, s'il est un particulier, des biens suivants, pour un produit égal à la juste valeur marchande du bien au moment de la disposition :

(i) les biens qui sont des biens canadiens imposables,

(ii) les biens à porter à l'inventaire d'une entreprise que le contribuable exploite au Canada au moment de la disposition,

(iii) les biens compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relatifs à une entreprise que le contribuable exploite au Canada au moment de la disposition,

(iv) les droits, participations ou intérêts exclus du contribuable (sauf une participation visée à l'alinéa k) de la définition de ***droit, participation ou intérêt exclu*** au paragraphe (10));

(v) [Abrogé, 2001, ch. 17, art. 123]

Présomption d'acquisition

c) le contribuable est réputé avoir acquis, au moment donné, chaque bien dont il est réputé par l'alinéa b) avoir disposé, à un coût égal au produit de disposition du bien;

Dividende réputé versé à une société arrivant au Canada

c.1) lorsque le contribuable est une société donnée qui, immédiatement avant le moment de la disposition, était propriétaire d'une action du capital-actions d'une autre société résidant au Canada, est réputé avoir été versé par cette dernière, et reçu par la société donnée, immédiatement avant le moment de la disposition, un dividende égal à l'excédent éventuel de la juste valeur marchande de l'action immédiatement avant le moment de la disposition sur le total des montants suivants :

(i) le capital versé au titre de l'action immédiatement avant le moment de la disposition,

(ii) si l'action était, immédiatement avant le moment de la disposition, un bien canadien imposable qui n'est pas un bien protégé par traité, l'excédent, au moment de la disposition, de la juste valeur marchande de l'action sur son coût indiqué,

Dividende réputé versé à l'actionnaire d'une société arrivant au Canada

c.2) lorsque le contribuable est une société et qu'un montant ait été ajouté, par l'effet de l'alinéa (2)b), au

class of shares of the corporation's capital stock because of paragraph (2)(b),

(i) the corporation is deemed to have paid, immediately before the time of disposition, a dividend on the issued shares of the class equal to the amount of the paid-up capital adjustment in respect of the class, and

(ii) a dividend is deemed to have been received, immediately before the time of disposition, by each person (other than a person in respect of whom the corporation is a foreign affiliate) who held any of the issued shares of the class equal to that proportion of the dividend so deemed to have been paid that the number of shares of the class held by the person immediately before the time of disposition is of the number of issued shares of the class outstanding immediately before the time of disposition;

Foreign affiliate dumping — immigrating corporation

(c.3) if the taxpayer is a corporation that was, immediately before the particular time, controlled by a particular non-resident corporation and the taxpayer owned, immediately before the particular time, one or more shares of one or more non-resident corporations (each of which is in this paragraph referred to as a "subject affiliate") that, immediately after the particular time, were — or that became, as part of a transaction or event or series of transactions or events that includes the taxpayer having become resident in Canada — foreign affiliates of the taxpayer, then

(i) in computing the paid-up capital, at any time after the time that is immediately after the particular time, of any particular class of shares of the capital stock of the taxpayer there is to be deducted the amount determined by the formula

A × B/C

where

A is the lesser of

(A) the paid-up capital in respect of all of the shares of the capital stock of the taxpayer at the time that is immediately after the particular time, and

(B) the total of all amounts each of which is the fair market value at the particular time of

(I) a share of the capital stock of a subject affiliate owned by the taxpayer at the particular time, or

capital versé au titre d'une catégorie d'actions de son capital-actions :

(i) la société est réputée avoir versé, immédiatement avant le moment de la disposition, sur les actions émises de la catégorie un dividende égal au montant de redressement du capital versé au titre de la catégorie,

(ii) chaque personne (sauf une personne à l'égard de laquelle la société est une société étrangère affiliée) qui détenait des actions émises de la catégorie est réputée avoir reçu, immédiatement avant le moment de la disposition, un dividende égal au produit de la multiplication du montant du dividende ainsi réputé avoir été versé par le rapport entre le nombre d'actions de la catégorie détenues par la personne immédiatement avant le moment de la disposition et le nombre d'actions émises de la catégorie qui étaient en circulation immédiatement avant le moment de la disposition;

Opérations de transfert de sociétés étrangères affiliées — société arrivant au Canada

c.3) si le contribuable est une société qui était contrôlée par une société non-résidente donnée immédiatement avant le moment donné et qu'il détenait, immédiatement avant le moment donné, une ou plusieurs actions d'une ou de plusieurs sociétés non-résidentes (appelées chacune « société affiliée déterminée » au présent alinéa) qui, immédiatement après le moment donné, étaient — ou sont devenues dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend le moment où le contribuable commence à résider au Canada — des sociétés étrangères affiliées du contribuable, les règles ci-après s'appliquent :

(i) la somme obtenue par la formule ci-après est à déduire dans le calcul du capital versé, à tout moment après le moment immédiatement après le moment donné, au titre d'une catégorie donnée d'actions du capital-actions du contribuable :

A × B/C

où :

A représente la moins élevée des sommes suivantes :

(A) le capital versé au titre de l'ensemble des actions du capital-actions du contribuable au moment immédiatement après le moment donné,

(B) le total des sommes dont chacune représente la juste valeur marchande au moment donné :

(II) an amount owing by the subject affiliate to the taxpayer at the particular time,

B is the paid-up capital in respect of the particular class of shares of the capital stock of the taxpayer at the time that is immediately after the particular time, and

C is the paid-up capital in respect of all the shares of the capital stock of the taxpayer at the time that is immediately after the particular time, and

(ii) for the purposes of Part XIII, the taxpayer is deemed, immediately after the particular time, to have paid to the particular non-resident corporation, and the particular non-resident corporation is deemed, immediately after the particular time, to have received from the taxpayer, a dividend equal to the amount, if any, by which the amount determined under clause (B) of the description of A in subparagraph (i) exceeds the amount determined under clause (A) of the description of A in subparagraph (i); and

(I) d'une action du capital-actions d'une société affiliée déterminée qui appartient au contribuable à ce moment,

(II) d'une somme due au contribuable par la société affiliée déterminée à ce moment,

B le capital versé au titre de la catégorie donnée d'actions du capital-actions du contribuable au moment immédiatement après le moment donné,

C le capital versé au titre de l'ensemble des actions du capital-actions du contribuable au moment immédiatement après le moment donné,

(ii) pour l'application de la partie XIII, le contribuable est réputé, immédiatement après le moment donné, avoir versé à la société non-résidente donnée, et celle-ci est réputée, immédiatement après le moment donné, avoir reçu du contribuable, un dividende égal à l'excédent de la somme déterminée selon la division (B) de l'élément A de la formule figurant au sous-alinéa (i) sur la somme déterminée selon la division (A) de cet élément;

Foreign affiliate

(d) where the taxpayer was, immediately before the particular time, a foreign affiliate of another taxpayer that is resident in Canada,

(i) the affiliate is deemed to have been a controlled foreign affiliate of the other taxpayer immediately before the particular time, and

(ii) the prescribed amount is to be included in the foreign accrual property income of the affiliate for its taxation year that ends immediately before the particular time.

Société étrangère affiliée

d) lorsque le contribuable était, immédiatement avant le moment donné, une société étrangère affiliée d'un autre contribuable qui réside au Canada :

(i) le contribuable est réputé avoir été une société étrangère affiliée contrôlée de l'autre contribuable immédiatement avant le moment donné,

(ii) le montant visé par règlement est à inclure dans le revenu étranger accumulé, tiré de biens de la société affiliée pour son année d'imposition se terminant immédiatement avant le moment donné.

Trusts subject to subsection 94(3)

(1.1) Paragraph (1)(b) does not apply, at a time in a trust's particular taxation year, to the trust if the trust is resident in Canada for the particular taxation year for the purpose of computing its income.

Fiducie assujettie au paragraphe 94(3)

(1.1) L'alinéa (1)b) ne s'applique pas à une fiducie au cours d'une année d'imposition si elle réside au Canada pour l'année en vue du calcul de son revenu.

Paid-up capital adjustment

(2) If a corporation becomes resident in Canada at a particular time,

(a) for the purposes of subsection (1) and this subsection, the ***paid-up capital adjustment*** in respect of a particular class of shares of the corporation's capital stock in respect of that acquisition of residence is the

Moulant de redressement du capital versé

(2) Lorsqu'une société devient un résident du Canada à un moment donné, les règles suivantes s'appliquent :

a) pour l'application du paragraphe (1) et du présent paragraphe, le ***montant de redressement du capital***

positive or negative amount determined by the formula

(A × B/C) - D

where

A is the amount, if any, by which

(i) the total of all amounts each of which is an amount deemed by paragraph (1)(c) to be the cost to the corporation of property deemed under that paragraph to have been acquired by the corporation at the particular time

exceeds

(ii) the total of all amounts each of which is the amount of a debt owing by the corporation, or any other obligation of the corporation to pay an amount, that is outstanding at the particular time,

B is the fair market value at the particular time of all of the shares of the particular class,

C is the total of all amounts each of which is the fair market value at the particular time of all of the shares of a class of shares of the corporation's capital stock, and

D is the paid-up capital at the particular time, determined without reference to this subsection, in respect of the particular class; and

(b) for the purposes of this Act, in computing the paid-up capital in respect of a class of shares of the corporation's capital stock at any time after the particular time and before the time, if any, at which the corporation next becomes resident in Canada, there shall be

(i) added the amount of the paid-up capital adjustment in respect of the particular class, if that amount is positive and the corporation so elects for all such classes in respect of that acquisition of residence by notifying the Minister in writing within 90 days after the particular time, and

(ii) deducted, if the amount of the paid-up capital adjustment in respect of the particular class is negative, the absolute value of that amount.

versé au titre d'une catégorie donnée d'actions du capital-actions de la société relativement à cette acquisition de résidence correspond au montant positif ou négatif obtenu par la formule suivante :

(A × B/C) - D

où :

A représente l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des montants représentant chacun un montant réputé par l'alinéa (1)c) être le coût pour la société d'un bien réputé par cet alinéa avoir été acquis par elle à ce moment,

(ii) le total des montants représentant chacun une dette de la société, ou un autre montant qu'elle est tenue de payer, qui est impayé à ce moment,

B la juste valeur marchande à ce moment de l'ensemble des actions de la catégorie donnée,

C le total des montants représentant chacun la juste valeur marchande à ce moment de l'ensemble des actions d'une catégorie d'actions du capital-actions de la société,

D le capital versé à ce moment, déterminé compte non tenu du présent paragraphe, au titre de la catégorie donnée;

b) pour l'application de la présente loi, le capital versé au titre d'une catégorie d'actions du capital-actions de la société, à un moment postérieur au moment donné et antérieur au moment subséquent éventuel où la société redevient un résident du Canada, fait l'objet des opérations suivantes :

(i) il est ajouté dans le calcul de ce capital versé le montant de redressement du capital versé au titre de la catégorie donnée, si ce montant est positif et si la société en fait le choix, par avis écrit adressé au ministre dans les 90 jours suivant le moment donné, pour toutes les catégories d'actions du capital-actions de la société relativement à cette acquisition de résidence,

(ii) il est déduit dans le calcul de ce capital versé, si le montant de redressement du capital versé au titre de la catégorie donnée est négatif, la valeur absolue de ce montant.

Paid-up capital adjustment

(3) In computing the paid-up capital at any time in respect of a class of shares of the capital stock of a corporation

Montant de redressement du capital versé

(3) Pour le calcul du capital versé, à un moment donné, au titre d'une catégorie d'actions du capital-actions d'une société :

(a) there is to be deducted an amount equal to the lesser of A and B, and added an amount equal to the lesser of A and C, where

A is the absolute value of the difference between

(i) the total of all amounts deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of the class paid before that time by the corporation, and

(ii) the total that would be determined under subparagraph (i) if this Act were read without reference to subsection (2),

B is the total of all amounts required by subsection (2) to be added in computing the paid-up capital in respect of the class before that time, and

C is the total of all amounts required by subsection (2) to be deducted in computing the paid-up capital in respect of the class before that time; and

(b) there is to be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of the class paid after March 28, 2012 and before that time by the corporation

exceeds

(B) the total that would be determined under clause (A) if this Act were read without reference to subparagraph (c.3)(i), and

(ii) the total of all amounts required by subparagraph (c.3)(i) to be deducted in computing the paid-up capital in respect of the class before that time.

a) la valeur de l'élément A ou, si elle est moins élevée, la valeur de l'élément B est à déduire dans ce calcul, et la valeur de l'élément A ou, si elle est moins élevée, la valeur de l'élément C est à ajouter dans ce calcul, où :

A représente la valeur absolue de la différence entre les totaux suivants :

(i) le total des sommes réputées, en vertu des paragraphes 84(3), (4) ou (4.1), être un dividende versé par la société avant ce moment sur des actions de la catégorie,

(ii) le total qui serait déterminé selon le sous-alinéa (i) si la présente loi s'appliquait compte non tenu du paragraphe (2),

C le total des sommes à déduire, aux termes du paragraphe (2), dans le calcul du capital versé au titre de la catégorie avant ce moment;

B le total des sommes à ajouter, aux termes du paragraphe (2), dans le calcul du capital versé au titre de la catégorie avant ce moment,

b) la moins élevée des sommes ci-après est à ajouter dans ce calcul :

(i) l'excédent du total visé à la division (A) sur celui visé à la division (B) :

(A) le total des sommes réputées, en vertu des paragraphes 84(3), (4) ou (4.1), être un dividende versé par la société sur des actions de la catégorie après le 28 mars 2012 et avant ce moment,

(B) le total qui serait déterminé selon la division (A) si la présente loi s'appliquait compte non tenu du sous-alinéa c.3)(i),

(ii) le total des sommes à déduire, aux termes du sous-alinéa c.3)(i), dans le calcul du capital versé au titre de la catégorie avant ce moment.

Emigration

(4) For the purposes of this Act, where at a particular time a taxpayer ceases to be resident in Canada,

Year-end, fiscal period

(a) where the taxpayer is a corporation or a trust,

(i) the taxpayer's taxation year that would otherwise include the particular time shall be deemed to have ended immediately before the particular time and a new taxation year of the taxpayer shall be deemed to have begun at the particular time, and

(ii) for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer

Émigration

(4) Pour l'application de la présente loi, les règles suivantes s'appliquent au contribuable qui cesse de résider au Canada à un moment donné :

Fin d'année et exercice

a) lorsque le contribuable est une société ou une fiducie, les présomptions suivantes s'appliquent :

(i) son année d'imposition qui comprendrait par ailleurs le moment donné est réputée avoir pris fin immédiatement avant ce moment et sa nouvelle année d'imposition, avoir commencé à ce moment,

shall be deemed not to have established a fiscal period before the particular time;

Fiscal period

(a.1) if the taxpayer is an individual (other than a trust) and carries on a business at the particular time, otherwise than through a permanent establishment (as defined by regulation) in Canada,

(i) the fiscal period of the business is deemed to have ended immediately before the particular time and a new fiscal period of the business is deemed to have begun at the particular time, and

(ii) for the purpose of determining the fiscal period of the business after the particular time, the taxpayer is deemed not to have established a fiscal period of the business before the particular time;

Deemed disposition

(b) the taxpayer is deemed to have disposed, at the time (in this paragraph and paragraph (d) referred to as the "time of disposition") that is immediately before the time that is immediately before the particular time, of each property owned by the taxpayer other than, if the taxpayer is an individual,

(i) real or immovable property situated in Canada, a Canadian resource property or a timber resource property,

(ii) capital property used in, property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of or property described in the inventory of, a business carried on by the taxpayer through a ***permanent establishment*** (as defined by regulation) in Canada at the particular time,

(iii) an excluded right or interest of the taxpayer,

(iv) if the taxpayer is not a trust and was not, during the 120-month period that ends at the particular time, resident in Canada for more than 60 months, property that was owned by the taxpayer at the time the taxpayer last became resident in Canada or that was acquired by the taxpayer by inheritance or bequest after the taxpayer last became resident in Canada, and

(v) any property in respect of which the taxpayer elects under paragraph (6)(a) for the taxation year that includes the first time, after the particular time, at which the taxpayer becomes resident in Canada,

(ii) aux fins de déterminer l'exercice du contribuable après le moment donné, le contribuable est réputé ne pas avoir établi d'exercice avant ce moment;

Exercice

a.1) lorsque le contribuable est un particulier (sauf une fiducie) et exploite une entreprise au moment donné autrement que par l'entremise d'un établissement stable (au sens du *Règlement de l'impôt sur le revenu*) au Canada, les présomptions suivantes s'appliquent :

(i) l'exercice de l'entreprise est réputé avoir pris fin immédiatement avant le moment donné et son nouvel exercice, avoir commencé au moment donné,

(ii) pour déterminer l'exercice de l'entreprise après le moment donné, le contribuable est réputé ne pas avoir établi d'exercice avant ce moment;

Présomption de disposition

b) le contribuable est réputé avoir disposé, au moment (appelé « moment de la disposition » au présent alinéa et à l'alinéa d)) immédiatement avant le moment immédiatement avant le moment donné, de chaque bien lui appartenant, à l'exception des biens ci-après s'il est un particulier, pour un produit égal à la juste valeur marchande du bien au moment de la disposition, et ce produit est réputé être devenu à recevoir et avoir été reçu par lui au moment de la disposition :

(i) les biens immeubles ou réels situés au Canada, les avoirs miniers canadiens et les avoirs forestiers,

(ii) les immobilisations utilisées dans le cadre d'une entreprise exploitée par le contribuable par l'entremise d'un ***établissement stable*** (au sens du règlement) au Canada au moment donné, les biens compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* et les biens à porter à l'inventaire d'une telle entreprise,

(iii) les droits, participations ou intérêts exclus du contribuable,

(iv) si le contribuable n'est pas une fiducie et n'a pas résidé au Canada pendant plus de 60 mois au cours de la période de 120 mois se terminant au moment donné, les biens qui lui appartenaient au moment où il est devenu un résident du Canada la dernière fois ou qu'il a acquis par legs ou héritage après être devenu un résident du Canada la dernière fois,

for proceeds equal to its fair market value at the time of disposition, which proceeds are deemed to have become receivable and to have been received by the taxpayer at the time of disposition;

Employee life and health trust

(b.1) notwithstanding paragraph (b), if the taxpayer is or was at any time an employee life and health trust,

(i) the taxpayer is deemed

(A) to have disposed, at the time (in this paragraph referred to as the "time of disposition") that is immediately before the time that is immediately before the particular time, of each property owned by the taxpayer for proceeds equal to its fair market value at the time of disposition, which proceeds are deemed to have become receivable and to have been received by the taxpayer at the time of disposition, and

(B) to have carried on a business at the time of disposition, and

(ii) each property of the taxpayer is deemed

(A) to have been described in the inventory of the business referred to in clause (i)(B), and

(B) to have a cost of nil at the time of disposition;

Reacquisition

(c) the taxpayer is deemed to have reacquired, at the particular time, each property deemed by paragraph (b) or (b.1) to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property;

Individual — elective disposition

(d) notwithstanding paragraphs (b) to (c), if the taxpayer is an individual (other than a trust) and so elects in prescribed form and manner in respect of a property described in subparagraph (b)(i) or (ii),

(i) the taxpayer is deemed to have disposed of the property at the time of disposition for proceeds equal to its fair market value at that time and to have reacquired the property at the particular time at a cost equal to those proceeds,

(ii) the taxpayer's income for the taxation year that includes the particular time is deemed to be the greater of

(A) that income determined without reference to this subparagraph, and

(v) les biens relativement auxquels le contribuable fait le choix prévu à l'alinéa (6)a) pour l'année d'imposition qui comprend le premier moment, postérieur au moment donné, où il devient un résident du Canada;

Fiducie de soins de santé au bénéfice d'employés

b.1) malgré l'alinéa b), si le contribuable est ou était une fiducie de soins de santé au bénéfice d'employés :

(i) il est réputé :

(A) d'une part, avoir disposé, au moment (appelé « moment de la disposition » au présent alinéa) immédiatement avant le moment immédiatement avant le moment donné, de chaque bien lui appartenant pour un produit égal à sa juste valeur marchande au moment de la disposition, lequel produit est réputé être devenu à recevoir et avoir été reçu par lui au moment de la disposition,

(B) d'autre part, avoir exploité une entreprise au moment de la disposition,

(ii) chacun de ses biens est réputé :

(A) d'une part, avoir été porté à l'inventaire de l'entreprise mentionnée à la division (i)(B),

(B) d'autre part, avoir un coût nul au moment de la disposition;

Nouvelle acquisition

c) le contribuable est réputé avoir acquis de nouveau, au moment donné, chaque bien dont il est réputé par les alinéas b) ou b.1) avoir disposé, à un coût égal au produit de disposition du bien;

Particulier — choix d'effectuer une disposition

d) malgré les alinéas b) à c), lorsque le contribuable est un particulier (sauf une fiducie), les présomptions ci-après s'appliquent s'il en fait le choix sur le formulaire prescrit et selon les modalités réglementaires relativement à un bien visé aux sous-alinéas b)(i) ou (ii) :

(i) le contribuable est réputé avoir disposé du bien au moment de la disposition pour un produit égal à sa juste valeur marchande à ce moment et l'avoir acquis de nouveau au moment donné à un coût égal à ce produit,

(ii) le revenu du contribuable pour l'année d'imposition qui comprend le moment donné est réputé égal au plus élevé des montants suivants :

(B) the lesser of

(I) that income determined without reference to this subsection, and

(II) that income determined without reference to subparagraph (i), and

(iii) each of the taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for the taxation year that includes the particular time is deemed to be the lesser of

(A) that amount determined without reference to this subparagraph, and

(B) the greater of

(I) that amount determined without reference to this subsection, and

(II) that amount determined without reference to subparagraph (i); and

(A) ce revenu, déterminé compte non tenu du présent sous-alinéa,

(B) le moins élevé des montants suivants :

(I) ce revenu, déterminé compte non tenu du présent paragraphe,

(II) ce revenu, déterminé compte non tenu du sous-alinéa (i),

(iii) le montant de chacune des pertes du contribuable — perte autre qu'une perte en capital, perte en capital nette, perte agricole restreinte, perte agricole et perte comme commanditaire — pour l'année d'imposition qui comprend le moment donné est réputé égal au moins élevé des montants suivants :

(A) ce montant, déterminé compte non tenu du présent sous-alinéa,

(B) le plus élevé des montants suivants :

(I) ce montant, déterminé compte non tenu du présent paragraphe,

(II) ce montant, déterminé compte non tenu du sous-alinéa (i);

Employee CCPC stock option shares

(d.1) if the taxpayer is deemed by paragraph (b) to have disposed of a share that was acquired before February 28, 2000 under circumstances to which subsection 7(1.1) applied, there shall be deducted from the taxpayer's proceeds of disposition the amount that would, if section 7 were read without reference to subsection 7(1.6), be added under paragraph 53(1)(j) in computing the adjusted cost base to the taxpayer of the share as a consequence of the deemed disposition.

(e) and (f) [Repealed, 2001, c. 17, s. 123]

Actions acquises par suite de l'exercice d'une option d'achat d'actions d'une SPCC

d.1) lorsque le contribuable est réputé par l'alinéa b) avoir disposé d'une action acquise avant le 28 février 2000 dans les circonstances visées au paragraphe 7(1.1), est déduit du produit de disposition de l'action pour lui le montant qui serait ajouté, en application de l'alinéa 53(1)j), dans le calcul du prix de base rajusté de l'action pour lui par suite de la disposition présumée si l'article 7 s'appliquait compte non tenu de son paragraphe (1.6).

e) et f) [Abrogés, 2001, ch. 17, art. 123]

Instalment interest

(5) If an individual is deemed by subsection (4) to have disposed of a property in a taxation year, in applying sections 155 and 156 and subsections 156.1(1) to (3) and 161(2), (4) and (4.01) and any regulations made for the purposes of those provisions, the individual's total tax payable under this Part for the year is deemed to be the lesser of

(a) the individual's total tax payable under this Part for the year, determined before taking into consideration the specified future tax consequences for the year, and

Intérêts sur acomptes provisionnels

(5) Si un particulier est réputé, en vertu du paragraphe (4), avoir disposé d'un bien au cours d'une année d'imposition, le total de ses impôts payables en vertu de la présente partie pour l'année est réputé, pour l'application des articles 155 et 156 et des paragraphes 156.1(1) à (3) et 161(2), (4) et (4.01) et des dispositions réglementaires prises en application de ces dispositions, correspondre à la moins élevée des sommes suivantes :

a) le total de ses impôts payables en vertu de la présente partie pour l'année, déterminé avant la prise en

(b) the amount that would be determined under paragraph (a) if subsection (4) did not apply to the individual for the year.

b) le montant qui serait déterminé selon l'alinéa a) si le paragraphe (4) ne s'appliquait pas à lui pour l'année.

compte des conséquences fiscales futures déterminées pour l'année;

Returning former resident

(6) If an individual (other than a trust) becomes resident in Canada at a particular time in a taxation year and the last time (in this subsection referred to as the "emigration time"), before the particular time, at which the individual ceased to be resident in Canada was after October 1, 1996,

(a) subject to paragraph (b), if the individual so elects in writing and files the election with the Minister on or before the individual's filing-due date for the year, paragraphs (4)(b) and (c) do not apply to the individual's cessation of residence at the emigration time in respect of all properties that were taxable Canadian properties of the individual throughout the period that began at the emigration time and that ends at the particular time;

(b) where, if a property in respect of which an election under paragraph (a) is made had been acquired by the individual at the emigration time at a cost equal to its fair market value at the emigration time and had been disposed of by the individual immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, the application of subsection 40(3.7) would reduce the amount that would, but for that subsection and this subsection, be the individual's loss from the disposition,

(i) the individual is deemed to have disposed of the property at the time of disposition (within the meaning assigned by paragraph (4)(b)) in respect of the emigration time for proceeds of disposition equal to the total of

(A) the adjusted cost base to the individual of the property immediately before the time of disposition, and

(B) the amount, if any, by which that reduction exceeds the lesser of

(I) the adjusted cost base to the individual of the property immediately before the time of disposition, and

(II) the amount, if any, that the individual specifies for the purposes of this paragraph in

Résident de retour

(6) Lorsqu'un particulier (sauf une fiducie) qui a déjà résidé au Canada devient un résident du Canada à un moment donné d'une année d'imposition et que le moment (appelé « moment de l'émigration » au présent paragraphe), antérieur au moment donné, où il a cessé de résider au Canada la dernière fois est postérieur au 1er octobre 1996, les règles suivantes s'appliquent :

a) sous réserve de l'alinéa b), si le particulier en fait le choix dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année, les alinéas (4)b) et c) ne s'appliquent pas à sa cessation de résidence au moment de l'émigration pour ce qui est des biens qui étaient des biens canadiens imposables lui appartenant tout au long de la période ayant commencé au moment de l'émigration et se terminant au moment donné;

b) dans le cas où le paragraphe 40(3.7) aurait pour effet de réduire le montant qui, si ce n'était ce paragraphe et le présent paragraphe, représenterait la perte du particulier résultant de la disposition d'un bien à l'égard duquel il a fait le choix prévu à l'alinéa a), s'il avait acquis le bien, au moment de l'émigration, à un coût égal à sa juste valeur marchande à ce moment et en avait disposé, immédiatement avant le moment donné, pour un produit de disposition égal à sa juste valeur marchande immédiatement avant le moment donné, le particulier est réputé, à la fois :

(i) avoir disposé du bien au moment de la disposition, au sens de l'alinéa (4)b), relativement au moment de l'émigration pour un produit de disposition égal à la somme des montants suivants :

(A) le prix de base rajusté du bien pour lui immédiatement avant le moment de la disposition,

(B) l'excédent éventuel du montant de la réduction sur le moins élevé des montants suivants :

(I) le prix de base rajusté du bien pour lui immédiatement avant le moment de la disposition,

(II) le montant éventuel qu'il indique relativement au bien pour l'application du présent

the election under paragraph (a) in respect of the property,

(ii) the individual is deemed to have reacquired the property at the emigration time at a cost equal to the amount, if any, by which the amount determined under clause (i)(A) exceeds the lesser of that reduction and the amount specified by the individual under subclause (i)(B)(II), and

(iii) for the purpose of section 119, the individual is deemed to have disposed of the property immediately before the particular time;

(c) if the individual so elects in writing and files the election with the Minister on or before the individual's filing-due date for the year, in respect of each property that the individual owned throughout the period that began at the emigration time and that ends at the particular time and that is deemed by paragraph (1)(b) to have been disposed of because the individual became resident in Canada, notwithstanding paragraphs (1)(c) and (4)(b) the individual's proceeds of disposition at the time of disposition (within the meaning assigned by paragraph (4)(b)), and the individual's cost of acquiring the property at the particular time, are deemed to be those proceeds and that cost, determined without reference to this paragraph, minus the least of

(i) the amount that would, but for this paragraph, have been the individual's gain from the disposition of the property deemed by paragraph (4)(b) to have occurred,

(ii) the fair market value of the property at the particular time, and

(iii) the amount that the individual specifies for the purposes of this paragraph in the election; and

(d) notwithstanding subsections 152(4) to (5), any assessment of tax that is payable under this Act by the individual for any taxation year that is before the year that includes the particular time and that is not before the year that includes the emigration time shall be made that is necessary to take an election under this subsection into account, except that no such assessment shall affect the computation of

(i) interest payable under this Act to or by a taxpayer in respect of any period that is before the day on which the taxpayer's return of income for the taxation year that includes the particular time is filed, or

(ii) any penalty payable under this Act.

alinéa dans le document concernant le choix prévu à l'alinéa a),

(ii) avoir acquis le bien de nouveau au moment de l'émigration à un coût égal à l'excédent éventuel du montant déterminé selon la division (i)(A) sur le montant de la réduction ou, s'il est moins élevé, le montant qu'il a indiqué aux termes de la subdivision (i)(B)(II),

(iii) pour l'application de l'article 119, avoir disposé du bien immédiatement avant le moment donné;

c) si le particulier en fait le choix, dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année, relativement à chaque bien dont il est propriétaire tout au long de la période ayant commencé au moment de l'émigration et se terminant au moment donné et dont il est réputé, par l'alinéa (1)b), avoir disposé du fait qu'il est devenu un résident du Canada, le produit de disposition pour lui au moment de la disposition, au sens de l'alinéa (4)b), et le coût d'acquisition du bien pour lui au moment donné sont réputés, malgré les alinéas (1)c) et (4)b), correspondre à ce produit et à ce coût, déterminés compte non tenu du présent alinéa, diminués du moins élevé des montants suivants :

(i) le montant qui, n'eût été le présent alinéa, aurait représenté son gain tiré de la disposition du bien qui est réputée, par l'alinéa (4)b), avoir été effectuée,

(ii) la juste valeur marchande du bien au moment donné,

(iii) le montant qu'il a indiqué pour l'application du présent alinéa dans le document concernant le choix;

d) malgré les paragraphes 152(4) à (5), le ministre établit, pour tenir compte des choix prévus au présent paragraphe, toute cotisation concernant l'impôt payable par le particulier en vertu de la présente loi pour toute année d'imposition qui est antérieure à l'année comprenant le moment donné sans être antérieure à l'année comprenant le moment de l'émigration; pareille cotisation est toutefois sans effet sur le calcul des montants suivants :

(i) les intérêts payables en vertu de la présente loi à un contribuable, ou par celui-ci, pour toute période antérieure à la date de production de la déclaration de revenu du contribuable pour l'année d'imposition qui comprend le moment donné,

(ii) toute pénalité payable en vertu de la présente loi.

Deemed taxable Canadian property

(6.1) For the purposes of paragraph (6)(a), a property is deemed to be taxable Canadian property of the individual throughout the period that began at the emigration time and that ends at the particular time if

(a) the emigration time is before March 5, 2010; and

(b) the property was taxable Canadian property of the individual on March 4, 2010.

Bien canadien imposable réputé

(6.1) Pour l'application de l'alinéa (6)a), un bien est réputé être un bien canadien imposable du particulier tout au long de la période ayant commencé au moment de l'émigration et se terminant au moment donné si les conditions suivantes sont réunies :

a) le moment de l'émigration est antérieur au 5 mars 2010;

b) le bien était un bien canadien imposable du particulier le 4 mars 2010.

Returning trust beneficiary

(7) If an individual (other than a trust)

(a) becomes resident in Canada at a particular time in a taxation year,

(b) owns at the particular time a property that the individual last acquired on a trust distribution to which subsection 107(2) would, but for subsection 107(5), have applied and at a time (in this subsection referred to as the "distribution time") that was after October 1, 1996 and before the particular time, and

(c) was a beneficiary of the trust at the last time, before the particular time, at which the individual ceased to be resident in Canada,

the following rules apply:

(d) subject to paragraphs (e) and (f), if the individual and the trust jointly so elect in writing and file the election with the Minister on or before the earlier of their filing-due dates for their taxation years that include the particular time, subsection 107(2.1) does not apply to the distribution in respect of all properties acquired by the individual on the distribution that were taxable Canadian properties of the individual throughout the period that began at the distribution time and that ends at the particular time,

(e) paragraph (f) applies in respect of the individual, the trust and a property in respect of which an election under paragraph (d) is made where, if the individual

(i) had been resident in Canada at the distribution time,

(ii) had acquired the property at the distribution time at a cost equal to its fair market value at that time,

Bénéficiaire de retour

(7) Lorsqu'un particulier (sauf une fiducie), à la fois :

a) devient un résident au Canada à un moment donné d'une année d'imposition;

b) est propriétaire, à ce moment, d'un bien qu'il a acquis, la dernière fois, à l'occasion d'une distribution à laquelle le paragraphe 107(2) se serait appliqué, n'eût été le paragraphe 107(5), effectuée par une fiducie à un moment (appelé « moment de la distribution » au présent paragraphe) postérieur au 1er octobre 1996 et antérieur au moment donné;

c) était bénéficiaire de la fiducie au dernier moment, antérieur au moment donné, où il a cessé de résider au Canada,

les règles suivantes s'appliquent :

d) sous réserve des alinéas e) et f), si le particulier et la fiducie en font conjointement le choix dans un document présenté au ministre au plus tard à la première en date des dates d'échéance de production qui leur est applicable pour leur année d'imposition qui comprend le moment donné, le paragraphe 107(2.1) ne s'applique pas à la distribution pour ce qui est des biens que le particulier a acquis à l'occasion de la distribution et qui étaient des biens canadiens imposables lui appartenant tout au long de la période ayant commencé au moment de la distribution et se terminant au moment donné;

e) l'alinéa f) s'applique au particulier, à la fiducie et au bien qui fait l'objet du choix prévu à l'alinéa d) dans le cas où, le particulier répondant aux conditions suivantes :

(i) il résidait au Canada au moment de la distribution,

(iii) had ceased to be resident in Canada immediately after the distribution time, and

(iv) had, immediately before the particular time, disposed of the property for proceeds of disposition equal to its fair market value immediately before the particular time,

the application of subsection 40(3.7) would reduce the amount that would, but for that subsection and this subsection, have been the individual's loss from the disposition,

(f) where this paragraph applies in respect of an individual, a trust and a property,

(i) notwithstanding paragraph 107(2.1)(a), the trust is deemed to have disposed of the property at the distribution time for proceeds of disposition equal to the total of

(A) the cost amount to the trust of the property immediately before the distribution time, and

(B) the amount, if any, by which the reduction under subsection 40(3.7) described in paragraph (e) exceeds the lesser of

(I) the cost amount to the trust of the property immediately before the distribution time, and

(II) the amount, if any, which the individual and the trust jointly specify for the purposes of this paragraph in the election under paragraph (d) in respect of the property, and

(ii) notwithstanding paragraph 107(2.1)(b), the individual is deemed to have acquired the property at the distribution time at a cost equal to the amount, if any, by which the amount otherwise determined under paragraph 107(2)(b) exceeds the lesser of the reduction under subsection 40(3.7) described in paragraph (e) and the amount specified under subclause (i)(B)(II),

(g) if the individual and the trust jointly so elect in writing and file the election with the Minister on or before the later of their filing-due dates for their taxation years that include the particular time, in respect of each property that the individual owned throughout the period that began at the distribution time and that ends at the particular time and that is deemed by paragraph (1)(b) to have been disposed of because the individual became resident in Canada, notwithstanding paragraphs 107(2.1)(a) and (b), the trust's proceeds of disposition under paragraph 107(2.1)(a) at the

(ii) il avait acquis le bien, à ce moment, à un coût égal à sa juste valeur marchande à ce moment,

(iii) il avait cessé de résider au Canada immédiatement après ce moment,

(iv) il avait disposé du bien immédiatement avant le moment donné pour un produit de disposition égal à sa juste valeur marchande immédiatement avant le moment donné,

l'application du paragraphe 40(3.7) aurait pour effet de réduire le montant qui, n'eussent été ce paragraphe et le présent paragraphe, aurait représenté la perte du particulier résultant de la disposition;

f) dans le cas où le présent alinéa s'applique à un particulier, à une fiducie et à un bien :

(i) malgré l'alinéa 107(2.1)a), la fiducie est réputée avoir disposé du bien au moment de la distribution pour un produit de disposition égal au total des montants suivants :

(A) le coût indiqué du bien pour elle immédiatement avant ce moment,

(B) l'excédent du montant de la réduction prévue au paragraphe 40(3.7) et dont il est question à l'alinéa e), sur le moins élevé des montants suivants :

(I) le coût indiqué du bien pour la fiducie immédiatement avant le moment de la distribution,

(II) le montant que le particulier et la fiducie ont indiqué conjointement pour l'application du présent alinéa dans le document concernant le choix prévu à l'alinéa d) relativement au bien,

(ii) malgré l'alinéa 107(2.1)b), le particulier est réputé avoir acquis le bien au moment de la distribution à un coût égal à l'excédent du montant déterminé par ailleurs selon l'alinéa 107(2)b) sur le montant de la réduction prévue au paragraphe 40(3.7) et dont il est question à l'alinéa e), ou, s'il est moins élevé, le montant indiqué selon la subdivision (i)(B)(II);

g) si le particulier et la fiducie en font conjointement le choix, dans un document présenté au ministre au plus tard à la dernière en date des dates d'échéance de production qui leur est applicable pour leur année

distribution time, and the individual's cost of acquiring the property at the particular time, are deemed to be those proceeds and that cost determined without reference to this paragraph, minus the least of

(i) the amount that would, but for this paragraph, have been the trust's gain from the disposition of the property deemed by paragraph 107(2.1)(a) to have occurred,

(ii) the fair market value of the property at the particular time, and

(iii) the amount that the individual and the trust jointly specify for the purposes of this paragraph in the election,

(h) if the trust ceases to exist before the individual's filing-due date for the individual's taxation year that includes the particular time,

(i) an election or specification described in this subsection may be made by the individual alone in writing if the election is filed with the Minister on or before that filing-due date, and

(ii) if the individual alone makes such an election or specification, the individual and the trust are jointly and severally, or solidarily, liable for any amount payable under this Act by the trust as a result of the election or specification, and

(i) notwithstanding subsections 152(4) to (5), such assessment of tax payable under the Act by the trust or the individual for any year that is before the year that includes the particular time and that is not before the year that includes the distribution time shall be made as is necessary to take an election under this subsection into account, except that no such assessment shall affect the computation of

(i) interest payable under this Act to or by the trust or the individual in respect of any period that is before the individual's filing-due date for the taxation year that includes the particular time, or

(ii) any penalty payable under this Act.

d'imposition qui comprend le moment donné, relativement à chaque bien dont le particulier a été propriétaire tout au long de la période ayant commencé au moment de la distribution et se terminant au moment donné et dont il est réputé, par l'alinéa (1)b), avoir disposé du fait qu'il est devenu un résident du Canada, le produit de disposition pour la fiducie, selon l'alinéa 107(2.1)a), au moment de la distribution et le coût d'acquisition du bien pour le particulier au moment donné sont réputés, malgré les alinéas 107(2.1)a) et b), correspondre à ce produit et à ce coût, déterminés compte non tenu du présent alinéa, diminués du moins élevé des montants suivants :

(i) le montant qui, n'eût été le présent alinéa, aurait représenté le gain de la fiducie provenant de la disposition du bien qui est réputée, par l'alinéa 107(2.1)a), avoir été effectuée,

(ii) la juste valeur marchande du bien au moment donné,

(iii) le montant que le particulier et la fiducie ont indiqué conjointement pour l'application du présent alinéa dans le document concernant le choix;

h) si la fiducie cesse d'exister avant la date d'échéance de production applicable au particulier pour son année d'imposition qui comprend le moment donné :

(i) le particulier peut, à lui seul, effectuer le choix ou indiquer un montant conformément au présent paragraphe dans un document présenté au ministre au plus tard à cette date,

(ii) le cas échéant, le particulier et la fiducie sont solidairement tenus au paiement de tout montant payable par cette dernière en vertu de la présente loi par suite du choix ou de l'indication du montant;

i) malgré les paragraphes 152(4) à (5), le ministre établit, pour tenir compte des choix prévus au présent paragraphe, toute cotisation concernant l'impôt payable par la fiducie ou le particulier en vertu de la présente loi pour toute année qui est antérieure à l'année comprenant le moment donné sans être antérieure à l'année comprenant le moment de la distribution; pareille cotisation est toutefois sans effet sur le calcul des montants suivants :

(i) les intérêts payables en vertu de la présente loi à la fiducie ou au particulier, ou par ceux-ci, pour toute période antérieure à la date d'échéance de production applicable au particulier pour l'année d'imposition qui comprend le moment donné,

(ii) toute pénalité payable en vertu de la présente loi.

Post-emigration loss

(8) If an individual (other than a trust)

(a) was deemed by paragraph (4)(b) to have disposed of a capital property at any particular time after October 1, 1996,

(b) has disposed of the property at a later time at which the property was a taxable Canadian property of the individual, and

(c) so elects in writing in the individual's return of income for the taxation year that includes the later time,

there shall, except for the purpose of paragraph (4)(c), be deducted from the individual's proceeds of disposition of the property at the particular time, and added to the individual's proceeds of disposition of the property at the later time, an amount equal to the least of

(d) the amount specified in respect of the property in the election,

(e) the amount that would, but for the election, be the individual's gain from the disposition of the property at the particular time, and

(f) the amount that would be the individual's loss from the disposition of the property at the later time, if the loss were determined having reference to every other provision of this Act including, for greater certainty, subsection 40(3.7) and section 112, but without reference to the election.

Perte postérieure à l'émigration

(8) Lorsqu'un particulier (sauf une fiducie) est réputé par l'alinéa (4)b) avoir disposé d'une immobilisation à un moment donné postérieur au 1er octobre 1996 et qu'il dispose de l'immobilisation à un moment ultérieur où l'immobilisation fait partie de ses biens canadiens imposables, le moins élevé des montants ci-après est, sauf pour l'application de l'alinéa (4)c), déduit du produit de disposition de l'immobilisation pour lui au moment donné, puis ajouté au produit de disposition de l'immobilisation pour lui au moment ultérieur s'il en fait le choix par écrit dans sa déclaration de revenu pour l'année d'imposition qui comprend le moment ultérieur :

a) le montant indiqué relativement à l'immobilisation dans le document concernant le choix;

b) le montant qui, si ce n'était le choix, correspondrait au gain du particulier tiré de la disposition de l'immobilisation au moment donné;

c) le montant qui correspondrait à la perte du particulier résultant de la disposition de l'immobilisation au moment ultérieur, déterminée compte tenu des autres dispositions de la présente loi, étant entendu que ces autres dispositions comprennent le paragraphe 40(3.7) et l'article 112, mais compte non tenu du choix.

Information reporting

(9) An individual who ceases at a particular time in a taxation year to be resident in Canada, and who owns immediately after the particular time one or more reportable properties the total fair market value of which at the particular time is greater than $25,000, shall file with the Minister in prescribed form, on or before the individual's filing-due date for the year, a list of all the reportable properties that the individual owned immediately after the particular time.

Déclaration de renseignements

(9) Le particulier qui cesse de résider au Canada à un moment donné d'une année d'imposition et qui, immédiatement après ce moment, est propriétaire d'un ou de plusieurs biens à déclarer dont la juste valeur marchande totale, au moment donné, excède 25 000 $ doit présenter au ministre sur le formulaire prescrit, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, une liste de tous les biens à déclarer dont il était propriétaire immédiatement après le moment donné.

Definitions

(10) The definitions in this subsection apply in this section.

excluded right or interest of a taxpayer who is an individual means

Définitions

(10) Les définitions qui suivent s'appliquent au présent article.

bien à déclarer Tout bien d'un particulier à un moment donné, sauf les suivants :

(a) a right of the individual under, or an interest of the individual in a trust governed by,

(i) a registered retirement savings plan or a plan referred to in subsection 146(12) as an "amended plan",

(ii) a registered retirement income fund,

(iii) a registered education savings plan,

(iii.1) a registered disability savings plan,

(iii.2) a TFSA,

(iv) a deferred profit sharing plan or a plan referred to in subsection 147(15) as a "revoked plan",

(v) an employees profit sharing plan,

(vi) an employee benefit plan (other than a plan described in subparagraph (b)(i) or (ii)),

(vi.1) an employee life and health trust,

(vii) a plan or arrangement (other than an employee benefit plan) under which the individual has a right to receive in a year remuneration in respect of services rendered by the individual in the year or a prior year,

(viii) a superannuation or pension fund or plan (other than an employee benefit plan),

(ix) a retirement compensation arrangement,

(x) a foreign retirement arrangement, or

(xi) a registered supplementary unemployment benefit plan;

(b) a right of the individual to a benefit under an employee benefit plan that is

(i) a plan or arrangement described in paragraph (j) of the definition ***salary deferral arrangement*** in subsection 248(1) that would, but for paragraphs (j) and (k) of that definition, be a salary deferral arrangement, or

(ii) a plan or arrangement that would, but for paragraph 6801(c) of the *Income Tax Regulations*, be a salary deferral arrangement,

to the extent that the benefit can reasonably be considered to be attributable to services rendered by the individual in Canada;

a) les espèces qui ont cours légal au Canada et les dépôts de telles espèces;

b) les biens qui seraient des droits, participations ou intérêts exclus du particulier s'il n'était pas tenu compte des alinéas c), j) et l) de la définition de ***droit, participation ou intérêt exclu*** au présent paragraphe;

c) si le particulier n'est pas une fiducie et n'a pas résidé au Canada pendant plus de 60 mois au cours de la période de 120 mois se terminant au moment donné, les biens visés au sous-alinéa (4)b)(iv) qui ne sont pas des biens canadiens imposables;

d) tout bien à usage personnel dont la juste valeur marchande, au moment donné, est inférieure à 10 000 $. (*reportable property*)

droit, participation ou intérêt exclu Sont des droits, participations ou intérêts exclus d'un contribuable qui est un particulier :

a) le droit du particulier en vertu d'un des mécanismes ci-après ou sa participation dans une fiducie régie par l'un de ces mécanismes :

(i) régime enregistré d'épargne-retraite ou régime appelé « régime modifié » au paragraphe 146(12),

(ii) fonds enregistré de revenu de retraite,

(iii) régime enregistré d'épargne-études,

(iii.1) régime enregistré d'épargne-invalidité,

(iii.2) compte d'épargne libre d'impôt,

(iv) régime de participation différée aux bénéfices ou régime appelé « régime dont l'agrément est retiré » au paragraphe 147(15),

(v) régime de participation des employés aux bénéfices,

(vi) régime de prestations aux employés (sauf un régime visé aux sous-alinéas b)(i) ou (ii)),

(vi.1) fiducie de soins de santé au bénéfice d'employés,

(vii) régime ou mécanisme (sauf un régime de prestations aux employés) en vertu duquel le particulier a le droit de recevoir au cours d'une année une rémunération au titre de services qu'il a rendus au cours de cette année ou d'une année antérieure,

(c) a right of the individual under an agreement referred to in subsection 7(1);

(d) a right of the individual to a retiring allowance;

(e) a right of the individual under, or an interest of the individual in, a trust that is

(i) an employee trust,

(ii) an amateur athlete trust,

(iii) a cemetery care trust, or

(iv) a trust governed by an eligible funeral arrangement;

(f) a right of the individual to receive a payment under

(i) an annuity contract, or

(ii) an income-averaging annuity contract;

(g) a right of the individual to a benefit under

(i) the *Canada Pension Plan* or a provincial plan described in section 3 of that Act,

(ii) the *Old Age Security Act*, or

(iii) [Repealed, 2011, c. 24, s. 43]

(iv) a plan or arrangement instituted by the social security legislation of a country other than Canada or of a state, province or other political subdivision of such a country;

(h) a right of the individual to a benefit described in any of subparagraphs 56(1)(a)(iii) to (vi);

(i) a right of the individual to a payment out of a NISA Fund No. 2;

(j) an interest of the individual in a personal trust resident in Canada if the interest was never acquired for consideration and did not arise as a consequence of a qualifying disposition by the individual (within the meaning that would be assigned by subsection 107.4(1) if that subsection were read without reference to paragraphs 107.4(1)(h) and (i));

(k) an interest of the individual in a non-resident testamentary trust that is an estate that arose on and as a consequence of a death if

(i) the interest was never acquired for consideration, and

(viii) caisse ou régime de retraite ou de pension (sauf un régime de prestations aux employés),

(ix) convention de retraite,

(x) mécanisme de retraite étranger,

(xi) régime enregistré de prestations supplémentaires de chômage;

b) le droit du particulier à une prestation prévue par un régime de prestations aux employés visé ci-après, dans la mesure où il est raisonnable de considérer que la prestation est imputable à des services rendus par le particulier au Canada :

(i) régime ou mécanisme visé à l'alinéa j) de la définition de ***entente d'échelonnement du traitement*** au paragraphe 248(1) qui serait une entente d'échelonnement du traitement si ce n'était les alinéas j) et k) de cette définition,

(ii) régime ou mécanisme qui serait une entente d'échelonnement du traitement si ce n'était l'alinéa 6801c) du *Règlement de l'impôt sur le revenu*;

c) le droit du particulier en vertu d'une convention visée au paragraphe 7(1);

d) le droit du particulier à une allocation de retraite;

e) le droit du particulier en vertu d'une des fiducies ci-après ou sa participation dans une telle fiducie :

(i) fiducie d'employés,

(ii) fiducie au profit d'un athlète amateur,

(iii) fiducie pour l'entretien d'un cimetière,

(iv) fiducie régie par un arrangement de services funéraires;

f) le droit du particulier de recevoir un paiement dans le cadre d'un des contrats suivants :

(i) contrat de rente,

(ii) contrat de rente à versements invariables;

g) le droit du particulier à une prestation prévue par :

(i) le *Régime de pensions du Canada* ou un régime provincial de pensions au sens de l'article 3 de cette loi,

(ii) la *Loi sur la sécurité de la vieillesse*,

(ii) the estate has been in existence for no more than 36 months; or

(l) an interest of the individual in a life insurance policy in Canada, except for that part of the policy in respect of which the individual is deemed by paragraph 138.1(1)(e) to have an interest in a related segregated fund trust. (*droit, participation ou intérêt exclu*)

reportable property of an individual at a particular time means any property other than

(a) money that is legal tender in Canada and deposits of such money;

(b) property that would be an excluded right or interest of the individual if the definition ***excluded right or interest*** in this subsection were read without reference to paragraphs (c), (j) and (l) of that definition;

(c) if the individual is not a trust and was not, during the 120-month period that ends at the particular time, resident in Canada for more than 60 months, property described in subparagraph (4)(b)(iv) that is not taxable Canadian property; and

(d) any item of personal-use property the fair market value of which, at the particular time, is less than $10,000. (*bien à déclarer*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 21, s. 62; 1998, c. 19, ss. 36, 153; 1999, c. 22, s. 52; 2001, c. 17, s. 123; 2007, c. 35, s. 113; 2008, c. 28, s. 20; 2010, c. 12, s. 15, c. 25, s. 28; 2011, c. 24, s. 43; 2012, c. 31, s. 30; 2013, c. 34, ss. 14, 73, 130, 273; 2014, c. 39, s. 46; 2016, c. 12, s. 46.

(iii) [Abrogé, 2011, ch. 24, art. 43]

(iv) un régime ou mécanisme institué par la législation en matière de sécurité sociale d'un pays étranger ou d'un état, d'une province ou d'une autre subdivision politique d'un tel pays;

h) le droit du particulier à une prestation ou à un avantage visé à l'un des sous-alinéas 56(1)a)(iii) à (vi);

i) le droit du particulier à un paiement provenant d'un second fonds de stabilisation du revenu net;

j) la participation du particulier dans une fiducie personnelle résidant au Canada, qui n'a jamais été acquise moyennant contrepartie et qui ne découle pas d'une disposition admissible (au sens du paragraphe 107.4(1) compte non tenu des alinéas 107.4(1)h) et i)) effectuée par lui;

k) la participation du particulier dans une fiducie testamentaire non-résidente qui est une succession qui a commencé à exister au décès d'un particulier et par suite de ce décès si, à la fois :

(i) la participation n'a jamais été acquise moyennant contrepartie,

(ii) la succession existe depuis au plus 36 mois;

l) l'intérêt du particulier dans une police d'assurance-vie au Canada, à l'exception de la partie de la police relativement à laquelle le particulier est réputé par l'alinéa 138.1(1)e) avoir une participation dans une fiducie créée à l'égard d'un fonds réservé. (*excluded right or interest*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 21, art. 62; 1998, ch. 19, art. 36 et 153; 1999, ch. 22, art. 52; 2001, ch. 17, art. 123; 2007, ch. 35, art. 113; 2008, ch. 28, art. 20; 2010, ch. 12, art. 15, ch. 25, art. 28; 2011, ch. 24, art. 43; 2012, ch. 31, art. 30; 2013, ch. 34, art. 14, 73, 130 et 273; 2014, ch. 39, art. 46; 2016, ch. 12, art. 46.

Cross-border mergers

128.2 (1) Where a corporation formed at a particular time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, 2 or more corporations (each of which is referred to in this section as a "predecessor") is at the particular time resident in Canada, a predecessor that was not immediately before the particular time resident in Canada shall be deemed to have become resident in Canada immediately before the particular time.

Idem

(2) Where a corporation formed at a particular time by the amalgamation or merger of, or by a plan of arrangement or other corporate reorganization in respect of, 2 or

Unifications transfrontalières — Société résident

128.2 (1) Lorsqu'une société issue, à un moment donné, de la fusion ou de l'unification de plusieurs sociétés (chacune étant appelée « société remplacée » au présent article), ou de la mise sur pied d'un arrangement ou autre réorganisation les concernant, réside alors au Canada, toute société remplacée qui ne résidait pas au Canada immédiatement avant ce moment est réputée avoir commencé à y résider immédiatement avant le moment donné.

Unifications transfrontalières — Société non-résidente

(2) Lorsqu'une société issue, à un moment donné, de la fusion ou de l'unification de plusieurs sociétés, ou de la mise sur pied d'un arrangement ou autre réorganisation

more corporations is at the particular time not resident in Canada, a predecessor that was immediately before the particular timeresident in Canada shall be deemed to have ceased to be resident in Canada immediately before the particular time.

Windings-up excluded

(3) For greater certainty, subsections 128.2(1) and (2) do not apply to reorganizations occurring solely because of the acquisition of property of one corporation by another corporation, pursuant to the purchase of the property by the other corporation or because of the distribution of the property to the other corporation on the winding-up of the corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 21, s. 62.

Former resident — replaced shares

128.3 If, in a transaction to which section 51, subparagraphs 85.1(1)(a)(i) and (ii), subsection 85.1(8) or section 86 or 87 applies, a person acquires a share (in this section referred to as the "new share") in exchange for another share or equity in a SIFT wind-up entity (in this section referred to as the "old share"), for the purposes of section 119, subsections 126(2.21) to (2.23), subparagraph 128.1(4)(b)(iv) and subsections 128.1(6) to (8), 180.1(1.4) and 220(4.5) and (4.6), the person is deemed not to have disposed of the old share, and the new share is deemed to be the same share as the old share.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 125; 2009, c. 2, s. 43; 2013, c. 34, s. 274.

Private Corporations

Dividend refund to private corporation

129 (1) Where a return of a corporation's income under this Part for a taxation year is made within 3 years after the end of the year, the Minister

(a) may, on sending the notice of assessment for the year, refund without application an amount (in this Act referred to as its "dividend refund" for the year) equal to the lesser of

(i) 38 1/3% of all taxable dividends paid by the corporation on shares of its capital stock in the year and at a time when it was a private corporation, and

(ii) its refundable dividend tax on hand at the end of the year; and

(b) shall, with all due dispatch, make the dividend refund after sending the notice of assessment if an

les concernant, ne réside pas alors au Canada, toute société remplacée qui résidait au Canada immédiatement avant ce moment est réputée avoir cessé d'y résider immédiatement avant le moment donné.

Exclusion

(3) Il est entendu que les paragraphes (1) et (2) ne s'appliquent pas aux réorganisations effectuées uniquement en raison de l'acquisition des biens d'une société par une autre société soit par achat de ces biens, soit en raison de la distribution de tels biens à l'autre société à l'occasion de la liquidation de la société.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 21, art. 62.

Ancien résident — actions remplacées

128.3 La personne qui, dans le cadre d'une opération à laquelle s'appliquent l'article 51, les sous-alinéas 85.1(1)a)(i) et (ii), le paragraphe 85.1(8) ou les articles 86 ou 87, acquiert une action (appelée « nouvelle action » au présent article) en échange d'une autre action ou d'un intérêt dans une EIPD convertible (appelé « ancienne action » au présent article) est réputée, pour l'application de l'article 119, des paragraphes 126(2.21) à (2.23), du sous-alinéa 128.1(4)b)(iv) et des paragraphes 128.1(6) à (8), 180.1(1.4) et 220(4.5) et (4.6), ne pas avoir disposé de l'ancienne action. De plus, la nouvelle action est réputée être la même action que l'ancienne action.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 125; 2009, ch. 2, art. 43; 2013, ch. 34, art. 274.

Sociétés privées

Remboursement au titre de dividendes à une société privée

129 (1) Lorsque la déclaration de revenu d'une société en vertu de la présente partie pour une année d'imposition est faite dans les trois ans suivant la fin de l'année, le ministre :

a) peut, lors de l'envoi de l'avis de cotisation pour l'année, rembourser, sans que demande en soit faite, une somme (appelée « remboursement au titre de dividendes » dans la présente loi) égale à la moins élevée des sommes suivantes :

(i) 38 1/3 % de l'ensemble des dividendes imposables que la société a versés sur des actions de son capital-actions au cours de l'année et à un moment où elle était une société privée,

(ii) son impôt en main remboursable au titre de dividendes, à la fin de l'année;

application for it has been made in writing by the corporation within the period within which the Minister would be allowed under subsection 152(4) to assess tax payable under this Part by the corporation for the year if that subsection were read without reference to paragraph 152(4)(a).

b) doit effectuer le remboursement au titre de dividendes avec diligence après avoir envoyé l'avis de cotisation, si la société en fait la demande par écrit au cours de la période pendant laquelle le ministre pourrait établir, aux termes du paragraphe 152(4), une cotisation concernant l'impôt payable en vertu de la présente partie par la société pour l'année si ce paragraphe s'appliquait compte non tenu de son alinéa a).

Dividends paid to bankrupt controlling corporation

(1.1) In determining the dividend refund for a taxation year ending after 1977 of a particular corporation, no amount may be included by virtue of subparagraph 129(1)(a)(i) in respect of a taxable dividend paid to a shareholder that

(a) was a corporation that controlled (within the meaning assigned by subsection 186(2)) the particular corporation at the time the dividend was paid; and

(b) was a bankrupt (within the meaning assigned by subsection 128(3)) at any time during that taxation year of the particular corporation.

Dividende versé à la société détenant le contrôle qui est en faillite

(1.1) Dans le calcul du remboursement au titre de dividendes pour une année d'imposition se terminant après 1977 d'une société donnée, aucun montant ne peut être inclus en vertu du sous-alinéa (1)a)(i) à l'égard d'un dividende imposable versé à un actionnaire :

a) d'une part, qui était une société qui détenait le contrôle (au sens du paragraphe 186(2)) de la société donnée au moment du versement du dividende;

b) d'autre part, qui était en faillite (au sens du paragraphe 128(3)) à un moment donné de l'année d'imposition de la société donnée.

Dividends deemed not to be taxable dividends

(1.2) Where a dividend is paid on a share of the capital stock of a corporation and the share (or another share for which the share was substituted) was acquired by its holder in a transaction or as part of a series of transactions one of the main purposes of which was to enable the corporation to obtain a dividend refund, the dividend shall, for the purpose of subsection 129(1), be deemed not to be a taxable dividend.

Dividendes réputés non imposables

(1.2) Pour l'application du paragraphe (1), le dividende versé sur une action du capital-actions d'une société est réputé ne pas être un dividende imposable si l'actionnaire a acquis l'action — ou une action qui lui est substituée — par une opération, ou dans le cadre d'une série d'opérations, dont un des principaux objets consistait à permettre à la société d'obtenir un remboursement au titre de dividendes.

Application to other liability

(2) Instead of making a refund that might otherwise be made under subsection 129(1), the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refundable to that other liability and notify the corporation of that action.

Imputation sur une autre obligation

(2) Au lieu d'effectuer le remboursement qui pourrait autrement être fait en vertu du paragraphe (1), le ministre peut, lorsque la société est tenue de faire un paiement en vertu de la présente loi, ou est sur le point de l'être, imputer sur cette autre obligation la somme qui serait par ailleurs remboursable et en aviser la société.

Interest on dividend refund

(2.1) Where a dividend refund for a taxation year is paid to, or applied to a liability of, a corporation, the Minister shall pay or apply interest on the refund at the prescribed rate for the period beginning on the day that is the later of

(a) the day that is 120 days after the end of the year, and

Intérêts sur les remboursements au titre de dividendes

(2.1) Lorsque le montant d'un remboursement au titre de dividendes pour une année d'imposition est payé à une société, ou imputé sur une somme dont elle est redevable, le ministre paie ou impute sur ce montant des intérêts calculés au taux prescrit pour la période allant du dernier en date des jours suivants jusqu'au jour où le montant est payé ou imputé :

a) le cent vingtième jour suivant la fin de l'année;

(b) the day that is 30 days after the day on which the corporation's return of income under this Part for the year was filed under section 150, unless the return was filed on or before the day on or before which it was required to be filed,

and ending on the day on which the refund is paid or applied.

b) le trentième jour suivant le jour où la déclaration de revenu de la société pour l'année en vertu de la présente partie est produite en conformité avec l'article 150, sauf si elle a été produite au plus tard le jour où elle devait l'être.

Excess interest on dividend refund

(2.2) Where, at any particular time, interest has been paid to, or applied to a liability of, a corporation under subsection 129(2.1) in respect of a dividend refund and it is determined at a subsequent time that the dividend refund was less than that in respect of which interest was so paid or applied,

(a) the amount by which the interest that was so paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the dividend refund shall be deemed to be an amount (in this subsection referred to as the "amount payable") that became payable under this Part by the corporation at the particular time;

(b) the corporation shall pay to the Receiver General interest at the prescribed rate on the amount payable, computed from the particular time to the day of payment; and

(c) the Minister may at any time assess the corporation in respect of the amount payable and, where the Minister makes such an assessment, the provisions of Divisions I and J apply, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

Intérêts excédentaires sur les remboursements au titre de dividendes

(2.2) Lorsque, à un moment donné, des intérêts ont été, en application du paragraphe (2.1), payés à une société, ou imputés sur une somme dont elle est redevable, relativement à un remboursement au titre de dividendes et qu'il est établi ultérieurement que le montant du remboursement était inférieur au montant à l'égard duquel les intérêts ont été ainsi payés ou imputés, les règles suivantes s'appliquent :

a) l'excédent des intérêts ainsi payés ou imputés sur le montant ultérieurement établi comme étant le montant du remboursement au titre de dividendes est réputé être un montant (appelé « montant payable » au présent paragraphe) devenu payable par la société au moment donné en vertu de la présente partie;

b) la société paie au receveur général des intérêts sur le montant payable, calculés au taux prescrit pour la période allant du moment donné jusqu'au jour du paiement;

c) le ministre peut, à tout moment, établir une cotisation à l'égard de la société pour le montant payable; le cas échéant, les dispositions des sections I et J s'appliquent à la cotisation, avec les adaptations nécessaires, comme si elle avait été établie en application de l'article 152.

Definition of *refundable dividend tax on hand*

(3) In this section, ***refundable dividend tax on hand*** of a corporation at the end of a taxation year means the amount, if any, by which the total of

(a) where the corporation was a Canadian-controlled private corporation throughout the year, the least of

(i) the amount determined by the formula

A - B

where

A is 30 2/3% of the corporation's aggregate investment income for the year, and

B is the amount, if any, by which

Calcul de l'impôt en main remboursable au titre de dividendes

(3) Pour l'application du présent article, l'impôt en main remboursable au titre de dividendes d'une société à la fin d'une année d'imposition donnée correspond à l'excédent éventuel du total des montants suivants sur son remboursement au titre de dividendes pour son année d'imposition précédente :

a) dans le cas où la société est une société privée sous contrôle canadien tout au long de l'année donnée, le moins élevé des montants suivants :

(i) le résultat du calcul suivant :

A - B

où :

(I) the amount deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part

exceeds

(II) 8% of its foreign investment income for the year,

(ii) 30 2/3% of the amount, if any, by which the corporation's taxable income for the year exceeds the total of

(A) the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year,

(B) 100/(38 2/3) of the total of amounts deducted under subsection 126(1) from its tax for the year otherwise payable under this Part, and

(C) the amount determined by multiplying the total of amounts deducted under subsection 126(2) from its tax for the year otherwise payable under this Part, by the relevant factor for the year, and

(iii) the corporation's tax for the year payable under this Part,

(b) the total of the taxes under Part IV payable by the corporation for the year, and

(c) where the corporation was a private corporation at the end of its preceding taxation year, the corporation's refundable dividend tax on hand at the end of that preceding year

exceeds

(d) the corporation's dividend refund for its preceding taxation year.

A représente 30 2/3 % de son revenu de placement total pour cette année,

B l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) la somme déduite, en application du paragraphe 126(1), de son impôt payable par ailleurs pour cette année en vertu de la présente partie,

(B) 8 % de son revenu de placement étranger pour cette année,

(ii) 30 2/3 % de l'excédent éventuel de son revenu imposable pour cette année sur le total des montants suivants :

(A) le moins élevé des montants déterminés selon les alinéas 125(1)a) à c) à son égard pour cette année,

(B) les 100/(38 2/3) du total des sommes déduites, en application du paragraphe 126(1), de son impôt payable par ailleurs pour cette année en vertu de la présente partie,

(C) le résultat de la multiplication du total des sommes déduites, en application du paragraphe 126(2), de son impôt payable par ailleurs pour cette année en vertu de la présente partie, par le facteur de référence pour l'année,

(iii) son impôt pour cette année payable en vertu de la présente partie;

b) le total des impôts payables par la société pour l'année donnée en vertu de la partie IV;

c) dans le cas où la société était une société privée à la fin de son année d'imposition précédente, son impôt en main remboursable au titre de dividendes à la fin de cette année.

Application

(3.1) Where, in a taxation year that begins after November 12, 1981, a corporation that last became a private corporation on or before that date and that was throughout the year a private corporation, other than a Canadian-controlled private corporation, has included in its income for the year an amount in respect of property that the corporation

(a) disposed of before November 13, 1981,

(b) was obligated to dispose of under the terms of an agreement in writing entered into before November 13, 1981, or

Application

(3.1) Dans le cas où, au cours d'une année d'imposition commençant après le 12 novembre 1981, une société, qui est devenue une société privée la dernière fois à cette date ou antérieurement et qui a été une telle société (sauf une société privée sous contrôle canadien) tout au long de l'année, a inclus dans son revenu pour l'année un montant au titre d'un bien, l'alinéa 3a) s'applique comme si elle avait été une société privée sous contrôle canadien tout au long de l'année, s'il s'agit d'un bien dont la société, selon le cas :

a) a disposé avant le 13 novembre 1981;

(c) is deemed by subsection 44(2) to have disposed of at any time after November 12, 1981 because of an event referred to in paragraph (b), (c) or (d) of the definition ***proceeds of disposition*** in section 54 in respect of the disposition that occurred before November 13, 1981,

paragraph 3(a) shall apply as if the corporation were a Canadian-controlled private corporation throughout the year, except that the total of the amounts determined under that paragraph in respect of the corporation for the year shall not exceed the amount that would be so determined if the only income of the corporation for the year were the amount included in respect of the disposition of such property.

(3.2) to (3.5) [Repealed, 1996, c. 21, s. 32(2)]

Definitions

(4) The definitions in this subsection apply in this section.

aggregate investment income of a corporation for a taxation year means the amount, if any, by which the total of all amounts, each of which is

(a) the amount, if any, by which

(i) the eligible portion of the corporation's taxable capital gains for the year

exceeds the total of

(ii) the eligible portion of its allowable capital losses for the year, and

(iii) the amount, if any, deducted under paragraph 111(1)(b) in computing its taxable income for the year, or

(b) the corporation's income for the year from a source that is a property, other than

(i) exempt income,

(ii) an amount included under subsection 12(10.2) in computing the corporation's income for the year,

(iii) the portion of any dividend that was deductible in computing the corporation's taxable income for the year, and

(iv) income that, but for paragraph 108(5)(a), would not be income from a property,

b) était tenue de disposer aux termes d'une convention écrite conclue avant le 13 novembre 1981;

c) est réputée par le paragraphe 44(2) avoir disposé après le 12 novembre 1981 par suite d'un événement visé aux alinéas b), c) ou d) de la définition de ***produit de disposition*** à l'article 54 relativement à la disposition effectuée avant le 13 novembre 1981.

Toutefois, le total des montants déterminés selon l'alinéa 3a) relativement à la société pour l'année ne peut dépasser le montant qui serait ainsi déterminé si le seul revenu de la société pour l'année était le montant inclus relativement à la disposition du bien en question.

(3.2) à (3.5) [Abrogés, 1996, ch. 21, art. 32(2)]

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

fraction admissible Le total des montants représentant chacun la fraction d'un gain en capital imposable ou d'une perte en capital déductible, selon le cas, d'une société pour une année d'imposition résultant de la disposition d'un bien, qu'il n'est pas raisonnable de considérer (sauf si le bien est un bien désigné, au sens du paragraphe 89(1)) comme s'étant accumulée pendant que le bien, ou un bien de remplacement, appartenait à une société qui n'est pas une société privée sous contrôle canadien, une société de placement, une société de placement hypothécaire ou une société de placement à capital variable. (*eligible portion*)

perte La perte d'une société pour une année d'imposition provenant d'une source qui est un bien :

a) comprend la perte provenant d'une entreprise de placement déterminée qu'elle exploite au Canada, sauf celle provenant d'une source à l'étranger;

b) ne comprend pas la perte résultant d'un bien qui, selon le cas :

(i) se rapporte directement ou accessoirement à une entreprise qu'elle exploite activement;

(ii) est utilisé ou détenu principalement pour tirer un revenu d'une entreprise qu'elle exploite activement. (*income* ou *loss*)

revenu Le revenu d'une société pour une année d'imposition tiré d'une source qui est un bien :

exceeds the total of all amounts, each of which is the corporation's loss for the year from a source that is a property. (*revenu de placement total*)

Canadian investment income [Repealed, 1996, c. 21, s. 32(2)]

eligible portion of a corporation's taxable capital gains or allowable capital losses for a taxation year is the total of all amounts each of which is the portion of a taxable capital gain or an allowable capital loss, as the case may be, of the corporation for the year from a disposition of a property that, except where the property was a designated property (within the meaning assigned by subsection 89(1)), cannot reasonably be regarded as having accrued while the property, or a property for which it was substituted, was property of a corporation other than a Canadian-controlled private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation. (*fraction admissible*)

foreign investment income of a corporation for a taxation year is the amount that would be its aggregate investment income for the year if

(a) every amount of its income, loss, capital gain or capital loss for the year that can reasonably be regarded as being from a source in Canada were nil,

(b) no amount were deducted under paragraph 111(1)(b) in computing its taxable income for the year, and

(c) this Act were read without reference to paragraph (a) of the definition ***income*** or ***loss*** in this subsection. (*revenu de placement étranger*)

income or ***loss*** of a corporation for a taxation year from a source that is a property

(a) includes the income or loss from a specified investment business carried on by it in Canada other than income or loss from a source outside Canada, but

(b) does not include the income or loss from any property

(i) that is incident to or pertains to an active business carried on by it, or

(ii) that is used or held principally for the purpose of gaining or producing income from an active business carried on by it. (*perte* ou *revenu*)

a) comprend le revenu tiré d'une entreprise de placement déterminée qu'elle exploite au Canada, sauf celui tiré d'une source à l'étranger;

b) ne comprend pas le revenu tiré d'un bien qui, selon le cas :

(i) se rapporte directement ou accessoirement à une entreprise qu'elle exploite activement;

(ii) est utilisé ou détenu principalement pour tirer un revenu d'une entreprise qu'elle exploite activement. (*income* ou *loss*)

revenu de placement étranger Quant à une société pour une année d'imposition, le montant qui représenterait son revenu de placement total pour l'année si, à la fois :

a) chaque montant qui représente son revenu, sa perte, son gain en capital ou sa perte en capital pour l'année et qu'il est raisonnable de considérer comme tiré d'une source au Canada était nul;

b) aucun montant n'était déduit en application de l'alinéa 111(1)b) dans le calcul de son revenu imposable pour l'année;

c) il n'était pas tenu compte de l'alinéa a) des définitions de ***perte*** et ***revenu*** au présent paragraphe. (*foreign investment income*)

revenu de placement total Quant à une société pour une année d'imposition, l'excédent éventuel du total des montants représentant chacun l'un des montants suivants sur le total des montants représentant chacun la perte de la société pour l'année provenant d'une source qui est un bien :

a) l'excédent éventuel de la fraction admissible de ses gains en capital imposables pour l'année sur le total des montants suivants :

(i) la fraction admissible de ses pertes en capital déductibles pour l'année,

(ii) le montant déduit en application de l'alinéa 111(1)b) dans le calcul de son revenu imposable pour l'année;

b) son revenu pour l'année tiré d'une source qui est un bien, à l'exception des montants suivants :

(i) le revenu exonéré,

(ii) un montant inclus en application du paragraphe 12(10.2) dans le calcul de son revenu pour l'année,

(iii) la fraction d'un dividende qui était déductible dans le calcul de son revenu imposable pour l'année,

(iv) le revenu qui, n'eût été l'alinéa 108(5)a), ne serait pas un revenu de biens. (*aggregate investment income*)

revenu de placements à l'étranger [Abrogée, 1996, ch. 21, art. 32(2)]

revenu de placements au Canada [Abrogée, 1996, ch. 21, art. 32(2)]

(4.1) to (5) [Repealed, 1996, c. 21, s. 32(2)]

(4.1) à (5) [Abrogés, 1996, ch. 21, art. 32(2)]

Investment income from associated corporation deemed to be active business income

(6) Where any particular amount paid or payable to a corporation (in this subsection referred to as the "recipient corporation") by another corporation (in this subsection referred to as the "associated corporation") with which the recipient corporation was associated in any particular taxation year commencing after 1972, would otherwise be included in computing the income of the recipient corporation for the particular year from a source in Canada that is a property, the following rules apply:

(a) for the purposes of subsection 129(4), in computing the recipient corporation's income for the year from a source in Canada that is a property,

(i) there shall not be included any portion (in this subsection referred to as the "deductible portion") of the particular amount that was or may be deductible in computing the income of the associated corporation for any taxation year from an active business carried on by it in Canada, and

(ii) no deduction shall be made in respect of any outlay or expense, to the extent that that outlay or expense may reasonably be regarded as having been made or incurred by the recipient corporation for the purpose of gaining or producing the deductible portion; and

(b) for the purposes of this subsection and section 125,

(i) the deductible portion shall be deemed to be income of the recipient corporation for the particular

Revenu de placements provenant d'une société associée réputé être un revenu provenant d'une entreprise exploitée activement

(6) Lorsqu'une somme déterminée payée ou payable à une société (appelée « la société bénéficiaire » au présent paragraphe) par une autre société (appelée la « société associée » au présent paragraphe) à laquelle la société bénéficiaire était associée au cours d'une année d'imposition donnée commençant après 1972 serait par ailleurs incluse dans le calcul du revenu de la société bénéficiaire, pour l'année donnée, provenant d'une source au Canada qui est un bien, les règles suivantes s'appliquent :

a) pour l'application du paragraphe (4), dans le calcul du revenu de la société bénéficiaire, pour l'année, provenant d'une source au Canada qui est un bien :

(i) ne sera pas incluse toute partie (appelée la « partie déductible » au présent paragraphe) de la somme déterminée qui était ou peut être déductible dans le calcul du revenu de la société associée, pour une année d'imposition, provenant d'une entreprise exploitée activement par elle au Canada,

(ii) aucune déduction n'est faite à l'égard d'une dépense, dans la mesure où il est raisonnable de considérer cette dépense comme engagée ou effectuée par la société bénéficiaire en vue de tirer la partie déductible;

b) pour l'application du présent paragraphe et de l'article 125 :

(i) la partie déductible est réputée constituer pour l'année donnée un revenu de la société bénéficiaire tiré d'une entreprise qu'elle exploite activement au Canada,

year from an active business carried on by it in Canada, and

(ii) any outlay or expense, to the extent described in subparagraph 129(6)(a)(ii), shall be deemed to have been made or incurred by the recipient corporation for the purpose of gaining or producing that income.

(ii) une dépense, dans la mesure indiquée au sous-alinéa a)(ii), est réputée avoir été engagée ou effectuée par la société bénéficiaire en vue de tirer ce revenu.

Meaning of *taxable dividend*

(7) For the purposes of this section, ***taxable dividend*** does not include a capital gains dividend within the meaning assigned by subsection 131(1).

Définition de *dividende imposable*

(7) Pour l'application du présent article, le terme ***dividende imposable*** ne vise pas un dividende sur les gains en capital, au sens du paragraphe 131(1).

Application of s. 125

(8) Expressions used in this section and not otherwise defined for the purposes of this section have the same meanings as in section 125.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 129; 1994, c. 7, Sch. II, s. 108, Sch. VIII, s. 73; 1996, c. 21, s. 32; 1998, c. 19, s. 154; 2001, c. 17, s. 126; 2003, c. 15, s. 111; 2010, c. 25, s. 29; 2013, c. 34, s. 275; 2016, c. 11, s. 7.

Application de l'art. 125

(8) Les termes figurant au présent article et qui ne sont pas définis pour l'application de celui-ci s'entendent au sens de l'article 125.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 129; 1994, ch. 7, ann. II, art. 108, ann. VIII, art. 73; 1996, ch. 21, art. 32; 1998, ch. 19, art. 154; 2001, ch. 17, art. 126; 2003, ch. 15, art. 111; 2010, ch. 25, art. 29; 2013, ch. 34, art. 275; 2016, ch. 11, art. 7.

Investment Corporations

Deduction from tax

130 (1) A corporation that was, throughout a taxation year, an investment corporation may deduct from the tax otherwise payable by it under this Part for the year an amount equal to 20% of the amount, if any, by which its taxable income for the year exceeds its taxed capital gains for the year.

Application of subsections 131(1) to (3.2), (4.1) and (6)

(2) Where a corporation was an investment corporation throughout a taxation year (other than a corporation that was a mutual fund corporation throughout the year), subsections 131(1) to (3.2), (4.1) and (6) apply in respect of the corporation for the year

(a) as if the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation; and

(b) as if its capital gains redemptions for that and all previous taxation years ending after 1971, throughout which it would, but for the assumption made by paragraph 130(2)(a), not have been a mutual fund corporation, were nil.

Sociétés de placement

Crédit d'impôt applicable aux sociétés de placement

130 (1) La société qui est tout au long d'une année d'imposition une société de placement peut déduire de son impôt payable par ailleurs pour l'année en vertu de la présente partie 20 % de l'excédent éventuel de son revenu imposable pour l'année sur ses gains en capital imposés pour l'année.

Application des paragraphes 131(1) à (3.2), (4.1) et (6)

(2) Les paragraphes 131(1) à (3.2), (4.1) et (6) s'appliquent, pour une année d'imposition, relativement à la société qui a été une société de placement autre qu'une société de placement à capital variable tout au long de l'année :

a) comme si la société avait été une société de placement à capital variable tout au long de cette année d'imposition et pendant toutes les années se terminant après 1971 et tout au long desquelles elle a été une société de placement;

b) comme si les remboursements au titre de ses gains en capital, pour cette année d'imposition et pendant toutes les années d'imposition se terminant après 1971 et tout au long desquelles elle n'aurait pas été une société de placement à capital variable, sans l'hypothèse envisagée à l'alinéa a), étaient nuls.

Meaning of expressions *investment corporation* and *taxed capital gains*

(3) For the purposes of this section,

(a) a corporation is an ***investment corporation*** throughout any taxation year in respect of which the expression is being applied if it complied with the following conditions:

(i) it was throughout the year a Canadian corporation that was a public corporation,

(ii) at least 80% of its property throughout the year consisted of shares, bonds, marketable securities or cash,

(iii) not less than 95% of its income (determined without reference to subsection 49(2)) for the year was derived from, or from dispositions of, investments described in subparagraph 130(3)(a)(ii),

(iv) not less than 85% of its gross revenue for the year was from sources in Canada,

(v) not more than 25% of its gross revenue for the year was from interest,

(vi) at no time in the year did more than 10% of its property consist of shares, bonds or securities of any one corporation or debtor other than Her Majesty in right of Canada or of a province or a Canadian municipality,

(vii) no person would have been a specified shareholder of the corporation in the year if

(A) the portion of the definition ***specified shareholder*** in subsection 248(1) before paragraph (a) were read as follows:

"***specified shareholder*** of a corporation in a taxation year means a taxpayer who owns, directly or indirectly, at any time in the year, more than 25% of the issued shares of any class of the capital stock of the corporation and, for the purposes of this definition,"

(B) paragraph (a) of that definition were read as follows:

"(a) a taxpayer is deemed to own each share of the capital stock of a corporation owned at that time by a person related to the taxpayer,"

(B.1) [Repealed, 2013, c. 34, s. 371]

(C) that definition were read without reference to paragraph (d) of that definition,

Sens de *société de placement* et de *gains en capital imposés*

(3) Pour l'application du présent article :

a) une société est une société de placement tout au long de l'année d'imposition relativement à laquelle l'expression est utilisée, si elle remplit les conditions suivantes :

(i) elle est tout au long de l'année une société canadienne qui est une société publique,

(ii) tout au long de l'année, au moins 80 % de ses biens consistent en actions, obligations, valeurs négociables ou espèce,

(iii) elle tire au moins 95 % de son revenu pour l'année, déterminé compte non tenu du paragraphe 49(2), de placements dans des valeurs visées au sous-alinéa (ii) ou de la disposition de celles-ci,

(iv) son revenu brut pour l'année provient de sources situées au Canada dans une proportion d'au moins 85 %,

(v) 25 % au plus de son revenu brut pour l'année consistent en intérêts,

(vi) les actions, obligations, valeurs de toute société ou reconnaissances de dette de tout débiteur autre que Sa Majesté du chef du Canada ou du chef d'une province, ou d'une municipalité canadienne, ne représentent, à aucun moment de l'année, plus de 10 % de ses biens,

(vii) aucune personne ne serait son actionnaire déterminé au cours de l'année si, à la fois :

(A) le passage de la définition de ***actionnaire déterminé***, au paragraphe 248(1), précédant l'alinéa a) était remplacé par ce qui suit :

« ***actionnaire déterminé*** S'agissant de l'actionnaire déterminé d'une société au cours d'une année d'imposition, contribuable qui, directement ou indirectement, à un moment donné de l'année, est propriétaire de plus de 25 % des actions émises d'une catégorie du capital-actions de la société; pour l'application de la présente définition : »

(B) l'alinéa a) de cette définition était remplacé par ce qui suit :

« a) un contribuable est réputé être propriétaire de chaque action du capital-actions d'une société appartenant à ce moment à une personne qui lui est liée; »

(C.1) [Repealed, 2013, c. 34, s. 371]

and

(D) paragraph 251(2)(a) were read as follows:

"(a) an individual and

(i) the individual's child (as defined in subsection 70(10)) who is under 19 years of age, or

(ii) the individual's spouse or common-law partner;"

(viii) an amount not less than 85% of the total of

(A) 2/3 of the amount, if any, by which its taxable income for the year exceeds its taxed capital gains for the year, and

(B) the amount, if any, by which all taxable dividends received by it in the year to the extent of the amount thereof deductible under section 112 or 113 from its income for the year exceeds the amount that the corporation's non-capital loss for the year would be if the amount determined in respect of the corporation for the year under paragraph 3(b) was nil,

(less any dividends or interest received by it in the form of shares, bonds or other securities that had not been sold before the end of the year) was distributed, otherwise than by way of capital gains dividends, to its shareholders before the end of the year; and

(b) the amount of the ***taxed capital gains*** of a taxpayer for a taxation year is the amount, if any, by which

(i) its taxable capital gains for the year from dispositions of property

exceeds

(ii) the total of its allowable capital losses for the year from dispositions of property and the amount, if any, deducted under paragraph 111(1)(b) for the purpose of computing its taxable income for the year.

(B.1) [Abrogé, 2013, ch. 34, art. 371]

(C) il n'était pas tenu compte de l'alinéa d) de cette définition,

(C.1) [Abrogé, 2013, ch. 34, art. 371]

(D) l'alinéa 251(2)a) était remplacé par ce qui suit :

« a) le particulier et les personnes suivantes :

(i) son enfant, au sens du paragraphe 70(10), âgé de moins de 19 ans,

(ii) son époux ou conjoint de fait; »

(viii) une somme non inférieure aux 85 % du total des montants suivants :

(A) les 2/3 de l'excédent éventuel de son revenu imposable pour l'année sur ses gains en capital imposés pour l'année,

(B) l'excédent éventuel des dividendes imposables reçus par elle au cours de l'année, jusqu'à concurrence du montant de ces dividendes déductible en vertu de l'article 112 ou 113 de son revenu pour l'année, sur le montant auquel s'élèveraient les pertes de la société pour l'année, à l'exclusion des pertes en capital, si le montant calculé pour l'année en vertu de l'alinéa 3b), en ce qui concerne la société, était nul,

(moins tous dividendes ou intérêts reçus par elle sous la forme d'actions, d'obligations ou d'autres valeurs qui n'avaient pas été vendues avant la fin de l'année) est distribuée, autrement que sous forme d'un dividende sur les gains en capital, à ses actionnaires avant la fin de l'année;

b) le montant des gains en capital imposés d'un contribuable pour une année d'imposition est l'excédent éventuel du montant visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) ses gains en capital imposables tirés, pour l'année, de la disposition de biens,

(ii) le total de ses pertes en capital déductibles pour l'année provenant de la disposition de biens et de la somme déduite en vertu de l'alinéa 111(1)b) pour le calcul de son revenu imposable pour l'année.

Wholly owned subsidiaries

(4) Where a corporation so elects in its return of income under this Part for a taxation year, each of the

Filiale à cent pour cent

(4) Une société peut faire un choix dans sa déclaration de revenu produite pour une année d'imposition en vertu

corporation's properties that is a share or indebtedness of another Canadian corporation that is at any time in the year a subsidiary wholly owned corporation of the corporation shall, for the purposes of subparagraphs 130(3)(a)(ii) and (vi), be deemed not to be owned by the corporation at any such time in the year, and each property owned by the other corporation at that time shall, for the purposes of those subparagraphs, be deemed to be owned by the corporation at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 130; 1994, c. 7, Sch. II, s. 109, Sch. VIII, s. 74; 1998, c. 19, s. 155; 1999, c. 22, s. 92; 2000, c. 12, s. 142; 2013, c. 34, s. 371; 2016, c. 12, s. 47.

de la présente partie pour que chacun de ses biens qui est une action ou une dette d'une autre société canadienne qui, à un moment donné de l'année, est sa filiale à cent pour cent soit réputé, pour l'application des sous-alinéas (3)a)(ii) et (vi), ne pas être la propriété de la société à ce moment, et pour que chaque bien dont la filiale est propriétaire à ce moment soit réputé, pour l'application de ces sous-alinéas, être la propriété de la société à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 130; 1994, ch. 7, ann. II, art. 109, ann. VIII, art. 74; 1998, ch. 19, art. 155; 1999, ch. 22, art. 92; 2000 ch. 12, art. 142; 2013, ch. 34, art. 371; 2016, ch. 12, art. 47.

Mortgage Investment Corporations

Deduction from tax

130.1 (1) In computing the income for a taxation year of a corporation that was, throughout the year, a mortgage investment corporation,

(a) there may be deducted the total of

(i) all taxable dividends, other than capital gains dividends, paid by the corporation during the year or within 90 days after the end of the year to the extent that those dividends were not deductible by the corporation in computing its income for the preceding year, and

(ii) 1/2 of all capital gains dividends paid by the corporation during the period commencing 91 days after the commencement of the year and ending 90 days after the end of the year; and

(b) no deduction may be made under section 112 in respect of taxable dividends received by it from other corporations.

Dividend equated to bond interest

(2) For the purposes of this Act, any amount received from a mortgage investment corporation by a shareholder of the corporation as or on account of a taxable dividend, other than a capital gains dividend, shall be deemed to have been received by the shareholder as interest payable on a bond issued by the corporation after 1971.

Application of s. (2)

(3) Subsection 130.1(2) applies where the taxable dividend (other than a capital gains dividend) described in that subsection was paid during a taxation year throughout which the paying corporation was a mortgage investment corporation or within 90 days thereafter.

Sociétés de placement hypothécaire

Déduction de l'impôt

130.1 (1) Dans le calcul du revenu, pour une année d'imposition, d'une société qui a été, tout au long de l'année, une société de placement hypothécaire :

a) peut être déduit le total des montants suivants :

(i) les dividendes imposables, autres que les dividendes sur les gains en capital, versés par la société au cours de l'année ou dans les 90 jours qui suivent la fin de l'année dans la mesure où ces dividendes ne pouvaient pas être déduits par elle dans le calcul de son revenu pour l'année précédente,

(ii) la moitié des dividendes sur les gains en capital versés par la société au cours de la période commençant 91 jours après le début de l'année et se terminant 90 jours après la fin de l'année;

b) aucune déduction ne peut être faite en vertu de l'article 112 au titre des dividendes imposables qu'elle a reçus d'autres sociétés.

Dividende assimilé à des intérêts d'obligations

(2) Pour l'application de la présente loi, tout montant reçu d'une société de placement hypothécaire par un actionnaire de celle-ci au titre d'un dividende imposable, autre qu'un dividende sur les gains en capital, est réputé avoir été reçu par l'actionnaire à titre d'intérêt payable sur une obligation émise par la société après 1971.

Application du par. (2)

(3) Le paragraphe (2) s'applique lorsque le dividende imposable (autre qu'un dividende sur les gains en capital) qui est visé à ce paragraphe a été versé soit au cours

Election re capital gains dividend

(4) Where at any particular time during the period that begins 91 days after the beginning of a taxation year of a corporation that was, throughout the year, a mortgage investment corporation and ends 90 days after the end of the year, a dividend is paid by the corporation to shareholders of the corporation, if the corporation so elects in respect of the full amount of the dividend in prescribed manner and at or before the earlier of the particular time and the first day on which any part of the dividend was paid,

(a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed the amount, if any, by which

(i) twice the taxed capital gains of the corporation for the year

exceeds

(ii) the total of all dividends, and parts of dividends, paid by the corporation during the period and before the particular time that are deemed by this paragraph to be capital gains dividends; and

(b) notwithstanding any other provision of this Act, if an amount is received by a taxpayer in a taxation year as, on account of, in lieu of payment of or in satisfaction of, the dividend, the amount

(i) shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, and

(ii) is deemed to be a capital gain of the taxpayer from the disposition of capital property in the year.

Choix concernant les dividendes sur les gains en capital

(4) La société — société de placement hypothécaire tout au long d'une année d'imposition — qui, à un moment donné de la période commençant 91 jours après le début de l'année et se terminant 90 jours après la fin de l'année, verse un dividende à ses actionnaires peut faire, selon les modalités réglementaires et au plus tard au premier en date du moment donné et du jour du premier versement d'une partie du dividende, un choix relativement au plein montant du dividende par suite duquel, à la fois :

a) le dividende est réputé être un dividende sur les gains en capital dans la mesure où il ne dépasse pas l'excédent éventuel du double des gains en capital imposés de la société pour l'année sur le total des dividendes et parties de dividendes versés par la société au cours de la période et avant le moment donné qui sont réputés par le présent alinéa être des dividendes sur les gains en capital;

b) malgré les autres dispositions de la présente loi, tout montant qu'un contribuable reçoit au cours d'une année d'imposition au titre ou en règlement total ou partiel du dividende :

(i) d'une part, n'est pas inclus dans le calcul de son revenu pour l'année à titre de revenu tiré d'une action du capital-actions de la société,

(ii) d'autre part, est réputé être un gain en capital pour lui provenant de la disposition d'une immobilisation effectuée au cours de l'année.

Application of ss. 131(1.1) to (1.4)

(4.1) Where at any particular time a mortgage investment corporation paid a dividend to its shareholders and subsection 130.1(4) would have applied to the dividend except that the corporation did not make an election under that subsection on or before the day on or before which it was required by that subsection to be made, subsections 131(1.1) to 131(1.4) apply with such modifications as the circumstances require.

(4.2) to (4.5) [Repealed, 2013, c. 34, s. 276]

Application des par. 131(1.1) à (1.4)

(4.1) Lorsque, à un moment donné, une société de placement hypothécaire a versé un dividende à ses actionnaires et que le paragraphe (4) se serait appliqué à ce dividende si la société avait fait le choix prévu à ce paragraphe au plus tard au moment où elle était tenue de le faire, les paragraphes 131(1.1) à (1.4) s'appliquent, compte tenu des adaptations de circonstance.

(4.2) à (4.5) [Abrogés, 2013, ch. 34, art. 276]

Public corporation

(5) Notwithstanding any other provision of this Act, a mortgage investment corporation shall be deemed to be a public corporation.

Meaning of *mortgage investment corporation*

(6) For the purposes of this section, a corporation is a ***mortgage investment corporation*** throughout a taxation year if, throughout the year,

(a) it was a Canadian corporation;

(b) its only undertaking was the investing of funds of the corporation and it did not manage or develop any real or immovable property;

(c) none of the property of the corporation consisted of

(i) debts owing to the corporation that were secured on real or immovable property situated outside Canada,

(ii) debts owing to the corporation by non-resident persons, except any such debts that were secured on real or immovable property situated in Canada,

(iii) shares of the capital stock of corporations not resident in Canada, or

(iv) real or immovable property situated outside Canada, or any leasehold interest in such property;

(d) there were 20 or more shareholders of the corporation and no person would have been a specified shareholder of the corporation at any time in the year if

(i) the portion of the definition ***specified shareholder*** in subsection 248(1) before paragraph (a) were read as follows:

"***specified shareholder*** of a corporation at any time means a taxpayer who owns, directly or indirectly, at that time, more than 25% of the issued shares of any class of the capital stock of the corporation and, for the purposes of this definition,"

(ii) paragraph (a) of that definition were read as follows:

"(a) a taxpayer is deemed to own each share of the capital stock of a corporation owned at that time by a person related to the taxpayer,"

Société publique

(5) Malgré les autres dispositions de la présente loi, une société de placement hypothécaire est réputée être une société publique.

Sens de *société de placement hypothécaire*

(6) Pour l'application du présent article, une société est une société de placement hypothécaire tout au long d'une année d'imposition si, tout au long de l'année, les conditions suivantes sont remplies :

a) elle est une société canadienne;

b) sa seule activité est le placement de ses fonds et elle ne gère ni ne met en valeur des biens immeubles ou réels;

c) ses biens ne sont :

(i) ni des créances garanties par des biens immeubles ou réels situés à l'étranger,

(ii) ni des créances sur des non-résidents, à l'exclusion de celles qui étaient garanties par des biens immeubles ou réels situés au Canada,

(iii) ni des actions du capital-actions de sociétés ne résidant pas au Canada,

(iv) ni des biens immeubles ou réels situés à l'étranger ni un droit de tenure à bail sur ces biens;

d) elle compte au moins vingt actionnaires, et aucune personne ne serait son actionnaire déterminé au cours de l'année si, à la fois :

(i) le passage de la définition de ***actionnaire déterminé***, au paragraphe 248(1), précédant l'alinéa a) était remplacé par ce qui suit :

« ***actionnaire déterminé*** S'agissant de l'actionnaire déterminé d'une société à un moment donné, contribuable qui, directement ou indirectement, est propriétaire à ce moment de plus de 25 % des actions émises d'une catégorie du capital-actions de la société; pour l'application de la présente définition : »

(ii) l'alinéa a) de cette définition était remplacé par ce qui suit :

« a) un contribuable est réputé être propriétaire de chaque action du capital-actions d'une société appartenant à ce moment à une personne qui lui est liée; »

(iii) il n'était pas tenu compte de l'alinéa d) de cette définition,

(iii) that definition were read without reference to paragraph (d) of that definition, and

(iv) paragraph 251(2)(a) were read as follows:

"(a) an individual and

(i) the individual's child (as defined in subsection 70(10)) who is under 18 years of age, or

(ii) the individual's spouse or common-law partner;"

(e) any holders of preferred shares of the corporation had a right, after payment to them of their preferred dividends, and payment of dividends in a like amount per share to the holders of the common shares of the corporation, to participate *pari passu* with the holders of the common shares in any further payment of dividends;

(f) the cost amount to the corporation of such of its property as consisted of

(i) debts owing to the corporation that were secured, whether by mortgages, hypothecs or in any other manner, on houses (as defined in section 2 of the *National Housing Act*) or on property included within a housing project (as defined in that section as it read on June 16, 1999), and

(ii) amounts of any deposits standing to the corporation's credit in the records of

(A) a bank or other corporation any of whose deposits are insured by the Canada Deposit Insurance Corporation or the Régie de l'assurance-dépôts du Québec, or

(B) a credit union,

plus the amount of any money of the corporation was at least 50% of the cost amount to it of all its property;

(g) the cost amount to the corporation of all real or immovable property of the corporation, including leasehold interests in such property (except real or immovable property acquired by the corporation by foreclosure or otherwise after default made on a mortgage, hypothec or agreement of sale of real or immovable property) did not exceed 25% of the cost amount to it of all its property;

(h) its liabilities did not exceed 3 times the amount by which the cost amount to it of all its property exceeded its liabilities, where at any time in the year the cost amount to it of such of its property as consisted of

(iv) l'alinéa 251(2)a) était remplacé par ce qui suit :

« a) le particulier et les personnes suivantes :

(i) son enfant, au sens du paragraphe 70(10), âgé de moins de 18 ans,

(ii) son époux ou conjoint de fait; »

e) les détenteurs d'actions privilégiées de la société ont le droit, après que leurs dividendes privilégiés leur ont été versés et que les dividendes correspondant au même montant par action ont été versés aux détenteurs d'actions ordinaires de la société, de participer à parts égales avec ces derniers à tout versement supplémentaire de dividendes;

f) le coût indiqué, pour elle, de ceux de ses biens qui consistent :

(i) en créances garanties par des maisons, au sens de l'article 2 de la *Loi nationale sur l'habitation*, ou par des biens compris dans un ensemble d'habitation, au sens de cet article dans sa version applicable au 16 juin 1999, soit sous la forme d'hypothèques, soit de toute autre manière,

(ii) en dépôts figurant à son crédit dans les livres :

(A) d'une banque ou autre société dont certains dépôts sont assurés par la Société d'assurance-dépôts du Canada ou la Régie de l'assurance-dépôts du Québec,

(B) d'une caisse de crédit,

plus le montant de son argent en caisse représentaient au moins 50 % du coût indiqué de tous ses biens;

g) le coût indiqué, pour elle, de tous ses biens immeubles ou réels, y compris les droits de tenure à bail sur ces biens (à l'exception des biens immeubles ou réels qu'elle a acquis par forclusion ou autrement, après manquement aux engagements résultant d'une hypothèque ou d'une convention de vente de biens immeubles ou réels) ne dépasse pas 25 % du coût indiqué de tous ses biens;

h) son passif n'est pas supérieur à 3 fois l'excédent du coût indiqué de tous ses biens sur son passif, si, à quelque moment de l'année, le total du coût indiqué de ceux de ses biens qui consistent en biens visés aux sous-alinéas f)(i) et (ii) et du montant de son argent représentent moins des 2/3 du coût indiqué de tous ses biens;

property described in subparagraphs 130.1(6)(f)(i) and 130.1(6)(f)(ii) plus the amount of any money of the corporation was less than 2/3 of the cost amount to it of all of its property; and

(i) its liabilities did not exceed 5 times the amount by which the cost amount to it of all its property exceeded its liabilities, where paragraph 130.1(6)(h) is not applicable.

i) lorsque l'alinéa h) n'est pas applicable, son passif n'est pas supérieur à 5 fois l'excédent du coût indiqué de tous ses biens sur son passif.

How shareholders counted

(7) In paragraph (6)(d), a trust governed by a registered pension plan or deferred profit sharing plan by which shares of the capital stock of a corporation are held shall be counted as four shareholders of the corporation for the purpose of determining the number of shareholders of the corporation, but as one shareholder for the purpose of determining whether any person is a specified shareholder (as defined for the purpose of that paragraph).

Calcul du nombre d'actionnaires

(7) À l'alinéa (6)d), la fiducie régie par un régime de pension agrée ou un régime de participation différée aux bénéfices qui détient des actions du capital-actions d'une société compte pour quatre actionnaires lorsqu'il s'agit de déterminer le nombre d'actionnaires de la société et pour un seul actionnaire lorsqu'il s'agit de déterminer si une personne est un actionnaire déterminé, au sens de cet alinéa.

First taxation year

(8) For the purposes of subsection 130.1(6), a corporation that was incorporated after 1971 shall be deemed to have complied with paragraph 130.1(6)(d) throughout the first taxation year of the corporation in which it carried on business if it complied with that paragraph on the last day of that taxation year.

Première année d'imposition

(8) Pour l'application du paragraphe (6), une société qui a été constituée après 1971 est réputée avoir rempli les conditions de l'alinéa (6)d) tout au long de sa première année d'imposition au cours de laquelle elle a exploité une entreprise si elle les remplissait le dernier jour de cette année d'imposition.

Definitions

(9) In this section,

liabilities of a corporation at any particular time means the total of all debts owing by the corporation, and all other obligations of the corporation to pay an amount, that were outstanding at that time; (*passif*)

non-qualifying real property [Repealed, 1995, c. 3, s. 40(2)]

non-qualifying taxed capital gains [Repealed, 1995, c. 3, s. 40(2)]

qualifying taxed capital gains [Repealed, 1995, c. 3, s. 40(2)]

taxed capital gains has the meaning assigned by paragraph 130(3)(b). (*gains en capital imposés*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 130.1; 1994, c. 7, Sch. VIII, s. 75; 1995, c. 3, s. 40; 1998, c. 19, s. 156; 1999, c. 22, s. 53; 2000, c. 12, s. 142; 2001, c. 17, ss. 127, 214(E); 2013, c. 34, ss. 131, 276.

Définitions

(9) Les définitions qui suivent s'appliquent au présent article.

gains en capital imposés S'entend au sens de l'alinéa 130(3)b). (*taxed capital gains*)

gains en capital imposés admissibles [Abrogée, 1995, ch. 3, art. 40(2)]

gains en capital imposés non admissibles [Abrogée, 1995, ch. 3, art. 40(2)]

immeuble non admissible [Abrogée, 1995, ch. 3, art. 40(2)]

passif Le passif d'une société à un moment donné correspond à l'ensemble de toutes les dettes de la société et de ses autres obligations de payer une somme d'argent qui étaient exigibles à ce moment. (*liabilities*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 130.1; 1994, ch. 7, ann. VIII, art. 75; 1995, ch. 3, art. 40; 1998, ch. 19, art. 156; 1999, ch. 22, art. 53; 2000, ch. 12, art. 142; 2001, ch. 17, art. 127 et 214(A); 2013, ch. 34, art. 131 et 276.

Mutual Fund Corporations

Election re capital gains dividend

131 (1) Where at any particular time a dividend became payable by a corporation, that was throughout the taxation year in which the dividend became payable a mutual fund corporation, to shareholders of any class of its capital stock, if the corporation so elects in respect of the full amount of the dividend in prescribed manner and at or before the earlier of the particular time and the first day on which any part of the dividend was paid,

(a) the dividend shall be deemed to be a capital gains dividend payable out of the corporation's capital gains dividend account to the extent that it does not exceed the corporation's capital gains dividend account atthe particular time; and

(b) notwithstanding any other provision of this Act (other than paragraph (5.1)(b)), if an amount is received by a taxpayer in a taxation year as, on account of, in lieu of payment of or in satisfaction of, the dividend, the amount

(i) shall not be included in computing the taxpayer's income for the year as income from a share of the capital stock of the corporation, and

(ii) is deemed to be a capital gain of the taxpayer from the disposition of capital property in the year.

Deemed date of election

(1.1) Where at any particular time a dividend has become payable by a mutual fund corporation to shareholders of any class of shares of its capital stock and subsection 131(1) would have applied to the dividend except that the election referred to in that subsection was not made on or before the day on or before which the election was required by that subsection to be made, the election shall be deemed to have been made at the particular time or on the first day on which any part of the dividend was paid, whichever is the earlier, if

(a) the election is thereafter made in prescribed manner and prescribed form;

(b) an estimate of the penalty in respect of the election is paid by the corporation when the election is made; and

Sociétés de placement à capital variable

Choix concernant les dividendes sur les gains en capital

131 (1) Dans le cas où, à un moment donné, un dividende devient payable par une société — société de placement à capital variable tout au long de l'année d'imposition au cours de laquelle le dividende est devenu payable — à des actionnaires détenteurs d'une catégorie quelconque de son capital-actions, la société peut faire, selon les modalités réglementaires et au plus tard au premier en date du moment donné et du jour du premier versement d'une partie du dividende, un choix relativement au plein montant du dividende par suite duquel, à la fois :

a) le dividende est réputé être un dividende sur les gains en capital payable sur le compte de dividendes sur les gains en capital de la société, dans la mesure où il ne dépasse pas le montant de ce compte au moment donné;

b) malgré les autres dispositions de la présente loi, sauf l'alinéa (5.1)b), tout montant qu'un contribuable reçoit au cours d'une année d'imposition au titre ou en règlement total ou partiel du dividende :

(i) d'une part, n'est pas inclus dans le calcul de son revenu pour l'année à titre de revenu tiré d'une action du capital-actions de la société,

(ii) d'autre part, est réputé être un gain en capital pour lui provenant de la disposition d'une immobilisation effectuée au cours de l'année.

Date présumée du choix

(1.1) Lorsque, à un moment donné, un dividende est devenu payable, par une société de placement à capital variable, à des actionnaires détenteurs d'actions d'une catégorie quelconque de son capital-actions et que le paragraphe (1) aurait été applicable à ce dividende si la société avait fait le choix prévu à ce paragraphe au plus tard au moment où elle pouvait, au plus tard, le faire, ce choix est réputé avoir été effectué au premier en date du moment donné et du premier jour du paiement d'une partie du dividende si :

a) ce choix est, par la suite, effectué selon les modalités et le formulaire réglementaires;

b) la société paie, au moment où ce choix est effectué, le montant estimatif de la pénalité afférente à ce choix;

c) les administrateurs ou la ou les autres personnes ayant le droit d'administrer les affaires de la société

(c) the directors or other person or persons legally entitled to administer the affairs of the corporation have, before the time the election is made, authorized the election to be made.

(c) ont, avant le moment où ce choix est effectué, autorisé ce choix.

Request to make election

(1.2) The Minister may at any time, by written request served personally or by registered mail, request that an election referred to in paragraph 131(1.1)(a) be made by a mutual fund corporation and where the mutual fund corporation on which such a request is served does not comply therewith within 90 days after service of the request, subsection 131(1.1) does not apply to such an election made thereafter by it.

Demande d'effectuer un choix

(1.2) Le ministre peut à tout moment, par demande écrite signifiée à personne ou par courrier recommandé, demander qu'une société de placement à capital variable effectue le choix visé à l'alinéa (1.1)a) et lorsque la société à laquelle a été signifiée cette demande ne s'y conforme pas dans les 90 jours qui suivent la signification de celle-ci, le paragraphe (1.1) ne s'applique pas à un tel choix effectué ultérieurement par la société.

Penalty

(1.3) For the purposes of this section, the penalty in respect of an election referred to in paragraph 131(1.1)(b) is an amount equal to the lesser of

(a) 1% per annum of the amount of the dividend referred to in the election for each month or part of a month during the period commencing with the time that the dividend became payable, or the first day on which any part of the dividend was paid if that day is earlier, and ending with the day on which the election was made, and

(b) the product obtained when $500 is multiplied by the proportion that the number of months or parts of months during the period referred to in paragraph 131(1.3)(a) bears to 12.

Pénalité

(1.3) Pour l'application du présent article, la pénalité afférente à un choix visé à l'alinéa (1.1)b) est un montant égal au moindre des montants suivants :

a) 1 % par année du montant du dividende visé par le choix pour chaque mois ou fraction de mois compris dans la période commençant au premier en date du moment où le dividende est devenu payable et du premier jour du paiement d'une partie du dividende, et se terminant au moment où le choix a été effectué;

b) le produit de la multiplication de 500 $ par le rapport entre le nombre de mois ou de fractions de mois compris dans la période visée à l'alinéa a) et 12.

Assessment and payment of penalty

(1.4) The Minister shall, with all due dispatch, examine each election referred to in paragraph 131(1.1)(a), assess the penalty payable and send a notice of assessment to the mutual fund corporation and the corporation shall pay forthwith to the Receiver General, the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

Imposition et paiement de la pénalité

(1.4) Le ministre, avec diligence, examine chaque choix visé à l'alinéa (1.1)a), impose la pénalité exigible et envoie un avis de cotisation à la société de placement à capital variable, qui, immédiatement, doit verser au receveur général l'excédent de la pénalité ainsi imposée sur l'ensemble des montants payés antérieurement au titre de cette pénalité.

(1.5) to (1.9) [Repealed, 2013, c. 34, s. 277]

(1.5) à (1.9) [Abrogés, 2013, ch. 34, art. 277]

Capital gains refund to mutual fund corporation

(2) Where a corporation was, throughout a taxation year, a mutual fund corporation and a return of its income for the year has been made within 3 years from the end of the year, the Minister

(a) may, on sending the notice of assessment for the year, refund an amount (in this subsection referred to as its "capital gains refund" for the year) equal to the lesser of

Remboursement au titre des gains en capital à une société de placement à capital variable

(2) Lorsqu'une société a été, tout au long d'une année d'imposition, une société de placement à capital variable et que la déclaration de son revenu pour l'année a été faite dans les 3 ans suivant la fin de l'année, le ministre :

a) peut, lors de l'envoi de l'avis de cotisation pour l'année, rembourser une somme (appelée « remboursement au titre des gains en capital » au présent paragraphe) égale au moins élevé des montants suivants :

(i) the total of

(A) 14% of the total of

(I) all capital gains dividends paid by the corporation in the period commencing 60 days after the beginning of the year and ending 60 days after the end of the year, and

(II) its capital gains redemptions for the year, and

(B) the amount, if any, that the Minister determines to be reasonable in the circumstances, after giving consideration to the percentages applicable in determining the corporation's capital gains refund for the year and preceding taxation years and the percentages applicable in determining the corporation's refundable capital gains tax on hand at the end of the year, and

(ii) the corporation's refundable capital gains tax on hand at the end of the year; and

(b) shall, with all due dispatch, make that capital gains refund after sending the notice of assessment if an application for it has been made in writing by the corporation within the period within which the Minister would be allowed under subsection 152(4) to assess tax payable under this Part by the corporation for the year if that subsection were read without reference to paragraph 152(4)(a).

(i) la somme des montants suivants :

(A) 14 % de la somme des montants suivants :

(I) les dividendes sur les gains en capital payés par la société au cours de la période commençant 60 jours après le début de l'année et se terminant 60 jours après la fin de l'année,

(II) ses rachats au titre des gains en capital pour l'année,

(B) le montant que le ministre estime raisonnable dans les circonstances, après avoir pris en considération les pourcentages applicables au calcul des remboursements au titre des gains en capital de la société pour l'année et pour les années d'imposition antérieures et les pourcentages applicables au calcul de son impôt en main remboursable au titre des gains en capital à la fin de l'année,

(ii) l'impôt en main remboursable au titre des gains en capital de la société, à la fin de l'année;

b) effectue le remboursement au titre des gains en capital avec diligence après avoir envoyé l'avis de cotisation, si la société en fait la demande par écrit au cours de la période pendant laquelle le ministre pourrait établir, aux termes du paragraphe 152(4), une cotisation concernant l'impôt payable en vertu de la présente partie par la société pour l'année si ce paragraphe s'appliquait compte non tenu de son alinéa a).

Application to other liability

(3) Instead of making a refund that might otherwise be made under subsection 131(2), the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action.

Interest on capital gains refund

(3.1) Where a capital gains refund for a taxation year is paid to, or applied to a liability of, a corporation, the Minister shall pay or apply interest on the refund at the prescribed rate for the period beginning on the day that is the later of

(a) the day that is 120 days after the end of the year, and

(b) the day that is 30 days after the day on which the corporation's return of income under this Part for the

Imputation sur une autre obligation

(3) Au lieu d'effectuer le remboursement qui pourrait autrement être fait en vertu du paragraphe (2), le ministre peut, lorsque la société est tenue de faire un paiement en vertu de la présente loi, ou est sur le point de l'être, imputer sur cette autre obligation la somme qui serait par ailleurs remboursable et en aviser la société.

Intérêts sur les remboursements au titre de gains en capital

(3.1) Lorsque le montant d'un remboursement au titre de gains en capital pour une année d'imposition est payé à une société, ou imputé sur une somme dont elle est redevable, le ministre paie ou impute sur ce montant des intérêts calculés au taux prescrit pour la période allant du dernier en date des jours suivants jusqu'au jour où le montant est payé ou imputé :

a) le cent vingtième jour suivant la fin de l'année;

year was filed under section 150, unless the return was filed on or before the day on or before which it was required to be filed,

and ending on the day the refund is paid or applied.

Excess interest on capital gains refund

(3.2) Where at any particular time interest has been paid to, or applied to a liability of, a corporation under subsection 131(3.1) in respect of a capital gains refund and it is determined at a subsequent time that the capital gains refund was less than that in respect of which interest was so paid or applied,

(a) the amount by which the interest that was so paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the capital gains refund shall be deemed to be an amount (in this subsection referred to as the "amount payable") that became payable under this Part by the corporation at the particular time;

(b) the corporation shall pay to the Receiver General interest at the prescribed rate on the amount payable, computed from the particular time to the day of payment; and

(c) the Minister may at any time assess the corporation in respect of the amount payable and, where the Minister makes such an assessment, the provisions of Divisions I and J apply, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

Application of s. 84

(4) Section 84 does not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be deemed by that section to have been so paid or received, as the case may be, the corporation was a mutual fund corporation.

Sections not applicable

(4.1) Sections 51, 85, 85.1, 86 and 87 do not apply to a taxpayer that holds a share (in this subsection referred to as the ***old share***) of a class of shares, that is recognized under securities legislation as or as part of an investment fund, of a mutual fund corporation if the taxpayer exchanges or otherwise disposes of the old share for another share (in this subsection referred to as the ***new share***) of a mutual fund corporation, unless

b) le trentième jour suivant le jour où la déclaration de revenu de la société pour l'année en vertu de la présente partie est produite en conformité avec l'article 150, sauf si elle a été produite au plus tard le jour où elle devait l'être.

Intérêts excédentaires sur les remboursements au titre de gains en capital

(3.2) Lorsque, à un moment donné, des intérêts ont été, en application du paragraphe (3.1), payés à une société, ou imputés sur une somme dont elle est redevable, relativement à un remboursement au titre de gains en capital et qu'il est établi ultérieurement que le montant du remboursement était inférieur au montant à l'égard duquel les intérêts ont été ainsi payés ou imputés, les règles suivantes s'appliquent :

a) l'excédent des intérêts ainsi payés ou imputés sur le montant ultérieurement établi comme étant le montant du remboursement au titre de gains en capital est réputé être un montant (appelé « montant payable » au présent paragraphe) devenu payable par la société au moment donné en vertu de la présente partie;

b) la société paie au receveur général des intérêts sur le montant payable, calculés au taux prescrit pour la période allant du moment donné jusqu'au jour du paiement;

c) le ministre peut, à tout moment, établir une cotisation à l'égard de la société pour le montant payable; le cas échéant, les dispositions des sections I et J s'appliquent à la cotisation, avec les adaptations nécessaires, comme si elle avait été établie en application de l'article 152.

Application de l'art. 84

(4) Un dividende ne peut être réputé, du fait de l'application de l'article 84, avoir été payé par une société à l'un de ses actionnaires, et un actionnaire d'une société ne peut être réputé avoir reçu un dividende sur quelque action du capital-actions de la société si, au moment où le dividende serait, sans le présent paragraphe, réputé, en vertu de cet article, avoir été ainsi reçu ou payé, la société était une société de placement à capital variable.

Articles inapplicables

(4.1) Les articles 51, 85, 85.1, 86 et 87 ne s'appliquent pas à un contribuable qui, d'une part, détient une action (appelée ***ancienne action*** au présent paragraphe) d'une catégorie d'actions du capital-actions, qui est reconnue en vertu des lois sur les valeurs mobilières comme étant un fonds de placement ou comme faisant partie d'un tel fonds, d'une société de placement à capital variable et, d'autre part, échange ou dispose autrement de l'ancienne

(a) if the exchange or disposition occurs in the course of a transaction, event or series of transactions or events described in subsections 86(1) or 87(1),

(i) all shares of the class (determined without reference to subsection 248(6)) that includes the old share at the time of the exchange or disposition are exchanged for shares of the class that includes the new share,

(ii) the old share and the new share derive their value in the same proportion from the same property or group of properties, and

(iii) the transaction, event or series was undertaken solely for *bona fide* purposes and not to cause this paragraph to apply; or

(b) if the old share and the new share are shares of the same class (determined without reference to subsection 248(6)) of shares of the same mutual fund corporation,

(i) the old share and the new share derive their value in the same proportion from the same property or group of properties held by the corporation that is allocated to that class, and

(ii) that class is recognized under securities legislation as or as part of a single investment fund.

action pour une autre action (appelée ***nouvelle action*** au présent paragraphe) d'une société de placement à capital variable, sauf si, selon le cas :

a) l'échange ou la disposition se produit dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements visés aux paragraphes 86(1) ou 87(1) et les énoncés ci-après se vérifient :

(i) toutes les actions de la catégorie (cette détermination étant faite compte non tenu du paragraphe 248(6)) qui comprend l'ancienne action au moment de l'échange ou de la disposition sont échangées contre des actions de la catégorie qui comprend la nouvelle action,

(ii) l'ancienne action et la nouvelle action tirent leur valeur dans la même proportion du même bien ou groupe de biens,

(iii) l'opération, l'événement ou la série a été effectuée uniquement pour des objets véritables et non pour faire en sorte que le présent alinéa s'applique;

b) l'ancienne action et la nouvelle action sont des actions de la même catégorie (cette détermination étant faite compte non tenu du paragraphe 248(6)) d'actions de la même société de placement à capital variable et les énoncés ci-après se vérifient :

(i) l'ancienne action et la nouvelle action tirent leur valeur dans la même proportion du même bien ou groupe de biens détenu par la société qui est attribué à cette catégorie,

(ii) cette catégorie est reconnue en vertu des lois sur les valeurs mobilières comme étant un fonds de placement unique ou comme faisant partie d'un tel fonds de placement.

Dividend refund to mutual fund corporation

(5) A corporation that was a mutual fund corporation throughout a taxation year

(a) is deemed for the purposes of paragraph 87(2)(aa) and section 129 to have been a private corporation throughout the year, except that its refundable dividend tax on hand at the end of the year (within the meaning assigned by subsection 129(3)) shall be determined without reference to paragraph 129(3)(a); and

(b) where it was not an investment corporation throughout the year, is deemed for the purposes of Part IV to have been a private corporation throughout the year except that, in applying subsection 186(1) to

Remboursement de dividende à une société de placement à capital variable

(5) Les présomptions suivantes s'appliquent à une société qui est une société de placement à capital variable tout au long d'une année d'imposition :

a) la société est réputée, pour l'application de l'alinéa 87(2)aa) et de l'article 129, avoir été une société privée tout au long de l'année; toutefois, son impôt en main remboursable au titre de dividendes à la fin de l'année, au sens du paragraphe 129(3), est déterminé compte non tenu de l'alinéa 129(3)a);

b) dans le cas où elle n'a pas été une société de placement tout au long de l'année, elle est réputée, pour l'application de la partie IV, avoir été une société

the corporation in respect of the year, that subsection shall be read without reference to paragraph 186(1)(b).

TCP gains distribution

(5.1) If a mutual fund corporation elects under subsection (1) to treat a dividend as a capital gains dividend, for the purposes of this Part and Part XIII,

(a) each shareholder to whom the dividend is paid is deemed to receive from the corporation, at the time the dividend is paid, a TCP gains distribution equal to the lesser of the amount of the dividend and the shareholder's pro rata portion at that time of the mutual fund corporation's TCP gains balance; and

(b) where the dividend is paid to a shareholder who is a non-resident person or a partnership that is not a Canadian partnership,

(i) subparagraph (1)(b)(ii) does not apply in respect of the dividend, to the extent of the TCP gains distribution, and

(ii) the TCP gains distribution is a taxable dividend that, except for the purpose of the definition of ***capital gains dividend account*** in subsection (6), is not a capital gains dividend.

Application of subsection (5.1)

(5.2) Subsection (5.1) applies to a dividend paid by a mutual fund corporation in a taxation year only if more than 5% of the dividend is received by or on behalf of shareholders each of whom is a non-resident person or is a partnership that is not a Canadian partnership.

Definitions

(6) In this section,

capital gains dividend account of a mutual fund corporation at any time means the amount, if any, by which

(a) the total of

(i) its capital gains, for all taxation years that began more than 60 days before that time, from dispositions of property after 1971 and before that time while it was a mutual fund corporation, and

privée tout au long de l'année; toutefois, pour l'application du paragraphe 186(1) à la société pour l'année, il n'est pas tenu compte de l'alinéa 186(1)b).

Distribution de gains provenant de BCI

(5.1) Les règles ci-après s'appliquent dans le cadre de la présente partie et de la partie XIII dans le cas où une société de placement à capital variable choisit, aux termes du paragraphe (1), de traiter un dividende comme un dividende sur les gains en capital :

a) chaque actionnaire auquel le dividende est versé est réputé recevoir de la société, au moment du versement du dividende, une distribution de gains provenant de BCI égale au montant du dividende ou, s'il est moins élevé, au montant représentant la partie proportionnelle, applicable à l'actionnaire à ce moment, du solde des gains provenant de BCI de la société;

b) si le dividende est versé à un actionnaire — personne non résidente ou société de personnes qui n'est pas une société de personnes canadienne :

(i) le sous-alinéa (1)b)(ii) ne s'applique pas relativement au dividende, jusqu'à concurrence de la distribution de gains provenant de BCI,

(ii) la distribution de gains provenant de BCI est un dividende imposable qui, sauf pour l'application de la définition de ***compte de dividendes sur les gains en capital*** au paragraphe (6), n'est pas un dividende sur les gains en capital.

Application du par. (5.1)

(5.2) Le paragraphe (5.1) ne s'applique au dividende versé par une société de placement à capital variable au cours d'une année d'imposition que si plus de 5 % du dividende est reçu par des actionnaires, ou pour le compte d'actionnaires, dont chacun est une personne non résidente ou une société de personnes qui n'est pas une société de personnes canadienne.

Définitions

(6) Les définitions qui suivent s'appliquent au présent article.

compte de dividendes sur les gains en capital Quant à une société de placement à capital variable à un moment donné, l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le total des sommes suivantes :

(i) ses gains en capital, pour les années d'imposition qui ont commencé plus de 60 jours avant ce

(ii) all amounts each of which is an amount in respect of a distribution made by a trust to the corporation, at a time that is after its 2004 taxation year and at which it is a mutual fund corporation, in respect of capital gains of the trust equal to twice the amount determined by the following formula:

A – B

where

A is the amount of the distribution, and

B is the amount designated under subsection 104(21) by the trust in respect of the net taxable capital gains of the trust attributable to those capital gains

exceeds

(b) the total of

(i) its capital losses, for all taxation years that began more than 60 days before that time, from dispositions of property after 1971 and before that time while it was a mutual fund corporation,

(ii) all capital gains dividends that became payable by the corporation before that time and more than 60 days after the end of the last taxation year that ended more than 60 days before that time, and

(iii) an amount equal to 100/14 of its capital gains refund for any taxation year throughout which it was a mutual fund corporation where the year ended more than 60 days before that time; (*compte de dividendes sur les gains en capital*)

capital gains redemptions of a mutual fund corporation for a taxation year means the amount determined by the formula

A/B × (C + D)

where

A is the sum of

(a) the total of all amounts paid by the corporation in the year on the redemption of shares of its capital stock, and

(b) the total of all amounts each of which is an amount equal to the fair market value of the shares of the corporation's capital stock that were exchanged in the year for other shares of the corporation's capital stock if

(i) paragraph (4.1) applies to the exchange, and

(ii) the amount is not included in the amount determined for paragraph (a),

moment, provenant de la disposition de biens effectuée après 1971 et avant ce moment pendant qu'elle était une société de placement à capital variable,

(ii) le total des sommes dont chacune représente une somme relative à une distribution effectuée par une fiducie à la société, à un moment postérieur à son année d'imposition 2004 et auquel elle était une société de placement à capital variable, au titre des gains en capital de la fiducie égale au double de la somme obtenue par la formule suivante :

A – B

où :

A représente le montant de la distribution,

B le montant attribué par la fiducie en application du paragraphe 104(21) sur ses gains en capital imposables nets imputables à ces gains en capital;

b) le total des montants suivants :

(i) ses pertes en capital, pour les années d'imposition qui ont commencé plus de 60 jours avant ce moment, provenant de la disposition de biens effectuée après 1971 et avant ce moment pendant qu'elle était une société de placement à capital variable,

(ii) les dividendes sur les gains en capital qui sont devenus payables par elle avant ce moment et plus de 60 jours après la fin de la dernière année d'imposition qui s'est terminée plus de 60 jours avant ce moment,

(iii) la somme représentant 100/14 de son remboursement au titre des gains en capital pour une année d'imposition tout au long de laquelle elle a été une société de placement à capital variable, qui s'est terminée plus de 60 jours avant ce moment. (*capital gains dividend account*)

compte de dividendes sur les gains en capital sur immeubles non admissibles [Abrogée, 1995, ch. 3, art. 41]

distribution de gains provenant de BCI La distribution de gains provenant de BCI dont il est question au paragraphe (5.1). (*TCP gains distribution*)

immeuble non admissible [Abrogée, 1995, ch. 3, art. 41]

impôt en main remboursable au titre des gains en capital L'impôt en main remboursable au titre des gains en capital d'une société de placement à capital variable, à

B is the total of the fair market value at the end of the year of all the issued shares of its capital stock and the amount determined for A in respect of the corporation for the year,

C is 100/14 of the corporation's refundable capital gains tax on hand at the end of the year, and

D is the amount determined by the formula

(K + L) - (M + N)

where

K is the amount of the fair market value at the end of the year of all the issued shares of the corporation's capital stock,

L is the total of all amounts each of which is the amount of any debt owing by the corporation, or of any other obligation of the corporation to pay an amount, that was outstanding at that time,

M is the total of the cost amounts to the corporation at that time of all its properties, and

N is the amount of any money of the corporation on hand at that time; (*rachats au titre des gains en capital*)

non-qualifying real property [Repealed, 1995, c. 3, s. 41]

non-qualifying real property capital gains dividend account [Repealed, 1995, c. 3, s. 41]

pro rata portion, of a shareholder at any time, of a mutual fund corporation's TCP gains balance, in respect of a dividend paid by the mutual fund corporation on a class of shares of its capital stock, means the amount determined by the formula

A x B/C

where

A is the mutual fund corporation's TCP gains balance immediately before that time,

B is the amount received in respect of the dividend by the shareholder, and

C is the total amount of the dividend; (*partie proportionnelle*)

refundable capital gains tax on hand of a mutual fund corporation at the end of a taxation year means the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount in respect of that or any previous taxation year

la fin d'une année d'imposition, correspond au montant calculé selon la formule suivante :

A - B

où :

A représente le total des sommes dont chacune est une somme afférente à cette année d'imposition ou à toute année d'imposition antérieure tout au long de laquelle elle était une société de placement à capital variable, égale à la moins élevée des sommes suivantes :

a) 28 % de son revenu imposable pour l'année;

b) 28 % de ses gains en capital imposés pour l'année;

c) l'impôt payable par elle pour l'année en vertu de la présente partie calculé compte non tenu de l'article 123.2;

B le total des sommes dont chacune est une somme afférente à toute année d'imposition antérieure tout au long de laquelle elle était une société de placement à capital variable, égale à son remboursement au titre des gains en capital pour l'année. (*refundable capital gains tax on hand*)

partie proportionnelle S'agissant de la partie proportionnelle, applicable à un actionnaire à un moment donné, du solde des gains provenant de BCI d'une société de placement à capital variable, relativement à un dividende versé par la société sur une catégorie d'actions de son capital-actions, le montant obtenu par la formule suivante :

A x B/C

où :

A représente le solde des gains provenant de BCI de la société immédiatement avant le moment donné;

B la somme que l'actionnaire a reçue au titre du dividende;

C le montant total du dividende. (*pro rata portion*)

rachats au titre des gains en capital Les rachats au titre des gains en capital d'une société de placement à capital variable, pour une année d'imposition, correspondent au montant calculé selon la formule suivante :

A/B × (C + D)

où :

A représente la somme des totaux suivants :

a) le total des sommes qu'elle a versées au cours de l'année pour le rachat d'actions de son capital-actions,

throughout which the corporation was a mutual fund corporation, equal to the least of

(a) 28% of its taxable income for the year,

(b) 28% of its taxed capital gains for the year, and

(c) the tax payable by it under this Part for the year determined without reference to section 123.2, and

B is the total of all amounts each of which is an amount in respect of any previous taxation year throughout which the corporation was a mutual fund corporation, equal to its capital gains refund for the year; (*impôt en main remboursable au titre des gains en capital*)

TCP gains balance, of a mutual fund corporation at any time, means the amount, if any, by which

(a) the total of

(i) the mutual fund corporation's capital gains from dispositions, after March 22, 2004 and at or before that time, of taxable Canadian properties, and

(ii) the TCP gains distributions (including those defined in section 132) received by the mutual fund corporation at or before that time

exceeds

(b) the total of

(i) the mutual fund corporation's capital losses from dispositions, after March 22, 2004 and at or before that time, of taxable Canadian properties, and

(ii) the total of all amounts deemed, in respect of dividends paid by the mutual fund corporation before that time, to be TCP gains distributions received by shareholders from the mutual fund corporation; (*solde des gains provenant de BCI*)

TCP gains distribution means a TCP gains distribution described in subsection (5.1). (*distribution de gains provenant de BCI*)

b) le total des sommes dont chacune représente une somme égale à la juste valeur marchande des actions du capital-actions de la société qui ont été échangées au cours de l'année contre d'autres actions de son capital-actions si les énoncés ci-après se vérifient :

(i) le paragraphe (4.1) s'applique à l'échange,

(ii) la somme n'est pas incluse au total visé à l'alinéa a);

B le total de la juste valeur marchande, à la fin de l'année, de toutes les actions émises de son capital-actions et de la somme représentée par l'élément A pour l'année relativement à la société;

C les 100/14 de l'impôt en main remboursable au titre des gains en capital de la société à la fin de l'année;

D le montant calculé selon la formule suivante :

(K + L) - (M + N)

où :

K représente la juste valeur marchande, à la fin de l'année, de toutes les actions émises de son capital-actions,

L le total des montants dont chacun constitue le montant d'une dette de la société, ou de toute autre obligation de la société de payer une somme d'argent, qui était due à ce moment,

M le total des coûts indiqués, pour la société, de tous ses biens à ce moment,

N le montant des sommes en espèces que la société a en main à ce moment. (*capital gains redemptions*)

solde des gains provenant de BCI S'agissant du solde des gains provenant de BCI d'une société de placement à capital variable à un moment donné, l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le total des sommes suivantes :

(i) les gains en capital de la société provenant de dispositions, effectuées après le 22 mars 2004 et au plus tard au moment donné, de biens canadiens imposables,

(ii) les distributions de gains provenant de BCI, y compris celles visées à l'article 132, reçues par la société avant le moment donné;

b) le total des sommes suivantes :

(i) les pertes en capital de la société résultant de dispositions, effectuées après le 22 mars 2004 et au

plus tard au moment donné, de biens canadiens imposables,

(ii) le total des sommes réputées, relativement à des dividendes versés par la société avant le moment donné, être des distributions de gains provenant de BCI reçues par des actionnaires de la part de la société. (*TCP gains balance*)

Definition of *taxed capital gains*

(7) In subsection 131(6), ***taxed capital gains*** of a taxpayer for a taxation year has the meaning assigned by subsection 130(3).

Définition de *gains en capital imposés*

(7) Au paragraphe (6), ***gains en capital imposés***, relativement à un contribuable, pour une année d'imposition, s'entend au sens du paragraphe 130(3).

Meaning of *mutual fund corporation*

(8) Subject to subsection 131(8.1), a corporation is, for the purposes of this section, a mutual fund corporation at any time in a taxation year if, at that time, it was a prescribed labour-sponsored venture capital corporation or

(a) it was a Canadian corporation that was a public corporation;

(b) its only undertaking was

(i) the investing of its funds in property (other than real property or an interest in real property or an immovable or a real right in an immovable),

(ii) the acquiring, holding, maintaining, improving, leasing or managing of any real property (or interest in real property) or of any immovable (or real right in immovables) that is capital property of the corporation, or

(iii) any combination of the activities described in subparagraphs 131(8)(b)(i) and 131(8)(b)(ii), and

(c) the issued shares of the capital stock of the corporation included shares

(i) having conditions attached thereto that included conditions requiring the corporation to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof, that are fully paid, or

(ii) qualified in accordance with prescribed conditions relating to the redemption of the shares,

and the fair market value of such of the issued shares of its capital stock as had conditions attached thereto that included such conditions or as were so qualified, as the case may be, was not less than 95% of the fair

Sens de l'expression *société de placement à capital variable*

(8) Sous réserve du paragraphe (8.1) et pour l'application du présent article, une société est une société de placement à capital variable à un moment donné d'une année d'imposition si, à ce moment, elle est une société à capital de risque de travailleurs visée par règlement ou si, à ce moment, les conditions suivantes sont remplies :

a) elle est une société canadienne qui est une société publique;

b) sa seule activité consiste :

(i) soit à investir ses fonds dans des biens, sauf des immeubles ou des droits réels sur ceux-ci ou des biens réels ou des intérêts sur ceux-ci,

(ii) soit à acquérir, à détenir, à entretenir, à améliorer, à louer ou à gérer ses immobilisations qui sont des immeubles ou des droits réels sur ceux-ci ou des biens réels ou des intérêts sur ceux-ci,

(iii) soit à exercer plusieurs des activités visées aux sous-alinéas (i) et (ii);

c) les actions émises de son capital-actions comprennent des actions qui :

(i) soit comportent des conditions, entre autres, celles exigeant qu'elle accepte, à la demande du détenteur de ces actions et moyennant un prix déterminé et payable conformément aux conditions posées, de racheter les actions, en totalité ou en partie, qui sont entièrement libérées,

(ii) soit satisfont aux conditions prescrites en ce qui a trait au rachat des actions,

et si la juste valeur marchande des actions émises de son capital-actions qui comportent, entre autres, ces conditions ou qui satisfont aux conditions prescrites,

market value of all of the issued shares of the capital stock of the corporation (such fair market values being determined without regard to any voting rights attaching to shares of the capital stock of the corporation).

Election to be a mutual fund corporation

(8.01) A corporation is deemed to be a mutual fund corporation, from the date it was incorporated until the earlier of the date the corporation meets the conditions to qualify as a mutual fund corporation under subsection (8) and December 31, 2017, if the corporation

(a) was incorporated after 2014 and before March 22, 2016;

(b) would have been a mutual fund corporation on March 22, 2016 if it could have elected on or before that date to be a public corporation under paragraph (b) of the definition ***public corporation*** in subsection 89(1), had the conditions prescribed in paragraph 4800(1)(b) of the *Income Tax Regulations* been satisfied;

(c) on March 22, 2016, had at least one class of shares that was recognized under securities legislation as an investment fund; and

(d) elects to have this subsection apply in the corporation's return of income for the corporation's first taxation year that ends after March 21, 2016.

Idem

(8.1) Where, at any time, it can reasonably be considered that a corporation, having regard to all the circumstances, including the terms and conditions of the shares of its capital stock, was established or is maintained primarily for the benefit of non-resident persons, the corporation shall be deemed not to be a mutual fund corporation after that time unless

(a) throughout the period that begins on the later of February 21, 1990 and the day of its incorporation and ends at that time, all or substantially all of its property consisted of property other than property that would be taxable Canadian property if the definition ***taxable Canadian property*** in subsection 248(1) were read without reference to paragraph (b) of that definition; or

(b) it has not issued a share (other than a share issued as a stock dividend) of its capital stock after February 20, 1990 and before that time to a person who, after

selon le cas, ne représentent pas moins de 95 % de la juste valeur marchande de toutes les actions émises de son capital-actions (cette juste valeur marchande étant déterminée compte non tenu des droits de vote que peuvent comporter les actions de son capital-actions).

Choix — société de placement à capital variable

(8.01) Une société est réputée être une société de placement à capital variable, à partir de la date de sa constitution en société jusqu'à la première en date de la date à laquelle elle remplit les conditions pour être considérée pour la première fois comme une société de placement à capital variable en vertu du paragraphe (8) et du 31 décembre 2017, si les énoncés ci-après se vérifient à l'égard de la société :

a) elle a été constituée en société après 2014 mais avant le 22 mars 2016;

b) elle aurait été une société de placement à capital variable, le 22 mars 2016, si elle avait pu faire le choix au plus tard à cette date d'être une société publique en vertu de l'alinéa b) de la définition de ***société publique*** au paragraphe 89(1), si les conditions prévues à l'alinéa 4800(1)b) du *Règlement de l'impôt sur le revenu* avaient été remplies;

c) elle avait, le 22 mars 2016, au moins une catégorie d'actions qui était reconnue en vertu des lois sur les valeurs mobilières comme un fonds de placement;

d) elle fait le choix d'être ainsi réputée dans sa déclaration de revenu pour sa première année d'imposition qui se termine après le 21 mars 2016.

Présomption en cas de personnes non-résidentes

(8.1) La société qu'il est raisonnable, à un moment donné, de considérer comme ayant été constituée ou exploitée principalement au profit de personnes non-résidentes — compte tenu des circonstances, y compris les caractéristiques des actions de son capital-actions — n'est réputée être une société de placement à capital variable après ce moment que si, selon le cas :

a) tout au long de la période commençant le 21 février 1990 ou, s'il est postérieur, le jour de sa constitution et se terminant au moment donné, la totalité ou la presque totalité de ses biens consistent en biens autres que des biens qui seraient des biens canadiens imposables s'il n'était pas tenu compte de l'alinéa b) de la définition de ***bien canadien imposable*** au paragraphe 248(1);

b) la société n'a pas émis d'actions, sauf celles émises à titre de dividende en actions, de son capital-actions après le 20 février 1990 et avant le moment donné en

reasonable inquiry, it had reason to believe was non-resident, except where the share was issued to that person under an agreement in writing entered into before February 21, 1990.

faveur d'une personne au sujet de laquelle elle avait raison de croire, après enquête raisonnable, qu'elle ne résidait pas au Canada, sauf si les actions ont été émises en faveur de cette personne conformément à une convention écrite conclue avant le 21 février 1990.

Reduction of refundable capital gains tax on hand

(9) Notwithstanding any other provision of this section, the amount determined for A in the definition ***refundable capital gains tax on hand*** in subsection 131(6) in respect of the 1972 or 1973 taxation year of a corporation is,

(a) in respect of its 1972 taxation year, 91.25% of the amount so determined; and

(b) in respect of its 1973 taxation year, the total of

(i) 91.25% of that proportion of the amount so determined that the number of days in that portion of the year that is before 1973 is of the number of days in the whole year, and

(ii) 100% of that proportion of the amount so determined that the number of days in that portion of the year that is after 1972 is of the number of days in the whole year.

Réduction de l'impôt en main remboursable au titre des gains en capital

(9) Malgré les autres dispositions du présent article, la somme déterminée pour l'élément A de la formule figurant à la définition de ***impôt en main remboursable au titre des gains en capital*** au paragraphe (6), à l'égard de l'année d'imposition 1972 ou 1973 d'une société, correspond :

a) à l'égard de son année d'imposition 1972, aux 91,25 % de la somme ainsi calculée;

b) à l'égard de son année d'imposition 1973, au total des éléments suivants :

(i) 91,25 % du produit de la multiplication de la somme ainsi calculée par le rapport entre le nombre de jours de la partie de cette année qui est antérieure à 1973 et le nombre total de jours de cette année,

(ii) 100 % du produit de la multiplication de la somme ainsi calculée par le rapport entre le nombre de jours de la partie de cette année qui est postérieure à 1972 et le nombre total de jours de cette année.

Restricted financial institution

(10) Notwithstanding any other provision of this Act, a mutual fund corporation or an investment corporation that at any time would, but for this subsection, be a restricted financial institution shall, if it has so elected in prescribed manner and prescribed form before that time, be deemed not to be a restricted financial institution at that time.

Institution financière véritable

(10) Malgré les autres dispositions de la présente loi, une société de placement à capital variable ou une société de placement qui serait, à un moment donné, sans le présent paragraphe, une institution financière véritable est réputée ne pas en être une à ce moment si elle en fait le choix selon les modalités et le formulaire réglementaires.

Rules respecting prescribed labour-sponsored venture capital corporations

(11) Notwithstanding any other provision of this Act, in applying this Act to a corporation that was at any time a prescribed labour-sponsored venture capital corporation,

(a) for the purposes of subparagraphs 129(3)(a)(i) and 129(3)(a)(ii), the amount deducted under paragraph 111(1)(b) from the corporation's income for each taxation year ending after that time shall be deemed to be nil;

Règles concernant les sociétés à capital de risque de travailleurs visées par règlement

(11) Malgré les autres dispositions de la présente loi, les règles suivantes s'appliquent à la société qui est une société à capital de risque de travailleurs visée par règlement à un moment donné :

a) le montant déduit selon l'alinéa 111(1)b) du revenu de la société pour chaque année d'imposition se terminant après ce moment est réputé nul pour l'application des sous-alinéas 129(3)a)(i) et (ii);

(b) the definition ***aggregate investment income*** in subsection 129(4) shall be read without reference to paragraph (a) of that definition in its application to taxation years that end after that time;

(c) notwithstanding subsection 131(4), if it so elects in its return of income under this Part for a taxation year ending after that time, subsection 84(1) applies for that year and all subsequent taxation years;

(d) subsection 131(5) does not apply for taxation years ending after that time; and

(e) the amount of the corporation's capital dividend account at any time after that time shall be deemed to be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 131; 1994, c. 7, Sch. II, s. 110, Sch. VIII, s. 76, c. 21, s. 63; 1995, c. 3, s. 41, c. 21, s. 67; 1996, c. 21, s. 33; 1998, c. 19, s. 157; 2001, c. 17, s. 128; 2003, c. 15, s. 112; 2005, c. 19, s. 30; 2010, c. 25, s. 30; 2013, c. 34, ss. 132, 277; 2016, c. 12, s. 48.

b) il n'est pas tenu compte de l'alinéa a) de la définition de ***revenu de placement total*** au paragraphe 129(4) pour son application aux années d'imposition qui se terminent après ce moment;

c) la société peut, malgré la paragraphe (4), faire un choix, dans sa déclaration de revenu produite en vertu de la présente partie pour une année d'imposition se terminant après ce moment, pour que le paragraphe 84(1) s'applique, à cette année et aux années d'imposition suivantes;

d) le paragraphe (5) ne s'applique pas aux années d'imposition se terminant après ce moment;

e) le montant du compte de dividende en capital de la société à un moment postérieur à ce moment est réputé nul.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 131; 1994, ch. 7, ann. II, art. 110, ann. VIII, art. 76, ch. 21, art. 63; 1995, ch. 3, art. 41, ch. 21, art. 67; 1996, ch. 21, art. 33; 1998, ch. 19, art. 157; 2001, ch. 17, art. 128; 2003, ch. 15, art. 112; 2005, ch. 19, art. 30; 2010, ch. 25, art. 30; 2013, ch. 34, art. 132 et 277; 2016, ch. 12, art. 48.

Mutual Fund Trusts

Capital gains refund to mutual fund trust

132 (1) Where a trust was, throughout a taxation year, a mutual fund trust and a return of its income for the year has been made within 3 years from the end of the year, the Minister

(a) may, on sending the notice of assessment for the year, refund an amount (in this subsection referred to as its "capital gains refund" for the year) equal to the lesser of

(i) the total of

(A) 16.5% of the total of the trust's capital gains redemptions for the year, and

(B) the positive or negative amount, if any, that the Minister determines to be reasonable in the circumstances, after giving consideration to the percentages applicable in determining the trust's capital gains refunds for the year or any previous taxation year and the percentages applicable in determining the trust's refundable capital gains tax on hand at the end of the year, and

(ii) the trust's refundable capital gains tax on hand at the end of the year; and

Fiducies de fonds commun de placement

Remboursement au titre des gains en capital à une fiducie de fonds commun de placement

132 (1) Lorsqu'une fiducie a été, tout au long d'une année d'imposition, une fiducie de fonds commun de placement et que la déclaration de son revenu pour l'année a été faite dans les 3 ans suivant la fin de l'année, le ministre :

a) peut, lors de l'envoi de l'avis de cotisation pour l'année, rembourser une somme (appelée « remboursement au titre des gains en capital » au présent paragraphe) égale au moins élevé des montants suivants :

(i) la somme des montants suivants :

(A) 16,5 % des rachats au titre des gains en capital de la fiducie pour l'année,

(B) le montant positif ou négatif que le ministre estime raisonnable dans les circonstances, après avoir pris en considération les pourcentages applicables au calcul des remboursements au titre des gains en capital de la fiducie pour l'année ou pour toute année d'imposition antérieure et les pourcentages applicables au calcul de son impôt en main remboursable au titre des gains en capital à la fin de l'année,

(ii) l'impôt en main remboursable au titre des gains en capital de la fiducie, à la fin de l'année;

(b) shall, with all due dispatch, make that capital gains refund after sending the notice of assessment if an application for it has been made in writing by the trust within the period within which the Minister would be allowed under subsection 152(4) to assess tax payable under this Part by the trust for the year if that subsection were read without reference to paragraph 152(4)(a).

b) effectue le remboursement au titre des gains en capital avec diligence après avoir envoyé l'avis de cotisation, si la fiducie en fait la demande par écrit au cours de la période pendant laquelle le ministre pourrait établir, aux termes du paragraphe 152(4), une cotisation concernant l'impôt payable en vertu de la présente partie par la fiducie pour l'année si ce paragraphe s'appliquait compte non tenu de son alinéa a).

Application to other liability

(2) Instead of making a refund that might otherwise be made under subsection 132(1) the Minister may, where the trust is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the trust of that action.

Imputation sur une autre obligation

(2) Au lieu d'effectuer le remboursement qui pourrait autrement être fait en vertu du paragraphe (1), le ministre peut, lorsque la fiducie est tenue de faire un paiement en vertu de la présente loi, ou est sur le point de l'être, imputer sur cette autre obligation la somme qui serait par ailleurs remboursable et en aviser la fiducie.

Interest on capital gains refund

(2.1) If a capital gains refund for a taxation year is paid to, or applied to a liability of, a mutual fund trust, the Minister shall pay or apply interest on the refund at the prescribed rate for the period beginning on the day that is 30 days after the later of

(a) the day that is 90 days after the end of the year, and

(b) the day on which the trust's return of income under this Part for the year was filed under section 150

and ending on the day on which the refund is paid or applied.

Intérêts sur les remboursements au titre de gains en capital

(2.1) Lorsque le montant d'un remboursement au titre de gains en capital pour une année d'imposition est versé à une fiducie de fonds commun de placement, ou imputé sur toute somme dont elle est redevable, le ministre paie ou impute sur ce montant des intérêts, au taux prescrit, calculés pour la période allant du trentième jour suivant le dernier en date des jours ci-après jusqu'au jour où le montant est payé ou imputé :

a) le quatre-vingt-dixième jour suivant la fin de l'année;

b) le jour où la déclaration de revenu de la fiducie pour l'année en vertu de la présente partie est produite en conformité avec l'article 150.

Excess interest on capital gains refund

(2.2) Where at any particular time interest has been paid to, or applied to a liability of, a trust under subsection 132(2.1) in respect of a capital gains refund and it is determined at a subsequent time that the capital gains refund was less than that in respect of which interest was so paid or applied,

(a) the amount by which the interest that was so paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the capital gains refund shall be deemed to be an amount (in this subsection referred to as the "amount payable") that became payable under this Part by the trust at the particular time;

(b) the trust shall pay to the Receiver General interest at the prescribed rate on the amount payable, computed from the particular time to the day of payment; and

Intérêts excédentaires sur les remboursements au titre de gains en capital

(2.2) Lorsque, à un moment donné, des intérêts ont été, en application du paragraphe (2.1), payés à une fiducie, ou imputés sur une somme dont elle est redevable, relativement à un remboursement au titre de gains en capital et qu'il est établi ultérieurement que le montant du remboursement était inférieur au montant à l'égard duquel les intérêts ont été ainsi payés ou imputés, les règles suivantes s'appliquent :

a) l'excédent des intérêts payés ou imputés sur les intérêts calculés sur le montant ultérieurement établi comme étant le montant du remboursement au titre de gains en capital est réputé être un montant (appelé « montant payable » au présent paragraphe) devenu payable par la fiducie au moment donné en vertu de la présente partie;

(c) the Minister may at any time assess the trust in respect of the amount payable and, where the Minister makes such an assessment, the provisions of Divisions I and J apply, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

b) la fiducie paie au receveur général des intérêts sur le montant payable, calculés au taux prescrit pour la période allant du moment donné jusqu'au jour du paiement;

c) le ministre peut, à tout moment, établir une cotisation à l'égard de la fiducie pour le montant payable; le cas échéant, les dispositions des sections I et J s'appliquent à la cotisation, avec les adaptations nécessaires, comme si elle avait été établie en application de l'article 152.

Application of s. 104(20)

(3) In its application in respect of a mutual fund trust, subsection 104(20) shall be read as if the reference therein to "a dividend (other than a taxable dividend)" were read as a reference to "a capital dividend".

Application du par. 104(20)

(3) Pour son application à une fiducie de fonds commun de placement, la mention de « dividende autre qu'un dividende imposable », au paragraphe 104(20), est remplacée par la mention de « dividende en capital ».

Definitions

(4) In this section,

capital gains redemptions of a mutual fund trust for a taxation year means the amount determined by the formula

(A/B × (C + D)) - E

where

A is the total of all amounts each of which is the portion of an amount paid by the trust in the year on the redemption of a unit in the trust that is included in the proceeds of disposition in respect of that redemption,

B is the total of the fair market value at the end of the year of all the issued units of the trust and the amount determined for A in respect of the trust for the year,

C is 100/16.5 of the trust's refundable capital gains tax on hand at the end of the year,

D is the amount determined by the formula

(K + L) - (M + N)

where

K is the amount of the fair market value at the end of the year of all the issued units of the trust,

L is the total of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay an amount, that was outstanding at that time,

M is the total of the cost amounts to the trust at that time of all its properties, and

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

distribution de gains provenant de BCI La distribution de gains provenant de BCI dont il est question au paragraphe (5.1). (*TCP gains distribution*)

impôt en main remboursable au titre des gains en capital L'impôt en main remboursable au titre des gains en capital d'une fiducie qui est une fiducie de fonds commun de placement, à la fin d'une année d'imposition, correspond au montant calculé selon la formule suivante :

A - B

où :

A représente le total des sommes dont chacune est une somme afférente à cette année d'imposition ou à toute année d'imposition antérieure tout au long de laquelle elle a été une fiducie de fonds commun de placement, égale à la moins élevée des sommes suivantes :

a) le produit de la multiplication du taux d'imposition supérieur pour l'année par son revenu imposable pour l'année;

b) le produit de la multiplication du taux d'imposition supérieur pour l'année par ses gains en capital imposés pour l'année;

c) lorsque l'année d'imposition se termine après le 6 mai 1974, l'impôt qu'elle doit payer pour l'année en vertu de la présente partie;

B le total des sommes dont chacune est une somme afférente à toute année d'imposition antérieure tout au long de laquelle elle a été une fiducie de fonds

N is the amount of any money of the trust on hand at that time, and

E is twice the total of all amounts each of which is an amount designated under subsection 104(21) for the year by the trust in respect of a unit of the trust redeemed by the trust at any time in the year and after December 21, 2000; (*rachats au titre des gains en capital*)

pro rata portion, of a beneficiary, of a mutual fund trust's TCP gains balance for a taxation year, in respect of an amount designated under subsection 104(21) by the mutual fund trust for the taxation year, means the amount determined by the formula

A x B/C

where

A is the mutual fund trust's TCP gains balance for the taxation year,

B is the amount the mutual fund trust has designated under that subsection in respect of the beneficiary for the taxation year, and

C is the total of all amounts designated under that subsection by the mutual fund trust for the taxation year; (*partie proportionnelle*)

refundable capital gains tax on hand of a mutual fund trust at the end of a taxation year means the amount determined by the formula

(A - B)

where

A is the total of all amounts each of which is an amount in respect of that or any previous taxation year throughout which the trust was a mutual fund trust, equal to the least of

(a) the highest individual percentage for the year multiplied by its taxable income for the year,

(b) the highest individual percentage for the year multiplied by its taxed capital gains for the year, and

(c) where the taxation year ended after May 6, 1974, the tax payable under this Part by it for the year, and

B is the total of all amounts each of which is an amount in respect of any previous taxation year throughout which the trust was a mutual fund trust, equal to its capital gains refund for the year; (*impôt en main remboursable au titre des gains en capital*)

commun de placement, égale à son remboursement au titre des gains en capital pour l'année. (*refundable capital gains tax on hand*)

partie proportionnelle S'agissant de la partie proportionnelle, applicable à un bénéficiaire, du solde des gains provenant de BCI d'une fiducie de fonds commun de placement pour une année d'imposition, relativement à une somme attribuée par la fiducie pour l'année en vertu du paragraphe 104(21), le montant obtenu par la formule suivante :

A x B/C

où :

A représente le solde des gains provenant de BCI de la fiducie pour l'année;

B la somme que la fiducie a attribuée au bénéficiaire en vertu de ce paragraphe pour l'année;

C le total des sommes que la fiducie a attribuées en vertu de ce paragraphe pour l'année. (*pro rata portion*)

rachats au titre des gains en capital Les rachats au titre des gains en capital d'une fiducie qui est une fiducie de fonds commun de placement, pour une année d'imposition, correspondent au montant calculé selon la formule suivante :

(A/B × (C + D)) - E

où :

A représente le total des montants représentant chacun la partie d'un montant qu'elle a versé au cours de l'année pour le rachat d'une unité de la fiducie, qui est incluse dans le produit de disposition relatif à ce rachat;

B le total de la juste valeur marchande, à la fin de l'année, de toutes les unités émises de la fiducie et de la somme représentée par l'élément A pour l'année relativement à la fiducie;

C les 100/16,5 de son impôt en main remboursable au titre des gains en capital à la fin de l'année;

D le montant calculé selon la formule suivante :

(K + L) - (M + N)

où :

K représente la juste valeur marchande, à la fin de l'année, de toutes les unités émises de la fiducie,

L le total des montants dont chacun constitue le montant d'une dette de la fiducie, ou de toute autre obligation de la fiducie de payer une somme d'argent, qui était due à ce moment,

TCP gains balance, of a mutual fund trust for a particular taxation year, means the amount, if any, by which

(a) the total of

(i) the mutual fund trust's capital gains from dispositions, after March 22, 2004 and at or before the end of the particular taxation year, of taxable Canadian properties, and

(ii) the TCP gains distributions (including those defined in section 131) received by the mutual fund trust at or before the end of the particular taxation year

exceeds

(b) the total of

(i) the mutual fund trust's capital losses from dispositions, after March 22, 2004 and at or before the end of the particular taxation year, of taxable Canadian properties, and

(ii) the total of all amounts deemed, in respect of amounts designated by the mutual fund trust under subsection 104(21) for taxation years that preceded the particular taxation year, to be TCP gains distributions received by beneficiaries under the mutual fund trust; (*solde des gains provenant de BCI*)

TCP gains distribution means a TCP gains distribution described in subsection (5.1). (*distribution de gains provenant de BCI*)

M le total des coûts indiqués, pour la fiducie, de tous ses biens à ce moment,

N le montant des sommes en espèces que la fiducie a en main à ce moment;

E le double du total des montants représentant chacun un montant attribué en application du paragraphe 104(21) pour l'année par la fiducie au titre d'une de ses unités qu'elle a rachetées au cours de l'année et après le 21 décembre 2000. (*capital gains redemptions*)

solde des gains provenant de BCI S'agissant du solde des gains provenant de BCI d'une fiducie de fonds commun de placement pour une année d'imposition donnée, l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le total des sommes suivantes :

(i) les gains en capital de la fiducie provenant de dispositions, effectuées après le 22 mars 2004 et au plus tard à la fin de l'année donnée, de biens canadiens imposables,

(ii) les distributions de gains provenant de BCI, y compris celles visées à l'article 131, reçues par la fiducie au plus tard à la fin de l'année donnée;

b) le total des sommes suivantes :

(i) les pertes en capital de la fiducie résultant de dispositions, effectuées après le 22 mars 2004 et au plus tard à la fin de l'année donnée, de biens canadiens imposables,

(ii) le total des sommes réputées, relativement à des sommes attribuées par la fiducie en vertu du paragraphe 104(21) pour des années d'imposition précédant l'année donnée, être des distributions de gains provenant de BCI reçues par des bénéficiaires de la fiducie. (*TCP gains balance*)

Definition of *taxed capital gains*

(5) In subsection 132(4), ***taxed capital gains*** of a taxpayer for a taxation year has the meaning assigned by subsection 130(3).

TCP gains distribution

(5.1) If a mutual fund trust designates an amount under subsection 104(21) for a taxation year of the trust in respect of a beneficiary under the trust, for the purposes of this Part and Part XIII,

Définition de *gains en capital imposés*

(5) Au paragraphe (4), ***gains en capital imposés***, relativement à un contribuable, pour une année d'imposition, s'entend au sens du paragraphe 130(3).

Distribution de gains provenant de BCI

(5.1) Les règles ci-après s'appliquent dans le cadre de la présente partie et de la partie XIII dans le cas où une fiducie de fonds commun de placement attribue une somme à son bénéficiaire pour une année d'imposition en vertu du paragraphe 104(21) :

(a) the beneficiary is deemed to have received from the mutual fund trust a TCP gains distribution equal to the lesser of

(i) twice the amount designated, and

(ii) the beneficiary's pro rata portion of the mutual fund trust's TCP gains balance for the taxation year; and

(b) where the beneficiary is a non-resident person or a partnership that is not a Canadian partnership,

(i) the amount designated is deemed by subsection 104(21) to be a taxable capital gain of the beneficiary only to the extent that it exceeds one half of the TCP gains distribution, and

(ii) one half of the TCP gains distribution is to be added to the amount otherwise included under subsection 104(13) in computing the income of the beneficiary, and is deemed to be an amount to which paragraph 212(1)(c) applies.

a) le bénéficiaire est réputé avoir reçu de la fiducie une distribution de gains provenant de BCI égale au moins élevé des montants suivants :

(i) le double de la somme attribuée,

(ii) le montant représentant la partie proportionnelle, applicable au bénéficiaire, du solde des gains provenant de BCI de la fiducie pour l'année;

b) si le bénéficiaire est une personne non résidente ou une société de personnes qui n'est pas une société de personnes canadienne :

(i) la somme attribuée est réputée, par le paragraphe 104(21), être un gain en capital imposable du bénéficiaire seulement dans la mesure où il excède la moitié du montant de la distribution de gains provenant de BCI,

(ii) la moitié du montant de la distribution de gains provenant de BCI est à ajouter à la somme incluse par ailleurs, en application du paragraphe 104(13), dans le calcul du revenu du bénéficiaire et est réputée être une somme à laquelle s'applique l'alinéa 212(1)c).

Application of subsection (5.1)

(5.2) Subsection (5.1) applies to an amount designated under subsection 104(21) by a mutual fund trust for a taxation year only if more than 5% of the total of all amounts each of which is an amount designated under that subsection by the mutual fund trust for the taxation year was designated in respect of beneficiaries under the mutual fund trust each of whom is a non-resident person or is a partnership that is not a Canadian partnership.

Application du par. (5.1)

(5.2) Le paragraphe (5.1) ne s'applique à la somme attribuée par une fiducie de fonds commun de placement pour une année d'imposition en vertu du paragraphe 104(21) que si plus de 5 % du total des montants dont chacun représente un somme attribuée par la fiducie pour l'année en vertu de ce paragraphe a été attribué aux bénéficiaires de la fiducie dont chacun est une personne non résidente ou une société de personnes qui n'est pas une société de personnes canadienne.

Meaning of *mutual fund trust*

(6) Subject to subsection 132(7), for the purposes of this section, a trust is a mutual fund trust at any time if at that time

(a) it was a unit trust resident in Canada,

(b) its only undertaking was

(i) the investing of its funds in property (other than real property or an interest in real property or an immovable or a real right in an immovable),

(ii) the acquiring, holding, maintaining, improving, leasing or managing of any real property (or interest in real property) or of any immovable (or real right in immovables) that is capital property of the trust, or

Sens de *fiducie de fonds commun de placement*

(6) Sous réserve du paragraphe (7) et pour l'application du présent article, une fiducie est une fiducie de fonds commun de placement à un moment donné si, à ce moment, les conditions suivantes sont remplies :

a) elle est une fiducie d'investissement à participation unitaire résidant au Canada;

b) sa seule activité consiste :

(i) soit à investir ses fonds dans des biens, sauf des immeubles ou des droits réels sur ceux-ci ou des biens réels ou des intérêts sur ceux-ci,

(ii) soit à acquérir, à détenir, à entretenir, à améliorer, à louer ou à gérer ses immobilisations qui sont

(iii) any combination of the activities described in subparagraphs 132(6)(b)(i) and 132(6)(b)(ii), and

(c) it complied with prescribed conditions.

Election to be mutual fund

(6.1) Where a trust becomes a mutual fund trust at any particular time before the 91st day after the end of its first taxation year, and the trust so elects in its return of income for that year, the trust is deemed to have been a mutual fund trust from the beginning of that year until the particular time.

Retention of status as mutual fund trust

(6.2) A trust is deemed to be a mutual fund trust throughout a calendar year where

(a) at any time in the year, the trust would, if this section were read without reference to this subsection, have ceased to be a mutual fund trust

(i) because the condition described in paragraph 108(2)(a) ceased to be satisfied,

(ii) because of the application of paragraph (6)(c), or

(iii) because the trust ceased to exist;

(b) the trust was a mutual fund trust at the beginning of the year; and

(c) the trust would, throughout the portion of the year throughout which it was in existence, have been a mutual fund trust if

(i) in the case where the condition described in paragraph 108(2)(a) was satisfied at any time in the year, that condition were satisfied throughout the year,

(ii) subsection (6) were read without reference to paragraph (c) of that subsection, and

(iii) this section were read without reference to this subsection.

Idem

(7) Where, at any time, it can reasonably be considered that a trust, having regard to all the circumstances, including the terms and conditions of the units of the trust,

des immeubles ou des droits réels sur ceux-ci ou des biens réels ou des intérêts sur ceux-ci,

(iii) soit à exercer plusieurs des activités visées aux sous-alinéas (i) et (ii);

c) elle satisfait aux conditions prévues par règlement.

Choix de devenir une fiducie de fonds commun de placement

(6.1) La fiducie qui devient une fiducie de fonds commun de placement à un moment avant le quatre-vingt-onzième jour suivant la fin de sa première année d'imposition est réputée avoir été une telle fiducie depuis le début de cette année jusqu'à ce moment si elle en fait le choix dans sa déclaration de revenu pour cette année.

Fiducie qui demeure une fiducie de fonds commun de placement

(6.2) Une fiducie est réputée être une fiducie de fonds commun de placement tout au long d'une année civile si, à la fois :

a) elle aurait cessé d'être une telle fiducie à un moment de l'année si le présent article s'appliquait compte non tenu du présent paragraphe du fait que, selon le cas :

(i) la condition énoncée à l'alinéa 108(2)a) n'est plus remplie,

(ii) l'alinéa (6)c) s'applique,

(iii) la fiducie a cessé d'exister;

b) elle était une telle fiducie au début de l'année;

c) elle aurait été une telle fiducie tout au long de la partie de l'année où elle a existé si, à la fois :

(i) la condition énoncée à l'alinéa 108(2)a) étant remplie à un moment de l'année, elle était remplie tout au long de l'année,

(ii) le paragraphe (6) s'appliquait compte non tenu de son alinéa c),

(iii) le présent article s'appliquait compte non tenu du présent paragraphe.

Présomption en cas de personnes non-résidentes

(7) La fiducie qu'il est raisonnable, à un moment donné, de considérer comme ayant été créée ou gérée principalement au profit de personnes non-résidentes — compte

was established or is maintained primarily for the benefit of non-resident persons, the trust shall be deemed not to be a mutual fund trust after that time unless

(a) at that time, all or substantially all of its property consisted of property other than property that would be taxable Canadian property if the definition ***taxable Canadian property*** in subsection 248(1) were read without reference to paragraph (b) of that definition; or

(b) it has not issued any unit (other than a unit issued to a person as a payment, or in satisfaction of the person's right to enforce payment, of an amount out of the trust's income determined before the application of subsection 104(6), or out of the trust's capital gains) of the trust after February 20, 1990 and before that time to a person who, after reasonable inquiry, it had reason to believe was non-resident, except where the unit was issued to that person under an agreement in writing entered into before February 21, 1990.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 132; 1994, c. 7, Sch. II, s. 111, Sch. VIII, s. 77; 1995, c. 21, s. 68; 1998, c. 19, s. 158; 1999, c. 22, s. 54; 2001, c. 17, s. 129; 2003, c. 15, s. 113; 2005, c. 19, s. 31; 2007, c. 29, s. 16; 2010, c. 25, s. 31; 2013, c. 34, ss. 133, 278; 2016, c. 7, s. 62.

tenu des circonstances, y compris les caractéristiques de ses unités — n'est réputée être une fiducie de fonds commun de placement après ce moment qui si, selon le cas :

a) à ce moment, la totalité ou la presque totalité de ses biens consistaient en biens autres que des biens qui seraient des biens canadiens imposables s'il n'était pas tenu compte de l'alinéa b) de la définition de ***bien canadien imposable*** au paragraphe 248(1);

b) elle n'a pas émis d'unités (sauf celles émises en faveur d'une personne à titre de paiement sur le revenu de la fiducie, déterminé avant l'application du paragraphe 104(6), ou sur les gains en capital de la fiducie, ou en règlement du droit de la personne d'exiger le versement d'une somme sur ce revenu ou ces gains) après le 20 février 1990 et avant le moment donné en faveur d'une personne au sujet de laquelle elle avait raison de croire, après enquête raisonnable, qu'elle ne résidait pas au Canada, sauf si les unités ont été émises en faveur de cette personne conformément à une convention écrite conclue avant le 21 février 1990.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 132; 1994, ch. 7, ann. II, art. 111, ann. VIII, art. 77; 1995, ch. 21, art. 68; 1998, ch. 19, art. 158; 1999, ch. 22, art. 54; 2001, ch. 17, art. 129; 2003, ch. 15, art. 113; 2005, ch. 19, art. 31; 2007, ch. 29, art. 16; 2010, ch. 25, art. 31; 2013, ch. 34, art. 133 et 278; 2016, ch. 7, art. 62.

Amounts designated by mutual fund trust

132.1 (1) Where a trust in its return of income under this Part for a taxation year throughout which it was a mutual fund trust designates an amount in respect of a particular unit of the trust owned by a taxpayer at any time in the year equal to the total of

(a) such amount as the trust may determine in respect of the particular unit for the year not exceeding the amount, if any, by which

(i) the total of all amounts that were determined by the trust under subsection 104(16) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, for taxation years of the trust commencing before 1988

exceeds

(ii) the total of all amounts determined by the trust under this paragraph for the year or a preceding taxation year in respect of all units of the trust, other than amounts determined in respect of the particular unit for the year under this paragraph, and

(b) such amount as the trust may determine in respect of the particular unit for the year not exceeding the amount, if any, by which

Montants attribués par une fiducie de fonds commun de placement

132.1 (1) Le montant qu'une fiducie qui est une fiducie de fonds commun de placement tout au long d'une année d'imposition attribue dans sa déclaration de revenu pour l'année produite en vertu de la présente partie, au titre d'une unité donnée dans la fiducie dont un contribuable est propriétaire à un moment de l'année, et qui est égal au total des montants suivants :

a) le montant que la fiducie peut déterminer au titre de l'unité donnée pour l'année ne dépassant pas l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants que la fiducie a déterminés en application du paragraphe 104(16) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, pour ses années d'imposition commençant avant 1988,

(ii) le total des montants que la fiducie a déterminés en application du présent alinéa pour l'année ou pour une année d'imposition antérieure au titre de toutes les unités dans la fiducie, à l'exception des montants qu'elle a ainsi déterminés pour l'année au titre de l'unité donnée;

b) le montant que la fiducie peut déterminer au titre de l'unité donnée pour l'année ne dépassant pas

(i) the total of all amounts described in subparagraph 53(2)(h)(i.1) that became payable by the trust after 1987 and before the year

exceeds

(ii) the total of all amounts determined by the trust under this paragraph for the year or a preceding taxation year in respect of all units of the trust, other than amounts determined in respect of the particular unit for the year under this paragraph,

the amount so designated shall

(c) subject to subsection 132.1(3), be deductible in computing the income of the trust for the year, and

(d) be included in computing the income of the taxpayer for the taxpayer's taxation year in which the year of the trust ends, except that where the particular unit was owned by two or more taxpayers during the year, such part of the amount so designated as the trust may determine shall be included in computing the income of each such taxpayer for the taxpayer's taxation year in which the year of the trust ends if the total of the parts so determined is equal to the amount so designated.

(i) le total des montants visés au sous-alinéa 53(2)h)(i.1) qui sont devenus payables par la fiducie après 1987 et avant l'année,

(ii) le total des montants que la fiducie a déterminés en application du présent alinéa pour l'année ou pour une année d'imposition antérieure au titre de toutes les unités dans la fiducie, à l'exception des montants qu'elle a ainsi déterminés pour l'année au titre de l'unité donnée,

est :

c) sous réserve du paragraphe (3), d'une part, déductible dans le calcul du revenu de la fiducie pour l'année;

d) d'autre part, inclus dans le calcul du revenu du contribuable pour son année d'imposition au cours de laquelle l'année de la fiducie se termine; toutefois, dans le cas où plusieurs contribuables sont propriétaires de l'unité donnée au cours de l'année, la partie du montant ainsi attribué que la fiducie peut déterminer doit être incluse dans le calcul du revenu de chaque contribuable pour son année d'imposition au cours de laquelle l'année de la fiducie se termine si le total des parties ainsi déterminées est égal au montant ainsi attribué.

Adjusted cost base of unit where designation made

(2) In computing, at any time in a taxation year of a taxpayer, the adjusted cost base to the taxpayer of a unit in a mutual fund trust, there shall be added that part of the amount included under subsection 132.1(1) in computing the taxpayer's income that is reasonably attributable to the amount determined under paragraph 132.1(1)(b) by the trust for its taxation year ending in the year in respect of the unit owned by the taxpayer.

Prix de base rajusté d'une unité

(2) La partie du montant inclus en application du paragraphe (1) dans le calcul du revenu d'un contribuable qu'il est raisonnable d'attribuer au montant qu'une fiducie de fonds commun de placement peut déterminer, au titre d'une de ses unités dont le contribuable est propriétaire, en application de l'alinéa (1)b) pour son année d'imposition se terminant au cours d'une année d'imposition du contribuable doit être ajoutée dans le calcul, à un moment de cette dernière année, du prix de base rajusté de l'unité pour le contribuable.

Limitation on current year deduction

(3) The total of amounts deductible by reason of paragraph 132.1(1)(c) in computing the income of a trust for a taxation year shall not exceed the amount that would be the income of the trust for the year if no deductions were made under this section and subsection 104(6).

Restriction

(3) Le total des montants déductibles en application de l'alinéa (1)c) dans le calcul du revenu d'une fiducie pour une année d'imposition ne peut dépasser le montant qui constituerait le revenu de la fiducie pour l'année si aucune déduction n'était faite selon le présent article et le paragraphe 104(6).

Carryover of excess

(4) The amount, if any, by which the total of all amounts each of which is an amount designated for the year under subsection 132.1(1) exceeds the amount deductible under

Report de l'excédent

(4) Pour l'application de l'alinéa (1)c) et du paragraphe (3), l'excédent éventuel du total des montants dont chacun représente un montant qu'une fiducie attribue en

this section in computing the income of the trust for the year, shall, for the purposes of paragraph 132.1(1)(c) and subsection 132.1(3), be deemed designated under subsection 132.1(1) by the trust for its immediately following taxation year.

Where designation has no effect

(5) Where it is reasonable to conclude that an amount determined by a mutual fund trust

(a) under paragraph 132.1(1)(a) or 132.1(1)(b) for a taxation year of the trust in respect of a unit owned at any time in the year by a taxpayer who was a person exempt from tax under this Part by reason of subsection 149(1), or

(b) under paragraph 132.1(1)(d) for the year in respect of the amount designated under subsection 132.1(1) for the year in respect of the unit

differs from the amount that would have been so determined for the year in respect of the taxpayer had the taxpayer not been a person exempt from tax under this Part by reason of subsection 149(1), the amount designated for the year in respect of the unit under subsection 132.1(1) shall have no effect for the purposes of paragraph 132.1(1)(c).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 121.

Taxation year of mutual fund trust

132.11 (1) Notwithstanding any other provision of this Act, where a trust (other than a prescribed trust) that was a mutual fund trust on the 74th day after the end of a particular calendar year so elects in writing filed with the Minister with the trust's return of income for the trust's taxation year that includes December 15 of the particular year,

(a) the trust's taxation year that began before December 16 of the particular year and, but for this paragraph, would end at the end of the particular year (or, where the first taxation year of the trust began after December 15 of the preceding calendar year and no return of income was filed for a taxation year of the trust that ended at the end of the preceding calendar year, at the end of the preceding calendar year) is deemed to end at the end of December 15 of the particular year;

(b) if the trust's taxation year ends on December 15 because of paragraph (a), subject to subsection (1.1), each subsequent taxation year of the trust is deemed to be the period that begins at the beginning of December 16 of a calendar year and that ends at the end of December 15 of the following calendar year or at

application du paragraphe (1) pour une année d'imposition sur le montant déductible selon le présent article dans le calcul de son revenu pour l'année est réputé être un montant qu'elle attribue en application de ce paragraphe pour son année d'imposition suivant l'année en question.

Attribution sans effet

(5) S'il est raisonnable de considérer qu'un montant qu'une fiducie de fonds commun de placement détermine — soit en application de l'alinéa (1)a) ou b) pour son année d'imposition au titre d'une unité dont est propriétaire à un moment de l'année un contribuable exonéré de l'impôt prévu à la présente partie par application du paragraphe 149(1), soit en application de l'alinéa (1)d) pour l'année, en ce qui concerne le montant attribué pour l'année en application du paragraphe (1) au titre de l'unité, — diffère du montant que la fiducie déterminerait ainsi pour l'année si le contribuable n'était pas exonéré, le montant attribué par la fiducie pour l'année en application du paragraphe (1) au titre de l'unité est sans effet pour l'application de l'alinéa (1)c).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 121.

Année d'imposition d'une fiducie de fonds commun de placement

132.11 (1) Malgré les autres dispositions de la présente loi, les règles suivantes s'appliquent à la fiducie (sauf celle qui est visée par règlement) qui est une fiducie de fonds commun de placement le soixante-quatorzième jour après la fin d'une année civile donnée si elle en fait le choix dans un document présenté au ministre avec sa déclaration de revenu pour son année d'imposition qui comprend le 15 décembre de l'année donnée :

a) son année d'imposition qui a commencé avant le 16 décembre de l'année donnée et qui, n'eût été le présent alinéa, se serait terminée à la fin de cette année (ou, si sa première année d'imposition a commencé après le 15 décembre de l'année civile précédente et qu'elle n'ait produit aucune déclaration de revenu pour une année d'imposition s'étant terminée à la fin de l'année civile précédente, à la fin de l'année civile précédente) est réputée se terminer à la fin du 15 décembre de l'année donnée;

b) si son année d'imposition se termine le 15 décembre par l'effet de l'alinéa a), chacune de ses années d'imposition ultérieures est réputée, sous réserve du paragraphe (1.1), correspondre à la période qui

any earlier time that is determined under paragraph 128.1(4)(a), 132.2(3)(b), 142.6(1)(a) or 249(4)(a); and

(c) each fiscal period of the trust that begins in a taxation year of the trust that ends on December 15 because of paragraph (a) or that ends in a subsequent taxation year of the trust shall end no later than the end of the year or the subsequent year, as the case may be.

commence au début du 16 décembre d'une année civile et qui se termine à la fin du 15 décembre de l'année civile subséquente ou à tout moment antérieur déterminé selon les alinéas 128.1(4)a), 132.2(3)b), 142.6(1)a) ou 249(4)a);

c) chacun de ses exercices qui soit commence dans une de ses années d'imposition se terminant le 15 décembre par l'effet de l'alinéa a), soit se termine dans une de ses années d'imposition ultérieures, doit prendre fin au plus tard à la fin de l'année où il a commencé.

Revocation of election

(1.1) Where a particular taxation year of a trust ends on December 15 of a calendar year because of an election made under paragraph (1)(a), the trust applies to the Minister in writing before December 15 of that calendar year (or before a later time that is acceptable to the Minister) to have this subsection apply to the trust, with the concurrence of the Minister

(a) the trust's taxation year following the particular taxation year is deemed to begin immediately after the end of the particular taxation year and end at the end of that calendar year; and

(b) each subsequent taxation year of the trust is deemed to be determined as if that election had not been made.

Révocation du choix

(1.1) Lorsqu'une année d'imposition donnée d'une fiducie se termine le 15 décembre d'une année civile en raison d'un choix fait en vertu de l'alinéa (1)a), les présomptions ci-après s'appliquent si la fiducie demande au ministre par écrit, avant le 15 décembre de cette année civile (ou avant une date postérieure que le ministre estime acceptable), l'autorisation de se prévaloir du présent paragraphe et si le ministre y consent :

a) l'année d'imposition de la fiducie suivant l'année donnée est réputée commencer immédiatement après la fin de l'année donnée et se terminer à la fin de l'année civile en question;

b) chaque année d'imposition postérieure de la fiducie est réputée être déterminée comme si le choix n'avait pas été fait.

Electing trust's share of partnership income and losses

(2) Where a trust is a member of a partnership a fiscal period of which ends in a calendar year after December 15 of the year and a particular taxation year of the trust ends on December 15 of the year because of subsection (1), each amount otherwise determined under paragraph 96(1)(f) or (g) to be the trust's income or loss for a subsequent taxation year of the trust is deemed to be the trust's income or loss determined under paragraph 96(1)(f) or (g) for the particular year and not for the subsequent year.

Part de la fiducie sur le revenu ou la perte d'une société de personnes

(2) Lorsqu'une fiducie est l'associé d'une société de personnes et que l'exercice d'une entreprise ou d'un bien de cette dernière se termine dans une année civile, après le 15 décembre de cette année, et qu'une année d'imposition donnée de la fiducie se termine le 15 décembre de l'année par l'effet du paragraphe (1), chaque montant qui constitue par ailleurs, selon les alinéas 96(1)f) ou g), le revenu ou la perte de la fiducie pour une année d'imposition ultérieure de celle-ci est réputé correspondre au revenu ou à la perte de la fiducie déterminé selon ces alinéas pour l'année donnée et non pour l'année ultérieure.

Electing trust's income from other trusts

(3) Where a particular trust is a beneficiary under another trust a taxation year of which (in this subsection referred to as the "other year") ends in a calendar year after December 15 of the year and a particular taxation year of the trust ends on December 15 of the year because of subsection (1), each amount determined or designated under subsection 104(13), (19), (21), (22) or (29) for the other year that would otherwise be included, or taken into

Revenu de la fiducie provenant d'autres fiducies

(3) Lorsqu'une fiducie donnée est bénéficiaire d'une autre fiducie dont l'une des années d'imposition (appelée « autre année » au présent paragraphe) se termine dans une année civile, après le 15 décembre de cette année, et qu'une année d'imposition donnée de la fiducie se termine le 15 décembre de l'année par l'effet du paragraphe (1), chaque montant déterminé ou attribué en application des paragraphes 104(13), (19), (21), (22) ou (29) pour

account, in computing the income of the particular trust for a subsequent taxation year of the trust shall

(a) be included, or taken into account, in computing the particular trust's income for the particular year; and

(b) not be included, or taken into account, in computing the particular trust's income for the subsequent year.

l'autre année qui serait par ailleurs inclus ou pris en compte dans le calcul du revenu de la fiducie donnée pour une de ses années d'imposition ultérieures :

a) doit être inclus ou pris en compte dans le calcul de son revenu pour l'année donnée;

b) ne peut être inclus ni pris en compte dans le calcul de son revenu pour l'année ultérieure.

Amounts paid or payable to beneficiaries

(4) Notwithstanding subsection 104(24), for the purposes of subsections (5) and (6) and 104(6) and (13) and paragraph (i) of the definition ***disposition*** in subsection 248(1) each amount that is paid, or that becomes payable, by a trust to a beneficiary after the end of a particular taxation year of the trust that ends on December 15 of a calendar year because of subsection (1) and before the end of that calendar year, is deemed to have been paid or to have become payable, as the case may be, to the beneficiary at the end of the particular year and not at any other time.

Montants payés ou payables aux bénéficiaires

(4) Malgré le paragraphe 104(24), pour l'application des paragraphes (5) et (6) et 104(6) et (13) et de l'alinéa i) de la définition de ***disposition*** au paragraphe 248(1), chaque montant qui est payé ou qui devient payable par une fiducie à un bénéficiaire après la fin d'une année d'imposition donnée de la fiducie qui se termine le 15 décembre d'une année civile par l'effet du paragraphe (1) et avant la fin de cette année civile est réputé avoir été payé ou être devenu payable, selon le cas, au bénéficiaire à la fin de l'année donnée et à aucun autre moment.

Special rules where change in status of beneficiary

(5) Where an amount is deemed by subsection (4) to have been paid or to have become payable at the end of December 15 of a calendar year by a trust to a beneficiary who was not a beneficiary under the trust at that time,

(a) notwithstanding any other provision of this Act, where the beneficiary did not exist at that time, except for the purpose of this paragraph, the first taxation year of the beneficiary is deemed to include the period that begins at that time and ends immediately before the beginning of the first taxation year of the beneficiary;

(b) the beneficiary is deemed to exist throughout the period described in paragraph (a); and

(c) where the beneficiary was not a beneficiary under the trust at that time, the beneficiary is deemed to have been a beneficiary under the trust at that time.

Règles spéciales en cas de changement d'état

(5) Lorsqu'un montant est réputé par le paragraphe (4) avoir été payé ou être devenu payable à la fin du 15 décembre d'une année civile par une fiducie à un bénéficiaire qui n'était pas son bénéficiaire à ce moment, les présomptions suivantes s'appliquent :

a) malgré les autres dispositions de la présente loi, si le bénéficiaire n'existait pas à ce moment, sa première année d'imposition est réputée, sauf pour l'application du présent alinéa, comprendre la période commençant à ce moment et se terminant immédiatement avant le début de sa première année d'imposition;

b) le bénéficiaire est réputé exister tout au long de la période visée à l'alinéa a),

c) s'il n'était pas bénéficiaire de la fiducie à ce moment, le bénéficiaire est réputé l'avoir été à ce moment.

Additional income of electing trust

(6) Where a particular amount is designated under this subsection by a trust in its return of income for a particular taxation year that ends on December 15 because of subsection (1) or throughout which the trust was a mutual fund trust and the trust does not designate an amount under subsection 104(13.1) or (13.2) for the particular year,

Revenu supplémentaire de la fiducie

(6) Lorsqu'une fiducie attribue un montant donné en application du présent paragraphe dans sa déclaration de revenu pour une année d'imposition donnée qui se termine le 15 décembre par l'effet du paragraphe (1) ou tout au long de laquelle elle est une fiducie de fonds commun de placement et qu'elle n'attribue pas de montant en application des paragraphes 104(13.1) ou (13.2) pour l'année donnée, les règles suivantes s'appliquent :

(a) the particular amount shall be added in computing its income for the particular year; and

(b) for the purposes of subsections 104(6) and (13), each portion of the particular amount that is allocated under this paragraph to a beneficiary under the trust in the trust's return of income for the particular year in respect of an amount paid or payable to the beneficiary in the particular year shall be considered to be additional income of the trust for the particular year (determined without reference to subsection 104(6)) that was paid or payable, as the case may be, to the beneficiary at the end of the particular year.

(c) [Repealed, 2001, c. 17, s. 130(4)]

a) le montant donné est ajouté dans le calcul de son revenu pour l'année donnée;

b) pour l'application des paragraphes 104(6) et (13), chaque partie du montant donné qui est attribuée en application du présent alinéa à un bénéficiaire de la fiducie dans la déclaration de revenu de celle-ci pour l'année donnée au titre d'un montant payé ou payable au bénéficiaire au cours de cette année est considéré comme un revenu supplémentaire de la fiducie pour l'année donnée (déterminé compte non tenu du paragraphe 104(6)) qui a été payé ou était payable, selon le cas, au bénéficiaire à la fin de l'année donnée;

c) [Abrogé, 2001, ch. 17, art. 130(4)]

Deduction

(7) Subject to subsection (8), the lesser of the amount designated under subsection (6) by a trust for a taxation year and the total of all amounts each of which is allocated by the trust under paragraph (6)(b) in respect of the year shall be deducted in computing the trust's income for the following taxation year.

Déduction

(7) Sous réserve du paragraphe (8), le montant qu'une fiducie attribue pour une année d'imposition en application du paragraphe (6) ou, s'il est moins élevé, le total des montants dont chacun est attribué par la fiducie en application de l'alinéa (6)b) pour l'année doit être déduit dans le calcul du revenu de la fiducie pour l'année d'imposition subséquente.

Anti-avoidance

(8) Subsection (7) does not apply in computing the income of a trust for a taxation year where it is reasonable to consider that the designation under subsection (6) for the preceding taxation year was part of a series of transactions or events that includes a change in the composition of beneficiaries under the trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1999, c. 22, s. 55; 2001, c. 17, s. 130; 2013, c. 34, s. 279; 2016, c. 12, s. 49.

Anti-évitement

(8) Le paragraphe (7) ne s'applique pas au calcul du revenu d'une fiducie pour une année d'imposition s'il est raisonnable de considérer que l'attribution effectuée en application du paragraphe (6) pour l'année d'imposition précédente fait partie d'une série d'opérations ou d'événements qui comporte un changement dans la composition des bénéficiaires de la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1999, ch. 22, art. 55; 2001, ch. 17, art. 130; 2013, ch. 34, art. 279; 2016, ch. 12, art. 49.

Definitions re qualifying exchange of mutual funds

132.2 (1) The following definitions apply in this section.

first post-exchange year, of a fund in respect of a qualifying exchange, means the taxation year of the fund that begins immediately after the acquisition time. (*première année suivant l'échange*)

qualifying exchange means a transfer at any time (in this section referred to as the "transfer time") of all or substantially all of the property of a mutual fund corporation (other than a SIFT wind-up corporation) or a mutual fund trust to a mutual fund trust (in this section referred to as the "transferor" and "transferee", respectively, and as the "funds") if

Définitions — échange admissible de fonds communs de placement

132.2 (1) Les définitions qui suivent s'appliquent au présent article.

action Action du capital-actions d'une société de placement à capital variable ou unité d'une fiducie de fonds commun de placement. (*share*)

échange admissible Transfert à un moment donné (appelé « moment du transfert » au présent article) de la totalité ou de la presque totalité des biens d'une société de placement à capital variable (sauf une société de conversion d'EIPD) ou d'une fiducie de fonds commun de placement à une fiducie de fonds commun de placement (appelées respectivement « cédant » et « cessionnaire » et collectivement « organisme de placement collectif », au présent article), si, à la fois :

(a) all or substantially all of the shares issued by the transferor and outstanding immediately before the transfer time are within 60 days after the transfer time disposed of to the transferor;

(b) no person disposing of shares of the transferor to the transferor within that 60-day period (otherwise than pursuant to the exercise of a statutory right of dissent) receives any consideration for the shares other than units of the transferee; and

(c) the funds jointly so elect, by filing a prescribed form with the Minister on or before the election's due date. (*échange admissible*)

share means a share of the capital stock of a mutual fund corporation and a unit of a mutual fund trust. (*action*)

Timing

(2) In respect of a qualifying exchange, a time referred to in the following list immediately follows the time that precedes it in the list

(a) the transfer time;

(b) the first intervening time;

(c) the acquisition time;

(d) the beginning of the funds' first post-exchange years;

(e) the depreciables disposition time;

(f) the second intervening time; and

(g) the depreciables acquisition time.

General

(3) In respect of a qualifying exchange,

(a) each property of a fund, other than property disposed of by the transferor to the transferee at the transfer time and depreciable property, is deemed to have been disposed of, and to have been reacquired by the fund, at the first intervening time, for an amount equal to the lesser of

(i) the fair market value of the property at the transfer time, and

a) la totalité ou la presque totalité des actions émises par le cédant qui sont en circulation immédiatement avant le moment du transfert sont acquises par celui-ci dans le cadre de dispositions effectuées dans les 60 jours suivant le moment du transfert;

b) quiconque dispose d'actions du cédant en faveur de celui-ci au cours de cette période de 60 jours (autrement que par suite de l'exercice d'un droit de dissidence prévu par une loi) ne reçoit, en contrepartie des actions, que des unités du cessionnaire;

c) les organismes de placement collectif font un choix conjoint à cet effet, sur le formulaire prescrit présenté au ministre au plus tard à la date d'échéance du choix. (*qualifying exchange*)

première année suivant l'échange En ce qui concerne un organisme de placement collectif relativement à un échange admissible, l'année d'imposition de l'organisme commençant aussitôt après le moment de l'acquisition. (*first post-exchange year*)

Chronologie

(2) Pour ce qui est des échanges admissibles, chacun des moments ci-après succède à celui qui le précède :

a) le moment du transfert;

b) le premier moment intermédiaire;

c) le moment de l'acquisition;

d) le début de la première année suivant l'échange des organismes de placement collectif;

e) le moment de la disposition, dans le cas d'un bien amortissable;

f) le second moment intermédiaire;

g) le moment de l'acquisition, dans le cas d'un bien amortissable.

Dispositions générales

(3) Les règles ci-après s'appliquent relativement aux échanges admissibles :

a) chaque bien d'un organisme de placement collectif, à l'exception d'un bien que le cessionnaire acquiert du cédant à la suite d'une disposition effectuée au moment du transfert et d'un bien amortissable, est réputé avoir fait l'objet d'une disposition par l'organisme, et avoir été acquis de nouveau par lui, au premier moment intermédiaire, pour un montant égal au moins élevé des montants suivants :

(ii) the greater of

(A) its cost amount, and

(B) the amount that the fund designates in respect of the property in a notification to the Minister accompanying the election in respect of the qualifying exchange;

(b) subject to paragraph (l), the last taxation years of the funds that began before the transfer time are deemed to have ended at the acquisition time, and their first post-exchange years are deemed to have begun immediately after those last taxation years ended;

(c) each depreciable property of a fund (other than property to which subsection (5) applies and property to which paragraph (d) would, if this Act were read without reference to this paragraph, apply) is deemed to have been disposed of, and to have been reacquired, by the fund at the second intervening time for an amount equal to the lesser of

(i) the fair market value of the property at the depreciables disposition time, and

(ii) the greater of

(A) the lesser of its capital cost and its cost amount to the disposing fund at the depreciables disposition time, and

(B) the amount that the fund designates in respect of the property in a notification to the Minister accompanying the election in respect of the qualifying exchange;

(d) if at the second intervening time the undepreciated capital cost to a fund of depreciable property of a prescribed class exceeds the fair market value of all the property of that class, the excess is to be deducted in computing the fund's income for the taxation year that includes the transfer time and is deemed to have been allowed in respect of property of that class under regulations made for the purpose of paragraph 20(1)(a);

(e) except as provided in paragraph (m), the transferor's cost of any particular property received by the transferor from the transferee as consideration for the disposition of the property is deemed to be

(i) nil, if the particular property is a unit of the transferee, and

(ii) the particular property's fair market value at the transfer time, in any other case;

(i) la juste valeur marchande du bien au moment du transfert,

(ii) le plus élevé des montants suivants :

(A) le coût indiqué du bien,

(B) le montant que l'organisme indique relativement au bien dans un avis au ministre annexé au formulaire faisant état du choix concernant l'échange admissible;

b) sous réserve de l'alinéa l), la dernière année d'imposition des organismes de placement collectif qui a commencé avant le moment du transfert est réputée avoir pris fin au moment de l'acquisition, et leur première année suivant l'échange est réputée avoir commencé immédiatement après la fin de cette dernière année d'imposition;

c) chaque bien amortissable d'un organisme de placement collectif, à l'exclusion d'un bien auquel le paragraphe (5) s'applique et d'un bien auquel l'alinéa d) s'appliquerait en l'absence du présent alinéa, est réputé avoir fait l'objet d'une disposition par l'organisme, et avoir été acquis de nouveau par lui, au second moment intermédiaire, pour un montant égal au moins élevé des montants suivants :

(i) la juste valeur marchande du bien au moment de la disposition,

(ii) le plus élevé des montants suivants :

(A) le coût en capital du bien ou, s'il est moins élevé, son coût indiqué pour l'organisme cédant au moment de la disposition,

(B) le montant que l'organisme indique relativement au bien dans un avis au ministre annexé au formulaire faisant état du choix concernant l'échange admissible;

d) si, au second moment intermédiaire, la fraction non amortie du coût en capital, pour un organisme de placement collectif, d'un bien amortissable d'une catégorie prescrite excède la juste valeur marchande de l'ensemble des biens de cette catégorie, l'excédent est à déduire dans le calcul du revenu de l'organisme pour l'année d'imposition qui comprend le moment du transfert et est réputé avoir été déduit au titre des biens de cette catégorie dans la mesure autorisée par les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a);

(f) the transferor's proceeds of disposition of any units of the transferee that were disposed of by the transferor at any particular time that is within 60 days after the transfer time in exchange for shares of the transferor, are deemed to be equal to the cost amount of the units to the transferor immediately before the particular time;

(g) if, at any particular time that is within 60 days after the transfer time, a taxpayer disposes of shares of the transferor to the transferor in exchange for units of the transferee

(i) the taxpayer's proceeds of disposition of the shares and the cost to the taxpayer of the units are deemed to be equal to the cost amount to the taxpayer of the shares immediately before the particular time,

(ii) for the purposes of applying section 116 in respect of the disposition, the shares are deemed to be excluded property of the taxpayer,

(iii) where the qualifying exchange occurs after 2004, for the purposes of applying section 218.3 in respect of that exchange, the payment or crediting of the units to the taxpayer by the transferor is deemed not to be an assessable distribution,

(iv) where all of the taxpayer's shares of the transferor have been so disposed of, for the purpose of applying section 39.1 in respect of the taxpayer after that disposition, the transferee is deemed to be the same entity as the transferor,

(v) for the purpose of the definition ***designated beneficiary*** in section 210, the units are deemed not to have been held at any time by the transferor, and

(vi) where the taxpayer is at the particular time affiliated with one or both of the funds,

(A) those units are deemed not to be identical to any other units of the transferee,

(B) if the taxpayer is the transferee, and the units cease to exist when the taxpayer acquires them (or, for greater certainty, when the taxpayer would but for that cessation have acquired them), the taxpayer is deemed

(I) to have acquired those units at the particular time, and

(II) to have disposed of those units immediately after the particular time for proceeds of

e) sauf disposition contraire prévue à l'alinéa m), le coût, pour le cédant, d'un bien qu'il a reçu du cessionnaire en contrepartie de la disposition du bien est réputé être égal à celui des montants ci-après qui est applicable :

(i) zéro, si le bien ainsi reçu est une unité du cessionnaire,

(ii) la juste valeur marchande, au moment du transfert, du bien ainsi reçu, dans les autres cas;

f) le produit de disposition, pour le cédant, des unités du cessionnaire dont il a disposé dans les 60 jours suivant le moment du transfert en échange de ses propres actions est réputé correspondre au coût indiqué des unités pour lui immédiatement avant la disposition;

g) si, à un moment donné au cours des 60 jours suivant le moment du transfert, un contribuable dispose, en faveur du cédant, d'actions de ce dernier en échange d'unités du cessionnaire :

(i) le produit de disposition des actions et le coût des unités, pour le contribuable, sont réputés correspondre au coût indiqué des actions pour lui immédiatement avant le moment donné,

(ii) pour l'application de l'article 116 relativement à la disposition, les actions sont réputées être des biens exclus du contribuable,

(iii) dans le cas où l'échange admissible est effectué après 2004, pour l'application de l'article 218.3 relativement à cet échange, le fait que les unités sont payées au contribuable, ou portées à son crédit, par le cédant est réputé ne pas être une distribution déterminée,

(iv) dans le cas où il a été ainsi disposé de l'ensemble des actions du cédant qui appartiennent au contribuable, le cessionnaire est réputé, pour l'application de l'article 39.1 au contribuable après pareille disposition, être la même entité que le cédant,

(v) pour l'application de la définition de ***bénéficiaire étranger ou assimilé*** à l'article 210, les unités sont réputées ne jamais avoir été détenues par le cédant,

(vi) dans le cas où le contribuable est affilié à l'un des organismes de placement collectif, ou aux deux, au moment donné :

(A) les unités en question sont réputées ne pas être identiques à d'autres unités du cessionnaire,

disposition equal to the cost amount to the taxpayer of those units at the particular time, and

(C) in any other case, for the purpose of computing any gain or loss of the taxpayer from the taxpayer's first disposition, after the particular time, of each of those units,

(I) if that disposition is a renunciation or surrender of the unit by the taxpayer for no consideration, and is not in favour of any person other than the transferee, the taxpayer's proceeds of disposition of that unit are deemed to be equal to that unit's cost amount to the taxpayer immediately before that disposition, and

(II) if subclause (I) does not apply, the taxpayer's proceeds of disposition of that unit are deemed to be equal to the greater of that unit's fair market value and its cost amount to the taxpayer immediately before that disposition;

(h) where a share to which paragraph (g) applies would, if this Act were read without reference to this paragraph, cease to be a qualified investment (within the meaning assigned by subsection 146(1), 146.1(1) or 146.3(1), section 204 or subsection 205(1) or 207.01(1)) as a consequence of the qualifying exchange, the share is deemed to be a qualified investment until the earlier of the day that is 60 days after the day that includes the transfer time and the time at which it is disposed of in accordance with paragraph (g);

(i) there shall be added to the amount determined under the description of A in the definition ***refundable capital gains tax on hand*** in subsection 132(4) in respect of the transferee for its taxation years that begin after the transfer time the amount, if any, by which

(i) the transferor's refundable capital gains tax on hand (within the meaning assigned by subsection 131(6) or 132(4), as the case may be) at the end of its taxation year that includes the transfer time

exceeds

(ii) the transferor's capital gains refund (within the meaning assigned by paragraph 131(2)(a) or 132(1)(a), as the case may be) for that year;

(j) no amount in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss of a fund for a taxation year that began before the transfer time is deductible in computing the

(B) si le contribuable est le cessionnaire et que les unités cessent d'exister au moment où il les acquiert (ou au moment où il les aurait acquises si elles n'avaient pas cessé d'exister), il est réputé :

(I) d'une part, avoir acquis ces unités au moment donné,

(II) d'autre part, avoir disposé de ces unités immédiatement après le moment donné pour un produit de disposition égal à leur coût indiqué pour lui au moment donné,

(C) dans les autres cas, pour ce qui est du calcul du gain ou de la perte du contribuable provenant de la première disposition de chacune de ces unités effectuée par lui après le moment donné :

(I) si cette disposition constitue une renonciation ou une cession de l'unité effectuée par le contribuable à titre gratuit en faveur de nulle autre personne que le cessionnaire, le produit de disposition de l'unité pour le contribuable est réputé correspondre à son coût indiqué pour lui immédiatement avant la disposition,

(II) si la subdivision (I) ne s'applique pas, le produit de disposition de l'unité pour le contribuable est réputé correspondre à sa juste valeur marchande ou, s'il est plus élevé, à son coût indiqué pour le contribuable immédiatement avant la disposition;

h) l'action à laquelle s'applique l'alinéa g) et qui cesserait, en l'absence du présent alinéa, d'être un placement admissible, au sens des paragraphes 146(1), 146.1(1) ou 146.3(1), de l'article 204 ou des paragraphes 205(1) ou 207.01(1), par suite de l'échange admissible est réputée être un tel placement jusqu'au soixantième jour suivant le jour qui comprend le moment du transfert ou, s'il est antérieur, jusqu'au moment où elle fait l'objet d'une disposition en conformité avec l'alinéa g);

i) est ajouté à la somme que représente l'élément A de la formule figurant à la définition de ***impôt en main remboursable au titre des gains en capital***, au paragraphe 132(4), relativement au cessionnaire pour ses années d'imposition qui commencent après le moment du transfert, l'excédent du montant visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) l'impôt en main remboursable au titre des gains en capital du cédant, au sens des paragraphes 131(6) ou 132(4), selon le cas, à la fin de son année d'imposition qui comprend le moment du transfert,

taxable income of either of the funds for a taxation year that begins after the transfer time;

(k) if the transferor is a mutual fund trust, for the purposes of subsections 132.1(1) and (3) to (5), the transferee is deemed after the transfer time to be the same mutual fund trust as, and a continuation of, the transferor;

(l) if the transferor is a mutual fund corporation

(i) for the purpose of subsection 131(4) but, for greater certainty, without having any effect on the computation of any amount determined under this Part, the transferor is deemed in respect of any share disposed of in accordance with paragraph (g) to be a mutual fund corporation at the time of the disposition, and

(ii) for the purpose of Part I.3 but, for greater certainty, without having any effect on the computation of any amount determined under this Part, the transferor's taxation year that, if this Act were read without reference to this paragraph, would have included the transfer time is deemed to have ended immediately before the transfer time;

(m) for the purpose of determining the funds' capital gains redemptions (as defined in subsection 131(6) or 132(4), as the case may be), for their taxation years that include the transfer time,

(i) the total of the cost amounts to the transferor of all its properties at the end of the year is deemed to be the total of all amounts each of which is

(A) the transferor's proceeds of disposition of a property that was transferred to a transferee on the qualifying exchange, or

(B) the cost amount to the transferor at the end of the year of a property that was not transferred on the qualifying exchange, and

(ii) the transferee is deemed not to have acquired any property that was transferred to it on the qualifying exchange; and

(n) except as provided in subparagraph (l)(i), the transferor is, notwithstanding subsections 131(8) and 132(6), deemed to be neither a mutual fund corporation nor a mutual fund trust for taxation years that begin after the transfer time.

(ii) le remboursement au titre des gains en capital du cédant, au sens des alinéas 131(2)a) ou 132(1)a), selon le cas, pour cette année;

j) aucun montant au titre d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire d'un organisme de placement collectif pour une année d'imposition qui a commencé avant le moment du transfert n'est déductible dans le calcul du revenu imposable de l'un ou l'autre des organismes pour une année d'imposition qui commence après le moment du transfert;

k) pour l'application des paragraphes 132.1(1) et (3) à (5), si le cédant est une fiducie de fonds commun de placement, le cessionnaire est réputé, après le moment du transfert, être la même fiducie de fonds commun de placement que le cédant et en être la continuation;

l) si le cédant est une société de placement à capital variable (étant toutefois entendu que le présent alinéa est sans effet sur le calcul d'un montant en vertu de la présente partie) :

(i) pour l'application du paragraphe 131(4), le cédant est réputé, en ce qui a trait à une action dont il est disposé en conformité avec l'alinéa g), être une société de placement à capital variable au moment de la disposition,

(ii) pour l'application de la partie I.3, l'année d'imposition du cédant qui, en l'absence du présent alinéa, aurait compris le moment du transfert est réputée avoir pris fin immédiatement avant ce moment;

m) pour déterminer les rachats au titre des gains en capital, au sens des paragraphes 131(6) ou 132(4), selon le cas, des organismes de placement collectif pour leur année d'imposition qui comprend le moment du transfert :

(i) le total des coûts indiqués, pour le cédant, de ses biens à la fin de l'année est réputé être égal au total des montants représentant chacun :

(A) le produit de disposition, pour lui, d'un bien qui a été transféré à un cessionnaire lors de l'échange admissible,

(B) le coût indiqué, pour lui à la fin de l'année, d'un bien qui n'a pas été transféré lors de l'échange admissible,

(ii) le cessionnaire est réputé ne pas avoir acquis tout bien qui lui a été transféré lors de l'échange admissible;

n) sauf disposition contraire énoncée au sous-alinéa l)(i) et malgré les paragraphes 131(8) et 132(6), le cédant est réputé n'être ni une société de placement à capital variable ni une fiducie de fonds commun de placement pour les années d'imposition qui commencent après le moment du transfert.

Qualifying exchange — non-depreciable property

(4) If a transferor transfers a property, other than a depreciable property, to a transferee in a qualifying exchange,

(a) the transferee is deemed to have acquired the property at the acquisition time and not to have acquired the property at the transfer time; and

(b) the transferor's proceeds of disposition of the property and the transferee's cost of the property are deemed to be the lesser of

(i) the fair market value of the property at the transfer time, and

(ii) the greatest of

(A) the cost amount to the transferor of the property at the transfer time,

(B) the amount that the funds agree on in respect of the property in their election, and

(C) the fair market value at the transfer time of the consideration (other than units of the transferee) received by the transferor for the disposition of the property.

Échange admissible — bien non amortissable

(4) Si un cédant transfère un bien, sauf un bien amortissable, à un cessionnaire dans le cadre d'un échange admissible, les règles ci-après s'appliquent :

a) le cessionnaire est réputé avoir acquis le bien au moment de l'acquisition et non au moment du transfert;

b) le produit de disposition du bien pour le cédant et son coût pour le cessionnaire sont réputés correspondre au moins élevé des montants suivants :

(i) la juste valeur marchande du bien au moment du transfert,

(ii) le plus élevé des montants suivants :

(A) le coût indiqué du bien pour le cédant au moment du transfert,

(B) le montant dont sont convenus les organismes de placement collectif relativement au bien dans le formulaire faisant état de leur choix,

(C) la juste valeur marchande, au moment du transfert, de la contrepartie, à l'exclusion d'unités du cessionnaire, que le cédant a reçue par suite de la disposition du bien.

Depreciable property

(5) If a transferor transfers a depreciable property to a transferee in a qualifying exchange,

(a) the transferor is deemed to have disposed of the property at the depreciables disposition time, and not to have disposed of the property at the transfer time;

(b) the transferee is deemed to have acquired the property at the depreciables acquisition time, and not to have acquired the property at the transfer time;

(c) the transferor's proceeds of disposition of the property and the transferee's cost of the property are deemed to be the lesser of

Bien amortissable

(5) Si un cédant transfère un bien amortissable à un cessionnaire dans le cadre d'un échange admissible, les règles ci-après s'appliquent :

a) le cédant est réputé avoir disposé du bien au moment de la disposition et non au moment du transfert;

b) le cessionnaire est réputé avoir acquis le bien au moment de l'acquisition et non au moment du transfert;

c) le produit de disposition du bien pour le cédant et son coût pour le cessionnaire sont réputés correspondre au moins élevé des montants suivants :

(i) the fair market value of the property at the transfer time, and

(ii) the greatest of

(A) the lesser of its capital cost and its cost amount to the transferor immediately before the depreciables disposition time,

(B) the amount that the funds agree on in respect of the property in their election, and

(C) the fair market value at the transfer time of the consideration (other than units of the transferee) received by the transferor for the disposition of the property;

(d) where the capital cost of the property to the transferor exceeds the transferor's proceeds of disposition of the property under paragraph (c), for the purposes of sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a),

(i) the property's capital cost to the transferee is deemed to be the amount that was its capital cost to the transferor, and

(ii) the excess is deemed to have been allowed to the transferee in respect of the property under regulations made for the purpose of paragraph 20(1)(a) in computing income for taxation years ending before the transfer time; and

(e) where two or more depreciable properties of a prescribed class are disposed of by the transferor to the transferee in the same qualifying exchange, paragraph (c) applies as if each property so disposed of had been separately disposed of in the order designated by the transferor at the time of making the election in respect of the qualifying exchange or, if the transferor does not so designate any such order, in the order designated by the Minister.

(i) la juste valeur marchande du bien au moment du transfert,

(ii) le plus élevé des montants suivants :

(A) le coût en capital du bien ou, s'il est moins élevé, son coût indiqué pour le cédant immédiatement avant le moment de la disposition,

(B) le montant dont sont convenus les organismes de placement collectif relativement au bien dans le formulaire faisant état de leur choix,

(C) la juste valeur marchande, au moment du transfert, de la contrepartie, à l'exclusion d'unités du cessionnaire, que le cédant a reçue par suite de la disposition du bien;

d) si le coût en capital du bien pour le cédant excède son produit de disposition pour celui-ci, déterminé selon l'alinéa c), pour l'application des articles 13 et 20 et des dispositions réglementaires prises pour l'application de l'alinéa 20(1)a) :

(i) le coût en capital du bien pour le cessionnaire est réputé être égal à son coût en capital pour le cédant,

(ii) l'excédent est réputé avoir été déduit au titre du bien, dans la mesure autorisée par les dispositions réglementaires prises pour l'application de l'alinéa 20(1)a), dans le calcul du revenu du cessionnaire pour les années d'imposition se terminant avant le moment du transfert;

e) si le cédant dispose de plusieurs biens amortissables d'une catégorie prescrite dans le cadre d'un même échange admissible avec le cessionnaire, l'alinéa c) s'applique comme si chaque bien dont il est ainsi disposé avait fait l'objet d'une disposition distincte selon l'ordre établi par le cédant au moment du choix concernant l'échange admissible ou, à défaut, selon l'ordre établi par le ministre.

Due date

(6) The due date of an election referred to in paragraph (c) of the definition ***qualifying exchange*** in subsection (1) is

(a) the day that is six months after the day that includes the transfer time; and

(b) on joint application by the funds, any later day that the Minister accepts.

Date d'échéance du choix

(6) La date d'échéance du choix visé à l'alinéa c) de la définition de ***échange admissible*** au paragraphe (1) correspond :

a) au jour qui suit de six mois le jour qui comprend le moment du transfert;

b) à toute date postérieure acceptée par le ministre sur demande conjointe des organismes de placement collectif.

Amendment or Revocation of Election

(7) The Minister may, on joint application by the funds on or before the due date of an election referred to in paragraph (c) of the definition ***qualifying exchange*** in subsection (1), grant permission to amend or revoke the election.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 69; 1998, c. 19, s. 159; 1999, c. 22, s. 56; 2007, c. 35, s. 114; 2008, c. 28, s. 21; 2009, c. 2, s. 44; 2013, c. 34, s. 280.

Non-Resident-Owned Investment Corporations

Computation of income

133 (1) In computing the income of a non-resident-owned investment corporation for a taxation year,

(a) no deduction may be made in respect of interest on its bonds, debentures, securities or other indebtedness, and

(b) no deduction may be made under subsection 65(1),

and its income and taxable income shall be computed as if

(c) the only taxable capital gains and allowable capital losses referred to in paragraph 3(b) were from dispositions of taxable Canadian property,

(d) any taxable capital gain or allowable capital loss of the corporation were an amount equal to twice the amount thereof otherwise determined, and

(e) subsection 83(2) were read without reference to paragraph 83(2)(b).

Non-resident-owned investment corporations

(2) In computing the taxable income of a non-resident-owned investment corporation for a taxation year, no deduction may be made from its income for the year, except

(a) interest received in the year from other non-resident-owned investment corporations;

(b) taxes paid to the government of a country other than Canada in respect of any part of the income of the corporation for the year derived from sources therein; and

(c) net capital losses as provided for by section 111.

Modification ou révocation du choix

(7) Sur demande conjointe des organismes de placement collectif effectuée au plus tard à la date d'échéance du choix visé à l'alinéa c) de la définition de ***échange admissible*** au paragraphe (1), le ministre peut consentir à la modification ou à la révocation du choix.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 69; 1998, ch. 19, art. 159; 1999, ch. 22, art. 56; 2007, ch. 35, art. 114; 2008, ch. 28, art. 21; 2009, ch. 2, art. 44; 2013, ch. 34, art. 280.

Sociétés de placement appartenant à des non-résidents

Calcul du revenu

133 (1) Dans le calcul du revenu, pour une année d'imposition, d'une société de placement appartenant à des non-résidents :

a) aucune déduction ne peut être faite au titre des intérêts qu'elle a versés sur ses obligations, ses titres ou autres dettes;

b) aucune déduction ne peut être faite en vertu du paragraphe 65(1).

Son revenu ainsi que son revenu imposable doivent être calculés comme si :

c) les seuls gains en capital imposables et pertes en capital déductibles visés à l'alinéa 3b) provenaient de la disposition de biens canadiens imposables;

d) tout gain en capital imposable ou toute perte en capital déductible de la société représentait un montant égal au double du montant de ce gain ou de cette perte déterminé par ailleurs;

e) le paragraphe 83(2) ne comportait pas l'alinéa 83(2)b).

Sociétés de placement appartenant à des non-résidents

(2) Dans le calcul du revenu imposable, pour une année d'imposition, d'une société de placement appartenant à des non-résidents, aucune déduction ne peut être faite de son revenu de l'année, à l'exception :

a) des intérêts qu'elle a reçus au cours de l'année d'autres sociétés de placement appartenant à des non-résidents;

b) des impôts qu'elle a payés au gouvernement d'un pays étranger sur toute partie de son revenu qu'elle a tirée pour l'année de sources situées dans ce pays;

c) des pertes en capital nettes, ainsi que le prévoit l'article 111.

Special tax rate

(3) The tax payable under this Part by a corporation for a taxation year when it was a non-resident-owned investment corporation is an amount equal to 25% of its taxable income for the year.

Taux spécial d'imposition

(3) L'impôt payable en vertu de la présente partie par une société pour une année d'imposition au cours de laquelle elle était une société de placement appartenant à des non-résidents est égal à 25 % de son revenu imposable de l'année.

No deduction for foreign taxes

(4) No deduction from the tax payable under this Part by a non-resident-owned investment corporation may be made under section 124 or in respect of taxes paid to the government of a country other than Canada.

Aucune déduction au titre d'impôts étrangers

(4) Aucune déduction ne peut être faite de l'impôt payable en vertu de la présente partie par une société de placement appartenant à des non-résidents en vertu de l'article 124 ou au titre d'impôts payés au gouvernement d'un pays étranger.

Allowable refund to non-resident-owned investment corporations

(6) If the return of a non-resident-owned investment corporation's income for a taxation year has been made within 3 years from the end of the year, the Minister

(a) may, on sending the notice of assessment for the year, refund without application its allowable refund for the year; and

(b) shall, with all due dispatch, make that allowable refund after sending the notice of assessment if an application for it has been made in writing by the corporation within the period within which the Minister would be allowed under subsection 152(4) to assess tax payable by the corporation for the year if that subsection were read without reference to paragraph 152(4)(a).

Remboursement admissible pour une société de placement appartenant à des non-résidents

(6) Si une société de placement appartenant à des non-résidents a fait sa déclaration de revenu pour une année d'imposition dans les 3 ans suivant la fin de l'année, le ministre :

a) peut, lors de l'envoi de l'avis de cotisation pour l'année, effectuer, sans que demande en soit faite, le remboursement admissible pour l'année;

b) effectue le remboursement admissible avec diligence après avoir envoyé l'avis de cotisation, si la société en fait la demande par écrit au cours de la période pendant laquelle le ministre pourrait établir, aux termes du paragraphe 152(4), une cotisation concernant l'impôt payable en vertu de la présente partie par la société pour l'année si ce paragraphe s'appliquait compte non tenu de son alinéa a).

Application to other liability

(7) Instead of making a refund that might otherwise be made under subsection 133(6), the Minister may, where the taxpayer is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the taxpayer of that action.

Imputation sur une autre obligation

(7) Au lieu d'effectuer le remboursement qui pourrait autrement être fait en vertu du paragraphe (6), le ministre peut, lorsque le contribuable est tenu de faire un paiement en vertu de la présente loi, ou est sur le point de l'être, imputer sur cette autre obligation la somme qui serait par ailleurs remboursable et en avertir le contribuable.

Interest on allowable refund

(7.01) Where an allowable refund for a taxation year is paid to, or applied to a liability of, a non-resident-owned investment corporation, the Minister shall pay or apply interest on the refund at the prescribed rate for the period beginning on the day that is the later of

(a) the day that is 120 days after the end of the year, and

Intérêts sur les remboursements admissibles

(7.01) Lorsque le montant d'un remboursement admissible pour une année d'imposition est payé à une société de placement appartenant à des non-résidents, ou imputé à une somme dont elle est redevable, le ministre paie ou impute sur ce montant des intérêts calculés au taux prescrit pour la période allant du dernier en date des

(b) the day that is 30 days after the day on which the corporation's return of income under this Part for the year was filed under section 150, unless the return was filed on or before the day on or before which it was required to be filed,

and ending on the day the refund is paid or applied.

Excess interest on allowable refund

(7.02) Where at any particular time interest has been paid to, or applied to a liability of, a corporation under subsection 133(7.01) in respect of an allowable refund and it is determined at a subsequent time that the allowable refund was less than that in respect of which interest was so paid or applied,

(a) the amount by which the interest that was so paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the allowable refund shall be deemed to be an amount (in this subsection referred to as the "amount payable") that became payable under this Part by the corporation at the particular time;

(b) the corporation shall pay to the Receiver General interest at the prescribed rate on the amount payable, computed from the particular time to the day of payment; and

(c) the Minister may at any time assess the corporation in respect of the amount payable and, where the Minister makes such an assessment, the provisions of Divisions I and J apply, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

Election re capital gains dividend

(7.1) Where at any particular time after 1971 a dividend has become payable by a non-resident-owned investment corporation to shareholders of any class of shares of its capital stock, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and prescribed form and at or before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply:

(a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed the corporation's capital gains dividend account immediately before the particular time; and

jours suivants jusqu'au jour où le montant est payé ou imputé :

a) le cent vingtième jour suivant la fin de l'année;

b) le trentième jour suivant le jour où la déclaration de revenu de la société pour l'année en vertu de la présente partie est produite en conformité avec l'article 150, sauf si elle a été produite au plus tard le jour où elle devait l'être.

Intérêts excédentaires sur les remboursements admissibles

(7.02) Lorsque, à un moment donné, des intérêts ont été, en application du paragraphe (7.01), payés à une société, ou imputés sur une somme dont elle est redevable, relativement à un remboursement admissible et qu'il est établi ultérieurement que le montant du remboursement était inférieur au montant à l'égard duquel les intérêts ont été ainsi payés ou imputés, les règles suivantes s'appliquent :

a) l'excédent des intérêts ainsi payés ou imputés sur le montant ultérieurement établi comme étant le montant du remboursement admissible est réputé être un montant (appelé « montant payable » au présent paragraphe) devenu payable par la société au moment donné en vertu de la présente partie;

b) la société paie au receveur général des intérêts sur le montant payable, calculés au taux prescrit pour la période allant du moment donné jusqu'au jour du paiement;

c) le ministre peut, à tout moment, établir une cotisation à l'égard de la société pour le montant payable; le cas échéant, les dispositions des sections I et J s'appliquent à la cotisation, avec les adaptations nécessaires, comme si elle avait été établie en application de l'article 152.

Choix relatif aux dividendes sur les gains en capital

(7.1) La société de placement appartenant à des non-résidents qui, à un moment donné après 1971, doit verser un dividende aux détenteurs d'actions de toute catégorie d'actions de son capital-actions peut faire un choix relativement au montant total du dividende, selon les modalités et le formulaire réglementaires et, au plus tard, au premier en date du moment donné et du premier jour du paiement de toute partie du dividende, pour que les règles suivantes s'appliquent :

a) le dividende est réputé être un dividende sur les gains en capital dans la mesure où il ne dépasse pas le compte de dividendes sur les gains en capital de la société, immédiatement avant le moment donné;

(b) any amount received by another non-resident-owned investment corporation in a taxation year as, on account or in lieu of payment of, or in satisfaction of the capital gains dividend shall not be included in computing its income for the year.

(b) aucune somme reçue, au cours d'une année d'imposition, par une autre société de placement appartenant à des non-résidents, au titre ou en paiement intégral ou partiel du dividende sur les gains en capital, n'est incluse dans le calcul de son revenu pour l'année.

Simultaneous dividends

(7.2) Where a dividend becomes payable at the same time on more than one class of shares of the capital stock of a non-resident-owned investment corporation, for the purposes of subsection 133(7.1), the dividend on any such class of shares shall be deemed to become payable at a different time than the dividend on the other class or classes of shares and to become payable in the order designated

(a) by the corporation on or before the day on or before which the election described in subsection 133(7.1) is required to be filed; or

(b) in any other case, by the Minister.

Dividendes simultanés

(7.2) Lorsqu'un dividende est devenu payable en même temps sur plus d'une catégorie d'actions du capital-actions d'une société de placement appartenant à des non-résidents, pour l'application du paragraphe (7.1), le dividende relatif à l'une quelconque de ces catégories d'actions est réputé ne pas devenir payable au même moment que le dividende de l'autre ou des autres catégories d'actions, et devenir payable dans l'ordre indiqué :

a) par la société, lorsque celle-ci le fait au plus tard à la date à laquelle elle est tenue de présenter le choix visé au paragraphe (7.1);

b) par le ministre, dans les autres cas.

Application of ss. 131(1.1) to (1.4)

(7.3) Where at any particular time a non-resident-owned investment corporation paid a dividend to its shareholders and subsection 133(7.1) would have applied to the dividend except that the corporation did not make an election under that subsection on or before the day on or before which it was required by that subsection to be made, subsections 131(1.1) to 131(1.4) apply with such modifications as the circumstances require.

Application des par. 131(1.1) à (1.4)

(7.3) Lorsque, à un moment donné, une société de placement appartenant à des non-résidents a versé un dividende à ses actionnaires et que le paragraphe (7.1) se serait appliqué à ce dividende si la société avait fait le choix prévu à ce paragraphe au plus tard à la date où elle était tenue de le faire, les paragraphes 131(1.1) à (1.4) s'appliquent, avec les adaptations nécessaires.

Definitions

(8) In this section,

allowable refund of a non-resident-owned investment corporation for a taxation year means the total of amounts each of which is an amount in respect of a taxable dividend paid by the corporation in the year on a share of its capital stock, determined by the formula

A/B × C

where

A is the corporation's allowable refundable tax on hand immediately before the dividend was paid,

B is the greater of the amount of the dividend so paid and the corporation's cumulative taxable income immediately before the dividend was paid, and

C is the amount of the dividend so paid; (*remboursement admissible*)

Canadian property means

(a) taxable Canadian property, and

Définitions

(8) Les définitions qui suivent s'appliquent au présent article.

augmentation de capital Opération (sauf celle — appelée « opération déterminée » à la présente définition — qui est effectuée conformément à une convention écrite conclue avant le 28 février 2000) dans le cadre de laquelle une société émet des actions supplémentaires de son capital-actions ou contracte des emprunts en vue de faire passer la somme de son passif et de la juste valeur marchande des actions de son capital-actions à un montant qui est sensiblement plus élevé que ce qu'il aurait été le 27 février 2000 si l'ensemble des opérations déterminées avaient été effectuées immédiatement avant cette date. (*increase in capital*)

biens canadiens

a) Biens canadiens imposables;

b) tous autres biens, à l'exclusion des biens étrangers au sens de l'article 206. (*Canadian property*)

(b) any other property not being foreign property within the meaning assigned by section 206; (*biens canadiens*)

capital gains dividend account of a non-resident-owned investment corporation at any particular time means the amount determined by the formula

A - B

where

A is the total of the following amounts in respect of the period commencing January 1, 1972 and ending immediately after the corporation's last taxation year ending before the particular time:

(a) the corporation's capital gains for taxation years ending in the period from dispositions in the period of Canadian property or shares of another non-resident-owned investment corporation, and

(b) amounts received by the corporation in the period as, on account or in lieu of payment of, or in satisfaction of capital gains dividends from other non-resident-owned investment corporations, and

B is the total of the following amounts in respect of the period referred to in the description of A:

(a) the corporation's capital losses for taxation years ending in the period from dispositions in the period of Canadian property or shares of another non-resident-owned investment corporation,

(b) all capital gains dividends that became payable by the corporation before the particular time, and

(c) the amount determined by the formula

0.25 × (M - N)

where

M is the total of the corporation's capital gains for taxation years ending in the period from dispositions in the period of taxable Canadian property, and

N is the total of the corporation's capital losses for the taxation years ending in the period from dispositions in the period of property of the kinds referred to in the description of M; (*compte de dividendes sur les gains en capital*)

increase in capital in respect of a corporation means a transaction (other than a transaction carried out pursuant to an agreement in writing made before February 28, 2000, referred to in this definition as a "specified transaction") in the course of which the corporation

compte de dividendes sur les gains en capital Le compte de dividendes sur les gains en capital d'une société de placement appartenant à des non-résidents, à un moment donné, correspond au montant calculé selon la formule suivante :

A - B

où :

A représente le total des sommes suivantes, relatives à la période commençant le 1er janvier 1972 et se terminant immédiatement après la dernière année d'imposition de la société s'achevant avant le moment donné :

a) les gains en capital de la société, pour des années d'imposition se terminant pendant la période, provenant de la disposition, au cours de la période, de biens canadiens ou d'actions d'une autre société de placement appartenant à des non-résidents;

b) les sommes que la société a reçues, au cours de la période, d'autres sociétés de placement appartenant à des non-résidents, au titre ou en paiement intégral ou partiel de dividendes sur les gains en capital;

B le total des sommes suivantes, relatives à la période visée à l'élément A :

a) les pertes en capital de la société, pour des années d'imposition se terminant pendant la période, provenant de la disposition, au cours de la période, de biens canadiens ou d'actions d'une autre société de placement appartenant à des non-résidents;

b) tous les dividendes sur les gains en capital que la société doit verser avant le moment donné;

c) le montant calculé selon la formule suivante :

0,25 $ × (M - N)

où :

M représente le total des gains en capital de la société pour les années d'imposition se terminant dans la période, provenant de la disposition, effectuée au cours de la période, de biens canadiens imposables,

N le total des pertes en capital de la société pour les années d'imposition se terminant pendant la période, provenant de la disposition, au cours de la période, de biens visés à l'élément M. (*capital gains dividend account*)

dividende imposable Le terme ne vise pas un dividende sur les gains en capital. (*taxable dividend*)

issues additional shares of its capital stock or incurs indebtedness, if the transaction has the effect of increasing the total of

(a) the corporation's liabilities, and

(b) the fair market value of all the shares of its capital stock

to an amount that is substantially greater than that total would have been on February 27, 2000 if all specified transactions had been carried out immediately before that day; (*augmentation de capital*)

non-resident-owned investment corporation means a corporation incorporated in Canada that, throughout the whole of the period commencing on the later of June 18, 1971 and the day on which it was incorporated and ending on the last day of the taxation year in respect of which the expression is being applied, complied with the following conditions:

(a) all of its issued shares and all of its bonds, debentures and other funded indebtedness were

(i) beneficially owned by non-resident persons (other than any foreign affiliate of a taxpayer resident in Canada),

(ii) owned by trustees for the benefit of non-resident persons or their unborn issue, or

(iii) owned by a non-resident-owned investment corporation, all of the issued shares of which and all of the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue, or by two or more such corporations,

(b) its income for each taxation year ending in the period was derived from

(i) ownership of, or trading or dealing in, bonds, shares, debentures, mortgages, hypothecary claims, bills, notes or other similar property or any interest, or for civil law any right, therein,

(ii) lending money with or without security,

(iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends,

(iv) estates or trusts, or

(v) disposition of capital property,

remboursement admissible Le remboursement admissible, pour une année d'imposition, d'une société de placement appartenant à des non-résidents correspond au total des sommes dont chacune se rapporte à un dividende imposable versé au cours de l'année par la société sur une action de son capital-actions et est calculée selon la formule suivante :

A/B × C

où :

A représente le montant admissible de l'impôt en main remboursable de la société, immédiatement avant le versement du dividende;

B le plus élevé du dividende ainsi versé et du revenu cumulatif imposable de la société, immédiatement avant le versement du dividende;

C le montant du dividende versé. (*allowable refund*)

société de placement appartenant à des non-résidents Société constituée au Canada et qui, tout au long de la période commençant au dernier en date du 18 juin 1971 et du jour de sa constitution et se terminant le dernier jour de l'année d'imposition relativement à laquelle l'expression est utilisée, a rempli les conditions suivantes :

a) toutes ses actions émises ainsi que toutes ses obligations et autres dettes consolidées :

(i) soit étaient la propriété effective de non-résidents (autres qu'une société étrangère affiliée d'un contribuable résidant au Canada),

(ii) soit appartenaient à des fiduciaires qui les détenaient au profit de personnes non-résidentes ou des enfants à naître de celles-ci,

(iii) soit étaient la propriété d'une société de placement appartenant à des non-résidents et dont toutes les actions émises ainsi que toutes les obligations et autres dettes consolidées étaient la propriété effective de non-résidents ou appartenaient à des fiduciaires qui les détenaient au profit de personnes non-résidentes ou des enfants à naître de celles-ci, ou étaient la propriété de plusieurs sociétés de ce genre;

b) son revenu pour chaque année d'imposition se terminant au cours de la période, a été tiré :

(i) soit de la propriété ou du commerce d'obligations, d'actions, de débentures, de créances hypothécaires, d'effets, de billets ou d'autres biens semblables ou de tout intérêt ou, pour l'application du droit civil, de tout droit s'y rapportant,

(c) not more than 10% of its gross revenue for each taxation year ending in the period was derived from rents, hire of chattels, charterparty fees or charterparty remunerations,

(d) its principal business in each taxation year ending in the period was not

(i) the making of loans, or

(ii) trading or dealing in bonds, shares, debentures, mortgages, hypothecary claims, bills, notes or other similar property or any interest therein,

(e) it has, on or before the earlier of February 27, 2000 and the day that is 90 days after the beginning of its first taxation year that begins after 1971, elected in prescribed manner to be taxed under this section, and

(f) it has not, before the end of the last taxation year in the period, revoked in prescribed manner its election,

except that

(g) a new corporation (within the meaning assigned by section 87) formed as a result of an amalgamation after June 18, 1971 of two or more predecessor corporations is not a non-resident-owned investment corporation unless each of the predecessor corporations was, immediately before the amalgamation, a non-resident-owned investment corporation,

(h) where a corporation is a new corporation described in paragraph (g), and each of the predecessor corporations elected in a timely manner under paragraph (e), paragraph (e) shall be read, in its application to the new corporation, without reference to the words "the earlier of February 27, 2000 and", and

(i) subject to section 134.1, a corporation is not a non-resident-owned investment corporation in any taxation year that ends after the earlier of,

(i) the first time, if any, after February 27, 2000 at which the corporation effects an increase in capital, and

(ii) the corporation's last taxation year that begins before 2003; (*société de placement appartenant à des non-résidents*)

taxable dividend does not include a capital gains dividend. (*dividende imposable*)

(ii) soit du prêt d'argent, avec ou sans garantie,

(iii) soit de loyers, de la location de chatels, de frais ou rémunérations sur chartes-parties, de rentes, de redevances, d'intérêts ou de dividendes,

(iv) soit de successions ou de fiducies,

(v) soit de la disposition d'immobilisation;

c) au plus 10 % de son revenu brut de chaque année d'imposition se terminant au cours de la période ont été tirés de loyers, de la location de chatels, de frais ou rémunérations sur chartes-parties;

d) son entreprise principale au cours de chaque année d'imposition se terminant au cours de la période ne consistait :

(i) ni à prêter de l'argent,

(ii) ni à faire le commerce d'obligations, d'actions, de créances hypothécaires, d'effets, de billets ou d'autres biens semblables ou de tout droit s'y rapportant;

e) elle a choisi, selon les modalités prescrites et au plus tard le 27 février 2000 ou, s'il est antérieur, le quatre-vingt-dixième jour suivant le début de sa première année d'imposition commençant après 1971, d'être imposée en vertu du présent article;

f) elle n'a pas révoqué ce choix, selon les modalités prescrites, avant la fin de la dernière année d'imposition de la période.

Toutefois :

g) la nouvelle société (au sens de l'article 87) issue de la fusion, après le 18 juin 1971, de plusieurs sociétés remplacées n'est pas une société de placement appartenant à des non-résidents, à moins que chacune des sociétés remplacées n'ait été, immédiatement avant la fusion, une société de placement appartenant à des non-résidents;

h) lorsqu'une société est une nouvelle société visée à l'alinéa g) et que chacune des sociétés remplacées a fait, dans le délai imparti, le choix prévu à l'alinéa e), il n'est pas tenu compte du passage « le 27 février 2000 ou, s'il est antérieur, » figurant à ce dernier alinéa pour ce qui est de son application à la nouvelle société;

i) sous réserve de l'article 134.1, une société n'est pas une société de placement appartenant à des non-résidents au cours d'une année d'imposition se terminant après le premier en date des moments suivants :

(i) le premier moment, postérieur au 27 février 2000, où la société effectue une augmentation de capital,

(ii) la fin de la dernière année d'imposition de la société commençant avant 2003. (*non-resident-owned investment corporation*)

Definitions

(9) In the definition ***allowable refund*** in subsection 133(8),

allowable refundable tax on hand of a corporation at any particular time means the amount determined by the formula

(A + B + C) - (D + E + F)

where

A is the total of all amounts each of which is an amount in respect of any taxation year commencing after 1971 and ending before the particular time, equal to the tax under this Part payable by the corporation for the year,

B is an amount equal to 15% of the amount determined for B in the definition ***cumulative taxable income*** in this subsection in respect of the corporation,

C where the corporation's 1972 taxation year commenced before 1972, is an amount equal to 10% of the amount that would be determined for C in the definition ***cumulative taxable income*** in this subsection if the reference in the description of C in that definition to "the 1972 taxation year or any taxation year commencing after 1971 and ending before the particular time" were read as a reference to "the 1972 taxation year",

D is the total of all amounts each of which is an amount, in respect of the 1972 taxation year or any taxation year commencing after 1971 and ending before the particular time, determined by the formula

0.25 × [L - (M + N)]

where

L is the total of the corporation's taxable capital gains for the year from dispositions after 1971 of property described in paragraph 133(1)(c), computed in accordance with the assumption set out in paragraph 133(1)(d),

M is the total of the corporation's allowable capital losses for the year from dispositions after 1971 of property described in paragraph 133(1)(c), computed in accordance with the same assumption, and

Définitions

(9) Les définitions qui suivent s'appliquent à la définition de ***remboursement admissible*** au paragraphe (8).

montant admissible de l'impôt en main remboursable Le montant admissible de l'impôt en main remboursable d'une société, à un moment donné, correspond au montant calculé selon la formule suivante :

(A + B + C) - (D + E + F)

où :

A représente le total des montants dont chacun se rapporte à une année d'imposition quelconque commençant après 1971 et se terminant avant le moment donné, égal à l'impôt payable par la société, pour l'année, en vertu de la présente partie;

B un montant égal à 15 % du montant représenté par l'élément B de la formule applicable figurant à la définition de ***revenu imposable cumulatif*** au présent paragraphe à l'égard de la société;

C un montant égal, lorsque l'année d'imposition 1972 de la société a commencé avant 1972, à 10 % du montant qui serait représenté par l'élément C de la formule applicable figurant à la définition de ***revenu imposable cumulatif*** au présent paragraphe si, à cet élément, le passage « à l'année d'imposition 1972 ou à toute année d'imposition commençant après 1971 et se terminant avant le moment donné » était remplacé par « à l'année d'imposition 1972 »;

D le total des montants dont chacun est un montant afférent à l'année d'imposition 1972 ou à toute année d'imposition commençant après 1971 et se terminant avant le moment donné et calculé selon la formule suivante :

0,25 × [L - (M - N)]

où :

L représente le total des gains en capital imposables de la société, pour l'année, tirés de la disposition, après 1971, de biens visés à l'alinéa (1)c), et calculés conformément à l'hypothèse énoncée à l'alinéa (1)d),

M le total des pertes en capital déductibles de la société, pour l'année, résultant de la disposition,

N is the amount deductible from the corporation's income for the year by virtue of paragraph 133(2)(c),

E is the total of all amounts each of which is an amount equal to 1/3 of any amount paid or credited by the corporation after the commencement of its 1972 taxation year and before the particular time, as, on account or in lieu of payment of, or in satisfaction of interest, and

F is the total of all amounts each of which is an amount in respect of any taxable dividend paid by the corporation on a share of its capital stock before the particular time and after the commencement of its first taxation year commencing after 1971, equal to the amount in respect of the dividend determined under the definition ***allowable refund*** in subsection 133(8); (*montant admissible de l'impôt en main remboursable*)

cumulative taxable income of a corporation at any particular time means the amount determined by the formula

(A + B) - (C + D + E)

where

A is the total of the corporation's taxable incomes for taxation years commencing after 1971 and ending before the particular time,

B where the corporation's 1972 taxation year commenced before 1972, is the amount determined by the formula

L - (M + N)

where

L is the corporation's taxable income for its 1972 taxation year

M is the total of all amounts received by the corporation as described in paragraph 196(4)(b), and

N is the lesser of the amount determined under paragraph 196(4)(e) in respect of the corporation and the amount, if any, by which the total of amounts determined under paragraphs 196(4)(d) to 196(4)(f) in respect of the corporation exceeds the total of amounts determined under paragraphs 196(4)(a) to 196(4)(c) in respect of the corporation,

C is the total of all amounts each of which is an amount, in respect of the 1972 taxation year or any taxation year commencing after 1971 and ending before the particular time, determined by the formula

P - (Q + R)

après 1971, de biens visés à l'alinéa (1)c), et calculées conformément à la même hypothèse,

N le montant déductible du revenu de la société pour l'année, en vertu de l'alinéa (2)c);

E le total des montants dont chacun est égal au tiers de tout montant payé ou crédité par la société, après le début de son année d'imposition 1972 et avant le moment donné, à titre ou en paiement intégral ou partiel d'intérêts;

F le total des montants dont chacun est un montant afférent à tout dividende imposable versé par la société sur une action de son capital-actions avant le moment donné et après le début de sa première année d'imposition commençant après 1971, égal au montant relatif au dividende, déterminé en vertu de la définition de ***remboursement admissible*** au paragraphe (8). (*allowable refundable tax on hand*)

revenu imposable cumulatif Le revenu imposable cumulatif d'une société, à un moment donné, correspond au montant calculé selon la formule suivante :

(A + B) - (C + D + E)

où :

A représente le total des revenus imposables de la société pour les années d'imposition commençant après 1971 et se terminant avant le moment donné;

B lorsque l'année d'imposition 1972 de la société a commencé avant 1972, le montant calculé selon la formule suivante :

L - (M + N)

où :

L représente le revenu imposable de la société pour son année d'imposition 1972,

M le total des sommes reçues par la société et visées à l'alinéa 196(4)b),

N le moins élevé du montant déterminé en vertu de l'alinéa 196(4)e) à l'égard de la société et de l'excédent éventuel du total des montants déterminés en vertu des alinéas 196(4)d) à f) à l'égard de la société sur le total des montants déterminés en vertu des alinéas 196(4)a) à c) à son égard;

C le total des montants dont chacun est un montant afférent à l'année d'imposition 1972 ou à toute année d'imposition commençant après 1971 et se terminant avant le moment donné et calculé selon la formule suivante :

P - (Q + R)

où :

where

P is the total of the corporation's taxable capital gains for the year from dispositions after 1971 of property described in paragraph 133(1)(c), computed in accordance with the assumption set out in paragraph 133(1)(d),

Q is the total of the corporation's allowable capital losses for the year from dispositions after 1971 of property described in paragraph 133(1)(c), computed in accordance with the same assumption, and

R is the amount deductible from the corporation's income for the year by virtue of paragraph 133(2)(c),

D is the total of all amounts each of which is an amount equal to 4/3 of any amount paid or credited by the corporation, after the commencement of its 1972 taxation year and before the particular time, as, on account or in lieu of payment of, or in satisfaction of interest, and

E is the total of all amounts each of which is the amount of any taxable dividend paid by the corporation on a share of its capital stock before the particular time and after the commencement of its firs t taxation year commencing after 1971. (*revenu imposable cumulatif*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 133; 1994, c. 7, Sch. VIII, s. 78; 1998, c. 19, s. 160; 2001, c. 17, ss. 131, 215; 2003, c. 15, s. 114; 2010, c. 25, s. 32; 2013, c. 34, s. 134.

P représente le total des gains en capital imposables de la société, pour l'année, résultant de la disposition, après 1971, de biens visés à l'alinéa (1)c), et calculés conformément à l'hypothèse énoncée à l'alinéa (1)d),

Q le total des pertes en capital déductibles de la société, pour l'année, résultant de la disposition, après 1971, de biens visés à l'alinéa (1)c), et calculées conformément à la même hypothèse,

R le montant déductible du revenu de la société pour l'année, en vertu de l'alinéa (2)c);

D le total des montants dont chacun est un montant égal aux 4/3 de tout montant payé ou crédité par la société, après le début de son année d'imposition 1972 et avant le moment donné, à titre ou en paiement intégral ou partiel d'intérêts;

E le total des montants dont chacun est le montant de tout dividende imposable versé par la société sur une action de son capital-actions avant le moment donné et après le début de sa première année d'imposition commençant après 1971. (*cumulative taxable income*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 133; 1994, ch. 7, ann. VIII, art. 78; 1998, ch. 19, art. 160; 2001, ch. 17, art. 131 et 215; 2003, ch. 15, art. 114; 2010, ch. 25, art. 32; 2013, ch. 34, art. 134.

Non-resident-owned corporation not a Canadian corporation, etc.

134 Notwithstanding any other provision of this Act, a non-resident-owned investment corporation that would, but for this section, be a Canadian corporation, taxable Canadian corporation or private corporation shall be deemed not to be a Canadian corporation, taxable Canadian corporation or private corporation, as the case may be, except for the purposes of section 87, subsection 88(2) and sections 212.1 and 219.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"134"; 1973-74, c. 14, s. 43; 1977-78, c. 1, s. 67; 1980-81-82-83, c. 140, s. 92; 1985, c. 45, s. 78.

Absence de qualité de société canadienne, etc.

134 Malgré les autres dispositions de la présente loi, une société de placement appartenant à des non-résidents qui serait, sans le présent article, une société canadienne, une société canadienne imposable ou une société privée est réputée ne pas en être une, sauf pour l'application de l'article 87, du paragraphe 88(2) et des articles 212.1 et 219.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 134 »; 1973-74, ch. 14, art. 43; 1977-78, ch. 1, art. 67; 1980-81-82-83, ch. 140, art. 92; 1985, ch. 45, art. 78.

NRO — transition

134.1 (1) This section applies to a corporation that

(a) was a non-resident-owned investment corporation in a taxation year;

Sociétés de placement appartenant à des non-résidents — transition

134.1 (1) Le présent article s'applique à la société qui répond aux conditions suivantes :

a) elle a été une société de placement appartenant à des non-résidents au cours d'une année d'imposition;

(b) is not a non-resident-owned investment corporation in the following taxation year (in this section referred to as the corporation's "first non-NRO year"); and

(c) elects in writing filed with the Minister on or before the corporation's filing-due date for its first non-NRO year to have this section apply.

b) elle n'est pas une telle société au cours de l'année d'imposition subséquente (appelée « première année de nouveau statut » au présent article);

c) elle choisit de se prévaloir du présent article dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour sa première année de nouveau statut.

Application

(2) For the purposes of applying subsections 104(10) and (11) and 133(6) to (9) (other than the definition ***non-resident-owned investment corporation*** in subsection 133(8)), section 212 and any tax treaty, a corporation described in subsection (1) is deemed to be a non-resident-owned investment corporation in its first non-NRO year in respect of dividends paid in that year on shares of its capital stock to a non-resident person, to a trust for the benefit of non-resident persons or their unborn issue or to a non-resident-owned investment corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 132; 2013, c. 34, s. 281.

Assimilation

(2) Pour l'application des paragraphes 104(10) et (11) et 133(6) à (9) (exception faite de la définition de ***société de placement appartenant à des non-résidents*** au paragraphe 133(8)), de l'article 212 et des traités fiscaux, la société visée au paragraphe (1) est réputée être une société de placement appartenant à des non-résidents au cours de sa première année de nouveau statut pour ce qui est des dividendes versés au cours de cette année sur des actions de son capital-actions à une personne non-résidente, à une fiducie établie au profit de personnes non-résidentes ou de leurs enfants à naître ou à une société de placement appartenant à des non-résidents.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 132; 2013, ch. 34, art. 281.

Revocation

134.2 (1) This section applies to a corporation that

(a) revokes at any time (in this section described as the "revocation time") its election to be taxed under section 133;

(b) elects to have this section apply, by filing an election in writing with the Minister on or before the corporation's filing-due date for the taxation year of the corporation (in this section referred to as the "revocation year") that would have included the revocation time if the corporation had not so elected; and

(c) specifies in the election a time (in this section referred to as the "elected time") that is in the revocation year and is not after the revocation time.

Révocation

134.2 (1) Le présent article s'applique à la société qui, à la fois :

a) révoque, à un moment donné (appelé « moment de révocation » au présent article), son choix d'être imposée en vertu de l'article 133;

b) choisit de se prévaloir du présent article dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition (appelée « année de révocation » au présent article) qui aurait compris le moment de révocation si elle n'avait pas fait ce choix;

c) précise dans le document un moment (appelé « moment du choix » au présent article) qui fait partie de l'année de révocation, sans être postérieur au moment de révocation.

Consequences

(2) Where this section applies to a corporation,

(a) the corporation's taxation year that would have included the elected time, if the corporation had not elected to have this section apply, is deemed to end immediately before the elected time;

(b) a new taxation year of the corporation is deemed to begin at the elected time; and

Conséquences

(2) Lorsque le présent article s'applique à une société, les présomptions suivantes s'appliquent :

a) l'année d'imposition de la société qui aurait compris le moment du choix si la société n'avait pas choisi de se prévaloir du présent article est réputée se terminer immédiatement avant ce moment;

b) une nouvelle année d'imposition de la société est réputée commencer au moment du choix;

(c) notwithstanding paragraph (f) of the definition ***non-resident-owned investment corporation*** in subsection 133(8), the corporation is deemed to be a non-resident-owned investment corporation for the period that begins at the beginning of the revocation year and ends immediately before the elected time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 132.

c) malgré l'alinéa f) de la définition de ***société de placement appartenant à des non-résidents*** au paragraphe 133(8), la société est réputée être une société de placement appartenant à des non-résidents pour la période commençant au début de l'année de révocation et se terminant immédiatement avant le moment du choix.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 132.

Patronage Dividends

Deduction in computing income

135 (1) Notwithstanding anything in this Part, other than subsections (1.1) to (2.1) and 135.1(3), there may be deducted, in computing the income of a taxpayer for a taxation year, the total of the payments made, pursuant to allocations in proportion to patronage, by the taxpayer

(a) within the year or within 12 months thereafter to the taxpayer's customers of the year; and

(b) within the year or within 12 months thereafter to the taxpayer's customers of a previous year, the deduction of which from income of a previous taxation year was not permitted.

Limitation where non-arm's length customer

(1.1) Subsection (1) applies to a payment made by a taxpayer to a customer with whom the taxpayer does not deal at arm's length only if

(a) the taxpayer is a cooperative corporation described in subsection 136(2) or a credit union; or

(b) the payment is prescribed.

Limitation where non-member customer

(2) If a taxpayer has not made allocations in proportion to patronage in respect of all of the taxpayer's customers of the year, at the same rate, with appropriate differences for different types, classes, grades or qualities of goods, products or services, the amount that may be deducted by the taxpayer under subsection (1) is an amount equal to the lesser of

(a) the total of the payments mentioned in that subsection, and

(b) the total of

(i) the part of the income of the taxpayer for the year attributable to business done with members, and

Ristournes

Déduction dans le calcul du revenu

135 (1) Malgré les autres dispositions de la présente partie, à l'exception des paragraphes (1.1) à (2.1) et 135.1(3), est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition le total des paiements faits par celui-ci conformément aux répartitions proportionnelles à l'apport commercial et :

a) d'une part, faits, au cours de l'année ou des 12 mois qui suivent, à ses clients de l'année;

b) d'autre part, faits, au cours de l'année ou des 12 mois qui suivent, à ses clients d'une année antérieure et dont la déduction sur le revenu d'une année d'imposition antérieure n'était pas permise.

Restriction — lien de dépendance

(1.1) Le paragraphe (1) ne s'applique aux paiements faits par un contribuable à un client avec lequel il a un lien de dépendance que si, selon le cas :

a) le contribuable est une société coopérative visée au paragraphe 136(2) ou une caisse de crédit;

b) le paiement est visé par règlement.

Restriction — non-membre

(2) La somme que peut déduire, en application du paragraphe (1), le contribuable qui n'a pas effectué de répartitions proportionnelles à l'apport commercial à l'égard de tous ses clients de l'année, au même taux, compte tenu de différences adaptées aux divers types, genres, catégories, classes ou qualités de marchandises, produits ou services, correspond à la moins élevée des sommes suivantes :

a) la totalité des paiements mentionnés à ce paragraphe;

b) le total des montants suivants :

(i) la partie du revenu du contribuable, pour l'année, qui peut se rapporter aux affaires faites avec ses membres,

(ii) the allocations in proportion to patronage made to non-member customers of the year.

(ii) les répartitions proportionnelles à l'apport commercial faites en faveur des clients de l'année qui ne sont pas membres.

Deduction carried over

(2.1) Where, in a taxation year ending after 1985, all or a portion of a payment made by a taxpayer pursuant to an allocation in proportion to patronage to the taxpayer's customers who are members is not deductible in computing the taxpayer's income for the year because of the application of subsection 135(2) (in this subsection referred to as the "undeducted amount"), there may be deducted in computing the taxpayer's income for a subsequent taxation year, an amount equal to the lesser of

(a) the undeducted amount, except to the extent that that amount was deducted in computing the taxpayer's income for any preceding taxation year, and

(b) the amount, if any, by which

(i) the taxpayer's income for the subsequent taxation year (computed without reference to this subsection) attributable to business done with the taxpayer's customers of that year who are members

exceeds

(ii) the amount deducted in computing the taxpayer's income for the subsequent taxation year by virtue of subsection 135(1) in respect of payments made by the taxpayer pursuant to allocations in proportion to patronage to the taxpayer's customers of that year who are members.

Déduction des ristournes

(2.1) Dans le cas où, au cours d'une année d'imposition se terminant après 1985, tout ou partie d'un paiement qu'un contribuable fait conformément à une répartition proportionnelle à l'apport commercial en faveur de ses clients membres n'est pas déductible dans le calcul de son revenu pour cette année par application du paragraphe (2) — appelé « montant non déduit » au présent paragraphe —, le contribuable peut déduire dans le calcul de son revenu pour une année d'imposition ultérieure le moins élevé des montants suivants :

a) le montant non déduit, sauf dans la mesure où celui-ci a été déduit dans le calcul de son revenu pour une année d'imposition antérieure;

b) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le revenu du contribuable pour l'année ultérieure — calculé compte non tenu du présent paragraphe — qui est attribuable aux affaires faites avec ses clients membres de cette année,

(ii) le montant que le contribuable a déduit dans le calcul de son revenu pour l'année ultérieure en application du paragraphe (1) au titre des paiements qu'il a faits conformément à des répartitions proportionnelles à l'apport commercial en faveur de ses clients membres de cette année.

Amount to be deducted or withheld from payment to customer

(3) Subject to subsection 135.1(6), a taxpayer who makes at any particular time in a calendar year a payment pursuant to an allocation in proportion to patronage to a person who is resident in Canada and is not exempt from tax under section 149 shall, notwithstanding any agreement or any law to the contrary, deduct or withhold from the payment an amount equal to 15% of the lesser of the amount of the payment and the amount, if any, by which

(a) the total of the amount of the payment and the amounts of all other payments pursuant to allocations in proportion to patronage made by the taxpayer to that person in the calendar year and before the particular time

exceeds

(b) $100,

Montant à déduire ou à retenir du paiement au client

(3) Sous réserve du paragraphe 135.1(6), le contribuable qui effectue, à un moment donné d'une année civile, un paiement conformément à une répartition proportionnelle à l'apport commercial à une personne résidant au Canada qui n'est pas exonérée d'impôt en vertu de l'article 149 doit déduire ou retenir de ce paiement, malgré toute convention ou toute loi prévoyant le contraire, une somme égale à 15 % soit du montant du paiement soit, s'il est moins élevé, de l'excédent éventuel du total visé à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total du montant du paiement et des montants des autres paiements effectués conformément aux répartitions proportionnelles à l'apport commercial par le contribuable à cette personne au cours de l'année civile et avant le moment donné;

b) cent dollars.

and forthwith remit that amount to the Receiver General on behalf of that person on account of that person's tax under this Part.

Definitions

(4) For the purposes of this section and section 135.1,

allocation in proportion to patronage for a taxation year means an amount credited by a taxpayer to a customer of that year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the taxpayer from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof, if

(a) the amount was credited

(i) within the year or within 12 months thereafter, and

(ii) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that year who were members or to all other customers of that year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and

(b) the prospect that amounts would be so credited was held out by the taxpayer to the taxpayer's customers of that year who were members or non-member customers of that year, as the case may be; (*répartition proportionnelle à l'apport commercial*)

consumer goods or services means goods or services the cost of which was not deductible by the taxpayer in computing the income from a business or property; (*marchandises de consommation ou services*)

customer means a customer of a taxpayer and includes a person who sells or delivers goods or products to the taxpayer, or for whom the taxpayer renders services; (*client*)

income of the taxpayer attributable to business done with members of any taxation year means that proportion of the income of the taxpayer for the year (before making any deduction under this section) that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the taxpayer from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in

Il doit en outre remettre immédiatement cette somme au receveur général, pour le compte de cette personne, au titre de l'impôt de cette personne en vertu de la présente partie.

Définitions

(4) Les définitions qui suivent s'appliquent au présent article et à l'article 135.1.

client Client du contribuable, y compris une personne qui vend ou livre des marchandises ou produits au contribuable, ou à qui celui-ci rend des services. (*customer*)

client non membre Client qui n'est pas membre. (*non-member customer*)

marchandises de consommation ou services Marchandises ou services dont le coût n'était pas déductible par le contribuable dans le calcul du revenu tiré d'une entreprise ou de biens. (*consumer goods or services*)

membre Personne admise, comme membre ou actionnaire, au plein droit de vote dans la conduite des affaires du contribuable (qui est une société) ou d'une société dont le contribuable est une filiale à cent pour cent. (*member*)

paiement Sont compris parmi les paiements :

a) l'émission d'une reconnaissance de dette, ou d'actions du contribuable ou d'une société dont le contribuable est une filiale à cent pour cent si le contribuable ou cette société a, au cours de l'année ou des 12 mois suivants, déboursé une somme d'argent égale à la valeur nominale globale de toutes les reconnaissances ou des actions ainsi émises dans le cours du remboursement, du rachat ou de l'achat de reconnaissances de dettes ou d'actions du contribuable ou de cette société, émises antérieurement;

b) l'imputation par le contribuable d'une somme sur l'obligation d'un membre envers lui (y compris, sans préjudice de la portée générale de ce qui précède, une somme affectée à l'acquittement d'une obligation du membre de consentir un prêt au contribuable et une somme à valoir sur le paiement d'actions émises en faveur d'un membre) conformément à un règlement du contribuable, en vertu d'une loi ou à la demande du membre;

c) le montant d'un paiement ou transfert par le contribuable, qui, en vertu du paragraphe 56(2), doit être inclus dans le calcul du revenu d'un membre. (*payment*)

or sold or services rendered by the taxpayer from, on behalf of, or for all customers during the year; (*revenu du contribuable attribuable aux affaires faites avec ses membres*)

member means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the taxpayer (being a corporation) or of a corporation of which the taxpayer is a subsidiary wholly-owned corporation; (*membre*)

non-member customer means a customer who is not a member; (*client non membre*)

payment includes

(a) the issue of a certificate of indebtedness or shares of the taxpayer or of a corporation of which the taxpayer is a subsidiary wholly-owned corporation if the taxpayer or that corporation has in the year or within 12 months thereafter disbursed an amount of money equal to the total face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the taxpayer or that corporation previously issued,

(b) the application by the taxpayer of an amount to a member's liability to the taxpayer (including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the taxpayer and an amount applied on account of payment for shares issued to a member) pursuant to a by-law of the taxpayer, pursuant to statutory authority or at the request of the member, or

(c) the amount of a payment or transfer by the taxpayer that, under subsection 56(2), is required to be included in computing the income of a member. (*paiement*)

répartition proportionnelle à l'apport commercial Relativement à une année d'imposition, somme portée par un contribuable au crédit d'un client de cette année à des conditions selon lesquelles le client a droit au paiement de cette somme ou recevra ce paiement calculé proportionnellement à la quantité, qualité ou valeur de marchandises ou produits que le contribuable a acquis auprès du client ou en son nom, ou a mis sur le marché pour le compte du client, ou vendus xi ce dernier, ou des services que le contribuable a rendus au client en question, à titre de commettant ou de mandataire du client ou autrement, avec des différences appropriées de taux pour divers catégories, genres ou qualités de ces marchandises, produits ou services, si les conditions suivantes sont réunies :

a) la somme a été créditée :

(i) d'une part, au cours de l'année ou des 12 mois suivant celle-ci,

(ii) d'autre part, au même taux, par rapport à la quantité, qualité ou valeur mentionnée ci-dessus, que celui auquel des sommes ont été portées, de la même façon, au crédit de tous les autres clients de cette année qui étaient membres ou de tous les autres clients de cette année, selon le cas, avec les différences appropriées mentionnées ci-dessus, pour les divers catégories, genres ou qualités;

b) la perspective que des sommes seraient ainsi créditées a été présentée par le contribuable à ses clients de cette année qui étaient membres ou non. (*allocation in proportion to patronage*)

revenu du contribuable attribuable aux affaires faites avec ses membres Le revenu du contribuable attribuable aux affaires faites avec ses membres de toute année d'imposition correspond à la fraction du revenu du contribuable pour l'année (avant toute déduction faite sous le régime du présent article) que représente le rapport entre la valeur des marchandises ou produits que le contribuable a acquis auprès des membres ou en leur nom, ou a mis sur le marché pour le compte de ces membres, ou vendus pour ces derniers, ou des services qu'il a rendus pour les membres en question, et la valeur totale des marchandises ou produits que le contribuable a, durant l'année, acquis auprès de tous les clients, ou mis sur le marché, pour le compte de ces clients, ou vendus pour ces derniers, ou des services qu'il a rendus pour tous les clients en question. (*income of the taxpayer attributable to business done with members*)

Holding out prospect of allocations

(5) For the purpose of this section a taxpayer shall be deemed to have held out the prospect that amounts

Perspective de répartitions

(5) Pour l'application du présent article, un contribuable est réputé avoir fait entrevoir la perspective que des

would be credited to a customer of a taxation year by way of allocation in proportion to patronage, if

(a) throughout the year the statute under which the taxpayer was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held out the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or

(b) prior to the commencement of the year or prior to such other day as may be prescribed for the class of business in which the taxpayer is engaged, the taxpayer has published an advertisement in prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the taxpayer carried on business holding out that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspapers with the Minister before the end of the 30th day of the taxation year or within 30 days from the prescribed day, as the case may be.

sommes seraient portées au crédit du client d'une année d'imposition, par voie de répartitions proportionnelles à l'apport commercial, dans l'un ou l'autre des cas suivants :

a) tout au long de l'année, la loi sous le régime de laquelle le contribuable est constitué en société ou enregistré, sa charte, ses statuts ou règlements administratifs ou son contrat avec le client ont fait entrevoir la perspective que des sommes seraient ainsi éventuellement portées au crédit des clients, membres ou non;

b) avant le début de l'année, ou avant telle autre date qui peut être fixée par règlement pour la catégorie d'entreprise exploitée par le contribuable, ce dernier a publié une annonce selon le formulaire prescrit dans un ou des journaux à large diffusion dans la majeure partie de la région où le contribuable a exploité son entreprise, faisant entrevoir cette perspective aux clients, membres ou non, selon le cas, et a présenté des exemplaires des journaux au ministre avant la fin du 30e jour qui suit la fin de l'année d'imposition ou dans les 30 jours suivant la date fixée par règlement, selon le cas.

Amount of payment to customer

(6) For greater certainty, the amount of any payment pursuant to an allocation in proportion to patronage is the amount thereof determined before deducting any amount required by subsection 135(3) to be deducted or withheld from that payment.

Montant du paiement au client

(6) Il est entendu que le montant de tout paiement effectué conformément à une répartition proportionnelle à l'apport commercial est son montant déterminé avant déduction de toute somme dont le paragraphe (3) exige déduction ou retenue de ce paiement.

Payment to customer to be included in income

(7) Where a payment pursuant to an allocation in proportion to patronage (other than an allocation in respect of consumer goods or services) has been received by a taxpayer, the amount of the payment shall, subject to subsection 135.1(2), be included in computing the recipient's income for the taxation year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a person pursuant to an allocation in proportion to patronage, the amount of the payment by virtue of that issuance shall be included in computing the recipient's income for the taxation year in which the certificate or share was received and not in computing the recipient's income for the year in which the indebtedness was subsequently discharged or the share was redeemed.

Paiements au client à inclure dans le revenu

(7) Lorsqu'un paiement effectué conformément à une répartition proportionnelle à l'apport commercial (à l'exception d'une répartition relative à des marchandises de consommation ou services) a été reçu par un contribuable, le montant de ce paiement est inclus, sous réserve du paragraphe 135.1(2), dans le calcul du revenu du bénéficiaire pour l'année d'imposition au cours de laquelle il a été reçu et, sans que soit limitée la portée générale de ce qui précède, si une reconnaissance de dette ou une part a été émise à une personne conformément à une répartition proportionnelle à l'apport commercial, le montant du paiement effectué en vertu de cette émission est inclus dans le calcul du revenu du bénéficiaire pour l'année d'imposition où la reconnaissance ou la part a été reçue et non dans le calcul de son revenu pour l'année où la dette a été ultérieurement acquittée ou la part rachetée.

Patronage dividends

(8) For the purposes of this section, where

Ristournes

(8) Pour l'application du présent article, lorsque les conditions suivantes sont réunies :

(a) a person has sold or delivered a quantity of goods or products to a marketing board established by or pursuant to a law of Canada or a province,

(b) the marketing board has sold or delivered the same quantity of goods or products of the same class, grade or quality to a taxpayer of which the person is a member, and

(c) the taxpayer has credited that person with an amount based on the quantity of goods or products of that class, grade or quality sold or delivered to it by the marketing board,

the quantity of goods or products referred to in paragraph 135(8)(c) shall be deemed to have been sold or delivered by that person to the taxpayer and to have been acquired by the taxpayer from that person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 135; 2005, c. 19, s. 32; 2006, c. 4, s. 79.

Agricultural Cooperatives — Tax-deferred Patronage Dividends

Definitions

135.1 (1) The following definitions apply in this section and section 135.

agricultural business means a business, carried on in Canada, that consists of one or any combination of

(a) farming (including, if the person carrying on the business is a corporation described in paragraph (a) of the definition ***agricultural cooperative corporation***, the production, processing, storing and wholesale marketing of the products of its members' farming activities); or

(b) the provision of goods or services (other than financial services) that are required for farming. (*entreprise d'agriculture*)

agricultural cooperative corporation at any time means a corporation

(a) that was incorporated or continued by or under the provisions of a law, of Canada or of a province, that provide for the establishment of the corporation as a cooperative corporation or that provide for the establishment of cooperative corporations; and

(b) that has at that time

a) une personne a vendu ou livré une quantité de marchandises ou de produits à un office de commercialisation créé sous le régime d'une loi fédérale ou provinciale;

b) l'office de commercialisation a vendu ou livré une quantité identique de marchandises ou des produits de même catégorie, genre ou qualité à un contribuable dont la personne est membre;

c) le contribuable a porté au crédit de la personne en question une somme calculée en fonction de la quantité de marchandises ou de produits de cette catégorie, de ce genre ou de cette qualité que l'office de commercialisation lui a vendue ou livrée,

cette personne est réputée avoir vendu ou livré au contribuable la quantité de marchandises ou de produits visée à l'alinéa c) et le contribuable est réputé l'avoir acquise auprès de cette personne.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 135; 2005, ch. 19, art. 32; 2006, ch. 4, art. 79.

Coopératives agricoles — ristournes à imposition différée

Définitions

135.1 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 135.

coopérative agricole Est une coopérative agricole à un moment donné la société qui répond aux conditions suivantes à ce moment :

a) elle a été constituée ou prorogée en vertu des dispositions d'une loi fédérale ou provinciale prévoyant sa constitution à titre de coopérative ou prévoyant la constitution de coopératives;

b) à ce moment, selon le cas :

(i) son entreprise principale est une entreprise d'agriculture,

(ii) au moins 75 % de ses membres :

(A) soit sont des coopératives agricoles,

(B) soit ont comme entreprise principale une entreprise agricole. (*agricultural cooperative corporation*)

disposition admissible Disposition d'une part à imposition différée effectuée par un contribuable moins de cinq ans après son émission si, selon le cas :

(i) as its principal business an agricultural business, or

(ii) members, making up at least 75% of all members of the corporation, each of whom

(A) is an agricultural cooperative corporation, or

(B) has as their principal business a farming business. (*coopérative agricole*)

allowable disposition means a disposition by a taxpayer of a tax deferred cooperative share less than five years after the day on which the share was issued if

(a) before the disposition,

(i) the agricultural cooperative corporation is notified in writing that the taxpayer has after the share was issued become disabled and permanently unfit for work, or terminally ill, or

(ii) the taxpayer ceases to be a member of the agricultural cooperative corporation; or

(b) the agricultural cooperative corporation is notified in writing that the share is held by a person on whom the share has devolved as a consequence of the death of the taxpayer. (*disposition admissible*)

eligible member of an agricultural cooperative corporation means a member who carries on an agricultural business and who is

(a) an individual resident in Canada;

(b) an agricultural cooperative corporation;

(c) a corporation resident in Canada that carries on the business of farming in Canada; or

(d) a partnership that carries on the business of farming in Canada, all of the members of which are described in any of paragraphs (a) to (c) or this paragraph. (*membre admissible*)

tax deferred cooperative share at any time means a share

(a) issued, after 2005 and before 2021, by an agricultural cooperative corporation to a person or partnership that is at the time the share is issued an eligible member of the agricultural cooperative corporation, pursuant to an allocation in proportion to patronage;

(b) the holder of which is not entitled to receive on the redemption, cancellation or acquisition of the share by

a) l'un des faits suivants se vérifie avant la disposition :

(i) la coopérative agricole est avisée par écrit que le contribuable est devenu, après l'émission de la part, invalide et définitivement incapable de travailler ou malade en phase terminale,

(ii) le contribuable cesse d'être membre de la coopérative agricole;

b) la coopérative agricole est avisée par écrit que la part est détenue par une personne à laquelle elle est dévolue par suite du décès du contribuable. (*allowable disposition*)

entreprise d'agriculture Entreprise, exploitée au Canada, qui consiste en une ou plusieurs des activités suivantes :

a) l'agriculture, y compris, si la personne exploitant l'entreprise est une société visée à l'alinéa a) de la définition de ***coopérative agricole***, la production, la transformation, l'entreposage et la commercialisation en gros des produits découlant des activités agricoles de ses membres;

b) la fourniture de marchandises ou la prestation de services (sauf les services financiers) nécessaires à l'agriculture. (*agricultural business*)

membre admissible Membre d'une coopérative agricole qui exploite une entreprise d'agriculture et qui est, selon le cas :

a) un particulier résidant au Canada;

b) une coopérative agricole;

c) une société résidant au Canada qui exploite une entreprise agricole au Canada;

d) une société de personnes qui exploite une entreprise agricole au Canada et dont l'ensemble des associés sont visés à l'un des alinéas a) à c) ou au présent alinéa. (*eligible member*)

part à imposition différée Part à l'égard de laquelle les conditions suivantes sont réunies à un moment donné :

a) elle est émise après 2005 et avant 2021, conformément à une répartition proportionnelle à l'apport commercial, par une coopérative agricole à une personne ou une société de personnes qui est, au moment de son émission, un membre admissible de la coopérative;

the agricultural cooperative corporation or by any person with whom the agricultural cooperative corporation does not deal at arm's length an amount that is greater than the amount that would, if this Act were read without reference to this section, be included under subsection 135(7) in computing the eligible member's income for their taxation year in which the share was issued;

(c) that has not before that time been deemed by subsection (4) to have been disposed of; and

(d) that is of a class

(i) the terms of which provide that the agricultural cooperative corporation shall not, otherwise than pursuant to an allowable disposition, redeem, acquire or cancel a share of the class before the day that is five years after the day on which the share was issued, and

(ii) that is identified by the agricultural cooperative corporation in prescribed form and manner as a class of tax deferred cooperative shares. (*part à imposition différée*)

tax paid balance of a taxpayer at the end of a particular taxation year of the taxpayer means the amount, if any, by which

(a) the total of

(i) the taxpayer's tax paid balance at the end of the immediately preceding taxation year, and

(ii) the amount, if any, that is included in computing the taxpayer's income under this Part for the particular taxation year because of an election described in subparagraph (2)(a)(ii),

exceeds

(b) the total of all amounts each of which is the taxpayer's proceeds of disposition of a tax deferred cooperative share that the taxpayer disposed of in the particular taxation year. (*solde libéré d'impôt*)

b) son détenteur ne peut recevoir, lors de son rachat, annulation ou acquisition par la coopérative ou par toute personne avec laquelle celle-ci a un lien de dépendance, une somme supérieure à celle qui, en l'absence du présent article, serait incluse en application du paragraphe 135(7) dans le calcul du revenu du membre admissible pour son année d'imposition au cours de laquelle elle a été émise;

c) avant ce moment, elle n'a pas été réputée avoir fait l'objet d'une disposition par l'effet du paragraphe (4);

d) elle fait partie d'une catégorie :

(i) dont les modalités prévoient que la coopérative ne peut, autrement que dans le cadre d'une disposition admissible, racheter, acquérir ou annuler une part de la catégorie avant le jour qui suit de cinq ans la date d'émission de la part,

(ii) que la coopérative a désignée, sur le formulaire prescrit et selon les modalités réglementaires, à titre de catégorie de parts à imposition différée. (*tax deferred cooperative share*)

solde libéré d'impôt S'agissant du solde libéré d'impôt d'un contribuable à la fin d'une année d'imposition donnée, l'excédent éventuel de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le total des sommes suivantes :

(i) le solde libéré d'impôt du contribuable à la fin de l'année d'imposition précédente,

(ii) la somme qui est incluse dans le calcul du revenu du contribuable en vertu de la présente partie pour l'année donnée en raison du choix prévu au sous-alinéa (2)a)(ii);

b) le total des sommes représentant chacune le produit de disposition d'une part à imposition différée dont le contribuable a disposé au cours de l'année donnée. (*tax paid balance*)

Income inclusion

(2) In computing the income of a taxpayer for a particular taxation year, there shall be included under subsection 135(7), in respect of the taxpayer's receipt, as an eligible member, of tax deferred cooperative shares of an agricultural cooperative corporation in the particular taxation year, only the total of

(a) the lesser of

Somme à inclure dans le revenu

(2) N'est à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition donnée, en application du paragraphe 135(7), relativement à la réception par le contribuable, à titre de membre admissible, de parts à imposition différée d'une coopérative agricole au cours de l'année donnée, que le total des sommes suivantes :

a) la moins élevée des sommes suivantes :

(i) the total of all amounts, in respect of the taxpayer's receipt in the particular taxation year of tax deferred cooperative shares, that would, if this Act were read without reference to this section, be included under subsection 135(7) in computing the taxpayer's income for the particular taxation year, and

(ii) the greater of nil and the amount, if any, specified by the taxpayer in an election in prescribed form that is filed with the taxpayer's return of income for the particular taxation year, and

(b) the amount, if any, by which

(i) the total of all amounts each of which is the taxpayer's proceeds of disposition of a tax deferred cooperative share disposed of by the taxpayer in the particular taxation year

exceeds

(ii) the total of

(A) the taxpayer's tax paid balance at the end of the immediately preceding taxation year, and

(B) the amount, if any, that is included in computing the taxpayer's income for the particular taxation year because of an election described in subparagraph (a)(ii).

(i) le total des sommes, relatives à la réception par le contribuable au cours de l'année donnée de parts à imposition différée, qui, en l'absence du présent article, seraient incluses en application du paragraphe 135(7) dans le calcul de son revenu pour l'année donnée,

(ii) zéro ou, si elle plus élevée, la somme que le contribuable choisit et indique dans un formulaire prescrit qu'il produit avec sa déclaration de revenu pour l'année donnée;

b) l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune le produit de disposition, pour le contribuable, d'une part à imposition différée dont il a disposé au cours de l'année donnée,

(ii) le total des sommes suivantes :

(A) le solde libéré d'impôt du contribuable à la fin de l'année d'imposition précédente,

(B) la somme qui est incluse dans le calcul du revenu du contribuable pour l'année donnée en raison du choix prévu au sous-alinéa a)(ii).

Deductibility limit

(3) The amount that may be deducted under subsection 135(1) for a particular taxation year by an agricultural cooperative corporation in respect of payments, in the form of tax deferred cooperative shares, made pursuant to allocations in proportion to patronage shall not exceed 85% of the agricultural cooperative corporation's income of the taxation year attributable to business done with members.

Plafond de déduction

(3) La somme déductible par une coopérative agricole pour une année d'imposition en application du paragraphe 135(1) au titre de paiements, sous forme de parts à imposition différée, effectués conformément à des répartitions proportionnelles à l'apport commercial ne peut excéder 85 % du revenu de la coopérative pour l'année attribuable aux affaires faites avec ses membres.

Deemed disposition

(4) A taxpayer who holds a tax deferred cooperative share is deemed to have disposed of the share, for proceeds of disposition equal to the amount that would, if this Act were read without reference to this section, have been included under subsection 135(7), in respect of the share, in computing the taxpayer's income for the taxation year in which the share was issued, at the earliest time at which

(a) the paid-up capital of the share is reduced otherwise than by way of a redemption of the share; or

Disposition réputée

(4) Le contribuable qui détient une part à imposition différée est réputé en avoir disposé dès que l'un des faits ci-après se produit, pour un produit égal à la somme qui, en l'absence du présent article, aurait été incluse en application du paragraphe 135(7), relativement à la part, dans le calcul de son revenu pour l'année d'imposition au cours de laquelle la part a été émise :

a) le capital versé au titre de la part est réduit autrement qu'au moyen du rachat de la part;

b) le contribuable, pour garantir le règlement de dettes de toute nature, donne la part en gage (ou, pour

(b) the taxpayer pledges, or for civil law hypothecates, assigns or in any way alienates the share as security for indebtedness of any kind.

(b) l'application du droit civil, l'hypothèque), la cède ou l'aliène de quelque façon que ce soit.

Reacquisition

(5) A taxpayer who is deemed by subsection (4) to have disposed at any time of a tax deferred cooperative share is deemed to have reacquired the share, immediately after that time, at a cost equal to the taxpayer's proceeds of disposition from that disposition.

Nouvelle acquisition

(5) Le contribuable qui est réputé par le paragraphe (4) avoir disposé d'une part à imposition différée est réputé l'avoir acquise de nouveau immédiatement après la disposition à un coût égal au produit de disposition qu'il en a reçu.

Exclusion from withholding obligation

(6) Subsection 135(3) does not apply to a payment pursuant to an allocation in proportion to patronage that is paid by an agricultural cooperative corporation through the issuance of a tax deferred cooperative share.

Aucune obligation de retenue

(6) Le paragraphe 135(3) ne s'applique pas au paiement qu'une coopérative agricole effectue, conformément à une répartition proportionnelle à l'apport commercial, au moyen d'une émission de parts à imposition différée.

Withholding on redemption

(7) A person or partnership (in this subsection referred to as the "redeeming entity") that redeems, acquires or cancels a shareholder's share shall withhold and forthwith remit to the Receiver General, on account of the shareholder's tax liability, 15% from the amount otherwise payable on the redemption, acquisition or cancellation, if

(a) the share was, at the time it was issued, a tax deferred cooperative share;

(b) the redeeming entity is the corporation that issued the share, or a person or partnership with whom the corporation does not deal at arm's length; and

(c) the shareholder is not a trust whose taxable income is exempt from tax under this Part because of paragraph 149(1)(r) or (x).

Retenue lors du rachat

(7) Toute personne ou société de personnes (appelée « auteur du rachat » au présent paragraphe) qui procède au rachat, à l'acquisition ou à l'annulation d'une part doit retenir, au titre de l'impôt dont le détenteur de part est redevable, une somme égale à 15 % de la somme à payer par ailleurs lors du rachat, de l'acquisition ou de l'annulation, et la verser aussitôt au receveur général, si, à la fois :

a) la part était, au moment de son émission, une part à imposition différée;

b) l'auteur du rachat est soit la coopérative qui a émis la part, soit une personne ou une société de personnes avec laquelle cette coopérative a un lien de dépendance;

c) le détenteur de part n'est pas une fiducie dont le revenu imposable est exonéré d'impôt en vertu de la présente partie par l'effet des alinéas 149(1)r) ou x).

Application of subsections 84(2) and (3)

(8) Subsections 84(2) and (3) do not apply to a tax deferred cooperative share.

Paragraphes 84(2) et (3) inapplicables

(8) Les paragraphes 84(2) et (3) ne s'appliquent pas aux parts à imposition différée.

Application of subsection (10)

(9) Subsection (10) applies in respect of the disposition, after September 28, 2009, by a taxpayer of a tax deferred cooperative share (in this subsection and subsection (10) referred to as the "old share") of an agricultural cooperative corporation if

(a) the disposition results from the acquisition, cancellation or redemption of the old share in the course of a reorganization of the capital of the corporation;

Application du paragraphe (10)

(9) Le paragraphe (10) s'applique relativement à la disposition, effectuée par un contribuable après le 28 septembre 2009, d'une part à imposition différée (appelée « ancienne part » au présent paragraphe et au paragraphe (10)) d'une coopérative agricole si les conditions ci-après sont réunies :

a) la disposition découle de l'acquisition, de l'annulation ou du rachat de l'ancienne part dans le cadre d'un remaniement du capital de la coopérative;

(b) in exchange for the old share the corporation issues to the taxpayer a share (in this subsection and subsection (10) referred to as the "new share") that is described in all of paragraphs (b) to (d) of the definition ***tax deferred cooperative share*** in subsection (1); and

(c) the amount of paid-up capital, and the amount, if any, that the taxpayer is entitled to receive on a redemption, acquisition or cancellation, of the new share are equal to those amounts, respectively, in respect of the old share.

Shares issued on corporate reorganizations

(10) If this subsection applies in respect of an exchange of a taxpayer's old share for a new share, for the purposes of this section (other than subsection (9)),

(a) the new share issued in exchange for the old share is deemed to have been issued, pursuant to an allocation in proportion to patronage, at the time the old share was issued; and

(b) provided that no person or partnership receives at any time any consideration (other than the new share) in exchange for the old share, for the purposes of subsections (2) and (7) the taxpayer is deemed to have disposed of the old share for nil proceeds.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2006, c. 4, s. 80; 2013, c. 34, s. 282; 2015, c. 36, s. 13.

b) la coopérative émet en faveur du contribuable, en échange de l'ancienne part, une part (appelée « nouvelle part » au présent paragraphe et au paragraphe (10)) qui est visée aux alinéas b) à d) de la définition de ***part à imposition différée*** au paragraphe (1);

c) le montant du capital versé au titre de la nouvelle part, ainsi que la somme que le contribuable peut éventuellement recevoir lors de son rachat, acquisition ou annulation, correspondent respectivement aux montants homologues relatifs à l'ancienne part.

Part émise lors d'un remaniement de capital

(10) Les règles ci-après s'appliquent au présent article (à l'exception du paragraphe (9)) si le présent paragraphe s'applique relativement à l'échange d'une ancienne part d'un contribuable contre une nouvelle part :

a) la nouvelle part émise en échange de l'ancienne part est réputée avoir été émise, conformément à une répartition proportionnelle à l'apport commercial, au moment où l'ancienne part a été émise;

b) pourvu qu'aucune personne ou société de personnes ne reçoive, à un moment donné, de contrepartie (exception faite de la nouvelle part) en échange de l'ancienne part, le contribuable est réputé, pour l'application des paragraphes (2) et (7), avoir disposé de l'ancienne part pour un produit nul.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2006, ch. 4, art. 80; 2013, ch. 34, art. 282; 2015, ch. 36, art. 13.

Continuance of the Canadian Wheat Board

Definitions

135.2 (1) The following definitions apply in this section.

application for continuance means the application for continuance referred to in paragraph (a) of the definition *Canadian Wheat Board continuance*. (*demande de prorogation*)

Canadian Wheat Board means the corporation referred to in subsection 4(1) of the *Canadian Wheat Board (Interim Operations) Act*, as it read before its repeal, that is continued under the *Canada Business Corporations Act* pursuant to the application for continuance. (*Commission canadienne du blé*)

Canadian Wheat Board continuance means the series of transactions or events that includes

Prorogation de la Commission canadienne du blé

Définitions

135.2 (1) Les définitions qui suivent s'appliquent au présent article.

action admissible Action ordinaire du capital-actions de la Commission canadienne du blé qui est émise dans le cadre de l'échange de la dette admissible visé à l'alinéa c) de la définition de *prorogation de la Commission canadienne du blé*. (*eligible share*)

agriculteur participant S'entend, relativement à une fiducie à un moment donné, de toute personne qui :

a) d'une part, est admissible à recevoir des unités de la fiducie selon le régime dans le cadre duquel celle-ci ordonne à ses fiduciaires d'émettre des unités à des personnes ayant livré du grain après juillet 2013 aux termes d'un contrat conclu avec la Commission canadienne du blé;

(a) the application for continuance under the *Canada Business Corporations Act* that is

(i) made by the corporation referred to in subsection 4(1) of the *Canadian Wheat Board (Interim Operations) Act*, as it read before its repeal, and

(ii) approved by the Minister of Agriculture and Agri-Food under Part III of the *Marketing Freedom for Grain Farmers Act*;

(b) the issuance of a promissory note or other evidence of indebtedness by the Canadian Wheat Board to the eligible trust; and

(c) the disposition of the eligible debt by the eligible trust, in the same taxation year of the trust in which the eligible debt is issued to it, in exchange for consideration that includes the issuance of shares by the Canadian Wheat Board that have a total fair market value at the time of their issuance that is equal to the amount by which the principal amount of the eligible debt exceeds $10 million. (*prorogation de la Commission canadienne du blé*)

eligible debt means the promissory note or other evidence of indebtedness referred to in paragraph (b) of the definition *Canadian Wheat Board continuance*. (*dette admissible*)

eligible share means a common share of the capital stock of the Canadian Wheat Board that is issued in exchange for the eligible debt, as referred to in paragraph (c) of the definition *Canadian Wheat Board continuance*. (*action admissible*)

eligible trust, at any time, means a trust that meets the following conditions:

(a) it was established in connection with the application for continuance;

(b) it is resident in Canada at that time;

(c) immediately before it acquired the eligible debt, it held only property of nominal value;

(d) it is not exempt because of subsection 149(1) from tax on its taxable income for any period in its taxation year that includes that time;

(e) all of the interests of beneficiaries under it at that time are described by reference to units that are eligible units in it;

(f) the only persons who have acquired an interest as a beneficiary under the trust from it before that time

b) d'autre part, soit se livre à la production de grains soit a droit, à titre de locateur, de vendeur ou de créancier hypothécaire, à tout ou partie des grains produits par une personne se livrant à la production de grains. (*participating farmer*)

Commission canadienne du blé La Commission qui est visée au paragraphe 4(1) de la *Loi sur la Commission canadienne du blé (activités en période intérimaire)*, dans sa version antérieure à son abrogation, et qui est prorogée en vertu de la *Loi canadienne sur les sociétés par actions* conformément à la demande de prorogation. (*Canadian Wheat Board*)

demande de prorogation La demande de prorogation visée à l'alinéa a) de la définition de *prorogation de la Commission canadienne du blé*. (*application for continuance*)

dette admissible Tout billet à ordre ou autre titre de créance visé à l'alinéa b) de la définition de *prorogation de la Commission canadienne du blé*. (*eligible debt*)

distribution admissible sur liquidation S'entend, relativement à une fiducie, de la distribution — à l'égard de laquelle les énoncés ci-après se vérifient — d'un bien par celle-ci à une personne :

a) la distribution comprend une action du capital-actions de la Commission canadienne du blé qui est inscrite à une bourse de valeurs désignée;

b) les seuls biens (sauf une action visée à l'alinéa a)) distribués par la fiducie lors de la distribution sont des espèces libellées en dollars canadiens;

c) la distribution donne lieu à la disposition de toutes les participations de la personne à titre de bénéficiaire de la fiducie;

d) la fiducie cesse d'exister immédiatement après la distribution ou immédiatement après la dernière d'une série de distributions admissibles sur liquidation (déterminées compte non tenu du présent alinéa) de la fiducie qui comprend la distribution en cause. (*eligible wind-up distribution*)

fiducie admissible S'entend, à un moment donné, de la fiducie qui remplit les conditions suivantes :

a) elle a été établie relativement à la demande de prorogation;

b) elle réside au Canada au moment donné;

are persons who were participating farmers at the time they acquired the interest;

(g) all or substantially all of the fair market value of its property at that time is based on the value of property that is

(i) eligible debt,

(ii) shares of the capital stock of the Canadian Wheat Board, or

(iii) property described in paragraph (a) or (b) of the definition *qualified investment* if in section 204 or a deposit with a credit union;

(h) the property that it has paid or distributed at or before that time to a beneficiary under the trust in satisfaction of the beneficiary's eligible unit in the trust is

(i) money denominated in Canadian dollars, or

(ii) shares distributed as an eligible wind-up distribution of the trust; and

(i) at no time in its taxation year that includes that time is any other trust an eligible trust. (*fiducie admissible*)

eligible unit, in a trust at any time, means a unit that describes all or part of an interest as a beneficiary under the trust, if

(a) the total of all amounts each of which is the value of a unit at the time it was issued by the trust to a participating farmer does not exceed the amount by which the principal amount of the eligible debt exceeds $10 million; and

(b) all of the interests as a beneficiary under the trust are *fixed interests* if (as defined in subsection 251.2(1)) in the trust. (*unité admissible*)

eligible wind-up distribution, of a trust, means a distribution of property by the trust to a person if

(a) the distribution includes a share of the capital stock of the Canadian Wheat Board that is listed on a designated stock exchange;

(b) the only property (other than a share described in paragraph (a)) distributed by the trust on the distribution is money denominated in Canadian dollars;

(c) the distribution results in the disposition of all of the person's interest as a beneficiary under the trust; and

c) immédiatement avant le moment de l'acquisition de la dette admissible par celle-ci, elle ne détenait que des biens d'une valeur nominale;

d) elle n'est pas, par l'effet du paragraphe 149(1), exonérée de l'impôt sur son revenu imposable pour une période de son année d'imposition qui comprend le moment donné;

e) toutes les participations des bénéficiaires de la fiducie au moment donné sont définies par rapport à des unités étant des unités admissibles de la fiducie;

f) les seules personnes ayant, avant le moment donné, acquis de la fiducie des participations à titre de bénéficiaires de celle-ci sont des personnes qui étaient des agriculteurs participants lorsqu'elles ont acquis les participations;

g) la totalité, ou presque, de la juste valeur marchande des biens de la fiducie, au moment donné, est fondée sur la valeur des biens suivants :

(i) une dette admissible,

(ii) une action du capital-actions de la Commission canadienne du blé,

(iii) un bien visé aux alinéas a) ou b) de la définition de *placement admissible* à l'article 204 ou un dépôt auprès d'une caisse de crédit;

h) les seuls biens versés ou distribués par la fiducie à ce moment ou antérieurement à un de ses bénéficiaires en règlement de l'unité admissible de la fiducie de celui-ci sont :

(i) soit des espèces libellées en dollars canadiens,

(ii) soit des actions distribuées au titre d'une distribution admissible sur liquidation de la fiducie;

i) à aucun moment de l'année d'imposition de la fiducie qui comprend le moment donné, une autre fiducie n'est une fiducie admissible. (*eligible trust*)

personne Sont assimilées à des personnes les sociétés de personnes. (*person*)

prorogation de la Commission canadienne du blé La série d'opérations ou d'événements comprenant, à la fois :

a) la demande de prorogation en vertu de la *Loi canadienne sur les sociétés par actions* à l'égard de laquelle les énoncés ci-après se vérifient :

(d) the trust ceases to exist immediately after the distribution or immediately after the last of a series of eligible wind-up distributions (determined without reference to this paragraph) of the trust that includes the distribution. (*distribution admissible sur liquidation*)

participating farmer, in respect of a trust at any time, means a person

(a) who is eligible to receive units of the trust pursuant to the plan under which the trust directs its trustees to grant units to persons who have delivered grain under a contract with the Canadian Wheat Board on or after August 1, 2013; and

(b) engaged in the production of grain or any person entitled, as landlord, vendor or mortgagee or hypothecary creditor, to grain produced by a person engaged in the production of grain or to any share of that grain. (*agriculteur participant*)

person includes a partnership. (*personne*)

(i) elle est présentée par la Commission visée au paragraphe 4(1) de la *Loi sur la Commission canadienne du blé (activités en période intérimaire)*, dans sa version antérieure à son abrogation,

(ii) elle est agréée par le ministre de l'Agriculture et de l'Agroalimentaire conformément à la partie III de la *Loi sur le libre choix des producteurs de grains en matière de commercialisation*;

b) l'émission d'un billet à ordre ou de tout autre titre de créance par la Commission canadienne du blé à la fiducie admissible;

c) la disposition de la dette admissible par la fiducie admissible, au cours de l'année d'imposition de la fiducie durant laquelle la dette lui est émise, en échange d'une contrepartie comprenant l'émission, par la Commission canadienne du blé, d'actions dont la juste valeur marchande totale, au moment de leur émission, est égale à l'excédent du principal de la dette sur la somme de 10 000 000 $. (*Canadian Wheat Board continuance*)

unité admissible Unité d'une fiducie donnant les caractéristiques, en tout ou en partie, de la participation à titre de bénéficiaire de la fiducie à l'égard de laquelle les énoncés ci-après se vérifient :

a) le total des montants dont chacun représente la valeur d'une unité lors de son émission par la fiducie à un agriculteur participant ne dépasse pas l'excédent du principal de la dette admissible sur la somme de 10 000 000 $;

b) chaque participation à titre de bénéficiaire de la fiducie est une *participation fixe*, au sens du paragraphe 251.2(1), dans la fiducie. (*eligible unit*)

Trust acquires an eligible debt

(2) If, at any time, an eligible trust acquires eligible debt, the principal amount of the eligible debt is deemed not to be included in computing the income of the eligible trust for the taxation year of the eligible trust that includes that time.

Disposition of eligible debt

(3) If, at any time, an eligible trust disposes of eligible debt in exchange for consideration that includes the issuance of eligible shares

(a) for the purpose of computing the income of the eligible trust for its taxation year that includes that time

(i) an amount, in respect of the disposition of the eligible debt, equal to the fair market value of all

Dette admissible acquise par une fiducie

(2) Si une fiducie admissible acquiert, à un moment donné, une dette admissible, le principal de la dette admissible est réputé ne pas être inclus dans le calcul de son revenu pour son année d'imposition qui comprend le moment de l'acquisition.

Dette admissible — disposition

(3) Les règles ci-après s'appliquent si une fiducie admissible dispose, à un moment donné, d'une dette admissible en échange d'une contrepartie qui comprend l'émission d'actions admissibles :

a) pour le calcul du revenu de la fiducie pour son année d'imposition qui comprend ce moment, les règles ci-après s'appliquent :

property (other than eligible shares) received on the exchange by the trust is included,

(ii) no amount in respect of the disposition of the eligible debt is included (other than the amount described in subparagraph (i)), and

(iii) no amount in respect of the receipt of the eligible shares is included;

(b) the cost to the eligible trust of each eligible share is deemed to be nil;

(c) in computing the paid-up capital in respect of the class of the capital stock of the Canadian Wheat Board that includes the eligible shares, at any time after the shares are issued, there shall be deducted an amount equal to the amount of the paid-up capital in respect of that class at the time the shares are issued;

(d) subsection 75(2) does not apply to property

(i) that is held by the trust in a taxation year that ends at or after that time, and

(ii) that is

(A) received by the trust on the exchange, or

(B) a substitute for property described in subparagraph (i); and

(e) subsections 84(2) and (3) and section 85 do not apply at any time to eligible shares.

(i) un montant, relatif à la disposition de la dette admissible, égal à la juste valeur marchande de tout bien (sauf des actions admissibles) reçu par la fiducie lors de l'échange est inclus au titre de la disposition,

(ii) aucun montant (sauf le montant prévu au sous-alinéa (i)) n'est inclus au titre de la disposition,

(iii) aucun montant n'est inclus au titre de la réception des actions admissibles;

b) le coût, pour la fiducie, de chaque action admissible est réputé nul;

c) est déduit, dans le calcul du capital versé au titre d'une catégorie d'actions du capital-actions de la Commission canadienne du blé qui comprend les actions admissibles, à un moment après leur émission, un montant égal au montant correspondant au capital versé au titre de cette catégorie lors de l'émission;

d) le paragraphe 75(2) ne s'applique pas aux biens à l'égard desquels les énoncés ci-après se vérifient :

(i) les biens sont détenus par la fiducie au cours d'une année d'imposition qui prend fin à ce moment ou postérieurement,

(ii) les biens sont :

(A) soit des biens reçus par la fiducie lors de l'échange,

(B) soit des biens de remplacement à l'égard de biens visés au sous-alinéa (i);

e) les paragraphes 84(2) et (3) et l'article 85 ne s'appliquent pas à l'égard d'actions admissibles.

Eligible trust

(4) The following rules apply in respect of a trust that is an eligible trust at any time in a taxation year of the trust:

(a) in computing the trust's income for the year

(i) no deduction may be made by the trust under subsection 104(6), except to the extent of the income of the trust (determined without reference to subsection 104(6)) for the year that is paid in the year, and

(ii) no deduction may be made by the trust under subsection 104(6), if the trust ceased to be an eligible trust at the beginning of the following taxation year;

Fiducie admissible

(4) Les règles ci-après s'appliquent relativement à une fiducie qui est une fiducie admissible à un moment donné de son année d'imposition :

a) pour le calcul du revenu de la fiducie pour l'année :

(i) aucune déduction par la fiducie n'est permise en vertu du paragraphe 104(6), sauf jusqu'à concurrence de son revenu (déterminé compte non tenu du paragraphe 104(6)) pour l'année qui est payé au cours de l'année,

(ii) si elle a cessé d'être une fiducie admissible au début de l'année d'imposition suivante, aucune déduction par la fiducie n'est permise en vertu du paragraphe 104(6);

(b) for the purposes of applying Part XII.2 in respect of the year

(i) the trust's designated income for the year is deemed to be the trust's income for the year determined without reference to subsections 104(6) and (30), and

(ii) the designated beneficiaries under the trust at any time in the year are deemed to include any beneficiary under the trust that is at that time

(A) non-resident,

(B) a partnership (other than a partnership that is, throughout its fiscal period that includes that time, a Canadian partnership), or

(C) exempt because of subsection 149(1) from tax under this Part on the person's taxable income;

(c) each property held by the trust that is the eligible debt or an eligible share is deemed to have a cost amount to the trust of nil;

(d) if the trust disposes of a property,

(i) subject to subsection (14), the disposition is deemed to occur for proceeds equal to the fair market value of the property immediately before the disposition,

(ii) the gain, if any, of the trust from the disposition is

(A) deemed not to be a capital gain, and

(B) to be included in computing the trust's income for the trust's taxation year that includes the time of disposition, and

(iii) the loss, if any, of the trust from the disposition is

(A) deemed not to be a capital loss, and

(B) to be deducted in computing the trust's income for the trust's taxation year that includes the time of disposition;

(e) the trust is deemed not to be a

(i) personal trust,

(ii) unit trust,

b) pour l'application de la partie XII.2 relativement à l'année, les règles ci-après s'appliquent :

(i) le revenu de distribution de la fiducie pour l'année est réputé correspondre à son revenu pour l'année déterminé compte non tenu des paragraphes 104(6) et (30),

(ii) est réputé être un bénéficiaire étranger ou assimilé de la fiducie à un moment donné de l'année tout bénéficiaire de la fiducie qui, à ce moment, est :

(A) soit un non-résident,

(B) soit une société de personnes (sauf une société de personnes qui est, tout au long de son exercice qui comprend le moment donné, une société de personnes canadienne),

(C) soit une personne exonérée, par l'effet du paragraphe 149(1), de l'impôt sur son revenu imposable prévu à la présente partie;

c) toute dette admissible ou toute action admissible qu'elle détient est réputée avoir un coût indiqué, pour elle, de zéro;

d) les règles ci-après s'appliquent lorsque la fiducie dispose d'un bien :

(i) sous réserve du paragraphe (14), la disposition est réputée être effectuée pour un produit égal à la juste valeur marchande du bien immédiatement avant la disposition,

(ii) tout gain provenant de la disposition est, à la fois :

(A) réputé ne pas être un gain en capital,

(B) à inclure dans le calcul du revenu de la fiducie pour son année d'imposition qui comprend le moment de la disposition,

(iii) toute perte provenant de la disposition est, à la fois :

(A) réputée ne pas être une perte en capital,

(B) à déduire dans le calcul du revenu de la fiducie pour son année d'imposition qui comprend le moment de la disposition;

e) la fiducie est réputée n'être aucune des fiducies suivantes :

(i) une fiducie personnelle,

(iii) trust prescribed for the purpose of subsection 107(2), or

(iv) trust any interest in which is an excluded right or interest in applying section 128.1;

(f) any ***security*** (in this paragraph and paragraph (g), as defined in subsection 122.1(1)) of the trust that is held by a trust governed by a deferred profit sharing plan, RDSP, RESP, RRIF, RRSP or TFSA (referred to in this paragraph and paragraph (g) as the ***registered plan trust***) is deemed not to be a qualified investment for the registered plan trust;

(g) if a registered plan trust governed by a TFSA acquires at any time a security of the trust, Part XI.01 applies in respect of the security as though the acquisition is an advantage

(i) in relation to the TFSA that is extended at that time to the controlling individual of the TFSA, and

(ii) that is a benefit the fair market value of which is the fair market value of the security at that time; and

(h) paragraph (h) of the definition ***disposition*** in subsection 248(1) does not apply in respect of eligible units of the trust.

Participating farmer — acquisition of eligible unit

(5) If, at any time, a participating farmer acquires an eligible unit in an eligible trust from the trust,

(a) no amount in respect of the acquisition of the eligible unit is included in computing the income of the participating farmer; and

(b) the cost amount to the participating farmer of the eligible unit is deemed to be nil.

Eligible unit issued to estate

(6) If a participating farmer has, immediately before the participating farmer's death, not received an eligible unit of an eligible trust for which the participating farmer was eligible — pursuant to the plan under which the eligible trust directs its trustees to grant units to persons who have delivered grain under a contract with the Canadian

(ii) une fiducie d'investissement à participation unitaire,

(iii) une fiducie visée par règlement pour l'application du paragraphe 107(2),

(iv) une fiducie dans laquelle toutes les participations sont des droits, participations ou intérêts exclus pour l'application de l'article 128.1;

f) tout ***titre*** (s'entendant, au présent alinéa et à l'alinéa g), au sens du paragraphe 122.1(1)) de la fiducie qui est détenu par une fiducie régie par un régime de participation différée aux bénéfices, un CELI, un FERR, un REEI, un REER ou un REEE (appelée ***fiducie régie par un régime enregistré*** au présent alinéa et à l'alinéa g)) est réputé ne pas être un placement admissible pour la fiducie régie par un régime enregistré;

g) si une fiducie régie par un régime enregistré dans le cadre d'un CELI acquiert, à un moment donné, un titre de la fiducie, la partie XI.01 s'applique relativement au titre comme si l'acquisition représentait un avantage qui :

(i) d'une part, est relatif au CELI accordé à ce moment à son particulier contrôlant,

(ii) d'autre part, est un bénéfice dont la juste valeur marchande est celle du titre à ce moment;

h) l'alinéa h) de la définition de ***disposition*** au paragraphe 248(1) ne s'applique pas relativement aux unités admissibles de la fiducie.

Acquisition d'une unité admissible — agriculteur participant

(5) Les règles ci-après s'appliquent si un agriculteur participant, à un moment donné, acquiert d'une fiducie admissible une unité admissible de celle-ci :

a) aucun montant au titre de l'acquisition n'est inclus dans le calcul du revenu de l'agriculteur;

b) le coût indiqué, pour lui, de l'unité est réputé nul.

Émission d'une unité admissible à la succession

(6) Les règles ci-après s'appliquent si un agriculteur participant, à un moment qui est immédiatement avant son décès, n'a pas reçu une unité admissible d'une fiducie admissible qu'il est admissible à recevoir — selon le régime dans le cadre duquel la fiducie ordonne à ses fiduciaires d'émettre des unités à des personnes ayant livré du grain après juillet 2013 aux termes d'un contrat conclu avec la Commission canadienne du blé — et si la fiducie émet

Wheat Board on or after August 1, 2013 — and the eligible trust issues the unit to the estate that arose on and as a consequence of the death,

(a) the participating farmer is deemed to have acquired the unit at the time that is immediately before the time that is immediately before the death, as a participating farmer from the eligible trust, and to own the unit at the time that is immediately before the death;

(b) for the purpose of paragraph (f) of the definition ***eligible trust*** in subsection (1), the estate is deemed not to have acquired the unit from the trust; and

(c) for the purposes of paragraphs (8)(b) and (c), the estate is deemed to have acquired the eligible unit on and as a consequence of the death.

Eligible unit — gain (loss)

(7) If a person disposes of an eligible unit in a trust that is an eligible trust at the time of the disposition

(a) the gain, if any, of the person from the disposition is

(i) deemed not to be a capital gain, and

(ii) to be included in computing the person's income for the person's taxation year that includes that time; and

(b) the loss, if any, of the person from the disposition is

(i) deemed not to be a capital loss, and

(ii) to be deducted in computing the person's income for the person's taxation year that includes that time.

Death of a participating farmer

(8) If, immediately before an individual's death, the individual owns an eligible unit that the individual acquired as a participating farmer from an eligible trust

(a) the individual is deemed to dispose (referred to in this subsection as the ***particular disposition***) of the eligible unit immediately before death;

(b) if paragraph (d) does not apply,

(i) the individual's proceeds from the particular disposition are deemed to be equal to the unit's fair

l'unité à la succession qui a commencé à exister au décès et par suite de ce décès :

a) l'agriculteur participant est réputé avoir acquis l'unité au moment qui est immédiatement avant celui qui est immédiatement avant le décès, de la fiducie à titre d'agriculteur participant, et être propriétaire de l'unité au moment qui est immédiatement avant son décès;

b) pour l'application de l'alinéa f) de la définition de ***fiducie admissible*** au paragraphe (1), la succession est réputée ne pas avoir acquis l'unité de la fiducie;

c) pour l'application des alinéas (8)b) et c), la succession est réputée avoir acquis l'unité au décès et par suite de ce décès.

Unité admissible — gain ou perte

(7) Les règles ci-après s'appliquent si une personne dispose d'une unité admissible d'une fiducie qui est une fiducie admissible au moment de la disposition :

a) tout gain de la personne provenant de la disposition est, à la fois :

(i) réputé ne pas être un gain en capital,

(ii) à inclure dans le calcul du revenu de la personne pour son année d'imposition qui comprend le moment de la disposition;

b) toute perte de la personne provenant de la disposition est, à la fois :

(i) réputée ne pas être une perte en capital,

(ii) à déduire dans le calcul du revenu de la personne pour son année d'imposition qui comprend le moment de la disposition.

Décès d'un agriculteur participant

(8) Les règles ci-après s'appliquent si un particulier, immédiatement avant son décès, est propriétaire d'une unité admissible qu'il a acquise d'une fiducie admissible à titre d'agriculteur participant :

a) le particulier est réputé effectuer la disposition (appelée ***disposition donnée*** au présent paragraphe) de l'unité immédiatement avant son décès;

b) les règles ci-après s'appliquent en cas de non-application de l'alinéa d) :

market value immediately before the particular disposition,

(ii) the gain from the particular disposition is deemed to be included, under subsection 70(1) and not under any other provision, in the individual's income for the individual's taxation year in which the individual dies,

(iii) subsection 159(5) applies in respect of the individual who has died (determined as though a reference in that subsection to subsection 70(5.2) includes a reference to subsection 70(1) in the application of subsection 159(5) to the gain from the particular disposition) in respect of the particular disposition, and

(iv) the person who acquires the eligible unit as a consequence of the individual's death is deemed to have acquired the eligible unit at the time of the death at a cost equal to the individual's proceeds, described in subparagraph (i), from the particular disposition;

(c) paragraph (d) applies if

(i) the individual is resident in Canada immediately before the individual's death,

(ii) the individual's graduated rate estate acquires the eligible unit on and as a consequence of the death,

(iii) the individual's legal representative elects in prescribed form in the course of administering the individual's graduated rate estate that paragraph (b) not apply to the individual in respect of the particular disposition,

(iv) the election is filed with the individual's return of income under this Part for the individual's taxation year in which the death occurred,

(v) the estate distributes the eligible unit to the individual's spouse or common-law partner at a time at which it is the individual's graduated rate estate,

(vi) the individual's spouse or common-law partner is resident in Canada at the time of the distribution, and

(vii) the estate does not dispose of the unit before the distribution; and

(d) if this paragraph applies,

(i) le produit provenant de la disposition donnée pour le particulier est réputé égal à la juste valeur marchande de l'unité immédiatement avant la disposition donnée,

(ii) le gain provenant de la disposition donnée est réputé inclus, en vertu du paragraphe 70(1) et d'aucune autre disposition, dans le revenu du particulier pour son année d'imposition au cours de laquelle il est décédé,

(iii) le paragraphe 159(5) s'applique au particulier décédé (déterminé comme si le renvoi, à ce paragraphe, au paragraphe 70(5.2) comprend un renvoi au paragraphe 70(1) pour l'application du paragraphe 159(5) au gain provenant de la disposition donnée) relativement à la disposition donnée,

(iv) la personne qui acquiert l'unité admissible par suite du décès du particulier est réputée l'avoir acquise au moment du décès à un coût qui est égal au produit provenant de la disposition donnée, visé au sous-alinéa (i), pour le particulier;

c) l'alinéa d) s'applique si les énoncés ci-après se vérifient :

(i) le particulier réside au Canada immédiatement avant son décès,

(ii) la succession assujettie à l'imposition à taux progressifs du particulier acquiert une unité admissible au décès et par suite de ce décès,

(iii) le représentant légal du particulier fait le choix dans un formulaire prescrit, dans le cadre de l'administration de la succession assujettie à l'imposition à taux progressifs du particulier, pour que l'alinéa b) ne s'applique pas au particulier relativement à la disposition donnée,

(iv) le choix est présenté dans la déclaration de revenu du particulier qui est produite en vertu de la présente partie pour son année d'imposition dans laquelle il est décédé,

(v) la succession distribue l'unité à l'époux ou au conjoint de fait du particulier à un moment où elle est la succession assujettie à l'imposition à taux progressifs du particulier,

(vi) l'époux ou le conjoint de fait du particulier réside au Canada au moment de la distribution,

(vii) la succession ne dispose pas de l'unité avant la distribution;

(i) the individual's gain from the disposition is deemed to be nil,

(ii) the cost amount to the estate of the eligible unit is deemed to be nil,

(iii) any amount that is included in the estate's income (determined without reference to this subparagraph and subsections 104(6) and (12)) for a taxation year from a source that is the eligible unit is, notwithstanding subsection 104(24), deemed

(A) to have become payable in that taxation year by the estate to the spouse or common-law partner, and

(B) not be have become payable to any other beneficiary,

(iv) the distribution is deemed to be a disposition by the estate of the eligible unit for proceeds equal to the cost amount to the estate of the unit,

(v) the part of the spouse or common-law partner's interest as a beneficiary under the estate that is disposed of as a result of the distribution is deemed to be disposed of for proceeds of disposition equal to the cost amount to the spouse or common-law partner of that part immediately before the disposition,

(vi) the cost amount to the spouse or common-law partner of the eligible unit is deemed to be nil, and

(vii) the spouse or common-law partner is, except for the purposes of paragraph (c), deemed to have acquired the eligible unit as a participating farmer from an eligible trust.

d) les règles ci-après s'appliquent en cas d'application du présent alinéa :

(i) le gain du particulier provenant de la disposition est réputé nul,

(ii) le coût indiqué, pour la succession, de l'unité admissible est réputé nul,

(iii) tout montant inclus dans le revenu de la succession (déterminé compte non tenu du présent alinéa et des paragraphes 104(6) et (12)) pour une année d'imposition tiré d'une source étant l'unité est, malgré le paragraphe 104(24), réputé à la fois :

(A) être devenu payable au cours de cette année par la succession à l'époux ou au conjoint de fait,

(B) n'être devenu payable à aucun autre bénéficiaire,

(iv) la distribution est réputée être une disposition par la succession de l'unité pour un produit égal au coût indiqué, pour elle, de l'unité,

(v) la partie de la participation de l'époux ou du conjoint de fait à titre de bénéficiaire de la succession dont il est disposée par suite de la distribution est réputée faire l'objet d'une disposition pour un produit de disposition égal au coût indiqué, pour l'époux ou le conjoint de fait, de cette partie immédiatement avant la disposition,

(vi) le coût indiqué, pour l'époux ou le conjoint de fait, de l'unité est réputé nul,

(vii) l'époux ou le conjoint de fait est, sauf pour l'application de l'alinéa c), réputé avoir acquis de la fiducie l'unité à titre d'agriculteur admissible.

Participating farmer — disposition of eligible unit

(9) If, at any time, an eligible unit of an eligible trust that was acquired by a participating farmer from the eligible trust is disposed of by the participating farmer (other than a disposition described in paragraph (8)(a), (10)(d) or (11)(b)),

(a) the participating farmer's proceeds from the disposition are deemed to be equal to the fair market value of the unit immediately before its disposition;

(b) if the disposition results from a distribution of money denominated in Canadian dollars by the trust to the participating farmer in a taxation year of the trust, the money is proceeds from the disposition in that taxation year by the trust of other property and, at

Disposition d'une unité admissible – agriculteur participant

(9) Les règles ci-après s'appliquent si un agriculteur participant ayant acquis d'une fiducie admissible une unité admissible de celle-ci effectue une disposition de l'unité (sauf s'il s'agit d'une disposition visée à aux alinéas (8)a), (10)d) ou (11)b)) :

a) le produit de l'agriculteur provenant de la disposition est réputé être égal à la juste valeur marchande de l'unité immédiatement avant sa disposition;

b) si la disposition est le résultat d'une distribution d'espèces libellées en dollars canadiens par la fiducie à l'agriculteur au cours d'une année d'imposition de celle-ci, que les espèces sont le produit provenant de la disposition d'autres biens par la fiducie au cours de

the time of the disposition, the participating farmer is not a person described in any of clauses (4)(b)(ii)(A) to (C), the trust's gain, if any, from the disposition of the other property is reduced to the extent that the proceeds so distributed would, in the absence of this paragraph, be included under subsection 104(13) in the participating farmer's income for the taxation year of the participating farmer in which the taxation year of the trust ends; and

(c) if the participating farmer is a Canadian-controlled private corporation, for the purposes of section 125, the gain from the disposition is deemed to be income from an active business carried on by the corporation.

cette année et que, au moment de la disposition, l'agriculteur n'est pas une personne visée à l'une des divisions (4)b)(ii)(A) à (C), tout gain de la fiducie provenant de la disposition d'autres biens est réduit jusqu'à concurrence du produit ainsi distribué qui serait, en l'absence du présent alinéa, inclus en vertu du paragraphe 104(13) dans le calcul du revenu de l'agriculteur pour son année d'imposition au cours de laquelle l'année d'imposition de la fiducie prend fin;

c) si l'agriculteur participant est une société privée sous contrôle canadien, le gain provenant de la distribution est réputé être un revenu tiré d'une entreprise exploitée activement pour l'application de l'article 125.

Eligible wind-up distribution

(10) If, at any time, an eligible trust distributes property as an eligible wind-up distribution of the trust to a person

(a) subsection 107(2.1) does not apply in respect of the distribution;

(b) the trust is deemed to have disposed of the property for proceeds equal to its fair market value at that time;

(c) the trust's gain from the disposition of the property is, notwithstanding subsection 104(24), deemed

(i) to have become payable at that time by the trust to the person, and

(ii) not to have become payable to any other beneficiary;

(d) the person is deemed to acquire the property at a cost equal to the trust's proceeds from the disposition;

(e) the person's proceeds from the disposition of the eligible unit, or part of it, that results from the distribution are deemed to be equal to the cost amount of the unit to the person immediately before that time; and

(f) for greater certainty, no part of the trust's gain from the disposition is to be included in the cost to the person of the property, other than as determined by paragraph (d).

Distribution admissible sur liquidation

(10) Les règles ci-après s'appliquent si, à un moment donné, une fiducie admissible distribue à une personne des biens au titre d'une distribution admissible sur liquidation de la fiducie :

a) le paragraphe 107(2.1) ne s'applique pas relativement à la distribution;

b) la fiducie est réputée avoir disposé des biens pour un produit égal à leur juste valeur marchande à ce moment;

c) malgré le paragraphe 104(24), le gain de la fiducie provenant de la disposition des biens est réputé à la fois :

(i) être devenu payable à ce moment par la fiducie à cette personne,

(ii) n'être devenu payable à aucun autre bénéficiaire;

d) la personne est réputée acquérir les biens pour un coût égal au produit de la fiducie provenant de la disposition;

e) le produit de la personne provenant de la disposition de l'unité admissible, ou d'une partie de celle-ci, par suite de la distribution est réputé égal au coût indiqué, pour la personne, de l'unité immédiatement avant ce moment;

f) il est entendu qu'aucune partie du gain de la fiducie ne peut être incluse dans le coût, pour la personne, des biens, sauf dans la mesure déterminée par l'alinéa d).

Ceasing to be an eligible trust

(11) If a trust ceases to be an eligible trust at a particular time

Cesser d'être une fiducie admissible

(11) Les règles ci-après s'appliquent si une fiducie cesse d'être une fiducie admissible à un moment donné :

(a) subsection 149(10) applies to the trust as if

(i) it ceased at that particular time to be exempt from tax under this Part on its taxable income, and

(ii) the list of provisions in paragraph 149(10)(c) included a reference to this section; and

(b) each person who holds at the particular time an eligible unit in the trust is deemed to have

(i) disposed of, at the time that is immediately before the time that is immediately before the particular time, each of the eligible units for proceeds equal to the cost amount of the unit to the person, and

(ii) reacquired the eligible unit at the time that is immediately before the particular time at a cost equal to the fair market value of the unit at the time that is immediately before the particular time.

a) le paragraphe 149(10) s'applique à l'égard de la fiducie comme si :

(i) d'une part, la fiducie a cessé, au moment donné, d'être exonérée de l'impôt sur son revenu imposable prévu à la présente partie,

(ii) d'autre part, un renvoi au présent article était compris parmi les dispositions énumérées à l'alinéa 149(10)c);

b) toute personne qui détient, au moment donné, une unité admissible de la fiducie est réputée, à la fois :

(i) avoir disposé, au moment immédiatement avant le moment qui est immédiatement avant le moment donné, de chaque unité pour un produit égal à son coût indiqué pour elle,

(ii) avoir acquis de nouveau, au moment qui est immédiatement avant le moment donné, l'unité à un coût égal à sa juste valeur marchande au moment qui est immédiatement avant le moment donné.

Stock dividends — Canadian Wheat Board shares

(12) If, at any time, the eligible trust holds an eligible share (or another share of the Canadian Wheat Board acquired before that time as a stock dividend) and the Canadian Wheat Board issues, as a stock dividend paid in respect of such a share, a share of a class of its capital stock, the amount by which the paid-up capital is increased — in respect of the issuance of all shares paid by the Canadian Wheat Board to the eligible trust as the stock dividend or any other stock dividend paid to other shareholders in connection with that stock dividend — for all classes of shares of the Canadian Wheat Board is, for the purposes of this Act, deemed to be no more than $1.

Dividendes en actions sur les actions — Commission canadienne du blé

(12) Si, à un moment donné, la fiducie admissible détient une action admissible (ou une autre action de la Commission canadienne du blé acquise avant ce moment à titre de dividende en actions) et que la Commission canadienne du blé émet, à titre de dividende en actions versé à l'égard d'une telle action, une action d'une catégorie de son capital-actions, le montant de la majoration du capital versé — relativement à l'émission de toutes les actions payées par la Commission canadienne du blé à la fiducie admissible au titre du dividende en actions ou de tout autre dividende en actions versé à d'autres actionnaires à l'égard de ce dividende en actions — au titre des catégories d'actions de la Commission canadienne du blé est, pour l'application de la présente loi, réputé être égal ou inférieur à un dollar.

Reorganization of capital — Canadian Wheat Board

(13) Subsection (14) applies in respect of the disposition by an eligible trust of all of the shares (in this subsection and subsection (14) referred to collectively as the ***old shares*** and individually as an ***old share***) of a class of the capital stock of the Canadian Wheat Board owned by the eligible trust if

(a) the disposition of the old shares results from the acquisition, cancellation or redemption in the course of a reorganization of the capital of the Canadian Wheat Board;

Remaniement de capital — Commission canadienne du blé

(13) Le paragraphe (14) s'applique relativement à la disposition par une fiducie admissible de l'ensemble des actions (appelées collectivement ***anciennes actions*** et individuellement ***ancienne action*** au présent paragraphe et au paragraphe (14)) d'une catégorie du capital-actions de la Commission canadienne du blé dont la fiducie admissible est propriétaire si les énoncés ci-après se vérifient :

a) la disposition des anciennes actions est le résultat de l'acquisition, de l'annulation ou du rachat dans le

(b) the Canadian Wheat Board issues to the eligible trust, in exchange for the old shares, shares (in this subsection and subsection (14) referred to collectively as the ***new shares*** and individually as a ***new share***) of a class of the capital stock of the Canadian Wheat Board the terms and conditions of which — including the entitlement to receive an amount on a redemption, acquisition or cancellation — are in all material respects the same as those of the old shares;

(c) the amount that is the total fair market value of all of the new shares acquired by the eligible trust on the exchange equals the total fair market value of all of the old shares disposed of by the eligible trust; and

(d) the amount that is the total paid-up capital in respect of all of the new shares acquired by the eligible trust on the exchange is equal to the amount that is the total paid-up capital in respect of all of the old shares disposed of on the exchange.

cadre du remaniement du capital de la Commission canadienne du blé;

b) la Commission canadienne du blé émet à la fiducie admissible, en échange des anciennes actions, des actions (appelées collectivement ***nouvelles actions*** et individuellement ***nouvelle action*** au présent paragraphe et au paragraphe (14)), d'une catégorie de son capital-actions, dont les caractéristiques sont les mêmes que celles des anciennes actions quant à tous les éléments importants, y compris le droit de recevoir un montant lors d'une acquisition, d'une annulation ou d'un rachat;

c) le montant qui correspond à la juste valeur marchande de toutes les nouvelles actions acquises par la fiducie admissible lors de l'échange est égal à la juste valeur marchande totale de toutes les anciennes actions dont la fiducie admissible a disposé;

d) le montant qui correspond au capital versé total au titre de toutes les nouvelles actions acquises par la fiducie admissible lors de l'échange est égal au montant correspondant au capital versé total au titre de toutes les anciennes actions dont il a été disposé lors de l'échange.

Rollover of shares on reorganization

(14) If this subsection applies in respect of an exchange of an eligible trust's old share for a new share,

(a) the old share is deemed to be disposed of by the eligible trust for proceeds equal to its cost amount to the eligible trust;

(b) the new share acquired for the old share referred to in paragraph (a) is deemed to be acquired for a cost equal to the amount referred to in paragraph (a);

(c) if the old share was an eligible share, the new share is deemed to be an eligible share; and

(d) if new shares are deemed to be eligible shares because of paragraph (c) and those shares are included in a class of shares that also includes other shares that are not eligible shares, those eligible shares are deemed to have been issued in a separate series of the class and the other shares are deemed to have been issued in a separate series of the class.

Roulement d'actions lors du remaniement

(14) Les règles ci-après s'appliquent en cas d'application du présent paragraphe à la disposition d'une ancienne action de la fiducie admissible en échange d'une nouvelle action :

a) l'ancienne action est réputée avoir fait l'objet d'une disposition par la fiducie admissible pour un produit égal à son coût indiqué pour elle;

b) la nouvelle action acquise en échange de l'ancienne action visée à l'alinéa a) est réputée acquise pour un coût égal au montant visé à cet alinéa;

c) si l'ancienne action était une action admissible, la nouvelle action est réputée être une action admissible;

d) si de nouvelles actions sont réputées être des actions admissibles par l'effet de l'alinéa c) et que ces actions sont comprises dans une catégorie d'actions qui comprend également d'autres actions qui ne sont pas des actions admissibles, ces actions admissibles sont réputées avoir été émises dans le cadre d'une série distincte de la catégorie et les autres actions sont réputées avoir été émises dans une série distincte de la catégorie.

Information filing requirement

(15) A trust shall file with the Minister a prescribed form in prescribed manner in respect of each taxation year of the trust in which it is an eligible trust on or before the trust's filing-due date for the year.

Failure to file prescribed form

(16) If a trust fails to file the form required by subsection (15) on or before the day that is the trust's filing-due date for a taxation year,

(a) in addition to any other penalty for which the trust may be liable under this Act in respect of the failure, the trust is liable to a penalty equal to the product obtained when $1,000 is multiplied by the number of days during which the failure continues; and

(b) if, within 30 days after the trust is served personally or by registered mail with a demand in writing from the Minister for the form to be filed, the trust has not filed the form with the Minister, the trust is deemed to cease to be an eligible trust at the end of the day on which the demand was served.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 7, s. 38.

Déclaration de renseignements — exigences

(15) Une fiducie est tenue de présenter au ministre un formulaire prescrit selon les modalités réglementaires relativement à chacune de ses années d'imposition au cours de laquelle elle a été une fiducie admissible au plus tard à la date d'échéance de production qui s'applique à elle pour l'année.

Formulaire prescrit — défaut de présentation

(16) Les règles ci-après s'appliquent si la fiducie ne présente pas le formulaire prévu par le paragraphe (15) dans le délai prévu à ce paragraphe quant à une année d'imposition :

a) en plus de toute pénalité dont la fiducie est passible en vertu de la présente loi pour le défaut, la fiducie est passible d'une pénalité égale au produit de la multiplication de 1 000 $ par le nombre de jours où le défaut persiste;

b) la fiducie qui ne présente pas le formulaire au ministre dans les 30 jours qui suivent la signification à celle-ci, en personne ou par courrier recommandé, d'une demande écrite du ministre de présentation du formulaire, est réputée cesser d'être une fiducie admissible à la fin du jour où la demande a été signifiée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 7, art. 38.

Cooperative Corporations

Cooperative not private corporation

136 (1) Notwithstanding any other provision of this Act, a cooperative corporation that would, but for this section, be a private corporation is deemed not to be a private corporation except for the purposes of section 15.1, paragraphs 87(2)(vv) and (ww) (including, for greater certainty, in applying those paragraphs as provided under paragraph 88(1)(e.2)), the definitions ***excessive eligible dividend designation***, ***general rate income pool*** and ***low rate income pool*** in subsection 89(1), subsections 89(4) to (6) and (8) to (10), sections 123.4, 125, 125.1, 127 and 127.1, the definition ***mark-to-market property*** in subsection 142.2(1), sections 152 and 157, subsection 185.2(3), the definition ***small business corporation*** in subsection 248(1) (as it applies for the purposes of paragraph 39(1)(c)) and subsection 249(3.1).

Definition of *cooperative corporation*

(2) In this section, ***cooperative corporation*** means a corporation that was incorporated or continued by or under the provisions of a law, of Canada or of a province,

Sociétés coopératives

Société coopérative réputée ne pas être une société privée

136 (1) Malgré les autres dispositions de la présente loi, la société coopérative qui serait une société privée en l'absence du présent article est réputée ne pas en être une, sauf pour l'application de l'article 15.1, des alinéas 87(2)vv) et ww) (compte tenu des modifications apportées à ces alinéas par l'effet de l'alinéa 88(1)e.2)), des définitions de ***compte de revenu à taux général***, ***compte de revenu à taux réduit*** et ***désignation excessive de dividende déterminé*** au paragraphe 89(1), des paragraphes 89(4) à (6) et (8) à (10), des articles 123.4, 125, 125.1, 127 et 127.1, de la définition de ***bien évalué à la valeur du marché*** au paragraphe 142.2(1), des articles 152 et 157, du paragraphe 185.2(3), de la définition de ***société exploitant une petite entreprise*** au paragraphe 248(1) (dans son application à l'alinéa 39(1)c)) et du paragraphe 249(3.1).

Définition de *société coopérative*

(2) Au présent article, ***société coopérative*** s'entend d'une société qui a été constituée ou prorogée en vertu des dispositions d'une loi fédérale ou provinciale

that provide for the establishment of the corporation as a cooperative corporation or that provide for the establishment of cooperative corporations, for the purpose of marketing (including processing incident to or connected to the marketing) natural products belonging to or acquired from its members or customers, of purchasing supplies, equipment or household necessaries for or to be sold to its members or customers or of performing services for its members or customers, if

(a) the statute by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held out the prospect that payments would be made to them in proportion to patronage;

(b) none of its members (except other cooperative corporations) have more than one vote in the conduct of the affairs of the corporation;

(c) at least 90% of its members are individuals, other cooperative corporations, or corporations or partnerships that carry on the business of farming; and

(d) at least 90% of its shares, if any, are held by members described in paragraph (c) or by trusts governed by registered retirement savings plans, registered retirement income funds, TFSAs or registered education savings plans, the annuitants, holders or subscribers under which are members described in that paragraph.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 136; 1994, c. 7, Sch. II, s. 112; 1998, c. 19, s. 161; 2006, c. 4, s. 81; 2013, c. 34, s. 283, c. 40, s. 61.

prévoyant sa constitution à titre de société coopérative ou prévoyant la constitution de sociétés coopératives, en vue de commercialiser (y compris faire les opérations de transformation accessoires ou connexes) des produits naturels appartenant à ses membres ou clients, ou acquis auprès d'eux, d'acheter des fournitures, du matériel ou des objets de nécessité du ménage pour ses membres ou clients ou pour les vendre à ses membres ou clients, ou de rendre des services à ses membres ou clients, si :

a) la loi sous le régime de laquelle elle a été constituée, sa charte, ses statuts ou règlements administratifs ou ses contrats avec ses membres ou avec ses membres et clients laissaient entrevoir la perspective que des paiements seraient faits à eux en proportion de l'apport commercial;

b) aucun de ses membres (sauf les autres sociétés coopératives) n'a plus d'un vote dans la conduite des affaires de la société;

c) au moins 90 % de ses membres sont des particuliers, d'autres sociétés coopératives ou des sociétés ou sociétés de personnes qui exploitent une entreprise agricole;

d) au moins 90 % de ses actions sont détenues par des membres visés à l'alinéa c) ou par des fiducies régies par des régimes enregistrés d'épargne-retraite, des fonds enregistrés de revenu de retraite, des comptes d'épargne libre d'impôt ou des régimes enregistrés d'épargne-études dont les rentiers, les titulaires ou les souscripteurs, selon le cas, sont des membres visés à cet alinéa.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 136; 1994, ch. 7, ann. II, art. 112; 1998, ch. 19, art. 161; 2006, ch. 4, art. 81; 2013, ch. 34, art. 283, ch. 40, art. 61.

Credit Unions, Savings and Credit Unions and Deposit Insurance Corporations

Payments pursuant to allocations in proportion to borrowing

137 (2) Notwithstanding anything in this Part, there may be deducted, in computing the income for a taxation year of a credit union, the total of bonus interest payments and payments pursuant to allocations in proportion to borrowing made by the credit union within the year or within 12 months thereafter to members of the credit union, to the extent that those payments were not deductible under this subsection in computing the income of the credit union for the immediately preceding taxation year.

Caisses de crédit, caisses d'épargne et de crédit et compagnies d'assurance-dépôts

Paiements faits conformément à des répartitions proportionnelles à l'importance des emprunts

137 (2) Malgré les autres dispositions de la présente partie, est déductible dans le calcul du revenu, pour une année d'imposition, d'une caisse de crédit, le total des paiements d'intérêts supplémentaires et des paiements faits, conformément à des répartitions proportionnelles à l'importance des emprunts, par la caisse de crédit, au cours de l'année ou des 12 mois qui suivent, à des membres de la caisse de crédit, dans la mesure où ces paiements n'étaient pas déductibles, en vertu du présent paragraphe, dans le calcul de son revenu pour l'année d'imposition précédente.

Additional deduction

(3) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout the year, a credit union, an amount equal to the amount determined by the formula

A × B × C

where

A is the rate that would, if subsection 125(1.1) applied to the corporation for the year, be its small business deduction rate for the year within the meaning assigned by that subsection,

B is the amount, if any, determined by the formula

D – E

where

D is the lesser of

(a) the corporation's taxable income for the year, and

(b) the amount, if any, by which 4/3 of the corporation's maximum cumulative reserve at the end of the year exceeds the corporation's preferred-rate amount at the end of the immediately preceding taxation year, and

E is the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year, and

C is the percentage that is the total of

(a) the proportion of 100% that the number of days in the year that are before March 21, 2013 is of the number of days in the year,

(b) the proportion of 80% that the number of days in the year that are after March 20, 2013 and before 2014 is of the number of days in the year,

(c) the proportion of 60% that the number of days in the year that are in 2014 is of the number of days in the year,

(d) the proportion of 40% that the number of days in the year in 2015 is of the number of days in the year,

(e) the proportion of 20% that the number of days in the year in 2016 is of the number of days in the year, and

(f) if one or more days in the year are after 2016, 0%.

Crédit supplémentaire pour les caisses de crédit

(3) La société qui est une caisse de crédit tout au long d'une année d'imposition peut déduire de son impôt payable par ailleurs pour l'année en vertu de la présente partie la somme obtenue par la formule suivante :

A × B × C

où :

A représente le taux de la déduction pour petite entreprise, déterminé selon le paragraphe 125(1.1), qui lui serait applicable pour l'année si ce paragraphe s'appliquait à elle pour l'année;

B la somme obtenue par la formule suivante :

D – E

où :

D représente la moins élevée des sommes suivantes :

a) le revenu imposable de la société pour l'année,

b) l'excédent éventuel des 4/3 de la provision cumulative maximale de la société à la fin de l'année sur son montant imposable à taux réduit à la fin de l'année d'imposition précédente,

E la moins élevée des sommes déterminées selon les alinéas 125(1)a) à c) relativement à la société pour l'année;

C le total de ce qui suit :

a) la proportion de 100 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont antérieurs au 21 mars 2013 et le nombre total de jours de l'année d'imposition,

b) la proportion de 80 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont postérieurs au 20 mars 2013 et antérieurs à 2014 et le nombre total de jours de l'année d'imposition,

c) la proportion de 60 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2014 et le nombre total de jours de l'année d'imposition,

d) la proportion de 40 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2015 et le nombre total de jours de l'année d'imposition,

e) la proportion de 20 % que représente le rapport entre le nombre de jours de l'année d'imposition qui sont en 2016 et le nombre total de jours de l'année d'imposition,

f) 0 %, si un ou plusieurs jours de l'année d'imposition sont postérieurs à 2016.

Amount deemed deductible under s. 125

(4) For the purposes of this Act, any amount deductible or any deduction under subsection 137(3) from the tax otherwise payable by a credit union under this Part for a taxation year shall be deemed to be an amount deductible or a deduction, as the case may be, under section 125 from that tax.

Montant réputé déductible en vertu de l'art. 125

(4) Pour l'application de la présente loi, tout montant déductible ou tout montant déduit, en vertu du paragraphe (3), de l'impôt payable par ailleurs en vertu de la présente partie pour une année d'imposition est réputé déductible ou déduit de cet impôt, selon le cas, en vertu de l'article 125.

Payments in respect of shares

(4.1) Notwithstanding any other provision of this Act, an amount paid or payable by a credit union to a person is deemed to be paid or payable, as the case may be, by the credit union as interest and to be received or receivable, as the case may be, by the person as interest, if

(a) the amount is in respect of a share held by the person of the capital stock of the credit union, other than an amount paid or payable as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation of the share by the credit union to the extent of the paid-up capital of the share;

(b) the share is not listed on a stock exchange; and

(c) the person is

(i) a member of the credit union, or

(ii) a member of another credit union if the share is issued by the credit union after March 28, 2012 and the other credit union is a member of the credit union.

Paiements au titre d'actions

(4.1) Malgré les autres dispositions de la présente loi, toute somme payée ou à payer par une caisse de crédit à une personne est réputée être payée ou à payer, selon le cas, par la caisse de crédit à titre d'intérêts et être reçue ou à recevoir, selon le cas, par la personne à ce titre si, à la fois :

a) la somme se rapporte à une action, détenue par la personne, d'une catégorie du capital-actions de la caisse de crédit, sauf s'il s'agit d'une somme payée ou à payer relativement à une réduction du capital versé au titre de l'action par la caisse de crédit, ou au rachat, à l'acquisition ou à l'annulation de l'action par elle, jusqu'à concurrence du capital versé au titre de l'action;

b) l'action n'est pas inscrite à la cote d'une bourse de valeurs;

c) l'un des énoncés ci-après se vérifie :

(i) la personne est membre de la caisse de crédit,

(ii) la personne est membre d'une autre caisse de crédit, l'action est émise par la caisse de crédit en cause après le 28 mars 2012 et l'autre caisse de crédit est membre de cette dernière.

Deemed interest not a dividend

(4.2) Notwithstanding any other provision of this Act, an amount that is deemed by subsection 137(4.1) to be interest shall be deemed not to be a dividend.

Intérêts réputés ne pas être des dividendes

(4.2) Malgré les autres dispositions de la présente loi, un montant réputé par le paragraphe (4.1) être un montant d'intérêt est réputé ne pas être un dividende.

Determination of preferred-rate amount of a corporation

(4.3) For the purposes of subsection 137(3),

(a) the preferred-rate amount of a corporation at the end of a taxation year is determined by the formula

A + B/C

where

A is its preferred-rate amount at the end of its immediately preceding taxation year,

Détermination du montant imposable à taux réduit

(4.3) Pour l'application du paragraphe (3):

a) le montant imposable à taux réduit d'une société à la fin d'une année d'imposition est obtenu par la formule suivante :

A + B/C

où :

B is the amount deductible under section 125 from the tax for the taxation year otherwise payable by it under this Part, and

C is its small business deduction rate for the taxation year within the meaning of subsection 125(1.1);

(b) where at any time a new corporation has been formed as a result of an amalgamation of two or more predecessor corporations, within the meaning of subsection 87(1), it shall be deemed to have had a taxation year ending immediately before that time and to have had, at the end of that year, a preferred-rate amount equal to the total of the preferred-rate amounts of each of the predecessor corporations at the end of their last taxation years; and

(c) where there has been a winding-up as described in subsection 88(1), the preferred-rate amount of the parent (referred to in that subsection) at the end of its taxation year immediately preceding its taxation year in which it received the assets of the subsidiary (referred to in that subsection) on the winding-up shall be deemed to be the total of the amount that would otherwise be its preferred-rate amount at the end of that year and the preferred-rate amount of the subsidiary at the end of its taxation year in which its assets were distributed to the parent on the winding-up.

A représente son montant imposable à taux réduit à la fin de son année d'imposition précédente,

B le montant déductible, en application de l'article 125, de son impôt payable par ailleurs en vertu de la présente partie pour l'année d'imposition,

C son taux de déduction pour petite entreprise pour l'année d'imposition, au sens du paragraphe 125(1.1);

b) lorsque, à un moment donné, une nouvelle société est créée en raison de la fusion, au sens du paragraphe 87(1), de plusieurs sociétés remplacées, la nouvelle société est réputée avoir eu une année d'imposition se terminant immédiatement avant ce moment et avoir eu, à la fin de cette année, un montant imposable à taux réduit, égal au total des montants imposables à taux réduit de toutes les sociétés remplacées, à la fin de leur dernière année d'imposition;

c) dans le cas d'une liquidation visée au paragraphe 88(1), le montant imposable à taux réduit de la société mère visée à ce paragraphe à la fin de son année d'imposition qui précède son année d'imposition au cours de laquelle elle a reçu les biens de la filiale (visée à ce paragraphe) lors de la liquidation est réputé être le total du montant qui, par ailleurs, serait son montant imposable à taux réduit à la fin de cette année et du montant imposable à taux réduit de la filiale à la fin de son année d'imposition au cours de laquelle ses biens ont été distribués à la société mère lors de la liquidation.

Member's income

(5) Where a payment has been received by a taxpayer from a credit union in a taxation year in respect of an allocation in proportion to borrowing, the amount thereof shall, if the money so borrowed was used by the taxpayer for the purpose of earning income from a business or property (otherwise than to acquire property the income from which would be exempt or to acquire a life insurance policy), be included in computing the taxpayer's income for the year.

Allocations of taxable dividends and capital gains

(5.1) A credit union (referred to in this subsection and in subsection 137(5.2) as the "payer") may, at any time within 120 days after the end of its taxation year, elect in prescribed form to allocate in respect of the year to a member that is a credit union such portion of each of the following amounts as may reasonably be regarded as attributable to the member:

Revenu d'un membre

(5) Lorsqu'un contribuable a reçu un paiement d'une caisse de crédit, au cours d'une année d'imposition, relativement à une répartition proportionnelle à l'importance de l'emprunt, le montant de ce paiement doit, si le contribuable a utilisé l'argent ainsi emprunté pour tirer un revenu d'une entreprise ou d'un bien (et non pour acquérir un bien dont le revenu serait exonéré ou une police d'assurance-vie), être inclus dans le calcul du revenu du contribuable pour l'année.

Répartition des dividendes taxables et des gains en capital

(5.1) Une caisse de crédit (appelée le « payeur » au présent paragraphe et au paragraphe (5.2)) peut, à un moment donné au cours des 120 jours postérieurs à la fin de son année d'imposition, faire le choix, selon le formulaire prescrit, d'attribuer pour l'année à un membre qui est une caisse de crédit la fraction de chacun des montants suivants qu'il est raisonnable de considérer comme attribuable au membre :

(a) the total of all amounts each of which is the amount of a taxable dividend received by the payer from a taxable Canadian corporation in the year;

(b) the amount, if any, by which

(i) the total of all amounts each of which is the amount by which the payer's capital gain from the disposition of a property in the year exceeds the payer's taxable capital gain from the disposition

exceeds

(ii) the total of all amounts each of which is the amount by which the payer's capital loss from the disposition of a property in the year exceeds the payer's allowable capital loss from the disposition; and

(c) each amount deductible under paragraph 137(5.2)(c) in computing the payer's taxable income for the year.

a) le total des montants dont chacun représente le montant d'un dividende imposable reçu par le payeur d'une société canadienne imposable au cours de l'année;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants dont chacun représente l'excédent du gain en capital du payeur provenant de la disposition d'un bien au cours de l'année sur son gain en capital imposable provenant de cette disposition,

(ii) le total des montants dont chacun représente l'excédent de la perte en capital du payeur provenant de la disposition d'un bien au cours de l'année sur sa perte en capital déductible provenant de cette disposition;

c) chaque montant déductible en application de l'alinéa (5.2)c) dans le calcul du revenu imposable du payeur pour l'année.

Idem

(5.2) Notwithstanding any other provision of this Act,

(a) there shall be deducted from the amount that would, but for this subsection, be deductible under section 112 in computing a payer's taxable income for a taxation year such portion of the total referred to in paragraph 137(5.1)(a) as the payer allocated to its members under subsection 137(5.1) in respect of the year;

(b) there shall be included in computing the income of a payer for a taxation year an amount equal to that portion of the amounts referred to in paragraphs 137(5.1)(b) and 137(5.1)(c) that the payer allocated under subsection 137(5.1) in respect of the year to its members; and

(c) each amount allocated under subsection 137(5.1) to a member may be deducted by that member in computing the member's taxable income for its taxation year that includes the last day of the payer's taxation year in respect of which the amount was so allocated.

Idem

(5.2) Malgré les autres dispositions de la présente loi :

a) doit être déduite du montant qui, sans le présent paragraphe, serait déductible en vertu de l'article 112 dans le calcul du revenu imposable d'un payeur pour l'année d'imposition la fraction du total visé à l'alinéa (5.1)a) réparti par le payeur entre ses membres en vertu du paragraphe (5.1) pour l'année;

b) est inclus dans le calcul du revenu d'un payeur pour une année d'imposition un montant égal à la fraction des montants visés aux alinéas (5.1)b) et c) qu'il a répartie entre ses membres en application du paragraphe (5.1) pour l'année;

c) chaque montant attribué à un membre en application du paragraphe (5.1) est déductible par le membre dans le calcul de son revenu imposable pour son année d'imposition qui comprend le dernier jour de l'année d'imposition du payeur pour laquelle le montant a été ainsi attribué.

Definitions

(6) In this section,

allocation in proportion to borrowing for a taxation year means an amount credited by a credit union to a person who was a member of the credit union in the year

Définitions

(6) Les définitions qui suivent s'appliquent au présent article.

caisse de crédit Société, association ou fédération constituée ou organisée comme une caisse de crédit ou une association coopérative de crédit dans le cas où:

on terms that the member is entitled to or will receive payment thereof, computed at a rate in relation to

(a) the amount of interest payable by the member on money borrowed from the credit union, or

(b) the amount of money borrowed by the member from the credit union,

if the amount was credited at the same rate in relation to the amount of interest or money, as the case may be, as the rate at which amounts were similarly credited for the year to all other members of the credit union of the same class; (*répartition proportionnelle à l'importance de l'emprunt*)

bonus interest payment for a taxation year means an amount credited by a credit union to a person who was a member of the credit union in the year on terms that the member is entitled to or will receive payment thereof, computed at a rate in relation to

(a) the amount of interest payable in respect of the year by the credit union to the member on money standing to the member's credit from time to time in the records or books of account of the credit union, or

(b) the amount of money standing to the member's credit from time to time in the year in the records or books of account of the credit union,

if the amount was credited at the same rate in relation to the amount of interest or money, as the case may be, as the rate at which amounts were similarly credited in the year to all other members of the credit union of the same class; (*paiement d'intérêts supplémentaires*)

credit union means a corporation, association or federation incorporated or organized as a credit union or cooperative credit society if

(a) it derived all or substantially all of its revenues from

(i) loans made to, or cashing cheques for, members,

(ii) debt obligations or securities of, or guaranteed by, the Government of Canada or a province, a Canadian municipality, or an agency thereof, or debt obligations or securities of a municipal or public body performing a function of government in Canada or an agency thereof,

(iii) debt obligations of or deposits with, or guaranteed by, a corporation, commission or association not less than 90% of the shares or capital of which

a) soit elle tire la totalité, ou presque, de ses revenus :

(i) de prêts consentis à des membres ou de l'encaissement de leurs chèques,

(ii) de créances ou de titres du gouvernement du Canada, du gouvernement d'une province, d'une municipalité canadienne ou de l'un de leurs organismes ou de créances ou de titres que ceux-ci garantissent, de créances ou de titres d'un organisme municipal ou public remplissant une fonction gouvernementale au Canada ou de l'un de ses organismes,

(iii) de créances ou de dépôts auprès d'une société, d'une commission ou d'une association ou de créances ou de dépôts que celles-ci garantissent, société, commission ou association dont au moins 90 % des actions ou du capital appartiennent au gouvernement du Canada ou d'une province, ou à une municipalité du Canada,

(iv) de créances d'une banque, ou d'un dépôt auprès d'une banque, ou de créances ou de dépôt garantis par une banque, ou de créances d'une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada l'entreprise consistant à offrir au public des services fiduciaires, ou de dépôts auprès d'une telle société,

(v) de commissions, d'honoraires et de droits perçus auprès de ses membres ou des membres de ces derniers,

(vi) de prêts consentis à une caisse de crédit ou à une association coopérative de crédit dont elle est membre ou de dépôts auprès d'une telle caisse ou association,

(vii) d'une source de revenu visée par règlement;

b) soit la totalité, ou presque, de ses membres ayant pleins droits de vote est composée de sociétés, associations ou fédérations :

(i) constituées en caisses de crédit ou associations coopératives de crédit qui, toutes, tirent la totalité, ou presque, de leurs revenus de sources visées à l'alinéa a) ou dont la totalité, ou presque, des membres est composée de caisses de crédit, de coopératives ou des deux,

(ii) constituées, organisées ou enregistrées en vertu d'une loi fédérale ou provinciale concernant les coopératives ou régies par une telle loi,

was owned by the Government of Canada or a province or by a municipality in Canada,

(iv) debt obligations of or deposits with, or guaranteed by, a bank, or debt obligations of or deposits with a corporation licensed or otherwise authorized under a law of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(v) charges, fees and dues levied against members or members of members,

(vi) loans made to or deposits with a credit union or cooperative credit society of which it is a member, or

(vii) a prescribed revenue source,

(b) all or substantially all the members thereof having full voting rights therein were corporations, associations or federations

(i) incorporated as credit unions or cooperative credit societies, all of which derived all or substantially all of their revenues from the sources described in paragraph (a), or all or substantially all of the members of which were credit unions, cooperatives or a combination thereof,

(ii) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to cooperatives, or

(iii) incorporated or organized for charitable purposes,

or were corporations, associations or federations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof, or

(c) the corporation, association or federation would be a credit union by virtue of paragraph (b) if all the members (other than individuals) having full voting rights in each member thereof that is a credit union were members having full voting rights in the corporation, association or federation; (*caisse de crédit*)

maximum cumulative reserve of a credit union at the end of any particular taxation year means an amount determined by the formula

0.05 × (A + B)

where

(iii) constituées ou organisées à des fins de bienfaisance,

ou sont des sociétés, des associations ou des fédérations dont aucune partie du revenu ne peut être versée à leurs actionnaires ou membres, ni ne peut servir à leur avantage personnel;

c) soit la société, l'association ou la fédération serait une caisse de crédit par application de l'alinéa b) si tous les membres (autres que des particuliers) ayant pleins droits de vote dans chacun de ses membres qui est une caisse de crédit étaient des membres ayant pleins droits de vote dans la société, l'association ou la fédération. (*credit union*)

membre Est membre d'une caisse de crédit :

a) toute personne qui est inscrite à titre de membre dans les registres de la caisse de crédit et a le droit de participer aux services de la caisse de crédit et de les utiliser;

b) tout régime enregistré d'épargne-retraite, fonds enregistré de revenu de retraite, compte d'épargne libre d'impôt ou régime enregistré d'épargne-études dont le rentier, le titulaire ou le souscripteur, selon le cas, est une personne visée à l'alinéa a). (*member*)

paiement d'intérêts supplémentaires Relativement à une année d'imposition, montant porté au crédit, par une caisse de crédit, d'une personne qui était membre de la caisse de crédit au cours de l'année, étant entendu que le membre a droit au paiement de ce montant, ou qu'il le recevra, calculé à un taux dépendant :

a) soit du montant des intérêts payable pour l'année par la caisse de crédit au membre sur l'argent qui est à son crédit dans les registres ou livres de comptes de la caisse de crédit;

b) soit du montant d'argent porté au crédit du membre au cours de l'année dans les registres ou livres de comptes de la caisse de crédit,

si ce montant a été porté à son crédit au même taux dépendant du montant des intérêts ou du montant d'argent, selon le cas, que le taux auquel des montants ont été portés de façon analogue, pour l'année, au crédit de tous les autres membres de la caisse de crédit appartenant à la même catégorie. (*bonus interest payment*)

provision cumulative maximale La provision cumulative maximale d'une caisse de crédit à la fin d'une année

A is the total of all amounts each of which is the amount of any debt owing by the credit union to a member thereof or of any other obligation of the credit union to pay an amount to a member thereof, that was outstanding at the end of the year, including, for greater certainty, the amount of any deposit standing to the credit of a member of the credit union in the records of the credit union, but excluding, for greater certainty, any share in the credit union of any member thereof, and

B is the total of all amounts each of which is the amount, as of the end of the year, of any share in the credit union of any member thereof; (*provision cumulative maximale*)

member, of a credit union, means

(a) a person who is recorded as a member on the records of the credit union and is entitled to participate in and use the services of the credit union, and

(b) a registered retirement savings plan, a registered retirement income fund, a TFSA or a registered education savings plan, the annuitant, holder or subscriber under which is a person described in paragraph (a). (*membre*)

d'imposition donnée correspond au montant calculé selon la formule suivante :

0,05 × (A + B)

où :

A représente le total des montants dont chacun est le montant de toute dette de la caisse de crédit, payable à un de ses membres, ou de toute autre obligation de la caisse de crédit de payer une somme à un de ses membres, qui était dû à la fin de l'année, étant entendu qu'est compris dans ce montant le montant de tout dépôt porté au crédit d'un membre de la caisse de crédit dans les livres de la caisse de crédit, mais qu'en est exclue toute part qu'un membre de la caisse de crédit peut avoir dans celle-ci;

B le total des montants dont chacun est le montant de toute part qu'un membre de la caisse de crédit peut avoir dans celle-ci, à la fin de l'année. (*maximum cumulative reserve*)

répartition proportionnelle à l'importance de l'emprunt Relativement à une année d'imposition, somme portée au crédit, par une caisse de crédit, d'une personne qui était membre de la caisse au cours de l'année, étant entendu que le membre a droit au paiement de cette somme, ou qu'il la touchera, calculée à un taux dépendant :

a) soit du montant des intérêts que le membre doit verser sur l'argent emprunté à la caisse de crédit;

b) soit du montant d'argent emprunté à la caisse de crédit par le membre,

si cette somme a été portée à son crédit au même taux dépendant du montant des intérêts ou du montant d'argent, selon le cas, que le taux auquel des sommes ont été portées de façon analogue, pour l'année, au crédit de tous les autres membres de la caisse de crédit appartenant à la même catégorie. (*allocation in proportion to borrowing*)

Credit union not private corporation

(7) Notwithstanding any other provision of this Act, a credit union that would, if this Act were read without reference to this section, be a private corporation is deemed not to be a private corporation except for the purposes of sections 123.1, 123.4, 125, 127, 127.1, 152 and 157 and the definition ***small business corporation*** in subsection 248(1) as it applies for the purpose of paragraph 39(1)(c).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 137; 1994, c. 7, Sch. II, s. 113, Sch. VIII, s. 79, c. 21, s. 64; 2007, c. 2, s. 37, c. 35, s. 68; 2013, c. 33, s. 15, c. 34, s. 284, c. 40, s. 62; 2015, c. 36, s. 14.

Caisse de crédit réputée ne pas être une société privée

(7) Malgré les autres dispositions de la présente loi, la caisse de crédit qui serait une société privée en l'absence du présent article est réputée ne pas en être une, sauf pour l'application des articles 123.1, 123.4, 125, 127, 127.1, 152 et 157 et sauf pour l'application à l'alinéa 39(1)c) de la définition de ***société exploitant une petite entreprise*** au paragraphe 248(1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 137; 1994, ch. 7, ann. II, art. 113, ann. VIII, art. 79, ch. 21, art. 64; 2007, ch. 2, art. 37, ch. 35, art. 68; 2013, ch. 33, art. 15, ch. 34, art. 284, ch. 40, art. 62; 2015, ch. 36, art. 14.

Amounts included in income of deposit insurance corporation

137.1 (1) For the purpose of computing the income for a taxation year of a taxpayer that is a deposit insurance corporation, the following rules apply:

(a) the corporation's income shall, except as otherwise provided in this section, be computed in accordance with the rules applicable in computing income for the purposes of this Part; and

(b) there shall be included in computing the corporation's income such of the following amounts as are applicable:

(i) the total of profits or gains made in the year by the corporation in respect of bonds, debentures, mortgages, hypothecary claims, notes or other similar obligations owned by it that were disposed of by it in the year, and

(ii) the total of each such portion of each amount, if any, by which the principal amount, at the time it was acquired by the corporation, of a bond, debenture, mortgage, hypothecary claim, note or other similar obligation owned by the corporation at the end of the year exceeds the cost to the corporation of acquiring it as was included by the corporation in computing its profit for the year.

Amounts not included in income

(2) The following amounts shall not be included in computing the income of a deposit insurance corporation for a taxation year:

(a) any premium or assessment received, or receivable, by the corporation in the year from a member institution; and

(b) any amount received by the corporation in the year from another deposit insurance corporation to the extent that that amount can reasonably be considered to have been paid out of amounts referred to in paragraph (a) received by that other deposit insurance corporation in any taxation year.

Amounts deductible in computing income of deposit insurance corporation

(3) There may be deducted in computing the income for a taxation year of a taxpayer that is a deposit insurance corporation such of the following amounts as are applicable:

(a) the total of losses sustained in the year by the corporation in respect of bonds, debentures, mortgages, hypothecary claims, notes or other similar obligations

Somme incluse dans le revenu d'une compagnie d'assurance-dépôts

137.1 (1) Pour le calcul du revenu d'un contribuable qui est une compagnie d'assurance-dépôts, pour une année d'imposition, les règles suivantes s'appliquent :

a) le revenu de la compagnie est calculé, sauf disposition contraire du présent article, conformément aux règles applicables au calcul du revenu dans le cadre de la présente partie;

b) sont inclus dans le calcul du revenu de la compagnie ceux des montants suivants qui s'appliquent :

(i) la totalité des bénéfices ou gains réalisés au cours de l'année par la compagnie à la suite de la disposition au cours de l'année d'obligations, de créances hypothécaires, de billets ou d'autres titres semblables qu'elle possédait,

(ii) le total de chaque partie — incluse par la compagnie dans le calcul de son bénéfice pour l'année — de chaque excédent éventuel du principal, à la date d'acquisition par la compagnie, d'une obligation, d'une créance hypothécaire, d'un billet ou d'un autre titre semblable qu'elle possédait à la fin de l'année sur son coût d'acquisition par la compagnie.

Sommes exclues du revenu

(2) Les sommes ci-après ne sont pas à inclure dans le calcul du revenu d'une compagnie d'assurance-dépôts pour une année d'imposition :

a) toute prime ou cotisation reçue ou à recevoir par elle au cours de l'année de ses institutions membres;

b) toute somme reçue par elle, au cours de l'année, d'une autre compagnie d'assurance-dépôts dans la mesure où il est raisonnable de considérer qu'elle a été payée sur des sommes visées à l'alinéa a) que l'autre compagnie a reçues au cours d'une année d'imposition.

Montant déductible dans le calcul du revenu d'une compagnie d'assurance-dépôts

(3) Sont déductibles dans le calcul du revenu pour une année d'imposition d'un contribuable qui est une compagnie d'assurance-dépôts ceux des montants suivants qui sont applicables :

a) le total des pertes que la compagnie a subies au cours de l'année relativement aux obligations, créances hypothécaires, billets ou autres titres

owned by it and issued by a person other than a member institution that were disposed of by it in the year;

(b) the total of each such portion of each amount, if any, by which the cost to the corporation of acquiring a bond, debenture, mortgage, hypothecary claim, note or other similar obligation owned by the corporation at the end of the year exceeds the principal amount of the bond, debenture, mortgage, hypothecary claim, note or other similar obligation, as the case may be, at the time it was so acquired as was deducted by the corporation in computing its profit for the year;

(d) the total of all expenses incurred by the taxpayer in collecting premiums or assessments from member institutions;

(e) the total of all expenses incurred by the taxpayer

(i) in the performance of its duties as curator of a bank, or as liquidator or receiver of a member institution when duly appointed as such a curator, liquidator or receiver,

(ii) in the course of making or causing to be made such inspections as may reasonably be considered to be appropriate for the purposes of assessing the solvency or financial stability of a member institution, and

(iii) in supervising or administering a member institution in financial difficulty; and

(f) the total of all amounts each of which is an amount that is not otherwise deductible by the taxpayer for the year or any other taxation year and that is

(i) an amount paid by the taxpayer in the year pursuant to a legal obligation to pay interest on borrowed money used

(A) to lend money to, or otherwise provide assistance to, a member institution in financial difficulty,

(B) to assist in the payment of any losses suffered by members or depositors of a member institution in financial difficulty,

(C) to lend money to a subsidiary wholly-owned corporation of the taxpayer where the subsidiary is deemed by subsection 137.1(5.1) to be a deposit insurance corporation,

(D) to acquire property from a member institution in financial difficulty, or

semblables qui lui appartenaient, qui ont été émis par une personne qui n'est pas une institution membre et dont la compagnie a disposé au cours de l'année;

b) le total de chaque partie — déduite par la compagnie dans le calcul de son bénéfice pour l'année — de chaque excédent éventuel du coût d'acquisition, pour la compagnie, d'une obligation, d'une créance hypothécaire, d'un billet ou d'un autre titre semblable lui appartenant à la fin de l'année sur le principal de l'obligation, de la créance hypothécaire, du billet ou de tout autre titre semblable, selon le cas, au moment de son acquisition;

d) le total des dépenses engagées par le contribuable en vue de la perception des primes et des cotisations à charge des institutions membres;

e) le total des dépenses engagées par le contribuable :

(i) dans l'accomplissement de ses fonctions de curateur d'une banque, ou de liquidateur ou de receveur d'une institution membre, lorsqu'il est régulièrement désigné comme curateur, liquidateur ou receveur,

(ii) lorsqu'il fait ou fait faire des inspections qu'il est raisonnable de considérer comme indiquées afin d'évaluer la solvabilité ou la stabilité financières d'une institution membre,

(iii) lorsqu'il a sous sa surveillance ou gère une institution membre en difficulté financière;

f) le total des montants suivants non déductibles par ailleurs par le contribuable pour l'année ou pour une autre année d'imposition :

(i) tout montant que le contribuable a payé au cours de l'année en exécution d'une obligation légale de payer des intérêts sur de l'argent emprunté et qui a servi :

(A) soit à prêter de l'argent ou à fournir une autre forme d'aide à une institution membre en difficulté financière,

(B) soit à aider à payer les pertes subies par les membres ou déposants d'une institution membre en difficulté financière,

(C) soit à prêter de l'argent à une filiale à cent pour cent du contribuable et qui est réputée par le paragraphe (5.1) être une compagnie d'assurance-dépôts,

(E) to acquire shares of the capital stock of a member institution in financial difficulty, or

(ii) an amount paid by the taxpayer in the year pursuant to a legal obligation to pay interest on an amount that would be deductible under subparagraph 137.1(3)(f)(i) if it were paid in the year.

(D) soit à acquérir un bien auprès d'une institution membre en difficulté financière,

(E) soit à acquérir des actions du capital-actions d'une institution membre en difficulté financière,

(ii) tout montant que le contribuable a payé au cours de l'année en exécution d'une obligation légale de payer des intérêts sur un montant qui serait déductible en vertu du sous-alinéa (i) s'il était payé au cours de l'année.

Limitation on deduction

(4) No deduction shall be made in computing the income for a taxation year of a taxpayer that is a deposit insurance corporation in respect of

(a) any grant, subsidy or other assistance to member institutions provided by it;

(b) an amount equal to the amount, if any, by which the amount paid or payable by it to acquire property exceeds the fair market value of the property at the time it was so acquired;

(c) any amounts paid to its member institutions as allocations in proportion to any amounts described in subsection 137.1(2);

(d) any amount paid by it to another deposit insurance corporation that is, because of paragraph (2)(b), not included in computing the income of that other deposit insurance corporation; or

(e) any amount that may otherwise be deductible under paragraph 20(1)(p) in respect of debts owing to it by any of its member institutions that has not been included in computing its income for the year or a preceding taxation year.

Restrictions

(4) Aucune déduction ne peut être faite, dans le calcul du revenu, pour une année d'imposition, d'un contribuable qui est une compagnie d'assurance-dépôts, à l'égard :

a) d'une prime, subvention ou autre forme d'aide qu'elle fournit à ses institutions membres;

b) d'un montant égal à l'excédent éventuel du montant payé ou payable par elle pour acquérir le bien sur la juste valeur marchande du bien au moment de son acquisition;

c) de tout montant versé à ses institutions membres à titre d'allocations proportionnelles aux montants visés au paragraphe (2);

d) d'une somme qu'elle a payée à une autre compagnie d'assurance-dépôts et qui, par l'effet de l'alinéa (2)b), n'est pas incluse dans le calcul du revenu de cette dernière;

e) de tout montant, par ailleurs déductible en vertu de l'alinéa 20(1)p) à l'égard des créances appartenant à la compagnie et dont sont débitrices des institutions membres de celle-ci, lequel montant n'a pas été inclus dans le calcul du revenu de celle-ci pour l'année ou pour une année d'imposition antérieure.

Definitions

(5) In this section,

deposit insurance corporation means

(a) a corporation that was incorporated by or under a law of Canada or a province respecting the establishment of a stabilization fund or board if

(i) it was incorporated primarily

(A) to provide or administer a stabilization, liquidity or mutual aid fund for credit unions, and

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

bien de placement

a) Obligations, créances hypothécaires, billets ou autres titres semblables :

(i) émis ou garantis par le gouvernement du Canada,

(ii) du gouvernement d'une province ou d'un mandataire ou agent de ce dernier,

(B) to assist in the payment of any losses suffered by members of credit unions in liquidation, and

(ii) throughout any taxation year in respect of which the expression is being applied,

(A) it was a Canadian corporation, and

(B) the cost amount to the corporation of its investment property was at least 50% of the cost amount to it of all its property (other than a debt obligation of, or a share of the capital stock of, a member institution issued by the member institution at a time when it was in financial difficulty, or

(b) a corporation incorporated by the *Canada Deposit Insurance Corporation Act*; (*compagnie d'assurance-dépôts*)

investment property means

(a) bonds, debentures, mortgages, hypothecary claims, notes or other similar obligations

(i) of or guaranteed by the Government of Canada,

(ii) of the government of a province or an agent thereof,

(iii) of a municipality in Canada or a municipal or public body performing a function of government in Canada,

(iv) of a corporation, commission or association not less than 90% of the shares or capital of which is owned by Her Majesty in right of a province or by a Canadian municipality, or of a subsidiary wholly-owned corporation that is subsidiary to such a corporation, commission or association, or

(v) of an educational institution or a hospital if repayment of the principal amount thereof and payment of the interest thereon is to be made, or is guaranteed, assured or otherwise specifically provided for or secured by the government of a province,

(b) any deposits, deposit certificates or guaranteed investment certificates with

(i) a bank,

(ii) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on

(iii) d'une municipalité du Canada ou d'un organisme municipal ou public remplissant une fonction gouvernementale au Canada,

(iv) d'une société, commission ou association dont 90 % au moins des actions ou du capital appartiennent à Sa Majesté du chef d'une province ou à une municipalité canadienne, ou d'une filiale à cent pour cent d'une telle société, commission ou association,

(v) d'un établissement d'enseignement ou d'un hôpital si le remboursement du principal et le paiement de l'intérêt afférent doivent être faits, ou sont garantis, assurés ou prévus expressément de quelque autre façon par le gouvernement d'une province;

b) dépôts, certificats de dépôt ou certificats de placements garantis auprès :

(i) d'une banque,

(ii) d'une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada l'entreprise consistant à offrir au public des services de fiduciaire,

(iii) d'une caisse de crédit ou d'une centrale, qui est membre de l'Association canadienne des paiements, ou d'une caisse de crédit qui est actionnaire ou membre d'une centrale membre de cette association;

c) somme d'argent de la compagnie;

d) relativement à une compagnie d'assurance-dépôts donnée, titres de créance et actions du capital-actions d'une filiale à cent pour cent de celle-ci qui est réputée par le paragraphe (5.1) être une compagnie d'assurance-dépôts. (*investment property*)

compagnie d'assurance-dépôts

a) Société qui a été constituée sous le régime d'une loi fédérale ou provinciale portant sur l'établissement d'un fonds ou d'un office de stabilisation, si les conditions suivantes sont réunies :

(i) elle a été constituée principalement :

(A) d'une part, pour fournir ou administrer un fonds de stabilisation, de disponibilités ou d'entraide à l'intention de caisses de crédit,

in Canada the business of offering to the public its services as trustee, or

(iii) a credit union or central that is a member of the Canadian Payments Association or a credit union that is a shareholder or member of a central that is a member of the Canadian Payments Association,

(c) any money of the corporation, and

(d) in relation to a particular deposit insurance corporation, debt obligations of, and shares of the capital stock of, a subsidiary wholly-owned corporation of the particular corporation where the subsidiary is deemed by subsection 137.1(5.1) to be a deposit insurance corporation; (*bien de placement*)

member institution, in relation to a particular deposit insurance corporation, means

(a) a corporation whose liabilities in respect of deposits are insured by, or

(b) a credit union that is qualified for assistance from

that deposit insurance corporation. (*institution membre*)

(B) d'autre part, pour aider au paiement de toute perte subie par des membres de caisses de crédit lors d'une liquidation,

(ii) tout au long d'une année d'imposition à l'égard de laquelle l'expression s'applique :

(A) d'une part, elle est une société canadienne,

(B) d'autre part, le coût indiqué, pour elle, de ses biens de placement constitue au moins 50 % du coût indiqué, pour elle, de tous ses biens — à l'exclusion de titres de créance et des actions du capital-actions d'une institution membre émis par celle-ci pendant qu'elle était en difficulté financière;

b) société constituée par la *Loi sur la Société d'assurance-dépôts du Canada*. (*deposit insurance corporation*)

institution membre En ce qui concerne une compagnie d'assurance-dépôts donnée :

a) une société dont le passif afférent aux dépôts est assuré par cette compagnie d'assurance-dépôts;

b) une caisse de crédit qui remplit les conditions requises pour obtenir une aide de cette compagnie d'assurance-dépôts. (*member institution*)

Deeming provision

(5.1) For the purposes of this section, other than subsection 137.1(2), paragraph 137.1(3)(d), subparagraph 137.1(3)(e)(i), subsection 137.1(9) and paragraph 11(a), a subsidiary wholly-owned corporation of a particular corporation described in the definition ***deposit insurance corporation*** in subsection 137.1(5) shall be deemed to be a deposit insurance corporation, and any member institution of the particular corporation shall be deemed to be a member institution of the subsidiary, where all or substantially all of the property of the subsidiary has at all times since the subsidiary was incorporated consisted of

(a) investment property;

(b) shares of the capital stock of a member institution of the particular corporation obtained by the subsidiary at a time when the member institution was in financial difficulty;

(c) debt obligations issued by a member institution of the particular corporation at a time when the member institution was in financial difficulty;

Présomption

(5.1) Pour l'application du présent article, à l'exception du paragraphe (2), de l'alinéa (3)d), du sous-alinéa (3)e)(i), du paragraphe (9) et de l'alinéa (11)a), la filiale à cent pour cent d'une société visée à la définition de ***compagnie d'assurance-dépôts*** au paragraphe (5) est réputée être une compagnie d'assurance-dépôts, et toute institution membre de la société est réputée être une institution membre de la filiale, dans le cas où la totalité, ou presque, des biens de la filiale a toujours consisté depuis la constitution de celle-ci :

a) en biens de placement;

b) en actions du capital-actions d'une institution membre de la société donnée que la filiale a obtenues pendant que l'institution membre était en difficulté financière;

c) en titres de créance émis par une institution membre de la société donnée pendant que l'institution membre était en difficulté financière;

(d) property acquired from a member institution of the particular corporation at a time when the member institution was in financial difficulty; or

(e) any combination of property described in paragraphs 137.1(5.1)(a) to 137.1(5.1)(d).

(d) en biens acquis auprès d'une institution membre de la société donnée pendant que l'institution membre était en difficulté financière;

e) en plusieurs des biens visés aux alinéas a) à d).

Deemed not to be a private corporation

(6) Notwithstanding any other provision of this Act, a deposit insurance corporation that would, but for this subsection, be a private corporation shall be deemed not to be a private corporation.

Absence de qualité de société privée

(6) Malgré les autres dispositions de la présente loi, une compagnie d'assurance-dépôts qui, sans le présent paragraphe, serait une société privée est réputée ne pas être une société privée.

Deposit insurance corporation deemed not a credit union

(7) Notwithstanding any other provision of this Act, a deposit insurance corporation that would, but for this subsection, be a credit union shall be deemed not to be a credit union.

Absence de qualité de caisse de crédit

(7) Malgré les autres dispositions de la présente loi, une compagnie d'assurance-dépôts qui, sans le présent paragraphe, serait une caisse de crédit est réputée ne pas être une caisse de crédit.

Deemed compliance

(8) For the purposes of subsection 137.1(5), a corporation shall be deemed to have complied with clause (a)(ii)(B) of the definition ***deposit insurance corporation*** in subsection 137.1(5) throughout the 1975 taxation year if it complied with that clause on the last day of that taxation year.

Présomption de conformité

(8) Pour l'application du paragraphe (5), une société est réputée s'être conformée à la division a)(ii)(B) de la définition de ***compagnie d'assurance-dépôts*** au paragraphe (5) tout au long de l'année d'imposition 1975 si elle s'y conformait au dernier jour de cette année d'imposition.

Special tax rate

(9) The tax payable under this Part by a corporation for a taxation year throughout which it was a deposit insurance corporation (other than a corporation incorporated under the *Canada Deposit Insurance Corporation Act*) is the amount determined by the formula:

(38% - A) × B

where

A is the rate that would, if subsection 125(1.1) applied to the corporation for the taxation year, be the corporation's small business deduction rate for the taxation year within the meaning assigned by that subsection; and

B is the corporation's taxable income for the taxation year.

Taux d'imposition spécial

(9) L'impôt payable par une société en vertu de la présente partie pour une année d'imposition tout au long de laquelle elle était une compagnie d'assurance-dépôts — à l'exclusion d'une société constituée en vertu de la *Loi sur la Société d'assurance-dépôts du Canada* — correspond à la somme obtenue par la formule suivante :

(38 % - A) × B

où :

A représente le taux qui, si le paragraphe 125(1.1) s'appliquait à la société pour l'année, correspondrait au taux de la déduction pour petite entreprise qui lui est applicable pour l'année, déterminé selon ce paragraphe;

B le revenu imposable de la société pour l'année.

Amounts paid by a deposit insurance corporation

(10) Where in a taxation year a taxpayer is a member institution, there shall be included in computing its income for the year the total of all amounts each of which is

(a) an amount received by the taxpayer in the year from a deposit insurance corporation that is an

Sommes versées par une compagnie d'assurance-dépôts

(10) Le contribuable qui est une institution membre au cours d'une année d'imposition doit inclure dans le calcul de son revenu pour cette année le total des montants suivants :

amount described in any of paragraphs 137.1(4)(a) to 137.1(4)(c), to the extent that the taxpayer has not repaid the amount to the deposit insurance corporation in the year,

(b) an amount received from a deposit insurance corporation in the year by a depositor or member of the taxpayer as, on account of, in lieu of payment of, or in satisfaction of, deposits with, or share capital of, the taxpayer, to the extent that the taxpayer has not repaid the amount to the deposit insurance corporation in the year, or

(c) the amount by which

(i) the principal amount of any obligation of the taxpayer to pay an amount to a deposit insurance corporation that is settled or extinguished in the year without any payment by the taxpayer or by the payment by the taxpayer of an amount less than the principal amount

exceeds

(ii) the amount, if any, paid by the taxpayer on the settlement or extinguishment of the obligation

to the extent that the excess is not otherwise required to be included in computing the taxpayer's income for the year or a preceding taxation year.

a) tout montant visé à l'un des alinéas (4)a) à c) et qu'il a reçu au cours de l'année d'une compagnie d'assurance-dépôts, dans la mesure où il n'a pas remboursé ce montant à la compagnie au cours de l'année;

b) tout montant qu'un déposant ou membre du contribuable a reçu d'une compagnie d'assurance-dépôts au cours de l'année au titre des dépôts auprès du contribuable ou au titre du capital-actions de celui-ci, dans la mesure où le contribuable n'a pas remboursé ce montant xi la compagnie au cours de l'année;

c) l'excédent, dans la mesure où il n'est pas par ailleurs à inclure dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le principal d'une dette du contribuable qui a pour objet le paiement d'un montant à une compagnie d'assurance-dépôts et qui est réglée ou éteinte au cours de l'année par le paiement par le contribuable d'un montant inférieur au principal ou autrement que par paiement par le contribuable,

(ii) le montant payé par le contribuable lors du règlement ou de l'extinction de la dette.

Principal amount of an obligation to pay interest

(10.1) For the purposes of paragraph 137.1(10)(c), an amount of interest payable by a member institution to a deposit insurance corporation on an obligation shall be deemed to have a principal amount equal to that amount.

Principal d'une dette d'intérêts

(10.1) Pour l'application de l'alinéa (10)c), l'intérêt payable par une institution membre à une compagnie d'assurance-dépôts sur une dette est réputé avoir un principal égal à cet intérêt.

Deduction by member institutions

(11) There may be deducted in computing the income for a taxation year of a taxpayer that is a member institution such of the following amounts as are applicable:

(a) any amount paid or payable by the taxpayer in the year that is described in subsection 137.1(2) to the extent that it was not deducted in computing the taxpayer's income for a preceding taxation year; and

(b) any amount repaid by the taxpayer in the year to a deposit insurance corporation on account of an amount described in paragraph 137.1(10)(a) or 137.1(10)(b) that was received in a preceding taxation year to the extent that it was not, by reason of subsection 137.1(12), excluded from the taxpayer's income for the preceding year.

Montants déductibles par une institution membre

(11) Les montants applicables suivants sont déductibles dans le calcul du revenu, pour une année d'imposition, d'un contribuable qui est une institution membre :

a) le montant visé au paragraphe (2) et qui est payé ou payable par le contribuable au cours de l'année, dans la mesure où il n'a pas été déduit dans le calcul de son revenu pour une année d'imposition antérieure;

b) la somme remboursée à une compagnie d'assurance-dépôts par le contribuable au cours de l'année au titre d'un montant visé à l'alinéa (10)a) ou b) et reçue au cours d'une année d'imposition antérieure, dans la mesure où elle n'a pas été exclue, à cause du paragraphe (12), de son revenu pour l'année antérieure.

Repayment excluded

(12) Where

(a) a member institution has in a taxation year repaid an amount to a deposit insurance corporation on account of an amount that was included by virtue of paragraph 137.1(10)(a) or 137.1(10)(b) in computing its income for a preceding taxation year,

(b) the member institution has filed its return of income required by section 150 for the preceding year, and

(c) on or before the day on or before which the member institution is required by section 150 to file a return of income for the taxation year, it has filed an amended return for the preceding year excluding from its income for that year the amount repaid,

the amount repaid shall be excluded from the amount otherwise included by virtue of paragraph 137.1(10)(a) or 137.1(10)(b) in computing the member institution's income for the preceding year and the Minister shall make such reassessment of the tax, interest and penalties payable by the member institution for preceding taxation years as is necessary to give effect to the exclusion.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 137.1; 1994, c. 21, s. 65; 2001, c. 17, s. 216; 2007, c. 2, s. 38; 2013, c. 34, s. 285.

Exclusion

(12) L'institution membre qui, au cours d'une année d'imposition donnée, a remboursé à une compagnie d'assurance-dépôts une somme au titre d'un montant inclus dans le calcul de son revenu pour une année d'imposition antérieure en application de l'alinéa (10)a) ou b) doit, pour exclure la somme remboursée de ce montant inclus par ailleurs, produire, après la déclaration de revenu pour l'année antérieure qu'elle a produite conformément à l'article 150, une déclaration modifiée pour cette même année au plus tard à la date où elle était tenue de produire sa déclaration de revenu pour l'année donnée conformément à l'article 150. Il incombe alors au ministre d'établir la nouvelle cotisation voulue concernant l'impôt, les intérêts et les pénalités payables par l'institution membre pour les années d'imposition antérieures.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 137.1; 1994, ch. 21, art. 65; 2001, ch. 17, art. 216; 2007, ch. 2, art. 38; 2013, ch. 34, art. 285.

Computation of income for 1975 and subsequent years

137.2 For the purpose of computing the income of a deposit insurance corporation for the 1975 and subsequent taxation years,

(a) property of the corporation that is a bond, debenture, mortgage, hypothecary claim, note or other similar obligation owned by it at the commencement of the corporation's 1975 taxation year shall be valued at its cost to the corporation less the total of all amounts that, before that time, the corporation was entitled to receive as, on account or in lieu of payment of, or in satisfaction of, the principal amount of the bond, debenture, mortgage, hypothecary claim, note or other similar obligation,

(i) plus a reasonable amount in respect of the amortization of the amount by which the principal amount of the property at the time it was acquired by the corporation exceeded its actual cost to the corporation, or

(ii) minus a reasonable amount in respect of the amortization of the amount by which its actual cost to the corporation exceeded the principal amount

Calcul du revenu pour les années 1975 et suivantes

137.2 Pour le calcul du revenu d'une compagnie d'assurance-dépôts pour les années d'imposition 1975 et suivantes, les règles suivantes s'appliquent :

a) un bien de la compagnie qui est une obligation, une créance hypothécaire, un billet ou autre titre semblable lui appartenant au début de son année d'imposition 1975 est évalué à son coût, pour la compagnie, diminué du total des sommes que la compagnie, avant ce moment, avait le droit de recevoir au titre ou en paiement intégral ou partiel du principal de l'obligation, de la créance hypothécaire, du billet ou autre titre semblable :

(i) plus une somme raisonnable pour l'amortissement de l'excédent du principal du bien au moment où il a été acquis par la compagnie sur son véritable coût réel pour la compagnie,

(ii) moins une somme raisonnable pour l'amortissement de l'excédent du véritable coût pour la compagnie sur le principal du bien au moment où il a été acquis par la compagnie;

of the property at the time it was acquired by the corporation;

(b) property of the corporation that is a debt owing to the corporation (other than property described in paragraph 137.2(a) or a debt that became a bad debt before its 1975 taxation year) acquired by it before the commencement of its 1975 taxation year shall be valued at any time at the amount thereof outstanding at that time;

(c) property of the corporation (other than property in respect of which any amount for the year has been included under paragraph (a)) that was acquired, by foreclosure or otherwise, after default made under a mortgage or hypothec shall be valued at its cost amount to the corporation; and

(d) any other property shall be valued at its cost amount to the corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 137.2; 2001, c. 17, s. 217.

b) un bien de la compagnie qui est une créance (à l'exclusion d'un bien visé à l'alinéa a) ou une créance devenue irrécouvrable avant son année d'imposition 1975) acquise avant le début de son année d'imposition 1975 est évalué à un moment donné au montant dû à ce moment;

c) un bien de la compagnie (à l'exclusion d'un bien à l'égard duquel un montant a été inclus pour l'année en vertu de l'alinéa a)) acquis, par forclusion ou autrement, après manquement aux engagements résultant d'une hypothèque est évalué à son coût indiqué pour la compagnie;

d) tout autre bien est évalué à son coût indiqué pour la compagnie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 137.2; 2001, ch. 17, art. 217.

Insurance Corporations

Insurance corporations

138 (1) It is hereby declared that a corporation, whether or not it is a mutual corporation, that has, in a taxation year, been a party to insurance contracts or other arrangements or relationships of a particular class whereby it can reasonably be regarded as undertaking

(a) to insure other persons against loss, damage or expense of any kind, or

(b) to pay insurance moneys to other persons

(i) on the death of any person,

(ii) on the happening of an event or contingency dependent on human life,

(iii) for a term dependent on human life, or

(iv) at a fixed or determinable future time,

whether or not such persons are members or shareholders of the corporation, shall, regardless of the form or legal effect of those contracts, arrangements or relationships, be deemed, for the purposes of this Act, to have been carrying on an insurance business of that class in the year for profit, and in any such case, for the purpose of computing the income of the corporation, the following rules apply:

(c) every amount received by the corporation under, in consideration of, in respect of or on account of such

Compagnies d'assurance

Compagnies d'assurance

138 (1) Toute société, qu'il s'agisse ou non d'une mutuelle, qui, au cours d'une année d'imposition, a été partie à des contrats d'assurance ou à d'autres ententes ou rapports d'une catégorie particulière d'après lesquels il est raisonnable de considérer qu'elle a entrepris :

a) soit d'assurer d'autres personnes contre des pertes, dommages ou frais de toute nature;

b) soit de payer des prestations d'assurance à d'autres personnes :

(i) lors du décès d'une personne,

(ii) à l'occasion d'un événement ou d'une éventualité inhérente à la vie humaine,

(iii) pour une durée dépendant de la vie humaine,

(iv) à une date fixée ou déterminable dans l'avenir,

que ces personnes soient ou non des membres ou des actionnaires de la société, est, indépendamment de la forme ou des effets juridiques de ces contrats, ententes ou rapports, réputée, pour l'application de la présente loi, avoir exploité une entreprise d'assurance de cette catégorie au cours de l'année en vue d'un bénéfice et, en pareil cas, pour le calcul du revenu de la société, les règles suivantes s'appliquent :

a contract, arrangement or relationship shall be deemed to have been received by it in the course of that business,

(d) the income shall, except as otherwise provided in this section, be computed in accordance with the rules applicable in computing income for the purposes of this Part,

(e) all income from property vested in the corporation shall be deemed to be income of the corporation, and

(f) all taxable capital gains and allowable capital losses from dispositions of property vested in the corporation shall be deemed to be taxable capital gains or allowable capital losses, as the case may be, of the corporation.

c) toute somme reçue par la société aux termes, en contrepartie, en vertu ou au titre de tels contrat, entente ou rapport est réputée avoir été reçue par elle dans le cours des activités de cette entreprise;

d) sauf disposition contraire du présent article, le revenu doit être calculé conformément aux règles applicables au calcul du revenu dans le cadre de la présente partie;

e) le revenu tiré de biens dévolus à la société est réputé être un revenu de celle-ci;

f) les gains en capital imposables et les pertes en capital déductibles découlant de la disposition de biens dévolus à la société sont réputés être des gains en capital imposables ou des pertes en capital déductibles, selon le cas, de la société.

Insurer's income or loss

(2) Notwithstanding any other provision of this Act,

(a) if a life insurer resident in Canada carries on an insurance business in Canada and in a country other than Canada in a taxation year, its income or loss for the year from carrying on an insurance business is the amount of its income or loss for the taxation year from carrying on the insurance business in Canada;

(b) if a life insurer resident in Canada carries on an insurance business in Canada and in a country other than Canada in a taxation year, for greater certainty,

(i) in computing the insurer's income or loss for the taxation year from the insurance business carried on by it in Canada, no amount is to be included in respect of the insurer's gross investment revenue for the taxation year derived from property used or held by it in the course of carrying on an insurance business that is not designated insurance property for the taxation year of the insurer, and

(ii) in computing the insurer's taxable capital gains or allowable capital losses for the taxation year from dispositions of capital property (referred to in this subparagraph as "insurance business property") that, at the time of the disposition, was used or held by the insurer in the course of carrying on an insurance business,

(A) there is to be included each taxable capital gain or allowable capital loss of the insurer for the taxation year from a disposition in the taxation year of an insurance business property that was a designated insurance property for the taxation year of the insurer, and

Revenu ou perte de l'assureur

(2) Malgré les autres dispositions de la présente loi :

a) si un assureur sur la vie résidant au Canada exploite une entreprise d'assurance au Canada et à l'étranger au cours d'une année d'imposition, son revenu ou sa perte pour l'année résultant de l'exploitation d'une entreprise d'assurance correspond au montant de son revenu ou de sa perte pour l'année provenant de l'exploitation de l'entreprise d'assurance au Canada;

b) si un assureur sur la vie résidant au Canada exploite une entreprise d'assurance au Canada et à l'étranger au cours d'une année d'imposition, il est entendu :

(i) qu'aucun montant n'est à inclure, dans le calcul de son revenu ou de sa perte pour l'année résultant de l'entreprise d'assurance qu'il exploite au Canada, au titre de ses revenus bruts de placement pour l'année provenant de biens qu'il utilisait ou détenait dans le cadre de l'exploitation d'une entreprise d'assurance et qui ne sont pas des biens d'assurance désignés pour l'année d'imposition de l'assureur,

(ii) que, dans le calcul de ses gains en capital imposables ou de ses pertes en capital déductibles pour l'année résultant de la disposition d'immobilisations (appelées « biens d'entreprise d'assurance » au présent sous-alinéa) qu'il utilisait ou détenait, au moment de la disposition, dans le cadre de l'exploitation d'une entreprise d'assurance :

(A) l'assureur doit inclure le montant de chacun de ses gains en capital imposables ou pertes en

(B) there is not to be included any taxable capital gain or allowable capital loss of the insurer for the taxation year from a disposition in the taxation year of an insurance business property that was not a designated insurance property for the taxation year of the insurer;

(c) if a non-resident insurer carries on an insurance business in Canada in a taxation year, its income or loss for the taxation year from carrying on an insurance business is the amount of its income or loss for the taxation year from carrying on the insurance business in Canada; and

(d) if a non-resident insurer carries on an insurance business in Canada in a taxation year,

(i) in computing the non-resident insurer's income or loss for the taxation year from the insurance business carried on by it in Canada, no amount is to be included in respect of the non-resident insurer's gross investment revenue for the taxation year derived from property used or held by it in the course of carrying on an insurance business that is not designated insurance property for the taxation year of the non-resident insurer, and

(ii) in computing the non-resident insurer's taxable capital gains or allowable capital losses for the taxation year from dispositions of capital property (referred to in this subparagraph as "insurance business property") that, at the time of the disposition, was used or held by the non-resident insurer in the course of carrying on an insurance business,

(A) there is to be included each taxable capital gain or allowable capital loss of the non-resident insurer for the taxation year from a disposition in the taxation year of an insurance business property that was a designated insurance property for the taxation year of the non-resident insurer, and

(B) there is not to be included any taxable capital gain or allowable capital loss of the non-resident insurer for the taxation year from a disposition in the taxation year of an insurance business property that was not a designated insurance property for the taxation year of the non-resident insurer.

capital déductibles pour l'année résultant de la disposition, au cours de l'année, de tout bien d'entreprise d'assurance qui était un bien d'assurance désigné pour l'année d'imposition de l'assureur,

(B) l'assureur ne doit inclure aucun montant au titre de son gain en capital imposable ou de sa perte en capital déductible pour l'année résultant de la disposition, au cours de l'année, de tout bien d'entreprise d'assurance qui n'était pas un bien d'assurance désigné pour l'année d'imposition de l'assureur;

c) si un assureur non-résident exploite une entreprise d'assurance au Canada au cours d'une année d'imposition, son revenu ou sa perte pour l'année résultant de l'exploitation d'une entreprise d'assurance correspond au montant de son revenu ou de sa perte pour l'année résultant de l'exploitation de l'entreprise d'assurance au Canada;

d) si un assureur non-résident exploite une entreprise d'assurance au Canada au cours d'une année d'imposition :

(i) aucun montant n'est à inclure, dans le calcul de son revenu ou de sa perte pour l'année résultant de l'entreprise d'assurance qu'il exploite au Canada, au titre de ses revenus bruts de placement pour l'année provenant de biens qu'il utilisait ou détenait dans le cadre de l'exploitation d'une entreprise d'assurance et qui ne sont pas des biens d'assurance désignés pour l'année d'imposition de l'assureur,

(ii) dans le calcul de ses gains en capital imposables ou de ses pertes en capital déductibles pour l'année résultant de la disposition d'immobilisations (appelées « biens d'entreprise d'assurance » au présent sous-alinéa) qu'il utilisait ou détenait, au moment de la disposition, dans le cadre de l'exploitation d'une entreprise d'assurance :

(A) l'assureur doit inclure le montant de chacun de ses gains en capital imposables ou pertes en capital déductibles pour l'année résultant de la disposition, au cours de l'année, de tout bien d'entreprise d'assurance qui était un bien d'assurance désigné pour l'année d'imposition de l'assureur,

(B) l'assureur ne doit inclure aucun montant au titre de son gain en capital imposable ou de sa perte en capital déductible pour l'année résultant de la disposition, au cours de l'année, de tout bien d'entreprise d'assurance qui n'était pas un

Deductions allowed in computing income

(3) In computing a life insurer's income for a taxation year from carrying on its life insurance business in Canada, there may be deducted

(a) such of the following amounts as are applicable:

(i) any amount that the insurer claims as a policy reserve for the year in respect of its life insurance policies, not exceeding the total of amounts that the insurer is allowed by regulation to deduct in respect of the policies,

(ii) any amount that the insurer claims as a reserve in respect of claims that were received by the insurer before the end of the year under its life insurance policies and that are unpaid at the end of the year, not exceeding the total of amounts that the insurer is allowed by regulation to deduct in respect of the policies,

(ii.1) the amount included under paragraph 138(4)(b) in computing the insurer's income for the taxation year preceding the year,

(iii) the amount determined by the following formula:

A – B

where

A is the total of policy dividends (except the portion paid out of segregated funds) that became payable by the insurer after its 1968 taxation year and before the end of the year under its participating life insurance policies, and

B is the total of amounts deductible under this subparagraph (including as determined under subsection (3.1) as it read in its application to the insurer's last taxation year that began before November 2011) in computing its incomes for taxation years before the year, and

(iv) [Repealed, 2013, c. 34, s. 286]

(v) each amount (other than an amount credited under a participating life insurance policy) that would be deductible under section 140 in computing the insurer's income for the year if the reference in that section to "an insurance business other than a life insurance business" were read as a reference to "a life insurance business in Canada";

Déductions permises dans le calcul du revenu

(3) Les sommes suivantes sont déductibles dans le calcul du revenu d'un assureur sur la vie, pour une année d'imposition, tiré de l'exploitation de son entreprise d'assurance-vie au Canada :

a) celles des sommes suivantes qui sont appropriées :

(i) le montant que l'assureur demande à titre de provision technique pour l'année relativement à ses polices d'assurance-vie, ne dépassant pas le total des montants qu'il lui est permis de déduire relativement aux polices selon les dispositions réglementaires,

(ii) le montant que l'assureur demande à titre de provision pour les sinistres qui lui ont été soumis avant la fin de l'année dans le cadre de polices d'assurance-vie mais qui demeurent non réglés à la fin de l'année, ne dépassant pas le total des montants qu'il lui est permis de déduire relativement aux polices selon les dispositions réglementaires,

(ii.1) le montant inclus en application de l'alinéa (4)b) dans le calcul du revenu de l'assureur pour l'année d'imposition précédente,

(iii) la somme obtenue par la formule suivante :

A – B

où :

A représente le total des participations de polices (sauf la partie de ces dernières payée sur des fonds réservés) qui sont devenues payables par l'assureur après son année d'imposition 1968 et avant la fin de l'année en vertu de ses polices d'assurance-vie avec participation,

B le total des sommes déductibles en vertu du présent sous-alinéa (y compris les sommes visées au paragraphe (3.1) dans sa version applicable à la dernière année d'imposition de l'assureur ayant commencé avant novembre 2011) dans le calcul de ses revenus pour les années d'imposition antérieures à l'année,

(iv) [Abrogé, 2013, ch. 34, art. 286]

(v) chaque somme (sauf une somme créditée en vertu d'une police d'assurance-vie avec participation) qui serait déductible en vertu de l'article 140 dans le calcul du revenu de l'assureur pour l'année si la mention, à cet article, d'une « entreprise

(b) the total of amounts each of which is a policy loan made by the insurer in the year and after 1977; and

(c) the amount of tax under Part XII.3 payable by the insurer in respect of its taxable Canadian life investment income for the year.

(d) [Repealed, 1995, c. 21, s. 57(2)]

(e) to (g) [Repealed, 2013, c. 34, s. 286]

(3.1) [Repealed, 2013, c. 34, s. 286]

Amounts included in computing income

(4) In computing a life insurer's income for a taxation year from carrying on its life insurance business in Canada, there shall be included

(a) each amount deducted under paragraph (3)(a), other than under subparagraph (3)(a)(ii.1), (iii) or (v), in computing the insurer's income for the preceding taxation year;

(b) the amount prescribed in respect of the insurer for the year in respect of its life insurance policies; and

(c) the total of all amounts received by the insurer in the year in respect of the repayment of policy loans or in respect of interest on policy loans.

Life insurance policy

(4.01) For the purposes of subsections 138(3) and 138(4), a life insurance policy includes a benefit under a group life insurance policy or a group annuity contract.

(4.1) to (4.3) [Repealed, 2013, c. 34, s. 286]

Income inclusion

(4.4) If, for a period of time in a taxation year, a life insurer

(a) owned land (other than land referred to in paragraph (c) or (d)) or an interest, or for civil law a right, therein that was not held primarily for the purpose of gaining or producing income from the land for the period,

d'assurance autre qu'une entreprise d'assurance-vie » était remplacée par celle d'une « entreprise d'assurance-vie au Canada »;

b) le total des sommes dont chacune représente une avance sur police consentie par l'assureur au cours de l'année et après 1977;

c) l'impôt payable par l'assureur en application de la partie XII.3 relativement à son revenu imposable de placements en assurance-vie pour l'année.

d) [Abrogé, 1995, ch. 21, art. 57(2)]

e) à g) [Abrogés, 2013, ch. 34, art. 286]

(3.1) [Abrogé, 2013, ch. 34, art. 286]

Montants inclus dans le calcul du revenu

(4) Les montants suivants sont à inclure dans le calcul du revenu d'un assureur sur la vie pour une année d'imposition provenant de l'exploitation de son entreprise d'assurance-vie au Canada :

a) chaque montant qu'il déduit en application de l'alinéa (3)a), exception faite de ses sous-alinéas (ii.1), (iii) et (v), dans le calcul de son revenu pour l'année d'imposition précédente;

b) le montant visé par règlement quant à lui pour l'année relativement à des polices d'assurance-vie d'une catégorie donnée;

c) le total des montants qu'il a reçus au cours de l'année en remboursement d'avances sur police ou à titre d'intérêts sur ces avances.

Police d'assurance-vie

(4.01) Pour l'application des paragraphes (3) et (4), est assimilé à une police d'assurance-vie le bénéfice prévu par une police d'assurance-vie collective ou un contrat de rente collectif.

(4.1) à (4.3) [Abrogés, 2013, ch. 34, art. 286]

Somme à inclure

(4.4) L'assureur sur la vie qui, au cours d'une période d'une année d'imposition :

a) soit est propriétaire d'un fonds de terre — sauf un fonds de terre visé à l'alinéa c) ou d) — ou d'un intérêt ou, pour l'application du droit civil, d'un droit sur ce fonds de terre, qu'il ne détient pas principalement en vue de tirer un revenu du fonds de terre pour la période;

(b) had an interest, or for civil law a right, in a building that was being constructed, renovated or altered,

(c) owned land subjacent to the building referred to in paragraph (b) or an interest, or for civil law a right, therein, or

(d) owned land immediately contiguous to the land referred to in paragraph (c) or an interest, or for civil law a right, therein that was used or was intended to be used for a parking area, driveway, yard, garden or other use necessary for the use or intended use of the building referred to in paragraph (b),

there shall be included in computing the insurer's income for the year, where the land, building, or interest or right, was designated insurance property of the insurer for the year, or property used or held by it in the year in the course of carrying on an insurance business in Canada, the total of all amounts each of which is the amount prescribed in respect of the insurer's cost or capital cost, as the case may be, of the land, building, or interest or right, for the period, and the amount prescribed shall, at the end of the period, be included in computing

(e) where the land, or interest or right therein, is property described in paragraph (a), the cost to the insurer of the land, or of the interest or right therein, and

(f) where the land, building, or interest or right therein, is property described in paragraphs (b) to (d), the capital cost to the insurer of the interest or right in the building described in paragraph (b).

b) soit a un intérêt ou, pour l'application du droit civil, un droit sur un bâtiment en construction, en rénovation ou en transformation;

c) soit est propriétaire d'un fonds de terre sous-jacent au bâtiment visé à l'alinéa b) ou a un intérêt ou, pour l'application du droit civil, un droit sur ce fonds de terre;

d) soit est propriétaire d'un fonds de terre contigu à celui visé à l'alinéa c), ou a un intérêt ou, pour l'application du droit civil, un droit sur ce fonds de terre, qui est utilisé, ou destiné à être utilisé, comme terrain de stationnement, voie d'accès, cour ou jardin ou à un autre usage et qui est nécessaire à l'utilisation présente ou projetée du bâtiment visé à l'alinéa b),

doit inclure dans le calcul de son revenu pour l'année le total des montants représentant chacun le montant prescrit au titre du coût ou du coût en capital, pour lui, du fonds de terre, du bâtiment ou de l'intérêt ou du droit pour la période si le fonds de terre, le bâtiment ou l'intérêt ou le droit était son bien d'assurance désigné pour l'année ou un bien qu'il utilisait ou détenait pendant l'année dans le cadre de l'exploitation d'une entreprise d'assurance au Canada; le montant prescrit est à inclure, à la fin de la période, dans le calcul des montants suivants :

e) le coût du fonds de terre ou de l'intérêt ou du droit pour l'assureur, si le fonds de terre ou l'intérêt ou le droit est un bien visé à l'alinéa a);

f) le coût en capital, pour l'assureur, de l'intérêt ou du droit sur le bâtiment visé à l'alinéa b), si le fonds de terre, le bâtiment ou l'intérêt ou le droit est un bien visé aux alinéas b) à d).

Application

(4.5) Where a life insurer transfers or lends property, directly or indirectly in any manner whatever, to a person or partnership (in this subsection referred to as the "transferee") that is affiliated with the insurer or a person or partnership that does not deal at arm's length with the insurer and

(a) that property,

(b) property substituted for that property, or

(c) property the acquisition of which was assisted by the transfer or loan of that property

was property described in paragraph (4.4)(a), (b), (c) or (d) of the transferee for a period of time in a taxation year of the insurer, the following rules apply:

Application

(4.5) Les règles suivantes s'appliquent à l'assureur sur la vie qui transfère ou prête des biens, directement ou indirectement, de quelque manière que ce soit, à une personne ou une société de personnes (appelée « cessionnaire » au présent paragraphe) qui lui est affiliée ou qui est affiliée à une personne ou une société de personnes avec laquelle il a un lien de dépendance, dans le cas où ces biens, des biens qui les remplacent ou des biens dont le transfert ou le prêt facilite l'acquisition sont des biens du cessionnaire, visés à l'un des alinéas (4.4)a), b), c) et d), pour une période d'une année d'imposition de l'assureur :

a) le paragraphe (4.4) s'applique de manière qu'un montant soit inclus dans son revenu pour l'année à supposer qu'il soit propriétaire des biens pour la période et qu'il s'agisse de biens visés à l'un des alinéas (4.4)a), b), c) et d) qu'il utilisait ou détenait pendant

(d) subsection 138(4.4) shall apply to include an amount in the insurer's income for the year on the assumption that the property was owned by the insurer for the period, was property described in paragraph (4.4)(a), (b), (c) or (d) of the insurer and was used or held by it in the year in the course of carrying on an insurance business in Canada, and

(e) an amount included in the insurer's income for the year under subsection 138(4.4) by reason of the application of this subsection shall

(i) where subparagraph 138(4.5)(e)(ii) does not apply, be added by the insurer in computing the cost to it of shares of the capital stock of or an interest in the transferee at the end of the year, or

(ii) where the insurer and the transferee have jointly elected in prescribed form on or before the day that is the earliest of the days on or before which any taxpayer making the election is required to file a return pursuant to section 150 for the taxation year that includes the period, be added in computing

(A) where the property is land or an interest, or for civil law a right, therein of the transferee described in paragraph (4.4)(a), the cost to the transferee of the land, or of the interest or right therein, and

(B) where the property is land or a building, or an interest therein or for civil law a right therein, described in paragraphs (4.4)(b) to (d), the capital cost to the transferee of the interest or of the right in the building described in paragraph (4.4)(b).

l'année dans le cadre de l'exploitation d'une entreprise d'assurance au Canada;

b) un montant inclus en application du paragraphe (4.4) dans le calcul du revenu de l'assureur pour l'année, par l'effet du présent paragraphe, doit être ajouté :

(i) si le sous-alinéa (ii) ne s'applique pas, dans le calcul du coût, pour l'assureur, d'actions du capital-actions du cessionnaire ou d'une participation dans le cessionnaire, à la fin de l'année,

(ii) si l'assureur et le cessionnaire en font le choix sur formulaire prescrit, au plus tard à la date où l'un d'eux doit, le premier, produire une déclaration de revenu conformément à l'article 150 pour l'année d'imposition qui comprend la période :

(A) si le bien est un fonds de terre, ou un intérêt ou, pour l'application du droit civil, un droit sur un fonds de terre du cessionnaire, visé à l'alinéa (4.4)a), dans le calcul du coût de ce bien pour le cessionnaire,

(B) si le bien est un fonds de terre, un bâtiment, ou un intérêt ou, pour l'application du droit civil, un droit sur un fonds de terre ou un bâtiment, visé aux alinéas (4.4)b) à d), dans le calcul du coût en capital, pour le cessionnaire, de l'intérêt ou, pour l'application du droit civil, du droit sur le bâtiment visé à l'alinéa (4.4)b).

Completion

(4.6) For the purposes of subsection 138(4.4), the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered.

Achèvement de la construction

(4.6) Pour l'application du paragraphe (4.4), la construction, la rénovation ou la transformation d'un bâtiment est terminée au premier en date des jours suivants : celui auquel la construction, la rénovation ou la transformation est effectivement terminée ou celui auquel la totalité, ou presque, du bâtiment est utilisée aux fins auxquelles il a été construit, rénové ou transformé.

Deductions not allowed

(5) Notwithstanding any other provision of this Act,

(a) in the case of an insurer, no deduction may be made under paragraph 20(1)(l) in computing its income for a taxation year from an insurance business in Canada in respect of a premium or other consideration for a life insurance policy in Canada or an interest therein; and

Déductions non permises

(5) Malgré les autres dispositions de la présente loi :

a) dans le cas d'un assureur, aucun montant n'est déductible en application de l'alinéa 20(1)l) dans le calcul de son revenu, pour une année d'imposition, qui provient d'une entreprise d'assurance au Canada, à l'égard d'une prime ou d'une autre contrepartie relative

(b) in the case of a non-resident insurer or a life insurer resident in Canada that carries on any of its insurance business in a country other than Canada, no deduction may be made under paragraph 20(1)(c) or 20(1)(d) in computing its income for a taxation year from carrying on an insurance business in Canada, except in respect of

(i) interest on borrowed money used to acquire designated insurance property for the year, or to acquire property for which designated insurance property for the year was substituted property, for the period in the year during which the designated insurance property was held by the insurer in respect of the business,

(ii) interest on amounts payable for designated insurance property for the year in respect of the business, or

(iii) interest on deposits received or other amounts held by the insurer that arose in connection with life insurance policies in Canada or with policies insuring Canadian risks.

(iv) [Repealed, 2001, c. 17, s. 133(2)]

b) dans le cas d'un assureur non-résident ou d'un assureur sur la vie résidant au Canada, qui exploite une partie quelconque de son entreprise d'assurance à l'étranger, aucune déduction ne peut être opérée en vertu des alinéas 20(1)c) ou d) dans le calcul de son revenu pour une année d'imposition tiré de l'exploitation d'une entreprise d'assurance au Canada, sauf au titre des sommes suivantes :

(i) les intérêts sur de l'argent emprunté et utilisé pour acquérir des biens d'assurance désignés pour l'année, ou des biens pour lesquels des biens d'assurance désignés sont des biens substitués, pour la période de l'année au cours de laquelle les biens d'assurance désignés étaient détenus par l'assureur relativement à l'entreprise,

(ii) les intérêts sur montants payables au titre de biens d'assurance désignés pour l'année relativement à l'entreprise,

(iii) les intérêts sur les dépôts reçus ou d'autres montants détenus par l'assureur relativement à des polices d'assurance-vie au Canada ou à des polices assurant des risques au Canada.

(iv) [Abrogé, 2001, ch. 17, art. 133(2)]

No deduction

(5.1) No deduction shall be made under subsection 20(12) in computing the income of a life insurer resident in Canada in respect of foreign taxes attributable to its insurance business.

(5.2) [Repealed, 1995, c. 21, s. 57(5)]

Deduction for dividends from taxable corporations

(6) In computing the taxable income of a life insurer for a taxation year, no deduction from the income of the insurer for the year may be made under section 112 but, except as otherwise provided by that section, there may be deducted from that income the total of taxable dividends (other than dividends on term preferred shares that are acquired in the ordinary course of the business carried on by the life insurer) included in computing the insurer's income for the year and received by the insurer in the year from taxable Canadian corporations.

(7) [Repealed, 1997, c. 25, s. 39(8)]

Aucune déduction

(5.1) Aucune déduction ne peut être faite, en vertu du paragraphe 20(12), dans le calcul du revenu d'un assureur sur la vie résidant au Canada, à l'égard des impôts étrangers imputables à son entreprise d'assurance.

(5.2) [Abrogé, 1995, ch. 21, art. 57(5)]

Déduction pour dividendes reçus de sociétés imposables

(6) Dans le calcul du revenu imposable d'un assureur sur la vie pour une année d'imposition, aucune déduction ne peut être faite en application de l'article 112 sur le revenu de l'assureur pour l'année mais, sauf disposition contraire de cet article, le total des dividendes imposables — autres que des dividendes sur des actions privilégiées à terme acquises par l'assureur dans le cours normal des activités de son entreprise — inclus dans le calcul du revenu de l'assureur pour l'année et reçus par celui-ci de sociétés canadiennes imposables au cours de l'année est déductible de ce revenu.

(7) [Abrogé, 1997, ch. 25, art. 39(8)]

No deduction for foreign tax

(8) No deduction shall be made under section 126 from the tax payable under this Part for a taxation year by a life insurer resident in Canada in respect of such part of an income or profits tax as can reasonably be attributable to income from its insurance business.

Computation of income

(9) Where in a taxation year an insurer (other than an insurer resident in Canada that does not carry on a life insurance business) carries on an insurance business in Canada and in a country other than Canada, there shall be included in computing its income for the year from carrying on its insurance businesses in Canada the total of

(a) its gross investment revenue for the year from its designated insurance property for the year, and

(b) the amount prescribed in respect of the insurer for the year.

Application of financial institution rules

(10) Notwithstanding sections 142.3, 142.4, 142.5 and 142.51, where in a taxation year an insurer (other than an insurer resident in Canada that does not carry on a life insurance business) carries on an insurance business in Canada and in a country other than Canada, in computing its income for the year from carrying on an insurance business in Canada,

(a) sections 142.3, 142.5 and 142.51 apply only in respect of property that is designated insurance property for the year in respect of the business; and

(b) section 142.4 applies only in respect of the disposition of property that, for the taxation year in which the insurer disposed of it, was designated insurance property in respect of the business.

(11) [Repealed, 1995, c. 21, s. 57(7)]

Identical properties

(11.1) For the purpose of section 47, any property of a life insurance corporation that would, but for this subsection, be identical to any other property of the corporation is deemed not to be identical to the other property unless both properties are

(a) designated insurance property of the insurer in respect of a life insurance business carried on in Canada; or

Aucune déduction pour impôt étranger

(8) Aucune déduction ne peut être effectuée en vertu de l'article 126 de l'impôt payable en vertu de la présente partie, pour une année d'imposition, par un assureur sur la vie résidant au Canada, à l'égard de la fraction de tout impôt sur le revenu ou les bénéfices qu'il est raisonnable d'attribuer au revenu provenant de son entreprise d'assurance.

Calcul du revenu

(9) L'assureur (sauf celui résidant au Canada qui n'exploite pas d'entreprise d'assurance-vie) qui, au cours d'une année d'imposition, exploite une entreprise d'assurance au Canada et à l'étranger est tenu d'inclure le total des montants ci-après dans le calcul de son revenu pour l'année tiré de l'exploitation de ses entreprises d'assurance au Canada :

a) ses revenus bruts de placements pour l'année tirés de ses biens d'assurance désignés pour l'année;

b) le montant prescrit quant à lui pour l'année.

Application des règles sur les institutions financières

(10) Malgré les articles 142.3, 142.4, 142.5 et 142.51, dans le cas où un assureur (sauf celui résidant au Canada qui n'exploite pas d'entreprise d'assurance-vie) exploite, au cours d'une année d'imposition, une entreprise d'assurance au Canada et à l'étranger, les règles ci-après s'appliquent au calcul de son revenu pour l'année tiré de l'exploitation d'une entreprise d'assurance au Canada :

a) les articles 142.3, 142.5 et 142.51 ne s'appliquent qu'aux biens qui sont des biens d'assurance désignés pour l'année relativement à l'entreprise;

b) l'article 142.4 ne s'applique qu'à la disposition de biens qui étaient des biens d'assurance désignés relativement à l'entreprise pour l'année d'imposition où l'assureur en a disposé.

(11) [Abrogé, 1995, ch. 21, art. 57(7)]

Biens identiques

(11.1) Pour l'application de l'article 47, le bien d'une compagnie d'assurance-vie qui, n'était le présent paragraphe, serait identique à un autre de ses biens est réputé n'y être identique que si les deux biens sont :

a) des biens d'assurance désignés de l'assureur relativement à une entreprise d'assurance-vie exploitée au Canada;

(b) designated insurance property of the insurer in respect of an insurance business in Canada other than a life insurance business.

b) des biens d'assurance désignés de l'assureur relativement à une entreprise d'assurance au Canada autre qu'une entreprise d'assurance-vie.

Computation of capital gain on pre-1969 depreciable property

(11.2) For the purposes of computing the amount of a capital gain from the disposition of any depreciable property acquired by a life insurer before 1969, the capital cost of the property to the insurer shall be its capital cost determined without reference to paragraph 32(1)(a) of *An Act to amend the Income Tax Act*, chapter 44 of the Statutes of Canada, 1968-69, as it read in its application to the 1971 taxation year.

Calcul du gain en capital sur un bien amortissable acquis avant 1969

(11.2) Pour le calcul du montant d'un gain en capital tiré de la disposition d'un bien amortissable acquis par un assureur sur la vie avant 1969, le coût en capital du bien pour l'assureur est son coût en capital, déterminé compte non tenu de l'alinéa 32(1)a) de la *Loi modifiant la Loi de l'impôt sur le revenu*, chapitre 44 des Statuts du Canada de 1968-69, dans sa version applicable à l'année d'imposition 1971.

Deemed disposition

(11.3) Subject to subsection 138(11.31), where a property of a life insurer resident in Canada that carries on an insurance business in Canada and in a country other than Canada or of a non-resident insurer is

(a) designated insurance property of the insurer for a taxation year, was owned by the insurer at the end of the preceding taxation year and was not designated insurance property of the insurer for that preceding year, or

(b) not designated insurance property for a taxation year, was owned by the insurer at the end of the preceding taxation year and was designated insurance property of the insurer for that preceding year,

the following rules apply:

(c) the insurer is deemed to have disposed of the property at the beginning of the year for proceeds of disposition equal to its fair market value at that time and to have reacquired the property immediately after that time at a cost equal to that fair market value,

(d) where paragraph (a) applies, any gain or loss arising from the disposition is deemed not to be a gain or loss from designated insurance property of the insurer in the year, and

(e) where paragraph (b) applies, any gain or loss arising from the disposition is deemed to be a gain or loss from designated insurance property of the insurer in the year.

Présomption de disposition

(11.3) Sous réserve du paragraphe (11.31), lorsque le bien d'un assureur sur la vie résidant au Canada qui exploite une entreprise d'assurance au Canada et à l'étranger ou le bien d'un assureur non-résident remplit l'une des conditions suivantes :

a) il est un bien d'assurance désigné de l'assureur pour une année d'imposition qui, bien que lui appartenant à la fin de l'année d'imposition précédente, n'était pas son bien d'assurance désigné pour cette année précédente,

b) il n'est pas un bien d'assurance désigné pour une année d'imposition, mais appartenait à l'assureur à la fin de l'année d'imposition précédente et était son bien d'assurance désigné pour cette année précédente,

les règles suivantes s'appliquent :

c) l'assureur est réputé avoir disposé du bien au début de l'année pour un produit de disposition égal à sa juste valeur marchande à ce moment et l'avoir acquis de nouveau immédiatement après ce moment à un coût égal à cette juste valeur marchande;

d) en cas d'application de l'alinéa a), le gain ou la perte éventuel découlant de la disposition est réputé ne pas être un gain ou une perte provenant d'un bien d'assurance désigné de l'assureur pour l'année;

e) en cas d'application de l'alinéa b), le gain ou la perte éventuel découlant de la disposition est réputé être un gain ou une perte provenant d'un bien d'assurance désigné de l'assureur pour l'année.

Exclusion from deemed disposition

(11.31) Subsection 138(11.3) does not apply

(a) to deem a disposition in a taxation year of a property of an insurer where subsection 142.5(2) deemed

Exception

(11.31) Le paragraphe (11.3) ne s'applique pas :

a) de manière que le bien d'un assureur soit réputé avoir fait l'objet d'une disposition au cours d'une

the insurer to have disposed of the property in its preceding taxation year; nor

(b) for the purposes of paragraph 20(1)(l), the description of A and paragraph (b) of the description of F in the definition ***undepreciated capital cost*** in subsection 13(21) and the definition ***designated insurance property*** in subsection 138(12).

année d'imposition dans le cas où l'assureur est réputé, par le paragraphe 142.5(2), en avoir disposé au cours de son année d'imposition précédente;

b) dans le cadre de l'alinéa 20(1)l), de l'élément A de la formule figurant à la définition de ***fraction non amortie du coût en capital*** au paragraphe 13(21), de l'alinéa b) de l'élément F de cette formule et de la définition de ***bien d'assurance désigné*** au paragraphe (12).

Deduction of loss

(11.4) Notwithstanding any other provision of this Act, where an insurer has a loss for a taxation year from the disposition, because of subsection 138(11.3), of a property other than a specified debt obligation (as defined in subsection 142.2(1)), and the loss would, but for this subsection, have been deductible in the year, the loss shall be deductible only in the taxation year in which the taxpayer disposes of the property otherwise than because of subsection 138(11.3).

Déduction des pertes

(11.4) Malgré les autres dispositions de la présente loi, la perte qu'un assureur subit pour une année d'imposition lors de la disposition — présumée avoir été effectuée en application du paragraphe (11.3) — d'un bien autre qu'un titre de créance déterminé, au sens du paragraphe 142.2(1), et qui, n'eût été le présent paragraphe, aurait été déductible au cours de l'année n'est déductible qu'au cours de l'année d'imposition pendant laquelle le contribuable a disposé du bien autrement que par suite de l'application du paragraphe (11.3).

(11.41) [Repealed, 1995, c. 21, s. 57(12)]

(11.41) [Abrogé, 1995, ch. 21, art. 57(12)]

Transfer of insurance business by non-resident insurer

(11.5) Where

(a) a non-resident insurer (in this subsection referred to as the "transferor") has, at any time in a taxation year, ceased to carry on all or substantially all of an insurance business carried on by it in Canada in that year,

(b) the transferor has, at that time or within 60 days after that time, transferred all or substantially all of the property (in this subsection referred to as the "transferred property) that is owned by it at that time and that was designated insurance property in respect of the business for the taxation year that, because of paragraph (h), ended immediately before that time

(i) to a corporation (in this subsection referred to as the "transferee") that is a qualified related corporation (within the meaning assigned by subsection 219(8)) of the transferor that began immediately after that time to carry on that insurance business in Canada, and

(ii) for consideration that includes shares of the capital stock of the transferee,

(c) the transferee has, at that time or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the

Transfert d'une entreprise d'assurance par un assureur non-résident

(11.5) Dans le cas où, à la fois :

a) un assureur non-résident — appelé « cédant » au présent paragraphe — cesse, à un moment donné d'une année d'imposition, d'exploiter la totalité, ou presque, d'une entreprise d'assurance au Canada qu'il exploite au cours de l'année;

b) le cédant transfère, à ce moment ou dans les 60 jours qui suivent, à une société (appelée « cessionnaire » au présent paragraphe) qui est pour lui une société liée admissible (au sens du paragraphe 219(8)) et qui, immédiatement après ce moment, commence à exploiter cette entreprise, la totalité ou la presque totalité des biens (appelés « biens transférés » au présent paragraphe) dont il est propriétaire à ce moment et qui étaient des biens d'assurance désignés relatifs à l'entreprise pour l'année d'imposition qui, par l'effet de l'alinéa h), s'est terminée immédiatement avant ce moment, pour une contrepartie qui comprend des actions du capital-actions du cessionnaire;

c) le cessionnaire assume ou réassure, à ce moment ou au cours des 60 jours qui suivent, la totalité, ou presque, des obligations du cédant qui sont survenues dans le cadre de l'exploitation de cette entreprise au Canada;

course of carrying on that insurance business in Canada, and

(d) the transferor and the transferee have jointly elected in prescribed form and in accordance with subsection 138(11.6),

the following rules apply:

(e) subject to paragraph 138(11.5)(k.1), where the fair market value, at that time, of the consideration (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by the transferor for the transferred property does not exceed the total of the cost amounts to the transferor, at that time, of the transferred property, the proceeds of disposition of the transferor and the cost to the transferee of the transferred property shall be deemed to be the cost amount, at that time, to the transferor of the transferred property, and in any other case, the provisions of subsection 85(1) shall be applied in respect of the transfer,

(f) where the provisions of subsection 85(1) are not required to be applied in respect of the transfer, the cost to the transferor of any particular property (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by it as consideration for the transferred property shall be deemed to be the fair market value, at that time, of the particular property,

(g) where the provisions of subsection 85(1) are not required to be applied in respect of the transfer, the cost to the transferor of any shares of the capital stock of the transferee received or receivable by the transferor as consideration for the transferred property shall be deemed to be

(i) where the shares are preferred shares of any class of the capital stock of the transferee, the lesser of

(A) the fair market value of those shares immediately after the transfer of the transferred property, and

(B) the amount determined by the formula

A × B/C

where

A is the amount, if any, by which the proceeds of disposition of the transferor of the transferred property determined under paragraph 138(11.5)(e) exceed the fair market value, at that time, of the consideration (other than shares of the capital stock of the transferee

d) le cédant et le cessionnaire font le choix conformément au paragraphe (11.6) sur le formulaire prescrit,

les règles suivantes s'appliquent :

e) sous réserve de l'alinéa k.1), si la juste valeur marchande, au moment donné, de ce que le cédant reçoit ou peut recevoir en contrepartie des biens transférés — sauf la contrepartie qui consiste en actions du capital-actions du cessionnaire ou en un droit de les recevoir — ne dépasse pas le total des coûts indiqués de ces biens pour le cédant, à ce moment, le produit de disposition de ces biens pour le cédant et leur coût pour le cessionnaire sont réputés être le coût indiqué de ces biens pour le cédant à ce moment; dans les autres cas, le paragraphe 85(1) s'applique au transfert;

f) s'il n'est pas nécessaire d'appliquer le paragraphe 85(1) au transfert, le coût, pour le cédant, de biens donnés — à l'exception d'actions du capital-actions du cessionnaire et d'un droit de les recevoir — qu'il reçoit ou peut recevoir en contrepartie des biens transférés est réputé être la juste valeur marchande des biens donnés, à ce moment;

g) s'il n'est pas nécessaire d'appliquer le paragraphe 85(1) au transfert, le coût, pour le cédant, d'actions du capital-actions du cessionnaire qu'il reçoit ou peut recevoir en contrepartie des biens transférés est réputé être le montant suivant :

(i) s'il s'agit d'actions privilégiées d'une catégorie du capital-actions du cessionnaire, le moins élevé des montants suivants :

(A) la juste valeur marchande de ces actions immédiatement après le transfert,

(B) le montant calculé selon la formule suivante :

A × B/C

où :

A représente l'excédent éventuel du produit de disposition des biens transférés, calculé pour le cédant selon l'alinéa e), sur la juste valeur marchande, au moment donné, de ce que le cédant reçoit ou peut recevoir en contrepartie des biens transférés — sauf la contrepartie qui consiste en actions du capital-actions du cessionnaire ou en un droit de les recevoir,

B la juste valeur marchande, immédiatement après le transfert, de ces actions privilégiées,

or a right to receive any such shares) received or receivable by the transferor for the transferred property,

B is the fair market value, immediately after the transfer of the transferred property, of those preferred shares of that class, and

C is the fair market value, immediately after the transfer of the transferred property, of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property, and

(ii) where the shares are common shares of any class of the capital stock of the transferee, the amount determined by the formula

A × B/C

where

A is the amount, if any, by which the proceeds of disposition of the transferor of the transferred property determined under paragraph 138(11.5)(e) exceed the total of the fair market value, at that time, of the consideration (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by the transferor for the transferred property and the cost to the transferor of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property,

B is the fair market value, immediately after the transfer of the transferred property, of those shares of that class, and

C is the fair market value, immediately after the transfer of the transferred property, of all common shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property,

(h) for the purposes of this Act, the transferor and the transferee shall be deemed to have had taxation years ending immediately before that time and, for the purposes of determining the fiscal periods of the transferor and transferee after that time, they shall be deemed not to have established fiscal periods before that time,

(i) for the purpose of determining the amount of gross investment revenue required by subsection 138(9) to be included in computing the transferor's income for the particular taxation year referred to in paragraph 138(11.5)(h) and its gains and losses from its designated insurance property for its subsequent taxation years, the transferor is deemed to have transferred the

C la juste valeur marchande, immédiatement après le transfert, de toutes les actions privilégiées du capital-actions du cessionnaire que le cédant peut recevoir en contrepartie des biens transférés,

(ii) s'il s'agit d'actions ordinaires d'une catégorie du capital-actions du cédant, le montant calculé selon la formule suivante :

A × B/C

où :

A représente l'excédent éventuel du produit de disposition des biens transférés, calculé pour le cédant selon l'alinéa e), sur le total de la juste valeur marchande, au moment donné, de ce que le cédant reçoit ou peut recevoir en contrepartie des biens transférés — sauf la contrepartie qui consiste en actions du capital-actions du cessionnaire ou en un droit de les recevoir — et du coût, pour le cédant, de toutes les actions privilégiées du capital-actions du cessionnaire qu'il peut recevoir en contrepartie des biens transférés,

B la juste valeur marchande, immédiatement après le transfert, de ces actions ordinaires,

C la juste valeur marchande, immédiatement après le transfert, de toutes les actions ordinaires du capital-actions du cessionnaire que le cédant peut recevoir en contrepartie des biens transférés;

h) pour l'application de la présente loi, le cédant et le cessionnaire sont réputés chacun avoir une année d'imposition se terminant immédiatement avant le moment donné et, pour l'établissement de leurs exercices après ce moment, le cédant et le cessionnaire sont réputés ne pas avoir établi d'exercices avant ce moment;

i) pour le calcul des revenus bruts de placements à inclure, en application du paragraphe (9), dans le calcul du revenu du cédant pour l'année d'imposition donnée visée à l'alinéa h) et de ses gains et pertes résultant de ses biens d'assurance désignés pour ses années d'imposition ultérieures, le cédant est réputé avoir transféré au cessionnaire l'entreprise visée à l'alinéa a), les biens visés à l'alinéa b) et les obligations visées à l'alinéa c) le dernier jour de l'année donnée;

j) pour le calcul du revenu du cédant et du cessionnaire pour leurs années d'imposition postérieures à celles visées à l'alinéa h), les montants déduits par le cédant à titre de provisions en application des alinéas (3)a) (exception faite de ses sous-alinéas (ii.1), (iii) et

business referred to in paragraph 138(11.5)(a), the property referred to in paragraph 138(11.5)(b) and the obligations referred to in paragraph 138(11.5)(c) to the transferee on the last day of the particular year,

(j) for the purpose of determining the income of the transferor and the transferee for their taxation years following their taxation years referred to in paragraph (h), amounts deducted by the transferor as reserves under paragraph (3)(a) (other than under subparagraph (3)(a)(ii.1), (iii) or (v)), paragraphs 20(1)(l) and (l.1) and 20(7)(c) of this Act and section 33 and paragraph 138(3)(c) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in its taxation year referred to in paragraph (h) in respect of the transferred property referred to in paragraph (b) or the obligations referred to in paragraph (c) are deemed to have been deducted by the transferee, and not the transferor, for its taxation year referred to in paragraph (h),

(j.1) for the purpose of determining the income of the transferor and the transferee for their taxation years following their taxation years referred to in paragraph 138(11.5)(h), amounts included under paragraphs 138(4)(b) and 12(1)(e.1) in computing the transferor's income for its taxation year referred to in paragraph 138(11.5)(h) in respect of the insurance policies of the business referred to in paragraph 138(11.5)(a) are deemed to have been included in computing the income of the transferee, and not of the transferor, for their taxation years referred to in paragraph 138(11.5)(h),

(k) for the purposes of this section, sections 12, 12.4, 20, 138.1, 140 and 142, paragraphs 142.4(4)(c) and (d), section 148 and Part XII.3, the transferee is, in its taxation years following its taxation year referred to in paragraph (h), deemed to be the same person as, and a continuation of, the transferor in respect of the business referred to in paragraph (a), the transferred property referred to in paragraph (b) and the obligations referred to in paragraph (c),

(k.1) except for the purpose of this subsection, where the provisions of subsection 85(1) are not required to be applied in respect of the transfer,

(i) the transferor shall be deemed not to have disposed of a transferred property that is a specified debt obligation (other than a mark-to-market property), and

(ii) the transferee shall be deemed, in respect of a transferred property that is a specified debt obligation (other than a mark-to-market property), to be

(v)), 20(1)l) et l.1) et 20(7)c) de la présente loi et de l'article 33 et de l'alinéa 138(3)c) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, pour son année d'imposition visée à l'alinéa h), relativement aux biens transférés visés à l'alinéa b) ou aux obligations visées à l'alinéa c) sont réputés avoir été déduits par le cessionnaire, et non par le cédant, pour son année d'imposition visée à l'alinéa h);

j.1) pour le calcul du revenu du cédant et du cessionnaire pour leur année d'imposition postérieure à celle visée à l'alinéa h), les montants inclus en application des alinéas (4)b) et 12(1)e.1) dans le calcul du revenu du cédant pour son année d'imposition visée à l'alinéa h) relativement aux polices d'assurance de l'entreprise visée à l'alinéa a) sont réputés avoir été inclus dans le calcul du revenu du cessionnaire, et non dans le calcul du revenu du cédant, pour leur année d'imposition visée à l'alinéa h);

k) pour l'application du présent article, des articles 12, 12.4, 20, 138.1, 140 et 142, des alinéas 142.4(4)c) et d), de l'article 148 et de la partie XII.3, le cessionnaire est réputé, pour ses années d'imposition postérieures à celle visée à l'alinéa h), être la même personne que le cédant et en être la continuation quant à l'entreprise visée à l'alinéa a), aux biens transférés visés à l'alinéa b) et aux obligations visées à l'alinéa c);

k.1) sauf pour l'application du présent paragraphe, dans le cas où les dispositions du paragraphe 85(1) n'ont pas à être appliquées au transfert :

(i) le cédant est réputé ne pas avoir disposé d'un bien transféré qui est un titre de créance déterminé autre qu'un bien évalué à la valeur du marché,

(ii) le cessionnaire est réputé, pour ce qui est d'un bien transféré qui est un titre de créance déterminé autre qu'un bien évalué à la valeur du marché, être la même personne que le cédant et en être la continuation,

pour l'application du présent alinéa, ***bien évalué à la valeur du marché*** et ***titre de créance déterminé*** s'entendent au sens du paragraphe 142.2(1);

k.2) pour l'application des paragraphes 112(5) à (5.2) et (5.4) et de la définition de ***bien évalué à la valeur du marché*** au paragraphe 142.2(1), le cessionnaire est réputé, pour ce qui est du bien transféré, être la même personne que le cédant et en être la continuation;

l) pour l'application du présent paragraphe et des paragraphes (11.7) et (11.9), la juste valeur marchande

the same person as, and a continuation of, the transferor,

and for the purpose of this paragraph, ***mark-to-market property*** and ***specified debt obligation*** have the meanings assigned by subsection 142.2(1),

(k.2) for the purposes of subsections 112(5) to 112(5.2) and 112(5.4) and the definition ***mark-to-market property*** in subsection 142.2(1), the transferee shall be deemed, in respect of the transferred property, to be the same person as, and a continuation of, the transferor,

(l) for the purposes of this subsection and subsections (11.7) and (11.9), the fair market value of consideration received by the transferor from the transferee in respect of the assumption or reinsurance of a particular obligation referred to in paragraph (c) is deemed to be the total of the amounts deducted by the transferor as a reserve under paragraph (3)(a) (other than under subparagraph (3)(a)(ii.1), (iii) or (v)) and paragraph 20(7)(c) in its taxation year referred to in paragraph (h) in respect of the particular obligation, and

(m) for the purpose of computing the income of the transferor or the transferee for their taxation years following their taxation years referred to in paragraph 138(11.5)(h),

(i) an amount in respect of a reinsurance premium paid or payable by the transferor to the transferee in respect of the obligations referred to in paragraph 138(11.5)(c), or

(ii) an amount in respect of a reinsurance commission paid or payable by the transferee to the transferor in respect of the amount referred to in subparagraph 138(11.5)(m)(i)

under a reinsurance arrangement undertaken to effect the transfer of the insurance business to which this subsection applied shall be included or deducted, as the case may be, only to the extent that may be reasonably regarded as necessary to determine the appropriate amount of income of both the transferor and the transferee.

de la contrepartie que le cédant a reçue du cessionnaire pour la prise en charge ou la réassurance d'une obligation visée à l'alinéa c) est réputée correspondre au total des montants déduits par le cédant à titre de provisions en application des alinéas (3)a) (exception faite de ses sous-alinéas (ii.1), (iii) et (v)) et 20(7)c) pour son année d'imposition visée à l'alinéa h) relativement à cette obligation;

m) pour le calcul du revenu du cédant et du cessionnaire pour leurs années d'imposition postérieures à celles visées à l'alinéa h), les montants suivants doivent être inclus ou déduits, selon le cas, uniquement dans la mesure où il est raisonnable de les considérer comme nécessaires au calcul du revenu du cédant et du cessionnaire :

(i) la prime de réassurance payée ou payable par le cédant au cessionnaire, au titre des obligations visées à l'alinéa c), dans le cadre d'une convention de réassurance conclue pour effectuer le transfert de l'entreprise d'assurance à laquelle le présent paragraphe s'applique,

(ii) la commission de réassurance payée ou payable par le cessionnaire au cédant, au titre de la prime de réassurance visée au sous-alinéa (i), dans le cadre de la convention de réassurance visée à ce sous-alinéa.

Time of election

(11.6) Any election under subsection 138(11.5) shall be made on or before the day that is the earliest of the days on or before which any taxpayer making the election is required to file a return of income pursuant to section 150 for the taxation year in which the transactions to which the election relates occurred.

Date du choix

(11.6) Tout choix prévu au paragraphe (11.5) doit être fait au plus tard à la date où tout contribuable faisant le choix doit, le premier, produire une déclaration de revenu en vertu de l'article 150 pour l'année d'imposition au cours de laquelle surviennent les opérations qui font l'objet du choix.

Computation of paid-up capital

(11.7) Where, after December 15, 1987, subsection 138(11.5) is applicable in respect of a transfer of property by a non-resident insurer to a qualified related corporation of the insurer and the provisions of subsection 85(1) were not required to be applied in respect of the transfer, the following rules apply:

(a) in computing the paid-up capital, at any time after the transfer, in respect of any particular class of shares of the capital stock of the qualified related corporation, there shall be deducted an amount determined by the formula

(A - B) × C/A

where

A is the increase, if any, determined without reference to this subsection as it applies to the transfer, in the paid-up capital in respect of all the shares of the capital stock of the corporation as a result of the transfer,

B is the amount, if any, by which the cost of the transferred property to the corporation, immediately after the transfer, exceeds the fair market value, immediately after the transfer, of any consideration (other than shares of the capital stock of the corporation) received or receivable by the insurer from the corporation for the property, and

C is the increase, if any, determined without reference to this subsection as it applies to the transfer, in the paid-up capital in respect of the particular class of shares as a result of the acquisition by the corporation of the transferred property; and

(b) in computing the paid-up capital, at any time after December 15, 1987, in respect of any particular class of shares of the capital stock of the qualified related corporation, there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid after December 15, 1987 and before that time by the corporation

exceeds

(B) the total of such dividends that would have been determined under clause 138(11.7)(b)(i)(A) if this Act were read without reference to paragraph 138(11.7)(a), and

Calcul du capital versé

(11.7) Les règles suivantes s'appliquent si, après le 15 décembre 1987, le paragraphe (11.5) s'applique à un transfert de biens par un assureur non-résident en faveur d'une société liée admissible de l'assureur et s'il n'est pas nécessaire d'appliquer le paragraphe 85(1) au transfert :

a) le montant calculé selon la formule suivante est déduit dans le calcul du capital versé, à un moment donné après le transfert, au titre d'une catégorie donnée d'actions du capital-actions de la société liée admissible :

(A - B) × C/A

où :

A représente l'augmentation — conséquence du transfert — du capital versé au titre de toutes les actions du capital-actions de la société, calculée compte non tenu du présent paragraphe tel qu'il s'applique au transfert,

B l'excédent éventuel du coût des biens transférés pour la société immédiatement après le transfert sur la juste valeur marchande, immédiatement après le transfert, de tout contrepartie (à l'exclusion des actions du capital-actions de la société) que l'assureur a reçue ou peut recevoir de la société pour les biens,

C l'augmentation — conséquence de l'acquisition des biens transférés par la société — du capital versé au titre de la catégorie donnée d'actions, calculée compte non tenu du présent paragraphe tel qu'il s'applique au transfert;

b) le moindre des montants suivants est ajouté dans le calcul du capital versé, à un moment donné postérieur au 15 décembre 1987, au titre d'une catégorie donnée d'actions du capital-actions de la société liée admissible :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant réputé, selon le paragraphe 84(3), (4) ou (4.1), être un dividende sur des actions de cette catégorie que la société a versé après le 15 décembre 1987 et avant ce moment,

(B) le total de ces dividendes calculé selon la division (A) et compte non tenu de l'alinéa a),

(ii) le total des montants dont chacun représente un montant à déduire selon l'alinéa a) dans le calcul

(ii) the total of all amounts each of which is an amount required by paragraph 138(11.7)(a) to be deducted in computing the paid-up capital in respect of that class of shares after December 15, 1987 and before that time.

du capital versé au titre de cette catégorie d'actions après le 15 décembre 1987 et avant ce moment.

Rules on transfers of depreciable property

(11.8) Where

(a) subsection 138(11.5) is applicable in respect of a transfer of depreciable property by a non-resident insurer to a qualified related corporation,

(b) the provisions of subsection 85(1) were not required to be applied in respect of the transfer, and

(c) the capital cost to the insurer of the depreciable property exceeds its proceeds of disposition therefor,

for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a), the following rules apply:

(d) the capital cost of the depreciable property to the corporation shall be deemed to be the amount that was the capital cost thereof to the insurer, and

(e) the excess shall be deemed to have been allowed to the corporation in respect of the property under regulations made under paragraph 20(1)(a) in computing its income for taxation years ending before the transfer.

Règles sur les transferts de biens amortissables

(11.8) Pour l'application des articles 13 et 20 et des dispositions réglementaires prises en vertu de l'alinéa 20(1)a), si le paragraphe (11.5) s'applique à un transfert de biens amortissables par un assureur non-résident en faveur d'une société liée admissible, s'il n'est pas nécessaire d'appliquer le paragraphe 85(1) au transfert et si le coût en capital de ces biens pour l'assureur excède leur produit de disposition, les règles suivantes s'appliquent :

a) le coût en capital des biens amortissables pour la société est réputé être le coût en capital de ces biens pour l'assureur;

b) cet excédent est réputé avoir été déduit par la société au titre des biens selon les dispositions réglementaires prises en vertu de l'alinéa 20(1)a) dans le calcul du revenu de la société pour les années d'imposition se terminant avant le transfert.

Computation of contributed surplus

(11.9) Where, after December 15, 1987, subsection 138(11.5) or 85(1) is applicable in respect of a transfer of property by a person or partnership to an insurance corporation resident in Canada and

(a) the total of

(i) the fair market value, immediately after the transfer, of any consideration (other than shares of the capital stock of the corporation) received or receivable by the person or partnership from the corporation for the transferred property,

(ii) the increase, if any, in the paid-up capital of all the shares of the capital stock of the corporation (determined without reference to subsection 138(11.7) or 85(2.1) as it applies in respect of the transfer) arising on the transfer, and

(iii) the increase, if any, in the contributed surplus of the corporation (determined without reference to this subsection as it applies in respect of the transfer) arising on the transfer

Calcul du surplus d'apport

(11.9) Pour l'application de l'alinéa 84(1)c.1) et des paragraphes 219(5.2) et (5.3), si, après le 15 décembre 1987, le paragraphe (11.5) ou 85(1) s'applique à un transfert de biens par une personne ou société de personnes en faveur d'une compagnie d'assurance résidant au Canada, le surplus d'apport de la compagnie découlant du transfert est réputé être l'excédent éventuel du surplus d'apport calculé par ailleurs sur l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants suivants :

(i) la juste valeur marchande, immédiatement après le transfert, de toute contrepartie (à l'exclusion d'actions du capital-actions de la compagnie) que la personne ou société de personnes a reçue ou peut recevoir de la compagnie pour les biens transférés,

(ii) l'augmentation — conséquence du transfert — du capital versé au titre de toutes les actions du capital-actions de la compagnie, calculée compte non

exceeds

(b) the total of

(i) the total of all amounts each of which is an amount required to be deducted in computing the paid-up capital of a class of shares of the capital stock of the corporation under subsection 138(11.7) or 85(2.1), as the case may be, as it applies in respect of the transfer, and

(ii) the cost to the corporation of the transferred property,

for the purposes of paragraph 84(1)(c.1) and subsections 219(5.2) and 219(5.3), the contributed surplus of the corporation arising on the transfer shall be deemed to be the amount, if any, by which the amount of the contributed surplus otherwise determined exceeds the amount, if any, by which the total determined under paragraph 138(11.9)(a) exceeds the total determined under paragraph 138(11.9)(b).

tenu du paragraphe (11.7) ou 85(2.1) tel qu'il s'applique au transfert,

(iii) l'augmentation — conséquence du transfert — du surplus d'apport de la compagnie, calculée compte non tenu du présent paragraphe tel qu'il s'applique au transfert;

b) le total des montants suivants :

(i) l'ensemble des montants dont chacun représente un montant à déduire dans le calcul du capital versé au titre d'une catégorie d'actions du capital-actions de la compagnie en vertu du paragraphe (11.7) ou 85(2.1) tel qu'il s'applique au transfert,

(ii) le coût des biens transférés pour la compagnie.

Computation of income of non-resident insurer

(11.91) Where, at any time in a particular taxation year,

(a) a non-resident insurer carries on an insurance business in Canada, and

(b) immediately before that time, the insurer was not carrying on an insurance business in Canada or ceased to be exempt from tax under this Part on any income from such business by reason of any Act of Parliament or anything approved, made or declared to have the force of law thereunder,

for the purpose of computing the income of the insurer for the particular taxation year,

(c) the insurer shall be deemed to have had a taxation year ending immediately before the commencement of the particular taxation year,

(d) for the purposes of paragraph (4)(a), subsection (9), the definition ***designated insurance property*** in subsection (12) and paragraphs 12(1)(d) and (e), the insurer is deemed to have carried on the business in Canada in that preceding year and to have claimed the maximum amounts to which it would have been entitled under paragraphs (3)(a) (other than under subparagraph (3)(a)(ii.1), (iii) or (v)), 20(1)(l) and (l.1) and 20(7)(c) for that year,

(d.1) for the purposes of subsection 20(22) and subparagraph 138(3)(a)(ii.1),

Calcul du revenu d'un assureur non-résident

(11.91) Si, à un moment donné d'une année d'imposition donnée, un assureur non-résident commence à exploiter une entreprise d'assurance au Canada et si, immédiatement avant ce moment, l'assureur n'exploitait pas une telle entreprise ou avait cessé, en application d'une loi fédérale ou de tout texte pris ou approuvé en vertu d'une telle loi et ayant force de loi, d'être exonéré de l'impôt prévu à la présente partie sur tout revenu tiré d'une telle entreprise, les présomptions suivantes s'appliquent au calcul de son revenu pour l'année donnée :

a) l'assureur est réputé avoir une année d'imposition se terminant immédiatement avant le début de l'année donnée;

b) pour l'application de l'alinéa (4)a), du paragraphe (9), de la définition de ***bien d'assurance désigné*** au paragraphe (12) et des alinéas 12(1)d) et e), l'assureur est réputé avoir exploité l'entreprise au Canada au cours de cette année précédente et avoir déduit le montant maximal auquel il aurait eu droit en application des alinéas (3)a) (exception faite de ses sous-alinéas (ii.1), (iii) et (v)), 20(1)l) et l.1) et 20(7)c) pour cette année;

b.1) pour l'application du paragraphe 20(22) et du sous-alinéa (3)a)(ii.1):

(i) l'assureur est réputé avoir exploité l'entreprise d'assurance au Canada au cours de l'année d'imposition précédente visée à l'alinéa a),

(i) the insurer is deemed to have carried on the business referred to in paragraph 138(11.91)(a) in Canada in the preceding taxation year referred to in paragraph 138(11.91)(c), and

(ii) the amounts, if any, that would have been prescribed in respect of the insurer for the purposes of paragraphs 138(4)(b) and 12(1)(e.1) for that preceding year in respect of the insurance policies of that business are deemed to have been included in computing its income for that year, and

(e) the insurer is deemed to have disposed, immediately before the beginning of the particular taxation year, of each property owned by it at that time that is designated insurance property in respect of the business referred to in paragraph (a) for the particular taxation year, for proceeds of disposition equal to the fair market value at that time and to have reacquired, at the beginning of the particular taxation year, the property at a cost equal to that fair market value.

(f) [Repealed, 2013, c. 34, s. 286]

(ii) les montants éventuels qui auraient été visés par règlement quant à l'assureur pour l'application des alinéas (4)b) et 12(1)e.1) pour cette année précédente relativement aux polices d'assurance de l'entreprise sont réputés avoir été inclus dans le calcul du revenu de l'assureur pour cette année;

c) l'assureur est réputé avoir disposé, immédiatement avant le début de l'année donnée, de chaque bien qui lui appartenait à ce moment et qui est un bien d'assurance désigné relatif à l'entreprise d'assurance au Canada pour cette année, pour un produit de disposition égal à la juste valeur marchande du bien à ce moment, et l'avoir acquis de nouveau, au début de l'année donnée, à un coût égal à cette juste valeur marchande.

d) [Abrogé, 2013, ch. 34, art. 286]

Computation of income where insurance business is transferred

(11.92) Where, at any time in a taxation year, an insurer (in this subsection referred to as the "vendor") has disposed of

(a) all or substantially all of an insurance business carried on by it in Canada, or

(b) all or substantially all of a line of business of an insurance business carried on by it in Canada

to a person (in this subsection referred to as the "purchaser") and obligations in respect of the business or line of business, as the case may be, in respect of which a reserve may be claimed under subparagraph 138(3)(a)(i) or 138(3)(a)(ii) or paragraph 20(7)(c) (in this subsection referred to as the "obligations") were assumed by the purchaser, the following rules apply:

(c) for the purpose of determining the amount of the gross investment revenue required to be included in computing the income of the vendor and the purchaser under subsection 138(9) and the amount of the gains and losses of the vendor and the purchaser from designated insurance property for the year

(i) the vendor and the purchaser shall, in addition to their normal taxation years, be deemed to have had a taxation year ending immediately before that time, and

Calcul du revenu en cas de transfert d'une entreprise d'assurance

(11.92) Dans le cas où un assureur — appelé « vendeur » au présent paragraphe — dispose, à un moment donné d'une année d'imposition, de la totalité, ou presque, soit d'une entreprise d'assurance qu'il exploite au Canada, soit d'une branche d'activité d'une entreprise d'assurance qu'il exploite au Canada, en faveur d'une personne — appelée « acheteur » au présent paragraphe — et où l'acheteur assume des obligations relatives à l'entreprise ou à la branche d'activité, selon le cas, au titre desquelles une provision est déductible en application du sous-alinéa (3)a)(i) ou (ii) ou de l'alinéa 20(7)c), les présomptions suivantes s'appliquent :

a) pour le calcul des revenus de placements bruts à inclure, en application du paragraphe (9), dans le calcul du revenu du vendeur et de l'acheteur et de leurs gains et pertes résultant de biens d'assurance désignés pour l'année;

(i) le vendeur et l'acheteur sont réputés avoir, outre leur année d'imposition normale, une année d'imposition se terminant immédiatement avant ce moment,

(ii) pour les années d'imposition du vendeur et de l'assureur suivant ce moment, l'entreprise ou la branche d'activité, selon le cas, dont le vendeur dispose en faveur de l'acheteur et les obligations que celui-ci assume sont réputées faire l'objet d'une disposition ou être assumées, selon le cas, le dernier

(ii) for the taxation years of the vendor and the purchaser following that time, the business or line of business, as the case may be, disposed of to, and the obligations assumed by, the purchaser shall be deemed to have been disposed of or assumed, as the case may be, on the last day of the taxation year referred to in subparagraph 138(11.92)(c)(i),

(d) for the purpose of computing the income of the vendor and the purchaser for taxation years ending after that time,

(i) an amount paid or payable by the vendor to the purchaser in respect of the obligations, or

(ii) an amount in respect of a commission paid or payable by the purchaser to the vendor in respect of the amount referred to in subparagraph 138(11.92)(d)(i)

shall be deemed to have been paid or payable or received or receivable, as the case may be, by the vendor or the purchaser, as the case may be, in the course of carrying on the business or line of business, as the case may be, and

(e) where the vendor has disposed of all or substantially all of an insurance business referred to in paragraph 138(11.92)(a), the vendor shall, for the purposes of section 219, be deemed to have ceased to carry on that business at that time.

jour de l'année d'imposition visée au sous-alinéa (i);

b) pour le calcul du revenu du vendeur et de l'acheteur pour les années d'imposition se terminant après ce moment, les montants suivants sont réputés être payés ou payables ou reçus ou à recevoir par le vendeur ou l'acheteur dans le cadre de l'exploitation de l'entreprise ou de la branche d'activité :

(i) le montant payé ou payable par le vendeur à l'acheteur au titre des obligations,

(ii) la commission payée ou payable par l'acheteur au vendeur au titre du montant visé au sous-alinéa (i);

c) le vendeur qui dispose de la totalité, ou presque, d'une entreprise d'assurance au Canada est réputé, pour l'application de l'article 219, cesser d'exploiter cette entreprise à ce moment.

Property acquired on default in payment

(11.93) Where, at any time in a taxation year of an insurer, the beneficial ownership of property is acquired or reacquired by the insurer in consequence of the failure to pay all or any part of an amount (in this subsection referred to as the "insurer's claim") owing to the insurer at that time in respect of a bond, debenture, mortgage, hypothecary claim, agreement of sale or any other form of indebtedness owned by the insurer, the following rules apply to the insurer:

(a) section 79.1 does not apply in respect of the acquisition or reacquisition;

(b) the insurer shall be deemed to have acquired or reacquired, as the case may be, the property at an amount equal to the fair market value of the property, immediately before that time;

(c) the insurer shall be deemed to have disposed at that time of the portion of the indebtedness represented by the insurer's claim for proceeds of disposition equal to that fair market value and, immediately after

Bien acquis en cas de défaut de paiement

(11.93) Dans le cas où, à un moment donné de l'année d'imposition d'un assureur, la propriété effective d'un bien est acquise ou acquise de nouveau par suite du défaut de payer tout ou partie d'un montant (appelé « créance de l'assureur » au présent paragraphe) dû à l'assureur à ce moment au titre d'une obligation, d'une créance hypothécaire, d'une convention de vente ou d'une autre créance de l'assureur, les règles suivantes s'appliquent :

a) l'article 79.1 ne s'applique pas à l'acquisition ou à la nouvelle acquisition;

b) l'assureur est réputé avoir acquis le bien ou l'avoir acquis de nouveau pour un montant égal à sa juste valeur marchande immédiatement avant ce moment;

c) l'assureur est réputé avoir disposé, à ce moment, de la partie de la créance que représente la créance de l'assureur pour un produit de disposition égal à cette juste valeur marchande et avoir acquis de nouveau, immédiatement après ce moment, cette partie de créance à un coût nul;

that time, to have reacquired that portion of the indebtedness at a cost of nil;

(d) the acquisition or reacquisition shall be deemed to have no effect on the form of the indebtedness; and

(e) in computing the insurer's income for the year or a subsequent taxation year, no amount is deductible under paragraph 20(1)(l) in respect of the insurer's claim.

d) l'acquisition ou la nouvelle acquisition est réputée être sans effet sur la forme de la créance;

e) aucun montant n'est déductible au titre de la créance de l'assureur en application de l'alinéa 20(1)l) dans le calcul du revenu de l'assureur pour l'année ou pour une année d'imposition postérieure.

Transfer of insurance business by resident insurer

(11.94) Where

(a) an insurer resident in Canada (in this subsection referred to as the "transferor") has, at any time in a taxation year, ceased to carry on all or substantially all of an insurance business carried on by it in Canada in that year,

(b) the transferor has, at that time or within 60 days after that time,

(i) in the case of a transferor that is a life insurer and that carries on an insurance business in Canada and in a country other than Canada in the year, transferred all or substantially all of the property (in subsection (11.5) referred to as the "transferred property") that is owned by it at that time and that was designated insurance property in respect of the business for the taxation year that, because of paragraph (11.5)(h), ended immediately before that time, or

(ii) in any other case, transferred all or substantially all of the property owned by it at that time and used by it in the year in, or held by it in the year in the course of, carrying on that insurance business in Canada in that year (in subsection (11.5) referred to as the "transferred property")

to a corporation resident in Canada (in this subsection referred to as the "transferee") that is a qualified related corporation (within the meaning assigned by subsection 219(8)) of the transferor that, immediately after that time, began to carry on that insurance business in Canada for consideration that includes shares of the capital stock of the transferee,

(c) the transferee has, at that time or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor that arose in the course of carrying on that insurance business in Canada, and

Transfert d'une entreprise d'assurance par un assureur résidant

(11.94) Les alinéas (11.5)e) à m) et les paragraphes (11.7) à (11.9) s'appliquent dans le cas où, à la fois :

a) un assureur résidant au Canada — appelé « cédant » au présent paragraphe — cesse, à un moment donné d'une année d'imposition, d'exploiter la totalité, ou presque, d'une entreprise d'assurance qu'il exploitait au Canada au cours de cette année;

b) le cédant transfère, à ce moment ou dans les 60 jours qui suivent, à une société résidant au Canada (appelée « cessionnaire » au présent paragraphe) qui est sa société liée admissible, au sens du paragraphe 219(8), et qui, immédiatement après ce moment, commence à exploiter cette entreprise, les biens ci-après, pour une contrepartie qui comprend des actions du capital-actions du cessionnaire :

(i) si le cédant est un assureur sur la vie qui exploite une entreprise d'assurance au Canada et à l'étranger au cours de l'année, la totalité ou la presque totalité des biens (appelés « biens transférés » au paragraphe (11.5)) qui lui appartiennent à ce moment et qui étaient des biens d'assurance désignés relatifs à l'entreprise pour l'année d'imposition qui, par l'effet de l'alinéa (11.5)h), s'est terminée immédiatement avant ce moment,

(ii) dans les autres cas, la totalité ou la presque totalité des biens lui appartenant à ce moment qu'il utilise ou détient pendant l'année dans le cadre de l'exploitation de cette entreprise d'assurance au Canada au cours de cette année (appelés « biens transférés » au paragraphe (11.5));

c) le cessionnaire assume ou réassure, à ce moment ou au cours des 60 jours qui suivent, la totalité, ou presque, des obligations du cédant survenues dans le cadre de l'exploitation de cette entreprise;

d) le cédant et le cessionnaire font le choix prévu au paragraphe (11.6) sur le formulaire prescrit.

(d) the transferor and the transferee have jointly elected in prescribed form and in accordance with subsection 138(11.6),

paragraphs 138(11.5)(e) to 138(11.5)(m) and subsections 138(11.7) to 138(11.9) apply in respect of the transfer.

Definitions

(12) In this section,

accumulated 1968 deficit [Repealed, 1997, c. 25, s. 39(16)]

amount payable, in respect of a policy loan at a particular time, means the amount of the policy loan and the interest thereon that is outstanding at that time; (*montant payable*)

base year of a life insurer means the life insurer's taxation year that immediately precedes its transition year; (*année de base*)

Canada security [Repealed, 1995, c. 21, s. 57(15)]

cost [Repealed, 1995, c. 21, s. 57(15)]

deposit accounting insurance policy in respect of a life insurer's taxation year means an insurance policy of the life insurer that, according to generally accepted accounting principles, is not an insurance contract for that taxation year; (*police d'assurance à comptabilité de dépôt*)

designated insurance property for a taxation year of an insurer (other than an insurer resident in Canada that at no time in the year carried on a life insurance business) that, at any time in the year, carried on an insurance business in Canada and in a country other than Canada, means property determined in accordance with prescribed rules except that, in its application to any taxation year, ***designated insurance property*** for the 1998 or a preceding taxation year means property that was, under this subsection as it read in its application to taxation years that ended in 1996, property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada; (*bien d'assurance désigné*)

excluded policy in respect of a life insurer's base year means an insurance policy of the life insurer that would be a deposit accounting insurance policy for the life insurer's base year if the International Financial Reporting Standards adopted by the Accounting Standards Board and effective as of January 1, 2011 applied for that base year; (*police exclue*)

Définitions

(12) Les définitions qui suivent s'appliquent au présent article.

année de base L'année d'imposition d'un assureur sur la vie qui précède son année transitoire. (*base year*)

année transitoire

a) En ce qui concerne les normes comptables adoptées par le Conseil des normes comptables qui sont en vigueur à compter du 1er octobre 2006, la première année d'imposition d'un assureur sur la vie qui commence après septembre 2006;

b) en ce qui concerne les normes internationales d'information financière (IFRS) adoptées par le Conseil des normes comptables qui sont en vigueur à compter du 1er janvier 2011, la première année d'imposition d'un assureur sur la vie qui commence après 2010;

c) en ce qui concerne la modification de l'alinéa 1406b) du *Règlement de l'impôt sur le revenu*, en vigueur à compter de l'année d'imposition 2012 d'un assureur sur la vie, l'année d'imposition 2012 de l'assureur. (*transition year*)

autorité compétente [Abrogée, 1997, ch. 25, art. 39(16)]

avance sur police Avance qu'un assureur consent, à un moment donné, à un titulaire de police conformément aux modalités d'une police d'assurance-vie au Canada. (*policy loan*)

bien d'assurance désigné En ce qui concerne l'année d'imposition d'un assureur (sauf celui résidant au Canada qui n'a exploité d'entreprise d'assurance-vie à aucun moment de l'année) qui, au cours de l'année, exploite une entreprise d'assurance au Canada et à l'étranger, bien déterminé en conformité avec les règles prévues par règlement. Toutefois, pour son application à une année d'imposition, l'expression ***bien d'assurance désigné*** pour l'année d'imposition 1998 ou une année d'imposition antérieure s'entend d'un bien qui était, aux termes du présent paragraphe dans sa version applicable aux années d'imposition terminées en 1996, un bien utilisé ou détenu pendant l'année par un assureur dans le cadre de l'exploitation d'une entreprise d'assurance au Canada. (*designated insurance property*)

gross investment revenue of an insurer for a taxation year means the amount determined by the formula

A + B + C + D + E + F - G

where

A is the total of the following amounts included in its gross revenue for the year:

(a) taxable dividends, and

(b) amounts received or receivable as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties, other than amounts in respect of debt obligations to which subsection 142.3(1) applies for the year,

B is its income for the year from each trust of which it is a beneficiary,

C is its income for the year from each partnership of which it is a member,

D is the total of all amounts required by subsection 16(1) to be included in computing its income for the year,

E is the total of

(a) all amounts required by paragraph 142.3(1)(a) to be included in computing its income for the year, and

(b) all amounts required by subsection 12(3) or 20(14) to be included in computing its income for the year except to the extent that those amounts are included in the computation of A,

F is the amount determined by the formula

V - W

where

V is the total of all amounts included under paragraph 56(1)(d) in computing its income for the year, and

W is the total of all amounts deducted under paragraph 60(a) in computing its income for the year;

and

G is the total of all amounts each of which is

(a) an amount deemed by subparagraph 16(6)(a)(ii) to be paid by it in respect of the year as interest, or

(b) an amount deductible under paragraph 142.3(1)(b) in computing its income for the year; (*revenus bruts de placements*)

interest, in relation to a policy loan, means the amount in respect of the policy loan that is required to be paid

biens non réservés Biens d'un assureur autres que les biens inclus dans un fonds réservé. (*non-segregated property*)

biens utilisés ou détenus par lui pendant l'année [Abrogée, 1997, ch. 25, art. 39(16)]

coût [Abrogée, 1995, ch. 21, art. 57(15)]

déficit accumulé pour 1968 [Abrogée, 1997, ch. 25, art. 39(16)]

excédent de la déduction au titre de participations de polices en 1975-76 [Abrogée, 2013, ch. 34, art. 286]

excédent de la déduction pour amortissement en 1975-76 [Abrogée, 2013, ch. 34, art. 286]

excédent de la provision pour fluctuation des valeurs en 1975-76 [Abrogée, 2013, ch. 34, art. 286]

excédent de la provision pour participations de polices en 1975-76 [Abrogée, 2013, ch. 34, art. 286]

excédent de la provision supplémentaire pour polices collectives d'assurance temporaire en 1975-76 [Abrogée, 2013, ch. 34, art. 286]

excédent des provisions pour polices en 1975-76 [Abrogée, 2013, ch. 34, art. 286]

fonds excédentaire résultant de l'activité Le fonds excédentaire résultant de l'activité d'un assureur à la fin d'une année d'imposition donnée correspond au montant calculé selon la formule suivante :

(A + B + C) – (D + E + F + G)

où :

A représente le total des revenus de l'assureur, pour chaque année d'imposition comprise dans la période commençant par son année d'imposition 1969 et se terminant par l'année en question, tirés de toutes les entreprises d'assurance qu'il exploitait;

B le total des sommes dont chacune représente une partie de la perte autre qu'une perte en capital qui était réputée, en vertu du paragraphe 111(7.1) dans sa version applicable à l'année d'imposition 1976, avoir été déductible dans le calcul du revenu de l'assureur pour une année d'imposition ayant pris fin avant 1977;

C le total des bénéfices ou gains qu'a réalisés l'assureur au cours de cette période relativement à des biens non réservés dont il a disposé et utilisés ou détenus par lui dans le cadre de l'exploitation d'une entreprise d'assurance au Canada, sauf dans la mesure où

under the terms and conditions of the policy in order to maintain the policyholder's interest in the policy; (*intérêt*)

life insurance policy includes an annuity contract and a contract all or any part of the insurer's reserves for which vary in amount depending on the fair market value of a specified group of assets; (*police d'assurance-vie*)

life insurance policy in Canada means a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected; (*police d'assurance-vie au Canada*)

maximum tax actuarial reserve for a particular class of life insurance policy for a taxation year of a life insurer means, except as otherwise expressly prescribed, the maximum amount allowable under subparagraph 138(3)(a)(i) as a policy reserve for the year in respect of policies of that class; (*provision actuarielle maximale aux fins d'impôt*)

1975 branch accounting election deficiency [Repealed, 2013, c. 34, s. 286]

1975-76 excess additional group term reserve [Repealed, 2013, c. 34, s. 286]

1975-76 excess capital cost allowance [Repealed, 2013, c. 34, s. 286]

1975-76 excess investment reserve [Repealed, 2013, c. 34, s. 286]

1975-76 excess policy dividend deduction [Repealed, 2013, c. 34, s. 286]

1975-76 excess policy dividend reserve [Repealed, 2013, c. 34, s. 286]

1975-76 excess policy reserves [Repealed, 2013, c. 34, s. 286]

non-segregated property of an insurer means its property other than property included in a segregated fund; (*biens non réservés*)

participating life insurance policy means a life insurance policy under which the policyholder is entitled to share (other than by way of an experience rating refund) in the profits of the insurer other than profits in respect of property in a segregated fund; (*police d'assurance-vie avec participation*)

policy loan means an amount advanced at a particular time by an insurer to a policyholder in accordance with

ces bénéfices ou gains ont été ou sont inclus dans le calcul du revenu ou déficit de l'assureur pour toute année d'imposition comprise dans cette période, provenant de l'exploitation d'une entreprise d'assurance;

D le total des pertes de l'assureur pour chaque année d'imposition comprise dans cette période, provenant des entreprises d'assurance qu'il exploitait;

E le total des pertes subies par l'assureur au cours de cette période relativement à des biens non réservés dont il a disposé et utilisés ou détenus par lui dans le cadre de l'exploitation d'une entreprise d'assurance au Canada, sauf dans la mesure où ces pertes ont été ou sont incluses dans le calcul de tout revenu ou perte de l'assureur pour toute année d'imposition comprise dans cette période, provenant de l'exploitation d'une entreprise d'assurance;

F le total des montants suivants :

a) les impôts payables par l'assureur en vertu de la présente partie, plus l'impôt sur le revenu payable par lui en vertu des lois de chacune des provinces, pour chaque année d'imposition de la période, à l'exception de la fraction de ces impôts qui, n'eût été le paragraphe (7), n'aurait pas été payable par lui,

b) les impôts payables par l'assureur en vertu des parties I.3 et VI pour chaque année d'imposition de la période,

G le total des dons que l'assureur a faits au cours de la période considérée à un donataire reconnu. (*surplus funds derived from operations*)

fonds réservé S'entend au sens du paragraphe 138.1(1). (*segregated fund*)

insuffisance résultant de l'exercice du choix, pour 1975, de la méthode de comptabilité de succursale [Abrogée, 2013, ch. 34, art. 286]

intérêt S'agissant de l'intérêt relatif à une avance sur police, le montant relatif à l'avance sur police et qui doit être payé conformément aux modalités de la police afin que le titulaire puisse conserver son intérêt dans la police. (*interest*)

montant payable S'agissant du montant payable, à un moment donné, à l'égard d'une avance sur police, le montant de l'avance sur police et de l'intérêt y afférent qui est exigible à ce moment. (*amount payable*)

the terms and conditions of a life insurance policy in Canada; (*avance sur police*)

property used by it in the year in, or held by it in the year in the course of [Repealed, 1997, c. 25, s. 39(16)]

qualified related corporation of a non-resident insurer has the meaning assigned by subsection 219(8); (*société liée admissible*)

relevant authority [Repealed, 1997, c. 25, s. 39(16)]

reserve transition amount of a life insurer, in respect of a life insurance business carried on by it in Canada in its transition year, is the positive or negative amount determined by the formula

A – B

where

A is the maximum amount that the life insurer would be permitted to claim under subparagraph 138(3)(a)(i) (and that would be prescribed by section 1404 of the Regulations for the purpose of subparagraph 138(3)(a)(i)) as a policy reserve for its base year in respect of its life insurance policies in Canada if

(a) the generally accepted accounting principles that applied to the life insurer in valuing its assets and liabilities for its transition year had applied to it for its base year, and

(b) section 1404 of the Regulations were read in respect of the life insurer's base year as it reads in respect of its transition year, and

B is the maximum amount that the life insurer is permitted to claim under subparagraph 138(3)(a)(i) as a policy reserve for its base year; (*montant transitoire*)

segregated fund has the meaning given that expression in subsection 138.1(1); (*fonds réservé*)

surplus funds derived from operations of an insurer as of the end of a particular taxation year means the amount determined by the formula

(A + B + C) – (D + E + F + G)

where

A is the total of the insurer's income for each taxation year in the period beginning with its 1969 taxation year and ending with the particular year from all insurance businesses carried on by it,

B is the total of all amounts each of which is a portion of a non-capital loss that was deemed by subsection

montant transitoire Le montant transitoire d'un assureur sur la vie relativement à une entreprise d'assurance-vie qu'il exploite au Canada au cours de son année transitoire correspond à la somme positive ou négative obtenue par la formule suivante :

A – B

où :

A représente la somme maximale que l'assureur pourrait déduire en application du sous-alinéa 138(3)a)(i) (et qui serait visée à l'article 1404 du *Règlement de l'impôt sur le revenu* pour l'application de ce sous-alinéa) à titre de provision technique pour son année de base relativement à ses polices d'assurance-vie au Canada si, à la fois :

a) les principes comptables généralement reconnus qui se sont appliqués à lui aux fins d'évaluation de ses actif et passif pour son année transitoire s'étaient appliqués à lui pour son année de base;

b) l'article 1404 du *Règlement de l'impôt sur le revenu*, dans sa version applicable à l'année transitoire de l'assureur, s'appliquait à son année de base;

B la somme maximale que l'assureur peut déduire en application du sous-alinéa 138(3)a)(i) à titre de provision technique pour son année de base. (*reserve transition amount*)

police d'assurance à comptabilité de dépôt Police d'assurance d'un assureur sur le vie qui, selon les principes comptables généralement reconnus, n'est pas un contrat d'assurance pour une année d'imposition de l'assureur. (*deposit accounting insurance policy*)

police d'assurance-vie Sont compris dans les polices d'assurance-vie les contrats de rentes et les contrats relativement auxquels le montant de tout ou partie des provisions de l'assureur varie selon la juste valeur marchande d'un groupe déterminé d'éléments d'actif. (*life insurance policy*)

police d'assurance-vie au Canada Police d'assurance-vie établie ou souscrite par un assureur sur la vie d'une personne qui résidait au Canada au moment de l'établissement ou de la souscription de la police. (*life insurance policy in Canada*)

police d'assurance-vie avec participation Police d'assurance-vie en vertu de laquelle l'assuré a le droit de participer (autrement que sous forme de remboursement de surprime d'expérience) aux bénéfices de l'assureur, autres que ceux relatifs à des biens d'un fonds réservé. (*participating life insurance policy*)

111(7.1) as it read in its application to the 1976 taxation year to have been deductible in computing the insurer's income for a taxation year that ended before 1977,

C is the total of all profits or gains made by the insurer in the period in respect of non-segregated property of the insurer disposed of by it that was used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that those profits or gains have been or are included in computing the insurer's income or loss, if any, for any taxation year in the period from carrying on an insurance business,

D is the total of its loss, if any, for each taxation year in the period from all insurance businesses carried on by it,

E is the total of all losses sustained by the insurer in the period in respect of non-segregated property disposed of by it that was used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that those losses have been or are included in computing the insurer's income or loss, if any, for any taxation year in the period from carrying on an insurance business,

F is the total of

(a) all taxes payable under this Part by the insurer, and all income taxes payable by it under the laws of each province, for each taxation year in the period, except such portion thereof as would not have been payable by it if subsection 138(7) had not been enacted, and

(b) all taxes payable under Parts I.3 and VI by the insurer for each taxation year in the period, and

G is the total of all gifts made in the period by the insurer to a qualified donee; (*fonds excédentaire résultant de l'activité*)

transition year of a life insurer means

(a) in respect of the accounting standards adopted by the Accounting Standards Board and effective as of October 1, 2006, the life insurer's first taxation year that begins after September 2006,

(b) in respect of the International Financial Reporting Standards adopted by the Accounting Standards Board and effective as of January 1, 2011, the life insurer's first taxation year that begins after 2010, and

(c) in respect of the amendment to paragraph 1406(b) of the *Income Tax Regulations* effective as of the life

police exclue Police d'assurance d'un assureur sur la vie qui serait une police d'assurance à comptabilité de dépôt pour l'année de base de l'assureur si les normes internationales d'information financière (IFRS) adoptées par le Conseil des normes comptables qui sont en vigueur à compter du 1er janvier 2011 s'appliquaient à cette année. (*excluded policy*)

provision actuarielle maximale aux fins d'impôt Relativement à une catégorie particulière de polices d'assurance-vie pour une année d'imposition d'un assureur sur la vie, s'entend, sauf disposition contraire expresse, de la somme maximale déductible en vertu du sous-alinéa (3)a)(i) au titre des provisions, pour l'année, afférentes aux polices de cette catégorie. (*maximum tax actuarial reserve*)

revenus bruts de placements Les revenus bruts de placements d'un assureur pour une année d'imposition correspondent au montant calculé selon la formule suivante :

A + B + C + D + E + F - G

où :

A représente le total des montants suivants inclus dans son revenu brut pour l'année :

a) les dividendes imposables,

b) les montants reçus ou à recevoir à titre ou en paiement intégral ou partiel d'intérêts, de loyers ou de redevances, à l'exception de montants relatifs à des titres de créance à l'égard desquels le paragraphe 42.3(1) s'applique pour l'année;

B le revenu, pour l'année, qu'il a tiré de chaque fiducie dont il est bénéficiaire;

C le revenu, pour l'année, qu'il a tiré de chaque société de personnes dont il est un associé;

D le total des sommes à inclure, en application du paragraphe 16(1), dans le calcul de son revenu pour l'année;

E le total des montants suivants :

a) les sommes à inclure, en application de l'alinéa 142.3(1)a), dans le calcul de son revenu pour l'année,

b) les sommes à inclure, en application des paragraphes 12(3) ou 20(14), dans le calcul de son revenu pour l'année, sauf dans la mesure où il s'agit de sommes incluses dans le calcul de l'élément A;

F le montant calculé selon la formule suivante :

V - W

où :

insurer's 2012 taxation year, the life insurer's 2012 taxation year. (*année transitoire*)

V représente le total des montants inclus en application de l'alinéa 56(1)d) dans le calcul de son revenu pour l'année,

W le total des montants déduits en application de l'alinéa 60a) dans ce calcul;

G le total des montants représentant chacun :

a) un montant réputé, par le sous-alinéa 16(6)a)(ii), payé par l'assureur pour l'année à titre d'intérêts,

b) un montant déductible, en application de l'alinéa 142.3(1)b), dans le calcul du revenu de l'assureur pour l'année. (*gross investment revenue*)

société liée admissible S'agissant de la société liée admissible d'un assureur non-résident, s'entend au sens du paragraphe 219(8). (*qualified related corporation*)

titre du Canada [Abrogée, 1995, ch. 21, art. 57(15)]

Variation in *tax basis* and *amortized cost*

(13) Where

(a) in a taxation year that ended after 1968 and before 1978 an insurer carried on a life insurance business in Canada and an insurance business in a country other than Canada,

(b) the insurer did not make an election in respect of the year under subsection 138(9) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it applied to that year, and

(c) the ratio of the value for the year of the insurer's specified Canadian assets to its Canadian investment fund for the year exceeded one,

each of the amounts included or deducted as follows in respect of the year shall be multiplied by the ratio referred to in paragraph 138(13)(c):

(d) under paragraph (c), (d), (k) or (l) of the definition ***tax basis*** in subsection 142.4(1) in determining the tax basis of a debt obligation to the insurer, or

(e) under paragraph (c), (d), (f) or (h) of the definition ***amortized cost*** in subsection 248(1) in determining the amortized cost of a debt obligation to the insurer.

Variation du montant de base et du coût amorti

(13) Dans le cas où l'assureur qui, au cours d'une année d'imposition qui s'est terminée après 1968 et avant 1978, a exploité une entreprise d'assurance-vie au Canada et une entreprise d'assurance à l'étranger n'a pas fait, pour l'année, le choix prévu au paragraphe 138(9) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à cette année et où le rapport entre la valeur, pour l'année, des actifs canadiens déterminés de l'assureur et son fonds de placement canadien pour l'année dépasse un, chacun des montants suivants est multiplié par ce rapport :

a) les montants inclus ou déduits pour l'année, en application des alinéas c), d), k) ou l) de la définition ***montant de base*** au paragraphe 142.4(1), dans le calcul du montant de base d'un titre de créance pour l'assureur;

b) les montants inclus ou déduits pour l'année, en application des alinéas c), d), f) ou h) de la définition de ***coût amorti*** au paragraphe 248(1), dans le calcul du coût amorti d'un titre de créance pour l'assureur.

Meaning of certain expressions

(14) For the purposes of subsection 138(13), the expressions ***Canadian investment fund for a taxation year***, ***specified Canadian assets*** and ***value for the taxation year*** have the meanings prescribed therefor.

Sens de certaines expressions

(14) Pour l'application du paragraphe (13), les expressions « actifs canadiens déterminés », « fonds de placement canadien pour une année d'imposition » et « valeur pour l'année d'imposition » s'entendent au sens du règlement.

Definition not to apply

(15) In this section, in construing the meaning of the expression ***group term insurance policy***, the definition ***group term life insurance policy*** in subsection 248(1) does not apply.

Transition year income inclusion

(16) There shall be included in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada in the transition year, the positive amount, if any, of the life insurer's reserve transition amount in respect of that life insurance business.

Transition year income deduction

(17) There shall be deducted in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada in the transition year, the absolute value of the negative amount, if any, of the life insurer's reserve transition amount in respect of that life insurance business.

IFRS transition — reversals

(17.1) In applying subsections (18) and (19) to a life insurer for a taxation year of the life insurer in respect of the International Financial Reporting Standards adopted by the Accounting Standards Board and effective as of January 1, 2011,

(a) the reference to "policy reserve" in B of the formula in the definition ***reserve transition amount*** in subsection (12) is to be read as a reference to "policy reserve determined without reference to the life insurer's excluded policies";

(b) the reference in those subsections to "that ends after the beginning of the transition year" is to be read as a reference to "that ends no sooner than two years after the beginning of the transition year"; and

(c) the reference in those subsections to "the first day of the transition year" is to be read as a reference to "the first day of the first year that ends no sooner than two years after the beginning of the transition year".

Transition year income inclusion reversal

(18) If an amount has been included under subsection (16) in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada, there shall be deducted in computing the life insurer's income, for each particular taxation year of the life insurer that ends after the beginning of the transition

Non-application de la définition

(15) Dans l'interprétation de ***police d'assurance collective temporaire***, au présent article, la définition de ***police collective d'assurance temporaire sur la vie*** au paragraphe 248(1) ne s'applique pas.

Somme à inclure dans le revenu — année transitoire

(16) Est à inclure dans le calcul du revenu d'un assureur sur la vie pour son année transitoire provenant d'une entreprise d'assurance-vie qu'il exploite au Canada au cours de cette année le montant positif de son montant transitoire relativement à cette entreprise.

Somme à déduire du revenu — année transitoire

(17) Est à déduire dans le calcul du revenu d'un assureur sur la vie pour son année transitoire provenant d'une entreprise d'assurance-vie qu'il exploite au Canada au cours de cette année la valeur absolue du montant négatif de son montant transitoire relativement à cette entreprise.

Passage aux normes IFRS — annulations

(17.1) Pour l'application des paragraphes (18) et (19) à un assureur sur la vie pour son année d'imposition relativement aux normes internationales d'information financière (IFRS) adoptées par le Conseil des normes comptables qui sont en vigueur à compter du 1er janvier 2011 :

a) la mention « provision technique » à l'élément B de la formule figurant à la définition de ***montant transitoire*** au paragraphe (12) vaut mention de « provision technique déterminée compte non tenu des polices exclues de l'assureur »;

b) la mention « se terminant après le début de l'année transitoire » aux paragraphes (18) et (19) vaut mention de « se terminant au plus tôt deux ans après le début de l'année transitoire »;

c) la mention « le premier jour de l'année transitoire » aux paragraphes (18) et (19) vaut mention de « le premier jour de la première année se terminant au plus tôt deux ans après le début de l'année transitoire ».

Annulation de l'inclusion — année transitoire

(18) Si une somme a été incluse en application du paragraphe (16) dans le calcul du revenu d'un assureur sur la vie pour son année transitoire provenant d'une entreprise d'assurance-vie qu'il exploite au Canada, est à déduire dans le calcul de son revenu, pour chacune de ses

year, from that life insurance business, the amount determined by the formula

A × B/1825

where

A is the amount included under subsection (16) in computing the life insurer's income for the transition year from that life insurance business; and

B is the number of days in the particular taxation year that are before the day that is 1825 days after the first day of the transition year.

Transition year income deduction reversal

(19) If an amount has been deducted under subsection (17) in computing a life insurer's income for its transition year from a life insurance business carried on by it in Canada, there shall be included in computing the life insurer's income, for each particular taxation year of the life insurer that ends after the beginning of the transition year, from that life insurance business, the amount determined by the formula

A × B/1825

where

A is the amount deducted under subsection (17) in computing the life insurer's income for the transition year from that life insurance business; and

B is the number of days in the particular taxation year that are before the day that is 1825 days after the first day of the transition year.

Winding-up

(20) If a life insurer has, in a winding-up to which subsection 88(1) has applied, been wound-up into another corporation (referred to in this subsection as the "parent"), and immediately after the winding-up the parent carries on a life insurance business, in applying subsections (18) and (19) in computing the income of the life insurer and of the parent for particular taxation years that end on or after the first day (referred to in this subsection as the "start day") on which assets of the life insurer were distributed to the parent on the winding-up,

(a) the parent is, on and after the start day, deemed to be the same corporation as and a continuation of the life insurer in respect of

(i) any amount included under subsection (16) or deducted under subsection (17) in computing the life insurer's income from a life insurance business for its transition year,

années d'imposition se terminant après le début de l'année transitoire, provenant de cette entreprise, la somme obtenue par la formule suivante :

A × B/1825

où :

A représente la somme incluse en application du paragraphe (16) dans le calcul du revenu de l'assureur pour l'année transitoire provenant de l'entreprise;

B le nombre de jours de l'année d'imposition en cause qui sont antérieurs au jour qui suit de 1825 jours le premier jour de l'année transitoire.

Annulation de la déduction — année transitoire

(19) Si une somme a été déduite en application du paragraphe (17) dans le calcul du revenu d'un assureur sur la vie pour son année transitoire provenant d'une entreprise d'assurance-vie qu'il exploite au Canada, est à inclure dans le calcul de son revenu, pour chacune de ses années d'imposition se terminant après le début de l'année transitoire, provenant de cette entreprise, la somme obtenue par la formule suivante :

A × B/1825

où :

A représente la somme déduite en application du paragraphe (17) dans le calcul du revenu de l'assureur pour l'année transitoire provenant de l'entreprise;

B le nombre de jours de l'année d'imposition en cause qui sont antérieurs au jour qui suit de 1825 jours le premier jour de l'année transitoire.

Liquidation

(20) Si un assureur sur la vie est liquidé dans une autre société (appelée « société mère » au présent paragraphe) dans le cadre d'une liquidation à laquelle le paragraphe 88(1) s'applique et que la société mère exploite une entreprise d'assurance-vie immédiatement après la liquidation, pour l'application des paragraphes (18) et (19) au calcul des revenus de l'assureur et de la société mère pour des années d'imposition données se terminant au plus tôt le premier jour (appelé « date de début » au présent paragraphe) où des éléments d'actif de l'assureur ont été distribués à la société mère lors de la liquidation, les règles suivantes s'appliquent :

a) en ce qui a trait aux sommes ci-après, la société mère est réputée être la même société que l'assureur, et en être la continuation, à compter de la date de début :

(i) toute somme incluse en application du paragraphe (16), ou déduite en application du

(ii) any amount deducted under subsection (18) or included under subsection (19) in computing the life insurer's income from a life insurance business for a taxation year of the life insurer that begins before the start day, and

(iii) any amount that would — in the absence of this subsection and if the life insurer existed and carried on a life insurance business on each day that is the start day or a subsequent day and on which the parent carries on a life insurance business — be required to be deducted or included, in respect of any of those days, under subsection (18) or (19) in computing the life insurer's income from a life insurance business; and

(b) the life insurer is, in respect of each of its particular taxation years, to determine the value for B in the formulas in subsections (18) and (19) without reference to the start day and days after the start day.

paragraphe (17), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance-vie pour son année transitoire,

(ii) toute somme déduite en application du paragraphe (18), ou incluse en application du paragraphe (19), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance-vie pour une année d'imposition de celui-ci commençant avant la date de début,

(iii) toute somme qui — en l'absence du présent paragraphe et à supposer que l'assureur existe, et exploite une entreprise d'assurance-vie, chaque jour qui correspond à la date de début ou à une date postérieure et auquel la société mère exploite une entreprise d'assurance-vie — serait à déduire en application du paragraphe (18), ou à inclure en application du paragraphe (19), relativement à ces jours, dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance-vie;

b) l'assureur est tenu de déterminer, relativement à chacune de ses années d'imposition données, la valeur de l'élément B des formules figurant aux paragraphes (18) et (19) sans tenir compte de la date de début ni des jours qui y sont postérieurs.

Amalgamations

(21) If there is an amalgamation (within the meaning assigned by subsection 87(1)) of a life insurer with one or more other corporations to form one corporation (referred to in this subsection as the "new corporation"), and immediately after the amalgamation the new corporation carries on a life insurance business, in applying subsections (18) and (19) in computing the income of the new corporation for particular taxation years of the new corporation that begin on or after the day on which the amalgamation occurred, the new corporation is, on and after that day, deemed to be the same corporation as and a continuation of the life insurer in respect of

(a) any amount included under subsection (16) or deducted under subsection (17) in computing the life insurer's income from a life insurance business for its transition year;

(b) any amount deducted under subsection (18) or included under subsection (19) in computing the life insurer's income from a life insurance business for a taxation year that begins before the day on which the amalgamation occurred; and

(c) any amount that would — in the absence of this subsection and if the life insurer existed and carried on a life insurance business on each day that is the day

Fusions

(21) S'il y a fusion, au sens du paragraphe 87(1), d'un assureur sur la vie et d'une ou de plusieurs autres sociétés et que la société issue de la fusion (appelée « nouvelle société » au présent paragraphe) exploite une entreprise d'assurance-vie immédiatement après la fusion, pour l'application des paragraphes (18) et (19) au calcul du revenu de la nouvelle société pour ses années d'imposition données commençant à la date de la fusion ou par la suite, la nouvelle société est réputée être la même société que l'assureur, et en être la continuation, à compter de cette date en ce qui a trait aux sommes suivantes :

a) toute somme incluse en application du paragraphe (16), ou déduite en application du paragraphe (17), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance-vie pour son année transitoire;

b) toute somme déduite en application du paragraphe (18), ou incluse en application du paragraphe (19), dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance-vie pour une année d'imposition commençant avant la date de la fusion;

c) toute somme qui — en l'absence du présent paragraphe et à supposer que l'assureur existe, et exploite une entreprise d'assurance-vie, chaque jour qui correspond à la date de la fusion ou à une date

on which the amalgamation occurred or a subsequent day and on which the new corporation carries on a life insurance business — be required to be deducted or included, in respect of any of those days, under subsection (18) or (19) in computing the life insurer's income from a life insurance business.

Application of subsection (23)

(22) Subsection (23) applies if, at any time, a life insurer (referred to in this subsection and subsection (23) as the "transferor") transfers, to a corporation (referred to in this subsection and subsection (23) as the "transferee") that is related to the transferor, property in respect of a life insurance business carried on by the transferor in Canada (referred to in this subsection and subsection (23) as the "transferred business") and

(a) subsection 138(11.5) or (11.94) applies to the transfer; or

(b) subsection 85(1) applies to the transfer, the transfer includes all or substantially all of the property and liabilities of the transferred business and, immediately after the transfer, the transferee carries on a life insurance business.

Transfer of life insurance business

(23) If this subsection applies in respect of the transfer, at any time, of property

(a) the transferee is, at and after that time, deemed to be the same corporation as and a continuation of the transferor in respect of

(i) any amount included under subsection (16) or deducted under subsection (17) in computing the transferor's income for its transition year that can reasonably be attributed to the transferred business,

(ii) any amount deducted under subsection (18) or included under subsection (19) in computing the transferor's income for a taxation year of the transferor that begins before that time that can reasonably be attributed to the transferred business, and

(iii) any amount that would — in the absence of this subsection and if the transferor existed and carried on a life insurance business on each day that includes that time or is a subsequent day and on which the transferee carries on a life insurance business — be required to be deducted or included, in respect of any of those days, under subsection (18) or (19) in computing the transferor's income that can reasonably be attributed to the transferred business; and

postérieure et auquel la nouvelle société exploite une entreprise d'assurance-vie — serait à déduire en application du paragraphe (18), ou à inclure en application du paragraphe (19), relativement à ces jours, dans le calcul du revenu de l'assureur provenant d'une entreprise d'assurance-vie.

Application du par. (23)

(22) Le paragraphe (23) s'applique dans le cas où un assureur sur la vie (appelé « cédant » au présent paragraphe et au paragraphe (23)) transfère à une société qui lui est liée (appelée « cessionnaire » au présent paragraphe et au paragraphe (23)) un bien relatif à une entreprise d'assurance-vie qu'il exploite au Canada (appelée « entreprise transférée » au présent paragraphe et au paragraphe (23)) et où, selon le cas :

a) le paragraphe 138(11.5) ou (11.94) s'applique au transfert;

b) le paragraphe 85(1) s'applique au transfert, le transfert porte sur la totalité ou la presque totalité des biens et des dettes de l'entreprise transférée et le cessionnaire exploite une entreprise d'assurance-vie immédiatement après le transfert.

Transfert d'entreprise d'assurance-vie

(23) Dans le cas où le présent paragraphe s'applique relativement au transfert d'un bien, les règles suivantes s'appliquent :

a) en ce qui a trait aux sommes ci-après, le cessionnaire est réputé être la même société que le cédant, et en être la continuation, à compter du moment du transfert :

(i) toute somme — incluse en application du paragraphe (16), ou déduite en application du paragraphe (17), dans le calcul du revenu du cédant pour son année transitoire — qu'il est raisonnable d'attribuer à l'entreprise transférée,

(ii) toute somme — déduite en application du paragraphe (18), ou incluse en application du paragraphe (19), dans le calcul du revenu du cédant pour une année d'imposition de celui-ci commençant avant ce moment — qu'il est raisonnable d'attribuer à l'entreprise transférée,

(iii) toute somme qui — en l'absence du présent paragraphe et à supposer que le cédant existe, et exploite une entreprise d'assurance-vie, chaque jour qui comprend ce moment ou y est postérieur et auquel le cessionnaire exploite une entreprise d'assurance-vie — serait à déduire en application du paragraphe (18), ou à inclure en application du

(b) in determining, in respect of the day that includes that time or any subsequent day, any amount that is required under subsection (18) or (19) to be deducted or included in computing the transferor's income for each particular taxation year from the transferred business, the description of A in the formulas in those subsections is deemed to be nil.

b) pour déterminer, relativement au jour qui comprend le moment du transfert ou y est postérieur, toute somme à déduire en application du paragraphe (18), ou à inclure en application du paragraphe (19), dans le calcul du revenu du cédant pour chaque année d'imposition donnée provenant de l'entreprise transférée, la valeur de l'élément A des formules figurant à ces paragraphes est réputée être nulle.

Ceasing to carry on business

(24) If at any time a life insurer ceases to carry on all or substantially all of a life insurance business (referred to in this subsection as the "discontinued business"), and none of subsections (20) to (22) apply,

(a) there shall be deducted, in computing the life insurer's income from the discontinued business for the life insurer's taxation year that includes the time that is immediately before that time, the amount determined by the formula

A – B

where

A is the amount included under subsection (16) in computing the life insurer's income from the discontinued business for its transition year, and

B is the total of all amounts each of which is an amount deducted under subsection (18) in computing the life insurer's income from the discontinued business for a taxation year that began before that time; and

(b) there shall be included, in computing the life insurer's income from the discontinued business for the life insurer's taxation year that includes the time that is immediately before that time, the amount determined by the formula

C – D

where

C is the amount deducted under subsection (17) in computing the life insurer's income from the discontinued business for its transition year, and

D is the total of all amounts each of which is an amount included under subsection (19) in computing the life insurer's income from the discontinued business for a taxation year that began before that time.

Cessation de l'exploitation d'une entreprise

(24) Lorsqu'un assureur sur la vie cesse d'exploiter la totalité ou la presque totalité d'une entreprise d'assurance-vie (appelée « entreprise discontinuée » au présent paragraphe) et qu'aucun des paragraphes (20) à (22) ne s'applique, les règles suivantes s'appliquent :

a) la somme obtenue par la formule ci-après est à déduire dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année d'imposition qui comprend le moment immédiatement avant la cessation de l'exploitation :

A – B

où :

A représente la somme incluse en application du paragraphe (16) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année transitoire,

B le total des sommes représentant chacune une somme déduite en application du paragraphe (18) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour une année d'imposition ayant commencé avant la cessation de l'exploitation;

b) la somme obtenue par la formule ci-après est à inclure dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année d'imposition qui comprend le moment immédiatement avant la cessation de l'exploitation :

C – D

où :

C représente la somme déduite en application du paragraphe (17) dans le calcul du revenu de l'assureur provenant de l'entreprise discontinuée pour son année transitoire,

D le total des sommes représentant chacune une somme incluse en application du paragraphe (19) dans le calcul du revenu de l'assureur provenant

de l'entreprise discontinuée pour une année d'imposition ayant commencé avant la cessation de l'exploitation.

Ceasing to exist

(25) If at any time a life insurer that carried on a life insurance business ceases to exist (otherwise than as a result of a winding-up or amalgamation described in subsection (20) or (21)), for the purposes of subsection (24), the life insurer is deemed to have ceased to carry on the life insurance business at the earlier of

(a) the time (determined without reference to this subsection) at which the life insurer ceased to carry on the life insurance business, and

(b) the time that is immediately before the end of the last taxation year of the life insurer that ended at or before the time at which the life insurer ceased to exist.

Cessation de l'existence

(25) L'assureur sur la vie qui, ayant exploité une entreprise d'assurance-vie, cesse d'exister autrement que par suite d'une liquidation visée au paragraphe (20) ou d'une fusion visée au paragraphe (21) est réputé, pour l'application du paragraphe (24), avoir cessé d'exploiter l'entreprise au premier en date des moments suivants :

a) le moment (déterminé compte non tenu du présent paragraphe) où il a cessé d'exploiter l'entreprise;

b) le moment immédiatement avant la fin de sa dernière année d'imposition qui a pris fin au plus tard au moment où il a cessé d'exister.

Policy reserve transition — application rules

(26) In applying subsections (16), (17), (18) and (19) to a life insurer for a taxation year of the life insurer,

(a) if the application of one or more of those subsections is in respect of the amendment to paragraph 1406(b) of the *Income Tax Regulations* effective as of the life insurer's 2012 taxation year, the life insurer's reserve transition amount for its transition year in respect of that amendment is to be determined as though the description of A in the definition ***reserve transition amount*** in subsection (12) read as follows:

A is the maximum amount that the life insurer would be permitted to claim under subparagraph (3)(a)(i) (and that would be prescribed by section 1404 of the *Income Tax Regulations* for the purposes of subparagraph (3)(a)(i)) as a policy reserve for its base year in respect of its life insurance policies in Canada if paragraph 1406(b) of the *Income Tax Regulations* were read as it applies to the life insurer's 2012 taxation year, and;

(b) if one or more of those subsections applies in the same taxation year in respect of both the amendment to paragraph 1406(b) of the *Income Tax Regulations* effective as of the life insurer's 2012 taxation year, and the International Financial Reporting Standards adopted by the Accounting Standards Board and effective as of January 1, 2011, then, for the purposes of applying those subsections in respect of a transition year described by paragraph (b) of the definition ***transition year*** in subsection (12), the reference to "as it reads in respect of its transition year" in paragraph (b) of the

Transition — provision technique — règles d'application

(26) Pour l'application des paragraphes (16), (17), (18) et (19) à un assureur sur la vie pour son année d'imposition :

a) si l'application de l'un ou de plusieurs de ces paragraphes a trait à la modification de l'alinéa 1406b) du *Règlement de l'impôt sur le revenu*, en vigueur à compter de l'année d'imposition 2012 de l'assureur, le montant transitoire de l'assureur pour son année transitoire relativement à cette modification est déterminé comme si l'élément A de la formule figurant à la définition de ***montant transitoire*** au paragraphe (12) avait le libellé suivant :

A représente la somme maximale que l'assureur pourrait déduire en application du sous-alinéa (3)a)(i) (et qui serait visée à l'article 1404 du *Règlement de l'impôt sur le revenu* pour l'application de ce sous-alinéa) à titre de provision technique pour son année de base relativement à ses polices d'assurance-vie au Canada si l'alinéa 1406b) de ce règlement s'appliquait dans sa version applicable à l'année d'imposition 2012 de l'assureur;

b) si l'un ou plusieurs de ces paragraphes s'appliquent à la même année d'imposition pour ce qui est, à la fois, de la modification de l'alinéa 1406b) de ce règlement, en vigueur à compter de l'année d'imposition 2012 de l'assureur, et des normes internationales d'information financière (IFRS) adoptées par le Conseil des normes comptables qui sont en vigueur à compter du 1er janvier 2011, pour l'application de ces paragraphes relativement à l'année transitoire visée à l'alinéa b) de

description of A in the definition ***reserve transition amount*** in subsection (12) is to be read as a reference to "as it reads in respect of its transition year (determined without reference to the amendment to paragraph 1406(b) of the *Income Tax Regulations* effective as of the life insurer's 2012 taxation year); and

(c) if the life insurer has more than one transition year for the same taxation year of the life insurer

(i) for each transition year, the computation of the reserve transition amount for the transition year, and the requirements to include, or rights to deduct, under any of those subsections an amount in respect of that reserve transition amount, shall be determined as if that transition year were the only transition year of the life insurer for that taxation year, and

(ii) for greater certainty, the references in subsections (16), (17), (18) and (19) to a transition year include each of those transition years.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 138; 1994, c. 7, Sch. II, s. 114, c. 21, s. 66; 1995, c. 21, ss. 39, 57; 1997, c. 25, s. 39; 2001, c. 17, ss. 133, 218; 2009, c. 2, s. 45; 2010, c. 25, s. 33; 2011, c. 24, s. 44; 2013, c. 34, ss. 135, 286.

la définition de ***année transitoire*** au paragraphe (12), le passage « dans sa version applicable à l'année transitoire de l'assureur » à l'alinéa b) de l'élément A de la formule figurant à la définition de ***montant transitoire*** au paragraphe (12) est remplacé par « dans sa version applicable à l'année transitoire de l'assureur (déterminée compte non tenu de la modification de l'alinéa 1406b) de ce règlement, en vigueur à compter de l'année d'imposition 2012 de l'assureur) »;

c) si l'assureur a plus d'une année transitoire dans la même année d'imposition :

(i) pour chacune de ces années transitoires, le calcul du montant transitoire pour l'année transitoire et l'obligation d'inclure, ou le droit de déduire, en application de ces paragraphes, une somme au titre de ce montant transitoire sont déterminés comme si cette année transitoire était la seule année transitoire de l'assureur pour cette année d'imposition,

(ii) il est entendu que la mention de l'année transitoire, aux paragraphes (16), (17), (18) et (19), vaut mention de chacune de ces années transitoires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 138; 1994, ch. 7, ann. II, art. 114, ch. 21, art. 66; 1995, ch. 21, art. 39 et 57; 1997, ch. 25, art. 39; 2001, ch. 17, art. 133 et 218; 2009, ch. 2, art. 45; 2010, ch. 25, art. 33; 2011, ch. 24, art. 44; 2013, ch. 34, art. 135 et 286.

Rules relating to segregated funds

138.1 (1) In respect of life insurance policies for which all or any part of an insurer's reserves vary in amount depending on the fair market value of a specified group of properties (in this section referred to as a "segregated fund"), for the purposes of this Part, the following rules apply:

(a) a trust (in this section referred to as the "related segregated fund trust") is deemed to be created at the time that is the later of

(i) the day that the segregated fund is created, and

(ii) the day on which the insurer's 1978 taxation year commences,

and to continue in existence throughout the period during which the fund determines any portion of the benefits under those policies that vary in amount depending on the fair market value of the property in the segregated fund (in this section referred to as "segregated fund policies");

(b) property that has been allocated to and that remains a part of the segregated fund, and any income that has accrued on that property is deemed to be the property and income of the related segregated fund

Règles concernant les fonds réservés

138.1 (1) Lorsque la totalité ou une partie des provisions d'un assureur afférentes à des polices d'assurance-vie varie en fonction de la juste valeur marchande d'un groupe déterminé de biens (appelé « fonds réservé » au présent article), pour l'application de la présente partie, les règles suivantes s'appliquent :

a) une fiducie (appelée « fiducie créée à l'égard du fonds réservé » au présent article) est réputée être établie au dernier en date des jours suivants :

(i) le jour de la création du fonds réservé,

(ii) le jour où commence l'année d'imposition 1978 de l'assureur,

et continuer d'exister pendant la période tout au long de laquelle un tel fonds détermine une partie quelconque des prestations en vertu de telles polices (appelées « polices à fonds réservé » au présent article) dont le montant varie en fonction de la juste valeur marchande des biens du fonds réservé;

b) les biens qui ont été affectés au fonds réservé et qui font toujours partie de ce fonds ainsi que tout revenu qui s'est accumulé sur ces biens sont réputés être les

trust and not to be the property and income of the insurer;

(c) the insurer is deemed to be

(i) the trustee who has ownership or control of the related segregated fund trust property,

(ii) a resident of Canada in respect of the related segregated fund trust property used or held by it in the course of carrying on the insurer's life insurance business in Canada, and

(iii) a non-resident of Canada in respect of the related segregated fund trust property not used or held by it in the course of carrying on the insurer's life insurance business in Canada;

(d) where at a particular time there is property in the segregated fund that was not funded with premiums paid under a segregated fund policy,

(i) the insurer is deemed to have an interest in the related segregated fund trust that is not in respect of any particular property or source of income, and

(ii) the cost at any time of that interest to the insurer is deemed to be the total of

(A) for property of the trust at that time allocated by the insurer to the segregated fund prior to 1978, the amount that would be its adjusted cost base to the insurer if the interest had been a capital property at all relevant times prior to 1978 and if the rules in this section had been applicable for the taxation years after 1971 and before 1978, and

(B) for property of the trust at that time allocated by the insurer to the segregated fund after 1977, the fair market value of the property at the time it was last allocated to the segregated fund by the insurer;

(e) where at any particular time there is property in the segregated fund that was funded with a portion of the premiums paid before that time under a segregated fund policy,

(i) the respective segregated fund policyholder is deemed to have an interest in the related segregated fund trust that is not in respect of any particular property or source of income,

(ii) the cost of that interest is deemed to be the amount that is the total of

biens et le revenu de la fiducie créée à l'égard du fonds réservé et non les biens et le revenu de l'assureur;

c) l'assureur est réputé être :

(i) le fiduciaire qui possède ou contrôle les biens de la fiducie créée à l'égard du fonds réservé,

(ii) un résident du Canada en ce qui concerne les biens de la fiducie créée à l'égard du fonds réservé qui sont utilisés ou détenus par elle dans le cadre de l'exploitation de son entreprise d'assurance-vie au Canada,

(iii) un non-résident du Canada en ce qui concerne les biens de la fiducie créée à l'égard du fonds réservé qui n'ont pas été utilisés ou détenus par elle dans le cadre de l'exploitation de son entreprise d'assurance-vie au Canada;

d) lorsque, à un moment donné, certains biens du fonds réservé n'ont pas été financés au moyen des primes payées en vertu d'une police à fonds réservé :

(i) l'assureur est réputé avoir une participation dans la fiducie créée à l'égard du fonds réservé qui ne vise aucun bien donné ou source de revenu donnée,

(ii) le coût de cette participation pour l'assureur, à un moment donné, est réputé être le total des montants suivants :

(A) dans le cas d'un bien de la fiducie à ce moment que l'assureur a affecté au fonds réservé avant 1978, le montant qui représenterait son prix de base rajusté, pour l'assureur, si la participation avait été une immobilisation à toute époque considérée avant 1978 et si les règles prévues au présent article s'appliquaient aux années d'imposition postérieures à 1971 et antérieures à 1978,

(B) dans le cas d'un bien de la fiducie à ce moment que l'assureur a affecté au fonds réservé après 1977, la juste valeur marchande du bien au moment où l'assureur l'a affecté pour la dernière fois au fonds réservé;

e) lorsque, à un moment donné, certains biens du fonds réservé ont été financés au moyen d'une partie des primes payées, avant ce moment, en vertu d'une police à fonds réservé :

(A) the amount that would be its adjusted cost base to the insurer at December 31, 1977 if the interest had been a capital property at all relevant times prior to 1978 and if the rules in this section (if subsection 138.1(3) were read without reference to the expressions "or capital loss" and "or loss") had been applicable for taxation years after 1971 and before 1978, and

(B) the total of amounts each of which is that portion of a premium paid before that time and after the day referred to in subparagraph 138.1(1)(a)(ii) under a segregated fund policy that was or is to be used by the insurer to fund property allocated to the segregated fund (other than the portion of the premium that is an acquisition fee), and

(iii) the portion of a premium included in a segregated fund is deemed not to be an amount paid in respect of a premium under the policy;

(f) the income of the related segregated fund trust is deemed for the purposes of subsections 104(6), 104(13) and 104(24) to be an amount that has become payable in the year to the beneficiaries under the segregated fund trust and the amount therefor in respect of any particular beneficiary is equal to the amount determined by reference to the terms and conditions of the segregated fund policy;

(g) where at a particular time the fair market value of property transferred by the insurer to the segregated fund results in an increase at that time in the portion of the insurer's reserves for a segregated fund policy held by a policyholder that vary with the fair market value of the segregated fund and a decrease in the portion of its reserves for the policy that do not so vary, the amount of that increase shall,

(i) for the purpose of the determination of H in the definition ***adjusted cost basis*** in subsection 148(9), be deemed to be proceeds of disposition that the policyholder became entitled to receive at that time,

(ii) for the purpose of computing the adjusted cost base to the policyholder of the policyholder's interest in the related segregated fund trust, be added at that time to the cost to the policyholder of that interest, and

(iii) for the purpose of computing the insurer's income, be deemed to be a payment under the terms and conditions of the policy at that time;

(i) le titulaire respectif de la police à fonds réservé est réputé posséder une participation dans la fiducie créée à l'égard du fonds réservé qui n'est pas afférente à des biens ou à une source de revenu donnés,

(ii) le coût de cette participation est réputé être le total des montants suivants :

(A) le montant qui représenterait le prix de base rajusté des biens pour l'assureur, au 31 décembre 1977, si la participation avait été une immobilisation à toute époque considérée avant 1978 et si les règles prévues au présent article (si le paragraphe (3) ne visait pas une perte en capital) s'appliquaient aux années d'imposition postérieures à 1971 et antérieures à 1978,

(B) le total des montants dont chacun correspond à la partie d'une prime payée avant ce moment et après la date visée au sous-alinéa a)(ii) en vertu d'une police à fonds réservé que l'assureur a utilisée ou utilisera pour financer des biens qui ont été affectés au fonds réservé (autre que la partie de la prime qui représente des frais d'acquisition),

(iii) la partie d'une prime incluse dans un fonds réservé est réputée ne pas être versée à l'égard d'une prime relative à la police;

f) pour l'application des paragraphes 104(6), (13) et (24), le revenu de la fiducie créée à l'égard du fonds réservé est réputé être devenu payable aux bénéficiaires au cours de l'année, et le montant payable à chacun d'eux est égal au montant déterminé en conformité avec les modalités de la police à fonds réservé;

g) lorsque, à un moment donné, la juste valeur marchande des biens transférés par l'assureur au fonds réservé entraîne une augmentation, à ce moment, de la partie des provisions de l'assureur afférentes à une police à fonds réservé détenue par le titulaire qui varie en fonction de la juste valeur marchande du fonds réservé, ainsi qu'une diminution de la partie de ses provisions afférentes à la police qui ne varie pas de la sorte, le montant de cette augmentation est :

(i) pour l'application de l'élément H de la formule figurant à la définition de ***coût de base rajusté*** au paragraphe 148(9), réputé être le produit de disposition que le titulaire de la police avait le droit de recevoir à ce moment,

(ii) pour le calcul du prix de base rajusté, pour le titulaire de police, de sa participation dans la fiducie

(h) where at a particular time the fair market value of property transferred by the insurer from the segregated fund results in an increase at that time in the portion of the insurer's reserves for a segregated fund policy that do not vary with the fair market value of the segregated fund and a decrease in the portion of its reserves for the policy that so vary, the amount of that increase shall, for the purpose of calculating the insurer's income, be deemed to be a premium received by the insurer at that time;

(i) where at a particular time the policyholder of a segregated fund policy disposes of all or a portion of the policyholder's interest in the related segregated fund trust, that proportion of the amount, if any, by which the acquisition fee with respect to the particular policy exceeds the total of amounts each of which is an amount determined under this paragraph with respect to the particular policy before that time, that

(i) the fair market value of the interest disposed of at that time

is of

(ii) the fair market value of the policyholder's interest in the particular segregated fund trust immediately before that time,

is deemed to be a capital loss of the related segregated fund trust that reduces the policyholder's benefits under the particular policy by that amount for the purposes of subsection 138.1(3);

(j) the obligations of an insurer in respect of a benefit that is payable under a segregated fund policy, the amount of which benefit varies with the fair market value of the segregated fund at the time the benefit becomes payable, are deemed to be obligations of the trustee under the related segregated fund trust and not of the insurer and any amount received by the policyholder or that the policyholder became entitled to receive at any particular time in a year in respect of those obligations is deemed to be proceeds from the disposition of an interest in the related segregated fund trust;

(k) a reference to "the terms and conditions of the trust arrangement" in section 104 or subsection 127.2(3) is deemed to include a reference to the terms and conditions of the related segregated fund policy and the trustee is deemed to have designated the amounts referred to in that section in accordance with those terms and conditions; and

(l) where at any time an insurer acquires a share as a first registered holder thereof and allocates the share

créée à l'égard du fonds réservé, ajouté à ce moment au coût, pour lui, de cette participation,

(iii) pour le calcul du revenu de l'assureur, réputé être un versement prévu dans les modalités de la police à ce moment;

h) lorsque, à un moment donné, la juste valeur marchande des biens transférés par l'assureur au fonds réservé entraîne une augmentation, à ce moment, de la partie des provisions de l'assureur afférentes à une police à fonds réservé qui ne varie pas en fonction de la juste valeur marchande du fonds réservé, ainsi qu'une diminution de la partie de ses provisions afférentes à la police qui varie de la sorte, le montant de cette augmentation est, pour le calcul du revenu de l'assureur, réputé être une prime reçue par l'assureur à ce moment;

i) lorsque, à un moment donné, le titulaire d'une police à fonds réservé dispose de tout ou partie de sa participation dans la fiducie créée à l'égard du fonds réservé, le produit de la multiplication de l'excédent éventuel des frais d'acquisition afférents à la police donnée sur le total des montants déterminés en vertu du présent alinéa à l'égard de la police donnée avant ce moment par le rapport entre :

(i) d'une part, la juste valeur marchande de la participation qui a fait l'objet d'une disposition à ce moment,

(ii) d'autre part, la juste valeur marchande de la participation du titulaire de police dans la fiducie à fonds réservé donnée immédiatement avant ce moment,

est réputé être une perte en capital de la fiducie créée à l'égard du fonds réservé qui diminue d'autant les prestations du titulaire en vertu de sa police pour l'application du paragraphe (3);

j) les obligations d'un assureur en ce qui concerne les prestations payables en vertu d'une police à fonds réservé et dont le montant varie en fonction de la juste valeur marchande du fonds réservé au moment où les prestations deviennent payables sont réputées être les obligations du fiduciaire en vertu de la fiducie créée à l'égard du fonds réservé et non celles de l'assureur et tout montant que reçoit le titulaire de la police ou qu'il a acquis le droit de recevoir, à un moment donné d'une année, à l'égard de ces obligations, est réputé être le produit de disposition d'une participation dans la fiducie créée à l'égard du fonds réservé;

to a related segregated fund trust, the trust shall be deemed to have acquired the share at that time as the first registered holder thereof for the purpose of computing its share-purchase tax credit and the insurer shall be deemed not to have acquired the share for the purpose of computing its share-purchase tax credit.

k) la mention des « modalités de l'acte de fiducie », à l'article 104 ou au paragraphe 127.2(3) est réputée viser également les modalités de la police à fonds réservé et le fiduciaire est réputé avoir désigné les montants visés dans cet article en conformité avec ces modalités;

l) lorsque, à un moment donné, un assureur acquiert une action à titre de premier détenteur inscrit et attribue l'action à une fiducie ou à l'égard du fonds réservé, la fiducie est réputée avoir acquis l'action à ce moment à titre de premier détenteur inscrit pour le calcul de son crédit d'impôt à l'achat d'actions et l'assureur est réputé ne pas avoir acquis l'action pour le calcul de son crédit d'impôt à l'achat d'actions.

Rules relating to property in segregated funds at end of 1977 taxation year

(2) Where an insurer holds property at the end of its 1977 taxation year in connection with a segregated fund, the following rules apply:

(a) the property is deemed to have been acquired by the related segregated fund trust on the day determined under paragraph 138.1(1)(a) at a cost equal to the adjusted cost base of the property to the insurer on that day and that transaction is deemed to be a transaction between persons not dealing at arm's length;

(b) the property is deemed to have been disposed of by the insurer on the day referred to in paragraph 138.1(2)(a) for proceeds equal to the adjusted cost base of the property to the insurer on that day; and

(c) for the purpose of computing the insurer's income for its 1978 taxation year it shall be deemed to have made a payment to its policyholders in satisfaction of their rights under their segregated fund policies in that year equal to that portion of the amount deducted under subparagraph 138(3)(a)(i) in computing its income for its 1977 taxation year that is in respect of segregated fund policies.

Règles concernant les biens du fonds réservé à la fin de l'année d'imposition 1977

(2) Lorsqu'un assureur détient, à la fin de son année d'imposition 1977, des biens relatifs à un fonds réservé, les règles suivantes s'appliquent :

a) la fiducie créée à l'égard du fonds réservé est réputée avoir acquis les biens le jour déterminé en vertu de l'alinéa (1)a), à un coût égal au prix de base rajusté de ces biens, pour l'assureur, ce jour-là, et cette opération est réputée être une opération effectuée entre personnes ayant un lien de dépendance;

b) l'assureur est réputé avoir disposé des biens le jour visé à l'alinéa a) et en avoir tiré un produit égal au prix de base rajusté de ces biens, pour l'assureur, ce jour-là;

c) pour le calcul du revenu de l'assureur pour son année d'imposition 1978, ce dernier est réputé avoir fait un versement à ses titulaires de police en acquittement de leurs droits en vertu de leurs polices à fonds réservé durant cette année égal à la fraction du montant déduit en vertu du sous-alinéa 138(3)a)(i) dans le calcul de son revenu pour son année d'imposition 1977 au titre de polices à fonds réservé.

Capital gains and capital losses of related segregated fund trusts

(3) A capital gain or capital loss of a related segregated fund trust from the disposition of any property shall, to the extent that a policyholder's benefits under a policy or the interest in the trust of any other beneficiary is affected by that gain or loss, be deemed to be a capital gain or capital loss, as the case may be, of the policyholder or other beneficiary and not that of the trust.

Gains et pertes en capital de fiducies créées à l'égard du fonds réservé

(3) Un gain ou une perte en capital d'une fiducie créée à l'égard du fonds réservé qui résulte de la disposition d'un bien est réputé, dans la mesure où les prestations d'un titulaire de police en vertu d'une police ou la participation de tout autre bénéficiaire dans la fiducie sont touchées par ce gain ou cette perte, être un gain ou une perte en capital, selon le cas, du titulaire de police ou d'un autre bénéficiaire et non une perte ou un gain de la fiducie.

(3.1) and (3.2) [Repealed, 2013, c. 34, s. 287]

(3.1) et (3.2) [Abrogés, 2013, ch. 34, art. 287]

Election and allocation

(4) Where at any particular time after 1977, a policyholder withdraws all or part of the policyholder's interest in a segregated fund policy, the trustee of a related segregated fund trust may elect in prescribed manner and prescribed form to treat any capital property of the trust as having been disposed of, whereupon the property shall be deemed to have been disposed of on any day designated by the trustee for proceeds of disposition equal to

(a) the fair market value of the property on that day,

(b) the adjusted cost base to the trust of the property on that day, or

(c) an amount that is neither greater than the greater of nor less than the lesser of the amounts determined under paragraphs 138.1(4)(a) and 138.1(4)(b),

whichever is designated by the trustee, and to have been reacquired by the trust immediately thereafter at a cost equal to those proceeds, and where the trustee of a related segregated fund trust has made such an election, the following rules apply:

(d) the amount of any capital gain or capital loss resulting from the deemed disposition shall be allocated by the trustee to any policyholder withdrawing all or part of the policyholder's interest in the policyholder's policy at that time to the extent that the amount of the policyholder's benefits under the policy at that time is affected by the capital gain or capital loss in respect of property held by the related segregated fund trust at that time,

(e) the allocation referred to in paragraph 138.1(4)(d) is deemed to have been made immediately before the withdrawal,

(f) any capital gain not so allocated is deemed to be allocated in accordance with the terms and conditions of the policy, and

(g) any capital loss not so allocated is deemed to be a superficial loss of each policyholder to the extent that the policyholder's benefits under the policy would be affected by the loss.

Adjusted cost base of property in related segregated fund trust

(5) At any particular time, the adjusted cost base of each capital property of a related segregated fund trust shall be deemed to be the amount, if any, by which

(a) the adjusted cost base of the property to the trust immediately before that time

Choix et attributions

(4) Lorsque, à un moment donné après 1977, un titulaire de police retire tout ou partie de ses intérêts dans une police à fonds réservé, le fiduciaire d'une fiducie créée à l'égard du fonds réservé peut choisir, selon les modalités et le formulaire réglementaires, de considérer une immobilisation de la fiducie comme ayant fait l'objet d'une disposition, auquel cas cette immobilisation est réputée avoir fait l'objet d'une disposition à la date désignée par le fiduciaire, pour un produit de disposition égal :

a) à la juste valeur marchande de l'immobilisation à cette date;

b) au prix de base rajusté, pour la fiducie, de l'immobilisation à cette date;

c) à un montant qui n'est ni supérieur au plus élevé des montants déterminés en vertu des alinéas a) et b), ni inférieur au moins élevé des montants déterminés en vertu de ces alinéas,

selon ce que désigne le fiduciaire, et avoir été acquise de nouveau par la fiducie immédiatement après, à un coût égal à ce produit, et lorsque le fiduciaire a fait un tel choix, les règles suivantes s'appliquent :

d) le fiduciaire doit attribuer le montant du gain en capital ou de la perte en capital découlant de la disposition présumée à tout titulaire de police retirant tout ou partie de ses intérêts dans la police à ce moment, dans la mesure où le montant des prestations du titulaire en vertu de la police à ce moment est touché par le gain en capital ou la perte en capital relatif à des biens que détenait la fiducie créée à l'égard du fonds réservé à ce moment;

e) l'attribution prévue à l'alinéa d) est réputée avoir été faite immédiatement avant le retrait;

f) tout gain en capital qui n'est pas ainsi attribué est réputé être attribué conformément aux modalités de la police;

g) toute perte en capital qui n'est pas ainsi attribuée est réputée être une perte apparente pour chaque titulaire de police dans la mesure où les prestations en vertu de la police seraient touchées par la perte.

Prix de base rajusté des biens d'une fiducie créée à l'égard du fonds réservé

(5) À un moment donné, le prix de base rajusté de chaque immobilisation d'une fiducie créée à l'égard du fonds réservé est réputé être l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

exceeds

(b) the total of amounts each of which is an amount in respect of the disposition by a policyholder of all or part of the policyholder's interest in the related segregated fund trust at that time equal to that proportion of the amount, if any, by which

(i) the adjusted cost base to the policyholder of that interest at that time

exceeds

(ii) the policyholder's proceeds of the disposition of that interest in the trust

that

(iii) the fair market value of the capital property at that time

is of

(iv) the total of amounts each of which is the fair market value of a capital property of the related segregated fund trust at that time.

Definition of *acquisition fee*

(6) In this section, ***acquisition fee*** means the amount, if any, by which the total of amounts each of which is

(a) that portion of a premium charged by the insurer under a segregated fund policy that is not included in the related segregated fund or cannot reasonably be regarded as an amount required to fund a mortality or maturity benefit,

(b) a transfer from the segregated fund that cannot reasonably be regarded as an amount required to fund a mortality or maturity benefit other than an annual administration fee or charge, or

(c) any amount by which the proceeds payable to the policyholder under a particular segregated fund policy is reduced on the surrender or partial surrender of the policy that may reasonably be regarded as a surrender fee,

exceeds

(d) the total of amounts each of which is that portion of an amount described in paragraph 138.1(6)(a), 138.1(6)(b) or 138.1(6)(c) that may reasonably be considered to be in respect of an interest in the segregated fund that was disposed of before 1978.

a) le prix de base rajusté de l'immobilisation pour la fiducie immédiatement avant ce moment;

b) le total des montants dont chacun correspond à un montant, à l'égard de la disposition par un titulaire de police de tout ou partie de sa participation dans la fiducie créée à l'égard du fonds réservé, qui à ce moment est égal au produit de la multiplication de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le prix de base rajusté, pour le titulaire de la police, d'une telle participation à ce moment,

(ii) le produit de disposition par le titulaire d'une telle participation dans la fiducie,

par le rapport entre :

(iii) d'une part, la juste valeur marchande de l'immobilisation à ce moment,

(iv) d'autre part, le total des montants dont chacun correspond à la juste valeur marchande d'une immobilisation de la fiducie créée à l'égard du fonds réservé à ce moment.

Définition de *frais d'acquisition*

(6) Au présent article, ***frais d'acquisition*** s'entend de l'excédent éventuel du total des montants dont chacun correspond :

a) à la partie d'une prime prélevée par l'assureur en vertu d'une police à fonds réservé qui ne fait pas partie du fonds réservé ou qu'il n'est pas raisonnable de considérer comme un montant nécessaire au financement d'un capital-décès ou d'un capital-échéance;

b) au transfert du fonds réservé qu'il n'est pas raisonnable de considérer comme un montant nécessaire au financement d'un capital-décès ou d'un capital-échéance autre que des frais annuels d'administration;

c) à une réduction du produit payable au titulaire de police en vertu d'une police à fonds réservé donnée, lors du rachat total ou partiel et qu'il est raisonnable de considérer comme des frais de rachat,

sur :

d) le total des montants dont chacun est la fraction d'un montant visé aux alinéas a), b) ou c) qu'il est raisonnable de considérer comme se rapportant à une participation dans le fonds réservé dont il a été disposé avant 1978.

Non-application of subsections (1) to (6)

(7) Subsections (1) to (6) do not apply to the holder of a segregated fund policy with respect to such a policy that is issued or effected as or under a pooled registered pension plan, registered pension plan, registered retirement income fund, registered retirement savings plan or TFSA.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 138.1; 1994, c. 7, Sch. VIII, s. 80; 2001, c. 17, s. 134; 2008, c. 28, s. 22; 2012, c. 31, s. 31; 2013, c. 34, s. 287; 2014, c. 39, s. 47.

Non-application des paragraphes (1) à (6)

(7) Les paragraphes (1) à (6) ne s'appliquent pas au titulaire d'une police à fonds réservé qui est établie ou souscrite à titre de régime de pension agréé, de régime de pension agréé collectif, de régime enregistré d'épargne-retraite, de fonds enregistré de revenu de retraite ou de compte d'épargne libre d'impôt.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 138.1; 1994, ch. 7, ann. VIII, art. 80; 2001, ch. 17, art. 134; 2008, ch. 28, art. 22; 2012, ch. 31, art. 31; 2013, ch. 34, art. 287; 2014, ch. 39, art. 47.

Conversion of insurance corporations into mutual corporations

139 Where an insurance corporation that is a Canadian corporation applies an amount in payment for shares of the corporation purchased or otherwise acquired by it under a mutualization proposal under Division III of Part VI of the *Insurance Companies Act* or under a law of the province under the laws of which the corporation is incorporated that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with that law,

(a) section 15 does not apply to require the inclusion, in computing the income of a shareholder of the corporation, of any part of that amount; and

(b) no part of that amount shall be deemed, for the purpose of subsection 138(7), to have been paid to shareholders or, for the purpose of section 84, to have been received as a dividend.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 139; 1994, c. 7, Sch. I, s. 734.

Conversion en mutuelle d'une compagnie d'assurance

139 Lorsqu'une compagnie d'assurance constituée au Canada affecte une somme au paiement de ses actions qu'elle a achetées ou acquises d'une autre façon aux termes d'une proposition de mutualisation sous le régime de la section III de la partie VI de la *Loi sur les sociétés d'assurances* ou en vertu d'une loi de la province prévoyant sa conversion en une mutuelle par l'achat de ses actions, conformément aux dispositions de cette loi :

a) l'article 15 n'a pas pour effet d'exiger l'inclusion, dans le calcul du revenu d'un actionnaire de la compagnie, d'une partie quelconque de cette somme;

b) aucune partie de cette somme n'est réputée, pour l'application du paragraphe 138(7), avoir été payée aux actionnaires ou, pour l'application de l'article 84, avoir été reçue à titre de dividende.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 139; 1994, ch. 7, ann. I, art. 734.

Demutualization of Insurance Corporations

Definitions

139.1 (1) The definitions in this subsection apply in this section and sections 139.2 and 147.4.

conversion benefit means a benefit received in connection with the demutualization of an insurance corporation because of an interest, before the demutualization, of any person in an insurance policy to which the insurance corporation has been a party. (*avantage de transformation*)

deadline for a payment in respect of a demutualization of an insurance corporation means the latest of

(a) the end of the day that is 13 months after the time of the demutualization,

Démutualisation des compagnies d'assurance

Définitions

139.1 (1) Les définitions qui suivent s'appliquent au présent article et aux articles 139.2 et 147.4.

action Est assimilé à l'action du capital-actions d'une société le droit consenti par celle-ci d'acquérir une action de son capital-actions. (*share*)

avantage déterminé Avantage de transformation imposable qui prend l'une des formes suivantes :

a) l'amélioration des avantages prévus par une police d'assurance;

b) l'établissement d'une police d'assurance;

c) l'engagement par une compagnie d'assurance de verser une participation de police;

(b) where the entire amount of the payment depends on the outcome of an initial public offering of shares of the corporation or a holding corporation in respect of the insurance corporation, the end of the day that is 60 days after the day on which the offering is completed,

(c) where the payment is made after the initial deadline for the payment and it is reasonable to conclude that the payment was postponed beyond that initial deadline because there was not sufficient information available 60 days before that initial deadline with regard to the location of a person, the end of the day that is six months after such information becomes available, and

(d) the end of any other day that is acceptable to the Minister. (*échéance*)

demutualization means the conversion of an insurance corporation from a mutual company into a corporation that is not a mutual company. (*démutualisation*)

holding corporation means a corporation that

(a) in connection with the demutualization of an insurance corporation, has issued shares of its capital stock to stakeholders; and

(b) owns shares of the capital stock of the insurance corporation acquired in connection with the demutualization that entitle it to 90% or more of the votes that could be cast in respect of shares under all circumstances at an annual meeting of

(i) shareholders of the insurance corporation, or

(ii) shareholders of the insurance corporation and holders of insurance policies to which the insurance corporation is a party. (*société de portefeuille*)

initial deadline for a payment is the time that would, if the definition ***deadline*** were read without reference to paragraph (c) of that definition, be the deadline for the payment. (*échéance initiale*)

mutual holding corporation, in respect of an insurance corporation, means a mutual company established to hold shares of the capital stock of the insurance corporation, where the only persons entitled to vote at an annual meeting of the mutual company are policyholders of the insurance corporation. (*société mutuelle de portefeuille*)

ownership rights means

(a) in a particular mutual holding corporation, the following rights and interests held by a person in respect

d) la réduction des primes qui seraient payables par ailleurs aux termes d'une police d'assurance. (*specified insurance benefit*)

avantage de transformation Avantage reçu à l'occasion de la démutualisation d'une compagnie d'assurance en raison de la participation qu'une personne détenait, avant la démutualisation, dans une police d'assurance à laquelle la compagnie est ou a été partie. (*conversion benefit*)

avantage de transformation imposable Avantage de transformation reçu par un intéressé à l'occasion de la démutualisation d'une compagnie d'assurance, à l'exception d'un avantage de transformation qui est :

a) une action d'une catégorie du capital-actions de la compagnie;

b) une action d'une catégorie du capital-actions d'une société qui est ou devient une société de portefeuille dans le cadre de la démutualisation;

c) un droit de propriété dans une société mutuelle de portefeuille quant à la compagnie. (*taxable conversion benefit*)

démutualisation La transformation d'une compagnie d'assurance à forme mutuelle en une société qui n'est pas à forme mutuelle. (*demutualization*)

droits de propriété

a) Quant aux droits de propriété qui portent sur une société mutuelle de portefeuille donnée, les droits et participations suivants détenus par une personne relativement à la société donnée en raison de la participation, actuelle ou ancienne, d'une personne dans une police d'assurance à laquelle est ou a été partie une compagnie d'assurance relativement à laquelle la société donnée est la société mutuelle de portefeuille :

(i) les droits analogues aux droits rattachés à des actions du capital-actions d'une société,

(ii) les autres droits relatifs à la société donnée à titre de compagnie mutuelle et les participations dans cette société à ce titre;

b) quant aux droits de propriété qui portent sur une compagnie mutuelle d'assurance, les droits et participations suivants détenus par une personne relativement à la compagnie en raison de la participation, actuelle ou ancienne, d'une personne dans une police d'assurance à laquelle cette compagnie est partie :

of the particular corporation because of an interest or former interest of any person in an insurance policy to which an insurance corporation, in respect of which the particular corporation is the mutual holding corporation, has been a party:

(i) rights that are similar to rights attached to shares of the capital stock of a corporation, and

(ii) all other rights with respect to, and interests in, the particular corporation as a mutual company; and

(b) in a mutual insurance corporation, the following rights and interests held by a person in respect of the mutual insurance corporation because of an interest or former interest of any person in an insurance policy to which that corporation has been a party:

(i) rights that are similar to rights attached to shares of the capital stock of a corporation,

(ii) all other rights with respect to, and interests in, the mutual insurance corporation as a mutual company, and

(iii) any contingent or absolute right to receive a benefit in connection with the demutualization of the mutual insurance corporation. (*droits de propriété*)

person includes a partnership. (*personne*)

share of the capital stock of a corporation includes a right granted by the corporation to acquire a share of its capital stock. (*action*)

specified insurance benefit means a taxable conversion benefit that is

(a) an enhancement of benefits under an insurance policy;

(b) an issuance of an insurance policy;

(c) an undertaking by an insurance corporation of an obligation to pay a policy dividend; or

(d) a reduction in the amount of premiums that would otherwise be payable under an insurance policy. (*avantage déterminé*)

stakeholder means a person who is entitled to receive or who has received a conversion benefit but, in respect of the demutualization of an insurance corporation, does not include a holding corporation in connection with the

(i) les droits analogues aux droits rattachés à des actions du capital-actions d'une société,

(ii) les autres droits relatifs à la compagnie mutuelle d'assurance à titre de compagnie mutuelle et les participations dans cette compagnie à ce titre,

(iii) tout droit absolu ou conditionnel de recevoir un avantage à l'occasion de la démutualisation de la compagnie mutuelle d'assurance. (*ownership rights*)

échéance Quant à un paiement relatif à la démutualisation d'une compagnie d'assurance, le dernier en date des moments suivants :

a) la fin du jour qui suit de 13 mois la démutualisation;

b) lorsque le montant total du paiement dépend du produit du premier appel public à l'épargne visant les actions de la compagnie ou d'une société de portefeuille quant à elle, la fin du jour qui suit de 60 jours l'achèvement de l'appel;

c) lorsque le paiement est effectué après l'échéance initiale et qu'il est raisonnable de conclure qu'il a été reporté après cette échéance du fait que, 60 jours avant cette échéance, on ne disposait pas de renseignements permettant de retrouver une personne, la fin du jour qui suit de six mois le moment où l'on obtient de tels renseignements;

d) la fin de tout autre jour que le ministre estime acceptable. (*deadline*)

échéance initiale Le moment qui correspondrait à l'échéance d'un paiement s'il n'était pas tenu compte de l'alinéa c) de la définition de ***échéance***. (*initial deadline*)

intéressé Personne qui a reçu ou a le droit de recevoir un avantage de transformation, à l'exclusion d'une société de portefeuille dans le cadre de la démutualisation d'une compagnie d'assurance et d'une société mutuelle de portefeuille quant à cette compagnie dans ce cadre. (*stakeholder*)

personne Sont assimilées à des personnes les sociétés de personnes. (*person*)

société de portefeuille Société qui, à la fois :

a) à l'occasion de la démutualisation d'une compagnie d'assurance, a émis des actions de son capital-actions à des intéressés;

demutualization or a mutual holding corporation in respect of the insurance corporation. (*intéressé*)

taxable conversion benefit means a conversion benefit received by a stakeholder in connection with the demutualization of an insurance corporation, other than a conversion benefit that is

(a) a share of a class of the capital stock of the corporation;

(b) a share of a class of the capital stock of a corporation that is or becomes a holding corporation in connection with the demutualization; or

(c) an ownership right in a mutual holding corporation in respect of the insurance corporation. (*avantage de transformation imposable*)

b) est propriétaire d'actions du capital-actions de la compagnie d'assurance qui ont été acquises à l'occasion de la démutualisation et qui lui confère au moins 90 % des voix pouvant être exprimées en toutes circonstances relativement à des actions à l'assemblée annuelle :

(i) soit des actionnaires de la compagnie,

(ii) soit des actionnaires de la compagnie et des titulaire s de polices d'assurance auxquelles elle est partie. (*holding corporation*)

société mutuelle de portefeuille Quant à une compagnie d'assurance, compagnie mutuelle constituée en vue de détenir des actions du capital-actions de la compagnie d'assurance et à l'assemblée annuelle de laquelle seuls les titulaires de police de la compagnie d'assurance ont droit de vote. (*mutual holding corporation*)

Rules of general application

(2) For the purpose of this section,

(a) subject to paragraphs (b) to (g), if in providing a benefit in respect of a demutualization, a corporation becomes obligated, either absolutely or contingently, to make or arrange a payment, the person to whom the undertaking to make or arrange the payment was given is considered to have received a benefit

(i) as a consequence of the undertaking of the obligation, and

(ii) not as a consequence of the making of the payment;

(b) where, in providing a benefit in respect of a demutualization, a corporation makes a payment (other than a payment, made pursuant to the terms of an insurance policy, that is not a policy dividend) at any time on or before the deadline for the payment,

(i) subject to paragraphs (f) and (g), the recipient of the payment is considered to have received a benefit as a consequence of the making of the payment, and

(ii) no benefit is considered to have been received as a consequence of the undertaking of an obligation, that is either contingent or absolute, to make or arrange the payment;

(c) no benefit is considered to have been received as a consequence of the undertaking of an absolute or contingent obligation of a corporation to make or arrange a payment (other than a payment, made pursuant to

Règles d'application générale

(2) Les règles suivantes s'appliquent dans le cadre du présent article :

a) sous réserve des alinéas b) à g), lorsque, dans le cadre de l'attribution d'un avantage découlant d'une démutualisation, une société s'engage, de façon absolue ou conditionnelle, à faire ou à faire faire un paiement, la personne auprès de laquelle elle s'est ainsi engagée est considérée comme ayant reçu un avantage par suite de l'engagement et non par suite du versement du paiement;

b) lorsque, dans le cadre de l'attribution d'un avantage découlant d'une démutualisation, une société fait un paiement (sauf celui, fait selon les modalités d'une police d'assurance, qui n'est pas une participation de police) au plus tard à l'échéance du paiement :

(i) sous réserve des alinéas f) et g), le bénéficiaire du paiement est considéré comme ayant reçu un avantage par suite du versement du paiement,

(ii) aucun avantage n'est considéré comme ayant été reçu par suite d'un engagement absolu ou conditionnel de faire ou de faire faire le paiement;

c) aucun avantage n'est considéré comme ayant été reçu du fait qu'une société s'est engagée, de façon absolue ou conditionnelle, à faire ou à faire faire un paiement, sauf s'il est raisonnable de conclure que la société dispose de suffisamment de renseignements lui permettant de retrouver une personne pour faire ou faire faire le paiement;

the terms of an insurance policy, that is not a policy dividend) unless it is reasonable to conclude that there is sufficient information with regard to the location of a person to make or arrange the payment;

(d) where a corporation's obligation to make or arrange a payment in connection with a demutualization ceases on or before the initial deadline for the payment and without the payment being made in whole or in part, no benefit is considered to have been received as a consequence of the undertaking of the obligation unless the payment was to be a payment (other than a policy dividend) pursuant to the terms of an insurance policy;

(e) no benefit is considered to have been received as a consequence of the undertaking of an absolute or contingent obligation of a corporation to make or arrange a payment where

(i) paragraph (a) would, but for this paragraph, apply with respect to the obligation,

(ii) paragraph (d) would, if that paragraph were read without reference to the words "on or before the initial deadline for the payment", apply in respect of the obligation,

(iii) it is reasonable to conclude that there was not, before the initial deadline for the payment, sufficient information with regard to the location of a person to make or arrange the payment, and

(iv) such information becomes available on a particular day after the initial deadline and the obligation ceases not more than six months after the particular day;

(f) no benefit is considered to have been received as a consequence of

(i) an undertaking of an absolute or contingent obligation of a corporation to make or arrange an annuity payment through the issuance of an annuity contract, or

(ii) a receipt of an annuity payment under the contract so issued

where it is reasonable to conclude that the purpose of the undertaking or the making of the annuity payment is to supplement benefits provided under either an annuity contract to which subsection 147.4(1) or paragraph 254(a) applied or a group annuity contract that had been issued under, or pursuant to, a registered pension plan that has wound up;

d) lorsque l'engagement d'une société de faire ou de faire faire un paiement à l'occasion d'une démutualisation prend fin au plus tard à l'échéance initiale du paiement sans que celui-ci n'ait été fait même en partie, un avantage n'est considéré comme ayant été reçu par suite de l'engagement que si le paiement devait être un paiement (sauf une participation de police) effectué selon les modalités d'une police d'assurance;

e) aucun avantage n'est considéré comme ayant été reçu du fait qu'une société s'est engagée, de façon absolue ou conditionnelle, à faire ou à faire faire un paiement dans le cas où les conditions suivantes sont réunies :

(i) l'alinéa a) s'appliquerait à l'engagement si ce n'était le présent alinéa,

(ii) l'alinéa d) s'appliquerait à l'engagement s'il n'était pas tenu compte du passage « au plus tard à l'échéance initiale du paiement » à cet alinéa,

(iii) il est raisonnable de conclure que, avant l'échéance initiale du paiement, la société ne pouvait faire ou faire faire le paiement faute de renseignements permettant de retrouver une personne,

(iv) la société obtient ces renseignements après l'échéance initiale et l'engagement prend fin au plus tard six mois après qu'elle les a obtenus;

f) aucun avantage n'est considéré comme ayant été reçu du fait qu'une société s'est engagée, de façon absolue ou conditionnelle, à faire ou à faire faire un versement de rente au moyen de l'établissement d'un contrat de rente ou qu'un versement de rente a été reçu dans le cadre du contrat ainsi établi, s'il est raisonnable de conclure que l'engagement a été pris ou le versement de rente, effectué en vue de compléter des prestations prévues soit par un contrat de rente auquel le paragraphe 147.4(1) ou l'alinéa 254a) s'applique, soit par un contrat de rente collective établi dans le cadre d'un régime de pension agréé qui a été liquidé;

g) aucun avantage n'est considéré comme ayant été reçu par suite :

(i) d'une modification à laquelle le paragraphe 147.4(2) s'appliquerait si ce n'était le sous-alinéa 147.4(2)a)(ii),

(ii) d'un remplacement auquel l'alinéa 147.4(3)a) s'applique;

h) un intéressé est considéré comme ayant reçu un avantage à l'occasion de la démutualisation d'une

(g) no benefit is considered to have been received as a consequence of

(i) an amendment to which subsection 147.4(2) would, but for subparagraph 147.4(2)(a)(ii), apply, or

(ii) a substitution to which paragraph 147.4(3)(a) applies;

(h) the time at which a stakeholder is considered to receive a benefit in connection with the demutualization of an insurance corporation is

(i) where the benefit is a payment made at or before the time of the demutualization or is a payment to which paragraph (b) applies, the time at which the payment is made, and

(ii) in any other case, the latest of

(A) the time of the demutualization,

(B) where the extent of the benefit or the stakeholder's entitlement to it depends on the outcome of an initial public offering of shares of the corporation or a holding corporation in respect of the insurance corporation and the offering is completed before the day that is 13 months after the time of the demutualization, the time at which the offering is completed,

(C) where the entire amount of the benefit depends on the outcome of an initial public offering of shares of the corporation or a holding corporation in respect of the insurance corporation, the time at which the offering is completed,

(D) where it is reasonable to conclude that the person conferring the benefit does not have sufficient information with regard to the location of the stakeholder before the later of the times determined under clauses (A) to (C), to advise the stakeholder of the benefit, the time at which sufficient information with regard to the location of the stakeholder to so advise the stakeholder was received by that person, and

(E) the end of any other day that is acceptable to the Minister;

(i) the time at which an insurance corporation is considered to demutualize is the time at which it first issues a share of its capital stock (other than shares of its capital stock issued by it when it was a mutual company if the corporation did not cease to be a mutual company because of the issuance of those shares); and

compagnie d'assurance au moment applicable suivant :

(i) si l'avantage est un paiement effectué au plus tard au moment de la démutualisation ou un paiement auquel s'applique l'alinéa b), le moment où le paiement est effectué,

(ii) dans les autres cas, le dernier en date des moments suivants :

(A) le moment de la démutualisation,

(B) lorsque l'importance de l'avantage ou le droit de l'intéressé à l'avantage dépend du produit d'un premier appel public à l'épargne visant les actions de la compagnie ou d'une société de portefeuille quant à elle et que l'appel est achevé avant le jour qui suit de 13 mois la démutualisation, le moment où l'appel est achevé,

(C) lorsque la totalité de l'avantage dépend du produit d'un premier appel public à l'épargne visant les actions de la compagnie ou d'une société de portefeuille quant à elle, le moment où l'appel est achevé,

(D) lorsqu'il est raisonnable de conclure que la personne conférant l'avantage ne peut informer l'intéressé de l'avantage du fait que, avant le dernier en date des moments visés aux divisions (A) à (C), elle ne disposait pas de renseignements permettant de le retrouver, le moment auquel elle a reçu de tels renseignements,

(E) la fin de tout autre jour que le ministre estime acceptable;

i) une compagnie d'assurance est considérée se démutualiser au moment où elle émet, pour la première fois, une action de son capital-actions (à l'exception des actions de son capital-actions qu'elle a émises lorsqu'elle était une compagnie mutuelle, pourvu qu'elle n'ait pas cessé d'être une telle compagnie par suite de l'émission de ces actions);

j) sous réserve de l'alinéa (3)b), la valeur d'un avantage reçu par un intéressé correspond à la juste valeur marchande de l'avantage au moment de sa réception.

(j) subject to paragraph (3)(b), the value of a benefit received by a stakeholder is the fair market value of the benefit at the time the stakeholder receives the benefit.

Special cases

(3) For the purpose of this section,

(a) where benefits under an insurance policy are enhanced (otherwise than by way of an amendment to which subsection 147.4(2) would, but for subparagraph 147.4(2)(a)(ii), apply) in connection with a demutualization, the value of the enhancement is deemed to be a benefit received by the policyholder and not by any other person;

(b) where premiums payable under an insurance policy to an insurance corporation are reduced in connection with a demutualization, the policyholder is deemed, as a consequence of the undertaking to reduce the premiums, to have received a benefit equal to the present value at the time of the demutualization of the additional premiums that would have been payable if the premiums had not been reduced in connection with the demutualization;

(c) the payment of a policy dividend by an insurance corporation or an undertaking of an obligation by the corporation to pay a policy dividend is considered to be in connection with the demutualization of the corporation only to the extent that

(i) the policy dividend is referred to in the demutualization proposal sent by the corporation to stakeholders,

(ii) the obligation to make the payment is contingent on stakeholder approval for the demutualization, and

(iii) the payment or undertaking cannot reasonably be considered to have been made or given, as the case may be, to ensure that policy dividends are not adversely affected by the demutualization;

(d) except for the purposes of paragraphs (c), (e) and (f), where part of a policy dividend is a conversion benefit in respect of the demutualization of an insurance corporation and part of it is not, each part of the dividend is deemed to be a policy dividend that is separate from the other part;

(e) a policy dividend includes an amount that is in lieu of payment of, or in satisfaction of, a policy dividend;

Cas particuliers

(3) Les règles suivantes s'appliquent dans le cadre du présent article :

a) lorsque les avantages prévus par une police d'assurance sont améliorés (autrement que par suite d'une modification à laquelle le paragraphe 147.4(2) s'appliquerait si ce n'était le sous-alinéa 147.4(2)a)(ii)) à l'occasion d'une démutualisation, la valeur de l'amélioration est réputée être un avantage reçu par le titulaire de police et non par une autre personne;

b) lorsque les primes payables à une compagnie d'assurance aux termes d'une police d'assurance sont réduites à l'occasion d'une démutualisation, le titulaire de police est réputé, par suite de l'engagement de réduire les primes, avoir reçu un avantage égal à la valeur actualisée, au moment de la démutualisation, des primes supplémentaires qui auraient été payables en l'absence de la réduction;

c) le versement d'une participation de police par une compagnie d'assurance, ou l'engagement de la compagnie d'en verser une, n'est considéré comme effectué ou pris à l'occasion de la démutualisation de la compagnie que dans la mesure où les faits suivants se vérifient :

(i) il est fait mention de la participation de police dans le projet de démutualisation que la compagnie a envoyé aux intéressés,

(ii) l'engagement d'effectuer le versement est conditionnel à l'approbation du projet de démutualisation par les intéressés,

(iii) il n'est pas raisonnable de considérer que le versement a été effectué, ou l'engagement pris, pour faire en sorte que la démutualisation n'ait pas d'incidence défavorable sur les participations de police;

d) sauf pour l'application des alinéas c), e) et f), la partie d'une participation de police qui est un avantage de transformation découlant de la démutualisation d'une compagnie d'assurance et la partie de la participation qui ne l'est pas sont réputées être des participations de police distinctes;

(f) the payment of a policy dividend includes the application of the policy dividend to pay a premium under an insurance policy or to repay a policy loan;

(g) where the demutualization of an insurance corporation is effected by the merger of the corporation with one or more other corporations to form one corporate entity, that entity is deemed to be the same corporation as, and a continuation of, the insurance corporation;

(h) an insurance corporation shall be considered to have become a party to an insurance policy at the time that the insurance corporation becomes liable in respect of obligations of an insurer under the policy; and

(i) notwithstanding paragraph 248(7)(a), where a cheque or other means of payment sent to an address is returned to the sender without being received by the addressee, it is deemed not to have been sent.

e) est assimilé à une participation de police le montant versé au titre ou en règlement d'une telle participation;

f) est assimilée au versement d'une participation de police l'application de la participation au règlement d'une prime prévue par une police d'assurance ou au remboursement d'un prêt sur police;

g) lorsque la démutualisation d'une compagnie d'assurance se fait par fusion de la compagnie avec une ou plusieurs autres sociétés, la personne morale issue de la fusion est réputée être la même société que la compagnie d'assurance et en être la continuation;

h) une compagnie d'assurance est considérée comme étant partie à une police d'assurance à compter du moment où elle devient responsable d'obligations d'un assureur dans le cadre de la police;

i) malgré l'alinéa 248(7)a), les chèques ou autres moyens de paiement qui sont retournés à l'expéditeur sans avoir été reçus par le destinataire sont réputés ne pas avoir été envoyés.

Consequences of demutualization

(4) Where a particular insurance corporation demutualizes,

(a) each of the income, loss, capital gain and capital loss of a taxpayer, from the disposition, alteration or dilution of the taxpayer's ownership rights in the particular corporation as a result of the demutualization, is deemed to be nil;

(b) no amount paid or payable to a stakeholder in connection with the disposition, alteration or dilution of the stakeholder's ownership rights in the particular corporation may be included in Class 14.1 of Schedule II to the *Income Tax Regulations*;

(c) no election may be made under subsection 85(1) or (2) in respect of ownership rights in the particular corporation;

(d) where the consideration given by a person for a share of the capital stock of the particular corporation or a holding corporation in connection with the demutualization (or for particular ownership rights in a mutual holding corporation in respect of the particular corporation) includes the transfer, surrender, alteration or dilution of ownership rights in the particular corporation, the cost of the share (or the particular ownership rights) to the person is deemed to be nil;

Conséquences de la démutualisation

(4) Lorsqu'une compagnie d'assurance se démutualise, les règles suivantes s'appliquent :

a) le revenu, la perte, le gain en capital et la perte en capital d'un contribuable résultant de la disposition, de la modification ou de la dilution de ses droits de propriété dans la compagnie par suite de la démutualisation sont chacun réputés nuls;

b) une somme payée ou à payer à un intéressé relativement à la disposition, modification ou dilution de ses droits de propriété dans la compagnie ne peut être incluse dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu*;

c) les droits de propriété dans la compagnie ne peuvent faire l'objet des choix prévus aux paragraphes 85(1) ou (2);

d) lorsque la contrepartie donnée par une personne pour une action du capital-actions de la compagnie ou d'une société de portefeuille dans le cadre de la démutualisation (ou pour des droits de propriété donnés dans une société mutuelle de portefeuille quant à la compagnie) comprend le transfert, le délaissement, la modification ou la dilution de droits de propriété dans la compagnie, le coût de l'action (ou des droits donnés) pour la personne est réputé nul;

(e) where a holding corporation in connection with the demutualization acquires, in connection with the demutualization, a share of the capital stock of the particular corporation from the particular corporation and issues a share of its own capital stock to a stakeholder as consideration for the share of the capital stock of the particular corporation, the cost to the holding corporation of the share of the capital stock of the particular corporation is deemed to be nil;

(f) where at any time a stakeholder receives a taxable conversion benefit and subsection (14) does not apply to the benefit,

(i) the corporation that conferred the benefit is deemed to have paid a dividend at that time on shares of its capital stock equal to the value of the benefit, and

(ii) subject to subsection (16), the benefit received by the stakeholder is deemed to be a dividend received by the stakeholder at that time;

(g) for the purposes of this Part, where a dividend is deemed by paragraph (f) or by paragraph (16)(i) to have been paid by a non-resident corporation, that corporation is deemed in respect of the payment of the dividend to be a corporation resident in Canada that is a taxable Canadian corporation unless any amount is claimed under section 126 in respect of tax on the dividend;

(h) for the purposes of section 70, subsection 104(4) and section 128.1, the fair market value of rights to benefits that are to be received in connection with the demutualization is, before the time of the receipt, deemed to be nil; and

(i) where a person acquires an annuity contract in respect of which, because of the application of paragraph (2)(f), no benefit is considered to have been received for the purpose of this section,

(i) the cost of the annuity contract to the person is deemed to be nil, and

(ii) section 12.2 does not apply to the annuity contract.

e) lorsqu'une société de portefeuille dans le cadre de la démutualisation acquiert auprès de la compagnie, à l'occasion de la démutualisation, une action du capital-actions de cette dernière et émet une action de son propre capital-actions à un intéressé en contrepartie de l'action du capital-actions de la compagnie, le coût pour la société de portefeuille de l'action du capital-actions de la compagnie est réputé nul;

f) lorsqu'un intéressé reçoit un avantage de transformation imposable auquel le paragraphe (14) ne s'applique pas, les présomptions suivantes s'appliquent :

(i) la société qui a conféré l'avantage est réputée avoir versé, au moment de la réception, un dividende sur des actions de son capital-actions d'un montant égal à la valeur de l'avantage,

(ii) sous réserve du paragraphe (16), l'avantage reçu par l'intéressé est réputé être un dividende qu'il a reçu à ce moment;

g) pour l'application de la présente partie, lorsqu'un dividende est réputé par les alinéas f) ou (16)i) avoir été versé par une société non-résidente, celle-ci est réputée, en ce qui concerne le versement du dividende, être une société résidant au Canada qui est une société canadienne imposable, sauf si un montant est déduit en application de l'article 126 au titre de l'impôt sur le dividende;

h) pour l'application de l'article 70, du paragraphe 104(4) et de l'article 128.1, la juste valeur marchande des droits aux avantages qui sont à recevoir à l'occasion de la démutualisation est réputée, avant le moment de la réception, être nulle;

i) lorsqu'une personne acquiert un contrat de rente relativement auquel aucun avantage n'est considéré, par l'effet de l'alinéa (2)f), comme ayant été reçu pour l'application du présent article :

(i) d'une part, le coût du contrat de rente pour la personne est réputé être nul,

(ii) d'autre part, l'article 12.2 ne s'applique pas au contrat de rente.

Fair market value of ownership rights

(5) For the purposes of section 70, subsection 104(4) and section 128.1, where an insurance corporation makes, at any time, a public announcement that it intends to seek approval for its demutualization, the fair market value of ownership rights in the corporation is deemed to be nil throughout the period that

Juste valeur marchande des droits de propriété

(5) Pour l'application de l'article 70, du paragraphe 104(4) et de l'article 128.1, lorsqu'une compagnie d'assurance annonce publiquement son intention de faire approuver sa démutualisation, la juste valeur marchande des droits de propriété dans la compagnie est réputée être nulle tout au long de la période qui :

(a) begins at that time; and

(b) ends either at the time of the demutualization or, in the event that the corporation makes at any subsequent time a public announcement that it no longer intends to demutualize, at the subsequent time.

Paid-up capital — insurance corporation

(6) Where an insurance corporation resident in Canada has demutualized, in computing the paid-up capital at any particular time in respect of a class of shares of the capital stock of the corporation,

(a) there shall be deducted the total of all amounts each of which would, but for this subsection, have been deemed by subsection 84(1) to have been paid at or before the particular time by the corporation as a dividend on a share of that class because of an increase in paid-up capital (determined without reference to this subsection) in connection with the demutualization; and

(b) there shall be added the amount, if any, by which

(i) the total of all amounts each of which is deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation before the particular time

exceeds

(ii) the total of all amounts each of which would be deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation before the particular time, if this Act were read without reference to this subsection.

Paid-up capital — holding corporation

(7) Where a particular corporation resident in Canada was at any time a holding corporation in connection with the demutualization of an insurance corporation, in computing the paid-up capital at any particular time in respect of a class of shares of the capital stock of the particular corporation,

(a) there shall be deducted the total of all amounts each of which is an amount by which the paid-up capital would, but for this subsection, have increased at or before the particular time as a result of the acquisition of shares of a class of the capital stock of the insurance corporation from the corporation on its demutualization; and

(b) there shall be added the amount, if any, by which

a) commence au moment de l'annonce;

b) se termine soit au moment de la démutualisation, soit au moment postérieur éventuel où la compagnie annonce publiquement son intention de ne plus se démutualiser.

Capital versé — compagnie d'assurance

(6) En cas de démutualisation d'une compagnie d'assurance résidant au Canada, les règles suivantes s'appliquent aux fins du calcul du capital versé, à un moment donné, au titre d'une catégorie d'actions de son capital-actions :

a) est déduit dans ce calcul le total des montants dont chacun aurait été réputé par le paragraphe 84(1), n'eût été le présent paragraphe, avoir été payé par la compagnie à ce moment ou antérieurement à titre de dividende sur une action de cette catégorie en raison d'une augmentation du capital versé (déterminé compte non tenu du présent paragraphe) découlant de la démutualisation;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) est ajouté dans ce calcul :

(i) le total des montants dont chacun est réputé par les paragraphes 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie versé par la compagnie avant ce moment,

(ii) le total des montants dont chacun serait réputé par les paragraphes 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie versé par la compagnie avant ce moment s'il n'était pas tenu compte du présent paragraphe.

Capital versé — société de portefeuille

(7) Lorsqu'une société résidant au Canada est ou a été une société de portefeuille dans le cadre de la démutualisation d'une compagnie d'assurance, les règles suivantes s'appliquent aux fins du calcul du capital versé, à un moment donné, au titre d'une catégorie d'actions de son capital-actions :

a) est déduit dans ce calcul le total des montants représentant chacun le montant qui, n'eût été le présent paragraphe, serait venu augmenter le capital versé à ce moment ou antérieurement par suite de l'acquisition, auprès de la compagnie lors de sa démutualisation, d'actions d'une catégorie de son capital-actions;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) est ajouté dans ce calcul :

(i) the total of all amounts each of which is deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the particular corporation before the particular time

exceeds

(ii) the total of all amounts each of which would be deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the particular corporation before the particular time, if this Act were read without reference to this subsection.

(i) le total des montants dont chacun est réputé par les paragraphes 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie versé par la société avant ce moment,

(ii) le total des montants dont chacun serait réputé par les paragraphes 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie versé par la société avant ce moment s'il n'était pas tenu compte du présent paragraphe.

Policy dividends

(8) Where the payment of a policy dividend by an insurance corporation is a taxable conversion benefit,

(a) for the purposes of this Act other than this section, the policy dividend is deemed not to be a policy dividend; and

(b) no amount in respect of the policy dividend may be included, either explicitly or implicitly, in the calculation of an amount deductible by the insurer for any taxation year under paragraph 20(7)(c) or subsection 138(3).

Participations de police

(8) Lorsque le versement d'une participation de police par une compagnie d'assurance est un avantage de transformation imposable, les règles suivantes s'appliquent :

a) la participation de police est réputée ne pas en être une pour l'application des dispositions de la présente loi, à l'exception du présent article;

b) aucun montant au titre de la participation de police ne peut être inclus, même implicitement, dans le calcul d'un montant déductible par l'assureur pour une année d'imposition en application de l'alinéa 20(7)c) ou du paragraphe 138(3).

Payment and receipt of premium

(9) Where, in connection with the demutualization of an insurance corporation, a person would, if subsection (2) were read without reference to paragraphs (f) and (g) and paragraph (3)(a) were read without reference to the application of subsection 147.4(2), receive a particular benefit that is a specified insurance benefit,

(a) the insurance corporation that is obligated to pay benefits under the policy to which the particular benefit relates is deemed to have received a premium at the time of the demutualization in respect of that policy equal to the value of the particular benefit;

(b) for the purpose of paragraph (a), to the extent that the obligations of a particular insurance corporation under the policy were assumed by another insurance corporation before the time of the demutualization, the particular corporation is deemed not to be obligated to pay benefits under the policy; and

(c) subject to paragraph (15)(e), where the person receives the particular benefit, the person is deemed to have paid, at the time of demutualization, a premium in respect of the policy to which the benefit relates equal to the value of the particular benefit.

Paiement et réception d'une prime

(9) Dans le cas où, à l'occasion de la démutualisation d'une compagnie d'assurance, une personne recevrait, s'il n'était pas tenu compte des alinéas (2)f) et g) et si l'alinéa (3)a) s'appliquait compte non tenu du paragraphe 147.4(2), un avantage donné qui est un avantage déterminé, les présomptions suivantes s'appliquent :

a) la compagnie d'assurance qui est tenue de payer des avantages dans le cadre de la police à laquelle l'avantage donné se rapporte est réputée avoir reçu, au moment de la démutualisation et relativement à cette police, une prime égale à la valeur de l'avantage donné;

b) pour l'application de l'alinéa a), dans la mesure où les obligations d'une compagnie d'assurance donnée dans le cadre de la police ont été assumées par une autre compagnie d'assurance avant ce moment, la compagnie donnée est réputée ne pas être tenue de payer des avantages dans le cadre de la police;

c) sous réserve de l'alinéa (15)e), la personne est réputée, dans le cas où elle reçoit l'avantage donné, avoir payé, au moment de la démutualisation et relativement à la police à laquelle l'avantage se rapporte, une prime égale à la valeur de cet avantage.

Cost of taxable conversion benefit

(10) Where, in connection with the demutualization of an insurance corporation, a stakeholder receives a taxable conversion benefit (other than a specified insurance benefit), the stakeholder is deemed to have acquired the benefit at a cost equal to the value of the benefit.

No shareholder benefit

(11) Subsection 15(1) does not apply to a conversion benefit.

Exclusion of benefit from RRSP and other rules

(12) Subject to subsection (14), for the purposes of the provisions of this Act (other than paragraph (9)(c)) that relate to registered retirement savings plans, registered retirement income funds, retirement compensation arrangements, deferred profit sharing plans and superannuation or pension funds or plans, the receipt of a conversion benefit shall be considered to be neither a contribution to, nor a distribution from, such a plan, fund or arrangement.

RRSP registration rules, etc.

(13) For the purposes of this Act, paragraphs 146(2)(c.4) and 146.3(2)(g) and subsection 198(6) shall be applied without reference to any conversion benefit.

Retirement benefit

(14) A conversion benefit received because of an interest in a life insurance policy held by a trust governed by a registered retirement savings plan, registered retirement income fund, deferred profit sharing plan or superannuation or pension fund or plan is deemed to be received under the plan or fund, as the case may be, if it is received by any person (other than the trust).

Employee-paid insurance

(15) Where

(a) a stakeholder receives a conversion benefit because of the stakeholder's interest in a group insurance policy under which individuals have been insured in the course of or because of their employment,

(b) at all times before the payment of a premium described in paragraph (c), the full cost of a particular insurance coverage under the policy was borne by the individuals who were insured under the particular coverage,

Coût d'un avantage de transformation imposable

(10) L'intéressé qui reçoit un avantage de transformation imposable (sauf un avantage déterminé) à l'occasion de la démutualisation d'une compagnie d'assurance est réputé avoir acquis l'avantage à un coût égal à sa valeur.

Inapplication du paragraphe 15(1)

(11) Le paragraphe 15(1) ne s'applique pas aux avantages de transformation.

Application des règles sur les REER et autres règles

(12) Sous réserve du paragraphe (14) et pour l'application des dispositions de la présente loi (sauf l'alinéa (9)c)) concernant les régimes enregistrés d'épargne-retraite, les fonds enregistrés de revenu de retraite, les conventions de retraite, les régimes de participation différée aux bénéfices et les régimes ou fonds de pension ou de retraite, la réception d'un avantage de transformation n'est assimilée ni au versement d'une cotisation à un tel régime ou fonds ou à une telle convention, ni à la réception d'un montant d'un tel régime ou fonds ou d'une telle convention.

Règles d'enregistrement

(13) Les alinéas 146(2)c.4) et 146.3(2)g) et le paragraphe 198(6) s'appliquent dans le cadre de la présente loi compte non tenu des avantages de transformation.

Prestation de retraite

(14) L'avantage de transformation reçu en raison d'une participation dans une police d'assurance-vie détenue par une fiducie régie par un régime enregistré d'épargne-retraite, un fonds enregistré de revenu de retraite, un régime de participation différée aux bénéfices ou un régime ou fonds de pension ou de retraite est réputé être reçu dans le cadre du régime ou du fonds, selon le cas, s'il est reçu par une personne (sauf la fiducie).

Assurance payée par l'employé

(15) Dans le cas où les conditions suivantes sont réunies :

a) un intéressé reçoit un avantage de transformation en raison de sa participation dans une police d'assurance collective établie pour des particuliers dans le cadre ou en raison de leur emploi;

b) en tout temps avant le versement de la prime visée à l'alinéa c), le coût total d'une protection donnée prévue par la police a été assumé par les particuliers qui bénéficiaient de cette protection;

(c) the stakeholder pays a premium under the policy in respect of the particular coverage or under another group insurance policy in respect of coverage that has replaced the particular coverage, and

(d) either

(i) the premium is deemed by paragraph (9)(c) to have been paid, or

(ii) it is reasonable to conclude that the purpose of the premium is to apply, for the benefit of the individuals who are insured under the particular coverage or the replacement coverage, all or part of the value of the portion of the conversion benefit that can reasonably be considered to be in respect of the particular coverage,

the following rules apply:

(e) for the purposes of paragraph 6(1)(f) and regulations made for the purposes of subsection 6(4), the premium is deemed to be an amount paid by the individuals who are insured under the particular coverage or the replacement coverage, as the case may be, and not to be an amount paid by the stakeholder, and

(f) no amount may be deducted in respect of the premium in computing the stakeholder's income.

Flow-through of conversion benefits to employees and others

(16) Where

(a) a stakeholder receives a conversion benefit (in this subsection referred to as the "relevant conversion benefit") because of the interest of any person in an insurance policy,

(b) the stakeholder makes a payment of an amount (otherwise than by way of a transfer of a share that was received by the stakeholder as all or part of the relevant conversion benefit and that was not so received as a taxable conversion benefit) to a particular individual

(i) who has received benefits under the policy,

(ii) who has, or had at any time, an absolute or contingent right to receive benefits under the policy,

(iii) for whose benefit insurance coverage was provided under the policy, or

(iv) who received the amount because an individual satisfied the condition in subparagraph (i), (ii) or (iii),

c) l'intéressé verse une prime soit dans le cadre de la police au titre de la protection donnée, soit dans le cadre d'une autre police d'assurance collective au titre d'une protection de remplacement;

d) selon le cas :

(i) la prime est réputée par l'alinéa (9)c) avoir été versée,

(ii) il est raisonnable de conclure que la prime a pour objet d'appliquer, au profit des particuliers bénéficiant de la protection donnée ou de la protection de remplacement, la totalité ou une partie de la valeur de la partie de l'avantage de transformation qu'il est raisonnable de considérer comme se rapportant à la protection donnée,

les règles suivantes s'appliquent :

e) pour l'application de l'alinéa 6(1)f) et des dispositions réglementaires prises en application du paragraphe 6(4), la prime est réputée être un montant payé par les particuliers bénéficiant de la protection donnée ou de la protection de remplacement, selon le cas, et non un montant payé par l'intéressé;

f) aucun montant ne peut être déduit au titre de la prime dans le calcul du revenu de l'intéressé.

Transfert d'avantages de transformation à des employés et autres

(16) Dans le cas où les conditions suivantes sont réunies :

a) un intéressé reçoit un avantage de transformation (appelé « avantage donné » au présent paragraphe) en raison de la participation d'une personne dans une police d'assurance;

b) l'intéressé fait un paiement (autrement que par le transfert d'une action qu'il a reçue au titre de la totalité ou d'une partie de l'avantage donné, mais qu'il n'a pas reçue à titre d'avantage de transformation imposable) à un particulier donné qui, selon le cas :

(i) a reçu des avantages dans le cadre de la police,

(ii) a, ou avait à un moment donné, le droit absolu ou conditionnel de recevoir des avantages dans le cadre de la police,

(iii) bénéficiait d'une protection prévue par la police,

(c) it is reasonable to conclude that the purpose of the payment is to distribute an amount in respect of the relevant conversion benefit to the particular individual,

(d) either

(i) the main purpose of the policy was to provide retirement benefits or insurance coverage to individuals in respect of their employment with an employer, or

(ii) all or part of the cost of insurance coverage under the policy had been borne by individuals (other than the stakeholder),

(e) subsection (14) does not apply to the relevant conversion benefit, and

(f) one of the following applies, namely,

(i) the particular individual is resident in Canada at the time of the payment, the stakeholder is a person the taxable income of which is exempt from tax under this Part and the payment would, if this section were read without reference to this subsection, be included in computing the income of the particular individual,

(ii) the payment is received before Decenber 7, 1999 and the stakeholder elects in writing filed with the Minister, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the relevant conversion benefit (or a later day acceptable to the Minister), that this subsection applies in respect of the payment,

(iii) the payment is received after December 6, 1999, the payment would, if this section were read without reference to this subsection, be included in computing the income of the particular individual and the stakeholder elects in writing filed with the Minister, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the relevant conversion benefit (or a later day acceptable to the Minister), that this subsection applies in respect of the payment, or

(iv) the payment is received after December 6, 1999 and the payment would, if this section were read without reference to this subsection, not be included in computing the income of the particular individual,

the following rules apply:

(iv) a reçu le paiement du fait qu'un particulier a rempli la condition énoncée au sous-alinéa (i), (ii) ou (iii);

c) il est raisonnable de conclure que le paiement a été fait pour qu'un montant au titre de l'avantage donné soit attribué au particulier donné;

d) selon le cas :

(i) la police avait pour principal objet d'assurer des prestations de retraite ou une protection à des particuliers au titre de leur emploi auprès d'un employeur,

(ii) la totalité ou une partie du coût de la protection avait été assumée par des particuliers (sauf l'intéressé);

e) le paragraphe (14) ne s'applique pas à l'avantage donné;

f) selon le cas :

(i) le particulier donné réside au Canada au moment du paiement, l'intéressé est une personne dont le revenu imposable est exonéré d'impôt en vertu de la présente partie et le paiement serait inclus dans le calcul du revenu du particulier donné s'il n'était pas tenu compte du présent paragraphe,

(ii) le paiement est reçu avant le 7 décembre 1999 et l'intéressé choisit, dans un document présenté au ministre au plus tard six mois après la fin de l'année d'imposition au cours de laquelle il reçoit l'avantage donné (ou à une date postérieure que le ministre estime acceptable), que le présent paragraphe s'applique au paiement,

(iii) le paiement est reçu après le 6 décembre 1999 et serait inclus dans le calcul du revenu du particulier donné s'il n'était pas tenu compte du présent paragraphe, et l'intéressé choisit, dans un document présenté au ministre au plus tard six mois après la fin de l'année d'imposition au cours de laquelle il reçoit l'avantage donné (ou à une date postérieure que le ministre estime acceptable), que le présent paragraphe s'applique au paiement,

(iv) le paiement est reçu après le 6 décembre 1999 et ne serait pas inclus dans le calcul du revenu du particulier donné s'il n'était pas tenu compte du présent paragraphe,

les règles suivantes s'appliquent :

(g) subject to paragraph (l), no amount is, because of the making of the payment, deductible in computing the stakeholder's income,

(h) except for the purpose of this subsection and without affecting the consequences to the particular individual of any transaction or event that occurs after the time that the payment was made, the payment is deemed not to have been received by, or made payable to, the particular individual,

(i) the corporation that conferred the relevant conversion benefit is deemed to have paid to the particular individual at the time the payment was made, and the particular individual is deemed to have received at that time, a dividend on shares of the capital stock of the corporation equal to the amount of the payment,

(j) all obligations that would, but for this subsection, be imposed by this Act or the regulations on the corporation because of the payment of the dividend apply to the stakeholder as if the stakeholder were the corporation, and do not apply to the corporation,

(k) where the relevant conversion benefit is a taxable conversion benefit, except for the purpose of this subsection and the purposes of determining the obligations imposed by this Act or the regulations on the corporation because of the conferral of the relevant conversion benefit, the stakeholder is deemed, to the extent of the fair market value of the payment, not to have received the relevant conversion benefit, and

(l) where the relevant conversion benefit was a share received by the stakeholder (otherwise than as a taxable conversion benefit),

(i) where the share is, at the time of the payment, capital property held by the stakeholder, the amount of the payment shall, after that time, be added in computing the adjusted cost base to the stakeholder of the share,

(ii) where subparagraph (i) does not apply and the share was capital property disposed of by the stakeholder before that time, the amount of the payment is deemed to be a capital loss of the stakeholder from the disposition of a property for the taxation year of the stakeholder in which the payment is made, and

(iii) in any other case, paragraph (g) shall not apply to the payment.

g) sous réserve de l'alinéa l), aucun montant n'est déductible, en raison du paiement, dans le calcul du revenu de l'intéressé;

h) sauf pour l'application du présent paragraphe et sans qu'en soient atteintes les conséquences pour le particulier donné de toute opération ou tout événement se produisant après le moment du paiement, le paiement est réputé ne pas avoir été reçu par le particulier donné ni lui avoir été rendu payable;

i) la société ayant conféré l'avantage donné est réputée avoir versé au particulier donné au moment du paiement, et celui-ci est réputé avoir reçu à ce moment, un dividende sur des actions du capital-actions de la société égal au montant du paiement;

j) les obligations qui, si ce n'était le présent paragraphe, seraient imposées à la société par la présente loi ou son règlement en raison du versement du dividende s'appliquent à l'intéressé comme s'il était la société, mais ne s'appliquent pas à cette dernière;

k) lorsque l'avantage donné est un avantage de transformation imposable, sauf pour l'application du présent paragraphe et sauf aux fins de déterminer les obligations imposées à la société par la présente loi ou son règlement du fait que l'avantage donné a été conféré, l'intéressé est réputé, jusqu'à concurrence de la juste valeur marchande du paiement, ne pas avoir reçu l'avantage donné;

l) lorsque l'avantage donné était une action reçue par l'intéressé (autrement qu'à titre d'avantage de transformation imposable) :

(i) si, au moment du paiement, l'action est une immobilisation détenue par l'intéressé, le montant du paiement doit être ajouté, après ce moment, dans le calcul du prix de base rajusté de l'action pour lui,

(ii) si le sous-alinéa (i) ne s'applique pas et si l'action était une immobilisation dont l'intéressé a disposé avant ce moment, le montant du paiement est réputé être une perte en capital pour lui résultant de la disposition d'un bien pour son année d'imposition au cours de laquelle le paiement est fait,

(iii) dans les autres cas, l'alinéa g) ne s'applique pas au paiement.

Flow-through of share benefits to employees and others

(17) Where

(a) because of the interest of any person in an insurance policy, a stakeholder receives a conversion benefit (other than a taxable conversion benefit) that consists of shares of the capital stock of a corporation,

(b) the stakeholder transfers some or all of the shares at any time to a particular individual

(i) who has received benefits under the policy,

(ii) who has, or had at any time, an absolute or contingent right to receive benefits under the policy,

(iii) for whose benefit insurance coverage was provided under the policy, or

(iv) who received the shares because an individual satisfied the condition in subparagraph (i), (ii) or (iii),

(c) it is reasonable to conclude that the purpose of the transfer is to distribute all or any portion of the conversion benefit to the particular individual,

(d) either

(i) the main purpose of the policy was to provide retirement benefits or insurance coverage to individuals in respect of their employment with an employer, or

(ii) all or part of the cost of insurance coverage under the policy had been borne by individuals (other than the stakeholder),

(e) subsection (14) does not apply to the conversion benefit, and

(f) one of the following applies, namely,

(i) the particular individual is resident in Canada at the time of the transfer, the stakeholder is a person the taxable income of which is exempt from tax under this Part and the amount of the transfer would, if this section were read without reference to this subsection, be included in computing the income of the particular individual,

(ii) the transfer is made before December 7, 1999 and the stakeholder elects in writing filed with the Minister, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the conversion benefit (or a

Transfert d'avantages en actions à des employés ou autres

(17) Dans le cas où les conditions suivantes sont réunies :

a) en raison de la participation d'une personne dans une police d'assurance, un intéressé reçoit un avantage de transformation (sauf un avantage de transformation imposable) qui consiste en actions du capital-actions d'une société;

b) l'intéressé transfère la totalité ou une partie des actions à un particulier donné qui, selon le cas :

(i) a reçu des avantages dans le cadre de la police,

(ii) a, ou avait à un moment donné, le droit absolu ou conditionnel de recevoir des avantages dans le cadre de la police,

(iii) bénéficiait d'une protection prévue par la police,

(iv) a reçu les actions du fait qu'un particulier a rempli la condition énoncée au sous-alinéa (i), (ii) ou (iii);

c) il est raisonnable de conclure que le transfert a été effectué pour que la totalité ou une partie de l'avantage de transformation soit attribuée au particulier donné;

d) selon le cas :

(i) la police avait pour principal objet d'assurer des prestations de retraite ou une protection à des particuliers au titre de leur emploi auprès d'un employeur,

(ii) la totalité ou une partie du coût de la protection avait été assumée par des particuliers (sauf l'intéressé);

e) le paragraphe (14) ne s'applique pas à l'avantage de transformation;

f) selon le cas :

(i) le particulier donné réside au Canada au moment du transfert, l'intéressé est une personne dont le revenu imposable est exonéré d'impôt en vertu de la présente partie et le montant du transfert serait inclus dans le calcul du revenu du particulier donné s'il n'était pas tenu compte du présent paragraphe,

later day acceptable to the Minister), that this subsection applies in respect of the transfer,

(iii) the transfer is made after December 6, 1999, the amount of the transfer would, if this section were read without reference to this subsection, be included in computing the income of the particular individual and the stakeholder elects in writing filed with the Minister, on a day that is not more than six months after the end of the taxation year in which the stakeholder receives the conversion benefit (or a later day acceptable to the Minister), that this subsection applies in respect of the transfer, or

(iv) the transfer is made after December 6, 1999 and the amount of the transfer would, if this section were read without reference to this subsection, not be included in computing the income of the particular individual,

the following rules apply:

(g) no amount is, because of the transfer, deductible in computing the stakeholder's income,

(h) except for the purpose of this subsection and without affecting the consequences to the particular individual of any transaction or event that occurs after the time that the transfer was made, the transfer is deemed not to have been made to the particular individual nor to represent an amount payable to the particular individual, and

(i) the cost of the shares to the particular individual is deemed to be nil.

(ii) le transfert est effectué avant le 7 décembre 1999 et l'intéressé choisit, dans un document présenté au ministre au plus tard six mois après la fin de l'année d'imposition au cours de laquelle il reçoit l'avantage de transformation (ou à une date postérieure que le ministre estime acceptable), que le présent paragraphe s'applique au transfert,

(iii) le transfert est effectué après le 6 décembre 1999, son montant serait inclus dans le calcul du revenu du particulier donné s'il n'était pas tenu compte du présent paragraphe et l'intéressé choisit, dans un document présenté au ministre au plus tard six mois après la fin de l'année d'imposition au cours de laquelle il reçoit l'avantage de transformation (ou à une date postérieure que le ministre estime acceptable), que le présent paragraphe s'applique au transfert,

(iv) le transfert est effectué après le 6 décembre 1999 et son montant ne serait pas inclus dans le calcul du revenu du particulier donné s'il n'était pas tenu compte du présent paragraphe,

les règles suivantes s'appliquent :

g) aucun montant n'est déductible, en raison du transfert, dans le calcul du revenu de l'intéressé;

h) sauf pour l'application du présent paragraphe et sans qu'en soient atteintes les conséquences pour le particulier donné de toute opération ou tout événement se produisant après le moment du transfert, le transfert est réputé ne pas avoir été effectué en faveur du particulier donné ni ne représenter un montant qui lui est payable;

i) le coût des actions pour le particulier donné est réputé être nul.

Acquisition of control

(18) For the purposes of subsections 10(10), 13(21.2) and (24) and 18(15), sections 18.1 and 37, subsection 40(3.4), the definition ***superficial loss*** in section 54, section 55, subsections 66(11), (11.4) and (11.5), 66.5(3) and 66.7(10) and (11), section 80, paragraph 80.04(4)(h), subsections 85(1.2) and 88(1.1) and (1.2), sections 111 and 127 and subsections 249(4) and 256(7), control of an insurance corporation (and each corporation controlled by it) is deemed not to be acquired solely because of the acquisition of shares of the capital stock of the insurance corporation, in connection with the demutualization of the insurance corporation, by a particular corporation that at a particular time becomes a holding corporation in connection with the demutualization where, immediately after the particular time,

Acquisition de contrôle

(18) Pour l'application des paragraphes 10(10), 13(21.2) et (24) et 18(15), des articles 18.1 et 37, du paragraphe 40(3.4), de la définition de ***perte apparente*** à l'article 54, de l'article 55, des paragraphes 66(11), (11.4) et (11.5), 66.5(3) et 66.7(10) et (11), de l'article 80, de l'alinéa 80.04(4)h), des paragraphes 85(1.2) et 88(1.1) et (1.2), des articles 111 et 127 et des paragraphes 249(4) et 256(7), le contrôle d'une compagnie d'assurance (et de chaque société qu'elle contrôle) est réputé ne pas être acquis du seul fait que des actions de son capital-actions ont été acquises, à l'occasion de sa démutualisation, par une société donnée qui, à un moment donné, devient une société de portefeuille dans le cadre de la démutualisation si les

(a) the particular corporation is not controlled by any person or group of persons; and

(b) 95% of the fair market value of all the assets of the particular corporation is less than the total of all amounts each of which is

(i) the amount of the particular corporation's money,

(ii) the amount of a deposit, with a financial institution, of such money standing to the credit of the particular corporation,

(iii) the fair market value of a bond, debenture, note or similar obligation that is owned by the particular corporation that had, at the time of its acquisition, a maturity date of not more than 24 months after that time, or

(iv) the fair market value of a share of the capital stock of the insurance corporation held by the particular corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 38; 2016, c. 12, s. 50.

faits suivants se vérifient immédiatement après ce moment :

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 38; 2016, ch. 12, art. 50.

Mutual holding corporations

139.2 Where at any time a mutual holding corporation (as defined in subsection 139.1(1)) in respect of an insurance corporation distributes property to a policyholder of the insurance corporation, the mutual holding corporation is deemed to have paid, and the policyholder is deemed to have received from the mutual holding corporation, at that time a dividend on shares of the capital stock of the mutual holding corporation, equal to the fair market value of the property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 38.

Sociétés mutuelles de portefeuille

139.2 Lorsqu'une société mutuelle de portefeuille, au sens du paragraphe 139.1(1), quant à une compagnie d'assurance distribue des biens à un titulaire de police de la compagnie, elle est réputée avoir payé et le titulaire, avoir reçu de sa part, au moment de la distribution, un dividende sur des actions de son capital-actions égal à la juste valeur marchande des biens.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 38.

Deductions in computing income

140 (1) In computing the income for a taxation year of an insurance corporation, whether a mutual corporation or a joint stock company, from carrying on an insurance business other than a life insurance business, there may be deducted every amount credited in respect of that business for the year or a preceding taxation year to a policyholder of the corporation by way of a policy dividend, refund of premiums or refund of premium deposits if the amount was, during the year or within 12 months thereafter,

(a) paid or unconditionally credited to the policyholder; or

(b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the corporation.

Déduction dans le calcul du revenu

140 (1) Est déductible dans le calcul du revenu, pour une année d'imposition, que tire une compagnie d'assurance — mutuelle ou compagnie par actions — de l'exploitation d'une entreprise d'assurance autre qu'une entreprise d'assurance-vie, toute somme relative à cette entreprise, pour l'année ou pour une année d'imposition antérieure, qui a été portée au crédit d'un titulaire de police de la compagnie, sous forme de participation de police ou de remboursement de primes ou de dépôts de prime, si la somme a été, pendant l'année ou au cours des 12 mois qui suivent :

a) soit payée au titulaire ou portée à son crédit inconditionnellement;

b) soit affectée à l'extinction, totale ou partielle, de l'obligation du titulaire de payer des primes à la compagnie.

Inclusion in computing income

(2) There shall be included in computing the income of an insurance corporation, whether a mutual corporation or a joint stock company, from carrying on an insurance business for its first taxation year that commences after June 17, 1987 and ends after 1987 (in this subsection referred to as its "1988 taxation year") the amount, if any, by which

(a) the total of all amounts each of which is an amount deducted by the corporation in computing its income for a taxation year ending before its 1988 taxation year pursuant to paragraph 140(c) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, or pursuant to that paragraph by reason of subparagraph 138(3)(a)(v) of that Act as it read in respect of those taxation years in respect of amounts credited to the account of the policyholder on terms that the policyholder is entitled to payment thereof on or before the expiration or termination of the policy

exceeds

(b) the total of all amounts each of which is an amount paid or unconditionally credited to a policyholder or applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the corporation before the corporation's 1988 taxation year in respect of the amounts credited to the account of the policyholder referred to in paragraph 140(2)(a).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 140; 2000, c. 19, s. 39.

Inclusion dans le calcul du revenu

(2) L'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) doit être inclus dans le calcul du revenu que tire une compagnie d'assurance — mutuelle ou compagnie par actions — de l'exploitation d'une entreprise d'assurance pour sa première année d'imposition commençant après le 17 juin 1987 et se terminant après 1987 (appelée « année d'imposition 1988 » au présent paragraphe):

a) le total des sommes dont chacune représente une somme que la compagnie a déduite dans le calcul de son revenu pour une année d'imposition donnée se terminant avant son année d'imposition 1988 conformément à l'alinéa 140c) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, ou conformément à ce même alinéa par l'effet du sous-alinéa 138(3)a)(v) de la même loi, dans sa version applicable à l'année donnée, au titre de sommes portées au crédit du compte du titulaire de police à des conditions qui lui donnent droit au paiement de ces sommes au plus tard à l'expiration ou à la résiliation de la police;

b) le total des sommes dont chacune représente une somme payée au titulaire de police ou portée à son crédit inconditionnellement ou affectée à l'extinction totale ou partielle de son obligation de payer des primes à la compagnie avant l'année d'imposition 1988 de la compagnie au titre des sommes portées au crédit du compte du titulaire de police visé à l'alinéa a).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 140; 2000, ch. 19, art. 39.

Definitions

141 (1) In this section, ***demutualization*** and ***holding corporation*** have the same meaning as in subsection 139.1(1).

Life insurance corporation deemed to be public corporation

(2) Notwithstanding any other provision of this Act, a life insurance corporation that is resident in Canada is deemed to be a public corporation.

Holding corporation deemed to be public corporation

(3) A corporation resident in Canada that is a holding corporation because of its acquisition of shares in connection with the demutualization of a life insurance corporation resident in Canada is deemed to be a public

Définitions

141 (1) Au présent article, ***démutualisation*** et ***société de portefeuille*** s'entendent au sens du paragraphe 139.1(1).

Compagnie d'assurance-vie réputée société publique

(2) Malgré les autres dispositions de la présente loi, la compagnie d'assurance-vie qui réside au Canada est réputée être une société publique.

Société de portefeuille réputée société publique

(3) La société résidant au Canada qui est une société de portefeuille du fait qu'elle a acquis des actions à l'occasion de la démutualisation d'une compagnie d'assurance-vie résidant au Canada est réputée être une société

corporation at each time in the specified period of the holding corporation at which the holding corporation would have satisfied conditions prescribed under subparagraph (b)(i) of the definition ***public corporation*** in subsection 89(1) if the words "shareholders, the dispersal of ownership of its shares and the public trading of its shares" in that subparagraph were read as "shareholders and the dispersal of ownership of its shares".

Specified period

(4) For the purpose of subsection (3), the specified period of a corporation

(a) begins at the time the corporation becomes a holding corporation; and

(b) ends at the first time the corporation is a public corporation because of any provision of this Act other than subsection (3).

Exclusion from taxable Canadian property

(5) For the purpose of paragraph (d) of the definition ***taxable Canadian property*** in subsection 248(1), a share of the capital stock of a corporation is deemed to be listed at any time on a designated stock exchange if

(a) the corporation is

(i) a life insurance corporation resident in Canada that has demutualized and that, at that time, would have satisfied conditions prescribed under subparagraph (b)(i) of the definition ***public corporation*** in subsection 89(1) if the words "shareholders, the dispersal of ownership of its shares and the public trading of its shares" in that subparagraph were read as "shareholders and the dispersal of ownership of its shares", or

(ii) a holding corporation that is deemed by subsection (3) to be a public corporation at that time;

(b) no share of the capital stock of the corporation is listed on any stock exchange at that time; and

(c) that time is not later than six months after the time of the demutualization of

(i) the corporation, where the corporation is a life insurance corporation, and

(ii) in any other case, the life insurance corporation in respect of which the corporation is a holding corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 141; 2000, c. 19, s. 40; 2001, c. 17, s. 135; 2007, c. 35, s. 44.

publique à tout moment de sa période déterminée où elle aurait rempli les conditions réglementaires visées au sous-alinéa b)(i) de la définition de ***société publique*** au paragraphe 89(1) si le passage « le nombre de ses actionnaires, la répartition de la propriété de ses actions et le commerce public de celles-ci » y était remplacé par « le nombre de ses actionnaires et la répartition de la propriété de ses actions ».

Période déterminée

(4) Pour l'application du paragraphe (3), la période déterminée d'une société :

a) commence au moment où elle devient une société de portefeuille;

b) se termine au moment où elle devient, pour la première fois, une société publique par l'effet d'une disposition de la présente loi autre que le paragraphe (3).

Exclusion

(5) Pour l'application de l'alinéa d) de la définition de ***bien canadien imposable*** au paragraphe 248(1), l'action du capital-actions d'une société est réputée être inscrite, à un moment donné, à la cote d'une bourse de valeurs désignée si les conditions suivantes sont réunies :

a) la société est :

(i) soit une compagnie d'assurance-vie résidant au Canada qui s'est démutualisée et qui, à ce moment, aurait rempli les conditions réglementaires visées au sous-alinéa b)(i) de la définition de ***société publique*** au paragraphe 89(1) si le passage « le nombre de ses actionnaires, la répartition de la propriété de ses actions et le commerce public de celles-ci » y était remplacé par « le nombre de ses actionnaires et la répartition de la propriété de ses actions »,

(ii) soit une société de portefeuille qui est réputée par le paragraphe (3) être une société publique à ce moment;

b) aucune action du capital-actions de la société n'est cotée à une bourse de valeurs à ce moment;

c) ce moment suit d'au plus 6 mois la démutualisation :

(i) de la société, si elle est une compagnie d'assurance-vie,

(ii) de la compagnie d'assurance-vie quant à laquelle la société est une société de portefeuille, dans les autres cas.

NOTE: Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 141; 2000, ch. 19, art. 40; 2001, ch. 17, art. 135; 2007, ch. 35, art. 44.

Deemed not to be a private corporation

141.1 Notwithstanding any other provision of this Act, an insurance corporation (other than a life insurance corporation) that would, but for this section, be a private corporation is deemed not to be a private corporation for the purposes of subsection 55(5), the definition ***capital dividend account*** in subsection 89(1) and sections 123.3 and 129.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 141.1; 1998, c. 19, s. 162.

Compagnie d'assurance réputée ne pas être une société privée

141.1 Malgré les autres dispositions de la présente loi, la compagnie d'assurance, sauf une compagnie d'assurance-vie, qui serait une société privée si ce n'était le présent article est réputée ne pas en être une pour l'application du paragraphe 55(5), de la définition de ***compte de dividendes en capital*** au paragraphe 89(1) et des articles 123.3 et 129.

NOTE: Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 141.1; 1998, ch. 19, art. 162.

142 [Repealed, 1997, c. 25, s. 40(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 142; 1994, c. 7, Sch. II, s. 115; 1997, c. 25, s. 40.

142 [Abrogé, 1997, ch. 25, art. 40(1)]

NOTE: Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 142; 1994, ch. 7, ann. II, art. 115; 1997, ch. 25, art. 40.

142.1 [Repealed, 1997, c. 25, s. 40(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 142.1; 1997, c. 25, s. 40.

142.1 [Abrogé, 1997, ch. 25, art. 40(1)]

NOTE: Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 142.1; 1997, ch. 25, art. 40.

Financial Institutions

Interpretation

Definitions

142.2 (1) In this section and sections 142.3 to 142.7,

excluded property of a taxpayer for a taxation year means property, held at any time in the taxation year by the taxpayer, that is

(a) a share of the capital stock of a corporation if, at any time in the taxation year, the taxpayer has a significant interest in the corporation,

(b) a property that is, at all times in the taxation year at which the taxpayer held the property, a prescribed payment card corporation share of the taxpayer,

(c) if the taxpayer is an investment dealer, a property that is, at all times in the taxation year at which the taxpayer held the property, a prescribed securities exchange investment of the taxpayer,

(d) a share of the capital stock of a corporation if

(i) control of the corporation is, at any time (referred to in this paragraph as the "acquisition of

Institutions Financières

Définitions et interprétation

Définitions

142.2 (1) Les définitions qui suivent s'appliquent au présent article et aux articles 142.3 à 142.7.

bien à évaluer Bien d'un contribuable dont la juste valeur marchande est déterminée principalement par rapport à un ou plusieurs des critères ci-après applicables à un bien (appelé « bien de référence » à la présente définition) qui, si le contribuable en était propriétaire, serait un bien évalué à la valeur du marché pour lui :

a) la juste valeur marchande du bien de référence;

b) les bénéfices ou gains provenant de la disposition du bien de référence;

c) les recettes, le revenu ou les rentrées provenant du bien de référence;

d) tout autre critère semblable applicable au bien de référence. (*tracking property*)

bien évalué à la valeur du marché Est un bien évalué à la valeur du marché d'un contribuable pour une année

control time") that is in the 24-month period that begins immediately after the end of the year, acquired by

(A) the taxpayer,

(B) one or more persons related to the taxpayer (otherwise than by reason of a right referred to in paragraph 251(5)(b)), or

(C) the taxpayer and one or more persons described in clause (B), and

(ii) the taxpayer elects in writing to have subparagraph (i) apply and files the election with the Minister on or before the taxpayer's filing-due date for the taxpayer's taxation year that includes the acquisition of control time, or

(e) a prescribed property; (*bien exclu*)

fair value property of a taxpayer for a taxation year means property, held at any time in the taxation year by the taxpayer, that is — or it is reasonable to expect would, if the taxpayer held the property at the end of the taxation year, be — valued (otherwise than solely because its fair value was less than its cost to the taxpayer or, if the property is a specified debt obligation, because of a default of the debtor) in accordance with generally accepted accounting principles, at its fair value (determined in accordance with those principles) in the taxpayer's balance sheet as at the end of the taxation year; (*bien évalué à sa juste valeur*)

financial institution at any time means

(a) a corporation that is, at that time,

(i) a corporation referred to in any of paragraphs (a) to (e.1) of the definition ***restricted financial institution*** in subsection 248(1),

(ii) an investment dealer, or

(iii) a corporation controlled by one or more persons or partnerships each of which is a financial institution at that time, other than a corporation the control of which was acquired by reason of the default of a debtor where it is reasonable to consider that control is being retained solely for the purpose of minimizing any losses in respect of the debtor's default, and

(b) a trust or partnership more than 50% of the fair market value of all interests in which are held at that time by one or more financial institutions,

d'imposition le bien (sauf un bien exclu) qu'il détient au cours de l'année et qui est :

a) une action;

b) dans le cas où le contribuable n'est pas un courtier en valeurs mobilières, un titre de créance déterminé qui est un bien évalué à sa juste valeur du contribuable pour l'année;

c) dans le cas où le contribuable est un courtier en valeurs mobilières, un titre de créance déterminé;

d) un bien à évaluer du contribuable qui est un bien évalué à sa juste valeur du contribuable pour l'année. (*mark-to-market property*)

bien évalué à sa juste valeur Est un bien évalué à sa juste valeur d'un contribuable pour une année d'imposition le bien, détenu par le contribuable au cours de l'année, qui est évalué (autrement que pour la seule raison que sa juste valeur est inférieure à son coût pour le contribuable ou, s'il s'agit d'un titre de créance déterminé, autrement qu'en raison d'un manquement du débiteur), conformément aux principes comptables généralement reconnus, à sa juste valeur (déterminée conformément à ces principes) dans le bilan du contribuable à la fin de l'année, ou à l'égard duquel il est raisonnable de s'attendre à ce qu'il aurait été évalué ainsi si le contribuable l'avait détenu à la fin de l'année. (*fair value property*)

bien exclu Est un bien exclu d'un contribuable pour une année d'imposition le bien qu'il détient au cours de l'année et qui est :

a) une action du capital-actions d'une société dans laquelle le contribuable a une participation notable au cours de l'année;

b) un bien qui est, à tous les moments de l'année où le contribuable le détient, une action de société émettrice de cartes de paiement du contribuable, visée par règlement;

c) si le contribuable est un courtier en valeurs mobilières, un bien qui est, à tous les moments de l'année où le contribuable le détient, un placement en bourse du contribuable, visé par règlement;

d) une action du capital-actions d'une société si, à la fois :

(i) le contrôle de la société est acquis par l'une des personnes ci-après à un moment (appelé « moment de l'acquisition du contrôle » au présent alinéa)

but does not include

(c) a corporation that is, at that time,

(i) an investment corporation,

(ii) a mortgage investment corporation,

(iii) a mutual fund corporation, or

(iv) a deposit insurance corporation (as defined in subsection 137.1(5)),

(d) a trust that is a mutual fund trust at that time, nor

(e) a prescribed person or partnership; (*institution financière*)

investment dealer at any time means a corporation that is, at that time, a registered securities dealer; (*courtier en valeurs mobilières*)

mark-to-market property of a taxpayer for a taxation year means property (other than an excluded property) held at any time in the taxation year by the taxpayer that is

(a) a share,

(b) if the taxpayer is not an investment dealer, a specified debt obligation that is a fair value property of the taxpayer for the taxation year,

(c) if the taxpayer is an investment dealer, a specified debt obligation, or

(d) a tracking property of the taxpayer that is a fair value property of the taxpayer for the taxation year; (*bien évalué à la valeur du marché*)

specified debt obligation of a taxpayer means the interest held by the taxpayer in

(a) a loan, bond, debenture, mortgage, hypothecary claim, note, agreement of sale or any other similar indebtedness, or

(b) a debt obligation, where the taxpayer purchased the interest,

other than an interest in

(c) an income bond, an income debenture, a small business development bond, a small business bond or a prescribed property, or

(d) an instrument issued by or made with a person to whom the taxpayer is related or with whom the

compris dans la période de 24 mois qui commence immédiatement après la fin de l'année :

(A) le contribuable,

(B) une ou plusieurs personnes liées au contribuable autrement qu'à cause d'un droit visé à l'alinéa 251(5)b),

(C) le contribuable et une ou plusieurs des personnes visées à la division (B),

(ii) le contribuable choisit de se prévaloir du sous-alinéa (i) dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition qui comprend le moment de l'acquisition du contrôle;

e) un bien visé par règlement. (*excluded property*)

courtier en valeurs mobilières Société qui, à un moment donné, est un courtier en valeurs mobilières inscrit. (*investment dealer*)

institution financière Est une institution financière à un moment donné :

a) la société qui est, à ce moment :

(i) une société visée à l'un des alinéas a) à e.1) de la définition de ***institution financière véritable*** au paragraphe 248(1),

(ii) un courtier en valeurs mobilières,

(iii) une société contrôlée par une ou plusieurs personnes ou sociétés de personnes qui sont des institutions financières à ce moment, à l'exception d'une société dont le contrôle a été acquis par suite du manquement d'un débiteur, dans le cas où il est raisonnable de considérer que le contrôle n'est exercé que dans le but de minimiser les pertes découlant de ce manquement;

b) une fiducie ou une société de personnes dont plus de 50 % de la juste valeur marchande des participations sont détenues, à ce moment, par une ou plusieurs institutions financières.

Une personne ou une société de personnes visée par règlement, la fiducie qui est un fiducie de fonds commun de placement au moment donné et la société qui est, à ce moment, une société de placement, une société de placement hypothécaire, une société de placement à capital variable ou une compagnie d'assurance-dépôts, au sens du paragraphe 137.1(5), ne sont pas des institutions financières. (*financial institution*)

taxpayer does not otherwise deal at arm's length, or in which the taxpayer has a significant interest. (*titre de créance déterminé*)

tracking property of a taxpayer means property of the taxpayer the fair market value of which is determined primarily by reference to one or more criteria in respect of property (referred to in this definition as "tracked property") that, if owned by the taxpayer, would be mark-to-market property of the taxpayer, which criteria are

(a) the fair market value of the tracked property,

(b) the profits or gains from the disposition of the tracked property,

(c) the revenue, income or cash flow from the tracked property, or

(d) any other similar criteria in respect of the tracked property; (*bien à évaluer*)

titre de créance déterminé Titre constatant le droit d'un contribuable sur un prêt, une obligation, une créance hypothécaire, un billet, une convention de vente ou une autre dette semblable ou, si le contribuable a acheté le droit, sur un titre de créance. N'est pas un titre de créance déterminé le titre constatant un droit sur :

a) une obligation à intérêt conditionnel, une obligation pour le développement de la petite entreprise, une obligation pour la petite entreprise ou un bien visé par règlement;

b) un effet émis par une personne avec laquelle le contribuable est lié ou a par ailleurs un lien de dépendance ou dans laquelle il a une participation notable, ou conclu avec une telle personne. (*specified debt obligation*)

Significant interest

(2) For the purposes of the definitions ***excluded property*** and ***specified debt obligation*** in subsection (1) and subsection 142.6(1.6), a taxpayer has a significant interest in a corporation at any time if

(a) the taxpayer is related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the corporation at that time; or

(b) the taxpayer holds, at that time,

(i) shares of the corporation that give the taxpayer 10% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation, and

(ii) shares of the corporation having a fair market value of 10% or more of the fair market value of all the issued shares of the corporation.

Participation notable

(2) Pour l'application des définitions de ***bien exclu*** et ***titre de créance déterminé*** au paragraphe (1) et du paragraphe 142.6(1.6), un contribuable a une participation notable dans une société à un moment donné si, selon le cas :

a) il est lié à la société à ce moment, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b);

b) il détient à ce moment :

(i) des actions de la société qui lui confèrent au moins 10 % des voix pouvant dans tous les cas être exprimées à l'assemblée annuelle des actionnaires de la société,

(ii) des actions de la société dont la juste valeur marchande correspond à au moins 10 % de la juste valeur marchande de l'ensemble des actions émises de la société.

Rules re significant interest

(3) For the purpose of determining under subsection 142.2(2) whether a taxpayer has a significant interest in a corporation at any time,

(a) the taxpayer shall be deemed to hold each share that is held at that time by a person or partnership to whom the taxpayer is related (otherwise than because of a right referred to in paragraph 251(5)(b));

Règles concernant la participation notable

(3) Pour déterminer, selon le paragraphe (2), si un contribuable a une participation notable dans une société à un moment donné, les règles suivantes s'appliquent :

a) le contribuable est réputé détenir chaque action que détient, à ce moment, une personne ou une société de personnes à laquelle il est lié autrement qu'à cause d'un droit visé à l'alinéa 251(5)b);

(b) a share of the corporation acquired by the taxpayer by reason of the default of a debtor shall be disregarded where it is reasonable to consider that the share is being retained for the purpose of minimizing any losses in respect of the debtor's default; and

(c) a share of the corporation that is prescribed in respect of the taxpayer shall be disregarded.

b) l'action de la société que le contribuable a acquise en raison du manquement d'un débiteur n'est pas prise en compte s'il est raisonnable de considérer qu'il conserve l'action afin de minimiser les pertes découlant de ce manquement;

c) l'action de la société qui est visée par règlement quant au contribuable n'est pas prise en compte.

Extension of meaning of *related*

(4) For the purposes of this subsection and subsections (2) and (3), in determining if, at a particular time, a person or partnership is related to another person or partnership, the rules in section 251 are to be applied as if,

(a) a partnership (other than a partnership in respect of which any amount of the income or capital of the partnership that any entity may receive directly from the partnership at any time as a member of the partnership depends on the exercise by any entity of, or the failure by any entity to exercise, a discretionary power) were a corporation having capital stock of a single class divided into 100 issued shares and each member of the partnership owned, at the particular time, that proportion of the issued shares of that class that

(i) the fair market value of the member's interest in the partnership at the particular time

is of

(ii) the fair market value of all interests in the partnership at the particular time; and

(b) a trust (other than a trust in respect of which any amount of the income or capital of the trust that any entity may receive directly from the trust at any time as a beneficiary under the trust depends on the exercise by any entity of, or the failure by any entity to exercise, a discretionary power) were a corporation having capital stock of a single class divided into 100 issued shares and each beneficiary under the trust owned, at the particular time, that proportion of the issued shares of that class that

(i) the fair market value of the beneficiary's beneficial interest in the trust at the particular time

is of

(ii) the fair market value at that time of all beneficial interests in the trust.

Sens élargi de « lié »

(4) Pour l'application du présent paragraphe et des paragraphes (2) et (3), lorsqu'il s'agit d'établir si une personne ou une société de personnes est liée à une autre personne ou société de personnes à un moment donné, les règles énoncées à l'article 251 s'appliquent comme si, à la fois :

a) une société de personnes (sauf celle à l'égard de laquelle un montant de revenu ou de capital de la société de personnes qu'une entité peut recevoir directement de la société de personnes à titre d'associé de celle-ci est fonction de l'exercice ou de l'absence d'exercice, par quiconque, d'un pouvoir discrétionnaire) était une société ayant un capital-actions constitué d'une seule catégorie d'actions divisée en 100 actions émises, et chaque associé de la société de personnes était propriétaire, au moment donné, de la proportion des actions émises de cette catégorie représentée par le rapport entre :

(i) d'une part, la juste valeur marchande de la participation de l'associé dans la société de personnes à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des participations dans la société de personnes à ce moment;

b) une fiducie (sauf celle à l'égard de laquelle un montant de revenu ou de capital de la fiducie qu'une entité peut recevoir directement de la fiducie à titre de bénéficiaire de celle-ci est fonction de l'exercice ou de l'absence d'exercice, par quiconque, d'un pouvoir discrétionnaire) était une société ayant un capital-actions constitué d'une seule catégorie d'actions divisée en 100 actions émises, et chaque bénéficiaire de la fiducie était propriétaire, au moment donné, de la proportion des actions émises de cette catégorie représentée par le rapport entre :

(i) d'une part, la juste valeur marchande du droit de bénéficiaire du bénéficiaire dans la fiducie à ce moment,

(ii) d'autre part, la juste valeur marchande de l'ensemble des droits de bénéficiaire dans la fiducie à ce moment.

(5) [Repealed, 2009, c. 2, s. 46]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 58; 1998, c. 19, s. 163; 1999, c. 22, s. 57; 2001, c. 17, ss. 136, 219; 2009, c. 2, s. 46; 2013, c. 40, s. 63.

Income from Specified Debt Obligations

Amounts to be included and deducted

142.3 (1) Subject to subsections 142.3(3) and (4), where a taxpayer that is, in a taxation year, a financial institution holds a specified debt obligation at any time in the year,

(a) there shall be included in computing the income of the taxpayer for the year the amount, if any, prescribed in respect of the obligation;

(b) there shall be deducted in computing the income of the taxpayer for the year the amount, if any, prescribed in respect of the obligation; and

(c) except as provided by this section, paragraphs 12(1)(d) and (i) and 20(1)(l) and (p) and section 142.4, no amount shall be included or deducted in respect of payments under the obligation (other than fees and similar amounts) in computing the income of the taxpayer for the year.

Failure to report accrued amounts

(2) Subject to subsection 142.3(3), where

(a) a taxpayer holds a specified debt obligation at any time in a particular taxation year in which the taxpayer is a financial institution, and

(b) all or part of an amount required by paragraph 142.3(1)(a) or subsection 12(3) to be included in respect of the obligation in computing the taxpayer's income for a preceding taxation year was not so included,

that part of the amount shall be included in computing the taxpayer's income for the particular year, to the extent that it was not included in computing the taxpayer's income for a preceding taxation year.

Exception for certain obligations

(3) Subsections 142.3(1) and (2) do not apply for a taxation year in respect of a taxpayer's specified debt obligation that is

(a) a mark-to-market property for the year; or

(b) an indexed debt obligation, other than a prescribed obligation.

(5) [Abrogé, 2009, ch. 2, art. 46]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 58; 1998, ch. 19, art. 163; 1999, ch. 22, art. 57; 2001, ch. 17, art. 136 et 219; 2009, ch. 2, art. 46; 2013, ch. 40, art. 63.

Revenu provenant de titres de créance déterminés

Montants à inclure et à déduire

142.3 (1) Sous réserve des paragraphes (3) et (4), les règles suivantes s'appliquent au contribuable qui, au cours d'une année d'imposition, est une institution financière et détient un titre de créance déterminé :

a) le montant déterminé par règlement relativement au titre est à inclure dans le calcul du revenu du contribuable pour l'année;

b) le montant déterminé par règlement relativement au titre est à déduire dans le calcul du revenu du contribuable pour l'année;

c) sauf disposition contraire prévue au présent article, aux alinéas 12(1)d) et i) et 20(1)l) et p) et à l'article 142.4, aucun montant n'est à inclure ou à déduire relativement à des paiements prévus par le titre, sauf des frais et montants semblables, dans le calcul du revenu du contribuable pour l'année.

Non-déclaration de montants courus

(2) Sous réserve du paragraphe (3), le contribuable qui détient un titre de créance déterminé au cours d'une année d'imposition donnée pendant laquelle il est une institution financière et qui n'a pas inclus, dans le calcul de son revenu pour une année d'imposition antérieure, tout ou partie du montant qui était ainsi à inclure relativement au titre en application de l'alinéa (1)a) ou du paragraphe 12(3) est tenu d'inclure cette partie de montant dans le calcul de son revenu pour l'année donnée, dans la mesure où elle n'a pas été incluse dans le calcul de son revenu pour une année d'imposition antérieure.

Exception

(3) Les paragraphes (1) et (2) ne s'appliquent pas, pour une année d'imposition, au titre de créance déterminé d'un contribuable qui constitue :

a) un bien évalué à la valeur du marché pour l'année;

b) un titre de créance indexé, sauf un titre visé par règlement.

Impaired specified debt obligations

(4) Subsection 142.3(1) does not apply to a taxpayer in respect of a specified debt obligation for the part of a taxation year throughout which the obligation is impaired where an amount in respect of the obligation is deductible because of subparagraph 20(1)(l)(ii) in computing the taxpayer's income for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 58; 1998, c. 19, s. 164.

Disposition of Specified Debt Obligations

Definitions

142.4 (1) In this section,

tax basis of a specified debt obligation at any time to a taxpayer means the amount, if any, by which the total of all amounts each of which is

(a) the cost of the obligation to the taxpayer,

(b) an amount included under subsection 12(3) or 16(2) or 16(3), paragraph 142.3(1)(a) or subsection 142.3(2) in respect of the obligation in computing the taxpayer's income for a taxation year that began before that time,

(c) subject to subsection 138(13), where the taxpayer acquired the obligation in a taxation year ending before February 23, 1994, the part of the amount, if any, by which

(i) the principal amount of the obligation at the time it was acquired

exceeds

(ii) the cost to the taxpayer of the obligation

that was included in computing the taxpayer's income for a taxation year ending before February 23, 1994,

(d) subject to subsection 138(13), where the taxpayer is a life insurer, an amount in respect of the obligation that was deemed by paragraph 142(3)(a) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1977 taxation year, to be a gain for a taxation year ending before 1978,

(e) where the obligation is an indexed debt obligation, an amount determined under subparagraph 16(6)(a)(i) in respect of the obligation and included in computing the income of the taxpayer for a taxation year beginning before that time,

Titres de créance déterminés douteux

(4) Le paragraphe (1) ne s'applique pas à un contribuable relativement à un titre de créance déterminé pour la partie d'une année d'imposition tout au long de laquelle le titre est douteux si un montant relatif au titre est déductible par l'effet du sous-alinéa 20(1)l)(ii) dans le calcul du revenu du contribuable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 58; 1998, ch. 19, art. 164.

Disposition de titres de créance déterminés

Définitions

142.4 (1) Les définitions qui suivent s'appliquent au présent article.

montant de base Quant à un titre de créance déterminé pour un contribuable à un moment donné, l'excédent éventuel du total des montants représentant chacun :

a) le coût du titre pour le contribuable;

b) un montant inclus, en application des paragraphes 12(3) ou 16(2) ou (3), de l'alinéa 142.3(1)a) ou du paragraphe 142.3(2), relativement au titre dans le calcul du revenu du contribuable pour une année d'imposition qui a commencé avant le moment donné;

c) sous réserve du paragraphe 138(13), dans le cas où le contribuable a acquis le titre au cours d'une année d'imposition se terminant avant le 23 février 1994, la partie de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) qui a été incluse dans le calcul de son revenu pour une telle année d'imposition :

(i) le principal du titre au moment de son acquisition,

(ii) le coût du titre pour le contribuable;

d) sous réserve du paragraphe 138(13), dans le cas où le contribuable est un assureur sur la vie, un montant relatif au titre qui est réputé, par l'alinéa 142(3)a) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1977, être un gain pour une année d'imposition se terminant avant 1978;

e) dans le cas où le titre est un titre de créance indexé, un montant déterminé selon le sous-alinéa 16(6)a)(i) relativement au titre et inclus dans le calcul du revenu du contribuable pour une année d'imposition commençant avant le moment donné;

(f) an amount in respect of the obligation that was included in computing the taxpayer's income for a taxation year ending at or before that time in respect of changes in the value of the obligation attributable to the fluctuation in the value of a currency of a country other than Canada relative to Canadian currency, other than an amount included under paragraph 142.3(1)(a),

(g) an amount in respect of the obligation that was included under paragraph 12(1)(i) in computing the taxpayer's income for a taxation year beginning before that time, or

(h) where the obligation was a capital property of the taxpayer on February 22, 1994, an amount required by paragraph 53(1)(f) or 53(1)(f.1) to be added in computing the adjusted cost base of the obligation to the taxpayer on that day

exceeds the total of all amounts each of which is

(i) an amount deducted under paragraph 142.3(1)(b) in respect of the obligation in computing the taxpayer's income for a taxation year beginning before that time,

(j) the amount of a payment received by the taxpayer under the obligation at or before that time, other than

(i) a fee or similar payment, and

(ii) proceeds of disposition of the obligation,

(k) subject to subsection 138(13), where the taxpayer acquired the obligation in a taxation year ending before February 23, 1994, the part of the amount, if any, by which

(i) the cost to the taxpayer of the obligation

exceeds

(ii) the principal amount of the obligation at the time it was acquired

that was deducted in computing the taxpayer's income for a taxation year ending before February 23, 1994,

(l) subject to subsection 138(13), where the taxpayer is a life insurer, an amount in respect of the obligation that was deemed by paragraph 142(3)(b) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1977 taxation year, to be a loss for a taxation year ending before 1978,

f) un montant relatif au titre qui a été inclus dans le calcul du revenu du contribuable pour une année d'imposition se terminant au moment donné ou antérieurement au titre de la variation de la valeur du titre attribuable à la fluctuation de la valeur d'une monnaie étrangère par rapport au dollar canadien, à l'exception d'un montant inclus en application de l'alinéa 142.3(1)a);

g) un montant relatif au titre qui a été inclus, en application de l'alinéa 12(1)i), dans le calcul du revenu du contribuable pour une année d'imposition commençant avant le moment donné;

h) dans le cas où le titre était une immobilisation du contribuable le 22 février 1994, un montant à ajouter, en application des alinéas 53(1)f) ou f.1), dans le calcul de son prix de base rajusté pour le contribuable ce jour-là,

sur le total des montants représentant chacun :

i) un montant déduit en application de l'alinéa 142.3(1)b) relativement au titre dans le calcul du revenu du contribuable pour une année d'imposition commençant avant le moment donné;

j) le montant d'un paiement que le contribuable a reçu relativement au titre au moment donné ou antérieurement, à l'exception des montants suivants :

(i) des frais et montants semblables,

(ii) le produit de disposition du titre;

k) sous réserve du paragraphe 138(13), dans le cas où le contribuable a acquis le titre au cours d'une année d'imposition se terminant avant le 23 février 1994, la partie de l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) qui a été déduite dans le calcul de son revenu pour une telle année d'imposition :

(i) le coût du titre pour le contribuable,

(ii) le principal du titre au moment de son acquisition;

l) sous réserve du paragraphe 138(13), dans le cas où le contribuable est un assureur sur la vie, un montant relatif au titre qui est réputé, par l'alinéa 142(3)b) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1977, être une perte pour une année d'imposition se terminant avant 1978;

(m) an amount that was deducted under subsection 20(14) in respect of the obligation in computing the taxpayer's income for a taxation year beginning before that time,

(n) where the obligation is an indexed debt obligation, an amount determined under subparagraph 16(6)(a)(ii) in respect of the obligation and deducted in computing the income of the taxpayer for a taxation year beginning before that time,

(o) an amount in respect of the obligation that was deducted in computing the taxpayer's income for a taxation year ending at or before that time in respect of changes in the value of the obligation attributable to the fluctuation in the value of a currency of a country other than Canada relative to Canadian currency, other than an amount deducted under paragraph 142.3(1)(b),

(p) an amount in respect of the obligation that was deducted under paragraph 20(1)(p) in computing the taxpayer's income for a taxation year ending at or before that time, or

(q) where the obligation was a capital property of the taxpayer on February 22, 1994, an amount required by paragraph 53(2)(b.2) or 53(2)(g) to be deducted in computing the adjusted cost base of the obligation to the taxpayer on that day; (*montant de base*)

transition amount of a taxpayer in respect of the disposition of a specified debt obligation has the meaning assigned by regulation. (*montant de transition*)

m) un montant déduit en application du paragraphe 20(14) relativement au titre dans le calcul du revenu du contribuable pour une année d'imposition commençant avant le moment donné;

n) dans le cas où le titre est un titre de créance indexé, un montant déterminé selon le sous-alinéa 16(6)a)(ii) relativement au titre et déduit dans le calcul du revenu du contribuable pour une année d'imposition commençant avant le moment donné;

o) un montant relatif au titre qui a été déduit dans le calcul du revenu du contribuable pour une année d'imposition se terminant au moment donné ou antérieurement au titre de la variation de la valeur du titre attribuable à la fluctuation de la valeur d'une monnaie étrangère par rapport au dollar canadien, à l'exception d'un montant déduit en application de l'alinéa 142.3(1)b);

p) un montant relatif au titre qui a été déduit, en application de l'alinéa 20(1)p), dans le calcul du revenu du contribuable pour une année d'imposition se terminant au moment donné ou antérieurement;

q) dans le cas où le titre était une immobilisation du contribuable le 22 février 1994, un montant à déduire, en application des alinéas 53(2)b.2) ou g), dans le calcul du prix de base rajusté du titre pour le contribuable ce jour-là. (*tax basis*)

montant de transition Quant à un contribuable relativement à la disposition d'un titre de créance déterminé, s'entend au sens du règlement. (*transition amount*)

Scope of section

(2) This section applies to the disposition of a specified debt obligation by a taxpayer that is a financial institution, except that this section does not apply to the disposition of a specified debt obligation that is a mark-to-market property for the taxation year in which the disposition occurs.

Champ d'application

(2) Le présent article s'applique à la disposition, par un contribuable qui est une institution financière, d'un titre de créance déterminé qui n'est pas un bien évalué à la valeur du marché pour l'année d'imposition de sa disposition.

Rules applicable to disposition

(3) Where a taxpayer has disposed of a specified debt obligation after February 22, 1994,

(a) except as provided by paragraph 79.1(7)(d) or this section, no amount shall be included or deducted in respect of the disposition in computing the taxpayer's income; and

(b) except where the obligation is an indexed debt obligation (other than a prescribed obligation), paragraph 20(14)(a) shall not apply in respect of the disposition.

Règles applicables en cas de disposition

(3) Les règles suivantes s'appliquent dans le cas où un contribuable dispose d'un titre de créance déterminé après le 22 février 1994:

a) sauf disposition contraire prévue à l'alinéa 79.1(7)d) ou au présent article, aucun montant n'est inclus ou déduit relativement à la disposition dans le calcul du revenu du contribuable;

b) sauf dans le cas où le titre est un titre de créance indexé autre qu'un titre visé par règlement, l'alinéa 20(14)a) ne s'applique pas à la disposition.

Inclusions and deductions re disposition

(4) Subject to subsection 142.4(5), where after 1994 a taxpayer disposes of a specified debt obligation in a taxation year,

(a) where the transition amount in respect of the disposition of the obligation is positive, it shall be included in computing the income of the taxpayer for the year;

(b) where the transition amount in respect of the disposition of the obligation is negative, the absolute value of the transition amount shall be deducted in computing the income of the taxpayer for the year;

(c) where the taxpayer has a gain from the disposition of the obligation,

(i) the current amount of the gain shall be included in computing the income of the taxpayer for the year, and

(ii) there shall be included in computing the taxpayer's income for taxation years that end on or after the day of disposition the amount allocated, in accordance with prescribed rules, to the year in respect of the residual portion of the gain; and

(d) where the taxpayer has a loss from the disposition of the obligation,

(i) the current amount of the loss shall be deducted in computing the taxpayer's income for the year, and

(ii) there shall be deducted in computing the taxpayer's income for taxation years that end on or after the day of disposition the amount allocated, in accordance with prescribed rules, to the year in respect of the residual portion of the loss.

Gain or loss not amortized

(5) Where after February 22, 1994 a taxpayer disposes of a specified debt obligation in a taxation year, and

(a) the obligation is

(i) an indexed debt obligation (other than a prescribed obligation), or

(ii) a debt obligation prescribed in respect of the taxpayer,

(b) the disposition occurred

(i) before 1995,

Montants à inclure ou à déduire en cas de disposition

(4) Sous réserve du paragraphe (5), dans le cas où, après 1994, un contribuable dispose d'un titre de créance déterminé au cours d'une année d'imposition, les règles suivantes s'appliquent :

a) s'il est positif, le montant de transition relatif à la disposition du titre est à inclure dans le calcul du revenu du contribuable pour l'année;

b) si le montant de transition relatif à la disposition du titre est négatif, sa valeur absolue est à déduire dans le calcul du revenu du contribuable pour l'année;

c) dans le cas où le contribuable réalise un gain lors de la disposition du titre :

(i) le montant courant du gain est à inclure dans le calcul de son revenu pour l'année,

(ii) est à inclure dans le calcul de son revenu pour les années d'imposition qui se terminent à la date de la disposition ou postérieurement le montant attribué à l'année, selon les modalités réglementaires, relativement à la partie résiduelle du gain;

d) dans le cas où le contribuable subit une perte lors de la disposition du titre :

(i) le montant courant de la perte est à déduire dans le calcul de son revenu pour l'année,

(ii) est à déduire dans le calcul de son revenu pour les années d'imposition qui se terminent à la date de la disposition ou postérieurement le montant attribué à l'année, selon les modalités réglementaires, relativement à la partie résiduelle de la perte.

Gain ou perte non amorti

(5) Lorsque, après le 22 février 1994, un contribuable dispose d'un titre de créance déterminé au cours d'une année d'imposition et que, selon le cas :

a) il s'agit d'un des titres suivants :

(i) un titre de créance indexé, sauf un titre visé par règlement,

(ii) un titre de créance visé par règlement quant au contribuable,

b) la disposition :

(ii) after 1994 in connection with the transfer of all or part of a business of the taxpayer to a person or partnership, or

(iii) because of paragraph 142.6(1)(c), or

(c) in the case of a taxpayer other than a life insurance corporation,

(i) the disposition occurred before 1996, and

(ii) the taxpayer elects in writing, filed with the Minister before July 1997, to have this paragraph apply,

the following rules apply:

(d) subsection 142.4(4) does not apply to the disposition,

(e) there shall be included in computing the taxpayer's income for the year the amount, if any, by which the taxpayer's proceeds of disposition exceed the tax basis of the obligation to the taxpayer immediately before the disposition, and

(f) there shall be deducted in computing the taxpayer's income for the year the amount, if any, by which the tax basis of the obligation to the taxpayer immediately before the disposition exceeds the taxpayer's proceeds of disposition.

Gain or loss from disposition of obligation

(6) For the purposes of this section,

(a) where the amount determined under paragraph 142.4(6)(c) in respect of the disposition of a specified debt obligation by a taxpayer is positive, that amount is the taxpayer's gain from the disposition of the obligation;

(b) where the amount determined under paragraph 142.4(6)(c) in respect of the disposition of a specified debt obligation by a taxpayer is negative, the absolute value of that amount is the taxpayer's loss from the disposition of the obligation; and

(c) the amount determined under this paragraph in respect of the disposition of a specified debt obligation by a taxpayer is the positive or negative amount determined by the formula

A - (B + C)

where

(i) soit a été effectuée avant 1995,

(ii) soit a été effectuée après 1994 dans le cadre du transfert du tout ou partie d'une entreprise du contribuable à une personne ou une société de personnes,

(iii) soit est réputée avoir été effectuée par l'alinéa 142.6(1)c),

c) dans le cas où le contribuable n'est pas une compagnie d'assurance-vie :

(i) d'une part, la disposition a été effectuée avant 1996,

(ii) d'autre part, le contribuable choisit de se prévaloir du présent alinéa par écrit envoyé au ministre avant juillet 1997,

les règles suivantes s'appliquent :

d) le paragraphe (4) ne s'applique pas à la disposition;

e) est à inclure dans le calcul du revenu du contribuable pour l'année l'excédent éventuel du produit de disposition du titre pour lui sur le montant de base du titre pour lui immédiatement avant la disposition;

f) est à déduire dans le calcul du revenu du contribuable pour l'année l'excédent éventuel du montant de base du titre pour lui immédiatement avant la disposition sur le produit de disposition du titre pour lui.

Gain ou perte lors de la disposition d'un titre de créance

(6) Pour l'application du présent article :

a) s'il est positif, le montant déterminé selon l'alinéa c) relativement à la disposition par un contribuable d'un titre de créance déterminé représente le gain du contribuable résultant de la disposition du titre;

b) si le montant déterminé selon l'alinéa c) relativement à la disposition par un contribuable d'un titre de créance déterminé est négatif, sa valeur absolue représente la perte du contribuable résultant de la disposition du titre;

c) le montant déterminé selon le présent alinéa relativement à la disposition par un contribuable d'un titre de créance déterminé correspond au résultat positif ou négatif du calcul suivant :

A - (B + C)

où :

A is the taxpayer's proceeds of disposition,

B is the tax basis of the obligation to the taxpayer immediately before the time of disposition, and

C is the taxpayer's transition amount in respect of the disposition.

A représente le produit de disposition pour le contribuable;

B le montant de base du titre pour le contribuable immédiatement avant la disposition;

C le montant de transition du contribuable relativement à la disposition.

Current amount

(7) For the purposes of subsections 142.4(4) and 142.4(8), the current amount of a taxpayer's gain or loss from the disposition of a specified debt obligation is

(a) where the taxpayer has a gain from the disposition of the obligation, the part, if any, of the gain that is reasonably attributable to a material increase in the probability, or perceived probability, that the debtor will make all payments as required by the obligation; and

(b) where the taxpayer has a loss from the disposition of the obligation, the amount that the taxpayer claims not exceeding the part, if any, of the loss that is reasonably attributable to a default by the debtor or a material decrease in the probability, or perceived probability, that the debtor will make all payments as required by the obligation.

Montant courant

(7) Pour l'application des paragraphes (4) et (8), le montant courant du gain ou de la perte d'un contribuable résultant de la disposition d'un titre de créance déterminé correspond au montant suivant :

a) dans le cas où le contribuable réalise un gain lors de la disposition du titre, la partie du gain qu'il est raisonnable d'attribuer à une augmentation sensible de la probabilité, réelle ou perçue, que le débiteur fasse tous les paiements prévus par le titre;

b) dans le cas où le contribuable subit une perte lors de la disposition du titre, le montant demandé par le contribuable qui ne dépasse pas la partie de la perte qu'il est raisonnable d'attribuer à un manquement du débiteur ou à une diminution sensible de la probabilité, réelle ou perçue, que le débiteur fasse tous les paiements prévus par le titre.

Residual portion of gain or loss

(8) For the purpose of subsection 142.4(4), the residual portion of a taxpayer's gain or loss from the disposition of a specified debt obligation is the amount, if any, by which the gain or loss exceeds the current amount of the gain or loss.

Partie résiduelle d'un gain ou d'une perte

(8) Pour l'application du paragraphe (4), la partie résiduelle du gain ou de la perte d'un contribuable résultant de la disposition d'un titre de créance déterminé correspond à l'excédent éventuel du gain ou de la perte sur le montant courant de ce gain ou de cette perte.

Disposition of part of obligation

(9) Where a taxpayer disposes of part of a specified debt obligation, section 142.3 and this section apply as if the part disposed of and the part retained were separate specified debt obligations.

Disposition d'une partie de titre

(9) Dans le cas où un contribuable dispose d'une partie d'un titre de créance déterminé, l'article 142.3 et le présent article s'appliquent comme si la partie dont il est disposé et celle qui est conservée étaient des titres de créance déterminés distincts.

Penalties and bonuses

(10) Notwithstanding subsection 18(9.1), where a taxpayer that holds a specified debt obligation receives a penalty or bonus because of the repayment before maturity of all or part of the principal amount of the debt obligation, the payment is deemed to be received by the taxpayer as proceeds of disposition of the specified debt obligation.

Pénalités et gratifications

(10) Malgré le paragraphe 18(9.1), le contribuable qui détient un titre de créance déterminé et qui reçoit une pénalité ou une gratification en raison du remboursement avant échéance de tout ou partie du principal du titre est réputé avoir reçu le paiement à titre de produit de disposition du titre.

Payments received on or after disposition

(11) For the purposes of this section, where at any time a taxpayer receives a payment (other than proceeds of disposition) under a specified debt obligation on or after the disposition of the obligation, the payment is deemed not to have been so received at that time but to have been so received immediately before the disposition.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 58; 1998, c. 19, s. 165.

Mark-to-Market Properties

Income treatment for profits and losses

142.5 (1) Where, in a taxation year that begins after October 1994, a taxpayer that is a financial institution in the year disposes of a property that is a mark-to-market property for the year,

(a) there shall be included in computing the taxpayer's income for the year the profit, if any, from the disposition; and

(b) there shall be deducted in computing the taxpayer's income for the year the loss, if any, from the disposition.

Mark-to-market requirement

(2) Where a taxpayer that is a financial institution in a taxation year holds, at the end of the year, a mark-to-market property for the year, the taxpayer shall be deemed

(a) to have disposed of the property immediately before the end of the year for proceeds equal to its fair market value at the time of disposition, and

(b) to have reacquired the property at the end of the year at a cost equal to those proceeds.

Mark-to-market debt obligation

(3) Where a taxpayer is a financial institution in a particular taxation year that begins after October 1994, the following rules apply with respect to a specified debt obligation that is a mark-to-market property of the taxpayer for the particular year:

(a) paragraph 12(1)(c) and subsections 12(3) and 20(14) and (21) do not apply to the obligation in computing the taxpayer's income for the particular year;

(b) there shall be included in computing the taxpayer's income for the particular year an amount received by the taxpayer in the particular year as, on account of, in lieu of payment of, or in satisfaction of, interest

Paiements reçus au moment de la disposition ou postérieurement

(11) Pour l'application du présent article, le contribuable qui reçoit un paiement, autre qu'un produit de disposition, prévu par un titre de créance déterminé au moment de la disposition du titre ou postérieurement est réputé ne pas l'avoir reçu au moment de sa réception mais l'avoir reçu immédiatement avant la disposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 58; 1998, ch. 19, art. 165.

Biens évalués à la valeur du marché

Traitement des bénéfices et pertes

142.5 (1) Dans le cas où, au cours d'une année d'imposition qui commence après octobre 1994, un contribuable qui est une institution financière au cours de l'année dispose d'un bien qui est un bien évalué à la valeur du marché pour l'année, les règles suivantes s'appliquent :

a) le bénéfice résultant de la disposition est à inclure dans le calcul du revenu du contribuable pour l'année;

b) la perte résultant de la disposition est à déduire dans le calcul du revenu du contribuable pour l'année.

Présomption

(2) Le contribuable qui est une institution financière au cours d'une année d'imposition et détenteur, à la fin de l'année, d'un bien évalué à la valeur du marché pour l'année est réputé :

a) avoir disposé du bien immédiatement avant la fin de l'année pour un produit égal à sa juste valeur marchande au moment de la disposition;

b) avoir acquis le bien de nouveau à la fin de l'année à un coût égal au produit visé à l'alinéa a).

Titre de créance évalué à la valeur du marché

(3) Dans le cas où un contribuable est une institution financière au cours d'une année d'imposition qui commence après octobre 1994, les règles suivantes s'appliquent au titre de créance déterminé qui est un bien évalué à la valeur du marché du contribuable pour cette année :

a) l'alinéa 12(1)c) et les paragraphes 12(3) et 20(14) et (21) ne s'appliquent pas au titre pour ce qui est du calcul du revenu du contribuable pour l'année;

b) un montant reçu par le contribuable au cours de l'année à titre ou en paiement intégral ou partiel d'intérêts sur le titre est à inclure dans le calcul de son

on the obligation, to the extent that the interest was not included in computing the taxpayer's income for a preceding taxation year; and

(c) for the purpose of paragraph 142.5(3)(b), where the taxpayer was deemed by subsection 142.5(2) or paragraph 142.6(1)(b) to have disposed of the obligation in a preceding taxation year, no part of an amount included in computing the income of the taxpayer for that preceding year because of the disposition shall be considered to be in respect of interest on the obligation.

revenu pour cette année, dans la mesure où ces intérêts n'ont pas été inclus dans le calcul de son revenu pour une année d'imposition antérieure;

c) pour l'application de l'alinéa b), dans le cas où le contribuable est réputé par le paragraphe (2) ou l'alinéa 142.6(1)b) avoir disposé du titre au cours d'une année d'imposition antérieure, nulle partie d'un montant inclus, en raison de la disposition, dans le calcul de son revenu pour cette année n'est considérée comme des intérêts sur le titre.

(4) to (7) [Repealed, 2013, c. 34, s. 288]

(4) à (7) [Abrogés, 2013, ch. 34, art. 288]

First deemed disposition of debt obligation

(8) Where

(a) in a particular taxation year that ends after October 30, 1994, a taxpayer disposed of a specified debt obligation that is a mark-to-market property of the taxpayer for the following taxation year, and

(b) either

(i) the disposition occurred because of subsection 142.5(2) and the particular year includes October 31, 1994, or

(ii) the disposition occurred because of paragraph 142.6(1)(b),

the following rules apply:

(c) subsection 20(21) does not apply to the disposition, and

(d) where

(i) an amount has been deducted under paragraph 20(1)(p) in respect of the obligation in computing the taxpayer's income for the particular year or a preceding taxation year, and

(ii) section 12.4 does not apply to the disposition,

there shall be included in computing the taxpayer's income for the particular year the amount, if any, by which

(iii) the total of all amounts referred to in subparagraph 142.5(8)(d)(i)

exceeds

Première disposition réputée d'un titre de créance

(8) Dans le cas où, à la fois :

a) au cours d'une année d'imposition donnée qui se termine après le 30 octobre 1994, un contribuable dispose d'un titre de créance déterminé qui est son bien évalué à la valeur du marché pour l'année d'imposition subséquente,

b) le bien est réputé avoir fait l'objet de la disposition, selon le cas :

(i) par le paragraphe (2), et l'année donnée comprend le 31 octobre 1994,

(ii) par l'alinéa 142.6(1)b),

les règles suivantes s'appliquent :

c) le paragraphe 20(21) ne s'applique pas à la disposition;

d) lorsqu'un montant a été déduit en application de l'alinéa 20(1)p) relativement au titre dans le calcul du revenu du contribuable pour l'année donnée ou une année d'imposition antérieure et que l'article 12.4 ne s'applique pas à la disposition, est à inclure dans le calcul du revenu du contribuable pour l'année donnée l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants déduits en application de l'alinéa 20(1)p) relativement au titre dans le calcul du revenu du contribuable pour l'année donnée ou une année d'imposition antérieure,

(ii) le total des montants inclus en application de l'alinéa 12(1)i) relativement au titre dans le calcul du revenu du contribuable pour l'année donnée ou une année d'imposition antérieure.

(iv) the total of all amounts included under paragraph 12(1)(i) in respect of the obligation in computing the taxpayer's income for the particular year or a preceding taxation year.

Application of subsection (8.2)

(8.1) Subsection (8.2) applies to a taxpayer for its transition year if

(a) subsection (2) deems the taxpayer to have disposed of a particular specified debt obligation immediately before the end of its transition year (in subsection (8.2) referred to as "the particular disposition"); and

(b) the particular specified debt obligation was owned by the taxpayer at the end of its base year and was not a mark-to-market property of the taxpayer for its base year.

Rules applicable to first deemed disposition of debt obligation

(8.2) If this subsection applies to a taxpayer for its transition year, the following rules apply to the taxpayer in respect of the particular disposition:

(a) subsection 20(21) does not apply to the taxpayer in respect of the particular disposition; and

(b) if section 12.4 does not apply to the taxpayer in respect of the particular disposition, there shall be included in computing the taxpayer's income for its transition year the amount, if any, by which

(i) the total of all amounts each of which is

(A) an amount deducted under paragraph 20(1)(l) in respect of the particular specified debt obligation of the taxpayer in computing the taxpayer's income for its base year, or

(B) an amount deducted under paragraph 20(1)(p) in respect of the particular specified debt obligation of the taxpayer in computing the taxpayer's income for a taxation year that preceded its transition year,

exceeds

(ii) the total of all amounts each of which is

(A) an amount included under paragraph 12(1)(d) in respect of the particular specified debt obligation of the taxpayer in computing the taxpayer's income for its transition year, or

Application du par. (8.2)

(8.1) Le paragraphe (8.2) s'applique à un contribuable pour son année transitoire si, à la fois :

a) le contribuable est réputé, en vertu du paragraphe (2), avoir disposé d'un titre de créance déterminé immédiatement avant la fin de son année transitoire (cette disposition étant appelée « disposition donnée » au paragraphe (8.2));

b) le titre de créance déterminé en cause appartenait au contribuable à la fin de son année de base et n'était pas un bien évalué à la valeur du marché lui appartenant pour cette année.

Règles applicables à la première disposition réputée d'un titre de créance

(8.2) Si le présent paragraphe s'applique à un contribuable pour son année transitoire, les règles ci-après s'appliquent à lui relativement à la disposition donnée :

a) le paragraphe 20(21) ne s'applique pas au contribuable relativement à la disposition donnée;

b) si l'article 12.4 ne s'applique pas au contribuable relativement à la disposition donnée, l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) est inclus dans le calcul de son revenu pour son année transitoire :

(i) le total des sommes représentant chacune :

(A) une somme déduite en application de l'alinéa 20(1)l) relativement au titre de créance déterminé du contribuable dans le calcul de son revenu pour son année de base,

(B) une somme déduite en application de l'alinéa 20(1)p) relativement au titre de créance déterminé du contribuable dans le calcul de son revenu pour une année d'imposition antérieure à son année transitoire,

(ii) le total des sommes représentant chacune :

(A) une somme incluse en application de l'alinéa 12(1)d) relativement au titre de créance déterminé du contribuable dans le calcul de son revenu pour son année transitoire,

(B) an amount included under paragraph 12(1)(i) in respect of the particular specified debt obligation of the taxpayer in computing the taxpayer's income for its transition year or a preceding taxation year.

(B) une somme incluse en application de l'alinéa 12(1)i) relativement au titre de créance déterminé du contribuable dans le calcul de son revenu pour son année transitoire ou pour une année d'imposition antérieure.

Transition — property acquired on rollover

(9) Where

(a) a taxpayer acquired a property before October 31, 1994 at a cost less than the fair market value of the property at the time of acquisition,

(b) the property was transferred, directly or indirectly, to the taxpayer by a person that would never have been a financial institution before the transfer if the definition ***financial institution*** in subsection 142.2(1) had always applied,

(c) the cost is less than the fair market value because subsection 85(1) applied in respect of the disposition of the property by the person, and

(d) subsection 142.5(2) deemed the taxpayer to have disposed of the property in its particular taxation year that includes October 31, 1994,

the following rules apply:

(e) where the taxpayer would, but for this paragraph, have a taxable capital gain for the particular year from the disposition of the property, the part of the taxable capital gain that can reasonably be considered to have arisen while the property was held by a person described in paragraph 142.5(9)(b) shall be deemed to be a taxable capital gain of the taxpayer from the disposition of the property for the taxation year in which the taxpayer disposes of the property otherwise than because of subsection 142.5(2), and not to be a taxable capital gain for the particular year, and

(f) where the taxpayer has a profit (other than a capital gain) from the disposition of the property, the part of the profit that can reasonably be considered to have arisen while the property was held by a person described in paragraph 142.5(9)(b) shall be included in computing the taxpayer's income for the taxation year in which the taxpayer disposes of the property otherwise than because of subsection 142.5(2), and shall not be included in computing the taxpayer's income for the particular year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 58; 1998, c. 19, s. 166; 2009, c. 2, s. 47; 2013, c. 34, s. 288.

Mesure transitoire — bien acquis par roulement

(9) Dans le cas où, à la fois :

a) un contribuable a acquis un bien avant le 31 octobre 1994 à un coût inférieur à sa juste valeur marchande au moment de l'acquisition,

b) le bien a été transféré, directement ou indirectement, au contribuable par une personne qui n'aurait jamais été une institution financière avant le transfert si la définition de ***institution financière*** au paragraphe 142.2(1) s'était toujours appliquée,

c) le coût est inférieur à la juste valeur marchande en raison de l'application du paragraphe 85(1) à la disposition du bien par la personne,

d) le contribuable est réputé par le paragraphe (2) avoir disposé du bien au cours de son année d'imposition (appelée « année donnée » au présent paragraphe) qui comprend le 31 octobre 1994,

les règles suivantes s'appliquent :

e) dans le cas où le contribuable réaliserait, n'eût été le présent alinéa, un gain en capital imposable pour l'année donnée lors de la disposition du bien, la partie de ce gain qu'il est raisonnable de considérer comme réalisée pendant que le bien était détenu par une personne visée à l'alinéa b) est réputée être un gain en capital imposable du contribuable résultant de la disposition du bien pour l'année d'imposition au cours de laquelle il dispose du bien autrement que par l'effet du paragraphe (2) et ne pas être un gain en capital imposable pour l'année donnée;

f) dans le cas où le contribuable réalise un bénéfice, sauf un gain en capital, lors de la disposition du bien, la partie du bénéfice qu'il est raisonnable de considérer comme réalisée pendant que le bien était détenu par une personne visée à l'alinéa b) est à inclure dans le calcul du revenu du contribuable pour l'année d'imposition au cours de laquelle il dispose du bien autrement qu'en vertu d'une disposition présumée avoir été effectuée par le paragraphe (2) et n'est pas incluse dans le calcul de son revenu pour l'année donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 58; 1998, ch. 19, art. 166; 2009, ch. 2, art. 47; 2013, ch. 34, art. 288.

Definitions

142.51 (1) The following definitions apply for the purposes of this section and subsections 142.5(8.1) and (8.2).

base year of a taxpayer means the taxpayer's taxation year that immediately precedes its transition year. (*année de base*)

transition amount of a taxpayer for the taxpayer's transition year is the positive or negative amount determined by the formula

A – B

where

A is the total of all amounts each of which is the fair market value, at the end of the taxpayer's base year, of a transition property of the taxpayer; and

B is the total of all amounts each of which is the cost amount to the taxpayer, at the end of the taxpayer's base year, of a transition property of the taxpayer. (*montant transitoire*)

transition property of a taxpayer means a property that

(a) was a specified debt obligation held by the taxpayer at the end of the taxpayer's base year;

(b) was not a mark-to-market property of the taxpayer for the taxpayer's base year, but would have been a mark-to-market property of the taxpayer for the taxpayer's base year if the property had been carried at the property's fair market value in the taxpayer's balance sheet as at the end of each taxation year of the taxpayer that ends after the taxpayer last acquired the property (otherwise than by reason of a reacquisition under subsection 142.5(2)) and before the commencement of the taxpayer's transition year; and

(c) was a mark-to-market property of the taxpayer for the transition year of the taxpayer. (*bien transitoire*)

transition year of a taxpayer means the taxpayer's first taxation year that begins after September 2006. (*année transitoire*)

Transition year income inclusion

(2) If a taxpayer is a financial institution in its transition year, there shall be included in computing the taxpayer's income for its transition year the absolute value of the negative amount, if any, of the taxpayer's transition amount.

Définitions

142.51 (1) Les définitions qui suivent s'appliquent au présent article et aux paragraphes 142.5(8.1) et (8.2).

année de base L'année d'imposition d'un contribuable qui précède son année transitoire. (*base year*)

année transitoire La première année d'imposition d'un contribuable qui commence après septembre 2006. (*transition year*)

bien transitoire Est un bien transitoire d'un contribuable le bien qui, à la fois :

a) était un titre de créance déterminé détenu par le contribuable à la fin de son année de base;

b) n'était pas un bien évalué à la valeur du marché du contribuable pour son année de base, mais l'aurait été s'il avait été comptabilisé à sa juste valeur marchande au bilan du contribuable à la fin de chacune de ses années d'imposition — se terminant après sa dernière acquisition du bien (autrement qu'en raison d'une nouvelle acquisition visée au paragraphe 142.5(2)) et avant le début de son année transitoire;

c) était un bien évalué à la valeur du marché du contribuable pour son année transitoire. (*transition property*)

montant transitoire Le montant transitoire d'un contribuable pour son année transitoire correspond à la somme positive ou négative obtenue par la formule suivante :

A – B

où :

A représente le total des sommes représentant chacune la juste valeur marchande, à la fin de l'année de base du contribuable, de son bien transitoire;

B le total des sommes représentant chacune le coût indiqué pour le contribuable, à la fin de son année de base, de son bien transitoire. (*transition amount*)

Somme à inclure dans le revenu — année transitoire

(2) Si un contribuable est une institution financière au cours de son année transitoire, la valeur absolue du montant négatif de son montant transitoire est à inclure dans le calcul de son revenu pour cette année.

Transition year income deduction

(3) If a taxpayer is a financial institution in its transition year, there shall be deducted in computing the taxpayer's income for its transition year the positive amount, if any, of the taxpayer's transition amount.

Transition year income inclusion reversal

(4) If an amount has been included under subsection (2) in computing a taxpayer's income for its transition year there shall be deducted in computing the taxpayer's income for each particular taxation year of the taxpayer that ends after the beginning of the transition year, and in which particular taxation year the taxpayer is a financial institution, the amount determined by the formula

A × B/1825

where

A is the amount included under subsection (2) in computing the taxpayer's income for the transition year; and

B is the number of days in the particular taxation year that are before the day that is 1825 days after the first day of the transition year.

Transition year income deduction reversal

(5) If an amount has been deducted under subsection (3) in computing a taxpayer's income for its transition year, there shall be included in computing the taxpayer's income, for each particular taxation year of the taxpayer ending after the beginning of the transition year, and in which particular taxation year the taxpayer is a financial institution, the amount determined by the formula

A × B/1825

where

A is the amount deducted under subsection (3) in computing the taxpayer's income for the transition year; and

B is the number of days in the particular taxation year that are before the day that is 1825 days after the first day of the transition year.

Winding-up

(6) If a taxpayer has, in a winding-up to which subsection 88(1) has applied, been wound-up into another corporation (referred to in this subsection as the "parent"), and immediately after the winding-up the parent is a financial institution, in applying subsections (4) and (5) in computing the income of the taxpayer and of the parent for particular taxation years that end on or after the first day (referred to in this subsection as the "start day") on

Somme à déduire du revenu — année transitoire

(3) Si un contribuable est une institution financière au cours de son année transitoire, le montant positif de son montant transitoire est à déduire dans le calcul de son revenu pour cette année.

Annulation de l'inclusion — année transitoire

(4) Si une somme a été incluse en application du paragraphe (2) dans le calcul du revenu d'un contribuable pour son année transitoire, est à déduire dans le calcul de son revenu, pour chacune de ses années d'imposition se terminant après le début de l'année transitoire et au cours de laquelle il est une institution financière, la somme obtenue par la formule suivante :

A × B/1825

où :

A représente la somme incluse en application du paragraphe (2) dans le calcul du revenu du contribuable pour l'année transitoire;

B le nombre de jours de l'année d'imposition en cause qui sont antérieurs au jour qui suit de 1825 jours le premier jour de l'année transitoire.

Annulation de la déduction — année transitoire

(5) Si une somme a été déduite en application du paragraphe (3) dans le calcul du revenu d'un contribuable pour son année transitoire, est à inclure dans le calcul de son revenu, pour chacune de ses années d'imposition se terminant après le début de l'année transitoire et au cours de laquelle il est une institution financière, la somme obtenue par la formule suivante :

A × B/1825

où :

A représente la somme déduite en application du paragraphe (3) dans le calcul du revenu du contribuable pour l'année transitoire;

B le nombre de jours de l'année d'imposition en cause qui sont antérieurs au jour qui suit de 1825 jours le premier jour de l'année transitoire.

Liquidation

(6) Si un contribuable est liquidé dans une autre société (appelée « société mère » au présent paragraphe) dans le cadre d'une liquidation à laquelle le paragraphe 88(1) s'applique et que la société mère est une institution financière immédiatement après la liquidation, pour l'application des paragraphes (4) et (5) au calcul des revenus du contribuable et de la société mère pour des années d'imposition données se terminant au plus tôt le premier jour (appelé « date de début » au présent paragraphe) où

which assets of the taxpayer were distributed to the parent on the winding-up,

(a) the parent is, on and after the start day, deemed to be the same corporation as and a continuation of the taxpayer in respect of

(i) any amount included under subsection (2) or deducted under subsection (3) by the taxpayer in computing the taxpayer's income for its transition year,

(ii) any amount deducted under subsection (4) or included under subsection (5) in computing the taxpayer's income for a taxation year of the taxpayer that begins before the start day, and

(iii) any amount that would — in the absence of this subsection and if the taxpayer existed and was a financial institution on each day that is the start day or a subsequent day and on which the parent is a financial institution — be required to be deducted or included, in respect of any of those days, under subsection (4) or (5) in computing the taxpayer's income for its transition year; and

(b) the taxpayer is, in respect of each of its particular taxation years, to determine the value for B in the formulas in subsections (4) and (5) without reference to the start day and days after the start day.

des éléments d'actif du contribuable ont été distribués à la société mère lors de la liquidation, les règles suivantes s'appliquent :

a) en ce qui a trait aux sommes ci-après, la société mère est réputée être la même société que le contribuable, et en être la continuation, à compter de la date de début :

(i) toute somme incluse en application du paragraphe (2), ou déduite en application du paragraphe (3), dans le calcul du revenu du contribuable pour son année transitoire,

(ii) toute somme déduite en application du paragraphe (4), ou incluse en application du paragraphe (5), dans le calcul du revenu du contribuable pour une année d'imposition de celui-ci commençant avant la date de début,

(iii) toute somme qui — en l'absence du présent paragraphe et à supposer que le contribuable existe, et est une institution financière, chaque jour qui correspond à la date de début ou à une date postérieure et auquel la société mère est une institution financière — serait à déduire en application du paragraphe (4), ou à inclure en application du paragraphe (5), relativement à ces jours, dans le calcul du revenu du contribuable pour son année transitoire;

b) le contribuable est tenu de déterminer, relativement à chacune de ses années d'imposition données, la valeur de l'élément B des formules figurant aux paragraphes (4) et (5) sans tenir compte de la date de début ni des jours qui y sont postérieurs.

Amalgamations

(7) If there is an amalgamation (within the meaning assigned by subsection 87(1)) of a taxpayer with one or more other corporations to form one corporation (referred to in this subsection as the "new corporation"), and immediately after the amalgamation the new corporation is a financial institution, in applying subsections (4) and (5) in computing the income of the new corporation for particular taxation years of the new corporation that begin on or after the day on which the amalgamation occurred, the new corporation is, on and after that day, deemed to be the same corporation as and a continuation of the taxpayer in respect of

(a) any amount included under subsection (2) or deducted under subsection (3) in computing the taxpayer's income for its transition year of the taxpayer;

Fusions

(7) S'il y a fusion, au sens du paragraphe 87(1), d'un contribuable et d'une ou de plusieurs autres sociétés et que la société issue de la fusion (appelée « nouvelle société » au présent paragraphe) est une institution financière immédiatement après la fusion, pour l'application des paragraphes (4) et (5) au calcul du revenu de la nouvelle société pour des années d'imposition données de celle-ci commençant à la date de la fusion ou par la suite, la nouvelle société est réputée être la même société que le contribuable, et en être la continuation, à compter de cette date en ce qui a trait aux sommes suivantes :

a) toute somme incluse en application du paragraphe (2), ou déduite en application du paragraphe (3), dans le calcul du revenu du contribuable pour son année transitoire;

(b) any amount deducted under subsection (4) or included under subsection (5) in computing the taxpayer's income for a taxation year of the taxpayer that begins before the day on which the amalgamation occurred; and

(c) any amount that would — in the absence of this subsection and if the taxpayer existed and was a financial institution on each day that is the day on which the amalgamation occurred or a subsequent day and on which the new corporation is a financial institution — be required to be deducted or included, in respect of any of those days, under subsection (4) or (5) in computing the taxpayer's income.

b) toute somme déduite en application du paragraphe (4), ou incluse en application du paragraphe (5), dans le calcul du revenu du contribuable pour une année d'imposition de celui-ci commençant avant la date de la fusion;

c) toute somme qui — en l'absence du présent paragraphe et à supposer que le contribuable existe, et est une institution financière, chaque jour qui correspond à la date de la fusion ou à une date postérieure et auquel la nouvelle société est une institution financière — serait à déduire en application du paragraphe (4), ou à inclure en application du paragraphe (5), relativement à ces jours, dans le calcul du revenu du contribuable.

Application of subsection (9)

(8) Subsection (9) applies if, at any time, a taxpayer (referred to in this subsection and subsection (9) as the "transferor") transfers, to a corporation (referred to in this subsection and subsection (9) as the "transferee") that is related to the transferor, property in respect of a business carried on by the transferor in Canada (referred to in this subsection and subsection (9) as the "transferred business") and

(a) subsection 138(11.5) or (11.94) applies to the transfer; or

(b) subsection 85(1) applies to the transfer, the transfer includes all or substantially all of the property and liabilities of the transferred business and, immediately after the transfer, the transferee is a financial institution.

Application du par. (9)

(8) Le paragraphe (9) s'applique dans le cas où un contribuable (appelé « cédant » au présent paragraphe et au paragraphe (9)) transfère à une société qui lui est liée (appelée « cessionnaire » au présent paragraphe et au paragraphe (9)) un bien relatif à une entreprise qu'il exploite au Canada (appelée « entreprise transférée » au présent paragraphe et au paragraphe (9)) et où, selon le cas :

a) le paragraphe 138(11.5) ou (11.94) s'applique au transfert;

b) le paragraphe 85(1) s'applique au transfert, le transfert porte sur la totalité ou la presque totalité des biens et des dettes de l'entreprise transférée et le cessionnaire est une institution financière immédiatement après le transfert.

Transfer of a business

(9) If this subsection applies in respect of the transfer, at any time, of property

(a) the transferee is, at and after that time, deemed to be the same corporation as and a continuation of the transferor in respect of

(i) any amount included under subsection (2) or deducted under subsection (3) in computing the transferor's income for its transition year that can reasonably be attributed to the transferred business,

(ii) any amount deducted under subsection (4) or included under subsection (5) in computing the transferor's income for a taxation year of the transferor that begins before that time that can reasonably be attributed to the transferred business, and

Transfert d'entreprise

(9) Dans le cas où le présent paragraphe s'applique relativement au transfert d'un bien, les règles suivantes s'appliquent :

a) en ce qui a trait aux sommes ci-après, le cessionnaire est réputé être la même société que le cédant, et en être la continuation, à compter du moment du transfert :

(i) toute somme — incluse en application du paragraphe (2), ou déduite en application du paragraphe (3), dans le calcul du revenu du cédant pour son année transitoire — qu'il est raisonnable d'attribuer à l'entreprise transférée,

(ii) toute somme — déduite en application du paragraphe (4), ou incluse en application du paragraphe (5), dans le calcul du revenu du cédant pour une année d'imposition de celui-ci commençant avant ce

(iii) any amount that would — in the absence of this subsection and if the transferor existed and was a financial institution on each day that includes that time or is a subsequent day and on which the transferee is a financial institution — be required to be deducted or included, in respect of any of those days, under subsection (4) or (5) in computing the transferor's income that can reasonably be attributed to the transferred business; and

(b) in determining, in respect of the day that includes that time or any subsequent day, any amount that is required under subsection (4) or (5) to be deducted or included in computing the transferor's income for each particular taxation year from the transferred business, the description of A in the formulas in those subsections is deemed to be nil.

Continuation of a partnership

(10) If subsection 98(6) deems a partnership (in this subsection referred to as the "new partnership") to be a continuation of another partnership (in this subsection referred to as the "predecessor partnership") and, at the time that is immediately after the predecessor partnership ceases to exist, the new partnership is a financial institution, in applying subsections (4) and (5) in computing the income of the new partnership for particular taxation years of the new partnership that begin on or after the day on which it comes into existence, the new partnership is, on and after that day, deemed to be the same partnership as and a continuation of the predecessor partnership in respect of

(a) any amount included under subsection (2) or deducted under subsection (3) in computing the predecessor partnership's income for its transition year;

(b) any amount deducted under subsection (4) or included under subsection (5) in computing the predecessor partnership's income for a taxation year of the predecessor partnership that begins before the day on which the new partnership comes into existence; and

(c) any amount that would — in the absence of this subsection and if the predecessor partnership existed and was a financial institution on each day that is the day on which the new partnership comes into existence or a subsequent day and on which the new partnership is a financial institution — be required to be deducted or included, in respect of any of those days,

moment — qu'il est raisonnable d'attribuer à l'entreprise transférée,

(iii) toute somme qui — en l'absence du présent paragraphe et à supposer que le cédant existe, et est une institution financière, chaque jour qui comprend ce moment ou y est postérieur et auquel le cessionnaire est une institution financière — serait à déduire en application du paragraphe (4), ou à inclure en application du paragraphe (5), relativement à ces jours, dans le calcul du revenu du cédant et qu'il est raisonnable d'attribuer à l'entreprise transférée;

b) pour déterminer, relativement au jour qui comprend le moment du transfert ou y est postérieur, toute somme à déduire en application du paragraphe (4), ou à inclure en application du paragraphe (5), dans le calcul du revenu du cédant pour chaque année d'imposition donnée provenant de l'entreprise transférée, la valeur de l'élément A des formules figurant à ces paragraphes est réputée être nulle.

Continuation d'une société de personnes

(10) La société de personnes (appelée « nouvelle société de personnes » au présent paragraphe) qui est réputée, en vertu du paragraphe 98(6), être la continuation d'une autre société de personnes (appelée « société de personnes remplacée » au présent paragraphe) et qui est une institution financière immédiatement après le moment où la société de personnes remplacée cesse d'exister est réputée, pour l'application des paragraphes (4) et (5) au calcul de son revenu pour ses années d'imposition données commençant au plus tôt à la date où elle commence à exister, être la même société de personnes que la société de personnes remplacée, et en être la continuation, à compter de cette date en ce qui a trait aux sommes suivantes :

a) toute somme incluse en application du paragraphe (2), ou déduite en application du paragraphe (3), dans le calcul du revenu de la société de personnes remplacée pour son année transitoire;

b) toute somme déduite en application du paragraphe (4), ou incluse en application du paragraphe (5), dans le calcul du revenu de la société de personnes remplacée pour une année d'imposition de celle-ci commençant avant la date où la nouvelle société de personnes commence à exister;

c) toute somme qui — en l'absence du présent paragraphe et à supposer que la société de personnes remplacée existe, et est une institution financière, chaque jour qui correspond à la date où la nouvelle société de personnes commence à exister ou à une date

under subsection (4) or (5) in computing the predecessor partnership's income.

Ceasing to carry on a business

(11) If at any time, a taxpayer ceases to be a financial institution

(a) there shall be deducted, in computing the income of the taxpayer for the taxation year of the taxpayer that includes the time that is immediately before that time, the amount determined by the formula

A – B

where

A is the amount included under subsection (2) in computing the taxpayer's income for its transition year, and

B is the total of all amounts each of which is an amount deducted under subsection (4) in computing the income of the taxpayer for a taxation year that began before that time; and

(b) there shall be included, in computing the income of the taxpayer for the taxation year of the taxpayer that includes the time that is immediately before that time, the amount determined by the formula

C – D

where

C is the amount deducted under subsection (3) in computing the taxpayer's income for its transition year, and

D is the total of all amounts each of which is an amount included under subsection (5) in computing the taxpayer's income for a taxation year that began before that time.

Ceasing to exist

(12) If at any time a taxpayer ceases to exist (otherwise than as a result of a merger to which subsection 87(2) applies, a winding-up to which subsection 88(1) applies or a continuation to which subsection 98(6) applies), for the purposes of subsection (11), the taxpayer is deemed to have ceased to be a financial institution at the earlier of

postérieure et auquel la nouvelle société de personnes est une institution financière — serait à déduire en application du paragraphe (4), ou à inclure en application du paragraphe (5), relativement à ces jours, dans le calcul du revenu de la société de personnes remplacée.

Cessation de l'exploitation d'une entreprise

(11) Lorsqu'un contribuable cesse d'être une institution financière, les règles suivantes s'appliquent :

a) la somme obtenue par la formule ci-après est à déduire dans le calcul du revenu du contribuable pour son année d'imposition qui comprend le moment immédiatement avant la cessation :

A – B

où :

A représente la somme incluse en application du paragraphe (2) dans le calcul du revenu du contribuable pour son année transitoire,

B le total des sommes représentant chacune une somme déduite en application du paragraphe (4) dans le calcul du revenu du contribuable pour une année d'imposition ayant commencé avant la cessation;

b) la somme obtenue par la formule ci-après est à inclure dans le calcul du revenu du contribuable pour son année d'imposition qui comprend le moment immédiatement avant la cessation :

C – D

où :

C représente la somme déduite en application du paragraphe (3) dans le calcul du revenu du contribuable pour son année transitoire,

D le total des sommes représentant chacune une somme incluse en application du paragraphe (5) dans le calcul du revenu du contribuable pour une année d'imposition ayant commencé avant la cessation.

Cessation de l'existence

(12) Le contribuable qui cesse d'exister autrement que par suite d'une fusion à laquelle le paragraphe 87(2) s'applique, d'une liquidation à laquelle le paragraphe 88(1) s'applique ou d'une continuation à laquelle le paragraphe 98(6) s'applique est réputé, pour l'application du paragraphe (11), avoir cessé d'être une institution financière au premier en date des moments suivants :

(a) the time (determined without reference to this subsection) at which the taxpayer ceased to be a financial institution, and

(b) the time that is immediately before the end of the last taxation year of the taxpayer that ended at or before the time at which the taxpayer ceased to exist.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2009, c. 2, s. 48.

a) le moment (déterminé compte non tenu du présent paragraphe) auquel il a cessé d'être une institution financière;

b) le moment immédiatement avant la fin de sa dernière année d'imposition qui a pris fin au plus tard au moment où il a cessé d'exister.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2009, ch. 2, art. 48.

Additional Rules

Becoming or ceasing to be a financial institution

142.6 (1) Where, at a particular time after February 22, 1994, a taxpayer becomes or ceases to be a financial institution,

(a) where a taxation year of the taxpayer would not, but for this paragraph, end immediately before the particular time,

(i) except for the purpose of subsection 132(6.1), the taxpayer's taxation year that would otherwise have included the particular time is deemed to have ended immediately before that time and a new taxation year of the taxpayer is deemed to have begun at that time, and

(ii) for the purpose of determining the taxpayer's fiscal period after the particular time, the taxpayer shall be deemed not to have established a fiscal period before that time;

(b) if the taxpayer becomes a financial institution, the taxpayer is deemed to have disposed, immediately before the end of its particular taxation year that ends immediately before the particular time, of each of the following properties held by the taxpayer for proceeds equal to the property's fair market value at the time of that disposition:

(i) a specified debt obligation, or

(ii) a mark-to-market property of the taxpayer for the particular taxation year or for the taxpayer's taxation year that includes the particular time;

(c) where the taxpayer ceases to be a financial institution, the taxpayer shall be deemed to have disposed, immediately before the end of its taxation year that ends immediately before the particular time, of each property held by the taxpayer that is a specified debt obligation (other than a mark-to-market property of the taxpayer for the year), for proceeds equal to its fair market value at the time of disposition; and

Autres règles

Institution financière nouvelle ou ancienne

142.6 (1) Dans le cas où, à un moment donné après le 22 février 1994, un contribuable devient une institution financière ou cesse d'en être une, les règles suivantes s'appliquent :

a) dans le cas où une année d'imposition du contribuable ne se terminerait pas, n'eût été le présent alinéa, immédiatement avant le moment donné :

(i) sauf pour l'application du paragraphe 132(6.1), l'année d'imposition du contribuable qui aurait par ailleurs compris le moment donné est réputée s'être terminée immédiatement avant ce moment, et une nouvelle année d'imposition du contribuable est réputée avoir commencé à ce moment,

(ii) pour déterminer l'exercice du contribuable après le moment donné, le contribuable est réputé ne pas avoir établi d'exercice avant ce moment;

b) le contribuable qui devient une institution financière est réputé avoir disposé, immédiatement avant la fin de son année d'imposition donnée qui se termine immédiatement avant le moment donné, de chacun des biens ci-après qu'il détient, pour un produit égal à la juste valeur marchande du bien au moment de la disposition :

(i) un titre de créance déterminé,

(ii) un bien évalué à la valeur du marché du contribuable pour l'année d'imposition donnée ou pour son année d'imposition qui comprend le moment donné;

c) le contribuable qui cesse d'être une institution financière est réputé avoir disposé, immédiatement avant la fin de son année d'imposition qui se termine immédiatement avant le moment donné, de chaque bien qu'il détient et qui est un titre de créance déterminé, sauf un bien évalué à la valeur du marché du contribuable pour l'année, pour un produit égal à la juste valeur marchande du bien au moment de la disposition;

(d) the taxpayer is deemed to have reacquired, at the end of its taxation year that ends immediately before the particular time, each property deemed by paragraph (b) or (c) to have been disposed of by the taxpayer, at a cost equal to the proceeds of disposition of the property.

d) le contribuable est réputé avoir acquis de nouveau, à la fin de son année d'imposition qui se termine immédiatement avant le moment donné, chaque bien dont il est réputé, par les alinéas b) ou c), avoir disposé, à un coût égal au produit de disposition du bien.

Ceasing to use property in Canadian business

(1.1) If at a particular time in a taxation year a taxpayer that is a non-resident financial institution (other than a life insurance corporation) ceases to use, in connection with a business or part of a business carried on by the taxpayer in Canada immediately before the particular time, a property that is a mark-to-market property of the taxpayer for the year or a specified debt obligation, but that is not a property that was disposed of by the taxpayer at the particular time,

(a) the taxpayer is deemed

(i) to have disposed of the property immediately before the time that was immediately before the particular time for proceeds equal to its fair market value at the time of disposition and to have received those proceeds at the time of disposition in the course of carrying on the business or the part of the business, as the case may be, and

(ii) to have reacquired the property at the particular time at a cost equal to those proceeds; and

(b) in determining the consequences of the disposition in subparagraph (a)(i), subsection 142.4(11) does not apply to any payment received by the taxpayer after the particular time.

Cessation d'utilisation d'un bien dans une entreprise canadienne

(1.1) Les règles suivantes s'appliquent au contribuable qui est une institution financière non-résidente (sauf une compagnie d'assurance-vie) et qui, à un moment donné d'une année d'imposition, cesse d'utiliser, dans le cadre d'une entreprise ou une partie d'entreprise qu'il exploitait au Canada immédiatement avant ce moment, un bien qui est soit un bien évalué à la valeur du marché pour l'année, soit un titre de créance déterminé, mais non un bien dont il a disposé à ce moment :

a) il est réputé :

(i) d'une part, avoir disposé du bien immédiatement avant le moment qui est immédiatement avant le moment donné pour un produit égal à sa juste valeur marchande au moment de la disposition et avoir reçu ce produit à ce dernier moment dans le cadre de l'exploitation de l'entreprise ou de la partie d'entreprise,

(ii) d'autre part, avoir acquis le bien de nouveau au moment donné à un coût égal à ce produit;

b) pour déterminer les effets de la disposition visée au sous-alinéa a)(i), le paragraphe 142.4(11) ne s'applique à aucun paiement reçu par le contribuable après le moment donné.

Beginning to use property in a Canadian business

(1.2) If at a particular time a taxpayer that is a non-resident financial institution (other than a life insurance corporation) begins to use, in connection with a business or part of a business carried on by the taxpayer in Canada, a property that is a mark-to-market property of the taxpayer for the year that includes the particular time or a specified debt obligation, but that is not a property that was acquired by the taxpayer at the particular time, the taxpayer is deemed

(a) to have disposed of the property immediately before the time that was immediately before the particular time for proceeds equal to its fair market value at the time of disposition; and

(b) to have reacquired the property at the particular time at a cost equal to those proceeds.

Début d'utilisation d'un bien dans une entreprise canadienne

(1.2) Le contribuable qui est une institution financière non-résidente (sauf une compagnie d'assurance-vie) et qui, à un moment donné, commence à utiliser, dans le cadre d'une entreprise ou partie d'entreprise qu'il exploitait au Canada, un bien qui est soit un bien évalué à la valeur du marché pour l'année qui comprend le moment donné, soit un titre de créance déterminé, mais non un bien qu'il a acquis à ce moment, est réputé :

a) d'une part, avoir disposé du bien immédiatement avant le moment qui est immédiatement avant le moment donné pour un produit égal à sa juste valeur marchande au moment de la disposition;

b) d'autre part, avoir acquis le bien de nouveau au moment donné à un coût égal à ce produit.

Specified debt obligation marked to market

(1.3) In applying subsection (1.1) to a taxpayer in respect of a property in a taxation year,

(a) the definition ***mark-to-market property*** in subsection 142.2(1) shall be applied as if the year ended immediately before the particular time referred to in subsection (1.1); and

(b) if the taxpayer does not have financial statements for the period ending immediately before the particular time referred to in subsection (1.1), references in the definition to financial statements for the year shall be read as references to the financial statements that it is reasonable to expect would have been prepared if the year had ended immediately before the particular time.

Change in status — prescribed payment card corporation share

(1.4) If, at any particular time in a taxation year of a taxpayer that is a financial institution for the taxation year, a property becomes a mark-to-market property of the taxpayer for the taxation year because it ceased, at the particular time, to be a prescribed payment card corporation share of the taxpayer,

(a) the taxpayer is deemed

(i) to have disposed of the property immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, and

(ii) to have acquired the property, at the particular time, at a cost equal to those proceeds; and

(b) subsection 142.5(1) does not apply to the disposition under subparagraph (a)(i).

Change in status — prescribed securities exchange investment

(1.5) If, at any particular time in a taxation year of a taxpayer that is a financial institution for the taxation year, a property becomes a mark-to-market property of the taxpayer for the taxation year because it ceased, at the particular time, to be a prescribed securities exchange investment of the taxpayer,

(a) the taxpayer is deemed

Titre de créance évalué à la valeur du marché

(1.3) Pour l'application du paragraphe (1.1) à un contribuable à l'égard d'un bien au cours d'une année d'imposition, les règles suivantes s'appliquent :

a) la définition de ***bien évalué à la valeur du marché*** au paragraphe 142.2(1) s'applique comme si l'année s'était terminée immédiatement avant le moment donné visé au paragraphe (1.1);

b) si le contribuable n'a pas d'états financiers couvrant la période se terminant immédiatement avant le moment donné visé au paragraphe (1.1), les mentions des états financiers pour l'année à cette définition valent mention des états financiers qui, selon ce à quoi il est raisonnable de s'attendre, auraient été établis si l'année s'était terminée immédiatement avant le moment donné.

Action de société émettrice de cartes de paiement visée par règlement

(1.4) Dans le cas où, à un moment donné de l'année d'imposition d'un contribuable qui est une institution financière pour l'année, un bien devient un bien évalué à la valeur du marché du contribuable pour l'année du fait qu'il a cessé, à ce moment, d'être une action de société émettrice de cartes de paiement du contribuable, visée par règlement, les règles suivantes s'appliquent :

a) le contribuable est réputé :

(i) d'une part, avoir disposé du bien immédiatement avant le moment donné pour un produit de disposition égal à sa juste valeur marchande immédiatement avant ce moment,

(ii) d'autre part, avoir acquis le bien au moment donné à un coût égal à ce produit;

b) le paragraphe 142.5(1) ne s'applique pas à la disposition prévue au sous-alinéa a)(i).

Placement en bourse visé par règlement

(1.5) Dans le cas où, à un moment donné de l'année d'imposition d'un contribuable qui est une institution financière pour l'année, un bien devient un bien évalué à la valeur du marché du contribuable pour l'année du fait qu'il a cessé, à ce moment, d'être un placement en bourse du contribuable, visé par règlement, les règles suivantes s'appliquent :

a) le contribuable est réputé :

(i) d'une part, avoir disposé du bien immédiatement avant le moment donné pour un produit de

(i) to have disposed of the property immediately before the particular time for proceeds of disposition equal to its fair market value immediately before the particular time, and

(ii) to have acquired the property, at the particular time, at a cost equal to those proceeds; and

(b) subsection 142.5(1) does not apply to the disposition under subparagraph (a)(i).

(i) d'autre part, avoir disposé du bien au moment donné à un produit de disposition égal à sa juste valeur marchande immédiatement avant ce moment,

(ii) d'autre part, avoir acquis le bien au moment donné à un coût égal à ce produit;

b) le paragraphe 142.5(1) ne s'applique pas à la disposition prévue au sous-alinéa a)(i).

Change in status — significant interest

(1.6) If, at the end of a particular taxation year of a taxpayer that is a financial institution for the taxation year, the taxpayer holds a share of the capital stock of a corporation, the taxpayer has a significant interest in that corporation at any time in the particular taxation year and the share is mark-to-market property of the taxpayer for the immediately following taxation year, the taxpayer is deemed to have,

(a) disposed of the share immediately before the end of the particular taxation year for proceeds of disposition equal to the fair market value, at that time, of the share; and

(b) acquired the share at the end of the particular taxation year at a cost equal to those proceeds.

Participation notable

(1.6) Lorsque, à la fin de l'année d'imposition donnée d'un contribuable qui est une institution financière pour l'année, le contribuable détient une action du capital-actions d'une société, qu'il a une participation notable dans cette société au cours de l'année et que l'action est un bien évalué à la valeur du marché du contribuable pour l'année d'imposition subséquente, le contribuable est réputé :

a) d'une part, avoir disposé de l'action immédiatement avant la fin de l'année donnée pour un produit de disposition égal à sa juste valeur marchande à ce moment;

b) d'autre part, avoir acquis l'action à la fin de l'année donnée à un coût égal à ce produit.

Deemed disposition not applicable

(2) For the purposes of this Act, the determination of when a taxpayer acquired a share shall be made without regard to a disposition or acquisition that occurred because of subsection 142.5(2) or subsection (1), (1.1), (1.2), (1.4), (1.5) or (1.6).

Disposition réputée inapplicable

(2) Pour l'application de la présente loi, la détermination du moment auquel un contribuable a acquis une action se fait compte non tenu des dispositions et des acquisitions qui sont réputées avoir été effectuées par l'effet du paragraphe 142.5(2) ou des paragraphes (1), (1.1), (1.2), (1.4), (1.5) ou (1.6).

Property not inventory

(3) Where a taxpayer is a financial institution in a taxation year, inventory of the taxpayer in the year does not include property that is

(a) a specified debt obligation (other than a mark-to-market property for the year); or

(b) where the year begins after October 1994, a mark-to-market property for the year.

Biens à ne pas porter à l'inventaire

(3) Les biens suivants ne sont pas à porter à l'inventaire, au cours d'une année d'imposition, du contribuable qui est une institution financière au cours de l'année :

a) les titres de créance déterminés, sauf les biens évalués à la valeur du marché pour l'année;

b) dans le cas où l'année commence après octobre 1994, les biens évalués à la valeur du marché pour l'année.

Property that ceases to be inventory

(4) Where a taxpayer that was a financial institution in its particular taxation year that includes February 23, 1994 held, on that day, a specified debt obligation (other

Biens retirés de l'inventaire

(4) Dans le cas où un contribuable qui était une institution financière au cours de son année d'imposition (appelée « année donnée » au présent paragraphe) qui comprend le 23 février 1994 détenait, ce jour-là, un titre de créance déterminé, autre qu'un bien évalué à la valeur du

than a mark-to-market property for the year) that was inventory of the taxpayer at the end of its preceding taxation year,

(a) the taxpayer shall be deemed to have disposed of the property at the beginning of the particular year for proceeds equal to

(i) where subparagraph 142.6(4)(a)(ii) does not apply, the amount at which the property was valued at the end of the preceding taxation year for the purpose of computing the taxpayer's income for the year, and

(ii) where the taxpayer is a bank and the property is prescribed property for the particular year, the cost of the property to the taxpayer (determined without reference to paragraph 142.6(4)(b));

(b) for the purpose of determining the taxpayer's profit or loss from the disposition, the cost of the property to the taxpayer shall be deemed to be the amount referred to in subparagraph 142.6(4)(a)(i); and

(c) the taxpayer shall be deemed to have reacquired the property, immediately after the beginning of the particular year, at a cost equal to the proceeds of disposition of the property.

marché pour l'année, qui était à porter à son inventaire à la fin de son année d'imposition précédente, les présomptions suivantes s'appliquent :

a) le contribuable est réputé avoir disposé du titre au début de l'année donnée pour le produit suivant :

(i) en cas d'inapplication du sous-alinéa (ii), le montant auquel le titre a été évalué à la fin de l'année précédente aux fins du calcul du revenu du contribuable pour cette année,

(ii) si le contribuable est une banque et que le titre soit visé par règlement pour l'année donnée, son coût pour le contribuable, déterminé compte non tenu de l'alinéa b);

b) pour déterminer le bénéfice ou la perte du contribuable résultant de la disposition, le coût du titre pour le contribuable est réputé correspondre au montant visé au sous-alinéa a)(i);

c) le contribuable est réputé avoir acquis le titre de nouveau, immédiatement après le début de l'année donnée, à un coût égal au produit de sa disposition.

Debt obligations acquired in rollover transactions

(5) Where,

(a) on February 23, 1994, a financial institution that is a corporation held a specified debt obligation (other than a mark-to-market property for the taxation year that includes that day) that was at any particular time before that day held by another corporation, and

(b) between the particular time and February 23, 1994, the only transactions affecting the ownership of the property were rollover transactions,

the financial institution shall be deemed, in respect of that obligation, to be the same corporation as, and a continuation of, the other corporation.

Titres de créance acquis par roulement

(5) L'institution financière qui est une société et qui détenait, le 23 février 1994, un titre de créance déterminé, sauf un bien évalué à la valeur du marché pour l'année d'imposition qui comprend ce jour, qu'une autre société détenait à un moment antérieur est réputée, pour ce qui est de ce titre, être la même société que l'autre société et en être la continuation, à condition que les seules opérations effectuées entre le moment antérieur et le 23 février 1994 relativement à la propriété du titre aient été des opérations de roulement.

Definition of *rollover transaction*

(6) For the purpose of subsection 142.6(5), ***rollover transaction*** means a transaction to which subsection 87(2), 88(1) or 138(11.5) or 138(11.94) applies, other than a transaction to which paragraph 138(11.5)(e) requires the provisions of subsection 85(1) to be applied.

Définition de *opération de roulement*

(6) Pour l'application du paragraphe (5), est une opération de roulement l'opération à laquelle les paragraphes 87(2), 88(1) ou 138(11.5) ou (11.94) s'appliquent, mais non l'opération à laquelle le paragraphe 85(1) s'applique par l'effet de l'alinéa 138(11.5)e).

Superficial loss rule not applicable

(7) Subsection 18(13) does not apply to the disposition of a property by a taxpayer after October 30, 1994 where

(a) the taxpayer is a financial institution when the disposition occurs and the property is a specified debt obligation or a mark-to-market property for the taxation year in which the disposition occurs; or

(b) the disposition occurs because of paragraph 142.6(1)(b).

Accrued capital gains and losses election

(8) Where a taxpayer that is a financial institution in its first taxation year that ends after February 22, 1994 so elects by notifying the Minister in writing before July 1998 or within 90 days after the day on which a notice of assessment of tax payable under this Part for the year, notification that no tax is payable under this Part for the year or notification that an election made by the taxpayer under this subsection is deemed by subsection 142.6(9) or 142.6(10) not to have been made is mailed to the taxpayer,

(a) each property of the taxpayer

(i) that was a capital property (other than a depreciable property) of the taxpayer at the end of the taxpayer's last taxation year that ended before February 23, 1994,

(ii) that was a mark-to-market property for, or a specified debt obligation in, the taxpayer's first taxation year that begins after that time,

(iii) that had a fair market value at that time greater than its adjusted cost base to the taxpayer at that time, and

(iv) that is designated by the taxpayer in the election

is deemed to have been disposed of by the taxpayer at that time for proceeds of disposition equal to, and to have been reacquired by the taxpayer immediately after that time at a cost equal to, the lesser of

(v) the fair market value of the property at that time, and

(vi) the greater of the adjusted cost base to the taxpayer of the property immediately before that time and the amount designated by the taxpayer in the election in respect of the property;

Règles sur les pertes apparentes inapplicable

(7) Le paragraphe 18(13) ne s'applique pas à la disposition d'un bien effectuée par un contribuable après le 30 octobre 1994 si, selon le cas :

a) le contribuable est une institution financière au moment de la disposition et le bien est un titre de créance déterminé ou un bien évalué à la valeur du marché pour l'année d'imposition de la disposition;

b) la disposition est réputée avoir été effectuée par l'alinéa (1)b).

Choix concernant les gains et pertes en capital accumulés

(8) Les présomptions suivantes s'appliquent si un contribuable — institution financière au cours de sa première année d'imposition se terminant après le 22 février 1994 — en fait le choix par avis écrit présenté au ministre avant juillet 1998 ou dans les 90 jours suivant la mise à la poste d'un avis de cotisation au contribuable concernant l'impôt payable en vertu de la présente partie pour l'année d'un avis au contribuable portant qu'aucun impôt n'est payable en vertu de cette partie pour l'année ou d'un avis au contribuable portant qu'un choix qu'il a fait en application du présent paragraphe est réputé par les paragraphes (9) ou (10) ne pas avoir été fait :

a) le contribuable est réputé avoir disposé, à la fin de sa dernière année d'imposition qui s'est terminée avant le 23 février 1994, de chacun de ses biens qui répond aux conditions suivantes :

(i) il était une immobilisation, sauf un bien amortissable, du contribuable à ce moment,

(ii) il était un bien évalué à la valeur du marché pour la première année d'imposition du contribuable qui commence après ce moment ou un titre de créance déterminé au cours de cette année,

(iii) sa juste valeur marchande à ce moment dépassait son prix de base rajusté pour le contribuable à ce moment,

(iv) il a été désigné dans le choix par le contribuable;

le produit de disposition de ce bien est réputé égal au moins élevé des montants suivants et le bien est réputé avoir été acquis de nouveau par le contribuable immédiatement après ce moment à un coût égal à ce produit :

(v) la juste valeur marchande du bien à ce moment,

(b) each property of the taxpayer

(i) that was a capital property (other than a depreciable property) of the taxpayer at the end of the taxpayer's last taxation year that ended before February 23, 1994,

(ii) that was not a mark-to-market property for, or a specified debt obligation in, the taxpayer's first taxation year that begins after that time,

(iii) that had an adjusted cost base to the taxpayer at that time greater than its fair market value at that time, and

(iv) that is designated by the taxpayer in the election

is deemed to have been disposed of by the taxpayer at that time for proceeds of disposition equal to, and to have been reacquired by the taxpayer immediately after that time at a cost equal to, the greater of

(v) the fair market value of the property at that time, and

(vi) the lesser of the adjusted cost base to the taxpayer of the property immediately before that time and the amount designated by the taxpayer in the election in respect of the property; and

(c) notwithstanding subsections 152(4) to 152(5), such assessment of the taxpayer's tax payable under this Act for the taxpayer's last taxation year that ended before February 23, 1994 shall be made as is necessary to take the election into account.

(vi) le prix de base rajusté du bien pour le contribuable immédiatement avant ce moment ou, s'il est supérieur, le montant qu'il a indiqué dans le choix relativement au bien;

b) le contribuable est réputé avoir disposé, à la fin de sa dernière année d'imposition qui s'est terminée avant le 23 février 1994, de chacun de ses biens qui répond aux conditions suivantes :

(i) il était une immobilisation, sauf un bien amortissable, du contribuable à ce moment,

(ii) il n'était pas un bien évalué à la valeur du marché ni un titre de créance déterminé pour la première année d'imposition du contribuable qui commence après ce moment,

(iii) son prix de base rajusté pour le contribuable à ce moment dépassait sa juste valeur marchande à ce moment,

(iv) il a été désigné dans le choix par le contribuable;

le produit de disposition de ce bien est réputé égal au plus élevé des montants suivants et le bien est réputé avoir été acquis de nouveau par le contribuable immédiatement après ce moment à un coût égal à ce produit :

(iv) la juste valeur marchande du bien à ce moment,

(v) le prix de base rajusté du bien pour le contribuable immédiatement avant ce moment ou, s'il est inférieur, le montant qu'il a indiqué dans le choix relativement au bien.

Malgré les paragraphes 152(4) à (5), doit être établie à l'égard de l'impôt payable par le contribuable en vertu de la présente partie pour sa dernière année d'imposition d'étant terminée avant le 23 février 1994 tout cotisation nécessaire pour tenir compte du choix.

Accrued capital gains election limit

(9) Where a taxpayer has made an election under subsection 142.6(8) in which a property was designated under subparagraph 142.6(8)(a)(iv), the election is deemed not to have been made where

(a) the amount that would be the taxpayer's taxable capital gains from dispositions of property for the taxpayer's last taxation year that ended before February 23, 1994 if this subsection and subsection 142.6(10) did not apply

Plafond applicable au choix concernant les gains en capital accumulés

(9) Le contribuable qui a fait le choix prévu au paragraphe (8) dans lequel il a désigné un bien en application du sous-alinéa (8)a)(iv) est réputé ne pas l'avoir fait si :

a) le montant qui correspondrait aux gains en capital imposables du contribuable provenant de la disposition de biens pour sa dernière année d'imposition qui s'est terminée avant le 23 février 1994 si le présent paragraphe et le paragraphe (10) ne s'appliquaient pas,

dépasse le total des montants suivants :

exceeds the total of

(b) the amount that would be the taxpayer's allowable capital losses for the year from dispositions of property if this subsection and subsection 142.6(10) did not apply,

(c) the maximum amount that would have been deductible in computing the taxpayer's taxable income for the year in respect of the taxpayer's net capital losses for preceding taxation years if there were sufficient taxable capital gains for the year from dispositions of property, and

(d) the amount, if any, by which

(i) the amount that would be the taxpayer's taxable capital gains for the taxpayer's last taxation year that ended before February 23, 1994 from dispositions of property if no election were made under subsection 142.6(8)

exceeds the total of

(ii) the amount that would be the taxpayer's allowable capital losses for the year from dispositions of property if no election were made under subsection 142.6(8), and

(iii) the maximum amount that would have been deductible in computing the taxpayer's taxable income for the year in respect of the taxpayer's net capital losses for preceding taxation years if no election were made under subsection 142.6(8).

b) le montant qui correspondrait aux pertes en capital déductibles du contribuable pour l'année résultant de la disposition de biens si le présent paragraphe et le paragraphe (10) ne s'appliquaient pas,

c) le montant maximal qui serait déductible dans le calcul du revenu imposable du contribuable pour l'année au titre de ses pertes en capital nettes pour les années d'imposition antérieures s'il avait un montant suffisant de gains en capital imposables pour l'année provenant de la disposition de biens,

d) l'excédent éventuel :

(i) du montant qui correspondrait aux gains en capital imposables du contribuable pour sa dernière année d'imposition qui s'est terminée avant le 23 février 1994 provenant de la disposition de biens si le choix prévu au paragraphe (8) n'était pas fait,

sur le total des montants suivants :

(ii) le montant qui correspondrait aux pertes en capital déductibles du contribuable pour l'année résultant de la disposition de biens si le choix prévu au paragraphe (8) n'était pas fait,

(iii) le montant maximal qui serait déductible dans le calcul du revenu imposable du contribuable pour l'année au titre de ses pertes en capital nettes pour les années d'imposition antérieures si le choix prévu au paragraphe (8) n'était pas fait.

Accrued capital losses election limit

(10) Where a taxpayer has made an election under subsection 142.6(8) in which a property was designated under subparagraph 142.6(8)(b)(iv), the election is deemed not to have been made where

(a) the total of the amounts determined under paragraphs 142.6(9)(b) and 142.6(9)(c) in respect of the taxpayer exceeds the amount determined under paragraph 142.6(9)(a) in respect of the taxpayer; or

(b) the total of all amounts each of which would, if this subsection did not apply, be the taxpayer's allowable capital loss for the taxpayer's last taxation year that ended before February 23, 1994 from the disposition of a property deemed to have been disposed of under paragraph 142.6(8)(b) exceeds the total of all amounts each of which is the taxpayer's taxable capital gain for the year from the disposition of a property

Plafond applicable au choix concernant les pertes en capital accumulées

(10) Le contribuable qui a fait le choix prévu au paragraphe (8) dans lequel il a désigné un bien en application du sous-alinéa (8)b)(iv) est réputé ne pas l'avoir fait si, selon le cas :

a) le total des montants déterminés selon les alinéas (9)b) et c) dépasse le montant déterminé selon l'alinéa (9)a), relativement au contribuable;

b) le total des montants dont chacun représenterait, si le présent paragraphe ne s'appliquait pas, la perte en capital déductible du contribuable pour sa dernière année d'imposition qui s'est terminée avant le 23 février 1994 résultant de la disposition d'un bien réputé avoir fait l'objet d'une disposition aux termes de l'alinéa (8)b) dépasse le total des montants représentant chacun le gain en capital imposable du contribuable

deemed to have been disposed of under paragraph 142.6(8)(a).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 58; 1998, c. 19, s. 167; 1999, c. 22, s. 58; 2001, c. 17, s. 137; 2009, c. 2, s. 49; 2013, c. 34, s. 289.

pour l'année provenant de la disposition d'un bien réputé avoir fait l'objet d'une disposition aux termes de l'alinéa (8)a).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 58; 1998, ch. 19, art. 167; 1999, ch. 22, art. 58; 2001, ch. 17, art. 137; 2009, ch. 2, art. 49; 2013, ch. 34, art. 289.

Conversion of Foreign Bank Affiliate to Branch

Transformation d'une filiale de banque étrangère en succursale

Definitions

142.7 (1) The definitions in this subsection apply in this section.

Canadian affiliate of an entrant bank at any particular time means a Canadian corporation that was, immediately before the particular time, affiliated with the entrant bank and that was, at all times during the period that began on February 11, 1999 and ended immediately before the particular time,

(a) affiliated with either

(i) the entrant bank, or

(ii) a foreign bank (within the meaning assigned by section 2 of the *Bank Act*) that is affiliated with the entrant bank at the particular time; and

(b) either

(i) a bank,

(ii) a corporation authorized under the *Trust and Loan Companies Act* to carry on the business of offering to the public its services as trustee, or

(iii) a corporation of which the principal activity in Canada consists of any of the activities referred to in subparagraphs 518(3)(a)(i) to (v) of the *Bank Act* and in which the entrant bank or a non-resident person affiliated with the entrant bank holds shares under the authority, directly or indirectly, of an order issued by the Minister of Finance or the Governor in Council under subsection 521(1) of that Act. (*filiale canadienne*)

eligible property of a Canadian affiliate at any time means a property described in any of paragraphs 85(1.1)(a) to (g.1) that is, immediately before that time, used or held by it in carrying on its business in Canada. (*bien admissible*)

entrant bank means a non-resident corporation that is, or has applied to the Superintendent of Financial Institutions to become, an authorized foreign bank. (*banque entrante*)

Définitions

142.7 (1) Les définitions qui suivent s'appliquent au présent article.

banque entrante Société non-résidente qui est une banque étrangère autorisée ou qui a présenté une demande pour le devenir au surintendant des institutions financières. (*entrant bank*)

bien admissible S'agissant du bien admissible d'une filiale canadienne à un moment donné, bien visé à l'un des alinéas 85(1.1)a) à g.1) que la filiale utilise ou détient, immédiatement avant ce moment, dans le cadre de l'exploitation de son entreprise au Canada. (*eligible property*)

filiale canadienne S'agissant de la filiale canadienne d'une banque entrante à un moment donné, la société canadienne qui, immédiatement avant ce moment, était affiliée à la banque entrante et qui, tout au long de la période ayant commencé le 11 février 1999 et s'étant terminée au moment donné, a été, à la fois :

a) affiliée :

(i) soit à la banque entrante,

(ii) soit à une banque étrangère (au sens de l'article 2 de la *Loi sur les banques*) qui est affiliée à la banque entrante au moment donné;

b) l'une des entités suivantes :

(i) une banque,

(ii) une société autorisée par la *Loi sur les sociétés de fiducie et de prêt* à exploiter une entreprise d'offre au public de services de fiduciaire,

(iii) une société dont l'activité principale au Canada consiste en l'une des activités visées aux sous-alinéas 518(3)a)(i) à (v) de la *Loi sur les banques* et dans le cadre de laquelle la banque entrante ou une personne non-résidente qui lui est affiliée détient des actions, directement ou indirectement, sous le régime d'un arrêté pris par le ministre des Finances, ou d'un décret pris par le gouverneur en

qualifying foreign merger means a merger or combination of two or more corporations that would be a ***foreign merger*** within the meaning assigned by subsection 87(8.1) if that subsection were read without reference to the words "and otherwise than as a result of the distribution of property to one corporation on the winding-up of another corporation. (*fision étrangère déterminée*)

fusion étrangère déterminée L'unification ou la combinaison de plusieurs sociétés qui constituerait une ***fusion étrangère*** au sens du paragraphe 87(8.1) si ce paragraphe s'appliquait compte non tenu des passages « et autrement que par suite de l'attribution de biens à une société lors de la liquidation d'une autre société ». (*qualifying foreign merger*)

Qualifying foreign merger

(2) Where an entrant bank was formed as the result of a qualifying foreign merger, after February 11, 1999, of two or more corporations (referred to in this subsection as "predecessors"), and at the time immediately before the merger, there were one or more Canadian corporations (referred to in this subsection as "predecessor affiliates"), each of which at that time would have been a Canadian affiliate of a predecessor if the predecessor were an entrant bank at that time,

(a) for the purpose of the definition ***Canadian affiliate*** in subsection (1),

(i) each predecessor affiliate is deemed to have been affiliated with the entrant bank throughout the period that began on February 11, 1999 and ended at the time of the merger,

(ii) the expression "entrant bank" in subparagraph (b)(iii) of the definition is deemed to include a predecessor, and

(iii) if two or more of the predecessor affiliates are amalgamated or merged at any time after February 11, 1999 to form a new corporation, the new corporation is deemed to have been affiliated with the entrant bank throughout the period that began on February 11, 1999 and ended at the time of the amalgamation or merger of the predecessor affiliates; and

(b) if at least one of the predecessors complied with the terms of subsection (11)(a), the entrant bank is deemed to have complied with those terms.

Fusion étrangère déterminée

(2) Lorsqu'une banque entrante est constituée par suite de la fusion étrangère déterminée, après le 11 février 1999, de plusieurs sociétés (appelées « sociétés remplacées » au présent paragraphe) et que, immédiatement avant la fusion, il existait plusieurs sociétés canadiennes (appelées « filiales remplacées » au présent paragraphe) dont chacune aurait été, à ce moment, une filiale canadienne d'une société remplacée si celle-ci avait été alors une banque entrante, les présomptions suivantes s'appliquent :

a) pour l'application de la définition de ***filiale canadienne*** au paragraphe (1) :

(i) chaque filiale remplacée est réputée avoir été affiliée à la banque entrante tout au long de la période ayant commencé le 11 février 1999 et s'étant terminée au moment de la fusion,

(ii) l'expression « banque entrante » au sous-alinéa b)(iii) de cette définition est réputée comprendre les sociétés remplacées,

(iii) en cas de fusion ou d'unification de plusieurs filiales remplacées après le 11 février 1999 pour former une nouvelle société, cette dernière est réputée avoir été affiliée à la banque entrante tout au long de la période ayant commencé à cette date et s'étant terminée au moment de la fusion ou de l'unification;

b) si au moins une des sociétés remplacées s'est conformée aux exigences de l'alinéa (11)a), la banque entrante est réputée s'y être conformée.

Branch-establishment rollover

(3) If a Canadian affiliate of an entrant bank transfers an eligible property to the entrant bank, the entrant bank begins immediately after the transfer to use or hold the transferred property in its Canadian banking business and the Canadian affiliate and the entrant bank jointly elect, in accordance with subsection (11), to have this subsection apply in respect of the transfer, subsections

Établissement de succursale — transfert

(3) Les paragraphes 85(1) (sauf son alinéa e.2)), (1.1), (1.4) et (5) s'appliquent, avec les adaptations nécessaires, au transfert d'un bien admissible à une banque entrante par sa filiale canadienne si la banque entrante commence, immédiatement après le transfert, à utiliser ou à détenir le bien dans le cadre de son entreprise bancaire canadienne et si elle fait, avec la filiale, conformément au

85(1) (other than paragraph (e.2)), (1.1), (1.4) and (5) apply, with any modifications that the circumstances require, in respect of the transfer, except that the portion of subsection 85(1) before paragraph (a) shall be read as follows:

"85 (1) Where a taxpayer that is a Canadian affiliate of an entrant bank (within the meanings assigned by subsection 142.7(1)) has, in a taxation year, disposed of any of the taxpayer's property to the entrant bank (referred to in this subsection as the "corporation"), if the taxpayer and the corporation have jointly elected under subsection 142.7(3), the following rules apply:".

Deemed fair market value

(4) If a Canadian affiliate of an entrant bank and the entrant bank make an election under subsection (3) in respect of a transfer of property by the Canadian affiliate to the entrant bank, for the purposes of subsections 15(1), 52(2), 69(1), (4) and (5), 246(1) and 247(2) in respect of the transfer, the fair market value of the property is deemed to be the amount agreed by the Canadian affiliate and the entrant bank in their election.

Specified debt obligations

(5) If a Canadian affiliate of an entrant bank transfers a specified debt obligation to the entrant bank in a transaction in respect of which an election is made under subsection (3), the Canadian affiliate is a financial institution in its taxation year in which the transfer is made, and the amount that the Canadian affiliate and the entrant bank agree on in their election in respect of the obligation is equal to the tax basis of the obligation within the meaning assigned by subsection 142.4(1), the entrant bank is deemed, in respect of the obligation, for the purposes of sections 142.2 to 142.4 and 142.6, to be the same corporation as, and a continuation of, the Canadian affiliate.

Mark-to-market property

(6) If a Canadian affiliate of an entrant bank described in paragraph (11)(a) transfers at any time within the period described in paragraph (11)(c) to the entrant bank a property that is, for the Canadian affiliate's taxation year in which the property is transferred, a mark-to-market property of the Canadian affiliate,

(a) for the purposes of subsections 112(5) to (5.21) and (5.4), the definition ***mark-to-market property*** in subsection 142.2(1) and subsection 142.5(9), the entrant bank is deemed, in respect of the property, to be the same corporation as and a continuation of, the Canadian affiliate; and

paragraphe (11), le choix d'assujettir le transfert au présent paragraphe. À cette fin, le passage du paragraphe 85(1) précédant l'alinéa a) est remplacé par ce qui suit :

« 85 (1) Lorsqu'un contribuable qui est la filiale canadienne d'une banque entrante (au sens où ces expressions s'entendent au paragraphe 142.7(1)) a disposé, au cours d'une année d'imposition, d'un de ses biens en faveur de la banque entrante (appelée « société » au présent paragraphe) et que le contribuable et la société en ont fait le choix conformément au paragraphe 142.7(3), les règles suivantes s'appliquent : ».

Juste valeur marchande réputée

(4) Lorsqu'une filiale canadienne d'une banque entrante et celle-ci font le choix prévu au paragraphe (3) relativement au transfert d'un bien de la filiale canadienne à la banque entrante, la juste valeur marchande du bien est réputée, pour l'application des paragraphes 15(1), 52(2), 69(1), (4) et (5), 246(1) et 247(2) relativement au transfert, être égale au montant dont la filiale canadienne et la banque entrante ont convenu aux termes de leur choix.

Titres de créances déterminés

(5) Pour l'application des articles 142.2 à 142.4 et 142.6, une banque entrante est réputée, à l'égard d'un titre de créance déterminé, constituer la même société que sa filiale canadienne et en être la continuation si celle-ci lui transfère ce titre dans le cadre d'une opération pour laquelle elles ont fait le choix prévu au paragraphe (3), si la filiale canadienne est une institution financière au cours de l'année d'imposition où le transfert est effectué et si le montant convenu entre elles aux termes du choix relativement au titre est égal au montant de base du titre au sens du paragraphe 142.4(1).

Biens évalués à la valeur du marché

(6) Lorsque la filiale canadienne d'une banque entrante visée à l'alinéa (11)a) transfère à celle-ci, à un moment donné de la période visée à l'alinéa (11)c), un bien qui est, pour l'année d'imposition de la filiale canadienne au cours de laquelle le bien est transféré, un bien évalué à la valeur du marché de la filiale, les présomptions suivantes s'appliquent :

a) pour l'application des paragraphes 112(5) à (5.21) et (5.4), de la définition de ***bien évalué à la valeur du marché*** au paragraphe 142.2(1) et du paragraphe 142.5(9), la banque entrante est réputée, à l'égard du bien, être la même société que la filiale canadienne et en être la continuation;

(b) for the purpose of applying subsection 142.5(2) in respect of the property, the Canadian affiliate's taxation year in which the property is transferred is deemed to have ended immediately before the time the property was transferred.

b) pour l'application du paragraphe 142.5(2) à l'égard du bien, l'année d'imposition de la filiale canadienne au cours de laquelle le bien est transféré est réputée s'être terminée immédiatement avant le transfert.

Reserves

(7) If

(a) at a particular time,

(i) a Canadian affiliate of an entrant bank transfers to the entrant bank property that is a loan or lending asset, or a right to receive an unpaid amount in respect of a disposition before the particular time of property by the affiliate, or

(ii) the entrant bank assumes an obligation of the Canadian affiliate that is an instrument or commitment described in paragraph 20(1)(l.1) or an obligation in respect of goods, services, land, or chattels or movable property, described in subparagraph 20(1)(m)(i), (ii) or (iii),

(b) the property is transferred or the obligation is assumed for an amount equal to its fair market value at the particular time,

(c) the entrant bank begins immediately after the particular time to use or hold the property or owe the obligation in its Canadian banking business, and

(d) the Canadian affiliate and the entrant bank jointly elect in accordance with subsection (11) to have this subsection apply in respect of the transfer or assumption,

then

(e) in applying paragraphs 20(1)(l), (l.1), (m), (n) and (p) in respect of the obligation or property, the taxation year of the affiliate that would, but for this paragraph, include the particular time is deemed to end immediately before the particular time, and

(f) in computing the income of the Canadian affiliate and the entrant bank for taxation years that end on or after the particular time,

(i) any amount deducted under paragraph 20(1)(l), (l.1), (m) or (n) by the Canadian affiliate in respect of the property or obligation in computing its income for its taxation year that ended immediately before the particular time, or under paragraph 20(1)(p) in computing its income for that year or for a preceding taxation year (to the extent that the amount has not been included in the affiliate's

Provisions

(7) Dans le cas où les conditions suivantes sont réunies :

a) à un moment donné, selon le cas :

(i) la filiale canadienne d'une banque entrante transfère à celle-ci un bien qui est un prêt ou un titre de crédit, ou un droit de recevoir un montant impayé au titre d'une disposition de bien effectuée par la filiale avant le moment donné,

(ii) la banque entrante prend en charge une obligation de la filiale canadienne qui est un effet ou un engagement visé à l'alinéa 20(1)l.1) ou une obligation relative à des marchandises, services, fonds de terre ou biens meubles ou personnels visés aux sous-alinéas 20(1)m)(i), (ii) ou (iii);

b) le bien est transféré ou l'obligation, prise en charge pour un montant égal à sa juste valeur marchande au moment donné;

c) immédiatement après le moment donné, la banque entrante commence à utiliser ou à détenir le bien, ou à être débitrice de l'obligation, dans le cadre de son entreprise bancaire canadienne;

d) la filiale canadienne et la banque entrante font le choix conjoint, conformément au paragraphe (11), d'assujettir le transfert ou la prise en charge au présent paragraphe,

les présomptions suivantes s'appliquent :

e) pour l'application des alinéas 20(1)l), l.1), m), n) et p) relativement à l'obligation ou au bien, l'année d'imposition de la filiale canadienne qui, en l'absence du présent alinéa, comprendrait le moment donné est réputée se terminer immédiatement avant le moment donné;

f) pour ce qui du calcul du revenu de la filiale canadienne et de la banque entrante pour les années d'imposition se terminant au moment donné ou postérieurement :

(i) tout montant déduit par la filiale canadienne relativement au bien ou à l'obligation, en application des alinéas 20(1)l), l.1), m) ou n), dans le calcul de son revenu pour son année d'imposition terminée immédiatement avant le moment donné ou, en

income under paragraph 12(1)(i)), is deemed to have been so deducted by the entrant bank in computing its income for its last taxation year that ended before the particular time and not to have been deducted by the Canadian affiliate,

(ii) in applying paragraph 20(1)(m), an amount in respect of the goods, services, land, chattels or movable property, that was included under paragraph 12(1)(a) in computing the Canadian affiliate's income from a business is deemed to have been so included in computing the entrant bank's income from its Canadian banking business for a preceding taxation year,

(iii) in applying paragraph 20(1)(n) in respect of a property described in subparagraph (a)(i) and paragraphs (b), (c) and (d) sold by the Canadian affiliate in the course of a business, the property is deemed to have been disposed of by the entrant bank (and not by the Canadian affiliate) at the time it was disposed of by the Canadian affiliate, and the amount in respect of the sale that was included in computing the Canadian affiliate's income from a business is deemed to have been included in computing the entrant bank's income from its Canadian banking business for its taxation year that includes the time at which the property was so disposed of, and

(iv) in applying paragraph 40(1)(a) or 44(1)(e) in respect of a property described in subparagraph (a)(i) and paragraphs (b), (c) and (d) disposed of by the Canadian affiliate, the property is deemed to have been disposed of by the entrant bank (and not by the Canadian affiliate) at the time it was disposed of by the Canadian affiliate, the amount determined under subparagraph 40(1)(a)(i) or 44(1)(e)(i) in respect of the Canadian affiliate is deemed to be the amount determined under that subparagraph in respect of the entrant bank, and any amount claimed by the Canadian affiliate under subparagraph 40(1)(a)(iii) or 44(1)(e)(iii) in computing its gain from the disposition of the property for its last taxation year that ended before the particular time is deemed to have been so claimed by the entrant bank for its last taxation year that ended before the particular time.

application de l'alinéa 20(1)p), dans le calcul de son revenu pour cette année ou pour une année d'imposition antérieure (dans la mesure où ce montant n'a pas été inclus dans le revenu de la filiale en vertu de l'alinéa 12(1)i)) est réputé avoir été ainsi déduit par la banque entrante dans le calcul de son revenu pour sa dernière année d'imposition terminée avant le moment donné et ne pas avoir été déduit par la filiale canadienne,

(ii) pour l'application de l'alinéa 20(1)m), un montant se rapportant à des marchandises, services, fonds de terre ou biens meubles ou personnels qui a été inclus, en application de l'alinéa 12(1)a), dans le calcul du revenu de la filiale canadienne tiré d'une entreprise est réputé avoir été ainsi inclus dans le calcul du revenu de la banque entrante tiré de son entreprise bancaire canadienne pour une année d'imposition antérieure,

(iii) pour l'application de l'alinéa 20(1)n) relativement à un bien visé au sous-alinéa a)(i) et aux alinéas b), c) et d) vendu par la filiale canadienne dans le cadre d'une entreprise, le bien est réputé avoir fait l'objet d'une disposition par la banque entrante (et non par la filiale canadienne) au moment où la filiale canadienne en a disposé, et le montant relatif à la vente qui a été inclus dans le calcul du revenu de la filiale canadienne tiré d'une entreprise est réputé avoir été inclus dans le calcul du revenu de la banque entrante tiré de son entreprise bancaire canadienne pour son année d'imposition qui comprend le moment auquel il a été ainsi disposé du bien,

(iv) pour l'application des alinéas 40(1)a) ou 44(1)e) relativement à un bien visé au sous-alinéa a)(i) et aux alinéas b), c) et d) dont la filiale canadienne a disposé, le bien est réputé avoir fait l'objet d'une disposition par la banque entrante (et non par la filiale canadienne) au moment où la filiale canadienne en a disposé, le montant déterminé selon les sous-alinéas 40(1)a)(i) ou 44(1)e)(i) relativement à la filiale canadienne est réputé être le montant déterminé selon ce sous-alinéa relativement à la banque entrante et tout montant demandé par la filiale canadienne en application des sous-alinéas 40(1)a)(iii) ou 44(1)e)(iii) dans le calcul de son gain provenant de la disposition du bien pour sa dernière année d'imposition terminée avant le moment donné est réputé avoir été ainsi demandé par la banque entrante pour sa dernière année d'imposition terminée avant le moment donné.

Assumption of debt obligation

(8) If a Canadian affiliate of an entrant bank described in paragraph (11)(a) transfers at any time within the period described in paragraph (11)(c) property to the entrant bank, and any part of the consideration for the transfer is the assumption by the entrant bank in respect of its Canadian banking business of a debt obligation of the Canadian affiliate,

(a) where the Canadian affiliate and the entrant bank jointly elect in accordance with subsection (11) to have this paragraph apply,

(i) both

(A) the value of that part of the consideration for the transfer of the property, and

(B) for the purpose of determining the consequences of the assumption of the obligation and any subsequent settlement or extinguishment of it, the value of the consideration given to the entrant bank for the assumption of the obligation,

are deemed to be an amount (in this paragraph referred to as the "assumption amount") equal to the amount outstanding on account of the principal amount of the obligation at that time, and

(ii) the assumption amount shall not be considered a term of the transaction that differs from that which would have been made between persons dealing at arm's length solely because it is not equal to the fair market value of the obligation at that time;

(a.1) [Repealed, 2013, c. 34, s. 290]

(b) where the obligation is denominated in a foreign currency, and the Canadian affiliate and the entrant bank jointly elect in accordance with subsection (11) to have this paragraph apply,

(i) the amount of any income, loss, capital gain or capital loss in respect of the obligation due to the fluctuation in the value of the foreign currency relative to Canadian currency realized by

(A) the Canadian affiliate on the assumption of the obligation is deemed to be nil, and

(B) the entrant bank on the settlement or extinguishment of the obligation shall be determined based on the amount of the obligation in Canadian currency at the time it became an obligation of the Canadian affiliate, and

Prise en charge de dettes

(8) Lorsqu'une filiale canadienne d'une banque entrante visée à l'alinéa (11)a) transfère, à un moment donné de la période visée à l'alinéa (11)c), un bien à cette dernière et qu'une partie de la contrepartie du transfert consiste en la prise en charge par la banque entrante, dans le cadre de son entreprise bancaire canadienne, d'une dette de la filiale canadienne, les règles suivantes s'appliquent :

a) lorsque la filiale canadienne et la banque entrante font conjointement le choix, conformément au paragraphe (11), de se prévaloir du présent alinéa :

(i) d'une part, les montants ci-après sont réputés chacun être un montant (appelé « montant de la prise en charge ») égal au montant impayé sur le principal de la dette à ce moment :

(A) la valeur de cette partie de la contrepartie du transfert du bien,

(B) pour ce qui est de déterminer les conséquences de la prise en charge de la dette et de tout règlement ou extinction subséquent de celle-ci, la valeur de la contrepartie donnée à la banque entrante pour la prise en charge de la dette,

(ii) d'autre part, le montant de la prise en charge n'est pas considéré comme une modalité de l'opération qui diffère de celle qui aurait été conclue entre personnes sans lien de dépendance du seul fait qu'il ne correspond pas à la juste valeur marchande de la dette au moment donné;

a.1) [Abrogé, 2013, ch. 34, art. 290]

b) lorsque la dette est libellée en monnaie étrangère et que la filiale canadienne et la banque entrante font conjointement le choix, conformément au paragraphe (11), de se prévaloir du présent alinéa :

(i) d'une part, le montant d'un revenu, d'une perte, d'un gain en capital ou d'une perte en capital réalisé relativement à la dette, en raison de la fluctuation de la valeur de la monnaie étrangère par rapport à la monnaie canadienne, par :

(A) la filiale canadienne lors de la prise en charge de la dette est réputé nul,

(B) la banque entrante lors du règlement ou de l'extinction de la dette est déterminé en fonction du montant de la dette en monnaie canadienne au moment où elle est devenue une dette de la filiale canadienne,

(ii) for the purpose of an election made in respect of the obligation under paragraph (a), the amount outstanding on account of the principal amount of the obligation at that time is the total of all amounts each of which is an amount that was advanced to the Canadian affiliate on account of principal, that remains outstanding at that time, and that is determined using the exchange rate that applied between the foreign currency and Canadian currency at the time of the advance; and

(c) for the purpose of applying paragraphs 20(1)(e) and (f) in respect of the debt obligation, the obligation is deemed not to have been settled or extinguished by virtue of its assumption by the entrant bank and the entrant bank is deemed to be the same corporation as, and a continuation of, the Canadian affiliate.

Branch-establishment dividend

(9) Notwithstanding any other provision of this Act, the rules in subsection (10) apply if

(a) a dividend is paid by a Canadian affiliate of an entrant bank to the entrant bank or to a person that is affiliated with the Canadian affiliate and that is resident in the country in which the entrant bank is resident, or

(b) a dividend is deemed to be paid for the purposes of this Part or Part XIII (other than by paragraph 214(3)(a)) as a result of a transfer of property from the Canadian affiliate to such a person,

and the Canadian affiliate and the entrant bank jointly elect in accordance with subsection (11) to have subsection (10) apply in respect of the dividend.

Treatment of dividend

(10) If the conditions in subsection (9) are met,

(a) the dividend is deemed (except for the purposes of subsections 112(3) to (7)) not to be a taxable dividend; and

(b) there is added to the amount otherwise determined under paragraph 219(1)(g) in respect of the entrant bank for its first taxation year that ends after the time at which the dividend is paid, the amount of the dividend less, where the dividend is paid by means of, or arises as a result of, a transfer of eligible property in respect of which the Canadian affiliate and the entrant bank have jointly elected under subsection (3), the amount by which the fair market value of the property

(ii) d'autre part, pour ce qui est du choix effectué à l'égard de la dette conformément à l'alinéa a), le montant impayé sur le principal de la dette à ce moment représente le total des montants représentant chacun le montant d'une avance faite à la filiale canadienne sur le principal, qui demeure impayé à ce moment et qui est déterminé en fonction du taux de change appliqué entre la monnaie étrangère et la monnaie canadienne au moment de l'avance;

c) pour l'application des alinéas 20(1)e) et f) relativement à la dette, la dette est réputée ne pas avoir été réglée ni éteinte du fait qu'elle a été prise en charge par la banque entrante, et la banque entrante est réputée être la même société que la filiale canadienne et en être la continuation.

Établissement de succursale — dividende

(9) Malgré les autres dispositions de la présente loi, les règles énoncées au paragraphe (10) s'appliquent si, selon le cas :

a) la filiale canadienne d'une banque entrante verse un dividende à la banque entrante ou à une personne qui est affiliée à la filiale canadienne et qui réside dans le pays de résidence de la banque entrante;

b) un dividende est réputé être versé pour l'application des dispositions de la présente partie ou de la partie XIII, à l'exception de l'alinéa 214(3)a), par suite d'un transfert de bien de la filiale canadienne à une telle personne.

À cette fin, la filiale canadienne et la banque entrante doivent faire conjointement le choix, conformément au paragraphe (11), d'assujettir le dividende au paragraphe (10).

Règles applicables au dividende

(10) Si les conditions énoncées au paragraphe (9) sont réunies, les règles suivantes s'appliquent :

a) le dividende est réputé (sauf pour l'application des paragraphes 112(3) à (7)) ne pas être un dividende imposable;

b) est ajouté au montant déterminé par ailleurs, selon l'alinéa 219(1)g), relativement à la banque entrante pour sa première année d'imposition se terminant après le versement du dividende, le montant du dividende moins, dans le cas où le dividende est versé au moyen du transfert d'un bien admissible relativement auquel la filiale canadienne et la banque entrante ont fait conjointement le choix prévu au paragraphe (3), ou découle d'un tel transfert, l'excédent de la juste

transferred exceeds the amount the Canadian affiliate and the entrant bank have agreed on in their election.

valeur marchande du bien transféré sur le montant convenu par la filiale canadienne et la banque entrante dans leur choix.

Elections

(11) An election under subsection (3) or (7), paragraph (8)(a) or (b) or subsection (10), (12) or (14) is valid only if

(a) the entrant bank by which the election is made has, on or before the day that is 6 months after the day on which the *Income Tax Amendments Act, 2000* receives royal assent, complied with paragraphs 1.1(b) and (c) of the "Guide to Foreign Bank Branching" in respect of the establishment and commencement of business of a foreign bank branch in Canada issued by the Office of the Superintendent of Financial Institutions, as it read on December 31, 2000;

(b) the election is made in prescribed form on or before the earlier of the filing-due date of the Canadian affiliate and the filing-due date of the entrant bank, for the taxation year that includes the time at which

(i) in the case of an election under subsection (3) or (7), paragraph (8)(a) or (b) or subsection (10), the dividend, transfer or assumption to which the election relates is paid, made or effected, or

(ii) in the case of an election under subsection (12), the dissolution order was granted or the winding up commenced; and

(c) in the case of an election under subsection (3) or (7), paragraph (8)(a) or (b) or subsection (10), the dividend, transfer or assumption to which the election relates is paid, made or effected within the period that

(i) begins on the day on which the Superintendent makes an order in respect of the entrant bank under subsection 534(1) of the *Bank Act*, and

(ii) ends on the later of

(A) the earlier of

(I) the day that is one year after the day referred to subparagraph (i), and

(II) the day that is three years after the day on which the *Income Tax Amendments Act, 2000* receives royal assent, and

(B) the day that is one year after the day on which the *Income Tax Amendments Act, 2000* receives royal assent.

Choix

(11) Le choix prévu aux paragraphes (3) ou (7), aux alinéas (8)a) ou b) ou aux paragraphes (10), (12) ou (14) n'est valide que si les conditions suivantes sont réunies :

a) la banque entrante qui le fait s'est conformée, au plus tard le jour qui suit de six mois la date de sanction de la *Loi de 2000 modifiant l'impôt sur le revenu*, aux alinéas (1.1)b) et c) du Guide d'établissement des succursales de banques étrangères concernant l'établissement et le fonctionnement d'une succursale de banque étrangère au Canada, préparé par le Bureau du surintendant des institutions financières, en sa version du 31 décembre 2000;

b) le choix est fait sur le formulaire prescrit au plus tard à la date d'échéance de production applicable à la filiale canadienne ou, si elle est antérieure, à la date d'échéance de production applicable à la banque entrante, pour l'année d'imposition qui comprend, selon le cas :

(i) dans le cas du choix prévu aux paragraphes (3) ou (7), aux alinéas (8)a) ou b) ou au paragraphe (10), le moment auquel le dividende, le transfert ou la prise en charge auquel le choix se rapporte est versé ou effectué,

(ii) dans le cas du choix prévu au paragraphe (12), le moment auquel l'ordonnance de dissolution a été délivrée ou la liquidation a commencé;

c) dans le cas du choix prévu aux paragraphes (3) ou (7), aux alinéas (8)a) ou b) ou au paragraphe (10), le dividende, le transfert ou la prise en charge auquel le choix se rapporte est versé ou effectué au cours de la période qui :

(i) commence le jour où le surintendant délivre, à l'égard de la banque entrante, l'ordonnance d'agrément visée au paragraphe 534(1) de la *Loi sur les banques*,

(ii) se termine au dernier en date des jours suivants :

(A) le premier en date des jours suivants :

(I) le jour qui suit d'un an le jour mentionné au sous-alinéa (i),

(II) le jour qui suit de trois ans la date de sanction de la *Loi de 2000 modifiant l'impôt sur le revenu*,

(B) le jour qui suit d'un an la date de sanction de la *Loi de 2000 modifiant l'impôt sur le revenu*.

Winding-up of Canadian affiliate: losses

(12) If

(a) within the period described in paragraph (11)(c) in respect of the entrant bank,

(i) the Minister of Finance has issued letters patent under section 342 of the *Bank Act* or section 347 of the *Trust and Loan Companies Act* dissolving the Canadian affiliate or an order under section 345 of the *Bank Act* or section 350 of the *Trust and Loan Companies Act* approving the Canadian affiliate's application for dissolution (such letters patent or order being referred to in this subsection as the "dissolution order"), or

(ii) the affiliate has been wound up under the terms of the corporate law that governs it,

(b) the entrant bank carries on all or part of the business in Canada that was formerly carried on by the Canadian affiliate, and

(c) the Canadian affiliate and the entrant bank jointly elect in accordance with subsection (11) to have this section apply

then in applying section 111 for the purpose of computing the taxable income earned in Canada of the entrant bank for any taxation year that begins after the date of the dissolution order or the commencement of the winding up, as the case may be,

(d) subject to paragraphs (e) and (h), the portion of a non-capital loss of the Canadian affiliate for a taxation year (in this paragraph referred to as the "Canadian affiliate's loss year") that can reasonably be regarded as being its loss from carrying on a business in Canada (in this paragraph referred to as the "loss business") or being in respect of a claim made under section 110.5, to the extent that it

(i) was not deducted in computing the taxable income of the Canadian affiliate or any other entrant bank for any taxation year, and

(ii) would have been deductible in computing the taxable income of the Canadian affiliate for any taxation year that begins after the date of the dissolution order or the commencement of the winding up,

Liquidation d'une filiale canadienne — pertes

(12) Dans le cas où les conditions suivantes sont réunies :

a) au cours de la période visée à l'alinéa (11)c) relativement à la banque entrante, l'un des faits suivants se vérifie :

(i) le ministre des Finances a délivré, en application de l'article 342 de la *Loi sur les banques* ou de l'article 347 de la *Loi sur les sociétés de fiducie et de prêt*, des lettres patentes de dissolution de la filiale canadienne ou, en application de l'article 345 de la *Loi sur les banques* ou de l'article 350 de la *Loi sur les sociétés de fiducie et de prêt*, un arrêté d'agrément de la demande de dissolution de la filiale canadienne (ces lettres patentes ou cet arrêté étant appelés « ordonnance de dissolution » au présent paragraphe),

(ii) la filiale canadienne a été liquidée en vertu de la loi sur les sociétés la régissant;

b) la banque entrante exploite au Canada la totalité ou une partie de l'entreprise que la filiale canadienne exploitait auparavant;

c) la filiale canadienne et la banque entrante font le choix conjoint, conformément au paragraphe (11), de se prévaloir du présent article,

les règles ci-après s'appliquent dans le cadre de l'article 111 en vue du calcul du revenu imposable gagné au Canada de la banque entrante pour une année d'imposition commençant après la date de l'ordonnance de dissolution ou le début de la liquidation, selon le cas :

d) sous réserve des alinéas e) et h), la partie d'une perte autre qu'une perte en capital de la filiale canadienne pour une année d'imposition (appelée « année de la perte de la filiale canadienne » au présent alinéa) qu'il est raisonnable de considérer comme résultant de l'exploitation d'une entreprise au Canada (appelée « entreprise déficitaire » au présent alinéa) ou comme se rapportant à une demande faite en vertu de l'article 110.5, dans la mesure où :

(i) d'une part, elle n'a pas été déduite dans le calcul du revenu imposable, pour une année d'imposition,

as the case may be, on the assumption that it had such a taxation year and that it had sufficient income for that year,

is deemed, for the taxation year of the entrant bank in which the Canadian affiliate's loss year ended, to be a non-capital loss of the entrant bank from carrying on the loss business (or, in respect of a claim made under section 110.5, to be a non-capital loss of the entrant bank in respect of a claim under subparagraph 115(1)(a)(vii)) that was not deductible by the entrant bank in computing its taxable income earned in Canada for any taxation year that began before the date of the dissolution order or the commencement of the winding up, as the case may be,

(e) if at any time control of the Canadian affiliate or entrant bank has been acquired by a person or group of persons, no amount in respect of the Canadian affiliate's non-capital loss for a taxation year that ends before that time is deductible in computing the taxable income earned in Canada of the entrant bank for a particular taxation year that ends after that time, except that the portion of the loss that can reasonably be regarded as the Canadian affiliate's loss from carrying on a business in Canada and, where a business was carried on by the Canadian affiliate in Canada in the earlier year, the portion of the loss that can reasonably be regarded as being in respect of an amount deductible under paragraph 110(1)(k) in computing its taxable income for the year are deductible only

(i) if that business is carried on by the Canadian affiliate or the entrant bank for profit or with a reasonable expectation of profit throughout the particular year, and

(ii) to the extent of the total of the entrant bank's income for the particular year from that business, and where properties were sold, leased, rented or developed or services rendered in the course of carrying on that business before that time, from any other business substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services,

and for the purpose of this paragraph, where subsection 88(1.1) applied to the dissolution of another corporation in respect of which the Canadian affiliate was the parent and paragraph 88(1.1)(e) applied in respect of losses of that other corporation, the Canadian affiliate is deemed to be the same corporation as, and a continuation of, that other corporation with respect to those losses,

de la filiale canadienne ou de toute autre banque entrante,

(ii) d'autre part, elle aurait été déductible dans le calcul du revenu imposable de la filiale canadienne pour une année d'imposition commençant après la date de l'ordonnance de dissolution ou le début de la liquidation, selon le cas, à supposer que la filiale canadienne ait eu une telle année d'imposition ainsi qu'un revenu suffisant pour cette année,

est réputée, pour l'année d'imposition de la banque entrante au cours de laquelle s'est terminée l'année de la perte de la filiale canadienne, être soit une perte autre qu'une perte en capital de la banque entrante résultant de l'exploitation de l'entreprise déficitaire, soit, si la partie en question se rapporte à une demande faite en vertu de l'article 110.5, une perte autre qu'une perte en capital de la banque entrante relativement au montant demandé selon le sous-alinéa 115(1)a)(vii), qui n'était pas déductible par la banque entrante dans le calcul de son revenu imposable gagné au Canada pour une année d'imposition ayant commencé avant la date de l'ordonnance de dissolution ou le début de la liquidation, selon le cas;

e) si une personne ou un groupe de personnes acquiert le contrôle de la filiale canadienne ou de la banque entrante, aucun montant au titre de la perte autre qu'une perte en capital de la filiale canadienne pour une année d'imposition se terminant avant l'acquisition de contrôle (appelée « année antérieure » au présent alinéa) n'est déductible dans le calcul du revenu imposable gagné au Canada de la banque entrante pour une année d'imposition donnée se terminant après l'acquisition de contrôle; toutefois, la partie de la perte qu'il est raisonnable de considérer comme résultant de l'exploitation d'une entreprise au Canada et, dans le cas où la filiale canadienne a exploité une entreprise au Canada au cours de l'année antérieure, la partie de la perte qu'il est raisonnable de considérer comme se rapportant à un montant déductible en application de l'alinéa 110(1)k) dans le calcul de son revenu imposable pour l'année sont déductibles :

(i) d'une part, seulement si cette entreprise est exploitée par la filiale canadienne ou la banque entrante à profit ou dans une attente raisonnable de profit tout au long de l'année donnée,

(ii) d'autre part, seulement jusqu'à concurrence du total du revenu de la banque entrante pour l'année donnée provenant de cette entreprise et, dans le cas où des biens ont été vendus, loués ou mis en valeur ou des services, rendus dans le cadre de l'exploitation de cette entreprise avant l'acquisition de

(f) subject to paragraphs (g) and (h), a net capital loss of the Canadian affiliate for a taxation year (in this paragraph referred to as the "Canadian affiliate's loss year") is deemed to be a net capital loss of the entrant bank for its taxation year in which the Canadian affiliate's loss year ended to the extent that the loss

(i) was not deducted in computing the taxable income of the Canadian affiliate or any other entrant bank for any taxation year, and

(ii) would have been deductible in computing the taxable income of the Canadian affiliate for any taxation year beginning after the date of the dissolution order or the commencement of the winding-up, as the case may be, on the assumption that the Canadian affiliate had such a taxation year and that it had sufficient income and taxable capital gains for that year,

(g) if at any time control of the Canadian affiliate or the entrant bank has been acquired by a person or group of persons, no amount in respect of the Canadian affiliate's net capital loss for a taxation year that ends before that time is deductible in computing the entrant bank's taxable income earned in Canada for a taxation year that ends after that time, and

(h) any loss of the Canadian affiliate that would otherwise be deemed by paragraph (d) or (f) to be a loss of the entrant bank for a particular taxation year that begins after the date of the dissolution order or the commencement of the winding-up, as the case may be, is deemed, for the purpose of computing the entrant bank's taxable income earned in Canada for taxation years that begin after that date, to be such a loss of the entrant bank for its immediately preceding taxation year and not for the particular year, if the entrant bank so elects in its return of income for the particular year.

contrôle, de toute autre entreprise dont la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur, selon le cas, de biens semblables ou de la prestation de services semblables;

pour l'application du présent alinéa, lorsque le paragraphe 88(1.1) s'est appliqué à la dissolution d'une autre société dont la filiale canadienne était la société mère et que l'alinéa 88(1.1)e) s'est appliqué aux pertes de cette autre société, la filiale canadienne est réputée être la même société que cette autre société en ce qui concerne ces pertes, et en être la continuation;

f) sous réserve des alinéas g) et h), une perte en capital nette de la filiale canadienne pour une année d'imposition (appelée « année de la perte de la filiale canadienne » au présent alinéa) est réputée être une perte en capital nette de la banque entrante pour son année d'imposition au cours de laquelle s'est terminée l'année de la perte de la filiale canadienne, dans la mesure où cette perte de la filiale canadienne :

(i) d'une part, n'a pas été déduite dans le calcul du revenu imposable, pour une année d'imposition, de la filiale canadienne ou de toute autre banque entrante,

(ii) d'autre part, aurait été déductible dans le calcul du revenu imposable de la filiale canadienne pour une année d'imposition commençant après la date de l'ordonnance de dissolution ou le début de la liquidation, selon le cas, à supposer que la filiale canadienne ait eu une telle année d'imposition ainsi qu'un revenu et des gains en capital imposables suffisants pour cette année;

g) si une personne ou un groupe de personnes acquiert le contrôle de la filiale canadienne ou de la banque entrante, aucun montant au titre de la perte en capital nette de la filiale canadienne pour une année d'imposition se terminant avant l'acquisition de contrôle n'est déductible dans le calcul du revenu imposable gagné au Canada de la banque entrante pour une année d'imposition se terminant après l'acquisition de contrôle;

h) la banque entrante peut faire un choix, dans sa déclaration de revenu pour une année d'imposition donnée commençant après la date de l'ordonnance de dissolution ou le début de la liquidation, selon le cas, afin que toute perte de la filiale canadienne qui autrement serait réputée, par les alinéas d) ou f), être une perte de la banque entrante pour l'année donnée soit réputée, pour ce qui est du calcul du revenu imposable gagné au Canada de la banque entrante pour les années

Winding-up of Canadian affiliate: stop loss

(13) If a Canadian affiliate and its entrant bank have at any time made a joint election under either of subsection (3) or (12),

(a) in respect of any transfer of property, directly or indirectly, by the Canadian affiliate to the entrant bank or a person with whom the entrant bank does not deal at arm's length,

(i) subparagraph 13(21.2)(e)(iii) shall be read without reference to clause (E) of that subparagraph,

(ii) [Repealed, 2016, c. 12, s. 51]

(iii) paragraph 18(15)(b) shall be read without reference to subparagraph (iv) of that paragraph, and

(iv) paragraph 40(3.4)(b) shall be read without reference to subparagraph (v) of that paragraph;

(b) in respect of any property of the Canadian affiliate appropriated to or for the benefit of the entrant bank or any person with whom the entrant bank does not deal at arm's length, section 69(5) shall be read without reference to paragraph (d); and

(c) for the purposes of applying subsection 13(21.2), 18(15) and 40(3.4) to any property that was disposed of by the affiliate, after the dissolution or winding-up of the affiliate, the entrant bank is deemed to be the same corporation as, and a continuation of, the affiliate.

Winding-up of Canadian affiliate: SDOs

(14) If a Canadian affiliate of an entrant bank and the entrant bank meet the conditions set out in paragraphs (12)(a) and (b) and jointly elect in accordance with subsection (11) to have this subsection apply, and the Canadian affiliate has not made an election under this subsection with any other entrant bank, the entrant bank is deemed to be the same corporation as, and a continuation of, the Canadian affiliate for the purposes of paragraphs 142.4(4)(c) and (d) in respect of any specified debt obligation disposed of by the Canadian affiliate.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 138; 2013, c. 34, ss. 136, 290; 2016, c. 12, s. 51.

d'imposition commençant après cette date, être une telle perte de la banque entrante pour son année d'imposition précédente et non pour l'année donnée.

Liquidation d'une filiale canadienne — limitation des pertes

(13) Dans le cas où une filiale canadienne et sa banque entrante ont fait le choix conjoint prévu au paragraphe (3) ou (12), les règles suivantes s'appliquent :

a) si le choix porte sur un transfert de bien effectué, directement ou indirectement, par la filiale canadienne à la banque entrante ou à une personne avec laquelle celle-ci a un lien de dépendance, il n'est pas tenu compte des dispositions suivantes :

(i) la division 13(21.2)e)(iii)(E),

(ii) [Abrogé, 2016, ch. 12, art. 51]

(iii) le sous-alinéa 18(15)b)(iv),

(iv) le sous-alinéa 40(3.4)b)(v);

b) si le choix porte sur un bien de la filiale canadienne qui est attribué à la banque entrante ou à une personne avec laquelle elle a un lien de dépendance, ou pour leur compte, il n'est pas tenu compte de l'alinéa 69(5)d);

c) pour l'application des paragraphes 13(21.2), 18(15) et 40(3.4) à un bien dont la filiale canadienne a disposé, la banque entrante est réputée, après la dissolution ou la liquidation de la filiale canadienne, être la même société que celle-ci et en être la continuation.

Liquidation d'une filiale canadienne — titres de créance déterminés

(14) Lorsque la filiale canadienne d'une banque entrante et celle-ci remplissent les conditions énoncées aux alinéas (12)a) et b) et font conjointement, conformément au paragraphe (11), le choix de se prévaloir du présent paragraphe et que la filiale canadienne n'a fait le choix prévu au présent paragraphe avec aucune autre banque entrante, la banque entrante est réputée être la même société que la filiale canadienne et en être la continuation pour l'application des alinéas 142.4(4)c) et d) à l'égard des titres de créance déterminés dont la filiale canadienne a disposé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 138; 2013, ch. 34, art. 136 et 290; 2016, ch. 12, art. 51.

Communal Organizations

Communal organizations

143 (1) Where a congregation, or one or more business agencies of the congregation, carries on one or more businesses for purposes that include supporting or sustaining the congregation's members or the members of any other congregation, the following rules apply:

(a) a trust is deemed to be created on the day that is the later of

(i) December 31, 1976, and

(ii) the day the congregation came into existence;

(b) the trust is deemed to have been continuously in existence from the day determined under paragraph (a);

(c) the property of the congregation is deemed to be the property of the trust;

(d) the property of each business agency of the congregation in a calendar year is deemed to be property of the trust throughout the portion of the year throughout which the trust exists;

(e) where the congregation is a corporation, the corporation is deemed to be the trustee having control of the trust property;

(f) where the congregation is not a corporation, its council, committee of leaders, executive committee, administrative committee, officers or other group charged with its management are deemed to be the trustees having control of the trust property;

(g) the congregation is deemed to act and to have always acted as agent for the trust in all matters relating to its businesses and other activities;

(h) each business agency of the congregation in a calendar year is deemed to have acted as agent for the trust in all matters in the year relating to its businesses and other activities;

(i) the members of the congregation are deemed to be the beneficiaries under the trust;

(j) tax under this Part is payable by the trust on its taxable income for each taxation year;

(k) in computing the income of the trust for any taxation year,

Organismes communautaires

Organismes communautaires

143 (1) Lorsqu'une congrégation, ou une ou plusieurs de ses agences commerciales, exploite une ou plusieurs entreprises ayant notamment pour objet de veiller à la subsistance ou à l'entretien des membres de la congrégation ou de toute autre congrégation, les règles suivantes s'appliquent :

a) une fiducie est réputée être établie au dernier en date des jours suivants :

(i) le 31 décembre 1976,

(ii) le jour où la congrégation a commencé à exister;

b) la fiducie est réputée avoir continué d'exister sans interruption depuis le jour déterminé selon l'alinéa a);

c) les biens de la congrégation sont réputés être ceux de la fiducie;

d) les biens de chaque agence commerciale de la congrégation au cours d'une année civile sont réputés être ceux de la fiducie tout au long de la partie de l'année durant laquelle la fiducie existe;

e) si la congrégation est une société, celle-ci est réputée être le fiduciaire qui contrôle les biens de la fiducie;

f) si la congrégation n'est pas une société, le conseil, le comité de direction, l'exécutif, le comité d'administration, les dirigeants ou autre groupe de personnes chargé de la gestion de la congrégation sont réputés être les fiduciaires qui contrôlent les biens de la fiducie;

g) la congrégation est réputée agir et toujours avoir agi à titre de mandataire de la fiducie en toute matière liée à ses entreprises et autres activités;

h) chaque agence commerciale de la congrégation au cours d'une année civile est réputée avoir agi à titre de mandataire de la fiducie en toute matière, au cours de l'année, liée à ses entreprises et autres activités;

i) les membres de la congrégation sont réputés être les bénéficiaires de la fiducie;

j) l'impôt prévu par la présente partie est payable par la fiducie sur son revenu imposable pour chaque année d'imposition;

k) dans le calcul du revenu de la fiducie pour une année d'imposition :

(i) subject to paragraph (l), no deduction may be made in respect of salaries, wages or benefits of any kind provided to the members of the congregation, and

(ii) no deduction may be made under subsection 104(6), except to the extent that any portion of the trust's income (determined without reference to that subsection) is allocated to the members of the congregation in accordance with subsection (2);

(l) for the purpose of applying section 20.01 to the trust,

(i) each member of the congregation is deemed to be a member of the trust's household, and

(ii) section 20.01 shall be read without reference to paragraphs 20.01(2)(b) and (c) and subsection 20.01(3); and

(m) where the congregation or one of the business agencies is a corporation, section 15.1 shall, except for the purposes of paragraphs 15.1(2)(a) and (c) (other than subparagraphs 15.1(2)(c)(i) and (ii)), apply as if this subsection were read without reference to paragraphs (c), (d), (g) and (h).

(i) sous réserve de l'alinéa l), aucune déduction ne peut être opérée au titre des salaires, rémunérations ou avantages de toute sorte versés aux membres de la congrégation,

(ii) aucune déduction ne peut être opérée en application du paragraphe 104(6), sauf dans la mesure où une partie du revenu de la fiducie (déterminé compte non tenu de ce paragraphe) est attribuée aux membres de la congrégation conformément au paragraphe (2);

l) pour l'application de l'article 20.01 à la fiducie :

(i) chaque membre de la congrégation est réputé être une personne habitant chez la fiducie,

(ii) il n'est pas tenu compte des alinéas 20.01(2)b) et c) ni du paragraphe 20.01(3);

m) si la congrégation ou l'une de ses agences commerciales est une société, l'article 15.1 s'applique, sauf dans le cadre des alinéas 15.1(2)a) et c) (exception faite des sous-alinéas 15.1(2)c)(i) et (ii)), compte non tenu des alinéas c), d), g) et h) du présent paragraphe.

Election in respect of income

(2) If the trust referred to in subsection (1) in respect of a congregation so elects in respect of a taxation year in writing filed with the Minister on or before the trust's filing-due date for the year and all the congregation's participating members are specified in the election in accordance with subsection (5), the following rules apply:

(a) for the purposes of subsections 104(6) and (13), the amount payable in the year to a particular participating member of the congregation out of the income of the trust (determined without reference to subsection 104(6)) is the amount determined by the formula

0.8 (A × B/C) + D + (0.2A - E)/F

where

A is the taxable income of the trust for the year (determined without reference to subsection 104(6) and specified future tax consequences for the year),

B is

(i) where the particular member is identified in the election as a person to whom this subparagraph applies (in this subsection referred to as a "designated member"), 1, and

(ii) in any other case, 0.5,

Choix visant le revenu

(2) La fiducie visée au paragraphe (1) quant à une congrégation peut faire un choix pour une année d'imposition, dans un document où est précisé le nom de tous les membres participants de la congrégation conformément au paragraphe (5), pour que les règles ci-après s'appliquent :

a) pour l'application des paragraphes 104(6) et (13), le montant payable au cours de l'année à un membre participant donné de la congrégation sur le revenu de la fiducie (déterminé compte non tenu du paragraphe 104(6)) correspond au montant obtenu par la formule suivante :

0,8 (A × B/C) + D + (0,2A - E)/F

où :

A représente le revenu imposable de la fiducie pour l'année (déterminé compte non tenu du paragraphe 104(6) ni des conséquences fiscales futures déterminées pour l'année),

B :

(i) si, d'après le document concernant le choix, le membre donné est une personne (appelée « membre désigné » au présent paragraphe) à qui le présent sous-alinéa s'applique, 1,

C is the total of

(i) the number of designated members of the congregation, and

(ii) 1/2 of the number of other participating members of the congregation in respect of the year,

D is the amount, if any, that is specified in the election as an additional allocation under this subsection to the particular member,

E is the total of all amounts each of which is an amount specified in the election as an additional allocation under this subsection to a participating member of the congregation in respect of the year, and

F is the number of participating members of the congregation in respect of the year;

(b) the designated member of each family at the end of the year is deemed to have supported the other members of the family during the year and the other members of the family are deemed to have been wholly dependent on the designated member for support during the year; and

(c) the taxable income for the year of each member of the congregation shall be computed without reference to subsection 110(2).

C la somme des montants suivants :

(i) le nombre de membres désignés de la congrégation,

(ii) la moitié du nombre des autres membres participants de la congrégation pour l'année,

D le montant éventuel qui, d'après le document concernant le choix, constitue un montant supplémentaire attribué au membre donné en vertu du présent paragraphe,

E le total des montants représentant chacun un montant qui, d'après le document concernant le choix, constitue un montant supplémentaire attribué en vertu du présent paragraphe à un membre participant de la congrégation pour l'année,

F le nombre de membres participants de la congrégation pour l'année;

b) le membre désigné de chaque famille à la fin de l'année est réputé avoir subvenu aux besoins des autres membres de la famille au cours de l'année et ceux-ci sont réputés être entièrement à la charge du membre désigné au cours de l'année;

c) le revenu imposable pour l'année de chaque membre de la congrégation est calculé compte non tenu du paragraphe 110(2).

Le document concernant le choix doit être présenté au ministre au plus tard à la date d'échéance de production qui est applicable à la fiducie pour l'année.

Refusal to accept election

(3) An election under subsection (2) in respect of a congregation for a particular taxation year is not binding on the Minister unless all taxes, interest and penalties payable under this Part, as a consequence of the application of subsection (2) to the congregation for preceding taxation years, are paid at or before the end of the particular year.

Refus d'accepter le choix

(3) Le choix prévu au paragraphe (2) concernant une congrégation pour une année d'imposition donnée ne lie le ministre que si tous les impôts, intérêts et pénalités payables en vertu de la présente partie, par suite de l'application du paragraphe (2) à la congrégation pour les années d'imposition précédentes, sont payés au plus tard à la fin de l'année donnée.

Election in respect of gifts

(3.1) For the purposes of section 118.1, if the eligible amount of a gift made in a taxation year by a trust referred to in subsection (1) in respect of a congregation would, but for this subsection, be included in the total charitable gifts, total cultural gifts or total ecological gifts of the trust for the year and the trust so elects in its return of income under this Part for the year,

(a) the trust is deemed not to have made the gift; and

Choix concernant les dons

(3.1) Pour l'application de l'article 118.1, dans le cas où le montant admissible d'un don fait, au cours d'une année d'imposition, par une fiducie visée au paragraphe (1), quant à une congrégation, serait inclus, en l'absence du présent paragraphe, dans le total des dons de bienfaisance, le total des dons de biens culturels ou le total des dons de biens écosensibles de la fiducie pour l'année, les règles ci-après s'appliquent si la fiducie en fait le choix dans sa déclaration de revenu produite en vertu de la présente partie pour l'année :

(b) each participating member of the congregation is deemed to have made, in the year, such a gift the eligible amount of which is the amount determined by the formula

A × B/C

where

A is the eligible amount of the gift made by the trust,

B is the amount determined for the year in respect of the member under paragraph(2)(a) as a consequence of an election under subsection (2) by the trust, and

C is the total of all amounts each of which is an amount determined for the year in respect of a participating member of the congregation under paragraph (2)(a) as a consequence of an election under subsection (2) by the trust.

Definitions

(4) For the purposes of this section,

adult means an individual who, before the time at which the term is applied, has attained the age of eighteen years or is married or in a common-law partnership; (*adulte*)

business agency, of a congregation at any time in a particular calendar year, means a corporation, trust or other person, where the congregation owned all the shares of the capital stock of the corporation (except directors' qualifying shares) or every interest in the trust or other person, as the case may be, throughout the portion of the particular calendar year throughout which both the congregation and the corporation, trust or other person, as the case may be, were in existence; (*agence commerciale*)

congregation means a community, society or body of individuals, whether or not incorporated,

(a) the members of which live and work together,

(b) that adheres to the practices and beliefs of, and operates according to the principles of, the religious organization of which it is a constituent part,

(c) that does not permit any of its members to own any property in their own right, and

(d) that requires its members to devote their working lives to the activities of the congregation; (*congrégation*)

family means,

a) la fiducie est réputée ne pas avoir fait le don;

b) chaque membre participant de la congrégation est réputé avoir fait, au cours de l'année, un tel don dont le montant admissible correspond au montant obtenu par la formule suivante :

A × B/C

où :

A représente le montant admissible du don fait par la fiducie,

B le montant déterminé pour l'année selon l'alinéa (2)a) à l'égard du membre par suite du choix prévu au paragraphe (2), effectué par la fiducie,

C le total des montants représentant chacun un montant déterminé pour l'année selon l'alinéa (2)a) à l'égard d'un membre participant de la congrégation par suite du choix prévu au paragraphe (2), effectué par la fiducie.

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

adulte Particulier qui, avant le moment où l'expression est utilisée, atteint l'âge de dix-huit ans ou est marié ou vit en union de fait. (*adult*)

agence commerciale Quant à une congrégation au cours d'une année civile donnée, société, fiducie ou autre personne dont l'ensemble des actions du capital-actions (sauf les actions conférant l'admissibilité aux postes d'administrateurs), dans le cas d'une société, ou l'ensemble des participations, dans le cas d'une fiducie ou autre personne, appartiennent à la congrégation tout au long de la partie de l'année donnée durant laquelle la congrégation et la société, fiducie ou autre personne, selon le cas, existent. (*business agency*)

congrégation Communauté, association ou assemblée de particuliers, constituée ou non en société, qui répond aux conditions suivantes :

a) ses membres vivent et travaillent ensemble;

b) elle adhère aux pratiques et croyances de l'organisme religieux dont elle fait partie et agit en conformité avec les principes de cet organisme;

c) elle ne permet pas à ses membres d'être propriétaires de biens de leur propre chef;

d) elle exige de ses membres qu'ils consacrent leur vie professionnelle aux activités de la congrégation. (*congregation*)

(a) in the case of an adult who is unmarried and who is not in a common-law partnership, that person and the person's children who are not adults, not married and not in a common-law partnership, and

(b) in the case of an adult who is married or in a common-law partnership, that person and the person's spouse or common-law partner and the children of either or both of them who are not adults, not married and not in a common-law partnership

but does not include an individual who is included in any other family or who is not a member of the congregation in which the family is included; (*famille*)

member of a congregation means

(a) an adult, living with the members of the congregation, who conforms to the practices of the religious organization of which the congregation is a constituent part whether or not that person has been formally accepted into the organization, and

(b) a child who is unmarried and not in a common-law partnership, other than an adult, of an adult referred to in paragraph (a), if the child lives with the members of the congregation; (*membre d'une congrégation*)

participating member, of a congregation in respect of a taxation year, means an individual who, at the end of the year, is an adult who is a member of the congregation; (*membre participant*)

religious organization means an organization, other than a registered charity, of which a congregation is a constituent part, that adheres to beliefs, evidenced by the religious and philosophical tenets of the organization, that include a belief in the existence of a supreme being. (*organisme religieux*)

total charitable gifts has the meaning assigned by subsection 118.1(1); (*total des dons de bienfaisance*)

total Crown gifts [Repealed, 2014, c. 39, s. 48]

total cultural gifts has the meaning assigned by subsection 118.1(1); (*total des dons de biens culturels*)

total ecological gifts has the same meaning as in subsection 118.1(1). (*total des dons de biens écosensibles*)

famille

a) Dans le cas d'un adulte non marié et ne vivant pas en union de fait, cette personne et ses enfants non mariés et ne vivant pas en union de fait qui ne sont pas des adultes;

b) dans le cas d'un adulte marié ou vivant en union de fait, cette personne et son époux ou conjoint de fait et les enfants non mariés de chacun d'eux ou des deux qui ne sont pas des adultes et ne vivent pas en union de fait.

Le terme ne vise toutefois pas le particulier qui fait partie d'une autre famille ou qui n'est pas membre de la congrégation dont fait partie la famille. (*family*)

membre d'une congrégation

a) Adulte qui vit avec les membres de la congrégation et qui observe les pratiques de l'organisme religieux dont la congrégation est une partie constituante, qu'il ait ou non été officiellement admis dans l'organisme;

b) personne qui, à la fois, est l'enfant d'un adulte visé à l'alinéa a), n'est pas mariée, ne vit pas en union de fait, n'est pas un adulte et vit avec les membres de la congrégation; (*member of a congregation*)

membre participant Quant à une congrégation pour une année d'imposition, particulier qui, à la fin de l'année, est un membre adulte de la congrégation. (*participating member*)

organisme religieux Organisme, autre qu'un organisme de bienfaisance enregistré, dont une congrégation est une partie constituante, qui adhère à des croyances qui comprennent la croyance en un être suprême et qui se manifestent dans les principes religieux et philosophique de l'organisme. (*religious organization*)

total des dons à l'État [Abrogée, 2014, ch. 39, art. 48]

total des dons de bienfaisance S'entend au sens du paragraphe 118.1(1). (*total charitable gifts*)

total des dons de biens culturels S'entend au sens du paragraphe 118.1(1). (*total cultural gifts*)

total des dons de biens écosensibles S'entend au sens du paragraphe 118.1(1). (*total ecological gifts*)

Specification of family members

(5) For the purpose of applying subsection (2) to a particular election by the trust referred to in subsection (1) in respect of a congregation for a particular taxation year,

(a) subject to paragraph (b), a participating member of the congregation is considered to have been specified in the particular election in accordance with this subsection only if the member is identified in the particular election and

(i) where the member's family includes only one adult at the end of the particular year, the member is identified in the particular election as a person to whom subparagraph (i) of the description of B in subsection (2) (in this subsection referred to as the "relevant subparagraph") applies, and

(ii) in any other case, only one of the adults in the member's family is identified in the particular election as a person to whom the relevant subparagraph applies; and

(b) an individual is considered not to have been specified in the particular election in accordance with this subsection if

(i) the individual is one of two individuals who were married to each other, or in a common-law partnership, at the end of a preceding taxation year of the trust and at the end of the particular year,

(ii) one of those individuals was

(A) where the preceding year ended before 1998, specified in an election under subsection (2) by the trust for the preceding year, and

(B) in any other case, identified in an election under subsection (2) by the trust for the preceding year as a person to whom the relevant subparagraph applied, and

(iii) the other individual is identified in the particular election as a person to whom the relevant subparagraph applies.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 143; 1994, c. 7, Sch. II, s. 116, c. 21, s. 67; 2000, c. 12, ss. 134, 142, c. 19, s. 41; 2001, c. 17, s. 245, 263(E); 2013, c. 34, s. 291; 2014, c. 39, s. 48.

Énumération des membres d'une famille

(5) Pour l'application du paragraphe (2) au choix donné fait par la fiducie visée au paragraphe (1) quant à une congrégation pour une année d'imposition donnée, les règles ci-après s'appliquent :

a) sous réserve de l'alinéa b), le nom d'un membre participant de la congrégation n'est considéré comme étant précisé dans le document concernant le choix conformément au présent paragraphe que s'il figure dans ce document et si :

(i) dans le cas où la famille du participant ne compte qu'un adulte à la fin de l'année donnée, il est, d'après le document concernant le choix donné, une personne à qui s'applique le sous-alinéa (i) de l'élément B de la formule figurant au paragraphe (2) (appelé « sous-alinéa applicable » au présent paragraphe),

(ii) dans les autres cas, seulement un des adultes de la famille du participant est, d'après ce document, une personne à qui s'applique le sous-alinéa applicable;

b) le nom d'un particulier est considéré comme n'ayant pas été précisé dans le document concernant le choix donné conformément au présent paragraphe si, à la fois :

(i) le particulier est l'un de deux particuliers qui étaient mariés l'un à l'autre, ou vivaient en union de fait, à la fin d'une année d'imposition antérieure de la fiducie et à la fin de l'année donnée,

(ii) l'un de ces particuliers était :

(A) si l'année antérieure s'est terminée avant 1998, un particulier dont le nom était précisé dans le document concernant le choix prévu au paragraphe (2), effectué par la fiducie pour cette année,

(B) dans les autres cas, une personne à qui s'applique le sous-alinéa applicable d'après le document concernant le choix prévu au paragraphe (2), effectué par la fiducie pour cette année,

(iii) l'autre particulier est, d'après le document concernant le choix donné, une personne à qui s'applique le sous-alinéa applicable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 143; 1994, ch. 7, ann. II, art. 116, ch. 21, art. 67; 2000, ch. 12, art. 134 et 142, ch. 19, art. 41; 2001, ch. 17, art. 245 et 263(A); 2013, ch. 34, art. 291; 2014, ch. 39, art. 48.

Definitions

143.1 (1) The definitions in this subsection apply in this section.

amateur athlete at any time means an individual (other than a trust) who is, at that time,

(a) a member of a registered Canadian amateur athletic association;

(b) eligible to compete, in an international sporting event sanctioned by an international sports federation, as a Canadian national team member; and

(c) not a professional athlete. (*athlète amateur*)

professional athlete means an individual who receives income that is compensation for, or is otherwise attributable to, the individual's activities as a player or athlete in a professional sport. (*athlète professionnel*)

qualifying performance income of an individual means income that

(a) is received by the individual in a taxation year in which

(i) the individual was, at any time, an amateur athlete, and

(ii) the individual was not, at any time, a professional athlete;

(b) may reasonably be considered to be in connection with the individual's participation as an amateur athlete in one or more international sporting events referred to in the definition ***amateur athlete***; and

(c) is endorsement income, prize money, or income from public appearances or speeches. (*revenu de performance admissible*)

third party in respect of an arrangement described in paragraph (1.1)(b) means a person who deals at arm's length with the amateur athlete in respect of the arrangement. (*tiers*)

Where subsection (1.2) applies

(1.1) Subsection (1.2) applies where, at any time,

Définitions

143.1 (1) Les définitions qui suivent s'appliquent au présent article.

athlète amateur Tout particulier, sauf une fiducie, qui, au moment considéré, répond aux conditions suivantes :

a) il est membre d'une association canadienne enregistrée de sport amateur;

b) il s'est qualifié pour compétitionner, lors d'une manifestation sportive internationale sanctionnée par une fédération sportive internationale, en tant que membre de l'équipe nationale canadienne;

c) il n'est pas un athlète professionnel. (*amateur athlete*)

athlète professionnel Tout particulier qui reçoit un revenu qui constitue une rétribution pour ses activités à titre de joueur ou d'athlète dans un sport professionnel ou est autrement attribuable à ces activités. (*professional athlete*)

revenu de performance admissible S'entend, à l'égard d'un particulier, du revenu qui, à la fois :

a) est reçu par le particulier pendant une année d'imposition au cours de laquelle :

(i) il était, à un moment quelconque, un athlète amateur,

(ii) il n'était, à aucun moment, un athlète professionnel;

b) peut raisonnablement être considéré comme étant lié à la participation du particulier à titre d'athlète amateur à une ou plusieurs manifestations sportives internationales visées à la définition de ***athlète amateur***;

c) constitue un revenu de promotion, un prix sous forme d'argent ou un revenu obtenu en raison d'apparitions publiques ou de discours. (*qualifying performance income*)

tiers Est un tiers dans le cadre d'un arrangement visé à l'alinéa (1.1)b) toute personne qui n'a aucun lien de dépendance avec l'athlète amateur en ce qui a trait à l'arrangement. (*third party*)

Application du par. (1.2)

(1.1) Le paragraphe (1.2) s'applique dans les cas suivants :

(a) a national sport organization that is a registered Canadian amateur athletic association receives an amount for the benefit of an individual under an arrangement made under rules of an international sport federation that require amounts to be held, controlled and administered by the organization in order to preserve the eligibility of the individual to compete in a sporting event sanctioned by the federation; or

(b) an individual enters into an arrangement that

(i) is an account with an issuer described in paragraph (b) of the definition ***qualifying arrangement*** in subsection 146.2(1), or that would be so described if that definition applied at that time,

(ii) provides that no amount may be deposited, credited or added to the account, other than an amount that is qualifying performance income of the individual or that is interest or other income in respect of the property deposited, credited or added to the account,

(iii) provides that a third party is a mandatory signatory on any payment from the account, and

(iv) is not a registered retirement savings plan or a TFSA.

a) un organisme national de sport qui est une association canadienne enregistrée de sport amateur reçoit une somme au profit d'un particulier dans le cadre d'un arrangement conclu aux termes des règles d'une fédération sportive internationale selon lesquelles l'organisme est tenu de détenir, de contrôler et de gérer des sommes afin de garantir la qualification du particulier pour compétitionner lors d'une manifestation sportive sanctionnée par la fédération;

b) un particulier conclut un arrangement qui, à la fois :

(i) est un compte auprès d'un émetteur qui est visé à l'alinéa b) de la définition de ***arrangement admissible*** au paragraphe 146.2(1) ou qui serait ainsi visé si cette définition s'appliquait au moment considéré,

(ii) prévoit que seules les sommes qui représentent un revenu de performance admissible du particulier ou des intérêts ou autres revenus relatifs aux biens déposés ou ajoutés au compte, ou portés à son crédit, peuvent être déposées ou ajoutées au compte, ou portées à son crédit,

(iii) prévoit que le tiers est un signataire obligatoire de tout retrait effectué sur le compte,

(iv) n'est pas un régime enregistré d'épargne-retraite ni un compte d'épargne libre d'impôt.

Amateur athletes' reserve funds

(1.2) If this subsection applies in respect of an arrangement referred to in subsection (1.1),

(a) a trust (in this section referred to as the "amateur athlete trust") is deemed

(i) to be created on the day on which the first amount referred to in paragraph (1.1)(a) or (b) is received by the sport organization or by the issuer, as the case may be, in respect of the arrangement, and

(ii) to exist until subsection (3) or (4) applies in respect of the trust;

(b) all property held under the arrangement is deemed to be the property of the amateur athlete trust and not property of any other person;

(c) if, at any time, the sport organization or the issuer, as the case may be, receives an amount under the arrangement and the amount would, in the absence of this subsection, be included in computing the income

Fonds de réserve pour athlètes amateurs

(1.2) Le cas échéant, les règles ci-après s'appliquent relativement à un arrangement visé au paragraphe (1.1) :

a) une fiducie (appelée « fiducie au profit d'un athlète amateur » au présent article) est réputée, à la fois :

(i) être créée à la date où une première somme visée aux alinéas (1.1)a) ou b) est reçue par l'organisme de sport ou l'émetteur, selon le cas, relativement à l'arrangement,

(ii) exister jusqu'à ce que les paragraphes (3) ou (4) s'appliquent à la fiducie;

b) tous les biens détenus dans le cadre de l'arrangement sont réputés être les biens de la fiducie et non des biens d'une autre personne;

c) toute somme que l'organisme de sport ou l'émetteur, selon le cas, reçoit dans le cadre de l'arrangement à un moment donné et qui serait incluse, en l'absence du présent paragraphe, dans le calcul du revenu du particulier relativement à l'arrangement pour l'année

of the individual in respect of the arrangement for the taxation year that includes that time, the amount is deemed to be income of the amateur athlete trust for that taxation year and not to be income of the individual;

(d) if, at any time, the sport organization or the issuer, as the case may be, pays or transfers an amount under the arrangement to or for the benefit of the individual, the amount is deemed to be an amount distributed at that time to the individual by the amateur athlete trust;

(e) the individual is deemed to be the beneficiary under the amateur athlete trust;

(f) the sport organization or the third party, as the case may be, in respect of the arrangement is deemed to be the trustee of the amateur athlete trust; and

(g) no tax is payable under this Part by the amateur athlete trust on its taxable income for any taxation year.

d'imposition qui comprend ce moment est réputée être un revenu de la fiducie pour cette année et non un revenu du particulier;

d) toute somme que l'organisme de sport ou l'émetteur, selon le cas, paie ou transfère au particulier ou à son profit dans le cadre de l'arrangement à un moment donné est réputée être une somme que la fiducie distribue au particulier à ce moment;

e) le particulier est réputé être le bénéficiaire de la fiducie;

f) l'organisme de sport ou le tiers, selon le cas, relativement à l'arrangement est réputé être le fiduciaire de la fiducie;

g) aucun impôt n'est à payer par la fiducie en vertu de la présente partie sur son revenu imposable pour une année d'imposition.

Amounts included in beneficiary's income

(2) In computing the income for a taxation year of the beneficiary under an amateur athlete trust, there shall be included the total of all amounts distributed in the year to the beneficiary by the trust.

Termination of amateur athlete trust

(3) Where an amateur athlete trust holds property on behalf of a beneficiary who has not competed in an international sporting event as a Canadian national team member for a period of 8 years that ends in a particular taxation year and that begins in the year that is the later of

(a) where the beneficiary has competed in such an event, the year in which the beneficiary last so competed, and

(b) the year in which the trust was created,

the trust shall be deemed to have distributed, at the end of the particular taxation year to the beneficiary, an amount equal to

(c) if the trust is liable to pay tax under Part XII.2 in respect of the particular year, 60% of the fair market value of all property held by it at that time, and

(d) in any other case, the fair market value of all property held by it at that time.

Montants inclus dans le revenu du bénéficiaire

(2) Est inclus dans le calcul du revenu pour une année d'imposition du bénéficiaire d'une fiducie au profit d'un athlète amateur le total des montants que la fiducie distribue au bénéficiaire au cours de l'année.

Extinction d'une fiducie au profit d'un athlète amateur

(3) La fiducie au profit d'un athlète amateur qui détient des biens pour le compte d'un bénéficiaire qui n'a pas participé à une épreuve internationale à titre de membre d'une équipe nationale canadienne au cours d'une période donnée est réputée avoir distribué au bénéficiaire à la fin d'une année d'imposition donnée le montant représentant :

a) si la fiducie est redevable pour l'année donnée de l'impôt prévu à la partie XII.2, 60 % de la juste valeur marchande de l'ensemble des biens qu'elle détient à ce moment;

b) sinon, la juste valeur marchande de l'ensemble des biens qu'elle détient à ce moment.

À cette fin, la période donnée correspond à la période de huit ans se terminant au cours de l'année donnée et commençant au cours de celle des années suivantes survenant la dernière :

c) si le bénéficiaire a participé à une épreuve internationale à titre de membre d'une équipe nationale canadienne, l'année de sa dernière participation;

d) l'année de l'établissement de la fiducie.

Death of beneficiary

(4) Where an amateur athlete trust holds property on behalf of a beneficiary who dies in a year, the trust shall be deemed to have distributed, immediately before the death, to the beneficiary, an amount equal to

(a) if the trust is liable to pay tax under Part XII.2 in respect of the year, 60% of the fair market value of all property held by it at that time; and

(b) in any other case, the fair market value of all property held by it at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VIII, s. 81; 2009, c. 2, s. 50; 2014, c. 39, s. 49; 2016, c. 7, s. 62.

Cost of Tax Shelter Investments and Limited-recourse Debt in Respect of Gifting Arrangements

Definitions

143.2 (1) The definitions in this subsection apply in this section.

expenditure means an outlay or expense or the cost or capital cost of a property. (*dépense*)

limited partner has the meaning that would be assigned by subsection 96(2.4) if that subsection were read without reference to "if the member's partnership interest is not an exempt interest (within the meaning assigned by subsection 96(2.5)) at that time and". (*commanditaire*)

limited-recourse amount means the unpaid principal amount of any indebtedness for which recourse is limited, either immediately or in the future and either absolutely or contingently. (*montant à recours limité*)

taxpayer includes a partnership. (*contribuable*)

tax shelter investment means

(a) a property that is a tax shelter for the purpose of subsection 237.1(1); or

(b) a taxpayer's interest in a partnership where

(i) an interest in the taxpayer

(A) is a tax shelter investment, and

(B) the taxpayer's partnership interest would be a tax shelter investment if

Décès d'un bénéficiaire

(4) La fiducie au profit d'un athlète amateur qui détient des biens pour le compte d'un bénéficiaire décédé au cours d'une année est réputée avoir distribué au bénéficiaire immédiatement avant son décès le montant représentant :

a) si la fiducie est redevable pour l'année de l'impôt prévu à la partie XII.2, 60 % de la juste valeur marchande de l'ensemble des biens qu'elle détient immédiatement avant le décès;

b) sinon, la juste valeur marchande de l'ensemble des biens qu'elle détient immédiatement avant le décès.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VIII, art. 81; 2009, ch. 2, art. 50; 2014, ch. 39, art. 49; 2016, ch. 7, art. 62.

Coûts des abris fiscaux déterminés et dettes à recours limité relatives aux arrangements de don

Définitions

143.2 (1) Les définitions qui suivent s'appliquent au présent article.

abri fiscal déterminé

a) Bien qui est un abri fiscal pour l'application du paragraphe 237.1(1);

b) participation d'un contribuable dans une société de personnes si, selon le cas :

(i) les conditions suivantes sont réunies :

(A) une participation dans le contribuable est un abri fiscal déterminé,

(B) la participation du contribuable serait un abri fiscal déterminé si, à la fois :

(I) il n'était pas tenu compte du présent alinéa ni du passage « compte tenu de déclarations ou d'annonces faites ou envisagées relativement au bien » dans la définition de ***abri fiscal*** au paragraphe 237.1(1),

(II) les passages « qui est annoncé comme étant » dans cette définition étaient remplacés par « qui serait vraisemblablement »,

(ii) une autre participation dans la société de personnes constitue un abri fiscal déterminé,

(I) this Act were read without reference to this paragraph and to the words "having regard to statements or representations made or proposed to be made in connection with the property" in the definition ***tax shelter*** in subsection 237.1(1),

(II) the references in that definition to ***represented*** were read as references to "that can reasonably be expected", and

(III) the reference in that definition to ***is represented*** were read as a reference to "can reasonably be expected",

(ii) another interest in the partnership is a tax shelter investment, or

(iii) the taxpayer's interest in the partnership entitles the taxpayer, directly or indirectly, to a share of the income or loss of a particular partnership where

(A) another taxpayer holding a partnership interest is entitled, directly or indirectly, to a share of the income or loss of the particular partnership, and

(B) that other taxpayer's partnership interest is a tax shelter investment. (*abri fiscal déterminé*)

(iii) la participation du contribuable dans la société de personnes lui donne droit, directement ou indirectement, à une part du revenu ou de la perte d'une société de personnes donnée, dans le cas où:

(A) un autre contribuable détenteur d'une participation dans une société de personnes a droit, directement ou indirectement, à une part du revenu ou de la perte de la société de personnes donnée,

(B) la participation visée à la division (A) constitue un abri fiscal déterminé. (*tax shelter investment*)

commanditaire S'entend au sens du paragraphe 96(2.4), compte non tenu du passage « si sa participation dans celle-ci n'est pas, à ce moment, une participation exonérée au sens du paragraphe (2.5) et ». (*limited partner*)

contribuable Comprend une société de personnes. (*taxpayer*)

dépense Dépense engagée ou effectuée, ou coût ou coût en capital d'un bien. (*expenditure*)

montant à recours limité Principal impayé d'une dette à l'égard de laquelle le recours est limité dans l'immédiat ou pour l'avenir et conditionnellement ou non. (*limited-recourse amount*)

At-risk adjustment

(2) For the purpose of this section, an at-risk adjustment in respect of an expenditure of a particular taxpayer, other than the cost of a partnership interest to which subsection 96(2.2) applies, means any amount or benefit that the particular taxpayer, or another taxpayer not dealing at arm's length with the particular taxpayer, is entitled, either immediately or in the future and either absolutely or contingently, to receive or to obtain, whether by way of reimbursement, compensation, revenue guarantee, proceeds of disposition, loan or any other form of indebtedness, or in any other form or manner whatever, granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the particular taxpayer may sustain in respect of the expenditure or, where the expenditure is the cost or capital cost of a property, any loss from the holding or disposition of the property.

Amount or benefit not included

(3) For the purpose of subsection 143.2(2), an at-risk adjustment in respect of a taxpayer's expenditure does not include an amount or benefit

Montant de rajustement à risque

(2) Pour l'application du présent article, le montant ou l'avantage qu'un contribuable, ou un autre contribuable avec qui il a un lien de dépendance, a le droit, immédiat ou futur et absolu ou conditionnel, de recevoir — sous forme de remboursement, de compensation, de garantie de recettes, de produit de disposition, de prêt ou d'autre forme de dette ou sous toute autre forme — et qui est accordé en vue de supprimer ou de réduire l'effet d'une perte que le contribuable peut subir relativement à la dépense ou, dans le cas où la dépense représente le coût ou le coût en capital d'un bien, d'une perte résultant du fait que le bien est détenu ou fait l'objet d'une disposition constitue un montant de rajustement à risque relatif à une dépense du contribuable. Le présent paragraphe ne s'applique pas au coût d'une participation dans une société de personnes à laquelle s'applique le paragraphe 96(2.2).

Montant exclu

(3) Pour l'application du paragraphe (2):

a) un montant ou un avantage ne constitue pas un montant de rajustement à risque relatif à la dépense

(a) to the extent that it is included in determining the value of J in the definition ***cumulative Canadian exploration expense*** in subsection 66.1(6), of M in the definition ***cumulative Canadian development expense*** in subsection 66.2(5) or of I in the definition ***cumulative Canadian oil and gas property expense*** in subsection 66.4(5) in respect of the taxpayer; or

(b) the entitlement to which arises

(i) because of a contract of insurance with an insurance corporation dealing at arm's length with the taxpayer (and, where the expenditure is the cost of an interest in a partnership, with each member of the partnership) under which the taxpayer is insured against any claim arising as a result of a liability incurred in the ordinary course of carrying on the business of the taxpayer or the partnership,

(ii) as a consequence of the death of the taxpayer,

(iii) in respect of an amount not included in the expenditure, determined without reference to subparagraph 143.2(6)(b)(ii), or

(iv) because of an excluded obligation (as defined in subsection 6202.1(5) of the *Income Tax Regulations*) in relation to a share issued to the taxpayer or, where the expenditure is the cost of an interest in a partnership, to the partnership.

d'un contribuable dans la mesure où il est inclus dans le calcul de la valeur de l'élément J de la formule figurant à la définition de ***frais cumulatifs d'exploration au Canada*** au paragraphe 66.1(6), de l'élément M de la formule figurant à la définition de ***frais cumulatifs d'aménagement au Canada*** au paragraphe 66.2(5) ou de l'élément I de la formule figurant à la définition de ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** au paragraphe 66.4(5) relativement au contribuable;

b) un montant ou un avantage ne constitue pas un montant de rajustement à risque relatif à la dépense d'un contribuable si le droit au montant ou à l'avantage résulte, selon le cas :

(i) d'un contrat d'assurance avec une compagnie d'assurance qui n'a de lien de dépendance ni avec le contribuable ni, dans le cas où la dépense représente le coût d'une participation dans une société de personnes, avec un associé de la société de personnes, et par lequel le contribuable est assuré contre toute réclamation pouvant découler d'une obligation contractée dans le cours normal des activités de l'entreprise du contribuable ou de la société de personnes,

(ii) du décès du contribuable,

(iii) d'un montant non compris dans la dépense, déterminé compte non tenu du sous-alinéa (6)b)(ii),

(iv) d'une obligation exclue, au sens du paragraphe 6202.1(5) du *Règlement de l'impôt sur le revenu*, relativement à une action émise en faveur du contribuable ou, dans le cas où la dépense représente le coût d'une participation dans une société de personnes, en faveur de la société de personnes.

Amount or benefit

(4) For the purposes of subsections 143.2(2) and (3), where the amount or benefit to which a taxpayer is entitled at any time is provided by way of an agreement or other arrangement under which the taxpayer has a right, either immediately or in the future and either absolutely or contingently (otherwise than as a consequence of the death of the taxpayer), to acquire property, for greater certainty the amount or benefit to which the taxpayer is entitled under the agreement or arrangement is considered to be not less than the fair market value of the property at that time.

Montant ou avantage prévu par contrat

(4) Pour l'application des paragraphes (2) et (3), il est entendu que le montant ou l'avantage auquel un contribuable a droit à un moment donné et qui est prévu par une convention ou un autre mécanisme par lesquels le contribuable a le droit immédiat ou futur, et absolu ou conditionnel — sauf par suite de son décès — d'acquérir un bien doit être considéré comme étant au moins égal à la juste valeur marchande du bien à ce moment.

Amount or benefit

(5) For the purposes of subsections 143.2(2) and (3), where the amount or benefit to which a taxpayer is entitled at any time is provided by way of a guarantee, security or similar indemnity or covenant in respect of any loan or other obligation of the taxpayer, for greater certainty the amount or benefit to which the taxpayer is entitled under the guarantee or indemnity at any particular time is considered to be not less than the total of the unpaid amount of the loan or obligation at that time and all other amounts outstanding in respect of the loan or obligation at that time.

Amount of expenditure

(6) Notwithstanding any other provision of this Act, the amount of any expenditure that is, or is the cost or capital cost of, a taxpayer's tax shelter investment, and the amount of any expenditure of a taxpayer an interest in which is a tax shelter investment, shall be reduced to the amount, if any, by which

(a) the amount of the taxpayer's expenditure otherwise determined

exceeds

(b) the total of

(i) the limited-recourse amounts of

(A) the taxpayer, and

(B) all other taxpayers not dealing at arm's length with the taxpayer

that can reasonably be considered to relate to the expenditure,

(ii) the taxpayer's at-risk adjustment in respect of the expenditure, and

(iii) each limited-recourse amount and at-risk adjustment, determined under this section when this section is applied to each other taxpayer who deals at arm's length with and holds, directly or indirectly, an interest in the taxpayer, that can reasonably be considered to relate to the expenditure.

Limited-recourse debt in respect of a gift or monetary contribution

(6.1) The limited-recourse debt in respect of a gift or monetary contribution of a taxpayer, at the time the gift or monetary contribution is made, is the total of

(a) each limited-recourse amount at that time, of the taxpayer and of all other taxpayers not dealing at

Montant ou avantage prévu par garantie

(5) Pour l'application des paragraphes (2) et (3), il est entendu que le montant ou l'avantage auquel un contribuable a droit à un moment donné sous forme de garantie, d'indemnité ou d'engagement semblable dans le cadre d'un prêt ou d'une autre obligation du contribuable doit être considéré comme étant au moins égal au total du montant impayé du prêt ou de l'obligation à ce moment et des autres montants non remboursés sur le prêt ou l'obligation à ce moment.

Montant de la dépense

(6) Malgré les autres dispositions de la présente loi, le montant d'une dépense qui représente un abri fiscal déterminé d'un contribuable, ou le coût ou le coût en capital d'un tel abri fiscal, et le montant d'une dépense d'un contribuable dans lequel une participation est un abri fiscal déterminé sont ramenés au montant égal à l'excédent éventuel du montant visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le montant de la dépense du contribuable, déterminé par ailleurs;

b) le total des montants suivants :

(i) les montants à recours limité du contribuable et des autres contribuables qui ont un lien de dépendance avec lui, qu'il est raisonnable de considérer comme se rapportant à la dépense,

(ii) le montant de rajustement à risque du contribuable relatif à la dépense,

(iii) chaque montant à recours limité et montant de rajustement à risque, déterminé selon le présent article dans son application à chaque autre contribuable sans lien de dépendance avec le contribuable et détenteur, de manière directe ou indirecte, d'une participation dans celui-ci, qu'il est raisonnable de considérer comme se rapportant à la dépense.

Dette à recours limité relative à un don ou à une contribution monétaire

(6.1) La dette à recours limité relative au don ou à la contribution monétaire d'un contribuable, au moment où le don ou la contribution est fait, correspond au total des sommes suivantes :

arm's length with the taxpayer, that can reasonably be considered to relate to the gift or monetary contribution,

(b) each limited-recourse amount at that time, determined under this section when this section is applied to each other taxpayer who deals at arm's length with and holds, directly or indirectly, an interest in the taxpayer, that can reasonably be considered to relate to the gift or monetary contribution, and

(c) each amount that is the unpaid amount at that time of any other indebtedness, of any taxpayer referred to in paragraph (a) or (b), that can reasonably be considered to relate to the gift or monetary contribution if there is a guarantee, security or similar indemnity or covenant in respect of that or any other indebtedness.

a) chaque montant à recours limité à ce moment, du contribuable et des autres contribuables qui ont un lien de dépendance avec lui, qu'il est raisonnable de considérer comme se rapportant au don ou à la contribution;

b) chaque montant à recours limité à ce moment, déterminé selon le présent article dans son application à chaque autre contribuable sans lien de dépendance avec le contribuable et détenteur, de manière directe ou indirecte, d'une participation dans celui-ci, qu'il est raisonnable de considérer comme se rapportant au don ou à la contribution;

c) chaque somme qui représente le montant impayé à ce moment de toute autre dette d'un contribuable visé aux alinéas a) ou b), qu'il est raisonnable de considérer comme se rapportant au don ou à la contribution, dans le cas où cette dette ou toute autre dette est assortie d'une garantie, d'une indemnité ou d'un engagement semblable.

Repayment of indebtedness

(7) For the purpose of this section, the unpaid principal of an indebtedness is deemed to be a limited-recourse amount unless

(a) *bona fide* arrangements, evidenced in writing, were made, at the time the indebtedness arose, for repayment by the debtor of the indebtedness and all interest on the indebtedness within a reasonable period not exceeding 10 years; and

(b) interest is payable at least annually, at a rate equal to or greater than the lesser of

(i) the prescribed rate of interest in effect at the time the indebtedness arose, and

(ii) the prescribed rate of interest applicable from time to time during the term of the indebtedness,

and is paid in respect of the indebtedness by the debtor no later than 60 days after the end of each taxation year of the debtor that ends in the period.

Remboursement de dette

(7) Pour l'application du présent article, le principal impayé d'une dette est réputé être un montant à recours limité sauf si :

a) des arrangements, constatés par écrit, ont été conclus de bonne foi, au moment où la dette est survenue, pour que le débiteur rembourse la dette et les intérêts y afférents dans une période raisonnable ne dépassant pas dix ans;

b) les intérêts sont payables au moins annuellement, à un taux égal ou supérieur au moins élevé des taux suivants, et sont payés sur la dette par le débiteur au plus tard 60 jours suivant la fin de chacune de ses années d'imposition qui se termine dans la période visée à l'alinéa a):

(i) le taux d'intérêt prescrit en vigueur au moment où la dette est survenue,

(ii) le taux d'intérêt prescrit applicable pendant la durée de la dette.

Limited-recourse amount

(8) For the purpose of this section, the unpaid principal of an indebtedness is deemed to be a limited-recourse amount of a taxpayer where the taxpayer is a partnership and recourse against any member of the partnership in respect of the indebtedness is limited, either immediately or in the future and either absolutely or contingently.

Société de personnes

(8) Pour l'application du présent article, le principal impayé d'une dette est réputé être un montant à recours limité d'un contribuable lorsque celui-ci est une société de personnes et que le recours contre un de ses associés relativement à la dette est limité dans l'immédiat ou pour l'avenir et conditionnellement ou non.

Timing

(9) Where at any time a taxpayer has paid an amount (in this subsection referred to as the "repaid amount") on account of the principal amount of an indebtedness that was, before that time, the unpaid principal amount of a loan or any other form of indebtedness to which subsection 143.2(2) applies (in this subsection referred to as the "former amount or benefit") relating to an expenditure of the taxpayer,

(a) the former amount or benefit is considered to have been an amount or benefit under subsection 143.2(2) in respect of the taxpayer at all times before that time; and

(b) the expenditure is, subject to subsection 143.2(6), deemed to have been made or incurred at that time to the extent of, and by the payment of, the repaid amount.

Timing

(10) Where at any time a taxpayer has paid an amount (in this subsection referred to as the "repaid amount") on account of the principal amount of an indebtedness which was, before that time, an unpaid principal amount that was a limited-recourse amount (in this subsection referred to as the "former limited-recourse indebtedness") relating to an expenditure of the taxpayer,

(a) the former limited-recourse indebtedness is considered to have been a limited-recourse amount at all times before that time; and

(b) the expenditure is, subject to subsection 143.2(6), deemed to have been made or incurred at that time to the extent of, and by the amount of, the repaid amount.

Short-term debt

(11) Where a taxpayer pays all of the principal of an indebtedness no later than 60 days after that indebtedness arose and the indebtedness would otherwise be considered to be a limited-recourse amount solely because of the application of subsection 143.2(7) or (8), that subsection does not apply to the indebtedness unless

(a) any portion of the repayment is made with a limited-recourse amount; or

(b) the repayment can reasonably be considered to be part of a series of loans or other indebtedness and repayments that ends more than 60 days after the indebtedness arose.

Remboursement d'un prêt

(9) Dans le cas où un contribuable a remboursé un montant au titre du principal d'une dette qui était auparavant le principal impayé d'un prêt ou d'une autre forme de dette auquel s'applique le paragraphe (2) (appelé « ancien montant ou avantage » au présent paragraphe) relativement à une dépense du contribuable, les présomptions suivantes s'appliquent :

a) l'ancien montant ou avantage est réputé avoir été un montant ou un avantage visé au paragraphe (2) relativement au contribuable en tout temps avant le remboursement;

b) la dépense est réputée, sous réserve du paragraphe (6), avoir été engagée ou effectuée au moment du remboursement jusqu'à concurrence du montant remboursé et par suite du paiement de ce montant.

Remboursement d'un montant à recours limité

(10) Dans le cas où un contribuable a remboursé un montant au titre du principal d'une dette qui était auparavant un principal impayé qui était un montant à recours limité (appelé « ancienne dette à recours limité » au présent paragraphe) se rapportant à une dépense du contribuable, les présomptions suivantes s'appliquent :

a) l'ancienne dette à recours limité est réputée avoir été un montant à recours limité en tout temps avant le remboursement;

b) la dépense est réputée, sous réserve du paragraphe (6), avoir été engagée ou effectuée au moment du remboursement, jusqu'à concurrence du montant remboursé et par suite du paiement de ce montant.

Remboursement à court terme d'une dette

(11) Lorsqu'un contribuable rembourse le principal d'une dette au plus tard le soixantième jour suivant le moment où la dette est survenue et que celle-ci serait par ailleurs considérée comme un montant à recours limité par le seul effet des paragraphes (7) ou (8), ces paragraphes ne s'appliquent pas à la dette, sauf si, selon le cas :

a) une partie du remboursement est effectuée à l'aide d'un montant à recours limité;

b) il est raisonnable de considérer que le remboursement fait partie d'une série de prêts ou d'autres dettes et remboursements qui prend fin plus de 60 jours après le moment où la dette est survenue.

Series of loans or repayments

(12) For the purpose of paragraph 143.2(7)(a), a debtor is considered not to have made arrangements to repay an indebtedness within 10 years where the debtor's arrangement to repay can reasonably be considered to be part of a series of loans or other indebtedness and repayments that ends more than 10 years after it begins.

Information located outside Canada

(13) For the purpose of this section, if it can reasonably be considered that information relating to indebtedness that relates to a taxpayer's expenditure, gift or monetary contribution is available outside Canada and the Minister is not satisfied that the unpaid principal of the indebtedness is not a limited-recourse amount, the unpaid principal of the indebtedness relating to the taxpayer's expenditure, gift or monetary contribution is deemed to be a limited-recourse amount relating to the expenditure, gift or monetary contribution unless

(a) the information is provided to the Minister; or

(b) the information is located in a country with which the Government of Canada has entered into a tax convention or agreement that has the force of law in Canada and includes a provision under which the Minister can obtain the information.

Information located outside Canada

(14) For the purpose of this section, where it can reasonably be considered that information relating to whether a taxpayer is not dealing at arm's length with another taxpayer is available outside Canada and the Minister is not satisfied that the taxpayer is dealing at arm's length with the other taxpayer, the taxpayer and the other taxpayer are deemed not to be dealing with each other at arm's length unless

(a) the information is provided to the Minister; or

(b) the information is located in a country with which the Government of Canada has entered into a tax convention or agreement that has the force of law in Canada and includes a provision under which the Minister can obtain the information.

Assessments

(15) Notwithstanding subsections 152(4) to (5), such assessments, determinations and redeterminations may be made as are necessary to give effect to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 168; 2013, c. 34, s. 293.

Série de prêts ou de remboursements

(12) Pour l'application de l'alinéa (7)a), les arrangements pris par un débiteur en vue du remboursement d'une dette sur une période d'au plus dix ans sont réputés ne pas avoir été pris s'il est raisonnable de considérer qu'ils font partie d'une série de prêts ou d'autres dettes et remboursements qui s'étendent sur plus de dix ans.

Renseignements à l'étranger concernant une dette

(13) Pour l'application du présent article, lorsqu'il est raisonnable de considérer que des renseignements concernant une dette se rapportant à une dépense, à un don ou à une contribution monétaire d'un contribuable se trouvent à l'étranger et que le ministre n'est pas convaincu que le principal impayé de la dette n'est pas un montant à recours limité, le principal impayé de la dette qui se rapporte à la dépense, au don ou à la contribution est réputé être un montant à recours limité se rapportant à la dépense, au don ou à la contribution, sauf si, selon le cas :

a) les renseignements sont fournis au ministre;

b) les renseignements se trouvent dans un pays avec lequel le gouvernement du Canada a conclu une convention ou un accord fiscal qui a force de loi au Canada et qui comprend une disposition en vertu de laquelle le ministre peut obtenir les renseignements.

Renseignements à l'étranger concernant le lien de dépendance

(14) Pour l'application du présent article, lorsqu'il est raisonnable de considérer que des renseignements relatifs à la question de savoir si un contribuable a un lien de dépendance avec un autre contribuable se trouvent à l'étranger et que le ministre n'est pas convaincu de l'absence d'un tel lien, les contribuables sont réputés avoir entre eux un lien de dépendance, sauf si, selon le cas :

a) les renseignements sont fournis au ministre;

b) les renseignements se trouvent dans un pays avec lequel le gouvernement du Canada a conclu une convention ou un accord fiscal qui a force de loi au Canada et qui comprend une disposition en vertu de laquelle le ministre peut obtenir les renseignements.

Cotisations

(15) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations voulues et déterminer ou déterminer de nouveau les montants voulus pour l'application du présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 168; 2013, ch. 34, art. 293.

Expenditure — Limitations

Definitions

143.3 (1) The following definitions apply in this section.

expenditure of a taxpayer means an expense, expenditure or outlay made or incurred by the taxpayer, or a cost or capital cost of property acquired by the taxpayer. (*dépense*)

option means

(a) a security that is issued or sold by a taxpayer under an agreement referred to in subsection 7(1); or

(b) an option, warrant or similar right, issued or granted by a taxpayer, giving the holder the right to acquire an interest in the taxpayer or in another taxpayer with whom the taxpayer does not, at the time the option, warrant or similar right is issued or granted, deal at arm's length. (*option*)

taxpayer includes a partnership. (*contribuable*)

Options — limitation

(2) In computing a taxpayer's income, taxable income or tax payable or an amount considered to have been paid on account of the taxpayer's tax payable, an expenditure of the taxpayer is deemed not to include any portion of the expenditure that would — if this Act were read without reference to this subsection — be included in determining the expenditure because of the taxpayer having granted or issued an option on or after November 17, 2005.

Corporate shares — limitation

(3) In computing a corporation's income, taxable income or tax payable or an amount considered to have been paid on account of the corporation's tax payable, an expenditure of the corporation that would — if this Act were read without reference to this subsection — include an amount because of the corporation having issued a share of its capital stock at any particular time on or after November 17, 2005 is reduced by

(a) if the issuance of the share is not a consequence of the exercise of an option, the amount, if any, by which the fair market value of the share at the particular time exceeds

(i) if the transaction under which the share is issued is a transaction to which section 85, 85.1 or 138

Dépenses — restrictions

Définitions

143.3 (1) Les définitions qui suivent s'appliquent au présent article.

contribuable Y sont assimilées les sociétés de personnes. (*taxpayer*)

dépense Dépense effectuée ou engagée par un contribuable, ou coût ou coût en capital d'un bien qu'il a acquis. (*expenditure*)

option

a) Titre émis ou vendu par un contribuable aux termes d'une convention mentionnée au paragraphe 7(1);

b) option, bon de souscription ou droit semblable, émis ou consenti par un contribuable et conférant au détenteur le droit d'acquérir une participation dans le contribuable ou dans un autre contribuable avec lequel celui-ci a un lien de dépendance au moment où l'option, le bon ou le droit est émis ou consenti. (*option*)

Options — restriction

(2) Pour le calcul du revenu, du revenu imposable ou de l'impôt à payer d'un contribuable, ou d'une somme considérée comme payée au titre de son impôt à payer, la dépense du contribuable est réputée ne comprendre nulle partie de celle-ci qui, en l'absence du présent paragraphe, entrerait dans le calcul de la dépense du fait que le contribuable a émis ou consenti une option après le 16 novembre 2005.

Actions de sociétés — restriction

(3) Pour le calcul du revenu, du revenu imposable ou de l'impôt à payer d'une société, ou d'une somme considérée comme payée au titre de son impôt à payer, la dépense de la société qui, en l'absence du présent paragraphe, comprendrait une somme du fait que la société a émis une action de son capital-actions après le 16 novembre 2005 est diminuée de celle des sommes ci-après qui est applicable :

a) si l'émission de l'action ne fait pas suite à l'exercice d'une option, l'excédent de la juste valeur marchande de l'action au moment de son émission sur celle des sommes ci-après qui est applicable :

(i) si l'opération dans le cadre de laquelle l'action est émise est visée aux articles 85, 85.1 ou 138, la

applies, the amount determined under that section to be the cost to the issuing corporation of the property acquired in consideration for issuing the share, or

(ii) in any other case, the amount of the consideration that is the fair market value of the property transferred or issued to, or the services provided to, the issuing corporation for issuing the share; and

(b) if the issuance of the share is a consequence of the exercise of an option, the amount, if any, by which the fair market value of the share at the particular time exceeds the amount paid, pursuant to the terms of the option, by the holder to the issuing taxpayer for issuing the share.

somme qui, selon l'article en cause, correspond au coût, pour la société émettrice, du bien acquis en contrepartie de l'émission de l'action,

(ii) dans les autres cas, le montant de la contrepartie qui correspond à la juste valeur marchande du bien qui a été transféré à la société émettrice, ou émis en sa faveur, ou des services qui lui ont été fournis, pour avoir émis l'action;

b) si l'émission de l'action fait suite à l'exercice d'une option, l'excédent de la juste valeur marchande de l'action au moment de son émission sur la somme que le détenteur a versée au contribuable émetteur, conformément aux conditions de l'option, pour avoir émis l'action.

Non-corporate interests — limitation

(4) In computing a taxpayer's (other than a corporation's) income, taxable income or tax payable or an amount considered to have been paid on account of the taxpayer's tax payable, an expenditure of the taxpayer that would — if this Act were read without reference to this subsection — include an amount because of the taxpayer having issued an interest, or because of an interest being created, in itself at any particular time on or after November 17, 2005 is reduced by

(a) if the issuance or creation of the interest is not a consequence of the exercise of an option, the amount, if any, by which the fair market value of the interest at the particular time exceeds

(i) if the transaction under which the interest is issued is a transaction to which paragraph 70(6)(b) or 73(1.01)(c), subsection 97(2) or section 107.4 or 132.2 applies, the amount determined under that provision to be the cost to the taxpayer of the property acquired for the interest, or

(ii) in any other case, the amount of the consideration that is the fair market value of the property transferred or issued to, or the services provided to, the taxpayer for the interest; and

(b) if the issuance or creation of the interest is a consequence of the exercise of an option, the amount, if any, by which the fair market value of the interest at the particular time exceeds the amount paid, pursuant to the terms of the option, by the holder to the taxpayer for the interest.

Participations d'entités non constituées — restriction

(4) Pour le calcul du revenu, du revenu imposable ou de l'impôt à payer d'un contribuable (sauf une société), ou d'une somme considérée comme payée au titre de son impôt à payer, la dépense du contribuable qui, en l'absence du présent paragraphe, comprendrait une somme en raison de l'émission par le contribuable d'une de ses propres participations, ou de la création d'une participation dans lui-même, après le 16 novembre 2005 est diminuée de celle des sommes ci-après qui est applicable :

a) si l'émission ou la création de la participation ne fait pas suite à l'exercice d'une option, l'excédent de la juste valeur marchande de la participation au moment de son émission ou de sa création sur celle des sommes ci-après qui est applicable :

(i) si l'opération dans le cadre de laquelle la participation est émise ou créée est visée aux alinéas 70(6)b) ou 73(1.01)c), au paragraphe 97(2) ou aux articles 107.4 ou 132.2, la somme qui, selon la disposition en cause, correspond au coût pour le contribuable du bien acquis contre la participation,

(ii) dans les autres cas, le montant de la contrepartie qui correspond à la juste valeur marchande du bien qui a été transféré au contribuable, ou émis en sa faveur, ou des services qui lui ont été fournis, contre la participation;

b) si l'émission ou la création de la participation fait suite à l'exercice d'une option, l'excédent de la juste valeur marchande de la participation au moment de son émission ou de sa création sur la somme que le détenteur a versée au contribuable, conformément aux conditions de l'option, contre la participation.

Clarification

(5) For greater certainty,

Précisions

(5) Il est entendu :

(a) subsection (2) does not apply to reduce an expenditure that is a commission, fee or other amount for services rendered by a person as a salesperson, agent or dealer in securities in the course of the issuance of an option;

(b) subsections (3) and (4) do not apply to reduce an expenditure of a taxpayer to the extent that the expenditure does not include an amount determined to be an excess under those subsections;

(c) this section does not apply to determine the cost or capital cost of property determined under subsection 70(6), section 73, 85 or 85.1, subsection 97(2) or section 107.4, 132.2 or 138; and

(d) this section does not apply to determine the amount of a taxpayer's expenditure if the amount of the expenditure as determined under section 69 is less than the amount that would, if this subsection were read without reference to this paragraph, be the amount of the expenditure as determined under this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 294.

a) que le paragraphe (2) n'a pas pour effet de réduire les dépenses qui sont des commissions, honoraires ou autres sommes au titre de services rendus par une personne en tant que vendeur, mandataire ou courtier en valeurs dans le cadre de l'émission d'une option;

b) que les paragraphes (3) et (4) n'ont pas pour effet de réduire les dépenses d'un contribuable dans la mesure où elles ne comportent pas de sommes correspondant aux excédents déterminés selon ces paragraphes;

c) que le coût ou le coût en capital d'un bien, déterminé selon le paragraphe 70(6), les articles 73, 85 ou 85.1, le paragraphe 97(2) ou les articles 107.4, 132.2 ou 138, est déterminé compte non tenu du présent article;

d) que le montant d'une dépense d'un contribuable est déterminé compte non tenu du présent article si le montant de la dépense, déterminé selon l'article 69, est inférieur à celui qui serait déterminé selon le présent article en l'absence du présent alinéa.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 294.

Expenditure — Limit for Contingent Amount

Definitions

143.4 (1) The following definitions apply in this section.

contingent amount, of a taxpayer at any time (other than a time at which the taxpayer is a bankrupt), includes an amount to the extent that the taxpayer, or another taxpayer that does not deal at arm's length with the taxpayer, has a right to reduce the amount at that time. (*montant éventuel*)

expenditure, of a taxpayer, means an expense, expenditure or outlay made or incurred by the taxpayer, or a cost or capital cost of property acquired by the taxpayer. (*dépense*)

right to reduce means a right to reduce or eliminate an amount in respect of an expenditure at any time, including, for greater certainty, a right to reduce that is contingent upon the occurrence of an event, or in any other way contingent, if it is reasonable to conclude, having regard to all the circumstances, that the right will become exercisable. (*droit de réduire*)

taxpayer includes a partnership. (*contribuable*)

Dépenses — limite relative à un montant éventuel

Définitions

143.4 (1) Les définitions qui suivent s'appliquent au présent article.

contribuable Y sont assimilées les sociétés de personnes. (*taxpayer*)

dépense Dépense engagée ou effectuée par un contribuable, ou coût ou coût en capital d'un bien qu'il a acquis. (*expenditure*)

droit de réduire Le droit de réduire ou d'éliminer une somme relative à une dépense, étant entendu que ce droit comprend un droit de réduire qui dépend de la survenance d'un événement, ou de toute autre chose, s'il est raisonnable de conclure, compte tenu des circonstances, que le droit pourra être exercé. (*right to reduce*)

montant éventuel Le montant éventuel d'un contribuable à un moment donné, sauf un moment où il est un failli, comprend une somme que le contribuable, ou un autre contribuable avec lequel il a un lien de dépendance, a le droit de réduire en tout ou en partie à ce moment. (*contingent amount*)

Limitation of amount of expenditure

(2) For the purposes of this Act, if in a taxation year of a taxpayer an expenditure of the taxpayer occurs, the amount of the expenditure at any time is the lesser of

(a) the amount of the expenditure at the time calculated under this Act without reference to this section, and

(b) the least amount of the expenditure calculated by reducing the amount of the expenditure determined under paragraph (a) by the amount that is the amount, if any, by which

(i) the total of all amounts each of which is a contingent amount of the taxpayer in the year in respect of the expenditure

exceeds

(ii) the total of all amounts each of which is

(A) an amount paid by the taxpayer to obtain a right to reduce an amount in respect of the expenditure, or

(B) a limited-recourse amount for the purposes of paragraph 143.2(6)(b) that reduces the expenditure under subsection 143.2(6) to the extent that the amount is also a contingent amount described in subparagraph (i) in respect of the expenditure.

Payment of contingent amount

(3) For the purposes of this Act, if in a particular taxation year, a taxpayer pays all or a portion of a contingent amount referred to in paragraph (2)(b) that reduces the amount of the taxpayer's expenditure referred to in paragraph (2)(a), the portion of the contingent amount paid by the taxpayer in the particular year for the purpose of earning income, and to that extent only, is deemed

(a) to have been incurred by the taxpayer in the particular year;

(b) to have been incurred for the same purpose and to have the same character as the expenditure so reduced; and

(c) to have become payable by the taxpayer in respect of the particular year.

Subsequent years

(4) Subject to subsection (6), if at any time in a taxation year that is after a taxation year in which an expenditure of the taxpayer occurred, the taxpayer, or another

Limitation du montant de la dépense

(2) Pour l'application de la présente loi, si une dépense d'un contribuable se produit au cours d'une année d'imposition de celui-ci, le montant de la dépense à un moment donné correspond à la moins élevée des sommes suivantes :

a) le montant de la dépense à ce moment, calculé selon la présente loi, compte non tenu du présent article;

b) le montant le moins élevé de la dépense, obtenu par la soustraction, du montant de la dépense déterminé selon l'alinéa a), de l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le total des sommes représentant chacune un montant éventuel du contribuable au cours de l'année relativement à la dépense,

(ii) le total des sommes représentant chacune :

(A) une somme payée par le contribuable afin d'obtenir le droit de réduire une somme relative à la dépense,

(B) un montant à recours limité pour l'application de l'alinéa 143.2(6)b) qui réduit la dépense en vertu du paragraphe 143.2(6) dans la mesure où il constitue également un montant éventuel visé au sous-alinéa (i) relativement à la dépense.

Paiement d'un montant éventuel

(3) Pour l'application de la présente loi, si un contribuable paie, au cours d'une année d'imposition donnée, la totalité ou une partie d'un montant éventuel visé à l'alinéa (2)b) qui est appliqué en réduction du montant de sa dépense visé à l'alinéa (2)a), la partie du montant éventuel que le contribuable a payée au cours de cette année en vue de gagner un revenu, et seulement cette partie, est réputée, à la fois :

a) avoir été engagée par le contribuable au cours de l'année donnée;

b) avoir été engagée dans le même but et avoir la même qualité que la dépense ainsi réduite;

c) être devenue à payer par le contribuable pour l'année donnée.

Années postérieures

(4) Sous réserve du paragraphe (6), si, à un moment d'une année d'imposition qui est postérieure à celle au cours de laquelle une dépense du contribuable s'est

taxpayer not dealing at arm's length with the taxpayer, has a right to reduce an amount in respect of the expenditure (in this subsection and subsection (5) referred to as the "prior expenditure") that would, if the taxpayer or the other taxpayer had had the right to reduce in a particular taxation year that ended before the time, have resulted in subsection (2) applying in the particular taxation year to reduce or eliminate the amount of the prior expenditure, the taxpayer's subsequent contingent amount in respect of the prior expenditure, as determined under subsection (5), is deemed, to the extent subsection (2) and this subsection have not previously applied in respect of the expenditure,

(a) to be an amount received by the taxpayer at the time in the course of earning income from a business or property from a person described in subparagraph 12(1)(x)(i); and

(b) to be an amount referred to in subparagraph 12(1)(x)(iv).

Subsequent contingent amount

(5) For the purposes of subsection (4), a taxpayer's subsequent contingent amount in respect of a prior expenditure of the taxpayer is the amount, if any, by which

(a) the maximum amount by which the amount (in this subsection referred to as the "particular amount") in respect of the prior expenditure may be reduced pursuant to a right to reduce the particular amount

exceeds

(b) the amount, if any, paid to obtain the right to reduce the particular amount.

Anti-avoidance

(6) If a taxpayer, or another taxpayer that does not deal at arm's length with the taxpayer, has a right to reduce an amount in respect of an expenditure of the taxpayer in a taxation year that is after the taxation year in which the expenditure otherwise occurred, determined without reference to subsection (3), the taxpayer is deemed to have the right to reduce in the taxation year in which that expenditure otherwise occurred if it is reasonable to conclude having regard to all the circumstances that one of the purposes for having the right to reduce after the end of the year in which the expenditure otherwise occurred was to avoid the application of subsection (2) to the amount of the expenditure.

produite, le contribuable, ou un autre contribuable avec lequel il a un lien de dépendance, a le droit de réduire une somme relative à la dépense (appelée « dépense antérieure » au présent paragraphe et au paragraphe (5)) qui, si le contribuable ou l'autre contribuable avait eu ce droit au cours d'une année d'imposition donnée ayant pris fin avant ce moment, aurait fait en sorte que le paragraphe (2) s'applique au cours de cette année de façon à réduire ou à éliminer le montant de la dépense antérieure, le montant éventuel subséquent du contribuable relativement à cette dépense, déterminé selon le paragraphe (5), est réputé, dans la mesure où le paragraphe (2) et le présent paragraphe ne se sont pas déjà appliqués relativement à la dépense :

a) d'une part, être une somme qu'il a reçue à ce moment pendant qu'il tirait un revenu d'une entreprise ou d'un bien d'une personne visée au sous-alinéa 12(1)x)(i);

b) d'autre part, être une somme visée au sous-alinéa 12(1)x)(iv).

Montant éventuel subséquent

(5) Pour l'application du paragraphe (4), le montant éventuel subséquent d'un contribuable relativement à une dépense antérieure de celui-ci correspond à l'excédent du montant visé à l'alinéa a) sur la somme visée à l'alinéa b) :

a) le montant maximal qui, en raison d'un droit de réduire une somme relative à la dépense antérieure, peut être appliqué en réduction de cette somme;

b) la somme payée en vue d'obtenir le droit de réduire la somme relative à la dépense antérieure.

Anti-évitement

(6) Si un contribuable, ou un autre contribuable avec lequel il a un lien de dépendance, a le droit de réduire une somme relative à une dépense du contribuable au cours d'une année d'imposition qui est postérieure à celle au cours de laquelle la dépense s'est produite par ailleurs, déterminée compte non tenu du paragraphe (3), le contribuable est réputé avoir le droit de réduire la somme au cours de l'année d'imposition dans laquelle cette dépense s'est produite par ailleurs s'il est raisonnable de conclure, compte tenu des circonstances, que l'une des raisons pour lesquelles il avait le droit de réduire la somme après la fin de l'année dans laquelle la dépense s'est produite par ailleurs était de soustraire le montant de la dépense à l'application du paragraphe (2).

Assessments

(7) Notwithstanding subsections 152(4) to (5), such assessments, determinations and redeterminations may be made as are necessary to give effect to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 295.

Cotisations

(7) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations voulues et déterminer ou déterminer de nouveau les sommes voulues pour l'application du présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 295.

DIVISION G

Deferred and Other Special Income Arrangements

Employees Profit Sharing Plans

Definitions

144 (1) The definitions in this subsection apply in this section.

employees profit sharing plan at a particular time means an arrangement

(a) under which payments computed by reference to

(i) an employer's profits from the employer's business,

(ii) the profits from the business of a corporation with which the employer does not deal at arm's length, or

(iii) any combination of the amounts described in subparagraphs 144(1) employees profit sharing plan (a)(i) and 144(1) employees profit sharing plan (a)(ii)

are required to be made by the employer to a trustee under the arrangement for the benefit of employees of the employer or of a corporation with which the employer does not deal at arm's length; and

(b) in respect of which the trustee has, since the later of the beginning of the arrangement and the end of 1949, allocated, either contingently or absolutely, to those employees

(i) in each year that ended at or before the particular time, all amounts received in the year by the trustee from the employer or from a corporation with which the employer does not deal at arm's length,

SECTION G

Régimes de participation différée et autres arrangements spéciaux relatifs aux revenus

Régimes de participation des employés aux bénéfices

Définitions

144 (1) Les définitions qui suivent s'appliquent au présent article.

fraction inutilisée du solde des gains en capital exonérés Quant à une fiducie régie par un régime de participation des employés aux bénéfices et relativement à une année d'imposition d'un bénéficiaire de la fiducie :

a) si l'année se termine avant 2005, l'excédent éventuel du solde des gains en capital exonérés (cette expression s'entendant, au présent alinéa, au sens du paragraphe 39.1(1)) du bénéficiaire relativement à la fiducie pour l'année sur le total des montants représentant chacun un montant qui, par l'effet de l'article 39.1 et pour l'année, est appliqué en réduction d'un gain en capital, en raison du solde des gains en capital exonérés du bénéficiaire relativement à la fiducie;

b) si l'année se termine après 2004, l'excédent éventuel du montant qui représenterait le solde des gains en capital exonérés du bénéficiaire relativement à la fiducie pour l'année s'il n'était pas tenu compte du passage « qui se termine avant 2005 » dans la définition de ***solde des gains en capital exonérés*** au paragraphe 39.1(1), sur l'un des montants suivants :

(i) en cas de disposition d'une participation ou d'une partie d'une participation du bénéficiaire dans la fiducie après l'année d'imposition 2004 bénéficiaire (sauf une disposition qui fait partie d'une opération visée à l'alinéa (7.1)c) dans le cadre de laquelle un bien est reçu en règlement de la totalité ou d'une partie des participations du bénéficiaire dans la fiducie), le total des montants représentant chacun un montant ajouté, par l'effet de l'alinéa

(ii) in each year that ended at or before the particular time, all profits for the year from the property of the trust (determined without regard to any capital gain made by the trust or capital loss sustained by it at any time after 1955),

(iii) in each year that ended after 1971 and at or before the particular time, all capital gains and capital losses of the trust for the year,

(iv) in each year that ended after 1971, before 1993 and at or before the particular time, 100/15 of the total of all amounts each of which is deemed by subsection 144(9) to be paid on account of tax under this Part in respect of an employee because the employee ceased to be a beneficiary under the plan in the year, and

(v) in each year that ended after 1991 and at or before the particular time, the total of all amounts each of which is an amount that may be deducted under subsection 144(9) in computing the employee's income because the employee ceased to be a beneficiary under the plan in the year. (*régime de participation des employés aux bénéfices*)

unused portion of a beneficiary's exempt capital gains balance in respect of a trust governed by an employees profit sharing plan, at any particular time in a taxation year of the beneficiary, means

(a) where the year ends before 2005, the amount, if any, by which the beneficiary's exempt capital gains balance (in this paragraph having the same meaning as in subsection 39.1(1)) in respect of the trust for the year exceeds the total of all amounts each of which is an amount by which a capital gain is reduced under section 39.1 in the year because of the beneficiary's exempt capital gains balance in respect of the trust; or

(b) where the year ends after 2004, the amount, if any, by which

(i) the amount, if any, that would, if the definition ***exempt capital gains balance*** in subsection 39.1(1) were read without reference to "that ends before 2005", be the beneficiary's exempt capital gains balance in respect of the trust for the year

exceeds

(ii) where there has been a disposition of an interest or a part of an interest of the beneficiary in the trust after the beneficiary's 2004 taxation year (other than a disposition that is a part of a transaction described in paragraph 144(7.1)(c) in which property is received in satisfaction of all or a portion of the 53(1)p), au prix de base rajusté d'une participation ou d'une partie d'une participation dont le bénéficiaire a disposé (sauf une participation ou une partie de participation qui constitue la totalité ou une partie des participations du bénéficiaire visée à l'alinéa (7.1)c)),

(ii) dans les autres cas, zéro. (*unused portion of a beneficiary's exempt capital gains balance*)

régime de participation des employés aux bénéfices À un moment donné, arrangement dans le cadre duquel, à la fois :

a) un employeur est tenu de faire des versements — calculés en fonction soit des bénéfices qu'il tire de son entreprise, soit des bénéfices tirés de l'entreprise d'une société avec laquelle il a un lien de dépendance, soit d'une combinaison de ces bénéfices — à un fiduciaire dans le cadre de l'arrangement au profit de ses employés ou de ceux d'une société avec laquelle il a un lien de dépendance;

b) le fiduciaire a attribué, conditionnellement ou non, à ces employés, depuis la dernière en date de l'entrée en vigueur de l'arrangement et de la fin de 1949, les montants suivants :

(i) au cours de chaque année terminée au moment donné ou antérieurement, les montants que le fiduciaire a reçus au cours de l'année de l'employeur ou d'une société avec laquelle celui-ci a un lien de dépendance,

(ii) au cours de chaque année terminée au moment donné ou antérieurement, les bénéfices pour l'année tirés des biens de la fiducie, déterminés compte non tenu des gains en capital que la fiducie a réalisés, ou des pertes en capital qu'elle a subies, après 1955,

(iii) au cours de chaque année terminée après 1971 et au moment donné ou antérieurement, les gains en capital et les pertes en capital de la fiducie pour l'année,

(iv) au cours de chaque année terminée après 1971, avant 1993 et au moment donné ou antérieurement, les 100/15 du total des montants représentant chacun un montant réputé par le paragraphe (9) être payé pour un employé au titre de l'impôt prévu par la présente partie du fait qu'il a cessé d'être un bénéficiaire dans le cadre du régime au cours de l'année,

(v) au cours de chaque année terminée après 1991 et au moment donné ou antérieurement, le total des

beneficiary's interests in the trust), the total of all amounts each of which is an amount by which the adjusted cost base of an interest or a part of an interest disposed of by the beneficiary (other than an interest or a part of an interest that is all or a portion of the beneficiary's interests referred to in paragraph 144(7.1)(c)) was increased because of paragraph 53(1)(p), and

(iii) in any other case, nil. (*fraction inutilisée du solde des gains en capital exonérés*)

montants représentant chacun un montant qui peut être déduit en application du paragraphe (9) dans le calcul du revenu de l'employé du fait qu'il a cessé d'être un bénéficiaire dans le cadre du régime au cours de l'année. (*employees profit sharing plan*)

No tax while trust governed by plan

(2) No tax is payable under this Part by a trust on the taxable income of the trust for a taxation year throughout which the trust is governed by an employees profit sharing plan.

Aucun impôt payable

(2) Aucun impôt n'est payable en vertu de la présente partie par une fiducie sur son revenu imposable pour l'année d'imposition tout au long de laquelle elle est régie par un régime de participation des employés aux bénéfices.

Allocation contingent or absolute taxable

(3) There shall be included in computing the income for a taxation year of an employee who is a beneficiary under an employees profit sharing plan each amount that is allocated to the employee contingently or absolutely by the trustee under the plan at any time in the year otherwise than in respect of

(a) a payment made by the employee to the trustee;

(b) a capital gain made by the trust before 1972;

(c) a capital gain of the trust for a taxation year ending after 1971;

(d) a gain made by the trust after 1971 from the disposition of a capital property except to the extent that the gain is a capital gain described in paragraph 144(3)(c); or

(e) a dividend received by the trust from a taxable Canadian corporation.

(f) [Repealed, 1994, c. 21, s. 68(2)]

Imposition d'allocation versée avec ou sans réserve

(3) Est incluse dans le calcul du revenu, pour une année d'imposition, d'un employé qui est bénéficiaire d'un régime de participation des employés aux bénéfices, chaque somme qui lui est attribuée, avec ou sans réserve, par le fiduciaire en vertu du régime, à un moment donné de l'année, sauf en ce qui concerne :

a) un paiement fait par l'employé au fiduciaire;

b) un gain en capital réalisé par la fiducie avant 1972;

c) un gain en capital de la fiducie pour une année d'imposition se terminant après 1971;

d) un gain réalisé par la fiducie après 1971 par suite de la disposition d'une immobilisation, sauf dans la mesure où le gain est un gain en capital visé à l'alinéa c);

e) un dividende reçu d'une société canadienne imposable par la fiducie;

f) [Abrogé, 1994, ch. 21, art. 68(2)]

Allocated capital gains and losses

(4) Each capital gain and capital loss of a trust governed by an employees profit sharing plan from the disposition of any property shall, to the extent that it is allocated by the trust to an employee who is a beneficiary under the plan, be deemed to be a capital gain or capital loss, as the case may be, of the employee from the disposition of that property for the taxation year of the employee in which the allocation was made and, for the purposes of section

Gains et pertes en capital attribués

(4) Chaque gain en capital et chaque perte en capital d'une fiducie régie par un régime de participation des employés aux bénéfices qui résulte de la disposition d'un bien est réputé, dans la mesure où il est attribué par la fiducie à un employé qui est un bénéficiaire en vertu du régime, être un gain en capital ou une perte en capital, selon le cas, de l'employé provenant de la disposition de ce bien pour l'année d'imposition de l'employé au cours de

110.6, the property shall be deemed to have been disposed of by the employee on the day on which it was disposed of by the trust.

Idem

(4.1) Notwithstanding subsection 26(6) of the *Income Tax Application Rules*, where at any time before 1976 the trustee of a trust governed by an employees profit sharing plan so elects in prescribed manner, the trust shall be deemed

(a) to have, on December 31, 1971, disposed of each property owned by the trust on that day for proceeds of disposition equal to the fair market value of the property on that day, and

(b) to have, on January 1, 1972, reacquired each property described in paragraph 144(4.1)(a) for the amount referred to in that paragraph,

if the trustee under the plan has, before 1976, allocated the total of all capital gains and capital losses resulting from the deemed dispositions among the employees or other beneficiaries under the plan to the extent that the trustee under the plan has not previously so allocated them.

Idem

(4.2) Where a trust governed by an employees profit sharing plan

(a) was governed by an employees profit sharing plan on December 31, 1971, and the trustee of the trust has made an election under subsection 144(4.1), or

(b) was not governed by an employees profit sharing plan on December 31, 1971,

the trustee of the trust may, in any taxation year after 1973, elect in prescribed manner and prescribed form to treat any capital property of the trust as having been disposed of, in which event the property shall be deemed to have been disposed of on any day designated by the trustee for proceeds of disposition equal to

(c) the fair market value of the property on that day,

(d) the adjusted cost base to the trust of the property on that day, or

(e) an amount that is neither greater than the greater of the amounts determined under paragraphs 144(4.2)(c) and 144(4.2)(d) nor less than the lesser of the amounts determined under those paragraphs

laquelle l'attribution a été faite. Pour l'application de l'article 110.6, l'employé est réputé avoir disposé du bien le jour où la fiducie en a disposé.

Idem

(4.1) Malgré le paragraphe 26(6) des *Règles concernant l'application de l'impôt sur le revenu*, lorsque, à un moment donné avant 1976, le fiduciaire d'une fiducie régie par un régime de participation des employés aux bénéfices fait un choix en ce sens selon les modalités réglementaires, le fiduciaire en vertu du régime est réputé :

a) avoir disposé, le 31 décembre 1971, de chacun des avoirs que possédait la fiducie à cette date pour un produit de disposition égal à la juste valeur marchande des avoirs à cette date;

b) avoir acquis de nouveau, le 1er janvier 1972, chacun des avoirs visés à l'alinéa a) pour la somme mentionnée à cet alinéa,

à condition que le fiduciaire en vertu du régime ait, avant 1976, distribué le total de tous les gains et de toutes les pertes en capital découlant de cette disposition présumée aux employés ou autres bénéficiaires en vertu du régime, dans la mesure où le fiduciaire en vertu du régime ne les a pas préalablement distribués.

Idem

(4.2) Lorsqu'une fiducie régie par un régime de participation des employés aux bénéfices :

a) était régie par un régime de participation des employés aux bénéfices le 31 décembre 1971 et que le fiduciaire a fait le choix prévu au paragraphe (4.1);

b) n'était pas régie par un régime de participation des employés aux bénéfices le 31 décembre 1971,

le fiduciaire peut, au cours de toute année d'imposition postérieure à 1973, choisir, selon les modalités et le formulaire réglementaires, de considérer une immobilisation quelconque de la fiducie comme ayant fait l'objet d'une disposition, auquel cas l'immobilisation est réputée avoir fait l'objet d'une disposition à la date désignée par le fiduciaire pour un produit de disposition égal :

c) à la juste valeur marchande de l'immobilisation, à cette date;

d) au prix de base rajusté, pour la fiducie, de l'immobilisation, à cette date;

e) à un montant qui n'est ni supérieur au plus élevé de c) et de d) ni inférieur au moins élevé de c) et de d),

whichever is designated by the trustee and to have been reacquired by the trust immediately thereafter at a cost equal to those proceeds.

Employer's contribution to trust deductible

(5) An amount paid by an employer to a trustee under an employees profit sharing plan during a taxation year or within 120 days thereafter may be deducted in computing the employer's income for the taxation year to the extent that it was not deductible in computing income for a previous taxation year.

Beneficiary's receipts deductible

(6) An amount received in a taxation year by a beneficiary from a trustee under an employees profit sharing plan shall not be included in computing the beneficiary's income for the year.

Beneficiary's receipts that are not deductible

(7) Notwithstanding subsection 144(6), such portion of an amount received in a taxation year by a beneficiary from the trustee under an employees profit sharing plan as cannot be established to be attributable to

(a) payments made by the employee to the trustee,

(b) amounts required to be included in computing the income of the employee for that or a previous taxation year,

(c) a capital gain made by the trust before 1972,

(d) a capital gain made by the trust for a taxation year ending after 1971, to the extent allocated by the trust to the beneficiary,

(e) a gain made by the trust after 1971 from the disposition of a capital property, except to the extent that the gain is a capital gain made by the trust for a taxation year ending after 1971,

(f) the portion, if any, of the increase in the value of property transferred to the beneficiary by the trustee that would have been considered to be a capital gain made by the trust in 1971 if the trustee had sold the property on December 31, 1971 for its fair market value at that time, or

(g) a dividend received by the trust from a taxable Canadian corporation other than a dividend described in subsection 83(1), to the extent allocated by the trust to the beneficiary,

au choix du fiduciaire, et avoir été acquise de nouveau par la fiducie immédiatement après, à un coût égal à ce produit.

Les contributions patronales versées à une fiducie sont déductibles

(5) Une somme versée par un employeur à un fiduciaire, en vertu d'un régime de participation des employés aux bénéfices, pendant une année d'imposition ou dans les 120 jours qui suivent, peut être déduite dans le calcul du revenu de l'employeur pour cette année d'imposition, dans la mesure où elle n'était pas déductible dans le calcul du revenu pour une année d'imposition antérieure.

Les sommes reçues par un bénéficiaire sont déductibles

(6) Une somme reçue d'un fiduciaire, par un bénéficiaire, au cours d'une année d'imposition, en vertu d'un régime de participation des employés aux bénéfices n'est pas à inclure dans le calcul du revenu du bénéficiaire pour l'année.

Sommes non déductibles reçues par un bénéficiaire

(7) Malgré le paragraphe (6), la fraction de la somme qu'un bénéficiaire a reçue d'un fiduciaire au cours d'une année d'imposition, en vertu d'un régime de participation des employés aux bénéfices, qui ne peut être considérée comme attribuable :

a) aux versements faits par l'employé au fiduciaire;

b) aux sommes qui doivent être incluses dans le calcul du revenu de l'employé pour l'année d'imposition considérée ou une année d'imposition antérieure;

c) à un gain en capital réalisé par la fiducie avant 1972;

d) à un gain en capital de la fiducie pour une année d'imposition se terminant après 1971, dans la mesure où la fiducie l'attribue au bénéficiaire;

e) à un gain réalisé par la fiducie après 1971 par suite de la disposition d'une immobilisation, sauf dans la mesure où le gain est un gain en capital réalisé par la fiducie pour une année d'imposition se terminant après 1971;

f) à la fraction du montant de l'augmentation de la valeur du bien transféré par le fiduciaire au bénéficiaire qui aurait été considérée comme un gain en capital réalisé par la fiducie en 1971 si le fiduciaire avait vendu le bien le 31 décembre 1971 à un prix égal à sa juste valeur marchande à ce moment;

shall be included in computing the beneficiary's income for the year in which the amount was received, except that in determining the amount of any payments or other things described in any paragraph of this subsection, the amount thereof otherwise determined shall be reduced by such portion of the total of all capital losses of the trust for taxation years ending after 1971 as has been allocated by the trust to the beneficiary and has not been applied to reduce the amount of any payments or other things described in any other paragraph of this subsection.

g) à un dividende, autre qu'un dividende visé au paragraphe 83(1), reçu d'une société canadienne imposable par la fiducie, dans la mesure où celle-ci l'a attribué au bénéficiaire,

doit être incluse dans le calcul du revenu du bénéficiaire pour l'année où la somme a été reçue; toutefois, pour ce qui est de déterminer le montant de tous paiements ou de toutes autres valeurs visés à l'un ou l'autre des alinéas du présent paragraphe, ces paiements ou valeurs, déterminés par ailleurs, doivent être réduits de la fraction du total de toutes les pertes en capital de la fiducie pour les années d'imposition se terminant après 1971 que celle-ci a attribuées au bénéficiaire et qui n'ont pas servi à réduire le montant de paiements ou autres valeurs visés à tout autre alinéa du présent paragraphe.

Where property other than money received by beneficiary

(7.1) Where, at any particular time in a taxation year of a trust governed by an employees profit sharing plan, an amount was received by a beneficiary from the trustee under the plan and the amount so received was property other than money, the following rules apply in respect of each such property so received by the beneficiary at the particular time:

(a) the amount that was the cost amount to the trust of the property immediately before the particular time shall be deemed to be the trust's proceeds of disposition of the property;

(b) that proportion of

(i) such portion of the amount received by the beneficiary as can be established to be attributable to the payments or other things described in paragraphs 144(7)(a) to 144(7)(g) (on the assumption that the amount of any payments or other things described in any such paragraph is the amount thereof determined as provided in subsection 144(7))

that

(ii) the cost amount to the trust of the property immediately before the particular time

is of

(iii) the cost amounts to the trust of all properties, other than money, so received by the beneficiary at the particular time,

is subject to paragraph 144(7.1)(c), deemed to be

(iv) the cost to the beneficiary of the property, and

Cas où un bénéficiaire a reçu des biens autres que de l'argent

(7.1) Lorsque, à un moment donné d'une année d'imposition d'une fiducie régie par un régime de participation des employés aux bénéfices, un bénéficiaire a reçu un montant du fiduciaire en vertu du régime et que le montant ainsi reçu était constitué de biens autres que de l'argent, les règles suivantes s'appliquent à l'égard de chacun de ces biens qu'il a ainsi reçu au moment donné :

a) le montant que représentait le coût indiqué du bien, pour la fiducie, immédiatement avant le moment donné est réputé être le produit que la fiducie a tiré d'une disposition de ce bien;

b) le produit de la multiplication :

(i) de la partie du montant reçu par le bénéficiaire, qu'il est possible de rattacher aux paiements ou autres valeurs visés aux alinéas (7)a) à g) (à supposer que le montant de tous paiements ou de toutes autres valeurs visés à l'un de ces alinéas soit le montant de tous paiements ou de toutes autres valeurs déterminés de la façon prévue au paragraphe (7)),

par le rapport entre :

(ii) d'une part, le coût indiqué du bien, pour la fiducie, immédiatement avant le moment donné,

(iii) d'autre part, le coût indiqué, pour la fiducie, de tous les biens, autres que de l'argent, ainsi reçus par le bénéficiaire au moment donné,

est sous réserve de l'alinéa c), réputé être :

(iv) le coût du bien, pour le bénéficiaire,

(v) for the purposes of subsection 144(7) but not for the purposes of this subsection, the amount so received by the beneficiary by virtue of the receipt by the beneficiary of the property; and

(c) where a particular property received is all or a portion of property received in satisfaction of all or a portion of the beneficiary's interests in the trust and the beneficiary files with the Minister on or before the beneficiary's filing-due date for the taxation year that includes the particular time an election in respect of the particular property in prescribed form, there shall be included in the cost to the beneficiary of the particular property determined under paragraph 144(7.1)(b) the least of

(i) the amount, if any, by which the unused portion of the beneficiary's exempt capital gains balance in respect of the trust at the particular time exceeds the total of all amounts each of which is an amount included because of this paragraph in the cost to the beneficiary of another property received by the beneficiary at or before the particular time in the year,

(ii) the amount, if any, by which the fair market value of the particular property at the particular time exceeds the amount deemed by subparagraph 144(7.1)(b)(iv) to be the cost to the beneficiary of the particular property, and

(iii) the amount designated in the election in respect of the particular property.

(v) pour l'application du paragraphe (7), mais non pour celle du présent paragraphe, le montant ainsi reçu par le bénéficiaire en raison du fait qu'il a reçu le bien;

c) lorsqu'un des biens reçus constitue la totalité ou une partie des biens reçus en règlement de la totalité ou d'une partie des participations du bénéficiaire dans la fiducie et que le bénéficiaire présente au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition qui comprend le moment donné, un choix concernant le bien sur le formulaire prescrit, le moins élevé des montants suivants est à inclure dans le coût du bien pour le bénéficiaire, déterminé selon l'alinéa b):

(i) l'excédent éventuel de la fraction inutilisée du solde des gains en capital exonérés du bénéficiaire relativement à la fiducie au moment donné sur le total des montants représentant chacun un montant inclus, par l'effet du présent alinéa, dans le coût, pour le bénéficiaire, d'un autre bien qu'il a reçu au moment donné ou à un moment antérieur de l'année,

(ii) l'excédent éventuel de la juste valeur marchande du bien au moment donné sur le montant qui est réputé par le sous-alinéa b)(iv) être le coût du bien pour le bénéficiaire,

(iii) le montant indiqué au titre du bien dans le formulaire concernant le choix.

Allocation of credit for dividends

(8) Where there has been included in computing the income of a trust for a taxation year during which the trust was governed by an employees profit sharing plan taxable dividends from taxable Canadian corporations and there has been allocated by the trustee under the plan for the purposes of this subsection an amount for the year to one or more of the employees who are beneficiaries under the plan, which amount or the total of which amounts does not exceed the amount of the taxable dividends so included, each of the employees who are beneficiaries under the plan shall be deemed to have received a taxable dividend from a taxable Canadian corporation equal to the lesser of

(a) the amount, if any, that would be included in computing the employee's income for the year by virtue of this section, if this section were read without reference to paragraph 144(3)(e), and

(b) the amount, if any, so allocated for the purposes of this subsection to the employee.

Attribution de dégrèvements pour dividendes

(8) Lorsque des dividendes imposables de sociétés canadiennes imposables ont été inclus dans le calcul du revenu d'une fiducie pour une année d'imposition au cours de laquelle la fiducie était régie par un régime de participation des employés aux bénéfices et qu'il a été attribué par le fiduciaire en vertu du régime, pour l'application du présent paragraphe, une somme pour l'année à un ou plusieurs des employés qui sont bénéficiaires en vertu du régime, laquelle somme ou lesquelles sommes n'excèdent pas au total le montant des dividendes imposables ainsi inclus, chacun des employés qui est bénéficiaire en vertu du régime est réputé avoir reçu d'une société canadienne imposable un dividende imposable égal au moins élevé des montants suivants :

a) la somme qui serait incluse dans le calcul de son revenu pour l'année en vertu du présent article, compte non tenu de l'alinéa (3)e);

b) la somme qui lui a été ainsi attribuée pour l'application du présent paragraphe.

Foreign tax deduction

(8.1) For the purpose of subsection 126(1), the following rules apply:

(a) such portion of the income for a taxation year of a trust governed by an employees profit sharing plan from sources (other than businesses carried on by it) in a foreign country as

(i) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the plan) to be part of

(A) the income that, by virtue of subsection 144(3), was included in computing the income for a taxation year of a particular employee who was a beneficiary under the plan, or

(B) the amount, if any, by which

(I) the total of amounts each of which is a capital gain of the trust that, by virtue of subsection 144(4), was deemed to be a capital gain of the particular employee for a taxation year

exceeds

(II) the total of amounts each of which is a capital loss of the trust that, by virtue of subsection 144(4), was deemed to be a capital loss of the particular employee for the taxation year, and

(ii) was not designated by the trust in respect of any other employee who was a beneficiary under the plan,

shall if so designated by the trust in respect of the particular employee in its return of income for the year under this Part, be deemed to be income of the particular employee for the taxation year from sources in that country; and

(b) an employee who is a beneficiary under an employees profit sharing plan shall be deemed to have paid as non-business-income tax for a taxation year, on the income that the employee is deemed by paragraph 144(8.1)(a) to have for the year from sources in a foreign country, to the government of that country an amount equal to that proportion of the non-business-income tax paid by the trust governed by the plan for the year to the government of that country, or to the government of a state, province or other political subdivision of that country (except such portion of

Déduction d'impôt étranger

(8.1) Pour l'application du paragraphe 126(1), les règles suivantes s'appliquent :

a) la partie du revenu qu'une fiducie régie par un régime de participation des employés aux bénéfices a tiré, au cours d'une année d'imposition, de sources (autres qu'une entreprise exploitée par elle) situées dans un pays étranger :

(i) d'une part, qu'il est raisonnable de considérer (compte tenu des circonstances, y compris les modalités du régime) comme faisant partie :

(A) soit du revenu qui, en vertu du paragraphe (3), a été inclus dans le calcul du revenu, pour une année d'imposition, d'un employé donné qui a été bénéficiaire en vertu du régime,

(B) soit de l'excédent éventuel du total visé à la subdivision (I) sur le total visé à la subdivision (II):

(I) le total des sommes dont chacune est un gain en capital de la fiducie qui, en vertu du paragraphe (4), était réputé être un gain en capital de l'employé donné pour une année d'imposition,

(II) le total des sommes dont chacune est une perte en capital de la fiducie qui, en vertu du paragraphe (4), était réputée être une perte en capital de l'employé donné pour l'année d'imposition,

(ii) d'autre part, qui n'a été attribuée par la fiducie à aucun autre employé qui était bénéficiaire en vertu du régime,

est si la fiducie l'a ainsi attribuée à l'employé donné dans sa déclaration de revenu produite pour l'année, en vertu de la présente partie, réputée être le revenu que l'employé donné a tiré, au cours de l'année d'imposition, de sources situées dans ce pays;

b) un employé qui est bénéficiaire en vertu d'un régime de participation des employés aux bénéfices est réputé avoir payé, pour une année d'imposition, à titre d'impôt sur le revenu ne provenant pas d'une entreprise, sur le revenu qu'il est réputé selon l'alinéa a) avoir tiré au cours de l'année de sources situées dans un pays étranger, au gouvernement de ce pays, une somme égale à la fraction de l'impôt sur le revenu ne provenant pas d'une entreprise, payé par la fiducie régie par le régime, pour l'année, au gouvernement de ce pays, ou au gouvernement d'un État, d'une province

that tax as was deductible under subsection 20(11) in computing its income for the year) that

(i) the income that the employee is deemed by paragraph 144(8.1)(a) to have for the year from sources in that country

is of

(ii) the income of the trust for the year from sources (other than businesses carried on by it) in that country.

ou de toute autre subdivision politique de ce pays (sauf la partie de cet impôt qui était déductible en vertu du paragraphe 20(11) dans le calcul de son revenu pour l'année), représentée par le rapport existant entre :

(i) d'une part, le revenu que l'employé est réputé, en vertu de l'alinéa a), avoir tiré, pour l'année, de sources situées dans ce pays,

(ii) d'autre part, le revenu de la fiducie, pour l'année, tiré de sources (autres qu'une entreprise exploitée par elle) dans ce pays.

(8.2) [Repealed, 1994, c. 21, s. 68(3)]

(8.2) [Abrogé, 1994, ch. 21, art. 68(3)]

Deduction for forfeited amounts

(9) Where a person ceases at any time in a taxation year to be a beneficiary under an employees profit sharing plan and does not become a beneficiary under the plan after that time and in the year, there may be deducted in computing the person's income for the year the amount determined by the formula

A - B - C/4 - D

where

A is the total of all amounts each of which is an amount included in computing the person's income for the year or a preceding taxation year (other than an amount received before that time under the plan or an amount under the plan that the person is entitled at that time to receive) because of an allocation (other than an allocation to which subsection 144(4) applies) to the person made contingently under the plan before that time;

B is the portion, if any, of the value of A that is included in the value of A because of paragraph 82(1)(b);

C is the total of all taxable dividends deemed to be received by the person because of allocations under subsection 144(8) in respect of the plan; and

D is the total of all amounts deductible under this subsection in computing the person's income for a preceding taxation year because the person ceased to be a beneficiary under the plan in a preceding taxation year.

Déduction pour montants perdus

(9) La personne qui cesse, à un moment donné au cours d'une année d'imposition, d'être bénéficiaire en vertu d'un régime de participation des employés aux bénéfices et n'en redevient pas bénéficiaire durant l'année peut déduire, dans le calcul de son revenu pour l'année, le montant déterminé selon la formule suivante :

A - B - C/4 - D

où :

A représente le total des montants inclus dans le calcul du revenu de la personne pour l'année et les années d'imposition antérieures (sauf un montant reçu dans le cadre du régime avant le moment donné ou un montant auquel la personne a droit dans ce cadre à ce moment) en raison d'une attribution conditionnelle, sauf une attribution visée au paragraphe (4), effectuée au profit de la personne dans le cadre du régime avant le moment donné;

B la partie éventuelle du montant qui est inclus à l'élément A en raison de l'alinéa 82(1)b);

C le total des dividendes imposables que la personne est réputée avoir reçus en raison d'une attribution effectuée en vertu du paragraphe (8) dans le cadre du régime;

D le total des montants qui sont déductibles en application du présent paragraphe dans le calcul du revenu de la personne pour une année d'imposition antérieure du fait que cette dernière a cessé d'être un bénéficiaire dans le cadre du régime au cours d'une année d'imposition antérieure.

Payments out of profits

(10) Where the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments shall be made "out of profits", the arrangement shall, if the employer so elects in prescribed

Versements sur les bénéfices

(10) Pour l'application du paragraphe (1), lorsque les modalités d'un arrangement en vertu duquel un employeur fait des versements à un fiduciaire prévoient expressément que les versements sont à faire « sur les

manner, be deemed, for the purpose of subsection 144(1), to be an arrangement under which payments computed by reference to the employer's profits are required.

Taxation year of trust

(11) Where an employees profit sharing plan is accepted for registration by the Minister as a deferred profit sharing plan, the taxation year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 147(5).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 144; 1994, c. 21, s. 68; 1995, c. 3, s. 42; 1998, c. 19, s. 169.

Employee Life and Health Trust

Definitions

144.1 (1) The following definitions apply in this section.

actuary means a Fellow of the Canadian Institute of Actuaries. (*actuaire*)

class of beneficiaries of a trust means a group of beneficiaries who have identical rights or interests under the trust. (*catégorie de bénéficiaires*)

designated employee benefit means a benefit from a group sickness or accident insurance plan, a group term life insurance policy or a private health services plan. (*prestation désignée*)

employee means a current or former employee of an employer and includes an individual in respect of whom the employer has assumed responsibility for the provision of designated employee benefits as a result of the acquisition by the employer of a business in which the individual was employed. (*employé*)

key employee, of an employer in respect of a taxation year, means an employee who

(a) was at any time in the taxation year or in a preceding taxation year, a specified employee of the employer; or

(b) was an employee whose employment income from the employer in any two of the five taxation years preceding the year exceeded five times the Year's

bénéfices », l'arrangement est réputé, si l'employeur fait un choix en ce sens selon les modalités réglementaires, constituer un arrangement dans le cadre duquel des versements calculés en fonction des bénéfices de l'employeur sont à faire.

Année d'imposition d'une fiducie

(11) Lorsqu'un régime de participation des employés aux bénéfices est accepté par le ministre aux fins d'agrément à titre de régime de participation différée aux bénéfices, l'année d'imposition de la fiducie assujettie au régime de participation des employés aux bénéfices est réputée avoir pris fin immédiatement avant que le régime soit réputé avoir été agréé comme régime de participation différée aux bénéfices, en conformité avec le paragraphe 147(5).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 144; 1994, ch. 21, art. 68; 1995, ch. 3, art. 42; 1998, ch. 19, art. 169.

Fiducie de soins de santé au bénéfice d'employés

Définitions

144.1 (1) Les définitions qui suivent s'appliquent au présent article.

actuaire Fellow de l'Institut canadien des actuaires. (*actuary*)

catégorie de bénéficiaires S'entend, relativement à une fiducie, d'un groupe de bénéficiaires dont les droits sur la fiducie ou les participations dans celle-ci sont identiques. (*class of beneficiaries*)

employé Employé actuel ou ancien d'un employeur, y compris tout particulier à l'égard duquel l'employeur a assumé la responsabilité d'assurer des prestations désignées du fait qu'il a acquis une entreprise dans laquelle le particulier occupait un emploi. (*employee*)

employé clé S'entend, par rapport à un employeur pour une année d'imposition, de tout employé qui, selon le cas :

a) était un employé déterminé de l'employeur au cours de l'année ou d'une année d'imposition antérieure;

b) était un employé dont le revenu d'emploi provenant de l'employeur au cours de deux des cinq années d'imposition précédant l'année dépassait cinq fois le maximum des gains annuels ouvrant droit à pension, au sens de l'article 18 du *Régime de pensions du Canada*, pour l'année civile où le revenu d'emploi a été gagné. (*key employee*)

Maximum Pensionable Earnings (as determined under section 18 of the *Canada Pension Plan*) for the calendar year in which the employment income was earned. (*employé clé*)

prestation désignée Prestation provenant d'une police collective d'assurance temporaire sur la vie, d'un régime d'assurance collective contre la maladie ou les accidents ou d'un régime privé d'assurance-maladie. (*designated employee benefit*)

Employee life and health trust

(2) A trust that is established for employees of one or more employers (each referred to in this subsection as a "participating employer") is an employee life and health trust for a taxation year if, throughout the taxation year, under the terms that govern the trust,

(a) the only purpose of the trust is to provide designated employee benefits to, or for the benefit of, persons described in subparagraphs (d)(i) or (ii); and

(b) on wind-up or reorganization, the property of the trust may only be distributed to

(i) each remaining beneficiary of the trust who is described in subparagraph (d)(i) or (ii) (other than a key employee or an individual who is related to a key employee) on a *pro rata* basis,

(ii) another employee life and health trust, or

(iii) after the death of the last beneficiary described in subparagraph (d)(i) or (ii), Her Majesty in right of Canada or a province;

(c) the trust is required to be resident in Canada, determined without reference to section 94;

(d) the trust may not have any beneficiaries other than persons each of whom is

(i) an employee of a participating employer,

(ii) an individual who, in respect of an employee of a participating employer, is (or, if the employee is deceased, was, at the time of the employee's death)

(A) the spouse or common law partner of the employee, or

(B) related to the employee and either a member of the employee's household or dependent on the employee for support,

(iii) another employee life and health trust, or

(iv) Her Majesty in right of Canada or a province;

(e) the trust contains at least one class of beneficiaries where

Fiducie de soins de santé au bénéfice d'employés

(2) La fiducie qui est établie au bénéfice d'employés d'un ou de plusieurs employeurs (appelés « employeur participant » au présent paragraphe) est une fiducie de soins de santé au bénéfice d'employés pour une année d'imposition si, tout au long de l'année, selon les conditions qui la régissent :

a) le seul objet de la fiducie consiste à assurer des prestations désignées à des personnes visées aux sous-alinéas d)(i) ou (ii) ou à leur profit;

b) au moment de sa liquidation ou de sa réorganisation, les biens de la fiducie ne peuvent être distribués qu'aux personnes suivantes :

(i) chaque bénéficiaire restant de la fiducie qui est visé aux sous-alinéas d)(i) ou (ii) (sauf les employés clés et les particuliers liés à ceux-ci), en proportion de leur participation,

(ii) une autre fiducie de soins de santé au bénéfice d'employés,

(iii) après le décès du dernier bénéficiaire visé aux sous-alinéas d)(i) ou (ii), Sa Majesté du chef du Canada ou d'une province;

c) la fiducie est tenue de résider au Canada, le lieu de résidence étant déterminé compte non tenu de l'article 94;

d) les seuls bénéficiaires de la fiducie sont des personnes dont chacune est :

(i) un employé d'un employeur participant,

(ii) un particulier qui, par rapport à un employé d'un employeur participant, est (ou, l'employé étant décédé, était au moment du décès) :

(A) l'époux ou le conjoint de fait de l'employé,

(B) une personne qui est liée à l'employé et qui habite chez lui ou est à sa charge,

(iii) une autre fiducie de soins de santé au bénéfice d'employés,

(iv) Sa Majesté du chef du Canada ou d'une province;

(i) the members of the class represent at least 25% of all of the beneficiaries of the trust who are employees of the participating employer, and

(ii) at least 75% of the members of the class are not key employees of the participating employer;

(f) the rights under the trust of each key employee of a participating employer are not more advantageous than the rights of a class of beneficiaries described in paragraph (e);

(g) no participating employer, nor any person who does not deal at arm's length with a participating employer, has any rights under the trust as a beneficiary or otherwise, except rights to

(i) designated employee benefits,

(ii) to enforce covenants, warranties or similar provisions regarding

(A) the maintenance of the trust as an employee life and health trust, or

(B) the operation of the trust in a manner that prevents subsection (3) from applying to prohibit the deduction of an amount by the trust under subsection 104(6), or

(iii) prescribed payments;

(h) the trust may not make a loan to, or an investment in, a participating employer or a person or partnership with whom the participating employer does not deal at arm's length;

(i) representatives of one or more participating employers do not constitute the majority of the trustees of the trust or otherwise control the trust.

e) la fiducie compte au moins une catégorie de bénéficiaires qui présente les caractéristiques suivantes :

(i) les membres de la catégorie représentent au moins 25 % de l'ensemble des bénéficiaires de la fiducie qui sont des employés de l'employeur participant,

(ii) au moins 75 % des membres de la catégorie ne sont pas des employés clés de l'employeur participant;

f) les droits dans le cadre de la fiducie de chaque employé clé d'un employeur participant ne sont pas plus avantageux que ceux d'une catégorie de bénéficiaires visée à l'alinéa e);

g) les seuls droits consentis dans le cadre de la fiducie à un employeur participant ou à une personne ayant un lien de dépendance avec tel employeur, à titre de bénéficiaire ou autrement, sont les suivants :

(i) le droit à des prestations désignées,

(ii) le droit d'exiger l'exécution de conventions, de garanties ou de dispositions semblables concernant :

(A) le maintien de la fiducie à titre de fiducie de soins de santé au bénéfice d'employés,

(B) le fonctionnement de la fiducie de manière à éviter que le paragraphe (3) ne s'applique de façon à interdire la déduction par la fiducie d'une somme en application du paragraphe 104(6),

(iii) le droit à des paiements prévus par règlement;

h) il est interdit à la fiducie de faire des placements dans un employeur participant ou dans une personne ou une société de personnes avec laquelle celui-ci a un lien de dépendance ou de lui consentir un prêt;

i) des représentants d'un ou de plusieurs employeurs participants ne constituent pas la majorité des fiduciaires de la fiducie ni ne la contrôlent par ailleurs.

Breach of terms, etc.

(3) No amount may be deducted in a taxation year by an employee life and health trust pursuant to subsection 104(6) if in the taxation year the trust

(a) is not operated in accordance with the terms required by subsection (2) to govern the trust, or

Violation des conditions

(3) Aucune somme n'est déductible au cours d'une année d'imposition par une fiducie de soins de santé au bénéfice d'employés en application du paragraphe 104(6) si la fiducie, au cours de l'année :

a) n'est pas administrée en conformité avec les conditions énoncées au paragraphe (2);

(b) is operated or maintained primarily for the benefit of one or more key employees or their family members described in subparagraph (2)(d)(ii).

b) est administrée ou maintenue principalement au profit d'un ou de plusieurs employés clés ou de membres de leur famille visés au sous-alinéa (2)d)(ii).

Deductibility of employer contributions

(4) In computing the income of an employer,

(a) the employer may deduct for a taxation year the portion of its contributions to an employee life and health trust made in the year that may reasonably be regarded as having been contributed to enable the trust to

(i) pay premiums to an insurance corporation that is licensed to provide insurance under the laws of Canada or a province for insurance coverage for the year or a prior year in respect of designated employee benefits for beneficiaries described in subparagraph (2)(d)(i) or (ii), or

(ii) otherwise provide

(A) group term life insurance as described in clause 18(9)(a)(iii)(B), or

(B) any designated employee benefits payable in the year or a prior year to, or for the benefit of, beneficiaries described in subparagraph (2)(d)(i) or (ii); and

(b) the portion of any contribution made to an employee life and health trust that exceeds the amount deductible under paragraph (a) and that may reasonably be regarded as enabling the trust to provide or pay benefits described in subparagraphs (a)(i) or (ii) in a subsequent taxation year is deductible for that year.

Déductibilité des cotisations patronales

(4) Les règles ci-après s'appliquent au calcul du revenu d'un employeur :

a) l'employeur peut déduire pour une année d'imposition la partie de ses cotisations versées à une fiducie de soins de santé au bénéfice d'employés au cours de l'année qu'il est raisonnable de considérer comme ayant été versée afin de permettre à la fiducie :

(i) soit de verser des primes, à une compagnie d'assurance autorisée à offrir de l'assurance par la législation fédérale ou provinciale, pour de l'assurance pour l'année ou pour une année antérieure relativement à des prestations désignées pour des bénéficiaires visés aux sous-alinéas (2)d)(i) ou (ii),

(ii) soit de fournir par ailleurs, selon le cas :

(A) une assurance-vie collective temporaire visée à la division 18(9)a)(iii)(B),

(B) des prestations désignées payables au cours de l'année ou d'une année antérieure à des bénéficiaires visés aux sous-alinéas (2)d)(i) ou (ii) ou à leur profit;

b) la partie de toute cotisation versée à une fiducie de soins de santé au bénéfice d'employés qui excède la somme déductible en application de l'alinéa a) et qu'il est raisonnable de considérer comme ayant été versée afin de permettre à la fiducie d'offrir ou de verser des prestations visées aux sous-alinéas a)(i) ou (ii) au cours d'une année d'imposition ultérieure est déductible pour cette année.

Actuarial determination

(5) For the purposes of subsection (4), if, in respect of an employer's obligations to fund an employee life and health trust, a report has been prepared by an independent actuary, using accepted actuarial principles and practices, before the time of a contribution by the employer, the portion of the contribution that the report specifies to be the amount that the employee life and health trust is reasonably expected to pay or incur in a taxation year in order to provide designated employee benefits to beneficiaries described in subparagraph (2)(d)(i) or (ii) for a taxation year is, in the absence of evidence to the contrary, presumed to have been contributed to enable the trust to provide those benefits for the year.

Calcul actuariel

(5) Pour l'application du paragraphe (4), si un rapport relatif aux obligations d'un employeur en matière de financement d'une fiducie de soins de santé au bénéfice d'employés a été établi par un actuaire indépendant, selon des principes et normes actuariels reconnus, avant le versement d'une cotisation par l'employeur, la partie de la cotisation qui, selon le rapport, représente la somme que la fiducie devra vraisemblablement payer ou engager au cours d'une année d'imposition afin d'assurer des prestations désignées aux bénéficiaires visés aux sous-alinéas (2)d)(i) ou (ii) pour une année d'imposition est présumée, sauf preuve contraire, avoir été versée afin que la fiducie soit en mesure d'assurer ces prestations pour l'année.

Multi-employer plans

(6) Notwithstanding subsection (4) and paragraph 18(9)(a), an employer may deduct in computing its income for a taxation year the amount that it is required to contribute for the year to an employee life and health trust if the following conditions are met at the time that the contribution is made:

(a) it is reasonable to expect that

(i) at no time in the year will more than 95% of the employees who are beneficiaries of the trust be employed by a single employer or by a related group of employers, and

(ii) at least 15 employers will contribute to the trust in respect of the year or at least 10% of the employees who are beneficiaries of the trust will be employed in the year by more than one participating employer and, for the purpose of this condition, all employers who are related to each other are deemed to be a single employer;

(b) employers contribute to the trust under a collective bargaining agreement and in accordance with a negotiated contribution formula that does not provide for any variation in contributions determined by reference to the financial experience of the trust; and

(c) contributions that are to be made by each employer are determined, in whole or in part, by reference to the number of hours worked by individual employees of the employer or some other measure that is specific to each employee with respect to whom contributions are made to the trust.

Maximum deductible

(7) The amount deducted in a taxation year by an employer in computing its income in respect of contributions made to an employee life and health trust shall not exceed the amount determined by the formula

A – B

where

A is the total of all amounts contributed by the employer to the trust in the year or in a preceding taxation year; and

B is the total of all amounts deducted by the employer in a preceding taxation year in respect of amounts contributed by the employer to the trust.

Régimes interentreprises

(6) Malgré le paragraphe (4) et l'alinéa 18(9)a), un employeur peut déduire dans le calcul de son revenu pour une année d'imposition la somme qu'il est tenu de verser pour l'année à une fiducie de soins de santé au bénéfice d'employés si les conditions ci-après sont réunies au moment du versement de la cotisation :

a) il est raisonnable de s'attendre à ce que :

(i) d'une part, le pourcentage des employés bénéficiaires de la fiducie qui sont employés par un seul employeur ou par un groupe lié d'employeurs ne dépasse 95 % à aucun moment de l'année,

(ii) d'autre part, au moins quinze employeurs cotisent à la fiducie pour l'année ou au moins 10 % des employés bénéficiaires de la fiducie soient employés au cours de l'année par plus d'un employeur participant et, pour l'application de la présente condition, les employeurs liés les uns aux autres sont réputés être un seul et même employeur;

b) les employeurs cotisent à la fiducie aux termes d'une convention collective et conformément à une formule déterminée par négociation qui ne prévoit pas de variation des cotisations en fonction des résultats financiers de la fiducie;

c) les cotisations à verser par chaque employeur sont déterminées en tout ou en partie en fonction du nombre d'heures travaillées par chacun de ses employés ou d'une autre mesure propre à chaque employé à l'égard duquel des cotisations sont versées à la fiducie.

Déduction maximale

(7) La somme qu'un employeur déduit au cours d'une année d'imposition dans le calcul de son revenu au titre de cotisations versées à une fiducie de soins de santé au bénéfice d'employés ne peut excéder la somme obtenue par la formule suivante :

A – B

où :

A représente le total des sommes qu'il a versées à la fiducie au cours de l'année ou d'une année d'imposition antérieure;

B le total des sommes qu'il a déduites au cours d'une année d'imposition antérieure au titre de sommes qu'il a versées à la fiducie.

Employer promissory note

(8) If an employer issues a promissory note or provides other evidence of its indebtedness to an employee life and health trust in respect of its obligation to the trust,

(a) the issuance of the note or the provision of the evidence of indebtedness to the trust is not a contribution to the trust; and

(b) a payment by the employer to the trust in full or partial satisfaction of its liability under the note or the evidence of indebtedness, whether stated to be of principal or interest or any other amount, is deemed to be an employer contribution to the trust that is subject to this section and not a payment of principal or interest on the note or indebtedness.

Billet à ordre d'employeur

(8) Si un employeur émet un billet à ordre en faveur d'une fiducie de soins de santé au bénéfice d'employés, ou fournit une autre preuve de son endettement envers elle, au titre de son obligation envers elle, les règles suivantes s'appliquent :

a) l'émission du billet ou la fourniture de la preuve d'endettement ne constitue pas une cotisation à la fiducie;

b) tout paiement effectué par l'employeur à la fiducie en règlement total ou partiel de son obligation constatée par le billet ou la preuve d'endettement, qu'il s'agisse d'un paiement de principal, d'intérêts ou d'une autre somme, est réputé être une cotisation patronale à la fiducie qui est assujettie au présent article et non un paiement de principal ou d'intérêts sur le billet ou la dette.

Trust status — subsequent times

(9) For the purposes of determining whether an amount is deductible by an employer under subsection (4), if a trust was an employee life and health trust at the time that a promissory note or other evidence of indebtedness referred to in subsection (8) was issued or provided, the trust is deemed to be an employee life and health trust at each time that an employer contribution is deemed to have been made under paragraph (8)(b) in respect of the note or other indebtedness.

Statut de la fiducie — moments subséquents

(9) Lorsqu'il s'agit d'établir si une somme est déductible par un employeur en application du paragraphe (4), la fiducie qui était une fiducie de soins de santé au bénéfice d'employés au moment où un billet à ordre ou une autre preuve d'endettement visé au paragraphe (8) a été émis ou fourni est réputée être une telle fiducie à tout moment où une cotisation patronale est réputée avoir été versée aux termes de l'alinéa (8)b) relativement au billet ou à l'autre preuve d'endettement.

Employee contributions

(10) For the purposes of paragraph 6(1)(f), subsection 6(4) and paragraph 118.2(2)(q), employee contributions to an employee life and health trust, to the extent that they are, and are identified by the trust at the time of contribution as, contributions in respect of a particular designated employee benefit, are deemed to be payments by the employee in respect of the particular designated employee benefit.

Cotisations salariales

(10) Pour l'application de l'alinéa 6(1)f), du paragraphe 6(4) et de l'alinéa 118.2(2)q), les cotisations qu'un employé verse à une fiducie de soins de santé au bénéfice d'employés, dans la mesure où elles se rapportent à une prestation désignée en particulier et sont reconnues comme telles par la fiducie au moment où elles sont versées, sont réputées être des paiements effectués par l'employé relativement à cette prestation.

Income inclusion

(11) If a trust that is, or was, at any time, an employee life and health trust pays an amount as a distribution from the trust to any person in a taxation year, the amount of the distribution shall be included in computing the person's income for the year, except to the extent that the amount is

(a) a payment of a designated employee benefit that is not included in the person's income because of section 6; or

Somme à inclure dans le revenu

(11) Si une fiducie qui est ou était une fiducie de soins de santé au bénéfice d'employés à un moment donné verse une somme à titre de distribution à une personne au cours d'une année d'imposition, le montant de la distribution est inclus dans le calcul du revenu de la personne pour l'année, sauf dans la mesure où il représente, selon le cas :

a) une prestation désignée qui n'est pas incluse dans le revenu de la personne par l'effet de l'article 6;

(b) a distribution to another employee life and health trust that is a beneficiary of the employee life and health trust.

(b) une distribution à une autre fiducie de soins de santé au bénéfice d'employés qui est bénéficiaire de la fiducie en cause.

Deemed separate trusts

(12) Where contributions have been received by an employee life and health trust from more than one employer, the trust is deemed to be a separate trust established in respect of the property held for the benefit of beneficiaries described in subparagraph (2)(d)(i) or (ii) in respect of a particular employer, if

(a) the trustee designates the property to be held in a separate trust for the benefit of those beneficiaries in an election made on or before the filing-due date of the first taxation year of the separate trust described in this subsection; and

(b) under the terms of the trust, contributions from the employer and the income derived from those contributions accrues solely for the benefit of those beneficiaries.

Fiducies réputées distinctes

(12) Lorsque plusieurs employeurs versent des cotisations à une fiducie de soins de santé au bénéfice d'employés, la fiducie est réputée être une fiducie distincte pour ce qui est des biens détenus pour le compte de bénéficiaires visés aux sous-alinéas (2)d)(i) ou (ii) relativement à un employeur donné si, à la fois :

a) le fiduciaire fait un choix afin que les biens soient détenus dans une fiducie distincte pour le compte de ces bénéficiaires, ce choix étant fait dans un document produit au plus tard à la date d'échéance de production pour la première année d'imposition de la fiducie distincte visée au présent paragraphe;

b) selon l'acte de fiducie, les cotisations de l'employeur et le revenu en provenant s'accumulent au seul profit de ces bénéficiaires.

Non-capital losses

(13) No non-capital loss is deductible by an employee life and health trust in computing its taxable income for a taxation year, except as provided by subsections 111(7.3) to (7.5).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts.2010, c. 25, s. 34.

Pertes autres qu'en capital

(13) Aucune perte autre qu'une perte en capital n'est déductible dans le calcul du revenu imposable d'une fiducie de soins de santé au bénéfice d'employés pour une année d'imposition, sauf dans les mesures prévues aux paragraphes 111(7.3) à (7.5).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2010, ch. 25, art. 34.

Registered Supplementary Unemployment Benefit Plans

Definitions

145 (1) In this section,

registered supplementary unemployment benefit plan means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the taxation year under consideration; (*régime enregistré de prestations supplémentaires de chômage*)

supplementary unemployment benefit plan means an arrangement, other than an arrangement in the nature of a superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by an employer to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the employer who are or may be laid off for any temporary or indefinite period. (*régime de prestations supplémentaires de chômage*)

Régimes enregistrés de prestations supplémentaires de chômage

Définitions

145 (1) Les définitions qui suivent s'appliquent au présent article.

régime de prestations supplémentaires de chômage Arrangement, autre qu'un arrangement visant à constituer une caisse ou un régime de retraite ou de pension ou un régime de participation des employés aux bénéfices, en vertu duquel les versements sont faits par un employeur à un fiduciaire à seule fin de verser, à titre périodique, des sommes à des employés ou anciens employés de l'employeur qui sont ou peuvent être licenciés pour une période d'une durée déterminée ou indéterminée. (*supplementary unemployment benefit plan*)

régime enregistré de prestations supplémentaires de chômage Régime de prestations supplémentaires de chômage accepté par le ministre aux fins d'enregistrement pour l'application de la présente loi en ce qui concerne sa création et ses opérations pour l'année

d'imposition considérée. (*registered supplementary unemployment benefit plan*)

No tax while trust governed by plan

(2) No tax is payable under this Part by a trust on the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan.

Exonération d'impôt

(2) Aucun impôt n'est payable en vertu de la présente partie par une fiducie sur son revenu imposable pour une période durant laquelle elle a été régie par un régime enregistré de prestations supplémentaires de chômage.

Amounts received taxable

(3) There shall be included in computing the income of a taxpayer for a taxation year each amount received by the taxpayer under a supplementary unemployment benefit plan from the trustee under the plan at any time in the year.

Imposition des sommes reçues

(3) Est incluse dans le calcul du revenu d'un contribuable, pour une année d'imposition, chaque somme que celui-ci a reçue du fiduciaire, en vertu d'un régime de prestations supplémentaires de chômage, dans le cadre du régime à un moment donné de l'année.

Amounts received on amendment or winding-up of plan

(4) There shall be included in computing the income for a taxation year of a taxpayer who, as an employer, has made any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the taxpayer in the year as a result of an amendment to or modification of the plan or as a result of the termination or winding-up of the plan.

Sommes reçues lors de la modification ou de la liquidation du régime

(4) Est incluse dans le calcul du revenu, pour une année d'imposition d'un contribuable qui, en tant qu'employeur, a effectué des versements à un fiduciaire en vertu d'un régime de prestations supplémentaires de chômage toute somme que le contribuable a reçue au cours de l'année par suite d'une modification apportée au régime ou par suite du fait qu'il a été mis fin au régime ou que ce dernier a été liquidé.

Payments by employer deductible

(5) An amount paid by an employer to a trustee under a registered supplementary unemployment benefit plan during a taxation year or within 30 days thereafter may be deducted in computing the employer's income for the taxation year to the extent that it was not deductible in computing income for a previous taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "145"; 1977-78, c. 1, s. 101(F).

Déductibilité des versements effectués par l'employeur

(5) Une somme versée par un employeur à un fiduciaire dans le cadre d'un régime enregistré de prestations supplémentaires de chômage, au cours d'une année d'imposition ou dans les 30 jours qui suivent, peut être déduite dans le calcul du revenu de l'employeur pour l'année d'imposition, dans la mesure où cette somme n'était pas déductible dans le calcul du revenu pour une année d'imposition antérieure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 145 »; 1977-78, ch. 1, art. 101(F).

Registered Retirement Savings Plans

Definitions

146 (1) In this section,

annuitant means

(a) until such time after maturity of the plan as an individual's spouse or common-law partner becomes entitled, as a consequence of the individual's death, to receive benefits to be paid out of or under the plan, the individual referred to in paragraph (a) or (b) of the definition ***retirement savings plan*** in this subsection

Régimes enregistrés d'épargne-retraite

Définitions

146 (1) Les définitions qui suivent s'appliquent au présent article.

déductions inutilisées au titre des REER Les déductions inutilisées au titre des régimes enregistrés d'épargne-retraite d'un contribuable à la fin d'une année d'imposition, égales :

a) pour les années d'imposition se terminant avant 1991, à zéro;

for whom, under a retirement savings plan, a retirement income is to be provided, and

(b) thereafter, the spouse or common-law partner referred to in paragraph (a); (*rentier*)

benefit includes any amount received out of or under a retirement savings plan other than

(a) the portion thereof received by a person other than the annuitant that can reasonably be regarded as part of the amount included in computing the income of an annuitant by virtue of subsections 146(8.8) and 146(8.9),

(b) an amount received by the person with whom the annuitant has the contract or arrangement described in the definition ***retirement savings plan*** in this subsection as a premium under the plan,

(b.1) an amount in respect of which the annuitant pays a tax under Part XI.01, unless the tax is waived, cancelled or refunded,

(c) an amount, or part thereof, received in respect of the income of the trust under the plan for a taxation year for which the trust was not exempt from tax by virtue of paragraph 146(4)(c), and

(c.1) a tax-paid amount described in paragraph (b) of the definition ***tax-paid amount*** in this subsection that relates to interest or another amount included in computing income otherwise than because of this section

and without restricting the generality of the foregoing includes any amount paid to an annuitant under the plan

(d) in accordance with the terms of the plan,

(e) resulting from an amendment to or modification of the plan, or

(f) resulting from the termination of the plan; (*prestation*)

earned income of a taxpayer for a taxation year means the amount, if any, by which the total of all amounts each of which is

(a) the taxpayer's income (other than an amount described in paragraph 12(1)(z)) for a period in the year throughout which the taxpayer was resident in Canada from

(i) an office or employment, determined without reference to paragraphs 8(1)(c), 8(1)(m) and 8(1)(m.2),

b) pour les années d'imposition se terminant après 1990, le résultat, positif ou négatif, de calcul suivant :

A + B + R - (C + D)

où :

A représente les déductions inutilisées au titre des REER du contribuable à la fin de l'année d'imposition précédente,

B l'excédent éventuel du plafond REER pour l'année ou, s'il est inférieur, du montant correspondant à 18 % du revenu gagné du contribuable pour l'année d'imposition précédente sur le total des montants représentant chacun :

(i) le facteur d'équivalence du contribuable pour l'année d'imposition précédente quant à un employeur,

(ii) le montant prescrit quant au contribuable pour l'année,

C le facteur d'équivalence pour services passés net du contribuable pour l'année,

D le total des sommes représentant chacune :

(i) soit une somme déduite par le contribuable en application de l'un des paragraphes (5) à (5.2) dans le calcul de son revenu pour l'année,

(ii) soit une somme déduite par le contribuable en application du paragraphe 10 de l'article XVIII de la *Convention Canada-États-Unis en matière d'impôts*, signée à Washington le 26 septembre 1980, ou d'une disposition semblable d'un autre traité fiscal, dans le calcul de son revenu imposable pour l'année,

(iii) soit une cotisation versée par un employeur au cours de l'année dans un régime de pension agréé collectif relativement au contribuable,

(iv) soit l'excédent de la cotisation provenant du revenu exonéré, au sens du paragraphe 147.5(1), du contribuable pour l'année sur sa somme inutilisée non déductible au titre des RPAC, au sens du même paragraphe, à la fin de l'année d'imposition précédente,

R le facteur d'équivalence rectifié total du contribuable pour l'année. (*unused RRSP deduction room*)

échéance La date fixée en vertu d'un régime d'épargne-retraite pour le commencement d'un revenu de retraite dont le versement est prévu par ce régime. (*maturity*)

(ii) a business carried on by the taxpayer either alone or as a partner actively engaged in the business, or

(iii) property, where the income is derived from the rental of real or immovable property or from royalties in respect of a work or invention of which the taxpayer was the author or inventor,

(b) an amount included under paragraph 56(1)(b), (c.2), (g) or (o) or subparagraph 56(1)(r)(v) in computing the taxpayer's income for a period in the year throughout which the taxpayer was resident in Canada,

(b.1) an amount received by the taxpayer in the year and at a time when the taxpayer is resident in Canada as, on account of, in lieu of payment of or in satisfaction of, a disability pension under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

(b.2) the taxpayer's qualifying performance income (as defined in subsection 143.1(1)) that is deemed by paragraph 143.1(1.2)(c) to be income of an amateur athlete trust for the year,

(c) the taxpayer's income (other than an amount described in paragraph 12(1)(z)) for a period in the year throughout which the taxpayer was not resident in Canada from

(i) the duties of an office or employment performed by the taxpayer in Canada, determined without reference to paragraphs 8(1)(c), 8(1)(m) and 8(1)(m.2), or

(ii) a business carried on by the taxpayer in Canada, either alone or as a partner actively engaged in the business

except to the extent that the income is exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada, or

(d) in the case of a taxpayer described in subsection 115(2), the total that would be determined under paragraph 115(2)(e) in respect of the taxpayer for the year if

(i) that paragraph were read without reference to subparagraph 115(2)(e)(iv), and

(ii) subparagraph 115(2)(e)(ii) were read without any reference therein to paragraph 56(1)(n),

émetteur La personne visée à la définition de ***régime d'épargne-retraite*** au présent paragraphe et avec laquelle un rentier a conclu un contrat ou un arrangement qui constitue un régime d'épargne-retraite. (*issuer*)

facteur d'équivalence pour services passés net Le montant, positif ou négatif, applicable à un contribuable pour une année d'imposition qui est calculé selon la formule suivante :

P + Q - G

où :

P représente le total des montants correspondant chacun au facteur d'équivalence pour services passés du contribuable pour l'année quant à un employeur;

Q le total des montants correspondant chacun à un montant prescrit quant au contribuable pour l'année;

G le montant des retraits pour l'année — liés au facteur d'équivalence pour services passés du contribuable — calculé à la fin de l'année conformément aux règles établies par règlement. (*net past service pension adjustment*)

maximum déductible au titre des REER Le maximum déductible au titre des régimes enregistrés d'épargne-retraite d'un contribuable, pour une année d'imposition, calculé selon la formule suivante :

A + B + R - C

où :

A représente les déductions inutilisées au titre des REER du contribuable à la fin de l'année d'imposition précédente;

B l'excédent éventuel du plafond REER pour l'année ou, s'il est inférieur, du montant correspondant à 18 % du revenu gagné du contribuable pour l'année d'imposition précédente sur le total des montants représentant chacun :

a) le facteur d'équivalence du contribuable pour l'année d'imposition précédente quant à un employeur,

b) le montant prescrit quant au contribuable pour l'année;

C le facteur d'équivalence pour services passés net du contribuable pour l'année;

R le facteur d'équivalence rectifié total du contribuable pour l'année. (*RRSP deduction limit*)

montant libéré d'impôt

except any part thereof included in the total determined under this definition by reason of paragraph (c) or exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada,

exceeds the total of all amounts each of which is

(e) the taxpayer's loss for a period in the year throughout which the taxpayer was resident in Canada from

(i) a business carried on by the taxpayer, either alone or as a partner actively engaged in the business, or

(ii) property, where the loss is sustained from the rental of real or immovable property,

(f) an amount deductible under paragraph 60(b), or deducted under paragraph 60(c.2), in computing the taxpayer's income for the year, or

(g) the taxpayer's loss for a period in the year throughout which the taxpayer was not resident in Canada from a business carried on by the taxpayer in Canada, either alone or as a partner actively engaged in the business,

(h) [Repealed, 2016, c. 12, s. 52]

and, for the purposes of this definition, the income or loss of a taxpayer for any period in a taxation year is the taxpayer's income or loss computed as though that period were the whole taxation year; (*revenu gagné*)

issuer means the person referred to in the definition ***retirement savings plan*** in this subsection with whom an annuitant has a contract or arrangement that is a retirement savings plan; (*émetteur*)

maturity means the date fixed under a retirement savings plan for the commencement of any retirement income the payment of which is provided for by the plan; (*échéance*)

net past service pension adjustment of a taxpayer for a taxation year means the positive or negative amount determined by the formula

P + Q - G

where

P is the total of all amounts each of which is the taxpayer's past service pension adjustment for the year in respect of an employer,

a) Montant versé à une personne dans le cadre d'un régime enregistré d'épargne-retraite au titre du montant qui ferait partie, compte non tenu du paragraphe 104(6), du revenu de la fiducie régie par le régime pour une année d'imposition pour laquelle la fiducie était assujettie à l'impôt par l'effet de l'alinéa (4)c);

b) dans le cas où un régime enregistré d'épargne-retraite est un dépôt auprès d'un dépositaire visé à la division b)(iii)(B) de la définition de ***régime d'épargne-retraite*** au présent paragraphe, la partie d'un montant reçu par une personne dans le cadre du régime qu'il est raisonnable de considérer comme se rapportant à des intérêts ou à un montant afférents au dépôt qui étaient, autrement que par l'effet du présent article, à inclure dans le calcul du revenu d'une personne, sauf le rentier. (*tax-paid amount*)

placement admissible Dans le cas d'une fiducie régie par un régime enregistré d'épargne-retraite :

a) placement qui serait visé à l'un des alinéas a) à d), f) et g) de la définition de ***placement admissible*** à l'article 204 si la mention « fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré » à cette définition était remplacée par « fiducie régie par un régime enregistré d'épargne-retraite » et s'il n'était pas tenu compte du passage « sauf s'il s'agit de biens exclus relativement à la fiducie » à cette même définition;

b) [Abrogé, 2007, ch. 29, art. 17]

c) rente visée à la définition de ***revenu de retraite*** relativement au rentier en vertu du régime, si elle a été achetée d'un fournisseur de rentes autorisé;

c.1) contrat relatif à une rente établi par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(ii) le titulaire du contrat a le droit d'exiger le rachat de celui-ci à tout moment pour un montant qui, s'il n'était pas tenu compte de frais de vente et d'administration raisonnables, correspondrait à peu près à la valeur des fonds qui pourraient servir par ailleurs à financer des paiements périodiques futurs dans le cadre du contrat;

Q is the total of all amounts each of which is a prescribed amount in respect of the taxpayer for the year, and

G is the amount of the taxpayer's PSPA withdrawals for the year, determined as of the end of the year in accordance with prescribed rules; (*facteur d'équivalence pour services passés net*)

non-qualified investment has the same meaning as in subsection 207.01(1); (*placement non admissible*)

premium means any periodic or other amount paid or payable under a retirement savings plan

(a) as consideration for any contract referred to in paragraph (a) of the definition ***retirement savings plan*** to pay a retirement income, or

(b) as a contribution or deposit referred to in paragraph (b) of that definition for the purpose stated in that paragraph

but except for the purposes of paragraph (b) of the definition ***benefit*** in this subsection, paragraph (2)(b.3), subsection (22) and the definition ***excluded premium*** in subsection 146.02(1), does not include a repayment to which paragraph (b) of the definition ***excluded withdrawal*** in either subsection 146.01(1) or 146.02(1) applies or an amount that is designated under subsection 146.01(3) or 146.02(3); (*prime*)

qualified investment for a trust governed by a registered retirement savings plan means

(a) an investment that would be described by any of paragraphs (a) to (d), (f) and (g) of the definition ***qualified investment*** in section 204 if the reference in that definition to "a trust governed by a deferred profit sharing plan or revoked plan" were read as a reference to "a trust governed by a registered retirement savings plan" and if that definition were read without reference to the words "with the exception of excluded property in relation to the trust",

(b) [Repealed, 2007, c. 29, s. 17]

(c) an annuity described in the definition ***retirement income*** in respect of the annuitant under the plan, if purchased from a licensed annuities provider,

(c.1) a contract for an annuity issued by a licensed annuities provider where

(i) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust,

c.2) contrat relatif à une rente établi par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) des paiements à effectuer périodiquement à intervalles ne dépassant pas un an sont ou peuvent être versés au titulaire dans le cadre du contrat,

(ii) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(iii) ni le montant d'un paiement prévu par le contrat, ni le moment de son versement, ne peuvent varier en raison de la durée d'une vie, sauf s'il s'agit de la vie du rentier en vertu du régime (appelé « rentier du REER » dans la présente définition),

(iv) le versement des paiements périodiques a commencé ou doit commencer au plus tard à la fin de l'année dans laquelle le rentier du REER atteint 72 ans,

(v) selon le cas :

(A) les paiements périodiques sont payables au rentier du REER à titre viager sans durée garantie aux termes du contrat ou pour une durée garantie, commençant à la date du début du versement des paiements, égale ou inférieure à la différence entre 90 et le moindre des âges suivants :

(I) l'âge en années accomplies à cette date du rentier du REER, à supposer qu'il soit vivant à cette date,

(II) l'âge en années accomplies à cette date de l'époux ou conjoint de fait du rentier du REER, à supposer que l'époux ou conjoint de fait du rentier au moment de l'achat du contrat soit son époux ou conjoint de fait à cette date,

(B) les paiements périodiques sont payables pour un nombre d'années égal au nombre suivant :

(I) 90 moins l'âge visé à la subdivision (A)(I),

(II) 90 moins l'âge visé à la subdivision (A)(II),

(vi) les paiements périodiques sont égaux entre eux, ou ne le sont pas en raison seulement d'un ou de plusieurs rajustements soit qui seraient

is or may become entitled to any annuity payments under the contract, and

(ii) the holder of the contract has a right to surrender the contract at any time for an amount that would, if reasonable sales and administration charges were ignored, approximate the value of funds that could otherwise be applied to fund future periodic payments under the contract,

(c.2) a contract for an annuity issued by a licensed annuities provider where

(i) annual or more frequent periodic payments are or may be made under the contract to the holder of the contract,

(ii) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract,

(iii) neither the time nor the amount of any payment under the contract may vary because of the length of any life, other than the life of the annuitant under the plan (in this definition referred to as the "RRSP annuitant"),

(iv) the day on which the periodic payments began or are to begin (in this paragraph referred to as the "start date") is not later than the end of the year in which the RRSP annuitant attains 72 years of age,

(v) either

(A) the periodic payments are payable for the life of the RRSP annuitant and either there is no guaranteed period under the contract or there is a guaranteed period that begins at the start date and does not exceed a term equal to 90 years minus the lesser of

(I) the age in whole years at the start date of the RRSP annuitant (determined on the assumption that the RRSP annuitant is alive at the start date), and

(II) the age in whole years at the start date of a spouse or common-law partner of the RRSP annuitant (determined on the assumption that a spouse or common-law partner of the RRSP annuitant at the time the contract was acquired is a spouse or common-law partner of the RRSP annuitant at the start date), or

(B) the periodic payments are payable for a term equal to

conformes aux sous-alinéas (3)b)(iii) à (v) si le contrat était une rente prévue par un régime d'épargne-retraite, soit qui découlent d'une réduction uniforme du droit aux paiements périodiques par suite d'un rachat partiel des droits à ces paiements;

d) tout autre placement qui peut être prévu par règlement pris par le gouverneur en conseil, sur recommandation du ministre des Finances. (*qualified investment*)

placement non admissible S'entend au sens du paragraphe 207.01(1). (*non-qualified investment*)

plafond REER

a) Pour les années civiles autres que 1996 et 2003, le plafond des cotisations déterminées pour l'année précédente;

b) pour 1996, 13500 $;

c) pour 2003, 14500 $. (*RRSP dollar limit*)

prestation Est comprise dans une prestation toute somme reçue dans le cadre d'un régime d'épargne-retraite, à l'exception :

a) de la fraction de cette somme reçue par une personne autre que le rentier et qu'il est raisonnable de considérer comme faisant partie de la somme incluse dans le calcul du revenu d'un rentier en vertu des paragraphes (8.8) et (8.9);

b) d'une somme reçue à titre de prime en vertu du régime par la personne avec laquelle le rentier a conclu le contrat ou l'arrangement visé à la définition de ***régime d'épargne-retraite*** au présent paragraphe;

b.1) d'une somme au titre de laquelle le rentier paie un impôt en vertu de la partie XI.01, sauf si cet impôt fait l'objet d'une renonciation, d'une annulation ou d'un remboursement;

c) d'une somme, ou d'une partie de cette somme, reçue relativement au revenu de la fiducie en vertu du régime, pour une année d'imposition, à l'égard de laquelle la fiducie n'était pas exonérée d'impôt en vertu de l'alinéa (4)c);

c.1) d'un montant libéré d'impôt, visé à l'alinéa b) de la définition de cette expression au présent paragraphe, qui se rapporte à des intérêts ou à un montant inclus dans le calcul du revenu autrement que par l'effet du présent article.

(I) 90 years minus the age described in subclause (I), or

(II) 90 years minus the age described in subclause (II), and

(vi) the periodic payments

(A) are equal, or

(B) are not equal solely because of one or more adjustments that would, if the contract were an annuity under a retirement savings plan, be in accordance with subparagraphs 146(3)(b)(iii) to 146(3)(b)(v) or that arise because of a uniform reduction in the entitlement to the periodic payments as a consequence of a partial surrender of rights to the periodic payments, and

(d) such other investments as may be prescribed by regulations of the Governor in Council made on the recommendation of the Minister of Finance; (*placement admissible*)

RRSP deduction limit of a taxpayer for a taxation year means the amount determined by the formula

A + B + R - C

where

A is the taxpayer's unused RRSP deduction room at the end of the preceding taxation year,

B is the amount, if any, by which

(a) the lesser of the RRSP dollar limit for the year and 18% of the taxpayer's earned income for the preceding taxation year

exceeds the total of all amounts each of which is

(b) the taxpayer's pension adjustment for the preceding taxation year in respect of an employer, or

(c) a prescribed amount in respect of the taxpayer for the year,

C is the taxpayer's net past service pension adjustment for the year, and

R is the taxpayer's total pension adjustment reversal for the year; (*maximum déductible au titre des REER*)

RRSP dollar limit for a calendar year means

(a) for years other than 1996 and 2003, the money purchase limit for the preceding year,

(b) for 1996, $13,500, and

Sans préjudice de la portée générale de ce qui précède, le terme vise toute somme versée à un rentier en vertu du régime :

d) soit conformément aux conditions du régime;

e) soit à la suite d'une modification du régime;

f) soit à la suite de l'expiration du régime. (*benefit*)

prime Somme payée ou payable périodiquement ou autrement en vertu d'un régime d'épargne-retraite :

a) soit à titre de contrepartie d'un contrat visé à l'alinéa a) de la définition de ***régime d'épargne-retraite*** au présent paragraphe, touchant le paiement d'un revenu de retraite;

b) soit à titre d'apport, de contribution ou de dépôt visé à l'alinéa b) de cette définition, aux fins mentionnées à cet alinéa;

toutefois les montants remboursés auxquels s'applique l'alinéa b) de l'une ou l'autre des définitions de ***retrait exclu*** aux paragraphes 146.01(1) et 146.02(1) et les montants indiqués dans un formulaire prescrit en application des paragraphes 146.01(3) ou 146.02(3) ne sont pas des primes, sauf pour l'application de l'alinéa b) de la définition de ***prestation*** au présent paragraphe, de l'alinéa (2)b.3), du paragraphe (22) et de la définition de ***prime exclue*** au paragraphe 146.02(1). (*premium*)

régime au profit de l'époux ou conjoint de fait Quant à un contribuable :

a) soit un régime enregistré d'épargne-retraite auquel le contribuable a versé une prime alors que son époux ou conjoint de fait en était le rentier ou auquel un montant est versé ou transféré d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite qui était un régime au profit de l'époux ou conjoint de fait quant au contribuable;

b) soit un fonds enregistré de revenu de retraite auquel un montant est versé ou transféré d'un régime au profit de l'époux ou conjoint de fait quant au contribuable. (*spousal plan*)

régime d'épargne-retraite

a) Contrat conclu entre un particulier et une personne titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada un commerce de rentes aux termes duquel, contre le paiement par le particulier ou son conjoint d'une somme périodique ou autre au titre du contrat,

(c) for 2003, $14,500; (*plafond REER*)

refund of premiums means any amount paid out of or under a registered retirement savings plan (other than a tax-paid amount in respect of the plan) as a consequence of the death of the annuitant under the plan,

(a) to an individual who was, immediately before the death, a spouse or common-law partner of the annuitant, where the annuitant died before the maturity of the plan, or

(b) to a child or grandchild of the annuitant who was, immediately before the death, financially dependent on the annuitant for support; (*remboursement de primes*)

registered retirement savings plan means a retirement savings plan accepted by the Minister for registration for the purposes of this Act as complying with the requirements of this section; (*régime enregistré d'épargne-retraite*)

retirement income means

(a) an annuity commencing at maturity, and with or without a guaranteed term commencing at maturity, not exceeding the term referred to in paragraph (b), or, in the case of a plan entered into before March 14, 1957, not exceeding 20 years, payable to

(i) the annuitant for the annuitant's life, or

(ii) the annuitant for the lives, jointly, of the annuitant and the annuitant's spouse and to the survivor of them for the survivor's life, or

(b) an annuity commencing at maturity, payable to the annuitant, or to the annuitant for the annuitant's life and to the spouse after the annuitant's death, for a term of years equal to 90 minus either

(i) the age in whole years of the annuitant at the maturity of the plan, or

(ii) where the annuitant's spouse is younger than the annuitant and the annuitant so elects, the age in whole years of the spouse at the maturity of the plan,

issued by a person described in the definition ***retirement savings plan*** in this subsection with whom an individual may have a contract or arrangement that is a retirement savings plan,

or any combination thereof; (*revenu de retraite*)

un revenu de retraite est prévu pour le particulier à compter de l'échéance;

b) arrangement selon lequel un particulier ou son conjoint verse, selon le cas :

(i) en fiducie à une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir ses services au public en tant que fiduciaire, un montant périodique ou autre, à titre d'apport en vertu de la fiducie,

(ii) à une société agréée par le gouverneur en conseil pour l'application du présent article et titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à établir des contrats de placement prévoyant le paiement au détenteur d'un tel contrat, ou l'inscription au crédit de son compte, d'une somme fixe ou susceptible de l'être, à l'échéance, une somme périodique ou autre versée à titre de contribution aux termes d'un tel contrat entre le particulier et cette société,

(iii) un montant à titre de dépôt auprès d'une succursale ou d'un bureau au Canada :

(A) soit d'une personne qui est membre de l'Association canadienne des paiements ou qui est admissible à le devenir,

(B) soit d'une caisse de crédit qui est actionnaire ou membre d'une personne morale désignée sous le nom de « centrale » pour l'application de la *Loi sur l'Association canadienne des paiements*,

(appelé « dépositaire » au présent article),

devant être utilisé, placé ou autrement employé par cette société ou ce dépositaire, selon le cas, en vue d'assurer au particulier, commençant à l'échéance, un revenu de retraite. (*retirement savings plan*)

régime enregistré d'épargne-retraite Régime d'épargne-retraite accepté par le ministre aux fins d'enregistrement pour l'application de la présente loi comme conforme au présent article. (*registered retirement savings plan*)

remboursement de primes Toute somme versée à l'une des personnes ci-après dans le cadre d'un régime enregistré d'épargne-retraite par suite du décès du rentier du régime, à l'exception d'un montant libéré d'impôt relativement au régime :

retirement savings plan means

(a) a contract between an individual and a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, under which, in consideration of payment by the individual or the individual's spouse or common-law partner of any periodic or other amount as consideration under the contract, a retirement income commencing at maturity is to be provided for the individual, or

(b) an arrangement under which payment is made by an individual or the individual's spouse or common-law partner

(i) in trust to a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, of any periodic or other amount as a contribution under the trust,

(ii) to a corporation approved by the Governor in Council for the purposes of this section that is licensed or otherwise authorized under the laws of Canada or a province to issue investment contracts providing for the payment to or to the credit of the holder thereof of a fixed or determinable amount at maturity, of any periodic or other amount as a contribution under such a contract between the individual and that corporation, or

(iii) as a deposit with a branch or office, in Canada, of

(A) a person who is, or is eligible to become, a member of the Canadian Payments Association, or

(B) a credit union that is a shareholder or member of a body corporate referred to as a "central" for the purposes of the *Canadian Payments Association Act*,

(in this section referred to as a "depositary")

to be used, invested or otherwise applied by that corporation or that depositary, as the case may be, for the purpose of providing for the individual, commencing at maturity, a retirement income; (*régime d'épargne-retraite*)

spousal or common-law partner plan, in relation to a taxpayer, means

(a) a registered retirement savings plan

a) le particulier qui, immédiatement avant le décès du rentier, était son époux ou conjoint de fait, dans le cas où le rentier est décédé avant l'échéance du régime;

b) l'enfant ou le petit-enfant du rentier qui, immédiatement avant le décès de celui-ci, était financièrement à sa charge. (*refund of premiums*)

rentier

a) Jusqu'au moment, après l'échéance du régime, où son conjoint acquiert le droit, par suite du décès du rentier, de recevoir des prestations qui doivent être versées sur ce régime ou en vertu de ce régime, le particulier visé aux alinéas a) ou b) de la définition de ***régime d'épargne-retraite*** au présent paragraphe pour lequel est prévu, en vertu d'un régime d'épargne-retraite, un revenu de retraite;

b) après ce moment, son conjoint. (*annuitant*)

revenu de retraite

a) Rente viagère versée à compter de l'échéance, avec ou sans durée garantie à compter de l'échéance, ne dépassant pas la durée visée à l'alinéa b) ou, dans le cas d'un régime auquel il a été souscrit avant le 14 mars 1957, ne dépassant pas 20 ans, payable :

(i) au rentier,

(ii) au rentier et à son époux ou conjoint de fait, à titre solidaire, et au survivant de l'un ou de l'autre;

b) rente versée à compter de l'échéance, payable au rentier, ou au rentier de son vivant et à son époux ou conjoint de fait après son décès, pour un nombre d'années égal à 90 moins :

(i) l'âge du rentier, en années accomplies, à l'échéance du régime,

(ii) si l'époux ou conjoint de fait est plus jeune que le rentier et que celui-ci en décide ainsi, l'âge de l'époux ou conjoint de fait, en années accomplies, à l'échéance du régime,

émise par une personne décrite à la définition de ***régime d'épargne-retraite*** au présent paragraphe et avec qui un particulier peut avoir passé un contrat ou un arrangement qui est un régime d'épargne-retraite,ou toute combinaison de celles-ci. (*retirement income*)

revenu gagné S'agissant du revenu d'un contribuable pour une année d'imposition, l'excédent éventuel du total des montants dont chacun représente :

(i) to which the taxpayer has, at a time when the taxpayer's spouse or common-law partner was the annuitant under the plan, paid a premium, or

(ii) that has received a payment out of or a transfer from a registered retirement savings plan or a registered retirement income fund that was a spousal or common-law partner plan in relation to the taxpayer, or

(b) a registered retirement income fund that has received a payment out of or a transfer from a spousal or common-law partner plan in relation to the taxpayer; (*régime au profit de l'époux ou du conjoint de fait*)

spousal plan [Repealed, 2001, c. 17, s. 246]

tax-paid amount paid to a person in respect of a registered retirement saving plan means

(a) an amount paid to the person in respect of the amount that would, if this Act were read without reference to subsection 104(6), be income of a trust governed by the plan for a taxation year for which the trust was subject to tax because of paragraph 146(4)(c), or

(b) where

(i) the plan is a deposit with a depositary referred to in clause (b)(iii)(B) of the definition ***retirement savings plan*** in this subsection, and

(ii) an amount is received at any time out of or under the plan by the person,

the portion of the amount that can reasonably be considered to relate to interest or another amount in respect of the deposit that was required to be included in computing the income of any person (other than the annuitant) otherwise than because of this section; (*montant libéré d'impôt*)

unused RRSP deduction room of a taxpayer at the end of a taxation year means,

(a) for taxation years ending before 1991, nil, and

(b) for taxation years that end after 1990, the amount, which can be positive or negative, determined by the formula

A + B + R - (C + D)

where

A is the taxpayer's unused RRSP deduction room at the end of the preceding taxation year,

a) soit son revenu, sauf un montant visé à l'alinéa 12(1)z), pour une période de l'année tout au long de laquelle il a résidé au Canada tiré, selon le cas :

(i) d'une charge ou d'un emploi, calculé compte non tenu des alinéas 8(1)c), m) et m.2),

(ii) d'une entreprise qu'il exploite activement, seul ou comme associé,

(iii) d'un bien, s'il s'agit d'un revenu tiré de la location de biens immeubles ou réels ou de redevances sur un ouvrage ou une invention dont il est l'auteur;

b) soit un montant inclus en application des alinéas 56(1)b), c.2), g) ou o) ou du sous-alinéa 56(1)r)(v) dans le calcul de son revenu pour une période de l'année tout au long de laquelle il a résidé au Canada;

b.1) soit un montant qu'il reçoit au cours de l'année et à un moment où il réside au Canada, au titre ou en paiement intégral ou partiel d'une prestation d'invalidité aux termes du régime institué par le *Régime de pensions du Canada* ou d'un régime provincial de pensions au sens de l'article 3 de cette loi;

b.2) soit son revenu de performance admissible, au sens du paragraphe 143.1(1), qui est réputé en vertu de l'alinéa 143.1(1.2)c) être un revenu d'une fiducie au profit d'un athlète amateur pour l'année;

c) soit son revenu, sauf un montant visé à l'alinéa 12(1)z), pour une période de l'année tout au long de laquelle il ne résidait pas au Canada tiré, selon le cas, des fonctions d'une charge ou d'un emploi qu'il remplit au Canada, compte non tenu des alinéas 8(1)c), m) et m.2), ou d'une entreprise qu'il exploite au Canada, seul ou activement comme associé, sauf dans la mesure où ce revenu est exonéré de l'impôt sur le revenu au Canada par l'effet d'une disposition d'un accord ou convention fiscal conclu avec un autre pays et ayant force de loi au Canada;

d) soit, dans le cas d'un contribuable visé au paragraphe 115(2), le total qui serait calculé en application de l'alinéa 115(2)e) à son égard pour l'année compte non tenu du renvoi à l'alinéa 56(1)n) au sous-alinéa 115(2)e)(ii), ni du sous-alinéa 115(2)e)(iv), à l'exception de toute partie de ce total qui est incluse, en application de l'alinéa c), dans le total calculé selon la présente définition ou qui est exonérée de l'impôt sur le revenu au Canada par l'effet d'une disposition d'un accord ou convention fiscal conclu avec un autre pays et ayant force de loi au Canada,

sur le total des montants dont chacun représente :

B is the amount, if any, by which

(i) the lesser of the RRSP dollar limit for the year and 18% of the taxpayer's earned income for the preceding taxation year

exceeds the total of all amounts each of which is

(ii) the taxpayer's pension adjustment for the preceding taxation year in respect of an employer, or

(iii) a prescribed amount in respect of the taxpayer for the year,

C is the taxpayer's net past service pension adjustment for the year,

D is the total of all amounts each of which is

(i) an amount deducted by the taxpayer under any of subsections (5) to (5.2), in computing the taxpayer's income for the year,

(ii) an amount deducted by the taxpayer under paragraph 10 of Article XVIII of the *Canada-United States Tax Convention* signed at Washington on September 26, 1980 or a similar provision in another tax treaty, in computing the taxpayer's taxable income for the year,

(iii) a contribution made by an employer in the year to a pooled registered pension plan in respect of the taxpayer, or

(iv) the amount, if any, by which the taxpayer's exempt-income contribution amount (as defined in subsection 147.5(1)) for the year exceeds the taxpayer's unused non-deductible PRPP room (as defined in subsection 147.5(1)) at the end of the preceding taxation year, and

R is the taxpayer's total pension adjustment reversal for the year. (*déductions inutilisées au titre des REER*)

e) soit sa perte pour une période de l'année tout au long de laquelle il a résidé au Canada provenant, selon le cas :

(i) d'une entreprise qu'il exploite, seul ou activement comme associé,

(ii) d'un bien, s'il s'agit d'une perte résultant de la location de biens immeubles ou réels;

f) soit un montant déductible en application de l'alinéa 60b), ou déduit en application de l'alinéa 60c.2), dans le calcul de son revenu pour l'année;

g) soit sa perte pour une période de l'année tout au long de laquelle il n'a pas résidé au Canada, provenant d'une entreprise qu'il exploite au Canada, seul ou activement comme associé;

h) [Abrogé, 2016, ch. 12, art. 52]

pour l'application de la présente définition, le revenu ou la perte d'un contribuable pour une période d'une année d'imposition est calculé comme si la période correspondait à l'année d'imposition entière. (*earned income*)

Restriction — financially dependent

(1.1) For the purposes of paragraph (b) of the definition ***refund of premiums*** in subsection (1), clause 60(l)(v)(B.01), the definition ***eligible individual*** in subsection 60.02(1), subparagraph 104(27)(e)(i) and section 147.5, it is assumed, unless the contrary is established, that an individual's child or grandchild was not financially dependent on the individual for support immediately before the individual's death if the income of the child or grandchild for the taxation year preceding the taxation year in which the individual died exceeded the amount determined by the formula

A + B

where

Restriction — personne financièrement à charge

(1.1) Pour l'application de l'alinéa b) de la définition de ***remboursement de primes*** au paragraphe (1), de la division 60l)(v)(B.01), de la définition de ***particulier admissible*** au paragraphe 60.02(1), du sous-alinéa 104(27)c)(i) et de l'article 147.5, il faut supposer, sauf preuve du contraire, que l'enfant ou le petit-enfant d'un particulier n'était pas financièrement à la charge du particulier immédiatement avant le décès de celui-ci si le revenu de l'enfant ou du petit-enfant pour l'année d'imposition précédant celle du décès du particulier dépassait la somme obtenue par la formule suivante :

A + B

où :

A is the amount used under paragraph (c) of the description of B in subsection 118(1) for that preceding taxation year; and

B is nil, unless the financial dependency was because of mental or physical infirmity, in which case it is $6,180 adjusted for each such preceding taxation year that is after 2002 in the manner set out in section 117.1.

A représente le montant applicable à cette année d'imposition précédente selon l'alinéa 118(1)c);

B zéro, sauf si l'enfant ou le petit-enfant était financièrement à charge en raison d'une déficience mentale ou physique, auquel cas le présent élément représente 6180 $, rajusté conformément à l'article 117.1 pour chacune de ces années d'imposition précédentes qui est postérieure à 2002.

Acceptance of plan for registration

(2) The Minister shall not accept for registration for the purposes of this Act any retirement savings plan unless, in the Minister's opinion, it complies with the following conditions:

(a) the plan does not provide for the payment of any benefit before maturity except

(i) a refund of premiums, and

(ii) a payment to the annuitant;

(b) the plan does not provide for the payment of any benefit after maturity except

(i) by way of retirement income to the annuitant,

(ii) to the annuitant in full or partial commutation of retirement income under the plan, and

(iii) in respect of a commutation referred to in paragraph 146(2)(c.2);

(b.1) the plan does not provide for a payment to the annuitant of a retirement income except by way of equal annual or more frequent periodic payments until such time as there is a payment in full or partial commutation of the retirement income and, where that commutation is partial, equal annual or more frequent periodic payments thereafter;

(b.2) the plan does not provide for periodic payments in a year under an annuity after the death of the first annuitant, the total of which exceeds the total of the payments under the annuity in a year before that death;

(b.3) the plan does not provide for the payment of any premium after maturity;

(b.4) the plan does not provide for maturity after the end of the year in which the annuitant attains 71 years of age;

(c) the plan provides that retirement income under the plan may not be assigned in whole or in part;

Acceptation du régime aux fins d'enregistrement

(2) Le ministre n'accepte pas aux fins d'enregistrement pour l'application de la présente loi un régime d'épargne-retraite, à moins que, à son avis, il ne réponde aux conditions suivantes :

a) le régime ne prévoit, avant son échéance, le versement d'aucune autre prestation qu'un versement au rentier ou un remboursement de primes;

b) il ne prévoit, après son échéance, le versement d'aucune prestation, sauf :

(i) au rentier sous forme de revenu de retraite,

(ii) au rentier en conversion totale ou partielle du revenu de retraite prévu au régime,

(iii) dans le cadre d'une conversion visée à l'alinéa c.2);

b.1) il ne prévoit le versement au rentier d'un revenu de retraite que sous forme de versements égaux à effectuer périodiquement à intervalles ne dépassant pas un an jusqu'à ce qu'il y ait un versement découlant d'une conversion totale ou partielle du revenu de retraite et, par la suite, en cas de conversion partielle, sous forme de versements égaux à effectuer périodiquement à intervalles ne dépassant pas un an;

b.2) il ne prévoit pas le versement d'une rente à effectuer périodiquement au cours d'une année après le décès du premier rentier dont le total dépasse le total des montants à verser au cours d'une année avant le décès;

b.3) il ne prévoit le versement d'aucune prime après échéance;

b.4) il ne prévoit pas d'échéance postérieure à la fin de l'année dans laquelle le rentier atteint 71 ans;

c) il prévoit qu'aucun revenu de retraite prévu par le régime ne peut être cédé en totalité ou en partie;

(c.1) notwithstanding paragraph 146(2)(a), the plan permits the payment of an amount to a taxpayer where the amount is paid to reduce the amount of tax otherwise payable under Part X.1 by the taxpayer;

(c.2) the plan requires the commutation of each annuity payable thereunder that would otherwise become payable to a person other than an annuitant under the plan;

(c.3) the plan, where it involves a depositary, includes provisions stipulating that

(i) the depositary has no right of offset as regards the property held under the plan in connection with any debt or obligation owing to the depositary, and

(ii) the property held under the plan cannot be pledged, assigned or in any way alienated as security for a loan or for any purpose other than that of providing for the annuitant, commencing at maturity, a retirement income; and

(c.4) [Repealed, 2011, c. 24, s. 45]

(d) the plan in all other respects complies with regulations of the Governor in Council made on the recommendation of the Minister of Finance.

c.1) malgré l'alinéa a), il permet de verser un montant à un contribuable en vue de réduire l'impôt payable par ailleurs par celui-ci en vertu de la partie X.1;

c.2) le régime exige la conversion de chaque rente payable en vertu de ce régime qui deviendrait autrement payable à une personne autre qu'un rentier en vertu du régime;

c.3) le régime, lorsqu'un dépositaire est en cause, comprend des dispositions portant que :

(i) le dépositaire n'a pas le droit d'éteindre une dette ou obligation envers lui par compensation à l'aide des biens détenus en vertu du régime,

(ii) les biens détenus en vertu du régime ne peuvent être donnés en gage, cédés ou autrement aliénés, à titre de garantie d'un prêt ou à toute autre fin que d'assurer au particulier commençant à l'échéance, un revenu de retraite;

c.4) [Abrogé, 2011, ch. 24, art. 45]

d) le régime est conforme, à tous autres égards, aux dispositions réglementaires prises par le gouverneur en conseil sur recommandation du ministre des Finances.

Idem

(3) The Minister may accept for registration for the purposes of this Act any retirement savings plan notwithstanding that the plan

(a) provides for the payment of a benefit after maturity by way of dividend;

(b) provides for any annual or more frequent periodic amount payable

(i) to the annuitant referred to in subparagraph (a)(ii) of the definition ***retirement income*** in subsection 146(1) by way of an annuity described in paragraph (a) of that definition to be reduced, in the event of the death of the annuitant's spouse or common-law partner during the lifetime of the annuitant, in such manner as to provide for the payment of equal annual or more frequent periodic amounts throughout the lifetime of the annuitant thereafter,

(ii) to any person by way of an annuity, to be reduced if a pension becomes payable to that person under the *Old Age Security Act*, by an annual or other periodic amount not exceeding the amount

Idem

(3) Le ministre peut accepter aux fins d'enregistrement pour l'application de la présente loi tout régime d'épargne-retraite, même si ce régime :

a) prévoit le versement d'une prestation après l'échéance sous forme de dividende;

b) prévoit que toute somme payable annuellement ou à intervalles plus rapprochés :

(i) au rentier dont il est fait mention au sous-alinéa a)(ii) de la définition de ***revenu de retraite*** au paragraphe (1) sous forme de rente visée à l'alinéa a) de cette définition doit être réduite, en cas de décès de son époux ou conjoint de fait pendant la vie du rentier, de façon à pourvoir au versement de sommes égales payables annuellement ou à intervalles plus rapprochés durant la vie du rentier par la suite,

(ii) à quelque personne sous forme de rente, doit être réduite, si une pension devient payable à cette personne en vertu de la *Loi sur la sécurité de la vieillesse*, de toute somme annuelle ou autre somme périodique n'excédant pas la somme

payable to that person in that period under that Act,

(iii) to any person by way of an annuity, to be increased or reduced depending on the increase or reduction in the value of a specified group of assets constituting the assets of a separate and distinct account or fund maintained in respect of a variable annuities business by a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada that business,

(iii.1) to any person by way of an annuity under a contract that provides for the increase or reduction of the annuity in accordance only with a change in the interest rate on which the annuity is based, if the interest rate, as increased or reduced, equals or approximates a generally available Canadian market interest rate,

(iv) that may be adjusted annually to reflect

(A) in whole or in part increases in the Consumer Price Index, as published by Statistics Canada under the authority of the *Statistics Act*, or

(B) increases at a rate specified in the annuity contract, not exceeding 4% per annum, or

(v) to the annuitant by way of an annuity to be increased annually to the extent the amount or rate of return that would have been earned on a pool of investment assets (available for purchase by the public and specified in the annuity contract) exceeds an amount or rate specified in the plan and provides that no other increase may be made in the amount payable;

(d) provides for the payment of any amount after the death of an annuitant thereunder;

(e) is adjoined to a contract or other arrangement that is not a retirement savings plan; or

(f) contains such other terms and provisions, not inconsistent with this section, as are authorized or permitted by regulations of the Governor in Council made on the recommendation of the Minister of Finance.

payable à cette personne au cours de cette période selon la même loi,

(iii) à quelque personne sous forme de rente, doit être augmentée ou réduite selon la plus-value ou la moins-value d'un groupe déterminé d'éléments d'actif constituant l'actif d'un compte ou d'un fonds séparé et distinct, tenu relativement à une entreprise s'occupant de rentes variables, exploitée par une personne titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada ce genre d'entreprise,

(iii.1) à une personne se fait sous forme de rente en vertu d'un contrat qui prévoit l'augmentation ou la réduction de la rente uniquement en fonction d'une modification du taux d'intérêt sur lequel la rente est fondée, si le taux d'intérêt, augmenté ou réduit, correspond exactement ou approximativement à un taux d'intérêt généralement offert sur le marché canadien,

(iv) peut être rajustée annuellement pour tenir compte, selon le cas :

(A) en entier ou en partie, des augmentations de l'indice des prix à la consommation publié par Statistique Canada en vertu de la *Loi sur la statistique*,

(B) des augmentations à un taux prévu dans le contrat de rente mais ne dépassant pas 4 % par année,

(v) au rentier, sous la forme d'une rente, peut être augmentée annuellement dans la mesure où le montant ou taux de rendement qui aurait été tiré d'une mise en commun de biens de placement (offerts au public et précisés dans le contrat de vente) dépasse un montant ou taux précisé dans le régime et prévoit que le versement payable ne peut être autrement augmenté;

d) prévoit le versement d'une somme après le décès d'un rentier en vertu de ce régime;

e) est joint à un contrat ou autre arrangement qui n'est pas un régime d'épargne-retraite;

f) comporte toutes autres modalités, non incompatibles avec le présent article, qu'autorisent ou permettent les dispositions réglementaires prises par le gouverneur en conseil sur recommandation du ministre des Finances.

No tax while trust governed by plan

(4) Except as provided in subsection 146(10.1), no tax is payable under this Part by a trust on the taxable income of the trust for a taxation year if, throughout the period in the year during which the trust was in existence, the trust was governed by a registered retirement savings plan, except that

(a) if the trust has borrowed money (other than money used in carrying on a business) in the year or has, after June 18, 1971, borrowed money (other than money used in carrying on a business) that it has not repaid before the commencement of the year, tax is payable under this Part by the trust on its taxable income for the year;

(b) in any case not described in paragraph 146(4)(a), if the trust has carried on any business or businesses in the year, tax is payable under this Part by the trust on the amount, if any, by which

(i) the amount that its taxable income for the year would be if it had no incomes or losses from sources other than from that business or those businesses, as the case may be,

exceeds

(ii) such portion of the amount determined under subparagraph 146(4)(b)(i) in respect of the trust for the year as can reasonably be considered to be income from, or from the disposition of, qualified investments for the trust; and

(c) if the last annuitant under the plan has died, tax is payable under this Part by the trust on its taxable income for each year after the year following the year in which the last annuitant died.

Amount of RRSP premiums deductible

(5) There may be deducted in computing a taxpayer's income for a taxation year such amount as the taxpayer claims not exceeding the lesser of

(a) the amount, if any, by which the total of all amounts each of which is a premium paid by the taxpayer after 1990 and on or before the day that is 60 days after the end of the year under a registered retirement savings plan under which the taxpayer was the annuitant at the time the premium was paid, other than the portion, if any, of the premium

(i) that was deducted in computing the taxpayer's income for a preceding taxation year,

Exonération d'impôt d'une fiducie régie par le régime

(4) Sous réserve du paragraphe (10.1), aucun impôt n'est payable en vertu de la présente partie par une fiducie sur son revenu imposable pour une année d'imposition si, tout au long de la période de l'année où la fiducie existait, elle était régie par un régime enregistré d'épargne-retraite; toutefois :

a) si la fiducie a emprunté de l'argent (autre que de l'argent utilisé pour l'exploitation d'une entreprise) au cours de l'année ou a emprunté, après le 18 juin 1971, de l'argent (autre que de l'argent utilisé pour l'exploitation d'une entreprise) qu'elle n'a pas remboursé avant le début de l'année, un impôt est payable par la fiducie, en vertu de la présente partie, sur son revenu imposable pour l'année;

b) dans tout cas non visé à l'alinéa a), si la fiducie a exploité une ou plusieurs entreprises au cours de l'année, un impôt est payable par elle en vertu de la présente partie sur l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui constituerait le revenu imposable de la fiducie pour l'année si elle n'avait pas tiré de revenu, ni subi de pertes de sources autres que l'entreprise ou les entreprises en question,

(ii) la partie du montant déterminé selon le sous-alinéa (i) à l'égard de la fiducie pour l'année, qu'il est raisonnable de considérer comme un revenu provenant soit de placements admissibles pour elle, soit de la disposition de tels placements;

c) si le dernier rentier en vertu du régime est décédé, un impôt est payable par la fiducie en vertu de la présente partie sur son revenu imposable pour chaque année postérieure à l'année suivant l'année du décès de ce rentier.

Déduction des primes versées au REER

(5) Un contribuable peut déduire dans le calcul de son revenu pour une année d'imposition le montant qu'il demande, à concurrence du moins élevé des montants suivants :

a) l'excédent éventuel du total des montants représentant chacun une prime que le contribuable a versée après 1990 et au plus tard le soixantième jour suivant la fin de l'année à un régime enregistré d'épargne-retraite dont il était rentier au moment du versement de la prime, à l'exception :

(ii) that was designated for any taxation year for the purposes of paragraph 60(j), 60(j.1) or 60(l),

(iii) in respect of which the taxpayer received a payment that was deducted under subsection 146(8.2) in computing the taxpayer's income for a preceding taxation year,

(iii.1) that was an exempt-income contribution amount (as defined in subsection 147.5(1)) for any taxation year,

(iv) that was deductible under subsection 146(6.1) in computing the taxpayer's income for any taxation year or

(iv.1) that would be considered to be withdrawn by the taxpayer as an eligible amount (as defined in subsection 146.01(1) or 146.02(1)) less than 90 days after it was paid, if earnings in respect of a registered retirement savings plan were considered to be withdrawn before premiums paid under that plan and premiums were considered to be withdrawn in the order in which they were paid

exceeds

(v) the amount, if any, by which

(A) the total of all amounts deducted under subsection 147.3(13.1) in computing the taxpayer's income for the year or a preceding taxation year

exceeds

(B) the total of all amounts, in respect of transfers occurring before 1991 from registered pension plans, deemed by paragraph 147.3(10)(b) or 147.3(10)(c) to be a premium paid by the taxpayer to a registered retirement savings plan, and

(b) the amount, if any, by which the taxpayer's RRSP deduction limit for the year exceeds the total of all contributions made by an employer in the year to a pooled registered pension plan in respect of the taxpayer.

(i) de la fraction de la prime qu'il a déduite dans le calcul de son revenu pour une année d'imposition antérieure,

(ii) de la fraction de la prime qu'il a indiquée dans sa déclaration de revenu produite pour une année d'imposition pour l'application des alinéas 60j), j.1) ou l),

(iii) de la fraction de la prime au titre de laquelle il a reçu un paiement qu'il a déduit en application du paragraphe (8.2) dans le calcul de son revenu pour une année d'imposition antérieure,

(iii.1) de la fraction de la prime qui était une cotisation provenant du revenu exonéré, au sens du paragraphe 147.5(1), pour une année d'imposition,

(iv) de la fraction de la prime qui serait considérée comme retirée par son conjoint à titre de montant admissible, au sens des paragraphes 146.01(1) ou 146.02(1), moins de 90 jours après son versement si les gains relatifs à un régime enregistré d'épargne-retraite étaient considérés comme retirés avant les primes versées dans le cadre de ce régime et si les primes étaient considérées comme retirées suivant l'ordre dans lequel elles ont été versées;

(iv.1) de la fraction de la prime qui serait considérée comme retirée par lui à titre de montant admissible, au sens des paragraphes 146.01(1) ou 146.02(1), moins de 90 jours après son versement si les gains relatifs à un régime enregistré d'épargne-retraite étaient considérés comme retirés avant les primes versées dans le cadre de ce régime et si les primes étaient considérées comme retirées suivant l'ordre dans lequel elles ont été versées,

sur :

(v) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants déduits en application du paragraphe 147.3(13.1) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure,

(B) le total des montants, relatifs à des transferts effectués avant 1991 de régimes de pension agréés, qui sont réputés par les alinéas 147.3(10)b) ou c) être des primes versées par le contribuable à un régime enregistré d'épargne-retraite;

b) l'excédent de son maximum déductible au titre des REER pour l'année sur le total des cotisations versées

Amount of spousal RRSP premiums deductible

(5.1) There may be deducted in computing a taxpayer's income for a taxation year such amount as the taxpayer claims not exceeding the lesser of

(a) the total of all amounts each of which is a premium paid by the taxpayer after 1990 and on or before the day that is 60 days after the end of the year under a registered retirement savings plan under which the taxpayer's spouse or common-law partner (or, where the taxpayer died in the year or within 60 days after the end of the year, an individual who was the taxpayer's spouse or common-law partner immediately before the death) was the annuitant at the time the premium was paid, other than the portion, if any, of the premium

(i) that was deducted in computing the taxpayer's income for a preceding taxation year,

(ii) that was designated for any taxation year for the purposes of paragraph 60(j.2),

(iii) in respect of which the taxpayer or the taxpayer's spouse or common-law partner has received a payment that has been deducted under subsection 146(8.2) in computing the taxpayer's income for a preceding taxation year, or

(iv) that would be considered to be withdrawn by the taxpayer's spouse or common-law partner as an eligible amount (as defined in subsection 146.01(1) or 146.02(1)) less than 90 days after it was paid, if earnings in respect of a registered retirement savings plan were considered to be withdrawn before premiums paid under that plan and premiums were considered to be withdrawn in the order in which they were paid, and

(b) the amount, if any, by which the taxpayer's RRSP deduction limit for the year exceeds the total of all amounts each of which is

(i) the amount deducted under subsection (5) in computing the taxpayer's income for the year, or

(ii) a contribution made by an employer in the year to a pooled registered pension plan in respect of the taxpayer.

Déduction des primes versées au REER du conjoint

(5.1) Un contribuable peut déduire dans le calcul de son revenu pour une année d'imposition le montant qu'il demande, à concurrence du moins élevé des montants suivants :

a) le total des montants représentant chacun une prime qu'il a versée après 1990 et au plus tard le soixantième jour suivant la fin de l'année à un régime enregistré d'épargne-retraite dont son époux ou conjoint de fait (ou, si le contribuable est décédé au cours de l'année ou dans les 60 jours suivant la fin de l'année, le particulier qui était son époux ou conjoint de fait immédiatement avant le décès) était rentier au moment du versement de la prime, à l'exception :

(i) de la fraction de la prime déduite dans le calcul de son revenu pour une année d'imposition antérieure,

(ii) de la fraction de la prime indiquée dans sa déclaration de revenu produite pour une année d'imposition donnée en application de l'alinéa 60j.2),

(iii) de la fraction de la prime au titre de laquelle le contribuable ou son époux ou conjoint de fait a reçu un paiement que le contribuable a déduit en application du paragraphe (8.2) dans le calcul de son revenu pour une année d'imposition antérieure;

(iv) de la fraction de la prime qui serait considérée comme retirée par son époux ou conjoint de fait à titre de montant admissible, au sens du paragraphe 146.01(1), moins de 90 jours après son versement si les gains relatifs à un régime enregistré d'épargne-retraite étaient considérés comme retirés avant les primes versées dans le cadre de ce régime et si les primes étaient considérées comme retirées suivant l'ordre dans lequel elles ont été versées;

b) l'excédent de son maximum déductible au titre des REER pour l'année sur le total des sommes représentant chacune :

(i) la somme déduite en application du paragraphe (5) pour l'année dans le calcul de son revenu,

(ii) une cotisation versée par un employeur au cours de l'année dans un régime de pension agréé collectif relativement au contribuable.

RRSP premium

(5.2) If a taxpayer's entitlement to benefits under a defined benefit provision of a registered pension plan is transferred in accordance with subsection 147.3(4) after February 2009 and before 2011, there may be deducted in computing the taxpayer's income for a taxation year that ends on or after the day on which the transfer was made, the amount claimed by the taxpayer in respect of premiums paid by the taxpayer in the year to a registered retirement savings plan under which the taxpayer is the annuitant, not exceeding the amount, if any, determined by the formula

A – B – C

where

A is the amount, if any, that is the lesser of

(a) the prescribed amount that would have been determined for the purpose of paragraph 147.3(4)(c) if subsection 8517(3.01) of the Regulations had applied in respect of the transfer, and

(b) the amount of the taxpayer's entitlement to benefits under the provision commuted in connection with the transfer;

B is the prescribed amount for the purpose of paragraph 147.3(4)(c) that applied in respect of the transfer; and

C is the total of all amounts deducted by the taxpayer under this subsection for a preceding taxation year.

Transitional rule

(5.201) For the purpose of subsection (5.2), a premium paid by a taxpayer before 2013 is deemed to have been paid in the taxation year in which the transfer referred to in that subsection was made and not in the year in which it was actually paid, if the taxpayer so elects in prescribed form.

Anti-avoidance

(5.21) Notwithstanding any other provision of this section, where

(a) a registered pension plan is amended or administered in such a manner as to terminate, suspend or delay

(i) the membership of an individual in the plan for the individual's 1990 taxation year,

(ii) contributions under the plan by or for the benefit of the individual in respect of the year, or

Prime de REER

(5.2) Dans le cas où le droit d'un contribuable aux prestations prévues par une disposition à prestations déterminées d'un régime de pension agréé est transféré conformément au paragraphe 147.3(4) après février 2009 et avant 2011, est déductible dans le calcul du revenu du contribuable pour une année d'imposition se terminant à la date du transfert ou par la suite la somme qu'il demande au titre des primes qu'il a versées au cours de l'année à un régime enregistré d'épargne-retraite dont il est le rentier, jusqu'à concurrence de la somme obtenue par la formule suivante :

A – B – C

où :

A représente la moins élevée des sommes suivantes :

a) le montant prescrit qui aurait été déterminé pour l'application de l'alinéa 147.3(4)c) si le paragraphe 8517(3.01) du *Règlement de l'impôt sur le revenu* s'était appliqué relativement au transfert,

b) le montant correspondant au droit du contribuable aux prestations prévues par la disposition qui sont rachetées en vue du transfert;

B le montant prescrit pour l'application de l'alinéa 147.3(4)c) qui s'est appliqué relativement au transfert;

C le total des sommes déduites par le contribuable en application du présent paragraphe pour une année d'imposition antérieure.

Règle transitoire

(5.201) Pour l'application du paragraphe (5.2), toute prime versée par un contribuable avant 2013 est réputée avoir été versée au cours de l'année d'imposition où le transfert mentionné à ce paragraphe a été effectué et non au cours de l'année où elle a effectivement été versée, si le contribuable en fait le choix sur le formulaire prescrit.

Anti-évitement

(5.21) Malgré les autres dispositions du présent article, si, selon le cas :

a) un régime de pension agréé est modifié ou géré de façon à faire cesser, suspendre ou retarder :

(i) soit la participation d'un particulier au régime pour son année d'imposition 1990,

(ii) soit les cotisations versées aux termes du régime par le particulier ou à son profit pour l'année,

(iii) the accrual of retirement benefits under the plan for the individual in respect of the year, or

(b) a deferred profit sharing plan is amended or administered in such a manner as to terminate, suspend or delay contributions under the plan for the year in respect of an individual,

and one of the main reasons for the termination, suspension or delay may reasonably be considered to be to reduce the pension adjustment of the individual for the year in respect of an employer, the only amount that may be deducted in computing the income for the year of the individual, in respect of premiums paid to registered retirement savings plans, is the amount that would have been deductible had that termination, suspension or delay not occurred.

(6) [Repealed, 2011, c. 24, s. 45]

Recontribution of certain withdrawals

(6.1) There may be deducted in computing a taxpayer's income for a particular taxation year the total of all amounts each of which is such portion of a prescribed premium for the particular year as was not designated for any taxation year for the purposes of paragraph 60(j), 60(j.1) or 60(l).

Recovery of property used as security

(7) Where in a taxation year a loan, for which a trust governed by a registered retirement savings plan has used or permitted to be used trust property as security, ceases to be extant, and the fair market value of the property so used was included by virtue of subsection 146(10) in computing the income of the taxpayer who is the annuitant under the plan, there may be deducted, in computing the income of the taxpayer for the taxation year, an amount equal to the amount, if any, remaining when

(a) the net loss (exclusive of payments by the trust as or on account of interest) sustained by the trust in consequence of its using the property, or permitting it to be used, as security for the loan and not as a result of a change in the fair market value of the property

is deducted from

(b) the amount so included in computing the income of the taxpayer in consequence of the trust's using the property, or permitting it to be used, as security for the loan.

(iii) soit l'accumulation des prestations de retraite pour le compte du particulier aux termes du régime pour l'année;

b) un régime de participation différée aux bénéfices est modifié ou géré après le 8 octobre 1986 de façon à faire cesser, suspendre ou retarder les cotisations versées au titre d'un particulier pour l'année aux termes du régime,

et s'il est raisonnable de considérer que l'un des principaux motifs de la cessation, de la suspension ou du retard consiste à réduire le facteur d'équivalence du particulier pour l'année quant à un employeur, seules les primes versées aux régimes enregistrés d'épargne-retraite pour l'année — qui auraient été déductibles sans la cessation, la suspension ou le retard — sont déductibles dans le calcul du revenu du particulier pour l'année.

(6) [Abrogé, 2011, ch. 24, art. 45]

Déduction de certains retraits

(6.1) Est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition donnée le total des montants dont chacun représente la fraction d'une prime visée par règlement pour cette année qui n'a pas été indiquée par le contribuable, en application de l'alinéa 60j), j.1) ou l), dans sa déclaration de revenu produite pour une année d'imposition.

Recouvrement de biens utilisés comme garantie

(7) Lorsque, au cours d'une année d'imposition, un prêt pour lequel une fiducie régie par un régime enregistré d'épargne-retraite a utilisé ou a permis que soient utilisés des biens de la fiducie comme garantie cesse d'exister, et que la juste valeur marchande des biens ainsi utilisés a été incluse, en vertu du paragraphe (10), dans le calcul du revenu du contribuable qui est le rentier en vertu du régime, peut être déduite, dans le calcul du revenu du contribuable pour l'année d'imposition, la somme qui resterait après que :

a) la perte nette (à l'exclusion des paiements faits par la fiducie au titre des intérêts) subie par la fiducie par suite du fait qu'elle a utilisé ou a permis que soient utilisés ces biens comme garantie du prêt et non par suite du changement de la juste valeur marchande des biens,

serait déduite :

b) du montant ainsi inclus dans le calcul du revenu du contribuable par suite du fait que la fiducie a utilisé ou a permis que soient utilisés les biens comme garantie du prêt.

Benefits taxable

(8) There shall be included in computing a taxpayer's income for a taxation year the total of all amounts received by the taxpayer in the year as benefits out of or under registered retirement savings plans, other than excluded withdrawals (as defined in subsection 146.01(1) or 146.02(1)) of the taxpayer and amounts that are included under paragraph (12)(b) in computing the taxpayer's income.

Subsequent re-calculation

(8.01) If a designated withdrawal (as defined in subsection 146.01(1)) or an amount referred to in paragraph (a) of the definition ***eligible amount*** in subsection 146.02(1) is received by a taxpayer in a taxation year and, at any time after that year, it is determined that the amount is not an excluded withdrawal (as defined in subsection 146.01(1) or 146.02(1)), notwithstanding subsections 152(4) to (5), such assessments of tax, interest and penalties shall be made as are necessary to give effect to the determination.

Deemed receipt of refund of premiums

(8.1) If a payment out of or under a registered retirement savings plan of a deceased annuitant to the annuitant's legal representative would have been a refund of premiums if it had been paid under the plan to an individual who is a beneficiary (as defined in subsection 108(1)) under the deceased's estate, the payment is, to the extent it is so designated jointly by the legal representative and the individual in prescribed form filed with the Minister, deemed to be received by the individual (and not by the legal representative) at the time it was so paid as a benefit that is a refund of premiums.

Amount deductible

(8.2) Where

(a) all or any portion of the premiums paid in a taxation year by a taxpayer to one or more registered retirement savings plans under which the taxpayer or the taxpayer's spouse or common-law partner was the annuitant was not deducted in computing the taxpayer's income for any taxation year,

(b) the taxpayer or the taxpayer's spouse or common-law partner can reasonably be regarded as having received a payment from a registered retirement savings plan or a registered retirement income fund in respect of such portion of the undeducted premiums as

Prestations imposables

(8) Est inclus dans le calcul du revenu d'un contribuable pour une année d'imposition le total des montants qu'il a reçus au cours de l'année à titre de prestations dans le cadre de régimes enregistrés d'épargne-retraite, à l'exception des retraits exclus au sens des paragraphes 146.01(1) ou 146.02(1), et des montants qui sont inclus, en application de l'alinéa (12)b), dans le calcul de son revenu.

Redressement

(8.01) Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant l'impôt, les intérêts et les pénalités pour tenir compte du cas où un contribuable reçoit au cours d'une année d'imposition un retrait déterminé, au sens du paragraphe 146.01(1), ou un montant visé à l'alinéa a) de la définition de ***montant admissible*** au paragraphe 146.02(1), qui, après cette année, s'avère ne pas être un retrait exclu, au sens des paragraphes 146.01(1) ou 146.02(1).

Avantage reçu sous forme de remboursement de primes

(8.1) La somme versée dans le cadre d'un régime enregistré d'épargne-retraite d'un rentier décédé au représentant légal de ce dernier qui aurait été un remboursement de primes si elle avait été versée en vertu du régime à un particulier qui est bénéficiaire (au sens du paragraphe 108(1)) de la succession du rentier est réputée, dans la mesure où elle est désignée conjointement par le représentant légal et le particulier dans le formulaire prescrit présenté au ministre, être reçue par le particulier (et non par le représentant légal), au moment où elle a été ainsi versée, à titre de prestation qui est un remboursement de primes.

Montant déductible

(8.2) Dans le cas où, à la fois :

a) un contribuable n'a pas déduit dans le calcul de son revenu pour une année d'imposition tout ou partie des primes qu'il a versées au cours d'une année d'imposition à un ou plusieurs régimes enregistrés d'épargne-retraite dont lui-même ou son époux ou conjoint de fait sont rentiers;

b) il est raisonnable de considérer que le contribuable ou son époux ou conjoint de fait ont reçu un paiement d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite au titre de la partie de ces primes non déduites dont le versement ne découle :

(i) was not paid by way of a transfer of an amount from a registered pension plan to a registered retirement savings plan,

(ii) was not paid by way of a transfer of an amount from a deferred profit sharing plan to a registered retirement savings plan in accordance with subsection 147(19), and

(iii) was not paid by way of a transfer of an amount to a registered retirement savings plan from

(A) a pooled registered pension plan in circumstances to which subsection 147.5(21) applied, or

(B) a specified pension plan in circumstances to which subsection (21) applied,

(c) the payment is received by the taxpayer or the taxpayer's spouse or common-law partner in a particular taxation year that is

(i) the year in which the premiums were paid by the taxpayer,

(ii) the year in which a notice of assessment for the taxation year referred to in subparagraph 146(8.2)(c)(i) was sent to the taxpayer, or

(iii) the year immediately following the year referred to in subparagraph 146(8.2)(c)(i) or 146(8.2)(c)(ii), and

(d) the payment is included in computing the taxpayer's income for the particular year,

the payment (except to the extent that it is a prescribed withdrawal) may be deducted in computing the taxpayer's income for the particular year unless it is reasonable to consider that

(e) the taxpayer did not reasonably expect that the full amount of the premiums would be deductible in the taxation year in which the premiums were paid or in the immediately preceding taxation year, and

(f) the taxpayer paid all or any portion of the premiums with the intent of receiving a payment that, but for this paragraph and paragraph 146(8.2)(e), would be deductible under this subsection.

(i) ni du transfert d'un montant d'un régime de pension agréé à un régime enregistré d'épargne-retraite,

(ii) ni du transfert d'un montant d'un régime de participation différée aux bénéfices à un régime enregistré d'épargne-retraite en conformité avec le paragraphe 147(19),

(iii) ni du transfert d'un montant à un régime enregistré d'épargne-retraite à partir :

(A) soit d'un régime de pension agréé collectif, dans les circonstances visées au paragraphe 147.5(21),

(B) soit d'un régime de pension déterminé, dans les circonstances visées au paragraphe (21);

c) le contribuable ou son époux ou conjoint de fait reçoit le paiement au cours d'une année d'imposition donnée qui correspond :

(i) soit à l'année où le contribuable a versé les primes,

(ii) soit à l'année où un avis de cotisation est envoyé au contribuable pour l'année d'imposition visée au sous-alinéa (i),

(iii) soit à l'année suivant celle visée au sous-alinéa (i) ou (ii);

d) le paiement est inclus dans le calcul du revenu du contribuable pour l'année donnée,

le contribuable peut déduire ce paiement — qui n'est pas un retrait visé par règlement — dans le calcul de son revenu pour l'année donnée, sauf s'il est raisonnable de considérer que :

e) d'une part, le contribuable ne s'attendait vraisemblablement pas à ce que le plein montant des primes soit déductible au cours de l'année d'imposition de leur versement ou de l'année d'imposition précédente;

f) d'autre part, le contribuable a versé tout ou partie des primes dans l'intention de recevoir un paiement qui, compte non tenu du présent alinéa et de l'alinéa e), serait déductible en application du présent paragraphe.

Premium deemed not paid

(8.21) Where a taxpayer or the taxpayer's spouse or common-law partner has, at any time in a taxation year, received a payment from a registered retirement savings plan or a registered retirement income fund in respect of

Prime réputée non versée

(8.21) Lorsqu'un contribuable ou son époux ou conjoint de fait reçoit, à un moment donné d'une année d'imposition, un paiement d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite au

all or any portion of a premium paid by the taxpayer to a registered retirement savings plan and the payment has been deducted under subsection 146(8.2) in computing the taxpayer's income for the year, the premium or portion thereof, as the case may be, shall,

(a) for the purposes of determining, after that time, the amount that may be deducted under subsection 146(5) or 146(5.1) in computing the taxpayer's income for the year or a preceding taxation year, and

(b) for the purposes of subsections 146(8.3) and 146.3(5.1) after that time, in the case of a payment received by the taxpayer,

be deemed not to have been a premium paid by the taxpayer to a registered retirement savings plan.

titre de tout ou partie d'une prime que le contribuable a versée à un régime enregistré d'épargne-retraite et que le contribuable déduit le paiement en application du paragraphe (8.2) dans le calcul de son revenu pour l'année, cette prime ou partie de prime, selon le cas, est réputée — pour le calcul, après ce moment, du montant déductible en application du paragraphe (5) ou (5.1) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure et pour l'application des paragraphes (8.3) et 146.3(5.1), après ce moment, s'il s'agit d'un paiement reçu par le contribuable — ne pas être une prime versée par le contribuable à un tel régime.

Spousal or common-law partner payments

(8.3) Where at any time in a taxation year a particular amount in respect of a registered retirement savings plan that is a spousal or common-law partner plan in relation to a taxpayer is required by reason of subsection (8) or paragraph (12)(b) to be included in computing the income of the taxpayer's spouse or common-law partner before the plan matures or as a payment in full or partial commutation of a retirement income under the plan and the taxpayer is not living separate and apart from the taxpayer's spouse or common-law partner at that time by reason of the breakdown of their marriage or common-law partnership, there shall be included at that time in computing the taxpayer's income for the year an amount equal to the lesser of

(a) the total of all amounts each of which is a premium paid by the taxpayer in the year or in one of the two immediately preceding taxation years to a registered retirement savings plan under which the taxpayer's spouse or common-law partner was the annuitant at the time the premium was paid, and

(b) the particular amount.

Montants à inclure dans le revenu du rentier

(8.3) Lorsque, à un moment donné d'une année d'imposition, une somme donnée provenant d'un régime enregistré d'épargne-retraite qui est un régime au profit de l'époux ou conjoint de fait quant à un contribuable doit être incluse en application du paragraphe (8) ou de l'alinéa (12)b) dans le calcul du revenu de l'époux ou conjoint de fait avant échéance du régime ou comme versement découlant de la conversion totale ou partielle d'un revenu de retraite prévu au régime et que le contribuable et son époux ou conjoint de fait ne vivaient pas séparément à ce moment pour cause d'échec du mariage ou union de fait, le contribuable doit inclure, à ce moment, dans le calcul de son revenu pour l'année le moins élevé des montants suivants :

a) le total des montants dont chacun représente une prime qu'il a versée au cours de l'année ou de l'une des deux années d'imposition précédentes à un régime enregistré d'épargne-retraite dont son époux ou conjoint de fait est rentier au moment du versement de la prime;

b) la somme donnée.

Ordering

(8.5) Where a taxpayer has paid more than one premium described in subsection 146(8.3), such a premium or part thereof paid by the taxpayer at any time shall be deemed to have been included in computing the taxpayer's income by virtue of that subsection before premiums or parts thereof paid by the taxpayer after that time.

Ordre des primes versées

(8.5) Dans le cas où un contribuable a versé plus d'une prime visée au paragraphe (8.3), les primes ou parties de prime sont réputées ajoutées en vertu de ce paragraphe dans le calcul de son revenu dans l'ordre chronologique des moments où il les a versées.

Spouse's income

(8.6) Where, in respect of an amount required at any time in a taxation year to be included in computing the income of a taxpayer's spouse or common-law partner,

Déduction dans le revenu de l'époux ou conjoint de fait

(8.6) Dans le cas où, à cause d'une somme à inclure dans le calcul du revenu de l'époux ou conjoint de fait d'un contribuable à un moment donné d'une année

all or part of a premium has by reason of subsection 146(8.3) been included in computing the taxpayer's income for the year, the following rules apply:

(a) the premium or part thereof, as the case may be, shall, for the purposes of subsections 146(8.3) and 146.3(5.1) after that time, be deemed not to have been a premium paid to a registered retirement savings plan under which the taxpayer's spouse or common-law partner was the annuitant; and

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

d'imposition, tout ou partie d'une prime est incluse en application du paragraphe (8.3) dans le calcul du revenu du contribuable pour l'année, cette prime ou partie de prime, selon le cas :

a) est réputée, pour l'application des paragraphes (8.3) et 146.3(5.1) après ce moment, ne pas être versée à un régime enregistré d'épargne-retraite dont l'époux ou conjoint de fait du contribuable est rentier;

b) est déductible dans le calcul du revenu de l'époux ou conjoint de fait pour l'année.

Where s. (8.3) does not apply

(8.7) Subsection 146(8.3) does not apply

(a) in respect of a taxpayer at any time during the year in which the taxpayer died;

(b) in respect of a taxpayer where either the taxpayer or the taxpayer's spouse or common-law partner is a non-resident at the particular time referred to in that subsection;

(c) in respect of amounts paid out of or under a plan referred to in subsection 146(12) as an "amended plan" to which paragraph 146(12)(a) applied before May 26, 1976;

(d) to any payment that is received in full or partial commutation of a registered retirement income fund or a registered retirement savings plan and in respect of which a deduction was made under paragraph 60(l) if, where the deduction was in respect of the acquisition of an annuity, the terms of the annuity provide that it cannot be commuted, and it is not commuted, in whole or in part within 3 years after the acquisition; or

(e) in respect of an amount that is deemed by subsection 146(8.8) to have been received by an annuitant under a registered retirement savings plan immediately before the annuitant's death.

Non-application du par. (8.3)

(8.7) Le paragraphe (8.3) ne s'applique pas :

b) à l'égard d'un contribuable lorsque celui-ci ou son époux ou conjoint de fait est un non-résident au moment donné prévu à ce paragraphe;

b) à l'égard d'un contribuable lorsque celui-ci ou son conjoint est un non-résident au moment donné prévu à ce paragraphe;

c) à l'égard des montants versés dans le cadre d'un régime appelé « régime modifié » au paragraphe (12) et auquel s'applique l'alinéa (12)a) avant le 26 mai 1976;

d) à un versement reçu qui découle de la conversion totale ou partielle d'un fonds enregistré de revenu de retraite ou d'un régime enregistré d'épargne-retraite et pour lequel une déduction est faite en vertu de l'alinéa 60l), si, lorsque la déduction concerne l'achat d'une rente, il est prévu de ne pas pouvoir convertir celle-ci en totalité ou en partie dans les trois ans suivant son achat et elle n'est pas ainsi convertie;

e) à un montant réputé par le paragraphe (8.8) avoir été reçu par un rentier en vertu d'un régime enregistré d'épargne-retraite immédiatement avant son décès.

Effect of death where person other than spouse becomes entitled

(8.8) Where the annuitant under a registered retirement savings plan (other than a plan that had matured before June 30, 1978) dies after June 29, 1978, the annuitant shall be deemed to have received, immediately before the annuitant's death, an amount as a benefit out of or under a registered retirement savings plan equal to the amount, if any, by which

Effet produit par le décès

(8.8) Lorsque le rentier en vertu d'un régime enregistré d'épargne-retraite (autre qu'un régime arrivé à échéance avant le 30 juin 1978) meurt après le 29 juin 1978, il est réputé avoir reçu, immédiatement avant son décès, une somme à tire de prestation, versée dans le cadre du régime, égale à l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

(a) the fair market value of all the property of the plan at the time of death

exceeds

(b) where the annuitant died after the maturity of the plan, the fair market value at the time of the death of the portion of the property described in paragraph 146(8.8)(a) that, as a consequence of the death, becomes receivable by a person who was the annuitant's spouse or common-law partner immediately before the death, or would become so receivable should that person survive throughout all guaranteed terms contained in the plan.

a) la juste valeur marchande de tous les biens du régime au moment de son décès;

b) si le rentier est décédé après l'échéance du régime, la juste valeur marchande, au moment du décès, de la partie des biens visés à l'alinéa a) qui, par suite du décès, devient à recevoir par une personne qui était l'époux ou conjoint de fait du rentier immédiatement avant le décès ou deviendrait ainsi à recevoir si cette personne devait survivre pendant tous les termes garantis que comprend le régime.

Idem

(8.9) There may be deducted from the amount deemed by subsection 146(8.8) to have been received by an annuitant as a benefit out of or under a registered retirement savings plan an amount not exceeding the amount determined by the formula

A × [1 - ((B + C - D) / (B + C))]

where

A is the total of

(a) all refunds of premiums in respect of the plan,

(b) all tax-paid amounts in respect of the plan paid to individuals who, otherwise than because of subsection 146(8.1), received refunds of premiums in respect of the plan, and

(c) all amounts each of which is a tax-paid amount in respect of the plan paid to the legal representative of the annuitant under the plan, to the extent that the legal representative would have been entitled to designate that tax-paid amount under subsection 146(8.1) if tax-paid amounts were not excluded in determining refunds of premiums;

B is the fair market value of the property of the plan at the particular time that is the later of

(a) the end of the first calendar year that begins after the death of the annuitant, and

(b) the time immediately after the last time that any refund of premiums in respect of the plan is paid out of or under the plan;

C is the total of all amounts paid out of or under the plan after the death of the annuitant and before the particular time; and

D is the lesser of

(a) the fair market value of the property of the plan at the time of the annuitant's death, and

Montant déductible par suite du décès

(8.9) Un montant ne dépassant pas le résultat du calcul suivant peut être déduit du montant réputé par le paragraphe (8.8) avoir été reçu par un rentier à titre de prestation dans le cadre d'un régime enregistré d'épargne-retraite :

A × [1 - (B + C - D)/(B + C)]

où :

A représente le total des montants suivants :

a) les remboursements de primes relatifs au régime,

b) les montants libérés d'impôt relativement au régime qui sont versés à des particuliers qui ont reçu des remboursements de primes relatifs au régime autrement que par l'effet du paragraphe (8.1),

c) les montants représentant chacun un montant libéré d'impôt relativement au régime qui est versé au représentant légal du rentier en vertu du régime, dans la mesure où le représentant pourrait désigner le montant en application du paragraphe (8.1) si les montants libérés d'impôt n'étaient pas exclus du calcul des remboursements de primes;

B la juste valeur marchande des biens du régime au moment donné qui correspond au dernier en date des moments suivants :

a) la fin de la première année civile qui commence après le décès du rentier,

b) le moment immédiatement après le dernier moment auquel un remboursement de primes relatif au régime est effectué dans le cadre de celui-ci;

C le total des montants versés dans le cadre du régime après le décès du rentier et avant le moment donné;

D le moins élevé des montants suivants :

(b) the sum of the values of B and C in respect of the plan.

a) la juste valeur marchande des biens du régime au moment du décès du rentier,

b) la somme des éléments B et C en ce qui concerne le régime.

Amounts deemed receivable by spouse or common-law partner

(8.91) Where, as a consequence of the death of an annuitant after the maturity of the annuitant's registered retirement savings plan, the annuitant's legal representative has become entitled to receive amounts out of or under the plan for the benefit of the spouse or common-law partner of the deceased and the legal representative and the spouse or common-law partner file with the Minister a joint election in prescribed form,

(a) the spouse or common-law partner shall be deemed to have become the annuitant under the plan as a consequence of the annuitant's death; and

(b) those amounts shall be deemed to be receivable by the spouse or common-law partner and, when paid, to be received by the spouse or common-law partner as a benefit under the plan, and not to be received by any other person.

Sommes réputées recevables par l'époux ou conjoint de fait

(8.91) Lorsque, en raison du décès du rentier après l'échéance de son régime enregistré d'épargne-retraite, son représentant légal a le droit de recevoir des sommes dans le cadre de ce régime au profit de l'époux ou conjoint de fait du défunt, et que le représentant et l'époux ou conjoint de fait présentent au ministre un choix époux ou conjoint de fait selon le formulaire prescrit :

a) l'époux ou conjoint de fait est réputé être devenu le rentier en vertu du régime en raison du décès du rentier;

b) ces sommes sont réputées être recevables par l'époux ou conjoint de fait et, une fois versées, être reçues par ce dernier à titre de prestation en vertu du régime, et n'être reçues par personne d'autre.

Deduction for post-death reduction in value

(8.92) If the annuitant under a registered retirement savings plan dies before the maturity of the plan, there may be deducted in computing the annuitant's income for the taxation year in which the annuitant dies an amount not exceeding the amount determined, after all amounts payable out of or under the plan have been paid, by the formula

A – B

where

A is the total of all amounts each of which is

(a) the amount deemed by subsection (8.8) to have been received by the annuitant as a benefit out of or under the plan,

(b) an amount (other than an amount described in paragraph (c)) received, after the death of the annuitant, by a taxpayer as a benefit out of or under the plan and included, because of subsection (8), in computing the taxpayer's income, or

(c) a tax-paid amount in respect of the plan; and

B is the total of all amounts paid out of or under the plan after the death of the annuitant.

Déduction pour réduction de valeur postérieure au décès

(8.92) Dans le cas où le rentier d'un régime enregistré d'épargne-retraite décède avant l'échéance du régime, est déductible dans le calcul de son revenu pour l'année d'imposition dans laquelle il est décédé une somme n'excédant pas la somme obtenue par la formule ci-après, une fois payées toutes les sommes payables dans le cadre du régime :

A – B

où :

A représente le total des sommes représentant chacune :

a) la somme réputée par le paragraphe (8.8) avoir été reçue par le rentier à titre de prestation dans le cadre du régime,

b) toute somme (sauf celle visée à l'alinéa c)) qu'un contribuable reçoit après le décès du rentier à titre de prestation dans le cadre du régime et qui est incluse, par l'effet du paragraphe (8), dans le calcul du revenu du contribuable,

c) tout montant libéré d'impôt relativement au régime;

B le total des sommes versées dans le cadre du régime après le décès du rentier.

Subsection (8.92) not applicable

(8.93) Except where the Minister has waived in writing the application of this subsection with respect to all or any portion of the amount determined in subsection (8.92) in respect of a registered retirement savings plan, that subsection does not apply if

(a) at any time after the death of the annuitant, a trust governed by the plan held a non-qualified investment; or

(b) the last payment out of or under the plan was made after the end of the year following the year in which the annuitant died.

Where disposition of property by trust

(9) Where in a taxation year a trust governed by a registered retirement savings plan

(a) disposes of property for a consideration less than the fair market value of the property at the time of the disposition, or for no consideration, or

(b) acquires property for a consideration greater than the fair market value of the property at the time of the acquisition,

the difference between the fair market value and the consideration, if any, shall be included in computing the income for the taxation year of the annuitant under the plan.

Property used as security for loan

(10) If at any time in a taxation year a trust governed by a registered retirement savings plan uses or permits to be used any property of the trust as security for a loan, the fair market value of the property at the time it commenced to be so used shall be included in computing the income for the year of the taxpayer who is the annuitant under the plan at that time.

Where tax payable

(10.1) Where in a taxation year a trust governed by a registered retirement savings plan holds a property that is a non-qualified investment,

(a) tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than non-qualified investments and no capital gains or losses other than from dispositions of non-qualified investments; and

(b) for the purposes of paragraph 146(10.1)(a),

Application du par. (8.92)

(8.93) À moins que le ministre n'ait renoncé par écrit à appliquer le présent paragraphe à l'égard de tout ou partie de la somme déterminée selon le paragraphe (8.92) relativement à un régime enregistré d'épargne-retraite, ce paragraphe ne s'applique pas dans les circonstances suivantes :

a) après le décès du rentier, une fiducie régie par le régime détenait un placement non admissible;

b) le paiement final effectué dans le cadre du régime a été fait après la fin de l'année suivant l'année du décès du rentier.

Dispositions de biens par une fiducie

(9) Lorsque, au cours d'une année d'imposition, une fiducie régie par un régime enregistré d'épargne-retraite :

a) soit dispose de biens en échange d'une contrepartie d'une valeur inférieure à la juste valeur marchande que ces biens avaient au moment de la disposition, ou sans aucune contrepartie;

b) soit acquiert des biens en échange d'une contrepartie d'une valeur supérieure à la juste valeur marchande que ces biens avaient au moment de l'acquisition,

toute différence entre cette juste valeur marchande et la contrepartie doit être incluse dans le calcul du revenu, pour l'année d'imposition, du rentier qui bénéficie de ce régime.

Bien utilisé en garantie d'un prêt

(10) Si, au cours d'une année d'imposition, une fiducie régie par un régime enregistré d'épargne-retraite utilise un bien de la fiducie à titre de garantie d'un prêt ou en permet pareille utilisation, la juste valeur marchande du bien, au moment où il a commencé à être ainsi utilisé, est incluse dans le calcul du revenu, pour l'année, du contribuable qui est le rentier en vertu du régime à ce moment.

Impôt payable

(10.1) Lorsqu'une fiducie régie par un régime enregistré d'épargne-retraite détient, au cours d'une année d'imposition, un bien qui est un placement non admissible :

a) la fiducie doit payer un impôt en vertu de la présente partie sur le montant qui serait son revenu imposable pour l'année si les sources de ses revenus et pertes n'étaient que des placements non admissibles et si ses gains en capital et pertes en capital ne résultaient que de la disposition de tels placements;

b) pour l'application de l'alinéa a):

(i) ***income*** includes dividends described in section 83, and

(ii) paragraphs 38(a) and (b) are to be read as if the fraction set out in each of those paragraphs were replaced by the word "all".

(i) sont compris dans le revenu les dividendes visés à l'article 83,

(ii) la mention de toute fraction visée aux alinéas 38a) et b) vaut mention de « totalité », compte tenu des adaptations grammaticales nécessaires.

(11) and (11.1) [Repealed, 2011, c. 24, s. 45]

(11) et (11.1) [Abrogés, 2011, ch. 24, art. 45]

Change in plan after registration

(12) Where, on any day after a retirement savings plan has been accepted by the Minister for registration for the purposes of this Act, the plan is revised or amended or a new plan is substituted for it, and the plan as revised or amended or the new plan, as the case may be (in this subsection referred to as the "amended plan"), does not comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act, subject to subsection 146(13.1), the following rules apply:

(a) the amended plan shall be deemed, for the purposes of this Act, not to be a registered retirement savings plan; and

(b) the taxpayer who was the annuitant under the plan before it became an amended plan shall, in computing the taxpayer's income for the taxation year that includes that day, include as income received at that time an amount equal to the fair market value of all the property of the plan immediately before that time.

Modification du régime après enregistrement

(12) Lorsque, à une date postérieure à l'acceptation aux fins d'enregistrement par le ministre d'un régime d'épargne-retraite pour l'application de la présente loi, le régime est révisé ou modifié ou un nouveau régime lui est substitué — l'un et l'autre étant appelés « régime modifié » au présent paragraphe — et que le régime modifié ne répond pas aux conditions d'enregistrement prévues au présent article, les règles suivantes s'appliquent sous réserve du paragraphe (13.1):

a) le régime modifié est réputé, pour l'application de la présente loi, ne pas être un régime enregistré d'épargne-retraite;

b) le contribuable qui était rentier du régime avant que celui-ci ne devienne un régime modifié doit ajouter comme revenu reçu à ce moment une somme égale à la juste valeur marchande de tous les biens du régime immédiatement avant ce moment, dans le calcul de son revenu pour l'année d'imposition qui comprend ce moment.

Idem

(13) For the purposes of subsection 146(12), an arrangement under which a right or obligation under a retirement savings plan is released or extinguished either wholly or in part and either in exchange or substitution for any right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the plan) or under which payment of any amount by way of loan or otherwise is made on the security of a right under a retirement savings plan, shall be deemed to be a new plan substituted for that retirement savings plan.

Idem

(13) Pour l'application du paragraphe (12), un accord prévoyant la renonciation à un droit ou à une obligation découlant d'un régime d'épargne-retraite, ou leur extinction, en totalité ou en partie, soit en échange ou en remplacement de tout autre droit ou obligation, soit autrement (autre qu'un accord dont l'unique objet et les seuls effets juridiques sont de réviser ou de modifier ce régime), ou selon lequel le paiement d'une somme sous forme de prêt ou autrement est effectué sur garantie consistant en un droit prévu par un régime d'épargne-retraite, est réputé être un nouveau régime substitué à ce régime d'épargne-retraite.

(13.1) [Repealed, 2011, c. 24, s. 45]

(13.1) [Abrogé, 2011, ch. 24, art. 45]

(13.2) and (13.3) [Repealed, 2007, c. 29, s. 17]

(13.2) et (13.3) [Abrogés, 2007, ch. 29, art. 17]

Premiums paid in taxation year

(14) Where any amount has been paid in a taxation year as a premium under a retirement savings plan that was, at the end of that taxation year, a registered retirement savings plan, the amount so paid shall be deemed, for the

Primes payées au cours de l'année d'imposition

(14) Lorsqu'une somme a été payée au cours d'une année d'imposition à titre de prime en vertu d'un régime d'épargne-retraite qui était, à la fin de cette année d'imposition, un régime enregistré d'épargne-retraite, la

purposes of this Act, to have been paid in that year as a premium under a registered retirement savings plan.

Plan not registered at end of year entered into

(15) Notwithstanding anything in this section, where an amount is received in a taxation year as a benefit under a registered retirement savings plan that was not, at the end of the year in which the plan was entered into, a registered retirement savings plan, such part, if any, of the amount so received as may be prescribed shall be deemed, for the purposes of this Act, to have been received in the taxation year otherwise than as a benefit or other payment under a registered retirement savings plan.

Transfer of funds

(16) Notwithstanding any other provision in this section, a registered retirement savings plan may at any time be revised or amended to provide for the payment or transfer before the maturity of the plan, on behalf of the annuitant under the plan (in this subsection referred to as the "transferor"), of any property thereunder by the issuer thereof

(a) to a registered pension plan for the benefit of the transferor or to a registered retirement savings plan or registered retirement income fund under which the transferor is the annuitant, or

(b) to a registered retirement savings plan or registered retirement income fund under which the spouse or common-law partner or former spouse or common-law partner of the transferor is the annuitant, where the transferor and the transferor's spouse or common-law partner or former spouse or common-law partner are living separate and apart and the payment or transfer is made under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property between the transferor and the transferor's spouse or common-law partner or former spouse or common-law partner in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership,

and, where there has been such a payment or transfer of such property on behalf of the transferor before the maturity of the plan,

(c) the amount of the payment or transfer shall not, solely because of the payment or transfer, be included in computing the income of the transferor or the

somme ainsi payée est réputée, pour l'application de la présente loi, avoir été payée au cours de l'année en question à titre de prime en vertu d'un régime enregistré d'épargne-retraite.

Régime non enregistré à la fin de l'année où il a été souscrit

(15) Malgré les autres dispositions du présent article, si une somme est reçue au cours d'une année d'imposition à titre de prestation en vertu d'un régime enregistré d'épargne-retraite qui n'était pas, à la fin de l'année de l'affiliation au régime, un régime enregistré d'épargne-retraite, la fraction de la somme ainsi reçue qui peut être prescrite est réputée, pour l'application de la présente loi, avoir été reçue au cours de l'année d'imposition autrement qu'au titre d'une prestation ou d'un autre paiement effectués en vertu d'un régime enregistré d'épargne-retraite.

Transfert de biens

(16) Malgré les autres dispositions du présent article, un régime enregistré d'épargne-retraite peut, à un moment donné, être révisé ou modifié de façon à prévoir le versement ou le transfert, avant son échéance, de biens accumulés dans ce régime, par l'émetteur pour le compte du rentier :

a) soit à un régime de pension agréé, au profit du rentier, ou à un régime enregistré d'épargne-retraite ou un fonds enregistré de revenu de retraite dont le rentier est rentier;

b) soit à un régime enregistré d'épargne-retraite ou un fonds enregistré de revenu de retraite dont l'époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait du rentier est rentier, si le rentier et son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait vivent séparément et si le versement ou le transfert est effectué en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent ou en vertu d'un accord écrit de séparation, visant à partager des biens entre le rentier et son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait, en règlement des droits découlant du mariage ou union de fait ou de son échec.

Dans le cas où un tel versement ou transfert est effectué pour le compte du rentier avant l'échéance du régime, les règles suivantes s'appliquent :

c) le montant du versement ou du transfert ne peut, en raison seulement du versement ou du transfert, être inclus dans le calcul du revenu du rentier ou de son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait;

transferor's spouse or common-law partner or former spouse or common-law partner,

(d) no deduction may be made under subsection 146(5), 146(5.1) or 146(8.2) or section 8 or 60 in respect of the payment or transfer in computing the income of any taxpayer, and

(e) where the payment or transfer was made to a registered retirement savings plan, for the purposes of subsection 146(8.2), the amount of the payment or transfer shall be deemed not to be a premium paid to that plan by the taxpayer.

d) aucune déduction ne peut être faite en application des paragraphes (5), (5.1) ou (8.2) ou des articles 8 ou 60 au titre du versement ou du transfert dans le calcul du revenu d'un contribuable quelconque;

e) en cas de versement ou de transfert à un régime enregistré d'épargne-retraite, le montant du versement ou du transfert est réputé, pour l'application du paragraphe (8.2), ne pas être une prime versée à ce régime par le contribuable.

Credited or added amount deemed not received

(20) Where

(a) an amount is credited or added to a deposit with a depositary referred to in subparagraph (b)(iii) of the definition ***retirement savings plan*** in subsection 146(1) as interest or income in respect of the deposit,

(b) the deposit is a registered retirement savings plan at the time the amount is credited or added to the deposit, and

(c) during the calendar year in which the amount is credited or added or during the preceding calendar year, the annuitant under the plan was alive,

the amount shall be deemed not to be received by the annuitant or any other person solely because of the crediting or adding.

Montant crédité ou ajouté réputé non reçu

(20) Le montant qui est ajouté au dépôt fait auprès du dépositaire visé au sous-alinéa b)(iii) de la définition de ***régime d'épargne-retraite*** au paragraphe (1), ou qui est porté au crédit d'un tel dépôt, à titre d'intérêt ou de revenu afférent au dépôt, lequel est un régime enregistré d'épargne-retraite au moment où le montant y est ajouté ou est porté à son crédit, est réputé ne pas avoir été reçu par le rentier du régime ni par une autre personne du seul fait qu'il a été ainsi ajouté au dépôt ou porté à son crédit, à condition que le rentier ait été vivant au cours de l'année civile où le montant a été ajouté au dépôt, ou porté à son crédit, ou au cours de l'année civile précédente.

Specified pension plan

(21) Where

(a) an amount (other than an amount that is part of a series of periodic payments) is transferred directly from an individual's account under a specified pension plan

(i) to a registered retirement savings plan or registered retirement income fund under which the individual, or a spouse or common-law partner or former spouse or common-law partner of the individual, is the annuitant,

(ii) to acquire from a licensed annuities provider an annuity that would be described in subparagraph 60(l)(ii) if the individual, or a spouse or common-law partner or former spouse or common-law partner of the individual, were the taxpayer referred to in that subparagraph and if that subparagraph were read without reference to clause 60(l)(ii)(B), or

Régime de pension déterminé

(21) Dans le cas où les conditions ci-après sont réunies :

a) un montant (sauf un montant qui fait partie d'une série de paiements périodiques) est transféré directement du compte d'un particulier dans le cadre d'un régime de pension déterminé :

(i) soit à un régime enregistré d'épargne-retraite, ou à un fonds enregistré de revenu de retraite, dont le particulier, ou son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait, est rentier,

(ii) soit en vue d'acquérir d'un fournisseur de rentes autorisé une rente qui serait visée au sous-alinéa 60l)(ii) si le particulier, ou son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait, était le contribuable visé à ce sous-alinéa et s'il n'était pas tenu compte de la division 60l)(ii)(B),

(iii) soit au compte de l'époux ou du conjoint de fait ou de l'ex-époux ou de l'ancien conjoint de fait du particulier dans le cadre du régime,

(iii) to an account under the plan of a spouse or common-law partner or former spouse or common-law partner of the individual, and

(b) if the transfer is in respect of a spouse or common-law partner or former spouse or common-law partner of the individual,

(i) the individual and the spouse or common-law partner or former spouse or common-law partner are living separate and apart and the transfer is made under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership, or

(ii) the amount is transferred as a consequence of the individual's death,

the following rules apply:

(c) the amount shall not, solely because of the transfer, be included because of subparagraph 56(1)(a)(i) in computing the income of a taxpayer, and

(d) no deduction may be made under any provision of this Act in respect of the transfer in computing the income of a taxpayer.

b) si le montant est transféré relativement à l'époux ou au conjoint de fait ou à l'ex-époux ou à l'ancien conjoint de fait du particulier, l'un des faits suivants se vérifie :

(i) le particulier et l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait vivent séparément et le transfert est effectué conformément à une ordonnance ou un jugement d'un tribunal compétent ou à un accord écrit de séparation, visant à partager des biens en règlement des droits découlant de leur mariage ou union de fait ou de son échec,

(ii) le montant est transféré par suite du décès du particulier,

les règles suivantes s'appliquent :

c) le montant n'est pas, du seul fait du transfert, inclus dans le calcul du revenu d'un contribuable par l'effet du sous-alinéa 56(1)a)(i);

d) nul montant n'est déductible aux termes de la présente loi relativement au transfert dans le calcul du revenu d'un contribuable.

Specified pension plan — contribution

(21.1) For the purposes of this section, paragraphs 18(11)(b), 60(j), (j.1) and (l), 74.5(12)(a), 146.01(3)(a) and 146.02(3)(a) and Parts X.1 and X.5, and for the purposes of section 214.1 of the *Income Tax Regulations*, a contribution made by an individual to an account of the individual, or of the individual's spouse or common-law partner, under a specified pension plan is deemed to be a premium paid by the individual to a registered retirement savings plan under which the individual, or the individual's spouse or common-law partner, as the case may be, is the annuitant.

Specified pension plan — account

(21.2) For the purposes of paragraph (8.2)(b), subsection (8.21), paragraphs (16)(a) and (b) and 18(1)(u), subparagraph (a)(i) of the definition ***excluded right or interest*** in subsection 128.1(10), paragraph (b) of the definition ***excluded premium*** in subsection 146.01(1), paragraph (c) of the definition ***excluded premium*** in subsection 146.02(1), subsections 146.3(14) and 147(19), section 147.3 and paragraph 147.5(21)(c), and for the purposes of any regulations made under subsection

Régime de pension déterminé — cotisation

(21.1) Pour l'application du présent article, des alinéas 18(11)b), 60j), j.1) et l), 74.5(12)a), 146.01(3)a) et 146.02(3)a) et des parties X.1 et X.5 ainsi que de l'article 214.1 du *Règlement de l'impôt sur le revenu*, la cotisation qu'un particulier verse à son compte, ou au compte de son époux ou conjoint de fait, dans le cadre d'un régime de pension déterminé est réputée être une prime qu'il a versée à un régime enregistré d'épargne-retraite dont il est le rentier ou dont son époux ou conjoint de fait est le rentier, selon le cas.

Régime de pension déterminé — compte

(21.2) Pour l'application de l'alinéa (8.2)b), du paragraphe (8.21), des alinéas (16)a) et b) et 18(1)u), du sous-alinéa a)(i) de la définition de ***droit, participation ou intérêt exclu*** au paragraphe 128.1(10), de l'alinéa b) de la définition de ***prime exclue*** au paragraphe 146.01(1), de l'alinéa c) de la définition de ***prime exclue*** au paragraphe 146.02(1), des paragraphes 146.3(14) et 147(19), de l'article 147.3 et de l'alinéa 147.5(21)c) ainsi que des dispositions réglementaires prises en application du paragraphe 147.1(18), le compte d'un particulier dans le cadre d'un régime de pension déterminé est réputé être

147.1(18), an individual's account under a specified pension plan is deemed to be a registered retirement savings plan under which the individual is the annuitant.

Specified pension plan — payment

(21.3) For the purposes of subsections (8.3) to (8.7), a payment received by an individual from a specified pension plan is deemed to be a payment received by the individual from a registered retirement savings plan.

Deemed payment of RRSP premiums

(22) If the Minister so directs,

(a) except for the purposes of subparagraphs (5)(a)(iv.1) and (5.1)(a)(iv), an amount paid by an individual in a taxation year (other than an amount paid in the first 60 days of the year) as a premium is deemed to have been paid at the beginning of the year and not at the time it was actually paid;

(b) all or part of the amount may be designated in writing by the individual for the purpose of paragraph 60(j), (j.1) or (l) or subsection 146.01(3) or 146.02(3); and

(c) the designation is deemed to have been made in the individual's return of income for the preceding taxation year or in a prescribed form filed with that return, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 146; 1994, c. 7, Sch. II, s. 117, Sch. VII, s. 13, Sch. VIII, s. 82, c. 21, ss. 69, 136; 1995, c. 3, s. 43; 1996, c. 21, s. 34; 1997, c. 25, s. 41; 1998, c. 19, ss. 37, 170; 1999, c. 22, s. 59; 2000, c. 12, ss. 135(F), 142, c. 19, s. 42; 2001, c. 17, ss. 139, 246(E); 2003, c. 15, s. 82; 2007, c. 29, s. 17; 2009, c. 2, s. 51; 2011, c. 24, s. 45; 2012, c. 31, s. 32; 2013, c. 34, ss. 137, 296; 2014, c. 39, s. 50; 2016, c. 12, s. 52.

un régime enregistré d'épargne-retraite dont le particulier est le rentier.

Régime de pension déterminé — paiement

(21.3) Pour l'application des paragraphes (8.3) à (8.7), le paiement qu'un particulier reçoit d'un régime de pension déterminé est réputé être un paiement qu'il a reçu d'un régime enregistré d'épargne-retraite.

Versement réputé de primes de REER

(22) Si le ministre l'ordonne :

a) sauf pour l'application des sous-alinéas (5)a)(iv.1) et (5.1)a)(iv), le montant qu'un particulier verse au cours d'une année d'imposition (sauf celui versé au cours des soixante premiers jours de l'année) à titre de prime est réputé avoir été versé au début de l'année et non au moment où il a réellement été versé;

b) le particulier peut indiquer la totalité ou une partie du montant dans une déclaration pour l'application des alinéas 60j), j.1) ou l) ou dans un formulaire prescrit pour l'application des paragraphes 146.01(3) ou 146.02(3);

c) le montant ou la partie de montant est réputé avoir été indiqué dans la déclaration de revenu du particulier pour l'année d'imposition précédente ou dans un formulaire prescrit joint à cette déclaration, selon le cas.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 146; 1994, ch. 7, ann. II, art. 117, ann. VII, art. 13, ann. VIII, art. 82, ch. 21, art. 69 et 136; 1995, ch. 3, art. 43; 1996, ch. 21, art. 34; 1997, ch. 25, art. 41; 1998, ch. 19, art. 37 et 170; 1999, ch. 22, art. 59; 2000, ch. 12, art. 135(F), 142, ch. 19, art. 42; 2001, ch. 17, art. 139 et 246(A); 2003, ch. 15, art. 82; 2007, ch. 29, art. 17; 2009, ch. 2, art. 51; 2011, ch. 24, art. 45; 2012, ch. 31, art. 32; 2013, ch. 34, art. 137 et 296; 2014, ch. 39, art. 50; 2016, ch. 12, art. 52.

Home Buyers' Plan

Definitions

146.01 (1) In this section,

annuitant has the meaning assigned by subsection 146(1); (*rentier*)

benefit has the meaning assigned by subsection 146(1); (*prestation*)

completion date, in respect of an amount received by an individual, is

(a) where the amount was received before March 2, 1993, October 1, 1993,

Régime d'accession à la propriété

Définitions

146.01 (1) Les définitions qui suivent s'appliquent au présent article.

bien de remplacement Habitation admissible qui remplace une autre habitation admissible relativement à un particulier ou à une personne handicapée déterminée quant à celui-ci, si les conditions suivantes sont réunies :

a) le particulier ou la personne handicapée déterminée est convenu d'acquérir l'habitation, ou en a commencé la construction, à un moment postérieur à sa plus récente demande visée à la définition de ***retrait déterminé*** relative à l'autre habitation;

(b) where the amount was received after March 1, 1993 and before March 2, 1994, October 1, 1994, and

(c) in any other case, October 1 of the calendar year following the calendar year in which the amount was received; (*date de clôture*)

designated withdrawal of an individual is an amount received by the individual, as a benefit out of or under a registered retirement savings plan, pursuant to the individual's written request in the prescribed form referred to in paragraph (a) of the definition ***eligible amount*** (as that definition read in its application to amounts received before 1999), paragraph (a) of the definition ***regular eligible amount*** or paragraph (a) of the definition ***supplemental eligible amount***; (*retrait déterminé*)

eligible amount of an individual is a regular eligible amount or supplemental eligible amount of the individual; (*montant admissible*)

excluded premium in respect of an individual means a premium under a registered retirement savings plan where the premium

(a) was designated by the individual for the purposes of paragraph 60(j), 60(j.1), 60(j.2) or 60(l),

(b) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund or deferred profit sharing plan,

(c) was deductible under subsection 146(6.1) in computing the individual's income for any taxation year, or

(d) was deducted in computing the individual's income for the 1991 taxation year; (*prime exclue*)

excluded withdrawal of an individual means

(a) an eligible amount received by the individual,

(b) a particular amount (other than an eligible amount) received while the individual was resident in Canada and in a calendar year if

(i) the particular amount would be an eligible amount of the individual if the definition ***regular eligible amount*** were read without reference to paragraphs (c) and (g) of that definition and the definition ***supplemental eligible amount*** were read without reference to paragraphs (d) and (f) of that definition,

b) à ce moment, le particulier a l'intention que l'habitation lui serve de lieu principal de résidence, ou serve ainsi à la personne handicapée déterminée, au plus tard un an après son acquisition;

c) ni le particulier, ni la personne handicapée déterminée, ni leur époux ou conjoint de fait respectif n'ont acquis l'habitation avant ce moment. (*replacement property*)

date de clôture S'agissant de la date de clôture relative à un montant reçu par un particulier :

a) le 1er octobre 1993, si le montant est reçu avant le 2 mars 1993;

b) le 1er octobre 1994, si le montant est reçu après le 1er mars 1993 et avant le 2 mars 1994;

c) le 1er octobre de l'année civile suivant celle de la réception du montant, dans les autres cas. (*completion date*)

émetteur S'entend au sens du paragraphe 146(1). (*issuer*)

habitation admissible

a) Logement situé au Canada;

b) part du capital social d'une coopérative d'habitation, qui confère au titulaire le droit de posséder un logement situé au Canada.

Toutefois la mention d'une habitation admissible qui est une part visée à l'alinéa b) vaut mention, selon le contexte, du logement auquel cette part se rapporte. (*qualifying home*)

montant admissible Montant admissible principal ou montant admissible supplémentaire. (*eligible amount*)

montant admissible principal Montant qu'un particulier reçoit à un moment donné à titre de prestation dans le cadre d'un régime enregistré d'épargne-retraite, si les conditions suivantes sont réunies :

a) le particulier reçoit le montant à sa demande écrite présentée sur le formulaire prescrit dans lequel il indique l'emplacement de l'habitation admissible qu'il a commencé à utiliser comme lieu principal de résidence ou qu'il a l'intention de commencer à utiliser ainsi au plus tard un an après son acquisition;

b) le particulier a conclu une convention écrite avant le moment donné visant l'acquisition de l'habitation ou sa construction;

(ii) a payment (other than an excluded premium) equal to the particular amount is made by the individual under a retirement saving plan that is, at the end of the taxation year of the payment, a registered retirement savings plan under which the individual is the annuitant,

(iii) the payment is made before the particular time that is

(A) if the individual was not resident in Canada at the time the individual filed a return of income for the taxation year in which the particular amount was received, the earlier of

(I) the end of the following calendar year, and

(II) the time at which the individual filed the return,

(B) where clause (A) does not apply and the particular amount would, but for subclause (2)(c)(ii)(A)(II), be an eligible amount, the end of the second following calendar year, and

(C) in any other case, the end of the following calendar year, and

(iv) either

(A) if the particular time is before 2000, the payment is made, as a repayment of the particular amount, to the issuer of the registered retirement savings plan from which the particular amount was received, no other payment is made as a repayment of the particular amount and that issuer is notified of the payment in prescribed form submitted to the issuer at the time the payment is made, or

(B) the payment is made after 1999 and before the particular time and the payment (and no other payment) is designated under this clause as a repayment of the particular amount in prescribed form filed with the Minister on or before the particular time (or before such later time as is acceptable to the Minister), or

(c) an amount (other than an eligible amount) that is received in a calendar year before 1999 and that would be an eligible amount of the individual if the definition ***eligible amount***, as it applied to amounts received before 1999, were read without reference to paragraphs (c) and (e) of that definition, where the individual

(i) died before the end of the following calendar year, and

c) le particulier :

(i) soit acquiert l'habitation ou un bien de remplacement y afférent avant la date de clôture relative au montant,

(ii) soit décède avant la fin de l'année civile qui comprend cette date;

d) ni le particulier ni son époux ou conjoint de fait n'ont acquis l'habitation plus de 30 jours avant le moment donné;

e) le particulier ne possédait pas d'habitation à titre de propriétaire-occupant au cours de la période :

(i) ayant commencé au début de la quatrième année civile précédente qui a pris fin avant le moment donné,

(ii) s'étant terminée le trente et unième jour précédant ce moment;

f) l'époux ou conjoint de fait du particulier ne possédait pas d'habitation à titre de propriétaire-occupant au cours de la période visée à l'alinéa e) qui était :

(i) soit une habitation que le particulier occupait pendant leur mariage ou union de fait,

(ii) soit une part du capital social d'une coopérative d'habitation se rattachant à un logement que le particulier occupait pendant leur mariage ou union de fait;

g) le particulier :

(i) soit a acquis l'habitation avant le moment donné et réside au Canada à ce moment,

(ii) soit réside au Canada tout au long de la période commençant au moment donné et se terminant à son décès ou, s'il est antérieur, au moment où il a acquis l'habitation ou un bien de remplacement pour la première fois;

h) la somme du montant et des autres montants admissibles reçus par le particulier au cours de l'année civile qui comprend le moment donné n'excède pas 25 000 $;

i) le solde RAP du particulier au début de l'année civile qui comprend le moment donné est nul. (*regular eligible amount*)

(ii) was resident in Canada throughout the period that began immediately after the amount was received and ended at the time of the death; (*retrait exclu*)

HBP balance of an individual at any time means the amount, if any, by which the total of all eligible amounts received by the individual at or before that time exceeds the total of

(a) all amounts designated under subsection (3) by the individual for taxation years that ended before that time, and

(b) all amounts each of which is included under subsection (4) or (5) in computing the individual's income for a taxation year that ended before that time; (*solde RAP*)

issuer has the meaning assigned by subsection 146(1); (*émetteur*)

participation period of an individual means each period

(a) that begins at the beginning of a calendar year in which the individual receives an eligible amount, and

(b) that ends immediately before the beginning of the first subsequent calendar year at the beginning of which the individual's HBP balance is nil; (*période de participation*)

premium has the meaning assigned by subsection 146(1); (*prime*)

qualifying home means

(a) a housing unit located in Canada, or

(b) a share of the capital stock of a cooperative housing corporation, the holder of which is entitled to possession of a housing unit located in Canada,

except that, where the context so requires, a reference to a qualifying home that is a share described in paragraph (b) means the housing unit to which the share described in that paragraph relates; (*habitation admissible*)

quarter [Repealed, 2013, c. 34, s. 297]

regular eligible amount of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan if

(a) the amount is received pursuant to the individual's written request in a prescribed form in which the

montant admissible supplémentaire Montant qu'un particulier reçoit à un moment donné à titre de prestation dans le cadre d'un régime enregistré d'épargne-retraite, si les conditions suivantes sont réunies :

a) le particulier reçoit le montant à sa demande écrite présentée sur le formulaire prescrit dans lequel il indique le nom d'une personne handicapée déterminée quant à lui ainsi que l'emplacement de l'habitation admissible :

(i) soit que cette personne a commencé à utiliser comme lieu principal de résidence,

(ii) soit qu'il a l'intention de faire servir de lieu principal de résidence à cette personne au plus tard un an après le moment où elle est acquise pour la première fois après le moment donné;

b) le montant est reçu afin de permettre à la personne handicapée déterminée de vivre :

(i) soit dans une habitation qui lui est plus facile d'accès ou dans laquelle elle peut se déplacer ou accomplir les tâches de la vie quotidienne plus facilement,

(ii) soit dans un milieu qui est mieux adapté à ses besoins personnels et aux soins qu'elle requiert;

c) le particulier ou la personne handicapée déterminée a conclu une convention écrite avant le moment donné visant l'acquisition de l'habitation ou sa construction;

d) selon le cas :

(i) le particulier ou la personne handicapée déterminée acquiert l'habitation ou un bien de remplacement y afférent après 1998 et avant la date de clôture relative au montant,

(ii) le particulier décède avant la fin de l'année civile qui comprend cette date;

e) ni le particulier, ni la personne handicapée déterminée, ni leur époux ou conjoint de fait respectif n'ont acquis l'habitation plus de 30 jours avant le moment donné;

f) selon le cas :

(i) le particulier ou la personne handicapée déterminée a acquis l'habitation avant le moment donné et le particulier réside au Canada à ce moment,

individual sets out the location of a qualifying home that the individual has begun, or intends not later than one year after its acquisition by the individual to begin, using as a principal place of residence,

(b) the individual entered into an agreement in writing before the particular time for the acquisition of it or with respect to its construction,

(c) the individual

(i) acquires the qualifying home (or a replacement property for the qualifying home) before the completion date in respect of the amount, or

(ii) dies before the end of the calendar year that includes the completion date in respect of the amount,

(d) neither the individual nor the individual's spouse or common-law partner acquired the qualifying home more than 30 days before the particular time,

(e) the individual did not have an owner-occupied home in the period

(i) that began at the beginning of the fourth preceding calendar year that ended before the particular time, and

(ii) that ended on the 31st day before the particular time,

(f) the individual's spouse or common-law partner did not, in the period referred to in paragraph (e), have an owner-occupied home

(i) that was inhabited by the individual during the spouse's or common-law partner's marriage or common-law partnership to the individual, or

(ii) that was a share of the capital stock of a cooperative housing corporation that relates to a housing unit inhabited by the individual during the spouse's or common-law partner's marriage or common-law partnership to the individual,

(g) the individual

(i) acquired the qualifying home before the particular time and is resident in Canada at the particular time, or

(ii) is resident in Canada throughout the period that begins at the particular time and ends at the earlier of the time of the individual's death and the

(ii) le particulier réside au Canada tout au long de la période commençant an moment donné et se terminant à son décès ou, s'il est antérieur, au moment où, selon le cas :

(A) il a acquis l'habitation ou un bien de remplacement pour la première fois,

(B) la personne handicapée déterminée a acquis l'habitation ou un bien de remplacement pour la première fois;

g) la somme du montant et des autres montants admissibles reçus par le particulier au cours de l'année civile qui comprend le moment donné n'excède pas 25 000 $;

h) le solde RAP du particulier au début de l'année civile qui comprend le moment donné est nul. (*supplemental eligible amount*)

période de participation Quant à un particulier, chaque période qui commence au début d'une année civile au cours de laquelle il reçoit un montant admissible et se termine immédiatement avant le début de la première année civile suivante au début de laquelle son solde RAP est nul. (*participation period*)

personne handicapée déterminée Est une personne handicapée déterminée, quant à un particulier à un moment donné, la personne qui, à la fois :

a) est le particulier ou est liée au particulier à ce moment;

b) aurait droit à la déduction prévue au paragraphe 118.3(1) dans le calcul de son impôt payable en vertu de la présente partie pour son année d'imposition qui comprend ce moment s'il était fait abstraction de l'alinéa 118.3(1)c). (*specified disabled person*)

prestation S'entend au sens du paragraphe 146(1). (*benefit*)

prime S'entend au sens du paragraphe 146(1). (*premium*)

prime exclue Prime d'un particulier en vertu d'un régime enregistré d'épargne-retraite, si l'une des conditions suivantes est remplie :

a) le particulier l'a indiquée dans sa déclaration de revenu pour l'application des alinéas 60j), j.1), j.2) ou l);

b) il s'agit d'un montant transféré directement d'un régime enregistré d'épargne-retraite, d'un régime de

earliest time at which the individual acquires the qualifying home or a replacement property for it,

(h) the total of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed $25,000, and

(i) the individual's HBP balance at the beginning of the calendar year that includes the particular time is nil; (*montant admissible principal*)

replacement property for a particular qualifying home in respect of an individual, or of a specified disabled person in respect of the individual, means another qualifying home that

(a) the individual or the specified disabled person agrees to acquire, or begins the construction of, at a particular time that is after the latest time that the individual made a request described in the definition ***designated withdrawal*** in respect of the particular qualifying home,

(b) at the particular time, the individual intends to be used by the individual or the specified disabled person as a principal place of residence not later than one year after its acquisition, and

(c) none of the individual, the individual's spouse or common-law partner, the specified disabled person or that person's spouse or common-law partner had acquired before the particular time; (*bien de remplacement*)

specified disabled person, in respect of an individual at any time, means a person who

(a) is the individual or is related at that time to the individual, and

(b) would be entitled to a deduction under subsection 118.3(1) in computing tax payable under this Part for the person's taxation year that includes that time if that subsection were read without reference to paragraph (c) of that subsection; (*personne handicapée déterminée*)

supplemental eligible amount of an individual means an amount received at a particular time by the individual as a benefit out of or under a registered retirement savings plan if

(a) the amount is received pursuant to the individual's written request in a prescribed form identifying a specified disabled person in respect of the individual and setting out the location of a qualifying home

pension agréé, d'un fonds enregistré de revenu de retraite ou d'un régime de participation différée aux bénéfices;

c) elle était déductible en application du paragraphe 146(6.1) dans le calcul du revenu du particulier pour une année d'imposition;

d) le particulier l'a déduite dans le calcul de son revenu pour l'année d'imposition 1991. (*excluded premium*)

rentier S'entend au sens du paragraphe 146(1). (*annuitant*)

retrait déterminé Montant qu'un particulier reçoit à titre de prestation dans le cadre d'un régime enregistré d'épargne-retraite à sa demande écrite présentée sur le formulaire prescrit visé à l'alinéa a) de la définition de ***montant admissible*** (dans sa version applicable aux montants reçus avant 1999), à l'alinéa a) de la définition de ***montant admissible principal*** ou à l'alinéa a) de la définition de ***montant admissible supplémentaire***. (*designated withdrawal*)

retrait exclu Retrait d'un particulier qui constitue :

a) soit un montant admissible qu'il a reçu;

b) soit un montant donné, sauf un montant admissible, qu'il a reçu au cours d'une année civile pendant qu'il résidait au Canada, si les conditions suivantes sont réunies :

(i) le montant donné serait un montant admissible pour lui en l'absence des alinéas c) et g) de la définition de ***montant admissible principal*** et des alinéas d) et f) de la définition de ***montant admissible supplémentaire***,

(ii) il effectue un paiement, sauf une prime exclue, égal au montant donné dans le cadre d'un régime d'épargne-retraite qui, à la fin de l'année d'imposition du paiement, est un régime enregistré d'épargne-retraite dont il est le rentier,

(iii) le paiement est effectué avant le moment donné suivant :

(A) si le particulier ne résidait pas au Canada au moment où il a produit une déclaration de revenu pour l'année d'imposition de la réception du montant donné, le premier en date des moments suivants :

(I) la fin de l'année civile suivante,

(i) that has begun to be used by that person as a principal place of residence, or

(ii) that the individual intends to be used by that person as a principal place of residence not later than one year after its first acquisition after the particular time,

(b) the purpose of receiving the amount is to enable the specified disabled person to live

(i) in a dwelling that is more accessible by that person or in which that person is more mobile or functional, or

(ii) in an environment better suited to the personal needs and care of that person,

(c) the individual or the specified disabled person entered into an agreement in writing before the particular time for the acquisition of the qualifying home or with respect to its construction,

(d) either

(i) the individual or the specified disabled person acquires the qualifying home (or a replacement property for it) after 1998 and before the completion date in respect of the amount, or

(ii) the individual dies before the end of the calendar year that includes the completion date in respect of the amount,

(e) none of the individual, the spouse or common-law partner of the individual, the specified disabled person or the spouse or common-law partner of that person acquired the qualifying home more than 30 days before the particular time,

(f) either

(i) the individual or the specified disabled person acquired the qualifying home before the particular time and the individual is resident in Canada at the particular time, or

(ii) the individual is resident in Canada throughout the period that begins at the particular time and ends at the earlier of the time of the individual's death and the earliest time at which

(A) the individual acquires the qualifying home or a replacement property for it, or

(B) the specified disabled person acquires the qualifying home or a replacement property for it,

(II) le moment de la production de la déclaration,

(B) dans le cas où la division (A) ne s'applique pas et où le montant donné serait un montant admissible si ce n'était la subdivision (2)c)(ii)(A)(II), la fin de la deuxième année civile suivante,

(C) dans les autres cas, la fin de l'année civile suivante,

(iv) selon le cas :

(A) si le moment donné est antérieur à 2000, le paiement est effectué en remboursement du montant donné à l'émetteur du régime enregistré d'épargne-retraite duquel le montant donné a été reçu, aucun autre paiement n'est effectué en remboursement du montant donné et l'émetteur en question est avisé du paiement sur le formulaire prescrit qui lui est présenté au moment du paiement,

(B) le paiement est effectué après 1999 et avant le moment donné et est le seul paiement qui est indiqué en application de la présente division à titre de remboursement du montant donné dans un formulaire prescrit présenté au ministre à ce moment ou antérieurement (ou avant tout moment postérieur que celui-ci estime acceptable) à titre de remboursement du montant donné;

c) soit un montant, sauf un montant admissible, reçu au cours d'une année civile antérieure à 1999 qui serait un montant admissible du particulier en l'absence des alinéas c) et e) de la définition de ***montant admissible***, dans sa version applicable aux montants reçus avant 1999, dans le cas où le particulier, à la fois :

(i) est décédé avant la fin de l'année civile suivante,

(ii) résidait au Canada tout au long de la période ayant commencé immédiatement après la réception du montant et s'étant terminée au moment du décès. (*excluded withdrawal*)

solde RAP Quant à un particulier à un moment donné, l'excédent éventuel du total des montants admissibles qu'il a reçus à ce moment ou antérieurement sur le total des montants suivants :

a) les montants qu'il a indiqués en application du paragraphe (3) pour les années d'imposition s'étant terminées avant ce moment;

(g) the total of the amount and all other eligible amounts received by the individual in the calendar year that includes the particular time does not exceed $25,000, and

(h) the individual's HBP balance at the beginning of the calendar year that includes the particular time is nil. (*montant admissible supplémentaire*)

b) les montants dont chacun est inclus en application des paragraphes (4) ou (5) dans le calcul de son revenu pour une année d'imposition s'étant terminée avant ce moment. (*HBP balance*)

trimestre [Abrogée, 2013, ch. 34, art. 297]

Special Rules

(2) For the purposes of this section,

(a) an individual shall be considered to have acquired a qualifying home if the individual acquired it jointly with one or more other persons;

(a.1) an individual shall be considered to have an owner-occupied home at any time where, at that time, the individual owns, whether jointly with another person or otherwise, a housing unit or a share of the capital stock of a cooperative housing corporation and

(i) the housing unit is inhabited by the individual as the individual's principal place of residence at that time, or

(ii) the share was acquired for the purpose of acquiring a right to possess a housing unit owned by the corporation and that unit is inhabited by the individual as the individual's principal place of residence at that time;

(b) where an individual agrees to acquire a condominium unit, the individual shall be deemed to have acquired it on the day the individual is entitled to immediate vacant possession of it;

(c) except for the purposes of subparagraph (g)(ii) of the definition ***regular eligible amount*** and subparagraph (f)(ii) of the definition ***supplemental eligible amount***, an individual or a specified disabled person in respect of the individual is deemed to have acquired, before the completion date in respect of a designated withdrawal received by the individual, the qualifying home in respect of which the designated withdrawal was received if

(i) neither the qualifying home nor a replacement property for it was acquired by the individual or the specified disabled person before that completion date, and

(ii) either

(A) the individual or the specified disabled person

Règles spéciales

(2) Les présomptions suivantes s'appliquent au présent article :

a) un particulier est réputé acquérir une habitation admissible s'il l'acquiert conjointement avec une ou plusieurs personnes;

a.1) le particulier qui possède, conjointement avec une autre personne ou autrement, un logement ou une part du capital social d'une coopérative d'habitation à un moment donné est réputé posséder une habitation à titre de propriétaire-occupant à ce moment si, selon le cas :

(i) il habite le logement comme lieu principal de résidence à ce moment,

(ii) la part a été acquise en vue d'acquérir le droit de posséder un logement appartenant à la coopérative, logement que le particulier habite comme lieu principal de résidence à ce moment;

b) le particulier qui accepte d'acquérir un logement en copropriété est réputé l'acquérir le jour où il a droit d'en prendre possession;

c) sauf pour l'application du sous-alinéa g)(ii) de la définition de ***montant admissible principal*** et du sous-alinéa f)(ii) de la définition de ***montant admissible supplémentaire***, le particulier ou une personne handicapée déterminée quant à lui est réputé avoir acquis une habitation admissible avant la date de clôture relative à un retrait déterminé qu'il a reçu relativement à l'habitation, si les conditions suivantes sont réunies :

(i) ni le particulier, ni la personne handicapée déterminée n'ont acquis l'habitation, ni un bien de remplacement y afférent, avant la date de clôture en question,

(ii) l'une ou l'autre des situations suivantes se présente :

(A) le particulier ou la personne handicapée déterminée, à la fois :

(I) is obliged under the terms of a written agreement in effect on that completion date to acquire the qualifying home (or a replacement property for it) on or after that date, and

(II) acquires the qualifying home or a replacement property for it before the day that is one year after that completion date, or

(B) the individual or the specified disabled person made payments, the total of which equalled or exceeded the total of all designated withdrawals that were received by the individual in respect of the qualifying home,

(I) to persons with whom the individual was dealing at arm's length,

(II) in respect of the construction of the qualifying home or a replacement property for it, and

(III) in the period that begins at the time the individual first received a designated withdrawal in respect of the qualifying home and that ends before that completion date; and

d) an amount received by an individual in a particular calendar year is deemed to have been received by the individual at the end of the preceding calendar year and not at any other time if

(i) the amount is received in January of the particular year (or at such later time as is acceptable to the Minister),

(ii) the amount would not be an eligible amount if this section were read without reference to this paragraph, and

(iii) the amount would be an eligible amount if the definition ***regular eligible amount*** in subsection (1) were read without reference to paragraph (i) of that definition and the definition ***supplemental eligible amount*** were read without reference to paragraph (h) of that definition.

e) and f) [Repealed, 1999, c. 22, s. 60(5)]

(I) est tenu, par convention écrite en vigueur à la date de clôture en question, d'acquérir l'habitation ou le bien de remplacement à cette date ou postérieurement,

(II) acquiert l'habitation ou le bien de remplacement avant le jour qui suit d'un an la date de clôture en question,

(B) le particulier ou la personne handicapée déterminée a fait des paiements — dont le total est au moins égal au total des retraits déterminés que le particulier a reçus relativement à l'habitation — qui répondent aux conditions suivantes :

(I) ils ont été faits à des personnes avec lesquelles le particulier n'a aucun lien de dépendance,

(II) ils se rapportent à la construction de l'habitation ou du bien de remplacement,

(III) ils ont été faits au cours de la période commençant au moment où le particulier a reçu son premier retrait déterminé relativement à l'habitation et se terminant avant la date de clôture en question;

d) le montant que le particulier reçoit au cours d'une année civile donnée est réputé avoir été reçu à la fin de l'année civile précédente et à aucun autre moment si les conditions suivantes sont réunies :

(i) le particulier le reçoit en janvier de l'année donnée ou à tout moment postérieur que le ministre estime acceptable,

(ii) il ne serait pas un montant admissible en l'absence du présent alinéa,

(iii) il serait un montant admissible en l'absence de l'alinéa i) de la définition de ***montant admissible principal*** au paragraphe (1) et de l'alinéa h) de la définition de ***montant admissible supplémentaire*** à ce même paragraphe.

e) et f) [Abrogés, 1999, ch. 22, art. 60(5)]

Repayment of eligible amount

(3) An individual may designate a single amount for a taxation year in a prescribed form filed with the individual's return of income for the year if the amount does not exceed the lesser of

(a) the total of all amounts (other than excluded premiums, repayments to which paragraph (b) of the

Remboursement du montant admissible

(3) Le particulier peut indiquer, pour une année d'imposition, dans un formulaire prescrit joint à sa déclaration de revenu pour l'année un montant unique ne dépassant pas le moins élevé des montants suivants :

a) le total des montants (sauf les primes exclues, les remboursements auxquels s'applique l'alinéa b) de la

definition ***excluded withdrawal*** in subsection (1) applies and amounts paid by the individual in the first 60 days of the year that can reasonably be considered to have been deducted in computing the individual's income, or designated under this subsection, for the preceding taxation year) paid by the individual in the year or within 60 days after the end of the year under a retirement savings plan that is at the end of the year or the following taxation year a registered retirement savings plan under which the individual is the annuitant, and

(b) the amount, if any, by which

(i) the total of all eligible amounts received by the individual before the end of the year

exceeds the total of

(ii) all amounts designated by the individual under this subsection for preceding taxation years, and

(iii) all amounts each of which is an amount included in computing the income of the individual under subsection 146.01(4) or 146.01(5) for a preceding taxation year.

définition de ***retrait exclu*** au paragraphe (1) et les montants que le particulier a versés au cours des 60 premiers jours de l'année et qu'il est raisonnable de considérer comme étant soit déduits dans le calcul de son revenu pour l'année d'imposition précédente, soit indiqués en application du présent paragraphe pour cette même année) versés par le particulier au cours de l'année ou des 60 jours suivant la fin de cette année dans le cadre d'un régime d'épargne-retraite qui, à la fin de l'année ou de l'année d'imposition suivante, est un régime enregistré d'épargne-retraite dont il est le rentier;

b) l'excédent éventuel du total des montants admissibles reçus par le particulier avant la fin de l'année sur le total des montants suivants :

(i) les montants que le particulier a indiqués en application du présent paragraphe pour les années d'imposition antérieures,

(ii) les montants compris dans le calcul du revenu du particulier selon les paragraphes (4) ou (5) pour les années d'imposition antérieures.

Portion of eligible amount not repaid

(4) There shall be included in computing an individual's income for a particular taxation year included in a particular participation period of the individual the amount determined by the formula

[(A - B - C) / (15 - D)] - E

where

A is

(a) where

(i) the individual died or ceased to be resident in Canada in the particular year, or

(ii) the completion date in respect of an eligible amount received by the individual was in the particular year

nil and

(b) in any other case, the total of all eligible amounts received by the individual in preceding taxation years included in the particular period,

B is

(a) nil, if the completion date in respect of an eligible amount received by the individual was in the preceding taxation year, and

(b) in any other case, the total of all amounts each of which is designated under subsection (3) by the

Non-remboursement

(4) Est inclus dans le calcul du revenu d'un particulier pour une année d'imposition donnée comprise dans sa période de participation le montant obtenu par la formule suivante :

(A - B - C)/(15 - D) - E

où :

A représente :

a) zéro, si, selon le cas :

(i) le particulier est décédé ou a cessé de résider au Canada au cours de l'année donnée,

(ii) la date de clôture relative à un montant admissible reçu par le particulier tombe dans l'année donnée,

b) le total des montants admissibles que le particulier a reçus au cours des années d'imposition antérieures comprises dans la période, dans les autres cas;

B :

a) zéro, si la date de clôture relative à un montant admissible reçu par le particulier fait partie de l'année d'imposition précédente,

b) le total des montants dont chacun est indiqué par le particulier en application du paragraphe (3)

individual for a preceding taxation year included in the particular period;

C is the total of all amounts each of which is included under this subsection or subsection (5) in computing the individual's income for a preceding taxation year included in the particular period;

D is the lesser of 14 and the number of taxation years of the individual ending in the period beginning

(a) where the completion date in respect of an eligible amount received by the individual was before 1995, January 1, 1995, and

(b) in any other case, January 1 of the first calendar year beginning after the completion date in respect of an eligible amount received by the individual

and ending at the beginning of the particular year, and

E is

(a) if the completion date in respect of an eligible amount received by the individual was in the preceding taxation year, the total of all amounts each of which is designated under subsection (3) by the individual for the particular year or any preceding taxation year included in the particular period, and

(b) in any other case, the amount designated under subsection (3) by the individual for the particular year.

pour une année d'imposition antérieure comprise dans la période, dans les autres cas;

C le total des montants dont chacun est inclus en application du présent paragraphe ou du paragraphe (5) dans le calcul du revenu du particulier pour une année d'imposition antérieure comprise dans la période;

D représente le moins élevé de 14 et du nombre d'années d'imposition du particulier ayant pris fin au cours de la période qui commence à la date suivante et se termine au début de l'année donnée :

a) le 1er janvier 1995, si la date de clôture relative à un montant admissible reçu par le particulier est antérieure à 1995,

b) le 1er janvier de la première année civile commençant après la date de clôture relative à un montant admissible reçu par le particulier, dans les autres cas;

E :

a) le total des montants dont chacun est indiqué par le particulier en application du paragraphe (3) pour l'année donnée ou pour une année d'imposition antérieure comprise dans la période, si la date de clôture relative à un montant admissible reçu par le particulier fait partie de l'année d'imposition précédente,

b) le montant que le particulier a indiqué en application du paragraphe (3) pour l'année donnée, dans les autres cas.

Where individual becomes a non-resident

(5) Where at any time in a taxation year an individual ceases to be resident in Canada, there shall be included in computing the income of the individual for the period in the year during which the individual was resident in Canada the amount, if any, by which

(a) the total of all amounts each of which is an eligible amount received by the individual in the year or a preceding taxation year

exceeds the total of

(b) all amounts designated under subsection 146.01(3) by the individual in respect of amounts paid not later than 60 days after that time and before the individual files a return of income for the year, and

(c) all amounts included under subsection (4) or this subsection in computing the individual's income for preceding taxation years.

Cessation de résidence

(5) Le particulier qui cesse de résider au Canada à un moment donné d'une année d'imposition doit inclure dans le calcul de son revenu pour la période de l'année où il résidait au Canada l'excédent éventuel du total des montants admissibles qu'il a reçus au cours de l'année et des années d'imposition antérieures sur le total des montants suivants :

a) les montants qu'il a indiqués en application du paragraphe (3) relativement à des montants versés au plus tard 60 jours après le moment donné et avant qu'il ne produise une déclaration de revenu pour l'année;

b) les montants inclus en application du paragraphe (4) ou du présent paragraphe dans le calcul de son revenu pour les années d'imposition antérieures.

Death of individual

(6) If an individual dies at any time in a taxation year, there shall be included in computing the individual's income for the year the amount, if any, by which

(a) the individual's HBP balance immediately before that time

exceeds

(b) the amount designated under subsection (3) by the individual for the year.

Exception

(7) If a spouse or common-law partner of an individual was resident in Canada immediately before the individual's death at a particular time in a taxation year and the spouse or common-law partner and the individual's legal representatives jointly so elect in writing in the individual's return of income for the year,

(a) subsection (6) does not apply to the individual;

(b) the spouse or common-law partner is deemed to have received a particular eligible amount at the particular time equal to the amount that, but for this subsection, would be determined under subsection (6) in respect of the individual;

(c) for the purposes of subsection (4) and paragraph (d), the completion date in respect of the particular amount is deemed to be

(i) if the spouse or common-law partner received an eligible amount before the death (other than an eligible amount received in a participation period of the spouse or common-law partner that ended before the beginning of the year), the completion date in respect of that amount, and

(ii) in any other case, the completion date in respect of the last eligible amount received by the individual; and

(d) for the purpose of subsection (4), the completion date in respect of each eligible amount received by the spouse or common-law partner, after the death and before the end of the spouse's or common-law partner's participation period that includes the time of the death, is deemed to be the completion date in respect of the particular amount.

(8) [Repealed, 2013, c. 34, s. 297]

(9) to (13) [Repealed, 1995, c. 3, s. 44(13)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VIII, s. 83, c. 8, s. 19, c. 21, s. 70; 1995, c. 3, s. 44; 1996,

Décès

(6) Est inclus dans le calcul du revenu d'un particulier pour l'année d'imposition de son décès l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) son solde RAP immédiatement avant son décès;

b) le montant qu'il a indiqué pour l'année en application du paragraphe (3).

Exception

(7) Dans le cas où l'époux ou conjoint de fait d'un particulier résidait au Canada immédiatement avant le décès de ce dernier au cours d'une année d'imposition, les règles suivantes s'appliquent s'il en fait le choix conjointement avec le représentant légal du particulier dans un document joint à la déclaration de revenu du particulier pour l'année :

a) le paragraphe (6) ne s'applique pas au particulier,

b) l'époux ou conjoint de fait est réputé avoir reçu au moment du décès un montant admissible donné égal au montant qui serait calculé à l'égard du particulier en application du paragraphe (6) en l'absence du présent paragraphe;

c) pour l'application du paragraphe (4) et de l'alinéa d), la date de clôture relative au montant donné est réputée correspondre à la date suivante :

(i) si l'époux ou conjoint de fait a reçu un montant admissible avant le décès (sauf un tel montant reçu au cours d'une de ses périodes de participation terminées avant le début de l'année), la date de clôture relative à ce montant,

(ii) dans les autres cas, la date de clôture relative au dernier montant admissible reçu par le particulier;

d) pour l'application du paragraphe (4), la date de clôture relative à chaque montant admissible reçu par l'époux ou conjoint de fait après le décès et avant la fin de sa période de participation qui comprend le moment du décès est réputée être la date de clôture relative au montant donné.

(8) [Abrogé, 2013, ch. 34, art. 297]

(9) à (13) [Abrogés, 1995, ch. 3, art. 44(13)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VIII, art. 83, ch. 8, art. 19,

c. 21, s. 35; 1999, c. 22, s. 60; 2000, c. 12, s. 142; 2009, c. 2, s. 52; 2011, c. 24, s. 46; 2013, c. 34, s. 297.

ch. 21, art. 70; 1995, ch. 3, art. 44; 1996, ch. 21, art. 35; 1999, ch. 22, art. 60; 2000, ch. 12, art. 142; 2009, ch. 2, art. 52; 2011, ch. 24, art. 46; 2013, ch. 34, art. 297.

Lifelong Learning Plan

Definitions

146.02 (1) The definitions in this subsection apply in this section.

annuitant has the meaning assigned by subsection 146(1). (*rentier*)

benefit has the meaning assigned by subsection 146(1). (*prestation*)

eligible amount of an individual means a particular amount received at a particular time in a calendar year by the individual as a benefit out of or under a registered retirement savings plan if

(a) the particular amount is received after 1998 pursuant to the individual's written request in a prescribed form;

(b) in respect of the particular amount, the individual designates in the form a person (in this definition referred to as the "designated person") who is the individual or the individual's spouse or common-law partner;

(c) the total of the particular amount and all other eligible amounts received by the individual at or before the particular time and in the year does not exceed $10,000;

(d) the total of the particular amount and all other eligible amounts received by the individual at or before the particular time (other than amounts received in participation periods of the individual that ended before the year) does not exceed $20,000;

(e) the individual did not receive an eligible amount at or before the particular time in respect of which someone other than the designated person was designated (other than an amount received in a participation period of the individual that ended before the year);

(f) the designated person

(i) is enrolled at the particular time as a full-time student in a qualifying educational program, or

(ii) has received written notification before the particular time that the designated person is absolutely or contingently entitled to enrol before March of the following year as a full-time student in a qualifying educational program;

Régime d'éducation permanente

Définitions

146.02 (1) Les définitions qui suivent s'appliquent au présent article.

étudiant à temps plein Quant à une année d'imposition, s'entend notamment du particulier auquel le paragraphe 118.6(3) s'applique aux fins du calcul de l'impôt payable en vertu de la présente partie pour l'année ou pour l'année d'imposition suivante. (*full-time student*)

montant admissible Montant qu'un particulier reçoit à un moment donné d'une année civile à titre de prestation dans le cadre d'un régime enregistré d'épargne-retraite, si les conditions suivantes sont réunies :

a) le particulier reçoit le montant après 1998 à sa demande écrite présentée sur le formulaire prescrit;

b) une personne — le particulier ou son époux ou conjoint de fait — est désignée dans le formulaire relativement au montant;

c) la somme du montant et des autres montants admissibles reçus par le particulier au cours de l'année jusqu'au moment donné inclusivement n'excède pas 10000 $;

d) la somme du montant et des autres montants admissibles reçus par le particulier au moment donné ou antérieurement (sauf les montants reçus au cours de ses périodes de participation terminées avant l'année) n'excède pas 20000 $;

e) le particulier n'a pas reçu, au moment donné ou antérieurement, un montant admissible relativement auquel une personne autre que la personne désignée était désignée (sauf un montant reçu au cours d'une période de participation du particulier terminée avant l'année);

f) la personne désignée :

(i) soit est inscrite au moment donné à un programme de formation admissible comme étudiant à temps plein,

(ii) soit a reçu avant le moment donné un avis écrit portant qu'elle peut, avec ou sans condition, s'inscrire avant mars de l'année suivante à un programme de formation admissible comme étudiant à temps plein;

(g) the individual is resident in Canada throughout the period that begins at the particular time and ends immediately before the earlier of

(i) the beginning of the following year, and

(ii) the time of the individual's death;

(h) except where the individual dies after the particular time and before April of the following year, the designated person is enrolled as a full-time student in a qualifying educational program after the particular time and before March of the following year and

(i) the designated person completes the program before April of the following year,

(ii) the designated person does not withdraw from the program before April of the following year, or

(iii) less than 75% of the tuition paid, after the beginning of the year and before April of the following year, in respect of the designated person and the program is refundable; and

(i) if an eligible amount was received by the individual before the year, the particular time is neither

(i) in the individual's repayment period for the individual's participation period that includes the particular time, nor

(ii) after January (or a later month where the Minister so permits) of the fifth calendar year of that participation period. (*montant admissible*)

excluded premium of an individual means a premium that

(a) was designated by the individual for the purpose of paragraph 60(j), (j.1) or (l) or subsection 146.01(3);

(b) was a repayment to which paragraph (b) of the definition ***excluded withdrawal*** in subsection 146.01(1) applies;

(c) was an amount transferred directly from a registered retirement savings plan, registered pension plan, registered retirement income fund or deferred profit sharing plan; or

(d) was deductible under subsection 146(6.1) in computing the individual's income for any taxation year. (*prime exclue*)

excluded withdrawal of an individual means

g) le particulier réside au Canada tout au long de la période commençant au moment donné et se terminant immédiatement avant le début de l'année suivante ou, s'il est antérieur, le moment de son décès;

h) sauf dans le cas où le particulier décède après le moment donné et avant avril de l'année suivante, la personne désignée est inscrite à un programme de formation admissible comme étudiant à temps plein après le moment donné et avant mars de l'année suivante et, selon le cas :

(i) elle termine le programme avant avril de l'année suivante,

(ii) elle ne se retire pas du programme avant avril de l'année suivante,

(iii) moins de 75 % des frais de scolarité payés pour son compte, après le début de l'année et avant avril de l'année suivante, relativement au programme sont remboursables;

i) dans le cas où le particulier a reçu un montant admissible avant l'année, le moment donné :

(i) d'une part, ne fait pas partie de la période de remboursement du particulier pour sa période de participation qui le comprend,

(ii) d'autre part, n'est pas postérieur à janvier (ou tout mois postérieur autorisé par le ministre) de la cinquième année civile de cette période de participation. (*eligible amount*)

période de participation Quant à un particulier, chaque période qui commence au début d'une année civile au cours de laquelle il reçoit un montant admissible et au début de laquelle son solde REP est nul et se termine immédiatement avant le début de la première année civile suivante au début de laquelle son solde REP est nul. (*participation period*)

période de remboursement Quant à un particulier pour sa période de participation relativement à une personne désignée en vertu de l'alinéa b) de la définition de ***montant admissible***, la période suivante qui fait partie de la période de participation et qui :

a) commence :

(i) au début de la troisième année civile de la période de participation dans le cas où, pour chacune des deuxième et troisième années civiles de cette période, les énoncés ci-après se vérifient :

(a) an eligible amount received by the individual; or

(b) a particular amount (other than an eligible amount) received while the individual was resident in Canada and in a calendar year if

(i) the particular amount would be an eligible amount of the individual if the definition ***eligible amount*** were read without reference to paragraphs (g) and (h) of that definition,

(ii) a payment (other than an excluded premium) equal to the particular amount is paid by the individual under a retirement savings plan that is, at the end of the taxation year of payment, a registered retirement savings plan under which the individual is the annuitant,

(iii) the payment is made before the particular time that is,

(A) if the individual was not resident in Canada at the time the individual filed a return of income for the taxation year in which the particular amount was received, the earlier of

(I) the end of the following calendar year, and

(II) the time at which the individual filed the return, and

(B) in any other case, the end of the following calendar year, and

(iv) the payment (and no other payment) is designated under this subparagraph as a repayment of the particular amount in prescribed form filed with the Minister on or before the particular time (or before such later time as is acceptable to the Minister). (*retrait exclu*)

full-time student in a taxation year includes an individual to whom subsection 118.6(3) applies for the purpose of computing tax payable under this Part for the year or the following taxation year. (*étudiant à temps plein*)

LLP balance of an individual at any time means the amount, if any, by which the total of all eligible amounts received by the individual at or before that time exceeds the total of

(a) all amounts designated under subsection (3) by the individual for taxation years that ended before that time, and

(b) all amounts each of which is included under subsection (4) or (5) in computing the individual's income

(A) pour les années civiles antérieures à 2017, la personne n'aurait pas le droit de déduire un montant en application du paragraphe 118.6(2) (dans sa version applicable pour l'année) pour au moins trois mois de l'année en l'absence de l'alinéa b) de l'élément B de la formule figurant à ce paragraphe,

(B) pour les années civiles postérieures à 2016, la personne ne serait pas un ***étudiant admissible***, au sens du paragraphe 118.6(1), pour au moins trois mois de l'année en l'absence du sous-alinéa a)(ii) de cette définition,

(ii) au début de la quatrième année civile de la période de participation dans le cas où, pour chacune des troisième et quatrième années civiles de cette période, les énoncés ci-après se vérifient :

(A) pour les années civiles antérieures à 2017, la personne n'aurait pas le droit de déduire un montant en application du paragraphe 118.6(2) (dans sa version applicable pour l'année) pour au moins trois mois de l'année en l'absence de l'alinéa b) de l'élément B de la formule figurant à ce paragraphe,

(B) pour les années civiles postérieures à 2016, la personne ne serait pas un ***étudiant admissible***, au sens du paragraphe 118.6(1), pour au moins trois mois de l'année en l'absence du sous-alinéa a)(ii) de cette définition,

(iii) au début de la cinquième année civile de la période de participation, dans le cas où, pour chacune des quatrième et cinquième années civiles de cette période, les énoncés ci-après se vérifient :

(A) pour les années civiles antérieures à 2017, la personne n'aurait pas le droit de déduire un montant en application du paragraphe 118.6(2) (dans sa version applicable pour l'année) pour au moins trois mois de l'année en l'absence de l'alinéa b) de l'élément B de la formule figurant à ce paragraphe,

(B) pour les années civiles postérieures à 2016, la personne ne serait pas un ***étudiant admissible***, au sens du paragraphe 118.6(1), pour au moins trois mois de l'année en l'absence du sous-alinéa a)(ii) de cette définition,

(iv) au début de la sixième année civile de la période de participation, dans les autres cas;

b) se termine à la fin de la période de participation. (*repayment period*)

for a taxation year that ended before that time. (*solde REP*)

participation period of an individual means each period

(a) that begins at the beginning of a calendar year

(i) in which the individual receives an eligible amount, and

(ii) at the beginning of which the individual's LLP balance is nil; and

(b) that ends immediately before the beginning of the first subsequent calendar year at the beginning of which the individual's LLP balance is nil. (*période de participation*)

premium has the meaning assigned by subsection 146(1). (*prime*)

qualifying educational program means a program at a designated educational institution, as defined in subsection 118.6(1), of not less than three consecutive months duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program and that is

(a) of a technical or vocational nature designed to furnish a person with skills for, or improve a person's skills in, an occupation, if the program is at an institution described in subparagraph (a)(ii) of that definition; and

(b) at a post-secondary school level, in any other case. (*programme de formation admissible*)

repayment period of an individual for a participation period of the individual in respect of a person designated under paragraph (b) of the definition ***eligible amount*** means the period, if any, within the participation period

(a) that begins

(i) at the beginning of the third calendar year within the participation period if, in each of the second and third calendar years within the participation period,

(A) for calendar years before 2017, the person would not be entitled to claim an amount under subsection 118.6(2) (as it read in the year) in respect of at least three months in the year, if that subsection were read without reference to paragraph (b) of the description of B in that subsection, and

prestation S'entend au sens du paragraphe 146(1). (*benefit*)

prime S'entend au sens du paragraphe 146(1). (*premium*)

prime exclue Prime d'un particulier qui, selon le cas :

a) a été indiquée par le particulier dans sa déclaration de revenu pour l'application des alinéas 60j), j.1) ou l) ou dans un formulaire prescrit pour l'application du paragraphe 146.01(3);

b) représente un remboursement auquel s'applique l'alinéa b) de la définition de ***retrait exclu*** au paragraphe 146.01(1);

c) est un montant transféré directement d'un régime enregistré d'épargne-retraite, d'un régime de pension agréé, d'un fonds enregistré de revenu de retraite ou d'un régime de participation différée aux bénéfices;

d) était déductible en application du paragraphe 146(6.1) dans le calcul du revenu du particulier pour une année d'imposition. (*excluded premium*)

programme de formation admissible Programme d'un établissement d'enseignement agréé, au sens du paragraphe 118.6(1), d'une durée minimale de trois mois consécutifs, aux cours ou aux travaux duquel l'étudiant doit consacrer au moins dix heures par semaine et qui :

a) s'agissant d'un programme d'un établissement visé au sous-alinéa a)(ii) de la définition de ***établissement d'enseignement agréé*** au paragraphe 118.6(1), est un programme de formation technique ou professionnelle visant à donner ou à augmenter la compétence nécessaire à l'exercice d'une activité professionnelle;

b) s'agissant d'un programme d'un autre établissement, est de niveau postsecondaire. (*qualifying educational program*)

rentier S'entend au sens du paragraphe 146(1). (*annuitant*)

retrait exclu Retrait d'un particulier qui constitue :

a) soit un montant admissible qu'il a reçu;

b) soit un montant donné, sauf un montant admissible, qu'il a reçu au cours d'une année civile pendant qu'il résidait au Canada, si les conditions suivantes sont réunies :

(B) for calendar years after 2016, the person would not be a ***qualifying student*** (as defined in subsection 118.6(1)) in respect of at least three months in the year, if that definition were read without reference to its subparagraph (a)(ii),

(ii) at the beginning of the fourth calendar year within the participation period if, in each of the third and fourth calendar years within the participation period,

(A) for calendar years before 2017, the person would not be entitled to claim an amount under subsection 118.6(2) (as it read in the year) in respect of at least three months in the year, if that subsection were read without reference to paragraph (b) of the description of B in that subsection, and

(B) for calendar years after 2016, the person would not be a ***qualifying student*** (as defined in subsection 118.6(1)) in respect of at least three months in the year, if that definition were read without reference to its subparagraph (a)(ii),

(iii) at the beginning of the fifth calendar year within the participation period if, in each of the fourth and fifth calendar years within the participation period,

(A) for calendar years before 2017, the person would not be entitled to claim an amount under subsection 118.6(2) (as it read in the year) in respect of at least three months in the year, if that subsection were read without reference to paragraph (b) of the description of B in that subsection, and

(B) for calendar years after 2016, the person would not be a ***qualifying student*** (as defined in subsection 118.6(1)) in respect of at least three months in the year, if that definition were read without reference to its subparagraph (a)(ii), and

(iv) in any other case, at the beginning of the sixth calendar year within the participation period; and

(b) that ends at the end of the participation period. (*période de remboursement*)

(i) le montant donné serait un montant admissible pour lui en l'absence des alinéas g) et h) de la définition de ***montant admissible***,

(ii) il effectue un paiement, sauf une prime exclue, égal au montant donné dans le cadre d'un régime d'épargne-retraite qui, à la fin de l'année d'imposition du paiement, est un régime enregistré d'épargne-retraite dont il est le rentier,

(iii) le paiement est effectué avant le moment donné suivant :

(A) si le particulier ne résidait pas au Canada au moment où il a produit une déclaration de revenu pour l'année d'imposition de la réception du montant donné, le premier en date des moments suivants :

(I) la fin de l'année civile suivante,

(II) le moment de la production de la déclaration,

(B) dans les autres cas, la fin de l'année civile suivante,

(iv) le paiement (et aucun autre) est indiqué en application du présent sous-alinéa à titre de remboursement du montant donné dans un formulaire prescrit présenté au ministre au moment visé au sous-alinéa (iii) ou antérieurement (ou avant tout moment postérieur que celui-ci estime acceptable). (*excluded withdrawal*)

solde REP Quant à un particulier à un moment donné, l'excédent éventuel du total des montants admissibles qu'il a reçus à ce moment ou antérieurement sur le total des montants suivants :

a) les montants qu'il a indiqués en application du paragraphe (3) pour les années d'imposition s'étant terminées avant ce moment;

b) les montants dont chacun est inclus en application des paragraphes (4) ou (5) dans le calcul de son revenu pour une année d'imposition s'étant terminée avant ce moment. (*LLP balance*)

Rule of application

(2) For the purpose of the definition ***eligible amount*** in subsection (1), a particular person is deemed to be the only person in respect of whom a particular amount was designated under paragraph (b) of that definition if

Règle d'application

(2) Pour l'application de la définition de ***montant admissible*** au paragraphe (1), une personne est réputée être la seule personne désignée relativement à un montant pour l'application de l'alinéa b) de cette définition dans le cas où, à la fois :

(a) an individual received the particular amount;

(b) the individual files a prescribed form with the Minister in which the particular person is specified in connection with the receipt of the particular amount;

(c) the particular amount would be an eligible amount of the individual if

(i) that definition were read without reference to paragraphs (b) and (e) of that definition, and

(ii) each reference in the portion of that definition after paragraph (d) to "designated person" were read as "individual" or "individual's spouse or common-law partner"; and

(d) the Minister so permits.

Repayment of eligible amount

(3) An individual may designate a single amount for a taxation year in prescribed form filed with the individual's return of income for the year if the amount does not exceed the lesser of

(a) the total of all amounts (other than excluded premiums, repayments to which paragraph (b) of the definition ***excluded withdrawal*** in subsection (1) applies and amounts paid by the individual in the first 60 days of the year that can reasonably be considered to have been deducted in computing the individual's income, or designated under this subsection, for the preceding taxation year) paid by the individual in the year or within 60 days after the end of the year under a retirement savings plan that is at the end of the year or the following taxation year a registered retirement savings plan under which the individual is the annuitant, and

(b) the individual's LLP balance at the end of the year.

If portion of eligible amount not repaid

(4) There shall be included in computing an individual's income for a particular taxation year that begins after 2000 the amount determined by the formula

[(A - B - C)/(10 - D)] - E

where

A is

(a) nil, if

(i) the individual died or ceased to be resident in Canada in the particular year, or

a) un particulier a reçu le montant;

b) le particulier présente au ministre un formulaire prescrit dans lequel le nom de la personne est indiqué relativement à la réception du montant;

c) le montant serait un montant admissible pour le particulier si, à la fois :

(i) il n'était pas tenu compte des alinéas b) et e) de cette définition,

(ii) les mentions de « personne désignée » après l'alinéa d) de cette définition étaient remplacées par « particulier » ou « époux ou conjoint de fait du particulier », avec les adaptations grammaticales nécessaires;

d) le ministre le permet.

Remboursement du montant admissible

(3) Le particulier peut indiquer, pour une année d'imposition, dans un formulaire prescrit joint à sa déclaration de revenu pour l'année un montant unique ne dépassant pas le moins élevé des montants suivants :

a) le total des montants (sauf les primes exclues, les remboursements auxquels s'applique l'alinéa b) de la définition de ***retrait exclu*** au paragraphe (1) et les montants que le particulier a versés au cours des 60 premiers jours de l'année et qu'il est raisonnable de considérer comme étant soit déduits dans le calcul de son revenu pour l'année d'imposition précédente, soit indiqués en application du présent paragraphe pour cette même année) versés par le particulier au cours de l'année ou des 60 jours suivant la fin de cette année dans le cadre d'un régime d'épargne-retraite qui, à la fin de l'année ou de l'année d'imposition suivante, est un régime enregistré d'épargne-retraite dont il est le rentier;

b) le solde REP du particulier à la fin de l'année.

Non-remboursement

(4) Est inclus dans le calcul du revenu d'un particulier pour une année d'imposition donnée qui commence après 2000 le montant obtenu par la formule suivante :

[(A - B - C)/(10 - D)] - E

où :

A représente :

a) zéro, si, selon le cas :

(i) le particulier est ou a cessé de résider au Canada au cours de l'année donnée,

(ii) the beginning of the particular year is not included in a repayment period of the individual, and

(b) in any other case, the total of all eligible amounts received by the individual in preceding taxation years (other than taxation years in participation periods of the individual that ended before the particular year);

B is

(a) nil, if the particular year is the first taxation year in a repayment period of the individual, and

(b) in any other case, the total of all amounts designated under subsection (3) by the individual for preceding taxation years (other than taxation years in participation periods of the individual that ended before the particular year);

C is the total of all amounts each of which is included under this subsection or subsection (5) in computing the individual's income for a preceding taxation year (other than a taxation year included in a participation period of the individual that ended before the particular year);

D is the lesser of nine and the number of taxation years of the individual that end in the period that

(a) begins at the beginning of the individual's last repayment period that began at or before the beginning of the particular year, and

(b) ends at the beginning of the particular year; and

E is

(a) if the particular year is the first taxation year within a repayment period of the individual, the total of the amount designated under subsection (3) by the individual for the particular year and all amounts so designated for preceding taxation years (other than taxation years in participation periods of the individual that ended before the particular year), and

(b) in any other case, the amount designated under subsection (3) by the individual for the particular year.

(ii) le début de l'année donnée ne fait pas partie d'une période de remboursement du particulier,

b) le total des montants admissibles que le particulier a reçus au cours des années d'imposition antérieures (sauf les années d'imposition qui font partie de périodes de participation du particulier s'étant terminées avant l'année donnée), dans les autres cas;

B :

a) zéro, si l'année donnée est la première année d'imposition d'une période de remboursement du particulier,

b) le total des montants que le particulier a indiqués en application du paragraphe (3) pour les années d'imposition antérieures (sauf les années d'imposition qui font partie de périodes de participation du particulier s'étant terminées avant l'année donnée), dans les autres cas;

C le total des montants dont chacun est inclus en application du présent paragraphe ou du paragraphe (5) dans le calcul du revenu du particulier pour une année d'imposition antérieure (sauf une année d'imposition comprise dans une période de participation du particulier s'étant terminée avant l'année donnée);

D neuf ou, s'il est moins élevé, le nombre d'années d'imposition du particulier qui se terminent dans la période :

a) commençant au début de sa dernière période de remboursement ayant commencé au début de l'année donnée ou antérieurement,

b) se terminant au début de l'année donnée;

E :

a) le total des montants que le particulier a indiqués en application du paragraphe (3) pour l'année donnée et des montants ainsi indiqués pour les années d'imposition antérieures (sauf les années d'imposition qui font partie de périodes de participation du particulier s'étant terminées avant l'année donnée), si l'année donnée est la première année d'imposition d'une période de remboursement du particulier,

b) le montant que le particulier a indiqué en application du paragraphe (3) pour l'année donnée, dans les autres cas.

Ceasing residence in Canada

(5) If at any time in a taxation year an individual ceases to be resident in Canada, there shall be included in computing the individual's income for the period in the year

Cessation de résidence

(5) Le particulier qui cesse de résider au Canada à un moment donné d'une année d'imposition doit inclure dans le calcul de son revenu pour la période de l'année où

during which the individual was resident in Canada the amount, if any, by which

(a) the total of all amounts each of which is an eligible amount received by the individual in the year or a preceding taxation year

exceeds the total of

(b) all amounts designated under subsection (3) by the individual in respect of amounts paid not later than 60 days after that time and before the individual files a return of income for the year, and

(c) all amounts included under subsection (4) or this subsection in computing the individual's income for preceding taxation years.

il y résidait l'excédent éventuel du total des montants admissibles qu'il a reçus au cours de l'année et des années d'imposition antérieures sur le total des montants suivants :

a) les montants qu'il a indiqués en application du paragraphe (3) relativement à des montants versés au plus tard 60 jours après le moment donné et avant qu'il ne produise une déclaration de revenu pour l'année;

b) les montants inclus en application du paragraphe (4) ou du présent paragraphe dans le calcul de son revenu pour les années d'imposition antérieures.

Death of individual

(6) If an individual dies at any time in a taxation year, there shall be included in computing the individual's income for the year the amount, if any, by which

(a) the individual's LLP balance immediately before that time

exceeds

(b) the amount designated under subsection (3) by the individual for the year.

Décès

(6) Est inclus dans le calcul du revenu d'un particulier pour l'année d'imposition de son décès l'excédent éventuel de son solde REP immédiatement avant son décès sur le montant qu'il a indiqué en application du paragraphe (3) pour l'année.

Exception

(7) If a spouse or common-law partner of an individual was resident in Canada immediately before the individual's death at a particular time in a taxation year and the spouse or common-law partner and the individual's legal representatives jointly so elect in writing in the individual's return of income for the year,

(a) subsection (6) does not apply to the individual;

(b) the spouse or common-law partner is deemed to have received a particular eligible amount at the particular time equal to the amount that, but for this subsection, would be determined under subsection (6) in respect of the individual;

(c) subject to paragraph (d), for the purpose of applying this section after the particular time, the spouse or common-law partner is deemed to be the person designated under paragraph (b) of the definition ***eligible amount*** in subsection (1) in respect of the particular amount; and

(d) where the spouse or common-law partner received an eligible amount before the particular time in the spouse's or common-law partner's participation

Exception

(7) Dans le cas où l'époux ou conjoint de fait d'un particulier résidait au Canada immédiatement avant le décès de ce dernier au cours d'une année d'imposition, les règles suivantes s'appliquent s'il en fait le choix conjointement avec le représentant légal du particulier dans un document joint à la déclaration de revenu du particulier pour l'année :

a) le paragraphe (6) ne s'applique pas au particulier;

b) l'époux ou conjoint de fait est réputé avoir reçu au moment du décès un montant admissible donné égal au montant qui serait calculé à l'égard du particulier en application du paragraphe (6) en l'absence du présent paragraphe;

c) sous réserve de l'alinéa d) et pour l'application du présent article après le moment du décès, l'époux ou conjoint de fait est réputé être la personne désignée en application de l'alinéa b) de la définition de ***montant admissible*** au paragraphe (1) relativement au montant donné;

d) si l'époux ou conjoint de fait a reçu un montant admissible avant le moment du décès au cours de sa

period that included the particular time and the particular individual designated under paragraph (b) of the definition ***eligible amount*** in subsection (1) in respect of that eligible amount was not the spouse or common-law partner, for the purpose of applying this section after the particular time the particular individual is deemed to be the person designated under that paragraph in respect of the particular amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1999, c. 22, s. 61; 2000, c. 12, s. 142; 2005, c. 19, s. 33; 2011, c. 24, s. 47; 2016, c. 7, s. 39.

Registered Education Savings Plans

Definitions

146.1 (1) In this section,

accumulated income payment under an education savings plan means any amount paid out of the plan, other than a payment described in any of paragraphs (a) and (c) to (e) of the definition ***trust***, to the extent that the amount so paid exceeds the fair market value of any consideration given to the plan for the payment of the amount; (*paiement de revenu accumulé*)

beneficiary, in respect of an education savings plan, means a person, designated by a subscriber, to whom or on whose behalf an educational assistance payment under the plan is agreed to be paid if the person qualifies under the plan; (*bénéficiaire*)

contribution to an education savings plan does not include an amount paid into the plan under or because of

(a) the *Canada Education Savings Act* or a designated provincial program, or

(b) any other program that has a similar purpose to a designated provincial program and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by a public primary caregiver in its capacity as subscriber under the plan); (*cotisation*)

designated provincial program means

(a) a program administered pursuant to an agreement entered into under section 12 of the *Canada Education Savings Act*, or

(b) a program established under the laws of a province to encourage the financing of children's post-secondary education through savings in registered education savings plans; (*programme provincial désigné*)

période de participation comprenant ce moment, mais que le particulier qui est désigné en application de l'alinéa b) de la définition de ***montant admissible*** relativement à ce montant n'est pas l'époux ou conjoint de fait, le particulier ainsi désigné est réputé, pour l'application du présent article après le moment du décès, être la personne désignée en application de cet alinéa relativement au montant donné.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1999, ch. 22, art. 61; 2000, ch. 12, art. 142; 2005, ch. 19, art. 33; 2011, ch. 24, art. 47; 2016, ch. 7, art. 39.

Régimes enregistrés d'épargne-études

Définitions

146.1 (1) Les définitions qui suivent s'appliquent au présent article.

bénéficiaire À l'égard d'un régime d'épargne-études, personne désignée par un souscripteur à laquelle ou au nom de laquelle il est convenu qu'un paiement d'aide aux études soit accordé en vertu du régime, si elle y est admissible. (*beneficiary*)

cotisation N'est pas une cotisation à un régime d'épargne-études la somme versée dans le régime en vertu ou par l'effet, selon le cas :

a) de la *Loi canadienne sur l'épargne-études* ou d'un programme provincial désigné;

b) de tout autre programme dont l'objet est semblable à celui d'un programme provincial désigné et qui est financé, directement ou indirectement, par une province, sauf si la somme en cause est versée dans le régime par un responsable public en sa qualité de souscripteur du régime. (*contribution*)

établissement d'enseignement postsecondaire :

a) Établissement d'enseignement au Canada visé à l'alinéa a) de la définition de ***établissement d'enseignement agréé*** au paragraphe 118.6(1);

b) établissement d'enseignement à l'étranger offrant des cours de niveau postsecondaire qui, selon le cas :

(i) est une université, un collège ou un autre établissement d'enseignement auquel un bénéficiaire était inscrit à un cours d'une durée d'au moins treize semaines consécutives,

(ii) est une université à laquelle un bénéficiaire était inscrit à temps plein à un cours d'une durée

educational assistance payment means any amount, other than a refund of payments, paid out of an education savings plan to or for an individual to assist the individual to further the individual's education at a post-secondary school level; (*paiement d'aide aux études*)

education savings plan means an arrangement entered into between

(a) any of the following, namely,

(i) an individual (other than a trust),

(ii) an individual (other than a trust) and the spouse or common-law partner of the individual, and

(iii) a public primary caregiver of a beneficiary, and

(b) a person or organization (in this section referred to as a "promoter")

under which the promoter agrees to pay or to cause to be paid educational assistance payments to or for one or more beneficiaries; (*régime d'épargne-études*)

post-secondary educational institution means

(a) an educational institution in Canada that is described in paragraph (a) of the definition ***designated educational institution*** in subsection 118.6(1), or

(b) an educational institution outside Canada that provides courses at a post-secondary school level and that is

(i) a university, college or other educational institution at which a beneficiary was enrolled in a course of not less than 13 consecutive weeks, or

(ii) a university at which a beneficiary was enrolled on a full-time basis in a course of not less than three consecutive weeks; (*établissement d'enseignement postsecondaire*)

post-secondary school level includes a program of courses, at an institution described in subparagraph (a)(ii) of the definition ***designated educational institution*** in subsection 118.6(1), of a technical or vocational nature designed to furnish a person with skills for, or improve a person's skills in, an occupation; (*niveau postsecondaire*)

pre-1972 income [Repealed, 1998, c. 19, s. 38(1)]

public primary caregiver, of a beneficiary under an education savings plan in respect of whom a special d'au moins trois semaines consécutives. (*post-secondary educational institution*)

fiducie Sauf dans le cadre de la présente définition et de la définition de ***régime d'épargne-études***, personne qui détient irrévocablement des biens dans le cadre d'un régime d'épargne-études à l'une ou plusieurs des fins suivantes :

a) le versement de paiements d'aide aux études;

b) le versement à compter de 1998 de paiements de revenu accumulé;

c) le remboursement de paiements;

c.1) le remboursement de sommes (et le versement de sommes liées à ce remboursement) en vertu de la *Loi canadienne sur l'épargne-études* ou d'un programme provincial désigné;

d) le paiement fait à des établissements d'enseignement agréés au Canada et visés au sous-alinéa a) (i) de la définition de ce terme, au paragraphe 118.6(1), ou à une fiducie en faveur de tels établissements;

e) le paiement fait à une fiducie qui détient irrévocablement des biens en conformité avec un régime enregistré d'épargne-études à l'une des fins visées aux alinéas a) à d). (*trust*)

niveau postsecondaire Se dit notamment d'un programme de formation technique ou professionnelle d'un établissement visé au sous-alinéa a)(ii) de la définition de ***établissement d'enseignement agréé*** au paragraphe 118.6(1) qui vise à donner ou à augmenter la compétence nécessaire à l'exercice d'une activité professionnelle. (*post-secondary school level*)

paiement d'aide aux études Tout montant, à l'exclusion d'un remboursement de paiements, payé sur un régime d'épargne-études à un bénéficiaire, ou pour son compte, afin de l'aider à poursuivre ses études au niveau postsecondaire. (*educational assistance payment*)

paiement de revenu accumulé Montant payé sur un régime d'épargne-études, à l'exception d'un paiement visé à l'un des alinéas a) et c) à e) de la définition de ***fiducie***, dans la mesure où il dépasse la juste valeur marchande de toute contrepartie donnée au régime pour le paiement du montant. (*accumulated income payment*)

placement admissible Dans le cas d'une fiducie régie par un régime d'épargne-études :

a) placement qui serait visé à l'un des alinéas a) à d), f) et g) de la définition de ***placement admissible*** à

allowance is payable under the *Children's Special Allowances Act*, means the department, agency or institution that maintains the beneficiary or the public trustee or public curator of the province in which the beneficiary resides; (*responsable public*)

qualified investment for a trust governed by a registered education savings plan means

(a) an investment that would be described by any of paragraphs (a) to (d), (f) and (g) of the definition ***qualified investment*** in section 204 if the reference in that definition to "a trust governed by a deferred profit sharing plan or revoked plan" were read as a reference to "a trust governed by a registered education savings plan" and if that definition were read without reference to the words "with the exception of excluded property in relation to the trust",

(b) [Repealed, 2007, c. 29, s. 18]

(c) a contract for an annuity issued by a licensed annuities provider where

(i) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract, and

(ii) the holder of the contract has a right to surrender the contract at any time for an amount that would, if reasonable sales and administration charges were ignored, approximate the value of funds that could otherwise be applied to fund future periodic payments under the contract,

(d) an investment that was acquired by the trust before October 28, 1998, and

(e) a prescribed investment; (*placement admissible*)

qualifying educational program means a program at a post-secondary school level of not less than three consecutive weeks duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program; (*programme de formation admissible*)

refund of payments at any time under a particular registered education savings plan means

(a) a refund at that time of a contribution that had been made at a previous time, if the contribution was made

(i) otherwise than by way of a transfer from another registered education savings plan, and

l'article 204 si la mention « fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré » à cette définition était remplacée par « fiducie régie par un régime enregistré d'épargne-études » et s'il n'était pas tenu compte du passage « sauf s'il s'agit de biens exclus relativement à la fiducie » à cette même définition;

b) [Abrogé, 2007, ch. 29, art. 18]

c) contrat relatif à une rente établi par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(ii) le titulaire du contrat a le droit d'exiger le rachat de celui-ci à tout moment pour un montant qui, s'il n'était pas tenu compte de frais de vente et d'administration raisonnables, correspondrait à peu près à la valeur des fonds qui pourraient servir par ailleurs à financer des paiements périodiques futurs dans le cadre du contrat;

d) placement acquis par la fiducie avant le 28 octobre 1998;

e) placement visé par règlement. (*qualified investment*)

plafond annuel de REEE [Abrogée, 2007, ch. 29, art. 18]

programme de formation admissible Programme de niveau postsecondaire d'une durée minimale de trois semaines consécutives, aux cours ou aux travaux duquel l'étudiant doit consacrer au moins dix heures par semaine. (*qualifying educational program*)

programme de formation déterminé Programme de niveau postsecondaire d'une durée minimale de trois semaines consécutives, qui prévoit des cours auxquels l'étudiant doit consacrer au moins douze heures par mois. (*specified educational program*)

programme provincial désigné

a) Tout programme administré au titre d'un accord conclu en vertu de l'article 12 de la *Loi canadienne sur l'épargne-études*;

b) tout programme établi en vertu des lois d'une province pour encourager le financement des études postsecondaires des enfants par la constitution d'une

(ii) into the particular plan by or on behalf of a subscriber under the particular plan, or

(b) a refund at that time of an amount that was paid at a previous time into the particular plan by way of a transfer from another registered education savings plan, where the amount would have been a refund of payments under the other plan if it had been paid at the previous time directly to a subscriber under the other plan; (*remboursement de paiements*)

registered education savings plan or ***RESP*** means

(a) an education savings plan registered for the purposes of this Act, or

(b) a registered education savings plan as it is amended from time to time

but, except for the purposes of subsections 146.1(7) and 146.1(7.1) and Part X.4, a plan ceases to be a registered education savings plan immediately after the day as of which its registration is revoked under subsection 146.1(13); (*régime enregistré d'épargne-études*)

RESP annual limit [Repealed, 2007, c. 29, s. 18]

specified educational program means a program at a post-secondary school level of not less than three consecutive weeks duration that requires each student taking the program to spend not less than 12 hours per month on courses in the program; (*programme de formation déterminé*)

specified plan means an education savings plan

(a) that does not allow more than one beneficiary under the plan at any one time,

(b) under which the beneficiary is an individual in respect of whom paragraphs 118.3(1)(a) to (b) apply for the beneficiary's taxation year that ends in the 31st year following the year in which the plan was entered into, and

(c) that provides that, at all times after the end of the 35th year following the year in which the plan was entered into, no other individual may be designated as a beneficiary under the plan; (*régime déterminé*)

subscriber under an education savings plan at any time means

(a) each individual or the public primary caregiver with whom the promoter of the plan enters into the plan,

épargne dans les régimes enregistrés d'épargne-études. (*designated provincial program*)

régime d'épargne-études Arrangement conclu entre, d'une part, un particulier (sauf une fiducie), un tel particulier et son époux ou conjoint de fait ou le responsable public d'un bénéficiaire et, d'autre part, une personne ou une organisation (appelée ***promoteur*** au présent article) aux termes duquel le promoteur convient de verser ou de faire verser des paiements d'aide aux études à un ou plusieurs bénéficiaires, ou pour leur compte. (*education savings plan*)

régime déterminé Régime d'épargne-études qui répond aux conditions suivantes :

a) le régime ne peut, à aucun moment, compter plus d'un bénéficiaire;

b) le bénéficiaire du régime est un particulier à l'égard duquel les alinéas 118.3(1)a) à b) s'appliquent pour son année d'imposition se terminant dans la trente et unième année suivant l'année de la conclusion du régime;

c) le régime prévoit qu'aucun autre particulier ne peut être désigné à titre de bénéficiaire du régime après la fin de la trente-cinquième année suivant l'année de la conclusion du régime. (*specified plan*)

régime enregistré d'épargne-études ou ***REEE*** Régime d'épargne-études qui est enregistré pour l'application de la présente loi ou régime enregistré d'épargne-études avec ses modifications successives. Toutefois, sauf pour l'application des paragraphes (7) et (7.1) et de la partie X.4, un régime cesse d'être un régime enregistré d'épargne-études le lendemain du jour à compter duquel son enregistrement est révoqué aux termes du paragraphe (13). (*registered education savings plan* or *RESP*)

remboursement de paiements Est un remboursement de paiements effectué à un moment donné dans le cadre d'un régime enregistré d'épargne-études donné :

a) le remboursement à ce moment d'une cotisation versée antérieurement qui, à la fois :

(i) a été effectuée autrement qu'au moyen d'un transfert d'un autre régime enregistré d'épargne-études,

(ii) a été versée au régime donné par son souscripteur, ou pour son compte;

b) le remboursement à ce moment d'un montant versé à un moment antérieur au régime donné au moyen

(a.1) another individual or another public primary caregiver who has before that time, under a written agreement, acquired a public primary caregiver's rights as a subscriber under the plan,

(b) an individual who has before that time acquired a subscriber's rights under the plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a subscriber under the plan in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership, or

(c) after the death of an individual described in any of paragraphs (a) to (b), any other person (including the estate of the deceased individual) who acquires the individual's rights as a subscriber under the plan or who makes contributions into the plan in respect of a beneficiary

but does not include an individual or a public primary caregiver whose rights as a subscriber under the plan had, before that time, been acquired by an individual or public primary caregiver in the circumstances described in paragraph (a.1) or (b); (*souscripteur*)

tax-paid income [Repealed, 1998, c. 19, s. 38(1)]

trust, except in this definition and the definition ***education savings plan***, means any person who irrevocably holds property under an education savings plan for any of, or any combination of, the following purposes:

(a) the payment of educational assistance payments,

(b) the payment after 1997 of accumulated income payments,

(c) the refund of payments,

(c.1) the repayment of amounts (and the payment of amounts related to that repayment) under the *Canada Education Savings Act* or under a designated provincial program,

(d) the payment to, or to a trust in favour of, designated educational institutions in Canada referred to in subparagraph (a)(i) of the definition of that expression in subsection 118.6(1), or

(e) the payment to a trust that irrevocably holds property pursuant to a registered education savings plan for any of the purposes set out in paragraphs (a) to (d). (*fiducie*)

d'un transfert d'un autre régime enregistré d'épargne-études, qui aurait constitué un remboursement de paiements dans le cadre de l'autre régime s'il avait été versé au moment antérieur directement au souscripteur de ce régime. (*refund of payments*)

responsable public En ce qui concerne le bénéficiaire d'un régime d'épargne-études pour qui une allocation spéciale est à verser au titre de la *Loi sur les allocations spéciales pour enfants*, le ministère, l'organisme ou l'établissement qui a la charge du bénéficiaire ou le curateur public de la province où le bénéficiaire réside. (*public primary caregiver*)

revenu antérieur à 1972 [Abrogée, 1998, ch. 19, art. 38(1)]

revenu libéré d'impôt [Abrogée, 1998, ch. 19, art. 38(1)]

souscripteur Quant à un régime d'épargne-études à un moment donné :

a) chaque particulier, ou le responsable public, qui souscrit au régime auprès du promoteur;

a.1) tout autre particulier ou responsable public qui a acquis avant ce moment, aux termes d'un accord écrit, les droits d'un responsable public à titre de souscripteur du régime;

b) le particulier qui, avant ce moment, a acquis les droits d'un souscripteur dans le cadre du régime conformément à une ordonnance ou un jugement rendu par un tribunal compétent, ou à un accord écrit, visant à partager des biens entre le particulier et un souscripteur du régime en règlement des droits découlant de leur mariage ou union de fait ou de son échec;

c) après le décès d'un particulier visé à l'un des alinéas a) à b), toute autre personne (y compris la succession du particulier décédé) qui acquiert les droits du particulier à titre de souscripteur du régime ou qui verse des cotisations au régime pour le compte d'un bénéficiaire.

N'est pas un souscripteur le particulier ou le responsable public dont les droits à titre de souscripteur du régime avaient été acquis, avant le moment donné, par un particulier ou un responsable public dans les circonstances visées aux alinéas a.1) ou b). (*subscriber*)

Election

(1.1) A subscriber under an RESP that allows accumulated income payments and a holder of an RDSP may jointly elect in prescribed form to have subsection (1.2) apply in respect of a beneficiary under the RESP if, at the time the election is made, the beneficiary is also the beneficiary under the RDSP and

(a) the beneficiary has a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the beneficiary from enrolling in a qualifying educational program at a post-secondary educational institution; or

(b) the RESP meets the conditions described in clause (2)(d.1)(iii)(A) or (B) to make an accumulated income payment.

Effect of election

(1.2) If an election is made under subsection (1.1) and is filed by the promoter of the RESP with the Minister without delay, then notwithstanding paragraph (2)(d.1) and any terms of the RESP required by that paragraph, an accumulated income payment under the RESP may be made to the RDSP.

Conditions for registration

(2) The Minister shall not accept for registration for the purposes of this Act any education savings plan of a promoter unless, in the Minister's opinion, the following conditions are complied with:

(a) the plan provides that the property of any trust governed by the plan (after the payment of trustee and administration charges) is irrevocably held for any of the purposes described in the definition ***trust*** in subsection 146.1(1) by a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee;

(b) at the time of the application by the promoter for registration of the plan, there are not fewer than 150 plans entered into with the promoter each of which complied, at the time it was entered into, with all the other conditions set out in this subsection, as it read at that time;

(b.1) application for registration of the plan is made by the promoter in prescribed form containing prescribed information;

(c) the promoter and all trusts governed by the plan are resident in Canada;

Choix

(1.1) Le souscripteur d'un REEE dans le cadre duquel il est permis d'effectuer des paiements de revenu accumulé et le titulaire d'un REEI peuvent faire un choix conjoint, sur le formulaire prescrit, afin que le paragraphe (1.2) s'applique relativement à un bénéficiaire du REEE si, au moment où le choix est fait, celui-ci est également bénéficiaire du REEI et, selon le cas :

a) le bénéficiaire a une déficience mentale grave et prolongée qui l'empêche, ou pourrait vraisemblablement l'empêcher, de s'inscrire à un programme de formation admissible dans un établissement d'enseignement postsecondaire;

b) le REEE remplit les conditions énoncées aux divisions (2)d.1)(iii)(A) ou (B) relatives au versement de paiements de revenu accumulé.

Effet du choix

(1.2) Si le document concernant le choix est présenté au ministre par le promoteur du REEE sans délai après que le choix a été fait, un paiement de revenu accumulé dans le cadre du REEE peut être fait au REEI malgré l'alinéa (2)d.1) et toute modalité du REEE en découlant.

Conditions d'enregistrement

(2) Le ministre n'accepte le régime d'épargne-études d'un promoteur aux fins d'enregistrement pour l'application de la présente loi que s'il est d'avis que les conditions suivantes sont remplies :

a) le régime prévoit que les biens d'une fiducie régie par le régime (après paiement des frais de fiduciaire et d'administration) sont détenus irrévocablement à l'une des fins visées à la définition de ***fiducie*** au paragraphe (1) par une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise d'offre au public de services de fiduciaire;

b) au moment où le promoteur fait une demande d'enregistrement du régime, avaient été souscrits auprès du promoteur au moins 150 régimes qui répondaient chacun, au moment de leur souscription, aux autres conditions énoncées au présent paragraphe en son état à ce moment;

b.1) la demande d'enregistrement du régime est présentée par le promoteur sur le formulaire prescrit contenant les renseignements prescrits;

c) le promoteur et les fiducies régies par le régime résident au Canada;

(d) the plan does not allow for any payment before 1998 to a subscriber, other than a refund of payments, unless the subscriber is also the beneficiary under the plan;

(d.1) subject to subsection (2.2), if the plan allows accumulated income payments, the plan provides that an accumulated income payment is permitted to be made only if

(i) the payment is made to, or on behalf of, a subscriber under the plan who is resident in Canada when the payment is made,

(ii) the payment is not made jointly to, or on behalf of, more than one subscriber, and

(iii) any of

(A) the payment is made after the 9th year that follows the year in which the plan was entered into and each individual (other than a deceased individual) who is or was a beneficiary under the plan has attained 21 years of age before the payment is made and is not, when the payment is made, eligible under the plan to receive an educational assistance payment,

(B) the payment is made in the year in which the plan is required to be terminated in accordance with paragraph (i), or

(C) each individual who was a beneficiary under the plan is deceased when the payment is made;

(e) the plan is substantially similar to the type of plan described in or annexed to a prospectus filed by the promoter with a securities commission in Canada or a body performing a similar function in a province;

(f) in the event that a trust governed by the plan is terminated, the property held by the trust is required to be used for any of the purposes described in the definition ***trust*** in subsection 146.1(1);

(g) the plan does not allow for the payment of educational assistance payments before 1997 to an individual unless the individual is, at the time the payment is made, a student in full-time attendance at a post-secondary educational institution and enrolled in a qualifying educational program at the institution;

(g.1) the plan does not allow for the payment of an educational assistance payment to or for an individual at any time after 1996 unless

(i) either

d) aucun paiement, sauf un remboursement de paiements, ne peut être effectué dans le cadre du régime avant 1998 à un souscripteur qui n'est pas aussi le bénéficiaire du régime;

d.1) sous réserve du paragraphe (2.2), s'il est permis d'effectuer des paiements de revenu accumulé dans le cadre du régime, le régime prévoit qu'un tel paiement ne peut être effectué que si, à la fois :

(i) il est effectué à un souscripteur du régime qui réside au Canada au moment du versement, ou pour le compte d'un tel souscripteur,

(ii) il n'est pas effectué conjointement à plus d'un souscripteur ou pour leur compte,

(iii) selon le cas :

(A) il est effectué après la neuvième année qui suit celle de la conclusion du régime et chaque particulier (sauf un particulier décédé) qui est ou était bénéficiaire du régime a atteint l'âge de 21 ans avant le versement et n'a pas droit, au moment du versement, à un paiement d'aide aux études dans le cadre du régime,

(B) il est effectué au cours de l'année dans laquelle il doit être mis fin au régime conformément à l'alinéa i),

(C) chaque particulier qui était bénéficiaire du régime est décédé au moment du versement;

e) le régime correspond essentiellement au régime décrit dans un prospectus produit par le promoteur auprès d'une commission de valeurs mobilières au Canada ou d'un organisme remplissant une fonction semblable dans une province, ou annexé à un tel prospectus;

f) dans le cas où il est mis fin à une fiducie régie par le régime, les biens que la fiducie détenait doivent servir à l'une des fins visées à la définition de ***fiducie*** au paragraphe (1);

g) il n'est permis de verser des paiements d'aide aux études dans le cadre du régime avant 1997 qu'au particulier qui, au moment du versement, fréquente un établissement d'enseignement postsecondaire comme étudiant à temps plein et y est inscrit à un programme de formation admissible;

g.1) il n'est permis de verser un paiement d'aide aux études dans le cadre du régime après 1996 qu'au particulier qui répond aux conditions suivantes :

(A) the individual is, at that time, enrolled as a student in a qualifying educational program at a post-secondary educational institution, or

(B) the individual has, before that time, attained the age of 16 years and is, at that time, enrolled as a student in a specified educational program at a post-secondary educational institution, and

(ii) either

(A) the individual satisfies, at that time, the condition set out in clause (i)(A), and

(I) has satisfied that condition throughout at least 13 consecutive weeks in the 12-month period that ends at that time, or

(II) the total of the payment and all other educational assistance payments made under a registered education savings plan of the promoter to or for the individual in the 12-month period that ends at that time does not exceed $5,000 or any greater amount that the Minister designated for the purpose of the *Canada Education Savings Act* approves in writing with respect to the individual, or

(B) the individual satisfies, at that time, the condition set out in clause (i)(B) and the total of the payment and all other educational assistance payments made under a registered education savings plan of the promoter to or for the individual in the 13-week period that ends at that time does not exceed $2,500 or any greater amount that the Minister designated for the purpose of the *Canada Education Savings Act* approves in writing with respect to the individual;

(g.2) the plan does not allow for any contribution into the plan, other than a contribution made by or on behalf of a subscriber under the plan in respect of a beneficiary under the plan or a contribution made by way of transfer from another registered education savings plan;

(g.3) the plan provides that an individual is permitted to be designated as a beneficiary under the plan, and that a contribution to the plan in respect of an individual who is a beneficiary under the plan is permitted to be made, only if

(i) in the case of a designation, the individual's Social Insurance Number is provided to the promoter before the designation is made and either

(i) au moment du versement, il est :

(A) soit inscrit à un programme de formation admissible comme étudiant dans un établissement d'enseignement postsecondaire,

(B) soit âgé d'au moins 16 ans et inscrit à un programme de formation déterminé comme étudiant dans un établissement d'enseignement postsecondaire,

(ii) l'un ou l'autre des faits suivants se vérifie :

(A) il remplit la condition énoncée à la division (i)(A) au moment du versement et, selon le cas :

(I) il a rempli cette condition pendant au moins treize semaines consécutives comprises dans la période de douze moins se terminant à ce moment,

(II) le total du paiement et des autres paiements d'aide aux études versés au particulier, ou pour son compte, dans le cadre d'un régime enregistré d'épargne-études du promoteur au cours de la période de douze mois se terminant à ce moment ne dépasse pas 5 000 $ ou toute somme supérieure que le ministre désigné pour l'application de la *Loi canadienne sur l'épargne-études* approuve par écrit relativement au particulier,

(B) il remplit la condition énoncée à la division (i)(B) au moment du versement et le total du paiement et des autres paiements d'aide aux études versés au particulier, ou pour son compte, dans le cadre d'un régime enregistré d'épargne-études du promoteur au cours de la période de treize semaines se terminant à ce moment ne dépasse pas 2 500 $ ou toute somme supérieure que le ministre désigné pour l'application de la *Loi canadienne sur l'épargne-études* approuve par écrit relativement au particulier;

g.2) les seules cotisations pouvant être versées au régime sont celles qui sont versées par un souscripteur du régime, ou pour son compte, à l'égard d'un bénéficiaire du régime ou celles qui sont effectuées au moyen d'un transfert d'un autre régime enregistré d'épargne-études;

g.3) le régime prévoit qu'un particulier ne peut être désigné à titre de bénéficiaire du régime, et qu'une cotisation ne peut y être versée relativement à un particulier bénéficiaire du régime, que si :

(A) the individual is resident in Canada when the designation is made, or

(B) the designation is made in conjunction with a transfer of property into the plan from another registered education savings plan under which the individual was a beneficiary immediately before the transfer, and

(ii) in the case of a contribution, either

(A) the individual's Social Insurance Number is provided to the promoter before the contribution is made and the individual is resident in Canada when the contribution is made, or

(B) the contribution is made by way of transfer from another registered education savings plan under which the individual was a beneficiary immediately before the transfer;

(h) the plan provides that no contribution (other than a contribution made by way of a transfer from another registered education savings plan) may be made into the plan after

(i) in the case of a specified plan, the 35th year following the year in which the plan was entered into, and

(ii) in any other case, the 31st year following the year in which the plan was entered into;

(i) the plan provides that it must be terminated on or before the last day of

(i) in the case of a specified plan, the 40th year following the year in which the plan was entered into, and

(ii) in any other case, the 35th year following the year in which the plan was entered into;

(i.1) if the plan allows accumulated income payments, the plan provides that it must be terminated before March of the year following the year in which the first such payment is made out of the plan;

(i.2) the plan does not allow for the receipt of property by way of direct transfer from another registered education savings plan after the other plan has made any accumulated income payment;

(j) if the plan allows more than one beneficiary under the plan at any one time, the plan provides

(i) s'agissant d'une désignation, le numéro d'assurance sociale du particulier est fourni au promoteur avant la désignation et, selon le cas :

(A) le particulier réside au Canada au moment de la désignation,

(B) la désignation est effectuée de concert avec un transfert de biens au régime à partir d'un autre régime enregistré d'épargne-études dont le particulier était bénéficiaire immédiatement avant le transfert,

(ii) s'agissant d'une cotisation, l'un des faits ci-après se vérifie :

(A) le numéro d'assurance sociale du particulier est fourni au promoteur avant le versement de la cotisation et le particulier réside au Canada au moment du versement,

(B) la cotisation est effectuée au moyen d'un transfert d'un autre régime enregistré d'épargne-études dont le particulier était bénéficiaire immédiatement avant le transfert;

h) le régime prévoit qu'aucune cotisation (sauf celle qui est effectuée au moyen d'un transfert d'un autre régime enregistré d'épargne-études) ne peut y être versée après l'année suivante :

(i) s'agissant d'un régime déterminé, la trente-cinquième année suivant l'année de la conclusion du régime,

(ii) dans les autres cas, la trente et unième année suivant l'année de la conclusion du régime;

i) le régime prévoit qu'il doit être mis fin au régime au plus tard le dernier jour de l'année suivante :

(i) s'agissant d'un régime déterminé, la quarantième année suivant l'année de la conclusion du régime,

(ii) dans les autres cas, la trente-cinquième année suivant l'année de la conclusion du régime;

i.1) s'il est permis d'effectuer des paiements de revenu accumulé dans le cadre du régime, le régime prévoit qu'il doit être mis fin au régime avant mars de l'année suivant celle au cours de laquelle le premier semblable paiement est effectué sur le régime;

i.2) il n'est pas permis de recevoir des biens dans le cadre du régime au moyen d'un transfert direct d'un

(i) that each of the beneficiaries under the plan is required to be connected to each living subscriber under the plan, or to have been connected to a deceased original subscriber under the plan, by blood relationship or adoption,

(ii) that a contribution into the plan in respect of a beneficiary is permitted to be made only if

(A) the beneficiary had not attained 31 years of age before the time of the contribution, or

(B) the contribution is made by way of transfer from another registered education savings plan that allows more than one beneficiary at any one time, and

(iii) that an individual is permitted to become a beneficiary under the plan at any particular time only if

(A) the individual had not attained 21 years of age before the particular time, or

(B) the individual was, immediately before the particular time, a beneficiary under another registered education savings plan that allows more than one beneficiary at any one time;

(k) [Repealed, 2007, c. 29, s. 18]

(l) the plan provides that the promoter shall, within 90 days after an individual becomes a beneficiary under the plan, notify the individual (or, where the individual is under 19 years of age at that time and either ordinarily resides with a parent of the individual or is maintained by a public primary caregiver of the individual, that parent or public primary caregiver) in writing of the existence of the plan and the name and address of the subscriber in respect of the plan;

(m) the Minister has no reasonable basis to believe that the promoter will not take all reasonable measures to ensure that the plan will continue to comply with the conditions set out in paragraphs 146.1(2)(a), 146.1(2)(c) to 146.1(2)(d.1) and 146.1(2)(f) to 146.1(2)(l) for its registration for the purposes of this Act; and

(n) the Minister has no reasonable basis to believe that the plan will become revocable.

autre régime enregistré d'épargne-études sur lequel un paiement de revenu accumulé a été effectué;

j) s'il peut compter plus d'un bénéficiaire à un moment donné, le régime prévoit, à la fois :

(i) que chacun des bénéficiaires doit être uni à chaque souscripteur vivant du régime par les liens du sang ou de l'adoption, ou avoir été ainsi uni à un souscripteur initial décédé du régime,

(ii) qu'une cotisation ne peut être versée au régime relativement à un bénéficiaire que si l'un des faits suivants se vérifie :

(A) le bénéficiaire n'avait pas atteint 31 ans avant le moment du versement de la cotisation,

(B) la cotisation est effectuée au moyen d'un transfert d'un autre régime enregistré d'épargne-études qui peut compter plus d'un bénéficiaire à un moment donné,

(iii) qu'un particulier ne peut devenir bénéficiaire du régime à un moment quelconque que si, selon le cas :

(A) il n'avait pas atteint 21 ans avant ce moment,

(B) immédiatement avant ce moment, il était bénéficiaire d'un autre régime enregistré d'épargne-études qui peut compter plus d'un bénéficiaire à un moment donné;

k) [Abrogé, 2007, ch. 29, art. 18]

l) le régime prévoit que le promoteur doit, dans les 90 jours suivant le moment où un particulier devient bénéficiaire du régime, informer le particulier (ou son père, sa mère ou le responsable public, si le particulier est âgé de moins de 19 ans à ce moment et soit réside habituellement avec son père ou sa mère, soit est à la charge d'un responsable public) par écrit de l'existence du régime et des nom et adresse du souscripteur du régime;

m) le ministre n'a pas de raison de croire que le promoteur ne prendra pas des mesures raisonnables pour que le régime continue d'être conforme aux conditions énoncées aux alinéas a), c) à d.1) et f) à l) aux fins de son enregistrement pour l'application de la présente loi;

n) le ministre n'a pas de raison de croire que le régime deviendra révocable.

RESP is revocable

(2.1) For the purposes of paragraphs (2)(n) and (12.1)(d), a registered education savings plan is revocable at any time after October 27, 1998 at which

(a) a trust governed by the plan acquires property that is not a qualified investment for the trust;

(b) property held by a trust governed by the plan ceases to be a qualified investment for the trust and the property is not disposed of by the trust within 60 days after that time;

(c) a trust governed by the plan begins carrying on a business; or

(d) a trustee that holds property in connection with the plan borrows money for the purposes of the plan, except where

(i) the money is borrowed for a term not exceeding 90 days,

(ii) the money is not borrowed as part of a series of loans or other transactions and repayments, and

(iii) none of the property of the trust is used as security for the borrowed money.

Waiver of conditions for accumulated income payments

(2.2) The Minister may, on written application of the promoter of a registered education savings plan, waive the application of the conditions in clause (2)(d.1)(iii)(A) in respect of the plan where a beneficiary under the plan suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the beneficiary from enrolling in a qualifying educational program at a post-secondary educational institution.

Extension for making educational assistance payments

(2.21) Notwithstanding paragraph (2)(g.1), an education savings plan may allow for the payment of an educational assistance payment to or for an individual at any time in the six-month period immediately following the particular time at which the individual ceases to be enrolled as a student in a qualifying educational program or a specified educational program, as the case may be, if the payment would have complied with the requirements of paragraph (2)(g.1) had the payment been made immediately before the particular time.

Révocation

(2.1) Pour l'application des alinéas (2)n) et (12.1)d), un régime enregistré d'épargne-études est révocable à tout moment, postérieur au 27 octobre 1998, auquel l'un des faits suivants se vérifie :

a) une fiducie régie par le régime acquiert un bien qui n'est pas un placement admissible pour elle;

b) un bien détenu par une fiducie régie par le régime cesse d'être un placement admissible pour la fiducie et celle-ci n'en dispose pas dans les 60 jours suivant ce moment;

c) une fiducie régie par le régime commence à exploiter une entreprise;

d) un fiduciaire qui détient un bien dans le cadre du régime emprunte de l'argent pour les fins du régime, sauf si les conditions suivantes sont réunies :

(i) la durée de l'emprunt ne dépasse pas 90 jours,

(ii) l'emprunt ne fait pas partie d'une série de prêts, de remboursements ou d'autres opérations,

(iii) aucun des biens de la fiducie ne sert à garantir l'emprunt.

Renonciation

(2.2) Le ministre peut, sur demande écrite du promoteur d'un régime enregistré d'épargne-études, renoncer à appliquer les conditions énoncées à la division (2)d.1)(iii)(A) relativement au régime si le bénéficiaire du régime a une déficience mentale grave et prolongée qui l'empêche, ou pourrait vraisemblablement l'empêcher, de s'inscrire à un programme de formation admissible dans un établissement d'enseignement postsecondaire.

Prolongation de la période de versement des paiements d'aide aux études

(2.21) Malgré l'alinéa (2)g.1), un régime d'épargne-études peut permettre qu'un paiement d'aide aux études soit versé à un particulier, ou pour son compte, au cours de la période de six mois qui suit le moment auquel il cesse d'être inscrit comme étudiant à un programme de formation admissible ou un programme de formation déterminé, dans le cas où le paiement aurait été conforme aux exigences de l'alinéa (2)g.1) s'il avait été fait immédiatement avant ce moment.

Timing of payment

(2.22) An educational assistance payment that is made at any time in accordance with subsection (2.21) but not in accordance with paragraph (2)(g.1) is deemed, for the purposes of applying that paragraph at and after that time, to have been made immediately before the particular time referred to in subsection (2.21).

Social Insurance Number not required

(2.3) Notwithstanding paragraph (2)(g.3), an education savings plan may provide that an individual's Social Insurance Number need not be provided in respect of

(a) a contribution to the plan, if the plan was entered into before 1999; and

(b) a designation of a non-resident individual as a beneficiary under the plan, if the individual was not assigned a Social Insurance Number before the designation is made.

Deemed registration

(3) Where in any year an education savings plan cannot be accepted for registration solely because the condition set out in paragraph 146.1(2)(b) has not been complied with, if the plan is subsequently registered, it shall be deemed to have been registered on the first day of January of

(a) the year in which all of the conditions set out in subsection 146.1(2) (except in paragraph 146.1(2)(b)) were complied with, or

(b) the year preceding the year in which the plan was subsequently registered,

whichever is the later.

Registration of plans without prospectus

(4) Notwithstanding paragraph 146.1(2)(e), where a promoter has not filed a prospectus in respect of an education savings plan referred to in that paragraph, the Minister may register the plan if the promoter is not otherwise required by the laws of Canada or a province to file such a prospectus with a securities commission in Canada or a body performing a similar function in a province and the plan complies with the other conditions set out in subsection 146.1(2).

Obligation to file amendment

(4.1) When a registered education savings plan is amended, the promoter shall file the text of the amendment with the Minister not later than 60 days after the day on which the plan is amended.

Moment du versement

(2.22) Le paiement d'aide aux études qui est versé conformément au paragraphe (2.21) mais non conformément à l'alinéa (2)g.1) est réputé, pour l'application de cet alinéa au moment du versement et par la suite, avoir été fait immédiatement avant le moment de la cessation de l'inscription visé au paragraphe (2.21).

Numéro d'assurance sociale non requis

(2.3) Malgré l'alinéa (2)g.3), un régime enregistré d'épargne-études peut prévoir que le numéro d'assurance sociale n'a pas à être fourni relativement :

a) à une cotisation au régime, si le régime a été conclu avant 1999;

b) à la désignation d'un particulier non-résident à titre de bénéficiaire du régime, si le particulier n'avait pas reçu de numéro d'assurance sociale avant la désignation.

Enregistrement présumé

(3) Si, au cours d'une année, un régime d'épargne-études ne peut être accepté aux fins d'enregistrement uniquement parce qu'il ne répond pas à la condition énoncée à l'alinéa (2)b), il est réputé, lorsqu'il est enregistré par la suite, l'avoir été le premier jour de janvier de la dernière en date des années suivantes :

a) l'année où toutes les conditions visées au paragraphe (2) (sauf celles visées à l'alinéa (2)b)) ont été satisfaites;

b) l'année précédant celle où le régime a été enregistré.

Enregistrement de régimes sans prospectus

(4) Malgré l'alinéa (2)e), dans le cas où un promoteur n'a pas produit le prospectus mentionné à cet alinéa, le ministre peut enregistrer un régime d'épargne-études si le promoteur n'est pas tenu par ailleurs, par la législation fédérale ou provinciale, de produire un tel prospectus auprès d'une commission de valeurs mobilières au Canada ou d'un organisme provincial semblable et si le régime est conforme aux autres conditions énoncées au paragraphe (2).

Modification de régime

(4.1) En cas de modification d'un régime enregistré d'épargne-études, le promoteur est tenu d'en présenter le texte au ministre au plus tard 60 jours suivant la date où elle est apportée.

Trust not taxable

(5) No tax is payable under this Part by a trust on the taxable income of the trust for a taxation year if, throughout the period in the year during which the trust was in existence, the trust was governed by a registered education savings plan.

Subscriber not taxable

(6) No tax is payable by a subscriber on the income of a trust for a taxation year after 1971 throughout which the trust was governed by a registered education savings plan.

Transfers between plans

(6.1) Where property irrevocably held by a trust governed by a registered education savings plan (in this subsection referred to as the "transferor plan") is transferred to a trust governed by another registered education savings plan (in this subsection referred to as the "transferee plan"),

(a) [Repealed, 1998, c. 19, s. 38(13)]

(b) for the purposes of this paragraph, the definition ***specified plan*** in subsection (1) and paragraphs (2)(d.1), (h) and (i), the transferee plan is deemed to have been entered into on the day that is the earlier of

(i) the day on which the transferee plan was entered into, and

(ii) the day on which the transferor plan was entered into; and

(c) notwithstanding subsections 146.1(7) and 146.1(7.1), no amount shall be included in computing the income of any person because of the transfer.

Educational assistance payments

(7) There shall be included in computing an individual's income for a taxation year the total of all educational assistance payments paid out of registered education savings plans to or for the individual in the year.

Other income inclusions

(7.1) There shall be included in computing a taxpayer's income for a taxation year

(a) each accumulated income payment (other than an accumulated income payment made under subsection (1.2)) received in the year by the taxpayer under a registered education savings plan; and

Fiducie non imposable

(5) Aucun impôt n'est payable en vertu de la présente partie par une fiducie sur son revenu imposable pour une année d'imposition si, tout au long de la période de l'année pendant laquelle elle existait, elle était régie par un régime enregistré d'épargne-études.

Souscripteur non imposable

(6) Aucun impôt n'est payable par un souscripteur sur le revenu d'une fiducie pour une année d'imposition, postérieure à 1971, tout au long de laquelle la fiducie a été régie par un régime enregistré d'épargne-études.

Transferts entre régimes

(6.1) En cas de transfert d'un bien détenu irrévocablement par une fiducie régie par un régime enregistré d'épargne-études (appelé « régime cédant » au présent paragraphe) à une fiducie régie par un autre semblable régime (appelé « régime cessionnaire » au présent paragraphe), les présomptions suivantes s'appliquent :

a) [Abrogé, 1998, ch. 19, art. 38(13)]

b) pour l'application du présent alinéa, de la définition de ***régime déterminé*** au paragraphe (1) et des alinéas (2)d.1), h) et i), le régime cessionnaire est réputé avoir été conclu au premier en date des jours suivants :

(i) le jour où il a été conclu,

(ii) le jour où le régime cédant a été conclu;

c) malgré les paragraphes (7) et (7.1), aucun montant n'est à inclure dans le calcul du revenu de quiconque en raison du transfert.

Paiements d'aide aux études

(7) Est à inclure dans le calcul du revenu d'un particulier pour une année d'imposition le total des paiements d'aide aux études versés au particulier, ou pour son compte, au cours de l'année sur des régimes enregistrés d'épargne-études.

Autres montants à inclure dans le revenu

(7.1) Les montants suivants sont à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition :

a) chaque paiement de revenu accumulé, sauf celui effectué aux termes du paragraphe (1.2), qu'il reçoit au cours de l'année dans le cadre d'un régime enregistré d'épargne-études;

(b) each amount received in the year by the taxpayer in full or partial satisfaction of a subscriber's interest under a registered education savings plan (other than any excluded amount in respect of the plan).

Excluded amount

(7.2) For the purpose of paragraph 146.1(7.1)(b), an excluded amount in respect of a registered education savings plan is

(a) any amount received under the plan;

(b) any amount received in satisfaction of a right to a refund of payments under the plan; or

(c) any amount received by a taxpayer under a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the taxpayer and the taxpayer's spouse or common- law partner or former spouse or common-law partner in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership.

(8) to (10) [Repealed, 1998, c. 19, s. 38(15)]

(11) [Repealed, 2014, c. 39, s. 51]

Deemed date of registration

(12) Subject to subsection 146.1(3), an education savings plan that is registered

(a) before 1976 shall be deemed to have been registered since the later of

(i) January 1, 1972, and

(ii) the first day of January of the year in which the plan was created; and

(b) after 1975 shall be deemed to have been registered on the first day of January in the year of registration.

Notice of intent to revoke registration

(12.1) When a particular day is

(a) a day on which a registered education savings plan ceases to comply with the conditions of subsection 146.1(2) for the plan's registration,

(b) a day on which a registered education savings plan ceases to comply with any provision of the plan,

(c) the last day of a month in respect of which tax is payable under Part X.4 by an individual because of

b) chaque montant qu'il reçoit au cours de l'année en règlement, même partiel, du droit d'un souscripteur dans le cadre d'un régime enregistré d'épargne-études, sauf s'il s'agit d'un montant exclu relativement au régime.

Montant exclu

(7.2) Pour l'application de l'alinéa (7.1)b), les montants suivants sont exclus relativement à un régime enregistré d'épargne-études :

a) un montant reçu dans le cadre du régime;

b) un montant reçu en règlement du droit à un remboursement de paiements dans le cadre du régime;

c) un montant reçu par un contribuable conformément à une ordonnance ou un jugement rendu par un tribunal compétent, ou à un accord écrit, visant à partager des biens entre le contribuable et son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait en règlement des droits découlant de leur mariage ou union de fait ou de son échec.

(8) à (10) [Abrogés, 1998, ch. 19, art. 38(15)]

(11) [Abrogé, 2014, ch. 39, art. 51]

Date d'enregistrement réputée

(12) Sous réserve du paragraphe (3), un régime d'épargne-études qui est enregistré :

a) avant 1976, est réputé avoir été enregistré au dernier en date des jours suivants :

(i) le 1er janvier 1972,

(ii) le premier janvier de l'année où il a été créé;

b) après 1975, est réputé avoir été enregistré le premier janvier de l'année de l'enregistrement.

Avis d'intention

(12.1) Le ministre peut envoyer au promoteur d'un régime enregistré d'épargne-études un avis écrit (appelé « avis d'intention » au présent paragraphe et au paragraphe (12.2)) selon lequel il entend révoquer l'enregistrement du régime à la date indiquée dans l'avis, qui ne peut être antérieure à l'un des jours suivants :

a) le jour où le régime cesse d'être conforme aux conditions d'enregistrement énoncées au paragraphe (2);

contributions made, or deemed for the purpose of Part X.4 to have been made, by or on behalf of the individual into a registered education savings plan,

(d) a day on which a registered education savings plan is revocable, or

(e) a day on which a person fails to comply with a condition or an obligation, imposed under the *Canada Education Savings Act* or under a program administered pursuant to an agreement entered into under section 12 of that Act, that applies with respect to a registered education savings plan,

the Minister may send written notice (referred to in this subsection and subsection 146.1(12.2) as a "notice of intent") to the promoter of the plan that the Minister proposes to revoke the registration of the plan as of the day specified in the notice of intent, which day shall not be earlier than the particular day.

b) le jour où le régime cesse d'être conforme à l'une de ses dispositions;

c) le dernier jour d'un mois pour lequel un impôt est payable en vertu de la partie X.4 par un particulier en raison de cotisations versées au régime, ou réputées y avoir été versées pour l'application de cette partie, par lui ou pour son compte;

d) le jour où le régime est révocable;

e) le jour où une personne ne remplit pas une des conditions ou obligations imposées par la *Loi canadienne sur l'épargne-études* ou par un programme administré au titre d'un accord conclu en vertu de l'article 12 de cette loi à l'égard d'un régime enregistré d'épargne-études.

Notice of revocation

(12.2) When the Minister sends a notice of intent to revoke the registration of a registered education savings plan to the promoter of the plan, the Minister may, after 30 days after the receipt by the promoter of the notice, send written notice (referred to in this subsection and subsection 146.1(13) as a "notice of revocation") to the promoter that the registration of the plan is revoked as of the day specified in the notice of revocation, which day shall not be earlier than the day specified in the notice of intent.

Avis de révocation

(12.2) S'il envoie un avis d'intention de révoquer l'enregistrement d'un régime enregistré d'épargne-études au promoteur du régime, le ministre peut, une fois écoulé un délai de 30 jours suivant la réception de l'avis par le promoteur, envoyer à ce dernier un avis écrit (appelé « avis de révocation » au présent paragraphe et au paragraphe (13)) selon lequel l'enregistrement du régime est révoqué à compter de la date indiquée dans l'avis de révocation, qui ne peut être antérieure à la date indiquée dans l'avis d'intention.

Revocation of registration

(13) When the Minister sends a notice of revocation of the registration of a registered education savings plan under subsection 146.1(12.2) to the promoter of the plan, the registration of the plan is revoked as of the day specified in the notice of revocation, unless the Federal Court of Appeal or a judge thereof, on application made at any time before the determination of an appeal under subsection 172(3), orders otherwise.

Révocation

(13) Lorsque le ministre envoie un avis de révocation de l'enregistrement d'un régime enregistré d'épargne-études au promoteur du régime, l'enregistrement est révoqué à compter de la date indiquée dans l'avis, sauf ordonnance contraire de la Cour d'appel fédérale, ou de l'un de ses juges, rendue sur demande présentée avant qu'il ne soit statué sur tout appel interjeté en application du paragraphe 172(3).

RESP information

(13.1) Every trustee under a registered education savings plan shall, in prescribed form and manner, file with the Minister information returns in respect of the plan.

Renseignements sur les REEE

(13.1) Le fiduciaire d'un régime enregistré d'épargne-études est tenu de présenter au ministre, en la forme et selon les modalités prescrites, des déclarations de renseignements concernant le régime.

Former Act

(14) A reference

(a) in this section, in paragraph 60(x) or in subparagraph 241(4)(d)(vii.1) to the *Canada Education Savings Act*, to an amount paid, to the payment of an

Ancienne loi

(14) La mention :

a) au présent article, à l'alinéa 60x) ou au sous-alinéa 241(4)d)(vii.1), de la *Loi canadienne sur l'épargne-études*, d'une somme versée en vertu de cette loi, du

amount or to the repayment of an amount, or to a condition or an obligation imposed, under that Act includes a reference to Part III.1 of the *Department of Human Resources Development Act*, or to an amount paid, to the payment of an amount or to the repayment of an amount, or to a condition or an obligation imposed, as the case may be, under that Part as it read at the time the reference is relevant; and

(b) in clause (2)(g.1)(ii)(B) to an amount that the Minister designated for the purpose of the *Canada Education Savings Act* approves in writing with respect to an individual includes a reference to an amount that the Minister of Human Resources Development or the Minister of State to be styled Minister of Human Resources and Skills Development has approved in writing, before the day on which a Minister is designated for the purposes of that Act, with respect to the individual.

versement ou du remboursement d'une somme en vertu de cette loi ou d'une condition ou obligation imposée par cette loi vaut également mention de la partie III.1 de la *Loi sur le ministère du Développement des ressources humaines*, d'une somme versée en vertu de cette partie, du versement ou du remboursement d'une somme en vertu de cette partie ou d'une condition ou obligation imposée par cette partie, dans sa version en vigueur au moment où la mention est pertinente;

b) à la division (2)g.1)(ii)(B), d'un montant que le ministre chargé de l'application de la *Loi canadienne sur l'épargne-études* approuve par écrit relativement au particulier vaut également mention d'un montant que le ministre du Développement des ressources humaines ou le ministre d'État portant le titre de ministre des Ressources humaines et du Développement des compétences a approuvé par écrit relativement au particulier avant le jour où un ministre est chargé de l'application de cette loi.

Regulations

(15) The Governor in Council may make regulations requiring promoters of education savings plans to file information returns in respect of the plans.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 146.1; 1994, c. 7, Sch. II, s. 118; 1997, c. 25, s. 42; 1998, c. 19, s. 38, c. 21, s. 74; 1999, c. 22, s. 62; 2000, c. 12, s. 142; 2001, c. 17, s. 140; 2004, c. 26, s. 21; 2005, c. 19, s. 34, c. 30, s. 10; 2007, c. 29, s. 18, c. 35, s. 45; 2008, c. 28, s. 23; 2010, c. 12, s. 16; 2011, c. 24, s. 48; 2012, c. 31, s. 33; 2013, c. 34, s. 298; 2014, c. 39, s. 51.

Règlements

(15) Le gouverneur en conseil peut, par règlement, exiger des promoteurs de régimes d'épargne-études qu'ils produisent des déclarations de renseignements relativement à ces régimes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 146.1; 1994, ch. 7, ann. II, art. 118; 1997, ch. 25, art. 42; 1998, ch. 19, art. 38, ch. 21, art. 74; 1999, ch. 22, art. 62; 2000, ch. 12, art. 142; 2001, ch. 17, art. 140; 2004, ch. 26, art. 21; 2005, ch. 19, art. 34, ch. 30, art. 10; 2007, ch. 29, art. 18, ch. 35, art. 45; 2008, ch. 28, art. 23; 2010, ch. 12, art. 16; 2011, ch. 24, art. 48; 2012, ch. 31, art. 33; 2013, ch. 34, art. 298; 2014, ch. 39, art. 51.

Tax-free Savings Accounts

Definitions

146.2 (1) The following definitions apply in this section and in Part XI.01.

distribution under an arrangement of which an individual is the holder means a payment out of or under the arrangement in satisfaction of all or part of the holder's interest in the arrangement. (*distribution*)

holder of an arrangement means

(a) until the death of the individual who entered into the arrangement with the issuer, the individual;

(b) at and after the death of the individual, the individual's survivor, if the survivor acquires

(i) all of the individual's rights as the holder of the arrangement, and

Comptes d'épargne libre d'impôt

Définitions

146.2 (1) Les définitions qui suivent s'appliquent au présent article et à la partie XI.01.

arrangement admissible Est un arrangement admissible à un moment donné l'arrangement qui répond aux conditions suivantes :

a) il est conclu après 2008 entre une personne (appelée « émetteur » à la présente définition) et un particulier (sauf une fiducie) âgé d'au moins 18 ans;

b) il constitue :

(i) un arrangement en fiducie conclu avec un émetteur qui est une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise d'offre au public de services de fiduciaire,

(ii) to the extent it is not included in the rights described in subparagraph (i), the unconditional right to revoke any beneficiary designation made, or similar direction imposed, by the individual under the arrangement or relating to property held in connection with the arrangement; and

(c) at and after the death of a holder described in paragraph (b) or in this paragraph, the holder's survivor, if the survivor acquires

(i) all of the holder's rights as the holder of the arrangement, and

(ii) to the extent it is not included in the rights described in subparagraph (i), the unconditional right to revoke any beneficiary designation made, or similar direction imposed, by the holder under the arrangement or relating to property held in connection with the arrangement. (*titulaire*)

issuer of an arrangement means the person described as the issuer in the definition ***qualifying arrangement***. (*émetteur*)

qualifying arrangement, at a particular time, means an arrangement

(a) that is entered into after 2008 between a person (in this definition referred to as the "issuer") and an individual (other than a trust) who is at least 18 years of age;

(b) that is

(i) an arrangement in trust with an issuer that is a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(ii) an annuity contract with an issuer that is a licensed annuities provider, or

(iii) a deposit with an issuer that is

(A) a person who is, or is eligible to become, a member of the Canadian Payments Association, or

(B) a credit union that is a shareholder or member of a body corporate referred to as a "central" for the purposes of the *Canadian Payments Act*;

(c) that provides for contributions to be made under the arrangement to the issuer in consideration of, or to be used, invested or otherwise applied for the purpose

(ii) un contrat de rente conclu avec un émetteur qui est un fournisseur de rentes autorisé,

(iii) un dépôt auprès de l'un des émetteurs suivants :

(A) une personne qui est membre de l'Association canadienne des paiements ou peut le devenir,

(B) une caisse de crédit qui est actionnaire ou membre d'une personne morale appelée « centrale » pour l'application de la *Loi canadienne sur les paiements*;

c) il prévoit le versement à l'émetteur, dans le cadre de l'arrangement, de cotisations qui seront soit effectuées en contrepartie du versement par l'émetteur, dans ce cadre, de distributions au titulaire, soit utilisées, investies ou autrement appliquées de façon que l'émetteur puisse faire pareil versement au titulaire;

d) il s'agit d'un arrangement aux termes duquel l'émetteur, en accord avec le particulier, s'engage, au moment de la conclusion de l'arrangement, à produire auprès du ministre un choix visant à enregistrer l'arrangement à titre de compte d'épargne libre d'impôt;

e) l'arrangement est conforme aux conditions énoncées au paragraphe (2) tout au long de la période commençant au moment où il est conclu et se terminant au moment donné. (*qualifying arrangement*)

distribution Tout paiement effectué dans le cadre d'un arrangement dont un particulier est titulaire en règlement de la totalité ou d'une partie des droits du titulaire sur l'arrangement. (*distribution*)

émetteur La personne appelée « émetteur » à la définition de ***arrangement admissible***. (*issuer*)

survivant Est le survivant d'un particulier tout autre particulier qui, immédiatement avant le décès du particulier, était son époux ou conjoint de fait. (*survivor*)

titulaire Est titulaire d'un arrangement :

a) jusqu'au décès du particulier qui a conclu l'arrangement avec l'émetteur, ce particulier;

b) au moment de ce décès et par la suite, le survivant du particulier s'il acquiert les droits suivants :

(i) les droits du particulier à titre de titulaire de l'arrangement,

of, the issuer making distributions under the arrangement to the holder;

(d) under which the issuer and the individual agree, at the time the arrangement is entered into, that the issuer will file with the Minister an election to register the arrangement as a TFSA; and

(e) that, at all times throughout the period that begins at the time the arrangement is entered into and that ends at the particular time, complies with the conditions in subsection (2). (*arrangement admissible*)

survivor of an individual means another individual who is, immediately before the individual's death, a spouse or common-law partner of the individual. (*survivant*)

Qualifying arrangement conditions

(2) The conditions referred to in paragraph (e) of the definition ***qualifying arrangement*** in subsection (1) are as follows:

(a) the arrangement requires that it be maintained for the exclusive benefit of the holder (determined without regard to any right of a person to receive a payment out of or under the arrangement only on or after the death of the holder);

(b) the arrangement prohibits, while there is a holder of the arrangement, anyone that is neither the holder nor the issuer of the arrangement from having rights under the arrangement relating to the amount and timing of distributions and the investing of funds;

(c) the arrangement prohibits anyone other than the holder from making contributions under the arrangement;

(d) the arrangement permits distributions to be made to reduce the amount of tax otherwise payable by the holder under section 207.02 or 207.03;

(e) the arrangement provides that, at the direction of the holder, the issuer shall transfer all or any part of the property held in connection with the arrangement (or an amount equal to its value) to another TFSA of the holder;

(ii) dans la mesure où il n'est pas compris dans les droits visés au sous-alinéa (i), le droit inconditionnel de révoquer toute désignation de bénéficiaire effectuée, ou tout ordre semblable donné, par le particulier aux termes de l'arrangement ou relativement à un bien détenu dans le cadre de l'arrangement;

c) au moment du décès du titulaire visé à l'alinéa b) ou au présent alinéa et par la suite, le survivant du titulaire s'il acquiert les droits suivants :

(i) les droits du titulaire à titre de titulaire de l'arrangement,

(ii) dans la mesure où il n'est pas compris dans les droits visés au sous-alinéa (i), le droit inconditionnel de révoquer toute désignation de bénéficiaire effectuée, ou tout ordre semblable donné, par le titulaire aux termes de l'arrangement ou relativement à un bien détenu dans le cadre de l'arrangement. (*holder*)

Conditions applicables aux arrangements admissibles

(2) Les conditions mentionnées à l'alinéa e) de la définition de ***arrangement admissible*** au paragraphe (1) sont les suivantes :

a) l'arrangement prévoit qu'il doit être géré au profit exclusif du titulaire (cet état de fait étant déterminé compte non tenu du droit d'une personne de recevoir un paiement dans le cadre de l'arrangement au décès du titulaire ou par la suite);

b) tant qu'il compte un titulaire, l'arrangement ne permet pas qu'une personne qui n'est ni le titulaire ni l'émetteur de l'arrangement ait des droits relatifs au montant et au calendrier des distributions et au placement des fonds;

c) l'arrangement ne permet pas à une personne autre que le titulaire d'y verser des cotisations;

d) l'arrangement permet que des distributions soient effectuées en vue de réduire le montant d'impôt dont le titulaire est redevable par ailleurs en vertu des articles 207.02 ou 207.03;

e) l'arrangement prévoit que, sur l'ordre du titulaire, l'émetteur doit transférer tout ou partie des biens détenus dans le cadre de l'arrangement (ou une somme égale à leur valeur) à un autre compte d'épargne libre d'impôt du titulaire;

(f) if the arrangement is an arrangement in trust, it prohibits the trust from borrowing money or other property for the purposes of the arrangement; and

(g) the arrangement complies with prescribed conditions.

f) s'il s'agit d'un arrangement en fiducie, il ne permet pas à la fiducie d'emprunter de l'argent ou d'autres biens pour les besoins de l'arrangement;

g) l'arrangement est conforme aux conditions prévues par règlement.

Paragraphs (2)(a), (b) and (e) not applicable

(3) The conditions in paragraphs (2)(a), (b) and (e) do not apply to the extent that they are inconsistent with subsection (4).

Non-application des al. (2)a), b) et e)

(3) Les conditions énoncées aux alinéas (2)a), b) et e) ne s'appliquent pas dans la mesure où elles sont incompatibles avec le paragraphe (4).

Using TFSA interest as security for a loan

(4) A holder of a TFSA may use the holder's interest or, for civil law, right in the TFSA as security for a loan or other indebtedness if

(a) the terms and conditions of the indebtedness are terms and conditions that persons dealing at arm's length with each other would have entered into; and

(b) it can reasonably be concluded that none of the main purposes for that use is to enable a person (other than the holder) or a partnership to benefit from the exemption from tax under this Part of any amount in respect of the TFSA.

Intérêt ou droit sur un CÉLI servant de garantie de prêt

(4) Le titulaire d'un compte d'épargne libre d'impôt peut utiliser son intérêt ou, pour l'application du droit civil, son droit sur le compte à titre de garantie d'un prêt ou d'une autre dette si les conditions suivantes sont réunies :

a) les modalités de la dette sont telles qu'elles auraient été acceptées par des personnes n'ayant entre elles aucun lien de dépendance;

b) il est raisonnable de conclure qu'aucun des objets principaux de cette utilisation ne consiste à permettre à une personne (sauf le titulaire) ou à une société de personnes de profiter de l'exemption d'impôt prévue par la présente partie à l'égard d'une somme relative au compte.

TFSA

(5) If the issuer of an arrangement that is, at the time it is entered into, a qualifying arrangement files with the Minister, before March of the calendar year following the calendar year in which the arrangement was entered into, an election in prescribed form and manner to register the arrangement as a TFSA under the Social Insurance Number of the individual with whom the arrangement was entered into, the arrangement becomes a TFSA at the time the arrangement was entered into and ceases to be a TFSA at the earliest of the following times:

(a) the time at which the last holder of the arrangement dies;

(b) the time at which the arrangement ceases to be a qualifying arrangement; or

(c) the earliest time at which the arrangement is not administered in accordance with the conditions in subsection (2).

Compte d'épargne libre d'impôt

(5) Si l'émetteur d'un arrangement qui est un arrangement admissible au moment où il est conclu produit auprès du ministre, avant mars de l'année civile suivant celle au cours de laquelle l'arrangement a été conclu, un choix fait selon le formulaire prescrit et les modalités prescrites visant à enregistrer l'arrangement à titre de compte d'épargne libre d'impôt sous le numéro d'assurance sociale du particulier avec lequel il est conclu, l'arrangement devient un compte d'épargne libre d'impôt au moment où il est conclu et cesse d'en être un au premier en date des moments suivants :

a) le moment où le dernier titulaire de l'arrangement décède;

b) le moment où l'arrangement cesse d'être un arrangement admissible;

c) dès que l'arrangement n'est pas administré conformément aux conditions énoncées au paragraphe (2).

Trust not taxable

(6) No tax is payable under this Part by a trust that is governed by a TFSA on its taxable income for a taxation

Aucun impôt à payer par une fiducie

(6) Aucun impôt n'est à payer en vertu de la présente partie par une fiducie régie par un compte d'épargne

year, except that, if at any time in the taxation year, it carries on one or more businesses or holds one or more properties that are non-qualified investments (as defined in subsection 207.01(1)) for the trust, tax is payable under this Part by the trust on the amount that would be its taxable income for the taxation year if it had no incomes or losses from sources other than those businesses and properties, and no capital gains or capital losses other than from dispositions of those properties, and for that purpose,

(a) "income" includes dividends described in section 83;

(b) the trust's taxable capital gain or allowable capital loss from the disposition of a property is equal to its capital gain or capital loss, as the case may be, from the disposition; and

(c) the trust's income shall be computed without reference to subsection 104(6).

libre d'impôt sur son revenu imposable pour une année d'imposition. Toutefois, si, au cours de l'année, la fiducie exploite une ou plusieurs entreprises ou détient un ou plusieurs biens qui sont, pour elle, des placements non admissibles, au sens du paragraphe 207.01(1), l'impôt prévu par la présente partie est à payer par la fiducie sur la somme qui correspondrait à son revenu imposable pour l'année si ses seules sources de revenu ou de perte étaient ces entreprises ou ces biens et ses seuls gains en capital ou pertes en capital découlaient de la disposition de ces biens. À cette fin :

a) sont compris dans le revenu les dividendes visés à l'article 83;

b) le gain en capital imposable ou la perte en capital déductible de la fiducie découlant de la disposition d'un bien correspond à son gain en capital ou à sa perte en capital, selon le cas, découlant de la disposition;

c) le revenu de la fiducie est calculé compte non tenu du paragraphe 104(6).

Amount credited to a deposit

(7) An amount that is credited or added to a deposit that is a TFSA as interest or other income in respect of the TFSA is deemed not to be received by the holder of the TFSA solely because of that crediting or adding.

Somme portée au crédit d'un dépôt

(7) Toute somme qui est ajoutée à un dépôt qui est un compte d'épargne libre d'impôt, ou qui est portée au crédit d'un tel dépôt, à titre d'intérêts ou d'autres revenus relatifs au compte est réputée ne pas être reçue par le titulaire du compte en raison seulement de cet ajout ou de ce crédit.

Trust ceasing to be a TFSA

(8) If an arrangement that governs a trust ceases, at a particular time, to be a TFSA,

(a) the trust is deemed

(i) to have disposed, immediately before the particular time, of each property held by the trust for proceeds equal to the property's fair market value immediately before the particular time, and

(ii) to have acquired, at the particular time, each such property at a cost equal to that fair market value;

(b) the trust's last taxation year that began before the particular time is deemed to have ended immediately before the particular time; and

(c) a taxation year of the trust is deemed to begin at the particular time.

Fiducie qui cesse d'être un compte d'épargne libre d'impôt

(8) Si l'arrangement qui régit une fiducie cesse, à un moment donné, d'être un compte d'épargne libre d'impôt, les règles suivantes s'appliquent :

a) la fiducie est réputée :

(i) d'une part, avoir disposé, immédiatement avant le moment donné, de chacun des biens qu'elle détient pour un produit égal à la juste valeur marchande du bien immédiatement avant ce moment,

(ii) d'autre part, avoir acquis, au moment donné, chacun de ces biens à un coût égal à cette juste valeur marchande;

b) le dernière année d'imposition de la fiducie qui a commencé avant le moment donné est réputée avoir pris fin immédiatement avant ce moment;

c) une année d'imposition de la fiducie est réputée commencer au moment donné.

Trust ceasing to be a TFSA on death of holder

(9) If an arrangement that governs a trust ceases to be a TFSA because of the death of the holder of the TFSA,

(a) the arrangement is deemed, for the purposes of subsections (6) and (8), any regulations made under subsection (13), the definition ***trust*** in subsection 108(1), paragraph 149(1)(u.2) and the definitions ***qualified investment*** and ***non-qualified investment*** in subsection 207.01(1), to continue to be a TFSA until, and to cease to be a TFSA immediately after, the exemption-end time, being in this subsection the earlier of

(i) the time at which the trust ceases to exist, and

(ii) the end of the first calendar year that begins after the holder dies;

(b) there shall be included in computing a taxpayer's income for a taxation year the total of all amounts each of which is an amount determined by the formula

A – B

where

A is the amount of a payment made out of or under the trust, in satisfaction of all or part of the taxpayer's beneficial interest in the trust, in the taxation year, after the holder's death and at or before the exemption-end time, and

B is an amount designated by the trust not exceeding the lesser of

(i) the amount of the payment, and

(ii) the amount by which the fair market value of all of the property held by the trust immediately before the holder's death exceeds the total of all amounts each of which is the value of B in respect of any other payment made out of or under the trust; and

(c) there shall be included in computing the trust's income for its first taxation year, if any, that begins after the exemption-end time the amount determined by the formula

A – B

where

A is the fair market value of all of the property held by the trust at the exemption-end time, and

B is the amount by which the fair market value of all of the property held by the trust immediately before the holder's death exceeds the total of all amounts each of which is the value of B in

Fiducie qui cesse d'être un CÉLI au décès du titulaire

(9) Si l'arrangement qui régit une fiducie cesse d'être un compte d'épargne libre d'impôt en raison du décès du titulaire du compte, les règles suivantes s'appliquent :

a) l'arrangement est réputé, pour l'application des paragraphes (6) et (8), des dispositions réglementaires prises en application du paragraphe (13), de la définition de ***fiducie*** au paragraphe 108(1), de l'alinéa 149(1)u.2) et des définitions de ***placement admissible*** et ***placement non admissible*** au paragraphe 207.01(1), continuer d'être un compte d'épargne libre d'impôt jusqu'à la fin de l'exemption et cesser d'en être un immédiatement après ce moment; pour l'application du présent paragraphe, la fin de l'exemption correspond au premier en date des moments suivants :

(i) le moment où la fiducie cesse d'exister,

(ii) la fin de la première année civile commençant après le décès du titulaire;

b) est à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition le total des sommes représentant chacune la somme obtenue par la formule suivante :

A – B

où :

A représente le montant d'un paiement fait dans le cadre de la fiducie, en règlement de la totalité ou d'une partie du droit de bénéficiaire du contribuable dans la fiducie, au cours de l'année d'imposition, après le décès du titulaire et au plus tard à la fin de l'exemption,

B toute somme désignée par la fiducie, n'excédant pas la moins élevée des sommes suivantes :

(i) le montant du paiement,

(ii) l'excédent de la juste valeur marchande des biens détenus par la fiducie immédiatement avant le décès du titulaire sur le total des sommes représentant chacune la valeur de l'élément B relativement à tout autre paiement fait dans le cadre de la fiducie;

c) est à inclure dans le calcul du revenu de la fiducie pour sa première année d'imposition commençant après la fin de l'exemption la somme obtenue par la formule suivante :

A – B

où :

paragraph (b) in respect of a payment made out of or under the trust.

A représente la juste valeur marchande des biens détenus par la fiducie à la fin de l'exemption,

B l'excédent de la juste valeur marchande des biens détenus par la fiducie immédiatement avant le décès du titulaire sur le total des sommes représentant chacune la valeur de l'élément B de la formule figurant à l'alinéa b) relativement à un paiement fait dans le cadre de la fiducie.

Annuity contract ceasing to be a TFSA

(10) If an annuity contract ceases, at a particular time, to be a TFSA,

(a) the holder of the TFSA is deemed to have disposed of the contract immediately before the particular time for proceeds equal to its fair market value immediately before the particular time;

(b) the contract is deemed to be a separate annuity contract issued and effected at the particular time otherwise than pursuant to or as a TFSA; and

(c) each person who has an interest or, for civil law, a right in the separate annuity contract at the particular time is deemed to acquire the interest at the particular time at a cost equal to its fair market value at the particular time.

Contrat de rente qui cesse d'être un compte d'épargne libre d'impôt

(10) Si un contrat de rente cesse, à un moment donné, d'être un compte d'épargne libre d'impôt, les règles suivantes s'appliquent :

a) le titulaire du compte est réputé avoir disposé du contrat immédiatement avant le moment donné pour un produit égal à sa juste valeur marchande immédiatement avant ce moment;

b) le contrat est réputé être un contrat de rente distinct établi et souscrit au moment donné autrement que dans le cadre d'un compte d'épargne libre d'impôt;

c) chaque personne qui a un intérêt ou, pour l'application du droit civil, un droit sur le contrat de rente distinct au moment donné est réputée acquérir le droit à ce moment à un coût égal à sa juste valeur marchande à ce même moment.

Deposit ceasing to be a TFSA

(11) If a deposit ceases, at a particular time, to be a TFSA,

(a) the holder of the TFSA is deemed to have disposed of the deposit immediately before the particular time for proceeds equal to its fair market value immediately before the particular time; and

(b) each person who has an interest or, for civil law, a right in the deposit at the particular time is deemed to acquire the interest at the particular time at a cost equal to its fair market value at the particular time.

Dépôt qui cesse d'être un compte d'épargne libre d'impôt

(11) Si un dépôt cesse, à un moment donné, d'être un compte d'épargne libre d'impôt, les règles suivantes s'appliquent :

a) le titulaire du compte est réputé avoir disposé du dépôt immédiatement avant le moment donné pour un produit égal à sa juste valeur marchande immédiatement avant ce moment;

b) chaque personne qui a un intérêt ou, pour l'application du droit civil, un droit sur le dépôt au moment donné est réputée acquérir le droit à ce moment à un coût égal à sa juste valeur marchande à ce même moment.

Arrangement is TFSA only

(12) An arrangement that is a qualifying arrangement at the time it is entered into is deemed not to be a retirement savings plan, an education savings plan, a retirement income fund or a disability savings plan.

Exclusions

(12) L'arrangement qui est un arrangement admissible au moment où il est conclu est réputé n'être ni un régime d'épargne-retraite, ni un régime d'épargne-études, ni un fonds de revenu de retraite ni un régime d'épargne-invalidité.

Regulations

(13) The Governor in Council may make regulations requiring issuers of TFSAs to file information returns in respect of TFSAs.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 146.2; 2008, c. 28, s. 24; 2009, c. 2, s. 53; 2010, c. 25, s. 35; 2013, c. 34, s. 299.

Registered Retirement Income Funds

Definitions

146.3 (1) In this section,

annuitant under a retirement income fund at any time means

(a) the first individual to whom the carrier has undertaken to make payments described in the definition ***retirement income fund*** out of or under the fund, where the first individual is alive at that time,

(b) after the death of the first individual, a spouse or common-law partner (in this definition referred to as the "survivor") of the first individual to whom the carrier has undertaken to make payments described in the definition ***retirement income fund*** out of or under the fund after the death of the first individual, if the survivor is alive at that time and the undertaking was made

(i) pursuant to an election that is described in that definition and that was made by the first individual, or

(ii) with the consent of the legal representative of the first individual, and

(c) after the death of the survivor, another spouse or common-law partner of the survivor to whom the carrier has undertaken, with the consent of the legal representative of the survivor, to make payments described in the definition ***retirement income fund*** out of or under the fund after the death of the survivor, where that other spouse or common-law partner is alive at that time; (*rentier*)

carrier of a retirement income fund means

(a) a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business,

(b) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in

Règlements

(13) Le gouverneur en conseil peut, par règlement, exiger des émetteurs de comptes d'épargne libre d'impôt qu'ils produisent des déclarations de renseignements relativement à ces comptes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 146.2; 2008, ch. 28, art. 24; 2009, ch. 2, art. 53; 2010, ch. 25, art. 35; 2013, ch. 34, art. 299.

Fonds enregistrés de revenu de retraite

Définitions

146.3 (1) Les définitions qui suivent s'appliquent au présent article.

biens détenus Dans le cadre d'un fonds de revenu de retraite, biens que détient, à titre de fiduciaire ou de personne ayant la propriété effective, l'émetteur du fonds et dont la valeur, le revenu ou la perte sert au calcul des versements à effectuer au rentier sur le fonds pour une année. (*property held*)

émetteur À l'égard d'un fonds de revenu de retraite, l'une des personnes suivantes qui s'engage à verser des paiements en vertu d'un fonds de revenu de retraite à un particulier qui est le rentier en vertu du fonds :

a) personne titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada un commerce de rentes;

b) société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir ses services au public en tant que fiduciaire;

c) société agréée par le gouverneur en conseil pour l'application de l'article 146 et qui est titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à établir des contrats de placement;

d) personne appelée dépositaire à l'article 146. (*carrier*)

fonds de revenu de retraite Fonds visé par un accord entre un émetteur et un rentier aux termes duquel l'émetteur, contre les biens qui lui sont transférés, s'engage à verser au rentier et, si le rentier en fait le choix, à son époux ou conjoint de fait après son décès, des sommes dont le total, au cours de chaque année pour laquelle le minimum à retirer pour l'année est supérieur à zéro, est au moins égal au minimum à retirer pour l'année, chaque versement ne pouvant toutefois dépasser la valeur des biens détenus dans le cadre du fonds immédiatement

Canada the business of offering to the public its services as trustee,

(c) a corporation approved by the Governor in Council for the purposes of section 146 that is licensed or otherwise authorized under the laws of Canada or a province to issue investment contracts, or

(d) a person referred to as a depositary in section 146,

that has agreed to make payments under a retirement incomefund to the individual who is the annuitant under the fund; (*émetteur*)

designated benefit of an individual in respect of a registered retirement income fund means the total of

(a) such amounts paid out of or under the fund after the death of the last annuitant thereunder to the legal representative of that annuitant

(i) as would, had they been paid under the fund to the individual, have been refunds of premiums (in this paragraph having the meaning assigned by subsection 146(1)) if the fund were a registered retirement savings plan that had not matured before the death, and

(ii) as are designated jointly by the legal representative and the individual in prescribed form filed with the Minister, and

(b) amounts paid out of or under the fund after the death of the last annuitant thereunder to the individual that would be refunds of premiums had the fund been a registered retirement savings plan that had not matured before the death; (*prestation désignée*)

minimum amount under a retirement income fund for a year means, for the year in which the fund was entered into, a nil amount, and, for any other year, the amount determined by the formula

(A × B) + C

where

A is the total fair market value of all properties held in connection with the fund at the beginning of the year (other than annuity contracts held by a trust governed by the fund that, at the beginning of the year, are not described in paragraph (b.1) of the definition ***qualified investment***);

B is

(a) where the first annuitant under the fund elected in respect of the fund under paragraph (b) of the definition ***minimum amount*** in this

avant le moment du versement. (*retirement income fund*)

fonds enregistré de revenu de retraite Fonds de revenu de retraite accepté par le ministre aux fins d'enregistrement pour l'application de la présente loi et qui est enregistré sous le numéro d'assurance sociale du premier rentier en vertu du fonds. (*registered retirement income fund*)

minimum Le montant minimum à retirer d'un fonds de revenu de retraite pour une année correspond à zéro, s'il s'agit de l'année de la conclusion de l'accord visant le fonds; s'il s'agit d'une autre année, il correspond à la somme obtenue par la formule suivante :

(A × B) + C

où :

A représente la juste valeur marchande totale des biens détenus dans le cadre du fonds au début de l'année, à l'exception des contrats de rente détenus par une fiducie régie par le fonds et qui, au début de l'année, ne sont pas visés à l'alinéa b.1) de la définition de ***placement admissible***;

B :

a) si le premier rentier en vertu du fonds a choisi en application de l'alinéa b) de la définition de ***minimum*** au présent paragraphe, en son état avant 1992, ou du sous-alinéa 146.3(1)f)(i) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, d'utiliser l'âge d'un autre particulier à l'égard du fonds, le facteur prescrit pour l'année quant à l'autre particulier,

b) si l'alinéa a) ne s'applique pas et si le premier rentier en vertu du fonds en fait le choix avant que l'émetteur fasse un versement dans le cadre du fonds, le facteur prescrit pour l'année quant au particulier qui était l'époux ou conjoint de fait du premier rentier au moment du choix,

c) dans les autres cas, le facteur prescrit pour l'année quant au premier rentier en vertu du fonds;

C dans le cas où le fonds régit une fiducie, le total des montants représentant chacun :

a) un paiement périodique prévu par un contrat de rente détenu par la fiducie au début de l'année (à l'exception d'un contrat de rente visé au début de l'année à l'alinéa b.1) de la définition de ***placement admissible***) qui est versé à la fiducie au cours de l'année,

b) si le paiement périodique prévu par un tel contrat de rente n'est pas versé à la fiducie du fait

subsection, as it read before 1992, or under subparagraph 146.3(1)(f)(i) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, to use the age of another individual, the prescribed factor for the year in respect of the other individual,

(b) where paragraph (a) does not apply and the first annuitant under the fund so elects before any payment has been made under the fund by the carrier, the prescribed factor for the year in respect of an individual who was the spouse or common-law partner of the first annuitant at the time of the election, and

(c) in any other case, the prescribed factor for the year in respect of the first annuitant under the fund, and

C is, where the fund governs a trust, the total of all amounts each of which is

(a) a periodic payment under an annuity contract held by the trust at the beginning of the year (other than an annuity contract described at the beginning of the year in paragraph (b.1) of the definition ***qualified investment***) that is paid to the trust in the year, or

(b) if the periodic payment under such an annuity contract is not made to the trust because the trust disposed of the right to that payment in the year, a reasonable estimate of that payment on the assumption that the annuity contract had been held throughout the year and no rights under the contract were disposed of in the year; (*minimum*)

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

qualified investment for a trust governed by a registered retirement income fund means

(a) an investment that would be described by any of paragraphs (a) to (d), (f) and (g) of the definition ***qualified investment*** in section 204 if the reference in that definition to "a trust governed by a deferred profit sharing plan or revoked plan" were read as a reference to "a trust governed by a registered retirement income fund" and if that definition were read without reference to the words "with the exception of excluded property in relation to the trust",

(b) [Repealed, 2007, c. 29, s. 19]

que celle-ci a disposé du droit à ce paiement au cours de l'année, un montant représentant une estimation raisonnable de ce paiement, à supposer que le contrat de rente ait été détenu tout au long de l'année et qu'il n'ait été disposé d'aucun droit dans le cadre du contrat au cours de l'année. (*minimum amount*)

placement admissible Dans le cas d'une fiducie régie par un fonds enregistré de revenu de retraite :

a) placement qui serait visé à l'un des alinéas a) à d), f) et g) de la définition de ***placement admissible*** à l'article 204 si la mention « fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré » à cette définition était remplacée par « fiducie régie par un fonds enregistré de revenu de retraite » et s'il n'était pas tenu compte du passage « sauf s'il s'agit de biens exclus relativement à la fiducie » à cette même définition;

b) [Abrogé, 2007, ch. 29, art. 19]

b.1) contrat relatif à une rente établi par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(ii) le titulaire du contrat a le droit d'exiger le rachat de celui-ci à tout moment pour un montant qui, s'il n'était pas tenu compte de frais de vente et d'administration raisonnables, correspondrait à peu près à la valeur des fonds qui pourraient servir par ailleurs à financer des paiements périodiques futurs dans le cadre du contrat;

b.2) contrat relatif à une rente établi par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) des paiements à effectuer périodiquement à intervalles ne dépassant pas un an sont ou peuvent être versés au titulaire dans le cadre du contrat,

(ii) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(iii) ni le montant d'un paiement prévu par le contrat, ni le moment de son versement, ne peuvent varier en raison de la durée d'une vie, sauf s'il s'agit :

(b.1) a contract for an annuity issued by a licensed annuities provider where

(i) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract, and

(ii) the holder of the contract has a right to surrender the contract at any time for an amount that would, if reasonable sales and administration charges were ignored, approximate the value of funds that could otherwise be applied to fund future periodic payments under the contract,

(b.2) a contract for an annuity issued by a licensed annuities provider where

(i) annual or more frequent periodic payments are or may be made under the contract to the holder of the contract,

(ii) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract,

(iii) neither the time nor the amount of any payment under the contract may vary because of the length of any life, other than

(A) if the annuitant under the fund (in this paragraph referred to as the "RRIF annuitant") has made the election referred to in the definition ***retirement income fund*** in respect of the fund and a spouse or common-law partner, the life of the RRIF annuitant or the life of the spouse or common-law partner, and

(B) in any other case, the life of the RRIF annuitant,

(iv) the day on which the periodic payments began or are to begin (in this paragraph referred to as the "start date") is not later than the end of the year following the year in which the contract was acquired by the trust,

(v) either

(A) the periodic payments are payable for the life of the RRIF annuitant or the joint lives of the RRIF annuitant and the RRIF annuitant's spouse or common-law partner and either there is no guaranteed period under the contract or there is a guaranteed period that begins at the

(A) de la vie du rentier en vertu du fonds (appelé « rentier du FERR » au présent alinéa) ou de celle de son époux ou conjoint de fait, dans le cas où le rentier du FERR a fait le choix prévu à la définition de ***fonds de revenu de retraite*** relativement au fonds et à son époux ou conjoint de fait,

(B) de la vie du rentier du FERR, dans les autres cas,

(iv) le versement des paiements périodiques a commencé ou doit commencer au plus tard à la fin de l'année suivant celle au cours de laquelle le contrat a été acheté par la fiducie,

(v) selon le cas :

(A) les paiements périodiques sont payables au rentier du FERR à titre viager ou sont réversibles à l'époux ou conjoint de fait survivant, sans durée garantie ou pour une durée garantie, commençant à la date du début du versement des paiements, égale ou inférieure à la différence entre 90 et le moindre des âges suivants :

(I) l'âge en années accomplies à cette date du rentier du FERR, à supposer qu'il soit vivant à cette date,

(II) l'âge en années accomplies à cette date de l'époux ou conjoint de fait du rentier du FERR, à supposer que l'époux ou conjoint de fait du rentier au moment de l'achat du contrat soit son époux ou conjoint de fait à cette date,

(B) les paiements périodiques sont payables pour un nombre d'années égal au nombre suivant :

(I) 90 moins l'âge visé à la subdivision (A)(I),

(II) 90 moins l'âge visé à la subdivision (A)(II),

(vi) les paiements périodiques :

(A) sont égaux entre eux,

(B) ne sont pas égaux entre eux en raison seulement d'un ou de plusieurs rajustements soit qui seraient conformes aux sous-alinéas 146(3)b)(iii) à (v) si le contrat était une rente prévue par un régime d'épargne-retraite, soit qui découlent

start date and does not exceed a term equal to 90 years minus the lesser of

(I) the age in whole years at the start date of the RRIF annuitant (determined on the assumption that the RRIF annuitant is alive at the start date), and

(II) the age in whole years at the start date of a spouse or common-law partner of the RRIF annuitant (determined on the assumption that a spouse or common-law partner of the RRIF annuitant at the time the contract was acquired is a spouse or common-law partner of the RRIF annuitant at the start date), or

(B) the periodic payments are payable for a term equal to

(I) 90 years minus the age described in subclause (I), or

(II) 90 years minus the age described in subclause (II), and

(vi) the periodic payments

(A) are equal, or

(B) are not equal solely because of one or more adjustments that would, if the contract were an annuity under a retirement savings plan, be in accordance with subparagraphs 146(3)(b)(iii) to 146(3)(b)(v) or that arise because of a uniform reduction in the entitlement to the periodic payments as a consequence of a partial surrender of rights to the periodic payments, and

(c) such other investments as may be prescribed by regulations of the Governor in Council made on the recommendation of the Minister of Finance; (*placement admissible*)

registered retirement income fund means a retirement income fund accepted by the Minister for registration for the purposes of this Act and registered under the Social Insurance Number of the first annuitant under the fund; (*fonds enregistré de revenu de retraite*)

retirement income fund means an arrangement between a carrier and an annuitant under which, in consideration for the transfer to the carrier of property, the carrier undertakes to pay amounts to the annuitant (and, where the annuitant so elects, to the annuitant's spouse or common-law partner after the annuitant's death), the total of which is, in each year in which the minimum amount under the arrangement for the year is greater

d'une réduction uniforme du droit aux paiements périodiques par suite d'un rachat partiel des droits à ces paiements;

c) tout autre placement qui peut être prévu par règlement du gouverneur en conseil, pris sur recommandation du ministre des Finances. (*qualified investment*)

prestation désignée S'agissant de la prestation désignée d'un particulier prévue par un fonds enregistré de revenu de retraite, le total des montants suivants :

a) les montants versés dans le cadre du fonds après le décès de son dernier rentier au représentant légal de ce rentier, qui répondent aux conditions suivantes :

(i) ils seraient des remboursements de primes (cette expression s'entendant, à la présente définition, au sens du paragraphe 146(1)) s'ils avaient été versés au particulier dans le cadre du fonds et si le fonds était un régime enregistré d'épargne-retraite non échu avant le décès,

(ii) ils sont désignés conjointement par le représentant légal et le particulier sur le formulaire prescrit présenté au ministre;

b) les montants versés au particulier dans le cadre du fonds après le décès de son dernier rentier qui seraient des remboursements de primes si le fonds était un régime enregistré d'épargne-retraite non échu avant le décès. (*designated benefit*)

rentier S'agissant d'un rentier en vertu d'un fonds enregistré de revenu de retraite à un moment donné, l'une des personnes suivantes :

a) le premier particulier envers qui l'émetteur s'est engagé à faire les paiements visés à la définition de ***fonds de revenu de retraite*** au présent paragraphe dans le cadre du fonds, si ce particulier est vivant à ce moment;

b) après le décès du premier particulier, l'époux ou le conjoint de fait (appelé ***survivant*** à la présente définition) du premier particulier envers qui l'émetteur s'est engagé à faire les paiements visés à la définition de ***fonds de revenu de retraite*** au présent paragraphe dans le cadre du fonds après le décès du premier particulier, si le survivant est vivant à ce moment et si l'engagement est pris, selon le cas :

(i) en conformité avec un choix fait par le premier particulier en application de cette définition,

(ii) avec le consentement du représentant légal du premier particulier;

than nil, not less than the minimum amount under the arrangement for that year, but the amount of any such payment does not exceed the value of the property held in connection with the arrangement immediately before the time of the payment. (*fonds de revenu de retraite*)

c) après le décès du survivant, un autre époux ou conjoint de fait du survivant envers qui l'émetteur s'est engagé, avec le consentement du représentant légal du survivant, à faire les paiements visés à la définition de ***fonds de revenu de retraite*** au présent paragraphe dans le cadre du fonds après le décès du survivant, si l'autre époux ou conjoint de fait est vivant à ce moment. (*annuitant*)

Adjusted minimum amount for 2008

(1.1) The minimum amount under a retirement income fund for 2008 is 75 per cent of the amount that would, in the absence of this subsection, be the minimum amount under the fund for the year.

Rajustement du minimum pour 2008

(1.1) Le minimum à retirer d'un fonds de revenu de retraite pour 2008 correspond à 75 % de la somme qui, en l'absence du présent paragraphe, correspondrait à ce minimum pour l'année.

Exceptions

(1.2) Subsection (1.1) does not apply to a retirement income fund

(a) for the purposes of subsections (5.1) and 153(1) and the definition ***periodic pension payment*** in section 5 of the *Income Tax Conventions Interpretation Act*; nor

(b) if the individual who was the annuitant under the fund on January 1, 2008 attained 70 years of age in 2007.

Exceptions

(1.2) Le paragraphe (1.1) ne s'applique pas à un fonds de revenu de retraite :

a) pour l'application des paragraphes (5.1) et 153(1) ainsi que la définition de ***paiement périodique de pension*** à l'article 5 de la *Loi sur l'interprétation des conventions en matière d'impôts sur le revenu*;

b) si le particulier qui était le rentier du fonds le 1er janvier 2008 a atteint 70 ans en 2007.

Exceptions

(1.3) For the purposes of subsections (5.1) and 153(1) and the definition ***periodic pension payment*** in section 5 of the *Income Tax Conventions Interpretation Act*, the minimum amount under a retirement income fund for 2015 is the amount that would be the minimum amount under the fund for the year if it were determined using the prescribed factors under subsection 7308(3) or (4), as the case may be, of the *Income Tax Regulations* as they read on December 31, 2014.

Exceptions

(1.3) Pour l'application des paragraphes (5.1) et 153(1) et de la définition de ***paiement périodique de pension*** à l'article 5 de la *Loi sur l'interprétation des conventions en matière d'impôts sur le revenu*, le minimum à retirer d'un fonds de revenu de retraite pour l'année 2015 correspond à la somme qui serait le minimum à retirer du fonds pour l'année si ce minimum était déterminé en utilisant les facteurs prescrits aux paragraphes 7308(3) ou (4), selon le cas, du *Règlement de l'impôt sur le revenu* dans sa version applicable au 31 décembre 2014.

Acceptance of fund for registration

(2) The Minister shall not accept for registration for the purposes of this Act any retirement income fund of an individual unless, in the Minister's opinion, the following conditions are complied with:

(a) the fund provides that the carrier shall make only those payments described in any of paragraphs (d) and (e), the definition ***retirement income fund*** in subsection (1), and subsections (14) and (14.1);

(b) the fund provides that payments thereunder may not be assigned in whole or in part;

Enregistrement

(2) Le ministre ne peut accepter un fonds de revenu de retraite d'un particulier aux fins d'enregistrement pour l'application de la présente loi que s'il est d'avis que les conditions suivantes sont remplies :

a) l'entente concernant le fonds prévoit que l'émetteur ne peut faire d'autres versements que ceux prévus aux alinéas d) et e), à la définition de ***fonds de revenu de retraite*** au paragraphe (1) et aux paragraphes (14) et (14.1);

b) elle prévoit qu'aucun versement dans le cadre du fonds ne peut être cédé, en totalité ou en partie;

(c) if the carrier is a person referred to as a depositary in section 146, the fund provides that

(i) the carrier has no right of offset as regards the property held in connection with the fund in respect of any debt or obligation owing to the carrier, and

(ii) the property held in connection with the fund cannot be pledged, assigned or in any way alienated as security for a loan or for any purpose other than that of the making by the carrier to the annuitant those payments described in paragraph 146.3(2)(a);

(d) the fund provides that, except where the annuitant's spouse or common-law partner becomes the annuitant under the fund, the carrier shall, as a consequence of the death of the annuitant, distribute the property held in connection with the fund at the time of the annuitant's death or an amount equal to the value of such property at that time;

(e) the fund provides that, at the direction of the annuitant, the carrier shall transfer all or part of the property held in connection with the fund, or an amount equal to its value at the time of the direction (other than property required to be retained in accordance with the provision described in paragraph 146.3(2)(e.1) or 146.3(2)(e.2)), together with all information necessary for the continuance of the fund, to a person who has agreed to be a carrier of another registered retirement income fund of the annuitant;

(e.1) where the fund does not govern a trust or the fund governs a trust created before 1998 that does not hold an annuity contract as a qualified investment for the trust, the fund provides that if an annuitant, at any time, directs that the carrier transfer all or part of the property held in connection with the fund, or an amount equal to its value at that time, to a person who has agreed to be a carrier of another registered retirement income fund of the annuitant or to a registered pension plan in accordance with subsection (14.1), the transferor shall retain an amount equal to the lesser of

(i) the fair market value of such portion of the property as would, if the fair market value thereof does not decline after the transfer, be sufficient to ensure that the minimum amount under the fund for the year in which the transfer is made may be paid to the annuitant in the year, and

(ii) the fair market value of all the property;

(e.2) where paragraph (e.1) does not apply, the fund provides that if an annuitant, at any time, directs that the carrier transfer all or part of the property held in

c) elle prévoit, dans le cas où l'émetteur est un dépositaire visé à l'article 146:

(i) d'une part, que l'émetteur n'a pas le droit d'éteindre une dette ou obligation envers lui par compensation à l'aide des biens détenus dans le cadre du fonds,

(ii) d'autre part, que les biens détenus dans le cadre du fonds ne peuvent être nantis, cédés ou aliénés de quelque façon, en garantie d'un prêt ou dans un autre but que celui de permettre à l'émetteur de faire au rentier les versements visés à l'alinéa a);

d) elle prévoit que, à la suite du décès du rentier, l'émetteur doit distribuer les biens détenus dans le cadre du fonds au moment du décès ou un montant égal à la valeur de ceux-ci à ce moment, sauf si l'époux ou conjoint de fait du rentier devient rentier du fonds;

e) elle prévoit que, sur instructions du rentier, l'émetteur doit transférer à une personne qui s'est engagée à être émetteur d'un autre fonds enregistré de revenu de retraite du rentier, tout ou partie des biens détenus dans le cadre du fonds ou un montant égal à la valeur de ceux-ci au moment où les instructions sont données (sauf s'il s'agit de biens que l'émetteur est tenu de détenir dans le cadre du fonds en conformité avec la condition énoncée aux alinéas e.1) ou e.2)), avec les renseignements nécessaires à la continuation du fonds;

e.1) si le fonds ne régit pas de fiducie ou s'il régit une fiducie établie avant 1998 qui ne détient pas de contrat de rente à titre de placement admissible pour la fiducie, elle prévoit que, dans le cas où, à un moment donné, un rentier ordonne à l'émetteur de transférer à un régime de pension agréé conformément au paragraphe (14.1) ou à une personne qui s'est engagée à être émetteur d'un autre fonds enregistré de revenu de retraite du rentier tout ou partie des biens détenus dans le cadre du fonds ou un montant égal à la valeur de ceux-ci à ce moment, le cédant doit conserver un montant égal au moins élevé des montants suivants :

(i) la juste valeur marchande de la partie des biens qui, si leur juste valeur marchande ne diminuait pas après le transfert, serait suffisante pour que l'émetteur puisse verser au rentier le minimum prévu par l'entente pour l'année du transfert,

(ii) la juste valeur marchande de l'ensemble des biens;

e.2) en cas d'inapplication de l'alinéa e.1), elle prévoit que, dans le cas où, à un moment donné, un rentier ordonne à l'émetteur de transférer à un régime de

connection with the fund, or an amount equal to its value at that time, to a person who has agreed to be a carrier of another registered retirement income fund of the annuitant or to a registered pension plan in accordance with subsection (14.1), the transferor shall retain property in the fund sufficient to ensure that the total of

(i) all amounts each of which is the fair market value, immediately after the transfer, of a property held in connection with the fund that is

(A) property other than an annuity contract, or

(B) an annuity contract described, immediately after the transfer, in paragraph (b.1) of the definition ***qualified investment*** in subsection 146.3(1), and

(ii) all amounts each of which is a reasonable estimate, as of the time of the transfer, of the amount of an annual or more frequent periodic payment under an annuity contract (other than an annuity contract described in clause 146.3(2)(e.2)(i)(B)) that the trust may receive after the transfer and in the year of the transfer

is not less than the amount, if any, by which the minimum amount under the fund for that year exceeds the total of all amounts received out of or under the fund before the transfer that are included in computing the income of the annuitant under the fund for that year;

(f) the fund provides that the carrier shall not accept property as consideration thereunder other than property transferred from

(i) a registered retirement savings plan under which the individual is the annuitant,

(ii) another registered retirement income fund under which the individual is the annuitant,

(iii) the individual to the extent only that the amount of the consideration was an amount described in subparagraph 60(l)(v),

(iv) a registered retirement income fund or registered retirement savings plan of the individual's spouse or common-law partner or former spouse or common-law partner under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property between the individual and the individual's spouse or common-law partner or former spouse or common-law partner in settlement of

pension agréé conformément au paragraphe (14.1) ou à une personne qui s'est engagée à être émetteur d'un autre fonds enregistré de revenu de retraite du rentier tout ou partie des biens détenus dans le cadre du fonds ou un montant égal à la valeur de ceux-ci à ce moment, le cédant doit conserver dans le fonds suffisamment de biens pour s'assurer que le total des montants suivants n'est pas inférieur à l'excédent éventuel du minimum à retirer du fonds pour l'année du transfert sur le total des montants reçus sur le fonds avant le transfert qui sont inclus dans le calcul du revenu du rentier en vertu du fonds pour cette année :

(i) les montants représentant chacun la juste valeur marchande, immédiatement après le transfert, d'un des biens suivants détenus dans le cadre du fonds :

(A) un bien autre qu'un contrat de rente,

(B) un contrat de rente visé, immédiatement après le transfert, à l'alinéa b.1) de la définition de ***placement admissible*** au paragraphe (1),

(ii) les montants représentant chacun une estimation raisonnable, effectuée au moment du transfert, des paiements à effectuer périodiquement à intervalles ne dépassant pas un an dans le cadre d'un contrat de rente (sauf celui visé à la division (i)(B)) que la fiducie peut recevoir après le transfert et au cours de l'année du transfert;

f) elle prévoit que l'émetteur ne peut accepter, comme contrepartie, d'autres biens que ceux qui sont transférés :

(i) d'un régime enregistré d'épargne-retraite dont le particulier est rentier,

(ii) d'un autre fonds enregistré de revenu de retraite dont le particulier est rentier,

(iii) du particulier, dans la mesure où la contrepartie est une somme visée au sous-alinéa 60l)(v),

(iv) d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite dont l'époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait du particulier est rentier, en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent ou en vertu d'un accord écrit de séparation, visant à partager des biens entre le rentier et son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait, en règlement des droits découlant du mariage ou union de fait ou de son échec,

rights arising out of, or on the breakdown of, their marriage or common-law partnership,

(iv.1) a deferred profit sharing plan in accordance with subsection 147(19);

(v) a registered pension plan of which the individual is a member (within the meaning assigned by subsection 147.1(1)),

(vi) a registered pension plan in accordance with subsection 147.3(5) or (7),

(vii) a specified pension plan in circumstances to which subsection 146(21) applies, or

(viii) a pooled registered pension plan in accordance with subsection 147.5(21);

(g) [Repealed, 2011, c. 24, s. 49]

(h) the fund in all other respects complies with regulations of the Governor in Council made on the recommendation of the Minister of Finance.

(iv.1) d'un régime de participation différée aux bénéfices en conformité avec le paragraphe 147(19);

(v) d'un régime de pension agréé dont le particulier est un participant au sens du paragraphe 147.1(1),

(vi) d'un régime de pension agréé en conformité avec les paragraphes 147.3(5) ou (7),

(vii) d'un régime de pension déterminé dans les circonstances visées au paragraphe 146(21),

(viii) d'un régime de pension agréé collectif en conformité avec le paragraphe 147.5(21);

g) [Abrogé, 2011, ch. 24, art. 49]

h) le fonds doit respecter par ailleurs les dispositions réglementaires prises par le gouverneur général en conseil sur recommandation du ministre des Finances.

No tax while trust governed by fund

(3) Except as provided in subsection 146.3(9), no tax is payable under this Part by a trust on the taxable income of the trust for a taxation year if, throughout the period in the year during which the trust was in existence, the trust was governed by a registered retirement income fund of an individual, except that if the trust has

(a) borrowed money in the year or has borrowed money that it has not repaid before the commencement of the year,

(b) received a gift of property (other than a transfer from a registered retirement savings plan under which the individual is the annuitant (within the meaning of subsection 146(1)) or a transfer from a registered retirement income fund under which the individual is the annuitant)

(i) in the year, or

(ii) in a preceding year and has not divested itself of the property or any property substituted therefor before the commencement of the year, or

(c) carried on any business or businesses in the year,

tax is payable under this Part by the trust,

(d) where paragraph 146.3(3)(a) or 146.3(3)(b) applies, on its taxable income for the year, and

Aucun impôt pendant la période où la fiducie est régie par le fonds

(3) À l'exception des cas prévus au paragraphe (9), aucun impôt n'est payable par une fiducie en vertu de la présente partie sur son revenu imposable pour une année d'imposition si, tout au long de la période de l'année où elle a existé, elle était régie par un fonds enregistré de revenu de retraite d'un particulier; toutefois, si elle a, selon le cas :

a) emprunté de l'argent au cours de l'année ou a emprunté de l'argent qu'elle n'a pas remboursé avant le début de l'année;

b) reçu un don de biens (autre qu'un transfert d'un régime enregistré d'épargne-retraite en vertu duquel le particulier est le rentier — au sens du paragraphe 146(1) — ou un transfert d'un fonds enregistré de revenu de retraite en vertu duquel le particulier est le rentier):

(i) soit au cours de l'année,

(ii) soit au cours d'une année antérieure, et ne s'est pas départie des biens ou des biens de remplacement avant le début de l'année;

c) exploité une ou plusieurs entreprises au cours de l'année,

elle devra payer un impôt en vertu de la présente partie :

(e) where neither paragraph 146.3(3)(a) nor (b) applies and where paragraph 146.3(3)(c) applies, on the amount, if any, by which

(i) the amount that its taxable income for the year would be if it had no incomes or losses from sources other than from the business or businesses, as the case may be,

exceeds

(ii) such portion of the amount determined under subparagraph 146.3(3)(e)(i) in respect of the trust for the year as can reasonably be considered to be income from, or from the disposition of, qualified investments for the trust.

d) lorsque l'alinéa a) ou b) s'applique, sur son revenu imposable pour l'année;

e) lorsque ni l'alinéa a) ni l'alinéa b) ne s'appliquent, mais que l'alinéa c) s'applique, sur l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui constituerait son revenu imposable pour l'année si elle n'avait pas tiré de revenu, ni subi de pertes de sources autres que l'entreprise ou les entreprises en question,

(ii) la partie du montant déterminé selon le sous-alinéa (i) à son égard pour l'année, qu'il est raisonnable de considérer comme un revenu provenant soit de placements admissibles pour elle, soit de la disposition de tels placements.

Exception

(3.1) Notwithstanding subsection 146.3(3), if the last annuitant under a registered retirement income fund has died, tax is payable under this Part by the trust governed by the fund on its taxable income for each year after the year following the year in which the last annuitant under the fund died.

Exception

(3.1) Malgré le paragraphe (3), si le dernier rentier dans le cadre d'un fonds enregistré de revenu de retraite est décédé, l'impôt est payable en vertu de la présente partie par la fiducie régie par le fonds sur son revenu imposable pour chaque année postérieure à l'année suivant l'année du décès ce rentier.

Disposition or acquisition of property by trust

(4) Where at any time in a taxation year a trust governed by a registered retirement income fund

(a) disposes of property for a consideration less than the fair market value of the property at the time of the disposition, or for no consideration, or

(b) acquires property for a consideration greater than the fair market value of the property at the time of the acquisition,

2 times the difference between that fair market value and the consideration, if any, shall be included in computing the income for the taxation year of the taxpayer who is the annuitant under the fund at that time.

Disposition ou acquisition de biens par la fiducie

(4) Lorsque, à un moment donné d'une année d'imposition, une fiducie régie par un fonds enregistré de revenu de retraite :

a) soit dispose de biens pour une contrepartie inférieure à la juste valeur marchande des biens au moment de la disposition, ou gratuitement;

b) soit acquiert des biens pour une contrepartie supérieure à la juste valeur marchande des biens au moment de l'acquisition,

il doit être inclus dans le calcul du revenu, pour l'année d'imposition, du contribuable qui est le rentier en vertu du fonds à ce moment, 2 fois la différence entre cette juste valeur marchande et la contrepartie.

Benefits taxable

(5) There shall be included in computing the income of a taxpayer for a taxation year all amounts received by the taxpayer in the year out of or under a registered retirement income fund other than the portion thereof that can reasonably be regarded as

(a) part of the amount included in computing the income of another taxpayer by virtue of subsections 146.3(6) and 146.3(6.2);

Prestations imposables

(5) Il doit être inclus dans le calcul du revenu d'un contribuable pour une année d'imposition les sommes qu'il a reçues au cours de l'année dans le cadre d'un fonds enregistré de revenu de retraite, sauf la partie de ces sommes qu'il est raisonnable de considérer comme étant :

a) une partie de la somme comprise dans le calcul du revenu d'un autre contribuable en vertu des paragraphes (6) et (6.2);

(b) an amount received in respect of the income of the trust under the fund for a taxation year for which the trust was not exempt from tax by virtue of subsection 146.3(3.1);

(c) an amount that relates to interest, or to another amount included in computing income otherwise than because of this section, and that would, if the fund were a registered retirement savings plan, be a tax-paid amount (within the meaning assigned by paragraph (b) of the definition ***tax-paid amount*** in subsection 146(1)); or

(d) an amount in respect of which the annuitant pays a tax under Part XI.01, unless the tax is waived, cancelled or refunded.

b) une somme reçue à l'égard du revenu de la fiducie en vertu du fonds pour une année d'imposition pour laquelle la fiducie n'était pas exonérée de l'impôt en vertu du paragraphe (3.1);

c) un montant qui se rapporte à des intérêts, ou à un autre montant inclus dans le calcul du revenu autrement que par l'effet du présent article, et qui constituerait un montant libéré d'impôt, au sens de l'alinéa b) de la définition de cette expression au paragraphe 146(1), si le fonds était un régime enregistré d'épargne-retraite;

d) une somme au titre de laquelle le rentier paie l'impôt prévu par la partie XI.01 pour l'année, sauf si cet impôt fait l'objet d'une renonciation, d'une annulation ou d'un remboursement.

Amount included in income

(5.1) If at any time in a taxation year a particular amount in respect of a registered retirement income fund that is a spousal or common-law partner plan (within the meaning assigned by subsection 146(1)) in relation to a taxpayer is required to be included in the income of the taxpayer's spouse or common-law partner and the taxpayer is not living separate and apart from the taxpayer's spouse or common-law partner at that time by reason of the breakdown of their marriage or common-law partnership, there shall be included at that time in computing the taxpayer's income for the year an amount equal to the least of

(a) the total of all amounts each of which is a premium (within the meaning assigned by subsection 146(1)) paid by the taxpayer in the year or in one of the two immediately preceding taxation years to a registered retirement savings plan under which the taxpayer's spouse or common-law partner was the annuitant (within the meaning assigned by subsection 146(1)) at the time the premium was paid,

(b) the particular amount, and

(c) the amount, if any, by which

(i) the total of all amounts each of which is an amount in respect of the fund that is required, in the year and at or before that time, to be included in the income of the taxpayer's spouse or common-law partner

exceeds

(ii) the minimum amount under the fund for the year.

Montant ajouté au revenu

(5.1) Dans le cas où, à un moment donné d'une année d'imposition, un montant donné provenant d'un fonds enregistré de revenu de retraite qui est un régime au profit de l'époux ou conjoint de fait, au sens du paragraphe 146(1), quant à un contribuable doit être inclus dans le calcul du revenu de l'époux ou conjoint de fait et où le contribuable et son époux ou conjoint de fait ne vivaient pas séparément à ce moment pour cause d'échec du mariage ou union de fait, le moins élevé des montants suivants doit être inclus à ce moment dans le revenu du contribuable pour l'année :

a) le total des montants dont chacun représente une prime, au sens du paragraphe 146(1), que le contribuable a versée au cours de l'année ou de l'une des deux années d'imposition précédentes à un régime enregistré d'épargne-retraite dont son époux ou conjoint de fait est rentier, au sens de ce paragraphe, au moment du versement de la prime;

b) le montant donné;

c) l'excédent éventuel du total des montants se rapportant au fonds qui, au cours de l'année et au plus tard à ce moment, sont à inclure dans le revenu de l'époux ou conjoint de fait du contribuable, sur le minimum à retirer du fonds pour l'année.

Ordering

(5.3) Where a taxpayer has paid more than one premium described in subsection 146.3(5.1), such a premium or part thereof paid by the taxpayer at any time shall be deemed to have been included in computing the taxpayer's income by virtue of that subsection before premiums or parts thereof paid by the taxpayer after that time.

Spouse's income

(5.4) Where, in respect of an amount required at any time in a taxation year to be included in computing the income of a taxpayer's spouse, all or part of a premium has, by reason of subsection 146.3(5.1), been included in computing the taxpayer's income for the year, the following rules apply:

(a) the premium or part thereof, as the case may be, shall, for the purposes of subsections 146.3(5.1) and 146(8.3) after that time, be deemed not to have been a premium paid to a registered retirement savings plan under which the taxpayer's spouse was the annuitant (within the meaning assigned by subsection 146(1)); and

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

Where s. (5.1) does not apply

(5.5) Subsection 146.3(5.1) does not apply

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

(b) in respect of a taxpayer where either the taxpayer or the annuitant is a non-resident at the particular time referred to in that subsection;

(c) to any payment that is received in full or partial commutation of a registered retirement savings plan or a registered retirement income fund and in respect of which a deduction was made under paragraph 60(l) if, where the deduction was in respect of the acquisition of an annuity, the terms of the annuity provide that it cannot be commuted, and it is not commuted, in whole or in part within 3 years after the acquisition; or

(d) in respect of an amount that is deemed by subsection 146.3(6) to have been received by an annuitant under a registered retirement income fund immediately before the annuitant's death.

Ordre des primes versées

(5.3) Dans le cas où un contribuable verse plus d'une prime visée au paragraphe (5.1), les primes ou parties de prime sont réputées ajoutées en vertu de ce paragraphe dans le calcul de son revenu dans l'ordre chronologique des moments où il les a versées.

Déduction dans le revenu de l'époux ou conjoint de fait

(5.4) Dans le cas où, à cause d'un montant à inclure dans le calcul du revenu de l'époux ou conjoint de fait d'un contribuable à un moment donné d'une année d'imposition, une prime est, en tout ou en partie, incluse en application du paragraphe (5.1) dans le calcul du revenu du contribuable pour l'année, cette prime ou partie de prime, selon le cas :

a) est réputée, pour l'application des paragraphes (5.1) et 146(8.3) après ce moment, ne pas être versée à un régime enregistré d'épargne-retraite dont l'époux ou conjoint de fait du contribuable est rentier, au sens du paragraphe 146(1);

b) est déductible dans le calcul du revenu de l'époux ou conjoint de fait pour l'année.

Non-application du par. (5.1)

(5.5) Le paragraphe (5.1) ne s'applique pas :

a) à un contribuable pour l'année au cours de laquelle il décède;

b) à un contribuable au cas où celui-ci ou le rentier ne réside pas au Canada au moment visé à ce paragraphe;

c) à un versement reçu qui découle d'une conversion totale ou partielle d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite et pour lequel une déduction est faite en vertu de l'alinéa 60l), si, lorsque la déduction concerne l'achat d'une rente, il est prévu de ne pas pouvoir convertir celle-ci en totalité ou en partie dans les trois ans suivant son achat et elle n'est pas ainsi convertie;

d) à une somme réputée par le paragraphe (6) avoir été reçue par un rentier en vertu d'un fonds enregistré de revenu de retraite immédiatement avant son décès.

Where last annuitant dies

(6) Where the last annuitant under a registered retirement income fund dies, that annuitant shall be deemed to have received, immediately before death, an amount out of or under a registered retirement income fund equal to the fair market value of the property of the fund at the time of the death.

Designated benefit deemed received

(6.1) A designated benefit of an individual in respect of a registered retirement income fund that is received by the legal representative of the last annuitant under the fund shall be deemed

(a) to be received by the individual out of or under the fund at the time it is received by the legal representative; and

(b) except for the purpose of the definition ***designated benefit*** in subsection 146.3(1), not to be received out of or under the fund by any other person.

Transfer of designated benefit

(6.11) For the purpose of subparagraph 60(l)(v), the eligible amount of a particular individual for a taxation year in respect of a registered retirement income fund is nil unless the particular individual was

(a) a spouse or common-law partner of the last annuitant under the fund, or

(b) a child or grandchild of that annuitant who was dependent because of physical or mental infirmity on that annuitant,

in which case the eligible amount shall be determined by the formula

A × [1 - ((B - C) / D)]

where

A is the portion of the designated benefit of the particular individual in respect of the fund that is included because of subsection 146.3(5) in computing the particular individual's income for the year,

B is the minimum amount under the fund for the year,

C is the lesser of

(a) the total amounts included because of subsection 146.3(5) in computing the income of an annuitant under the fund for the year in respect of amounts received by the annuitant out of or under the fund, and

(b) the minimum amount under the fund for the year, and

Décès du dernier rentier

(6) Le dernier rentier dans le cadre d'un fonds enregistré de revenu de retraite est réputé, s'il est décédé, avoir reçu, immédiatement avant son décès, un montant dans le cadre d'un tel fonds égal à la juste valeur marchande des biens du fonds au moment de son décès.

Prestation désignée réputée reçue

(6.1) La prestation désignée d'un particulier, prévue par un fonds enregistré de revenu de retraite, que le représentant légal du dernier rentier dans le cadre du fonds reçoit est réputée, à la fois :

a) être reçue par le particulier dans le cadre du fonds au moment où le représentant légal la reçoit;

b) n'être reçue par nulle autre personne dans le cadre du fonds, sauf pour l'application de la définition de ***prestation désignée*** au paragraphe (1).

Transfert d'une prestation désignée

(6.11) Pour l'application du sous-alinéa 60l)(v), le montant admissible d'un particulier donné pour une année d'imposition relativement à un fonds enregistré de revenu de retraite est nul à moins que le particulier ne soit :

a) l'époux ou conjoint de fait du dernier rentier dans le cadre du fonds;

b) l'enfant ou le petit-enfant de ce rentier dont il était à la charge en raison d'une infirmité mentale ou physique.

En pareil cas, le montant admissible est égal au résultat du calcul suivant :

A × [1 - (B - C)/D]

où :

A représente la partie de la prestation désignée du particulier donné prévue par le fonds qui est incluse, par l'effet du paragraphe (5), dans le calcul de son revenu pour l'année;

B le minimum à retirer du fonds pour l'année;

C le moins élevé des montants suivants :

a) le total des montants inclus, par l'effet du paragraphe (5), dans le calcul du revenu d'un rentier dans le cadre du fonds pour l'année au titre de montants qu'il a reçus dans le cadre du fonds,

b) le minimum à retirer du fonds pour l'année;

D le total des montants représentant chacun la partie de la prestation désignée d'un particulier prévue par

D is the total of all amounts each of which is the portion of a designated benefit of an individual in respect of the fund that is included because of subsection 146.3(5) in computing the individual's income for the year.

Amount deductible

(6.2) There may be deducted from the amount deemed by subsection 146.3(6) to be received by an annuitant out of or under a registered retirement income fund an amount not exceeding the amount determined by the formula

A × [1 - ((B + C - D) / (B + C))]

where

A is the total of

(a) all designated benefits of individuals in respect of the fund,

(b) all amounts that would, if the fund were a registered retirement savings plan, be tax-paid amounts (in this subsection having the meaning assigned by subsection 146(1)) in respect of the fund received by individuals who received, otherwise than because of subsection 146.3(6.1), designated benefits in respect of the fund, and

(c) all amounts each of which is an amount that would, if the fund were a registered retirement savings plan, be a tax-paid amount in respect of the fund received by the legal representative of the last annuitant under the fund, to the extent that the legal representative would have been entitled to designate that tax-paid amount under paragraph (a) of the definition ***designated benefit*** in subsection 146.3(1) if tax-paid amounts were not excluded in determining refunds of premiums (as defined in subsection 146(1));

B is the fair market value of the property of the fund at the particular time that is the later of

(a) the end of the first calendar year that begins after the death of the annuitant, and

(b) the time immediately after the last time that any designated benefit in respect of the fund is received by an individual;

C is the total of all amounts paid out of or under the fund after the death of the last annuitant thereunder and before the particular time; and

D is the lesser of

(a) the fair market value of the property of the fund at the time of the death of the last annuitant thereunder, and

le fonds qui est incluse, par l'effet du paragraphe (5), dans le calcul de son revenu pour l'année.

Montant déductible

(6.2) Un montant ne dépassant pas le résultat du calcul suivant peut être déduit du montant réputé par le paragraphe (6) avoir été reçu par un rentier dans le cadre d'un fonds enregistré de revenu de retraite :

A × [1 - (B + C - D)/(B + C)]

où :

A représente le total des montants suivants :

a) les prestations désignées de particuliers prévues par le fonds,

b) les montants qui seraient des montants libérés d'impôt, au sens du paragraphe 146(1), relativement au fonds si celui-ci était un régime enregistré d'épargne-retraite, versés à des particuliers qui ont reçu, autrement que par l'effet du paragraphe (6.1), des prestations désignées prévues par le fonds,

c) les montants représentant chacun un montant qui serait un montant libéré d'impôt, au sens du paragraphe 146(1) et relativement au fonds si celui-ci était un régime enregistré d'épargne-retraite, versé au représentant légal du dernier rentier en vertu du fonds, dans la mesure où le représentant pourrait désigner le montant en application de l'alinéa a) de la définition de ***prestation désignée***, au paragraphe (1), si les montants libérés d'impôt n'étaient pas exclus du calcul des remboursements de primes, au sens du paragraphe 146(1);

B la juste valeur marchande des biens du fonds à un moment donné qui correspond au dernier en date des moments suivants :

a) la fin de la première année civile qui commence après le décès du rentier,

b) le moment immédiatement après le dernier moment auquel une prestation désignée prévue par le fonds est reçue par un particulier;

C le total des montants versés dans le cadre du fonds après le décès de son dernier rentier et avant le moment donné;

D le moins élevé des montants suivants :

a) la juste valeur marchande des biens du fonds au moment du décès de son dernier rentier,

(b) the sum of the values of B and C in respect of the fund.

b) la somme des éléments B et C en ce qui concerne le fonds.

Deduction for post-death reduction in value

(6.3) If the last annuitant under a registered retirement income fund dies, there may be deducted in computing the annuitant's income for the taxation year in which the annuitant dies an amount not exceeding the amount determined, after all amounts payable out of or under the fund have been paid, by the formula

A – B

where

A is the total of all amounts each of which is

(a) the amount deemed by subsection (6) to have been received by the annuitant out of or under the fund,

(b) an amount (other than an amount described in paragraph (c)) received, after the death of the annuitant, by a taxpayer out of or under the fund and included, because of subsection (5), in computing the taxpayer's income, or

(c) an amount that would, if the fund were a registered retirement savings plan, be a tax-paid amount (within the meaning assigned by subsection 146(1)) in respect of the fund; and

B is the total of all amounts paid out of or under the fund after the death of the annuitant.

Déduction pour réduction de valeur postérieure au décès

(6.3) En cas de décès du dernier rentier d'un fonds enregistré de revenu de retraite, est déductible dans le calcul de son revenu pour l'année d'imposition dans laquelle il est décédé une somme n'excédant pas la somme obtenue par la formule ci-après, une fois payées toutes les sommes payables dans le cadre du fonds :

A – B

où :

A représente le total des sommes représentant chacune :

a) la somme réputée par le paragraphe (6) avoir été reçue par le rentier dans le cadre du fonds;

b) toute somme (sauf celle visée à l'alinéa c)) qu'un contribuable reçoit dans le cadre du fonds après le décès du rentier et qui est incluse, par l'effet du paragraphe (5), dans le calcul du revenu du contribuable;

c) toute somme qui serait un montant libéré d'impôt, au sens du paragraphe 146(1), relativement au fonds si celui-ci était un régime enregistré d'épargne-retraite;

B le total des sommes versées dans le cadre du fonds après le décès du rentier.

Subsection (6.3) not applicable

(6.4) Except where the Minister has waived in writing the application of this subsection with respect to all or any portion of the amount determined in subsection (6.3) in respect of a registered retirement income fund, that subsection does not apply if

(a) at any time after the death of the annuitant, a trust governed by the fund held an investment that is not a qualified investment; or

(b) the last payment out of or under the fund was made after the end of the year following the year in which the annuitant died.

Application du par. (6.3)

(6.4) À moins que le ministre n'ait renoncé par écrit à appliquer le présent paragraphe à l'égard de tout ou partie de la somme déterminée selon le paragraphe (6.3) relativement à un fonds enregistré de revenu de retraite, ce paragraphe ne s'applique pas dans les circonstances suivantes :

a) après le décès du rentier, une fiducie régie par le fonds détenait un placement qui n'est pas un placement admissible;

b) le paiement final effectué dans le cadre du fonds a été fait après la fin de l'année suivant l'année du décès du rentier.

Property used as security for loan

(7) If at any time in a taxation year a trust governed by a registered retirement income fund uses or permits to be used any property of the trust as security for a loan, the fair market value of the property at the time it commenced to be so used shall be included in computing the

Bien utilisé en garantie d'un prêt

(7) Si, au cours d'une année d'imposition, une fiducie régie par un fonds enregistré de revenu de retraite utilise un bien de la fiducie à titre de garantie d'un prêt ou en permet pareille utilisation, la juste valeur marchande du bien, au moment où il a commencé à être ainsi utilisé, est incluse dans le calcul du revenu, pour l'année, du

income for the year of the taxpayer who is the annuitant under the fund at that time.

(8) [Repealed, 2011, c. 24, s. 49]

Tax payable on income from non-qualified investment

(9) If a trust that is governed by a registered retirement income fund holds, at any time in a taxation year, a property that is not a qualified investment,

(a) tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than the property that is not a qualified investment or no capital gains or capital losses other than from the disposition of that property, as the case may be; and

(b) for the purposes of paragraph 146.3(9)(a),

(i) ***income*** includes dividends described in section 83, and

(ii) paragraphs 38(a) and (b) are to be read as if the fraction set out in each of those paragraphs were replaced by the word "all".

Recovery of property used as security

(10) Where at any time in a taxation year a loan for which a trust governed by a registered retirement income fund has used or permitted to be used trust property as security ceases to be extant, and the fair market value of the property so used was included by virtue of subsection 146.3(7) in computing the income of a taxpayer who was the annuitant under the fund, there may be deducted in computing the income for a taxation year of the taxpayer who is at that time the annuitant, an amount equal to the amount, if any, remaining when

(a) the net loss (exclusive of payments by the trust as or on account of interest) sustained by the trust in consequence of its using or permitting to be used the property as security for the loan and not as a result of a change in the fair market value of the property

is deducted from

(b) the amount so included in computing the income of a taxpayer in consequence of the trust's using or permitting to be used the property as security for the loan.

Change in fund after registration

(11) Where, on any day after a retirement income fund has been accepted by the Minister for registration for the

contribuable qui est le rentier en vertu du fonds à ce moment.

(8) [Abrogé, 2011, ch. 24, art. 49]

Impôt sur le revenu provenant d'un placement non admissible

(9) Si une fiducie régie par un fonds enregistré de revenu de retraite détient, au cours d'une année d'imposition, un bien qui n'est pas un placement admissible :

a) un impôt est payable en vertu de la présente partie sur la somme qui constituerait son revenu imposable pour l'année si elle n'avait pas eu de revenu ou de perte de sources autres que le bien qui constitue un placement non admissible, ni de gain en capital ou de perte en capital ne provenant pas de la disposition de ce bien, selon le cas;

b) pour l'application de l'alinéa a):

(i) sont compris dans le revenu les dividendes visés à l'article 83,

(ii) la mention de toute fraction visée aux alinéas 38a) et b) vaut mention de « totalité », compte tenu des adaptations grammaticales nécessaires.

Récupération d'un bien utilisé en garantie

(10) Lorsque, au cours d'une année d'imposition, un emprunt à la garantie duquel une fiducie régie par un fonds enregistré de revenu de retraite a utilisé ou permis l'utilisation d'un bien de la fiducie cesse d'exister, et que la juste valeur marchande de ce bien a été incluse en vertu du paragraphe (7) dans le calcul du revenu du contribuable qui était le rentier en vertu du fonds, il peut être déduit, dans le calcul du revenu, pour une année d'imposition, du contribuable qui est alors le rentier, un montant égal à la somme qui reste lorsque la somme visée à l'alinéa a) est déduite de la somme visée à l'alinéa b):

a) la perte nette (à l'exclusion des paiements d'intérêt ou à titre d'intérêt effectués par la fiducie) subie par la fiducie par suite de l'utilisation de ce bien, faite ou autorisée par elle, en garantie de l'emprunt et non par suite d'un changement de la juste valeur marchande du bien;

b) la somme incluse dans le calcul du revenu d'un contribuable par suite de l'utilisation de ce bien, faite ou autorisée par la fiducie, en garantie de l'emprunt.

Modification du fonds après enregistrement

(11) Dans le cas où, à une date donnée postérieure à l'acceptation par le ministre d'enregistrer un fonds de

purposes of this Act, the fund is revised or amended or a new fund is substituted therefor, and the fund as revised or amended or the new fund substituted therefor, as the case may be, (in this subsection referred to as the "amended fund") does not comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act, the following rules apply:

(a) the amended fund shall be deemed, for the purposes of this Act, not to be a registered retirement income fund; and

(b) the taxpayer who was the annuitant under the fund before it became an amended fund shall, in computing the taxpayer's income for the taxation year that includes that day, include as income received out of the fund at that time an amount equal to the fair market value of all the property held in connection with the fund immediately before that time.

revenu de retraite pour l'application de la présente loi, le fonds est révisé ou modifié ou un nouveau fonds lui est substitué — l'un et l'autre étant appelés « fonds modifié » au présent paragraphe — et où le fonds modifié ne répond pas aux conditions prévues au présent article pour que le ministre accepte de l'enregistrer pour l'application de la présente loi, les règles suivantes s'appliquent :

a) le fonds modifié est réputé, pour l'application de la présente loi, ne pas être un fonds enregistré de revenu de retraite;

b) le contribuable qui était rentier du fonds avant que celui-ci soit devenu un fonds modifié doit ajouter comme revenu retiré du fonds à ce moment une somme égale à la juste valeur marchande des biens détenus dans le cadre du fonds immédiatement avant ce moment, dans le calcul de son revenu pour l'année d'imposition qui comprend la date donnée.

Idem

(12) For the purposes of subsection 146.3(11), an arrangement under which a right or obligation under a retirement income fund is released or extinguished either wholly or in part and either in exchange or substitution for any right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the fund) or under which payment of any amount by way of loan or otherwise is made on the security of a right under a retirement income fund, shall be deemed to be a new fund substituted for the retirement income fund.

Idem

(12) Pour l'application du paragraphe (11), toute entente qui prévoit, en totalité ou en partie, la remise ou l'extinction de quelque droit ou obligation découlant d'un fonds de revenu de retraite en échange ou remplacement d'un autre droit ou d'une autre obligation ou autrement — à l'exclusion d'une entente dont les seuls objet et effets juridiques consistent à réviser ou modifier le fonds — ou toute entente qui prévoit le versement d'une somme, par le biais d'un prêt ou autre, en garantie d'un droit découlant d'un fonds de revenu de retraite est réputée substituer un nouveau fonds au fonds initial.

(13) [Repealed, 2011, c. 24, s. 49]

(13) [Abrogé, 2011, ch. 24, art. 49]

Transfer on breakdown of marriage or common-law partnership

(14) An amount is transferred from a registered retirement income fund of an annuitant in accordance with this subsection if the amount

(a) is transferred on behalf of an individual who is a spouse or common-law partner or former spouse or common-law partner of the annuitant and who is entitled to the amount under a decree, an order or a judgment of a competent tribunal, or under a written agreement, that relates to a division of property between the annuitant and the individual in settlement of rights that arise out of, or on a breakdown of, their marriage or common-law partnership; and

(b) is transferred directly to

(i) a registered retirement income fund under which the individual is the annuitant, or

Transfert en cas d'échec du mariage ou de l'union de fait

(14) Un montant est transféré du fonds enregistré de revenu de retraite d'un rentier conformément au présent paragraphe s'il est transféré, à la fois :

a) pour le compte d'un particulier qui est l'époux ou le conjoint de fait, ou l'ex-époux ou l'ancien conjoint de fait, du rentier et qui a droit au montant en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent, ou d'un accord écrit, visant à partager des biens entre le rentier et le particulier en règlement des droits découlant du mariage ou de l'union de fait ou de son échec;

b) directement au fonds ou au régime suivant :

(i) un fonds enregistré de revenu de retraite dont le particulier est le rentier,

(ii) a registered retirement savings plan under which the individual is the annuitant (within the meaning assigned by subsection 146(1)).

(ii) un régime enregistré d'épargne-retraite dont le particulier est le rentier, au sens du paragraphe 146(1).

Transfer to PRPP or RPP

(14.1) An amount is transferred from a registered retirement income fund of an annuitant in accordance with this subsection if the amount

(a) is transferred at the direction of the annuitant directly to an account of the annuitant under a pooled registered pension plan; or

(b) is transferred at the direction of the annuitant directly to a registered pension plan of which, at any time before the transfer, the annuitant was a member (within the meaning assigned by subsection 147.1(1)) or to a prescribed registered pension plan and is allocated to the annuitant under a money purchase provision (within the meaning assigned by subsection 147.1(1)) of the plan.

Transfert à un RPA ou à un RPAC

(14.1) Une somme est transférée du fonds enregistré de revenu de retraite d'un rentier conformément au présent paragraphe si, selon le cas :

a) elle est transférée sur l'ordre du rentier directement à son compte dans le cadre d'un régime de pension agréé collectif;

b) elle est transférée sur l'ordre du rentier directement à un régime de pension agréé dont il était un participant, au sens du paragraphe 147.1(1), avant le transfert ou à un régime de pension agréé visé par règlement et elle est attribuée au rentier aux termes d'une disposition à cotisations déterminées, au sens du même paragraphe, du régime.

Taxation of amount transferred

(14.2) An amount transferred on behalf of an individual in accordance with paragraph (2)(e) or subsection (14) or (14.1)

(a) is not, solely because of that transfer, to be included in computing the income of any taxpayer; and

(b) is not to be deducted in computing the income of any taxpayer.

Imposition du montant transféré

(14.2) Le montant transféré pour le compte d'un particulier conformément à l'alinéa (2)e) ou aux paragraphes (14) ou (14.1) ne peut :

a) en raison seulement du transfert, être inclus dans le calcul du revenu d'un contribuable;

b) être déduit dans le calcul du revenu d'un contribuable.

Credited or added amount deemed not received

(15) Where

(a) an amount is credited or added to a deposit with a depositary referred to in paragraph (d) of the definition ***carrier*** in subsection 146.3(1) as interest or income in respect of the deposit,

(b) the deposit is a registered retirement income fund at the time the amount is credited or added to the deposit, and

(c) during the calendar year in which the amount is credited or added or during the preceding calendar year, the annuitant under the fund was alive,

the amount shall be deemed not to be received by the annuitant or any other person solely because of the crediting or adding.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 146.3; 1994, c. 7, Sch. II, s. 119, Sch. VIII, s. 84, c. 21, s. 71; 1998, c. 19, s. 171; 2000, c. 12, ss. 136, 142; 2001, c. 17, s. 141; 2003, c. 15, s. 83; 2007, c. 29, s. 19; 2009, c. 2, s. 54; 2011, c. 24, s. 49; 2012, c. 31, s. 34; 2013, c. 34, s. 300; 2015, c. 36, s. 15.

Montant crédité ou ajouté réputé non reçu

(15) Le montant qui est ajouté au dépôt fait auprès du dépositaire visé à l'alinéa d) de la définition de ***émetteur*** au paragraphe (1), ou qui est porté au crédit d'un tel dépôt, à titre d'intérêt ou de revenu afférent au dépôt, lequel est un fonds enregistré de revenu de retraite au moment où le montant y est ajouté ou est porté à son crédit, est réputé ne pas avoir été reçu par le rentier dans le cadre du fonds ni par une autre personne du seul fait qu'il a été ainsi ajouté au dépôt ou porté à son crédit, à condition que le rentier ait été vivant au cours de l'année civile où le montant a été ajouté au dépôt, ou porté à son crédit, ou au cours de l'année civile précédente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 146.3; 1994, ch. 7, ann. II, art. 119, ann. VIII, art. 84, ch. 21, art. 71; 1998, ch. 19, art. 171; 2000, ch. 12, art. 136 et 142; 2001, ch. 17, art. 141; 2003, ch. 15, art. 83; 2007, ch. 29, art. 19; 2009, ch. 2, art. 54; 2011, ch. 24, art. 49; 2012, ch. 31, art. 34; 2013, ch. 34, art. 300; 2015, ch. 36, art. 15.

Registered Disability Savings Plan

Definitions

146.4 (1) The following definitions apply in this section.

assistance holdback amount, in relation to a disability savings plan, has the meaning assigned under the *Canada Disability Savings Act*. (*montant de retenue*)

contribution to a disability savings plan does not include (other than for the purpose of paragraph (b) of the definition ***disability savings plan***)

(a) an amount paid into the plan under or because of the *Canada Disability Savings Act* or a designated provincial program;

(b) an amount paid into the plan under or because of any other program that has a similar purpose to a designated provincial program and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by an entity described in subparagraph (a)(iii) of the definition ***qualifying person*** in its capacity as holder of the plan);

(c) an amount transferred to the plan in accordance with subsection (8); or

(d) other than for the purposes of paragraphs (4)(f) to (h) and (n) and paragraph (b) of the definition ***advantage*** in subsection 205(1),

(i) a specified RDSP payment as defined in subsection 60.02(1), or

(ii) an accumulated income payment made to the plan under subsection 146.1(1.2). (*cotisation*)

designated provincial program means a program that is established under the laws of a province and that supports savings in registered disability savings plans. (*programme provincial désigné*)

disability assistance payment, in relation to a disability savings plan of a beneficiary, means any payment made from the plan to the beneficiary or to the beneficiary's estate. (*paiement d'aide à l'invalidité*)

disability savings plan of a beneficiary means an arrangement

(a) between

Régime enregistré d'épargne-invalidité

Définitions

146.4 (1) Les définitions qui suivent s'appliquent au présent article.

année déterminée Relativement à un régime d'épargne-invalidité d'un bénéficiaire, l'année civile donnée au cours de laquelle un médecin autorisé à exercer sa profession par les lois d'une province (ou du lieu de résidence du bénéficiaire) atteste par écrit que l'état de santé du bénéficiaire est tel que, selon l'opinion professionnelle du médecin, il est peu probable qu'il survive plus de cinq ans, ainsi que celles des années ci-après qui sont applicables :

a) si le régime est un régime d'épargne-invalidité déterminé, chacune des années civiles suivant l'année donnée;

b) dans les autres cas, chacune des cinq années civiles suivant l'année donnée.

N'est pas une année déterminée toute année civile antérieure à celle au cours de laquelle l'attestation est fournie à l'émetteur du régime. (*specified year*)

cotisation Ne sont pas des cotisations à un régime d'épargne-invalidité, sauf pour l'application de l'alinéa b) de la définition de ***régime d'épargne-invalidité*** :

a) les sommes versées dans le régime en vertu ou par l'effet de la *Loi canadienne sur l'épargne-invalidité* ou d'un programme provincial désigné;

b) les sommes versées dans le régime en vertu ou par l'effet de tout autre programme dont l'objet est semblable à celui d'un programme provincial désigné et qui est financé, directement ou indirectement, par une province, à l'exclusion des sommes versées dans le régime par une entité visée au sous-alinéa a)(iii) de la définition de ***personne admissible*** en sa qualité de titulaire du régime;

c) les sommes transférées au régime conformément au paragraphe (8);

d) sauf pour l'application des alinéas (4)f) à h) et n) et de l'alinéa b) de la définition de ***avantage*** au paragraphe 205(1) :

(i) les paiements de REEI déterminés au sens du paragraphe 60.02(1),

(i) a corporation (in this section referred to as the "issuer")

(A) that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, and

(B) with which the specified Minister has entered into an agreement that applies to the arrangement for the purposes of the *Canada Disability Savings Act*, and

(ii) one or more of the following:

(A) the beneficiary,

(B) an entity that, at the time the arrangement is entered into, is a qualifying person described in paragraph (a) or (b) of the definition ***qualifying person*** in relation to the beneficiary,

(B.1) if the arrangement is entered into before 2019, a qualifying family member in relation to the beneficiary who, at the time the arrangement is entered into, is a qualifying person in relation to the beneficiary,

(B.2) a qualifying family member in relation to the beneficiary who, at the time the arrangement is entered into, is not a qualifying person in relation to the beneficiary but is a holder of another arrangement that is a registered disability savings plan of the beneficiary, and

(C) a legal parent of the beneficiary who, at the time the arrangement is entered into, is not a qualifying person in relation to the beneficiary but is a holder of another arrangement that is a registered disability savings plan of the beneficiary;

(b) under which one or more contributions are to be made in trust to the issuer to be invested, used or otherwise applied by the issuer for the purpose of making payments from the arrangement to the beneficiary; and

(c) that is entered into in a taxation year in respect of which the beneficiary is a DTC-eligible individual. (*régime d'épargne-invalidité*)

DTC-eligible individual, in respect of a taxation year, means an individual in respect of whom an amount is deductible, or would if this Act were read without reference to paragraph 118.3(1)(c) be deductible, under section 118.3 in computing a taxpayer's tax payable under this

(ii) les paiements de revenu accumulé faits au régime en vertu du paragraphe 146.1(1.2). (*contribution*)

fiducie de régime La fiducie régie par un régime d'épargne-invalidité. (*plan trust*)

membre de la famille admissible S'entend, relativement au bénéficiaire d'un régime d'épargne-invalidité à un moment donné, de tout particulier qui, à ce moment :

a) est légalement le père ou la mère du bénéficiaire;

b) est l'époux ou le conjoint de fait du bénéficiaire dont il ne vit pas séparé pour cause d'échec du mariage ou de l'union de fait. (*qualifying family member*)

ministre responsable Le ministre désigné au titre de l'article 4 de la *Loi canadienne sur l'épargne-invalidité*. (*specified Minister*)

montant de retenue S'entend au sens qui est donné à ce terme sous le régime de la *Loi canadienne sur l'épargne-invalidité*. (*assistance holdback amount*)

paiement d'aide à l'invalidité Toute somme provenant d'un régime d'épargne-invalidité qui est versée au bénéficiaire du régime ou à sa succession. (*disability assistance payment*)

paiements viagers pour invalidité Paiements d'aide à l'invalidité prévus par le régime d'épargne-invalidité d'un bénéficiaire qui, selon les conditions du régime, constituent des paiements viagers pour invalidité et qui, après le début de leur versement, sont payables au moins annuellement jusqu'à la date du décès du bénéficiaire ou, si elle est antérieure, la date où il est mis fin au régime. (*lifetime disability assistance payments*)

particulier admissible au CIPH Est un particulier admissible au CIPH pour une année d'imposition le particulier à l'égard duquel une somme est déductible en application de l'article 118.3, ou le serait en l'absence de l'alinéa 118.3(1)c), dans le calcul de l'impôt à payer par un contribuable en vertu de la présente partie pour l'année. (*DTC-eligible individual*)

plafond Relativement à un régime d'épargne-invalidité pour une année civile, la plus élevée des sommes suivantes :

a) la somme obtenue par la formule figurant à l'alinéa (4)l) relativement au régime pour l'année;

Part for the taxation year. (*particulier admissible au CIPH*)

holder of a disability savings plan at any time means each of the following:

(a) an entity that has, at that time, rights as an entity with whom the issuer entered into the plan;

(b) an entity that has, at that time, rights as a successor or assignee of an entity described in paragraph (a) or in this paragraph; and

(c) the beneficiary if, at that time, the beneficiary is not an entity described in paragraph (a) or (b) and has rights under the plan to make decisions (either alone or with other holders of the plan) concerning the plan, except where the only such right is a right to direct that disability assistance payments be made as provided for in subparagraph (4)(n)(ii). (*titulaire*)

lifetime disability assistance payments under a disability savings plan of a beneficiary means disability assistance payments that are identified under the terms of the plan as lifetime disability assistance payments and that, after they begin to be paid, are payable at least annually until the earlier of the day on which the beneficiary dies and the day on which the plan is terminated. (*paiements viagers pour invalidité*)

plan trust, in relation to a disability savings plan, means the trust governed by the plan. (*fiducie de régime*)

qualifying family member, in relation to a beneficiary of a disability savings plan, at any time, means an individual who, at that time, is

(a) a legal parent of the beneficiary; or

(b) a spouse or common-law partner of the beneficiary who is not living separate and apart from the beneficiary by reason of a breakdown of their marriage or common-law partnership. (*membre de la famille admissible*)

qualifying person, in relation to a beneficiary of a disability savings plan, at any time, means

(a) if the beneficiary has not, at or before that time, attained the age of majority, an entity that is, at that time,

(i) a legal parent of the beneficiary,

(ii) a guardian, tutor, curator or other individual who is legally authorized to act on behalf of the beneficiary, or

b) la somme obtenue par la formule suivante :

A + B

où :

A représente 10 % de la juste valeur marchande des biens détenus par la fiducie de régime au début de l'année (à l'exception des contrats de rente qu'elle détient et qui, au début de l'année, ne sont pas visés à l'alinéa b) de la définition de ***placement admissible*** au paragraphe 205(1)),

B le total des sommes dont chacune représente :

(i) un paiement périodique prévu par un contrat de rente détenu par la fiducie de régime au début de l'année (à l'exception d'un contrat de rente qui, au début de l'année, est visé à l'alinéa b) de la définition de ***placement admissible*** au paragraphe 205(1)) qui est versé à la fiducie de régime au cours de l'année,

(ii) si le paiement périodique prévu par un tel contrat de rente n'est pas versé à la fiducie de régime du fait qu'elle a disposé du droit au paiement au cours de l'année, une estimation raisonnable de ce paiement, étant admis que le contrat de rente a été détenu tout au long de l'année et qu'aucun droit dans le cadre du contrat n'a fait l'objet d'une disposition au cours de l'année. (*specified maximum amount*)

programme provincial désigné Tout programme établi en vertu des lois d'une province qui favorise la constitution d'une épargne dans les régimes enregistrés d'épargne-invalidité. (*designated provincial program*)

régime d'épargne-invalidité Est un régime d'épargne-invalidité d'un bénéficiaire l'arrangement qui présente les caractéristiques suivantes :

a) il est conclu entre les personnes suivantes :

(i) une société (appelée « émetteur » au présent article) qui, à la fois :

(A) détient une licence ou est autrement autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir ses services au public en tant que fiduciaire,

(B) a conclu, avec le ministre responsable, une convention qui s'applique à l'arrangement pour les fins de la *Loi canadienne sur l'épargne-invalidité*,

(ii) une ou plusieurs des entités suivantes :

(iii) a public department, agency or institution that is legally authorized to act on behalf of the beneficiary;

(b) if the beneficiary has, at or before that time, attained the age of majority and is not, at that time, contractually competent to enter into a disability savings plan, an entity that is, at that time, an entity described in subparagraph (a)(ii) or (iii); and

(c) other than for the purposes of subparagraph (4)(b)(iv), an individual who is a qualifying family member in relation to the beneficiary if

(i) at or before that time, the beneficiary has attained the age of majority and is not a beneficiary under a disability savings plan,

(ii) at that time, no entity described in subparagraph (a)(ii) or (iii) is legally authorized to act on behalf of the beneficiary, and

(iii) in the issuer's opinion after reasonable inquiry, the beneficiary's contractual competence to enter into a disability savings plan at that time is in doubt. (*responsable*)

registered disability savings plan or ***RDSP*** means a disability savings plan that satisfies the conditions in subsection (2), but does not include a plan to which subsection (3) or (10) applies. (*régime enregistré d'épargne-invalidité* ou *REEI*)

specified maximum amount, for a calendar year in respect of a disability savings plan, means the amount that is the greater of

(a) the amount determined by the formula set out in paragraph (4)(l) in respect of the plan for the calendar year, and

(b) the amount determined by the formula

A + B

where

A is 10% of the fair market value of the property held by the plan trust at the beginning of the calendar year (other than annuity contracts held by the plan trust that, at the beginning of the calendar year, are not described in paragraph (b) of the definition ***qualified investment*** in subsection 205(1)), and

B is the total of all amounts each of which is

(i) a periodic payment under an annuity contract held by the plan trust at the beginning of

(A) le bénéficiaire,

(B) toute entité qui, au moment de la conclusion de l'arrangement, est le responsable du bénéficiaire par l'effet des alinéas a) ou b) de la définition de ***responsable***,

(B.1) si l'arrangement est conclu avant 2019, tout membre de la famille admissible relativement au bénéficiaire qui, au moment de la conclusion de l'arrangement, est le responsable du bénéficiaire,

(B.2) tout membre de la famille admissible relativement au bénéficiaire qui, au moment de la conclusion de l'arrangement, n'est pas le responsable du bénéficiaire, mais est titulaire d'un autre arrangement qui est un régime enregistré d'épargne-invalidité du bénéficiaire,

(C) un particulier qui est légalement le père ou la mère du bénéficiaire et qui, au moment de la conclusion de l'arrangement, n'en est pas le responsable mais est titulaire d'un autre arrangement qui est un régime enregistré d'épargne-invalidité du bénéficiaire;

b) il prévoit le versement à l'émetteur, en fiducie, d'une ou de plusieurs cotisations qui seront investies, utilisées ou autrement appliquées par celui-ci afin que des sommes provenant de l'arrangement puissent être versées au bénéficiaire;

c) il est conclu au cours d'une année d'imposition pour laquelle le bénéficiaire est un particulier admissible au CIPH. (*disability savings plan*)

régime enregistré d'épargne-invalidité ou ***REEI*** Régime d'épargne-invalidité qui remplit les conditions énoncées au paragraphe (2), à l'exclusion de tout régime auquel les paragraphes (3) ou (10) s'appliquent. (*registered disability savings plan* or *RDSP*)

responsable Est le responsable du bénéficiaire d'un régime d'épargne-invalidité à un moment donné l'une des entités suivantes :

a) si le bénéficiaire n'a pas atteint l'âge de la majorité au plus tard à ce moment, l'entité qui est, à ce moment :

(i) un particulier qui est légalement le père ou la mère du bénéficiaire,

(ii) un tuteur, curateur ou autre particulier qui est légalement autorisé à agir au nom du bénéficiaire,

the calendar year (other than an annuity contract described at the beginning of the calendar year in paragraph (b) of the definition ***qualified investment*** in subsection 205(1)) that is paid to the plan trust in the calendar year, or

(ii) if the periodic payment under such an annuity contract is not made to the plan trust because the plan trust disposed of the right to that payment in the calendar year, a reasonable estimate of that payment on the assumption that the annuity contract had been held throughout the calendar year and no rights under the contract were disposed of in the calendar year. (*plafond*)

specified Minister means the minister designated under section 4 of the *Canada Disability Savings Act*. (*ministre responsable*)

specified year for a disability savings plan of a beneficiary means the particular calendar year in which a medical doctor licensed to practise under the laws of a province (or of the place where the beneficiary resides) certifies in writing that the beneficiary's state of health is such that, in the professional opinion of the medical doctor, the beneficiary is not likely to survive more than five years and

(a) if the plan is a specified disability savings plan, each subsequent calendar year, but does not include any calendar year prior to the calendar year in which the certification is provided to the issuer of the plan; or

(b) in any other case, each of the five calendar years following the particular calendar year, but does not include any calendar year prior to the calendar year in which the certification is provided to the issuer of the plan. (*année déterminée*)

(iii) un ministère, organisme ou établissement public qui est légalement autorisé à agir au nom du bénéficiaire;

b) si le bénéficiaire a atteint l'âge de la majorité au plus tard à ce moment et n'a pas la capacité de contracter un régime d'épargne-invalidité à ce moment, l'entité qui est, à ce moment, une entité visée aux sous-alinéas a)(ii) ou (iii);

c) sauf pour l'application du sous-alinéa (4)b)(iv), tout particulier qui est un membre de la famille admissible relativement au bénéficiaire dans des circonstances où les faits ci-après s'avèrent :

(i) à ce moment ou antérieurement, le bénéficiaire a atteint l'âge de la majorité et n'est pas bénéficiaire d'un régime d'épargne-invalidité,

(ii) à ce moment, aucune des entités visées aux sous-alinéas a)(ii) ou (iii) n'est légalement autorisée à agir au nom du bénéficiaire,

(iii) l'émetteur est d'avis, après enquête raisonnable, qu'il y a doute quant à la capacité du bénéficiaire de contracter un régime d'épargne-invalidité à ce moment. (*qualifying person*)

titulaire Est titulaire d'un régime d'épargne-invalidité à un moment donné chacune des entités suivantes :

a) toute entité qui a, à ce moment, des droits à titre d'entité avec laquelle l'émetteur a établi le régime;

b) toute entité qui a, à ce moment, des droits à titre de successeur ou de cessionnaire d'une entité visée à l'alinéa a) ou au présent alinéa;

c) le bénéficiaire, si, à ce moment, il n'est pas une entité visée aux alinéas a) ou b) et a le droit aux termes du régime de prendre des décisions (seul ou de concert avec d'autres titulaires du régime) concernant le régime, sauf dans le cas où son seul droit à cet égard consiste à ordonner que des paiements d'aide à l'invalidité soient effectués conformément au sous-alinéa (4)n)(ii). (*holder*)

Specified disability savings plan

(1.1) If, in respect of a beneficiary under a registered disability savings plan, a medical doctor licensed to practise under the laws of a province (or of the place where the beneficiary resides) certifies in writing that the beneficiary's state of health is such that, in the professional opinion of the medical doctor, the beneficiary is not likely to survive more than five years, the holder of the plan elects in prescribed form and provides the election and

Régime d'épargne-invalidité déterminé

(1.1) Si, relativement à un bénéficiaire d'un régime enregistré d'épargne-invalidité, un médecin autorisé à exercer sa profession par les lois d'une province (ou du lieu de résidence du bénéficiaire) atteste par écrit que l'état de santé du bénéficiaire est tel que, selon l'opinion professionnelle du médecin, il est peu probable qu'il survive plus de cinq ans, que le titulaire du régime fait le choix applicable sur le formulaire prescrit qu'il fournit à l'émetteur du

the medical certification in respect of the beneficiary to the issuer of the plan, and the issuer notifies the specified Minister of the election in a manner and format acceptable to the specified Minister, then the plan becomes a specified disability savings plan at the time the notification is received by the specified Minister.

Ceasing to be a specified disability savings plan

(1.2) A plan ceases to be a specified disability savings plan at the earliest of the following times:

(a) the time that the specified Minister receives a notification, in a manner and format acceptable to the specified Minister, from the issuer of the plan that the holder elects that the plan is to cease to be a specified disability savings plan;

(b) the time that is immediately before the earliest time in a calendar year when the total disability assistance payments, other than non-taxable portions, made from the plan in the year and while it was a specified disability savings plan exceeds $10,000 (or such greater amount as is required to satisfy the condition in subparagraph (d)(i));

(c) the time that is immediately before the time that

(i) a contribution is made to the plan,

(ii) an amount described in any of paragraphs (a) and (b) and subparagraph (d)(ii) of the definition ***contribution*** in subsection (1) is paid into the plan,

(iii) the plan is terminated,

(iv) the plan ceases to be a registered disability savings plan as a result of the application of paragraph (10)(a), or

(v) is the beginning of the first calendar year throughout which the beneficiary under the plan has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1); and

(d) the time immediately following the end of a calendar year if

(i) in the year the total amount of disability assistance payments made from the plan to the beneficiary is less than the amount determined by the formula set out in paragraph (4)(l) in respect of the plan for the year (or such lesser amount as is supported by the property of the plan), and

(ii) the year is not the calendar year in which the plan became a specified disability savings plan.

régime, accompagné de l'attestation du médecin concernant le bénéficiaire, et que l'émetteur avise le ministre responsable de ce choix d'une manière et sous une forme que celui-ci estime acceptables, le régime devient un régime d'épargne-invalidité déterminé au moment où le ministre responsable reçoit l'avis.

Cessation — régime d'épargne-invalidité déterminé

(1.2) Un régime cesse d'être un régime d'épargne-invalidité déterminé au premier en date des moments suivants :

a) le moment où le ministre responsable reçoit un avis de l'émetteur du régime, de la manière et sous une forme qu'il estime acceptables, selon lequel le titulaire fait un choix afin que le régime cesse d'être un régime d'épargne-invalidité déterminé;

b) le moment immédiatement avant le premier moment d'une année civile où le total des paiements d'aide à l'invalidité, à l'exclusion des parties non imposables, effectués sur le régime au cours de l'année, pendant qu'il était un régime d'épargne-invalidité déterminé, excède 10 000 $ ou toute somme plus élevée qui permet de remplir la condition énoncée au sous-alinéa d)(i);

c) le moment immédiatement avant le moment où, selon le cas :

(i) une cotisation est versée au régime,

(ii) une somme visée aux alinéas a) ou b) ou au sous-alinéa d)(ii) de la définition de ***cotisation*** au paragraphe (1) est versée au régime,

(iii) il est mis fin au régime,

(iv) le régime cesse d'être un régime enregistré d'épargne-invalidité en raison de l'application de l'alinéa (10)a),

(v) commence la première année civile tout au long de laquelle le bénéficiaire du régime n'a pas de déficiences graves et prolongées dont les effets sont décrits à l'alinéa 118.3(1)a.1);

d) le moment immédiatement après la fin d'une année civile si, à la fois :

(i) le total des paiements d'aide à l'invalidité effectués sur le régime au bénéficiaire au cours de l'année est inférieur à la somme obtenue par la formule figurant à l'alinéa (4)l) relativement au régime pour l'année ou à toute somme inférieure pouvant être versée compte tenu de la valeur des biens du régime,

(e) and (f) [Repealed, 2012, c. 31, s. 35]

Waiting period

(1.3) If at any time, a plan has ceased to be a specified disability savings plan because of subsection (1.2), then the holder of the plan may not make an election under subsection (1.1) until 24 months after that time.

Waiver

(1.4) The Minister may waive the application of subsections (1.2) or (1.3) if it is just and equitable to do so.

Beneficiary replacing holder

(1.5) Any holder of a disability savings plan who was a qualifying person in relation to the beneficiary under the plan at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of paragraph (c) of the definition ***qualifying person*** in subsection (1) ceases to be a holder of the plan and the beneficiary becomes the holder of the plan if

(a) the beneficiary is determined to be contractually competent by a competent tribunal or other authority under the laws of a province or, in the issuer's opinion after reasonable inquiry, the beneficiary's contractual competence to enter into a disability savings plan is no longer in doubt; and

(b) the beneficiary notifies the issuer that the beneficiary chooses to become the holder of the plan.

Entity replacing holder

(1.6) If an entity described in subparagraph (a)(ii) or (iii) of the definition ***qualifying person*** in subsection (1) is appointed in respect of a beneficiary of a disability savings plan and a holder of the plan was a qualifying person in relation to the beneficiary at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of paragraph (c) of that definition,

(a) the entity shall notify the issuer without delay of the entity's appointment;

(b) the holder of the plan ceases to be a holder of the plan; and

(c) the entity becomes the holder of the plan.

(ii) l'année en cause n'est pas celle dans laquelle le régime est devenu un régime d'épargne-invalidité déterminé.

e) et f) [Abrogés, 2012, ch. 31, art. 35]

Délai d'attente

(1.3) Si un régime a cessé d'être un régime d'épargne-invalidité déterminé à un moment donné par l'effet du paragraphe (1.2), le titulaire du régime ne peut faire le choix prévu au paragraphe (1.1) avant l'expiration d'une période de 24 mois suivant ce moment.

Renonciation

(1.4) Le ministre peut renoncer à appliquer les paragraphes (1.2) ou (1.3) s'il est juste et équitable de le faire.

Remplacement du titulaire par le bénéficiaire

(1.5) Le titulaire d'un régime d'épargne-invalidité qui était le responsable du bénéficiaire du régime au moment de sa conclusion (ou de la conclusion d'un autre régime enregistré d'épargne-invalidité du bénéficiaire) par le seul effet de l'alinéa c) de la définition de ***responsable*** au paragraphe (1) cesse d'être titulaire du régime, et le bénéficiaire le devient, si les conditions ci-après sont réunies :

a) il est établi par un tribunal compétent ou par toute autre autorité prévue par les lois provinciales que le bénéficiaire a la capacité de contracter, ou l'émetteur est d'avis, après enquête raisonnable, qu'il n'y a plus doute quant à la capacité du bénéficiaire de contracter un régime d'épargne-invalidité;

b) le bénéficiaire avise l'émetteur de son choix de devenir titulaire du régime.

Remplacement du titulaire par une entité

(1.6) Si une entité visée aux sous-alinéas a)(ii) ou (iii) de la définition de ***responsable*** au paragraphe (1) est désignée relativement au bénéficiaire d'un régime d'épargne-invalidité et que l'un des titulaires du régime était le responsable du bénéficiaire au moment de la conclusion du régime (ou d'un autre régime enregistré d'épargne-invalidité du bénéficiaire) par le seul effet de l'alinéa c) de cette définition, les règles ci-après s'appliquent :

a) l'entité doit aviser l'émetteur sans délai de sa désignation;

b) le titulaire du régime cesse de l'être;

c) l'entité devient titulaire du régime.

Rules applicable in case of dispute

(1.7) If a dispute arises as a result of an issuer's acceptance of a qualifying family member who was a qualifying person in relation to the beneficiary at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of paragraph (c) of the definition ***qualifying person*** in subsection (1) as a holder of a disability savings plan, from the time the dispute arises until the time that the dispute is resolved or an entity becomes the holder of the plan under subsection (1.5) or (1.6), the holder of the plan shall use their best efforts to avoid any reduction in the fair market value of the property held by the plan trust, having regard to the reasonable needs of the beneficiary under the plan.

Registered status

(2) The conditions that must be satisfied for a disability savings plan of a beneficiary to be a registered disability savings plan are as follows:

(a) before the plan is entered into, the issuer of the plan has received written notification from the Minister that, in the Minister's opinion, a plan whose terms are identical to the plan would, if entered into by entities eligible to enter into a disability savings plan, comply with the conditions in subsection (4);

(b) at or before the time the plan is entered into, the issuer of the plan has been provided with the Social Insurance Number of the beneficiary and the Social Insurance Number or business number, as the case may be, of each entity with which the issuer has entered into the plan; and

(c) at the time the plan is entered into, the beneficiary is resident in Canada, except that this condition does not apply if, at that time, the beneficiary is the beneficiary under another registered disability savings plan.

Registered status nullified

(3) A disability savings plan is deemed never to have been a registered disability savings plan unless

(a) the issuer of the plan provides without delay notification of the plan's establishment in prescribed form containing prescribed information to the specified Minister; and

(b) if the beneficiary is the beneficiary under another registered disability savings plan at the time the plan is established, that other plan is terminated without delay.

Règles applicables en cas de différend

(1.7) En cas de différend au sujet de l'acceptation par l'émetteur d'un régime d'épargne-invalidité, à titre de titulaire du régime, d'un membre de la famille admissible qui était le responsable du bénéficiaire du régime au moment de sa conclusion (ou de la conclusion d'un autre régime enregistré d'épargne-invalidité du bénéficiaire) par le seul effet de l'alinéa c) de la définition de ***responsable*** au paragraphe (1), depuis le moment où le différend prend naissance jusqu'au moment où, selon le cas, le différend est réglé ou une entité devient titulaire du régime en raison de l'application des paragraphes (1.5) ou (1.6), le titulaire du régime doit faire de son mieux pour éviter toute baisse de la juste valeur marchande des biens détenus par la fiducie de régime, compte tenu des besoins raisonnables du bénéficiaire.

Conditions d'enregistrement

(2) Le régime d'épargne-invalidité d'un bénéficiaire est un régime enregistré d'épargne-invalidité si les conditions suivantes sont réunies :

a) avant l'établissement du régime, l'émetteur a reçu du ministre une notification écrite portant que, de l'avis du ministre, tout régime dont les dispositions sont identiques à celles du régime en cause remplirait les conditions énoncées au paragraphe (4) s'il était établi par des entités ayant qualité pour ce faire;

b) au plus tard au moment de l'établissement du régime, l'émetteur a obtenu le numéro d'assurance sociale du bénéficiaire ainsi que le numéro d'assurance sociale ou le numéro d'entreprise, selon le cas, de chaque entité avec laquelle il a établi le régime;

c) au moment de l'établissement du régime, le bénéficiaire réside au Canada; toutefois, cette condition ne s'applique pas si, à ce moment, il est bénéficiaire d'un autre régime enregistré d'épargne-invalidité.

Nullité de l'enregistrement

(3) Un régime d'épargne-invalidité est réputé ne jamais avoir été un régime enregistré d'épargne-invalidité sauf si :

a) l'émetteur avise le ministre responsable sans délai de l'établissement du régime, sur le formulaire prescrit contenant les renseignements prescrits;

b) dans le cas où le bénéficiaire est bénéficiaire d'un autre régime enregistré d'épargne-invalidité au moment de l'établissement du régime, il est mis fin à l'autre régime sans délai.

Plan conditions

(4) The conditions referred to in paragraph (2)(a) are as follows:

(a) the plan stipulates

(i) that it is to be operated exclusively for the benefit of the beneficiary under the plan,

(ii) that the designation of the beneficiary under the plan is irrevocable, and

(iii) that no right of the beneficiary to receive payments from the plan is capable, either in whole or in part, of surrender or assignment;

(b) the plan allows an entity to acquire rights as a successor or assignee of a holder of the plan only if the entity is

(i) the beneficiary,

(ii) the beneficiary's estate,

(iii) a holder of the plan at the time the rights are acquired,

(iv) a qualifying person in relation to the beneficiary at the time the rights are acquired, or

(v) an individual who is a legal parent of the beneficiary and was previously a holder of the plan;

(c) the plan provides that, where an entity (other than a qualifying family member in relation to the beneficiary) that is a holder of the plan ceases to be a qualifying person in relation to the beneficiary at any time, the entity ceases at that time to be a holder of the plan;

(d) the plan provides for there to be at least one holder of the plan at all times that the plan is in existence and may provide for the beneficiary (or the beneficiary's estate, as the case may be) to automatically acquire rights as a successor or assignee of a holder in order to ensure compliance with this requirement;

(e) the plan provides that, where an entity becomes a holder of the plan after the plan is entered into, the entity is prohibited (except to the extent otherwise permitted by the Minister or the specified Minister) from exercising their rights as a holder of the plan until the issuer has been advised of the entity having become a holder of the plan and been provided with the entity's Social Insurance Number or business number, as the case may be;

Conditions du régime

(4) Les conditions visées à l'alinéa (2)a) sont les suivantes :

a) le régime stipule ce qui suit :

(i) il doit être administré exclusivement au profit de son bénéficiaire,

(ii) la désignation du bénéficiaire du régime est irrévocable,

(iii) le droit du bénéficiaire de recevoir des paiements provenant du régime ne peut faire l'objet de renonciation ou de cession;

b) le régime ne permet à une entité d'acquérir des droits à titre de successeur ou de cessionnaire d'un titulaire du régime que s'il s'agit d'une entité qui est :

(i) le bénéficiaire,

(ii) la succession du bénéficiaire,

(iii) un titulaire du régime au moment où les droits sont acquis,

(iv) le responsable du bénéficiaire au moment où les droits sont acquis,

(v) un particulier qui est légalement le père ou la mère du bénéficiaire et qui était antérieurement titulaire du régime;

c) le régime prévoit que toute entité titulaire du régime (sauf un membre de la famille admissible relativement au bénéficiaire) qui cesse d'être le responsable du bénéficiaire à un moment donné cesse, à ce moment, d'être titulaire du régime;

d) le régime prévoit qu'il doit toujours y avoir au moins un titulaire du régime; afin de garantir l'observation de cette exigence, le régime peut prévoir que le bénéficiaire (ou sa succession, le cas échéant) acquiert automatiquement des droits à titre de successeur ou de cessionnaire d'un titulaire;

e) le régime prévoit qu'il est interdit à toute entité devenue titulaire après l'établissement du régime d'exercer ses droits en cette qualité (sauf dans la mesure que permet par ailleurs le ministre ou le ministre responsable) jusqu'à ce que l'émetteur ait été avisé du fait qu'elle est devenue titulaire du régime et ait obtenu son numéro d'assurance sociale ou numéro d'entreprise, selon le cas;

(f) the plan prohibits contributions from being made to the plan at any time if

(i) the beneficiary is not a DTC-eligible individual in respect of the taxation year that includes that time, or

(ii) the beneficiary died before that time;

(g) the plan prohibits a contribution from being made to the plan at any time if

(i) the beneficiary attained the age of 59 years before the calendar year that includes that time,

(ii) the beneficiary is not resident in Canada at that time, or

(iii) the total of the contribution and all other contributions made at or before that time to the plan or to any other registered disability savings plan of the beneficiary would exceed $200,000;

(h) the plan prohibits contributions to the plan by any entity that is not a holder of the plan, except with the written consent of a holder of the plan;

(i) the plan provides that no payments may be made from the plan other than

(i) disability assistance payments,

(ii) a transfer in accordance with subsection (8), and

(iii) repayments under the *Canada Disability Savings Act* or a designated provincial program;

(j) the plan prohibits a disability assistance payment from being made if it would result in the fair market value of the property held by the plan trust immediately after the payment being less than the assistance holdback amount in relation to the plan;

(k) the plan provides for lifetime disability assistance payments to begin to be paid no later than the end of the particular calendar year in which the beneficiary attains the age of 60 years or, if the plan is established in or after the particular year, in the calendar year following the calendar year in which the plan is established;

(l) the plan provides that the total amount of lifetime disability assistance payments made in any calendar year (other than a specified year for the plan) shall not exceed the amount determined by the formula

A/(B + 3 - C) + D

f) le régime ne permet pas que des cotisations y soient versées dans les circonstances suivantes :

(i) le bénéficiaire n'est pas un particulier admissible au CIPH pour l'année d'imposition qui comprend le moment où les cotisations seraient versées,

(ii) le bénéficiaire est décédé avant ce moment;

g) le régime ne permet pas qu'une cotisation y soit versée dans les circonstances suivantes :

(i) le bénéficiaire a atteint 59 ans avant l'année civile qui comprend le moment où la cotisation serait versée,

(ii) le bénéficiaire ne réside pas au Canada à ce moment,

(iii) le total de la cotisation et des autres cotisations versées au plus tard à ce moment au régime ou à tout autre régime enregistré d'épargne-invalidité du bénéficiaire dépasserait 200 000 $;

h) le régime ne permet pas que des cotisations y soient versées par une entité qui n'en est pas un titulaire, sauf sur consentement écrit d'un titulaire du régime;

i) seuls les paiements ci-après peuvent être faits aux termes du régime :

(i) des paiements d'aide à l'invalidité,

(ii) les transferts effectués conformément au paragraphe (8),

(iii) des remboursements prévus par la *Loi canadienne sur l'épargne-invalidité* ou par un programme provincial désigné;

j) le régime ne permet pas qu'un paiement d'aide à l'invalidité soit fait dans le cas où, par suite de ce paiement, la juste valeur marchande des biens détenus par la fiducie de régime immédiatement après le paiement serait inférieure au montant de retenue relatif au régime;

k) le régime prévoit que le versement des paiements viagers pour invalidité doit commencer au plus tard à la fin de l'année civile où le bénéficiaire atteint 60 ans ou, si le régime est établi au cours de cette année ou par la suite, au plus tard au cours de l'année civile suivant celle de son établissement;

where

A is the fair market value of the property held by the plan trust at the beginning of the calendar year (other than annuity contracts held by the plan trust that, at the beginning of the calendar year, are not described in paragraph (b) of the definition ***qualified investment*** in subsection 205(1)),

B is the greater of 80 and the age in whole years of the beneficiary at the beginning of the calendar year,

C is the age in whole years of the beneficiary at the beginning of the calendar year, and

D is the total of all amounts each of which is

(i) a periodic payment under an annuity contract held by the plan trust at the beginning of the calendar year (other than an annuity contract described at the beginning of the calendar year in paragraph (b) of the definition ***qualified investment*** in subsection 205(1)) that is paid to the plan trust in the calendar year, or

(ii) if the periodic payment under such an annuity contract is not made to the plan trust because the plan trust disposed of the right to that payment in the calendar year, a reasonable estimate of that payment on the assumption that the annuity contract had been held throughout the calendar year and no rights under the contract were disposed of in the calendar year;

(m) the plan stipulates whether or not disability assistance payments that are not lifetime disability assistance payments are to be permitted under the plan;

(n) the plan provides that when the total of all amounts paid under the *Canada Disability Savings Act* before the beginning of a calendar year to any registered disability savings plan of the beneficiary exceeds the total of all contributions made before the beginning of the calendar year to any registered disability savings plan of the beneficiary,

(i) if the calendar year is not a specified year for the plan, the total amount of disability assistance payments made from the plan to the beneficiary in the calendar year shall not exceed the specified maximum amount for the calendar year, except that, in calculating that total amount, any payment made following a transfer in the calendar year from another plan in accordance with subsection (8) is to be disregarded if it is made

I) le régime prévoit que le montant total des paiements viagers pour invalidité effectués au cours d'une année civile (sauf une année déterminée pour le régime) ne peut excéder la somme obtenue par la formule suivante :

A/(B + 3 - C) + D

où :

A représente la juste valeur marchande des biens détenus par la fiducie de régime au début de l'année (à l'exception des contrats de rente qu'elle détient et qui, au début de l'année, ne sont pas visés à l'alinéa b) de la définition de ***placement admissible*** au paragraphe 205(1)),

B 80 ou l'âge du bénéficiaire, en années accomplies, au début de l'année, la plus élevée de ces valeurs étant à retenir,

C l'âge du bénéficiaire, en années accomplies, au début de l'année,

D le total des sommes représentant chacune :

(i) un paiement périodique prévu par un contrat de rente détenu par la fiducie de régime au début de l'année (à l'exception d'un contrat de rente visé au début de l'année à l'alinéa b) de la définition de ***placement admissible*** au paragraphe 205(1)) qui est versé à la fiducie de régime au cours de l'année,

(ii) si le paiement périodique prévu par un tel contrat de rente n'est pas versé à la fiducie de régime du fait qu'elle a disposé du droit au paiement au cours de l'année, une estimation raisonnable de ce paiement, étant admis que le contrat de rente a été détenu tout au long de l'année et qu'aucun droit dans le cadre du contrat n'a fait l'objet d'une disposition au cours de l'année;

m) le régime stipule s'il est permis ou non d'effectuer, aux termes du régime, des paiements d'aide à l'invalidité qui ne sont pas des paiements viagers pour invalidité;

n) le régime prévoit que dans le cas où le total des sommes versées aux termes de la *Loi canadienne sur l'épargne-invalidité* avant le début d'une année civile dans tout régime enregistré d'épargne-invalidité du bénéficiaire excède le total des cotisations versées avant le début de l'année dans tout régime enregistré d'épargne-invalidité du bénéficiaire :

(i) si l'année en cause n'est pas une année déterminée pour le régime, le montant total des paiements d'aide à l'invalidité versés au bénéficiaire aux

(A) to satisfy an undertaking described in paragraph (8)(d), or

(B) in lieu of a payment that would otherwise have been permitted to be made from the other plan in the calendar year had the transfer not occurred, and

(ii) if the beneficiary attained the age of 27 years, but not the age of 59 years, before the calendar year, the beneficiary has the right to direct that, within the constraints imposed by subparagraph (i) and paragraph (j), one or more disability assistance payments be made from the plan to the beneficiary in the calendar year;

(iii) [Repealed, 2012, c. 31, s. 35]

(n.1) the plan provides that, if the beneficiary attained the age of 59 years before a calendar year, the total amount of disability assistance payments made from the plan to the beneficiary in the calendar year shall not be less than the amount determined by the formula set out in paragraph (l) in respect of the plan for the calendar year (or such lesser amount as is supported by the property of the plan trust);

(o) the plan provides that, at the direction of the holders of the plan, the issuer shall transfer all of the property held by the plan trust (or an amount equal to its value) to another registered disability savings plan of the beneficiary, together with all information in its possession (other than information provided to the issuer of the other plan by the specified Minister) that may reasonably be considered necessary for compliance, in respect of the other plan, with the requirements of this Act and with any conditions and obligations imposed under the *Canada Disability Savings Act*; and

(p) the plan provides for any amounts remaining in the plan (after taking into consideration any repayments under the *Canada Disability Savings Act* or a designated provincial program) to be paid to the beneficiary or the beneficiary's estate, as the case may be, and for the plan to be terminated, by the end of the calendar year following the earlier of

(i) the calendar year in which the beneficiary dies, and

(ii) the first calendar year

(A) if an election is made under subsection (4.1), that includes the time that the election ceases because of paragraph (4.2)(b) to be valid, and

termes du régime au cours de l'année ne peut excéder le plafond pour cette année; toutefois, pour le calcul de ce montant total, il n'est pas tenu compte d'un paiement faisant suite à un transfert effectué à partir d'un autre régime au cours de l'année conformément au paragraphe (8) qui, selon le cas :

(A) a pour but de remplir l'engagement prévu à l'alinéa (8)d),

(B) est effectué en remplacement d'un paiement qu'il aurait par ailleurs été permis de faire aux termes de l'autre régime au cours de l'année en l'absence du transfert,

(ii) si le bénéficiaire a atteint 27 ans mais non 59 ans avant l'année en cause, il peut ordonner, compte tenu des contraintes prévues au sous-alinéa (i) et à l'alinéa j), qu'un ou plusieurs paiements d'aide à l'invalidité lui soient versés aux termes du régime au cours de l'année;

(iii) [Abrogé, 2012, ch. 31, art. 35]

n.1) le régime prévoit que, si le bénéficiaire a atteint 59 ans avant une année civile, le total des paiements d'aide à l'invalidité qui lui sont versés aux termes du régime au cours de l'année doit être au moins égal à la somme obtenue par la formule figurant à l'alinéa l) relativement au régime pour l'année ou à toute somme inférieure pouvant être versée compte tenu de la valeur des biens de la fiducie de régime;

o) le régime prévoit que, sur l'ordre des titulaires, l'émetteur est tenu de transférer l'ensemble des biens détenus par la fiducie de régime (ou une somme égale à leur valeur) à un autre régime enregistré d'épargne-invalidité du bénéficiaire de même que tous les renseignements en sa possession (sauf ceux que le ministre responsable a fournis à l'émetteur de l'autre régime) qu'il est raisonnable de considérer comme étant nécessaires pour garantir la conformité de l'autre régime aux exigences de la présente loi et aux conditions et obligations imposées par la *Loi canadienne sur l'épargne-invalidité*;

p) le régime prévoit que les sommes restant dans le régime (compte tenu de tout remboursement à faire en vertu de la *Loi canadienne sur l'épargne-invalidité* ou d'un programme provincial désigné) doivent être versées au bénéficiaire, ou à sa succession, et qu'il doit être mis fin au régime, au plus tard à la fin de l'année civile suivant celle des années ci-après qui est antérieure à l'autre :

(i) l'année civile au cours de laquelle le bénéficiaire décède,

(B) in any other case, throughout which the beneficiary has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1).

Election on cessation of DTC-eligibility

(4.1) A holder of a registered disability savings plan may elect in respect of a beneficiary under the plan who is not a DTC-eligible individual for a particular taxation year if

(a) a medical doctor licensed to practise under the laws of a province certifies in writing that the nature of the beneficiary's condition is such that, in the professional opinion of the medical doctor, the beneficiary is likely to become a DTC-eligible individual for a future taxation year;

(b) the beneficiary was a DTC-eligible individual for the year that immediately precedes the particular taxation year;

(c) the holder makes the election in a manner and format acceptable to the specified Minister before the end of the year immediately following the particular taxation year and provides the election and the medical certification in respect of the beneficiary to the issuer of the plan; and

(d) the issuer notifies the specified Minister of the election in a manner and format acceptable to the specified Minister.

Election

(4.2) An election under subsection (4.1) ceases to be valid at the time that is the earlier of

(a) the beginning of the first taxation year for which the beneficiary is again a DTC-eligible individual; and

(b) the end of the fourth taxation year following the particular taxation year referred to in subsection (4.1).

Transitional rule

(4.3) Unless an election is made under subsection (4.1), if 2011 or 2012 is the first calendar year throughout which the beneficiary of a registered disability savings plan has

(ii) selon le cas :

(A) si le choix prévu au paragraphe (4.1) est fait, la première année civile qui comprend le moment où ce choix cesse d'être valide par l'effet de l'alinéa (4.2)b),

(B) dans les autres cas, la première année civile tout au long de laquelle le bénéficiaire n'a pas de déficiences graves et prolongées dont les effets sont décrits à l'alinéa 118.3(1)a.1).

Choix — cessation d'admissibilité au CIPH

(4.1) Le titulaire d'un régime enregistré d'épargne-invalidité peut faire un choix relativement au bénéficiaire du régime qui n'est pas un particulier admissible au CIPH pour une année d'imposition donnée si les conditions ci-après sont réunies :

a) un médecin autorisé à exercer sa profession par les lois d'une province atteste par écrit que l'état de santé du bénéficiaire est tel que, selon l'opinion professionnelle du médecin, il est probable que le bénéficiaire devienne un particulier admissible au CIPH au cours d'une année d'imposition future;

b) le bénéficiaire était un particulier admissible au CIPH pour l'année précédant l'année donnée;

c) le titulaire fait le choix, d'une manière et sous une forme que le ministre responsable estime acceptables, avant la fin de l'année suivant l'année donnée et il fournit le document concernant le choix ainsi que l'attestation concernant le bénéficiaire à l'émetteur du régime;

d) l'émetteur avise le ministre responsable du choix d'une manière et sous une forme que celui-ci estime acceptables.

Caducité du choix

(4.2) Le choix prévu au paragraphe (4.1) cesse d'être valide au premier en date des moments suivants :

a) le début de la première année d'imposition pour laquelle le bénéficiaire redevient un particulier admissible au CIPH;

b) la fin de la quatrième année d'imposition suivant l'année d'imposition donnée mentionnée au paragraphe (4.1).

Règle transitoire

(4.3) Si 2011 ou 2012 est la première année civile tout au long de laquelle le bénéficiaire d'un régime enregistré d'épargne-invalidité n'a pas de déficiences graves et

no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1) and the plan has not been terminated, then notwithstanding subparagraph (4)(p)(ii) as it read on March 28, 2012 and any terms of the plan required by that subparagraph, the plan must be terminated no later than December 31, 2014.

prolongées dont les effets sont décrits à l'alinéa 118.3(1)a.1) et qu'il n'a pas été mis fin au régime, malgré le sous-alinéa (4)p)(ii) en son état au 28 mars 2012 et toute modalité du régime en découlant, il doit être mis fin au régime au plus tard le 31 décembre 2014 à moins que le choix prévu au paragraphe (4.1) ne soit fait.

Trust not taxable

(5) No tax is payable under this Part by a trust on the taxable income of the trust for a taxation year if, throughout the period in the year during which the trust was in existence, the trust was governed by a registered disability savings plan, except that

(a) tax is payable under this Part by the trust on its taxable income for the year if the trust has borrowed money

(i) in the year, or

(ii) in a preceding taxation year and has not repaid it before the beginning of the year; and

(b) if the trust is not otherwise taxable under paragraph (a) on its taxable income for the year and, at any time in the year, it carries on one or more businesses or holds one or more properties that are not qualified investments (as defined in subsection 205(1)) for the trust, tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than those businesses and properties, and no capital gains or losses other than from dispositions of those properties, and for this purpose,

(i) "income" includes dividends described in section 83, and

(ii) paragraphs 38(a) and (b) are to be read as if the fraction set out in each of those paragraphs were replaced by the word "all".

Fiducie non imposable

(5) Aucun impôt n'est à payer par une fiducie en vertu de la présente partie sur son revenu imposable pour une année d'imposition si, tout au long de la période de l'année où elle a existé, elle était régie par un régime enregistré d'épargne-invalidité. Toutefois :

a) l'impôt prévu par la présente partie est à payer par la fiducie sur son revenu imposable pour l'année si elle a, selon le cas :

(i) emprunté de l'argent au cours de l'année,

(ii) emprunté, au cours d'une année d'imposition antérieure, de l'argent qu'elle n'a pas remboursé avant le début de l'année;

b) si la fiducie n'a pas d'impôt à payer par ailleurs en vertu de l'alinéa a) sur son revenu imposable pour l'année et qu'elle exploite, au cours de l'année, une ou plusieurs entreprises ou détient un ou plusieurs biens qui ne sont pas pour elle des placements admissibles, au sens du paragraphe 205(1), l'impôt prévu par la présente partie est à payer par elle sur la somme qui représenterait son revenu imposable pour l'année si elle n'avait pas tiré de revenu, ni subi de pertes, de sources autres que les entreprises ou les biens en cause ni n'avait de gains en capital ou de pertes en capital provenant de la disposition de biens autres que les biens en cause; à cette fin :

(i) les dividendes visés à l'article 83 sont compris dans le revenu,

(ii) la mention de la fraction figurant à chacun des alinéas 38a) et b) vaut mention de « la totalité ».

Taxation of disability assistance payments

(6) Where a disability assistance payment is made from a registered disability savings plan of a beneficiary, the amount, if any, by which the amount of the payment exceeds the non-taxable portion of the payment shall be included,

(a) if the beneficiary is alive at the time the payment is made, in computing the beneficiary's income for the beneficiary's taxation year in which the payment is made; and

Imposition des paiements d'aide à l'invalidité

(6) Dans le cas où un paiement d'aide à l'invalidité est effectué aux termes du régime enregistré d'épargne-invalidité d'un bénéficiaire, l'excédent du montant du paiement sur sa partie non imposable est inclus :

a) si le bénéficiaire est vivant au moment où le paiement est effectué, dans le calcul de son revenu pour son année d'imposition au cours de laquelle le paiement est effectué;

(b) in any other case, in computing the income of the beneficiary's estate for the estate's taxation year in which the payment is made.

b) sinon, dans le calcul du revenu de sa succession pour l'année d'imposition de celle-ci au cours de laquelle le paiement est effectué.

Non-taxable portion of disability assistance payment

(7) The non-taxable portion of a disability assistance payment made at a particular time from a registered disability savings plan of a beneficiary is the lesser of the amount of the disability assistance payment and the amount determined by the formula

A × B/C

where

A is the amount of the disability assistance payment;

B is the amount, if any, by which

(a) the total of all amounts each of which is the amount of a contribution made before the particular time to any registered disability savings plan of the beneficiary

exceeds

(b) the total of all amounts each of which is the non-taxable portion of a disability assistance payment made before the particular time from any registered disability savings plan of the beneficiary; and

C is the amount by which the fair market value of the property held by the plan trust immediately before the payment exceeds the assistance holdback amount in relation to the plan.

Partie non imposable d'un paiement d'aide à l'invalidité

(7) La partie non imposable d'un paiement d'aide à l'invalidité effectué à un moment donné aux termes du régime enregistré d'épargne-invalidité d'un bénéficiaire correspond au montant de ce paiement ou, si elle est moins élevée, à la somme obtenue par la formule suivante :

A × B/C

où :

A représente le montant du paiement d'aide à l'invalidité;

B l'excédent de la somme visée à l'alinéa a) sur celle visée à l'alinéa b) :

a) le total des sommes représentant chacune le montant d'une cotisation versée avant le moment donné dans tout régime enregistré d'épargne-invalidité du bénéficiaire,

b) le total des sommes représentant chacune la partie non imposable d'un paiement d'aide à l'invalidité effectué avant le moment donné aux termes de tout régime enregistré d'épargne-invalidité du bénéficiaire;

C l'excédent de la juste valeur marchande des biens détenus par la fiducie de régime immédiatement avant le paiement sur le montant de retenue relatif au régime.

Transfer of funds

(8) An amount is transferred from a registered disability savings plan (in this subsection referred to as the "prior plan") of a beneficiary in accordance with this subsection if

(a) the amount is transferred directly to another registered disability savings plan (in this subsection referred to as the "new plan") of the beneficiary;

(b) the prior plan is terminated immediately after the transfer;

(c) the issuer of the prior plan provides the issuer of the new plan with all information in its possession concerning the prior plan (other than information provided to the issuer of the new plan by the specified Minister) as may reasonably be considered necessary for compliance, in respect of the new plan, with the requirements of this Act and with any conditions and

Transfert de fonds

(8) Une somme est transférée du régime enregistré d'épargne-invalidité (appelé « ancien régime » au présent paragraphe) d'un bénéficiaire conformément au présent paragraphe si les conditions suivantes sont réunies :

a) la somme est transférée directement à un autre régime enregistré d'épargne-invalidité (appelé « nouveau régime » au présent paragraphe) du bénéficiaire;

b) il est mis fin à l'ancien régime immédiatement après le transfert;

c) l'émetteur de l'ancien régime fournit à l'émetteur du nouveau régime tous les renseignements en sa possession concernant l'ancien régime (sauf ceux que le ministre responsable a fournis à l'émetteur du nouveau régime) qu'il est raisonnable de considérer comme étant nécessaires pour garantir la conformité du nouveau régime aux exigences de la présente loi et

obligations imposed under the *Canada Disability Savings Act*; and

(d) where the beneficiary attained the age of 59 years before the calendar year in which the transfer occurs, the issuer of the new plan undertakes to make (in addition to any other disability assistance payments that would otherwise have been made from the new plan in the year) one or more disability assistance payments from the plan in the year, the total of which is equal to the amount, if any, by which

(i) the total amount of disability assistance payments that would have been required to be made from the prior plan in the year if the transfer had not occurred

exceeds

(ii) the total amount of disability assistance payments made from the prior plan in the year.

aux conditions et obligations imposées par la *Loi canadienne sur l'épargne-invalidité*;

d) si le bénéficiaire a atteint 59 ans avant l'année civile au cours de laquelle le transfert est effectué, l'émetteur du nouveau régime s'engage à effectuer aux termes du régime au cours de l'année, outre tout autre paiement d'aide à l'invalidité qui aurait été effectué par ailleurs aux termes de ce régime au cours de l'année, un ou plusieurs paiements d'aide à l'invalidité dont le total est égal à l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) le montant total des paiements d'aide à l'invalidité qui auraient été à effectuer aux termes de l'ancien régime au cours de l'année à défaut du transfert,

(ii) le montant total des paiements d'aide à l'invalidité effectués aux termes de l'ancien régime au cours de l'année.

No income inclusion on transfer

(9) An amount transferred in accordance with subsection (8) is not, solely because of that transfer, to be included in computing the income of any taxpayer.

Aucune somme à inclure lors d'un transfert

(9) La somme transférée conformément au paragraphe (8) n'est pas, en raison seulement du transfert, à inclure dans le calcul du revenu d'un contribuable.

Non-compliance — cessation of registered status

(10) Where, at any particular time, a registered disability savings plan is non-compliant as described in subsection (11),

(a) the plan ceases, as of the particular time, to be a registered disability savings plan (other than for the purposes of applying, as of the particular time, this subsection and subsection (11));

(b) a disability assistance payment is deemed to have been made from the plan at the time (in this subsection referred to as the "relevant time") immediately before the particular time to the beneficiary under the plan (or, if the beneficiary is deceased at the relevant time, to the beneficiary's estate), the amount of which payment is equal to the amount, if any, by which

(i) the fair market value of the property held by the plan trust at the relevant time

exceeds

(ii) the assistance holdback amount in relation to the plan; and

(c) if the plan is non-compliant because of a payment that is not in accordance with paragraph (4)(j), a disability assistance payment is deemed to have been

Non-conformité — effet

(10) Les règles ci-après s'appliquent dans le cas où un régime enregistré d'épargne-invalidité, à un moment donné, est non conforme selon le paragraphe (11) :

a) le régime cesse, à ce moment, d'être un régime enregistré d'épargne-invalidité, sauf pour l'application, à compter de ce moment, du présent paragraphe et du paragraphe (11);

b) un paiement d'aide à l'invalidité est réputé avoir été fait aux termes du régime, au moment (appelé « moment considéré » au présent paragraphe) immédiatement avant le moment donné, au bénéficiaire du régime ou, s'il est décédé au moment considéré, à sa succession, d'un montant égal à l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) la juste valeur marchande des biens détenus par la fiducie de régime au moment considéré,

(ii) le montant de retenue relatif au régime;

c) si le régime est non conforme du fait qu'un paiement déroge à l'alinéa (4)j), un paiement d'aide à l'invalidité est réputé avoir été fait aux termes du régime

made from the plan at the relevant time (in addition to the payment deemed by paragraph (b) to have been made) to the beneficiary under the plan (or, if the beneficiary is deceased at the relevant time, to the beneficiary's estate)

(i) the amount of which payment is equal to the amount by which the lesser of

(A) the assistance holdback amount in relation to the plan, and

(B) the fair market value of the property held by the plan trust at the relevant time

exceeds

(C) the fair market value of the property held by the plan trust immediately after the particular time, and

(ii) the non-taxable portion of which is deemed to be nil.

au moment considéré (en plus du paiement visé à l'alinéa b)) au bénéficiaire du régime ou, s'il est décédé à ce moment, à sa succession; ce paiement :

(i) d'une part, est égal à l'excédent de la somme visée à la division (A) sur celle visée à la division (B) :

(A) le montant de retenue relatif au régime ou, si elle est moins élevée, la juste valeur marchande des biens détenus par la fiducie de régime à ce moment,

(B) la juste valeur marchande des biens détenus par la fiducie de régime immédiatement après le moment donné,

(ii) d'autre part, est un paiement dont la partie non imposable est réputée être nulle.

Non-compliance

(11) A registered disability savings plan is non-compliant

(a) at any time that the plan fails to comply with a condition in subsection (4);

(b) at any time that there is a failure to administer the plan in accordance with its terms (other than those terms which the plan is required by subparagraph (4)(a)(i) to stipulate); and

(c) at any time that a person fails to comply with a condition or an obligation imposed, with respect to the plan, under the *Canada Disability Savings Act*, and the specified Minister has notified the Minister that, in the specified Minister's opinion, it is appropriate that the plan be considered to be non-compliant because of the failure.

Non-conformité

(11) Un régime enregistré d'épargne-invalidité est non conforme :

a) à tout moment où il ne satisfait pas à l'une des conditions énoncées au paragraphe (4);

b) à tout moment où il n'est pas administré conformément à ses dispositions (sauf celles qui doivent être stipulées par le régime selon le sous-alinéa (4)a)(i));

c) à tout moment où une personne manque à quelque condition ou obligation imposée, relativement au régime, par la *Loi canadienne sur l'épargne-invalidité*, et où le ministre responsable a informé le ministre qu'à son avis ce manquement suffit à rendre le régime non conforme.

Non-application of subsection (11)

(12) Where a registered disability savings plan would otherwise be non-compliant at a particular time because of a failure described in paragraph (11)(a) or (b),

(a) the Minister may waive the application of the relevant paragraph with respect to the failure, if it is just and equitable to do so;

(b) the Minister may deem the failure to have occurred at a later time;

Non-application du par. (11)

(12) Lorsqu'un régime enregistré d'épargne-invalidité serait par ailleurs non conforme à un moment donné en raison d'un manquement visé aux alinéas (11)a) ou b) :

a) le ministre peut renoncer à appliquer l'alinéa en cause relativement au manquement s'il est juste et équitable de le faire;

b) le manquement peut être réputé par le ministre s'être produit à un moment ultérieur;

(c) if the failure consists of the making of a contribution that is prohibited under any of paragraphs (4)(f) to (h), an amount equal to the amount of the contribution has been withdrawn from the plan within such period as is specified by the Minister and the Minister has approved the application of this paragraph with respect to the failure,

(i) the contribution is deemed never to have been made, and

(ii) the withdrawal is deemed not to be a disability assistance payment and not to be in contravention of the condition in paragraph (4)(i); or

(d) if the failure consists of the plan not being terminated by the time set out in paragraph (4)(p) and the failure was due to the issuer being unaware of, or there being some uncertainty as to, the existence of circumstances requiring that the plan be terminated,

(i) the Minister may specify a later time by which the plan is to be terminated (but no later than is reasonably necessary for the plan to be terminated in an orderly manner), and

(ii) paragraph (4)(p) and the plan terms are, for the purposes of paragraphs (11)(a) and (b), to be read as though they required the plan to be terminated by the time so specified.

c) si le manquement consiste à verser une cotisation qui est interdite par l'un des alinéas (4)f) à h)), qu'une somme égale au montant de la cotisation a été retirée du régime dans le délai fixé par le ministre et que le ministre a donné son approbation pour que le présent alinéa s'applique au manquement :

(i) la cotisation est réputée ne jamais avoir été versée,

(ii) le retrait est réputé ne pas être un paiement d'aide à l'invalidité et ne pas contrevenir à la condition énoncée à l'alinéa (4)i);

d) si le manquement consiste à ne pas mettre fin au régime dans le délai fixé à l'alinéa (4)p) et s'est produit soit du fait que l'émetteur n'était pas au courant de l'existence de circonstances exigeant qu'il soit mis fin au régime, soit en raison de quelque incertitude quant à l'existence de telles circonstances :

(i) le ministre peut fixer un autre délai dans lequel il doit être mis fin au régime, lequel délai ne peut s'étendre au-delà de ce qui est raisonnablement nécessaire pour mettre fin au régime de façon ordonnée,

(ii) l'alinéa (4)p) et les dispositions du régime s'appliquent, dans le cadre des alinéas (11)a) et b), comme s'ils prévoyaient qu'il devait être mis fin au régime dans le délai ainsi fixé par le ministre.

Obligations of issuer

(13) The issuer of a registered disability savings plan shall,

(a) where an entity becomes a holder of the plan after the plan is entered into, so notify the specified Minister in prescribed form containing prescribed information on or before the day that is 60 days after the later of

(i) the day on which the issuer is advised of the entity having become a holder of the plan, and

(ii) the day on which the issuer is provided with the new holder's Social Insurance Number or business number, as the case may be;

(b) not amend the plan before having received notification from the Minister that, in the Minister's opinion, a plan whose terms are identical to the amended plan would, if entered into by entities eligible to enter into a disability savings plan, comply with the conditions in subsection (4);

Obligations de l'émetteur

(13) L'émetteur d'un régime enregistré d'épargne-invalidité :

a) dans le cas où une entité devient titulaire du régime après son établissement, en avise le ministre responsable, sur le formulaire prescrit contenant les renseignements prescrits, au plus tard le soixantième jour suivant le dernier en date des jours suivants :

(i) le jour où l'émetteur est avisé du fait que l'entité est devenue titulaire du régime,

(ii) le jour où l'émetteur obtient le numéro d'assurance sociale ou numéro d'entreprise, selon le cas, du nouveau titulaire;

b) ne modifie pas le régime tant que le ministre ne l'a pas informé qu'à son avis tout régime dont les dispositions sont identiques à celles du régime modifié remplirait les conditions énoncées au paragraphe (4) s'il était établi par des entités ayant qualité pour ce faire;

c) dans le cas où il constate que le régime est non conforme ou le deviendra vraisemblablement (cette

(c) where the issuer becomes aware that the plan is, or is likely to become, non-compliant (determined without reference to paragraph (11)(c) and subsection (12)), notify the Minister and the specified Minister of this fact on or before the day that is 30 days after the day on which the issuer becomes so aware;

(d) exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that a holder of the plan may become liable to pay tax under Part XI in connection with the plan; and

(e) if the issuer enters into the plan with a qualifying family member who was a qualifying person in relation to the beneficiary at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of paragraph (c) of the definition ***qualifying person*** in subsection (1),

(i) so notify the beneficiary under the plan without delay in writing and include in the notification information setting out the circumstances in which the holder of the plan may be replaced under subsection (1.5) or (1.6), and

(ii) collect and use any information provided by the holder of the plan that is relevant to the administration and operation of the plan.

Issuer's liability

(14) If, after reasonable inquiry, an issuer of a disability savings plan is of the opinion that an individual's contractual competence to enter into a disability savings plan is in doubt, no action lies against the issuer for entering into a plan, under which the individual is the beneficiary, with a qualifying family member who was a qualifying person in relation to the beneficiary at the time the plan (or another registered disability savings plan of the beneficiary) was entered into solely because of paragraph (c) of the definition ***qualifying person*** in subsection (1).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 115; 2008, c. 28, s. 25; 2010, c. 12, s. 17, c. 25, s. 36; 2011, c. 15, s. 2; 2012, c. 19, s. 6, c. 31, s. 35; 2013, c. 33, s. 16; 2015, c. 36, s. 16.

non-conformité étant déterminée compte non tenu de l'alinéa (11)c) ni du paragraphe (12)), en avise le ministre et le ministre responsable au plus tard le trentième jour suivant cette constatation;

d) agit avec le soin, la diligence et la compétence dont ferait preuve une personne prudente afin de minimiser la possibilité qu'un titulaire du régime devienne redevable d'un impôt prévu par la partie XI relativement au régime;

e) ayant conclu le régime avec un membre de la famille admissible, lequel était le responsable du bénéficiaire du régime au moment de sa conclusion (ou de la conclusion d'un autre régime enregistré d'épargne-invalidité du bénéficiaire) par le seul effet de l'alinéa c) de la définition de ***responsable*** au paragraphe (1) :

(i) d'une part, en informe le bénéficiaire du régime sans délai dans un avis écrit comportant des renseignements concernant les circonstances dans lesquelles le titulaire du régime peut être remplacé aux termes des paragraphes (1.5) ou (1.6),

(ii) d'autre part, recueille et utilise des renseignements fournis par le titulaire du régime qui ont trait à l'administration et au fonctionnement du régime.

Responsabilité de l'émetteur

(14) Si, après enquête raisonnable, l'émetteur d'un régime d'épargne-invalidité est d'avis qu'il y a doute quant à la capacité d'un particulier de contracter un régime d'épargne-invalidité, nulle action ne peut être intentée contre lui pour avoir conclu le régime, dont le particulier est bénéficiaire, avec un membre de la famille admissible qui était le responsable du bénéficiaire au moment de la conclusion du régime (ou d'un autre régime enregistré d'épargne-invalidité du bénéficiaire) par le seul effet de l'alinéa c) de la définition de ***responsable*** au paragraphe (1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 115; 2008, ch. 28, art. 25; 2010, ch. 12, art. 17, ch. 25, art. 36; 2011, ch. 15, art. 2; 2012, ch. 19, art. 6, ch. 31, art. 35; 2013, ch. 33, art. 16; 2015, ch. 36, art. 16.

Deferred Profit Sharing Plans

Definitions

147 (1) In this section,

deferred profit sharing plan means a profit sharing plan accepted by the Minister for registration for the purposes of this Act, on application therefor in prescribed manner by a trustee under the plan and an employer of

Régimes de participation différée aux bénéfices

Définitions

147 (1) Les définitions qui suivent s'appliquent au présent article.

fournisseur de rentes autorisé Personne autorisée par licence ou autrement, en vertu de la législation fédérale

employees who are beneficiaries under the plan, as complying with the requirements of this section; (*régime de participation différée aux bénéfices*)

forfeited amount, under a deferred profit sharing plan or a plan the registration of which has been revoked pursuant to subsection 147(14) or 147(14.1), means an amount to which a beneficiary under the plan has ceased to have any rights, other than the portion thereof, if any, that is payable as a consequence of the death of the beneficiary to a person who is entitled thereto by virtue of the participation of the beneficiary in the plan; (*montant perdu*)

licensed annuities provider means a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business; (*fournisseur de rentes autorisé*)

profit sharing plan means an arrangement under which payments computed by reference to an employer's profits from the employer's business, or by reference to those profits and the profits, if any, from the business of a corporation with which the employer does not deal at arm's length, are or have been made by the employer to a trustee in trust for the benefit of employees or former employees of that employer. (*régime de participation aux bénéfices*)

Participating employer

(1.1) An employer is considered to participate in a profit sharing plan where the employer makes or has made payments under the plan to a trustee in trust for the benefit of employees or former employees of the employer.

Acceptance of plan for registration

(2) The Minister shall not accept for registration for the purposes of this Act any profit sharing plan unless, in the Minister's opinion, it complies with the following conditions:

(a) the plan provides that each payment made under the plan to a trustee in trust for the benefit of beneficiaries thereunder is the total of amounts each of which is required to be allocated by the trustee in the year in which it is received by the trustee, to the individual beneficiary in respect of whom the amount was so paid;

(a.1) the plan includes a stipulation that no contribution may be made to the plan other than

(i) a contribution made in accordance with the terms of the plan by an employer for the benefit of

ou provinciale, à exploiter un commerce de rentes au Canada. (*licensed annuities provider*)

montant perdu Montant auquel le bénéficiaire d'un régime de participation différée aux bénéfices ou d'un régime dont l'agrément a été retiré conformément au paragraphe (14) ou (14.1) cesse d'avoir droit, sauf s'il s'agit de la partie d'un tel montant qui est payable par suite du décès du bénéficiaire à une personne qui y a droit à cause de la participation du bénéficiaire au régime. (*forfeited amount*)

régime de participation aux bénéfices Mécanisme dans le cadre duquel un employeur fait ou a fait à un fiduciaire, au profit de ses employés actuels ou anciens, des versements calculés en fonction des bénéfices de son entreprise ou à la fois de ceux de son entreprise et de ceux de l'entreprise d'une société avec laquelle il a un lien de dépendance. (*profit sharing plan*)

régime de participation différée aux bénéfices Régime de participation aux bénéfices que le ministre a accepté d'agréer pour l'application de la présente loi, sur demande faite conformément aux modalités réglementaires par un fiduciaire du régime et par un employeur d'employés bénéficiaires du régime, comme répondant aux conditions du présent article. (*deferred profit sharing plan*)

Employeur participant

(1.1) L'employeur qui fait ou a fait à un fiduciaire, au profit de ses employés actuels ou anciens, des versements dans le cadre d'un régime de participation aux bénéfices est réputé participer au régime.

Acceptation du régime à l'agrément

(2) Le ministre ne peut accepter un régime de participation aux bénéfices aux fins d'agrément, pour l'application de la présente loi, à moins d'être d'avis que le régime répond aux conditions suivantes :

a) le régime stipule que chaque paiement en fiducie effectué en vertu du régime à un fiduciaire au profit des bénéficiaires du régime est égal au total des sommes dont chacune doit être allouée par le fiduciaire, au cours de l'année où il la reçoit, au bénéficiaire à l'égard de qui la somme a ainsi été versée;

a.1) le régime stipule que seules les cotisations suivantes peuvent être versées au régime :

(i) les cotisations qu'un employeur verse, conformément aux modalités du régime, au profit de ses employés bénéficiaires du régime,

the employer's employees who are beneficiaries under the plan, or

(ii) an amount transferred to the plan in accordance with subsection 147(19);

(b) the plan does not provide for the payment of any amount to an employee or other beneficiary thereunder by way of loan;

(c) the plan provides that no part of the funds of the trust governed by the plan may be invested in notes, bonds, debentures, bankers' acceptances or similar obligations of

(i) an employer by whom payments are made in trust to a trustee under the plan for the benefit of beneficiaries thereunder, or

(ii) a corporation with which that employer does not deal at arm's length;

(d) the plan provides that no part of the funds of the trust governed by the plan may be invested in shares of a corporation at least 50% of the property of which consists of notes, bonds, debentures, bankers' acceptances or similar obligations of an employer or a corporation described in paragraph 147(2)(c);

(e) the plan includes a provision stipulating that no right of a person under the plan is capable of any surrender or assignment other than

(i) an assignment under a decree, an order or a judgment of a competent tribunal, or under a written agreement, that relates to a division of property between an individual and the individual's spouse or common-law partner, or former spouse or common-law partner, in settlement of rights that arise out of, or on a breakdown of, their marriage or common-law partnership,

(ii) an assignment by a deceased individual's legal representative on the distribution of the individual's estate, and

(iii) a surrender of benefits to avoid revocation of the plan's registration;

(f) the plan includes a provision stipulating that each of the trustees under the plan shall be resident in Canada;

(g) the plan provides that, if a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee is not a trustee

(ii) les montants transférés au régime selon le paragraphe (19);

b) le régime ne prévoit pas le paiement d'une somme quelconque à un employé ou autre bénéficiaire de ce régime, sous forme de prêt;

c) le régime prévoit qu'aucune partie des fonds de la fiducie régie par le régime ne peut être placée en billets, obligations, acceptations de banque ou autres titres semblables :

(i) d'un employeur par lequel les paiements sont effectués en fiducie à un fiduciaire en vertu du régime au profit des bénéficiaires,

(ii) d'une société avec laquelle cet employeur a un lien de dépendance;

d) le régime prévoit qu'aucune partie des fonds de la fiducie régie par le régime ne peut être placée en actions d'une société dont au moins 50 % des biens consistent en billets, obligations, acceptations de banque ou titres semblables de quelque employeur ou société visés à l'alinéa c);

e) le régime comporte une disposition portant que le droit d'une personne prévu au régime ne peut faire l'objet de renonciation ou de cession, sauf s'il s'agit :

(i) d'une cession effectuée en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent ou en vertu d'un accord écrit, visant à partager des biens entre un particulier et son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait, en règlement des droits découlant du mariage ou de l'union de fait ou de son échec,

(ii) d'une cession effectuée par le représentant légal d'un particulier décédé, à l'occasion du règlement de la succession du particulier,

(iii) d'une renonciation de prestations, en vue d'éviter le retrait de l'agrément du régime;

f) le régime comporte une disposition portant que chacun des fiduciaires doit être un résident du Canada;

g) le régime prévoit que, si une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir ses services au public en tant que fiduciaire n'est pas un fiduciaire en vertu du régime, au moins 3 des fiduciaires nommés en vertu du régime doivent être des particuliers;

under the plan, there shall be at least 3 trustees under the plan who shall be individuals;

(h) the plan provides that all income received, capital gains made and capital losses sustained by the trust governed by the plan must be allocated to beneficiaries under the plan on or before a day 90 days after the end of the year in which they were received, made or sustained, as the case may be, to the extent that they have not been allocated in years preceding that year;

(i) the plan provides that each amount allocated or reallocated by a trustee under the plan to a beneficiary under the plan vests irrevocably in that beneficiary,

(i) in the case of an amount allocated or reallocated before 1991, at a time that is not later than 5 years after the end of the year in which it was allocated or reallocated, unless the beneficiary becomes, before that time, an individual who is not an employee of any employer who participates in the plan, and

(ii) in the case of any other amount, not later than the later of the time of allocation or reallocation and the day on which the beneficiary completes a period of 24 consecutive months as a beneficiary under the plan or under any other deferred profit sharing plan for which the plan can reasonably be considered to have been substituted;

(i.1) the plan requires that each forfeited amount under the plan and all earnings of the plan reasonably attributable thereto be paid to employers who participate in the plan, or be reallocated to beneficiaries under the plan, on or before the later of December 31, 1991 and December 31 of the year immediately following the calendar year in which the amount is forfeited, or such later time as is permitted in writing by the Minister under subsection 147(2.2);

(j) the plan provides that a trustee under the plan inform, in writing, all new beneficiaries under the plan of their rights under the plan;

(k) the plan provides that, in respect of each beneficiary under the plan who has been employed by an employer who participates in the plan, all amounts vested under the plan in the beneficiary become payable

(i) to the beneficiary, or

(ii) in the event of the beneficiary's death, to another person designated by the beneficiary or to the beneficiary's estate,

not later than the earlier of

h) le régime prévoit que tous les revenus reçus, les gains en capital réalisés et les pertes en capital subies par la fiducie régie par le régime doivent obligatoirement être alloués aux bénéficiaires en vertu du régime au plus tard le 90e jour après la fin de l'année où ces gains ont été reçus ou réalisés ou ces pertes ont été subies, selon le cas, dans la mesure où ils n'ont pas été alloués au cours des années précédant cette année;

i) le régime prévoit que chaque montant qu'un fiduciaire attribue ou attribue de nouveau à un bénéficiaire du régime est acquis irrévocablement à ce dernier aux moments suivants :

(i) dans le cas où le montant est attribué ou attribué de nouveau avant 1991, au plus tard cinq ans suivant la fin de l'année où il est ainsi attribué ou attribué de nouveau, sauf si le bénéficiaire n'est plus, à ce moment, l'employé d'aucun employeur qui participe au régime,

(ii) dans les autres cas, au plus tard au dernier en date du jour où il est attribué ou attribué de nouveau ou du jour où le bénéficiaire complète une période de 24 mois consécutifs à titre de bénéficiaire du régime ou d'un autre régime de participation différée aux bénéfices qu'il est raisonnable de considérer comme ayant été remplacé par le régime;

i.1) le régime exige que chaque montant perdu dans le cadre du régime ainsi que tous les revenus du régime qu'il est raisonnable d'y attribuer soient versés aux employeurs qui participent au régime ou bien attribués de nouveau aux bénéficiaires du régime, au plus tard au dernier en date du 31 décembre 1991 et du 31 décembre de l'année suivant l'année civile au cours de laquelle le montant est perdu ou bien dans le délai ultérieur que le ministre accorde par écrit en application du paragraphe (2.2);

j) le régime prévoit qu'un fiduciaire du régime informe par écrit tous les nouveaux bénéficiaires du régime de leurs droits en vertu de celui-ci;

k) le régime prévoit que, pour chaque bénéficiaire au service d'un employeur participant, toutes les sommes dévolues au bénéficiaire dans le cadre du régime deviennent payables à celui-ci ou, dans l'éventualité de son décès, à autre personne qu'il a désigné ou à sa succession, au plus tard au premier en date des moments suivants :

(i) la fin de l'année dans laquelle le bénéficiaire atteint 71 ans,

(iii) the end of the year in which the beneficiary attains 71 years of age, and

(iv) 90 days after the earliest of

(A) the death of the beneficiary,

(B) the day on which the beneficiary ceases to be employed by an employer who participates in the plan where, at the time of ceasing to be so employed, the beneficiary is not employed by another employer who participates in the plan, and

(C) the termination or winding-up of the plan,

except that the plan may provide that, on election by the beneficiary, all or any part of the amounts payable to the beneficiary may be paid

(v) in equal instalments payable not less frequently than annually over a period not exceeding 10 years from the day on which the amount became payable, or

(vi) by a trustee under the plan to a licensed annuities provider to purchase for the beneficiary an annuity where

(A) payment of the annuity is to begin not later than the end of the year in which the beneficiary attains 71 years of age, and

(B) the guaranteed term, if any, of the annuity does not exceed 15 years;

(k.1) the plan requires that no benefit or loan, other than

(i) a benefit the amount of which is required to be included in computing the beneficiary's income,

(ii) an amount referred to in paragraph 147(10)(b),

(ii.1) an amount paid pursuant to or under the plan by a trustee under the plan to a licensed annuities provider to purchase for a beneficiary under the plan an annuity to which subparagraph 147(2)(k)(vi) applies,

(iii) a benefit derived from an allocation or reallocation referred to in subsection 147(2), or

(iv) the benefit derived from the provision of administrative or investment services in respect of the plan,

that is conditional in any way on the existence of the plan may be extended to a beneficiary thereunder or

(ii) 90 jours après le premier en date des jours suivant :

(A) le jour du décès du bénéficiaire,

(B) le jour où le bénéficiaire cesse d'être au service d'un employeur participant au régime si, au moment de la cessation, le bénéficiaire n'est pas l'employé d'un autre semblable employeur,

(C) le jour où le régime prend fin ou est liquidé;

toutefois le régime peut stipuler que, au choix du bénéficiaire, la totalité ou une partie des sommes qui lui sont payables peuvent être payées :

(iii) en versement égaux payables à intervalles ne dépassant pas un an sur une période ne dépassant pas 10 ans à compter du jour où la somme devient payable,

(iv) par un fiduciaire du régime à un fournisseur de rentes autorisé, pour acheter au bénéficiaire une rente :

(A) dont le service doit commencer au plus tard à la fin de l'année dans laquelle le bénéficiaire atteint 71 ans,

(B) dont l'éventuelle période de garantie ne dépasse pas 15 ans;

k.1) le régime exige qu'aucun avantage ou prêt qui dépend de quelque façon de l'existence du régime ne puisse être accordé à un bénéficiaire en vertu du régime ou à une personne avec laquelle il a un lien de dépendance, sauf s'il s'agit :

(i) d'un avantage dont le montant doit être inclus dans le calcul du revenu du bénéficiaire,

(ii) d'un montant visé à l'alinéa (10)b),

(ii.1) d'un montant payé dans le cadre du régime par un fiduciaire du régime à un fournisseur de rentes autorisé, pour acheter au bénéficiaire une rente à laquelle s'applique le sous-alinéa k)(iv),

(iii) d'un avantage découlant d'une allocation ou nouvelle allocation visée au paragraphe (2),

(iv) d'un avantage découlant de la prestation de services sur le plan de l'administration ou des placements à l'égard du régime;

to a person with whom the beneficiary was not dealing at arm's length;

(k.2) the plan provides that no individual who is

(i) a person related to the employer,

(ii) a person who is, or is related to, a specified shareholder of the employer or of a corporation related to the employer,

(iii) where the employer is a partnership, a person related to a member of the partnership, or

(iv) where the employer is a trust, a person who is, or is related to, a beneficiary under the trust

may become a beneficiary under the plan; and

(l) the plan, in all other respects, complies with regulations of the Governor in Council made on the recommendation of the Minister of Finance.

k.2) le régime prévoit qu'aucun particulier qui est l'une des personnes suivantes ne puisse devenir un bénéficiaire du régime :

(i) une personne liée à l'employeur,

(ii) une personne qui est un actionnaire déterminé de l'employeur ou d'une société liée à l'employeur, ou une personne liée à cet actionnaire déterminé,

(iii) dans le cas où l'employeur est une société de personnes, une personne liée à un associé de la société de personnes,

(iv) dans le cas où l'employeur est une fiducie, une personne qui est un bénéficiaire de la fiducie ou une personne liée à celui-ci;

l) le régime, à tous autres égards, se conforme aux dispositions réglementaires prises par le gouverneur en conseil sur recommandation du ministre des Finances.

Terms limiting contributions

(2.1) The Minister shall not accept for registration for the purposes of this Act a profit sharing plan unless it includes terms that are adequate to ensure that the requirements of subsection 147(5.1) in respect of the plan will be satisfied for each calendar year.

Modalités limitant les cotisations

(2.1) Le ministre ne peut accepter d'agréer un régime de participation aux bénéfices dans le cadre de la présente loi que si celui-ci prévoit des modalités de nature à veiller à ce que les exigences du paragraphe (5.1) soient remplies pour chaque année civile.

Reallocation of forfeitures

(2.2) The Minister may, on written application, extend the time for satisfying the requirements of paragraph 147(2)(i.1) where

(a) the total of the forfeited amounts arising in a calendar year is greater than normal because of unusual circumstances; and

(b) the forfeited amounts are to be reallocated on a reasonable basis to a majority of beneficiaries under the plan.

Prolongation du délai d'attribution

(2.2) Le ministre peut, sur demande écrite, prolonger le délai prévu à l'alinéa (2)i.1) si les conditions suivantes sont réunies :

a) le total des montants perdus au cours d'une année civile est plus élevé que la normale en raison de circonstances inhabituelles;

b) ces montants sont attribués de nouveau, de manière équitable, à la majorité des bénéficiaires du régime.

Acceptance of employees profit sharing plan for registration

(3) The Minister shall not accept for registration for the purposes of this Act any employees profit sharing plan unless all the capital gains of or made by the trust governed by the plan before the date of application for registration of the plan and all the capital losses of or sustained by the trust before that date have been allocated by the trustee under the plan to employees and other beneficiaries thereunder.

Acceptation d'un régime de participation des employés aux bénéfices, aux fins d'agrément

(3) Le ministre ne peut accepter aux fins d'agrément, pour l'application de la présente loi, un régime de participation des employés aux bénéfices à moins que tous les gains en capital de la fiducie ou réalisés par la fiducie régie par le régime, avant la date de la demande d'agrément durégime, et que toutes les pertes en capital de la fiducie ou subies par la fiducie avant cette date n'aient été alloués par le fiduciaire du régime aux employés et aux autres bénéficiaires.

Capital gains determined

(4) For the purposes of subsections 147(3) and 147(11), such amount as may be determined by the Minister, on request in prescribed manner by the trustee of a trust governed by an employees profit sharing plan, shall be deemed to be the amount of

(a) the capital gains of or made by the trust governed by the plan before the date of application for registration of the plan, or

(b) the capital losses of or sustained by the trust before that date,

as the case may be.

Registration date

(5) Where a profit sharing plan is accepted by the Minister for registration as a deferred profit sharing plan, the plan shall be deemed to have become registered as a deferred profit sharing plan

(a) on the date the application for registration of the plan was made; or

(b) where in the application for registration a later date is specified as the date on which the plan is to commence as a deferred profit sharing plan, on that date.

Contribution limits

(5.1) For the purposes of subsections 147(2.1) and 147(9) and paragraph 147(14)(c.4), the requirements of this subsection in respect of a deferred profit sharing plan are satisfied for a calendar year if, in the case of each beneficiary under the plan and each employer in respect of whom the beneficiary's pension credit (as prescribed by regulation) for the year under the plan is greater than nil,

(a) the total of all amounts each of which is the beneficiary's pension credit (as prescribed by regulation) for the year in respect of the employer under a deferred profit sharing plan does not exceed the lesser of

(i) 1/2 of the money purchase limit for the year, and

(ii) 18% of the amount that would be the beneficiary's compensation (within the meaning assigned by subsection 147.1(1)) from the employer for the year if the definition ***compensation*** in subsection 147.1(1) were read without reference to paragraph (b) of that definition;

(b) the total of all amounts each of which is the beneficiary's pension credit (as prescribed by regulation)

Détermination des gains en capital

(4) Pour l'application des paragraphes (3) et (11), le montant que peut déterminer le ministre, à la demande du fiduciaire d'une fiducie régie par un régime de participation des employés aux bénéfices, faite selon les modalités réglementaires, est réputé être le montant, selon le cas :

a) des gains en capital de la fiducie ou réalisés par la fiducie régie par le régime avant la date de la demande d'agrément du régime;

b) des pertes en capital de la fiducie ou subies par la fiducie avant cette date.

Date d'agrément

(5) Lorsqu'un régime de participation aux bénéfices est accepté par le ministre aux fins d'agrément à titre de régime de participation différée aux bénéfices, le régime est réputé avoir été agréé à ce titre :

a) à la date de la présentation de la demande d'agrément du régime;

b) lorsque la demande d'agrément indique une date postérieure comme date à laquelle le régime doit devenir un régime de participation différée aux bénéfices, à cette dernière date.

Plafond de cotisation

(5.1) Pour l'application des paragraphes (2.1) et (9) et de l'alinéa (14)c.4), un régime de participation différée aux bénéfices remplit les exigences du présent paragraphe pour une année civile si, pour chaque bénéficiaire du régime et pour chaque employeur quant auquel le crédit de pension réglementaire du bénéficiaire pour l'année dans le cadre du régime est supérieur à zéro, les conditions suivantes sont réunies :

a) le total des crédits de pension réglementaires du bénéficiaire pour l'année quant à l'employeur dans le cadre d'un tel régime ne dépasse pas le moins élevé des montants suivants :

(i) la moitié du plafond des cotisations déterminées pour l'année,

(ii) 18 % du montant qui correspondrait à la rétribution, au sens du paragraphe 147.1(1), que le bénéficiaire reçoit de l'employeur pour l'année compte non tenu de l'alinéa b) de la définition de ***rétribution*** à ce paragraphe;

b) le total des crédits de pension réglementaires du bénéficiaire pour l'année dans le cadre d'un tel régime

for the year under a deferred profit sharing plan in respect of

(i) the employer, or

(ii) any other employer who, at any time in the year, does not deal at arm's length with the employer

does not exceed 1/2 of the money purchase limit for the year; and

(c) the total of

(i) the beneficiary's pension adjustment for the year in respect of the employer, and

(ii) the total of all amounts each of which is the beneficiary's pension adjustment for the year in respect of any other employer who, at any time in the year, does not deal at arm's length with the employer

does not exceed the lesser of

(iii) the money purchase limit for the year, and

(iv) 18% of the total of all amounts each of which is the beneficiary's compensation (within the meaning assigned by subsection 147.1(1)) for the year from the employer or any other employer referred to in subparagraph 147(5.1)(c)(ii).

quant à l'employeur ou quant à un autre employeur qui, à un moment donné de l'année, a un lien de dépendance avec l'employeur ne dépasse pas la moitié du plafond des cotisations déterminées pour l'année;

c) le total du facteur d'équivalence du bénéficiaire pour l'année quant à l'employeur et du total des montants dont chacun représente le facteur d'équivalence du bénéficiaire pour l'année quant à tout autre employeur qui, à un moment donné de l'année, a un lien de dépendance avec l'employeur ne dépasse pas le moins élevé des montants suivants :

(i) le plafond des cotisations déterminées pour l'année,

(ii) 18 % du total des montants dont chacun représente la rétribution, au sens du paragraphe 147.1(1), que le bénéficiaire reçoit pour l'année de l'employeur ou de tout autre employeur qui, à un moment donné de l'année, a un lien de dépendance avec l'employeur.

(5.11) [Repealed, 2013, c. 34, s. 301]

(5.11) [Abrogé, 2013, ch. 34, art. 301]

Deferred plan not employees profit sharing plan

(6) For a period during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan.

Un régime de participation différée n'est pas un régime de participation d'employés aux bénéfices

(6) Pour la période durant laquelle un régime est un régime de participation différée aux bénéfices, il est réputé, pour l'application de la présente loi, ne pas être un régime de participation des employés aux bénéfices.

No tax while trust governed by plan

(7) No tax is payable under this Part by a trust on the taxable income of the trust for a period during which the trust was governed by a deferred profit sharing plan.

Aucun impôt quand la fiducie est régie par le régime

(7) Aucun impôt n'est payable en vertu de la présente partie par une fiducie sur son revenu imposable aussi longtemps qu'elle a été régie par un régime de participation différée aux bénéfices.

Amount of employer's contribution deductible

(8) Subject to subsection 147(9), there may be deducted in computing the income of an employer for a taxation year the total of all amounts each of which is an amount paid by the employer in the year or within 120 days after the end of the year to a trustee under a deferred profit sharing plan for the benefit of the employer's employees who are beneficiaries under the plan, to the extent that

Déduction des cotisations patronales

(8) Sous réserve du paragraphe (9), un employeur peut déduire dans le calcul de son revenu pour une année d'imposition le total des montants dont chacun représente un montant qu'il verse, au cours de l'année ou dans les 120 jours suivant la fin de l'année, au fiduciaire d'un régime de participation différée aux bénéfices, au profit de ses employés bénéficiaires du régime, dans la mesure

the amount was paid in accordance with the terms of the plan and was not deducted in computing the employer's income for a preceding taxation year.

Limitation on deduction

(9) Where the requirements of subsection 147(5.1) in respect of a deferred profit sharing plan are not satisfied for a calendar year by reason that the pension credits of a beneficiary under the plan in respect of a particular employer do not comply with paragraph 147(5.1)(a) or the beneficiary's pension credits or pension adjustments in respect of a particular employer and other employers who do not deal at arm's length with the particular employer do not comply with paragraph 147(5.1)(b) or 147(5.1)(c), the particular employer is not entitled to a deduction under subsection 147(8) in computing the particular employer's income for any taxation year in respect of an amount paid to a trustee under the plan in the calendar year except to the extent expressly permitted in writing by the Minister, and, for the purposes of this subsection, an amount paid to a trustee of a deferred profit sharing plan in the first two months of a calendar year shall be deemed to have been paid in the immediately preceding year and not to have been paid in the year to the extent that the amount can reasonably be considered to be in respect of the immediately preceding year.

No deduction

(9.1) Notwithstanding subsection 147(8), no deduction shall be made in computing the income of an employer for a taxation year in respect of an amount paid by the employer for the year to a trustee under a deferred profit sharing plan in respect of a beneficiary who is described in paragraph 147(2)(k.2) in respect of the plan.

Amounts received taxable

(10) There shall be included in computing the income of a beneficiary under a deferred profit sharing plan for a taxation year the amount, if any, by which

(a) the total of all amounts received by the beneficiary in the year from a trustee under the plan (other than as a result of acquiring an annuity described in subparagraph 147(2)(k)(vi) under which the beneficiary is the annuitant)

exceeds

(b) the total of all amounts each of which is an amount determined for the year under subsection 147(10.1), 147(11) or 147(12) in relation to the plan and in respect of the beneficiary.

où ce montant est versé conformément aux modalités du régime et n'est pas déduit dans le calcul de son revenu pour une année d'imposition antérieure.

Limite de la déduction

(9) Dans le cas où les exigences du paragraphe (5.1) visant un régime de participation différée aux bénéfices ne sont pas remplies pour une année civile du fait que les crédits de pension d'un bénéficiaire dans le cadre du régime quant à un employeur donné ne sont pas conformes à l'alinéa (5.1)a) ou que les crédits de pension ou les facteurs d'équivalence du bénéficiaire quant à un employeur donné et d'autres employeurs qui ont un lien de dépendance avec celui-ci ne sont pas conformes à l'alinéa (5.1)b) ou c), l'employeur donné n'a droit à la déduction prévue au paragraphe (8) dans le calcul de son revenu pour une année d'imposition au titre d'un montant versé au fiduciaire du régime au cours de l'année civile que dans la mesure que le ministre permet expressément par écrit. Pour l'application du présent paragraphe, le montant versé au fiduciaire d'un régime de participation différée aux bénéfices au cours des deux premiers mois d'une année civile est réputé versé au cours de l'année précédente, dans la mesure où il est raisonnable de considérer qu'il se rapporte à cette année.

Aucune déduction

(9.1) Malgré le paragraphe (8), aucune déduction n'est faite dans le calcul du revenu d'un employeur pour une année d'imposition à l'égard d'une somme qu'il a versée pour l'année à un fiduciaire en vertu d'un régime de participation différée aux bénéfices à l'égard d'un bénéficiaire qui est visé à l'alinéa (2)k.2) à l'égard du régime.

Imposition des sommes reçues

(10) Est à inclure dans le calcul du revenu du bénéficiaire d'un régime de participation différée aux bénéfices pour une année d'imposition l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des sommes que le bénéficiaire a reçues au cours de l'année d'un fiduciaire du régime (autrement que par suite de l'acquisition d'une rente visée au sous-alinéa (2)k)(iv) dont le bénéficiaire est rentier);

b) le total des sommes représentant chacune une somme déterminée pour l'année selon les paragraphes (10.1), (11) ou (12) relativement au régime et à l'égard du bénéficiaire.

Single payment on retirement, etc.

(10.1) For the purposes of subsections 147(10) and 147(10.2), where a beneficiary under a deferred profit sharing plan has received, in a taxation year and when the beneficiary was resident in Canada, from a trustee under the plan a single payment that included shares of the capital stock of a corporation that was an employer who contributed to the plan or of a corporation with which the employer did not deal at arm's length on the beneficiary's withdrawal from the plan or retirement from employment or on the death of an employee or former employee and has made an election in respect thereof in prescribed manner and prescribed form, the amount determined for the year under this subsection in relation to the plan and in respect of the beneficiary is the amount, if any, by which the fair market value of those shares, immediately before the single payment was made, exceeds the cost amount to the plan of those shares at that time.

Idem

(10.2) Where a trustee under a deferred profit sharing plan has at any time in a taxation year made under the plan a single payment that included shares referred to in subsection 147(10.1) to a beneficiary who was resident in Canada at the time and the beneficiary has made an election under that subsection in respect of that payment,

(a) the trustee shall be deemed to have disposed of those shares for proceeds of disposition equal to the cost amount to the trust of those shares immediately before the single payment was made;

(b) the cost to the beneficiary of those shares shall be deemed to be their cost amount to the trust immediately before the single payment was made;

(c) the cost to the beneficiary of each of those shares shall be deemed to be the amount determined by the formula

A × B/C

where

A is the amount determined under paragraph 147(10.2)(a) in respect of all of those shares,

B is the fair market value of that share at the time the single payment was made, and

C is the fair market value of all those shares at the time the single payment was made; and

(d) for the purposes of paragraph 60(j), the cost to the beneficiary of those shares is an eligible amount in respect of the beneficiary for the year.

Paiement unique en cas de retrait, retraite ou décès

(10.1) Pour l'application des paragraphes (10) et (10.2), le bénéficiaire d'un régime de participation différée aux bénéfices qui, au cours d'une année d'imposition et alors qu'il réside au Canada, reçoit d'un fiduciaire du régime un paiement unique qui comprend des actions du capital-actions d'une société qui est un employeur qui cotise au régime ou d'une société avec laquelle celle-ci a un lien de dépendance, à l'occasion de son retrait du régime, de son départ à la retraite ou du décès d'un employé ou d'un ancien employé, peut faire un choix en ce qui concerne ce paiement, selon les modalités et le formulaire réglementaires, pour que la somme déterminée pour l'année en vertu du présent paragraphe relativement au régime et à l'égard du bénéficiaire soit égale à l'excédent éventuel de la juste valeur marchande de ces actions immédiatement avant que le paiement unique soit fait sur le coût indiqué de ces actions pour le régime à ce moment.

Idem

(10.2) Lorsque, à un moment donné d'une année d'imposition, un fiduciaire d'un régime de participation différée aux bénéfices fait, dans le cadre du régime, un paiement unique qui comprend des actions visées au paragraphe (10.1) à un bénéficiaire qui réside au Canada à ce moment et que le bénéficiaire fait le choix prévu à ce paragraphe en ce qui concerne ce paiement :

a) le fiduciaire est réputé disposer de ces actions pour un produit de disposition égal à leur coût indiqué pour la fiducie immédiatement avant que le paiement unique soit fait;

b) le coût de ces actions pour le bénéficiaire est réputé correspondre à leur coût indiqué pour la fiducie immédiatement avant que le paiement unique soit fait;

c) le coût de chacune de ces actions pour le bénéficiaire est réputé correspondre au montant calculé selon la formule suivante :

A × B/C

où :

A représente le montant calculé selon l'alinéa a) pour ces actions,

B la juste valeur marchande de chacune de ces actions au moment du paiement unique,

C la juste valeur marchande de toutes ces actions au moment du paiement unique;

d) pour l'application de l'alinéa 60j), le coût de ces actions pour le bénéficiaire est un montant admissible pour lui pour l'année.

Amount contributed to or forfeited under a plan

(10.3) There shall be included in computing the income for a taxation year of a beneficiary described in paragraph 147(2)(k.2) the total of amounts allocated or reallocated to the beneficiary in the year in respect of

(a) any amount contributed after December 1, 1982 by an employer to, or

(b) any forfeited amount under

a deferred profit sharing plan or a plan the registration of which has been revoked pursuant to subsection 147(14) or 147(14.1).

Income on disposal of shares

(10.4) Where a taxpayer has a share in respect of which the taxpayer has made an election under subsection 147(10.1), there shall be included in computing the taxpayer's income for the taxation year in which the taxpayer disposed of or exchanged the share or ceased to be a resident of Canada, whichever is the earlier, the amount, if any, by which the fair market value of the share at the time the taxpayer acquired it exceeds the cost to the taxpayer, determined under paragraph (10.2)(c), of the share at the time the taxpayer acquired it.

Amended contract

(10.5) Where an amendment is made to an annuity contract to which subparagraph (2)(k)(vi) applies, the sole effect of which is to defer annuity commencement to no later than the end of the calendar year in which the individual in respect of whom the contract was purchased attains 71 years of age, the annuity contract is deemed not to have been disposed of by the individual.

(10.6) [Repealed, 2007, c. 29, s. 20]

Portion of receipts deductible

(11) For the purposes of subsections 147(10), 147(10.1) and 147(12), where an amount was received in a taxation year from a trustee under a deferred profit sharing plan by an employee or other beneficiary thereunder, and the employee was a beneficiary under the plan at a time when the plan was an employees profit sharing plan, the amount determined for the year under this subsection in relation to the plan and in respect of the beneficiary is such portion of the total of the amounts so received in the year as does not exceed

(a) the total of

(i) each amount included in respect of the plan in computing the income of the employee for the year

Inclusion des cotisations ou montants perdus

(10.3) Le bénéficiaire visé à l'alinéa (2)k.2) doit inclure dans le calcul de son revenu pour une année d'imposition le total des montants qui lui sont attribués ou attribués de nouveau au cours de l'année soit au titre de cotisations qu'un employeur a versées après le 1er décembre 1982 à un régime de participation différée aux bénéfices ou à un régime dont l'agrément a été retiré conformément au paragraphe (14) ou (14.1), soit au titre de montants perdus dans le cadre de tels régimes.

Revenu à la disposition d'actions

(10.4) Le contribuable qui a une action pour laquelle il a fait le choix prévu au paragraphe (10.1) doit inclure dans le calcul de son revenu, pour l'année d'imposition où, en premier, il dispose de cette action, l'échange ou cesse de résider au Canada, l'excédent éventuel de la juste valeur marchande de cette action au moment où il l'a acquise sur le coût de cette action pour lui à ce moment, calculé selon l'alinéa (10.2)c).

Contrat modifié

(10.5) Dans le cas où un contrat de rente auquel s'applique le sous-alinéa (2)k)(iv) est modifié dans le seul but de différer le début du service de la rente au plus tard jusqu'à la fin de l'année civile dans laquelle le particulier à l'égard duquel le contrat a été acheté atteint 71 ans, le particulier est réputé ne pas avoir disposé du contrat.

(10.6) [Abrogé, 2007, ch. 29, art. 20]

Fraction déductible des recettes

(11) Pour l'application des paragraphes (10), (10.1) et (12), lorsqu'une somme a été reçue, au cours d'une année d'imposition, d'un fiduciaire en vertu d'un régime de participation différée aux bénéfices par un employé ou autre bénéficiaire, et que l'employé était un bénéficiaire en vertu du régime à un moment où celui-ci était un régime de participation des employés aux bénéfices, la somme déterminée pour l'année, en vertu du présent paragraphe, relativement au régime et à l'égard du bénéficiaire, est la fraction du total des sommes ainsi reçues au cours de l'année qui ne dépasse pas :

a) le total des sommes suivantes :

(i) les sommes incluses à l'égard du régime dans le calcul du revenu de l'employé pour l'année ou pour

or for a previous taxation year by virtue of section 144,

(ii) each amount paid by the employee to a trustee under the plan at a time when it was an employees profit sharing plan, and

(iii) each amount that was allocated to the employee or other beneficiary by a trustee under the plan, at a time when it was an employees profit sharing plan, in respect of a capital gain made by the trust before 1972,

minus

(b) the total of

(i) each amount received by the employee or other beneficiary in a previous taxation year from a trustee under the plan at a time when it was an employees profit sharing plan,

(ii) each amount received by the employee or other beneficiary in a previous taxation year from a trustee under the plan at a time when it was a deferred profit sharing plan, and

(iii) each amount allocated to the employee or other beneficiary by a trustee under the plan, at a time when it was an employees profit sharing plan, in respect of a capital loss sustained by the trust before 1972.

une année d'imposition antérieure, en vertu de l'article 144,

(ii) les sommes versées par l'employé à un fiduciaire en vertu du régime à un moment où celui-ci était un régime de participation d'employés aux bénéfices,

(iii) les sommes qui ont été attribuées à l'employé ou à un autre bénéficiaire par le fiduciaire en vertu du régime, à un moment où celui-ci était un régime de participation d'employés aux bénéfices, relativement à un gain en capital réalisé par la fiducie avant 1972,

moins :

b) le total des sommes suivantes :

(i) les sommes reçues, par l'employé ou un autre bénéficiaire au cours d'une année d'imposition antérieure, d'un fiduciaire en vertu du régime, à un moment où celui-ci était un régime de participation d'employés aux bénéfices,

(ii) les sommes reçues, par l'employé ou un autre bénéficiaire au cours d'une année d'imposition antérieure, d'un fiduciaire en vertu du régime, à un moment où celui-ci était un régime de participation différée aux bénéfices,

(iii) les sommes attribuées à l'employé ou à un autre bénéficiaire par le fiduciaire en vertu du régime, à un moment où celui-ci était un régime de participation d'employés aux bénéfices, relativement à une perte en capital subie par la fiducie avant 1972.

Idem

(12) For the purposes of subsections 147(10) and 147(10.1), where an amount was received in a taxation year from a trustee under a deferred profit sharing plan by an employee or other beneficiary thereunder, and the employee has made a payment in the year or a previous year to a trustee under the plan at a time when the plan was a deferred profit sharing plan, the amount determined for the year under this subsection in relation to the plan and in respect of the beneficiary is such portion of the total of the amounts so received in the year (minus any amount determined for the year under subsection 147(11) in relation to the plan and in respect of the beneficiary) as does not exceed

(a) the total of all amounts each of which was so paid by the employee in the year or a previous year to the extent that the payment was not deductible in computing the employee's income,

Idem

(12) Pour l'application des paragraphes (10) et (10.1), lorsqu'une somme a été reçue, au cours d'une année d'imposition, d'un fiduciaire en vertu d'un régime de participation différée aux bénéfices par un employé ou un autre bénéficiaire et que l'employé a effectué un versement au cours de l'année ou d'une année antérieure à un fiduciaire en vertu du régime à un moment où celui-ci était un régime de participation différée aux bénéfices, la somme déterminée pour l'année, en vertu du présent paragraphe, relativement au régime et à l'égard du bénéficiaire, est la fraction du total des sommes ainsi reçues au cours de l'année (moins toute somme déterminée pour l'année, en vertu du paragraphe (11), relativement au régime et à l'égard du bénéficiaire) qui ne dépasse pas la différence obtenue lorsque le total visé à l'alinéa b) est soustrait du total visé à l'alinéa a):

minus

(b) the total of all amounts each of which was received by the employee or other beneficiary from a trustee under the plan, at a time when it was a deferred profit sharing plan, to the extent that it was included in the computation of an amount determined for a previous year under this subsection in relation to the plan and in respect of the employee or other beneficiary.

a) le total des sommes dont chacune a été ainsi payée par l'employé au cours de l'année ou d'une année antérieure, dans la mesure où le paiement n'était pas déductible dans le calcul du revenu de l'employé;

b) le total des sommes dont chacune a été reçue par l'employé ou un autre bénéficiaire d'un fiduciaire en vertu du régime, à un moment où celui-ci était un régime de participation différée aux bénéfices, dans la mesure où elle a été incluse dans le calcul d'une somme déterminée pour une année antérieure, en vertu du présent paragraphe, relativement au régime et à l'égard de l'employé ou autre bénéficiaire.

Appropriation of trust property by employer

(13) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatever to or for the benefit of a taxpayer who is

(a) an employer by whom payments are made in trust to a trustee under the plan, or

(b) a corporation with which that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of the taxpayer purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the taxpayer for the taxation year of the taxpayer in which the funds or property were so appropriated, unless the funds or property or an amount in lieu thereof equal to the amount or value of the funds or property was repaid to the trust within one year from the end of the taxation year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments.

Attribution par l'employeur des biens de la fiducie

(13) Lorsque les fonds ou biens d'une fiducie régie par un régime de participation différée aux bénéfices ont été attribués de quelque façon que ce soit à un contribuable, ou à son profit, et que le contribuable est :

a) un employeur qui fait des paiements en fiducie à un fiduciaire en vertu du régime;

b) une société avec laquelle cet employeur a un lien de dépendance,

autrement qu'en paiement ou au titre d'actions du capital-actions du contribuable achetées par la fiducie, le montant ou la valeur des fonds ou biens ainsi attribués doit être incluse dans le calcul du revenu du contribuable pour l'année d'imposition du contribuable au cours de laquelle les fonds ou les biens ont été ainsi attribués, à moins que ces fonds ou biens, ou une somme en remplacement de ceux-ci égale au montant ou à la valeur de ces fonds ou biens, n'aient été remboursés à la fiducie au cours de l'année qui suit l'année d'imposition et qu'il ne soit établi, par des événements postérieurs ou autrement, que le remboursement ne faisait pas partie d'une série d'attributions et de remboursements.

Revocation of registration

(14) Where, at any time after a profit sharing plan has been accepted by the Minister for registration for the purposes of this Act,

(a) the plan has been revised or amended or a new plan has been substituted therefor, and the plan as revised or amended or the new plan substituted therefor, as the case may be, ceased to comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act,

(b) any provision of the plan has not been complied with,

Retrait d'agrément

(14) Lorsque, à un moment donné après l'acception par le ministre d'un régime de participation aux bénéfices aux fins d'agrément pour l'application de la présente loi :

a) le régime a été révisé ou modifié ou un nouveau régime y a été substitué, et le régime ainsi révisé ou modifié ou le nouveau régime qui y a été substitué, selon le cas, a cessé de répondre aux conditions prévues au présent article en vue de son acceptation par le ministre;

b) une disposition du régime n'a pas été observée;

c) le régime en est un qui, au 1er janvier 1968:

(c) the plan is a plan that did not, as of January 1, 1968,

(i) comply with the requirements of paragraphs 147(2)(a), 147(2)(b) to 147(2)(h), 147(2)(j) and 147(2)(k), and paragraph 147(2)(i) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on January 1, 1972, and

(ii) provide that the amounts held by the trust for the benefit of beneficiaries thereunder that remained unallocated on December 31, 1967 must be allocated or reallocated, as the case may be, before 1969,

(c.1) the plan becomes a revocable plan pursuant to subsection 147(21),

(c.2) the plan does not comply with the requirements of paragraphs 147(2)(a) to 147(2)(k) and 147(2)(l),

(c.3) in the case of a plan that became registered after March, 1983, the plan does not comply with the requirements of paragraphs 147(2)(k.1) and 147(2)(k.2),

(c.4) the requirements of subsection 147(5.1) in respect of the plan are not satisfied for a calendar year, or

(c.5) an employer who participates in the plan fails to file an information return reporting a pension adjustment of a beneficiary under the plan as and when required by regulation,

the Minister may revoke the registration of the plan,

(d) where paragraph 147(14)(a) applies, as of the date that the plan ceased so to comply, or any subsequent date,

(e) where paragraph 147(14)(b) applies, as of the date that any provision of the plan was not so complied with, or any subsequent date,

(f) where paragraph 147(14)(c) applies, as of any date following January 1, 1968,

(g) where paragraph 147(14)(c.1) applies, as of the date on which the plan became a revocable plan, or any subsequent date,

(h) where paragraph 147(14)(c.2) or 147(14)(c.3) applies, as of the date on which the plan did not so comply, or any subsequent date, but not before January 1, 1991,

(i) where paragraph 147(14)(c.4) applies, as of the end of the year for which the requirements of subsection

(i) d'une part, ne répondait pas aux conditions énoncées aux alinéas (2)a), b) à h), j) et k) et 147(2)i) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable le 1er janvier 1972,

(ii) d'autre part, ne stipulait pas que les sommes détenues par la fiducie au profit des bénéficiaires en vertu du régime et qui n'avaient pas été allouées au 31 décembre 1967 devaient être allouées ou allouées de nouveau, selon le cas, avant 1969;

c.1) l'agrément du régime peut être retiré en application du paragraphe (21);

c.2) le régime ne répond pas aux conditions énoncées aux alinéas (2)a) à k) et l);

c.3) le régime ne répond pas aux conditions énoncées à l'alinéa (2)k.1) ou k.2), dans le cas où il a été agréé après mars 1983;

c.4) les exigences du paragraphe (5.1) visant le régime ne sont pas remplies pour une année civile;

c.5) un employeur qui participe au régime ne présente pas de déclaration de renseignements indiquant le facteur d'équivalence d'un bénéficiaire du régime selon les modalités réglementaires de temps ou autres,

le ministre peut retirer l'agrément du régime :

d) lorsque s'applique l'alinéa a), à compter de la date à laquelle le régime a cessé de répondre aux conditions, ou de toute date ultérieure;

e) lorsque s'applique l'alinéa b), à compter de la date à laquelle une disposition du régime n'a pas été observée, ou de toute date ultérieure;

f) lorsque s'applique l'alinéa c), à compter de toute date postérieure au 1er janvier 1968;

g) lorsque s'applique l'alinéa c.1), à compter de la date à laquelle l'agrément du régime peut être retiré ou à compter d'une date ultérieure;

h) lorsque s'applique l'alinéa c.2) ou c.3), à compter de la date à laquelle le régime ne répond pas aux conditions ou à compter d'une date ultérieure, mais pas avant le 1er janvier 1991;

i) lorsque s'applique l'alinéa c.4), à compter de la fin de l'année pour laquelle les exigences du paragraphe (5.1) visant le régime ne sont pas remplies ou à compter d'une date ultérieure;

147(5.1) in respect of the plan are not satisfied, or any subsequent date, and

(j) where paragraph 147(14)(c.5) applies, as of any date after the date by which the information return was required to be filed,

and the Minister shall thereafter give notice of the revocation by registered mail to a trustee under the plan and to an employer of employees who are beneficiaries under the plan.

j) lorsque s'applique l'alinéa c.5), à compter de la date postérieure à celle où la déclaration de renseignements doit être présentée;

il doit dès lors en donner avis par courrier recommandé adressé à un fiduciaire du régime et à l'employeur des employés qui sont bénéficiaires du régime.

Idem

(14.1) Where on any day after June 30, 1982 a benefit or loan is extended or continues to be extended as a consequence of the existence of a deferred profit sharing plan and that benefit or loan would be prohibited if the plan met the requirement for registration contained in paragraph 147(2)(k.1), the Minister may revoke the registration of the plan as of that or any subsequent day that is specified by the Minister in a notice given by registered mail to a trustee under the plan and to an employer of employees who are beneficiaries under the plan.

Idem

(14.1) Lorsque, à une date donnée après le 30 juin 1982, un avantage ou un prêt est accordé ou continue d'être accordé par suite de l'existence d'un régime de participation différée aux bénéfices et que cet avantage ou ce prêt serait interdit si le régime remplissait l'exigence relative à l'agrément visée à l'alinéa (2)k.1), le ministre peut retirer l'agrément du régime à compter de cette date ou de toute date ultérieure que précise le ministre dans un avis donné par courrier recommandé à un fiduciaire en vertu du régime et à un employeur dont les employés sont des bénéficiaires en vertu du régime.

Rules applicable to revoked plan

(15) Where the Minister revokes the registration of a deferred profit sharing plan, the plan (in this section referred to as the "revoked plan") shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and notwithstanding any other provision of this Act, the following rules shall apply:

(a) the revoked plan shall not be accepted for registration for the purposes of this Act or be deemed to have become registered as a deferred profit sharing plan at any time within a period of one year commencing on the date the plan became a revoked plan;

(b) subsection 147(7) does not apply to exempt the trust governed by the plan from tax under this Part on the taxable income of the trust for a taxation year in which, at any time therein, the trust was governed by the revoked plan;

(c) no deduction shall be made by an employer in computing the employer's income for a taxation year in respect of an amount paid by the employer to a trustee under the plan at a time when it was a revoked plan;

(d) there shall be included in computing the income of a taxpayer for a taxation year

(i) all amounts received by the taxpayer in the year from a trustee under the revoked plan that, by

Règles consécutives au retrait du régime

(15) Lorsque le ministre retire l'agrément d'un régime de participation différée aux bénéfices, le régime (appelé le « régime dont l'agrément est retiré » au présent article) est réputé, pour l'application de la présente loi, ne pas être un régime de participation différée aux bénéfices et, malgré les autres dispositions de la présente loi, les règles suivantes s'appliquent :

a) le régime dont l'agrément est retiré ne peut être accepté aux fins d'agrément, pour l'application de la présente loi, ni être réputé avoir été agréé à titre de régime de participation différée aux bénéfices à un moment donné au cours d'une période d'un an à compter de la date du retrait de l'agrément du régime;

b) le paragraphe (7) n'a pas pour effet d'exempter la fiducie régie par le régime de l'impôt établi par la présente partie sur le revenu imposable de la fiducie pour une année d'imposition au cours de laquelle, à un moment donné de l'année, la fiducie a été régie par le régime dont l'agrément est retiré;

c) aucune déduction ne peut être effectuée par un employeur dans le calcul de son revenu pour une année d'imposition relativement à une somme qu'il a payée à un fiduciaire en vertu du régime à un moment où celui-ci était un régime dont l'agrément est retiré;

d) il doit être inclus dans le calcul du revenu d'un contribuable pour une année d'imposition :

virtue of subsection 147(10), would have been so included if the revoked plan had been a deferred profit sharing plan at the time the taxpayer received those amounts, and

(ii) the amount or value of any funds or property appropriated to or for the benefit of the taxpayer in the year that, by virtue of subsection 147(13), would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property; and

(e) the revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan or a retirement compensation arrangement.

(i) les sommes qu'il a reçues au cours de l'année d'un fiduciaire en vertu du régime dont l'agrément est retiré et qui, en vertu du paragraphe (10), auraient été ainsi incluses si le régime en question avait été un régime de participation différée aux bénéfices au moment où il a reçu les sommes,

(ii) le montant ou la valeur de tous fonds ou biens attribués au contribuable ou à son profit au cours de l'année qui, en vertu du paragraphe (13), aurait été ainsi inclus si le régime dont l'agrément est retiré avait été un régime de participation différée aux bénéfices au moment de l'attribution des fonds ou biens;

e) pour l'application de la présente loi, le régime dont l'agrément est retiré est réputé n'être ni un régime de participation des employés aux bénéfices ni une convention de retraite.

Payments out of profits

(16) Where the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments shall be made "out of profits", the arrangement shall be deemed, for the purpose of subsection 147(1), to be an arrangement for payments "computed by reference to an employer's profits from the employer's business".

Paiements sur les bénéfices

(16) Lorsque les modalités d'un arrangement en vertu duquel un employeur effectue des paiements à un fiduciaire portent expressément que les paiements doivent être faits « sur les bénéfices », un tel arrangement est réputé, pour l'application du paragraphe (1), en être un qui prévoit des paiements « calculés en fonction des bénéfices de son entreprise ».

Interpretation of *other beneficiary*

(17) Where the expression "employee or other beneficiary" under a profit sharing plan occurs in this section, the words ***other beneficiary*** shall be construed as meaning any person, other than the employee, to whom any amount is or may become payable by a trustee under the plan as a result of payments made to the trustee under the plan in trust for the benefit of employees, including the employee.

Définition de *autre bénéficiaire*

(17) Lorsque l'expression « employé ou autre bénéficiaire » figure au présent article, relativement à un régime de participation aux bénéfices, ***autre bénéficiaire*** s'entend de toute personne, autre que l'employé, à qui une somme est ou peut devenir payable par un fiduciaire en vertu du régime par suite de paiements effectués au fiduciaire en vertu du régime au profit d'employés, y compris l'employé.

Inadequate consideration on purchase from or sale to trust

(18) Where a trust governed by a deferred profit sharing plan or revoked plan

(a) disposes of property to a taxpayer for a consideration less than the fair market value of the property at the time of the transaction, or for no consideration, or

(b) acquires property from a taxpayer for a consideration greater than the fair market value of the property at the time of the transaction,

the difference between that fair market value and the consideration, if any,

Contrepartie insuffisante pour l'achat ou la vente à une fiducie

(18) Lorsqu'une fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré :

a) soit cède des biens à un contribuable en échange d'une contrepartie inférieure à la juste valeur marchande des biens au moment de l'opération, ou sans aucune contrepartie;

b) soit acquiert des biens d'un contribuable en échange d'une contrepartie supérieure à la juste valeur marchande des biens au moment de l'opération,

la différence entre cette juste valeur marchande et la contrepartie est, à la fois :

(c) shall, for the purposes of subsections 147(10) and 147(15), be deemed to be an amount received by the taxpayer at the time of the disposal or acquisition, as the case may be, from a trustee under the plan as if the taxpayer were a beneficiary under the plan, and

(d) is an amount taxable under section 201 for the calendar year in which the trust disposes of or acquires the property, as the case may be.

c) réputée être, pour l'application des paragraphes (10) et (15), un montant que le contribuable a reçu d'un fiduciaire du régime au moment de la cession ou de l'acquisition comme si le contribuable était un bénéficiaire du régime;

d) un montant imposable selon l'article 201 pour l'année civile de la cession ou de l'acquisition du bien par la fiducie.

Transfer to RPP, RRSP or DPSP

(19) An amount is transferred from a deferred profit sharing plan in accordance with this subsection if the amount

(a) is not part of a series of periodic payments;

(b) is transferred on behalf of an individual

(i) who is an employee or former employee of an employer who participated in the plan on the employee's behalf, or

(ii) who is a spouse or common-law partner, or former spouse or common-law partner, of an employee or former employee referred to in subparagraph (i) and who is entitled to the amount

(A) as a consequence of the death of the employee or former employee, or

(B) under a decree, an order or a judgment of a competent tribunal, or under a written agreement, that relates to a division of property between the employee or former employee and the individual in settlement of rights that arise out of, or on a breakdown of, their marriage or common-law partnership;

in full or partial satisfaction of the individual's entitlement to benefits under the plan;

(c) would, if it were paid directly to the individual, be included under subsection 147(10) in computing the individual's income for a taxation year; and

(d) is transferred for the benefit of the individual directly to

(i) a registered pension plan,

(ii) a registered retirement savings plan under which the individual is the annuitant (within the meaning assigned by subsection 146(1)),

(iii) a deferred profit sharing plan that can reasonably be expected to have at least 5 beneficiaries at

Transferts aux RPA, aux REER ou aux RPDB

(19) Un montant est transféré d'un régime de participation différée aux bénéfices conformément au présent paragraphe si les conditions suivantes sont réunies :

a) le montant ne fait pas partie d'une série de paiements périodiques;

b) le montant est transféré pour le compte d'un particulier en règlement total ou partiel de son droit aux prestations prévues par le régime, lequel particulier, selon le cas :

(i) est l'employé actuel ou ancien d'un employeur qui participait au régime pour son compte,

(ii) est l'époux ou le conjoint de fait, ou l'ex-époux ou l'ancien conjoint de fait, de l'employé visé au sous-alinéa (i) et a droit au montant :

(A) soit par suite du décès de l'employé,

(B) soit en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent ou en vertu d'un accord écrit, visant à partager des biens entre l'employé et le particulier en règlement des droits découlant de leur mariage ou de leur union de fait ou de son échec,

c) le montant serait, s'il était versé directement au particulier, inclus en application du paragraphe (10) dans le calcul de son revenu pour une année d'imposition;

d) le montant est transféré directement à l'un des régimes ou fonds ci-après au profit du particulier :

(i) un régime de pension agréé,

(ii) un régime enregistré d'épargne-retraite dont le particulier est rentier au sens du paragraphe 146(1),

(iii) un régime de participation différée aux bénéfices dont il est raisonnable de s'attendre à ce qu'il compte au moins cinq bénéficiaires tout au long de l'année civile du transfert,

all times throughout the calendar year in which the transfer is made, or

(iv) a registered retirement income fund under which the individual is the annuitant (within the meaning assigned by subsection 146.3(1)).

(iv) un fonds enregistré de revenu de retraite dont le particulier est le rentier au sens du paragraphe 146.3(1).

Taxation of amount transferred

(20) Where an amount is transferred on behalf of an individual in accordance with subsection 147(19),

(a) the amount shall not, by reason only of that transfer, be included by virtue of this section in computing the income of any taxpayer; and

(b) no deduction may be made under any provision of this Act in respect of the amount in computing the income of any taxpayer.

Imposition des montants transférés

(20) Les montants transférés en application du paragraphe (19) pour le compte d'un particulier ne peuvent :

a) de ce seul fait, être inclus dans le calcul du revenu d'un contribuable en application du présent article;

b) faire l'objet d'une déduction selon la présente loi dans le calcul du revenu d'un contribuable.

Restriction re transfers

(21) A deferred profit sharing plan becomes a revocable plan at any time that an amount is transferred from the plan to a registered pension plan, a registered retirement savings plan or another deferred profit sharing plan unless

(a) the transfer is in accordance with subsection 147(19); or

(b) the amount is deductible under paragraph 60(j) or 60(j.2) of this Act or paragraph 60(k) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, by the individual on whose behalf the transfer is made.

Restriction applicable aux transferts

(21) L'agrément d'un régime de participation différée aux bénéfices peut être retiré dès qu'un montant est transféré du régime à un régime de pension agréé, un régime enregistré d'épargne-retraite ou un autre régime de participation différée aux bénéfices, sauf si :

a) le transfert est conforme au paragraphe (19);

b) le montant est déductible en application de l'alinéa 60j) ou j.2) de la présente loi ou de l'alinéa 60k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, par le particulier pour le compte duquel le transfert est fait.

Excess transfer

(22) Where

(a) the transfer of an amount from a deferred profit sharing plan in a calendar year on behalf of a beneficiary under the plan would, but for this subsection, be in accordance with subsection 147(19), and

(b) the requirements of subsection 147(5.1) in respect of the plan are not satisfied for the year by reason that the beneficiary's pension credits or pension adjustments do not comply with any of paragraphs 147(5.1)(a) to 147(5.1)(c),

such portion of the amount transferred as may reasonably be considered to derive from amounts allocated or reallocated to the beneficiary in the year or from earnings reasonably attributable to those amounts shall, except to the extent otherwise expressly provided in writing by the

Excédent de transfert

(22) Lorsqu'un montant transféré d'un régime de participation différée aux bénéfices au cours d'une année civile pour le compte d'un bénéficiaire du régime serait, compte non tenu du présent paragraphe, conforme au paragraphe (19) et que les exigences du paragraphe (5.1) visant le régime ne sont pas remplies pour l'année du fait que les crédits de pension ou les facteurs d'équivalence du bénéficiaire ne sont pas conformes à l'un des alinéas (5.1)a) à c), la fraction du montant transféré qu'il est raisonnable de considérer comme découlant de montants attribués ou attribués de nouveau au bénéficiaire au cours de l'année ou de revenus imputables à juste titre à ces montants est réputée être un montant qui n'a pas été transféré conformément au paragraphe (19), sauf dans la mesure que le ministre prévoit expressément par écrit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 147; 1994, ch. 21, art. 72; 1997, ch. 25, art. 43; 1998, ch. 19, art. 172; 2000, ch. 12, art. 142; 2001, ch. 17, art. 142; 2007, ch. 29, art. 20; 2013, ch. 34, art. 301.

Minister, be deemed to be an amount that was not transferred in accordance with subsection 147(19).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 147; 1994, c. 21, s. 72; 1997, c. 25, s. 43; 1998, c. 19, s. 172; 2000, c. 12, s. 142; 2001, c. 17, s. 142; 2007, c. 29, s. 20; 2013, c. 34, s. 301.

Registered Pension Plans

Definitions

147.1 (1) In this section and sections 147.2 and 147.3,

actuary means a Fellow of the Canadian Institute of Actuaries; (*actuaire*)

administrator of a pension plan means the person or body of persons that has ultimate responsibility for the administration of the plan; (*administrateur*)

average wage for a calendar year means the amount that is obtained by dividing by 12 the total of all amounts each of which is the wage measure for a month in the 12 month period ending on June 30 of the immediately preceding calendar year; (*salaire moyen*)

compensation of an individual from an employer for a calendar year means the total of all amounts each of which is

(a) an amount in respect of

(i) the individual's employment with the employer, or

(ii) an office in respect of which the individual is remunerated by the employer

that is required (or that would be required but for paragraph 81(1)(a) as it applies with respect to the *Indian Act* or the *Foreign Missions and International Organizations Act*) by section 5 or 6 to be included in computing the individual's income for the year, except such portion of the amount as

(iii) may reasonably be considered to relate to a period throughout which the individual was not resident in Canada, and

(iv) is not attributable to the performance of the duties of the office or employment in Canada or is exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada,

(b) a prescribed amount, or

Régimes de pension agréés

Définitions

147.1 (1) Les définitions qui suivent s'appliquent au présent article et aux articles 147.2 et 147.3.

actuaire Fellow de l'Institut canadien des actuaires. (*actuary*)

administrateur Personne ou organisme qui, en définitive, est responsable de la gestion d'un régime de pension. (*administrator*)

ancien plafond Pour chaque année civile postérieure à 2005 et antérieure à 2010, la plus élevée des sommes suivantes :

a) le produit — arrêté à la dizaine, celui qui a au moins cinq à l'unité étant arrondi à la dizaine supérieure — des sommes suivantes :

(i) 18 000 $,

(ii) le quotient du salaire moyen pour l'année par le salaire moyen pour 2005;

b) pour 2006, 18 000 $; pour chacune des années 2007, 2008 et 2009, l'ancien plafond pour l'année civile la précédant. (*former limit*)

conjoint [Abrogée, 1994, ch. 7, ann. VIII, art. 85(2)]

disposition à cotisations déterminées Modalité d'un régime de pension qui :

a) d'une part, prévoit la tenue pour chaque participant d'un compte distinct, crédité des cotisations versées par ou pour lui au régime, ainsi que des autres montants qui lui sont attribués, et débité des paiements faits pour lui;

b) d'autre part, fixe les prestations du participant en fonction seulement du montant de son compte. (*money purchase provision*)

disposition à prestations déterminées Modalité d'un régime de pension qui fixe les prestations de chaque participant autrement que selon la définition de ***disposition à cotisations déterminées*** au présent paragraphe. (*defined benefit provision*)

(c) an amount acceptable to the Minister in respect of remuneration received by the individual from any employer for a period in the year throughout which the individual was not resident in Canada, to the extent that the amount is not otherwise included in the total; (*rétribution*)

defined benefit provision of a pension plan means terms of the plan under which benefits in respect of each member are determined in any way other than that described in the definition ***money purchase provision*** in this subsection; (*disposition à prestations déterminées*)

former limit for each calendar year after 2005 and before 2010 means the greater of

(a) the product (rounded to the nearest multiple of $10, or, if that product is equidistant from two such consecutive multiples, to the higher multiple) of

(i) $18,000, and

(ii) the quotient obtained when the average wage for the year is divided by the average wage for 2005, and

(b) for 2006, $18,000, and for any other of those calendar years, the former limit for the preceding calendar year; (*ancien plafond*)

member of a pension plan means an individual who has a right, either immediate or in the future and either absolute or contingent, to receive benefits under the plan, other than an individual who has such a right only by reason of the participation of another individual in the plan; (*participant*)

money purchase limit for a calendar year means

(a) for years before 1990, nil,

(b) for 1990, $11,500,

(c) for 1991 and 1992, $12,500,

(d) for 1993, $13,500,

(e) for 1994, $14,500,

(f) for 1995, $15,500,

(g) for years after 1995 and before 2003, $13,500,

(h) for 2003, $15,500,

(i) for 2004, $16,500,

employeur participant Employeur qui cotise ou est tenu de cotiser à un régime de pension pour ses employés actuels ou anciens, ou qui leur verse ou est tenu de leur verser des sommes provenant du régime, y compris les employeurs visés par règlement. (*participating employer*)

fait lié aux services passés S'entend au sens du règlement. (*past service event*)

mesure des gains Correspond, pour un mois :

a) aux traitement et salaire hebdomadaires moyens de l'ensemble des industries au Canada au cours de ce mois, tels que les publie Statistique Canada en vertu de la *Loi sur la statistique*;

b) si les données relatives à l'ensemble des industries cessent d'être publiées, à telle autre mesure, prescrite par règlement pris en application du *Régime de pensions du Canada* pour l'application de l'alinéa 18(5)b) de cette loi, des traitement et salaire hebdomadaires moyens pour ce mois. (*wage measure*)

montant unique Montant qui ne fait pas partie d'une série de paiements périodiques. (*single amount*)

participant Particulier qui a le droit, immédiat ou futur, absolu ou conditionnel, de recevoir les prestations prévues par un régime de pension, sauf si ce droit découle uniquement de la participation au régime d'un autre particulier. (*member*)

plafond des cotisations déterminées Correspond, pour les années civiles ci-après, aux montants suivants :

a) années précédant 1990: zéro;

b) 1990: 11500 $;

c) 1991 et 1992: 12500 $;

d) 1993: 13500 $;

e) 1994: 14500 $;

f) 1995: 15500 $;

g) années postérieures à 1995 et antérieures à 2003 : 13500 $;

h) 2003 : 15500 $;

i) 2004 : 16500 $;

j) 2005 : 18000 $;

(j) for 2005, $18,000,

(k) for 2006, the greater of $19,000 and the former limit for the year,

(l) for 2007, the greater of $20,000 and the former limit for the year,

(m) for 2008, the greater of $21,000 and the former limit for the year,

(n) for 2009, the greater of $22,000 and the former limit for the year, and

(o) for each year after 2009, the greater of

(i) the product (rounded to the nearest multiple of $10, or, if that product is equidistant from two such consecutive multiples, to the higher multiple) of

(A) the money purchase limit for 2009, and

(B) the quotient obtained when the average wage for the year is divided by the average wage for 2009, and

(ii) the money purchase limit for the preceding year; (*plafond des cotisations déterminées*)

money purchase provision of a pension plan means terms of the plan

(a) which provide for a separate account to be maintained in respect of each member, to which are credited contributions made to the plan by, or in respect of, the member and any other amounts allocated to the member, and to which are charged payments made in respect of the member, and

(b) under which the only benefits in respect of a member are benefits determined solely with reference to, and provided by, the amount in the member's account; (*disposition à cotisations déterminées*)

multi-employer plan in a calendar year has the meaning assigned by regulation; (*régime interentreprises*)

participating employer, in relation to a pension plan, means an employer who has made, or is required to make, contributions to the plan in respect of the employer's employees or former employees, or payments under the plan to the employer's employees or former employees, and includes a prescribed employer; (*employeur participant*)

k) 2006, 19 000 $ ou, s'il est plus élevé, l'ancien plafond pour l'année;

l) 2007, 20 000 $ ou, s'il est plus élevé, l'ancien plafond pour l'année;

m) 2008, 21 000 $ ou, s'il est plus élevé, l'ancien plafond pour l'année;

n) 2009, 22 000 $ ou, s'il est plus élevé, l'ancien plafond pour l'année;

o) chaque année postérieure à 2009, la plus élevée des sommes suivantes :

(i) le produit — arrêté à la dizaine, celui qui a au moins cinq à l'unité étant arrondi à la dizaine supérieure — des sommes suivantes :

(A) le plafond des cotisations déterminées pour 2009,

(B) le quotient du salaire moyen pour l'année par le salaire moyen pour 2009,

(ii) le plafond des cotisations déterminées pour l'année précédente. (*money purchase limit*)

régime interentreprises Pour une année civile, s'entend au sens du règlement. (*multi-employer plan*)

régime interentreprises déterminé Pour une année civile, s'entend au sens du règlement. (*specified multi-employer plan*)

rétribution S'entend, relativement à un particulier au service d'un employeur pour une année civile, du total des montants dont chacun représente :

a) soit un montant en contrepartie duquel il exécute un travail ou occupe une charge pour l'employeur et qui est — ou serait compte non tenu de l'alinéa 81(1)a) pour son application à la *Loi sur les Indiens* ou à la *Loi sur les missions étrangères et les organisations internationales* — à inclure conformément à l'article 5 ou 6 dans le calcul de son revenu pour l'année, à l'exception de la partie du montant :

(i) d'une part, qu'il est raisonnable de considérer comme se rapportant à une période tout au long de laquelle il ne résidait pas au Canada,

(ii) d'autre part, qui n'est pas imputable à l'exécution des fonctions de son emploi ou de sa charge au Canada ou qui est exonérée de l'impôt sur le revenu au Canada par l'effet d'une disposition d'un accord

past service event has the meaning assigned by regulation; (*fait lié aux services passés*)

single amount means an amount that is not part of a series of periodic payments; (*montant unique*)

specified multi-employer plan in a calendar year has the meaning assigned by regulation; (*régime interentreprises déterminé*)

spouse [Repealed, 1994, c. 7, Sch. VIII, s. 85(2)]

wage measure for a month means the average weekly wages and salaries of

(a) the Industrial Aggregate in Canada for the month as published by Statistics Canada under the *Statistics Act*, or

(b) in the event that the Industrial Aggregate ceases to be published, such other measure for the month as is prescribed by regulation under the *Canada Pension Plan* for the purposes of paragraph 18(5)(b) of that Act. (*mesure des gains*)

ou convention fiscal conclu avec un autre pays et ayant force de loi au Canada;

b) soit un montant prescrit;

c) soit un montant, jugé acceptable par le ministre, qu'il a reçu d'un autre employeur à titre de rémunération pour une période de l'année tout au long de laquelle il ne résidait pas au Canada, dans la mesure où ce montant n'est pas inclus par ailleurs dans le total. (*compensation*)

salaire moyen Quotient de la division, pour une année civile, par 12 du total des montants dont chacun représente la mesure des gains pour un mois compris dans la période de douze mois se terminant le 30 juin de l'année civile précédente. (*average wage*)

Registration of plan

(2) The following rules apply with respect to the registration of pension plans:

(a) the Minister shall not register a pension plan unless

(i) application for registration is made in prescribed manner by the plan administrator,

(ii) the plan complies with prescribed conditions for registration, and

(iii) where the plan is required to be registered under the *Pension Benefits Standards Act, 1985* or a similar law of a province, application for such registration has been made;

(b) where a pension plan that was submitted for registration before 1992 is registered by the Minister, the registration is effective from the day specified in writing by the Minister; and

(c) where a pension plan that is submitted for registration after 1991 is registered by the Minister, the registration is effective from the later of

(i) January 1 of the calendar year in which application for registration is made in prescribed manner by the plan administrator, and

(ii) the day the plan began.

Agrément du régime

(2) Les règles suivantes s'appliquent à l'agrément des régimes de pension :

a) le ministre ne peut agréer un régime de pension que si les conditions suivantes sont réunies :

(i) l'administrateur du régime présente une demande d'agrément selon les modalités réglementaires,

(ii) le régime est conforme aux conditions d'agrément réglementaires,

(iii) une demande d'agrément a été présentée en application de la *Loi de 1985 sur les normes de prestation de pension* ou d'une loi provinciale semblable, dans le cas où ces textes imposent un tel agrément;

b) l'agrément que le ministre donne à un régime présenté pour agrément avant 1992 est en vigueur à compter du jour que le ministre précise par écrit;

c) l'agrément que le ministre donne à un régime présenté pour agrément après 1991 est en vigueur à compter du dernier en date des jours suivants :

(i) le 1er janvier de l'année civile où l'administrateur du régime présente la demande d'agrément selon les modalités réglementaires,

Deemed registration

(3) Where application is made to the Minister for registration of a pension plan for the purposes of this Act and, where the manner for making the application has been prescribed, the application is made in that manner by the administrator,

(a) subject to paragraph 147.1(3)(b), the plan is, for the purposes of this Act other than paragraphs 60(j) and 60(j.2) and sections 147.3 and 147.4, deemed to be a registered pension plan throughout the period that begins on the latest of

(i) January 1 of the calendar year in which the application is made,

(ii) the day of commencement of the plan, and

(iii) January 1, 1989

and ending on the day on which a final determination is made with respect to the application; and

(b) where the final determination made with respect to the application is a refusal to register the plan, this Act shall, after the day of the final determination, apply as if the plan had never been deemed, under paragraph 147.1(3)(a), to be a registered pension plan, except that

(i) any information return otherwise required to be filed under subsection 207.7(3) before the particular day that is 90 days after the day of the final determination is not required to be filed until the particular day, and

(ii) subsections 227(8) and 227(8.2) are not applicable with respect to contributions made to the plan on or before the day of the final determination.

Acceptance of amendments

(4) The Minister shall not accept an amendment to a registered pension plan unless

(a) application for the acceptance is made in prescribed manner by the plan administrator;

(b) the plan as amended complies with prescribed conditions for registration; and

(c) the amendment complies with prescribed conditions.

(ii) le jour de l'entrée en vigueur du régime.

Présomption d'agrément

(3) Dans le cas où une demande d'agrément d'un régime de pension est présentée dans le cadre de la présente loi au ministre — selon les modalités réglementaires, le cas échéant, par l'administrateur du régime —, les règles suivantes s'appliquent :

a) sous réserve de l'alinéa b), le régime est réputé, pour l'application de la présente loi, à l'exception des alinéas 60j) et j.2) et des articles 147.3 et 147.4, être un régime de pension agréé tout au long de la période commençant au dernier en date des jours suivants et se terminant le jour de la prise de la décision définitive concernant la demande :

(i) le 1er janvier de l'année civile où la demande est présentée,

(ii) le jour de l'entrée en vigueur du régime,

(iii) le 1er janvier 1989;

b) dans le cas où la décision définitive concernant la demande consiste en un refus d'agréer le régime, la présente loi s'applique, après le jour de cette décision, comme si la présomption de l'alinéa a) n'existait pas, sauf dans les cas suivants :

(i) le délai de production de la déclaration de renseignements qui, selon le paragraphe 207.7(3), doit être produite avant le jour donné qui tombe 90 jours après le jour de la décision définitive est prorogé jusqu'au jour donné,

(ii) les paragraphes 227(8) et (8.2) ne s'appliquent pas aux cotisations versées au régime au plus tard le jour de la décision définitive.

Acceptation des modifications

(4) Le ministre ne peut accepter la modification d'un régime de pension agréé que si les conditions suivantes sont réunies :

a) l'administrateur du régime en fait la demande selon les modalités réglementaires;

b) le régime, une fois modifié, est conforme aux conditions d'agrément réglementaires;

c) la modification est conforme aux conditions réglementaires.

Additional conditions

(5) The Minister may, at any time, impose reasonable conditions applicable with respect to registered pension plans, a class of such plans or a particular registered pension plan.

Administrator

(6) There shall, for each registered pension plan, be a person or a body of persons that has ultimate responsibility for the administration of the plan and, except as otherwise permitted in writing by the Minister, the person or a majority of the persons who constitute the body shall be a person or persons resident in Canada.

Obligations of administrator

(7) The administrator of a registered pension plan shall

(a) administer the plan in accordance with the terms of the plan as registered except that, where the plan fails to comply with the prescribed conditions for registration or any other requirement of this Act or the regulations, the administrator may administer the plan as if it were amended to so comply;

(b) before July, 1990, in the case of a person or body that is the administrator on January 1, 1989 or becomes the administrator before June, 1990, and, in any other case, within 30 days after becoming the administrator, inform the Minister in writing

(i) of the name and address of the person who is the administrator, or

(ii) of the names and addresses of the persons who constitute the body that is the administrator; and

(c) where there is any change in the information provided to the Minister in accordance with this paragraph or paragraph 147.1(7)(b), inform the Minister in writing, within 60 days after the change, of the new information.

Pension adjustment limits

(8) Except as otherwise provided by regulation, a registered pension plan (other than a multi-employer plan) becomes, at the end of a calendar year after 1990, a revocable plan where

(a) the pension adjustment for the year of a member of the plan in respect of a participating employer exceeds the lesser of

(i) the money purchase limit for the year, and

Conditions supplémentaires

(5) Le ministre peut assujettir les régimes de pension agréés à de justes conditions supplémentaires, qu'il s'agisse de ces régimes en général, d'une catégorie de régimes ou d'un régime en particulier.

Administrateur

(6) Pour chaque régime de pension agréé, un administrateur — personne résidant au Canada ou organisme dont la majorité des membres y résident, sauf permission contraire écrite du ministre — est, en définitive, responsable de la gestion du régime.

Obligations de l'administrateur

(7) L'administrateur d'un régime de pension agréé :

a) gère le régime tel qu'il est agréé; toutefois, si le régime n'est pas conforme aux conditions d'agrément réglementaires ou aux autres exigences de la présente loi ou de son règlement, il peut le gérer comme si le régime avait été modifié de façon à y être conforme;

b) avant juillet 1990, si sa désignation est effective le 1er janvier 1989 ou le devient antérieurement à juin 1990, ou dans les trente jours suivant sa désignation dans les autres cas, informe par écrit le ministre de ses nom et adresse ou, le cas échéant, de ceux de ses membres;

c) dans le cas où un changement intervient dans les renseignements visés au présent alinéa ou à l'alinéa b), en informe le ministre par écrit dans les soixante jours suivant le changement.

Limites applicables au facteur d'équivalence

(8) Sauf disposition contraire du règlement, l'agrément d'un régime de pension agréé, à l'exception d'un régime interentreprises, peut être retiré à la fin d'une année civile postérieure à 1990 dans les cas suivants :

a) le facteur d'équivalence d'un participant pour l'année quant à un employeur participant dépasse le moins élevé des montants suivants :

(i) le plafond des cotisations déterminées pour l'année,

(ii) 18% of the member's compensation from the employer for the year; or

(b) the total of

(i) the pension adjustment for the year of a member of the plan in respect of a participating employer, and

(ii) the total of all amounts each of which is the member's pension adjustment for the year in respect of an employer who, at any time in the year, does not deal at arm's length with the employer referred to in subparagraph 147.1(8)(b)(i)

exceeds the money purchase limit for the year.

Idem — multi-employer plans

(9) Except as otherwise provided by regulation, a registered pension plan that is a multi-employer plan (other than a specified multi-employer plan) in a calendar year after 1990 becomes, at the end of the year, a revocable plan where

(a) for a member and an employer, the total of all amounts each of which is the member's pension credit (as prescribed by regulation) for the year in respect of the employer under a defined benefit or money purchase provision of the plan exceeds the lesser of

(i) the money purchase limit for the year, and

(ii) 18% of the member's compensation from the employer for the year; or

(b) for a member, the total of all amounts each of which is the member's pension credit (as prescribed by regulation) for the year in respect of an employer under a defined benefit or money purchase provision of the plan exceeds the money purchase limit for the year.

Past service benefits

(10) With respect to each past service event that is relevant to the determination of benefits in respect of a member under a defined benefit provision of a registered pension plan, such benefits as are in respect of periods after 1989 and before the calendar year in which the event occurred shall be determined, for the purpose of a payment to be made from the plan or a contribution to be made to the plan at a particular time, with regard to the event only if

(ii) 18 % de la rétribution reçue de l'employeur par le participant pendant l'année;

b) le total des montants suivants dépasse le plafond des cotisations déterminées pour l'année :

(i) le facteur d'équivalence du participant pour l'année quant à un employeur participant,

(ii) le total des montants dont chacun représente le facteur d'équivalence du participant pour l'année quant à un employeur qui, à un moment de l'année, a un lien de dépendance avec l'employeur visé au sous-alinéa (i).

Idem : régimes interentreprises

(9) Sauf disposition contraire du règlement, l'agrément d'un régime de pension agréé qui est un régime interentreprises, mais non un régime interentreprises déterminé, au cours d'une année civile postérieure à 1990 peut être retiré à la fin de l'année si :

a) quant à un participant et un employeur, le total des montants dont chacun représente le crédit de pension réglementaire du participant pour l'année quant à l'employeur dans le cadre d'une disposition à prestations déterminées ou à cotisations déterminées du régime dépasse le moins élevé des montants suivants :

(i) le plafond des cotisations déterminées pour l'année,

(ii) 18 % de la rétribution reçue de l'employeur par le participant pendant l'année;

b) quant à un participant, le total des montants dont chacun représente son crédit de pension réglementaire pour l'année quant à un employeur dans le cadre d'une disposition à prestations déterminées ou à cotisations déterminées du régime dépasse le plafond des cotisations déterminées pour l'année.

Prestations pour services passés

(10) Chaque fait lié aux services passés — utile au calcul des prestations prévues pour un participant par la disposition à prestations déterminées d'un régime de pension agréé, relativement à des périodes postérieures à 1989 et antérieures à l'année civile où le fait se réalise — n'est pris en compte dans ce calcul, en vue d'un paiement à faire sur le régime ou d'une cotisation à y verser à un moment donné, que si les conditions suivantes sont réunies :

a) dans le cas où le participant est vivant à ce moment et sauf disposition contraire du règlement, le ministre

(a) where the member is alive at the particular time and except as otherwise provided by regulation, the Minister has certified in writing, before the particular time, that prescribed conditions are satisfied,

(b) where the member died before the particular time and the event occurred before the death of the member,

(i) this subsection did not require that the event be disregarded in determining benefits that were payable to the member immediately before the member's death (or that would have been so payable had the member been entitled to receive benefits under the provision immediately before the member's death), or

(ii) the event, as it affects the benefits provided to each individual who is entitled to benefits as a consequence of the death of the member, is acceptable to the Minister,

(c) where the member died before the particular time and the event occurred after the death of the member, the event, as it affects the benefits provided to each individual who is entitled to benefits as a consequence of the death of the member, is acceptable to the Minister, and

(d) no past service event that occurred before the event is required by reason of the application of this subsection to be disregarded at the particular time in determining benefits in respect of the member,

and, for the purposes of this subsection as it applies with respect to contributions that may be made to a registered pension plan, where application has been made for a certification referred to in paragraph 147.1(10)(a) and the Minister has not refused to issue the certification, the Minister shall be deemed to have issued the certification.

atteste au préalable par écrit que les conditions réglementaires sont remplies;

b) dans le cas où le participant est décédé avant ce moment et où le fait s'est réalisé avant son décès :

(i) soit le présent paragraphe n'interdisait pas la prise en compte du fait dans le calcul des prestations qui étaient payables au participant immédiatement avant son décès (ou qui auraient été ainsi payables si le participant avait eu le droit de recevoir des prestations dans le cadre de la disposition immédiatement avant son décès),

(ii) soit le ministre juge le fait acceptable dans la mesure où il influe sur les prestations prévues pour chaque particulier qui y a droit par suite du décès du participant;

c) dans le cas où le participant est décédé avant le moment donné et où le fait s'est réalisé après son décès, le ministre juge le fait acceptable dans la mesure où il influe sur les prestations prévues pour chaque particulier qui y a droit par suite du décès du participant;

d) l'application du présent paragraphe n'a pas pour effet d'interdire la prise en compte, à ce moment, d'un fait lié aux services passés antérieur au fait en question dans le calcul des prestations du participant.

Pour l'application du présent paragraphe aux cotisations qui peuvent être versées à un régime de pension agréé, le fait par le ministre de ne pas avoir refusé de délivrer l'attestation demandée vaut délivrance.

Revocation of registration — notice of intention

(11) Where, at any time after a pension plan has been registered by the Minister,

(a) the plan does not comply with the prescribed conditions for registration,

(b) the plan is not administered in accordance with the terms of the plan as registered,

(c) the plan becomes a revocable plan,

(d) a condition imposed by the Minister in writing and applicable with respect to the plan (including a condition applicable generally to registered pension

Avis d'intention de retirer l'agrément

(11) Lorsque l'une des situations suivantes se produit après que le ministre a agréé un régime de pension :

a) le régime n'est pas conforme aux conditions d'agrément réglementaires;

b) le régime n'est pas géré tel qu'il est agréé;

c) l'agrément du régime peut être retiré;

d) une condition (y compris une condition applicable de façon générale aux régimes de pension agréés en général ou à une catégorie de régimes et une condition

plans or a class of such plans and a condition first imposed before 1989) is not complied with,

(e) a requirement under subsection 147.1(6) or 147.1(7) is not complied with,

(f) a benefit is paid by the plan, or a contribution is made to the plan, contrary to subsection 147.1(10),

(g) the administrator of the plan fails to file an information return or actuarial report relating to the plan or to a member of the plan as and when required by regulation,

(h) a participating employer fails to file an information return relating to the plan or to a member of the plan as and when required by regulation, or

(i) registration of the plan under the *Pension Benefits Standards Act, 1985* or a similar law of a province is refused or revoked,

the Minister may give notice (in this subsection and subsection 147.1(12) referred to as a "notice of intent") by registered mail to the plan administrator that the Minister proposes to revoke the registration of the plan as of a date specified in the notice of intent, which date shall not be earlier than the date as of which,

(j) where paragraph 147.1(11)(a) applies, the plan failed to so comply,

(k) where paragraph 147.1(11)(b) applies, the plan was not administered in accordance with its terms as registered,

(l) where paragraph 147.1(11)(c) applies, the plan became a revocable plan,

(m) where paragraph 147.1(11)(d) or 147.1(11)(e) applies, the condition or requirement was not complied with,

(n) where paragraph 147.1(11)(f) applies, the benefit was paid or the contribution was made,

(o) where paragraph 147.1(11)(g) or 147.1(11)(h) applies, the information return or actuarial report was required to be filed, and

(p) where paragraph 147.1(11)(i) applies, the registration referred to in that paragraph was refused or revoked.

imposée pour la première fois avant 1989) que le ministre a imposée au régime par écrit n'est pas respectée;

e) une des exigences énoncées aux paragraphes (6) ou (7) n'est pas respectée;

f) des prestations sont payées par le régime ou des cotisations y sont versées contrairement au paragraphe (10);

g) l'administrateur ne présente pas de déclaration de renseignements ou de rapport actuariel concernant le régime ou un participant à celui-ci selon les modalités réglementaires de temps ou autres;

h) un employeur participant ne présente pas de déclaration de renseignements concernant le régime ou un participant à celui-ci selon les modalités réglementaires de temps ou autres;

i) l'agrément du régime aux termes de la *Loi de 1985 sur les normes de prestation de pension* ou d'une loi provinciale semblable est refusé ou retiré,

le ministre peut informer l'administrateur du régime par avis — appelé « avis d'intention » au présent paragraphe et au paragraphe (12) —, envoyé en recommandé, qu'il entend retirer l'agrément du régime à la date précisée dans l'avis d'intention, qui ne peut être antérieure aux dates suivantes :

j) si l'alinéa a) s'applique, la date où le régime cesse d'être conforme;

k) si l'alinéa b) s'applique, la date où le régime n'est plus géré tel qu'il est agréé;

l) si l'alinéa c) s'applique, la date où l'agrément du régime peut être retiré;

m) si l'alinéa d) ou e) s'applique, la date où la condition ou l'exigence n'est plus respectée;

n) si l'alinéa f) s'applique, la date où les paiements ou versements ont été effectués;

o) si l'alinéa g) ou h) s'applique, la date fixée pour la présentation;

p) si l'alinéa i) s'applique, la date du refus ou du retrait.

Notice of revocation

(12) Where the Minister gives a notice of intent to the administrator of a registered pension plan, or the plan

Avis de retrait de l'agrément

(12) Le ministre peut, s'il envoie un avis d'intention à l'administrateur d'un régime de pension agréé ou si

administrator applies to the Minister in writing for the revocation of the plan's registration, the Minister may,

(a) where the plan administrator has applied to the Minister in writing for the revocation of the plan's registration, at any time after receiving the administrator's application, and

(b) in any other case, after 30 days after the day of mailing of the notice of intent,

give notice (in this subsection and subsection 147.1(13) referred to as a "notice of revocation") by registered mail to the plan administrator that the registration of the plan is revoked as of the date specified in the notice of revocation, which date may not be earlier than the date specified in the notice of intent or the administrator's application, as the case may be.

celui-ci lui demande par écrit de retirer l'agrément, informer l'administrateur par avis — appelé « avis de retrait » au présent paragraphe et au paragraphe (13) —, envoyé en recommandé, du retrait de l'agrément du régime à compter de la date précisée dans l'avis de retrait, qui ne peut être antérieure à celle précisée dans l'avis d'intention ou dans la demande de l'administrateur. L'avis de retrait est envoyé aux dates suivantes :

a) si l'administrateur demande au ministre par écrit de retirer l'agrément du régime, une date donnée postérieure à la réception de la demande de l'administrateur;

b) dans les autres cas, 30 jours après la mise à la poste de l'avis d'intention.

Revocation of registration

(13) Where the Minister gives a notice of revocation to the administrator of a registered pension plan, the registration of the plan is revoked as of the date specified in the notice of revocation, unless the Federal Court of Appeal or a judge thereof, on application made at any time before the determination of an appeal pursuant to subsection 172(3), orders otherwise.

Retrait de l'agrément

(13) L'agrément d'un régime de pension agréé est retiré à compter de la date précisée dans l'avis de retrait, sauf ordonnance contraire de la Cour d'appel fédérale ou de l'un de ses juges sur demande formulée avant qu'il ne soit statué sur tout appel interjeté selon le paragraphe 172(3).

Anti-avoidance — multi-employer plans

(14) Where at any time the Minister gives written notice to the administrators of two or more registered pension plans, each of which is a multi-employer plan, that this subsection is applicable in relation to those plans with respect to a calendar year,

(a) each of those plans that is a specified multi-employer plan in the year shall, for the purposes of subsection 147.1(9) (other than for the purpose of determining the pension credits referred to in paragraphs 147.1(9)(a) and 147.1(9)(b)), be deemed to be a multi-employer plan that is not a specified multi-employer plan; and

(b) the totals determined for the year under paragraphs 147.1(9)(a) and 147.1(9)(b) shall be the amounts that would be determined if all the plans were a single plan.

Anti-évitement : régimes interentreprises

(14) Dans le cas où le ministre avise, par écrit, les administrateurs de plusieurs régimes de pension agréés qui sont des régimes interentreprises que le présent paragraphe s'applique à ces régimes pour une année civile, les règles suivantes s'appliquent :

a) chaque régime qui est un régime interentreprises déterminé au cours de l'année est réputé, pour l'application du paragraphe (9) — sauf pour le calcul du crédit de pension visé aux alinéas (9)a) et b) —, être un régime interentreprises mais non un régime interentreprises déterminé;

b) les totaux déterminés pour l'année selon les alinéas (9)a) et b) sont calculés comme s'il s'agissait d'un régime unique.

Plan as registered

(15) Any reference in this Act and the regulations to a pension plan as registered means the terms of the plan on the basis of which the Minister has registered the plan for the purposes of this Act and as amended by

(a) each amendment that has been accepted by the Minister, and

Régime tel qu'il est agréé

(15) Dans la présente loi et dans son règlement, toute mention d'un régime de pension tel qu'il est agréé vaut mention des modalités du régime sur lesquelles le ministre s'est fondé afin d'agréer le régime pour l'application de la présente loi, ainsi que des modifications suivantes apportées à ces modalités :

(b) each amendment that has been submitted to the Minister for acceptance and that the Minister has neither accepted nor refused to accept, if it is reasonable to expect the Minister to accept the amendment,

and includes all terms that are not contained in the documents constituting the plan but that are terms of the plan by reason of the Pension Benefits Standards Act, 1985 or a similar law of a province.

a) celles qu'il accepte par la suite;

b) celles sur lesquelles il ne s'est pas prononcé mais qu'il aurait pu valablement accepter.

Sont comprises parmi ces modalités celles qui ne sont pas énoncées dans les documents instituant le régime, mais qui constituent des modalités de celui-ci par l'effet de la *Loi de 1985 sur les normes de prestation de pension* ou d'une loi provinciale semblable.

Separate liability for obligations

(16) Every person who is a member of a body that is the administrator of a registered pension plan is subject to all obligations imposed on administrators by this Act or a regulation as if the person were the administrator of the plan.

Responsabilité distincte

(16) Toute personne membre de l'organisme administrateur d'un régime de pension agréé est assujettie aux obligations imposées aux administrateurs par la présente loi ou par son règlement au même titre que si elle était l'administrateur du régime.

Superintendent of Financial Institutions

(17) The Minister may, for the purposes of this Act, obtain the advice of the Superintendent of Financial Institutions with respect to any matter relating to pension plans.

Surintendant des institutions financières

(17) Le ministre peut, pour l'application de la présente loi, demander l'avis du surintendant des institutions financières sur tout question relative aux régimes de pension.

Regulations

(18) The Governor in Council may make regulations

(a) prescribing conditions for the registration of pension plans and enabling the Minister to impose additional conditions or waive any conditions that are prescribed;

(b) prescribing circumstances under which a registered pension plan becomes a revocable plan;

(c) specifying the manner of determining, or enabling the Minister to determine, the portion of a member's benefits under a registered pension plan that is in respect of any period;

(d) requiring administrators of registered pension plans to make determinations in connection with the computation of pension adjustments, past service pension adjustments, total pension adjustment reversals or any other related amounts (all such amounts referred to in this subsection as "specified amounts");

(e) requiring that the method used to determine a specified amount be acceptable to the Minister, where more than one method would otherwise comply with the regulations;

(f) enabling the Minister to permit or require a specified amount to be determined in a manner different from that set out in the regulations;

Règlements

(18) Le gouverneur en conseil peut, par règlement :

a) prévoir les conditions d'agrément des régimes de pension et autoriser le ministre à imposer des conditions supplémentaires ou à renoncer à appliquer une condition réglementaire;

b) prévoir dans quelles circonstances l'agrément d'un régime de pension agréé peut être retiré;

c) indiquer la façon de déterminer, ou autoriser le ministre à déterminer, la fraction des prestations du participant à un régime de pension agréé qui se rapporte à une période donnée;

d) exiger des administrateurs de régimes de pension agréés qu'ils déterminent les montants qui entrent dans le calcul des facteurs d'équivalence, facteurs d'équivalence pour services passés, facteurs d'équivalence rectifiés totaux ou autres montants liés (appelés « montants indiqués » au présent paragraphe);

e) exiger que la méthode de calcul des montants indiqués soit jugée acceptable par le ministre, dans le cas où plus d'une méthode est conforme au règlement;

f) autoriser le ministre à accepter ou exiger que les montants indiqués soient calculés d'une manière différente de celle prévue au règlement;

(g) requiring that any person who has information required by another person in order to determine a specified amount provide the other person with that information;

(h) enabling the Minister to require any person to provide the Minister with information relating to the method used to determine a specified amount;

(i) enabling the Minister to require any person to provide the Minister with information relevant to a claim that paragraph 147.1(10)(a) is not applicable by reason of an exemption provided by regulation;

(j) respecting applications for certifications for the purposes of subsection 147.1(10);

(k) enabling the Minister to waive the requirement for a certification for the purposes of subsection 147.1(10);

(l) prescribing rules for the purposes of subsection 147.1(10), so that that subsection applies or does not apply with respect to benefits provided as a consequence of particular transactions, events or circumstances;

(m) requiring any person to provide the Minister or the administrator of a registered pension plan with information in connection with an application for certification for the purposes of subsection 147.1(10);

(n) requiring any person who obtains a certification for the purposes of subsection 147.1(10) to provide the individual in respect of whom the certification was obtained with an information return;

(o) requiring administrators of registered pension plans to file information with respect to amendments to such plans and to the arrangements for funding benefits thereunder;

(p) requiring administrators of registered pension plans to file information returns respecting such plans;

(q) enabling the Minister to require any person to provide the Minister with information for the purpose of determining whether the registration of a pension plan may be revoked;

(r) requiring administrators of registered pension plans to submit reports to the Minister, prescribing the class of persons by whom the reports shall be prepared and prescribing information to be contained in those reports;

g) exiger que la personne qui dispose de renseignements dont une autre personne a besoin pour calculer les montants indiqués les lui fournisse;

h) autoriser le ministre à exiger qu'une personne lui fournisse des renseignements concernant la méthode de calcul des montants indiqués;

i) autoriser le ministre à exiger qu'une personne lui fournisse des renseignements servant à établir si l'alinéa (10)a) est inapplicable en raison d'une disposition réglementaire;

j) régir les demandes d'attestation visées au paragraphe (10);

k) autoriser le ministre à lever l'obligation d'attestation visée au paragraphe (10);

l) établir des règles pour que le paragraphe (10) puisse s'appliquer ou ne pas s'appliquer aux prestations découlant d'opérations, d'événements ou de circonstances donnés;

m) exiger de quiconque qu'il fournisse au ministre ou à l'administrateur d'un régime de pension agréé des renseignements relatifs à la demande d'attestation visée au paragraphe (10);

n) exiger que toute personne qui obtient l'attestation visée au paragraphe (10) fournisse une déclaration de renseignements au particulier concerné par l'attestation;

o) exiger que les administrateurs de régimes de pension agréés présentent des renseignements concernant les modifications apportées à ces régimes et les mécanismes de financement des prestations qu'ils prévoient;

p) exiger que les administrateurs de régimes de pension agréés présentent des déclarations de renseignements concernant les régimes;

q) autoriser le ministre à exiger qu'une personne lui fournisse des renseignements en vue du retrait éventuel de l'agrément d'un régime de pension;

r) exiger que les administrateurs de régimes de pension agréés déposent des rapports auprès du ministre, déterminer la catégorie de personnes chargées d'établir ces rapports et prévoir les renseignements à y porter;

s) permettre au ministre d'imposer toute exigence pouvant être imposée par des dispositions réglementaires prises en application de l'alinéa r);

(s) enabling the Minister to impose any requirement that may be imposed by regulation made under paragraph 147.1(18)(r);

(t) defining, for the purposes of this Act, the expressions ***multi-employer plan***, ***past service event***, ***past service pension adjustment***, ***pension adjustment***, ***specified multi-employer plan*** and ***total pension adjustment reversal***; and

(u) generally to carry out the purposes and provisions of this Act relating to registered pension plans and the determination and reporting of specified amounts.

t) définir, pour l'application de la présente loi, les expressions « facteur d'équivalence », « facteur d'équivalence pour services passés » , « facteur d'équivalence rectifié total », « fait lié au services passés », « régime interentreprises » et « régime interentreprises déterminé »;

u) prendre toute autre mesure d'application de la présente loi concernant les régimes de pension agréés, ainsi que le calcul et la déclaration des montants indiqués.

Reasonable error

(19) The administrator of a registered pension plan may make a payment (other than a payment made to avoid the revocation of the registration of the plan) that is a return of all or a portion of a contribution made by a member of the plan, or an employer who participates in the plan, if

(a) the contribution was made to the plan as a consequence of a reasonable error;

(b) the payment is made to the member or employer, as the case may be, who made the contribution; and

(c) the payment is made no later than December 31 of the year following the year in which the contribution was made.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 147.1; 1994, c. 7, Sch. II, s. 120(F), Sch. VIII, s. 85; 1996, c. 21, s. 36; 1997, c. 25, s. 44; 1998, c. 19, ss. 39, 173; 2003, c. 15, s. 84; 2005, c. 30, s. 11; 2013, c. 34, s. 302, c. 40, s. 64.

Erreur raisonnable

(19) L'administrateur d'un régime de pension agréé peut effectuer un paiement, sauf s'il s'agit d'un paiement effectué dans le but d'empêcher le retrait de l'agrément du régime, qui représente le remboursement de tout ou partie d'une cotisation versée par un participant au régime ou par un employeur qui participe au régime si les conditions ci-après sont réunies :

a) la cotisation a été versée au régime par suite d'une erreur raisonnable;

b) le paiement est effectué au participant ou à l'employeur, selon le cas, qui a versé la cotisation;

c) le paiement est effectué au plus tard le 31 décembre de l'année suivant celle dans laquelle la cotisation a été versée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 147.1; 1994, ch. 7, ann. II, art. 120(F), ann. VIII, art. 85; 1996, ch. 21, art. 36; 1997, ch. 25, art. 44; 1998, ch. 19, art. 39 et 173; 2003, ch. 15, art. 84; 2005, ch. 30, art. 11; 2013, ch. 34, art. 302, ch. 40, art. 64.

Pension contributions deductible — employer contributions

147.2 (1) For a taxation year ending after 1990, there may be deducted in computing the income of a taxpayer who is an employer the total of all amounts each of which is a contribution made by the employer after 1990 and either in the taxation year or within 120 days after the end of the taxation year to a registered pension plan in respect of the employer's employees or former employees, to the extent that

(a) in the case of a contribution in respect of a money purchase provision of a plan, the contribution was made in accordance with the plan as registered and in respect of periods before the end of the taxation year;

(b) in the case of a contribution in respect of the defined benefit provisions of a plan (other than a specified multi-employer plan), the contribution

Cotisations patronales déductibles

147.2 (1) Le contribuable qui est un employeur peut, pour une année d'imposition se terminant après 1990, déduire dans le calcul de son revenu les cotisations qu'il verse à un régime de pension agréé après 1990, au cours de l'année ou dans les 120 jours suivant la fin de celle-ci, pour ses employés actuels ou anciens, dans la mesure où:

a) les cotisations versées aux termes de la disposition à cotisations déterminées du régime le sont conformément au régime tel qu'il est agréé et pour des périodes antérieures à la fin de l'année;

b) les cotisations versées aux termes des dispositions à prestations déterminées du régime (à l'exception d'un régime interentreprises déterminé), à la fois :

(i) sont des cotisations admissibles,

(i) is an eligible contribution,

(ii) was made to fund benefits provided to employees and former employees of the employer in respect of periods before the end of the taxation year, and

(iii) complies with subsection 147.1(10);

(c) in the case of a contribution made to a plan that is a specified multi-employer plan, the contribution was made in accordance with the plan as registered and in respect of periods before the end of the taxation year; and

(d) the contribution was not deducted in computing the income of the employer for a preceding taxation year.

(ii) servent à financer les prestations à assurer aux employés actuels ou anciens de l'employeur pour des périodes antérieures à la fin de l'année,

(iii) sont conformes au paragraphe 147.1(10);

c) les cotisations versées aux termes d'un régime interentreprises déterminé le sont conformément au régime tel qu'il est agréé et pour des périodes antérieures à la fin de l'année;

d) les cotisations n'ont pas été déduites dans le calcul du revenu de l'employeur pour une année d'imposition antérieure.

Employer contributions — defined benefit provisions

(2) For the purposes of subsection 147.2(1), a contribution made by an employer to a registered pension plan in respect of the defined benefit provisions of the plan is an eligible contribution if it is a prescribed contribution or if it complies with prescribed conditions and is made pursuant to a recommendation by an actuary in whose opinion the contribution is required to be made so that the plan will have sufficient assets to pay benefits under the defined benefit provisions of the plan, as registered, in respect of the employees and former employees of the employer, where

(a) the recommendation is based on an actuarial valuation that complies with the following conditions, except the conditions in subparagraphs 147.2(2)(a)(iii) and 147.2(2)(a)(iv) to the extent that they are inconsistent with any other conditions that apply for the purpose of determining whether the contribution is an eligible contribution:

(i) the effective date of the valuation is not more than 4 years before the day on which the contribution is made,

(ii) actuarial liabilities and current service costs are determined in accordance with an actuarial funding method that produces a reasonable matching of contributions with accruing benefits,

(iii) all assumptions made for the purposes of the valuation are reasonable at the time the valuation is prepared and at the time the contribution is made,

(iv) the valuation is prepared in accordance with generally accepted actuarial principles,

Cotisations patronales : dispositions à prestations déterminées

(2) Pour l'application du paragraphe (1), la cotisation qu'un employeur verse à un régime de pension agréé aux termes des dispositions à prestations déterminées du régime est une cotisation admissible si elle est soit visée par règlement, soit conforme aux conditions réglementaires et versée sur le conseil d'un actuaire qui estime le versement nécessaire pour que l'actif du régime suffise à assurer le paiement des prestations prévues pour les employés actuels et anciens de l'employeur par ces dispositions du régime, tel qu'il est agréé, à la condition que le conseil remplisse les conditions suivantes :

a) il est fondé sur une évaluation actuarielle qui remplit les conditions suivantes, exception faite de celles énoncées aux sous-alinéas (iii) et (iv) dans la mesure où elles sont incompatibles avec toute autre condition servant à déterminer si la cotisation est une cotisation admissible :

(i) la date de la prise d'effet de l'évaluation tombe dans les quatre ans précédant le jour du versement de la cotisation,

(ii) la dette actuarielle et le coût des services courants sont déterminés conformément à une méthode actuarielle de financement qui établit un juste rapport entre les cotisations et les prestations acquises,

(iii) toutes les hypothèses formulées en vue de l'évaluation sont raisonnables au moment où celle-ci est établie ainsi qu'au moment où la cotisation est versée,

(iv) l'évaluation est établie en conformité avec les principes actuariels généralement reconnus,

(v) the valuation complies with prescribed conditions, which conditions may include conditions regarding the benefits that may be taken into account for the purposes of the valuation, and

(vi) where more than one employer participates in the plan, assets and actuarial liabilities are apportioned in a reasonable manner among participating employers in respect of their employees and former employees, and

(b) the recommendation is approved by the Minister in writing,

and, for the purposes of this subsection and except as otherwise provided by regulation,

(c) the benefits taken into account for the purposes of a recommendation may include anticipated cost-of-living and similar adjustments where the terms of a pension plan do not require that those adjustments be made but it is reasonable to expect that they will be made, and

(d) a recommendation with respect to the contributions required to be made by an employer in respect of the defined benefit provisions of a pension plan may be prepared without regard to such portion of the assets of the plan apportioned to the employer in respect of the employer's employees and former employees as does not exceed the lesser of

(i) the amount of actuarial surplus in respect of the employer, and

(ii) 25% of the amount of actuarial liabilities apportioned to the employer in respect of the employer's employees and former employees.

(v) l'évaluation est conforme aux conditions réglementaires, lesquelles peuvent porter sur les prestations pouvant être prises en compte en vue de l'évaluation,

(vi) dans le cas où plus d'un employeur participe au régime, l'actif et la dette actuarielle de celui-ci sont répartis de façon raisonnable entre les employeurs participants, pour leurs employés actuels et anciens;

b) le ministre l'approuve par écrit.

Pour l'application du présent paragraphe et sauf disposition réglementaire contraire :

c) les prestations prises en compte en vue du conseil peuvent, à titre prévisionnel, faire l'objet de rajustements de coût de vie et d'autres rajustements semblables, lorsque les modalités d'un régime de pension n'en prévoient pas mais qu'il est raisonnable de s'attendre à ce qu'ils soient apportés;

d) un conseil portant sur les cotisations qu'un employeur est tenu de verser aux termes des dispositions à prestations déterminées d'un régime de pension peut être établi sans qu'il soit tenu compte de la fraction de l'actif du régime, ne dépassant pas la moins élevée des sommes ci-après, qui est attribuée à l'employeur pour ses employés actuels et anciens :

(i) le surplus actuariel quant à l'employeur,

(ii) la somme correspondant à 25 % de la dette actuarielle attribuée à l'employeur pour ses employés actuels et anciens.

Filing of actuarial report

(3) Where, for the purposes of subsection 147.2(2), a person seeks the Minister's approval of a recommendation made by an actuary in connection with the contributions to be made by an employer to a registered pension plan in respect of the defined benefit provisions of the plan, the person shall file with the Minister a report prepared by the actuary that contains the recommendation and any other information required by the Minister.

Rapports actuariels au ministre

(3) La personne qui, pour l'application du paragraphe (2), demande au ministre d'approuver le conseil d'un actuaire concernant les cotisations qu'un employeur doit verser à un régime de pension agréé aux termes des dispositions à prestations déterminées du régime doit remettre au ministre un rapport, établi par l'actuaire, qui contient le conseil et tous autres renseignements exigés par le ministre.

Amount of employee's pension contributions deductible

(4) There may be deducted in computing the income of an individual for a taxation year ending after 1990 an amount equal to the total of

Cotisations salariales déductibles

(4) Un particulier peut déduire dans le calcul de son revenu pour une année d'imposition se terminant après 1990 le total des montants suivants :

Service after 1989

(a) the total of all amounts each of which is a contribution (other than a prescribed contribution) made by the individual in the year to a registered pension plan that is in respect of a period after 1989 or that is a prescribed eligible contribution, to the extent that the contribution was made in accordance with the plan as registered,

Service before 1990 while not a contributor

(b) the least of

(i) the amount, if any, by which

(A) the total of all amounts each of which is a contribution (other than an additional voluntary contribution or a prescribed contribution) made by the individual in the year or a preceding taxation year and after 1945 to a registered pension plan in respect of a particular year before 1990, if all or any part of the particular year is included in the individual's eligible service under the plan and if

(I) in the case of a contribution that the individual made before March 28, 1988 or was obliged to make under the terms of an agreement in writing entered into before March 28, 1988, the individual was not a contributor to the plan in the particular year, or

(II) in any other case, the individual was not a contributor to any registered pension plan in the particular year

exceeds

(B) the total of all amounts each of which is an amount deducted, in computing the individual's income for a preceding taxation year, in respect of contributions included in the total determined in respect of the individual for the year under clause 147.2(4)(b)(i)(A),

(ii) $3,500, and

(iii) the amount determined by the formula

($3,500 × Y) - Z

where

Y is the number of calendar years before 1990 each of which is a year

(A) all or any part of which is included in the individual's eligible service under a registered pension plan to which the individual has made a contribution that is included in

Services postérieurs à 1989

a) les cotisations (sauf celles visées par règlement) qu'il verse au cours de l'année à un régime de pension agréé et qui soit se rapportent à une période postérieure à 1989, soit sont des cotisations admissibles visées par règlement, dans la mesure où il les verse conformément au régime tel qu'il est agréé;

Services antérieurs à 1990 d'un non-cotisant

b) le moins élevé des montants suivants :

(i) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) les cotisations, sauf les cotisations facultatives ou les cotisations visées par règlement, qu'il a versées, au cours de l'année ou d'une année d'imposition antérieure mais après 1945, à une régime de pension agréé pour une année donnée antérieure à 1990, si l'année donnée est comprise, en tout ou en partie, dans les services admissibles que le particulier a accomplis dans le cadre du régime et si :

(I) dans le cas de cotisations que le particulier a versées avant le 28 mars 1988 ou est tenu de verser en conformité avec une convention écrite conclue avant cette date, il ne cotisait pas au régime au cours de l'année donnée,

(II) dans les autres cas, il ne cotisait à aucun régime de pension agréé au cours de l'année donnée,

(B) les montants déduits dans le calcul du revenu du particulier pour une année d'imposition antérieure au titre des cotisations incluses dans le montant calculé à la division (A),

(ii) 3 500 $,

(iii) le montant calculé selon la formule suivante :

(3500 $ × Y) - Z

où :

Y représente le nombre d'années civiles antérieures à 1990 dont chacune correspond :

(A) soit à une année — au cours de laquelle le particulier ne cotisait à aucun régime de pension agréé — comprise, en tout ou en partie, dans les services admissibles qu'il a accomplis dans le cadre d'un régime de pension agréé auquel il a versé une cotisation incluse dans le montant calculé à la division (i)(A),

the total determined under clause 147.2(4)(b)(i)(A) and in which the individual was not a contributor to any registered pension plan, or

(B) all or any part of which is included in the individual's eligible service under a registered pension plan to which the individual has made a contribution

(I) that is included in the total determined under clause 147.2(4)(b)(i)(A), and

(II) that the individual made before March 28, 1988 or was obliged to make under the terms of an agreement in writing entered into before March 28, 1988, and in which the individual was not a contributor to the plan, and

Z is the total of all amounts each of which is an amount deducted, in computing the individual's income for a preceding taxation year,

(A) in respect of contributions included in the total determined in respect of the individual for the year under clause 147.2(4)(b)(i)(A), or

(B) where the preceding year was before 1987, under subparagraph 8(1)(m)(ii) (as it read in its application to that preceding year) in respect of additional voluntary contributions made in respect of a year that satisfies the conditions in the description of Y, and

Service before 1990 while a contributor

(c) the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is a contribution (other than an additional voluntary contribution, a prescribed contribution or a contribution included in the total determined in respect of the individual for the year under clause 147.2(4)(b)(i)(A)) made by the individual in the year or a preceding taxation year and after 1962 to a registered pension plan in respect of a particular year before 1990 that is included, in whole or in part, in the individual's eligible service under the plan

exceeds

(B) the total of all amounts each of which is an amount deducted, in computing the individual's income for a preceding taxation year, in respect

(B) soit à une année — au cours de laquelle il ne cotisait pas à un régime de pension agréé — comprise, en tout ou en partie, dans les services admissibles qu'il a accomplis dans le cadre du régime auquel il a versé avant le 28 mars 1988, ou est tenu de verser en conformité avec une convention écrite conclue avant cette date, une cotisation incluse dans le montant calculé à la division (i)(A),

Z les montants déduits dans le calcul du revenu du particulier pour une année d'imposition antérieure :

(A) soit au titre des cotisations incluses dans le montant calculé à la division (i)(A),

(B) soit, dans le cas où l'année antérieure est antérieure à 1987, au titre des cotisations facultatives versées pour une année visée à l'élément Y, en application du sous-alinéa 8(1)m)(ii) dans sa version applicable à cette année antérieure;

Services antérieurs à 1990 d'un cotisant

c) le moins élevé des montants suivants :

(i) l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) les cotisations — sauf les cotisations facultatives, les cotisations visées par règlement ou les cotisations incluses dans le total calculé à la division b)(i)(A) — que le particulier a versées, au cours de l'année ou d'une année d'imposition antérieure mais après 1962, à un régime de pension agréé pour une année donnée antérieure à 1990 qui est comprise, en tout ou en partie, dans les services admissibles qu'il a accomplis dans le cadre du régime,

(B) les montants déduits dans le calcul du revenu du particulier pour une année d'imposition antérieure au titre des cotisations incluses dans le montant calculé à la division (A),

(ii) l'excédent éventuel de 3 500 $ sur le total des montants déduits en application des alinéas a) et b) dans le calcul du revenu du particulier pour l'année.

of contributions included in the total determined in respect of the individual for the year under clause 147.2(4)(c)(i)(A), and

(ii) the amount, if any, by which $3,500 exceeds the total of the amounts deducted by reason of paragraphs 147.2(4)(a) and 147.2(4)(b) in computing the individual's income for the year.

Teachers

(5) For the purpose of determining whether a teacher may deduct an amount contributed by the teacher to a registered pension plan in computing the teacher's income for a taxation year ending after 1990 and before 1995 during which the teacher was employed by Her Majesty or a person exempt from tax for the year under section 149,

(a) clause 147.2(4)(b)(i)(A) shall be read without reference to subclauses 147.2(4)(b)(i)(A)(I) and 147.2(4)(b)(i)(A)(II); and

(b) the description of Y in subparagraph 147.2(4)(b)(iii) shall be read as follows:

"Y is the number of calendar years before 1990 each of which is a year all or any part of which is included in the individual's eligible service under a registered pension plan to which the individual has made a contribution that is included in the total determined under clause 147.2(5)(b)(i)(A), and"

Deductible contributions when taxpayer dies

(6) Where a taxpayer dies in a taxation year, for the purpose of computing the taxpayer's income for the year and the preceding taxation year,

(a) paragraph 147.2(4)(b) shall be read without reference to subparagraph 147.2(6)(a)(ii) and as if the reference to "the least of" were a reference to "the lesser of"; and

(b) paragraph 147.2(4)(c) shall be read without reference to subparagraph 147.2(6)(b)(ii) and the words "the lesser of".

Letter of credit

(7) For the purposes of this section and any regulations made under subsection 147.1(18) in respect of eligible contributions, an amount paid to a registered pension plan by the issuer of a letter of credit issued in connection with an employer's funding obligations under a defined benefit provision of the plan is deemed to be an eligible contribution made to the plan in respect of the

Enseignants

(5) Pour déterminer si les cotisations qu'un enseignant verse à un régime de pension agréé sont déductibles dans le calcul de son revenu pour une année d'imposition se terminant après 1990 et avant 1995 et au cours de laquelle il était au service de Sa Majesté ou d'une personne exonérée d'impôt pour l'année en vertu de l'article 149:

a) il n'est pas tenu compte des subdivisions (4)b)(i)(A)(I) et (II);

b) l'élément Y au sous-alinéa (4)b)(iii) est remplacé par ce qui suit :

« Y représente le nombre d'années civiles se terminant avant 1990 comprises, en tout ou en partie, dans les services admissibles qu'il a accomplis dans le cadre d'un régime de pension agréé auquel il a versé des cotisations incluses dans le total calculé à la division (i)(A), »

Cotisations déductibles au décès

(6) Pour ce qui est du calcul du revenu d'un contribuable pour l'année d'imposition de son décès et pour l'année d'imposition précédente, le paragraphe (4) s'applique avec les modifications suivantes :

a) il n'est pas tenu compte du sous-alinéa b)(ii);

b) il n'est pas tenu compte du passage « le moins élevé des montants suivants : » à l'alinéa c) ni du sous-alinéa c)(ii).

Lettre de crédit

(7) Pour l'application du présent article et de toute disposition réglementaire prise en vertu du paragraphe 147.1(18) relativement à des cotisations admissibles, la somme que verse à un régime de pension agréé l'émetteur d'une lettre de crédit délivrée relativement aux obligations financières d'un employeur prévues par une disposition à prestations déterminées du régime est réputée être une cotisation admissible que l'employeur verse au

provision by the employer with respect to the employer's employees or former employees, if

(a) the amount is paid under the letter of credit;

(b) the use of the letter of credit is permitted under the *Pension Benefits Standards Act, 1985* or a similar law of a province; and

(c) the amount would have been an eligible contribution under subsection (2) if

(i) it had been paid to the plan by the employer, and

(ii) this section were read without reference to this subsection.

Former employee of predecessor employer

(8) For the purposes of this section and any regulations made under subsection 147.1(18) in respect of eligible contributions, a former employee of a predecessor employer (as defined by regulation) of a participating employer in relation to a pension plan is deemed to be a former employee of the participating employer in relation to the plan if

(a) the former employee would not otherwise be an employee or former employee of the participating employer; and

(b) benefits are provided to the former employee under a defined benefit provision of the plan in respect of periods of employment with the predecessor employer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 147.2; 1998, c. 19, s. 174; 2001, c. 17, s. 143; 2007, c. 2, s. 39; 2010, c. 12, s. 18; 2013, c. 34, s. 303.

Transfer — money purchase to money purchase, RRSP or RRIF

147.3 (1) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

(a) is a single amount;

(b) is transferred on behalf of a member in full or partial satisfaction of the member's entitlement to benefits under a money purchase provision of the plan as registered; and

(c) is transferred directly to

(i) another registered pension plan to provide benefits in respect of the member under a money purchase provision of that plan,

régime aux termes de la disposition au titre de ses employés actuels ou anciens dans le cas où, à la fois :

a) la somme est versée aux termes de la lettre de crédit;

b) l'utilisation de la lettre de crédit est autorisée en vertu de la *Loi de 1985 sur les normes de prestation de pension* ou d'une loi provinciale semblable;

c) la somme aurait été une cotisation admissible aux termes du paragraphe (2) si, à la fois :

(i) elle avait été versée au régime par l'employeur,

(ii) le présent article s'appliquait compte non tenu du présent paragraphe.

Ancien employé d'un employeur remplacé

(8) Pour l'application du présent article et de toute disposition réglementaire prise en vertu du paragraphe 147.1(18) relativement à des cotisations admissibles, l'ancien employé d'un employeur remplacé, au sens prévu par règlement, quant à un employeur participant relativement à un régime de pension est réputé être l'ancien employé de l'employeur participant relativement au régime si les conditions ci-après sont réunies :

a) l'ancien employé ne serait pas par ailleurs un employé actuel ou ancien de l'employeur participant;

b) des prestations sont assurées à l'ancien employé aux termes d'une disposition à prestations déterminées du régime pour des périodes d'emploi auprès de l'employeur remplacé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 147.2; 1998, ch. 19, art. 174; 2001, ch. 17, art. 143; 2007, ch. 2, art. 39; 2010, ch. 12, art. 18; 2013, ch. 34, art. 303.

Transfert entre cotisations déterminées ou à un REER ou un FERR

147.3 (1) Un montant est transféré d'un régime de pension agréé conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique;

b) le montant est transféré pour le compte d'un participant en règlement total ou partiel de son droit aux prestations prévues par une disposition cotisations déterminées du régime tel qu'il est agréé;

c) le montant est transféré directement à l'un des régimes ou fonds suivants :

(ii) a registered retirement savings plan under which the member is the annuitant (within the meaning assigned by subsection 146(1)), or

(iii) a registered retirement income fund under which the member is the annuitant (within the meaning assigned by subsection 146.3(1)).

(i) un autre régime de pension agréé pour assurer au participant des prestations aux termes d'une disposition à cotisations déterminées de ce régime,

(ii) un régime enregistré d'épargne-retraite dont le participant est rentier au sens du paragraphe 146(1),

(iii) un fonds enregistré de revenu de retraite dont le participant est rentier au sens du paragraphe 146.3(1).

Transfer — money purchase to defined benefit

(2) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

(a) is a single amount;

(b) is transferred on behalf of a member in full or partial satisfaction of the member's entitlement to benefits under a money purchase provision of the plan as registered; and

(c) is transferred directly to another registered pension plan to fund benefits provided in respect of the member under a defined benefit provision of that plan.

Transfert de cotisations déterminées à prestations déterminées

(2) Un montant est transféré d'un régime de pension agréé conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique;

b) le montant est transféré pour le compte d'un participant en règlement total ou partiel de son droit aux prestations prévues par une disposition à cotisations déterminées du régime tel qu'il est agréé;

c) le montant est transféré directement à un autre régime de pension agréé pour financer les prestations assurées au participant aux termes d'une disposition à prestations déterminées de ce régime.

Transfer — defined benefit to defined benefit

(3) An amount is transferred from a registered pension plan (in this subsection referred to as the "transferor plan") in accordance with this subsection if the amount

(a) is a single amount;

(b) consists of all or any part of the property held in connection with a defined benefit provision of the transferor plan;

(c) is transferred directly to another registered pension plan to be held in connection with a defined benefit provision of the other plan; and

(d) is transferred as a consequence of benefits becoming provided under the defined benefit provision of the other plan to one or more individuals who were members of the transferor plan.

Transfert entre prestations déterminées

(3) Un montant est transféré d'un régime de pension agréé donné conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique;

b) le montant représente tout ou partie des biens détenus relativement à une disposition à prestations déterminées du régime donné;

c) le montant est transféré directement à un autre régime de pension agréé pour qu'il soit détenu relativement à une disposition à prestations déterminées de ce régime;

d) le montant est transféré du fait que des prestations sont prévues par la disposition à prestations déterminées de l'autre régime pour un ou plusieurs particuliers qui participent au régime donné.

Transfer — defined benefit to money purchase, RRSP or RRIF

(4) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

Transfert de prestations déterminées à cotisations déterminées ou à un REER ou un FERR

(4) Un montant est transféré d'un régime de pension agréé conformément au présent paragraphe si les conditions suivantes sont réunies :

(a) is a single amount no portion of which relates to an actuarial surplus;

(b) is transferred on behalf of a member in full or partial satisfaction of benefits to which the member is entitled, either absolutely or contingently, under a defined benefit provision of the plan as registered;

(c) does not exceed a prescribed amount; and

(d) is transferred directly to

(i) another registered pension plan and allocated to the member under a money purchase provision of that plan,

(ii) a registered retirement savings plan under which the member is the annuitant (within the meaning assigned by subsection 146(1)), or

(iii) a registered retirement income fund under which the member is the annuitant (within the meaning assigned by subsection 146.3(1)).

a) il s'agit d'un montant unique dont aucune fraction n'est afférente à un surplus actuariel;

b) le montant est transféré pour le compte d'un participant en règlement total ou partiel des prestations, prévues par une disposition à prestations déterminées du régime tel qu'il est agréé, auxquelles le participant a droit conditionnellement ou non;

c) le montant ne dépasse pas le montant prescrit;

d) le montant est transféré directement :

(i) à un autre régime de pension agréé et est attribué au participant aux termes d'une disposition à cotisations déterminées de ce régime,

(ii) à un régime enregistré d'épargne-retraite dont le participant est rentier au sens du paragraphe 146(1),

(iii) à un fonds enregistré de revenu de retraite dont le participant est rentier au sens du paragraphe 146.3(1).

Transfer of surplus — defined benefit to money purchase

(4.1) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

(a) is transferred in respect of the actuarial surplus under a defined benefit provision of the plan; and

(b) is transferred directly to another registered pension plan and allocated under a money purchase provision of that plan to one or more members of that plan.

Transfert de surplus — prestations déterminées à cotisations déterminées

(4.1) Est transféré d'un régime de pension agréé en conformité avec le présent paragraphe le montant qui est, à la fois :

a) transféré au titre du surplus actuariel afférent à une disposition à prestations déterminées du régime;

b) transféré directement à un autre régime de pension agréé et attribué à un ou plusieurs participants de ce régime aux termes d'une disposition à cotisations déterminées de ce régime.

Transfer to RPP, RRSP or RRIF for spouse on marriage breakdown

(5) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

(a) is a single amount no portion of which relates to an actuarial surplus;

(b) is transferred on behalf of an individual who is a spouse or common-law partner or former spouse or common-law partner of a member of the plan and who is entitled to the amount under a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the member and the individual in settlement of rights arising out of, or on a breakdown of, their marriage or common-law partnership; and

Transfert à un RPA, à un REER ou à un FERR pour le conjoint après échec du mariage

(5) Un montant est transféré d'un régime de pension agréé conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique dont aucune partie ne se rapporte à un surplus actuariel;

b) le montant est transféré pour le compte d'un particulier qui est l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait d'un participant au régime et qui a le droit de recevoir ce montant en vertu d'une ordonnance ou d'un jugement rendus par un

(c) is transferred directly to

(i) another registered pension plan for the benefit of the individual,

(ii) a registered retirement savings plan under which the individual is the annuitant (within the meaning assigned by subsection 146(1)), or

(iii) a registered retirement income fund under which the individual is the annuitant (within the meaning assigned by subsection 146.3(1)).

c) le montant est transféré directement à l'un des régimes ou fonds suivants :

(i) un autre régime de pension agréé au profit du particulier,

(ii) un régime enregistré d'épargne-retraite dont le particulier est rentier au sens du paragraphe 146(1),

(iii) un fonds enregistré de revenu de retraite dont le particulier est rentier au sens du paragraphe 146.3(1).

Transfer — pre-1991 contributions

(6) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

(a) is a single amount;

(b) is transferred on behalf of a member who is entitled to the amount as a return of contributions made (or deemed by regulation to have been made) by the member under a defined benefit provision of the plan before 1991, or as interest (computed at a rate not exceeding a reasonable rate) in respect of those contributions; and

(c) is transferred directly to

(i) another registered pension plan for the benefit of the member,

(ii) a registered retirement savings plan under which the member is the annuitant (within the meaning assigned by subsection 146(1)), or

(iii) a registered retirement income fund under which the member is the annuitant (within the meaning assigned by subsection 146.3(1)).

Transfert : remboursement de cotisations antérieures à 1991

(6) Un montant est transféré d'un régime de pension agréé conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique;

b) le montant est transféré pour le compte d'un participant qui a le droit de recevoir ce montant à titre de remboursement des cotisations qu'il a versées (ou qu'il est réputé par règlement avoir versées) aux termes d'une disposition à prestations déterminées du régime avant 1991 ou à titre d'intérêts calculés à un taux raisonnable sur ces cotisations;

c) le montant est transféré directement à l'un des régimes ou fonds suivants :

(i) un autre régime de pension agréé au profit du participant,

(ii) un régime enregistré d'épargne-retraite dont le participant est rentier au sens du paragraphe 146(1),

(iii) un fonds enregistré de revenu de retraite dont le participant est rentier au sens du paragraphe 146.3(1).

Transfer — lump sum benefits on death

(7) An amount is transferred from a registered pension plan in accordance with this subsection if the amount

(a) is a single amount no portion of which relates to an actuarial surplus;

(b) is transferred on behalf of an individual who is entitled to the amount as a consequence of the death of a

Transfert : prestations forfaitaires au décès

(7) Un montant est transféré d'un régime de pension agréé conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique dont aucune fraction n'est afférente à un surplus actuariel;

member of the plan and who was a spouse or common-law partner or former spouse or common-law partner of the member at the date of the member's death; and

(c) is transferred directly to

(i) another registered pension plan for the benefit of the individual,

(ii) a registered retirement savings plan under which the individual is the annuitant (within the meaning assigned by subsection 146(1)), or

(iii) a registered retirement income fund under which the individual is the annuitant (within the meaning assigned by subsection 146.3(1)).

Transfer where money purchase plan replaces money purchase plan

(7.1) An amount is transferred from a registered pension plan (in this subsection referred to as the "transferor plan") in accordance with this subsection if

(a) the amount is a single amount;

(b) the amount is transferred in respect of the surplus (as defined by regulation) under a money purchase provision (in this subsection referred to as the "former provision") of the transferor plan;

(c) the amount is transferred directly to another registered pension plan to be held in connection with a money purchase provision (in this subsection referred to as the "current provision") of the other plan;

(d) the amount is transferred in conjunction with the transfer of amounts from the former provision to the current provision on behalf of all or a significant number of members of the transferor plan whose benefits under the former provision are replaced by benefits under the current provision; and

(e) the transfer is acceptable to the Minister and the Minister has so notified the administrator of the transferor plan in writing.

Transfer where money purchase plan replaces defined benefit plan

(8) An amount is transferred from a registered pension plan (in this subsection referred to as the "transferor plan") in accordance with this subsection if

b) le montant est transféré pour le compte d'un particulier qui est l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait d'un participant au régime au décès de celui-ci et qui a le droit de recevoir ce montant par suite de ce décès;

c) le montant est transféré directement à l'un des régimes ou fonds suivants :

(i) un autre régime de pension agréé au profit du particulier,

(ii) un régime enregistré d'épargne-retraite dont le particulier est rentier au sens du paragraphe 146(1),

(iii) un fonds enregistré de revenu de retraite dont le particulier est rentier au sens du paragraphe 146.3(1).

Transfert : remplacement d'un régime à cotisations déterminées

(7.1) Un montant est transféré d'un régime de pension agréé donné conformément au présent paragraphe si les conditions suivantes sont réunies :

a) il s'agit d'un montant unique;

b) le montant est transféré au titre du surplus, au sens du *Règlement de l'impôt sur le revenu*, afférent à une disposition à cotisations déterminées (appelée « ancienne disposition » au présent paragraphe) du régime donné;

c) le montant est transféré directement à un autre régime de pension agréé pour qu'il soit détenu relativement à une disposition à cotisations déterminées (appelée « disposition courante ») de ce régime;

d) le montant est transféré en même temps que d'autres montants qui sont transférés de l'ancienne disposition à la disposition courante pour le compte d'un nombre important de participants au régime donné, sinon tous, et les prestations qui leur sont assurées aux termes de l'ancienne disposition sont remplacées par des prestations prévues par la disposition courante;

e) le ministre, jugeant le transfert acceptable, en a avisé l'administrateur du régime donné par écrit.

Transfert : remplacement d'un régime à prestations déterminées

(8) Un montant est transféré d'un régime de pension agréé donné conformément au présent paragraphe si les conditions suivantes sont réunies :

(a) the amount is a single amount;

(b) the amount is transferred in respect of the actuarial surplus under a defined benefit provision of the transferor plan;

(c) the amount is transferred directly to another registered pension plan to be held in connection with a money purchase provision of the other plan;

(d) the amount is transferred in conjunction with the transfer of amounts from the defined benefit provision to the money purchase provision on behalf of all or a significant number of members of the transferor plan whose benefits under the defined benefit provision are replaced by benefits under the money purchase provision; and

(e) the transfer is acceptable to the Minister and the Minister has so notified the administrator of the transferor plan in writing.

a) il s'agit d'un montant unique;

b) le montant est transféré au titre du surplus actuariel afférent à une disposition à prestations déterminées du régime donné;

c) le montant est transféré directement à un autre régime de pension agréé pour qu'il soit détenu relativement à une disposition à cotisations déterminées de ce régime;

d) le montant est transféré en même temps que d'autres montants qui sont transférés de la disposition à prestations déterminées à la disposition à cotisations déterminées pour le compte d'un nombre important de participants au régime donné, sinon tous, et les prestations qui leur sont assurées aux termes de la disposition à prestations déterminées sont remplacées par des prestations prévues par la disposition à cotisations déterminées;

e) le ministre, jugeant le transfert acceptable, en a avisé l'administrateur du régime donné par écrit.

Taxation of amount transferred

(9) Where an amount is transferred in accordance with any of subsections 147.3(1) to (8),

(a) the amount shall not, by reason only of that transfer, be included by reason of subparagraph 56(1)(a)(i) in computing the income of any taxpayer; and

(b) no deduction may be made under any provision of this Act in respect of the amount in computing the income of any taxpayer.

Imposition des transferts

(9) Les montants transférés conformément à l'un des paragraphes (1) à (8) ne peuvent :

a) de ce seul fait, être inclus dans le calcul du revenu d'un contribuable en application du sous-alinéa 56(1)a)(i);

b) faire l'objet d'une déduction selon la présente loi dans le calcul du revenu d'un contribuable.

Idem

(10) Where, on behalf of an individual, an amount is transferred from a registered pension plan (in this subsection referred to as the "transferor plan") to another plan or fund (in this subsection referred to as the "transferee plan") that is a registered pension plan, a registered retirement savings plan or a registered retirement income fund and the transfer is not in accordance with any of subsections 147.3(1) to (7),

(a) the amount is deemed to have been paid from the transferor plan to the individual;

(b) subject to paragraph 147.3(10)(c), the individual shall be deemed to have paid the amount as a contribution or premium to the transferee plan; and

(c) where the transferee plan is a registered retirement income fund, for the purposes of subsection 146(5) and Part X.1, the individual shall be deemed to

Idem

(10) Lorsqu'un montant est transféré, pour le compte d'un particulier, d'un régime de pension agréé à un autre régime ou fonds — régime de pension agréé, régime enregistré d'épargne-retraite ou fonds enregistré de revenu de retraite — et que le transfert n'est pas conforme à l'un des paragraphes (1) à (7), les présomptions suivantes s'appliquent :

a) le montant est réputé avoir été versé au particulier sur le régime qui le transfère;

b) sous réserve de l'alinéa c), le particulier est réputé avoir payé le montant à titre de cotisation ou de prime à l'autre régime ou fonds;

c) lorsque l'autre régime ou fonds est un fonds enregistré de revenu de retraite, le particulier est réputé, pour l'application du paragraphe 146(5) et de la partie X.1, avoir payé le montant au moment du transfert à

have paid the amount at the time of the transfer as a premium under a registered retirement savings plan under which the individual was the annuitant (within the meaning assigned by subsection 146(1)).

titre de prime dans le cadre d'un régime enregistré d'épargne-retraite dont il était rentier au sens du paragraphe 146(1).

Division of transferred amount

(11) Where an amount is transferred from a registered pension plan to another registered pension plan, to a registered retirement savings plan or to a registered retirement income fund and a portion, but not all, of the amount is transferred in accordance with any of subsections 147.3(1) to (8),

(a) subsection 147.3(9) applies with respect to the portion of the amount that is transferred in accordance with any of subsections 147.3(1) to (8); and

(b) subsection 147.3(10) applies with respect to the remainder of the amount.

Versement ou transfert partiel

(11) Lorsqu'un montant est transféré d'un régime de pension agréé à un autre semblable régime, à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite et qu'une fraction seulement de ce montant est transférée conformément à l'un des paragraphes (1) à (8), les règles suivantes s'appliquent :

a) le paragraphe (9) s'applique à cette fraction du montant;

b) le paragraphe (10) s'applique au reste du montant.

Restriction re transfers

(12) A registered pension plan becomes a revocable plan at any time that an amount is transferred from the plan to another registered pension plan, to a registered retirement savings plan or to a registered retirement income fund unless

(a) the amount is transferred in accordance with any of subsections 147.3(1) to (8); or

(b) where the amount is transferred on behalf of an individual,

(i) the amount is deductible by the individual under paragraph 60(j) or (j.2), or

(ii) the *Pension Benefits Standards Act, 1985* or a similar law of a province prohibits the payment of the amount to the individual.

Restriction concernant les transferts

(12) L'agrément d'un régime de pension agréé peut être retiré dès qu'un montant est transféré de ce régime à un autre semblable régime, à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite, sauf dans les cas suivants :

a) le transfert est conforme à l'un des paragraphes (1) à (8);

b) s'il s'agit d'un transfert pour le compte d'un particulier :

(i) ou bien celui-ci peut le déduire en application de l'alinéa 60j) ou j.2),

(ii) ou bien la *Loi de 1985 sur les normes de prestation de pension* ou une loi provinciale semblable interdit de verser ce montant au particulier.

Excess transfer

(13) Where

(a) the transfer in a calendar year of an amount from a registered pension plan on behalf of a member of the plan would, but for this subsection, be in accordance with subsection 147.3(1) or (2), and

(b) the plan becomes, at the end of the year, a revocable plan as a consequence of an excess determined under any of paragraphs 147.1(8)(a) and (b) and (9)(a) and (b) with respect to the member (whether or not such an excess is also determined with respect to any other member),

Excédent de transfert

(13) Lorsqu'un montant transféré d'un régime de pension agréé, au cours d'une année civile, pour le compte d'un participant au régime serait, compte non tenu du présent paragraphe, conforme au paragraphe (1) ou (2) et que l'agrément du régime peut être retiré à la fin de l'année à cause d'un excédent déterminé en application de l'un des alinéas 147.1(8)a) et b) et (9)a) et b) pour le participant — indépendamment du fait qu'un tel excédent soit aussi déterminé pour un autre participant —, la fraction du montant transféré qu'il est raisonnable de considérer comme découlant de montants attribués ou attribués de nouveau au participant au cours de l'année ou de revenus imputables à juste titre à ces montants est réputée être un montant qui n'a pas été transféré

such portion of the amount transferred as may reasonably be considered to derive from amounts allocated or reallocated to the member in the year or from earnings reasonably attributable to those amounts shall, except to the extent otherwise expressly provided in writing by the Minister, be deemed to be an amount that was not transferred in accordance with subsection 147.3(1) or (2), as the case may be.

Withdrawal of excessive transfers to RRSPs and RRIFs

(13.1) There may be deducted in computing the income of an individual for a taxation year the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is an amount included under subsection 146(8), 146(8.3) or 146(12) or 146.3(5), 146.3(5.1) or 146.3(11) in computing the individual's income for the year, to the extent that the amount is not a prescribed withdrawal,

exceeds

(ii) the total of all amounts each of which is an amount deductible under paragraph 60(l) or subsection 146(8.2) in computing the income of the individual for the year, and

(b) the amount, if any, by which

(i) the total of all amounts each of which is an amount that was

(A) transferred to a registered retirement savings plan or registered retirement income fund under which the individual was the annuitant (within the meaning assigned by subsection 146(1) or 146.3(1), as the case may be),

(B) included in computing the income of the individual for the year or a preceding taxation year, and

(C) deemed by paragraph 147.3(10)(b) or 147.3(10)(c) to have been paid by the individual as a premium to a registered retirement savings plan,

exceeds

(ii) the total of all amounts each of which is an amount

conformément au paragraphe (1) ou (2), selon le cas, sauf dans la mesure que le ministre prévoit expressément par écrit.

Retrait des excédents transférés à un REER ou à un FERR

(13.1) Le moins élevé des montants suivants est déductible dans le calcul du revenu d'un particulier pour une année d'imposition :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un montant inclus, en application des paragraphes 146(8), (8.3) ou (12) ou 146.3(5), (5.1) ou (11), dans le calcul du revenu du particulier pour l'année, dans la mesure où il ne s'agit pas d'un retrait visé par règlement,

(ii) le total des montants représentant chacun un montant déductible en application de l'alinéa 60l) ou du paragraphe 146(8.2) dans le calcul du revenu du particulier pour l'année;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun un montant qui, à la fois :

(A) est transféré à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite, dont le particulier était rentier au sens des paragraphes 146(1) ou 146.3(1),

(B) est inclus dans le calcul du revenu du particulier pour l'année ou pour une année d'imposition antérieure,

(C) est réputé par les alinéas (10)b) ou c) avoir été payé par le particulier à titre de prime à un régime enregistré d'épargne-retraite,

(ii) le total des montants représentant chacun un montant qui, selon le cas :

(A) est déductible en application du présent paragraphe dans le calcul du revenu du particulier pour une année d'imposition antérieure,

(A) deductible under this subsection in computing the individual's income for a preceding taxation year, or

(B) deducted under subsection 146(5) in computing the individual's income for a preceding taxation year, to the extent that the amount can reasonably be considered to be in respect of an amount referred to in subparagraph 147.3(13.1)(b)(i).

(B) a été déduit en application du paragraphe 146(5) dans le calcul du revenu du particulier pour une année d'imposition antérieure, dans la mesure où il est raisonnable de considérer que le montant se rapporte à un montant visé au sous-alinéa (i).

Deemed transfer

(14) For the purposes of this section and the regulations, where property held in connection with a particular pension plan is made available to pay benefits under another pension plan, the property shall be deemed to have been transferred from the particular plan to the other plan.

Présomption de transfert

(14) Pour l'application du présent article et des dispositions réglementaires prises pour son application, les biens détenus relativement à un régime de pension donné qui servent à verser les prestations prévues par un autre régime de pension sont réputés avoir été transférés du régime donné à l'autre régime.

Transfer of property between provisions

(14.1) Where property held in connection with a benefit provision of a registered pension plan is made available to pay benefits under another benefit provision of the plan, subsections 147.3(9) to 147.3(11) apply in respect of the transaction by which the property is made so available in the same manner as they would apply if the other benefit provision were in another registered pension plan.

Transfert de biens entre dispositions

(14.1) Dans le cas où un bien détenu dans le cadre de la disposition à prestations ou à cotisations déterminées d'un régime de pension agréé peut servir au paiement de prestations dans le cadre d'une autre semblable disposition du régime, les paragraphes (9) à (11) s'appliquent à l'opération consistant à permettre cet usage du bien comme si l'autre disposition faisait partie d'un autre régime de pension agréé.

(15) [Repealed, 1998, c. 19, s. 175(2)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 147.3; 1994, c. 7, Sch. VIII, s. 86; 1997, c. 25, s. 45; 1998, c. 19, ss. 40, 175; 2000, c. 12, s. 142; 2001, c. 17, s. 144; 2013, c. 34, s. 304.

(15) [Abrogé, 1998, ch. 19, art. 175(2)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 147.3; 1994, ch. 7, ann. VIII, art. 86; 1997, ch. 25, art. 45; 1998, ch. 19, art. 40 et 175; 2000, ch. 12, art. 142; 2001, ch. 17, art. 144; 2013, ch. 34, art. 304.

RPP annuity contract

147.4 (1) Where

(a) at any time an individual acquires, in full or partial satisfaction of the individual's entitlement to benefits under a registered pension plan, an interest in an annuity contract purchased from a licensed annuities provider,

(b) the rights provided for under the contract are not materially different from those provided for under the plan as registered,

(c) the contract does not permit premiums to be paid at or after that time, other than a premium paid at that time out of or under the plan to purchase the contract,

(d) either the plan is not a plan in respect of which the Minister may, under subsection 147.1(11), give a notice of intent to revoke the registration of the plan or the Minister waives the application of this paragraph

Contrat de rente acquis dans le cadre d'un RPA

147.4 (1) Dans le cas où les conditions suivantes sont réunies :

a) un particulier acquiert, en règlement total ou partiel de son droit à des prestations prévues par un régime de pension agréé, un droit dans un contrat de rente acheté d'un fournisseur de rentes autorisé,

b) les droits prévus par le contrat ne diffèrent pas sensiblement de ceux prévus par le régime tel qu'il est agréé,

c) la seule prime dont le contrat permet le versement au moment de l'acquisition du droit ou postérieurement est celle qui est versée à ce moment sur le régime ou en vertu du régime en vue d'acheter le contrat,

d) il ne s'agit pas d'un régime à l'égard duquel le ministre peut envoyer, en application du paragraphe 147.1(11), un avis portant qu'il a l'intention de retirer l'agrément du régime, ou le ministre renonce à

with respect to the contract and so notifies the administrator of the plan in writing, and

(e) the individual does not acquire the interest as a consequence of a transfer of property from the plan to a registered retirement savings plan or a registered retirement income fund,

the following rules apply for the purposes of this Act:

(f) the individual is deemed not to have received an amount out of or under the registered pension plan as a consequence of acquiring the interest, and

(g) other than for the purposes of sections 147.1 and 147.3, any amount received at or after that time by any individual under the contract is deemed to have been received under the registered pension plan.

Amended contract

(2) Where

(a) an amendment is made at any time to an annuity contract to which subsection (1) or paragraph 254(a) applies, other than an amendment the sole effect of which is to

(i) defer annuity commencement to no later than the end of the calendar year in which the individual in respect of whom the contract was purchased attains 71 years of age, or

(ii) enhance benefits under the annuity contract in connection with the demutualization (as defined by subsection 139.1(1)) of an insurance corporation that is considered for the purpose of section 139.1 to have been a party to the annuity contract, and

(b) the rights provided for under the contract are materially altered as a consequence of the amendment,

the following rules apply for the purposes of this Act:

(c) each individual who has an interest in the contract immediately before that time is deemed to have received at that time the payment of an amount under a pension plan equal to the fair market value of the interest immediately before that time,

(d) the contract as amended is deemed to be a separate annuity contract issued at that time otherwise than pursuant to or under a superannuation or pension fund or plan, and

(e) each individual who has an interest in the separate annuity contract immediately after that time is

appliquer le présent alinéa au contrat et en avise l'administrateur du régime par écrit;

e) le particulier n'acquiert pas le droit dans le contrat par suite d'un transfert de biens du régime à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite,

les présomptions suivantes s'appliquent dans le cadre de la présente loi :

f) le particulier est réputé ne pas avoir reçu de montant sur le régime ou en vertu du régime par suite de l'acquisition du droit dans le contrat;

g) sauf pour l'application des articles 147.1 et 147.3, tout montant qu'un particulier reçoit dans le cadre du contrat au moment de l'acquisition du droit ou postérieurement est réputé avoir été reçu dans le cadre du régime.

Modification de contrat

(2) Dans le cas où les conditions suivantes sont réunies :

a) une modification est apportée, à un moment donné, à un contrat de rente auquel s'applique le paragraphe (1) ou l'alinéa 254a), sauf une modification ayant pour seul effet :

(i) soit de différer le début du service de la rente au plus tard jusqu'à la fin de l'année civile dans laquelle le particulier à l'égard duquel la rente a été achetée atteint 71 ans,

(ii) soit d'améliorer des prestations, prévues par le contrat de rente, à l'occasion de la démutualisation, au sens du paragraphe 139.1(1), d'une compagnie d'assurance qui est considérée, pour l'application de l'article 139.1, comme ayant été partie au contrat;

b) la modification a pour effet de changer sensiblement les droits prévus par le contrat,

les présomptions suivantes s'appliquent dans le cadre de la présente loi :

c) chaque particulier qui a un droit dans le contrat immédiatement avant ce moment est réputé avoir reçu à ce moment, en vertu d'un régime de pension, un montant égal à la juste valeur marchande du droit immédiatement avant ce moment;

d) le contrat, en son état modifié, est réputé être un contrat de rente distinct établi à ce moment autrement que dans le cadre d'une caisse ou d'un régime de retraite ou de pension;

deemed to have acquired the interest at that time at a cost equal to the fair market value of the interest immediately after that time.

New contract

(3) For the purposes of this Act, where an annuity contract (in this subsection referred to as the "original contract") to which subsection 147.4(1) or paragraph 254(a) applies is, at any time, substituted by another contract,

(a) if the rights provided for under the other contract

(i) are not materially different from those provided for under the original contract, or

(ii) are materially different from those provided for under the original contract only because of an enhancement of benefits that can reasonably be considered to have been provided solely in connection with the demutualization (as defined by subsection 139.1(1)) of an insurance corporation that is considered for the purposes of section 139.1 to have been a party to the original contract,

the other contract is deemed to be the same contract as, and a continuation of, the original contract; and

(b) in any other case, each individual who has an interest in the original contract immediately before that time is deemed to have received at that time the payment of an amount under a pension plan equal to the fair market value of the interest immediately before that time.

(4) [Repealed, 2007, c. 29, s. 21]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 176; 2000, c. 19, s. 43; 2007, c. 29, s. 21.

Pooled Registered Pension Plans

Definitions

147.5 (1) The following definitions apply in this section.

administrator, of a pooled pension plan, means

(a) a corporation resident in Canada that is responsible for the administration of the plan and that is authorized under the *Pooled Registered Pension Plans Act* or a similar law of a province to act as an administrator for one or more pooled pension plans; or

e) chaque particulier qui a un droit dans le contrat de rente distinct immédiatement après ce moment est réputé l'avoir acquis à ce moment à un coût égal à sa juste valeur marchande immédiatement après ce moment.

Nouveau contrat

(3) Pour l'application de la présente loi, dans le cas où un contrat de rente (appelé « contrat initial » au présent paragraphe) auquel s'applique le paragraphe (1) ou l'alinéa 254a) est remplacé par un autre contrat, les présomptions suivantes s'appliquent :

a) l'autre contrat est réputé être le même contrat que le contrat initial et en être la continuation si les droits prévus par l'autre contrat :

(i) soit ne diffèrent pas sensiblement de ceux prévus par le contrat initial,

(ii) soit diffèrent sensiblement de ceux prévus par le contrat initial en raison seulement de l'amélioration de prestations qu'il est raisonnable de considérer comme ayant été prévues uniquement à l'occasion de la démutualisation, au sens du paragraphe 139.1(1), d'une compagnie d'assurance qui est considérée, pour l'application de l'article 139.1, comme ayant été partie au contrat initial;

b) dans les autres cas, chaque particulier qui a un droit dans le contrat initial immédiatement avant le remplacement est réputé avoir reçu, au moment du remplacement et en vertu d'un régime de pension, un montant égal à la juste valeur marchande du droit immédiatement avant ce moment.

(4) [Abrogé, 2007, ch. 29, art. 21]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 176; 2000, ch. 19, art. 43; 2007, ch. 29, art. 21.

Régimes de pension agréés collectifs

Définitions

147.5 (1) Les définitions qui suivent s'appliquent au présent article.

administrateur Est administrateur d'un régime de pension collectif :

a) la société résidant au Canada qui est responsable de la gestion du régime et qui est autorisée en vertu de la *Loi sur les régimes de pension agréés collectifs* ou

(b) an entity designated in respect of the plan under section 21 of the *Pooled Registered Pension Plans Act* or any provision of a law of a province that is similar to that section. (*administrateur*)

designated pooled pension plan, for a calendar year, means a pooled pension plan that, at any time in the year (other than the year in which the plan became registered as a PRPP), meets any of the following conditions:

(a) the plan has fewer than 10 participating employers;

(b) the fair market value of the property held in connection with the accounts of all members of the plan employed by a particular participating employer exceeds 50% of the fair market value of the property held in connection with the plan;

(c) more than 50% of the members of the plan are employed by a particular participating employer; or

(d) it is reasonable to conclude that the participation in the plan of one or more participating employers occurs primarily to avoid the application of any of paragraphs (a) to (c). (*régime de pension collectif désigné*)

exempt earned income, of a taxpayer for a taxation year, means the total of all amounts each of which is an amount that is

(a) not included in the taxpayer's earned income (as defined in subsection 146(1)) for the year and that would be so included but for paragraph 81(1)(a) as it applies with respect to the *Indian Act*; and

(b) reported by the taxpayer in prescribed form filed with the Minister by the taxpayer's filing-due date for the year, or such later date as is acceptable to the Minister, provided that the later date is within three calendar years following the end of the year. (*revenu gagné exonéré*)

exempt-income contribution amount, of a taxpayer for a taxation year, means the total of

(a) all amounts each of which is a contribution to a PRPP made by the taxpayer for the year that is not deductible in computing the income of the taxpayer because of subsection (32), and

(b) the amount, if any, designated under subsection (34) by the taxpayer for the year in prescribed form filed with the Minister by the taxpayer's filing-due date for the year, or such later date as is acceptable to the Minister, provided that the later date is within

d'une loi provinciale semblable à agir en qualité d'administrateur d'un ou de plusieurs régimes de pension collectifs;

b) l'entité désignée relativement au régime en vertu de l'article 21 de la *Loi sur les régimes de pension agréés collectifs* ou de toute disposition semblable d'une loi provinciale. (*administrator*)

cotisation provenant du revenu exonéré S'entend, à l'égard d'un contribuable pour une année d'imposition, du total des sommes suivantes :

a) le total des sommes dont chacune représente une cotisation que le contribuable a versée dans un régime de pension agréé collectif pour l'année qui n'est pas déductible dans le calcul de son revenu par l'effet du paragraphe (32);

b) toute somme que le contribuable a désignée pour l'année aux termes du paragraphe (34) dans un formulaire prescrit qu'il présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année ou à toute date postérieure — dans les trois années civiles suivant la fin de l'année — que le ministre estime acceptable. (*exempt-income contribution amount*)

employeur participant Est un employeur participant à un régime de pension collectif pour une année civile l'employeur qui, au cours de l'année, selon le cas :

a) verse des cotisations au régime relativement à l'ensemble de ses employés ou anciens employés ou à une catégorie de ceux-ci;

b) verse à l'administrateur du régime les cotisations que des participants au régime ont versées aux termes d'un contrat conclu avec celui-ci visant l'ensemble des employés de l'employeur ou une catégorie de ceux-ci. (*participating employer*)

montant unique Montant qui ne fait pas partie d'une série de paiements périodiques. (*single amount*)

participant Particulier, à l'exception d'une fiducie, qui détient un compte dans le cadre d'un régime de pension collectif. (*member*)

participant remplaçant Particulier qui était l'époux ou le conjoint de fait d'un participant à un régime de pension agréé collectif immédiatement avant le décès de celui-ci et qui acquiert, par suite du décès, tous les droits du participant relatifs au compte de celui-ci dans le cadre du régime. (*successor member*)

three calendar years following the end of the year. (*cotisation provenant du revenu exonéré*)

member, of a pooled pension plan, means an individual (other than a trust) who holds an account under the plan. (*participant*)

participating employer, in relation to a pooled pension plan for a calendar year, means an employer that, in the year,

(a) makes contributions to the plan in respect of all or a class of its employees or former employees; or

(b) remits to the administrator of the plan contributions made by members of the plan under a contract with the administrator in respect of all or a class of its employees. (*employeur participant*)

pooled pension plan means a plan that is registered under the *Pooled Registered Pension Plans Act* or a similar law of a province. (*régime de pension collectif*)

pooled registered pension plan or ***PRPP*** means a pooled pension plan that has been accepted for registration by the Minister for the purposes of this Act, which registration has not been revoked. (*régime de pension agréé collectif* ou *RPAC*)

qualifying annuity, for an individual, means an annuity that

(a) is payable to

(i) the individual for the individual's life, or

(ii) the individual for the lives, jointly, of the individual and the individual's spouse or common-law partner and to the survivor of them for the survivor's life;

(b) is payable beginning no later than the later of

(i) the end of the calendar year in which the individual attains 71 years of age, and

(ii) the end of the calendar year in which the annuity is acquired;

(c) unless the annuity is subsequently commuted into a single payment, is payable

(i) at least annually, and

(ii) in equal amounts or is not so payable solely because of an adjustment that would, if the annuity were an annuity under a retirement savings plan, in

placement non admissible Est un placement non admissible pour un régime de pension collectif :

a) une dette d'un participant au régime;

b) une action ou une dette d'une des entités ci-après ou une participation dans une de ces entités :

(i) toute société, société de personnes ou fiducie dans laquelle un participant au régime a une participation notable,

(ii) toute personne ou société de personnes ayant un lien de dépendance avec un participant au régime ou avec une personne ou une société de personnes visée au sous-alinéa (i);

c) un intérêt ou, pour l'application du droit civil, un droit sur une action, une participation ou une dette visée aux alinéas a) ou b) ou un droit d'acquérir une telle action, participation ou dette;

d) un bien visé par règlement. (*restricted investment*)

régime de pension agréé collectif ou ***RPAC*** Régime de pension collectif que le ministre a accepté d'agréer pour l'application de la présente loi et dont l'agrément n'a pas été retiré. (*pooled registered pension plan* or *PRPP*)

régime de pension collectif Régime qui est agréé en vertu de la *Loi sur les régimes de pension agréés collectifs* ou d'une loi provinciale semblable. (*pooled pension plan*)

régime de pension collectif désigné Est un régime de pension collectif désigné pour une année civile le régime de pension collectif à l'égard duquel l'un des faits ci-après s'avère au cours de l'année, sauf s'il s'agit de l'année où le régime a été agréé à titre de régime de pension agréé collectif :

a) le régime compte moins de dix employeurs participants;

b) la juste valeur marchande des biens détenus dans le cadre des comptes des participants au régime qui sont au service d'un employeur participant donné excède 50 % de la juste valeur marchande des biens détenus dans le cadre du régime;

c) plus de 50 % des participants au régime sont au service d'un employeur participant donné;

d) il est raisonnable de conclure que la participation au régime d'un ou de plusieurs employeurs participants a principalement pour but d'éviter l'application

accordance with any of subparagraphs 146(3)(b)(iii) to (v);

(d) if the annuity includes a guaranteed period, requires that

(i) the period not exceed 15 years, and

(ii) in the event of the later of the death of the individual and that of the individual's spouse or common-law partner during the period, any remaining amounts otherwise payable be commuted into a single payment as soon as practicable after the later death; and

(e) does not permit any premiums to be paid, other than the premium paid from the PRPP to acquire the annuity. (*rente admissible*)

qualifying survivor, in relation to a member of a PRPP, means an individual who, immediately before the death of the member

(a) was a spouse or common-law partner of the member; or

(b) was a child or grandchild of the member who was financially dependent on the member for support. (*survivant admissible*)

restricted investment, for a pooled pension plan, means

(a) a debt of a member of the plan;

(b) a share of, an interest in, or a debt of

(i) a corporation, partnership or trust in which a member of the plan has a significant interest, or

(ii) a person or partnership that does not deal at arm's length with the member of the plan or with a person or partnership described in subparagraph (i);

(c) an interest (or, for civil law, a right) in, or a right to acquire, a share, interest or debt described in paragraph (a) or (b); or

(d) prescribed property. (*placement non admissible*)

single amount means an amount that is not part of a series of periodic payments. (*montant unique*)

successor member means an individual who was the spouse or common-law partner of a member of a PRPP immediately before the death of the member and who

de l'un ou plusieurs des alinéas a) à c). (*designated pooled pension plan*)

rente admissible Relativement à un particulier, rente viagère qui, à la fois :

a) est payable :

(i) au particulier,

(ii) au particulier et à son époux ou conjoint de fait, à titre solidaire, et au survivant de l'un ou de l'autre;

b) est payable au plus tard à compter du dernier en date des moments suivants :

(i) la fin de l'année civile dans laquelle le particulier atteint 71 ans,

(ii) la fin de l'année civile dans laquelle elle est acquise;

c) sauf si elle est convertie par la suite en un paiement unique, remplit les conditions suivantes :

(i) elle est payable périodiquement à intervalles ne dépassant pas un an,

(ii) elle est payable en versements égaux ou n'est pas ainsi payable en raison seulement d'un rajustement qui serait conforme à l'un des sous-alinéas 146(3)b)(iii) à (v) s'il s'agissait d'une rente prévue par un régime d'épargne-retraite;

d) si elle est payable pour une durée garantie, prévoit que :

(i) cette durée n'excède pas quinze ans,

(ii) en cas de décès du particulier ou de son époux ou conjoint de fait pendant la durée garantie, tout solde payable par ailleurs est converti en un paiement unique dès que possible après celui de ces décès qui survient en dernier;

e) ne permet pas le versement de primes, exception faite de celle provenant du régime de pension agréé collectif qui a servi à acquérir la rente. (*qualifying annuity*)

revenu gagné exonéré S'entend, à l'égard d'un contribuable pour une année d'imposition, du total des sommes dont chacune représente une somme qui, à la fois :

acquires, as a consequence of the death, all of the member's rights in respect of the member's account under the PRPP. (*participant remplaçant*)

unused non-deductible PRPP room, of a taxpayer at the end of a taxation year, means the amount determined by the formula

A – B

where

A is the amount of the taxpayer's unused RRSP deduction room at the end of the year, determined in accordance with subsection (33); and

B is the taxpayer's unused RRSP deduction room at the end of the year. (*somme inutilisée non déductible au titre des RPAC*)

a) n'est pas incluse dans le revenu gagné, au sens du paragraphe 146(1), du contribuable pour l'année, mais le serait en l'absence de l'alinéa 81(1)a) pour son application à la *Loi sur les Indiens*;

b) est déclarée par le contribuable dans un formulaire prescrit qu'il présente au ministre au plus tard à la date d'échéance de production qui lui est applicable pour l'année ou à toute date postérieure — dans les trois années civiles suivant la fin de l'année — que le ministre estime acceptable. (*exempt earned income*)

somme inutilisée non déductible au titre des RPAC La somme inutilisée non déductible au titre des régimes de pension agréés collectifs d'un contribuable à la fin d'une année d'imposition, obtenue par la formule suivante :

A – B

où :

A représente le montant des déductions inutilisées au titre des REER du contribuable à la fin de l'année, déterminé selon le paragraphe (33);

B les déductions inutilisées au titre des REER du contribuable à la fin de l'année. (*unused non-deductible PRPP room*)

survivant admissible Relativement à un participant à un régime de pension agréé collectif, particulier qui était, immédiatement avant le décès du participant :

a) son époux ou conjoint de fait;

b) son enfant ou petit-enfant financièrement à sa charge. (*qualifying survivor*)

Registration conditions

(2) The Minister may accept for registration a pooled pension plan for the purposes of this Act, but shall not accept for registration any plan unless application for registration is made in prescribed manner by the plan administrator and, in the Minister's opinion, the plan complies with the following conditions:

(a) the primary purpose of the plan is to accept and invest contributions in order to provide retirement income to plan members, subject to the limits and other requirements under this Act;

(b) a single and separate account is maintained for each member under the member's Social Insurance Number

Conditions d'agrément

(2) Le ministre peut accepter d'agréer un régime de pension collectif pour l'application de la présente loi. Toutefois, il n'accepte d'agréer un tel régime que si l'administrateur du régime en fait la demande selon les modalités réglementaires et que s'il est d'avis que le régime remplit les conditions suivantes :

a) le régime a pour principal objet d'accepter et d'investir des cotisations afin de procurer un revenu de retraite aux participants, sous réserve des limites et autres exigences prévues sous le régime de la présente loi;

b) est tenu pour chaque participant un compte unique et distinct, portant le numéro d'assurance sociale du participant, qui est :

(i) to which are credited all contributions made to the plan in respect of the member, and any earnings of the plan allocated to the member, and

(ii) to which are charged all payments and distributions made in respect of the member;

(c) the only benefits provided under the plan in respect of each member are benefits determined solely with reference to, and provided by, the amount in the member's account;

(d) all earnings of the plan are allocated to plan members on a reasonable basis and no less frequently than annually;

(e) the arrangement under which property is held in connection with the plan is acceptable to the Minister;

(f) no right of a person under the plan is capable of being assigned, charged, anticipated, given as security or surrendered, other than

(i) an assignment pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the member and the member's spouse or common-law partner or former spouse or common-law partner, in settlement of rights arising out of, or on a breakdown of, their marriage or common-law partnership, or

(ii) an assignment by the legal representative of a deceased individual on the distribution of the individual's estate;

(g) the plan requires that all amounts contributed or allocated to a member's account vest immediately and indefeasibly for the benefit of the member;

(h) the plan permits the payment of an amount to a member if the amount is paid to reduce the amount of tax that would otherwise be payable under Part X.1 by the member;

(i) any amount payable from an account of a member after the death of the member is paid as soon as practicable after the death;

(j) there is no reason to expect that the plan may become a revocable plan; and

(k) any prescribed conditions.

(i) crédité des cotisations versées au régime relativement au participant et des revenus du régime attribués à celui-ci,

(ii) débité des paiements et des distributions faits relativement au participant;

c) les prestations prévues par le régime relativement à chaque participant sont déterminées uniquement par rapport au solde du compte du participant;

d) tous les revenus du régime sont attribués aux participants de façon raisonnable et au moins une fois par année;

e) le ministre estime que l'arrangement en vertu duquel les biens sont détenus dans le cadre du régime est acceptable;

f) les droits d'une personne dans le cadre du régime ne peuvent être cédés, grevés, assortis d'un exercice anticipé, donnés en garantie ou abandonnés, sauf s'il s'agit :

(i) d'une cession effectuée conformément à une ordonnance ou un jugement rendu par un tribunal compétent, ou à un accord écrit, visant à partager des biens entre le participant et son époux ou conjoint de fait ou son ex-époux ou ancien conjoint de fait en règlement des droits découlant de leur mariage ou union de fait ou de son échec,

(ii) d'une cession effectuée par le représentant légal d'un particulier décédé, lors du règlement de la succession;

g) le régime exige que les sommes versées ou attribuées au compte d'un participant lui soient dévolues immédiatement et irrévocablement;

h) le régime permet que soit versée à un participant une somme qui vise à réduire le montant d'impôt que celui-ci aurait à payer par ailleurs en vertu de la partie X.1;

i) toute somme payable sur le compte d'un participant après son décès est versée dès que possible après le décès;

j) il n'y a pas lieu de s'attendre à ce que l'agrément du régime puisse être retiré;

k) toute autre condition réglementaire.

Conditions applicable to PRPPs

(3) A pooled registered pension plan becomes a revocable plan at any time that

Conditions applicables aux RPAC

(3) L'agrément d'un régime de pension agréé collectif peut être retiré dès que l'un des faits ci-après s'avère :

(a) a contribution is made to the plan other than an amount

(i) paid by a member of the plan,

(ii) paid by an employer or former employer of a member of the plan in respect of the member, or

(iii) transferred to the plan in accordance with any of subsections (21), 146(16) and (21), 146.3(14) and (14.1), 147(19) and 147.3(1), (4) and (5) to (7);

(b) a contribution is made to the plan in respect of a member after the calendar year in which the member attains 71 years of age, other than an amount

(i) described in subparagraph (a)(iii), or

(ii) if subsection 60.022(1) applies, described in any of subclauses 60(l)(v)(B.2)(II) to (IV) as read in that subsection;

(c) a participating employer makes contributions to the plan in a calendar year in respect of a member of the plan in excess of the RRSP dollar limit for the year, except in accordance with a direction by the member;

(d) a distribution is made from the plan other than

(i) a payment of benefits in accordance with subsection (5), or

(ii) a return of contributions

(A) if a contribution to the plan has been made as a result of a reasonable error by a member of the plan or a participating employer in relation to the plan and the return of contributions is made to the person who made the contribution no later than December 31 of the year following the calendar year in which the contribution was made,

(B) to avoid the revocation of the registration of the plan,

(C) to reduce the amount of tax that would otherwise be payable under Part X.1 by a member, or

(D) to comply with any requirement under this Act;

(e) property is held in connection with the plan that

(i) the administrator knew or ought to have known was a restricted investment for the plan, or

a) est versée au régime une somme autre que les suivantes :

(i) une somme versée par un participant au régime,

(ii) une somme versée relativement à un participant au régime par son employeur ou ancien employeur,

(iii) une somme transférée au régime conformément à l'un des paragraphes (21), 146(16) et (21), 146.3(14) et (14.1), 147(19) et 147.3(1), (4) et (5) à (7);

b) une cotisation est versée au régime relativement à un participant après l'année civile dans laquelle celui-ci atteint 71 ans, sauf s'il s'agit d'une des sommes suivantes :

(i) la somme visée au sous-alinéa a)(iii),

(ii) si le paragraphe 60.022(1) s'applique, la somme visée à l'une des subdivisions 60l)(v)(B.2)(II) à (IV) selon leur libellé à ce paragraphe;

c) un employeur participant verse au régime pour une année civile, relativement à un participant au régime, des cotisations dont le montant excède le plafond REER pour l'année, sauf si le versement est effectué sur l'ordre du participant;

d) est effectuée sur le régime une distribution autre que les suivantes :

(i) un versement de prestations effectué conformément au paragraphe (5),

(ii) un remboursement de cotisations effectué, selon le cas :

(A) dans des circonstances où une cotisation a été versée au régime par suite d'une erreur raisonnable par un participant au régime ou par un employeur participant relativement au régime et où le remboursement de cotisations est effectué, à la personne qui a versé la cotisation, au plus tard le 31 décembre de l'année suivant l'année civile dans laquelle la cotisation a été versée,

(B) afin d'éviter le retrait de l'agrément du régime,

(C) afin de réduire le montant d'impôt qui serait payable par ailleurs par un participant en vertu de la partie X.1,

(ii) in the case of a designated pooled pension plan, is a share or debt of, or an interest in, a participating employer of the plan or any person or partnership that does not deal at arm's length with a participating employer, or an interest (or, for civil law, a right) in, or a right to acquire, such a share, debt or interest;

(f) the value of a member's right under the plan depends on the value of, or income or capital gains in respect of, property that would be described in paragraph (e) if it were held in connection with the plan;

(g) the administrator borrows money or other property for the purposes of the plan; or

(h) the plan or the administrator does not comply with a prescribed condition.

(D) afin de satisfaire à toute exigence prévue par la présente loi;

e) l'un des biens ci-après est détenu dans le cadre du régime :

(i) un bien dont l'administrateur savait ou aurait dû savoir qu'il était un placement non admissible pour le régime,

(ii) s'agissant d'un régime de pension collectif désigné, une action ou une dette d'un employeur participant au régime ou d'une personne ou d'une société de personnes avec laquelle il a un lien de dépendance, ou une participation dans un tel employeur ou une telle personne ou société de personnes, ou un intérêt ou, pour l'application du droit civil, un droit sur une telle action, dette ou participation ou un droit d'acquérir une telle action, dette ou participation;

f) la valeur du droit d'un participant sur le régime est fonction soit de la valeur d'un bien qui serait visé à l'alinéa e) s'il était détenu dans le cadre du régime, soit du revenu ou des gains en capital relatifs à un tel bien;

g) l'administrateur emprunte de l'argent ou d'autres biens pour les besoins du régime;

h) le régime ou l'administrateur ne remplit pas une condition réglementaire.

Non-payment of minimum amount

(4) A PRPP becomes a revocable plan at the beginning of a calendar year if the total amount distributed from a member's account under the PRPP in the calendar year is less than the amount that would be the minimum amount for the calendar year under subsection 8506(5) of the *Income Tax Regulations* if the member's account were an account under a money purchase provision of a registered pension plan.

Non-paiement du minimum

(4) L'agrément d'un régime de pension agréé collectif peut être retiré à compter du début d'une année civile si le montant total qui est distribué sur le compte d'un participant dans le cadre du régime au cours de l'année est inférieur à la somme qui correspondrait au minimum pour l'année, selon le paragraphe 8506(5) du *Règlement de l'impôt sur le revenu*, si le compte du participant était établi dans le cadre d'une disposition à cotisations déterminées d'un régime de pension agréé.

Permissible benefits

(5) The following benefits may be provided under a pooled pension plan:

(a) the payment of benefits to a member that would be in accordance with paragraph 8506(1)(e.1) of the *Income Tax Regulations* if the benefits were provided under a money purchase provision of a registered pension plan; and

(b) the payment of a single amount from the member's account.

Prestations permises

(5) Un régime de pension collectif peut prévoir :

a) le versement à un participant de prestations qui seraient visées à l'alinéa 8506(1)e.1) du *Règlement de l'impôt sur le revenu* si elles étaient prévues par une disposition à cotisations déterminées d'un régime de pension agréé;

b) le versement d'un montant unique sur le compte du participant.

Additional conditions

(6) The Minister may, at any time, impose reasonable conditions, in writing, applicable with respect to PRPPs, a class of PRPPs or a particular PRPP.

Acceptance of amendments

(7) The Minister shall not accept an amendment to a PRPP unless

(a) application for the acceptance is made in prescribed manner by the administrator of the PRPP; and

(b) the amendment and the PRPP as amended comply with the registration conditions specified in subsection (2).

Trust not taxable

(8) No tax is payable under this Part by a trust governed by a PRPP on its taxable income for a taxation year, except that, if at any time in the year, it carries on a business, tax is payable under this Part by the trust on the amount that would be its taxable income for the year if it had no income or losses from sources other than the business, and for this purpose,

(a) all capital gains and capital losses from the disposition of property held in connection with the business are deemed to be income or losses, as the case may be, from the business; and

(b) the trust's income is to be computed without reference to subsections 104(6), (19) and (21).

Obligations of administrator

(9) The administrator of a PRPP shall exercise the care, diligence and skill of a reasonably prudent trustee to minimize the possibility that the registration of the PRPP may be revoked other than at the request of the administrator.

Employer contributions deductible

(10) There may be deducted in computing a taxpayer's income for a taxation year, the total of all amounts each of which is a contribution made by the taxpayer in the year or within 120 days after the end of the year to a PRPP in respect of the taxpayer's employees or former employees to the extent that the contribution

(a) was made in accordance with the PRPP as registered and in respect of periods before the end of the year; and

Conditions supplémentaires

(6) Le ministre peut assujettir les régimes de pension agréés collectifs à de justes conditions supplémentaires, qu'il s'agisse de ces régimes en général, d'une catégorie de régimes ou d'un régime en particulier.

Acceptation des modifications

(7) Le ministre ne peut accepter la modification d'un régime de pension agréé collectif que si les conditions ci-après sont réunies :

a) l'administrateur du régime en fait la demande selon les modalités réglementaires;

b) la modification et le régime, une fois modifié, sont conformes aux conditions d'agrément énoncées au paragraphe (2).

Aucun impôt à payer par une fiducie

(8) Aucun impôt n'est payable en vertu de la présente partie par une fiducie régie par un régime de pension agréé collectif sur son revenu imposable pour une année d'imposition. Toutefois, si la fiducie exploite une entreprise au cours de l'année, l'impôt prévu par la présente partie est payable par elle sur la somme qui correspondrait à son revenu imposable pour l'année si ses seules sources de revenu ou de perte étaient cette entreprise. À cette fin :

a) les gains en capital et les pertes en capital provenant de la disposition de biens détenus dans le cadre de l'entreprise sont réputés être un revenu ou des pertes, selon le cas, provenant de l'entreprise;

b) le revenu de la fiducie est calculé compte non tenu des paragraphes 104(6), (19) et (21).

Obligations de l'administrateur

(9) L'administrateur d'un régime de pension agréé collectif agit avec le soin, la diligence et la compétence dont ferait preuve un fiduciaire prudent afin de réduire au minimum la possibilité que l'agrément du régime soit retiré autrement qu'à la demande de l'administrateur.

Cotisations d'employeur déductibles

(10) Est déductible dans le calcul du revenu d'un contribuable pour une année d'imposition le total des sommes représentant chacune une cotisation que le contribuable a versée, au cours de l'année ou dans les 120 jours suivant la fin de l'année, dans un régime de pension agréé collectif relativement à ses employés ou anciens employés, dans la mesure où la cotisation, à la fois :

(b) was not deducted in computing the taxpayer's income for a preceding taxation year.

a) a été versée conformément au régime tel qu'il est agréé et pour des périodes antérieures à la fin de l'année;

b) n'a pas été déduite dans le calcul du revenu du contribuable pour une année d'imposition antérieure.

Member contributions

(11) For the purposes of paragraphs 60(j), (j.1) and (l), section 146 (other than subsections (8.3) to (8.7)), paragraphs 146.01(3)(a) and 146.02(3)(a) and Parts X.1 and X.5, a contribution made to a PRPP by a member of a PRPP is deemed to be a premium paid by the member to an RRSP under which the member is the annuitant.

Cotisations de participant

(11) Pour l'application des alinéas 60j), j.1) et l), de l'article 146 (à l'exception de ses paragraphes (8.3) à (8.7)), des alinéas 146.01(3)a) et 146.02(3)a) et des parties X.1 et X.5, toute cotisation versée à un régime de pension agréé collectif par un participant à un tel régime est réputée être une prime versée par le participant à un régime enregistré d'épargne-retraite dont il est le rentier.

Member's account

(12) For the purposes of paragraph 18(1)(u), subparagraph (a)(i) of the definition ***excluded right or interest*** in subsection 128.1(10), paragraph 146(8.2)(b), subsection 146(8.21), paragraphs 146(16)(a) and (b), subparagraph 146(21)(a)(i), paragraph (b) of the definition ***excluded premium*** in subsection 146.01(1), paragraph (c) of the definition ***excluded premium*** in subsection 146.02(1), subsections 146.3(14) and 147(19) to (21), section 147.3 and paragraphs 212(1)(j.1) and (m), and of regulations made under 147.1(18), a member's account under a PRPP is deemed to be a registered retirement savings plan under which the member is the annuitant.

Compte du participant

(12) Pour l'application de l'alinéa 18(1)u), du sous-alinéa a)(i) de la définition de ***droit, participation ou intérêt exclu*** au paragraphe 128.1(10), de l'alinéa 146(8.2)b), du paragraphe 146(8.21), des alinéas 146(16)a) et b), du sous-alinéa 146(21)a)(i), de l'alinéa b) de la définition de ***prime exclue*** au paragraphe 146.01(1), de l'alinéa c) de la définition de ***prime exclue*** au paragraphe 146.02(1), des paragraphes 146.3(14) et 147(19) à (21), de l'article 147.3 et des alinéas 212(1)j.1) et m) ainsi que des dispositions réglementaires prises en application du paragraphe 147.1(18), le compte d'un participant dans le cadre d'un régime de pension agréé collectif est réputé être un régime enregistré d'épargne-retraite dont le participant est le rentier.

Taxable amounts

(13) There shall be included in computing the income of a taxpayer for a taxation year

(a) if the taxpayer is a member of a PRPP, the total of all amounts each of which is a distribution made in the year from the member's account under the PRPP, other than an amount that is

(i) included in computing the income of another taxpayer for the year under paragraph (b),

(ii) described in subsection (22), or

(iii) distributed after the death of the member;

(b) if the taxpayer is a participating employer in relation to a PRPP, the total of all amounts each of which is a return of contributions that is described in clause (3)(d)(ii)(A) and that is made to the taxpayer in the year.

Sommes imposables

(13) Est incluse dans le calcul du revenu d'un contribuable pour une année d'imposition celle des sommes ci-après qui est applicable :

a) si le contribuable est un participant à un régime de pension agréé collectif, le total des sommes représentant chacune une distribution effectuée au cours de l'année sur le compte du participant dans le cadre du régime, à l'exception d'une somme qui, selon le cas :

(i) est incluse dans le calcul du revenu d'un autre contribuable pour l'année en application de l'alinéa b),

(ii) est visée au paragraphe (22),

(iii) est distribuée après le décès du participant;

b) si le contribuable est un employeur participant relativement à un régime de pension agréé collectif, le

total des sommes représentant chacune un remboursement de cotisations visé à la division (3)d)(ii)(A) qui est effectué au contribuable au cours de l'année.

Treatment on death — no successor member

(14) If a member of a PRPP dies and there is no successor member in respect of the deceased member's account under the PRPP, an amount, equal to the amount by which the fair market value of all property held in connection with the account immediately before the death exceeds the total of all amounts distributed from the account that are described in subsection (16), is deemed to have been distributed from the account immediately before the death.

Distribution au décès — aucun participant remplaçant

(14) En cas de décès d'un participant à un régime de pension agréé collectif et en l'absence de participant remplaçant relativement à son compte dans le cadre du régime, une somme, égale à l'excédent de la juste valeur marchande des biens détenus dans le cadre du compte immédiatement avant le décès sur le total des sommes distribuées sur le compte qui sont visées au paragraphe (16), est réputée avoir été distribuée sur le compte immédiatement avant le décès.

Treatment on death — successor member

(15) If a member of a PRPP dies and there is a successor member in respect of the deceased member's account under the PRPP,

(a) the account ceases to be an account of the deceased member at the time of the death;

(b) the successor member is, after the time of the death, deemed to hold the account as a member of the PRPP; and

(c) the successor member is deemed to be a separate member in respect of any other account under the PRPP that the successor member holds.

Distribution au décès — participant remplaçant

(15) En cas de décès d'un participant à un régime de pension agréé collectif, les règles ci-après s'appliquent s'il y a un participant remplaçant relativement au compte du participant dans le cadre du régime :

a) le compte cesse d'être un compte du participant décédé au moment du décès;

b) après le décès, le participant remplaçant est réputé détenir le compte à titre de participant au régime;

c) le participant remplaçant est réputé être un participant distinct par rapport à tout autre compte qu'il détient dans le cadre du régime.

Qualifying survivor

(16) If, as a consequence of the death of a member of a PRPP, an amount is distributed in a taxation year from the member's account under the PRPP to, or on behalf of, a qualifying survivor of the member, the amount shall be included in computing the survivor's income for the year, except to the extent that it is an amount described in subsection (22).

Survivant admissible

(16) Toute somme qui, par suite du décès d'un participant à un régime de pension agréé collectif, est distribuée au cours d'une année d'imposition sur le compte du participant dans le cadre du régime à un survivant admissible du participant, ou en sa faveur, est incluse dans le calcul du revenu du survivant pour l'année, sauf dans la mesure où il s'agit d'une somme visée au paragraphe (22).

Deemed distribution to qualifying survivor

(17) If an amount is distributed at any time from a deceased member's account under a PRPP to the member's legal representative and a qualifying survivor of the member is entitled to all or a portion of the amount in full or partial satisfaction of the survivor's rights as a beneficiary (as defined in subsection 108(1)) under the deceased's estate, then, for the purposes of subsection (16), the amount or portion of the amount, as the case may be, is deemed to have been distributed at that time from the member's account to the qualifying survivor (and not to the legal representative) to the extent that it is so designated jointly by the legal representative and

Distribution réputée au survivant admissible

(17) Si une somme est distribuée à un moment donné, dans le cadre d'un régime de pension agréé collectif, sur le compte d'un participant décédé au représentant légal du participant et qu'un survivant admissible du participant a droit à tout ou partie de la somme en règlement total ou partiel de ses droits à titre de bénéficiaire, au sens du paragraphe 108(1), de la succession du défunt, la somme ou la partie de somme, selon le cas, est réputée, pour l'application du paragraphe (16), avoir été distribuée à ce moment sur le compte du participant au survivant admissible et non au représentant légal, dans la mesure où le représentant légal et le survivant l'ont

the qualifying survivor in prescribed form filed with the Minister.

Post-death increase in value

(18) There shall be included in computing the income for a taxation year of a taxpayer who is not a qualifying survivor in relation to a member of a PRPP, the total of all amounts each of which is an amount determined by the formula

A – B

where

A is the amount of a distribution made in the year from the member's account under the PRPP as a consequence of the member's death to, or on behalf of, the taxpayer, and

B is an amount designated by the administrator of the PRPP not exceeding the lesser of

(a) the amount of the distribution, and

(b) the amount by which the fair market value of all property held in connection with the account immediately before the death exceeds the total of all amounts each of which is

(i) the value of B in respect of any prior distribution made from the account, or

(ii) an amount included under subsection (16) in computing the income of a qualifying survivor in relation to the member.

Post-death decrease in value

(19) There may be deducted in computing the income of a member of a PRPP for the taxation year in which the member dies, an amount not exceeding the amount determined, after all amounts payable from the member's account under the PRPP have been distributed, by the formula

A – B

where

A is the total of all amounts each of which is an amount in respect of the account

(a) included in the member's income under subsection (13) because of the application of subsection (14),

(b) included in the income of another taxpayer under subsection (16) or (18), or

(c) transferred in accordance with subsection (21) in circumstances described in subparagraph (21)(b)(iii); and

conjointement désignée à cet égard sur le formulaire prescrit présenté au ministre.

Augmentation de la valeur après le décès

(18) Est inclus dans le calcul du revenu pour une année d'imposition d'un contribuable qui n'est pas un survivant admissible relativement à un participant à un régime de pension agréé collectif le total des sommes représentant chacune la somme obtenue par la formule suivante :

A – B

où :

A représente le montant d'une distribution effectuée au cours de l'année au contribuable, ou en sa faveur, sur le compte du participant dans le cadre du régime par suite du décès de celui-ci;

B une somme désignée par l'administrateur du régime n'excédant pas la moins élevée des sommes suivantes :

a) le montant de la distribution,

b) l'excédent de la juste valeur marchande des biens détenus dans le cadre du compte immédiatement avant le décès sur le total des sommes représentant chacune :

(i) la valeur de l'élément B relativement à toute distribution antérieure effectuée sur le compte,

(ii) une somme incluse en application du paragraphe (16) dans le calcul du revenu d'un survivant admissible relativement au participant.

Diminution de la valeur après le décès

(19) Est déductible dans le calcul du revenu d'un participant à un régime de pension agréé collectif pour l'année d'imposition de son décès une somme n'excédant pas la somme obtenue par la formule ci-après, laquelle est déterminée une fois distribuées toutes les sommes payables sur le compte du participant dans le cadre du régime :

A – B

où :

A représente le total des sommes représentant chacune une somme relative au compte qui, selon le cas :

a) a été incluse dans le revenu du participant en application du paragraphe (13) par l'effet du paragraphe (14),

b) a été incluse dans le revenu d'un autre contribuable en application des paragraphes (16) ou (18),

c) a été transférée conformément au paragraphe (21) dans les circonstances visées au sous-alinéa (21)b)(iii);

B is the total of all distributions made from the account after the member's death.

Subsection (19) not applicable

(20) Except where the Minister has waived in writing the application of this subsection with respect to all or any portion of the amount determined in subsection (19) in respect of a member's account under a PRPP, that subsection does not apply if the last distribution from the account was made after the end of the calendar year following the year in which the member died.

Transfer of amounts

(21) An amount is transferred from a member's account under a PRPP in accordance with this subsection if the amount

(a) is a single amount;

(b) is transferred on behalf of an individual who

(i) is the member,

(ii) is a spouse or common-law partner or former spouse or common-law partner of the member and who is entitled to the amount under a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the member and the individual, in settlement of rights arising out of, or on a breakdown of, their marriage or common-law partnership, or

(iii) is entitled to the amount as a consequence of the death of the member and was a spouse or common-law partner of the member immediately before the death; and

(c) is transferred directly to

(i) the individual's account under the PRPP,

(ii) another PRPP in respect of the individual,

(iii) a registered pension plan for the benefit of the individual,

(iv) a registered retirement savings plan or registered retirement income fund under which the individual is the annuitant, or

(v) a licensed annuities provider to acquire a qualifying annuity for the individual.

B le total des distributions effectuées sur le compte après le décès du participant.

Non-application du paragraphe (19)

(20) À moins que le ministre n'ait renoncé par écrit à appliquer le présent paragraphe à l'égard de tout ou partie de la somme déterminée selon le paragraphe (19) relativement au compte d'un participant dans le cadre d'un régime de pension agréé collectif, ce paragraphe ne s'applique pas si la dernière distribution sur le compte a été effectuée après la fin de l'année civile suivant l'année du décès du participant.

Transfert de sommes

(21) Une somme est transférée du compte d'un participant dans le cadre d'un régime de pension agréé collectif conformément au présent paragraphe si les conditions ci-après sont réunies :

a) il s'agit d'un montant unique;

b) la somme est transférée en faveur d'un particulier qui :

(i) est le participant,

(ii) étant l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait du participant, a droit à la somme en vertu d'une ordonnance ou d'un jugement rendu par un tribunal compétent, ou d'un accord écrit, visant à partager des biens entre le participant et le particulier en règlement des droits découlant du mariage ou de l'union de fait ou de son échec,

(iii) a droit à la somme par suite du décès du participant, dont il était l'époux ou le conjoint de fait immédiatement avant le décès;

c) la somme est transférée directement :

(i) dans le compte du particulier dans le cadre du régime,

(ii) à un autre régime de pension agréé collectif relativement au particulier,

(iii) à un régime de pension agréé au profit du particulier,

(iv) à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite dont le particulier est le rentier,

(v) to a retirement income fund arrangement in respect of the acquisition of a qualifying annuity for the individual.

(v) à un fournisseur de rentes autorisé en vue de l'acquisition d'une rente admissible pour le particulier.

Taxation of transfers

(22) If subsection (21) applies to an amount transferred from a member's account under a PRPP on behalf of an individual,

(a) the amount shall not, by reason only of that transfer, be included in computing the income of the individual; and

(b) no deduction may be made in respect of the amount in computing the income of any taxpayer.

Imposition des sommes transférées

(22) La somme qui est transférée conformément au paragraphe (21) du compte d'un participant dans le cadre d'un régime de pension agréé collectif en faveur d'un particulier :

a) n'est pas, en raison seulement du transfert, à inclure dans le calcul du revenu du particulier;

b) ne peut faire l'objet d'une déduction dans le calcul du revenu d'un contribuable.

Taxation of qualifying annuity

(23) If an amount is transferred in accordance with subsection (21) to acquire a qualifying annuity, there shall be included — under this section and not under any other provision of this Act — in computing an individual's income for a taxation year any amount received by the individual during the year out of or under the annuity or as proceeds from a disposition in respect of the annuity.

Imposition d'une rente admissible

(23) Si une somme est transférée conformément au paragraphe (21) en vue de l'acquisition d'une rente admissible, est incluse, en application du présent article et non d'une autre disposition de la présente loi, dans le calcul du revenu d'un particulier pour une année d'imposition toute somme que celui-ci a reçue au cours de l'année dans le cadre de la rente ou à titre de produit provenant d'une disposition relative à la rente.

Notice of intent

(24) The Minister may give notice (in subsections (25) and (26) referred to as a "notice of intent") to an administrator of a PRPP in writing that the Minister intends to revoke the registration of the plan as a PRPP if

(a) the plan does not comply with the conditions for registration in subsection (2);

(b) the plan is not administered in accordance with the terms of the plan as registered;

(c) the plan becomes a revocable plan;

(d) a condition imposed under subsection (6) that applies with respect to the plan is not complied with; or

(e) registration of the plan under the *Pooled Registered Pension Plans Act* or a similar law of a province is refused or revoked.

Avis d'intention

(24) Dans le cas où l'un des faits ci-après s'avère, le ministre peut informer l'administrateur d'un régime de pension agréé collectif par avis écrit (appelé « avis d'intention » aux paragraphes (25) et (26)) de son intention de retirer l'agrément du régime :

a) le régime ne remplit pas les conditions d'agrément prévues au paragraphe (2);

b) le régime n'est pas géré tel qu'il est agréé;

c) l'agrément du régime peut être retiré;

d) une condition à laquelle le régime est assujetti par l'effet du paragraphe (6) n'est pas remplie;

e) l'agrément du régime selon la *Loi sur les régimes de pension agréés collectifs* ou une loi provinciale semblable est refusé ou révoqué.

Date of revocation

(25) The notice of intent shall specify the date on which revocation of a PRPP is to be effective, which date shall not be earlier than the earliest date on which one of the events described in subsection (24) occurs.

Date du retrait

(25) La date du retrait de l'agrément d'un régime de pension agréé collectif est précisée dans l'avis d'intention, laquelle date ne peut être antérieure au premier en date des jours où l'un des faits mentionnés au paragraphe (24) s'avère.

Notice of revocation

(26) At any time after 30 days after the day on which the notice of intent is mailed to an administrator of a PRPP, the Minister may give notice (in this subsection and in subsection (27) referred to as a "notice of revocation") in writing to the administrator that the registration of the PRPP is revoked as of the date specified in the notice of revocation and that date may not be earlier than the date specified in the notice of intent.

Revocation of registration

(27) If the Minister gives a notice of revocation to the administrator of a PRPP, the registration of the PRPP is revoked as of the date specified in the notice of revocation, unless the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of an appeal pursuant to subsection 172(3), orders otherwise.

Voluntary revocation

(28) If the administrator of a PRPP so requests in writing, the Minister may give notice in writing to the administrator that the registration of the PRPP is revoked as of a specified date and that date may not be earlier than the date specified in the administrator's request.

Single employer

(29) For the purposes of the definition ***designated pooled pension plan*** in subsection (1), all employers that are related to each other are deemed to be a single employer and all the structural units of a trade union, including each local, branch, national and international unit, are deemed to be a single employer.

Significant interest

(30) For the purposes of the definition ***restricted investment*** in subsection (1), a member of a pooled pension plan has a significant interest in a corporation, trust or partnership at any time if, at that time,

(a) in the case of a corporation, the member is a specified shareholder of the corporation; and

(b) in the case of a partnership or trust,

(i) the member is a specified unitholder of the partnership or the trust, as the case may be, or

(ii) the total fair market value of the member's interests in the partnership or the trust, as the case may be, together with all interests in the partnership or the trust held by persons or partnerships with whom the member does not deal at arm's length or is affiliated, is 10% or more of the fair

Avis de retrait

(26) À tout moment après le trentième jour suivant la date de mise à la poste de l'avis d'intention à l'administrateur d'un régime de pension agréé collectif, le ministre peut informer celui-ci par avis écrit (appelé « avis de retrait » au présent paragraphe et au paragraphe (27)) que l'agrément du régime est retiré à compter de la date précisée dans l'avis de retrait, laquelle ne peut être antérieure à la date précisée dans l'avis d'intention.

Retrait de l'agrément

(27) L'agrément d'un régime de pension agréé collectif est retiré à compter de la date précisée dans l'avis de retrait, sauf ordonnance contraire de la Cour d'appel fédérale ou de l'un de ses juges sur demande formulée avant qu'il ne soit statué sur tout appel interjeté selon le paragraphe 172(3).

Retrait volontaire

(28) Sur demande écrite de l'administrateur d'un régime de pension agréé collectif, le ministre peut l'informer par avis écrit que l'agrément du régime est retiré à compter d'une date donnée, laquelle ne peut être antérieure à la date précisée dans la demande.

Un seul employeur

(29) Pour l'application de la définition de ***régime de pension collectif désigné*** au paragraphe (1), sont réputés constituer un seul employeur tous les employeurs qui sont liés les uns aux autres ainsi que tous les éléments constitutifs d'un syndicat, notamment ses sections locales, divisions et unités nationales et internationales.

Participation notable

(30) Pour l'application de la définition de ***placement non admissible*** au paragraphe (1), un participant à un régime de pension collectif a une participation notable dans une société, une fiducie ou une société de personnes à un moment donné si :

a) s'agissant d'une participation dans une société, le participant est un actionnaire déterminé de la société à ce moment;

b) s'agissant d'une participation dans une société de personnes ou une fiducie :

(i) le participant est, à ce moment, un détenteur d'unité déterminé de la société de personnes ou de la fiducie, selon le cas,

(ii) le participant, de concert avec des personnes ou des sociétés de personnes avec lesquelles il a un lien

market value of all interests in the partnership or the trust.

de dépendance ou auxquelles il est affilié, détient à ce moment des participations dans la société de personnes ou la fiducie, selon le cas, dont la juste valeur marchande totale représente au moins 10 % de la juste valeur marchande de l'ensemble des participations dans la société de personnes ou la fiducie.

Contributions from exempt income

(31) Contributions may be made to a PRPP in respect of a member of the PRPP as if the member's earned income (as defined in subsection 146(1)) for a taxation year included the member's exempt earned income for the year.

Cotisations provenant du revenu exonéré

(31) Des cotisations peuvent être versées dans un régime de pension agréé collectif relativement à un participant au régime comme si le revenu gagné, au sens du paragraphe 146(1), du participant pour une année d'imposition comprenait son revenu gagné exonéré pour l'année.

Non-deductible contributions

(32) A contribution made by a member of a PRPP to the member's account under the PRPP out of or from the member's exempt earned income may not be deducted in computing the income of the member for any taxation year.

Cotisations non déductibles

(32) La cotisation provenant de son revenu gagné exonéré qu'un participant à un régime de pension agréé collectif verse à son compte dans le cadre du régime n'est pas déductible dans le calcul de son revenu pour une année d'imposition.

Exempt contributions not over-contributions

(33) For the purposes of Part X.1 as it applies because of subsection (11) in respect of contributions made to a PRPP,

(a) an individual's earned income (as defined in subsection 146(1)) for any taxation year after 2012 includes the individual's exempt earned income for that year;

(b) an individual's exempt-income contribution amount for any taxation year is deemed to have been deducted by the individual under subsection 146(5) in computing the individual's income for that year; and

(c) the description of D in paragraph (b) of the definition ***unused RRSP deduction room*** in subsection 146(1) is to be read without reference to subparagraph (iv).

Application de la partie X.1

(33) Pour l'application de la partie X.1, par l'effet du paragraphe (11), relativement aux cotisations versées à un régime de pension agréé collectif :

a) le revenu gagné, au sens du paragraphe 146(1), d'un particulier pour une année d'imposition postérieure à 2012 comprend son revenu gagné exonéré pour l'année;

b) la cotisation provenant du revenu gagné d'un particulier pour une année d'imposition est réputée avoir été déduite en application du paragraphe 146(5) dans le calcul du revenu du particulier pour l'année;

c) l'élément D de la formule figurant à l'alinéa b) de la définition de ***déductions inutilisées au titre des REER*** au paragraphe 146(1) s'applique compte non tenu de son sous-alinéa (iv).

Designation of exempt-income contribution amount

(34) A taxpayer may designate an amount as the taxpayer's exempt-income contribution amount for a taxation year if the amount designated does not exceed the lesser of

(a) the taxpayer's unused non-deductible PRPP room at the end of the preceding taxation year, and

(b) the total of the taxpayer's contributions as a member to a PRPP for the year (other than contributions to which subsection (32) applies).

Désignation de la cotisation provenant du revenu exonéré

(34) Un contribuable peut désigner, à titre de cotisation provenant du revenu exonéré pour une année d'imposition, une somme n'excédant pas la moins élevée des sommes suivantes :

a) sa somme inutilisée non déductible au titre des RPAC à la fin de l'année d'imposition précédente;

b) le total de ses cotisations en tant que participant à un régime de pension agréé collectif pour l'année, à

Regulations — other

(35) The Governor in Council may make regulations

(a) prescribing conditions applicable to administrators;

(b) requiring administrators to file information returns respecting pooled pension plans;

(c) enabling the Minister to require any person to provide the Minister with information for the purposes and provisions of this Act relating to PRPPs; and

(d) generally to carry out the purposes and provisions of this Act relating to PRPPs.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 36; 2015, c. 36, s. 17.

Règlements — pouvoirs additionnels

(35) Le gouverneur en conseil peut, par règlement :

a) prévoir les conditions applicables aux administrateurs;

b) exiger des administrateurs qu'ils produisent des déclarations de renseignements concernant les régimes de pension collectifs;

c) autoriser le ministre à exiger qu'une personne lui fournisse des renseignements pour l'application des dispositions de la présente loi concernant les régimes de pension agréés collectifs;

d) prendre toute autre mesure d'application des dispositions de la présente loi concernant les régimes de pension agréés collectifs.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 36; 2015, ch. 36, art. 17.

Life Insurance Policies

Amounts included in computing policyholder's income

148 (1) There shall be included in computing the income for a taxation year of a policyholder in respect of the disposition of an interest in a life insurance policy, other than a policy that is or is issued pursuant to

(a) a registered pension fund or plan,

(b) a registered retirement savings plan,

(b.1) a registered retirement income fund,

(b.2) a TFSA,

(b.3) a pooled registered pension plan,

(c) an income-averaging annuity contract,

(d) a deferred profit sharing plan, or

(e) an annuity contract if

(i) the payment for the annuity contract was deductible under paragraph 60(l) in computing the policyholder's income,

(i.1) the annuity contract is a qualifying trust annuity with respect to a taxpayer and the amount paid to acquire it was deductible under paragraph 60(l) in computing the taxpayer's income, or

Polices d'assurance-vie

Calcul du revenu du titulaire d'une police

148 (1) Dans le calcul du revenu du titulaire d'une police d'assurance pour une année d'imposition, il faut inclure, à l'égard de la disposition d'un intérêt dans une police d'assurance-vie autre qu'une police qui est, ou qui est établie en vertu de :

a) un régime de pension agréé;

b) un régime enregistré d'épargne-retraite;

b.1) un fonds enregistré de revenu de retraite;

b.2) un compte d'épargne libre d'impôt;

b.3) un régime de pension agréé collectif;

c) un contrat de rente à versements invariables;

d) un régime de participation différée aux bénéfices;

e) un contrat de rente qui répond à l'une des conditions suivantes :

(i) le paiement pour le contrat est déductible, en application de l'alinéa 60l), dans le calcul du revenu du titulaire de police,

(i.1) il s'agit d'une rente admissible de fiducie relativement à un contribuable, et la somme versée

(ii) the policyholder acquired the annuity contract in circumstances to which subsection 146(21) applied,

the amount, if any, by which the proceeds of the disposition of the policyholder's interest in the policy that the policyholder, beneficiary or assignee, as the case may be, became entitled to receive in the year exceeds the adjusted cost basis to the policyholder of that interest immediately before the disposition.

pour son acquisition est déductible, en application de l'alinéa 60l), dans le calcul du revenu du contribuable,

(ii) le titulaire de police a acquis le contrat dans les circonstances déterminées au paragraphe 146(21),

l'excédent éventuel du produit de disposition de son intérêt dans la police que le titulaire, le bénéficiaire ou le cessionnaire a acquis le droit de recevoir au cours de l'année sur le coût de base rajusté, pour le titulaire de la police, de cet intérêt immédiatement avant la disposition.

Amount included in computing taxpayer's income

(1.1) There shall be included in computing the income for a taxation year of a taxpayer in respect of a disposition of an interest in a life insurance policy described in paragraph (e) of the definition ***disposition*** in subsection 148(9) the amount, if any, by which the amount of a payment described in paragraph (e) of that definition that the taxpayer became entitled to receive in the year exceeds the amount that would be the taxpayer's adjusted cost basis of the taxpayer's interest in the policy immediately before the disposition if, for the purposes of the definition ***adjusted cost basis*** in subsection 148(9), the taxpayer were, in respect of that interest in the policy, the policyholder.

Montant à inclure dans le calcul du revenu d'un contribuable

(1.1) Dans le calcul du revenu d'un contribuable pour une année d'imposition, il faut inclure, relativement à une disposition d'intérêts dans une police d'assurance-vie visée à l'alinéa e) de la définition de ***disposition*** au paragraphe (9), l'excédent éventuel du montant d'un paiement visé à cet alinéa que le contribuable a acquis le droit de recevoir pendant l'année sur le montant qui serait le coût de base rajusté, pour le contribuable, de ses intérêts dans la police immédiatement avant la disposition si, pour l'application de la définition de ***coût de base rajusté*** au paragraphe (9), il était le titulaire de la police à l'égard de ces intérêts dans la police.

Deemed proceeds of disposition

(2) For the purposes of subsections 148(1) and 20(20) and the definition ***adjusted cost basis*** in subsection 148(9)

(a) where at any time a policyholder becomes entitled to receive under a life insurance policy a particular amount as, on account of, in lieu of payment of or in satisfaction of, a policy dividend, the policyholder shall be deemed

(i) to have disposed of an interest in the policy at that time, and

(ii) to have become entitled to receive proceeds of the disposition equal to the amount, if any, by which

(A) the particular amount

exceeds

(B) the part of the particular amount applied immediately after that time to pay a premium under the policy or to repay a policy loan under the policy, as provided for under the terms and conditions of the policy;

Présomption de produit de disposition

(2) Pour l'application des paragraphes (1) et 20(20) et de la définition de ***coût de base rajusté*** au paragraphe (9):

a) le titulaire de police qui, à un moment donné, obtient le droit de recevoir dans le cadre d'une police d'assurance-vie une somme donnée au titre ou en paiement intégral ou partiel d'une participation de police est réputé :

(i) avoir disposé d'un intérêt dans la police au moment donné,

(ii) avoir obtenu le droit de recevoir le produit de disposition, d'un montant égal à l'excédent éventuel du montant visé à la division (A) sur le montant visé à la division (B):

(A) la somme donnée,

(B) la fraction de la somme donnée qui sert, immédiatement après le moment donné, au paiement d'une prime relative à la police ou au remboursement d'une avance sur police consentie dans le cadre de la police, en conformité avec les modalités de la police;

(b) where in a taxation year a holder of an interest in, or a person whose life is insured or who is the annuitant under, a life insurance policy (other than an annuity contract or an exempt policy) last acquired after December 1, 1982 or an annuity contract (other than a life annuity contract, as defined by regulation, entered into before November 13, 1981 or a prescribed annuity contract) dies, the policyholder shall be deemed to have disposed of the policyholder's interest in the policy or the contract, as the case may be, immediately before the death;

(c) where, as a consequence of a death, a disposition of an interest in a life insurance policy is deemed to have occurred under paragraph 148(2)(b), the policyholder immediately after the death shall be deemed to have acquired the interest at a cost equal to the accumulating fund in respect thereof, as determined in prescribed manner, immediately after the death;

(d) where at any time a life insurance policy last acquired after December 1, 1982, or a life insurance policy to which subsection 12.2(9) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, applies by virtue of paragraph 12.2(9)(b) of that Act, ceases to be an exempt policy (otherwise than as a consequence of the death of an individual whose life is insured under the policy or at a time when that individual is totally and permanently disabled), the policyholder shall be deemed to have disposed of the policyholder's interest in the policy at that time for proceeds of disposition equal to the accumulating fund with respect to the interest, as determined in prescribed manner, at that time and to have reacquired the interest immediately after that time at a cost equal to those proceeds; and

(e) if, in respect of a life insurance policy issued after 2016 that is an exempt policy, a benefit on death (as defined in subsection 1401(3) of the *Income Tax Regulations*) under a coverage (as defined in subsection 1401(3) of the *Income Tax Regulations*) under the policy is paid at any time, the payment results in the termination of the coverage but not the policy and the amount of the fund value benefit (as defined in subsection 1401(3) of the *Income Tax Regulations*) paid in respect of the coverage at that time exceeds the amount determined in respect of the coverage under subclause (A)(I) of the description of B in subparagraph 306(4)(a)(iii) of the *Income Tax Regulations* on the policy anniversary (as defined in section 310 of the *Income Tax Regulations*) that is on, or that first follows, the date of the death of an individual whose life is insured under the coverage, then a policyholder with an interest in the policy that gives rise to an entitlement (of the policyholder, beneficiary or assignee,

b) lorsque, au cours d'une année d'imposition, le titulaire d'un intérêt dans une police d'assurance-vie acquise pour la dernière fois après le 1er décembre 1982 (à l'exclusion d'un contrat de rente et d'une police exonérée) ou dans un contrat de rente (à l'exclusion d'un contrat de rente viagère défini par règlement et conclu avent le 13 novembre 1981 et d'un contrat de rente visé par règlement), une personne dont la vie est assurée en vertu d'une telle police ou le rentier en vertu d'un tel contrat décède, le titulaire est réputé avoir disposé de son intérêt dans la police ou le contrat, selon le cas, immédiatement avant le décès;

c) lorsque, à la suite d'un décès, un intérêt dans une police d'assurance-vie est réputé, en vertu de l'alinéa b), avoir fait l'objet d'une disposition, le titulaire de la police immédiatement après le décès est réputé avoir acquis cet intérêt à un coût égal au fonds accumulé relativement à cet intérêt, déterminé selon les modalités réglementaires immédiatement après le décès;

d) lorsque, à un moment donné, une police d'assurance-vie, acquise pour la dernière fois après le 1er décembre 1982, ou une police d'assurance-vie à laquelle le paragraphe 12.2(9) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, s'applique en vertu de l'alinéa 12.2(9)b) de la même loi, cesse d'être une police exonérée (sauf à la suite du décès d'un particulier dont la vie est assurée en vertu de la police, ou à un moment où ce particulier est affecté d'une invalidité totale et e), le titulaire de la police est réputé avoir disposé de son intérêt dans la police à ce moment et avoir tiré de la disposition un produit égal au fonds accumulé relativement à cet intérêt, déterminé selon les modalités réglementaires, à ce moment et avoir acquis à nouveau cet intérêt immédiatement après ce moment à un coût égal à un tel produit;

e) si, en ce qui a trait à une police d'assurance-vie établie après 2016 qui est une police exonérée, une prestation de décès, au sens du paragraphe 1401(3) du *Règlement de l'impôt sur le revenu*, prévue par une protection, au sens de ce paragraphe, offerte dans le cadre de la police est versée à un moment donné, que ce versement entraîne la résiliation de la protection mais non celle de la police et que le montant du bénéfice au titre de la valeur du fonds, au sens du même paragraphe, versé à ce moment excède la somme déterminée relativement à la protection selon la sous-division (A)(I) de l'élément B de la formule figurant au sous-alinéa 306(4)a)(iii) de ce règlement à l'anniversaire de la police (au sens de l'article 310 de ce règlement) qui correspond soit à la date du décès du particulier dont la vie est assurée en vertu de la protection,

as the case may be) to receive all or a portion of that excess, is deemed, at that time, to dispose of a part of the interest and to be entitled to receive proceeds of the disposition equal to that excess or portion, as the case may be.

soit, si la date du décès ne correspond pas à un tel anniversaire, au premier anniversaire de la police qui suit le décès, le titulaire de police ayant un intérêt dans la police qui donne lieu à un droit (du titulaire de police, du bénéficiaire ou du cessionnaire, selon le cas) de recevoir la totalité ou une partie de cet excédent est réputé, à ce moment, disposer d'une partie de l'intérêt et avoir droit à un produit de disposition égal à cet excédent ou à cette partie d'excédent, selon le cas.

Special rules for certain policies

(3) For the purposes of this section, where all or any part of an insurer's reserves for a life insurance policy vary in amount depending on the fair market value of a specified group of properties (in this subsection referred to as a "segregated fund"),

(a) in computing the adjusted cost basis of the policy,

(i) an amount paid by the policyholder or on the policyholder's behalf as or on account of premiums under the policy or to acquire an interest in the policy shall, to the extent that the amount was used by the insurer to acquire property for the purposes of the segregated fund, be deemed not to have been so paid, and

(ii) any transfer of property by the insurer from the segregated fund that resulted in an increase in the portion of its reserves for the policy that do not vary with the fair market value of the segregated fund shall be deemed to have been a premium paid under the policy by the policyholder; and

(b) the proceeds of the disposition of an interest in the policy shall be deemed not to include the portion thereof, if any, payable out of the segregated fund.

Règles spéciales concernant certaines polices

(3) Pour l'application du présent article, lorsque les provisions d'un assureur afférentes à une police d'assurance-vie varient, en totalité ou en partie, en fonction de la juste valeur marchande d'un groupe déterminé de biens (appelé « fonds réservé » au présent paragraphe), les règles suivantes s'appliquent :

a) dans le calcul du coût de base rajusté de la police :

(i) une somme versée par le titulaire de la police ou pour son compte au titre des primes relatives à la police ou pour acquérir un intérêt dans la police est réputée ne pas avoir été payée, dans la mesure où l'assureur a utilisé cette somme pour acquérir des biens dans le cadre du fonds réservé,

(ii) tout transfert, par l'assureur, de biens provenant du fonds réservé qui a entraîné une augmentation de la fraction de ses provisions relatives à la police et qui ne varient pas selon la juste valeur marchande du fonds réservé est réputé être une prime payée en vertu de la police par le titulaire;

b) le produit de disposition d'un intérêt dans la police est réputé ne pas comprendre la fraction de ce produit qui est payable sur le fonds réservé.

Partial surrender — ACB prorated

(4) If a taxpayer disposes (other than because of paragraph (2)(a) or as described in paragraph (b) of the definition ***disposition*** in subsection (9)) of a part of the taxpayer's interest in a life insurance policy (other than an annuity contract) last acquired after December 1, 1982 or an annuity contract, the adjusted cost basis to the taxpayer, immediately before the disposition, of the part is the amount determined by the formula

A × B/C

where

A is the adjusted cost basis to the taxpayer of the taxpayer's interest immediately before the disposition,

B is the proceeds of the disposition, and

C is

Calcul du coût de base rajusté — cession partielle

(4) Si un contribuable dispose (autrement que par l'effet de l'alinéa (2)a) ou que selon l'alinéa b) de la définition de ***disposition*** au paragraphe (9)) d'une partie de son intérêt dans une police d'assurance-vie (sauf un contrat de rente) acquis la dernière fois après le 1er décembre 1982 ou dans un contrat de rente, le coût de base rajusté de cette partie pour lui, immédiatement avant la disposition, correspond à la somme obtenue par la formule suivante :

A × B/C

où :

A représente le coût de base rajusté, pour le contribuable, de son intérêt immédiatement avant la disposition;

(a) if the policy is a policy (other than an annuity contract) issued after 2016, the amount determined by the formula

D – E

where

D is the interest's cash surrender value immediately before the disposition, and

E is the total of all amounts each of which is an amount payable, immediately before the disposition, by the taxpayer in respect of a policy loan in respect of the policy, and

(b) in any other case, the accumulating fund with respect to the taxpayer's interest, as determined in prescribed manner, immediately before the disposition.

B le produit de disposition;

C :

a) si la police est une police, sauf un contrat de rente, établie après 2016, la somme obtenue par la formule suivante :

D – E

où :

D représente la valeur de rachat de l'intérêt dans la police immédiatement avant la disposition,

E le total des sommes représentant chacune un montant payable par le contribuable, immédiatement avant la disposition, au titre d'une avance sur police dans le cadre de la police,

b) dans les autres cas, le fonds accumulé à l'égard de l'intérêt du contribuable, déterminé selon les modalités réglementaires, immédiatement avant la disposition.

Repayment of policy loan on partial surrender

(4.01) For the purposes of the definition ***adjusted cost basis*** in subsection (9) and paragraph 60(s), a particular amount is deemed to be a repayment made at a particular time by a taxpayer in respect of a policy loan in respect of a life insurance policy if

(a) the policy is issued after 2016;

(b) the taxpayer disposes of a part of the taxpayer's interest in the policy immediately after the particular time;

(c) paragraph (a) of the definition ***proceeds of the disposition*** in subsection (9) applies to determine the proceeds of the disposition of the interest;

(d) the particular amount is not

(i) otherwise a repayment by the taxpayer in respect of the policy loan, and

(ii) described in subparagraph (i) of the description of C in the definition ***adjusted cost basis*** in subsection (9); and

(e) the amount payable by the taxpayer in respect of the policy loan is reduced by the particular amount as a consequence of the disposition.

Remboursement d'une avance sur police — cession partielle

(4.01) Pour l'application de la définition de ***coût de base rajusté*** au paragraphe (9) et de l'alinéa 60s), une somme donnée est réputée être versée par le contribuable à titre de remboursement à l'égard d'une avance sur police consentie dans le cadre d'une police d'assurance-vie si les conditions ci-après sont réunies :

a) la police est établie après 2016;

b) le contribuable dispose d'une partie de son intérêt dans la police immédiatement après le moment donné;

c) l'alinéa a) de la définition de ***produit de disposition*** au paragraphe (9) s'applique à la détermination du produit de disposition de l'intérêt;

d) la somme donnée n'est :

(i) ni par ailleurs un remboursement de l'avance sur police par le contribuable,

(ii) ni visée au sous-alinéa (i) de la description de l'élément C de la définition de ***produit de disposition*** au paragraphe (9);

e) par suite de la disposition, le montant payable par le contribuable à l'égard de l'avance sur police est réduit de la somme donnée.

10/8 policy surrender

(5) If a policyholder has after March 20, 2013 and before April 2014 disposed of an interest in a 10/8 policy because of a partial or complete surrender of the policy, the policyholder may deduct in computing their income for the taxation year in which the disposition occurs an amount that does not exceed the least of

(a) the portion of an amount, included under subsection (1) in computing their income for the year in respect of the disposition, that is attributable to an investment account described in paragraph (b) of the definition ***10/8 policy*** in subsection 248(1) in respect of the policy,

(b) the total of all amounts each of which is an amount, to the extent that the amount has not otherwise been included in determining an amount under this paragraph, of a payment made after March 20, 2013 and before April 2014 that reduces the amount outstanding of a borrowing or policy loan, as the case may be, described in paragraph (a) of the definition ***10/8 policy*** in subsection 248(1) in respect of the policy, and

(c) the total of all amounts each of which is an amount, to the extent that the amount has not otherwise been included in determining an amount under this paragraph, that the policyholder is entitled to receive as a result of the disposition and that is paid after March 20, 2013 and before April 2014 out of an investment account described in paragraph (b) of the definition ***10/8 policy*** in subsection 248(1) in respect of the policy.

Proceeds receivable as annuity

(6) Where, under the terms of a life insurance policy (other than an annuity contract) last acquired before December 2, 1982, a policyholder became entitled to receive from the insurer at any time before the death of the person whose life was insured thereunder, all the proceeds (other than policy dividends) payable at that time under the policy in the form of an annuity contract or annuity payments,

(a) the payments shall be regarded as annuity payments made under an annuity contract;

(b) the purchase price of the annuity contract shall be deemed to be the adjusted cost basis of the policy to the policyholder immediately before the first payment under that contract became payable; and

Rachat de police 10/8

(5) Le titulaire de police qui dispose, après le 20 mars 2013 et avant avril 2014, d'un intérêt dans une police 10/8 par suite du rachat, même partiel, de celle-ci peut déduire dans le calcul de son revenu pour l'année d'imposition au cours de laquelle la disposition est effectuée une somme n'excédant pas la moins élevée des sommes suivantes :

a) la partie d'une somme, incluse en application du paragraphe (1) dans le calcul de son revenu pour l'année relativement à la disposition, qui est attribuable à un compte d'investissement visé à l'alinéa b) de la définition de ***police 10/8*** au paragraphe 248(1) relativement à la police;

b) le total des sommes dont chacune représente le montant — dans la mesure où il n'a pas été inclus par ailleurs dans le calcul d'une somme selon le présent alinéa — d'un paiement effectué après le 20 mars 2013 et avant avril 2014 qui est appliqué en réduction du montant impayé d'un emprunt ou d'une avance sur police, selon le cas, visé à l'alinéa a) de la définition de ***police 10/8*** au paragraphe 248(1) relativement à la police;

c) le total des sommes dont chacune représente une somme — dans la mesure où elle n'a pas été incluse par ailleurs dans le calcul d'une somme selon le présent alinéa — à laquelle le titulaire de police a droit en raison de la disposition et qui est payée après le 20 mars 2013 et avant avril 2014 sur un compte d'investissement visé à l'alinéa b) de la définition de ***police 10/8*** au paragraphe 248(1) relativement à la police.

Produit à recevoir à titre de rentes

(6) Lorsque, en vertu des conditions d'une police d'assurance-vie (autre qu'un contrat de rente) acquise pour la dernière fois avant le 2 décembre 1982, un titulaire de police a acquis le droit de recevoir de l'assureur, à un moment donné antérieur au décès de la personne dont la vie était assurée en vertu de cette police, la totalité du produit (à l'exception des participations de polices) payable à ce moment, en vertu de la police, sous forme d'un contrat de rente ou de versements de rente :

a) les paiements doivent être considérés comme des rentes servies en vertu d'un contrat de rente;

b) le prix d'achat du contrat de rente est réputé être le coût de base rajusté de la police pour le titulaire de la police immédiatement avant que le premier paiement à effectuer en vertu de ce contrat ne soit devenu exigible;

(c) the annuity contract or annuity payments shall be deemed not to be proceeds of the disposition of an interest in the policy.

Disposition at non-arm's length and similar cases

(7) If an interest of a policyholder in a life insurance policy is, at any time (referred to in this subsection as the ***disposition time***), disposed of (other than a disposition under paragraph (2)(b)) by way of a gift, by distribution from a corporation or by operation of law only to any person, or in any manner whatever to any person with whom the policyholder was not dealing at arm's length,

(a) the policyholder is deemed to become entitled to receive, at the disposition time, proceeds of the disposition equal to the greatest of

(i) the value of the interest at the disposition time,

(ii) an amount equal to

(A) if the disposition time is before March 22, 2016, nil, and

(B) if the disposition time is after March 21, 2016, the fair market value at the disposition time of the consideration, if any, given for the interest, and

(iii) an amount equal to

(A) if the disposition time is before March 22, 2016, nil, and

(B) if the disposition time is after March 21, 2016, the adjusted cost basis to the policyholder of the interest immediately before the disposition time;

(b) the person that acquires the interest because of the disposition is deemed to acquire it, at the disposition time, at a cost equal to the amount determined under paragraph (a) in respect of the disposition;

(c) in computing the paid-up capital in respect of each class of shares of the capital stock of a corporation at any time at or after the disposition time there shall be deducted the amount determined by the formula

(A – B × C/D) × E/A

where

A is the increase, if any, as a result of the disposition, in the paid-up capital in respect of all the shares of the capital stock of the corporation,

B is the amount determined under paragraph (a) in respect of the disposition,

c) le contrat de rente ou les paiements de rente sont réputés ne pas être un produit de disposition d'un intérêt dans la police.

Lien de dépendance et cas semblables

(7) Si un intérêt d'un titulaire dans une police d'assurance-vie fait l'objet d'une disposition (autre que la disposition réputée en vertu de l'alinéa (2)b)) à un moment donné (appelé ***moment de la disposition*** au présent paragraphe) par voie de don, par une distribution effectuée par une société ou par le seul effet de la loi en faveur d'une personne, ou d'une autre manière, en faveur d'une personne avec laquelle le titulaire de la police avait un lien de dépendance, les règles ci-après s'appliquent :

a) le titulaire est réputé acquérir le droit de recevoir, au moment de la disposition, un produit de disposition égal à la plus élevée des sommes suivantes :

(i) la valeur de l'intérêt au moment de la disposition,

(ii) une somme égale à, selon le cas :

(A) si le moment de la disposition est antérieur au 22 mars 2016, zéro,

(B) si le moment de la disposition est postérieur au 21 mars 2016, la juste valeur marchande, calculée à ce moment, de toute contrepartie donnée pour l'intérêt;

(iii) une somme égale à, selon le cas :

(A) si le moment de la disposition est antérieur au 22 mars 2016, zéro,

(B) si le moment de la disposition est postérieur au 21 mars 2016, la somme qui est le coût de base rajusté pour le titulaire de police de l'intérêt immédiatement avant ce moment;

b) la personne qui acquiert l'intérêt par suite de la disposition est réputée l'acquérir, au moment de la disposition, à un coût égal à la somme déterminée en application de l'alinéa a) relativement à la disposition;

c) dans le calcul du capital versé relatif à chaque catégorie d'actions du capital-actions d'une société à un moment donné qui correspond ou est postérieur au moment de la disposition, est à déduire la somme obtenue par la formule suivante :

(A – B × C/D) × E/A

où :

C is

(i) if consideration is given for the interest, the fair market value at the disposition time of consideration that is shares of the capital stock of the corporation given for the interest, and

(ii) if no consideration is given for the interest, 1,

D is

(i) if consideration is given for the interest, the fair market value at the disposition time of the consideration given for the interest, and

(ii) if no consideration is given for the interest, 1, and

E is the increase, if any, as a result of the disposition, in the paid-up capital in respect of the class of shares, computed without reference to this paragraph as it applies to the disposition;

(d) any contribution of capital to a corporation or partnership in connection with the disposition is deemed, to the extent that it exceeds the amount determined under subparagraph (a)(i) in respect of the disposition, not to result in a contribution of capital for the purpose of applying paragraphs 53(1)(c) and (e) at or after the disposition time;

(e) any contributed surplus of a corporation that arose in connection with the disposition is deemed, to the extent that it exceeds the amount determined under subparagraph (a)(i) in respect of the disposition, not to be contributed surplus for the purpose of applying subsection 84(1) at or after the disposition time; and

(f) if the disposition time is before March 22, 2016,

(i) subparagraphs (ii) and (iii) and paragraphs (c) to (e) apply in respect of the disposition only if the disposition is after 1999 and at least one person whose life was insured under the policy before March 22, 2016 is alive on March 22, 2016,

(ii) in applying paragraphs (c) to (e) in respect of the disposition, a reference in those paragraphs to "the disposition time" is to be read as "the beginning of March 22, 2016",

(iii) if at any time (referred to in this subparagraph as the ***conversion time***) before March 22, 2016 the paid-up capital of a class of shares of the capital stock of a corporation was increased, the increase occurred as a result of any action by which the corporation converted any of its contributed surplus into paid-up capital in respect of the class of shares,

A représente l'augmentation éventuelle, découlant de la disposition, du capital versé relatif à l'ensemble des actions du capital-actions de la société,

B la somme déterminée en application de l'alinéa a) relativement à la disposition,

C :

(i) si une contrepartie est donnée pour l'intérêt, la juste valeur marchande au moment de la disposition de la contrepartie qui consiste en des actions du capital-actions de la société donnée pour l'intérêt,

(ii) sinon, le nombre un,

D :

(i) si une contrepartie est donnée pour l'intérêt, la juste valeur marchande au moment de la disposition de cette contrepartie,

(ii) sinon, le nombre un,

E l'augmentation éventuelle, découlant de la disposition, du capital versé relatif à la catégorie d'actions, calculé compte non tenu de l'application du présent alinéa à la disposition;

d) un apport de capital à une société ou société de personnes en lien avec la disposition est réputé, dans la mesure où il excède la somme visée au sous-alinéa a)(i) relativement à la disposition, ne pas entraîner d'apport de capital aux fins de l'application des alinéas 53(1)c) et e) au moment de la disposition ou à un moment postérieur;

e) un surplus d'apport d'une société qui a pris naissance dans le cadre de la disposition est réputé, dans la mesure où il excède la somme visée au sous-alinéa a)(i) relativement à la disposition, ne pas constituer un surplus d'apport aux fins de l'application du paragraphe 84(1) au moment de la disposition ou à un moment postérieur;

f) si le moment de la disposition est antérieur au 22 mars 2016, les règles ci-après s'appliquent :

(i) les sous-alinéas (ii) et (iii) et les alinéas c) à e) ne s'appliquent relativement à la disposition que si elle est effectuée après 1999 et qu'au moins une personne dont la vie était assurée par la police avant le 22 mars 2016 est vivante à cette date,

(ii) pour l'application des alinéas c) à e) relativement à la disposition, chaque mention de « moment de la disposition » à ces alinéas vaut mention de « début du 22 mars 2016 »,

the contributed surplus arose in connection with the disposition, and subsection 84(1) did not apply to deem the corporation to pay a dividend at the conversion time in respect of the increase, in computing the paid-up capital in respect of that class of shares after March 21, 2016, there shall be deducted the amount determined by the formula

(A – B × A/D) × C/A

where

A is the increase, if any, as a result of the conversion, in the paid-up capital in respect of all the shares of the capital stock of the corporation, computed without reference to this paragraph as it applies to the disposition,

B is the amount determined under subparagraph (a)(i) in respect of the disposition,

C is the increase, if any, as a result of the conversion, in the paid-up capital in respect of the class of shares, computed without reference to this paragraph as it applies to the disposition, and

D is the total amount of the corporation's contributed surplus that arose in connection with the disposition, and

(iv) if any consideration given for the interest includes a share of the capital stock of a corporation, the share (or a share substituted for the share) is disposed of (referred to in this subparagraph as the ***share disposition***) after March 21, 2016 by a taxpayer and subsection 84.1(1) applies in respect of the share disposition, then for the purposes of applying section 84.1, the adjusted cost base to the taxpayer of the share immediately before the share disposition is to be reduced by the amount determined by the formula

(A – B x A/C)/D

where

A is the total of all amounts each of which is the fair market value at the disposition time of a share of that capital stock given as consideration for the interest,

B is the greater of the amount determined under subparagraph 148(7)(a)(i) in respect of the disposition and the adjusted cost basis to the policyholder of the interest immediately before the disposition,

C is the fair market value at the disposition time of the consideration, if any, given for the interest, and

(iii) si, à un moment donné qui est antérieur au 22 mars 2016, le capital versé relatif à une catégorie d'actions du capital-actions d'une société a été augmenté, l'augmentation découle d'une opération au moyen de laquelle la société a converti tout montant de son surplus d'apport en capital versé relatif à la catégorie d'actions, le surplus d'apport a pris naissance dans le cadre de la disposition et le paragraphe 84(1) ne s'est pas appliqué de sorte que la société soit réputée avoir versé un dividende au moment donné relativement à l'augmentation, est à déduire dans le calcul du capital versé relatif à cette catégorie d'actions après le 21 mars 2016 la somme obtenue par la formule suivante :

(A – B × A/D) × C/A

où :

A représente l'augmentation éventuelle, découlant de la conversion, du capital versé relatif à l'ensemble des actions du capital-actions de la société, calculé compte non tenu du présent alinéa dans son application à la disposition,

B la somme visée au sous-alinéa a)(i) relativement à la disposition,

C l'augmentation éventuelle, découlant de la conversion, du capital versé relatif à la catégorie d'actions, calculé compte non tenu du présent alinéa dans son application à la disposition,

D le montant total du surplus d'apport de la société qui a pris naissance dans le cadre de la disposition,

(iv) si une contrepartie donnée pour l'intérêt comprend une action du capital-actions d'une société, que l'action (ou une action qui lui est substituée) fait l'objet d'une disposition (appelée ***disposition d'action*** au présent sous-alinéa) effectuée après le 21 mars 2016 par un contribuable et que le paragraphe 84.1(1) s'applique relativement à la disposition d'action, le coût de base rajusté pour le contribuable de l'action immédiatement avant la disposition de l'action est réduit pour l'application de l'article 84.1 de la somme obtenue par la formule suivante :

(A – B × A/C)/D

où :

A représente le total des sommes dont chacune est la juste valeur marchande au moment de la disposition d'une action de ce capital-actions donnée en contrepartie de l'intérêt,

D is the total number of shares of that capital stock given as consideration for the interest.

B la plus élevée de la somme déterminée en vertu du sous-alinéa 148(7)a)(i) relativement à la disposition et de la somme qui est le coût de base rajusté pour le titulaire de police de l'intérêt immédiatement avant la disposition,

C la juste valeur marchande, au moment de la disposition, de la contrepartie donnée pour l'intérêt,

D le total des actions de ce capital-actions données en contrepartie de l'intérêt.

Idem

(8) Notwithstanding any other provision in this section, where

(a) an interest of a policyholder in a life insurance policy (other than an annuity contract) has been transferred to the policyholder's child for no consideration, and

(b) a child of the policyholder or a child of the transferee is the person whose life is insured under the policy,

the interest shall be deemed to have been disposed of by the policyholder for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer, and to have been acquired by the person who acquired the interest at a cost equal to those proceeds.

Idem

(8) Malgré les autres dispositions du présent article, lorsque :

a) d'une part, l'intérêt du titulaire d'une police dans une police d'assurance-vie, autre qu'un contrat de rente, est transféré à l'enfant du titulaire à titre gratuit;

b) d'autre part, l'enfant du titulaire ou du bénéficiaire du transfert est la personne dont la vie est assurée en vertu de la police,

l'intérêt est réputé avoir fait l'objet d'une disposition par le titulaire de la police pour un produit de disposition égal au coût de base rajusté de l'intérêt pour le titulaire de la police, immédiatement avant le transfert et avoir été acquis pour un coût égal à ce produit par la personne ayant acquis l'intérêt.

Inter vivos transfer to spouse

(8.1) Notwithstanding any other provision of this section, where

(a) an interest of a policyholder in a life insurance policy (other than a policy that is, or is issued under, a plan or contract referred to in any of paragraphs 148(1)(a) to 148(1)(e)) is transferred to

(i) the policyholder's spouse or common-law partner, or

(ii) a former spouse or common-law partner of the policyholder in settlement of rights arising out of their marriage or common-law partnership, and

(iii) [Repealed, 1994, c. 7, Sch. VIII, s. 87(3)]

(b) both the policyholder and the transferee are resident in Canada at the time of the transfer,

unless an election is made in the policyholder's return of income under this Part for the taxation year in which the interest was transferred to have this subsection not apply, the interest shall be deemed to have been disposed of

Transfert non testamentaire au conjoint

(8.1) Malgré les autres dispositions du présent article, l'intérêt d'un titulaire de police dans une police d'assurance-vie (sauf une police qui est un régime ou un contrat visé à l'un des alinéas (1)a) à e) ou qui est établie aux termes d'un tel régime ou t) qui est l'objet d'un transfert est réputé avoir fait l'objet d'une disposition par le titulaire pour un produit égal au coût de base rajusté de l'intérêt pour lui immédiatement avant le transfert et avoir été acquis par le bénéficiaire du transfert à un coût égal à ce produit si les conditions suivantes sont remplies :

a) l'intérêt est transféré à l'une des personnes suivantes :

(i) l'époux ou conjoint de fait titulaire,

(ii) l'ex-époux ou ancien conjoint de fait du titulaire en règlement des droits découlant de leur mariage ou union de fait;

(iii) [Abrogé, 1994, ch. 7, ann. VIII, art. 87(3)]

by the policyholder for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the transferee at a cost equal to those proceeds.

Transfer to spouse at death

(8.2) Notwithstanding any other provision of this section, where, as a consequence of the death of a policyholder who was resident in Canada immediately before the policyholder's death, an interest of the policyholder in a life insurance policy (other than a policy that is or is issued under a plan or contract referred to in any of paragraphs 148(1)(a) to 148(1)(e)) is transferred or distributed to the policyholder's spouse or common-law partner who was resident in Canada immediately before the death, unless an election is made in the policyholder's return of income under this Part for the taxation year in which the policyholder died to have this subsection not apply, the interest shall be deemed to have been disposed of by the policyholder immediately before the death for proceeds of the disposition equal to the adjusted cost basis to the policyholder of the interest immediately before the transfer and to have been acquired by the spouse or common-law partner at a cost equal to those proceeds.

Definitions

(9) In this section and paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952,

adjusted cost basis, at any time to a policyholder of the policyholder's interest in a life insurance policy, means the amount determined by the formula

(A + B + C + D + E + F + G + G.1) – (H + I + J + K + L + M + N + O)

where

A is the total of all amounts each of which is the cost of an interest in the policy acquired by the policyholder before that time but not including an amount referred to in the description of B or E,

B is the total of all amounts each of which is an amount paid before that time by or on behalf of the policyholder in respect of a premium under the policy, other than amounts referred to in clause 148(2)(a)(ii)(B), in subparagraph (iii) of the description of C in paragraph (a) of the definition ***proceeds of the disposition*** or in subparagraph (b)(i) of that definition,

b) le titulaire et le bénéficiaire du transfert résident au Canada au moment du transfert;

toutefois, un choix peut être fait dans la déclaration de revenu du titulaire produite en vertu de la présente partie pour l'année d'imposition au cours de laquelle l'intérêt est transféré pour que le présent paragraphe ne s'applique pas.

Transfert à l'époux ou au conjoint de fait au décès

(8.2) Malgré les autres dispositions du présent article, l'intérêt d'un titulaire de police dans une police d'assurance-vie (sauf une police qui est un régime ou un contrat visé à l'un des alinéas (1)a) à e) ou qui est établie aux termes d'un tel régime ou contrat) qui est transféré ou distribué à l'époux ou au conjoint de fait du titulaire par suite du décès de ce dernier est réputé, si le titulaire et son époux ou conjoint de fait résidaient au Canada immédiatement avant ce décès, avoir fait l'objet d'une disposition par le titulaire immédiatement avant son décès pour un produit égal au coût de base rajusté de l'intérêt pour lui immédiatement avant le transfert et avoir été acquis par l'époux ou le conjoint de fait à un coût égal à ce produit; toutefois, un choix peut être fait dans la déclaration de revenu du titulaire produite en vertu de la présente partie pour l'année d'imposition au cours de laquelle le titulaire est décédé pour que le présent paragraphe ne s'applique pas.

Définitions

(9) Les définitions qui suivent s'appliquent au présent article et à l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952.

autorité compétente [Abrogée, 1997, ch. 25, art. 46(1)]

avance sur police Avance consentie par un assureur au titulaire d'une police en conformité avec les modalités de la police d'assurance-vie. (*policy loan*)

coût de base rajusté Le coût de base rajusté des intérêts que possède un titulaire dans une police d'assurance-vie, à un moment donné, correspond au montant déterminé selon la formule suivante :

(A + B + C + D + E + F + G + G.1) – (H + I + J + K + L + M + N + O)

où :

A représente le total des montants dont chacun est le coût d'un intérêt qu'il a acquis dans la police avant ce moment, à l'exclusion d'un montant visé aux éléments B ou E;

B le total des sommes représentant chacune une somme payée par lui ou pour son compte avant ce moment à titre de prime relative à la police, à

C is the total of all amounts each of which is an amount in respect of the disposition of an interest in the policy before that time that was required to be included in computing the policyholder's income or taxable income earned in Canada for a taxation year,

D is the total of all amounts each of which is an amount in respect of the policyholder's interest in the policy that was included by virtue of subsection 12(3) or section 12.2 or of paragraph 56(1)(d.1) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in computing the policyholder's income for any taxation year ending before that time or the portion of an amount paid to the policyholder in respect of the policyholder's interest in the policy on which tax was imposed by virtue of paragraph 212(1)(o) before that time,

E is the total of all amounts each of which is an amount that is in respect of the repayment, before that time and after March 31, 1978, of a policy loan and that does not exceed the amount determined by the formula,

E.1 – E.2

where

E.1 is the total of

(a) the proceeds of the disposition, if any, in respect of the loan,

(b) if the policy is issued after 2016 (and, in the case where the particular time at which the policy is issued is determined under subsection (11), the repayment is at or after the particular time), the portion of the loan applied, immediately after the loan, to pay a premium under the policy as provided for under the terms and conditions of the policy (except to the extent that the portion is described in subparagraph (i) of the description of C in the definition ***proceeds of the disposition*** in this subsection), and

(c) the amount, if any, described in the description of J in this definition (but not including any payment of interest) in respect of the loan, and

E.2 is the total all amounts each of which is an amount in respect of a repayment, of the loan, referred to in clause (2)(a)(ii)(B) or deductible under paragraph 60(s) of this Act or paragraph 20(1)(hh) of the *Income Tax Act*, chapter 148 of the *Revised Statutes of Canada*, 1952 (as it applied in taxation years before 1985),

l'exception des sommes ou montants visés à la division (2)a)(ii)(B), au sous-alinéa (iii) de l'élément C de la formule figurant à l'alinéa a) de la définition de ***produit de disposition*** au présent paragraphe ou au sous-alinéa b)(i) de cette définition;

C le total des montants dont chacun est une somme relative à la disposition d'un intérêt dans la police avant ce moment et qui devait être incluse dans le calcul de son revenu ou de son revenu imposable gagné au Canada pour une année d'imposition;

D le total des montants dont chacun est une somme relative à son intérêt dans la police et qui a été incluse, par l'application du paragraphe 12(3) ou de l'article 12.2 ou de l'alinéa 56(1)d.1) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul de son revenu pour toute année d'imposition se terminant avant ce moment ou la fraction d'une somme qui lui a été versée à l'égard de son intérêt dans la police, assujettie à l'impôt, avant ce moment, en vertu de l'alinéa 212(1)o);

E le total des sommes représentant chacune une somme relative au remboursement, avant ce moment et après le 31 mars 1978, d'une avance sur police et ne dépassant pas la somme déterminée selon la formule suivante :

E.1 – E.2

où

E.1 représente le total des sommes suivantes :

a) le produit de disposition à l'égard de cette avance,

b) si la police est établie après 2016 — et, dans le cas où le moment donné de son établissement est déterminé en application du paragraphe (11), que le remboursement est effectué à ce moment ou à un moment postérieur —, la partie de l'avance ayant servi, immédiatement après l'avance, au paiement d'une prime relative à la police conformément aux modalités de la police, sauf dans la mesure où cette partie est visée à l'alinéa (i) de l'élément C de la définition de ***produit de disposition*** au présent paragraphe,

c) la valeur de l'élément J de cette définition, à l'exclusion des intérêts afférents payés relativement à l'avance,

E.2 le total des sommes dont chacune est une somme relative à un remboursement de l'avance qui est visé à la division (2)a)(ii)(B) ou qui est déductible en application de l'alinéa 60s) de la présente loi ou de l'alinéa 20(1)hh) de la *Loi de l'impôt sur le revenu*, chapitre 148

F is the amount, if any, by which the cash surrender value of the policy as at its first anniversary date after March 31, 1977 exceeds the adjusted cost basis (determined under the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it would have read on that date if subsection 148(8) of that Act, as it read in its application to the period ending immediately before April 1, 1978, had not been applicable) of the policyholder's interest in the policy on that date,

G is, in the case of an interest in a life annuity contract, as defined by regulation, to which subsection 12.2(1) applies for the taxation year that includes that time (or would apply if the contract had an anniversary day in the year at a time when the taxpayer held the interest), the total of all amounts each of which is a mortality gain, as defined by regulation and determined by the issuer of the contract in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year commencing before that time,

G.1 is, in the case of an interest in a life insurance policy (other than an annuity contract) to which subsection (8.2) applied before that time, the total of all amounts each of which is a mortality gain, as defined by regulation and determined by the issuer of the policy in accordance with the regulations, in respect of the interest immediately before the end of the calendar year that ended in a taxation year that began before that time,

H is the total of all amounts each of which is the proceeds of the disposition of the policyholder's interest in the policy that the policyholder became entitled to receive before that time,

I is the total of all amounts each of which is an amount in respect of the policyholder's interest in the policy that was deducted by virtue of subsection 20(19) in computing the policyholder's income for any taxation year commencing before that time,

J is the amount payable on March 31, 1978 in respect of a policy loan in respect of the policy,

K is the total of all amounts each of which is an amount received before that time in respect of the policy that the policyholder was entitled to deduct under paragraph 60(a) in computing the policyholder's income for a taxation year,

L is

(a) in the case of an interest in a life insurance policy (other than an annuity contract) that was last acquired after December 1, 1982 by the policyholder, the total of all amounts each of which is the net cost of pure insurance, as defined by

des *Statuts révisés du Canada* de 1952 (dans son application aux années d'imposition antérieures à 1985);

F l'excédent éventuel de la valeur de rachat de la police au premier jour anniversaire de celle-ci après le 31 mars 1977 sur le coût de base rajusté (déterminé en vertu de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans la version qui aurait été applicable à cette date si le paragraphe 148(8) de cette loi, dans sa version applicable à la période précédant le 1er avril 1978, ne s'était pas appliqué) de ses intérêts dans la police à cette date;

G dans le cas d'un intérêt dans un contrat de rente viagère, au sens du règlement, auquel le paragraphe 12.2(1) s'applique pour l'année d'imposition qui comprend ce moment, ou s'appliquerait si le jour anniversaire du contrat tombait dans l'année à un moment où le contribuable détient l'intérêt, le total des sommes dont chacune représente un gain de mortalité, au sens du règlement, déterminé par l'émetteur du contrat conformément au règlement, réalisé sur l'intérêt immédiatement avant la fin de l'année civile se terminant au cours d'une année d'imposition commençant avant ce moment;

G.1 dans le cas d'un intérêt dans une police d'assurance-vie, sauf un contrat de rente, auquel le paragraphe (8.2) s'est appliqué avant ce moment, le total des sommes représentant chacune un gain de mortalité, défini par règlement et calculé selon les modalités réglementaires par la personne ayant établi la police, au titre de l'intérêt immédiatement avant la fin de l'année civile s'étant terminée dans une année d'imposition ayant commencé avant ce moment;

H le total des montants dont chacun correspond au produit de disposition de son intérêt dans la police qu'il a acquis le droit de recevoir avant ce moment;

I le total des montants dont chacun est un montant à l'égard de son intérêt dans la police qui a été déduit par l'application du paragraphe 20(19) dans le calcul de son revenu pour une année d'imposition commençant avant ce moment;

J le montant payable le 31 mars 1978 à l'égard d'une avance sur police à l'égard de la police;

K le total des montants dont chacun correspond à un montant reçu avant ce moment à l'égard de la police et qu'il avait le droit de déduire en vertu de l'alinéa 60a) dans le calcul de son revenu pour une année d'imposition;

L :

regulation and determined by the issuer of the policy in accordance with the regulations, in respect of the interest immediately before the end of the calendar year ending in a taxation year commencing after May 31, 1985 and before that time,

(b) in the case of an interest in an annuity contract to which subsection 12.2(1) applies for the taxation year that includes that time (or would apply if the contract had an anniversary day in the year and while the taxpayer held the interest), the total of all annuity payments paid in respect of the interest before that time and while the policyholder held the interest, or

(c) in the case of an interest in a contract referred to in the description of G, the total of all amounts each of which is a mortality loss, as defined by regulation and determined by the issuer of the contract in accordance with the regulations, in respect of the interest before that time,

M is, in the case of a policy that is issued after 2016 and is not an annuity contract, the total of all amounts each of which is a premium paid by or on behalf of the policyholder, or a cost of insurance charge incurred by the policyholder, before that time (and, in the case where the particular time at which the policy is issued is determined under subsection (11), at or after the particular time), to the extent that the premium or charge is in respect of a benefit under the policy other than a benefit on death (as defined in subsection 1401(3) of the *Income Tax Regulations*),

N is, in the case of a policy that is issued after 2016 and is not an annuity contract, the total of all amounts each of which is the policyholder's interest in an amount paid — to the extent that the cash surrender value of the policy, if any, or the fund value of the policy (as defined in subsection 1401(3) of the *Income Tax Regulations*), if any, is reduced by the amount paid — before that time (and, in the case where the particular time at which the policy is issued is determined under subsection (11), at or after the particular time) that

(a) is a benefit on death (as defined in subsection 1401(3) of the *Income Tax Regulations*), or a disability benefit, under the policy, and

(b) does not result in the termination of a coverage (as defined in subsection 1401(3) of the *Income Tax Regulations*) under the policy,

O is, in the case of a policy that is issued after 2016 and is not an annuity contract, the total of all amounts each of which is — if a benefit on death (as defined in subsection 1401(3) of the *Income Tax Regulations*) under a coverage (as defined in subsection 1401(3) of

a) dans le cas d'un intérêt dans une police d'assurance-vie (autre qu'un contrat de rente) qui a été acquis pour la dernière fois après le 1er décembre 1982 par le titulaire de la police, le total des sommes dont chacune est le coût net de l'assurance pure défini par règlement et déterminé par l'émetteur de la police conformément au règlement, à l'égard de l'intérêt immédiatement avant la fin de l'année civile se terminant au cours d'une année d'imposition commençant après le 31 mai 1985 et avant ce moment;

b) dans le cas d'un intérêt dans un contrat de rente auquel le paragraphe 12.2(1) s'applique pour l'année d'imposition qui comprend le moment donné, ou s'appliquerait si le jour anniversaire du contrat tombait dans l'année à un moment où le contribuable détient l'intérêt, le total des paiements de rente faits sur l'intérêt avant le moment donné pendant que le titulaire de la police détenait l'intérêt;

c) dans le cas d'un intérêt dans un contrat visé à l'élément G, le total des sommes dont chacune est une perte de mortalité définie par règlement et déterminée par l'émetteur du contrat conformément au règlement, relativement à l'intérêt avant ce moment;

M dans le cas d'une police établie après 2016 qui n'est pas un contrat de rente, le total des sommes représentant chacune une prime versée par le titulaire de police ou pour son compte, ou des frais d'assurance engagés par celui-ci, avant ce moment (et, dans le cas où le moment donné de l'établissement de la police est déterminé en application du paragraphe (11), à ce moment ou à un moment postérieur), dans la mesure où la prime ou les frais se rapportent à une prestation, sauf une prestation de décès au sens du paragraphe 1401(3) du *Règlement de l'impôt sur le revenu*, prévue par la police;

N dans le cas d'une police établie après 2016 qui n'est pas un contrat de rente, le total des sommes représentant chacune l'intérêt du titulaire de la police sur une somme versée — dans la mesure où la valeur de rachat de la police ou la valeur du fonds de la police d'assurance-vie, au sens du paragraphe 1401(3) du même règlement, est réduite par la somme versée — avant ce moment (et, dans le cas où le moment de l'établissement de la police est déterminé en application du paragraphe (11), à ce moment ou à un moment postérieur) qui, à la fois :

a) est une prestation de décès, au sens du paragraphe 1401(3) du même règlement, ou une prestation d'invalidité, prévue par la police,

the *Income Tax Regulations*) under the policy is paid before that time (and, in the case where the particular time at which the policy is issued is determined under subsection (11), at or after the particular time) and the payment results in the termination of the coverage — the amount, if any, determined with respect to the coverage by the formula

[P × (Q + R + S)/T] – U

where

P is the adjusted cost basis of the policyholder's interest immediately before the termination,

Q is the amount of the fund value benefit (as defined in subsection 1401(3) of the *Income Tax Regulations*) under the policy paid in respect of the coverage on the termination,

R is the amount that would be the present value, determined for the purposes of section 307 of the *Income Tax Regulations*, on the last policy anniversary (as defined in section 310 of the *Income Tax Regulations*) on or before the termination, of the fund value of the coverage (as defined in subsection 1401(3) of the *Income Tax Regulations*) if the fund value of the coverage on that policy anniversary were equal to the fund value of the coverage on the termination,

S is the amount that would be determined, on that policy anniversary, for paragraph (a) of the description of C in the definition ***net premium reserve*** in subsection 1401(3) of the *Income Tax Regulations* in respect of the coverage, if the benefit on death under the coverage, and the fund value of the coverage, on that policy anniversary were equal to the benefit on death under the coverage and the fund value of the coverage, as the case may be, on the termination,

T is the amount that would be, on that policy anniversary, the net premium reserve (as defined in subsection 1401(3) of the *Income Tax Regulations*) in respect of the policy for the purposes of section 307 of the *Income Tax Regulations*, if the fund value benefit under the policy, the benefit on death under each coverage and the fund value of each coverage on that policy anniversary were equal to the fund value benefit, the benefit on death under each coverage and the fund value of each coverage, as the case may be, under the policy on the termination, and

U is the amount, if any, determined under subsection (4) in respect of a disposition before that time of the interest because of paragraph (2)(e) in respect of the payment in respect of the fund value benefit under the policy paid in respect of

b) n'entraîne pas la résiliation d'une protection, au sens de ce paragraphe, de la police;

O dans le cas d'une police établie après 2016 qui n'est pas un contrat de rente, si une prestation de décès, au sens du paragraphe 1401(3) du même règlement, prévue par une protection, au sens de ce paragraphe, de la police est versée avant ce moment (et, dans le cas où le moment de l'établissement de la police est déterminé en application du paragraphe (11), à ce moment ou à un moment postérieur) et que le versement entraîne la résiliation de la protection, la somme déterminée relativement à la protection selon la formule suivante :

[P × (Q + R + S)/T] – U

où :

P représente le coût de base rajusté de l'intérêt du titulaire de police immédiatement avant la résiliation,

Q le montant du bénéfice au titre de la valeur du fonds, au sens du paragraphe 1401(3) du même règlement, de la police qui est versé dans le cadre de la protection au moment de la résiliation,

R le montant qui serait la valeur actualisée — déterminée pour l'application de l'article 307 du même règlement, à l'anniversaire de la police, au sens de l'article 310 de ce règlement, qui est le dernier en date des anniversaires de la police à survenir au plus tard au moment de la résiliation — de la valeur du fonds de la protection, au sens du paragraphe 1401(3) de ce règlement, si la valeur du fonds de la protection à ce dernier anniversaire était égale à la valeur du fonds d'une protection au moment de la résiliation,

S le montant qui serait déterminé à ce dernier anniversaire selon l'alinéa a) de l'élément C de la formule figurant à la définition de ***provision pour primes nettes***, au sens du paragraphe 1401(3) du même règlement, relativement à la protection si la prestation de décès prévue par la protection et la valeur du fonds de la protection à cet anniversaire étaient égales à la prestation de décès prévue par la protection et à la valeur du fonds de la protection, le cas échéant, au moment de la résiliation,

T le montant qui serait, à cet anniversaire, la ***provision pour primes nettes***, au sens du paragraphe 1401(3) du même règlement et déterminée à l'égard de la police pour l'application de l'article 307 de ce règlement, si le bénéfice au

the coverage on the termination; (*coût de base rajusté*)

amount payable, in respect of a policy loan, has the meaning assigned by subsection 138(12); (*montant payable*)

cash surrender value at a particular time of a life insurance policy means its cash surrender value at that time computed without regard to any policy loans made under the policy, any policy dividends (other than paid-up additions) payable under the policy or any interest payable on those dividends; (*valeur de rachat*)

child of a policyholder includes a child as defined in subsection 70(10); (*enfant*)

disposition, in relation to an interest in a life insurance policy, includes

(a) a surrender thereof,

(b) a policy loan made after March 31, 1978,

(c) the dissolution of that interest by virtue of the maturity of the policy,

(d) a disposition of that interest by operation of law only, and

(e) the payment by an insurer of an amount (other than an annuity payment, a policy loan or a policy dividend) in respect of a policy (other than a policy described in paragraph 148(1)(a), 148(1)(b), 148(1)(c), 148(1)(d) or 148(1)(e)) that is a life annuity contract, as defined by regulation, entered into after November 16, 1978, and before November 13, 1981,

but does not include

(f) an assignment of all or any part of an interest in the policy for the purpose of securing a debt or a loan other than a policy loan,

(g) a lapse of the policy in consequence of the premiums under the policy remaining unpaid, if the policy was reinstated not later than 60 days after the end of the calendar year in which the lapse occurred,

(h) a payment under a policy as a disability benefit or as an accidental death benefit,

(i) an annuity payment,

(j) a payment under a life insurance policy (other than an annuity contract) that

titre de la valeur du fonds dans le cadre de la police, la prestation de décès prévue par chaque protection et la valeur du fonds de chaque protection, à cet anniversaire, étaient égaux au bénéfice au titre de la valeur du fonds, la prestation de décès prévue par chaque protection et la valeur du fonds de chaque protection, le cas échéant, de la police au moment de la résiliation,

U le montant déterminé selon le paragraphe (4) relativement à une disposition de l'intérêt, effectuée avant ce moment par l'effet de l'alinéa (2)e), à l'égard du versement d'un bénéfice au titre de la valeur du fonds qui est versé relativement à la protection au moment de la résiliation. (*adjusted cost basis*)

disposition En ce qui concerne des intérêts dans une police d'assurance-vie, sont compris dans la disposition :

a) le rachat de la police;

b) une avance consentie après le 31 mars 1978;

c) la dissolution de ces intérêts en raison de l'échéance de la police;

d) la disposition de ces intérêts par le seul effet de la loi;

e) le paiement d'un montant (autre qu'un versement de rente, une avance sur police et une participation de police) effectué par un assureur à l'égard d'une police (autre qu'une police visée à l'alinéa (1)a), b), c), d) ou e)) qui est un contrat de rente viagère défini par règlement, conclu après le 16 novembre 1978 et avant le 13 novembre 1981,

à l'exclusion toutefois de ce qui suit :

f) la cession de la totalité ou d'une partie des intérêts dans la police en vue de la garantie d'une dette ou d'un prêt, autre qu'une avance sur police;

g) la déchéance de la police par suite du non-paiement de primes relatives à la police si la police a été remise en vigueur au plus tard 60 jours après la fin de l'année civile au cours de laquelle la déchéance s'est produite;

h) un versement en vertu d'une police à titre de prestation d'invalidité ou de décès par accident;

i) le versement d'une rente;

j) un versement en vertu d'une police d'assurance-vie (autre qu'un contrat de rente) qui :

(i) was last acquired before December 2, 1982, or

(ii) is an exempt policy

in consequence of the death of any person whose life was insured under the policy, or

(k) any transaction or event by which an individual becomes entitled to receive, under the terms of an exempt policy, all of the proceeds (including or excluding policy dividends) payable under the policy in the form of an annuity contract or annuity payments, if, at the time of the transaction or event, the individual whose life is insured under the policy was totally and permanently disabled; (*disposition*)

interest, in relation to a policy loan, has the meaning assigned by subsection 138(12); (*intérêt*)

policy loan means an amount advanced by an insurer to a policyholder in accordance with the terms and conditions of the life insurance policy; (*avance sur police*)

premium under a policy includes

(a) interest paid after 1977 to a life insurer in respect of a policy loan, other than interest deductible in the 1978 or any subsequent taxation year pursuant to paragraph 20(1)(c) or 20(1)(d), and

(b) a prepaid premium under the policy to the extent that it cannot be refunded otherwise than on termination or cancellation of the policy,

but does not include

(c) the portion of any amount paid under the policy with respect to an accidental death benefit, a disability benefit, an additional risk as a result of insuring a substandard life, an additional risk in respect of the conversion of a term policy into another policy after the end of the year, an additional risk under a settlement option, or an additional risk under a guaranteed insurability benefit, if

(i) in the case of an annuity contract, a policy issued before 2017 or in respect of which the particular time at which the policy is issued is determined under subsection (11), where the interest in the policy was last acquired after December 1, 1982, the payment is made after May 31, 1985 and, if the particular time at which the policy is issued is determined under subsection (11), before the particular time, or

(ii) in the case where the taxpayer's interest in the policy was last acquired before December 2, 1982,

(i) soit a été acquise pour la dernière fois avant le 2 décembre 1982,

(ii) soit est une police exonérée,

à la suite du décès de tout personne dont la vie était assurée en vertu de la police;

k) une opération ou un événement par suite duquel un particulier devient en droit de recevoir, selon les modalités d'une police exonérée, le total du produit (avec ou sans participations de polices) payable en vertu de la police, sous forme de contrat de rente ou de versements de prestations, si, au moment de l'opération ou de l'événement, le particulier dont la vie est assurée en vertu de la police était atteint d'invalidité totale et permanente. (*disposition*)

enfant Sont compris parmi les enfants du titulaire d'une police les enfants au sens du paragraphe 70(10). (*child*)

intérêt Relativement à une avance sur police, s'entend au sens du paragraphe 138(12). (*interest*)

jour anniversaire d'imposition Relativement à une police d'assurance-vie, le second jour anniversaire de la police, postérieur au 22 octobre 1968. (*tax anniversary date*)

montant payable S'agissant du montant payable à l'égard d'une avance sur police, s'entend au sens du paragraphe 138(12). (*amount payable*)

prime Sont compris dans la prime en vertu d'une police :

a) l'intérêt versé après 1977 à un assureur sur la vie à l'égard d'une avance sur police, sauf l'intérêt déductible au cours des années d'imposition 1978 et suivantes en vertu de l'alinéa 20(1)c) ou d);

b) une prime payée à l'avance en vertu de la police, dans la mesure où elle ne peut être remboursée qu'à la résiliation ou à l'annulation de la police;

le terme ne vise toutefois pas :

c) la partie de toute somme versée en vertu de la police au titre d'une prestation de décès par accident, d'une prestation d'invalidité, d'un risque additionnel à la suite de l'assurance d'un risque aggravé, d'un risque additionnel relativement à la transformation d'une police temporaire en une autre police après la fin de l'année, d'un risque additionnel en vertu d'une option de règlement ou d'un risque additionnel en vertu d'une garantie d'assurabilité si, selon le cas :

(A) subsection 12.2(9) of the *Income Tax Act*, chapter 148 of the *Revised Statutes of Canada*, 1952, applies to the interest,

(B) the particular time at which the policy is issued is determined under subsection (11), and

(C) the payment is made in the period that starts at the later of May 31, 1985 and the first time at which that subsection 12.2(9) applies in respect of the interest and that ends at the particular time; (*prime*)

proceeds of the disposition of an interest in a life insurance policy means the amount of the proceeds that the policyholder, beneficiary or assignee, as the case may be, is entitled to receive on a disposition of an interest in the policy and for greater certainty,

(a) in respect of a surrender or maturity thereof, means the amount determined by the formula

(A - B) - C

where

A is the cash surrender value of the interest in the policy at the time of surrender or maturity,

B is that portion of the cash surrender value represented by A that is applicable to the policyholder's interest in the related segregated fund trust as referred to in paragraph 138.1(1)(e), and

C is the total of amounts each of which is

(i) an amount by which the amount payable in respect of a policy loan in respect of the policy is reduced as a consequence of the disposition, except that if the policy is issued after 2016 and the disposition is of a part of the interest (and, in the case where the particular time at which the policy is issued is determined under subsection (11), the disposition occurs at or after the particular time), only to the extent that the amount represents the portion of the loan applied, immediately after the loan, to pay a premium under the policy, as provided for under the terms and conditions of the policy,

(ii) a premium under the policy that is due but unpaid at that time, or

(iii) an amount applied, immediately after the time of the surrender, to pay a premium under the policy, as provided for under the terms and conditions of the policy,

(b) in respect of a policy loan made after March 31, 1978 means the lesser of

(i) dans le cas d'un contrat de rente, d'une police établie avant 2017 ou à l'égard de laquelle le moment donné de son établissement est déterminé en application du paragraphe (11), si l'intérêt dans la police a été acquis la dernière fois après le 1er décembre 1982, le versement est effectué après le 31 mai 1985 et, si le moment donné de l'établissement de la police est déterminé en application du paragraphe (11), avant le moment donné,

(ii) si l'intérêt du particulier dans la police a été acquis la dernière fois avant le 2 décembre 1982 :

(A) le paragraphe 12.2(9) de la *Loi de l'impôt sur le revenu*, chapitre 148 des *Statuts révisés du Canada* de 1952, s'applique,

(B) le moment donné de l'établissement de la police est déterminé en application du paragraphe (11),

(C) le versement est effectué au cours de la période débutant le dernier en date du 31 mai 1985 et du premier jour où ce paragraphe 12.2(9) s'applique relativement à l'intérêt et se terminant au moment donné. (*premium*)

produit de disposition Relativement à des intérêts dans une police d'assurance-vie, montant du produit que le titulaire, bénéficiaire ou cessionnaire de la police a le droit de recevoir lors de la disposition d'intérêts dans la police; il est entendu que :

a) dans le cas du rachat ou de l'échéance de la police, le terme vise le montant calculé selon la formule suivante :

(A - B) - C

où :

A représente la valeur de rachat des intérêts dans la police au moment du rachat ou de l'échéance,

B la partie de la valeur de rachat représentée par l'élément A qui correspond à la participation du titulaire de la police dans la fiducie créée à l'égard du fonds réservé et qui est visée à l'alinéa 138.1(1)e),

C le total des montants représentant chacun :

(i) soit un montant qui est à appliquer en réduction du montant payable par le titulaire de police à l'égard d'une avance sur police consentie dans le cadre de la police par suite de la disposition, sauf que, dans le cas où la police est établie après 2016, l'objet de la disposition est une partie de l'intérêt du contribuable et, si le

(i) the amount of the loan, other than the part thereof applied, immediately after the loan, to pay a premium under the policy, as provided for under the terms and conditions of the policy, and

(ii) the amount, if any, by which the cash surrender value of the policy immediately before the loan was made exceeds the total of the balances outstanding at that time of any policy loans in respect of the policy,

(c) in respect of a payment described in paragraph (e) of the definition ***disposition*** in this subsection, means the amount of that payment, and

(d) in respect of a disposition deemed to have occurred under paragraph 148(2)(b), means the accumulating fund in respect of the interest, as determined in prescribed manner,

(i) immediately before the time of death in respect of a life insurance policy (other than an annuity contract) last acquired after December 1, 1982, or

(ii) immediately after the time of death in respect of an annuity contract; (*produit de disposition*)

relevant authority [Repealed, 1997, c. 25, s. 46(1)

tax anniversary date, in relation to a life insurance policy, means the second anniversary date of the policy to occur after October 22, 1968; (*jour anniversaire d'imposition*)

value at a particular time of an interest in a life insurance policy means

(a) where the interest includes an interest in the cash surrender value of the policy, the amount in respect thereof that the holder of the interest would be entitled to receive if the policy were surrendered at that time, and

(b) in any other case, nil. (*valeur*)

moment donné de l'établissement de la police est déterminé en application du paragraphe (11) et la disposition se produit au moment donné ou à un moment postérieur, seulement dans la mesure où le montant correspond à la partie de l'avance qui a servi, immédiatement après l'avance, au paiement d'une prime relative à la police, conformément aux modalités de la police,

(ii) soit une prime relative à la police, qui est en souffrance à ce moment,

(iii) soit une somme qui sert, immédiatement après le moment du rachat, à payer une prime relative à la police, en conformité avec les modalités de la police;

b) dans le cas d'une avance sur police consentie après le 31 mars 1978, le terme vise le moins élevé des montants suivants :

(i) le montant de l'avance, à l'exclusion de la fraction de ce montant qui sert, immédiatement après que l'avance a été consentie, à payer une prime relative à la police, en conformité avec les modalités de la police,

(ii) l'excédent éventuel de la valeur de rachat de la police immédiatement avant que l'avance ait été consentie sur le total des soldes impayés à ce moment de toute avance sur police à l'égard de la police;

c) dans le cas d'un paiement visé à l'alinéa e) de la définition de ***disposition*** au présent paragraphe, le terme vise le montant d'un tel paiement;

d) à l'égard d'une disposition réputée, en vertu de l'alinéa (2)b), avoir été effectuée, le terme vise le fonds accumulé relativement à l'intérêt, déterminé selon les modalités réglementaires :

(i) immédiatement avant le moment du décès en ce qui concerne une police d'assurance-vie (autre qu'un contrat de rentre) acquise pour la dernière fois après le 1er décembre 1982,

(ii) immédiatement après le moment du décès en ce qui concerne un contrat de rente. (*proceeds of the disposition*)

valeur La valeur, à un moment donné, d'un intérêt dans une police d'assurance-vie est :

a) lorsque l'intérêt comprend un intérêt dans la valeur de rachat de la police, la somme y afférente que le titulaire de l'intérêt aurait le droit de recevoir si la police était rachetée à ce moment;

b) dans les autres cas, nulle. (*value*)

valeur de rachat La valeur de rachat d'une police d'assurance-vie, à un moment donné, est sa valeur de rachat à ce moment, calculée compte non tenu des avances sur police consenties aux termes de la police, des participations de polices (autres que les bonifications d'assurance libérée) payables aux termes de la police, ni des intérêts payables sur ces participations. (*cash surrender value*)

Application of s. 12.2(11)

(9.1) The definitions in subsection 12.2(11) apply to this section.

Application du par. 12.2(11)

(9.1) Les définitions figurant au paragraphe 12.2(11) s'appliquent au présent article.

Life annuity contracts

(10) For the purposes of this section,

(a) a reference to "insurer" or "life insurer" shall be deemed to include a reference to a person who is licensed or otherwise authorized under a law of Canada or a province to issue contracts that are annuity contracts;

(b) a reference to a "person whose life was insured" shall be deemed to include a reference to an annuitant under a life annuity contract, as defined by regulation, entered into before November 17, 1978;

(c) where a policyholder is a person who has held an interest in a life insurance policy continuously since its issue date, the interest shall be deemed to have been acquired on the later of the date on which

(i) the policy came into force, and

(ii) the application in respect of the policy signed by the policyholder was filed with the insurer;

(d) except as otherwise provided, a policyholder shall be deemed not to have disposed of or acquired an interest in a life insurance policy (other than an annuity contract) as a result only of the exercise of any provision (other than a conversion into an annuity contract) of the policy; and

(e) where an interest in a life insurance policy (other than an annuity contract) last acquired before December 2, 1982 to which subsection 12.2(9) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, does not apply has been acquired by a taxpayer from a person with whom the taxpayer was not

Contrats de rente viagère

(10) Pour l'application du présent article :

a) la mention d'un « assureur » ou d'un « assureur sur la vie » est réputée valoir également mention d'une personne titulaire de licence ou par ailleurs autorisée par la législation fédérale ou provinciale à établir des contrats qui sont des contrats de rente;

b) la mention d'une « personne dont la vie était assurée » est réputée valoir également mention d'un rentier en vertu d'un contrat de rente viagère défini par règlement, conclu avant le 17 novembre 1978;

c) lorsque le titulaire d'une police est une personne qui, depuis la date de l'établissement de celle-ci, a détenu de façon continue un intérêt dans la police d'assurance-vie, l'intérêt est réputé avoir été acquis au dernier en date des jours suivants :

(i) le jour de son entrée en vigueur,

(ii) le jour où la demande à l'égard de cette police, signée par le titulaire de la police, a été présentée à l'assureur;

d) sauf disposition contraire, le titulaire d'une police est réputé ne pas avoir disposé d'un intérêt, ni avoir acquis un intérêt, dans une police d'assurance-vie (autre qu'un contrat de rente) par le simple fait de l'exercice de quelque clause (autre qu'une conversion en un contrat de rente) de la police;

e) lorsqu'un intérêt dans une police d'assurance-vie (autre qu'un contrat de rente) acquis pour la dernière fois avant le 2 décembre 1982 et auquel le paragraphe 12.2(9) de la *Loi de l'impôt sur le revenu*, chapitre 148

dealing at arm's length, the interest shall be deemed to have been last acquired by the taxpayer before December 2, 1982.

Loss of grandfathering

(11) For the purposes of determining at and after a particular time whether a life insurance policy (other than an annuity contract) issued before 2017 is treated as issued after 2016 under this section (other than this subsection) and sections 306 (other than subsection (9)), 307, 308, 310, 1401 and 1403 of the *Income Tax Regulations* (except as they apply for the purposes of subsection 211.1(3)), the policy is deemed to be a policy issued at the particular time if the particular time is the first time after 2016 at which life insurance — in respect of a life, or two or more lives jointly insured, and in respect of which a particular schedule of premium or cost of insurance rates applies — is

(a) converted (other than only because of a change in premium or cost of insurance rates) into another type of life insurance; or

(b) if the insurance (other than insurance paid for with policy dividends or that is reinstated) is medically underwritten after 2016 (other than to obtain a reduction in the premium or cost of insurance rates under the policy), added to the policy.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 148; 1994, c. 7, Sch. II, s. 121, Sch. VIII, s. 87, c. 21, s. 73; 1997, c. 25, s. 46; 2000, c. 12, s. 142; 2008, c. 28, s. 26; 2012, c. 31, s. 37; 2013, c. 34, s. 305, c. 40, s. 65; 2014, c. 39, s. 52; 2016, c. 12, s. 53.

des Statuts revisés du Canada de 1952, ne s'applique pas a été acquis par un contribuable auprès d'une personne avec laquelle il avait un lien de dépendance, l'intérêt est réputé avoir été acquis pour la dernière fois par le contribuable avant le 2 décembre 1982.

Polices établies avant 2017

(11) Afin de déterminer, à un moment donné et par la suite, si une police d'assurance-vie (sauf un contrat de rente) établie avant 2017 est considérée comme ayant été établie après 2016 pour l'application du présent article (sauf le présent paragraphe) et des articles 306 (sauf son paragraphe (9)), 307, 308, 310, 1401 et 1403 du *Règlement de l'impôt sur le revenu* (sauf pour leur application dans le cadre du paragraphe 211.1(3)), la police est réputée être établie au moment donné si celui-ci est le premier moment après 2016 où l'assurance-vie — souscrite sur une seule tête ou sur plusieurs têtes conjointement et à l'égard de laquelle un barème particulier de taux de prime ou de frais d'assurance s'applique — est :

a) soit convertie (sauf si la conversion n'est due qu'à un changement des taux de prime ou des frais d'assurance) en un autre type d'assurance-vie;

b) soit, si l'assurance (à l'exception d'une assurance qui est financée au moyen d'une participation ou qui est rétablie) est médicalement souscrite après 2016 (sauf pour obtenir une réduction des taux de prime ou des frais d'assurance prévus par la police), ajoutée à la police.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 148; 1994, ch. 7, ann. II, art. 121, ann. VIII, art. 87, ch. 21, art. 73; 1997, ch. 25, art. 46; 2000, ch. 12, art. 142; 2008, ch. 28, art. 26; 2012, ch. 31, art. 37; 2013, ch. 34, art. 305, ch. 40, art. 65; 2014, ch. 39, art. 52; 2016, ch. 12, art. 53.

Eligible Funeral Arrangements

Definitions

148.1 (1) In this section,

cemetery care trust means a trust established pursuant to an Act of a province for the care and maintenance of a cemetery; (*fiducie pour l'entretien d'un cimetière*)

cemetery services with respect to an individual means property (including interment vaults, markers, flowers, liners, urns, shrubs and wreaths) and services that relate directly to cemetery arrangements in Canada in consequence of the death of the individual including, for greater certainty, property and services to be funded out of a cemetery care trust; (*services de cimetière*)

custodian of an arrangement means

Arrangements de services funéraires

Définitions

148.1 (1) Les définitions qui suivent s'appliquent au présent article.

arrangement de services funéraires À un moment donné, arrangement établi et administré par une personne admissible uniquement en vue du financement de services de funérailles ou de cimetière relatifs à un ou plusieurs particuliers et dont le ou les dépositaires résident au Canada au moment de l'établissement de l'arrangement, dans le cas où, à la fois :

a) chaque versement effectué dans le cadre de l'arrangement avant le moment donné avait pour objet le financement de services de funérailles ou de cimetière à

(a) where a trust is governed by the arrangement, a trustee of the trust, and

(b) in any other case, a qualifying person who receives a contribution under the arrangement as a deposit for the provision by the person of funeral or cemetery services; (*dépositaire*)

eligible funeral arrangement at a particular time means an arrangement established and maintained by a qualifying person solely for the purpose of funding funeral or cemetery services with respect to one or more individuals and of which there is one or more custodians each of whom was resident in Canada at the time the arrangement was established, where

(a) each contribution made before the particular time under the arrangement was made for the purpose of funding funeral or cemetery services to be provided by the qualifying person with respect to an individual, and

(b) for each such individual, the total of all relevant contributions made before the particular time in respect of the individual does not exceed

(i) $15,000, where the arrangement solely covers funeral services with respect to the individual,

(ii) $20,000, where the arrangement solely covers cemetery services with respect to the individual, and

(iii) $35,000, in any other case,

and for the purpose of this definition, any payment (other than the portion of the payment to be applied as a contribution to a cemetery care trust) that is made in consideration for the immediate acquisition of a right to burial in or on property that is set apart or used as a place for the burial of human remains or of any interest in a building or structure for the permanent placement of human remains, shall be considered to have been made pursuant to a separate arrangement that is not an eligible funeral arrangement; (*arrangement de services funéraires*)

funeral or cemetery services with respect to an individual means funeral services with respect to the individual, cemetery services with respect to the individual or any combination of such services; (*services de funérailles ou de cimetière*)

funeral services with respect to an individual means property and services (other than cemetery services with respect to the individual) that relate directly to funeral

fournir à l'égard d'un particulier par la personne admissible;

b) pour chacun de ces particuliers, le total des versements admissibles effectués pour le particulier dans le cadre de l'arrangement avant le moment donné ne dépasse pas le montant suivant :

(i) 15 000 $, dans le cas où l'arrangement vise exclusivement des services funéraires relatifs au particulier,

(ii) 20 000 $, dans le cas où l'arrangement vise exclusivement des services de cimetière relatifs au particulier,

(iii) 35 000 $, dans les autres cas.

Pour l'application de la présente définition, tout paiement, sauf la partie à affecter à une fiducie pour l'entretien d'un cimetière, qui est effectué en contrepartie de l'acquisition immédiate d'un droit d'inhumation dans ou sur un bien réservé ou utilisé pour l'inhumation de restes humains ou d'un droit dans un bâtiment ou une construction où sont déposés de façon permanente des restes humains est considéré comme effectué dans le cadre d'un arrangement distinct qui n'est pas un arrangement de services funéraires. (*eligible funeral arrangement*)

dépositaire

a) Fiduciaire d'une fiducie régie par un arrangement de services funéraires;

b) dans le cas où aucune fiducie n'est régie par un arrangement de services funéraires, personne admissible qui reçoit, dans le cadre de l'arrangement, un versement à titre de dépôt pour la fourniture, par elle, de services de funérailles ou de cimetière. (*custodian*)

fiducie pour l'entretien d'un cimetière Fiducie établie en conformité avec une loi provinciale pour assurer l'entretien d'un cimetière. (*cemetery care trust*)

personne admissible Personne autorisée, par permis ou autrement, en vertu des lois provinciales à fournir des services de funérailles ou de cimetière relatifs à des particuliers. (*qualifying person*)

services de cimetière Biens — caveaux d'inhumation, repères, fleurs, doublures, urnes, arbustes, couronnes et autres articles — et services requis par suite du décès d'un particulier et se rapportant directement à la sépulture au Canada. Il est entendu que les biens et services réglés au moyen des fonds d'une fiducie pour l'entretien

arrangements in Canada in consequence of the death of the individual; (*services funéraires*)

qualifying person means a person licensed or otherwise authorized under the laws of a province to provide funeral or cemetery services with respect to individuals; (*personne admissible*)

relevant contribution in respect of an individual under a particular arrangement means

(a) a contribution under the particular arrangement (other than a contribution made by way of a transfer from an eligible funeral arrangement) for the purpose of funding funeral or cemetery services with respect to the individual, or

(b) such portion of a contribution to another arrangement that was an eligible funeral arrangement (other than any such contribution made by way of a transfer from any eligible funeral arrangement) as can reasonably be considered to have subsequently been used to make a contribution under the particular arrangement by way of a transfer from an eligible funeral arrangement for the purpose of funding funeral or cemetery services with respect to the individual. (*versement admissible*)

d'un cimetière sont des services de cimetière. (*cemetery services*)

services de funérailles ou de cimetière Services funéraires, services de cimetière, ou une combinaison de ces services, à fournir relativement à un particulier. (*funeral or cemetery services*)

services funéraires Biens et services, sauf des services de cimetière, requis par suite du décès d'un particulier et se rapportant directement à des funérailles au Canada. (*funeral services*)

versement admissible Est un versement admissible effectué pour un particulier dans le cadre d'un arrangement donné :

a) le versement effectué dans le cadre de l'arrangement donné en vue du financement de services de funérailles ou de cimetière relatifs au particulier, à l'exception d'un versement effectué au moyen d'un transfert d'un arrangement de services funéraires;

b) la partie d'un versement effectué dans le cadre d'un arrangement de services funéraires (à l'exception d'un tel versement effectué au moyen d'un transfert d'un arrangement de services funéraires) qu'il est raisonnable de considérer comme ayant ultérieurement servi à effectuer un versement dans le cadre de l'arrangement donné au moyen d'un transfert d'un arrangement de services funéraires en vue du financement de services de funérailles ou de cimetière relatifs au particulier. (*relevant contribution*)

Exemption for eligible funeral arrangements

(2) Notwithstanding any other provision of this Act,

(a) no amount that has accrued, is credited or is added to an eligible funeral arrangement shall be included in computing the income of any person solely because of such accrual, crediting or adding;

(b) subject to paragraph 148.1(2)(c) and subsection 148.1(3), no amount shall be

(i) included in computing a person's income solely because of the provision by another person of funeral or cemetery services under an eligible funeral arrangement, or

(ii) included in computing a person's income because of the disposition of an interest under an eligible funeral arrangement or an interest in a trust governed by an eligible funeral arrangement; and

Exemption pour arrangement de services funéraires

(2) Malgré les autres dispositions de la présente loi :

a) le montant qui s'accumule sur les fonds d'un arrangement de services funéraires, qui est ajouté à ces fonds ou qui est porté à leur crédit, n'est pas inclus dans le calcul du revenu d'une personne de ce seul fait;

b) sous réserve de l'alinéa c) et du paragraphe (3), nul montant n'est à inclure dans le calcul du revenu d'une personne :

(i) du seul fait qu'une autre personne fournit des services de funérailles ou de cimetière dans le cadre d'un arrangement de services funéraires,

(ii) du fait qu'il a été disposé d'une participation dans un arrangement de services funéraires ou dans une fiducie régie par un tel arrangement;

(c) subparagraph 148.1(2)(b)(ii) shall not affect the consequences under this Act of the disposition of any right under an eligible funeral arrangement to payment for the provision of funeral or cemetery services.

c) le sous-alinéa b)(ii) n'agit pas sur les conséquences découlant, en vertu de la présente loi, de la disposition du droit de recevoir, dans le cadre d'un arrangement de services funéraires, un paiement pour la fourniture de services de funérailles ou de cimetière.

Income inclusion on return of funds

(3) Where at any particular time in a taxation year a particular amount is distributed (otherwise than as payment for the provision of funeral or cemetery services with respect to an individual) to a taxpayer from an arrangement that was, at the time it was established, an eligible funeral arrangement and the particular amount is paid from the balance in respect of the individual under the arrangement, there shall be added in computing the taxpayer's income for the year from property the lesser of the particular amount and the amount determined by the formula

A + B - C

where

A is the balance in respect of the individual under the arrangement immediately before the particular time (determined without regard to the value of property in a cemetery care trust);

B is the total of all payments made from the arrangement before the particular time for the provision of funeral or cemetery services with respect to the individual (other than cemetery services funded by property in a cemetery care trust); and

C is the amount determined by the formula

D – E

where

D is the total of all relevant contributions made before the particular time in respect of the individual under the arrangement (other than contributions in respect of the individual that were in a cemetery care trust), and

E is the total of all amounts each of which is the amount, if any, by which

(a) an amount relating to the balance in respect of the individual under the arrangement that is deemed by subsection (4) to have been distributed before the particular time from the arrangement

exceeds

(b) the portion of the amount referred to in paragraph (a) that is added, because of this subsection, in computing a taxpayer's income.

Montant à inclure dans le revenu en cas de remboursement

(3) Dans le cas où, au cours d'une année d'imposition, un montant — payé sur le solde applicable à un particulier dans le cadre d'un arrangement qui était, au moment de son établissement, un arrangement de services funéraires — est remboursé à un contribuable sur l'arrangement, autrement que sous forme de paiement pour la fourniture de services de funérailles ou de cimetière relatifs au particulier est à ajouter dans le calcul du revenu du contribuable pour l'année tiré d'un bien ce montant ou, s'il est inférieur, le résultat du calcul suivant :

A + B - C

où :

A représente le solde applicable au particulier dans le cadre de l'arrangement immédiatement avant le remboursement, déterminé compte non tenu de la valeur des biens d'une fiducie pour l'entretien d'un cimetière;

B le total des paiements effectués sur l'arrangement avant le remboursement pour la fourniture de services de funérailles ou de cimetière relatifs au particulier, à l'exception de services de cimetière réglés au moyen des biens d'une fiducie pour l'entretien d'un cimetière;

C le montant obtenu par la formule suivante :

D – E

où :

D représente le total des versements admissibles effectués dans le cadre de l'arrangement pour le particulier avant le remboursement, à l'exception des versements relatifs au particulier affectés à une fiducie pour l'entretien d'un cimetière,

E le total des montants représentant chacun l'excédent du montant visé à l'alinéa a) sur celui visé à l'alinéa b) :

a) un montant lié au solde applicable au particulier dans le cadre de l'arrangement qui est réputé par le paragraphe (4) avoir été remboursé sur l'arrangement avant le remboursement,

b) la partie du montant visé à l'alinéa a) qui, par l'effet du présent paragraphe, est ajouté dans le calcul du revenu d'un contribuable.

Deemed distribution on transfer

(4) If at a particular time an amount relating to the balance in respect of an individual (referred to in this subsection and in subsection (5) as the "transferor") under an eligible funeral arrangement (referred to in this subsection and in subsection (5) as the "transferor arrangement") is transferred, credited or added to the balance in respect of the same or another individual (referred to in this subsection and in subsection (5) as the "recipient") under the same or another eligible funeral arrangement (referred to in this subsection and in subsection (5) as the "recipient arrangement"),

(a) the amount is deemed to be distributed to the transferor (or, if the transferor is deceased at the particular time, to the recipient) at the particular time from the transferor arrangement and to be paid from the balance in respect of the transferor under the transferor arrangement; and

(b) the amount is deemed to be a contribution made (other than by way of a transfer from an eligible funeral arrangement) at the particular time under the recipient arrangement for the purpose of funding funeral or cemetery services with respect to the recipient.

Non-application of subsection (4)

(5) Subsection (4) does not apply if

(a) the transferor and the recipient are the same individual;

(b) the amount that is transferred, credited or added to the balance in respect of the individual under the recipient arrangement is equal to the balance in respect of the individual under the transferor arrangement immediately before the particular time; and

(c) the transferor arrangement is terminated immediately after the transfer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 62; 1998, c. 19, s. 177; 2013, c. 34, s. 306.

Remboursement réputé en cas de transfert

(4) Si, à un moment donné, un montant lié au solde applicable à un particulier (appelé « cédant » au présent paragraphe et au paragraphe (5)) dans le cadre d'un arrangement de services funéraires (appelé « arrangement du cédant » au présent paragraphe et au paragraphe (5)) est transféré au même particulier ou à un autre particulier (appelés « bénéficiaire » au présent paragraphe et au paragraphe (5)), est porté à son crédit ou est ajouté au solde qui lui est applicable, dans le cadre du même arrangement ou d'un autre arrangement semblable (appelés « arrangement du bénéficiaire » au présent paragraphe et au paragraphe (5)), les règles ci-après s'appliquent :

a) le montant est réputé, d'une part, être remboursé au cédant ou, si celui-ci est décédé au moment donné, au bénéficiaire sur l'arrangement du cédant au moment donné et, d'autre part, être payé sur le solde applicable au cédant dans le cadre de ce même arrangement;

b) le montant est réputé être un versement effectué (autrement qu'au moyen d'un transfert d'un arrangement de services funéraires) au moment donné dans le cadre de l'arrangement du bénéficiaire en vue de financer les services funéraires ou les services de cimetière relatifs au bénéficiaire.

Non-application du paragraphe (4)

(5) Le paragraphe (4) ne s'applique pas si, à la fois :

a) le cédant et le bénéficiaire sont le même particulier;

b) le montant qui est transféré au particulier, porté à son crédit ou ajouté au solde qui lui est applicable, dans le cadre de l'arrangement du bénéficiaire, est égal au solde qui lui est applicable dans le cadre de l'arrangement du cédant immédiatement avant le moment donné;

c) il est mis fin à l'arrangement du cédant immédiatement après le transfert.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 62; 1998, ch. 19, art. 177; 2013, ch. 34, art. 306.

DIVISION H

Exemptions

Miscellaneous Exemptions

Miscellaneous exemptions

149 (1) No tax is payable under this Part on the taxable income of a person for a period when that person was

Employees of a country other than Canada

(a) an officer or servant of the government of a country other than Canada whose duties require that person to reside in Canada

(i) if, immediately before assuming those duties, the person resided outside Canada,

(ii) if that country grants a similar privilege to an officer or servant of Canada of the same class,

(iii) if the person was not, at any time in the period, engaged in a business or performing the duties of an office or employment in Canada other than the person's position with that government, and

(iv) if the person was not during the period a Canadian citizen;

Members of the family and servants of employees of a country other than Canada

(b) a member of the family of a person described in paragraph 149(1)(a) who resides with that person, or a servant employed by a person described in that paragraph,

(i) if the country of which the person described in paragraph 149(1)(a) is an officer or servant grants a similar privilege to members of the family residing with and servants employed by an officer or servant of Canada of the same class,

(ii) in the case of a member of the family, if that member was not at any time lawfully admitted to Canada for permanent residence, or at any time in the period engaged in a business or performing the duties of an office or employment in Canada,

(iii) in the case of a servant, if, immediately before assuming his or her duties as a servant of a person described in paragraph 149(1)(a), the servant resided outside Canada and, since first assuming those duties in Canada, has not at any time engaged in a business in Canada or been employed in Canada other than by a person described in that paragraph, and

SECTION H

Exemptions

Exemptions diverses

Exemptions diverses

149 (1) Aucun impôt n'est payable en vertu de la présente partie, sur le revenu imposable d'une personne, pour la période où cette personne était :

Employés d'un pays étranger

a) un agent ou fonctionnaire du gouvernement d'un pays étranger obligé, à cause de ses fonctions, de résider au Canada, si les conditions suivantes sont réunies :

(i) immédiatement avant d'entrer en fonctions, il résidait à l'étranger,

(ii) ce pays accorde un privilège semblable aux agents ou fonctionnaires du Canada de la même catégorie,

(iii) à aucun moment de cette période, il n'a exploité d'entreprise ni n'a rempli au Canada les fonctions d'une charge ou d'un emploi autre que le poste qu'il occupait pour le compte de ce gouvernement,

(iv) il n'était pas citoyen canadien pendant cette période;

Membres de la famille et serviteurs des employés d'un pays étranger

b) un membre de la famille d'une personne visée à l'alinéa a) qui réside avec cette personne, ou un serviteur employé par une personne visée à cet alinéa, si les conditions suivantes sont réunies :

(i) le pays dont la personne visée à l'alinéa a) est un agent ou fonctionnaire accorde un privilège semblable aux membres de la famille d'un agent ou fonctionnaire du Canada de la même catégorie qui résident avec lui et aux serviteurs employés par lui,

(ii) il n'a, dans le cas d'un membre de la famille, jamais été légalement admis au Canada pour y résider en permanence ou n'a, à aucun moment de cette période, exploité d'entreprise ni rempli les fonctions d'une charge ou d'un emploi au Canada,

(iii) dans le cas d'un serviteur, immédiatement avant d'occuper son emploi comme serviteur d'une personne visée à l'alinéa a), il résidait à l'étranger et, depuis qu'il a pour la première fois occupé son

(iv) if the member of the family or servant was not during the period a Canadian citizen;

Municipal authorities

(c) a municipality in Canada, or a municipal or public body performing a function of government in Canada;

Corporations owned by the Crown

(d) a corporation, commission or association all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is Her Majesty in right of Canada or Her Majesty in right of a province;

Corporations 90% owned by the Crown

(d.1) a corporation, commission or association not less than 90% of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is Her Majesty in right of Canada or Her Majesty in right of a province;

Wholly-owned corporations

(d.2) a corporation all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is a corporation, commission or association to which this paragraph or paragraph (d) applies for the period;

90% owned corporations

(d.3) a corporation, commission or association not less than 90% of the shares (except directors' qualifying shares) or of the capital of which was owned by

(i) one or more persons each of which is Her Majesty in right of Canada or a province or a person to which paragraph (d) or (d.2) applies for the period, or

(ii) one or more municipalities in Canada in combination with one or more persons each of which is Her Majesty in right of Canada or a province or a person to which paragraph 149(1)(d) or 149(1)(d.2) applies for the period;

Combined ownership

(d.4) a corporation all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more persons each of which is a corporation, commission or association to which this paragraph or any of paragraphs (d) to (d.3) applies for the period;

Income within boundaries of entities

(d.5) subject to subsections (1.2) and (1.3), a corporation, commission or association not less than 90% of the capital of which was owned by one or more entities each of which is a municipality in Canada, or a

emploi au Canada, il n'a jamais exploité d'entreprise au Canada ni été employé au Canada par une personne autre qu'une personne visée à cet alinéa,

(iv) il n'était pas citoyen canadien pendant cette période;

Administrations municipales

c) une municipalité au Canada ou un organisme municipal ou public remplissant une fonction gouvernementale au Canada;

Sociétés d'État

d) une société, commission ou association dont les actions (sauf les actions conférant l'admissibilité à des postes d'administrateurs) ou le capital appartenaient à Sa Majesté du chef du Canada, à Sa Majesté du chef d'une province ou à plusieurs de ces personnes;

Sociétés d'État à 90 %

d.1) une société, commission ou association dont au moins 90 % des actions (sauf les actions conférant l'admissibilité à des postes d'administrateurs) ou du capital appartenaient à Sa Majesté du chef du Canada, à Sa Majesté du chef d'une province ou à plusieurs de ces personnes;

Sociétés à 100 %

d.2) une société dont les actions (sauf les actions conférant l'admissibilité à des postes d'administrateurs) ou le capital appartenaient à une société, commission ou association à laquelle l'alinéa d) ou le présent alinéa s'applique pour la période, ou à plusieurs de ces personnes;

Sociétés à 90 %

d.3) une société, commission ou association dont au moins 90 % des actions (sauf les actions conférant l'admissibilité à des postes d'administrateurs) ou du capital appartenaient :

(i) soit à Sa Majesté du chef du Canada ou d'une province ou à une personne à laquelle les alinéas d) ou d.2) s'appliquent pour la période, ou à plusieurs de ces personnes,

(ii) soit à une ou plusieurs municipalités du Canada et à une ou plusieurs personnes dont chacune est Sa Majesté du chef du Canada ou d'une province ou une personne à laquelle les alinéas d) ou d.2) s'appliquent pour la période;

municipal or public body performing a function of government in Canada, if the income for the period of the corporation, commission or association from activities carried on outside the geographical boundaries of the entities does not exceed 10% of its income for the period;

Subsidiaries of municipal corporations

(d.6) subject to subsections (1.2) and (1.3), a particular corporation all of the shares (except directors' qualifying shares) or of the capital of which was owned by one or more entities (referred to in this paragraph as "qualifying owners") each of which is, for the period, a corporation, commission or association to which paragraph (d.5) applies, a corporation to which this paragraph applies, a municipality in Canada, or a municipal or public body performing a function of government in Canada, if no more than 10% of the particular corporation's income for the period is from activities carried on outside

(i) if a qualifying owner is a municipality in Canada, or a municipal or public body performing a function of government in Canada, the geographical boundaries of each such qualifying owner,

(ii) if paragraph (d.5) applies to a qualifying owner, the geographical boundaries of the municipality, or municipal or public body, referred to in that paragraph in its application to each such qualifying owner, and

(iii) if this paragraph applies to a qualifying owner, the geographical boundaries of the municipality, or municipal or public body, referred to in subparagraph (i) or paragraph (d.5), as the case may be, in their respective applications to each such qualifying owner;

Certain organizations

(e) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

Registered charities

(f) a registered charity;

Registered Canadian amateur athletic association

(g) a registered Canadian amateur athletic association;

Association of Universities and Colleges of Canada

(h.1) the Association of Universities and Colleges of Canada, incorporated by the Act to incorporate

Propriété conjointe

d.4) une société dont les actions (sauf les actions conférant l'admissibilité à des postes d'administrateurs) ou le capital appartenaient à une société, commission ou association à laquelle les alinéas d) à d.3) ou le présent alinéa s'appliquent pour la période, ou à plusieurs de ces personnes;

Administrations publiques

d.5) sous réserve des paragraphes (1.2) et (1.3), une société, commission ou association dont au moins 90 % du capital appartenait à une ou plusieurs entités dont chacune est une municipalité du Canada ou un organisme municipal ou public remplissant une fonction gouvernementale au Canada, pourvu que le revenu de la société, commission ou association pour la période provenant d'activités exercées en dehors des limites géographiques des entités ne dépasse pas 10 % de son revenu pour la période;

Administrations municipales

d.6) sous réserve des paragraphes (1.2) et (1.3), une société donnée dont les actions (sauf les actions conférant l'admissibilité à des postes d'administrateurs) ou le capital appartenaient à une ou plusieurs entités (appelées « propriétaires admissibles » au présent alinéa) dont chacune est, pour la période, une société, une commission ou une association à laquelle l'alinéa d.5) s'applique, une société à laquelle le présent alinéa s'applique, une municipalité au Canada ou un organisme municipal ou public remplissant une fonction gouvernementale au Canada, si le revenu de la société donnée pour la période provenant des activités ci-après ne dépasse pas 10 % de son revenu pour la période :

(i) si le propriétaire admissible est une municipalité au Canada ou un organisme municipal ou public remplissant une fonction gouvernementale au Canada, les activités exercées en dehors des limites géographiques de ce propriétaire admissible,

(ii) si l'alinéa d.5) s'applique à un propriétaire admissible, les activités exercées en dehors des limites géographiques de la municipalité ou de l'organisme municipal ou public visés à cet alinéa quant à son application à chacun de ces propriétaires admissibles,

(iii) si le présent alinéa s'applique à un propriétaire admissible, les activités exercées en dehors des limites géographiques d'une municipalité ou d'un organisme municipal ou public visés au sous-alinéa (i) ou à l'alinéa d.5), selon le cas, quant à leur application respective à chacun de ces propriétaires admissibles;

Association of Universities and Colleges of Canada, chapter 75 of the Statutes of Canada, 1964-65;

Certain housing corporations

(i) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

Non-profit corporations for scientific research and experimental development

(j) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research and experimental development, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the period,

(i) did not carry on any business, and

(ii) expended amounts in Canada each of which is

(A) an expenditure on scientific research and experimental development (within the meaning that would be assigned by paragraph 37(8)(a) if subsection 37(8) were read without reference to paragraph 37(8)(d)) directly undertaken by or on behalf of the corporation, or

(B) a payment to an association, university, college or research institute or other similar institution, described in clause 37(1)(a)(ii)(A) or 37(1)(a)(ii)(B) to be used for scientific research and experimental development, and

the total of which is not less than 90% of the amount, if any, by which the corporation's gross revenue for the period exceeds the total of all amounts paid in the period by the corporation because of subsection 149(7.1);

Labour organizations

(k) a labour organization or society or a benevolent or fraternal benefit society or order;

Non-profit organizations

(l) a club, society or association that, in the opinion of the Minister, was not a charity within the meaning assigned by subsection 149.1(1) and that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to, or was otherwise available for the

Certaines organisations

e) une organisation agricole, un board of trade ou une chambre de commerce dont aucune partie du revenu n'était payable à un propriétaire, membre ou actionnaire de ces organisations, ou ne pouvait par ailleurs servir au profit personnel de ceux-ci;

Organismes de bienfaisance enregistrés

f) un organisme de bienfaisance enregistré;

Association canadienne enregistrée de sport amateur

g) une association canadienne enregistrée de sport amateur;

Association des universités et collèges

h.1) l'Association des universités et collèges du Canada, constituée par la *Loi constituant en corporation l'Association des Universités et Collèges du Canada*, chapitre 75 des Statuts du Canada de 1964-65;

Certaines sociétés d'habitation

i) une société constituée exclusivement dans le but de fournir des logements à loyer modique aux personnes âgées et dont aucun revenu n'était payable à un propriétaire, membre ou actionnaire de cette société ou ne pouvait par ailleurs servir au profit personnel de ceux-ci;

Sociétés de recherche scientifique et de développement expérimental à but non lucratif

j) une société constituée exclusivement pour poursuivre ou promouvoir des activités de recherche scientifique et de développement expérimental, dont aucun revenu n'était payable à un propriétaire, membre ou actionnaire de cette société, ou ne pouvait par ailleurs servir au profit personnel de ceux-ci, qui n'a pas acquis le contrôle d'une autre société et qui, durant cette période, a rempli les conditions suivantes :

(i) elle n'a exploité aucune entreprise,

(ii) elle a dépensé pour un total, au minimum, de 90 % de l'excédent éventuel de son revenu brut pour la période sur le total des montants qu'elle a payés au cours de la période par l'effet du paragraphe (7.1), des sommes au Canada dont chacune constitue :

(A) une dépense afférente aux activités de recherche scientifique et de développement expérimental, au sens de l'alinéa 37(8)a), compte non tenu de l'alinéa 37(8)d), directement exercées par la société ou pour son compte,

personal benefit of, any proprietor, member or shareholder thereof unless the proprietor, member or shareholder was a club, society or association the primary purpose and function of which was the promotion of amateur athletics in Canada;

Mutual insurance corporations

(m) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations;

Housing companies

(n) a limited-dividend housing company (within the meaning of that expression as defined in section 2 of the *National Housing Act*), all or substantially all of the business of which is the construction, holding or management of low-rental housing projects;

Pension trusts

(o) a trust governed by a registered pension plan;

Pension corporations

(o.1) a corporation

(i) incorporated and operated throughout the period either

(A) solely for the administration of a registered pension plan, or

(B) for the administration of a registered pension plan and for no other purpose other than acting as trustee of, or administering, a trust governed by a retirement compensation arrangement, where the terms of the arrangement provide for benefits only in respect of individuals who are provided with benefits under the registered pension plan, and

(ii) accepted by the Minister as a funding medium for the purpose of the registration of the pension plan;

Idem

(o.2) a corporation

(i) incorporated before November 17, 1978 solely in connection with, or for the administration of, a registered pension plan,

(ii) that has at all times since the later of November 16, 1978 and the date on which it was incorporated

(A) limited its activities to

(B) un paiement fait à une entité visée aux divisions 37(1)a)(ii)(A) ou (B) et devant servir à des activités de recherche scientifique et de développement expérimental;

Organisations ouvrières

k) une organisation ou association ouvrière ou une association de bienfaisance ou de secours mutuels;

Organisations à but non lucratif

l) un cercle ou une association qui, de l'avis du ministre, n'était pas un organisme de bienfaisance au sens du paragraphe 149.1(1) et qui est constitué et administré uniquement pour s'assurer du bien-être social, des améliorations locales, s'occuper des loisirs ou fournir des divertissements, ou exercer toute autre activité non lucrative, et dont aucun revenu n'était payable à un propriétaire, un membre ou un actionnaire, ou ne pouvait par ailleurs servir au profit personnel de ceux-ci, sauf si le propriétaire, le membre ou l'actionnaire était un cercle ou une association dont le but premier et la fonction étaient de promouvoir le sport amateur au Canada;

Compagnies d'assurance mutuelle

m) une compagnie d'assurance mutuelle dont les primes ne proviennent que de l'assurance d'églises, d'écoles ou d'œuvres de bienfaisance;

Sociétés immobilières

n) une société immobilière à dividendes limités (au sens de l'article 2 de la *Loi nationale sur l'habitation*), si la totalité, ou presque, des activités de l'entreprise consiste à construire, à détenir ou à administrer des ensembles d'habitation HLM;

Fiducies de pension

o) une fiducie régie par un régime de pension agréé;

Sociétés de gestion de pension

o.1) une société qui, à la fois :

(i) est constituée et exploitée tout au long de la période :

(A) soit uniquement pour la gestion d'un régime de pension agréé,

(B) soit pour la gestion d'un régime de pension agréé et dans l'unique but d'agir comme fiduciaire d'une fiducie régie par une convention de retraite ou de gérer une telle fiducie, dans le cas où les conditions de la convention ne permettent d'assurer des prestations qu'aux particuliers auxquels des prestations sont assurées par le régime de pension agréé,

(I) acquiring, holding, maintaining, improving, leasing or managing capital property that is real property or an interest in real property — or immovables or a real right in immovables — owned by the corporation, another corporation described by this subparagraph and subparagraph (iv) or a registered pension plan, and

(II) investing its funds in a partnership that limits its activities to acquiring, holding, maintaining, improving, leasing or managing capital property that is real property or an interest in real property — or immovables or a real right in immovables — owned by the partnership,

(B) made no investments other than in real property or an interest in real property — or immovables or a real right in immovables — or investments that a pension plan is permitted to make under the *Pension Benefits Standards Act, 1985* or a similar law of a province, and

(C) borrowed money solely for the purpose of earning income from real property or an interest in real property or from immovables or a real right in immovables,

(ii.1) that throughout the period

(A) limited its activities to

(I) acquiring Canadian resource properties by purchase or by incurring Canadian exploration expense or Canadian development expense, or

(II) holding, exploring, developing, maintaining, improving, managing, operating or disposing of its Canadian resource properties,

(B) made no investments other than in

(I) Canadian resource properties,

(II) property to be used in connection with Canadian resource properties described in clause 149(1)(o.2)(ii.1)(A),

(III) loans secured by Canadian resource properties for the purpose of carrying out any activity described in clause 149(1)(o.2)(ii.1)(A) with respect to Canadian resource properties, or

(ii) est acceptée par le ministre comme moyen de financement dans le cadre de l'agrément d'un régime de pension;

Idem

o.2) une société :

(i) constituée avant le 17 novembre 1978 uniquement dans le cadre d'un régime de pension agréé ou pour la gestion de celui-ci,

(ii) qui, à tout moment depuis le dernier en date du 16 novembre 1978 et du jour de sa constitution, à la fois :

(A) a limité ses activités aux activités suivantes :

(I) l'acquisition, la détention, l'entretien, l'amélioration, la location ou la gestion d'immobilisations qui sont des immeubles, ou des droits réels sur ceux-ci — ou des biens réels ou des intérêts sur ceux-ci — appartenant à la société, à une autre société visée au présent sous-alinéa et au sous-alinéa (iv) ou à un régime de pension agréé,

(II) le placement de ses fonds dans une société de personnes qui limite ses activités à l'acquisition, la détention, l'entretien, l'amélioration, la location ou la gestion d'immobilisations qui sont des immeubles, ou des droits réels sur ceux-ci — ou des biens réels ou des intérêts sur ceux-ci — appartenant à la société de personnes,

(B) n'a fait que des placements dans des immeubles ou dans des droits réels sur ceux-ci — ou dans des biens réels ou dans des intérêts sur ceux-ci — ou des placements que peut faire un régime de pension en vertu de la *Loi de 1985 sur les normes de prestation de pension* ou une loi provinciale semblable,

(C) n'a emprunté de l'argent que dans le but de tirer un revenu d'un immeuble ou d'un droit réel sur celui-ci — ou d'un bien réel ou d'un intérêt sur celui-ci,

(ii.1) qui, tout au long de la période, à la fois :

(A) a limité ses activités :

(I) soit à acquérir des avoirs miniers canadiens en les achetant ou en engageant des frais d'exploration au Canada ou des frais d'aménagement au Canada,

(IV) investments that a pension fund or plan is permitted to make under the *Pension Benefits Standards Act, 1985* or a similar law of a province, and

(C) borrowed money solely for the purpose of earning income from Canadian resource properties, or

(iii) that made no investments other than investments that a pension fund or plan was permitted to make under the *Pension Benefits Standards Act, 1985* or a similar law of a province, and

(A) the assets of which were at least 98% cash and investments,

(B) that had not accepted deposits or issued bonds, notes, debentures or similar obligations, and

(C) that had derived at least 98% of its income for the period that is a taxation year of the corporation from, or from the disposition of, investments

if, at all times since the later of November 16, 1978 and the date on which it was incorporated,

(iv) all of the shares, and rights to acquire shares, of the capital stock of the corporation are owned by

(A) one or more registered pension plans,

(B) one or more trusts all the beneficiaries of which are registered pension plans,

(C) one or more related segregated fund trusts (within the meaning assigned by paragraph 138.1(1)(a)) all the beneficiaries of which are registered pension plans, or

(D) one or more prescribed persons, or

(v) in the case of a corporation without share capital, all the property of the corporation has been held exclusively for the benefit of one or more registered pension plans,

and for the purposes of subparagraph 149(1)(o.2)(iv), where a corporation has been formed as a result of the merger of two or more other corporations, it shall be deemed to be the same corporation as, and a continuation of, each such other corporation and the shares of the merged corporations shall be deemed to have been altered, in form only, by virtue of the merger and to

(II) soit à détenir, explorer, aménager, entretenir, améliorer, gérer, administrer ses avoirs miniers canadiens ou à en disposer,

(B) n'a fait d'autres placements que dans :

(I) des avoirs miniers canadiens,

(II) des biens devant être utilisés relativement aux avoirs miniers canadiens visés à la division (A),

(III) des prêts garantis par des avoirs miniers canadiens pour l'exercice de toute activité visée à la division (A) relativement à des avoirs miniers canadiens,

(IV) des placements qu'un régime de pension peut faire en vertu de la *Loi de 1985 sur les normes de prestation de pension* ou une loi provinciale semblable,

(C) n'a emprunté de l'argent que dans le but de tirer un revenu d'avoirs miniers canadiens,

(iii) qui n'a fait d'autres placements que ceux qu'un régime de pension pouvait faire en vertu de la *Loi de 1985 sur les normes de prestation de pension* ou une loi provinciale semblable, et :

(A) dont au moins 98 % des actifs se composaient d'espèces et de placements,

(B) qui n'avait pas accepté de dépôts ni émis d'obligations, de billets, de débentures ou de créances semblables,

(C) qui avait tiré au moins 98 % de son revenu pour la période qui constitue l'année d'imposition de la société en effectuant des placements, ou en en disposant,

si à tout moment depuis le dernier en date du 16 novembre 1978 et du jour de sa constitution :

(iv) toutes les actions du capital-actions de la société et le droit de les acquérir appartiennent :

(A) à un ou plusieurs régimes de pension agréés,

(B) à une ou plusieurs fiducies dont tous les bénéficiaires sont des régimes de pension agréés,

(C) à une ou plusieurs fiducies créées à l'égard du fonds réservé (au sens de l'alinéa 138.1(1)a)) dont tous les bénéficiaires sont des régimes de pension agréés,

have continued in existence in the form of shares of the corporation formed as a result of the merger;

Prescribed small business investment corporations

(o.3) a corporation that is prescribed to be a small business investment corporation;

Master trusts

(o.4) a trust that is prescribed to be a master trust and that elects to be such a trust under this paragraph in its return of income for its first taxation year ending in the period;

Trusts under profit sharing plan

(p) a trust under an employees profit sharing plan to the extent provided by section 144;

Trusts under a registered supplementary unemployment benefit plan

(q) a trust under a registered supplementary unemployment benefit plan to the extent provided by section 145;

RCA trusts

(q.1) an RCA trust (within the meaning assigned by subsection 207.5(1));

Trusts under registered retirement savings plan

(r) a trust under a registered retirement savings plan to the extent provided by section 146;

Trusts under deferred profit sharing plan

(s) a trust under a deferred profit sharing plan to the extent provided by section 147;

Trust governed by eligible funeral arrangement

(s.1) a trust governed by an eligible funeral arrangement;

Cemetery care trust

(s.2) a cemetery care trust;

Farmers' and fishermen's insurer

(t) an insurer that, throughout the period, is not engaged in any business other than insurance if, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions or of the superintendent of insurance of the province under the laws of which the insurer is incorporated, not less than 20% of the total of the gross premium income (net of reinsurance ceded) earned in the period by the insurer and, where the insurer is not a prescribed insurer, by all other insurers that

(i) are specified shareholders of the insurer,

(D) à une ou plusieurs personnes visées par règlement,

(v) lorsqu'il s'agit d'une société sans capital-actions, tous les biens de la société ont été détenus exclusivement au profit d'un ou plusieurs régimes de pension agréés;

pour l'application du sous-alinéa (iv), lorsqu'une société a été constituée par l'unification de plusieurs autres sociétés, elle est réputée être la même société que chacune des autres sociétés et en être la continuation et les actions des sociétés unifiées sont réputées avoir été modifiées, dans leur forme seulement, par l'effet de l'unification et avoir continué à exister sous la forme d'actions de la société issue de l'unification;

Sociétés de placement dans des petites entreprises

o.3) une société qui est, par règlement, une société de placement dans des petites entreprises;

Fiducies principales

o.4) une fiducie principale visée par règlement si elle en fait le choix dans sa déclaration de revenu pour sa première année d'imposition se terminant au cours de la période;

Fiducies instituées en vertu d'un régime de participation des employés aux bénéfices

p) une fiducie instituée en vertu d'un régime de participation des employés aux bénéfices, dans la mesure prévue par l'article 144;

Fiducies instituées en vertu d'un régime enregistré de prestations supplémentaires de chômage

q) une fiducie instituée en vertu d'un régime enregistré de prestations supplémentaires de chômage, dans la mesure prévue par l'article 145;

Fiducies de convention de retraite

q.1) une fiducie de convention de retraite, au sens du paragraphe 207.5(1);

Fiducies instituées en vertu d'un régime enregistré d'épargne-retraite

r) une fiducie instituée en vertu d'un régime enregistré d'épargne-retraite, dans la mesure prévue par l'article 146;

Fiducies instituées en vertu d'un régime de participation différée aux bénéfices

s) une fiducie instituée en vertu d'un régime de participation différée aux bénéfices, dans la mesure prévue par l'article 147;

(ii) are related to the insurer, or

(iii) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen;

Registered education savings plans

(u) a trust governed by a registered education savings plan to the extent provided by section 146.1;

Trusts under registered disability savings plans

(u.1) a trust governed by a registered disability savings plan to the extent provided by section 146.4;

TFSA trust

(u.2) a trust governed by a TFSA to the extent provided by section 146.2;

Pooled registered pension plan

(u.3) a trust governed by a pooled registered pension plan to the extent provided under section 147.5;

Amateur athlete trust

(v) an amateur athlete trust;

Trusts to provide compensation

(w) a trust established as required under a law of Canada or of a province in order to provide funds out of which to compensate persons for claims against an owner of a business identified in the relevant law where that owner is unwilling or unable to compensate a customer or client, if no part of the property of the trust, after payment of its proper trust expenses, is available to any person other than as a consequence of that person being a customer or client of a business so identified;

Registered retirement income funds

(x) a trust governed by a registered retirement income fund to the extent provided by section 146.3;

Trusts to provide vacation pay

(y) a trust established pursuant to the terms of a collective agreement between an employer or an association of employers and employees or their labour organization for the sole purpose of providing for the payment of vacation or holiday pay, if no part of the property of the trust, after payment of its reasonable expenses, is

(i) available at any time after 1980, or

Fiducie régie par un arrangement de services funéraires

s.1) une fiducie régie par un arrangement de services funéraires;

Fiducie pour l'entretien d'un cimetière

s.2) une fiducie pour l'entretien d'un cimetière;

Assureurs d'agriculteurs et de pêcheurs

t) un assureur qui, tout au long de cette période, n'exploite aucune autre entreprise qu'une entreprise d'assurance, si le ministre, se fondant sur l'avis du surintendant des institutions financières ou du surintendant des assurances de la province sous le régime des lois de laquelle l'assureur a été constitué, estime qu'au moins 20 % du total du revenu brut tiré des primes — moins la réassurance cédée — que gagnent au cours de cette période les personnes suivantes se rapporte à des polices d'assurance portant sur des biens servant à l'agriculture ou à la pêche ou sur des résidences d'agriculteurs ou de pêcheurs :

(i) l'assureur,

(ii) si l'assureur n'est pas visé par règlement, les autres assureurs qui, selon le cas :

(A) sont des actionnaires déterminés de l'assureur,

(B) sont liés à l'assureur,

(C) si l'assureur est une mutuelle, font partie d'un groupe contrôlant l'assureur directement ou indirectement, de quelque manière que ce soit, ou ainsi contrôlé par lui;

Régimes enregistrés d'épargne-études

u) une fiducie régie par un régime enregistré d'épargne-études, dans la mesure prévue par l'article 146.1;

Fiducies régies par des régimes enregistrés d'épargne-invalidité

u.1) une fiducie régie par un régime enregistré d'épargne-invalidité, dans la mesure prévue par l'article 146.4;

Fiducie régie par un compte d'épargne libre d'impôt

u.2) une fiducie régie par un compte d'épargne libre d'impôt, dans la mesure prévue par l'article 146.2;

Régime de pension agréé collectif

u.3) une fiducie régie par un régime de pension agréé collectif, dans la mesure prévue à l'article 147.5;

(ii) paid after December 11, 1979

to any person (other than a person described in paragraph 149(1)(k)) otherwise than as a consequence of that person being an employee or an heir or legal representative thereof;

Qualifying environmental trust

(z) a qualifying environmental trust;

***Environmental Quality Act* trust**

(z.1) a trust

(i) that was created because of a requirement imposed by section 56 of the *Environment Quality Act*, R.S.Q., c. Q-2,

(ii) that is resident in Canada, and

(iii) in which the only persons that are beneficially interested are

(A) Her Majesty in right of Canada,

(B) Her Majesty in right of a province, or

(C) a municipality (as defined in section 1 of that Act) that is exempt because of this subsection from tax under this Part on all of its taxable income; or

***Nuclear Fuel Waste Act* trust**

(z.2) a trust

(i) that was created because of a requirement imposed by subsection 9(1) of the *Nuclear Fuel Waste Act*, S.C. 2002, c. 23,

(ii) that is resident in Canada, and

(iii) in which the only persons that are beneficially interested are

(A) Her Majesty in right of Canada,

(B) Her Majesty in right of a province,

(C) a nuclear energy corporation (as defined in section 2 of that Act) all the shares of the capital stock of which are owned by one or more persons described in clause (A) or (B),

(D) the waste management organization established under section 6 of that Act if all the shares of its capital stock are owned by one or more nuclear energy corporations described in clause (C), or

Fiducie au profit d'un athlète amateur

v) une fiducie au profit d'un athlète amateur;

Fiducies établies à des fins d'indemnisation

w) une fiducie établie conformément à une loi fédérale ou provinciale pour constituer un fonds d'indemnisation des personnes ayant une créance sur le propriétaire d'une entreprise identifiée dans la loi pertinente qui n'est pas disposé à indemniser son client ou en est incapable, si aucune partie des biens de la fiducie, une fois acquittés les frais normaux de celle-ci, n'est disponible à quiconque n'est pas un client d'une entreprise ainsi identifiée, à ce titre;

Fonds enregistrés de revenu de retraite

x) une fiducie régie par un fonds enregistré de revenu de retraite, dans la mesure prévue par l'article 146.3;

Fiducies assurant le paiement des indemnités de vacances

y) une fiducie constituée conformément aux dispositions d'une convention collective entre un employeur ou une association d'employeurs et des employés ou l'organisation ouvrière les représentant, dans le seul but d'assurer le paiement des indemnités de vacances ou de congés, si aucune partie des biens de la fiducie, après paiement de ses dépenses raisonnables, n'est :

(i) disponible à un moment quelconque après 1980,

(ii) payée après le 11 décembre 1979,

à une personne (autre qu'une personne visée à l'alinéa k)) autrement qu'en raison de son emploi ou du fait qu'elle soit un héritier ou un représentant légal de l'employé.

Fiducie pour l'environnement admissible

z) une fiducie pour l'environnement admissible;

Fiducie établie en vertu de la *Loi sur la qualité de l'environnement*

z.1) une fiducie à l'égard de laquelle les conditions ci-après sont réunies :

(i) elle a été établie en raison d'une exigence imposée par l'article 56 de la *Loi sur la qualité de l'environnement*, L.R.Q., ch. Q-2,

(ii) elle réside au Canada,

(iii) seules les personnes ci-après y ont un droit de bénéficiaire :

(A) Sa Majesté du chef du Canada,

(E) Atomic Energy of Canada Limited, being the company incorporated or acquired in accordance with subsection 10(2) of the *Atomic Energy Control Act*, R.S.C. 1970, c. A-19.

(B) Sa Majesté du chef d'une province,

(C) toute municipalité, au sens de l'article 1 de cette loi, qui est exonérée, par l'effet du présent paragraphe, de l'impôt prévu par la présente partie sur la totalité de son revenu imposable;

Fiducie établie en vertu de la *Loi sur les déchets de combustible nucléaire*

z.2) une fiducie à l'égard de laquelle les conditions ci-après sont réunies :

(i) elle a été établie en raison d'une exigence imposée par le paragraphe 9(1) de la *Loi sur les déchets de combustible nucléaire*, L.C. 2002, ch. 23,

(ii) elle réside au Canada,

(iii) seules les personnes ci-après y ont un droit de bénéficiaire :

(A) Sa Majesté du chef du Canada,

(B) Sa Majesté du chef d'une province,

(C) toute société d'énergie nucléaire, au sens de l'article 2 de cette loi, dont la totalité des actions du capital-actions appartiennent à une ou plusieurs personnes visées aux divisions (A) et (B),

(D) la société de gestion des déchets nucléaires constituée en application de l'article 6 de cette loi, si la totalité des actions de son capital-actions appartiennent à une ou plusieurs sociétés d'énergie nucléaire visées à la division (C),

(E) Énergie atomique du Canada limitée, soit la société constituée ou acquise aux termes du paragraphe 10(2) de la *Loi sur le contrôle de l'énergie atomique*, S.R.C. 1970, ch. A-19.

Exception

(1.1) Where at a particular time

(a) a corporation, commission or association (in this subsection referred to as "the entity") would, but for this subsection, be described in any of paragraphs (1)(d) to (d.6),

(b) one or more other persons (other than Her Majesty in right of Canada or a province, a municipality in Canada or a person which, at the particular time, is a person described in any of subparagraphs (1)(d) to (d.6)) have at the particular time one or more rights in equity or otherwise, either immediately or in the future and either absolutely or contingently to, or to acquire, shares or capital of the entity, and

Exception

(1.1) La société, commission ou association (appelée « entité » au présent paragraphe) à l'égard de laquelle les conditions ci-après sont réunies à un moment donné est réputée ne pas être, à ce moment, une personne visée à l'un des alinéas (1)d) à d.6) :

a) elle serait visée à l'un des alinéas (1)d) à d.6) si ce n'était le présent paragraphe;

b) une ou plusieurs autres personnes (sauf Sa Majesté du chef du Canada ou d'une province, une municipalité du Canada ou une personne qui, à ce moment, est visée à l'un des alinéas (1)d) à d.6)) ont, à ce moment, en equity ou autrement, un ou plusieurs droits, immédiats ou futurs, conditionnels ou non, sur les actions

(c) the exercise of the rights referred to in paragraph (b) would result in the entity not being a person described in any of paragraphs (1)(d.1) to (d.6) at the particular time,

the entity is deemed not to be, at the particular time, a person described in any of paragraphs (1)(d) to (d.6).

c) par suite de l'exercice des droits mentionnés à l'alinéa b), l'entité ne serait pas une personne visée à l'un des alinéas (1)d.1) à d.6) à ce moment.

Election

(1.11) Subsection (1) does not apply in respect of a person's taxable income for a particular taxation year that begins after 1998 where

(a) paragraph (1)(d) did not apply in respect of the person's taxable income for the person's last taxation year that began before 1999;

(b) paragraph (1)(d.2), (d.3) or (d.4) would, but for this subsection, have applied in respect of the person's taxable income for the person's first taxation year that began after 1998;

(c) there has been no change in the direct or indirect control of the person during the period that

(i) began at the beginning of the person's first taxation year that began after 1998, and

(ii) ends at the end of the particular year;

(d) the person elects in writing before 2002 that this subsection apply; and

(e) the person has not notified the Minister in writing before the particular year that the election has been revoked.

Choix

(1.11) Le paragraphe (1) ne s'applique pas à l'égard du revenu imposable d'une personne pour une année d'imposition donnée commençant après 1998 si les conditions suivantes sont réunies :

a) l'alinéa (1)d) ne s'est pas appliqué à l'égard du revenu imposable de la personne pour sa dernière année d'imposition ayant commencé avant 1999;

b) l'alinéa (1)d.2), d.3) ou d.4) se serait appliqué, n'eût été le présent paragraphe, à l'égard du revenu imposable de la personne pour sa première année d'imposition ayant commencé après 1998;

c) le contrôle direct ou indirect de la personne n'a fait l'objet d'aucun changement au cours de la période qui :

(i) a commencé au début de la première année d'imposition de la personne ayant commencé après 1998,

(ii) se termine à la fin de l'année donnée;

d) la personne a choisi par écrit, avant 2002, de se prévaloir du présent paragraphe;

e) avant le début de l'année donnée, la personne n'a pas avisé le ministre par écrit de la révocation du choix.

Deemed election

(1.12) If at any time there is an amalgamation (within the meaning assigned by subsection 87(1)) of a corporation (in this subsection referred to as the "parent") and one or more other corporations (each of which in this subsection is referred to as the "subsidiary") each of which is a subsidiary wholly-owned corporation of the parent, and immediately before that time the parent is a person to which subsection (1) does not apply by reason of the application of subsection (1.11), the new corporation is deemed, for the purposes of subsection (1.11), to be the same corporation as, and a continuation of, the parent.

Choix réputé

(1.12) S'il y a fusion (au sens du paragraphe 87(1)) d'une société (appelée « société mère » au présent paragraphe) et d'une ou plusieurs autres sociétés (appelées chacune « filiale » au présent paragraphe) dont chacune est une filiale à cent pour cent de la société mère et que, immédiatement avant la fusion, la société mère est une personne à laquelle le paragraphe (1) ne s'applique pas par l'effet du paragraphe (1.11), la société issue de la fusion est réputée, pour l'application de ce dernier paragraphe, être la même société que la société mère et en être la continuation.

Income test

(1.2) For the purposes of paragraphs (1)(d.5) and (d.6), income of a corporation, a commission or an association from activities carried on outside the geographical boundaries of a municipality or of a municipal or public body does not include income from activities carried on

(a) under an agreement in writing between

(i) the corporation, commission or association, and

(ii) a person who is Her Majesty in right of Canada or of a province, a municipality, a municipal or public body or a corporation to which any of paragraphs (1)(d) to (d.6) applies and that is controlled by Her Majesty in right of Canada or of a province, by a municipality in Canada or by a municipal or public body in Canada

within the geographical boundaries of,

(iii) if the person is Her Majesty in right of Canada or a corporation controlled by Her Majesty in right of Canada, Canada,

(iv) if the person is Her Majesty in right of a province or a corporation controlled by Her Majesty in right of a province, the province,

(v) if the person is a municipality in Canada or a corporation controlled by a municipality in Canada, the municipality, and

(vi) if the person is a municipal or public body performing a function of government in Canada or a corporation controlled by such a body, the area described in subsection (11) in respect of the person; or

(b) in a province as

(i) a producer of electrical energy or natural gas, or

(ii) a distributor of electrical energy, heat, natural gas or water,

where the activities are regulated under the laws of the province.

Revenu exclu

(1.2) Pour l'application des alinéas (1)d.5) et d.6), le revenu d'une société, commission ou association provenant d'activités exercées en dehors des limites géographiques d'une municipalité ou d'un organisme municipal ou public ne comprend pas le revenu provenant d'activités exercées, selon le cas :

a) aux termes d'une convention écrite dont les parties sont :

(i) la société, commission ou association,

(ii) Sa Majesté du chef du Canada ou d'une province, une municipalité, un organisme municipal ou public ou une société à laquelle s'applique l'un des alinéas (1)d) à d.6) qui est contrôlée par Sa Majesté du chef du Canada ou d'une province, par une municipalité du Canada ou par un organisme municipal ou public du Canada,

dans les limites géographiques suivantes :

(iii) si la convention est conclue avec Sa Majesté du chef du Canada ou une société contrôlée par celle-ci, celles du Canada,

(iv) si elle est conclue avec Sa Majesté du chef d'une province ou une société contrôlée par celle-ci, celles de la province,

(v) si elle est conclue avec une municipalité du Canada ou une société contrôlée par celle-ci, celles de la municipalité,

(vi) si elle est conclue avec un organisme municipal ou public remplissant une fonction gouvernementale au Canada ou une société contrôlée par celui-ci, celles visées au paragraphe (11) relativement à cet organisme ou cette société;

b) dans une province :

(i) soit à titre de producteur d'énergie électrique ou de gaz naturel, pourvu que les activités soient réglementées par les lois de la province,

(ii) soit à titre de distributeur d'énergie électrique, de chaleur, de gaz naturel ou d'eau, pourvu que les activités soient réglementées par les lois de la province.

Votes or *de facto* control

(1.3) Paragraphs (1)(d) to (d.6) do not apply in respect of a person's taxable income for a period in a taxation year if at any time during the period

(a) the person is a corporation shares of the capital stock of which are owned by one or more other persons that, in total, give them more than 10% of the votes that could be cast at a meeting of shareholders of the corporation, other than shares that are owned by one or more persons each of which is

(i) Her Majesty in right of Canada or of a province,

(ii) a municipality in Canada,

(iii) a municipal or public body performing a function of government in Canada, or

(iv) a corporation, a commission or an association, to which any of paragraphs (1)(d) to (d.6) apply; or

(b) the person is, or would be if the person were a corporation, controlled, directly or indirectly in any manner whatever, by a person, or by a group of persons that includes a person, who is not

(i) Her Majesty in right of Canada or of a province,

(ii) a municipality in Canada,

(iii) a municipal or public body performing a function of government in Canada, or

(iv) a corporation, a commission or an association, to which any of paragraphs (1)(d) to (d.6) apply.

Voix ou contrôle de fait

(1.3) Les alinéas (1)d) à d.6) ne s'appliquent pas à l'égard du revenu imposable d'une personne pour une période d'une année d'imposition dans le cas où, au cours de la période, selon le cas :

a) la personne est une société et des actions de son capital-actions, appartenant à une ou plusieurs autres personnes, confèrent à ces dernières, au total, plus de 10 % des voix pouvant être exprimées à une assemblée des actionnaires de la société, sauf s'il s'agit d'actions appartenant aux personnes suivantes :

(i) Sa Majesté du chef du Canada ou d'une province,

(ii) une municipalité du Canada,

(iii) un organisme municipal ou public remplissant une fonction gouvernementale au Canada,

(iv) une commission, une association ou une société, à laquelle s'applique l'un des alinéas (1)d) à d.6);

b) la personne est ou serait, si elle était une société, contrôlée, directement ou indirectement, de quelque manière que ce soit, par une personne ou par un groupe de personnes qui comprend une personne qui n'est :

(i) ni Sa Majesté du chef du Canada ou d'une province,

(ii) ni une municipalité du Canada,

(iii) ni un organisme municipal ou public remplissant une fonction gouvernementale au Canada,

(iv) ni une commission, une association ou une société, à laquelle s'applique l'un des alinéas (1)d) à d.6).

Determination of income

(2) For the purposes of paragraphs 149(1)(e), 149(1)(i), 149(1)(j) and 149(1)(l), in computing the part, if any, of any income that was payable to or otherwise available for the personal benefit of any person or the total of any amounts that is not less than a percentage specified in any of those paragraphs of any income for a period, the amount of such income shall be deemed to be the amount thereof determined on the assumption that the amount of any taxable capital gain or allowable capital loss is nil.

Calcul du revenu

(2) Pour l'application des alinéas (1)e), i), j) et l), dans le calcul de la partie d'un revenu payable à une personne ou pouvant par ailleurs servir à son profit personnel, ou d'un total au moins égal à un pourcentage de revenu pour une période, précisé à l'un de ces alinéas, le montant de ce revenu est réputé correspondre au montant déterminé selon l'hypothèse que les gains en capital imposables et les pertes en capital déductibles sont nuls.

Application of s. (1)

(3) Subsection 149(1) does not apply in respect of the taxable income of a benevolent or fraternal society or order from carrying on a life insurance business or, for greater certainty, from the sale of property used by it in the year in, or held by it in the year in the course of, carrying on a life insurance business.

Idem

(4) For the purposes of subsection 149(3), the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the assumption that it had no income or loss from any other sources.

Income exempt under 149(1)(t)

(4.1) Subject to subsection 149(4.2), subsection 149(1) applies to an insurer described in paragraph 149(1)(t) only in respect of the part of its taxable income for a taxation year determined by the formula

(A × B × C) / D

where

A is its taxable income for the year;

B is

(a) 1/2, where less than 25% of the total of the gross premium income (net of reinsurance ceded) earned in the year by it and, where it is not a prescribed insurer for the purpose of paragraph 149(1)(t), by all other insurers that

(i) are specified shareholders of the insurer,

(ii) are related to the insurer, or

(iii) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen; and

(b) 1 in any other case;

C is the part of the gross premium income (net of reinsurance ceded) earned by it in the year that, in the opinion of the Minister, on the advice of the Superintendent of Financial Institutions or of the superintendent of insurance of the province under the laws of which it is incorporated, is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen; and

Non-application du par. (1)

(3) Le paragraphe (1) ne s'applique pas au revenu imposable qu'une association de bienfaisance ou de secours mutuels tire de l'exploitation d'une entreprise d'assurance-vie ou de la vente de biens utilisés ou détenus par elle pendant l'année dans le cadre de l'exploitation d'une entreprise d'assurance-vie.

Idem

(4) Pour l'application du paragraphe (3), le revenu imposable qu'une association de bienfaisance ou de secours mutuels tire de l'exploitation d'une entreprise d'assurance-vie doit être calculé comme si l'organisme n'avait pas de revenu ni de pertes provenant de quelque autre source.

Revenu exonéré en vertu de l'alinéa 149(1)t)

(4.1) Sous réserve du paragraphe (4.2), le paragraphe (1) ne s'applique à l'assureur visé à l'alinéa (1)t) qu'au titre de la partie de son revenu imposable pour une année d'imposition qui est déterminée selon la formule suivante :

(A × B × C)/D

où :

A représente son revenu imposable pour l'année;

B :

a) 1/2, dans le cas où moins de 25 % du total du revenu brut tiré des primes — moins la réassurance cédée — que gagnent au cours de l'année les personnes suivantes se rapporte à des polices d'assurance portant sur des biens servant à l'agriculture ou à la pêche ou sur des résidences d'agriculteurs ou de pêcheurs :

(i) l'assureur,

(ii) si l'assureur n'est pas visé par règlement pour l'application de l'alinéa (1)t), les autres assureurs qui, selon le cas :

(A) sont des actionnaires déterminés de l'assureur,

(B) sont liés à l'assureur,

(C) si l'assureur est une mutuelle, font partie d'un groupe contrôlant l'assureur directement ou indirectement, de quelque manière que ce soit, ou ainsi contrôlé par lui,

b) 1, dans les autres cas :

C la partie du revenu brut tiré des primes — moins la réassurance cédée — qu'il a gagnée au cours de l'année et qui, de l'avis du ministre fondé sur l'avis du surintendant des institutions financières ou du

D is the gross premium income (net of reinsurance ceded) earned by it in the year.

surintendant des assurances de la province sous le régime des lois de laquelle l'assureur a été constitué, se rapporte à des polices d'assurance portant sur des biens servant à l'agriculture ou la pêche ou sur des résidences d'agriculteurs ou de pêcheurs;

D le revenu brut tiré des primes — moins la réassurance cédée — qu'il a gagné au cours de l'année.

Idem

(4.2) Subsection 149(4.1) does not apply to an insurer described in paragraph 149(1)(t) in respect of the taxable income of the insurer for a taxation year where more than 90% of the total of the gross premium income (net of reinsurance ceded) earned in the year by the insurer and, where the insurer is not a prescribed insurer, by all other insurers that

(a) are specified shareholders of the insurer,

(b) are related to the insurer, or

(c) where the insurer is a mutual corporation, are part of a group that controls, directly or indirectly in any manner whatever, or are controlled, directly or indirectly in any manner whatever, by, the insurer,

is in respect of insurance of property used in farming or fishing or residences of farmers or fishermen.

Non-application du paragraphe (4.1)

(4.2) Le paragraphe (4.1) ne s'applique pas à l'assureur visé à l'alinéa (1)t) au titre de son revenu imposable pour une année d'imposition si plus de 90 % du total du revenu brut tiré des primes — moins la réassurance cédée — que gagnent au cours de l'année les personnes suivantes se rapporte à des polices d'assurance portant sur des biens servant à l'agriculture ou à la pêche ou sur des résidences d'agriculteurs ou de pêcheurs :

a) l'assureur;

b) si l'assureur n'est pas visé par règlement, les autres assureurs, selon le cas :

(i) qui sont des actionnaires déterminés de l'assureur,

(ii) qui sont liés à l'assureur,

(iii) si l'assureur est une mutuelle, qui font partie d'un groupe contrôlant l'assureur directement ou indirectement, de quelque manière que ce soit, ou ainsi contrôlé par lui.

Computation of taxable income of insurer

(4.3) For the purposes of this Part, in computing the taxable income of an insurer for a particular taxation year, the insurer shall be deemed to have deducted under paragraphs 20(1)(a), 20(7)(c) and 138(3)(a) and section 140 in each taxation year preceding the particular year and in respect of which paragraph 149(1)(t) applied to the insurer, the greater of

(a) the amount it claimed or deducted under those provisions for that preceding year, and

(b) the greatest amount that could have been claimed or deducted under those provisions to the extent that the total thereof does not exceed the amount that would be its taxable income for that preceding year if no amount had been claimed or deducted under those provisions.

Présomption de déduction

(4.3) Pour l'application de la présente partie et pour le calcul du revenu imposable d'un assureur pour une année d'imposition donnée, l'assureur est réputé avoir déduit en application des alinéas 20(1)a), 20(7)c) et 138(3)a) et de l'article 140 pour chacune des années d'imposition précédant l'année donnée et pour lesquelles l'alinéa (1)t) s'appliquait à l'assureur, le plus élevé des montants suivants :

a) le montant qu'il a déduit en application de ces dispositions pour cette année précédente;

b) le montant le plus élevé qu'il aurait pu déduire en application de ces dispositions, dans la mesure où ce montant ne dépasse pas celui qui aurait représenté son revenu imposable pour cette année précédente s'il n'avait pas déduit de montant en application de ces dispositions.

Exception — investment income of certain clubs

(5) Notwithstanding subsections (1) and (2), where a club, society or association was for any period, a club, society or association described in paragraph (1)(l) the main purpose of which was to provide dining, recreational or sporting facilities for its members (in this subsection referred to as the "club"), a trust is deemed to have been created on the later of the commencement of the period and the end of 1971 and to have continued in existence throughout the period, and, throughout that period, the following rules apply:

(a) the property of the club shall be deemed to be the property of the trust;

(b) where the club is a corporation, the corporation shall be deemed to be the trustee having control of the trust property;

(c) where the club is not a corporation, the officers of the club shall be deemed to be the trustees having control of the trust property;

(d) tax under this Part is payable by the trust on its taxable income for each taxation year;

(e) the income and taxable income of the trust for each taxation year shall be computed on the assumption that it had no incomes or losses other than

(i) incomes and losses from property, and

(ii) taxable capital gains and allowable capital losses from dispositions of property, other than property used exclusively for and directly in the course of providing the dining, recreational or sporting facilities provided by it for its members;

(f) in computing the taxable income of the trust for each taxation year

(i) there may be deducted, in addition to any other deductions permitted by this Part, $2,000, and

(ii) no deduction shall be made under section 112 or 113; and

(g) the provisions of subdivision k of Division B (except subsections 104(1) and 104(2)) do not apply in respect of the trust.

Exception concernant le revenu de placements de certains clubs

(5) Malgré les paragraphes (1) et (2), lorsqu'un cercle ou une association était, pendant une période donnée, un cercle ou une association, visé à l'alinéa (1)l), dont l'objet principal consistait à fournir à ses membres des installations pour les loisirs, le sport ou les repas (appelé « club » au présent paragraphe), une fiducie est réputée avoir été établie au dernier en date de la fin de 1971 et du début de la période et avoir continué à exister tout au long de la période. De plus, les règles ci-après s'appliquent tout au long de la période :

a) la propriété du club est réputée être la propriété de la fiducie;

b) lorsque le club est une société, la société est réputée être le fiduciaire exerçant le contrôle des biens de la fiducie;

c) lorsque le club n'est pas une société, les dirigeants du club sont réputés être les fiduciaires exerçant le contrôle des biens de la fiducie;

d) l'impôt prévu par la présente partie est payable par la fiducie sur son revenu imposable pour chaque année d'imposition;

e) le revenu et le revenu imposable de la fiducie pour chaque année d'imposition doivent être calculés à supposer qu'elle n'ait pas eu de revenus ni de pertes autres que :

(i) des revenus et des pertes provenant de biens,

(ii) des gains en capital imposables et des pertes en capital déductibles découlant des dispositions de biens, autres que des biens utilisés, exclusivement et directement, dans le but de fournir des repas, des services récréatifs ou les installations destinées aux sports qu'elle met à la disposition de ses membres;

f) dans le calcul du revenu imposable de la fiducie pour chaque année d'imposition :

(i) il peut être déduit, en plus de toute autre déduction permise par la présente partie, 2 000 $,

(ii) aucune déduction n'est faite en vertu de l'article 112 ou 113;

g) les dispositions de la sous-section k de la section B (sauf les paragraphes 104(1) et (2)) ne s'appliquent pas à l'égard de la fiducie.

Apportionment rule

(6) Where it is necessary for the purpose of this section to ascertain the taxable income of a taxpayer for a period that is a part of a taxation year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the taxation year that the number of days in the period is of the number of days in the taxation year.

Time for filing

(7) A corporation the taxable income of which for a taxation year is exempt from tax under this Part because of paragraph 149(1)(j) shall file with the Minister a prescribed form containing prescribed information on or before its filing-due date for the year.

Penalty for failure to file on time

(7.1) Where a corporation fails to file the prescribed form as required by subsection 149(7) for a taxation year, it is liable to a penalty equal to the amount determined by the formula

A × B

where

A is the greater of

(a) $500, and

(b) 2% of its taxable income for the year; and

B is the lesser of

(a) 12, and

(b) the number of months in whole or in part that are in the period that begins on the day on or before which the prescribed form is required to be filed and ends on the day it is filed.

Interpretation of para. (1)(j)

(8) For the purpose of paragraph 149(1)(j),

(a) a corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased (or otherwise acquired for a consideration) any of the shares in the capital stock of that corporation; and

Règle relative à la répartition

(6) Lorsqu'il est nécessaire, pour l'application du présent article, de déterminer le revenu imposable d'un contribuable pour une période qui est une partie d'une année d'imposition, le revenu imposable pour cette période est réputé correspondre au produit de la multiplication du revenu imposable pour l'année d'imposition par le rapport entre le nombre de jours de la période et le nombre de jours de l'année d'imposition.

Délai de production

(7) La société dont le revenu imposable pour une année d'imposition est exonéré de l'impôt prévu par la présente partie par l'effet de l'alinéa (1)j) est tenue de présenter au ministre un formulaire prescrit contenant les renseignements prescrits au plus tard à la date d'échéance de production qui lui est applicable pour l'année.

Pénalité

(7.1) La société qui ne présente pas le formulaire selon les modalités prévues au paragraphe (7) pour une année d'imposition est passible d'une pénalité égale au résultat du calcul suivant :

A × B

où :

A représente le plus élevé des montants suivants :

a) 500 $,

b) 2 % de son revenu imposable pour l'année;

B le moins élevé des montants suivants :

a) 12,

b) le nombre de mois ou de parties de mois de la période qui commence le jour où elle est tenue de présenter le formulaire et se termine le jour où elle le présente.

Interprétation : al. (1)j)

(8) Pour l'application de l'alinéa (1)j) :

a) une société est contrôlée par une autre société si plus de 50 % des actions émises de son capital-actions (comportant pleins droits de vote en toutes circonstances) appartiennent :

(i) à l'autre société,

(ii) à l'autre société et à des personnes avec lesquelles l'autre société a un lien de dépendance;

toutefois une société est réputée ne pas avoir acquis le contrôle d'une société, si elle n'a acheté (ou par

(b) there shall be included in computing a corporation's income and in determining its gross revenue the amount of all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research and experimental development.

b) sont à inclure dans le calcul du revenu et du revenu brut d'une société les dons qu'elle a reçus et les sommes qui lui ont été versées pour affectation à des activités de recherche scientifique et de développement expérimental.

Rules for determining gross revenue

(9) In determining the gross revenue of a corporation for the purpose of determining whether it is described by paragraph 149(1)(j) for a taxation year,

(a) there may be deducted an amount not exceeding its gross revenue for the year computed without including or deducting any amount under this subsection; and

(b) there shall be included any amount that has been deducted under this subsection for the preceding taxation year.

Calcul du revenu brut

(9) Dans le calcul du revenu brut d'une société ayant pour objet de déterminer si elle est visée à l'alinéa (1)j) pour une année d'imposition :

a) il peut être déduit un montant n'excédant pas son revenu brut pour l'année, calculé sans que soit inclus ni déduit un montant en vertu du présent paragraphe;

b) il doit être inclus tout montant qui a été déduit en vertu du présent paragraphe pour l'année d'imposition précédente.

Becoming or ceasing to be exempt

(10) If at any time (in this subsection referred to as "that time"), a person — that is a corporation or, if that time is after September 12, 2013, a trust — becomes or ceases to be exempt from tax under this Part on its taxable income otherwise than by reason of paragraph (1)(t), the following rules apply:

(a) the taxation year of the person that would, but for this paragraph, have included that time is deemed to end immediately before that time, a new taxation year of the person is deemed to begin at that time and, for the purpose of determining the person's fiscal period after that time, the person is deemed not to have established a fiscal period before that time;

(a.1) for the purpose of computing the person's income for its first taxation year that ends after that time, the person is deemed to have deducted under sections 20, 138 and 140 in computing the person's income for its taxation year that ended immediately before that time, the greatest amount that could have been claimed or deducted by the person for that year as a reserve under those sections;

(b) the person is deemed to have disposed, at the time (in this subsection referred to as the "disposition time") that is immediately before the time that is immediately before that time, of each property held by the person immediately before that time for an amount equal to its fair market value at that time and to have reacquired the property at that time at a cost equal to that fair market value; and

Début ou cessation d'exonération

(10) Dans le cas où, à un moment donné, une personne — société ou, si ce moment est postérieur au 12 septembre 2013, fiducie — devient exonérée de l'impôt payable en vertu de la présente partie sur son revenu imposable ou cesse de l'être, autrement que par l'effet de l'alinéa (1)t), les règles ci-après s'appliquent :

a) l'année d'imposition de la personne qui, en l'absence du présent alinéa, aurait compris ce moment est réputée avoir pris fin immédiatement avant ce moment et une nouvelle année d'imposition de la personne est réputée avoir commencé à ce moment; pour déterminer l'exercice de la personne après ce moment, celle-ci est réputée ne pas avoir établi d'exercice avant ce moment;

a.1) la personne est réputée, pour le calcul de son revenu pour sa première année d'imposition se terminant après ce moment, avoir déduit en application des articles 20, 138 et 140 dans le calcul de son revenu pour son année d'imposition s'étant terminée immédiatement avant ce moment la somme la plus élevée qui aurait pu être demandée ou déduite par elle pour cette année à titre de provision selon ces articles;

b) la personne est réputée avoir disposé, au moment (appelé « moment de la disposition » au présent paragraphe) qui est immédiatement avant le moment immédiatement avant le moment donné, de chaque bien qu'elle détenait immédiatement avant le moment donné pour une somme égale à sa juste valeur marchande

(c) for the purposes of applying sections 37, 65 to 66.4, 66.7, 111 and 126, subsections 127(5) to (36) and section 127.3 to the person, the person is deemed to be a new corporation or trust, as the case may be, the first taxation year of which began at that time.

(d) [Repealed, 2016, c. 12, s. 54]

c) pour l'application des articles 37, 65 à 66.4, 66.7, 111 et 126, des paragraphes 127(5) à (36) et de l'article 127.3 à la personne, celle-ci est réputée être une nouvelle société ou fiducie, selon le cas, dont la première année d'imposition a commencé au moment donné.

d) [Abrogé, 2016, ch. 12, art. 54]

Geographical boundaries — body performing government functions

(11) For the purpose of this section, the geographical boundaries of a municipal or public body performing a function of government are

(a) the geographical boundaries that encompass the area in respect of which an Act of Parliament or an agreement given effect by an Act of Parliament recognizes or grants to the body a power to impose taxes; or

(b) if paragraph (a) does not apply, the geographical boundaries within which that body has been authorized by the laws of Canada or of a province to exercise that function.

Limites géographiques — organisme remplissant des fonctions gouvernementales

(11) Pour l'application du présent article, les limites géographiques d'un organisme municipal ou public remplissant une fonction gouvernementale sont les suivantes :

a) celles du territoire à l'égard duquel le pouvoir de percevoir des impôts ou taxes est reconnu ou conféré à l'organisme par une loi fédérale ou par un accord mis en vigueur par une telle loi;

b) en cas d'inapplication de l'alinéa a), celles à l'intérieur desquelles l'organisme est autorisé par les lois fédérales ou provinciales à exercer cette fonction.

Information returns

(12) Every person who, because of paragraph 149(1)(e) or 149(1)(l), is exempt from tax under this Part on all or part of the person's taxable income shall, within 6 months after the end of each fiscal period of the person and without notice or demand therefor, file with the Minister an information return for the period in prescribed form and containing prescribed information, if

(a) the total of all amounts each of which is a taxable dividend or an amount received or receivable by the person as, on account of, in lieu of or in satisfaction of, interest, rentals or royalties in the period exceeds $10,000;

(b) at the end of the person's preceding fiscal period the total assets of the person (determined in accordance with generally accepted accounting principles) exceeded $200,000; or

(c) an information return was required to be filed under this subsection by the person for a preceding fiscal period.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 149; 1994, c.7, Sch. II, s. 122, Sch. VIII, s. 88; 1995, c. 21, s. 63; 1996, c. 21, s. 37; 1997, c. 25, s. 47; 1998, c. 19, ss. 41, 178; 2001, c. 17, s. 145; 2007, c. 35, s. 116; 2008, c. 28, s. 27; 2011, c. 24, s. 50; 2012, c. 31, s. 38; 2013, c. 34, ss. 138, 307, c. 40, s. 66; 2014, c. 39, s. 53; 2016, c. 12, s. 54.

Déclaration de renseignements

(12) Toute personne exonérée de l'impôt prévu à la présente partie sur tout ou partie de son revenu imposable par l'effet des alinéas (1)e) ou l) doit présenter au ministre sans avis ni mise en demeure, dans les six mois suivant la fin de chacun de ses exercices, une déclaration de renseignements pour l'exercice sur formulaire prescrit contenant les renseignements prescrits, si, selon le cas :

a) le total des montants représentant chacun un dividende imposable ou un montant reçu ou à recevoir par la personne au titre ou en règlement total ou partiel d'intérêts, de loyers ou de redevances au cours de l'exercice dépasse 10 000 $;

b) à la fin de l'exercice précédent de la personne, l'actif total de la personne, déterminé en conformité avec les principes comptables généralement reconnus, dépasse 200 000 $;

c) la personne était tenue de présenter une déclaration de renseignements en application du présent paragraphe pour un exercice antérieur.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 149; 1994, ch. 7, ann. II, art. 122, ann. VIII, art. 88; 1995, ch. 21, art. 63; 1996, ch. 21, art. 37; 1997, ch. 25, art. 47; 1998, ch. 19, art. 41 et 178; 2001, ch. 17, art. 145; 2007, ch. 35, art. 116; 2008, ch. 28, art. 27; 2011, ch. 24, art. 50; 2012, ch. 31, art. 38; 2013, ch. 34, art. 138 et 307, ch. 40, art. 66; 2014, ch. 39, art. 53; 2016, ch. 12, art. 54.

149.01 [Repealed, 2017, c. 12, s. 12]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2015, c. 41, s. 1; 2017, c. 12, s. 12.

Qualified Donees

Definitions

149.1 (1) In this section and section 149.2,

Canadian amateur athletic association means an association that

(a) was created under any law in force in Canada,

(b) is resident in Canada,

(c) has no part of its income payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder of the association unless the proprietor, member or shareholder was a club, society or association the primary purpose and primary function of which was the promotion of amateur athletics in Canada,

(d) has the promotion of amateur athletics in Canada on a nationwide basis as its exclusive purpose and exclusive function, and

(e) devotes all its resources to that purpose and function; (*association canadienne de sport amateur*)

capital gains pool [Repealed, 2010, c. 25, s. 37]

charitable foundation means a corporation or trust that is constituted and operated exclusively for charitable purposes, no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof, and that is not a charitable organization; (*fondation de bienfaisance*)

charitable organization, at any particular time, means an organization, whether or not incorporated,

(a) all the resources of which are devoted to charitable activities carried on by the organization itself,

(b) no part of the income of which is payable to, or is otherwise available for, the personal benefit of any proprietor, member, shareholder, trustee or settlor thereof,

(c) more than 50% of the directors, trustees, officers or like officials of which deal at arm's length with each other and with

149.01 [Abrogé, 2017, ch. 12, art. 12]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2015, ch. 41, art. 1; 2017, ch. 12, art. 12.

Donataires reconnus

Définitions

149.1 (1) Les définitions qui suivent s'appliquent au présent article et à l'article 149.2.

actions de remplacement Actions acquises par une fondation privée en échange d'actions exonérées détenues par elle, dans le cadre d'une opération à laquelle s'applique l'article 51, le paragraphe 85.1(1) ou les articles 86 ou 87. (*substituted shares*)

actions exonérées Sont des actions exonérées détenues par une fondation privée à un moment donné les actions d'une catégorie du capital-actions d'une société qui, selon le cas :

a) ont été acquises par la fondation au moyen d'un don visé par une stipulation portant conservation des actions pendant une période se terminant au plus tôt au moment donné, si le don a été fait :

(i) soit avant le 19 mars 2007,

(ii) soit après le 18 mars 2007 et avant le 19 mars 2012,

(A) en exécution d'un testament signé par un contribuable avant le 19 mars 2007, qui n'a pas été modifié, par codicille ou autrement, après le 18 mars 2007,

(B) dans des circonstances où aucun autre testament du contribuable n'a été signé ni modifié après le 18 mars 2007,

(iii) soit après le 18 mars 2007 selon les modalités d'une fiducie établie avant le 19 mars 2007, lesquelles n'ont pas été modifiées après le 18 mars 2007;

b) ont été acquises la dernière fois par la fondation avant le 19 mars 2007, à l'exception d'actions qui, au moment donné, selon le cas :

(i) sont visées à l'alinéa a),

(ii) sont inscrites à la cote d'une bourse de valeurs désignée,

(iii) sont des actions du capital-actions d'une société donnée qui détient un pourcentage d'intérêt supérieur à 0 % dans une société publique et dont une

(i) each of the other directors, trustees, officers and like officials of the organization,

(ii) each person described by subparagraph (d)(i) or (ii), and

(iii) each member of a group of persons (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)) who do not deal with each other at arm's length, if the group would, if it were a person, be a person described by subparagraph (d)(i), and

(d) that is not, at the particular time, and would not at the particular time be, if the organization were a corporation, controlled directly or indirectly in any manner whatever

(i) by a person (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)),

(A) who immediately after the particular time, has contributed to the organization amounts that are, in total, greater than 50% of the capital of the organization immediately after the particular time, and

(B) who immediately after the person's last contribution at or before the particular time, had contributed to the organization amounts that were, in total, greater than 50% of the capital of the organization immediately after the making of that last contribution, or

(ii) by a person, or by a group of persons that do not deal at arm's length with each other, if the person or any member of the group does not deal at arm's length with a person described in subparagraph (i); (*œuvre de bienfaisance*)

charitable purposes includes the disbursement of funds to a qualified donee, other than a gift the making of which is a political activity; (*fins de bienfaisance*)

charity means a charitable organization or charitable foundation; (*organisme de bienfaisance*)

designated gift means that portion of a gift of property made in a taxation year by a particular registered charity, to another registered charity with which it does not deal

catégorie d'actions du capital-actions est inscrite à la cote d'une bourse de valeurs désignée, dans le cas où, à la fois :

(A) une société (appelée « société contrôlée » au présent sous-alinéa et étant entendu qu'il peut s'agir de la société donnée) :

(I) d'une part, est propriétaire d'une ou de plusieurs actions d'une catégorie du capital-actions de la société publique,

(II) d'autre part, est contrôlée, directement ou indirectement, de quelque manière que ce soit, par une ou plusieurs personnes intéressées quant à la fondation ou par la fondation, seule ou avec une ou plusieurs de ces personnes intéressées,

(B) la fondation, si elle détenait directement les actions visées à la subdivision (A)(I), aurait un pourcentage de participation excédentaire (déterminé compte non tenu du paragraphe 149.2(8)) relativement à cette catégorie d'actions qui est supérieur à 0 %,

(C) la fondation, seule ou avec les sociétés contrôlées, détient plus qu'une participation négligeable relativement à la catégorie d'actions visée à la subdivision (A)(I);

c) sont des actions de remplacement détenues par la fondation. (*exempt shares*)

activité commerciale complémentaire Relativement à un organisme de bienfaisance ou à une association canadienne de sport amateur, est assimilée à une activité commerciale complémentaire toute entreprise étrangère au but de l'organisme ou de l'association si, de toutes les personnes employées par l'organisme ou l'association pour exploiter cette entreprise, il n'en est presque aucune qui soit rémunérée à ce titre. (*related business*)

activité politique Comprend le fait de faire un don à un donataire reconnu s'il est raisonnable de considérer que le don a notamment pour but d'appuyer les activités politiques de ce donataire. (*political activity*)

année d'imposition Dans le cas d'un organisme de bienfaisance enregistré ou d'une association canadienne enregistrée de sport amateur, un exercice. (*taxation year*)

association canadienne de sport amateur Association à l'égard de laquelle les faits ci-après se vérifient :

at arm's length, that is designated by the particular registered charity in its information return for the taxation year; (*don déterminé*)

disbursement quota, for a taxation year of a registered charity, means the amount determined by the formula

A × B × 0.035/365

where

A is the number of days in the taxation year, and

B is

(a) the prescribed amount for the year, in respect of all or a portion of a property owned by the charity at any time in the 24 months immediately preceding the taxation year that was not used directly in charitable activities or administration, if that amount is greater than

(i) if the registered charity is a charitable organization, $100,000, and

(ii) in any other case, $25,000, and

(b) in any other case, nil; (*contingent des versements*)

divestment obligation percentage of a private foundation for a particular taxation year, in respect of a class of shares of the capital stock of a corporation, is the percentage, if any, that is the lesser of

(a) the excess, if any, at the end of the taxation year, of the percentage of issued and outstanding shares of that class that are held by the private foundation over the exempt shares percentage of the private foundation, and

(b) the percentage determined by the formula

A + B – C

where

A is the percentage determined under this paragraph in respect of the private foundation in respect of the class for the preceding taxation year,

B is the total of all percentages, each of which is the portion of a net increase in the excess corporate holdings percentage of the private foundation in respect of the class for the particular taxation year or for a preceding taxation year that is allocated to the particular taxation year in accordance with subsection 149.2(5), and

C is the total of all percentages, each of which is the portion of a net decrease in the excess corporate holdings percentage of the private foundation in respect of the class for the particular taxation year

a) elle a été constituée sous le régime d'une loi en vigueur au Canada;

b) elle réside au Canada;

c) aucune partie de son revenu n'est payable à un propriétaire, à un membre ou à un actionnaire ou ne peut par ailleurs servir au profit personnel de ceux-ci, sauf si le propriétaire, le membre ou l'actionnaire était un cercle ou une association dont le but premier et la fonction première étaient de promouvoir le sport amateur au Canada;

d) elle a pour but exclusif et fonction exclusive la promotion du sport amateur au Canada à l'échelle nationale;

e) elle consacre l'ensemble de ses ressources à la poursuite de ces but et fonction. (*Canadian amateur athletic association*)

bien durable [Abrogée, 2010, ch. 25, art. 37]

compte de gains en capital [Abrogée, 2010, ch. 25, art. 37]

contingent des versements La somme obtenue par la formule ci-après pour l'année d'imposition d'un organisme de bienfaisance enregistré :

A × B × 0,035/365

où :

A représente le nombre de jours de l'année;

B :

a) la somme visée par règlement pour l'année, relativement à tout ou partie d'un bien appartenant à l'organisme au cours de la période de 24 mois précédant l'année qui n'a pas été affecté directement à des activités de bienfaisance ou à des fins administratives, si cette somme excède :

(i) 100 000 $, dans le cas où l'organisme est une œuvre de bienfaisance,

(ii) 25 000 $, dans les autres cas,

b) dans les autres cas, zéro. (*disbursement quota*)

donataire reconnu Sont des donataires reconnus à un moment donné :

a) toute personne enregistrée à ce titre par le ministre qui est :

(i) une société d'habitation résidant au Canada et exonérée de l'impôt prévu à la présente partie par

or for a preceding taxation year that is allocated to the particular taxation year in accordance with subsection 149.2(7); (*pourcentage de dessaisissement*)

enduring property [Repealed, 2010, c. 25, s. 37]

entrusted shares percentage [Repealed, 2009, c. 2, s. 55]

equity percentage of a person in a corporation has, subject to subsection 149.2(2.1), the same meaning as defined in subsection 95(4); (*pourcentage d'intérêt*)

excess corporate holdings percentage of a private foundation, in respect of a class of shares of the capital stock of a corporation, at any time means

(a) if the private foundation is not, at that time, a registered charity, 0%,

(b) if the private foundation holds, at that time, an insignificant interest in respect of the class, 0%, and

(c) in any other case, the number of percentage points, if any, by which the total corporate holdings percentage of the private foundation in respect of the class, at that time, exceeds the greater of 20% and the exempt shares percentage, at that time, of the private foundation in respect of the class; (*pourcentage de participation excédentaire*)

exempt shares held by a private foundation at any particular time means shares, of a class of the capital stock of a corporation,

(a) that were acquired by the private foundation by way of a gift that was subject to a trust or direction that the shares are to be held by the private foundation for a period ending not earlier than the particular time, if the gift was made

(i) before March 19, 2007,

(ii) on or after March 19, 2007 and before March 19, 2012

(A) under the terms of a will that was executed by a taxpayer before March 19, 2007 and not amended, by codicil or otherwise, on or after March 19, 2007, and

(B) in circumstances where no other will of the taxpayer was executed or amended on or after March 19, 2007, or

l'effet de l'alinéa 149(1)i) qui a présenté une demande d'enregistrement,

(ii) une municipalité du Canada,

(iii) un organisme municipal ou public remplissant une fonction gouvernementale au Canada qui a présenté une demande d'enregistrement,

(iv) une université située à l'étranger, visée par règlement, qui compte d'ordinaire parmi ses étudiants des étudiants venant du Canada,

(v) un organisme de bienfaisance étranger qui a présenté au ministre une demande d'enregistrement en vertu du paragraphe (26);

b) tout organisme de bienfaisance enregistré;

c) toute association canadienne enregistrée de sport amateur;

d) Sa Majesté du chef du Canada ou d'une province, l'Organisation des Nations Unies ou une institution reliée à cette dernière. (*qualified donee*)

don désigné [Abrogée, 2010, ch. 25, art. 37]

don déterminé La partie d'un don de biens fait au cours d'une année d'imposition par un organisme de bienfaisance enregistré donné à un autre organisme de bienfaisance enregistré avec lequel il a un lien de dépendance, qui est indiquée à ce titre dans la déclaration de renseignements de l'organisme donné pour l'année. (*designated gift*)

fins de bienfaisance Est compris parmi les versements à des fins de bienfaisance tout versement de fonds à un donataire reconnu, sauf le versement qui est un don qui constitue une activité politique. (*charitable purposes*)

fondation de bienfaisance Société ou fiducie constituée et administrée exclusivement à des fins de bienfaisance, dont aucun revenu n'est payable à un propriétaire, membre, actionnaire, fiduciaire ou auteur de la fiducie ou de la société ou ne peut par ailleurs être disponible pour servir au profit personnel de ceux-ci, et qui n'est pas une œuvre de bienfaisance. (*charitable foundation*)

fondation privée Fondation de bienfaisance qui n'est pas une fondation publique. (*private foundation*)

fondation publique Est une fondation publique à un moment donné la fondation de bienfaisance :

(iii) on or after March 19, 2007, under the terms of a trust created before March 19, 2007, and not amended on or after March 19, 2007,

(b) that were last acquired by the private foundation before March 19, 2007, other than shares that, at the particular time,

(i) are described in paragraph (a),

(ii) are listed on a designated stock exchange, or

(iii) are shares of the capital stock of a particular corporation, which particular corporation has an equity percentage greater than 0% in a public corporation, a class of the shares of the capital stock of which is listed on a designated stock exchange, if

(A) a corporation (in this subparagraph referred to as a "controlled corporation" and which may, for greater certainty, be the particular corporation)

(I) owns one or more shares of a class of the capital stock of the public corporation, and

(II) is controlled, directly or indirectly in any manner whatever, by one or more relevant persons in respect of the private foundation, or by the private foundation alone or together with one or more such relevant persons,

(B) the private foundation, if it held directly the shares described in subclause (A)(I), would have an excess corporate holdings percentage (determined without reference to subsection 149.2(8)) in respect of that class of shares that is greater than 0%, and

(C) the private foundation, alone or together with all controlled corporations, holds more than an insignificant interest in respect of the class of shares described in subclause (A)(I), or

(c) that are substituted shares held by the private foundation; (*actions exonérées*)

exempt shares percentage of a private foundation at any time, in respect of a class of shares of the capital stock of a corporation, is the total of all amounts, each of which is the percentage of the issued and outstanding shares of that class that are exempt shares held by the private foundation at that time; (*pourcentage d'actions exonérées*)

ineligible individual, at any time, means an individual who has been

a) dont plus de 50 % des administrateurs, dirigeants, fiduciaires et autres responsables n'ont de lien de dépendance ni entre eux ni avec les personnes suivantes :

(i) chacun des autres administrateurs, dirigeants, fiduciaires ou autres responsables de la fondation,

(ii) chaque personne visée aux sous-alinéas b)(i) ou (ii),

(iii) chaque membre d'un groupe de personnes ayant entre elles un lien de dépendance (à l'exception de Sa Majesté du chef du Canada ou d'une province, d'une municipalité, d'un autre organisme de bienfaisance enregistré qui n'est pas une fondation privée et de tout cercle ou de toute association visés à l'alinéa 149(1)l)), dans le cas où le groupe, s'il était une personne, serait visé au sous-alinéa b)(i);

b) qui, au moment donné, n'est ni ne serait, si elle était une société, contrôlée directement ou indirectement, de quelque manière que ce soit :

(i) ni par une personne (à l'exception de Sa Majesté du chef du Canada ou d'une province, d'une municipalité, d'un autre organisme de bienfaisance enregistré qui n'est pas une fondation privée et de tout cercle ou de toute association visés à l'alinéa 149(1)l)) qui, à la fois :

(A) immédiatement après le moment donné, a fourni à la fondation des sommes qui représentent, au total, plus de 50 % des capitaux de la fondation immédiatement après le moment donné,

(B) immédiatement après sa dernière contribution effectuée au plus tard au moment donné, avait fourni à la fondation des sommes qui, au total, représentent plus de 50 % des capitaux de la fondation immédiatement après cette dernière contribution,

(ii) ni par une personne, ou par un groupe de personnes ayant entre elles un lien de dépendance, dans le cas où la personne ou un membre du groupe a un tel lien avec une personne visée au sous-alinéa (i). (*public foundation*)

infraction criminelle pertinente Infraction criminelle prévue par les lois fédérales, ou infraction qui serait une infraction criminelle si elle était commise au Canada, qui, selon le cas :

a) a trait à la malhonnêteté financière, notamment l'évasion fiscale, le vol et la fraude;

(a) convicted of a relevant criminal offence unless it is a conviction for which

(i) a pardon has been granted and the pardon has not been revoked or ceased to have effect, or

(ii) a record suspension has been ordered under the *Criminal Records Act* and the record suspension has not been revoked or ceased to have effect,

(b) convicted of a relevant offence in the five-year period preceding that time,

(c) a director, trustee, officer or like official of a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for which the registration of the charity or association was revoked in the five-year period preceding that time,

(d) an individual who controlled or managed, directly or indirectly, in any manner whatever, a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for which its registration was revoked in the five-year period preceding that time, or

(e) a promoter in respect of a tax shelter that involved a registered charity or a registered Canadian amateur athletic association, the registration of which was revoked in the five-year period preceding that time for reasons that included or were related to participation in the tax shelter; (*particulier non admissible*)

material transaction of a private foundation, in respect of a class of shares of the capital stock of a corporation, means a transaction or a series of transactions or events in shares of the class, in respect of which the total fair market value of the shares of the class that are acquired or disposed of by the private foundation or any relevant person in respect of the private foundation as part of the transaction or series (determined at the time of the transaction, or at the end of the series, as the case may be) exceeds the lesser of

(a) $100,000, and

(b) 0.5% of the total fair market value of all of the issued and outstanding shares of the class; (*opération importante*)

b) en ce qui a trait à un organisme de bienfaisance ou à une association canadienne de sport amateur, concerne son fonctionnement. (*relevant criminal offence*)

infraction pertinente À l'exception d'une infraction criminelle pertinente, infraction prévue par les lois fédérales ou provinciales, ou infraction qui serait une telle infraction si elle était commise au Canada, qui, selon le cas :

a) a trait à la malhonnêteté financière, y compris toute infraction prévue par la législation sur la collecte de fonds à des fins de bienfaisance, la protection des consommateurs et les valeurs mobilières;

b) en ce qui a trait à un organisme de bienfaisance ou à une association canadienne de sport amateur, concerne son fonctionnement. (*relevant offence*)

œuvre de bienfaisance Est une œuvre de bienfaisance à un moment donné l'œuvre, constituée ou non en société :

a) dont la totalité des ressources est consacrée à des activités de bienfaisance qu'elle mène elle-même;

b) dont aucune partie du revenu n'est payable à l'un de ses propriétaires, membres, actionnaires, fiduciaires ou auteurs ni ne peut servir, de quelque façon, à leur profit personnel;

c) dont plus de 50 % des administrateurs, dirigeants, fiduciaires et autres responsables n'ont de lien de dépendance ni entre eux ni avec les personnes suivantes :

(i) chacun des autres administrateurs, dirigeants, fiduciaires ou autres responsables de l'œuvre,

(ii) chaque personne visée aux sous-alinéas d)(i) ou (ii),

(iii) chaque membre d'un groupe de personnes ayant entre elles un lien de dépendance (à l'exception de Sa Majesté du chef du Canada ou d'une province, d'une municipalité, d'un autre organisme de bienfaisance enregistré qui n'est pas une fondation privée et de tout cercle ou de toute association visés à l'alinéa 149(1)l)), dans le cas où le groupe, s'il était une personne, serait visé au sous-alinéa d)(i);

d) qui, au moment donné, n'est ni ne serait, si elle était une société, contrôlée directement ou indirectement, de quelque manière que ce soit :

non-qualified investment of a private foundation means

(a) a debt (other than a pledge or undertaking to make a gift) owing to the foundation by

(i) a person (other than an excluded corporation)

(A) who is a member, shareholder, trustee, settlor, officer, official or director of the foundation,

(B) who has, or is a member of a group of persons who do not deal with each other at arm's length who have, contributed more than 50% of the capital of the foundation, or

(C) who does not deal at arm's length with any person described in clause (A) or (B), or

(ii) a corporation (other than an excluded corporation) controlled by the foundation, by any person or group of persons referred to in subparagraph (i), by the foundation and any other private foundation with which it does not deal at arm's length or by any combination thereof,

(b) a share of a class of the capital stock of a corporation (other than an excluded corporation) referred to in paragraph (a) held by the foundation (other than a share listed on a designated stock exchange or a share that would be a qualifying share within the meaning assigned by subsection 192(6) if that subsection were read without reference to the expression "issued after May 22, 1985 and before 1987"), and

(c) a right held by the foundation to acquire a share referred to in paragraph (b),

and, for the purpose of this definition, an ***excluded corporation*** is

(d) a limited-dividend housing company to which paragraph 149(1)(n) applies,

(e) a corporation all of the property of which is used by a registered charity in its administration or in carrying on its charitable activities, or

(f) a corporation all of the issued shares of which are held by the foundation; (*placement non admissible*)

original corporate holdings percentage of a private foundation, in respect of a class of shares of the capital stock of a corporation, means the total corporate holdings percentage of the private foundation, in respect of that class, held on March 18, 2007; (*pourcentage de participation initiale*)

(i) ni par une personne (à l'exception de Sa Majesté du chef du Canada ou d'une province, d'une municipalité, d'un autre organisme de bienfaisance enregistré qui n'est pas une fondation privée et de tout cercle ou de toute association visés à l'alinéa 149(1)l)) qui, à la fois :

(A) immédiatement après le moment donné, a fourni à l'œuvre des sommes qui représentent, au total, plus de 50 % des capitaux de l'œuvre immédiatement après le moment donné,

(B) immédiatement après sa dernière contribution effectuée au plus tard au moment donné, avait fourni à l'œuvre des sommes qui, au total, représentent plus de 50 % des capitaux de l'œuvre immédiatement après cette dernière contribution,

(ii) ni par une personne, ou par un groupe de personnes ayant entre elles un lien de dépendance, dans le cas où la personne ou un membre du groupe a un tel lien avec une personne visée au sous-alinéa (i). (*charitable organization*)

opération importante En ce qui concerne une fondation privée, relativement à une catégorie d'actions du capital-actions d'une société, opération ou série d'opérations ou d'événements portant sur des actions de la catégorie, relativement à laquelle la juste valeur marchande totale des actions de la catégorie que la fondation ou une personne intéressée quant à elle a acquises, ou dont elle a disposé, dans le cadre de l'opération ou de la série (déterminée au moment de l'opération ou à la fin de la série, selon le cas) excède la moins élevée des sommes suivantes :

a) 100 000 $;

b) 0,5 % de la juste valeur marchande totale de l'ensemble des actions émises et en circulation de la catégorie. (*material transaction*)

organisme de bienfaisance Œuvre de bienfaisance ou fondation de bienfaisance. (*charity*)

particulier non admissible À un moment donné, particulier qui a été, selon le cas :

a) déclaré coupable d'une infraction criminelle pertinente, sauf s'il s'agit d'une infraction à l'égard de laquelle :

(i) un pardon a été accordé et n'a pas été révoqué ni annulé,

political activity includes the making of a gift to a qualified donee if it can reasonably be considered that a purpose of the gift is to support the political activities of the qualified donee; (*activité politique*)

private foundation means a charitable foundation that is not a public foundation; (*fondation privée*)

promoter has the meaning assigned by section 237.1; (*promoteur*)

public foundation, at a particular time, means a charitable foundation

(a) more than 50% of the directors, trustees, officers or like officials of which deal at arm's length with each other and with

(i) each of the other directors, trustees, officers and like officials of the foundation,

(ii) each person described by subparagraph (b)(i) or (ii), and

(iii) each member of a group of persons (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)) who do not deal with each other at arm's length, if the group would, if it were a person, be a person described by subparagraph (b)(i), and

(b) that is not, at the particular time, and would not at the particular time be, if the foundation were a corporation, controlled directly or indirectly in any manner whatever

(i) by a person (other than Her Majesty in right of Canada or of a province, a municipality, another registered charity that is not a private foundation, and any club, society or association described in paragraph 149(1)(l)),

(A) who immediately after the particular time, has contributed to the foundation amounts that are, in total, greater than 50% of the capital of the foundation immediately after the particular time, and

(B) who immediately after the person's last contribution at or before the particular time, had contributed to the foundation amounts that were, in total, greater than 50% of the capital of the foundation immediately after the making of that last contribution, or

(ii) une suspension du casier a été ordonnée en vertu de la *Loi sur le casier judiciaire* et n'a pas été révoquée ni annulée;

b) déclaré coupable d'une infraction pertinente dans les cinq ans précédant le moment donné;

c) un administrateur, un fiduciaire, un cadre ou un représentant semblable d'un organisme de bienfaisance enregistré ou d'une association canadienne enregistrée de sport amateur au cours d'une période où l'organisme ou l'association a eu une conduite dont il est raisonnable de considérer qu'elle constituait une violation grave des conditions d'enregistrement prévues par la présente loi et par suite de laquelle son enregistrement a été révoqué dans les cinq ans précédant le moment donné;

d) un particulier qui contrôlait ou gérait, directement ou indirectement, de quelque manière que ce soit, un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur au cours d'une période où l'organisme ou l'association a eu une conduite dont il est raisonnable de considérer qu'elle constituait une violation grave des conditions d'enregistrement prévues par la présente loi et par suite de laquelle son enregistrement a été révoqué dans les cinq ans précédant le moment donné;

e) un promoteur quant à un abri fiscal impliquant un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur dont l'enregistrement a été révoqué dans les cinq ans précédant le moment donné pour des raisons comprenant la participation à l'abri fiscal ou liées à cette participation. (*ineligible individual*)

personne intéressée Est une personne intéressée quant à une fondation privée la personne qui, à tout moment où le terme est applicable, a un lien de dépendance avec la fondation (à supposer que le paragraphe 251(2) s'applique comme si la fondation était une société). En sont exclus :

a) toute personne qui, à ce moment, est considérée comme ayant un lien de dépendance avec la fondation uniquement à cause d'un droit visé à l'alinéa 251(5)b);

b) tout particulier à l'égard duquel les conditions suivantes sont réunies :

(i) à ce moment, il est âgé de 18 ans ou plus et vit séparé de tout autre particulier (appelé « particulier dominant » à la présente définition) qui contrôlerait la fondation, ou serait membre d'un groupe lié qui la contrôle, si elle était une société,

(ii) by a person, or by a group of persons that do not deal at arm's length with each other, if the person or any member of the group does not deal at arm's length with a person described in subparagraph (i); (*fondation publique*)

qualified donee, at any time, means a person that is

(a) registered by the Minister and that is

(i) a housing corporation resident in Canada and exempt from tax under this Part because of paragraph 149(1)(i) that has applied for registration,

(ii) a municipality in Canada,

(iii) a municipal or public body performing a function of government in Canada that has applied for registration,

(iv) a university outside Canada that is prescribed to be a university the student body of which ordinarily includes students from Canada, or

(v) a foreign charity that has applied to the Minister for registration under subsection (26),

(b) a registered charity,

(c) a registered Canadian amateur athletic association, or

(d) Her Majesty in right of Canada or a province, the United Nations or an agency of the United Nations; (*donataire reconnu*)

related business, in relation to a charity or Canadian amateur athletic association, includes a business that is unrelated to the purposes of the charity or association if substantially all persons employed by the charity or association in the carrying on of that business are not remunerated for that employment; (*activité commerciale complémentaire*)

relevant criminal offence means a criminal offence under the laws of Canada, and an offence that would be a criminal offence if it were committed in Canada, that

(a) relates to financial dishonesty, including tax evasion, theft and fraud, or

(b) in respect of a charity or Canadian amateur athletic association, is relevant to the operation of the charity or association; (*infraction criminelle pertinente*)

relevant offence means an offence, other than a relevant criminal offence, under the laws of Canada or a

(ii) le ministre est convaincu, après examen d'une demande de la fondation, que le particulier n'aurait de lien de dépendance avec aucun particulier dominant si le paragraphe 251(1) s'appliquait compte non tenu de ses alinéas a) et b). (*relevant person*)

placement non admissible Dans le cas d'une fondation privée :

a) dette — autre qu'une promesse de don ou un engagement à faire un don — contractée envers la fondation par :

(i) une personne (autre qu'une société non visée):

(A) qui est membre, actionnaire, fiduciaire, auteur d'une fiducie, dirigeant, responsable ou administrateur de la fondation,

(B) qui a contribué plus de 50 % du capital de la fondation ou qui est membre d'un groupe de personnes qui ont un lien de dépendance entre elles et qui ont contribué plus de 50 % du capital de la fondation,

(C) qui a un lien de dépendance avec l'une des personnes mentionnées à la division (A) ou (B),

(ii) une société — autre qu'une société non visée — contrôlée par la fondation, par une personne ou un groupe de personnes visé au sous-alinéa (i), par la fondation et toute autre fondation privée avec laquelle elle a un lien de dépendance, ou par toute combinaison de ce qui précède;

b) une action d'une catégorie du capital-actions d'une société, autre qu'une société non visée, visée à l'alinéa a), détenue par la fondation, autre qu'une action cotée à une bourse de valeurs désignée ou qui serait une action admissible au sens du paragraphe 192(6) s'il était fait abstraction à ce paragraphe du passage « émise après le 22 mai 1985 et avant 1987 »,

c) droit, que détient la fondation, d'acquérir une action visée à l'alinéa b).

Pour l'application de la présente définition, ***société non visée*** s'entend d'une société immobilière à dividendes limités à laquelle l'alinéa 149(1)n) s'applique, d'une société dont l'ensemble des actions émises sont détenues par la fondation ou encore d'une société dont l'ensemble des biens sont utilisés par un organisme de bienfaisance enregistré pour son administration ou dans l'exercice de ses activités de bienfaisance. (*non-qualified investment*)

pourcentage d'actions exonérées En ce qui concerne une fondation privée à un moment donné, relativement à

province, and an offence that would be such an offence if it took place in Canada, that

(a) relates to financial dishonesty, including an offence under charitable fundraising legislation, consumer protection legislation and securities legislation, or

(b) in respect of a charity or Canadian amateur athletic association, is relevant to the operation of the charity or association; (*infraction pertinente*)

relevant person in respect of a private foundation means a person who, at any time in respect of which the expression is relevant, deals not at arm's length with the private foundation (determined as if subsection 251(2) were applied as if the private foundation were a corporation), but does not include

(a) a person who at that time is considered to deal not at arm's length with the private foundation solely because of a right referred to in paragraph 251(5)(b), or

(b) an individual

(i) who at that time has attained the age of 18 years and lives separate and apart from any other individual (referred to in this definition as a "controlling individual") who would, if the private foundation were a corporation, control, or be a member of a related group that controls, the private foundation, and

(ii) in respect of whom the Minister is satisfied, upon review of an application by the private foundation, that the individual would, if subsection 251(1) were read without reference to its paragraphs (a) and (b), at that time, deal at arm's length with all controlling individuals; (*personne intéressée*)

specified gift [Repealed, 2010, c. 25, s. 37]

substituted shares held by a private foundation means shares acquired by the private foundation, in exchange for exempt shares held by the private foundation, in the course of a transaction to which section 51, subsection 85.1(1) or section 86 or 87 applies; (*actions de remplacement*)

taxation year means, in the case of a registered charity or registered Canadian amateur athletic association, a fiscal period; (*année d'imposition*)

total corporate holdings percentage of a private foundation, in respect of a class of shares of the capital stock of a corporation, at any particular time means the percentage of the issued and outstanding shares of that class

une catégorie d'actions du capital-actions d'une société, le total des sommes représentant chacune le pourcentage des actions émises et en circulation de cette catégorie qui sont des actions exonérées détenues par la fondation à ce moment. (*exempt shares percentage*)

pourcentage d'actions visées par une stipulation [Abrogée, 2009, ch. 2, art. 55]

pourcentage de dessaisissement En ce qui concerne une fondation privée pour une année d'imposition donnée, relativement à une catégorie d'actions du capital-actions d'une société, le moins élevé des pourcentages suivants :

a) l'excédent, à la fin de l'année donnée, du pourcentage d'actions émises et en circulation de cette catégorie qui sont détenues par la fondation sur le pourcentage d'actions exonérées de la fondation;

b) le pourcentage obtenu par la formule suivante :

A + B – C

où :

A représente le pourcentage déterminé selon le présent alinéa qui est applicable à la fondation relativement à la catégorie pour l'année d'imposition précédente,

B le total des pourcentages dont chacun représente la partie d'une augmentation nette du pourcentage de participation excédentaire de la fondation relativement à la catégorie pour l'année donnée ou pour une année d'imposition antérieure qui est attribuée à l'année donnée conformément au paragraphe 149.2(5),

C le total des pourcentages dont chacun représente la partie d'une diminution nette du pourcentage de participation excédentaire de la fondation relativement à la catégorie pour l'année donnée ou pour une année d'imposition antérieure qui est attribuée à l'année donnée conformément au paragraphe 149.2(7). (*divestment obligation percentage*)

pourcentage de participation excédentaire En ce qui concerne une fondation privée, relativement à une catégorie d'actions du capital-actions d'une société, à un moment donné :

a) 0 %, si la fondation n'est pas, à ce moment, un organisme de bienfaisance enregistré;

b) 0 %, si la fondation détient, à ce moment, une participation négligeable relativement à la catégorie;

that are held at that time by the private foundation, or by a relevant person in respect of the private foundation who holds a material interest in respect of that class; (*pourcentage de participation totale*)

c) dans les autres cas, l'excédent, exprimé en points de pourcentage, du pourcentage de participation totale de la fondation relativement à la catégorie à ce moment sur 20 % ou, s'il est plus élevé, le pourcentage d'actions exonérées à ce moment applicable à la fondation relativement à la catégorie. (*excess corporate holdings percentage*)

pourcentage de participation initiale En ce qui concerne une fondation privée, relativement à une catégorie d'actions du capital-actions d'une société, le pourcentage de participation totale de la fondation, relativement à cette catégorie, détenu le 18 mars 2007. (*original corporate holdings percentage*)

pourcentage de participation totale En ce qui concerne une fondation privée, relativement à une catégorie d'actions du capital-actions d'une société, à un moment donné le pourcentage des actions émises et en circulation de cette catégorie que détient, à ce moment, la fondation privée ou toute personne intéressée quant à elle qui a une participation notable relativement à la catégorie. (*total corporate holdings percentage*)

pourcentage d'intérêt Sous réserve du paragraphe 149.2(2.1), s'entend au sens du paragraphe 95(4). (*equity percentage*)

promoteur S'entend au sens de l'article 237.1. (*promoter*)

Deeming rule — *Safe Streets and Communities Act*

(1.01) In this section, a reference to a record suspension is deemed also to be a reference to a pardon that is granted or issued under the *Criminal Records Act*.

Loi sur la sécurité des rues et des communautés

(1.01) Au présent article, la mention de la suspension du casier vaut aussi mention de la réhabilitation octroyée ou délivrée en vertu de la *Loi sur le casier judiciaire*.

Exclusions

(1.1) For the purposes of paragraphs 149.1(2)(b), 149.1(3)(b), 149.1(4)(b) and 149.1(21)(a), the following shall be deemed to be neither an amount expended in a taxation year on charitable activities nor a gift made to a qualified donee:

(a) a designated gift;

(b) an expenditure on political activities made by a charitable organization or a charitable foundation; and

(c) a transfer that has, because of paragraph (c) of the description of B in subsection 188(1.1), paragraph 189(6.2)(b) or subsection 189(6.3), reduced the amount of a liability under Part V.

Exclusions

(1.1) Pour l'application des alinéas (2)b), (3)b), (4)b) et (21)a), sont réputés n'être ni un montant dépensé au cours d'une année d'imposition pour des activités de bienfaisance ni un don à un donataire reconnu :

a) un don déterminé;

b) une dépense pour activités politiques faite par une œuvre de bienfaisance ou par une fondation de bienfaisance;

c) tout transfert qui, par l'effet de l'alinéa c) de l'élément B de la formule figurant au paragraphe 188(1.1), de l'alinéa 189(6.2)b) ou du paragraphe 189(6.3), a réduit une somme à payer en vertu de la partie V.

Authority of Minister

(1.2) For the purposes of the determination of B in the definition *disbursement quota* in subsection 149.1(1), the Minister may

(a) authorize a change in the number of periods chosen by a registered charity in determining the prescribed amount; and

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

Revocation of registration of charitable organization

(2) The Minister may, in the manner described in section 168, revoke the registration of a charitable organization for any reason described in subsection 168(1) or where the organization

(a) carries on a business that is not a related business of that charity;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the organization's disbursement quota for that year; or

(c) makes a disbursement by way of a gift, other than a gift made

(i) in the course of charitable activities carried on by it, or

(ii) to a donee that is a qualified donee at the time of the gift.

Revocation of registration of public foundation

(3) The Minister may, in the manner described in section 168, revoke the registration of a public foundation for any reason described in subsection 168(1) or where the foundation

(a) carries on a business that is not a related business of that charity;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;

Pouvoir du ministre

(1.2) Pour l'application de l'élément B de la formule figurant à la définition de *contingent des versements* au paragraphe 149.1(1), le ministre peut :

a) autoriser une modification du nombre de périodes choisi par un organisme de bienfaisance enregistré en vue de déterminer le montant prescrit;

b) accepter toute méthode de fixation de la juste valeur marchande des biens ou de la partie des biens visés nécessaire pour déterminer le montant prescrit.

Révocation de l'enregistrement d'une œuvre de bienfaisance

(2) Le ministre peut, de la façon prévue à l'article 168, révoquer l'enregistrement d'une œuvre de bienfaisance pour l'un ou l'autre des motifs énumérés au paragraphe 168(1), ou encore si l'œuvre :

a) soit exerce une activité commerciale qui n'est pas une activité commerciale complémentaire de cet organisme de bienfaisance;

b) soit ne dépense pas au cours d'une année d'imposition, pour les activités de bienfaisance qu'elle mène elle-même ou par des dons à des donataires reconnus, des sommes dont le total est au moins égal à son contingent des versements pour l'année;

c) soit fait un versement sous forme de don, sauf s'il s'agit d'un don fait, selon le cas :

(i) dans le cadre de ses activités de bienfaisance,

(ii) à un donataire qui est un donataire reconnu au moment du don.

Révocation de l'enregistrement d'une fondation publique

(3) Le ministre peut, de la façon prévue à l'article 168, révoquer l'enregistrement d'une fondation publique pour l'un ou l'autre des motifs énumérés au paragraphe 168(1), ou encore si la fondation, selon le cas :

a) exerce une activité commerciale qui n'est pas une activité commerciale complémentaire de cet organisme de bienfaisance;

b) ne dépense pas au cours d'une année d'imposition, pour les activités de bienfaisance qu'elle mène elle-même ou par des dons à des donataires reconnus, des sommes dont le total est au moins égal à son contingent des versements pour cette année;

(b.1) makes a disbursement by way of a gift, other than a gift made

(i) in the course of charitable activities carried on by it, or

(ii) to a donee that is a qualified donee at the time of the gift;

(c) since June 1, 1950, acquired control of any corporation;

(d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities; or

(e) at any time within the 24 month period preceding the day on which notice is given to the foundation by the Minister pursuant to subsection 168(1) and at a time when the foundation was a private foundation, took any action or failed to expend amounts such that the Minister was entitled, pursuant to subsection 149.1(4), to revoke its registration as a private foundation.

Revocation of registration of private foundation

(4) The Minister may, in the manner described in section 168, revoke the registration of a private foundation for any reason described in subsection 168(1) or where the foundation

(a) carries on any business;

(b) fails to expend in any taxation year, on charitable activities carried on by it and by way of gifts made by it to qualified donees, amounts the total of which is at least equal to the foundation's disbursement quota for that year;

(b.1) makes a disbursement by way of a gift, other than a gift made

(i) in the course of charitable activities carried on by it, or

(ii) to a donee that is a qualified donee at the time of the gift;

(c) has, in respect of a class of shares of the capital stock of a corporation, a divestment obligation percentage at the end of any taxation year;

(d) since June 1, 1950, incurred debts, other than debts for current operating expenses, debts incurred

b.1) fait un versement sous forme de don, sauf s'il s'agit d'un don fait, selon le cas :

(i) dans le cadre de ses activités de bienfaisance,

(ii) à un donataire qui est un donataire reconnu au moment du don;

c) a, depuis le 1er juin 1950, acquis le contrôle d'une société;

d) a, depuis le 1er juin 1950, contracté des dettes autres que des dettes au titre des frais courants d'administration, des dettes afférentes à l'achat et à la vente de placements et des dettes contractées dans le cours de l'administration d'activités de bienfaisance;

e) au cours de la période de 24 mois qui précède le jour où le ministre l'avise, conformément au paragraphe 168(1), et à un moment où elle était une fondation privée, a pris des mesures ou omis d'effectuer des paiements de façon que le ministre était en droit, conformément au paragraphe (4), de révoquer son enregistrement à titre de fondation privée.

Révocation de l'enregistrement d'une fondation privée

(4) Le ministre peut, de la façon prévue à l'article 168, révoquer l'enregistrement d'une fondation privée pour l'un ou l'autre des motifs énumérés au paragraphe 168(1), ou encore si la fondation, selon le cas :

a) exerce une activité commerciale;

b) ne dépense pas au cours d'une année d'imposition, pour les activités de bienfaisance qu'elle mène elle-même ou par des dons à des donataires reconnus, des sommes dont le total est au moins égal à son contingent des versements pour cette année;

b.1) fait un versement sous forme de don, sauf s'il s'agit d'un don fait, selon le cas :

(i) dans le cadre de ses activités de bienfaisance,

(ii) à un donataire qui est un donataire reconnu au moment du don;

c) a un pourcentage de dessaisissement, relativement à une catégorie d'actions du capital-actions d'une société, à la fin d'une année d'imposition quelconque;

d) a, depuis le 1er juin 1950, contracté des dettes autres que des dettes au titre des frais courants d'administration, des dettes afférentes à l'achat et à la

in connection with the purchase and sale of investments and debts incurred in the course of administering charitable activities.

vente de placements et des dettes contractées dans le cours de l'administration d'activités de bienfaisance.

Revocation of registration of registered charity

(4.1) The Minister may, in the manner described in section 168, revoke the registration

(a) of a registered charity, if it has entered into a transaction (including a gift to another registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities;

(b) of a registered charity, if it may reasonably be considered that a purpose of entering into a transaction (including the acceptance of a gift) with another registered charity to which paragraph (a) applies was to assist the other registered charity in avoiding or unduly delaying the expenditure of amounts on charitable activities;

(c) of a registered charity, if a false statement, within the meaning assigned by subsection 163.2(1), was made in circumstances amounting to culpable conduct, within the meaning assigned by that subsection, in the furnishing of information for the purpose of obtaining registration of the charity;

(d) of a registered charity, if it has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length;

(e) of a registered charity, if an ineligible individual is a director, trustee, officer or like official of the charity, or controls or manages the charity, directly or indirectly, in any manner whatever; and

(f) of a registered charity, if it accepts a gift from a foreign state, as defined in section 2 of the *State Immunity Act*, that is set out on the list referred to in subsection 6.1(2) of that Act.

Révocation de l'enregistrement d'un organisme de bienfaisance enregistré

(4.1) Le ministre peut, de la façon prévue à l'article 168, révoquer l'enregistrement :

a) de tout organisme de bienfaisance enregistré qui a effectué une opération (y compris un don à un autre organisme de bienfaisance enregistré) dont l'un des objets consiste vraisemblablement à éviter ou à différer indûment la dépense de sommes pour des activités de bienfaisance;

b) de tout organisme de bienfaisance enregistré, s'il est raisonnable de considérer que l'une des raisons pour lesquelles il a effectué une opération (y compris l'acceptation d'un don) avec un autre organisme de bienfaisance enregistré auquel l'alinéa a) s'applique consistait à aider celui-ci à éviter ou à différer indûment la dépense de sommes pour des activités de bienfaisance;

c) d'un organisme de bienfaisance enregistré, si les renseignements fournis en vue d'obtenir son enregistrement contenaient un faux énoncé, au sens du paragraphe 163.2(1), fait dans des circonstances équivalant à une conduite coupable, au sens de ce paragraphe;

d) de tout organisme de bienfaisance enregistré qui a reçu au cours d'une année d'imposition un don de biens, sauf un don déterminé, d'un autre organisme de bienfaisance enregistré avec lequel il a un lien de dépendance et qui a dépensé avant la fin de l'année d'imposition subséquente — en plus d'une somme égale à son contingent des versements pour chacune de ces années — une somme inférieure à la juste valeur marchande des biens pour des activités de bienfaisance qu'il mène ou sous forme de dons à des donataires reconnus avec lesquels il n'a aucun lien de dépendance;

e) d'un organisme de bienfaisance enregistré, si un particulier non admissible contrôle ou gère l'organisme directement ou indirectement, de quelque manière que ce soit, ou en est un administrateur, fiduciaire, cadre ou représentant semblable;

f) de tout organisme de bienfaisance enregistré qui accepte un don d'un État étranger, au sens de l'article 2 de la *Loi sur l'immunité des États*, qui est inscrit sur la liste mentionnée au paragraphe 6.1(2) de cette loi.

Revocation of registration of Canadian amateur athletic association

(4.2) The Minister may, in the manner described in section 168, revoke the registration of a registered Canadian amateur athletic association

(a) for any reason described in subsection 168(1);

(b) if the association carries on a business that is not a related business of that association;

(c) if an ineligible individual is a director, trustee, officer or like official of the association, or controls or manages the association, directly or indirectly, in any manner whatever; or

(d) if the association accepts a gift from a foreign state, as defined in section 2 of the *State Immunity Act*, that is set out on the list referred to in subsection 6.1(2) of that Act.

Révocation de l'enregistrement d'une association canadienne de sport amateur

(4.2) Le ministre peut, de la façon prévue à l'article 168, révoquer l'enregistrement d'une association canadienne enregistrée de sport amateur :

a) pour l'une des raisons prévues au paragraphe 168(1);

b) si l'association exploite une entreprise qui n'est pas une activité commerciale complémentaire de cette association;

c) si un particulier non admissible contrôle ou gère l'association directement ou indirectement, de quelque manière que ce soit, ou en est un administrateur, fiduciaire, cadre ou représentant semblable;

d) si l'association accepte un don d'un État étranger, au sens de l'article 2 de la *Loi sur l'immunité des États*, qui est inscrit sur la liste mentionnée au paragraphe 6.1(2) de cette loi.

Revocation of a qualified donee

(4.3) The Minister may, in the manner described in section 168, revoke the registration of a qualified donee referred to in paragraph (a) of the definition *qualified donee* in subsection (1) for any reason described in subsection 168(1).

Révocation d'un donataire reconnu

(4.3) Le ministre peut, de la façon prévue à l'article 168, révoquer l'enregistrement d'un donataire reconnu visé à l'alinéa a) de la définition de ***donataire reconnu*** au paragraphe (1) pour l'une des raisons prévues au paragraphe 168(1).

Reduction

(5) The Minister may, on application made to the Minister in prescribed form by a registered charity, specify an amount in respect of the charity for a taxation year and, for the purpose of paragraph 149.1(2)(b), 149.1(3)(b) or 149.1(4)(b), as the case may be, that amount shall be deemed to be an amount expended by the charity in the year on charitable activities carried on by it.

Réduction des montants

(5) Le ministre peut, à la demande, selon le formulaire prescrit, d'un organisme de bienfaisance enregistré, préciser un montant à l'égard de l'organisme pour une année d'imposition; ce montant est réputé, pour l'application des alinéas (2)b), (3)b) et (4)b), être un montant qu'il a dépensé au cours de l'année pour une activité de bienfaisance qu'il mène.

Devoting resources to charitable activity

(6) A charitable organization shall be considered to be devoting its resources to charitable activities carried on by it to the extent that

(a) it carries on a related business;

(b) it disburses income to qualified donees, other than income disbursed by way of a gift the making of which is a political activity, if the total amount of the charitable organization's income that is disbursed to qualified donees in a taxation year does not exceed 50% of its income for the year; or

Affectation des ressources à une activité de bienfaisance

(6) Une œuvre de bienfaisance est considérée comme consacrant ses ressources à des activités de bienfaisance qu'elle mène elle-même dans la mesure où:

a) soit elle exerce une activité commerciale complémentaire;

b) soit elle verse de son revenu à des donataires reconnus, sauf s'il s'agit de revenu versé au moyen d'un don qui constitue une activité politique, et le montant total de son revenu qui est versé à des donataires reconnus au cours d'une année d'imposition n'excède pas 50 % de son revenu pour l'année;

(c) it disburses income to a registered charity that the Minister has designated in writing as a charity associated with it, other than income disbursed by way of a gift the making of which is a political activity.

c) soit elle verse de son revenu à un organisme de bienfaisance enregistré que le ministre a désigné par écrit comme étant un organisme de bienfaisance qui lui est associé, sauf s'il s'agit de revenu versé au moyen d'un don qui constitue une activité politique.

Devoting resources to purpose and function

(6.01) A Canadian amateur athletic association is considered to devote its resources to its exclusive purpose and exclusive function to the extent that it carries on

(a) a related business; or

(b) activities involving the participation of professional athletes, if those activities are ancillary and incidental to its exclusive purpose and exclusive function.

Ressources consacrées au but et à la fonction

(6.01) Une association canadienne de sport amateur est considérée comme consacrant ses ressources à la poursuite de son but exclusif et de sa fonction exclusive dans la mesure où elle exerce :

a) soit une activité commerciale complémentaire;

b) soit des activités auxquelles participent des athlètes professionnels, lesquelles sont accessoires à son but exclusif et à sa fonction exclusive.

Charitable purposes

(6.1) For the purposes of the definition *charitable foundation* in subsection 149.1(1), where a corporation or trust devotes substantially all of its resources to charitable purposes and

(a) it devotes part of its resources to political activities,

(b) those political activities are ancillary and incidental to its charitable purposes, and

(c) those political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office,

the corporation or trust shall be considered to be constituted and operated for charitable purposes to the extent of that part of its resources so devoted.

Fins de bienfaisance

(6.1) Pour l'application de la définition de *fondation de bienfaisance* au paragraphe (1), la société ou la fiducie qui consacre presque toutes ses ressources à des fins de bienfaisance est considérée comme constituée et administrée exclusivement à des fins de bienfaisance si les conditions suivantes sont réunies :

a) elle consacre la partie restante de ses ressources à des activités politiques;

b) ces activités politiques sont accessoires à ses fins de bienfaisance;

c) ces activités politiques ne comprennent pas d'activités directes ou indirectes de soutien d'un parti politique ou d'un candidat à une charge publique ou d'opposition à l'un ou à l'autre.

Charitable activities

(6.2) For the purposes of the definition *charitable organization* in subsection 149.1(1), where an organization devotes substantially all of its resources to charitable activities carried on by it and

(a) it devotes part of its resources to political activities,

(b) those political activities are ancillary and incidental to its charitable activities, and

(c) those political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office,

the organization shall be considered to be devoting that part of its resources to charitable activities carried on by it.

Activités de bienfaisance

(6.2) Pour l'application de la définition de *œuvre de bienfaisance* au paragraphe (1), l'œuvre qui consacre presque toutes ses ressources à des activités de bienfaisance est considérée comme y consacrant la totalité si les conditions suivantes sont réunies :

a) elle consacre la partie restante de ses ressources à des activités politiques;

b) ces activités politiques sont accessoires à ses activités de bienfaisance;

c) ces activités politiques ne comprennent pas d'activités directes ou indirectes de soutien d'un parti politique ou d'un candidat à une charge publique ou d'opposition à l'un ou à l'autre.

Political activities of Canadian amateur athletic association

(6.201) For the purpose of the definition *Canadian amateur athletic association* in subsection (1), an association that devotes part of its resources to political activities is considered to devote those resources to its exclusive purpose and exclusive function if

(a) it devotes substantially all its resources to its purpose and function; and

(b) those political activities

(i) are ancillary and incidental to its purpose and function, and

(ii) do not include the direct or indirect support of, or opposition to, any political party or candidate for public office.

Activités politiques d'une association canadienne de sport amateur

(6.201) Pour l'application de la définition de *association canadienne de sport amateur* au paragraphe (1), l'association qui consacre une partie de ses ressources à des activités politiques est considérée comme consacrant ces ressources à la poursuite de son but exclusif et de sa fonction exclusive si, à la fois :

a) elle consacre la presque totalité de ses ressources à la poursuite de ses but et fonction;

b) les activités politiques en cause :

(i) d'une part, sont accessoires à ses but et fonction,

(ii) d'autre part, ne comprennent pas d'activités directes ou indirectes de soutien d'un parti politique ou d'un candidat à une charge publique ou d'opposition à l'un ou à l'autre.

Marriage for civil purposes

(6.21) For greater certainty, subject to subsections (6.1) and (6.2), a registered charity with stated purposes that include the advancement of religion shall not have its registration revoked or be subject to any other penalty under Part V solely because it or any of its members, officials, supporters or adherents exercises, in relation to marriage between persons of the same sex, the freedom of conscience and religion guaranteed under the *Canadian Charter of Rights and Freedoms*.

Précision

(6.21) Il est entendu que, sous réserve des paragraphes (6.1) et (6.2), l'organisme de bienfaisance enregistré dont l'un des buts déclarés est de promouvoir la religion ne peut voir son statut révoqué ni se voir imposer d'autres sanctions au titre de la partie V pour la seule raison qu'il exerce, ou que ses membres, ses dirigeants, ses adhérents ou les personnes qui l'appuient exercent, à l'égard du mariage entre personnes de même sexe, la liberté de conscience et de religion garantie par la *Charte canadienne des droits et libertés*.

Designation as public foundation, etc.

(6.3) The Minister may, by notice sent by registered mail to a registered charity, on the Minister's own initiative or on application made to the Minister in prescribed form, designate the charity to be a charitable organization, private foundation or public foundation and the charity shall be deemed to be registered as a charitable organization, private foundation or public foundation, as the case may be, for taxation years commencing after the day of mailing of the notice unless and until it is otherwise designated under this subsection or its registration is revoked under subsection 149.1(2), 149.1(3), 149.1(4), 149.1(4.1) or 168(2).

Désignation comme œuvre de bienfaisance, fondation privée ou fondation publique

(6.3) Le ministre — par avis posté en recommandé à un organisme de bienfaisance enregistré — peut, d'office ou sur demande selon le formulaire prescrit, désigner cet organisme comme œuvre de bienfaisance, fondation privée ou fondation publique, selon le cas, et l'organisme est réputé être ainsi enregistré pour les années d'imposition commençant après la date la mise à la poste de l'avis sauf et jusqu'à désignation par ailleurs en application du présent paragraphe ou révocation d'enregistrement en application des paragraphes (2), (3), (4), (4.1) ou 168(2).

National arts service organizations

(6.4) Where an organization that

(a) has, on written application to the Minister of Communications describing all of its objects and activities, been designated by that Minister on approval of those

Organismes de services nationaux dans le domaine des arts

(6.4) Pour l'application de la présente loi, le ministre du Revenu national peut enregistrer l'organisme qui lui en fait la demande sur le formulaire prescrit et qui répond aux conditions suivantes :

objects and activities to be a national arts service organization,

(b) has, as its exclusive purpose and its exclusive function, the promotion of arts in Canada on a nation-wide basis,

(c) is resident in Canada and was formed or created in Canada, and

(d) complies with prescribed conditions

applies in prescribed form to the Minister of National Revenue for registration, that Minister may register the organization for the purposes of this Act and, where the organization so applies or is so registered, this section, paragraph 38(a.1), sections 110.1, 118.1, 168, 172, 180 and 230, subsection 241(3.2) and Part V apply, with such modifications as the circumstances require, to the organization as if it were an applicant for registration as a charitable organization or as if it were a registered charity that is designated as a charitable organization, as the case may be.

a) le ministre des Communications l'a désigné comme organisme de services nationaux dans le domaine des arts, après examen d'une demande écrite exposant l'ensemble de ses objectifs et activités et après approbation de ceux-ci;

b) son but et sa mission consistent uniquement à promouvoir les arts à l'échelle du Canada;

c) il réside au Canada et y a été formé ou créé;

d) il remplit les conditions prescrites.

Dès la demande ou l'enregistrement, le présent article, l'alinéa 38a.1), les articles 110.1, 118.1, 168, 172, 180 et 230, le paragraphe 241(3.2) ainsi que la partie V s'appliquent à l'organisme, avec les adaptations nécessaires, comme s'il s'agissait, selon le cas, d'un demandeur aux fins d'enregistrement à titre d'œuvre de bienfaisance ou d'un organisme de bienfaisance enregistré, désigné comme œuvre de bienfaisance.

Revocation of designation

(6.5) The Minister of Communications may, at any time, revoke the designation of an organization made for the purpose of subsection 149.1(6.4) where

(a) an incorrect statement was made in the furnishing of information for the purpose of obtaining the designation, or

(b) the organization has amended its objects after its last designation was made,

and, where the designation is so revoked, the organization shall be deemed for the purpose of section 168 to have ceased to comply with the requirements of this Act for its registration under this Act.

Révocation de la désignation

(6.5) Le ministre des Communications peut révoquer la désignation d'un organisme effectuée pour l'application du paragraphe (6.4) si, selon le cas :

a) les renseignements fournis en vue d'obtenir la désignation contenaient un énoncé inexact;

b) l'organisme a modifié ses objectifs depuis sa dernière désignation.

En cas de révocation de la désignation, l'organisme est réputé, pour l'application de l'article 168, avoir cessé de se conformer aux exigences de la présente loi relatives à son enregistrement.

Designation of associated charities

(7) On application made to the Minister in prescribed form, the Minister may, in writing, designate a registered charity as a charity associated with one or more specified registered charities where the Minister is satisfied that the charitable aim or activity of each of the registered charities is substantially the same, and on and after a date specified in such a designation, the charities to which it relates shall, until such time, if any, as the Minister revokes the designation, be deemed to be associated.

Désignation d'organismes de bienfaisance associés

(7) Sur demande qui lui est faite selon le formulaire prescrit, le ministre peut, par écrit, désigner un organisme de bienfaisance enregistré comme étant un organisme de bienfaisance associé avec un ou plusieurs organismes de bienfaisance enregistrés donnés, s'il est convaincu que les fins ou l'activité de bienfaisance de chacun des organismes de bienfaisance enregistrés sont essentiellement les mêmes, et, à compter d'une date précisée dans une telle désignation, les organismes de bienfaisance ainsi visés sont réputés associés tant que le ministre ne révoque pas la désignation.

Accumulation of property

(8) A registered charity may, with the approval in writing of the Minister, accumulate property for a particular purpose, on terms and conditions and over any period of time that the Minister specifies in the approval. Any property accumulated after receipt of and in accordance with the approval, including any income earned in respect of the accumulated property, is not to be included in calculating the prescribed amount in paragraph (a) of the description of B in the definition *disbursement quota* in subsection (1) for the portion of any taxation year in the period, except to the extent that the registered charity is not in compliance with the terms and conditions of the approval.

(9) [Repealed, 2010, c. 25, s. 37]

Deemed charitable activity

(10) An amount paid by a charitable organization to a qualified donee that is not paid out of the income of the charitable organization is deemed to be a devotion of a resource of the charitable organization to a charitable activity carried on by it, unless the amount paid is a gift the making of which is a political activity.

Partnership look-through rule

(11) For the purposes of this section and sections 149.2 and 188.1, each member of a partnership at any time is deemed at that time to own the portion of each property of the partnership equal to the proportion that the fair market value of the member's interest in the partnership at that time is of the fair market value of all interests in the partnership at that time.

Rules

(12) For the purposes of this section,

(a) a corporation is controlled by a charitable foundation if more than 50% of the corporation's issued share capital, having full voting rights under all circumstances, belongs to

(i) the foundation, or

(ii) the foundation and persons with whom the foundation does not deal at arm's length,

but, for the purpose of paragraph (3)(c), a charitable foundation is deemed not to have acquired control of a corporation if it has not purchased or otherwise acquired for consideration more than 5% of the issued shares of any class of the capital stock of that corporation;

Accumulation de biens

(8) Un organisme de bienfaisance enregistré peut, avec l'approbation écrite du ministre, accumuler des biens à une fin donnée, selon les modalités et pendant la période précisées par le ministre dans son approbation. Les biens accumulés après réception de cette approbation et en conformité avec celle-ci, y compris le revenu gagné relativement à ces biens, ne sont pas à inclure dans le calcul de la somme visée à l'alinéa a) de l'élément B de la formule figurant à la définition de *contingent des versements* au paragraphe (1) pour la partie de toute année d'imposition comprise dans la période, sauf dans la mesure où l'organisme ne s'est pas conformé aux modalités de l'approbation.

(9) [Abrogé, 2010, ch. 25, art. 37]

Affectation réputée à une activité de bienfaisance

(10) La somme versée par une œuvre de bienfaisance à un donataire reconnu qui ne provient pas du revenu de l'œuvre de bienfaisance est réputée constituer une affectation des ressources de celle-ci à l'une de ses activités de bienfaisance, sauf si la somme versée est un don qui constitue une activité politique.

Société de personnes — règle de transparence

(11) Pour l'application du présent article et des articles 149.2 et 188.1, chacun des associés d'une société de personnes à un moment donné est réputé à ce moment être propriétaire de la partie de chaque bien de la société de personnes qui correspond à la proportion que représente le rapport entre la juste valeur marchande de sa participation dans la société de personnes à ce moment et la juste valeur marchande de l'ensemble des participations dans la société de personnes à ce moment.

Règles

(12) Pour l'application du présent article :

a) une société est contrôlée par une fondation de bienfaisance si plus de 50 % des actions émises de son capital-actions comportant pleins droits de vote en toutes circonstances appartiennent :

(i) à la fondation,

(ii) à la fondation et à des personnes avec lesquelles la fondation a un lien de dépendance;

toutefois, pour l'application de l'alinéa (3)c), une fondation de bienfaisance est réputée ne pas avoir acquis le contrôle d'une société si elle n'a pas acquis, notamment par achat, moyennant contrepartie, plus de 5 % des actions émises d'une catégorie quelconque des actions du capital-actions de cette société;

(b) there shall be included in computing the income of a charity for a taxation year all gifts received by it in the year including gifts from any other charity but not including

(i) a designated gift,

(ii) any gift or portion of a gift in respect of which it is established that the donor is not a charity and

(A) has not been allowed a deduction under paragraph 110.1(1)(a) in computing the donor's taxable income or under subsection 118.1(3) in computing the donor's tax payable under this Part, or

(B) was not taxable under section 2 for the taxation year in which the gift was made, or

(iii) any gift or portion of a gift in respect of which it is established that the donor is a charity and that the gift was not made out of the income of the donor; and

(c) subsections 104(6) and 104(12) are not applicable in computing the income of a charitable foundation that is a trust.

b) dans le calcul du revenu d'un organisme de bienfaisance pour une année d'imposition doivent être inclus tous dons reçus par l'organisme, y compris les dons reçus d'un autre organisme de bienfaisance, mais à l'exclusion :

(i) d'un don déterminé,

(ii) d'un don ou d'une partie d'un don à propos duquel il est établi que le donateur n'est pas un organisme de bienfaisance et, selon le cas :

(A) qu'aucune déduction ne lui a été accordée en application de l'alinéa 110.1(1)a) dans le calcul de son revenu imposable ou en application du paragraphe 118.1(3) dans le calcul de son impôt payable en vertu de la présente partie,

(B) qu'il n'était pas assujetti à l'impôt en vertu de l'article 2 pour l'année d'imposition où le don a été fait,

(iii) d'un don ou d'une partie d'un don à propos duquel il est établi que le donateur est un organisme de bienfaisance et que le don n'a pas été fait sur le revenu du donateur;

c) les paragraphes 104(6) et (12) ne s'appliquent pas au calcul du revenu d'une fondation de bienfaisance qui est une fiducie.

Designation of private foundation as public

(13) On application made to the Minister by a private foundation, the Minister may, on such terms and conditions as the Minister considers appropriate, designate the foundation to be a public foundation, and on and after the date specified in such a designation, the foundation to which it relates shall, until such time, if any, as the Minister revokes the designation, be deemed to be a public foundation.

Désignation d'une fondation privée comme étant une fondation publique

(13) Sur demande qui lui est faite par une fondation privée, le ministre peut, selon les modalités qu'il juge appropriées, donner à la fondation la désignation de fondation publique, et, à compter de la date indiquée dans la désignation, la fondation est réputée, tant que la désignation n'est pas révoquée par le ministre, être une fondation publique.

Information returns

(14) Every registered charity and registered Canadian amateur athletic association shall, within six months from the end of each taxation year of the charity or association and without notice or demand, file with the Minister both an information return and a public information return for the year in prescribed form and containing prescribed information.

Déclarations de renseignements

(14) Dans les six mois suivant la fin de chacune de leurs années d'imposition, les organismes de bienfaisance enregistrés et les associations canadiennes enregistrées de sport amateur doivent présenter au ministre, sans avis ni mise en demeure, une déclaration de renseignements et une déclaration publique de renseignements pour l'année, chacune selon le formulaire prescrit, renfermant les renseignements prescrits.

Information may be communicated

(15) Notwithstanding section 241,

Communication de renseignements

(15) Malgré l'article 241:

(a) the information contained in a public information return referred to in subsection 149.1(14) shall be communicated or otherwise made available to the public by the Minister in such manner as the Minister deems appropriate;

(b) the Minister may make available to the public in any manner that the Minister considers appropriate, in respect of each registered, or previously registered, charity, Canadian amateur athletic association and qualified donee referred to in paragraph (a) of the definition *qualified donee* in subsection (1),

(i) its name, address and date of registration,

(ii) in the case of a registered, or previously registered, charity or Canadian amateur athletic association, its registration number, and

(iii) the effective date of any revocation, annulment or termination of registration; and

(c) if, at any time during a taxation year of a private foundation that is a registered charity, the private foundation holds more than an insignificant interest in respect of a class of shares of the capital stock of a corporation, the Minister shall make available to the public in such manner as the Minister deems appropriate,

(i) the name of the corporation, and

(ii) in respect of each class of shares of the corporation, that portion of the total corporate holdings percentage of the private foundation in respect of the class that is attributable to

(A) holdings of shares of that class by the private foundation, and

(B) the total of all holdings of shares of that class by relevant persons in respect of the private foundation.

(d) [Repealed, 2017, c. 20, s. 25]

a) les renseignements contenus dans une déclaration publique renfermant des renseignements, visée au paragraphe (14), doivent être communiqués au public ou autrement mis à sa disposition par le ministre de la façon que celui-ci juge appropriée;

b) le ministre peut mettre à la disposition du public, de la façon qu'il juge appropriée, les renseignements ci-après relatifs à chaque organisme de bienfaisance, association canadienne de sport amateur ou donataire reconnu visé à l'alinéa a) de la définition de *donataire reconnu* au paragraphe (1), enregistré ou antérieurement enregistré :

(i) ses nom, adresse et date d'enregistrement,

(ii) dans le cas d'un organisme de bienfaisance ou d'une association canadienne de sport amateur, enregistré ou antérieurement enregistré, son numéro d'enregistrement,

(iii) la date d'entrée en vigueur de toute révocation ou annulation de son enregistrement;

c) si la fondation privée qui est un organisme de bienfaisance enregistré détient, au cours de son année d'imposition, plus qu'une participation négligeable relativement à une catégorie d'actions du capital-actions d'une société, le ministre met les renseignements ci-après à la disposition du public, de la façon qu'il estime indiquée :

(i) la raison sociale de la société,

(ii) en ce qui concerne chaque catégorie d'actions de la société, la partie du pourcentage de participation totale de la fondation relativement à la catégorie qui est attribuable :

(A) d'une part, aux actions de la catégorie détenues par la fondation,

(B) d'autre part, au total des actions de la catégorie détenues par des personnes intéressées quant à la fondation.

d) [Abrogé, 2017, ch. 20, art. 25]

Rule regarding disbursement excess

(20) Where a registered charity has expended a disbursement excess for a taxation year, the charity may, for the purpose of determining whether it complies with the requirements of paragraph 149.1(2)(b), 149.1(3)(b) or 149.1(4)(b), as the case may be, for the immediately preceding taxation year of the charity and 5 or less of its immediately subsequent taxation years, include in the

Dépenses excédentaires

(20) L'organisme de bienfaisance enregistré qui a fait des dépenses excédentaires pour une année d'imposition peut, pour déterminer s'il se conforme à l'alinéa (2)b), (3)b) ou (4)b) pour son année d'imposition immédiatement précédente et pour au plus ses 5 années d'imposition ultérieures, inclure dans le calcul des montants affectés, soit aux activités de bienfaisance qu'il mène, soit

computation of the amounts expended on charitable activities carried on by it and by way of gifts made by it to qualified donees, such portion of that disbursement excess as was not so included under this subsection for any preceding taxation year.

aux dons faits à des donataires reconnus, la partie de ces dépenses excédentaires qui n'a pas été incluse au titre du présent paragraphe pour une année d'imposition précédente.

Definition of *disbursement excess*

(21) For the purpose of subsection (20), ***disbursement excess***, for a taxation year of a charity, means the amount, if any, by which the total of amounts expended in the year by the charity on charitable activities carried on by it and by way of gifts made by it to qualified donees exceeds its disbursement quota for the year.

Sens de *dépenses excédentaires*

(21) Pour l'application du paragraphe (20), les dépenses excédentaires d'un organisme de bienfaisance pour une année d'imposition correspondent à l'excédent éventuel du total des sommes qu'il a dépensées au cours de l'année pour ses activités de bienfaisance ou en faisant des dons à des donataires reconnus, sur son contingent des versements pour l'année.

Refusal to register

(22) The Minister may, by registered mail, give notice to a person that the application of the person for registration as a registered charity, registered Canadian amateur athletic association or qualified donee referred to in subparagraph (a)(i) or (iii) of the definition *qualified donee* in subsection (1) is refused.

Refus d'enregistrement

(22) Le ministre peut, par courrier recommandé, aviser toute personne que sa demande d'enregistrement comme organisme de bienfaisance enregistré, association canadienne enregistrée de sport amateur ou donataire reconnu visé aux sous-alinéas a)(i) ou (iii) de la définition de *donataire reconnu* au paragraphe (1) est refusée.

Annulment of registration

(23) The Minister may, by registered mail, give notice to a person that the registration of the person as a registered charity is annulled and deemed not to have been so registered, if the person was so registered by the Minister in error or the person has, solely as a result of a change in law, ceased to be a charity.

Annulation d'enregistrement

(23) Le ministre peut, par courrier recommandé, aviser toute personne que son enregistrement comme organisme de bienfaisance enregistré est annulé et est réputé ne jamais avoir été accordé, si cet enregistrement a été accordé par erreur ou si la personne a cessé d'être un organisme de bienfaisance par le seul effet d'une modification des règles de droit.

Receipts issued before annulment

(24) An official receipt referred to in Part XXXV of the *Income Tax Regulations* issued, by a person whose registration has been annulled under subsection (23), before that annulment is, if the receipt would have been valid were the person a registered charity at the time the receipt was issued, deemed to be a valid receipt under that Part.

Reçus délivrés avant l'annulation

(24) Tout reçu officiel, au sens de la partie XXXV du *Règlement de l'impôt sur le revenu*, qui est délivré par une personne avant que son enregistrement soit annulé aux termes du paragraphe (23), est réputé être un reçu valide dans le cas où il l'aurait été si la personne avait été un organisme de bienfaisance enregistré au moment de sa délivrance.

Refusal to register

(25) The Minister may refuse to register a charity or Canadian amateur athletic association that has applied for registration as a registered charity or registered Canadian amateur athletic association if

(a) the application for registration is made on its behalf by an ineligible individual;

(b) an ineligible individual is a director, trustee, officer or like official of the charity or association, or controls or manages the charity or association, directly or indirectly, in any manner whatever; or

Refus d'enregistrement

(25) Le ministre peut refuser d'enregistrer tout organisme de bienfaisance ou association canadienne de sport amateur qui a présenté une demande d'enregistrement comme organisme de bienfaisance enregistré ou association canadienne enregistrée de sport amateur si, selon le cas :

a) la demande d'enregistrement est présentée pour son compte par un particulier non admissible;

b) un particulier non admissible contrôle ou gère l'organisme ou l'association directement ou

(c) the charity or association has accepted a gift from a foreign state, as defined in section 2 of the *State Immunity Act*, that is set out on the list referred to in subsection 6.1(2) of that Act.

Foreign charities

(26) For the purposes of subparagraph (a)(v) of the definition *qualified donee* in subsection (1), the Minister may register, in consultation with the Minister of Finance, a foreign charity for a 24-month period that includes the time at which Her Majesty in right of Canada has made a gift to the foreign charity, if

(a) the foreign charity is not resident in Canada; and

(b) the Minister is satisfied that the foreign charity is

(i) carrying on relief activities in response to a disaster,

(ii) providing urgent humanitarian aid, or

(iii) carrying on activities in the national interest of Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 149.1; 1994, c. 7, Sch. II, s. 123, c. 21, s. 74; 1998, c. 19, ss. 41.1, 179; 2001, c. 17, s. 146; 2005, c. 19, s. 35, c. 33, s. 11.1; 2007, c. 35, ss. 46, 68; 2009, c. 2, s. 55; 2010, c. 25, s. 37; 2011, c. 24, ss. 52, 103; 2012, c. 19, s. 7; 2013, c. 34, s. 308; 2014, c. 20, s. 21, c. 39, s. 54; 2015, c. 36, s. 18; 2016, c. 7, s. 40; 2017, c. 20, s. 25.

Material and insignificant interests

149.2 (1) In this section and section 149.1,

(a) a person has, at any time, a material interest in respect of a class of shares of the capital stock of a corporation if, at that time,

(i) the percentage of the shares of that class held by the person exceeds 0.5% of all the issued and outstanding shares of that class, or

(ii) the fair market value of the shares so held exceeds $100,000; and

(b) a private foundation has, at any time, an insignificant interest in respect of a class of shares of the capital stock of a corporation if, at that time, the percentage of shares of that class held by the private foundation does not exceed 2% of all the issued and outstanding shares of that class.

indirectement, de quelque manière que ce soit, ou en est un administrateur, fiduciaire, cadre ou représentant semblable;

c) l'organisme ou l'association a accepté un don d'un État étranger, au sens de l'article 2 de la *Loi sur l'immunité des États*, qui est inscrit sur la liste mentionnée au paragraphe 6.1(2) de cette loi.

Organismes de bienfaisance étrangers

(26) Pour l'application du sous-alinéa a)(v) de la définition de *donataire reconnu* au paragraphe (1), le ministre peut, en consultation avec le ministre des Finances, enregistrer un organisme de bienfaisance étranger pour toute période de vingt-quatre mois qui comprend le moment auquel Sa Majesté du chef du Canada a fait un don à l'organisme si les conditions ci-après sont réunies :

a) l'organisme ne réside pas au Canada;

b) le ministre est convaincu que l'organisme, selon le cas :

(i) exerce des activités de secours par suite d'un désastre,

(ii) fournit une aide humanitaire d'urgence,

(iii) exerce des activités dans l'intérêt national du Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 149.1; 1994, ch. 7, ann. II, art. 123, ch. 21, art. 74; 1998, ch. 19, art. 41.1 et 179; 2001, ch. 17, art. 146; 2005, ch. 19, art. 35, ch. 33, art. 11.1; 2007, ch. 35, art. 46 et 68; 2009, ch. 2, art. 55; 2010, ch. 25, art. 37; 2011, ch. 24, art. 52 et 103; 2012, ch. 19, art. 7; 2013, ch. 34, art. 308; 2014, ch. 20, art. 21, ch. 39, art. 54; 2015, ch. 36, art. 18; 2016, ch. 7, art. 40; 2017, ch. 20, art. 25.

Participations notables et négligeables

149.2 (1) Pour l'application du présent article et de l'article 149.1 :

a) une personne a, à un moment donné, une participation notable relativement à une catégorie d'actions du capital-actions d'une société si, à ce moment, selon le cas :

(i) le pourcentage d'actions de cette catégorie qu'elle détient excède 0,5 % de l'ensemble des actions émises et en circulation de cette catégorie,

(ii) la juste valeur marchande des actions ainsi détenues excède 100 000 $;

b) une fondation privée a, à un moment donné, une participation négligeable relativement à une catégorie d'actions du capital-actions d'une société si, à ce moment, le pourcentage d'actions de cette catégorie

qu'elle détient n'excède pas 2 % de l'ensemble des actions émises et en circulation de cette catégorie.

Material transaction — anti-avoidance

(2) If a private foundation or a relevant person in respect of the private foundation has engaged in one or more transactions or series of transactions or events, a purpose of which may reasonably be considered to be to avoid the application of the definition ***material transaction***, each of those transactions or series of transactions or events is deemed to be a material transaction.

Opération importante — anti-évitement

(2) Si une fondation privée ou une personne intéressée quant à elle a pris part à une ou plusieurs opérations ou séries d'opérations ou d'événements, dont il est raisonnable de considérer que l'un des objets consiste à éviter l'application de la définition de ***opération importante***, chacune des opérations ou séries d'opérations ou d'événements est réputée être une opération importante.

Ownership

(2.1) For the purposes of the definition ***equity percentage***, and subparagraph (b)(iii) of the definition ***exempt shares***, in subsection 149.1(1), a person who, if paragraph 251(5)(b) applied would be deemed by that paragraph to have the same position in relation to the control of a corporation as if the person owned a share, is deemed to own the share.

Propriété

(2.1) Pour l'application de la définition de ***pourcentage d'intérêt*** au paragraphe 149.1(1) et du sous-alinéa b)(iii) de la définition de ***actions exonérées*** à ce paragraphe, la personne qui, si l'alinéa 251(5)b) s'appliquait, serait réputée par cet alinéa occuper la même position relativement au contrôle d'une société que si elle était propriétaire d'une action est réputée être propriétaire de l'action.

Net increase in excess corporate holdings percentage

(3) The net increase in the excess corporate holdings percentage of a private foundation for a taxation year, in respect of a class of shares of the capital stock of a corporation, is the number of percentage points, if any, determined by the formula

A - B

where

A is the excess corporate holdings percentage of the private foundation at the end of the taxation year, in respect of the class, and

B is

(a) 0%, if

(i) at the beginning of the taxation year the private foundation was not both a private foundation and a registered charity, or

(ii) the private foundation was both a registered charity and a private foundation on March 18, 2007 and the taxation year is the first taxation year of the private foundation that begins after that date; and

(b) in any other case, the excess corporate holdings percentage of the private foundation in respect of the class at the end of its preceding taxation year.

Augmentation nette du pourcentage de participation excédentaire

(3) L'augmentation nette du pourcentage de participation excédentaire d'une fondation privée pour une année d'imposition, relativement à une catégorie d'actions du capital-actions d'une société, correspond à la somme positive, exprimée en points de pourcentage, obtenue par la formule suivante :

A - B

où :

A représente le pourcentage de participation excédentaire de la fondation à la fin de l'année, relativement à la catégorie;

B :

a) 0 %, si, selon le cas :

(i) au début de l'année, la fondation n'était pas à la fois une fondation privée et un organisme de bienfaisance enregistré,

(ii) la fondation était à la fois un organisme de bienfaisance enregistré et une fondation privée le 18 mars 2007 et l'année en cause est sa première année d'imposition qui commence après cette date;

b) dans les autres cas, le pourcentage de participation excédentaire de la fondation relativement à la catégorie à la fin de son année d'imposition précédente.

Net decrease in excess corporate holdings percentage

(4) The net decrease in the excess corporate holdings percentage of a private foundation for a taxation year, in respect of a class of shares of the capital stock of a corporation, is the number of percentage points, if any, by which the percentage determined for B in the formula in subsection (3) for the taxation year exceeds the percentage determined for A in that formula for the taxation year.

Allocation of net increase in excess corporate holdings percentage

(5) For the purpose of the description of B in the definition ***divestment obligation percent-age*** in subsection 149.1(1), the net increase in the excess corporate holdings percentage of a private foundation in respect of a class of shares of the capital stock of a corporation, for a taxation year (in this subsection referred to as the "current year") is to be allocated in the following order:

(a) first to the divestment obligation percent-age of the private foundation in respect of that class for the current year, to the extent that the private foundation has in the current year acquired for consideration shares of that class;

(b) then to the divestment obligation percent-age of the private foundation in respect of that class for its fifth subsequent taxation year, to the extent of the lesser of

(i) that portion of the net increase in the excess corporate holdings percentage of the private foundation in respect of that class for the current year that is not allocated under paragraph (a), and

(ii) the percentage of the issued and outstanding shares of that class that were acquired by the private foundation in the current year by way of bequest;

(c) then to the divestment obligation percent-age of the private foundation in respect of that class for its second subsequent taxation year, to the extent of the lesser of

(i) that portion of the net increase in the excess corporate holdings percentage of the private foundation in respect of that class for the current year that is not allocated under paragraph (a) or (b), and

(ii) the total of

(A) the percentage of the issued and outstanding shares of that class that were acquired by the

Diminution nette du pourcentage de participation excédentaire

(4) La diminution nette du pourcentage de participation excédentaire d'une fondation privée pour une année d'imposition, relativement à une catégorie d'actions du capital-actions d'une société, correspond à l'excédent, exprimé en points de pourcentage, du pourcentage déterminé pour l'année selon l'élément B de la formule figurant au paragraphe (3) sur le pourcentage déterminé pour l'année selon l'élément A de cette formule.

Attribution de l'augmentation nette du pourcentage de participation excédentaire

(5) Pour l'application de l'élément B de la formule figurant à la définition de ***pourcentage de dessaisissement*** au paragraphe 149.1(1), l'augmentation nette du pourcentage de participation excédentaire d'une fondation privée relativement à une catégorie d'actions du capital-actions d'une société pour une année d'imposition (appelée « année courante » au présent paragraphe) est attribuée :

a) en premier lieu, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour l'année courante, dans la mesure où la fondation a acquis, au cours de cette année, moyennant contrepartie, des actions de cette catégorie;

b) en deuxième lieu, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour sa cinquième année d'imposition subséquente, jusqu'à concurrence de la moins élevée des sommes suivantes :

(i) la partie de l'augmentation nette du pourcentage de participation excédentaire de la fondation relativement à cette catégorie pour l'année courante qui n'est pas attribuée selon l'alinéa a),

(ii) le pourcentage des actions émises et en circulation de cette catégorie que la fondation a acquis par legs au cours de l'année courante;

c) en troisième lieu, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour sa deuxième année d'imposition subséquente, jusqu'à concurrence de la moins élevée des sommes suivantes :

(i) la partie de l'augmentation nette du pourcentage de participation excédentaire de la fondation relativement à cette catégorie pour l'année courante qui n'est pas attribuée selon les alinéas a) ou b),

(ii) le total des pourcentages suivants :

private foundation in the current year by way of gift, other than from a relevant person or by way of bequest, and

(B) the portion of the net increase in the excess corporate holdings percentage of the private foundation that is attributable to the redemption, acquisition or cancellation of any of the issued and outstanding shares of that class in the current year by the corporation; and

(d) then to the divestment obligation percent-age of the private foundation in respect of that class for its subsequent taxation year, to the extent of that portion of the net increase in the excess corporate holdings percentage of the private foundation in respect of that class for the current year that is not allocated under paragraph (a), (b) or (c).

(A) le pourcentage des actions émises et en circulation de cette catégorie que la fondation a acquis, pendant l'année courante, par don (sauf s'il s'agit d'un don fait par une personne intéressée) ou par legs,

(B) la partie de l'augmentation nette du pourcentage de participation excédentaire de la fondation qui est attribuable au rachat, à l'acquisition ou à l'annulation par la société pendant l'année courante de tout ou partie des actions émises et en circulation de cette catégorie;

d) en quatrième lieu, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour son année d'imposition subséquente, jusqu'à concurrence de la partie de l'augmentation nette de son pourcentage de participation excédentaire relativement à cette catégorie pour l'année courante qui n'est pas attribuée selon les alinéas a), b) ou c).

Minister's discretion

(6) Notwithstanding subsection (5), on application by a private foundation, the Minister may, if the Minister believes it would be just and equitable to do so, reallocate any portion of the net increase in the excess corporate holdings percentage of the private foundation in respect of a class of shares of the capital stock of a corporation for a taxation year, that would otherwise be allocated under subsection (5) to the private foundation's divestment obligation percentage in respect of that class for a particular taxation year, to the private foundation's divestment obligation percentage in respect of that class for any of the ten taxation years subsequent to the particular taxation year.

Discrétion du ministre

(6) Malgré le paragraphe (5), le ministre, s'il est d'avis qu'il serait juste et équitable de le faire, peut réattribuer, à la demande d'une fondation privée, toute partie de l'augmentation nette du pourcentage de participation excédentaire de la fondation, relativement à une catégorie d'actions du capital-actions d'une société pour une année d'imposition, qui serait par ailleurs attribuée selon ce paragraphe au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour une année d'imposition donnée, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour une ou plusieurs des dix années d'imposition suivant l'année donnée.

Allocation of net decrease in excess corporate holdings percentage

(7) For the purpose of the description of C in the definition ***divestment obligation percent-age*** in subsection 149.1(1), the net decrease in the excess corporate holdings percentage of a private foundation in respect of a class of shares of the capital stock of a corporation for a taxation year (in this subsection referred to as the "current year") is to be allocated in the following order:

(a) first, to the divestment obligation percentage of the private foundation in respect of that class for the current year, to the extent of that divestment obligation percentage; and

(b) then to the divestment obligation percent-age of the private foundation in respect of that class for a subsequent taxation year of the private foundation (referred to in this paragraph as the "subject year"), to the extent of the lesser of

Attribution de la diminution nette du pourcentage de participation excédentaire

(7) Pour l'application de l'élément C de la formule figurant à la définition de ***pourcentage de dessaisissement*** au paragraphe 149.1(1), la diminution nette du pourcentage de participation excédentaire d'une fondation privée, relativement à une catégorie d'actions du capital-actions d'une société, pour une année d'imposition (appelée « année courante » au présent paragraphe) est attribuée :

a) en premier lieu, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour l'année courante, jusqu'à concurrence de ce pourcentage;

b) en second lieu, au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour une de ses années d'imposition subséquentes, jusqu'à

(i) that portion of the net decrease in the excess corporate holdings percentage of the private foundation in respect of that class for the current year that is not allocated under paragraph (a), or under this paragraph, to the divestment obligation percentage of the private foundation in respect of that class for a taxation year of the private foundation that precedes the subject year, and

(ii) the amount of the divestment obligation percentage of the private foundation in respect of that class for the subject year, calculated as at the end of the current year and without reference to this subsection.

Transitional rule

(8) If the original corporate holdings percent-age of a private foundation in respect of a class of shares of the capital stock of a corporation exceeds 20%, for the purpose of applying the definition "excess corporate holdings percent-age" in subsection 149.1(1) to

(a) the first taxation year of the private foundation that begins after March 18, 2007, the reference to 20% in that definition in respect of that class is to be read as the original corporate holdings percentage of the private foundation in respect of that class;

(b) taxation years of the private foundation that are after the taxation year referred to in paragraph (a) and that begin before March 19, 2012, the reference to 20% in that definition in respect of that class is to be read as the greater of

(i) 20%, and

(ii) the lesser of

(A) the total corporate holdings percent-age of the private foundation in respect of the class at the end of the immediately preceding taxation year, and

(B) the original corporate holdings percentage in respect of that class;

(c) taxation years of the private foundation that begin after March 18, 2012 and before March 19, 2017, the reference to 20% in that definition in respect of that class is to be read as the greater of

(i) 20%, and

(ii) the lesser of

concurrence de la moins élevée des sommes suivantes :

(i) la partie de la diminution nette du pourcentage de participation excédentaire de la fondation relativement à cette catégorie pour l'année courante qui n'est pas attribuée selon le présent alinéa ou l'alinéa a) au pourcentage de dessaisissement de la fondation relativement à cette catégorie pour une de ses années d'imposition qui est antérieure à l'année subséquente en cause,

(ii) le montant du pourcentage de dessaisissement de la fondation relativement à cette catégorie pour l'année subséquente en cause, calculé à la fin de l'année courante et compte non tenu du présent paragraphe.

Disposition transitoire

(8) Si le pourcentage de participation initiale d'une fondation privée relativement à une catégorie d'actions du capital-actions d'une société excède 20 %, les règles ci-après s'appliquent lorsqu'il s'agit d'appliquer la définition de ***pourcentage de participation excédentaire***, au paragraphe 149.1(1), aux années d'imposition suivantes :

a) la première année d'imposition de la fondation commençant après le 18 mars 2007 : la mention « 20 % » à cette définition relativement à la catégorie en cause vaut mention du pourcentage de participation initiale de la fondation relativement à cette catégorie;

b) les années d'imposition de la fondation postérieures à l'année d'imposition visée à l'alinéa a) et commençant avant le 19 mars 2012 : la mention « 20 % » à cette définition relativement à la catégorie en cause vaut mention du plus élevé des pourcentages suivants :

(i) 20 %,

(ii) le moins élevé des pourcentages suivants :

(A) le pourcentage de participation totale de la fondation relativement à la catégorie à la fin de l'année d'imposition précédente,

(B) le pourcentage de participation initiale de la fondation relativement à la catégorie;

c) les années d'imposition de la fondation commençant après le 18 mars 2012 et avant le 19 mars 2017, la mention « 20 % » à cette définition relativement à la catégorie en cause vaut mention du plus élevé des pourcentages suivants :

(A) the total corporate holdings percentage of the private foundation in respect of the class at the end of the preceding taxation year, and

(B) the number of percentage points, if any, by which the private foundation's original corporate holdings percentage in respect of that class exceeds 20%;

(d) taxation years of the private foundation that begin after March 18, 2017 and before March 19, 2022, the reference to 20% in that definition in respect of that class is to be read as the greater of

(i) 20%, and

(ii) the lesser of

(A) the total corporate holdings percent-age of the private foundation in respect of the class at the end of the preceding taxation year, and

(B) the number of percentage points, if any, by which the private foundation's original corporate holdings percentage in respect of that class exceeds 40%; and

(e) taxation years of the private foundation that begin after March 18, 2022 and before March 19, 2027, the reference to 20% in that definition in respect of that class is to be read as the greater of

(i) 20%, and

(ii) the lesser of

(A) the total corporate holdings percentage of the private foundation in respect of the class at the end of the preceding taxation year, and

(B) the number of percentage points, if any, by which the private foundation's original corporate holdings percentage in respect of that class exceeds 60%.

(i) 20 %,

(ii) le moins élevé des pourcentages suivants :

(A) le pourcentage de participation totale de la fondation relativement à la catégorie à la fin de l'année d'imposition précédente,

(B) l'excédent, exprimé en points de pourcentage, du pourcentage de participation initiale de la fondation relativement à la catégorie sur 20 %;

d) les années d'imposition de la fondation commençant après le 18 mars 2017 et avant le 19 mars 2022, la mention « 20 % » à cette définition relativement à la catégorie en cause vaut mention du plus élevé des pourcentages suivants :

(i) 20 %,

(ii) le moins élevé des pourcentages suivants :

(A) le pourcentage de participation totale de la fondation relativement à la catégorie à la fin de l'année d'imposition précédente,

(B) l'excédent, exprimé en points de pourcentage, du pourcentage de participation initiale de la fondation relativement à la catégorie sur 40 %;

e) les années d'imposition de la fondation commençant après le 18 mars 2022 et avant le 19 mars 2027, la mention « 20 % » à cette définition relativement à la catégorie en cause vaut mention du plus élevé des pourcentages suivants :

(i) 20 %,

(ii) le moins élevé des pourcentages suivants :

(A) le pourcentage de participation totale de la fondation relativement à la catégorie à la fin de l'année d'imposition précédente,

(B) l'excédent, exprimé en points de pourcentage, du pourcentage de participation initiale de la fondation relativement à la catégorie sur 60 %.

Where subsection (10) applies

(9) Subsection (10) applies for the purposes of applying section 149.1 and subsections (8) and 188.1(3.1) to a private foundation at a particular time if, both on March 18, 2007 and at the particular time,

(a) the private foundation was the sole trustee of a trust, or was a majority interest beneficiary (within the meaning assigned by section 251.1) of a trust more

Application du par. (10)

(9) Le paragraphe (10) s'applique aux fins d'application de l'article 149.1 et des paragraphes (8) et 188.1(3.1) à une fondation privée à un moment donné si, le 18 mars 2007 ainsi qu'au moment donné :

a) la fondation était l'unique fiduciaire d'une fiducie, ou était un bénéficiaire détenant une participation majoritaire (au sens de l'article 251.1) d'une fiducie

than 50% of the trustees of which were the private foundation and one or more relevant persons in respect of the private foundation; and

(b) the trust held one or more shares of a class of the capital stock of a corporation.

dont plus de 50 % des fiduciaires étaient composés de la fondation et d'une ou de plusieurs personnes intéressées quant à elle;

b) la fiducie détenait une ou plusieurs actions d'une catégorie du capital-actions d'une société.

Shares held through a trust on March 18, 2007

(10) If this subsection applies at a particular time to a private foundation in respect of shares of a class of the capital stock of a corporation held by a trust, the private foundation is deemed to hold at the particular time that number of those shares as is determined by the formula

A × B/C

where

A is the lesser of the number of those shares held by the trust on March 18, 2007 and the number so held at the particular time;

B is the total fair market value of all interests held by the private foundation in the trust at the particular time; and

C is the total fair market value of all property held by the trust at the particular time.

Actions détenues par l'intermédiaire d'une fiducie le 18 mars 2007

(10) Si le présent paragraphe s'applique à un moment donné à une fondation privée relativement à des actions d'une catégorie du capital-actions d'une société détenues par une fiducie, la fondation est réputée détenir à ce moment le nombre de ces actions obtenu par la formule suivante :

A × B/C

où :

A représente le nombre de ces actions détenues par la fiducie le 18 mars 2007 ou, s'il est moins élevé, le nombre ainsi détenu au moment donné;

B la juste valeur marchande totale des participations de la fondation dans la fiducie au moment donné;

C la juste valeur marchande totale des biens détenus par la fiducie au moment donné.

Discretionary trusts

(11) For the purpose of subsection (10), if the amount of income or capital of a trust that a person may receive as a beneficiary under the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, that person is deemed to have fully exercised, or to have failed to exercise, the power, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 47; 2009, c. 2, s. 56.

Fiducies discrétionnaires

(11) Pour l'application du paragraphe (10), si le montant de revenu ou de capital d'une fiducie qu'une personne peut recevoir à titre de bénéficiaire de la fiducie est fonction de l'exercice ou de l'absence d'exercice, par quiconque, d'un pouvoir discrétionnaire, ce pouvoir est réputé, selon le cas, avoir été pleinement exercé ou ne pas avoir été exercé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 47; 2009, ch. 2, art. 56.

DIVISION I

Returns, Assessments, Payment and Appeals

Returns

Filing returns of income — general rule

150 (1) Subject to subsection (1.1), a return of income that is in prescribed form and that contains prescribed information shall be filed with the Minister, without notice or demand for the return, for each taxation year of a taxpayer,

SECTION I

Déclarations, cotisations, paiement et appels

Déclarations

Déclarations — règle générale

150 (1) Sous réserve du paragraphe (1.1), une déclaration de revenu sur le formulaire prescrit et contenant les renseignements prescrits doit être présentée au ministre, sans avis ni mise en demeure, pour chaque année d'imposition d'un contribuable :

Corporations

(a) in the case of a corporation, by or on behalf of the corporation within six months after the end of the year if

(i) at any time in the year the corporation

(A) is resident in Canada,

(B) carries on business in Canada, unless the corporation's only revenue from carrying on business in Canada in the year consists of amounts in respect of which tax was payable by the corporation under subsection 212(5.1),

(C) has a taxable capital gain (otherwise than from an excluded disposition), or

(D) disposes of a taxable Canadian property (otherwise than in an excluded disposition), or

(ii) tax under this Part

(A) is payable by the corporation for the year, or

(B) would be, but for a tax treaty, payable by the corporation for the year (otherwise than in respect of a disposition of taxable Canadian property that is treaty-protected property of the corporation);

Deceased individuals

(b) in the case of an individual who dies after October of the year and on or before the day that would be the individual's filing due date for the year if the individual had not died, by the individual's legal representatives on or before the day that is the later of the day on or before which the return would otherwise be required to be filed and the day that is 6 months after the day of death;

Trusts or estates

(c) in the case of an estate or trust, within 90 days from the end of the year;

Individuals

(d) in the case of any other person, on or before

(i) the following April 30 by that person or, if the person is unable for any reason to file the return, by the person's guardian, committee or other legal representative (in this paragraph referred to as the person's "guardian"),

(ii) the following June 15 by that person or, if the person is unable for any reason to file the return, by the person's guardian where the person is

Sociétés

a) dans le cas d'une société, par la société, ou en son nom, dans les six mois suivant la fin de l'année si, selon le cas :

(i) au cours de l'année, l'un des faits suivants se vérifie :

(A) la société réside au Canada,

(B) elle exploite une entreprise au Canada, sauf si ses seules recettes provenant de l'exploitation d'une entreprise au Canada au cours de l'année consistent en sommes au titre desquelles un impôt était payable par elle en vertu du paragraphe 212(5.1),

(C) elle a un gain en capital imposable (sauf celui provenant d'une disposition exclue),

(D) elle dispose d'un bien canadien imposable (autrement que par suite d'une disposition exclue),

(ii) l'impôt prévu par la présente partie :

(A) est payable par la société pour l'année,

(B) serait, en l'absence d'un traité fiscal, payable par la société pour l'année (autrement que relativement à la disposition d'un bien canadien imposable qui est un bien protégé par traité de la société);

Personnes décédées

b) dans le cas d'une personne décédée après le 31 octobre de l'année et avant le lendemain du jour qui aurait représenté la date d'échéance de production qui lui est applicable pour l'année si elle n'était décédée, par ses représentants légaux au plus tard au dernier en date du jour où la déclaration serait à produire par ailleurs et du jour qui tombe six mois après le jour du décès;

Successions ou fiducies

c) dans le cas d'une succession ou d'une fiducie, dans les 90 jours suivant la fin de l'année;

Particuliers

d) dans le cas d'une autre personne :

(i) au plus tard le 30 avril de l'année suivante, par cette personne ou, si celle-ci ne peut, pour quelque raison, produire la déclaration, par son tuteur, curateur ou autre représentant légal,

(A) an individual who carried on a business in the year, unless the expenditures made in the course of carrying on the business were primarily the cost or capital cost of tax shelter investments (as defined in subsection 143.2(1)), or

(B) at any time in the year a cohabiting spouse or common-law partner (within the meaning assigned by section 122.6) of an individual to whom clause 150(1)(d)(ii)(A) applies, or

(iii) where at any time in the year the person is a cohabiting spouse or common-law partner (within the meaning assigned by section 122.6) of an individual to whom paragraph 150(1)(b) applies for the year, on or before the day that is the later of the day on or before which the person's return would otherwise be required to be filed and the day that is 6 months after the day of the individual's death; or

Designated persons

(e) in a case where no person described by paragraph 150(1)(a), 150(1)(b) or 150(1)(d) has filed the return, by such person as is required by notice in writing from the Minister to file the return, within such reasonable time as the notice specifies.

Exception

(1.1) Subsection (1) does not apply to a taxation year of a taxpayer if

(a) the taxpayer is a corporation that was a registered charity throughout the year; or

(b) the taxpayer is an individual unless

(i) tax is payable under this Part by the individual for the year,

(ii) where the individual is resident in Canada at any time in the year, the individual has a taxable capital gain or disposes of capital property in the year,

(iii) where the individual is non-resident throughout the year, the individual has a taxable capital gain (otherwise than from an excluded disposition) or disposes of a taxable Canadian property (otherwise than in an excluded disposition) in the year, or

(ii) au plus tard le 15 juin de l'année suivante, par cette personne ou, si celle-ci ne peut, pour quelque raison, produire la déclaration, par son tuteur, curateur ou autre représentant légal, dans le cas où elle est :

(A) un particulier qui a exploité une entreprise au cours de l'année, sauf si les dépenses effectuées dans le cadre de l'exploitation de l'entreprise représentent principalement le coût ou le coût en capital d'abris fiscaux déterminés, au sens du paragraphe 143.2(1),

(B) au cours de l'année, l'époux ou conjoint de fait visé, au sens de l'article 122.6, d'un particulier auquel s'applique la division (A);

(iii) si, au cours de l'année, la personne est l'époux ou conjoint de fait visé, au sens de l'article 122.6, d'un particulier auquel l'alinéa b) s'applique pour l'année, au plus tard le dernier en date du jour où elle serait tenue par ailleurs de produire sa déclaration et du jour qui tombe six mois après le décès du particulier;

Personnes désignées

e) dans le cas où aucune personne visée à l'alinéa a), b) ou d) n'a produit la déclaration, par la personne qui est tenue, par avis écrit du ministre, de produire la déclaration dans le délai raisonnable que précise l'avis.

Exception

(1.1) Le paragraphe (1) ne s'applique pas à l'année d'imposition d'un contribuable dans les cas suivants :

a) le contribuable est une société qui a été un organisme de bienfaisance enregistré tout au long de l'année;

b) le contribuable est un particulier, sauf si, selon le cas :

(i) un impôt est payable par lui pour l'année en vertu de la présente partie,

(ii) dans le cas où il réside au Canada au cours de l'année, il a un gain en capital imposable ou dispose d'une immobilisation au cours de l'année,

(iii) dans le cas où il est un non-résident tout au long de l'année, il a un gain en capital imposable (sauf celui provenant d'une disposition exclue) ou dispose d'un bien canadien imposable (autrement que par suite d'une disposition exclue) au cours de l'année,

(iv) at the end of the year the individual's HBP balance or LLP balance (as defined in subsection 146.01(1) or 146.02(1)) is a positive amount.

(iv) à la fin de l'année, son solde RAP ou solde REP, au sens des paragraphes 146.01(1) et 146.02(1) respectivement, est positif.

Demands for returns

(2) Every person, whether or not the person is liable to pay tax under this Part for a taxation year and whether or not a return has been filed under subsection (1) or (3), shall, on demand sent by the Minister, file, within such reasonable time stipulated in the demand, with the Minister in prescribed form and containing prescribed information a return of the income for the taxation year designated in the demand.

Mise en demeure de produire une déclaration

(2) Toute personne, qu'elle soit ou non assujettie à l'impôt prévu par la présente partie pour une année d'imposition et qu'une déclaration ait été produite ou non en vertu du paragraphe (1) ou (3), doit, sur mise en demeure du ministre, produire auprès du ministre, dans le délai raisonnable fixé par la mise en demeure, une déclaration de revenu sur le formulaire prescrit contenant les renseignements prescrits pour l'année d'imposition précisée dans la mise en demeure.

Trustees, etc.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business, estate or income of a person who has not filed a return for a taxation year as required by this section shall file a return in prescribed form of that person's income for that year.

Fiduciaires, etc.

(3) Tous syndics de faillite, cessionnaires, liquidateurs, curateurs, séquestres ou syndics et tous agents ou autres personnes qui administrent, gèrent, liquident ou contrôlent les biens, les affaires, la succession ou le revenu d'une personne ou s'occupent autrement des biens, des affaires, de la succession ou du revenu d'une personne qui n'a pas produit de déclaration pour une année d'imposition, en vertu du présent article, doivent produire une déclaration, selon le formulaire prescrit, du revenu de cette personne pour l'année.

Death of partner or proprietor

(4) Where

(a) subsection 34.1(9) or 34.2(8) applies in computing an individual's income for a taxation year from a business, or

(b) an individual who carries on a business in a taxation year dies in the year and after the end of a fiscal period of the business that ends in the year, another fiscal period of the business (in this subsection referred to as the "short period") ends in the year because of the individual's death, and the individual's legal representative elects that this subsection apply,

the individual's income from businesses for short periods, if any, shall not be included in computing the individual's income for the year and the individual's legal representative shall file an additional return of income for the year in respect of the individual as if the return were filed in respect of another person and shall pay the tax payable under this Part by that other person for the year computed as if

(c) the other person's only income for the year were the amount determined by the formula

A + B - C

where

Décès d'un associé ou d'un propriétaire d'entreprise

(4) Dans le cas où l'un des faits suivants se vérifie :

a) les paragraphes 34.1(9) ou 34.2(8) s'appliquent au calcul du revenu d'un particulier pour une année d'imposition tiré d'une entreprise,

b) un particulier qui exploite une entreprise au cours d'une année d'imposition décède dans cette année, après la fin d'un exercice de l'entreprise se terminant dans l'année, un autre exercice de l'entreprise (appelé « exercice abrégé » au présent paragraphe) prend fin dans l'année en raison du décès du particulier et le représentant légal de celui-ci choisit d'appliquer le présent paragraphe,

le revenu du particulier tiré d'entreprises pour des exercices abrégés, le cas échéant, n'est pas inclus dans le calcul de son revenu pour l'année, et son représentant légal doit produire à son l'égard une déclaration de revenu supplémentaire pour l'année comme si la déclaration était produite à l'égard d'une autre personne et doit payer l'impôt dont cette autre personne est redevable pour l'année en vertu de la présente partie, calculé comme si, à la fois :

A is the total of all amounts each of which is the individual's income from a business for a short fiscal period,

B is the total of all amounts each of which is an amount deducted under subsection 34.2(8) in computing the individual's income for the taxation year in which the individual dies, and

C is the total of all amounts each of which is an amount included under subsection 34.1(9) in computing the individual's income for the taxation year in which the individual dies, and

(d) subject to sections 114.2 and 118.93, that other person were entitled to the deductions to which the individual is entitled under sections 110, 118 to 118.7 and 118.9 for the year in computing the individual's taxable income or tax payable under this Part, as the case may be, for the year.

c) le seul revenu de l'autre personne pour l'année était le montant déterminé selon la formule suivante :

A + B - C

où :

A représente le total des montants représentant chacun le revenu du particulier tiré d'une entreprise pour un exercice abrégé,

B le total des montants représentant chacun un montant déduit en application du paragraphe 34.2(8) dans le calcul du revenu du particulier pour l'année d'imposition de son décès,

C le total des montants représentant chacun un montant inclus en application du paragraphe 34.1(9) dans le calcul du revenu du particulier pour l'année d'imposition de son décès,

d) sous réserve des articles 114.2 et 118.93, l'autre personne avait droit aux déductions auxquelles le particulier a droit aux termes des articles 110, 118 à 118.7 et 118.9 pour l'année dans le calcul, selon le cas, de son revenu imposable pour l'année ou de son impôt payable pour l'année en vertu de la présente partie.

Excluded disposition

(5) For the purposes of this section, a disposition of a property by a taxpayer at any time in a taxation year is an excluded disposition if

(a) the taxpayer is non-resident at that time;

(b) no tax is payable under this Part by the taxpayer for the taxation year;

(c) the taxpayer is, at that time, not liable to pay any amount under this Act in respect of any previous taxation year (other than an amount for which the Minister has accepted, and holds, adequate security under section 116 or 220); and

(d) each taxable Canadian property disposed of by the taxpayer in the taxation year is

(i) excluded property within the meaning assigned by subsection 116(6), or

(ii) a property in respect of the disposition of which the Minister has issued to the taxpayer a certificate under subsection 116(2), (4) or (5.2).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 150; 1994, c. 7, Sch. II, s. 124, Sch. VII, s. 14; 1996, c. 21, s. 38; 1998, c. 19, s. 180; 1999, c. 22, s. 63; 2000, c. 12, s. 142; 2001, c. 17, s. 147; 2008, c. 28, s. 28; 2012, c. 19, s. 8.

Disposition exclue

(5) Pour l'application du présent article, la disposition d'un bien effectuée par un contribuable au cours d'une année d'imposition est une disposition exclue si les conditions suivantes sont réunies :

a) le contribuable est un non-résident au moment de la disposition;

b) aucun impôt n'est payable par le contribuable pour l'année en vertu de la présente partie;

c) au moment de la disposition, le contribuable n'est pas tenu de payer une somme en vertu de la présente loi pour une année d'imposition antérieure (sauf s'il s'agit d'une somme pour laquelle le ministre a accepté et détient une garantie suffisante en vertu des articles 116 ou 220);

d) chaque bien canadien imposable dont le contribuable a disposé au cours de l'année est, selon le cas :

(i) un bien exclu, au sens du paragraphe 116(6),

(ii) un bien relativement à la disposition duquel le ministre a délivré un certificat au contribuable en vertu des paragraphes 116(2), (4) ou (5.2).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 150; 1994, ch. 7, ann. II, art. 124, ann. VII, art. 14; 1996, ch. 21, art. 38; 1998, ch. 19, art. 180; 1999, ch. 22, art. 63; 2000, ch. 12, art. 142; 2001, ch. 17, art. 147; 2008, ch. 28, art. 28; 2012, ch. 19, art. 8.

Definition of *electronic filing*

150.1 (1) For the purposes of this section, ***electronic filing*** means using electronic media in a manner specified in writing by the Minister.

Filing of return by electronic transmission

(2) A person who meets the criteria specified in writing by the Minister may file a return of income for a taxation year by way of electronic filing.

Mandatory filing of return by electronic transmission

(2.1) If a corporation is, in respect of a taxation year, a prescribed corporation, the corporation shall file its return of income for the taxation year by way of electronic filing.

Definition of *tax preparer*

(2.2) In this section and subsection 162(7.3), ***tax preparer***, for a calendar year, means a person or partnership who, in the year, accepts consideration to prepare more than 10 returns of income of corporations or more than 10 returns of income of individuals (other than trusts), but does not include an employee who prepares returns of income in the course of performing their duties of employment.

Electronic filing — tax preparer

(2.3) A tax preparer shall file any return of income prepared by the tax preparer for consideration by way of electronic filing, except that 10 of the returns of corporations and 10 of the returns of individuals may be filed other than by way of electronic filing.

Exceptions

(2.4) Subsection (2.3) does not apply to a tax preparer for a calendar year in respect of a return of income

(a) of a type for which the tax preparer has applied to the Minister for authority to file by way of electronic filing for the year and for which that authority has not been granted because the tax preparer does not meet the criteria referred to in subsection (2);

(b) of a corporation described in any of paragraphs 205.1(2)(a) to (c) of the *Income Tax Regulations*; or

(c) of a type that the Minister does not accept by way of electronic filing.

Transmission électronique

150.1 (1) Pour l'application du présent article, la transmission de documents par voie électronique se fait selon des modalités que le ministre établit par écrit.

Transmission électronique d'une déclaration

(2) La personne qui remplit les critères que le ministre établit par écrit peut transmettre par voie électronique une déclaration de revenu pour une année d'imposition.

Transmission électronique obligatoire

(2.1) La société qui est une société visée par règlement pour une année d'imposition est tenue de transmettre sa déclaration de revenu pour l'année par voie électronique.

Définition de *spécialiste en déclarations*

(2.2) Au présent article et au paragraphe 162(7.3), ***spécialiste en déclarations*** pour une année civile s'entend de la personne ou de la société de personnes qui, au cours de l'année, établit, moyennant contrepartie, plus de dix déclarations de revenu de sociétés ou plus de dix déclarations de revenu de particuliers (sauf des fiducies). En sont exclus les employés qui établissent des déclarations de revenu dans le cadre de l'exécution des fonctions de leur emploi.

Transmission électronique — spécialiste en déclarations

(2.3) Le spécialiste en déclarations est tenu de transmettre par voie électronique les déclarations de revenu qu'il a établies moyennant contrepartie. Dix des déclarations de revenu de sociétés et dix des déclarations de revenu de particuliers peuvent toutefois être produites autrement que par voie électronique.

Exceptions

(2.4) Le paragraphe (2.3) ne s'applique pas, pour une année civile, au spécialiste en déclarations quant aux déclarations de revenu suivantes :

a) les déclarations d'un type pour lequel le spécialiste a présenté au ministre une demande d'autorisation de transmission par voie électronique pour l'année, laquelle autorisation n'a pas été accordée du fait que le spécialiste ne remplit pas les critères mentionnés au paragraphe (2);

b) les déclarations de sociétés visées à l'un des alinéas 205.1(2)a) à c) du *Règlement de l'impôt sur le revenu*;

c) les déclarations d'un type dont le ministre n'accepte pas la transmission par voie électronique.

Deemed date of filing

(3) For the purposes of section 150, where a return of income of a taxpayer for a taxation year is filed by way of electronic filing, it shall be deemed to be a return of income filed with the Minister in prescribed form on the day the Minister acknowledges acceptance of it.

Declaration

(4) Where a return of income of a taxpayer for a taxation year is filed by way of electronic filing by a particular person (in this subsection referred to as the "filer") other than the person who is required to file the return, the person who is required to file the return shall make an information return in prescribed form containing prescribed information, sign it, retain a copy of it and provide the filer with the information return, and that return and the copy shall be deemed to be a record referred to in section 230 in respect of the filer and the other person.

Application to other Parts

(5) This section also applies to Parts I.2 to XIII, with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VIII, s. 89, c. 21, s. 75; 2001, c. 17, s. 148; 2009, c. 2, s. 57; 2012, c. 19, s. 9.

Estimate of Tax

Estimate of tax

151 Every person required by section 150 to file a return of income shall in the return estimate the amount of tax payable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"151".

Assessment

Assessment

152 (1) The Minister shall, with all due dispatch, examine a taxpayer's return of income for a taxation year, assess the tax for the year, the interest and penalties, if any, payable and determine

(a) the amount of refund, if any, to which the taxpayer may be entitled by virtue of section 129, 131, 132 or 133 for the year; or

(b) the amount of tax, if any, deemed by subsection 120(2) or (2.2), 122.5(3), 122.51(2), 122.7(2) or (3), 122.9(2), 125.4(3), 125.5(3), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year.

Date présumée de transmission

(3) Pour l'application de l'article 150, la déclaration de revenu d'un contribuable pour une année d'imposition qui est transmise par voie électronique est réputée produite auprès du ministre sur formulaire prescrit le jour où celui-ci en accuse réception.

Attestation

(4) Lorsque la déclaration de revenu d'un contribuable pour une année d'imposition est transmise par voie électronique par un déclarant autre que la personne qui est tenue de la produire, cette dernière est tenue d'établir une déclaration de renseignements sur formulaire prescrit contenant les renseignements prescrits, de la signer, d'en conserver une copie et de remettre la déclaration au déclarant. La déclaration et la copie sont réputées être un registre visé à l'article 230 du déclarant et de cette personne.

Champ d'application

(5) Le présent article s'applique également aux parties I.2 à XIII, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VIII, art. 89, ch. 21, art. 75; 2001, ch. 17, art. 148; 2009, ch. 2, art. 57; 2012, ch. 19, art. 9.

Estimation de l'impôt

Estimation de l'impôt

151 Quiconque est tenu de produire une déclaration de revenu en vertu de l'article 150 doit, dans la déclaration, estimer le montant de l'impôt payable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 151 ».

Cotisation

Cotisation

152 (1) Le ministre, avec diligence, examine la déclaration de revenu d'un contribuable pour une année d'imposition, fixe l'impôt pour l'année, ainsi que les intérêts et les pénalités éventuels payables et détermine :

a) le montant du remboursement éventuel auquel il a droit en vertu des articles 129, 131, 132 ou 133, pour l'année;

b) le montant d'impôt qui est réputé, par les paragraphes 120(2) ou (2.2), 122.5(3), 122.51(2), 122.7(2) ou (3), 122.9(2), 125.4(3), 125.5(3), 127.1(1), 127.41(3) ou 210.2(3) ou (4), avoir été payé au titre de l'impôt payable par le contribuable en vertu de la présente partie pour l'année.

Determination of disability tax credit eligibility

(1.01) The Minister shall, if an individual requests by prescribed form, determine with all due dispatch whether an amount is deductible, or would if this Act were read without reference to paragraph 118.3(1)(c) be deductible, under section 118.3 in computing the individual's tax payable under this Part for a taxation year and send a notice of the determination to the individual.

Détermination de l'admissibilité au crédit d'impôt pour personnes handicapées

(1.01) À la demande d'un particulier faite sur le formulaire prescrit, le ministre, avec diligence, détermine si une somme est déductible en application de l'article 118.3, ou le serait en l'absence de l'alinéa 118.3(1)c), dans le calcul de l'impôt à payer par le particulier en vertu de la présente partie pour une année d'imposition et envoie un avis de la détermination au particulier.

Determination of losses

(1.1) Where the Minister ascertains the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year and the taxpayer has not reported that amount as such a loss in the taxpayer's return of income for that year, the Minister shall, at the request of the taxpayer, determine, with all due dispatch, the amount of the loss and shall send a notice of determination to the person by whom the return was filed.

Détermination des pertes par le ministre

(1.1) Lorsque le ministre établit le montant de la perte autre qu'une perte en capital, de la perte en capital nette, de la perte agricole restreinte, de la perte agricole ou de la perte comme commanditaire subie par un contribuable pour une année d'imposition et que le contribuable n'a pas déclaré ce montant comme perte dans sa déclaration de revenu pour cette année, le ministre doit, à la demande du contribuable et avec diligence, déterminer le montant de cette perte et envoyer un avis de détermination à la personne qui a produit la déclaration.

Determination pursuant to s. 245(2)

(1.11) Where at any time the Minister ascertains the tax consequences to a taxpayer by reason of subsection 245(2) with respect to a transaction, the Minister

(a) shall, in the case of a determination pursuant to subsection 245(8), or

(b) may, in any other case,

determine any amount that is relevant for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer under this Act and, where such a determination is made, the Minister shall send to the taxpayer, with all due dispatch, a notice of determination stating the amount so determined.

Détermination selon le par. 245(2)

(1.11) Lorsque, par application du paragraphe 245(2), le ministre établit, à un moment, les attributs fiscaux d'un contribuable en ce qui concerne une opération, il doit, en cas de montant à déterminer conformément au paragraphe 245(8), ou peut, dans les autres cas, déterminer tout montant à prendre en compte pour calculer, en application de la présente loi, le revenu, le revenu imposable ou le revenu imposable gagné au Canada de ce contribuable ou l'impôt ou un autre montant payable par ce contribuable ou un montant qui lui est remboursable. Une fois le montant déterminé, le ministre doit dès que possible envoyer au contribuable un avis lui indiquant ce montant.

Application of s. 245(1)

(1.111) The definitions in subsection 245(1) apply to subsection 152(1.11).

Application du par. 245(1)

(1.111) Les définitions figurant au paragraphe 245(1) s'appliquent au paragraphe (1.11).

When determination not to be made

(1.12) A determination of an amount shall not be made with respect to a taxpayer under subsection 152(1.11) at a time where that amount is relevant only for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer under this Act for a taxation year ending before that time.

Cas où la détermination ne peut se faire

(1.12) Le ministre ne peut déterminer un montant en application du paragraphe (1.11) en ce qui concerne un contribuable à un moment où ce montant n'est pris en compte que pour calculer, en application de la présente loi, le revenu, le revenu imposable ou le revenu imposable gagné au Canada du contribuable ou l'impôt ou un autre montant payable par le contribuable ou un montant qui lui est remboursable, pour une année d'imposition se terminant avant ce moment.

Provisions applicable

(1.2) Paragraphs 56(1)(l) and 60(o), this Division and Division J, as they relate to an assessment or a reassessment and to assessing or reassessing tax, apply, with any modifications that the circumstances require, to a determination or redetermination under subsection (1.01) and to a determination or redetermination of an amount under this Division or an amount deemed under section 122.61 to be an overpayment on account of a taxpayer's liability under this Part, except that

(a) subsections (1) and (2) do not apply to determinations made under subsections (1.01), (1.1) and (1.11);

(b) an original determination of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the taxpayer;

(c) subsection 164(4.1) does not apply to a determination made under subsection 152(1.4); and

(d) if the Minister determines the amount deemed by subsection 122.5(3) to have been paid by an individual for a taxation year to be nil, subsection (2) does not apply to the determination unless the individual requests a notice of determination from the Minister.

Dispositions applicables

(1.2) Les alinéas 56(1)l) et 60o), la présente section et la section J, dans la mesure où ces dispositions portent sur une cotisation ou une nouvelle cotisation ou sur l'établissement d'une cotisation ou d'une nouvelle cotisation concernant l'impôt, s'appliquent, avec les adaptations nécessaires, à toute détermination ou nouvelle détermination effectuée selon le paragraphe (1.01) et aux montants déterminés ou déterminés de nouveau en application de la présente section ou aux montants qui sont réputés par l'article 122.61 être des paiements en trop au titre des sommes dont un contribuable est redevable en vertu de la présente partie. Toutefois :

a) les paragraphes (1) et (2) ne s'appliquent pas aux déterminations ou aux montants déterminés en application des paragraphes (1.01), (1.1) et (1.11);

b) le montant d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire subie par un contribuable pour une année d'imposition ne peut être initialement déterminé par le ministre qu'à la demande du contribuable;

c) le paragraphe 164(4.1) ne s'applique pas aux montants déterminés en application du paragraphe (1.4);

d) si le ministre établit que le montant qui est réputé, en vertu du paragraphe 122.5(3), avoir été payé par un particulier pour une année d'imposition est nul, le paragraphe (2) ne s'applique pas à la décision, à moins que le particulier ne demande un avis de décision au ministre.

Determination binding

(1.3) For greater certainty, where the Minister makes a determination of the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year or makes a determination under subsection 152(1.11) with respect to a taxpayer, the determination is (subject to the taxpayer's rights of objection and appeal in respect of the determination and to any redetermination by the Minister) binding on both the Minister and the taxpayer for the purpose of calculating the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to, the taxpayer, as the case may be, for any taxation year.

Ministre et contribuable liés

(1.3) Il est entendu que lorsque le ministre détermine le montant d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire subie par un contribuable pour une année d'imposition ou détermine un montant en application du paragraphe (1.11) en ce qui concerne un contribuable, le montant ainsi déterminé lie à la fois le ministre et le contribuable en vue du calcul, pour toute année d'imposition, du revenu, du revenu imposable ou du revenu imposable gagné au Canada du contribuable ou de l'impôt ou d'un autre montant payable par le contribuable ou d'un montant qui lui est remboursable, sous réserve des droits d'opposition et d'appel du contribuable à l'égard du montant déterminé et sous réserve de tout montant déterminé de nouveau par le ministre.

Determination in respect of a partnership

(1.4) The Minister may, within 3 years after the day that is the later of

(a) the day on or before which a member of a partnership is, or but for subsection 220(2.1) would be, required under section 229 of the *Income Tax Regulations* to make an information return for a fiscal period of the partnership, and

(b) the day the return is filed,

determine any income or loss of the partnership for the fiscal period and any deduction or other amount, or any other matter, in respect of the partnership for the fiscal period that is relevant in determining the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, any member of the partnership for any taxation year under this Part.

Notice of determination

(1.5) Where a determination is made under subsection 152(1.4) in respect of a partnership for a fiscal period, the Minister shall send a notice of the determination to the partnership and to each person who was a member of the partnership during the fiscal period.

Absence of notification

(1.6) No determination made under subsection 152(1.4) in respect of a partnership for a fiscal period is invalid solely because one or more persons who were members of the partnership during the period did not receive a notice of the determination.

Binding effect of determination

(1.7) Where the Minister makes a determination under subsection 152(1.4) or a redetermination in respect of a partnership,

(a) subject to the rights of objection and appeal of the member of the partnership referred to in subsection 165(1.15) in respect of the determination or redetermination, the determination or redetermination is binding on the Minister and each member of the partnership for the purposes of calculating the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, the members for any taxation year under this Part; and

Montant déterminé relativement à une société de personnes

(1.4) Le ministre peut déterminer le revenu ou la perte d'une société de personnes pour un exercice de celle-ci ainsi que toute déduction ou tout autre montant, ou toute autre question, se rapportant à elle pour l'exercice qui est à prendre en compte dans le calcul, pour une année d'imposition, du revenu, du revenu imposable ou du revenu imposable gagné au Canada d'un de ses associés, de l'impôt ou d'un autre montant payable par celui-ci, d'un montant qui lui est remboursable ou d'un montant réputé avoir été payé, ou payé en trop, par lui, en vertu de la présente partie. Cette détermination se fait dans les trois ans suivant le dernier en date des jours suivants :

a) le jour où, au plus tard, un associé de la société de personnes est tenu par l'article 229 du *Règlement de l'impôt sur le revenu* de remplir une déclaration de renseignements pour l'exercice, ou serait ainsi tenu si ce n'était le paragraphe 220(2.1);

b) le jour où la déclaration est produite.

Avis de détermination

(1.5) Le ministre envoie un avis de la détermination effectuée en application du paragraphe (1.4) à la société de personnes concernée et à chaque personne qui en était un associé au cours de l'exercice.

Absence d'avis

(1.6) La détermination effectuée en application du paragraphe (1.4) pour un exercice n'est pas invalidée du seul fait qu'une ou plusieurs personnes qui étaient des associés de la société de personnes concernée au cours de l'exercice n'ont pas reçu d'avis de détermination.

Ministre et associés liés

(1.7) Les règles suivantes s'appliquent lorsque le ministre détermine un montant en application du paragraphe (1.4) ou détermine un montant de nouveau relativement à une société de personnes :

a) sous réserve des droits d'opposition et d'appel de l'associé de la société de personnes visé au paragraphe 165(1.15) relativement au montant déterminé ou déterminé de nouveau, la détermination ou nouvelle détermination lie le ministre ainsi que les associés de la société de personnes pour ce qui est du calcul, pour une année d'imposition, du revenu, du revenu imposable ou du revenu imposable gagné au Canada des associés, de l'impôt ou d'un autre montant payable par ceux-ci, d'un montant qui leur est remboursable ou d'un montant réputé avoir été payé, ou payé en trop, par eux, en vertu de la présente partie;

(b) notwithstanding subsections 152(4), 152(4.01), 152(4.1) and 152(5), the Minister may, before the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the determination or redetermination, assess the tax, interest, penalties or other amounts payable and determine an amount deemed to have been paid or to have been an overpayment under this Part in respect of any member of the partnership and any other taxpayer for any taxation year as may be necessary to give effect to the determination or redetermination or a decision of the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada.

b) malgré les paragraphes (4), (4.01), (4.1) et (5), le ministre peut, avant la fin du jour qui tombe un an après l'extinction ou la détermination des droits d'opposition et d'appel relativement au montant déterminé ou déterminé de nouveau, établir les cotisations voulues concernant l'impôt, les intérêts, les pénalités ou d'autres montants payables et déterminer les montants réputés avoir été payés, ou payés en trop, en vertu de la présente partie relativement à un associé de la société de personnes et à tout autre contribuable pour une année d'imposition pour tenir compte du montant déterminé ou déterminé de nouveau ou d'une décision de la Cour canadienne de l'impôt, de la Cour d'appel fédérale ou de la Cour suprême du Canada.

Time to assess

(1.8) Where, as a result of representations made to the Minister that a person was a member of a partnership in respect of a fiscal period, a determination is made under subsection 152(1.4) for the period and the Minister, the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada concludes at a subsequent time that the partnership did not exist for the period or that, throughout the period, the person was not a member of the partnership, the Minister may, notwithstanding subsections 152(4), 152(4.1) and 152(5), within one year after that subsequent time, assess the tax, interest, penalties or other amounts payable, or determine an amount deemed to have been paid or to have been an overpayment under this Part, by any taxpayer for any taxation year, but only to the extent that the assessment or determination can reasonably be regarded

(a) as relating to any matter that was relevant in the making of the determination made under subsection 152(1.4);

(b) as resulting from the conclusion that the partnership did not exist for the period; or

(c) as resulting from the conclusion that the person was, throughout the period, not a member of the partnership.

Restriction

(1.8) Lorsqu'un montant est déterminé en application du paragraphe (1.4) pour un exercice par suite d'observations faites au ministre selon lesquelles une personne était un associé d'une société de personnes pour l'exercice et que le ministre, la Cour canadienne de l'impôt, la Cour d'appel fédérale ou la Cour suprême du Canada conclut, à un moment ultérieur, que la société de personnes n'a pas existé pour l'exercice ou que la personne n'en a pas été un associé tout au long de l'exercice, le ministre peut, dans l'année suivant le moment ultérieur et malgré les paragraphes (4), (4.1) et (5), établir pour une année d'imposition une cotisation concernant l'impôt, les intérêts, les pénalités ou d'autres montants payables par une contribuable, ou déterminer pour une année d'imposition un montant qui est réputé avoir été payé ou payé en trop par lui, en vertu de la présente partie seulement dans la mesure où il est raisonnable de considérer que la cotisation ou la détermination, selon le cas :

a) se rapporte à une question qui a été prise en compte lors de la détermination du montant en application du paragraphe (1.4);

b) découle de la conclusion selon laquelle la société de personnes n'existait pas au cours de l'exercice;

c) découle de la conclusion selon laquelle la personne n'a pas été un associé de la société de personnes tout au long de l'exercice.

Waiver of determination limitation period

(1.9) A waiver in respect of the period during which the Minister may make a determination under subsection (1.4) in respect of a partnership for a fiscal period may be made by one member of the partnership if that member is

Renonciation visant la période de détermination

(1.9) Un associé donné d'une société de personnes peut présenter une renonciation visant la période pendant laquelle le ministre peut faire la détermination prévue au paragraphe (1.4) relativement à la société de personnes pour un exercice. Pour ce faire, il doit :

(a) designated for that purpose in the information return made under section 229 of the *Income Tax Regulations* for the fiscal period; or

(b) otherwise expressly authorized by the partnership to so act.

a) soit être désigné à cette fin dans la déclaration de renseignements remplie en application de l'article 229 du *Règlement de l'impôt sur le revenu* pour l'exercice;

b) soit y être expressément autorisé par la société de personnes.

Notice of assessment

(2) After examination of a return, the Minister shall send a notice of assessment to the person by whom the return was filed.

Avis de cotisation

(2) Après examen d'une déclaration, le ministre envoie un avis de cotisation à la personne qui a produit la déclaration.

Liability not dependent on assessment

(3) Liability for the tax under this Part is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Responsabilité indépendante de l'avis

(3) Le fait qu'une cotisation est inexacte ou incomplète ou qu'aucune cotisation n'a été faite n'a pas d'effet sur les responsabilités du contribuable à l'égard de l'impôt prévu par la présente partie.

Definition of *normal reassessment period*

(3.1) For the purposes of subsections (4), (4.01), (4.2), (4.3), (5) and (9), the normal reassessment period for a taxpayer in respect of a taxation year is

(a) if at the end of the year the taxpayer is a mutual fund trust or a corporation other than a Canadian-controlled private corporation, the period that ends four years after the earlier of the day of sending of a notice of an original assessment under this Part in respect of the taxpayer for the year and the day of sending of an original notification that no tax is payable by the taxpayer for the year; and

(b) in any other case, the period that ends three years after the earlier of the day of sending of a notice of an original assessment under this Part in respect of the taxpayer for the year and the day of sending of an original notification that no tax is payable by the taxpayer for the year.

Période normale de nouvelle cotisation

(3.1) Pour l'application des paragraphes (4), (4.01), (4.2), (4.3), (5) et (9), la période normale de nouvelle cotisation applicable à un contribuable pour une année d'imposition s'étend sur les périodes suivantes :

a) quatre ans suivant soit la date d'envoi d'un avis de première cotisation en vertu de la présente partie le concernant pour l'année, soit, si elle est antérieure, la date d'envoi d'une première notification portant qu'aucun impôt n'est payable par lui pour l'année, si, à la fin de l'année, le contribuable est une fiducie de fonds commun de placement ou une société autre qu'une société privée sous contrôle canadien;

b) trois ans suivant celle de ces dates qui est antérieure à l'autre, dans les autres cas.

Determination of deemed overpayment

(3.2) A taxpayer may, during any month, request in writing that the Minister determine the amount deemed by subsection 122.61(1) to be an overpayment on account of the taxpayer's liability under this Part for a taxation year that arose during the month or any of the 11 preceding months.

Détermination du paiement en trop réputé

(3.2) Un contribuable peut, au cours d'un mois, demander au ministre, par écrit, de déterminer le montant réputé par le paragraphe 122.61(1) être un paiement en trop, qui se produit au cours de ce mois ou de l'un ou plusieurs des onze mois précédents, au titre des sommes dont il est redevable en vertu de la présente partie pour une année d'imposition.

Notice of determination

(3.3) On receipt of the request referred to in subsection 152(3.2), the Minister shall, with all due dispatch, determine the amounts deemed by subsection 122.61(1) to be overpayments on account of the taxpayer's liability under this Part that arose during the months in respect of

Avis de détermination

(3.3) Sur réception de la demande visée au paragraphe (3.2), le ministre, avec diligence, détermine les montants réputés par le paragraphe 122.61(1) être des paiements en trop, qui se produisent au cours des mois indiqués dans la demande, au titre des sommes dont le

which the request was made or determine that there is no such amount, and shall send a notice of the determination to the taxpayer.

(3.4) and (3.5) [Repealed, 2013, c. 34, s. 309]

Assessment and reassessment

(4) The Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year, interest or penalties, if any, payable under this Part by a taxpayer or notify in writing any person by whom a return of income for a taxation year has been filed that no tax is payable for the year, except that an assessment, reassessment or additional assessment may be made after the taxpayer's normal reassessment period in respect of the year only if

(a) the taxpayer or person filing the return

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act, or

(ii) has filed with the Minister a waiver in prescribed form within the normal reassessment period for the taxpayer in respect of the year;

(b) the assessment, reassessment or additional assessment is made before the day that is 3 years after the end of the normal reassessment period for the taxpayer in respect of the year and

(i) is required under subsection (6) or (6.1), or would be so required if the taxpayer had claimed an amount by filing the prescribed form referred to in the subsection on or before the day referred to in the subsection,

(ii) is made as a consequence of the assessment or reassessment pursuant to this paragraph or subsection 152(6) of tax payable by another taxpayer,

(iii) is made as a consequence of a transaction involving the taxpayer and a non-resident person with whom the taxpayer was not dealing at arm's length,

(iii.1) is made, if the taxpayer is non-resident and carries on a business in Canada, as a consequence of

(A) an allocation by the taxpayer of revenues or expenses as amounts in respect of the Canadian business (other than revenues and expenses that relate solely to the Canadian business, that are recorded in the books of account of the Canadian

contribuable est redevable en vertu de la présente partie, ou détermine qu'aucun semblable montant n'existe. Il avise alors le contribuable, par écrit, de sa détermination.

(3.4) et (3.5) [Abrogés, 2013, ch. 34, art. 309]

Cotisation et nouvelle cotisation

(4) Le ministre peut établir une cotisation, une nouvelle cotisation ou une cotisation supplémentaire concernant l'impôt pour une année d'imposition, ainsi que les intérêts ou les pénalités, qui sont payables par un contribuable en vertu de la présente partie ou donner avis par écrit qu'aucun impôt n'est payable pour l'année à toute personne qui a produit une déclaration de revenu pour une année d'imposition. Pareille cotisation ne peut être établie après l'expiration de la période normale de nouvelle cotisation applicable au contribuable pour l'année que dans les cas suivants :

a) le contribuable ou la personne produisant la déclaration :

(i) soit a fait une présentation erronée des faits, par négligence, inattention ou omission volontaire, ou a commis quelque fraude en produisant la déclaration ou en fournissant quelque renseignement sous le régime de la présente loi,

(ii) soit a présenté au ministre une renonciation, selon le formulaire prescrit, au cours de la période normale de nouvelle cotisation applicable au contribuable pour l'année;

b) la cotisation est établie avant le jour qui suit de trois ans la fin de la période normale de nouvelle cotisation applicable au contribuable pour l'année et, selon le cas :

(i) est à établir en vertu du paragraphe (6) ou (6.1), ou le serait si le contribuable avait déduit une somme en présentant le formulaire prescrit visé à ce paragraphe au plus tard le jour mentionné à ce paragraphe,

(ii) est établie par suite de l'établissement, en application du présent paragraphe ou du paragraphe (6), d'une cotisation ou d'une nouvelle cotisation concernant l'impôt payable par un autre contribuable,

(iii) est établie par suite de la conclusion d'une opération entre le contribuable et une personne non résidente avec laquelle il avait un lien de dépendance,

(iii.1) si le contribuable est un non-résident exploitant une entreprise au Canada, est établie par suite :

business, and the documentation in support of which is kept in Canada), or

(B) a notional transaction between the taxpayer and its Canadian business, where the transaction is recognized for the purposes of the computation of an amount under this Act or an applicable tax treaty.

(iv) is made as a consequence of a payment or reimbursement of any income or profits tax to or by the government of a country other than Canada or a government of a state, province or other political subdivision of any such country,

(v) is made as a consequence of a reduction under subsection 66(12.73) of an amount purported to be renounced under section 66,

(vi) is made in order to give effect to the application of subsection 118.1(15) or 118.1(16), or

(vii) is made to give effect to the application of any of sections 94, 94.1 and 94.2;

(b.1) an information return described in subsection 237.1(7) or 237.3(2) that is required to be filed in respect of a deduction or claim made by the taxpayer in relation to a tax shelter, or in respect of a tax benefit (as defined in subsection 245(1)) to the taxpayer from an avoidance transaction (as defined in subsection 245(3)), is not filed as and when required, and the assessment, reassessment or additional assessment is made before the day that is three years after the day on which the information return is filed;

(b.2) the assessment, reassessment or additional assessment is made before the day that is three years after the end of the normal reassessment period for the taxpayer in respect of the year and if

(i) the taxpayer, or a partnership of which the taxpayer is a member, has failed to file for the year a prescribed form as and when required under subsection 233.3(3) or to report on the prescribed form the information required in respect of a specified foreign property (as defined in subsection 233.3(1)) held by the taxpayer at any time during the year, and

(ii) the taxpayer has failed to report, in the return of income for the year, an amount in respect of a specified foreign property that is required to be included in computing the taxpayer's income for the year;

(A) soit d'une attribution, par le contribuable, de recettes ou de dépenses au titre de montants relatifs à l'entreprise canadienne (sauf des recettes et des dépenses se rapportant uniquement à l'entreprise canadienne qui sont inscrits dans les documents comptables de celle-ci et étayés de documents conservés au Canada),

(B) soit d'une opération théorique entre le contribuable et son entreprise canadienne, qui est reconnue aux fins du calcul d'un montant en vertu de la présente loi ou d'un traité fiscal applicable,

(iv) est établie par suite d'un paiement supplémentaire ou d'un remboursement d'impôt sur le revenu ou sur les bénéfices effectué au gouvernement d'un pays étranger, ou d'un état, d'une province ou autre subdivision politique d'un tel pays, ou par ce gouvernement,

(v) est établie par suite d'une réduction, opérée en application du paragraphe 66(12.73), d'un montant auquel il a été censément renoncé en vertu de l'article 66,

(vi) est établie en vue de l'application des paragraphes 118.1(15) ou (16),

(vii) est établie en vue de l'application des articles 94, 94.1 ou 94.2;

b.1) la déclaration de renseignements visée aux paragraphes 237.1(7) ou 237.3(2) qui doit être produite au titre d'une déduction ou d'une demande du contribuable relative à un abri fiscal, ou au titre d'un avantage fiscal, au sens du paragraphe 245(1), du contribuable découlant d'une opération d'évitement, au sens du paragraphe 245(3), n'est pas produite selon les modalités et dans les délais prévus, et la cotisation, la nouvelle cotisation ou la cotisation supplémentaire est établie avant la date qui suit de trois ans la date à laquelle la déclaration est produite;

b.2) la cotisation, la nouvelle cotisation ou la cotisation supplémentaire est établie avant la date qui suit de trois ans la fin de la période normale de nouvelle cotisation applicable au contribuable pour l'année et, à la fois :

(i) le contribuable, ou une société de personnes dont il est un associé, a omis de produire pour l'année le formulaire prescrit selon les modalités et dans le délai prévus au paragraphe 233.3(3) ou d'indiquer dans ce formulaire les renseignements exigés relativement à un bien étranger déterminé, au

(c) the taxpayer or person filing the return of income has filed with the Minister a waiver in prescribed form within the additional three-year period referred to in paragraph (b) or (b.1);

(c.1) the taxpayer or person filing the return of income has filed with the Minister a waiver in prescribed form within the additional three-year period referred to in paragraph (b.2); or

(d) as a consequence of a change in the allocation of the taxpayer's taxable income earned in a province as determined under the law of a province that provides rules similar to those prescribed for the purposes of section 124, an assessment, reassessment or additional assessment of tax for a taxation year payable by a corporation under a law of a province that imposes on the corporation a tax similar to the tax imposed under this Part (in this paragraph referred to as a "provincial reassessment") is made, and as a consequence of the provincial reassessment, an assessment, reassessment or additional assessment is made on or before the day that is one year after the later of

(i) the day on which the Minister is advised of the provincial reassessment, and

(ii) the day that is 90 days after the day of sending of a notice of the provincial reassessment.

sens du paragraphe 233.3(1), qu'il détient au cours de l'année,

(ii) le contribuable a omis d'indiquer, dans la déclaration de revenu pour l'année, une somme relative à un bien étranger déterminé qui est à inclure dans le calcul de son revenu pour l'année;

c) le contribuable ou la personne produisant la déclaration de revenu a présenté au ministre une renonciation, selon le formulaire prescrit, au cours de la période additionnelle de trois ans mentionnée aux alinéas b) ou b.1);

c.1) le contribuable ou la personne produisant la déclaration de revenu a présenté au ministre une renonciation, selon le formulaire prescrit, au cours de la période additionnelle de trois ans mentionnée à l'alinéa b.2);

d) par suite d'un changement intervenu dans l'attribution du revenu imposable du contribuable gagné dans une province, déterminé selon la législation d'une province qui prévoit des règles semblables à celles établies par règlement pour l'application de l'article 124, une cotisation, une nouvelle cotisation ou une cotisation supplémentaire (appelée « nouvelle cotisation provinciale » au présent alinéa) est établie à l'égard de l'impôt à payer par une société pour une année d'imposition en vertu d'une loi provinciale aux termes de laquelle la société est assujettie à un impôt semblable à celui prévu par la présente partie et, par suite de la nouvelle cotisation provinciale, une cotisation, une nouvelle cotisation ou une cotisation supplémentaire est établie au plus tard le jour qui suit d'une année le dernier en date des jours suivants :

(i) le jour où le ministre est avisé de la nouvelle cotisation provinciale,

(ii) le quatre-vingt-dixième jour suivant la date d'envoi de l'avis de la nouvelle cotisation provinciale.

Extended period assessment

(4.01) Notwithstanding subsections (4) and (5), an assessment, reassessment or additional assessment to which paragraph (4)(a), (b), (b.1) or (c) applies in respect of a taxpayer for a taxation year may be made after the taxpayer's normal reassessment period in respect of the year to the extent that, but only to the extent that, it can reasonably be regarded as relating to,

(a) where paragraph 152(4)(a) applies to the assessment, reassessment or additional assessment,

Période de cotisation prolongée

(4.01) Malgré les paragraphes (4) et (5), la cotisation, la nouvelle cotisation ou la cotisation supplémentaire à laquelle s'appliquent les alinéas (4)a), b), b.1) ou c) relativement à un contribuable pour une année d'imposition ne peut être établie après l'expiration de la période normale de nouvelle cotisation applicable au contribuable pour l'année que dans la mesure où il est raisonnable de considérer qu'elle se rapporte à l'un des éléments suivants :

a) en cas d'application de l'alinéa (4)a):

(i) any misrepresentation made by the taxpayer or a person who filed the taxpayer's return of income for the year that is attributable to neglect, carelessness or wilful default or any fraud committed by the taxpayer or that person in filing the return or supplying any information under this Act, or

(ii) a matter specified in a waiver filed with the Minister in respect of the year; and

(b) if paragraph (4)(b), (b.1) or (c) applies to the assessment, reassessment or additional assessment,

(i) the assessment, reassessment or additional assessment to which subparagraph 152(4)(b)(i) applies,

(ii) the assessment or reassessment referred to in subparagraph 152(4)(b)(ii),

(iii) the transaction referred to in subparagraph 152(4)(b)(iii),

(iv) the payment or reimbursement referred to in subparagraph 152(4)(b)(iv),

(v) the reduction referred to in subparagraph 152(4)(b)(v),

(vi) the application referred to in subparagraph 152(4)(b)(vi), or

(vii) the deduction, claim or tax benefit referred to in paragraph (4)(b.1).

(i) une présentation erronée des faits par le contribuable ou par la personne ayant produit la déclaration de revenu de celui-ci pour l'année, effectuée par négligence, inattention ou omission volontaire ou attribuable à quelque fraude commise par le contribuable ou cette personne lors de la production de la déclaration ou de la communication de quelque renseignement sous le régime de la présente loi,

(ii) une question précisée dans une renonciation présentée au ministre pour l'année;

b) en cas d'application des alinéas (4)b), b.1) ou c) :

(i) la cotisation, la nouvelle cotisation ou la cotisation supplémentaire à laquelle s'applique le sous-alinéa(4)b)(i),

(ii) la cotisation ou la nouvelle cotisation visée au sous-alinéa (4)b)(ii),

(iii) l'opération visée au sous-alinéa (4)a)(iii),

(iv) le paiement ou le remboursement visé au sous-alinéa (4)b)(iv),

(v) la réduction visée au sous-alinéa (4)b)(v),

(vi) l'application visée au sous-alinéa (4)b)(vi),

(vii) la déduction, la demande ou l'avantage fiscal visé à l'alinéa (4)b.1).

If waiver revoked

(4.1) If the Minister would, but for this subsection, be entitled to reassess, make an additional assessment or assess tax, interest or penalties by virtue only of the filing of a waiver under subparagraph (4)(a)(ii) or paragraph (4)(c) or (c.1), the Minister may not make such a reassessment, additional assessment or assessment after the day that is six months after the date on which a notice of revocation of the waiver in prescribed form is filed.

Révocation de la renonciation

(4.1) Dans le cas où le ministre aurait, en l'absence du présent paragraphe, le droit d'établir une nouvelle cotisation, une cotisation supplémentaire ou une cotisation concernant l'impôt, les intérêts et les pénalités en vertu seulement de la présentation d'une renonciation selon le sous-alinéa (4)a)(ii) ou les alinéas (4)c) ou c.1), le ministre ne peut établir une telle nouvelle cotisation, cotisation supplémentaire ou cotisation concernant l'impôt, les intérêts ou les pénalités plus de six mois après la date de présentation, selon le formulaire prescrit, de l'avis de révocation de la renonciation.

Reassessment with taxpayer's consent

(4.2) Notwithstanding subsections (4), (4.1) and (5), for the purpose of determining — at any time after the end of the normal reassessment period, of a taxpayer who is an individual (other than a trust) or a graduated rate estate, in respect of a taxation year — the amount of any refund to which the taxpayer is entitled at that time for the year, or a reduction of an amount payable under this Part by

Nouvelle cotisation et nouvelle détermination

(4.2) Malgré les paragraphes (4), (4.1) et (5), pour déterminer, à un moment donné après la fin de la période normale de nouvelle cotisation applicable à un contribuable — particulier (sauf une fiducie) ou succession assujettie à l'imposition à taux progressifs — pour une année d'imposition, le remboursement auquel le contribuable a droit à ce moment pour l'année ou la réduction d'un montant

the taxpayer for the year, the Minister may, if the taxpayer makes an application for that determination on or before the day that is 10 calendar years after the end of that taxation year,

(a) reassess tax, interest or penalties payable under this Part by the taxpayer in respect of that year; and

(b) redetermine the amount, if any, deemed by subsection 120(2) or (2.2), 122.5(3), 122.51(2), 122.7(2) or (3), 122.9(2), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year or deemed by subsection 122.61(1) to be an overpayment on account of the taxpayer's liability under this Part for the year.

payable par le contribuable pour l'année en vertu de la présente partie, le ministre peut, si le contribuable demande pareille détermination au plus tard le jour qui suit de dix années civiles la fin de cette année d'imposition, à la fois :

a) établir de nouvelles cotisations concernant l'impôt, les intérêts ou les pénalités payables par le contribuable pour l'année en vertu de la présente partie;

b) déterminer de nouveau l'impôt qui est réputé, par les paragraphes 120(2) ou (2.2), 122.5(3), 122.51(2), 122.7(2) ou (3), 122.9(2), 127.1(1), 127.41(3) ou 210.2(3) ou (4), avoir été payé au titre de l'impôt payable par le contribuable en vertu de la présente partie pour l'année ou qui est réputé, par le paragraphe 122.61(1), être un paiement en trop au titre des sommes dont le contribuable est redevable en vertu de la présente partie pour l'année.

Consequential assessment

(4.3) Notwithstanding subsections (4), (4.1) and (5), if the result of an assessment or a decision on an appeal is to change a particular balance of a taxpayer for a particular taxation year, the Minister may, or if the taxpayer so requests in writing, shall, before the later of the expiration of the normal reassessment period in respect of a subsequent taxation year and the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the particular year, reassess the tax, interest or penalties payable by the taxpayer, redetermine an amount deemed to have been paid or to have been an overpayment by the taxpayer or modify the amount of a refund or other amount payable to the taxpayer, under this Part in respect of the subsequent taxation year, but only to the extent that the reassessment, redetermination or modification can reasonably be considered to relate to the change in the particular balance of the taxpayer for the particular year.

Cotisation corrélative

(4.3) Malgré les paragraphes (4), (4.1) et (5), lorsqu'une cotisation ou une décision d'appel a pour effet de modifier un solde donné applicable à un contribuable pour une année d'imposition donnée, le ministre peut ou, si le contribuable en fait la demande par écrit, doit, avant le dernier en date du jour d'expiration de la période normale de nouvelle cotisation pour une année d'imposition subséquente et de la fin du jour qui suit d'un an l'extinction ou la détermination de tous les droits d'opposition ou d'appel relatifs à l'année donnée, établir une nouvelle cotisation à l'égard de l'impôt, des intérêts ou des pénalités payables par le contribuable, déterminer de nouveau un montant réputé avoir été payé, ou payé en trop, par lui ou modifier le montant d'un remboursement ou une autre somme qui lui est payable, en vertu de la présente partie pour l'année subséquente, mais seulement dans la mesure où il est raisonnable de considérer que la nouvelle cotisation, la nouvelle détermination ou la modification se rapporte à la modification du solde donné applicable au contribuable pour l'année donnée.

Definition of *balance*

(4.4) For the purpose of subsection 152(4.3), a ***balance*** of a taxpayer for a taxation year is the income, taxable income, taxable income earned in Canada or any loss of the taxpayer for the year, or the tax or other amount payable by, any amount refundable to, or any amount deemed to have been paid or to have been an overpayment by, the taxpayer for the year.

Sens de solde

(4.4) Pour l'application du paragraphe (4.3), le solde applicable à un contribuable pour une année d'imposition correspond au revenu, au revenu imposable, au revenu imposable gagné au Canada ou à une perte du contribuable pour l'année, à l'impôt ou autre montant payable par lui pour l'année, à un montant qui lui est remboursable pour l'année ou à un montant réputé avoir été payé, ou payé en trop, par lui pour l'année.

Limitation on assessments

(5) There shall not be included in computing the income of a taxpayer for a taxation year, for the purpose of an

Limite de la cotisation

(5) N'est pas à inclure dans le calcul du revenu d'un contribuable pour une année d'imposition en vue de

assessment, reassessment or additional assessment made under this Part after the taxpayer's normal reassessment period in respect of the year, any amount that was not included in computing the taxpayer's income for the purpose of an assessment, reassessment or additional assessment made under this Part before the end of the period.

Reassessment where certain deductions claimed

(6) Where a taxpayer has filed for a particular taxation year the return of income required by section 150 and an amount is subsequently claimed by the taxpayer or on the taxpayer's behalf for the year as

(a) a deduction under paragraph 3(e) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, by virtue of the taxpayer's death in a subsequent taxation year and the consequent application of section 71 of that Act in respect of an allowable capital loss for the year,

(b) a deduction under section 41 in respect of the taxpayer's listed-personal-property loss for a subsequent taxation year,

(b.1) a deduction under paragraph 60(i) in respect of a premium (within the meaning assigned by subsection 146(1)) paid in a subsequent taxation year under a registered retirement savings plan where the premium is deductible by reason of subsection 146(6.1),

(c) a deduction under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,

(c.1) [Repealed, 2013, c. 34, s. 309]

(d) a deduction under subsection 127(5) in respect of property acquired or an expenditure made in a subsequent taxation year,

(e) [Repealed, 2013, c. 34, s. 309]

(f) a deduction under section 125.3 in respect of an unused Part I.3 tax credit (within the meaning assigned by subsection 125.3(3)) for a subsequent taxation year,

(f.1) a deduction under subsection 126(2) in respect of an unused foreign tax credit (within the meaning assigned by subsection 126(7)), or under subsection 126(2.21) or (2.22) in respect of foreign taxes paid, for a subsequent taxation year,

(f.2) a deduction under subsection 128.1(8) as a result of a disposition in a subsequent taxation year,

Nouvelle cotisation en cas de nouvelles déductions

(6) Lorsqu'un contribuable a produit la déclaration de revenu exigée par l'article 150 pour une année d'imposition et que, par la suite, une somme est demandée pour l'année par lui ou pour son compte à titre de :

a) déduction, en application de l'alinéa 3e) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, résultant de son décès au cours d'une année d'imposition ultérieure ayant entraîné l'application de l'article 71 de la même loi relativement à une perte en capital déductible pour l'année;

b) déduction d'un montant en vertu de l'article 41 relativement à sa perte relative à des biens meubles déterminés pour une année d'imposition ultérieure;

b.1) déduction, en application de l'alinéa 60i), relativement à une prime, au sens du paragraphe 146(1), versée au cours d'une année d'imposition ultérieure dans le cadre d'un régime enregistré d'épargne-retraite et déductible en application du paragraphe 146(6.1);

c) déduction, en application de l'article 118.1, relativement à un don fait au cours d'une année d'imposition ultérieure ou, en application de l'article 111, relativement à une perte subie pour une année d'imposition ultérieure;

c.1) [Abrogé, 2013, ch. 34, art. 309]

d) déduction, en application du paragraphe 127(5), relativement à des biens acquis ou des dépenses faites au cours d'une année d'imposition ultérieure;

e) [Abrogé, 2013, ch. 34, art. 309]

f) déduction, en application de l'article 125.3, au titre d'un crédit d'impôt de la partie I.3 inutilisé, au sens du paragraphe 125.3(3), pour une année d'imposition ultérieure;

f.1) déduction, en application du paragraphe 126(2), relativement à la fraction inutilisée du crédit pour impôt étranger (au sens du paragraphe 126(7)) ou, en application des paragraphes 126(2.21) ou (2.22),

(f.3) a deduction (including for the purposes of this subsection a reduction of an amount otherwise required to be included in computing a taxpayer's income) under subsection 146(8.9) or (8.92), 146.3(6.2) or (6.3) or 147.5(14) or (19),

(g) a deduction under subsection 147.2(4) because of the application of subsection 147.2(6) as a result of the taxpayer's death in the subsequent taxation year, or

(h) a deduction by virtue of an election for a subsequent taxation year under paragraph 164(6)(c) or 164(6)(d) by the taxpayer's legal representative,

by filing with the Minister, on or before the day on or before which the taxpayer is, or would be if a tax under this Part were payable by the taxpayer for that subsequent taxation year, required by section 150 to file a return of income for that subsequent taxation year, a prescribed form amending the return, the Minister shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

relativement aux impôts étrangers payés, pour une année d'imposition ultérieure;

f.2) déduction, en application du paragraphe 128.1(8), par suite d'une disposition effectuée au cours d'une année d'imposition ultérieure;

f.3) déduction en application des paragraphes 146(8.9) ou (8.92), 146.3(6.2) ou (6.3) ou 147.5(14) ou (19) (y compris, pour l'application du présent paragraphe, toute réduction d'une somme à inclure par ailleurs dans le calcul du revenu d'un contribuable);

g) déduction, en application du paragraphe 147.2(4), du fait que le paragraphe 147.2(6) s'applique par suite du décès du contribuable au cours de l'année d'imposition subséquente;

h) déduction à cause d'un choix pour une année d'imposition ultérieure effectué par son représentant légal en vertu de l'alinéa 164(6)c) ou d),

en présentant au ministre, au plus tard le jour où le contribuable est tenu, ou le serait s'il était tenu de payer de l'impôt en vertu de la présente partie pour cette année d'imposition ultérieure, de produire en vertu de l'article 150 une déclaration de revenu pour cette année d'imposition ultérieure, un formulaire prescrit modifiant la déclaration, le ministre doit fixer de nouveau l'impôt du contribuable pour toute année d'imposition pertinente (autre qu'une année d'imposition antérieure à l'année donnée) afin de tenir compte de la déduction demandée.

Reassessment if amount under subsection 91(1) is reduced

(6.1) If

(a) a taxpayer has filed for a particular taxation year the return of income required by section 150,

(b) the amount included in computing the taxpayer's income for the particular year under subsection 91(1) is subsequently reduced because of a reduction in the foreign accrual property income of a foreign affiliate of the taxpayer for a taxation year (referred to in this paragraph as the "claim year") of the affiliate that ends in the particular year, if

(i) the reduction is

(A) attributable to a foreign accrual property loss (within the meaning assigned by subsection 5903(3) of the *Income Tax Regulations*) of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the taxpayer, and

Nouvelle cotisation en cas de réduction d'une somme incluse en application du paragraphe 91(1)

(6.1) Le ministre établit une nouvelle cotisation dans le cas où les conditions ci-après sont réunies :

a) un contribuable a produit, pour une année d'imposition donnée, la déclaration de revenu exigée par l'article 150;

b) la somme incluse, en application du paragraphe 91(1), dans le calcul de son revenu pour l'année donnée est ultérieurement réduite en raison d'une réduction du revenu étranger accumulé, tiré de biens d'une de ses sociétés étrangères affiliées pour une année d'imposition de celle-ci (appelée « année de la demande » au présent alinéa) se terminant dans l'année donnée, si, selon le cas :

(i) la réduction est, à la fois :

(A) attribuable à une perte étrangère accumulée, relative à des biens, au sens du paragraphe 5903(3) du *Règlement de l'impôt sur le revenu*, de la société affiliée pour une année d'imposition

(B) included in the description of F in the definition ***foreign accrual property income*** in subsection 95(1) in respect of the affiliate for the claim year, or

(ii) the reduction is

(A) attributable to a foreign accrual capital loss (within the meaning assigned by subsection 5903.1(3) of the *Income Tax Regulations*) of the affiliate for a taxation year of the affiliate that ends in a subsequent taxation year of the taxpayer, and

(B) included in the description of F.1 in the definition ***foreign accrual property income*** in subsection 95(1) in respect of the affiliate for the claim year, and

(c) the taxpayer has filed with the Minister, on or before the filing-due date for that subsequent taxation year, a prescribed form amending the return,

the Minister shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular year) in order to take into account the reduction in the amount included under subsection 91(1) in computing the income of the taxpayer for the particular year.

Extended reassessment period

(6.2) The Minister shall reassess a taxpayer's tax for a particular taxation year, in order to take into account the application of paragraph (d) of the definition ***excluded property*** in subsection 142.2(1), or the application of subsection 142.6(1.6), in respect of property held by the taxpayer, if

(a) the taxpayer has filed for the particular taxation year the return of income required by section 150; and

(b) the taxpayer files with the Minister a prescribed form amending the return, on or before the filing-due date for the taxpayer's taxation year that

(i) if the filing is in respect of paragraph (d) of that definition ***excluded property***, includes the acquisition of control time referred to in that paragraph, and

de celle-ci se terminant dans une année d'imposition ultérieure du contribuable,

(B) comprise dans la valeur de l'élément F de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens***, au paragraphe 95(1), relativement à la société affiliée pour l'année de la demande,

(ii) la réduction est, à la fois :

(A) attribuable à une perte en capital étrangère accumulée, au sens du paragraphe 5903.1(3) du *Règlement de l'impôt sur le revenu*, de la société affiliée pour une année d'imposition de celle-ci se terminant dans une année d'imposition ultérieure du contribuable,

(B) comprise dans la valeur de l'élément F.1 de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens***, au paragraphe 95(1), relativement à la société affiliée pour l'année de la demande;

c) le contribuable a présenté au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour cette année d'imposition ultérieure, un formulaire prescrit modifiant la déclaration.

La nouvelle cotisation porte sur l'impôt du contribuable pour toute année d'imposition pertinente (sauf les années d'imposition antérieures à l'année donnée) et a pour objet de tenir compte de la réduction de la somme incluse, en application du paragraphe 91(1), dans le calcul du revenu du contribuable pour l'année donnée.

Période de nouvelle cotisation prolongée

(6.2) Le ministre établit une nouvelle cotisation concernant l'impôt d'un contribuable pour une année d'imposition donnée pour tenir compte de l'application de l'alinéa d) de la définition de ***bien exclu*** au paragraphe 142.2(1), ou de l'application du paragraphe 142.6(1.6), relativement aux biens détenus par le contribuable si les conditions suivantes sont réunies :

a) le contribuable a produit pour l'année donnée la déclaration de revenu qu'il est tenu de produire en application de l'article 150;

b) le contribuable présente au ministre un formulaire prescrit modifiant la déclaration, au plus tard à la date d'échéance de production qui lui est applicable pour celle des années d'imposition suivantes qui est applicable :

(i) si le formulaire est produit à l'égard de l'alinéa d) de cette définition de ***bien exclu***, l'année

(ii) if the filing is in respect of subsection 142.6(1.6), immediately follows the particular taxation year.

(ii) si le formulaire est produit à l'égard du paragraphe 142.6(1.6), l'année d'imposition du contribuable qui suit l'année donnée.

Reassessment for section 119 credit

(6.3) If a taxpayer has filed for a particular taxation year the return of income required by section 150 and an amount is subsequently claimed by the taxpayer, or on the taxpayer's behalf, for the particular year as a deduction under section 119 in respect of a disposition in a subsequent taxation year, and the taxpayer files with the Minister a prescribed form amending the return on or before the filing-due date of the taxpayer for the subsequent taxation year, the Minister shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

Nouvelle cotisation — crédit prévu à l'article 119

(6.3) Lorsqu'un contribuable a produit, pour une année d'imposition donnée, la déclaration de revenu exigée par l'article 150, que, par la suite, une somme est demandée pour cette année par lui ou pour son compte à titre de déduction, en application de l'article 119, relativement à une disposition effectuée au cours d'une année d'imposition ultérieure et que le contribuable présente au ministre un formulaire prescrit modifiant la déclaration au plus tard à la date d'échéance de production qui lui est applicable pour l'année ultérieure, le ministre établit une nouvelle cotisation concernant l'impôt du contribuable pour toute année d'imposition pertinente, sauf celles antérieures à l'année donnée, pour tenir compte de la déduction demandée.

Assessment not dependent on return or information

(7) The Minister is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Part.

Cotisation indépendante de la déclaration ou des renseignements fournis

(7) Le ministre n'est pas lié par les déclarations ou renseignements fournis par un contribuable ou de sa part et, lors de l'établissement d'une cotisation, il peut, indépendamment de la déclaration ou des renseignements ainsi fournis ou de l'absence de déclaration, fixer l'impôt à payer en vertu de la présente partie.

Assessment deemed valid and binding

(8) An assessment shall, subject to being varied or vacated on an objection or appeal under this Part and subject to a reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission in the assessment or in any proceeding under this Act relating thereto.

Présomption de validité de la cotisation

(8) Sous réserve des modifications qui peuvent y être apportées ou de son annulation lors d'une opposition ou d'un appel fait en vertu de la présente partie et sous réserve d'une nouvelle cotisation, une cotisation est réputée être valide et exécutoire malgré toute erreur, tout vice de forme ou toute omission dans cette cotisation ou dans toute procédure s'y rattachant en vertu de la présente loi.

Alternative basis for assessment

(9) At any time after the normal reassessment period, the Minister may advance an alternative basis or argument — including that all or any portion of the income to which an amount relates was from a different source — in support of all or any portion of the total amount determined on assessment to be payable or remittable by a taxpayer under this Act unless, on an appeal under this Act

(a) there is relevant evidence that the taxpayer is no longer able to adduce without the leave of the court; and

Nouveau fondement ou nouvel argument

(9) Après l'expiration de la période normale de nouvelle cotisation, le ministre peut avancer un nouveau fondement ou un nouvel argument — y compris un fondement ou un argument selon lequel tout ou partie du revenu auquel une somme se rapporte provenait d'une autre source — à l'appui de tout ou partie de la somme totale qui est déterminée lors de l'établissement d'une cotisation comme étant à payer ou à verser par un contribuable en vertu de la présente loi, sauf si, sur appel interjeté en vertu de la présente loi :

(b) it is not appropriate in the circumstances for the court to order that the evidence be adduced.

a) d'une part, il existe des éléments de preuve que le contribuable n'est plus en mesure de produire sans l'autorisation du tribunal;

b) d'autre part, il ne convient pas que le tribunal ordonne la production des éléments de preuve dans les circonstances.

Tax deemed not assessed

(10) Notwithstanding any other provision of this section, an amount of tax is deemed, for the purpose of any agreement entered into by or on behalf of the Government of Canada under section 7 of the *Federal-Provincial Fiscal Arrangements Act*, not to have been assessed under this Act until

(a) the end of the period during which the security is accepted by the Minister, if adequate security for the tax is accepted by the Minister under subsection 220(4.5) or (4.6); or

(b) the amount is collected by the Minister, if information relevant to the assessment of the amount was provided to the Canada Revenue Agency under a contract entered into by a person under a program administered by the Canada Revenue Agency to obtain information relating to tax non-compliance.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 152; 1994, c. 7, Sch. II, s. 125, Sch. VII, s. 15, Sch. VIII, s. 90, c. 8, s. 20, c. 21, s. 76; 1995, c. 3, s. 46; 1996, c. 21, s. 39; 1998, c. 19, ss. 42, 181; 1999, c. 22, s. 63.1; 2000, c. 19, s. 44; 2001, c. 17, s. 149; 2002, c. 8, s. 184; 2005, c. 19, s. 36; 2007, c. 35, s. 48; 2009, c. 2, s. 58; 2010, c. 25, s. 38; 2011, c. 15, s. 3; 2012, c. 19, s. 10, c. 31, s. 39; 2013, c. 34, ss. 15, 34, 74, 309, c. 40, s. 67; 2014, c. 20, s. 22, c. 39, s. 55; 2016, c. 7, s. 41, c. 12, s. 55.

Cotisation réputée ne pas avoir été établie

(10) Malgré les autres dispositions du présent article, un montant d'impôt est réputé, pour l'application de tout accord conclu par le gouvernement du Canada, ou pour son compte, en vertu de l'article 7 de la *Loi sur les arrangements fiscaux entre le gouvernement fédéral et les provinces*, ne pas avoir fait l'objet d'une cotisation en vertu de la présente loi jusqu'à ce que, selon le cas :

a) la période au cours de laquelle la garantie est acceptée par le ministre prenne fin, dans le cas où une garantie suffisante pour l'impôt est acceptée par le ministre aux termes des paragraphes 220(4.5) ou (4.6);

b) le montant soit perçu par le ministre, dans le cas où des renseignements relatifs à la cotisation établie à l'égard du montant ont été fournis à l'Agence du revenu du Canada aux termes d'un contrat conclu par une personne dans le cadre d'un programme administré par l'Agence du revenu du Canada qui permet d'obtenir des renseignements concernant l'inobservation fiscale.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 152; 1994, ch. 7, ann. II, art. 125, ann. VII, art. 15, ann. VIII, art. 90, ch. 8, art. 20, ch. 21, art. 76; 1995, ch. 3, art. 46; 1996, ch. 21, art. 39; 1998, ch. 19, art. 42 et 181; 1999, ch. 22, art. 63.1; 2000, ch. 19, art. 44; 2001, ch. 17, art. 149; 2002, ch. 8, art. 184; 2005, ch. 19, art. 36; 2007, ch. 35, art. 48; 2009, ch. 2, art. 58; 2010, ch. 25, art. 38; 2011, ch. 15, art. 3; 2012, ch. 19, art. 10, ch. 31, art. 39; 2013, ch. 34, art. 15, 34, 74 et 309, ch. 40, art. 67; 2014, ch. 20, art. 22, ch. 39, art. 55; 2016, ch. 7, art. 41, ch. 12, art. 55.

Payment of Tax

Withholding

153 (1) Every person paying at any time in a taxation year

(a) salary, wages or other remuneration, other than

(i) amounts described in subsection 212(5.1), and

(ii) amounts paid at any time by an employer to an employee if, at that time, the employer is a qualifying non-resident employer and the employee is a qualifying non-resident employee,

(b) a superannuation or pension benefit,

(c) a retiring allowance,

Paiement de l'impôt

Retenue

153 (1) Toute personne qui verse au cours d'une année d'imposition l'un des montants suivants :

a) un traitement, un salaire ou autre rémunération, à l'exception des sommes suivantes :

(i) une somme visée au paragraphe 212(5.1),

(ii) une somme qu'un employeur verse à un employé à un moment où l'employeur est un employeur non-résident admissible et l'employé est un employé non-résident admissible;

b) des prestations de retraite ou de pension;

c) une allocation de retraite;

(d) a death benefit,

(d.1) an amount described in subparagraph 56(1)(a)(iv) or (vii),

(d.2) an amount described in paragraph 56(1)(a.3),

(e) an amount as a benefit under a supplementary unemployment benefit plan,

(f) an annuity payment or a payment in full or partial commutation of an annuity,

(g) fees, commissions or other amounts for services, other than amounts described in subsection 115(2.3) or 212(5.1),

(h) a payment under a deferred profit sharing plan or a plan referred to in section 147 as a revoked plan,

(i) a payment from a registered disability savings plan,

(j) a payment out of or under a registered retirement savings plan or a plan referred to in subsection 146(12) as an "amended plan",

(k) an amount as, on account or in lieu of payment of, or in satisfaction of, proceeds of the surrender, cancellation or redemption of an income-averaging annuity contract,

(l) a payment out of or under a registered retirement income fund or a fund referred to in subsection 146.3(11) as an "amended fund",

(m) a prescribed benefit under a government assistance program,

(m.1) [Repealed, 1994, c. 21, s. 77(1)]

(n) one or more amounts to an individual who has elected for the year in prescribed form in respect of all such amounts,

(o) an amount described in paragraph 115(2)(c.1),

(p) a contribution under a retirement compensation arrangement,

(q) an amount as a distribution to one or more persons out of or under a retirement compensation arrangement,

(r) an amount on account of the purchase price of an interest in a retirement compensation arrangement,

(s) an amount described in paragraph 56(1)(r), (z.2) or (z.4), or

d) une prestation consécutive au décès;

d.1) une somme visée aux sous-alinéas 56(1)a)(iv) ou (vii);

d.2) une somme visée à l'alinéa 56(1)a.3);

e) une somme à titre de prestation dans le cadre d'un régime de prestations supplémentaires de chômage;

f) un paiement de rente ou un paiement découlant de la conversion totale ou partielle d'une rente;

g) des honoraires, commissions ou autres sommes pour services, à l'exception des sommes visées aux paragraphes 115(2.3) ou 212(5.1);

h) un paiement dans le cadre d'un régime de participation différée aux bénéfices ou d'un régime désigné à l'article 147 comme régime dont l'agrément est retiré;

i) un paiement provenant d'un régime enregistré d'épargne-invalidité;

j) un paiement provenant ou fait en vertu d'un régime enregistré d'épargne-retraite ou d'un régime appelé « régime modifié » au paragraphe 146(12);

k) une somme au titre ou en paiement intégral ou partiel du produit de l'abandon, de l'annulation ou du rachat d'un contrat de rente à versements invariables;

l) un paiement fait dans le cadre d'un fonds enregistré de revenu de retraite ou d'un fonds appelé « fonds modifié » au paragraphe 146.3(11);

m) une prestation, visée par règlement, prévue par un programme d'aide gouvernemental;

m.1) [Abrogé, 1994, ch. 21, art. 77(1)]

n) une ou plusieurs sommes à un particulier qui a fait un choix pour l'année selon le formulaire prescrit à l'égard de cette ou ces sommes;

o) une somme visée à l'alinéa 115(2)c.1);

p) une cotisation dans le cadre d'une convention de retraite;

q) un montant provenant d'une convention de retraite attribué à une personne ou réparti entre plusieurs;

r) un montant au titre du prix d'achat d'un droit sur une convention de retraite;

s) une somme visée aux alinéas 56(1)r), z.2) ou z.4);

(t) a payment made under a plan that was a registered education savings plan

shall deduct or withhold from the payment the amount determined in accordance with prescribed rules and shall, at the prescribed time, remit that amount to the Receiver General on account of the payee's tax for the year under this Part or Part XI.3, as the case may be, and, where at that prescribed time the person is a prescribed person, the remittance shall be made to the account of the Receiver General at a designated financial institution.

t) un paiement effectué dans le cadre d'un régime enregistré d'épargne-études,

doit en déduire ou en retenir la somme fixée selon les modalités réglementaires et doit, au moment fixé par règlement, remettre cette somme au receveur général au titre de l'impôt du bénéficiaire ou du dépositaire pour l'année en vertu de la présente partie ou de la partie XI.3. Toutefois, lorsque la personne est visée par règlement à ce moment, la somme est versée au compte du receveur général dans une institution financière désignée.

Withholding — stock option benefits

(1.01) An amount that is deemed to have been received by a taxpayer as a benefit under or because of any of paragraphs 7(1)(a) to (d.1) is remuneration paid as a bonus for the purposes of paragraph (1)(a), except the portion, if any, of the amount that is

(a) deductible by the taxpayer under paragraph 110(1)(d) in computing the taxpayer's taxable income for a taxation year;

(b) deemed to have been received in a taxation year as a benefit because of a disposition of securities to which subsection 7(1.1) applies; or

(c) determined under paragraph 110(2.1)(b) to be deductible by the taxpayer under paragraph 110(1)(d.01) in computing the taxpayer's taxable income for a taxation year.

Retenue — avantages liés à une option d'achat d'actions

(1.01) Toute somme qui est réputée avoir été reçue par un contribuable à titre d'avantage en vertu ou par l'effet de l'un des alinéas 7(1)a) à d.1) représente une rémunération versée à titre de gratification pour l'application de l'alinéa (1)a), sauf s'il s'agit de la partie de la somme qui, selon le cas :

a) est déductible par le contribuable en application de l'alinéa 110(1)d) dans le calcul de son revenu imposable pour une année d'imposition;

b) est réputée avoir été reçue au cours d'une année d'imposition à titre d'avantage en raison d'une disposition de titres à laquelle le paragraphe 7(1.1) s'applique;

c) par l'effet de l'alinéa 110(2.1)b), est déductible par le contribuable en application de l'alinéa 110(1)d.01) dans le calcul de son revenu imposable pour une année d'imposition.

Undue hardship

(1.1) Where the Minister is satisfied that the deducting or withholding of the amount otherwise required to be deducted or withheld under subsection 153(1) from a payment would cause undue hardship, the Minister may determine a lesser amount and that amount shall be deemed to be the amount determined under that subsection as the amount to be deducted or withheld from that payment.

Préjudice

(1.1) Lorsque le ministre est convaincu que la déduction ou la retenue de la somme qui devrait par ailleurs, en vertu du paragraphe (1), être déduite d'un paiement ou retenue sur un tel paiement porterait indûment préjudice, il peut fixer une somme inférieure et cette dernière est réputée être la somme déterminée en vertu de ce paragraphe à titre de somme à déduire ou à retenir sur ce paiement.

Election to increase withholding

(1.2) Where a taxpayer so elects in prescribed manner and prescribed form, the amount required to be deducted or withheld under subsection 153(1) from any payment to the taxpayer shall be deemed to be the total of

(a) the amount, if any, otherwise required to be deducted or withheld under that subsection from that payment, and

Choix d'augmenter les retenues

(1.2) Lorsqu'un contribuable fait un tel choix selon les modalités et le formulaire réglementaires, la somme qui doit, en vertu du paragraphe (1), être déduite de tout paiement qui est fait au contribuable, ou être retenue sur un tel paiement, est réputée être le total des montants suivants :

a) la somme qui, en vertu de ce paragraphe, doit par ailleurs être déduite de ce paiement ou retenue sur celui-ci;

(b) the amount specified by the taxpayer in that election with respect to that payment or with respect to a class of payments that includes that payment.

b) la somme indiquée par le contribuable dans ce choix en ce qui concerne ce paiement ou une catégorie de paiements qui comprend ce paiement.

Reduction not permitted

(1.3) A joint election made or expected to be made under section 60.03 is not to be considered a basis on which the Minister may determine a lesser amount under subsection (1.1).

Exception — montant de pension fractionné

(1.3) Le choix conjoint que le contribuable fait ou prévoit de faire en vertu de l'article 60.03 n'est pas pris en compte dans la décision du ministre de fixer une somme inférieure comme le permet le paragraphe (1.1).

Non-cash stock option benefit

(1.31) An amount deemed to have been received as a benefit under or because of any of paragraphs 7(1)(a) to (d.1) shall not be considered a basis on which the Minister may determine a lesser amount under subsection (1.1) solely because it is received as a non-cash benefit.

Avantage non pécuniaire lié à une option d'achat d'actions

(1.31) Toute somme qui est réputée avoir été reçue à titre d'avantage en vertu ou par l'effet de l'un des alinéas 7(1)a) à d.1) n'est pas prise en compte dans la décision du ministre de fixer une somme inférieure comme le permet le paragraphe (1.1) du seul fait qu'elle est reçue à titre d'avantage non pécuniaire.

Exception — remittance to designated financial institution

(1.4) For the purpose of subsection (1), a prescribed person referred to in that subsection is deemed to have remitted an amount to the account of the Receiver General at a designated financial institution if the prescribed person has remitted the amount to the Receiver General at least one day before the day upon which the amount is due.

Exception — versement à une institution financière désignée

(1.4) Pour l'application du paragraphe (1), la personne visée par règlement est réputée avoir versé une somme au compte du receveur général dans une institution financière désignée si elle l'a remise au receveur général au moins un jour avant la date où elle est exigible.

Deemed withholding

(2) If a pensioner and a pension transferee (as those terms are defined in section 60.03) make a joint election under section 60.03 in respect of a split-pension amount (as defined in that section) for a taxation year, the portion of the amount deducted or withheld under subsection (1) that may be reasonably considered to be in respect of the split-pension amount is deemed to have been deducted or withheld on account of the pension transferee's tax for the taxation year under this Part and not on account of the pensioner's tax for the taxation year under this Part.

Retenue réputée

(2) Si un pensionné et un cessionnaire — ces termes s'entendant au sens de l'article 60.03 — font le choix conjoint prévu à cet article relativement à un montant de pension fractionné, au sens du même article, pour une année d'imposition, la partie de la somme déduite ou retenue en application du paragraphe (1) qu'il est raisonnable de considérer comme se rapportant au montant de pension fractionné est réputée avoir été déduite ou retenue au titre de l'impôt du cessionnaire pour l'année en vertu de la présente partie et non au titre de l'impôt du pensionné pour l'année en vertu de la présente partie.

Deemed effect of deduction

(3) When an amount has been deducted or withheld under subsection 153(1), it shall, for all the purposes of this Act, be deemed to have been received at that time by the person to whom the remuneration, benefit, payment, fees, commissions or other amounts were paid.

Effet présumé de la déduction

(3) Lorsqu'une somme a été déduite ou retenue en vertu du paragraphe (1), elle est, pour l'application générale de la présente loi, réputée avoir été reçue à ce moment par la personne à qui la rémunération, la prestation, le paiement, les honoraires, les commissions ou d'autres sommes ont été payés.

Unclaimed dividends, interest and proceeds

(4) Where at the end of a taxpayer's taxation year the person beneficially entitled to an amount received by the

Impôt payable sur les revenus de propriétaires inconnus

(4) Lorsque le contribuable qui, après 1984 et avant une année d'imposition, reçoit un montant, relativement à

taxpayer after 1984 and before the year as or in respect of dividends, interest or proceeds of disposition of property is unknown to the taxpayer, the taxpayer shall remit to the Receiver General on or before the day that is 60 days after the end of the year on account of the tax payable under this Act by that person an amount equal to

(a) in the case of dividends, 33 1/3% of the total amount of the dividends,

(b) in the case of interest, 50% of the total amount of the interest, and

(c) in the case of proceeds of disposition of property, 50% of the total of all amounts each of which is the amount, if any, by which the proceeds of disposition of a property exceed the total of any outlays and expenses made or incurred by the taxpayer for the purpose of disposing of the property (to the extent that those outlays and expenses were not deducted in computing the taxpayer's income for any taxation year or attributable to any other property),

except that no remittance under this subsection shall be required in respect of an amount that was included in computing the taxpayer's income for the year or a preceding taxation year or in respect of an amount on which the tax under this subsection was previously remitted.

Deemed effect of remittance

(5) An amount remitted by a taxpayer under subsection 153(4) in respect of dividends, interest or proceeds of disposition of property shall be deemed

(a) to have been received by the person beneficially entitled thereto; and

(b) to have been deducted or withheld from the amount otherwise payable by the taxpayer to the person beneficially entitled thereto.

Definitions

(6) The following definitions apply in this section.

designated financial institution means a corporation that

(a) is a bank, other than an authorized foreign bank that is subject to the restrictions and requirements referred to in subsection 524(2) of the *Bank Act*;

(b) is authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public; or

des dividendes, des intérêts ou au produit de disposition d'un bien, dont la personne ayant la propriété effective lui est inconnue à la fin de l'année, doit remettre au receveur général, au plus tard le 60e jour suivant la fin de l'année, au titre de l'impôt payable par ce propriétaire en vertu de la présente loi, un montant correspondant :

a) à 33 1/3 % du montant de ces dividendes;

b) à 50 % du montant de ces intérêts;

c) à 50 % de l'excédent éventuel du produit de disposition de ce bien sur le total des dépenses que le contribuable a engagées ou effectuées en vue de disposer du bien, dans la mesure où ces dépenses n'ont pas été déduites dans le calcul du revenu du contribuable pour une année d'imposition ou n'étaient pas attribuables à un autre bien.

Toutefois, aucun montant n'est à remettre en application du présent paragraphe au titre d'un montant déjà inclus dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure ou au titre d'un montant sur lequel l'impôt visé au présent paragraphe a déjà été remis.

Effet présumé de la remise

(5) Tout montant qu'un contribuable remet en application du paragraphe (4) relativement à des dividendes, des intérêts ou au produit de disposition d'un bien est réputé :

a) avoir été reçu par la personne ayant la propriété effective;

b) avoir été déduit ou retenu du montant payable par ailleurs par le contribuable à la personne ayant la propriété effective.

Définitions

(6) Les définitions qui suivent s'appliquent au présent article.

employé non-résident admissible S'entend, à un moment donné relativement au versement d'une somme visée à l'alinéa (1)a), d'un employé qui remplit les conditions suivantes :

a) il réside à ce moment dans un pays avec lequel le Canada a conclu un traité fiscal;

b) il est exempté de l'impôt prévu à la présente partie relativement à la somme par suite de l'application du traité;

(c) is authorized under the laws of Canada or a province to accept deposits from the public and carries on the business of lending money on the security of real property or immovables or investing in indebtedness on the security of mortgages on real property or of hypothecs on immovables. (*institution financière désignée*)

qualifying non-resident employee, at any time in respect of a payment referred to in paragraph (1)(a), means an employee who

(a) is, at that time, resident in a country with which Canada has a tax treaty;

(b) is not liable to tax under this Part in respect of the payment because of that treaty; and

(c) works in Canada for less than 45 days in the calendar year that includes that time or is present in Canada for less than 90 days in any 12-month period that includes that time. (*employé non-résident admissible*)

qualifying non-resident employer, at any time, means an employer

(a) that at that time

(i) in the case of an employer that is not a partnership,

(A) is a resident of a country with which Canada has a tax treaty, or

(B) is a corporation that does not satisfy the condition in clause (A), but would be a resident of a country with which Canada has a tax treaty if the corporation were treated, for the purpose of income taxation in that country, as a body corporate, and

(ii) in the case of an employer that is a partnership, is a partnership in respect of which the total of all amounts, each of which is a share of the partnership's income or loss for the fiscal period that includes that time of a member that, at that time, is a resident of a country with which Canada has a tax treaty (or is a corporation that satisfies the condition in clause (i)(B)), is not less than 90% of the income or loss of the partnership for the period (for the purposes of this subparagraph, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be $1,000,000); and

c) il travaille au Canada moins de 45 jours au cours de l'année civile qui comprend ce moment ou est présent au Canada moins de 90 jours au cours de toute période de douze mois qui comprend ce moment. (*qualifying non-resident employee*)

employeur non-résident admissible S'entend, à un moment donné, d'un employeur qui remplit les conditions suivantes :

a) l'employeur, à ce moment :

(i) n'est pas une société de personnes et :

(A) soit est un résident d'un pays avec lequel le Canada a conclu un traité fiscal,

(B) soit est une société qui ne remplit pas la condition énoncée à la division (A), mais qui serait un résident d'un pays avec lequel le Canada a conclu un traité fiscal si elle était considérée, aux fins de l'impôt sur le revenu dans ce pays, comme une personne morale,

(ii) est une société de personnes relativement à laquelle le total des sommes — dont chacune est la part sur le revenu ou la perte de la société de personnes pour l'exercice qui comprend ce moment d'un associé qui, à ce moment, est un résident d'un pays avec lequel le Canada a conclu un traité fiscal (ou est une société qui remplit la condition énoncée à la division (i)(B)) — est égal à au moins 90 % du revenu ou de la perte de la société de personnes pour l'exercice (pour l'application du présent sous-alinéa, si ceux-ci sont nuls, son revenu pour l'exercice est réputé égal à 1 000 000 $);

b) il fait l'objet à ce moment d'une certification du ministre en vertu du paragraphe (7). (*qualifying non-resident employer*)

institution financière désignée Société qui, selon le cas :

a) est une banque, sauf une banque étrangère autorisée qui est assujettie aux restrictions et exigences visées au paragraphe 524(2) de la *Loi sur les banques*;

b) est autorisée par la législation fédérale ou provinciale à exploiter une entreprise d'offre au public de services de fiduciaire;

c) est autorisée par la législation fédérale ou provinciale à accepter du public des dépôts et exploite une entreprise soit de prêts d'argent garantis sur des biens immeubles ou réels, soit de placements dans des dettes garanties par des hypothèques relatives à des

(b) that is at that time certified by the Minister under subsection (7). (*employeur non-résident admissible*)

biens immeubles ou réels. (*designated financial institution*)

Certification by Minister

(7) The Minister may

(a) certify an employer for a specified period of time if the employer has applied in prescribed form containing prescribed information and the Minister is satisfied that the employer

(i) meets the conditions in paragraph (a) of the definition ***qualifying non-resident employer*** in subsection (6), and

(ii) meets the conditions established by the Minister; and

(b) revoke an employer's certification if the Minister is no longer satisfied that the employer meets the conditions referred to in subparagraph (a)(i) or (ii).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 153; 1994, c. 7, Sch. II, s. 126, Sch. VIII, s. 91, c. 8, s. 21, c. 21, s. 77; 1996, c. 21, s. 40, c. 23, ss. 175, 187; 1998, c. 19, ss. 43, 182; 2001, c. 17, s. 151; 2007, c. 29, s. 22, c. 35, ss. 49, 117; 2008, c. 28, s. 29; 2010, c. 25, s. 39; 2012, c. 27, s. 28; 2013, c. 34, ss. 139, 310; 2014, c. 20, s. 23; 2015, c. 36, s. 34; 2016, c. 7, s. 42.

Certificat d'autorisation

(7) Le ministre peut :

a) certifier, pour une période donnée, l'employeur qui en présente la demande sur le formulaire prescrit contenant les renseignements prescrits et qui, de l'avis du ministre, à la fois :

(i) remplit les conditions énoncées à l'alinéa a) de la définition de ***employeur non-résident admissible*** au paragraphe (6),

(ii) remplit les conditions établies par le ministre;

b) révoquer la certification dont un employeur fait l'objet s'il n'est plus convaincu que l'employeur remplit les conditions visées aux sous-alinéas a)(i) ou (ii).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 153; 1994, ch. 7, ann. II, art. 126, ann. VIII, art. 91, ch. 8, art. 21, ch. 21, art. 77; 1996, ch. 21, art. 40, ch. 23, art. 175 et 187; 1998, ch. 19, art. 43 et 182; 2001, ch. 17, art. 151; 2007, ch. 29, art. 22, ch. 35, art. 49 et 117; 2008, ch. 28, art. 29; 2010, ch. 25, art. 39; 2012, ch. 27, art. 28; 2013, ch. 34, art. 139 et 310; 2014, ch. 20, art. 23; 2015, ch. 36, art. 34; 2016, ch. 7, art. 42.

Agreements providing for tax transfer payments

154 (1) The Minister may, with the approval of the Governor in Council, enter into an agreement with the government of a province to provide for tax transfer payments and the terms and conditions relating to such payments.

Accords relatifs aux transferts d'impôt

154 (1) Avec l'approbation du gouverneur en conseil, le ministre peut conclure un accord avec le gouvernement d'une province prévoyant les paiements relatifs au transfert d'impôt et les modalités de ces paiements.

Tax transfer payment

(2) Where, on account of the tax for a taxation year payable by an individual under this Part, an amount has been deducted or withheld under subsection 153(1) on the assumption that the individual was resident in a place other than the province in which the individual resided on the last day of the year, and the individual

(a) has filed a return of income for the year with the Minister,

(b) is liable to pay tax under this Part for the year, and

(c) is resident on the last day of the year in a province with which an agreement described in subsection 154(1) has been entered into,

the Minister may make a tax transfer payment to the government of the province not exceeding an amount equal to the product obtained by multiplying the amount or the total of the amounts so deducted or withheld by a prescribed rate.

Paiement relatif au transfert d'impôt

(2) Lorsque, à valoir sur l'impôt pour une année d'imposition payable par un particulier en vertu de la présente partie, une somme a été déduite ou retenue en vertu du paragraphe 153(1) et que cette déduction se fondait sur l'hypothèse que le particulier résidait ailleurs que dans la province dans laquelle il résidait le dernier jour de l'année, et que le particulier :

a) a présenté au ministre une déclaration de revenu pour l'année;

b) est assujetti au paiement de l'impôt en vertu de la présente partie pour l'année;

c) réside le dernier jour de l'année dans une province avec laquelle un accord visé au paragraphe (1) a été conclu,

le ministre peut faire un paiement relatif au transfert d'impôt au gouvernement de la province, n'excédant pas une somme égale au produit de la multiplication de la

somme ou du total des sommes ainsi déduites ou retenues par un taux prescrit.

Payment deemed received by individual

(3) Where, pursuant to an agreement entered into under subsection 154(1), an amount has been transferred by the Minister to the government of a province with respect to an individual, the amount shall, for all purposes of this Act, be deemed to have been received by the individual at the time the amount was transferred.

Payment deemed received by Receiver General

(4) Where, pursuant to an agreement entered into under subsection 154(1), an amount has been transferred by the government of a province to the Minister with respect to an individual, the amount shall, for all purposes of this Act, be deemed to have been received by the Receiver General on account of the individual's tax under this Part for the year in respect of which the amount was transferred.

Amount not to include refund

(5) In this section, an amount deducted or withheld does not include any refund made in respect of that amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 154; 1998, c. 19, s. 183.

Paiement considéré comme ayant été reçu par un particulier

(3) Lorsque, en conformité avec un accord conclu en vertu du paragraphe (1), une somme a été transférée par le ministre au gouvernement d'une province à l'égard d'un particulier, cette somme est, pour l'application générale de la présente loi, réputée avoir été reçue par le particulier au moment où elle a été transférée.

Paiement réputé avoir été reçu par le receveur général

(4) Lorsque, en conformité avec un accord conclu en vertu du paragraphe (1), une somme a été transférée par le gouvernement d'une province au ministre à l'égard d'un particulier, la somme est, pour l'application générale de la présente loi, réputée avoir été reçue par le receveur général à valoir sur l'impôt du particulier en vertu de la présente partie, relativement à l'année pour laquelle la somme a été transférée.

Remboursement non compris

(5) Pour l'application du présent article, une somme déduite ou retenue ne comprend pas un remboursement quelconque fait relativement à cette somme.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 154; 1998, ch. 19, art. 183.

Farmers and fishermen

155 (1) Subject to section 156.1, every individual whose chief source of income for a taxation year is farming or fishing shall, on or before December 31 in the year, pay to the Receiver General in respect of the year, 2/3 of

(a) the amount estimated by the individual to be the tax payable under this Part by the individual for the year, or

(b) the individual's instalment base for the preceding taxation year.

Definition of *instalment base*

(2) In this section, ***instalment base*** of an individual for a taxation year means the amount determined in prescribed manner to be the individual's instalment base for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 155; 1994, c. 7, Sch. II, s. 127, c. 8, s. 22.

Agriculteurs et pêcheurs

155 (1) Sous réserve de l'article 156.1, tout particulier dont la source principale du revenu pour une année d'imposition est l'agriculture ou la pêche doit payer au receveur général pour l'année, au plus tard le 31 décembre de l'année, les deux tiers de l'une des sommes suivantes :

a) la somme que le particulier estime être l'impôt qu'il doit payer pour l'année en vertu de la présente partie;

b) sa base des acomptes provisionnels pour l'année d'imposition précédente.

Définition de *base des acomptes provisionnels*

(2) Au présent article, ***base des acomptes provisionnels*** d'un particulier pour une année d'imposition s'entend du montant déterminé selon les modalités réglementaires comme étant sa base des acomptes provisionnels pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 155; 1994, ch. 7, ann. II, art. 127, ch. 8, art. 22.

Other individuals

156 (1) Subject to section 156.1, in respect of each taxation year every individual (other than one to whom section 155 applies for the year) shall pay to the Receiver General

(a) on or before March 15, June 15, September 15 and December 15 in the year, an amount equal to 1/4 of

(i) the amount estimated by the individual to be the tax payable under this Part by the individual for the year, or

(ii) the individual's instalment base for the preceding taxation year, or

(b) on or before

(i) March 15 and June 15 in the year, an amount equal to 1/4 of the individual's instalment base for the second preceding taxation year, and

(ii) September 15 and December 15 in the year, an amount equal to 1/2 of the amount, if any, by which

(A) the individual's instalment base for the preceding taxation year

exceeds

(B) 1/2 of the individual's instalment base for the second preceding taxation year.

Payment by mutual fund trusts

(2) Notwithstanding subsection 156(1), the amount payable by a mutual fund trust to the Receiver General on or before any day referred to in paragraph 156(1)(a) in a taxation year shall be deemed to be the amount, if any, by which

(a) the amount so payable otherwise determined under that subsection,

exceeds

(b) 1/4 of the trust's capital gains refund (within the meaning assigned by section 132) for the year.

Definition of *instalment base*

(3) In this section, ***instalment base*** of an individual for a taxation year means the amount determined in prescribed manner to be the individual's instalment base for the year.

Autres particuliers

156 (1) Sous réserve de l'article 156.1, pour chaque année d'imposition, tout particulier, sauf celui auquel l'article 155 s'applique pour l'année, doit payer les montants suivants au receveur général :

a) au plus tard le 15 mars, le 15 juin, le 15 septembre et le 15 décembre de l'année, le quart de l'une des sommes suivantes :

(i) la somme qu'il estime être son impôt payable pour l'année en vertu de la présente partie,

(ii) sa base des acomptes provisionnels pour l'année d'imposition précédente;

b) au plus tard :

(i) le 15 mars et le 15 juin de l'année, le quart de sa base des acomptes provisionnels pour la deuxième année d'imposition précédente,

(ii) le 15 septembre et le 15 décembre de l'année, la moitié de l'excédent éventuel de sa base des acomptes provisionnels pour l'année d'imposition précédente sur la moitié de sa base des acomptes provisionnels pour la deuxième année d'imposition précédente.

Paiements à faire par les fiducies de fonds commun de placement

(2) Malgré le paragraphe (1), la somme payable par une fiducie qui est une fiducie de fonds commun de placement au receveur général, au plus tard l'un des jours de l'année d'imposition visés à l'alinéa (1)a), est réputée être l'excédent éventuel de la somme visée à l'alinéa a) sur le montant visé à l'alinéa b):

a) la somme ainsi payable, déterminée en vertu de ce paragraphe;

b) un montant égal au 1/4 du remboursement fait par la fiducie, pour l'année, au titre des gains en capital (au sens de l'article 132).

Définition de *base des acomptes provisionnels*

(3) Au présent article, ***base des acomptes provisionnels*** d'un particulier pour une année d'imposition s'entend du montant déterminé selon les modalités réglementaires comme étant sa base des acomptes provisionnels pour l'année.

Payments by SIFT trusts

(4) Subsections (1) to (3) and section 156.1 do not apply to a SIFT trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 156; 1994, c. 7, Sch. II, s. 128, Sch. VIII, s. 92, c. 8, s. 23; 2013, c. 40, s. 68.

Definitions

156.1 (1) For the purposes of this section,

instalment threshold of an individual for a taxation year means

(a) in the case of an individual resident in the Province of Quebec at the end of the year, $1,800, and

(b) in any other case, $3,000; (*plafond des acomptes provisionnels*)

net tax owing by an individual for a taxation year means

(a) in the case of an individual resident in the Province of Quebec at the end of the year, the amount determined by the formula

A - C - D - F

and

(b) in any other case, the amount determined by the formula

A + B - C - E - F

where

A is the total of the taxes payable under this Part and Parts I.2, X.5 and XI.4 by the individual for the year,

B is the total of all income taxes payable by the individual for the year under any law of a province or of an Aboriginal government with which the Minister of Finance has entered into an agreement for the collection of income taxes payable by individuals to the province or Aboriginal government under that law,

C is the total of the taxes deducted or withheld under section 153 and Part I.2 on behalf of the individual for the year,

D is the amount determined under subsection 120(2) in respect of the individual for the year,

E is the total of all amounts deducted or withheld on behalf of the individual for the year under a law of a province or of an Aboriginal government with which the Minister of Finance has entered into an agreement for the collection of income taxes payable by

Paiements de fiducies intermédiaires de placement déterminées

(4) Les paragraphes (1) à (3) et l'article 156.1 ne s'appliquent pas aux fiducies intermédiaires de placement déterminées.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 156; 1994, ch. 7, ann. II, art. 128, ann. VIII, art. 92, ch. 8, art. 23; 2013, ch. 40, art. 68.

Définitions

156.1 (1) Les définitions qui suivent s'appliquent au présent article.

impôt net à payer L'impôt net à payer d'un particulier pour une année d'imposition correspond au montant suivant :

a) dans le cas d'un particulier résidant dans la province de Québec à la fin de l'année, le résultat du calcul suivant :

A - C - D - F

b) dans les autres cas, le résultat du calcul suivant :

A + B - C - E - F

où :

A représente le total des impôts payables par le particulier pour l'année en vertu de la présente partie et des parties I.2, X.5 et XI.4,

B le total de l'impôt sur le revenu payable par le particulier pour l'année en vertu d'un texte législatif d'une province ou d'un gouvernement autochtone avec lequel le ministre des Finances a conclu un accord en vue de recouvrer les impôts sur le revenu payables par des particuliers à la province ou au gouvernement autochtone en vertu de ce texte,

C le total de l'impôt retenu ou déduit en application de l'article 153 et de la partie I.2 pour le compte du particulier pour l'année,

D le montant établi en application du paragraphe 120(2) à l'égard du particulier pour l'année,

E le total des montants retenus ou déduits pour le compte du particulier pour l'année en vertu d'un texte législatif d'une province ou d'un gouvernement autochtone avec lequel le ministre des Finances a conclu un accord en vue de recouvrer les impôts sur le revenu payables par des particuliers à la province ou au gouvernement autochtone en vertu de ce texte,

F le montant déterminé selon le paragraphe 120(2.2) relativement au particulier pour l'année. (*net tax owing*)

individuals to the province or Aboriginal government under that law, and

F is the amount determined under subsection 120(2.2) in respect of the individual for the year. (*impôt net à payer*)

plafond des acomptes provisionnels Le plafond des acomptes provisionnels d'un particulier pour une année d'imposition correspond au montant suivant :

a) dans le cas d'un particulier résidant dans la province de Québec à la fin de l'année, 1 800 $;

b) dans les autres cas, 3 000 $. (*instalment threshold*)

Values of A and B in *net tax owing*

(1.1) For the purposes of determining the values of A and B in the definition ***net tax owing*** in subsection 156.1(1), income taxes payable by an individual for a taxation year are determined

(a) before taking into consideration the specified future tax consequences for the year; and

(b) after deducting all tax credits to which the individual is entitled for the year relating to those taxes (other than tax credits that become payable to the individual after the individual's balance-due day for the year, prescribed tax credits and amounts deemed to have been paid because of the application of either subsection 120(2) or (2.2)).

Valeur des éléments A et B de *impôt net à payer*

(1.1) Pour le calcul de la valeur des éléments A et B des formules figurant dans la définition de ***impôt net à payer*** au paragraphe (1), les impôts sur le revenu payables par un particulier pour une année d'imposition sont calculés :

a) avant la prise en compte des conséquences fiscales futures déterminées pour l'année;

b) une fois déduits les crédits d'impôt auxquels le particulier a droit pour l'année relativement à ces impôts, à l'exception des crédits d'impôt qui lui deviennent payables après la date d'exigibilité du solde qui lui est applicable pour l'année, des crédits d'impôt visés par règlement et des sommes réputées payées par l'effet des paragraphes 120(2) ou (2.2).

Value of D in *net tax owing*

(1.2) For the purpose of determining the value of D in the definition ***net tax owing*** in subsection 156.1(1), the amount deemed by subsection 120(2) to have been paid on account of an individual's tax under this Part for a taxation year is determined before taking into consideration the specified future tax consequences for the year.

Valeur de l'élément D de *impôt net à payer*

(1.2) Pour le calcul de la valeur de l'élément D de la formule figurant dans la définition de ***impôt net à payer*** au paragraphe (1), le montant réputé par le paragraphe 120(2) avoir été payé au titre de l'impôt d'un particulier pour une année d'imposition en vertu de la présente partie est calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année.

Value of F in *net tax owing*

(1.3) For the purpose of determining the value of F in the definition ***net tax owing*** in subsection (1), the amount deemed by subsection 120(2.2) to have been paid on account of an individual's tax under this Part for a taxation year is determined before taking into consideration the specified future tax consequences for the year.

Valeur de l'élément F — *impôt net à payer*

(1.3) Aux fins de déterminer la valeur de l'élément F de la formule figurant à l'alinéa b) de la définition de ***impôt net à payer*** au paragraphe (1), la somme réputée par le paragraphe 120(2.2) avoir été payée au titre de l'impôt d'un particulier en vertu de la présente partie pour une année d'imposition est déterminée avant la prise en compte des conséquences fiscales futures déterminées pour l'année.

No instalment required

(2) Sections 155 and 156 do not apply to an individual for a particular taxation year where

(a) the individual's chief source of income for the particular year is farming or fishing and the individual's net tax owing for the particular year, or either of the 2

Aucun acompte provisionnel exigé

(2) Les articles 155 et 156 ne s'appliquent pas à un particulier pour une année d'imposition lorsque, selon le cas :

a) le revenu du particulier provient principalement de l'agriculture ou de la pêche et l'impôt net à payer par le particulier pour l'année, ou pour l'une des deux années d'imposition précédentes, ne dépasse pas le

preceding taxation years, does not exceed the individual's instalment threshold for that year;

(b) the individual's net tax owing for the particular year, or for each of the 2 preceding taxation years, does not exceed the individual's instalment threshold for that year; or

(c) the individual is a graduated rate estate for the particular year.

plafond des acomptes provisionnels qui lui est applicable pour l'année;

b) l'impôt net à payer par le particulier pour l'année, ou pour chacune des deux années d'imposition précédentes, ne dépasse pas le plafond des acomptes provisionnels qui lui est applicable pour l'année;

c) le particulier est une succession assujettie à l'imposition à taux progressifs pour l'année.

Idem

(3) Sections 155 and 156 do not require the payment of any amount in respect of an individual that would otherwise become due under either of those sections on or after the day on which the individual dies.

Idem

(3) Les articles 155 et 156 n'ont pas pour effet d'exiger le paiement d'un montant à l'égard d'un particulier qui deviendrait exigible par ailleurs en application de l'un ou l'autre de ces articles le jour du décès de ce particulier ou après.

Payment of remainder

(4) Every individual shall, on or before the individual's balance-due day for each taxation year, pay to the Receiver General in respect of the year the amount, if any, by which the individual's tax payable under this Part for the year exceeds the total of

(a) all amounts deducted or withheld under section 153 from remuneration or other payments received by the individual in the year, and

(b) all other amounts paid to the Receiver General on or before that day on account of the individual's tax payable under this Part for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 156.1; 1994, c. 7, Sch. II, s. 129, Sch. VI, s. 6, Sch. VIII, s. 93, c. 8, s. 24; 1996, c. 21, s. 40.1; 1997, c. 25, s. 48; 1998, c. 19, s. 44; 2000, c. 19, s. 45; 2001, c. 17, s. 152; 2007, c. 35, s. 50; 2012, c. 31, s. 40; 2014, c. 39, s. 56.

Paiement du solde

(4) Tout particulier doit payer au receveur général pour chaque année d'imposition, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, l'excédent éventuel de l'impôt dont il est redevable en vertu de la présente partie sur le total des montants suivants :

a) les montants déduits ou retenus en application de l'article 153 de la rémunération ou d'autres paiements reçus par le particulier au cours de l'année;

b) les autres montants payés au receveur général au plus tard à cette date au titre de l'impôt payable par le particulier en vertu de la présente partie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 156.1; 1994, ch. 7, ann. II, art. 129, ann. VI, art. 6, ann. VIII, art. 93, ch. 8, art. 24; 1996, ch. 21, art. 40.1; 1997, ch. 25, art. 48; 1998, ch. 19, art. 44; 2000, ch. 19, art. 45; 2001, ch. 17, art. 152; 2007, ch. 35, art. 50; 2012, ch. 31, art. 40; 2014, ch. 39, art. 56.

Payment by corporation

157 (1) Subject to subsections (1.1) and (1.5), every corporation shall, in respect of each of its taxation years, pay to the Receiver General

(a) either

(i) on or before the last day of each month in the year, an amount equal to 1/12 of the total of the amounts estimated by it to be the taxes payable by it under this Part and Parts VI, VI.1 and XIII.1 for the year,

(ii) on or before the last day of each month in the year, an amount equal to 1/12 of its first instalment base for the year, or

(iii) on or before the last day of each of the first two months in the year, an amount equal to 1/12 of its

Versements par les sociétés

157 (1) Sous réserve des paragraphes (1.1) et (1.5), toute société doit verser au receveur général, pour chacune de ses années d'imposition :

a) l'un des montants suivants :

(i) un montant égal à 1/12 du total des montants qu'elle estime être ses impôts payables en vertu de la présente partie et des parties VI, VI.1 et XIII.1 pour l'année, au plus tard le dernier jour de chaque mois de l'année,

(ii) un montant égal à 1/12 de sa première base des acomptes provisionnels pour l'année au plus tard le dernier jour de chaque mois de l'année,

(iii) un montant égal à 1/12 de sa deuxième base des acomptes provisionnels pur l'année, au plus

second instalment base for the year, and on or before the last day of each of the following months in the year, an amount equal to 1/10 of the amount remaining after deducting the amount computed pursuant to this subparagraph in respect of the first two months from its first instalment base for the year; and

(b) the remainder of the taxes payable by it under this Part and Parts VI, VI.1 and XIII.1 for the year on or before its balance-due day for the year.

Special case

(1.1) A small-CCPC may, in respect of each of its taxation years, pay to the Receiver General

(a) one of the following:

(i) on or before the last day of each three-month period in the taxation year (or if the period that remains in a taxation year after the end of the last such three-month period is less than three months, on or before the last day of that remaining period), an amount equal to 1/4 of the total of the amounts estimated by it to be the taxes payable by it under this Part and Part VI.1 for the taxation year,

(ii) on or before the last day of each three-month period in the taxation year (or if the period that remains in a taxation year after the end of the last such three-month period is less than three months, on or before the last day of that remaining period), an amount equal to 1/4 of its first instalment base for the taxation year, or

(iii) on or before the last day

(A) of the first period in the taxation year not exceeding three months, an amount equal to 1/4 of its second instalment base for the taxation year, and

(B) of each of the following three-month periods in the taxation year (or if the period that remains in a taxation year after the end of the last such three-month period is less than three months, on or before the last day of that remaining period), an amount equal to 1/3 of the amount remaining after deducting the amount computed pursuant to clause (A) from its first instalment base for the taxation year; and

(b) the remainder of the taxes payable by it under this Part and Part VI.1 for the taxation year on or before its balance-due day for the taxation year.

tard le dernier jour de chacun des deux premiers mois de l'année, et un montant égal à 1/10 du restant une fois déduit de sa première base des acomptes provisionnels pour l'année le montant calculé en vertu du présent sous-alinéa pour les deux premiers mois, au plus tard le dernier jour de chacun des 10 mois suivants de l'année;

b) le solde de ses impôts payables pour l'année en vertu de la présente partie et des parties VI, VI.1 et XIII.1, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Cas particulier

(1.1) Une petite société privée sous contrôle canadien peut verser au receveur général, pour chacune de ses années d'imposition :

a) l'une des sommes suivantes :

(i) le quart du total des sommes qu'elle estime être ses impôts payables pour l'année en vertu de la présente partie et de la partie VI.1, au plus tard le dernier jour de chaque trimestre de l'année ou, s'il reste moins de trois mois à l'année d'imposition après l'expiration du dernier trimestre, au plus tard le dernier jour de la période restante,

(ii) le quart de sa première base des acomptes provisionnels pour l'année, au plus tard le dernier jour de chaque trimestre de l'année ou, s'il reste moins de trois mois à l'année d'imposition après l'expiration du dernier trimestre, au plus tard le dernier jour de la période restante,

(iii) le total des sommes suivantes :

(A) le quart de sa deuxième base des acomptes provisionnels pour l'année, au plus tard le dernier jour de la première période de l'année dont la durée n'excède pas trois mois,

(B) le tiers de l'excédent de sa première base des acomptes provisionnels pour l'année sur la somme calculée selon la division (A), au plus tard le dernier jour de chacun des trimestres subséquents de l'année ou, s'il reste moins de trois mois à l'année d'imposition après l'expiration du dernier trimestre, au plus tard le dernier jour de la période restante;

b) le solde de ses impôts payables pour l'année en vertu de la présente partie et de la partie VI.1, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Small-CCPC

(1.2) For the purpose of subsection (1.1), a small-CCPC, at a particular time during a taxation year, is a Canadian-controlled private corporation

(a) for which the amount determined under subsection (1.3) for the taxation year, or for the preceding taxation year, does not exceed $500,000;

(b) for which the amount determined under subsection (1.4) for the taxation year, or for the preceding taxation year, does not exceed $10 million;

(c) in respect of which an amount is deducted under section 125 of the Act in computing the corporation's tax payable for the taxation year or for the preceding taxation year; and

(d) that has throughout the 12-month period that ends at the time its last remittance under this section is due,

(i) remitted, on or before the day on or before which the amounts were required to be remitted, all amounts that were required to be remitted under subsection 153(1), under Part IX of the *Excise Tax Act*, under subsection 82(1) of the *Employment Insurance Act* or under subsection 21(1) of the *Canada Pension Plan*; and

(ii) filed, on or before the day on or before which the returns were required to be filed, all returns that were required to be filed under this Act or under Part IX of the *Excise Tax Act*.

Taxable income — small-CCPC

(1.3) The amount determined under this subsection in respect of a corporation for a particular taxation year is

(a) if the corporation is not associated with another corporation in the particular taxation year, the amount that is the corporation's taxable income for the particular taxation year; or

(b) if the corporation is associated with another corporation in the particular taxation year, the amount that is the total of all amounts each of which is the taxable income of the corporation for the particular taxation year or the taxable income of a corporation with which it is associated in the particular taxation year for a taxation year of that other corporation that ends in the particular taxation year.

Petite société privée sous contrôle canadien

(1.2) Pour l'application du paragraphe (1.1), est une petite société privée sous contrôle canadien au cours d'une année d'imposition la société privée sous contrôle canadien relativement à laquelle les conditions suivantes sont réunies :

a) la somme déterminée à son égard selon le paragraphe (1.3) pour l'année ou pour l'année d'imposition précédente n'excède pas 500 000 $;

b) la somme déterminée à son égard selon le paragraphe (1.4) pour l'année ou pour l'année d'imposition précédente n'excède pas 10 000 000 $;

c) une somme est déduite à son égard en application de l'article 125 dans le calcul de son impôt payable pour l'année ou pour l'année d'imposition précédente;

d) tout au long de la période de douze mois se terminant à l'échéance de son dernier versement effectué en application du présent article :

(i) d'une part, elle a versé, au plus tard à la date de leur échéance, toutes les sommes qu'elle était tenue de remettre ou de verser aux termes du paragraphe 153(1), de la partie IX de la *Loi sur la taxe d'accise*, du paragraphe 82(1) de la *Loi sur l'assurance-emploi* ou du paragraphe 21(1) du *Régime de pensions du Canada*,

(ii) d'autre part, elle a produit, au plus tard à la date limite de production, toutes les déclarations qu'elle était tenue de produire aux termes de la présente loi ou de la partie IX de la *Loi sur la taxe d'accise*.

Revenu imposable — petite société privée sous contrôle canadien

(1.3) La somme ci-après est déterminée selon le présent paragraphe à l'égard d'une société pour une année d'imposition donnée :

a) si la société n'est associée à aucune autre société au cours de l'année donnée, son revenu imposable pour cette année;

b) si elle est associée à une autre société au cours de l'année donnée, le total des sommes représentant chacune son revenu imposable pour cette année ou le revenu imposable d'une société à laquelle elle est associée au cours de cette même année pour l'année d'imposition de cette dernière se terminant dans l'année donnée.

Taxable capital — small-CCPC

(1.4) The amount determined under this subsection in respect of a corporation for a particular taxation year is

(a) if the corporation is not associated with another corporation in the particular taxation year, the amount that is the corporation's taxable capital employed in Canada (for the purpose of this subsection, within the meaning assigned by section 181.2 or 181.3, as the case may be) for the particular taxation year; or

(b) if the corporation is associated with another corporation in the particular taxation year, the amount that is the total of all amounts each of which is the taxable capital employed in Canada of the corporation for the particular taxation year or the taxable capital employed in Canada of a corporation with which it is associated in the particular taxation year for a taxation year of that other corporation that ends in the particular taxation year.

Capital imposable — petite société privée sous contrôle canadien

(1.4) La somme ci-après est déterminée selon le présent paragraphe à l'égard d'une société pour une année d'imposition donnée :

a) si la société n'est associée à aucune autre société au cours de l'année donnée, son capital imposable utilisé au Canada (ce terme s'entendant, au présent paragraphe, au sens des articles 181.2 ou 181.3, selon le cas) pour cette année;

b) si elle est associée à une autre société au cours de l'année donnée, le total des sommes représentant chacune son capital imposable utilisé au Canada pour cette année ou le capital imposable utilisé au Canada d'une société à laquelle elle est associée au cours de cette même année pour une année d'imposition de cette dernière se terminant dans l'année donnée.

No longer a small-CCPC

(1.5) Notwithstanding subsection (1), where a corporation, that has remitted amounts in accordance with subsection (1.1), ceases at any particular time in a taxation year to be eligible to remit in accordance with subsection (1.1), the corporation shall pay to the Receiver General, the following amounts for the taxation year,

(a) on or before the last day of each month, in the taxation year, that ends after the particular time, either

(i) the amount determined by the formula

(A - B)/C

where

A is the total of the amounts estimated by the corporation to be the taxes payable by it under this Part and Parts VI, VI.1 and XIII.1 for the taxation year,

B is the total of all payments payable by the corporation in the taxation year in accordance with subsection (1.1), and

C is the number of months that end in the taxation year and after the particular time, or

(ii) the total of

(A) the amount determined by the formula

(A - B)/C

where

Société qui cesse d'être une petite société privée sous contrôle canadien

(1.5) Malgré le paragraphe (1), la société qui a versé des sommes conformément au paragraphe (1.1), mais qui, à un moment donné d'une année d'imposition, ne remplit plus les conditions pour ce faire est tenue de verser au receveur général les sommes suivantes pour l'année :

a) l'une des sommes ci-après, au plus tard le dernier jour de chaque mois de l'année, qui se termine après le moment donné :

(i) la somme obtenue par la formule suivante :

(A - B)/C

où :

A représente le total des sommes que la société estime être ses impôts payables pour l'année en vertu de la présente partie et des parties VI, VI.1 et XIII.1,

B le total des sommes à verser par la société au cours de l'année conformément au paragraphe (1.1),

C le nombre de mois se terminant dans l'année et après le moment donné,

(ii) le total des sommes suivantes :

(A) la somme obtenue par la formule suivante :

(A - B)/C

où :

A is the corporation's first instalment base for the taxation year,

B is the total of all payments payable by the corporation in the taxation year in accordance with subsection (1.1), and

C is the number of months that end in the taxation year and after the particular time; and

(B) the amount obtained when the estimated tax payable by the corporation, if any, under Parts VI and XIII.1 for the taxation year is divided by the number of months that end in the taxation year and after the particular time; and

(b) the remainder of the taxes payable by it under this Part and Parts VI, VI.1 and XIII.1 for the taxation year on or before its balance-due day for the year.

A représente la première base des acomptes provisionnels de la société pour l'année,

B le total des sommes à verser par la société au cours de l'année conformément au paragraphe (1.1),

C le nombre de mois se terminant dans l'année et après le moment donné,

(B) le quotient du montant estimatif d'impôt payable par la société pour l'année en vertu des parties VI et XIII.1 par le nombre de mois se terminant dans l'année et après le moment donné;

b) le solde des impôts payables par la société pour l'année en vertu de la présente partie et des parties VI, VI.1 et XIII.1, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Application to SIFT trusts

(2) Subsections (1), (2.1) and (4) apply to a SIFT trust with any modifications that the circumstances require.

Application aux fiducies intermédiaires de placement déterminées

(2) Les paragraphes (1), (2.1) et (4) s'appliquent aux fiducies intermédiaires de placement déterminées, avec les adaptations nécessaires.

$3,000 threshold

(2.1) A corporation may, instead of paying the instalments required for a taxation year by paragraph (1)(a) or by subsection (1.1), pay to the Receiver General, under paragraph (1)(b), the total of the taxes payable by it under this Part and Parts VI, VI.1 and XIII.1 for the taxation year, if

(a) the total of the taxes payable under this Part and Parts VI, VI.1 and XIII.1 by the corporation for the taxation year (determined before taking into consideration the specified future tax consequences for the year) is equal to or less than $3,000; or

(b) the corporation's first instalment base for the year is equal to or less than $3,000.

Seuil de 3 000 $

(2.1) Une société peut, au lieu de verser les acomptes provisionnels prévus à l'alinéa (1)a) ou au paragraphe (1.1) pour une année d'imposition, verser au receveur général, en application de l'alinéa (1)b), le total de ses impôts payables pour l'année en vertu de la présente partie et des parties VI, VI.1 et XIII.1 si l'un ou l'autre des montants ci-après n'excède pas 3 000 $:

a) le total de ses impôts payables pour l'année en vertu de la présente partie et des parties VI, VI.1 et XIII.1, avant la prise en compte des conséquences fiscales futures déterminées pour l'année;

b) sa première base des acomptes provisionnels pour l'année.

Reduced instalments

(3) Notwithstanding subsection (1) and (1.5), the amount payable under subsection (1) or (1.5) for a taxation year by a corporation to the Receiver General on or before the last day of any month in the year is deemed to be the amount, if any, by which

(a) the amount so payable as determined under that subsection for the month

exceeds

(b) where the corporation is neither a mutual fund corporation nor a non-resident-owned investment

Acomptes provisionnels réduits

(3) Malgré les paragraphes (1) et (1.5), le montant payable au receveur général par une société pour une année d'imposition aux termes de ces paragraphes, au plus tard le dernier jour d'un mois donné de l'année, est réputé correspondre à l'excédent :

a) du montant ainsi payable déterminé en vertu de ce paragraphe pour le mois,

sur :

b) lorsque la société n'est ni une société de placement à capital variable ni une société de placement

corporation, 1/12 of the corporation's dividend refund (within the meaning assigned by subsection 129(1)) for the year,

(c) if the corporation is a mutual fund corporation, 1/12 of the total of

(i) the corporation's capital gains refund (within the meaning assigned by section 131) for the year, and

(ii) the amount that, because of subsection 131(5) or (11), is the corporation's dividend refund (within the meaning assigned by section 129) for the year,

(d) where the corporation is a non-resident-owned investment corporation, 1/12 of the corporation's allowable refund (within the meaning assigned by section 133) for the year, and

(e) 1/12 of the total of the amounts each of which is deemed by subsection 125.4(3), 125.5(3), 127.1(1) or 127.41(3) to have been paid on account of the corporation's tax payable under this Part for the year.

Amount of payment — three-month period

(3.1) Notwithstanding subsection (1.1), the amount payable under subsection (1.1) for a taxation year by a corporation to the Receiver General on or before the last day of any period in the year is deemed to be the amount, if any, by which

(a) the amount so payable as determined under that subsection for the period

exceeds the total of

(b) 1/4 of the corporation's dividend refund (within the meaning assigned by subsection 129(1)) for the taxation year, and

(c) 1/4 of the total of the amounts each of which is deemed by subsection 125.4(3), 125.5(3), 127.1(1) or 127.41(3) to have been paid on account of the corporation's tax payable under this Part for the taxation year.

Definitions

(4) In this section, ***first instalment base*** and ***second instalment base*** of a corporation for a taxation year have the meanings prescribed by regulation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 157; 1994, c. 7, Sch. II, s. 130, Sch. VI, s. 7, Sch. VIII, s. 94; 1995, c. 3, s. 47; 1996, c. 21, s. 41; 1997, c. 25, s. 49; 1998, c. 19, s. 184; 2001, c. 17, s. 153; 2002, c. 9, s. 41; 2003, c. 15, s. 115; 2007, c. 35, s. 51; 2009, c. 2, s. 59; 2013, c. 34, s. 311, c. 40, s. 69.

appartenant à des non-résidents, le 1/12 de son remboursement au titre de dividendes, au sens du paragraphe 129(1), pour l'année;

c) si la société est une société de placement à capital variable, 1/12 du total des montants suivants :

(i) le remboursement au titre des gains en capital, au sens de l'article 131, de la société pour l'année,

(ii) le montant qui, par l'effet des paragraphes 131(5) ou (11), représente le remboursement au titre de dividendes, au sens de l'article 129, de la société pour l'année;

d) lorsque la société est une société de placement appartenant à des non-résidents, le 1/12 du remboursement admissible (au sens de l'article 133) de la société pour l'année;

e) le douzième du total des montants dont chacun est réputé, par les paragraphes 125.4(3), 125.5(3), 127.1(1) ou 127.41(3), avoir été payé au titre de l'impôt payable par la société pour l'année en vertu de la présente partie.

Montant du versement — trimestre

(3.1) Malgré le paragraphe (1.1), la somme payable au receveur général par une société pour une année d'imposition aux termes de ce paragraphe, au plus tard le dernier jour d'une période quelconque de l'année, est réputée correspondre à l'excédent de la somme visée à l'alinéa a) sur le total des sommes visées aux alinéas b) et c) :

a) la somme ainsi payable, déterminée selon ce paragraphe pour la période;

b) le quart du remboursement au titre de dividendes, au sens du paragraphe 129(1), de la société pour l'année;

c) le quart du total des sommes dont chacune est réputée en vertu des paragraphes 125.4(3), 125.5(3), 127.1(1) ou 127.41(3) avoir été payée au titre de l'impôt payable par la société pour l'année en vertu de la présente partie.

Définitions

(4) Au présent article, ***première base des acomptes provisionnels*** et ***deuxième base des acomptes provisionnels*** d'une société pour une année d'imposition s'entendent du montant déterminé selon les modalités réglementaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 157; 1994, ch. 7, ann. II, art. 130, ann. VI, art. 7, ann. VIII, art. 94; 1995, ch. 3, art. 47; 1996, ch. 21, art. 41; 1997, ch. 25, art. 49; 1998, ch. 19, art. 184; 2001, ch. 17, art. 153; 2002, ch. 9, art.

41; 2003, ch. 15, art. 115; 2007, ch. 35, art. 51; 2009, ch. 2, art. 59; 2013, ch. 34, art. 311, ch. 40, art. 69.

Instalment deferral for January, February and March 2002 - definitions

157.1 (1) The following definitions apply in this section.

eligible corporation, for a particular taxation year, means a corporation

(a) that is resident in Canada throughout the particular taxation year; and

(b) of which the taxable capital employed in Canada, within the meaning assigned by Part I.3, for its preceding taxation year did not exceed,

(i) if the corporation is not associated with any other corporation in the particular taxation year, $15 million, and

(ii) if the corporation is associated with one or more other corporations in the particular taxation year, the amount by which $15 million exceeds the total of the taxable capital employed in Canada, within the meaning assigned by Part I.3, of those other corporations for their last taxation years that ended in the last calendar year that ended before the end of the particular taxation year. (*société admissible*)

eligible instalment day of an eligible corporation means a day in January, February or March, 2002, on which an instalment on account of the corporation's tax payable under this Part for the taxation year that includes that day would become payable

(a) if this Act were read without reference to this section; and

(b) if, in the case of a corporation that is not required by section 157 to make instalment payments on account of its tax payable under this Part for the taxation year, it were so required. (*jour admissible*)

Deferred balance-due day

(2) An eligible corporation's balance-due day for a taxation year that ends after 2001 is deemed to be the later of

(a) the day that would otherwise be the corporation's balance-due day for the taxation year, and

(b) the day that is six months after the corporation's last eligible instalment day in the taxation year.

Report des acomptes provisionnels de janvier, février et mars 2002 — définitions

157.1 (1) Les définitions qui suivent s'appliquent au présent article.

jour admissible Pour ce qui est d'une société admissible, un jour de janvier, février ou mars 2002 où un acompte provisionnel au titre de l'impôt payable par la société en vertu de la présente partie pour l'année d'imposition qui comprend le jour deviendrait exigible si, à la fois :

a) la présente loi s'appliquait compte non tenu du présent article;

b) dans le cas d'une société qui n'est pas tenue par l'article 157 de verser des acomptes provisionnels au titre de son impôt payable en vertu de la présente partie pour l'année, elle en était ainsi tenue. (*eligible instalment day*)

société admissible Pour ce qui est d'une année d'imposition donnée, société qui répond aux conditions suivantes :

a) elle réside au Canada tout au long de l'année donnée;

b) son capital imposable utilisé au Canada, au sens de la partie I.3, pour son année d'imposition précédente n'a pas dépassé :

(i) si elle n'est associée à aucune autre société au cours de l'année donnée, 15 000 000 $,

(ii) si elle est associée à une ou plusieurs autres sociétés au cours de l'année donnée, l'excédent de 15 000 000 $ sur le total du capital imposable utilisé au Canada, au sens de la partie I.3, de ces autres sociétés pour leur dernière année d'imposition s'étant terminée dans la dernière année civile ayant pris fin avant la fin de l'année donnée. (*eligible corporation*)

Date d'exigibilité du solde

(2) La date d'exigibilité du solde qui est applicable à une société admissible pour une année d'imposition se terminant après 2001 est réputée correspondre au dernier en date des jours suivants :

a) le jour qui correspondrait par ailleurs à la date d'exigibilité du solde qui lui est applicable pour l'année;

Deferred instalment day

(3) An amount that would, because of paragraph 157(1)(a), otherwise become payable in respect of a taxation year by an eligible corporation on an eligible instalment day of the corporation does not become payable on that day but becomes payable

(a) if the particular day that is six months after the eligible instalment day is in the taxation year, on the particular day; and

(b) in any other case, on the day that is deemed by subsection (2) to be the corporation's balance-due day for the taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2002, c. 9, s. 42.

Jour admissible

(3) Le montant qui, par l'effet de l'alinéa 157(1)a), deviendrait exigible par ailleurs pour une année d'imposition par une société admissible un jour admissible devient exigible, non pas ce jour-là, mais :

a) le jour donné qui suit de six mois le jour admissible, si le jour donné fait partie de l'année;

b) sinon, le jour qui est réputé par le paragraphe (2) correspondre à la date d'exigibilité du solde applicable à la société pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2002, ch. 9, art. 42.

Payment of remainder

158 Where the Minister mails a notice of assessment of any amount payable by a taxpayer, that part of the amount assessed then remaining unpaid is payable forthwith by the taxpayer to the Receiver General.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"158"; 1980-81-82-83, c. 48, s. 115; 1985, c. 45, s. 89.

Paiement du solde

158 Lorsque le ministre poste un avis de cotisation pour un montant payable par un contribuable, celui-ci doit immédiatement verser au receveur général la partie alors impayée de ce montant.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 158 »; 1980-81-82-83, ch. 48, art. 115; 1985, ch. 45, art. 89.

Person acting for another

159 (1) For the purposes of this Act, where a person is a legal representative of a taxpayer at any time,

(a) the legal representative is jointly and severally, or solidarily, liable with the taxpayer

(i) to pay each amount payable under this Act by the taxpayer at or before that time and that remains unpaid, to the extent that the legal representative is at that time in possession or control, in the capacity of legal representative, of property that belongs or belonged to, or that is or was held for the benefit of, the taxpayer or the taxpayer's estate, and

(ii) to perform any obligation or duty imposed under this Act on the taxpayer at or before that time and that remains outstanding, to the extent that the obligation or duty can reasonably be considered to relate to the responsibilities of the legal representative acting in that capacity; and

(b) any action or proceeding in respect of the taxpayer taken under this Act at or after that time by the Minister may be so taken in the name of the legal representative acting in that capacity and, when so taken, has the same effect as if it had been taken directly against

Personne agissant pour le compte d'autrui

159 (1) Pour l'application de la présente loi, dans le cas où une personne est le représentant légal d'un contribuable à un moment donné, les règles suivantes s'appliquent :

a) le représentant légal est solidairement tenu avec le contribuable :

(i) d'une part, de payer chaque montant payable par le contribuable à ce moment ou antérieurement en vertu de la présente loi et qui demeure impayé dans la mesure où, à ce moment, il a en sa possession ou sous sa garde, en sa qualité de représentant légal, des biens qui appartiennent ou appartenaient au contribuable ou à sa succession, ou qui sont ou étaient détenus pour leur compte,

(ii) d'autre part, de remplir, au moment donné, toute obligation imposée au contribuable en vertu de la présente loi et qui n'a pas été remplie, dans la mesure où il est raisonnable de considérer que l'obligation se rapporte à ses responsabilités à titre de représentant légal;

b) toute action ou procédure relative au contribuable engagée par le ministre aux termes de la présente loi au moment donné ou postérieurement peut être ainsi

the taxpayer and, if the taxpayer no longer exists, as if the taxpayer continued to exist.

engagée contre le représentant légal nommément et en cette qualité; le cas échéant, l'action ou l'instance a le même effet que si elle avait été engagée directement contre le contribuable et, si celui-ci n'existe plus, que s'il avait continué d'exister.

Certificate before distribution

(2) Every legal representative (other than a trustee in bankruptcy) of a taxpayer shall, before distributing to one or more persons any property in the possession or control of the legal representative acting in that capacity, obtain a certificate from the Minister, by applying for one in prescribed form, certifying that all amounts

(a) for which the taxpayer is or can reasonably be expected to become liable under this Act at or before the time the distribution is made, and

(b) for the payment of which the legal representative is or can reasonably be expected to become liable in that capacity

have been paid or that security for the payment thereof has been accepted by the Minister.

Certificat avant répartition

(2) Chaque représentant légal (à l'exclusion d'un syndic de faillite) d'un contribuable doit, avant de répartir entre plusieurs personnes ou d'attribuer à une seule des biens en sa possession ou sous sa garde en sa qualité de représentant légal, obtenir du ministre, par demande faite sur le formulaire prescrit, un certificat attestant qu'ont été versés les montants :

a) d'une part, dont le contribuable est redevable en vertu de la présente loi au moment de la répartition ou de l'attribution ou antérieurement, ou dont on peut raisonnablement s'attendre à ce qu'il le devienne,

b) d'autre part, du paiement desquels le représentant légal est, en cette qualité, redevable ou dont on peut raisonnablement s'attendre à ce qu'il le devienne,

ou attestant que le ministre a accepté une garantie pour le paiement de ces montants.

Personal liability

(3) If a legal representative (other than a trustee in bankruptcy) of a taxpayer distributes to one or more persons property in the possession or control of the legal representative, acting in that capacity, without obtaining a certificate under subsection (2) in respect of the amounts referred to in that subsection,

(a) the legal representative is personally liable for the payment of those amounts to the extent of the value of the property distributed;

(b) the Minister may at any time assess the legal representative in respect of any amount payable because of this subsection; and

(c) the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, to an assessment made under this subsection as though it had been made under section 152 in respect of taxes payable under this Part.

Responsabilité personnelle

(3) Si le représentant légal, à l'exclusion d'un syndic de faillite, d'un contribuable répartit entre plusieurs personnes ou attribue à une seule, en cette qualité, des biens en sa possession ou sous sa garde sans le certificat prévu au paragraphe (2) à l'égard des montants visés à ce paragraphe, les règles ci-après s'appliquent :

a) le représentant légal est personnellement redevable de ces montants, jusqu'à concurrence de la valeur des biens répartis ou attribués;

b) le ministre peut, à tout moment, établir à l'égard du représentant légal une cotisation pour toute somme à payer par l'effet du présent paragraphe;

c) les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent paragraphe comme si elles avaient été établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie.

Appropriation of property

(3.1) For the purposes of subsections 159(2) and 159(3), an appropriation by a legal representative of a taxpayer

Appropriation de biens

(3.1) Pour l'application des paragraphes (2) et (3), l'appropriation par le représentant légal d'un contribuable de biens en sa possession ou sous sa garde en cette qualité est réputée être une attribution de biens à une personne.

of property in the possession or control of the legal representative acting in that capacity is deemed to be a distribution of the property to a person.

(4) and (4.1) [Repealed, 2001, c. 17, s. 154(1)]

Election where certain provisions applicable

(5) Where subsection 70(2), 70(5) or 70(5.2) of this Act or subsection 70(9.4) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, is applicable in respect of a taxpayer who has died, and the taxpayer's legal representative so elects and furnishes the Minister with security acceptable to the Minister for payment of any tax the payment of which is deferred by the election, notwithstanding any provision of this Part or the *Income Tax Application Rules* respecting the time within which payment shall be made of the tax payable under this Part by the taxpayer for the taxation year in which the taxpayer died, all or any portion of such part of that tax as is equal to the amount, if any, by which that tax exceeds the amount that that tax would be, if this Act were read without reference to subsections 70(2), (5) and (5.2) and the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, were read without reference to subsections 70(2), (5), (5.2) and (9.4) of that Act, may be paid in such number (not exceeding 10) of equal consecutive annual instalments as is specified by the legal representative in the election, the first instalment of which shall be paid on or before the day on or before which payment of that tax would, but for the election, have been required to be made and each subsequent instalment of which shall be paid on or before the next following anniversary of that day.

Idem

(5.1) Where, in the taxation year in which a taxpayer dies, an amount is included in computing the taxpayer's income by virtue of paragraph 23(3)(c) of the *Income Tax Application Rules*, the provisions of subsection 159(5) apply, with such modifications as the circumstances require, as though the amount were an amount included in computing the taxpayer's income for the year by virtue of subsection 70(2) or an amount deemed to have been received by the taxpayer by virtue of subsection 70(5).

Idem

(6) For the purposes of subsection 159(5), the ***tax payable under this Part*** by a taxpayer for the taxation year in which the taxpayer died includes any tax payable under this Part by virtue of an election in respect of the taxpayer's death made by the taxpayer's legal representative under subsection 70(2) or under the provisions of

(4) et (4.1) [Abrogés, 2001, ch. 17, art. 154(1)]

Choix lorsque certaines dispositions s'appliquent

(5) Lorsque les paragraphes 70(2), (5) ou (5.2) de la présente loi ou le paragraphe 70(9.4) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, s'appliquent à l'égard d'un contribuable qui est décédé, et que ses représentants légaux font un tel choix et fournissent au ministre une garantie acceptable pour ce dernier à l'égard du paiement de tout impôt dont l'échéance est reculée en raison de ce choix, malgré les autres dispositions de la présente partie ou les *Règles concernant l'application de l'impôt sur le revenu* relatives au délai dans lequel doit être effectué le paiement de l'impôt payable en vertu de la présente partie par le contribuable pour l'année d'imposition au cours de laquelle il est décédé, la totalité ou toute fraction de la partie de cet impôt qui est égale à l'excédent éventuel du montant de cet impôt sur le montant auquel s'élèverait cet impôt compte non tenu des paragraphes 70(2), (5) et (5.2) de la présente loi ni des paragraphes 70(2), (5), (5.2) et (9.4) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, peut être payée en un nombre d'acomptes provisionnels consécutifs et égaux (10 au maximum) spécifié par les représentants légaux lors du choix, le premier acompte devant être payé au plus tard le jour auquel le paiement de cet impôt aurait été exigible, sans le choix, et chaque acompte provisionnel ultérieur devant être payé au plus tard le prochain jour anniversaire de ce jour.

Idem

(5.1) Lorsque, au cours de l'année d'imposition au cours de laquelle un contribuable décède, un montant est inclus dans le calcul de son revenu en vertu de l'alinéa 23(3)c) des *Règles concernant l'application de l'impôt sur le revenu*, les dispositions du paragraphe (5) s'appliquent, avec les adaptations nécessaires, comme si ce montant était un montant inclus dans le calcul de son revenu pour l'année en vertu du paragraphe 70(2) ou un montant réputé avoir été reçu par lui en vertu du paragraphe 70(5).

Idem

(6) Pour l'application du paragraphe (5), l'impôt payable en vertu de la présente partie par un contribuable pour l'année d'imposition au cours de laquelle il est décédé comprend tout impôt payable sous le régime de la présente partie en vertu d'un choix fait relativement au décès du contribuable par les représentants légaux de celui-ci en vertu du paragraphe 70(2) ou des dispositions de ce

that subsection as they are required to be read by virtue of the *Income Tax Application Rules*.

paragraphe telles qu'elles doivent être interprétées aux termes des *Règles concernant l'application de l'impôt sur le revenu*.

Election where subsection 104(4) applicable

(6.1) Where a time determined under paragraph 104(4)(a), (a.1), (a.2), (a.3), (a.4), (b) or (c) in respect of a trust occurs in a taxation year of the trust and the trust so elects and furnishes to the Minister security acceptable to the Minister for payment of any tax the payment of which is deferred by the election, notwithstanding any other provision of this Part respecting the time within which payment shall be made of the tax payable under this Part by the trust for the year, all or any portion of the part of that tax that is equal to the amount, if any, by which that tax exceeds the amount that that tax would be if this Act were read without reference to paragraph 104(4)(a), (a.1), (a.2), (a.3), (a.4), (b) or (c), as the case may be, may be paid in the number (not exceeding 10) of equal consecutive annual instalments that is specified by the trust in the election, the first instalment of which shall be paid on or before the day on or before which payment of that tax would, but for the election, have been required to be made and each subsequent instalment of which shall be paid on or before the next following anniversary of that day.

Choix en cas d'application du paragraphe 104(4)

(6.1) La fiducie dont l'année d'imposition comprend un moment déterminé à son égard selon les alinéas 104(4)a), a.1), a.2), a.3), a.4), b) ou c) peut, si elle en fait le choix et fournit au ministre une garantie que ce dernier estime acceptable pour le paiement d'un impôt dont le choix reporte l'échéance, et malgré les autres dispositions de la présente partie concernant le délai de paiement de l'impôt payable par la fiducie pour l'année en application de la présente partie, verser tout ou partie de l'excédent éventuel de cet impôt sur le montant qui correspondrait à cet impôt, compte non tenu des alinéas 104(4)a), a.1), a.2), a.3), a.4), b) ou c), en un nombre d'acomptes provisionnels annuels consécutifs et égaux (ne dépassant pas dix), précisé par la fiducie dans le document concernant le choix. Le premier acompte est versé au plus tard le jour où l'impôt aurait été exigible en l'absence du choix, et les acomptes suivants, au plus tard le prochain jour anniversaire de ce jour.

Form and manner of election and interest

(7) Every election made by a taxpayer under subsection 159(4) or 159(6.1) or by the legal representative of a taxpayer under subsection 159(5) shall be made in prescribed form and on condition that, at the time of payment of any amount payment of which is deferred by the election, the taxpayer shall pay to the Receiver General interest on the amount at the prescribed rate in effect at the time the election was made, computed from the day on or before which the amount would, but for the election, have been required to be paid to the day of payment.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 159; 1994, c. 7, Sch. II, s. 131, Sch. VIII, s. 95, c. 21, s. 78; 1998, c. 19, s. 185; 2001, c. 17, s. 154; 2013, c. 34, ss. 140(E), 312.

Exercice du choix et intérêts

(7) Le choix d'un contribuable en vertu des paragraphes (4) ou (6.1) ou de son représentant légal en vertu du paragraphe (5) doit être fait selon le formulaire prescrit et à la condition qu'au moment du paiement d'un montant dont ce choix reporte l'échéance, le contribuable verse au receveur général des intérêts sur ce montant, calculés au taux prescrit en vigueur au moment du choix, pour la période allant du jour où le montant aurait été exigible en l'absence du choix jusqu'au jour du paiement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 159; 1994, ch. 7, ann. II, art. 131, ann. VIII, art. 95, ch. 21, art. 78; 1998, ch. 19, art. 185; 2001, ch. 17, art. 154; 2013, ch. 34, art. 140(A) et 312.

Tax liability re property transferred not at arm's length

160 (1) Where a person has, on or after May 1, 1951, transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to

(a) the person's spouse or common-law partner or a person who has since become the person's spouse or common- law partner,

(b) a person who was under 18 years of age, or

Transfert de biens entre personnes ayant un lien de dépendance

160 (1) Lorsqu'une personne a, depuis le 1er mai 1951, transféré des biens, directement ou indirectement, au moyen d'une fiducie ou de toute autre façon à l'une des personnes suivantes :

a) son époux ou conjoint de fait ou une personne devenue depuis son époux ou conjoint de fait;

b) une personne qui était âgée de moins de 18 ans;

(c) a person with whom the person was not dealing at arm's length,

the following rules apply:

(d) the transferee and transferor are jointly and severally, or solidarily, liable to pay a part of the transferor's tax under this Part for each taxation year equal to the amount by which the tax for the year is greater than it would have been if it were not for the operation of sections 74.1 to 75.1 of this Act and section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, in respect of any income from, or gain from the disposition of, the property so transferred or property substituted for it, and

(e) the transferee and transferor are jointly and severally, or solidarily, liable to pay under this Act an amount equal to the lesser of

(i) the amount, if any, by which the fair market value of the property at the time it was transferred exceeds the fair market value at that time of the consideration given for the property, and

(ii) the total of all amounts each of which is an amount that the transferor is liable to pay under this Act (including, for greater certainty, an amount that the transferor is liable to pay under this section, regardless of whether the Minister has made an assessment under subsection (2) for that amount) in or in respect of the taxation year in which the property was transferred or any preceding taxation year,

but nothing in this subsection limits the liability of the transferor under any other provision of this Act or of the transferee for the interest that the transferee is liable to pay under this Act on an assessment in respect of the amount that the transferee is liable to pay because of this subsection.

c) une personne avec laquelle elle avait un lien de dépendance,

les règles suivantes s'appliquent :

d) le bénéficiaire et l'auteur du transfert sont solidairement responsables du paiement d'une partie de l'impôt de l'auteur du transfert en vertu de la présente partie pour chaque année d'imposition égale à l'excédent de l'impôt pour l'année sur ce que cet impôt aurait été sans l'application des articles 74.1 à 75.1 de la présente loi et de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, à l'égard de tout revenu tiré des biens ainsi transférés ou des biens y substitués ou à l'égard de tout gain tiré de la disposition de tels biens;

e) le bénéficiaire et l'auteur du transfert sont solidairement responsables du paiement en vertu de la présente loi d'un montant égal au moins élevé des montants suivants :

(i) l'excédent éventuel de la juste valeur marchande des biens au moment du transfert sur la juste valeur marchande à ce moment de la contrepartie donnée pour le bien,

(ii) le total des montants représentant chacun un montant que l'auteur du transfert doit payer en vertu de la présente loi (notamment un montant ayant ou non fait l'objet d'une cotisation en application du paragraphe (2) qu'il doit payer en vertu du présent article) au cours de l'année d'imposition où les biens ont été transférés ou d'une année d'imposition antérieure ou pour une de ces années.

Toutefois, le présent paragraphe n'a pas pour effet de limiter la responsabilité de l'auteur du transfert en vertu de quelque autre disposition de la présente loi ni celle du bénéficiaire du transfert quant aux intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet du présent paragraphe.

Joint and several, or solidary, liability — subsection 69(11)

(1.1) If a particular person or partnership is deemed by subsection 69(11) to have disposed of a property at any time, the person referred to in that subsection to whom a benefit described in that subsection was available in respect of a subsequent disposition of the property or property substituted for the property is jointly and severally, or solidarily, liable with each other taxpayer to pay a part of the other taxpayer's liabilities under this Act in respect of each taxation year equal to the amount determined by the formula

A - B

Responsabilité solidaire

(1.1) Dans le cas où une personne ou une société de personnes donnée est réputée par le paragraphe 69(11) avoir disposé d'un bien, la personne visée aux alinéas a) ou b) de ce paragraphe est solidairement responsable, avec chaque autre contribuable, du paiement d'une partie des sommes dont l'autre contribuable est redevable en vertu de la présente loi pour chaque année d'imposition. Cette partie correspond au résultat du calcul suivant :

A - B

où :

where

A is the total of amounts payable under this Act by the other taxpayer in respect of the year, and

B is the amount that would, if the particular person or partnership were not deemed by subsection 69(11) to have disposed of the property, be determined for A in respect of the other taxpayer in respect of the year,

but nothing in this subsection limits the liability of the other taxpayer under any other provision of this Act or of any person for the interest that the person is liable to pay under this Act on an assessment in respect of the amount that the person is liable to pay because of this subsection.

A représente le total des montants payables par l'autre contribuable pour l'année en vertu de la présente loi;

B le montant que représenterait l'élément A relativement à l'autre contribuable pour l'année si la personne ou la société de personnes donnée n'était pas réputée par le paragraphe 69(11) avoir disposé du bien.

Toutefois, le présent paragraphe n'a pas pour effet de limiter la responsabilité de l'autre contribuable en vertu d'une autre disposition de la présente loi ni celle de quiconque quant aux intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet du présent paragraphe.

Joint and several, or solidary, liability — tax on split income

(1.2) A parent of a specified individual is jointly and severally, or solidarily, liable with the individual for the amount required to be added because of subsection 120.4(2) in computing the specified individual's tax payable under this Part for a taxation year if, during the year, the parent

(a) carried on a business that was provided property or services by a partnership or trust all or a portion of the income of which partnership or trust is directly or indirectly included in computing the individual's split income for the year,

(b) was a specified shareholder of a corporation that was provided property or services by a partnership or trust all or a portion of the income of which partnership or trust is directly or indirectly included in computing the individual's split income for the year,

(c) was a specified shareholder of a corporation, dividends on the shares of the capital stock of which were directly or indirectly included in computing the individual's split income for the year;

(d) was a shareholder of a professional corporation that was provided property or services by a partnership or trust all or a portion of the income of which partnership or trust is directly or indirectly included in computing the individual's split income for the year, or

(e) was a shareholder of a professional corporation, dividends on the shares of the capital stock of which were directly or indirectly included in computing the individual's split income for the year,

but nothing in this subsection limits the liability of the specified individual under any other provision of this Act or of the parent for the interest that the parent is liable to

Responsabilité solidaire

(1.2) Le père ou la mère d'un particulier déterminé est solidairement responsable, avec ce dernier, du montant à ajouter, par l'effet du paragraphe 120.4(2), dans le calcul de l'impôt payable en vertu de la présente partie par le particulier pour une année d'imposition si, au cours de l'année, le père ou la mère, selon le cas :

a) soit exploitait une entreprise à laquelle des biens ou des services étaient fournis par une société de personnes ou une fiducie dont la totalité ou une partie du revenu est inclus, directement ou indirectement, dans le calcul du revenu fractionné du particulier pour l'année;

b) soit était un actionnaire déterminé d'une société à laquelle des biens ou des services étaient fournis par une société de personnes ou une fiducie dont la totalité ou une partie du revenu est inclus, directement ou indirectement, dans le calcul du revenu fractionné du particulier pour l'année;

c) soit était un actionnaire déterminé d'une société dont les actions du capital-actions ont donné lieu à des dividendes qui ont été inclus, directement ou indirectement, dans le calcul du revenu fractionné du particulier pour l'année;

d) soit était un actionnaire d'une société professionnelle à laquelle des biens ou des services étaient fournis par une société de personnes ou une fiducie dont la totalité ou une partie du revenu est inclus, directement ou indirectement, dans le calcul du revenu fractionné du particulier pour l'année;

e) soit était un actionnaire d'une société professionnelle dont les actions du capital-actions ont donné lieu

pay under this Act on an assessment in respect of the amount that the parent is liable to pay because of this subsection.

à des dividendes qui ont été inclus, directement ou indirectement, dans le calcul du revenu fractionné du particulier pour l'année.

Toutefois, le présent paragraphe n'a pas pour effet de limiter la responsabilité du particulier déterminé en vertu d'une autre disposition de la présente loi ni celle du père ou de la mère quant aux intérêts dont il ou elle est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il ou qu'elle doit payer par l'effet du présent paragraphe.

Joint liability — tax on split-pension income

(1.3) Where a pensioner and a pension transferee (as those terms are defined in section 60.03) make a joint election under section 60.03 in respect of a split-pension amount (as defined in that section) for a taxation year, they are jointly and severally, or solidarily, liable for the tax payable by the pension transferee under this Part for the taxation year to the extent that that tax payable is greater than it would have been if no amount were required to be added because of paragraph 56(1)(a.2) in computing the income of the pension transferee under this Part for the taxation year.

Responsabilité solidaire — impôt sur le montant de pension fractionné

(1.3) Le pensionné et le cessionnaire — ces termes s'entendant au sens de l'article 60.03 — qui font le choix conjoint prévu à cet article relativement à un montant de pension fractionné, au sens du même article, pour une année d'imposition sont solidairement responsables du paiement de l'impôt à payer par le cessionnaire en vertu de la présente partie pour l'année, dans la mesure où cet impôt est supérieur à ce qu'il aurait été si aucune somme n'avait été ajoutée par l'effet de l'alinéa 56(1)a.2) dans le calcul du revenu du cessionnaire en vertu de la présente partie pour l'année.

Joint liability — spousal and similar trusts

(1.4) If subsection 104(13.4) deems an amount to have become payable in a taxation year of a trust to an individual, the individual and the trust are jointly and severally, or solidarily, liable for the tax payable by the individual under this Part for the individual's taxation year that includes the day on which the individual dies to the extent that that tax payable is greater than it would have been if the amount were not included in computing the individual's income under this Part for the taxation year.

Responsabilité solidaire — fiducie pour conjoint et fiducie semblabe

(1.4) Si une somme est réputée, en application du paragraphe 104(13.4), être devenue à payer à un particulier au cours d'une année d'imposition d'une fiducie, le particulier et la fiducie sont solidairement responsables du paiement de l'impôt payable par le particulier en vertu de la présente partie pour l'année d'imposition du particulier au cours de laquelle il décède, dans la mesure où cet impôt est supérieur à ce qu'il aurait été si aucune somme n'avait été ajoutée dans le calcul du revenu du particulier en vertu de la présente partie pour l'année.

Assessment

(2) The Minister may at any time assess a taxpayer in respect of any amount payable because of this section, and the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made under section 152 in respect of taxes payable under this Part.

Cotisation

(2) Le ministre peut, en tout temps, établir une cotisation à l'égard d'un contribuable pour toute somme à payer en vertu du présent article. Par ailleurs, les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si elles avaient été établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie.

Assessment

(2.1) The Minister may at any time assess a taxpayer in respect of any amount payable because of paragraph 94(3)(d) or (e) or subsection 94(17) and the provisions of this Division (including, for greater certainty, the

Cotisation

(2.1) Le ministre peut établir à tout moment, à l'égard d'un contribuable, une cotisation visant une somme à payer par l'effet des alinéas 94(3)d) ou e) ou du paragraphe 94(17). À cette fin, les dispositions de la présente

provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made under section 152 in respect of taxes payable under this Part.

Discharge of liability

(3) If a particular taxpayer has become jointly and severally, or solidarily, liable with another taxpayer under this section or because of paragraph 94(3)(d) or (e) or subsection 94(17) in respect of part or all of a liability under this Act of the other taxpayer,

(a) a payment by the particular taxpayer on account of that taxpayer's liability shall to the extent of the payment discharge their liability; but

(b) a payment by the other taxpayer on account of that taxpayer's liability discharges the particular taxpayer's liability only to the extent that the payment operates to reduce that other taxpayer's liability to an amount less than the amount in respect of which the particular taxpayer is, by this section, made jointly and severally, or solidarily, liable.

Fair market value of undivided interest or right

(3.1) For the purposes of this section and section 160.4, the fair market value at any time of an undivided interest, or for civil law an undivided right, in a property, expressed as a proportionate interest or right in that property, is, subject to subsection (4), deemed to be equal to the same proportion of the fair market value of that property at that time.

Special rules re transfer of property to spouse or common-law partner

(4) Notwithstanding subsection 160(1), where at any time a taxpayer has transferred property to the taxpayer's spouse or common-law partner pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written separation agreement and, at that time, the taxpayer and the spouse or common-law partner were separated and living apart as a result of the breakdown of their marriage or common-law partnership, the following rules apply:

(a) in respect of property so transferred after February 15, 1984,

(i) the spouse or common-law partner shall not be liable under subsection 160(1) to pay any amount with respect to any income from, or gain from the disposition of, the property so transferred or property substituted therefor, and

section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si celles-ci avaient été établies en vertu de l'article 152 pour les impôts à payer en vertu de la présente partie.

Extinction de l'obligation

(3) Dans le cas où un contribuable donné devient, en vertu du présent article ou par l'effet des alinéas 94(3)d) ou e) ou du paragraphe 94(17), solidairement responsable, avec un autre contribuable, de tout ou partie d'une obligation de ce dernier en vertu de la présente loi, les règles ci-après s'appliquent :

a) tout paiement fait par le contribuable donné au titre de son obligation éteint d'autant leur obligation;

b) tout paiement fait par l'autre contribuable au titre de son obligation n'éteint l'obligation du contribuable donné que dans la mesure où le paiement sert à réduire l'obligation de l'autre contribuable à une somme inférieure à celle dont le contribuable donné est solidairement responsable en vertu du présent article.

Juste valeur marchande d'un droit ou intérêt indivis

(3.1) Pour l'application du présent article et de l'article 160.4, la juste valeur marchande, à un moment donné, d'un intérêt indivis ou, pour l'application du droit civil, d'un droit indivis sur un bien, exprimé sous forme d'un intérêt ou d'un droit proportionnel sur ce bien, est réputée être égale, sous réserve du paragraphe (4), à la proportion correspondante de la juste valeur marchande du bien à ce moment.

Règles concernant les transferts à un époux ou conjoint de fait

(4) Malgré le paragraphe (1), lorsqu'un contribuable a transféré un bien à son époux ou conjoint de fait en vertu d'une ordonnance ou d'un jugement d'un tribunal compétent ou en vertu d'un accord écrit de séparation et que, au moment du transfert, le contribuable et son époux ou conjoint de fait vivaient séparément par suite de la rupture de leur mariage ou union de fait, les règles suivantes s'appliquent :

a) relativement à un bien ainsi transféré après le 15 février 1984:

(i) l'époux ou conjoint de fait ne peut être tenu, en vertu du paragraphe (1), de payer un montant relatif au revenu provenant du bien transféré ou du bien qui y est substitué ou un montant relatif au gain provenant de la disposition du bien transféré ou du bien qui y est substitué,

(ii) for the purposes of paragraph 160(1)(e), the fair market value of the property at the time it was transferred shall be deemed to be nil, and

(b) in respect of property so transferred before February 16, 1984, where the spouse common-law partner would, but for this paragraph, be liable to pay an amount under this Act by virtue of subsection 160(1), the spouse's or common-law partner's liability in respect of that amount shall be deemed to have been discharged on February 16, 1984,

but nothing in this subsection shall operate to reduce the taxpayer's liability under any other provision of this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 160; 1998, c. 19, s. 186; 2000, c. 12, s. 142, c. 19, s. 46, c. 30, s. 170; 2007, c. 29, s. 23; 2013, c. 34, ss. 16, 141, 313; 2014, c. 39, s. 57.

(ii) pour l'application de l'alinéa (1)e), la juste valeur marchande du bien au moment du transfert est réputée être nulle;

b) relativement à un bien ainsi transféré avant le 16 février 1984, lorsque l'époux ou conjoint de fait serait, sans le présent alinéa, tenu de payer un montant en application de la présente loi en vertu du paragraphe (1), il est réputé s'être acquitté de son obligation relativement à ce montant le 16 février 1984;

aucune disposition du présent paragraphe n'a toutefois pour effet de réduire les obligations du contribuable en vertu d'une autre disposition de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 160; 1998, ch. 19, art. 186; 2000 ch. 12, art. 142, ch. 19, art. 46, ch. 30, art. 170; 2007, ch. 29, art. 23; 2013, ch. 34, art. 16, 141 et 313; 2014, ch. 39, art. 57.

Where excess refunded

160.1 (1) Where at any time the Minister determines that an amount has been refunded to a taxpayer for a taxation year in excess of the amount to which the taxpayer was entitled as a refund under this Act, the following rules apply:

(a) the excess shall be deemed to be an amount that became payable by the taxpayer on the day on which the amount was refunded; and

(b) the taxpayer shall pay to the Receiver General interest at the prescribed rate on the excess (other than any portion thereof that can reasonably be considered to arise as a consequence of the operation of section 122.5 or 122.61) from the day it became payable to the date of payment.

Remboursement en trop

160.1 (1) Lorsque le ministre détermine qu'un contribuable a été remboursé pour une année d'imposition d'un montant supérieur à celui auquel il avait droit en application de la présente loi, les règles suivantes s'appliquent :

a) l'excédent est réputé représenter un montant qui est payable par le contribuable à compter de la date du remboursement;

b) le contribuable doit payer au receveur général des intérêts sur l'excédent, sauf toute partie de l'excédent qu'il est raisonnable de considérer comme découlant de l'application des articles 122.5 ou 122.61, calculés au taux prescrit, pour la période allant du jour où cet excédent est devenu payable jusqu'à la date du paiement.

Liability for refund by reason of s. 122.5

(1.1) If a person is a qualified relation of an individual (within the meaning assigned by subsection 122.5(1)), in relation to one or more months specified for a taxation year, the person and the individual are jointly and severally, or solidarily, liable to pay the lesser of

(a) any excess described in subsection (1) that was refunded in respect of the taxation year to, or applied to a liability of, the individual as a consequence of the operation of section 122.5, and

(b) the total of the amounts deemed by subsection 122.5(3) to have been paid by the individual during those specified months.

Responsabilité en cas de remboursement en application de l'art. 122.5

(1.1) Le particulier et la personne qui est son proche admissible, au sens du paragraphe 122.5(1), par rapport à un ou plusieurs mois déterminés d'une année d'imposition sont débiteurs solidaires du moins élevé des montants suivants :

a) l'excédent visé au paragraphe (1) qui a été remboursé au particulier pour l'année, ou imputé sur un autre montant dont il est redevable, par application de l'article 122.5;

b) le total des montants réputés, par le paragraphe 122.5(3), avoir été payés par le particulier au cours des mois en question.

Liability under other provisions

(2) Subsection (1.1) does not limit a person's liability under any other provision of this Act.

Liability for refunds by reason of section 122.61

(2.1) If a person was a cohabiting spouse or common-law partner (within the meaning assigned by section 122.6) of an individual at the end of a taxation year, the person and the individual are jointly and severally, or solidarily, liable to pay any excess described in subsection (1) that was refunded in respect of the year to, or applied to a liability of, the individual as a consequence of the operation of section 122.61 if the person was the individual's cohabiting spouse or common-law partner at the time the excess was refunded, but nothing in this subsection is deemed to limit the liability of any person under any other provision of this Act.

Liability for excess refunds under section 126.1 to partners

(2.2) Every taxpayer who, on the day on which an amount has been refunded to, or applied to the liability of, a member of a partnership as a consequence of the operation of subsection 126.1(7) or (13) in excess of the amount to which the member was so entitled, is a member of that partnership is jointly and severally, or solidarily, liable with each other taxpayer who on that day is a member of the partnership to pay the excess and to pay interest on the excess, but nothing in this subsection is deemed to limit the liability of any person under any other provision of this Act.

Assessment

(3) The Minister may at any time assess a taxpayer in respect of any amount payable by the taxpayer because of subsection (1) or (1.1) or for which the taxpayer is liable because of subsection (2.1) or (2.2), and the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section, as though it were made under section 152 in respect of taxes payable under this Part, except that no interest is payable on an amount assessed in respect of an excess referred to in subsection (1) that can reasonably be considered to arise as a consequence of the operation of section 122.5 or 122.61.

Where amount applied to liability

(4) Where an amount is applied to a liability of a taxpayer to Her Majesty in right of Canada in excess of the amount to which the taxpayer is entitled as a refund

Responsabilité

(2) Le paragraphe (1.1) ne limite en rien la responsabilité de quiconque découlant d'une autre disposition de la présente loi.

Solidarité en cas de remboursement en vertu de l'article 122.61

(2.1) Le particulier et la personne qui était son époux ou conjoint de fait visé (au sens de l'article 122.6) à la fin d'une année d'imposition sont débiteurs solidaires de l'excédent, visé au paragraphe (1), qui a été, par suite de l'application de l'article 122.61, remboursé au particulier pour l'année ou imputé sur un montant dont il est redevable, à condition que la personne ait été l'époux ou conjoint de fait visé du particulier au moment du remboursement; le présent paragraphe ne limite en rien la responsabilité de quiconque découlant d'une autre disposition de la présente loi.

Solidarité en cas de remboursement en trop à des associés en vertu de l'article 126.1

(2.2) Le contribuable qui est un associé d'une société de personnes le jour où est remboursé à un autre associé de la société de personnes, ou imputé sur un autre montant dont il est redevable, par application des paragraphes 126.1(7) ou (13), un montant supérieur à celui auquel il avait droit, est débiteur solidaire, avec chacun des autres contribuables qui sont des associés de la société de personnes ce jour-là, de l'excédent et des intérêts afférents. Le présent paragraphe ne limite en rien la responsabilité de quiconque découlant d'une autre disposition de la présente loi.

Cotisation

(3) Le ministre peut, à tout moment, établir à l'égard d'un contribuable une cotisation pour toute somme que celui-ci doit payer en application des paragraphes (1) ou (1.1) ou dont il est débiteur par l'effet des paragraphes (2.1) ou (2.2). Les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si elles étaient établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie. Toutefois, aucun intérêt n'est à payer sur une cotisation établie à l'égard de l'excédent visé au paragraphe (1) s'il est raisonnable de considérer qu'il découle de l'application des articles 122.5 ou 122.61.

Montant appliqué en réduction d'une obligation

(4) Dans le cas où le montant appliqué en réduction d'une créance de Sa Majesté du chef du Canada envers un

under this Act, this section applies as though that amount had been refunded to the taxpayer on the day it was so applied.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 160.1; 1994, c. 7, Sch. II, s. 132, Sch. VII, s. 16, c. 8, s. 25; 2000, c. 12, s. 142; 2002, c. 9, s. 43; 2013, c. 34, ss. 142(E), 314.

contribuable est supérieur au remboursement que celui-ci a le droit de recevoir aux termes de la présente loi, le présent article s'applique comme si le montant avait été remboursé au contribuable le jour où il a été ainsi appliqué.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 160.1; 1994, ch. 7, ann. II, art. 132, ann. VII, art. 16, ch. 8, art. 25; 2000, ch. 12, art. 142; 2002, ch. 9, art. 43; 2013, ch. 34, art. 142(A) et 314.

Joint and several liability in respect of amounts received out of or under RRSP

160.2 (1) Where

(a) an amount is received out of or under a registered retirement savings plan by a taxpayer other than an annuitant (within the meaning assigned by subsection 146(1)) under the plan, and

(b) that amount or part thereof would, but for paragraph (a) of the definition ***benefit*** in subsection 146(1), be received by the taxpayer as a benefit (within the meaning assigned by that definition),

the taxpayer and the last annuitant under the plan are jointly and severally, or solidarily, liable to pay a part of the annuitant's tax under this Part for the year of the annuitant's death equal to that proportion of the amount by which the annuitant's tax for the year is greater than it would have been if it were not for the operation of subsection 146(8.8) that the total of all amounts each of which is an amount determined under paragraph (b) in respect of the taxpayer is of the amount included in computing the annuitant's income because of that subsection, but nothing in this subsection limits the liability of the annuitant under any other provision of this Act or of the taxpayer for the interest that the taxpayer is liable to pay under this Act on an assessment in respect of the amount that the taxpayer is liable to pay because of this subsection.

Responsabilité solidaire à l'égard des sommes reçues dans le cadre d'un régime enregistré d'épargne-retraite

160.2 (1) Lorsque :

a) une somme est reçue dans le cadre d'un régime enregistré d'épargne-retraite par un contribuable autre qu'un rentier (au sens du paragraphe 146(1)) en vertu du régime;

b) cette somme serait en tout ou en partie reçue par le contribuable à titre de prestation (au sens du paragraphe 146(1)), compte non tenu de l'alinéa a) de cette définition,

le contribuable et le dernier rentier en vertu du régime sont solidairement responsables du paiement de la partie de l'impôt auquel est tenu le rentier en vertu de la présente partie pour l'année de son décès égale au résultat de la multiplication de l'excédent de l'impôt du rentier pour l'année sur ce que cet impôt aurait été sans l'application du paragraphe 146(8.8) par le rapport entre, d'une part, le total des sommes représentant chacune une somme déterminée conformément à l'alinéa b) à l'égard du contribuable et, d'autre part, la somme incluse dans le calcul du revenu du rentier par l'effet de ce paragraphe. Le présent paragraphe n'a pas pour effet de limiter la responsabilité du rentier découlant d'une autre disposition de la présente loi ni celle du contribuable quant aux intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet du présent paragraphe.

Joint and several liability in respect of amounts received out of or under RRIF

(2) Where

(a) an amount is received out of or under a registered retirement income fund by a taxpayer other than an annuitant (within the meaning assigned by subsection 146.3(1)) under the fund, and

(b) that amount or part thereof would, but for paragraph 146.3(5)(a), be included in computing the taxpayer's income for the year of receipt pursuant to subsection 146.3(5),

Responsabilité solidaire à l'égard des sommes reçues dans le cadre d'un fonds enregistré de revenu de retraite

(2) Lorsque :

a) une somme est reçue dans le cadre d'un fonds enregistré de revenu de retraite par un contribuable autre qu'un rentier (au sens du paragraphe 146.3(1)) en vertu du fonds;

b) cette somme serait en tout ou en partie, compte non tenu de l'alinéa 146.3(5)a), incluse dans le calcul du revenu du contribuable pour l'année où elle a été reçue, conformément au paragraphe 146.3(5),

the taxpayer and the annuitant are jointly and severally, or solidarily, liable to pay a part of the annuitant's tax under this Part for the year of the annuitant's death equal to that proportion of the amount by which the annuitant's tax for the year is greater than it would have been if it were not for the operation of subsection 146.3(6) that the amount determined under paragraph (b) is of the amount included in computing the annuitant's income because of that subsection, but nothing in this subsection limits the liability of the annuitant under any other provision of this Act or of the taxpayer for the interest that the taxpayer is liable to pay under this Act on an assessment in respect of the amount that the taxpayer is liable to pay because of this subsection.

Joint and several liability in respect of a qualifying trust annuity

(2.1) If a taxpayer is deemed by section 75.2 to have received at any time an amount out of or under an annuity that is a qualifying trust annuity with respect to the taxpayer, the taxpayer, the annuitant under the annuity and the policyholder are jointly and severally, or solidarily, liable to pay the part of the taxpayer's tax under this Part for the taxation year of the taxpayer that includes that time that is equal to the amount, if any, determined by the formula

A – B

where

A is the amount of the taxpayer's tax under this Part for that taxation year; and

B is the amount that would be the taxpayer's tax under this Part for that taxation year if no amount were deemed by section 75.2 to have been received by the taxpayer out of or under the annuity in that taxation year.

No limitation on liability

(2.2) Subsection (2.1) limits neither

(a) the liability of the taxpayer referred to in that subsection under any other provision of this Act; nor

(b) the liability of an annuitant or policyholder referred to in that subsection for the interest that the annuitant or policyholder is liable to pay under this Act on an assessment in respect of the amount that the annuitant or policyholder is liable to pay because of that subsection.

le contribuable et le rentier sont solidairement responsables du paiement de la partie de l'impôt auquel est tenu le rentier en vertu de la présente partie pour l'année de son décès égale au résultat de la multiplication de l'excédent de l'impôt du rentier pour l'année sur ce que cet impôt aurait été sans l'application du paragraphe 146.3(6) par le rapport entre, d'une part, la somme déterminée conformément à l'alinéa b) et, d'autre part, la somme incluse dans le calcul du revenu du rentier par l'effet de ce paragraphe. Le présent paragraphe n'a pas pour effet de limiter la responsabilité du rentier découlant d'une autre disposition de la présente loi ni celle du contribuable quant aux intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet du présent paragraphe.

Responsabilité solidaire à l'égard d'une rente admissible de fiducie

(2.1) Le contribuable qui est réputé, en vertu de l'article 75.2, avoir reçu, à un moment donné, une somme dans le cadre d'une rente qui est une rente admissible de fiducie relativement à lui est solidairement responsable, avec le rentier en vertu du contrat de rente et le titulaire de police, du paiement de la partie de l'impôt auquel il est tenu en vertu de la présente partie pour son année d'imposition qui comprend ce moment, égale au montant obtenu par la formule suivante :

A – B

où :

A représente le montant de l'impôt du contribuable en vertu de la présente partie pour l'année;

B la somme qui correspondrait à l'impôt du contribuable en vertu de la présente partie pour l'année si aucune somme n'était réputée, en vertu de l'article 75.2, avoir été reçue par lui dans le cadre de la rente au cours de l'année.

Responsabilité du contribuable — rente admissible de fiducie

(2.2) Le paragraphe (2.1) n'a pas pour effet de limiter :

a) la responsabilité du contribuable visée à ce paragraphe découlant d'une autre disposition de la présente loi;

b) la responsabilité d'un rentier ou d'un titulaire de police, visée à ce paragraphe, pour le paiement des intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet de ce paragraphe.

Assessment

(3) The Minister may at any time assess a taxpayer in respect of any amount payable because of this section, and the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made under section 152 in respect of taxes payable under this Part.

Rules applicable

(4) If a taxpayer and an annuitant have, by virtue of subsection (1) or (2), become jointly and severally, or solidarily, liable in respect of part or all of a liability of the annuitant under this Act, the following rules apply:

(a) a payment by the taxpayer on account of the taxpayer's liability shall to the extent thereof discharge their liability; but

(b) a payment by the annuitant on account of the annuitant's liability discharges the taxpayer's liability only to the extent that the payment operates to reduce the annuitant's liability to an amount less than the amount in respect of which the taxpayer was, by subsection (1) or (2), as the case may be, made jointly and severally, or solidarily, liable.

Rules applicable — qualifying trust annuity

(5) If an annuitant or policyholder has, because of subsection (2.1), become jointly and severally, or solidarily, liable with a taxpayer in respect of part or all of a liability of the taxpayer under this Act, the following rules apply:

(a) a payment by the annuitant on account of the annuitant's liability, or by the policyholder on account of the policyholder's liability, shall to the extent of the payment discharge their liability, but

(b) a payment by the taxpayer on account of the taxpayer's liability only discharges the annuitant's and the policyholder's liability to the extent that the payment operates to reduce the taxpayer's liability to an amount less than the amount in respect of which the annuitant and the policyholder were, by subsection (2.1), made liable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 160.2; 2013, c. 34, ss. 143, 315.

Joint and several liability — registered disability savings plan

160.21 (1) Where, in computing income for a taxation year, a taxpayer is required to include an amount in respect of a disability assistance payment (as defined in

Cotisation

(3) Le ministre peut, à tout moment, établir à l'égard d'un contribuable une cotisation pour toute somme à payer par l'effet du présent article. Par ailleurs, les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si elles avaient été établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie.

Règles applicables

(4) Lorsqu'un contribuable et un rentier sont devenus, en vertu du paragraphe (1) ou (2), solidairement responsables de tout ou partie d'une obligation du rentier en vertu de la présente loi, les règles suivantes s'appliquent :

a) tout paiement fait par le contribuable au titre de l'obligation éteint d'autant leur obligation;

b) tout paiement fait au titre de l'obligation du rentier n'éteint l'obligation du contribuable que dans la mesure où le paiement sert à diminuer l'obligation du rentier à une somme inférieure à celle à laquelle le contribuable est, en vertu des paragraphes (1) ou (2), tenu solidairement responsable.

Règles applicables — rente admissible de fiducie

(5) Lorsqu'un rentier ou un titulaire de police est devenu, par l'effet du paragraphe (2.1), solidairement responsable avec un contribuable de tout ou partie d'une obligation du contribuable sous le régime de la présente loi, les règles ci-après s'appliquent :

a) tout paiement fait par le rentier au titre de son obligation, ou par le titulaire de police au titre de son obligation, éteint d'autant leur obligation;

b) tout paiement fait par le contribuable au titre de son obligation n'éteint l'obligation du rentier et du titulaire de police que dans la mesure où il sert à ramener l'obligation du contribuable à une somme inférieure à celle dont le rentier et le titulaire de police sont, en vertu du paragraphe (2.1), tenus responsables.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 160.2; 2013, ch. 34, art. 143 et 315.

Responsabilité solidaire à l'égard d'un régime enregistré d'épargne-invalidité

160.21 (1) Le contribuable qui est tenu d'inclure dans le calcul de son revenu pour une année d'imposition une somme au titre d'un paiement d'aide à l'invalidité, au

subsection 146.4(1)) that is deemed by subsection 146.4(10) to have been made at any particular time from a registered disability savings plan, the taxpayer and each holder (as defined in subsection 146.4(1)) of the plan immediately after the particular time are jointly and severally, or solidarily, liable to pay the part of the taxpayer's tax under this Part for that taxation year that is equal to the amount, if any, determined by the formula

A - B

where

A is the amount of the taxpayer's tax under this Part for that taxation year; and

B is the amount that would be the taxpayer's tax under this Part for that taxation year if no disability assistance payment were deemed by subsection 146.4(10) to have been paid from the plan at the particular time.

No limitation on liability

(2) Subsection (1) limits neither

(a) the liability of the taxpayer referred to in that subsection under any other provision of this Act, nor

(b) the liability of any holder referred to in that subsection for the interest that the holder is liable to pay under this Act on an assessment in respect of the amount that the holder is liable to pay because of that subsection.

Rules applicable — registered disability savings plans

(3) Where a holder (as defined in subsection 146.4(1)) of a registered disability savings plan has, because of subsection (1), become jointly and severally, or solidarily, liable with a taxpayer in respect of part or all of a liability of the taxpayer under this Act, the following rules apply:

(a) a payment by the holder on account of the holder's liability shall to the extent of the payment discharge the holder's liability, but

(b) a payment by the taxpayer on account of the taxpayer's liability only discharges the holder's liability to the extent that the payment operates to reduce the taxpayer's liability to an amount less than the amount in respect of which the holder was, by subsection (1), made liable.

sens du paragraphe 146.4(1), qui est réputé, en vertu du paragraphe 146.4(10), avoir été fait à un moment donné aux termes d'un régime enregistré d'épargne-invalidité est solidairement responsable, avec chacun des titulaires, au sens du paragraphe 146.4(1), du régime immédiatement après ce moment, du paiement de la partie de l'impôt auquel il est tenu en vertu de la présente partie pour cette année, égale à la somme obtenue par la formule suivante :

A - B

où :

A représente le montant de l'impôt du contribuable en vertu de la présente partie pour l'année;

B la somme qui correspondrait à l'impôt du contribuable en vertu de la présente partie pour l'année si aucun paiement d'aide à l'invalidité n'était réputé, en vertu du paragraphe 146.4(10), avoir été fait aux termes du régime au moment donné.

Responsabilité du contribuable

(2) Le paragraphe (1) n'a pas pour effet de limiter :

a) la responsabilité du contribuable visée à ce paragraphe découlant d'une autre disposition de la présente loi;

b) la responsabilité de tout titulaire visé à ce paragraphe pour le paiement des intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard de la somme qu'il doit payer par l'effet de ce paragraphe.

Règles applicables — régimes enregistrés d'épargne-invalidité

(3) Lorsqu'un titulaire, au sens du paragraphe 146.4(1), d'un régime enregistré d'épargne-invalidité est devenu, par l'effet du paragraphe (1), solidairement responsable avec un contribuable de tout ou partie d'une obligation du contribuable en vertu de la présente loi, les règles suivantes s'appliquent :

a) tout paiement fait par le titulaire au titre de son obligation éteint d'autant son obligation;

b) tout paiement fait par le contribuable au titre de son obligation n'éteint l'obligation du titulaire que dans la mesure où il sert à ramener l'obligation du contribuable à une somme inférieure à celle dont le titulaire est, en vertu du paragraphe (1), tenu responsable.

Assessment

(4) The Minister may at any time assess a taxpayer in respect of any amount payable because of this section, and the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made under section 152 in respect of taxes payable under this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 118.

Cotisation

(4) Le ministre peut, à tout moment, établir à l'égard d'un contribuable une cotisation pour toute somme à payer par l'effet du présent article. Par ailleurs, les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si elles avaient été établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 118.

Liability in respect of amounts received out of or under RCA trust

160.3 (1) If an amount required to be included in the income of a taxpayer because of paragraph 56(1)(x) is received by a person with whom the taxpayer is not dealing at arm's length, that person is jointly and severally, or solidarily, liable with the taxpayer to pay a part of the taxpayer's tax under this Part for the taxation year in which the amount is received equal to the amount by which the taxpayer's tax for the year exceeds the amount that would be the taxpayer's tax for the year if the amount had not been received, but nothing in this subsection limits the liability of the taxpayer under any other provision of this Act or of the person for the interest that the person is liable to pay under this Act on an assessment in respect of the amount that the person is liable to pay because of this subsection.

Responsabilité pour les montants provenant d'une fiducie de convention de retraite

160.3 (1) Le contribuable et la personne — avec laquelle il a un lien de dépendance — qui reçoit un montant à inclure en application de l'alinéa 56(1)x) dans le calcul du revenu du contribuable sont débiteurs solidaires de l'excédent de l'impôt payable par le contribuable en vertu de la présente partie pour l'année d'imposition de celui-ci au cours de laquelle le montant est reçu sur ce que serait cet impôt si le montant n'était pas reçu. Le présent paragraphe n'a pas pour effet de limiter la responsabilité du contribuable découlant d'une autre disposition de la présente loi ni celle de la personne quant aux intérêts dont elle est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'elle doit payer par l'effet du présent paragraphe.

Assessment

(2) The Minister may at any time assess a person in respect of any amount payable because of this section, and the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section as though it had been made under section 152 in respect of taxes payable under this Part.

Cotisation

(2) Le ministre peut, à tout moment, établir à l'égard d'une personne une cotisation pour toute somme à payer par l'effet du présent article. Par ailleurs, les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si elles avaient été établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie.

Rules applicable

(3) If a taxpayer and another person have, by virtue of subsection (1), become jointly and severally, or solidarily, liable in respect of part or all of a liability of the taxpayer under this Act, the following rules apply:

(a) a payment by the other person on account of the other person's liability shall to the extent thereof discharge their liability; but

(b) a payment by the taxpayer on account of the taxpayer's liability discharges the other person's liability only to the extent that the payment operates to reduce

Règles applicables

(3) Dans le cas où un contribuable et une personne deviennent, en application du paragraphe (1), débiteurs solidaires de tout ou partie d'une somme payable par le contribuable en vertu de la présente loi, les règles suivantes s'appliquent :

a) tout paiement fait par cette autre personne au titre de cette somme éteint d'autant leur obligation;

b) tout paiement fait au titre de cette somme n'éteint l'obligation de cette autre personne que dans la mesure où le paiement sert à réduire cette somme à un

the taxpayer's liability to an amount less than the amount in respect of which the other person was, by subsection (1), made jointly and severally, or solidarily, liable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 160.3; 2013, c. 34, ss. 144, 316.

montant inférieur à celui dont cette autre personne est débitrice solidaire en application du paragraphe (1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 160.3; 2013, ch. 34, art. 144 et 316.

Liability in respect of transfers by insolvent corporations

160.4 (1) If property is transferred at any time by a corporation to a taxpayer with whom the corporation does not deal at arm's length at that time and the corporation is not entitled because of subsection 61.3(3) to deduct an amount under section 61.3 in computing its income for a taxation year because of the transfer or because of the transfer and one or more other transactions, the taxpayer is jointly and severally, or solidarily, liable with the corporation to pay the lesser of the corporation's tax payable under this Part for the year and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the corporation under any other provision of this Act or of the taxpayer for the interest that the taxpayer is liable to pay under this Act on an assessment in respect of the amount that the taxpayer is liable to pay because of this subsection.

Responsabilité en cas de transfert par des sociétés insolvables

160.4 (1) Si une société transfère un bien à un contribuable avec lequel elle a un lien de dépendance au moment du transfert et qu'elle n'a pas le droit, par l'effet du paragraphe 61.3(3), de déduire un montant en application de l'article 61.3 dans le calcul de son revenu pour une année d'imposition en raison du transfert ou en raison du transfert et d'une ou de plusieurs autres opérations, le contribuable est solidairement responsable, avec la société, du paiement de l'impôt payable par la société pour l'année en vertu de la présente partie ou, s'il est moins élevé, de l'excédent de la juste valeur marchande du bien au moment du transfert sur la juste valeur marchande, à ce moment, de la contrepartie donnée pour le bien. Toutefois, le présent paragraphe n'a pas pour effet de limiter la responsabilité de la société découlant d'une autre disposition de la présente loi ni celle du contribuable quant aux intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet du présent paragraphe.

Indirect transfers

(2) Where

(a) property is transferred at any time from a taxpayer (in this subsection referred to as the "transferor") to another taxpayer (in this subsection referred to as the "transferee") with whom the transferor does not deal at arm's length,

(b) the transferor is liable because of subsection 160.4(1) or this subsection to pay an amount of the tax of another person (in this subsection referred to as the "debtor") under this Part, and

(c) it can reasonably be considered that one of the reasons of the transfer would, but for this subsection, be to prevent the enforcement of this section,

the transferee is jointly and severally, or solidarily, liable with the transferor and the debtor to pay an amount of the debtor's tax under this Part equal to the lesser of the amount of that tax that the transferor was liable to pay at that time and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor or the transferor under any provision

Transferts indirects

(2) Dans le cas où les conditions suivantes sont réunies :

a) un contribuable (appelé « cédant » au présent paragraphe) transfère un bien à un autre contribuable (appelé « cessionnaire » au présent paragraphe) avec lequel il a un lien de dépendance;

b) le cédant est responsable, par l'effet du paragraphe (1) ou du présent paragraphe, du paiement d'une partie de l'impôt d'une autre personne (appelé « débiteur » au présent paragraphe) en vertu de la présente partie;

c) il est raisonnable de considérer que l'un des motifs du transfert consisterait, n'eût été le présent paragraphe, à empêcher l'application du présent article,

le cessionnaire est solidairement responsable, avec le cédant et le débiteur, du paiement de la partie de l'impôt du débiteur en vertu de la présente partie qui représente la partie de cet impôt dont le cédant était redevable au moment du transfert ou, s'il est moins élevé, l'excédent de la juste valeur marchande du bien à ce moment sur la juste valeur marchande, à ce même moment, de la contrepartie donnée pour le bien. Toutefois, le présent paragraphe n'a pas pour effet de limiter la responsabilité

of this Act or of the transferee for the interest that the transferee is liable to pay under this Act on an assessment in respect of the amount that the transferee is liable to pay because of this subsection.

Assessment

(3) The Minister may at any time assess a person in respect of any amount payable by the person because of this section, and the provisions of this Division (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, in respect of an assessment made under this section, as though it had been made under section 152 in respect of taxes payable under this Part.

Rules applicable

(4) If a corporation and another person have, because of subsection (1) or (2), become jointly and severally, or solidarily, liable in respect of part or all of a liability of the corporation under this Act

(a) a payment by the other person on account of that person's liability shall to the extent thereof discharge their liability; and

(b) a payment by the corporation on account of the corporation's liability discharges the other person's liability only to the extent that the payment operates to reduce the corporation's liability to an amount less than the amount in respect of which the other person was, by subsection (1) or (2), as the case may be, made jointly and severally, or solidarily, liable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1995, c. 21, s. 40; 2013, c. 34, ss. 145, 317.

Interest

General

161 (1) Where at any time after a taxpayer's balance-due day for a taxation year

(a) the total of the taxpayer's taxes payable under this Part and Parts I.3, VI and VI.1 for the year

exceeds

(b) the total of all amounts each of which is an amount paid at or before that time on account of the taxpayer's tax payable and applied as at that time by the Minister against the taxpayer's liability for an amount payable under this Part or Part I.3, VI or VI.1 for the year,

du débiteur ou du cédant découlant d'une disposition de la présente loi ni celle du cessionnaire quant aux intérêts dont il est redevable en vertu de la présente loi sur une cotisation établie à l'égard du montant qu'il doit payer par l'effet du présent paragraphe.

Cotisation

(3) Le ministre peut, à tout moment, établir à l'égard d'une personne une cotisation pour toute somme à payer par elle par l'effet du présent article. Les dispositions de la présente section, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu du présent article comme si elles avaient été établies en vertu de l'article 152 relativement aux impôts à payer en vertu de la présente partie.

Règles applicables

(4) Dans le cas où une société et une autre personne sont devenues, par l'effet des paragraphes (1) ou (2), solidairement responsables de tout ou partie d'une obligation de la société en vertu de la présente loi, les règles suivantes s'appliquent :

a) un paiement fait par l'autre personne au titre de son obligation éteint d'autant leur obligation;

b) un paiement fait par la société au titre de son obligation n'éteint l'obligation de l'autre personne que dans la mesure où le paiement sert à ramener l'obligation de la société à une somme inférieure à celle à laquelle l'autre personne est, en vertu des paragraphes (1) ou (2), tenue solidairement responsable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1995, ch. 21, art. 40; 2013, ch. 34, art. 145 et 317.

Intérêts

Disposition générale

161 (1) Dans le cas où le total visé à l'alinéa a) excède le total visé à l'alinéa b) à un moment postérieur à la date d'exigibilité du solde qui est applicable à un contribuable pour une année d'imposition, le contribuable est tenu de verser au receveur général des intérêts sur l'excédent, calculés au taux prescrit pour la période au cours de laquelle cet excédent est impayé :

a) le total des impôts payables par le contribuable pour l'année en vertu de la présente partie et des parties I.3, VI et VI.1;

b) le total des montants représentant chacun un montant payé au plus tard à ce moment au titre de l'impôt payable par le contribuable et imputé par le ministre,

the taxpayer shall pay to the Receiver General interest at the prescribed rate on the excess, computed for the period during which that excess is outstanding.

Interest on instalments

(2) In addition to the interest payable under subsection 161(1), where a taxpayer who is required by this Part to pay a part or instalment of tax has failed to pay all or any part thereof on or before the day on or before which the tax or instalment, as the case may be, was required to be paid, the taxpayer shall pay to the Receiver General interest at the prescribed rate on the amount that the taxpayer failed to pay computed from the day on or before which the amount was required to be paid to the day of payment, or to the beginning of the period in respect of which the taxpayer is required to pay interest thereon under subsection 161(1), whichever is earlier.

(2.1) [Repealed, 2003, c. 15, s. 116(1)]

Contra interest

(2.2) Notwithstanding subsections (1) and (2), the total amount of interest payable by a taxpayer (other than a graduated rate estate) under those subsections, for the period that begins on the first day of the taxation year for which a part or instalment of tax is payable and ends on the taxpayer's balance-due day for the year, in respect of the taxpayer's tax or instalments of tax payable for the year shall not exceed the amount, if any, by which

(a) the total amount of interest that would be payable for the period by the taxpayer under subsections 161(1) and 161(2) in respect of the taxpayer's tax and instalments of tax payable for the year if no amount were paid on account of the tax or instalments

exceeds

(b) the amount of interest that would be payable under subsection 164(3) to the taxpayer in respect of the period on the amount that would be refunded to the taxpayer in respect of the year or applied to another liability if

(i) no tax were payable by the taxpayer for the year,

(ii) no amount had been remitted under section 153 to the Receiver General on account of the taxpayer's tax for the year,

(iii) the rate of interest prescribed for the purpose of subsection 161(1) were prescribed for the purpose of subsection 164(3), and

à compter de ce moment, sur le montant dont le contribuable est redevable pour l'année en vertu de la présente partie ou des parties I.3, VI ou VI.1.

Intérêts sur acomptes provisionnels

(2) Un contribuable qui n'a pas payé au plus tard à la date où il en est tenu tout ou partie d'un acompte provisionnel ou d'une fraction d'impôt qu'il est tenu de payer en vertu de la présente partie doit verser au receveur général, outre les intérêts payables en vertu du paragraphe (1), des intérêts sur le montant qu'il n'a pas payé, calculés au taux prescrit pour la période allant de la date où ce montant devait au plus tard être payé jusqu'à la date du paiement ou jusqu'au début de la période pour laquelle il est tenu de payer des intérêts sur ce montant en vertu du paragraphe (1), si ce début est antérieur.

(2.1) [Abrogé, 2003, ch. 15, art. 116(1)]

Intérêts compensateurs

(2.2) Malgré les paragraphes (1) et (2), le total des intérêts, sur l'impôt ou les acomptes provisionnels payables pour une année d'imposition, qu'un contribuable, sauf une succession assujettie à l'imposition à taux progressifs, doit verser en application de ces paragraphes pour la période allant du premier jour de cette année où une fraction d'impôt ou un acompte provisionnel est payable jusqu'à la date d'exigibilité du solde qui lui est applicable pour l'année ne peut dépasser l'excédent du total visé à l'alinéa a) sur le montant visé à l'alinéa b) :

a) le total des intérêts sur l'impôt ou les acomptes provisionnels pour l'année qui seraient payables par le contribuable pour cette période en application des paragraphes (1) et (2) si aucun montant n'était payé au titre de cet impôt ou de ces acomptes;

b) les intérêts qui seraient payables au contribuable en vertu du paragraphe 164(3) pour cette période sur le montant qui lui serait remboursé pour l'année ou qui serait imputé sur un autre montant dont il est redevable si, à la fois :

(i) aucun impôt n'était payable par lui pour l'année,

(ii) aucun montant n'avait été remis au receveur général, en vertu de l'article 153, au titre de son impôt pour l'année,

(iii) le taux d'intérêt prescrit pour l'application du paragraphe (1) était prescrit pour l'application du paragraphe 164(3),

(iv) le dernier en date des jours visés aux alinéas 164(3)a), b) et c) était le premier jour de l'année.

(iv) the latest of the days described in paragraphs 164(3)(a), 164(3)(b) and 164(3)(c) were the first day of the year.

(3) [Repealed, 1994, c. 7, Sch. II, s. 133(3)]

(3) [Abrogé, 1994, ch. 7, ann. II, art. 133(3)]

Limitation — farmers and fishermen

(4) For the purposes of subsection 161(2) and section 163.1, where an individual is required to pay a part or instalment of tax for a taxation year computed by reference to a method described in subsection 155(1), the individual shall be deemed to have been liable to pay on or before the day referred to in subsection 155(1) a part or instalment computed by reference to

(a) the amount, if any, by which

(i) the tax payable under this Part by the individual for the year, determined before taking into consideration the specified future tax consequences for the year,

exceeds

(ii) the amounts deemed by subsections 120(2) and (2.2) to have been paid on account of the individual's tax under this Part for the year, determined before taking into consideration the specified future tax consequences for the year,

(b) the individual's instalment base for the preceding taxation year, or

(c) the amount stated to be the amount of the instalment payable by the individual for the year in the notice, if any, sent to the individual by the Minister,

whichever method gives rise to the least amount required to be paid by the individual on or before that day.

Restriction applicable aux agriculteurs et pêcheurs

(4) Pour l'application du paragraphe (2) et de l'article 163.1, le particulier qui est tenu de payer, pour une année d'imposition, quelque fraction ou acompte provisionnel d'impôt, calculé selon une méthode visée au paragraphe 155(1), est réputé être tenu de payer, dans le délai prévu au paragraphe 155(1), une fraction ou un acompte provisionnel, calculé par rapport à l'un des montants suivants, selon ce qui aboutit au montant le moins élevé à payer par le particulier dans ce délai :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) son impôt payable en vertu de la présente partie pour l'année, calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année,

(ii) le total des sommes réputées par les paragraphes 120(2) ou (2.2) avoir été payées au titre de son impôt en vertu de la présente partie pour l'année, calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année;

b) sa base des acomptes provisionnels pour l'année d'imposition précédente;

c) le montant qui, selon l'avis que lui a adressé le ministre, représente l'acompte provisionnel qui est payable par lui pour l'année.

Limitation — other individuals

(4.01) For the purposes of subsection 161(2) and section 163.1, where an individual is required to pay a part or instalment of tax for a taxation year computed by reference to a method described in subsection 156(1), the individual shall be deemed to have been liable to pay on or before each day referred to in subsection 156(1) a part or instalment computed by reference to

(a) the amount, if any, by which

(i) the tax payable under this Part by the individual for the year, determined before taking into consideration the specified future tax consequences for the year,

exceeds

Restriction applicable aux autres particuliers

(4.01) Pour l'application du paragraphe (2) et de l'article 163.1, le particulier qui est tenu de payer, pour une année d'imposition, quelque fraction ou acompte provisionnel d'impôt, calculé selon une méthode visée au paragraphe 156(1), est réputé être tenu de payer, dans le délai prévu au paragraphe 156(1), une fraction ou un acompte provisionnel, calculé par rapport à l'un des montants suivants et réduit du montant éventuel déterminé à son égard pour l'année selon l'alinéa 156(2)b), selon ce qui aboutit au total le moins élevé de ces fractions ou acomptes à payer par le particulier dans ce délai :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(ii) the amounts deemed by subsections 120(2) and (2.2) to have been paid on account of the individual's tax under this Part for the year, determined before taking into consideration the specified future tax consequences for the year,

(b) the individual's instalment base for the preceding taxation year,

(c) the amounts determined under paragraph 156(1)(b) in respect of the individual for the year, or

(d) the amounts stated to be the amounts of instalments payable by the individual for the year in the notices, if any, sent to the individual by the Minister,

reduced by the amount, if any, determined under paragraph 156(2)(b) in respect of the individual for the year, whichever method gives rise to the least total amount of such parts or instalments required to be paid by the individual by that day.

(i) son impôt payable en vertu de la présente partie pour l'année, calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année,

(ii) les sommes réputées par les paragraphes 120(2) et (2.2) avoir été payées au titre de son impôt en vertu de la présente partie pour l'année, calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année;

b) sa base des acomptes provisionnels pour l'année d'imposition précédente;

c) les montants déterminés à son égard pour l'année selon l'alinéa 156(1)b);

d) les montants qui, selon l'avis que lui a adressé le ministre, représentent les acomptes provisionnels qui sont payables par lui pour l'année.

Limitation — corporations

(4.1) For the purposes of subsection (2) and section 163.1, where a corporation is required to pay a part or instalment of tax for a taxation year computed by reference to a method described in subsection 157(1), (1.1) or (1.5), as the case may be, the corporation is deemed to have been liable to pay on or before each day on or before which subparagraph 157(1)(a)(i), (ii) or (iii), subparagraph 157(1.1)(a)(i), (ii) or (iii), or subparagraph 157(1.5)(a)(i) or (ii), as the case may be, requires a part or instalment to be made equal to the amount, if any, by which

(a) the part or instalment due on that day computed in accordance with whichever allowable method in the circumstances gives rise to the least total amount of such parts or instalments of tax for the year, computed by reference to

(i) the total of the taxes payable under this Part and Parts VI, VI.1 and XIII.1 by the corporation for the year, determined before taking into consideration the specified future tax consequences for the year,

(ii) its first instalment base for the year, or

(iii) its second instalment base and its first instalment base for the year,

exceeds

(b) the amount, if any, determined under any of paragraphs 157(3)(b) to (e) or under paragraph 157(3.1)(b) or (c), as the case may be, in respect of that instalment.

Restriction applicable aux sociétés

(4.1) Pour l'application du paragraphe (2) et de l'article 163.1, la société qui est tenue de payer, pour une année d'imposition, quelque fraction ou acompte provisionnel d'impôt, calculé selon une méthode visée aux paragraphes 157(1), (1.1) ou (1.5), selon le cas, est réputée être tenue de payer, dans le délai prévu aux sous-alinéas 157(1)a)(i), (ii) ou (iii), (1.1)a)(i), (ii) ou (iii) ou (1.5)a)(i) ou (ii), selon le cas, une somme égale à l'excédent de la somme visée à l'alinéa a) sur la somme visée à l'alinéa b) :

a) la fraction ou l'acompte provisionnel exigible dans ce délai, calculé selon celle des méthodes permises qui aboutit au total le moins élevé de ces fractions ou acomptes pour l'année et par rapport à l'une des sommes suivantes :

(i) le total des impôts payables par la société pour l'année en vertu de la présente partie et des parties VI, VI.1 et XIII.1, calculés avant la prise en compte des conséquences fiscales futures déterminées pour l'année,

(ii) la première base des acomptes provisionnels de la société pour l'année,

(iii) la deuxième base des acomptes provisionnels et la première base des acomptes provisionnels de la société pour l'année;

b) la somme éventuelle déterminée selon l'un des alinéas 157(3)b) à e) ou selon les alinéas 157(3.1)b) ou c), selon le cas, relativement à cet acompte provisionnel.

(5) [Repealed, 2012, c. 19, s. 11]

(5) [Abrogé, 2012, ch. 19, art. 11]

Income of resident from a foreign country in blocked currency

(6) Where the income of a taxpayer for a taxation year, or part thereof, is from sources in another country and the taxpayer by reason of monetary or exchange restrictions imposed by the law of that country is unable to transfer it to Canada, the Minister may, if the Minister is satisfied that payment as required by this Part of the whole of the additional tax under this Part for the year reasonably attributable to income from sources in that country would impose extreme hardship on the taxpayer, postpone the time for payment of the whole or a part of that additional tax for a period to be determined by the Minister, but no such postponement may be granted if any of the income for the year from sources in that country has been

(a) transferred to Canada,

(b) used by the taxpayer for any purpose whatever, other than payment of income tax to the government of that other country on income from sources in that country, or

(c) disposed of by the taxpayer,

and no interest is payable under this section in respect of that additional tax, or part thereof, during the period of postponement.

Revenu d'un résident, tiré d'un pays étranger et formé de devises bloquées

(6) Lorsque tout ou partie du revenu d'un contribuable pour une année d'imposition provient de sources situées dans un autre pays et que le contribuable, en raison des restrictions monétaires ou du contrôle des changes imposés par la législation de ce pays, se trouve dans l'incapacité de le transférer au Canada, le ministre peut, s'il est convaincu que le paiement, requis par la présente partie, de la totalité de l'impôt supplémentaire prévu par la présente partie pour l'année et raisonnablement imputable au revenu tiré de sources situées dans ce pays placerait le contribuable dans une situation financière extrêmement difficile, différer le paiement de tout ou partie de cet impôt supplémentaire pour une période que lui-même déterminera, mais ce paiement ne peut être ainsi différé si une partie de son revenu de l'année tiré de sources situées dans ce pays :

a) soit a été transférée au Canada;

b) soit a été utilisée par le contribuable à une fin quelconque, autre que le paiement, à cet autre pays, d'un impôt sur le revenu provenant de sources qui y sont situées;

c) soit a fait l'objet d'une disposition de la part du contribuable;

aucun intérêt n'est payable, en vertu du présent article, sur tout ou partie de cet impôt supplémentaire, au cours de la période pendant laquelle le paiement est ainsi différé.

Foreign tax credit adjustment

(6.1) Notwithstanding any other provision in this section, where the tax payable under this Part by a taxpayer for a particular taxation year is increased because of

(a) an adjustment of an income or profits tax payable by the taxpayer to the government of a country other than Canada or to the government of a state, province or other political subdivision of such a country, or

(b) a reduction in the amount of foreign tax deductible under subsection 126(1) or (2) in computing the taxpayer's tax otherwise payable under this Part for the particular year, as a result of the application of subsection 126(4.2) in respect of a share or debt obligation disposed of by the taxpayer in the taxation year following the particular year,

no interest is payable, in respect of the increase in the taxpayer's tax payable, for the period

Rajustement du crédit pour impôt étranger

(6.1) Malgré les autres dispositions du présent article, lorsque l'impôt payable par un contribuable en vertu de la présente partie pour une année d'imposition donnée est majoré en raison :

a) soit d'un rajustement de l'impôt sur le revenu ou sur les bénéfices payable par lui au gouvernement d'un pays étranger ou au gouvernement d'un État, d'une province ou d'une autre subdivision politique d'un tel pays,

b) soit d'une réduction du montant d'impôt étranger déductible en application des paragraphes 126(1) ou (2) dans le calcul de son impôt payable par ailleurs en vertu de la présente partie pour l'année donnée, par suite de l'application du paragraphe 126(4.2) à une action ou un titre de créance dont il a disposé au cours de l'année d'imposition suivant l'année donnée,

(c) that ends 90 days after the day on which the taxpayer is first notified of the amount of the adjustment, if paragraph (a) applies, and

(d) before the date of the disposition, if paragraph (b) applies.

c) en cas d'application de l'alinéa a), la période se terminant 90 jours après la date où le contribuable est avisé pour la première fois du montant du rajustement;

d) en cas d'application de l'alinéa b), la période antérieure à la date de la disposition.

Flow-through share renunciations

(6.2) Where the tax payable under this Part by a taxpayer for a taxation year is more than it otherwise would be because of a consequence for the year described in paragraph (b) of the definition ***specified future tax consequence*** in subsection 248(1) in respect of an amount purported to be renounced in a calendar year, for the purposes of the provisions of this Act (other than this subsection) relating to interest payable under this Act, an amount equal to the additional tax payable is deemed

(a) to have been paid on the taxpayer's balance-due day for the taxation year on account of the taxpayer's tax payable under this Part for the year; and

(b) to have been refunded on April 30 of the following calendar year to the taxpayer on account of the taxpayer's tax payable under this Part for the taxation year.

Renonciation d'une action accréditive

(6.2) Pour l'application des autres dispositions de la présente loi concernant les intérêts payables sous son régime, dans le cas où l'impôt payable par un contribuable en vertu de la présente partie pour une année d'imposition est supérieur à ce qu'il serait par ailleurs du fait qu'il existe pour l'année une conséquence, visée à l'alinéa b) de la définition de ***conséquence fiscale future déterminée*** au paragraphe 248(1), se rapportant à un montant auquel il a censément été renoncé au cours d'une année civile, un montant égal à l'impôt supplémentaire payable est réputé :

a) avoir été payé à la date d'exigibilité du solde qui est applicable au contribuable pour l'année d'imposition au titre de son impôt payable pour l'année en vertu de la présente partie;

b) avoir été remboursé au contribuable le 30 avril de l'année civile subséquente au titre de son impôt payable en vertu de la présente partie pour l'année d'imposition.

Effect of carryback of loss, etc.

(7) For the purpose of computing interest under subsection 161(1) or 161(2) on tax or a part of an instalment of tax for a taxation year, and for the purpose of section 163.1,

(a) the tax payable under this Part and Parts I.3, VI and VI.1 by the taxpayer for the year is deemed to be the amount that it would be if the consequences of the deduction, reduction or exclusion of the following amounts were not taken into consideration:

(i) any amount deducted under section 119 in respect of a disposition in a subsequent taxation year,

(ii) any amount deducted under section 41 in respect of the taxpayer's listed-personal-property loss for a subsequent taxation year,

(iii) any amount excluded from the taxpayer's income for the year by virtue of section 49 in respect

Effet du report d'une perte sur une année antérieure

(7) Pour le calcul des intérêts à verser en application des paragraphes (1) ou (2) sur l'impôt ou sur une partie d'un acompte provisionnel pour une année d'imposition et pour l'application de l'article 163.1:

a) l'impôt payable par le contribuable pour l'année en vertu de la présente partie et des parties I.3, VI et VI.1 est réputé être égal à la somme qui serait payable à ce titre si les conséquences de la déduction, de la réduction ou de l'exclusion des montants ci-après n'étaient pas prises en compte :

(i) un montant déduit, en application de l'article 119, relativement à une disposition effectuée au cours d'une année d'imposition ultérieure,

(ii) un montant déduit, en application de l'article 41, à l'égard de la perte relative à des biens meubles déterminés que le contribuable a subie pour une année d'imposition ultérieure,

of the exercise of an option in a subsequent taxation year,

(iv) any amount deducted under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,

(iv.1) any amount deducted under subsection 126(2) in respect of an unused foreign tax credit (within the meaning assigned by subsection 126(7)), or under subsection 126(2.21) or (2.22) in respect of foreign taxes paid, for a subsequent taxation year,

(iv.2) any amount deducted in computing the taxpayer's income for the year by virtue of an election in a subsequent taxation year under paragraph 164(6)(c) or 164(6)(d) by the taxpayer's legal representative,

(v) any amount deducted under subsection 127(5) in respect of property acquired or an expenditure made in a subsequent taxation year,

(vi) [Repealed, 2013, c. 34, s. 318]

(vii) any amount deducted under section 125.3 in respect of an unused Part I.3 tax credit (within the meaning assigned by subsection 125.3(3)) for a subsequent taxation year,

(viii) any amount deducted, in respect of a repayment under subsection 68.4(7) of the *Excise Tax Act* made in a subsequent taxation year, in computing the amount determined under subparagraph 12(1)(x.1)(ii),

(viii.1) any amount deducted under subsection 147.2(4) in computing the taxpayer's income for the year because of the application of subsection 147.2(6) as a result of the taxpayer's death in the subsequent taxation year,

(ix) any amount deducted under subsection 181.1(4) in respect of any unused surtax credit (within the meaning assigned by subsection 181.1(6)) of the taxpayer for a subsequent taxation year,

(x) any amount deducted under subsection 190.1(3) in respect of any unused Part I tax credit (within the meaning assigned by subsection 190.1(5)) of the taxpayer for a subsequent taxation year,

(xi) any amount deducted under any of subsections 128.1(6) to (8) from the taxpayer's proceeds of

(iii) un montant exclu de son revenu pour l'année, en application de l'article 49, à l'égard de la levée d'une option au cours d'une année d'imposition ultérieure,

(iv) un montant déduit, en application de l'article 118.1, à l'égard d'un don fait au cours d'une année d'imposition ultérieure ou, en application de l'article 111, à l'égard d'une perte subie pour une année d'imposition ultérieure,

(iv.1) un montant déduit en application soit du paragraphe 126(2) à l'égard de la fraction inutilisée du crédit pour impôt étranger (au sens du paragraphe 126(7)), soit des paragraphes 126(2.21) ou (2.22) à l'égard des impôts étrangers payés, pour une année d'imposition ultérieure,

(iv.2) un montant déduit dans le calcul de son revenu pour l'année à cause d'un choix effectué par son représentant légal au cours d'une année d'imposition ultérieure en vertu de l'alinéa 164(6)c) ou d),

(v) un montant déduit, en application du paragraphe 127(5), à l'égard d'un bien acquis, ou d'une dépense faite, au cours d'une année d'imposition ultérieure,

(vi) [Abrogé, 2013, ch. 34, art. 318]

(vii) un montant déduit, en application de l'article 125.3, au titre d'un crédit d'impôt de la partie I.3 inutilisé, au sens du paragraphe 125.3(3), pour une année d'imposition ultérieure,

(viii) un montant déduit, au titre d'une restitution effectuée selon le paragraphe 68.4(7) de la *Loi sur la taxe d'accise* au cours d'une année d'imposition ultérieure, dans le calcul du montant déterminé selon le sous-alinéa 12(1)x.1)(ii),

(viii.1) un montant déduit en application du paragraphe 147.2(4) dans le calcul du revenu du contribuable pour l'année du fait que le paragraphe 147.2(6) s'applique par suite du décès du contribuable au cours de l'année d'imposition subséquente,

(ix) un montant déduit, en application du paragraphe 181.1(4), au titre d'un crédit de surtaxe inutilisé, au sens du paragraphe 181.1(6), du contribuable pour une année d'imposition ultérieure,

(x) un montant déduit, en application du paragraphe 190.1(3), au titre d'un crédit d'impôt de la partie I inutilisé, au sens du paragraphe 190.1(5),

disposition of a property because of an election made in a return of income for a subsequent taxation year, and

(xii) any amount by which the amount included under subsection 91(1) for the year is reduced because of a reduction referred to in paragraph 152(6.1)(b) in the foreign accrual property income of a foreign affiliate of the taxpayer for a taxation year of the affiliate that ends in the year; and

(b) the amount by which the tax payable under this Part and Parts I.3, VI and VI.1 by the taxpayer for the year is reduced as a consequence of the deduction or exclusion of amounts described in paragraph (a) is deemed to have been paid on account of the taxpayer's tax payable under this Part for the year on the day that is 30 days after the latest of

(i) the first day immediately following that subsequent taxation year,

(ii) the day on which the taxpayer's or the taxpayer's legal representative's return of income for that subsequent taxation year was filed,

(iii) if an amended return of the taxpayer's income for the year or a prescribed form amending the taxpayer's return of income for the year was filed under subsection 49(4) or 152(6) or (6.1) or paragraph 164(6)(e), the day on which the amended return or prescribed form was filed, and

(iv) where, as a consequence of a request in writing, the Minister reassessed the taxpayer's tax for the year to take into account the deduction or exclusion, the day on which the request was made.

du contribuable pour une année d'imposition ultérieure,

(xi) un montant déduit, en application de l'un des paragraphes 128.1(6) à (8), du produit de disposition du bien pour le contribuable en raison d'un choix fait dans une déclaration de revenu pour une année d'imposition ultérieure,

(xii) un montant appliqué en réduction de la somme incluse en application du paragraphe 91(1) pour l'année en raison d'une réduction, visée à l'alinéa 152(6.1)b), du revenu étranger accumulé, tiré de biens d'une société étrangère affiliée du contribuable pour une année d'imposition de la société affiliée se terminant dans l'année;

b) la somme qui est appliquée en réduction de l'impôt payable par le contribuable pour l'année en vertu de la présente partie et des parties I.3, VI et VI.1 par suite de la déduction ou de l'exclusion de montants visés à l'alinéa a) est réputée avoir été versée au titre de son impôt payable pour l'année en vertu de la présente partie le trentième jour suivant le dernier en date des jours suivants :

(i) le premier jour qui suit cette année d'imposition ultérieure,

(ii) le jour où la déclaration de revenu du contribuable ou de son représentant légal pour cette année d'imposition ultérieure a été produite,

(iii) le jour où une déclaration de revenu modifiée du contribuable pour l'année a été produite ou un formulaire prescrit modifiant sa déclaration de revenu pour l'année a été présenté conformément au paragraphe 49(4) ou 152(6) ou (6.1) ou à l'alinéa 164(6)e), dans le cas où il y a une telle production ou présentation,

(iv) le jour de la demande écrite à la suite de laquelle le ministre établit une nouvelle cotisation concernant l'impôt du contribuable pour l'année et qui tient compte de la déduction ou de l'exclusion, dans le cas où il y a une telle nouvelle cotisation.

Certain amounts deemed to be paid as instalments

(8) For the purposes of subsection 161(2), where in a taxation year an amount has been paid by a non-resident person pursuant to subsection 116(2) or 116(4) or an amount has been paid on that person's behalf by another person in accordance with subsection 116(5), the amount shall be deemed to have been paid by that non-resident person in the year as an instalment of tax on the first day

Certaines sommes réputées versées à titre d'acomptes provisionnels

(8) Pour l'application du paragraphe (2), la somme qui a été versée au cours d'une année d'imposition par un non-résident, en vertu du paragraphe 116(2) ou (4), ou qui a été versée en son nom par une autre personne, en conformité avec le paragraphe 116(5), est réputée avoir été versée au cours de l'année par ce non-résident à titre d'acompte provisionnel sur l'impôt le premier jour où il était

on which the non-resident person was required under this Act to pay an instalment of tax for that year.

Definitions of *instalment base,* etc.

(9) In this section,

(a) ***instalment base*** of an individual for a taxation year means the amount determined in prescribed manner to be the individual's instalment base for the year; and

(b) ***first instalment base*** and ***second instalment base*** of a corporation for a taxation year have the meanings prescribed by regulation.

When amount deemed paid

(10) For the purposes of subsection 161(2), where an amount has been deducted by virtue of paragraph 127.2(1)(a) or 127.3(1)(a) in computing the tax payable under this Part by a taxpayer for a taxation year, the amount so deducted shall be deemed to have been paid by the taxpayer

(a) in the case of a taxpayer who has filed a return of income under this Part for the year as required by section 150, on the last day of the year; and

(b) in any other case, on the day on which the taxpayer filed the taxpayer's return of income under this Part for the year.

Interest on penalties

(11) Where a taxpayer is required to pay a penalty, the taxpayer shall pay the penalty to the Receiver General together with interest thereon at the prescribed rate computed,

(a) in the case of a penalty payable under section 162, 163 or 235, from the day on or before which

(i) the taxpayer's return of income for a taxation year in respect of which the penalty is payable was required to be filed, or would have been required to be filed if tax under this Part were payable by the taxpayer for the year, or

(ii) the information return, return, ownership certificate or other document in respect of which the penalty is payable was required to be made,

as the case may be, to the day of payment;

requis, par la présente loi, de verser un acompte provisionnel sur l'impôt pour cette année.

Définitions relatives aux acomptes provisionnels

(9) Au présent article :

a) ***base des acomptes provisionnels***, relativement à un particulier, pour une année d'imposition, s'entend du montant déterminé, selon les modalités réglementaires, comme étant sa base des acomptes provisionnels pour l'année;

b) ***première base des acomptes provisionnels*** et ***deuxième base des acomptes provisionnels***, relativement à une société, pour une année d'imposition, s'entendent au sens du règlement.

Présomption de paiement

(10) Pour l'application du paragraphe (2), lorsqu'un montant a été déduit conformément à l'alinéa 127.2(1)a) ou 127.3(1)a) dans le calcul de l'impôt qu'un contribuable doit payer pour une année d'imposition en vertu de la présente partie, le montant ainsi déduit est réputé avoir été payé par le contribuable :

a) dans le cas d'un contribuable qui a produit une déclaration de revenu en vertu de la présente partie pour l'année selon les modalités de l'article 150, le dernier jour de l'année;

b) dans tout autre cas, le jour où le contribuable a produit sa déclaration de revenu en vertu de la présente partie pour l'année.

Intérêts sur les pénalités

(11) Tout contribuable tenu de payer une pénalité doit la verser au receveur général avec intérêts calculés au taux prescrit :

a) s'il s'agit d'une pénalité visée aux articles 162, 163 ou 235, pour la période allant du jour ci-après jusqu'à la date du paiement :

(i) le jour où la déclaration de revenu du contribuable pour l'année d'imposition à l'égard de laquelle la pénalité est payable doit au plus tard être produite ou le devrait si le contribuable devait payer un impôt en vertu de la présente partie pour l'année,

(ii) le jour où tout autre document — déclaration de renseignements, déclaration, certificat de propriété ou autre — à l'égard duquel la pénalité est payable doit au plus tard être produit ou présenté, selon le cas;

(b) in the case of a penalty payable for a taxation year because of section 163.1, from the taxpayer's balance-due day for the year to the day of payment of the penalty;

(b.1) in the case of a penalty under subsection 237.1(7.4) or 237.3(8), from the day on which the taxpayer became liable to the penalty to the day of payment; and

(c) in the case of a penalty payable by reason of any other provision of this Act, from the day of sending of the notice of original assessment of the penalty to the day of payment.

(12) [Repealed, 2000, c. 19, s. 47(3)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 161; 1994, c. 7, Sch. II, s. 133, Sch. VI, s. 8, Sch. VIII, s. 96, c. 21, s. 79; 1996, c. 21, s. 42; 1997, c. 25, s. 50, c. 26, s. 85; 1998, c. 19, s. 187; 1999, c. 22, s. 64; 2000, c. 19, s. 47; 2001, c. 17, s. 155; 2003, c. 15, s. 116; 2007, c. 35, s. 52; 2010, c. 25, s. 40; 2012, c. 19, s. 11; 2013, c. 34, ss. 35, 318; 2014, c. 39, s. 58.

Offset of Refund Interest and Arrears Interest

Definitions

161.1 (1) The definitions in this subsection apply in this section.

accumulated overpayment amount, of a corporation for a period, means the overpayment amount of the corporation for the period together with refund interest (including, for greater certainty, compound interest) that accrued with respect to the overpayment amount before the date specified under paragraph (3)(b) by the corporation in its application for the period. (*trop-payé accumulé*)

accumulated underpayment amount, of a corporation for a period, means the underpayment amount of the corporation for the period together with arrears interest (including, for greater certainty, compound interest) that accrued with respect to the underpayment amount before the date specified under paragraph (3)(b) by the corporation in its application for the period. (*moins-payé accumulé*)

arrears interest means interest computed under paragraph (5)(b), 129(2.2)(b), 131(3.2)(b), 132(2.2)(b), 133(7.02)(b) or 160.1(1)(b), subsection 161(1) or (11), paragraph 164(3.1)(b) or (4)(b) or subsection 187(2). (*intérêts débiteurs*)

overpayment amount, of a corporation for a period, means the amount referred to in subparagraph (2)(a)(i)

b) s'il s'agit d'une pénalité visée à l'article 163.1 relative à une année d'imposition, pour la période allant de la date d'exigibilité du solde qui est applicable au contribuable pour l'année jusqu'à la date du paiement de la pénalité;

b.1) s'il s'agit d'une pénalité visée aux paragraphes 237.1(7.4) ou 237.3(8), pour la période allant du jour où le contribuable est devenu passible de la pénalité jusqu'à la date du paiement;

c) s'il s'agit d'une pénalité visée à une autre disposition de la présente loi, pour la période allant de la date d'envoi de l'avis de cotisation initial concernant la pénalité jusqu'à la date du paiement.

(12) [Abrogé, 2000, ch. 19, art. 47(3)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 161; 1994, ch. 7, ann. II, art. 133, ann. VI, art. 8, ann. VIII, art. 96, ch. 21, art. 79; 1996, ch. 21, art. 42; 1997, ch. 25, art. 50, ch. 26, art. 85; 1998, ch. 19, art. 187; 1999, ch. 22, art. 64: 2000, ch. 19, art 47; 2001, ch. 17, art. 155; 2003, ch. 15, art. 116; 2007, ch. 35, art. 52; 2010, ch. 25, art. 40; 2012, ch. 19, art. 11; 2013, ch. 34, art. 35 et 318; 2014, ch. 39, art. 58.

Compensation des intérêts créditeurs et des intérêts débiteurs

Définitions

161.1 (1) Les définitions qui suivent s'appliquent au présent article.

intérêts créditeurs Les intérêts calculés selon les paragraphes 129(2.1), 131(3.1), 132(2.1), 133(7.01) ou 164(3) ou (3.2). (*refund interest*)

intérêts débiteurs Les intérêts calculés selon l'alinéa (5)b) ou les alinéas 129(2.2)b), 131(3.2)b), 132(2.2)b), 133(7.02)b) ou 160.1(1)b), les paragraphes 161(1) ou (11), les alinéas 164(3.1)b) ou (4)b) ou le paragraphe 187(2). (*arrears interest*)

moins-payé S'agissant du moins-payé d'une société pour une période, le montant visé à l'alinéa (2)b) qui est payable par la société et sur lequel des intérêts débiteurs sont calculés. (*underpayment amount*)

moins-payé accumulé S'agissant du moins-payé accumulé d'une société pour une période, la somme de son moins-payé pour la période et des intérêts débiteurs (étant entendu que ceux-ci comprennent les intérêts composés) courus sur le moins-payé avant la date précisée par la société aux termes de l'alinéa (3)b) dans sa demande visant la période. (*accumulated underpayment amount*)

trop-payé S'agissant du trop-payé d'une société pour une période, le montant visé au sous-alinéa (2)a)(i) qui

that is refunded to the corporation, or the amount referred to in subparagraph (2)(a)(ii) to which the corporation is entitled. (*trop-payé*)

refund interest means interest computed under subsection 129(2.1), 131(3.1), 132(2.1), 133(7.01) or 164(3) or (3.2). (*intérêts créditeurs*)

underpayment amount, of a corporation for a period, means the amount referred to in paragraph (2)(b) payable by the corporation on which arrears interest is computed. (*moins-payé*)

est remboursé à la société ou le montant visé au sous-alinéa (2)a)(ii) auquel elle a droit. (*overpayment amount*)

trop-payé accumulé S'agissant du trop-payé accumulé d'une société pour une période, la somme de son trop-payé pour la période et des intérêts créditeurs (étant entendu que ceux-ci comprennent les intérêts composés) courus sur le trop-payé avant la date précisée par la société aux termes de l'alinéa (3)b) dans sa demande visant la période. (*accumulated overpayment amount*)

Concurrent refund interest and arrears interest

(2) A corporation may apply in writing to the Minister for the reallocation of an accumulated overpayment amount for a period that begins after 1999 on account of an accumulated underpayment amount for the period if, in respect of tax paid or payable by the corporation under this Part or Part I.3, II, IV, IV.1, VI, VI.1 or XIV,

(a) refund interest for the period

(i) is computed on an amount refunded to the corporation, or

(ii) would be computed on an amount to which the corporation is entitled, if that amount were refunded to the corporation; and

(b) arrears interest for the period is computed on an amount payable by the corporation.

Intérêts créditeurs et intérêts débiteurs concomitants

(2) Une société peut, par écrit, demander au ministre de réaffecter un trop-payé accumulé pour une période commençant après 1999 à un moins-payé accumulé pour la période si les conditions suivantes sont réunies relativement à son impôt payé ou payable en vertu de la présente partie ou des parties I.3, II, IV, IV.1, VI, VI.1 ou XIV :

a) des intérêts créditeurs pour la période :

(i) soit sont calculés sur un montant remboursé à la société,

(ii) soit seraient calculés sur un montant auquel la société a droit si ce montant lui était remboursé;

b) des intérêts débiteurs pour la période sont calculés sur un montant payable par la société.

Contents of application

(3) A corporation's application referred to in subsection (2) for a period is deemed not to have been made unless

(a) it specifies the amount to be reallocated, which shall not exceed the lesser of the corporation's accumulated overpayment amount for the period and its accumulated underpayment amount for the period;

(b) it specifies the effective date for the reallocation, which shall not be earlier than the latest of

(i) the date from which refund interest is computed on the corporation's overpayment amount for the period, or would be so computed if the overpayment amount were refunded to the corporation,

(ii) the date from which arrears interest is computed on the corporation's underpayment amount for the period, and

(iii) January 1, 2000; and

Contenu de la demande

(3) La demande d'une société pour une période est réputée ne pas avoir été faite, sauf si les conditions suivantes sont réunies :

a) elle précise le montant à réaffecter, lequel ne peut dépasser le trop-payé accumulé de la société pour la période ou, s'il est moins élevé, son moins-payé accumulé pour la période;

b) elle précise la date de prise d'effet de la réaffectation, laquelle ne peut être antérieure au dernier en date des jours suivants :

(i) le jour à compter duquel des intérêts créditeurs sont calculés sur le trop-payé de la société pour la période ou seraient ainsi calculés si le trop-payé était remboursé à la société,

(ii) le jour à compter duquel des intérêts débiteurs sont calculés sur le moins-payé de la société pour la période,

(c) it is made on or before the day that is 90 days after the latest of

(i) the day of sending of the first notice of assessment giving rise to any portion of the corporation's overpayment amount to which the application relates,

(ii) the day of sending of the first notice of assessment giving rise to any portion of the corporation's underpayment amount to which the application relates,

(iii) if the corporation has served a notice of objection to an assessment referred to in subparagraph (i) or (ii), the day of sending of the notification under subsection 165(3) by the Minister in respect of the notice of objection,

(iv) if the corporation has appealed, or applied for leave to appeal, from an assessment referred to in subparagraph (i) or (ii) to a court of competent jurisdiction, the day on which the court dismisses the application, the application or appeal is discontinued or final judgment is pronounced in the appeal, and

(v) the day of sending of the first notice to the corporation indicating that the Minister has determined any portion of the corporation's overpayment amount to which the application relates, if the overpayment amount has not been determined as a result of a notice of assessment sent before that day.

(iii) le 1er janvier 2000;

c) elle est faite au plus tard le 90e jour suivant le dernier en date des jours suivants :

(i) la date d'envoi du premier avis de cotisation qui permet de déterminer une partie quelconque du trop-payé de la société auquel la demande se rapporte,

(ii) la date d'envoi du premier avis de cotisation qui permet de déterminer une partie quelconque du moins-payé de la société auquel la demande se rapporte,

(iii) si la société a signifié un avis d'opposition à une cotisation visée aux sous-alinéas (i) ou (ii), la date d'envoi de l'avis, mentionné au paragraphe 165(3), de la décision du ministre relativement à l'avis d'opposition,

(iv) si la société a interjeté appel d'une cotisation visée aux sous-alinéas (i) ou (ii) devant un tribunal compétent ou a demandé l'autorisation d'interjeter appel de cette cotisation à un tel tribunal, le jour où sa demande est refusée, le jour où la société retire sa demande ou se désiste ou le jour où une décision définitive est rendue quant à l'appel,

(v) la date d'envoi du premier avis à la société portant que le ministre a déterminé une partie quelconque du trop-payé de la société auquel la demande se rapporte, si le trop-payé n'a pas été déterminé d'après un avis de cotisation envoyé avant cette date.

Reallocation

(4) The amount to be reallocated that is specified under paragraph (3)(a) by a corporation is deemed to have been refunded to the corporation and paid on account of the accumulated underpayment amount on the date specified under paragraph (3)(b) by the corporation.

Repayment of refund

(5) If an application in respect of a period is made under subsection (2) by a corporation and a portion of the amount to be reallocated has been refunded to the corporation, the following rules apply:

(a) a particular amount equal to the total of

(i) the portion of the amount to be reallocated that was refunded to the corporation, and

(ii) refund interest paid or credited to the corporation in respect of that portion

Réaffectation

(4) Le montant à réaffecter qui est précisé aux termes de l'alinéa (3)a) par une société est réputé avoir été remboursé à celle-ci et versé au titre du moins-payé accumulé à la date précisée par la société aux termes de l'alinéa (3)b).

Restitution

(5) Si une société fait une demande pour une période en application du paragraphe (2) et qu'une partie du montant à réaffecter lui a été remboursée, les règles suivantes s'appliquent :

a) un montant donné égal à la somme des montants suivants est réputé être devenu payable par la société le jour où la partie du montant a été remboursée :

(i) la partie du montant à réaffecter qui a été remboursée à la société,

is deemed to have become payable by the corporation on the day on which the portion was refunded; and

(b) the corporation shall pay to the Receiver General interest at the prescribed rate on the particular amount from the day referred to in paragraph (a) to the date of payment.

(ii) les intérêts créditeurs payés à la société, ou portés à son crédit, relativement à cette partie;

b) la société doit payer au receveur général des intérêts sur le montant donné calculés au taux prescrit pour la période allant du jour visé à l'alinéa a) jusqu'au jour du paiement.

Consequential reallocations

(6) If a particular reallocation of an accumulated overpayment amount under subsection (4) results in a new accumulated overpayment amount of the corporation for a period, the new accumulated overpayment amount shall not be reallocated under this section unless the corporation so applies in its application for the particular reallocation.

Réaffectation indirecte

(6) Si la réaffectation dont un trop-payé accumulé fait l'objet aux termes du paragraphe (4) donne lieu à un nouveau trop-payé accumulé de la société pour une période, ce nouveau trop-payé accumulé ne peut être réaffecté en application du présent article que si la société en fait la demande dans sa demande visant la réaffectation initiale.

Assessments

(7) Notwithstanding subsections 152(4), (4.01) and (5), the Minister shall assess or reassess interest and penalties payable by a corporation in respect of any taxation year as necessary in order to take into account a reallocation of amounts under this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 48; 2010, c. 25, s. 41.

Cotisation

(7) Malgré les paragraphes 152(4), (4.01) et (5), le ministre établit toute cotisation ou nouvelle cotisation concernant les intérêts et pénalités payables par une société pour une année d'imposition qui est nécessaire à la prise en compte d'une réaffectation de montants effectuée en vertu du présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 48; 2010, ch. 25, art. 41.

Period where interest not payable

161.2 Notwithstanding any other provision of this Act, if the Minister notifies a taxpayer that the taxpayer is required to pay a specified amount under this Act and the taxpayer pays the specified amount in full before the end of the period that the Minister specifies with the notice, interest is not payable on the specified amount for the period.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2003, c. 15, s. 117.

Intérêts non payables

161.2 Malgré les autres dispositions de la présente loi, si le ministre avise un contribuable qu'il est tenu de payer, en vertu de la présente loi, une somme déterminée et que le contribuable verse la totalité de cette somme avant la fin de la période précisée avec l'avis, aucun intérêt n'est à payer sur la somme pour la période.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2003, ch. 15, art. 117.

Small Amounts Owing

Interest and penalty amounts of $25 or less

161.3 If, at any time, a person pays an amount not less than the total of all amounts, other than interest and penalty, owing at that time to Her Majesty in right of Canada under this Act for a taxation year of the person and the total amount of interest and penalty payable by the person under this Act for that year is not more than $25.00, the Minister may cancel the interest and penalty.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2003, c. 15, s. 117.

Sommes minimes

Intérêts et pénalités de 25 $ ou moins

161.3 Si, à un moment donné, une personne paie une somme égale ou supérieure au total des sommes, sauf les intérêts et pénalités, dont elle est débitrice à ce moment envers Sa Majesté du chef du Canada en vertu de la présente loi pour son année d'imposition et que le total des intérêts et pénalités à payer par elle en vertu de la présente loi pour cette année n'excède pas 25 $, le ministre peut annuler ces intérêts et pénalités.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2003, ch. 15, art. 117.

Taxpayer

161.4 (1) If the Minister determines, at any time, that the total of all amounts owing by a person to Her Majesty

Contribuable

161.4 (1) Les sommes dont une personne est redevable à Sa Majesté du chef du Canada en vertu de la présente

in right of Canada under this Act does not exceed two dollars, those amounts are deemed to be nil.

Minister

(2) If, at any time, the total of all amounts payable by the Minister to a person under this Act does not exceed two dollars, the Minister may apply those amounts against any amount owing, at that time, by the person to Her Majesty in right of Canada. However, if the person, at that time, does not owe any amount to Her Majesty in right of Canada, those amounts payable are deemed to be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2003, c. 15, s. 117; 2006, c. 4, s. 162.

loi sont réputées nulles si le total de ces sommes, déterminé par le ministre à un moment donné, est égal ou inférieur à deux dollars.

Ministre

(2) Si, à un moment donné, le total des sommes à payer par le ministre à une personne en vertu de la présente loi est égal ou inférieur à deux dollars, le ministre peut les déduire de toute somme dont la personne est alors redevable à Sa Majesté du chef du Canada. Toutefois, si la personne n'est alors redevable d'aucune somme à Sa Majesté du chef du Canada, les sommes à payer par le ministre sont réputées nulles.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2003, ch. 15, art. 117; 2006, ch. 4, art. 162.

Penalties

Failure to file return of income

162 (1) Every person who fails to file a return of income for a taxation year as and when required by subsection 150(1) is liable to a penalty equal to the total of

(a) an amount equal to 5% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed, and

(b) the product obtained when 1% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, from the date on which the return was required to be filed to the date on which the return was filed.

Repeated failure to file

(2) Every person

(a) who fails to file a return of income for a taxation year as and when required by subsection 150(1),

(b) to whom a demand for a return for the year has been sent under subsection 150(2), and

(c) by whom, before the time of failure, a penalty was payable under this subsection or subsection 162(1) in respect of a return of income for any of the 3 preceding taxation years

is liable to a penalty equal to the total of

(d) an amount equal to 10% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed, and

Pénalités

Défaut de déclaration de revenu

162 (1) Toute personne qui ne produit pas de déclaration de revenu pour une année d'imposition selon les modalités et dans le délai prévus au paragraphe 150(1) est passible d'une pénalité égale au total des montants suivants :

a) 5 % de l'impôt payable pour l'année en vertu de la présente partie qui était impayé à la date où, au plus tard, la déclaration devait être produite;

b) le produit de 1 % de cet impôt impayé par le nombre de mois entiers, jusqu'à concurrence de 12, compris dans la période commençant à la date où, au plus tard, la déclaration devait être produite et se terminant le jour où la déclaration est effectivement produite.

Récidive

(2) La personne qui ne produit pas de déclaration de revenu pour une année d'imposition selon les modalités et dans le délai prévus au paragraphe 150(1) après avoir été mise en demeure de le faire conformément au paragraphe 150(2) et qui, avant le moment du défaut, devait payer une pénalité en application du présent paragraphe ou du paragraphe (1) pour défaut de production d'une déclaration de revenu pour une des trois années d'imposition précédentes est passible d'une pénalité égale au total des montants suivants :

a) 10 % de l'impôt payable pour l'année en vertu de la présente partie qui était impayé à la date où, au plus tard, la déclaration devait être produite;

b) le produit de 2 % de cet impôt impayé par le nombre de mois entiers, jusqu'à concurrence de 20, compris dans la période commençant à la date où, au

(e) the product obtained when 2% of the person's tax payable under this Part for the year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 20, from the date on which the return was required to be filed to the date on which the return was filed.

Failure to file - non-resident corporation

(2.1) Notwithstanding subsections (1) and (2), if a non-resident corporation is liable to a penalty under subsection (1) or (2) for failure to file a return of income for a taxation year, the amount of the penalty is the greater of

(a) the amount computed under subsection (1) or (2), as the case may be, and

(b) an amount equal to the greater of

(i) $100, and

(ii) $25 times the number of days, not exceeding 100, from the day on which the return was required to be filed to the day on which the return is filed.

Failure to file by trustee

(3) Every person who fails to file a return as required by subsection 150(3) is liable to a penalty of $10 for each day of default but not exceeding $50.

Ownership certificate

(4) Every person who

(a) fails to complete an ownership certificate as required by section 234,

(b) fails to deliver an ownership certificate in the manner prescribed at the time prescribed and at the place prescribed by regulations made under that section, or

(c) cashes a coupon or warrant for which an ownership certificate has not been completed pursuant to that section,

is liable to a penalty of $50.

plus tard, la déclaration devait être produite et se terminant le jour où la déclaration est effectivement produite.

Défaut de déclaration par une société non-résidente

(2.1) Malgré les paragraphes (1) et (2), la pénalité dont une société non-résidente est passible pour défaut de produire une déclaration de revenu pour une année d'imposition aux termes de ces paragraphes correspond au plus élevé des montants suivants :

a) le montant déterminé selon les paragraphes (1) ou (2), selon le cas;

b) le plus élevé des montants suivants :

(i) 100 $

(ii) le produit de 25 $ par le nombre de jours, jusqu'à concurrence de 100, depuis le jour où la déclaration devait être produite jusqu'au jour où elle est produite.

Défaut de déclaration de revenu par l'administrateur de biens

(3) Toute personne qui ne produit pas de déclaration conformément au paragraphe 150(3) est passible d'une pénalité de 10 $ par jour de retard, jusqu'à concurrence de 50 $.

Défaut de certificat de propriété

(4) Sont passibles d'une pénalité de 50 $:

a) la personne qui ne fournit pas de certificat de propriété conformément à l'article 234;

b) la personne qui ne délivre pas ce certificat de la manière, dans le délai et à l'endroit prévus par les dispositions réglementaires prises en application de cet article;

c) la personne qui, contrairement à cet article, encaisse un coupon ou titre sans qu'aucun certificat de propriété ait été fourni.

Failure to provide information on form

(5) Every person who fails to provide any information required on a prescribed form made under this Act or a regulation is liable to a penalty of $100 for each such failure, unless

(a) in the case of information required in respect of another person or partnership, a reasonable effort was made by the person to obtain the information from the other person or partnership; or

(b) in the case of a failure to provide a Social Insurance Number on a return of income, the person had applied for the assignment of the Number and had not received it at the time the return was filed.

Failure to provide claim preparer information

(5.1) Every person or partnership who makes, or participates in, assents to or acquiesces in the making of, a false statement or omission in respect of claim preparer information required to be included in an SR&ED form is jointly and severally, or solidarily, liable, together with any claim preparer of the form, to a penalty equal to $1,000.

Due diligence

(5.2) A claim preparer of an SR&ED form is not liable for a penalty under subsection (5.1) in respect of a false statement or omission if the claim preparer has exercised the degree of care, diligence and skill to prevent the making of the false statement or omission that a reasonably prudent person would have exercised in comparable circumstances.

Definitions

(5.3) The following definitions apply in this subsection and subsections (5.1) and (5.2).

claim preparer, of an SR&ED form, means a person or partnership who agrees to accept consideration to prepare, or assist in the preparation of, the form but does not include an employee who prepares, or assists in the preparation of, the form in the course of performing their duties of employment. (*préparateur*)

claim preparer information means prescribed information regarding

(a) the identity of the claim preparer, if any, of an SR&ED form, and

Défaut de fournir des renseignements sur un formulaire

(5) Toute personne qui ne fournit pas les renseignements voulus sur un formulaire prescrit rempli conformément à la présente loi ou à une disposition réglementaire est passible d'une pénalité de 100 $ pour chaque défaut à moins que :

a) s'il s'agit de renseignements à fournir sur une autre personne ou sur une société de personnes, la personne se soit raisonnablement appliquée à les obtenir de cette autre personne ou de cette société de personnes;

b) s'il s'agit d'un numéro d'assurance sociale à fournir dans une déclaration de revenu, la personne ait demandé qu'un numéro lui soit attribué et ne l'ait pas reçu au moment de la production de la déclaration.

Défaut de fournir des renseignements relatifs au préparateur

(5.1) Toute personne ou société de personnes qui fait un faux énoncé ou une omission en ce qui a trait aux renseignements relatifs au préparateur devant figurer dans un formulaire de RS&DE, ou qui participe, consent ou acquiesce à ce faux énoncé ou à cette omission, est solidairement responsable, avec tout préparateur, du paiement d'une pénalité de 1 000 $.

Diligence raisonnable

(5.2) Le préparateur de formulaire de RS&DE n'est pas passible de la pénalité visée au paragraphe (5.1) relativement à un faux énoncé ou à une omission s'il a agi avec autant de soin, de diligence et de compétence pour prévenir le manquement que ne l'aurait fait une personne raisonnablement prudente dans les mêmes circonstances.

Définitions

(5.3) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (5.1) et (5.2).

formulaire de RS&DE Formulaire prescrit à présenter au ministre aux termes du paragraphe 37(11). (*SR&ED form*)

préparateur Personne ou société de personnes qui, pour une contrepartie, s'engage à établir un formulaire de RS&DE ou à aider à l'établissement d'un tel formulaire, à l'exclusion d'un employé qui établit le formulaire, ou qui aide à son établissement, dans le cadre de l'exercice des fonctions de son emploi. (*claim preparer*)

renseignements relatifs au préparateur Renseignements prescrits concernant :

(b) the arrangement under which the claim preparer agrees to accept consideration in respect of the preparation of the form. (*renseignements relatifs au préparateur*)

SR&ED form means a prescribed form required to be filed under subsection 37(11). (*formulaire de RS&DE*)

a) l'identité du préparateur d'un formulaire de RS&DE;

b) les dispositions aux termes desquelles le préparateur s'engage à établir le formulaire pour une contrepartie. (*claim preparer information*)

Failure to provide identification number

(6) Every person or partnership who fails to provide on request their Social Insurance Number, their business number or their U.S. federal taxpayer identifying number to a person required under this Act or a regulation to make an information return requiring the number is liable to a penalty of $100 for each such failure, unless

(a) an application for the assignment of the number is made within 15 days (or, in the case of a U.S. federal taxpayer identifying number, 90 days) after the request was received; and

(b) the number is provided to the person who requested the number within 15 days after the person or partnership received it.

Défaut de fournir son numéro d'identification

(6) La personne ou la société de personnes qui ne fournit pas sur demande son numéro d'assurance sociale, son numéro d'entreprise ou son numéro d'identification fiscal fédéral américain à une personne tenue par la présente loi ou par une disposition réglementaire de remplir une déclaration de renseignements devant comporter ce numéro est passible d'une pénalité de 100 $ pour chaque défaut, sauf si :

a) une demande d'attribution du numéro est faite dans les 15 jours suivant la réception de la demande ou, dans le cas d'un numéro d'identification fiscal fédéral américain, dans les 90 jours suivant la réception de cette demande;

b) le numéro est fourni à cette personne dans les 15 jours suivant sa réception.

Failure to comply

(7) Every person (other than a registered charity) or partnership who fails

(a) to file an information return as and when required by this Act or the regulations, or

(b) to comply with a duty or obligation imposed by this Act or the regulations

is liable in respect of each such failure, except where another provision of this Act (other than subsection 162(10) or 162(10.1) or 163(2.22)) sets out a penalty for the failure, to a penalty equal to the greater of $100 and the product obtained when $25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

Inobservation d'un règlement

(7) Toute personne (sauf un organisme de bienfaisance enregistré) ou société de personnes qui ne remplit pas une déclaration de renseignements selon les modalités et dans le délai prévus par la présente loi ou le *Règlement de l'impôt sur le revenu* ou qui ne se conforme pas à une obligation imposée par la présente loi ou ce règlement est passible, pour chaque défaut 00 sauf si une autre disposition de la présente loi (sauf les paragraphes (10) et (10.1) et 163(2.22)) prévoit une pénalité pour le défaut — d'une pénalité égale, sans être inférieure à 100 $, au produit de la multiplication de 25 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste.

Late filing penalty — prescribed information returns

(7.01) Every person (other than a registered charity) or partnership who fails to file, when required by this Act or the regulations, one or more information returns of a type prescribed for the purpose of this subsection is liable to a penalty equal to the greater of $100 and

(a) where the number of those information returns is less than 51, $10 multiplied by the number of days, not exceeding 100, during which the failure continues;

Défaut de produire des déclarations de renseignements visées par règlement

(7.01) Toute personne (sauf un organisme de bienfaisance enregistré) ou société de personnes qui ne remplit pas, dans le délai prévu par la présente loi ou le *Règlement de l'impôt sur le revenu*, une ou plusieurs déclarations de renseignements d'un type visé par règlement pour l'application du présent paragraphe est passible d'une pénalité égale, sans être inférieure à 100 $, à celle des sommes ci-après qui est applicable, selon le nombre de déclarations de renseignements en cause :

(b) where the number of those information returns is greater than 50 and less than 501, $15 multiplied by the number of days, not exceeding 100, during which the failure continues;

(c) where the number of those information returns is greater than 500 and less than 2,501, $25 multiplied by the number of days, not exceeding 100, during which the failure continues;

(d) where the number of those information returns is greater than 2,500 and less than 10,001, $50 multiplied by the number of days, not exceeding 100, during which the failure continues; and

(e) where the number of those information returns is greater than 10,000, $75 multiplied by the number of days, not exceeding 100, during which the failure continues.

Failure to file in appropriate manner — prescribed information returns

(7.02) Every person (other than a registered charity) or partnership who fails to file, in the manner required by the regulations, one or more information returns of a type prescribed for the purpose of this subsection is liable to a penalty equal to

(a) where the number of those information returns is greater than 50 and less than 251, $250;

(b) where the number of those information returns is greater than 250 and less than 501, $500;

(c) where the number of those information returns is greater than 500 and less than 2,501, $1,500;

(d) where the number of those information returns is greater than 2,500, $2,500; and

(e) in any other case, nil.

Failure to make partnership information return

(7.1) Where a member of a partnership fails to file an information return as a member of the partnership for a fiscal period of the partnership as and when required by this Act or the regulations and subsection 162(10) does not set out a penalty for the failure, the partnership is liable to a penalty equal to the greater of $100 and the product obtained when $25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

a) moins de 51 : le produit de la multiplication de 10 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste;

b) plus de 50 mais moins de 501 : le produit de la multiplication de 15 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste;

c) plus de 500 mais moins de 2 501 : le produit de la multiplication de 25 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste;

d) plus de 2 500 mais moins de 10 001 : le produit de la multiplication de 50 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste;

e) plus de 10 000 : le produit de la multiplication de 75 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste.

Défaut de produire selon les modalités prévues — déclarations de renseignements visées par règlement

(7.02) Toute personne (sauf un organisme de bienfaisance enregistré) ou société de personnes qui ne remplit pas, selon les modalités prévues par règlement, une ou plusieurs déclarations de renseignements d'un type visé par règlement pour l'application du présent paragraphe est passible de celle des pénalités ci-après qui est applicable, selon le nombre de déclarations de renseignements en cause :

a) plus de 50 mais moins de 251 : 250 $;

b) plus de 250 mais moins de 501 : 500 $;

c) plus de 500 mais moins de 2 501 : 1 500 $;

d) plus de 2 500 : 2 500 $;

e) dans les autres cas, zéro.

Non-production de déclarations de renseignements par une société de personnes

(7.1) La société de personnes dont l'associé ne produit pas une déclaration de renseignements à titre d'associé pour un exercice de la société de personnes selon les modalités et dans le délai prévus par la présente loi ou le *Règlement de l'impôt sur le revenu* est passible, si le paragraphe (10) ne prévoit pas une pénalité pour le défaut, d'une pénalité égale, sans être inférieure à 100 $, au produit de 25 $ par le nombre de jours, jusqu'à concurrence de 100, où le défaut persiste.

Failure to file in appropriate manner — return of income

(7.2) Every person who fails to file a return of income for a taxation year as required by subsection 150.1(2.1) is liable to a penalty equal to $1,000.

Failure to file in appropriate manner — tax preparer

(7.3) Every tax preparer who fails to file a return of income as required by subsection 150.1(2.3) is liable to a penalty equal to

(a) $25 for each such failure in respect of a return of an individual; and

(b) $100 for each such failure in respect of a return of a corporation.

Repeated failure to file

(8) Where

(a) a penalty was payable under subsection 162(7.1) in respect of a failure by a member of a partnership to file an information return as a member of the partnership for a fiscal period of the partnership,

(b) a demand for the return or for information required to be contained in the return has been served under section 233 on the member, and

(c) a penalty was payable under subsection 162(7.1) in respect of the failure by a member of a partnership to file an information return as a member of the partnership for any of the 3 preceding fiscal periods,

the partnership is liable, in addition to the penalty under subsection 162(7.1), to a penalty of $100 for each member of the partnership for each month or part of a month, not exceeding 24 months, during which the failure referred to in paragraph 162(8)(a) continues.

Rules — partnership liable to a penalty

(8.1) If a partnership is liable to a penalty under any of subsections (5) to (7.1), (7.3), (8) and (10), then sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any modifications that the circumstances require, to the penalty as if the partnership were a corporation.

(9) [Repealed, 1998, c. 19, s. 188(4)]

Défaut de produire selon les modalités prévues — déclaration de revenu

(7.2) Quiconque ne produit pas de déclaration de revenu pour une année d'imposition selon les modalités prévues au paragraphe 150.1(2.1) est passible d'une pénalité égale à 1 000 $.

Défaut de produire selon les modalités prévues — spécialiste en déclarations

(7.3) Tout spécialiste en déclarations qui omet de produire une déclaration de revenu selon les modalités au paragraphe 150.1(2.3) est passible de la pénalité suivante :

a) 25 $ pour chaque défaut de produire ainsi la déclaration d'un particulier;

b) 100 $ pour chaque défaut de produire ainsi la déclaration d'une société.

Idem

(8) Une société de personnes est passible, en plus de la pénalité visée au paragraphe (7.1), d'une pénalité égale à 100 $ par associé et par mois ou partie de mois, à concurrence de 24 mois, où cet associé n'a pas produit, à titre d'associé, de déclaration de renseignements pour un exercice de la société de personnes, si les conditions suivantes sont réunies :

a) une pénalité est payable en application du paragraphe (7.1) pour défaut de production d'une telle déclaration;

b) l'associé a été mis en demeure, en application de l'article 233, de produire cette déclaration ou des renseignements qui doivent y figurer;

c) une pénalité a déjà été payable en application du paragraphe (7.1) pour défaut de production par l'associé de la société de personnes d'une déclaration de renseignements à titre d'associé pour un des trois exercices précédents.

Société de personnes passible d'une pénalité

(8.1) Si une société de personnes est passible d'une pénalité selon l'un des paragraphes (5) à (7.1), (7.3), (8) et (10), les articles 152, 158 à 160.1, 161 et 164 à 167 et la section J s'appliquent à la pénalité, avec les adaptations nécessaires, comme si la société de personnes était une société.

(9) [Abrogé, 1998, ch. 19, art. 188(4)]

Failure to furnish foreign-based information

(10) Every person or partnership who,

(a) knowingly or under circumstances amounting to gross negligence, fails to file an information return as and when required by any of sections 233.1 to 233.4 and 233.8, or

(b) where paragraph 162(10)(a) does not apply, knowingly or under circumstances amounting to gross negligence, fails to comply with a demand under section 233 to file a return

is liable to a penalty equal to the amount determined by theformula

($500 × A × B) - C

where

A is

(c) where paragraph 162(10)(a) applies, the lesser of 24 and the number of months, beginning with the month in which the return was required to be filed, during any part of which the return has not been filed, and

(d) where paragraph 162(10)(b) applies, the lesser of 24 and the number of months, beginning with the month in which the demand was served, during any part of which the return has not been filed,

B is

(e) where the person or partnership has failed to comply with a demand under section 233 to file a return, 2, and

(f) in any other case, 1, and

C is the penalty to which the person or partnership is liable under subsection 162(7) in respect of the return.

Additional penalty

(10.1) Where

(a) a person or partnership is liable to a penalty under subsection 162(10) for the failure to file a return (other than an information return required to be filed under section 233.1),

(b) if paragraph 162(10)(a) applies, the number of months, beginning with the month in which the return was required to be filed, during any part of which the return has not been filed exceeds 24, and

(c) if paragraph 162(10)(b) applies, the number of months, beginning with the month in which the

Renseignements omis sur des non-résidents

(10) Est passible d'une pénalité égale au résultat du calcul ci-après toute personne ou société de personnes (appelée « personne » au présent paragraphe) qui, sciemment ou dans des circonstances équivalant à faute lourde :

a) ne produit pas une déclaration de renseignements selon les modalités et dans le délai prévus par l'un des articles 233.1 à 233.4 et 233.8,

b) en cas d'inapplication de l'alinéa a), ne se conforme pas à une mise en demeure de produire une déclaration en application de l'article 233,

(500 $ × A × B) - C

où :

A représente :

c) en cas d'application de l'alinéa a), 24 ou, s'il est inférieur, le nombre de mois, même incomplets, à compter de celui au cours duquel la déclaration devait être produite, où la déclaration n'est pas produite,

d) en cas d'application de l'alinéa b), 24 ou, s'il est inférieur, le nombre de mois, même incomplets, à compter de celui au cours duquel la mise en demeure a été signifiée, où la déclaration n'est pas produite;

B :

e) si la personne ne se conforme pas à une mise en demeure de produire une déclaration en application de l'article 233, 2,

f) dans les autres cas, 1;

C la pénalité dont la personne est passible selon le paragraphe (7) relativement à la déclaration.

Pénalité supplémentaire

(10.1) La personne ou la société de personnes (appelée « personne » au présent paragraphe) qui est passible de la pénalité prévue au paragraphe (10) pour défaut de produire une déclaration (sauf une déclaration de renseignements à produire en application de l'article 233.1) est passible, en plus de cette pénalité, d'une pénalité égale au résultat du calcul ci-après si :

a) en cas d'application de l'alinéa (10)a), le nombre de mois, même incomplets, à compter de celui au cours duquel la déclaration devait être produite, où la déclaration n'est pas produite dépasse 24,

demand referred to in that paragraph was served, during any part of which the return has not been filed exceeds 24,

the person or partnership is liable, in addition to the penalty determined under subsection 162(10), to a penalty equal to the amount determined by the formula

A - B

where

A is

(d) if the return is required to be filed under section 233.2 in respect of a trust, 5% of the total of all amounts each of which is the fair market value, at the time it was made, of a contribution of the person or partnership made to the trust before the end of the last taxation year of the trust in respect of which the return is required,

(e) where the return is required to be filed under section 233.3 for a taxation year or fiscal period, 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a specified foreign property (as defined by subsection 233.3(1)) of the person or partnership, and

(f) where the return is required to be filed under section 233.4 for a taxation year or fiscal period in respect of a foreign affiliate of the person or partnership, 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a property of the person or partnership that is a share of the capital stock or indebtedness of the affiliate, and

B is the total of the penalties to which the person or partnership is liable under subsections 162(7) and 162(10) in respect of the return.

b) en cas d'application de l'alinéa (10)b), le nombre de mois, même incomplets, à compter de celui au cours duquel la mise en demeure visée à cet alinéa a été signifiée, où la déclaration n'est pas produite dépasse 24,

A - B

où :

A représente :

c) si la déclaration est à produire en application de l'article 233.2 à l'égard d'une fiducie, 5 % du total des montants représentant chacun la juste valeur marchande, au moment où il a été fait, d'un apport que la personne ou la société de personnes a fait à la fiducie avant la fin de la dernière année d'imposition de celle-ci pour laquelle la déclaration doit être produite,

d) si la déclaration est à produire en application de l'article 233.3 pour une année d'imposition ou un exercice, 5 % du plus élevé des montants représentant chacun le total des coûts indiqués, pour la personne à un moment de l'année ou de l'exercice, d'un de ses biens étrangers déterminés au sens du paragraphe 233.3(1),

e) si la déclaration est à produire en application de l'article 233.4 pour une année d'imposition ou un exercice relativement à une société étrangère affiliée de la personne, 5 % du plus élevé des montants représentant chacun le total des coûts indiqués, pour la personne à un moment de l'année ou de l'exercice, d'un bien de celle-ci qui constitue une action du capital-actions ou une dette de la société affiliée;

B le total des pénalités dont la personne est passible selon les paragraphes (7) et (10) relativement à la déclaration.

Application to trust contributions

(10.11) In paragraph (d) of the description of A in subsection (10.1), subsections 94(1), (2) and (9) apply.

Apport à une fiducie

(10.11) Les paragraphes 94(1), (2) et (9) s'appliquent à l'alinéa c) de l'élément A de la formule figurant au paragraphe (10.1).

Shares or debt owned by controlled foreign affiliate

(10.2) For the purpose of paragraph (f) of the description of A in subsection 162(10.1),

(a) shares or indebtedness owned by a controlled foreign affiliate of a person or partnership are deemed to be owned by the person or partnership; and

Actions ou dettes d'une société étrangère affiliée contrôlée

(10.2) Les présomptions suivantes s'appliquent dans le cadre de l'application de l'alinéa e) de l'élément A de la formule figurant au paragraphe (10.1) à une personne ou une société de personnes (appelée « personne » au présent paragraphe):

(b) the cost amount at any time of such shares or indebtedness to the person or partnership is deemed to be equal to 20% of the cost amount at that time to the controlled foreign affiliate of the shares or indebtedness.

Application to partnerships

(10.3) For the purposes of paragraph (f) of the description of A in subsection 162(10.1) and subsection 162(10.2), in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a partnership,

(a) the definitions ***direct equity percentage*** and ***equity percentage*** in subsection 95(4) shall be read as if a partnership were a person; and

(b) the definitions ***controlled foreign affiliate*** and ***foreign affiliate*** in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada.

Application to non-resident trusts

(10.4) For the purposes of this subsection, paragraph (f) of the description of A in subsection 162(10.1) and subsection 162(10.2),

(a) a non-resident trust is deemed to be a controlled foreign affiliate of each beneficiary of which the trust is a controlled foreign affiliate for the purpose of section 233.4;

(b) the trust is deemed to be a non-resident corporation having a capital stock of a single class divided into 100 issued shares;

(c) each beneficiary under the trust is deemed to own at any time the number of the issued shares of the corporation that is equal to the proportion of 100 that

(i) the fair market value at that time of the beneficiary's beneficial interest in the trust

is of

(ii) the fair market value at that time of all beneficial interests in the trust; and

a) les actions ou les dettes appartenant à la société étrangère affiliée contrôlée de la personne sont réputées appartenir à celle-ci;

b) le coût indiqué à un moment donné de ces actions ou dettes pour la personne est réputé égal à 20 % de leur coût indiqué à ce moment pour la société étrangère affiliée contrôlée.

Sociétés de personnes

(10.3) Pour l'application de l'alinéa e) de l'élément A de la formule figurant au paragraphe (10.1) et du paragraphe (10.2), lorsqu'il s'agit de déterminer si une société non-résidente ou une fiducie est la société étrangère affiliée ou la société étrangère affiliée contrôlée d'une société de personnes :

a) les définitions de ***pourcentage d'intérêt*** et ***pourcentage d'intérêt direct***, au paragraphe 95(4), s'appliquent comme si les sociétés de personnes étaient des personnes;

b) les définitions de ***société étrangère affiliée*** et ***société étrangère affiliée contrôlée***, au paragraphe 95(1), s'appliquent comme si les sociétés de personnes étaient des contribuables résidant au Canada.

Fiducies non-résidentes

(10.4) Les présomptions suivantes s'appliquent dans le cadre du présent paragraphe, de l'alinéa e) de l'élément A de la formule figurant au paragraphe (10.1) et du paragraphe (10.2):

a) une fiducie non-résidente est réputée être la société étrangère affiliée contrôlée de chaque bénéficiaire dont la fiducie est une société étrangère affiliée contrôlée pour l'application de l'article 233.4;

b) la fiducie est réputée être une société non-résidente dont le capital-actions consiste en une seule catégorie d'actions divisée en 100 actions émises;

c) chaque bénéficiaire de la fiducie est réputé être propriétaire, à un moment donné, du nombre d'actions émises de la société égal au produit de la multiplication de 100 par le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, de son droit de bénéficiaire dans la fiducie,

(ii) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des droits de bénéficiaire dans la fiducie;

(d) the cost amount to a beneficiary at any time of a share of the corporation is deemed to be equal to the amount determined by the formula

A/B

where

A is the fair market value at that time of the beneficiary's beneficial interest in the trust, and

B is the number of shares deemed under paragraph 162(10.4)(c) to be owned at that time by the beneficiary in respect of the corporation.

d) le coût indiqué, pour un bénéficiaire à un moment donné, d'une action de la société est réputé égal au résultat du calcul suivant :

A/B

où :

A représente la juste valeur marchande, à ce moment, du droit de bénéficiaire du bénéficiaire dans la fiducie,

B le nombre d'actions qui sont réputées, par l'alinéa c), être la propriété du bénéficiaire à ce moment quant à la société.

Effect of subsequent events

(11) For the purpose of computing a penalty under subsection 162(1) or 162(2) in respect of a person's return of income for a taxation year, the person's tax payable under this Part for the year shall be determined before taking into consideration the specified future tax consequences for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 162; 1994, c. 7, Sch. II, ss. 134, 245, c. 21, s. 80; 1997, c. 25, s. 51; 1998, c. 19, s. 188; 1999, c. 22, s. 65; 2009, c. 2, s. 60; 2012, c. 19, s. 12; 2013, c. 34, ss. 17, 319(F), c. 40, s. 70; 2014, c. 20, s. 100; 2016, c. 12, s. 56.

Conséquence des événements ultérieurs

(11) Pour le calcul des pénalités prévues aux paragraphes (1) et (2) pour non-production de la déclaration de revenu d'une personne pour une année d'imposition, l'impôt payable par la personne pour l'année en vertu de la présente partie est calculé avant la prise en compte des conséquences fiscales futures déterminées pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 162; 1994, ch. 7, ann. II, art. 134 et 245, ch. 21, art. 80; 1997, ch. 25, art. 51; 1998, ch. 19, art. 188; 1999, ch. 22, art. 65; 2009, ch. 2, art. 60; 2012, ch. 19, art. 12; 2013, ch. 34, art. 17 et 319(F), ch. 40, art. 70; 2014, ch. 20, art. 100; 2016, ch. 12, art. 56.

Repeated failure to report income

163 (1) Every person is liable to a penalty who

(a) fails to report an amount, equal to or greater than $500, required to be included in computing the person's income in a return filed under section 150 for a taxation year (in this subsection and subsection (1.1) referred to as the ***unreported amount***);

(b) had failed to report an amount, equal to or greater than $500, required to be included in computing the person's income in any return filed under section 150 for any of the three preceding taxation years; and

(c) is not liable to a penalty under subsection (2) in respect of the unreported amount.

Omission répétée de déclarer un revenu

163 (1) Est passible d'une pénalité toute personne qui, à la fois :

a) ne déclare pas un montant, égal ou supérieur à 500 $, à inclure dans le calcul de son revenu dans une déclaration produite conformément à l'article 150 pour une année d'imposition donnée (appelé ***montant non déclaré*** au présent paragraphe et au paragraphe (1.1));

b) a omis de déclarer un montant, égal ou supérieur à 500 $, à inclure dans le calcul de son revenu dans une telle déclaration pour une des trois années d'imposition précédentes;

c) n'est pas passible d'une pénalité en application du paragraphe (2) relativement au montant non déclaré.

Amount of penalty

(1.1) The amount of the penalty to which the person is liable under subsection (1) is equal to the lesser of

(a) 10% of the unreported amount, and

(b) the amount determined by the formula

0.5 × (A – B)

where

Montant de la pénalité

(1.1) Le montant de la pénalité dont la personne est passible en application du paragraphe (1) est égal au moins élevé des montants suivants :

a) 10 % du montant non déclaré;

b) le montant obtenu par la formule suivante :

0,5 × (A – B)

où :

A is the total of the amounts that would be determined under paragraphs (2)(a) to (g) if subsection (2) applied in respect of the unreported amount, and

B is any amount deducted or withheld under subsection 153(1) that may reasonably be considered to be in respect of the unreported amount.

A représente le total des montants qui seraient déterminés selon les alinéas (2)a) à g) si le paragraphe (2) s'appliquait relativement au montant non déclaré,

B tout montant déduit ou retenu en vertu du paragraphe 153(1) qu'il est raisonnable de considérer comme se rapportant au montant non déclaré.

False statements or omissions

(2) Every person who, knowingly, or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year for the purposes of this Act, is liable to a penalty of the greater of $100 and 50% of the total of

(a) the amount, if any, by which

(i) the amount, if any, by which

(A) the tax for the year that would be payable by the person under this Act

exceeds

(B) the amounts that would be deemed by subsections 120(2) and (2.2) to have been paid on account of the person's tax for the year

if the person's taxable income for the year were computed by adding to the taxable income reported by the person in the person's return for the year that portion of the person's understatement of income for the year that is reasonably attributable to the false statement or omission and if the person's tax payable for the year were computed by subtracting from the deductions from the tax otherwise payable by the person for the year such portion of any such deduction as may reasonably be attributable to the false statement or omission

exceeds

(ii) the amount, if any, by which

(A) the tax for the year that would have been payable by the person under this Act

exceeds

(B) the amounts that would be deemed by subsections 120(2) and (2.2) to have been paid on account of the person's tax for the year

Faux énoncés ou omissions

(2) Toute personne qui, sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé ou une omission dans une déclaration, un formulaire, un certificat, un état ou une réponse (appelé « déclaration » au présent article) rempli, produit ou présenté, selon le cas, pour une année d'imposition pour l'application de la présente loi, ou y participe, y consent ou y acquiesce est passible d'une pénalité égale, sans être inférieure à 100 $, à 50 % du total des montants suivants :

a) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) l'excédent éventuel de l'impôt qui serait payable par cette personne pour l'année en vertu de la présente loi sur les sommes qui seraient réputées par les paragraphes 120(2) et (2.2) payées au titre de l'impôt de la personne pour l'année, s'il était ajouté au revenu imposable déclaré par cette personne dans la déclaration pour l'année la partie de son revenu déclaré en moins pour l'année qu'il est raisonnable d'attribuer au faux énoncé ou à l'omission et si son impôt payable pour l'année était calculé en soustrayant des déductions de l'impôt payable par ailleurs par cette personne pour l'année, la partie de ces déductions qu'il est raisonnable d'attribuer au faux énoncé ou à l'omission,

(ii) l'excédent éventuel de l'impôt qui aurait été payable par cette personne pour l'année en vertu de la présente loi sur les sommes qui auraient été réputées par les paragraphes 120(2) et (2.2) payées au titre de l'impôt de la personne pour l'année, si l'impôt payable pour l'année avait fait l'objet d'une cotisation établie d'après les renseignements indiqués dans la déclaration pour l'année;

b) [Abrogé, 1994, ch. 7, ann, VII, art. 17]

c) le total des montants représentant chacun l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui serait réputé par le paragraphe 122.61(1) être un paiement en trop, qui se produit au cours d'un mois donné, soit au titre des sommes dont la personne est redevable en vertu de la

had the person's tax payable for the year been assessed on the basis of the information provided in the person's return for the year,

(b) [Repealed, 1994, c. 7, Sch. VII, s. 17]

(c) the total of all amounts each of which is the amount, if any, by which

(i) the amount that would be deemed by subsection 122.61(1) to be an overpayment on account of the person's liability under this Part for the year that arose during a particular month or, where that person is a cohabiting spouse or common-law partner (within the meaning assigned by section 122.6) of an individual at the end of the year and at the beginning of the particular month, of that individual's liability under this Part for the year that arose during the particular month, as the case may be, if that total were calculated by reference to the information provided

exceeds

(ii) the amount that is deemed by subsection 122.61(1) to be an overpayment on account of the liability of that person or that individual, as the case may be, under this Part for the year that arose during the particular month,

(c.1) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by section 122.5 to be paid by that person during a month specified for the year or, where that person is the qualified relation of an individual in relation to that specified month (within the meaning assigned by subsection 122.5(1)), by that individual, if that total were calculated by reference to the information provided in the person's return of income (within the meaning assigned by subsection 122.5(1)) for the year

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by section 122.5 to be paid by that person or by an individual of whom the person is the qualified relation in relation to a month specified for the year (within the meaning assigned to subsection 122.5(1)),

(c.2) the amount, if any, by which

(i) the amount that would be deemed under subsection 122.51(2) to be paid on account of the person's tax payable under this Part for the year if the

présente partie pour l'année, soit, si cette personne est l'époux ou conjoint de fait visé (au sens de l'article 122.6) d'un particulier à la fin de l'année et au début du mois donné, au titre des sommes dont ce particulier est ainsi redevable, si ce montant était calculé d'après les renseignements fournis,

(ii) le montant réputé par le paragraphe 122.61(1) être un paiement en trop, qui se produit au cours du mois donné, au titre des sommes dont cette personne ou ce particulier est redevable en vertu de la présente partie pour l'année;

c.1) l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le total des montants représentant chacun un montant qui serait réputé, par l'article 122.5, être payé soit par cette personne au cours d'un mois déterminé de l'année, soit, si cette personne est le proche admissible, au sens du paragraphe 122.5(1), d'un particulier par rapport à ce mois, par ce particulier, si ce total était calculé d'après les renseignements fournis dans la déclaration de revenu, au sens de ce même paragraphe, de la personne pour l'année,

(ii) le total des montants représentant chacun un montant réputé, par l'article 122.5, être payé par cette personne ou par un particulier dont elle est le proche admissible, au sens du paragraphe 122.5(1), par rapport à un mois déterminé de l'année;

c.2) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui serait réputé par le paragraphe 122.51(2) être payé au titre de l'impôt payable par la personne en vertu de la présente partie pour l'année si le montant était calculé d'après les renseignements fournis,

(ii) le montant qui est réputé par le paragraphe 122.51(2) être payé au titre de l'impôt payable par la personne en vertu de la présente partie pour l'année;

c.3) l'excédent de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune une somme qui serait réputée, en vertu des paragraphes 122.7(2) ou (3), être un paiement au titre de l'impôt à payer par une personne en vertu de la présente partie ou de l'impôt à payer par une autre personne en vertu de la présente partie pour l'année si ces

amount were calculated by reference to the information provided in the return

exceeds

(ii) the amount that is deemed under subsection 122.51(2) to be paid on account of the person's tax payable under this Part for the year,

(c.3) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by subsection 122.7(2) or (3) to be a payment on account of the person's tax payable under this Part or another person's tax payable under this Part for the year if those amounts were calculated by reference to the information provided in the return

exceeds

(ii) the total of all amounts each of which is an amount that is deemed by subsection 122.7(2) or (3) to be a payment on account of the person's tax payable under this Part and, where applicable, the other person's tax payable under this Part for the year,

(c.4) [Repealed, 2016, c. 7, s. 43]

(c.5) the amount, if any, by which

(i) the total of all amounts each of which is an amount that would be deemed by subsection 122.9(2) to have been paid on account of the person's tax payable under this Part for the year if that amount were calculated by reference to the person's claim for the year under the subsection

exceeds

(ii) the total of all amounts each of which is the amount that the person is entitled to claim for the year under subsection 122.9(2),

(d) the amount, if any, by which

(i) the amount that would be deemed by subsection 127.1(1) to be paid for the year by the person if that amount were calculated by reference to the information provided in the return or form filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person,

sommes étaient calculées d'après les renseignements fournis dans la déclaration,

(ii) le total des sommes représentant chacune une somme qui est réputée, en vertu des paragraphes 122.7(2) ou (3), être un paiement au titre de l'impôt à payer par la personne en vertu de la présente partie et, s'il y a lieu, de l'impôt à payer par l'autre personne en vertu de la présente partie pour l'année;

c.4) [Abrogé, 2016, ch. 7, art. 43]

c.5) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des sommes représentant chacune une somme qui serait réputée, par le paragraphe 122.9(2), avoir été payée au titre de l'impôt payable par la personne en vertu de la présente partie pour l'année si cette somme était calculée en fonction de la somme demandée par la personne pour l'année en vertu de ce paragraphe,

(ii) le total des sommes représentant chacune la somme que la personne a le droit de demander pour l'année en vertu du paragraphe 122.9(2);

d) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui, s'il était calculé d'après les renseignements indiqués dans la déclaration produite ou le formulaire présenté conformément au paragraphe 127.1(1), serait réputé par ce paragraphe payé pour l'année par cette personne,

(ii) le montant réputé par ce paragraphe payé pour l'année par cette personne;

e) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui serait réputé par le paragraphe 127.41(3) avoir été payé pour l'année par la personne s'il était calculé en fonction du montant demandé par la personne pour l'année en vertu de ce paragraphe,

(ii) le montant maximal que la personne a le droit de demander pour l'année en vertu du paragraphe 127.41(3);

f) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(e) the amount, if any, by which

(i) the amount that would be deemed by subsection 127.41(3) to have been paid for the year by the person if that amount were calculated by reference to the person's claim for the year under that subsection

exceeds

(ii) the maximum amount that the person is entitled to claim for the year under subsection 127.41(3),

(f) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.4(3) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person and

(g) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.5(3) to have been paid for the year by the person if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by that subsection to be paid for the year by the person.

(i) le montant qui serait réputé, par le paragraphe 125.4(3), avoir été payé par la personne pour l'année s'il était calculé d'après les renseignements indiqués en vertu de ce paragraphe dans la déclaration produite pour l'année,

(ii) le montant qui est réputé, par le paragraphe 125.4(3), avoir été payé par la personne pour l'année;

g) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui serait réputé, par le paragraphe 125.5(3), avoir été payé par la personne pour l'année s'il était calculé d'après les renseignements indiqués en vertu de ce paragraphe dans la déclaration produite pour l'année,

(ii) le montant qui est réputé, par ce paragraphe, avoir été payé par la personne pour l'année.

Interpretation

(2.1) For the purposes of subsection 163(2), the taxable income reported by a person in the person's return for a taxation year shall be deemed not to be less than nil and the ***understatement of income*** for a year of a person means the total of

(a) the amount, if any, by which

(i) the total of all amounts that were not reported by the person in the person's return and that were required to be included in computing the person's income for the year

exceeds

Précisions sur le revenu déclaré

(2.1) Pour l'application du paragraphe (2), le revenu imposable déclaré par une personne dans sa déclaration pour une année d'imposition est réputé ne pas être inférieur à zéro et le ***revenu déclaré en moins*** d'une personne pour une année s'entend du total des montants suivants :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants qu'elle n'a pas déclarés dans sa déclaration mais qui devaient être inclus dans le calcul de son revenu pour l'année,

(ii) le total des montants qu'elle pouvait déduire dans le calcul de son revenu pour l'année en vertu

(ii) the total of such of the amounts deductible by the person in computing the person's income for the year under the provisions of this Act as were wholly applicable to the amounts referred to in subparagraph 163(2.1)(a)(i) and were not deducted by the person in computing the person's income for the year reported by the person in the person's return,

(b) the amount, if any, by which

(i) the total of all amounts deducted by the person in computing the person's income for the year reported by the person in the person's return

exceeds

(ii) the total of such of the amounts referred to in subparagraph 163(2.1)(b)(i) as were deductible by the person in computing the person's income for the year in accordance with the provisions of this Act, and

(c) the amount, if any, by which

(i) the total of all amounts deducted by the person (otherwise than by virtue of section 111) from the person's income for the purpose of computing the person's taxable income for the year reported by the person in the person's return

exceeds

(ii) the total of all amounts deductible by the person (otherwise than by virtue of section 111) from the person's income for the purpose of computing the person's taxable income for the year in accordance with the provisions of this Act.

de la présente loi, qui étaient entièrement applicables aux montants visés au sous-alinéa (i) et qu'elle n'a pas déduits dans le calcul de son revenu pour l'année dans sa déclaration;

b) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants qu'elle a déduits dans le calcul de son revenu pour l'année dans sa déclaration,

(ii) le total des montants mentionnés au sous-alinéa (i) qu'elle pouvait déduire, aux termes de la présente loi, dans le calcul de son revenu pour l'année;

c) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants qu'elle a déduits (autres que ceux prévus à l'article 111) de son revenu dans le calcul de son revenu imposable pour l'année qu'elle a déclaré dans sa déclaration,

(ii) le total des montants qu'elle pouvait déduire (autres que ceux prévus à l'article 111) de son revenu, aux termes de la présente loi, dans le calcul de son revenu imposable pour l'année.

False statement or omission

(2.2) Every person who, knowingly or under circumstances amounting to gross negligence, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a renunciation that was to have been effective as of a particular date and that is purported to have been made under any of subsections 66(10) to 66(10.3), 66(12.6), 66(12.601) and 66(12.62), otherwise than because of the application of subsection 66(12.66), is liable to a penalty of 25% of the amount, if any, by which

(a) the amount set out in the renunciation in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses

exceeds

Faux énoncés et omissions

(2.2) Toute personne qui, sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé ou une omission dans une renonciation qui devait prendre effet à une date donnée et qui est censée avoir été effectuée en vertu de l'un des paragraphes 66(10) à (10.3), (12.6), (12.601) et (12.62), autrement que par l'effet du paragraphe 66(12.66), ou participe, consent ou acquiesce à ce faux énoncé ou à cette omission, est passible d'une pénalité correspondant à 25 % de l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant, indiqué dans la renonciation, au titre de frais d'exploration au Canada, de frais d'aménagement au Canada ou de frais à l'égard de biens canadiens relatifs au pétrole et au gaz;

(b) the amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the applicable subsection to renounce as of that particular date.

b) le montant au titre de frais d'exploration au Canada, de frais d'aménagement au Canada ou de frais à l'égard de biens canadiens relatifs au pétrole et au gaz auquel la société avait le droit de renoncer en vertu du paragraphe applicable à cette date donnée.

False statement or omissions with respect to look-back rule

(2.21) A person is liable to the penalty determined under subsection 163(2.22) where the person,

(a) knowingly or under circumstances amounting to gross negligence has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a document required to be filed under subsection 66(12.73) in respect of a renunciation purported to have been made because of the application of subsection 66(12.66); or

(b) fails to file the document on or before the day that is 24 months after the day on or before which it was required to be filed.

Faux énoncés ou omissions quant au retour en arrière

(2.21) Est passible de la pénalité prévue au paragraphe (2.22) toute personne qui, selon le cas :

a) sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé ou une omission dans un document à présenter en vertu du paragraphe 66(12.73) concernant une renonciation censément effectuée par l'effet du paragraphe 66(12.66), ou participe, consent ou acquiesce à ce faux énoncé ou à cette omission;

b) ne présente pas le document au plus tard le jour qui suit de 24 mois le jour où il devait être présenté.

Penalty

(2.22) For the purpose of subsection 163(2.21), the penalty to which a person is liable in respect of a document required to be filed under subsection 66(12.73) is equal to 25% of the amount, if any, by which

(a) the portion of the excess referred to in subsection 66(12.73) in respect of the document that was known or that ought to have been known by the person

exceeds

(b) where paragraph 163(2.21)(b) does not apply, the portion of the excess identified in the document, and

(c) in any other case, nil.

Pénalité

(2.22) La pénalité dont une personne est passible aux termes du paragraphe (2.21) correspond à 25 % de l'excédent éventuel :

a) de la partie de l'excédent visé au paragraphe 66(12.73) dont la personne avait ou aurait dû avoir connaissance,

sur :

b) en cas d'inapplication de l'alinéa (2.21)b), la partie de l'excédent qui est indiquée dans le document,

c) dans les autres cas, zéro.

Idem

(2.3) Every person who, knowingly or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in the making of, a false statement or omission in a prescribed form required to be filed under subsection 66(12.691) or 66(12.701) is liable to a penalty of 25% of the amount, if any, by which

(a) the assistance required to be reported in respect of a person or partnership in the prescribed form

exceeds

(b) the assistance reported in the prescribed form in respect of the person or partnership.

Idem

(2.3) Toute personne qui, sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé ou une omission dans un formulaire prescrit à présenter aux termes des paragraphes 66(12.691) ou (12.701), ou qui participe, consent ou acquiesce à ce faux énoncé ou à cette omission est passible d'une pénalité correspondant à 25 % de l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant à titre d'aide qui est à déclarer dans le formulaire relativement à une personne ou une société de personnes;

b) le montant à titre d'aide qui est déclaré dans le formulaire relativement à la personne ou la société de personnes.

False statement or omission

(2.4) Every person or partnership who, knowingly or under circumstances amounting to gross negligence, makes or participates in, assents to or acquiesces in, the making of a false statement or omission in a return is liable to a penalty of

(a) where the return is required to be filed under section 233.1, $24,000;

(b) if the return is required to be filed under section 233.2 in respect of a trust, the greater of

(i) $24,000, and

(ii) 5% of the total of all amounts each of which is the fair market value, at the time it was made, of a contribution of the person or partnership made to the trust before the end of the last taxation year of the trust in respect of which the return is required;

(c) where the return is required to be filed under section 233.3 for a taxation year or fiscal period, the greater of

(i) $24,000, and

(ii) 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a specified foreign property (as defined by subsection 233.3(1)(a) of the person or partnership in respect of which the false statement or omission is made;

(d) where the return is required to be filed under section 233.4 for a taxation year or fiscal period, the greater of

(i) $24,000, and

(ii) 5% of the greatest of all amounts each of which is the total of the cost amounts to the person or partnership at any time in the year or period of a property of the person or partnership that is a share of the capital stock or indebtedness of the foreign affiliate in respect of which the return is being filed; and

(e) where the return is required to be filed under section 233.6 for a taxation year or fiscal period, the greater of

(i) $2,500, and

Faux énoncés ou omissions

(2.4) Toute personne ou société de personnes (appelée « personne » au présent paragraphe) qui, sciemment ou dans des circonstances équivalant à faute lourde, fait un faux énoncé ou une omission dans une déclaration, ou y participe, y consent ou y acquiesce, est passible de la pénalité suivante :

a) si la déclaration est à présenter en application de l'article 233.1, 24 000 $;

b) si la déclaration est à produire en application de l'article 233.2 à l'égard d'une fiducie, la plus élevée des sommes suivantes :

(i) 24 000 $,

(ii) 5 % du total des montants représentant chacun la juste valeur marchande, au moment où il a été fait, d'un apport que la personne ou la société de personnes a fait à la fiducie avant la fin de la dernière année d'imposition de celle-ci pour laquelle la déclaration doit être produite;

c) si la déclaration est à présenter en application de l'article 233.3 pour une année d'imposition ou un exercice, le plus élevé des montants suivants :

(i) 24 000 $,

(ii) 5 % du plus élevé des montants représentant chacun le total des coûts indiqués, pour la personne à un moment de l'année ou de l'exercice, d'un de ses biens étrangers déterminés, au sens du paragraphe 233.3(1), relativement auquel le faux énoncé ou l'omission est fait;

d) si la déclaration est à présenter en application de l'article 233.4 pour une année d'imposition ou un exercice, le plus élevé des montants suivants :

(i) 24 000 $,

(ii) 5 % du plus élevé des montants représentant chacun le total des coûts indiqués, pour la personne à un moment de l'année ou de l'exercice, d'un bien de celle-ci qui constitue une action du capital-actions ou une dette de la société étrangère affiliée relativement à laquelle la déclaration est produite;

e) si la déclaration est à présenter en application de l'article 233.6 pour une année d'imposition ou un exercice, le plus élevé des montants suivants :

(ii) 5% of the total of

(A) all amounts each of which is the fair market value of a property that is distributed to the person or partnership in the year or period by the trust and in respect of which the false statement or omission is made, and

(B) all amounts each of which is the greatest unpaid principal amount of a debt that is owing to the trust by the person or partnership in the year or period and in respect of which the false statement or omission is made.

(i) 2 500 $,

(ii) 5 % du total des montants suivants :

(A) les montants représentant chacun la juste valeur marchande d'un bien que la fiducie distribue à la personne au cours de l'année ou de l'exercice et relativement auquel le faux énoncé ou l'omission est fait,

(B) les montants représentant chacun le montant le plus élevé qui représente le principal impayé d'une dette de la personne envers la fiducie pour l'année ou l'exercice et relativement à laquelle le faux énoncé ou l'omission est fait.

Application to trust contributions

(2.41) In subparagraph (2.4)(b)(ii), subsections 94(1), (2) and (9) apply.

Apport à une fiducie

(2.41) Les paragraphes 94(1), (2) et (9) s'appliquent au sous-alinéa (2.4)b)(ii).

Shares or debt owned by controlled foreign affiliate

(2.5) For the purpose of paragraph 163(2.4)(d),

(a) shares or indebtedness owned by a controlled foreign affiliate of a person or partnership are deemed to be owned by the person or partnership; and

(b) the cost amount at any time of such shares or indebtedness to the person or partnership is deemed to be equal to 20% of the cost amount at that time to the controlled foreign affiliate of the shares or indebtedness.

Actions ou dettes d'une société étrangère affiliée contrôlée

(2.5) Les présomptions suivantes s'appliquent dans le cadre de l'application de l'alinéa (2.4)d) à une personne ou une société de personnes (appelée « personne » au présent paragraphe):

a) les actions ou les dettes appartenant à la société étrangère affiliée contrôlée de la personne sont réputées appartenir à celle-ci;

b) le coût indiqué à un moment donné de ces actions ou dettes pour la personne est réputé égal à 20 % de leur coût indiqué à ce moment pour la société étrangère affiliée contrôlée.

Application to partnerships

(2.6) For the purposes of paragraph 163(2.4)(d) and subsection 163(2.5), in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a partnership

(a) the definitions ***direct equity percentage*** and ***equity percentage*** in subsection 95(4) shall be read as if a partnership were a person; and

(b) the definitions ***controlled foreign affiliate*** and ***foreign affiliate*** in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada.

Sociétés de personnes

(2.6) Pour l'application de l'alinéa (2.4)d) et du paragraphe (2.5), lorsqu'il s'agit de déterminer si une société non-résidente ou une fiducie est la société étrangère affiliée ou la société étrangère affiliée contrôlée d'une société de personnes :

a) les définitions de ***pourcentage d'intérêt*** et ***pourcentage d'intérêt direct***, au paragraphe 95(4), s'appliquent comme si les sociétés de personnes étaient des personnes;

b) les définitions de ***société étrangère affiliée*** et ***société étrangère affiliée contrôlée***, au paragraphe 95(1), s'appliquent comme si les sociétés de personnes étaient des contribuables résidant au Canada.

Application to partnerships

(2.7) For the purpose of subsection 163(2.4), each act or omission of a member of a partnership in respect of an information return required to be filed by the partnership under section 233.3, 233.4 or 233.6 is deemed to be an act or omission of the partnership in respect of the return.

Application to members of partnerships

(2.8) For the purposes of this subsection and subsection 163(2.7), a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership.

Partnership liable to penalty

(2.9) If a partnership is liable to a penalty under subsection (2.4) or section 163.2, 237.1 or 237.3, sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any changes that the circumstances require, in respect of the penalty as if the partnership were a corporation.

Application to non-resident trusts

(2.91) For the purposes of this subsection, paragraph 163(2.4)(d) and subsection 163(2.5),

(a) a non-resident trust is deemed to be a controlled foreign affiliate of each beneficiary of which the trust is a controlled foreign affiliate for the purpose of section 233.4;

(b) the trust is deemed to be a non-resident corporation having a capital stock of a single class divided into 100 issued shares;

(c) each beneficiary under the trust is deemed to own at any time the number of the issued shares of the corporation that is equal to the proportion of 100 that

(i) the fair market value at that time of the beneficiary's beneficial interest in the trust

is of

(ii) the fair market value at that time of all beneficial interests in the trust; and

(d) the cost amount to a beneficiary at any time of a share of the corporation is deemed to be equal to the amount determined by the formula

A/B

where

Sociétés de personnes

(2.7) Pour l'application du paragraphe (2.4), les actes ou omissions de l'associé d'une société de personnes relativement à une déclaration de renseignements à présenter par celle-ci en application des articles 233.3, 233.4 ou 233.6 sont réputés être ceux de la société de personnes relativement à la déclaration.

Associés de sociétés de personnes

(2.8) Pour l'application du présent paragraphe et du paragraphe (2.7), la personne qui est l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes est réputée être un associé de cette dernière.

Société de personnes passible d'une pénalité

(2.9) Lorsqu'une société de personnes est passible d'une pénalité selon le paragraphe (2.4) ou les articles 163.2, 237.1 ou 237.3, les articles 152, 158 à 160.1, 161 et 164 à 167 et la section J s'appliquent à la pénalité, avec les adaptations nécessaires, comme si la société de personnes était une société.

Fiducies non-résidentes

(2.91) Les présomptions suivantes s'appliquent dans le cadre du présent paragraphe, de l'alinéa (2.4)d) et du paragraphe (2.5):

a) une fiducie non-résidente est réputée être la société étrangère affiliée contrôlée de chaque bénéficiaire dont la fiducie est une société étrangère affiliée contrôlée pour l'application de l'article 233.4;

b) la fiducie est réputée être une société non-résidente dont le capital-actions consiste en une seule catégorie d'actions divisée en 100 actions émises;

c) chaque bénéficiaire de la fiducie est réputé être propriétaire, à un moment donné, du nombre d'actions émises de la société égal au produit de la multiplication de 100 par le rapport entre :

(i) d'une part, la juste valeur marchande, à ce moment, de son droit de bénéficiaire dans la fiducie,

(ii) d'autre part, la juste valeur marchande, à ce moment, de l'ensemble des droits de bénéficiaire dans la fiducie;

d) le coût indiqué, pour un bénéficiaire à un moment donné, d'une action de la société est réputé égal au résultat du calcul suivant :

A/B

où :

A is the fair market value at that time of the beneficiary's beneficial interest in the trust, and

B is the number of shares deemed under paragraph 163(2.91)(c) to be owned at that time by the beneficiary in respect of the corporation.

A représente la juste valeur marchande, à ce moment, du droit de bénéficiaire du bénéficiaire dans la fiducie,

B le nombre d'actions qui sont réputées, par l'alinéa c), être la propriété du bénéficiaire à ce moment quant à la société.

Burden of proof in respect of penalties

(3) Where, in an appeal under this Act, a penalty assessed by the Minister under this section or section 163.2 is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister.

Charge de la preuve relativement aux pénalités

(3) Dans tout appel interjeté, en vertu de la présente loi, au sujet d'une pénalité imposée par le ministre en vertu du présent article ou de l'article 163.2, le ministre a la charge d'établir les faits qui justifient l'imposition de la pénalité.

Effect of carryback of losses etc.

(4) In determining under subsection 163(2.1) the understatement of income for a taxation year of a person, the following amounts shall be deemed not to be deductible or excludable in computing the person's income for the year:

(a) any amount that may be deducted under section 41 in respect of the person's listed-personal-property loss for a subsequent taxation year;

(b) any amount that may be excluded from the person's income because of section 49 in respect of the exercise of any option in a subsequent taxation year;

(b.1) any amount that may be deducted under subsection 147.2(4) in computing the person's income for the year because of the application of subsection 147.2(6) as a result of the person's death in the subsequent taxation year; and

(c) any amount that may be deducted in computing the person's income for the year because of an election made under paragraph 164(6)(c) or 164(6)(d) in a subsequent taxation year by the person's legal representative.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 163; 1994, c. 7, Sch. II, s. 135, Sch. VII, s. 17, c. 8, s. 26; 1995, c. 3, s. 48; 1996, c. 21, s. 43; 1997, c. 25, s. 52; 1998, c. 19, ss. 45, 189; 2000, c. 12, s. 142, c. 19, s. 49; 2007, c. 35, s. 53; 2013, c. 34, ss. 18, 320; 2014, c. 39, s. 59; 2016, c. 7, s. 43.

Conséquence du report d'une perte

(4) Pour déterminer selon le paragraphe (2.1) le revenu déclaré en moins d'une personne pour une année d'imposition, les montants suivants sont réputés ne pas être à déduire ni à exclure dans le calcul du revenu de la personne pour l'année :

a) les montants déductibles en application de l'article 41 au titre d'une perte relative à des biens meubles déterminés de la personne pour une année d'imposition ultérieure;

b) les montants qui peuvent être exclus du revenu de la personne par l'effet de l'article 49 relativement à la levée d'une option au cours d'une année d'imposition ultérieure;

b.1) les montants déductibles en application du paragraphe 147.2(4) dans le calcul du revenu de la personne pour l'année du fait que le paragraphe 147.2(6) s'applique par suite du décès de la personne au cours de l'année d'imposition subséquente;

c) les montants déductibles dans le calcul du revenu de la personne pour l'année par suite d'un choix que le représentant légal de la personne fait au cours d'une année d'imposition ultérieure en application des alinéas 164(6)c) ou d).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 163; 1994, ch. 7, ann. II, art. 135, ann. VII, art. 17, ch. 8, art. 26; 1995, ch. 3, art. 48; 1996, ch. 21, art. 43; 1997, ch. 25, art. 52; 1998, ch. 19, art. 45 et 189; 2000, ch. 12, art. 142, ch. 19, art. 49; 2007, ch. 35, art. 53; 2013, ch. 34, art. 18 et 320; 2014, ch. 39, art. 59; 2016, ch. 7, art. 43.

Penalty for late or deficient instalments

163.1 Every person who fails to pay all or any part of an instalment of tax for a taxation year on or before the day on or before which the instalment is required by this Part to be paid is liable to a penalty equal to 50% of the amount, if any, by which

Acomptes provisionnels en retard ou insuffisants

163.1 Toute personne qui ne paye pas tout ou partie d'un acompte provisionnel pour une année d'imposition au plus tard le jour où elle en est tenue par la présente partie est passible d'une pénalité égale à 50 % de l'excédent éventuel des intérêts payables par cette personne en

(a) the interest payable by the person under section 161 in respect of all instalments for the year

exceeds the greater of

(b) $1,000, and

(c) 25% of the interest that would have been payable by the person under section 161 in respect of all instalments for the year if no instalment had been made for that year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1985, c. 55, s. 143.

Misrepresentation of a Tax Matter by a Third Party

Definitions

163.2 (1) The definitions in this subsection apply in this section.

culpable conduct means conduct, whether an act or a failure to act, that

(a) is tantamount to intentional conduct;

(b) shows an indifference as to whether this Act is complied with; or

(c) shows a wilful, reckless or wanton disregard of the law. (*conduite coupable*)

entity includes an association, a corporation, a fund, a joint venture, an organization, a partnership, a syndicate and a trust. (*entité*)

excluded activity, in respect of a false statement, means the activity of

(a) promoting or selling (whether as principal or agent or directly or indirectly) an arrangement, an entity, a plan, a property or a scheme (in this definition referred to as the "arrangement") where it can reasonably be considered that

(i) subsection 66(12.68) applies to the arrangement,

(ii) the definition ***tax shelter*** in subsection 237.1(1) applies to a person's interest in the arrangement, or

(iii) one of the main purposes for a person's participation in the arrangement is to obtain a tax benefit; or

(b) accepting (whether as principal or agent or directly or indirectly) consideration in respect of the promotion or sale of an arrangement. (*activité exclue*)

application de l'article 161 sur tous les acomptes provisionnels payables pour l'année, sur le plus élevé des montants suivants :

a) 1 000 $;

b) 25 % des intérêts qui auraient été payables par elle en application de cet article sur ces acomptes si aucun acompte n'avait été payé pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1985, ch. 55, art. 143.

Information trompeuse en matière fiscale fournie par des tiers

Définitions

163.2 (1) Les définitions qui suivent s'appliquent au présent article.

activité de planification S'entend notamment des activités suivantes :

a) le fait d'organiser ou de créer un arrangement, une entité, un mécanisme, un plan, un régime ou d'aider à son organisation ou à sa création;

b) le fait de participer, directement ou indirectement, à la vente d'un droit dans un arrangement, un bien, une entité, un mécanisme, un plan ou un régime ou à la promotion d'un arrangement, d'une entité, d'un mécanisme, d'un plan ou d'un régime. (*planning activity*)

activité d'évaluation Tout acte accompli par une personne dans le cadre de la détermination de la valeur d'un bien ou d'un service. (*valuation activity*)

activité exclue Quant à un faux énoncé, activité qui consiste :

a) soit à promouvoir ou à vendre (à titre de principal ou de mandataire ou de façon directe ou e) un arrangement, un bien, une entité, un mécanisme, un plan ou un régime (appelés « arrangement » à la présente définition), s'il est raisonnable de considérer, selon le cas :

(i) que le paragraphe 66(12.68) s'applique à l'arrangement,

(ii) que la définition de ***abri fiscal*** au paragraphe 237.1(1) s'applique au droit d'une personne dans l'arrangement,

false statement includes a statement that is misleading because of an omission from the statement. (*faux énoncé*)

gross compensation of a particular person at any time, in respect of a false statement that could be used by or on behalf of another person, means all amounts to which the particular person, or any person not dealing at arm's length with the particular person, is entitled, either before or after that time and either absolutely or contingently, to receive or obtain in respect of the statement. (*rétribution brute*)

gross entitlements of a person at any time, in respect of a planning activity or a valuation activity of the person, means all amounts to which the person, or another person not dealing at arm's length with the person, is entitled, either before or after that time and either absolutely or contingently, to receive or obtain in respect of the activity. (*droits à paiement*)

participate includes

(a) to cause a subordinate to act or to omit information; and

(b) to know of, and to not make a reasonable attempt to prevent, the participation by a subordinate in an act or an omission of information. (*participer*)

person includes a partnership. (*personne*)

planning activity includes

(a) organizing or creating, or assisting in the organization or creation of, an arrangement, an entity, a plan or a scheme; and

(b) participating, directly or indirectly, in the selling of an interest in, or the promotion of, an arrangement, an entity, a plan, a property or a scheme. (*activité de planification*)

subordinate, in respect of a particular person, includes any other person over whose activities the particular person has direction, supervision or control whether or not the other person is an employee of the particular person or of another person, except that, if the particular person is a member of a partnership, the other person is not a subordinate of the particular person solely because the particular person is a member of the partnership. (*subalterne*)

tax benefit means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase

(iii) que l'un des principaux objets de la participation d'une personne à l'arrangement est l'obtention d'un avantage fiscal;

b) soit à accepter (à titre de principal ou de mandataire ou de façon directe ou e) une contrepartie au titre de la promotion ou de la vente d'un arrangement. (*excluded activity*)

avantage fiscal Réduction, évitement ou report d'un impôt ou d'un autre montant payable en vertu de la présente loi ou augmentation d'un remboursement d'impôt ou d'autre montant accordé en vertu de cette loi. (*tax benefit*)

conduite coupable Conduite — action ou défaut d'agir — qui, selon le cas :

a) équivaut à une conduite intentionnelle;

b) montre une indifférence quant à l'observation de la présente loi;

c) montre une insouciance délibérée, déréglée ou téméraire à l'égard de la loi. (*culpable conduct*)

droits à paiement Quant à une personne à un moment donné, relativement à une activité de planification ou à une activité d'évaluation qu'elle exerce, l'ensemble des montants que la personne, ou une autre personne avec laquelle elle a un lien de dépendance, a le droit de recevoir ou d'obtenir relativement à l'activité avant ou après ce moment et conditionnellement ou non. (*gross entitlements*)

entité S'entend notamment d'une association, d'une coentreprise, d'une fiducie, d'un fonds, d'une organisation, d'une société, d'une société de personnes ou d'un syndicat. (*entity*)

faux énoncé S'entend notamment d'un énoncé qui est trompeur en raison d'une omission. (*false statement*)

participer S'entend notamment du fait :

a) de faire agir un subalterne ou de lui faire omettre une information;

b) d'avoir connaissance de la participation d'un subalterne à une action ou à une omission d'information et de ne pas faire des efforts raisonnables pour prévenir pareille participation. (*participate*)

personne Sont assimilées aux personnes les sociétés de personnes. (*person*)

in a refund of tax or other amount under this Act. (*avantage fiscal*)

valuation activity of a person means anything done by the person in determining the value of a property or a service. (*activité d'évaluation*)

rétribution brute Quant à une personne donnée à un moment quelconque relativement à un faux énoncé qui pourrait être utilisé par une autre personne ou pour son compte, l'ensemble des montants que la personne donnée, ou toute personne avec laquelle elle a un lien de dépendance, a le droit de recevoir ou d'obtenir relativement à l'énoncé avant ou après ce moment et conditionnellement ou non. (*gross compensation*)

subalterne Quant à une personne donnée, s'entend notamment d'une autre personne dont les activités sont dirigées, surveillées ou contrôlées par la personne donnée, indépendamment du fait que l'autre personne soit l'employé de la personne donnée ou d'un tiers. Toutefois, l'autre personne n'est pas le subalterne de la personne donnée du seul fait que celle-ci soit l'associé d'une société de personnes. (*subordinate*)

Penalty for misrepresentations in tax planning arrangements

(2) Every person who makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by another person (in subsections (6) and (15) referred to as the "other person") for a purpose of this Act is liable to a penalty in respect of the false statement.

Pénalité pour information trompeuse dans les arrangements de planification fiscale

(2) La personne qui fait ou présente, ou qui fait faire ou présenter par une autre personne, un énoncé dont elle sait ou aurait vraisemblablement su, n'eût été de circonstances équivalant à une conduite coupable, qu'il constitue un faux énoncé qu'un tiers (appelé « autre personne » aux paragraphes (6) et (15)) pourrait utiliser à une fin quelconque de la présente loi, ou qui participe à un tel énoncé, est passible d'une pénalité relativement au faux énoncé.

Amount of penalty

(3) The penalty to which a person is liable under subsection (2) in respect of a false statement is

(a) where the statement is made in the course of a planning activity or a valuation activity, the greater of $1,000 and the total of the person's gross entitlements, at the time at which the notice of assessment of the penalty is sent to the person, in respect of the planning activity and the valuation activity; and

(b) in any other case, $1,000.

Montant de la pénalité

(3) La pénalité dont une personne est passible selon le paragraphe (2) relativement à un faux énoncé correspond au montant suivant :

a) si l'énoncé est fait dans le cadre d'une activité de planification ou d'une activité d'évaluation, 1 000 $ ou, s'il est plus élevé, le total des droits à paiement de la personne, au moment de l'envoi à celle-ci d'un avis de cotisation concernant la pénalité, relativement à l'activité de planification et à l'activité d'évaluation;

b) dans les autres cas, 1 000 $.

Penalty for participating in a misrepresentation

(4) Every person who makes, or participates in, assents to or acquiesces in the making of, a statement to, or by or on behalf of, another person (in this subsection, subsections (5) and (6), paragraph (12)(c) and subsection (15) referred to as the "other person") that the person knows,

Pénalité pour participation à une information trompeuse

(4) La personne qui fait un énoncé à une autre personne ou qui participe, consent ou acquiesce à un énoncé fait par une autre personne, ou pour son compte, (ces autres personnes étant appelées « autre personne » au présent paragraphe, aux paragraphes (5) et (6), à l'alinéa (12)c) et au paragraphe (15)) dont elle sait ou aurait vraisemblablement su, n'eût été de circonstances équivalant à une conduite coupable, qu'il constitue un faux énoncé qui pourrait être utilisé par l'autre personne, ou pour son

or would reasonably be expected to know but for circumstances amounting to culpable conduct, is a false statement that could be used by or on behalf of the other person for a purpose of this Act is liable to a penalty in respect of the false statement.

Amount of penalty

(5) The penalty to which a person is liable under subsection (4) in respect of a false statement is the greater of

(a) $1,000, and

(b) the lesser of

(i) the penalty to which the other person would be liable under subsection 163(2) if the other person made the statement in a return filed for the purposes of this Act and knew that the statement was false, and

(ii) the total of $100,000 and the person's gross compensation, at the time at which the notice of assessment of the penalty is sent to the person, in respect of the false statement that could be used by or on behalf of the other person.

Reliance in good faith

(6) For the purposes of subsections (2) and (4), a person (in this subsection and in subsection (7) referred to as the "advisor") who acts on behalf of the other person is not considered to have acted in circumstances amounting to culpable conduct in respect of the false statement referred to in subsection (2) or (4) solely because the advisor relied, in good faith, on information provided to the advisor by or on behalf of the other person or, because of such reliance, failed to verify, investigate or correct the information.

Non-application of subsection (6)

(7) Subsection (6) does not apply in respect of a statement that an advisor makes (or participates in, assents to or acquiesces in the making of) in the course of an excluded activity.

False statements in respect of a particular arrangement

(8) For the purpose of applying this section (other than subsections (4) and (5)),

(a) where a person makes or furnishes, participates in the making of or causes another person to make or furnish two or more false statements, the false statements are deemed to be one false statement if the statements are made or furnished in the course of

compte, à une fin quelconque de la présente loi est passible d'une pénalité relativement au faux énoncé.

Montant de la pénalité

(5) La pénalité dont une personne est passible selon le paragraphe (4) relativement à un faux énoncé correspond au plus élevé des montants suivants :

a) 1 000 $;

b) le moins élevé des montants suivants :

(i) la pénalité dont l'autre personne serait passible selon le paragraphe 163(2) si elle avait fait l'énoncé dans une déclaration produite pour l'application de la présente loi tout en sachant qu'il était faux,

(ii) la somme de 100 000 $ et de la rétribution brute de la personne, au moment où l'avis de cotisation concernant la pénalité lui est envoyé, relativement au faux énoncé qui pourrait être utilisé par l'autre personne ou pour son compte.

Crédit accordé à l'information

(6) Pour l'application des paragraphes (2) et (4), la personne (appelée « conseiller » au paragraphe (7)) qui agit pour le compte de l'autre personne n'est pas considérée comme ayant agi dans des circonstances équivalant à une conduite coupable en ce qui a trait au faux énoncé visé aux paragraphes (2) ou (4) du seul fait qu'elle s'est fondée, de bonne foi, sur l'information qui lui a été présentée par l'autre personne, ou pour le compte de celle-ci, ou que, de ce fait, elle a omis de vérifier ou de corriger l'information ou d'enquêter à son sujet.

Application du paragraphe (6)

(7) Le paragraphe (6) ne s'applique pas à l'énoncé qu'un conseiller fait, ou auquel il participe, consent ou acquiesce, dans le cadre d'une activité exclue.

Faux énoncés relatifs à un arrangement

(8) Les règles suivantes s'appliquent dans le cadre du présent article, sauf les paragraphes (4) et (5):

a) lorsqu'une personne fait ou présente, ou fait faire ou présenter par une autre personne, plusieurs faux énoncés, ou y participe, ceux-ci sont réputés être un seul faux énoncé s'ils ont été faits ou présentés dans le cadre des activités suivantes :

(i) one or more planning activities that are in respect of a particular arrangement, entity, plan, property or scheme, or

(ii) a valuation activity that is in respect of a particular property or service; and

(b) for greater certainty, a particular arrangement, entity, plan, property or scheme includes an arrangement, an entity, a plan, a property or a scheme in respect of which

(i) an interest is required to have, or has, an identification number issued under section 237.1 that is the same number as the number that applies to each other interest in the property,

(ii) a selling instrument in respect of flow-through shares is required to be filed with the Minister because of subsection 66(12.68), or

(iii) one of the main purposes for a person's participation in the arrangement, entity, plan or scheme, or a person's acquisition of the property, is to obtain a tax benefit.

(i) une ou plusieurs activités de planification qui se rapportent à une entité donnée ou à un arrangement, bien, mécanisme, plan ou régime donné,

(ii) une activité d'évaluation qui se rapporte à un bien ou service donné;

b) il est entendu qu'une entité donnée ou un arrangement, bien, mécanisme, plan ou régime donné comprend une entité, un arrangement, un bien, un mécanisme, un plan ou un régime relativement auquel, selon le cas :

(i) une part a ou doit avoir un numéro d'inscription attribué en vertu de l'article 237.1 qui est le même numéro que celui qui s'applique à chacune des autres parts dans le bien,

(ii) un avis d'émission visant des actions accréditives doit être présenté au ministre par l'effet du paragraphe 66(12.68),

(iii) l'un des principaux objets de la participation d'une personne à l'entité, à l'arrangement, au mécanisme, au plan ou au régime, ou de l'acquisition du bien par une personne, est l'obtention d'un avantage fiscal.

Clerical services

(9) For the purposes of this section, a person is not considered to have made or furnished, or participated in, assented to or acquiesced in the making of, a false statement solely because the person provided clerical services (other than bookkeeping services) or secretarial services with respect to the statement.

Services de bureau

(9) Pour l'application du présent article, une personne n'est pas considérée comme ayant fait ou présenté un faux énoncé, ou comme y ayant participé, consenti ou acquiescé, du seul fait qu'elle a rendu des services de bureau (sauf la tenue de la comptabilité) ou des services de secrétariat relativement à l'énoncé.

Valuations

(10) Notwithstanding subsections (6) and 163(3), a statement as to the value of a property or a service (which value is in this subsection referred to as the "stated value"), made by the person who opined on the stated value or by a person in the course of an excluded activity is deemed to be a statement that the person would reasonably be expected to know, but for circumstances amounting to culpable conduct, is a false statement if the stated value is

(a) less than the product obtained when the prescribed percentage for the property or service is multiplied by the fair market value of the property or service; or

(b) greater than the product obtained when the prescribed percentage for the property or service is multiplied by the fair market value of the property or service.

Évaluations

(10) Malgré les paragraphes (6) et 163(3), l'énoncé quant à la valeur d'un bien ou d'un service (appelée « valeur attribuée » au présent paragraphe) fait par la personne qui a opiné sur la valeur attribuée ou par une personne dans le cours de l'exercice d'une activité exclue est réputé être un énoncé dont elle aurait vraisemblablement su, n'eût été de circonstances équivalant à une conduite coupable, qu'il constitue un faux énoncé, si la valeur attribuée est :

a) soit inférieure au produit de la multiplication du pourcentage fixé par règlement pour le bien ou le service par la juste valeur marchande du bien ou du service;

b) soit supérieure au produit de la multiplication du pourcentage fixé par règlement pour le bien ou le service par la juste valeur marchande du bien ou du service.

Exception

(11) Subsection (10) does not apply to a person in respect of a statement as to the value of a property or a service if the person establishes that the stated value was reasonable in the circumstances and that the statement was made in good faith and, where applicable, was not based on one or more assumptions that the person knew or would reasonably be expected to know, but for circumstances amounting to culpable conduct, were unreasonable or misleading in the circumstances.

Special rules

(12) For the purpose of applying this section,

(a) where a person is assessed a penalty that is referred to in subsection (2) the amount of which is based on the person's gross entitlements at any time in respect of a planning activity or a valuation activity and another assessment of the penalty is made at a later time,

(i) if the person's gross entitlements in respect of the activity are greater at that later time, the assessment of the penalty made at that later time is deemed to be an assessment of a separate penalty, and

(ii) in any other case, the notice of assessment of the penalty sent before that later time is deemed not to have been sent;

(b) a person's gross entitlements at any time in respect of a planning activity or a valuation activity, in the course of which the person makes or furnishes, participates in the making of or causes another person to make or furnish a false statement, shall exclude the total of all amounts each of which is the amount of a penalty (other than a penalty the assessment of which is void because of subsection (13)) determined under paragraph (3)(a) in respect of the false statement for which notice of the assessment was sent to the person before that time; and

(c) where a person is assessed a penalty that is referred to in subsection (4), the person's gross compensation at any time in respect of the false statement that could be used by or on behalf of the other person shall exclude the total of all amounts each of which is the amount of a penalty (other than a penalty the assessment of which is void because of subsection (13)) determined under subsection (5) to the extent that the false statement was used by or on behalf of that other person and for which notice of the assessment was sent to the person before that time.

Exception

(11) Le paragraphe (10) ne s'applique pas à une personne relativement à un énoncé quant à la valeur d'un bien ou d'un service si la personne établit que la valeur attribuée était raisonnable dans les circonstances et que l'énoncé a été fait de bonne foi et, le cas échéant, n'était pas fondé sur une ou plusieurs hypothèses dont la personne savait ou aurait vraisemblablement su, n'eût été de circonstances équivalant à une conduite coupable, qu'elles étaient déraisonnables ou trompeuses dans les circonstances.

Règles spéciales

(12) Les règles suivantes s'appliquent dans le cadre du présent article :

a) lorsqu'est établie à l'égard d'une personne une cotisation concernant une pénalité prévue au paragraphe (2) dont le montant est fondé sur les droits à paiement de la personne à un moment donné relativement à une activité de planification ou une activité d'évaluation et qu'une autre cotisation concernant la pénalité est établie à un moment ultérieur, les présomptions suivantes s'appliquent :

(i) si les droits à paiement de la personne relativement à l'activité sont plus élevés au moment ultérieur, la cotisation concernant la pénalité établie à ce moment est réputée être une cotisation concernant une pénalité distincte,

(ii) dans les autres cas, l'avis de cotisation concernant la pénalité qui a été envoyé avant le moment ultérieur est réputé ne pas avoir été envoyé;

b) est exclu des droits à paiement d'une personne à un moment donné relativement à une activité de planification, ou une activité d'évaluation, dans le cadre de laquelle elle fait ou présente, ou fait faire ou présenter par une autre personne, un faux énoncé, ou y participe, le total des montants représentant chacun le montant d'une pénalité (sauf celle dont la cotisation est nulle par l'effet du paragraphe (13)) déterminée selon l'alinéa (3)a) relativement au faux énoncé et concernant laquelle un avis de cotisation a été envoyé à la personne avant ce moment;

c) lorsqu'est établie à l'égard d'une personne une cotisation concernant une pénalité prévue au paragraphe (4), est exclu de la rétribution brute de la personne, à un moment donné, relativement au faux énoncé qui pourrait être utilisé par l'autre personne ou pour son compte, le total des montants représentant chacun le montant d'une pénalité (sauf celle dont la cotisation est nulle par l'effet du paragraphe (13)) déterminée

selon le paragraphe (5), dans la mesure où cet énoncé a été utilisé par cette autre personne ou pour son compte, et concernant laquelle un avis de cotisation a été envoyé à la personne avant ce moment.

Assessment void

(13) For the purposes of this Act, if an assessment of a penalty that is referred to in subsection (2) or (4) is vacated, the assessment is deemed to be void.

Maximum penalty

(14) A person who is liable at any time to a penalty under both subsections (2) and (4) in respect of the same false statement is liable to pay a penalty that is not more than the greater of

(a) the total amount of the penalties to which the person is liable at that time under subsection (2) in respect of the statement, and

(b) the total amount of the penalties to which the person is liable at that time under subsection (4) in respect of the statement.

Employees

(15) Where an employee (other than a specified employee or an employee engaged in an excluded activity) is employed by the other person referred to in subsections (2) and (4),

(a) subsections (2) to (5) do not apply to the employee to the extent that the false statement could be used by or on behalf of the other person for a purpose of this Act; and

(b) the conduct of the employee is deemed to be that of the other person for the purposes of applying subsection 163(2) to the other person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 50; 2013, c. 34, s. 146(F).

Definitions

163.3 (1) The following definitions apply in this section.

electronic cash register means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data or any other electronic point-of-sale system. (*caisse enregistreuse électronique*)

electronic suppression of sales device means

Cotisation nulle

(13) Pour l'application de la présente loi, la cotisation concernant une pénalité prévue aux paragraphes (2) ou (4) est réputée nulle si elle a été annulée.

Pénalité maximale

(14) La personne qui est passible, à un moment donné, d'une pénalité selon les paragraphes (2) et (4) relativement au même faux énoncé est passible d'une pénalité n'excédant pas le plus élevé des montants suivants :

a) le total des pénalités dont elle est passible à ce moment selon le paragraphe (2) relativement à l'énoncé;

b) le total des pénalités dont elle est passible à ce moment selon le paragraphe (4) relativement à l'énoncé.

Employés

(15) Les règles suivantes s'appliquent à l'égard d'un employé (sauf un employé déterminé ou un employé exerçant une activité exclue) de l'autre personne visée aux paragraphes (2) et (4):

a) les paragraphes (2) à (5) ne s'appliquent pas à lui dans la mesure où le faux énoncé pourrait être utilisé par l'autre personne, ou pour son compte, pour l'application de la présente loi;

b) sa conduite est réputée être celle de l'autre personne pour l'application du paragraphe 163(2) à celle-ci.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 50; 2013, ch. 34, art. 146(F).

Définitions

163.3 (1) Les définitions qui suivent s'appliquent au présent article.

appareil de suppression électronique des ventes

a) Logiciel qui falsifie les registres de caisses enregistreuses électroniques, y compris les données et rapports de transactions;

b) option de programmation cachée, qu'elle soit préinstallée ou installée ultérieurement, qui est intégrée au système d'exploitation d'une caisse enregistreuse électronique ou câblée à la caisse et qui, selon le cas :

(a) a software program that falsifies the records of electronic cash registers, including transaction data and transaction reports; or

(b) a hidden programming option, whether preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that

(i) may be used to create a virtual second till, or

(ii) may eliminate or manipulate transaction records, which may or may not be preserved in digital formats, in order to represent the actual or manipulated record of transactions in the electronic cash register. (*appareil de suppression électronique des ventes*)

service has the same meaning as in subsection 123(1) of the *Excise Tax Act*. (*service*)

Penalty — use

(2) Every person that uses, or that knowingly, or under circumstances attributable to neglect, carelessness or wilful default, participates in, assents to or acquiesces in the use of, an electronic suppression of sales device or a similar device or software in relation to records that are required to be kept by any person under section 230 is liable to a penalty of

(a) unless paragraph (b) applies, $5,000; or

(b) $50,000 if the action of the person occurs after the Minister has assessed a penalty payable by the person under this section or section 285.01 of the *Excise Tax Act*.

Penalty — possession

(3) Every person that acquires or possesses an electronic suppression of sales device or a right in respect of an electronic suppression of sales device that is, or is intended to be, capable of being used in relation to records that are required to be kept by any person under section 230 is liable to a penalty of

(a) unless paragraph (b) applies, $5,000; or

(b) $50,000 if the action of the person occurs after the Minister has assessed a penalty payable by the person under this section or section 285.01 of the *Excise Tax Act*.

(i) peut servir à créer un deuxième tiroir-caisse virtuel,

(ii) peut éliminer ou manipuler des registres de transactions — lesquels peuvent être conservés ou non sous forme numérique — de façon à représenter les registres de transactions réels ou manipulés de la caisse enregistreuse électronique. (*electronic suppression of sales device*)

caisse enregistreuse électronique Appareil qui tient un registre ou des documents justificatifs au moyen d'un dispositif électronique ou d'un système informatique conçu pour enregistrer des données de transactions ou tout autre système électronique de point de vente. (*electronic cash register*)

service S'entend au sens du paragraphe 123(1) de la *Loi sur la taxe d'accise*. (*service*)

Pénalité — utilisation

(2) Toute personne qui utilise un appareil de suppression électronique des ventes ou un appareil ou un logiciel semblable relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230 ou qui, sciemment ou par négligence, inattention ou omission volontaire, participe, consent ou acquiesce à l'utilisation d'un tel appareil ou logiciel est passible de la pénalité suivante :

a) sauf si l'alinéa b) s'applique, 5 000 $;

b) 50 000 $ si la personne agit ainsi après que le ministre a établi une cotisation concernant une pénalité payable par elle en vertu du présent article ou de l'article 285.01 de la *Loi sur la taxe d'accise*.

Pénalité — possession

(3) Toute personne qui acquiert ou possède un appareil de suppression électronique des ventes, ou un droit relatif à un tel appareil, qui peut être utilisé, ou qui est destiné à pouvoir être utilisé, relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230 est passible de la pénalité suivante :

a) sauf si l'alinéa b) s'applique, 5 000 $;

b) 50 000 $ si la personne agit ainsi après que le ministre a établi une cotisation concernant une pénalité payable par elle en vertu du présent article ou de l'article 285.01 de la *Loi sur la taxe d'accise*.

Penalty — manufacturing or making available

(4) Every person that designs, develops, manufactures, possesses for sale, offers for sale, sells, transfers or otherwise makes available to another person, or that supplies installation, upgrade or maintenance services for, an electronic suppression of sales device that is, or is intended to be, capable of being used in relation to records that are required to be kept by any person under section 230 is liable to a penalty of

(a) unless paragraph (b) or (c) applies, $10,000;

(b) unless paragraph (c) applies, $50,000 if the action of the person occurs after the Minister has assessed a penalty payable by the person under subsection (2) or (3) or subsection 285.01(2) or (3) of the *Excise Tax Act*; or

(c) $100,000 if the action of the person occurs after the Minister has assessed a penalty payable by the person under this subsection or subsection 285.01(4) of the *Excise Tax Act*.

Pénalité — fabrication ou mise à disposition

(4) Toute personne qui conçoit, développe, fabrique, possède ou offre à des fins de vente, vend ou transfère un appareil de suppression électronique des ventes qui peut être utilisé, ou qui est destiné à pouvoir être utilisé, relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230, qui autrement met un tel appareil à la disposition d'une autre personne ou qui fournit des services d'installation, de mise à niveau ou d'entretien d'un tel appareil est passible de la pénalité suivante :

a) sauf si les alinéas b) ou c) s'appliquent, 10 000 $;

b) sauf si l'alinéa c) s'applique, 50 000 $ si la personne agit ainsi après que le ministre a établi une cotisation concernant une pénalité payable par elle en vertu des paragraphes (2) ou (3) ou des paragraphes 285.01(2) ou (3) de la *Loi sur la taxe d'accise*;

c) 100 000 $ si la personne agit ainsi après que le ministre a établi une cotisation concernant une pénalité payable par elle en vertu du présent paragraphe ou du paragraphe 285.01(4) de la *Loi sur la taxe d'accise*.

Assessment

(5) The Minister may at any time assess a taxpayer in respect of any penalty payable by a person under subsections (2) to (4), and the provisions of this Division apply, with any modifications that the circumstances require, in respect of an assessment made under subsections (2) to (4) as though it had been made under section 152.

Cotisation

(5) Le ministre peut, en tout temps, établir une cotisation à l'égard d'un contribuable concernant toute pénalité payable par une personne en vertu des paragraphes (2) à (4). Par ailleurs, les dispositions de la présente section s'appliquent, avec les adaptations nécessaires, aux cotisations établies en vertu de ces paragraphes comme si elles avaient été établies en vertu de l'article 152.

Limitation

(6) Despite section 152, if at any time the Minister assesses a penalty payable by a person under subsections (2) to (4), the Minister is not to assess, at or after that time, another penalty payable by the person under subsections (2) to (4) that is in respect of an action of the person that occurred before that time.

Limitation

(6) Malgré l'article 152, si une cotisation concernant une pénalité payable par une personne en vertu des paragraphes (2) à (4) a été établie à un moment donné, aucune cotisation concernant une autre pénalité payable par la personne en vertu de ces paragraphes et ayant trait à un acte de celle-ci qui s'est produit avant ce moment ne peut être établie à ce moment ou par la suite.

Certain defences not available

(7) Except as otherwise provided in subsection (8), a person does not have a defence in relation to a penalty assessed under subsections (2) to (4) by reason that the person exercised due diligence to prevent the action from occurring.

Exclusion de certains moyens de défense

(7) Sauf disposition contraire énoncée au paragraphe (8), une personne ne peut invoquer en défense, relativement à une pénalité qui fait l'objet d'une cotisation en vertu des paragraphes (2) à (4), le fait qu'elle a pris les précautions voulues pour empêcher que l'acte ne se produise.

Due diligence

(8) A person is not liable for a penalty under subsection (3) or (4) in respect of an action of the person if the person exercised the degree of care, diligence and skill that a

Diligence

(8) Une personne n'est pas passible de la pénalité prévue aux paragraphes (3) ou (4) relativement à son acte si elle a agi avec autant de soin, de diligence et de compétence

reasonably prudent person would have exercised in comparable circumstances to prevent the action from occurring.

Assessment vacated

(9) For the purposes of subsections (2) to (8), if an assessment of a penalty under subsections (2) to (4) is vacated, the penalty is deemed to have never been assessed.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 71.

pour prévenir l'acte que ne l'aurait fait une personne raisonnablement prudente dans les mêmes circonstances.

Cotisation annulée

(9) Pour l'application des paragraphes (2) à (8), toute cotisation concernant une pénalité prévue aux paragraphes (2) à (4) qui a été annulée est réputée ne pas avoir été établie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 71.

Refunds

Refunds

164 (1) If the return of a taxpayer's income for a taxation year has been made within 3 years from the end of the year, the Minister

(a) may,

(i) before sending the notice of assessment for the year, where the taxpayer is, for any purpose of the definition ***refundable investment tax credit*** (as defined in subsection 127.1(2)), a qualifying corporation (as defined in that subsection) and claims in its return of income for the year to have paid an amount on account of its tax payable under this Part for the year because of subsection 127.1(1) in respect of its refundable investment tax credit (as defined in subsection 127.1(2)), refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the amount by which the total determined under paragraph (f) of the definition ***refundable investment tax credit*** in subsection 127.1(2) in respect of the taxpayer for the year exceeds the total determined under paragraph (g) of that definition in respect of the taxpayer for the year,

(ii) before sending the notice of assessment for the year, where the taxpayer is a qualified corporation (as defined in subsection 125.4(1)) or an eligible production corporation (as defined in subsection 125.5(1)) and an amount is deemed under subsection 125.4(3) or 125.5(3) to have been paid on account of its tax payable under this Part for the year, refund all or part of any amount claimed in the return as an overpayment for the year, not exceeding the total of those amounts so deemed to have been paid, and

(iii) on or after sending the notice of assessment for the year, refund any overpayment for the year, to the extent that the overpayment was not refunded pursuant to subparagraph (i) or (ii); and

Remboursements

Remboursement

164 (1) Si la déclaration de revenu d'un contribuable pour une année d'imposition est produite dans les trois ans suivant la fin de l'année, le ministre :

a) peut faire ce qui suit :

(i) avant d'envoyer l'avis de cotisation pour l'année — si le contribuable est, pour l'application de la définition de ***crédit d'impôt à l'investissement remboursable*** au paragraphe 127.1(2), une société admissible au sens de ce paragraphe qui, dans sa déclaration de revenu pour l'année, déclare avoir payé un montant au titre de son impôt payable en vertu de la présente partie pour l'année par l'effet du paragraphe 127.1(1) et relativement à son crédit d'impôt à l'investissement remboursable au sens du paragraphe 127.1(2) — rembourser tout ou partie du montant demandé dans la déclaration à titre de paiement en trop pour l'année, jusqu'à concurrence de l'excédent du total visé à l'alinéa c) de la définition de ***crédit d'impôt à l'investissement remboursable*** au paragraphe 127.1(2) sur le total visé à l'alinéa d) de cette définition, quant au contribuable pour l'année,

(ii) avant d'envoyer l'avis de cotisation pour l'année — si le contribuable est une société admissible, au sens du paragraphe 125.4(1), ou une société de production admissible, au sens du paragraphe 125.5(1), et si un montant est réputé par les paragraphes 125.4(3) ou 125.5(3) avoir été payé au titre de son impôt payable en vertu de la présente partie pour l'année — rembourser tout ou partie du montant demandé dans la déclaration à titre de paiement en trop pour l'année, jusqu'à concurrence du total des montants ainsi réputés avoir été payés,

(iii) au moment de l'envoi de l'avis de cotisation pour l'année ou par la suite, rembourser tout paiement en trop pour l'année, dans la mesure où ce

(b) shall, with all due dispatch, make the refund referred to in subparagraph (a)(iii) after sending the notice of assessment if application for it is made in writing by the taxpayer within the period within which the Minister would be allowed under subsection 152(4) to assess tax payable under this Part by the taxpayer for the year if that subsection were read without reference to paragraph 152(4)(a).

Repayment on objections and appeals

(1.1) Subject to subsection 164(1.2), where a taxpayer

(a) has under section 165 served a notice of objection to an assessment and the Minister has not within 120 days after the day of service confirmed or varied the assessment or made a reassessment in respect thereof, or

(b) has appealed from an assessment to the Tax Court of Canada,

and has applied in writing to the Minister for a payment or surrender of security, the Minister shall, where no authorization has been granted under subsection 225.2(2) in respect of the amount assessed, with all due dispatch repay all amounts paid on account of that amount or surrender security accepted therefor to the extent that

(c) the lesser of

(i) the total of the amounts so paid and the value of the security, and

(ii) the amount so assessed

exceeds

(d) the total of

(i) the amount, if any, so assessed that is not in controversy, and

(ii) 1/2 of the amount so assessed that is in controversy if

(A) the taxpayer is a large corporation (within the meaning assigned by subsection 225.1(8)), or

(B) the amount is in respect of a particular amount claimed under section 110.1 or 118.1 and the particular amount was claimed in respect of a tax shelter.

paiement n'est pas remboursé en application des sous-alinéas (i) ou (ii);

b) doit effectuer le remboursement visé au sous-alinéa a)(iii) avec diligence après avoir envoyé l'avis de cotisation, si le contribuable en fait la demande par écrit au cours de la période pendant laquelle le ministre pourrait établir, aux termes du paragraphe 152(4), une cotisation concernant l'impôt payable en vertu de la présente partie par le contribuable pour l'année si ce paragraphe s'appliquait compte non tenu de son alinéa a).

Remboursement sur opposition ou appel

(1.1) Sous réserve du paragraphe (1.2), lorsqu'un contribuable demande au ministre, par écrit, un remboursement ou la remise d'une garantie, alors qu'il a :

a) soit signifié, conformément à l'article 165, un avis d'opposition à une cotisation, si le ministre, dans les 120 jours suivant la date de signification, n'a pas confirmé ou modifié la cotisation ni établi une nouvelle cotisation à cet égard;

b) soit appelé d'une cotisation devant la Cour canadienne de l'impôt,

le ministre, si aucune autorisation n'a été accordée en application du paragraphe 225.2(2) à l'égard du montant de la cotisation, avec diligence, rembourse les sommes versées sur ce montant ou remet la garantie acceptée pour ce montant, jusqu'à concurrence de l'excédent du montant visé à l'alinéa c) sur le montant visé à l'alinéa d):

c) le moins élevé des montants suivants :

(i) le total des sommes ainsi versées et de la valeur de la garantie,

(ii) le montant de cette cotisation;

d) le total des montants suivants :

(i) la partie du montant de cette cotisation qui n'est pas en litige,

(ii) la moitié de la partie du montant de cette cotisation qui est en litige si, selon le cas :

(A) le contribuable est une grande société, au sens du paragraphe 225.1(8),

(B) le montant se rapporte à une somme qui est déduite en application des articles 110.1 ou 118.1 et qui a été demandée relativement à un abri fiscal.

Collection in jeopardy

(1.2) Notwithstanding subsection 164(1.1), where, on application by the Minister made within 45 days after the receipt by the Minister of a written request by a taxpayer for repayment of an amount or surrender of a security, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of the taxpayer would be jeopardized by the repayment of the amount or the surrender of the security to the taxpayer under that subsection, the judge shall order that the repayment of the amount or a part thereof not be made or that the security or part thereof not be surrendered or make such other order as the judge considers reasonable in the circumstances.

Notice of application

(1.3) The Minister shall give 6 clear days notice of an application under subsection 164(1.2) to the taxpayer in respect of whom the application is made.

Application of ss. 225.2(4), (10), (12) and (13)

(1.31) Where an application under subsection 164(1.2) is made by the Minister, subsections 225.2(4), 225.2(10), 225.2(12) and 225.2(13) are applicable in respect of the application with such modifications as the circumstances require.

Provincial refund

(1.4) Where, at any time, a taxpayer is entitled to a refund or repayment on account of taxes imposed by a province or as a result of a deduction in computing the taxes imposed by a province and the Government of Canada has agreed to make the refund or repayment on behalf of the province, the amount thereof shall be a liability of the Minister of National Revenue to the taxpayer.

Exception

(1.5) Notwithstanding subsection (1), the Minister may, on or after sending a notice of assessment for a taxation year, refund all or any portion of any overpayment of a taxpayer for the year

(a) if the taxpayer is an individual (other than a trust) or a graduated rate estate for the year and the taxpayer's return of income under this Part for the year was filed on or before the day that is 10 calendar years after the end of the year;

(b) where an assessment or a redetermination was made under subsection 152(4.2) or 220(3.1) or 220(3.4) in respect of the taxpayer; or

Recouvrement compromis

(1.2) Malgré le paragraphe (1.1), le juge saisi peut, sur requête du ministre faite dans les 45 jours suivant la réception de la demande écrite d'un contribuable visant le remboursement d'une somme ou la remise d'une garantie, soit ordonner que tout ou partie de la somme ne soit pas remboursée au contribuable ou que tout ou partie de la garantie ne lui soit pas remise, soit rendre toute ordonnance qu'il estime raisonnable dans les circonstances, s'il est convaincu qu'il existe des motifs raisonnables de croire que le fait de lui rembourser la somme ou de lui remettre la garantie conformément à ce paragraphe compromettrait le recouvrement de tout ou partie du montant d'une cotisation établie à son égard.

Avis de requête

(1.3) Le ministre donne au contribuable intéressé un avis de six jours francs d'une requête visée au paragraphe (1.2).

Application des par. 225.2(4), (10), (12) et (13)

(1.31) Dans le cas où le ministre fait la requête visée au paragraphe (1.2), les paragraphes 225.2(4), (10), (12) et (13) s'appliquent à la requête, avec les adaptations nécessaires.

Remboursement pour la province

(1.4) Dans le cas où un contribuable a droit à un remboursement au titre d'impôts provinciaux ou en raison d'une déduction dans le calcul des impôts provinciaux et où le gouvernement du Canada est convenu de faire le remboursement au nom de la province, le ministre du Revenu national est redevable envers le contribuable du montant à rembourser.

Exception

(1.5) Malgré le paragraphe (1), le ministre peut, à la date d'envoi d'un avis de cotisation pour une année d'imposition ou par la suite, rembourser tout ou partie d'un paiement en trop d'un contribuable pour l'année si, selon le cas :

a) le contribuable est un particulier (sauf une fiducie) ou une succession assujettie à l'imposition à taux progressifs pour l'année et sa déclaration de revenu pour l'année en vertu de la présente partie a été produite au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition;

b) une cotisation a été établie, ou un montant déterminé de nouveau, en application des paragraphes 152(4.2) ou 220(3.1) ou (3.4), à l'égard du contribuable;

(c) to the extent that the overpayment relates to an assessment of another taxpayer under subsection 227(10) or (10.1) (in this paragraph referred to as the "other assessment"), if the taxpayer's return of income under this Part for the taxation year is filed on or before the day that is two years after the date of the other assessment and if the other assessment relates to

(i) in the case of an amount assessed under subsection 227(10), a payment to the taxpayer of a fee, commission or other amount in respect of services rendered in Canada by a non-resident person or partnership, and

(ii) in the case of an amount assessed under subsection 227(10.1), an amount payable under subsection 116(5) or (5.3) in respect of a disposition of property by the taxpayer.

c) dans la mesure où le paiement en trop se rapporte à une cotisation établie à l'égard d'un autre contribuable en vertu des paragraphes 227(10) ou (10.1) (appelée « autre cotisation » au présent alinéa), si la déclaration de revenu que le contribuable est tenu de produire en vertu de la présente partie pour l'année est produite au plus tard le jour qui suit de deux ans la date d'établissement de l'autre cotisation et que celle-ci porte :

(i) dans le cas d'une cotisation établie en vertu du paragraphe 227(10), sur le paiement au contribuable d'honoraires, d'une commission ou d'une autre somme à l'égard de services rendus au Canada par une personne ou une société de personnes non-résidente,

(ii) dans le cas d'une cotisation établie en vertu du paragraphe 227(10.1), sur une somme à payer en vertu des paragraphes 116(5) ou (5.3) relativement à la disposition d'un bien par le contribuable.

When subsection (1.52) applies

(1.51) Subsection (1.52) applies to a taxpayer for a taxation year if, at any time after the beginning of the year

(a) the taxpayer has, in respect of the tax payable by the taxpayer under this Part (and, if the taxpayer is a corporation, Parts I.3, VI, VI.1 and XIII.1) for the year, paid under any of sections 155 to 157 one or more instalments of tax;

(b) it is reasonable to conclude that the total amount of those instalments exceeds the total amount of taxes that will be payable by the taxpayer under those Parts for the year; and

(c) the Minister is satisfied that the payment of the instalments has caused or will cause undue hardship to the taxpayer.

Application du paragraphe (1.52)

(1.51) Le paragraphe (1.52) s'applique à un contribuable pour une année d'imposition si, après le début de l'année :

a) le contribuable a versé, au titre de son impôt payable pour l'année en vertu de la présente partie et, s'il est une société, en vertu des parties I.3, VI, VI.1 et XIII.1, un ou plusieurs acomptes provisionnels d'impôt en vertu de l'un des articles 155 à 157;

b) il est raisonnable de conclure que le total de ces acomptes excède le total des impôts qui seront payables par le contribuable pour l'année en vertu de ces parties;

c) le ministre est convaincu que le versement des acomptes a porté ou portera indûment préjudice au contribuable.

Instalment refund

(1.52) If this subsection applies to a taxpayer for a taxation year, the Minister may refund to the taxpayer all or any part of the excess referred to in paragraph (1.51)(b).

Remboursement

(1.52) Le ministre peut rembourser au contribuable auquel le présent paragraphe s'applique pour une année d'imposition tout ou partie de l'excédent visé à l'alinéa (1.51)b).

Penalties, interest not affected

(1.53) For the purpose of the calculation of any penalty or interest under this Act, an instalment is deemed not to have been paid to the extent that all or any part of the instalment can reasonably be considered to have been refunded under subsection (1.52).

Effet sur les pénalités et les intérêts

(1.53) Pour ce qui est du calcul d'une pénalité ou d'intérêts sous le régime de la présente loi, un acompte provisionnel est réputé ne pas avoir été versé dans la mesure où il est raisonnable de considérer que tout ou partie de l'acompte a été remboursé en vertu du paragraphe (1.52).

(1.6) [Repealed, 2013, c. 34, s. 321]

(1.6) [Abrogé, 2013, ch. 34, art. 321]

Limitation of repayment on objections and appeals

(1.7) Subsection 164(1.1) does not apply in respect of an amount paid or security furnished under section 116 by a non-resident person.

Remboursement limité sur opposition ou appel

(1.7) Le paragraphe (1.1) ne s'applique pas au montant payé ou à la garantie fournie en application de l'article 116 par une personne non-résidente.

Request to pay refund to province

(1.8) An individual (other than a trust) may, in the individual's return of income for a taxation year, request the Minister to pay to Her Majesty in right of a prescribed province all or any part of a refund for the year claimed by the individual in the return and, where the individual makes such a request,

(a) the Minister may make the payment to Her Majesty in right of the province in accordance with the request; and

(b) the amount of the payment is deemed to have been refunded under this section to the individual at the time a notice of an original assessment of tax payable under this Part by the individual for the year, or a notification that no tax is payable under this Part by the individual for the year, is sent to the individual.

Demande en vue du versement du remboursement à la province

(1.8) Un particulier (sauf une fiducie) peut demander au ministre, dans sa déclaration de revenu pour une année d'imposition, de verser à Sa Majesté du chef d'une province visée par règlement tout ou partie du montant de remboursement qu'il demande pour l'année dans la déclaration. Le cas échéant, les règles suivantes s'appliquent :

a) le ministre peut faire le versement à Sa Majesté du chef de la province en conformité avec la demande;

b) le montant du versement est réputé avoir été remboursé au particulier en application du présent article au moment de l'envoi à ce dernier d'un avis de première cotisation concernant l'impôt payable par lui pour l'année en vertu de la présente partie ou d'un avis portant qu'aucun impôt n'est payable par lui pour l'année en vertu de la présente partie.

Application to other debts

(2) Instead of making a refund or repayment that might otherwise be made under this section, the Minister may, where the taxpayer is, or is about to become, liable to make any payment to Her Majesty in right of Canada or in right of a province, apply the amount of the refund or repayment to that other liability and notify the taxpayer of that action.

Imputation du remboursement

(2) Lorsque le contribuable est redevable d'un montant à Sa Majesté du chef du Canada ou du chef d'une province ou est sur le point de l'être, le ministre peut, au lieu de rembourser un paiement en trop ou une somme en litige, qui pourrait par ailleurs être remboursé en vertu du présent article, imputer la somme à rembourser sur ce dont le contribuable est ainsi redevable et en aviser celui-ci.

Withholding of refunds

(2.01) The Minister shall not, in respect of a taxpayer, refund, repay, apply to other debts or set-off amounts under this Act at any time unless all returns of which the Minister has knowledge and that are required to be filed by the taxpayer at or before that time under this Act, the *Air Travellers Security Charge Act*, the *Excise Act, 2001* and the *Excise Tax Act* have been filed with the Minister.

Restriction

(2.01) Une somme n'est remboursée, restituée, appliquée en réduction d'autres dettes ou compensée en vertu de la présente loi à un moment donné relativement à un contribuable qu'une fois présentées au ministre toutes les déclarations dont celui-ci a connaissance et que le contribuable avait à produire au plus tard à ce moment en application de la présente loi, de la *Loi sur le droit pour la sécurité des passagers du transport aérien*, de la *Loi de 2001 sur l'accise* et de la *Loi sur la taxe d'accise*.

Application respecting refunds under s. 122.5

(2.1) Where an amount deemed under section 122.5 to be paid by an individual during a month specified for a taxation year is applied under subsection 164(2) to a liability of the individual and the individual's return of

Imputation d'un remboursement prévu à l'article 122.5

(2.1) Le montant qui est réputé, par l'article 122.5, être payé par un particulier au cours d'un mois déterminé pour une année d'imposition et qui est imputé, en application du paragraphe (2), sur un autre montant dont le

income for the year is filed on or before the individual's balance-due day for the year, the amount is deemed to have been so applied on the day on which the amount would have been refunded if the individual were not liable to make a payment to Her Majesty in right of Canada.

Application respecting refunds re section 122.61

(2.2) Subsection 164(2) does not apply to a refund to be made to a taxpayer and arising because of section 122.61 except to the extent that the taxpayer's liability referred to in that subsection arose from the operation of paragraph 160.1(1)(a) with respect to an amount refunded to the taxpayer in excess of the amount to which the taxpayer was entitled because of section 122.61.

Form deemed to be return of income

(2.3) For the purpose of subsection (1), where a taxpayer files the form referred to in paragraph (b) of the definition ***return of income*** in section 122.6 for a taxation year, the form is deemed to be a return of the taxpayer's income for that year and a notice of assessment in respect of that return is deemed to have been sent by the Minister.

Interest on refunds and repayments

(3) If, under this section, an amount in respect of a taxation year (other than an amount, or a portion of the amount, that can reasonably be considered to arise from the operation of section 122.5 or 122.61) is refunded or repaid to a taxpayer or applied to another liability of the taxpayer, the Minister shall pay or apply interest on it at the prescribed rate for the period that begins on the day that is the latest of the days referred to in the following paragraphs and that ends on the day on which the amount is refunded, repaid or applied:

(a) if the taxpayer is an individual, the day that is 30 days after the individual's balance-due day for the year;

(b) if the taxpayer is a corporation, the day that is 120 days after the end of the year;

(c) if the taxpayer is

(i) a corporation, the day that is 30 days after the day on which its return of income for the year was filed under section 150, unless the return was filed on or before the corporation's filing-due date for the year, and

(ii) an individual, the day that is 30 days after the day on which the individual's return of income for the year was filed under section 150;

particulier est redevable est réputé avoir été ainsi imputé le jour où il aurait été remboursé si le particulier n'avait pas été redevable d'un montant à Sa Majesté du chef du Canada, à condition que la déclaration de revenu du particulier pour l'année soit produite au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Imputation du remboursement prévu à l'article 122.6

(2.2) Le paragraphe (2) ne s'applique pas au montant à rembourser à un contribuable par suite de l'application de l'article 122.61, sauf dans la mesure où le montant, visé à ce paragraphe, dont le contribuable est redevable découle de l'application de l'alinéa 160.1(1)a) du fait qu'un montant supérieur à celui auquel il avait droit par l'effet de l'article 122.61 lui a été remboursé.

Déclaration de revenu réputée

(2.3) Pour l'application du paragraphe (1), le formulaire visé à l'alinéa b) de la définition de ***déclaration de revenu*** à l'article 122.6 qu'un contribuable présente pour une année d'imposition est réputé être une déclaration du revenu du contribuable pour cette année, et un avis de cotisation relatif à cette déclaration est réputé avoir été envoyé par le ministre.

Intérêts sur les sommes remboursées

(3) Si, en vertu du présent article, une somme à l'égard d'une année d'imposition est remboursée à un contribuable ou imputée sur tout autre montant dont il est redevable, à l'exception de tout ou partie de la somme qu'il est raisonnable de considérer comme découlant de l'application des articles 122.5 ou 122.61, le ministre paie au contribuable les intérêts afférents à cette somme au taux prescrit ou les impute sur cet autre montant, pour la période commençant au dernier en date des jours visés aux alinéas ci-après et se terminant le jour où la somme est remboursée ou imputée :

a) si le contribuable est un particulier, le trentième jour suivant la date d'exigibilité du solde qui lui est applicable pour l'année;

b) si le contribuable est une société, le cent vingtième jour suivant la fin de l'année;

c) si le contribuable est :

(i) une société, le trentième jour suivant celui où sa déclaration de revenu pour l'année a été produite en conformité avec l'article 150, sauf si la déclaration a été produite au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

(d) in the case of a refund of an overpayment, the day on which the overpayment arose; and

(e) in the case of a repayment of an amount in controversy, the day on which an overpayment equal to the amount of the repayment would have arisen if the total of all amounts payable on account of the taxpayer's liability under this Part for the year were the amount by which

(i) the lesser of the total of all amounts paid on account of the taxpayer's liability under this Part for the year and the total of all amounts assessed by the Minister as payable under this Part by the taxpayer for the year

exceeds

(ii) the amount repaid.

d) dans le cas du remboursement d'un paiement en trop d'impôt, le jour où il y a eu paiement en trop;

e) dans le cas du remboursement d'une somme en litige, le jour où il y aurait eu un paiement en trop égal à la somme remboursée si le total des sommes payables sur ce dont le contribuable est redevable en vertu de la présente partie pour l'année était égal à l'excédent du total visé au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes versées sur ce dont il est redevable en vertu de la présente partie pour l'année ou, s'il est moins élevé, le total des sommes qui, selon la cotisation établie par le ministre, sont à payer en vertu de la présente partie par le contribuable pour l'année,

(ii) la somme remboursée.

Idem

(3.1) Where at a particular time interest has been paid to, or applied to a liability of, a taxpayer under subsection 164(3) or 164(3.2) in respect of an overpayment and it is determined at a subsequent time that the actual overpayment was less than the overpayment in respect of which interest was paid or applied,

(a) the amount by which the interest that has been paid or applied exceeds the interest, if any, computed in respect of the amount that is determined at the subsequent time to be the actual overpayment shall be deemed to be an amount (in this subsection referred to as "the amount payable") that became payable under this Part by the taxpayer at the particular time;

(b) the taxpayer shall pay to the Receiver General interest at the prescribed rate on the amount payable computed from that particular time to the day of payment; and

(c) the Minister may at any time assess the taxpayer in respect of the amount payable and, where the Minister makes such an assessment, the provisions of this Division are applicable, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

Idem

(3.1) Lorsque, à un moment donné, des intérêts ont été, en application des paragraphes (3) ou (3.2), payés à un contribuable ou imputés à un autre montant dont celui-ci est redevable à l'égard d'un paiement en trop et qu'il est déterminé par la suite que le paiement en trop était moins élevé que le paiement en trop à l'égard duquel des intérêts ont été payés ou imputés, les règles suivantes s'appliquent :

a) l'excédent éventuel des intérêts payés ou imputés sur les intérêts calculés à l'égard du montant déterminé par la suite comme étant le paiement en trop est réputé être un montant (appelé « montant payable » au présent paragraphe) devenu payable par le contribuable en vertu de la présente partie au moment donné;

b) le contribuable doit verser au receveur général des intérêts sur le montant payable, calculés au taux prescrit pour la période commençant au moment donné et se terminant à la date du paiement;

c) le ministre peut, à tout moment, établir une cotisation à l'égard du contribuable sur le montant payable et, lorsque le ministre établit une telle cotisation, les dispositions de la présente section s'appliquent, avec les adaptations nécessaires, à la cotisation comme si elle avait été établie en vertu de l'article 152.

Interest where amounts cancelled

(3.2) Notwithstanding subsection (3), if an overpayment of a taxpayer for a taxation year is determined because of an assessment made under subsection 152(4.2) or 220(3.1) or (3.4) and an amount in respect of the overpayment is refunded to, or applied to another liability of, the taxpayer under subsection (1.5) or (2), the Minister shall pay or apply interest on the overpayment at the prescribed rate for the period beginning on the day that is 30 days after the day on which the Minister received a request in a manner satisfactory to the Minister to apply those subsections and ending on the day on which the amount is refunded or applied.

Interest on interest repaid

(4) Where at any particular time interest has been paid to, or applied to a liability of, a taxpayer pursuant to subsection 164(3) in respect of the repayment of an amount in controversy made to, or applied to a liability of, the taxpayer and it is determined at a subsequent time that the repayment or a part thereof is payable by the taxpayer under this Part, the following rules apply:

(a) the interest so paid or applied on that part of the repayment that is determined at the subsequent time to be payable by the taxpayer under this Part shall be deemed to be an amount (in this subsection referred to as the "interest excess") that became payable under this Part by the taxpayer at the particular time;

(b) the taxpayer shall pay to the Receiver General interest at the prescribed rate on the interest excess computed from the particular time to the day of payment; and

(c) the Minister may at any time assess the taxpayer in respect of the interest excess and, where the Minister makes such an assessment, the provisions of this Division and Division J are applicable, with such modifications as the circumstances require, in respect of the assessment as though it had been made under section 152.

Duty of Minister

(4.1) Where the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada has, on the disposition of an appeal in respect of taxes, interest or a penalty payable under this Act by a taxpayer resident in Canada,

(a) referred an assessment back to the Minister for reconsideration and reassessment, or

Intérêts sur montants annulés

(3.2) Malgré le paragraphe (3), lorsqu'un paiement en trop de la part d'un contribuable pour une année d'imposition est déterminé par suite d'une cotisation établie en application des paragraphes 152(4.2) ou 220(3.1) ou (3.4) et que la somme correspondante est remboursée au contribuable, ou imputée à tout autre montant dont il est redevable, en application des paragraphes (1.5) ou (2), le ministre paie au contribuable les intérêts afférents au paiement en trop au taux prescrit ou les impute à cet autre montant, pour la période allant du trentième jour suivant le jour de la réception par le ministre, d'une manière qu'il juge acceptable, d'une demande en vue de l'application de ces paragraphes jusqu'au jour où la somme est remboursée ou imputée.

Intérêts sur intérêts remboursés

(4) Lorsque, à un moment donné, des intérêts sur une somme en litige remboursée au contribuable ou imputée sur un montant dont celui-ci est redevable lui sont payés ou sont imputés sur ce montant, conformément au paragraphe (3), et qu'il est établi par la suite que le contribuable doit payer tout ou partie de la somme remboursée en vertu de la présente partie, les règles suivantes s'appliquent :

a) les intérêts ainsi payés ou imputés correspondant à la partie de la somme remboursée qui, par la suite, est déterminée comme payable par le contribuable en vertu de la présente partie sont réputés représenter un montant — appelé « intérêts excédentaires » au présent paragraphe — payable en vertu de la présente partie par le contribuable au moment donné;

b) le contribuable doit verser au receveur général des intérêts, au taux prescrit, sur les intérêts excédentaires calculés du moment donné à la date du paiement;

c) le ministre peut, à tout moment, établir une cotisation à l'égard du contribuable pour les intérêts excédentaires; s'il le fait, les dispositions de la présente section et de la section J s'appliquent à la cotisation, avec les adaptations nécessaires, comme si la cotisation était établie en vertu de l'article 152.

Obligation du ministre

(4.1) Lorsque la Cour canadienne de l'impôt, la Cour d'appel fédérale ou la Cour suprême du Canada, en se prononçant sur un appel concernant des impôts, intérêts ou pénalités payables par un contribuable résidant au Canada en vertu de la présente loi, ordonne :

a) soit le renvoi d'une cotisation au ministre pour réexamen et pour établissement d'une nouvelle cotisation;

(b) varied or vacated an assessment,

the Minister shall with all due dispatch, whether or not an appeal from the decision of the Court has been or may be instituted,

(c) where the assessment has been referred back to the Minister, reconsider the assessment and make a reassessment in accordance with the decision of the Court, unless otherwise directed in writing by the taxpayer, and

(d) refund any overpayment resulting from the variation, vacation or reassessment,

and the Minister may repay any tax, interest or penalties or surrender any security accepted therefor by the Minister to that taxpayer or any other taxpayer who has filed another objection or instituted another appeal if, having regard to the reasons given on the disposition of the appeal, the Minister is satisfied that it would be just and equitable to do so, but for greater certainty, the Minister may, in accordance with the provisions of this Act, the *Tax Court of Canada Act*, the *Federal Courts Act* or the *Supreme Court Act* as they relate to appeals from decisions of the Tax Court of Canada or the Federal Court of Appeal, appeal from the decision of the Court notwithstanding any variation or vacation of any assessment by the Court or any reassessment made by the Minister under paragraph 164(4.1)(c).

b) soit la modification ou l'annulation d'une cotisation,

le ministre, avec diligence, qu'un appel de la décision de la cour ait été ou puisse être interjeté ou non :

c) d'une part, réexamine la cotisation et en établit une nouvelle conformément à la décision de la cour, sauf instruction écrite contraire du contribuable, dans le cas du renvoi d'une cotisation au ministre;

d) d'autre part, rembourse tout paiement en trop qui découle de la modification ou de l'annulation d'une cotisation, ou de l'établissement d'une nouvelle cotisation;

de plus, le ministre peut rembourser tout impôt, tout intérêt ou toute pénalité ou remettre toute garantie qu'il a acceptée, pour ceux-ci, à ce contribuable ou à un autre contribuable qui a fait opposition ou interjeté appel, s'il est convaincu, compte tenu des motifs exposés dans le prononcé sur l'appel, qu'il serait juste et équitable de faire ce remboursement ou cette remise; il est entendu toutefois que le ministre peut en appeler de la décision de la cour conformément aux dispositions de la présente loi, de la *Loi sur la Cour canadienne de l'impôt*, de la *Loi sur les Cours fédérales* ou de la *Loi sur la Cour suprême* relatives à l'appel d'une décision de la Cour canadienne de l'impôt ou de la Cour d'appel fédérale, malgré la modification ou l'annulation de la cotisation par la cour ou l'établissement d'une nouvelle cotisation par le ministre en vertu de l'alinéa c).

Effect of carryback of loss, etc.

(5) For the purpose of subsection 164(3), the portion of any overpayment of the tax payable by a taxpayer for a taxation year that arose as a consequence of

(a) the deduction of an amount, in respect of a repayment under subsection 68.4(7) of the *Excise Tax Act* made in a subsequent taxation year, in computing the amount determined under subparagraph 12(1)(x.1)(ii),

(a.1) any amount deducted under section 119 in respect of the disposition of a taxable Canadian property in a subsequent taxation year,

(b) the deduction of an amount under section 41 in respect of the taxpayer's listed-personal-property loss for a subsequent taxation year,

(c) the exclusion of an amount from the taxpayer's income for the year by virtue of section 49 in respect of the exercise of an option in a subsequent taxation year,

Effet d'une perte, etc.

(5) Pour l'application du paragraphe (3), il est réputé y avoir eu partie de paiement en trop de l'impôt payable par un contribuable pour une année d'imposition, si cette partie résulte de :

a) la déduction d'un montant, au titre d'une restitution effectuée selon le paragraphe 68.4(7) de la *Loi sur la taxe d'accise* au cours d'une année d'imposition ultérieure, dans le calcul du montant déterminé selon le sous-alinéa 12(1)x.1)(ii),

a.1) la déduction d'un montant en application de l'article 119 à l'égard de la disposition d'un bien canadien imposable au cours d'une année d'imposition ultérieure;

b) la déduction d'un montant, en application de l'article 41, à l'égard de la perte relative à des biens meubles déterminés que le contribuable a subie pour une année d'imposition ultérieure;

c) l'exclusion d'un montant de son revenu pour l'année, en application de l'article 49, à l'égard de la levée

(d) the deduction of an amount under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,

(e) the deduction of an amount under subsection 126(2) in respect of an unused foreign tax credit (within the meaning assigned by subsection 126(7)), or under subsection 126(2.21) or (2.22) in respect of foreign taxes paid, for a subsequent taxation year,

(f) the deduction of an amount under subsection 127(5) in respect of property acquired or an expenditure made in a subsequent taxation year,

(g) [Repealed, 2013, c. 34, s. 321]

(h) the deduction of an amount under section 125.3 in respect of an unused Part I.3 tax credit (within the meaning assigned by subsection 125.3(3)) for a subsequent taxation year,

(h.01) the deduction of an amount under subsection 147.2(4) in computing the taxpayer's income for the year because of the application of subsection 147.2(6) as a result of the taxpayer's death in the following taxation year,

(h.02) the deduction under any of subsections 128.1(6) to (8) of an amount from the taxpayer's proceeds of disposition of a property, because of an election made in a return of income for a subsequent taxation year,

(h.1) the deduction of an amount in computing the taxpayer's income for the year by virtue of an election for a subsequent taxation year under paragraph 164(6)(c) or 164(6)(d) by the taxpayer's legal representative,

(h.2) the deduction of an amount under subsection 181.1(4) in respect of an unused surtax credit (within the meaning assigned by subsection 181.1(6)) of the taxpayer for a subsequent taxation year,

(h.3) the deduction of an amount under subsection 190.1(3) in respect of an unused Part I tax credit (within the meaning assigned by subsection 190.1(5)) of the taxpayer for a subsequent taxation year, or

(h.4) the reduction of the amount included under subsection 91(1) for the year because of a reduction referred to in paragraph 152(6.1)(b) in the foreign accrual property income of a foreign affiliate of the taxpayer for a taxation year of the affiliate that ends in the year,

d'une option au cours d'une année d'imposition ultérieure;

d) la déduction d'un montant, en application de l'article 118.1, à l'égard d'un don fait au cours d'une année d'imposition ultérieure ou, en application de l'article 111, à l'égard d'une perte subie pour une année d'imposition ultérieure;

e) la déduction d'un montant en application soit du paragraphe 126(2) à l'égard de la fraction inutilisée du crédit pour impôt étranger (au sens du paragraphe 126(7)), soit des paragraphes 126(2.21) ou (2.22) à l'égard des impôts étrangers payés, pour une année d'imposition ultérieure;

f) la déduction d'un montant, en application du paragraphe 127(5), à l'égard d'un bien acquis, ou d'une dépense faite, au cours d'une année d'imposition ultérieure;

g) [Abrogé, 2013, ch. 34, art. 321]

h) la déduction d'un montant, en application de l'article 125.3, au titre d'un crédit d'impôt de la partie I.3 inutilisé, au sens du paragraphe 125.3(3), pour une année d'imposition ultérieure;

h.01) la déduction d'un montant, en application du paragraphe 147.2(4), dans le calcul du revenu du contribuable pour l'année du fait que le paragraphe 147.2(6) s'applique par suite du décès du contribuable au cours de l'année d'imposition subséquente;

h.02) la déduction d'un montant, en application de l'un des paragraphes 128.1(6) à (8), du produit de disposition d'un bien pour le contribuable, en raison d'un choix fait dans une déclaration de revenu pour une année d'imposition ultérieure;

h.1) la déduction d'un montant dans le calcul de son revenu pour l'année à cause d'un choix pour une année d'imposition ultérieure effectué par son représentant légal en vertu de l'alinéa (6)c) ou d);

h.2) la déduction d'un montant, en application du paragraphe 181.1(4), au titre d'un crédit de surtaxe inutilisé, au sens du paragraphe 181.1(6), du contribuable pour une année d'imposition ultérieure;

h.3) la déduction d'un montant, en application du paragraphe 190.1(3), au titre d'un crédit d'impôt de la partie I inutilisé, au sens du paragraphe 190.1(5), du contribuable pour une année d'imposition ultérieure;

is deemed to have arisen on the day that is 30 days after the latest of

(i) the first day immediately following that subsequent taxation year,

(j) the day on which the taxpayer's or the taxpayer's legal representative's return of income for that subsequent taxation year was filed,

(k) if an amended return of a taxpayer's income for the year or a prescribed form amending the taxpayer's return of income for the year was filed under paragraph (6)(e) or subsection 49(4) or 152(6) or (6.1), the day on which the amended return or prescribed form was filed, and

(l) where, as a consequence of a request in writing, the Minister reassessed the taxpayer's tax for the year to take into account the deduction or exclusion, the day on which the request was made.

h.4) la réduction de la somme incluse en application du paragraphe 91(1) pour l'année en raison d'une réduction, visée à l'alinéa 152(6.1)b), du revenu étranger accumulé, tiré de biens d'une société étrangère affiliée du contribuable pour une année d'imposition de la société affiliée se terminant dans l'année,

le trentième jour suivant le dernier en date des jours suivants :

i) le premier jour qui suit cette année d'imposition ultérieure;

j) le jour où la déclaration de revenu du contribuable ou de son représentant légal pour cette année d'imposition ultérieure a été produite;

k) le jour où une déclaration de revenu modifiée du contribuable pour l'année a été produite ou un formulaire prescrit modifiant sa déclaration de revenu pour l'année a été présenté conformément à l'alinéa (6)e) ou au paragraphe 49(4) ou 152(6) ou (6.1), dans le cas où il y a une telle production ou présentation;

l) le jour de la demande écrite à la suite de laquelle le ministre établit une nouvelle cotisation concernant l'impôt du contribuable pour l'année et qui tient compte de la déduction ou de l'exclusion, dans le cas où il y a une telle nouvelle cotisation.

Interest - disputed amounts

(5.1) Where a portion of a repayment made under subsection (1.1) or (4.1), or an amount applied under subsection (2) in respect of a repayment, can reasonably be regarded as being in respect of a claim made by the taxpayer in an objection to or appeal from an assessment of tax for a taxation year for a deduction or exclusion described in subsection (5) in respect of a subsequent taxation year, interest shall not be paid or applied on the portion for any part of a period that is before the latest of the dates described in paragraphs (5)(i) to (l).

Intérêts — sommes en litige

(5.1) Lorsqu'il est raisonnable de considérer qu'une partie d'une somme en litige remboursée en vertu des paragraphes (1.1) ou (4.1) ou imputée en vertu du paragraphe (2) sur un autre montant dont le contribuable est redevable concerne, dans le cadre d'une opposition faite ou d'un appel interjeté par le contribuable au sujet d'une cotisation concernant l'impôt pour une année d'imposition, une déduction ou une exclusion visée au paragraphe (5) que le contribuable demande pour une année d'imposition ultérieure, aucun intérêt n'est payé ni imputé relativement à la partie de la somme pour toute partie d'une période antérieure au dernier en date des jours visés aux alinéas (5)i) à l).

Disposition by legal representative of deceased

(6) If in the course of administering the graduated rate estate of a taxpayer, the taxpayer's legal representative has, within the first taxation year of the estate,

(a) disposed of capital property of the estate so that the total of all amounts each of which is a capital loss from the disposition of a property exceeds the total of all amounts each of which is a capital gain from the disposition of a property, or

Disposition d'un bien d'un contribuable décédé, par les représentants légaux

(6) Lorsque, au cours de l'administration de la succession assujettie à l'imposition à taux progressifs d'un contribuable, les représentants légaux du contribuable ont, durant la première année d'imposition de la succession :

a) soit disposé d'immobilisations de la succession de telle sorte que le total des sommes dont chacune représente une perte en capital à la disposition d'un bien

(b) disposed of all of the depreciable property of a prescribed class of the estate so that the undepreciated capital cost to the estate of property of that class at the end of the first taxation year of the estate is, by virtue of subsection 20(16) or any regulation made under paragraph 20(1)(a), deductible in computing the income of the estate for that year,

notwithstanding any other provision of this Act, the following rules apply:

(c) such parts of one or more capital losses of the estate from the disposition of properties in the year (the total of which is not to exceed the excess referred to in paragraph 164(6)(a)) as the legal representative so elects, in prescribed manner and within a prescribed time, are deemed (except for the purpose of subsection 112(3) and this paragraph) to be capital losses of the deceased taxpayer from the disposition of the properties by the taxpayer in the taxpayer's last taxation year and not to be capital losses of the estate from the disposition of those properties,

(d) such part of the amount of any deduction described in paragraph 164(6)(b) (not exceeding the amount that, but for this subsection, would be the total of the non-capital loss and the farm loss of the estate for its first taxation year) as the legal representative so elects, in prescribed manner and within a prescribed time, shall be deductible in computing the income of the taxpayer for the taxpayer's taxation year in which the taxpayer died and shall not be an amount deductible in computing any loss of the estate for its first taxation year,

(e) the legal representative shall, at or before the time prescribed for filing the election referred to in paragraphs 164(6)(c) and 164(6)(d), file an amended return of income for the deceased taxpayer for the taxpayer's taxation year in which the taxpayer died to give effect to the rules in those paragraphs, and

(f) in computing the taxable income of the deceased taxpayer for a taxation year preceding the year in which the taxpayer died, no amount may be deducted in respect of an amount referred to in paragraph 164(6)(c) or 164(6)(d).

excède le total des sommes dont chacune représente un gain en capital sur la disposition d'un bien;

b) soit disposé de tous les biens amortissables de la succession qui appartiennent à une catégorie prescrite de telle sorte que la fraction non amortie du coût en capital des biens de cette catégorie pour la succession, à la fin de la première année d'imposition de la succession, soit déductible, en vertu du paragraphe 20(16) ou des dispositions réglementaires prises en application de l'alinéa 20(1)a), dans le calcul du revenu de la succession de cette année,

les règles suivantes s'appliquent, malgré les autres dispositions de la présente loi :

c) la partie que le représentant légal choisit, selon les modalités et dans le délai réglementaires, d'une ou de plusieurs pertes en capital de la succession résultant de la disposition de biens au cours de l'année et dont le total ne dépasse pas l'excédent visé à l'alinéa a) est réputée représenter, sauf pour l'application du paragraphe 112(3) et du présent alinéa, des pertes en capital du contribuable décédé résultant de la disposition des biens par celui-ci au cours de sa dernière année d'imposition, et non des pertes en capital de la succession résultant de la disposition de ces biens;

d) la partie de toute déduction visée à l'alinéa b) (ne dépassant pas le montant qui, sans le présent paragraphe, correspondrait au total de la perte autre qu'une perte en capital et de la perte agricole de la succession pour sa première année d'imposition) que le représentant légal choisit, selon les modalités et dans le délai réglementaires, est déductible dans le calcul du revenu du contribuable pour l'année d'imposition où celui-ci est décédé, et non pas déductible dans le calcul de toute perte de la succession pour la première année d'imposition de la succession;

e) pour donner effet aux règles indiquées aux alinéas c) et d), le représentant légal doit produire, au plus tard à la date prescrite pour la présentation du choix prévu à ces alinéas, une déclaration de revenu modifiée au nom du contribuable décédé pour l'année d'imposition où celui-ci est décédé;

f) aucun montant n'est déductible au titre d'un montant visé à l'alinéa c) ou d) dans le calcul du revenu imposable du contribuable décédé pour une année d'imposition antérieure à l'année où il est décédé.

Realization of deceased employees' options

(6.1) Notwithstanding any other provision of this Act, if a right to acquire securities (as defined in subsection 7(7)) under an agreement in respect of which a benefit was deemed by paragraph 7(1)(e) to have been received

Réalisation d'options d'employés décédés

(6.1) Malgré les autres dispositions de la présente loi, lorsque le représentant légal d'un contribuable décédé lève, au cours de la première année d'imposition de la succession assujettie à l'imposition à taux progressifs du

by a taxpayer (in this subsection referred to as "the right") is exercised or disposed of by the taxpayer's legal representative within the first taxation year of the graduated rate estate of the taxpayer and the representative so elects in prescribed manner and on or before a prescribed day,

(a) the amount, if any, by which

(i) the amount of the benefit deemed by paragraph 7(1)(e) to have been received by the taxpayer in respect of the right

exceeds the total of

(ii) the amount, if any, by which the value of the right immediately before the time it was exercised or disposed of exceeds the amount, if any, paid by the taxpayer to acquire the right, and

(iii) where in computing the taxpayer's taxable income for the taxation year in which the taxpayer died an amount was deducted under paragraph 110(1)(d) in respect of the benefit deemed by paragraph 7(1)(e) to have been received by the taxpayer in that year by reason of paragraph 7(1)(e) in respect of that right, 1/2 of the amount, if any, by which the amount determined under subparagraph 164(6.1)(a)(i) exceeds the amount determined under subparagraph 164(6.1)(a)(ii),

shall be deemed to be a loss of the taxpayer from employment for the year in which the taxpayer died;

(b) there shall be deducted in computing the adjusted cost base to the estate of the right at any time the amount of the loss that would be determined under paragraph 164(6.1)(a) if that paragraph were read without reference to subparagraph 164(6.1)(a)(iii); and

(c) the legal representative shall, at or before the time prescribed for filing the election under this subsection, file an amended return of income for the taxpayer for the taxation year in which the taxpayer died to give effect to paragraph 164(6.1)(a).

contribuable, un droit d'acquérir des titres, au sens du paragraphe 7(7), en vertu d'une convention relativement à laquelle le contribuable est réputé par l'alinéa 7(1)e) avoir reçu un avantage, ou dispose d'un tel droit au cours de cette année, les règles ci-après s'appliquent si le représentant en fait le choix selon les modalités et dans le délai prévus par règlement :

a) est réputé être une perte du contribuable résultant d'un emploi pour l'année de son décès, l'excédent éventuel de la valeur suivante :

(i) la valeur de l'avantage que le contribuable est réputé par l'alinéa 7(1)e) avoir reçu au titre du droit,

sur le total des montants suivants :

(ii) l'excédent éventuel de la valeur du droit immédiatement avant sa levée ou sa disposition sur le montant que le contribuable a payé pour acquérir le droit,

(iii) lorsqu'un montant a été déduit en application de l'alinéa 110(1)d) dans le calcul du revenu imposable du contribuable pour l'année d'imposition de son décès relativement à l'avantage qu'il est réputé par l'alinéa 7(1)e) avoir reçu au cours de cette année au titre du droit, la moitié de l'excédent éventuel du montant déterminé selon le sous-alinéa (i) sur le montant déterminé selon le sous-alinéa (ii);

b) la perte qui serait déterminée selon l'alinéa a), compte non tenu du sous-alinéa a)(iii), est déduite dans le calcul du prix de base rajusté du droit pour la succession à un moment donné;

c) pour assurer la mise en œuvre de l'alinéa a), le représentant légal produit, dans le délai réglementaire fixé pour la production du choix prévu au présent paragraphe, une déclaration de revenu modifiée pour le contribuable visant l'année d'imposition de son décès.

Definition of *overpayment*

(7) In this section, ***overpayment*** of a taxpayer for a taxation year means

(a) where the taxpayer is not a corporation, the total of all amounts paid on account of the taxpayer's liability under this Part for the year minus all amounts payable in respect thereof; and

Sens de paiement en trop

(7) Au présent article, un paiement en trop fait par un contribuable pour une année d'imposition est égal au montant suivant :

a) si le contribuable n'est pas une société, le total des sommes versées sur les montants dont le contribuable est redevable en vertu de la présente partie pour l'année, moins ces mêmes montants;

(b) where the taxpayer is a corporation, the total of all amounts paid on account of the corporation's liability under this Part or Parts I.3, VI or VI.1 for the year minus all amounts payable in respect thereof.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 164; 1994, c. 7, Sch. II, s. 136, Sch. VI, s. 9, Sch. VII, s. 18, Sch. VIII, s. 97, c. 8, s. 27; 1996, c. 21, s. 44; 1997, c. 26, s. 86; 1998, c. 19, s. 190; 1999, c. 22, s. 66; 2001, c. 17, s. 156; 2002, c. 8, ss. 182, 184; 2003, c. 15, s. 118; 2005, c. 19, s. 37; 2006, c. 4, s. 163; 2010, c. 12, s. 19, c. 25, s. 42; 2013, c. 33, s. 17, c. 34, ss. 36, 321; 2014, c. 39, s. 60.

b) si le contribuable est une société, le total des sommes versées sur les montants dont la société est redevable en vertu de la présente partie ou des parties I.3, VI ou VI.1 pour l'année, moins ces mêmes montants.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 164; 1994, ch. 7, ann. II, art. 136, ann. VI, art. 9, ann. VII, art. 18, ann. VIII, art. 97, ch. 8, art. 27; 1996, ch. 21, art. 44; 1997, ch. 26, art. 86; 1998, ch. 19, art. 190; 1999, ch. 22, art. 66; 2001, ch. 17, art. 156; 2002, ch. 8, art. 182 et 184; 2003, ch. 15, art. 118; 2005, ch. 19, art. 37; 2006, ch. 4, art. 163; 2010, ch. 12, art. 19, ch. 25, art. 42; 2013, ch. 33, art. 17, ch. 34, art. 36 et 321; 2014, ch. 39, art. 60.

164.1 [Repealed, 1994, c. 7, Sch. VII, s. 19]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 164.1; 1994, c. 7, Sch. II, s. 137, Sch. VII, s. 19.

164.1 [Abrogé, 1994, ch. 7, ann. VII, art. 19]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 164.1; 1994, ch. 7, ann. II, art. 137, ann. VII, art. 19.

Objections to Assessments

Objections to assessment

165 (1) A taxpayer who objects to an assessment under this Part may serve on the Minister a notice of objection, in writing, setting out the reasons for the objection and all relevant facts,

(a) if the assessment is in respect of the taxpayer for a taxation year and the taxpayer is an individual (other than a trust) or a graduated rate estate for the year, on or before the later of

(i) the day that is one year after the taxpayer's filing-due date for the year, and

(ii) the day that is 90 days after the day of sending of the notice of assessment; and

(b) in any other case, on or before the day that is 90 days after the day of sending of the notice of assessment.

Limitation of right to object to assessments or determinations

(1.1) Notwithstanding subsection 165(1), where at any time the Minister assesses tax, interest, penalties or other amounts payable under this Part by, or makes a determination in respect of, a taxpayer

(a) under subsection 67.5(2) or 152(1.8), subparagraph 152(4)(b)(i) or subsection 152(4.3) or (6), 161.1(7), 164(4.1), 220(3.4) or 245(8) or in accordance with an order of a court vacating, varying or restoring an assessment or referring the assessment back to the Minister for reconsideration and reassessment,

Opposition à la cotisation

Opposition à la cotisation

165 (1) Le contribuable qui s'oppose à une cotisation prévue par la présente partie peut signifier au ministre, par écrit, un avis d'opposition exposant les motifs de son opposition et tous les faits pertinents, dans les délais suivants :

a) s'il s'agit d'une cotisation, pour une année d'imposition, relative à un contribuable qui est un particulier (sauf une fiducie) ou une succession assujettie à l'imposition à taux progressifs pour l'année, au plus tard au dernier en date des jours suivants :

(i) le jour qui tombe un an après la date d'échéance de production qui est applicable au contribuable pour l'année,

(ii) le quatre-vingt-dixième jour suivant la date d'envoi de l'avis de cotisation;

b) dans les autres cas, au plus tard le quatre-vingt-dixième jour suivant la date d'envoi de l'avis de cotisation.

Restriction

(1.1) Malgré le paragraphe (1), dans le cas où, à un moment donné, le ministre établit une cotisation concernant l'impôt, les intérêts, les pénalités ou d'autres montants payables par un contribuable en vertu de la présente partie ou détermine un montant à l'égard d'un contribuable :

a) soit en application des paragraphes 67.5(2) ou 152(1.8), du sous-alinéa 152(4)b)(i) ou des paragraphes 152(4.3) ou (6), 161.1(7), 164(4.1), 220(3.4) ou 245(8) ou en conformité avec l'ordonnance d'un tribunal qui annule, modifie ou rétablit la cotisation ou la renvoie au ministre pour nouvel examen et nouvelle cotisation;

(b) under subsection 165(3) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in paragraph 165(1.1)(a), or

(c) under a provision of an Act of Parliament requiring an assessment to be made that, but for that provision, would not be made because of subsections 152(4) to 152(5),

the taxpayer may object to the assessment or determination within 90 days after the day of sending of the notice of assessment or determination, but only to the extent that the reasons for the objection can reasonably be regarded

(d) where the assessment or determination was made under subsection 152(1.8), as relating to any matter or conclusion specified in paragraph 152(1.8)(a), 152(1.8)(b) or 152(1.8)(c), and

(e) in any other case, as relating to any matter that gave rise to the assessment or determination

and that was not conclusively determined by the court, and this subsection shall not be read or construed as limiting the right of the taxpayer to object to an assessment or a determination issued or made before that time.

b) soit en application du paragraphe (3), à la suite d'un avis d'opposition relatif à une cotisation établie ou un montant déterminé en application des dispositions visées à l'alinéa a) ou dans les circonstances qui y sont indiquées;

c) soit en application d'une disposition d'une loi fédérale exigeant l'établissement d'une cotisation qui, sans cette disposition, ne serait pas établie en vertu des paragraphes 152(4) à (5),

le contribuable peut faire opposition à la cotisation ou au montant déterminé dans les 90 jours suivant la date d'envoi de l'avis de cotisation ou de l'avis portant qu'un montant a été déterminé, mais seulement dans la mesure où il est raisonnable de considérer que les motifs d'opposition sont liés à l'une des questions ci-après que le tribunal n'a pas tranchée définitivement :

d) dans le cas où la cotisation a été établie ou le montant, déterminé en application du paragraphe 152(1.8), une question précisée aux alinéas 152(1.8)a), b) ou c);

e) dans les autres cas, une question qui a donné lieu à la cotisation ou au montant déterminé.

Toutefois, le présent paragraphe n'a pas pour effet de limiter le droit du contribuable de s'opposer à quelque cotisation établie ou montant déterminé avant le moment donné.

Objections by large corporations

(1.11) Where a corporation that was a large corporation in a taxation year (within the meaning assigned by subsection 225.1(8)) objects to an assessment under this Part for the year, the notice of objection shall

(a) reasonably describe each issue to be decided;

(b) specify in respect of each issue, the relief sought, expressed as the amount of a change in a balance (within the meaning assigned by subsection 152(4.4)) or a balance of undeducted outlays, expenses or other amounts of the corporation; and

(c) provide facts and reasons relied on by the corporation in respect of each issue.

Oppositions par les grandes sociétés

(1.11) Dans le cas où une société qui était une grande société au cours d'une année d'imposition, au sens du paragraphe 225.1(8), s'oppose à une cotisation établie en vertu de la présente partie pour l'année, l'avis d'opposition doit, à la fois :

a) donner une description suffisante de chaque question à trancher;

b) préciser, pour chaque question, le redressement demandé, sous la forme du montant qui représente la modification d'un solde, au sens du paragraphe 152(4.4), ou d'un solde de dépenses ou autres montants non déduits applicable à la société;

c) fournir, pour chaque question, les motifs et les faits sur lesquels se fonde la société.

Late compliance

(1.12) Notwithstanding subsection 165(1.11), where a notice of objection served by a corporation to which that subsection applies does not include the information required by paragraph 165(1.11)(b) or 165(1.11)(c) in respect of an issue to be decided that is described in the notice, the Minister may in writing request the corporation

Observation tardive

(1.12) Malgré le paragraphe (1.11), dans le cas où un avis d'opposition signifié par une société à laquelle ce paragraphe s'applique ne contient pas les renseignements requis selon les alinéas (1.11)b) ou c) relativement à une question à trancher qui est décrite dans l'avis, le ministre peut demander par écrit à la société de fournir ces

to provide the information, and those paragraphs shall be deemed to be complied with in respect of the issue if, within 60 days after the request is made, the corporation submits the information in writing to a Chief of Appeals referred to in subsection 165(2).

Limitation on objections by large corporations

(1.13) Notwithstanding subsections 165(1) and 165(1.1), where under subsection 165(3) a particular assessment was made for a taxation year pursuant to a notice of objection served by a corporation that was a large corporation in the year (within the meaning assigned by subsection 225.1(8)), except where the objection was made to an earlier assessment made under any of the provisions or circumstances referred to in paragraph 165(1.1)(a), the corporation may object to the particular assessment in respect of an issue

(a) only if the corporation complied with subsection 165(1.11) in the notice with respect to that issue; and

(b) only with respect to the relief sought in respect of that issue as specified by the corporation in the notice.

Application of subsection (1.13)

(1.14) Where a particular assessment is made under subsection 165(3) pursuant to an objection made by a taxpayer to an earlier assessment, subsection 165(1.13) does not limit the right of the taxpayer to object to the particular assessment in respect of an issue that was part of the particular assessment and not part of the earlier assessment.

Partnership

(1.15) Notwithstanding subsection 165(1), where the Minister makes a determination under subsection 152(1.4) in respect of a fiscal period of a partnership, an objection in respect of the determination may be made only by one member of the partnership, and that member must be either

(a) designated for that purpose in the information return made under section 229 of the *Income Tax Regulations* for the fiscal period; or

(b) otherwise expressly authorized by the partnership to so act.

Limitation on objections

(1.2) Notwithstanding subsections (1) and (1.1), no objection may be made by a taxpayer to an assessment made under subsection 118.1(11), 152(4.2), 169(3) or 220(3.1) nor, for greater certainty, in respect of an issue

renseignements. La société est réputée s'être conformée à ces alinéas relativement à la question à trancher si, dans les 60 jours suivant la date de la demande par le ministre, elle communique par écrit les renseignements requis au chef des Appels visé au paragraphe (2).

Restriction touchant les oppositions par les grandes sociétés

(1.13) Malgré les paragraphes (1) et (1.1), dans le cas où une cotisation est établie en application du paragraphe (3) pour une année d'imposition par suite d'un avis d'opposition signifié par une société qui était une grande société au cours de l'année, au sens du paragraphe 225.1(8), sauf si l'opposition concerne une cotisation précédente établie en application d'une disposition visée à l'alinéa (1.1)a) ou dans les circonstances qui y sont déterminées, la société peut faire opposition à cette cotisation relativement à une question à trancher :

a) seulement si, relativement à cette question, elle s'est conformée au paragraphe (1.11) dans l'avis;

b) seulement à l'égard du redressement, tel qu'il est exposé dans l'avis, qu'elle demande relativement à cette question.

Application du paragraphe (1.13)

(1.14) Dans le cas où une cotisation est établie en application du paragraphe (3) par suite d'une opposition faite par un contribuable à une cotisation précédente, le paragraphe (1.13) n'a pas pour effet de limiter le droit du contribuable de s'opposer à la cotisation relativement à une question sur laquelle porte cette cotisation mais non la cotisation précédente.

Sociétés de personnes

(1.15) Malgré le paragraphe (1), dans le cas où le ministre détermine un montant en application du paragraphe 152(1.4) relativement à l'exercice d'une société de personnes, seul est autorisé à faire une opposition concernant ce montant l'associé de la société de personnes qui est, selon le cas :

a) désigné à cette fin dans la déclaration de renseignements présentée en application de l'article 229 du *Règlement de l'impôt sur le revenu* pour l'exercice;

b) autrement expressément autorisé par la société de personnes à agir ainsi.

Restriction

(1.2) Malgré les paragraphes (1) et (1.1), aucune opposition ne peut être faite par un contribuable à une cotisation établie en application des paragraphes 118.1(11), 152(4.2), 169(3) ou 220(3.1). Il est entendu que cette

for which the right of objection has been waived in writing by the taxpayer.

Service

(2) A notice of objection under this section shall be served by being addressed to the Chief of Appeals in a District Office or a Taxation Centre of the Canada Revenue Agency and delivered or mailed to that Office or Centre.

Application

(2.1) Notwithstanding any other provision of this Act, paragraph (1)(a) shall apply only in respect of assessments, determinations and redeterminations under this Part and Part I.2.

Duties of Minister

(3) On receipt of a notice of objection under this section, the Minister shall, with all due dispatch, reconsider the assessment and vacate, confirm or vary the assessment or reassess, and shall thereupon notify the taxpayer in writing of the Minister's action.

(3.1) and (3.2) [Repealed, 1998, c. 19, s. 192(4)]

(4) [Repealed, 1994, c. 7, Sch. VIII, s. 98(3)]

Validity of reassessment

(5) The limitations imposed under subsections 152(4) and 152(4.01) do not apply to a reassessment made under subsection 165(3).

Validity of notice of objection

(6) The Minister may accept a notice of objection served under this section that was not served in the manner required by subsection 165(2).

Notice of objection not required

(7) Where a taxpayer has served in accordance with this section a notice of objection to an assessment and thereafter the Minister reassesses the tax, interest, penalties or other amount in respect of which the notice of objection was served or makes an additional assessment in respect thereof and sends to the taxpayer a notice of the reassessment or of the additional assessment, as the case may be, the taxpayer may, without serving a notice of objection to the reassessment or additional assessment,

(a) appeal therefrom to the Tax Court of Canada in accordance with section 169; or

interdiction vaut pour les oppositions relatives à une question pour laquelle le contribuable a renoncé par écrit à son droit d'opposition.

Signification

(2) L'avis d'opposition prévu au présent article est signifié au chef des Appels d'un bureau de district ou d'un centre fiscal de l'Agence du revenu du Canada soit par personne, soit par courrier.

Application

(2.1) Malgré les autres dispositions de la présente loi, l'alinéa (1)a) s'applique uniquement aux cotisations établies et aux montants déterminés ou déterminés de nouveau en application de la présente partie et de la partie I.2.

Obligations du ministre

(3) Sur réception de l'avis d'opposition, le ministre, avec diligence, examine de nouveau la cotisation et l'annule, la ratifie ou la modifie ou établit une nouvelle cotisation. Dès lors, il avise le contribuable de sa décision par écrit.

(3.1) et (3.2) [Abrogés, 1998, ch. 19, art. 192(4)]

(4) [Abrogé, 1994, ch. 7, ann. VIII, art. 98(3)]

Validité d'une nouvelle cotisation

(5) Les restrictions prévues aux paragraphes 152(4) et (4.01) ne s'appliquent pas aux nouvelles cotisations établies en vertu du paragraphe (3).

Validité de l'avis d'opposition

(6) Le ministre peut accepter un avis d'opposition signifié en vertu du présent article malgré l'inobservation des modalités prévues au paragraphe (2).

Avis d'opposition non requis

(7) Lorsqu'un contribuable a signifié un avis d'opposition à une cotisation conformément au présent article et que, par la suite, le ministre procède à une nouvelle cotisation ou établit une cotisation supplémentaire concernant l'impôt, les intérêts, les pénalités ou autres montants que l'avis d'opposition visait et envoie au contribuable un avis de nouvelle cotisation ou de cotisation supplémentaire, le contribuable peut, sans signifier d'avis d'opposition à la nouvelle cotisation ou la cotisation supplémentaire :

a) interjeter appel auprès de la Cour canadienne de l'impôt conformément à l'article 169;

(b) amend any appeal to the Tax Court of Canada that has been instituted with respect to the assessment by joining thereto an appeal in respect of the reassessment or the additional assessment in such manner and on such terms, if any, as the Tax Court of Canada directs.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 165; 1994, c. 7, Sch. II, s. 138, Sch. VII, s. 20, Sch. VIII, s. 98, c. 13, s. 8; 1995, c. 21, s. 70, c. 38, ss. 4, 9; 1996, c. 11, s. 95, c. 21, s. 45; 1998, c. 19, s. 192; 1999, c. 17, s. 168; 2000, c. 19, s. 51; 2001, c. 17, s. 157; 2005, c. 38, s. 138; 2010, c. 25, s. 43; 2014, c. 39, s. 61.

b) si un appel a déjà été interjeté auprès de la Cour canadienne de l'impôt relativement à cette cotisation, modifier l'avis d'appel en y joignant un appel relativement à la nouvelle cotisation ou à la cotisation supplémentaire, dans la forme et selon les modalités qui peuvent être fixées par la Cour canadienne de l'impôt.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 165; 1994, ch. 7, ann. II, art. 138, ann. VII, art. 20, ann. VIII, art. 98, ch. 13, art. 8; 1995, ch. 21, art. 70, ch. 38, art. 4 et 9; 1996, ch. 11, art. 95, ch. 21, art. 45; 1998, ch. 19, art. 192; 1999, ch. 17, art. 168; 2000, ch. 19, art. 51; 2001, ch. 17, art. 157; 2005, ch. 38, art. 138; 2010, ch. 25, art. 43; 2014, ch. 39, art. 61.

General

Irregularities

166 An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"166".

Extension of time by Minister

166.1 (1) Where no notice of objection to an assessment has been served under section 165, nor any request under subsection 245(6) made, within the time limited by those provisions for doing so, the taxpayer may apply to the Minister to extend the time for serving the notice of objection or making the request.

Contents of application

(2) An application made under subsection 166.1(1) shall set out the reasons why the notice of objection or the request was not served or made, as the case may be, within the time otherwise limited by this Act for doing so.

How application made

(3) An application under subsection 166.1(1) shall be made by being addressed to the Chief of Appeals in a District Office or a Taxation Centre of the Canada Revenue Agency and delivered or mailed to that Office or Centre, accompanied by a copy of the notice of objection or a copy of the request, as the case may be.

Idem

(4) The Minister may accept an application under this section that was not made in the manner required by subsection 166.1(3).

Dispositions générales

Irrégularités

166 Une cotisation ne peut être annulée ni modifiée lors d'un appel uniquement par suite d'irrégularité, de vice de forme, d'omission ou d'erreur de la part de qui que ce soit dans l'observation d'une disposition simplement directrice de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 166 ».

Prorogation du délai par le ministre

166.1 (1) Le contribuable qui n'a pas signifié d'avis d'opposition à une cotisation en application de l'article 165 ni présenté de requête en application du paragraphe 245(6) dans le délai imparti peut demander au ministre de proroger le délai pour signifier l'avis ou présenter la requête.

Contenu de la demande

(2) La demande doit indiquer les raisons pour lesquelles l'avis d'opposition n'a pas été signifié ou la requête, présentée dans le délai par ailleurs imparti.

Modalités

(3) La demande, accompagnée d'un exemplaire de l'avis d'opposition ou de la requête, est envoyée au chef des Appels d'un bureau de district ou d'un centre fiscal de l'Agence du revenu du Canada soit par personne, soit par courrier.

Inobservation

(4) Le ministre peut faire droit à la demande malgré l'inobservation des modalités prévues au paragraphe (3).

Duties of Minister

(5) On receipt of an application made under subsection 166.1(1), the Minister shall, with all due dispatch, consider the application and grant or refuse it, and shall thereupon notify the taxpayer in writing of the Minister's decision.

Date of objection or request if application granted

(6) If an application made under subsection (1) is granted, the notice of objection or the request, as the case may be, is deemed to have been served or made on the day on which the decision of the Minister is sent to the taxpayer.

When order to be made

(7) No application shall be granted under this section unless

(a) the application is made within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such a notice or making such a request, as the case may be, the taxpayer

(A) was unable to act or to instruct another to act in the taxpayer's name, or

(B) had a *bona fide* intention to object to the assessment or make the request,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made as soon as circumstances permitted.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 139, Sch. VIII, s. 99, c. 13, s. 8; 1999, c. 17, s. 168; 2005, c. 38, s. 138; 2010, c. 25, s. 44.

Extension of time by Tax Court

166.2 (1) A taxpayer who has made an application under subsection 166.1 may apply to the Tax Court of Canada to have the application granted after either

(a) the Minister has refused the application, or

(b) 90 days have elapsed after service of the application under subsection 166.1(1) and the Minister has not notified the taxpayer of the Minister's decision,

Obligations du ministre

(5) Sur réception de la demande, le ministre, avec diligence, l'examine et y fait droit ou la rejette. Dès lors, il avise le contribuable de sa décision par écrit.

Date de production de l'avis d'opposition ou de la requête

(6) S'il est fait droit à la demande, l'avis d'opposition est réputé signifié ou la requête, présentée à la date de l'envoi de la décision du ministre au contribuable.

Conditions d'acceptation de la demande

(7) Il n'est fait droit à la demande que si les conditions suivantes sont réunies :

a) la demande est présentée dans l'année suivant l'expiration du délai par ailleurs imparti pour signifier un avis d'opposition ou présenter une requête;

b) le contribuable démontre ce qui suit :

(i) dans le délai par ailleurs imparti pour signifier l'avis ou présenter la requête, il n'a pu ni agir ni charger quelqu'un d'agir en son nom, ou il avait véritablement l'intention de faire opposition à la cotisation ou de présenter la requête,

(ii) compte tenu des raisons indiquées dans la demande et des circonstances de l'espèce, il est juste et équitable de faire droit à la demande,

(iii) la demande a été présentée dès que les circonstances le permettaient.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 139, ann. VIII, art. 99, ch. 13, art. 8; 1999, ch. 17, art. 168; 2005, ch. 38, art. 138; 2010, ch. 25, art. 44.

Prorogation du délai par la Cour canadienne de l'impôt

166.2 (1) Le contribuable qui a présenté une demande en application de l'article 166.1 peut demander à la Cour canadienne de l'impôt d'y faire droit après :

a) le rejet de la demande par le ministre;

b) l'expiration d'un délai de 90 jours suivant la présentation de la demande, si le ministre n'a pas avisé le contribuable de sa décision.

but no application under this section may be made after the expiration of 90 days after the day on which notification of the decision was mailed to the taxpayer.

How application made

(2) An application under subsection (1) shall be made by filing in the Registry of the Tax Court of Canada, in accordance with the provisions of the *Tax Court of Canada Act*, three copies of the documents referred to in subsection 166.1(3) and three copies of the notification, if any, referred to in subsection 166.1(5).

Copy to Deputy Minister

(3) The Tax Court of Canada shall send a copy of each application made under this section to the office of the Commissioner of Revenue.

Powers of Court

(4) The Tax Court of Canada may grant or dismiss an application made under subsection 166.2(1) and, in granting an application, may impose such terms as it deems just or order that the notice of objection be deemed to have been served on the date of its order.

When application to be granted

(5) No application shall be granted under this section unless

(a) the application was made under subsection 166.1(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection or making a request, as the case may be; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by this Act for serving such a notice or making such a request, as the case may be, the taxpayer

(A) was unable to act or to instruct another to act in the taxpayer's name, or

(B) had a *bona fide* intention to object to the assessment or make the request,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application was made under subsection 166.1(1) as soon as circumstances permitted.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 139, c. 13, s. 7; 1999, c. 17, s. 167; 2000, c. 30, s. 171; 2001, c. 17, s. 264; 2005, c. 38, s. 140.

Toutefois, une telle demande ne peut être présentée après l'expiration d'un délai de 90 jours suivant la date de la mise à la poste de l'avis de la décision au contribuable.

Modalités

(2) La demande se fait par dépôt au greffe de la Cour canadienne de l'impôt, conformément à la *Loi sur la Cour canadienne de l'impôt*, de trois exemplaires des documents visés au paragraphe 166.1(3) et de trois exemplaires de l'avis visé au paragraphe 166.1(5).

Copie au sous-ministre

(3) La Cour canadienne de l'impôt envoie une copie de la demande au bureau du commissaire du revenu.

Pouvoirs de la Cour canadienne de l'impôt

(4) La Cour canadienne de l'impôt peut rejeter la demande ou y faire droit. Dans ce dernier cas, elle peut imposer les conditions qu'elle estime justes ou ordonner que l'avis d'opposition soit réputé signifié à la date de l'ordonnance.

Acceptation de la demande

(5) Il n'est fait droit à la demande que si les conditions suivantes sont réunies :

a) la demande a été présentée en application du paragraphe 166.1(1) dans l'année suivant l'expiration du délai par ailleurs imparti pour signifier un avis d'opposition ou présenter une requête;

b) le contribuable démontre ce qui suit :

(i) dans le délai par ailleurs imparti pour signifier l'avis ou présenter la requête, il n'a pu ni agir ni charger quelqu'un d'agir en son nom, ou il avait véritablement l'intention de faire opposition à la cotisation ou de présenter la requête,

(ii) compte tenu des raisons indiquées dans la demande et des circonstances de l'espèce, il est juste et équitable de faire droit à la demande,

(iii) la demande a été présentée dès que les circonstances le permettaient.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 139, ch. 13, art. 7; 1999, ch. 17, art. 167; 2000, ch. 30, art. 171; 2001, ch. 17, art. 264; 2005, ch. 38, art. 140.

Extension of time to appeal

167 (1) Where an appeal to the Tax Court of Canada has not been instituted by a taxpayer under section 169 within the time limited by that section for doing so, the taxpayer may make an application to the Court for an order extending the time within which the appeal may be instituted and the Court may make an order extending the time for appealing and may impose such terms as it deems just.

Contents of application

(2) An application made under subsection 167(1) shall set out the reasons why the appeal was not instituted within the time limited by section 169 for doing so.

How application made

(3) An application made under subsection (1) shall be made by filing in the Registry of the Tax Court of Canada, in accordance with the provisions of the *Tax Court of Canada Act*, three copies of the application accompanied by three copies of the notice of appeal.

Copy to Deputy Attorney General

(4) The Tax Court of Canada shall send a copy of each application made under this section to the office of the Deputy Attorney General of Canada.

When order to be made

(5) No order shall be made under this section unless

(a) the application is made within one year after the expiration of the time limited by section 169 for appealing; and

(b) the taxpayer demonstrates that

(i) within the time otherwise limited by section 169 for appealing the taxpayer

(A) was unable to act or to instruct another to act in the taxpayer's name, or

(B) had a *bona fide* intention to appeal,

(ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application,

(iii) the application was made as soon as circumstances permitted, and

(iv) there are reasonable grounds for the appeal.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 167; 1994, c. 7, Sch. II, s. 139; 2000, c. 30, s. 172.

Prorogation du délai d'appel

167 (1) Le contribuable qui n'a pas interjeté appel en application de l'article 169 dans le délai imparti peut présenter à la Cour canadienne de l'impôt une demande de prorogation du délai pour interjeter appel. La Cour peut faire droit à la demande et imposer les conditions qu'elle estime justes.

Contenu de la demande

(2) La demande doit indiquer les raisons pour lesquelles l'appel n'a pas été interjeté dans le délai imparti.

Modalités

(3) La demande, accompagnée de trois exemplaires de l'avis d'appel, est déposée en trois exemplaires au greffe de la Cour canadienne de l'impôt conformément à la *Loi sur la Cour canadienne de l'impôt*.

Copie au sous-procureur général

(4) La Cour canadienne de l'impôt envoie une copie de la demande au bureau du sous-procureur général du Canada.

Acceptation de la demande

(5) Il n'est fait droit à la demande que si les conditions suivantes sont réunies :

a) la demande a été présentée dans l'année suivant l'expiration du délai imparti en vertu de l'article 169 pour interjeter appel;

b) le contribuable démontre ce qui suit :

(i) dans le délai par ailleurs imparti pour interjeter appel, il n'a pu ni agir ni charger quelqu'un d'agir en son nom, ou il avait véritablement l'intention d'interjeter appel,

(ii) compte tenu des raisons indiquées dans la demande et des circonstances de l'espèce, il est juste et équitable de faire droit à la demande,

(iii) la demande a été présentée dès que les circonstances le permettaient,

(iv) l'appel est raisonnablement fondé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 167; 1994, ch. 7, ann. II, art. 139; 2000, ch. 30, art. 172.

Revocation of Registration of Certain Organizations and Associations

Notice of intention to revoke registration

168 (1) The Minister may, by registered mail, give notice to a person described in any of paragraphs (a) to (c) of the definition ***qualified donee*** in subsection 149.1(1) that the Minister proposes to revoke its registration if the person

(a) applies to the Minister in writing for revocation of its registration;

(b) ceases to comply with the requirements of this Act for its registration;

(c) in the case of a registered charity or registered Canadian amateur athletic association, fails to file an information return as and when required under this Act or a regulation;

(d) issues a receipt for a gift otherwise than in accordance with this Act and the regulations or that contains false information;

(e) fails to comply with or contravenes any of sections 230 to 231.5; or

(f) in the case of a registered Canadian amateur athletic association, accepts a gift the granting of which was expressly or implicitly conditional on the association making a gift to another person, club, society or association.

Revocation of registration

(2) Where the Minister gives notice under subsection 168(1) to a registered charity or to a registered Canadian amateur athletic association,

(a) if the charity or association has applied to the Minister in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy of the notice in the *Canada Gazette*, and

(b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge of that Court, on application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the

Révocation de l'enregistrement de certaines œuvres et associations

Avis d'intention de révoquer l'enregistrement

168 (1) Le ministre peut, par lettre recommandée, aviser une personne visée à l'un des alinéas a) à c) de la définition de ***donataire reconnu*** au paragraphe 149.1(1) de son intention de révoquer l'enregistrement si la personne, selon le cas :

a) s'adresse par écrit au ministre, en vue de faire révoquer son enregistrement;

b) cesse de se conformer aux exigences de la présente loi relatives à son enregistrement;

c) dans le cas d'un organisme de bienfaisance enregistré ou d'une association canadienne enregistrée de sport amateur, omet de présenter une déclaration de renseignements, selon les modalités et dans les délais prévus par la présente loi ou par son règlement;

d) délivre un reçu pour un don sans respecter les dispositions de la présente loi et de son règlement ou contenant des renseignements faux;

e) omet de se conformer à l'un des articles 230 à 231.5 ou y contrevient;

f) dans le cas d'une association canadienne enregistrée de sport amateur, accepte un don fait explicitement ou implicitement à la condition que l'association fasse un don à une autre personne, à un autre club ou à une autre association.

Révocation de l'enregistrement

(2) Le ministre doit, dans le cas de l'alinéa a), et peut, dans les autres cas, publier dans la Gazette du Canada copie de l'avis prévu au paragraphe (1). Sur publication de cette copie, l'enregistrement de l'organisme de bienfaisance ou de l'association canadienne de sport amateur est révoqué. La copie de l'avis doit être publiée dans les délais suivants :

a) immédiatement après la mise à la poste de l'avis, si l'organisme de bienfaisance ou l'association a adressé la demande visée à l'alinéa (1)a);

b) dans les autres cas, soit 30 jours après la mise à la poste de l'avis, soit à l'expiration de tout délai supérieur à 30 jours courant de la mise à la poste de l'avis que la Cour d'appel fédérale ou l'un de ses juges fixe, sur demande formulée avant qu'il ne soit statué sur

notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*,

and on that publication of a copy of the notice, the registration of the charity or association is revoked.

Charities Registration (Security Information) Act

(3) Notwithstanding subsections (1), (2) and (4), if a registered charity is the subject of a certificate that is determined to be reasonable under subsection 7(1) of the *Charities Registration (Security Information) Act*, the registration of the charity is revoked as of the making of that determination.

Objection to proposal or designation

(4) A person may, on or before the day that is 90 days after the day on which the notice was mailed, serve on the Minister a written notice of objection in the manner authorized by the Minister, setting out the reasons for the objection and all the relevant facts, and the provisions of subsections 165(1), (1.1) and (3) to (7) and sections 166, 166.1 and 166.2 apply, with any modifications that the circumstances require, as if the notice were a notice of assessment made under section 152, if

(a) in the case of a person that is or was registered as a registered charity or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(2) to (4.1), (6.3), (22) and (23);

(b) in the case of a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.2) and (22); or

(c) in the case of a person described in any of subparagraphs (a)(i) to (v) of the definition ***qualified donee*** in subsection 149.1(1), that is or was registered by the Minister as a qualified donee or is an applicant for such registration, it objects to a notice under any of subsections (1) and 149.1(4.3) and (22).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 168; 2001, c. 41, ss. 114, 127; 2005, c. 19, s. 38; 2011, c. 24, s. 53.

tout appel interjeté en vertu du paragraphe 172(3) au sujet de la signification de cet avis.

Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)

(3) Malgré les paragraphes (1), (2) et (4), l'enregistrement d'un organisme de bienfaisance est révoqué dès qu'un certificat le concernant est jugé raisonnable au titre du paragraphe 7(1) de la *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)*.

Opposition à l'intention de révocation ou à la désignation

(4) Une personne peut, au plus tard le quatre-vingt-dixième jour suivant la date de mise à la poste de l'avis, signifier au ministre, par écrit et de la manière autorisée par celui-ci, un avis d'opposition exposant les motifs de l'opposition et tous les faits pertinents, et les paragraphes 165(1), (1.1) et (3) à (7) et les articles 166, 166.1 et 166.2 s'appliquent, avec les adaptations nécessaires, comme si l'avis était un avis de cotisation établi en vertu de l'article 152, si :

a) dans le cas d'une personne qui est ou était enregistrée à titre d'organisme de bienfaisance enregistré ou qui a présenté une demande d'enregistrement à ce titre, elle s'oppose à l'avis prévu au paragraphe (1) ou à l'un des paragraphes 149.1(2) à (4.1), (6.3), (22) et (23);

b) dans le cas d'une personne qui est ou était enregistrée à titre d'association canadienne enregistrée de sport amateur ou qui a présenté une demande d'enregistrement à ce titre, elle s'oppose à l'avis prévu aux paragraphes (1) ou 149.1(4.2) ou (22);

c) dans le cas d'une personne visée à l'un des sous-alinéas a)(i) à (v) de la définition de ***donataire reconnu*** au paragraphe 149.1(1) qui est ou a été enregistrée par le ministre à titre de donataire reconnu ou qui a présenté une demande d'enregistrement à ce titre, elle s'oppose à l'avis prévu aux paragraphes (1) ou 149.1(4.3) ou (22).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 168; 2001, ch. 41, art. 114 et 127; 2005, ch. 19, art. 38; 2011, ch. 24, art. 53.

DIVISION J

Appeals to the Tax Court of Canada and the Federal Court of Appeal

Appeal

169 (1) Where a taxpayer has served notice of objection to an assessment under section 165, the taxpayer may appeal to the Tax Court of Canada to have the assessment vacated or varied after either

(a) the Minister has confirmed the assessment or reassessed, or

(b) 90 days have elapsed after service of the notice of objection and the Minister has not notified the taxpayer that the Minister has vacated or confirmed the assessment or reassessed,

but no appeal under this section may be instituted after the expiration of 90 days from the day notice has been sent to the taxpayer under section 165 that the Minister has confirmed the assessment or reassessed.

Ecological gifts

(1.1) Where at any particular time a taxpayer has disposed of a property, the fair market value of which has been confirmed or redetermined by the Minister of the Environment under subsection 118.1(10.4), the taxpayer may, within 90 days after the day on which that Minister has issued a certificate under subsection 118.1(10.5), appeal the confirmation or redetermination to the Tax Court of Canada.

Limitation of right to appeal from assessments or determinations

(2) Notwithstanding subsection 169(1), where at any time the Minister assesses tax, interest, penalties or other amounts payable under this Part by, or makes a determination in respect of, a taxpayer

(a) under subsection 67.5(2) or 152(1.8), subparagraph 152(4)(b)(i) or subsection 152(4.3) or 152(6), 164(4.1), 220(3.4) or 245(8) or in accordance with an order of a court vacating, varying or restoring the assessment or referring the assessment back to the Minister for reconsideration and reassessment,

(b) under subsection 165(3) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in paragraph 169(2)(a), or

SECTION J

Appels auprès de la Cour canadienne de l'impôt et de la Cour d'appel fédérale

Appel

169 (1) Lorsqu'un contribuable a signifié un avis d'opposition à une cotisation, prévu à l'article 165, il peut interjeter appel auprès de la Cour canadienne de l'impôt pour faire annuler ou modifier la cotisation :

a) après que le ministre a ratifié la cotisation ou procédé à une nouvelle cotisation;

b) après l'expiration des 90 jours qui suivent la signification de l'avis d'opposition sans que le ministre ait notifié au contribuable le fait qu'il a annulé ou ratifié la cotisation ou procédé à une nouvelle cotisation;

toutefois, nul appel prévu au présent article ne peut être interjeté après l'expiration des 90 jours qui suivent la date où avis a été envoyé au contribuable, en vertu de l'article 165, portant que le ministre a ratifié la cotisation ou procédé à une nouvelle cotisation.

Dons de biens écosensibles

(1.1) Le contribuable qui dispose d'un bien dont la juste valeur marchande a été confirmée ou fixée de nouveau par le ministre de l'Environnement aux termes du paragraphe 118.1(10.4) peut, dans les 90 jours suivant le jour où ce ministre a délivré l'attestation prévue au paragraphe 118.1(10.5), interjeter appel auprès de la Cour canadienne de l'impôt pour faire modifier la valeur ainsi confirmée ou fixée de nouveau.

Restriction

(2) Malgré le paragraphe (1), dans le cas où, à un moment donné, le ministre établit une cotisation concernant l'impôt, les intérêts, les pénalités ou d'autres montants payables par un contribuable en vertu de la présente partie ou détermine un montant à l'égard d'un contribuable :

a) soit en application des paragraphes 67.5(2) ou 152(1.8), du sous-alinéa 152(4)b)(i) ou des paragraphes 152(4.3) ou (6), 164(4.1), 220(3.4) ou 245(8) ou en conformité avec l'ordonnance d'un tribunal qui annule, modifie ou rétablit la cotisation ou la renvoie au ministre pour nouvel examen et nouvelle cotisation;

b) soit en application du paragraphe 165(3), à la suite d'un avis d'opposition relatif à une cotisation établie ou un montant déterminé en application des

(c) under a provision of an Act of Parliament requiring an assessment to be made that, but for that provision, would not be made because of subsections 152(4) to 152(5),

the taxpayer may appeal to the Tax Court of Canada within the time limit specified in subsection 169(1), but only to the extent that the reasons for the appeal can reasonably be regarded

(d) where the assessment or determination was made under subsection 152(1.8), as relating to any matter specified in paragraph 152(1.8)(a), 152(1.8)(b) or 152(1.8)(c), and

(e) in any other case, as relating to any matter that gave rise to the assessment or determination

and that was not conclusively determined by the Court, and this subsection shall not be read or construed as limiting the right of the taxpayer to appeal from an assessment or a determination issued or made before that time.

c) soit en application d'une disposition d'une loi fédérale exigeant l'établissement d'une cotisation qui, sans cette disposition, ne serait pas établie en vertu des paragraphes 152(4) à (5),

le contribuable peut interjeter appel auprès de la Cour canadienne de l'impôt dans le délai précisé au paragraphe (1) seulement dans la mesure où il est raisonnable de considérer que les motifs d'appel sont liés à l'une des questions suivantes que la Cour n'a pas tranchée définitivement :

d) dans le cas où la cotisation a été établie ou le montant, déterminé en application du paragraphe 152(1.8), une question précisée aux alinéas 152(1.8)a), b) ou c);

e) dans les autres cas, une question qui a donné lieu à la cotisation ou au montant déterminé.

Toutefois, le présent paragraphe n'a pas pour effet de limiter le droit du contribuable d'en appeler de quelque cotisation établie ou montant déterminé avant le moment donné.

Limitation on appeals by large corporations

(2.1) Notwithstanding subsections 169(1) and 169(2), where a corporation that was a large corporation in a taxation year (within the meaning assigned by subsection 225.1(8)) served a notice of objection to an assessment under this Part for the year, the corporation may appeal to the Tax Court of Canada to have the assessment vacated or varied only with respect to

(a) an issue in respect of which the corporation has complied with subsection 165(1.11) in the notice, or

(b) an issue described in subsection 165(1.14) where the corporation did not, because of subsection 165(7), serve a notice of objection to the assessment that gave rise to the issue

and, in the case of an issue described in paragraph 169(2.1)(a), the corporation may so appeal only with respect to the relief sought in respect of the issue as specified by the corporation in the notice.

Restriction touchant l'appel d'une grande société

(2.1) Malgré les paragraphes (1) et (2), la société qui était une grande société au cours d'une année d'imposition, au sens du paragraphe 225.1(8) et qui signifie un avis d'opposition à une cotisation établie en vertu de la présente partie pour l'année ne peut interjeter appel devant la Cour canadienne de l'impôt pour faire annuler ou modifier la cotisation qu'à l'égard des questions suivantes :

a) une question relativement à laquelle elle s'est conformée au paragraphe 165(1.11) dans l'avis, mais seulement à l'égard du redressement, tel qu'il est exposé dans l'avis, qu'elle demande relativement à cette question;

b) une question visée au paragraphe 165(1.14), dans le cas où elle n'a pas, à cause du paragraphe 165(7), signifier d'avis d'opposition à la cotisation qui a donné lieu à la question.

Waived issues

(2.2) Notwithstanding subsections 169(1) and 169(2), for greater certainty a taxpayer may not appeal to the Tax Court of Canada to have an assessment under this Part vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by the taxpayer.

Questions faisant l'objet d'une renonciation

(2.2) Malgré les paragraphes (1) et (2), il est entendu qu'un contribuable ne peut interjeter appel auprès de la Cour canadienne de l'impôt pour faire annuler ou modifier une cotisation établie en vertu de la présente partie relativement à une question à l'égard de laquelle le contribuable a renoncé par écrit à son droit d'opposition ou d'appel.

Disposition of appeal on consent

(3) Notwithstanding section 152, for the purpose of disposing of an appeal made under a provision of this Act, the Minister may at any time, with the consent in writing of the taxpayer, reassess tax, interest, penalties or other amounts payable under this Act by the taxpayer.

Provisions applicable

(4) Division I applies, with such modifications as the circumstances require, in respect of a reassessment made under subsection 169(3) as though it had been made under section 152.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 169; 1994, c. 7, Sch. II, s. 140, Sch. VIII, s. 100; 1995, c. 21, s. 71; 1998, c. 19, s. 193; 2001, c. 17, s. 158; 2010, c. 25, s. 45.

Notice to Deputy Minister

170 (1) Where an appeal is made to the Tax Court of Canada under section 18 of the *Tax Court of Canada Act*, the Court shall forthwith send a copy of the notice of the appeal to the office of the Commissioner of Revenue.

(2) [Repealed, 2013, c. 34, s. 322]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 170; 1994, c. 13, s. 7; 1999, c. 17, s. 167; 2005, c. 38, s. 140; 2013, c. 34, s. 322.

Disposal of Appeal

171 (1) The Tax Court of Canada may dispose of an appeal by

(a) dismissing it; or

(b) allowing it and

(i) vacating the assessment,

(ii) varying the assessment, or

(iii) referring the assessment back to the Minister for reconsideration and reassessment.

Ecological gifts

(1.1) On an appeal under subsection 169(1.1), the Tax Court of Canada may confirm or vary the amount determined to be the fair market value of a property and the value determined by the Court is deemed to be the fair market value of the property determined by the Minister of the Environment.

Règlement d'un appel après consentement

(3) Malgré l'article 152, en vue de régler un appel interjeté en application d'une disposition de la présente loi, le ministre peut établir à tout moment, avec le consentement écrit du contribuable, une nouvelle cotisation concernant l'impôt, les intérêts, les pénalités ou d'autres montants payables par le contribuable en vertu de la présente loi.

Dispositions applicables

(4) La section I s'applique, avec les adaptations nécessaires, aux nouvelles cotisations établies en application du paragraphe (3) comme si elles avaient été établies en application de l'article 152.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 169; 1994, ch. 7, ann. II, art. 140, ann. VIII, art. 100; 1995, ch. 21, art. 71; 1998, ch. 19, art. 193; 2001, ch. 17, art. 158; 2010, ch. 25, art. 45.

Avis au sous-ministre

170 (1) Lorsqu'un appel visé à l'article 18 de la *Loi sur la Cour canadienne de l'impôt* est interjeté auprès de la Cour canadienne de l'impôt celle-ci adresse immédiatement un avis de l'appel au bureau du commissaire du revenu.

(2) [Abrogé, 2013, ch. 34, art. 322]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 170; 1994, ch. 13, art. 7; 1999, ch. 17, art. 167; 2005, ch. 38, art. 140; 2013, ch. 34, art. 322.

Règlement d'un appel

171 (1) La Cour canadienne de l'impôt peut statuer sur un appel :

a) en le rejetant;

b) en l'admettant et en :

(i) annulant la cotisation,

(ii) modifiant la cotisation,

(iii) déférant la cotisation au ministre pour nouvel examen et nouvelle cotisation.

Dons de biens écosensibles

(1.1) La Cour canadienne de l'impôt peut statuer sur un appel interjeté en vertu du paragraphe 169(1.1) en confirmant ou en modifiant le montant fixé, qui représente la juste valeur marchande d'un bien. La valeur fixée par la Cour est réputée être la juste valeur marchande du bien fixée par le ministre de l'Environnement.

Partial disposition of appeal

(2) If an appeal raises more than one issue, the Tax Court of Canada may, with the consent in writing of the parties to the appeal, dispose of a particular issue by

(a) dismissing the appeal with respect to the particular issue; or

(b) allowing the appeal with respect to the particular issue and

(i) varying the assessment, or

(ii) referring the assessment back to the Minister for reconsideration and reassessment.

Règlement partiel d'un appel

(2) Si un appel porte sur plus d'une question, la Cour canadienne de l'impôt peut, avec le consentement écrit des parties, statuer sur une question donnée :

a) en rejetant l'appel en ce qui concerne cette question;

b) en admettant l'appel en ce qui concerne cette question, auquel cas elle peut modifier la cotisation ou la renvoyer au ministre pour nouvel examen et nouvelle cotisation.

Disposal of remaining issues

(3) If a particular issue has been disposed of under subsection (2), the appeal with respect to the remaining issues may continue.

Continuation de l'appel

(3) S'il a été statué sur une question donnée en vertu du paragraphe (2), l'appel peut se poursuivre en ce qui concerne les autres questions sur lesquelles il porte.

Appeal to Federal Court of Appeal

(4) If the Tax Court of Canada has disposed of a particular issue under subsection (2), the parties to the appeal may, in accordance with the provisions of the *Tax Court of Canada Act* or the *Federal Courts Act*, as they relate to appeals from decisions of the Tax Court of Canada, appeal the disposition to the Federal Court of Appeal as if it were a final judgment of the Tax Court of Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 171; 1994, c. 7, Sch. IX, s. 215; 2001, c. 17, s. 159; 2013, c. 33, s. 18.

Appel à la Cour d'appel fédérale

(4) Si la Cour canadienne de l'impôt a statué sur une question donnée en vertu du paragraphe (2), les parties à l'appel peuvent, conformément aux dispositions de la *Loi sur la Cour canadienne de l'impôt* ou de la *Loi sur les Cours fédérales* applicables aux appels de décisions de la Cour canadienne de l'impôt, interjeter appel de la décision devant la Cour d'appel fédérale comme s'il s'agissait d'un jugement définitif de la Cour canadienne de l'impôt.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 171; 1994, ch. 7, ann. IX, art. 215; 2001, ch. 17, art. 159; 2013, ch. 33, art. 18.

Appeal from refusal to register, revocation of registration, etc.

172 (3) Where the Minister

(a) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.2) and (22) and 168(1) by the Minister, to a person that is or was registered as a registered Canadian amateur athletic association or is an applicant for registration as a registered Canadian amateur athletic association, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(a.1) confirms a proposal, decision or designation in respect of which a notice was issued by the Minister to a person that is or was registered as a registered charity, or is an applicant for registration as a registered charity, under any of subsections 149.1(2) to (4.1), (6.3), (22) and (23) and 168(1), or does not confirm or vacate that proposal, decision or designation within 90

Appel relatif à un refus d'enregistrement, à une révocation d'enregistrement, etc.

172 (3) Lorsque le ministre :

a) soit confirme une proposition ou une décision à l'égard de laquelle le ministre a délivré, en vertu des paragraphes 149.1(4.2) ou (22) ou 168(1), un avis à une personne qui est ou a été enregistrée à titre d'association canadienne enregistrée de sport amateur ou qui a présenté une demande d'enregistrement à ce titre, soit omet de confirmer ou d'annuler cette proposition ou décision dans les quatre-vingt-dix jours suivant la signification par la personne, en vertu du paragraphe 168(4), d'un avis d'opposition à cette proposition ou décision;

a.1) soit confirme toute intention, décision ou désignation à l'égard de laquelle le ministre a délivré, en vertu de l'un des paragraphes 149.1(2) à (4.1), (6.3), (22) et (23) et 168(1), un avis à une personne qui est ou était enregistrée à titre d'organisme de bienfaisance enregistré ou qui a demandé l'enregistrement à ce

days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal, decision or designation,

(a.2) confirms a proposal or decision in respect of which a notice was issued under any of subsections 149.1(4.3), (22) and 168(1) by the Minister, to a person that is a person described in any of subparagraphs (a)(i) to (v) of the definition ***qualified donee*** in subsection 149.1(1) that is or was registered by the Minister as a qualified donee or is an applicant for such registration, or does not confirm or vacate that proposal or decision within 90 days after service of a notice of objection by the person under subsection 168(4) in respect of that proposal or decision,

(b) refuses to accept for registration for the purposes of this Act any retirement savings plan,

(c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan,

(d) [Repealed, 2011, c. 24, s. 54]

(e) refuses to accept for registration for the purposes of this Act an education savings plan,

(e.1) sends notice under subsection 146.1(12.1) to a promoter that the Minister proposes to revoke the registration of an education savings plan,

(f) refuses to register for the purposes of this Act any pension plan or gives notice under subsection 147.1(11) to the administrator of a registered pension plan that the Minister proposes to revoke its registration,

(f.1) refuses to accept an amendment to a registered pension plan,

(g) refuses to accept for registration for the purposes of this Act any retirement income fund,

(h) refuses to accept for registration for the purposes of this Act any pooled pension plan or gives notice under subsection 147.5(24) to the administrator of a pooled registered pension plan that the Minister proposes to revoke its registration, or

(i) refuses to accept an amendment to a pooled registered pension plan,

the person described in paragraph (a), (a.1) or (a.2), the applicant in a case described in paragraph (b), (e) or (g), a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described

titre, soit omet de confirmer ou d'annuler cette intention, décision ou désignation dans les 90 jours suivant la signification, par la personne en vertu du paragraphe 168(4), d'un avis d'opposition concernant cette intention, décision ou désignation;

a.2) soit confirme une proposition ou une décision à l'égard de laquelle le ministre a délivré, en vertu des paragraphes 149.1(4.3) ou (22) ou 168(1), un avis à une personne visée à l'un des sous-alinéas a)(i) à (v) de la définition de ***donataire reconnu*** au paragraphe 149.1(1) qui est ou a été enregistrée par le ministre à titre de donataire reconnu ou qui a présenté une demande d'enregistrement à ce titre, soit omet de confirmer ou d'annuler cette proposition ou décision dans les quatre-vingt-dix jours suivant la signification par la personne, en vertu du paragraphe 168(4), d'un avis d'opposition à cette proposition ou décision;

b) refuse de procéder à l'enregistrement, en vertu de la présente loi, d'un régime d'épargne-retraite;

c) refuse de procéder à l'agrément, en vertu de la présente loi, d'un régime de participation aux bénéfices ou retire l'agrément d'un tel régime;

d) [Abrogé, 2011, ch. 24, art. 54]

e) refuse de procéder à l'enregistrement pour l'application de la présente loi d'un régime d'épargne-études;

e.1) envoie à un promoteur, en application du paragraphe 146.1(12.1), un avis selon lequel il entend révoquer l'enregistrement d'un régime d'épargne-études;

f) refuse d'agréer un régime de pension, pour l'application de la présente loi, ou envoie à l'administrateur d'un régime de pension agréé l'avis d'intention prévu au paragraphe 147.1(11), selon lequel il entend retirer l'agrément du régime;

f.1) refuse d'accepter une modification à un régime de pension agréé;

g) refuse de procéder à l'enregistrement d'un fonds de revenu de retraite, pour l'application de la présente loi;

h) refuse de procéder à l'agrément d'un régime de pension collectif pour l'application de la présente loi ou informe l'administrateur d'un régime de pension agréé collectif, selon le paragraphe 147.5(24), de son intention de retirer l'agrément du régime;

i) refuse d'accepter une modification à un régime de pension agréé collectif,

in paragraph (c), the promoter in a case described in paragraph (e.1), the administrator of the plan or an employer who participates in the plan, in a case described in paragraph (f) or (f.1), or the administrator of the plan in a case described in paragraph (h) or (i), may appeal from the Minister's decision, or from the giving of the notice by the Minister, to the Federal Court of Appeal.

Exception — Charities Registration (Security Information) Act

(3.1) Paragraphs (3)(a) and (a.1) do not apply to an applicant or a registered charity that is the subject of a certificate that has been determined to be reasonable under subsection 7(1) of the *Charities Registration (Security Information) Act*.

Deemed refusal to register

(4) For the purposes of subsection 172(3), the Minister shall be deemed to have refused

(a) to register an applicant for registration as a Canadian amateur athletic association,

(a.1) [Repealed, 2005, c. 19, s. 39]

(b) to accept for registration for the purposes of this Act any retirement savings plan or profit sharing plan,

(c) [Repealed, 2011, c. 24, s. 54]

(d) to accept for registration for the purposes of this Act any education savings plan, or

(f) to accept for registration for the purposes of this Act any retirement income fund,

where the Minister has not notified the applicant of the disposition of the application within 180 days after the filing of the application with the Minister, and, in any such case, subject to subsection (3.1), an appeal from the refusal to the Federal Court of Appeal pursuant to subsection (3) may, notwithstanding subsection 180(1), be instituted under section 180 at any time by filing a notice of appeal in the Court.

Exception - *Charities Registration (Security Information) Act*

(4.1) An appeal referred to in subsection (3) or (4) is suspended when an applicant or a registered charity is, under subsection 5(1) of the *Charities Registration (Security Information) Act*, served with a copy of a certificate that has been signed under that Act, whether the appeal

la personne, dans le cas visé aux alinéas a), a.1) ou a.2), le demandeur, dans le cas visé aux alinéas b), e) ou g), le fiduciaire du régime ou l'employeur dont les employés sont bénéficiaires du régime, dans le cas visé à l'alinéa c), le promoteur, dans le cas visé à l'alinéa e.1), l'administrateur du régime ou l'employeur qui participe au régime, dans le cas visé aux alinéas f) ou f.1), ou l'administrateur du régime, dans le cas visé aux alinéas h) ou i), peuvent interjeter appel à la Cour d'appel fédérale de cette décision ou de la signification de cet avis.

Exception : *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)*

(3.1) Les alinéas (3)a) et a.1) ne s'appliquent pas au demandeur ou à l'organisme de bienfaisance enregistré visé par un certificat jugé raisonnable au titre du paragraphe 7(1) de la *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)*.

Cas réputé être un refus d'enregistrement

(4) Pour l'application du paragraphe (3), le ministre est réputé avoir refusé :

a) à un demandeur de l'enregistrer comme association canadienne de sport amateur;

a.1) [Abrogé, 2005, ch. 19, art. 39]

b) de procéder à l'enregistrement d'un régime d'épargne-retraite ou d'un régime de participation aux bénéfices;

c) [Abrogé, 2011, ch. 24, art. 54]

d) de procéder à l'enregistrement, dans le cadre de la présente loi, d'un régime d'épargne-études;

f) de procéder à l'enregistrement, dans le cadre de la présente loi, d'un fonds de revenu de retraite,

lorsqu'il n'a pas avisé le demandeur de sa décision concernant la demande dans les cent quatre-vingts jours suivant son dépôt; dans ce cas, sous réserve du paragraphe (3.1), un appel du refus peut, à tout moment malgré le paragraphe 180(1), être interjeté conformément au paragraphe (3) et en vertu de l'article 180, à la Cour d'appel fédérale par le dépôt d'un avis d'appel à cette cour.

Exception : *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)*

(4.1) L'appel visé aux paragraphes (3) ou (4) est suspendu dès qu'est signifiée au demandeur ou à l'organisme de bienfaisance enregistré, en vertu du paragraphe 5(1) de la *Loi sur l'enregistrement des organismes de bienfaisance*

was instituted before or after the certificate was so signed, and the appeal is

(a) discontinued on the determination, under subsection 7(1) of that Act, that the certificate is reasonable; or

(b) reinstated as of the date the certificate is, under subsection 7(2) of that Act, quashed.

(renseignements de sécurité), une copie du certificat signé en vertu de cette loi, que l'appel ait été interjeté avant ou après la signature du certificat. L'appel suspendu est :

a) annulé dès que le certificat est jugé raisonnable au titre du paragraphe 7(1) de cette loi;

b) rétabli à compter de l'annulation du certificat au titre du paragraphe 7(2) de cette loi.

Idem

(5) For the purposes of subsection 172(3), the Minister shall be deemed to have refused

(a) to register for the purposes of this Act any pension plan or pooled pension plan, or

(b) to accept an amendment to a registered pension plan or a pooled registered pension plan

where the Minister has not notified the applicant of the Minister's disposition of the application within 1 year after the filing of the application with the Minister, and, in any such case, an appeal from the refusal to the Federal Court of Appeal pursuant to subsection 172(3) may, notwithstanding anything in subsection 180(1), be instituted under section 180 at any time by filing a notice of appeal in the Court.

Cas réputé être un refus d'agrément

(5) Pour l'application du paragraphe (3), le ministre est réputé avoir refusé d'agréer un régime de pension ou un régime de pension collectif dans le cadre de la présente loi ou d'accepter une modification à un régime de pension agréé ou à un régime de pension agréé collectif s'il n'a pas avisé le demandeur de sa décision concernant la demande dans l'année suivant son dépôt. Dans ce cas, il peut être interjeté appel du refus à la Cour d'appel fédérale, conformément à l'article 180, par le dépôt à cette cour d'un avis d'appel, à tout moment, en application du paragraphe (3) et malgré le paragraphe 180(1).

Application of s. 149.1(1)

(6) The definitions in subsection 149.1(1) apply to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 172; 1994, c. 7, Sch. II, s. 141; 1998, c. 19, s. 46; 2001, c. 41, ss. 115, 127; 2005, c. 19, s. 39; 2011, c. 24, s. 54; 2012, c. 31, s. 41.

Application du par. 149.1(1)

(6) Les définitions figurant au paragraphe 149.1(1) s'appliquent au présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 172; 1994, ch. 7, ann. II, art. 141; 1998, ch. 19, art. 46; 2001, ch. 41, art. 115 et 127; 2005, ch. 19, art. 39; 2011, ch. 24, art. 54; 2012, ch. 31, art. 41.

References to Tax Court of Canada

173 (1) Where the Minister and a taxpayer agree in writing that a question of law, fact or mixed law and fact arising under this Act, in respect of any assessment, proposed assessment, determination or proposed determination, should be determined by the Tax Court of Canada, that question shall be determined by that Court.

Renvoi des questions de droit, etc. à la Cour canadienne de l'impôt

173 (1) Lorsque le ministre et un contribuable conviennent, par écrit, de faire trancher par la Cour canadienne de l'impôt une question de droit, de fait ou de droit et de fait, portant sur une cotisation ou une détermination, réelles ou projetées, découlant de l'application de la présente loi, cette cour se prononce sur cette question.

Time during consideration not to count

(2) The time between the day on which proceedings are instituted in the Tax Court of Canada to have a question determined pursuant to subsection 173(1) and the day on which the question is finally determined shall not be counted in the computation of

(a) the periods determined under subsection 152(4),

Exclusion du délai d'examen

(2) La période comprise entre la date à laquelle l'action est intentée auprès de la Cour canadienne de l'impôt en vue de faire statuer sur une question conformément au paragraphe (1) et la date à laquelle il est définitivement statué sur la question est exclue du calcul :

a) des périodes déterminées selon le paragraphe 152(4);

(b) the time for service of a notice of objection to an assessment under section 165, or

(c) the time within which an appeal may be instituted under section 169,

for the purpose of making an assessment of the tax payable by the taxpayer who agreed in writing to the determination of the question, for the purpose of serving a notice of objection thereto or for the purpose of instituting an appeal therefrom, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"173"; 1984, c. 1, s. 89, c. 45, s. 73; 1988, c. 61, s. 19; 1990, c. 39, s. 45.

b) du délai de signification d'un avis d'opposition à une cotisation en vertu de l'article 165;

c) du délai d'appel en vertu de l'article 169,

pour ce qui est d'établir la cotisation concernant l'impôt payable par le contribuable qui a accepté, par écrit, que la question soit tranchée, de signifier un avis d'opposition à cette cotisation ou d'en appeler de celle-ci.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 173 »; 1984, ch. 1, art. 89, ch. 45, art. 73; 1988, ch. 61, art. 19; 1990, ch. 39, art. 45.

Common questions

174 (1) The Minister may apply to the Tax Court of Canada for a determination of a question if the Minister is of the opinion that the question is common to assessments or proposed assessments in respect of two or more taxpayers and is a question of law, fact or mixed law and fact arising out of

(a) one and the same transaction or occurrence or series of transactions or occurrences; or

(b) substantially similar transactions or occurrences or series of transactions or occurrences.

Application to Court

(2) An application under subsection (1)

(a) shall set out

(i) the question in respect of which the Minister requests a determination,

(ii) the names of the taxpayers that the Minister seeks to have bound by the determination of the question, and

(iii) the facts and reasons on which the Minister relies and on which the Minister based or intends to base assessments of tax payable by each of the taxpayers named in the application; and

(b) shall be served by the Minister on each of the taxpayers named in the application and on any other persons who, in the opinion of the Tax Court of Canada, are likely to be affected by the determination of the question,

(i) by sending a copy to each taxpayer so named and each other person so likely to be affected, or

(ii) on *ex parte* application by the Minister, in accordance with the directions of the Court.

Questions communes

174 (1) Le ministre peut demander à la Cour canadienne de l'impôt de se prononcer sur une question s'il est d'avis qu'elle se rapporte à des cotisations, réelles ou projetées, relatives à plusieurs contribuables et qu'il s'agit d'une question de droit, de fait ou de droit et de fait tenant :

a) soit à une même opération, à un même événement ou à une même série d'opérations ou d'événements;

b) soit à des opérations ou des événements sensiblement semblables ou à des séries d'opérations ou d'événements sensiblement semblables.

Demande

(2) La demande visée au paragraphe (1) :

a) comporte les renseignements suivants :

(i) la question au sujet de laquelle le ministre demande une décision,

(ii) le nom des contribuables qu'il souhaite voir liés par la décision,

(iii) les faits et motifs sur lesquels il s'appuie et sur lesquels il fonde ou a l'intention de fonder la cotisation concernant l'impôt payable par chacun des contribuables nommés dans la demande;

b) est signifiée par le ministre à chacun des contribuables qui y sont nommés et à toute autre personne qui, de l'avis de la Cour canadienne de l'impôt, est susceptible d'être touchée par la décision sur la question :

(i) soit par l'envoi d'une copie à chacun des contribuables ainsi nommés et à chacune de ces autres personnes,

(ii) soit sur demande *ex parte* du ministre, conformément aux directives de la Cour canadienne de l'impôt.

Determination of question by Tax Court

(3) If the Tax Court of Canada is satisfied that a question set out in an application under this section is common to assessments or proposed assessments in respect of two or more taxpayers who have been served with a copy of the application, the Tax Court of Canada may

(a) make an order naming the taxpayers in respect of whom the question will be determined;

(b) if one or more of the taxpayers so served has or have appealed an assessment to the Tax Court of Canada in respect of which the question is relevant, make an order joining a party or parties to that or those appeals as it considers appropriate; and

(c) proceed to determine the question in such manner as it considers appropriate.

Determination final and conclusive

(4) Subject to subsection (4.1), if a question set out in an application under this section is determined by the Tax Court of Canada, the determination is final and conclusive for the purposes of any assessments of tax payable by the taxpayers named in the order made under paragraph (3)(a).

Appeal

(4.1) If a question set out in an application under this section is determined by the Tax Court of Canada, an appeal from the determination may, in accordance with the provisions of the *Tax Court of Canada Act* or the *Federal Courts Act*, as they relate to appeals from decisions of the Tax Court of Canada to the Federal Court of Appeal, be made by

(a) the Minister; or

(b) any taxpayer named in an order of the Court made under paragraph (3)(a) if

(i) the question arises out of one and the same transaction or occurrence or series of transactions or occurrences,

(ii) the taxpayer has appealed an assessment to the Tax Court of Canada in respect of which the question is relevant, or

(iii) the taxpayer has been granted leave by a judge of the Federal Court of Appeal.

Décision de la Cour canadienne de l'impôt

(3) Dans le cas où la Cour canadienne de l'impôt est convaincue que la question soumise dans une demande présentée en vertu du présent article se rapporte à des cotisations, réelles ou projetées, relatives à plusieurs contribuables à qui une copie de la demande a été signifiée, elle peut :

a) rendre une ordonnance nommant les contribuables à l'égard desquels il sera statué sur la question;

b) si un ou plusieurs des contribuables à qui une copie de la demande a été signifiée ont interjeté appel, devant elle, d'une cotisation à laquelle la question se rapporte, rendre toute ordonnance groupant dans cet ou ces appels une ou plusieurs parties comme elle le juge à propos;

c) entreprendre de statuer sur la question de la façon qu'elle juge indiquée.

Décision définitive

(4) Sous réserve du paragraphe (4.1), la décision rendue par la Cour canadienne de l'impôt sur une question soumise dans une demande dont elle a été saisie en vertu du présent article est définitive et sans appel aux fins d'établissement de toute cotisation concernant l'impôt payable par les contribuables nommés dans l'ordonnance visée à l'alinéa (3)a).

Appel

(4.1) Dans le cas où la Cour canadienne de l'impôt statue sur une question soumise dans une demande dont elle a été saisie en vertu du présent article, un appel de la décision peut être interjeté, conformément aux dispositions de la *Loi sur la Cour canadienne de l'impôt* ou de la *Loi sur les Cours fédérales* applicables aux appels de décisions de la Cour canadienne de l'impôt devant la Cour d'appel fédérale :

a) soit par le ministre;

b) soit par l'un des contribuables nommés dans une ordonnance rendue en vertu de l'alinéa (3)a) si, selon le cas :

(i) la question tient à une même opération, à un même événement ou à une même série d'opérations ou d'événements,

(ii) le contribuable a interjeté appel, devant la Cour canadienne de l'impôt, d'une cotisation à laquelle la question se rapporte,

(iii) le contribuable a obtenu une autorisation d'interjeter appel d'un juge de la Cour d'appel fédérale.

Binding to appeal

(4.2) Any taxpayer named in an order made under paragraph (3)(a) in respect of a question is bound by any determination in respect of the question under an appeal made to the Federal Court of Appeal or the Supreme Court of Canada.

Time during consideration of question not counted

(5) The time between the day on which an application under this section is served on a taxpayer pursuant to subsection 174(2) and

(a) in the case of a taxpayer named in an order of the Tax Court of Canada pursuant to subsection 174(3), the day on which the determination becomes final and conclusive and not subject to any appeal, or

(b) in the case of any other taxpayer, the day on which the taxpayer is served with notice that the taxpayer has not been named in an order of the Tax Court of Canada pursuant to subsection 174(3),

shall not be counted in the computation of

(c) the periods determined under subsection 152(4),

(d) the time for service of a notice of objection to an assessment under section 165, or

(e) the time within which an appeal may be instituted under section 169,

for the purpose of making an assessment of the tax, interest or penalties payable by the taxpayer, serving a notice of objection thereto or instituting an appeal therefrom, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 174; 2002, c. 8, s. 182; 2013, c. 33, s. 19.

Institution of appeals

175 An appeal to the Tax Court of Canada under this Act, other than one referred to in section 18 of the *Tax Court of Canada Act*, shall be instituted in the manner set out in that Act or in any rules made under that Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 175; 1994, c. 7, Sch. VIII, s. 101.

176 [Repealed, 2013, c. 34, s. 323]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 176; 2002, c. 8, s. 149; 2013, c. 34, s. 323.

Hearings *in camera*

179 Proceedings in the Federal Court of Appeal under this Division may, on the application of the taxpayer, be held *in camera* if the taxpayer establishes to the

Contribuables liés

(4.2) Tout contribuable nommé dans une ordonnance rendue en vertu de l'alinéa (3)a) relativement à une question est lié par toute décision rendue sur la question lors d'un appel interjeté devant la Cour d'appel fédérale ou la Cour suprême du Canada.

Exclusion du délai d'examen de la question

(5) La période comprise entre la date à laquelle une demande faite en vertu du présent article est signifiée à un contribuable conformément au paragraphe (2), et :

a) dans le cas d'un contribuable nommé dans une ordonnance de la Cour canadienne de l'impôt conformément au paragraphe (3), la date à laquelle la décision devient définitive et sans appel;

b) dans le cas de tout autre contribuable, la date à laquelle il lui est signifié un avis portant qu'il n'a pas été nommé dans une ordonnance de la Cour canadienne de l'impôt en vertu du paragraphe (3),

est exclue du calcul :

c) des périodes déterminées selon le paragraphe 152(4);

d) du délai de signification d'un avis d'opposition à une cotisation en vertu de l'article 165;

e) du délai d'appel en vertu de l'article 169,

pour ce qui est d'établir la cotisation concernant l'impôt, les intérêts ou les pénalités payables par le contribuable, de signifier un avis d'opposition à cette cotisation ou d'en appeler de celle-ci.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 174; 2002, ch. 8, art. 182; 2013, ch. 33, art. 19.

Appels

175 Un appel à la Cour canadienne de l'impôt, sauf un appel visé à l'article 18 de la *Loi sur la Cour canadienne de l'impôt*, est interjeté de la manière indiquée par cette loi ou par les règles établies au titre de celle-ci.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 175; 1994, ch. 7, ann. VIII, art. 101.

176 [Abrogé, 2013, ch. 34, art. 323]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 176; 2002, ch. 8, art. 149; 2013, ch. 34, art. 323.

Huis clos

179 Les audiences devant la Cour d'appel fédérale prévues par la présente section peuvent, à la demande du contribuable, se tenir à huis clos si le contribuable

satisfaction of the Court that the circumstances of the case justify *in camera* proceedings.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 179; 2002, c. 8, s. 184.

No reasonable grounds for appeal

179.1 Where the Tax Court of Canada disposes of an appeal by a taxpayer in respect of an amount payable under this Part or where such an appeal has been discontinued or dismissed without trial, the Court may, on the application of the Minister and whether or not it awards costs, order the taxpayer to pay to the Receiver General an amount not exceeding 10% of any part of the amount that was in controversy in respect of which the Court determines that there were no reasonable grounds for the appeal, if in the opinion of the Court one of the main purposes for instituting or maintaining any part of the appeal was to defer the payment of any amount payable under this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 179.1; 1994, c. 7, Sch. VIII, s. 102.

Appeals to Federal Court of Appeal

180 (1) An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 30 days from

(a) the day on which the Minister notifies a person under subsection 165(3) of the Minister's action in respect of a notice of objection filed under subsection 168(4),

(b) [Repealed, 2011, c. 24, s. 55]

(c) the mailing of notice to the administrator of the registered pension plan under subsection 147.1(11),

(c.1) the sending of a notice to a promoter of a registered education savings plan under subsection 146.1(12.1),

(c.2) the mailing of notice to the administrator of the pooled registered pension plan under subsection 147.5(24), or

(d) the time the decision of the Minister to refuse the application for acceptance of the amendment to the registered pension plan or pooled registered pension plan was mailed, or otherwise communicated in writing, by the Minister to any person,

as the case may be, or within such further time as the Court of Appeal or a judge thereof may, either before or after the expiration of those 30 days, fix or allow.

démontre, à la satisfaction de la cour, que les circonstances le justifient.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 179; 2002, ch. 8, art. 184.

Appel non fondé

179.1 Lorsque la Cour canadienne de l'impôt se prononce sur un appel interjeté par un contribuable à l'égard d'un montant payable en vertu de la présente partie ou lorsqu'il y a désistement ou rejet sans procès de l'appel, la cour peut, sur demande du ministre et qu'elle accorde ou non des dépens, ordonner au contribuable de verser au receveur général un montant ne dépassant pas 10 % de toute partie de la somme en litige à l'égard de laquelle elle juge que l'appel n'était pas raisonnablement fondé, si la cour est d'avis qu'une des principales raisons pour lesquelles une partie quelconque de l'appel a été interjetée ou poursuivie était de reporter le paiement d'un montant payable en vertu de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 179.1; 1994, ch. 7, ann. VIII, art. 102.

Appels à la Cour d'appel fédérale

180 (1) Un appel à la Cour d'appel fédérale prévu au paragraphe 172(3) est introduit en déposant un avis d'appel à la cour dans les 30 jours suivant, selon le cas :

a) la date à laquelle le ministre avise une personne, en application du paragraphe 165(3), de sa décision concernant l'avis d'opposition signifié aux termes du paragraphe 168(4);

b) [Abrogé, 2011, ch. 24, art. 55]

c) la date de mise à la poste de l'avis à l'administrateur du régime de pension agréé, en application du paragraphe 147.1(11);

c.1) l'envoi d'un avis au promoteur d'un régime enregistré d'épargne-études, en application du paragraphe 146.1(12.1);

c.2) la date de mise à la poste de l'avis à l'administrateur du régime de pension agréé collectif, prévu au paragraphe 147.5(24);

d) la date d'envoi à une personne de la décision écrite du ministre de refuser la demande d'acceptation de la modification au régime de pension agréé ou au régime de pension agréé collectif,

ou dans un autre délai que peut fixer ou accorder la Cour d'appel ou l'un de ses juges, avant ou après l'expiration de ce délai de 30 jours.

No jurisdiction in a Tax Court of Canada or Federal Court

(2) Neither the Tax Court of Canada nor the Federal Court has jurisdiction to entertain any proceeding in respect of a decision of the Minister from which an appeal may be instituted under this section.

Summary disposition of appeal

(3) An appeal to the Federal Court of Appeal instituted under this section shall be heard and determined in a summary way.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 180; 1994, c. 7, Sch. II, s. 142; 1998, c. 19, s. 47; 2002, c. 8, s. 183; 2005, c. 19, s. 40; 2011, c. 24, s. 55; 2012, c. 31, s. 42.

Cas où la Cour canadienne de l'impôt et la Section de première instance de la Cour fédérale n'ont pas compétence

(2) La Cour canadienne de l'impôt et la Cour fédérale n'ont, ni l'une no l'autre, compétence pour connaître de toute affaire relative à une décision du ministre contre laquelle il peut être interjeté appel en vertu du présent article.

Jugement rendu sommairement

(3) Un appel dont est saisie la Cour d'appel fédérale, en vertu du présent article, doit être entendu et jugé selon une procédure sommaire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 180; 1994, ch. 7, ann. II, art. 142; 1998, ch. 19, art. 47; 2002, ch. 8, art. 183; 2005, ch. 19, art. 40; 2011, ch. 24, art. 55; 2012, ch. 31, art. 42.

PART I.01

Tax in Respect of Stock Option Benefit Deferral

Election — special tax and relief for deferral of stock option benefits

180.01 (1) A taxpayer may make an election in prescribed form to have subsection (2) apply for a taxation year in respect of particular securities if

(a) the taxpayer elected to have subsection 7(8) apply, as that subsection applied before 4:00 p.m. Eastern Standard Time, March 4, 2010, in respect of the particular securities; and

(b) the taxpayer has, in the year and before 2015, disposed of the particular securities; and

(c) the election under this subsection is filed

(i) if the taxpayer has disposed of the particular securities before 2010, on or before the taxpayer's filing-due date for 2010, and

(ii) in any other case, on or before the taxpayer's filing-due date for the year of disposition of the particular securities.

PARTIE I.01

Impôt relatif au report des avantages liés aux options d'achat d'actions

Choix — impôt spécial et allègement pour report des avantages liés aux options d'achat d'actions

180.01 (1) Un contribuable peut faire, sur le formulaire prescrit, un choix afin que le paragraphe (2) s'applique pour une année d'imposition relativement à des titres si les conditions suivantes sont réunies :

a) le contribuable a fait un choix afin que le paragraphe 7(8), en son état avant 16 heures, heure normale de l'Est, le 4 mars 2010, s'applique relativement aux titres;

b) il a disposé des titres au cours de l'année et avant 2015;

c) le document concernant le choix prévu au présent paragraphe est produit dans celui des délais suivants qui est applicable :

(i) si le contribuable a disposé des titres avant 2010, au plus tard à la date d'échéance de production qui lui est applicable pour 2010,

(ii) dans les autres cas, au plus tard à la date d'échéance qui lui est applicable pour l'année de la disposition des titres.

Effect of election

(2) If a taxpayer makes an election under subsection (1) for a taxation year in respect of particular securities, the following rules apply:

(a) paragraph 110(1)(d) shall be read without reference to the phrase "1/2 of" in respect of the amount of the benefit deemed by subsection 7(1) to have been received by the taxpayer in the year in respect of the particular securities;

(b) the taxpayer is deemed to have realized a capital gain for the year equal to the lesser of

(i) the amount that is deductible by the taxpayer under paragraph 110(1)(d), as modified by paragraph (a), and

(ii) the taxpayer's capital loss in respect of the disposition of the particular securities;

(c) the taxpayer is liable to pay a tax for the year equal to

(i) in the case of a taxpayer resident in the Province of Quebec at the end of the year, 2/3 of the taxpayer's proceeds of disposition (as defined in section 54, but determined without reference to subsection 73(1)) of the particular securities, and

(ii) in any other case, the taxpayer's proceeds of disposition (as defined in section 54, but determined without reference to subsection 73(1)) of the particular securities;

(d) to the extent that the taxation year is outside the normal reassessment period (as defined in subsection 152(3.1)), the election is deemed to be an application for reassessment under subsection 152(4.2);

(e) notwithstanding subsection 152(4) and as the circumstances require, the Minister shall re-determine the taxpayer's ***net capital loss*** (as defined in subsection 111(8)) for the taxation year and reassess any taxation year in which an amount has been deducted under paragraph 111(1)(b).

(f) subparagraph 127.52(1)(h)(ii) is to be read as "the amount deducted under paragraph 110(1)(d)" for the year in respect of the particular securities; and

(g) notwithstanding subsection 152(4) and as the circumstances require, the Minister shall re-determine the taxpayer's additional tax under subsection 120.2(3) for the taxation year and reassess any taxation year in

Effet du choix

(2) Si un contribuable fait le choix prévu au paragraphe (1) pour une année d'imposition relativement à des titres, les règles suivantes s'appliquent :

a) l'alinéa 110(1)d) s'applique compte non tenu du passage « la moitié de » lorsqu'il s'agit du montant de l'avantage qui est réputé en vertu du paragraphe 7(1) avoir été reçu par le contribuable au cours de l'année relativement aux titres;

b) le contribuable est réputé avoir réalisé pour l'année un gain en capital égal à la moins élevée des sommes suivantes :

(i) la somme qu'il peut déduire en application de l'alinéa 110(1)d) modifié par l'alinéa a),

(ii) sa perte en capital relative à la disposition des titres;

c) le contribuable est tenu de payer pour l'année un impôt égal à celle des sommes suivantes qui est applicable :

(i) s'il réside au Québec à la fin de l'année, la somme correspondant aux deux tiers du produit de disposition, au sens de l'article 54, déterminé compte non tenu du paragraphe 73(1), des titres pour lui,

(ii) dans les autres cas, le produit de disposition, au sens de l'article 54, déterminé compte non tenu du paragraphe 73(1), des titres pour lui;

d) dans la mesure où l'année d'imposition ne fait pas partie de la période normale de nouvelle cotisation, au sens du paragraphe 152(3.1), le choix est réputé être une demande de nouvelle cotisation pour l'application du paragraphe 152(4.2);

e) malgré le paragraphe 152(4) et si les circonstances l'exigent, le ministre détermine de nouveau la perte en capital nette, au sens du paragraphe 111(8), du contribuable pour l'année d'imposition et établit une nouvelle cotisation à l'égard de toute année d'imposition où une somme a été déduite en application de l'alinéa 111(1)b);

f) le sous-alinéa 127.52(1)h)(ii) est réputé avoir le libellé ci-après pour l'année relativement aux titres :

(ii) le montant déduit en application de l'alinéa 110(1)d);

g) malgré le paragraphe 152(4) et compte tenu des circonstances, le ministre détermine de nouveau, selon le

which an amount has been deducted under subsection 120.2(1).

paragraphe 120.2(3), le supplément d'impôt du contribuable pour l'année et établit une nouvelle cotisation à l'égard de toute année d'imposition pour laquelle une somme a été déduite en application du paragraphe 120.2(1).

Non-application for employment insurance purposes

(3) An amount included under subsection (2)(b) in computing a person's income under Part I of this Act for a taxation year shall not be included in determining the income of the person for the year under Part VII of the *Employment Insurance Act*.

Non-application aux fins d'assurance-emploi

(3) Toute somme incluse par l'effet de l'alinéa (2)b) dans le calcul du revenu d'une personne en vertu de la partie I de la présente loi pour une année d'imposition n'est pas incluse dans le calcul de son revenu pour l'année en vertu de la partie VII de la *Loi sur l'assurance-emploi*.

Provisions applicable to this Part

(4) Subsection 150(3), sections 150.1 to 152, 155 to 156.1 and 158 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2010, c. 25, s. 46; 2011, c. 24, s. 56.

Dispositions applicables

(4) Le paragraphe 150(3), les articles 150.1 à 152, 155 à 156.1 et 158 à 167 et la section J de la partie I s'appliquent à la présente partie avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2010, ch. 25, art. 46; 2011, ch. 24, art. 56.

PART I.1

Individual Surtax

180.1 [Repealed, 2001, c. 17, s. 161(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 180.1; 1994, c. 7, Sch. II, s. 143, Sch. VIII, s. 103, c. 8, s. 28; 1999, c. 22, s. 67; 2000, c. 19, s. 52; 2001, c. 17, ss. 160, 161.

PARTIE I.1

Impôt supplémentaire (revenus des particuliers)

180.1 [Abrogé, 2001, ch. 17, art. 161(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 180.1; 1994, ch. 7, ann. II, art. 143, ann. VIII, art. 103, ch. 8, art. 28; 1999, ch. 22, art. 67; 2000, ch. 19, art. 52; 2001, ch. 17, art. 160 et 161.

PART I.2

Tax on Old Age Security Benefits

Definitions

180.2 (1) The definitions in this subsection apply in this Part.

adjusted income of an individual for a taxation year means the amount that would be the individual's income under Part I for the year if in computing that income no amount were

(a) included

(i) under paragraph 56(1)(q.1) or subsection 56(6),

(ii) in respect of a gain from a disposition of property to which section 79 applies, or

PARTIE I.2

Impôt sur les prestations de sécurité de la vieillesse

Définitions

180.2 (1) Les définitions qui suivent s'appliquent à la présente partie.

année de base S'entend, par rapport à un mois, de l'année d'imposition suivante :

a) si le mois compte parmi les six premiers mois d'une année civile, celle qui a pris fin le 31 décembre de la deuxième année civile précédente;

b) si le mois compte parmi les six derniers mois d'une année civile, celle qui a pris fin le 31 décembre de l'année civile précédente. (*base taxation year*)

déclaration de revenu Le document suivant produit par un particulier pour une année d'imposition :

(iii) in respect of a gain described in subsection 40(3.21), or

(b) deductible under paragraph 60(w), (y) or (z); (*revenu modifié*)

base taxation year in relation to a month, means

(a) where the month is any of the first 6 months of a calendar year, the taxation year that ended on December 31 of the second preceding calendar year, and

(b) where the month is any of the last 6 months of a calendar year, the taxation year that ended on December 31 of the preceding calendar year; (*année de base*)

return of income in respect of an individual for a taxation year means

(a) where the individual was resident in Canada throughout the year, the individual's return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) that is filed or required to be filed under Part I for the year, and

(b) in any other case, a prescribed form containing prescribed information. (*déclaration de revenu*)

a) si le particulier a résidé au Canada tout au long de l'année, sa déclaration de revenu (sauf celle produite en vertu des paragraphes 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4)) produite ou à produire pour l'année en vertu de la partie I;

b) dans les autres cas, un formulaire prescrit contenant les renseignements prescrits. (*return of income*)

revenu modifié En ce qui concerne un particulier pour une année d'imposition, la somme qui représenterait son revenu en vertu de la partie I pour l'année si, dans le calcul de ce revenu, aucune somme :

a) n'était incluse :

(i) en application de l'alinéa 56(1)q.1) ou du paragraphe 56(6),

(ii) au titre d'un gain provenant d'une disposition de bien à laquelle s'applique l'article 79,

(iii) au titre d'un gain visé au paragraphe 40(3.21);

b) n'était déductible en application des alinéas 60w), y) ou z). (*adjusted income*)

Tax payable

(2) Every individual shall pay a tax under this Part for each taxation year equal to the amount determined by the formula

A(1 - B)

where

A is the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is the amount of any pension, supplement or spouse's or commmon-law partner's allowance under the *Old Age Security Act* included in computing the individual's income under Part I for the year

exceeds

(ii) the amount of any deduction allowed under subparagraph 60(n)(i) in computing the individual's income under Part I for the year, and

(b) 15% of the amount, if any, by which the individual's adjusted income for the year exceeds $50,000; and

Impôt payable

(2) Tout particulier doit payer, en vertu de la présente partie pour chaque année d'imposition, un impôt égal au résultat du calcul suivant :

A(1 - B)

où :

A représente le moins élevé des montants suivants :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le total des montants représentant chacun le montant, inclus dans le calcul de son revenu pour l'année en vertu de la partie I, d'une pension, d'un supplément ou d'une allocation à l'époux ou conjoint de fait prévu par la *Loi sur la sécurité de la vieillesse*,

(ii) le montant d'une déduction permise en vertu du sous-alinéa 60n)(i) dans le calcul du revenu du particulier en vertu de la partie I pour l'année,

b) le montant correspondant à 15 % de l'excédent éventuel de son revenu modifié pour l'année sur 50 000 $;

B is the rate of tax payable by the individual under Part XIII on amounts described in paragraph (a) of the description of A.

B le taux de l'impôt payable par lui en vertu de la partie XIII sur les montants visés à l'alinéa a) de l'élément A.

Withholding

(3) Where at any time Her Majesty pays an amount described in paragraph (a) of the description of A in subsection 180.2(2) in respect of a month to an individual, there shall be deducted or withheld from that amount on account of the individual's tax payable under this Part for the year the amount determined under subsection 180.2(4) in respect of that amount.

Retenue

(3) La somme déterminée selon le paragraphe (4) est à déduire ou à retenir, au titre de l'impôt payable par un particulier pour l'année en vertu de la présente partie, du montant visé à l'alinéa a) de l'élément A de la formule figurant au paragraphe (2) que Sa Majesté verse au particulier pour un mois.

Determination of amount to be withheld

(4) The amount determined in respect of a particular amount described in subsection 180.2(3) is

(a) where the individual has filed a return of income for the base taxation year in relation to the month in which the particular amount is paid, the lesser of

(i) the amount by which the particular amount exceeds the amount of tax payable under Part XIII by the individual on the particular amount, and

(ii) the amount determined by the formula

(0.0125A - $665)(1 - B)

where

A is the individual's adjusted income for the base taxation year, and

B is the rate of tax payable under Part XIII by the individual on the particular amount;

(b) where the individual has not filed a return of income for the base taxation year in relation to the month and

(i) the Minister has demanded under subsection 150(2) that the individual file the return, or

(ii) the individual was non-resident at any time in the base taxation year,

the amount by which the particular amount exceeds the amount of tax payable under Part XIII by the individual on the particular amount; and

(c) in any other case, nil.

Calcul de la retenue

(4) La somme à déduire ou à retenir du montant visé au paragraphe (3) correspond à ce qui suit :

a) le moins élevé des montants suivants, si le particulier a produit une déclaration de revenu pour l'année de base se rapportant au mois au cours duquel le montant est versé :

(i) l'excédent du montant sur l'impôt payable par le particulier sur ce montant en vertu de la partie XIII,

(ii) le résultat du calcul suivant :

(0,0125A - 665 $)(1 - B)

où :

A représente le revenu modifié du particulier pour l'année de base,

B le taux de l'impôt payable par le particulier sur le montant en vertu de la partie XIII;

b) l'excédent du montant sur l'impôt payable par le particulier sur ce montant en vertu de la partie XIII, s'il n'a pas produit de déclaration de revenu pour l'année de base se rapportant au mois et si, selon le cas :

(i) le ministre l'a mis en demeure, en vertu du paragraphe 150(2), de produire la déclaration,

(ii) le particulier était un non-résident pendant l'année de base;

c) zéro, dans les autres cas.

Return

(5) Every individual liable to pay tax under this Part for a taxation year shall

Déclaration

(5) Le particulier redevable d'un impôt en vertu de la présente partie pour une année d'imposition doit :

(a) file with the Minister, without notice or demand therefor,

(i) where the individual is resident in Canada throughout the taxation year, a return for the year under this Part in prescribed form and containing prescribed information on or before the individual's filing-due date for the year, and

(ii) in any other case, a return of income for the year on or before the individual's balance-due day for the year; and

(b) pay the individual's tax payable under this Part for the year on or before the individual's balance-due day for the year.

a) produire auprès du ministre, sans avis ni mise en demeure :

(i) dans le cas où il réside au Canada tout au long de l'année, une déclaration pour l'année en vertu de la présente partie sur formulaire prescrit contenant les renseignements prescrits au plus tard à la date d'échéance de production qui lui est applicable pour l'année,

(ii) dans les autres cas, une déclaration de revenu pour l'année au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année;

b) payer son impôt payable pour l'année en vertu de la présente partie, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Provisions applicable to this Part

(6) Subsection 150(3), sections 150.1, 151 and 152, subsections 153(1.1), 153(1.2) and 153(3), sections 155 to 156.1 and 158 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 180.2; 1994, c. 7, Sch. II, s. 144, Sch. VII, s. 21; 1996, c. 21, s. 46; 2000, c. 12, s. 142; 2001, c. 17, s. 162; 2006, c. 4, s. 178; 2007, c. 35, s. 119; 2010, c. 25, s. 47.

Dispositions applicables

(6) Le paragraphe 150(3), les articles 150.1, 151 et 152, les paragraphes 153(1.1), (1.2) et (3), les articles 155 à 156.1 et 158 à 167 ainsi que la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 180.2; 1994, ch. 7, ann. II, art. 144, ann. VII, art. 21; 1996, ch. 21, art. 46; 2000, ch. 12, art. 142; 2001, ch. 17, art. 162; 2006, ch. 4, art. 178; 2007, ch. 35, art. 119; 2010, ch. 25, art. 47.

PART I.3

Tax on Large Corporations

Definitions

181 (1) For the purposes of this Part,

financial institution, in respect of a taxation year, means a corporation that at any time in the year is

(a) a bank or credit union,

(b) an insurance corporation that carries on business in Canada,

(c) authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public,

(d) authorized under the laws of Canada or a province to accept deposits from the public and carries on the business of lending money on the security of real property or immovables or investing in indebtedness on the security of mortgages on real property or of hypothecs on immovables,

(e) a registered securities dealer,

PARTIE I.3

Impôt des grandes sociétés

Définitions

181 (1) Les définitions qui suivent s'appliquent à la présente partie.

institution financière Société qui est, à un moment d'une année d'imposition, selon le cas :

a) une banque ou une caisse de crédit;

b) une compagnie d'assurance qui exploite une entreprise au Canada;

c) une société autorisée par la législation fédérale ou provinciale à exploiter une entreprise d'offre au public de services de fiduciaire;

d) une société autorisée par la législation fédérale ou provinciale à accepter du public des dépôts et qui exploite une entreprise soit de prêts d'argent garantis sur des biens immeubles ou réels, soit de placements dans des dettes garanties par des hypothèques relatives à des biens immeubles ou réels;

(f) a mortgage investment corporation, or

(g) a corporation

(i) listed in the schedule, or

(ii) all or substantially all of the assets of which are shares or indebtedness of financial institutions to which the corporation is related; (*institution financière*)

long-term debt means

(a) in the case of a bank, its subordinated indebtedness (within the meaning assigned by section 2 of the *Bank Act*) evidenced by obligations issued for a term of not less than 5 years,

(b) in the case of an insurance corporation, its subordinated indebtedness (within the meaning assigned by section 2 of the *Insurance Companies Act*) evidenced by obligations issued for a term of not less than 5 years, and

(c) in the case of any other corporation, its subordinated indebtedness (within the meaning that would be assigned by section 2 of the *Bank Act* if the definition of that expression in that section were applied with such modifications as the circumstances require) evidenced by obligations issued for a term of not less than 5 years,

but does not include, where the corporation is a prescribed federal Crown corporation for the purpose of section 27, any indebtedness evidenced by obligations issued to and held by Her Majesty in right of Canada; (*passif à long terme*)

reserves, in respect of a corporation for a taxation year, means the amount at the end of the year of all of the corporation's reserves, provisions and allowances (other than allowances in respect of depreciation or depletion) and, for greater certainty, includes any provision in respect of deferred taxes. (*réserves*)

e) un courtier en valeurs mobilières inscrit;

f) une société de placement hypothécaire;

g) une société dont le nom figure à l'annexe ou dont la totalité ou la presque totalité des biens sont des actions ou des dettes d'institutions financières auxquelles la société est liée. (*financial institution*)

passif à long terme Passif constitué :

a) de titres secondaires (au sens de l'article 2 de la *Loi sur les banques*) émis pour une durée d'au moins cinq ans, si l'émetteur est une banque;

b) de titres secondaires (au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*) émis pour une durée d'au moins cinq ans, si l'émetteur est une compagnie d'assurance;

c) de titres secondaires (au sens de l'article 2 de la *Loi sur les banques*, compte tenu des adaptations nécessaires) émis pour une durée d'au moins cinq ans, si l'émetteur est une autre société.

Ne font pas partie du passif à long terme, lorsque la société est une société d'État prévue par règlement pour l'application de l'article 27, les titres de créance émis en faveur de Sa Majesté du chef du Canada et détenus par elle. (*long-term debt*)

réserves Montant à la fin d'une année d'imposition constitué de l'ensemble des réserves et provisions d'une société, y compris les réserves pour impôts reportés. En sont exclus l'amortissement cumulé et les provisions pour épuisement. (*reserves*)

Prescribed expressions

(2) For the purposes of this Part, the expressions ***attributed surplus***, ***Canadian assets***, ***Canadian premiums***, ***Canadian reserve liabilities***, ***permanent establishment***, ***total assets***, ***total premiums*** and ***total reserve liabilities*** have such meanings as may be prescribed.

Termes définis par règlement

(2) Pour l'application de la présente partie, les termes ***actif canadien***, ***actif total***, ***établissement stable***, ***passif de réserve canadienne***, ***passif total de réserve***, ***primes canadiennes***, ***surplus attribué*** et ***total des primes*** s'entendent au sens du règlement.

Determining values and amounts

(3) For the purposes of determining the carrying value of a corporation's assets or any other amount under this

Calcul des valeurs et montants

(3) Pour déterminer la valeur comptable d'un des éléments d'actif d'une société ou tout autre montant en

Part in respect of a corporation's capital, investment allowance, taxable capital or taxable capital employed in Canada for a taxation year or in respect of a partnership in which a corporation has an interest,

(a) the equity and consolidation methods of accounting shall not be used; and

(b) subject to paragraph 181(3)(a) and except as otherwise provided in this Part, the amounts reflected in the balance sheet

(i) presented to the shareholders of the corporation (in the case of a corporation that is neither an insurance corporation to which subparagraph 181(3)(b)(ii) applies nor a bank) or the members of the partnership, as the case may be, or, where such a balance sheet was not prepared in accordance with generally accepted accounting principles or no such balance sheet was prepared, the amounts that would be reflected if such a balance sheet had been prepared in accordance with generally accepted accounting principles, or

(ii) accepted by the Superintendent of Financial Institutions, in the case of a bank or an insurance corporation that is required by law to report to the Superintendent, or the superintendent of insurance or other similar officer or authority of the province under whose laws the corporation is incorporated, in the case of an insurance corporation that is required by law to report to that officer or authority,

shall be used.

vertu de la présente partie afférent au capital d'une société, à sa déduction pour placements, à son capital imposable et à son capital imposable utilisé au Canada pour une année d'imposition ou afférent à une société de personnes dans laquelle une société a une participation :

a) la consolidation et la méthode de comptabilisation à la valeur de consolidation ne peuvent être utilisées;

b) sous réserve de l'alinéa a) et sauf disposition contraire de la présente partie, les montants à utiliser sont les suivants :

(i) soit ceux qui figurent au bilan présenté aux actionnaires de la société — s'il s'agit d'une société qui n'est ni une compagnie d'assurance à laquelle le sous-alinéa (ii) s'applique, ni une banque — ou aux associés de la société de personnes, ou, si un tel bilan n'est pas dressé conformément aux principes comptables généralement reconnus ou si aucun bilan n'est dressé, ceux qui y figureraient si un tel bilan était dressé conformément à ces principes,

(ii) soit ceux qui figurent au bilan accepté par le surintendant des institutions financières, s'il s'agit d'une banque ou d'une compagnie d'assurance tenue par la loi de faire rapport au surintendant, ou par le surintendant des assurances ou un autre agent ou autorité semblable de la province où elle est constituée, s'il s'agit d'une compagnie d'assurance tenue par la loi de faire rapport à cet agent ou à cette autorité.

Limitations respecting inclusions and deductions

(4) Unless a contrary intention is evident, no provision of this Part shall be read or construed to require the inclusion or to permit the deduction, in computing the amount of a corporation's capital, investment allowance, taxable capital or taxable capital employed in Canada for a taxation year, of any amount to the extent that that amount has been included or deducted, as the case may be, in computing the first-mentioned amount under, in accordance with or by reason of any other provision of this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181; 1994, c. 7, Sch. II, s. 145, Sch. VIII, s. 104, c. 21, s. 81; 1995, c. 21, s. 72; 2001, c. 17, s. 220; 2013, c. 34, ss. 147, 324.

Restriction

(4) Sauf intention contraire évidente, aucune des dispositions de la présente partie n'a pour effet d'exiger l'inclusion ou de permettre la déduction d'une somme dans le calcul du capital d'une société, de sa déduction pour placements, de son capital imposable ou de son capital imposable utilisé au Canada pour une année d'imposition, dans la mesure où cette somme est incluse ou déduite, selon le cas, dans le calcul de ces montants en vertu, en conformité ou en application de toute autre disposition de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181; 1994, ch. 7, ann. II, art. 145, ann. VIII, art. 104, ch. 21, art. 81; 1995, ch. 21, art. 72; 2001, ch. 17, art. 220; 2013, ch. 34, art. 147 et 324.

Tax payable

181.1 (1) Every corporation shall pay a tax under this Part for each taxation year equal to the amount obtained by multiplying the corporation's specified percentage for the taxation year by the amount, if any, by which

Impôt payable

181.1 (1) Toute société est tenue de payer, en vertu de la présente partie pour chaque année d'imposition, un impôt égal au produit du pourcentage déterminé qui lui est applicable pour l'année par l'excédent éventuel de son

(a) its taxable capital employed in Canada for the year exceeds

(b) its capital deduction for the year.

Specified percentage

(1.1) For the purpose of subsection (1), the specified percentage of a corporation for a taxation year that ends after 2003 is the total of

(a) that proportion of 0.225% that the number of days in the taxation year that are before 2004 is of the number of days in the taxation year,

(b) that proportion of 0.200% that the number of days in the taxation year that are in 2004 is of the number of days in the taxation year, and

(c) that proportion of 0.175% that the number of days in the taxation year that are in 2005 is of the number of days in the taxation year.

(d) and (e) [Repealed, 2006, c. 4, s. 82]

Exceptions

(1.2) Notwithstanding subsection (1.1), for the purposes of applying subsection 125(5.1) and the definitions ***unused surtax credit*** in subsections (6) and 190.1(5), the amount of tax in respect of a corporation under subsection (1) for a taxation year is to be determined as if the specified percentage of the corporation for the taxation year were 0.225%.

Short taxation years

(2) Where a taxation year of a corporation is less than 51 weeks, the amount determined under subsection 181.1(1) for the year in respect of the corporation shall be reduced to that proportion of that amount that the number of days in the year is of 365.

Where tax not payable

(3) No tax is payable under this Part for a taxation year by a corporation

(a) that was a non-resident-owned investment corporation throughout the year;

(b) that was a bankrupt (within the meaning assigned by subsection 128(3)) at the end of the year;

capital imposable utilisé au Canada pour l'année sur son abattement de capital pour l'année.

Pourcentage déterminé

(1.1) Pour l'application du paragraphe (1), le pourcentage déterminé applicable à une société pour une année d'imposition se terminant après 2003 correspond au total des produits suivants :

a) le produit de 0,225 % par le rapport entre le nombre de jours de l'année d'imposition qui sont antérieurs à 2004 et le nombre total de jours de l'année d'imposition;

b) le produit de 0,200 % par le rapport entre le nombre de jours de l'année d'imposition qui sont en 2004 et le nombre total de jours de l'année d'imposition;

c) le produit de 0,175 % par le rapport entre le nombre de jours de l'année d'imposition qui sont en 2005 et le nombre total de jours de l'année d'imposition.

d) et e) [Abrogés, 2006, ch. 4, art. 82]

Exceptions

(1.2) Malgré le paragraphe (1.1), pour l'application du paragraphe 125(5.1) et de la définition de ***crédit de surtaxe inutilisé*** aux paragraphes (6) et 190.1(5), l'impôt relatif à une société en vertu du paragraphe (1) pour une année d'imposition est déterminé comme si le pourcentage déterminé qui lui est applicable pour l'année s'établissait à 0,225 %.

Année d'imposition de moins de 51 semaines

(2) Dans le cas où l'année d'imposition d'une société compte moins de 51 semaines, le montant déterminé selon le paragraphe (1) pour l'année relativement à la société est réduit du produit de la multiplication de ce même montant par le rapport entre le nombre de jours de l'année et 365.

Aucun impôt payable

(3) Aucun impôt n'est payable en vertu de la présente partie pour une année d'imposition par une société qui, selon le cas :

a) est une société de placement appartenant à des non-résidents tout au long de l'année;

b) est un failli, au sens du paragraphe 128(3), à la fin de l'année;

(c) that was throughout the year exempt from tax under section 149 on all of its taxable income;

(d) that neither was resident in Canada nor carried on business through a permanent establishment in Canada at any time in the year;

(e) that was throughout the year a deposit insurance corporation (within the meaning assigned by subsection 137.1(5)) or a corporation deemed by subsection 137.1(5.1) to be a deposit insurance corporation; or

(f) that was throughout the year a corporation described in subsection 136(2) the principal business of which was marketing (including processing incidental to or connected therewith) natural products belonging to or acquired from its members or customers.

c) est, tout au long de l'année, exonérée de l'impôt en application de l'article 149 sur la totalité de son revenu imposable;

d) ne réside pas au Canada et n'exploite pas d'entreprise par l'entremise d'un établissement stable au Canada à un moment de l'année;

e) est, tout au long de l'année, une compagnie d'assurance-dépôts, au sens du paragraphe 137.1(5), ou une filiale réputée être, en application du paragraphe 137.1(5.1), une compagnie d'assurance-dépôts;

f) est, tout au long de l'année, une société visée au paragraphe 136(2) dont l'entreprise principale consiste à assurer la commercialisation, y compris le traitement accessoire ou rattaché à la commercialisation, de produits naturels acquis auprès de ses membres ou de ses clients, ou leur appartenant.

Deduction

(4) There may be deducted from a corporation's tax otherwise payable under this Part for a taxation year an amount equal to the total of

(a) its Canadian surtax payable for the year, and

(b) such part as the corporation claims of its unused surtax credits for its 7 immediately preceding and 3 immediately following taxation years,

to the extent that that total does not exceed the amount by which

(c) the amount that would, but for this subsection, be its tax payable under this Part for the year

exceeds

(d) the total of all amounts each of which is the amount deducted under subsection 125.3(1) in computing the corporation's tax payable under Part I for a taxation year ending before 1992 in respect of its unused Part I.3 tax credit (within the meaning assigned by section 125.3) for the year.

Déduction

(4) Est déductible de l'impôt payable par ailleurs par une société en vertu de la présente partie pour une année d'imposition, le total des montants suivants :

a) la surtaxe canadienne payable par la société pour l'année;

b) la partie, demandée en déduction par la société, de ses crédits de surtaxe inutilisés pour les sept années d'imposition précédentes et les trois années d'imposition suivantes.

Ce total est déductible dans la mesure où il ne dépasse pas l'excédent éventuel du montant visé à l'alinéa c) sur le total visé à l'alinéa d):

c) le montant qui, n'eût été le présent paragraphe, correspondrait à l'impôt payable par la société pour l'année en vertu de la présente partie;

d) le total des montants représentant chacun le montant déduit en application du paragraphe 125.3(1) dans le calcul de l'impôt payable par la société en vertu de la partie I pour une année d'imposition se terminant avant 1992, au titre de son crédit d'impôt de la partie I.3 inutilisé (au sens de l'article 125.3) pour l'année.

Idem

(5) For the purposes of this subsection and subsections 181.1(4), 181.1(6) and 181.1(7),

(a) an amount may not be claimed under subsection 181.1(4) in computing a corporation's tax payable under this Part for a particular taxation year in respect of its unused surtax credit for another taxation year until

Idem

(5) Pour l'application du présent paragraphe et des paragraphes (4), (6) et (7):

a) nul montant n'est déductible en application du paragraphe (4) dans le calcul de l'impôt payable par une société en vertu de la présente partie pour une année d'imposition donnée au titre de son crédit de surtaxe

its unused surtax credits, if any, for taxation years preceding the other year that may be claimed under this Part for the particular year have been claimed; and

(b) an amount in respect of a corporation's unused surtax credit for a taxation year may be claimed under subsection 181.1(4) in computing its tax payable under this Part for another taxation year only to the extent that it exceeds the total of all amounts each of which is an amount claimed in respect of that unused surtax credit in computing its tax payable under this Part or Part VI for a taxation year preceding that other year.

inutilisé pour une autre année d'imposition tant que la société n'a pas déduit les crédits de surtaxe inutilisés pour les années d'imposition antérieures à cette autre année qu'elle peut déduire en application de la présente partie pour l'année donnée;

b) un montant au titre du crédit de surtaxe inutilisé d'une société pour une année d'imposition n'est déductible en application du paragraphe (4) dans le calcul de l'impôt payable par la société en vertu de la présente partie pour une autre année d'imposition que dans la mesure où le montant dépasse le total des montants représentant chacun un montant déduit au titre de ce crédit de surtaxe inutilisé dans le calcul de l'impôt payable par la société en vertu de la présente partie ou de la partie VI pour une année d'imposition antérieure à cette autre année.

Definitions

(6) For the purposes of this subsection and subsections 181.1(4), 181.1(5) and 181.1(7),

Canadian surtax payable of a corporation for a taxation year has the meaning assigned by subsection 125.3(4); (*surtaxe canadienne payable*)

unused surtax credit for a taxation year ending after 1991

(a) of a corporation (other than a corporation that was throughout the year a financial institution, within the meaning assigned by section 190) means the amount, if any, by which

(i) its Canadian surtax payable for the year

exceeds the total of

(ii) the amount that would, but for subsection 181.1(4), be its tax payable under this Part for the year, and

(iii) the amount, if any, deducted under section 125.3 in computing the corporation's tax payable under Part I for the year, and

(b) of a corporation that was throughout the year a financial institution (within the meaning assigned by section 190) means the lesser of

(i) the amount, if any, by which

(A) its Canadian surtax payable for the year

exceeds the total of

Définitions

(6) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (4), (5) et (7).

crédit de surtaxe inutilisé S'agissant du crédit de surtaxe inutilisé pour une année d'imposition qui se termine après 1991, le montant déterminé comme suit :

a) dans le cas d'une société (sauf une société qui est, tout au long de l'année, une institution financière, au sens de l'article 1990), l'excédent éventuel de sa surtaxe canadienne payable pour l'année sur le total des montants suivants :

(i) le montant qui, sans le paragraphe (4), correspondrait à son impôt payable pour l'année en vertu de la présente partie,

(ii) le montant déduit en application de l'article 125.3 dans le calcul de son impôt payable pour l'année en vertu de la partie I;

b) dans le cas d'une société qui est, tout au long de l'année, une institution financière, au sens de l'article 190, le moins élevé des montants suivants :

(i) l'excédent éventuel de sa surtaxe canadienne payable pour l'année sur le total des montants suivants :

(A) le montant qui, sans le paragraphe (4), correspondrait à son impôt payable pour l'année en vertu de la présente partie,

(B) le montant déduit en application de l'article 125.3 dans le calcul de son impôt payable pour l'année en vertu de la partie I,

(B) the amount that would, but for subsection 181.1(4), be its tax payable under this Part for the year, and

(C) the amount, if any, deducted under section 125.3 in computing the corporation's tax payable under Part I for the year, and

(ii) the amount, if any, by which its tax payable under Part I for the year exceeds the amount that would, but for subsection 181.1(4) and subsection 190.1(3), be the total of its taxes payable under Parts I.3 and VI for the year. (*crédit de surtaxe inutilisé*)

(ii) l'excédent éventuel de son impôt payable pour l'année en vertu de la partie I sur le montant qui, sans les paragraphes (4) et 190.1(3), correspondrait au total de ses impôts payables pour l'année en vertu des parties I.3 et VI. (*unused surtax credit*)

surtaxe canadienne payable S'entend au sens du paragraphe 125.3(4). (*Canadian surtax payable*)

Acquisition of control

(7) Where at any time control of a corporation has been acquired by a person or group of persons, no amount in respect of its unused surtax credit for a taxation year ending before that time is deductible by the corporation for a taxation year ending after that time and no amount in respect of its unused surtax credit for a taxation year ending after that time is deductible by the corporation for a taxation year ending before that time, except that

(a) the corporation's unused surtax credit for a particular taxation year that ended before that time is deductible by the corporation for a taxation year that ends after that time (in this paragraph referred to as the "subsequent year") to the extent of that proportion of the corporation's Canadian surtax payable for the particular year that

(i) the amount, if any, by which

(A) the total of all amounts each of which is

(I) its income under Part I for the particular year from a business that was carried on by the corporation throughout the subsequent year for profit or with a reasonable expectation of profit, or

(II) where properties were sold, leased, rented or developed or services were rendered in the course of carrying on that business before that time, its income under Part I for the particular year from any other business all or substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

exceeds

Acquisition de contrôle

(7) En cas d'acquisition du contrôle d'une société par une personne ou un groupe de personnes, aucun montant au titre du crédit de surtaxe inutilisé de la société pour une année d'imposition se terminant avant le moment de l'acquisition n'est déductible par la société pour une année d'imposition se terminant après ce moment et aucun montant au titre de son crédit de surtaxe inutilisé pour une année d'imposition se terminant après ce moment n'est déductible par la société pour une année d'imposition se terminant avant ce moment. Toutefois :

a) le crédit de surtaxe inutilisé de la société pour une année d'imposition donnée qui s'est terminée avant le moment de l'acquisition est déductible par la société pour une année d'imposition qui se termine après ce moment (appelée année subséquente" au présent alinéa), jusqu'à concurrence du produit de sa surtaxe canadienne payable pour l'année donnée par le rapport entre :

(i) d'une part, l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun :

(I) son revenu en vertu de la partie I pour l'année donnée provenant d'une entreprise qu'elle exploitait à profit ou dans une attente raisonnable de profit tout au long de l'année subséquente,

(II) dans le cas où des biens sont vendus, loués ou mis en valeur ou des services, rendus dans le cadre de l'exploitation de l'entreprise visée à la subdivision (I) avant le moment de l'acquisition, son revenu en vertu de la partie I pour l'année donnée provenant d'une autre entreprise dont la totalité ou la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur de biens

(B) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or 111(1)(d) in computing its taxable income for the particular year in respect of a non-capital loss or a farm loss, as the case may be, for taxation year in respect of any business referred to in clause 181.1(7)(a)(i)(A)

is of the greater of

(ii) the amount determined under subparagraph 181.1(7)(a)(i), and

(iii) the corporation's taxable income for the particular year; and

(b) the corporation's unused surtax credit for a particular taxation year that ends after that time is deductible by the corporation for a taxation year that ended before that time (in this paragraph referred to as the "preceding year") to the extent of that proportion of the corporation's Canadian surtax payable for the particular year that

(i) the amount, if any, by which

(A) the total of all amounts each of which is

(I) its income under Part I for the particular year from a business that was carried on by the corporation in the preceding year and throughout the particular year for profit or with a reasonable expectation of profit, or

(II) where properties were sold, leased, rented or developed or services were rendered in the course of carrying on that business before that time, the corporation's income under Part I for the particular year from any other business all or substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

exceeds

(B) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or 111(1)(d) in computing the corporation's taxable income for the particular year in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of any business referred to in clause 181.1(7)(b)(i)(A)

is of the greater of

semblables ou de la prestation de services semblables,

(B) le total des montants représentant chacun un montant déduit en application des alinéas 111(1)a) ou d) dans le calcul de son revenu imposable pour l'année donnée au titre d'une perte autre qu'une perte en capital ou d'une perte agricole pour une année d'imposition relativement à une entreprise visée à la division (A),

(ii) d'autre part, le plus élevé des montants suivants :

(A) l'excédent déterminé selon le sous-alinéa (i),

(B) le revenu imposable de la société pour l'année donnée;

b) le crédit de surtaxe inutilisé de la société pour une année d'imposition donnée qui se termine après le moment de l'acquisition est déductible par la société pour une année d'imposition qui s'est terminée avant ce moment (appelée « année précédente » au présent alinéa), jusqu'à concurrence du produit de sa surtaxe canadienne payable pour l'année donnée par le rapport entre :

(i) d'une part, l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun :

(I) son revenu en vertu de la partie I pour l'année donnée provenant d'une entreprise qu'elle exploitait à profit ou dans une attente raisonnable de profit au cours de l'année précédente et tout au long de l'année donnée,

(II) dans le cas où des biens sont vendus, loués ou mis en valeur ou des services, rendus dans le cadre de l'exploitation de l'entreprise visée à la subdivision (I) avant le moment de l'acquisition, son revenu en vertu de la partie I pour l'année donnée provenant d'une autre entreprise dont la totalité ou la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur de biens semblables ou de la prestation de services semblables,

(B) le total des montants représentant chacun un montant déduit en application des alinéas 111(1)a) ou d) dans le calcul de son revenu imposable pour l'année donnée au titre d'une perte

(ii) the amount determined under subparagraph 181.1(7)(b)(i), and

(iii) the corporation's taxable income for the particular year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.1; 1994, c. 7, Sch. II, s. 146, Sch. VIII, s. 105, c. 21, s. 82; 1996, c. 21, s. 47; 1998, c. 19, s. 194; 2003, c. 15, s. 85; 2006, c. 4, s. 82.

autre qu'une perte en capital ou d'une perte agricole pour une année d'imposition relativement à une entreprise visée à la division (A),

(ii) d'autre part, le plus élevé des montants suivants :

(A) l'excédent déterminé selon le sous-alinéa (i),

(B) le revenu imposable de la société pour l'année donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 181.1; 1994, ch. 7, ann. II, art. 146, ann. VIII, art. 105, ch. 21, art. 82; 1996, ch. 21, art. 47; 1998, ch. 19, art. 194; 2003, ch. 15, art. 85; 2006, ch. 4, art. 82.

Taxable capital employed in Canada

181.2 (1) The taxable capital employed in Canada of a corporation for a taxation year (other than a financial institution or a corporation that was throughout the year not resident in Canada) is the prescribed proportion of the corporation's taxable capital for the year.

Taxable capital

(2) The taxable capital of a corporation (other than a financial institution) for a taxation year is the amount, if any, by which its capital for the year exceeds its investment allowance for the year.

Capital

(3) The capital of a corporation (other than a financial institution) for a taxation year is the amount, if any, by which the total of

(a) the amount of its capital stock (or, in the case of a corporation incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses at the end of the year,

(b) the amount of its reserves for the year, except to the extent that they were deducted in computing its income for the year under Part I,

(b.1) the amount of its deferred unrealized foreign exchange gains at the end of the year,

(c) the amount of all loans and advances to the corporation at the end of the year,

(d) the amount of all indebtedness of the corporation at the end of the year represented by bonds, debentures, notes, mortgages, hypothecary claims, banker's acceptances or similar obligations,

(e) the amount of any dividends declared but not paid by the corporation before the end of the year,

Capital imposable utilisé au Canada

181.2 (1) Le capital imposable utilisé au Canada, pour une année d'imposition, d'une société, sauf une institution financière ou une société qui tout au long de l'année n'a pas résidé au Canada, correspond à la proportion prescrite du capital imposable de la société pour l'année.

Capital imposable

(2) Le capital imposable d'une société, sauf une institution financière, pour une année d'imposition est égal à l'excédent éventuel de son capital pour l'année sur sa déduction pour placements pour l'année.

Capital

(3) Le capital d'une société, sauf une institution financière, pour une année d'imposition correspond à l'excédent éventuel du total des éléments suivants :

a) le capital-actions de la société (ou, si elle est constituée sans capital-actions, l'apport de ses membres), ses bénéfices non répartis, son surplus d'apport et tout autre surplus à la fin de l'année;

b) ses réserves pour l'année, sauf dans la mesure où elles sont déduites dans le calcul de son revenu pour l'année en vertu de la partie I;

b.1) ses gains sur change non réalisés reportés à la fin de l'année;

c) les prêts et les avances qui lui ont été consentis à la fin de l'année;

d) ses dettes à la fin de l'année sous forme d'obligations, de créances hypothécaires, d'effets, d'acceptations bancaires ou de titres semblables;

e) les dividendes qu'elle a déclarés mais n'a pas versés avant la fin de l'année;

(f) the amount of all other indebtedness (other than any indebtedness in respect of a lease) of the corporation at the end of the year that has been outstanding for more than 365 days before the end of the year, and

(g) the total of all amounts, each of which is the amount, if any, in respect of a partnership in which the corporation held a membership interest at the end of the year, either directly or indirectly through another partnership, determined by the formula

(A – B) × C/D

where

A is the total of all amounts that would be determined under paragraphs (b) to (d) and (f) in respect of the partnership for its last fiscal period that ends at or before the end of the year if

(a) those paragraphs applied to partnerships in the same manner that they apply to corporations, and

(b) those amounts were computed without reference to amounts owing by the partnership

(i) to any corporation that held a membership interest in the partnership either directly or indirectly through another partnership, or

(ii) to any partnership in which a corporation described in subparagraph (i) held a membership interest either directly or indirectly through another partnership,

B is the partnership's deferred unrealized foreign exchange losses at the end of the period,

C is the share of the partnership's income or loss for the period to which the corporation is entitled either directly or indirectly through another partnership, and

D is the partnership's income or loss for the period

exceeds the total of

(h) the amount of its deferred tax debit balance at the end of the year,

(i) the amount of any deficit deducted in computing its shareholders' equity (including, for this purpose, the amount of any provision for the redemption of preferred shares) at the end of the year,

(j) any amount deducted under subsection 135(1) in computing its income under Part I for the year, to the extent that the amount can reasonably be regarded as being included in the amount determined under any

f) toutes ses autres dettes, sauf celles afférentes à un bail, à la fin de l'année qui sont impayées depuis plus de 365 jours avant la fin de l'année;

g) le total des sommes dont chacune représente la somme éventuelle, relative à une société de personnes dans laquelle la société détenait une participation à la fin de l'année, directement ou par l'intermédiaire d'une autre société de personnes, obtenue par la formule suivante :

(A – B) × C/D

où :

A représente le total des sommes qui seraient déterminées selon les alinéas b) à d) et f) relativement à la société de personnes pour son dernier exercice se terminant au plus tard à la fin de l'année si, à la fois :

a) ces alinéas s'appliquaient aux sociétés de personnes de la même manière qu'ils s'appliquent aux sociétés,

b) ces sommes étaient calculées compte non tenu de sommes dues par la société de personnes :

(i) soit à une société qui détenait une participation dans la société de personnes directement ou par l'intermédiaire d'une autre société de personnes,

(ii) soit à une société de personnes dans laquelle la société visée au sous-alinéa (i) détenait une participation directement ou par l'intermédiaire d'une autre société de personnes,

B les pertes sur change non réalisées reportées de la société de personnes à la fin de l'exercice,

C la part du revenu ou de la perte de la société de personnes pour l'exercice à laquelle la société a droit directement ou par l'intermédiaire d'une autre société de personnes,

D le revenu ou la perte de la société de personnes pour l'exercice,

sur le total des montants suivants :

h) le solde de son report débiteur d'impôt à la fin de l'année;

i) tout déficit déduit dans le calcul de l'avoir des actionnaires (y compris, à cette fin, toute provision pour le rachat d'actions privilégiées) à la fin de l'année;

j) tout montant déduit en application du paragraphe 135(1) dans le calcul de son revenu pour l'année en

of paragraphs 181.2(3)(a) to 181.2(3)(g) in respect of the corporation for the year, and

(k) the amount of its deferred unrealized foreign exchange losses at the end of the year.

Investment allowance

(4) The investment allowance of a corporation (other than a financial institution) for a taxation year is the total of all amounts each of which is the carrying value at the end of the year of an asset of the corporation that is

(a) a share of another corporation,

(b) a loan or advance to another corporation (other than a financial institution),

(c) a bond, debenture, note, mortgage, hypothecary claim or similar obligation of another corporation (other than a financial institution),

(d) long-term debt of a financial institution,

(d.1) a loan or advance to, or a bond, debenture, note, mortgage, hypothecary claim or similar obligation of, a partnership each member of which was, throughout the year,

(i) another corporation (other than a financial institution) that was not exempt from tax under this Part (otherwise than because of paragraph 181.1(3)(d)), or

(ii) another partnership described in this paragraph,

(e) an interest in a partnership, or

(f) a dividend payable to the corporation at the end of the year on a share of the capital stock of another corporation,

other than a share of the capital stock of, a dividend payable by, or indebtedness of, a corporation that is exempt from tax under this Part (otherwise than because of paragraph 181.1(3)(d)).

Value of interest in partnership

(5) For the purposes of subsection (4) and this subsection, the carrying value at the end of a taxation year of an interest of a corporation or of a partnership (each of

vertu de la partie I, dans la mesure où il est raisonnable de considérer les déductions comme incluses dans l'un des montants calculés en application des alinéas a) à g) relativement à la société pour l'année;

k) ses pertes sur change non réalisées reportées à la fin de l'année.

Déduction pour placements

(4) La déduction pour placements d'une société, sauf une institution financière, pour une année d'imposition correspond au total des montants dont chacun représente la valeur comptable à la fin de l'année d'un élément d'actif de la société qui est, selon le cas :

a) une action d'une autre société;

b) un prêt ou une avance consenti à une autre société, sauf une institution financière;

c) une obligation, un effet, une créance hypothécaire ou un titre semblable d'une autre société, sauf une institution financière;

d) une dette du passif à long terme d'une institution financière;

d.1) un prêt ou une avance consentis à une société de personnes dont l'ensemble des associés étaient, tout au long de l'année, l'une des entités ci-après, ou une obligation, un billet, une créance hypothécaire ou un titre semblable d'une telle société de personnes :

(i) une autre société, sauf une institution financière, qui n'était pas exonérée de l'impôt prévu par la présente partie, autrement qu'en vertu de l'alinéa 181.1(3)d),

(ii) une autre société de personnes visée au présent alinéa;

e) une participation dans une société de personnes;

f) un dividende payable à la société à la fin de l'année sur une action du capital-actions d'une autre société.

En sont exclues les actions du capital-actions et les dettes d'une société exonérée de l'impôt en application de la présente partie, autrement qu'en vertu de l'alinéa 181.1(3)d), ainsi que les dividendes payables par une telle société.

Valeur d'une participation dans une société de personnes

(5) Pour l'application du paragraphe (4) et du présent paragraphe, la valeur comptable à la fin d'une année d'imposition de la participation d'une société ou d'une

which is referred to in this subsection as the "member") in a particular partnership is deemed to be the member's specified proportion, for the particular partnership's last fiscal period that ends at or before the end of the taxation year, of the amount that would, if the particular partnership were a corporation, be the particular partnership's investment allowance at the end of that fiscal period.

Loan

(6) For the purpose of subsection 181.2(4), where a corporation made a particular loan to a trust that neither

(a) made any loans or advances to nor received any loans or advances from, nor

(b) acquired any bond, debenture, note, mortgage, hypothecary claim or similar obligation of nor issued any bond, debenture, note, mortgage, hypothecary claim or similar obligation to

a person not related to the corporation, as part of a series of transactions in which the trust made a loan to another corporation (other than a financial institution) to which the corporation is related, the least of

(c) the amount of the particular loan,

(d) the amount of the loan from the trust to the other corporation, and

(e) the amount, if any, by which

(i) the total of all amounts each of which is the amount of a loan from the trust to any corporation

exceeds

(ii) the total of all amounts each of which is the amount of a loan (other than the particular loan) from any corporation to the trust

at any time shall be deemed to be the amount of a loan from the corporation to the other corporation at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.2; 1994, c. 7, Sch. II, s. 147, Sch. VIII, s. 106; 1998, c. 19, s. 195; 2001, c. 17, s. 221; 2013, c. 34, s. 325.

Taxable capital employed in Canada of financial institution

181.3 (1) The taxable capital employed in Canada of a financial institution for a taxation year is the total of

(a) the total of all amounts each of which is the carrying value at the end of the year of an asset of the financial institution (other than property held by the institution primarily for the purpose of resale that was

société de personnes (chacune étant appelée « associé » au présent paragraphe) dans une société de personnes donnée est réputée correspondre à la proportion déterminée qui revient à l'associé, pour le dernier exercice de la société de personnes donnée se terminant au plus tard à la fin de l'année, du montant qui représenterait la déduction pour placements de la société de personnes donnée à la fin de cet exercice si elle était une société.

Prêt

(6) Pour l'application du paragraphe (4), lorsqu'une société consent un prêt à une fiducie qui n'a ni consenti des prêts ou des avances à une personne qui n'est pas liée à la société ou contracté des prêts ou des avances auprès d'une telle personne, ni acquis auprès d'une telle personne, ou émis en faveur d'une telle personne, quelque obligation, billet, créance hypothécaire ou titre semblable, et que le prêt fait partie d'une série d'opérations dans le cadre desquelles la fiducie a consenti un prêt à une autre société, sauf une institution financière, à laquelle la société est liée, le moins élevé des montants suivants, à un moment donné, est réputé représenter le montant d'un prêt que la société a consenti à l'autre société à ce moment :

a) le montant du prêt que la société a consenti à la fiducie;

b) le montant du prêt que la fiducie a consenti à l'autre société;

c) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants représentant chacun le montant d'un prêt que la fiducie a consenti à une société quelconque,

(ii) le total des montants représentant chacun le montant d'un prêt, sauf le prêt visé à l'alinéa a), qu'une société quelconque a consenti à la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.2; 1994, ch. 7, ann. II, art. 147, ann. VIII, art. 106; 1998, ch. 19, art. 195; 2001, ch. 17, art. 221; 2013, ch. 34, art. 325.

Capital imposable utilisé au Canada d'une institution financière

181.3 (1) Le capital imposable utilisé au Canada d'une institution financière pour une année d'imposition correspond au total des montants suivants :

a) le total des montants représentant chacun la valeur comptable à la fin de l'année d'un élément d'actif de l'institution financière (sauf un bien que l'institution

acquired by the financial institution, in the year or the preceding taxation year, as a consequence of another person's default, or anticipated default, in respect of a debt owed to the institution) that is tangible, or for civil law corporeal, property used in Canada and, in the case of a financial institution that is an insurance corporation, that is non-segregated property, within the meaning assigned by subsection 138(12),

(b) the total of all amounts each of which is an amount in respect of a partnership in which the financial institution has an interest at the end of the year equal to that proportion of

(i) the total of all amounts each of which is the carrying value of an asset of the partnership, at the end of its last fiscal period ending at or before the end of the year, that is tangible, or for civil law corporeal, property used in Canada

that

(ii) the financial institution's share of the partnership's income or loss for that period

is of

(iii) the partnership's income or loss for that period, and

(c) an amount that is equal to

(i) in the case of a financial institution other than an insurance corporation, that proportion of its taxable capital for the year that its Canadian assets at the end of the year is of its total assets at the end of the year,

(ii) in the case of an insurance corporation that was resident in Canada at any time during the year and carried on a life insurance business at any time in the year, the total of

(A) that proportion of the amount, if any, by which the total of

(I) its taxable capital for the year, and

(II) the amount prescribed for the year in respect of the corporation

exceeds

(III) the amount prescribed for the year in respect of the corporation

that its Canadian reserve liabilities as at the end of the year is of the total of

détient principalement pour la revente et qu'elle a acquis, au cours de l'année ou de l'année d'imposition précédente, du fait qu'une autre personne a manqué à ses engagements résultant d'une dette due à l'institution, ou y manquera vraisemblablement) qui est un bien tangible ou, pour l'application du droit civil, un bien corporel utilisé au Canada et, dans le cas d'une institution financière qui est une compagnie d'assurance, qui est un bien non réservé, au sens du paragraphe 138(12);

b) le total des montants dont chacun représente un montant, concernant une société de personnes dans laquelle l'institution financière a une participation à la fin de l'année, égal au produit de la multiplication :

(i) du total des montants dont chacun représente la valeur comptable d'un élément d'actif de la société de personnes, à la fin de son dernier exercice se terminant au plus tard à la fin de l'année, qui est un bien tangible ou, pour l'application du droit civil, un bien corporel utilisé au Canada,

par le rapport entre :

(ii) d'une part, la part de l'institution financière sur le revenu ou la perte de la société de personnes pour cet exercice,

(iii) d'autre part, le revenu ou la perte de la société de personnes pour cet exercice;

c) l'un des montants suivants :

(i) dans le cas d'une institution financière autre qu'une compagnie d'assurance, le produit de la multiplication de son capital imposable pour l'année par le rapport entre son actif canadien à la fin de l'année et son actif total à la fin de l'année,

(ii) dans le cas d'une compagnie d'assurance qui a résidé au Canada à un moment de l'année et qui a exploité une entreprise d'assurance-vie à un moment de l'année, le total des montants suivants :

(A) le produit de la multiplication de l'excédent éventuel du total des montants suivants :

(I) son capital imposable pour l'année,

(II) le montant prescrit à son égard pour l'année,

sur :

(III) le montant prescrit à son égard pour l'année,

(IV) its total reserve liabilities as at the end of the year, and

(V) the amount prescribed for the year in respect of the corporation, and

(B) [Repealed, 2009, c. 2, s. 61]

(iii) in the case of an insurance corporation that was resident in Canada at any time in the year and throughout the year did not carry on a life insurance business, that proportion of its taxable capital for the year that the total amount of its Canadian premiums for the year is of its total premiums for the year, and

(iv) in the case of an insurance corporation that was throughout the year not resident in Canada and carried on an insurance business in Canada at any time in the year, its taxable capital for the year.

par le rapport entre son passif de réserve canadienne à la fin de l'année et le total des montants suivants :

(IV) son passif total de réserve à la fin de l'année,

(V) le montant prescrit à son égard pour l'année,

(B) [Abrogée, 2009, ch. 2, art. 61]

(iii) dans le cas d'une compagnie d'assurance qui a résidé au Canada à un moment de l'année et qui tout au long de l'année n'a pas exploité d'entreprise d'assurance-vie, le produit de la multiplication de son capital imposable pour l'année par le rapport entre le total de ses primes canadiennes pour l'année et son total des primes pour l'année,

(iv) dans le cas d'une compagnie d'assurance qui tout au long de l'année n'a pas résidé au Canada mais qui y a exploité une entreprise d'assurance à un moment de l'année, son capital imposable pour l'année.

Taxable capital of financial institution

(2) The taxable capital of a financial institution for a taxation year is the amount, if any, by which its capital for the year exceeds its investment allowance for the year.

Capital imposable d'une institution financière

(2) Le capital imposable d'une institution financière pour une année d'imposition correspond à l'excédent éventuel de son capital pour l'année sur sa déduction pour placements pour l'année.

Capital of financial institution

(3) The capital of a financial institution for a taxation year is

(a) in the case of a financial institution, other than an authorized foreign bank or an insurance corporation, the amount, if any, by which the total at the end of the year of

(i) the amount of its long-term debt,

(ii) the amount of its capital stock (or, in the case of an institution incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses, and

(iii) the amount of its reserves for the year, except to the extent that they were deducted in computing its income under Part I for the year,

exceeds the total of

Capital d'une institution financière

(3) Le capital d'une institution financière pour une année d'imposition correspond à l'un des montants suivants :

a) dans le cas d'une institution financière, sauf une banque étrangère autorisée ou une compagnie d'assurance, l'excédent éventuel du total des éléments suivants à la fin de l'année :

(i) les dettes de son passif à long terme,

(ii) son capital-actions (ou, si elle est constituée sans capital-actions, l'apport de ses membres), ses bénéfices non répartis, son surplus d'apport et tout autre surplus,

(iii) ses réserves pour l'année, sauf dans la mesure où elles sont déduites dans le calcul de son revenu pour l'année selon la partie I,

sur le total des montants suivants :

(iv) the amount of its deferred tax debit balance at the end of the year,

(v) the amount of any deficit deducted in computing its shareholders' equity (including, for this purpose, the amount of any provision for the redemption of preferred shares) at the end of the year, and

(vi) any amount deducted under subsection 130.1(1) or 137(2) in computing its income under Part I for the year, to the extent that the amount can reasonably be regarded as being included in the amount determined under subparagraph 181.3(3)(a)(i), 181.3(3)(a)(ii) or 181.3(3)(a)(iii) in respect of the institution for the year;

(b) in the case of an insurance corporation that was resident in Canada at any time in the year and carried on a life insurance business at any time in the year, the amount, if any, by which the total at the end of the year of

(i) the amount of its long-term debt, and

(ii) the amount of its capital stock (or, in the case of an insurance corporation incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses

exceeds the total of

(iii) the amount of its deferred tax debit balance at the end of the year, and

(iv) the amount of any deficit deducted in computing its shareholders' equity (including, for this purpose, the amount of any provision for the redemption of preferred shares) at the end of the year;

(c) in the case of an insurance corporation that was resident in Canada at any time in the year and throughout the year did not carry on a life insurance business, the amount, if any, by which the total at the end of the year of

(i) the amount of its long-term debt,

(ii) the amount of its capital stock (or, in the case of an insurance corporation incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses, and

(iii) the amount of its reserves for the year, except to the extent that they were deducted in computing its income under Part I for the year,

(iv) le solde de son report débiteur d'impôt à la fin de l'année,

(v) tout déficit déduit dans le calcul de l'avoir des actionnaires (y compris, à cette fin, toute provision pour le rachat d'actions privilégiées) à la fin de l'année,

(vi) tout montant déduit en application des paragraphes 130.1(1) ou 137(2) dans le calcul de son revenu pour l'année en vertu de la partie I, dans la mesure où il est raisonnable de considérer les déductions comme incluses dans l'un des montants calculés en application des sous-alinéas (i), (ii) ou (iii) relativement à l'institution financière pour l'année;

b) dans le cas d'une compagnie d'assurance qui a résidé au Canada à un moment de l'année et qui a exploité une entreprise d'assurance-vie à un moment de l'année, l'excédent éventuel du total des éléments suivants à la fin de l'année :

(i) les dettes de son passif à long terme,

(ii) son capital-actions (ou, si elle est constituée sans capital-actions, l'apport de ses membres), ses bénéfices non répartis, son surplus d'apport et tout autre surplus,

sur le total des montants suivants :

(iii) le solde de son report débiteur d'impôt à la fin de l'année,

(iv) tout déficit déduit dans le calcul de l'avoir des actionnaires (y compris, à cette fin, toute provision pour le rachat d'actions privilégiées) à la fin de l'année;

c) dans le cas d'une compagnie d'assurance qui a résidé au Canada à un moment de l'année et qui tout au long de l'année n'a pas exploité d'entreprise d'assurance-vie, l'excédent éventuel du total des éléments suivants à la fin de l'année :

(i) les dettes de son passif à long terme,

(ii) son capital-actions (ou, si elle est constituée sans capital-actions, l'apport de ses membres), ses bénéfices non répartis, son surplus d'apport et tout autre surplus,

(iii) ses réserves pour l'année, sauf dans la mesure où elles sont déduites dans le calcul de son revenu pour l'année selon la partie I,

exceeds the total of

(iv) the amount of its deferred tax debit balance at the end of the year,

(v) the amount of any deficit deducted in computing its shareholders' equity (including, for this purpose, the amount of any provision for the redemption of preferred shares) at the end of the year,

(vi) the total amount of its deferred acquisition expenses in respect of its property and casualty insurance business in Canada, to the extent that it can reasonably be attributed to an amount included in the amount determined under subparagraph 181.3(3)(c)(iii), and

(vii) any amount recoverable through reinsurance, to the extent that it can reasonably be regarded as being included in the amount determined under subparagraph (iii) in respect of a claims reserve;

(d) in the case of an insurance corporation that was throughout the year not resident in Canada and carried on an insurance business in Canada at any time in the year, the total at the end of the year of

(i) the amount that is the greater of

(A) the amount, if any, by which

(I) the corporation's surplus funds derived from operations (as defined in subsection 138(12)) as of the end of the year, computed as if no tax were payable under this Part or Part VI for the year

exceeds the total of all amounts each of which is

(II) an amount on which the corporation was required to pay, or would but for subsection 219(5.2) have been required to pay, tax under Part XIV for a preceding taxation year, except the portion, if any, of the amount on which tax was payable, or would have been payable, because of subparagraph 219(4)(a)(i.1), and

(III) an amount on which the corporation was required to pay, or would but for subsection 219(5.2) have been required to pay, tax under subsection 219(5.1) for the year because of the transfer of an insurance business to which subsection 138(11.5) or 138(11.92) has applied, and

(B) the corporation's attributed surplus for the year,

sur le total des montants suivants :

(iv) le solde de son report débiteur d'impôt à la fin de l'année,

(v) tout déficit déduit dans le calcul de l'avoir des actionnaires (y compris, à cette fin, toute provision pour le rachat d'actions privilégiées) à la fin de l'année,

(vi) ses frais d'acquisition reportés à l'égard de son entreprise d'assurance de biens et de risques divers au Canada, dans la mesure où il est raisonnable de les attribuer à un montant inclus dans le montant déterminé selon le sous-alinéa (iii),

(vii) tout montant recouvrable au moyen de la réassurance, dans la mesure où il est raisonnable de considérer qu'il a été inclus dans le montant déterminé selon le sous-alinéa (iii) au titre d'une provision pour sinistres non réglés;

d) dans le cas d'une compagnie d'assurance qui tout au long de l'année n'a pas résidé au Canada mais qui y a exploité une entreprise d'assurance à un moment de l'année, le total des montants suivants à la fin de l'année :

(i) le plus élevé des montants suivants :

(A) l'excédent éventuel :

(I) de son fonds excédentaire résultant de l'activité, au sens du paragraphe 138(12), à la fin de l'année, déterminé comme si aucun impôt n'était payable en vertu de la présente partie ou de la partie VI pour l'année,

sur le total des montants représentant chacun :

(II) un montant sur lequel elle était tenue de payer un impôt en vertu de la partie XIV pour une année d'imposition antérieure, ou aurait été ainsi tenue n'eût été le paragraphe 219(5.2), à l'exception de la partie du montant sur lequel un impôt était ou aurait été payable par l'effet du sous-alinéa 219(4)a)(i.1),

(III) un montant sur lequel elle était tenue de payer un impôt en vertu du paragraphe 219(5.1) pour l'année, ou aurait été ainsi tenue n'eût été le paragraphe 219(5.2), en raison du transfert d'une entreprise d'assurance à laquelle s'appliquent les paragraphes 138(11.5) ou (11.92),

(B) son surplus attribué pour l'année,

(ii) any other surpluses relating to its insurance businesses carried on in Canada,

(iii) the amount of its long-term debt that may reasonably be regarded as relating to its insurance businesses carried on in Canada, and

(iv) the amount, if any, by which

(A) the amount of its reserves for the year (other than its reserves in respect of amounts payable out of segregated funds) that may reasonably be regarded as having been established in respect of its insurance businesses carried on in Canada

exceeds the total of

(B) the total of all amounts each of which is the amount of a reserve (other than a reserve described in subparagraph 138(3)(a)(i)) to the extent that it was included in the amount determined under clause 181.3(3)(d)(iv)(A) and was deducted in computing its income under Part I for the year,

(C) the total of all amounts each of which is the amount of a reserve described in subparagraph 138(3)(a)(i) to the extent that it was included in the amount determined under clause 181.3(3)(d)(iv)(A) and was deductible under subparagraph 138(3)(a)(i) in computing its income under Part I for the year,

(D) the total of all amounts each of which is the amount outstanding (including any interest accrued thereon) as at the end of the year in respect of a policy loan (within the meaning assigned by subsection 138(12)) made by the corporation, to the extent that it was deducted in computing the amount determined under clause 181.3(3)(d)(iv)(C),

(E) the total amount of its deferred acquisition expenses in respect of its property and casualty insurance business in Canada, to the extent that it can reasonably be attributed to an amount included in the amount determined under clause 181.3(3)(d)(iv)(A), and

(F) the total of all amounts each of which is an amount recoverable through reinsurance, to the extent that it can reasonably be regarded as being included in the amount determined under clause (A) in respect of a claims reserve; and

(e) in the case of an authorized foreign bank, the total of

(ii) tout autre surplus lié à ses entreprises d'assurance exploitées au Canada,

(iii) la partie des dettes de son passif à long terme qu'il est raisonnable de considérer comme liée à ses entreprises d'assurance exploitées au Canada,

(iv) l'excédent éventuel :

(A) de ses réserves pour l'année, sauf les réserves pour des montants payables sur des fonds réservés, qu'il est raisonnable de considérer comme établies relativement à ses entreprises d'assurance exploitées au Canada,

sur le total des montants suivants :

(B) le total des montants dont chacun représente une réserve, sauf une provision visée au sous-alinéa 138(3)a)(i), dans la mesure où elle est incluse dans le montant déterminé selon la division (A) et est déduite dans le calcul de son revenu pour l'année selon la partie I,

(C) le total des montants dont chacun représente une provision visée au sous-alinéa 138(3)a)(i), dans la mesure où elle est incluse dans le montant déterminé selon la division (A) et est déductible en application de ce sous-alinéa dans le calcul de son revenu pour l'année selon la partie I,

(D) le total des montants dont chacun représente le montant impayé (y compris les intérêts courus) à la fin de l'année sur une avance sur police, au sens du paragraphe 138(12), consentie par la compagnie, dans la mesure où le montant est déduit dans le calcul du montant déterminé selon la division (C),

(E) ses frais d'acquisition reportés à l'égard de son entreprise d'assurance de biens et de risques divers au Canada, dans la mesure où il est raisonnable de les attribuer à un montant inclus dans le montant déterminé selon la division (A),

(F) le total des montants représentant chacun un montant recouvrable au moyen de la réassurance, dans la mesure où il est raisonnable de considérer qu'il a été inclus dans le montant déterminé selon la division (A) au titre d'une provision pour sinistres non réglés;

e) dans le cas d'une banque étrangère autorisée, la somme des montants suivants :

(i) 10% of the total of all amounts, each of which is the risk-weighted amount at the end of the year of an on-balance sheet asset or an off-balance sheet exposure of the bank in respect of its Canadian banking business that the bank would be required to report under the OSFI risk-weighting guidelines if those guidelines applied and required a report at that time, and

(ii) the total of all amounts, each of which is an amount at the end of the year in respect of the bank's Canadian banking business that

(A) if the bank were a bank listed in Schedule II to the *Bank Act*, would be required under the risk-based capital adequacy guidelines issued by the Superintendent of Financial Institutions and applicable at that time to be deducted from the bank's capital in determining the amount of capital available to satisfy the Superintendent's requirement that capital equal a particular proportion of risk-weighted assets and exposures, and

(B) is not an amount in respect of a loss protection facility required to be deducted from capital under the Superintendent's guidelines respecting asset securitization applicable at that time.

Investment allowance of financial institution

(4) The investment allowance for a taxation year of a corporation that is a financial institution is

(a) in the case of a corporation that was resident in Canada at any time in the year, the total of all amounts each of which is the carrying value at the end of the year of an eligible investment of the corporation;

(b) in the case of an insurance corporation that was throughout the year not resident in Canada, the total of all amounts each of which is the carrying value at the end of the year of an eligible investment of the corporation that was used or held by it in the year in the course of carrying on an insurance business in Canada;

(c) in the case of an authorized foreign bank, the total of all amounts each of which is the amount at the end of the year, before the application of risk weights, that the bank would be required to report under the OSFI risk-weighting guidelines if those guidelines applied and required a report at that time, of an eligible investment used or held by the bank in the year in the course of carrying on its Canadian banking business; and

(i) 10 % du total des montants représentant chacun le montant pondéré en fonction des risques, à la fin de l'année, d'un élément d'actif figurant au bilan ou d'un engagement hors bilan de la banque relativement à son entreprise bancaire canadienne, qu'elle serait tenue de déclarer aux termes des lignes directrices du BSIF sur la pondération des risques si celles-ci s'appliquaient et exigeaient pareille déclaration à ce moment,

(ii) le total des montants représentant chacun un montant, à la fin de l'année, se rapportant à l'entreprise bancaire canadienne de la banque (sauf un montant relatif à une protection contre les pertes qui doit être déduit des fonds propres en vertu de la ligne directrice du surintendant des institutions financières sur la titrisation de l'actif, applicable à ce moment) qui, si la banque figurait à l'annexe II de la *Loi sur les banques*, serait à déduire, en application de la ligne directrice sur le niveau des fonds propres à risque établie par le surintendant et applicable à ce moment, des fonds propres de la banque en vue du calcul du montant de ceux-ci qui peut servir à satisfaire l'exigence du surintendant selon laquelle les fonds propres doivent correspondre à une proportion donnée des actifs et engagements pondérés en fonction des risques.

Déduction pour placements d'une institution financière

(4) La déduction pour placements, pour une année d'imposition, d'une société qui est une institution financière correspond au montant applicable suivant :

a) dans le cas d'une société qui a résidé au Canada à un moment de l'année, le total des montants représentant chacun la valeur comptable à la fin de l'année d'un de ses placements admissibles;

b) dans le cas d'une compagnie d'assurance qui a été un non-résident tout au long de l'année, le total des montants représentant chacun la valeur comptable à la fin de l'année d'un de ses placements admissibles qu'elle a utilisé ou détenu au cours de l'année dans le cadre de l'exploitation d'une entreprise d'assurance au Canada;

c) dans le cas d'une banque étrangère autorisée, le total des montants représentant chacun le montant à la fin de l'année, avant l'application du facteur de pondération des risques, qu'elle serait tenue de déclarer aux termes des lignes directrices du BSIF sur la pondération des risques si celles-ci s'appliquaient et exigeaient pareille déclaration à ce moment, d'un placement admissible qu'elle a utilisé ou détenu au cours de l'année

(d) in any other case, nil.

Interpretation

(5) For the purpose of subsection (4),

(a) an eligible investment of a corporation is a share of the capital stock or long-term debt (and, where the corporation is an insurance corporation, is non-segregated property within the meaning assigned by subsection 138(12)) of a financial institution that at the end of the year

(i) is related to the corporation,

(ii) is not exempt from tax under this Part, and

(iii) is resident in Canada or can reasonably be regarded as using the proceeds of the share or debt in a business carried on by the institution through a permanent establishment (as defined by regulation) in Canada; and

(b) a credit union and another credit union of which the credit union is a shareholder or member are deemed to be related to each other.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.3; 1994, c. 7, Sch. II, s. 148, Sch. VIII, s. 107, c. 21, s. 83; 1998, c. 19, s. 196; 2001, c. 17, s. 163; 2009, c. 2, s. 61; 2013, c. 34, ss. 148, 326.

Taxable capital employed in Canada of non-resident

181.4 The taxable capital employed in Canada for a taxation year of a corporation (other than a financial institution) that was throughout the year not resident in Canada is the amount, if any, by which

(a) the total of all amounts each of which is the carrying value at the end of the year of an asset of the corporation used by it in the year in, or held by it in the year in the course of, carrying on any business carried on by it during the year through a permanent establishment in Canada

exceeds the total of

(b) the amount of the corporation's indebtedness at the end of the year (other than indebtedness described in any of paragraphs 181.2(3)(c) to 181.2(3)(f)) that may reasonably be regarded as relating to a business carried on by it during the year through a permanent establishment in Canada,

dans le cadre de l'exploitation de son entreprise bancaire canadienne;

d) dans les autres cas, zéro.

Interprétation

(5) Les règles suivantes s'appliquent dans le cadre du paragraphe (4):

a) un placement admissible d'une société est une action du capital-actions ou une dette du passif à long terme (et, si la société est une compagnie d'assurance, un bien non réservé au sens du paragraphe 138(12)) d'une institution financière qui, à la fin de l'année, répond aux conditions suivantes :

(i) elle est liée à la société,

(ii) elle n'est pas exonérée d'impôt en vertu de la présente partie,

(iii) elle réside au Canada ou il est raisonnable de considérer qu'elle utilise le produit de l'action ou de la dette dans le cadre d'une entreprise qu'elle exploite par l'entremise d'un établissement stable, au sens du *Règlement de l'impôt sur le revenu*, au Canada;

b) une caisse de crédit et une autre caisse de crédit dont la première est actionnaire ou membre sont réputées liées l'une à l'autre.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.3; 1994, ch. 7, ann. II, art. 148, ann. VIII, art. 107, ch. 21, art. 83; 1998, ch. 19, art. 196; 2001, ch. 17, art. 163; 2009, ch. 2, art. 61; 2013, ch. 34, art. 148 et 326.

Capital imposable utilisé au Canada d'un non-résident

181.4 Le capital imposable utilisé au Canada, pour une année d'imposition, d'une société, sauf une institution financière, qui tout au long de l'année n'a pas résidé au Canada correspond à l'excédent éventuel :

a) du total des montants dont chacun représente la valeur comptable à la fin de l'année d'un élément d'actif de la société utilisé ou détenu par elle pendant l'année dans le cadre de l'exploitation d'une entreprise au cours de l'année par l'entremise d'un établissement stable au Canada,

sur le total des montants suivants :

b) les dettes de la société à la fin de l'année, à l'exception de celles visées à l'un des alinéas 181.2(3)c) à f) qu'il est raisonnable de considérer comme liées à une entreprise qu'elle exploite au cours de l'année par l'entremise d'un établissement stable au Canada;

(c) the total of all amounts each of which is the carrying value at the end of the year of an asset described in subsection 181.2(4) of the corporation that was used by it in the year in, or held by it in the year in the course of, carrying on any business carried on by it during the year through a permanent establishment in Canada, and

(d) the total of all amounts each of which is the carrying value at the end of the year of an asset of the corporation that

(i) is a ship or aircraft operated by the corporation in international traffic or is personal or movable property used in its business of transporting passengers or goods by ship or aircraft in international traffic, and

(ii) was used by the corporation in the year in, or held by it in the year in the course of, carrying on any business during the year through a permanent establishment in Canada,

if the country in which the corporation is resident imposed neither a capital tax for the year on similar assets nor a tax for the year on the income from the operation of a ship or aircraft in international traffic, of any corporation resident in Canada during the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.4; 1994, c. 7, Sch. II, s. 149; 1998, c. 19, s. 197; 2013, c. 34, s. 149.

c) le total des montants dont chacun représente la valeur comptable à la fin de l'année d'un élément d'actif visé au paragraphe 181.2(4) de la société et utilisé ou détenu par elle pendant l'année dans le cadre de l'exploitation d'une entreprise au cours de l'année par l'entremise d'un établissement stable au Canada;

d) le total des montants dont chacun représente la valeur comptable à la fin de l'année d'un élément d'actif de la société qui :

(i) d'une part, est un navire ou un aéronef exploité en transport international par la société ou un bien meuble ou personnel utilisé dans son entreprise de transport de passagers ou de marchandises par navire ou aéronef en transport international,

(ii) d'autre part, était utilisé ou détenu pendant l'année par la société dans le cadre de l'exploitation d'une entreprise au cours de cette année par l'entremise d'un établissement stable au Canada,

dans le cas où la société réside dans un pays qui n'impose, pour cette année, ni le capital provenant des biens semblables d'une société qui réside au Canada au cours de cette année, ni le revenu d'une telle société tiré de l'exploitation en transport international d'un navire ou d'un aéronef.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.4; 1994, ch. 7, ann. II, art. 149; 1998, ch. 19, art. 197; 2013, ch. 34, art. 149.

Capital deduction

181.5 (1) Subject to subsection (1.1), the capital deduction of a corporation for a taxation year is $50 million unless the corporation is related to another corporation at any time in the taxation year, in which case, subject to subsection (4), its capital deduction for the year is nil.

Abattement de capital

181.5 (1) Sous réserve du paragraphe (1.1), l'abattement de capital d'une société pour une année d'imposition correspond à 50 000 000 $, sauf si la société est liée à une autre société à un moment de l'année, auquel cas, sous réserve du paragraphe (4), son abattement de capital pour l'année est nul.

Exceptions

(1.1) For the purposes of applying subsection 125(5.1), the definitions ***unused surtax credit*** in subsections 181.1(6) and 190.1(5), and subsection 225.1(8), the amount of tax in respect of a corporation under subsection 181.1(1) for a taxation year is to be determined as if the reference to "$50 million" in subsection (1) were a reference to "$10 million".

Exceptions

(1.1) Pour l'application du paragraphe 125(5.1), de la définition de ***crédit de surtaxe inutilisé*** aux paragraphes 181.1(6) et 190.1(5) et du paragraphe 225.1(8), l'impôt relatif à une société en vertu du paragraphe 181.1(1) pour une année d'imposition est déterminé comme si la mention « 50 000 000 $ » au paragraphe (1) valait mention de « 10 000 000 $ ».

Related corporations

(2) Subject to subsection (4.1), a corporation that is related to any other corporation at any time in a taxation year of the corporation that ends in a calendar year may file with the Minister in prescribed form an agreement on behalf of the related group of which the corporation is a member under which an amount that does not

Sociétés liées

(2) Sous réserve du paragraphe (4.1), la société donnée qui est liée à une autre société à un moment de son année d'imposition se terminant au cours d'une année civile peut présenter au ministre, sur le formulaire prescrit, un accord, au nom du groupe lié dont elle est membre, qui prévoit la répartition d'un montant qui ne dépasse pas

exceed $50 million is allocated among all corporations that are members of the related group for each taxation year of each such corporation ending in the calendar year and at a time when it was a member of the related group.

Allocation by Minister

(3) Subject to subsection (4.1), the Minister may request a corporation that is related to any other corporation at the end of a taxation year to file with the Minister an agreement referred to in subsection (2) and, if the corporation does not file such an agreement within 30 days after receiving the request, the Minister may allocate an amount among the members of the related group of which the corporation is a member for the taxation year not exceeding $50 million.

Idem

(4) The least amount allocated for a taxation year to a member of a related group under an agreement described in subsection 181.5(2) or by the Minister pursuant to subsection 181.5(3) is the capital deduction of that member for that taxation year.

Exceptions

(4.1) For the purposes of applying subsection 125(5.1), the definitions ***unused surtax credit*** in subsections 181.1(6) and 190.1(5), and subsection 225.1(8), subsections (2) to (4) are to be read as if the amount determined under subsection (2) or (3), as the case may be, in respect of the corporation for the taxation year were that proportion of $10 million that the amount otherwise determined in respect of the corporation for the taxation year under that subsection is of $50 million.

Idem

(5) Where a corporation (in this subsection referred to as the "first corporation") has more than one taxation year ending in the same calendar year and is related in 2 or more of those taxation years to another corporation that has a taxation year ending in that calendar year, the capital deduction of the first corporation for each such taxation year at the end of which it is related to the other corporation is an amount equal to its capital deduction for the first such taxation year.

Idem

(6) Two corporations that would, but for this subsection, be related to each other by reason only of

(a) the control of any corporation by Her Majesty in right of Canada or a province, or

(b) a right referred to in paragraph 251(5)(b),

50 000 000 $ entre les sociétés membres du groupe lié pour chaque année d'imposition de chacune de celles-ci se terminant dans l'année civile et à un moment où la société donnée est membre du groupe lié.

Répartition par le ministre

(3) Sous réserve du paragraphe (4.1), le ministre peut demander à la société qui est liée à une autre société à la fin d'une année d'imposition de lui présenter l'accord visé au paragraphe (2). Si la société ne présente pas cet accord dans les 30 jours suivant la réception de la demande, le ministre peut répartir un montant qui ne dépasse pas 50 000 000 $ entre les membres du groupe lié dont la société est membre pour l'année.

Idem

(4) Le montant le moins élevé qui est attribué pour une année d'imposition à un membre d'un groupe lié selon l'accord visé au paragraphe (2) ou par le ministre conformément au paragraphe (3) représente l'abattement de capital de ce membre pour cette année.

Exceptions

(4.1) Pour l'application du paragraphe 125(5.1), de la définition de ***crédit de surtaxe inutilisé*** aux paragraphes 181.1(6) et 190.1(5) et du paragraphe 225.1(8), les paragraphes (2) à (4) sont réputés être libellés comme si le montant déterminé selon les paragraphes (2) ou (3), selon le cas, relativement à la société pour l'année d'imposition correspondait au produit de 10 000 000 $ par le rapport entre le montant déterminé par ailleurs relativement à la société pour l'année en vertu de ce paragraphe et 50 000 000 $.

Idem

(5) Lorsque plus d'une année d'imposition d'une société donnée se termine au cours de la même année civile et que la société est liée, au cours d'au moins deux de ces années, à une autre société dont une des années d'imposition se termine au cours de cette année civile, l'abattement de capital de la société donnée pour chacune de ces années d'imposition à la fin desquelles elle est liée à l'autre société correspond à son abattement de capital pour la première de ces années.

Idem

(6) Pour l'application du présent article et du paragraphe 181.3(4), sont réputées ne pas être liées entre elles deux sociétés qui, compte non tenu du présent paragraphe, seraient liées du seul fait, selon le cas :

a) que Sa Majesté du chef du Canada ou d'une province contrôle une société;

are, for the purposes of this section and subsection 181.3(4), deemed not to be related to each other except that, where at any time a taxpayer has a right referred to in paragraph 251(5)(b) with respect to shares and it can reasonably be considered that one of the main purposes for the acquisition of the right was to avoid any limitation on the amount of a corporation's capital deduction for a taxation year, for the purpose of determining whether a corporation is related to any other corporation, the corporations are, for the purposes of this section, deemed to be in the same position in relation to each other as if the right were immediate and absolute and as if the taxpayer had exercised the right at that time.

b) qu'il existe un droit visé à l'alinéa 251(5)b).

Toutefois, dans le cas où, à un moment donné, un contribuable a un droit visé à l'alinéa 251(5)b) relatif à des actions et qu'il est raisonnable de considérer que l'un des principaux motifs de l'acquisition de ce droit consiste à éviter une restriction au montant de l'abattement de capital d'une société pour une année d'imposition, pour déterminer si une société est liée à une autre société, les sociétés sont réputées, pour l'application du présent article, être dans la même position l'une par rapport à l'autre que si le droit était immédiat et absolu et que si le contribuable l'avait exercé à ce moment.

Related corporations that are not associated

(7) For the purposes of subsection 181.3(4) and this section, a Canadian-controlled private corporation and another corporation to which it would, but for this subsection, be related at any time shall be deemed not to be related to each other at that time where the corporations are not associated with each other at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.5; 1994, c. 7, Sch. II, s. 150; 1998, c. 19, s. 198; 2003, c. 15, s. 86.

Sociétés liées mais non associées

(7) Pour l'application du paragraphe 181.3(4) et du présent article, une société privée sous contrôle canadien et une autre société à laquelle elle serait liée à un moment donné sans le présent paragraphe sont réputées ne pas être liées à ce moment si elles ne sont pas alors associées.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.5; 1994, ch. 7, ann. II, art. 150; 1998, ch. 19, art. 198; 2003, ch. 15, art. 86.

Return

181.6 Every corporation that is or would, but for subsection 181.1(4), be liable to pay tax under this Part for a taxation year shall file with the Minister, not later than the day on or before which the corporation is required by section 150 to file its return of income for the year under Part I, a return of capital for the year in prescribed form containing an estimate of the tax payable under this Part by it for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.6; 1994, c. 7, Sch. VIII, s. 108.

Déclaration

181.6 La société qui est ou serait, sans le paragraphe 181.1(4), redevable de l'impôt prévu par la présente partie pour une année d'imposition doit produire auprès du ministre une déclaration de capital pour cette année, au plus tard le jour où elle est tenue par l'article 150 de produire sa déclaration de revenu pour l'année en vertu de la partie I. La déclaration de capital est produite sur formulaire prescrit et contient une estimation de l'impôt payable par la société pour l'année en vertu de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.6; 1994, ch. 7, ann. VIII, art. 108.

Provisions applicable to Part

181.7 Sections 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I apply to this Part with such modifications as the circumstances require and, for the purpose of this section, paragraph 152(6)(a) shall be read as follows:

> **"(a)** a deduction under section 181.1(4) in respect of any unused surtax credit (within the meaning assigned by subsection 181.1(6)) for a subsequent taxation year."

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.7; 1994, c. 7, Sch. II, s. 151, Sch. VIII, s. 109.

Dispositions applicables

181.7 Les articles 152, 158 et 159, le paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires. Toutefois, pour l'application du présent article, l'alinéa 152(6)a) est remplacé par ce qui suit :

> **« a)** déduction, en application du paragraphe 181.1(4), au titre d'un crédit de surtaxe inutilisé, au sens du paragraphe 181.1(6), pour une année d'imposition ultérieure; ».

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.7; 1994, ch. 7, ann. II, art. 151, ann. VIII, art. 109.

Provisions applicable — Crown corporations

181.71 Section 27 applies to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 199.

181.8 [Repealed, 1994, c. 7, Sch. VIII, s. 109(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.8; 1994, c. 7, Sch. VIII, s. 109.

181.9 [Repealed, 1994, c. 7, Sch. VIII, s. 109(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 181.9; 1994, c. 7, Sch. VIII, s. 109.

PART II

[Repealed, 2017, c. 20, s. 27]

182 [Repealed, 2017, c. 20, s. 27]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 29, s. 16; 1997, c. 26, s. 77; 2000, c. 30, s. 173; 2001, c. 16, s. 43; 2007, c. 35, s. 54; 2017, c. 20, ss. 26, 27.

183 [Repealed, 2017, c. 20, s. 27]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 29, s. 16; 2000, c. 30, s. 174; 2017, c. 20, s. 27.

PART II.1

Tax on Corporate Distributions

Application of Part

183.1 (1) This Part applies to a corporation (other than a mutual fund corporation) for a taxation year in which the corporation, at any time in the year,

(a) was a public corporation; or

(b) was resident in Canada and had a class of shares outstanding that were purchased and sold in the manner in which such shares normally are purchased and sold by any member of the public in the open market.

Tax payable

(2) Where, as a part of a transaction or series of transactions or events,

(a) a corporation, or any person with whom the corporation was not dealing at arm's length, has, at any time, paid an amount, directly or indirectly, to any person as proceeds of disposition of any property, and

Disposition applicable aux sociétés d'État

181.71 L'article 27 s'applique à la présente partie, avec les modifications nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 199.

181.8 [Abrogé, 1994, ch. 7, ann. VIII, art. 109(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.8; 1994, ch. 7, ann. VIII, art. 109.

181.9 [Abrogé, 1994, ch. 7, ann. VIII, art. 109(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 181.9; 1994, ch. 7, ann. VIII, art. 109.

PARTIE II

[Abrogée, 2017, ch. 20, art. 27]

182 [Abrogé, 2017, ch. 20, art. 27]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 29, art. 16; 1997, ch. 26, art. 77; 2000, ch. 30, art. 173; 2001, ch. 16, art. 43; 2007, ch. 35, art. 54; 2017, ch. 20, art. 26 et 27.

183 [Abrogé, 2017, ch. 20, art. 27]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 29, art. 16; 2000, ch. 30, art. 174; 2017, ch. 20, art. 27.

PARTIE II.1

Impôt sur certaines distributions de surplus

Application

183.1 (1) La présente partie s'applique à une société, à l'exclusion d'une société de placement à capital variable, qui, à un moment d'une année d'imposition :

a) soit est une société publique;

b) soit réside au Canada et a une catégorie d'actions en circulation qui ont été achetées et vendues de la façon que des actions semblables seraient normalement achetées et vendues par le public sur le marché libre.

Impôt payable

(2) Si, à un moment donné, dans le cadre d'une opération ou d'une série d'opérations ou d'événements :

a) d'une part, une société ou une personne avec laquelle elle a un lien de dépendance paie un montant, directement ou indirectement, à une personne à titre de produit de disposition d'un bien;

(b) all or any portion of the amount may reasonably be considered, having regard to all the circumstances, to have been paid as a substitute for dividends that would otherwise have been paid in the normal course by the corporation,

the corporation shall, on or before its balance-due day for its taxation year that includes that time, pay tax of 45% of that amount or portion of it, as the case may be.

b) d'autre part, il est raisonnable de considérer, compte tenu des circonstances, que tout ou partie de ce montant a été payé en remplacement de dividendes que la société aurait versés par ailleurs dans le cours normal de ses activités,

la société est redevable, au plus tard à la date d'exigibilité du solde qui lui est applicable pour son année d'imposition qui comprend ce moment, d'un impôt au taux de 45 % de tout ou partie de ce montant, selon le cas.

Stock dividend

(3) Where, as a part of a transaction or series of transactions or events,

(a) a share was issued by a corporation as a stock dividend and the amount of the stock dividend was less than the fair market value of the share at the time that it was issued, and

(b) the share or any other share of the capital stock of the corporation was purchased, directly or indirectly, by the corporation, or by a person with whom the corporation was not dealing at arm's length, for an amount in excess of its paid-up capital,

that excess shall, for the purposes of subsection 183.1(2), be deemed to have been paid as a substitute for dividends that would otherwise have been paid in the normal course by the corporation.

Dividende en actions

(3) Si, dans le cadre d'une opération ou d'une série d'opérations ou d'événements :

a) d'une part, une société émet une action à titre de dividende en actions dont le montant est inférieur à la juste valeur marchande de l'action au moment de son émission;

b) d'autre part, l'action ou toute autre action du capital-actions de la société a été achetée, directement ou indirectement, par la société ou par une personne avec laquelle elle a un lien de dépendance, pour un montant dépassant le capital versé au titre de l'action,

l'excédent est réputé, pour l'application du paragraphe (2), payé en remplacement des dividendes que la société aurait versés par ailleurs dans le cours normal de ses activités.

Purchase of shares

(4) Where, as a part of a transaction or series of transactions or events,

(a) a share of the capital stock of a corporation was purchased, directly or indirectly, by the corporation, or by any person with whom the corporation was not dealing at arm's length, and

(b) any portion of the amount paid for the share may reasonably be considered, having regard to all the circumstances, as consideration for a dividend that had been declared, but not yet paid, on the share,

that portion of the amount shall, for the purposes of subsection 183.1(2), be deemed to have been paid as a substitute for dividends that would otherwise have been paid in the normal course by the corporation notwithstanding that the dividend was actually paid thereafter.

Achat d'actions

(4) Si, dans le cadre d'une opération ou d'une série d'opérations ou d'événements :

a) d'une part, une action du capital-actions d'une société est achetée, directement ou indirectement, par la société ou par une personne avec laquelle elle a un lien de dépendance;

b) d'autre part, il est raisonnable de considérer, compte tenu des circonstances, une partie du montant payé pour l'action comme la contrepartie d'un dividende déclaré, mais non encore versé, sur l'action,

cette partie est réputée, pour l'application du paragraphe (2), payée en remplacement des dividendes que la société aurait versés par ailleurs dans le cours normal de ses activités, même si les dividendes sont effectivement versés par la suite.

Indirect payment

(5) Where, as a part of a transaction or series of transactions or events, a person received a payment from a corporation, or from any person with whom the corporation was not dealing at arm's length, in consideration, in whole or in part, for paying an amount to any other

Paiement indirect

(5) Si, dans le cadre d'une opération ou d'une série d'opérations ou d'événements, une personne reçoit un paiement d'une société ou d'une personne avec laquelle celle-ci a un lien de dépendance, en contrepartie totale ou partielle du paiement d'un montant à une autre personne

person as proceeds of disposition of any property, the corporation shall, for the purposes of subsection 183.1(2), be deemed to have paid the amount indirectly to the other person.

Where s. (2) does not apply

(6) Subsection 183.1(2) does not apply if none of the purposes of the transaction or series of transactions or events referred to therein may reasonably be considered, having regard to all the circumstances, to have been to enable shareholders of a corporation who are individuals or non-resident persons to receive an amount, directly or indirectly, as proceeds of disposition of property rather than as a dividend on a share that was of a class that was listed on a stock exchange or that was purchased and sold in the manner in which shares are normally purchased and sold by any member of the public in the open market.

Where s. 110.6(8) does not apply

(7) Where this section has been applied in respect of an amount, subsection 110.6(8) does not apply to the capital gain in respect of which the amount formed all or a part of the proceeds of disposition.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 183.1; 2003, c. 15, s. 119.

Return

183.2 (1) Every corporation liable to pay tax under this Part for a taxation year shall, on or before the day on or before which it is required to file its return of income under Part I for the year, file with the Minister a return for the year under this Part in prescribed form.

Provisions applicable to Part

(2) Subsections 150(2) and 150(3), sections 152, 158 and 159, subsections 160.1(1) and 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1987, c. 46, s. 57.

PART III

Additional Tax on Excessive Elections

Tax on excessive elections

184 (2) If a corporation has elected in accordance with subsection 83(2), 130.1(4) or 131(1) in respect of the full

à titre de produit de disposition d'un bien, la société est réputée, pour l'application du paragraphe (2), payer le montant indirectement à cette autre personne.

Non-application du par. (2)

(6) Le paragraphe (2) ne s'applique pas s'il est raisonnable de considérer, compte tenu des circonstances, qu'aucun des objets de l'opération ou de la série d'opérations ou d'événements en question ne consiste à permettre aux actionnaires d'une société qui sont des particuliers ou des personnes non-résidentes de recevoir un montant, directement ou indirectement, comme produit de disposition d'un bien plutôt que comme dividende sur une action d'une catégorie cotée en bourse ou sur une action achetée et vendue de la façon qu'une action semblable serait normalement achetée et vendue par le public sur le marché libre.

Non-application du par. 110.6(8)

(7) Dans le cas où le présent article s'applique à un montant, le paragraphe 110.6(8) ne s'applique pas au gain en capital au titre duquel le montant représente tout ou partie du produit de disposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 183.1; 2003, ch. 15, art. 119.

Déclaration

183.2 (1) Toute société redevable de l'impôt prévu par la présente partie pour une année d'imposition doit produire auprès du ministre une déclaration relative à la présente partie pour cette année sur le formulaire prescrit, au plus tard le jour où elle est tenue de produire sa déclaration de revenu pour l'année en vertu de la partie I.

Dispositions applicables

(2) Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 160.1(1) et 161(1) et (11), les articles 162 à 167, ainsi que la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1987, ch. 46, art. 57.

PARTIE III

Impôt supplémentaire sur les excédents résultant d'un choix

Impôt sur les excédents résultant d'un choix

184 (2) La société qui fait un choix en vertu du paragraphe 83(2), 130.1(4) ou 131(1) relativement au montant

amount of any dividend payable by it on shares of any class of its capital stock (in this section referred to as the "original dividend") and the full amount of the original dividend exceeds the portion of the original dividend deemed by that subsection to be a capital dividend or capital gains dividend, as the case may be, the corporation shall, at the time of the election, pay a tax under this Part equal to 3/5 of the excess.

(2.1) [Repealed, 2013, c. 34, s. 327]

Election to treat excess as separate dividend

(3) If, in respect of an original dividend payable at a particular time, a corporation would, but for this subsection, be required to pay a tax under this Part in respect of an excess referred to in subsection (2), and the corporation elects in prescribed manner on or before the day that is 90 days after the day of sending of the notice of assessment in respect of the tax that would otherwise be payable under this Part, the following rules apply:

(a) the portion of the original dividend deemed by subsection 83(2), 130.1(4) or 131(1) to be a capital dividend or capital gains dividend, as the case may be, is deemed for the purposes of this Act to be the amount of a separate dividend that became payable at the particular time;

(b) if the corporation identifies in its election any part of the excess, that part is, for the purposes of any election under subsection 83(2), 130.1(4) or 131(1) in respect of that part, and, where the corporation has so elected, for all purposes of this Act, deemed to be the amount of a separate dividend that became payable immediately after the particular time;

(c) the amount by which the excess exceeds any portion deemed by paragraph (b) to be a separate dividend for all purposes of this Act is deemed to be a separate taxable dividend that became payable at the particular time; and

(d) each person who held any of the issued shares of the class of shares of the capital stock of the corporation in respect of which the original dividend was paid is deemed

(i) not to have received any portion of the original dividend, and

(ii) to have received, at the time that any separate dividend determined under any of paragraphs (a) to (c) became payable, the proportion of that dividend that the number of shares of that class held by the person at the particular time is of the number of

total d'un dividende payable par elle sur des actions d'une catégorie de son capital-actions (appelé « dividende initial » au présent article) doit payer, au moment du choix, un impôt en vertu de la présente partie égal aux 3/5 de l'excédent du montant total du dividende initial sur la partie de celui-ci qui est réputée, par ce paragraphe, être un dividende en capital ou un dividende sur les gains en capital.

(2.1) [Abrogé, 2013, ch. 34, art. 327]

Choix de considérer l'excédent comme un dividende distinct

(3) Dans le cas où une société serait tenue, en l'absence du présent paragraphe, de payer, en vertu de la présente partie, à l'égard d'un dividende initial payable à un moment donné, un impôt au titre de l'excédent visé au paragraphe (2), les règles ci-après s'appliquent si la société en fait le choix selon les modalités réglementaires au plus tard le quatre-vingt-dixième jour suivant la date d'envoi de l'avis de cotisation relatif à l'impôt payable par ailleurs en vertu de la présente partie :

a) la partie du dividende initial qui est réputée, par le paragraphe 83(2), 130.1(4) ou 131(1), être un dividende en capital ou un dividende sur les gains en capital, selon le cas, est réputée, pour l'application de la présente loi, être un dividende distinct qui est devenu payable au moment donné;

b) la partie de l'excédent que la société a désignée dans son choix est réputée, pour l'application d'un choix concernant cette partie fait en vertu du paragraphe 83(2), 130.1(4) ou 131(1), et, si la société fait un tel choix, pour l'application de la présente loi, être un dividende distinct qui est devenu payable immédiatement après le moment donné;

c) la partie de l'excédent qui excède la partie réputée, par l'alinéa b), être un dividende distinct pour l'application de la présente loi est réputée être un dividende imposable distinct qui est devenu payable au moment donné;

d) chacune des personnes qui détenaient des actions émises de la catégorie d'actions du capital-actions de la société sur laquelle le dividende initial a été versé est réputée :

(i) n'avoir reçu aucune partie du dividende initial,

(ii) avoir reçu, au moment où un dividende distinct déterminé selon l'un des alinéas a) à c) est devenu payable, la proportion de ce dividende que représente le rapport entre le nombre d'actions de cette catégorie qu'elle détenait au moment donné et le

shares of that class outstanding at the particular time except that, for the purpose of Part XIII, the separate dividend is deemed to be paid on the day that the election in respect of this subsection is made.

(3.1) and (3.2) [Repealed, 2013, c. 34, s. 327]

Concurrence with election

(4) An election under subsection (3) is valid only if

(a) it is made with the concurrence of the corporation and all its shareholders

(i) who received or were entitled to receive all or any portion of the original dividend, and

(ii) whose addresses were known to the corporation; and

(b) either

(i) it is made on or before the day that is 30 months after the day on which the original dividend became payable, or

(ii) each shareholder described in subparagraph (a)(i) concurs with the election, in which case, notwithstanding subsections 152(4) to (5), any assessment of the tax, interest and penalties payable by each of those shareholders for any taxation year shall be made that is necessary to take the corporation's election into account.

Exception for non-taxable shareholders

(5) If each person who, in respect of an election made under subsection (3), is deemed by subsection (3) to have received a dividend at a particular time is also, at the particular time, a person all of whose taxable income is exempt from tax under Part I,

(a) subsection (4) does not apply to the election; and

(b) the election is valid only if it is made on or before the day that is 30 months after the day on which the original dividend became payable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 184; 1994, c. 7, Sch. II, s. 152; 2010, c. 25, s. 48; 2013, c. 34, s. 327.

Assessment of tax

185 (1) The Minister shall, with all due dispatch, examine each election made by a corporation in accordance with subsection 83(2), 130.1(4) or 131(1), assess the tax, if any, payable under this Part in respect of the election and send a notice of assessment to the corporation.

nombre d'actions de cette catégorie qui étaient en circulation à ce moment; toutefois, pour l'application de la partie XIII, le dividende distinct est réputé être versé le jour où le choix prévu au présent paragraphe est fait.

(3.1) et (3.2) [Abrogés, 2013, ch. 34, art. 327]

Approbation du choix

(4) Le choix prévu au paragraphe (3) n'est valide que si, à la fois :

a) il est fait avec l'assentiment de la société et de ceux de ses actionnaires — dont la société connaissait les adresses — qui ont reçu ou avaient le droit de recevoir tout ou partie du dividende initial;

b) l'une des conditions ci-après est remplie :

(i) le choix est fait au plus tard le jour qui suit de 30 mois le jour où le dividende initial est devenu payable,

(ii) chaque actionnaire qui a reçu ou avait le droit le recevoir tout ou partie du dividende initial a donné son assentiment au choix, auquel cas le ministre établit, malgré les paragraphes 152(4) à (5), les cotisations voulues concernant l'impôt, les intérêts et les pénalités payables par chacun de ces actionnaires pour une année d'imposition pour tenir compte du choix de la société.

Exception — actionnaires non assujettis à l'impôt

(5) Si chaque personne qui est réputée par le paragraphe (3) avoir reçu un dividende à un moment donné en raison du choix prévu à ce paragraphe est aussi, à ce moment, une personne dont le revenu imposable est exonéré de l'impôt prévu à la partie I, les règles ci-après s'appliquent :

a) le paragraphe (4) ne s'applique pas au choix;

b) le choix n'est valide que s'il est fait au plus tard le jour qui suit de 30 mois le jour où le dividende initial est devenu payable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 184; 1994, ch. 7, ann. II, art. 152; 2010, ch. 25, art. 48; 2013, ch. 34, art. 327.

Cotisation

185 (1) Le ministre examine avec diligence chaque choix que fait une société conformément au paragraphe 83(2), 130.1(4) ou 131(1), établit en tenant compte de ce choix l'impôt éventuel payable en vertu de la présente partie et envoie un avis de cotisation à la société.

Payment of tax and interest

(2) Where an election has been made by a corporation in accordance with subsection 83(2), 130.1(4) or 131(1) and the Minister mails a notice of assessment under this Part in respect of the election, that part of the amount assessed then remaining unpaid and interest thereon at the prescribed rate computed from the day of the election to the day of payment is payable forthwith by the corporation to the Receiver General.

Provisions applicable to Part

(3) Subsections 152(3), 152(4), 152(5), 152(7) and 152(8) and 161(11), sections 163 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

Joint and several, or solidary, liability from excessive elections

(4) Each person who has received a dividend from a corporation in respect of which the corporation elected under subsection 83(2), 130.1(4) or 131(1) is jointly and severally, or solidarily, liable with the corporation to pay that proportion of the corporation's tax payable under this Part because of the election that

(a) the amount of the dividend received by the person

is of

(b) the full amount of the dividend in respect of which the election was made,

but nothing in this subsection limits the liability of any person under any other provision of this Act.

Assessment

(5) The Minister may, at any time after the last day on which a corporation may make an election under subsection 184(3) in respect of a dividend, assess a person in respect of any amount payable under subsection 185(4) in respect of the dividend, and the provisions of Division I of Part I apply, with such modifications as the circumstances require, to an assessment made under this subsection as though it were made under section 152.

Rules applicable

(6) If under subsection (4) a corporation and another person have become jointly and severally, or solidarily, liable to pay part or all of the corporation's tax payable under this Part in respect of a dividend described in that subsection,

Paiement de l'impôt et des intérêts

(2) Lorsqu'une société fait un choix conformément au paragraphe 83(2), 130.1(4) ou 131(1) et que le ministre poste un avis de cotisation en vertu de la présente partie qui tient compte de ce choix, la société doit payer immédiatement au receveur général la partie impayée du montant établi dans l'avis ainsi que les intérêts y afférents calculés au taux prescrit pour la période allant de la date du choix à la date du paiement.

Dispositions applicables

(3) Les paragraphes 152(3), (4), (5), (7) et (8) et 161(11), les articles 163 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Responsabilité solidaire

(4) Toute personne qui a reçu d'une société un dividende visé par un choix fait en application des paragraphes 83(2), 130.1(4) ou 131(1) est solidairement tenue, avec la société, de payer la fraction de l'impôt payable par la société en vertu de la présente partie par suite du choix, représentée par le rapport entre :

a) d'une part, le montant du dividende reçu par la personne;

b) d'autre part, le plein montant du dividende visé par le choix.

Toutefois, le présent paragraphe n'a pas pour effet de limiter la responsabilité d'une personne en vertu d'une autre disposition de la présente loi.

Cotisation

(5) Le ministre peut, à un moment postérieur au dernier jour où une société peut faire le choix prévu au paragraphe 184(3) relativement à un dividende, établir une cotisation à l'égard d'une personne concernant un montant payable en vertu du paragraphe (4) relativement au dividende. Dès lors, les dispositions de la section I de la partie I s'appliquent à la cotisation, avec les adaptions nécessaires, comme si elle avait été établie en application de l'article 152.

Règles applicables

(6) Dans le cas où une société et une autre personne sont solidairement tenues, par application du paragraphe (4), de payer tout ou partie de l'impôt payable par la société en vertu de la présente partie relativement à un dividende visé à ce paragraphe, les règles suivantes s'appliquent :

(a) a payment at any time by the other person on account of the liability shall, to the extent of the payment, discharge their liability after that time; and

(b) a payment at any time by the corporation on account of its liability shall discharge the other person's liability only to the extent of the amount determined by the formula

(A - B) × C/D

where

A is the total of

(i) the amount of the corporation's liability, immediately before that time, under this Part in respect of the full amount of the dividend, and

(ii) the amount of the payment,

B is the amount of the corporation's liability, immediately before that time, under this Act,

C is the amount of the dividend received by the other person, and

D is the full amount of the dividend.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 185; 1994, c. 7, Sch. II, s. 153; 2013, c. 34, s. 150.

a) tout paiement fait par l'autre personne à un moment donné au titre de l'obligation éteint d'autant leur obligation après ce moment;

b) tout paiement fait par la société à un moment donné au titre de son obligation n'éteint l'obligation de l'autre personne qu'à concurrence du résultat du calcul suivant :

(A - B) × C/D

où :

A représente le total du montant du paiement et du montant de l'obligation de la société en vertu de la présente partie, immédiatement avant ce moment, au titre du plein montant du dividende,

B le montant de l'obligation de la société en vertu de la présente loi immédiatement avant ce moment,

C le montant du dividende reçu par l'autre personne,

D le plein montant du dividende.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 185; 1994, ch. 7, ann. II, art. 153; 2013, ch. 34, art. 150.

PART III.1

Additional Tax on Excessive Eligible Dividend Designations

Tax on excessive eligible dividend designations

185.1 (1) A corporation that has made an excessive eligible dividend designation in respect of an eligible dividend paid by it at any time in a taxation year shall, on or before the corporation's balance-due day for the taxation year, pay a tax under this Part for the taxation year equal to the total of

(a) 20% of the excessive eligible dividend designation, and

(b) if the excessive eligible dividend designation arises because of the application of paragraph (c) of the definition ***excessive eligible dividend designation*** in subsection 89(1), 10% of the excessive eligible dividend designation.

PARTIE III.1

Impôt supplémentaire sur les désignations excessives de dividendes déterminés

Impôt sur les désignations excessives de dividendes déterminés

185.1 (1) La société qui a effectué une désignation excessive de dividende déterminé relativement à un dividende déterminé qu'elle a versé au cours d'une année d'imposition est tenue de payer, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, un impôt en vertu de la présente partie pour l'année égal au total des sommes suivantes :

a) 20 % du montant de la désignation excessive de dividende déterminé;

b) si la désignation excessive de dividende déterminé se produit en raison de l'application de l'alinéa c) de la définition de ce terme au paragraphe 89(1), 10 % du montant de la désignation.

Election to treat excessive eligible dividend designation as an ordinary dividend

(2) If, in respect of an excessive eligible dividend designation that is not described in paragraph (1)(b) and that is made by a corporation in respect of an eligible dividend (in this subsection and subsection (3) referred to as the "original dividend") paid by it at a particular time, the corporation would, if this Act were read without reference to this subsection, be required to pay a tax under subsection (1), and it elects in prescribed manner on or before the day that is 90 days after the day of sending the notice of assessment in respect of that tax that would otherwise be payable under subsection (1), the following rules apply:

(a) notwithstanding the definition ***eligible dividend*** in subsection 89(1), the amount of the original dividend paid by the corporation is deemed to be the amount, if any, by which

(i) the amount of the original dividend, determined without reference to this subsection

exceeds

(ii) the amount claimed by the corporation in the election not exceeding the excessive eligible dividend designation, determined without reference to this subsection;

(b) an amount equal to the amount claimed by the corporation in the election is deemed to be a separate taxable dividend (other than an eligible dividend) that was paid by the corporation immediately before the particular time;

(c) each shareholder of the corporation who at the particular time held any of the issued shares of the class of shares in respect of which the original dividend was paid is deemed

(i) not to have received the original dividend, and

(ii) to have received at the particular time

(A) as an eligible dividend, the shareholder's pro rata portion of the amount of any dividend determined under paragraph (a), and

(B) as a taxable dividend (other than an eligible dividend) the shareholder's pro rata portion of the amount of any dividend determined under paragraph (b); and

(d) a shareholder's pro rata portion of a dividend paid at any time on a class of the shares of the capital stock of a corporation is that proportion of the dividend that

Choix de traiter une désignation excessive de dividende déterminé comme un dividende ordinaire

(2) Dans le cas où une société serait tenue, en l'absence du présent paragraphe, de payer l'impôt prévu au paragraphe (1) relativement à une désignation excessive de dividende déterminé, non visée à l'alinéa (1)b), qu'elle effectue au titre d'un dividende déterminé (appelé « dividende initial » au présent paragraphe et au paragraphe (3)) qu'elle a versé à un moment donné, les règles ci-après s'appliquent si elle en fait le choix selon les modalités réglementaires au plus tard le quatre-vingt-dixième jour suivant la date d'envoi de l'avis de cotisation concernant cet impôt qui serait payable par ailleurs en vertu du paragraphe (1) :

a) malgré la définition de ***dividende déterminé*** au paragraphe 89(1), le montant du dividende initial versé par la société est réputé correspondre à l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le montant du dividende initial, déterminé compte non tenu du présent paragraphe,

(ii) la somme demandée par la société dans le document concernant le choix, n'excédant pas le montant de la désignation excessive de dividende déterminé, calculé compte non tenu du présent paragraphe;

b) une somme égale à celle demandée par la société dans le document concernant le choix est réputée être un dividende imposable distinct (autre qu'un dividende déterminé) qu'elle a versé immédiatement avant le moment donné;

c) chaque actionnaire de la société qui, au moment donné, détenait des actions émises de la catégorie d'actions sur laquelle le dividende initial a été versé est réputé, à la fois :

(i) ne pas avoir reçu le dividende initial,

(ii) avoir reçu, à ce moment, les sommes suivantes :

(A) à titre de dividende déterminé, sa part proportionnelle du montant de tout dividende calculé selon l'alinéa a),

(B) à titre de dividende imposable (autre qu'un dividende déterminé), sa part proportionnelle du montant de tout dividende calculé selon l'alinéa b);

d) la part proportionnelle revenant à un actionnaire d'un dividende versé à un moment quelconque sur

the number of shares of that class held by the shareholder at that time is of the number of shares of that class outstanding at that time.

une catégorie d'actions du capital-actions d'une société correspond à la proportion du dividende que représente le rapport entre le nombre d'actions de cette catégorie qui sont détenues par l'actionnaire à ce moment et le nombre d'actions de cette catégorie qui sont en circulation à ce moment.

Concurrence with election

(3) An election under subsection (2) in respect of an original dividend is valid only if

(a) it is made with the concurrence of the corporation and all its shareholders

(i) who received or were entitled to receive all or any portion of the original dividend, and

(ii) whose addresses were known to the corporation; and

(b) either

(i) it is made on or before the day that is 30 months after the day on which the original dividend was paid, or

(ii) each shareholder described in subparagraph (a)(i) concurs with the election, in which case, notwithstanding subsections 152(4) to (5), any assessment of the tax, interest and penalties payable by each of those shareholders for any taxation year shall be made that is necessary to take the corporation's election into account.

Choix — assentiment

(3) Le choix prévu au paragraphe (2) relatif à un dividende initial n'est valide que si les conditions suivantes sont réunies :

a) il est fait avec l'assentiment de la société et de ceux de ses actionnaires :

(i) qui ont reçu ou pouvaient recevoir tout ou partie du dividende initial,

(ii) dont la société connaissait l'adresse;

b) selon le cas :

(i) il est fait au plus tard le jour qui suit de 30 mois le jour où le dividende initial a été versé,

(ii) chaque actionnaire visé au sous-alinéa a)(i) donne son assentiment au choix; dans ce cas, malgré les paragraphes 152(4) à (5), les cotisations voulues concernant l'impôt, les intérêts et les pénalités à payer par chacun de ces actionnaires pour une année d'imposition sont établies pour tenir compte du choix de la société.

Exception for non-taxable shareholders

(4) If each shareholder who, in respect of an election made under subsection (2), is deemed by subsection (2) to have received a dividend at a particular time is also, at the particular time, a person all of whose taxable income is exempt from tax under Part I,

(a) subsection (3) does not apply to the election; and

(b) the election is valid only if it is made on or before the day that is 30 months after the day on which the original dividend was paid.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 2, s. 51; 2010, c. 25, s. 49.

Exception — actionnaires non assujettis à l'impôt

(4) Si chaque actionnaire qui est réputé par le paragraphe (2) avoir reçu un dividende à un moment donné en raison du choix prévu à ce paragraphe est, à ce moment, exonéré de l'impôt prévu à la partie I sur la totalité de son revenu imposable, les règles suivantes s'appliquent :

a) le paragraphe (3) ne s'applique pas au choix;

b) le choix n'est valide que s'il est fait au plus tard le jour qui suit de 30 mois le jour où le dividende initial a été versé.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 2, art. 51; 2010, ch. 25, art. 49.

Return

185.2 (1) Every corporation resident in Canada that pays a taxable dividend (other than a capital gains dividend within the meaning assigned by subsection 130.1(4) or 131(1)) in a taxation year shall file with the Minister, not later than the corporation's filing-due date for the

Déclaration

185.2 (1) Toute société résidant au Canada qui verse un dividende imposable, sauf un dividende sur les gains en capital au sens du paragraphe 130.1(4) ou 131(1), au cours d'une année d'imposition est tenue de présenter au ministre sur le formulaire prescrit, au plus tard à la date

taxation year, a return for the year under this Part in prescribed form containing an estimate of the taxes payable by it under this Part for the taxation year.

Provisions applicable to Part

(2) Subsections 150(2) and (3), sections 151, 152, 158 and 159, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

Joint and several liability from excessive eligible dividend designations

(3) Without limiting the liability of any person under any other provision of this Act, if a Canadian-controlled private corporation or a deposit insurance corporation pays an eligible dividend in respect of which it has made an excessive eligible dividend designation to a shareholder with whom it does not deal at arm's length, the shareholder is jointly and severally, or solidarily, liable with the corporation to pay that proportion of the corporation's tax payable under this Part because of the designation that the amount of the eligible dividend received by the shareholder is of the total of all amounts each of which is a dividend in respect of which the designation was made.

Assessment

(4) The Minister may, at any time after the last day on which a corporation may make an election under subsection 185.1(2) in respect of an excessive eligible dividend designation, assess a person in respect of any amount payable under subsection (3) in respect of the designation, and the provisions of Division I of Part I (including, for greater certainty, the provisions in respect of interest payable) apply, with any modifications that the circumstances require, to an assessment made under this subsection as though it were made under section 152.

Rules applicable

(5) If under subsection (3) a corporation and a shareholder have become jointly and severally, or solidarily, liable to pay part or all of the corporation's tax payable under this Part in respect of an excessive eligible dividend designation described in subsection (3),

(a) a payment at any time by the shareholder on account of the liability shall, to the extent of the payment, discharge their liability after that time; and

(b) a payment at any time by the corporation on account of its liability shall discharge the shareholder's

d'échéance de production qui lui est applicable pour l'année, une déclaration pour l'année en vertu de la présente partie contenant une estimation de son impôt à payer en vertu de la présente partie pour l'année.

Dispositions applicables

(2) Les paragraphes 150(2) et (3), les articles 151, 152, 158 et 159, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Responsabilité solidaire

(3) Sans que soit limitée la responsabilité de quiconque en vertu d'une autre disposition de la présente loi, l'actionnaire qui reçoit d'une société privée sous contrôle canadien ou d'une compagnie d'assurance-dépôts avec laquelle il a un lien de dépendance un dividende déterminé au titre duquel la société a fait une désignation excessive de dividende déterminé est solidairement tenu, avec la société, de payer la proportion de l'impôt à payer par la société en vertu de la présente partie en raison de la désignation que représente le rapport entre le montant du dividende déterminé qu'il a reçu et le total des sommes représentant chacune un dividende au titre duquel la désignation a été effectuée.

Cotisation

(4) Le ministre peut, à un moment postérieur au dernier jour où une société peut faire le choix prévu au paragraphe 185.1(2) relativement à une désignation excessive de dividende déterminé, établir une cotisation à l'égard d'une personne concernant une somme à payer en vertu du paragraphe (3) relativement à la désignation. Dès lors, les dispositions de la section I de la partie I, notamment celles portant sur les intérêts à payer, s'appliquent, avec les adaptations nécessaires, à toute cotisation établie en vertu du présent paragraphe comme si elle avait été établie en application de l'article 152.

Règles applicables

(5) Dans le cas où une société et un actionnaire sont solidairement tenus, par application du paragraphe (3), de payer tout ou partie de l'impôt à payer par la société en vertu de la présente partie relativement à une désignation excessive de dividende déterminé visée à ce paragraphe, les règles suivantes s'appliquent :

a) tout paiement fait par l'actionnaire à un moment donné au titre de l'obligation éteint d'autant l'obligation après ce moment;

b) tout paiement fait par la société à un moment donné au titre de son obligation n'éteint l'obligation de

liability only to the extent of the amount determined by the formula

(A - B) × C/D

where

A is the total of

(i) the amount of the corporation's liability, immediately before that time, under this Part in respect of the designation, and

(ii) the amount of the payment,

B is the amount of the corporation's liability, immediately before that time, under this Act,

C is the amount of the eligible dividend received by the shareholder, and

D the total of all amounts each of which is a dividend in respect of which the designation was made.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 2, s. 51.

l'actionnaire qu'à concurrence de la somme obtenue par la formule suivante :

(A - B) × C/D

où :

A représente le total des sommes suivantes :

(i) le montant de l'obligation de la société en vertu de la présente partie, immédiatement avant ce moment, relativement à la désignation,

(ii) le montant du paiement,

B le montant de l'obligation de la société en vertu de la présente loi immédiatement avant ce moment,

C le montant du dividende déterminé reçu par l'actionnaire,

D le total des sommes représentant chacune un dividende au titre duquel la désignation a été effectuée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 2, art. 51.

PART IV

Tax on Taxable Dividends Received by Private Corporations

Tax on assessable dividends

186 (1) Every corporation (in this section referred to as the "particular corporation") that is at any time in a taxation year a private corporation or a subject corporation shall, on or before its balance-due day for the year, pay a tax under this Part for the year equal to the amount, if any, by which the total of

(a) 38 1/3% of all assessable dividends received by the particular corporation in the year from corporations other than payer corporations connected with it, and

(b) all amounts, each of which is an amount in respect of an assessable dividend received by the particular corporation in the year from a private corporation or a subject corporation that was a payer corporation connected with the particular corporation, equal to that proportion of the payer corporation's dividend refund (within the meaning assigned by paragraph 129(1)(a)) for its taxation year in which it paid the dividend that

(i) the amount of the dividend received by the particular corporation

PARTIE IV

Impôt sur les dividendes imposables reçus par les sociétés privées

Impôt sur les dividendes imposables déterminés

186 (1) Toute société qui est une société privée ou une société assujettie au cours d'une année d'imposition est tenue de payer, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, un impôt pour l'année en vertu de la présente partie égal à l'excédent éventuel du total des montants suivants :

a) 38 1/3 % de l'ensemble des dividendes imposables déterminés qu'elle a reçus au cours de l'année de sociétés autres que des sociétés payantes auxquelles elle est rattachée;

b) les montants représentant chacun un montant au titre d'un dividende imposable déterminé qu'elle a reçu au cours de l'année d'une société privée ou d'une société assujettie qui était une société payante à laquelle elle était rattachée, égal au produit de la multiplication du remboursement au titre de dividendes, au sens de l'alinéa 129(1)a), de la société payante pour son année d'imposition au cours de laquelle elle a versé le dividende par le rapport entre :

is of

(ii) the total of all taxable dividends paid by the payer corporation in its taxation year in which it paid the dividend and at a time when it was a private corporation or a subject corporation

exceeds 38 1/3% of the total of

(c) such part of the particular corporation's non-capital loss and farm loss for the year as it claims, and

(d) such part of the particular corporation's

(i) non-capital loss for any of its 20 taxation years immediately preceding or 3 taxation years immediately following the year, and

(ii) farm loss for any of its 20 taxation years immediately preceding or 3 taxation years immediately following the year

as it claims, not exceeding the portion thereof that would have been deductible under section 111 in computing its taxable income for the year if subparagraph 111(3)(a)(ii) were read without reference to the words "the particular taxation year and" and if the corporation had sufficient income for the year.

(i) d'une part, le dividende reçu par la société donnée,

(ii) d'autre part, le total des dividendes imposables versés par la société payante au cours de son année d'imposition pendant laquelle elle a versé le dividende et à un moment où elle était une société privée ou une société assujettie,

sur 38 1/3 % du total des montants suivants :

c) la partie de sa perte autre qu'une perte en capital et de sa perte agricole pour l'année dont elle demande la déduction;

d) la partie des pertes suivantes dont elle demande la déduction, jusqu'à concurrence de la partie de ces pertes qui serait déductible en application de l'article 111 dans le calcul de son revenu imposable pour l'année s'il était fait abstraction du passage « l'année d'imposition donnée et » au sous-alinéa 111(3)a)(ii) et si son revenu pour l'année était suffisant :

(i) sa perte autre qu'une perte en capital pour une de ses 20 années d'imposition précédentes ou de ses 3 années d'imposition suivantes,

(ii) sa perte agricole pour une de ses 20 années d'imposition précédentes ou de ses 3 années d'imposition suivantes.

Reduction where Part IV.1 tax payable

(1.1) Notwithstanding subsection 186(1), where an assessable dividend was received by a corporation in a taxation year and was included in an amount in respect of which tax under Part IV.1 was payable by the corporation for the year, the tax otherwise payable under this Part by the corporation for the year shall be reduced

(a) where the assessable dividend is described in paragraph 186(1)(a), by 10% of the assessable dividend, and

(b) where the assessable dividend is described in paragraph 186(1)(b), by 30% of the amount determined under that paragraph in respect of the assessable dividend.

Réduction d'impôt

(1.1) Malgré le paragraphe (1), l'impôt payable par ailleurs en vertu de la présente partie par une société pour une année d'imposition est réduit de celui des montants ci-après qui est applicable si elle reçoit au cours de l'année un dividende imposable déterminé qui est inclus dans un montant sur lequel l'impôt prévu à la partie IV.1 est payable par elle pour l'année :

a) s'il s'agit d'un dividende visé à l'alinéa (1)a), 10 % du montant du dividende;

b) s'il s'agit d'un dividende visé à l'alinéa (1)b), 30 % du montant déterminé selon cet alinéa au titre du dividende.

When corporation controlled

(2) For the purposes of this Part, other than for the purpose of determining whether a corporation is a subject corporation, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the

Cas où une société est contrôlée

(2) Pour l'application de la présente partie, sauf pour ce qui est de déterminer si une société est une société assujettie, une société est contrôlée par une autre société si plus de 50 % des actions émises de son capital-actions (comportant plein droit de vote en toutes circonstances) appartiennent à l'autre société, à des personnes avec lesquelles cette autre société a un lien de dépendance ou à la

other corporation and persons with whom the other corporation does not deal at arm's length.

Definitions

(3) The definitions in this subsection apply in this Part.

assessable dividend means an amount received by a corporation at a time when it is a private corporation or a subject corporation as, on account of, in lieu of payment of or in satisfaction of, a taxable dividend from a corporation, to the extent of the amount in respect of the dividend that is deductible under section 112, paragraph 113(1)(a), (a.1), (b) or (d) or subsection 113(2) in computing the recipient corporation's taxable income for the year. (*dividende imposable déterminé*)

subject corporation means a corporation (other than a private corporation) resident in Canada and controlled, whether because of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a related group of individuals (other than trusts). (*société assujettie*)

Corporations connected with particular corporation

(4) For the purposes of this Part, a payer corporation is connected with a particular corporation at any time in a taxation year (in this subsection referred to as the "particular year") of the particular corporation if

(a) the payer corporation is controlled (otherwise than by virtue of a right referred to in paragraph 251(5)(b)) by the particular corporation at that time; or

(b) the particular corporation owned, at that time,

(i) more than 10% of the issued share capital (having full voting rights under all circumstances) of the payer corporation, and

(ii) shares of the capital stock of the payer corporation having a fair market value of more than 10% of the fair market value of all of the issued shares of the capital stock of the payer corporation.

Deemed private corporation

(5) A corporation that is at any time in a taxation year a subject corporation shall, for the purposes of paragraph 87(2)(aa) and section 129, be deemed to be a private corporation at that time, except that its refundable dividend

fois à l'autre société et à des personnes avec lesquelles l'autre société a un lien de dépendance.

Définitions

(3) Les définitions qui suivent s'appliquent à la présente partie.

dividende déterminé [Abrogée, 2013, ch. 34, art. 75]

dividende imposable déterminé Somme reçue par une société, à un moment où elle est une société privée ou une société assujettie, au titre ou en paiement intégral ou partiel d'un dividende imposable d'une société, jusqu'à concurrence de la somme relative au dividende qui est déductible en application de l'article 112, des alinéas 113(1)a), a.1), b) ou d) ou du paragraphe 113(2) dans le calcul du revenu imposable pour l'année de la société qui a reçu le dividende. (*assessable dividend*)

société assujettie Société, sauf une société privée, qui réside au Canada et qui est contrôlée, au moyen d'un droit de bénéficiaire sur une ou plusieurs fiducies ou autrement, par un particulier autre qu'une fiducie ou par un groupe lié de particuliers autres que des fiducies, ou pour le compte d'un tel particulier ou groupe. (*subject corporation*)

Sociétés rattachées à une société donnée

(4) Pour l'application de la présente partie, une société payante est rattachée à une société donnée à un moment donné d'une année d'imposition (appelée l'« année donnée » au présent paragraphe) de cette dernière dans l'un ou l'autre des cas suivants :

a) la société payante est contrôlée (autrement qu'au moyen du droit visé à l'alinéa 251(5)b)) par la société donnée à ce moment;

b) la société donnée a possédé à ce moment :

(i) d'une part, plus de 10 % des actions émises (comportant plein droit de vote en toutes circonstances) du capital-actions de la société payante,

(ii) d'autre part, des actions du capital-actions de la société payante dont la juste valeur marchande est de plus de 10 % de la juste valeur marchande de toutes les actions émises du capital-actions de la société payante.

Présomption

(5) La société qui est une société assujettie à un moment d'une année d'imposition est réputée, pour l'application de l'alinéa 87(2)aa) et de l'article 129, être une société privée à ce moment. Toutefois, son impôt en main

tax on hand (within the meaning assigned by subsection 129(3)) at the end of the year shall be determined without reference to paragraph 129(3)(a).

Partnerships

(6) For the purposes of this Part,

(a) all amounts received in a fiscal period by a partnership as, on account or in lieu of payment of, or in satisfaction of, taxable dividends shall be deemed to have been received by each member of the partnership in the member's fiscal period or taxation year in which the partnership's fiscal period ends, to the extent of that member's share thereof; and

(b) each member of a partnership shall be deemed to own at any time that proportion of the number of the shares of each class of the capital stock of a corporation that are property of the partnership at that time that the member's share of all dividends received on those shares by the partnership in its fiscal period that includes that time is of the total of all those dividends.

Interpretation

(7) For greater certainty, where a provision of this Act or the regulations indicates that the term ***connected*** has the meaning assigned by subsection 186(4), that meaning shall be determined by taking into account the application of subsection 186(2) unless the provision expressly provides otherwise.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 186; 1994, c. 7, Sch. VIII, s. 110; 1996, c. 21, s. 48; 2001, c. 17, s. 164; 2003, c. 15, s. 120; 2005, c. 19, s. 41; 2006, c. 4, s. 83; 2013, c. 34, s. 75; 2016, c. 11, s. 8.

Exempt corporations

186.1 No tax is payable under this Part for a taxation year by a corporation

(a) that was, at any time in the year, a bankrupt (within the meaning assigned by subsection 128(3)); or

(b) that was, throughout the year,

(i) a bank,

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

(iii) an insurance corporation,

(iv) a prescribed labour-sponsored venture capital corporation,

(v) a prescribed investment contract corporation,

remboursable au titre de dividendes, au sens du paragraphe 129(3), à la fin de l'année est déterminé compte non tenu de l'alinéa 129(3)a).

Sociétés de personnes

(6) Pour l'application de la présente partie :

a) les montants qu'une société de personnes reçoit au cours d'un exercice au titre de dividendes imposables sont réputés reçus par chaque associé de la société de personnes, à concurrence de sa part, au cours de l'exercice ou de l'année d'imposition de l'associé au cours desquels l'exercice de la société de personnes se termine;

b) chaque associé est réputé propriétaire au moment considéré des actions de chaque catégorie du capital-actions d'une société qui sont des biens de la société de personnes à ce moment proportionnellement à sa part du total des dividendes reçus par la société de personnes sur ces actions au cours de l'exercice de celle-ci qui comprend ce moment.

Interprétation

(7) Il est entendu que, lorsqu'une disposition de la présente loi ou de son règlement d'application précise que le terme ***rattaché*** s'entend au sens du paragraphe 186(4), le sens de ce terme est déterminé compte tenu de l'application du paragraphe 186(2), sauf indication contraire expresse dans la disposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 186; 1994, ch. 7, ann. VIII, art. 110; 1996, ch. 21, art. 48; 2001, ch. 17, art. 164; 2003, ch. 15, art. 120; 2005, ch. 19, art. 41; 2006, ch. 4, art. 83; 2013, ch. 34, art. 75; 2016, ch. 11, art. 8.

Sociétés exonérées

186.1 Aucun impôt n'est payable en vertu de la présente partie pour une année d'imposition par une société qui était, selon le cas :

a) un failli (au sens du paragraphe 128(3)), à un moment donné de l'année;

b) l'une des sociétés suivantes tout au long de l'année :

(i) une banque,

(ii) une société autorisée, par permis ou autrement, en vertu des lois fédérales ou provinciales, à exploiter au Canada une entreprise d'offre au public de services de fiduciaire,

(iii) une compagnie d'assurance,

(iv) une société à capital de risque de travailleurs visée par règlement,

(vi) a non-resident-owned investment corporation, or

(vii) a registered securities dealer that was throughout the year a member, or a participating organization, of a designated stock exchange in Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 186.1; 1998, c. 19, s. 200; 2007, c. 35, s. 55.

(v) une société de contrats de placement visée par règlement,

(vi) une société de placement appartenant à des non-résidents,

(vii) un courtier en valeurs mobilières inscrit qui, tout au long de l'année, était membre, ou organisation participante, d'une bourse de valeurs désignée située au Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 186.1; 1998, ch. 19, art. 200; 2007, ch. 35, art. 55.

Exempt dividends

186.2 For the purposes of subsection 186(1), dividends received in a taxation year by a corporation that was, throughout the year, a prescribed venture capital corporation from a corporation that was a prescribed qualifying corporation with respect to those dividends shall be deemed not to be taxable dividends.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1987, c. 46, s. 59.

Dividendes exonérés

186.2 Pour l'application du paragraphe 186(1), sont réputés ne pas être des dividendes imposables les dividendes qu'une société — qui est, tout au long d'une année d'imposition, une société à capital de risque visée par règlement — reçoit au cours de l'année d'une société que est une société admissible visée par règlement en ce qui concerne ces dividendes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1987, ch. 46, art. 59.

Information return

187 (1) Every corporation that is liable to pay tax under this Part for a taxation year in respect of a dividend received by it in the year shall, on or before the day on or before which it is required to file its return of income under Part I for the year, file a return for the year under this Part in prescribed form.

Déclaration de renseignements

187 (1) Toute société tenue de payer l'impôt en vertu de la présente partie pour une année d'imposition relativement à un dividende qu'elle a reçu au cours de l'année doit, au plus tard le jour où elle est tenue en vertu de la partie I de produire sa déclaration de revenu pour l'année, produire pour l'année une déclaration relative au dividende reçu, selon le formulaire prescrit, en vertu de la présente partie.

Interest

(2) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part thereof on or before the day on or before which the tax was required to be paid, it shall pay to the Receiver General interest at the prescribed rate on the amount that it failed to pay computed from the day on or before which the tax was required to be paid to the day of payment.

Intérêts

(2) Une société qui n'a pas payé tout ou partie d'un impôt dont elle est redevable en vertu de la présente partie, au plus tard à la date où elle était tenue de le payer, doit verser au receveur général des intérêts sur le montant qu'elle n'a pas payé, calculés au taux prescrit pour la période allant de la date où elle était tenue de payer l'impôt jusqu'à la date du paiement.

Provisions applicable to Part

(3) Sections 151, 152, 158 and 159, subsections 161(7) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "187"; 1985, c. 45, ss. 101, 126(F); 1986, c. 6, s. 98.

Dispositions applicables

(3) Les articles 151, 152, 158 et 159, les paragraphes 161(7) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 187 »; 1985, ch. 45, art. 101 et 126(F); 1986, ch. 6, art. 98.

PART IV.1

Taxes on Dividends on Certain Preferred Shares Received by Corporations

Definition of *excepted dividend*

187.1 In this Part, ***excepted dividend*** means a dividend

(a) received by a corporation on a share of the capital stock of a foreign affiliate of the corporation, other than a dividend received by a specified financial institution on a share acquired in the ordinary course of the business carried on by the institution;

(b) received by a corporation from another corporation (other than a corporation described in any of paragraphs (a) to (f) of the definition ***financial intermediary corporation*** in subsection 191(1)) in which it has or would have, if the other corporation were a taxable Canadian corporation, a substantial interest (as determined under section 191) at the time the dividend was paid;

(c) received by a corporation that was, at the time the dividend was received, a private corporation or a financial intermediary corporation (within the meaning assigned by subsection 191(1));

(d) received by a corporation on a short-term preferred share of the capital stock of a taxable Canadian corporation other than a dividend described in paragraph (b) or (c) of the definition ***excluded dividend*** in subsection 191(1); or

(e) received by a corporation on a share (other than a taxable RFI share or a share that would be a taxable preferred share if the definition ***taxable preferred share*** in subsection 248(1) were read without reference to paragraph (a) of that definition) of the capital stock of a mutual fund corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 187.1; 1994, c. 7, Sch. II, s. 154.

Tax on dividends on taxable preferred shares

187.2 Every corporation shall, on or before its balance-due day for a taxation year, pay a tax under this Part for the year equal to 10% of the total of all amounts each of which is a dividend, other than an excepted dividend, received by the corporation in the year on a taxable preferred share (other than a share of a class in respect of

PARTIE IV.1

Imposition des dividendes reçus par des sociétés sur certaines actions privilégiées

Définition de *dividende exclu*

187.1 Dans la présente partie, ***dividende exclu*** s'entend, selon le cas :

a) d'un dividende qu'une société reçoit sur une action du capital-actions d'une société étrangère affiliée à la société, à l'exception d'un dividende qu'une institution financière déterminée reçoit sur une action acquise dans le cours normal des activités de son entreprise;

b) d'un dividende qu'une société reçoit d'une autre société — sauf s'il s'agit d'une société visée à l'un des alinéas a) à f) de la définition d'***intermédiaire financier constitué en société*** au paragraphe 191(1) — dans laquelle elle a un intérêt important, au sens de l'article 191, au moment du versement du dividende ou en aurait alors un si l'autre société était une société canadienne imposable;

c) d'un dividende que reçoit une société qui est alors soit une société privée, soit un intermédiaire financier constitué en société au sens du paragraphe 191(1);

d) d'un dividende qu'une société reçoit sur une action privilégiée à court terme du capital-actions d'une société canadienne imposable, sauf s'il s'agit d'un dividende visé à l'alinéa b) ou c) de la définition de ***dividende exclu*** au paragraphe 191(1);

e) d'un dividende qu'une société reçoit sur une action du capital-actions d'une société de placement à capital variable, à l'exception d'une action particulière à une institution financière ou d'une action qui serait une action privilégiée imposable compte non tenu de l'alinéa a) de la définition d'***action privilégiée imposable*** au paragraphe 248(1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 187.1; 1994, ch. 7, ann. II, art. 154.

Impôt sur les dividendes des actions privilégiées imposables

187.2 Toute société est redevable, au plus tard à la date d'exigibilité du solde qui lui est applicable pour une année d'imposition, d'un impôt en vertu de la présente partie pour l'année, au taux de 10 %, sur le total des sommes dont chacune représente un dividende, sauf un dividende exclu, qu'elle reçoit au cours de l'année sur une action

which an election under subsection 191.2(1) has been made) to the extent that an amount in respect of the dividend was deductible under section 112 or 113 or subsection 138(6) in computing its taxable income for the year or under subsection 115(1) in computing its taxable income earned in Canada for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 187.2; 2003, c. 15, s. 121.

Tax on dividends on taxable RFI shares

187.3 (1) Every restricted financial institution shall, on or before its balance-due day for a taxation year, pay a tax under this Part for the year equal to 10% of the total of all amounts each of which is a dividend, other than an excepted dividend, received by the institution at any time in the year on a share acquired by any person before that time and after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 that was, at the time the dividend was paid, a taxable RFI share to the extent that an amount in respect of the dividend was deductible under section 112 or 113 or subsection 138(6) in computing its taxable income for the year or under subsection 115(1) in computing its taxable income earned in Canada for the year.

Time of acquisition of share

(2) For the purposes of subsection 187.3(1),

(a) a share of the capital stock of a corporation acquired by a person after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 pursuant to an agreement in writing entered into before that time shall be deemed to have been acquired by that person before that time;

(b) a share of the capital stock of a corporation acquired by a person after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 and before 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the shares are distributed shall be deemed to have been acquired by that person before that time;

(c) a share (in this paragraph referred to as the "new share") of the capital stock of a corporation that is

privilégiée imposable — sauf s'il s'agit d'une action d'une catégorie choisie en application du paragraphe 191.2(1) — dans la mesure où une somme au titre de ce dividende est déductible dans le calcul de son revenu imposable pour l'année en application des articles 112 ou 113 ou du paragraphe 138(6) ou dans le calcul de son revenu imposable gagné au Canada pour l'année en application du paragraphe 115(1).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 187.2; 2003, ch. 15, art. 121.

Impôt sur les dividendes des actions particulières aux institutions financières

187.3 (1) Toute institution financière véritable est redevable, au plus tard à la date d'exigibilité du solde qui lui est applicable pour une année d'imposition, d'un impôt en vertu de la présente partie pour l'année, au taux de 10 %, sur le total des sommes dont chacune représente un dividende, sauf un dividende exclu, qu'elle reçoit à un moment de l'année sur une action qu'une personne a acquise avant ce moment et après 20 heures, heure avancée de l'Est, le 18 juin 1987 et qui est, au moment du versement du dividende, une action particulière à une institution financière, dans la mesure où une somme au titre de ce dividende est déductible dans le calcul de son revenu imposable pour l'année en application des articles 112 ou 113 ou du paragraphe 138(6) ou dans le calcul de son revenu imposable gagné au Canada pour l'année en application du paragraphe 115(1).

Moment réputé d'acquisition des actions

(2) Pour l'application du paragraphe (1):

a) la personne qui a acquis une action après 20 heures, heure avancée de l'Est, le 18 juin 1987 conformément à une convention écrite conclue avant ce moment est réputée l'avoir acquise avant ce moment;

b) la personne qui a acquis une action après 20 heures, heure avancée de l'Est, le 18 juin 1987 et avant 1988 dans le cadre d'un appel public à l'épargne conformément à un prospectus, à un prospectus provisoire, à une déclaration d'enregistrement, à une notice d'offre ou à un avis, produit avant ce moment auprès d'une administration selon la législation sur les valeurs mobilières applicable là où les actions sont placées, est réputée l'avoir acquise avant ce moment;

c) la personne qui a acquis une action après 20 heures, heure avancée de l'Est, le 18 juin 1987, en échange d'une autre action émise avant ce moment, d'une action de régime transitoire ou d'un titre de créance d'une société soit émis avant ce moment, soit émis après ce moment conformément à une convention écrite conclue avant ce moment, est réputée

acquired by a person after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 in exchange for

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

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

where the right to the exchange for the new share and all or substantially all the terms and conditions of the new share were established in writing before that time shall be deemed to have been acquired by that person before that time;

(d) a share of a class of the capital stock of a Canadian corporation listed on a designated stock exchange in Canada that is acquired by a person after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 on the exercise of a right

(i) that was issued before that time and listed on a prescribed stock exchange in Canada, and

(ii) the terms of which at that time included the right to acquire the share,

where all or substantially all the terms and conditions of the share were established in writing before that time shall be deemed to have been acquired by that person before that time;

(e) where a share that was owned by a particular restricted financial institution at 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 has, by one or more transactions between related restricted financial institutions, been transferred to another restricted financial institution, the share shall be deemed to have been acquired by the other restricted financial institution before that time unless at any particular time after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 and before the share was transferred to the other restricted financial institution the share was owned by a shareholder who, at that particular time, was a person other than a restricted financial institution related to the other restricted financial institution; and

(f) where, at any particular time, there has been an amalgamation within the meaning assigned by section 87, and

(i) each of the predecessor corporations was a restricted financial institution throughout the period

l'avoir acquise avant ce moment, si le droit d'échange et la totalité, ou presque, des caractéristiques de l'action ainsi acquise ont été établis par écrit avant ce moment;

d) la personne qui a acquis après 20 heures, heure avancée de l'Est, le 18 juin 1987, une action d'une catégorie du capital-actions d'une société canadienne cotée à une bourse de valeurs désignée située au Canada en exerçant un droit émis avant ce moment, coté à une bourse de valeurs désignée située au Canada et dont les caractéristiques à ce moment comprennent le droit d'acquérir l'action, est réputée avoir acquis l'action avant ce moment, si les caractéristiques de l'action ont été établies par écrit avant ce moment;

e) l'institution financière véritable à qui une action dont une autre institution financière véritable était propriétaire à 20 heures, heure avancée de l'Est, le 18 juin 1987, est transférée par suite d'une ou de plusieurs opérations entre institutions financières véritables liées est réputée l'avoir acquise avant ce moment, sauf si, à un moment donné après 20 heures, heure avancée de l'Est, le 18 juin 1987 et avant le transfert, un actionnaire qui, à ce moment donné, était une personne autre qu'une institution financière véritable liée à l'autre institution financière véritable en était propriétaire;

f) en cas de fusion, au sens de l'article 87, à un moment donné, si chacune des sociétés remplacées — liées les unes aux autres tout au long de la période allant de 20 heures, heure avancée de l'Est, le 18 juin 1987 jusqu'au moment donné — est une institution financière véritable tout au long de cette période ou si chacune d'elles et la nouvelle société sont des sociétés visées aux alinéas a) à d) de la définition d'***institution financière véritable*** au paragraphe 248(1), la nouvelle société qui a acquis une action particulière à une institution financière auprès d'une société remplacée lors de la fusion est réputée l'avoir acquise au moment où la société remplacée l'avait acquise.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 187.3; 2003, ch. 15, art. 122; 2007, ch. 35, art. 68.

from 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 to the particular time and the predecessor corporations were related to each other throughout that period, or

(ii) each of the predecessor corporations and the new corporation is a corporation described in any of paragraphs (a) to (d) of the definition ***restricted financial institution*** in subsection 248(1),

a taxable RFI share acquired by the new corporation from a predecessor corporation on the amalgamation shall be deemed to have been acquired by the new corporation at the time it was acquired by the predecessor corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 187.3; 2003, c. 15, s. 122; 2007, c. 35, s. 68.

Partnerships

187.4 For the purposes of this Part,

(a) all amounts received in a fiscal period by a partnership as, on account or in lieu of payment of, or in satisfaction of, dividends shall be deemed to have been received by each member of the partnership in the member's fiscal period or taxation year in which the partnership's fiscal period ends, to the extent of that member's share thereof;

(b) each member of a partnership shall be deemed to own at any time that proportion of the number of the shares of each class of the capital stock of a corporation that are property of the partnership at that time that the member's share of all dividends received on those shares by the partnership in its fiscal period that includes that time is of the total of all those dividends; and

(c) a reference to a person includes a partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 152.

Information return

187.5 Every corporation liable to pay tax under this Part for a taxation year shall file with the Minister, not later than the day on or before which it is required by section 150 to file its return of income for the year under Part I, a return for the year under this Part in prescribed form containing an estimate of the taxes payable by it under sections 187.2 and 187.3 for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 152.

Sociétés de personnes

187.4 Pour l'application de la présente partie :

a) les montants qu'une société de personnes reçoit au cours d'un exercice au titre de dividendes sont réputés reçus par chaque associé de la société de personnes, à concurrence de sa part, au cours de l'exercice ou de l'année d'imposition de l'associé au cours desquels l'exercice de la société de personnes se termine;

b) chaque associé est réputé propriétaire au moment considéré des actions de chaque catégorie du capital-actions d'une société qui sont des biens de la société de personnes à ce moment proportionnellement à sa part du total des dividendes reçus par la société de personnes sur ces actions au cours de l'exercice de celle-ci qui comprend ce moment;

c) le terme ***personne*** vise également une société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 152.

Déclaration de renseignements

187.5 Toute société redevable d'un impôt en application de la présente partie pour une année d'imposition doit produire auprès du ministre, au plus tard à la date où elle est tenue par l'article 150 de produire sa déclaration de revenu en vertu de la partie I pour l'année, une déclaration concernant la présente partie pour l'année, sur formulaire prescrit contenant une estimation des impôts à payer pour l'année en application des articles 187.2 et 187.3.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 152.

Provisions applicable to Part

187.6 Sections 152, 158 and 159, subsections 161(1), 161(2) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 152.

Provisions applicable — Crown corporations

187.61 Section 27 applies to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 201.

PART V

Tax and Penalties in Respect of Qualified Donees

Application of s. 149.1(1)

187.7 The definitions in subsection 149.1(1) apply to this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1984, c. 45, s. 57.

Deemed year-end on notice of revocation

188 (1) If on a particular day the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) or it is determined, under subsection 7(1) of the *Charities Registration (Security Information) Act*, that a certificate served in respect of the charity under subsection 5(1) of that Act is reasonable on the basis of information and evidence available,

(a) the taxation year of the charity that would otherwise have included that day is deemed to end at the end of that day;

(b) a new taxation year of the charity is deemed to begin immediately after that day; and

(c) for the purpose of determining the charity's fiscal period after that day, the charity is deemed not to have established a fiscal period before that day.

Dispositions applicables

187.6 Les articles 152, 158 et 159, les paragraphes 161(1), (2) et (11), les articles 162 à 167 ainsi que la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 152.

Disposition applicable aux sociétés d'État

187.61 L'article 27 s'applique à la présente partie, avec les modifications nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 201.

PARTIE V

Impôt et pénalités relatifs aux donataires reconnus

Application du par. 149.1(1)

187.7 Les définitions figurant au paragraphe 149.1(1) s'appliquent à la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1984, ch. 45, art. 57.

Fin d'année réputée en cas d'avis de révocation

188 (1) Si un avis d'intention de révoquer l'enregistrement d'un contribuable comme organisme de bienfaisance enregistré est délivré par le ministre en vertu de l'un des paragraphes 149.1(2) à (4.1) et 168(1) ou si, compte tenu des renseignements et des autres éléments de preuve disponibles, un certificat signifié à l'égard de l'organisme en vertu du paragraphe 5(1) de la *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)* est jugé raisonnable au titre du paragraphe 7(1) de cette loi, les règles suivantes s'appliquent :

a) l'année d'imposition de l'organisme qui aurait compris par ailleurs le jour où l'avis est délivré ou le jugement, rendu, est réputée prendre fin à la fin de ce jour;

b) une nouvelle année d'imposition de l'organisme est réputée commencer immédiatement après ce jour;

c) pour ce qui est de déterminer l'exercice de l'organisme après ce jour, l'organisme est réputé ne pas avoir établi d'exercice avant ce jour.

Revocation tax

(1.1) A charity referred to in subsection (1) is liable to a tax, for its taxation year that is deemed to have ended, equal to the amount determined by the formula

A - B

where

A is the total of all amounts, each of which is

(a) the fair market value of a property of the charity at the end of that taxation year,

(b) the amount of an appropriation (within the meaning assigned by subsection (2)) in respect of a property transferred to another person in the 120-day period that ended at the end of that taxation year, or

(c) the income of the charity for its winding-up period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 as if that period were a taxation year; and

B is the total of all amounts (other than the amount of an expenditure in respect of which a deduction has been made in computing income for the winding-up period under paragraph (c) of the description of A), each of which is

(a) a debt of the charity that is outstanding at the end of that taxation year,

(b) an expenditure made by the charity during the winding-up period on charitable activities carried on by it, or

(c) an amount in respect of a property transferred by the charity during the winding-up period and not later than the latter of one year from the end of the taxation year and the day, if any, referred to in paragraph (1.2)(c), to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

Winding-up period

(1.2) In this Part, the winding-up period of a charity is the period that begins immediately after the day on which the Minister issues a notice of intention to revoke the registration of a taxpayer as a registered charity under any of subsections 149.1(2) to (4.1) and 168(1) (or, if earlier, immediately after the day on which it is determined, under subsection 7(1) of the *Charities Registration (Security Information) Act*, that a certificate served in respect of the charity under subsection 5(1) of that Act

Impôt de révocation

(1.1) L'organisme de bienfaisance visé au paragraphe (1) est redevable, pour l'année d'imposition qui est réputée avoir pris fin, d'un impôt égal au montant obtenu par la formule suivante :

A - B

où :

A représente le total des montants représentant chacun :

a) la juste valeur marchande d'un bien de l'organisme à la fin de l'année;

b) le montant d'un crédit, au sens du paragraphe (2), relatif à un bien transféré à une autre personne au cours de la période de 120 jours s'étant terminée à la fin de l'année;

c) le revenu de l'organisme pour sa période de liquidation, y compris les dons qu'il a reçus de toute source au cours de cette période ainsi que le revenu qui serait calculé selon l'article 3 si cette période était une année d'imposition;

B le total des montants (sauf le montant d'une dépense qui a fait l'objet d'une déduction dans le calcul du revenu pour la période de liquidation selon l'alinéa c) de l'élément A) représentant chacun :

a) toute somme dont l'organisme est débitrice à la fin de l'année;

b) toute dépense effectuée par l'organisme au cours de la période de liquidation au titre de ses activités de bienfaisance;

c) toute somme relative à un bien que l'organisme a transféré au cours de la période de liquidation et au plus tard un an après la fin de l'année ou, s'il est postérieur, le jour visé à l'alinéa (1.2)c), à une personne qui, au moment du transfert, était un donataire admissible relativement à l'organisme, égale à l'excédent éventuel de la juste valeur marchande du bien au moment de son transfert sur la contrepartie donnée par la personne pour le transfert.

Période de liquidation

(1.2) Pour l'application de la présente partie, la période de liquidation d'un organisme de bienfaisance correspond à la période commençant le lendemain du jour où le ministre délivre un avis d'intention de révoquer l'enregistrement d'un contribuable comme organisme de bienfaisance enregistré en vertu de l'un des paragraphes 149.1(2) à (4.1) et 168(1) ou, s'il est antérieur, le lendemain du jour où un certificat signifié à l'égard de l'organisme en vertu du paragraphe 5(1) de la *Loi sur*

is reasonable on the basis of information and evidence available), and that ends on the day that is the latest of

(a) the day, if any, on which the charity files a return under subsection 189(6.1) for the taxation year deemed by subsection (1) to have ended, but not later than the day on which the charity is required to file that return,

(b) the day on which the Minister last issues a notice of assessment of tax payable under subsection (1.1) for that taxation year by the charity, and

(c) if the charity has filed a notice of objection or appeal in respect of that assessment, the day on which the Minister may take a collection action under section 225.1 in respect of that tax payable.

l'enregistrement des organismes de bienfaisance (renseignements de sécurité) est jugé raisonnable au titre du paragraphe 7(1) de cette loi, compte tenu des renseignements et des autres éléments de preuve disponibles, et se terminant au dernier en date des jours suivants :

a) le jour où l'organisme produit une déclaration de revenu en vertu du paragraphe 189(6.1) pour l'année d'imposition qui est réputée, par le paragraphe (1), avoir pris fin, mais au plus tard le jour où l'organisme est tenu de produire cette déclaration;

b) le jour où le ministre délivre le dernier avis de cotisation concernant l'impôt payable par l'organisme pour l'année en vertu du paragraphe (1.1);

c) si l'organisme a produit un avis d'opposition ou d'appel relativement à cette cotisation, le jour où le ministre peut prendre une mesure de recouvrement en vertu de l'article 225.1 relativement à cet impôt payable.

Eligible donee

(1.3) In this Part, an eligible donee in respect of a particular charity is a registered charity

(a) of which more than 50% of the members of the board of directors or trustees of the registered charity deal at arm's length with each member of the board of directors or trustees of the particular charity;

(b) that is not the subject of a suspension under subsection 188.2(1);

(c) that has no unpaid liabilities under this Act or under the *Excise Tax Act*;

(d) that has filed all information returns required by subsection 149.1(14); and

(e) that is not the subject of a certificate under subsection 5(1) of the *Charities Registration (Security Information) Act* or, if it is the subject of such a certificate, the certificate has been determined under subsection 7(1) of that Act not to be reasonable.

Donataire admissible

(1.3) Pour l'application de la présente partie, est donataire admissible relativement à un organisme de bienfaisance donné l'organisme de bienfaisance enregistré qui répond aux conditions suivantes :

a) plus de 50 % des membres de son conseil d'administration n'ont aucun lien de dépendance avec les membres du conseil d'administration de l'organisme donné;

b) il ne fait pas l'objet d'une suspension en vertu du paragraphe 188.2(1);

c) il n'a aucune somme impayée sous le régime de la présente loi ou de la *Loi sur la taxe d'accise*;

d) il a produit toutes les déclarations de renseignements exigées aux termes du paragraphe 149.1(14);

e) il ne fait pas l'objet d'un certificat en vertu du paragraphe 5(1) de la *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)*; dans le cas contraire, le certificat n'a pas été jugé raisonnable au titre du paragraphe 7(1) de cette loi.

Eligible donee

(1.4) In this Part, an eligible donee in respect of a particular Canadian amateur athletic association is a registered Canadian amateur athletic association

(a) of which more than 50% of the members of the board of directors or trustees of the registered Canadian amateur athletic association deal at arm's length

Donataire admissible

(1.4) Pour l'application de la présente partie, est un donataire admissible relativement à une association canadienne de sport amateur donnée toute association canadienne enregistrée de sport amateur qui remplit les conditions suivantes :

with each member of the board of directors or trustees of the particular Canadian amateur athletic association;

(b) that is not the subject of a suspension under subsection 188.2(1);

(c) that has no unpaid liabilities under this Act or under the *Excise Tax Act*; and

(d) that has filed all information returns required by subsection 149.1(14).

a) plus de 50 % des membres de son conseil d'administration n'ont aucun lien de dépendance avec les membres du conseil d'administration de l'association donnée;

b) elle ne fait pas l'objet de la suspension prévue au paragraphe 188.2(1);

c) elle n'a aucune somme impayée sous le régime de la présente loi ou de la *Loi sur la taxe d'accise*;

d) elle a produit toutes les déclarations de renseignements exigées aux termes du paragraphe 149.1(14).

Shared liability — revocation tax

(2) A person who, after the time that is 120 days before the end of the taxation year of a charity that is deemed by subsection (1) to have ended, receives property from the charity, is jointly and severally, or solidarily, liable with the charity for the tax payable under subsection (1.1) by the charity for that taxation year for an amount not exceeding the total of all appropriations, each of which is the amount by which the fair market value of such a property at the time it was so received by the person exceeds the consideration given by the person in respect of the property.

Responsabilité partagée — impôt de révocation

(2) La personne qui reçoit un bien d'un organisme de bienfaisance, après le moment qui précède de 120 jours la fin de l'année d'imposition de l'organisme qui est réputée par le paragraphe (1) avoir pris fin, est solidairement tenue, avec l'organisme, au paiement de l'impôt payable par celui-ci en vertu du paragraphe (1.1) pour cette année, jusqu'à concurrence du total des crédits représentant chacun l'excédent de la juste valeur marchande du bien au moment où il a été ainsi reçu par la personne sur la contrepartie donnée par celle-ci relativement au bien.

Non-application of revocation tax

(2.1) Subsections (1) and (1.1) do not apply to a charity in respect of a notice of intention to revoke given under any of subsections 149.1(2) to (4.1) and 168(1) if the Minister abandons the intention and so notifies the charity or if

(a) within the one-year period that begins immediately after the taxation year of the charity otherwise deemed by subsection (1) to have ended, the Minister has registered the charity as a charitable organization, private foundation or public foundation; and

(b) the charity has, before the time that the Minister has so registered the charity,

(i) paid all amounts, each of which is an amount for which the charity is liable under this Act (other than subsection (1.1)) or the *Excise Tax Act* in respect of taxes, penalties and interest, and

(ii) filed all information returns required by or under this Act to be filed on or before that time.

Non-application de l'impôt de révocation

(2.1) Les paragraphes (1) et (1.1) ne s'appliquent pas à un organisme de bienfaisance pour ce qui est d'un avis d'intention délivré en vertu de l'un des paragraphes 149.1(2) à (4.1) et 168(1), si le ministre renonce à l'intention et en avise l'organisme ou si, à la fois :

a) dans la période d'un an commençant immédiatement après l'année d'imposition de l'organisme qui est réputée par le paragraphe (1) avoir pris fin, le ministre a enregistré l'organisme comme œuvre de bienfaisance, fondation privée ou fondation publique;

b) l'organisme a, avant le moment où il a été ainsi enregistré, à la fois :

(i) payé les sommes dont chacune représente une somme dont il est redevable en vertu des dispositions de la présente loi, sauf le paragraphe (1.1), ou de la *Loi sur la taxe d'accise* au titre des impôts, taxes, pénalités et intérêts,

(ii) produit les déclarations de renseignements qu'il est tenu de produire sous le régime de la présente loi au plus tard à ce moment.

Transfer of property tax

(3) Where, as a result of a transaction or series of transactions, property owned by a registered charity that is a

Transfert de biens

(3) Un organisme de bienfaisance enregistré qui est une fondation de bienfaisance qui, par une opération ou une

charitable foundation and having a net value greater than 50% of the net asset amount of the charitable foundation immediately before the transaction or series of transactions, as the case may be, is transferred before the end of a taxation year, directly or indirectly, to one or more charitable organizations and it may reasonably be considered that the main purpose of the transfer is to effect a reduction in the disbursement quota of the foundation, the foundation shall pay a tax under this Part for the year equal to the amount by which 25% of the net value of that property determined as of the day of its transfer exceeds the total of all amounts each of which is its tax payable under this subsection for a preceding taxation year in respect of the transaction or series of transactions.

Non-application of subsection (3)

(3.1) Subsection (3) does not apply to a transfer that is a gift to which subsection 188.1(11) or (12) applies.

Joint and several, or solidary, liability — tax transfer

(4) If property has been transferred to a charitable organization in circumstances described in subsection (3) and it may reasonably be considered that the organization acted in concert with a charitable foundation for the purpose of reducing the disbursement quota of the foundation, the organization is jointly and severally, or solidarily, liable with the foundation for the tax imposed on the foundation by that subsection in an amount not exceeding the net value of the property.

Definitions

(5) In this section,

net asset amount of a charitable foundation at any time means the amount determined by the formula

A - B

where

A is the fair market value at that time of all the property owned by the foundation at that time, and

B is the total of all amounts each of which is the amount of a debt owing by or any other obligation of the foundation at that time; (*montant de l'actif net*)

net value of property owned by a charitable foundation, as of the day of its transfer, means the amount determined by the formula

A - B

where

A is the fair market value of the property on that day, and

série d'opérations, transfère, avant la fin d'une année d'imposition directement ou indirectement, à une œuvre de bienfaisance un bien lui appartenant d'une valeur nette supérieure à 50 % du montant de son actif net immédiatement avant l'opération ou la série d'opérations doit payer un impôt, pour l'année, au titre de la présente partie, équivalant à l'excédent de 25 % de la valeur nette du bien en question, déterminée au jour de son transfert, sur le total des montants dont chacun représente l'impôt auquel il est tenu, au titre du présent paragraphe, pour une année d'imposition précédente à l'égard de l'opération ou de la série d'opérations, selon le cas, s'il est raisonnable de considérer que la raison principale du transfert est de réduire son contingent des versements.

Non-application du paragraphe (3)

(3.1) Le paragraphe (3) ne s'applique pas au transfert qui consiste en un don visé aux paragraphes 188.1(11) ou (12).

Solidarité

(4) L'œuvre de bienfaisance qui reçoit un bien d'une fondation de bienfaisance, dans des circonstances énoncées au paragraphe (3), s'il est raisonnable de considérer qu'elle a agi de concert avec la fondation en vue de réduire le contingent des versements de celle-ci, est solidairement responsable avec elle de l'impôt dont elle est frappée, au titre de ce paragraphe, jusqu'à concurrence de la valeur nette du bien.

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

montant de l'actif net S'agissant du montant de l'actif net, à un moment donné, d'une fondation de bienfaisance, le montant calculé selon la formule suivante :

A - B

où :

A représente la juste valeur marchande à ce moment des biens appartenant à la fondation à ce moment;

B le total des montants dont chacun représente une dette ou toute autre obligation de la fondation exigible à ce moment. (*net asset amount*)

valeur nette S'agissant de la valeur nette d'un bien d'une fondation de bienfaisance au jour du transfert de celui-ci, le montant calculé selon la formule suivante :

A - B

où :

B is the amount of any consideration given to the foundation for the transfer. (*valeur nette*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 188; 1994, c. 7, Sch. II, s. 155, c. 21, s. 84; 2001, c. 41, s. 116; 2005, c. 19, s. 43; 2010, c. 25, s. 50; 2011, c. 24, s. 58; 2013, c. 34, s. 151(E).

A représente la juste valeur marchande ce jour-là du bien;

B le montant de toute contrepartie reçue par la fondation pour le transfert. (*net value*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 188; 1994, ch. 7, ann. II, art. 155, ch. 21, art. 84; 2001, ch. 41, art. 116; 2005, ch. 19, art. 43; 2010, ch. 25, art. 50; 2011, ch. 24, art. 58; 2013, ch. 34, art. 151(A).

Penalty — carrying on business

188.1 (1) Subject to subsection (2), a person is liable to a penalty under this Part equal to 5% of its gross revenue for a taxation year from any business that it carries on in the taxation year, if

(a) the person is a registered charity that is a private foundation;

(b) the person is a registered charity that is not a private foundation and the business is not a related business in relation to the charity; or

(c) the person is a registered Canadian amateur athletic association and the business is not a related business in relation to the association.

Pénalités — activités d'entreprise

188.1 (1) Sous réserve du paragraphe (2), une personne est passible, en vertu de la présente partie, d'une pénalité égale à 5 % de son revenu brut pour une année d'imposition provenant de toute entreprise qu'elle exploite au cours de l'année si, selon le cas :

a) elle est un organisme de bienfaisance enregistré qui est une fondation privée;

b) elle est un organisme de bienfaisance enregistré qui n'est pas une fondation privée et l'entreprise n'est pas une activité commerciale complémentaire relativement à l'organisme;

c) elle est une association canadienne enregistrée de sport amateur et l'entreprise n'est pas une activité commerciale complémentaire relativement à l'association.

Increased penalty for subsequent assessment

(2) A person that, less than five years before a particular time, was assessed a liability under subsection (1) or this subsection, for a taxation year, is liable to a penalty under this Part equal to its gross revenue for a subsequent taxation year from any business that, after that assessment and in the subsequent taxation year, it carries on at the particular time if

(a) the person is a registered charity that is a private foundation;

(b) the person is a registered charity that is not a private foundation and the business is not a related business in relation to the charity; or

(c) the person is a registered Canadian amateur athletic association and the business is not a related business in relation to the association.

Pénalité accrue en cas de récidive

(2) La personne à l'égard de laquelle une cotisation a été établie, moins de cinq ans avant un moment donné, au titre d'une somme dont elle était redevable en vertu du paragraphe (1) ou du présent paragraphe pour une année d'imposition est passible, en vertu de la présente partie, d'une pénalité égale à son revenu brut pour une année d'imposition ultérieure provenant de toute entreprise qu'elle exploite au moment donné, après l'établissement de cette cotisation et au cours de l'année ultérieure, si, selon le cas :

a) elle est un organisme de bienfaisance enregistré qui est une fondation privée;

b) elle est un organisme de bienfaisance enregistré qui n'est pas une fondation privée et l'entreprise n'est pas une activité commerciale complémentaire relativement à l'organisme;

c) elle est une association canadienne enregistrée de sport amateur et l'entreprise n'est pas une activité commerciale complémentaire relativement à l'association.

Control of corporation by a charitable foundation

(3) If at a particular time a charitable foundation has acquired control (within the meaning of subsection 149.1(12)) of a particular corporation, the foundation is liable to a penalty under this Part for a taxation year equal to

(a) 5% of the total of all amounts, each of which is a dividend received by the foundation from the particular corporation in the taxation year and at a time when the foundation so controlled the particular corporation, except if the foundation is liable under paragraph (b) for a penalty in respect of the dividend; or

(b) if the Minister has, less than five years before the particular time, assessed a liability under paragraph (a) or this paragraph for a preceding taxation year of the foundation in respect of a dividend received from any corporation, the total of all amounts, each of which is a dividend received, after the particular time, by the foundation, from the particular corporation, in the taxation year and at a time when the foundation so controlled the particular corporation.

Penalty for excess corporate holdings

(3.1) A private foundation is liable to a penalty under this Part for a taxation year, in respect of a class of shares of the capital stock of a corporation, equal to

(a) 5% of the amount, if any, determined by multiplying the divestment obligation percentage of the private foundation for the taxation year in respect of the class by the total fair market value of all of the issued and outstanding shares of the class, except if the private foundation is liable for the taxation year under paragraph (b) for a penalty in respect of the class; or

(b) 10% of the amount, if any, determined by multiplying the divestment obligation percentage of the private foundation for the taxation year in respect of the class by the total fair market value of all of the issued and outstanding shares of the class, if

(i) the private foundation has failed to disclose, in its return required under subsection 149.1(14) for the taxation year,

(A) a material transaction, in the taxation year, of the private foundation in respect of the class,

(B) a material interest held at the end of the taxation year by a relevant person in respect of the private foundation, or

Contrôle d'une société par une fondation de bienfaisance

(3) La fondation de bienfaisance qui a acquis le contrôle, au sens du paragraphe 149.1(12), d'une société donnée est passible d'une pénalité en vertu de la présente partie pour une année d'imposition, égale au montant applicable suivant :

a) 5 % du total des montants représentant chacun un dividende que la fondation a reçu de la société donnée au cours de l'année et à un moment où la fondation contrôlait ainsi cette société, sauf si la fondation est passible, en vertu de l'alinéa b), d'une pénalité à l'égard du dividende;

b) si le ministre a établi, moins de cinq ans avant le moment de l'acquisition du contrôle, une cotisation à l'égard d'une somme à payer en vertu de l'alinéa a) ou du présent alinéa pour une année d'imposition antérieure de la fondation relativement à un dividende reçu d'une société quelconque, le total des montants représentant chacun un dividende que la fondation a reçu de la société donnée après ce moment, au cours de l'année d'imposition et à un moment où la fondation contrôlait ainsi la société donnée.

Pénalité pour participation excédentaire dans une société

(3.1) Toute fondation privée est passible d'une pénalité en vertu de la présente partie pour une année d'imposition, relativement à une catégorie d'actions du capital-actions d'une société, égale à celle des sommes suivantes qui est applicable :

a) 5 % du produit de son pourcentage de dessaisissement pour l'année, relativement à la catégorie, par la juste valeur marchande totale des actions émises et en circulation de la catégorie, sauf si elle est passible pour l'année, relativement à la catégorie, de la pénalité prévue à l'alinéa b);

b) 10 % du produit de son pourcentage de dessaisissement pour l'année, relativement à la catégorie, par la juste valeur marchande totale des actions émises et en circulation de la catégorie si, selon le cas :

(i) elle a omis d'indiquer les renseignements ci-après dans la déclaration qu'elle est tenue de produire pour l'année aux termes du paragraphe 149.1(14) :

(A) toute opération importante qu'elle a effectuée au cours de l'année relativement à la catégorie,

(C) the total corporate holdings percent-age of the private foundation in respect of the class at the end of the taxation year, unless at no time in the taxation year the private foundation held greater than an insignificant interest in respect of the class, or

(ii) the Minister has, less than five years before the end of the taxation year, assessed a liability under paragraph (a) or this paragraph for a preceding taxation year of the private foundation in respect of any divestment obligation percentage.

(B) toute participation notable que détient, à la fin de l'année, une personne intéressée quant à elle,

(C) son pourcentage de participation totale relativement à la catégorie à la fin de l'année, sauf si elle n'a détenu tout au long de l'année qu'une participation négligeable relativement à la participation,

(ii) moins de cinq ans avant la fin de l'année, le ministre a établi une cotisation à l'égard d'une somme dont elle est redevable, en vertu de l'alinéa a) ou du présent alinéa, pour une de ses années d'imposition antérieures au titre d'un pourcentage de dessaisissement.

Avoidance of divestiture

(3.2) If, at the end of a taxation year, a private foundation would — but for a transaction or series of transactions entered into by the private foundation or a relevant person in respect of the private foundation (in this subsection referred to as the "holder") a result of which is that the holder holds, directly or indirectly, an interest (or for civil law, a right), in a corporation other than shares — have a divestment obligation percentage for that taxation year in respect of the private foundation's holdings of a class of shares of the capital stock of the corporation, and it can reasonably be considered that a purpose of the transaction or series is to avoid that divestment obligation percentage by substituting shares of the class for that interest or right, for the purposes of applying this section, subsection 149.1(1) and section 149.2,

(a) each of those interests or rights is deemed to have been converted, immediately after the time it was first held, directly or indirectly by the holder, into that number of shares of that class that would, if those shares were shares of the class that were issued by the corporation, have a fair market value equal to the fair market value of the interest or right at that time;

(b) each such share is deemed to be a share that is issued by the corporation and outstanding and to continue to be held by the holder until such time as the holder no longer holds the interest or right; and

(c) each of those shares is deemed to have a fair market value, at the particular time, equal to the fair market value, at the particular time, of a share of the class issued by the corporation, determined without reference to this subsection.

Évitement de l'obligation de dessaisissement

(3.2) Dans le cas où une fondation privée aurait à la fin d'une année d'imposition — en l'absence d'une opération ou d'une série d'opérations effectuée par elle ou par une personne intéressée quant à elle (appelées « détenteur » au présent paragraphe) par suite de laquelle le détenteur détient, directement ou indirectement, un intérêt ou, pour l'application du droit civil, un droit dans une société qui n'est pas sous forme d'actions — un pourcentage de dessaisissement pour l'année relativement aux actions qu'elle détient d'une catégorie du capital-actions d'une société, et où il est raisonnable de considérer que l'un des objets de l'opération ou de la série consiste à éviter ce pourcentage de dessaisissement en substituant cet intérêt ou ce droit aux actions de la catégorie, les règles ci-après s'appliquent dans le cadre du présent article, du paragraphe 149.1(1) et de l'article 149.2 :

a) chacun des intérêts ou droits en cause est réputé avoir été converti, immédiatement après le moment où il est détenu pour la première fois, directement ou indirectement, par le détenteur, en un nombre d'actions de la catégorie qui, s'il s'agissait d'actions de la catégorie qui ont été émises par la société, auraient une juste valeur marchande égale à celle de l'intérêt ou du droit à ce moment;

b) chacune des actions en cause est réputée être une action émise par la société qui est en circulation et qui continue d'être détenue par le détenteur jusqu'à ce qu'il ne soit plus détenteur de l'intérêt ou du droit;

c) chacune des actions en cause est réputée avoir une juste valeur marchande, au moment considéré, égale à la juste valeur marchande, à ce moment, d'une action de la catégorie émise par la société, déterminée compte non tenu du présent paragraphe.

Where subsection (3.5) applies

(3.3) Subsection (3.5) applies to a private foundation at a particular time in a taxation year if

(a) at the particular time, a person (in this subsection and subsection (3.5) referred to as an "insider" of the private foundation) that is the private foundation, or is a relevant person in respect of the private foundation, is a beneficiary under a trust;

(b) at or before the particular time

(i) the insider acquired an interest in or under the trust, or

(ii) the trust acquired a property;

(c) it may reasonably be considered that a purpose of the acquisition described in paragraph (b) was to hold, directly or indirectly, shares of a class of the capital stock of a corporation (referred to in subsection (3.5) as the "subject corporation");

(d) the shares described in paragraph (c) would, if they were held by the insider, cause the private foundation to have a divestment obligation percentage for the taxation year; and

(e) at the particular time, the insider holds the interest described in subparagraph (b)(i), or the trust holds the property described in subparagraph (b)(ii), as the case may be.

Application du par. (3.5)

(3.3) Le paragraphe (3.5) s'applique à une fondation privée à un moment donné d'une année d'imposition si les conditions suivantes sont réunies :

a) au moment donné, une personne (appelée « initié » au présent paragraphe et au paragraphe (3.5)) qui est la fondation ou une personne intéressée quant à elle est bénéficiaire d'une fiducie;

b) au moment donné ou avant ce moment, selon le cas :

(i) l'initié a acquis une participation dans la fiducie,

(ii) la fiducie a acquis un bien;

c) il est raisonnable de considérer que l'acquisition visée à l'alinéa b) a été effectuée notamment afin de détenir, directement ou indirectement, des actions d'une catégorie du capital-actions d'une société (appelée « société visée » au paragraphe (3.5));

d) si les actions visées à l'alinéa c) étaient détenues par l'initié, la fondation aurait un pourcentage de dessaisissement pour l'année;

e) au moment donné, l'initié détient la participation visée au sous-alinéa b)(i), ou la fiducie détient le bien visé au sous-alinéa b)(ii), selon le cas.

Rules applicable

(3.4) For the purpose of subsections (3.3) and (3.5),

(a) interests (or, for civil law, rights), other than shares, of a trust in a corporation that entitle the trust to a right described in paragraph 251(5)(b) in respect of a class of the capital stock of the corporation, are deemed to be converted into shares of that class in the manner described by paragraph (3.2)(a); and

(b) if the amount of income or capital of the trust that a person may receive as a beneficiary under the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, that person is deemed to have fully exercised, or to have failed to exercise, the power, as the case may be.

Règles applicables

(3.4) Pour l'application des paragraphes (3.3) et (3.5) :

a) les intérêts ou, pour l'application du droit civil, les droits (autres que des actions) qu'une fiducie détient dans une société et qui confèrent à la fiducie un droit visé à l'alinéa 251(5)b) relativement à une catégorie d'actions du capital-actions de la société sont réputés être convertis en actions de cette catégorie de la manière prévue à l'alinéa (3.2)a);

b) si le montant de revenu ou de capital de la fiducie qu'une personne peut recevoir à titre de bénéficiaire de la fiducie est fonction de l'exercice ou de l'absence d'exercice, par quiconque, d'un pouvoir discrétionnaire, ce pouvoir est réputé, selon le cas, avoir été pleinement exercé ou ne pas avoir été exercé.

Avoidance of divestiture

(3.5) If this subsection applies to a private foundation at a particular time in respect of an interest of an insider of the private foundation in a trust, for the purposes of applying this section, subsection 149.1(1) and section 149.2,

Évitement de l'obligation de dessaisissement

(3.5) Si le présent paragraphe s'applique à une fondation privée à un moment donné relativement à la participation d'un initié de la fondation dans une fiducie, les

(a) the insider is deemed to hold at the particular time, in addition to any shares of the capital stock of the subject corporation that it holds otherwise than because of this subsection, the number of shares, of the class of shares referred to in paragraph (3.3)(c), determined by the formula

A × B/C

where

A is the number of shares of that class that are held, directly or indirectly, by the trust at the particular time,

B is the total fair market value of all interests held by the insider in the trust at the particular time, and

C is the total fair market value of all property held by the trust at the particular time;

(b) each of those shares is deemed to be a share that is issued by the subject corporation and outstanding and to continue to be held by the holder until such time as the holder no longer holds the interest or right; and

(c) each of those shares is deemed to have a fair market value, at the particular time, equal to the fair market value, at the particular time, of a share of the class issued by the subject corporation, determined without reference to this subsection.

règles ci-après s'appliquent dans le cadre du présent article, du paragraphe 149.1(1) et de l'article 149.2 :

a) l'initié est réputé détenir au moment donné, outre des actions du capital-actions de la société visée qu'elle détient autrement que par l'effet du présent paragraphe, le nombre d'actions de la catégorie d'actions visée à l'alinéa (3.3)c) obtenu par la formule suivante :

A × B/C

où :

A représente le nombre d'actions de cette catégorie qui sont détenues, directement ou indirectement, par la fiducie au moment donné,

B la juste valeur marchande totale des participations détenues par l'initié dans la fiducie au moment donné,

C la juste valeur marchande totale des biens détenus par la fiducie au moment donné;

b) chacune des actions en cause est réputée être une action en circulation qui est émise par la société visée et est réputée être détenue par le détenteur tant qu'il détient l'intérêt ou le droit;

c) chacune des actions en cause est réputée avoir une juste valeur marchande, au moment donné, égale à la juste valeur marchande, à ce moment, d'une action de la catégorie émise par la société visée, déterminée compte non tenu du présent paragraphe.

Undue benefits

(4) A registered charity or registered Canadian amateur athletic association that, at a particular time in a taxation year, confers on a person an undue benefit is liable to a penalty under this Part for the taxation year equal to

(a) 105% of the amount of the benefit, except if the charity or association is liable under paragraph (b) for a penalty in respect of the benefit; or

(b) if the Minister has, less than five years before the particular time, assessed a liability under paragraph (a) or this paragraph for a preceding taxation year of the charity or association and the undue benefit was conferred after that assessment, 110% of the amount of the benefit.

Avantages injustifiés

(4) L'organisme de bienfaisance enregistré ou l'association canadienne enregistrée de sport amateur qui, à un moment d'une année d'imposition, confère un avantage injustifié à une personne est passible d'une pénalité en vertu de la présente partie pour l'année égale à celle des sommes ci-après qui est applicable :

a) 105 % du montant de l'avantage, sauf si l'organisme ou l'association est passible de la pénalité prévue à l'alinéa b) à l'égard de l'avantage;

b) si le ministre a établi, moins de cinq ans avant le moment donné, une cotisation à l'égard d'une somme à payer en vertu de l'alinéa a) ou du présent alinéa pour une année d'imposition antérieure de l'organisme ou de l'association et que l'avantage injustifié a été conféré après l'établissement de cette cotisation, 110 % du montant de l'avantage.

Meaning of undue benefits

(5) For the purposes of this Part, an undue benefit conferred on a person (referred to in this Part as the

Sens de « avantage injustifié »

(5) Pour l'application de la présente partie, l'avantage injustifié conféré à une personne (appelée « bénéficiaire »

"beneficiary") by a registered charity or registered Canadian amateur athletic association includes a disbursement by way of a gift or the amount of any part of the income, rights, property or resources of the charity or association that is paid, payable, assigned or otherwise made available for the personal benefit of any person who is a proprietor, member, shareholder, trustee or settlor of the charity or association, who has contributed or otherwise paid into the charity or association more than 50% of the capital of the charity or association, or who deals not at arm's length with such a person or with the charity or association, as well as any benefit conferred on a beneficiary by another person, at the direction or with the consent of the charity or association, that would, if it were not conferred on the beneficiary, be an amount in respect of which the charity or association would have a right, but does not include a disbursement or benefit to the extent that it is

(a) an amount that is reasonable consideration or remuneration for property acquired by or services rendered to the charity or association;

(b) a gift made, or a benefit conferred,

(i) in the case of a registered charity, in the course of a charitable act in the ordinary course of the charitable activities carried on by the charity, unless it can reasonably be considered that the eligibility of the beneficiary for the benefit relates solely to the relationship of the beneficiary to the charity, and

(ii) in the case of a registered Canadian amateur athletic association, in the ordinary course of promoting amateur athletics in Canada on a nationwide basis; or

(c) a gift to a qualified donee.

dans la présente partie) par un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur comprend un versement effectué sous forme de don ou toute partie du revenu ou des droits, biens ou ressources de l'organisme ou de l'association qui est payée, payable ou cédée à toute personne, ou autrement mise à sa disposition pour son bénéfice personnel — laquelle personne est propriétaire, membre, actionnaire, fiduciaire ou auteur de l'organisme ou de l'association, a fourni ou autrement versé à l'organisme ou à l'association des biens représentant plus de 50 % des capitaux de ceux-ci ou a un lien de dépendance avec une telle personne ou avec l'organisme ou l'association — ainsi que tout avantage conféré à un bénéficiaire par une autre personne sur l'ordre ou avec le consentement de l'organisme ou de l'association qui, s'il n'était pas conféré au bénéficiaire, serait une somme à l'égard de laquelle l'organisme ou l'association aurait un droit. Un versement ou un avantage n'est pas un avantage injustifié dans la mesure où il consiste, selon le cas :

a) en une somme qui représente une contrepartie ou rémunération raisonnable pour un bien acquis par l'organisme ou l'association ou pour des services rendus à ceux-ci;

b) en un don fait, ou un avantage conféré :

(i) dans le cas d'un organisme de bienfaisance enregistré, dans le cadre d'une action de bienfaisance accomplie dans le cours normal des activités de bienfaisance de l'organisme, sauf s'il est raisonnable de considérer que le bénéficiaire a droit à l'avantage en raison seulement de son lien avec l'organisme,

(ii) dans le cas d'une association canadienne enregistrée de sport amateur, dans le cours normal de la promotion du sport amateur au Canada à l'échelle nationale;

c) en un don fait à un donataire reconnu.

Failure to file information returns

(6) Every registered charity and registered Canadian amateur athletic association that fails to file a return for a taxation year as and when required by subsection 149.1(14) is liable to a penalty equal to $500.

Non-production de déclarations de renseignements

(6) Tout organisme de bienfaisance enregistré ou association canadienne enregistrée de sport amateur qui ne produit pas de déclaration pour une année d'imposition selon les modalités et dans le délai prévus au paragraphe 149.1(14) est passible d'une pénalité de 500 $.

Incorrect information

(7) Except where subsection (8) or (9) applies, every registered charity and registered Canadian amateur athletic association that issues, in a taxation year, a receipt for a gift otherwise than in accordance with this Act and the regulations is liable for the taxation year to a penalty

Renseignements inexacts

(7) Sauf en cas d'application des paragraphes (8) ou (9), tout organisme de bienfaisance enregistré ou association canadienne enregistrée de sport amateur qui, au cours d'une année d'imposition, délivre un reçu pour un don sans respecter les dispositions de la présente loi et de son

equal to 5% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

Increased penalty for subsequent assessment

(8) Except where subsection (9) applies, if the Minister has, less than five years before a particular time, assessed a penalty under subsection (7) or this subsection for a taxation year of a registered charity or registered Canadian amateur athletic association and, after that assessment and in a subsequent taxation year, the charity or association issues, at the particular time, a receipt for a gift otherwise than in accordance with this Act and the regulations, the charity or association is liable for the subsequent taxation year to a penalty equal to 10% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

False information

(9) If at any time a person makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct (within the meaning assigned by subsection 163.2(1)), is a false statement (within the meaning assigned by subsection 163.2(1)) on a receipt issued by, on behalf of or in the name of another person for the purposes of subsection 110.1(2) or 118.1(2), the person (or, where the person is an officer, employee, official or agent of a registered charity or registered Canadian amateur athletic association, the charity or association) is liable for their taxation year that includes that time to a penalty equal to 125% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction under subsection 110.1(1) or a credit under subsection 118.1(3).

Maximum amount

(10) A person who is liable at any time to penalties under both section 163.2 and subsection (9) in respect of the same false statement is liable to pay only the greater of those penalties.

Delay of expenditure

(11) If, in a taxation year, a registered charity has entered into a transaction (including a gift to another

règlement est passible pour l'année d'une pénalité égale à 5 % de la somme indiquée sur le reçu comme représentant le montant à l'égard duquel un contribuable peut demander une déduction en application du paragraphe 110.1(1) ou le crédit prévu au paragraphe 118.1(3).

Pénalité accrue en cas de récidive

(8) Sauf en cas d'application du paragraphe (9), si le ministre a établi, moins de cinq ans avant un moment donné, une cotisation concernant la pénalité prévue au paragraphe (7) ou au présent paragraphe pour l'année d'imposition d'un organisme de bienfaisance enregistré ou d'une association canadienne enregistrée de sport amateur et que, après l'établissement de cette cotisation et au cours d'une année d'imposition ultérieure, l'organisme ou l'association délivre, au moment donné, un reçu pour un don sans respecter les dispositions de la présente loi et de son règlement, l'organisme ou l'association est passible, pour l'année ultérieure, d'une pénalité égale à 10 % de la somme indiquée sur le reçu comme représentant le montant à l'égard duquel un contribuable peut demander une déduction en application du paragraphe 110.1(1) ou le crédit prévu au paragraphe 118.1(3).

Faux renseignements

(9) Si, à un moment donné, une personne fait ou présente, ou fait faire ou présenter par une autre personne, un énoncé dont elle sait ou aurait vraisemblablement su, n'eût été de circonstances équivalant à une conduite coupable (au sens du paragraphe 163.2(1)), qu'il constitue un faux énoncé (au sens du même paragraphe) figurant sur un reçu délivré par un tiers, ou en son nom ou pour son compte, pour l'application des paragraphes 110.1(2) ou 118.1(2), ou participe à un tel énoncé, la personne ou, si celle-ci est cadre, employé, dirigeant ou mandataire d'un organisme de bienfaisance enregistré ou d'une association canadienne enregistrée de sport amateur, l'organisme ou l'association est passible, pour son année d'imposition qui comprend le moment donné, d'une pénalité égale à 125 % de la somme indiquée sur le reçu comme représentant le montant à l'égard duquel un contribuable peut demander une déduction en application du paragraphe 110.1(1) ou le crédit prévu au paragraphe 118.1(3).

Pénalité maximale

(10) La personne qui est passible à la fois d'une pénalité prévue à l'article 163.2 et de la pénalité prévue au paragraphe (9) pour le même faux énoncé n'est passible que de la plus élevée de ces pénalités.

Report de dépense

(11) L'organisme de bienfaisance enregistré qui a effectué, au cours d'une année d'imposition, une opération (y

registered charity) and it may reasonably be considered that a purpose of the transaction was to avoid or unduly delay the expenditure of amounts on charitable activities, the registered charity is liable to a penalty under this Act for its taxation year equal to 110% of the amount of expenditure avoided or delayed, and in the case of a gift to another registered charity, both charities are jointly and severally, or solidarily, liable to the penalty.

Gifts not at arm's length

(12) If a registered charity has in a taxation year received a gift of property (other than a designated gift) from another registered charity with which it does not deal at arm's length and it has expended, before the end of the next taxation year, in addition to its disbursement quota for each of those taxation years, an amount that is less than the fair market value of the property, on charitable activities carried on by it or by way of gifts made to qualified donees with which it deals at arm's length, the registered charity is liable to a penalty under this Act for that subsequent taxation year equal to 110% of the difference between the fair market value of the property and the additional amount expended.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2005, c. 19, s. 44; 2007, c. 35, s. 56; 2009, c. 2, s. 62; 2010, c. 25, s. 51; 2011, c. 24, s. 59.

Notice of suspension with assessment

188.2 (1) The Minister shall, with an assessment referred to in this subsection, give notice by registered mail to a registered charity or registered Canadian amateur athletic association that the authority of the charity or association to issue an official receipt referred to in Part XXXV of the *Income Tax Regulations* is suspended for one year from the day that is seven days after the day on which the notice is mailed, if the Minister has assessed the charity or association for a taxation year for

(a) a penalty under subsection 188.1(2);

(b) a penalty under paragraph 188.1(4)(b) in respect of an undue benefit, other than an undue benefit conferred by the charity or association by way of a gift; or

(c) a penalty under subsection 188.1(9) if the total of all such penalties for the taxation year exceeds $25,000.

Notice of suspension — general

(2) The Minister may give notice by registered mail to a person referred to in any of paragraphs (a) to (c) of the definition ***qualified donee*** in subsection 149.1(1) that the authority of the person to issue an official receipt

compris un don à un autre organisme de bienfaisance enregistré) dont l'un des objets consiste vraisemblablement à éviter ou à différer indûment la dépense de sommes pour des activités de bienfaisance est passible, sous le régime de la présente loi pour son année d'imposition, d'une pénalité égale à 110 % du montant de la dépense évitée ou différée. Si l'opération consiste en un don à un autre organisme de bienfaisance enregistré, les deux organismes sont solidairement passibles de cette pénalité.

Don à un organisme avec lien de dépendance

(12) L'organisme de bienfaisance enregistré qui a reçu au cours d'une année d'imposition un don de biens (sauf un don déterminé) d'un autre organisme de bienfaisance enregistré avec lequel il a un lien de dépendance et qui a dépensé avant la fin de l'année d'imposition subséquente — en plus d'une somme égale à son contingent des versements pour chacune de ces années — une somme inférieure à la juste valeur marchande des biens pour des activités de bienfaisance qu'il mène ou sous forme de dons à des donataires reconnus avec lesquels il n'a aucun lien de dépendance, est passible, sous le régime de la présente loi pour l'année subséquente, d'une pénalité égale à 110 % de la différence entre la juste valeur marchande des biens et la somme additionnelle dépensée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2005, ch. 19, art. 44; 2007, ch. 35, art. 56; 2009, ch. 2, art. 62; 2010, ch. 25, art. 51; 2011, ch. 24, art. 59.

Avis de suspension avec cotisation

188.2 (1) Le ministre, s'il a établi à l'égard d'une personne qui est un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur pour une année d'imposition une cotisation concernant l'une des pénalités ci-après, informe la personne, par avis envoyé en recommandé avec la cotisation, que son pouvoir de délivrer des reçus officiels, au sens de la partie XXXV du *Règlement de l'impôt sur le revenu*, est suspendu pour un an à compter du jour qui suit de sept jours l'envoi de l'avis :

a) la pénalité prévue au paragraphe 188.1(2);

b) la pénalité prévue à l'alinéa 188.1(4)b) relativement à un avantage injustifié, sauf celui que la personne confère au moyen d'un don;

c) la pénalité prévue au paragraphe 188.1(9), si le total des pénalités imposées à la personne pour l'année selon ce paragraphe excède 25 000 $.

Avis de suspension — application générale

(2) Le ministre peut, par avis envoyé en recommandé, informer toute personne visée à l'un des alinéas a) à c) de la définition de ***donataire reconnu*** au paragraphe 149.1(1) que son pouvoir de délivrer des reçus officiels,

referred to in Part XXXV of the *Income Tax Regulations* is suspended for one year from the day that is seven days after the day on which the notice is mailed

(a) if the person contravenes any of sections 230 to 231.5;

(b) if it may reasonably be considered that the person has acted, in concert with another person that is the subject of a suspension under this section, to accept a gift or transfer of property on behalf of that other person;

(c) in the case of a person referred to in paragraph (a) of the definition ***qualified donee*** in subsection 149.1(1), if the person has issued a receipt for a gift otherwise than in accordance with this Act and the regulations;

(d) in the case of a person that is a registered charity or registered Canadian amateur athletic association, if an ineligible individual is a director, trustee, officer or like official of the person, or controls or manages the person, directly or indirectly, in any manner whatever;

(e) in the case of a registered charity that is a charitable foundation, if the foundation devotes resources to political activities that are not considered under subsection 149.1(6.1) to be devoted to charitable purposes;

(f) in the case of a registered charity that is a charitable organization, if the organization devotes resources to political activities that are not considered under subsection 149.1(6.2) to be devoted to charitable activities; or

(g) in the case of a registered Canadian amateur athletic association, if the association devotes resources to political activities that are not considered under subsection 149.1(6.201) to be devoted to its exclusive purpose and exclusive function.

au sens de la partie XXXV du *Règlement de l'impôt sur le revenu*, est suspendu pour un an à compter du jour qui suit de sept jours l'envoi de l'avis si, selon le cas :

a) la personne contrevient à l'un des articles 230 à 231.5;

b) il est raisonnable de considérer que la personne a agi, de concert avec une autre personne qui est visée par une suspension en vertu du présent article, de façon à accepter un don ou un transfert de bien pour le compte de cette autre personne;

c) la personne étant visée à l'alinéa a) de la définition de ***donataire reconnu*** au paragraphe 149.1(1), elle a délivré un reçu pour un don sans respecter les dispositions de la présente loi et de son règlement;

d) la personne étant un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur, un particulier non admissible la contrôle ou la gère directement ou indirectement, de quelque manière que ce soit, ou en est un administrateur, fiduciaire, cadre ou représentant semblable;

e) la personne étant un organisme de bienfaisance enregistré qui est une fondation de bienfaisance, elle consacre à des activités politiques des ressources qui ne sont pas considérées, selon le paragraphe 149.1(6.1), comme étant consacrées à des fins de bienfaisance;

f) la personne étant un organisme de bienfaisance enregistré qui est une œuvre de bienfaisance, elle consacre à des activités politiques des ressources qui ne sont pas considérées, selon le paragraphe 149.1(6.2), comme étant consacrées à des activités de bienfaisance;

g) la personne étant une association canadienne enregistrée de sport amateur, elle consacre à des activités politiques des ressources qui ne sont pas considérées, selon le paragraphe 149.1(6.201), comme étant consacrées à la poursuite de son but exclusif et de sa fonction exclusive.

Suspension – failure to report

(2.1) If a registered charity or a registered Canadian amateur athletic association fails to report information that is required to be included in a return filed under subsection 149.1(14), the Minister may give notice by registered mail to the charity or association that its authority to issue an official receipt referred to in Part XXXV of the *Income Tax Regulations* is suspended from the day that is seven days after the day on which the notice is mailed until such time as the Minister notifies the charity or

Suspension – non-déclaration

(2.1) Si un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur omet d'indiquer dans une déclaration produite en vertu du paragraphe 149.1(14) des renseignements qui doivent y figurer, le ministre peut, par avis envoyé en recommandé, informer l'organisme ou l'association que son pouvoir de délivrer des reçus officiels, au sens de la partie XXXV du *Règlement de l'impôt sur le revenu*, est suspendu à compter de la date qui suit de sept jours l'envoi de l'avis

association that the Minister has received the required information in prescribed form.

Effect of suspension

(3) If the Minister has issued a notice to a qualified donee under any of subsections (1) to (2.1), subject to subsection (4),

(a) the qualified donee is deemed, in respect of gifts made and property transferred to the qualified donee within the one-year period that begins on the day that is seven days after the day on which the notice is mailed, not to be a qualified donee for the purposes of subsections 110.1(1) and 118.1(1) and Part XXXV of the *Income Tax Regulations*; and

(b) if the qualified donee is, during that period, offered a gift from any person, the qualified donee shall, before accepting the gift, inform that person that

(i) it has received the notice,

(ii) no deduction under subsection 110.1(1) or credit under subsection 118.1(3) may be claimed in respect of a gift made to it in the period, and

(iii) a gift made to it in the period is not a gift to a qualified donee.

Application for postponement

(4) If a notice of objection to a suspension under any of subsections (1) to (2.1) has been filed by a qualified donee, the qualified donee may file an application to the Tax Court of Canada for a postponement of that portion of the period of suspension that has not elapsed until the time determined by the Court.

Grounds for postponement

(5) The Tax Court of Canada may grant an application for postponement only if it would be just and equitable to do so.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2005, c. 19, s. 44; 2011, c. 24, s. 60; 2012, c. 19, s. 13.

Tax regarding non-qualified investment

189 (1) Where at any particular time in a taxation year a debt (other than a debt in respect of which subsection 80.4(1) applies or would apply but for subsection 80.4(3)) is owing by a taxpayer to a registered charity that is a private foundation and at that time the debt was a non-qualified investment of the foundation, the taxpayer shall pay

et ce, jusqu'à ce que le ministre avise l'organisme ou l'association qu'il a reçu sur le formulaire prescrit les renseignements exigés.

Effet de la suspension

(3) Sous réserve du paragraphe (4), les règles ci-après s'appliquent dans le cas où le ministre a envoyé un avis à un donataire reconnu en vertu des paragraphes (1), (2) ou (2.1) :

a) le donataire est réputé, pour ce qui est des dons qui lui sont faits et des biens qui lui sont transférés au cours de la période d'un an commençant le jour qui suit de sept jours l'envoi de l'avis, ne pas être un donataire reconnu pour l'application des paragraphes 110.1(1) et 118.1(1) et de la partie XXXV du *Règlement de l'impôt sur le revenu*;

b) le donataire, avant d'accepter tout don qu'il se fait offrir par une personne au cours de la période en question, informe cette personne :

(i) qu'il a reçu l'avis,

(ii) que tout don qui lui est fait au cours de la période ne donne pas droit à une déduction en application du paragraphe 110.1(1) ni au crédit prévu au paragraphe 118.1(3),

(iii) que tout don qui lui est fait au cours de la période n'est pas un don fait à un donataire reconnu.

Demande de report

(4) Le donataire reconnu qui produit un avis d'opposition à une suspension prévue à l'un des paragraphes (1) à (2.1) peut présenter à la Cour canadienne de l'impôt une demande pour que soit reportée, jusqu'à un moment déterminé par cette cour, la partie de la période de suspension non encore écoulée.

Motifs de report

(5) La Cour canadienne de l'impôt ne peut faire droit à la demande de report que s'il est juste et équitable de le faire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2005, ch. 19, art. 44; 2011, ch. 24, art. 60; 2012, ch. 19, art. 13.

Impôt : placements non admissibles

189 (1) Le contribuable qui, au cours d'une année d'imposition, a une dette — autre qu'une dette à laquelle le paragraphe 80.4(1) s'applique ou s'appliquerait si ce n'était du paragraphe 80.4(3) — envers un organisme de bienfaisance enregistré qui est une fondation privée, qui constitue un placement non admissible de celle-ci, doit payer un impôt pour l'année, au titre de la présente

a tax under this Part for the year equal to the amount, if any, by which

(a) the amount that would be payable as interest on that debt for the period in the year during which it was outstanding and was a non-qualified investment of the foundation if the interest were payable at such prescribed rates as are in effect from time to time during the period

exceeds

(b) the amount of interest for the year paid on that debt by the taxpayer not later than 30 days after the end of the year.

partie, égal à l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le montant qui serait payable à titre d'intérêt sur cette dette pour la période de l'année où elle était due et ne constituait pas un placement non admissible de la fondation, si un tel intérêt, calculé selon les différents taux prescrits au cours de la période, était exigible;

b) le montant d'intérêt pour l'année payé sur la dette par le contribuable, au plus tard 30 jours après la fin de l'année.

Computation of interest on debt

(2) For the purpose of paragraph 189(1)(a), where a debt in respect of which subsection 189(1) applies (other than a share or right that is deemed by subsection 189(3) to be a debt) is owing by a taxpayer to a private foundation, interest on that debt for the period referred to in that paragraph shall be computed at the least of

(a) such prescribed rates as are in effect from time to time during the period,

(b) the rate per annum of interest on that debt that, having regard to all the circumstances (including the terms and conditions of the debt), would have been agreed on, at the time the debt was incurred, had the taxpayer and the foundation been dealing with each other at arm's length and had the ordinary business of the foundation been the lending of money, and

(c) where that debt was incurred before April 22, 1982, a rate per annum equal to 6% plus 2% for each calendar year after 1982 and before the taxation year referred to in subsection 189(1).

Intérêts sur une dette

(2) Pour l'application de l'alinéa (1)a), l'intérêt sur une dette d'un contribuable à laquelle le paragraphe (1) s'applique (autre qu'une action ou un droit assimilé à une dette au titre du paragraphe (3)) envers une fondation privée est calculé, pour la période visée à cet alinéa, au moins élevé des taux suivants :

a) les différents taux prescrits au cours de la période;

b) le taux annuel d'intérêt sur une telle dette qui, compte tenu des circonstances (y compris les conditions de la dette), aurait été convenu au moment où la dette a été contractée, si le contribuable et la fondation n'avaient eu aucun lien de dépendance entre eux et si l'activité d'entreprise habituelle de la fondation consistait à prêter de l'argent;

c) lorsqu'une telle dette a été contractée avant le 22 avril 1982, un taux annuel égal à 6 % plus 2 % pour chaque année civile postérieure à 1982 et antérieure à l'année d'imposition visée au paragraphe (1).

Share deemed to be debt

(3) For the purpose of subsection 189(1), where a share, or a right to acquire a share, of the capital stock of a corporation held by a private foundation at any particular time during the corporation's taxation year was at that time a non-qualified investment of the foundation, the share or right shall be deemed to be a debt owing at that time by the corporation to the foundation

(a) the amount of which was equal to,

(i) in the case of a share or right last acquired before April 22, 1982, the greater of its fair market value on April 21, 1982 and its cost amount to the foundation at the particular time, or

Présomption

(3) Pour l'application du paragraphe (1), lorsqu'une action ou un droit d'acquérir une action du capital-actions d'une société détenu par une fondation privée à un moment donné de l'année d'imposition de la société était, à ce moment, un placement non admissible de la fondation, l'action ou le droit est assimilé, à ce moment, à une dette de la société envers la fondation :

a) dont le montant est égal :

(i) dans le cas d'une action ou d'un droit acquis pour la dernière fois avant le 22 avril 1982, au plus élevé de sa juste valeur marchande le 21 avril 1982 et de son coût indiqué pour la fondation au moment donné,

(ii) in any other case, its cost amount to the foundation at the particular time,

(b) that was outstanding throughout the period for which the share or right was held by the foundation during the year, and

(c) in respect of which the amount of interest paid in the year is equal to the total of all amounts each of which is the amount of a dividend received on the share by the foundation in the year,

and the reference in paragraph 189(1)(a) to "such prescribed rates as are in effect from time to time during the period" shall be read as a reference to "2/3 of such prescribed rates as are in effect from time to time during the period".

(ii) dans les autres cas, à son coût indiqué pour la fondation au moment donné;

b) qui était exigible tout au long de la période de l'année où l'action ou le droit était détenu par la fondation;

c) à l'égard de laquelle le montant d'intérêt payé au cours de l'année est égal au total des montants dont chacun est un dividende reçu par la fondation à l'égard de l'action au cours de l'année.

En outre, la mention, à l'alinéa (1)a), de « les différents taux prescrits au cours de la période » vaut mention de « les 2/3 des différents taux prescrits au cours de la période ».

Computation of interest with respect to a share

(4) For the purposes of subsection 189(3), where a share or right in respect of which that subsection applies was last acquired before April 22, 1982, the reference therein to "2/3 of such prescribed rates as are in effect from time to time during the period" shall be read as a reference to "the lesser of

(a) a rate per annum equal to 4% plus 1% for each 5 calendar years contained in the period commencing after 1982 and ending before the particular time, and

(b) a rate per annum equal to 2/3 of such prescribed rates as are in effect from time to time during the year".

Calcul de l'intérêt sur une action

(4) Pour l'application du paragraphe (3), lorsqu'une action ou un droit auquel ce paragraphe s'applique a été acquis pour la dernière fois avant le 22 avril 1982, la mention à ce paragraphe de « les 2/3 des différents taux prescrits au cours de la période » vaut mention de « le moins élevé des taux suivants :

a) le taux annuel égal à 4 % plus 1 % pour chacune des 5 années civiles commençant après 1982 et se terminant avant le moment donné;

b) le taux annuel égal aux 2/3 des différents taux prescrits en vigueur au cours de l'année ».

Share substitution

(5) For the purpose of subsection 189(3), where a share or right is acquired by a charity in exchange for another share or right in a transaction after April 21, 1982 to which section 51, 85, 85.1, 86 or 87 applies, it shall be deemed to be the same share or right as the one for which it was substituted.

Substitution d'actions

(5) Pour l'application du paragraphe (3), lorsqu'une action ou un droit est acquis par un organisme de bienfaisance en échange d'une autre action ou d'un droit lors d'une opération postérieure au 21 avril 1982 et visée par l'article 51, 85, 85.1, 86 ou 87, cette action ou ce droit est réputé être la même action ou le même droit que celle ou celui qui lui a été substitué.

Taxpayer to file return and pay tax

(6) Every taxpayer who is liable to pay tax under this Part (except a charity that is liable to pay tax under section 188(1)) for a taxation year shall, on or before the day on or before which the taxpayer is, or would be if tax were payable by the taxpayer under Part I for the year, required to file a return of income or an information return under Part I for the year,

(a) file with the Minister a return for the year in prescribed form and containing prescribed information, without notice or demand therefor;

Déclaration

(6) Chaque contribuable redevable d'un impôt au titre de la présente partie (sauf un organisme de bienfaisance qui est redevable de l'impôt prévu au paragraphe 188(1)) pour une année d'imposition doit, au plus tard le jour où il est tenu de produire une déclaration de revenu ou une déclaration de renseignements en vertu de la partie I pour l'année, ou serait tenu d'en produire une s'il avait un impôt à payer au titre de cette partie pour l'année :

(b) estimate in the return the amount of tax payable by the taxpayer under this Part for the year; and

(c) pay to the Receiver General the amount of tax payable by the taxpayer under this Part for the year.

a) produire auprès du ministre, sans avis ne mise en demeure, une déclaration pour l'année, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans la déclaration le montant d'impôt qu'il doit payer au titre de la présente partie pour l'année;

c) verser au receveur général le montant d'impôt qu'il doit payer au titre de la présente partie pour l'année.

Revoked charity to file returns

(6.1) Every taxpayer who is liable to pay tax under subsection 188(1.1) for a taxation year shall, on or before the day that is one year from the end of the taxation year, and without notice or demand,

(a) file with the Minister

(i) a return for the taxation year, in prescribed form and containing prescribed information, and

(ii) both an information return and a public information return for the taxation year, each in the form prescribed for the purpose of subsection 149.1(14); and

(b) estimate in the return referred to in subparagraph (a)(i) the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year; and

(c) pay to the Receiver General the amount of tax payable by the taxpayer under subsection 188(1.1) for the taxation year.

Déclaration

(6.1) Tout contribuable redevable de l'impôt prévu au paragraphe 188(1.1) pour une année d'imposition doit, sans avis ni mise en demeure et au plus tard le jour qui suit d'un an la fin de l'année :

a) présenter les documents suivants au ministre :

(i) une déclaration pour l'année, selon le formulaire prescrit et contenant les renseignements prescrits,

(ii) une déclaration de renseignements et une déclaration publique de renseignements pour l'année, chacune selon le formulaire prescrit pour l'application du paragraphe 149.1(14);

b) estimer dans la déclaration visée au sous-alinéa a)(i) le montant d'impôt à payer en vertu du paragraphe 188(1.1) pour l'année;

c) verser ce montant au receveur général.

Reduction of revocation tax liability

(6.2) If the Minister has, during the one-year period beginning immediately after the end of a taxation year of a person, assessed the person in respect of the person's liability for tax under subsection 188(1.1) for that taxation year, has not after that period reassessed the tax liability of the person, and that liability exceeds $1,000, that liability is, at any particular time, reduced by the total of

(a) the amount, if any, by which

(i) the total of all amounts, each of which is an expenditure made by the charity, on charitable activities carried on by it, before the particular time and during the period (referred to in this subsection as the "post-assessment period") that begins immediately after a notice of the latest such assessment was sent and ends at the end of the one-year period

exceeds

Réduction de l'impôt de révocation

(6.2) Si la somme à payer par une personne au titre de l'impôt prévu au paragraphe 188(1.1) pour une année d'imposition a fait l'objet d'une cotisation au cours de la période d'un an commençant immédiatement après la fin de l'année et que cette somme excède 1 000 $ et n'a pas fait l'objet d'une nouvelle cotisation après l'expiration de cette période, le total des montants suivants est appliqué en réduction de cette somme à un moment donné :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii) :

(i) le total des montants représentant chacun une somme dépensée par l'organisme pour ses activités de bienfaisance avant le moment donné et au cours de la période (appelée « période postérieure à la cotisation » au présent paragraphe) commençant immédiatement après l'envoi de l'avis concernant la

(ii) the income of the charity for the post-assessment period, including gifts received by the charity in that period from any source and any income that would be computed under section 3 if that period were a taxation year, and

(b) all amounts, each of which is an amount, in respect of a property transferred by the charity before the particular time and during the post-assessment period to a person that was at the time of the transfer an eligible donee in respect of the charity, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the consideration given by the person for the transfer.

Reduction of liability for penalties

(6.3) If the Minister has assessed a particular person in respect of the particular person's liability for penalties under section 188.1 for a taxation year, and that liability exceeds $1,000, that liability is, at any particular time, reduced by the total of all amounts, each of which is an amount, in respect of a property transferred by the particular person after the day on which the Minister first assessed that liability and before the particular time to another person that was at the time of the transfer an eligible donee in respect of the particular person, equal to the amount, if any, by which the fair market value of the property, when transferred, exceeds the total of

(a) the consideration given by the other person for the transfer, and

(b) the part of the amount in respect of the transfer that has resulted in a reduction of an amount otherwise payable under subsection 188(1.1).

Minister may assess

(7) Without limiting the authority of the Minister to revoke the registration of a registered charity or registered Canadian amateur athletic association, the Minister may also at any time assess a taxpayer in respect of any amount that a taxpayer is liable to pay under this Part.

Provisions applicable to Part

(8) Subsections 150(2) and (3), sections 152 and 158, subsection 161(11), sections 162 to 167 and Division J of Part I apply in respect of an amount assessed under this Part and of a notice of suspension under subsection 188.2(1) or (2) as if the notice were a notice of assessment made

dernière de ces cotisations et se terminant à la fin de la période d'un an,

(ii) le revenu de l'organisme pour la période postérieure à la cotisation, y compris les dons qu'il a reçus de toute source au cours de cette période ainsi que le revenu qui serait calculé selon l'article 3 si cette période était une année d'imposition;

b) le total des montants représentant chacun une somme relative à un bien que l'organisme a transféré, avant le moment donné et au cours de la période postérieure à la cotisation, à une personne qui, au moment du transfert, était un donataire admissible relativement à l'organisme, égale à l'excédent éventuel de la juste valeur marchande du bien au moment de son transfert sur la contrepartie donnée par la personne pour le transfert.

Réduction des pénalités

(6.3) Si la somme à payer par une personne donnée au titre des pénalités prévues à l'article 188.1 pour une année d'imposition a fait l'objet d'une cotisation et qu'elle excède 1 000 $, est appliqué en réduction de cette somme à un moment donné le total des sommes représentant chacune une somme, relative à un bien que la personne donnée a transféré, après la date de la première cotisation concernant cette somme et avant le moment donné, à une autre personne qui, au moment du transfert, était un donataire admissible relativement à la personne donnée, égale à l'excédent de la juste valeur marchande du bien au moment de son transfert sur le total des sommes suivantes :

a) la contrepartie donnée par l'autre personne pour le transfert;

b) la partie de la somme relative au transfert qui a entraîné la réduction d'une somme à payer par ailleurs en vertu du paragraphe 188(1.1).

Cotisation

(7) Sans qu'il soit porté atteinte à son pouvoir de révoquer l'enregistrement d'un organisme de bienfaisance enregistré ou d'une association canadienne enregistrée de sport amateur, le ministre peut établir à l'égard d'un contribuable une cotisation concernant toute somme dont celui-ci est redevable en vertu de la présente partie.

Dispositions applicables

(8) Les paragraphes 150(2) et (3), les articles 152 et 158, le paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent, avec les adaptations nécessaires, à toute somme qui fait l'objet d'une cotisation en vertu de la présente partie, ainsi qu'à tout avis de

under section 152, with any modifications that the circumstances require including, for greater certainty, that a notice of suspension that is reconsidered or reassessed may be confirmed or vacated, but not varied, except that

(a) section 162 does not apply in respect of a return required to be filed under paragraph (6.1)(a); and

(b) the reference in each of subsections 165(2) and 166.1(3) to the expression "Chief of Appeals in a District Office or a Taxation Centre" is to be read as a reference to the expression "Assistant Commissioner, Appeals Branch".

Clarification re objections under subsection 168(4)

(8.1) For greater certainty, in applying the provisions referred to in subsection (8), with any modifications that the circumstances require,

(a) a notice of objection referred to in subsection 168(4) does not constitute a notice of objection to a tax assessed under subsection 188(1.1); and

(b) an issue that could have been the subject of a notice of objection referred to in subsection 168(4) may not be appealed to the Tax Court of Canada under subsection 169(1).

Interest

(9) Subsection 161(11) does not apply to a liability of a taxpayer for a taxation year

(a) under subsection 188(1.1) to the extent that the liability is reduced by subsection (6.2), or paid, before the end of the one-year period that begins immediately after the end of the taxation year deemed to have ended by paragraph 188(1)(a); or

(b) under section 188.1 to the extent that the liability is reduced by subsection (6.3), or paid, before the end of the one-year period that begins immediately after the liability was first assessed.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 189; 1994, c. 21, s. 85; 2005, c. 19, s. 45; 2010, c. 25, s. 52; 2011, c. 24, s. 61.

suspension prévu aux paragraphes 188.2(1) ou (2) comme si cet avis était un avis de cotisation établie en vertu de l'article 152. À cet égard, il est entendu que l'avis de suspension qui fait l'objet d'un nouvel examen peut être ratifié ou annulé, mais non modifié. Toutefois :

a) l'article 162 ne s'applique pas à la déclaration à produire en vertu de l'alinéa (6.1)a);

b) la mention « chef des Appels d'un bureau de district ou d'un centre fiscal » aux paragraphes 165(2) et 166.1(3) vaut mention de « Sous-commissaire de la Direction générale des appels ».

Précision — oppositions en vertu du par. 168(4)

(8.1) En ce qui concerne l'application, avec les adaptations nécessaires, des dispositions mentionnées au paragraphe (8), il est entendu :

a) d'une part, que l'avis d'opposition visé au paragraphe 168(4) ne constitue pas un avis d'opposition à l'impôt prévu au paragraphe 188(1.1);

b) d'autre part, que toute question qui aurait pu faire l'objet d'un avis d'opposition en vertu du paragraphe 168(4) ne peut faire l'objet d'un appel à la Cour canadienne de l'impôt en vertu du paragraphe 169(1).

Intérêts

(9) Le paragraphe 161(11) ne s'applique pas à la somme dont un contribuable est redevable pour une année d'imposition :

a) en vertu du paragraphe 188(1.1), dans la mesure où elle est réduite par l'effet du paragraphe (6.2) ou payée, avant la fin de la période d'un an commençant immédiatement après la fin de l'année d'imposition qui est réputée avoir pris fin par l'effet de l'alinéa 188(1)a);

b) en vertu de l'article 188.1, dans la mesure où elle est réduite par l'effet du paragraphe (6.3) ou payée, avant la fin de la période d'un an commençant immédiatement après l'établissement de la première cotisation la concernant.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 189; 1994, ch. 21, art. 85; 2005, ch. 19, art. 45; 2010, ch. 25, art. 52; 2011, ch. 24, art. 61.

PART VI

Tax on Capital of Financial Institutions

Definitions

190 (1) For the purposes of this Part,

financial institution means a corporation that

(a) is a bank,

(b) is authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public,

(c) is authorized under the laws of Canada or a province to accept deposits from the public and carries on the business of lending money on the security of real property or immovables or investing in indebtedness on the security of mortgages on real property or of hypothecs on immovables,

(d) is a life insurance corporation that carries on business in Canada, or

(e) is a corporation all or substantially all of the assets of which are shares or indebtedness of corporations described in any of paragraphs (a) to (d) or this paragraph to which the corporation is related; (*institution financière*)

long-term debt means

(a) in the case of a bank, its subordinated indebtedness (within the meaning assigned by section 2 of the *Bank Act*) evidenced by obligations issued for a term of not less than 5 years,

(b) in the case of an insurance corporation, its subordinated indebtedness (within the meaning assigned by section 2 of the *Insurance Companies Act*) evidenced by obligations issued for a term of not less than 5 years, and

(c) in the case of any other corporation, its subordinated indebtedness (within the meaning that would be assigned by section 2 of the *Bank Act* if the definition of that expression in that section were applied with such modifications as the circumstances require) evidenced by obligations issued for a term of not less than 5 years; (*passif à long terme*)

reserves, in respect of a financial institution for a taxation year, means the amount at the end of the year of all

PARTIE VI

Impôt des institutions financières

Définitions

190 (1) Les définitions qui suivent s'appliquent à la présente partie.

institution financière L'une des sociétés suivantes :

a) une banque;

b) une société autorisée par la législation fédérale ou provinciale à exploiter une entreprise d'offre au public de services de fiduciaire;

c) une société autorisée par la législation fédérale ou provinciale à accepter du public des dépôts et qui exploite une entreprise soit de prêts d'argent garantis sur des biens immeubles ou réels, soit de placements dans des dettes garanties par des hypothèques relatives à des biens immeubles ou réels;

d) une compagnie d'assurance-vie qui exploite une entreprise au Canada;

e) une société dont la totalité, ou presque, des éléments d'actif sont des actions ou des dettes des sociétés visées à l'un des alinéas a) à d) ou au présent alinéa auxquelles elle est liée. (*financial institution*)

passif à long terme Passif constitué :

a) de titres secondaires (au sens de l'article 2 de la *Loi sur les banques*) émis pour une durée d'au moins cinq ans, si l'émetteur est une banque;

b) de titres secondaires (au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*) émis pour une durée d'au moins cinq ans, si l'émetteur est une compagnie d'assurance;

c) de titres secondaires (au sens de l'article 2 de la *Loi sur les banques*, compte tenu des adaptations nécessaires) émis pour une durée d'au moins cinq ans, si l'émetteur est une autre société. (*long-term debt*)

réserves S'agissant des réserves d'une institution financière pour une année d'imposition, montant, à la fin de l'année, qui représente l'ensemble des réserves et provisions de l'institution (sauf les provisions pour dépréciation ou épuisement), y compris les réserves ou provisions pour impôts reportés. (*reserves*)

of the institution's reserves, provisions and allowances (other than allowances in respect of depreciation or depletion) and, for greater certainty, includes any provision in respect of deferred taxes. (*réserves*)

Prescribed meanings

(1.1) For the purposes of this Part, the expressions ***attributed surplus***, ***Canadian assets***, ***Canadian reserve liabilities***, ***total assets*** and ***total reserve liabilities*** have the meanings that are prescribed.

Application of ss. 181(3) and (4)

(2) Subsections 181(3) and 181(4) apply to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190; 1994, c. 7, Sch. II, s. 156, c. 21, s. 86; 2001, c. 17, s. 222; 2013, c. 34, s. 152.

Termes définis par règlement

(1.1) Pour l'application de la présente partie, les termes ***actif canadien***, ***actif total***, ***passif de réserve canadienne***, ***passif total de réserve*** et ***surplus attribué*** s'entendent au sens du règlement.

Application des paragraphes 181(3) et (4)

(2) Les paragraphes 181(3) et (4) s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190; 1994, ch. 7, ann. II, art. 156, ch. 21, art. 86; 2001, ch. 17, art. 222; 2013, ch. 34, art. 152.

Calculation of Capital Tax

Tax payable

190.1 (1) Every corporation that is a financial institution at any time during a taxation year shall pay a tax under this Part for the year equal to 1.25% of the amount, if any, by which its taxable capital employed in Canada for the year exceeds its capital deduction for the year.

(1.1) and (1.2) [Repealed, 2007, c. 2, s. 40]

Short taxation years

(2) Where a taxation year of a corporation is less than 51 weeks, the amount determined under subsection 190.1(1) for the year in respect of the corporation shall be reduced to that proportion of that amount that the number of days in the year is of 365.

Deduction

(3) There may be deducted in computing a corporation's tax payable under this Part for a taxation year an amount equal to the total of

(a) the corporation's tax payable under Part I for the year; and

(b) such part as the corporation claims of its unused Part I tax credits and unused surtax credits for its 7 taxation years immediately before and its 3 taxation years immediately after the year.

(c) and (d) [Repealed, 2007, c. 2, s. 40]

Calcul de l'impôt

Impôt payable

190.1 (1) Toute société qui est une institution financière à un moment donnée d'une année d'imposition doit payer pour cette année en vertu de la présente partie un impôt égal à 1,25 % de l'excédent éventuel de son capital imposable utilisé au Canada pour l'année sur son abattement de capital pour l'année.

(1.1) et (1.2) [Abrogés, 2007, ch. 2, art. 40]

Année d'imposition de moins de 51 semaines

(2) Dans le cas où l'année d'imposition d'une société compte moins de 51 semaines, le montant déterminé selon le paragraphe (1) pour l'année relativement à la société est réduit du produit de la multiplication de ce même montant par le rapport entre le nombre de jours de l'année et 365.

Déduction

(3) Est déductible dans le calcul de l'impôt payable par une société en vertu de la présente partie pour une année d'imposition, le total des montants suivants :

a) l'impôt payable par la société pour l'année en vertu de la partie I;

b) la partie, demandée en déduction par la société, de ses crédits d'impôt de la partie I inutilisés et de ses crédits de surtaxe inutilisés pour les sept années d'imposition précédentes et les trois années d'imposition suivantes.

c) et d) [Abrogés, 2007, ch. 2, art. 40]

Idem

(4) For the purposes of this subsection and subsections 190.1(3), 190.1(5) and 190.1(6),

(a) an amount may not be claimed under subsection 190.1(3) in computing a corporation's tax payable under this Part for a particular taxation year

(i) in respect of its unused Part I tax credit for another taxation year, until its unused Part I tax credits for taxation years preceding the other year that may be claimed under this Part for the particular year have been claimed, and

(ii) in respect of its unused surtax credit for another taxation year, until its unused surtax credits for taxation years preceding the other year that may be claimed under Part I.3 or this Part for the particular year have been claimed;

(b) an amount may be claimed under subsection 190.1(3) in computing a corporation's tax payable under this Part for a particular taxation year

(i) in respect of its unused Part I tax credit for another taxation year, only to the extent that it exceeds the total of all amounts each of which is the amount claimed in respect of that unused Part I tax credit in computing its tax payable under this Part for a taxation year preceding the particular year, and

(ii) in respect of its unused surtax credit for another taxation year, only to the extent that it exceeds the total of all amounts each of which is the amount claimed in respect of the unused surtax credit

(A) in computing its tax payable under this Part for a taxation year preceding the particular year, or

(B) in computing its tax payable under Part I.3 for the particular year or a taxation year preceding the particular year; and

(c) an amount may be claimed under paragraph (3)(b) in computing a corporation's tax payable under this Part for a taxation year that ends before July 1, 2006 in respect of its unused Part I tax credit for a taxation year that ends after July 1, 2006 (referred to in this paragraph as the "credit taxation year") only to the extent that the unused Part I tax credit exceeds the amount, if any, by which

(i) the amount that would, if this Part were read as it applied to the 2005 taxation year, be the

Idem

(4) Pour l'application du présent paragraphe et des paragraphes (3), (5) et (6):

a) nul montant n'est déductible en application du paragraphe (3) dans le calcul de l'impôt payable par une société en vertu de la présente partie pour une année d'imposition donnée :

(i) au titre de son crédit d'impôt de la partie I inutilisé pour une autre année d'imposition tant qu'elle n'a pas déduit les crédits d'impôt de la partie I inutilisés pour les années d'imposition antérieures à cette autre année qu'elle peut déduire en application de la présente partie pour l'année donnée,

(ii) au titre de son crédit de surtaxe inutilisé pour une autre année d'imposition tant qu'elle n'a pas déduit les crédits de surtaxe inutilisés pour les années d'imposition antérieures à cette autre année qu'elle peut déduire en application de la partie I.3 ou de la présente partie pour l'année donnée;

b) un montant n'est déductible en application du paragraphe (3) dans le calcul de l'impôt payable par une société en vertu de la présente partie pour une année d'imposition donnée :

(i) au titre de son crédit d'impôt de la partie I inutilisé pour une autre année d'imposition que dans la mesure où il dépasse le total des montants représentant chacun un montant déduit au titre de ce crédit dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition antérieure à l'année donnée,

(ii) au titre de son crédit de surtaxe inutilisé pour une autre année d'imposition que dans la mesure où il dépasse le total des montants représentant chacun un montant déduit au titre de ce crédit :

(A) soit dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition antérieure à l'année donnée,

(B) soit dans le calcul de son impôt payable en vertu de la partie I.3 pour l'année donnée ou pour une année d'imposition antérieure à cette année;

c) une somme n'est déductible en application de l'alinéa (3)b) dans le calcul de l'impôt payable par une société en vertu de la présente partie pour une année d'imposition se terminant avant le 1er juillet 2006 au titre de son crédit d'impôt de la partie I inutilisé pour une année d'imposition se terminant après cette date

corporation's tax payable under this Part for the credit taxation year

exceeds

(ii) the corporation's tax payable under this Part for the credit taxation year.

(appelée « année du crédit » au présent alinéa) que dans la mesure où le montant de ce crédit dépasse l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) la somme qui correspondrait à l'impôt payable par la société en vertu de la présente partie pour l'année du crédit si la présente partie était remplacée par sa version applicable à l'année d'imposition 2005,

(ii) l'impôt payable par la société en vertu de la présente partie pour l'année du crédit.

Definitions

(5) For the purposes of subsections 190.1(3), 190.1(4) and 190.1(6),

unused Part I tax credit, of a corporation for a taxation year, means the amount, if any, by which

(a) the corporation's tax payable under Part I for the year

exceeds

(b) the amount that would, but for subsection (3), be its tax payable under this Part for the year; (*crédit d'impôt de la partie I inutilisé*)

unused surtax credit of a corporation for a taxation year has the meaning assigned by subsection 181.1(6). (*crédit de surtaxe inutilisé*)

Définitions

(5) Les définitions qui suivent s'appliquent aux paragraphes (3), (4) et (6).

crédit de surtaxe inutilisé S'entend au sens du paragraphe 181.1(6). (*unused surtax credit*)

crédit d'impôt de la partie I inutilisé Le crédit d'impôt de la partie I inutilisé d'une société pour une année d'imposition correspond à l'excédent de la somme visée à l'alinéa a) sur celle visée à l'alinéa b) :

a) l'impôt payable par la société pour l'année en vertu de la partie I;

b) la somme qui, en l'absence du paragraphe (3), correspondrait à son impôt payable pour l'année en vertu de la présente partie. (*unused Part I tax credit*)

Acquisition of control

(6) Where at any time control of a corporation was acquired by a person or group of persons, no amount in respect of its unused Part I tax credit or unused surtax credit for a taxation year ending before that time is deductible by the corporation for a taxation year ending after the time and no amount in respect of its unused Part I tax credit or unused surtax credit for a taxation year ending after that time is deductible by the corporation for a taxation year ending before that time, except that

(a) the corporation's unused Part I tax credit and unused surtax credit for a particular taxation year that ended before that time is deductible by the corporation for a taxation year that ends after that time (in this paragraph referred to as the "subsequent year") to the extent of that proportion of the corporation's tax payable under Part I for the particular year that

(i) the amount, if any, by which

(A) the total of all amounts each of which is

Acquisition de contrôle

(6) En cas d'acquisition du contrôle d'une société par une personne ou un groupe de personnes, aucun montant au titre du crédit d'impôt de la partie I inutilisé ou du crédit de surtaxe inutilisé de la société pour une année d'imposition se terminant avant le moment de l'acquisition n'est déductible par la société pour une année d'imposition se terminant après ce moment et aucun montant au titre de tels crédits pour une année d'imposition se terminant après ce moment n'est déductible par la société pour une année d'imposition se terminant avant ce moment. Toutefois :

a) le crédit d'impôt de la partie I inutilisé et le crédit de surtaxe inutilisé de la société pour une année d'imposition donnée qui s'est terminée avant le moment de l'acquisition est déductible par la société pour une année d'imposition qui se termine après ce moment (appelée « année subséquente » au présent alinéa), jusqu'à concurrence du produit de son impôt payable en vertu de la partie I pour l'année donnée par le rapport entre :

(I) its income under Part I for the particular year from a business that was carried on by the corporation for profit or with a reasonable expectation of profit throughout the subsequent year, or

(II) where properties were sold, leased, rented or developed or services were rendered in the course of carrying on that business before that time, its income under Part I for the particular year from any other business all or substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

exceeds

(B) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or 111(1)(d) in computing its taxable income for the particular year in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of any business referred to in clause 190.1(6)(a)(i)(A)

is of the greater of

(ii) the amount determined under subparagraph 190.1(6)(a)(i), and

(iii) the corporation's taxable income for the particular year; and

(b) the corporation's unused Part I tax credit and unused surtax credit for a particular taxation year that ends after that time is deductible by the corporation for a taxation year (in this paragraph referred to as the"preceding year") that ended before that time to the extent of that proportion of the corporation's tax payable under Part I for the particular year that

(i) the amount, if any, by which

(A) the total of all amounts each of which is

(I) its income under Part I for the particular year from a business that was carried on by the corporation in the preceding year and throughout the particular year for profit or with a reasonable expectation of profit, or

(II) where properties were sold, leased, rented or developed or services were rendered in the course of carrying on that business before that time, its income under Part I for the particular year from any other business all or

(i) d'une part, l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun :

(I) son revenu en vertu de la partie I pour l'année donnée provenant d'une entreprise qu'elle exploitait à profit ou dans une attente raisonnable de profit tout au long de l'année subséquente,

(II) dans le cas où des biens sont vendus, loués ou mis en valeur ou des services, rendus dans le cadre de l'exploitation de l'entreprise visée à la subdivision (I) avant le moment de l'acquisition, son revenu en vertu de la partie I pour l'année donnée provenant d'une autre entreprise dont la totalité ou la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur de biens semblables ou de la prestation de services semblables,

(B) le total des montants représentant chacun un montant déduit en application des alinéas 111(1)a) ou d) dans le calcul de son revenu imposable pour l'année donnée au titre d'une perte autre qu'une perte en capital ou d'une perte agricole pour une année d'imposition relativement à une entreprise visée à la division (A),

(ii) d'autre part, le plus élevé des montants suivants :

(A) l'excédent déterminé selon le sous-alinéa (i),

(B) le revenu imposable de la société pour l'année donnée;

b) le crédit d'impôt de la partie I inutilisé et le crédit de surtaxe inutilisé de la société pour une année d'imposition donnée qui se termine après le moment de l'acquisition est déductible par la société pour une année d'imposition (appelée « année précédente » au présent alinéa) qui s'est terminée avant ce moment, jusqu'à concurrence du produit de son impôt payable en vertu de la partie I pour l'année donnée par le rapport entre :

(i) d'une part, l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants représentant chacun :

(I) son revenu en vertu de la partie I pour l'année donnée provenant d'une entreprise qu'elle exploitait à profit ou dans une attente

substantially all of the income of which was derived from the sale, leasing, rental or development, as the case may be, of similar properties or the rendering of similar services

exceeds

(B) the total of all amounts each of which is an amount deducted under paragraph 111(1)(a) or 111(1)(d) in computing its taxable income for the particular year in respect of a non-capital loss or a farm loss, as the case may be, for a taxation year in respect of any business referred to in clause 190.1(6)(b)(i)(A)

is of the greater of

(ii) the amount determined under subparagraph 190.1(6)(b)(i), and

(iii) the corporation's taxable income for the particular year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.1; 1994, c. 7, Sch. VIII, s. 111, c. 21, s. 87; 1996, c. 21, s. 49; 1997, c. 25, s. 53; 1998, c. 19, ss. 48, 202; 1999, c. 22, s. 68; 2000, c. 19, s. 53; 2001, c. 17, s. 165; 2007, c. 2, s. 40; 2013, c. 34, s. 329.

raisonnable de profit au cours de l'année précédente et tout au long de l'année donnée,

(II) dans le cas où des biens sont vendus, loués ou mis en valeur ou des services, rendus dans le cadre de l'exploitation de l'entreprise visée à la subdivision (I) avant le moment de l'acquisition, son revenu en vertu de la partie I pour l'année donnée provenant d'une autre entreprise dont la totalité ou la presque totalité du revenu provient de la vente, de la location ou de la mise en valeur de biens semblables ou de la prestation de services semblables,

(B) le total des montants représentant chacun un montant déduit en application des alinéas 111(1)a) ou d) dans le calcul de son revenu imposable pour l'année donnée au titre d'une perte autre qu'une perte en capital ou d'une perte agricole pour une année d'imposition relativement à une entreprise visée à la division (A),

(ii) d'autre part, le plus élevé des montants suivants :

(A) l'excédent déterminé selon le sous-alinéa (i),

(B) le revenu imposable de la société pour l'année donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.1; 1994, ch. 7, ann. VIII, art. 111, ch. 21, art. 87; 1996, ch. 21, art. 49; 1997, ch. 25, art. 53; 1998, ch. 19, art. 48 et 202; 1999, ch. 22, art. 68; 2000, ch. 19, art. 53; 2001, ch. 17, art. 165; 2007, ch. 2, art. 40; 2013, ch. 34, art. 329.

Taxable capital employed in Canada

190.11 For the purposes of this Part, the taxable capital employed in Canada of a financial institution for a taxation year is,

(a) in the case of a financial institution other than a life insurance corporation, that proportion of its taxable capital for the year that its Canadian assets at the end of the year is of its total assets at the end of the year;

(b) in the case of a life insurance corporation that was resident in Canada at any time in the year, the total of

(i) that proportion of the amount, if any, by which the total of

(A) its taxable capital for the year, and

(B) the amount prescribed for the year in respect of the corporation

Capital imposable utilisé au Canada

190.11 Pour l'application de la présente partie, le capital imposable utilisé au Canada d'une institution financière pour une année d'imposition correspond au montant suivant :

a) dans le cas d'une institution financière autre qu'une compagnie d'assurance-vie, le produit de la multiplication de son capital imposable pour l'année par le rapport entre son actif canadien à la fin de l'année et son actif total à la fin de l'année;

b) dans le cas d'une compagnie d'assurance-vie résidant au Canada à un moment de l'année, le total des montants suivants :

(i) le produit de la multiplication de l'excédent éventuel du total des montants suivants :

(A) son capital imposable pour l'année,

(B) le montant prescrit à son égard pour l'année,

exceeds

(C) the amount prescribed for the year in respect of the corporation

that its Canadian reserve liabilities as at the end of the year is of the total of

(D) its total reserve liabilities as at the end of the year, and

(E) the amount prescribed for the year in respect of the corporation; and

(ii) [Repealed, 2009, c. 2, s. 63]

(c) in the case of a life insurance corporation that was non-resident throughout the year, its taxable capital for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.11; 1994, c. 7, Sch. II, s. 158, c. 21, s. 88; 2009, c. 2, s. 63.

sur :

(C) le montant prescrit à son égard pour l'année,

par le rapport entre son passif de réserve canadienne à la fin de l'année et le total des montants suivants :

(D) son passif total de réserve à la fin de l'année,

(E) le montant prescrit à son égard pour l'année;

(ii) [Abrogé, 2009, ch. 2, art. 63]

c) dans le cas d'une compagnie d'assurance-vie qui n'a résidé au Canada à aucun moment de l'année, son capital imposable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.11; 1994, ch. 7, ann. II, art. 158, ch. 21, art. 88; 2009, ch. 2, art. 63.

Taxable capital

190.12 For the purposes of this Part, the taxable capital of a corporation for a taxation year is the amount, if any, by which its capital for the year exceeds the total determined under section 190.14 in respect of its investments for the year in financial institutions related to it.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1986, c. 6, s. 100; 1990, c. 39, s. 50.

Capital imposable

190.12 Pour l'application de la présente partie, le capital imposable d'une société pour une année d'imposition correspond à l'excédent éventuel de son capital pour l'année sur le total calculé à l'article 190.14 relativement à ses placements pour l'année dans des institutions financières qui lui sont liées.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1986, ch. 6, art. 100; 1990, ch. 39, art. 50.

Capital

190.13 For the purposes of this Part, the capital of a financial institution for a taxation year is,

(a) in the case of a financial institution, other than an authorized foreign bank or a life insurance corporation, the amount, if any, by which the total at the end of the year of

(i) the amount of its long-term debt,

(ii) the amount of its capital stock (or, in the case of an institution incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses, and

(iii) the amount of its reserves, except to the extent that they were deducted in computing its income under Part I for the year,

exceeds the total at the end of the year of

(iv) the amount of its deferred tax debit balance, and

Capital

190.13 Pour l'application de la présente partie, le capital d'une institution financière pour une année d'imposition correspond au montant suivant :

a) dans le cas d'une institution financière, sauf une banque étrangère autorisée ou une compagnie d'assurance-vie, l'excédent éventuel du total, à la fin de l'année, des montants suivants :

(i) les dettes de son passif à long terme,

(ii) son capital-actions (ou, si elle est constituée sans capital-actions, l'apport de ses membres), ses bénéfices non répartis, son surplus d'apport et tout autre surplus,

(iii) ses réserves, sauf dans la mesure où elles sont déduites dans le calcul de son revenu pour l'année en vertu de la partie I,

sur le total, à la fin de l'année, des montants suivants :

(iv) le solde de son report débiteur d'impôt,

(v) the amount of any deficit deducted in computing its shareholders' equity (including, for this purpose, the amount of any provision for the redemption of preferred shares);

(b) in the case of a life insurance corporation that was resident in Canada at any time in the year, the amount, if any, by which the total at the end of the year of

(i) the amount of its long-term debt, and

(ii) the amount of its capital stock (or, in the case of an insurance corporation incorporated without share capital, the amount of its members' contributions), retained earnings, contributed surplus and any other surpluses

exceeds the total at the end of the year of

(iii) the amount of its deferred tax debit balance, and

(iv) the amount of any deficit deducted in computing its shareholders' equity (including, for this purpose, the amount of any provision for the redemption of preferred shares);

(c) in the case of a life insurance corporation that was non-resident throughout the year, the total at the end of the year of

(i) the amount that is the greater of

(A) the amount, if any, by which

(I) its surplus funds derived from operations (as defined in subsection 138(12)) as of the end of the year, computed as if no tax were payable under Part I.3 or this Part for the year

exceeds the total of all amounts each of which is

(II) an amount on which it was required to pay, or would but for subsection 219(5.2) have been required to pay, tax under Part XIV for a preceding taxation year, except the portion, if any, of the amount on which tax was payable, or would have been payable, because of subparagraph 219(4)(a)(i.1), and

(III) an amount on which it was required to pay, or would but for subsection 219(5.2) have been required to pay, tax under subsection 219(5.1) for the year because of the transfer of an insurance business to which subsection 138(11.5) or 138(11.92) has applied, and

(v) tout déficit déduit dans le calcul de l'avoir des actionnaires, y compris, à cette fin, le montant de toute provision pour le rachat d'actions privilégiées;

b) dans le cas d'une compagnie d'assurance-vie résidant au Canada à un moment de l'année, l'excédent éventuel du total, à la fin de l'année, des montants suivants :

(i) les dettes de son passif à long terme,

(ii) son capital-actions (ou, si elle est constituée sans capital-actions, l'apport de ses membres), ses bénéfices non répartis, son surplus d'apport et tout autre surplus,

sur le total, à la fin de l'année, des montants suivants :

(iii) le solde de son report débiteur d'impôt,

(iv) tout déficit déduit dans le calcul de l'avoir des actionnaires, y compris, à cette fin, le montant de toute provision pour le rachat d'actions privilégiées;

c) dans le cas d'une compagnie d'assurance-vie qui était un non-résident tout au long de l'année, le total, à la fin de l'année, des montants suivants :

(i) le plus élevé des montants suivants :

(A) l'excédent éventuel :

(I) de son fonds excédentaire résultant de l'activité, au sens du paragraphe 138(12), à la fin de l'année, déterminé comme si aucun impôt n'était payable en vertu de la partie I.3 ou de la présente partie pour l'année,

sur le total des montants représentant chacun :

(II) un montant sur lequel elle était tenue de payer un impôt en vertu de la partie XIV pour une année d'imposition antérieure, ou aurait été ainsi tenue n'eût été le paragraphe 219(5.2), à l'exception de la partie du montant sur lequel un impôt est ou aurait été payable par l'effet du sous-alinéa 219(4)a)(i.1),

(III) un montant sur lequel elle était tenue de payer un impôt en vertu du paragraphe 219(5.1) pour l'année, ou aurait été ainsi tenue n'eût été le paragraphe 219(5.2), en raison du transfert d'une entreprise d'assurance à laquelle s'appliquent les paragraphes 138(11.5) ou (11.92),

(B) son surplus attribué pour l'année,

(B) its attributed surplus for the year,

(ii) any other surpluses relating to its insurance businesses carried on in Canada,

(iii) the amount of its long-term debt that can reasonably be regarded as relating to its insurance businesses carried on in Canada; and

(iv) [Repealed, 2009, c. 2, s. 64]

(d) in the case of an authorized foreign bank, the total of

(i) 10% of the total of all amounts, each of which is the risk-weighted amount at the end of the year of an on-balance sheet asset or an off-balance sheet exposure of the bank in respect of its Canadian banking business that the bank would be required to report under the OSFI risk-weighting guidelines if those guidelines applied and required a report at that time, and

(ii) the total of all amounts, each of which is an amount at the end of the year in respect of the bank's Canadian banking business that

(A) if the bank were a bank listed in Schedule II to the *Bank Act*, would be required under the risk-based capital adequacy guidelines issued by the Superintendent of Financial Institutions and applicable at that time to be deducted from the bank's capital in determining the amount of capital available to satisfy the Superintendent's requirement that capital equal a particular proportion of risk-weighted assets and exposures, and

(B) is not an amount in respect of a loss protection facility required to be deducted from capital under the Superintendent's guidelines respecting asset securitization applicable at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.13; 1994, c. 7, Sch. II, s. 159, c. 21, s. 89; 1998, c. 19, s. 203; 2001, c. 17, s. 166; 2009, c. 2, s. 64; 2013, c. 34, s. 330.

ii) tout autre surplus lié à ses entreprises d'assurance exploitées au Canada,

iii) les dettes de son passif à long terme qu'il est raisonnable de considérer comme liées à ses entreprises d'assurance exploitées au Canada;

iv) [Abrogé, 2009, ch. 2, art. 64]

d) dans le cas d'une banque étrangère autorisée, la somme des montants suivants :

(i) 10 % du total des montants représentant chacun le montant pondéré en fonction des risques, à la fin de l'année, d'un élément d'actif figurant au bilan ou d'un engagement hors bilan de la banque relativement à son entreprise bancaire canadienne, qu'elle serait tenue de déclarer aux termes des lignes directrices du BSIF sur la pondération des risques si celles-ci s'appliquaient et exigeaient pareille déclaration à ce moment,

(ii) le total des montants représentant chacun un montant, à la fin de l'année, se rapportant à l'entreprise bancaire canadienne de la banque (sauf un montant relatif à une protection contre les pertes qui doit être déduit des fonds propres en vertu de la ligne directrice du surintendant des institutions financières sur la titrisation de l'actif, applicable à ce moment) qui, si la banque figurait à l'annexe II de la *Loi sur les banques*, serait à déduire, en application de la ligne directrice sur le niveau des fonds propres à risque établie par le surintendant et applicable à ce moment, des fonds propres de la banque en vue du calcul du montant de ceux-ci qui peut servir à satisfaire l'exigence du surintendant selon laquelle les fonds propres doivent correspondre à une proportion donnée des actifs et engagements pondérés en fonction des risques.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.13; 1994, ch. 7, ann. II, art. 159, ch. 21, art. 89; 1998, ch. 19, art. 203; 2001, ch. 17, art. 166; 2009, ch. 2, art. 64; 2013, ch. 34, art. 330.

Investment in related institutions

190.14 (1) A corporation's investment for a taxation year in a financial institution related to it is

(a) in the case of a corporation that was resident in Canada at any time in the year, the total of all amounts each of which is the carrying value (or in the case of contributed surplus, the amount) at the end of the year of an eligible investment of the corporation in the financial institution;

Placement dans des institutions liées

190.14 (1) Le placement d'une société pour une année d'imposition dans une institution financière qui lui est liée correspond au montant applicable suivant :

a) dans le cas d'une société résidant au Canada à un moment de l'année, le total des montants représentant chacun la valeur comptable, à la fin de l'année, d'un de ses placements admissibles dans l'institution financière (ou, s'il s'agit d'un surplus d'apport, le montant, à la fin de l'année, d'un tel placement);

(b) in the case of a life insurance corporation that was non-resident throughout the year, the total of all amounts each of which is the carrying value (or is, in the case of contributed surplus, the amount) at the end of the year of an eligible investment of the corporation in the financial institution that was used or held by the corporation in the year in the course of carrying on an insurance business in Canada (or that, in the case of contributed surplus, was contributed by the corporation in the course of carrying on that business); and

(c) in the case of a corporation that is an authorized foreign bank, the total of all amounts each of which is the amount at the end of the year, before the application of risk weights, that would be required to be reported under the OSFI risk-weighting guidelines if those guidelines applied and required a report at that time, of an eligible investment of the corporation in the financial institution that was used or held by the corporation in the year in the course of carrying on its Canadian banking business or, in the case of an eligible investment that is contributed surplus of the financial institution at the end of the year, the amount of the surplus contributed by the corporation in the course of carrying on that business.

b) dans le cas d'une compagnie d'assurance-vie qui a été un non-résident tout au long de l'année, le total des montants représentant chacun la valeur comptable, à la fin de l'année, d'un de ses placements admissibles dans l'institution financière (ou, s'il s'agit d'un surplus d'apport, le montant, à la fin de l'année, d'un tel placement) qu'elle a utilisé ou détenu au cours de l'année dans le cadre de l'exploitation d'une entreprise d'assurance au Canada (ou, s'il s'agit d'un surplus d'apport, qu'elle a apporté dans le cadre de l'exploitation de cette entreprise);

c) dans le cas d'une société qui est une banque étrangère autorisée, le total des montants représentant chacun le montant à la fin de l'année, avant l'application du facteur de pondération des risques, qui serait à déclarer aux termes des lignes directrices du BSIF sur la pondération des risques si celles-ci s'appliquaient et exigeaient pareille déclaration à ce moment, d'un de ses placements admissibles dans l'institution financière, qu'elle a utilisé ou détenu au cours de l'année dans le cadre de l'exploitation de son entreprise bancaire canadienne ou, s'il s'agit d'un placement admissible qui est un surplus d'apport de l'institution financière à la fin de l'année, le montant de ce surplus apporté par la société dans le cadre de l'exploitation de cette entreprise.

Interpretation

(2) For the purpose of subsection (1), an eligible investment of a corporation in a financial institution is a share of the capital stock or long-term debt (and, where the corporation is an insurance corporation, is non-segregated property within the meaning assigned by subsection 138(12)) of the financial institution or any surplus of the financial institution contributed by the corporation (other than an amount otherwise included as a share or debt) if the financial institution at the end of the year is

(a) related to the corporation; and

(b) resident in Canada or can reasonably be regarded as using the surplus or the proceeds of the share or debt in a business carried on by the financial institution through a permanent establishment (as defined by regulation) in Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.14; 1994, c. 7, Sch. II, s. 159, c. 21, s. 90; 2001, c. 17, s. 167.

Interprétation

(2) Pour l'application du paragraphe (1), un placement admissible d'une société dans une institution financière est une action du capital-actions ou une dette du passif à long terme (et, si la société est une compagnie d'assurance, un bien non réservé au sens du paragraphe 138(12)) de l'institution financière ou tout surplus de celle-ci apporté par la société (sauf un montant inclus par ailleurs à titre d'action ou de dette) si l'institution financière répond aux conditions suivantes à la fin de l'année :

a) elle est liée à la société;

b) elle réside au Canada ou il est raisonnable de considérer qu'elle utilise le surplus ou le produit de l'action ou de la dette dans le cadre d'une entreprise qu'elle exploite par l'entremise d'un établissement stable, au sens du *Règlement de l'impôt sur le revenu*, au Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.14; 1994, ch. 7, ann. II, art. 159, ch. 21, art. 90; 2001, ch. 17, art. 167.

Capital deduction

190.15 (1) For the purposes of this Part, the capital deduction of a corporation for a taxation year during which it was at any time a financial institution is $1 billion unless the corporation was related to another financial

Abattement de capital

190.15 (1) Pour l'application de la présente partie, l'abattement de capital d'une société pour une année d'imposition au cours de laquelle elle est une institution financière correspond à 1 000 000 000 $, sauf si elle est liée

institution at the end of the year, in which case, subject to subsection (4), its capital deduction for the year is nil.

Related financial institution

(2) A corporation that is a financial institution at any time during a taxation year and that was related to another financial institution at the end of the year may file with the Minister an agreement in prescribed form on behalf of the related group of which the corporation is a member under which an amount that does not exceed $1 billion is allocated among the members of the related group for the taxation year.

Allocation by Minister

(3) The Minister may request a corporation that is a financial institution at any time during a taxation year and that was related to any other financial institution at the end of the year to file with the Minister an agreement referred to in subsection (2) and, if the corporation does not file such an agreement within 30 days after receiving the request, the Minister may allocate an amount among the members of the related group of which the corporation is a member for the year not exceeding $1 billion.

Idem

(4) For the purposes of this Part, the least amount allocated for a taxation year to each member of a related group under an agreement described in subsection 190.15(2) or by the Minister pursuant to subsection 190.15(3) is the capital deduction for the taxation year of that member, but, if no such allocation is made, the capital deduction of each member of the related group for that year is nil.

Idem

(5) Where a corporation (in this subsection referred to as the "first corporation") has more than one taxation year ending in the same calendar year and is related in 2 or more of those taxation years to another corporation that has a taxation year ending in that calendar year, the capital deduction of the first corporation for each such taxation year at the end of which it is related to the other corporation is, for the purposes of this Part, an amount equal to its capital deduction for the first such taxation year.

Idem

(6) Two corporations that would, but for this subsection, be related to each other solely because of

(a) the control of any corporation by Her Majesty in right of Canada or a province, or

à une autre institution financière à la fin de l'année, auquel cas, sous réserve du paragraphe (4), son abattement de capital pour l'année est nul.

Institution financière liée

(2) La société qui est une institution financière au cours d'une année d'imposition et qui est liée à une autre institution financière à la fin de l'année peut présenter au ministre, sur le formulaire prescrit, au nom du groupe lié dont elle est membre, un accord qui prévoit la répartition pour l'année, entre les membres du groupe lié, d'une somme n'excédant pas 1 000 000 000 $.

Répartition par le ministre

(3) Le ministre peut demander à la société qui est une institution financière au cours d'une année d'imposition et qui est liée à une autre institution financière à la fin de l'année de lui présenter l'accord visé au paragraphe (2). Si la société ne présente pas cet accord dans les 30 jours suivant la réception de la demande, le ministre peut répartir pour l'année, entre les membres du groupe lié dont la société est membre, une somme n'excédant pas 1 000 000 000 $.

Idem

(4) Pour l'application de la présente partie, le montant le moins élevé qui est attribué, pour une année d'imposition, à chaque membre d'un groupe lié selon l'accord visé au paragraphe (2) ou par le ministre conformément au paragraphe (3) représente l'abattement de capital du membre pour cette année; si aucune répartition n'est faite, l'abattement de capital de chaque membre du groupe lié est nul pour cette année.

Idem

(5) Lorsque plus d'une année d'imposition d'une société donnée se termine au cours de la même année civile et que la société est liée, au cours d'au moins deux de ces années, à une autre société dont une des années d'imposition se termine au cours de cette année civile, l'abattement de capital de la société donnée pour chacune de ces années d'imposition à la fin desquelles elle est liée à l'autre société correspond, pour l'application de la présente partie, à son abattement de capital pour la première de ces années.

Idem

(6) Pour l'application du présent article et de l'article 190.14, sont réputées ne pas être liées entre elles deux sociétés qui, si ce n'était le présent paragraphe, seraient liées du seul fait que Sa Majesté du chef du Canada ou d'une province contrôle une société ou qu'il existe un droit visé à l'alinéa 251(5)b). Toutefois, lorsque, à un

(b) a right referred to in paragraph 251(5)(b),

are, for the purposes of this section and section 190.14, deemed not to be related to each other except that, where at any time a taxpayer has a right referred to in paragraph 251(5)(b) with respect to shares and it can reasonably be considered that one of the main purposes for the acquisition of the right was to avoid any limitation on the amount of a corporation's capital deduction for a taxation year, for the purpose of determining whether a corporation is related to any other corporation, the corporations are, for the purpose of this section, deemed to be in the same position in relation to each other as if the right were immediate and absolute and as if the taxpayer had exercised the right at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.15; 1994, c. 7, Sch. II, s. 160, Sch. VIII, s. 112; 1998, c. 19, s. 204; 2007, c. 2, s. 41.

190.16 [Repealed, 2013, c. 34, s. 331]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 21, s. 91; 2007, c. 2, s. 42; 2013, c. 34, s. 331.

190.17 [Repealed, 2007, c. 2, s. 42]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 50; 2007, c. 2, s. 42.

Administrative Provisions

Return

190.2 A corporation that is or would, but for subsection 190.1(3), be liable to pay tax under this Part for a taxation year shall file with the Minister, not later than the day on or before which the corporation is required by section 150 to file its return of income for the year under Part I, a return of capital for the year in prescribed form containing an estimate of the tax payable under this Part by it for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.2; 1994, c. 7, Sch. VIII, s. 113.

Provisions applicable to Part

190.21 Sections 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I apply to this Part with such modifications as the circumstances require and, for the purpose of this section, paragraph 152(6)(a) shall be read as follows:

> **"(a)** a deduction under subsection 190.1(3) in respect of any unused surtax credit or unused Part I tax credit (within the meanings assigned by subsection 190.1(5)) for a subsequent taxation year,"

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.21; 1994, c. 7, Sch. II, s. 161, Sch. VIII, s. 114.

moment donné, un contribuable a un droit visé à l'alinéa 251(5)b) relatif à des actions et qu'il est raisonnable de considérer que l'un des principaux motifs de l'acquisition de ce droit consiste à éviter une restriction au montant de l'abattement de capital d'une société pour une année d'imposition, pour déterminer si une société est liée à une autre société, les sociétés sont réputées, pour l'application du présent article, être dans la même position l'une par rapport à l'autre que si le droit était immédiat et absolu et que si le contribuable l'avait exercé à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.15; 1994, ch. 7, ann. II, art. 160, ann. VIII, art. 112; 1998, ch. 19, art. 204; 2007, ch. 2, art. 41.

190.16 [Abrogé, 2013, ch. 34, art. 331]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 21, art. 91; 2007, ch. 2, art. 42; 2013, ch. 34, art. 331.

190.17 [Abrogé, 2007, ch. 2, art. 42]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 50; 2007, ch. 2, art. 42.

Dispositions d'ordre administratif

Déclaration de capital

190.2 La société qui est ou serait, sans le paragraphe 190.1(3), redevable de l'impôt prévu par la présente partie pour une année d'imposition doit produire auprès du ministre une déclaration de capital pour cette année, au plus tard le jour où elle est tenue par l'article 150 de produire sa déclaration de revenu pour l'année en vertu de la partie I. La déclaration de capital est produite sur formulaire prescrit et contient une estimation de l'impôt payable par la société pour l'année en vertu de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.2; 1994, ch. 7, ann. VIII, art. 113.

Dispositions applicables

190.21 Les articles 152, 158 et 159, le paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires. Toutefois, pour l'application du présent article, l'alinéa 152(6)a) est remplacé par ce qui suit :

> **« a)** déduction, en application du paragraphe 190.1(3), au titre d'un crédit de surtaxe inutilisé ou d'un crédit d'impôt de la partie I inutilisé, au sens du paragraphe 190.1(5), pour une année d'imposition ultérieure; ».

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.21; 1994, ch. 7, ann. II, art. 161, ann. VIII, art. 114.

Provisions applicable -- Crown corporations

190.211 Section 27 applies to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 205.

190.22 [Repealed, 1994, c. 7, s. 114(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.22; 1994, c. 7, Sch. VIII, s. 114.

190.23 [Repealed, 1994, c. 7, Sch. VIII, s. 114(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.23; 1994, c. 7, Sch. II, s. 161, Sch. VIII, s. 114.

190.24 [Repealed, 1994, c. 7, Sch. VIII, s. 114(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 190.24; 1994, c. 7, Sch. VIII, s. 114.

PART VI.1

Tax on Corporations Paying Dividends on Taxable Preferred Shares

Definitions

191 (1) In this Part,

excluded dividend means a dividend

(a) paid by a corporation to a shareholder that had a substantial interest in the corporation at the time the dividend was paid,

(b) paid by a corporation that was a financial intermediary corporation or a private holding corporation at the time the dividend was paid,

(c) paid by a particular corporation that would, but for paragraphs (h) and (i) of the definition ***financial intermediary corporation*** in this subsection, have been a financial intermediary corporation at the time the dividend was paid, except where the dividend was paid to a controlling corporation in respect of the particular corporation or to a specified person (within the meaning assigned by paragraph (h) of the definition ***taxable preferred share*** in subsection 248(1)) in relation to such a controlling corporation,

(d) paid by a mortgage investment corporation, or

(e) that is a capital gains dividend within the meaning assigned by subsection 131(1); (*dividende exclu*)

Disposition applicable aux sociétés d'État

190.211 L'article 27 s'applique à la présente partie, avec les modifications nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 205.

190.22 [Abrogé, 1994, ch. 7, ann. VIII, art. 114(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.22; 1994, ch. 7, ann. VIII, art. 114.

190.23 [Abrogé, 1994, ch. 7, ann. VIII, art. 114(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.23; 1994, ch. 7, ann. II, art. 161, ann. VIII, art. 114.

190.24 [Abrogé, 1994, ch. 7, ann. VIII, art. 114(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 190.24; 1994, ch. 7, ann. VIII, art. 114.

PARTIE VI.1

Imposition des sociétés versant des dividendes sur des actions privilégiées imposables

Définitions

191 (1) Les définitions qui suivent s'appliquent à la présente partie.

dividende exclu

a) Dividende qu'une société verse à un actionnaire qui a alors une participation importante dans la société;

b) dividende que verse une société qui est alors un intermédiaire financier constitué en société ou une société de portefeuille privée;

c) dividende que verse une société qui serait alors un intermédiaire financier constitué en société si elle n'était pas exclue de la définition d'***intermédiaire financier constitué en société*** au présent paragraphe en application des alinéas h) et i) de cette définition, sauf si elle le verse à une société dominante à son égard ou à une personne apparentée à celle-ci au sens de l'alinéa h) de la définition d'***action privilégiée imposable***, au paragraphe 248(1);

d) dividende que verse une société de placement hypothécaire;

e) dividende sur gains en capital, au sens du paragraphe 131(1). (*excluded dividend*)

financial intermediary corporation means a corporation that is

(a) a corporation described in subparagraph (b)(ii) of the definition ***retirement savings plan*** in subsection 146(1),

(b) an investment corporation,

(c) a mortgage investment corporation,

(d) a mutual fund corporation,

(e) a prescribed venture capital corporation, or

(f) a prescribed labour-sponsored venture capital corporation,

but does not include

(g) a prescribed corporation,

(h) a corporation that is controlled by or for the benefit of one or more corporations (each of which is referred to in this subsection as a "controlling corporation") other than financial intermediary corporations or private holding corporations unless the controlling corporations and specified persons (within the meaning assigned by paragraph (h) of the definition ***taxable preferred share*** in subsection 248(1)) in relation to the controlling corporations do not own in the aggregate shares of the capital stock of the corporation having a fair market value of more than 10% of the fair market value of all of the issued and outstanding shares of the capital stock of the corporation (those fair market values being determined without regard to any voting rights attaching to those shares), or

(i) any particular corporation in which another corporation (other than a financial intermediary corporation or a private holding corporation) has a substantial interest unless the other corporation and specified persons (within the meaning assigned by paragraph (h) of the definition ***taxable preferred share*** in subsection 248(1)) in relation to the other corporation do not own in the aggregate shares of the capital stock of the particular corporation having a fair market value of more than 10% of the fair market value of all of the issued and outstanding shares of the capital stock of the particular corporation (those fair market values being determined without regard to any voting rights attaching to those shares); (*intermédiaire financier constitué en société*)

private holding corporation means a private corporation the only undertaking of which is the investing of its funds, but does not include

intermédiaire financier constitué en société

a) Société visée au sous-alinéa b)(ii) de la définition de ***régime d'épargne-retraite*** au paragraphe 146(1);

b) société de placement;

c) société de placement hypothécaire;

d) société de placement à capital variable;

e) société à capital de risque visée par règlement;

f) société à capital de risque de travailleurs visée par règlement;

sont toutefois exclues de la présente définition :

g) les sociétés visées par règlement;

h) la société contrôlée par une ou plusieurs sociétés — appelées « sociétés dominantes » au présent paragraphe — qui ne sont ni des intermédiaires financiers constitués en société ni des sociétés de portefeuille privées, ou pour le compte d'une ou plusieurs de ces sociétés dominantes, sauf si la juste valeur marchande des actions du capital-actions de la société dont sont propriétaires les sociétés dominantes et les personnes qui leur sont apparentées, au sens de l'alinéa h) de la définition d'***action privilégiée imposable*** au paragraphe 248(1), ne correspond pas à plus de 10 % de la juste valeur marchande de toutes les actions émises et en circulation de la société, la juste valeur marchande étant fixée compte non tenu des droits de vote attachés aux actions;

i la société dans laquelle une autre société — qui n'est pas elle-même un intermédiaire financier constitué en société ou une société de portefeuille privée — a une participation importante, sauf si cette autre société et les personnes apparentées à celle-ci — au sens de l'alinéa h) de la définition d'***action privilégiée imposable*** au paragraphe 248(1) — ne sont pas propriétaires au total d'actions du capital-actions de la société ayant une juste valeur marchande correspondant à plus de 10 % de la juste valeur marchande de toutes les actions émises et en circulation de la société, ces justes valeurs marchandes étant déterminées compte non tenu des droits de vote attachés aux actions. (*financial intermediary corporation*)

société de portefeuille privée Société privée dont la seule activité consiste à investir les fonds qu'elle a; sont toutefois exclues de la présente définition :

a) les institutions financières déterminées;

(a) a specified financial institution,

(b) any particular corporation that owns shares of another corporation in which it has a substantial interest, except where the other corporation would, but for that substantial interest, be a financial intermediary corporation or a private holding corporation, or

(c) any particular corporation in which another corporation owns shares and has a substantial interest, except where the other corporation would, but for that substantial interest, be a private holding corporation. (*société de portefeuille privée*)

Substantial interest

(2) For the purposes of this Part, a shareholder has a substantial interest in a corporation at any time if the corporation is a taxable Canadian corporation and

(a) the shareholder is related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) to the corporation at that time; or

(b) the shareholder owned, at that time,

(i) shares of the capital stock of the corporation that would give the shareholder 25% or more of the votes that could be cast under all circumstances at an annual meeting of shareholders of the corporation,

(ii) shares of the capital stock of the corporation having a fair market value of 25% or more of the fair market value of all the issued shares of the capital stock of the corporation,

and either

(iii) shares (other than shares that would be taxable preferred shares if the definition ***taxable preferred share*** in subsection 248(1) were read without reference to subparagraph (b)(iv) thereof and if they were issued after June 18, 1987 and were not grandfathered shares) of the capital stock of the corporation having a fair market value of 25% or more of the fair market value of all those shares of the capital stock of the corporation, or

(iv) in respect of each class of shares of the capital stock of the corporation, shares of that class having a fair market value of 25% or more of the fair market value of all the issued shares of that class,

and for the purposes of this paragraph, a shareholder shall be deemed to own at any time each share of the capital stock of a corporation that is owned, otherwise

b) la société qui est propriétaire d'actions d'une autre société dans laquelle elle a une participation importante, sauf dans le cas où cette autre société serait un intermédiaire financier constitué en société ou une société de portefeuille privée si la société n'avait pas cette participation importante;

c) la société dont des actions sont la propriété d'une autre société et dans laquelle l'autre société a une participation importante, sauf dans le cas où cette autre société serait une société de portefeuille privée si elle n'avait pas cette participation importante. (*private holding corporation*)

Participation importante

(2) Pour l'application de la présente partie, un actionnaire a une participation importante dans une société à un moment donné si cette société est une société canadienne imposable et si, à ce moment, l'une ou l'autre des conditions suivantes est remplie :

a) il est lié à la société, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b);

b) il est propriétaire à la fois :

(i) d'actions du capital-actions de la société qui lui confèrent 25 % ou plus des voix pouvant dans tous les cas être exprimées à l'assemblée annuelle des actionnaires de la société,

(ii) d'actions du capital-actions de la société dont la juste valeur marchande correspond à 25 % ou plus de la juste valeur marchande de toutes les actions émises du capital-actions de la société,

et :

(iii) soit d'actions du capital-actions de la société — à l'exclusion des actions qui seraient des actions privilégiées imposables compte non tenu du sous-alinéa b)(iv) de la définition d'***action privilégiée imposable***, au paragraphe 248(1), et si elles étaient émises après le 18 juin 1987 et n'étaient pas des actions de régime transitoire — dont la juste valeur marchande correspond à 25 % ou plus de la juste valeur marchande de toutes ces actions du capital-actions de la société,

(iv) soit d'actions de chaque catégorie du capital-actions de la société dont la juste valeur marchande correspond à au moins 25 % de la juste valeur marchande de toutes les actions émises de cette catégorie;

than by reason of this paragraph, at that time by a person to whom the shareholder is related (otherwise than by reason of a right referred to in paragraph 251(5)(b)).

pour l'application du présent alinéa, un actionnaire est réputé propriétaire à un moment donné d'une action du capital-actions d'une société dont une personne liée à l'actionnaire — autrement qu'à cause d'un droit visé à l'alinéa 251(5)b) — est propriétaire à ce moment autrement qu'à cause du présent alinéa.

Idem

(3) Notwithstanding subsection 191(2),

(a) where it can reasonably be considered that the principal purpose for a person acquiring an interest that would, but for this subsection, be a substantial interest in a corporation is to avoid or limit the application of Part I or IV.1 or this Part, the person shall be deemed not to have a substantial interest in the corporation;

(b) where it can reasonably be considered that the principal purpose for an acquisition of a share of the capital stock of a corporation (in this paragraph referred to as the "issuer") by any person (in this paragraph referred to as the "acquirer") who had, immediately after the time of the acquisition, a substantial interest in the issuer from another person who did not, immediately before that time, have a substantial interest in the issuer, was to avoid or limit the application of Part I or IV.1 or this Part with respect to a dividend on the share, the acquirer and specified persons (within the meaning assigned by paragraph (h) of the definition ***taxable preferred share*** in subsection 248(1)) in relation to the acquirer shall be deemed not to have a substantial interest in the issuer with respect to any dividend paid on the share;

(c) a corporation described in paragraphs (a) to (f) of the definition ***financial intermediary corporation*** in subsection 191(1) shall be deemed not to have a substantial interest in another corporation unless it is related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) to the other corporation;

(d) any partnership or trust, other than

(i) a partnership all the members of which are related to each other otherwise than by reason of a right referred to in paragraph 251(5)(b),

(ii) a trust in which each person who is beneficially interested is

(A) related (otherwise than because of a right referred to in paragraph 251(5)(b)) to each other person who is beneficially interested in the trust and who is not a registered charity, or

Restrictions

(3) Malgré le paragraphe (2):

a) s'il est raisonnable de considérer que l'acquisition par une personne d'une participation qui serait une participation importante dans une société, sans le présent paragraphe, a pour principal objet de la soustraire à l'application de la présente partie ou des parties I ou IV.1 ou d'en restreindre l'application à son égard, la personne est réputée ne pas avoir une participation importante dans la société;

b) s'il est raisonnable de considérer que l'acquisition d'une action du capital-actions d'une société par une personne (appelée « acquéreur » au présent alinéa) qui, juste après l'acquisition, a une participation importante dans la société, auprès d'une autre personne qui n'avait pas de participation importante dans la société juste avant ce moment, a pour principal objet de soustraire l'acquéreur à l'application de la présente partie ou des parties I ou IV.1 ou d'en restreindre l'application à son égard quant à tout dividende sur l'action, l'acquéreur ainsi que les personnes qui lui sont apparentées (au sens de l'alinéa h) de la définition de ***action privilégiée imposable*** au paragraphe 248(1)) sont réputés ne pas avoir de participation importante dans la société quant à tout dividende versé sur l'action;

c) les sociétés visées aux alinéas a) à f) de la définition d'***intermédiaire financier constitué en société***, au paragraphe (1), sont réputées n'avoir une participation importante dans une autre société que si elles sont liées à cette autre société autrement qu'à cause d'un droit visé à l'alinéa 251(5)b);

d) les sociétés de personnes et les fiducies sont réputées ne pas avoir une participation importante dans une société, sauf s'il s'agit :

(i) de sociétés de personnes dont tous les associés sont liés les uns aux autres autrement qu'à cause d'un droit visé à l'alinéa 251(5)b),

(ii) de fiducies dans le cadre desquelles chacune des personnes y ayant un droit de bénéficiaire est soit un organisme de bienfaisance enregistré, soit une personne liée, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), à chacune des autres

(B) a registered charity

and for the purpose of this subparagraph, where a particular person who is beneficially interested in the trust is an aunt, uncle, niece or nephew of another person, the particular person and any person who is a child or descendant of the particular person shall be deemed to be related to the other person and to any person who is the child or descendant of the other person, or

(iii) a trust in which only one person (other than a registered charity) is beneficially interested,

shall be deemed not to have a substantial interest in a corporation; and

(e) where at any time a shareholder holds a share of the capital stock of a corporation to which paragraph (g) of the definition ***taxable preferred share*** in subsection 248(1) or paragraph (e) of the definition ***taxable RFI share*** in that subsection applies to deem the share to be a taxable preferred share or a taxable RFI share, the shareholder shall be deemed not to have a substantial interest in the corporation at that time.

personnes, sauf les organismes de bienfaisance enregistrés, qui ont un droit de bénéficiaire dans la fiducie, auquel cas, pour l'application du présent sous-alinéa, toute personne ayant ce droit de bénéficiaire qui est la tante, l'oncle, la nièce ou le neveu d'une autre personne est réputée, ainsi ses enfants et autres descendants, être liée à cette autre personne et aux enfants et autres descendants de cette autre personne,

(iii) de fiducies dans lesquelles une seule personne, autre qu'un organisme de bienfaisance enregistré, a un droit de bénéficiaire;

e) l'actionnaire qui, à un moment donné, détient une action du capital-actions d'une société qui est réputée, par application de l'alinéa g) de la définition d'***action privilégiée imposable*** ou de l'alinéa e) de la définition d'***action particulière à une institution financière***, au paragraphe 248(1), être une action privilégiée imposable ou une action particulière à une institution financière est réputé ne pas avoir une participation importante dans la société à ce moment.

Deemed dividends

(4) Where at any particular time

(a) a share of the capital stock of a corporation is issued,

(b) the terms or conditions of a share of the capital stock of a corporation are changed, or

(c) an agreement in respect of a share of the capital stock of a corporation is changed or entered into,

and the terms or conditions of the share or the agreement in respect of the share specify an amount in respect of the share, including an amount for which the share is to be redeemed, acquired or cancelled (together with, where so provided, any accrued and unpaid dividends thereon) and where paragraph 191(4)(a) applies, the specified amount does not exceed the fair market value of the consideration for which the share was issued, and where paragraph 191(4)(b) or 191(4)(c) applies, the specified amount does not exceed the fair market value of the share immediately before the particular time, the amount of any dividend deemed to have been paid on a redemption, acquisition or cancellation of the share to which subsection 84(2) or 84(3) applies shall

(d) for the purposes of this Part and section 187.2, be deemed to be an excluded dividend and an excepted dividend, respectively, unless

Dividendes réputés exclus

(4) Si, à un moment donné, se produit l'un ou l'autre des cas suivants :

a) une action du capital-actions d'une société est émise;

b) les caractéristiques d'une telle action sont modifiées;

c) une convention concernant une telle action est modifiée ou conclue,

et si les caractéristiques de l'action ou cette convention indiquent un montant au titre de l'action, y compris un montant contre lequel l'action doit être rachetée, acquise ou annulée et, le cas échéant, les dividendes accumulés et non versés sur l'action et si, en cas d'application de l'alinéa a), le montant indiqué ne dépasse pas la juste valeur marchande de la contrepartie pour laquelle l'action a été émise et, en cas d'application de l'alinéa b) ou c), le montant indiqué ne dépasse pas la juste valeur marchande de l'action immédiatement avant le moment donné, tout dividende réputé versé au rachat, à l'acquisition ou à l'annulation d'une action à laquelle le paragraphe 84(2) ou (3) s'applique :

d) est réputé être un dividende exclu pour l'application de la présente partie et de l'article 187.2, sauf si :

(i) where paragraph 191(4)(a) applies, the share was issued for consideration that included a taxable preferred share, or

(ii) where paragraph 191(4)(b) or 191(4)(c) applies, the share was, immediately before the particular time, a taxable preferred share, and

(e) be deemed not to be a dividend to which subsection 112(2.1) or 138(6) applies to deny a deduction with respect to the dividend in computing the taxable income of a corporation under subsection 112(1) or 112(2) or 138(6), unless

(i) where paragraph 191(4)(a) applies, the share was issued for consideration that included a term preferred share or for the purpose of raising capital or as part of a series of transactions or events the purpose of which was to raise capital, and

(ii) where paragraph 191(4)(b) or 191(4)(c) applies, the share was, immediately before the particular time, a term preferred share, or the terms or conditions of the share were changed, or the agreement in respect of the share was changed or entered into for the purpose of raising capital or as part of a series of transactions or events the purpose of which was to raise capital.

Where s. (4) does not apply

(5) Subsection (4) does not apply to the extent that the total of

(a) the amount paid on the redemption, acquisition or cancellation of the share, and

(b) all amounts each of which is an amount (other than an amount deemed by subsection 84(4) to be a dividend) paid, after the particular time and before the redemption, acquisition or cancellation of the share, on a reduction of the paid-up capital of the corporation in respect of the share

exceeds the specified amount referred to in subsection (4).

Excluded dividend — partner

(6) If at any time a corporation pays a dividend to a partnership, the corporation is, for the purposes of this subsection and paragraph (a) of the definition ***excluded dividend*** in subsection (1), deemed to have paid at that time to each member of the partnership a dividend equal to the amount determined by the formula

A × B

where

(i) en cas d'application de l'alinéa a), l'action a été émise pour une contrepartie qui comprend une action privilégiée imposable,

(ii) en cas d'application de l'alinéa b) ou c), l'action était une action privilégiée imposable immédiatement avant le moment donné;

e) est réputé ne pas être un dividende au titre duquel le paragraphe 112(2.1) ou 138(6) ne permet pas de déduction dans le calcul du revenu imposable d'une société en application du paragraphe 112(1) ou (2) ou 138(6), sauf si :

(i) en cas d'application de l'alinéa a), l'action a été émise pour une contrepartie qui comprend une action privilégiée à terme ou afin de réunir du capital ou comme partie d'une série d'opérations ou d'événements visant à réunir du capital,

(ii) en cas d'application de l'alinéa b) ou c), l'action était une action privilégiée à terme immédiatement avant le moment donné ou les caractéristiques de l'action ont été modifiées, ou la convention concernant l'action a été modifiée ou conclue, afin de réunir du capital ou comme partie d'une série d'opérations ou d'événements visant à réunir du capital.

Non-application du par. (4)

(5) Le paragraphe (4) ne s'applique pas dans la mesure où le total des montants suivants dépasse le montant indiqué au paragraphe (4):

a) le montant versé au rachat, à l'acquisition ou à l'annulation de l'action;

b) les montants (à l'exception des montants réputés par le paragraphe 84(4) être des dividendes) versés — après le moment donné et avant le rachat, l'acquisition ou l'annulation de l'action — à la réduction du capital versé au titre de l'action.

Dividende exclu — associé

(6) La société qui verse un dividende à une société de personnes à un moment donné est réputée, pour l'application du présent paragraphe et de l'alinéa a) de la définition de ***dividende exclu*** au paragraphe (1), avoir versé à ce moment, à chaque associé de la société de personnes, un dividende égal a(6)u montant obtenu par la formule suivante :

A × B

A is the amount of the dividend paid to the partnership; and

B is the member's specified proportion for the last fiscal period of the partnership that ended before that time (or, if the partnership's first fiscal period includes that time, for that first fiscal period).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 191; 1994, c. 7, Sch. II, s. 162, Sch. VIII, s. 115; 2013, c. 34, s. 332.

Tax on taxable dividends

191.1 (1) Every taxable Canadian corporation shall pay a tax under this Part for each taxation year equal to the amount, if any, by which

(a) the total of

(i) the amount determined by multiplying the amount by which the total of all taxable dividends (other than excluded dividends) paid by the corporation in the year and after 1987 on short-term preferred shares exceeds the corporation's dividend allowance for the year, by

(A) 50% for dividends paid in a taxation year that ends before 2010,

(B) 45% for dividends paid in a taxation year that ends after 2009 and before 2012,

(C) 40% for dividends paid in a taxation year that ends after 2011,

(ii) 40% of the amount, if any, by which the total of all taxable dividends (other than excluded dividends) paid by the corporation in the year and after 1987 on taxable preferred shares (other than short-term preferred shares) of all classes in respect of which an election under subsection 191.2(1) has been made exceeds the amount, if any, by which the corporation's dividend allowance for the year exceeds the total of the dividends referred to in subparagraph 191.1(1)(a)(i),

(iii) 25% of the amount, if any, by which the total of all taxable dividends (other than excluded dividends) paid by the corporation in the year and after 1987 on taxable preferred shares (other than short-term preferred shares) of all classes in respect of which an election under subsection 191.2(1) has not been made exceeds the amount, if any, by which the corporation's dividend allowance for the year exceeds the total of the dividends referred to in

où :

A représente le montant du dividende versé à la société de personnes;

B la proportion déterminée qui revient à l'associé pour le dernier exercice de la société de personnes s'étant terminé avant ce moment ou, si le premier exercice de la société de personnes comprend ce moment, pour ce premier exercice.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 191; 1994, ch. 7, ann. II, art. 162, ann. VIII, art. 115; 2013, ch. 34, art. 332.

Impôt sur les dividendes d'actions privilégiées imposables

191.1 (1) Toute société canadienne imposable est redevable, pour chaque année d'imposition, d'un impôt en application de la présente partie égal à l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants suivants :

(i) le résultat de la multiplication de l'excédent du total des dividendes imposables, sauf les dividendes exclus, que la société verse au cours de l'année et après 1987 sur des actions privilégiées à court terme sur l'exemption pour dividendes qui lui est applicable pour l'année, par :

(A) 50 %, s'il s'agit de dividendes versés au cours d'une année d'imposition se terminant avant 2010,

(B) 45 %, s'il s'agit de dividendes versés au cours d'une année d'imposition se terminant après 2009 et avant 2012,

(C) 40 %, s'il s'agit de dividendes versés au cours d'une année d'imposition se terminant après 2011,

(ii) 40 % de l'excédent éventuel du total des dividendes imposables, sauf des dividendes exclus, que la société verse au cours de l'année et après 1987 sur des action privilégiées imposables — qui ne sont pas des actions privilégiées à court terme — de chaque catégorie choisie en application du paragraphe 191.2(1), sur l'excédent éventuel de l'exemption pour dividendes applicable à la société pour l'année sur le total des dividendes visés au sous-alinéa (i),

(iii) 25 % de l'excédent éventuel du total des dividendes imposables, sauf des dividendes exclus, que la société verse au cours de l'année et après 1987 sur des actions privilégiées imposables — qui ne sont pas des actions privilégiées à court terme — de

subparagraphs 191.1(1)(a)(i) and 191.1(1)(a)(ii), and

(iv) the total of all amounts each of which is an amount determined for the year in respect of the corporation under paragraph 191.3(1)(d)

exceeds

(b) the total of all amounts each of which is an amount determined for the year in respect of the corporation under paragraph 191.3(1)(c).

chaque catégorie qui n'a pas été choisie en application du paragraphe 191.2(1), sur l'excédent éventuel de l'exemption pour dividendes applicable à la société pour l'année sur le total des dividendes visés aux sous-alinéas (i) et (ii),

(iv) le total des montants dont chacun représente pour la société un montant déterminé pour l'année en application de l'alinéa 191.3(1)b);

b) le total des montants dont chacun représente pour la société un montant déterminé pour l'année en application de l'alinéa 191.3(1)a).

Dividend allowance

(2) For the purposes of this section, a taxable Canadian corporation's ***dividend allowance*** for a taxation year is the amount, if any, by which

(a) $500,000

exceeds

(b) the amount, if any, by which the total of taxable dividends (other than excluded dividends) paid by it on taxable preferred shares, or shares that would be taxable preferred shares if they were issued after June 18, 1987 and were not grandfathered shares, in the calendar year immediately preceding the calendar year in which the taxation year ended exceeds $1,000,000,

unless the corporation is associated in the taxation year with one or more other taxable Canadian corporations, in which case, except as otherwise provided in this section, its dividend allowance for the year is nil.

Exemption pour dividendes

(2) Pour l'application du présent article, l'exemption pour dividendes applicable à une société canadienne imposable pour une année d'imposition est l'excédent éventuel de 500 000 $ sur l'excédent éventuel du total des dividendes imposables, sauf des dividendes exclus, versés par la société sur des actions privilégiées imposables ou sur des actions qui en seraient si elles étaient émises après le 18 juin 1987 et si elles n'étaient pas des actions de régime transitoire, au cours de l'année civile qui précède celle au cours de laquelle l'année d'imposition se termine, sur 1 000 000 $. Toutefois, si au cours de l'année d'imposition la société est associée avec une ou plusieurs autres sociétés canadiennes imposables, l'exemption pour dividendes qui lui est applicable pour l'année est nulle, sauf disposition contraire du présent article.

Associated corporations

(3) If all of the taxable Canadian corporations that are associated with each other in a taxation year and that have paid taxable dividends (other than excluded dividends) on taxable preferred shares in the year have filed with the Minister in prescribed form an agreement whereby, for the purposes of this section, they allocate an amount to one or more of them for the taxation year, and the amount so allocated or the total of the amounts so allocated, as the case may be, is equal to the total dividend allowance for the year of those corporations and all other taxable Canadian corporations with which each such corporation is associated in the year, the dividend allowance for the year for each of the corporations is the amount so allocated to it.

Sociétés associées

(3) Si toutes les sociétés canadiennes imposables qui sont associées entre elles au cours d'une année d'imposition au cours de laquelle elles ont versé des dividendes imposables, sauf des dividendes exclus, sur des actions privilégiées imposables présentent au ministre, sur formulaire prescrit, une convention qui prévoit, pour l'application du présent article, l'attribution à l'une d'elles ou la répartition entre plusieurs d'entre elles de l'exemption totale pour dividendes applicable pour l'année à celles-ci et à toutes les autres sociétés canadiennes imposables avec qui chacune d'elles est associée au cours de l'année, l'exemption pour dividendes applicable à chaque société pour l'année est le montant qui lui est ainsi attribué.

Total dividend allowance

(4) For the purposes of this section, the ***total dividend allowance*** of a group of taxable Canadian corporations

Exemption totale pour dividendes

(4) Pour l'application du présent article, l'exemption totale pour dividendes applicable à un groupe de sociétés canadiennes imposables associées entre elles au cours

that are associated with each other in a taxation year is the amount, if any, by which

(a) $500,000

exceeds

(b) the amount, if any, by which the total of taxable dividends (other than excluded dividends) paid by those corporations on taxable preferred shares, or shares that would be taxable preferred shares if they were issued after June 18, 1987 and were not grandfathered shares, in the calendar year immediately preceding the calendar year in which the taxation year ended exceeds $1,000,000.

d'une année d'imposition est l'excédent éventuel de 500 000 $ sur l'excédent éventuel du total des dividendes imposables, sauf des dividendes exclus, que ces sociétés ont versés sur des actions privilégiées imposables ou sur des actions qui en seraient si elles étaient émises après le 18 juin 1987 et si elles n'étaient pas des actions de régime transitoire, au cours de l'année civile qui précède celle au cours de laquelle l'année d'imposition se termine, sur 1 000 000 $.

Failure to file agreement

(5) If any of the taxable Canadian corporations that are associated with each other in a taxation year and that have paid taxable dividends (other than excluded dividends) on taxable preferred shares in the year has failed to file with the Minister an agreement as contemplated by subsection 191.1(3) within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax under this Part, the Minister shall, for the purpose of this section, allocate an amount to one or more of them for the taxation year, which amount or the total of which amounts, as the case may be, shall equal the total dividend allowance for the year for those corporations and all other taxable Canadian corporations with which each such corporation is associated in the year, and the dividend allowance for the year of each of the corporations is the amount so allocated to it.

Répartition par le ministre

(5) Si l'une des sociétés canadiennes imposables qui sont associées entre elles au cours d'une année d'imposition au cours de laquelle elles ont versé des dividendes imposables, sauf des dividendes exclus, sur des actions privilégiées imposables ne présente pas la convention visée au paragraphe (3) dans les 30 jours suivant l'avis écrit du ministre envoyé à l'une d'elles portant qu'une telle convention est nécessaire à l'établissement d'une cotisation concernant l'impôt en vertu de la présente partie, le ministre doit, pour l'application du présent article, attribuer à l'une d'elles ou répartir entre plusieurs d'entre elles pour l'année l'exemption totale pour dividendes applicable pour l'année à celles-ci et aux autres sociétés avec qui chacune d'elles est associée au cours de l'année. L'exemption pour dividendes applicable à chaque société pour l'année est alors le montant qui lui est ainsi attribué.

Dividend allowance in short years

(6) Notwithstanding any other provision of this section,

(a) where a corporation has a taxation year that is less than 51 weeks, its dividend allowance for the year is that proportion of its dividend allowance for the year determined without reference to this paragraph that the number of days in the year is of 365; and

(b) where a taxable Canadian corporation (in this paragraph referred to as the "first corporation") has more than one taxation year ending in a calendar year and is associated in two or more of those taxation years with another taxable Canadian corporation that has a taxation year ending in that calendar year, the dividend allowance of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to the application of paragraph 191.1(6)(a), an amount equal to the amount that would be its dividend

Exemption pour dividendes pour une année d'imposition de courte durée

(6) Malgré les autres dispositions du présent article :

a) l'exemption pour dividendes applicable à une société pour une année d'imposition qui compte moins de 51 semaines est réduite en proportion du nombre de jours de l'année par rapport à 365;

b) dans le cas où une société canadienne imposable compte plus d'une année d'imposition se terminant au cours d'une même année civile et où elle est associée dans au moins deux de ces années d'imposition à une autre société canadienne imposable dont l'année d'imposition se termine au cours de cette année civile, l'exemption pour dividendes applicable à la société pour chaque année d'imposition dans laquelle elle est associée à l'autre société et qui se termine au cours de cette année civile est, sous réserve de l'application de l'alinéa a), égale à l'exemption pour dividendes qui lui serait applicable pour la première de ces années

allowance for the first such taxation year if the allowance were determined without reference to paragraph 191.1(6)(a).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 191.1; 2013, c. 34, s. 333.

Election

191.2 (1) For the purposes of determining the tax payable by reason of subparagraphs 191.1(1)(a)(ii) and 191.1(1)(a)(iii), a taxable Canadian corporation (other than a financial intermediary corporation or a private holding corporation) may make an election with respect to a class of its taxable preferred shares the terms and conditions of which require an election to be made under this subsection by filing a prescribed form with the Minister

(a) not later than the day on or before which its return of income under Part I is required by section 150 to be filed for the taxation year in which shares of that class are first issued or first become taxable preferred shares; or

(b) within the 6 month period commencing on any of the following days, namely,

(i) the day of sending of any notice of assessment of tax payable under this Part or Part I by the corporation for that year,

(ii) where the corporation has served a notice of objection to an assessment described in subparagraph (i), the day of sending of a notice that the Minister has confirmed or varied the assessment,

(iii) where the corporation has instituted an appeal in respect of an assessment described in subparagraph 191.2(1)(b)(i) to the Tax Court of Canada, the day of mailing of a copy of the decision of the Court to the taxpayer, and

(iv) where the corporation has instituted an appeal in respect of an assessment described in subparagraph 191.2(1)(b)(i) to the Federal Court of Appeal or the Supreme Court of Canada, the day on which the judgment of the Court is pronounced or delivered or the day on which the corporation discontinues the appeal.

Time of election

(2) An election with respect to a class of taxable preferred shares filed in accordance with subsection 191.2(1) shall be deemed to have been filed before any dividend on a share of that class is paid.

d'imposition si cette exemption était calculée compte non tenu de l'alinéa a).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 191.1; 2013, ch. 34, art. 333.

Choix

191.2 (1) Une société canadienne imposable — sauf s'il s'agit d'un intermédiaire financier constitué en société ou d'une société de portefeuille privée — peut faire un choix pour qu'une catégorie d'actions privilégiées imposables de son capital-actions dont les caractéristiques prévoient qu'un choix doit être fait en application du présent paragraphe soit visée pour le calcul du montant d'impôt visé aux sous-alinéas 191.1(1)a)(ii) et (iii). Le choix est fait sur présentation au ministre d'un formulaire prescrit :

a) soit au plus tard à la date où la société est tenue par l'article 150 de produire sa déclaration de revenu en vertu de la partie I pour l'année d'imposition au cours de laquelle des actions de la catégorie ont été émises pour la première fois ou sont devenues pour la première fois des actions privilégiées imposables;

b) soit dans les six mois commençant l'un des jours suivants :

(i) le jour d'envoi d'un avis de cotisation pour l'impôt payable par la société pour l'année en vertu de la présente partie ou de la partie I,

(ii) si la société a signifié un avis d'opposition à une cotisation visée au sous-alinéa (i), le jour d'envoi d'un avis portant que le ministre a confirmé ou modifié la cotisation,

(iii) si la société a interjeté appel d'une cotisation visée au sous-alinéa (i) à la Cour canadienne de l'impôt, le jour de mise à la poste d'une copie de la décision de la cour, adressée au contribuable,

(iv) si la société a interjeté appel d'une cotisation visée au sous-alinéa (i) à la Cour d'appel fédérale ou à la Cour suprême du Canada, le jour où le jugement ou l'arrêt de la cour est rendu ou le jour où la société retire l'appel.

Moment du choix

(2) Le choix concernant une catégorie d'actions privilégiées imposables qui est présenté conformément au paragraphe (1) est réputé l'être avant qu'un dividende soit versé sur une action de cette catégorie.

Assessment

(3) Where an election has been filed under subsection 191.2(1), the Minister shall, notwithstanding subsections 152(4) and 152(5), assess or reassess the tax, interest or penalties payable under this Act by any corporation for any relevant taxation year in order to take into account the election.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 191.2; 2002, c. 8, s. 184; 2010, c. 25, s. 53.

Agreement respecting liability for tax

191.3 (1) Where a corporation (in this section referred to as the "transferor corporation") and a taxable Canadian corporation (in this section referred to as the "transferee corporation") that was related (otherwise than because of a right referred to in paragraph 251(5)(b) or because of the control of any corporation by Her Majesty in right of Canada or a province) to the transferor corporation

(a) throughout a particular taxation year of the transferor corporation (or, where the transferee corporation came into existence in that year, throughout the part of that year in which the transferee corporation was in existence), and

(b) throughout the last taxation year of the transferee corporation ending at or before the end of the particular taxation year (or, where the transferor corporation came into existence in that last taxation year of the transferee corporation, throughout that part of that last year in which the transferor corporation was in existence)

file as provided in subsection 191.3(2) an agreement or amended agreement with the Minister under which the transferee corporation agrees to pay all or any portion, as is specified in the agreement, of the tax for that taxation year of the transferor corporation that would, but for the agreement, be payable under this Part by the transferor corporation (other than any tax payable by the transferor corporation by reason of another agreement made under this section), the following rules apply, namely,

(c) the amount of tax specified in the agreement is an amount determined for that taxation year of the transferor corporation in respect of the transferor corporation for the purpose of paragraph 191.1(1)(b),

(d) the amount of tax specified in the agreement is an amount determined in respect of the transferee corporation for its last taxation year ending at or before the end of that taxation year of the transferor corporation for the purpose of subparagraph 191.1(1)(a)(iv), and

Cotisation

(3) En cas de choix présenté conformément au paragraphe (1), le ministre, malgré les paragraphes 152(4) et (5), établit les cotisation et nouvelle cotisation voulues, pour rendre le choix applicable, concernant l'impôt, les intérêts et les pénalités payables en application de la présente loi par toute société pour toute année d'imposition pertinente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 191.2; 2002, ch. 8, art. 184; 2010, ch. 25, art. 53.

Solidarité conventionnelle

191.3 (1) Les règles suivantes s'appliquent dans le cas où une société (appelée « société cédante » au présent article) et une société canadienne imposable (appelée « société cessionnaire » au présent article) qui est liée à celle-ci tout au long d'une année d'imposition donnée de la société cédante (ou, si la société cessionnaire a commencé à exister au cours de cette année, tout au long de la partie de cette année où elle existait) et tout au long de la dernière année d'imposition de la société cessionnaire se terminant à la fin de l'année d'imposition donnée ou antérieurement (ou, si la société cédante a commencé à exister au cours de cette dernière année d'imposition de la société cessionnaire, tout au long de la partie de cette année où elle existait), autrement qu'à cause d'un droit visé à l'alinéa 251(5)b) ou du contrôle d'une société par Sa Majesté du chef du Canada ou d'une province, présentent au ministre, conformément au paragraphe (2), une convention ou une convention modifiée par laquelle la société cessionnaire convient de payer tout ou partie, selon ce que prévoit la convention, de l'impôt pour cette année d'imposition de la société cédante dont, sans cette convention, la société cédante serait redevable en vertu de la présente partie, à l'exception de tout impôt dont la société cédante est redevable à cause d'une autre convention faite en application du présent article :

a) le montant d'impôt indiqué dans la convention est, pour la société cédante, le montant déterminé pour cette année d'imposition de la société cédante, pour l'application de l'alinéa 191.1(1)b);

b) le montant d'impôt indiqué dans la convention est, pour la société cessionnaire, le montant déterminé pour la dernière année d'imposition de celle-ci se terminant à la fin de cette année d'imposition de la société cédante ou avant, pour l'application du sous-alinéa 191.1(1)a)(iv);

c) la société cédante et la société cessionnaire sont solidairement débitrices du montant d'impôt indiqué dans la convention et de tout intérêt et de toute pénalité pouvant s'y rattacher.

(e) the transferor corporation and the transferee corporation are jointly and severally, or solidarily, liable to pay the amount of tax specified in the agreement and any interest or penalty in respect thereof.

Consideration for agreement

(1.1) For the purposes of Part I of this Act, where property is acquired at any time by a transferee corporation as consideration for entering into an agreement with a transferor corporation that is filed under this section,

(a) where the property was owned by the transferor corporation immediately before that time,

(i) the transferor corporation shall be deemed to have disposed of the property at that time for proceeds equal to the fair market value of the property at that time, and

(ii) the transferor corporation shall not be entitled to deduct any amount in computing its income as a consequence of the transfer of the property, except any amount arising as a consequence of subparagraph 191.3(1.1)(a)(i);

(b) the cost at which the property was acquired by the transferee corporation at that time shall be deemed to be equal to the fair market value of the property at that time;

(c) the transferee corporation shall not be required to add an amount in computing its income solely because of the acquisition at that time of the property; and

(d) no benefit shall be deemed to have been conferred on the transferor corporation as a consequence of the transferor corporation entering into an agreement filed under this section.

Manner of filing agreement

(2) An agreement or amended agreement referred to in subsection 191.3(1) between a transferor corporation and a transferee corporation shall be deemed not to have been filed with the Minister unless

(a) it is in prescribed form;

(b) it is filed on or before the day on or before which the transferor corporation's return for the year in respect of which the agreement is filed is required to be filed under this Part or within the 90-day period beginning on the day of sending of a notice of assessment of tax payable under this Part or Part I by the transferor corporation for the year or by the transferee corporation for its taxation year ending in the calendar year in which the taxation year of the transferor corporation

Contrepartie d'une convention

(1.1) Pour l'application de la partie I de la présente loi, dans le cas où une société cessionnaire acquiert un bien à un moment donné en contrepartie de la conclusion d'une convention avec une société cédante qui est produite en vertu du présent article, les règles suivantes s'appliquent :

a) si le bien appartenait à la société cédante immédiatement avant ce moment :

(i) la société cédante est réputée avoir disposé du bien à ce moment pour un produit égal à sa juste valeur marchande à ce moment,

(ii) seuls les montants découlant de l'application du sous-alinéa (i) peuvent être déduits dans le calcul du revenu de la société cédante par suite du transfert du bien;

b) le coût auquel la société cessionnaire a acquis le bien à ce moment est réputé égal à la juste valeur marchande du bien à ce moment;

c) la société cessionnaire n'est pas tenue d'ajouter un montant dans le calcul de son revenu du seul fait qu'elle a acquis le bien à ce moment;

d) aucun avantage n'est réputé conféré à la société cédante du fait qu'elle a conclu une convention produite en vertu du présent article.

Présentation de la convention

(2) La convention ou la convention modifiée entre une société cédante et une société cessionnaire, prévue au paragraphe (1), n'est considérée comme présentée au ministre que :

a) si elle l'est sur formulaire prescrit;

b) si elle l'est au plus tard à la date à laquelle la société cédante est tenue de produire sa déclaration en vertu de la présente partie pour l'année ou au cours de la période de 90 jours commençant à la date d'envoi :

(i) soit d'un avis de cotisation concernant l'impôt payable en vertu de la présente partie ou de la partie I par la société cédante pour l'année ou par la société cessionnaire pour l'année d'imposition se

ends or the sending of a notification that no tax is payable under this Part or Part I for that taxation year;

(c) it is accompanied by,

(i) where the directors of the transferor corporation are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made,

(ii) where the directors of the transferor corporation are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer the corporation's affairs authorized the agreement to be made,

(iii) where the directors of the transferee corporation are legally entitled to administer its affairs, a certified copy of their resolution authorizing the agreement to be made, and

(iv) where the directors of the transferee corporation are not legally entitled to administer its affairs, a certified copy of the document by which the person legally entitled to administer the corporation's affairs authorized the agreement to be made; and

(d) where the agreement is not an agreement to which subsection 191.3(4) applies, an agreement amending the agreement has not been filed in accordance with this section.

(e) [Repealed, 1994, c. 7, Sch. II, s. 163(1)]

terminant au cours de l'année civile au cours de laquelle l'année d'imposition de la société cédante se termine,

(ii) soit d'un avis indiquant qu'aucun impôt n'est payable en vertu de la présente partie ou de la partie I pour une telle année d'imposition;

c) si elle est accompagnée des documents suivants :

(i) si les administrateurs de la société cédante ont légalement le droit de gérer les affaires de celle-ci, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(ii) si les administrateurs de la société cédante n'ont pas ce droit, une copie certifiée conforme du document dans lequel la personne qui a ce droit autorise la conclusion de la convention,

(iii) si les administrateurs de la société cessionnaire ont légalement le droit de gérer les affaires de celle-ci, une copie certifiée conforme de la résolution autorisant la conclusion de la convention,

(iv) si les administrateurs de la société cessionnaire n'ont pas ce droit, une copie certifiée conforme du document dans lequel la personne qui a ce droit autorise la conclusion de la convention;

d) dans le cas où la convention n'est pas visée par le paragraphe (4), si une convention qui la modifie n'a pas été présentée conformément au présent article.

e) [Abrogé, 1994, ch. 7, ann. II, art. 163(1)]

Assessment

(3) Where an agreement or amended agreement between a transferor corporation and a transferee corporation has been filed under this section with the Minister, the Minister shall, notwithstanding subsections 152(4) and 152(5), assess or reassess the tax, interest and penalties payable under this Act by the transferor corporation and the transferee corporation for any relevant taxation year in order to take into account the agreement or amended agreement.

Cotisation

(3) En cas de présentation au ministre d'une convention ou d'une convention modifiée entre une société cédante et une société cessionnaire conformément au présent article, le ministre, malgré les paragraphes 152(4) et (5), établit les cotisation et nouvelle cotisation voulues, pour rendre la convention applicable, concernant l'impôt, les intérêts et les pénalités payables par ces sociétés en vertu de la présente loi pour l'année d'imposition en cause.

Related corporations

(4) Where, at any time, a corporation has become related to another corporation and it may reasonably be considered, having regard to all the circumstances, that the main purpose of the corporation becoming related to the other corporation was to transfer, by filing an agreement or an amended agreement under this section, the benefit of a deduction under paragraph 110(1)(k) to a transferee corporation, the amount of the tax specified in the

Sociétés liées

(4) Pour l'application de l'alinéa (1)a), le montant d'impôt indiqué dans la convention ou dans une convention modifiée est réputé nul dans le cas où une société devient, à un moment donné, liée à une autre société et où il est raisonnable de considérer, dans les circonstances, que le principal objet pour que la société devienne ainsi liée consiste à transférer à une société cessionnaire l'avantage d'une déduction visée à l'alinéa 110(1)k) par la

agreement shall, for the purposes of paragraph 191.3(1)(c), be deemed to be nil.

Assessment of transferor corporation

(5) The Minister may at any time assess a transferor corporation in respect of any amount for which it is jointly and severally, or solidarily, liable by reason of paragraph (1)(e) and the provisions of Division I of Part I are applicable in respect of the assessment as though it had been made under section 152.

Payment by transferor corporation

(6) If a transferor corporation and a transferee corporation are by reason of paragraph (1)(e) jointly and severally, or solidarily, liable in respect of tax payable by the transferee corporation under subparagraph 191.1(1)(a)(iv) and any interest or penalty in respect thereof, the following rules apply:

(a) a payment by the transferor corporation on account of the liability shall, to the extent thereof, discharge their liability; and

(b) a payment by the transferee corporation on account of its liability discharges the transferor corporation's liability only to the extent that the payment operates to reduce the transferee corporation's liability under this Act to an amount less than the amount in respect of which the transferor corporation was, by paragraph (1)(e), made jointly and severally, or solidarily, liable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 191.3; 1994, c. 7, Sch. II, s. 163; 1995, c. 21, s. 41; 1998, c. 19, s. 207; 2010, c. 25, s. 54; 2013, c. 34, s. 153.

Information return

191.4 (1) Every corporation that is or would, but for section 191.3, be liable to pay tax under this Part for a taxation year shall, not later than the day on or before which it is required by section 150 to file its return of income for the year under Part I, file with the Minister a return for the year under this Part in prescribed form containing an estimate of the tax payable by it under this Part for the year.

Provisions applicable to Part

(2) Sections 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I apply to this Part with such modifications as the circumstances require.

présentation de la convention ou de la convention modifiée.

Cotisation applicable à la société cédante

(5) Le ministre peut, à tout moment, établir une cotisation pour tout montant dont la société cédante est solidairement débitrice en application de l'alinéa (1)c). La section I de la partie I s'applique à cette cotisation comme si elle était établie en application de l'article 152.

Paiement par la société cédante

(6) Dans le cas où la société cédante et la société cessionnaire sont, en application de l'alinéa (1)c), solidairement débitrices du montant d'impôt visé au sous-alinéa 191.1(1)a)(iv), et de tout intérêt et toute pénalité pouvant s'y rattacher, les règles suivantes s'appliquent :

a) tout paiement par la société cédante au titre de ce montant éteint d'autant leur obligation;

b) tout paiement fait par la société cessionnaire au titre de ce montant n'éteint l'obligation de la société cédante que dans la mesure où le paiement sert à réduire le montant payable par la société cessionnaire en vertu de la présente loi à un montant inférieur à celui dont la société cédante est débitrice solidaire en application de l'alinéa (1)c).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 191.3; 1994, ch. 7, ann. II, art. 163; 1995, ch. 21, art. 41; 1998, ch. 19, art. 207; 2010, ch. 25, art. 54; 2013, ch. 34, art. 153.

Déclaration

191.4 (1) Toute société qui est redevable d'un impôt en application de la présente partie pour une année d'imposition ou le serait sans l'article 191.3 doit, au plus tard à la date où elle est tenue par l'article 150 de produire sa déclaration de revenu en vertu de la partie I pour l'année, produire auprès du ministre une déclaration concernant la présente partie, sur formulaire prescrit, contenant une estimation de l'impôt à payer en vertu de la présente partie pour l'année.

Dispositions applicables

(2) Les articles 152, 158 et 159, le paragraphe 161(11), les articles 162 à 167 ainsi que la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Provisions applicable -- Crown corporations

(3) Section 27 applies to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 191.4; 1994, c. 7, Sch. VIII, s. 116; 1998, c. 19, s. 208.

Disposition applicable aux sociétés d'État

(3) L'article 27 s'applique à la présente partie, avec les modifications nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 191.4; 1994, ch. 7, ann. VIII, art. 116; 1998, ch. 19, art. 208.

PART VII

Refundable Tax on Corporations Issuing Qualifying Shares

Corporation to pay tax

192 (1) Every corporation shall pay a tax under this Part for a taxation year equal to the total of all amounts each of which is an amount designated under subsection 192(4) in respect of a share issued by it in the year.

Definition of *Part VII refund*

(2) In this Part, the ***Part VII refund*** of a corporation for a taxation year means an amount equal to the lesser of

(a) the total of

(i) the amount, if any, by which the share-purchase tax credit of the corporation for the year exceeds the amount, if any, deducted in respect thereof by it for the year under subsection 127.2(1) from its tax otherwise payable under Part I for the year or the amount deemed by subsection 127.2(2) to have been paid on account of its tax payable under Part I for the year, as the case may be, and

(ii) such amount as the corporation may claim, not exceeding the amount that would, if paragraph (i) of the definition ***investment tax credit*** in subsection 127(9) were read without reference to the words "the year or", be its investment tax credit at the end of the year in respect of property acquired, or an expenditure made, after April 19, 1983 and on or before the last day of the year, and

(b) the refundable Part VII tax on hand of the corporation at the end of the year.

Definition of *refundable Part VII tax on hand*

(3) In this Part, ***refundable Part VII tax on hand*** of a corporation at the end of a taxation year means the amount, if any, by which

PARTIE VII

Impôt remboursable aux sociétés émettant des actions admissibles

Impôt payable par la société

192 (1) Toute société doit payer en vertu de la présente partie, pour chaque année d'imposition, un impôt égal au total des montants dont chacun représente un montant désigné au paragraphe (4) sur les actions admissibles qu'elle émet au cours de l'année.

Définition de *remboursement de la partie VII*

(2) Dans la présente partie, ***remboursement de la partie VII*** d'une société pour une année d'imposition s'entend du moins élevé des montants suivants :

a) le total des montants suivants :

(i) l'excédent éventuel du crédit d'impôt à l'achat d'actions de la société pour l'année sur le montant qu'elle a déduit pour l'année en vertu du paragraphe 127.2(1) de son impôt payable par ailleurs en vertu de la partie I pour l'année ou sur le montant réputé, en application du paragraphe 127.2(2), avoir été payé au titre de son impôt payable en vertu de la partie I pour l'année, selon le cas,

(ii) le montant que la société demande, jusqu'à concurrence du montant qui représenterait, compte non tenu du passage « pour l'année ou » à l'alinéa i) de la définition de ***crédit d'impôt à l'investissement***, au paragraphe 127(9), son crédit d'impôt à l'investissement à la fin de l'année, relativement à un bien acquis, ou à une dépense faite, après le 19 avril 1983 et au plus tard le dernier jour de l'année;

b) l'impôt de la partie VII en main remboursable de la société à la fin de l'année.

Définition de *impôt de la partie VII en main remboursable*

(3) Dans la présente partie, l'***impôt de la partie VII en main remboursable*** d'une société à la fin d'une année d'imposition correspond à l'excédent éventuel :

(a) the total of the taxes payable by it under this Part for the year and all preceding taxation years

exceeds the total of

(b) the total of its Part VII refunds for all preceding taxation years, and

(c) the total of all amounts each of which is an amount of tax included in the total described in paragraph 192(3)(a) in respect of a share that was issued by the corporation and that, at the time it was issued, was not a qualifying share.

a) du total des impôts qu'elle doit payer en vertu de la présente partie pour l'année et pour les années d'imposition antérieures,

sur le total des montants suivants :

b) le total de ses remboursements de la partie VII pour les années d'imposition antérieures;

c) le total des montants dont chacun représente un montant d'impôt inclus dans le total visé à l'alinéa a) relativement à une action qui a été émise par la société et qui n'était pas, au moment de son émission, une action admissible.

Corporation may designate amount

(4) Every taxable Canadian corporation may, by filing a prescribed form with the Minister at any time on or before the last day of the month immediately following the month in which it issued a qualifying share of its capital stock (other than a share issued before July, 1983 or after 1986, or a share in respect of which the corporation has, on or before that day, designated an amount under subsection 194(4)), designate, for the purposes of this Part and Part I, an amount in respect of that share not exceeding 25% of the amount by which

(a) the amount of the consideration for which the share was issued

exceeds

(b) the amount of any assistance (other than an amount included in computing the share-purchase tax credit of a taxpayer in respect of that share) provided or to be provided by a government, municipality or any other public authority in respect of, or for the acquisition of, the share.

Montant désigné par une société canadienne imposable

(4) Toute société canadienne imposable peut, en présentant un formulaire prescrit au ministre au plus tard le dernier jour du mois qui suit le mois de l'émission d'une action admissible de son capital-actions (à l'exclusion d'une action émise avant juillet 1983 ou après 1986 et d'une action à l'égard de laquelle la société a désigné, au plus tard ce jour-là, un montant en vertu du paragraphe 194(4)), désigner, pour l'application de la présente partie et de la partie I, un montant à l'égard de cette action qui ne dépasse pas 25 % de l'excédent du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) la contrepartie reçue pour l'action;

b) tout montant d'aide (à l'exception d'un montant inclus dans le calcul du crédit d'impôt à l'achat d'actions d'un contribuable relativement à cette action) accordé ou devant être accordé par un gouvernement, une municipalité ou une autre administration relativement à l'action ou en vue de son acquisition.

Computing paid-up capital after designation

(4.1) Where a corporation has designated an amount under subsection 192(4) in respect of shares issued at any time after May 23, 1985, in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of the corporation that includes those shares

(a) there shall be deducted the amount, if any, by which

(i) the increase as a result of the issue of those shares in the paid-up capital in respect of all shares of that class, determined without reference to this subsection as it applies to those shares,

exceeds

Calcul du capital versé après désignation

(4.1) Lorsqu'une société a désigné un montant en vertu du paragraphe (4) à l'égard d'actions émises à un moment quelconque postérieur au 23 mai 1985, dans le calcul, à un moment donné postérieur à ce moment quelconque, du capital versé au titre de la catégorie d'actions du capital-actions de la société qui comprend ces actions :

a) d'une part, doit être déduit l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(ii) the amount, if any, by which the total amount of consideration for which those shares were issued exceeds the total amount designated by the corporation under subsection 192(4) in respect of those shares; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid by the corporation after May 23, 1985 and before the particular time

exceeds

(B) the total that would be determined under clause 192(4.1)(b)(i)(A) if this Act were read without reference to paragraph 192(4.1)(a), and

(ii) the total of all amounts each of which is an amount required by paragraph 192(4.1)(a) to be deducted in computing the paid-up capital in respect of that class of shares after May 23, 1985 and before the particular time.

(i) le montant correspondant à l'augmentation — conséquence de l'émission de ces actions — du capital versé au titre de toutes les actions de la catégorie, calculée compte non tenu du présent paragraphe tel qu'il s'applique aux actions,

(ii) l'excédent éventuel du montant total correspondant à la contrepartie de l'émission des actions sur le montant total que la société a désigné en vertu du paragraphe (4) à l'égard des actions;

b) d'autre part, doit être ajouté le moindre des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant réputé, selon le paragraphe 84(3), (4) ou (4.1), être un dividende sur des actions de cette catégorie versé par la société après le 23 mai 1985 et avant le moment donné,

(B) le total calculé selon la division (A), compte non tenu de l'alinéa a),

(ii) le total des montants dont chacun représente un montant à déduire selon l'alinéa a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 23 mai 1985 et avant le moment donné.

Presumption

(5) For the purposes of this Act, the Part VII refund of a corporation for a taxation year shall be deemed to be an amount paid on account of its tax under this Part for the year on the last day of the second month following the end of the year.

Définition d'*action admissible*

(6) Pour l'application de la présente partie, ***action admissible***, à un moment donné, s'entend d'une action, visée par règlement, du capital-actions d'une société canadienne imposable, émise après le 22 mai 1985 et avant 1987.

Définition de *qualifying share*

(6) In this Part, ***qualifying share***, at any time, means a prescribed share of the capital stock of a taxable Canadian corporation issued after May 22, 1985 and before 1987.

Effet d'une obligation d'acquérir des actions

(7) Pour établir en vertu de l'article 251 si une société et une autre personne ont un lien de dépendance dans le cadre des dispositions réglementaires prises en application du paragraphe (6), la personne qui a une obligation contractuelle, en equity ou autre — immédiate ou future, conditionnelle ou non — d'acquérir des actions d'une société est réputée être dans la même position quant au contrôle de la société que si les actions lui appartenaient.

Effect of obligation to acquire shares

(7) When determining under section 251 whether a corporation and any other person do not deal with each other at arm's length for the purposes of any regulations made for the purposes of subsection 192(6), a person who has an obligation in equity, under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to acquire shares in a corporation, shall be deemed to be in the same position in relation to

the control of the corporation as if that person owned the shares.

Late designation

(8) Where a taxable Canadian corporation that issued a share does not designate an amount under subsection 192(4) in respect of the share on or before the day on or before which the designation was required by that subsection, the corporation shall be deemed to have made the designation on that day if

(a) the corporation has filed with the Minister a prescribed information return relating to the share-purchase tax credit in respect of the share within the time that it would have been so required to file the return had the designation been made on that day, and

(b) within 3 years after that day, the corporation has

(i) designated an amount in respect of the share by filing a prescribed form with the Minister, and

(ii) paid to the Receiver General, at the time the prescribed form referred to in subparagraph 192(8)(b)(i) is filed, an amount that is a reasonable estimate of the penalty payable by the corporation for the late designation in respect of the share,

except that, where the Minister has mailed a notice to the corporation that a designation has not been made in respect of the share under subsection 192(4), the designation and payment described in paragraph 192(8)(b) must be made by the corporation on or before the day that is 90 days after the day of the mailing.

Penalty for late designation

(9) Where, pursuant to subsection 192(8), a corporation made a late designation in respect of a share issued in a month, the corporation shall pay, for each month or part of a month that elapsed during the period beginning on the last day on or before which an amount could have been designated by the corporation under subsection 192(4) in respect of the share and ending on the day that the late designation is made, a penalty for the late designation in respect of the share in an amount equal to 1% of the amount designated in respect of the share, except that the maximum penalty payable under this subsection by the corporation for a month shall not exceed $500.

Deemed deduction

(10) For the purposes of this Act, other than the definition ***investment tax credit*** in subsection 127(9), the amount, if any, claimed under subparagraph 192(2)(a)(ii) by a taxpayer for a taxation year shall be deemed to have

Désignation tardive

(8) Lorsqu'une société canadienne imposable qui a émis une action de son capital-actions ne désigne pas un montant relatif à l'action en vertu du paragraphe (4) au plus tard à la date où cette désignation devait être effectuée en application de ce paragraphe, la société est réputée avoir effectué la désignation à cette date si :

a) d'une part, elle a présenté au ministre une déclaration de renseignements prescrite concernant le crédit d'impôt à l'achat d'actions à l'égard de l'action dans le délai où elle aurait été tenue de présenter la déclaration, si elle avait fait la désignation à cette date;

b) d'autre part, la société a, dans les 3 ans qui suivent cette date :

(i) désigné un montant relativement à l'action en présentant le formulaire prescrit au ministre,

(ii) payé au receveur général, au moment de la présentation du formulaire prescrit visé au sous-alinéa (i), un montant qui constitue une estimation raisonnable de la pénalité que la société doit payer pour la désignation tardive relative à l'action;

toutefois, lorsque le ministre a envoyé un avis par la poste à la société pour lui indiquer qu'aucune désignation n'a été faite à l'égard de l'action en vertu du paragraphe (4), la société doit effectuer la désignation et le paiement visés à l'alinéa b) au plus tard 90 jours après la mise à la poste de l'avis.

Pénalité pour désignation tardive

(9) Lorsque, conformément au paragraphe (8), une société a effectué une désignation tardive relativement à une action émise au cours d'un mois, la société doit payer, pour chaque mois ou fraction de mois qui s'écoule au cours de la période commençant le dernier jour du délai de désignation d'un montant par la société en vertu du paragraphe (4) relativement à l'action et finissant le jour de la désignation tardive, une pénalité pour désignation tardive relativement à l'action d'un montant égal à 1 % du montant désigné relativement à l'action; la pénalité maximale que doit payer la société en vertu du présent paragraphe pour un mois ne peut toutefois dépasser 500 $.

Déduction réputée

(10) Pour l'application de la présente loi, à l'exception de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9), le montant dont un contribuable demande le remboursement en vertu du sous-alinéa

been deducted by the taxpayer under subsection 127(5) for the year.

Restriction

(11) Where at any time a corporation has designated an amount under subsection 192(4) in respect of a share, no amount may be designated by the corporation at any subsequent time in respect of that share.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "192"; 1973-74, c. 14, s. 62(F); 1974-75-76, c. 26, s. 111; 1976-77, c. 4, s. 66; 1977-78, c. 1, s. 88; 1984, c. 1, s. 95, c. 45, s. 80; 1985, c. 45, s. 103; 1986, c. 6, s. 101.

Corporation to file return

193 (1) Every corporation that is liable to pay tax under this Part for a taxation year shall, on or before the day on or before which it is required to file its return of income under Part I for the year, file with the Minister a return for the year under this Part in prescribed form.

Corporation to make payment on account of tax

(2) Where, in a particular month in a taxation year, a corporation issues a share in respect of which it designates an amount under section 192, the corporation shall, on or before the last day of the month following the particular month, pay to the Receiver General on account of its tax payable under this Part for the year an amount equal to the total of all amounts so designated.

Interest

(3) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part or instalment thereof on or before the day on or before which the tax or instalment, as the case may be, was required to be paid, it shall pay to the Receiver General interest at the prescribed rate on the amount that it failed to pay computed from the day on or before which the amount was required to be paid to the day of payment.

Idem

(4) For the purposes of computing interest payable by a corporation under subsection 193(3) for any month or months in the period commencing on the first day of a taxation year and ending two months after the last day of the year in which period the corporation has designated an amount under section 192 in respect of a share issued by it in a particular month in the year, the corporation shall be deemed to have been liable to pay, on or before the last day of the month immediately following the particular month, a part or an instalment of tax for the year equal to that proportion of the amount, if any, by which

(2)a)(ii) pour une année d'imposition est réputé avoir été déduit par lui en vertu du paragraphe 127(5) pour l'année.

Restriction

(11) Lorsque, à un moment donné, une société a désigné un montant en vertu du paragraphe (4) à l'égard d'une action, elle ne peut désigner aucun autre montant par la suite à l'égard de cette action.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 192 »; 1973-74, ch. 14, art. 62(F); 1974-75-76, ch. 26, art. 111; 1976-77, ch. 4, art. 66; 1977-78, ch. 1, art. 88; 1984, ch. 1, art. 95, ch. 45, art. 80; 1985, ch. 45, art. 103; 1986, ch. 6, art. 101.

Production d'une déclaration

193 (1) Toute société tenue de payer de l'impôt en vertu de la présente partie pour une année d'imposition doit, dans le délai qui lui est accordé pour produire sa déclaration de revenu en vertu de la partie I pour l'année, produire auprès du ministre une déclaration pour l'année, selon le formulaire prescrit, en application de la présente partie.

Paiement au titre de l'impôt

(2) Lorsque, au cours d'un mois donné d'une année d'imposition, une société émet une action à l'égard de laquelle elle désigne un montant en vertu de l'article 192, elle doit, au plus tard le dernier jour du mois qui suit le mois donné, payer au receveur général au titre de son impôt payable en vertu de la présente partie pour l'année un montant égal au total des montants désignés ainsi.

Intérêts

(3) Une société qui n'a pas payé tout ou partie d'un acompte provisionnel ou de l'impôt dont elle est redevable en vertu de la présente partie, au plus tard à la date où cet acompte ou impôt devait être payé, doit verser au receveur général des intérêts sur le montant qu'elle n'a pas payé, calculés au taux prescrit pour la période allant de la date où ce montant devait être payé jusqu'à la date du paiement.

Idem

(4) Pour le calcul des intérêts payables par une société en vertu du paragraphe (3) pour un ou plusieurs mois de la période commençant le premier jour d'une année d'imposition et se terminant deux mois après le dernier jour de l'année, période au cours de laquelle la société a désigné un montant en vertu de l'article 192 à l'égard d'une action qu'elle a émise au cours d'un mois donné de l'année, la société est réputée avoir été redevable, au plus tard le dernier jour du mois qui suit le mois donné, d'un acompte provisionnel ou d'une fraction d'impôt pour l'année, égal au produit de la multiplication de l'excédent éventuel de son impôt payable en vertu de la présente

its tax payable under this Part for the year exceeds its Part VII refund for the year that

(a) the total of all amounts so designated by it under section 192 in respect of shares issued by it in the particular month

is of

(b) the total of all amounts so designated by it under section 192 in respect of shares issued by it in the year.

partie pour l'année sur son remboursement de la partie VII pour l'année par le rapport entre :

a) d'une part, le total des montants désignés par elle en vertu de l'article 192 relativement aux actions émises par elle au cours du mois donné;

b) d'autre part, le total des montants désignés par elle en vertu de l'article 192 relativement aux actions émises par elle au cours de l'année.

Evasion of tax

(5) Where a corporation that is liable to pay tax under this Part in respect of a share issued by it wilfully, in any manner whatever, evades or attempts to evade payment of the tax and a purchaser of the share or, where the purchaser is a partnership, a member of the partnership knew or ought to have known, at the time the share was acquired, that the corporation would wilfully evade or attempt to evade the tax, for the purposes of section 127.2, the share shall be deemed not to have been acquired.

Évasion fiscale

(5) Lorsqu'une société tenue de payer de l'impôt en vertu de la présente partie, relativement à une action qu'elle a émise sciemment, d'une manière quelconque, élude ou tente d'éluder le paiement de l'impôt et lorsque l'acheteur de l'action ou, lorsque l'acheteur est une société de personnes, un associé de la société de personnes savait ou aurait dû savoir, au moment où l'action a été acquise, que la société, sciemment, éluderait ou tenterait d'éluder l'impôt, l'action est réputée, pour l'application de l'article 127.2, ne pas avoir été acquise.

Undue deferral

(6) Where, in a transaction or as part of a series of transactions, a taxpayer acquires a share of a corporation that the taxpayer controls (within the meaning assigned by subsection 186(2)) and it may reasonably be considered that one of the main purposes of the acquisition was to reduce for a period interest on the taxpayer's liability for tax under this Part, the share shall, for the purposes of section 127.2 and this Part (other than this subsection), be deemed not to have been acquired by the taxpayer and not to have been issued by the corporation until the end of that period.

Étalement indu

(6) Lorsque, dans le cadre d'une opération ou d'une série d'opérations, un contribuable acquiert une action d'une société qu'il contrôle (au sens du paragraphe 186(2)) et qu'il est raisonnable de considérer qu'un des principaux motifs de l'acquisition était de réduire pour une période l'intérêt sur un montant d'impôt payable en vertu de la présente partie, l'action est réputée, pour l'application de l'article 127.2 et de la présente partie (sauf le présent paragraphe), ne pas avoir été acquise par le contribuable et ne pas avoir été émise par la société jusqu'à la fin de cette période.

Avoidance of tax

(7) Where, as part of a series of transactions or events one of the main purposes of which may reasonably be considered to be the avoidance of tax that might otherwise have been or become payable under Part II by any corporation, a particular corporation has issued a share in a taxation year in respect of which it has designated an amount under subsection 192(4), the particular corporation shall, on or before the last day of the second month after the end of the year, pay a tax under this Part for the year equal to 125% of the amount of tax under Part II that is or may be avoided by reason of the series of transactions or events.

Évitement fiscal

(7) Lorsque, dans le cadre d'une série d'opérations ou d'événements, il est raisonnable de considérer qu'un des principaux motifs était d'éviter de payer de l'impôt qui autrement aurait été ou serait devenu payable en vertu de la partie II par une société, une société donnée a émis une action au cours d'une année d'imposition à l'égard de laquelle elle a désigné un montant en vertu du paragraphe 192(4), la société donnée doit, au plus tard le dernier jour du deuxième mois suivant la fin de l'année, payer un impôt en vertu de la présente partie pour l'année égal à 125 % du montant d'impôt prévu à la partie II et qui est ou qui peut être évité à la suite de la série d'opérations ou d'événements.

Tax on excess

(7.1) Where a corporation has in a taxation year made an election under subsection 127.2(10) in respect of any

Impôt sur l'excédent

(7.1) Lorsque, au cours d'une année d'imposition, une société exerce un choix en vertu du paragraphe 127.2(10)

share that was part of a distribution of shares referred to in that subsection and, at the end of that year or any subsequent taxation year,

(a) the total of the amounts designated under subsection 192(4) in respect of those shares as evidenced by the prescribed information returns required by regulation to be filed with the Minister by a taxpayer other than the corporation

exceeds

(b) the total of the amounts designated under subsection 192(4) in respect of those shares acquired by the taxpayer and in respect of which another taxpayer was required by regulation to provide the taxpayer with a prescribed information return relating to the designation under that subsection,

the taxpayer is liable to pay a tax under this Part for the taxation year at the end of which there is such an excess equal to the amount of the excess, which tax is to be paid to the Receiver General within 60 days after the end of the taxation year, and the excess shall be included in determining the total under paragraph 193(7.1)(b) for any taxation year of the taxpayer subsequent to that year.

à l'égard d'une action distribuée dans le cadre de l'opération visée à ce paragraphe, et que, à la fin de cette année ou d'une année d'imposition ultérieure :

a) le total des montants désignés en vertu du paragraphe 192(4) à l'égard de ces actions, tel qu'établi par les déclarations de renseignements prescrites qu'un contribuable, autre que la société, a présentées au ministre, comme l'exige le règlement,

excède :

b) le total des montants désignés en vertu du paragraphe 192(4) à l'égard des actions acquises par cette personne et à l'égard desquelles un autre contribuable était tenu par règlement de lui fournir une déclaration de renseignements prescrite se rapportant à la désignation prévue à ce paragraphe,

le contribuable est tenu de payer un impôt en vertu de la présente partie pour l'année d'imposition à la fin de laquelle il y a un tel excédent qui correspond au montant de l'excédent, lequel impôt doit être payé au receveur général dans les 60 jours suivant la fin de l'année d'imposition; cet excédent doit être inclus dans le calcul du total visé à l'alinéa b) pour toute année d'imposition du contribuable qui suit cette année.

Provisions applicable to Part

(8) Sections 151, 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "193"; 1977-78, c. 1, s. 88; 1984, c. 1, s. 95, c. 45, s. 81; 1985, c. 45, ss. 104, 126(F); 1986, c. 6, s. 102.

Dispositions applicables

(8) Les articles 151, 152, 158 et 159, le paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 193 »; 1977-78, ch. 1, art. 88; 1984, ch. 1, art. 95, ch. 45, art. 81; 1985, ch. 45, art. 104 et 126(F); 1986, ch.6, art. 102.

PART VIII

Refundable Tax on Corporations in Respect of Scientific Research and Experimental Development Tax Credit

Corporation to pay tax

194 (1) Every corporation shall pay a tax under this Part for a taxation year equal to 50% of the total of all amounts each of which is an amount designated under subsection 194(4) in respect of a share or debt obligation issued by it in the year or a right granted by it in the year.

PARTIE VIII

Impôt sur les sociétés remboursable au titre du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental

Impôt payable par une société

194 (1) Toute société doit payer en vertu de la présente partie, pour une année d'imposition, un impôt égal à 50 % du total des montants désignés en vertu du paragraphe (4) à l'égard d'une action ou d'une créance émise par elle ou d'un droit consenti par elle durant l'année.

Definition of *Part VIII refund*

(2) In this Part, the ***Part VIII refund*** of a corporation for a taxation year means an amount equal to the lesser of

(a) the total of

(i) the amount, if any, by which the scientific research and experimental development tax credit of the corporation for the year exceeds the amount, if any, deducted by it under subsection 127.3(1) from its tax otherwise payable under Part I for the year, and

(ii) such amount as the corporation may claim, not exceeding 50% of the amount, if any, by which

(A) the total of all expenditures made by it after April 19, 1983 and in the year or the immediately preceding taxation year each of which is an expenditure (other than an expenditure prescribed for the purposes of the definition ***qualified expenditure*** in subsection 127(9)) claimed under paragraph 37(1)(a) or 37(1)(b) to the extent that the expenditure is specified by the corporation in its return of income under Part I for the year

exceeds the total of

(B) the total of all expenditures each of which is an expenditure made by it in the immediately preceding taxation year, to the extent that the expenditure was included in determining the total under clause 194(2)(a)(ii)(A) and resulted in

(I) a refund to it under this Part for the immediately preceding taxation year,

(II) a deduction by it under subsection 37(1) for the immediately preceding taxation year, or

(III) a deduction by it under subsection 127(5) for any taxation year, and

(C) twice the portion of the total of amounts each of which is an amount deducted by it in computing its income for the year or the immediately preceding taxation year under section 37.1 that can reasonably be considered to relate to expenditures that were included in determining the total under clause 194(2)(a)(ii)(A), and

(b) the refundable Part VIII tax on hand of the corporation at the end of the year.

Définition de *remboursement de la partie VIII*

(2) Dans la présente partie, ***remboursement de la partie VIII*** d'une société pour une année d'imposition s'entend du moins élevé des montants suivants :

a) le total des montants suivants :

(i) l'excédent éventuel du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental de la société pour l'année sur le montant déduit par cette dernière en vertu du paragraphe 127.3(1), de son impôt pour l'année payable par ailleurs en vertu de la partie I,

(ii) le montant que la société peut demander, jusqu'à concurrence de 50 % du montant de l'excédent éventuel :

(A) de l'ensemble des dépenses faites par la société au cours de l'année ou de l'année d'imposition précédente, après le 19 avril 1983, dont chacune représente une dépense (à l'exclusion d'une dépense visée par règlement pour l'application de la définition de ***dépense admissible*** au paragraphe 127(9)) déduite en vertu de l'alinéa 37(1)a) ou b), dans la mesure où la société indique cette dépense dans sa déclaration de revenu produite en vertu de la partie I pour l'année,

sur le total des montants suivants :

(B) les dépenses engagées par la société au cours de l'année d'imposition précédente dans la mesure où chacune de ces dépenses a été comprise dans le calcul du total visé à la division (A) et a donné lieu à :

(I) un remboursement à la société en vertu de la présente partie pour l'année d'imposition précédente,

(II) une déduction par la société en vertu du paragraphe 37(1) pour l'année d'imposition précédente,

(III) une déduction par la société en vertu du paragraphe 127(5) pour une année d'imposition quelconque,

(C) le double de la fraction du total des montants dont chacun représente un montant que la société déduit dans le calcul de son revenu pour l'année ou pour l'année d'imposition précédente en application de l'article 37.1 et qu'il est raisonnable de considérer comme se rapportant à des

dépenses comprises dans le calcul du total visé à la division (A);

b) l'impôt de la partie VIII en main remboursable de la société à la fin de l'année.

Definitions

(3) In this Part,

debt obligation has the meaning assigned by paragraph (d) of the description of A in the formula found in the definition ***scientific research and experimental development tax credit*** in subsection 127.3(2); (*créance*)

refundable Part VIII tax on hand of a corporation at the end of a taxation year means the amount, if any, by which

(a) the total of the taxes payable by it under this Part for the year and all preceding taxation years

exceeds

(b) the total of its Part VIII refunds for all preceding taxation years. (*impôt de la partie VIII en main remboursable*)

Définitions

(3) Les définitions qui suivent s'appliquent à la présente partie.

créance S'entend au sens de l'alinéa d) de l'élément A de la formule figurant à la définition de ***crédit d'impôt pour des activités de recherche scientifique et de développement expérimental***, au paragraphe 127.3(2). (*debt obligation*)

impôt de la partie VIII en main remboursable L'impôt de la partie VIII en main remboursable d'une société à la fin de l'année d'imposition correspond au montant de l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des impôts payables par cette société en vertu de la présente partie pour l'année et les années d'imposition antérieures;

b) le total de ses remboursements de la partie VIII pour les années d'imposition antérieures. (*refundable Part VIII tax on hand*)

Corporation may designate amount

(4) Every taxable Canadian corporation may, by filing a prescribed form with the Minister at any time on or before the last day of the month immediately following a month in which it issued a share or debt obligation or granted a right under a scientific research and experimental development financing contract (other than a share or debt obligation issued or a right granted before October, 1983, or a share in respect of which the corporation has, on or before that day, designated an amount under subsection 192(4)) designate, for the purposes of this Part and Part I, an amount in respect of that share, debt obligation or right not exceeding the amount by which

(a) the amount of the consideration for which it was issued or granted, as the case may be,

exceeds

(b) in the case of a share, the amount of any assistance (other than an amount included in computing the scientific research and experimental development tax credit of a taxpayer in respect of that share) provided, or to be provided by a government, municipality or any other public authority in respect of, or for the acquisition of, that share.

Désignation par une société canadienne imposable

(4) Toute société canadienne imposable peut, sur présentation à un moment donné d'un formulaire prescrit au ministre, au plus tard le dernier jour du mois suivant le mois où elle a émis une action ou une créance ou accordé un droit en vertu d'un contrat de financement pour des activités de recherche scientifique et de développement expérimental (autre qu'une action, une créance émise ou un droit accordé avant octobre 1983 ou une action à l'égard de laquelle la société a, avant ou au plus tard à ce jour, désigné un montant en vertu du paragraphe 192(4)) désigner, pour l'application de la présente partie et de la partie I, un montant à l'égard de cette action, de cette créance ou de ce droit, jusqu'à concurrence de l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) la valeur de la contrepartie pour laquelle l'action ou la créance a été émise, ou le droit accordé, selon le cas;

b) dans le cas d'une action, le montant de toute aide (à l'exclusion d'un montant inclus dans le calcul du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental d'un contribuable relativement à cette action) fournie, ou devant être fournie, par un gouvernement, une municipalité

Computing paid-up capital after designation

(4.1) Where a corporation has designated an amount under subsection 194(4) in respect of shares issued at any time after May 23, 1985, in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of the corporation that includes those shares

(a) there shall be deducted the amount, if any, by which

(i) the increase as a result of the issue of those shares in the paid-up capital in respect of all shares of that class, determined without reference to this subsection as it applies to those shares,

exceeds

(ii) the amount, if any, by which the total amount of consideration for which those shares were issued exceeds 50% of the amount designated by the corporation under subsection 194(4) in respect of those shares; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of that class paid by the corporation after May 23, 1985 and before the particular time

exceeds

(B) the total that would be determined under clause 194(4.1)(b)(i)(A) if this Act were read without reference to paragraph 194(4.1)(a), and

(ii) the total of all amounts each of which is an amount required by paragraph 194(4.1)(a) to be deducted in computing the paid-up capital in respect of that class of shares after May 23, 1985 and before the particular time.

Where amount may not be designated

(4.2) Notwithstanding subsection 194(4), no amount may be designated by a corporation in respect of

(a) a share issued by the corporation after October 10, 1984, other than

ou une autre administration en ce qui concerne l'action ou l'acquisition de celle-ci.

Calcul du capital versé après désignation

(4.1) Lorsqu'une société a désigné un montant en vertu du paragraphe (4) à l'égard d'actions émises à un moment quelconque postérieur au 23 mai 1985, dans le calcul, à un moment donné postérieur à ce moment quelconque, du capital versé au titre de la catégorie d'actions du capital-actions de la société qui comprend ces actions :

a) d'une part, doit être déduit l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant correspondant à l'augmentation — conséquence de l'émission de ces actions — du capital versé au titre de toutes les actions de la catégorie, calculée compte non tenu du présent paragraphe tel qu'il s'applique aux actions,

(ii) l'excédent éventuel du montant total correspondant à la contrepartie de l'émission des actions sur la moitié du montant que la société a désigné en vertu du paragraphe (4) à l'égard des actions;

b) d'autre part, doit être ajouté le moindre des montants suivants :

(i) l'excédent éventuel du total visé à la division (A) sur le total visé à la division (B):

(A) le total des montants dont chacun représente un montant réputé, selon le paragraphe 84(3), (4) ou (4.1), être un dividende sur des actions de cette catégorie versé par la société après le 23 mai 1985 et avant le moment donné,

(B) le total calculé selon la division (A), compte non tenu de l'alinéa a),

(ii) le total des montants dont chacun représente un montant à déduire selon l'alinéa a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 23 mai 1985 et avant le moment donné.

Désignation exclue

(4.2) Malgré le paragraphe (4), aucun montant ne peut être désigné par une société :

a) au titre d'une action que la société émet après le 10 octobre 1984, à l'exclusion d'une action admissible :

(i) a qualifying share issued before May 23, 1985, or

(ii) a qualifying share issued after May 22, 1985 and before 1986

(A) under the terms of an agreement in writing entered into by the corporation before May 23, 1985, other than pursuant to an option to acquire the share if the option was not exercised before May 23, 1985, or

(B) as part of a lawful distribution to the public in accordance with a prospectus, preliminary prospectus or registration statement filed before May 24, 1985 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by that public authority;

(b) a share or debt obligation issued or a right granted by the corporation after October 10, 1984, other than a share or debt obligation issued or a right granted before 1986

(i) under the terms of an agreement in writing entered into by the corporation before October 11, 1984, other than pursuant to an option to acquire the share, debt obligation or right if the option was not exercised before October 11, 1984, or

(ii) where arrangements, evidenced in writing, for the issue of the share or debt obligation or the granting of the right were substantially advanced before October 10, 1984; or

(c) a share or debt obligation issued, or a right granted, at any time after June 15, 1984, by a corporation that was an excluded corporation (within the meaning assigned by subsection 127.1(2)) at that time.

(i) émise avant le 23 mai 1985,

(ii) émise après le 22 mai 1985 et avant 1986:

(A) soit aux termes d'une convention écrite et conclue par la société avant le 23 mai 1985, autrement que conformément à une option d'achat de l'action si cette option n'a pas été levée avant le 23 mai 1985,

(B) soit dans le cadre d'un appel public légal à l'épargne conforme à un prospectus, à un prospectus préliminaire ou à une déclaration d'enregistrement, produit avant le 24 mai 1985 auprès d'une administration du Canada suivant la législation fédérale ou provinciale sur les valeurs mobilières et, si la loi le prévoit, approuvé par une telle administration;

b) au titre d'une action ou créance émise par la société après le octobre 1984 ou d'un droit consenti par la société après cette date, à l'exclusion d'une action ou créance émise avant 1986 ou d'un droit consenti avant 1986:

(i) soit aux termes d'une convention écrite et conclue par la société avant le 11 octobre 1984, autrement que conformément à une option d'achat de l'action, de la créance ou du droit si cette option n'a pas été levée avant le 11 octobre 1984,

(ii) soit conformément à des arrangements écrits sur le point d'aboutir avant le 10 octobre 1984 concernant l'émission de l'action ou de la créance ou l'octroi du droit;

c) au titre d'une action ou créance émise ou d'un droit consenti à un moment postérieur au 15 juin 1984, par une société qui est une société exclue (au sens du paragraphe 127.1(2)) à ce moment.

Presumption

(5) For the purposes of this Act, the Part VIII refund of a corporation for a taxation year shall be deemed to be an amount paid on account of its tax under this Part for the year on the last day of the second month following the end of the year.

Définition de *contrat de financement pour des activités de recherche scientifique et de développement expérimental*

(6) In this Part, ***scientific research and experimental development financing contract*** means a contract in writing pursuant to which an amount is paid by a person to a corporation as consideration for the granting by the corporation to that person of any right, either absolute or

Présomption

(5) Pour l'application de la présente loi, le remboursement de la partie VIII d'une société pour une année d'imposition est réputé être un montant payé au titre de son impôt en vertu de la présente partie au dernier jour du deuxième mois suivant la fin de l'année.

Définition de *contrat de financement pour des activités de recherche scientifique et de développement expérimental*

(6) Pour l'application de la présente partie, ***contrat de financement pour des activités de recherche scientifique et de développement expérimental*** s'entend d'un contrat écrit en vertu duquel une personne verse une somme à une société en contrepartie de l'octroi, par

contingent, to receive income, other than interest or dividends.

Late designation

(7) Where a taxable Canadian corporation that issued a share or debt obligation or granted a right under a scientific research and experimental development financing contract does not designate an amount under subsection 194(4) in respect of the share, debt obligation or right on or before the day on or before which the designation was required by that subsection, the corporation shall be deemed to have made the designation on that day if

(a) the corporation has filed with the Minister a prescribed information return relating to the scientific research and experimental development tax credit in respect of the share, debt obligation or right within the time that it would have been so required to file the return had the designation been filed on that day, and

(b) within 3 years after that day, the corporation has

(i) designated an amount in respect of the share, debt obligation or right by filing a prescribed form with the Minister, and

(ii) paid to the Receiver General, at the time the prescribed form referred to in subparagraph 194(7)(b)(i) is filed, an amount that is a reasonable estimate of the penalty payable by the corporation for the late designation in respect of the share, debt obligation or right,

except that, where the Minister has mailed a notice to the corporation that a designation has not been made in respect of the share, debt obligation or right under subsection 194(4), the designation and payment described in paragraph 194(7)(b) must be made by the corporation on or before the day that is 90 days after the day of the mailing.

Penalty for late designation

(8) Where, pursuant to subsection 194(7), a corporation made a late designation in respect of a share or debt obligation issued, or a right granted, in a month, the corporation shall pay, for each month or part of a month that elapsed during the period beginning on the last day on or before which an amount could have been designated by the corporation under subsection 194(4) in respect of the share, debt obligation or right and ending on the day that the late designation is made, a penalty for the late designation in respect of the share, debt obligation or right in an amount equal to 1% of the amount designated in

celle-ci à cette personne, d'un droit quelconque, absolu ou conditionnel, de recevoir un revenu autre que des intérêts ou des dividendes.

Désignation tardive

(7) Lorsqu'une société canadienne imposable qui a émis une action ou une créance ou accordé un droit en vertu d'un contrat de financement pour des activités de recherche scientifique et de développement expérimental ne désigne pas un montant en vertu du paragraphe (4) à l'égard de cette action, cette créance ou ce droit au plus tard à la date où cette désignation devait être effectuée en application de ce paragraphe, la société est réputée avoir effectué la désignation à cette date si :

a) d'une part, elle a présenté au ministre la déclaration de renseignements prescrite se rapportant au crédit d'impôt pour des activités de recherche scientifique et de développement expérimental à l'égard de l'action, de la créance ou du droit dans la période au cours de laquelle elle aurait dû présenter la déclaration si la désignation avait été présentée à cette date;

b) d'autre part, elle a, dans les 3 ans suivant cette date :

(i) désigné un montant à l'égard de l'action, de la créance ou du droit en présentant le formulaire prescrit au ministre,

(ii) payé au receveur général, à la date de la présentation du formulaire prescrit visé au sous-alinéa (i), un montant qui représente une estimation raisonnable de la pénalité que la société doit payer pour la désignation tardive à l'égard de l'action, de la créance ou du droit;

toutefois, si le ministre a envoyé par la poste à la société un avis l'informant qu'elle n'a pas désigné un montant à l'égard de l'action, de la créance ou du droit en vertu du paragraphe (4), la désignation et le paiement prévus à l'alinéa b) doivent être faits par la société au plus tard 90 jours suivant la date de la mise à la poste de cet avis.

Pénalité pour désignation tardive

(8) Lorsque, conformément au paragraphe (7), une société a effectué une désignation tardive d'un montant à l'égard d'une action ou d'une créance émise, ou d'un droit accordé, au cours d'un mois, la société doit payer, pour chaque mois ou fraction de mois qui s'écoule au cours de la période commençant le dernier jour du délai de désignation par la société en vertu du paragraphe (4) à l'égard de l'action, de la créance ou du droit, et finissant le jour de la désignation tardive, une pénalité pour désignation tardive à l'égard de l'action, de la créance ou du droit d'un montant égal à 1 % du montant désigné à

respect of the share, debt obligation or right, except that the maximum penalty payable under this subsection by the corporation for a month shall not exceed $500.

Restriction

(9) Where at any time a corporation has designated an amount under subsection 194(4) in respect of a share, debt obligation or right, no amount may be designated by the corporation at any subsequent time in respect of that share, debt obligation or right.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"194"; 1977-78, c. 1, s. 88; 1984, c. 1, ss. 73, 95, c. 45, s. 82; 1985, c. 45, s. 105; 1986, c. 6, ss. 15, 103.

Corporation to file return

195 (1) Every corporation that is liable to pay tax under this Part for a taxation year shall, on or before the day on or before which it is required to file its return of income under Part I for the year, file with the Minister a return for the year under this Part in prescribed form.

Corporation to make payment on account of tax

(2) Where, in a particular month in a taxation year, a corporation issues a share or debt obligation, or grants a right, in respect of which it designates an amount under section 194, the corporation shall, on or before the last day of the month following the particular month, pay to the Receiver General on account of its tax payable under this Part for the year an amount equal to 50% of the total of all amounts so designated.

Interest

(3) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part or instalment thereof on or before the day on or before which the tax or instalment, as the case may be, was required to be paid, it shall pay to the Receiver General interest at the prescribed rate on the amount that it failed to pay computed from the day on or before which the amount was required to be paid to the day of payment.

Idem

(4) For the purposes of computing interest payable by a corporation under subsection 195(3) for any month or months in the period commencing on the first day of a taxation year and ending two months after the last day of the year in which period the corporation has designated an amount under section 194 in respect of a share or debt obligation issued, or right granted, by it in a particular month in the year, the corporation shall be deemed to have been liable to pay, on or before the last day of the month immediately following the particular month, a part or an instalment of tax for the year equal to that

l'égard de l'action, de la créance ou du droit; la pénalité maximale que doit payer la société en vertu du présent paragraphe pour un mois ne peut dépasser 500 $.

Restriction

(9) Lorsqu'une société a désigné un montant en vertu du paragraphe (4) à l'égard d'une action, d'une créance ou d'un droit, aucun montant ne peut par la suite être désigné à l'égard de cette action, de cette créance ou de ce droit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 194 »; 1977-78, ch. 1, art. 88; 1984, ch. 1, art. 73 et 95, ch. 45, art. 82; 1985, ch. 45, art. 105; 1986, ch. 6, art. 15 et 103.

Production d'une déclaration

195 (1) Toute société tenue de payer l'impôt en vertu de la présente partie pour une année d'imposition doit, au plus tard le jour où elle doit produire sa déclaration de revenu en vertu de la partie I pour l'année, produire auprès du ministre une déclaration pour l'année en vertu de la présente partie selon le formulaire prescrit.

Paiement au titre de l'impôt

(2) Lorsque, au cours d'un mois donné d'une année d'imposition, une société émet une action ou une créance, ou accorde un droit, à l'égard de laquelle ou duquel elle désigne un montant en vertu de l'article 194, elle doit, dans le mois qui suit le mois donné, payer au receveur général au titre de son impôt payable en vertu de la présente partie pour l'année un montant égal à 50 % du total des montants ainsi désignés.

Intérêts

(3) Une société qui n'a pas payé tout ou partie d'un acompte provisionnel ou de l'impôt dont elle est redevable en vertu de la présente partie, au plus tard à la date où cet acompte ou impôt devait être payé, doit verser au receveur général des intérêts sur le montant qu'elle n'a pas payé, calculés au taux prescrit pour la période allant de la date où ce montant devait être payé jusqu'à la date du paiement.

Idem

(4) Pour le calcul des intérêts payables par une société en vertu du paragraphe (3) pour un ou plusieurs mois de la période commençant le premier jour d'une année d'imposition et se terminant deux mois après le dernier jour de l'année, période au cours de laquelle la société a désigné un montant en vertu de l'article 194 à l'égard d'une action ou créance qu'elle a émise, ou d'un droit qu'elle a consenti, au cours d'un mois donné de l'année, la société est réputée avoir été redevable, au plus tard le dernier jour du mois qui suit le mois donné, d'un acompte provisionnel ou d'une fraction d'impôt pour l'année, égal au

proportion of the amount, if any, by which its tax payable under this Part for the year exceeds its Part VIII refund for the year that

(a) the total of all amounts so designated by it under section 194 in respect of shares or debt obligations issued, or rights granted, by it in the particular month

is of

(b) the total of all amounts so designated by it under section 194 in respect of shares or debt obligations issued, or rights granted, by it in the year.

produit de la multiplication de l'excédent éventuel de son impôt payable en vertu de la présente partie pour l'année sur son remboursement de la partie VIII pour l'année par le rapport entre :

a) d'une part, le total des montants désignés par elle en vertu de l'article 194 à l'égard d'actions ou de créances émises ou de droits accordés par elle au cours du mois donné;

b) d'autre part, le total des montants désignés par elle en vertu de l'article 194 à l'égard d'actions ou de créances émises ou de droits accordés par elle au cours de l'année.

Evasion of tax

(5) Where a corporation that is liable to pay tax under this Part in respect of a share or debt obligation issued or a right granted by it wilfully, in any manner whatever, evades or attempts to evade payment of the tax and a purchaser of the share, debt obligation or right or, where the purchaser is a partnership, a member of the partnership knew or ought to have known, at the time the share, debt obligation or right was acquired, that the corporation would wilfully evade or attempt to evade the tax, for the purposes of section 127.3, the share, debt obligation or right shall be deemed not to have been acquired.

Évasion fiscale

(5) Lorsqu'une société tenue de payer de l'impôt en vertu de la présente partie, à l'égard d'une action ou d'une créance qu'elle a émise, ou d'un droit qu'elle a accordé, sciemment, d'une manière quelconque, élude ou tente d'éluder le paiement de l'impôt et lorsque l'acheteur de l'action, de la créance ou du droit ou, lorsque l'acheteur est une société de personnes, un associé de la société de personnes savait ou aurait dû savoir, au moment où il a acquis l'action, la créance ou le droit, que la société, sciemment, éluderait ou tenterait d'éluder l'impôt, l'action, la créance ou le droit est réputé, pour l'application de l'article 127.3, ne pas avoir été acquis.

Undue deferral

(6) Where, in a transaction or as part of a series of transactions, a taxpayer acquires a share or debt obligation of a corporation or a right granted by a corporation and the corporation is controlled (within the meaning assigned by subsection 186(2)) by the taxpayer and it may reasonably be considered that one of the main purposes of the acquisition was to reduce for a period interest on the taxpayer's liability for tax under this Part, the share, debt obligation or right shall, for the purposes of this Part (other than this subsection) and section 127.3, be deemed not to have been acquired by the taxpayer and not to have been issued or granted, as the case may be, by the corporation until the end of that period.

Étalement indu

(6) Lorsque, dans le cadre d'une opération ou d'une série d'opérations, un contribuable acquiert une action ou une créance d'une société qu'il contrôle (au sens du paragraphe 186(2)), ou un droit que celle-ci accorde, et qu'il est raisonnable de considérer qu'un des principaux motifs de l'acquisition était de réduire pour une période l'intérêt sur un montant d'impôt payable en vertu de la présente partie, l'action, la créance ou le droit est réputé, pour l'application de la présente partie (sauf le présent paragraphe) et de l'article 127.3, ne pas avoir été acquis par le contribuable ou ne pas avoir été émis ou accordé, selon le cas, par la société jusqu'à la fin de cette période.

Avoidance of tax

(7) Where, as part of a series of transactions or events one of the main purposes of which may reasonably be considered to be the avoidance of tax that might otherwise have been or become payable under Part II of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, by any corporation, a particular corporation has issued a share or debt obligation or granted a right in a taxation year in respect of which it has designated an amount under subsection 194(4), the particular corporation shall, on or before the last day of the second

Évitement fiscal

(7) Lorsque, dans le cadre d'une série d'opérations ou d'événements, il est raisonnable de considérer qu'un des principaux motifs était d'éviter de payer de l'impôt qui autrement aurait été ou serait devenu payable en vertu de la partie II de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, par une société, une société donnée a émis une action ou une créance ou a accordé un droit au cours d'une année d'imposition à l'égard de laquelle elle a désigné un montant en vertu du paragraphe 194(4), la société donnée doit, au plus tard le

month after the end of the year, pay a tax under this Part for the year equal to 125% of the amount of tax under Part II of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, that is or may be avoided by reason of the series of transactions or events.

dernier jour du deuxième mois suivant la fin de l'année, payer un impôt en vertu de la présente partie pour l'année égal à 125 % du montant d'impôt prévu à la partie II de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, et qui est ou qui peut être évité à la suite de la série d'opérations ou d'événements.

Tax on excess

(7.1) Where a corporation has in a taxation year made an election under subsection 127.3(9) in respect of any share or debt obligation that was part of a distribution of shares or debt obligations referred to in that subsection and, at the end of that year or any subsequent taxation year,

(a) the total of the amounts designated under subsection 194(4) in respect of those shares or debt obligations as evidenced by the prescribed information returns required by regulation to be filed with the Minister by a taxpayer other than the corporation

exceeds

(b) the total of the amounts designated under subsection 194(4) in respect of those shares or debt obligations acquired by the taxpayer and in respect of which another taxpayer was required by regulation to provide the taxpayer with a prescribed information return relating to the designation under that subsection,

the taxpayer is liable to pay a tax under this Part, for the taxation year at the end of which there is such an excess, equal to 50% of the excess, which tax is to be paid to the Receiver General within 60 days after the end of the taxation year, and the excess shall be included in determining the total under paragraph 195(7.1)(b) for any taxation year of the taxpayer subsequent to that year.

Impôt sur l'excédent

(7.1) Lorsque, au cours d'une année d'imposition, une société exerce un choix en vertu du paragraphe 127.3(9) à l'égard de toute action ou créance distribuée dans le cadre de l'opération visée à ce paragraphe, et que, à la fin de cette année ou d'une année d'imposition ultérieure :

a) le total des montants désignés en vertu du paragraphe 194(4) à l'égard de ces actions ou de ces créances, tel qu'établi par les déclarations de renseignements prescrites qu'un contribuable, autre que la société, a présentées au ministre, comme l'exige le règlement,

excède :

b) le total des montants désignés en vertu du paragraphe 194(4) à l'égard des actions ou créances acquises par le contribuable et à l'égard desquelles un autre contribuable était tenu par règlement de lui fournir une déclaration de renseignements prescrite se rapportant à une désignation visée à ce paragraphe,

le contribuable est tenu de payer un impôt en vertu de la présente partie pour l'année d'imposition à la fin de laquelle il y a un tel excédent égal à 50 % de l'excédent, lequel impôt doit être payé au receveur général dans les 60 jours suivant la fin de l'année d'imposition; cet excédent doit être inclus dans le calcul du total visé à l'alinéa b) pour toute année d'imposition du contribuable qui suit cette année.

Provisions applicable to Part

(8) Sections 151, 152, 158 and 159, subsection 161(11), sections 162 to 167 (except subsections 164(1.1) to 164(1.3)) and Division J of Part I are applicable to this Part with such modifications as the circumstances require and, for greater certainty, the Minister may assess, before the end of a taxation year, an amount payable under this Part for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"195"; 1977-78, c. 1, s. 88; 1984, c. 1, s. 95, c. 45, s. 83; 1985, c. 45, s. 106; 1986, c. 6, s. 104, c. 24, s. 1.

Dispositions applicables

(8) Les articles 151, 152, 158 et 159, le paragraphe 161(11), les articles 162 à 167 (à l'exception des paragraphes 164(1.1) à (1.3)) et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires. Il demeure entendu que le ministre peut établir, avant la fin d'une année d'imposition, une cotisation pour un montant payable en vertu de la présente partie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 195 »; 1977-78, ch. 1, art. 88; 1984, ch. 1, art. 95, ch. 45, art. 83; 1985, ch. 45, art. 106; 1986, ch. 6, art. 104, ch. 24, art. 1.

PART IX

Tax on Deduction Under Section 66.5

Tax in respect of cumulative offset account

196 (1) Every corporation shall pay a tax under this Part for each taxation year equal to 30% of the amount deducted under subsection 66.5(1) in computing its income for the year.

Return

(2) Every corporation that is liable to pay tax under this Part for a taxation year shall file with the Minister, not later than the day on or before which it is required under section 150 to file a return of its income for the year under Part I, a return for the year under this Part in prescribed form containing an estimate of the amount of tax payable by it under this Part for the year.

Instalments

(3) Where a corporation is liable to pay tax for a taxation year under this Part, the corporation shall pay in respect of the year, to the Receiver General

(a) on or before the last day of each month in the year, an amount equal to 1/12 of the amount of tax payable by it under this Part for the year; and

(b) the remainder, if any, of the tax payable by it under this Part for the year, on or before its balance-due day for the year.

Provisions applicable to Part

(4) Sections 152, 158 and 159, subsections 161(1) and 161(2), sections 162 to 167 and Division J of Part I are applicable to this Part, with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 196; 2003, c. 15, s. 123.

PARTIE IX

Impôt sur la déduction visée à l'article 66.5

Impôt payable

196 (1) Toute société doit payer, pour chaque année d'imposition, un impôt en vertu de la présente partie qui correspond à 30 % du montant qu'elle déduit selon le paragraphe 66.5(1) dans le calcul de son revenu pour l'année.

Déclaration

(2) La société qui est redevable de l'impôt prévu par la présente partie pour une année d'imposition doit produire auprès du ministre une déclaration en vertu de la présente partie pour l'année, au plus tard à la date où elle est tenue, en vertu de l'article 150, de produire sa déclaration de revenu en vertu de la partie I pour l'année. Cette déclaration doit être produite selon le formulaire prescrit et contenir une estimation de l'impôt payable par la société en vertu de la présente partie pour l'année.

Acomptes provisionnels

(3) La société qui est redevable de l'impôt prévu par la présente partie pour une année d'imposition doit payer au receveur général pour l'année :

a) d'une part, 1/12 de son impôt payable en vertu de la présente partie pour l'année, le dernier jour, au plus tard, de chaque mois de l'année;

b) d'autre part, le solde éventuel de son impôt payable en vertu de la présente partie pour l'année, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Dispositions applicables

(4) Les articles 152, 158 et 159, les paragraphes 161(1) et (2), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 196; 2003, ch. 15, art. 123.

PART IX.1

Tax on Sift Partnerships

Definitions

197 (1) The following definitions apply in this Part and in section 96.

non-portfolio earnings, of a SIFT partnership for a taxation year, means the total of

(a) the amount, if any, by which

(i) the total of all amounts each of which is the SIFT partnership's income for the taxation year from a business carried on by it in Canada or from a non-portfolio property, other than income that is a taxable dividend received by the SIFT partnership,

exceeds

(ii) the total of all amounts each of which is the SIFT partnership's loss for the taxation year from a business carried on by it in Canada or from a non-portfolio property, and

(b) the amount, if any, by which all taxable capital gains of the SIFT partnership from dispositions of non-portfolio properties during the taxation year exceeds the total of the allowable capital losses of the SIFT partnership for the taxation year from dispositions of non-portfolio properties during the taxation year. (*gains hors portefeuille*)

SIFT partnership, being a specified investment flow-through partnership, for any taxation year, means a partnership other than an excluded subsidiary entity (as defined in subsection 122.1(1)) for the taxation year that meets the following conditions at any time during the taxation year:

(a) the partnership is a Canadian resident partnership;

(b) investments (as defined in subsection 122.1(1)) in the partnership are listed or traded on a stock exchange or other public market; and

(c) the partnership holds one or more non-portfolio properties. (*société de personnes intermédiaire de placement déterminée*)

PARTIE IX.1

Impôt des sociétés de personnes intermédiaires de placement déterminées

Définitions

197 (1) Les définitions qui suivent s'appliquent à la présente partie et à l'article 96.

gains hors portefeuille Les gains hors portefeuille d'une société de personnes intermédiaire de placement déterminée pour une année d'imposition correspondent au total des sommes suivantes :

a) l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le total des sommes représentant chacune le revenu de la société de personnes pour l'année provenant soit d'une entreprise qu'elle exploite au Canada, soit d'un bien hors portefeuille, à l'exception du revenu qui est un dividende imposable qu'elle a reçu,

(ii) le total des sommes représentant chacune la perte de la société de personnes pour l'année résultant soit d'une entreprise qu'elle exploite au Canada, soit d'un bien hors portefeuille;

b) l'excédent éventuel des gains en capital imposables de la société de personnes provenant de la disposition au cours de l'année de biens hors portefeuille sur le total de ses pertes en capital déductibles pour l'année résultant de la disposition au cours de l'année de biens hors portefeuille. (*non-portfolio earnings*)

gains hors portefeuille imposables Les gains hors portefeuille imposables d'une société de personnes intermédiaire de placement déterminée pour une année d'imposition correspondent à la moins élevée des sommes suivantes :

a) la somme qui correspondrait à son revenu pour l'année, déterminé selon l'article 3, si elle était un contribuable pour l'application de la partie I et si le paragraphe 96(1) s'appliquait compte non tenu de son alinéa d);

b) ses gains hors portefeuille pour l'année. (*taxable non-portfolio earnings*)

société de personnes intermédiaire de placement déterminée Est une société de personnes intermédiaire de placement déterminée pour une année d'imposition la

taxable non-portfolio earnings of a SIFT partnership, for a taxation year, means the lesser of

(a) the amount that would, if the SIFT partnership were a taxpayer for the purposes of Part I and if subsection 96(1) were read without reference to its paragraph (d), be its income for the taxation year as determined under section 3; and

(b) its non-portfolio earnings for the taxation year. (*gains hors portefeuille imposables*)

Tax on partnership income

(2) Every partnership that is a SIFT partnership for a taxation year is liable to a tax under this Part equal to the amount determined by the formula

A × (B + C)

where

A is the taxable non-portfolio earnings of the SIFT partnership for the taxation year;

B is the net corporate income tax rate in respect of the SIFT partnership for the taxation year; and

C is the provincial SIFT tax rate of the SIFT partnership for the taxation year.

Ordering

(3) This Part and section 122.1 are to be applied as if this Act were read without reference to subsection 96(1.11).

Partnership to file return

(4) Every member of a partnership that is liable to pay tax under this Part for a taxation year shall — on or before the day on or before which the partnership return is required to be filed for the year under section 229 of the *Income Tax Regulations* — file with the Minister a return for the taxation year under this Part in prescribed form containing an estimate of the tax payable by the partnership under this Part for the taxation year.

Authority to file return

(5) For the purposes of subsection (4), if, in respect of a taxation year of a partnership, a particular member of the partnership has authority to act for the partnership,

(a) if the particular member has filed a return as required by this Part for a taxation year, each other

société de personnes, sauf celle qui est une filiale exclue (au sens du paragraphe 122.1(1)) pour l'année, qui répond aux conditions suivantes au cours de l'année :

a) elle est une société de personnes résidant au Canada;

b) les placements, au sens du paragraphe 122.1(1), qui y sont faits sont cotés ou négociés sur une bourse de valeurs ou un autre marché public;

c) elle détient un ou plusieurs biens hors portefeuille. (*SIFT partnership*)

Impôt sur le revenu d'une société de personnes

(2) Toute société de personnes qui est une société de personnes intermédiaire de placement déterminée pour une année d'imposition est redevable, en vertu de la présente partie, d'un impôt égal à la somme obtenue par la formule suivante :

A × (B + C)

où :

A représente ses gains hors portefeuille imposables pour l'année;

B le taux net d'imposition du revenu des sociétés qui lui est applicable pour l'année;

C le taux d'imposition provincial des EIPD applicable à la société de personnes pour l'année.

Ordre d'application

(3) La présente partie et l'article 122.1 s'appliquent compte non tenu du paragraphe 96(1.11).

Déclaration

(4) Chacun des associés d'une société de personnes redevable de l'impôt prévu par la présente partie pour une année d'imposition est tenu de présenter au ministre, au plus tard à la date limite où la déclaration concernant la société de personnes est à produire pour l'année aux termes de l'article 229 du *Règlement de l'impôt sur le revenu*, une déclaration en vertu de la présente partie pour l'année, sur le formulaire prescrit et contenant une estimation de l'impôt à payer par la société de personnes pour l'année en vertu de la présente partie.

Production de la déclaration

(5) Pour l'application du paragraphe (4), lorsque l'un des associés d'une société de personnes a le pouvoir d'agir au nom de celle-ci relativement à une année d'imposition de la société de personnes, les règles suivantes s'appliquent :

person who was a member of the partnership during the taxation year is deemed to have filed the return; and

(b) a return that has been filed by any other member of the partnership for the taxation year is not valid and is deemed not to have been filed by any member of the partnership.

a) si l'associé en cause a produit une déclaration en conformité avec la présente partie pour une année d'imposition, chaque autre personne qui était l'associé de la société de personnes au cours de l'année est réputée avoir produit la déclaration;

b) la déclaration produite par tout autre associé de la société de personnes pour l'année n'est pas valide et est réputée ne pas avoir été produite par un associé de la société de personnes.

Provisions applicable to Part

(6) Subsection 150(2), section 152, subsections 157(1), (2.1) and (4), sections 158, 159 and 161 to 167 and Division J of Part I apply to this Part, with any modifications that the circumstances require, and for greater certainty,

(a) a notice of assessment referred to in subsection 152(2) in respect of tax payable under this Part is valid notwithstanding that a partnership is not a person; and

(b) notwithstanding subsection 152(4), the Minister may at any time make an assessment or reassessment of tax payable under this Part or Part I to give effect to a determination made by the Minister under subsection 152(1.4), including the assessment or reassessment of Part I tax payable in respect of the disposition of an interest in a SIFT partnership by a member of the partnership.

Dispositions applicables

(6) Le paragraphe 150(2), l'article 152, les paragraphes 157(1), (2.1) et (4), les articles 158, 159 et 161 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires. Par ailleurs, il est précisé ce qui suit :

a) l'avis de cotisation mentionné au paragraphe 152(2) concernant l'impôt à payer en vertu de la présente partie est valide malgré le fait qu'une société de personnes ne soit pas une personne;

b) malgré le paragraphe 152(4), le ministre, afin de tenir compte de toute détermination qu'il a faite en vertu du paragraphe 152(1.4), peut établir à tout moment une cotisation ou une nouvelle cotisation concernant l'impôt à payer en vertu de la présente partie ou de la partie I, y compris celle concernant l'impôt à payer en vertu de la partie I relativement à la disposition d'une participation dans une société de personnes intermédiaire de placement déterminée par un associé de celle-ci.

Payment

(7) Every SIFT partnership shall pay to the Receiver General, on or before its SIFT partnership balance-due day for each taxation year, its tax payable under this Part for the taxation year.

Paiement

(7) Toute société de personnes intermédiaire de placement déterminée est tenue de payer au receveur général, au plus tard à la date d'échéance du solde qui lui est applicable pour chaque année d'imposition, son impôt à payer pour l'année en vertu de la présente partie.

Application of definition *SIFT partnership*

(8) The definition ***SIFT partnership*** applies to a partnership for a taxation year of the partnership that ends after 2006, except that if the partnership would have been a SIFT partnership on October 31, 2006 had that definition been in force and applied to the partnership as of that date, that definition does not apply to the partnership for a taxation year of the partnership that ends before the earlier of

(a) 2011, and

Application de la définition de *société de personnes intermédiaire de placement déterminée*

(8) La définition de ***société de personnes intermédiaire de placement déterminée*** s'applique à une société de personnes pour ses années d'imposition se terminant après 2006. Toutefois, dans le cas où la société de personnes aurait été une société de personnes intermédiaire de placement déterminée le 31 octobre 2006 si cette définition avait été en vigueur et s'était appliquée à la société de personnes à compter de cette date, la définition ne s'applique pas à la société de personnes pour ses années d'imposition qui se terminent avant 2011 ou, s'il est antérieur, avant le premier jour après le 15 décembre 2006 où sa croissance excède ce qui constitue une

(b) the first day after December 15, 2006 on which the partnership exceeds normal growth as determined by reference to the normal growth guidelines issued by the Department of Finance on December 15, 2006, as amended from time to time, unless that excess arose as a result of a prescribed transaction.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 29, s. 24; 2008, c. 28, s. 30; 2009, c. 2, s. 65; 2013, c. 40, s. 72.

croissance normale d'après les précisions publiées par le ministère des Finances le 15 décembre 2006, et leurs modifications successives, sauf si l'excédent découle d'une opération visée par règlement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 29, art. 24; 2008, ch. 28, art. 30; 2009, ch. 2, art. 65; 2013, ch. 40, art. 72.

PART X

Taxes on Deferred Profit Sharing Plans and Revoked Plans

Tax on non-qualified investments and use of assets as security

198 (1) Every trust governed by a deferred profit sharing plan or revoked plan that

(a) acquires a non-qualified investment, or

(b) uses or permits to be used any property of the trust as security for a loan,

shall pay a tax equal to the fair market value of

(c) the non-qualified investment at the time it was acquired by the trust, or

(d) the property used as security at the time it commenced to be so used.

Payment of tax

(2) A trustee of a trust liable to pay tax under subsection 198(1) shall remit the amount of the tax to the Receiver General within 10 days of the day on which the non-qualified investment is acquired or the property is used as security for a loan, as the case may be.

Trustee liable for tax

(3) Where a trustee of a trust liable to pay tax under subsection 198(1) does not remit to the Receiver General the amount of the tax within the time specified in subsection 198(2), the trustee is personally liable to pay on behalf of the trust the full amount of the tax and is entitled to recover from the trust any amount paid by the trustee as tax under this section.

PARTIE X

Impôts sur les régimes de participation différée aux bénéfices et sur les régimes dont l'agrément est retiré

Impôt sur les placements non admissibles et utilisation de l'actif comme garantie

198 (1) Toute fiducie régie par un régime de participation différée aux bénéfices ou par un régime dont l'agrément est retiré, qui :

a) soit acquiert un placement non admissible;

b) soit utilise ou permet l'utilisation de tout bien de la fiducie pour garantir un emprunt,

doit payer un impôt égal à la juste valeur marchande :

c) soit du placement non admissible au moment où la fiducie l'a acquis;

d) soit du bien utilisé comme garantie au moment où il a commencé à être utilisé comme tel.

Paiement de l'impôt

(2) Tout fiduciaire dont la fiducie est passible d'un impôt en vertu du paragraphe (1) doit en remettre le montant au receveur général dans les 10 jours qui suivent le jour où le placement non admissible est acquis, ou celui où le bien est utilisé pour garantir un prêt, selon le cas.

Fiduciaire passible d'un impôt

(3) Le fiduciaire dont la fiducie est passible d'un impôt en vertu du paragraphe (1) et qui n'en remet pas le montant au receveur général dans le délai spécifié au paragraphe (2) est personnellement responsable du paiement, pour le compte de la fiducie, du plein montant de l'impôt et a le droit de recouvrer de la fiducie toute somme qu'il a payée à titre d'impôt en vertu du présent article.

Refund of tax on disposition of non-qualified investment

(4) Where a trust disposes of a property that, when acquired, was a non-qualified investment, the trust is, on application in accordance with section 202, entitled to a refund of an amount equal to the lesser of

(a) the amount of the tax imposed under this section as a result of the acquisition of the property, and

(b) the proceeds of disposition of the property.

Refund of tax on recovery of property given as security

(5) Where a loan, for which a trust has used or permitted to be used trust property as security, ceases to be extant, the trust is, on application in accordance with section 202, entitled to a refund of an amount equal to the amount remaining, if any, when

(a) the net loss (exclusive of payments by the trust as or on account of interest) sustained by the trust in consequence of its using or permitting to be used the property as security for the loan and not as a result of a change in the fair market value of the property

is deducted from

(b) the tax imposed under this section in consequence of the trust's using or permitting to be used the property as security for the loan.

Special rules relating to life insurance policies

(6) For the purposes of this section,

(a) the acquisition of an interest in or the payment of an amount under a life insurance policy shall be deemed not to be the acquisition of a non-qualified investment, and

(b) the disposition of an interest in a life insurance policy shall be deemed not to be the disposition of a non-qualified investment,

except that where a trust governed by a deferred profit sharing plan or revoked plan makes a payment under or to acquire an interest in a life insurance policy, other than a life insurance policy under which

(c) the trust is, or by virtue of the payment about to become, the only person entitled to any rights or benefits under the policy (other than the rights or benefits of the insurer),

Remboursement d'impôt lors de la disposition d'un placement non admissible

(4) La fiducie qui dispose d'un bien qui, au moment où il a été acquis, était un placement non admissible a droit, sur demande faite conformément à l'article 202, au remboursement d'une somme égale au moins élevé des montants suivants :

a) le montant de l'impôt exigible en vertu du présent article à la suite de l'acquisition du bien;

b) le produit de disposition du bien.

Remboursement d'impôt lors de la récupération d'un bien donné en garantie

(5) Lorsqu'un emprunt pour la garantie duquel une fiducie a utilisé un bien qui lui était confié ou en a permis l'utilisation cesse d'exister, la fiducie a droit, sur demande faite conformément à l'article 202, au remboursement d'une somme égale au montant qui peut rester lorsque le montant visé à l'alinéa a) est déduit du montant visé à l'alinéa b):

a) la perte nette (non compris les paiements effectués par la fiducie au titre des intérêts) subie par la fiducie du fait qu'elle a utilisé le bien, ou en a permis l'utilisation, pour garantir l'emprunt et non pas du fait d'une fluctuation de la juste valeur marchande du bien;

b) l'impôt prévu par le présent article du fait que la fiducie a utilisé le bien, ou en a permis l'utilisation, pour garantir l'emprunt.

Règles spéciales relatives aux polices d'assurance-vie

(6) Pour l'application du présent article, les présomptions suivantes s'appliquent :

a) l'acquisition d'un intérêt dans une police d'assurance-vie ou le paiement d'une somme en vertu d'une police d'assurance-vie sont réputés ne pas constituer un placement non admissible;

b) la disposition d'un intérêt dans une police d'assurance-vie est réputée ne pas constituer une disposition de placement non admissible;

toutefois, lorsqu'une fiducie régie par un régime de participation différée aux bénéfices ou par un régime dont l'agrément est retiré fait un paiement en vertu d'une police d'assurance-vie ou pour acquérir un intérêt dans une police d'assurance-vie, autre qu'une police d'assurance-vie aux termes de laquelle, à la fois :

c) la fiducie est, ou à la suite du paiement est sur le point de devenir, la seule personne pouvant prétendre

(d) the cash surrender value of the policy (exclusive of accumulated dividends) is or will be, at or before the end of the year in which the insured person attains 71 years of age, if all premiums under the policy are paid, not less than the maximum total amount (exclusive of accumulated dividends) payable by the insurer under the policy, and

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

the making of the payment shall be deemed to be the acquisition of a non-qualified investment at a cost equal to the amount of the payment.

d) la valeur de rachat de la police (participations de police accumulées non comprises) n'est pas ou ne sera pas, à la fin de l'année dans laquelle l'assuré atteint 71 ans ou antérieurement et si toutes les primes prévues par la police sont payées, inférieure à la somme totale maximale (participations de police accumulées non comprises) à payer par l'assureur en vertu de la police;

e) le total des primes payables au cours de toute année en vertu de la police n'est pas supérieur au total des sommes qui, si les primes annuelles avaient été payables par versements mensuels, auraient été payables au titre de ces versements dans les 12 mois à compter de la date d'établissement de la police,

le fait d'effectuer le paiement est réputé être l'acquisition d'un placement non admissible dont le coût est égal au montant du paiement.

Idem

(6.1) A life insurance policy giving an option to the policyholder to receive annuity payments that otherwise complies with paragraph 198(6)(d) shall be deemed,

(a) where the option has not been exercised, to comply with that paragraph; and

(b) where at a particular time the option is exercised, to have been disposed of at that time for an amount equal to the cash surrender value of the policy immediately before that time, and an annuity contract shall be deemed to have been acquired at that time at a cost equal to that amount.

Idem

(6.1) Une police d'assurance-vie donnant au titulaire de la police une option de recevoir des paiements de rente et qui, par ailleurs, est conforme à l'alinéa (6)d) est réputée :

a) lorsque l'option n'est pas exercée, être conforme à cet alinéa;

b) lorsque l'option est exercée à un moment donné, avoir fait l'objet d'une disposition à ce moment pour une somme égale à la valeur de rachat en espèces de la police immédiatement avant ce moment, et un contrat de rente est réputé avoir été acquis à ce moment à un coût égal à cette valeur.

Idem

(7) Notwithstanding subsection 198(6), where the total of all payments made in a year by a trust governed by a deferred profit sharing plan or revoked plan under or to acquire interests in life insurance policies in respect of which the trust is the only person entitled to any rights or benefits (other than the rights or benefits of the insurer) does not exceed an amount equal to 25% of the total of all amounts paid by employers to the trust in the year under the plan for the benefit of beneficiaries thereunder, the making of the payments under or to acquire interests in such policies shall be deemed, for the purposes of this section, not to be the acquisition of non-qualified investments.

Idem

(7) Malgré le paragraphe (6), lorsque le total des paiements qu'a faits au cours d'une année une fiducie régie par un régime de participation différée aux bénéfices ou par un régime dont l'agrément est retiré, en vertu de polices d'assurance-vie ou pour acquérir des intérêts dans des polices d'assurance-vie à l'égard desquelles la fiducie est la seule personne pouvant prétendre à tous droits ou avantages (autres que les droits ou avantages de l'assureur) ne dépasse pas un montant égal à 25 % du total des sommes payées durant l'année à la fiducie par les employeurs en vertu du régime au profit des bénéficiaires de ce régime, le fait d'effectuer les paiements en vertu de ces polices ou pour acquérir des intérêts dans ces polices est réputé, pour l'application du présent article, ne pas constituer des placements non admissibles.

Idem

(8) Where a trust surrenders, cancels, assigns or otherwise disposes of its interest in a life insurance policy,

(a) the trust shall be deemed, for the purposes of subsection 198(4), to have disposed of each non-qualified investment that, by virtue of payments under the policy, it was deemed by subsection 198(6) to have acquired; and

(b) the proceeds of the disposition shall be deemed to be the amount, if any, by which

(i) the amount received by the trust in consequence of the surrender, cancellation, assignment or other disposition of its interest in the policy

exceeds the total of

(ii) each amount paid by the trust under or to acquire an interest in the policy, the payment of which is deemed by this section not to be the acquisition of a non-qualified investment, and

(iii) the cash surrender value on December 21, 1966 of the interest of the trust in the policy on that date.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 198; 1997, c. 25, s. 54; 2007, c. 29, s. 25.

Idem

(8) Lorsqu'une fiducie rachète, annule, cède son intérêt dans une police d'assurance-vie ou en dispose de tout autre façon :

a) la fiducie est réputée, pour l'application du paragraphe (4), avoir disposé de chaque placement non admissible qu'elle était, à la suite des paiements effectués en vertu de la police, réputée selon le paragraphe (6) avoir fait;

b) le produit de disposition est réputé être l'excédent éventuel :

(i) de la somme reçue par la fiducie à la suite du rachat, de l'annulation, de la cession ou de la disposition de quelque autre façon de son intérêt dans la police,

sur le total des montants suivants :

(ii) chaque somme payée par la fiducie en vertu de la police ou pour acquérir un intérêt dans la police et dont le paiement est réputé selon le présent article ne pas être l'acquisition d'un placement non admissible,

(iii) la valeur de rachat au 21 décembre 1966 de l'intérêt détenu à cette date dans la police par la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 198; 1997, ch. 25, art. 54; 2007, ch. 29, art. 25.

Tax on initial non-qualified investments not disposed of

199 (1) Every trust governed by a deferred profit sharing plan or revoked plan shall pay a tax

(a) for 1967, equal to the amount, if any, by which 20% of the initial base of the trust exceeds the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1968;

(b) for 1968, equal to the amount, if any, by which 40% of the initial base of the trust exceeds the total of

(i) the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1969, and

(ii) the tax payable by the trust determined under paragraph 199(1)(a);

(c) for 1969, equal to the amount, if any, by which 60% of the initial base of the trust exceeds the total of

Impôt sur les placements initiaux non admissibles dont il n'a pas été disposé

199 (1) Toute fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré doit payer un impôt :

a) pour 1967, égal à l'excédent éventuel de 20 % de la base initiale de la fiducie sur le produit de disposition de ses placements initiaux non admissibles dont elle a disposé après le 21 décembre 1966 et avant 1968;

b) pour 1968, égal à l'excédent éventuel de 40 % de la base initiale de la fiducie sur le total des montants suivants :

(i) le produit de disposition de ses placements initiaux non admissibles dont elle a disposé après le 21 décembre 1966 et avant 1969,

(ii) l'impôt payable par la fiducie, déterminé en vertu de l'alinéa a);

(i) the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1970, and

(ii) the tax payable by the trust determined under paragraphs 199(1)(a) and 199(1)(b); and

(d) for 1970, equal to the amount, if any, by which 100% of the initial base of the trust exceeds the total of

(i) the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1971, and

(ii) the tax payable by the trust determined under paragraphs 199(1)(a), 199(1)(b) and 199(1)(c).

c) pour 1969, égal à l'excédent éventuel de 60 % de la base initiale de la fiducie sur le total des montants suivants :

(i) le produit de disposition de ses placements initiaux non admissibles dont elle a disposé après le 21 décembre 1966 et avant 1970,

(ii) l'impôt payable par la fiducie, déterminé en vertu des alinéas a) et b);

d) pour 1970, égal à l'excédent éventuel de 100 % de la base initiale de la fiducie sur le total des montants suivants :

(i) le produit de disposition de ses placements initiaux non admissibles dont elle a disposé après le 21 décembre 1966 et avant 1971,

(ii) l'impôt payable par la fiducie, déterminé en vertu des alinéas a), b) et c).

Refund

(2) Where at the end of a year,

(a) the total of all taxes paid by a trust under subsection 199(1)

exceeds

(b) the total of

(i) all refunds made to the trust under this subsection, and

(ii) the amount, if any, by which the initial base of the trust exceeds the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before the end of the year,

the trust is, on application in accordance with section 202, entitled to a refund equal to the amount by which the total described in paragraph 199(2)(a) exceeds the total described in paragraph 199(2)(b).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"199".

Remboursement

(2) La fiducie a droit, sur demande faite en conformité avec l'article 202, à un remboursement égal à l'excédent éventuel, à la fin de l'année, du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des impôts payés par une fiducie en vertu du paragraphe (1);

b) le total des montants suivants :

(i) les remboursements faits à la fiducie en vertu du présent paragraphe,

(ii) l'excédent éventuel de la base initiale de la fiducie sur le produit de disposition de ses placements initiaux non admissibles dont elle a disposé après le 21 décembre 1966 et avant la fin de l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 199 ».

Distribution deemed disposition

200 For the purposes of this Part, a distribution by a trust of a non-qualified investment to a beneficiary of the trust shall be deemed to be a disposition of that non-qualified investment and the proceeds of disposition of that non-qualified investment shall be deemed to be its fair market value at the time of the distribution.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 200; 2013, c. 34, s. 334(F).

Distribution assimilée à une disposition

200 Pour l'application de la présente partie, la distribution par une fiducie d'un placement non admissible à un bénéficiaire de la fiducie est réputée être une disposition du placement, et le produit de disposition du placement est réputé être sa juste valeur marchande au moment de la distribution.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 200; 2013, ch. 34, art. 334(F).

Tax where inadequate consideration on purchase or sale

201 Every trust governed by a deferred profit sharing plan or a revoked plan shall, for each calendar year after 1990, pay a tax equal to 50% of the total of all amounts each of which is, by reason of subsection 147(18), an amount taxable under this section for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"201"; 1976-77, c. 4, s. 68; 1990, c. 35, s. 20.

Impôt en cas de contrepartie insuffisante pour l'achat ou la vente

201 La fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré doit payer, pour chaque année civile postérieure à 1990, un impôt égal à 50 % du total des montants dont chacun représente, par application du paragraphe 147(18), un montant imposable selon le présent article pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 201 »; 1976-77, ch. 4, art. 68; 1990, ch. 35, art. 20.

Returns and payment of estimated tax

202 (1) Within 90 days from the end of each year after 1965, a trustee of every trust governed by a deferred profit sharing plan or revoked plan shall

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax payable by the trust under this Part for the year;

(c) estimate in the return the amount of any refund to which the trust is entitled under this Part for the year; and

(d) pay to the Receiver General the unpaid balance of the trust's tax for the year minus any refund to which it is entitled under this Part, or apply in the return for any amount owing to it.

Déclaration et paiement de l'impôt

202 (1) Dans les 90 jours qui suivent la fin de chacune des années postérieures à 1965, le fiduciaire de toute fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré doit :

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt dont la fiducie est redevable en vertu de la présente partie pour l'année;

c) estimer dans sa déclaration le montant de tout remboursement auquel la fiducie a droit pour l'année en vertu de la présente partie;

d) verser au receveur général le solde impayé de l'impôt de la fiducie pour l'année, moins tout remboursement auquel la fiducie a droit, en vertu de la présente partie, ou demander dans sa déclaration toute somme qui lui est due.

Consideration of application for refund

(2) Where a trustee of a trust has made application for an amount owing to it pursuant to subsection 202(1), the Minister shall

(a) consider the application;

(b) determine the amount of any refund; and

(c) send to the trustee a notice of refund and any amount owing to the trust, or a notice that no refund is payable.

Examen de la demande en remboursement

(2) Lorsqu'un fiduciaire d'une fiducie a présenté une demande visant une somme qui est due à cette fiducie en conformité avec le paragraphe (1), le ministre :

a) examine la demande;

b) détermine le montant de tout remboursement;

c) envoie au fiduciaire un avis de remboursement et toute somme due à la fiducie, ou un avis portant qu'aucune somme n'est remboursable.

Provisions applicable to Part

(3) Subsection 150(2), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require and, for the purposes of the

Dispositions applicables à la présente partie

(3) Le paragraphe 150(2), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires; pour l'application de ces

application of those provisions to this Part, a notice of refund under this section shall be deemed to be a notice of assessment.

Provisions applicable to refunds

(4) Subsections 164(3) to 164(4) are applicable, with such modifications as the circumstances require, to refunds of tax under subsection 198(4) or 198(5) or 199(2).

Interest

(5) In addition to the interest payable under subsection 161(1), where a taxpayer is required by section 198 to pay a tax and has failed to pay all or any part thereof on or before the day on or before which the tax was required to be paid, the taxpayer shall pay to the Receiver General interest at the prescribed rate on the amount that the taxpayer failed to pay computed from the day on or before which the amount was required to be paid to the day of payment or to the beginning of the period in respect of which the taxpayer is required by subsection 161(1) to pay interest thereon, whichever is earlier.

Deemed payment of tax

(6) For the purposes of subsections 161(1) and 202(5), where a trust is liable to pay tax under this Part on the acquisition by it of a non-qualified investment or on the use of its property as security for a loan, it shall, except to the extent that the tax has previously been paid, be deemed to have paid tax on the date on which the property is disposed ofor on which the loan ceases to be extant, as the case may be, in an amount equal to the refund referred to in subsection 198(4) in respect of that property or subsection 198(5) in respect of the loan, as the case may be.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "202"; 1977-78, c. 32, s. 44; 1980-81-82-83, c. 48, s. 115; 1984, c. 1, s. 96; 1985, c. 45, ss. 107, 126(F); 1986, c. 6, s. 105; 1990, c. 35, s. 30.

Application to other taxes

203 Instead of making a refund to which a trust is entitled under subsection 198(4) or 198(5) or 199(2), the Minister may, where the trust is liable or about to become liable to make another payment under this Act, apply the amount of the refund or any part thereof to that other liability and notify a trustee of the trust of that action.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"203".

Definitions

204 In this Part,

debt obligation means a bond, debenture, note or similar obligation; (*titre de créance*)

dispositions à la présente partie, un avis de remboursement en vertu du présent article est réputé être un avis de cotisation.

Dispositions applicables aux remboursements

(4) Les paragraphes 164(3) à (4) s'appliquent, avec les adaptations nécessaires, aux remboursements d'impôt effectués en vertu du paragraphe 198(4) ou (5) ou 199(2).

Intérêts

(5) Un contribuable qui n'a pas payé la totalité ou la partie d'un impôt dont il est redevable en vertu de l'article 198 au plus tard à la date où il était tenu de payer l'impôt doit verser au receveur général, outre les intérêts payables en vertu du paragraphe 161(1), des intérêts sur le montant qu'il n'a pas payé, calculés au taux prescrit pour la période allant de la date où ce montant devait, au plus tard, être payé jusqu'au premier en date du jour du paiement et du début de la période pour laquelle il est tenu de payer des intérêts sur ce montant en vertu du paragraphe 161(1).

Impôt réputé payé

(6) Pour l'application des paragraphes 161(1) et 202(5), la fiducie qui est tenue de payer l'impôt prévu à la présente partie lors de l'acquisition par elle d'un placement non admissible ou de l'utilisation d'un de ses biens comme garantie d'un emprunt est réputée, sauf si cet impôt a déjà été payé, avoir payé l'impôt à la date à laquelle elle a disposé du bien ou celle à laquelle l'emprunt a cessé d'exister, selon le cas, pour un montant égal au remboursement prévu au paragraphe 198(4) à l'égard du bien, ou au paragraphe 198(5) à l'égard de l'emprunt, selon le cas.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 202 »; 1977-78, ch. 32, art. 44; 1980-81-82-83, ch. 48, art. 115; 1984, ch. 1, art. 96; 1985, ch. 45, art. 107 et 126(F); 1986, ch. 6, art. 105; 1990, ch. 35, art. 30(F).

Imputation à d'autres impôts

203 Au lieu de procéder à un remboursement auquel une fiducie a droit en vertu du paragraphe 198(4) ou (5) ou 199(2), le ministre peut, lorsque la fiducie est tenue de faire un autre paiement en vertu de la présente loi, ou est sur le point de l'être, imputer le montant du remboursement ou toute partie de celui-ci à cette autre obligation et en aviser un fiduciaire de la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 203 ».

Définitions

204 Les définitions qui suivent s'appliquent à la présente partie.

action à revenu variable

equity share means

(a) a share, other than an excluded share or a non-participating share, the owner of which has, as owner thereof, a right

(i) to a dividend, and

(ii) to a part of the surplus of the corporation after repayment of capital and payment of dividend arrears on the redemption of the share, a reduction of the capital of the corporation or the winding-up of the corporation,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates, or

(b) a share, other than an excluded share or a non-participating share, the owner of which has, as owner thereof, a right

(i) to a dividend, after a dividend at a rate not in excess of 12% per annum of the paid-up capital value of each share has been paid to the owners of shares of a class other than the class to which that share belongs, and

(ii) to a part of the surplus of the corporation after repayment of capital and payment of dividend arrears on the redemption of the share, a reduction of the capital of the corporation or the winding-up of the corporation, after a payment of a part of the surplus at a rate not in excess of 10% of the paid-up capital value of each share has been made to the owners of shares of a class other than the class to which that share belongs,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates; (*action à revenu variable*)

excluded property, in relation to a trust governed by a deferred profit sharing plan or revoked plan, means a debt obligation or bankers' acceptance issued by

(a) an employer by whom payments are made in trust to a trustee under the plan for the benefit of beneficiaries under the plan, or

a) Action (autre qu'une action exclue et une action non participante) dont le propriétaire a, à titre de propriétaire, droit :

(i) d'une part, à un dividende,

(ii) d'autre part, à une partie du surplus de la société après remboursement du capital et paiement des arriérés de dividende, lors du rachat de l'action, d'une réduction du capital de la société ou de la liquidation de la société,

au moins égal, dans tous les cas, au droit du propriétaire de toute autre action (autre qu'une action non participante) de la société, lorsque, dans chaque cas, l'importance du droit est représentée par un taux fondé sur la valeur en capital versé de l'action sur laquelle porte le droit;

b) action (autre qu'une action exclue ou qu'une action non participante) dont le propriétaire a, à titre de propriétaire, droit :

(i) d'une part, à un dividende, après qu'un dividende à un taux annuel maximal de 12 % de la valeur en capital versé de chaque action a été payé aux propriétaires des actions d'une catégorie autre que celle à laquelle cette action appartient,

(ii) d'autre part, à une partie du surplus de la société après le remboursement du capital et le paiement des arriérés de dividende, lors du rachat de l'action, d'une réduction du capital de la société ou de la liquidation de la société, après qu'une partie du surplus ne dépassant pas 10 % de la valeur en capital versé de chaque action a été payée aux propriétaires d'actions d'une catégorie autre que celle à laquelle cette action appartient,

au moins égal, dans tous les cas, au droit du propriétaire de toute autre action (autre qu'une action non participante) de la société, lorsque, dans chaque cas, l'importance du droit est représentée par un taux fondé sur la valeur en capital versé de l'action sur laquelle porte le droit. (*equity share*)

action exclue Chaque action du capital-actions d'une société privée lorsque, selon le cas :

a) le capital versé de la société représenté par toutes ses actions émises et en circulation qui, sans la présente définition, seraient des actions à revenu variable est inférieur à 50 % du capital versé de la société, représenté par la totalité de ses actions émises et en circulation (autres que les actions non participantes);

(b) a corporation with whom that employer does not deal at arm's length; (*bien exclu*)

excluded share means each share of the capital stock of a private corporation where

(a) the paid-up capital of the corporation that is represented by all its issued and outstanding shares that would, but for this definition, be equity shares is less than 50% of the paid-up capital of the corporation that is represented by all its issued and outstanding shares other than non-participating shares, or

(b) a non-participating share of the corporation is issued and outstanding and the owner of which has, as owner thereof, a right to a dividend

(i) at a fixed annual rate in excess of 12%, or

(ii) at an annual rate not in excess of a fixed maximum annual rate, if the fixed maximum annual rate is in excess of 12%,

when the right to the dividend is expressed as a rate based on the paid-up capital value of the share to which the right relates; (*action exclue*)

initial base of a trust means the total of the values of all initial non-qualified investments held by the trust on December 21, 1966 when each such investment is valued at the lower of

(a) its cost to the trust, and

(b) its fair market value on December 21, 1966; (*base initiale*)

initial non-qualified investment of a trust means an investment held by the trust on December 21, 1966 that was, on that date, a non-qualified investment but does not include

(a) any interest in a life insurance policy, or

(b) an equity share that would be a qualified investment if the date of acquisition of the share were December 21, 1966; (*placement initial non admissible*)

non-participating share means

(a) in the case of a private corporation, a share the owner of which is not entitled to receive, as owner thereof, any dividend, other than a dividend, whether cumulative or not,

(i) at a fixed annual rate or amount, or

b) une action non participante de la société est émise et en circulation et que le propriétaire a, à titre de propriétaire, droit à un dividende :

(i) soit établi selon un taux annuel fixe supérieur à 12 %,

(ii) soit établi selon un taux annuel non supérieur à un taux annuel maximal fixe, si ce dernier excède 12 %,

quand le droit à un dividende est représenté par un taux fondé sur la valeur en capital versé de l'action à laquelle se rapporte le droit. (*excluded share*)

action non participante

a) Dans le cas d'une société privée, action dont le propriétaire n'a le droit de recevoir, à titre de propriétaire, aucun dividende autre qu'un dividende, cumulatif ou non :

(i) soit établi selon un taux ou un montant annuel fixe,

(ii) soit établi selon un taux ou un montant annuel non supérieur à un taux ou à un montant annuel fixe;

b) dans le cas d'une société autre qu'une société privée, action autre qu'une action ordinaire. (*non-participating share*)

base initiale Dans le cas d'une fiducie, l'ensemble des valeurs des placements initiaux non admissibles détenus par la fiducie le 21 décembre 1966 lorsque chacun de ces placements est évalué au moins élevé des montants suivants :

a) ce qu'il a coûté à la fiducie;

b) sa juste valeur marchande le 21 décembre 1966. (*initial base*)

bien exclu Est un bien exclu relativement à une fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré le titre de créance ou l'acceptation bancaire émis par l'une ou l'autre des personnes suivantes :

a) tout employeur qui fait des paiements en fiducie à un fiduciaire du régime pour le compte de bénéficiaires du régime;

b) toute société avec laquelle cet employeur a un lien de dépendance. (*excluded property*)

(ii) at an annual rate or amount not in excess of a fixed annual rate or amount, and

(b) in the case of a corporation other than a private corporation, any share other than a common share; (*action non participante*)

non-qualified investment means property that is not a qualified investment for a trust governed by a deferred profit sharing plan or revoked plan within the meaning of the definition ***qualified investment*** in this subsection; (*placement non admissible*)

paid-up capital value of a share means the amount determined by the formula

A/B

where

A is the paid-up capital of the corporation that is represented by the shares of the class to which that share belongs, and

B is the number of shares of that class that are in fact issued and outstanding; (*valeur en capital versé*)

qualified investment for a trust governed by a deferred profit sharing plan or revoked plan means, with the exception of excluded property in relation to the trust,

(a) money (other than money the fair market value of which exceeds its stated value as legal tender in the country of issuance or money that is held for its numismatic value) and deposits (within the meaning assigned by the *Canada Deposit Insurance Corporation Act* or with a branch in Canada of a bank) of such money standing to the credit of the trust,

(b) debt obligations described in paragraph (a) of the definition ***fully exempt interest*** in subsection 212(3),

(c) debt obligations issued by

(i) a corporation, mutual fund trust or limited partnership the shares or units of which are listed on a designated stock exchange in Canada,

(ii) a corporation the shares of which are listed on a designated stock exchange outside Canada, or

(iii) an authorized foreign bank and payable at a branch in Canada of the bank,

(c.1) debt obligations that meet the following criteria, namely,

(i) any of

placement admissible Dans le cas d'une fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré, les biens ci-après, sauf s'il s'agit de biens exclus relativement à la fiducie :

a) espèces, sauf celles ayant une valeur numismatique ou celles dont la juste valeur marchande est supérieure à la valeur nominale à titre de cours légal dans le pays d'émission, ainsi que des dépôts (au sens de la *Loi sur la Société d'assurance-dépôts du Canada* ou auprès d'une succursale au Canada d'une banque) de telles espèces portés au crédit de la fiducie;

b) titres de créance visés à l'alinéa a) de la définition de ***intérêts entièrement exonérés*** au paragraphe 212(3);

c) titres de créance émis par l'une des entités suivantes :

(i) société, fiducie de fonds commun de placement ou société de personnes en commandite dont les actions ou les unités sont inscrites à la cote d'une bourse de valeurs désignée située au Canada,

(ii) société dont les actions sont inscrites à la cote d'une bourse de valeurs désignée située à l'étranger,

(iii) banque étrangère autorisée, pourvu que le titre soit payable à une succursale de la banque, située au Canada;

c.1) titres de créance qui remplissent les critères suivants :

(i) selon le cas :

(A) ils avaient, au moment de leur acquisition par la fiducie, une cote d'évaluation supérieure attribuée par une agence de notation visée par règlement,

(B) ils ont une cote d'évaluation supérieure attribuée par une agence de notation visée par règlement,

(C) ils ont été acquis par la fiducie en échange de titres de créance qui remplissaient la condition énoncée à la division (A) et dans le cadre d'une proposition faite aux créanciers de l'émetteur des titres de créance, ou d'un arrangement conclu avec eux, qui a été approuvé par un tribunal en conformité avec la *Loi sur la faillite et l'insolvabilité* ou la *Loi sur les arrangements avec les créanciers des compagnies*,

(ii) selon le cas :

(A) the debt obligations had, at the time of acquisition by the trust, an investment grade rating with a prescribed credit rating agency,

(B) the debt obligations have an investment grade rating with a prescribed credit rating agency, or

(C) the debt obligations were acquired by the trust in exchange for debt obligations that satisfied the condition in clause (A) and as part of a proposal to, or an arrangement with, the creditors of the issuer of the debt obligations that has been approved by a court under the *Bankruptcy and Insolvency Act* or the *Companies' Creditors Arrangement Act*, and

(ii) either

(A) the debt obligations were issued as part of a single issue of debt of at least $25 million, or

(B) in the case of debt obligations that are issued on a continuous basis under a debt issuance program, the issuer of the debt obligations had issued and outstanding debt under the program of at least $25 million,

(d) securities (other than futures contracts or other derivative instruments in respect of which the holder's risk of loss may exceed the holder's cost) that are listed on a designated stock exchange,

(e) equity shares of a corporation by which, before the date of acquisition by the trust of the shares, payments have been made in trust to a trustee under the plan for the benefit of beneficiaries thereunder, if the shares are of a class in respect of which

(i) there is no restriction on their transferability, and

(ii) in each of 4 taxation years of the corporation in the period of the corporation's 5 consecutive taxation years that ended less than 12 months before the date of acquisition of the shares by the trust, and in the corporation's last taxation year in that period, the corporation

(A) paid a dividend on each share of the class of an amount not less than 4% of the cost per share of the shares to the trust, or

(B) had earnings attributable to the shares of the class of an amount not less than the amount obtained when 4% of the cost per share to the trust of the shares is multiplied by the total number of

(A) ils ont été émis dans le cadre d'une émission unique d'au moins 25 000 000 $,

(B) s'il s'agit de titres de créance qui sont émis de façon continue dans le cadre d'un programme d'émission de créances, leur émetteur maintenait en circulation dans le cadre du programme des créances d'au moins 25 000 000 $;

d) titres (sauf des contrats à terme ou d'autres instruments dérivés dont le risque de perte pour le détenteur peut excéder le coût pour lui) qui sont inscrits à la cote d'une bourse de valeurs désignée;

e) actions à revenu variable d'une société par laquelle, avant la date d'acquisition de ces actions par la fiducie, des paiements ont été faits en fiducie à un fiduciaire en vertu du régime dans l'intérêt de ses bénéficiaires, si ces actions sont d'une catégorie :

(i) d'une part, ne comportant aucune restriction quant à la possibilité de leur transfert,

(ii) d'autre part, relativement à laquelle, au cours de chacune des 4 années d'imposition de la société dans la période des 5 années d'imposition consécutives de la société qui s'est terminée moins de 12 mois avant la date d'acquisition de ces actions par la fiducie, et au cours de la dernière année d'imposition de la société comprise dans cette période, la société :

(A) soit a payé un dividende sur chaque action de la catégorie, d'un montant non inférieur à 4 % du prix unitaire que la fiducie a payé pour ces actions,

(B) soit a réalisé des gains attribuables aux actions de la catégorie, d'un montant non inférieur au produit de la multiplication de 4 % du prix unitaire que la fiducie a payé pour ces actions par le nombre total d'actions de la catégorie qui étaient en circulation immédiatement avant cette acquisition;

f) certificats de placement garantis délivrés par une société de fiducie constituée en société selon les lois fédérales ou provinciales;

g) contrats de placements visés au sous-alinéa b)(ii) de la définition de ***régime d'épargne-retraite*** au paragraphe 146(1) et délivrés par une société agréée par le gouverneur en conseil dans le cadre de ce sous-alinéa;

h) placements visés par règlement.

shares of the class that were outstanding immediately after the acquisition,

(f) guaranteed investment certificates issued by a trust company incorporated under the laws of Canada or of a province,

(g) investment contracts described in subparagraph (b)(ii) of the definition ***retirement savings plan*** in subsection 146(1) and issued by a corporation approved by the Governor in Council for the purposes of that subparagraph, and

(h) prescribed investments;

(i) [Repealed, 2007, c. 29, s. 26] (*placement admissible*)

revoked plan means a deferred profit sharing plan the registration of which has been revoked by the Minister pursuant to subsection 147(14) or 147(14.1). (*régime dont l'agrément est retiré*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 204; 1994, c. 7, Sch. III, s. 20(F); 2001, c. 17, ss. 168, 223; 2007, c. 29, s. 26, c. 35, s. 57; 2009, c. 2, s. 66.

i) [Abrogé, 2007, ch. 29, art. 26] (*qualified investment*)

placement initial non admissible Dans le cas d'une fiducie, placement détenu par la fiducie le 21 décembre 1966 et qui était, à cette date, un placement non admissible, à l'exclusion toutefois :

a) de tout intérêt dans une police d'assurance-vie;

b) d'une action à revenu variable qui serait un placement admissible si la date d'acquisition de cette action était le 21 décembre 1966. (*initial non-qualified investment*)

placement non admissible Bien qui ne constitue pas un placement admissible dans le cas d'une fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré, au sens de la définition de ***placement admissible*** au présent paragraphe. (*non-qualified investment*)

régime dont l'agrément est retiré Régime de participation différée aux bénéfices dont l'agrément a été retiré par le ministre conformément au paragraphe 147(14) ou (14.1). (*revoked plan*)

titre de créance Obligation, billet ou titre semblable. (*debt obligation*)

valeur en capital versé Dans le cas d'une action, le montant calculé selon la formule suivante :

A/B

où :

A représente le capital versé de la société, représenté par les actions de la catégorie à laquelle cette action appartient;

B le nombre d'actions de cette catégorie qui sont en fait émises et en circulation. (*paid-up capital value*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 204; 1994, ch. 7, ann. III, art. 20(F); 2001, ch. 17, art. 168 et 223; 2007, ch. 29, art. 26, ch. 35, art. 57; 2009, ch. 2, art. 66.

PART X.1

Tax in Respect of Over-contributions to Deferred Income Plans

Tax payable by individuals

204.1 (1) Where, at the end of any month after May, 1976, an individual has an excess amount for a year in respect of registered retirement savings plans, the individual shall, in respect of that month, pay a tax under this Part equal to 1% of that portion of the total of all those excess amounts that has not been paid by those plans to the individual before the end of that month.

Amount deemed repaid

(2) For the purposes of subsection 204.1(1), where an amount in respect of a plan has been included in computing an individual's income pursuant to paragraph 146(12)(b), that amount shall be deemed to have been paid to the individual by the plan at the time referred to in that paragraph.

Tax payable by individuals -- contributions after 1990

(2.1) Where, at the end of any month after December, 1990, an individual has a cumulative excess amount in respect of registered retirement savings plans, the individual shall, in respect of that month, pay a tax under this Part equal to 1% of that cumulative excess amount.

Tax payable by deferred profit sharing plan

(3) Where, at the end of any month after May, 1976, a trust governed by a deferred profit sharing plan has an excess amount, the trust shall, in respect of that month, pay a tax under this Part equal to 1% of the excess amount.

Waiver of tax

(4) Where an individual would, but for this subsection, be required to pay a tax under subsection 204.1(1) or 204.1(2.1) in respect of a month and the individual establishes to the satisfaction of the Minister that

(a) the excess amount or cumulative excess amount on which the tax is based arose as a consequence of reasonable error, and

(b) reasonable steps are being taken to eliminate the excess,

PARTIE X.1

Impôt frappant les excédents de contribution aux régimes de revenu différé

Impôt payable par les particuliers

204.1 (1) Le particulier qui, à la fin d'un mois donné postérieur au mois de mai 1976, a un excédent pour une année relativement à des régimes enregistrés d'épargne-retraite doit, pour ce mois, payer un impôt en vertu de la présente partie égal à 1 % de la partie du total de ces excédents qui n'a pas été restituée par les régimes au particulier avant la fin du mois en question.

Somme réputée restituée

(2) Pour l'application du paragraphe (1), lorsqu'une somme afférente à un régime a été incluse dans le calcul du revenu d'un particulier, conformément à l'alinéa 146(12)b), celui-ci est réputé avoir restitué la somme par l'intermédiaire du régime au moment mentionné dans cet alinéa.

Impôt payable par les particuliers — cotisations postérieures à 1990

(2.1) Le particulier qui, à la fin d'un mois donné postérieur au mois de décembre 1990, a un excédent cumulatif au titre de régimes enregistrés d'épargne-retraite doit, pour ce mois, payer un impôt selon la présente partie égal à 1 % de cet excédent.

Impôt payable par un régime de participation différée aux bénéfices

(3) La fiducie régie par un régime de participation différée aux bénéfices et qui, à la fin d'un mois donné postérieur au mois de mai 1976, a un excédent doit, pour ce mois, payer un impôt en vertu de la présente partie égal à 1 % de l'excédent.

Renonciation

(4) Le ministre peut renoncer à l'impôt dont un particulier serait, compte non tenu du présent paragraphe, redevable pour un mois selon le paragraphe (1) ou (2.1), si celui-ci établit à la satisfaction du ministre que l'excédent ou l'excédent cumulatif qui est frappé de l'impôt fait suite à une erreur acceptable et que les mesures indiquées pour éliminer l'excédent ont été prises.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1976-77, ch. 4, art. 69; 1990, ch. 35, art. 21.

the Minister may waive the tax.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1976-77, c. 4, s. 69; 1990, c. 35, s. 21.

Definition of *excess amount for a year in respect of registered retirement savings plans*

204.2 (1) ***Excess amount for a year in respect of registered retirement savings plans*** of an individual at a particular time means,

(a) where the excess amount is for a year after 1990, nil; and

(b) where the excess amount is for a year before 1991, the amount, if any, by which the total of

(i) all amounts paid by the individual to such plans under which the individual or the individual's spouse or common-law partner is the annuitant, other than amounts

(A) to which paragraph 60(j), 60(j.01), 60(j.1), 60(j.2) or 60(l) applies or would, if the individual were resident in Canada throughout the year, apply, or

(B) transferred to the plan in accordance with any of subsections 146(16), 147(19) and 147.3(1) and 147.3(4) to 147.3(7), and

(ii) all gifts made to such a plan under which the individual is the annuitant, other than gifts made thereto by the individual's spouse or common-law partner,

in the year and before the particular time, exceeds the total of

(iii) all amounts that may be deducted in computing the individual's income for the immediately preceding year in respect of those payments, and

(iv) the greater of $5,500 and the amount that may be deducted in computing the individual's income for the year in respect of those payments.

Cumulative excess amount in respect of RRSPs

(1.1) The cumulative excess amount of an individual in respect of registered retirement savings plans at any time in a taxation year is the amount, if any, by which

(a) the amount of the individual's undeducted RRSP premiums at that time

exceeds

Excédent au titre des REER

204.2 (1) L'excédent d'un particulier pour une année au titre des régimes enregistrés d'épargne-retraite à un moment donné correspond, pour les années ci-après, au montant suivant :

a) années postérieures à 1990, zéro;

b) années antérieures à 1991, l'excédent éventuel du total des montants suivants :

(i) les montants qu'il verse au cours de l'année et avant le moment donné à de tels régimes dont il est rentier ou dont son époux ou conjoint de fait est rentier, à l'exclusion :

(A) des montants auxquels l'alinéa 60j), j.01), j.1), j.2) ou l) s'applique ou s'appliquerait si le particulier résidait au Canada tout au long de l'année,

(B) des montants transférés au régime conformément à l'un des paragraphes 146(16), 147(19) et 147.3(1) et (4) à (7),

(ii) les dons faits au cours de l'année et avant le moment donné à de tels régimes dont il est rentier, à l'exclusion des dons faits par son époux ou conjoint de fait,

sur le total des montants suivants :

(iii) les montants que le particulier peut déduire dans le calcul de son revenu pour l'année précédente relativement à ces versements,

(iv) le plus élevé de 5 500 $ et du montant que le particulier peut déduire dans le calcul de son revenu pour l'année relativement à ces versements.

Excédent cumulatif au titre des REER

(1.1) L'excédent cumulatif d'un particulier au titre des régimes enregistrés d'épargne-retraite à un moment donné d'une année d'imposition correspond à l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) les primes non déduites, à ce moment, qu'il a versées à des régimes enregistrés d'épargne-retraite;

(b) the amount determined by the formula

A + B + R + C + D + E

where

A is the individual's unused RRSP deduction room at the end of the preceding taxation year,

B is the amount, if any, by which

(i) the lesser of the RRSP dollar limit for the year and 18% of the individual's earned income (as defined in subsection 146(1)) for the preceding taxation year

exceeds the total of all amounts each of which is

(ii) the individual's pension adjustment for the preceding taxation year in respect of an employer, or

(iii) a prescribed amount in respect of the individual for the year,

C is, where the individual attained 18 years of age in a preceding taxation year, $2,000, and in any other case, nil,

D is the group plan amount in respect of the individual at that time,

E is, where the individual attained 18 years of age before 1995, the individual's transitional amount at that time, and in any other case, nil, and

R is the individual's total pension adjustment reversal for the year.

b) le résultat du calcul suivant :

A + B + R + C + D + E

où :

A représente les déductions inutilisées au titre des REER du particulier à la fin de l'année d'imposition précédente,

B l'excédent éventuel du moins élevé du plafond REER pour l'année et de 18 % du revenu gagné du particulier, au sens du paragraphe 146(1), pour l'année d'imposition précédente sur le total des montants représentant chacun :

(i) le facteur d'équivalence du particulier pour l'année d'imposition précédente quant à un employeur,

(ii) le montant prescrit quant au particulier pour l'année,

C si le particulier a atteint 18 ans au cours d'une année d'imposition antérieure, 2 000 $; sinon, zéro,

D le montant relatif à un régime collectif quant au particulier à ce moment,

E si le particulier a atteint 18 ans avant 1995, le montant de transition qui lui est applicable à ce moment; sinon, zéro;

R le facteur d'équivalence rectifié total du particulier pour l'année.

Undeducted RRSP premiums

(1.2) For the purposes of subsection 204.2(1.1) and the description of K in paragraph 204.2(1.3)(a), the amount of undeducted RRSP premiums of an individual at any time in a taxation year is the amount determined by the formula

H + I - J

where

H is for taxation years ending before 1992, nil, and for taxation years ending after 1991, the amount, if any, by which

(a) the amount of the individual's undeducted RRSP premiums at the end of the immediately preceding taxation year

exceeds

(b) the total of the amounts deducted under subsections 146(5) and 146(5.1) in computing the individual's income for the immediately preceding taxation year, to the extent that each amount was deducted in respect of premiums paid under

Primes non déduites versées à des REER

(1.2) Pour l'application du paragraphe (1.1) et de l'élément K de la formule figurant au paragraphe (1.3), les primes non déduites, à un moment donné d'une année d'imposition, qu'un particulier a versées à des régimes enregistrés d'épargne-retraite sont calculées selon la formule suivante :

H + I - J

où :

H représente zéro pour les années d'imposition se terminant avant 1992 et, pour les années d'imposition postérieures à 1991, l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) :

a) les primes non déduites, à la fin de l'année d'imposition précédente, que le particulier a ainsi versées;

b) le total des montants qu'il a déduits en application des paragraphes 146(5) et (5.1) dans le calcul de son revenu pour l'année d'imposition précédente, dans la mesure où chaque montant est

registered retirement savings plans in or before that preceding year,

I is the total of all amounts each of which is

(a) a premium (within the meaning assigned by subsection 146(1)) paid by the individual in the year and before that time under a registered retirement savings plan under which the individual or the individual's spouse or common-law partner was the annuitant (within the meaning assigned by subsection 146(1)) at the time the premium was paid, other than

(i) an amount paid to the plan in the first 60 days of the year and deducted in computing the individual's income for the immediately preceding taxation year,

(ii) an amount paid to the plan in the year and deducted under paragraph 60(j), 60(j.1), 60(j.2) or 60(l) in computing the individual's income for the year or the immediately preceding taxation year,

(iii) an amount transferred to the plan on behalf of the individual in accordance with any of subsections 146(16), 147(19), 147.3(1) and (4) to (7) and 147.5(21) or in circumstances to which subsection 146(21) applies,

(iv) an amount deductible under subsection 146(6.1) in computing the individual's income for the year or a preceding taxation year,

(v) where the individual is a non-resident person, an amount that would, if the individual were resident in Canada throughout the year and the immediately preceding taxation year, be deductible under paragraph 60(j), 60(j.1), 60(j.2) or 60(l) in computing the individual's income for the year or the immediately preceding taxation year, or

(vi) an amount paid to the plan in the year that is not deductible in computing the individual's income for the year because of subparagraph 146(5)(a)(iv.1) or 146(5.1)(a)(iv),

(b) a gift made in the year and before that time to a registered retirement savings plan under which the individual is the annuitant (within the meaning assigned by subsection 146(1)), other than a gift made thereto by the individual's spouse or common-law partner, or

(c) an amount contributed in the year and before that time by an employer or former employer of the individual to an account of the individual under a pooled registered pension plan, and

J is the amount, if any, by which

déduit au titre des primes versées à des régimes enregistrés d'épargne-retraite au cours de cette année ou avant celle-ci;

I le total des montants dont chacun représente :

a) soit une prime, au sens du paragraphe 146(1), que le particulier a versée au cours de l'année et avant le moment donné aux termes d'un régime enregistré d'épargne-retraite dont il est rentier ou dont son époux ou conjoint de fait est rentier, au sens du même paragraphe, au moment du versement, à l'exception :

(i) d'un montant versé au régime au cours des 60 premiers jours de l'année et déduit par le particulier dans le calcul de son revenu pour l'année d'imposition précédente,

(ii) d'un montant versé au régime au cours de l'année et déduit par le particulier en application de l'alinéa 60j), j.1), j.2) ou l) dans le calcul de son revenu pour l'année ou pour l'année d'imposition précédente,

(iii) d'une somme transférée au régime pour le compte du particulier conformément aux paragraphes 146(16), 147(19), 147.3(1) et (4) à (7) et 147.5(21) ou dans les circonstances visées au paragraphe 146(21),

(iv) d'un montant déductible par le particulier en application du paragraphe 146(6.1) dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure,

(v) si le particulier est un non-résident, du montant qui serait déductible en application des alinéas 60j, j.1), j.2) ou l) dans le calcul de son revenu pour l'année ou pour l'année d'imposition précédente s'il résidait au Canada tout au long de ces deux années;

(vi) d'un montant versé au régime au cours de l'année qui n'est pas déductible dans le calcul du revenu du particulier pour l'année par l'effet des sous-alinéas 146(5)a)(iv.1) ou (5.1)a)(iv);

b) soit un don fait au cours de l'année et avant le moment donné à un régime enregistré d'épargne-retraite dont il est rentier, au sens du paragraphe 146(1), à l'exception d'un don fait à ce régime par son époux ou conjoint de fait;

c) soit une cotisation versée au cours de l'année et avant le moment donné au compte du particulier dans le cadre d'un régime de pension agréé collectif par son employeur ou ancien employeur;

J l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b) :

(a) the total of all amounts each of which is an amount (other than the portion of it that reduces the amount on which tax is payable by the individual under subsection 204.1(1)) received by the individual in the year and before that time out of or under a pooled registered pension plan, a registered retirement savings plan or a registered retirement income fund and included in computing the individual's income for the year

exceeds

(b) the amount deducted under paragraph 60(l) in computing the individual's income for the year.

a) le total des sommes représentant chacune une somme — sauf la partie de celle-ci qui réduit la somme sur laquelle l'impôt est payable par le particulier selon le paragraphe 204.1(1) — que le particulier a reçue au cours de l'année et avant ce moment sur un fonds enregistré de revenu de retraite, un régime de pension agréé collectif ou un régime enregistré d'épargne-retraite et qu'il a incluse dans le calcul de son revenu pour l'année;

b) le montant déduit en application de l'alinéa 60l) dans le calcul du revenu du particulier pour l'année.

Group plan amount

(1.3) For the purposes of this section, the group plan amount in respect of an individual at any time in a taxation year is the lesser of

(a) the lesser of the value of F and the amount determined by the formula

F - (G - K)

where

F is the lesser of

(i) the total of all amounts each of which is a qualifying group plan amount in respect of the individual, to the extent that the amount is included in determining the value of I in subsection (1.2) in respect of the individual at that time, and

(ii) the RRSP dollar limit for the following taxation year,

G is the amount that would be determined under paragraph 204.2(1.1)(b) in respect of the individual at that time if the values of C, D and E in that paragraph were nil, and

K is

(i) where the year is the 1996 taxation year, the amount, if any, by which the amount of the individual's undeducted RRSP premiums at the beginning of the year exceeds the individual's cumulative excess amount in respect of registered retirement savings plans at the end of the 1995 taxation year, and

(ii) in any other case, the group plan amount in respect of the individual at the end of the preceding taxation year, and

(b) the amount that would be the individual's cumulative excess amount in respect of registered retirement

Montant relatif à un régime collectif

(1.3) Pour l'application du présent article, le montant relatif à un régime collectif quant à un particulier à un moment donné d'une année d'imposition correspond à la moins élevée des sommes suivantes :

a) le moins élevé de l'élément F et du résultat du calcul suivant :

F - (G - K)

où :

F représente le moins élevé des montants suivants :

(i) le total des sommes représentant chacune un montant admissible relatif à un régime collectif quant au particulier, dans la mesure où il est inclus dans le calcul de la valeur de l'élément I de la formule figurant au paragraphe (1.2) relativement au particulier à ce moment,

(ii) le plafond REER pour l'année d'imposition subséquente,

G le montant qui serait déterminé selon l'alinéa (1.1)b) relativement au particulier à ce moment si la valeur des éléments C, D et E de la formule figurant à cet alinéa était nulle,

K :

(i) s'il s'agit de l'année d'imposition 1996, l'excédent éventuel des primes non déduites, au début de l'année, que le particulier a versées à des régimes enregistrés d'épargne-retraite, sur son excédent cumulatif au titre des régimes enregistrés d'épargne-retraite à la fin de l'année d'imposition 1995,

(ii) dans les autres cas, le montant relatif à un régime collectif quant au particulier à la fin de l'année d'imposition précédente;

b) le montant qui représenterait l'excédent cumulatif du particulier au titre des régimes enregistrés

savings plans at that time if the value of D in paragraph 204.2(1.1)(b) were nil.

d'épargne-retraite à ce moment si la valeur de l'élément D de la formule figurant à l'alinéa (1.1)b) était nulle.

Qualifying group plan amount

(1.31) For the purposes of the description of F in paragraph (1.3)(a), a qualifying group plan amount in respect of an individual is a premium paid under a registered retirement savings plan or an amount contributed by an employer or former employer of the individual to an account of the individual under a pooled registered pension plan if

(a) the plan is part of a qualifying arrangement or is a pooled registered pension plan,

(b) the premium or contribution is an amount to which the individual is entitled for services rendered by the individual (whether or not as an employee), and

(c) the premium or contribution was remitted to the plan on behalf of the individual by the person or body of persons that is required to remunerate the individual for the services, or by an agent for that person or body,

but does not include the part, if any, of a premium or contribution that, by making (or failing to make) an election or exercising (or failing to exercise) any other right under the plan after beginning to participate in the plan and within 12 months before the time the premium was paid or the contribution was made, the individual could have prevented the premium or contribution and that would not as a consequence have been required to be remitted on behalf of the individual to another registered retirement savings plan or pooled registered pension plan or to a money purchase provision of a registered pension plan.

Montant admissible relatif à un régime collectif

(1.31) Pour l'application de l'élément F de la formule figurant à l'alinéa (1.3)a), est un montant admissible relatif à un régime collectif quant à un particulier une prime versée dans le cadre d'un régime enregistré d'épargne-retraite ou une cotisation versée au compte du particulier dans le cadre d'un régime de pension agréé collectif par son employeur ou ancien employeur si, à la fois :

a) le régime fait partie d'un arrangement admissible ou est un régime de pension agréé collectif;

b) la prime ou la cotisation est une somme à laquelle le particulier a droit pour des services qu'il a rendus à titre d'employé ou autrement;

c) la prime ou la cotisation a été versée au régime pour le compte du particulier par la personne ou le groupe de personnes qui est tenu de le rémunérer pour les services, ou par le mandataire de cette personne ou de ce groupe.

N'est pas un montant admissible relatif à un régime collectif la partie d'une prime ou d'une cotisation dont le particulier aurait pu empêcher le versement dans le cadre du régime en faisant ou en s'abstenant de faire un choix ou en exerçant ou en s'abstenant d'exercer un autre droit dans le cadre du régime après le début de sa participation à celui-ci et dans les douze mois précédant le versement de la prime ou de la cotisation et qui, en conséquence, n'aurait pas été à verser pour le compte du particulier à un autre régime enregistré d'épargne-retraite ou régime de pension agréé collectif ou à une disposition à cotisations déterminées d'un régime de pension agréé.

Qualifying arrangement

(1.32) For the purpose of paragraph 204.2(1.31)(a), a qualifying arrangement is an arrangement under which premiums that satisfy the conditions in paragraphs 204.2(1.31)(b) and 204.2(1.31)(c) are remitted to registered retirement savings plans on behalf of two or more individuals, but does not include an arrangement where it is reasonable to consider that one of the main purposes of the arrangement is to reduce tax payable under this Part.

Arrangement admissible

(1.32) Pour l'application de l'alinéa (1.31)a), un arrangement admissible est un arrangement dans le cadre duquel des primes, qui remplissent les conditions énoncées aux alinéas (1.31)b) et c), sont versées à des régimes enregistrés d'épargne-retraite pour le compte de plusieurs particuliers. N'est pas un arrangement admissible l'arrangement dont il est raisonnable de considérer que l'un des principaux objets consiste à réduire l'impôt payable en vertu de la présente partie.

Deemed receipt where RRSP or RRIF amended

(1.4) For the purposes of subsection 204.2(1.2),

(a) where an amount in respect of a registered retirement savings plan has been included in computing an individual's income pursuant to paragraph 146(12)(b),

Montant réputé reçu

(1.4) Pour l'application du paragraphe (1.2):

that amount shall be deemed to have been received by the individual out of the plan at the time referred to in that paragraph; and

(b) where an amount in respect of a registered retirement income fund has been included in computing an individual's income pursuant to paragraph 146.3(11)(b), that amount shall be deemed to have been received by the individual out of the fund at the time referred to in that paragraph.

a) d'une part, le montant qui est inclus en application de l'alinéa 146(12)b) dans le calcul du revenu d'un particulier au titre d'un régime enregistré d'épargne-retraite est réputé provenir du régime et avoir été reçu par le particulier au moment mentionné à cet alinéa;

b) d'autre part, le montant qui est inclus en application de l'alinéa 146.3(11)b) dans le calcul du revenu d'un particulier au titre d'un fonds enregistré de revenu de retraite est réputé provenir du fonds et avoir été reçu par le particulier au moment mentionné à cet alinéa.

Transitional amount

(1.5) For the purpose of the description of E in paragraph 204.2(1.1)(b), an individual's transitional amount at any time in a taxation year is the lesser of

(a) $6,000, and

(b) where the value of L is nil, nil, and in any other case, the amount determined by the formula

L - M

where

L is the amount, if any, by which

(i) the amount that would be determined under subsection 204.2(1.2) to be the amount of the individual's undeducted RRSP premiums at that time if

(A) the value of I in that subsection were determined for the 1995 taxation year without including premiums paid after February 26, 1995,

(B) the value of I in that subsection were nil for the 1996 and subsequent taxation years, and

(C) the value of J in that subsection were determined for the 1995 and subsequent taxation years without including the part, if any, of an amount received by the individual out of or under a registered retirement savings plan or registered retirement income fund that can reasonably be considered to be in respect of premiums paid after February 26, 1995 by the individual under a registered retirement savings plan

exceeds

(ii) the total of all amounts each of which is an amount deducted under subsection 146(5) or 146(5.1) in computing the individual's income for a preceding taxation year, to the extent that the amount was deducted in respect of

Montant de transition

(1.5) Pour l'application de l'élément E de la formule figurant à l'alinéa (1.1)b), le montant de transition applicable à un particulier à un moment d'une année d'imposition correspond au moins élevé des montants suivants :

a) 6 000 $;

b) si la valeur de l'élément L est nulle, zéro; sinon, le résultat du calcul suivant :

L - M

où :

L représente l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant qui, selon le paragraphe (1.2), correspondrait aux primes non déduites, à ce moment, que le particulier a versées à des régimes enregistrés d'épargne-retraite à ce moment si, à la fois :

(A) l'élément I de la formule figurant à ce paragraphe était déterminé pour l'année d'imposition 1995 compte non tenu des primes versées après le 26 février 1995,

(B) la valeur de l'élément I de la formule figurant à ce paragraphe était nulle pour les années d'imposition 1996 et suivantes,

(C) l'élément J de la formule figurant à ce paragraphe était déterminé pour les années d'imposition 1995 et suivantes compte non tenu de la partie d'un montant que le particulier a reçu dans le cadre d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite qu'il est raisonnable de considérer comme se rapportant à des primes qu'il a versées après le 26 février 1995 dans le cadre d'un régime enregistré d'épargne-retraite,

premiums paid after that year (other than premiums paid before February 27, 1995), and

M is the amount that would be determined by the formula in paragraph 204.2(1.1)(b) in respect of the individual at that time if the values of D and E in that paragraph were nil and section 257 did not apply to that formula.

(ii) le total des montants représentant chacun un montant déduit en application des paragraphes 146(5) ou (5.1) dans le calcul du revenu du particulier pour une année d'imposition antérieure, dans la mesure où ce montant a été déduit au titre de primes versées après cette année, à l'exception de celles versées avant le 27 février 1995,

M le montant qui serait déterminé selon la formule figurant à l'alinéa (1.1)b) relativement au particulier à ce moment si la valeur des éléments D et E de cette formule était nulle et si l'article 257 ne s'appliquait pas à cette formule.

Where terminated plan deemed to continue to exist

(2) Notwithstanding paragraph 146(12)(a), for the purposes of this Part, where a registered retirement savings plan ceases to exist and a payment or transfer of funds out of that plan has been made to which subsection 146(16) applied, if an individual's excess amount for a year in respect of registered retirement savings plans would have been greater had that plan not ceased to exist, for the purpose of computing the excess amount for a year in respect of registered retirement savings plans for so long as the individual or the individual's spouse or common-law partner is the annuitant under any registered retirement savings plan under which an annuity has not commenced to be paid to the annuitant, the plan that ceased to exist shall be deemed to remain in existence and the individual or the individual's spouse or common-law partner, as the case may be, shall be deemed to continue to be the annuitant thereunder.

Régime réputé continuer à être en vigueur

(2) Malgré l'alinéa 146(12)a), pour l'application de la présente partie, lorsqu'un régime enregistré d'épargne-retraite cesse d'exister, qu'un paiement ou un transfert de fonds prélevés sur le régime et assujettis au paragraphe 146(16) est fait et que l'excédent d'un individu pour une année au titre d'un régime enregistré d'épargne-retraite aurait été plus élevé si le régime était resté en vigueur, pour le calcul de l'excédent pour une année au titre des régimes enregistrés d'épargne-retraite tant que l'individu ou son époux ou conjoint de fait demeure un rentier en vertu d'un régime enregistré d'épargne-retraite aux termes duquel la rente n'a pas commencé à être versée au rentier, le régime qui a cessé d'être en vigueur est réputé rester en vigueur et l'individu ou son époux ou conjoint de fait, selon le cas, est réputé demeurer un rentier en vertu de ce régime.

When retirement savings plan deemed to be a registered plan

(3) Where a retirement savings plan under which an individual or the individual's spouse or common-law partner is the annuitant (within the meaning assigned by subsection 146(1)) is accepted by the Minister for registration, for the purpose of determining

(a) the amount of undeducted RRSP premiums of the individual at any time, and

(b) the excess amount for a year in respect of registered retirement savings plans of the individual at any time,

the retirement savings plan shall be deemed to have become a registered retirement savings plan on the later of the day on which the plan came into existence and May 25, 1976.

Régime d'épargne-retraite réputé être enregistré

(3) Lorsque le ministre accepte d'enregistrer un régime d'épargne-retraite dont un particulier ou son époux ou conjoint de fait est rentier, au sens du paragraphe 146(1), le régime est réputé être un régime enregistré d'épargne-retraite depuis le dernier en date du jour de son entrée en vigueur et du 25 mai 1976 pour le calcul, d'une part, des primes non déduites que le particulier a versées à des régimes enregistrés d'épargne-retraite à un moment donné, et, d'autre part, de l'excédent pour une année au titre des régimes enregistrés d'épargne-retraite du particulier à un moment donné.

Definition of *excess amount* for a DPSP

(4) ***Excess amount*** at any time for a trust governed by a deferred profit sharing plan means the total of all amounts each of which is

(a) such portion of the total of all contributions made to the trust before that time and after May 25, 1976 by a beneficiary under the plan, other than

(i) contributions that have been deducted by the beneficiary under paragraph 60(k) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952,

(ii) amounts transferred to the plan on behalf of the beneficiary in accordance with subsection 147(19), or

(iii) the portion of the contributions (other than contributions referred to in subparagraphs 204.2(4)(a)(i) and 204.2(4)(a)(ii)) made by the beneficiary in each calendar year before 1991 not in excess of $5,500,

as has not been returned to the beneficiary before that time; or

(b) a gift received by the trust before that time and after May 25, 1976.

PRPP withdrawals

(5) Notwithstanding the *Pooled Registered Pension Plans Act* or any similar law of a province, a member of a PRPP may withdraw an amount from the member's account under the PRPP to reduce the amount of tax that would otherwise be payable by the member under this Part, to the extent that the reduction cannot be achieved by withdrawals from plans other than PRPPs.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 204.2; 1994, c. 7, Sch. VIII, s. 117, c. 21, s. 92; 1995, c. 3, s. 49; 1996, c. 21, s. 51; 1998, c. 19, s. 49; 2000, c. 12, s. 142; 2012, c. 31, s. 43.

Return and payment of tax

204.3 (1) Within 90 days after the end of each year after 1975, a taxpayer to whom this Part applies shall

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable by the taxpayer under this Part in respect of each month in the year; and

Excédent au titre d'un régime de participation différée aux bénéfices

(4) L'excédent, à un moment donné, pour une fiducie régie par un régime de participation différée aux bénéfices correspond au total des montants dont chacun représente :

a) soit la partie des cotisations que le bénéficiaire du régime a versées à la fiducie avant ce moment et après le 25 mai 1976, dans la mesure où elles ne sont pas remboursées au bénéficiaire avant ce moment, à l'exception :

(i) des cotisations que ce dernier a déduites en application de l'alinéa 60k) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952,

(ii) des montants transférés au régime pour le compte du bénéficiaire conformément au paragraphe 147(19),

(iii) de la partie des cotisations, sauf celles visées aux sous-alinéas (i) et (ii), que le bénéficiaire a versées au cours de chaque année civile antérieure à 1991, ne dépassant pas 5 500 $;

b) soit un don que la fiducie a reçu avant ce moment et après le 25 mai 1976.

Retraits d'un RPAC

(5) Malgré la *Loi sur les régimes de pension agréés collectifs* ou toute loi provinciale semblable, le participant à un régime de pension agréé collectif peut retirer une somme de son compte dans le cadre du régime dans le but de réduire le montant d'impôt qu'il aurait à payer par ailleurs en vertu de la présente partie, dans la mesure où la réduction ne peut s'opérer au moyen de retraits de régimes autres que des régimes de pension agréés collectifs.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 204.2; 1994, ch. 7, ann. VIII, art. 117; ch. 21, art. 92; 1995, ch. 3, art. 49; 1996, ch. 21, art. 51; 1998, ch. 19, art. 49; 2000, ch. 12, art. 142; 2012, ch. 31, art. 43.

Déclaration et paiement de l'impôt

204.3 (1) Les contribuables visés par la présente partie doivent, dans les 90 jours qui suivent la fin de chaque année postérieure à 1975:

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, selon le formulaire prescrit et contenant les renseignements prescrits;

(c) pay to the Receiver General the amount of tax, if any, payable by the taxpayer under this Part in respect of each month in the year.

b) estimer, dans cette déclaration, l'impôt dont ils sont redevables en vertu de la présente partie pour chaque mois de l'année;

c) verser cet impôt au receveur général.

Provisions applicable to Part

(2) Subsections 150(2) and 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1976-77, c. 4, s. 69; 1980-81-82-83, c. 48, s. 115; 1985, c. 45, s. 126(F); 1986, c. 6, s. 106.

Dispositions applicables

(2) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1976-77, ch. 4, art. 69; 1980-81-82-83, ch. 48, art. 115; 1985, ch. 45, art. 126(F); 1986, ch. 6, art. 106.

PART X.2

Tax in Respect of Registered Investments

Definition of *registered investment*

204.4 (1) In this Part, ***registered investment*** means a trust or a corporation that has applied in prescribed form as of a particular date in the year of application and has been accepted by the Minister as of that date as a registered investment for one or more of the following:

(a) registered retirement savings plans,

(c) registered retirement income funds, and

(d) deferred profit sharing plans

and that has not been notified by the Minister that it is no longer registered under this Part.

Acceptance of applicant for registration

(2) The Minister may accept for registration for the purposes of this Part any applicant that is

(a) a trust that has as its sole trustee a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee if, on the particular date referred to in subsection 204.4(1),

(i) all the property of the applicant is held in trust for the benefit of not fewer than 20 beneficiaries and

PARTIE X.2

Impôt sur les placements enregistrés

Définition de *placement enregistré*

204.4 (1) Dans la présente partie, ***placement enregistré*** s'entend d'une fiducie ou d'une société ayant demandé, selon le formulaire prescrit, d'être acceptée, à compter d'une date donnée de l'année de la demande, à titre de placement enregistré, et ayant été acceptée à ce titre par le ministre, à compter de cette date, pour un ou plusieurs des fonds ou régimes suivants :

a) les régimes enregistrés d'épargne-retraite;

c) les fonds enregistrés de revenu de retraite;

d) les régimes de participation différée aux bénéfices,

et qui n'a pas été avisée par le ministre qu'elle n'est plus enregistrée en vertu de la présente partie.

Acceptation de la requérante aux fins d'enregistrement

(2) Le ministre peut accepter, pour l'application de la présente partie, l'enregistrement de toute requérante qui est :

a) une fiducie ayant pour unique fiduciaire une société titulaire d'une licence ou autorisée par ailleurs par la législation fédérale ou provinciale à exploiter au Canada une entreprise offrant au public ses services à titre de fiduciaire si, à la date donnée visée au paragraphe (1), les conditions suivantes sont réunies :

(i) les biens de la requérante sont détenus en fidéicommis à l'avantage d'au moins 20 bénéficiaires et :

(A) not fewer than 20 beneficiaries are taxpayers described in any of paragraphs 149(1)(o) to (o.2), (o.4) or (s), or

(B) not fewer than 100 beneficiaries are taxpayers described in paragraph 149(1)(r) or (x),

(ii) the total of

(A) the fair market value at the time of acquisition of its

(I) shares, marketable securities and cash, and

(II) bonds, debentures, mortgages, hypothecary claims, notes and other similar obligations, and

(B) the amount by which the fair market value at the time of acquisition of its real or immovable property that may reasonably be regarded as being held for the purpose of producing income from property exceeds the total of all amounts each of which is owing by it on account of its acquisition of the real or immovable property

is not less than 80% of the amount by which the fair market value at the time of acquisition of all its property exceeds the total of all amounts each of which is owing by it on account of its acquisition of real or immovable property,

(iii) the fair market value at the time of acquisition of its shares, bonds, mortgages, hypothecary claims and other securities of any one corporation or debtor (other than bonds, mortgages, hypothecary claims and other securities of or guaranteed by Her Majesty in right of Canada or a province or Canadian municipality) is not more than 10% of the amount by which the fair market value at the time of acquisition of all its property exceeds the total of all amounts each of which is an amount owing by it on account of its acquisition of real or immovable property,

(iv) the amount by which

(A) the fair market value at the time of acquisition of any one of its real or immovable properties

exceeds

(B) the total of all amounts each of which is owing by it on account of its acquisition of the real or immovable property

(A) soit au moins 20 bénéficiaires sont des contribuables visés à l'un des alinéas 149(1)o) à o.2), o.4) et s),

(B) soit au moins 100 bénéficiaires sont des contribuables visés aux alinéas 149(1)r) ou x),

(ii) le total des montants suivants :

(A) la juste valeur marchande, au moment de l'acquisition, de ce qui suit :

(I) ses actions, titres négociables et argent liquide,

(II) ses obligations, créances hypothécaires, billets et autres titres semblables,

(B) l'excédent de la juste valeur marchande, au moment de l'acquisition, de ses biens immeubles ou réels qu'il est raisonnable de considérer comme étant détenus en vue de produire un revenu tiré de biens sur le total des montants dont chacun représente un montant dont elle était redevable au titre de l'acquisition par elle des biens immeubles ou réels,

ne constituait pas moins de 80 % du montant de l'excédent de la juste valeur marchande, au moment de l'acquisition, de ses biens sur le total des montants dont chacun représente un montant dont elle était redevable au titre de l'acquisition par elle de biens immeubles ou réels,

(iii) la juste valeur marchande, au moment de l'acquisition, de ses actions, obligations, créances hypothécaires et autres titres d'une société ou débiteur quelconque (autres que des obligations, créances hypothécaires et autres titres émis ou garantis par Sa Majesté du chef du Canada ou d'une province ou par une municipalité canadienne) n'était pas supérieur à 10 % du montant de l'excédent de la juste valeur marchande, au moment de l'acquisition, de ses biens sur le total des montants dont chacun représente un montant dont elle était redevable au titre de l'acquisition par elle de biens immeubles ou réels,

(iv) l'excédent du montant visé à la division (A) sur le total visé à la division (B) :

(A) la juste valeur marchande, au moment de l'acquisition, de l'un quelconque de ses biens immeubles ou réels,

(B) le total des montants dont chacun représente un montant dont elle était redevable au titre de

is not more than 10% of the amount by which the fair market value at the time of acquisition of all its property exceeds the total of all amounts each of which is owing by it on account of its acquisition of real or immovable property,

(v) not less than 95% of the income of the applicant for its most recently completed fiscal period, or where no such period exists, that part of its current fiscal period before the particular date, was derived from investments described in subparagraph 204.4(2)(a)(ii),

(vi) the total value of all interests in the applicant owned by all trusts or corporations described in any of paragraphs 149(1)(o) to (o.2), (o.4) or (s) to which any one employer, either alone or together with persons with whom the employer was not dealing at arm's length, has made contributions does not exceed 25% of the value of all its property,

(vii) the total value of all interests in the applicant owned by all trusts described in paragraph 149(1)(r) or (x) to which any one taxpayer, either alone or together with persons with whom the taxpayer was not dealing at arm's length, has made contributions does not exceed 25% of the value of all its property, and

(viii) the applicant does not hold property acquired by it after May 26, 1975 that is

(A) a mortgage or hypothecary claim (other than a mortgage or hypothecary claim insured under the *National Housing Act* or by a corporation that offers its services to the public in Canada as an insurer of mortgages or hypothecary claims and that is approved as a private insurer of mortgages or hypothecary claims by the Superintendent of Financial Institutions pursuant to the powers assigned to the Superintendent under subsection 6(1) of the *Office of the Superintendent of Financial Institutions Act*), or an interest therein, or for civil law a right therein, in respect of which the mortgagor or hypothecary debtor is the annuitant under a registered retirement savings plan or registered retirement income fund, or a person with whom the annuitant is not dealing at arm's length, if any of the funds of a trust governed by such a plan or fund have been used to acquire an interest in the applicant, or

(B) a bond, debenture, note or similar obligation issued by a cooperative corporation (within the meaning assigned by subsection 136(2)) or a credit union that has granted any benefit or

l'acquisition par elle de ce bien immeuble ou réel,

n'était pas supérieur à 10 % de l'excédent de la juste valeur marchande, au moment de l'acquisition, de ses biens sur le total des montants dont chacun représente un montant dont elle était redevable au titre de l'acquisition par elle de biens immeubles ou réels,

(v) au moins 95 % de son revenu pour son dernier exercice complété ou, en l'absence d'un tel exercice, pour la partie de son exercice en cours qui précède la date donnée, a été tiré de placements visés au sous-alinéa (ii),

(vi) la valeur totale des participations dans la requérante que possèdent les fiducies ou sociétés visées à l'un des alinéas 149(1)o) à o.2), o.4) et s) auxquelles un employeur quelconque, soit seul, soit avec des personnes avec lesquelles il avait un lien de dépendance, a versé des contributions, n'est pas supérieure à 25 % de la valeur de ses biens,

(vii) la valeur totale des participations dans la requérante qui appartiennent aux fiducies visées aux alinéas 149(1)r) ou x) auxquelles un contribuable quelconque, soit seul, soit avec des personnes avec lesquelles il avait un lien de dépendance, a versé des contributions, n'est pas supérieure à 25 % de la valeur de ses biens,

(viii) la requérante ne détient aucun bien, acquis par elle après le 26 mai 1975, que est :

(A) une créance hypothécaire (à l'exclusion d'une créance hypothécaire garantie en vertu de la *Loi nationale sur l'habitation* ou par une société qui offre au public au Canada des services d'assureur de créances hypothécaires et qui est agréée à titre d'assureur privé de créances hypothécaires par le surintendant des institutions financières conformément aux attributions conférées à celui-ci en vertu du paragraphe 6(1) de la *Loi sur le Bureau du surintendant des institutions financières*), ou un intérêt ou, pour l'application du droit civil, un droit sur une telle créance, dont le débiteur hypothécaire est soit le rentier d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite, soit une personne avec qui le rentier a un lien de dépendance, si des fonds d'une fiducie régie par un tel régime ou fonds ont été utilisés pour l'acquisition d'une participation dans la requérante,

(B) une obligation, un billet ou un titre semblable émis par une société coopérative (au sens

privilege to any annuitant or beneficiary under a plan or fund referred to in subsection 204.4(1) that is dependent on or related to

(I) ownership by a trust governed by any such plan or fund of shares, bonds, debentures, notes or similar obligations of the cooperative corporation or credit union, or

(II) ownership by the applicant of shares, bonds, debentures, notes or similar obligations of the cooperative corporation or credit union if the trust governed by any such plan or fund has used any of its funds to acquire an interest in the applicant;

(b) a trust that

(i) would be a trust described in paragraph 204.4(2)(a) if that paragraph were read without reference to subparagraphs 204.4(2)(a)(i), 204.4(2)(a)(vi) and 204.4(2)(a)(vii), and

(ii) holds only prescribed investments for the type of plan or fund in respect of which it has applied for registration;

(c) a mutual fund trust;

(d) a trust that

(i) would be a mutual fund trust if paragraph 132(6)(c) were not applicable, and

(ii) holds only prescribed investments for the type of plan or fund in respect of which it has applied for registration;

(e) a mutual fund corporation or investment corporation; or

(f) a corporation that

(i) would be a mutual fund corporation or investment corporation if it could have elected to be a public corporation under paragraph (b) of the definition ***public corporation*** in subsection 89(1) had the conditions prescribed therefor required only that a class of shares of its capital stock be qualified for distribution to the public, and

(ii) holds only prescribed investments for the type of plan or fund in respect of which it has applied for registration.

du paragraphe 136(2)) ou par une caisse de crédit qui a conféré un avantage ou un privilège à un rentier ou bénéficiaire en vertu d'un fonds ou régime visé au paragraphe (1), qui dépend du fait que, ou est rattaché au fait que :

(I) soit des actions, obligations, billets ou titres semblables, émis par la société coopérative ou par la caisse de crédit appartiennent à une fiducie régie par un tel fonds ou régime,

(II) soit des actions, obligations, billets ou titres semblables émis par la société coopérative ou par la caisse de crédit appartiennent à la requérante, si la fiducie régie par ce fonds ou ce régime a utilisé des fonds quelconques pour l'acquisition d'une participation dans la requérante;

b) une fiducie qui remplit les conditions suivantes :

(i) elle serait une fiducie visée à l'alinéa a) compte non tenu des sous-alinéas a)(i), (vi) et (vii),

(ii) elle ne détient que des placements prévus par règlement pour le genre de fonds ou de régime relativement auquel elle a présenté une demande d'enregistrement;

c) une fiducie de fonds commun de placement;

d) une fiducie qui remplit les conditions suivantes :

(i) elle serait une fiducie de fonds commun de placement, si l'alinéa 132(6)c) ne s'appliquait pas,

(ii) elle ne détient que des placements prévus par règlement pour le genre de fonds ou de régime relativement auquel elle a présenté une demande d'enregistrement;

e) une société de placement à capital variable ou une société de placement;

f) une société qui remplit les conditions suivantes :

(i) elle serait une société de placement à capital variable ou une société de placement, si elle avait pu choisir d'être une société publique en vertu de l'alinéa b) de la définition de ***société publique*** au paragraphe 89(1), si les conditions prescrites à cette fin ne requéraient que l'existence d'une catégorie d'actions de son capital-actions admissible à une distribution dans le public,

(ii) elle ne détient que des placements prévus par règlement pour le genre de fonds ou de régime relativement auquel elle a présenté une demande d'enregistrement.

Revocation of registration

(3) The Minister shall notify a registered investment that it is no longer registered

(a) on being satisfied that, at a date subsequent to its registration date, it no longer satisfies one or more of the conditions necessary for it to be acceptable for registration under this Part, other than a condition the failure of which to satisfy would make it liable for tax under section 204.6; or

(b) within 30 days after receipt of a request in prescribed form from the registered investment for termination of its registration.

Révocation de l'enregistrement

(3) Le ministre avise un placement enregistré qu'il n'est plus enregistré dans les cas suivants :

a) il est convaincu qu'à une date postérieure à celle de son enregistrement, le placement enregistré ne répond plus à l'une des conditions nécessaires pour être admissible aux fins d'enregistrement en vertu de la présente partie, autre qu'une condition dont l'inobservation l'assujettirait à un impôt en vertu de l'article 204.6;

b) 30 jours se sont écoulés depuis la réception d'une demande, selon le formulaire prescrit, d'un placement enregistré en vue de mettre fin à son enregistrement.

Suspension of revocation

(4) Notwithstanding a notification to a taxpayer under subsection (3), for the purposes of sections 204.6 and 204.7, the taxpayer is deemed to be a registered investment for each month or part of a month after the notification during which an interest in, or a share of the capital stock of, the taxpayer continues, by virtue of having been a registered investment, to be a qualified investment for a plan or fund referred to in subsection (1).

Suspension de la révocation

(4) Malgré l'avis donné à un contribuable en vertu du paragraphe (3), pour l'application des articles 204.6 et 204.7, le contribuable est réputé être un placement enregistré pour chaque mois ou partie de mois qui suit un tel avis et durant lequel une participation dans le contribuable ou une action du capital-actions du contribuable continue, parce qu'il a été un placement enregistré, d'être un placement admissible pour un fonds ou un régime visé au paragraphe (1).

Cancellation of revocation

(5) Where a registered investment has been notified pursuant to paragraph 204.4(3)(a) and within 3 months from the date of notification it satisfies the Minister that it is acceptable for registration under this Part, the Minister may declare the notification to be a nullity.

Annulation de la révocation

(5) Lorsqu'un placement enregistré a été avisé en conformité avec l'alinéa (3)a) et que, dans les 3 mois qui suivent la date de cet avis, il convainc le ministre qu'il est admissible aux fins d'enregistrement aux termes de la présente partie, le ministre peut déclarer que l'avis est nul.

Successor trust

(6) Where at any time in a year a particular trust described in paragraph 204.4(2)(a) or 204.4(2)(b) has substantially the same beneficiaries and can reasonably be regarded as being a continuation of another trust that was a registered investment in the year or the immediately preceding year, for the purposes of this Part, the particular trust shall be deemed to be the same trust as the other trust.

Fiducie remplaçante

(6) Lorsque, à un moment donné d'une année, une fiducie donnée visée à l'alinéa (2)a) ou b) a essentiellement les mêmes bénéficiaires qu'une autre fiducie et qu'il est raisonnable de la considérer comme assurant la continuation de cette autre fiducie, qui était un placement enregistré au cours de l'année ou de l'année précédente, la fiducie donnée est réputée, pour l'application de la présente partie, être la même que l'autre fiducie.

Deemed registration of registered investment

(7) Where at the end of any month a registered investment could qualify for acceptance at that time under subsection 204.4(2), it shall be deemed for the purposes of section 204.6 to have been registered under the first of

Enregistrement présumé

(7) Le placement enregistré qui, à la fin d'un mois donné, serait admissible à être accepté, à ce moment, en vertu du paragraphe (2), est réputé, pour l'application de l'article 204.6, avoir été enregistré en vertu du premier

the following paragraphs under which it is registrable regardless of the paragraph under which it was accepted for registration by the Minister:

(a) paragraph 204.4(2)(c) or 204.4(2)(e), as the case may be;

(b) paragraph 204.4(2)(a);

(c) paragraph 204.4(2)(d) or 204.4(2)(f), as the case may be; and

(d) paragraph 204.4(2)(b).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 204.4; 2001, c. 17, s. 224; 2005, c. 30, s. 12; 2013, c. 34, s. 154.

des alinéas suivants en vertu duquel il est enregistrable, quel que soit l'alinéa en vertu duquel il a été accepté par le ministre aux fins d'enregistrement :

a) l'alinéa (2)c) ou e);

b) l'alinéa (2)a);

c) l'alinéa (2)d) ou f);

d) l'alinéa (2)b).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 204.4; 2001, ch. 17, art. 224; 2005, ch. 30, art. 12; 2013, ch. 34, art. 154.

Publication of list in *Canada Gazette*

204.5 Each year the Minister shall cause to be published in the *Canada Gazette* a list of all registered investments as of December 31 of the preceding year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1980-81-82-83, c. 48, s. 94.

Publication de la liste dans la *Gazette du Canada*

204.5 Le ministre publie chaque année dans la *Gazette du Canada* une liste des placements enregistrés au 31 décembre de l'année précédente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1980-81-82-83, ch. 48, art. 94.

Tax payable

204.6 (1) Where at the end of any month a taxpayer that is a registered investment described in paragraph 204.4(2)(b), 204.4(2)(d) or 204.4(2)(f) holds property that is not a prescribed investment for that taxpayer, it shall, in respect of that month, pay a tax under this Part equal to 1% of the fair market value at the time of its acquisition of each such property.

Impôt payable

204.6 (1) Le contribuable qui, à la fin d'un mois donné, est un placement enregistré visé à l'alinéa 204.4(2)b), d) ou f) et qui détient des biens qui ne constituent pas, pour lui, un placement prévu par règlement doit, à l'égard de ce mois, payer un impôt, aux termes de la présente partie, égal à 1 % de la juste valeur marchande, au moment de leur acquisition, de chacun de ces biens.

Tax payable

(2) Where at the end of any month a taxpayer that is a registered investment described in paragraph 204.4(2)(a) or (b) holds property that is a share, bond, mortgage, hypothecary claim or other security of a corporation or debtor (other than bonds, mortgages, hypothecary claims and other securities of or guaranteed by Her Majesty in right of Canada or a province or Canadian municipality), it shall, in respect of that month, pay a tax under this Part equal to 1% of the amount, if any, by which

(a) the total of all amounts each of which is the fair market value of such a property at the time of its acquisition

exceeds

(b) 10% of the amount by which

(i) the total of all amounts each of which is the fair market value, at the time of acquisition, of one of its properties

exceeds

Impôt payable

(2) Le contribuable qui, à la fin d'un mois donné, est un placement enregistré visé à l'alinéa 204.4(2)a) ou b) et qui détient des biens qui sont une action, une obligation, une créance hypothécaire ou un autre titre d'une société ou d'un débiteur (autre que des obligations, créances hypothécaires ou autres titres émis ou garantis par Sa Majesté du chef du Canada ou d'une province ou par une municipalité canadienne) doit, à l'égard de ce même mois, payer un impôt, en vertu de la présente partie, égal à 1 % du montant de l'excédent éventuel du total visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) le total des montants dont chacun représente la juste valeur marchande d'un de ces biens au moment de son acquisition;

b) le montant qui représente 10 % de l'excédent du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants dont chacun représente la juste valeur marchande d'un de ses biens au moment de son acquisition,

(ii) the total of all amounts each of which is an amount owing by the trust at the end of the month in respect of the acquisition of real property or immovables.

(ii) le total des montants dont chacun représente une somme due par la fiducie à la fin du mois au titre de l'acquisition d'un bien immeuble ou réel.

Tax payable — real property or immovables

(3) If at the end of any month a taxpayer that is a registered investment described in paragraph 204.4(2)(a) holds real or immovable property, it shall, in respect of that month, pay a tax under this Part equal to 1% of the total of all amounts each of which is the amount by which the excess of

(a) the fair market value at the time of its acquisition of any one real or immovable property of the taxpayer

over

(b) the total of all amounts each of which was an amount owing by it at the end of the month on account of its acquisition of the real or immovable property

was greater than 10% of the amount by which the total of all amounts each of which is the fair market value at the time of its acquisition of a property held by it at the end of the month exceeds the total of all amounts each of which was an amount owing by it at the end of the month on account of its acquisition of real or immovable property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 204.6; 2001, c. 17, s. 225; 2013, c. 34, s. 155.

Impôt payable — immeubles ou biens réels

(3) Le contribuable qui, à la fin d'un mois donné, est un placement enregistré visé à l'alinéa 204.4(2)a) et qui détient des biens immeubles ou réels doit, à l'égard de ce mois, payer un impôt en vertu de la présente partie égal à 1 % du total des montants dont chacun représente un montant par lequel l'excédent du montant visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) la juste valeur marchande, au moment de son acquisition, d'un bien immeuble ou réel quelconque du contribuable;

b) le total des montants dont chacun représentait un montant dû par lui à la fin du mois au titre de son acquisition du bien immeuble ou réel,

excède 10 % du montant de l'excédent du total des montants dont chacun représente la juste valeur marchande, au moment de son acquisition, du bien qu'il détient à la fin du mois sur le total des montants dont chacun représentait un montant qui était dû par lui à la fin du mois au titre de son acquisition de biens immeubles ou réels.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 204.6; 2001, ch. 17, art. 225; 2013, ch. 34, art. 155.

Return and payment of tax

204.7 (1) Within 90 days from the end of each taxation year commencing after 1980, a registered investment shall

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable by it under this Part for the year; and

(c) pay to the Receiver General the amount of tax, if any, payable by it under this Part for the year.

Déclaration et paiement de l'impôt

204.7 (1) Dans les 90 jours qui suivent la fin de chaque année d'imposition commençant après 1980, un placement enregistré doit :

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présent partie, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt dont il est redevable en vertu de la présente partie pour l'année;

c) verser cet impôt au receveur général.

Liability of trustee

(2) Where the trustee of a registered investment that is liable to pay tax under this Part does not remit to the Receiver General the amount of the tax within the time specified in subsection 204.7(1), the trustee is personally liable to pay on behalf of the registered investment the full amount of the tax and is entitled to recover from the

Assujettissement du fiduciaire

(2) Le fiduciaire d'un placement enregistré qui est assujetti à l'impôt en application de la présente partie qui ne remet pas au receveur général le montant de l'impôt, dans le délai imparti, est personnellement tenu de verser, au nom du placement enregistré, le montant total de l'impôt et a le droit de recouvrer du placement enregistré toute somme ainsi versée par lui.

registered investment any amount paid by the trustee as tax under this section.

Provisions applicable to Part

(3) Subsections 150(2) and 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1980-81-82-83, c. 48, s. 94; 1985, c. 45, s. 126(F); 1986, c. 6, s. 108.

Dispositions applicables

(3) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1980-81-82-83, ch. 48, art. 94; 1985, ch. 45, art. 126(F); 1986,ch. 6, art. 108.

PART X.3

Labour-sponsored Venture Capital Corporations

Definitions

204.8 (1) In this Part,

annuitant has the meaning assigned by subsection 146(1); (*rentier*)

eligible business entity, at any time, means a particular entity that is

(a) a prescribed corporation, or

(b) a Canadian partnership or a taxable Canadian corporation, all or substantially all of the fair market value of the property of which is, at that time, attributable to

(i) property used in a specified active business carried on by the particular entity or by a corporation controlled by the particular entity,

(ii) shares of the capital stock or debt obligations of one or more entities that, at that time, are eligible business entities related to the particular entity, or

(iii) any combination of properties described in subparagraph (i) or (ii); (*entreprise admissible*)

eligible investment of a particular corporation means

(a) a share that was issued to the particular corporation and that is a share of the capital stock of a corporation that was an eligible business entity at the time the share was issued,

(b) a particular debt obligation that was issued to the particular corporation by an entity that was an eligible business entity at the time the particular debt obligation was issued where

PARTIE X.3

Sociétés à capital de risque de travailleurs

Définitions

204.8 (1) Les définitions qui suivent s'appliquent à la présente partie.

acquisition initiale S'entend au sens du paragraphe 127.4(1). (*original acquisition*)

centrale syndicale nationale [Abrogée, 1994, ch. 7, ann. VIII, art. 118(2)]

crédit d'impôt relatif à un fonds de travailleurs [Abrogée, 1997, ch. 25, art. 55(1)]

entreprise admissible

a) Société visée par règlement;

b) société de personnes canadienne ou société canadienne imposable, dont la totalité ou la presque totalité de la juste valeur marchande des biens est, à un moment donné, imputable :

(i) soit à des biens utilisés dans une entreprise déterminée exploitée activement par elle ou par une société qu'elle contrôle,

(ii) soit à des actions du capital-actions ou à des titres de créance d'une ou de plusieurs entités qui sont, à ce moment, des entreprises admissibles qui lui sont liées,

(iii) soit à un ensemble de biens visés aux sous-alinéas (i) ou (ii). (*eligible business entity*)

entreprise déterminée exploitée activement À un moment donné, entreprise exploitée activement au Canada qui remplit les conditions suivantes :

(i) the entity is not restricted by the terms of the particular debt obligation or by the terms of any agreement related to that obligation from incurring other debts,

(ii) the particular debt obligation, if secured, is secured solely by a floating charge on the assets of the entity or by a guarantee referred to in paragraph (c), and

(iii) the particular debt obligation, by its terms or any agreement relating to that obligation, is subordinate to all other debt obligations of the entity, except that, where the entity is a corporation, the particular debt obligation need not be subordinate to

(A) a debt obligation, issued by the entity, that is prescribed to be a small business security, or

(B) a debt obligation owing to a shareholder of the entity or to a person related to any such shareholder,

(c) a guarantee provided by the particular corporation in respect of a debt obligation that would, if the debt obligation had been issued to the particular corporation at the time the guarantee was provided, have been at that time an eligible investment because of paragraph (b), or

(d) an option or a right granted by an eligible business entity that is a corporation, in conjunction with the issue of a share or debt obligation that is an eligible investment, to acquire a share of the capital stock of the eligible business entity that would be an eligible investment if that share were issued at the time that the option or right was granted,

if the following conditions are satisfied:

(e) immediately after the time the share or debt obligation was issued, the guarantee was provided or the option or right was granted, as the case may be, the total of the costs to the particular corporation of all shares, options, rights and debt obligations of the eligible business entity and all corporations related to it and 25% of the amount of all guarantees provided by the particular corporation in respect of debt obligations of the eligible business entity and the related corporations does not exceed the lesser of $15,000,000 and 10% of the shareholders' equity in the particular corporation, determined in accordance with generally accepted accounting principles, on a cost basis and without taking into account any unrealized gains or losses on the investments of the particular corporation, and

a) au moins 50 % des employés travaillant à plein temps à ce moment dans le cadre de l'entreprise sont employés au Canada;

b) il est raisonnable d'imputer au moins 50 % des traitements et salaires versés aux employés travaillant à ce moment dans le cadre de l'entreprise à des services qu'ils rendent au Canada. (*specified active business*)

organisme syndical admissible Syndicat, au sens du Code canadien du travail, qui représente des employés dans plus d'une province ou organisation constituée d'au moins deux semblables syndicats. (*eligible labour body*)

particulier déterminé Quant à une action, particulier, sauf une fiducie, dont le crédit d'impôt relatif à un fonds de travailleurs, au sens du paragraphe 127.4(6), au titre de l'acquisition initiale de l'action n'est pas nul ou ne le serait pas s'il était fait abstraction des alinéas 127.4(6)b) et d). (*specified individual*)

période de démarrage L'une des périodes suivantes :

a) sous réserve de l'alinéa c), dans le cas d'une société qui a émis ses premières actions de catégorie A avant le 17 février 1999, son année d'imposition au cours de laquelle elle a émis ces actions et les quatre années d'imposition suivantes;

b) sous réserve de l'alinéa c), dans le cas d'une société qui émet ses premières actions de catégorie A après le 16 février 1999, son année d'imposition au cours de laquelle elle émet ces actions et l'année d'imposition suivante;

c) si une société en fait le choix dans un document joint à la déclaration qu'elle produit en vertu de la présente partie pour une année d'imposition donnée se terminant après 1998 qui est visée aux alinéas a) ou b), la période constituée des années d'imposition visées aux alinéas a) ou b), selon le cas, à l'exclusion de l'année donnée et des années d'imposition suivant cette année. (*start-up period*)

placement admissible S'agissant du placement admissible d'une société donnée, s'entend, selon le cas :

a) d'une action, émise en faveur de la société donnée, qui fait partie du capital-actions d'une société qui était une entreprise admissible au moment de l'émission de l'action,

b) d'une créance émise en faveur de la société donnée par une entité qui était une entreprise admissible au moment de l'émission de la créance, dans le cas où, à la fois :

(f) immediately before the time the share or debt obligation was issued, the guarantee was provided or the option or right was granted, as the case may be,

(i) the carrying value of the total assets of the eligible business entity and all corporations (other than prescribed labour-sponsored venture capital corporations) related to it (determined in accordance with generally accepted accounting principles on a consolidated or combined basis, where applicable) did not exceed $50,000,000, and

(ii) the total of

(A) the number of employees of the eligible business entity and all corporations related to it who normally work at least 20 hours per week for the entity and the related corporations, and

(B) 1/2 of the number of other employees of the entity and the related corporations,

did not exceed 500;

(g) [Repealed, 1998, c. 19, s. 51(1)] (*placement admissible*)

eligible labour body means a trade union, as defined in the Canada Labour Code, that represents employees in more than one province, or an organization that is composed of 2 or more such unions; (*organisme syndical admissible*)

labour-sponsored funds tax credit [Repealed, 1997, c. 25, s. 55(1)]

national central labour body [Repealed, 1994, c. 7, Sch. VIII, s. 118(2)]

original acquisition of a share has the meaning assigned by subsection 127.4(1); (*acquisition initiale*)

original purchaser [Repealed, 1997, c. 25, s. 55(2)]

registered labour-sponsored venture capital corporation [Repealed, 1997, c. 25, s. 55(1)]

reserve means

(a) property described in any of paragraphs (a), (b), (c), (f) and (g) of the definition ***qualified investment*** in section 204, and

(b) deposits with a credit union that is a ***member institution*** in relation to a deposit insurance corporation (within the meaning assigned by subsection 137.1(5)); (*réserve*)

(i) la capacité de l'entreprise de contracter d'autres dettes n'est pas limitée par les conditions de la créance ou d'un accord y afférent,

(ii) la créance est garantie, le cas échéant, uniquement par une charge flottante sur l'actif de l'entreprise ou par une garantie visée à l'alinéa c),

(iii) la créance, par ses conditions ou un accord afférent à la créance, est subordonnée aux autres créances de l'entreprise, sauf que si celle-ci est une société, la créance n'a pas à être subordonnée aux créances suivantes :

(A) celle qu'elle émet et qui est, par règlement, un titre de petite entreprise,

(B) celle qui est due à son actionnaire ou à une personne liée à celui-ci;

c) d'une garantie que la société donnée offre au titre d'une créance qui serait, si la créance avait été émise en sa faveur au moment où la garantie a été offerte, un placement admissible par l'effet de l'alinéa b) à ce moment;

d) d'un droit ou d'une option accordé par une entreprise admissible qui est une société, conjointement avec l'émission d'une action ou d'un titre de créance qui constitue un placement admissible, en vue de l'acquisition d'une action du capital-actions de l'entreprise admissible qui serait un placement admissible si elle était émise au moment où le droit ou l'option est accordé,

si les conditions suivantes sont réunies :

e) immédiatement après le moment où le titre de créance est émis, la garantie, offerte ou le droit ou l'option, accordé, le total des coûts, pour la société donnée, de l'ensemble des actions, options, droits et titres de créance de l'entreprise admissible et des sociétés qui lui sont liées et de 25 % du montant des garanties offertes par la société donnée au titre des créances de cette entreprise et des sociétés qui lui sont liées ne dépasse pas 15 000 000 $ ou, s'il est inférieur, le montant correspondant à 10 % de l'avoir des actionnaires dans la société donnée, déterminé conformément aux principes comptables généralement reconnus et en fonction des coûts, compte non tenu des gains et pertes non réalisés sur les placements de la société donnée;

f) immédiatement avant le moment où l'action ou le titre de créance est émis, la garantie, offerte ou le droit ou l'option, accordé :

revoked corporation means a corporation the registration of which has been revoked under subsection 204.81(6); (*Version anglaise seulement*)

specified active business, at any time, means an active business that is carried on in Canada where

(a) at least 50% of the full-time employees employed at that time in respect of the business are employed in Canada, and

(b) at least 50% of the salaries and wages paid to employees employed at that time in respect of the business are reasonably attributable to services rendered in Canada by the employees; (*entreprise déterminée exploitée activement*)

specified individual, in respect of a share, means an individual (other than a trust) whose labour-sponsored funds tax credit (as defined by subsection 127.4(6)) in respect of the original acquisition of the share is not nil or would not be nil if this Act were read without reference to paragraphs 127.4(6)(b) and 127.4(6)(d). (*particulier déterminé*)

start-up period of a corporation means

(a) subject to paragraph (c), in the case of a corporation that first issued Class A shares before February 17, 1999, the corporation's taxation year in which it first issued those shares and the four following taxation years,

(b) subject to paragraph (c), in the case of a corporation that first issues Class A shares after February 16, 1999, the corporation's taxation year in which it first issues those shares and the following taxation year, or

(c) where a corporation files an election with its return under this Part for a particular taxation year of the corporation that ends after 1998 and that is referred to in paragraph (a) or (b), the period, if any, consisting of the taxation years referred to in paragraph (a) or (b), as the case may be, other than the particular year and all taxation years following the particular year. (*période de démarrage*)

terminating corporation in respect of a particular corporation means a predecessor corporation in circumstances where

(a) subsection 204.85(3) applies to a merger of the particular corporation and the predecessor corporation,

(b) Class A shares of the particular corporation have been issued to the predecessor corporation in

(i) la valeur comptable de l'actif total de l'entreprise admissible et des sociétés qui lui sont liées, sauf les sociétés à capital de risque de travailleurs visées par règlement, (déterminée conformément aux principes comptables généralement reconnus sur une base consolidée ou combinée, le cas échéant) ne dépassait pas 50 000 000 $;

(ii) la somme des éléments suivants ne dépassait pas 500:

(A) le nombre d'employés de l'entreprise admissible et des sociétés qui lui sont liées qui travaillaient habituellement au moins 20 heures par semaine pour l'entreprise et ces sociétés,

(B) la moitié du nombre des autres employés de l'entreprise admissible et des sociétés qui lui sont liées. (*eligible investment*)

premier acheteur [Abrogée, 1997, ch. 25, art. 55(2)]

rentier S'entend au sens du paragraphe 146(1). (*annuitant*)

réserve

a) Bien visé à l'un des alinéas a), b), c), f) et g) de la définition de ***placement admissible*** à l'article 204;

b) dépôts auprès d'une caisse de crédit qui est une institution membre, au sens du paragraphe 137.1(5), en ce qui concerne une compagnie d'assurance-dépôts, au sens du même paragraphe. (*reserve*)

société agréée à capital de risque de travailleurs [Abrogée, 1997, ch. 25, art. 55(1)]

société sortante Est une société sortante par rapport à une société donnée toute société remplacée à l'égard de laquelle les conditions ci-après s'appliquent :

a) le paragraphe 204.85(3) s'applique à la fusion de la société donnée et de la société remplacée;

b) des actions de catégorie A de la société donnée ont été émises en faveur de la société remplacée en échange de biens de cette dernière;

c) dans un délai raisonnable après l'échange, des détenteurs d'actions de catégorie A de la société remplacée reçoivent l'ensemble des actions de catégorie A de la société donnée qui ont été émises en faveur de la société remplacée dans le cadre de la liquidation de cette dernière. (*terminating corporation*)

exchange for property of the predecessor corporation, and

(c) within a reasonable period of time after the exchange, Class A shareholders of the predecessor corporation receive all of the Class A shares of the particular corporation issued to the predecessor corporation in the course of a wind-up of the predecessor corporation. (*société sortante*)

When venture capital business discontinued

(2) For the purposes of section 127.4, this Part and Part XII.5, a corporation discontinues its venture capital business

(a) at the time its articles cease to comply with paragraph 204.81(1)(c) and would so cease to comply if it had been incorporated after December 5, 1996;

(b) at the time it begins to wind-up, and for the purpose of this paragraph a corporation is not to be considered to have begun to wind up solely because it discontinues its venture capital business under prescribed wind-up rules;

(c) immediately before the time it amalgamates or merges with one or more other corporations to form one corporate entity (other than an entity deemed by paragraph 204.85(3)(d) to have been registered under this Part);

(d) at the time it becomes a revoked corporation, if one of the grounds on which the Minister could revoke its registration for the purposes of this Part is set out in paragraph 204.81(6)(a.1); or

(e) at the first time after the revocation of its registration for the purposes of this Part that it fails to comply with any of the provisions of its articles governing its authorized capital, the management of its business and affairs, the reduction of paid-up capital or the redemption or transfer of its Class A shares.

Date of issue of Class A shares

(3) For the purposes of this Part and subsection 211.8(1), in determining the time of the issue or the original acquisition of Class A shares, identical Class A shares held by a person are deemed to be disposed of by the person in the order in which the shares were issued.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164, Sch. VIII, s. 118, c. 8, s. 29; 1997, c. 25, s. 55; 1998, c. 19, ss. 51, 209; 2000, c. 19, s. 54; 2005, c. 30, s. 13; 2013, c. 34, s. 335.

Abandon d'une entreprise à capital de risque

(2) Pour l'application de l'article 127.4, de la présente partie et de la partie XII.5, une société abandonne son entreprise à capital de risque au moment applicable suivant :

a) au moment où ses statuts cessent d'être conformes à l'alinéa 204.81(1)c) et cesseraient d'y être conformes si elle avait été constituée après le 5 décembre 1996;

b) au début de sa liquidation; pour l'application du présent alinéa, la liquidation d'une société n'est pas considérée avoir commencé du seul fait que la société abandonne son entreprise à capital de risque selon les règles de liquidation prévues par règlement;

c) immédiatement avant sa fusion ou son unification avec une ou plusieurs autres sociétés en vue de former une seule société (sauf une société qui est réputée par l'alinéa 204.85(3)d) avoir été agréée aux termes de la présente partie);

d) au moment du retrait de son agrément en vertu du paragraphe 204.81(6), si l'un des motifs de retrait de l'agrément pour l'application de la présente partie est énoncé à l'alinéa 204.81(6)a.1);

e) le premier moment, postérieur au retrait de son agrément pour l'application de la présente partie, où elle ne se conforme pas à l'une des dispositions de ses statuts régissant son capital autorisé, la gestion de ses activités, la réduction de son capital versé ou le rachat ou transfert de ses actions de catégorie A.

Date d'émission des actions de catégorie A

(3) Pour l'application de la présente partie et du paragraphe 211.8(1) et aux fins de déterminer le moment de l'émission ou de l'acquisition initiale d'actions de catégorie A, la personne qui détient des actions de catégorie A identiques est réputée en avoir disposé dans l'ordre où elles ont été émises.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164, ann. VIII, art. 118, ch. 8, art. 29; 1997, ch. 25, art. 55; 1998, ch. 19, art. 51 et 209; 2000, ch. 19, art. 54; 2005, ch. 30, art. 13; 2013, ch. 34, art. 335.

Conditions for registration

204.81 (1) The Minister may register a corporation for the purposes of this Part if the corporation's application for registration was received before March 21, 2013 and if, in the opinion of the Minister, it complies with the following conditions:

(a) the corporation has applied in prescribed form to the Minister for registration;

(b) the corporation was caused to be incorporated under the *Canada Business Corporations Act* by an eligible labour body; and

(c) the articles of the corporation provide that

(i) the business of the corporation is restricted to assisting the development of eligible business entities and to creating, maintaining and protecting jobs by providing financial and managerial advice to such entities and by investing funds of the corporation in eligible investments and reserves,

(ii) the authorized capital of the corporation shall consist only of

(A) Class A shares that are issuable only to individuals (other than trusts), terminating corporations in respect of the corporation and trusts governed by registered retirement savings plans or by TFSAs and that entitle their holders

(I) to receive notice of and, subject to the *Canada Business Corporations Act*, to attend and vote at all meetings of the shareholders of the corporation,

(II) to receive dividends at the discretion of the board of directors of the corporation, and

(III) to receive, on dissolution of the corporation, all the assets of the corporation that remain after payment of all amounts payable to the holders of all other classes of shares of the corporation,

(B) Class B shares that are issuable only to and may be held only by eligible labour bodies, that entitle each of those shareholders

(I) to receive notice of and, subject to the *Canada Business Corporations Act*, to attend and vote at all meetings of the shareholders of the corporation, and

(II) to receive, on dissolution of the corporation, an amount equal to the amount of the

Conditions d'agrément

204.81 (1) Le ministre peut agréer une société pour l'application de la présente partie si la demande d'agrément de celle-ci est reçue avant le 21 mars 2013 et si, de l'avis du ministre, la société remplit les conditions suivantes :

a) elle présente au ministre une demande d'agrément sur formulaire prescrit;

b) elle a été constituée sous le régime de la *Loi canadienne sur les sociétés par actions* par un organisme syndical admissible;

c) ses statuts prévoient ce qui suit :

(i) ses activités se limitent à favoriser le développement d'entreprises admissibles et à créer, à maintenir et à garantir des emplois en fournissant à ces entreprises des conseils en matière de finance et de gestion et en investissant ses fonds dans des placements admissibles et des réserves,

(ii) son capital autorisé est composé uniquement :

(A) d'actions de catégorie A qui ne peuvent être émises qu'en faveur de particuliers, sauf les fiducies, de sociétés sortantes par rapport à la société et de fiducies régies par des régimes enregistrés d'épargne-retraite ou par des comptes d'épargne libre d'impôt et qui confèrent les droits ci-après à l'actionnaire :

(I) le droit d'être avisé de la tenue des assemblées des actionnaires et, sous réserve de la *Loi canadienne sur les sociétés par actions*, le droit d'y assister et d'y voter,

(II) le droit de recevoir des dividendes au gré du conseil d'administration,

(III) le droit de recevoir, à la dissolution de la société, le reliquat des éléments d'actif de celle-ci une fois versés les montants payables aux détenteurs de ses autres catégories d'actions,

(B) d'actions de catégorie « B » qui ne peuvent être émises qu'en faveur d'organismes syndicaux admissibles, qui ne peuvent être détenues que par eux et qui confèrent à chacun d'eux les droits suivants mais non celui de recevoir des dividendes :

(I) le droit d'être avisé de la tenue des assemblées des actionnaires et, sous réserve de la

consideration received by the corporation on the issue of the Class B shares,

but that do not entitle them to receive dividends, and

(C) any additional classes of shares that are authorized, if the rights, privileges, restrictions and conditions attached to the shares are approved by the Minister of Finance,

(iii) the business and affairs of the corporation shall be managed by a board of directors, at least 1/2 of whom are appointed by the Class B shareholders,

(iv) the corporation shall not reduce its paid-up capital in respect of a class of shares (other than Class B shares) otherwise than by way of

(A) a redemption of shares of the corporation, or

(B) a reduction in its paid-up capital attributable to a class of shares for which no shares have been issued in the eight-year period ending at the time of the reduction,

(v) the corporation shall not redeem a Class A share in respect of which an information return described in paragraph 204.81(6)(c) has been issued unless

(A) if the share is held by the specified individual in respect of the share, a spouse or common-law partner or former spouse or common-law partner of that individual or a trust governed by a registered retirement savings plan, TFSA or registered retirement income fund under which that individual, spouse or common-law partner is the annuitant,

(I) a request in writing to redeem the share is made by the holder to the corporation and the information return referred to in paragraph 204.81(6)(c) has been returned to the corporation, or

(II) [Repealed, 1997, c. 25, s. 56(4)]

(III) the corporation is notified in writing that the specified individual in respect of the share became disabled and permanently unfit for work or terminally ill after the share was issued,

(B) there is no specified individual in respect of the share,

Loi sur les sociétés par actions, le droit d'y assister et d'y voter,

(II) le droit de recevoir, à la dissolution de la société, un montant égal au montant reçu par celle-ci en contrepartie de l'émission des actions de catégorie « B »,

(C) d'autres catégories d'actions qui sont autorisées, dans le cas où les droits, privilèges, restrictions et conditions rattachés aux actions sont approuvés par le ministre des Finances,

(iii) ses activités sont gérées par un conseil d'administration dont au moins la moitié des administrateurs sont nommés par les détenteurs d'actions de catégorie « B »,

(iv) elle ne peut réduire son capital versé au titre d'une catégorie d'actions, sauf la catégorie « B », autrement que par l'un des moyens suivants :

(A) le rachat de ses actions,

(B) la réduction de son capital versé attribuable à une catégorie d'actions dont aucune action n'a été émise au cours de la période de huit ans se terminant au moment de la réduction,

(v) elle ne peut racheter l'action de catégorie « A » pour laquelle une déclaration de renseignements a été délivrée conformément à l'alinéa (6)c) que si, selon le cas :

(A) l'action étant détenue par le particulier déterminé relativement à l'action, par l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait de celui-ci ou par une fiducie régie par un régime enregistré d'épargne-retraite, un compte d'épargne libre d'impôt ou un fonds enregistré de revenu de retraite dont le particulier ou son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait est rentier, l'une des situations suivantes se présente :

(I) l'actionnaire présente à la société une demande écrite visant le rachat de l'action et la déclaration de renseignements visée à l'alinéa (6)c) a été rendue à la société,

(II) [Abrogée, 1997, ch. 25, art. 56(4)]

(III) la société est avisée par écrit que le particulier déterminé relativement à l'action est devenu, après l'émission de l'action, invalide et définitivement incapable de travailler, ou un malade en phase terminale,

(C) [Repealed, 1997, c. 25, s. 56(5)]

(D) the corporation is notified in writing that the share is held by a person on whom the share has devolved as a consequence of the death of

(I) a holder of the share, or

(II) an annuitant under a trust governed by a registered retirement savings plan, TFSA or registered retirement income fund that was a holder of the share,

(E) the redemption occurs

(I) more than eight years after the day on which the share was issued, or

(II) if the day that is eight years after that issuance is in February or March of a calendar year, in February or on March 1st of that calendar year but not more than 31 days before that day, or

(F) the holder of the share has satisfied such other conditions as are prescribed,

(vi) [Repealed, 1997, c. 25, s. 56(7)]

(vii) the corporation shall not register a transfer of a Class A share by the specified individual in respect of the share, a spouse or common-law partner of the specified individual or a trust governed by a registered retirement savings plan, TFSA or registered retirement income fund under which the specified individual or spouse or common-law partner is the annuitant, unless

(A) no information return has been issued under paragraph 204.81(6)(c) in respect of the share,

(B) the transfer occurs more than eight years after the day on which the share was issued,

(C) the transfer is to the specified individual, a spouse or common-law partner or former spouse or common-law partner of the specified individual or a trust governed by a registered retirement savings plan, TFSA or registered retirement income fund under which the specified individual or the spouse or common-law partner or former spouse or common-law partner of the specified individual is the annuitant,

(D) the corporation is notified in writing that the transfer occurs as a consequence of the death of

(B) il n'y a pas de particulier déterminé relativement à l'action,

(C) [Abrogée, 1997, ch. 25, art. 56(5)]

(D) la société est avisée par écrit que l'action est détenue par une personne à laquelle elle est dévolue par suite du décès soit d'un détenteur de l'action, soit d'un rentier dans le cadre d'une fiducie régie par un régime enregistré d'épargne-retraite, un compte d'épargne libre d'impôt ou un fonds enregistré de revenu de retraite qui était détentrice de l'action,

(E) l'action est rachetée :

(I) soit plus de huit ans après son émission,

(II) soit, si le jour qui suit de huit ans son émission est en février ou mars d'une année civile, en février ou le 1er mars de cette année, mais au plus 31 jours avant ce jour,

(F) le détenteur de l'action remplit toute autre condition prévue par règlement,

(vi) [Abrogé, 1997, ch. 25, art. 56(7)]

(vii) elle ne peut enregistrer le transfert d'une action de catégorie « A », effectué par le particulier déterminé relativement à l'action, par l'époux ou le conjoint de fait de celui-ci ou par une fiducie régie par un régime enregistré d'épargne-retraite, un compte d'épargne libre d'impôt ou un fonds enregistré de revenu de retraite dont le particulier ou son époux ou conjoint de fait est rentier, sauf si, selon le cas :

(A) aucune déclaration de renseignements n'a été délivrée conformément à l'alinéa (6)c) relativement à l'action,

(B) le transfert est effectué plus de huit ans après la date à laquelle l'action est émise,

(C) l'action est transférée au particulier déterminé, à son époux ou conjoint de fait ou à son ex-époux ou ancien conjoint de fait ou à une fiducie régie par un régime enregistré d'épargne-retraite, un compte d'épargne libre d'impôt ou un fonds enregistré de revenu de retraite dont le particulier ou son époux ou conjoint de fait ou ex-époux ou ancien conjoint de fait est rentier,

(D) la société est avisée par écrit que l'action est transférée par suite du décès du particulier déterminé ou de son époux ou conjoint de fait,

the specified individual or a spouse or common-law partner of the specified individual,

(E) the corporation is notified in writing that the transfer occurs after the specified individual dies,

(F) [Repealed, 1997, c. 25, s. 56(9)]

(G) the corporation is notified in writing that the specified individual became disabled and permanently unfit for work or terminally ill after the share was issued and before the transfer, or

(H) such other conditions as are prescribed are satisfied.

(viii) the corporation shall not pay any fee or remuneration to a shareholder, director or officer of the corporation unless the payment was approved by a resolution of the directors of the corporation, and

(ix) the corporation shall not make any investment in an eligible business entity with which the corporation or any of the directors of the corporation does not deal at arm's length unless

(A) the corporation would deal at arm's length with the eligible business entity but for the corporation's interest as the holder of eligible investments in such entity, or

(B) the investment was approved by special resolution of the shareholders of the corporation before the investment was made.

(E) la société est avisée par écrit que l'action est transférée après le décès du particulier déterminé,

(F) [Abrogée, 1997, ch. 25, art. 56(9)]

(G) la société est avisée par écrit que le particulier déterminé est devenu, entre l'émission de l'action et son transfert, invalide et définitivement incapable de travailler, ou un malade en phase terminale,

(H) toute autre condition prévue par règlement est remplie,

(viii) elle ne peut verser d'honoraires ou de rémunération à un de ses actionnaires, administrateurs ou dirigeants que si le versement est approuvé par une résolution des administrateurs,

(ix) elle ne peut faire de placement dans une entreprise admissible avec laquelle elle-même ou ses administrateurs ont un lien de dépendance, sauf si, selon le cas :

(A) le lien de dépendance entre la société et l'entreprise admissible existe uniquement en raison de la participation de la société en tant que détentrice de placements admissibles dans l'entreprise,

(B) le placement est approuvé préalablement par une résolution spéciale des actionnaires de la société.

Corporations incorporated before March 6, 1996

(1.1) In applying clause (1)(c)(v)(E) in relation to any time before 2004 in respect of a corporation incorporated before March 6, 1996, the references in that clause to "eight" are replaced with references to "five" if, at that time, the relevant statements in the corporation's articles refer to "five".

Deemed provisions in articles

(1.2) In applying subsection (1) in relation to any time before 2004, to a corporation incorporated before February 7, 2000, if the articles of the corporation comply with subclause (1)(c)(v)(E)(I) (as modified, where relevant, by subsection (1.1)), those articles are deemed to provide the statement required by subclause (1)(c)(v)(E)(II).

Registration number

(2) On registering a corporation under subsection 204.81(1), the Minister shall assign to it a registration number.

Sociétés constituées avant le 6 mars 1996

(1.1) Pour l'application de la division (1)c)(v)(E) relativement à un moment antérieur à 2004, à une société constituée avant le 6 mars 1996, la mention « huit » figurant à cette division est remplacée par « cinq » si, à ce moment, ce dernier chiffre figure dans les passages pertinents des statuts de la société.

Sociétés constituées avant le 7 février 2000

(1.2) Pour l'application du paragraphe (1) relativement à un moment antérieur à 2004, à une société constituée avant le 7 février 2000, les statuts de la société, s'ils sont conformes à la subdivision (1)c)(v)(E)(I), modifiée le cas échéant conformément au paragraphe (1.1), sont réputés prévoir ce qui est énoncé à la subdivision (1)c)(v)(E)(II).

Numéro d'agrément

(2) Lors de l'agrément d'une société, le ministre attribue à celle-ci un numéro d'agrément.

Successive registrations

(3) Where an eligible labour body causes more than one corporation to be registered under this Part, for the purposes of paragraph 204.81(6)(h) and section 204.82, each of those corporations shall be deemed

(a) to have issued a Class A share at the earliest time any such corporation issued a Class A share,

and, where the corporation did not exist at the time referred to in paragraph 204.81(3)(a),

(b) to have been in existence during the particular period beginning immediately before that time and ending immediately after the corporation was incorporated, and

(c) to have had, throughout the particular period, fiscal periods ending on the same calendar day in each year in the particular period as the calendar day on which its first fiscal period after it was incorporated ended.

Agréments successifs

(3) Pour l'application de l'alinéa (6)h) et de l'article 204.82, dans le cas où un organisme syndical admissible est à l'origine de l'agrément de plus d'une société en vertu de la présente partie, chacune de ces sociétés est réputée avoir émis une action de catégorie « A » dès qu'une d'entre elles a émis une telle action. Si la société n'existait pas à ce moment, elle est réputée, à la fois :

a) avoir existé au cours de la période donnée commençant immédiatement avant ce moment et se terminant immédiatement après sa constitution;

b) avoir eu, tout au long de la période donnée, des exercices se terminant le même jour de chaque année de la période donnée que celui où son premier exercice suivant sa constitution s'est terminé.

Determination of cost

(4) For the purposes of this Part, the cost at any time to a corporation of an eligible investment that is a guarantee shall be deemed to be 25% of the amount of the debt obligation subject to the guarantee at that time.

Détermination du coût

(4) Pour l'application de la présente partie, le coût, à un moment donné, pour une société, d'un placement admissible qui est une garantie est réputé correspondre à 25 % de la créance visée par la garantie à ce moment.

Registration date

(5) Where the Minister registers a corporation for the purposes of this Part, the corporation shall be deemed to have become so registered on the later of

(a) the day the application for registration of the plan is received by the Minister, and

(b) where in the application for registration a day is specified as the day on which the registration is to take effect, that day.

Date d'agrément

(5) La société que le ministre agrée pour l'application de la présente partie est réputée avoir été ainsi agréée le dernier en date des jours suivants :

a) le jour de la réception de la demande d'agrément par le ministre;

b) le jour qui, d'après la demande d'agrément, est celui de l'entrée en vigueur de l'agrément.

Revocation of registration

(6) The Minister may revoke the registration of a corporation for the purposes of this Part where

(a) the articles of the corporation do not comply with paragraph 204.81(1)(c) and would not comply with that paragraph if the corporation had been incorporated after December 5, 1996;

(a.1) the corporation does not comply with any of the provisions of its articles described in paragraph 204.81(1)(c), except where there would be no failure to comply if the provisions of its articles were consistent

Retrait de l'agrément

(6) Le ministre peut retirer l'agrément d'une société pour l'application de la présente partie dans les cas suivants :

a) les statuts de la société ne sont pas conformes à l'alinéa (1)c) et ne le seraient pas si la société avait été constituée après le 5 décembre 1996;

a.1) la société ne se conforme pas à l'une des dispositions de ses statuts, visées à l'alinéa (1)c), sauf dans le cas où elle s'y conformerait si ses statuts étaient conformes à ceux d'une société qui pourrait être agréée en vertu de la présente partie si elle avait été constituée après le 5 décembre 1996;

with the articles of a corporation that would be permitted to be registered under this Part if it had been incorporated after December 5, 1996;

(b) an individual acquires or irrevocably subscribes and pays for a Class A share of the capital stock of the corporation in the period beginning on the 61st day of a calendar year and ending on the 60th day of the following calendar year and the corporation fails to file with the Minister an information return in prescribed form containing prescribed information before April of that following calendar year;

(c) an individual acquires or irrevocably subscribes and pays for a Class A share of the capital stock of the corporation in the period beginning on the 61st day of a calendar year and ending on the 60th day of the following calendar year and the corporation fails to issue to the individual before April of that following calendar year an information return in prescribed form stating the amount of the consideration paid for the share in that period;

(d) the corporation issues more than one information return described in paragraph 204.81(6)(c) in respect of the same acquisition of or subscription for a Class A share;

(e) the financial statements of the corporation presented to its shareholders are not prepared in accordance with generally accepted accounting principles;

(f) the corporation fails within 6 months after the end of any taxation year to have an independent valuation of its shares made as of the end of that year;

(g) [Repealed, 2000, c. 19, s. 55(1)]

(h) the corporation does not pay the tax or penalty payable under section 204.82 by it on or before the day on or before which that tax or penalty is required to be paid;

(i) tax was payable under subsection 204.82(3) by the corporation for 3 or more taxation years;

(j) the corporation provides a guarantee that is an eligible investment and fails to maintain, at any time during the term of the guarantee, a reserve equal to the cost to the corporation of the guarantee at that time;

(k) the corporation pays a fee or commission in excess of a reasonable amount in respect of the offering for sale, or the sale, of its shares; or

b) un particulier acquiert ou souscrit irrévocablement et paie une action de catégorie « A » du capital-actions de la société au cours de la période commençant le 61e jour d'une année civile et se terminant le 60e jour de l'année civile suivante, et la société ne présente pas au ministre une déclaration de renseignements sur formulaire prescrit, contenant les renseignements prescrits, avant le 1er avril de cette année suivante;

c) un particulier acquiert ou souscrit irrévocablement et paie une action de catégorie « A » du capital-actions de la société au cours de la période commençant le 61e jour d'une année civile et se terminant le 60e jour de l'année civile suivante, et la société ne lui délivre pas, avant le 1er avril de cette année suivante, une déclaration de renseignements sur formulaire prescrit indiquant le montant reçu en contrepartie de l'action au cours de cette période;

d) la société émet, relativement à une même acquisition ou souscription d'action de catégorie « A », plus d'une déclaration de renseignements visée à l'alinéa c);

e) les états financiers de la société présentés à ses actionnaires ne sont pas établis conformément aux principes comptables généralement reconnus;

f) la société ne fait pas faire, dans les six mois suivant la fin d'une année d'imposition, une évaluation indépendante de ses actions à la fin de l'année;

g) [Abrogé, 2000, ch. 19, art. 55(1)]

h) la société ne paie pas l'impôt ou la pénalité payable selon l'article 204.82 au plus tard à la date où ceux-ci sont exigibles;

i) un impôt est payable par la société selon le paragraphe 204.82(3) depuis trois années d'imposition ou plus;

j) la société offre une garantie qui est un placement admissible sans maintenir, à un moment donné pendant la durée de la garantie, une réserve égale au coût, pour elle, de la garantie à ce moment;

k) la société paie des honoraires ou des commissions dépassant un montant raisonnable pour l'offre de vente ou la vente de ses actions;

l) la société a une insuffisance mensuelle au cours d'au moins 18 mois d'une période de 36 mois.

(l) the corporation has a monthly deficiency in 18 or more months in any 36-month period.

Notice of intent to revoke registration

(7) Where the Minister proposes to revoke the registration of a corporation under subsection 204.81(6), the Minister shall, by registered mail, give notice to the corporation of the proposal.

Idem

(8) Where the Minister gives notice under subsection 204.81(7) to a registered labour-sponsored venture capital corporation, the Minister may, after the expiration of 30 days after the day of mailing of the notice, or after the expiration of such extended period after the day of mailing as the Federal Court of Appeal or a judge thereof, on application made at any time before the determination of any appeal under subsection 204.81(9) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette* and, on the publication of a copy of the notice, the registration of the corporation is revoked.

Voluntary de-registration

(8.1) Where at any time the Minister receives a certified copy of a resolution of the directors of a corporation seeking the revocation of the corporation's registration under this Part,

(a) the registration is revoked at that time; and

(b) the Minister shall, with all due dispatch, give notice in the *Canada Gazette* of the revocation.

Application of subsection 248(7)

(8.2) Subsection 248(7) does not apply for the purpose of subsection (8.1).

Transitional rules

(8.3) If a registered labour-sponsored venture capital corporation notifies the Minister in writing of its intent to revoke its registration under this Part, the following rules apply:

(a) the corporation shall not, on or after the day the notice is provided to the Minister (referred to in this subsection and subsection (8.4) as the "notification date"), issue any tax credit certificates, other than duplicate certificates to replace certificates issued before that day;

(b) section 204.841 does not apply on the discontinuance of its venture capital business;

Avis d'intention de révoquer l'agrément

(7) Le ministre envoie, en recommandé, à toute société dont il a intention de retirer l'agrément un avis l'informant de son intention.

Idem

(8) Le ministre peut publier dans la *Gazette du Canada* copie de l'avis d'intention soit 30 jours après la date de mise à la poste de cet avis, soit à l'expiration de tout délai supérieur à 30 jours de la mise à la poste de cet avis que la Cour d'appel fédérale ou l'un de ses juges fixe, sur demande formulée avant qu'il ne soit statué sur tout appel interjeté en vertu du paragraphe (9) au sujet de la signification de cet avis. Sur publication de cette copie, l'agrément de la société est retiré.

Retrait volontaire de l'agrément

(8.1) Lorsque le ministre reçoit une copie certifiée conforme d'une résolution des administrateurs d'une société visant le retrait de l'agrément de la société en vertu de la présente partie, les règles suivantes s'appliquent :

a) l'agrément est retiré au moment de la réception;

b) le ministre fait publier, avec diligence, un avis du retrait dans la *Gazette du Canada*.

Application du paragraphe 248(7)

(8.2) Le paragraphe 248(7) ne s'applique pas dans le cadre du paragraphe (8.1).

Règles transitoires

(8.3) Si une société agréée à capital de risque de travailleurs avise le ministre par écrit de son intention de faire retirer son agrément en vertu de la présente partie, les règles ci-après s'appliquent :

a) à compter de la date où l'avis est envoyé au ministre (appelée « date d'avis » au présent paragraphe et au paragraphe (8.4)), la société ne peut délivrer de certificats de crédit d'impôt, sauf s'il s'agit de duplicatas qui remplacent des certificats délivrés avant cette date;

b) l'article 204.841 ne s'applique pas à l'abandon de son entreprise de capital de risque;

(c) subsections 204.82(1) to (4) do not apply to taxation years of the corporation that begin on or after the notification date; and

(d) subsection 204.83(1) does not apply in respect of a period, referred to in that subsection as the "second period", that ends after the notification date.

c) les paragraphes 204.82(1) à (4) ne s'appliquent pas à ses années d'imposition commençant à la date d'avis ou par la suite;

d) le paragraphe 204.83(1) ne s'applique pas relativement à une période, appelée « seconde période » à ce paragraphe, se terminant après la date d'avis.

Discontinuance of provincial program

(8.4) Subsection (8.3) applies to a corporation only if,

(a) on the notification date, the percentage determined in respect of the corporation by the following formula is less than 20 per cent:

A/(B – C) × 100

where

A is the amount of equity capital received by the corporation on the issue of Class A shares that were issued in the 24 months immediately preceding the notification date and are still outstanding on that date,

B is the total amount of equity capital received by the corporation on the issue of Class A shares that are still outstanding on the notification date, and

C is the amount of equity capital received by the corporation on the issue of Class A shares that, as of the notification date, have been outstanding for at least eight years.

(b) the corporation has revoked its registration before the third anniversary of the notification date.

Abandon d'un programme provincial

(8.4) Le paragraphe (8.3) ne s'applique à une société que si les conditions ci-après sont réunies :

a) à la date d'avis, le pourcentage obtenu par la formule ci-après à l'égard de la société est inférieur à 20 % :

A/(B – C) × 100

où :

A représente le montant de capital de risque reçu par la société par suite de l'émission d'actions de catégorie « A » qui ont été émises au cours de la période de vingt-quatre mois précédant la date d'avis et qui sont toujours en circulation à cette date,

B le montant total de capital de risque reçu par la société par suite de l'émission d'actions de catégorie « A » qui sont toujours en circulation à la date d'avis,

C le montant de capital de risque reçu par la société par suite de l'émission d'actions de catégorie « A » qui, à la date d'avis, étaient en circulation depuis au moins huit ans;

b) la société a fait retirer son agrément avant le troisième anniversaire de la date d'avis.

Right of appeal

(9) Where the Minister refuses to accept a corporation for registration under subsection 204.81(1) or gives notice of a proposal to revoke the registration of a corporation under subsection 204.81(7), the corporation may appeal to the Federal Court of Appeal from the decision or from the giving of the notice.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164, Sch. VIII, s. 119, c. 8, s. 30; 1997, c. 25, s. 56; 1998, c. 19, s. 52; 2000, c. 12, ss. 137, 142, c. 19, s. 55; 2009, c. 2, s. 67; 2010, c. 25, s. 55; 2013, c. 34, s. 336, c. 40, s. 73; 2014, c. 20, s. 24.

Droit d'appel

(9) Dans le cas où le ministre refuse d'agréer une société ou donne avis de son intention de retirer l'agrément d'une société, celle-ci peut en appeler de ce refus ou de la signification de cet avis auprès de la Cour d'appel fédérale.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164, ann. VIII, art. 119, ch. 8, art. 30; 1997, ch. 25, art. 56; 1998, ch. 19, art. 52; 2000, ch. 12, art. 137 et 142, ch. 19, art. 55; 2009, ch. 2, art. 67; 2010, ch. 25, art. 55; 2013, ch. 34, art. 336, ch. 40, art. 73; 2014, ch. 20, art. 24.

Recovery of credit

204.82 (1) Where, at any time that is both in a taxation year included in the start-up period of a corporation that was registered under this Part and before its venture capital business is first discontinued,

Recouvrement du crédit

204.82 (1) Dans le cas où, à un moment au cours d'une année d'imposition comprise dans la période de démarrage d'une société agréée en vertu de la présente partie, qui est antérieur au premier abandon de l'entreprise à capital de risque de la société :

(a) 80% of the amount, if any, by which the total consideration received by it for Class A shares issued by it before that time exceeds the total of all amounts paid by it before that time to its shareholders as a return of capital on such shares

exceeds

(b) the total of all amounts each of which is the cost to the corporation of an eligible investment or reserve of the corporation at that time,

the corporation shall pay a tax under this Part for the year equal to the amount determined by the formula

(A × 20%) - B

where

A is the greatest amount by which the amount determined under paragraph 204.82(1)(a) exceeds the amount determined under paragraph 204.82(1)(b) for the year, and

B is the total of all taxes payable under this subsection by the corporation for preceding taxation years.

a) le montant correspondant à 80 % de l'excédent éventuel du montant total que la société a reçu en contrepartie des actions de catégorie « A » qu'elle a émises avant ce moment sur le total des montants qu'elle a payés avant ce moment à ses actionnaires à titre de remboursement de capital,

dépasse :

b) le total des montants dont chacun représente le coût pour elle d'un de ses placements admissibles ou d'une de ses réserves à ce moment,

la société doit payer un impôt en vertu de la présente partie égal au montant calculé selon la formule suivante :

(A × 20 %) - B

où :

A représente l'excédent le plus élevé du montant calculé à l'alinéa a) sur le montant calculé à l'alinéa b) pour l'année;

B le total des impôts payables en vertu du présent paragraphe par la société pour les années d'imposition antérieures.

Liability for tax

(2) Each corporation that has been registered under this Part shall, in respect of each month that ends before its venture capital business is first discontinued and in a particular taxation year of the corporation that begins after the end of the corporation's start-up period (or, where the corporation has no start-up period, that begins after the time the corporation first issues a Class A share), pay a tax under this Part equal to the amount obtained when the greatest investment shortfall at any time that is in the month and in the particular year (in this section and sections 204.81 and 204.83 referred to as the "monthly deficiency") is multiplied by 1/60 of the prescribed rate of interest in effect during the month.

Assujettissement à l'impôt

(2) Chaque société agréée aux termes de la présente partie est tenue de payer en vertu de cette partie, pour chaque mois se terminant avant le premier abandon de son entreprise à capital de risque et au cours de son année d'imposition donnée qui commence après la fin de sa période de démarrage (ou, à défaut de période de démarrage, après l'émission de sa première action de catégorie A), un impôt égal au produit de la multiplication de l'écart de placement le plus important constaté au cours du mois et de l'année donnée (appelé « insuffisance mensuelle » au présent article et aux articles 204.81 et 204.83) par 1/60 du taux d'intérêt prescrit pour le mois.

Determination of investment shortfall

(2.1) Subject to subsection 204.82(2.2), a corporation's investment shortfall at any time in a particular taxation year is the amount determined by the formula

A - B - C

where

A is 60% of the lesser of

(a) the amount, if any, by which the amount of the shareholders' equity in the corporation at the end of the preceding taxation year exceeds the specified adjustment in respect of the shareholders' equity in the corporation at the end of that year, and

Calcul de l'écart de placement

(2.1) Sous réserve du paragraphe (2.2), l'écart de placement d'une société à un moment donné d'une année d'imposition donnée correspond au résultat du calcul suivant :

A - B - C

où :

A représente 60 % du moins élevé des montants suivants :

a) l'excédent éventuel de l'avoir des actionnaires dans la société à la fin de l'année d'imposition précédente sur le montant de redressement déterminé quant à cet avoir à la fin de cette année,

(b) the amount, if any, by which the amount of the shareholders' equity in the corporation at the end of the particular taxation year exceeds the specified adjustment in respect of the shareholders' equity in the corporation at the end of the particular year;

B is the greater of

(a) the total of all amounts each of which is the adjusted cost to the corporation of an eligible investment of the corporation at that time, and

(b) 50% of the total of all amounts each of which is

(i) the adjusted cost to the corporation of an eligible investment of the corporation at the beginning of the particular year, or

(ii) the adjusted cost to the corporation of an eligible investment of the corporation at the end of the particular year; and

C is 60% of the amount, if any, by which

(a) the total of all amounts each of which is a tax or penalty under subsection (3) or (4), or a prescribed tax or penalty, paid before that time by the corporation (other than the portion, if any, of that tax or penalty the liability for which resulted in a reduction in the amount of the shareholders' equity at the end of any preceding taxation year)

exceeds

(b) the total of all amounts each of which is a refund before that time of any portion of the total described in paragraph (a).

b) l'excédent éventuel de l'avoir des actionnaires dans la société à la fin de l'année donnée sur le montant de redressement déterminé quant à cet avoir à la fin de cette année;

B le plus élevé des montants suivants :

a) le total des montants représentant chacun le coût rajusté pour la société d'un de ses placements admissibles au moment donné,

b) 50 % du total des montants représentant chacun :

(i) le coût rajusté pour la société d'un placement admissible au début de l'année donnée,

(ii) le coût rajusté pour la société d'un placement admissible à la fin de l'année donnée;

C le montant représentant 60 % de l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentant chacun un impôt ou une pénalité visé aux paragraphes (3) ou (4), ou un impôt ou une pénalité visé par règlement, payé par la société avant le moment donné (sauf la partie éventuelle de cet impôt ou de cette pénalité qui, du fait que la société en est redevable, donne lieu à une réduction de l'avoir des actionnaires à la fin d'une année d'imposition antérieure),

b) le total des montants représentant chacun le remboursement, avant le moment donné, de toute partie du total visé à l'alinéa a).

Investment shortfall

(2.2) For the purpose of this subsection and for the purpose of computing a corporation's investment shortfall under subsection (2.1) at any time in a taxation year (in this subsection referred to as the "relevant year"),

(a) unrealized gains and losses in respect of its eligible investments shall not be taken into account in computing the amount of the shareholders' equity in the corporation;

(b) where

(i) the relevant year ends after 1998, and

(ii) it is expected that a redemption of its Class A shares will occur after the end of a particular taxation year and, as a consequence, the amount of the shareholders' equity in the corporation at the end of the particular year would otherwise be reduced to take into account the expected redemption,

Écart de placement

(2.2) Les règles suivantes s'appliquent dans le cadre du présent paragraphe et aux fins du calcul de l'écart de placement d'une société selon le paragraphe (2.1) au cours d'une année d'imposition (appelée « année applicable » au présent paragraphe):

a) les gains et pertes non réalisés sur ses placements admissibles n'entrent pas dans le calcul de l'avoir des actionnaires dans la société;

b) lorsque l'année applicable se termine après 1998, qu'un rachat d'actions de catégorie A de la société sera vraisemblablement effectué après la fin d'une année d'imposition donnée et que, par conséquent, l'avoir des actionnaires dans la société à la fin de l'année donnée serait par ailleurs réduit pour tenir compte du rachat, sous réserve de l'alinéa c), le montant du rachat (ou, si l'année applicable se termine en 1999, 2000, 2001 ou 2002, 20 %, 40 %, 60 % ou 80 %,

subject to paragraph 204.82(2.2)(c), the amount (or, where the relevant year ends in 1999, 2000, 2001 or 2002, 20%, 40%, 60% or 80%, respectively of the amount) expected to be redeemed shall not be taken into account in determining the amount of the shareholders' equity in the corporation at the end of the particular year;

(c) paragraph 204.82(2.2)(b) does not apply to a redemption expected to be made after the end of a taxation year where

(i) the redemption is made within 60 days after the end of the year, and

(ii) either

(A) tax under Part XII.5 became payable as a consequence of the redemption, or

(B) tax under Part XII.5 would not have become payable as a consequence of the redemption if the redemption had occurred at the end of the year;

(c.1) the specified adjustment in respect of shareholders' equity in the corporation at the end of a taxation year is the amount determined by the formula

(A × (B/C)) - D

where

A is the shareholders' equity at the end of the year,

B is the total of

(i) the fair market value at the end of the year of all Class A shares issued by it before March 6, 1996 and more than five years before the end of the year,

(ii) the fair market value at the end of the year of all Class A shares issued by it after March 5, 1996 and more than eight years before the end of the year,

(iii) the fair market value at the end of the year of all Class A shares issued by it in the last 60 days of the year, and

(iv) if the corporation so elects in writing filed with the Minister not more than six months after the end of the year and is not a revoked corporation at the end of the year, the fair market value at the end of the year of all shares of classes, of the capital stock of the corporation, to which clause 204.81(1)(c)(ii)(C) applies,

C is the fair market value at the end of the year of all shares issued by it, and

respectivement, de ce montant) n'entre pas dans le calcul de l'avoir des actionnaires dans la société à la fin de l'année donnée;

c) l'alinéa b) ne s'applique pas au rachat qui sera vraisemblablement effectué après la fin d'une année d'imposition si les conditions suivantes sont réunies :

(i) le rachat est effectué dans les 60 jours suivant la fin de l'année,

(ii) selon le cas :

(A) l'impôt prévu par la partie XII.5 devient payable par suite du rachat,

(B) l'impôt prévu par la partie XII.5 ne serait pas devenu payable par suite du rachat si celui-ci avait été effectué à la fin de l'année;

c.1) le montant de redressement déterminé quant à l'avoir des actionnaires dans la société à la fin d'une année d'imposition correspond au résultat du calcul suivant :

(A × (B/C)) - D

où :

A représente l'avoir des actionnaires à la fin de l'année,

B la somme des montants suivants :

(i) la juste valeur marchande à la fin de l'année de l'ensemble des actions de catégorie A qu'elle a émises avant le 6 mars 1996 et plus de cinq ans avant la fin de l'année,

(ii) la juste valeur marchande à la fin de l'année de l'ensemble des actions de catégorie A qu'elle a émises après le 5 mars 1996 et plus de huit ans avant la fin de l'année,

(iii) la juste valeur marchande à la fin de l'année de l'ensemble des actions de catégorie A qu'elle a émises au cours des 60 derniers jours de l'année,

(iv) si la société en fait le choix par écrit dans un document présenté au ministre au plus tard six mois après la fin de l'année et si elle n'est pas, à la fin de l'année, une société dont l'agrément a été retiré, la juste valeur marchande à la fin de l'année de l'ensemble des actions des catégories de son capital-actions auxquelles la division 204.81 (1)c)(ii)(C) s'applique,

C la juste valeur marchande à la fin de l'année de l'ensemble des actions qu'elle a émises,

D is the amount by which the shareholders' equity in the corporation at the end of the year has been reduced to take into account the expected subsequent redemption of shares of the capital stock of the corporation; and

(d) the adjusted cost to the corporation of an eligible investment of the corporation at any time is

(i) 150% of the cost to the corporation of the eligible investment at that time where the eligible investment is

(A) a property acquired by the corporation after February 18, 1997 (other than a property to which subparagraph (i.1) applies) that would be an eligible investment of the corporation if the reference to "$50,000,000" in paragraph (f) of the definition ***eligible investment*** in subsection 204.8(1) were read as "$10,000,000", or

(B) a share of the capital stock of a prescribed corporation,

(i.1) 200% of the cost to the corporation of the eligible investment at that time where the eligible investment is a property acquired by the corporation after February 16, 1999 (other than a property described in clause (i)(B)) that would be an eligible investment of the corporation if the reference to "$50,000,000" in paragraph (f) of the definition ***eligible investment*** in subsection 204.8(1) were read as "$2,500,000", and

(ii) in any other case, the cost to the corporation of the eligible investment of the corporation at that time.

D le montant dont l'avoir des actionnaires dans la société à la fin de l'année a été réduit pour tenir compte du rachat subséquent attendu des actions de son capital-actions;

d) le coût rajusté pour la société d'un placement admissible à un moment donné correspond au montant suivant :

(i) le montant représentant 150 % du coût du placement admissible pour la société à ce moment, si ce placement est, selon le cas :

(A) un bien qu'elle a acquis après le 18 février 1997 (sauf un bien auquel s'applique le sous-alinéa (i.1)) qui ferait partie de ses placements admissibles si la somme de 50 000 000 $, à l'alinéa f) de la définition de ***placement admissible*** au paragraphe 204.8(1), était remplacée par la somme de 10 000 000 $,

(B) une action du capital-actions d'une société visée par règlement,

(i.1) le montant représentant 200 % du coût du placement admissible pour la société à ce moment, si ce placement est un bien qu'elle a acquis après le 16 février 1999 (sauf un bien visé à la division (i)(B)) qui ferait partie de ses placements admissibles si la somme de 50 000 000 $, à l'alinéa f) de la définition de ***placement admissible*** au paragraphe 204.8(1), était remplacée par la somme de 2 500 000 $,

(ii) dans les autres cas, le coût pour la société du placement admissible à ce moment.

Recovery of credit

(3) Where a corporation is liable under subsection 204.82(2) to pay a tax in respect of 12 consecutive months (in this subsection referred to as the "particular period"), the corporation shall pay a tax under this Part for a taxation year in respect of each particular period that ends in the year equal to the total of the amounts determined by the formula

(A/12 × 20%) - (B - C)

where

A is the total of the monthly deficiencies for each month in the particular period;

B is the total of all taxes payable by the corporation under subsection 204.82(1) for preceding taxation years

Recouvrement du crédit

(3) La société qui est redevable, en vertu du paragraphe (2), d'un impôt pour une période donnée de douze mois consécutifs doit payer un impôt en vertu de la présente partie pour une année d'imposition, relativement à chaque période donnée qui se termine dans l'année, correspondant au total des montants calculés selon la formule suivante :

(A/12 × 20 %) - (B - C)

où :

A représente le total des insuffisances mensuelles pour chacun des mois de la période donnée;

B le total des impôts payables par la société en application du paragraphe (1) pour les années d'imposition

and taxes payable by it under this subsection in respect of a period ending before the end of the particular period; and

C is the total of all amounts refunded under section 204.83 in respect of the tax paid under this subsection by the corporation for preceding taxation years.

antérieures et des impôts payables par elle en application du présent paragraphe pour une période se terminant avant la fin de la période donnée;

C le total des montants remboursés en application de l'article 204.83 au titre de l'impôt payé en application du présent paragraphe par la société pour les années d'imposition antérieures.

Penalty

(4) Where a corporation is liable under subsection 204.82(3) to pay a tax for a taxation year, the corporation shall pay, in addition to the tax payable under that subsection, a penalty for the year equal to that tax.

Pénalité

(4) La société qui est redevable d'un impôt pour une année d'imposition selon le paragraphe (3) doit, de plus, payer une pénalité pour l'année égale à cet impôt.

Provincially registered LSVCCs

(5) Where

(a) an amount (other than interest on an amount to which this subsection applies or an amount payable under or as a consequence of a prescribed provision of a law of a province) is payable to the government of a province by a corporation,

(b) the amount is payable as a consequence of a failure to acquire sufficient properties of a character described in the law of the province,

(c) the corporation has been prescribed for the purpose of the definition ***approved share*** in subsection 127.4(1), and

(d) the corporation is not a registered labour-sponsored venture capital corporation or a revoked corporation,

the corporation shall pay a tax under this Part for the taxation year in which the amount became payable equal to that amount.

Sociétés à capital de risque de travailleurs sous régime provincial

(5) Une société est tenue de payer un impôt en vertu de la présente partie si les conditions suivantes sont réunies :

a) un montant (sauf les intérêts sur un montant auquel le présent paragraphe s'applique et les montants payables en vertu ou par l'effet d'une disposition, visée par règlement, d'une loi provinciale) est payable par la société au gouvernement d'une province;

b) le montant est payable par suite du défaut d'acquérir un pourcentage suffisant de biens présentant les caractéristiques visées dans la loi provinciale;

c) la société est visée par règlement pour l'application de la définition de ***action approuvée*** au paragraphe 127.4(1);

d) la société n'est pas une société agréée à capital de risque de travailleurs ni une société dont l'agrément a été retiré.

Cet impôt est égal au montant en question et est payable pour l'année d'imposition au cours de laquelle ce montant est devenu payable.

Further matching of amounts payable to a province

(6) Where

(a) a particular amount is payable (other than interest on an amount to which this subsection applies) by a registered labour-sponsored venture capital corporation or a revoked corporation to the government of a province as a consequence of a failure of a prescribed corporation to acquire sufficient properties of a character described in a law of the province, and

(b) the particular amount became payable before the corporation first discontinued its venture capital business,

Montants payables à une province

(6) Une société agréée à capital de risque de travailleurs ou une société dont l'agrément a été retiré en vertu du paragraphe 204.81(6) est tenue de payer un impôt en vertu de la présente partie si les conditions suivantes sont réunies :

a) un montant (sauf les intérêts sur un montant auquel s'applique le présent paragraphe) est payable par elle au gouvernement d'une province du fait qu'une société visée par règlement n'a pas acquis des biens suffisants présentant les caractéristiques visées dans une loi de la province;

the corporation shall pay a tax under this Part for the taxation year in which the particular amount became payable equal to that amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164; 1998, c. 19, s. 53; 1999, c. 22, s. 69; 2000, c. 19, s. 56.

Refunds for federally registered LSVCCs

204.83 (1) If a corporation is required, under subsections 204.82(3) and (4), to pay a tax and a penalty under this Part for a taxation year, it has no monthly deficiency throughout any period of 12 consecutive months (in this section referred to as the "second period") that begins after the 12-month period in respect of which the tax became payable (in this section referred to as the "first period") and it so requests in an application filed with the Minister in prescribed form, the Minister shall refund to it an amount equal to the total of the amount that was paid under subsection 204.82(3) and 80% of the amount that was paid under subsection 204.82(4) in respect of the first period on or before the later of

(a) the 30th day after receiving the application, and

(b) the 60th day after the end of the second period.

Refunds of amounts payable to provinces

(2) Where

(a) the government of a province refunds, at any time, an amount to a corporation,

(b) the refund is of an amount that had been paid in satisfaction of a particular amount payable in a taxation year of the corporation, and

(c) tax was payable under subsection 204.82(5) or (6) by the corporation for a taxation year because the particular amount became payable,

the corporation is deemed to have paid at that time an amount equal to the refund on account of its tax payable under this Part for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164; 1998, c. 19, s. 54; 1999, c. 22, s. 70; 2000, c. 19, s. 57.

b) le montant est devenu payable avant qu'elle n'abandonne pour la première fois son entreprise à capital de risque.

Cet impôt est égal au montant en question et est payable pour l'année d'imposition au cours de laquelle ce montant est devenu payable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164; 1998, ch. 19, art. 53; 1999, ch. 22, art. 69; 2000, ch. 19, art. 56.

Remboursements aux sociétés à capital de risque de travailleurs sous régime fédéral

204.83 (1) Lorsqu'une société doit payer, aux termes des paragraphes 204.82(3) et (4), un impôt et une pénalité en vertu de la présente partie pour une année d'imposition et n'a aucune insuffisance mensuelle tout au long d'une période de 12 mois consécutifs (appelée « seconde période » au présent article) commençant après la période de 12 mois pour laquelle l'impôt est devenu payable (appelée « première période » au présent article), le ministre lui rembourse, si elle lui en fait la demande dans le formulaire prescrit, un montant égal à la somme du montant payé en application du paragraphe 204.82(3) et de 80 % du montant payé en application du paragraphe 204.82(4) pour la première période au plus tard au dernier en date des jours suivants :

a) le trentième jour après la réception de la demande;

b) le soixantième jour après la fin de la seconde période.

Remboursements de montants payables aux provinces

(2) Lorsque le gouvernement d'une province rembourse à une société un montant qui avait été payé en règlement d'un montant donné payable au cours d'une année d'imposition de la société et qu'un impôt était payable en vertu des paragraphes 204.82(5) ou (6) par la société pour une année d'imposition du fait que le montant donné est devenu payable, la société est réputée avoir payé, au moment du remboursement, un montant égal au montant remboursé au titre de son impôt payable en vertu de la présente partie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164; 1998, ch. 19, art. 54; 1999, ch. 22, art. 70; 2000, ch. 19, art. 57.

Penalty

204.84 Every corporation that for a taxation year issues an information return described in paragraph 204.81(6)(c) in respect of

(a) the issuance of a share when the corporation was a revoked corporation, or

(b) a subscription in respect of a share if the share is not issued on or before the day that is 180 days after the day the information return was issued,

is liable to a penalty for the year equal to the amount of the consideration for which the share was or was to be issued.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164.

Penalty tax where venture capital business discontinued

204.841 Where, at a particular time in a taxation year, a particular corporation that is a registered labour-sponsored venture capital corporation or a revoked corporation first discontinues its venture capital business, the particular corporation shall pay a tax under this Part for the year equal to the total of all amounts each of which is the amount in respect of a Class A share of the capital stock of the particular corporation outstanding immediately before the particular time that is determined by the formula

A × B

where

A is

(a) if the original acquisition of the share was before March 6, 1996 and less than five years before the particular time, 4% of the consideration received by the particular corporation for the issue of the share,

(b) if the original acquisition of the share was after March 5, 1996 and less than eight years before the particular time, 1.875% of the consideration received by the particular corporation for the issue of the share, and

(c) in any other case, nil; and

B is

(a) if the original acquisition of the share was before March 6, 1996, the number obtained when the number of whole years throughout which the share was outstanding before the particular time is subtracted from five, and

Pénalité

204.84 Toute société qui délivre pour une année d'imposition la déclaration de renseignements visée à l'alinéa 204.81(6)c) au titre :

a) soit de l'émission d'une action après le retrait de l'agrément de la société;

b) soit de la souscription d'une action qui n'est pas émise au plus tard le cent quatre-vingtième jour après la délivrance de la déclaration de renseignements,

est passible d'une pénalité pour l'année égale à la contrepartie de l'émission de l'action ou à ce que devait être cette contrepartie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164.

Pénalité — abandon d'une entreprise à capital de risque

204.841 La société agréée à capital de risque de travailleurs ou la société dont l'agrément a été retiré en vertu du paragraphe 204.81(6) qui, à un moment donné d'une année d'imposition, abandonne pour la première fois son entreprise à capital de risque doit payer, en vertu de la présente partie pour l'année, un impôt égal au total des montants représentant chacun le montant relatif à une action de catégorie A de son capital-actions, en circulation immédiatement avant ce moment, qui s'obtient par la formule suivante :

A × B

où :

A représente :

a) si l'acquisition initiale de l'action a été effectuée avant le 6 mars 1996 et moins de cinq ans avant le moment donné, 4 % de la contrepartie reçue par la société pour l'émission de l'action,

b) si l'acquisition initiale de l'action a été effectuée après le 5 mars 1996 et moins de huit ans avant le moment donné, 1,875 % de la contrepartie reçue par la société pour l'émission de l'action,

c) dans les autres cas, zéro;

B :

a) si l'acquisition initiale de l'action a été effectuée avant le 6 mars 1996, le nombre obtenu lorsque le nombre d'années accomplies tout au long desquelles l'action a été en circulation avant le moment donné est soustrait de cinq,

(b) in any other case, the number obtained when the number of whole years throughout which the share was outstanding is subtracted from eight.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 58.

b) dans les autres cas, le nombre obtenu lorsque le nombre d'années accomplies tout au long desquelles l'action a été en circulation est soustrait de huit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 58.

Dissolution of federally registered LSVCCs

204.85 (1) A registered labour-sponsored venture capital corporation or a revoked corporation that has issued any Class A shares shall send written notification of any proposed amalgamation, merger, liquidation or dissolution of the corporation to the Minister at least 30 days before the amalgamation, merger, liquidation or dissolution, as the case may be.

Dissolution de sociétés à capital de risque de travailleurs sous régime fédéral

204.85 (1) La société agréée à capital de risque de travailleurs, ou la société dont l'agrément a été retiré en vertu du paragraphe 204.81(6), qui a émis des actions de catégorie A doit envoyer au ministre un avis écrit de tout projet de fusion, d'unification, de liquidation ou de dissolution la concernant au moins 30 jours avant sa réalisation.

Dissolution of other LSVCCs

(2) Where

(a) an amount (other than interest on an amount to which this subsection applies or an amount payable under or as a consequence of a prescribed provision of a law of a province) is payable to the government of a province by a corporation,

(b) the amount is payable as a consequence of the amalgamation or merger of the corporation with another corporation, the winding-up or dissolution of the corporation or the corporation ceasing to be registered under a law of the province,

(c) the corporation has been prescribed for the purpose of the definition ***approved share*** in subsection 127.4(1), and

(d) the corporation is not a registered labour-sponsored venture capital corporation or a revoked corporation,

the corporation shall pay a tax under this Part for the taxation year in which the amount became payable equal to that amount.

Dissolution d'autres sociétés à capital de risque de travailleurs

(2) Une société est tenue de payer un impôt en vertu de la présente partie si les conditions suivantes sont réunies :

a) un montant (sauf les intérêts sur un montant auquel le présent paragraphe s'applique ou un montant payable en vertu ou par l'effet d'une disposition, visée par règlement, d'une loi provinciale) est payable par la société au gouvernement d'une province;

b) le montant est payable par suite de la fusion ou de l'unification de la société, de sa liquidation ou dissolution ou du fait qu'elle a cessé d'être agréée aux termes d'une loi de la province;

c) la société est visée par règlement pour l'application de la définition de ***action approuvée*** au paragraphe 127.4(1);

d) la société n'est pas une société agréée à capital de risque de travailleurs ni une société dont l'agrément a été retiré.

Cet impôt est égal au montant en question et est payable pour l'année d'imposition au cours de laquelle ce montant est devenu payable.

Amalgamations and mergers

(3) For the purposes of section 127.4, this Part and Part XII.5, where two or more corporations (each of which is referred to in this subsection as a "predecessor corporation") amalgamate or merge to form one corporate entity (in this subsection referred to as the "new corporation") and at least one of the predecessor corporations was, immediately before the amalgamation or merger, a registered labour-sponsored venture capital corporation or a revoked corporation,

Fusions et unifications

(3) Pour l'application de l'article 127.4, de la présente partie et de la partie XII.5, lorsque plusieurs sociétés (appelées chacune « société remplacée » au présent paragraphe) ont fusionné ou se sont unifiées pour former une nouvelle société et qu'au moins une des sociétés remplacées était, immédiatement avant la fusion ou l'unification, une société agréée à capital de risque de travailleurs ou une société dont l'agrément a été retiré en vertu du paragraphe 204.81(6), les règles suivantes s'appliquent :

(a) subject to paragraphs (d) and (e), the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor corporation;

(b) where a predecessor corporation was authorized to issue a class of shares to which clause 204.81(1)(c)(ii)(C) applies, the new corporation is deemed to have received approval from the Minister of Finance to issue substantially similar shares at the time of the amalgamation or merger;

(c) where a share of a predecessor corporation (in this paragraph referred to as the "predecessor share") is replaced on the amalgamation or merger by a new share of the new corporation,

(i) the new share

(A) is deemed not to have been issued on the amalgamation or merger, and

(B) is deemed to have been issued by the new corporation at the time the predecessor corporation issued the predecessor share, and

(ii) if the new share was issued to a person who acquired the predecessor share as a consequence of a transfer the registration of which by the predecessor corporation was permitted under paragraph 204.81(1)(c), the issuance of the new share is deemed to be in compliance with the conditions described in paragraph 204.81(1)(c);

(d) the Minister is deemed to have registered the new corporation for the purposes of this Part unless

(i) the new corporation is not governed by the *Canada Business Corporations Act*,

(ii) one or more of the predecessor corporations was a registered labour-sponsored venture capital corporation the venture capital business of which was discontinued before the amalgamation or merger,

(iii) one or more of the predecessor corporations was, immediately before the amalgamation or merger, a revoked corporation,

(iv) immediately after the amalgamation or merger, the articles of the new corporation do not comply with paragraph 204.81(1)(c),

(v) shares other than Class A shares of the capital stock of the new corporation were issued to any shareholder of the new corporation in satisfaction of any share (other than a share to which clause

a) sous réserve des alinéas d) et e), la nouvelle société est réputée être la même société que chaque société remplacée et en être la continuation;

b) si une société remplacée était autorisée à émettre une catégorie d'actions à laquelle s'applique la division 204.81(1)c)(ii)(C), la nouvelle société est réputée avoir été autorisée par le ministre des Finances à émettre des actions semblables, quant à leurs éléments essentiels, au moment de la fusion ou de l'unification;

c) lorsqu'une action (appelée « action remplacée » au présent alinéa) d'une société remplacée est remplacée, au moment de la fusion ou de l'unification, par une nouvelle action de la nouvelle société :

(i) la nouvelle action est réputée :

(A) d'une part, ne pas avoir été émise à ce moment,

(B) d'autre part, avoir été émise par la nouvelle société au moment où la société remplacée a émis l'action remplacée,

(ii) si la nouvelle action a été émise en faveur d'une personne qui a acquis l'action remplacée par suite d'un transfert dont l'enregistrement, par la société remplacée, était permis par l'alinéa 204.81(1)c), l'émission de la nouvelle action est réputée être conforme aux conditions énoncées à cet alinéa;

d) le ministre est réputé avoir agréé la nouvelle société pour l'application de la présente partie, sauf si, selon le cas :

(i) elle n'est pas régie par la *Loi canadienne sur les sociétés par actions*,

(ii) une ou plusieurs des sociétés remplacées étaient des sociétés agréées à capital de risque de travailleurs qui ont abandonné leur entreprise à capital de risque avant la fusion ou l'unification,

(iii) une ou plusieurs des sociétés remplacées étaient, immédiatement avant la fusion ou l'unification, des sociétés dont l'agrément a été retiré en vertu du paragraphe 204.81(6),

(iv) immédiatement après la fusion ou l'unification, les statuts de la nouvelle société ne sont pas conformes à l'alinéa 204.81(1)c),

(v) des actions qui ne sont pas des actions de catégorie A du capital-actions de la nouvelle société ont été émises à un actionnaire de cette dernière en règlement d'une action (sauf une action à laquelle

204.81(1)(c)(ii)(B) or (C) applied) of a predecessor corporation,

(vi) immediately before the amalgamation or merger, one or more of the predecessor corporations is a corporation that has given notification under subsection 204.81(8.3) and one or more of the predecessor corporations is a registered labour-sponsored venture capital corporation that has not given notification under that subsection;

(e) where paragraph (d) does not apply, the new corporation is deemed to be a revoked corporation;

(f) subsection 204.82(1) does not apply to the new corporation; and

(g) subsection 204.82(2) shall, in its application to the new corporation, be read without reference to the words "that begins after the end of the corporation's start-up period (or, where the corporation has no start-up period, that begins after the time the corporation first issues a Class A share)".

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164; 1998, c. 19, s. 55; 2000, c. 19, s. 59; 2014, c. 20, s. 25.

s'applique la division 204.81(1)c)(ii)(B) ou (C)) d'une société remplacée,

(vi) immédiatement avant la fusion ou l'unification, au moins une des sociétés remplacées est une société qui a donné l'avis visé au paragraphe 204.81(8.3) et au moins une des sociétés remplacées est une société agréée à capital de risque de travailleurs qui n'a pas donné cet avis;

e) en cas d'inapplication de l'alinéa d), la nouvelle société est réputée être une société dont l'agrément a été retiré en vertu du paragraphe 204.81(6);

f) le paragraphe 204.82(1) ne s'applique pas à la nouvelle société;

g) le paragraphe 204.82(2) s'applique à la nouvelle société compte non tenu du passage « qui commence après la fin de sa période de démarrage (ou, à défaut de période de démarrage, après l'émission de sa première action de catégorie A) ».

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164; 1998, ch. 19, art. 55; 2000, ch. 19, art. 59; 2014, ch. 20, art. 25.

Return and payment of tax for federally-registered LSVCCs

204.86 (1) Every registered labour-sponsored venture capital corporation and every revoked corporation shall

(a) on or before its filing-due date for a taxation year, file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax and penalties, if any, payable under this Part by it for the year; and

(c) on or before its balance-due day for the year, pay to the Receiver General the amount of tax and penalties, if any, payable under this Part by it for the year.

Déclaration et paiement de l'impôt — sociétés à capital de risque de travailleurs sous régime fédéral

204.86 (1) Toute société agréée à capital de risque de travailleurs ou toute société dont l'agrément a été retiré doit, à la fois :

a) au plus tard à la date d'échéance de production qui lui est applicable pour une année d'imposition, présenter au ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie sur le formulaire prescrit, contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt et les pénalités éventuels qu'elle doit payer en vertu de la présente partie pour l'année;

c) au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, payer au receveur général l'impôt et les pénalités éventuels qu'elle doit payer en vertu de la présente partie pour l'année.

Return and payment of tax for other LSVCCs

(2) Where tax is payable under this Part for a taxation year by a corporation because of subsection 204.82(5) or 204.85(2), the corporation shall

(a) on or before its filing-due date for the year, file with the Minister a return for the year under this Part

Déclaration et paiement de l'impôt — autres sociétés à capital de risque de travailleurs

(2) La société qui est tenue de payer un impôt en vertu de la présente partie pour une année d'imposition par l'effet des paragraphes 204.82(5) ou 204.85(2) doit :

a) présenter au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour

in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax payable under this Part by it for the year; and

(c) on or before its balance-due day for the year, pay to the Receiver General the amount of tax payable under this Part by it for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164; 1998, c. 19, s. 56; 2003, c. 15, s. 124.

l'année, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie sur le formulaire prescrit, contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt qu'elle doit payer en vertu de la présente partie pour l'année;

c) au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, payer au receveur général l'impôt payable par elle en vertu de la présente partie pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164; 1998, ch. 19, art. 56; 2003, ch. 15, art. 124.

Provisions applicable to Part

204.87 Subsection 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 164 and 165 to 167, Division J of Part I and section 227.1 apply to this Part, with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 164.

Dispositions applicables

204.87 Le paragraphe 150(3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 164 et 165 à 167, la section J de la partie I et l'article 227.1 s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 164.

PART X.4

Tax in Respect of Overpayments to Registered Education Savings Plans

Definitions

204.9 (1) The definitions in this subsection apply in this Part.

excess amount for a year at any time in respect of an individual means

(a) for years before 2007, the amount, if any, by which the total of all contributions made after February 20, 1990 in the year and before that time into all registered education savings plans by or on behalf of all subscribers in respect of the individual exceeds the lesser of

(i) the RESP annual limit for the year, and

(ii) the amount, if any, by which the RESP lifetime limit for the year exceeds the total of all contributions made into registered education savings plans by or on behalf of all subscribers in respect of the individual in all preceding years; and

(b) for years after 2006, the amount, if any, by which the total of all contributions made in the year and

PARTIE X.4

Impôt sur les versements excédentaires aux régimes enregistrés d'épargne-études

Définitions

204.9 (1) Les définitions qui suivent s'appliquent à la présente partie.

excédent L'excédent, à un moment donné pour une année, au titre d'un particulier correspond à celle des sommes suivantes qui est applicable :

a) pour les années antérieures à 2007, l'excédent éventuel du total des cotisations versées après le 20 février 1990, au cours de l'année et avant ce moment à tous les régimes enregistrés d'épargne-études par les souscripteurs, ou pour leur compte, au titre du particulier, sur la moins élevée des sommes suivantes :

(i) le plafond annuel de REEE pour l'année,

(ii) l'excédent éventuel du plafond cumulatif de REEE pour l'année sur le total des cotisations versées à des régimes enregistrés d'épargne-études par les souscripteurs, ou pour leur compte, au titre du particulier pour les années antérieures;

before that time into all registered education savings plans by or on behalf of all subscribers in respect of the individual exceeds the amount, if any, by which

(i) the RESP lifetime limit for the year

exceeds

(ii) the total of all contributions made into registered education savings plans by or on behalf of all subscribers in respect of the individual in all preceding years. (*excédent*)

RESP lifetime limit for a year means

(a) for 1990 to 1995, $31,500;

(b) for 1996 to 2006, $42,000; and

(c) for 2007 and subsequent years, $50,000. (*plafond cumulatif de REEE*)

subscriber's gross cumulative excess at any time in respect of an individual means the total of all amounts each of which is the subscriber's share of the excess amount for a relevant year at that time in respect of the individual and, for the purpose of this definition, a relevant year at any time is a year that began before that time. (*excédent cumulatif brut du souscripteur*)

subscriber's share of the excess amount for a year at any time in respect of an individual means the amount determined by the formula

(A/B) × C

where

A is the total of all contributions made after February 20, 1990, in the year and before that time into all registered education savings plans by or on behalf of the subscriber in respect of the individual;

B is the total of all contributions made after February 20, 1990, in the year and before that time into all registered education savings plans by or on behalf of all subscribers in respect of the individual; and

C is the excess amount for the year at that time in respect of the individual. (*part du souscripteur sur l'excédent*)

Application of s. 146.1(1)

(1.1) The definitions in subsection 146.1(1) apply to this Part.

b) pour les années postérieures à 2006, l'excédent éventuel du total des cotisations versées au cours de l'année et avant ce moment à tous les régimes enregistrés d'épargne-études par les souscripteurs, ou pour leur compte, au titre du particulier, sur l'excédent éventuel de la somme visée au sous-alinéa (i) sur la somme visée au sous-alinéa (ii) :

(i) le plafond cumulatif de REEE pour l'année,

(ii) le total des cotisations versées à des régimes enregistrés d'épargne-études par les souscripteurs, ou pour leur compte, au titre du particulier pour les années antérieures. (*excess amount*)

excédent cumulatif brut du souscripteur Quant à un particulier à un moment donné, le total des montants représentant chacun la part du souscripteur sur l'excédent pour une année à ce moment quant au particulier. Pour l'application de la présente définition, l'année en question est une année ayant commencé avec le moment donné. (*subscriber's gross cumulative excess*)

part du souscripteur sur l'excédent Quant à un particulier pour une année à un moment donné, le montant déterminé selon la formule suivante :

(A/B) × C

où :

A représente le total des cotisations versées après le 20 février 1990, au cours de l'année et avant ce moment à tous les régimes enregistrés d'épargne-études par le souscripteur, ou pour son compte, au titre du particulier;

B le total des cotisations versées après le 20 février 1990, au cours de l'année et avant ce moment à tous les régimes enregistrés d'épargne-études par l'ensemble des souscripteurs, ou pour leur compte, au titre du particulier;

C l'excédent pour l'année à ce moment au titre du particulier. (*subscriber's share of the excess amount*)

plafond cumulatif de REEE

a) Pour les années 1990 à 1995 : 31 500 $;

b) pour les années 1996 à 2006 : 42 000 $;

c) pour 2007 et les années suivantes : 50 000 $. (*RESP lifetime limit*)

Application du paragraphe 146.1(1)

(1.1) Les définitions figurant au paragraphe 146.1(1) s'appliquent à la présente partie.

Agreements before February 21, 1990

(2) Where a subscriber is required, pursuant to an agreement in writing entered into before February 21, 1990, to make payments of specified amounts on a periodic basis into a registered education savings plan in respect of a beneficiary, and the subscriber makes at least one payment under the agreement before that day,

(a) the excess amount for a year in respect of the beneficiary shall be deemed not to exceed the excess amount for the year that would be determined under subsection 204.9(1) if the total of all such payments made in the year and, where the agreement so provides, amounts paid in the year in satisfaction of the requirement to make such payments under all such agreements by all such subscribers in respect of the beneficiary were equal to the lesser of the amounts described in paragraphs (a) and (b) of the definition ***excess amount*** in subsection 204.9(1); and

(b) in determining a subscriber's share of an excess amount for a year, any payment included in the total described in paragraph 204.9(2)(a) in respect of the year shall be excluded in determining the values for A and B in the definition ***subscriber's share of the excess amount*** in subsection 204.9(1).

Refunds from unregistered plans

(3) For the purposes of subsection 204.9(1) and section 146.1, where an individual entered into an education savings plan before February 21, 1990, pursuant to a preliminary prospectus issued by a promoter, and the promoter refunds all payments made into the plan and all income accrued thereon to the individual, each payment made by the individual into a registered education savings plan before December 31, 1990 shall be deemed to be a payment made before February 21, 1990, to the extent that the total of all such payments does not exceed the amount so refunded to the individual.

New beneficiary

(4) For the purposes of this Part, if at any particular time an individual (in this subsection referred to as the "new beneficiary") becomes a beneficiary under a registered education savings plan in place of another individual (in this subsection referred to as the "former beneficiary") who ceased at or before the particular time to be a beneficiary under the plan,

(a) except as provided by paragraph 204.9(4)(b), each contribution made at an earlier time by or on behalf of a subscriber into the plan in respect of the former beneficiary is deemed also to have been made at that earlier time in respect of the new beneficiary;

Convention conclue avant le 21 février 1990

(2) Lorsque, aux termes d'une convention écrite conclue avant le 21 février 1990, un souscripteur est tenu de faire des versements périodiques de montants déterminés à un régime enregistré d'épargne-études au titre d'un bénéficiaire et qu'il fait au moins un tel versement avant ce jour, les présomptions suivantes s'appliquent :

a) l'excédent pour une année au titre du bénéficiaire est réputé ne pas dépasser l'excédent pour l'année qui serait déterminé en vertu du paragraphe (1) si le total des sommes versées au cours de l'année et, si la convention le prévoit, des montants payés au cours de l'année en acquittement de l'obligation de faire ces versements, au titre du bénéficiaire aux termes de toutes les conventions semblables par l'ensemble des souscripteurs était égal au moins élevé des montants visés aux alinéas a) et b) de la définition de ***excédent*** au paragraphe (1);

b) la part d'un souscripteur sur un excédent pour une année est calculée compte non tenu, dans le calcul de la valeur des éléments A et B de la formule figurant à la définition de ***part du souscripteur sur l'excédent*** au paragraphe (1), des versements inclus dans le total visé à l'alinéa a) pour l'année.

Remboursement de régime non enregistré

(3) Pour l'application du paragraphe (1) et de l'article 146.1, lorsqu'un particulier a conclu un régime d'épargne-études avant le 21 février 1990, en conformité avec le prospectus préliminaire d'un promoteur, et que celui-ci lui rembourse toutes les sommes versées au régime ainsi que le revenu y afférent, chaque somme versée par le particulier à un régime enregistré d'épargne-études avant le 31 décembre 1990 est réputée versée avant le 21 février 1990, dans la mesure où le total de ces sommes ne dépasse pas le montant ainsi remboursé au particulier.

Nouveau bénéficiaire

(4) Pour l'application de la présente partie, dans le cas où, à un moment donné, un particulier (appelé « nouveau bénéficiaire » au présent paragraphe) devient le bénéficiaire d'un régime enregistré d'épargne-études à la place d'un autre particulier (appelé « ancien bénéficiaire » au présent paragraphe) qui, à ce moment ou antérieurement, avait cessé d'être bénéficiaire du régime, les règles suivantes s'appliquent :

a) sauf disposition contraire énoncée à l'alinéa b), chaque cotisation versée au régime à un moment antérieur par un souscripteur, ou pour son compte, au titre de l'ancien bénéficiaire est réputée avoir également été

(b) except for the purpose of applying this subsection to a replacement of a beneficiary after the particular time, applying subsection (5) to a distribution after the particular time and applying subsection 204.91(3) to events after the particular time, paragraph (a) does not apply as a consequence of the replacement at the particular time of the former beneficiary if

(i) the new beneficiary had not attained 21 years of age before the particular time and a parent of the new beneficiary was a parent of the former beneficiary, or

(ii) both beneficiaries were connected by blood relationship or adoption to an original subscriber under the plan and neither had attained 21 years of age before the particular time; and

(c) except where paragraph 204.9(4)(b) applies, each contribution made by or on behalf of a subscriber under the plan in respect of the former beneficiary under the plan is, without affecting the determination of the amount withdrawn from the plan in respect of the new beneficiary, deemed to have been withdrawn at the particular time from the plan to the extent that it was not withdrawn before the particular time.

versée au moment antérieur au titre du nouveau bénéficiaire;

b) sauf pour l'application du présent paragraphe à un remplacement de bénéficiaire effectué après le moment donné, du paragraphe (5) à un transfert effectué après ce moment et du paragraphe 204.91(3) à des faits s'étant produits après ce moment, l'alinéa a) ne s'applique pas par suite du remplacement de l'ancien bénéficiaire à ce moment si, selon le cas :

(i) le nouveau bénéficiaire n'avait pas atteint 21 ans avant ce moment et son père ou sa mère était celui ou celle de l'ancien bénéficiaire,

(ii) les deux bénéficiaires étaient unis par les liens du sang ou de l'adoption à un souscripteur initial du régime et ni l'un ni l'autre n'avaient atteint 21 ans avant ce moment;

c) sauf en cas d'application de l'alinéa b), chaque cotisation versée au régime par un souscripteur, ou pour son compte, au titre de l'ancien bénéficiaire est réputée avoir été retirée du régime au moment donné dans la mesure où elle n'a pas été retirée avant ce moment; cette présomption est sans incidence sur le calcul du montant retiré du régime relativement au nouveau bénéficiaire.

Transfers between plans

(5) For the purposes of this Part, if property held by a trust governed by a registered education savings plan (in this subsection referred to as the "transferor plan") is distributed at a particular time to a trust governed by another registered education savings plan (in this subsection referred to as the "transferee plan"),

(a) except as provided by paragraphs 204.9(5)(b) and 204.9(5)(c), the amount of the distribution is deemed not to have been contributed into the transferee plan;

(b) subject to paragraph 204.9(5)(c), each contribution made at any earlier time by or on behalf of a subscriber into the transferor plan in respect of a beneficiary under the transferor plan is deemed also to have been made at that earlier time by the subscriber in respect of each beneficiary under the transferee plan;

(c) except for the purpose of applying this subsection to a distribution after the particular time, applying subsection 204.9(4) to a replacement of a beneficiary after the particular time and applying subsection 204.91(3) to events after the particular time, paragraph 204.9(5)(b) does not apply as a consequence of the distribution where

Transferts entre régimes

(5) Pour l'application de la présente partie, dans le cas où un bien détenu par une fiducie régie par un régime enregistré d'épargne-études (appelé « régime cédant » au présent paragraphe) est distribué, à un moment donné, à une fiducie régie par un autre semblable régime (appelé « régime cessionnaire » au présent paragraphe), les règles ci-après s'appliquent :

a) sauf disposition contraire énoncée aux alinéas b) et c), le montant de la distribution est réputé ne pas avoir été versé au régime cessionnaire;

b) sous réserve de l'alinéa c), chaque cotisation versée au régime cédant à un moment antérieur par un souscripteur, ou pour son compte, au titre d'un bénéficiaire de ce régime est réputée avoir également été versée au moment antérieur par le souscripteur au titre de chaque bénéficiaire du régime cessionnaire;

c) sauf pour l'application du présent paragraphe à une distribution effectuée après le moment donné, du paragraphe (4) à un remplacement de bénéficiaire effectué après ce moment et du paragraphe 204.91(3) à des faits s'étant produits après ce moment, l'alinéa b) ne s'applique pas par suite de la distribution si, selon le cas :

(i) any beneficiary under the transferee plan was, immediately before the particular time, a beneficiary under the transferor plan, or

(ii) a parent of a beneficiary under the transferee plan was a parent of an individual who was, immediately before the particular time, a beneficiary under the transferor plan and

(A) the transferee plan is a plan that allows more than one beneficiary under the plan at any one time, or

(B) in any other case, the beneficiary under the transferee plan had not attained 21 years of age at the time the transferee plan was entered into;

(d) where subparagraph 204.9(5)(c)(i) or 204.9(5)(c)(ii) applies in respect of the distribution, the amount of the distribution is deemed not to have been withdrawn from the transferor plan; and

(e) each subscriber under the transferor plan is deemed to be a subscriber under the transferee plan.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 165; 1997, c. 25, s. 57; 1998, c. 19, s. 57; 1999, c. 22, s. 71; 2007, c. 29, s. 27; 2011, c. 24, s. 62; 2013, c. 34, s. 337(F).

(i) un bénéficiaire du régime cessionnaire était, immédiatement avant ce moment, un bénéficiaire du régime cédant,

(ii) le père ou la mère d'un bénéficiaire du régime cessionnaire était celui ou celle d'un particulier qui était, immédiatement avant le moment donné, un bénéficiaire du régime cédant et :

(A) le régime cessionnaire est un régime qui peut compter plus d'un bénéficiaire à un moment donné,

(B) dans les autres cas, le bénéficiaire du régime cessionnaire n'avait pas atteint 21 ans au moment où ce régime a été conclu;

d) dans le cas où les sous-alinéas c)(i) ou (ii) s'appliquent à la distribution, le montant de la distribution est réputé ne pas avoir été retiré du régime cédant;

e) chaque souscripteur du régime cédant est réputé être un souscripteur du régime cessionnaire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 165; 1997, ch. 25, art. 57; 1998, ch. 19, art. 57; 1999, ch. 22, art. 71; 2007, ch. 29, art. 27; 2011, ch. 24, art. 62; 2013, ch. 34, art. 337(F).

Tax payable by subscribers

204.91 (1) Every subscriber under a registered education savings plan shall pay a tax under this Part in respect of each month equal to 1% of the amount, if any, by which

(a) the total of all amounts each of which is the subscriber's gross cumulative excess at the end of the month in respect of an individual

exceeds

(b) the total of all amounts each of which is the portion of such an excess that has been withdrawn from a registered education savings plan before the end of the month.

Impôt payable par le souscripteur

204.91 (1) Chaque souscripteur d'un régime enregistré d'épargne-études est tenu de payer, pour chaque mois, un impôt en vertu de la présente partie égal à 1 % de l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants représentant chacun l'excédent cumulatif brut du souscripteur à la fin du mois relativement à un particulier;

b) le total des montants représentant chacun la partie de cet excédent qui a été retirée d'un régime enregistré d'épargne-études avant la fin du mois.

Waiver of tax

(2) If a subscriber under a registered education savings plan would, but for this subsection, be required to pay a tax in respect of a month under subsection 204.91(1) in respect of an individual, the Minister may waive or cancel all or part of the tax where it is just and equitable to do so having regard to all the circumstances, including

(a) whether the tax arose as a consequence of reasonable error;

Renonciation

(2) Le ministre peut renoncer à tout ou partie de l'impôt dont le souscripteur d'un régime enregistré d'épargne-études serait redevable pour un mois selon le paragraphe (1), si ce n'était le présent paragraphe, dans le cas où il est juste et équitable de le faire compte tenu des circonstances, y compris :

a) le fait que l'impôt fasse suite à une erreur acceptable;

(b) whether, as a consequence of one or more transactions or events to which subsection 204.9(4) or 204.9(5) applies, the tax is excessive; and

(c) the extent to which further contributions could be made into registered education savings plans in respect of the individual before the end of the month without causing additional tax to be payable under this Part if this Part were read without reference to this subsection.

b) le fait que, par suite d'opérations ou de faits auxquels s'appliquent les paragraphes 204.9(4) ou (5), l'impôt soit excessif;

c) la mesure dans laquelle d'autres cotisations pourraient être versées à des régimes enregistrés d'épargne-études au titre du particulier avant la fin du mois sans qu'un impôt supplémentaire soit payable en vertu de la présente partie, compte non tenu du présent paragraphe.

Marriage or common-law partnership breakdown

(3) If at any time an individual (in this subsection referred to as the "former subscriber") ceases to be a subscriber under a registered education savings plan as a consequence of the settlement of rights arising out of, or on the breakdown of, the marriage or common-law partnership of the former subscriber and another individual (in this subsection referred to as the "current subscriber") who is a subscriber under the plan immediately after that time, for the purpose of determining tax payable under this Part in respect of a month that ends after that time, each contribution made before that time into the plan by or on behalf of the former subscriber is deemed to have been made into the plan by the current subscriber and not by or on behalf of the former subscriber.

Échec du mariage ou union de fait

(3) Dans le cas où un particulier (appelé « ancien souscripteur » au présent paragraphe) cesse, à un moment donné, d'être un souscripteur d'un régime enregistré d'épargne-études par suite du règlement des droits découlant de son mariage ou union de fait avec un autre particulier (appelé « souscripteur restant » au présent paragraphe) qui est un souscripteur du régime immédiatement après ce moment, ou de l'échec de ce mariage ou union de fait, pour déterminer l'impôt payable en vertu de la présente partie pour un mois se terminant après ce moment, chaque cotisation versée au régime avant ce moment par l'ancien souscripteur, ou pour son compte, est réputée avoir été versée au régime par le souscripteur restant et non par l'ancien souscripteur, ou pour son compte.

Deceased subscribers

(4) For the purpose of applying this section where a subscriber has died, the subscriber's estate is deemed to be the same person as, and a continuation of, the subscriber for each month that ends after the death.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 165; 1998, c. 19, s. 58; 2000, c. 12, s. 142.

Souscripteur décédé

(4) Pour l'application du présent article en cas de décès d'un souscripteur, la succession du souscripteur est réputée être la même personne que le souscripteur, et en être la continuation, pour chaque mois se terminant après le décès.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 165; 1998, ch. 19, art. 58; 2000, ch. 12, art. 142.

Return and payment of tax

204.92 Every person who is liable to pay tax under this Part in respect of a month in a year shall, within 90 days after the end of the year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable under this Part by the person in respect of each month in the year; and

(c) pay to the Receiver General the amount of tax, if any, payable by the person under this Part in respect of each month in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 165.

Déclaration et paiement de l'impôt

204.92 Chaque personne qui est redevable d'un impôt en vertu de la présente partie pour un mois d'une année est tenue, dans les 90 jours suivant la fin de l'année :

a) de présenter au ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, sur le formulaire prescrit contenant les renseignements prescrits;

b) d'estimer dans cette déclaration le montant d'impôt payable par elle en vertu de la présente partie pour chaque mois de l'année;

c) de verser ce montant au receveur général.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 165.

Provisions applicable to Part

204.93 Subsections 150(2) and 150(3), sections 152, 158 and 159, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part, with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 165.

Dispositions applicables

204.93 Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 165.

PART X.5

Payments Under Registered Education Savings Plans

Definitions

204.94 (1) The definitions in subsection 146.1(1) apply for the purposes of this Part, except that the definition ***subscriber*** in that subsection shall be read without reference to paragraph (c).

Charging provision

(2) Every person (other than a public primary caregiver that is exempt from tax under Part I) shall pay a tax under this Part for each taxation year equal to the amount determined by the formula

(A + B - C) × D

where

A is the total of all amounts each of which is an accumulated income payment made at any time that is

(a) either

(i) under a registered education savings plan under which the person is a subscriber at that time, or

(ii) under a registered education savings plan under which there is no subscriber at that time, where the person has been a spouse or common-law partner of an individual who was a subscriber under the plan, and

(b) included in computing the person's income under Part I for the year;

B is the total of all amounts each of which is an accumulated income payment that is

(a) not included in the value of A in respect of the person for the year, and

(b) included in computing the person's income under Part I for the year;

C is the lesser of

PARTIE X.5

Paiements dans le cadre de régimes enregistrés d'épargne-études

Définitions

204.94 (1) Les définitions énoncées au paragraphe 146.1(1) s'appliquent dans le cadre de la présente partie. Toutefois, il n'est pas tenu compte de l'alinéa c) de la définition de ***souscripteur*** au paragraphe 146.1(1).

Assujettissement

(2) Toute personne, à l'exception d'un responsable public qui est exonéré de l'impôt prévu à la partie I, est tenue de payer, en vertu de la présente partie et pour chaque année d'imposition, un impôt égal à la somme obtenue par la formule suivante :

(A + B - C) × D

où :

A représente le total des montants représentant chacun un paiement de revenu accumulé versé à un moment donné à l'un des régimes enregistrés d'épargne-études suivants et inclus dans le calcul du revenu de la personne en vertu de la partie I pour l'année :

a) un régime dont la personne est un souscripteur à ce moment,

b) un régime qui ne compte aucun souscripteur à ce moment, dans le cas où la personne a été l'époux ou conjoint de fait d'un particulier qui a été souscripteur du régime;

B le total des montants représentant chacun un paiement de revenu accumulé qui :

a) n'est pas inclus dans la valeur de l'élément A relativement à la personne pour l'année,

b) est inclus dans le calcul du revenu de la personne en vertu de la partie I pour l'année;

C le moins élevé des montants suivants :

a) la valeur de l'élément A relativement à la personne pour l'année ou, s'il est inférieur, le total

(a) the lesser of the value of A in respect of the person for the year and the total of all amounts each of which is an amount deducted under subsection 146(5) or 146(5.1) in computing the person's income under Part I for the year, and

(b) the amount, if any, by which $50,000 exceeds the total of all amounts each of which is an amount determined under paragraph (a) in respect of the person for a preceding taxation year; and

D is

(a) where a tax, similar to the tax provided under this Part, is payable by the person for the year under a law of the province of Quebec, 12%, and

(b) in any other case, 20%.

Return and payment of tax

(3) Every person who is liable to pay tax under this Part for a taxation year shall, on or before the person's filing-due date for the year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax payable under this Part by the person for the year; and

(c) pay to the Receiver General the amount of tax payable under this Part by the person for the year.

Administrative rules

(4) Subsections 150(2) and 150(3), sections 152, 155 to 156.1 and 158 to 167 and Division J of Part I apply with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 59; 1999, c. 22, s. 72; 2000, c. 12, s. 142; 2013, c. 34, s. 338.

des montants représentant chacun un montant déduit en application des paragraphes 146(5) ou (5.1) dans le calcul du revenu de la personne en vertu de la partie I pour l'année,

b) l'excédent éventuel de 50 000 $ sur le total des montants représentant chacun un montant déterminé selon l'alinéa a) relativement à la personne pour une année d'imposition antérieure;

D le pourcentage applicable suivant :

a) si un impôt, semblable à celui prévu par la présente partie, est payable par la personne pour l'année en vertu d'une loi de la province de Québec, 12 %,

b) sinon, 20 %.

Déclaration et paiement de l'impôt

(3) La personne redevable de l'impôt prévu par la présente partie pour une année d'imposition est tenue d'accomplir ce qui suit au plus tard à la date d'échéance de production qui lui est applicable pour l'année :

a) présenter au ministre pour l'année sur le formulaire prescrit, sans avis ni mise en demeure, une déclaration en vertu de la présente partie contenant les renseignements prescrits;

b) indiquer dans la déclaration une estimation de l'impôt payable par elle en vertu de la présente partie pour l'année;

c) payer au receveur général le montant d'impôt payable par elle pour l'année en vertu de la présente partie.

Règles administratives

(4) Les paragraphes 150(2) et (3), les articles 152, 155 à 156.1 et 158 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 59; 1999, ch. 22, art. 72; 2000, ch. 12, art. 142; 2013, ch. 34, art. 338.

PART XI

Taxes in Respect of Registered Disability Savings Plans

Definitions

205 (1) The following definitions apply in this Part.

PARTIE XI

Impôts relatifs aux régimes enregistrés d'épargne-invalidité

Définitions

205 (1) Les définitions qui suivent s'appliquent à la présente partie.

advantage, in relation to a registered disability savings plan, means any benefit or loan that is conditional in any way on the existence of the plan other than

(a) a disability assistance payment;

(b) a contribution made by, or with the written consent of, a holder of the plan;

(c) a transfer in accordance with subsection 146.4(8);

(d) an amount paid under or because of the *Canada Disability Savings Act* or a designated provincial program as defined in subsection 146.4(1);

(e) a benefit derived from the provision of administrative or investment services in respect of the plan; or

(f) a loan

(i) made in the ordinary course of the lender's ordinary business of lending money if, at the time the loan was made, *bona fide* arrangements were made for repayment of the loan within a reasonable time, and

(ii) whose sole purpose was to enable a person to make a contribution to the plan. (*avantage*)

allowable refund of a person for a calendar year means the total of all amounts each of which is a refund to which the person is entitled under subsection 206.1(4) for the year. (*remboursement admissible*)

benefit, in relation to a registered disability savings plan, includes any payment or allocation of an amount to the plan that is represented to be a return on investment in respect of property held by the plan trust, but which cannot reasonably be considered, having regard to all the circumstances, to be on terms and conditions that would apply to a similar transaction in an open market between parties dealing with each other at arm's length and acting prudently, knowledgeably and willingly. (*bénéfice*)

qualified investment for a trust governed by a registered disability savings plan means

(a) an investment that would be described by any of paragraphs (a) to (d), (f) and (g) of the definition ***qualified investment*** in section 204 if the reference in that definition to ***a trust governed by a deferred profit sharing plan or revoked plan*** were read as a reference to "a trust governed by a registered disability savings plan" and if that definition were read without reference to the words "with the exception of excluded property in relation to the trust";

avantage Tout bénéfice ou prêt qui est subordonné à l'existence d'un régime enregistré d'épargne-invalidité, à l'exception :

a) de tout paiement d'aide à l'invalidité;

b) de toute cotisation versée par un titulaire du régime ou avec son consentement écrit;

c) de toute somme transférée au titre du paragraphe 146.4(8);

d) de toute somme versée en vertu ou par l'effet de la *Loi canadienne sur l'épargne-invalidité* ou d'un programme provincial désigné au sens du paragraphe 146.4(1);

e) de tout bénéfice provenant de la fourniture de services de gestion ou de placement relatifs au régime;

f) de tout prêt qui, à la fois :

(i) est consenti dans le cours normal des activités de l'entreprise habituelle de prêt d'argent du prêteur si, au moment où le prêt est consenti, des arrangements sont conclus de bonne foi en vue du remboursement du prêt dans un délai raisonnable,

(ii) a pour unique objet de permettre à une personne de verser une cotisation au régime. (*advantage*)

bénéfice En ce qui concerne un régime enregistré d'épargne-invalidité, comprend tout paiement ou toute attribution de sommes au régime qui est présenté comme un rendement sur placement relatif aux biens détenus par la fiducie de régime, mais qu'il n'est pas raisonnable de considérer, compte tenu des circonstances, comme étant conforme à des conditions qui s'appliqueraient à une opération semblable sur un marché libre entre des parties sans lien de dépendance qui traitent librement, prudemment et en toute connaissance de cause. (*benefit*)

placement admissible Dans le cas d'une fiducie régie par un régime enregistré d'épargne-invalidité :

a) placement qui serait visé à l'un des alinéas a) à d), f) et g) de la définition de ***placement admissible*** à l'article 204 si la mention « fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré » à cette définition était remplacée par « fiducie régie par un régime enregistré d'épargne-invalidité » et s'il n'était pas tenu compte du passage « sauf s'il s'agit de biens exclus relativement à la fiducie » à cette définition;

(b) a contract for an annuity issued by a licensed annuities provider where

(i) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract, and

(ii) the holder of the contract has a right to surrender the contract at any time for an amount that would, if reasonable sales and administration charges were ignored, approximate the value of funds that could otherwise be applied to fund future periodic payments under the contract;

(c) a contract for an annuity issued by a licensed annuities provider where

(i) annual or more frequent periodic payments are or may be made under the contract to the holder of the contract,

(ii) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract,

(iii) neither the time nor the amount of any payment under the contract may vary because of the length of any life, other than the life of the beneficiary under the plan,

(iv) the day on which the periodic payments began or are to begin is not later than the end of the later of

(A) the year in which the beneficiary under the plan attains the age of 60 years, and

(B) the year following the year in which the contract was acquired by the trust,

(v) the periodic payments are payable for the life of the beneficiary under the plan and either there is no guaranteed period under the contract or there is a guaranteed period that does not exceed 15 years,

(vi) the periodic payments

(A) are equal, or

(B) are not equal solely because of one or more adjustments that would, if the contract were an annuity under a retirement savings plan, be in accordance with subparagraphs 146(3)(b)(iii) to (v) or that arise because of a uniform reduction in the entitlement to the periodic payments as a

b) contrat relatif à une rente établie par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(ii) le titulaire du contrat a le droit d'exiger le rachat de celui-ci à tout moment pour une somme qui, s'il n'était pas tenu compte de frais de vente ou d'administration raisonnables, correspondrait à peu près à la valeur des fonds qui pourraient servir par ailleurs à financer des paiements périodiques futurs dans le cadre du contrat;

c) contrat relatif à une rente établie par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) des paiements à effectuer périodiquement à intervalles ne dépassant pas un an sont ou peuvent être faits au titulaire du contrat dans le cadre celui-ci,

(ii) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(iii) ni le montant d'un paiement prévu par le contrat, ni le moment de son versement, ne peuvent varier en raison de la durée d'une vie, sauf s'il s'agit de la vie du bénéficiaire du régime,

(iv) le versement des paiements périodiques a commencé ou doit commencer au plus tard à la fin de l'année dans laquelle le bénéficiaire du régime atteint 60 ans ou, si elle est postérieure, de l'année suivant celle où le contrat est acquis par la fiducie,

(v) les paiements périodiques sont payables au bénéficiaire du régime à titre viager sans durée garantie aux termes du contrat ou pour une durée garantie n'excédant pas 15 ans,

(vi) les paiements périodiques :

(A) sont égaux entre eux,

(B) ne sont pas égaux entre eux en raison seulement d'un ou de plusieurs rajustements qui seraient conformes aux sous-alinéas 146(3)b)(iii) à (v) si le contrat était une rente prévue par un régime d'épargne-retraite ou qui découlent d'une

consequence of a partial surrender of rights to the periodic payments, and

(vii) the contract requires that, in the event the plan must be terminated in accordance with paragraph 146.4(4)(p), any amounts that would otherwise be payable after the termination be commuted into a single payment; and

d) a prescribed investment. (*placement admissible*)

réduction uniforme du droit aux paiements périodiques par suite d'un rachat partiel des droits à ces paiements,

(vii) le contrat prévoit que, dans l'éventualité où il est mis fin au régime conformément à l'alinéa 146.4(4)p), les sommes qui seraient payables par ailleurs après la cessation du régime sont converties en un paiement unique;

d) placement visé par règlement. (*qualified investment*)

remboursement admissible Le remboursement admissible d'une personne pour une année civile correspond au total des sommes dont chacune représente un remboursement auquel elle a droit en vertu du paragraphe 206.1(4) pour l'année. (*allowable refund*)

Definitions in subsection 146.4(1)

(2) The definitions in subsection 146.4(1) apply in this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 205; 2005, c. 30, s. 14; 2007, c. 35, s. 120; 2010, c. 12, s. 20.

Définitions figurant au paragraphe 146.4(1)

(2) Les définitions figurant au paragraphe 146.4(1) s'appliquent à la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 205; 2005, ch. 30, art. 14; 2007, ch. 35, art. 120; 2010, ch. 12, art. 20.

Tax payable where inadequate consideration

206 (1) A tax is payable under this Part for a calendar year in connection with a registered disability savings plan if, in the year, a trust governed by the plan

a) disposes of property for consideration less than the fair market value of the property at the time of the disposition, or for no consideration; or

b) acquires property for consideration greater than the fair market value of the property at the time of the acquisition.

Impôt à payer en cas de contrepartie insuffisante

206 (1) Un impôt est payable en vertu de la présente partie pour une année civile relativement à un régime enregistré d'épargne-invalidité si, au cours de l'année, la fiducie régie par le régime, selon le cas :

a) dispose d'un bien à titre gratuit ou pour une contrepartie inférieure à sa juste valeur marchande au moment de la disposition;

b) acquiert un bien pour une contrepartie supérieure à sa juste valeur marchande au moment de l'acquisition.

Amount of tax payable

(2) The amount of tax payable in respect of each disposition or acquisition described in subsection (1) is

a) the amount by which the fair market value differs from the consideration; or

b) if there is no consideration, the amount of the fair market value.

Impôt à payer

(2) L'impôt à payer au titre de chaque disposition ou acquisition visée au paragraphe (1) correspond à celle des sommes suivantes qui est applicable :

a) la différence entre la juste valeur marchande et la contrepartie;

b) en l'absence de contrepartie, le montant de la juste valeur marchande.

Liability for tax

(3) Each person who is a holder of a registered disability savings plan at the time that a tax is imposed under subsection (1) in connection with the plan is jointly and severally, or solidarily, liable to pay the tax.

Assujettissement

(3) Quiconque est titulaire d'un régime enregistré d'épargne-invalidité au moment où l'impôt prévu au paragraphe (1) est établi relativement au régime est solidairement responsable du paiement de l'impôt.

Payment of amount collected to RDSP

(4) Where a tax has been imposed under subsection (1) in connection with a registered disability savings plan of a beneficiary, the Minister may pay all or part of any amount collected in respect of the tax to a trust governed by a registered disability savings plan of the beneficiary (referred to in this subsection as the "current plan") if

(a) it is just and equitable to do so having regard to all circumstances; and

(b) the Minister is satisfied that neither the beneficiary nor any existing holder of the current plan was involved in the transaction that gave rise to the tax.

Deemed not to be a contribution

(5) A payment under subsection (4) is deemed not to be a contribution to a registered disability savings plan for the purposes of section 146.4.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 206; 1994, c. 7, Sch. II, s. 166, Sch. VIII, s. 120, c. 21, s. 93; 1998, c. 19, s. 210; 2000, c. 14, s. 41, c. 19, s. 60; 2001, c. 17, ss. 169, 247; 2005, c. 30, s. 14; 2007, c. 35, s. 120.

Tax payable on non-qualified investment

206.1 (1) A tax is payable under this Part for a calendar year in connection with a registered disability savings plan if, in the year,

(a) the trust governed by the plan acquires property that is not a qualified investment for the trust; or

(b) property held by the trust governed by the plan ceases to be a qualified investment for the trust.

Amount of tax payable

(2) The amount of tax payable,

(a) in respect of each property described in paragraph (1)(a), is 50% of the fair market value of the property at the time it was acquired by the trust; and

(b) in respect of each property described in paragraph (1)(b), is 50% of the fair market value of the property at the time immediately before the time it ceased to be a qualified investment for the trust.

Liability for tax

(3) Each person who is a holder of a registered disability savings plan at the time that a tax is imposed under subsection (1) in connection with the plan is jointly and severally, or solidarily, liable to pay the tax.

Versement de la somme perçue au REEI

(4) Lorsque l'impôt prévu au paragraphe (1) est établi relativement au régime enregistré d'épargne-invalidité d'un bénéficiaire, le ministre peut verser tout ou partie de la somme perçue au titre de cet impôt à la fiducie régie par un régime enregistré d'épargne-invalidité du bénéficiaire (appelé « régime courant » au présent paragraphe) si les conditions suivantes sont réunies :

a) il est juste et équitable de le faire dans les circonstances;

b) le ministre est convaincu que ni le bénéficiaire ni les titulaires actuels du régime courant n'ont pris part à l'opération ayant donné naissance à l'impôt.

Versement réputé ne pas être une cotisation

(5) Le versement prévu au paragraphe (4) est réputé ne pas être une cotisation à un régime enregistré d'épargne-invalidité pour l'application de l'article 146.4.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 206; 1994, ch. 7, ann. II, art. 166, ann. VIII, art. 120, ch. 21, art. 93; 1998, ch. 19, art. 210; 2000, ch. 14, art. 41, ch. 19, art. 60; 2001, ch. 17, art. 169 et 247; 2005, ch. 30, art. 14; 2007, ch. 35, art. 120.

Impôt à payer sur un placement non admissible

206.1 (1) Un impôt est payable en vertu de la présente partie pour une année civile relativement à un régime enregistré d'épargne-invalidité si, au cours de l'année :

a) la fiducie régie par le régime acquiert un bien qui n'est pas un placement admissible pour elle;

b) un bien détenu par la fiducie régie par le régime cesse d'être un placement admissible pour elle.

Impôt à payer

(2) L'impôt à payer correspond à celle des sommes suivantes qui est applicable :

a) s'agissant du bien visé à l'alinéa (1)a), 50 % de sa juste valeur marchande au moment de son acquisition par la fiducie;

b) s'agissant du bien visé à l'alinéa (1)b), 50 % de sa juste valeur marchande au moment immédiatement avant le moment où il a cessé d'être un placement admissible pour la fiducie.

Assujettissement

(3) Quiconque est titulaire d'un régime enregistré d'épargne-invalidité au moment où l'impôt prévu au paragraphe (1) est établi relativement au régime est solidairement responsable du paiement de l'impôt.

Refund of tax on disposition of non-qualified investment

(4) Where in a calendar year a trust governed by a registered disability savings plan disposes of a property in respect of which a tax is imposed under subsection (1), the person or persons who are liable to pay the tax are entitled to a refund for the year of an amount equal to

(a) except where paragraph (b) applies, the lesser of

(i) the amount of the tax so imposed, and

(ii) the proceeds of disposition of the property; and

(b) nil,

(i) if it is reasonable to expect that any of those persons knew or ought to have known at the time the property was acquired by the trust that it was not, or would cease to be, a qualified investment for the trust, or

(ii) if the property is not disposed of by the trust before the end of the calendar year following the calendar year in which the tax arose, or any later time that the Minister considers reasonable in the circumstances.

Apportionment of refund

(5) Where more than one person is entitled to a refund under subsection (4) for a calendar year in respect of the disposition of a property, the total of all amounts so refundable shall not exceed the amount that would be so refundable for the year to any one of those persons in respect of that disposition if that person were the only person entitled to a refund for the year under that subsection in respect of the disposition. If the persons cannot agree as to what portion of the refund each can so claim, the Minister may fix the portions.

Deemed disposition and reacquisition

(6) For the purposes of this Act, where at any time property held by a plan trust in respect of which a tax was imposed under subsection (1) subsequently becomes a qualified investment for the trust, the trust is deemed to have disposed of the property at that time for proceeds of disposition equal to its fair market value at that time and to have reacquired it immediately after that time at a cost equal to that fair market value.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 206.1; 1994, c. 7, Sch. II, s. 167; 1998, c. 19, s. 211; 2005, c. 30, s. 14; 2007, c. 35, s. 120.

Remboursement d'impôt — disposition d'un placement non admissible

(4) Dans le cas où une fiducie régie par un régime enregistré d'épargne-invalidité dispose, au cours d'une année civile, d'un bien frappé de l'impôt prévu au paragraphe (1), les personnes qui sont redevables de l'impôt ont droit au remboursement pour l'année de celle des sommes suivantes qui est applicable :

a) sauf en cas d'application de l'alinéa b), la moins élevée des sommes suivantes :

(i) le montant d'impôt en cause,

(ii) le produit de disposition du bien;

b) zéro si, selon le cas :

(i) il est raisonnable de supposer que l'une ou plusieurs de ces personnes savaient ou auraient dû savoir, au moment où la fiducie a acquis le bien, que celui-ci n'était pas, ou cesserait d'être, un placement admissible pour la fiducie,

(ii) la fiducie ne dispose pas du bien avant la fin de l'année civile suivant celle au cours de laquelle l'impôt a pris naissance ou à tout moment ultérieur que le ministre estime raisonnable dans les circonstances.

Répartition du remboursement

(5) Si plus d'une personne a droit, pour une année civile, au remboursement prévu au paragraphe (4) relativement à la disposition d'un bien, le total des sommes ainsi remboursables ne peut excéder la somme qui serait remboursable pour l'année à une seule de ces personnes relativement à cette disposition. En cas de désaccord entre les personnes sur la répartition du remboursement, le ministre peut faire cette répartition.

Disposition et nouvelle acquisition réputées

(6) Pour l'application de la présente loi, dans le cas où un bien détenu par une fiducie de régime et frappé de l'impôt prévu au paragraphe (1) devient un placement admissible pour la fiducie à un moment donné, la fiducie est réputée en avoir disposé à ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment et l'avoir acquis de nouveau immédiatement après ce moment à un coût égal à cette juste valeur marchande.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 206.1; 1994, ch. 7, ann. II, art. 167; 1998, ch. 19, art. 211; 2005, ch. 30, art. 14; 2007, ch. 35, art. 120.

Tax payable where advantage extended

206.2 (1) A tax is payable under this Part for a calendar year in connection with a registered disability savings plan if, in the year, an advantage in relation to the plan is extended to a person who is, or who does not deal at arm's length with, a beneficiary under, or a holder of, the plan.

Amount of tax payable

(2) The amount of tax payable in respect of an advantage described in subsection (1) is

(a) in the case of a benefit, the fair market value of the benefit; and

(b) in the case of a loan, the amount of the loan.

Liability for tax

(3) Each person who is a holder of a registered disability savings plan at the time that a tax is imposed under subsection (1) in connection with the plan is jointly and severally, or solidarily, liable to pay the tax. If, however, the advantage is extended by the issuer of the plan or by a person not dealing at arm's length with the issuer, the issuer is liable to pay the tax and not the holders.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 120.

Tax payable on use of property as security

206.3 (1) Every issuer of a registered disability savings plan shall pay a tax under this Part for a calendar year if, in the year, with the consent or knowledge of the issuer, a trust governed by the plan uses or permits to be used any property held by the trust as security for indebtedness of any kind.

Amount of tax payable

(2) The amount of tax payable in respect of each property described in subsection (1) is equal to the fair market value of the property at the time the property commenced to be used as security.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 120.

Waiver of liability

206.4 If a person would otherwise be liable to pay a tax under this Part for a calendar year, the Minister may waive or cancel all or part of the liability where it is just and equitable to do so having regard to all the circumstances, including

Impôt à payer — avantage accordé

206.2 (1) Un impôt est payable en vertu de la présente partie pour une année civile relativement à un régime enregistré d'épargne-invalidité si un avantage relatif au régime est accordé au cours de l'année à toute personne qui est bénéficiaire ou titulaire du régime ou qui a un lien de dépendance avec un tel bénéficiaire ou titulaire.

Impôt à payer

(2) L'impôt à payer relativement à l'avantage visé au paragraphe (1) correspond à celle des sommes suivantes qui est applicable :

a) s'agissant d'un bénéfice, sa juste valeur marchande;

b) s'agissant d'un prêt, son montant.

Assujettissement

(3) Quiconque est titulaire d'un régime enregistré d'épargne-invalidité au moment où l'impôt prévu au paragraphe (1) est établi relativement au régime est solidairement responsable du paiement de l'impôt. Toutefois, si l'avantage est accordé par l'émetteur du régime ou par une personne avec laquelle il a un lien de dépendance, l'émetteur, et non les titulaires, est responsable du paiement de l'impôt.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 120.

Impôt à payer — utilisation d'un bien à titre de garantie

206.3 (1) L'émetteur d'un régime enregistré d'épargne-invalidité est redevable d'un impôt en vertu de la présente partie pour une année civile si la fiducie régie par le régime utilise ou permet que soit utilisé au cours de l'année, au su ou avec le consentement de l'émetteur, un bien que la fiducie détient à titre de garantie d'une dette quelconque.

Impôt à payer

(2) L'impôt à payer relativement au bien visé au paragraphe (1) correspond à la juste valeur marchande du bien au moment où il a commencé à être utilisé à titre de garantie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 120.

Renonciation

206.4 Le ministre peut renoncer à tout ou partie de l'impôt dont une personne serait redevable par ailleurs en vertu de la présente partie pour une année civile, ou l'annuler en tout ou en partie, dans le cas où il est juste et équitable de le faire compte tenu des circonstances, y compris :

(a) whether the tax arose as a consequence of reasonable error; and

(b) the extent to which the transaction which gave rise to the tax also gave rise to another tax under this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 120.

a) le fait que l'impôt fasse suite à une erreur raisonnable;

b) la mesure dans laquelle l'opération qui a donné lieu à l'impôt a également donné lieu à un autre impôt prévu par la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 120.

Return and payment of tax

207 (1) Every person who is liable to pay tax under this Part for a calendar year shall within 90 days after the end of the year

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information including

(i) an estimate of the amount of tax payable under this Part by the person for the year, and

(ii) an estimate of the amount of any refund to which the person is entitled under this Part for the year; and

(b) pay to the Receiver General the amount, if any, by which the amount of the person's tax payable under this Part for the year exceeds the person's allowable refund for the year.

Déclaration et paiement de l'impôt

207 (1) Toute personne qui est redevable d'un impôt prévu par la présente partie pour une année civile doit, dans les 90 jours suivant la fin de l'année :

a) produire auprès du ministre pour l'année en vertu de la présente partie une déclaration sur le formulaire prescrit contenant les renseignements prescrits, notamment :

(i) une estimation de son impôt à payer en vertu de la présente partie pour l'année,

(ii) une estimation du montant de tout remboursement auquel elle a droit en vertu de la présente partie pour l'année;

b) verser au receveur général l'excédent de son impôt à payer en vertu de la présente partie pour l'année sur le montant de son remboursement admissible pour l'année.

Refund

(2) Where a person has filed a return under this Part for a calendar year within three years after the end of the year, the Minister

(a) may, on sending the notice of assessment for the year, refund without application any allowable refund of the person for the year, to the extent that it was not applied against the person's tax payable under paragraph (1)(b); and

(b) shall, with all due dispatch, make the refund referred to in paragraph (a) after sending the notice of assessment if an application for it has been made in writing by the person within three years after the sending of an original notice of assessment for the year.

Remboursement

(2) Dans le cas où une personne a produit une déclaration en vertu de la présente partie pour une année civile dans les trois ans suivant la fin de l'année, le ministre :

a) peut, au moment de l'envoi de l'avis de cotisation pour l'année, rembourser sans que demande lui en soit faite le montant de tout remboursement admissible de la personne pour l'année, dans la mesure où il n'a pas été appliqué en réduction de son impôt à payer aux termes de l'alinéa (1)b);

b) rembourse le montant visé à l'alinéa a), avec diligence, après l'envoi de l'avis de cotisation, si la personne en a fait la demande par écrit dans les trois ans suivant la date d'envoi du premier avis de cotisation pour l'année.

Multiple holders

(3) Where two or more holders of a registered disability savings plan are jointly and severally, or solidarily, liable with each other to pay a tax under this Part for a calendar year in connection with the plan,

Plusieurs titulaires

(3) Dans le cas où plusieurs titulaires d'un régime enregistré d'épargne-invalidité sont solidairement responsables du paiement d'un impôt prévu par la présente partie pour une année d'imposition relativement au régime :

(a) a payment by any of the holders on account of that tax liability shall to the extent of the payment discharge the joint liability; and

(b) a return filed by one of the holders as required by this Part for the year is deemed to have been filed by each other holder in respect of the joint liability to which the return relates.

(a) tout paiement fait par l'un des titulaires au titre de cet impôt éteint d'autant l'obligation;

b) toute déclaration produite par l'un des titulaires en vertu de la présente partie pour l'année est réputée avoir été produite par chacun des autres titulaires au titre de l'obligation à laquelle la déclaration a trait.

Provisions applicable to Part

(4) Subsections 150(2) and (3), sections 152 and 158 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 207; 2005, c. 30, s. 14; 2007, c. 35, s. 120; 2010, c. 25, s. 56.

Dispositions applicables

(4) Les paragraphes 150(2) et (3), les articles 152 et 158 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 207; 2005, ch. 30, art. 14; 2007, ch. 35, art. 120; 2010, ch. 25, art. 56.

PART XI.01

Taxes in Respect of RRIFs, RRSPs and TFSAs

Definitions

207.01 (1) The following definitions and the definitions in subsections 146(1) (other than the definition ***benefit***), 146.2(1) and 146.3(1) apply in this Part and Part XLIX of the *Income Tax Regulations*.

advantage, in relation to a registered plan, means

(a) any benefit, loan or indebtedness that is conditional in any way on the existence of the registered plan, other than

(i) a benefit derived from the provision of administrative or investment services in respect of the registered plan,

(ii) a loan or an indebtedness (including, in the case of a TFSA, the use of the TFSA as security for a loan or an indebtedness) the terms and conditions of which are terms and conditions that persons dealing at arm's length with each other would have entered into,

(iii) a payment out of or under the registered plan in satisfaction of all or part of the controlling individual's interest in the registered plan,

(iv) the payment or allocation of any amount to the registered plan by the issuer or carrier, and

(v) a benefit provided under an incentive program that is — in a normal commercial or investment context in which parties deal with each other at

PARTIE XI.01

Impôts relatifs aux CÉLI, aux FERR et aux REER

Définitions

207.01 (1) Les définitions qui suivent et celles figurant aux paragraphes 146(1) (sauf la définition de ***prestation***), 146.2(1) et 146.3(1) s'appliquent à la présente partie ainsi qu'à la partie XLIX du *Règlement de l'impôt sur le revenu*.

avantage Est un avantage relatif à un régime enregistré :

a) tout bénéfice ou prêt, ou toute dette, qui est subordonné à l'existence du régime, à l'exception :

(i) de tout bénéfice provenant de la fourniture de services de gestion ou de placement relatifs au régime,

(ii) de tout prêt ou dette (y compris, dans le cas d'un compte d'épargne libre d'impôt, l'utilisation du compte à titre de garantie d'un prêt ou d'une dette) dont les modalités sont telles qu'elles auraient été acceptées par des personnes n'ayant entre elles aucun lien de dépendance,

(iii) de tout paiement effectué dans le cadre du régime en règlement de tout ou partie de la participation du particulier contrôlant dans le régime,

(iv) du paiement ou de l'attribution d'une somme quelconque au régime par l'émetteur,

(v) de tout bénéfice provenant d'un programme d'encouragement qui — dans un contexte

arm's length and act prudently, knowledgeably and willingly — offered to a broad class of persons, if it is reasonable to conclude that none of the main purposes of the program is to enable a person or partnership to benefit from the exemption from tax under Part I of any amount in respect of the plan;

(b) a benefit that is an increase in the total fair market value of the property held in connection with the registered plan if it is reasonable to consider, having regard to all the circumstances, that the increase is attributable, directly or indirectly, to

(i) a transaction or event or a series of transactions or events that

(A) would not have occurred in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgeably and willingly, and

(B) had as one of its main purposes to enable a person or a partnership to benefit from the exemption from tax under Part I of any amount in respect of the registered plan,

(ii) a payment received as, on account or in lieu of, or in satisfaction of, a payment

(A) for services provided by a person who is, or who does not deal at arm's length with, the controlling individual of the registered plan, or

(B) of interest, of a dividend, of rent, of a royalty or of any other return on investment, or of proceeds of disposition, in respect of property (other than property held in connection with the registered plan) held by a person who is, or who does not deal at arm's length with, the controlling individual of the registered plan,

(iii) a swap transaction, or

(iv) specified non-qualified investment income that has not been paid from the registered plan to its controlling individual within 90 days of receipt by the controlling individual of a notice issued by the Minister under subsection 207.06(4);

(c) a benefit that is income (determined without reference to paragraph 82(1)(b)), or a capital gain, that is reasonably attributable, directly or indirectly, to

(i) a prohibited investment in respect of the registered plan or any other registered plan of the controlling individual,

commercial ou financier normal où des parties n'ont entre elles aucun lien de dépendance et agissent librement, prudemment et en toute connaissance de cause — est offert à une vaste catégorie de personnes, s'il est raisonnable de conclure qu'aucun des objets principaux du programme ne consiste à permettre à une personne ou à une société de personnes de profiter de l'exemption d'impôt prévue par la partie I à l'égard d'une somme relative au régime;

b) tout bénéfice qui représente une hausse de la juste valeur marchande totale des biens détenus dans le cadre du régime qu'il est raisonnable de considérer, compte tenu des circonstances, comme étant attribuable, directement ou indirectement :

(i) soit à une opération ou à un événement, ou à une série d'opérations ou d'événements, qui, à la fois :

(A) ne se serait pas produit dans un contexte commercial ou financier normal où des parties sans lien de dépendance traitent librement, prudemment et en toute connaissance de cause,

(B) a pour objet principal notamment de permettre à une personne ou à une société de personnes de profiter de l'exemption d'impôt prévue à la partie I à l'égard d'une somme relative au régime,

(ii) soit à un paiement reçu au titre ou en règlement total ou partiel, selon le cas :

(A) d'un paiement pour des services fournis par le particulier contrôlant du régime ou par une personne avec laquelle il a un lien de dépendance,

(B) d'un paiement d'intérêts, de dividende, de loyer, de redevance ou de tout autre rendement sur placement, ou d'un paiement de produit de disposition, relatif à des biens (sauf ceux détenus dans le cadre du régime) détenus par le particulier contrôlant du régime ou par une personne avec laquelle il a un lien de dépendance,

(iii) soit à une opération de swap,

(iv) soit à un revenu de placement non admissible déterminé qui n'a pas été versé sur le régime au particulier contrôlant de celui-ci dans les quatre-vingt-dix jours suivant le jour où ce particulier a reçu l'avis du ministre mentionné au paragraphe 207.06(4);

(ii) in the case of a RRIF or RRSP, an amount received by the controlling individual of the registered plan, or by a person who does not deal at arm's length with the controlling individual (if it is reasonable to consider, having regard to all the circumstances, that the amount was paid in relation to, or would not have been paid but for, property held in connection with the registered plan) and the amount was paid as, on account or in lieu of, or in satisfaction of, a payment

(A) for services provided by a person who is, or who does not deal at arm's length with, the controlling individual of the registered plan, or

(B) of interest, of a dividend, of rent, of a royalty or of any other return on investment, or of proceeds of disposition, or

(iii) a deliberate over-contribution;

(d) an RRSP strip in respect of the registered plan; and

(e) a prescribed benefit. (*avantage*)

allowable refund of a person for a calendar year means the total of all amounts each of which is a refund, for the year, to which the person is entitled under subsection 207.04(4). (*remboursement admissible*)

controlling individual, of a registered plan, means the holder of a TFSA or the annuitant of a RRIF or RRSP, as the case may be. (*particulier contrôlant*)

deliberate over-contribution of an individual means a contribution made under a TFSA by the individual that results in, or increases, an excess TFSA amount, unless it is reasonable to conclude that the individual neither knew nor ought to have known that the contribution could result in liability for a penalty, tax or similar consequence under this Act. (*cotisation excédentaire intentionnelle*)

equity, of a corporation, trust or partnership, means

(a) in the case of a corporation, a share of the capital stock of the corporation;

(b) in the case of a trust, an income or capital interest in the trust; and

(c) in the case of a partnership, an interest as a member of the partnership. (*droit sur l'actif*)

c) tout bénéfice qui représente un revenu (déterminé compte non tenu de l'alinéa 82(1)b)) ou un gain en capital qu'il est raisonnable d'attribuer, directement ou indirectement :

(i) soit à un placement interdit relativement au régime ou à tout autre régime enregistré du particulier contrôlant,

(ii) soit, dans le cas d'un FERR ou d'un REER, à une somme reçue par le particulier contrôlant du régime, ou par une personne avec laquelle il a un lien de dépendance, au titre ou en paiement intégral ou partiel des services visés à la division (A) ou des sommes visées à la division (B), s'il est raisonnable de considérer, compte tenu des circonstances, que le paiement est effectué relativement à des biens détenus dans le cadre du régime ou qu'il n'aurait pas été effectué en l'absence de tels biens :

(A) les services fournis par le particulier contrôlant du régime ou par une personne avec laquelle il a un lien de dépendance,

(B) des intérêts, un dividende, un loyer, une redevance ou tout autre rendement sur placement, ou un produit de disposition,

(iii) soit à une cotisation excédentaire intentionnelle;

d) toute somme découlant d'un dépouillement de REER relatif au régime;

e) tout bénéfice visé par règlement. (*advantage*)

bénéfice transitoire provenant d'un placement interdit Le bénéfice transitoire provenant d'un placement interdit d'un particulier contrôlant pour une année d'imposition correspond à la somme obtenue par la formule suivante :

A – B

où :

A représente le total des sommes dont chacune représente un revenu (déterminé compte non tenu de l'alinéa 82(1)b)) gagné ou un gain en capital réalisé au cours de l'année d'imposition par une fiducie régie par un FERR ou un REER du particulier qui, à la fois :

a) est raisonnablement attribuable, directement ou indirectement, à un bien qui est un placement interdit et un bien interdit transitoire pour la fiducie,

excess TFSA amount of an individual at a particular time in a calendar year means the amount, if any, determined by the formula

A - B - C - D - E

where

A is the total of all amounts each of which is a contribution made under a TFSA by the individual in the calendar year and at or before the particular time, other than a contribution that is

(a) a qualifying transfer, or

(b) an exempt contribution;

B is the individual's unused TFSA contribution room at the end of the preceding calendar year;

C is the total of all amounts each of which was a distribution made in the preceding calendar year under a TFSA of which the individual was the holder at the time of the distribution, other than a distribution that is

(a) a qualifying transfer, or

(b) a specified distribution;

D is

(a) the TFSA dollar limit for the calendar year if, at any time in the calendar year, the individual is resident in Canada, and

(b) nil, in any other case; and

E is the total of all amounts each of which is the qualifying portion of a distribution made in the calendar year and at or before the particular time under a TFSA of which the individual was the holder at the time of the distribution and, for this purpose, the qualifying portion of a distribution is

(a) nil, if the distribution is a qualifying transfer or a specified distribution, and

(b) in any other case, the lesser of

(i) the amount of the distribution, and

(ii) the amount that would be the individual's excess TFSA amount at the time of the distribution if the amount of the distribution were nil. (*excédent CÉLI*)

excluded property, at any time for a trust governed by a registered plan, means

(a) property described in paragraph 4900(1)(j.1) of the *Income Tax Regulations;*

(b) an equity of a mutual fund corporation, mutual fund trust or registered investment if

b) s'il s'agit d'un revenu, est gagné après le 22 mars 2011 et, s'il s'agit d'un gain en capital, s'accumule après le 22 mars 2011;

B le total des sommes dont chacune représente une perte en capital, déterminée compte non tenu du sous-alinéa 40(2)g)(i) ni du paragraphe 40(3.4), réalisée au cours de l'année d'imposition par une fiducie régie par un FERR ou un REER du particulier qui, à la fois :

a) est raisonnablement attribuable, directement ou indirectement, à un bien qui est un placement interdit et un bien interdit transitoire pour la fiducie,

b) s'accumule après le 22 mars 2011. (*transitional prohibited investment benefit*)

bien d'exception [Abrogée, 2009, ch. 2, art. 68]

bien exclu Est un bien exclu à un moment donné pour une fiducie régie par un régime enregistré :

a) tout bien visé à l'alinéa 4900(1)j.1) du *Règlement de l'impôt sur le revenu*;

b) un droit sur l'actif d'une société de placement à capital variable, d'une fiducie de fonds commun de placement ou d'un placement enregistré à l'égard duquel les conditions ci-après sont réunies :

(i) selon le cas :

(A) il s'agit d'un droit sur l'actif d'une société de placement à capital variable ou d'une fiducie de fonds commun de placement dont la valeur provient en totalité ou en presque totalité d'un ou de plusieurs fonds communs de placement qui sont assujettis et qui se conforment pour l'essentiel aux exigences de la *Norme canadienne 81–102 Les organismes de placement collectif*, avec ses modifications successives, des Autorités canadiennes en valeurs mobilières,

(B) la société, la fiducie ou le placement enregistré suit une politique raisonnable en matière de diversification des placements,

(ii) le moment en cause est compris, selon le cas :

(A) dans la période de 24 mois qui commence le premier jour de la première année d'imposition de la société, de la fiducie ou du placement enregistré,

(B) dans la période de 24 mois qui prend fin le dernier jour de la dernière année d'imposition de

(i) either

(A) the equity is equity of a mutual fund corporation or mutual fund trust that derives all or substantially all its value from one or more mutual funds that are subject to, and substantially comply with, the requirements of *National Instrument 81–102 Mutual Funds*, as amended from time to time, of the Canadian Securities Administrators, or

(B) the corporation, trust or registered investment follows a reasonable policy of investment diversification,

(ii) the time is

(A) during the 24-month period that begins on the day on which the first taxation year of the corporation, trust or registered investment begins,

(B) during the 24-month period that ends on the day on which the last taxation year of the corporation, trust or registered investment ends, or

(C) where the equity is a share of the capital stock of a mutual fund corporation and the share derives all or substantially all its value from a particular mutual fund,

(I) during the 24-month period that begins on the day on which the particular mutual fund is established, or

(II) during the 24-month period that ends on the day on which the particular mutual fund is terminated,

(iii) it is reasonable to conclude that none of the main purposes of the structure of the corporation, trust or registered investment, or of the terms and conditions of the equity, is to accommodate transactions or events that could affect the fair market value of the property held by the trust governed by the registered plan in a manner that would not occur in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgeably and willingly, and

(iv) it is reasonable to conclude that none of the main purposes of the incorporation, establishment or operation of the corporation, trust or registered investment, or of the particular mutual fund, is to benefit from this paragraph; or

la société, de la fiducie ou du placement enregistré,

(C) dans le cas où le droit sur l'actif est une action du capital-actions d'une société de placement à capital variable dont la valeur provient en totalité ou en presque totalité d'un fonds commun de placement donné :

(I) soit dans la période de 24 mois qui commence à la date d'établissement du fonds,

(II) soit dans la période de 24 mois qui prend fin à la date de résiliation du fonds,

(iii) il est raisonnable de conclure qu'aucun des objets principaux de la structure de la société, de la fiducie ou du placement enregistré, ou des conditions du droit sur l'actif, ne consiste à faciliter la mise en œuvre d'opérations ou d'événements qui pourraient modifier la juste valeur marchande des biens détenus par la fiducie régie par le régime enregistré d'une manière qui ne se manifesterait pas dans un contexte commercial ou financier normal où des parties sans lien de dépendance traitent librement, prudemment et en toute connaissance de cause,

(iv) il est raisonnable de conclure qu'aucun des objets principaux de la constitution, de l'établissement ou de l'exploitation de la société, de la fiducie, du placement enregistré ou du fonds commun de placement donné ne consiste à permettre à quiconque de tirer profit du présent alinéa;

c) tout droit sur l'actif d'une société, d'une société de personnes ou d'une fiducie (appelées « entité de placement » au présent alinéa) à l'égard duquel les conditions ci-après sont réunies :

(i) la juste valeur marchande du droit sur l'actif (appelé « droit sans lien de dépendance » au présent alinéa) de l'entité de placement qui appartient à des personnes sans lien de dépendance avec le particulier contrôlant du régime enregistré compte pour au moins 90 % de la juste valeur marchande de l'ensemble des droits sur l'actif de l'entité de placement,

(ii) la juste valeur marchande totale du droit sans lien de dépendance et de la dette de l'entité de placement qui appartient à des personnes sans lien de dépendance avec le particulier contrôlant compte pour au moins 90 % de la juste valeur marchande de l'ensemble des droits sur l'actif et des dettes de l'entité de placement,

(c) equity of a corporation, partnership or trust (in this paragraph referred to as the "investment entity") if at that time

(i) the fair market value of the equity (in this paragraph referred to as the "arm's length equity") of the investment entity that is owned by persons who deal at arm's length with the controlling individual of the registered plan is at least 90% of the fair market value of all the equity of the investment entity,

(ii) the total fair market value of the arm's length equity and the debt of the investment entity that is owned by persons who deal at arm's length with the controlling individual is at least 90% of the total fair market value of all the equity and debt of the investment entity,

(iii) the controlling individual, either alone or together with persons with whom the controlling individual does not deal at arm's length, does not have the right to cast at least 10% of the votes, if any, that could be cast regarding the governance of the investment entity,

(iv) the specific terms and conditions of each share or unit of equity of the investment entity held by the trust governed by the registered plan are the same as, or substantially similar to, the terms and conditions of particular equity that is included in the arm's length equity,

(v) the fair market value of the particular equity referred to in subparagraph (iv) is equal to at least 10% of the total fair market value of all equity of the investment entity having the specific terms and conditions referred to in subparagraph (iv) or terms and conditions that are substantially similar to those terms and conditions,

(vi) the controlling individual deals at arm's length with the investment entity, and

(vii) it is reasonable to conclude that none of the main purposes of the structure of the investment entity, or of the terms and conditions of the equity, is to accommodate transactions or events that could affect the fair market value of the property held by the trust governed by the registered plan in a manner that would not occur in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgeably and willingly. (*bien exclu*)

exempt contribution means a contribution made in a calendar year under a TFSA by the survivor of an individual if

(iii) le particulier contrôlant, seul ou avec des personnes avec lesquelles il a un lien de dépendance, n'a pas le droit d'exprimer au moins 10 % des voix pouvant être exprimées au sujet de la gouvernance de l'entité de placement,

(iv) les conditions spécifiques de chaque part ou unité du droit sur l'actif de l'entité de placement détenue par la fiducie régie par le régime enregistré sont identiques ou essentiellement similaires à celles d'un droit sur l'actif donné qui fait partie du droit sans lien de dépendance,

(v) la juste valeur marchande du droit sur l'actif donné visé au sous-alinéa (iv) correspond à au moins 10 % de la juste valeur marchande totale des droits sur l'actif de l'entité de placement qui présentent les conditions spécifiques visées au sous-alinéa (iv) ou des conditions essentiellement similaires à celles-ci,

(vi) le particulier contrôlant n'a aucun lien de dépendance avec l'entité de placement,

(vii) il est raisonnable de conclure qu'aucun des objets principaux de la structure de l'entité de placement, ou des conditions du droit sur l'actif, ne consiste à faciliter la mise en œuvre d'opérations ou d'événements qui pourraient modifier la juste valeur marchande des biens détenus par la fiducie régie par le régime enregistré d'une manière qui ne se manifesterait pas dans un contexte commercial ou financier normal où des parties sans lien de dépendance traitent librement, prudemment et en toute connaissance de cause. (*excluded property*)

bien interdit transitoire Est un bien interdit transitoire à un moment donné pour une fiducie donnée régie par un FERR ou un REER d'un particulier contrôlant tout bien qu'elle détient à ce moment qui était détenu, le 22 mars 2011, par une fiducie régie par un FERR ou un REER du particulier contrôlant et qui était un placement interdit pour cette fiducie le 23 mars 2011. (*transitional prohibited property*)

cotisation excédentaire intentionnelle Cotisation versée à un compte d'épargne libre d'impôt par un particulier qui donne lieu à un excédent CÉLI, ou qui l'augmente, sauf s'il est raisonnable de conclure que le particulier ne savait pas et n'était pas censé savoir que la cotisation pourrait entraîner une pénalité, un impôt ou une conséquence semblable en vertu de la présente loi. (*deliberate over-contribution*)

(a) the contribution is made during the period (in this definition referred to as the "rollover period") that begins when the individual dies and that ends at the end of the first calendar year that begins after the individual dies (or at any later time that is acceptable to the Minister);

(b) a payment (in this definition referred to as the "survivor payment") was made to the survivor during the rollover period, as a consequence of the individual's death, directly or indirectly out of or under an arrangement that ceased, because of the individual's death, to be a TFSA;

(c) the survivor designates, in prescribed form filed in prescribed manner within 30 days after the day on which the contribution is made (or at any later time that is acceptable to the Minister), the contribution in relation to the survivor payment; and

(d) the amount of the contribution does not exceed the least of

(i) the amount, if any, by which

(A) the amount of the survivor payment

exceeds

(B) the total of all other contributions designated by the survivor in relation to the survivor payment,

(ii) the amount, if any, by which

(A) the total proceeds of disposition that would, if section 146.2 were read without reference to subsection 146.2(9), be determined in respect of the arrangement under paragraph 146.2(8)(a), (10)(a) or (11)(a), as the case may be,

exceeds

(B) the total of all other exempt contributions in respect of the arrangement made by the survivor at or before the time of the contribution, and

(iii) if the individual had, immediately before the individual's death, an excess TFSA amount or if payments described in paragraph (b) are made to more than one survivor of the individual, nil or the greater amount, if any, allowed by the Minister in respect of the contribution. (*cotisation exclue*)

non-qualified investment for a trust governed by a registered plan means property that is not a qualified investment for the trust. (*placement non admissible*)

cotisation exclue Cotisation versée au cours d'une année civile à un compte d'épargne libre d'impôt par le survivant d'un particulier si les conditions suivantes sont réunies :

a) la cotisation est versée au cours de la période (appelée « période de roulement » à la présente définition) qui commence au moment du décès du particulier et se termine à la fin de la première année civile commençant après le décès du particulier (ou à tout moment postérieur que le ministre estime acceptable);

b) un paiement (appelé « paiement au survivant » à la présente définition), provenant directement ou indirectement d'un arrangement qui a cessé d'être un compte d'épargne libre d'impôt en raison du décès du particulier, a été fait au survivant au cours de la période de roulement, par suite du décès du particulier;

c) le survivant désigne la cotisation par rapport au paiement au survivant, sur le formulaire prescrit produit selon les modalités prescrites dans les trente jours suivant le versement de la cotisation (ou à tout moment postérieur que le ministre estime acceptable);

d) le montant de la cotisation n'excède pas la moins élevée des sommes suivantes :

(i) l'excédent de la somme visée à la division (A) sur celle visée à la division (B) :

(A) le montant du paiement au survivant,

(B) le total des autres cotisations désignées par le survivant par rapport au paiement au survivant,

(ii) l'excédent de la somme visée à la division (A) sur celle visée à la division (B) :

(A) le produit de disposition total qui serait déterminé relativement à l'arrangement aux termes des alinéas 146.2(8)a), (10)a) ou (11)a), selon le cas, s'il n'était pas tenu compte du paragraphe 146.2(9),

(B) le total des autres cotisations exclues relatives à l'arrangement versées par le survivant au plus tard au moment de la cotisation,

(iii) si le particulier avait un excédent CÉLI immédiatement avant son décès ou si les paiements visés à l'alinéa b) sont faits à plus d'un survivant du particulier, zéro ou toute somme plus élevée permise par le ministre relativement à la cotisation. (*exempt contribution*)

prohibited investment, at any time for a trust governed by a registered plan, means property (other than excluded property for the trust) that is at that time

(a) a debt of the controlling individual of the registered plan;

(b) a share of the capital stock of, an interest in, or a debt of

(i) a corporation, partnership or trust in which the controlling individual has a significant interest, or

(ii) a person or partnership that does not deal at arm's length with the controlling individual;

(c) an interest (or, for civil law, a right) in, or a right to acquire, a share, interest or debt described in paragraph (a) or (b); or

(d) prescribed property. (*placement interdit*)

qualified investment for a trust governed by a TFSA means

(a) an investment that would be described by any of paragraphs (a) to (d), (f) and (g) of the definition ***qualified investment*** in section 204 if the reference in that definition to "a trust governed by a deferred profit sharing plan or revoked plan" were read as a reference to "a trust governed by a TFSA" and if that definition were read without reference to the words "with the exception of excluded property in relation to the trust";

(b) a contract for an annuity issued by a licensed annuities provider if

(i) the trust is the only person who, disregarding any subsequent transfer of the contract by the trust, is or may become entitled to any annuity payments under the contract, and

(ii) the holder of the contract has a right to surrender the contract at any time for an amount that would, if reasonable sales and administration charges were ignored, approximate the value of funds that could otherwise be applied to fund future periodic payments under the contract; and

(c) a prescribed investment. (*placement admissible*)

qualifying transfer means the transfer of an amount from a TFSA of which a particular individual is the holder if

distribution déterminée Selon le cas :

a) distribution effectuée sur un compte d'épargne libre d'impôt dans la mesure où elle représente l'une des sommes ci-après ou dans la mesure où il est raisonnable de l'attribuer à l'une de ces sommes :

(i) tout avantage relatif au compte ou à tout autre compte d'épargne libre d'impôt du titulaire,

(ii) tout revenu de placement non admissible déterminé,

(iii) toute somme au titre de laquelle un impôt était à payer en vertu de la partie I par une fiducie régie par le compte ou par tout autre compte d'épargne libre d'impôt du titulaire,

(iv) toute somme visée au sous-alinéa 207.06(1)b)(ii);

b) distribution visée par règlement. (*specified distribution*)

droits inutilisés de cotisation à un CÉLI Celle des sommes ci-après qui est applicable relativement à un particulier à la fin d'une année civile :

a) si l'année est antérieure à 2009, zéro;

a.1) dans le cas où le ministre a renoncé à tout ou partie de l'impôt dont le particulier est redevable, ou l'a annulé en tout ou en partie, conformément à l'article 207.06, la somme déterminée par le ministre;

b) dans les autres cas, la somme positive ou négative obtenue par la formule suivante :

A + B + C - D

où :

A représente les droits inutilisés de cotisation à un CÉLI du particulier à la fin de l'année civile précédente,

B le total des sommes représentant chacune une distribution effectuée au cours de l'année civile précédente sur un compte d'épargne libre d'impôt dont le particulier est titulaire au moment de la distribution, sauf s'il s'agit d'une distribution qui est :

(i) un transfert admissible,

(ii) une distribution déterminée,

C :

(a) the amount is transferred directly to another TFSA, the holder of which is the particular individual; or

(b) the amount is transferred directly to another TFSA, the holder of which is a spouse or common-law partner or former spouse or common-law partner of the particular individual, and the following conditions are satisfied:

(i) the individuals are living separate and apart at the time of the transfer, and

(ii) the transfer is made under a decree, order or judgment of a competent tribunal, or under a written separation agreement, relating to a division of property between the individuals in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership. (*transfert admissible*)

registered plan means a RRIF, RRSP or TFSA. (*régime enregistré*)

restricted property [Repealed, 2009, c. 2, s. 68]

RRSP strip, in respect of a RRIF or RRSP, means the amount of a reduction in the fair market value of property held in connection with the RRIF or RRSP, if the value is reduced as part of a transaction or event or a series of transactions or events one of the main purposes of which is to enable the controlling individual of the RRIF or RRSP, or a person who does not deal at arm's length with the controlling individual, to obtain a benefit in respect of property held in connection with the RRIF or RRSP or to obtain a benefit as a result of the reduction, but does not include an amount that is

(a) included in the income of the controlling individual or their spouse or common-law partner under section 146 or 146.3;

(b) an excluded withdrawal under section 146.01 or 146.02; or

(c) described in subsection 146(16) or 146.3(14.2). (*somme découlant d'un dépouillement de REER*)

(d) [Repealed, 2013, c. 40, s. 74]

specified distribution means

(a) a distribution made under a TFSA to the extent that it is, or is reasonably attributable to, an amount that is

(i) an advantage in respect of the TFSA or any other TFSA of the holder,

(i) le plafond CÉLI pour l'année si, au cours de l'année, le particulier est âgé de 18 ans ou plus et réside au Canada,

(ii) zéro, dans les autres cas,

D le total des sommes représentant chacune une cotisation versée par le particulier au cours de l'année à un compte d'épargne libre d'impôt, sauf s'il s'agit d'une cotisation qui est :

(i) un transfert admissible,

(ii) une cotisation exclue. (*unused TFSA contribution room*)

droit sur l'actif Est un droit sur l'actif d'une société, d'une fiducie ou d'une société de personnes?:

a) l'action du capital-actions de la société;

b) la participation au revenu ou au capital de la fiducie;

c) la participation à titre d'associé de la société de personnes. (*equity*)

excédent CÉLI La somme positive obtenue par la formule ci-après relativement à un particulier à un moment donné d'une année civile :

A - B - C - D - E

où :

A représente le total des sommes représentant chacune une cotisation versée par le particulier à un compte d'épargne libre d'impôt au cours de l'année et au plus tard au moment donné, sauf s'il s'agit d'une cotisation qui est :

a) un transfert admissible,

b) une cotisation exclue;

B les droits inutilisés de cotisation à un CÉLI du particulier à la fin de l'année civile précédente;

C le total des sommes représentant chacune une distribution effectuée au cours de l'année civile précédente sur un compte d'épargne libre d'impôt dont le particulier est titulaire au moment de la distribution, sauf s'il s'agit d'une distribution qui est :

a) un transfert admissible,

b) une distribution déterminée;

D :

a) si le particulier réside au Canada au cours de l'année civile, le plafond CÉLI pour l'année,

b) dans les autres cas, zéro;

(ii) specified non-qualified investment income,

(iii) an amount in respect of which tax was payable under Part I by a trust governed by the TFSA or any other TFSA of the holder, or

(iv) an amount described in subparagraph 207.06(1)(b)(ii); or

(b) a prescribed distribution. (*distribution déterminée*)

specified non-qualified investment income, in respect of a registered plan and its controlling individual, means income (determined without reference to paragraph 82(1)(b)), or a capital gain, that is reasonably attributable, directly or indirectly, to an amount in respect of which tax was payable under Part I by a trust governed by the registered plan or by any other registered plan of the controlling individual. (*revenu de placement non admissible déterminé*)

swap transaction, in respect of a registered plan, means a transfer of property between the registered plan and its controlling individual or a person with whom the controlling individual does not deal at arm's length, but does not include

(a) a payment out of or under the registered plan in satisfaction of all or part of the controlling individual's interest in the registered plan;

(b) a payment into the registered plan that is a contribution, a premium, or an amount transferred in accordance with paragraph 146.3(2)(f);

(c) a transfer of a prohibited investment or a non-qualified investment from the registered plan for consideration, in circumstances where the controlling individual is entitled to a refund under subsection 207.04(4) on the transfer;

(d) a transfer of property from one registered plan of a controlling individual to another registered plan of the controlling individual if

(i) both registered plans are RRIFs or RRSPs, or

(ii) both registered plans are TFSAs;

(e) a transfer of a prohibited investment from the registered plan for consideration, if subsection (13) applies in respect of all or part of the consideration received by the registered plan;

(f) a transfer of property from the registered plan in consideration for the issuance of a debt obligation that

E le total des sommes représentant chacune la partie admissible d'une distribution effectuée, au cours de l'année civile et au plus tard au moment donné, sur un compte d'épargne libre d'impôt dont le particulier était titulaire au moment de la distribution; à cette fin, la partie admissible d'une distribution correspond à celle des sommes suivantes qui est applicable :

a) zéro, si la distribution est un transfert admissible ou une distribution déterminée,

b) dans les autres cas, la moins élevée des sommes suivantes :

(i) le montant de la distribution,

(ii) la somme qui représenterait l'excédent CÉLI du particulier au moment de la distribution si le montant de la distribution était nul. (*excess TFSA amount*)

opération de swap En ce qui concerne un régime enregistré, tout transfert de bien effectué entre le régime et son particulier contrôlant ou une personne avec laquelle celui-ci a un lien de dépendance. N'est pas une opération de swap :

a) tout paiement fait dans le cadre du régime en règlement de tout ou partie de la participation du particulier contrôlant dans le régime;

b) tout paiement au régime qui constitue une cotisation, une prime ou une somme transférée conformément à l'alinéa 146.3(2)f);

c) tout transfert de placement interdit ou de placement non admissible effectué à partir du régime, moyennant contrepartie, dans des circonstances où le particulier contrôlant a droit au remboursement prévu au paragraphe 207.04(4) à l'égard du transfert;

d) tout transfert de bien d'un régime enregistré d'un particulier contrôlant à un autre régime enregistré de celui-ci dans le cas où les deux régimes sont :

(i) soit des FERR ou des REER,

(ii) soit des CELI;

e) tout transfert de placement interdit du régime, effectué pour une contrepartie, si le paragraphe (13) s'applique à tout ou partie de la contrepartie reçue par le régime;

f) tout transfert de bien du régime, effectué en contrepartie de l'émission d'un titre de créance qui est un bien exclu pour la fiducie régie par le régime;

is an excluded property for the trust governed by the registered plan; or

(g) a payment into the registered plan that is a payment of, or in satisfaction of, the principal amount of, or interest on, a debt obligation that is an excluded property for the trust governed by the registered plan. (*opération de swap*)

TFSA dollar limit for a calendar year means,

(a) for 2009 to 2012, $5,000;

(b) for 2013 and 2014, $5,500;

(c) for 2015, $10,000; and

(d) for each year after 2015, the amount (rounded to the nearest multiple of $500, or if that amount is equidistant from two such consecutive multiples, to the higher multiple) that is equal to $5,000 adjusted for each year after 2009 in the manner set out in section 117.1. (*plafond CÉLI*)

transitional prohibited investment benefit, of a controlling individual for a taxation year, means the amount determined by the formula

A – B

where

A is the total of all amounts each of which is income (determined without reference to paragraph 82(1)(b)) earned, or a capital gain realized, in the taxation year by a trust governed by a RRIF or RRSP of the controlling individual that

(a) is reasonably attributable, directly or indirectly, to a property that is a prohibited investment, and a transitional prohibited property, for the trust, and

(b) in the case of income, is earned after March 22, 2011 and, in the case of a capital gain, accrues after March 22, 2011; and

B is the total of all amounts each of which is a capital loss (determined without reference to subparagraph 40(2)(g)(i) and subsection 40(3.4)) realized in the taxation year by a trust governed by a RRIF or RRSP of the controlling individual that

(a) is reasonably attributable, directly or indirectly, to a property that is a prohibited investment, and a transitional prohibited property, for the trust, and

(b) accrues after March 22, 2011. (*bénéfice transitoire provenant d'un placement interdit*)

g) tout paiement au régime qui constitue un paiement au titre ou en règlement du principal d'un titre de créance qui est un bien exclu pour la fiducie régie par le régime, ou un paiement d'intérêts sur un tel titre. (*swap transaction*)

particulier contrôlant Est le particulier contrôlant d'un régime enregistré le titulaire du compte d'épargne libre d'impôt ou le rentier du FERR ou du REER en cause. (*controlling individual*)

placement admissible Dans le cas d'une fiducie régie par un compte d'épargne libre d'impôt :

a) placement qui serait visé à l'un des alinéas a) à d), f) et g) de la définition de ***placement admissible*** à l'article 204 si la mention « fiducie régie par un régime de participation différée aux bénéfices ou un régime dont l'agrément est retiré » à cette définition était remplacée par « fiducie régie par un compte d'épargne libre d'impôt » et s'il n'était pas tenu compte du passage « sauf s'il s'agit de biens exclus relativement à la fiducie » à cette définition;

b) contrat relatif à une rente établie par un fournisseur de rentes autorisé, si les conditions suivantes sont réunies :

(i) la fiducie est la seule personne qui, s'il est fait abstraction d'un transfert subséquent du contrat par la fiducie, a droit ou peut avoir droit à des paiements de rente dans le cadre du contrat,

(ii) le titulaire du contrat a le droit d'exiger le rachat de celui-ci à tout moment pour une somme qui, s'il n'était pas tenu compte de frais de vente ou d'administration raisonnables, correspondrait à peu près à la valeur des fonds qui pourraient servir par ailleurs à financer des paiements périodiques futurs dans le cadre du contrat;

c) placement visé par règlement. (*qualified investment*)

placement interdit Est un placement interdit à un moment donné pour une fiducie régie par un régime enregistré tout bien (sauf un bien exclu pour la fiducie) qui est, à ce moment :

a) une dette du particulier contrôlant du régime;

b) une action du capital-actions ou une dette d'une des entités ci-après ou une participation dans une de ces entités :

transitional prohibited property, at any time, for a particular trust governed by a RRIF or RRSP of a controlling individual, means a property that is held by the particular trust at that time, that was held on March 22, 2011 by a trust governed by a RRIF or RRSP of the controlling individual and that was a prohibited investment for that trust on March 23, 2011. (*bien interdit transitoire*)

unused TFSA contribution room of an individual at the end of a calendar year means,

(a) if the year is before 2009, nil;

(a.1) in circumstances where the Minister has, in accordance with section 207.06, waived or cancelled all or part of the liability imposed on the individual, the amount determined by the Minister; and

(b) in any other case, the positive or negative amount determined by the formula

A + B + C - D

where

A is the individual's unused TFSA contribution room at the end of the preceding calendar year,

B is the total of all amounts each of which was a distribution made in the preceding calendar year under a TFSA of which the individual was the holder at the time of the distribution, other than a distribution that is

(i) a qualifying transfer, or

(ii) a specified distribution,

C is

(i) the TFSA dollar limit for the calendar year, if at any time in the calendar year the individual is 18 years of age or older and resident in Canada, and

(ii) nil, in any other case, and

D is the total of all amounts each of which is a contribution made under a TFSA by the individual in the calendar year, other than a contribution that is

(i) a qualifying transfer, or

(ii) an exempt contribution. (*droits inutilisés de cotisation à un CÉLI*)

(i) une société, une société de personnes ou une fiducie dans laquelle le particulier contrôlant a une participation notable,

(ii) une personne ou une société de personnes ayant un lien de dépendance avec le particulier contrôlant;

c) un intérêt ou, pour l'application du droit civil, un droit sur une action, une participation ou une dette visée aux alinéas a) ou b), ou un droit d'acquérir une telle action, participation ou dette;

d) un bien visé par règlement. (*prohibited investment*)

placement non admissible Dans le cas d'une fiducie régie par un régime enregistré, tout bien qui n'est pas un placement admissible pour la fiducie. (*non-qualified investment*)

plafond CÉLI

a) Pour chaque année civile postérieure à 2008 et antérieure à 2013, 5 000 $;

b) pour l'année civile 2013 ou 2014, 5 500 $;

c) pour l'année civile 2015, 10 000 $;

d) pour chaque année civile postérieure à 2015, la somme — arrondie au plus proche multiple de 500 $ ou, si elle est équidistante de deux tels multiples consécutifs, au multiple de 500 $ supérieur — qui est égale à 5 000 $ rajustée pour chaque année postérieure à 2009 de la manière prévue à l'article 117.1. (*TFSA dollar limit*)

régime enregistré Compte d'épargne libre d'impôt, fonds enregistré de revenu de retraite ou régime enregistré d'épargne-retraite. (*registered plan*)

remboursement admissible Le remboursement admissible d'une personne pour une année civile correspond au total des sommes dont chacune représente un remboursement pour l'année auquel elle a droit en vertu du paragraphe 207.04(4). (*allowable refund*)

revenu de placement non admissible déterminé En ce qui concerne un régime enregistré et son particulier contrôlant, tout revenu (déterminé compte non tenu de l'alinéa 82(1)b)) ou gain en capital qu'il est raisonnable d'attribuer, directement ou indirectement, à une somme au titre de laquelle un impôt était payable en vertu de la partie I par une fiducie régie par le régime ou par tout autre régime enregistré du particulier contrôlant. (*specified non-qualified investment income*)

somme découlant d'un dépouillement de REER Relativement à un FERR ou à un REER, le montant d'une réduction de la juste valeur marchande de biens détenus dans le cadre du FERR ou du REER effectuée dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements dont l'un des objets principaux consiste à permettre au particulier contrôlant du FERR ou du REER ou à une personne avec laquelle il a un lien de dépendance d'obtenir un bénéfice soit relativement à des biens détenus dans le cadre du FERR ou du REER, soit par suite de la réduction. En est exclue toute somme qui, selon le cas :

a) est incluse dans le revenu du particulier contrôlant ou de son époux ou conjoint de fait en application des articles 146 ou 146.3;

b) est un retrait exclu en vertu des articles 146.01 ou 146.02;

c) est visée aux paragraphes 146(16) ou 146.3(14.2). (*RRSP strip*)

d) [Abrogé, 2013, ch. 40, art. 74]

transfert admissible Le transfert d'une somme à partir d'un compte d'épargne libre d'impôt dont un particulier est titulaire, laquelle somme :

a) est transférée directement à un autre compte d'épargne libre d'impôt dont le titulaire est le particulier;

b) est transférée directement à un autre compte d'épargne libre d'impôt dont le titulaire est l'époux ou le conjoint de fait, ou l'ex-époux ou l'ancien conjoint de fait, du particulier, si les conditions suivantes sont réunies :

(i) les particuliers en cause vivent séparés l'un de l'autre au moment du transfert,

(ii) le transfert est effectué en vertu d'une ordonnance ou d'un jugement rendus par un tribunal compétent, ou en vertu d'un accord écrit de séparation, visant à partager des biens entre les particuliers en règlement des droits découlant du mariage ou de l'union de fait ou de son échec. (*qualifying transfer*)

(2) [Repealed, 2009, c. 2, s. 68]

(2) [Abrogé, 2009, ch. 2, art. 68]

Survivor as successor holder

(3) If an individual's survivor becomes the holder of a TFSA as a consequence of the individual's death and, immediately before the individual's death, the individual had an excess TFSA amount, the survivor is deemed

Titulaire remplaçant

(3) Lorsque le survivant d'un particulier devient le titulaire d'un compte d'épargne libre d'impôt par suite du décès du particulier et que celui-ci avait un excédent CÉLI immédiatement avant son décès, le survivant est

(other than for the purposes of the definition ***exempt contribution***) to have made, at the beginning of the month following the individual's death, a contribution under a TFSA equal to the amount, if any, by which

(a) that excess TFSA amount

exceeds

(b) the total fair market value immediately before the individual's death of all property held in connection with arrangements that ceased, because of the individual's death, to be TFSAs.

Significant interest

(4) An individual has a significant interest in a corporation, partnership or trust at any time if

(a) in the case of a corporation, the individual would, at that time, be a specified shareholder of the corporation if the references in the portion of the definition ***specified shareholder*** in subsection 248(1) before paragraph (a) to "in a taxation year" and "at any time in the year" were read as "at any time" and "at that time", respectively;

(b) in the case of a partnership, the individual, or the individual together with persons and partnerships with which the individual does not deal at arm's length, holds at that time interests as a member of the partnership that have a fair market value of 10% or more of the fair market value of the interests of all members in the partnership; and

(c) in the case of a trust, the individual, or the individual together with persons and partnerships with which the individual does not deal at arm's length, holds at that time interests as a beneficiary (in this paragraph, as defined in subsection 108(1)) under the trust that have a fair market value of 10% or more of the fair market value of the interests of all beneficiaries under the trust.

Obligation of issuer

(5) The issuer or carrier of a registered plan shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that a trust governed by the registered plan holds a non-qualified investment.

réputé (sauf pour l'application de la définition de ***cotisation exclue***) avoir versé, au début du mois suivant le décès du particulier, une cotisation à un compte d'épargne libre d'impôt égale à l'excédent de la somme visée à l'alinéa a) sur celle visée à l'alinéa b) :

a) l'excédent CÉLI en cause;

b) la juste valeur marchande totale, immédiatement avant le décès du particulier, des biens détenus dans le cadre d'arrangements qui ont cessé d'être des comptes d'épargne libre d'impôt en raison du décès du particulier.

Participation notable

(4) Un particulier a une participation notable dans une société, une société de personnes ou une fiducie à un moment donné si :

a) s'agissant d'une participation dans une société, le particulier serait un actionnaire déterminé de la société à ce moment si les mentions « au cours d'une année d'imposition » et « à un moment donné de l'année », dans le passage de la définition de ***actionnaire déterminé*** précédant l'alinéa a) au paragraphe 248(1), étaient respectivement remplacées par « à un moment donné » et « à ce moment »;

b) s'agissant d'une participation dans une société de personnes, le particulier, seul ou de concert avec des personnes et des sociétés de personnes avec lesquelles il a un lien de dépendance, détient à ce moment des participations à titre d'associé de la société de personnes dont la juste valeur marchande représente au moins 10 % de la juste valeur marchande des participations de l'ensemble des associés de la société de personnes;

c) s'agissant d'une participation dans une fiducie, le particulier, seul ou de concert avec des personnes et des sociétés de personnes avec lesquelles il a un lien de dépendance, détient à ce moment des participations à titre de bénéficiaire (ce terme s'entendant, au présent alinéa, au sens du paragraphe 108(1)) de la fiducie dont la juste valeur marchande représente au moins 10 % de la juste valeur marchande des participations de l'ensemble des bénéficiaires de la fiducie.

Obligation de l'émetteur

(5) L'émetteur d'un régime enregistré agit avec le soin, la diligence et la compétence dont ferait preuve une personne prudente afin de réduire au minimum la possibilité qu'une fiducie régie par le régime détienne des placements non admissibles.

Deemed disposition and reacquisition of investments

(6) If, at any time, a property held by a trust governed by a registered plan becomes, or ceases to be, a prohibited investment or non-qualified investment for the trust, the trust is deemed to have disposed of the property immediately before that time for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired the property at that time at a cost equal to that fair market value.

Adjusted cost base

(7) For the purpose of computing the adjusted cost base to a trust governed by a RRIF or RRSP of a property that is a transitional prohibited property for the trust, the cost to the trust of the property until the property is disposed of by the trust is deemed to be equal to the fair market value of the property at the end of March 22, 2011.

Prohibited investment status

(8) Subsection (9) applies in respect of a property if

(a) the property would, in the absence of subsection (9), have ceased at any time (in this subsection and subsection (9) referred to as the "relevant time") to be a prohibited investment for a trust governed by a RRIF or RRSP of a controlling individual;

(b) the property is a transitional prohibited property for the trust immediately before the relevant time;

(c) the controlling individual elected under subsection 207.05(4); and

(d) the controlling individual elects in prescribed form that subsection (9) apply in respect of the property and the election is filed with the Minister on or before the day that is 90 days after the end of the taxation year of the controlling individual that includes the relevant time.

Prohibited investment status

(9) If this subsection applies in respect of a property, the property is deemed to be a prohibited investment at and after the relevant time for every trust governed by a RRIF or RRSP of the controlling individual referred to in paragraph (8)(a).

Breakdown of marriage or common-law partnership

(10) Subsection (11) applies in respect of a property if

(a) the property is transferred at any time (in this subsection and subsection (11) referred to as the "transfer time") by a trust (in this subsection and subsection

Disposition réputée et nouvelle acquisition de placements

(6) Dans le cas où un bien détenu par une fiducie régie par un régime enregistré devient un placement interdit ou un placement non admissible pour la fiducie, ou cesse de l'être, à un moment donné, la fiducie est réputée avoir disposé du bien immédiatement avant ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment et l'avoir acquis de nouveau à ce moment à un coût égal à cette juste valeur marchande.

Prix de base rajusté

(7) Pour le calcul du prix de base rajusté pour une fiducie régie par un FERR ou un REER d'un bien qui est un bien interdit transitoire pour elle, le coût du bien pour elle jusqu'au moment où elle en dispose est réputé être égal à sa juste valeur marchande à la fin du 22 mars 2011.

Bien réputé être un placement interdit

(8) Le paragraphe (9) s'applique relativement à un bien si les conditions ci-après sont réunies :

a) en l'absence du paragraphe (9), le bien aurait cessé, à un moment donné (appelé « moment en cause » au présent paragraphe et au paragraphe (9)), d'être un placement interdit pour une fiducie régie par un FERR ou un REER d'un particulier contrôlant;

b) le bien est un bien interdit transitoire pour la fiducie immédiatement avant le moment en cause;

c) le particulier contrôlant a fait le choix prévu au paragraphe 207.05(4);

d) le particulier contrôlant fait, sur le formulaire prescrit, un choix afin que le paragraphe (9) s'applique relativement au bien et ce formulaire est présenté au ministre au plus tard le quatre-vingt-dixième jour suivant la fin de l'année d'imposition du particulier qui comprend le moment en cause.

Bien réputé être un placement interdit

(9) En cas d'application du présent paragraphe relativement à un bien, le bien est réputé être un placement interdit au moment en cause et par la suite pour l'ensemble des fiducies régies par un FERR ou un REER du particulier contrôlant visé à l'alinéa (8)a).

Échec du mariage ou de l'union de fait

(10) Le paragraphe (11) s'applique relativement à un bien si les conditions ci-après sont réunies :

a) le bien est transféré à un moment donné (appelé « moment du transfert » au présent paragraphe et au

(11) referred to as the "transferor trust") governed by a RRIF or RRSP of a controlling individual (in this subsection and subsection (11) referred to as the "transferor") under paragraph 146(16)(b) or subsection 146.3(14) to a trust (in subsection (11) referred to as the "recipient trust") governed by a RRIF or RRSP of which the spouse or common-law partner or former spouse or common-law partner (in this subsection and subsection (11) referred to as the "recipient") of the transferor is the controlling individual;

(b) the property is a prohibited investment, and a transitional prohibited property, for the transferor trust immediately before the transfer time;

(c) the transferor elected under subsection 207.05(4); and

(d) the transferor and the recipient jointly elect in prescribed form that subsection (11) apply in respect of the property and the election

(i) is filed with the Minister on or before the day that is 90 days after the end of the taxation year of the transferor that includes the transfer time; and

(ii) designates an amount (in subsection (11) referred to as the "designated amount") in respect of the property that

(A) is not less than the adjusted cost base to the transferor trust of the property immediately before the transfer time, and

(B) does not exceed the greater of the amount determined under clause (A) and the fair market value of the property at the transfer time.

paragraphe (11)) par une fiducie (appelée « fiducie cédante » à ces paragraphes) régie par un FERR ou un REER d'un particulier contrôlant (appelé « cédant » à ces mêmes paragraphes) en application de l'alinéa 146(16)b) ou du paragraphe 146.3(14) à une fiducie (appelée « fiducie bénéficiaire » au paragraphe (11)) régie par un FERR ou un REER dont l'époux ou le conjoint de fait ou l'ex-époux ou l'ancien conjoint de fait (appelés « bénéficiaire » au présent paragraphe et au paragraphe (11)) du cédant est le particulier contrôlant;

b) le bien est un placement interdit et un bien interdit transitoire pour la fiducie cédante immédiatement avant le moment du transfert;

c) le cédant a fait le choix prévu au paragraphe 207.05(4);

d) le cédant et le bénéficiaire font conjointement, sur le formulaire prescrit, un choix afin que le paragraphe (11) s'applique relativement au bien et ce formulaire, à la fois :

(i) est présenté au ministre au plus tard le quatre-vingt-dixième jour suivant la fin de l'année d'imposition du cédant qui comprend le moment du transfert,

(ii) fait état d'une somme (appelée « somme désignée » au paragraphe (11)) relative au bien qui :

(A) d'une part, est au moins égale au prix de base rajusté du bien pour la fiducie cédante immédiatement avant le moment du transfert,

(B) d'autre part, n'excède pas la somme déterminée selon la division (A) ou, si elle est plus élevée, la juste valeur marchande du bien au moment du transfert.

Breakdown of marriage or common-law partnership

(11) If this subsection applies in respect of a property,

(a) the property is deemed to be, at and after the transfer time, a property that was held on March 22, 2011 by a trust governed by a RRIF or RRSP of the recipient and that was a prohibited investment for the trust on March 23, 2011;

(b) where the property would, in the absence of this paragraph, not be a prohibited investment for the recipient trust immediately after the transfer time, the property is deemed to be a prohibited investment at and after the transfer time for every trust governed by a RRIF or RRSP of the recipient;

Échec du mariage ou de l'union de fait

(11) En cas d'application du présent paragraphe relativement à un bien, les règles ci-après s'appliquent :

a) le bien est réputé être, au moment du transfert et par la suite, un bien qui était détenu, le 22 mars 2011, par une fiducie régie par un FERR ou un REER du bénéficiaire et qui était un placement interdit pour la fiducie le 23 mars 2011;

b) dans le cas où le bien ne serait pas un placement interdit pour la fiducie bénéficiaire immédiatement après le moment du transfert en l'absence du présent alinéa, il est réputé être un placement interdit au moment du transfert et par la suite pour l'ensemble des

(c) the recipient is deemed to have elected under subsection 207.05(4); and

(d) notwithstanding any other provision of this Act, the designated amount is deemed to be

(i) the proceeds of disposition to the transferor trust from the transfer described in paragraph (10)(a), and

(ii) the cost of the property to a trust governed by a RRIF or RRSP of the recipient until the property is disposed of by the trust.

Exchange of property

(12) Subsection (13) applies in respect of a property other than money if

(a) the property is acquired at any time (in this subsection and subsection (13) referred to as the "exchange time") by a trust (in this section and subsection (13) referred to as the "exchanging trust") governed by a RRIF or RRSP of a controlling individual in exchange for another property (in this subsection referred to as the "exchanged property") in a transaction to which any of section 51, subsection 85(1) and sections 85.1, 86 and 87 apply;

(b) the exchanged property is a prohibited investment, and a transitional prohibited property, for the exchanging trust immediately before the exchange time;

(c) the property is, or would be, if subsection 4900(14) of the *Income Tax Regulations* were read without reference to its paragraph (b), a qualified investment for the exchanging trust immediately after the exchange time; and

(d) the controlling individual elected under subsection 207.05(4).

Exchange of property

(13) If this subsection applies in respect of a property,

(a) other than for the purposes of subsection (7), the property is deemed to be, at and after the exchange time, a property that was held on March 22, 2011 by a trust governed by a RRIF or RRSP of the controlling individual referred to in subsection (12) and that was a prohibited investment for the trust on March 23, 2011; and

fiducies régies par un FERR ou un REER du bénéficiaire;

c) le bénéficiaire est réputé avoir fait le choix prévu au paragraphe 207.05(4);

d) malgré les autres dispositions de la présente loi, la somme désignée est réputée être, à la fois :

(i) le produit de disposition pour la fiducie cédante provenant du transfert visé à l'alinéa (10)a),

(ii) le coût du bien pour une fiducie régie par un FERR ou un REER du bénéficiaire jusqu'à ce que celle-ci dispose du bien.

Échange de biens

(12) Le paragraphe (13) s'applique relativement à un bien autre que de l'argent si les conditions ci-après sont réunies :

a) le bien est acquis à un moment donné (appelé « moment de l'échange » au présent paragraphe et au paragraphe (13)) par une fiducie (appelée « fiducie échangeuse » à ces mêmes paragraphes) régie par un FERR ou un REER d'un particulier contrôlant en échange d'un autre bien (appelé « bien échangé » au présent paragraphe) dans le cadre d'une opération à laquelle l'article 51, le paragraphe 85(1) ou l'un des articles 85.1, 86 et 87 s'applique;

b) le bien échangé est un placement interdit et un bien interdit transitoire pour la fiducie échangeuse immédiatement avant le moment de l'échange;

c) le bien est ou serait, si le paragraphe 4900(14) du *Règlement de l'impôt sur le revenu* s'appliquait compte non tenu de son alinéa b), un placement admissible de la fiducie échangeuse immédiatement après le moment de l'échange;

d) le particulier contrôlant a fait le choix prévu au paragraphe 207.05(4).

Échange de biens

(13) En cas d'application du présent paragraphe relativement à un bien, les règles ci-après s'appliquent :

a) sauf pour l'application du paragraphe (7), le bien est réputé être, au moment de l'échange et par la suite, un bien qui était détenu, le 22 mars 2011, par une fiducie régie par un FERR ou un REER du particulier contrôlant visé au paragraphe (12) et qui était un placement interdit pour la fiducie le 23 mars 2011;

(b) where the property would, in the absence of this paragraph, not be a prohibited investment for the exchanging trust immediately after the exchange time, the property is deemed to be a prohibited investment at and after the exchange time for every trust governed by a RRIF or RRSP of the controlling individual.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31; 2009, c. 2, s. 68; 2010, c. 25, s. 57; 2011, c. 24, s. 64; 2013, c. 40, s. 74; 2015, c. 36, s. 19; 2016, c. 11, s. 9.

b) dans le cas où le bien ne serait pas un placement interdit pour la fiducie échangeuse immédiatement après le moment de l'échange en l'absence du présent alinéa, il est réputé être un placement interdit au moment de l'échange et par la suite pour l'ensemble des fiducies régies par un FERR ou un REER du particulier contrôlant.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31; 2009, ch. 2, art. 68; 2010, ch. 25, art. 57; 2011, ch. 24, art. 64; 2013, ch. 40, art. 74; 2015, ch. 36, art. 19; 2016, ch. 11, art. 9.

Tax payable on excess TFSA amount

207.02 If, at any time in a calendar month, an individual has an excess TFSA amount, the individual shall, in respect of that month, pay a tax under this Part equal to 1% of the highest such amount in that month.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31.

Impôt à payer sur l'excédent CÉLI

207.02 Le particulier qui a un excédent CÉLI au cours d'un mois civil est tenu de payer pour le mois, en vertu de la présente partie, un impôt égal à 1 % du montant le plus élevé de cet excédent pour le mois.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31.

Tax payable on non-resident contributions

207.03 If, at a particular time, a non-resident individual makes a contribution under a TFSA (other than a contribution that is a qualifying transfer or an exempt contribution), the individual shall pay a tax under this Part equal to 1% of the amount of the contribution in respect of each month that ends after the particular time and before the earlier of

(a) the first time after the particular time at which the amount of the contribution is equalled or exceeded by the total of all amounts each of which is a distribution

(i) that is made after the particular time under a TFSA of which the individual is the holder, and

(ii) that the individual designates in prescribed manner to be a distribution in connection with the contribution and not in connection with any other contribution, and

(b) the time at which the individual becomes resident in Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31; 2009, c. 2, s. 69.

Impôt à payer sur les cotisations de non-résidents

207.03 Le particulier non-résident qui verse une cotisation à un compte d'épargne libre d'impôt à un moment donné (sauf une cotisation qui constitue un transfert admissible ou une cotisation exclue) est tenu de payer, en vertu de la présente partie, un impôt égal à 1 % du montant de la cotisation pour chaque mois qui se termine après ce moment et avant le premier en date des moments suivants :

a) le premier moment, postérieur au moment donné, où le montant de la cotisation est égal ou inférieur au total des sommes dont chacune est une distribution qui, à la fois :

(i) est effectuée après le moment donné sur un compte d'épargne libre d'impôt dont le particulier est titulaire,

(ii) selon la désignation faite par le particulier suivant les modalités prescrites, se rapporte exclusivement à la cotisation en cause;

b) le moment où le particulier devient un résident au Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31; 2009, ch. 2, art. 69.

Tax payable on prohibited or non-qualified investment

207.04 (1) The controlling individual of a registered plan that governs a trust shall pay a tax under this Part for a calendar year if, at any time in the year, the trust acquires property that is a prohibited investment, or a non-qualified investment, for the trust.

Impôt à payer sur les placements interdits ou non admissibles

207.04 (1) Le particulier contrôlant d'un régime enregistré qui régit une fiducie est tenu de payer un impôt en vertu de la présente partie pour une année civile si, à un moment de l'année, la fiducie acquiert un bien qui est un placement interdit ou un placement non admissible pour elle.

Amount of tax payable

(2) The amount of tax payable in respect of each property described in subsection (1) is 50% of the fair market value of the property at the time referred to in that subsection.

Both prohibited and non-qualified investment

(3) For the purposes of this section and subsections 146(10.1), 146.2(6), 146.3(9) and 207.01(6), if a trust governed by a registered plan holds property at any time that is, for the trust, both a prohibited investment and a non-qualified investment, the property is deemed at that time not to be a non-qualified investment, but remains a prohibited investment, for the trust.

Refund of tax on disposition of investment

(4) If in a calendar year a trust governed by a registered plan disposes of a property in respect of which a tax is imposed under subsection (1) on the controlling individual of the registered plan, the controlling individual is entitled to a refund for the year of an amount equal to

(a) except where paragraph (b) applies, the amount of the tax so imposed; or

(b) nil,

(i) if it is reasonable to consider that the controlling individual knew, or ought to have known, at the time the property was acquired by the trust, that it was, or would become, a property described in subsection (1), or

(ii) if the property is not disposed of by the trust before the end of the calendar year following the calendar year in which the tax arose, or any later time that the Minister considers reasonable in the circumstances.

(5) [Repealed, 2013, c. 40, s. 75]

(6) and (7) [Repealed, 2010, c. 25, s. 58]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31; 2009, c. 2, s. 70; 2010, c. 25, s. 58; 2011, c. 24, s. 65; 2013, c. 40, s. 75.

Tax payable in respect of advantage

207.05 (1) A tax is payable under this Part for a calendar year if, in the year, an advantage in relation to a registered plan is extended to, or is received or receivable by, the controlling individual of the registered plan, a

Impôt à payer

(2) L'impôt à payer au titre de chaque bien visé au paragraphe (1) correspond à 50 % de la juste valeur marchande du bien au moment mentionné à ce paragraphe.

Placement à la fois interdit et non admissible

(3) Pour l'application du présent article et des paragraphes 146(10.1), 146.2(6), 146.3(9) et 207.01(6), si une fiducie régie par un régime enregistré détient, à un moment donné, un bien qui est à la fois un placement interdit et un placement non admissible pour elle, le bien est réputé, à ce moment, ne pas être un placement non admissible pour elle. Il continue toutefois d'être un placement interdit.

Remboursement d'impôt — disposition d'un placement

(4) Dans le cas où une fiducie régie par un régime enregistré dispose, au cours d'une année civile, d'un bien au titre duquel le particulier contrôlant du régime est tenu de payer l'impôt prévu au paragraphe (1), le particulier contrôlant a droit au remboursement pour l'année de celle des sommes ci-après qui est applicable :

a) sauf en cas d'application de l'alinéa b), le montant d'impôt en cause;

b) zéro si, selon le cas :

(i) il est raisonnable de considérer que le particulier contrôlant savait ou aurait dû savoir, au moment où le bien a été acquis par la fiducie, que celui-ci était ou deviendrait un bien visé au paragraphe (1),

(ii) la fiducie ne dispose pas du bien avant la fin de l'année civile suivant celle au cours de laquelle l'impôt a pris naissance ou à tout moment postérieur que le ministre estime raisonnable dans les circonstances.

(5) [Abrogé, 2013, ch. 40, art. 75]

(6) et (7) [Abrogés, 2010, ch. 25, art. 58]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31; 2009, ch. 2, art. 70; 2010, ch. 25, art. 58; 2011, ch. 24, art. 65; 2013, ch. 40, art. 75.

Impôt à payer relativement à un avantage

207.05 (1) Un impôt est à payer en vertu de la présente partie pour une année civile si, au cours de l'année, un avantage relatif à un régime enregistré est accordé au particulier contrôlant du régime, à une fiducie régie par

trust governed by the registered plan, or any other person who does not deal at arm's length with the controlling individual.

le régime ou à toute autre personne ayant un lien de dépendance avec le particulier contrôlant, ou est reçu ou à recevoir par ceux-ci.

Amount of tax payable

(2) The amount of tax payable in respect of an advantage described in subsection (1) is

(a) in the case of a benefit, the fair market value of the benefit;

(b) in the case of a loan or an indebtedness, the amount of the loan or indebtedness; and

(c) in the case of an RRSP strip, the amount of the RRSP strip.

Impôt à payer

(2) L'impôt à payer relativement à l'avantage correspond à celle des sommes suivantes qui est applicable :

a) s'agissant d'un bénéfice, sa juste valeur marchande;

b) s'agissant d'un prêt ou d'une dette, son montant;

c) s'agissant d'une somme découlant d'un dépouillement de REER, cette somme.

Liability for tax

(3) The controlling individual of a registered plan in connection with which a tax is imposed under subsection (1) is liable to pay the tax except that, if the advantage is extended by the issuer or carrier of the registered plan or by a person with whom the issuer or carrier is not dealing at arm's length, the issuer or carrier, and not the controlling individual, is liable to pay the tax.

Assujettissement

(3) Le particulier contrôlant d'un régime enregistré relativement auquel l'impôt prévu au paragraphe (1) est établi est redevable de l'impôt. Toutefois, si l'avantage est accordé par l'émetteur du régime ou par une personne avec laquelle il a un lien de dépendance, l'émetteur, et non le particulier contrôlant, est redevable de l'impôt.

Transitional rule

(4) If an individual so elects before March 2, 2013 in prescribed form, subsection (1) does not apply in respect of any advantage that is an amount included in the calculation of the transitional prohibited investment benefit of the individual for a taxation year provided that the transitional prohibited investment benefit

(a) is paid to the individual, from a RRIF or RRSP of the individual, on or before the later of April 2, 2013 and the day that is 90 days after the end of the taxation year; and

(b) is not paid by way of transfer to another RRIF or RRSP of the individual.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31; 2010, c. 25, s. 59; 2011, c. 24, s. 66; 2013, c. 40, s. 76.

Règle transitoire

(4) Si un particulier en fait le choix avant le 2 mars 2013 sur le formulaire prescrit, le paragraphe (1) ne s'applique pas relativement à tout avantage qui est une somme incluse dans le calcul du bénéfice transitoire provenant d'un placement interdit du particulier pour une année d'imposition, pourvu que ce bénéfice :

a) soit versé au particulier, sur un FERR ou un REER de celui-ci, au plus tard le 2 avril 2013 ou, s'il est postérieur, le quatre-vingt-dixième jour suivant la fin de l'année d'imposition;

b) ne soit pas versé au moyen d'un transfert à un autre FERR ou REER du particulier.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31; 2010, ch. 25, art. 59; 2011, ch. 24, art. 66; 2013, ch. 40, art. 76.

Waiver of tax payable

207.06 (1) If an individual would otherwise be liable to pay a tax under this Part because of section 207.02 or 207.03, the Minister may waive or cancel all or part of the liability if

(a) the individual establishes to the satisfaction of the Minister that the liability arose as a consequence of a reasonable error; and

Renonciation

207.06 (1) Le ministre peut renoncer à tout ou partie de l'impôt dont un particulier serait redevable par ailleurs en vertu de la présente partie par l'effet des articles 207.02 ou 207.03, ou l'annuler en tout ou en partie, si, à la fois :

a) le particulier convainc le ministre que l'obligation de payer l'impôt fait suite à une erreur raisonnable;

(b) one or more distributions are made without delay under a TFSA of which the individual is the holder, the total amount of which is not less than the total of

(i) the amount in respect of which the individual would otherwise be liable to pay the tax, and

(ii) income (including a capital gain) that is reasonably attributable, directly or indirectly, to the amount described in subparagraph (i).

b) sont effectuées sans délai sur un compte d'épargne libre d'impôt dont le particulier est titulaire une ou plusieurs distributions dont le total est au moins égal au total des sommes suivantes :

(i) la somme sur laquelle le particulier serait par ailleurs redevable de l'impôt,

(ii) le revenu, y compris le gain en capital, qu'il est raisonnable d'attribuer, directement ou indirectement, à la somme visée au sous-alinéa (i).

Waiver of tax payable

(2) If a person would otherwise be liable to pay a tax under this Part because of subsection 207.04(1) or section 207.05, the Minister may waive or cancel all or part of the liability where the Minister considers it just and equitable to do so having regard to all the circumstances, including

(a) whether the tax arose as a consequence of reasonable error;

(b) the extent to which the transaction or series of transactions that gave rise to the tax also gave rise to another tax under this Act; and

(c) the extent to which payments have been made from the person's registered plan.

Renonciation de l'impôt à payer

(2) Le ministre peut renoncer à tout ou partie de l'impôt dont une personne serait redevable par ailleurs en vertu de la présente partie par l'effet du paragraphe 207.04(1) ou de l'article 207.05, ou l'annuler en tout ou en partie, dans le cas où il est juste et équitable de le faire compte tenu des circonstances, y compris :

a) le fait que l'impôt fait suite à une erreur raisonnable;

b) la mesure dans laquelle l'opération ou la série d'opérations qui a donné lieu à l'impôt a également donné lieu à un autre impôt prévu par la présente loi;

c) la mesure dans laquelle des paiements ont été faits sur le régime enregistré de la personne.

(3) [Repealed, 2013, c. 40, s. 77]

(3) [Abrogé, 2013, ch. 40, art. 77]

Other powers of Minister

(4) The Minister may notify the controlling individual of a registered plan that the controlling individual must cause a payment to be made from the registered plan to the controlling individual within 90 days of receipt of the notice, the amount of which is not less than the amount of specified non-qualified investment income in respect of the registered plan.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31; 2009, c. 2, s. 71; 2010, c. 25, s. 60; 2011, c. 24, s. 67; 2013, c. 40, s. 77.

Autres pouvoirs du ministre

(4) Le ministre peut aviser le particulier contrôlant d'un régime enregistré de l'obligation de celui-ci de faire en sorte que soit effectué sur le régime au profit du particulier, dans les quatre-vingt-dix jours suivant la réception de l'avis, le paiement d'une somme au moins égale au montant du revenu de placement non admissible déterminé relativement au régime.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31; 2009, ch. 2, art. 71; 2010, ch. 25, art. 60; 2011, ch. 24, art. 67; 2013, ch. 40, art. 77.

Income inclusion

207.061 A holder of a TFSA shall include in computing the holder's income for a taxation year under Part I any portion of a distribution made in the year that is described in subparagraph (a)(ii) of the definition ***specified distribution*** in subsection 207.01(1) or subparagraph 207.06(1)(b)(ii) or that is specified by the Minister as part of an agreement to waive or cancel a liability for tax under this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2010, c. 25, s. 61; 2013, c. 40, s. 78.

Somme à inclure dans le revenu

207.061 Le titulaire d'un compte d'épargne libre d'impôt est tenu d'inclure dans le calcul de son revenu pour une année d'imposition en vertu de la partie I toute partie d'une distribution effectuée au cours de l'année qui est soit visée au sous-alinéa a)(ii) de la définition de ***distribution déterminée*** au paragraphe 207.01(1) ou au sous-alinéa 207.06(1)b)(ii), soit précisée par le ministre dans le cadre d'un accord visant l'annulation d'un impôt payable en vertu de la présente partie ou la renonciation à un tel impôt.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2010, ch. 25, art. 61; 2013, ch. 40, art. 78.

Special limit on tax payable

207.062 If an individual is liable to pay an amount of tax under section 207.05 and under sections 207.02 or 207.03 in respect of the same contribution for the same calendar year, the tax payable under section 207.05 for the year shall be reduced by the amount of the tax payable under section 207.02 or 207.03, as the case may be, for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2010, c. 25, s. 61.

Return and payment of tax

207.07 (1) A person who is liable to pay tax under this Part for all or any part of a calendar year shall before July of the following calendar year

(a) file with the Minister a return for the year under this subsection in prescribed form and containing prescribed information including

(i) an estimate of the amount of tax payable under this Part by the person in respect of the year, and

(ii) an estimate of the amount of the person's allowable refund, if any, for the year; and

(b) pay to the Receiver General the amount, if any, by which the amount of the person's tax payable under this Part in respect of the year exceeds the person's allowable refund, if any, for the year.

Refund

(2) If a person has filed a return under this Part for a calendar year within three years after the end of the year, the Minister

(a) may, on sending the notice of assessment for the year, refund without application any allowable refund of the person for the year, to the extent that it was not applied against the person's tax payable under paragraph (1)(b); and

(b) shall, with all due dispatch, make the refund referred to in paragraph (a) after sending the notice of assessment if an application for it has been made in writing by the person within three years after the sending of an original notice of assessment for the year.

Restriction

207.062 Si un particulier est redevable d'un impôt en vertu de l'article 207.05 et d'un impôt en vertu de l'article 207.02 ou 207.03 relativement à la même cotisation pour la même année civile, l'impôt à payer pour l'année en vertu de l'article 207.02 ou 207.03, selon le cas, est appliqué en réduction de celui à payer pour l'année en vertu de l'article 207.05.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2010, ch. 25, art. 61.

Déclaration et paiement de l'impôt

207.07 (1) Toute personne qui est redevable d'un impôt en vertu de la présente partie pour tout ou partie d'une année civile doit, avant juillet de l'année civile subséquente :

a) produire auprès du ministre pour l'année en vertu du présent paragraphe une déclaration sur le formulaire prescrit contenant les renseignements prescrits, notamment :

(i) une estimation de son impôt à payer en vertu de la présente partie pour l'année,

(ii) une estimation du montant de son remboursement admissible pour l'année;

b) verser au receveur général l'excédent du montant de son impôt à payer en vertu de la présente partie pour l'année sur le montant de son remboursement admissible pour l'année.

Remboursement

(2) Dans le cas où une personne a produit une déclaration en vertu de la présente partie pour une année civile dans les trois ans suivant la fin de l'année, le ministre :

a) peut, au moment de l'envoi de l'avis de cotisation pour l'année, rembourser sans que demande lui en soit faite le montant de tout remboursement admissible de la personne pour l'année, dans la mesure où il n'a pas été appliqué en réduction de son impôt à payer aux termes de l'alinéa (1)b);

b) rembourse le montant visé à l'alinéa a), avec diligence, après l'envoi de l'avis de cotisation, si la personne en a fait la demande par écrit dans les trois ans suivant la date d'envoi du premier avis de cotisation pour l'année.

Provisions applicable to Part

(3) Subsections 150(2) and (3), sections 152 and 158 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2008, c. 28, s. 31; 2010, c. 25, s. 62; 2013, c. 40, s. 79.

Dispositions applicables

(3) Les paragraphes 150(2) et (3), les articles 152 et 158 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2008, ch. 28, art. 31; 2010, ch. 25, art. 62; 2013, ch. 40, art. 79.

PART XI.1

Tax in Respect of Deferred Income Plans and Other Tax Exempt Persons

207.1 (1) [Repealed, 2011, c. 24, s. 68]

Tax payable by trust under deferred profit sharing plan

(2) Where, at the end of any month, a trust governed by a deferred profit sharing plan holds property that is neither a qualified investment (within the meaning assigned by section 204) nor a life insurance policy (referred to in paragraphs 198(6)(c) to 198(6)(e) or subsection 198(6.1)), the trust shall, in respect of that month, pay a tax under this Part equal to 1% of the fair market value of the property at the time it was acquired by the trust of all such property held by it at the end of the month, other than

(a) property in respect of the acquisition of which the trust has paid or is liable to pay a tax under subsection 198(1); and

(b) property acquired by the trust before August 25, 1972.

Tax payable by trust under registered education savings plan

(3) Every trust governed by a registered education savings plan shall, in respect of any month, pay a tax under this Part equal to 1% of the total of all amounts each of which is the fair market value of a property, at the time it was acquired by the trust, that

(a) is not a qualified investment (as defined in subsection 146.1(1)) for the trust; and

(b) is held by the trust at the end of the month.

(4) [Repealed, 2011, c. 24, s. 68]

Tax payable in respect of agreement to acquire shares

(5) Where at any time a taxpayer whose taxable income is exempt from tax under Part I makes an agreement

PARTIE XI.1

Impôt relatif aux régimes de revenu différé et à d'autres personnes exonérées d'impôt

207.1 (1) [Abrogé, 2011, ch. 24, art. 68]

Impôt payable par les fiducies régies par des régimes de participation différée aux bénéfices

(2) La fiducie régie par un régime de participation différée aux bénéfices et qui, à la fin d'un mois donné, détient des biens qui ne sont ni un placement admissible (au sens de l'article 204) ni une police d'assurance-vie (visée aux alinéas 198(6)c) à e) ou au paragraphe 198(6.1)) doit payer, pour ce mois, en vertu de la présente partie, un impôt égal à 1 % de la juste valeur marchande des biens au moment où ils ont été acquis par la fiducie, de tous ces biens qu'elle détient à la fin du mois, autres que :

a) les biens pour l'acquisition desquels la fiducie a payé ou est tenue de payer un impôt en vertu du paragraphe 198(1);

b) les biens acquis par la fiducie avant le 25 août 1972.

Impôt payable par les fiducies régies par des régimes enregistrés d'épargne-études

(3) La fiducie régie par un régime enregistré d'épargne-études doit payer, pour un mois, en vertu de la présente partie, un impôt égal à 1 % du total des montants représentant chacun la juste valeur marchande d'un bien, au moment de son acquisition par la fiducie, qui, à la fois :

a) n'est pas un placement admissible, au sens du paragraphe 146.1(1), pour la fiducie;

b) est détenu par la fiducie à la fin du mois.

(4) [Abrogé, 2011, ch. 24, art. 68]

Impôt à payer au titre d'une convention d'acquisition d'actions

(5) Le contribuable dont le revenu imposable est exonéré de l'impôt prévu à la partie I et qui convient (autrement

(otherwise than as a consequence of the acquisition or writing by it of an option listed on a designated stock exchange) to acquire a share of the capital stock of a corporation (otherwise than from the corporation) at a price that may differ from the fair market value of the share at the time the share may be acquired, the taxpayer shall, in respect of each month during which the taxpayer is a party to the agreement, pay a tax under this Part equal to the total of all amounts each of which is the amount, if any, by which the amount of a dividend paid on the share at a time in the month at which the taxpayer is a party to the agreement exceeds the amount, if any, of the dividend that is received by the taxpayer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 207.1; 1994, c. 8, s. 31; 1999, c. 22, s. 73; 2005, c. 30, s. 16; 2007, c. 35, s. 58; 2011, c. 24, s. 68.

Return and payment of tax

207.2 (1) Within 90 days after the end of each year, a taxpayer to whom this Part applies shall

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable by it under this Part in respect of each month in the year; and

(c) pay to the Receiver General the amount of tax, if any, payable by it under this Part in respect of each month in the year.

Liability of trustee

(2) Where the trustee of a trust that is liable to pay tax under this Part does not remit to the Receiver General the amount of the tax within the time specified in subsection 207.2(1), the trustee is personally liable to pay on behalf of the trust the full amount of the tax and is entitled to recover from the trust any amount paid by the trustee as tax under this section.

Provisions applicable to Part

(3) Subsections 150(2) and 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1973-74, c. 30, s. 23; 1974-75-76, c. 26, s. 116; 1979, c. 5, s. 60; 1980-81-82-83, c. 48, s. 115; 1985, c. 45, s. 126(F); 1986, c. 6, s. 113.

que par suite de l'acquisition ou de la vente par lui d'une option inscrite à la cote d'une bourse de valeurs désignée) d'acquérir une action du capital-actions d'une société (auprès d'une personne autre que la société) à un prix qui peut différer de la juste valeur marchande de l'action au moment où l'action peut être acquise doit payer en vertu de la présente partie, pour chaque mois où il est partie à la convention, un impôt égal au total des sommes représentant chacune l'excédent éventuel du montant d'un dividende versé sur l'action au cours du mois où il est partie à la convention sur le montant du dividende qu'il reçoit.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 207.1; 1994, ch. 8, art. 31; 1999, ch. 22, art. 73; 2005, ch. 30, art. 16; 2007, ch. 35, art. 58; 2011, ch. 24, art. 68.

Déclaration et paiement de l'impôt

207.2 (1) Le contribuable assujetti à la présente partie doit, dans les 90 jours qui suivent la fin de chaque année :

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt dont il est redevable en vertu de la présente partie pour chaque mois de l'année;

c) verser cet impôt au receveur général.

Responsabilité du fiduciaire

(2) Le fiduciaire d'une fiducie qui est assujettie à l'impôt en application de la présente partie qui ne remet pas au receveur général le montant de l'impôt, dans le délai imparti, est personnellement tenu de verser, au nom de la fiducie, le montant total de l'impôt et a le droit de recouvrer de la fiducie toute somme ainsi versée.

Dispositions applicables

(3) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1973-74, ch. 30, art. 23; 1974-75-76, ch. 26, art. 116; 1979, ch. 5, art. 60; 1980-81-82-83, ch. 48, art. 115; 1985, ch. 45, art. 126(F); 1986, ch. 6, art. 113.

PART XI.2

Tax in Respect of Dispositions of Certain Properties

Tax Payable by institution or public authority

207.3 Every institution or public authority that, at any time in a year, disposes of an object within 10 years after the object became an object described in subparagraph 39(1)(a)(i.1) shall pay a tax under this Part, in respect of the year, equal to 30% of the object's fair market value at that time, unless the disposition was made to another institution or public authority that was, at that time, designated under subsection 32(2) of the *Cultural Property Export and Import Act* either generally or for a specified purpose related to that object.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 207.3; 1994, c. 7, Sch. II, s. 168; 1999, c. 22, s. 74.

Tax payable by recipient of an ecological gift

207.31 Any charity, municipality in Canada or municipal or public body performing a function of government in Canada (referred to in this section as the "recipient") that at any time in a taxation year, without the authorization of the Minister of the Environment or a person designated by that Minister, disposes of or changes the use of a property described in paragraph 110.1(1)(d) or in the definition ***total ecological gifts*** in subsection 118.1(1) and given to the recipient shall, in respect of the year, pay a tax under this Part equal to 50% of the amount that would be determined for the purposes of section 110.1 or 118.1, if this Act were read without reference to subsections 110.1(3) and 118.1(6), to be the fair market value of the property if the property were given to the recipient immediately before the disposition or change.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 53; 2001, c. 17, s. 170; 2013, c. 34, s. 340.

Return and payment of tax

207.4 (1) Any institution, public authority, charity or municipality that is liable to pay a tax under subsection 207.3 or 207.31 in respect of a year shall, within 90 days after the end of the year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information without notice or demand therefor;

(b) estimate in the return the amount of tax payable by it under this Part in respect of the year; and

PARTIE XI.2

Impôt sur la disposition de certains biens

Impôt payable par un établissement ou une administration

207.3 L'établissement ou l'administration qui, au cours d'une année, dispose d'un objet visé au sous-alinéa 39(1)a)(i.1) depuis moins de dix ans, doit payer pour cette année, en vertu de la présente partie, un impôt égal à 30 % de la juste valeur marchande de cet objet au moment de sa disposition, sauf si celle-ci a été faite au profit d'un autre établissement, ou d'une autre administration, alors désigné en application du paragraphe 32(2) de la *Loi sur l'exportation et l'importation de biens culturels* à des fins générales ou à une fin particulière liée à cet objet.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 207.3; 1994, ch. 7, ann. II, art. 168; 1999, ch. 22, art. 74.

Impôt payable par le bénéficiaire d'un don de biens écosensibles

207.31 L'organisme de bienfaisance, la municipalité du Canada ou l'organisme municipal ou public remplissant des fonctions gouvernementales au Canada qui, au cours d'une année d'imposition, dispose d'un bien visé à l'alinéa 110.1(1)d) ou à la définition de ***total des dons de biens écosensibles***, au paragraphe 118.1(1), dont il lui a été fait don, ou change l'utilisation d'un tel bien, sans l'autorisation du ministre de l'Environnement ou d'une personne qu'il désigne, est tenu de payer pour l'année, en vertu de la présente partie, un impôt égal à 50 % du montant qui correspondrait à la juste valeur marchande du bien pour l'application des articles 110.1 ou 118.1 (compte non tenu des paragraphes 110.1(3) et 118.1(6)) s'il lui avait été fait don du bien immédiatement avant la disposition ou le changement d'utilisation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 53; 2001, ch. 17, art. 170; 2013, ch. 34, art. 340.

Déclaration et paiement de l'impôt

207.4 (1) L'établissement, l'administration, l'organisme de bienfaisance ou la municipalité qui est redevable de l'impôt prévu aux articles 207.3 ou 207.31 pour une année doit, dans les 90 jours suivant la fin de l'année :

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt dont il est redevable en vertu de la présente partie pour l'année;

(c) pay to the Receiver General the amount of tax payable by it under this Part in respect of the year.

c) verser cet impôt au receveur général.

Provisions applicable to Part

(2) Subsections 150(2) and 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 207.4; 1996, c. 21, s. 54.

Dispositions applicables

(2) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 207.4; 1996, ch. 21, art. 54.

PART XI.3

Tax in Respect of Retirement Compensation Arrangements

Definitions

207.5 (1) In this Part,

advantage, in relation to a retirement compensation arrangement, means

(a) any benefit, loan or indebtedness that is conditional in any way on the existence of the arrangement, other than

(i) a benefit derived from the provision of administrative or investment services in respect of the arrangement,

(ii) a loan or an indebtedness the terms and conditions of which are terms and conditions that persons dealing at arm's length with each other would have entered into, and

(iii) a payment out of or under the arrangement that is included in computing a taxpayer's income under Part I, and

(b) a benefit that is an increase in the total fair market value of the subject property of the arrangement if it is reasonable to consider, having regard to all the circumstances, that the increase is attributable, directly or indirectly, to a transaction or event or a series of transactions or events one of the main purposes of which was to enable a person or a partnership to benefit from a provision of this Part, or from the exemption from tax under paragraph 149(1)(q.1), if the transaction, event or series

(i) would not have occurred in a normal commercial or investment context in which parties deal with each other at arm's length and act prudently, knowledgeably and willingly, or

PARTIE XI.3

Impôt sur les conventions de retraite

Définitions

207.5 (1) Les définitions qui suivent s'appliquent à la présente partie.

avantage Est un avantage relatif à une convention de retraite :

a) tout bénéfice ou prêt, ou toute dette, qui est subordonné à l'existence de la convention, à l'exception :

(i) de tout bénéfice provenant de la fourniture de services de gestion ou de placement relatifs à la convention,

(ii) de tout prêt ou dette dont les modalités sont telles qu'elles auraient été acceptées par des personnes n'ayant entre elles aucun lien de dépendance,

(iii) de tout paiement effectué dans le cadre de la convention qui est inclus dans le calcul du revenu d'un contribuable en vertu de la partie I;

b) tout bénéfice qui représente une hausse de la juste valeur marchande totale des biens déterminés de la convention qu'il est raisonnable de considérer, compte tenu des circonstances, comme étant attribuable, directement ou indirectement, à une opération, à un événement ou à une série d'opérations ou d'événements dont l'un des objets principaux consistait à permettre à une personne ou à une société de personnes de tirer profit d'une disposition de la présente partie ou de l'exemption d'impôt prévue à l'alinéa 149(1)q.1) et qui, selon le cas :

(i) ne se serait pas produit dans un contexte commercial ou financier normal où des parties n'ont entre elles aucun lien de dépendance et agissent

(ii) included a payment received as, on account or in lieu of, or in satisfaction of, a payment

(A) for services provided by a person who is, or does not deal at arm's length with, a specified beneficiary of the arrangement, or

(B) of interest, of a dividend, of rent, of a royalty or of any other return on investment, or of proceeds of disposition, in respect of property (other than subject property of the arrangement) held by a person who is, or does not deal at arm's length with, a specified beneficiary of the arrangement,

(c) a benefit that is income or a capital gain that is reasonably attributable, directly or indirectly, to

(i) a prohibited investment in respect of the arrangement,

(ii) an amount received by a specified beneficiary of the arrangement, or by a person who does not deal at arm's length with the specified beneficiary, if it is reasonable to consider, having regard to all the circumstances, that the amount was paid in relation to, or would not have been paid but for, subject property of the arrangement and the amount was paid as, on account or in lieu of, or in satisfaction of, a payment

(A) for services provided by a person who is, or who does not deal at arm's length with, the specified beneficiary, or

(B) of interest, of a dividend, of rent, of a royalty or of any other return on investment, or of proceeds of disposition,

(d) an RCA strip in respect of the arrangement, and

(e) a prescribed benefit; (*avantage*)

prohibited investment, for a retirement compensation arrangement at any time, means property (other than prescribed excluded property) that is at that time

(a) a debt of a specified beneficiary of the arrangement,

(b) a share of the capital stock of, an interest in, or a debt of

(i) a corporation, partnership or trust in which the specified beneficiary has a significant interest, or

librement, prudemment ou en toute connaissance de cause,

(ii) comprenait un paiement reçu au titre ou en règlement total ou partiel, selon le cas :

(A) d'un paiement pour des services fournis par un bénéficiaire déterminé de la convention ou par une personne avec laquelle il a un lien de dépendance,

(B) d'un paiement d'intérêts, de dividende, de loyer, de redevance ou de tout autre rendement sur placement, ou d'un paiement de produit de disposition, relatif à des biens (à l'exclusion des biens déterminés de la convention) détenus par un bénéficiaire déterminé de la convention ou par une personne avec laquelle il a un lien de dépendance;

c) tout bénéfice qui représente un revenu ou un gain en capital qu'il est raisonnable d'attribuer, directement ou indirectement :

(i) soit à un placement interdit relativement à la convention,

(ii) soit à une somme reçue par un bénéficiaire déterminé de la convention ou par une personne avec laquelle celui-ci a un lien de dépendance, s'il est raisonnable de considérer, compte tenu des circonstances, que la somme a été payée relativement à des biens déterminés de la convention ou qu'elle n'aurait pas été payée en l'absence de tels biens et qu'elle a été payée au titre ou en règlement total ou partiel, selon le cas :

(A) d'un paiement pour des services fournis par le bénéficiaire déterminé ou par une personne avec laquelle il a un lien de dépendance,

(B) d'un paiement d'intérêts, de dividende, de loyer, de redevance ou de tout autre rendement sur placement, ou d'un paiement de produit de disposition;

d) toute somme découlant d'un dépouillement de CR relatif à la convention;

e) tout bénéfice visé par règlement. (*advantage*)

bénéficiaire déterminé Est le bénéficiaire déterminé d'une convention de retraite le particulier qui a un intérêt ou un droit relatif à la convention et qui a ou avait une participation notable dans un employeur ou un ancien employeur relativement à la convention. (*specified beneficiary*)

(ii) a person or partnership that does not deal at arm's length with, or is affiliated with, the specified beneficiary,

(c) an interest (or, for civil law, a right) in, or a right to acquire, a share, interest or debt described in paragraph (a) or (b), or

(d) prescribed property; (*placement interdit*)

RCA strip, in respect of a retirement compensation arrangement, means the amount of a reduction in the fair market value of subject property of the arrangement, if the value is reduced as part of a transaction or event or a series of transactions or events one of the main purposes of which is to enable a specified beneficiary of the arrangement, or a person or a partnership who does not deal at arm's length with the specified beneficiary, to benefit from a provision of this Part or to obtain a benefit in respect of subject property of the arrangement or as a result of the reduction, but does not include an amount that is included in computing the income of the specified beneficiary or of an employer or former employer of the specified beneficiary; (*somme découlant d'un dépouillement de CR*)

RCA trust under a retirement compensation arrangement means

(a) any trust deemed by subsection 207.6(1) to be created in respect of subject property of the arrangement, and

(b) any trust governed by the arrangement; (*fiducie de convention de retraite*)

refundable tax of a retirement compensation arrangement at the end of a taxation year of an RCA trust under the arrangement means the amount, if any, by which the total of

(a) 50% of all contributions made under the arrangement while it was a retirement compensation arrangement and before the end of the year, and

(b) 50% of the amount, if any, by which

(i) the total of all amounts each of which is the income (determined as if this Act were read without reference to paragraph 82(1)(b)) of an RCA trust under the arrangement from a business or property for the year or a preceding taxation year or a capital gain of the trust for the year or a preceding taxation year,

exceeds

bien déterminé d'une convention de retraite Bien détenu en rapport avec une convention de retraite. (*subject property of a retirement compensation arrangement*)

fiducie de convention de retraite

a) Fiducie réputée constituée en ce qui concerne les biens déterminés d'une convention de retraite, en vertu du paragraphe 207.6(1);

b) fiducie prévue par une convention de retraite. (*RCA trust*)

impôt remboursable S'agissant de l'impôt remboursable d'une convention de retraite à la fin d'une année d'imposition d'une fiducie de convention de retraite, l'excédent éventuel du total des montants suivants :

a) la moitié des cotisations versées dans le cadre de la convention avant la fin de l'année alors qu'elle était une convention de retraite;

b) la moitié de l'excédent éventuel, quant à cette convention de retraite, du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants dont chacun représente soit le revenu — calculé compte non tenu de l'alinéa 82(1)b) — d'une fiducie de convention de retraite, provenant d'une entreprise ou d'un bien pour l'année ou pour une année d'imposition antérieure, soit un gain en capital de la fiducie pour l'année ou pour une année d'imposition antérieure,

(ii) le total des montants dont chacun représente soit une perte d'une fiducie de convention de retraite, provenant d'une entreprise ou d'un bien pour l'année ou pour une année d'imposition antérieure, soit une perte en capital de la fiducie pour l'année ou pour une année d'imposition antérieure,

sur :

c) la moitié des montants payés attribués à une personne ou répartis entre plusieurs — y compris les montants qui doivent être inclus dans le calcul du revenu du bénéficiaire en vertu de l'alinéa 12(1)n.3) — provenant de la convention avant la fin de l'année alors qu'elle était une convention de retraite, sauf s'il est établi, par des événements ultérieurs ou autrement, que les montants ainsi payés font partie d'une série de cotisations et de remboursements de cotisations dans le cadre de la convention. (*refundable tax*)

participation notable S'entend au sens du paragraphe 207.01(4). (*significant interest*)

(ii) the total of all amounts each of which is a loss of an RCA trust under the arrangement from a business or property for the year or a preceding taxation year or a capital loss of the trust for the year or a preceding taxation year,

exceeds

(c) 50% of all amounts paid as distributions to one or more persons (including amounts that are required by paragraph 12(1)(n.3) to be included in computing the recipient's income) under the arrangement while it was a retirement compensation arrangement and before the end of the year, other than a distribution paid where it is established, by subsequent events or otherwise, that the distribution was paid as part of a series of payments and refunds of contributions under the arrangement; (*impôt remboursable*)

significant interest has the same meaning as in subsection 207.01(4); (*participation notable*)

specified beneficiary, of a retirement compensation arrangement, means an individual who has an interest or a right in respect of the arrangement and who has or had a significant interest in an employer or former employer in respect of the arrangement; (*bénéficiaire déterminé*)

subject property of a retirement compensation arrangement means property that is held in connection with the arrangement. (*bien déterminé d'une convention de retraite*)

placement interdit Est un placement interdit à un moment donné pour une convention de retraite tout bien (sauf un bien exclu visé par règlement) qui est, à ce moment :

a) une dette d'un bénéficiaire déterminé de la convention;

b) une action du capital-actions ou une dette d'une des entités ci-après ou une participation dans une de ces entités :

(i) une société, une société de personnes ou une fiducie dans laquelle le bénéficiaire déterminé a une participation notable,

(ii) une personne ou une société de personnes qui a un lien de dépendance avec le bénéficiaire déterminé ou qui lui est affiliée;

c) un intérêt ou, pour l'application du droit civil, un droit sur une action, une participation ou une dette visée aux alinéas a) ou b), ou un droit d'acquérir une telle action, participation ou dette;

d) un bien visé par règlement. (*prohibited investment*)

somme découlant d'un dépouillement de CR Relativement à une convention de retraite, le montant d'une réduction de la juste valeur marchande de biens déterminés de la convention effectuée dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements dont l'un des objets principaux consiste à permettre à un bénéficiaire déterminé de la convention ou à une personne ou une société de personnes avec laquelle il a un lien de dépendance de tirer profit d'une disposition de la présente partie ou d'obtenir un avantage au titre de biens déterminés de la convention ou par suite de la réduction. Est exclue du montant de la réduction toute somme qui est incluse dans le calcul du revenu du bénéficiaire déterminé ou de son employeur ou ancien employeur. (*RCA strip*)

Election

(2) Notwithstanding the definition ***refundable tax*** in subsection 207.5(1), where the custodian of a retirement compensation arrangement so elects in the return under this Part for a taxation year of an RCA trust under the arrangement and all the subject property, if any, of the arrangement (other than a right to claim a refund under subsection 164(1) or 207.7(2)) at the end of the year consists only of cash, debt obligations, shares listed on a designated stock exchange, or any combination thereof, an amount equal to the total of

Choix

(2) Malgré la définition d'***impôt remboursable*** au paragraphe (1), lorsque le dépositaire d'une convention de retraite en fait le choix dans la déclaration produite en vertu de la présente partie pour une année d'imposition d'une fiducie de convention de retraite et que les biens déterminés de la convention — sauf le droit de demander un remboursement, prévu au paragraphe 164(1) ou 207.7(2) — à la fin de l'année consistent uniquement en liquidités, créances ou actions cotées à une bourse de valeurs désignée, le total des montants suivants est réputé,

(a) the amount of that cash at the end of the year,

(b) the total of all amounts each of which is the greater of the principal amount of such a debt obligation outstanding at the end of the year and the fair market value of the obligation at the end of the year, and

(c) the fair market value of those shares at the end of the year

shall be deemed for the purposes of this Part to be the refundable tax of the arrangement at the end of the year.

Limitation on election

(3) Subsection (2) does not apply in respect of an RCA trust if any part of a decline in the fair market value of subject property of the retirement compensation arrangement is reasonably attributable to a prohibited investment for, or an advantage in relation to, the RCA trust unless the Minister is satisfied that it is just and equitable to allow the election to be made, having regard to all the circumstances, in which case, the Minister may adjust the amount deemed by subsection (2) to be the refundable tax of the arrangement to take into account all or part of the decline in the fair market value of the subject property.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1987, c. 46, s. 62; 2007, c. 35, s. 68; 2012, c. 31, s. 44.

Creation of trust

207.6 (1) In respect of the subject property of a retirement compensation arrangement, other than subject property of the arrangement held by a trust governed by a retirement compensation arrangement, for the purposes of this Part and Part I, the following rules apply:

(a) a trust is deemed to be created on the day that the arrangement is established;

(b) the subject property of the arrangement is deemed to be property of the trust and not to be property of any other person; and

(c) the custodian of the arrangement is deemed to be the trustee having ownership or control of the trust property.

Life insurance policies

(2) For the purposes of this Part and Part I, where by virtue of a plan or arrangement an employer is obliged to provide benefits that are to be received or enjoyed by any person on, after or in contemplation of any substantial change in the services rendered by a taxpayer, the retirement of a taxpayer or the loss of an office or employment

pour l'application de la présente partie, être l'impôt remboursable de la convention à la fin de l'année :

a) le montant des liquidités à la fin de l'année;

b) le total des montants dont chacun représente le plus élevé du principal non remboursé d'une créance à la fin de l'année et de la juste valeur marchande de la créance à la fin de l'année;

c) la juste valeur marchande des actions à la fin de l'année.

Restriction

(3) Le paragraphe (2) ne s'applique pas relativement à une fiducie de convention de retraite s'il est raisonnable d'attribuer une partie d'une diminution de la juste valeur marchande des biens déterminés de la convention de retraite à un placement interdit pour la fiducie ou à un avantage relatif à celle-ci, à moins que le ministre ne soit convaincu qu'il est juste et équitable dans les circonstances de permettre que le choix prévu à ce paragraphe soit fait, auquel cas il peut rajuster la somme réputée, en vertu du paragraphe (2), être l'impôt remboursable de la convention de façon à ce qu'il soit tenu compte de tout ou partie de la diminution de la juste valeur marchande des biens déterminés.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1987, ch. 46, art. 62; 2007, ch. 35, art. 68; 2012, ch. 31, art. 44.

Fiducie réputée constituée

207.6 (1) Pour l'application de la présente partie et de la partie I, les règles suivantes s'appliquent en ce qui concerne les biens déterminés d'une convention de retraite — sauf ceux détenus par une fiducie prévue par une convention de retraite — :

a) une fiducie est réputée constituée à la date d'établissement de la convention;

b) les biens déterminés de la convention sont réputés être les biens de la fiducie et non ceux d'une autre personne;

c) le dépositaire de la convention est réputé être le fiduciaire qui a la propriété ou le contrôle des biens de la fiducie.

Polices d'assurance-vie

(2) Pour l'application de la présente partie et de la partie I, lorsque, en vertu d'un régime ou mécanisme, un employeur est tenu de fournir des avantages que doit recevoir ou dont doit jouir une personne au moment d'un changement important des services rendus par un contribuable, au moment de la retraite de celui-ci ou au

of a taxpayer, and where the employer, former employer or a person or partnership with whom or which the employer or former employer does not deal at arm's length acquires an interest in a life insurance policy that may reasonably be considered to be acquired to fund, in whole or in part, those benefits, the following rules apply in respect of the plan or arrangement if it is not otherwise a retirement compensation arrangement and is not excluded from the definition ***retirement compensation arrangement***, in subsection 248(1), by any of paragraphs (a) to (l) and (n) thereof:

(a) the person or partnership that acquired the interest is deemed to be the custodian of a retirement compensation arrangement;

(b) the interest is deemed to be subject property of the retirement compensation arrangement;

(c) an amount equal to twice the amount of any premium paid in respect of the interest or any repayment of a policy loan thereunder is deemed to be a contribution under the retirement compensation arrangement; and

(d) any payment received in respect of the interest, including a policy loan, and any amount received as a refund of refundable tax is deemed to be an amount received out of or under the retirement compensation arrangement by the recipient and not to be a payment of any other amount.

Incorporated employee

(3) For the purpose of the provisions of this Act relating to retirement compensation arrangements, where

(a) a corporation that at any time carried on a personal services business, or an employee of the corporation, enters into a plan or arrangement with a person or partnership (referred to in this subsection as the "employer") to whom or which the corporation renders services, and

(b) the plan or arrangement provides for benefits to be received or enjoyed by any person on, after or in contemplation of the cessation of, or any substantial change in, the services rendered by the corporation, or an employee of the corporation, to the employer,

the following rules apply:

(c) the employer and the corporation are deemed to be an employer and employee, respectively, in relation to each other, and

(d) any benefits to be received or enjoyed by any person under the plan or arrangement are deemed to be

moment de la perte de sa charge ou de son emploi, après ce moment ou en prévision de ce moment et que cet employeur ou ancien employeur ou une personne ou société de personnes avec laquelle il a un lien de dépendance acquiert un intérêt dans une police d'assurance-vie qu'il est raisonnable de considérer comme acquis en vue de financer, en tout ou en partie, ces avantages, les règles suivantes s'appliquent si le régime ou mécanisme n'est pas par ailleurs une convention de retraite et n'est pas exclu de la définition de ***convention de retraite*** au paragraphe 248(1) par l'un des alinéas a) à l) et n) de cette définition :

a) l'acquéreur de l'intérêt est réputé être le dépositaire d'une convention de retraite;

b) l'intérêt est réputé être un bien déterminé de la convention;

c) le double de toute prime versée ou de tout remboursement d'avance sur police, au titre de l'intérêt dans la police, est réputé être une cotisation versée dans le cadre de la convention;

d) tout paiement reçu provenant de l'intérêt dans la police — y compris une avance sur police — et tout montant d'impôt remboursable reçu sont réputés uniquement provenir de la convention et être reçus par le bénéficiaire et sont réputés ne pas être d'autres paiements.

Employé constitué en société

(3) Pour l'application des dispositions de la présente loi sur les conventions de retraite, dans le cas où:

a) d'une part, une société qui, à un moment donné, exploitait une entreprise de prestation de services personnels, ou un employé de cette société établit un régime ou mécanisme avec une personne ou société de personnes — appelée « employeur » au présent paragraphe — à laquelle la société rend des services;

b) d'autre part, le régime ou mécanisme prévoit des avantages que doit recevoir ou dont doit jouir une personne au moment de la cessation ou d'un changement important des services que la société ou un employé de celle-ci rend à l'employeur, après ce moment ou en prévision de ce moment,

les règles suivantes s'appliquent :

c) l'employeur et la société sont réputés avoir entre eux un lien employeur-employé;

d) les avantages que doit recevoir ou dont doit jouir une personne dans le cadre du régime ou mécanisme

benefits to be received or enjoyed by the person on, after or in contemplation of a substantial change in the services rendered by the corporation.

sont réputés être des avantages que doit recevoir ou dont doit jouir cette personne au moment d'un changement important des services rendus par la société, après ce moment ou en prévision de ce moment.

Deemed contribution

(4) Where at any time an employee benefit plan becomes a retirement compensation arrangement as a consequence of a change of the custodian of the plan or as a consequence of the custodian ceasing either to carry on business through a fixed place of business in Canada or to be licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(a) for the purposes of this Part and Part I, the custodian of the plan is deemed to have made a contribution to the arrangement immediately after that time, in an amount equal to the fair market value at that time of all the properties of the plan; and

(b) for the purposes of section 32.1, that amount is deemed to be a payment made at that time out of or under the plan to or for the benefit of employees or former employees of the employers who contributed to the plan.

Cotisation réputée

(4) Dans le cas où un régime de prestations aux employés devient une convention de retraite à un moment donné par suite du remplacement du dépositaire ou parce que celui-ci cesse soit d'exploiter une entreprise par l'entremise d'un lieu d'affaires fixe au Canada, soit d'être titulaire d'une licence ou d'être par ailleurs autorisé par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir au public des services fiduciaires, les présomptions suivantes s'appliquent :

a) pour l'application de la présente partie et de la partie I, le dépositaire du régime est réputé, immédiatement après ce moment, avoir versé une cotisation dans le cadre de la convention d'un montant égal à la juste valeur marchande à ce moment de tous les biens du régime;

b) pour l'application de l'article 32.1, ce montant est réputé être un montant payé à ce moment, dans le cadre du régime, à des employés ou anciens employés des employeurs qui cotisent au régime, ou pour leur compte.

Residents' arrangement

(5) For the purposes of this Act, where a resident's contribution has been made under a plan or arrangement (in this subsection referred to as the "plan"),

(a) the plan is deemed, in respect of its application to all resident's contributions made under the plan and all property that can reasonably be considered to be derived from those contributions, to be a separate arrangement (in this subsection referred to as the "residents' arrangement") independent of the plan in respect of its application to all other contributions and property that can reasonably be considered to derive from those other contributions;

(b) the residents' arrangement is deemed to be a retirement compensation arrangement; and

(c) each person and partnership to whom a contribution is made under the residents' arrangement is deemed to be a custodian of the residents' arrangement.

Mécanisme à l'avantage d'un résident

(5) Pour l'application de la présente loi, les présomptions suivantes s'appliquent en cas de versement d'une cotisation de personne résidente aux termes d'un régime ou mécanisme (appelé « régime » au présent paragraphe):

a) pour ce qui est de son application aux cotisations de personne résidente qui y sont versées et des biens qu'il est raisonnable de considérer comme découlant de ces cotisations, le régime est réputé être un mécanisme distinct par rapport aux autres cotisations versées au régime et aux biens qu'il est raisonnable de considérer comme découlant de ces autres cotisations;

b) le mécanisme distinct est réputé être une convention de retraite;

c) chaque personne et chaque société de personnes à qui une cotisation est versée aux termes du mécanisme distinct est réputée être dépositaire du mécanisme.

Resident's contribution

(5.1) For the purpose of subsection 207.6(5), ***resident's contribution*** means such part of a contribution made under a plan or arrangement (in this subsection referred to as the "plan") at a time when the plan would, but for paragraph (l) of the definition ***retirement compensation arrangement*** in subsection 248(1), be a retirement compensation arrangement as

(a) is not a prescribed contribution; and

(b) can reasonably be considered to have been made in respect of services rendered by an individual to an employer in a period

(i) throughout which the individual was resident in Canada and rendered services to the employer that were primarily services rendered in Canada or services rendered in connection with a business carried on by the employer in Canada (or a combination of such services), and

(ii) at the beginning of which the individual had been resident in Canada throughout at least 60 of the 72 preceding calendar months, where the individual was non-resident at any time before the period and became a member of the plan before the end of the month after the month in which the individual became resident in Canada,

and, for the purpose of this paragraph, where benefits provided to an individual under a particular plan or arrangement are replaced by benefits under another plan or arrangement, the other plan or arrangement shall be deemed, in respect of the individual, to be the same plan or arrangement as the particular plan or arrangement.

Prescribed plan or arrangement

(6) For the purposes of the provisions of this Act relating to retirement compensation arrangements, the following rules apply in respect of a prescribed plan or arrangement:

(a) the plan or arrangement shall be deemed to be a retirement compensation arrangement;

(b) an amount credited at any time to the account established in the accounts of Canada or a province in connection with the plan or arrangement shall be, except to the extent that it is in respect of a refund determined under subsection 207.7(2), deemed to be a contribution under the plan or arrangement at that time;

(c) the custodian of the plan or arrangement shall be deemed to be

Cotisation de personne résidente

(5.1) Pour l'application du paragraphe (5), est une cotisation de personne résidente la partie d'une cotisation versée aux termes d'un régime ou mécanisme (appelé « régime » au présent paragraphe) à un moment où le régime serait une convention de retraite n'eût été l'alinéa l) de la définition de cette expression au paragraphe 248(1), qui répond aux conditions suivantes :

a) elle n'est pas une cotisation visée par règlement;

b) il est raisonnable de considérer qu'elle a été versée pour des services qu'un particulier rend à un employeur au cours d'une période :

(i) d'une part, tout au long de laquelle le particulier résidait au Canada et rendait à l'employeur des services qui étaient principalement soit des services rendus au Canada, soit des services rendus relativement à une entreprise que l'employeur exploite au Canada, soit l'un et l'autre de ces services,

(ii) d'autre part, au début de laquelle le particulier avait résidé au Canada durant au moins 60 des 72 mois précédents, dans le cas où le particulier était une personne non résidente avant la période et est devenu un participant au régime avant la fin du mois suivant celui au cours duquel il a commencé à résider au Canada;

pour l'application du présent alinéa, lorsque des prestations assurées à un particulier aux termes d'un régime ou mécanisme donné sont remplacées par des prestations prévues par un autre régime ou mécanisme, cet autre régime ou mécanisme est réputé, quant à ce particulier, être le régime ou mécanisme donné.

Régime ou mécanisme visé par règlement

(6) Pour l'application des dispositions de la présente loi concernant les conventions de retraite, les présomptions suivantes s'appliquent aux régimes ou mécanismes visés par règlement :

a) le régime ou mécanisme est réputé être une convention de retraite;

b) un montant porté, à un moment donné, au crédit du compte ouvert dans les comptes du Canada ou d'une province relativement au régime ou mécanisme est réputé, sauf dans la mesure où il se rapporte à un remboursement déterminé selon le paragraphe 207.7(2), être une cotisation en vertu du régime ou mécanisme à ce moment;

(i) where the account is established in the accounts of Canada, Her Majesty in right of Canada, and

(ii) where the account is established in the accounts of a province, Her Majesty in right of that province; and

(d) the subject property of the plan or arrangement, at any time, shall be deemed to include an amount of cash equal to the balance at that time in the account.

c) le dépositaire du régime ou mécanisme est réputé être Sa Majesté du chef du Canada, si le compte fait partie des comptes du Canada, ou Sa Majesté du chef de la province, s'il fait partie des comptes d'une province;

d) les biens déterminés du régime ou mécanisme à un moment donné sont réputés comprendre une somme d'argent égale au solde du compte à ce moment.

Transfers

(7) Where an amount (other than an amount that is part of a series of periodic payments) is transferred directly to a retirement compensation arrangement (other than an arrangement the custodian of which is non-resident or which is deemed by subsection 207.6(5) to be a retirement compensation arrangement) from another retirement compensation arrangement,

(a) the amount shall not, solely because of the transfer, be included in computing a taxpayer's income under Part I;

(b) no deduction may be made in respect of the amount in computing a taxpayer's income under Part I; and

(c) the amount is considered, for the purpose of the definition ***refundable tax*** in subsection 207.5(1), to be paid as a distribution to one or more persons under the arrangement from which the amount is transferred and to be a contribution made under the arrangement to which the amount is transferred.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 207.6; 1994, c. 7, Sch. VIII, s. 121, c. 21, s. 94; 1998, c. 19, s. 212; 2014, c. 39, s. 62.

Transferts

(7) Lorsqu'un montant, sauf celui qui fait partie d'une série de paiements périodiques, est transféré directement à une convention de retraite, sauf une convention dont le dépositaire est un non-résident et une convention réputée être une convention de retraite par le paragraphe (5), d'une autre convention de retraite, les règles suivantes s'appliquent :

a) le montant n'est pas inclus, en raison seulement du transfert, dans le calcul du revenu d'un contribuable en vertu de la partie I;

b) aucune déduction n'est opérée au titre du montant dans le calcul du revenu d'un contribuable en vertu de la partie I;

c) pour l'application de la définition de ***impôt remboursable*** au paragraphe 207.5(1), le montant est considéré, d'une part, comme un montant payé et attribué à une personne ou réparti entre plusieurs qui provient de la convention de laquelle il a été transféré et, d'autre part, comme une cotisation versée dans le cadre de la convention à laquelle il a été transféré.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 207.6; 1994, ch. 7, ann. VIII, art. 121, ch. 21, art. 94; 1998, ch. 19, art. 212; 2014, ch. 39, art. 62.

Tax payable on prohibited investment

207.61 (1) A custodian of a retirement compensation arrangement shall pay a tax under this Part for a calendar year if, at any time in the year,

(a) the arrangement acquires property that is a prohibited investment for the arrangement; or

(b) subject property of the arrangement becomes a prohibited investment for the arrangement after March 29, 2012.

Amount of tax payable

(2) The amount of tax payable in respect of each property described in subsection (1) is 50% of the fair market value of the property at the time referred to in that subsection.

Impôt payable sur les placements interdits

207.61 (1) Le dépositaire d'une convention de retraite est tenu de payer un impôt en vertu de la présente partie pour une année civile si, à un moment de l'année :

a) la convention acquiert un bien qui est un placement interdit pour elle;

b) un bien déterminé de la convention devient un placement interdit pour elle après le 29 mars 2012.

Impôt payable

(2) L'impôt payable au titre de chaque bien visé au paragraphe (1) correspond à 50 % de la juste valeur marchande du bien au moment visé à ce paragraphe.

Refund

(3) If in a calendar year an RCA trust disposes of a property in respect of which a tax is imposed under subsection (1) on the custodian of the retirement compensation arrangement, the custodian is entitled to a refund for the year of an amount equal to

(a) the amount of the tax so imposed, unless paragraph (b) applies; or

(b) nil,

(i) if it is reasonable to consider that the custodian, or a specified beneficiary of the arrangement, knew, or ought to have known, at the time the property was acquired by the arrangement, that it was, or would become, a property described in subsection (1), or

(ii) if the property is not disposed of by the arrangement before the end of the calendar year following the calendar year in which the tax arose, or any later time that the Minister considers reasonable in the circumstances.

Deemed disposition and reacquisition

(4) If, at any time, a property held by an RCA trust ceases to be, or becomes, a prohibited investment for the RCA trust, the RCA trust is deemed to have disposed of the property immediately before that time for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired the property at that time at a cost equal to that fair market value.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 45.

Tax payable in respect of advantage

207.62 (1) A custodian of a retirement compensation arrangement shall pay a tax under this Part for a calendar year if, in the year, an advantage in relation to the arrangement is extended to, or is received or receivable by, an RCA trust under the arrangement, a specified beneficiary of the arrangement or any person who does not deal at arm's length with the specified beneficiary.

Amount of tax payable

(2) The amount of tax payable in respect of an advantage described in subsection (1) is

(a) in the case of a benefit, the fair market value of the benefit;

Remboursement

(3) Dans le cas où une fiducie de convention de retraite dispose, au cours d'une année civile, d'un bien au titre duquel le dépositaire de la convention est tenu de payer l'impôt prévu au paragraphe (1), le dépositaire a droit au remboursement pour l'année de celle des sommes ci-après qui est applicable :

a) le montant d'impôt en cause, sauf si l'alinéa b) s'applique;

b) zéro si, selon le cas :

(i) il est raisonnable de considérer que le dépositaire ou un bénéficiaire déterminé de la convention savait ou aurait dû savoir, au moment où le bien a été acquis par la convention, que celui-ci était ou deviendrait un bien visé au paragraphe (1),

(ii) la convention ne dispose pas du bien avant la fin de l'année civile suivant celle au cours de laquelle l'impôt a pris naissance ou à tout moment postérieur que le ministre estime raisonnable dans les circonstances.

Disposition et nouvelle acquisition réputées

(4) Dans le cas où un bien détenu par une fiducie de convention de retraite cesse d'être un placement interdit pour la fiducie, ou le devient, à un moment donné, la fiducie est réputée en avoir disposé immédiatement avant ce moment pour un produit de disposition égal à sa juste valeur marchande à ce moment et l'avoir acquis de nouveau à ce moment à un coût égal à cette juste valeur marchande.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 45.

Impôt payable relativement à un avantage

207.62 (1) Le dépositaire d'une convention de retraite est tenu de payer un impôt en vertu de la présente partie pour une année civile si, au cours de l'année, un avantage relatif à la convention est accordé à une fiducie de convention de retraite prévue par la convention, à un bénéficiaire déterminé de la convention ou à toute personne avec laquelle il a un lien de dépendance, ou est reçu ou à recevoir par ceux-ci.

Impôt payable

(2) L'impôt payable relativement à l'avantage visé au paragraphe (1) correspond à celle des sommes ci-après qui est applicable :

a) s'agissant d'un bénéfice, sa juste valeur marchande;

b) s'agissant d'un prêt ou d'une dette, son montant;

(b) in the case of a loan or an indebtedness, the amount of the loan or indebtedness; and

(c) in the case of an RCA strip, the amount of the RCA strip.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 45.

c) s'agissant d'une somme découlant d'un dépouillement de CR, cette somme.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 45.

Joint liability

207.63 If a custodian of a retirement compensation arrangement is liable to pay a tax under section 207.61 or 207.62, a specified beneficiary of the arrangement is jointly and severally, or solidarily, liable for that tax to the extent that the specified beneficiary participated in, assented to or acquiesced in the making of, the transaction or event or series of transactions or events that resulted in the liability.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 45.

Responsabilité solidaire

207.63 Si le dépositaire d'une convention de retraite est redevable de l'impôt prévu aux articles 207.61 ou 207.62, tout bénéficiaire déterminé de la convention est débiteur solidaire de cet impôt dans la mesure où il a participé, a consenti ou a acquiescé à l'opération, à l'événement ou à la série d'opérations ou d'événements qui a donné naissance à cet impôt.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 45.

Waiver of tax payable

207.64 If a person would otherwise be liable to pay a tax under this Part because of any of sections 207.61 to 207.63, the Minister may waive or cancel all or part of the liability if the Minister considers it just and equitable to do so having regard to all the circumstances, including

(a) whether the tax arose as a consequence of reasonable error; and

(b) the extent to which the transaction or event or series of transactions or events that gave rise to the tax also gave rise to another tax under this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 45.

Renonciation

207.64 Le ministre peut renoncer à tout ou partie de l'impôt dont une personne serait redevable par ailleurs en vertu de la présente partie par l'effet des articles 207.61 à 207.63, ou l'annuler en tout ou en partie, s'il estime qu'il est juste et équitable de le faire compte tenu des circonstances, notamment :

a) le fait que l'impôt fasse suite à une erreur acceptable;

b) la mesure dans laquelle l'opération, l'événement ou la série d'opérations ou d'événements qui a donné lieu à l'impôt a également donné lieu à un autre impôt en vertu de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 45.

Deemed distribution

207.65 For the purposes of the definition ***refundable tax*** in subsection 207.5(1), tax paid under section 207.61 or 207.62 by a custodian of a retirement compensation arrangement out of property held in connection with the arrangement is deemed to be a distribution under the arrangement for the taxation year in which the tax is paid to the extent that the tax has not been refunded, waived or cancelled.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 45.

Distribution réputée

207.65 Pour l'application de la définition de ***impôt remboursable*** au paragraphe 207.5(1), l'impôt payé en vertu des articles 207.61 ou 207.62 par le dépositaire d'une convention de retraite sur les biens détenus dans le cadre de la convention est réputé être une distribution effectuée dans le cadre de la convention pour l'année d'imposition au cours de laquelle il est payé dans la mesure où il n'a pas fait l'objet d'un remboursement, d'une renonciation ou d'une annulation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 45.

Tax payable

207.7 (1) Every custodian of a retirement compensation arrangement shall pay a tax under this Part for each taxation year of an RCA trust under the arrangement equal to the amount, if any, by which the refundable tax

Impôt payable

207.7 (1) Le dépositaire d'une convention de retraite doit payer, pour chaque année d'imposition d'une fiducie de convention de retraite, un impôt en vertu de la présente partie égal à l'excédent éventuel de l'impôt

of the arrangement at the end of the year exceeds the refundable tax of the arrangement at the end of the immediately preceding taxation year, if any.

Refund

(2) Where the custodian of a retirement compensation arrangement has filed a return under this Part for a taxation year within three years after the end of the year, the Minister

(a) may, on sending the notice of assessment for the year or a notification that no tax is payable for the year, refund without application an amount equal to the amount, if any, by which the refundable tax of the arrangement at the end of the immediately preceding year exceeds the refundable tax of the arrangement at the end of the year; and

(b) shall, with all due dispatch, make such a refund after sending the notice of assessment if application for it has been made in writing by the custodian within three years after the day of sending of a notice of an original assessment for the year or of a notification that no tax is payable for the year.

Payment of tax

(3) Every custodian of a retirement compensation arrangement shall, within 90 days after the end of each taxation year of an RCA trust under the arrangement,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable by the custodian under this Part for the year; and

(c) pay to the Receiver General the amount of tax, if any, payable by the custodian under this Part for the year.

Provisions applicable to Part

(4) Subsections 150(2) and 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1987, c. 46, s. 62; 2010, c. 25, s. 63.

remboursable de la convention à la fin de l'année sur l'impôt remboursable de la convention à la fin de l'année d'imposition précédente.

Remboursement

(2) Dans le cas où le dépositaire d'une convention de retraite produit une déclaration pour une année d'imposition en vertu de la présente partie dans les trois ans suivant la fin de l'année, le ministre :

a) peut, au moment de l'envoi de l'avis de cotisation pour l'année ou d'un avis portant qu'aucun impôt n'est payable pour l'année, rembourser, sans que demande lui en soit faite, l'excédent de l'impôt remboursable de la convention à la fin de l'année précédente sur l'impôt remboursable de la convention à la fin de l'année;

b) rembourse, avec diligence, cet excédent après l'envoi de l'avis de cotisation, si le dépositaire en fait la demande par écrit dans les trois ans suivant la date d'envoi du premier avis de cotisation pour l'année ou d'un avis portant qu'aucun impôt n'est payable pour l'année.

Déclaration et paiement de l'impôt

(3) Le dépositaire d'une convention de retraite doit, dans les 90 jours suivant la fin de chaque année d'imposition d'une fiducie de convention de retraite :

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt dont il est redevable en vertu de la présente partie pour l'année;

c) verser cet impôt au receveur général.

Dispositions applicables

(4) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167, ainsi que la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1987, ch. 46, art. 62; 2010, ch. 25, art. 63.

PART XI.4

Tax on Excess EPSP Amounts

Excess EPSP amount

207.8 (1) In this Part, ***excess EPSP amount***, of a specified employee for a taxation year in respect of an employer, means the amount determined by the formula

A – (20% × B)

where

A is the portion of the total of all amounts paid by the employer of the specified employee (or by a corporation with which the employer does not deal at arm's length) to a trust governed by an employees profit sharing plan that is allocated for the year to the specified employee; and

B is the specified employee's total income for the year from an office or employment with the employer computed without reference to paragraph 6(1)(d) and sections 7 and 8.

Tax payable

(2) If a specified employee has an excess EPSP amount for a taxation year, the specified employee shall pay a tax for the year equal to the amount determined by the formula

(A + B) × C

where

A is the highest individual percentage for the year;

B is

(a) if the specified employee is resident in Quebec at the end of the year, 0%,

(b) if the specified employee is resident in a province other than Quebec at the end of the year, the highest percentage rate of tax, including surtaxes but not taxes that are limited to a maximum amount, imposed by the province for the year on the income of an individual who is a resident of the province, or

(c) in any other case, 14%; and

C is the total of all excess EPSP amounts of the specified employee for the year.

PARTIE XI.4

Impôt sur les excédents RPEB

Excédent RPEB

207.8 (1) Pour l'application de la présente partie, l'excédent RPEB d'un employé déterminé pour une année d'imposition relativement à un employeur correspond à la somme obtenue par la formule suivante :

A – (20 % × B)

où :

A représente la partie du total des sommes payées par l'employeur de l'employé (ou par une société avec laquelle l'employeur a un lien de dépendance) à une fiducie régie par un régime de participation des employés aux bénéfices qui est attribuée à l'employé pour l'année;

B le revenu total de l'employé pour l'année provenant d'une charge ou d'un emploi auprès de l'employeur, calculé compte non tenu de l'alinéa 6(1)d) ni des articles 7 et 8.

Impôt payable

(2) L'employé déterminé qui a un excédent RPEB pour une année d'imposition doit payer pour l'année un impôt égal à la somme obtenue par la formule suivante :

(A + B) × C

où :

A représente le taux d'imposition supérieur pour l'année;

B :

a) si l'employé réside au Québec à la fin de l'année, 0 %,

b) s'il réside dans une province autre que le Québec à la fin de l'année, le taux d'imposition le plus élevé, y compris les surtaxes mais à l'exclusion des impôts assujettis à un plafond, établi par la province pour l'année sur le revenu d'un particulier résidant dans la province,

c) dans les autres cas, 14 %;

C le total des excédents RPEB de l'employé pour l'année.

Waiver or cancellation

(3) If a specified employee would otherwise be liable to pay a tax under subsection (2), the Minister may waive or cancel all or part of the liability if the Minister considers it just and equitable to do so having regard to all the circumstances.

Return and payment of tax

(4) Every person who is liable to pay tax under this Part for a taxation year shall

(a) on or before the person's filing-due date for the year, file with the Minister a return for the year under this Part in prescribed form and containing prescribed information; and

(b) on or before the person's balance-due day for the year, pay to the Receiver General the amount of tax payable under this Part by the person for the year.

Provisions applicable to this Part

(5) Subsections 150(2) and (3), sections 152, 155 to 156.1, 158 to 160.1, 161 and 161.2 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 46; 2016, c. 7, s. 62.

Renonciation ou annulation

(3) Le ministre peut renoncer à tout ou partie de l'impôt prévu au paragraphe (2) dont un employé déterminé serait redevable par ailleurs, ou l'annuler en tout ou en partie, s'il estime qu'il est juste et équitable de le faire compte tenu des circonstances.

Déclaration et paiement de l'impôt

(4) Toute personne qui est redevable d'un impôt en vertu de la présente partie pour une année d'imposition doit :

a) présenter au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, une déclaration pour l'année en vertu de la présente partie sur le formulaire prescrit contenant les renseignements prescrits;

b) verser au receveur général, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, le montant d'impôt payable par elle pour l'année en vertu de la présente partie.

Dispositions applicables

(5) Les paragraphes 150(2) et (3), les articles 152, 155 à 156.1, 158 à 160.1, 161 et 161.2 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 46; 2016, ch. 7, art. 62.

PART XII

Tax in Respect of Certain Royalties, Taxes, Lease Rentals, Etc., Paid to a Government by a Tax Exempt Person

208 [Repealed, 2003, c. 28, s. 15(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 208; 1994, c. 7, Sch. II, s. 169; 1997, c. 25, s. 58; 2003, c. 15, s. 125, c. 28, s. 15.

PARTIE XII

Impôt relatif à certains impôts, loyers, à certaines redevances, etc. versés à un gouvernement par une personne exonérée d'impôt

208 [Abrogé, 2003, ch. 28, art. 15(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 208; 1994, ch. 7, ann. II, art. 169; 1997, ch. 25, art. 58; 2003, ch. 15, art. 125, ch. 28, art. 15.

PART XII.1

Tax on Carved-out Income

Definitions

209 (1) For the purposes of this Part,

carved-out income of a person for a taxation year from a carved-out property means the amount, if any, by which

(a) the person's income for the year attributable to the property computed under Part I on the assumption that in computing income no deduction was allowed under section 20, subdivision e of Division B of Part I or section 104,

exceeds the total of

(b) the amount deducted under subsection 66.4(2) in computing the person's income for the year to the extent that it may reasonably be considered to be attributable to the property, and

(c) to the extent that the property is an interest in a bituminous sands deposit or oil shale deposit, the amount deducted under subsection 66.2(2) in computing the person's income for the year to the extent that it can reasonably be considered to be attributable to the cost of that interest; (*revenus miniers et pétroliers*)

carved-out property of a person means

(a) a Canadian resource property where

(i) all or substantially all of the amount that the person is or may become entitled to receive in respect of the property may reasonably be considered to be limited to a maximum amount or to an amount determinable by reference to a stated quantity of production from a mineral resource or an accumulation of petroleum, natural gas or related hydrocarbons,

(ii) the period of time during which the person's interest in the income attributable to the property may reasonably be expected to continue is

(A) where the property is a head lease or may reasonably be considered to derive from a head lease, less than the lesser of 10 years and the remainder of the term of the head lease, and

PARTIE XII.1

Impôt sur les revenus miniers et pétroliers tirés de biens restreints

Définitions

209 (1) Les définitions qui suivent s'appliquent à la présente partie.

bail initial Contrat par lequel un droit, permis ou privilège pour l'exploration, le forage ou l'enlèvement du pétrole, du gaz naturel ou des hydrocarbures connexes au Canada ou pour la prospection, l'exploration, le forage ou l'extraction de minéraux dans une ressource minérale au Canada est accordé :

a) soit par Sa Majesté du chef du Canada ou d'une province;

b) soit par un autre propriétaire que Sa Majesté du chef du Canada ou d'une province, pour une durée d'au moins 10 ans. (*head lease*)

bien restreint L'un des biens suivants d'une personne :

a) un bien qui est un avoir minier canadien, restreint par une des limites suivantes :

(i) il est raisonnable de considérer la totalité, ou presque, du montant que la personne a le droit ou peut devenir en droit de recevoir sur le bien comme limitée à un maximum ou à un montant calculable en fonction d'un volume établi de production provenant d'une ressource minérale ou d'un gisement de pétrole, de gaz naturel ou d'hydrocarbures connexes,

(ii) on peut raisonnablement s'attendre à ce que la durée du droit de la personne au revenu attribuable au bien soit inférieure :

(A) à 10 ans ou à la durée non écoulée du bail initial si cette durée est inférieure à 10 ans, dans le cas d'un bien qui est un bail initial ou qu'il est raisonnable de considérer comme en découlant,

(B) à 10 ans, dans les autres cas,

(iii) on peut raisonnablement s'attendre à ce que le droit de la personne au revenu attribuable au bien — exprimé en pourcentage de production pour une période donnée — soit réduit de façon importante :

(B) in any other case, less than 10 years,

(iii) the person's interest in the income attributable to the property, expressed as a percentage of production for any period, may reasonably be expected to be reduced substantially,

(A) where the property is a head lease or may reasonably be considered to derive from a head lease, at any time before

(I) the expiration of a period of 10 years commencing when the property was acquired, or

(II) the expiration of the term of the head lease,

whichever occurs first, and

(B) in any other case, at any time before the expiration of a period of 10 years commencing when the property was acquired, or

(iv) another person has a right under an arrangement to acquire, at any time, the property or a portion thereof or a similar property from the person and it is reasonable to consider that one of the main reasons for the arrangement, or any series of transactions or events that includes the arrangement, was to reduce or postpone tax that would, but for this subparagraph, be payable under this Part, or

(b) an interest in a partnership or trust that holds a Canadian resource property where it is reasonable to consider that one of the main reasons for the existence of the interest is to reduce or postpone the tax that would, but for this paragraph, be payable under this Part,

but does not include

(c) an interest, or for civil law a right, in respect of a property that was acquired by the person solely in consideration of the person's undertaking under an agreement to incur Canadian exploration expense or Canadian development expense in respect of the property and, where the agreement so provides, to acquire gas or oil well equipment (as defined in subsection 1104(2) of the *Income Tax Regulations*) in respect of the property,

(c.1) an interest, or for civil law a right, in respect of a property that was retained by the person under an agreement under which another person obtained an absolute or conditional right to acquire another interest, or for civil law another right, in respect of the

(A) à un moment antérieur soit au terme de la période de 10 ans commençant au moment de l'acquisition du bien, soit au terme de la durée du bail initial si ce terme est antérieur à l'autre, dans le cas d'un bien qui est un bail initial ou qu'il est raisonnable de considérer comme en découlant,

(B) à un moment antérieur au terme de la période de 10 ans commençant au moment de l'acquisition du bien, dans les autres cas,

(iv) un droit d'acquérir auprès de la personne, à un moment donné, tout ou partie du bien ou un bien semblable est à une autre personne en vertu d'un mécanisme dont il est raisonnable de considérer qu'un des principaux objets — ou un des principaux objets d'une série d'opérations ou d'événements dont ce mécanisme fait partie — consiste à réduire ou reporter l'impôt payable en vertu de la présente partie, compte non tenu du présent sous-alinéa;

b) une participation dans une société de personnes ou fiducie qui détient un avoir minier canadien, participation dont il est raisonnable de considérer qu'un des principaux objets consiste à réduire ou reporter l'impôt payable en vertu de la présente partie, compte non tenu du présent alinéa;

le terme ne vise toutefois pas :

c) un intérêt ou, pour l'application du droit civil, un droit sur un bien que la personne n'acquiert que contre engagement de sa part, conformément à une convention, d'engager, en ce qui concerne ce bien, des frais d'exploration au Canada ou des frais d'aménagement au Canada et, si la convention le prévoit, d'acquérir du matériel de puits de gaz ou de pétrole, au sens du paragraphe 1104(2) du *Règlement de l'impôt sur le revenu*, relativement au bien;

c.1) un intérêt ou, pour l'application du droit civil, un droit sur un bien que la personne a gardé conformément à une convention en vertu de laquelle une autre personne a obtenu un droit, conditionnel ou non, d'acquérir un autre intérêt ou, pour l'application du droit civil, droit sur le bien, si cet autre intérêt ou droit n'est pas un bien restreint de l'autre personne en application de l'alinéa c);

d) un bien que la personne n'acquiert par un mécanisme qu'en contrepartie de la vente d'un avoir minier canadien — à l'exclusion d'un bien qui, juste avant la vente, était un bien restreint de cette personne — lié au bien, sauf s'il est raisonnable de considérer qu'un des principaux objets de ce mécanisme — ou un des

property, if the other interest or right is not carved-out property of the other person because of paragraph (c),

(d) a particular property acquired by the person under an arrangement solely as consideration for the sale of a Canadian resource property (other than a property that, immediately before the sale was a carved-out property of the person) that relates to the particular property except where it is reasonable to consider that one of the main reasons for the arrangement, or any series of transactions or events that includes the arrangement, was to reduce or postpone tax that would, but for this paragraph, be payable under this Act,

(e) a property retained or reserved by the person out of a Canadian resource property (other than a property that, immediately before the transaction by which the retention or reservation is made, was a carved-out property of the person) that was disposed of by the person except where it is reasonable to consider that one of the main reasons for the retention or reservation, or any series of transactions or events in which the property or interest was retained or reserved, was to reduce or postpone tax that would, but for this paragraph, be payable under this Act,

(f) a property acquired by the person from a taxpayer with whom the person did not deal at arm's length at the time of the acquisition and the property was acquired by the taxpayer or a person with whom the taxpayer did not deal at arm's length

(i) pursuant to an agreement in writing to do so entered into before July 20, 1985, or

(ii) under the circumstances described in this paragraph or paragraph (d) or (e),

except where it is reasonable to consider that one of the main reasons for the acquisition of the property, or any series of transactions or events in which the property was acquired, was to reduce or postpone tax that would, but for this paragraph, be payable under this Act,

(f.1) where the taxable income of the person is exempt from tax under Part I, a property of the person that

(i) does not relate to property of a person whose taxable income is not exempt from tax under Part I, and

(ii) is not, and does not relate to, property that was at any time a carved-out property of any other person, or

principaux objets d'une série d'opérations ou d'événements dont ce mécanisme fait partie — consiste à réduire ou reporter l'impôt payable en vertu de la présente loi, compte non tenu du présent alinéa;

e) un bien que la personne garde ou met de côté sur un avoir minier canadien — à l'exclusion d'un bien qui, juste avant l'opération par laquelle le bien est gardé ou mis de côté, était un bien restreint de cette personne — dont elle dispose, sauf s'il est raisonnable de considérer que l'un des principaux objets de cette opération ou d'une série d'opérations ou d'événements dont cette opération fait partie consiste à réduire ou reporter l'impôt payable en vertu de la présente loi, compte non tenu du présent alinéa;

f) un bien que la personne acquiert auprès d'un contribuable avec qui elle a un lien de dépendance au moment de l'acquisition et que ce contribuable ou une personne avec qui celui-ci avait un lien de dépendance avait acquis conformément à une convention écrite conclue avant le 20 juillet 1985 ou dans une situation visée au présent alinéa ou aux alinéas d) ou e), sauf s'il est raisonnable de considérer que l'un des principaux objets de l'acquisition du bien ou d'une série d'opérations ou d'événements dans le cadre de laquelle le bien est acquis, consiste à réduire ou reporter l'impôt payable en vertu de la présente loi, compte non tenu du présent alinéa;

f.1) dans le cas où le revenu imposable de la personne est exonéré de l'impôt en vertu de la partie I :

(i) un bien qui n'est pas lié à un bien d'une personne dont le revenu imposable n'est pas exonéré de l'impôt en vertu de la partie I,

(ii) un bien qui n'a jamais été un bien restreint d'une autre personne ou un bien lié à un tel bien;

g) un bien visé par règlement. (*carved-out property*)

durée La durée d'un bail initial en comprend les renouvellements. (*term*)

revenus miniers et pétroliers S'entend, lorsqu'il s'agit des revenus miniers et pétroliers qu'une personne tire pour une année d'imposition de biens restreints, de l'excédent éventuel :

a) du revenu de la personne pour l'année attribuable aux biens restreints, calculé conformément à la partie I, à supposer qu'aucune somme ne soit admise en déduction en vertu de l'article 20, de la sous-section e de la section B de la partie I ou de l'article 104,

sur le total des montants suivants :

(g) a prescribed property; (*bien restreint*)

head lease means a contract under which

(a) Her Majesty in right of Canada or a province grants, or

(b) an owner in fee simple, other than Her Majesty in right of Canada or a province, grants for a period of not less than 10 years

any right, licence or privilege to explore for, drill for or take petroleum, natural gas or related hydrocarbons in Canada or to prospect, explore, drill or mine for minerals in a mineral resource in Canada; (*bail initial*)

term of a head lease includes all renewal periods in respect of the head lease. (*durée*)

b) le montant déduit en vertu du paragraphe 66.4(2) dans le calcul du revenu de la personne pour l'année dans la mesure où il est raisonnable de considérer ce montant comme attribuable aux biens restreints;

c) si des biens restreints sont des droits sur un gisement de sables bitumineux ou de schiste bitumineux, le montant déduit en vertu du paragraphe 66.2(2) dans le calcul du revenu de la personne pour l'année dans la mesure où il est raisonnable de considérer ce montant comme attribuable au coût de ces droits. (*carved-out income*)

Tax

(2) Every person shall pay a tax under this Part for each taxation year equal to 45% of the total of the person's carved-out incomes for the year from carved-out properties.

Assujettissement à l'impôt

(2) Toute personne est redevable, dans le cadre de la présente partie et pour chaque année d'imposition, d'un impôt au taux de 45 % sur le total des revenus miniers et pétroliers qu'elle tire de biens restreints pour cette année.

Return

(3) Every person liable to pay tax under this Part for a taxation year shall file with the Minister, not later than the day on or before which the person is or would be, if the person were liable to pay tax under Part I for the year, required under section 150 to file a return of the person's income for the year under Part I, a return for the year under this Part in prescribed form containing an estimate of the amount of tax payable by the person under this Part for the year.

Déclaration

(3) La personne redevable de l'impôt prévu par la présente partie pour une année d'imposition doit produire pour cette année auprès du ministre la déclaration correspondant à la présente partie, au plus tard le jour où elle est tenue de produire une déclaration de revenu pour l'année en vertu de la partie I conformément à l'article 150 ou en serait tenue si elle était redevable d'un impôt en vertu de cette partie. Cette déclaration doit être produite sur formulaire prescrit et contenir une estimation de l'impôt dont la personne est redevable dans le cadre de la présente partie pour l'année.

Payment of tax

(4) Where a person is liable to pay tax for a taxation year under this Part, the person shall pay in respect of the year, to the Receiver General

(a) on or before the last day of each month in the year, an amount equal to 1/12 of the amount of tax payable by the person under this Part for the year; and

(b) the remainder, if any, of the tax payable by the person under this Part for the year, on or before the person's balance-due day for the year.

Paiement de l'impôt

(4) La personne redevable de l'impôt prévu par la présente partie pour une année d'imposition doit payer au receveur général pour l'année :

a) 1/12 de cet impôt, au plus tard le dernier jour de chaque mois de l'année;

b) le solde éventuel de cet impôt, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Provisions applicable to Part

(5) Subsections 150(2) and 150(3) and sections 152, 158 and 159, subsections 161(1), 161(2) and 161(11), sections

Dispositions applicables

(5) Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 161(1), (2) et (11), les articles 162 à

162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

Partnerships

(6) For the purposes of subsection 209(1), a partnership shall be deemed to be a person and its taxation year shall be deemed to be its fiscal period.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 209; 1994, c. 7, Sch. II, s. 170, c. 21, s. 95; 1997, c. 25, s. 59; 2003, c. 15, s. 126, c. 28, s. 16; 2013, c. 34, s. 156.

167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Sociétés de personnes

(6) Pour l'application du paragraphe (1), une société de personnes est considérée comme une personne et son année d'imposition est réputée correspondre à son exercice.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 209; 1994, ch. 7, ann. II, art. 170, ch. 21, art. 95; 1997, ch. 25, art. 59; 2003, ch. 15, art. 126, ch. 28, art. 16; 2013, ch. 34, art. 156.

PART XII.2

Tax on Designated Income of Certain Trusts

Definitions

210 (1) The following definitions apply in this Part.

designated beneficiary, under a particular trust at any time, means a beneficiary, under the particular trust, who is at that time

(a) a non-resident person;

(b) [Repealed, 2014, c. 39, s. 63]

(c) a person who is, because of subsection 149(1), exempt from tax under Part I on all or part of their taxable income and who acquired an interest as a beneficiary under the particular trust after October 1, 1987 directly or indirectly from a beneficiary under the particular trust except if

(i) the interest was, at all times after the later of October 1, 1987 and the day on which the interest was created, held by persons who were exempt from tax under Part I on all of their taxable income because of subsection 149(1), or

(ii) the person is a trust, governed by a registered retirement savings plan or a registered retirement income fund, who acquired the interest, directly or indirectly, from an individual or the spouse or common-law partner, or former spouse or common-law partner, of the individual who was, immediately after the interest was acquired, a beneficiary under the trust governed by the fund or plan;

(d) another trust (in this paragraph referred to as the "other trust") that is not a graduated rate estate, a mutual fund trust or a trust that is exempt because of subsection 149(1) from tax under Part I on all or part

PARTIE XII.2

Impôt sur le revenu distribué de certaines fiducies

Définitions

210 (1) Les définitions qui suivent s'appliquent à la présente partie.

bénéficiaire étranger ou assimilé Est le bénéficiaire étranger ou assimilé d'une fiducie donnée au moment considéré le bénéficiaire de cette fiducie qui est, à ce moment :

a) soit une personne non-résidente;

b) [Abrogé, 2014, ch. 39, art. 63]

c) soit une personne qui, par l'effet du paragraphe 149(1), est exonérée de l'impôt prévu à la partie I, sur tout ou partie de son revenu imposable et qui, après le 1er octobre 1987, a acquis une participation à titre de bénéficiaire de la fiducie donnée, directement ou indirectement, auprès d'un bénéficiaire de cette fiducie, sauf si, selon le cas :

(i) la participation a été, à tout moment après le 1er octobre 1987 ou, s'il est postérieur, le jour de sa création, détenue par des personnes qui étaient, par l'effet du paragraphe 149(1), exonérées de l'impôt prévu à la partie I sur la totalité de leur revenu imposable,

(ii) la personne est une fiducie régie par un régime enregistré d'épargne-retraite ou un fonds enregistré de revenu de retraite et a acquis la participation, directement ou indirectement, auprès d'un particulier, ou de l'époux ou du conjoint de fait ou de l'ex-époux ou de l'ancien conjoint de fait de celui-ci, qui était, immédiatement après l'acquisition, bénéficiaire de la fiducie régie par le régime ou le fonds;

of its taxable income, if any beneficiary under the other trust is at that time

(i) a non-resident person,

(ii) [Repealed, 2014, c. 39, s. 63]

(iii) a trust that is not

(A) a graduated rate estate,

(B) a mutual fund trust,

(C) a trust that is exempt because of subsection 149(1) from tax under Part I on all or part of its taxable income, or

(D) a trust

(I) whose interest, at that time, in the other trust was held, at all times after the day on which the interest was created, either by it or by persons who were exempt because of subsection 149(1) from tax under Part I on all of their taxable income, and

(II) none of the beneficiaries under which is, at that time, a designated beneficiary under it, or

(iv) a person or partnership that

(A) is a designated beneficiary under the other trust because of paragraph (c) or (e), or

(B) would be a designated beneficiary under the particular trust because of paragraph (c) or (e) if, instead of being a beneficiary under the other trust, the person or partnership were at that time a beneficiary, under the particular trust, whose interest as a beneficiary under the particular trust were

(I) identical to its interest (referred to in this clause as the "particular interest") as a beneficiary under the other trust,

(II) acquired from each person or partnership from whom it acquired the particular interest, and

(III) held, at all times after the later of October 1, 1987 and the day on which the particular interest was created, by the same persons or partnerships that held the particular interest at those times; or

d) soit une autre fiducie — à l'exclusion d'une succession assujettie à l'imposition à taux progressifs, d'une fiducie de fonds commun de placement et d'une fiducie qui, par l'effet du paragraphe 149(1), est exonérée de l'impôt prévu par la partie I sur tout ou partie de son revenu imposable — dont est bénéficiaire au moment considéré, selon le cas :

(i) une personne non-résidente,

(ii) [Abrogé, 2014, ch. 39, art. 63]

(iii) une fiducie qui n'est pas :

(A) une succession assujettie à l'imposition à taux progressifs,

(B) une fiducie de fonds commun de placement,

(C) une fiducie qui, par l'effet du paragraphe 149(1), est exonérée de l'impôt prévu à la partie I sur tout ou partie de son revenu imposable,

(D) une fiducie qui répond aux conditions suivantes :

(I) sa participation dans l'autre fiducie au moment considéré était détenue, à tout moment après le jour de la création de la participation, soit par elle, soit par des personnes qui, par l'effet du paragraphe 149(1), étaient exonérées de l'impôt prévu à la partie I sur la totalité de leur revenu imposable,

(II) aucun de ses bénéficiaires n'est son bénéficiaire étranger ou assimilé au moment considéré,

(iv) une personne ou une société de personnes qui, selon le cas :

(A) est un bénéficiaire étranger ou assimilé de l'autre fiducie par l'effet des alinéas c) ou e),

(B) serait un bénéficiaire étranger ou assimilé de la fiducie donnée par l'effet des alinéas c) ou e) si, au lieu d'être bénéficiaire de l'autre fiducie, la personne ou la société de personnes était, au moment considéré, bénéficiaire de la fiducie donnée dont la participation à titre de bénéficiaire de celle-ci est, à la fois :

(I) identique à sa participation (appelée « participation donnée » à la présente division) à titre de bénéficiaire de l'autre fiducie,

(e) a particular partnership any of the members of which is at that time

(i) another partnership, except if

(A) each such other partnership is a Canadian partnership,

(B) the interest of each such other partnership in the particular partnership is held, at all times after the day on which the interest was created, by the other partnership or by persons who were exempt because of subsection 149(1) from tax under Part I on all of their taxable income,

(C) the interest of each member, of each such other partnership, that is a person exempt because of subsection 149(1) from tax under Part I on all or part of its taxable income was held, at all times after the day on which the interest was created, by that member or by persons who were exempt because of subsection 149(1) from tax under Part I on all of their taxable income, and

(D) the interest of the particular partnership in the particular trust was held, at all times after the day on which the interest was created, by the particular partnership or by persons who were exempt because of subsection 149(1) from tax under Part I on all of their taxable income,

(ii) a non-resident person,

(iii) [Repealed, 2014, c. 39, s. 63]

(iv) another trust that is, under paragraph (d), a designated beneficiary of the particular trust or that would, under paragraph (d), be a designated beneficiary of the particular trust if the other trust were at that time a beneficiary under the particular trust whose interest as a beneficiary under the particular trust were

(A) acquired from each person or partnership from whom the particular partnership acquired its interest as a beneficiary under the particular trust, and

(B) held, at all times after the later of October 1, 1987 and the day on which the particular partnership's interest as a beneficiary under the particular trust was created, by the same persons or partnerships that held that interest of the particular partnership at those times, or

(v) a person exempt because of subsection 149(1) from tax under Part I on all or part of its taxable

(II) acquise de chaque personne ou société de personnes auprès de laquelle elle a acquis la participation donnée,

(III) détenue, à tout moment après le 1er octobre 1987 ou, s'il est postérieur, le jour de la création de la participation donnée, par les mêmes personnes ou sociétés de personnes qui détenaient la participation donnée à ces moments;

e) soit une société de personnes donnée dont l'un des associés est, au moment considéré, selon le cas :

(i) une autre société de personnes, sauf si, à la fois :

(A) chacune de ces autres sociétés de personnes est une société de personnes canadienne,

(B) la participation de chacune de ces autres sociétés de personnes dans la société de personnes donnée est détenue, à tout moment après le jour de la création de la participation, par l'autre société de personnes ou par des personnes qui, par l'effet du paragraphe 149(1), étaient exonérées de l'impôt prévu à la partie I sur la totalité de leur revenu imposable,

(C) la participation de chaque associé, de chacune de ces autres sociétés de personnes, qui est une personne exonérée, par l'effet du paragraphe 149(1), de l'impôt prévu à la partie I sur tout ou partie de son revenu imposable est détenue, à tout moment après le jour de la création de la participation, par cet associé ou par des personnes qui, par l'effet du paragraphe 149(1), étaient exonérées de l'impôt prévu à la partie I sur la totalité de leur revenu imposable,

(D) la participation de la société de personnes donnée dans la fiducie donnée était détenue, à tout moment après le jour de la création de la participation, soit par la société de personnes donnée, soit par des personnes qui, par l'effet du paragraphe 149(1), étaient exonérées de l'impôt prévu à la partie I sur la totalité de leur revenu imposable,

(ii) une personne non-résidente,

(iii) [Abrogé, 2014, ch. 39, art. 63]

(iv) une autre fiducie qui est un bénéficiaire étranger ou assimilé de la fiducie donnée en vertu de l'alinéa d), ou le serait si elle était, au moment considéré, bénéficiaire de la fiducie donnée dont la

income except if the interest of the particular partnership in the particular trust was held, at all times after the day on which the interest was created, by the particular partnership or by persons who were exempt because of subsection 149(1) from tax under Part I on all of their taxable income. (*bénéficiaire étranger ou assimilé*)

designated income, of a trust for a taxation year, means the amount that would be the income of the trust for the year determined under section 3 if

(a) this Act were read without reference to subsections 104(6), (12) and (30);

(b) the trust had no income other than taxable capital gains from dispositions described in paragraph (c) and incomes from

(i) real or immovable properties in Canada (other than Canadian resource properties),

(ii) timber resource properties,

(iii) Canadian resource properties (other than properties acquired by the trust before 1972), and

(iv) businesses carried on in Canada;

(c) the only taxable capital gains and allowable capital losses referred to in paragraph 3(b) were from

(i) dispositions of taxable Canadian property, and

(ii) dispositions of particular property (other than property described in any of subparagraphs 128.1(4)(b)(i) to (iii)), or property for which the particular property is substituted, that was transferred at any particular time to a particular trust in circumstances in which subsection 73(1) or 107.4(3) applied, if

(A) it is reasonable to conclude that the property was so transferred in anticipation that a person beneficially interested at the particular time in the particular trust would subsequently cease to reside in Canada, and a person beneficially interested at the particular time in the particular trust did subsequently cease to reside in Canada, or

(B) when the property was so transferred, the terms of the particular trust satisfied the conditions in subparagraph 73(1.01)(c)(i) or (iii), and it is reasonable to conclude that the transfer was made in connection with the cessation of residence, on or before the transfer, of a person who was, at the time of the transfer, beneficially

participation à titre de bénéficiaire de celle-ci était, à la fois :

(A) acquise de chaque personne ou société de personnes auprès de laquelle la société de personnes donnée a acquis sa participation à titre de bénéficiaire de la fiducie donnée,

(B) détenue, à tout moment après le 1er octobre 1987 ou, s'il est postérieur, le jour de la création de la participation de la société de personnes donnée à titre de bénéficiaire de la fiducie donnée, par les mêmes personnes ou sociétés de personnes qui détenaient, à ces moments, cette participation de la société de personnes donnée,

(v) une personne qui, par l'effet du paragraphe 149(1), est exonérée de l'impôt prévu à la partie I sur tout ou partie de son revenu imposable, sauf si la participation de la société de personnes donnée dans la fiducie donnée était détenue, à tout moment après le jour de la création de la participation, soit par la société de personnes donnée, soit par des personnes qui, par l'effet du paragraphe 149(1), étaient exonérées de l'impôt prévu à la partie I sur la totalité de leur revenu imposable. (*designated beneficiary*)

revenu de distribution En ce qui concerne une fiducie pour une année d'imposition, la somme qui représenterait le revenu de la fiducie pour l'année déterminé selon l'article 3 si, à la fois :

a) il n'était pas tenu compte des paragraphes 104(6), (12) et (30);

b) les seuls revenus de la fiducie étaient constitués de gains en capital imposables provenant de dispositions visées à l'alinéa c) et de revenus tirés :

(i) de biens immeubles ou réels situés au Canada, sauf des avoirs miniers canadiens,

(ii) d'avoirs forestiers,

(iii) d'avoirs miniers canadiens, sauf des biens acquis par la fiducie avant 1972,

(iv) d'entreprises exploitées au Canada;

c) les seuls gains en capital imposables et pertes en capital déductibles visés à l'alinéa 3b) provenaient :

(i) de la disposition de biens canadiens imposables,

(ii) de la disposition d'un bien donné, sauf les biens visés à l'un des sous-alinéas 128.1(4)b)(i) à (iii), ou

interested in the particular trust and a spouse or common-law partner, as the case may be, of the transferor of the property to the particular trust; and

(d) the only losses referred to in paragraph 3(d) were losses from sources described in any of subparagraphs (b)(i) to (iv). (*revenu de distribution*)

Tax not payable

(2) No tax is payable under this Part for a taxation year by a trust that was throughout the year

(a) a graduated rate estate;

(b) a mutual fund trust;

(c) exempt from tax under Part I because of subsection 149(1);

(d) a trust to which paragraph (a), (a.1) or (c) of the definition ***trust*** in subsection 108(1) applies; or

(e) non-resident.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 210; 1994, c. 21, s. 96; 2000, c. 12, s. 142; 2013, c. 34, s. 341; 2014, c. 39, s. 63.

210.1 [Repealed, 2013, c. 34, s. 341]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 210.1; 2001, c. 17, s. 171; 2013, c. 34, s. 341.

d'un bien auquel ce bien est substitué, qui a été transféré à une fiducie donnée dans les circonstances visées aux paragraphes 73(1) ou 107.4(3), si, selon le cas :

(A) il est raisonnable de conclure que le bien a été ainsi transféré en prévision de la cessation de la résidence au Canada d'une personne ayant un droit de bénéficiaire dans la fiducie donnée au moment du transfert, et une personne ayant un droit de bénéficiaire dans cette fiducie à ce moment a ultérieurement cessé de résider au Canada,

(B) au moment du transfert du bien, les modalités de la fiducie donnée remplissaient les conditions énoncées aux sous-alinéas 73(1.01)c)(i) ou (iii), et il est raisonnable de conclure que le transfert a été effectué relativement à la cessation de résidence, au moment du transfert ou antérieurement, d'une personne qui, au moment du transfert, avait un droit de bénéficiaire dans la fiducie donnée et était l'époux ou le conjoint de fait, selon le cas, de la personne ayant cédé le bien à cette fiducie;

d) seules des pertes provenant de sources visées à l'un des sous-alinéas b)(i) à (iv) étaient visées à l'alinéa 3d). (*designated income*)

Champ d'application

(2) Aucun impôt n'est à payer en vertu de la présente partie pour une année d'imposition par les fiducies qui sont, tout au long de l'année :

a) des successions assujetties à l'imposition à taux progressifs;

b) des fiducies de fonds commun de placement;

c) des fiducies exonérées, par l'effet du paragraphe 149(1), de l'impôt prévu à la partie I;

d) des fiducies visées aux alinéas a), a.1) ou c) de la définition de ***fiducie*** au paragraphe 108(1);

e) des fiducies non-résidentes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 210; 1994, ch. 21, art. 96; 2000, ch. 12, art. 142; 2013, ch. 34, art. 341; 2014, ch. 39, art. 63.

210.1 [Abrogé, 2013, ch. 34, art. 341]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 210.1; 2001, ch. 17, art. 171; 2013, ch. 34, art. 341.

Tax on income of trust

210.2 (1) Subject to section 210.3, if a trust deducts an amount under paragraph 104(6)(b) in computing its income under Part I for a taxation year, the trust shall pay a tax under this Part in respect of the year equal to 40% of the least of

(a) the designated income of the trust for the year,

(b) the amount that, but for subsections 104(6) and 104(30), would be the income of the trust for the year, and

(c) 100/60 of the amount deducted.

(1.1) [Repealed, 2013, c. 34, s. 342]

Amateur athlete trusts

(2) Notwithstanding subsection 210(2), a trust shall pay a tax under this Part in respect of a particular taxation year of the trust equal to 2/3 of the amount that is required by subsection 143.1(2) to be included in computing the income under Part I for a taxation year of a beneficiary under the trust, if

(a) the beneficiary is at any time in the particular taxation year a designated beneficiary under the trust; and

(b) the particular taxation year ends in that taxation year of the beneficiary.

Tax deemed paid by beneficiary

(3) Where an amount (in this subsection and subsection 210.3(2) referred to as the "income amount") in respect of the income of a trust for a taxation year is, by reason of subsection 104(13) or 105(2), included in computing

(a) the income under Part I of a person who was not at any time in the year a designated beneficiary under the trust, or

(b) the income of a non-resident person (other than a person who, at any time in the year, would be a designated beneficiary under the trust if section 210 were read without reference to paragraph (a) of the definition ***designated beneficiary*** in that section) that is subject to tax under Part I by reason of subsection 2(3) and is not exempt from tax under Part I by reason of a provision contained in a tax treaty,

an amount determined by the formula

A × B/C

where

Impôt payable par les fiducies

210.2 (1) Sous réserve de l'article 210.3, si une fiducie déduit un montant en application de l'alinéa 104(6)b) dans le calcul de son revenu en vertu de la partie I pour une année d'imposition, la fiducie paie en vertu de la présente partie un impôt pour l'année égal à 40 % du moins élevé des montants suivants :

a) le revenu de distribution de la fiducie pour l'année;

b) le revenu de la fiducie pour l'année calculé compte non tenu des paragraphes 104(6) et (30);

c) les 100/60 du montant déduit.

(1.1) [Abrogé, 2013, ch. 34, art. 342]

Fiducie au profit d'un athlète amateur

(2) Malgré le paragraphe 210(2), toute fiducie paie, en vertu de la présente partie pour son année d'imposition donnée, un impôt égal aux 2/3 du montant qui est à inclure, en application du paragraphe 143.1(2), dans le calcul du revenu en vertu de la partie I pour une année d'imposition d'un de ses bénéficiaires si, à la fois :

a) le bénéficiaire est un bénéficiaire étranger ou assimilé de la fiducie au cours de l'année donnée;

b) l'année donnée prend fin dans l'année d'imposition du bénéficiaire.

Crédit d'impôt remboursable aux bénéficiaires résidant au Canada

(3) Dans le cas où une partie du revenu d'une fiducie pour une année d'imposition est incluse, en application du paragraphe 104(13) ou 105(2), dans le calcul du revenu en vertu de la partie I d'une personne qui n'a été bénéficiaire étranger ou assimilé de la fiducie à aucun moment de l'année ou dans la partie du revenu d'une personne non-résidente qui est soumise, par application du paragraphe 2(3), à l'impôt payable en vertu de la partie I et n'en est pas exonérée par un traité fiscal — sauf s'il s'agit d'une personne qui, à un moment de l'année, serait un bénéficiaire étranger ou assimilé de la fiducie si l'article 210 s'appliquait compte non tenu de l'alinéa a) de la définition de ***bénéficiaire étranger ou assimilé*** à cet article —, le montant, calculé selon la formule ci-après, attribué à la personne par la fiducie dans sa déclaration pour l'année en vertu de la présente partie est réputé payé le quatre-vingt-dixième jour suivant la fin de l'année d'imposition de la fiducie au titre de l'impôt payable en vertu de la partie I par cette personne pour l'année

A is the tax paid under this Part by the trust for the year,

B is the income amount in respect of the person, and

C is the total of all amounts each of which is an amount that is or would be, if all beneficiaries under the trust were persons resident in Canada to whom Part I was applicable, included in computing the income under Part I of a beneficiary under the trust by reason of subsection 104(13) or 105(2) in respect of the year,

shall, if designated by the trust in respect of the person in its return for the year under this Part, be deemed to be an amount paid on account of the person's tax payable under Part I for the person's taxation year in which the taxation year of the trust ends, on the day that is 90 days after the end of the taxation year of the trust.

Designations in respect of partnerships

(4) Where a taxpayer is a member of a partnership in respect of which an amount is designated by a trust for a taxation year of the trust (in this subsection referred to as the "particular year") under subsection 210.2(3),

(a) no amount shall be deemed to be paid on account of the partnership's tax payable under Part I by reason of subsection 210.2(3) except in the application of that subsection for the purposes of subsection 104(31), and

(b) an amount determined by the formula

A × B/C

where

A is the amount so designated,

B is the amount that may reasonably be regarded as the share of the taxpayer in the designated income of the trust received by the partnership in the fiscal period of the partnership in which the particular year ends (that fiscal period being referred to in this subsection as the "partnership's period"), and

C is the designated income received by the partnership from the trust in the partnership's period,

shall be deemed to be an amount paid on account of the taxpayer's tax payable under Part I for the person's taxation year in which the partnership's period ends, on the last day of that year.

d'imposition de celle-ci au cours de laquelle l'année d'imposition de la fiducie se termine :

A × B/C

où :

A représente l'impôt payé par la fiducie pour l'année en vertu de la présente partie;

B la partie du revenu de la fiducie pour l'année ainsi incluse concernant cette personne;

C le total des montants dont chacun représente, ou représenterait si tous les bénéficiaires de la fiducie résidaient au Canada et étaient des personnes auxquelles la partie I s'appliquait, un montant inclus en application du paragraphe 104(13) ou 105(2) dans le calcul du revenu en vertu de la partie I d'un bénéficiaire de la fiducie.

Crédit d'impôt remboursable aux associés

(4) Si un contribuable est un associé d'une société de personnes à laquelle une fiducie attribue un montant en application du paragraphe (3) pour une année d'imposition de la fiducie :

a) d'une part, aucun montant n'est réputé payé en application du paragraphe (3) au titre de l'impôt payable par la société de personnes en vertu de la partie I, sauf si le paragraphe (3) s'applique dans le cadre du paragraphe 104(31);

b) d'autre part, le montant calculé selon la formule suivante :

A × B/C

où :

A représente le montant ainsi attribué,

B le montant qu'il est raisonnable de considérer comme la part du contribuable sur le revenu de distribution de la fiducie, que la société de personnes a reçue au cours de son exercice — appelé « exercice donné » au présent paragraphe — pendant lequel l'année de la fiducie se termine,

C le revenu de distribution que la société de personnes a reçu de la fiducie au cours de son exercice donné,est réputé payé le dernier jour de l'année d'imposition du contribuable au cours de laquelle l'exercice donné de la société de personnes se termine, au titre de l'impôt payable par le contribuable en vertu de la partie I pour cette année.

Returns

(5) A trust shall, within 90 days after the end of each taxation year,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor;

(b) estimate in the return the amount of tax, if any, payable by it under this Part for the year; and

(c) pay to the Receiver General the tax, if any, payable by it under this Part for the year.

Liability of trustee

(6) A trustee of a trust is personally liable to pay to the Receiver General on behalf of the trust the full amount of any tax payable by the trust under this Part to the extent that the amount is not paid to the Receiver General within the time specified in subsection 210.2(5), and the trustee is entitled to recover from the trust any such amount paid by the trustee.

Provisions applicable to Part

(7) Subsections 150(2) and 150(3), sections 152 and 158, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 210.2; 1994, c. 7, Sch. VIII, s. 122; 2001, c. 17, s. 172; 2013, c. 34, s. 342; 2016, c. 7, s. 62.

Where no designated beneficiaries

210.3 (1) No tax is payable under this Part by a trust for a taxation year in respect of which the trustee has certified in the trust's return under this Part for the year that no beneficiary under the trust was a designated beneficiary in the year.

Where beneficiary deemed not designated

(2) Where a trust would, if the trust paid tax under this Part for a taxation year, be entitled to designate an amount under subsection 210.2(3) in respect of a non-resident beneficiary and the income amount in respect of the beneficiary is included in computing the income of the beneficiary which is subject to tax under Part I by reason of subsection 2(3) and is not exempt from tax under Part I by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada, for the purposes of subsection 210.3(1), the beneficiary shall be deemed not to be a designated beneficiary of the trust at any time in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 160.

Déclaration et paiement de l'impôt

(5) Toute fiducie doit, dans les 90 jours suivant la fin de chaque année d'imposition :

a) produire auprès du ministre, sans avis ni mise en demeure, une déclaration pour l'année en vertu de la présente partie, selon le formulaire prescrit et contenant les renseignements prescrits;

b) estimer dans cette déclaration l'impôt dont elle est redevable en vertu de la présente partie pour l'année;

c) verser cet impôt au receveur général.

Responsabilité personnelle des fiduciaires

(6) Le fiduciaire d'une fiducie qui est assujettie à l'impôt en application de la présente partie qui ne remet pas au receveur général le montant de l'impôt, dans le délai imparti, est personnellement tenu de verser, au nom de la fiducie, le montant total de l'impôt et a le droit de recouvrer de la fiducie toute somme ainsi versée.

Dispositions applicables

(7) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 210.2; 1994, ch. 7, ann. VIII, art. 122; 2001, ch. 17, art. 172; 2013, ch. 34, art. 342; 2016, ch. 7, art. 62.

Exemption sur attestation

210.3 (1) Sur attestation des fiduciaires dans la déclaration de la fiducie en vertu de la présente partie pour une année d'imposition, la fiducie n'est redevable d'aucun impôt en vertu de la présente partie pour l'année si aucun bénéficiaire de la fiducie en est bénéficiaire étranger ou assimilé au cours de l'année.

Restriction

(2) Pour l'application du paragraphe (1), dans le cas où la fiducie, si elle payait de l'impôt en vertu de la présente partie pour une année d'imposition, aurait le droit d'attribuer un montant en application du paragraphe 210.2(3) à un bénéficiaire non-résident et où une partie du revenu de la fiducie est incluse dans le calcul du revenu du bénéficiaire qui est soumis, par application du paragraphe 2(3), à l'impôt payable en vertu de la partie I et n'en est pas exonéré par un accord ou une convention fiscale ayant force de loi au Canada et conclue entre le gouvernement du Canada et le gouvernement d'un autre

pays, le bénéficiaire est réputé n'être à aucun moment de l'année un bénéficiaire étranger ou assimilé de la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 160.

PART XII.3

Tax on Investment Income of Life Insurers

Definitions

211 (1) For the purposes of this Part,

existing guaranteed life insurance policy, at any time, means a non-participating life insurance policy in Canada in respect of which

(a) the amount of every premium that became payable before that time and after December 31, 1989,

(b) the number of premium payments under the policy, and

(c) the amount of each benefit under the policy at that time

were fixed and determined on or before December 31, 1989; (*police d'assurance-vie garantie existante*)

life insurance policy includes a benefit under

(a) a group life insurance policy, and

(b) a group annuity contract

but does not include

(c) that part of a policy in respect of which the policyholder is deemed by paragraph 138.1(1)(e) to have an interest in a related segregated fund trust, or

(d) a reinsurance arrangement; (*police d'assurance-vie*)

life insurance policy in Canada means a life insurance policy issued or effected by an insurer on the life of a person resident in Canada at the time the policy was issued or effected; (*police d'assurance-vie au Canada*)

net interest rate, in respect of a liability, benefit, risk or guarantee under a life insurance policy of an insurer for a

PARTIE XII.3

Impôt sur le revenu de placement des assureurs sur la vie

Définitions

211 (1) Les définitions qui suivent s'appliquent à la présente partie.

avance sur police S'entend au sens du paragraphe 138(12). (*policy loan*)

fonds réservé S'entend au sens du paragraphe 138(12). (*segregated fund*)

mécanisme de réassurance En est exclu le mécanisme concernant une police d'assurance-vie par lequel un assureur assume les obligations que la personne ayant établi la police a contractées envers le titulaire. (*reinsurance arrangement*)

opération ou événement déterminé S'agissant de quelque opération ou événement déterminé se produisant dans le cadre d'une police d'assurance-vie, s'entend :

a) d'un changement dans la catégorie de souscription;

b) de la modification de la prime résultant d'un changement apporté au calendrier de paiement des primes au cours d'une année, laquelle modification n'a aucune incidence sur la valeur actualisée, au début de l'année, du total des primes à payer aux termes de la police au cours de l'année;

c) de l'addition d'indemnités pour décès accidentel, mutilation ou invalidité ou d'options d'achat garanties, conformément aux modalités de la police applicables :

(i) soit le 31 décembre 1989, dans le cas d'une police d'assurance-vie garantie existante,

(ii) soit le 2 mars 1988, dans les autres cas;

d) de la suppression d'un avenant;

e) de la remise en vigueur, dans le délai prévu à l'alinéa g) de la définition de ***disposition*** au paragraphe

taxation year, is the positive amount, if any, determined by the formula

(A - B) × C

where

A is the simple arithmetic average determined as of the first day of the year of the average yield (expressed as a percentage per year rounded to 2 decimal points) in each of the 60 immediately preceding months prevailing on all domestic Canadian-dollar Government of Canada bonds outstanding on the last Wednesday of that month that have a remaining term to maturity of more than 10 years,

B is

(a) in the case of a guaranteed benefit provided under the terms and conditions of the policy as they existed on March 2, 1988, other than a policy where, at any time after March 2, 1988, its terms and conditions relating to premiums and benefits were changed (otherwise than to give effect to the terms and conditions that were determined before March 3, 1988), the greater of

(i) the rate of interest (expressed as a percentage per year) used by the insurer in determining the amount of the guaranteed benefit, and

(ii) 4%, and

(b) in any other case, nil, and

C is

(a) in the case of a guaranteed benefit to which paragraph (a) of the description of B applies, 65%, and

(b) in any other case, 55%; (*taux d'intérêt net*)

non-participating life insurance policy means a life insurance policy that is not a participating life insurance policy; (*police d'assurance-vie sans participation*)

participating life insurance policy has the meaning assigned by subsection 138(12); (*police d'assurance-vie avec participation*)

policy loan has the meaning assigned by subsection 138(12); (*avance sur police*)

registered life insurance policy means a life insurance policy issued or effected as or under a pooled registered pension plan, a registered retirement savings plan, a deferred profit sharing plan or a registered pension plan; (*police d'assurance-vie agréée*)

reinsurance arrangement does not include an arrangement under which an insurer has assumed the 148(9), de polices déchues ou de la remise en vigueur en raison d'un montant à payer au titre d'une avance sur police;

f) de la modification de la prime par suite de la rectification de renseignements erronés;

g) du paiement d'une prime après son échéance ou dans les 30 jours avant son échéance, conformément à ce qui a été établi au plus tard :

(i) le 31 décembre 1989, dans le cas d'une police d'assurance-vie garantie existante,

(ii) le 2 mars 1988, dans les autres cas;

h) du paiement de l'intérêt visé à l'alinéa a) de la définition de ***prime*** au paragraphe 148(9). (*specified transaction or event*)

police d'assurance-vie Est assimilé à une police d'assurance-vie le bénéfice prévu par une police d'assurance-vie collective ou un contrat de rente collectif. En sont exclus :

a) la partie d'une police relativement à laquelle le titulaire est réputé par l'alinéa 138.1(1)e) avoir une participation dans une fiducie créée à l'égard d'un fonds réservé;

b) la convention de réassurance. (*life insurance policy*)

police d'assurance-vie agréée Police d'assurance-vie établie ou souscrite à titre de régime de pension agréé, de régime de pension agréé collectif, de régime de participation différée aux bénéfices ou de régime enregistré d'épargne-retraite. (*registered life insurance policy*)

police d'assurance-vie au Canada Police d'assurance-vie établie par un assureur sur la vie d'une personne qui réside au Canada au moment de l'établissement de la police. (*life insurance policy in Canada*)

police d'assurance-vie avec participation S'entend au sens du paragraphe 138(12). (*participating life insurance policy*)

police d'assurance-vie garantie existante Police d'assurance-vie au Canada sans participation, à un moment donné, aux termes de laquelle les éléments suivants ont été déterminés et fixés au plus tard le 31 décembre 1989:

a) le montant de chaque prime devenue payable avant le moment donné et après le 31 décembre 1989;

b) le nombre de paiements de primes prévus par la police;

obligations of the issuer of a life insurance policy to the policyholder; (*mécanisme de réassurance*)

segregated fund has the meaning given that expression in subsection 138.1(1); (*fonds réservé*)

specified transaction or event, in respect of a life insurance policy, means

(a) a change in underwriting class,

(b) a change in premium because of a change in frequency of premium payments within a year that does not alter the present value, at the beginning of the year, of the total premiums to be paid under the policy in the year,

(c) an addition under the terms of the policy as they existed on

(i) in the case of an existing guaranteed life insurance policy, December 31, 1989,

(ii) in any other case, March 2, 1988,

of accidental death, dismemberment, disability or guaranteed purchase option benefits,

(d) the deletion of a rider,

(e) redating lapsed policies within the reinstatement period referred to in paragraph (g) of the definition ***disposition*** in subsection 148(9) or redating for policy loan indebtedness,

(f) a change in premium because of a correction of erroneous information,

(g) the payment of a premium after its due date, or no more than 30 days before its due date, as established on or before

(i) in the case of an existing guaranteed life insurance policy, December 31, 1989, and

(ii) in any other case, March 2, 1988, and

(h) the payment of an amount described in paragraph (a) of the definition ***premium*** in subsection 148(9); (*opération ou événement déterminé*)

taxable life insurance policy of an insurer at any time means a life insurance policy in Canada issued by the insurer (or in respect of which the insurer has assumed the obligations of the issuer of the policy to the policyholder), other than a policy that is at that time

c) le montant de chaque prestation prévue par la police au moment donné. (*existing guaranteed life insurance policy*)

police d'assurance-vie imposable S'agissant de la police d'assurance-vie imposable d'un assureur à un moment donné, s'entend de la police d'assurance-vie au Canada, établie par l'assureur, ou par laquelle celui-ci assume les obligations que la personne ayant établi la police a contractées envers le titulaire, à l'exception d'une police qui, à ce moment, est :

a) une police d'assurance-vie garantie existante;

b) un contrat de rente, y compris une rente en règlement;

c) une police d'assurance-vie agréée;

d) un régime de pensions agréé;

e) une convention de retraite. (*taxable life insurance policy*)

police d'assurance-vie sans participation Police d'assurance-vie qui n'est pas une police d'assurance-vie avec participation. (*non-participating life insurance policy*)

taux d'intérêt net S'agissant du taux d'intérêt net relatif à une responsabilité, une prestation, un risque ou une garantie prévu par une police d'assurance-vie d'un assureur pour une année d'imposition, le montant positif calculé selon la formule suivante :

(A - B) × C

où :

A représente la moyenne arithmétique simple, déterminée le premier jour de l'année, du rendement moyen, exprimé en pourcentage annuel et arrêté à la deuxième décimale, au cours de chacun des 60 mois précédents, de l'ensemble des obligations d'État intérieures en monnaie canadienne qui étaient en circulation le dernier mercredi de ce mois et dont la durée non écoulée jusqu'à l'échéance est supérieure à dix ans;

B :

a) dans le cas d'une prestation garantie prévue par les modalités de la police applicables le 2 mars 1988, à l'exception d'une police dont les modalités concernant les primes et prestations ont été modifiées à un moment donné après le 2 mars 1988 autrement que pour mettre à effet les modalités déterminées avant le 3 mars 1988, le plus élevé des taux suivants :

(a) an existing guaranteed life insurance policy,

(b) an annuity contract (including a settlement annuity),

(c) a registered life insurance policy,

(d) a registered pension plan, or

(e) a retirement compensation arrangement. (*police d'assurance-vie imposable*)

(i) le taux d'intérêt, exprimé en pourcentage annuel, utilisé par l'assureur pour déterminer le montant de la prestation garantie,

(ii) 4 %;

b) dans les autres cas, zéro;

C :

a) dans le cas d'une prestation garantie à laquelle l'alinéa a) de l'élément B s'applique, 65 %;

b) sinon, 55 %. (*net interest rate*)

Riders and changes in terms

(2) For the purposes of this Part,

(a) any rider added at any time after March 2, 1988 to a life insurance policy shall be deemed to be a separate life insurance policy issued and effected at that time; and

(b) a change in the terms or conditions of a life insurance policy resulting from a specified transaction or event shall be deemed not to have occurred and not to be a change.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 211; 1994, c. 7, Sch. II, s. 171; 1997, c. 25, s. 60; 2008, c. 28, s. 32; 2009, c. 2, s. 72; 2012, c. 31, s. 47.

Avenant et changement dans les modalités

(2) Pour l'application de la présente partie :

a) tout avenant ajouté à une police d'assurance-vie à un moment donné après le 2 mars 1988 est réputé constituer une police d'assurance-vie distincte établie et émise à ce moment;

b) un changement dans les modalités d'une police d'assurance-vie découlant d'une opération ou événement déterminé est réputé ne pas avoir été fait et ne pas être un changement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 211; 1994, ch. 7, ann. II, art. 171; 1997, ch. 25, art. 60; 2008, ch. 28, art. 32; 2009, ch. 2, art. 72; 2012, ch. 31, art. 47.

Tax payable

211.1 (1) Every life insurer shall pay a tax under this Part for each taxation year equal to 15% of its taxable Canadian life investment income for the year.

Impôt payable

211.1 (1) Tout assureur sur la vie est redevable pour chaque année d'imposition d'un impôt, au taux de 15 %, sur son revenu imposable de placements en assurance-vie au Canada pour l'année.

Taxable Canadian life investment income

(2) For the purposes of this Part, the taxable Canadian life investment income of a life insurer for a taxation year is the amount, if any, by which its Canadian life investment income for the year exceeds the total of its Canadian life investment losses for the 20 taxation years immediately preceding the year, to the extent that those losses were not deducted in computing its taxable Canadian life investment income for any preceding taxation year.

Revenu imposable de placements en assurance-vie au Canada

(2) Pour l'application de la présente partie, le revenu imposable de placements en assurance-vie au Canada d'un assureur sur la vie pour une année d'imposition correspond à l'excédent éventuel de son revenu de placements en assurance-vie au Canada pour l'année sur le total de ses pertes de placements en assurance-vie au Canada pour les 20 années d'imposition précédentes, dans la mesure où ces pertes n'ont pas été déduites dans le calcul de son revenu imposable de placements en assurance-vie au Canada pour toute année d'imposition antérieure.

Canadian life investment income

(3) For the purposes of this Part, the Canadian life investment income or loss of a life insurer for a taxation year is the positive or negative amount determined by the formula

A + B - C

Revenu ou perte de placements en assurance-vie au Canada

(3) Pour l'application de la présente partie, le revenu de placements en assurance-vie au Canada et la perte de placements en assurance-vie au Canada d'un assureur

where

A is subject to subsection 211.1(4), the total of all amounts, each of which is in respect of a liability, benefit, risk or guarantee under a life insurance policy that was at any time in the year a taxable life insurance policy of the insurer, determined by multiplying the net interest rate in respect of the liability, benefit, risk or guarantee for the year by 1/2 of the total of

(a) the maximum amount that would be determined under paragraph 1401(1)(a), (c) or (d) of the *Income Tax Regulations* (other than an amount that would be determined under subparagraph 1401(1)(d)(ii) of those Regulations in respect of a disabled life) in respect of the insurer for the year in respect of the liability, benefit, risk or guarantee if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement, and

(b) the maximum amount that would be determined under paragraph 1401(1)(a), (c) or (d) of the *Income Tax Regulations* (other than an amount that would be determined under subparagraph 1401(1)(d)(ii) of those Regulations in respect of a disabled life) in respect of the insurer for the preceding taxation year in respect of the liability, benefit, risk or guarantee if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement;

B is the total of all amounts, each of which is the positive or negative amount in respect of a life insurance policy that was at any time in the year a taxable life insurance policy of the insurer, determined by the formula

D - E

where

D is, subject to subsection 211.1(4), the amount determined by multiplying the percentage determined in the description of A in the definition ***net interest rate*** in subsection 211(1) in respect of the year by 1/2 of the total of

(a) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for the year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to

sur la vie pour une année d'imposition sont respectivement le montant positif et le montant négatif obtenus par la formule suivante :

A + B - C

où :

A représente, sous réserve du paragraphe (4), le total des montants représentant chacun un montant relatif à une responsabilité, une prestation, un risque ou une garantie prévu par une police d'assurance-vie qui est une police d'assurance-vie imposable de l'assureur au cours de l'année, correspondant au produit de la multiplication du taux d'intérêt net applicable à la responsabilité, à la prestation, au risque ou à la garantie pour l'année par la moitié du total des montants suivants :

a) le montant maximal qui serait déterminé selon les alinéas 1401(1)a), c) ou d) du *Règlement de l'impôt sur le revenu* (à l'exception d'un montant qui serait déterminé selon le sous-alinéa 1401(1)d)(ii) de ce règlement relativement à une vie invalide) quant à l'assureur pour l'année relativement à la responsabilité, au bénéfice, au risque ou à la garantie si le paragraphe 1401(1) de ce règlement s'appliquait à toutes les polices d'assurance-vie et si ce montant était déterminé compte non tenu des avances sur police et des conventions de réassurance,

b) le montant maximal qui serait déterminé selon les alinéas 1401(1)a), c) ou d) du *Règlement de l'impôt sur le revenu* (à l'exception d'un montant qui serait déterminé selon le sous-alinéa 1401(1)d)(ii) de ce règlement relativement à une vie invalide) quant à l'assureur pour l'année d'imposition précédente relativement à la responsabilité, au bénéfice, au risque ou à la garantie si le paragraphe 1401(1) de ce règlement s'appliquait à toutes les polices d'assurance — vie et si ce montant était déterminé compte non tenu des avances sur police et des conventions de réassurance;

B le total des montants dont chacun est le montant positif ou négatif relatif à une police d'assurance-vie qui était une police d'assurance-vie imposable de l'assureur à un moment de l'année, calculé selon la formule suivante :

D - E

où :

D représente, sous réserve du paragraphe (4), le produit de la multiplication du pourcentage représenté par l'élément A de la formule figurant à

any policy loan or reinsurance arrangement, and

(b) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for the preceding taxation year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement, and

E is the amount, if any, by which

(a) the total of all amounts determined in respect of the insurer under the description of in respect of the policy for the year and any preceding taxation years ending after 1989

exceeds the total of

(b) all amounts determined in respect of the insurer under the description of E in respect of the policy for taxation years ending before the year, and

(c) the amount, if any, by which

(i) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for the year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement

exceeds

(ii) the maximum amount that would be determined under paragraph 1401(1)(c.1) of the *Income Tax Regulations* in respect of the insurer for its last 1989 taxation year in respect of the policy if subsection 1401(1) of those Regulations applied to all life insurance policies and if that amount were determined without reference to any policy loan or reinsurance arrangement; and

C is the total of all amounts each of which is 100% of the amount required to be included in computing the income of a policyholder under section 12.2 or paragraph 56(1)(j) for which the insurer is required by regulation to prepare an information return in respect of the calendar year ending in the taxation year, in respect of a taxable life insurance policy of the insurer, except that the reference in this description to 100% shall be read as a reference to,

la définition de ***taux d'intérêt net***, au paragraphe 211(1), pour l'année par la moitié du total des montants suivants :

a) le montant maximal qui serait déterminé selon l'alinéa 1401(1)c.1) du *Règlement de l'impôt sur le revenu* quant à l'assureur pour l'année relativement à la police si le paragraphe 1401(1) de ce règlement s'appliquait à toutes les polices d'assurance-vie et si ce montant était déterminé compte non tenu des avances sur police et des conventions de réassurance,

b) le montant maximal qui serait déterminé selon l'alinéa 1401(1)c.1) du *Règlement de l'impôt sur le revenu* quant à l'assureur pour l'année d'imposition précédente relativement à la police si le paragraphe 1401(1) de ce règlement s'appliquait à toutes les polices d'assurance-vie et si ce montant était déterminé compte non tenu des avances sur police et des conventions de réassurance,

E l'excédent éventuel :

a) du total des montants déterminés selon l'élément D à l'égard de l'assureur relativement à la police pour l'année et les années d'imposition précédentes se terminant après 1989,

sur le total des montants suivants :

b) l'ensemble des montants déterminés selon l'élément E à l'égard de l'assureur relativement à la police pour les années d'imposition se terminant avant l'année,

c) l'excédent éventuel du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le montant maximal qui serait déterminé selon l'alinéa 1401(1)c.1) du *Règlement de l'impôt sur le revenu* quant à l'assureur pour l'année relativement à la police si le paragraphe 1401(1) de ce règlement s'appliquait à toutes les polices d'assurance-vie et si ce montant était déterminé compte non tenu des avances sur police et des conventions de réassurance,

(ii) le montant maximal qui serait déterminé selon l'alinéa 1401(1)c.1) du *Règlement de l'impôt sur le revenu* quant à l'assureur pour sa dernière année d'imposition 1989 relativement à la police si le paragraphe 1401(1) de ce règlement s'appliquait à toutes les polices d'assurance-vie et si ce montant était déterminé compte non tenu

(a) where paragraph (a) of the description of B in the definition ***net interest rate*** in subsection 211(1) applies for any taxation year in respect of a guaranteed benefit under the policy,

0% for calendar years before 1991,
5% for 1991,
10% for 1992,
15% for 1993,
20% for 1994,
25% for 1995,
30% for 1996,
35% for 1997,
40% for 1998,
45% for 1999, and
50% for calendar years after 1999, and

(b) where the policy was at any time after 1989 an existing guaranteed life insurance policy,

0% for the calendar year in which it became a taxable life insurance policy of the insurer,
0% for the first following calendar year,
0% for the second following calendar year,
5% for the third following calendar year,
10% for the fourth following calendar year,
15% for the fifth following calendar year,
20% for the sixth following calendar year,
25% for the seventh following calendar year,
30% for the eighth following calendar year,
35% for the ninth following calendar year,
40% for the tenth following calendar year,
45% for the eleventh following calendar year, and
50% for the twelfth following and subsequent calendar years.

des avances sur police et des conventions de réassurance;

C le total des montants dont chacun représente 100 % du montant à inclure dans le calcul du revenu d'un titulaire de police en application de l'article 12.2 ou de l'alinéa 56(1)j) pour lequel l'assureur doit, en vertu d'une disposition réglementaire, préparer une déclaration de renseignements pour l'année civile se terminant au cours de l'année d'imposition ou relativement à une police d'assurance-vie imposable de l'assureur; toutefois :

a) lorsque l'alinéa a) de l'élément B de la formule figurant à la définition de ***taux d'intérêt net*** au paragraphe 211(1) s'applique à une prestation garantie aux termes de la police pour une année d'imposition quelconque, le pourcentage de 100 % est remplacé, pour les années civiles ci-après les pourcentages suivants :

années précédant 1991 : 0 %,
1991 : 5 %,
1992 : 10 %,
1993 : 15 %,
1994 : 20 %,
1995 : 25 %,
1996 : 30 %,
1997 : 35 %,
1998 : 40 %,
1999 : 45 %,
années après 1999 : 50 %;

b) lorsque la police était une police d'assurance-vie garantie existante à un moment après 1989, le pourcentage de 100 % est remplacé, pour les années civiles ci-après, par les pourcentages suivants :

l'année où la police est devenue une police d'assurance-vie imposable de l'assureur : 0 %,
première année suivante : 0 %,
deuxième année suivante : 0 %,
troisième année suivante : 5 %,
quatrième année suivante : 10 %,
cinquième année suivante : 15 %
sixième année suivante : 20 %
septième année suivante : 25 %
huitième année suivante : 30 %
neuvième année suivante : 35 %
dixième année suivante : 40 %
onzième année suivante : 45 %
douzième année suivante et plus : 50 %.

Short taxation year

(4) Where a taxation year of a life insurer is less than 51 weeks, the values of A and D in subsection 211.1(3) for the year are that proportion of those values otherwise so

Année d'imposition de moins de 51 semaines

(4) Dans le cas où l'année d'imposition d'un assureur sur la vie compte moins de 51 semaines, la valeur pour l'année des éléments A et D des formules figurant au paragraphe (3) correspond au produit de la multiplication de

determined that the number of days in the year (other than February 29) is of 365.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 211.1; 1994, c. 7, Sch. II, s. 172; 1997, c. 25, s. 61; 1998, c. 19, s. 213; 2005, c. 19, s. 46; 2006, c. 4, s. 84.

la valeur de ces éléments, déterminée par ailleurs, par le rapport entre le nombre de jours de l'année, exception faite du 29 février des années bissextiles, et 365.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 211.1; 1994, ch. 7, ann. II, art. 172; 1997, ch. 25, art. 61; 1998, ch. 19, art. 213; 2005, ch. 19, art. 46; 2006, ch. 4, art. 84.

Return

211.2 Every life insurer shall file with the Minister, not later than the day on or before which it is required by section 150 to file its return of income for a taxation year under Part I, a return of taxable Canadian life investment income for that year in prescribed form containing an estimate of the tax payable by it under this Part for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 160.

Déclaration

211.2 Tout assureur sur la vie doit produire auprès du ministre une déclaration sur son revenu imposable de placements en assurance-vie au Canada pour une année d'imposition, sur le formulaire prescrit — qui doit contenir une estimation de l'impôt dont l'assureur est redevable en vertu de la présente partie pour l'année —, dans le délai imparti en vertu de l'article 150 pour la production de sa déclaration de revenu pour l'année en vertu de la partie I.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 160.

Instalments

211.3 (1) Every life insurer shall, in respect of each of its taxation years, pay to the Receiver General on or before the last day of each month in the year, an amount equal to 1/12 of the lesser of

(a) the amount estimated by the insurer to be the annualized tax payable under this Part by it for the year, and

(b) the annualized tax payable under this Part by the insurer for the immediately preceding taxation year.

Acomptes provisionnels

211.3 (1) Tout assureur sur la vie est tenu de payer au receveur général pour chacune de ses années d'imposition, au plus tard le dernier jour de chaque mois de l'année, le douzième du moins élevé des montants suivants :

a) le montant qu'il estime être son impôt payable pour l'année en vertu de la présente partie, calculé sur une année;

b) son impôt payable en vertu de la présente partie pour l'année d'imposition précédente, calculé sur une année.

Annualized tax payable

(2) For the purposes of subsections 211.3(1) and 211.5(2), the annualized tax payable under this Part by a life insurer for a taxation year is the amount determined by the formula

(365/A) × B

where

A is

(a) if the year is less than 357 days, the number of days in the year (other than February 29), and

(b) otherwise, 365; and

B is the tax payable under this Part by the insurer for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 211.3; 1998, c. 19, s. 214.

Impôt payable annualisé

(2) Pour l'application des paragraphes (1) et 211.5(2), l'impôt payable en vertu de la présente partie par un assureur sur la vie pour une année d'imposition, calculé sur une année, correspond au résultat du calcul suivant :

(365/A) × B

où :

A représente 365 ou, si l'année compte moins de 357 jours, le nombre de jours de l'année, exception faite du 29 février des années bissextiles;

B l'impôt payable en vertu de la présente partie par l'assureur pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 211.3; 1998, ch. 19, art. 214.

Payment of remainder of tax

211.4 Every life insurer shall pay, on or before its balance-due day for a taxation year, the remainder, if any, of

Paiement du solde

211.4 Tout assureur sur la vie doit payer, au plus tard à la date d'exigibilité du solde qui lui est applicable pour

the tax payable under this Part by the insurer for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 211.4; 2003, c. 15, s. 127.

Provisions applicable to Part

211.5 (1) Section 152, subsection 157(2.1), sections 158 and 159, subsections 161(1), 161(2), 161(2.1), 161(2.2) and 161(11), sections 162 to 167 and Division J of Part I apply to this Part, with such modifications as the circumstances require.

Interest on instalments

(2) For the purposes of subsection 161(2) and section 163.1 as they apply to this Part, a life insurer is, in respect of a taxation year, deemed to have been liable to pay, on or before the last day of each month in the year, an instalment equal to 1/12 of the lesser of

(a) the annualized tax payable under this Part by the insurer for the year, and

(b) the annualized tax payable under this Part by the insurer for the immediately preceding taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 211.5; 1994, c. 7, Sch. II, s. 173; 1998, c. 19, s. 215.

une année d'imposition, le solde de l'impôt dont il est redevable pour l'année en vertu de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 211.4; 2003, ch. 15, art. 127.

Dispositions applicables

211.5 (1) L'article 152, le paragraphe 157(2.1), les articles 158 et 159, les paragraphes 161(1), (2), (2.1), (2.2) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Intérêts sur les acomptes provisionnels

(2) Pour l'application du paragraphe 161(2) et de l'article 163.1 dans le cadre de la présente partie, un assureur sur la vie est réputé, pour une année d'imposition, avoir été redevable, au plus tard le dernier jour de chaque mois de l'année, d'un acompte provisionnel égal au douzième du moins élevé des montants suivants :

a) son impôt payable en vertu de la présente partie pour l'année, calculé sur une année;

b) son impôt payable en vertu de la présente partie pour l'année d'imposition précédente, calculé sur une année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 211.5; 1994, ch. 7, ann. II, art. 173; 1998, ch. 19, art. 215.

PART XII.4

Tax on Qualifying Environmental Trusts

Definitions

211.6 (1) The definitions in this section apply for the purposes of this Part.

excluded trust, at any time, means a trust that

(a) relates at that time to the reclamation of a well;

(b) is not maintained at that time to secure the reclamation obligations of one or more persons or partnerships that are beneficiaries under the trust;

(c) borrows money at that time;

(d) if the trust is not a trust to which paragraph (e) applies, acquires at that time any property that is not described by any of paragraphs (a), (b) and (f) of the definition ***qualified investment*** in section 204;

PARTIE XII.4

Impôt des fiducies pour l'environnement admissible

Définitions

211.6 (1) Les définitions qui suivent s'appliquent à la présente partie.

contrat admissible Relativement à une fiducie, contrat conclu avec Sa Majesté du chef du Canada ou d'une province au plus tard le 1er janvier 1996 ou, s'il est postérieur, le jour qui suit d'un an la date d'établissement de la fiducie. (*qualifying contract*)

fiducie exclue À un moment donné, fiducie qui, selon le cas :

a) concerne, à ce moment, la restauration d'un puits;

b) n'est pas administrée, à ce moment, dans le but de garantir l'exécution des obligations en matière de restauration d'une ou de plusieurs personnes ou sociétés de personnes qui sont bénéficiaires de la fiducie;

(e) if the trust is created after 2011 (or if the trust was created before 2012, it elects in writing filed with the Minister on or before its filing-due date for a particular taxation year to have subparagraphs (i) and (ii) apply to it for the particular taxation year and all subsequent taxation years, and that election is made jointly with Her Majesty in right of Canada or a particular province, depending upon the qualifying law or qualifying contract in respect of the trust),

(i) acquires at that time any property that is not described by any of paragraphs (a), (b), (c), (c.1), (d) and (f) of the definition ***qualified investment*** in section 204, or

(ii) holds at that time a prohibited investment;

(f) elected in writing filed with the Minister, before 1998 or before April of the year following the year in which the first contribution to the trust was made, never to have been a qualifying environmental trust; or

(g) was at any previous time during its existence not a qualifying environmental trust (as determined under the definition ***qualifying environmental trust*** in subsection 248(1) as it applied at that previous time). (*fiducie exclue*)

prohibited investment, of a trust at any time, means a property that

(a) at the time it was acquired by the trust, was described by any of paragraphs (c), (c.1) or (d) of the definition ***qualified investment*** in section 204; and

(b) was issued by

(i) a person or partnership that has contributed property to, or that is a beneficiary under, the trust,

(ii) a person that is related to, or a partnership that is affiliated with, a person or partnership that has contributed property to, or that is a beneficiary under, the trust, or

(iii) a particular person or partnership if

(A) another person or partnership holds a significant interest (within the meaning assigned by subsection 207.01(4) with any modifications that the circumstances require) in the particular person or partnership, and

(B) the holder of that significant interest has contributed property to, or is a beneficiary under, the trust. (*placement interdit*)

c) emprunte de l'argent à ce moment;

d) si elle n'est pas visée à l'alinéa e), acquiert, à ce moment, un bien qui n'est pas visé aux alinéas a), b) ou f) de la définition de ***placement admissible*** à l'article 204;

e) si elle est établie après 2011 ou si, ayant été établie avant 2012, elle fait, conjointement avec Sa Majesté du chef du Canada ou d'une province, selon la loi admissible ou le contrat admissible qui lui est applicable, un choix qu'elle présente au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour une année d'imposition donnée, afin que les sous-alinéas (i) et (ii) s'appliquent à elle pour l'année donnée et pour les années d'imposition postérieures :

(i) soit acquiert, à ce moment, un bien qui n'est pas visé aux alinéas a), b), c), c.1), d) ou f) de la définition de ***placement admissible*** à l'article 204,

(ii) soit détient, à ce moment, un placement interdit;

f) a présenté au ministre, avant 1998 ou avant avril de l'année suivant celle où un premier apport a été effectué à son profit, un choix afin d'être considérée comme n'ayant jamais été une fiducie pour l'environnement admissible;

g) à un moment antérieur au moment donné mais postérieur à son établissement, n'était pas une fiducie pour l'environnement admissible, selon la version de la définition de ce terme au paragraphe 248(1) qui s'appliquait à ce moment antérieur. (*excluded trust*)

fiducie pour l'environnement admissible Fiducie qui remplit les conditions suivantes :

a) chacun de ses fiduciaires est :

(i) Sa Majesté du chef du Canada ou d'une province,

(ii) une société résidant au Canada qui est titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise d'offre au public de services de fiduciaire;

b) elle est administrée dans l'unique but de financer la restauration d'un site admissible;

c) elle doit ou pourrait devoir être administrée selon :

(i) soit les modalités d'un contrat admissible,

QET income tax rate, for a trust's taxation year, means the amount, expressed as a decimal fraction, by which

(a) the percentage rate of tax provided under paragraph 123(1)(a) for the taxation year

exceeds

(b) the total of

(i) the percentage that would, if the trust were a corporation, be its general rate reduction percentage, within the meaning assigned by subsection 123.4(1), for the taxation year, and

(ii) the percentage deduction from tax provided under subsection 124(1) for the taxation year. (*taux d'impôt sur le revenu des FEA*)

qualifying contract, in respect of a trust, means a contract entered into with Her Majesty in right of Canada or a province on or before the later of January 1, 1996 and the day that is one year after the day on which the trust was created. (*contrat admissible*)

qualifying environmental trust means a trust

(a) each trustee of which is

(i) Her Majesty in right of Canada or a province, or

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

(b) that is maintained for the sole purpose of funding the reclamation of a qualifying site;

(c) that is, or may become, required to be maintained under

(i) the terms of a qualifying contract, or

(ii) a qualifying law; and

(d) that is not an excluded trust. (*fiducie pour l'environnement admissible*)

qualifying law, in respect of a trust, means

(a) a law of Canada or a province that was enacted on or before the later of January 1, 1996 and the day that is one year after the day on which the trust was created; and

(ii) soit une loi admissible;

d) elle n'est pas une fiducie exclue. (*qualifying environmental trust*)

loi admissible Relativement à une fiducie :

a) loi fédérale ou provinciale édictée au plus tard le 1er janvier 1996 ou, s'il est postérieur, le jour qui suit d'un an la date d'établissement de la fiducie;

b) si la fiducie est établie après 2011, ordonnance rendue :

(i) par un tribunal constitué en vertu d'une loi visée à l'alinéa a),

(ii) au plus tard le jour qui suit d'un an la date d'établissement de la fiducie. (*qualifying law*)

placement interdit Est un placement interdit d'une fiducie à un moment donné le bien qui, à la fois :

a) au moment de son acquisition par la fiducie, était visé à l'un des alinéas c), c.1) ou d) de la définition de ***placement admissible*** à l'article 204;

b) a été émis par l'une des entités suivantes :

(i) une personne ou une société de personnes qui a fait un apport de biens à la fiducie ou qui est bénéficiaire de celle-ci,

(ii) une personne liée, ou une société de personnes affiliée, à une personne ou à une société de personnes qui a fait un apport de biens à la fiducie ou qui est bénéficiaire de celle-ci,

(iii) une personne ou société de personnes donnée à l'égard de laquelle les faits ci-après s'avèrent :

(A) une autre personne ou société de personnes détient une participation notable, au sens du paragraphe 207.01(4), compte tenu des adaptations nécessaires, dans la personne ou société de personnes donnée,

(B) le détenteur de cette participation notable a fait un apport de biens à la fiducie ou est bénéficiaire de celle-ci. (*prohibited investment*)

site admissible Relativement à une fiducie, site au Canada qui est ou a été utilisé principalement à l'une ou plusieurs des fins suivantes :

a) l'exploitation d'une mine;

(b) if the trust was created after 2011, an order made

(i) by a tribunal constituted under a law described by paragraph (a), and

(ii) on or before the day that is one year after the day on which the trust was created. (*loi admissible*)

qualifying site, in respect of a trust, means a site in Canada that is or has been used primarily for, or for any combination of,

(a) the operation of a mine,

(b) the extraction of clay, peat, sand, shale or aggregates (including dimension stone and gravel),

(c) the deposit of waste, or

(d) if the trust was created after 2011, the operation of a pipeline. (*site admissible*)

b) l'extraction d'argile, de tourbe, de sable, de schiste ou d'agrégats, y compris la pierre de taille et le gravier;

c) l'entassement de déchets;

d) si la fiducie a été établie après 2011, l'exploitation d'un pipeline. (*qualifying site*)

taux d'impôt sur le revenu des FEA Pour une année d'imposition d'une fiducie, l'excédent, exprimé en fraction décimale, du taux visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le taux d'impôt fixé à l'alinéa 123(1)a) pour l'année;

b) le total des pourcentages suivants :

(i) le pourcentage de réduction du taux général, au sens du paragraphe 123.4(1), qui s'appliquerait à la fiducie pour l'année si elle était une société,

(ii) le taux de la déduction d'impôt prévue au paragraphe 124(1) pour l'année. (*QET income tax rate*)

Charging provision

(2) Every trust that is a qualifying environmental trust at the end of a taxation year (other than a trust that is at that time described by paragraph 149(1)(z.1) or (z.2)) shall pay a tax under this Part for the year equal to the amount determined by the formula

A × B

where

A is the trust's income (computed as if this Act were read without reference to subsections 104(4) to (31) and sections 105 to 107) under Part I for the year; and

B is the QET income tax rate for the year.

Assujettissement

(2) La fiducie qui est une fiducie pour l'environnement admissible à la fin d'une année d'imposition, à l'exception d'une fiducie qui, à ce moment, est visée aux alinéas 149(1)z.1) ou z.2), est tenue de payer en vertu de la présente partie pour l'année un impôt égal à la somme obtenue par la formule suivante :

A × B

où :

A représente son revenu, calculé en vertu de la partie I pour l'année compte non tenu des paragraphes 104(4) à (31) ni des articles 105 à 107;

B le taux d'impôt sur le revenu des FEA pour l'année.

Return

(3) Every trust that is a qualifying environmental trust at the end of a taxation year shall file with the Minister on or before its filing-due date for the year a return for the year under this Part in prescribed form containing an estimate of the amount of its tax payable under this Part for the year.

Déclaration

(3) La fiducie qui est une fiducie pour l'environnement admissible à la fin d'une année d'imposition est tenue de produire auprès du ministre, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, une déclaration pour l'année en vertu de la présente partie sur formulaire prescrit contenant une estimation de son impôt payable en vertu de la présente partie pour l'année.

Payment of tax

(4) Every trust shall pay to the Receiver General its tax payable under this Part for each taxation year on or before its balance-due day for the year.

Paiement de l'impôt

(4) Toute fiducie est tenue de payer au receveur général son impôt payable en vertu de la présente partie pour chaque année d'imposition, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année.

Provisions applicable to Part

(5) Subsections 150(2) and 150(3), sections 152, 158 and 159, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I apply to this Part, with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 211.6; 1994, c. 7, Sch. II, s. 173; 1995, c. 3, s. 50; 1998, c. 19, s. 61; 2011, c. 24, s. 69.

Dispositions applicables

(5) Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 211.6; 1994, ch. 7, ann. II, art. 173; 1995, ch. 3, art. 50; 1998, ch. 19, art. 61; 2011, ch. 24, art. 69.

PART XII.5

Recovery of Labour-sponsored Funds Tax Credit

Definitions

211.7 (1) The definitions in this section apply for the purposes of this Part.

approved share has the meaning assigned by subsection 127.4(1). (*action approuvée*)

labour-sponsored funds tax credit in respect of a share is

(a) where the original acquisition of the share occurred before 1996, 20% of the net cost of the share on that acquisition;

(b) in any other case, the amount that would be determined under subsection 127.4(6) in respect of the share if this Act were read without reference to its paragraphs (b) and (d). (*crédit d'impôt relatif à un fonds de travailleurs*)

(c) [Repealed, 2016, c. 7, s. 44]

net cost has the meaning assigned by subsection 127.4(1). (*coût net*)

original acquisition has the meaning assigned by subsection 127.4(1). (*acquisition initiale*)

qualifying exchange means an exchange by a taxpayer of an approved share, that is part of a series of Class A shares of the capital stock of a corporation, for another approved share, that is part of another series of Class A shares of the capital stock of the corporation, if

(a) the only consideration received by the taxpayer on the exchange is the other share; and

(b) the rights in respect of the series are identical except for the portion of the reserve (within the meaning assigned by subsection 204.8(1)) of the corporation

PARTIE XII.5

Recouvrement du crédit d'impôt relatif à un fonds de travailleurs

Définitions

211.7 (1) Les définitions qui suivent s'appliquent à la présente partie.

acquisition initiale S'entend au sens du paragraphe 127.4(1). (*original acquisition*)

action approuvée S'entend au sens du paragraphe 127.4(1). (*approved share*)

coût net S'entend au sens du paragraphe 127.4(1). (*net cost*)

crédit d'impôt relatif à un fonds de travailleurs Quant à une action :

a) si l'acquisition initiale de l'action a eu lieu avant 1996, 20 % de son coût net au moment de cette acquisition;

b) dans les autres cas, le montant qui serait déterminé selon le paragraphe 127.4(6) relativement à l'action compte non tenu des alinéas b) et d) de ce paragraphe. (*labour-sponsored funds tax credit*)

c) [Abrogé, 2016, ch. 7, art. 44]

échange admissible Échange, effectué par un contribuable, d'une action approuvée qui fait partie d'une série d'actions de catégorie A du capital-actions d'une société, contre une autre action approuvée qui fait partie d'une autre série d'actions de catégorie A du capital-actions de la société, dans le cadre duquel les faits ci-après se vérifient :

a) la seule contrepartie que le contribuable reçoit lors de l'échange est l'autre action;

b) les droits relatifs aux séries sont identiques sauf en ce qui a trait à la partie de la réserve, au sens du

that is attributable to each series. (*échange admissible*)

qualifying trust has the meaning assigned by subsection 127.4(1). (*fiducie admissible*)

revoked corporation means a corporation the registration of which has been revoked under subsection 204.81(6). (*société radiée*)

paragraphe 204.8(1), de la société qui est attribuable à chaque série. (*qualifying exchange*)

fiducie admissible S'entend au sens du paragraphe 127.4(1). (*qualifying trust*)

société radiée Société dont l'agrément a été retiré en vertu du paragraphe 204.81(6). (*revoked corporation*)

Amalgamations and mergers

(2) For the purposes of this Part, where two or more corporations (each of which is referred to in this subsection as a "predecessor corporation") amalgamate or merge to form a corporate entity deemed by paragraph 204.85(3)(d) to have been registered under Part X.3, the shares of each predecessor corporation are deemed not to be redeemed, acquired or cancelled by the predecessor corporation on the amalgamation or merger.

Fusions et unifications

(2) Pour l'application de la présente partie, lorsque plusieurs sociétés (appelées chacune « société remplacée » au présent paragraphe) ont fusionné ou se sont unifiées pour former une société qui est réputée par l'alinéa 204.85(3)d) avoir été agréée pour l'application de la partie X.3, les actions de chaque société remplacée sont réputées ne pas être rachetées, acquises ou annulées par la société remplacée au moment de la fusion ou de l'unification.

Exchangeable shares

(3) For the purposes of this Part and Part X.3, if an approved share of the capital stock of a corporation (referred to in this subsection as the "new share") has been issued in exchange for another approved share (referred to in this subsection as the "original share") in a qualifying exchange, the new share is deemed not to have been issued on the exchange and is deemed to have been issued at the time the corporation issued the original share.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 62; 2000, c. 19, s. 61; 2013, c. 34, s. 343, c. 40, s. 80; 2016, c. 7, s. 44.

Actions échangeables

(3) Pour l'application de la présente partie et de la partie X.3, dans le cas où une action approuvée du capital-actions d'une société (appelée « nouvelle action » au présent paragraphe) est émise en échange d'une autre action approuvée (appelée « action initiale » au présent paragraphe) lors d'un échange admissible, la nouvelle action est réputée ne pas avoir été émise au moment de l'échange mais avoir été émise au moment où la société a émis l'action initiale.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 62; 2000, ch. 19, art. 61; 2013, ch. 34, art. 343, ch. 40, art. 80; 2016, ch. 7, art. 44.

Disposition of approved share

211.8 (1) If an approved share of the capital stock of a registered labour-sponsored venture capital corporation or a revoked corporation is, before the first discontinuation of its venture capital business, redeemed, acquired or cancelled by the corporation less than eight years after the day on which the share was issued (other than in circumstances described in subclause 204.81(1)(c)(v)(A)(I) or (III) or clause 204.81(1)(c)(v)(B) or (D) or other than if the share is a Class A share of the capital stock of the corporation that is exchanged for another Class A share of the capital stock of the corporation as part of a qualifying exchange) or any other share that was issued by any other labour-sponsored venture capital corporation is disposed of, the person who was the shareholder immediately before the redemption, acquisition, cancellation or disposition shall pay a tax under this Part equal to the lesser of

Disposition d'une action approuvée

211.8 (1) En cas de rachat, d'acquisition ou d'annulation par une société agréée à capital de risque de travailleurs ou une société radiée d'une action approuvée de son capital-actions avant le premier abandon de son entreprise à capital de risque, mais moins de huit ans après le jour de l'émission de l'action (autrement que dans les circonstances visées aux subdivisions 204.81(1)c)(v)(A)(I) ou (III) ou aux divisions 204.81(1)c)(v)(B) ou (D) ou autrement que dans le cas où l'action est une action de catégorie A du capital-actions de la société qui est échangée contre une autre action de catégorie A du capital-actions de la société dans le cadre d'un échange admissible) ou en cas de disposition d'une autre action émise par une autre société à capital de risque de travailleurs, la personne qui était l'actionnaire immédiatement avant le rachat, l'acquisition, l'annulation ou la disposition est tenue de payer, en vertu de la présente partie, un impôt égal à la moins élevée des sommes suivantes :

(a) the amount determined by the formula

A × B

where

A is

(i) where the share was issued by a registered labour-sponsored venture capital corporation or a revoked corporation, the labour-sponsored funds tax credit in respect of the share, and

(ii) where the share was issued by any other labour-sponsored venture capital corporation and was at any time an approved share, the amount, if any, required to be remitted to the government of a province as a consequence of the redemption, acquisition, cancellation or disposition (otherwise than as a consequence of an increase in the corporation's liability for a penalty under a law of the province), and

B is

(i) nil, where the share was issued by a registered labour-sponsored venture capital corporation or a revoked corporation, the original acquisition of the share was before March 6, 1996 and the redemption, acquisition, cancellation or disposition is

(A) more than 2 years after the day on which it was issued, where the redemption, acquisition, cancellation or disposition is permitted under the articles of the corporation because an individual attains 65 years of age, retires from the workforce or ceases to be resident in Canada,

(B) more than five years after its issuance, or

(C) if the day that is five years after its issuance is in February or March of a calendar year, in February or on March 1st of that calendar year but not more than 31 days before that day,

(i.1) nil, where the share was issued by a registered labour-sponsored venture capital corporation or a revoked corporation, the original acquisition of the share was after March 5, 1996 and the redemption, acquisition or cancellation is in February or on March 1st of a calendar year but is not more than 31 days before the day that is eight years after the day on which the share was issued,

a) le résultat du calcul suivant :

A × B

où :

A représente :

(i) si l'action a été émise par une société agréée à capital de risque de travailleurs ou par une société radiée, le crédit d'impôt relatif à un fonds de travailleurs au titre de l'action,

(ii) si l'action a été émise par une autre société à capital de risque de travailleurs et a été une action approuvée à un moment donné, le montant à verser au gouvernement d'une province par suite du rachat, de l'acquisition, de l'annulation ou de la disposition (autrement que par suite d'un accroissement de l'assujettissement de la société à une pénalité en vertu d'une loi de la province),

B :

(i) zéro, si l'action a été émise par une société agréée à capital de risque de travailleurs ou par une société radiée, si son acquisition initiale a eu lieu avant le 6 mars 1996 et si le rachat, l'acquisition, l'annulation ou la disposition est effectué, selon le cas :

(A) plus de deux ans après le jour de son émission, dans le cas où les statuts de la société permettent le rachat, l'acquisition, l'annulation ou la disposition lorsqu'un particulier atteint l'âge de 65 ans, quitte le marché du travail ou cesse de résider au Canada,

(B) plus de cinq ans après son émission,

(C) si le jour qui suit de cinq ans son émission est en février ou mars d'une année civile, en février ou le 1er mars de cette année, mais au plus 31 jours avant ce jour,

(i.1) zéro, si l'action a été émise par une société agréée à capital de risque de travailleurs ou par une société radiée, si son acquisition initiale a eu lieu après le 5 mars 1996 et si le rachat, l'acquisition ou l'annulation est effectué en février ou le 1er mars d'une année civile, mais au plus 31 jours avant le jour qui suit de huit ans l'émission de l'action,

(ii) un, dans les autres cas où l'action a été émise par une société agréée à capital de risque de travailleurs ou par une société radiée,

(iii) le quotient obtenu par la division du crédit d'impôt relatif à un fonds de travailleurs au titre de l'action par le crédit d'impôt prévu par

(ii) one, in any other case where the share was issued by a registered labour-sponsored venture capital corporation or a revoked corporation, and

(iii) in any other case, the quotient obtained when the labour-sponsored fund tax credit in respect of the share is divided by the tax credit provided under a law of a province in respect of any previous acquisition of the share, and

(b) the amount that would, but for subsection 211.8(2), be payable to the shareholder because of the redemption, acquisition, cancellation or disposition (determined after taking into account the amount determined under subparagraph (ii) of the description of A in paragraph 211.8(1)(a)).

une loi provinciale relativement à une acquisition antérieure de l'action, dans les autres cas;

b) le montant qui, en l'absence du paragraphe (2), serait payable à l'actionnaire en raison du rachat, de l'acquisition, de l'annulation ou de la disposition, déterminé compte tenu du montant visé au sous-alinéa (ii) de l'élément A de la formule figurant à l'alinéa a).

Rules of application

(1.1) Subsections 204.8(2) and (3) and 204.85(3) apply for the purpose of subsection (1).

Withholding and remittance of tax

(2) Where a person or partnership (in this section referred to as the "transferee") redeems, acquires or cancels a share and, as a consequence, tax is payable under this Part by the person who was the shareholder immediately before the redemption, acquisition or cancellation, the transferee shall

(a) withhold from the amount otherwise payable on the redemption, acquisition or cancellation to the shareholder the amount of the tax;

(b) within 30 days after the redemption, acquisition or cancellation, remit the amount of the tax to the Receiver General on behalf of the shareholder; and

(c) submit with the remitted amount a statement in prescribed form.

Liability for tax

(3) Where a transferee has failed to withhold any amount as required by subsection 211.8(2) from an amount paid or credited to a shareholder, the transferee is liable to pay as tax under this Part on behalf of the shareholder the amount the transferee failed to withhold, and is entitled to recover that amount from the shareholder.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 62; 2000, c. 19, s. 62; 2013, c. 34, s. 344.

Règles d'application

(1.1) Les paragraphes 204.8(2) et (3) et 204.85(3) s'appliquent dans le cadre du paragraphe (1).

Retenue et versement de l'impôt

(2) Lorsqu'une personne ou une société de personnes (appelées « cessionnaire » au présent article) rachète, acquiert ou annule une action et que, en conséquence, un impôt est payable en vertu de la présente partie par la personne qui était l'actionnaire immédiatement avant le rachat, l'acquisition ou l'annulation, le cessionnaire est tenu, à la fois :

a) de retenir cet impôt sur le montant payable par ailleurs à l'actionnaire lors du rachat, de l'acquisition ou de l'annulation;

b) de verser cet impôt au receveur général pour le compte de l'actionnaire dans les 30 jours suivant le rachat, l'acquisition ou l'annulation;

c) d'accompagner le versement d'un état sur le formulaire prescrit.

Assujettissement

(3) Le cessionnaire est tenu de payer pour le compte de l'actionnaire, au titre de l'impôt prévu par la présente partie, toute somme qu'il n'a pas retenue conformément au paragraphe (2) sur un montant versé à l'actionnaire ou porté à son crédit. Il peut recouvrer la somme ainsi payée de l'actionnaire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 62; 2000, ch. 19, art. 62; 2013, ch. 34, art. 344.

Tax for failure to reacquire certain shares

211.81 If a particular amount is payable under a prescribed provision of a provincial law for a taxation year of an individual as determined for the purposes of that provincial law (referred to in this section as the "relevant provincial year"), and an amount has been included in the computation of the labour-sponsored funds tax credit of the individual under subsection 127.4(6) in respect of an approved share that has been disposed of by a qualifying trust in respect of the individual, the individual shall pay a tax for the taxation year in which the relevant provincial year ends equal to the amount deducted by the individual under subsection 127.4(2) in respect of the share.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 345, c. 40, s. 81.

Return

211.82 (1) Every person that is liable to pay tax under this Part for a taxation year shall, not later than the day on or before which the person is required by section 150 to file a return of income for the year under Part I, file with the Minister a return for the year under this Part in prescribed form containing an estimate of the tax payable by the person for the year.

Provisions applicable to this Part

(2) Subsections 150(2) and (3), sections 152, 158 and 159, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I apply to this Part, with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 345.

211.9 [Repealed, 2013, c. 34, s. 346]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 62; 2000, c. 19, s. 63; 2013, c. 34, s. 346.

PART XII.6

Tax on Flow-through Shares

Tax imposed

211.91 (1) Every corporation shall pay a tax under this Part in respect of each month (other than January) in a calendar year equal to the amount determined by the formula

(A + B/2 - C - D/2) × (E/12 + F/10)

where

Impôt pour défaut d'acquérir de nouveau certaines actions

211.81 Si une somme donnée est payable en vertu d'une disposition visée par règlement d'une loi provinciale pour une année d'imposition d'un particulier, déterminée pour l'application de cette loi (appelée « année provinciale applicable » au présent article), et qu'une somme a été incluse dans le calcul du crédit d'impôt relatif à un fonds de travailleurs du particulier selon le paragraphe 127.4(6) au titre d'une action approuvée dont une fiducie admissible quant au particulier a disposé, le particulier est tenu de payer, pour l'année d'imposition dans laquelle l'année provinciale applicable prend fin, un impôt égal au montant qu'il a déduit en application du paragraphe 127.4(2) au titre de l'action.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 345, ch. 40, art. 81.

Déclaration

211.82 (1) Toute personne qui est redevable d'un impôt en application de la présente partie pour une année d'imposition doit, au plus tard à la date où elle est tenue par l'article 150 de produire une déclaration de revenu pour l'année en vertu de la partie I, présenter au ministre, sur le formulaire prescrit, une déclaration pour l'année en vertu de la présente partie contenant une estimation de l'impôt à payer par elle pour l'année.

Dispositions applicables

(2) Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 345.

211.9 [Abrogé, 2013, ch. 34, art. 346]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 62; 2000, ch. 19, art. 63; 2013, ch. 34, art. 346.

PARTIE XII.6

Impôt sur les actions accréditives

Assujettissement

211.91 (1) Toute société doit payer en vertu de la présente partie pour chaque mois, sauf janvier, d'une année civile un impôt égal au résultat du calcul suivant :

(A + B/2 - C - D/2) × (E/12 + F/10)

où :

A is the total of all amounts each of which is an amount that the corporation purported to renounce in the year under subsection 66(12.6) or 66(12.601) because of the application of subsection 66(12.66) (other than an amount purported to be renounced in respect of expenses incurred or to be incurred in connection with production or potential production in a province where a tax, similar to the tax provided under this Part, is payable by the corporation under the laws of the province as a consequence of the failure to incur the expenses that were purported to be renounced);

B is the total of all amounts each of which is an amount that the corporation purported to renounce in the year under subsection 66(12.6) or 66(12.601) because of the application of subsection 66(12.66) and that is not included in the value of A;

C is the total of all expenses described in paragraph 66(12.66)(b) that are

(a) made or incurred by the end of the month by the corporation, and

(b) in respect of the purported renunciations in respect of which an amount is included in the value of A;

D is the total of all expenses described in paragraph 66(12.66)(b) that are

(a) made or incurred by the end of the month by the corporation, and

(b) in respect of the purported renunciations in respect of which an amount is included in the value of B;

E is the rate of interest prescribed for the purpose of subsection 164(3) for the month; and

F is

(a) one, where the month is December, and

(b) nil, in any other case.

A représente le total des montants représentant chacun un montant auquel elle a censément renoncé au cours de l'année en vertu des paragraphes 66(12.6) ou (12.601) par l'effet du paragraphe 66(12.66), à l'exception d'un montant auquel il a censément été renoncé au titre de frais engagés ou à engager relativement à la production réelle ou éventuelle dans une province où un impôt, semblable à celui prévu par la présente partie, est payable par la société aux termes des lois provinciales par suite du défaut d'engager les frais auxquels il a censément été renoncé;

B le total des montants représentant chacun un montant auquel elle a censément renoncé au cours de l'année en vertu des paragraphes 66(12.6) ou (12.601) par l'effet du paragraphe 66(12.66) et qui n'est pas inclus dans la valeur de l'élément A;

C le total des frais visés à l'alinéa 66(12.66)b) qui, à la fois :

a) sont engagés ou effectués par la société au plus tard à la fin du mois,

b) se rapportent aux renonciations censément effectuées et relativement auxquelles un montant est inclus dans la valeur de l'élément A;

D le total des frais visés à l'alinéa 66(12.66)b) qui, à la fois :

a) sont engagés ou effectués par la société au plus tard à la fin du mois,

b) se rapportent aux renonciations censément effectuées et relativement auxquelles un montant est inclus dans la valeur de l'élément B;

E le taux d'intérêt prescrit pour le mois pour l'application du paragraphe 164(3);

F :

a) un, si le mois en question est décembre,

b) zéro, dans les autres cas.

Return and payment of tax

(2) A corporation liable to tax under this Part in respect of one or more months in a calendar year shall, before March of the following calendar year,

(a) file with the Minister a return for the year under this Part in prescribed form containing an estimate of the tax payable under this Part by it in respect of each month in the year; and

(b) pay to the Receiver General the amount of tax payable under this Part by it in respect of each month in the year.

Déclaration et paiement de l'impôt

(2) La société redevable de l'impôt prévu par la présente partie pour un ou plusieurs mois d'une année civile doit, avant mars de l'année civile subséquente :

a) présenter au ministre, sur le formulaire prescrit, une déclaration pour l'année en vertu de la présente partie contenant une estimation de son impôt payable en vertu de cette partie pour chaque mois de l'année;

b) verser cet impôt au receveur général.

Provisions applicable to Part

(3) Subsections 150(2) and 150(3), sections 152, 158 and 159, subsections 161(1) and 161(11), sections 162 to 167 and Division J of Part I apply to this Part, with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 62.

Dispositions applicables

(3) Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 161(1) et (11), les articles 162 à 167 et la section j de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 62.

PART XIII

Tax on Income from Canada of Non-resident Persons

Tax

212 (1) Every non-resident person shall pay an income tax of 25% on every amount that a person resident in Canada pays or credits, or is deemed by Part I to pay or credit, to the non-resident person as, on account or in lieu of payment of, or in satisfaction of,

Management fee

(a) a management or administration fee or charge;

Interest

(b) interest that

(i) is not fully exempt interest and is paid or payable

(A) to a person with whom the payer is not dealing at arm's length, or

(B) in respect of a debt or other obligation to pay an amount to a person with whom the payer is not dealing at arm's length, or

(ii) is participating debt interest;

Estate or trust income

(c) income of or from an estate or a trust to the extent that the amount

(i) is included in computing the income of the non-resident person under subsection 104(13), except to the extent that the amount is deemed by subsection 104(21) to be a taxable capital gain of the non-resident person, or

(ii) can reasonably be considered (having regard to all the circumstances including the terms and conditions of the estate or trust arrangement) to be a distribution of, or derived from, an amount

PARTIE XIII

Impôt sur le revenu de personnes non-résidentes provenant du Canada

Impôt

212 (1) Toute personne non-résidente doit payer un impôt sur le revenu de 25 % sur toute somme qu'une personne résidant au Canada lui paie ou porte à son crédit, ou est réputée en vertu de la partie I lui payer ou porter à son crédit, au titre ou en paiement intégral ou partiel :

Honoraires ou frais d'administration

a) des honoraires ou frais de gestion ou d'administration;

Intérêts

b) d'intérêts qui, selon le cas :

(i) ne sont pas des intérêts entièrement exonérés et sont payés ou payables :

(A) soit à une personne avec laquelle le payeur a un lien de dépendance,

(B) soit relativement à une dette ou autre obligation de payer une somme à une personne avec laquelle le payeur a un lien de dépendance,

(ii) sont des intérêts sur des créances participatives;

Revenu d'une succession ou d'une fiducie

c) du revenu d'une succession ou d'une fiducie, ou en provenant, dans la mesure où cette somme, selon le cas :

(i) est incluse dans le calcul du revenu de la personne non-résidente selon le paragraphe 104(13), sauf dans la mesure où elle est réputée, par le paragraphe 104(21), être un gain en capital imposable de cette personne,

received by the estate or trust as, on account of, in lieu of payment of or in satisfaction of, a dividend on a share of the capital stock of a corporation resident in Canada, other than a taxable dividend;

Rents, royalties, etc.

(d) rent, royalty or similar payment, including, but not so as to restrict the generality of the foregoing, any payment

(i) for the use of or for the right to use in Canada any property, invention, trade-name, patent, trademark, design or model, plan, secret formula, process or other thing whatever,

(ii) for information concerning industrial, commercial or scientific experience where the total amount payable as consideration for that information is dependent in whole or in part on

(A) the use to be made of, or the benefit to be derived from, that information,

(B) production or sales of goods or services, or

(C) profits,

(iii) for services of an industrial, commercial or scientific character performed by a non-resident person where the total amount payable as consideration for those services is dependent in whole or in part on

(A) the use to be made of, or the benefit to be derived from, those services,

(B) production or sales of goods or services, or

(C) profits,

but not including a payment made for services performed in connection with the sale of property or the negotiation of a contract,

(iv) unless paragraph (i) applies to the amount, made pursuant to an agreement between a person resident in Canada and a non-resident person under which the non-resident person agrees not to use or not to permit any other person to use any thing referred to in subparagraph (i) or any information referred to in subparagraph (ii), or

(v) that was dependent on the use of or production from property in Canada whether or not it was an instalment on the sale price of the property, but not including an instalment on the sale price of agricultural land,

(ii) peut raisonnablement être considérée, compte tenu des circonstances, y compris les modalités de la succession ou de l'acte de fiducie, comme la distribution d'un montant reçu par la succession ou la fiducie, ou comme une somme provenant d'un tel montant, au titre d'un dividende non imposable sur une action du capital-actions d'une société résidant au Canada;

Loyers, redevances et autres paiements

d) du loyer, de la redevance ou d'un paiement semblable, y compris, sans préjudice de la portée générale de ce qui précède, un paiement fait :

(i) en vue d'utiliser, ou d'obtenir le droit d'utiliser, au Canada, des biens, inventions, appellations, brevets, marques de commerce, dessins ou modèles, plans, formules secrètes, procédés de fabrication, ou toute autre chose,

(ii) pour des renseignements relatifs à des connaissances industrielles, commerciales et scientifiques lorsque la somme totale payable à titre de contrepartie pour ces renseignements dépend en totalité ou en partie :

(A) de l'utilisation qui doit en être faite ou de l'avantage qui doit en être tiré,

(B) de la production ou de la vente de marchandises ou de services,

(C) des bénéfices,

(iii) pour des services de nature industrielle, commerciale ou scientifique, rendus par une personne qui est un non-résident lorsque la somme totale payable à titre de contrepartie pour ces services dépend en totalité ou en partie :

(A) de l'utilisation qui doit en être faite ou de l'avantage qui doit en être tiré,

(B) de la production ou de la vente de marchandises ou de services,

(C) des bénéfices,

mais à l'exclusion d'un paiement effectué pour des services fournis pour la vente de biens ou la négociation d'un contrat,

(iv) sauf si l'alinéa i) s'applique au montant, conformément à une convention, entre une personne qui réside au Canada et une personne non-résidente, en vertu de laquelle cette dernière

but not including

(vi) a royalty or similar payment on or in respect of a copyright in respect of the production or reproduction of any literary, dramatic, musical or artistic work,

(vii) a payment in respect of the use by a railway company or by a person whose principal business is that of a common carrier of property that is railway rolling stock as defined in the definition ***rolling stock*** in section 2 of the *Railway Act*

(A) if the payment is made for the use of that property for a period or periods not expected to exceed in the aggregate 90 days in any 12 month period, or

(B) in any other case, if the payment is made pursuant to an agreement in writing entered into before November 19, 1974;

(viii) a payment made under a *bona fide* cost-sharing arrangement under which the person making the payment shares on a reasonable basis with one or more non-resident persons research and development expenses in exchange for an interest, or for civil law a right, in any or all property or other things of value that may result therefrom,

(ix) a rental payment for the use of or the right to use outside Canada any tangible, or for civil law corporeal, property,

(x) any payment made to a person with whom the payer is dealing at arm's length, to the extent that the amount thereof is deductible in computing the income of the payer under Part I from a business carried on by the payer in a country other than Canada,

(xi) a payment made to a person with whom the payer is dealing at arm's length for the use of or the right to use property that is

(A) an aircraft,

(B) furniture, fittings or equipment attached to an aircraft,

(C) a spare part for property described in clause 212(1)(d)(xi)(A) or 212(1)(d)(xi)(B),

(D) air navigation equipment utilized in the provision of services under the *Civil Air Navigation Services Commercialization Act* or computer software the use of which is necessary for the

convient de ne pas utiliser et de ne permettre à aucune autre personne d'utiliser une chose mentionnée au sous-alinéa (i) ou les renseignements dont il est fait mention au sous-alinéa (ii),

(v) qui dépendait de l'utilisation de biens situés au Canada, ou d'une production tirée de ces biens, qu'il ait constitué ou non un acompte sur le prix de vente des biens, à l'exclusion d'un acompte sur le prix de vente de terres agricoles,

mais à l'exclusion :

(vi) d'une redevance ou d'un paiement semblable à l'égard d'un droit d'auteur au titre de la production ou de la reproduction d'une œuvre littéraire, dramatique, musicale ou artistique,

(vii) d'un paiement relativement à l'emploi par une compagnie de chemins de fer ou par une personne dont l'activité d'entreprise principale consiste, à titre de voiturier public, à transporter des biens qui font partie du matériel roulant selon la définition de ***matériel roulant*** à l'article 2 de la *Loi sur les chemins de fer* :

(A) si ce paiement est fait pour l'emploi de ce bien pendant une ou plusieurs périodes dont la durée totale présumée ne peut dépasser 90 jours dans toute période de 12 mois,

(B) dans tout autre cas, si ce paiement est fait conformément à une convention écrite conclue avant le 19 novembre 1974,

(viii) d'un paiement effectué en vertu d'un accord, conclu de bonne foi, relatif au partage des frais et en vertu duquel la personne effectuant le paiement partage sur une base raisonnable, avec une ou plusieurs personnes non-résidentes, des frais de recherche et de développement appliqués en échange d'un intérêt ou, pour l'application du droit civil, d'un droit portant sur tous les biens ou toutes les autres choses de valeur qui peuvent en résulter,

(ix) d'un loyer en vue d'utiliser ou d'obtenir le droit d'utiliser à l'étranger tout bien tangible ou, pour l'application du droit civil, tout bien corporel,

(x) tout paiement fait à une personne avec laquelle le payeur n'a aucun lien de dépendance, dans la mesure où le montant de ce paiement est déductible dans le calcul du revenu que le payeur tire, en vertu de la partie I, d'une entreprise qu'il exploite dans un pays étranger;

operation of that equipment that is used by the payer for no other purpose; or

(xii) an amount to which subsection (5) would apply if that subsection were read without reference to "to the extent that the amount relates to that use or reproduction";

Timber royalties

(e) a timber royalty in respect of a timber resource property or a timber limit in Canada (which, for the purposes of this Part, includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber resource property or a timber limit in Canada is obtained or derived, to the extent that the consideration is dependent on, or computed by reference to, the amount of timber cut or taken);

(f) [Repealed, 1997, c. 25, s. 63]

Patronage dividend

(g) a patronage dividend, that is, a payment made pursuant to an allocation in proportion to patronage as defined by section 135 or an amount that would, under subsection 135(7), be included in computing the non-resident person's income if that person were resident in Canada;

Pension benefits

(h) a payment of a superannuation or pension benefit, other than

(i) [Repealed, 1996, c. 21, s. 55]

(ii) an amount distributed from a pooled registered pension plan that has been designated by the administrator of the plan in accordance with subsection 147.5(18),

(iii) an amount or payment referred to in subsection 81(1) to the extent that that amount or payment would not, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made, be included in computing that person's income,

(iii.1) the portion of the payment that is transferred by the payer on behalf of the non-resident person, pursuant to an authorization in prescribed form, to a pooled registered pension plan, registered pension plan, registered retirement savings plan or registered retirement income fund and that

(A) because of any of subsections 146(21), 147.3(9) and 147.5(22) would not, if the non-resident person had been resident in Canada

(xi) d'un paiement fait à une personne sans lien de dépendance avec l'auteur du paiement, relativement à l'usage ou au droit d'usage d'un des biens suivants :

(A) un aéronef,

(B) le mobilier, les accessoires ou le matériel fixé à un aéronef,

(C) une pièces de rechange pur un bien visé aux divisions (A) ou (B),

(D) le matériel de navigation aérienne utilisé dans le cadre de la prestation de services sous le régime de la *Loi sur la commercialisation des services de navigation aérienne civile*, ou les logiciels nécessaires au fonctionnement de ce matériel qui ne sont utilisés à aucune autre fin par le payeur,

(xii) d'une somme à laquelle le paragraphe (5) s'appliquerait s'il n'était pas tenu compte du passage « dans la mesure où la somme se rapporte à cette utilisation ou reproduction » à ce paragraphe;

Redevances forestières

e) d'une redevance forestière relative à un avoir forestier ou à une concession forestière au Canada (qui, pour l'application de la présente partie, comprend toute contrepartie fournie en échange d'un droit en vertu duquel un droit de couper ou d'enlever du bois d'un avoir forestier ou d'une concession forestière au Canada est obtenu ou en découle, pour autant que cette contrepartie est en fonction de la quantité de bois coupé ou enlevé ou est calculée d'après cette quantité);

f) [Abrogé, 1997, ch. 25, art. 63]

Ristourne

g) d'une ristourne, c'est-à-dire d'un paiement fait en conformité avec une répartition proportionnelle à l'apport commercial définie à l'article 135, ou d'une somme qui, en vertu du paragraphe 135(7), serait incluse dans le calcul du revenu de la personne non-résidente si elle résidait au Canada;

Pensions

h) d'un paiement d'une prestation de retraite ou de pension, autre :

(i) [Abrogé, 1996, ch. 21, art. 55]

throughout the taxation year in which the payment was made, be included in computing the non-resident person's income, or

(B) by reason of paragraph 60(j) or 60(j.2) would, if the non-resident person had been resident in Canada throughout the year, be deductible in computing the non-resident person's income for the year,

(iii.2) an amount referred to in paragraph 110(1)(f) to the extent that the amount would, if the non-resident person had been resident in Canada throughout the taxation year in which the amount was paid, be deductible in computing that person's taxable income or that of the spouse or common-law partner of that person,

(iv) in the case of a payment described in section 57, that portion of the payment that would, by virtue of that section, not be included in the recipient's income for the taxation year in which it was received, if the recipient were resident in Canada throughout that year, or

(iv.1) the portion of the payment that is transferred by the payer on behalf of the non-resident person, pursuant to an authorization in prescribed form, to acquire an annuity contract in circumstances to which subsection 146(21) applies,

except such portion, if any, of the payment as may reasonably be regarded as attributable to services rendered by the person, to or in respect of whom the payment is made, in taxation years

(v) during which the person at no time was resident in Canada, and

(vi) throughout which the person was not employed, or was only occasionally employed, in Canada;

Restrictive covenant amount

(i) an amount that would, if the non-resident person had been resident in Canada throughout the taxation year in which the amount was received or receivable, be required by paragraph 56(1)(m) or subsection 56.4(2) to be included in computing the non-resident person's income for the taxation year;

Benefits

(j) any benefit described in any of subparagraphs 56(1)(a)(iii) to 56(1)(a)(vi), any amount described in paragraph 56(1)(x) or 56(1)(z) (other than an amount transferred under circumstances in which subsection

(ii) qu'une somme distribuée sur un régime de pension agréé collectif qui a été désignée par l'administrateur du régime aux termes du paragraphe 147.5(18),

(iii) que toute somme ou tout paiement visé au paragraphe 81(1), dans la mesure où cette somme ou ce paiement ne serait pas, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition au cours de laquelle le paiement a été effectué, inclus dans le calcul de son revenu,

(iii.1) que la partie de ce paiement que le payeur transfère pour le compte de la personne non-résidente, aux termes d'une autorisation établie sur le formulaire prescrit, à un régime de pension agréé, à un régime de pension agréé collectif, à un régime enregistré d'épargne-retraite ou à un fonds enregistré de revenu de retraite et qui, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition du paiement, selon le cas :

(A) ne serait pas incluse dans le calcul de son revenu en application des paragraphes 146(21), 147.3(9) ou 147.5(22),

(B) serait déductible dans le calcul de son revenu pour l'année en application de l'alinéa 60j) ou j.2),

(iii.2) qu'un montant visé à l'alinéa 110(1)f) dans la mesure où le montant serait, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition dans laquelle le montant a été versé, déductible dans le calcul de son revenu imposable ou du revenu imposable de son époux ou conjoint de fait,

(iv) dans le cas d'un paiement visé à l'article 57, que la partie de ce paiement qui, en vertu de cet article, ne serait pas incluse dans le revenu du bénéficiaire pour l'année d'imposition au cours de laquelle elle a été reçue, s'il avait résidé au Canada tout au long de cette année,

(iv.1) que la partie de ce paiement que le payeur transfère pour le compte de la personne non résidente, aux termes d'une autorisation sur formulaire prescrit, en vue d'acquérir un contrat de rente dans les circonstances déterminées au paragraphe 146(21),

excepté la partie éventuelle du paiement qu'il est raisonnable de considérer comme imputable aux services rendus par la personne à qui ou à l'égard de qui le paiement est fait, au cours des années d'imposition :

207.6(7) applies) or the purchase price of an interest in a retirement compensation arrangement;

Retiring allowances

(j.1) a payment of any allowance described in subparagraph 56(1)(a)(ii), except

(i) such portion, if any, of the payment as may reasonably be regarded as attributable to services rendered by the person, to or in respect of whom the payment is made, in taxation years

(A) during which the person at no time was resident in Canada, and

(B) throughout which the person was not employed, or was only occasionally employed, in Canada, and

(ii) the portion of the payment transferred by the payer on behalf of the non-resident person pursuant to an authorization in prescribed form to a registered pension plan or to a registered retirement savings plan under which the non-resident person is the annuitant (within the meaning assigned by subsection 146(1)) that would, if the non-resident person had been resident in Canada throughout the year, be deductible in computing the income of the non-resident person by virtue of paragraph 60(j.1);

Supplementary unemployment benefit plan payments

(k) a payment by a trustee under a registered supplementary unemployment benefit plan;

Registered retirement savings plan payments

(l) a payment out of or under a registered retirement savings plan or a plan referred to in subsection 146(12) as an "amended plan" that would, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made, be required by section 146 to be included in computing the income of the non-resident person for the year, other than the portion thereof that

(i) has been transferred by the payer on behalf of the non-resident person pursuant to an authorization in prescribed form

(A) to a registered retirement savings plan under which the non-resident person is the annuitant (within the meaning assigned by subsection 146(1)),

(v) d'une part, où elle n'a, à aucun moment, résidé au Canada,

(vi) d'autre part, tout au long desquelles elle n'a occupé aucun emploi au Canada ou n'y a occupé un emploi qu'occasionnellement;

Somme relative à une clause restrictive

i) d'une somme qui, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition au cours de laquelle la somme a été reçue ou était à recevoir, serait à inclure, en application de l'alinéa 56(1)m) ou du paragraphe 56.4(2), dans le calcul du revenu de la personne non-résidente pour cette année;

Avantages

j) d'une prestation visée à l'un des sous-alinéas 56(1)a)(iii) à (vi), d'un montant visé aux alinéas 56(1)x) ou z), sauf un montant transféré dans les circonstances visées au paragraphe 207.6(7), ou du prix d'achat d'un droit sur une convention de retraite;

Allocations de retraite

j.1) d'un paiement d'une allocation visée au sous-alinéa 56(1)a)(ii), à l'exception :

(i) de la partie éventuelle du paiement qu'il est raisonnable de considérer comme se rapportant aux services rendus par la personne à qui ou à l'égard de qui le paiement est fait, au cours des années d'imposition :

(A) d'une part, où elle n'a, à aucun moment, résidé au Canada,

(B) d'autre part, tout au long desquelles elle n'a occupé aucun emploi au Canada ou n'y a occupé un emploi qu'occasionnellement,

(ii) de la partie de ce paiement transférée par le payeur, pour le compte de la personne non-résidente, sur autorisation selon le formulaire prescrit, à un régime de pension agréé ou à un régime enregistré d'épargne-retraite dont la personne non-résidente est le rentier (au sens du paragraphe 146(1)), laquelle partie aurait été déductible dans le calcul du revenu de cette personne en vertu de l'alinéa 60j.1) si celle-ci avait résidé au Canada tout au long de l'année;

Paiements en vertu d'un régime de prestations supplémentaires de chômage

k) d'un paiement par un fiduciaire, effectué en vertu d'un régime enregistré de prestations supplémentaires de chômage;

(B) to acquire an annuity described in subparagraph 60(l)(ii) under which the non-resident person is the annuitant, or

(C) to a carrier (within the meaning assigned by subsection 146.3(1)) as consideration for a registered retirement income fund under which the non-resident person is the annuitant (within the meaning assigned by subsection 146.3(1)), and

(ii) would, if the non-resident person had been resident in Canada throughout the year, be deductible in computing the income of the non-resident person for the year by virtue of paragraph 60(l);

Deferred profit sharing plan payments

(m) a payment under a deferred profit sharing plan or a plan referred to in subsection 147(15) as a "revoked plan" that would, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made, be required by section 147, if it were read without reference to subsections 147(10.1) and 147(20), to be included in computing the non-resident person's income for the year, other than the portion thereof that is transferred by the payer on behalf of the non-resident person, pursuant to an authorization in prescribed form, to a registered pension plan or registered retirement savings plan and that

(i) by reason of subsection 147(20) would not, if the non-resident person had been resident in Canada throughout the year, be included in computing the non-resident person's income, or

(ii) by reason of paragraph 60(j.2) would, if the non-resident person had been resident in Canada throughout the year, be deductible in computing the non-resident person's income for the year;

Income-averaging annuity contract payments

(n) a payment under an income-averaging annuity contract, any proceeds of the surrender, cancellation, redemption, sale or other disposition of an income-averaging annuity contract, or any amount deemed by subsection 61.1(1) to have been received by the non-resident person as proceeds of the disposition of an income-averaging annuity contract;

Other annuity payments

(o) a payment under an annuity contract (other than a payment in respect of an annuity issued in the course of carrying on a life insurance business in a country other than Canada) to the extent of the amount in respect of the interest of the non-resident person in the

Régime enregistré d'épargne-retraite

l) d'un paiement effectué dans le cadre d'un régime enregistré d'épargne-retraite, ou d'un régime appelé « régime modifié » au paragraphe 146(12), qui, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition au cours de laquelle le paiement a été effectué, devrait être inclus, en vertu de l'article 146, dans le calcul de son revenu pour l'année, sauf la fraction du paiement qui :

(i) d'une part, a été transférée, en vertu d'une autorisation selon le formulaire prescrit, par le payeur pour le compte de la personne non-résidente :

(A) dans un régime enregistré d'épargne-retraite en vertu duquel la personne non-résidente est le rentier (au sens du paragraphe 146(1)),

(B) pour acquérir une rente visée au sous-alinéa 60l)(ii) en vertu de laquelle la personne non-résidente est le rentier,

(C) à un émetteur (au sens du paragraphe 146.3(1)) en contrepartie d'un fonds enregistré de revenu de retraite dont la personne non-résidente est le rentier (au sens du paragraphe 146.3(1)),

(ii) d'autre part, serait déductible dans le calcul de son revenu pour l'année en vertu de l'alinéa 60l), si la personne non-résidente avait résidé au Canada tout au long de l'année;

Régime de participation différée aux bénéfices

m) d'un paiement effectué aux termes d'un régime de participation différée aux bénéfices ou d'un régime dont l'agrément est retiré, visé au paragraphe 147(15), qui, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition où le paiement a été effectué, serait inclus, en application de l'article 147, compte non tenu des paragraphes 147(10.1) et (20), dans le calcul de son revenu pour l'année, à l'exception de la partie de ce paiement que le payeur transfère pour le compte de cette personne aux termes d'une autorisation sur formulaire prescrit à un régime de pension agréé ou à un régime enregistré d'épargne-retraite et qui, si cette personne avait résidé au Canada tout au long de l'année, selon le cas :

(i) ne serait pas incluse dans le calcul de son revenu en application du paragraphe 147(20),

(ii) serait déductible dans le calcul de son revenu pour l'année en application de l'alinéa 60j.2);

contract that, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made,

(i) would be required to be included in computing the income of the non-resident person for the year, and

(ii) would not be deductible in computing that income;

Former TFSA

(p) an amount that would, if the non-resident person had been resident in Canada at the time at which the amount was paid, be required by paragraph 12(1)(z.5) to be included in computing the non-resident person's income for the taxation year that includes that time;

Registered retirement income fund payments

(q) a payment out of or under a registered retirement income fund that would, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made, be required by section 146.3 to be included in computing the non-resident person's income for the year, other than the portion thereof that

(i) has been transferred by the payer on behalf of the non-resident person pursuant to an authorization in prescribed form

(A) to a registered retirement savings plan under which the non-resident person is the annuitant (within the meaning assigned by subsection 146(1)),

(B) to acquire an annuity described in subparagraph 60(l)(ii) under which the non-resident person is the annuitant, or

(C) to a carrier (within the meaning assigned by subsection 146.3(1)) as consideration for a registered retirement income fund under which the non-resident person is the annuitant (within the meaning assigned by subsection 146.3(1)), and

(ii) would, if the non-resident person had been resident in Canada throughout the year, be deductible in computing the non-resident person's income for the year by reason of paragraph 60(l);

Registered education savings plan

(r) a payment that is

Paiements en vertu d'un contrat de rente à versements invariables

n) d'un paiement fait en vertu d'un contrat de rente à versements invariables, de tout produit du rachat, de l'annulation, de la vente ou d'une autre forme de disposition du contrat de rente à versements invariables ou de toute somme réputée, selon le paragraphe 61.1(1), avoir été reçue par la personne non-résidente à titre de produit de disposition d'un contrat de rente à versements invariables;

Autres paiements de rentes

o) d'un paiement en vertu d'un contrat de rente (à l'exception d'un paiement effectué à l'égard d'une rente émise dans le cadre de l'exploitation d'une entreprise d'assurance-vie dans un pays étranger) jusqu'à concurrence du montant relatif à sa participation dans le contrat et qui, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition au cours de laquelle le paiement a été fait :

(i) d'une part, devrait être inclus dans le calcul de son revenu pour l'année,

(ii) d'autre part, ne serait pas déductible dans le calcul de son revenu pour l'année;

Ancien compte d'épargne libre d'impôt

p) d'une somme qui, si la personne non-résidente avait été un résident du Canada au moment du paiement de la somme, serait à inclure, en application de l'alinéa 12(1)z.5), dans le calcul de son revenu pour l'année d'imposition qui comprend ce moment;

Fonds enregistré de revenu de retraite

q) d'un paiement effectué dans le cadre d'un fonds enregistré de revenu de retraite qui, si la personne non-résidente avait résidé au Canada tout au long de l'année d'imposition où le paiement a été effectué, serait inclus en application de l'article 146.3 dans le calcul de son revenu pour l'année, à l'exception de la partie de ce paiement qui, à la fois :

(i) est transférée par le payeur pour le compte de cette personne aux termes d'une autorisation sur formulaire prescrit :

(A) soit à un régime enregistré d'épargne-retraite dont cette personne est le rentier, au sens du paragraphe 146(1),

(B) soit pour acquérir une rente visée au sous-alinéa 60l)(ii) dont cette personne est le rentier,

(C) soit à un émetteur, au sens du paragraphe 146.3(1), en contrepartie d'un fonds enregistré de

(i) required by paragraph 56(1)(q) to be included in computing the non-resident person's income under Part I for a taxation year, and

(ii) not required to be included in computing the non-resident person's taxable income or taxable income earned in Canada for the year;

Registered disability savings plan

(r.1) an amount that would, if the non-resident person had been resident in Canada throughout the taxation year in which the amount was paid, be required by paragraph 56(1)(q.1) to be included in computing the non-resident person's income for the taxation year;

Home insulation or energy conversion grants

(s) a grant under a prescribed program of the Government of Canada relating to home insulation or energy conversion;

NISA Fund No. 2 payments

(t) a payment out of a NISA Fund No. 2 to the extent that that amount would, if Part I applied, be required by subsection 12(10.2) to be included in computing the person's income for a taxation year;

Amateur athlete trust payments

(u) a payment in respect of an amateur athlete trust that would, if Part I applied, be required by section 143.1 to be included in computing the person's income for a taxation year;

Payments under an eligible funeral arrangement

(v) a payment made by a custodian (within the meaning assigned by subsection 148.1(1)) of an arrangement that was, at the time it was established, an eligible funeral arrangement, to the extent that such amount would, if the non-resident person were resident in Canada, be included because of subsection 148.1(3) in computing the person's income;

(w) a payment out of a trust that is, or was, at any time, an employee life and health trust, except to the extent that it is a payment of a designated employee benefit (as defined by subsection 144.1(1)); or

Tax informant program

(x) a payment of an amount described in paragraph 56(1)(z.4).

revenu de retraite dont cette personne est le rentier, au sens du paragraphe 146.3(1),

(ii) serait, si cette personne avait résidé au Canada tout au long de l'année, déductible en application de l'alinéa 60l) dans le calcul de son revenu pour l'année;

Régime enregistré d'épargne-études

r) d'un paiement qui :

(i) est à inclure en application de l'alinéa 56(1)g) dans le calcul du revenu de la personne non-résidente en vertu de la partie I pour une année d'imposition,

(ii) n'est pas à inclure dans le calcul du revenu imposable de la personne non-résidente, ou de son revenu imposable gagné au Canada, pour l'année;

Régime enregistré d'épargne-invalidité

r.1) d'une somme qui serait à inclure, en application de l'alinéa 56(1)q.1), dans le calcul du revenu de la personne non-résidente pour l'année d'imposition au cours de laquelle elle a été payée si la personne avait résidé au Canada tout au long de l'année;

Subventions à l'isolation thermique des maisons ou à la conversion énergétique

s) d'une subvention dans le cadre d'un programme visé par règlement du gouvernement du Canada et relatif à l'isolation thermique des maisons ou à la conversion énergétique;

Paiement sur un second fonds du compte de stabilisation du revenu net

t) d'un paiement sur un second fonds du compte de stabilisation du revenu net, dans la mesure où ce montant serait à inclure, en application du paragraphe 12(10.2), dans le calcul du revenu de la personne pour une année d'imposition si la partie I s'appliquait;

Paiements d'une fiducie au profit d'un athlète amateur

u) d'un paiement relatif à une fiducie au profit d'un athlète amateur qui serait à inclure, en vertu de l'article 143.1, dans le calcul du revenu de la personne pour une année d'imposition si la partie I s'appliquait;

Paiements dans le cadre d'un arrangement de services funéraires

v) d'un paiement effectué par le dépositaire, au sens du paragraphe 148.1(1), d'un arrangement qui, au moment de son établissement, était un arrangement de services funéraires, dans la mesure où le paiement serait inclus, par l'effet du paragraphe 148.1(3), dans le

calcul du revenu de la personne non-résidente si elle résidait au Canada;

w) d'un paiement provenant d'une fiducie qui est ou était, à un moment donné, une fiducie de soins de santé au bénéfice d'employés, sauf dans la mesure où il s'agit d'une prestation désignée au sens du paragraphe 144.1(1);

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x) du paiement d'une somme visée à l'alinéa 56(1)z.4).

Tax on dividends

(2) Every non-resident person shall pay an income tax of 25% on every amount that a corporation resident in Canada pays or credits, or is deemed by Part I or Part XIV to pay or credit, to the non-resident person as, on account or in lieu of payment of, or in satisfaction of,

(a) a taxable dividend (other than a capital gains dividend within the meaning assigned by subsection 130.1(4), 131(1) or 133(7.1)); or

(b) a capital dividend.

Impôt sur dividendes

(2) Toute personne non-résidente paie un impôt sur le revenu de 25 % sur toute somme qu'une société résidant au Canada lui paie ou porte à son crédit ou est réputée, selon les parties I ou XIV, lui payer ou porter à son crédit, au titre ou en paiement intégral ou partiel :

a) d'un dividende imposable (autre qu'un dividende sur les gains en capital, au sens que donne à cette expression le paragraphe 130.1(4), 131(1) ou 133(7.1));

b) d'un dividende en capital.

Exempt dividends

(2.1) Subsection (2) does not apply to an amount paid or credited, by a borrower, under a securities lending arrangement if

(a) the amount is deemed by subparagraph 260(8)(c)(i) to be a dividend;

(b) the securities lending arrangement was entered into by the borrower in the course of carrying on a business outside Canada; and

(c) the security that is transferred or lent to the borrower under the securities lending arrangement is a share of a class of the capital stock of a non-resident corporation.

Dividendes exonérés

(2.1) Le paragraphe (2) ne s'applique pas au montant qu'un emprunteur verse ou crédite dans le cadre d'un mécanisme de prêt de valeurs mobilières si, à la fois :

a) le montant est réputé être un dividende en vertu du sous-alinéa 260(8)c)(i);

b) le mécanisme a été conclu par l'emprunteur dans le cadre de l'exploitation d'une entreprise à l'étranger;

c) le titre qui est transféré ou prêté à l'emprunteur dans le cadre du mécanisme est une action d'une catégorie du capital-actions d'une société non-résidente.

Interest — definitions

(3) The following definitions apply for the purpose of paragraph (1)(b).

fully exempt interest means

(a) interest that is paid or payable on a bond, debenture, note, mortgage, hypothecary claim or similar debt obligation

(i) of, or guaranteed (otherwise than by being insured by the Canada Deposit Insurance Corporation) by, the Government of Canada,

Définitions

(3) Les définitions qui suivent s'appliquent à l'alinéa (1)b).

intérêts entièrement exonérés

a) Intérêts payés ou payables sur des obligations, débentures, billets, créances hypothécaires ou titres de créance semblables :

(i) du gouvernement du Canada ou garantis par lui (autrement que parce qu'ils sont assurés par la Société d'assurance-dépôts du Canada),

(ii) of the government of a province,

(iii) of an agent of a province,

(iv) of a municipality in Canada or a municipal or public body performing a function of government in Canada,

(v) of a corporation, commission or association to which any of paragraphs 149(1)(d) to (d.6) applies, or

(vi) of an educational institution or a hospital if repayment of the principal amount of the obligation and payment of the interest is to be made, or is guaranteed, assured or otherwise specifically provided for or secured by the government of a province;

(b) interest that is paid or payable on a mortgage, hypothecary claim or similar debt obligation secured by, or on an agreement for sale or similar obligation with respect to, real property situated outside Canada or an interest in any such real property, or to immovables situated outside Canada or a real right in any such immovable, except to the extent that the interest payable on the obligation is deductible in computing the income of the payer under Part I from a business carried on by the payer in Canada or from property other than real or immovable property situated outside Canada;

(c) interest that is paid or payable to a prescribed international organization or agency; or

(d) an amount paid or payable or credited under a securities lending arrangement that is deemed by subparagraph 260(8)(c)(i) to be a payment made by a borrower to a lender of interest, if

(i) the securities lending arrangement was entered into by the borrower in the course of carrying on a business outside Canada, and

(ii) the security that is transferred or lent to the borrower under the securities lending arrangement is described in paragraph (b) or (c) of the definition ***qualified security*** in subsection 260(1) and issued by a non-resident issuer. (*intérêts entièrement exonérés*)

participating debt interest means interest (other than interest described in any of paragraphs (b) to (d) of the definition ***fully exempt interest***) that is paid or payable on an obligation, other than a prescribed obligation, all or any portion of which interest is contingent or dependent on the use of or production from property in Canada or is computed by reference to revenue, profit, cash flow,

(ii) du gouvernement d'une province,

(iii) d'un mandataire d'une province,

(iv) d'une municipalité du Canada ou d'un organisme municipal ou public exerçant une fonction gouvernementale au Canada,

(v) d'une société, commission ou association à laquelle s'applique l'un des alinéas 149(1)d) à d.6),

(vi) d'un établissement d'enseignement ou d'un hôpital, si le remboursement du principal du titre et le paiement des intérêts doivent être effectués, ou sont garantis, assurés ou par ailleurs expressément prévus, par le gouvernement d'une province, ou dont celui-ci est caution;

b) intérêts payés ou payables sur une créance hypothécaire ou un titre semblable, ou sur une convention de vente ou un titre semblable, à l'égard d'immeubles situés à l'étranger ou de droits réels sur ceux-ci, ou de biens réels situés à l'étranger ou d'intérêts sur ceux-ci, sauf dans la mesure où les intérêts payables sur le titre sont déductibles dans le calcul du revenu du payeur, en vertu de la partie I, tiré d'une entreprise qu'il exploite au Canada ou de biens autres que des biens immeubles ou réels situés à l'étranger;

c) intérêts payés ou payables à une organisation ou institution internationale visée par règlement;

d) sommes payées ou payables, ou créditées, aux termes d'un mécanisme de prêt de valeurs mobilières qui sont réputées, en vertu du sous-alinéa 260(8)c)(i), être un paiement d'intérêts fait par un emprunteur à un prêteur si, à la fois :

(i) le mécanisme a été conclu par l'emprunteur dans le cadre de l'exploitation d'une entreprise à l'étranger,

(ii) le titre qui est transféré ou prêté à l'emprunteur aux termes du mécanisme est visé aux alinéas b) ou c) de la définition de ***titre admissible*** au paragraphe 260(1) et est émis par un émetteur non-résident. (*fully exempt interest*)

intérêts sur des créances participatives Intérêts, sauf ceux visés aux alinéas b) à d) de la définition de ***intérêts entièrement exonérés***, qui sont payés ou payables sur un titre, sauf un titre visé par règlement, et qui, en totalité ou en partie, sont conditionnels à l'utilisation de biens au Canada ou dépendent de la production en provenant au Canada ou qui sont calculés en fonction soit des recettes, des bénéfices, de la marge d'autofinancement, du prix des marchandises ou d'un critère semblable, soit des

commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation. (*intérêts sur des créances participatives*)

dividendes versés ou payables aux actionnaires d'une catégorie d'actions du capital-actions d'une société. (*participating debt interest*)

Back-to-back loan arrangement

(3.1) Subsection (3.2) applies at any time in respect of a taxpayer if

(a) the taxpayer pays or credits a particular amount at that time as, on account or in lieu of payment of, or in satisfaction of, interest (determined without reference to paragraph 18(6.1)(b) and subsection 214(16)) in respect of a particular debt or other obligation to pay an amount to a person or partnership (in this subsection and subsection (3.2) referred to as the ***immediate funder***);

(b) the immediate funder is not

(i) a person resident in Canada that does not deal at arm's length with the taxpayer, or

(ii) a partnership each member of which is a person described in subparagraph (i);

(c) at any time in the period during which the interest accrued (in this subsection and subsections (3.2) and (3.3) referred to as the ***relevant period***), a relevant funder, in respect of a particular relevant funding arrangement,

(i) has an amount outstanding as or on account of a debt or other obligation to pay an amount to a person or partnership that meets any of the following conditions:

(A) recourse in respect of the debt or other obligation is limited in whole or in part, either immediately or in the future and either absolutely or contingently, to a relevant funding arrangement, or

(B) it can reasonably be concluded that all or a portion of the particular relevant funding arrangement was entered into, or was permitted to remain in effect, because

(I) all or a portion of the debt or other obligation was entered into or was permitted to remain outstanding, or

(II) the relevant funder anticipated that all or a portion of the debt or other obligation would become owing or remain outstanding, or

Prêts adossés

(3.1) Le paragraphe (3.2) s'applique à un moment donné relativement à un contribuable si les conditions ci-après sont remplies :

a) à ce moment, le contribuable paie à une personne ou à une société de personnes (appelées ***bailleur de fonds immédiat*** au présent paragraphe et au paragraphe (3.2)), ou porte à son crédit, une somme donnée au titre ou en paiement intégral ou partiel des intérêts (déterminés compte non tenu de l'alinéa 18(6.1)b) et du paragraphe 214(16)) relatifs à une dette ou autre obligation donnée de payer une somme à cette personne ou société de personnes;

b) les énoncés ci-après se vérifient :

(i) le bailleur de fonds immédiat n'est pas une personne résidant au Canada et ayant un lien de dépendance avec le contribuable,

(ii) le bailleur de fonds immédiat n'est pas une société de personnes dont chaque associé est une personne visée au sous-alinéa (i);

c) à un moment de la période pendant laquelle les intérêts ont couru (appelée ***période considérée*** au présent paragraphe et aux paragraphes (3.2) et (3.3)), un bailleur de fonds considéré, relativement à un mécanisme de financement considéré donné :

(i) soit doit une somme au titre d'une dette ou autre obligation de payer une somme à une personne ou société de personnes qui remplit l'une des conditions suivantes :

(A) il s'agit d'une dette ou autre obligation à l'égard de laquelle le recours est limité en tout ou en partie, dans l'immédiat ou pour l'avenir et conditionnellement ou non, à un mécanisme de financement considéré,

(B) il est raisonnable de conclure que la totalité ou une partie du mécanisme de financement considéré donné a été conclu, ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(I) la totalité ou une partie de la dette ou autre obligation a été contractée ou il a été permis qu'elle demeure à payer,

(ii) has a specified right in respect of a particular property that was granted directly or indirectly by a person or partnership and

(A) the existence of the specified right is required under the terms and conditions of the particular relevant funding arrangement, or

(B) it can reasonably be concluded that all or a portion of the particular relevant funding arrangement was entered into, or was permitted to remain in effect, because

(I) the specified right was granted, or

(II) the relevant funder anticipated that the specified right would be granted;

(d) the tax that would be payable under this Part in respect of the particular amount, if the particular amount were paid or credited to any ultimate funder rather than the immediate funder, is greater than the tax payable under this Part (determined without reference to this subsection and subsection (3.2)) in respect of the particular amount; and

(e) at any time during the relevant period, the total of all amounts — each of which is an amount outstanding as or on account of a debt or other obligation owed by the immediate funder that is a relevant funding arrangement or the fair market value of a particular property in respect of which the immediate funder is granted a specified right that is a relevant funding arrangement — is equal to at least 25% of the total of

(i) the amount outstanding as or on account of the particular debt or other obligation, and

(ii) the total of all amounts each of which is an amount (other than the amount described in subparagraph (i)) that the taxpayer, or a person or partnership that does not deal at arm's length with the taxpayer, has outstanding as or on account of a debt or other obligation to pay an amount to the immediate funder under the agreement, or an agreement that is connected to the agreement, under which the particular debt or other obligation was entered into where

(A) the immediate funder is granted a ***security interest*** (as defined in subsection 18(5)) in respect of a property that is the debt or other obligation owed by the immediate funder or the particular property, as the case may be, and the security interest secures the payment of two or more debts or other obligations that include the

(II) le bailleur de fonds considéré prévoyait que la totalité ou une partie de la dette ou autre obligation deviendrait à payer ou qu'elle le demeurerait,

(ii) soit détient un ***droit déterminé*** qui est relatif à un bien donné qui a été accordé, directement ou indirectement, par une personne ou société de personnes, et à l'égard duquel un des faits ci-après s'avère :

(A) les modalités du mécanisme de financement considéré donné prévoient que le droit déterminé doit exister,

(B) il est raisonnable de conclure que la totalité ou une partie du mécanisme de financement considéré donné a été conclu, ou qu'il a été permis qu'elle demeure en vigueur, pour l'un des motifs suivants :

(I) le droit déterminé a été accordé,

(II) le bailleur de fonds considéré prévoyait que le droit déterminé serait accordé;

d) l'impôt qui serait payable en vertu de la présente partie relativement à la somme donnée, si celle-ci était payée à un bailleur de fonds ultime ou portée à son crédit plutôt que payée au bailleur de fonds immédiat ou portée à son crédit, est plus élevé que l'impôt payable en vertu de la présente partie (déterminé compte non tenu du présent paragraphe et du paragraphe (3.2)) relativement à la somme donnée;

e) à un moment de la période considérée, le total des sommes — dont chacune représente une somme due au titre d'une dette ou autre obligation du bailleur de fonds immédiat qui est un mécanisme de financement considéré ou la juste valeur marchande d'un bien donné à l'égard duquel un droit déterminé qui est un mécanisme de financement considéré est accordé au bailleur de fonds immédiat — correspond à au moins 25 % du total des sommes suivantes :

(i) la somme due au titre de la dette ou autre obligation donnée,

(ii) le total des sommes dont chacune représente une somme (sauf la somme visée au sous-alinéa (i)) due par le contribuable, ou par une personne ou une société de personnes avec laquelle il a un lien de dépendance, au titre d'une dette ou autre obligation de payer une somme au bailleur de fonds immédiat aux termes de la convention, ou d'une

debt or other obligation and the particular debt or other obligation, and

(B) each security interest that secures the payment of a debt or other obligation referred to in clause (A) secures the payment of every debt or other obligation referred to in that clause.

convention rattachée à celle-ci, aux termes de laquelle la dette ou autre obligation donnée a été contractée, dans le cas où, à la fois :

(A) le bailleur de fonds immédiat reçoit, relativement à un bien qui est la dette ou autre obligation dont il est débiteur ou le bien donné, une ***garantie***, au sens du paragraphe 18(5), pour le paiement de plusieurs dettes ou autres obligations qui comprennent la dette ou autre obligation ainsi que la dette ou autre obligation donnée,

(B) chaque garantie pour le paiement d'une dette ou autre obligation mentionnée à la division (A) vise toutes les dettes ou autres obligations mentionnées à cette division.

Back-to-back loan arrangement

(3.2) If this subsection applies at any time in respect of a taxpayer, then for the purposes of paragraph (1)(b), the taxpayer is deemed, at that time, to pay interest to each ultimate funder, the amount of which is determined for each particular ultimate funder by the formula

(A – B) × C/D × (E – F)/E

where

A is the particular amount referred to in paragraph (3.1)(a);

B is the portion, if any, of the particular amount deemed by subsection 214(16) to have been paid by the taxpayer as a dividend;

C is the average of all amounts each of which is, at a particular time in the relevant period, the amount determined by the formula

G – H

where

G is the lesser of the following amounts:

(a) the amount of the particular debt or other obligation referred to in paragraph (3.1)(a) outstanding at the particular time, and

(b) the total of all amounts each of which is at that particular time

(i) an amount outstanding as or on account of a debt or other obligation that is owed to the particular ultimate funder under a relevant funding arrangement,

(ii) the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular ultimate funder has granted a specified

Prêts adossés

(3.2) En cas d'application du présent paragraphe à un moment donné relativement à un contribuable, celui-ci est réputé à ce moment, pour l'application de l'alinéa (1)b), payer à chaque bailleur de fonds ultime des intérêts d'un montant égal à la somme déterminée quant à chaque bailleur de fonds ultime donné selon la formule suivante :

(A – B) × C/D × (E – F)/E

où :

A représente la somme donnée visée à l'alinéa (3.1)a);

B la partie de la somme donnée qui est réputée, en vertu du paragraphe 214(16), avoir été payée par le contribuable à titre de dividende;

C la moyenne des sommes dont chacune représente, à un moment donné de la période considérée, la somme obtenue par la formule suivante :

G – H

où :

G représente la moins élevée des sommes suivantes :

a) le montant de la dette ou autre obligation donnée visée à l'alinéa (3.1)a) qui est dû au moment donné;

b) le total des sommes dont chacune représente, au moment donné, l'une des sommes suivantes :

(i) une somme due au titre d'une dette ou autre obligation dont le bailleur de fonds ultime donné est créancier aux termes d'un mécanisme de financement considéré,

right under a relevant funding arrangement, or

(iii) if neither subparagraph (i) nor (ii) applies at that particular time, nil, and

H is the total of all amounts each of which is, at the particular time, the amount that is

(a) an amount outstanding as or on account of a debt or other obligation that is owed by the particular ultimate funder under a relevant funding arrangement,

(b) the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular ultimate funder has a specified right under a relevant funding arrangement, or

(c) if neither paragraph (a) nor (b) applies at that particular time, nil;

D is the average of all amounts each of which is the amount of the particular debt or other obligation outstanding at a time in the relevant period;

E is the rate of tax (determined without reference to subsection 214(16)) that would be imposed under this Part on the particular amount if the particular amount were paid by the taxpayer to the particular ultimate funder at that time; and

F is the rate of tax (determined without reference to subsection 214(16)) imposed under this Part on the immediate funder in respect of all or the portion of the particular amount paid or credited to the immediate funder.

Back-to-back arrangement — election

(3.21) Subsection (3.22) applies in respect of a taxpayer and two or more ultimate funders (referred to in this subsection and subsection (3.22) as the ***electing ultimate funders***) at any time if

(a) at that time, subsection (3.2) applies in respect of the taxpayer;

(b) prior to that time, the taxpayer and the electing ultimate funders have jointly filed an election under this subsection;

(c) the election designates one of the electing ultimate funders to be the recipient of interest payments that

(ii) la juste valeur marchande du bien donné visé au sous-alinéa (3.1)c)(ii) relativement auquel le bailleur de fonds ultime donné a accordé un droit déterminé aux termes d'un mécanisme de financement considéré,

(iii) zéro, si ni l'un ni l'autre des sous-alinéas (i) et (ii) ne s'applique au moment donné,

H le total des sommes dont chacune représente, au moment donné, l'une des sommes suivantes :

a) une somme due au titre d'une dette ou autre obligation dont le bailleur de fonds ultime donné est débiteur aux termes d'un mécanisme de financement considéré,

b) la juste valeur marchande du bien donné visé au sous-alinéa (3.1)c)(ii) relativement auquel le bailleur de fonds ultime donné détient un droit déterminé aux termes d'un mécanisme de financement considéré,

c) zéro, si ni l'un ni l'autre des alinéas a) et b) ne s'applique au moment donné;

D la moyenne des sommes dont chacune représente le montant de la dette ou autre obligation donnée qui est dû à un moment de la période considérée;

E le taux d'impôt (déterminé compte non tenu du paragraphe 214(16)) qui s'appliquerait en vertu de la présente partie à la somme donnée si celle-ci était payée au bailleur de fonds ultime donné par le contribuable à ce moment;

F le taux d'impôt (déterminé compte non tenu du paragraphe 214(16)) auquel le bailleur de fonds immédiat est assujetti en vertu de la présente partie sur tout ou partie de la somme donnée qui lui a été payée ou qui a été portée à son crédit.

Prêts adossés — choix

(3.21) Le paragraphe (3.22) s'applique relativement à un contribuable et à deux ou plusieurs bailleurs de fonds ultimes (appelés ***bailleurs de fonds ultimes déterminés*** au présent paragraphe et au paragraphe (3.22)) à un moment donné si les énoncés ci-après se vérifient :

a) à ce moment, le paragraphe (3.2) s'applique relativement au contribuable;

b) avant ce moment, le contribuable et les bailleurs de fonds ultimes déterminés présentent conjointement un choix en vertu du présent paragraphe;

c) l'un des bailleurs de fonds ultimes déterminés est désigné dans le choix à titre de bénéficiaire des

are deemed to be made by the taxpayer under subsection (3.22);

(d) at that time, the tax that would be payable under this Part in respect of an interest payment by the taxpayer to the designated ultimate funder is not less than the tax that would be payable under this Part if the interest payment were made by the taxpayer to any of the other electing ultimate funders; and

(e) the election has not been revoked prior to that time.

Back-to-back arrangement — election

(3.22) If this subsection applies at any time in respect of a taxpayer and two or more electing ultimate funders, then each interest payment that would, in the absence of this subsection, have been deemed under subsection (3.2) to have been made at that time by the taxpayer to an electing ultimate funder, and received by the electing ultimate funder from the taxpayer, is deemed to have instead been

(a) made by the taxpayer to the designated ultimate funder; and

(b) received by the designated ultimate funder from the taxpayer.

Excess funding

(3.3) Subsection (3.4) applies in respect of a particular relevant funder if the amount determined by the following formula is greater than nil:

A – B

where

A is the total of all amounts each of which is the amount owing by the particular relevant funder, or is the fair market value of a property in respect of which the particular relevant funder has a specified right, under a relevant funding arrangement; and

B is the total of all amounts each of which is the amount owed to the particular relevant funder, or is the fair market value of a property in respect of which the particular relevant funder has granted a specified right, under a relevant funding arrangement.

Excess funding — deemed funding allocation

(3.4) If this subsection applies in respect of a particular relevant funder, for the purposes of subsections (3.2) to

paiements d'intérêts qui sont réputés être faits par le contribuable en vertu du paragraphe (3.22);

d) à ce moment, l'impôt qui serait payable en vertu de la présente partie relativement à un paiement d'intérêts par le contribuable au bailleur de fonds ultime désigné est au moins égal à l'impôt qui serait payable en vertu de la présente partie si le paiement d'intérêts était fait par le contribuable à l'un des autres bailleurs de fonds ultimes déterminés;

e) le choix n'a pas été révoqué avant ce moment.

Prêts adossés — choix

(3.22) Si le présent paragraphe s'applique à un moment donné relativement à un contribuable et à deux ou plusieurs bailleurs de fonds ultimes déterminés, chaque paiement d'intérêts qui, en l'absence du présent paragraphe, serait réputé, en vertu du paragraphe (3.2), avoir été fait à ce moment par le contribuable à un bailleur de fonds ultime déterminé et reçu du contribuable par le bailleur de fonds ultime déterminé, est réputé avoir plutôt été :

a) fait par le contribuable au bailleur de fonds ultime désigné;

b) reçu du contribuable par le bailleur de fonds ultime désigné.

Excédent de financement

(3.3) Le paragraphe (3.4) s'applique relativement à un bailleur de fonds considéré donné si la somme obtenue par la formule ci-après est supérieure à zéro :

A – B

où :

A représente le total des sommes dont chacune représente la somme dont le bailleur de fonds considéré donné est débiteur, ou la juste valeur marchande d'un bien relativement auquel il détient un droit déterminé, aux termes d'un mécanisme de financement considéré;

B le total des sommes dont chacune représente la somme dont le bailleur de fonds considéré donné est créancier, ou la juste valeur marchande d'un bien relativement auquel il a accordé un droit déterminé, aux termes d'un mécanisme de financement considéré;

Excédent de financement — montant de financement réputé

(3.4) Si le présent paragraphe s'applique relativement à un bailleur de fonds considéré donné, chaque somme

(3.4) (other than for the purpose of applying subsections (3.3) and (3.4) in respect of the particular relevant funder), each amount that is owed by the particular relevant funder, or that is the fair market value of a property in respect of which the particular relevant funder has been granted a specified right, under a relevant funding arrangement, is deemed to be the amount determined by the formula

C/D x E

where

C is the amount owing or the fair market value of the property, as the case may be;

D is the amount determined for A in subsection (3.3); and

E is the amount determined for B in subsection (3.3).

Multiple funding arrangements

(3.5) If an amount owing by a relevant funder or a specified right held by the relevant funder is a relevant funding arrangement in respect of more than one particular debt or other obligation referred to in paragraph (3.1)(a), for the purposes of applying subsections (3.2) to (3.4) in respect of each of the particular debts or other obligations, the amount owing, or the fair market value of the property in respect of which the specified right was granted, as the case may be, is deemed, in respect of each particular debt or other obligation, to be the amount determined by the formula

A/B × C

where

A is the total of all amounts each of which is an amount owing to the relevant funder, or the fair market value of a property in respect of which the relevant funder has granted a specified right, under a relevant funding arrangement, in respect of the particular debt or other obligation;

B is the total of all amounts each of which is an amount owing to the relevant funder, or the fair market value of a property in respect of which the relevant funder has granted a specified right, under a relevant funding arrangement, in respect of all of the particular debts or other obligations; and

C is the amount owing by the relevant funder or the fair market value of the property in respect of which the relevant funder holds the specified right.

dont il est débiteur, ou qui représente la juste valeur marchande d'un bien relativement auquel un droit déterminé lui a été accordé, aux termes d'un mécanisme de financement considéré est réputée, pour l'application des paragraphes (3.2) à (3.4) (sauf pour l'application des paragraphes (3.3) et (3.4) relativement au bailleur de fonds considéré donné), être la somme obtenue par la formule suivante :

C/D × E

où :

C représente la somme due ou la juste valeur marchande du bien, selon le cas;

D la valeur de l'élément A de la formule figurant au paragraphe (3.3);

E la valeur de l'élément B de cette formule.

Mécanismes de financement multiples

(3.5) Si une somme dont un bailleur de fonds considéré est débiteur ou un droit déterminé qu'il détient est un mécanisme de financement considéré relativement à deux ou plusieurs dettes ou autres obligations données mentionnées à l'alinéa (3.1)a), la somme due ou la juste valeur marchande du bien relativement auquel le droit déterminé a été accordé, aux termes d'un mécanisme de financement considéré, est réputée, pour l'application des paragraphes (3.2) à (3.4), relativement à chaque dette ou autre obligation donnée, être la somme obtenue par la formule suivante :

A/B × C

où :

A représente le total des sommes dont chacune représente une somme dont le bailleur de fonds considéré est créancier, ou la juste valeur marchande d'un bien relativement auquel il a accordé un droit déterminé, aux termes d'un mécanisme de financement considéré, relativement à la dette ou autre obligation donnée;

B le total des sommes dont chacune représente une somme dont le bailleur de fonds considéré est créancier, ou la juste valeur marchande d'un bien relativement auquel il a accordé un droit déterminé, aux termes d'un mécanisme de financement considéré, relativement à la totalité des dettes ou autres obligations données;

C la somme dont le bailleur de fonds considéré est débiteur ou la juste valeur marchande du bien relativement auquel il détient un droit déterminé.

Back-to-back loan arrangement — character substitution

(3.6) Subsection (3.7) applies in respect of

(a) shares (other than specified shares) of the capital stock of a particular relevant funder, in respect of a particular relevant funding arrangement, if — at any time at or after the time when the particular debt or other obligation referred to in paragraph (3.1)(a) was entered into — the particular relevant funder has an obligation to pay or credit an amount as, on account or in lieu of payment of, or in satisfaction of, a dividend on the shares, either immediately or in the future and either absolutely or contingently, to a person or partnership, and any of the following conditions is met:

(i) the amount of the dividend is determined, in whole or in part, by reference to an amount of interest paid or credited, or an obligation to pay or credit interest, under a relevant funding arrangement, or

(ii) it can reasonably be concluded that the particular relevant funding arrangement was entered into or was permitted to remain in effect, because

(A) the shares were issued or were permitted to remain issued and outstanding, or

(B) it was anticipated that the shares would be issued or would be permitted to remain issued and outstanding; or

(b) a specified royalty arrangement, if — at any time at or after the time when the particular debt or other obligation referred to in paragraph (3.1)(a) was entered into — a particular relevant funder, in respect of a particular relevant funding arrangement, is a specified licensee that has an obligation to pay or credit an amount under the specified royalty arrangement, either immediately or in the future and either absolutely or contingently, to a person or partnership, and any of the following conditions is met:

(i) the amount is determined, in whole or in part, by reference to an amount of interest paid or credited, or an obligation to pay or credit interest, under a relevant funding arrangement, or

(ii) it can reasonably be concluded that the particular relevant funding arrangement was entered into or was permitted to remain in effect, because

(A) the specified royalty arrangement was entered into or was permitted to remain in effect, or

Prêts adossés — remplacement

(3.6) Le paragraphe (3.7) s'applique, selon le cas :

a) relativement aux actions (sauf les actions déterminées) du capital-actions d'un bailleur de fonds considéré donné, relativement à un mécanisme de financement considéré donné, si – à un moment donné qui correspond au moment où la dette ou autre obligation donnée mentionnée à l'alinéa (3.1)a) a été contractée ou à un moment postérieur à ce moment – le bailleur de fonds considéré donné a une obligation de payer à une personne ou société de personnes, ou de porter à son crédit, une somme au titre ou en paiement intégral ou partiel d'un dividende sur les actions, dans l'immédiat ou pour l'avenir et conditionnellement ou non, et l'un des énoncés ci-après se vérifie :

(i) le montant du dividende est déterminé, en tout ou en partie, par rapport à un montant d'intérêts payé ou porté au crédit, ou à une obligation de payer un montant d'intérêts ou de le porter au crédit, aux termes d'un mécanisme de financement considéré,

(ii) il est raisonnable de conclure que le mécanisme de financement considéré donné a été conclu ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(A) les actions ont été émises ou il a été permis qu'elles demeurent émises et en circulation;

(B) il était prévu que les actions seraient émises ou qu'il soit permis qu'elles demeurent émises et en circulation;

b) relativement à un mécanisme de redevance déterminé, si – à un moment donné qui correspond au moment où la dette ou autre obligation donnée mentionnée à l'alinéa (3.1)a) a été contractée ou à un moment postérieur à ce moment – un bailleur de fonds considéré donné, relativement à un mécanisme de financement considéré donné, est un porteur de licence déterminé qui a une obligation de payer à une personne ou société de personnes, ou de porter à son crédit, une somme aux termes du mécanisme de redevance déterminé, dans l'immédiat ou pour l'avenir et conditionnellement ou non, et l'une des conditions ci-après est remplie :

(i) la somme est déterminée, en tout ou en partie, par rapport à une somme au titre des intérêts qui est payée ou portée au crédit, ou une obligation de payer des intérêts ou de les porter au crédit, aux termes d'un mécanisme de financement considéré,

(B) it was anticipated that the specified royalty arrangement would be entered into or remain in effect.

(ii) il est raisonnable de conclure que le mécanisme de financement considéré donné a été conclu ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(A) le mécanisme de redevance déterminé a été conclu ou il a été permis qu'il demeure en vigueur,

(B) il était prévu que le mécanisme de redevance déterminé serait conclu ou qu'il demeurerait en vigueur.

Back-to-back loan arrangement — character substitution

(3.7) If this subsection applies in respect of a specified royalty arrangement (under which a particular relevant funder is a specified licensee) or shares of the capital stock of a particular relevant funder, then, for the purposes of subsections (3.1) to (3.8),

(a) the specified royalty arrangement or the holding of the shares, as the case may be, is deemed to be a relevant funding arrangement;

(b) the specified licensor or shareholder, as the case may be, in respect of the relevant funding arrangement, is deemed to be a relevant funder, in respect of the relevant funding arrangement;

(c) the conditions in paragraph (3.1)(c) are deemed to be met in respect of the relevant funding arrangement; and

(d) the relevant funder is deemed to be owed, under the relevant funding arrangement and by the particular relevant funder, an amount as or on account of a debt, the outstanding amount of which is determined by the formula

(A – B) × C/D

where

A is the total of all amounts each of which is at the particular time,

(i) an amount outstanding as or on account of a debt or other obligation that is owed to the particular relevant funder under a relevant funding arrangement,

(ii) the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular relevant funder has granted a specified right under a relevant funding arrangement, or

Prêts adossés — remplacement

(3.7) Si le présent paragraphe s'applique relativement à un mécanisme de redevance déterminé (aux termes duquel un bailleur de fonds considéré donné est un porteur de licence déterminé) ou à des actions du capital-actions d'un bailleur de fonds considéré donné, les règles ci-après s'appliquent aux fins des paragraphes (3.1) à (3.8) :

a) le mécanisme de redevance déterminé ou la détention d'actions, selon le cas, est réputé être un mécanisme de financement considéré;

b) le cédant de licence déterminé ou l'actionnaire, selon le cas, relativement au mécanisme de financement considéré, est réputé être un bailleur de fonds considéré, relativement au mécanisme de financement considéré;

c) les conditions énoncées à l'alinéa (3.1)c) sont réputées être remplies relativement au mécanisme de financement considéré;

d) le bailleur de fonds considéré est réputé être créancier d'une somme, due aux termes du mécanisme de financement considéré par le bailleur de fonds considéré donné, au titre d'une créance, dont le montant impayé est obtenu par la formule suivante :

(A – B) × C/D

où :

A représente le total des sommes dont chacune représente, au moment donné, l'une des sommes suivantes :

i) une somme impayée au titre d'une dette ou autre obligation dont le bailleur de fonds considéré donné est créancier aux termes d'un mécanisme de financement considéré,

(iii) if neither subparagraph (i) nor (ii) applies at that particular time, nil,

B is the total of all amounts each of which is, at the particular time, in respect of a relevant funding arrangement (other than a relevant funding arrangement deemed under paragraph (a)) and is

(i) an amount outstanding as or on account of a debt or other obligation that is owed by the particular relevant funder under the relevant funding arrangement,

(ii) the fair market value of a particular property referred to in subparagraph (3.1)(c)(ii) in respect of which the particular relevant funder has been granted a specified right under a relevant funding arrangement, or

(iii) if neither subparagraph (i) nor (ii) applies at that particular time, nil,

C is the fair market value, at the particular time, of

(i) if the relevant funding arrangement is described in paragraph (3.6)(a), the shares, or

(ii) if the relevant funding arrangement is described in paragraph (3.6)(b), the specified royalty arrangement, and

D is the total of all amounts each of which is, in respect of a relevant funding arrangement referred to in the description of C, the amount determined for C at the particular time.

ii) la juste valeur marchande d'un bien donné mentionné au sous-alinéa (3.1)c)(ii) relativement auquel le bailleur de fonds considéré donné a accordé un droit déterminé aux termes d'un mécanisme de financement considéré,

iii) zéro, si ni le sous-alinéa i) ni le sous-alinéa ii) ne s'applique au moment donné,

B le total des sommes dont chacune est, au moment donné, relative à un mécanisme de financement considéré (sauf un tel mécanisme qui est réputé en vertu de l'alinéa a)) et :

i) soit une somme impayée au titre d'une dette ou autre obligation dont le bailleur de fonds considéré donné est débiteur aux termes du mécanisme de financement considéré,

ii) soit la juste valeur marchande d'un bien donné mentionné au sous-alinéa (3.1)c)(ii) relativement auquel un droit déterminé a été accordé au bailleur de fonds considéré donné aux termes d'un mécanisme de financement considéré,

iii) soit zéro, si ni le sous-alinéa i) ni le sous-alinéa ii) ne s'applique,

C la juste valeur marchande au moment donné :

i) soit, si le mécanisme de financement considéré est visé à l'alinéa (3.6)a), des actions,

ii) soit, si le mécanisme de financement considéré est visé à l'alinéa (3.6)b), du mécanisme de redevance déterminé,

D le total des sommes dont chacune représente, relativement à un mécanisme de financement considéré mentionné à l'élément C, la valeur de cet élément au moment donné.

Back-to-back loan arrangement — definitions

(3.8) The following definitions apply in this subsection and subsections (3.1) to (3.7) and (3.81).

relevant funder, in respect of a relevant funding arrangement, means

(a) if the relevant funding arrangement is described in paragraph (a) of the definition *relevant funding arrangement*, the immediate funder referred to in paragraph (3.1)(a);

(b) if the relevant funding arrangement is described in paragraph (b) of the definition *relevant funding arrangement*, the creditor in respect of the debt or other obligation or the grantor of the specified right, as the case may be; or

Prêts adossés — définitions

(3.8) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (3.1) à (3.7) et (3.81).

action déterminée Action du capital-actions d'une société si, selon les caractéristiques de l'action ou selon toute convention ou tout mécanisme qui concerne l'action :

a) soit le détenteur de l'action peut faire en sorte que l'action soit rachetée, acquise ou annulée;

b) soit la société émettrice est ou peut être tenue de racheter, d'acquérir ou d'annuler l'action à un moment précis;

(c) a person or partnership that does not deal at arm's length with a person or partnership that is referred to in paragraph (a) or (b) and that deals at arm's length with the taxpayer. (*bailleur de fonds considéré*)

relevant funding arrangement means

(a) the particular debt or other obligation referred to in paragraph (3.1)(a); and

(b) each debt or other obligation or specified right, owing by or granted to a relevant funder, in respect of a particular relevant funding arrangement, if the debt or other obligation or specified right meets the conditions in subparagraph (3.1)(c)(i) or (ii) in respect of a relevant funding arrangement. (*mécanisme de financement considéré*)

specified licensee means

(a) a lessee, licensee or grantee of a right similar to a right granted under a lease or licence, under a specified royalty arrangement;

(b) an assignee under a specified royalty arrangement; or

(c) a purchaser under a specified royalty arrangement. (*porteur de licence déterminé*)

specified licensor means

(a) a lessor, licensor or grantor of a right similar to a right granted under a lease or licence, under a specified royalty arrangement;

(b) an assignor under a specified royalty arrangement; or

(c) a seller under a specified royalty arrangement. (*cédant de licence déterminé*)

specified right has the same meaning as in subsection 18(5). (*droit déterminé*)

specified royalty arrangement has the same meaning as in subsection (3.94). (*mécanisme de redevance déterminé*)

specified share means a share of the capital stock of a corporation if, under the terms or conditions of the share, or any agreement or arrangement relating to the share,

(a) the holder of the share may cause the share to be redeemed, acquired or cancelled;

c) soit l'action est convertible ou échangeable contre une action qui a les caractéristiques visées aux alinéas a) ou b). (*specified share*)

bailleur de fonds considéré Relativement à un mécanisme de financement considéré, les personnes suivantes :

a) si le mécanisme est visé à l'alinéa a) de la définition de *mécanisme de financement considéré*, le bailleur de fonds immédiat visé à l'alinéa (3.1)a);

b) si le mécanisme est visé à l'alinéa b) de cette définition, le créancier relativement à la dette ou autre obligation ou la personne ou société de personnes qui accorde le droit déterminé, selon le cas;

c) une personne ou société de personnes qui a un lien de dépendance avec une personne ou société de personnes qui est mentionnée aux alinéas a) ou b) et qui n'a aucun lien de dépendance avec le contribuable. (*relevant funder*)

bailleur de fonds ultime Relativement à un mécanisme de financement considéré, le bailleur de fonds considéré (sauf le bailleur de fonds immédiat) qui :

a) soit n'est ni débiteur, ni titulaire d'un droit déterminé, aux termes d'un mécanisme de financement considéré;

b) soit est débiteur, ou titulaire d'un droit déterminé, aux termes d'un mécanisme de financement considéré, si la somme qui serait — si le bailleur de fonds considéré était un bailleur de fonds ultime — déterminée selon l'élément C de la première formule figurant au paragraphe (3.2) est supérieure à zéro. (*ultimate funder*)

cédant de licence déterminé Les personnes ou sociétés de personnes ci-après aux termes d'un mécanisme de redevance déterminé :

a) un bailleur, un cédant de licence ou la personne ou société de personnes qui accorde un droit semblable à un droit prévu par une convention de bail ou licence;

b) un cédant;

c) un vendeur. (*specified licensor*)

droit déterminé S'entend au sens du paragraphe 18(5). (*specified right*)

mécanisme de financement considéré Les titres suivants :

(b) the issuing corporation is, or may be, required to redeem, acquire or cancel the share at a specific time; or

(c) the share is convertible or exchangeable into a share that meets the conditions in paragraph (a) or (b). (*action déterminée*)

ultimate funder means a relevant funder, in respect of a relevant funding arrangement (other than the immediate funder) that either

(a) is not a debtor, or a holder of a specified right, under a relevant funding arrangement; or

(b) is a debtor, or a holder of a specified right, under a relevant funding arrangement, if the amount that would — if the relevant funder were an ultimate funder — be determined for C in the formula in subsection (3.2) is greater than nil. (*bailleur de fonds ultime*)

a) la dette ou autre obligation donnée visée à l'alinéa (3.1)a);

b) chaque dette ou autre obligation à payer par un bailleur de fonds considéré, ou droit déterminé accordé à un bailleur de fonds considéré, relativement à un mécanisme de financement considéré donné, si la dette ou autre obligation ou le droit déterminé remplit les conditions énoncées au sous-alinéa (3.1)c)(i) ou (ii) relativement à un mécanisme de financement considéré. (*relevant funding arrangement*)

mécanisme de redevance déterminé S'entend au sens du paragraphe (3.94). (*specified royalty arrangement*)

porteur de licence déterminé Les personnes ci-après aux termes d'un mécanisme de redevance déterminé :

a) un preneur, un porteur de licence ou une personne ou société de personnes à laquelle est accordé un droit semblable à un droit prévu par une convention de bail ou licence;

b) un cessionnaire;

c) un acquéreur. (*specified licensee*)

Specified shares

(3.81) For the purposes of subsections (3.1) to (3.8),

(a) specified shares of a relevant funder, in respect of a relevant funding arrangement, held at any time by a person or partnership are deemed to be a debt of the relevant funder owing to the person or partnership; and

(b) the amount outstanding at that time as or on account of the debt is deemed to be equal to the fair market value of the specified shares at that time.

Actions déterminées

(3.81) Pour l'application des paragraphes (3.1) à (3.8), les règles ci-après s'appliquent :

a) les actions déterminées d'un bailleur de fonds considéré, relativement à un mécanisme de financement considéré, qui sont détenues à un moment donné par une personne ou société de personnes sont réputées être une dette du bailleur de fonds considéré due à la personne ou société de personnes;

b) la somme due à ce moment au titre de la dette est réputée être égale à la juste valeur marchande des actions déterminées à ce moment.

Back-to-back arrangement — rents, royalties, similar payments

(3.9) Subsection (3.91) applies at any time in respect of a taxpayer if

(a) the taxpayer pays or credits a particular amount at that time as, on account or in lieu of payment of, or in satisfaction of, rent, royalty or similar payment, in respect of a particular lease, licence or similar agreement, to a non-resident person or a partnership any member of which is a non-resident person (in this subsection and subsections (3.91) to (3.94) referred to as the ***immediate licensor***);

Mécanismes d'adossement — loyers, redevances et paiements semblables

(3.9) Le paragraphe (3.91) s'applique à un moment donné relativement à un contribuable si les énoncés ci-après se vérifient :

a) à ce moment, le contribuable paie à une personne non-résidente ou à une société de personnes dont un associé est une telle personne (appelées ***cédant de licence immédiat*** au présent paragraphe et aux paragraphes (3.91) à (3.94)), ou porte à son crédit, une somme donnée au titre ou en paiement intégral ou partiel d'un loyer, d'une redevance ou d'un paiement

(b) at any time at or after the time when the particular lease, licence or similar agreement was entered into,

(i) a relevant licensor in respect of a particular relevant royalty arrangement has an obligation to pay or credit an amount, either immediately or in the future and either absolutely or contingently, to a person or partnership, in respect of a specified royalty arrangement, and either of the following additional conditions is met:

(A) the amount is determined, in whole or in part, by reference to

(I) an amount paid or credited, or an obligation to pay or credit an amount, in respect of a relevant royalty arrangement, or

(II) one or more of the fair market value of, any revenue, profits, income, or cash flow from, or any other similar criteria in respect of, a particular property, if a right in respect of the property is granted under the particular lease, licence or similar agreement, or

(B) it can reasonably be concluded that the particular relevant royalty arrangement was entered into, or was permitted to remain in effect, because

(I) the specified royalty arrangement was entered into or was permitted to remain in effect, or

(II) it was anticipated that the specified royalty arrangement would be entered into or remain in effect, and

(ii) either the person or partnership

(A) does not deal at arm's length with the taxpayer, or

(B) deals at arm's length with the taxpayer, if it can reasonably be concluded that one of the main purposes of the specified royalty arrangement was

(I) to reduce or avoid the tax payable under this Part in respect of the particular amount, or

(II) to avoid the application of subsection (3.91); and

(c) the tax that would be payable under this Part in respect of the particular amount, if the particular

semblable, relativement à une convention de bail, licence ou convention semblable donnée;

b) au moment de la conclusion de la convention de bail, licence ou convention semblable donnée ou à un moment postérieur, les conditions ci-après sont remplies :

(i) un cédant de licence considéré relatif à un mécanisme de redevance considéré donné a une obligation de payer à une personne ou société de personnes, ou de porter à son crédit, une somme, dans l'immédiat ou pour l'avenir et conditionnellement ou non, relativement à un mécanisme de redevance déterminé, et l'une ou l'autre des conditions additionnelles ci-après est remplie :

(A) la somme est déterminée, en tout ou en partie, par rapport :

(I) soit à une somme payée ou portée au crédit, ou à une obligation de payer une somme ou de la porter au crédit, relativement à un mécanisme de redevance considéré,

(II) soit à un ou plusieurs des critères qui sont la juste valeur marchande d'un bien, les recettes, le revenu, les bénéfices ou les rentrées provenant d'un bien ou tout autre critère semblable applicable à un bien, si un droit relatif au bien est accordé aux termes de la convention de bail, licence ou convention semblable donnée,

(B) il est raisonnable de conclure que le mécanisme de redevance considéré donné a été conclu, ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(I) le mécanisme de redevance déterminé a été conclu ou il a été permis qu'il demeure en vigueur,

(II) il était prévu que le mécanisme de redevance déterminé serait conclu ou qu'il demeurerait en vigueur,

(ii) la personne ou la société de personnes :

(A) soit a un lien de dépendance avec le contribuable,

(B) soit n'a aucun lien de dépendance avec lui, s'il est raisonnable de conclure que l'un des principaux motifs du mécanisme de redevance déterminé était :

amount were paid or credited to an ultimate licensor rather than the immediate licensor, is greater than the tax payable under this Part (determined without reference to this subsection and subsection (3.91)) in respect of the particular amount.

Back-to-back arrangement — rents, royalties, similar payments

(3.91) If this subsection applies at any time in respect of a taxpayer, then, for the purposes of paragraph (1)(d), the taxpayer is deemed, at that time, to pay to each ultimate licensor an amount — of the same character as the particular amount referred to in paragraph (3.9)(a) — determined for each particular ultimate licensor by the formula

(A × B/C) × (D – E)/D

where

A is the particular amount referred to in paragraph (3.9)(a);

B is

(a) the portion of the amount referred to in paragraph (3.9)(a) that is demonstrated, to the satisfaction of the Minister, to be reasonably allocable to the particular ultimate licensor, and

(b) if an amount is not demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each particular ultimate licensor, one;

C is

(a) the total of all amounts, each of which is the portion of the amount referred to in paragraph (3.9)(a) that is demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each ultimate licensor, and

(b) if an amount is not demonstrated, to the satisfaction of the Minister, to be reasonably allocable to each particular ultimate licensor, the number of ultimate licensors;

D is

(a) if an amount is not demonstrated, to the satisfaction of the Minister, to be reasonably allocable

(I) soit de réduire ou d'éviter l'impôt payable en vertu de la présente partie relativement à la somme donnée,

(II) soit d'éviter l'application du paragraphe (3.91);

c) l'impôt qui serait payable en vertu de la présente partie relativement à la somme donnée, si celle-ci était payée à un cédant de licence ultime ou portée à son crédit, au lieu d'être payée au cédant de licence immédiat ou portée à son crédit, est plus élevée que l'impôt payable en vertu de la présente partie (déterminé compte non tenu du présent paragraphe et du paragraphe (3.91)) relativement à la somme donnée.

Mécanismes d'adossement — loyers, redevances et paiements semblables

(3.91) Si le présent paragraphe s'applique à un moment donné relativement à un contribuable, celui-ci est réputé à ce moment, pour l'application de l'alinéa (1)d), payer à chaque cédant de licence ultime une somme — de même nature que la somme donnée mentionnée à l'alinéa (3.9)a) — déterminée quant à chaque cédant de licence ultime donné selon la formule suivante :

(A × B/C) × (D – E)/D

où :

A représente la somme donnée mentionnée au paragraphe (3.9)a);

B :

a) la partie de la somme donnée mentionnée à l'alinéa (3.9)a) à l'égard de laquelle il est établi, à la satisfaction du ministre, qu'il est raisonnable de l'attribuer au cédant de licence ultime donné,

b) s'il n'est pas établi, à la satisfaction du ministre, qu'il est raisonnable d'attribuer une somme à chaque cédant de licence ultime donné, un;

C :

a) le total des sommes dont chacune représente la partie de la somme donnée mentionnée à l'alinéa (3.9)a) à l'égard de laquelle il est établi, à la satisfaction du ministre, qu'il est raisonnable de l'attribuer à chaque cédant de licence ultime,

b) le nombre de cédants de licence ultimes, si, à l'égard d'une somme, il n'est pas établi, à la satisfaction du ministre, qu'il est raisonnable de l'attribuer à chaque cédant de licence ultime donné;

D :

a) s'il n'est pas établi, à la satisfaction du ministre, qu'il est raisonnable d'attribuer une somme

to each particular ultimate licensor, the highest rate of tax that would be imposed under this Part on the particular amount referred to in paragraph (3.9)(a) if the particular amount were paid by the taxpayer to any of the ultimate licensors at that time, and

(b) in any other case, the rate of tax that would be imposed under this Part on the particular amount referred to in paragraph (3.9)(a) if the particular amount were paid by the taxpayer to the particular ultimate licensor at that time; and

E is the rate of tax imposed under this Part at that time on the immediate licensor in respect of the particular amount, referred to in paragraph (3.9)(a), paid or credited to the immediate licensor.

à chaque cédant de licence ultime donné, le taux d'impôt le plus élevé qui s'appliquerait en vertu de la présente partie à la somme donnée mentionnée à l'alinéa (3.9)a) si celle-ci était payée par le contribuable à l'un des cédants de licence ultimes à ce moment,

b) sinon, le taux d'impôt qui s'appliquerait en vertu de la présente partie à la somme donnée mentionnée à l'alinéa (3.9)a) si celle-ci était payée par le contribuable au cédant de licence ultime donné à ce moment;

E le taux d'impôt prévu par la présente partie à ce moment auquel le cédant de licence immédiat est assujetti relativement à la somme donnée mentionnée à l'alinéa (3.9)a) qui est payée au cédant de licence immédiat ou portée à son crédit.

Back-to-back arrangement — character substitution

(3.92) Subsection (3.93) applies in respect of

(a) shares of the capital stock of a particular relevant licensor, in respect of a particular relevant royalty arrangement, if — at any time at or after the time when a particular lease, license or similar agreement referred to in paragraph (3.9)(a) was entered into — the particular relevant licensor has an obligation to pay or credit an amount as, on account or in lieu of payment of, or in satisfaction of, a dividend on the shares, either immediately or in the future and either absolutely or contingently, to a person or partnership, and

(i) either of the following conditions is met:

(A) the amount of the dividend is determined, in whole or in part, by reference to

(I) an amount of rent, royalty or similar payment paid or credited, or an obligation to pay or credit rent, royalty or similar payment, under a relevant royalty arrangement, or

(II) one or more of the fair market value of, any revenue profits, income or cash flow from, or any other similar criteria in respect of a particular property, if a right in respect of the property is granted under the particular lease, licence or similar agreement, or

(B) it can reasonably be concluded that the particular relevant royalty arrangement was entered into or was permitted to remain in effect, because

(I) the shares were issued or were permitted to remain issued and outstanding, or

Mécanismes d'adossement — remplacement

(3.92) Le paragraphe (3.93) s'applique :

a) relativement à des actions du capital-actions d'un cédant de licence considéré donné, relativement à un mécanisme de redevance considéré donné, si — au moment de la conclusion d'une convention de bail, licence ou autre convention semblable donnée mentionnée à l'alinéa (3.9)a) ou postérieurement — le cédant de licence considéré donné a une obligation de payer à une personne ou société de personnes, ou de porter à son crédit, une somme au titre ou en paiement intégral ou partiel d'un dividende sur les actions, dans l'immédiat ou pour l'avenir et conditionnellement ou non, et les énoncés ci-après se vérifient :

(i) l'une ou l'autre des conditions ci-après est remplie :

(A) le montant du dividende est déterminé, en tout ou en partie, par rapport :

(I) soit à une somme au titre d'un loyer, d'une redevance ou d'un paiement semblable qui est payée ou portée au crédit, ou d'une obligation de payer une telle somme ou de la porter au crédit, aux termes d'un mécanisme de redevance considéré,

(II) soit à un ou plusieurs des critères qui sont la juste valeur marchande d'un bien, les recettes, le revenu, les bénéfices ou les rentrées provenant d'un bien, ou tout autre critère semblable applicable à un bien, si un droit relatif au bien est accordé aux termes de la convention de bail, licence ou convention semblable donnée,

(II) it was anticipated that the shares would be issued or would be permitted to remain issued and outstanding, and

(ii) either the person or partnership

(A) does not deal at arm's length with the taxpayer referred to in paragraph (3.9)(a), or

(B) deals at arm's length with that taxpayer, if it can reasonably be concluded that one of the main purposes of the issuance of the shares was

(I) to reduce or avoid the tax payable under this Part in respect of the particular amount referred to in paragraph (3.9)(a), or

(II) to avoid the application of subsection (3.91); and

(b) an amount outstanding as or on account of a debt or other obligation to pay an amount, if — at any time at or after the time when a particular lease, license or similar agreement referred to in paragraph (3.9)(a) was entered into — a particular relevant licensor, in respect of a particular relevant royalty arrangement, has an obligation to pay or credit an amount as, on account or in lieu of payment of, or in satisfaction of, interest under the debt or other obligation, either immediately or in the future and either absolutely or contingently, to a person or partnership, and

(i) either of the following conditions is met:

(A) the amount of the interest is determined, in whole or in part, by reference to

(I) an amount of rent, royalty or similar payment paid or credited, or an obligation to pay or credit rent, royalty or similar payment, under a relevant royalty arrangement, or

(II) one or more of the fair market value of, any revenue profits, income or cash flow from, or any other similar criteria in respect of a particular property, if a right in respect of the property is granted under the particular lease, licence or similar agreement, or

(B) it can reasonably be concluded that the particular relevant royalty arrangement was entered into or was permitted to remain in effect, because

(I) the debt or other obligation was entered into or was permitted to remain in effect, or

(B) il est raisonnable de conclure que le mécanisme de redevance considéré donné a été conclu ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(I) les actions ont été émises ou il a été permis qu'elles demeurent émises et en circulation,

(II) il était prévu que les actions seraient émises ou qu'il serait permis qu'elles demeurent émises et en circulation,

(ii) la personne ou la société de personnes :

(A) soit a un lien de dépendance avec le contribuable visé à l'alinéa (3.9)a),

(B) soit n'a aucun lien de dépendance avec lui mais il est raisonnable de conclure qu'un des principaux motifs de l'émission des actions était :

(I) de réduire ou d'éviter l'impôt payable en vertu de la présente partie relativement à la somme donnée mentionnée à l'alinéa (3.9)a),

(II) soit d'éviter l'application du paragraphe (3.91);

b) relativement à une somme due au titre d'une dette ou autre obligation de payer une somme, si — au moment de la conclusion d'une convention de bail, licence ou autre convention semblable donnée mentionnée à l'alinéa (3.9)a) ou postérieurement — un cédant de licence considéré donné, relativement à un mécanisme de redevance considéré donné, a une obligation de payer à une personne ou société de personnes ou de porter à son crédit, une somme au titre ou en paiement intégral ou partiel des intérêts relatifs à la dette ou autre obligation, dans l'immédiat ou pour l'avenir et conditionnellement ou non, et les énoncés ci-après se vérifient :

(i) l'une ou l'autre des conditions ci-après est remplie :

(A) le montant des intérêts est déterminé, en tout ou en partie, par rapport :

(I) soit à une somme au titre d'un loyer, d'une redevance ou d'un paiement semblable, ou d'une obligation de payer une telle somme ou de la porter au crédit, aux termes d'un mécanisme de redevance considéré,

(II) it was anticipated that the debt or other obligation would be entered into or remain in effect, and

(ii) either the person or partnership

(A) does not deal at arm's length with the taxpayer referred to in paragraph (3.9)(a), or

(B) deals at arm's length with that taxpayer, if it can reasonably be concluded that one of the main purposes of entering into the debt or other obligation was

(I) to reduce or avoid the tax payable under this Part in respect of the particular amount referred to in paragraph (3.9)(a), or

(II) to avoid the application of subsection (3.91).

(II) soit à un ou plusieurs des critères qui sont la juste valeur marchande d'un bien, les recettes, le revenu ou les rentrées provenant de ce bien, les bénéfices ou gains provenant de la disposition de ce bien ou tout autre critère semblable applicable à ce bien, si un droit relatif à ce bien est accordé aux termes de la convention de bail, licence ou convention semblable donnée,

(B) il est raisonnable de conclure que le mécanisme de redevance considéré donné a été conclu ou qu'il a été permis qu'il demeure en vigueur, pour l'un des motifs suivants :

(I) la dette ou autre obligation a été contractée ou il a été permis qu'elle demeure à payer,

(II) il était prévu que la dette ou autre obligation serait contractée ou qu'elle demeurerait à payer,

(ii) la personne ou la société de personnes :

(A) soit a un lien de dépendance avec le contribuable visé à l'alinéa (3.9)a),

(B) soit n'a aucun lien de dépendance avec lui mais il est raisonnable de conclure que l'un des principaux motifs de contracter la dette ou autre obligation était :

(I) soit de réduire ou d'éviter la taxe payable en vertu de la présente partie relativement à la somme donnée mentionnée à l'alinéa (3.9)a),

(II) soit d'éviter l'application du paragraphe (3.91).

Back-to-back arrangement — character substitution

(3.93) If this subsection applies in respect of a debt or other obligation to pay an amount (under which a particular relevant licensor is a borrower) or shares of the capital stock of a particular relevant licensor, then, for the purposes of subsections (3.9) to (3.94),

(a) the debt or other obligation or the holding of the shares, as the case may be, is deemed to be a relevant royalty arrangement;

(b) the creditor or shareholder, as the case may be, in respect of the relevant royalty arrangement, is deemed to be a relevant licensor, in respect of the relevant royalty arrangement; and

Mécanismes d'adossement — remplacement

(3.93) Si le présent paragraphe s'applique relativement à une dette ou autre obligation de payer une somme (aux termes de laquelle un cédant de licence considéré donné est un emprunteur) ou à des actions du capital-actions d'un cédant de licence considéré donné, les règles ci-après s'appliquent aux fins des paragraphes (3.9) à (3.94) :

a) la dette ou autre obligation ou la détention des actions, selon le cas, est réputée être un mécanisme de redevance considéré;

b) le créancier ou l'actionnaire, selon le cas, relativement au mécanisme de redevance considéré, est réputé être un cédant de licence considéré, relativement au mécanisme de redevance considéré;

(c) the relevant royalty arrangement is deemed to be a specified royalty arrangement in respect of which the conditions in paragraph (3.9)(b) are met.

Back-to-back arrangement — definitions

(3.94) The following definitions apply in this subsection and subsections (3.9) to (3.93).

lease, licence or similar agreement means an agreement under which a rent, royalty or similar payment is or could be made. (*convention de bail, licence ou autre convention semblable*)

relevant licensor, in respect of a relevant royalty arrangement, means

(a) if the relevant royalty arrangement is described in paragraph (a) of the definition *relevant royalty arrangement*, the immediate licensor referred to in paragraph (3.9)(a);

(b) if the relevant royalty arrangement is described in paragraph (b) of the definition *relevant royalty arrangement*, a person or partnership that is the lessor, the licensor or the grantor of a right similar to a right granted under a lease or licence, the assignor or the seller, as the case may be; or

(c) a person or partnership that does not deal at arm's length with a relevant licensor referred to in paragraph (a) or (b). (*cédant de licence considéré*)

relevant royalty arrangement means

(a) the particular lease, licence or similar agreement referred to in paragraph (3.9)(a); and

(b) each specified royalty arrangement that

(i) meets, in respect of a relevant royalty arrangement, the conditions in clause (3.9)(b)(i)(A) or (B), and

(ii) is an arrangement in respect of which the person or partnership referred to in subparagraph (3.9)(b)(ii) meets the conditions in clause (3.9)(b)(ii)(A) or (B). (*mécanisme de redevance considéré*)

rent, royalty or similar payment means a rent, royalty or similar payment described in paragraph (1)(d) and, for greater certainty, includes any payment described in subparagraphs (1)(d)(i) to (v) but does not include any payment described in subparagraphs (1)(d)(vi) to (xii). (*loyer, redevance ou paiement semblable*)

c) le mécanisme de redevance considéré est réputé être un mécanisme de redevance déterminé relativement auquel les conditions énoncées à l'alinéa (3.9)b) sont remplies.

Mécanismes d'adossement — définitions

(3.94) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (3.9) à (3.93).

cédant de licence considéré Relativement à un mécanisme de redevance considéré, les personnes suivantes :

a) si le mécanisme est visé à l'alinéa a) de la définition de *mécanisme de redevance considéré*, le cédant de licence immédiat mentionné à l'alinéa (3.9)a);

b) si le mécanisme est visé à l'alinéa b) de cette définition, une personne ou société de personnes qui est le bailleur, le cédant de licence ou la personne ou société de personnes qui accorde un droit semblable à un droit prévu par une convention de bail ou licence, le cédant ou le vendeur, selon le cas;

c) une personne ou société de personnes qui a un lien de dépendance avec un cédant de licence considéré mentionné aux alinéas a) ou b). (*relevant licensor*)

cédant de licence ultime Cédant de licence considéré (sauf le cédant de licence immédiat) relativement à un mécanisme de redevance considéré qui n'est, aux termes d'un tel mécanisme, aucune des personnes suivantes :

a) un preneur, un porteur de licence ou une personne à laquelle est accordé un droit semblable à un droit prévu par une convention de bail ou licence;

b) un cessionnaire;

c) un acquéreur. (*ultimate licensor*)

convention de bail, licence ou autre convention semblable Convention aux termes de laquelle un paiement au titre d'un loyer ou d'une redevance ou un paiement semblable est ou pourrait être effectué. (*lease, licence or similar agreement*)

loyer, redevance ou paiement semblable Les loyer, redevance ou paiement semblable visés à l'alinéa (1)d) dont il est entendu que tout paiement visé aux sous-alinéas (1)d)(i) à (v) sont inclus, à l'exclusion de tout paiement visé aux sous-alinéas (1)d)(vi) à (xii). (*rent, royalty or similar payment*)

mécanisme de redevance considéré :

specified royalty arrangement means a lease, license or similar agreement, an assignment or an instalment sale. (*mécanisme de redevance déterminé*)

ultimate licensor means a relevant licensor (other than the immediate licensor), in respect of a relevant royalty arrangement, that is not, under a relevant royalty arrangement,

(a) a lessee, a licensee or a grantee of a right similar to a right granted under a lease or licence;

(b) an assignee; or

(c) a purchaser. (*cédant de licence ultime*)

a) toute convention de bail, licence ou convention semblable donnée mentionnée à l'alinéa (3.9)a);

b) tout mécanisme de redevance déterminé qui, à la fois :

(i) remplit, à l'égard d'un mécanisme de redevance considéré, les conditions énoncées aux divisions (3.9)b)(i)(A) ou (B),

(ii) est un mécanisme relativement auquel la personne ou société de personnes mentionnée au sous-alinéa (3.9)b)(ii) remplit les conditions énoncées aux divisions (3.9)b)(ii)(A) ou (B). (*relevant royalty arrangement*)

mécanisme de redevance déterminé Bail, licence ou convention semblable, cession ou vente à tempérament. (*specified royalty arrangement*)

Interpretation of *management or administration fee or charge*

(4) For the purpose of paragraph 212(1)(a), ***management or administration fee or charge*** does not include any amount paid or credited or deemed by Part I to have been paid or credited to a non-resident person as, on account or in lieu of payment of, or in satisfaction of,

(a) a service performed by the non-resident person if, at the time the non-resident person performed the service

(i) the service was performed in the ordinary course of a business carried on by the non-resident person that included the performance of such a service for a fee, and

(ii) the non-resident person and the payer were dealing with each other at arm's length, or

(b) a specific expense incurred by the non-resident person for the performance of a service that was for the benefit of the payer,

to the extent that the amount so paid or credited was reasonable in the circumstances.

Sens de *honoraires ou frais de gestion ou d'administration*

(4) Pour l'application de l'alinéa (1)a), les honoraires ou frais de gestion ou d'administration ne comprennent pas une somme versée ou créditée, ou réputée, en vertu de la partie I, avoir été versée à une personne non-résidente, ou avoir été portée à son crédit au titre ou en paiement intégral ou partiel :

a) d'un service fourni par la personne non-résidente si, au moment où elle l'a fourni :

(i) d'une part, ce service était fourni dans le cours normal des activités d'une entreprise qu'elle exploitait et qui comportait la fourniture d'un tel service contre versement d'un honoraire,

(ii) d'autre part, cette personne non-résidente et le payeur n'avaient aucun lien de dépendance;

b) d'une dépense engagée expressément par la personne non-résidente pour la fourniture d'un service à l'intention du payeur,

dans la mesure où la somme ainsi versée ou créditée était raisonnable dans les circonstances.

Motion picture films

(5) Every non-resident person shall pay an income tax of 25% on every amount that a person resident in Canada pays or credits, or is deemed by Part I to pay or credit, to the non-resident person as, on account or in lieu of payment of, or in satisfaction of, payment for a right in or to the use of

(a) a motion picture film, or

Films cinématographiques

(5) Toute personne non-résidente doit payer un impôt sur le revenu de 25 % sur toute somme qu'une personne résidant au Canada lui verse ou porte à son crédit, ou est réputée, en vertu de la partie I, lui verser ou porter à son crédit, au titre ou en paiement intégral ou partiel d'un droit sur les œuvres ci-après qui ont été ou doivent être

(b) a film, video tape or other means of reproduction for use in connection with television (other than solely in connection with and as part of a news program produced in Canada),

that has been, or is to be, used or reproduced in Canada to the extent that the amount relates to that use or reproduction.

(b) un film, une bande magnétoscopique ou d'autres procédés de reproduction à utiliser pour la télévision, sauf ceux utilisés uniquement pour une émission d'information produite au Canada.

utilisées ou reproduites au Canada, ou d'un droit d'utilisation de telles œuvres, dans la mesure où la somme se rapporte à cette utilisation ou reproduction :

a) un film cinématographique;

Acting services

(5.1) Notwithstanding any regulation made under paragraph 214(13)(c), every person who is either a non-resident individual who is an actor or that is a corporation related to such an individual shall pay an income tax of 23% on every amount paid or credited, or provided as a benefit, to or on behalf of the person for the provision in Canada of the acting services of the actor in a film or video production.

Services d'acteur

(5.1) Malgré les dispositions réglementaires prises en application de l'alinéa 214(13)c), quiconque est soit un particulier non-résident qui est un acteur, soit une société liée à un tel particulier est tenu de payer un impôt sur le revenu de 23 % sur toute somme qui lui est payée, qui est portée à son crédit ou qui lui est fournie à titre d'avantage, ou qui est payée, créditée ou ainsi fournie pour son compte, pour la prestation au Canada des services d'acteur qu'il a fournis dans le cadre d'une production cinématographique ou magnétoscopique.

Relief from double taxation

(5.2) Where a corporation is liable to tax under subsection (5.1) in respect of an amount for acting services of an actor (in this subsection referred to as the "corporation payment") and the corporation pays, credits or provides as a benefit to the actor an amount for those acting services (in this subsection referred to as the "actor payment"), no tax is payable under subsection (5.1) with respect to the actor payment except to the extent that it exceeds the corporation payment.

Élimination de la double imposition

(5.2) Lorsqu'une société est redevable de l'impôt prévu au paragraphe (5.1) au titre d'une somme se rapportant à des services d'acteur fournis par un acteur (appelée « paiement de société » au présent paragraphe) et paie à l'acteur, porte à son crédit ou lui fournit à titre d'avantage un montant pour ces services (appelé « paiement d'acteur » au présent paragraphe), aucun impôt n'est payable en vertu du paragraphe (5.1) au titre du paiement d'acteur, sauf dans la mesure où il excède le paiement de société.

Reduction of withholding

(5.3) If the Minister is satisfied that the deduction or withholding otherwise required by section 215 from an amount described in subsection (5.1), would cause undue hardship, the Minister may determine a lesser amount to be deducted or withheld and that lesser amount is deemed to be the amount so required to be deducted or withheld.

Réduction de la retenue

(5.3) Le ministre, s'il est convaincu que la déduction ou la retenue à opérer par ailleurs en vertu de l'article 215 sur une somme visée au paragraphe (5.1) porterait indûment préjudice, peut fixer un montant inférieur, et ce montant est réputé être le montant à déduire ou à retenir de la somme.

Interest on provincial bonds from wholly-owned subsidiaries

(6) Where an amount described by subsection 212(1) relates to interest on bonds or other obligations of or guaranteed by Her Majesty in right of a province or interest on bonds or other obligations provision for the payment of which was made by a statute of a provincial legislature, the tax payable under subsection 212(1) is 5% of that amount.

Intérêt sur les obligations provinciales de filiales à cent pour cent

(6) Lorsqu'une somme visée au paragraphe (1) se rapporte à des intérêts d'obligations ou d'autres titres émis ou garantis par Sa Majesté du chef d'une province, ou à des intérêts d'obligations ou d'autres titres dont le paiement est prévu par une loi provinciale, l'impôt exigible en vertu du paragraphe (1) est de 5 % de cette somme.

Where s. (6) does not apply

(7) Subsection 212(6) does not apply to interest on any bond or other obligation described therein that was issued after December 20, 1960, except any such bond or other obligation for the issue of which arrangements were made on or before that day with a dealer in securities, if the existence of the arrangements for the issue of the bond or other obligation can be established by evidence in writing given or made on or before that day.

Bonds issued after December 20, 1960 in exchange for earlier bonds

(8) For the purposes of this Part, where any bond, except a bond to which clause 212(1)(b)(ii)(C) applies, was issued after December 20, 1960 in exchange for a bond issued on or before that day, it shall, if the terms on which the bond for which it was exchanged was issued conferred on the holder thereof the right to make the exchange, be deemed to have been issued on or before December 20, 1960.

Exemptions

(9) Where

(a) a dividend or interest is received by a trust from a non-resident-owned investment corporation,

(b) an amount (in this subsection referred to as the "royalty payment") is received by a trust as, on account of, in lieu of payment of or in satisfaction of, a royalty on or in respect of a copyright in respect of the production or reproduction of any literary, dramatic, musical or artistic work,

(c) interest is received by a mutual fund trust maintained primarily for the benefit of non-resident persons, or

(d) a dividend or interest is received by a trust that is created under a reinsurance trust agreement

(i) to which a regulatory authority — being the Superintendent of Financial Institutions or a provincial regulatory authority having powers similar to those of the Superintendent — is a party, and

(ii) that accords with guidelines issued by the regulatory authority relating to reinsurance arrangements with unregistered insurers

and a particular amount is paid or credited to a non-resident person as income of or from the trust and can reasonably be regarded as having been derived from the dividend, interest or royalty payment, as the case may be, no

Non-application du par. (6)

(7) Le paragraphe (6) ne s'applique pas aux intérêts d'une obligation ou de quelque autre titre qui y est visé et qui a été émis après le 20 décembre 1960, à l'exception d'une obligation ou d'un autre titre de ce genre pour l'émission duquel un arrangement a été conclu au plus tard à cette date, avec un courtier en valeurs mobilières, si l'existence de l'arrangement relatif à l'émission de l'obligation ou de tout autre titre peut être établie au moyen d'un document écrit daté de ce jour au plus tard.

Obligations émises après le 20 décembre 1960 en échange d'obligations antérieures

(8) Pour l'application de la présente partie, lorsqu'une obligation quelconque, à l'exception d'une obligation à laquelle s'applique la division (1)b)(ii)(C), a été émise après le 20 décembre 1960 en échange d'une obligation émise au plus tard à cette date, elle est réputée avoir été émise au plus tard le 20 décembre 1960, si les modalités selon lesquelles a été émise l'obligation contre laquelle elle a été échangée conféraient au titulaire le droit d'en faire l'échange.

Exemptions

(9) Lorsque, selon le cas :

a) une fiducie reçoit un dividende ou des intérêts d'une société de placement appartenant à des non-résidents,

b) une fiducie reçoit un montant (appelé « paiement de redevance » au présent paragraphe) au titre ou en paiement intégral ou partiel d'une redevance à l'égard d'un droit d'auteur au titre de la production ou de la reproduction d'une œuvre littéraire, dramatique, musicale ou artistique,

c) une fiducie de fonds commun de placement maintenue principalement pour le compte de personnes non-résidentes reçoit des intérêts,

d) un dividende ou des intérêts sont reçus par une fiducie créée en vertu d'un acte de fiducie en réassurance qui, à la fois :

(i) a comme partie le surintendant des institutions financières ou un organisme de réglementation provincial doté de pouvoirs semblables à ceux du surintendant,

(ii) est conforme aux lignes directrices publiées par le surintendant ou par l'organisme de réglementation concernant les arrangements de réassurance conclus avec des assureurs non agréés,

tax is payable because of paragraph 212(1)(c) as a consequence of the payment or crediting of the particular amount if no tax would have been payable under this Part in respect of the dividend, interest or royalty payment, as the case may be, if it had been paid directly to the non-resident person instead of to the trust.

et qu'il est raisonnable de considérer qu'un montant payé à une personne non-résidente, ou porté à son crédit, à titre de revenu de la fiducie ou en provenant est tiré du dividende, des intérêts ou du paiement de redevance, aucun impôt n'est payable par l'effet de l'alinéa (1)c) du fait que le montant a été ainsi payé à la personne non-résidente, ou porté à son crédit, dans le cas où aucun impôt n'aurait été payable en vertu de la présente partie relativement au dividende, aux intérêts ou au paiement de redevance si ceux-ci avaient été versés directement à la personne non-résidente et non pas à la fiducie.

Trust beneficiaries residing outside of Canada

(10) Where all the beneficiaries of a trust established before 1949 reside, during a taxation year, in one country other than Canada and all amounts included in computing the income of the trust for the taxation year were received from persons resident in that country, no tax is payable under paragraph 212(1)(c) on an amount paid or credited in the taxation year to a beneficiary as income of or from the trust.

Bénéficiaires résidant à l'étranger

(10) Lorsque tous les bénéficiaires d'une fiducie établie avant 1949 résident, au cours d'une année d'imposition, dans un même pays étranger et que toutes les sommes entrant dans le calcul du revenu de cette fiducie pour l'année d'imposition ont été reçues de personnes résidant dans ce pays, aucun impôt n'est payable, en vertu de l'alinéa (1)c), sur une somme versée au cours de l'année d'imposition à un bénéficiaire ou portée à son crédit à titre de revenu de la fiducie ou de revenu qui en provient.

Payment to beneficiary as income of trust

(11) An amount paid or credited by a trust or an estate to a beneficiary or other person beneficially interested therein shall be deemed, for the purpose of paragraph 212(1)(c) and without limiting the generality thereof, to have been paid or credited as income of the trust or estate, regardless of the source from which the trust or estate derived it.

Paiement à un bénéficiaire à titre de revenu de fiducie

(11) Pour l'application de l'alinéa (1)c) et sans préjudice de sa portée générale, la somme qu'une succession ou une fiducie verse à un bénéficiaire ou à une autre personne y détenant un droit de bénéficiaire, ou qu'elle porte à son crédit, est réputée lui avoir été payée, ou avoir été portée à son crédit, à titre de revenu de la fiducie ou de la succession, indépendamment de la source d'où la fiducie ou la succession l'a tirée.

Deemed payments to spouse, etc.

(12) Where by reason of subsection 56(4) or 56(4.1) or any of sections 74.1 to 75 of this Act or section 74 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, there is included in computing a taxpayer's income under Part I for a taxation year an amount paid or credited to a non-resident person in the year, no tax is payable under this section on that amount.

Paiements réputés au conjoint

(12) Aucun impôt n'est payable en application du présent article sur une somme incluse, en application du paragraphe 56(4) ou (4.1) ou de l'un des articles 74.1 à 75 de la présente loi ou de l'article 74 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans le calcul du revenu d'un contribuable en vertu de la partie I pour une année d'imposition et qui a été payée à une personne non-résidente ou portée à son crédit au cours de l'année.

Rent and other payments

(13) For the purposes of this section, where a non-resident person pays or credits an amount as, on account or in lieu of payment of, or in satisfaction of,

(a) rent for the use in Canada of property (other than property that is rolling stock as defined in section 2 of the *Railway Act*),

(b) a timber royalty in respect of a timber resource property or a timber limit in Canada,

Loyer et autres paiements

(13) Pour l'application du présent article, lorsqu'une personne non-résidente paie ou crédite une somme au titre ou en paiement intégral ou partiel :

a) d'un loyer pour l'usage de biens au Canada (autres que des biens qui font partie du matériel roulant tel que défini à l'article 2 de la *Loi sur les chemins de fer*);

b) d'une redevance forestière relative à un avoir forestier ou à une concession forestière au Canada;

(c) a payment of a superannuation or pension benefit under a registered pension plan or of a distribution to one or more persons out of or under a retirement compensation arrangement,

(d) a payment of a retiring allowance or a death benefit to the extent that the payment is deductible in computing the payer's taxable income earned in Canada,

(e) a payment described in any of paragraphs 212(1)(k) to 212(1)(n), 212(1)(q) and 212(1)(v),

(f) interest on any mortgage, hypothecary claim or other indebtedness entered into or issued or modified after March 31, 1977 and secured by real property situated in Canada or an interest therein, or by immovables situated in Canada or real rights therein, to the extent that the amount so paid or credited is deductible in computing the non-resident person's taxable income earned in Canada or the amount on which the non-resident person is liable to pay tax under Part I, or

(g) an amount to which paragraph (1)(i) would apply if the amount paid or credited were paid or credited by a person resident in Canada, and that amount affects, or is intended to affect, in any way whatever,

(i) the acquisition or provision of property or services in Canada,

(ii) the acquisition or provision of property or services outside Canada by a person resident in Canada, or

(iii) the acquisition or provision outside Canada of a taxable Canadian property,

the non-resident person shall be deemed in respect of that payment to be a person resident in Canada.

c) d'une prestation de retraite ou de pension en vertu d'un régime de pension agréé, ou d'un montant provenant d'une convention de retraite attribué à une personne ou réparti entre plusieurs;

d) du paiement d'une allocation de retraite ou d'une prestation consécutive au décès dans la mesure où le paiement est déductible dans le calcul du revenu imposable gagné au Canada du payeur;

e) d'un paiement visé à l'un des alinéas (1)k) à n), q) et v);

f) des intérêts sur une créance hypothécaire ou une autre créance semblable créée ou modifiée après le 31 mars 1977 et garantie par des immeubles situés au Canada ou des droits réels sur ceux-ci ou des biens réels situés au Canada ou des intérêts sur ceux-ci, dans la mesure où la somme ainsi payée ou créditée est déductible dans le calcul du revenu imposable du non-résident et qu'il a gagné au Canada ou du montant sur lequel il est redevable d'un impôt en vertu de la partie I;

g) d'une somme à laquelle l'alinéa (1)i) s'appliquerait si la somme payée ou créditée était payée ou créditée par une personne résidant au Canada, dans la mesure où cette somme influe, ou vise à influer, de quelque manière que ce soit, sur :

(i) l'acquisition ou la fourniture de biens ou de services au Canada,

(ii) l'acquisition ou la fourniture de biens ou de services à l'étranger par une personne résidant au Canada,

(iii) l'acquisition ou la fourniture à l'étranger d'un bien canadien imposable,

elle est réputée, en ce qui concerne ce paiement, être une personne résidant au Canada.

Application of Part XIII tax where payer or payee is a partnership

(13.1) For the purposes of this Part, other than section 216,

(a) where a partnership pays or credits an amount to a non-resident person, the partnership shall, in respect of the portion of that amount that is deductible, or that would but for section 21 be deductible in computing the amount of the income or loss, as the case may be, referred to in paragraph 96(1)(f) or 96(1)(g) if the references therein to "a particular place" and "that particular place" were read as references to "Canada", be deemed to be a person resident in Canada;

Application de la partie XIII lorsque le payeur ou le destinataire est une société de personnes

(13.1) Pour l'application de la présente partie, à l'exclusion de l'article 216 :

a) lorsqu'une société de personnes paie ou crédite une somme à une personne non-résidente, la société de personnes est réputée, à l'égard de la fraction de ce paiement qui est déductible, ou qui serait, sans l'article 21, déductible dans le calcul du revenu ou de la perte, selon le cas, mentionné à l'alinéa 96(1)f) ou g) si les mots « dans un endroit donné » et « dans cet endroit donné » y étaient remplacés par les mots « au Canada », être une personne qui réside au Canada;

(a.1) where a partnership pays, credits or provides to a non-resident person an amount described in subsection (5.1), the partnership is deemed in respect of the amount to be a person; and

(b) where a person resident in Canada pays or credits an amount to a partnership (other than a Canadian partnership within the meaning assigned by section 102), the partnership shall be deemed, in respect of that payment, to be a non-resident person.

a.1) la société de personnes qui paie ou fournit à une personne non-résidente, ou porte à son crédit, une somme visée au paragraphe (5.1) est réputée, pour ce qui est de la somme, être une personne;

b) lorsqu'une personne qui réside au Canada paye ou crédite une somme à une société de personnes (à l'exclusion d'une société de personnes canadienne au sens de l'article 102), la société de personnes est réputée, à l'égard de ce paiement, être une personne non-résidente.

Application of Part XIII tax — non-resident operates in Canada

(13.2) For the purposes of this Part, a particular non-resident person, who in a taxation year pays or credits to another non-resident person an amount other than an amount to which subsection (13) applies, is deemed to be a person resident in Canada in respect of the portion of the amount that is deductible in computing the particular non-resident person's taxable income earned in Canada for any taxation year from a source that is neither a treaty-protected business nor a treaty-protected property.

Application de la partie XIII — non-résident exploitant une entreprise au Canada

(13.2) Pour l'application de la présente partie, la personne non-résidente qui, au cours d'une année d'imposition, verse une somme, sauf celle à laquelle s'applique le paragraphe (13), à une autre personne non-résidente, ou la porte à son crédit, est réputée résider au Canada pour ce qui est de la partie de la somme qui est déductible dans le calcul de son revenu imposable gagné au Canada pour une année d'imposition provenant d'une source qui n'est ni une entreprise protégée par traité ni un bien protégé par traité.

Application of Part XIII to authorized foreign bank

(13.3) An authorized foreign bank is deemed to be resident in Canada for the purposes of

(a) this Part, in respect of any amount paid or credited to or by the bank in respect of its Canadian banking business; and

(b) the application in paragraph (13.1)(b) of the definition ***Canadian partnership*** in respect of a partnership interest held by the bank in the course of its Canadian banking business.

Application de la partie XIII à une banque étrangère autorisée

(13.3) Une banque étrangère autorisée est réputée être un résident du Canada pour l'application, à la fois :

a) de la présente partie, en ce qui concerne une somme payée à la banque, ou portée à son crédit, ou une somme payée ou créditée par elle, à l'égard de son entreprise bancaire canadienne;

b) de la définition de ***société de personnes canadienne*** à l'alinéa (13.1)b), en ce qui concerne une participation dans une société de personnes que la banque détient dans le cadre de son entreprise bancaire canadienne.

(14) [Repealed, 2007, c. 35, s. 59]

(14) [Abrogé, 2007, ch. 35, art. 59]

Certain obligations

(15) For the purposes of subparagraph (1)(b)(ii), after November 18, 1974 interest on a bond, debenture, note, mortgage, hypothecary claim or similar obligation that is insured by the Canada Deposit Insurance Corporation is deemed not to be interest with respect to an obligation guaranteed by the Government of Canada.

Obligations

(15) Pour l'application du sous-alinéa (1)b)(ii), après le 18 novembre 1974, l'intérêt sur une obligation, un billet, une créance hypothécaire ou un autre titre semblable qui est assuré par la Société d'assurance-dépôts du Canada est réputé ne pas être un intérêt à l'égard d'une obligation garantie par le gouvernement du Canada.

Payments for temporary use of rolling stock

(16) Clause 212(1)(d)(vii)(A) does not apply to a payment in a year for the temporary use of railway rolling

Paiements pour l'emploi temporaire de matériel roulant

(16) La division (1)d)(vii)(A) ne s'applique pas à un paiement pour l'utilisation temporaire de matériel roulant

stock by a railway company to a person resident in a country other than Canada unless that country grants substantially similar relief for the year to the company in respect of payments received by it for the temporary use by a person resident in that country of railway rolling stock.

Exception

(17) This section is not applicable to payments out of or under an employee benefit plan or employee trust.

Payments to the International Olympic Committee and the International Paralympic Committee

(17.1) Notwithstanding subsections (1) and (2),

(a) the International Olympic Committee is not taxable under this Part on any amount paid or credited to it, after 2005 and before 2011, in respect of the 2010 Olympic Winter Games, and

(b) the International Paralympic Committee is not taxable under this Part on any amount paid or credited to it, after 2005 and before 2011, in respect of the 2010 Paralympic Winter Games.

Undertaking

(18) Every person who in a taxation year is a prescribed financial institution or a person resident in Canada who is a registered securities dealer shall on demand from the Minister, served personally or by registered letter, file within such reasonable time as may be stipulated in the demand, an undertaking in prescribed form relating to the avoidance of payment of tax under this Part.

Tax on registered securities dealers

(19) Every taxpayer who is a registered securities dealer resident in Canada shall pay a tax under this Part equal to the amount determined by the formula

1/365 × .25 × (A - B) × C

where

A is the total of all amounts each of which is the amount of money provided before the end of a day to the taxpayer (and not returned or repaid before the end of the day) by or on behalf of a non-resident person as collateral or as consideration for a security that was lent or transferred under a designated securities lending arrangement,

B is the total of

qu'une compagnie de chemin de fer fait au cours de l'année à une personne résidant dans un pays étranger sauf si ce pays accorde substantiellement une exemption semblable pour l'année à la compagnie à l'égard des paiements qu'elle a reçus pour l'utilisation temporaire de matériel roulant par une personne résidant dans ce pays.

Exception

(17) Le présent article ne s'applique pas aux paiements effectués en vertu d'un régime de prestations aux employés ou d'une fiducie d'employés.

Paiements au Comité international olympique et au Comité international paralympique

(17.1) Malgré les paragraphes (1) et (2) :

a) le Comité international olympique n'est pas assujetti à l'impôt prévu par la présente partie sur les sommes qui lui sont payées, ou qui sont portées à son crédit, après 2005 et avant 2011, relativement aux Jeux olympiques d'hiver de 2010;

b) le Comité international paralympique n'est pas assujetti à l'impôt prévu par la présente partie sur les sommes qui lui sont payées, ou qui sont portées à son crédit, après 2005 et avant 2011, relativement aux Jeux paralympiques d'hiver de 2010.

Engagement

(18) Toute personne qui, au cours d'une année d'imposition, est soit une institution financière visée par règlement, soit un courtier en valeurs mobilières inscrit résidant au Canada doit, sur demande du ministre, par lettre recommandée ou signifiée à personne, présenter un engagement, dans le délai raisonnable indiqué dans la demande et sur le formulaire prescrit, à ne pas se soustraire au paiement de l'impôt prévu par la présente partie.

Impôt des courtiers en valeurs mobilières inscrits

(19) Tout contribuable qui est un courtier en valeurs mobilières inscrit résidant au Canada est tenu de payer, en vertu de la présente partie, un impôt égal à la somme obtenue par la formule suivante :

1/365 × 0,25 × (A - B) × C

où :

A représente le total des sommes représentant chacune une somme d'argent remise au contribuable avant la fin d'un jour donné — somme qui n'est ni restituée ni remboursée avant la fin de ce jour — par une personne non-résidente, ou pour son compte, en garantie ou en contrepartie d'un titre qui a été prêté ou transféré aux termes d'un mécanisme de prêt de valeurs mobilières désigné;

(a) all amounts each of which is the amount of money provided before the end of the day by or on behalf of the taxpayer (and not returned or repaid before the end of the day) to a non-resident person as collateral or as consideration for a security that is described in paragraph (a) of the definition ***fully exempt interest*** in subsection (3), or that is an obligation of the government of any country, province, state, municipality or other political subdivision, and that was lent or transferred under a securities lending arrangement, and

(b) the greater of

(i) 10 times the greatest amount determined, under the laws of the province or provinces in which the taxpayer is a registered securities dealer, to be the capital employed by the taxpayer at the end of the day, and

(ii) 20 times the greatest amount of capital required, under the laws of the province or provinces in which the taxpayer is a registered securities dealer, to be maintained by the taxpayer as a margin in respect of securities described in paragraph (a) of the definition ***fully exempt interest*** in subsection (3), or that is an obligation of the government of any country, province, state, municipality or other political subdivision, at the end of the day, and

C is the prescribed rate of interest in effect for the day,

and shall remit that amount to the Receiver General on or before the 15th day of the month after the month in which the day occurs.

B le total des sommes suivantes :

a) le total des sommes représentant chacune une somme d'argent remise à une personne non-résidente avant la fin du jour donné — somme qui n'est ni restituée ni remboursée avant la fin de ce jour — par le contribuable, ou pour son compte, en garantie ou en contrepartie d'un titre qui est soit visé à l'alinéa a) de la définition de ***intérêts entièrement exonérés*** au paragraphe (3), soit un titre du gouvernement d'un pays, d'une province, d'un État, d'une municipalité ou d'une autre subdivision politique et qui a été prêté ou transféré aux termes d'un mécanisme de prêt de valeurs mobilières,

b) la plus élevée des sommes suivantes :

(i) dix fois le montant maximal de capital employé par le contribuable à la fin du jour donné, déterminé en conformité avec la législation de la ou des provinces où il est un courtier en valeurs mobilières inscrit, le plus élevé de ces montants faisant foi si un tel montant est déterminé dans plus d'une province,

(ii) vingt fois le montant maximal de capital que le contribuable est tenu de conserver selon cette législation à titre de marge relativement aux titres visés à l'alinéa a) de la définition de ***intérêts entièrement exonérés*** au paragraphe (3) et aux titres du gouvernement d'un pays, d'une province, d'un État, d'une municipalité ou d'une autre subdivision politique à la fin du jour donné;

C le taux d'intérêt prescrit qui est en vigueur le jour donné.

Le contribuable est tenu de verser cet impôt au receveur général au plus tard le quinzième jour du mois suivant le mois qui comprend le jour donné.

Designated SLA

(20) For the purpose of subsection (19), a designated securities lending arrangement is a securities lending arrangement

(a) under which

(i) the lender is a prescribed financial institution or a registered securities dealer resident in Canada,

(ii) the particular security lent or transferred is an obligation described in paragraph (a) of the definition ***fully exempt interest*** in subsection (3) or an obligation of the government of any country, province, state, municipality or other political subdivision,

Mécanisme de prêt de valeurs mobilières désigné

(20) Pour l'application du paragraphe (19), est un mécanisme de prêt de valeurs mobilières désigné le mécanisme de prêt de valeurs mobilières qui présente les caractéristiques suivantes :

a) il s'agit d'un mécanisme dans le cadre duquel :

(i) le prêteur est soit une institution financière visée par règlement, soit un courtier en valeurs mobilières inscrit résidant au Canada,

(ii) le titre prêté ou transféré est un titre visé à l'alinéa a) de la définition de ***intérêts entièrement***

(iii) the amount of money provided to the lender at any time during the term of the arrangement either as collateral or as consideration for the particular security does not exceed 110% of the fair market value at that time of the particular security; and

(b) that was neither intended, nor made as a part of a series of securities lending arrangements, loans or other transactions that was intended, to be in effect for more than 270 days.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 212; 1994, c. 7, Sch. II, s. 174, Sch. VI, s. 10, Sch. VIII, s. 123, c. 21, ss. 97, 137; 1995, c. 21, ss. 64, 73; 1996, c. 21, s. 55; 1997, c. 25, s. 63; 1998, c. 19, ss. 62, 216; 1999, c. 22, s. 75; 2000, c. 12, s. 142; 2001, c. 17, ss. 173, 226; 2007, c. 35, ss. 59, 121; 2009, c. 2, s. 73; 2010, c. 25, s. 64; 2012, c. 31, s. 48; 2013, c. 34, ss. 157, 347; 2014, c. 20, s. 26, c. 39, s. 64; 2016, c. 12, s. 57.

exonérés au paragraphe (3) ou un titre du gouvernement d'un pays, d'une province, d'un État, d'une municipalité ou d'une autre subdivision politique,

(iii) la somme d'argent remise au prêteur pendant la durée du mécanisme, en garantie ou en contrepartie du titre prêté ou transféré, n'excède pas 110 % de la juste valeur marchande de ce titre au moment où la somme est remise;

b) il s'agit d'un mécanisme d'une durée prévue d'au plus 270 jours et qui ne fait pas partie d'une série de mécanismes de prêt de valeurs mobilières, de prêts ou d'autres opérations d'une durée prévue de plus de 270 jours.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 212; 1994, ch. 7, ann. II, art. 174, ann. VI, art. 10, ann. VIII, art. 123, ch. 21, art. 97 et 137; 1995, ch. 21, art. 64 et 73; 1996, ch. 21, art. 55; 1997, ch. 25, art. 63; 1998, ch. 19, art. 62 et 216; 1999, ch. 22, art. 75; 2000, ch. 12, art. 142; 2001, ch. 17, art. 173 et 226; 2007, ch. 35, art. 59 et 121; 2009, ch. 2, art. 73; 2010, ch. 25, art. 64; 2012, ch. 31, art. 48; 2013, ch. 34, art. 157 et 347; 2014, ch. 20, art. 26, ch. 39, art. 64; 2016, ch. 12, art. 57.

Non-arm's length sales of shares by non-residents

212.1 (1) Subsection (1.1) applies if a non-resident person or designated partnership (in this subsection and subsections (1.1) and (1.2) referred to as the ***non-resident person***) disposes of shares (in this section referred to as the ***subject shares***) of any class of the capital stock of a corporation resident in Canada (in this section referred to as the ***subject corporation***) to another corporation resident in Canada (in this section referred to as the ***purchaser corporation***) with which the non-resident person does not (otherwise than because of a right referred to in paragraph 251(5)(b)) deal at arm's length and, immediately after the disposition, the subject corporation is connected (within the meaning that would be assigned by subsection 186(4) if the references in that subsection to "payer corporation" and "particular corporation" were read as "subject corporation" and "purchaser corporation", respectively) with the purchaser corporation.

Non-arm's length sales of shares by non-residents

(1.1) If this subsection applies,

(a) the amount, if any, by which the fair market value of any consideration (other than any share of the capital stock of the purchaser corporation) received by the non-resident person from the purchaser corporation for the subject shares exceeds the paid-up capital in respect of the subject shares immediately before the disposition shall, for the purposes of this Act, be deemed to be a dividend

Non-résidents avec lien de dépendance — vente d'actions

212.1 (1) Le paragraphe (1.1) s'applique si une personne non-résidente ou une société de personnes désignée (appelées ***non-résident*** au présent paragraphe et aux paragraphes (1.1) et (1.2)) dispose d'actions (appelées ***actions en cause*** au présent article) d'une catégorie du capital-actions d'une société résidant au Canada (appelée ***société en cause*** au présent article) en faveur d'une autre société résidant au Canada (appelée ***acheteur*** au présent article) avec laquelle le non-résident a un lien de dépendance — autrement qu'en vertu d'un droit visé à l'alinéa 251(5)b) — et que, immédiatement après la disposition, la société en cause est rattachée (au sens du paragraphe 186(4), à supposer que les mentions ***société payante*** et ***société donnée*** y figurant valent mention respectivement de ***société en cause*** et ***acheteur***) à l'acheteur.

Non-résidents avec lien de dépendance — vente d'actions

(1.1) En cas d'application du présent paragraphe, les règles ci-après s'appliquent :

a) l'excédent éventuel de la juste valeur marchande de la contrepartie — sauf la contrepartie qui consiste en actions du capital-actions de l'acheteur — que le non-résident reçoit de l'acheteur pour les actions en cause sur le capital versé au titre des actions en cause immédiatement avant la disposition, est réputé être un dividende :

(i) in the case that, immediately before the disposition, the purchaser corporation controlled the non-resident person,

(A) paid at the time of the disposition by the subject corporation to the non-resident person, and

(B) received at that time by the non-resident person from the subject corporation, and

(ii) in any other case,

(A) paid at the time of the disposition by the purchaser corporation to the non-resident person, and

(B) received at that time by the non-resident person from the purchaser corporation; and

(b) in computing the paid-up capital at any particular time after March 31, 1977 of any particular class of shares of the capital stock of the purchaser corporation, there shall be deducted that proportion of the amount, if any, by which the increase, if any, by virtue of the disposition, in the paid-up capital, computed without reference to this section as it applies to the disposition, in respect of all of the shares of the capital stock of the purchaser corporation exceeds the amount, if any, by which

(i) the paid-up capital in respect of the subject shares immediately before the disposition

exceeds

(ii) the fair market value of the consideration described in paragraph (a),

that the increase, if any, by virtue of the disposition, in the paid-up capital, computed without reference to this section as it applies to the disposition, in respect of the particular class of shares is of the increase, if any, by virtue of the disposition, in the paid-up capital, computed without reference to this section as it applies to the disposition, in respect of all of the issued shares of the capital stock of the purchaser corporation.

(i) si, immédiatement avant la disposition, l'acheteur contrôlait la personne non-résidente :

(A) versé au moment de la disposition par la société en cause au non-résident,

(B) reçu, à ce moment, par le non-résident de la société en cause,

(ii) sinon :

(A) versé au moment de la disposition par l'acheteur au non-résident,

(B) reçu, à ce moment, par le non-résident de l'acheteur;

b) dans le calcul du capital versé, à un moment donné après le 31 mars 1977, d'une catégorie donnée d'actions du capital-actions de l'acheteur, est déduit le produit de la multiplication de l'excédent éventuel du montant de l'augmentation, à la suite de la disposition, dans le capital versé, calculé compte non tenu du présent article tel qu'il s'applique à la disposition, à l'égard de toutes les actions du capital-actions de l'acheteur sur l'excédent du montant visé au sous-alinéa (i) sur le montant visé au sous-alinéa (ii):

(i) le capital versé à l'égard des actions en cause immédiatement avant la disposition,

(ii) la juste valeur marchande de la contrepartie visée à l'alinéa a),

par le rapport entre l'augmentation, à la suite de la disposition, dans le capital versé, calculé compte non tenu du présent article tel qu'il s'applique à la disposition, à l'égard de la catégorie donnée d'actions, et l'augmentation, à la suite de la disposition, dans le capital versé, calculé compte non tenu du présent article tel qu'il s'applique à la disposition, à l'égard de toutes les actions émises du capital-actions de l'acheteur.

Deemed consideration

(1.2) For the purposes of subsections (1) and (1.1), if, in the absence of this subsection, no consideration would be received by the non-resident person from the purchaser corporation for the subject shares, the non-resident person is deemed to receive consideration other than shares of the capital stock of the purchaser corporation from the purchaser corporation for the subject shares, the fair

Contrepartie réputée

(1.2) Pour l'application des paragraphes (1) et (1.1), le non-résident qui, en l'absence du présent paragraphe, ne recevrait aucune contrepartie de l'acheteur pour les actions en cause est réputé recevoir de l'acheteur, pour les actions en cause, une contrepartie qui est autre que des actions du capital-actions de l'acheteur et dont la juste valeur marchande est égale à l'excédent éventuel de la

market value of which is equal to the amount, if any, by which the fair market value of the subject shares disposed of by the non-resident person exceeds the amount of any increase because of the disposition in the fair market value of the shares of the capital stock of the purchaser corporation.

Idem

(2) In computing the paid-up capital at any particular time after March 31, 1977 of any particular class of shares of the capital stock of a corporation, there shall be added an amount equal to the lesser of

(a) the amount, if any, by which

(i) the total of all amounts each of which is an amount deemed by subsection 84(3), 84(4) or 84(4.1) to be a dividend on shares of the particular class paid after March 31, 1977 and before the particular time by the corporation and received by a non-resident-owned investment corporation or by a person who is not a corporation resident in Canada

exceeds

(ii) the total that would be determined under subparagraph (i) if this Act were read without reference to paragraph (1.1)(b), and

(b) the total of all amounts each of which is an amount required by paragraph (1.1)(b) to be deducted in computing the paid-up capital in respect of the particular class of shares after March 31, 1977 and before the particular time.

Idem

(3) For the purposes of this section,

(a) a non-resident person or designated partnership shall, for greater certainty, be deemed not to deal at arm's length with a purchaser corporation at the time of a disposition described in subsection (1) if the non-resident person or designated partnership was,

(i) immediately before the disposition, one of a group of less than 6 persons that controlled the subject corporation, and

(ii) immediately after the disposition, one of a group of less than 6 persons that controlled the purchaser corporation, each member of which was a member of the group referred to in subparagraph (i);

(b) for the purposes of determining whether or not a particular non-resident person or designated

juste valeur marchande des actions en cause qui ont fait l'objet d'une disposition par le non-résident sur le montant de toute augmentation, découlant de la disposition, de la juste valeur marchande des actions du capital-actions de l'acheteur.

Idem

(2) Dans le calcul du capital versé, à un moment donné après le 31 mars 1977, de toute catégorie donnée d'actions du capital-actions d'une société, il doit être ajouté un montant égal au moins élevé des montants suivants :

a) l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii):

(i) le total des montants dont chacun est réputé être, selon les paragraphes 84(3), (4) ou (4.1), un dividende sur des actions de la catégorie donnée, payé après le 31 mars 1977 et avant le moment donné par la société et reçu par une société de placement appartenant à des non-résidents ou par une personne qui n'est pas une société résidant au Canada,

(ii) le total qui serait déterminé en vertu du sous-alinéa (i), compte non tenu de l'alinéa (1.1)b);

b) le total des montants dont chacun est un montant qui doit être déduit, en vertu de l'alinéa (1.1)b), dans le calcul du capital versé à l'égard de la catégorie donnée d'actions après le 31 mars 1977 et avant le moment donné.

Idem

(3) Pour l'application du présent article :

a) il est entendu qu'un non-résident ou une société de personnes désignée est réputé avoir un lien de dépendance avec l'acheteur au moment où une disposition visée au paragraphe (1) est effectuée si le non-résident ou la société de personnes désignée :

(i) d'une part, immédiatement avant ce moment, faisait partie d'un groupe de moins de six personnes qui contrôlaient la société en cause,

(ii) d'autre part, immédiatement après ce moment, faisait partie d'un groupe de moins de six personnes qui contrôlaient l'acheteur, dont chacune était membre du groupe visé au sous-alinéa (i);

b) afin de déterminer si un non-résident donné ou une société de personnes désignée (appelés ***contribuable*** au présent alinéa) visé à l'alinéa a) faisait

partnership (in this paragraph referred to as the ***taxpayer***) referred to in paragraph (a) was a member of a group of less than 6 persons that controlled a corporation at any time, any shares of the capital stock of that corporation owned at that time by

(i) the taxpayer's child (within the meaning assigned by subsection 70(10)), who is under 18 years of age, or the taxpayer's spouse or common-law partner,

(ii) a trust of which the taxpayer, a person described in subparagraph (i) or a corporation described in subparagraph (iii) is a beneficiary,

(iii) a corporation controlled by the taxpayer, a person described in subparagraph (i), a trust described in subparagraph (ii) or any combination thereof, or

(iv) a partnership of which the taxpayer or a person described in one of subparagraphs (i) to (iii) is a majority-interest partner or a member of a majority-interest group of partners (as defined in subsection 251.1(3))

shall be deemed to be owned at that time by the taxpayer and not by the person who actually owned the shares at that time;

(c) a trust and a beneficiary of the trust or a person related to a beneficiary of the trust shall be deemed not to deal with each other at arm's length;

(d) for the purpose of paragraph (a),

(i) a group of persons in respect of a corporation means any 2 or more persons each of whom owns shares of the capital stock of the corporation,

(ii) a corporation that is controlled by one or more members of a particular group of persons in respect of that corporation shall be considered to be controlled by that group of persons, and

(iii) a corporation may be controlled by a person or a particular group of persons notwithstanding that the corporation is also controlled or deemed to be controlled by another person or group of persons;

(e) a ***designated partnership*** means a partnership of which either a majority-interest partner or every member of a majority-interest group of partners (as defined in subsection 251.1(3)) is a non-resident person; and

(f) in this subsection, a person includes a partnership.

partie d'un groupe de moins de six personnes qui contrôlaient une société à un moment donné, toute action du capital-actions de cette société qui, à ce moment, appartenait :

(i) soit à l'enfant du contribuable, au sens du paragraphe 70(10), âgé de moins de 18 ans ou au conjoint du contribuable,

(ii) soit à une fiducie dont le contribuable, une personne visée au sous-alinéa (i) ou la société visée au sous-alinéa (iii) est bénéficiaire,

(iii) soit à une société contrôlée par le contribuable, par une personne visée au sous-alinéa (i), par la fiducie visée au sous-alinéa (ii) ou par une combinaison de ceux-ci,

(iv) soit à une société de personnes dont le contribuable ou une personne visée à l'un des sous-alinéas (i) à (iii) est un associé détenant une participation majoritaire ou un membre d'un groupe d'associés détenant une participation majoritaire au sens du paragraphe 251.1(3),

est réputée appartenir au contribuable à ce moment et non à la personne à qui les actions appartenaient réellement à ce moment;

c) une fiducie et un de ses bénéficiaires ou une personne liée à celui-ci sont réputés avoir un lien de dépendance;

d) pour l'application de l'alinéa a):

(i) un groupe de personnes quant à une société s'entend de plusieurs personnes possédant chacune des actions du capital-actions de la société,

(ii) la société qui est contrôlée par un ou plusieurs membres d'un groupe de personnes quant à cette société est considérée comme contrôlée par ce groupe,

(iii) une société peut être contrôlée par une personne ou par un groupe de personnes même si elle est également contrôlée par une autre personne ou un autre groupe de personnes, ou est réputée l'être;

e) ***société de personnes désignée*** s'entend d'une société de personnes dont un associé détenant une participation majoritaire ou chaque membre d'un groupe d'associés détenant une participation majoritaire, au sens du paragraphe 251.1(3), est une personne non-résidente;

f) for the purposes of this paragraph, partnerships are deemed to be persons.

Where section does not apply

(4) Notwithstanding subsection (1), subsection (1.1) does not apply in respect of a disposition by a non-resident corporation of shares of a subject corporation to a purchaser corporation if

(a) immediately before the disposition, the purchaser corporation controlled the non-resident corporation; and

(b) it is not the case that, at the time of the disposition, or as part of a transaction or event or series of transactions or events that includes the disposition, a non-resident person or designated partnership

(i) owns, directly or indirectly, shares of the capital stock of the purchaser corporation, and

(ii) does not deal at arm's length with the purchaser corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 212.1; 1994, c. 7, Sch. II, s. 175, Sch. VIII, s. 124; 1999, c. 22, s. 76; 2000, c. 12, s. 142; 2013, c. 40, s. 82; 2016, c. 12, s. 58.

Application

212.2 (1) This section applies where

(a) a taxpayer disposes at a particular time of a share of the capital stock of a corporation resident in Canada (or any property more than 10% of the fair market value of which can be attributed to shares of the capital stock of corporations resident in Canada) to

(i) a person resident in Canada,

(ii) a partnership in which any person resident in Canada has, directly or indirectly, an interest, or

(iii) a person or partnership that acquires the share or the property in the course of carrying on a business through a permanent establishment in Canada, as defined in the *Income Tax Regulations*;

(b) subsection 212.1(1.1) does not apply in respect of the disposition;

(c) the taxpayer is non-resident at the particular time;

(d) it is reasonable to conclude that the disposition is part of an expected series of transactions or events that includes the issue after December 15, 1998 of a

Non-application de l'article

(4) Malgré le paragraphe (1), le paragraphe (1.1) ne s'applique pas relativement à une disposition, faite par une société non-résidente, d'actions de la société en cause en faveur de l'acheteur si les énoncés ci-après se vérifient :

a) immédiatement avant la disposition, l'acheteur contrôlait la société non-résidente;

b) il ne s'avère pas que, au moment de la disposition ou dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend la disposition, une personne non-résidente ou une société de personnes désignée, à la fois :

(i) est, directement ou indirectement, propriétaire d'actions du capital-actions de l'acheteur,

(ii) a un lien de dépendance avec l'acheteur.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 212.1; 1994, ch. 7, ann. II, art. 175, ann. VIII, art. 124; 1999, ch. 22, art. 76; 2000, ch. 12, art. 142; 2013, ch. 40, art. 82; 2016, ch. 12, art. 58.

Conditions d'application

212.2 (1) Le présent article s'applique dans le cas où les conditions suivantes sont réunies :

a) un contribuable dispose d'une action du capital-actions d'une société résidant au Canada (ou d'un bien dont plus de 10 % de la juste valeur marchande est attribuable à des actions du capital-actions de sociétés y résidant):

(i) soit en faveur d'une personne résidant au Canada,

(ii) soit en faveur d'une société de personnes dans laquelle une personne résidant au Canada a une participation directe ou indirecte,

(iii) soit en faveur d'une personne ou d'une société de personnes qui acquiert l'action ou le bien dans le cadre de l'exploitation d'une entreprise par l'entremise d'un établissement stable au Canada, au sens du *Règlement de l'impôt sur le revenu*;

b) le paragraphe 212.1(1.1) ne s'applique pas relativement à la disposition;

c) le contribuable est un non-résident au moment de la disposition;

particular share of the capital stock of a particular insurance corporation resident in Canada on the demutualization (within the meaning assigned by subsection 139.1(1)) of the particular corporation and

(i) after the particular time, the redemption, acquisition or cancellation of the particular share, or a share substituted for the particular share, by the particular corporation or the issuer of the substituted share, as the case may be,

(ii) after the particular time, an increase in the level of dividends declared or paid on the particular share or a share substituted for the particular share, or

(iii) the acquisition, at or after the particular time, of the particular share or a share substituted for the particular share by

(A) a person not dealing at arm's length with the particular corporation or with the issuer of the substituted share, as the case may be, or

(B) a partnership any direct or indirect interest in which is held by a person not dealing at arm's length with the particular corporation or with the issuer of the substituted share, as the case may be; and

(e) at the particular time, the person described in subparagraph (a)(i) or (iii) or any person who has, directly or indirectly, an interest in the partnership described in subparagraph (a)(ii) or (iii) knew, or ought reasonably to have known, of the expected series of transactions or events described in paragraph (d).

d) il est raisonnable de conclure que la disposition fait partie d'une série attendue d'opérations ou d'événements qui comprend, d'une part, l'émission après le 15 décembre 1998 d'une action donnée du capital-actions d'une compagnie d'assurance donnée résidant au Canada au moment de sa démutualisation, au sens du paragraphe 139.1(1), et, d'autre part, selon le cas :

(i) après la disposition, le rachat, l'acquisition ou l'annulation de l'action donnée, ou d'une action de remplacement, par la société donnée ou par l'émetteur de l'action de remplacement, selon le cas,

(ii) après la disposition, une augmentation du niveau de dividendes déclarés ou versés sur l'action donnée ou sur une action de remplacement,

(iii) l'acquisition, au moment de la disposition ou après ce moment, de l'action donnée ou d'une action de remplacement :

(A) soit par une personne ayant un lien de dépendance avec la société donnée ou avec l'émetteur de l'action de remplacement, selon le cas,

(B) soit par une société de personnes dans laquelle une personne ayant un lien de dépendance avec la société donnée ou avec l'émetteur de l'action de remplacement, selon le cas, détient une participation directe ou indirecte;

e) au moment de la disposition, la personne visée aux sous-alinéas a)(i) ou (iii) ou toute personne qui a une participation directe ou indirecte dans la société de personnes visée aux sous-alinéas a)(ii) ou (iii) avait ou aurait vraisemblablement dû avoir connaissance de la série attendue d'opérations ou d'événements visée à l'alinéa d).

Deemed dividend

(2) For the purposes of this Part, where property is disposed of at any time by a taxpayer to a person or partnership in circumstances in which this section applies,

(a) a taxable dividend is deemed to be paid at that time by the person or partnership to the taxpayer and received at the time by the taxpayer;

(b) the amount of the dividend is deemed to be equal to the amount determined by the formula

A - ((A/B) × C)

where

A is the portion of the proceeds of disposition of the property that can reasonably be attributed to the

Présomption de dividende

(2) Pour l'application de la présente partie, lorsqu'un contribuable dispose d'un bien en faveur d'une personne ou d'une société de personnes dans les circonstances visées au présent article, les présomptions suivantes s'appliquent :

a) un dividende imposable est réputé être versé au contribuable au moment de la disposition par la personne ou la société de personnes et être reçu par lui à ce moment;

b) le montant du dividende est réputé égal au résultat du calcul suivant :

A - ((A/B) × C)

où :

fair market value of shares of a class of the capital stock of a corporation resident in Canada,

B is the fair market value immediately before that time of shares of that class, and

C is the paid-up capital immediately before that time of that class of shares; and

(c) in respect of the dividend, the person or partnership is deemed to be a corporation resident in Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2000, c. 19, s. 64; 2016, c. 12, s. 59.

A représente la partie du produit de disposition du bien qu'il est raisonnable d'attribuer à la juste valeur marchande d'actions d'une catégorie du capital-actions d'une société résidant au Canada,

B la juste valeur marchande des actions de cette catégorie immédiatement avant la disposition,

C le capital versé au titre de cette catégorie d'actions immédiatement avant la disposition;

c) en ce qui concerne le dividende, la personne ou la société de personnes est réputée être une société résidant au Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2000, ch. 19, art. 64; 2016, ch. 12, art. 59.

Foreign affiliate dumping — conditions for application

212.3 (1) Subsection (2) applies to an investment in a non-resident corporation (in this section referred to as the "subject corporation") made at any time (in this section referred to as the "investment time") by a corporation resident in Canada (in this section referred to as the "CRIC") if

(a) the subject corporation is immediately after the investment time, or becomes as part of a transaction or event or series of transactions or events that includes the making of the investment, a foreign affiliate of the CRIC;

(b) the CRIC is immediately after the investment time, or becomes after the investment time and as part of a transaction or event or series of transactions or events that includes the making of the investment, controlled by a non-resident corporation (in this section referred to as the "parent"), and any of the following conditions is satisfied:

(i) if, at the investment time, the parent owned all shares of the capital stock of the CRIC that are owned — determined without reference to paragraph 212.3(25)(b) in the case of partnerships referred to in this subparagraph and as if all rights referred to in paragraph 251(5)(b), of the parent, each person that does not deal at arm's length with the parent and all of those partnerships, were immediate and absolute and the parent and each of the other persons and partnerships had exercised those rights at the investment time — by the parent, persons that are not dealing at arm's length with the parent and partnerships of which the parent or a non-resident person that is not dealing at arm's length with the parent is a member (other than a limited partner within the meaning assigned by

Opérations de transfert de sociétés étrangères affiliées — conditions d'application

212.3 (1) Le paragraphe (2) s'applique au placement qu'une société résidant au Canada (appelée « société résidente » au présent article) fait, à un moment donné (appelé « moment du placement » au présent article), dans une société non-résidente (appelée « société déterminée » au présent article), si les conditions ci-après sont réunies :

a) la société déterminée est, immédiatement après le moment du placement — ou devient dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend la réalisation du placement —, une société étrangère affiliée de la société résidente;

b) la société résidente est, immédiatement après le moment du placement, contrôlée par une société non-résidente (appelée « société mère » au présent article) ou le devient après ce moment dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend la réalisation du placement, et l'un des faits ci-après s'avère :

(i) si, au moment du placement, la société mère était propriétaire de toutes les actions du capital-actions de la société résidente qui appartiennent (cette qualité étant déterminée compte non tenu de l'alinéa 212.3(25)b) à l'égard des sociétés de personnes visées au présent sous-alinéa et comme si tous les droits visés à l'alinéa 251(5)b) de la société mère, de chaque personne avec laquelle elle a un lien de dépendance et de toutes ces sociétés de personnes étaient immédiats et absolus et que ceux-ci avaient été exercés, au moment du placement, par la société mère, toute personne avec laquelle elle a un lien de dépendance et toutes ces sociétés de personnes) à la société mère, aux personnes avec lesquelles elle a un lien de dépendance et aux sociétés

subsection 96(2.4)), the parent would own shares of the capital stock of the CRIC that

(A) give the holders of those shares 25% or more of all of the votes that could be cast at any annual meeting of the shareholders in respect of all shares of the capital stock of the CRIC, or

(B) have a fair market value of 25% or more of the fair market value of all of the issued and outstanding shares of the capital stock of the CRIC,

(ii) the investment is an acquisition of shares of the capital stock of a subject corporation by a CRIC to which this subparagraph applies because of subsection (19), or

(iii) under an arrangement entered into in connection with the investment, a person or partnership, other than the CRIC or a person related to the CRIC, has in any material respect the risk of loss or opportunity for gain or profit in respect of a property that can reasonably be considered to relate to the investment; and

(c) neither subsection (16) nor (18) applies in respect of the investment.

de personnes dont elle ou une personne non-résidente avec laquelle elle a un lien de dépendance est l'associé (autre qu'un commanditaire, au sens du paragraphe 96(2.4)), elle serait propriétaire d'actions du capital-actions de la société résidente qui, selon le cas :

(A) confèrent à leurs détenteurs au moins 25 % du total des voix pouvant être exprimées à l'assemblée annuelle des actionnaires relativement à la totalité du capital-actions de la société résidente,

(B) ont une juste valeur marchande égale à au moins 25 % de celle de l'ensemble des actions émises et en circulation du capital-actions de la société résidente,

(ii) le placement est une acquisition d'actions du capital-actions d'une société déterminée qui est effectuée par une société résidente à laquelle le présent sous-alinéa s'applique par l'effet du paragraphe (19),

(iii) d'après un arrangement conclu relativement au placement, une personne ou une société de personnes, à l'exception de la société résidente ou d'une personne qui lui est liée, peut, de façon tangible, subir des pertes ou réaliser des gains ou des bénéfices relativement à un bien qu'il est raisonnable de considérer comme se rapportant au placement;

c) les paragraphes (16) et (18) ne s'appliquent pas relativement au placement.

Foreign affiliate dumping — consequences

(2) If this subsection applies to an investment in a subject corporation made by a CRIC,

(a) for the purposes of this Part and subject to subsections (3) and (7), the CRIC is deemed to have paid to the parent, and the parent is deemed to have received from the CRIC, at the dividend time, a dividend equal to the total of all amounts each of which is the portion of the fair market value at the investment time of any property (not including shares of the capital stock of the CRIC) transferred, any obligation assumed or incurred, or any benefit otherwise conferred, by the CRIC, or of any property transferred to the CRIC which transfer results in the reduction of an amount owing to the CRIC, that can reasonably be considered to relate to the investment; and

Opérations de transfert de sociétés étrangères affiliées — conséquences

(2) En cas d'application du présent paragraphe à un placement qu'une société résidente fait dans une société déterminée :

a) pour l'application de la présente partie et sous réserve des paragraphes (3) et (7), la société résidente est réputée avoir versé à la société mère au moment du dividende, et celle-ci est réputée avoir reçu de la société résidente à ce moment, un dividende égal au total des sommes dont chacune correspond à la partie de la juste valeur marchande, au moment du placement, d'un bien transféré par la société résidente (à l'exception d'actions de son capital-actions), d'une obligation assumée ou contractée par elle, d'un avantage autrement conféré par elle ou d'un bien qui lui est transféré — lequel transfert donne lieu à la réduction d'une somme qui lui est due —, qu'il est raisonnable de considérer comme se rapportant au placement;

(b) in computing the paid-up capital in respect of any class of shares of the capital stock of the CRIC at any time that is at or after the investment time, there is to be deducted the amount of any increase in the paid-up capital in respect of the class, determined without reference to this section, that can reasonably be considered to relate to the investment.

b) est à déduire dans le calcul, au moment du placement ou à tout moment postérieur, du capital versé au titre d'une catégorie d'actions du capital-actions de la société résidente le montant de toute augmentation du capital versé au titre de la catégorie, calculé compte non tenu du présent article, qu'il est raisonnable de considérer comme se rapportant au placement.

Dividend substitution election

(3) If a CRIC (or a CRIC and a corporation that is a qualifying substitute corporation in respect of the CRIC at the dividend time) and the parent (or the parent and another non-resident corporation that at the dividend time does not deal at arm's length with the parent) jointly elect in writing under this subsection in respect of an investment, and the election is filed with the Minister on or before the filing-due date of the CRIC for its taxation year that includes the dividend time, then the dividend that would, in the absence of this subsection, be deemed under paragraph (2)(a) to have been paid by the CRIC to the parent and received by the parent from the CRIC is deemed to have instead been

(a) paid by the CRIC or the qualifying substitute corporation, as agreed on in the election; and

(b) paid to, and received by, the parent or the other non-resident corporation, as agreed on in the election.

Choix — substitution de dividende

(3) Si une société résidente (ou une société résidente et une société qui est une société de substitution admissible relativement à la société résidente au moment du dividende) et la société mère (ou la société mère et une autre société non-résidente avec laquelle celle-ci a un lien de dépendance au moment du dividende) font un choix conjoint en vertu du présent paragraphe relativement à un placement dans un document présenté au ministre au plus tard à la date d'échéance de production applicable à la société résidente pour son année d'imposition qui comprend le moment du dividende, le dividende qui, en l'absence du présent paragraphe, serait réputé, en vertu de l'alinéa (2)a), avoir été versé par la société résidente à la société mère et reçu par celle-ci de la société résidente, est réputé avoir plutôt été :

a) versé par la société résidente ou la société de substitution admissible, comme convenu dans le choix;

b) versé à la société mère ou à l'autre société non-résidente et reçu par l'une ou l'autre, selon le cas, comme convenu dans le choix.

Definitions

(4) The following definitions apply in this section.

cross-border class, in respect of an investment, means a class of shares of the capital stock of a CRIC or qualifying substitute corporation if, immediately after the dividend time in respect of the investment,

(a) the parent, or a non-resident corporation that does not deal at arm's length with the parent, owns at least one share of the class; and

(b) no more than 30% of the issued and outstanding shares of the class are owned by one or more persons resident in Canada that do not deal at arm's length with the parent. (*catégorie transfrontalière*)

dividend time, in respect of an investment, means

(a) if the CRIC is controlled by the parent at the investment time, the investment time; or

(b) in any other case, the earlier of

Définitions

(4) Les définitions qui suivent s'appliquent au présent article.

catégorie transfrontalière Est une catégorie transfrontalière relativement à un placement la catégorie des actions du capital-actions d'une société résidente ou d'une société de substitution admissible à l'égard de laquelle, immédiatement après le moment du dividende à l'égard du placement, les faits ci-après s'avèrent :

a) la société mère, ou une société non-résidente avec laquelle celle-ci a un lien de dépendance, détient au moins une des actions de la catégorie;

b) au plus 30 % des actions de la catégorie qui sont émises et en circulation appartiennent à au moins une personne qui réside au Canada et qui a un lien de dépendance avec la société mère. (*cross-border class*)

moment du dividende Est le moment du dividende d'un placement celui des moments ci-après qui est applicable :

(i) the first time, after the investment time, at which the CRIC is controlled by the parent, and

(ii) the day that is one year after the day that includes the investment time. (*moment du dividende*)

qualifying substitute corporation, at any time in respect of a CRIC, means a corporation resident in Canada

(a) that is, at that time, controlled by the parent or by a non-resident corporation that does not deal at arm's length with the parent;

(b) that has, at that time, an equity percentage (as defined in subsection 95(4)) in the CRIC; and

(c) shares of the capital stock of which are, at that time, owned by the parent or another non-resident corporation with which the parent does not, at that time, deal at arm's length. (*société de substitution admissible*)

a) si la société résidente est contrôlée par la société mère au moment du placement, ce moment;

b) dans les autres cas, le premier en date de ce qui suit :

(i) le premier moment, après le moment du placement, où la société résidente est contrôlée par la société mère,

(ii) le premier anniversaire du jour qui comprend le moment du placement. (*dividend time*)

société de substitution admissible Est une société de substitution admissible à un moment donné relativement à une société résidente la société résidant au Canada à l'égard de laquelle les faits ci-après s'avèrent :

a) elle est contrôlée, à ce moment, par la société mère ou par une société non-résidente avec laquelle celle-ci a un lien de dépendance;

b) elle a un pourcentage d'intérêt, au sens du paragraphe 95(4), dans la société résidente à ce moment;

c) des actions de son capital-actions appartiennent, à ce moment, à la société mère ou à une autre société non-résidente avec laquelle celle-ci a un lien de dépendance à ce moment. (*qualifying substitute corporation*)

Modification of terms — paragraph (10)(e)

(5) In the case of an investment described in paragraph (10)(e), the CRIC is deemed for the purposes of paragraph (2)(a) to transfer to the subject corporation property that relates to the investment, the fair market value of which property is

(a) if the investment is described in subparagraph (10)(e)(i), the amount owing in respect of the debt obligation referred to in that subparagraph immediately after the investment time, or

(b) if the investment is described in subparagraph (10)(e)(ii), the fair market value of the shares referred to in that subparagraph immediately after the investment time.

Modification des modalités — alinéa (10)e)

(5) Dans le cas d'un placement visé à l'alinéa (10)e), la société résidente est réputée, pour l'application de l'alinéa (2)a), transférer à la société déterminée un bien qui se rapporte au placement et dont la juste valeur marchande correspond à celle des sommes ci-après qui est applicable :

a) si le placement est visé au sous-alinéa (10)e)(i), la somme due relativement à la créance visée à ce sous-alinéa immédiatement après le moment du placement;

b) s'il est visé au sous-alinéa (10)e)(ii), la juste valeur marchande des actions visées à ce sous-alinéa immédiatement après le moment du placement.

Sequential investments — paragraph (10)(f)

(5.1) In the case of an investment (in this subsection referred to as the "second investment") in a subject corporation by a CRIC described in paragraph (10)(f), the total referred to in paragraph (2)(a) in respect of the second investment is to be reduced by the total referred to in paragraph (2)(a) in respect of a prior investment (in this subsection referred to as the "first investment") in the

Placements successifs visés à l'alinéa (10)f)

(5.1) Dans le cas d'un placement (appelé « second placement » au présent paragraphe) visé à l'alinéa (10)f) qu'une société résidente fait dans une société déterminée, le total des sommes visé à l'alinéa (2)a) relativement à un placement antérieur (appelé « premier placement » au présent paragraphe) fait par une autre société résidente au Canada dans la société déterminée est appliqué

subject corporation by another corporation resident in Canada if

(a) the first investment is an investment that is described in paragraph (10)(a) or (b) and to which paragraph (2)(a) applies;

(b) immediately after the investment time in respect of the first investment, the other corporation is not controlled by the parent; and

(c) the other corporation becomes, after the time that is immediately after the investment time in respect of the first investment and as part of a transaction or event or series of transactions or events that includes the making of the first investment, controlled by the parent because of the second investment.

Anti-avoidance rule — cross-border class

(6) A particular class of shares of the capital stock of a CRIC or a qualifying substitute corporation that, in the absence of this subsection, would be a cross-border class in respect of an investment is deemed not to be a cross-border class in respect of the investment if

(a) a particular corporation resident in Canada that does not deal at arm's length with the parent

(i) acquires shares of the particular class (or shares that are substituted for those shares) as part of a transaction or event or series of transactions or events that includes the investment, or

(ii) owns shares of the particular class (or shares that are substituted for those shares) and, as part of a transaction or event or series of transactions or events that includes the investment,

(A) the paid-up capital in respect of the particular class is increased otherwise than as a result of an acquisition described in subparagraph (i), and

(B) the increase in paid-up capital in respect of the particular class can reasonably be considered to be connected to funding provided to the particular corporation or another corporation resident in Canada (other than the corporation that issued the particular class) by the parent or a non-resident person that does not deal at arm's length with the parent, unless

(I) the funding results in an increase, equal to the amount funded, in the paid-up capital of shares of a class of the capital stock of the

en réduction du total visé à l'alinéa (2)a) relativement au second placement si les faits ci-après s'avèrent :

a) le premier placement est un placement qui est visé aux alinéas (10)a) ou b) et auquel l'alinéa (2)a) s'applique;

b) immédiatement après le moment du placement relatif au premier placement, l'autre société n'est pas contrôlée par la société mère;

c) l'autre société devient, après le moment qui suit immédiatement le moment du placement relatif au premier placement et dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend la réalisation du premier placement, contrôlée par la société mère par l'effet du second placement.

Règle anti-évitement — catégorie transfrontalière

(6) Une catégorie donnée des actions d'une société résidente ou d'une société de substitution admissible qui, en l'absence du présent paragraphe, serait une catégorie transfrontalière relativement à un placement est réputée ne pas être une catégorie transfrontalière relativement au placement si les faits ci-après s'avèrent :

a) une société donnée résidant au Canada qui a un lien de dépendance avec la société mère :

(i) soit fait l'acquisition d'actions de la catégorie donnée (ou d'actions qui sont substituées à celles-ci) dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend le placement,

(ii) soit est propriétaire d'actions de la catégorie donnée (ou d'actions qui y sont substituées) et, dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend le placement, il y a une majoration du capital versé au titre de la catégorie à propos de laquelle les énoncés ci-après s'avèrent :

(A) la majoration n'est pas le résultat d'une acquisition visée au sous-alinéa (i),

(B) il est raisonnable de considérer que la majoration est liée aux fonds que la société donnée ou une autre société résidant au Canada (autre que la société émettrice de la catégorie donnée) a reçus à titre de financement de la société mère ou d'une personne non-résidente qui a un lien de dépendance avec la société mère, sauf dans les cas où, à la fois :

particular corporation, or the other corporation, that is a cross-border class in respect of the investment, and

(II) the increase referred to in subclause (I) occurred at or before the time of the increase to the paid-up capital in respect of the particular class; and

(b) it can reasonably be considered that one of the main reasons for the acquisition or for the funding, as the case may be, was to increase the amount of a deduction required under paragraph (7)(b) or (c) in computing the paid-up capital in respect of shares of the particular class held by the particular corporation.

(I) le financement donne lieu à une augmentation, égale aux fonds reçus, du capital versé au titre des actions d'une catégorie d'actions du capital-actions de la société donnée ou de l'autre société qui est une catégorie transfrontalière relativement au placement,

(II) l'augmentation visée à la sous-division (I) est survenue au plus tard au moment de la majoration du capital versé au titre de la catégorie donnée;

b) il est raisonnable de considérer que l'un des principaux motifs de l'acquisition ou du financement, selon le cas, était l'augmentation de la somme à déduire en application des alinéas (7)b) ou c) dans le calcul du capital versé au titre des actions de la catégorie donnée qui appartiennent à la société donnée.

Reduction of deemed dividend

(7) If paragraph (2)(a) applies to an investment in a subject corporation made by a CRIC,

(a) where the CRIC demonstrates — in respect of one or more classes of shares of the capital stock of the CRIC, or of a qualifying substitute corporation, all the issued and outstanding shares of which are owned, immediately after the dividend time in respect of the investment, by persons that deal at arm's length with the CRIC — that an amount of paid-up capital in respect of each of the classes arose as a consequence of one or more transfers of property, directly or indirectly, to the CRIC and that all of the property transferred was used by the CRIC to make, in whole or in part, the investment (or, in the case of an investment described in paragraph (10)(f), the direct acquisition referred to in that paragraph), then

(i) the amount, determined without reference to this subsection, of the dividend deemed under paragraph (2)(a) to have been paid and received, is reduced by the lesser of

(A) that amount, and

(B) the total of all amounts of paid-up capital so demonstrated by the CRIC, and

(ii) in computing the paid-up capital in respect of each class described in this paragraph, at any time after the dividend time, there is to be deducted an amount equal to the portion of the amount determined under subparagraph (i) that can reasonably be considered to relate to that class;

Réduction d'un dividende réputé

(7) En cas d'application de l'alinéa (2)a) à un placement qu'une société résidente fait dans une société déterminée, les règles ci-après s'appliquent :

a) si la société résidente démontre — à l'égard d'au moins une catégorie des actions de son capital-actions, ou de celui d'une société de substitution admissible, dont les actions émises et en circulation appartiennent en totalité, à un moment immédiatement postérieur au moment du dividende relatif au placement, à des personnes qui n'ont pas de lien de dépendance avec la société résidente — qu'une partie du capital versé au titre de chacune des catégories d'actions est le résultat d'au moins un transfert direct ou indirect de biens à la société résidente et que tous les biens ainsi transférés ont été utilisés par celle-ci pour faire, en tout ou en partie, le placement (ou, dans le cas d'un placement visé à l'alinéa (10)f), l'acquisition directe visée par cet alinéa), auquel cas les règles ci-après s'appliquent :

(i) le montant, déterminé compte non tenu du présent paragraphe, du dividende réputé en application de l'alinéa (2)a) avoir été versé et reçu est réduit par la moindre des sommes suivantes :

(A) ce montant,

(B) le total des sommes au titre du capital versé ainsi démontrées par la société résidente,

(ii) est déduite, dans le calcul du capital versé au titre de chaque catégorie visée au présent alinéa effectué à un moment postérieur au moment du dividende, une somme égale à la partie du montant déterminé selon le sous-alinéa (i) qu'il est raisonnable de considérer comme étant liée à cette catégorie;

(b) where the amount, determined without reference to this paragraph, of the dividend deemed under paragraph (2)(a) to have been paid and received is equal to or greater than the total of all amounts each of which is an amount of paid-up capital immediately after the dividend time, determined without reference to this paragraph, of a cross-border class in respect of the investment, then

(i) the amount of the dividend is reduced by the total referred to in this paragraph, and

(ii) in computing, at any time after the dividend time, the paid-up capital in respect of each cross-border class in respect of the investment, there is to be deducted an amount equal to the paid-up capital in respect of that class immediately after the dividend time, determined without reference to this paragraph;

(c) where paragraph (b) does not apply and there is at least one cross-border class in respect of the investment,

(i) the amount, determined without reference to this paragraph, of the dividend is reduced to nil,

(ii) in computing, at any time after the dividend time, the paid-up capital in respect of a particular cross-border class in respect of the investment, there is to be deducted the amount, if any, that when added to the total of all amounts that are deducted under this paragraph in computing the paid-up capital of other cross-border classes, results in the greatest total reduction because of this paragraph, immediately after the dividend time, of the paid-up capital in respect of shares of cross-border classes that are owned by the parent or another non-resident corporation with which the parent does not, at the dividend time, deal at arm's length,

(iii) if the proportion of the shares of a particular class owned, in aggregate, by the parent and non-resident corporations that do not deal at arm's length with the parent is equal to the proportion so owned of one or more other cross-border classes (in this subparagraph all those classes, together with the particular class, referred to as the "relevant classes"), then the proportion that the reduction under subparagraph (ii) to the paid-up capital in respect of the particular class is of the paid-up capital, determined immediately after the dividend time and without reference to this paragraph, in respect of that class is to be equal to the proportion that the

b) si le montant du dividende qui, en l'absence du présent alinéa, serait réputé en vertu de l'alinéa (2)a) avoir été versé et reçu est égal ou supérieur au total des sommes dont chacune représente un montant de capital versé, déterminé immédiatement après le moment du dividende et compte non tenu du présent alinéa, au titre d'une catégorie transfrontalière relativement au placement, les règles ci-après s'appliquent :

(i) le montant du dividende est réduit par le total des sommes visé au présent alinéa,

(ii) est déduite, dans le calcul — effectué après le moment du dividende — du capital versé au titre de chaque catégorie transfrontalière relativement au placement, une somme égale au capital versé au titre de cette catégorie immédiatement après le moment du dividende, déterminé compte non tenu du présent alinéa;

c) si l'alinéa b) ne s'applique pas et qu'il existe au moins une catégorie transfrontalière relativement au placement, les règles ci-après s'appliquent :

(i) le montant du dividende, déterminé compte non tenu du présent alinéa, est ramené à zéro,

(ii) est déduite, dans le calcul du capital versé au titre d'une catégorie transfrontalière donnée relativement au placement effectué après le moment du dividende, la somme qui, lorsqu'elle est ajoutée au total des sommes déduites en application du présent alinéa dans le calcul du capital versé au titre d'autres catégories transfrontalières, donne lieu à la réduction totale la plus élevée par l'effet du présent alinéa, immédiatement après le moment du dividende, du capital versé au titre d'actions de catégories transfrontalières qui appartiennent à la société mère ou à une autre société non-résidente avec laquelle celle-ci a un lien de dépendance au moment du dividende,

(iii) si la proportion des actions d'une catégorie d'actions donnée qui appartiennent à la société mère et aux sociétés non-résidentes qui ont un lien de dépendance avec la société mère est égale à la proportion des actions qui leur appartiennent d'au moins une autre catégorie transfrontalière (au présent sous-alinéa l'ensemble de ces catégories et de la catégorie donnée étant appelées conjointement « catégories pertinentes »), la proportion de la déduction opérée par l'effet du sous-alinéa (ii) du capital versé au titre d'actions de la catégorie donnée sur le capital versé, déterminé au moment immédiatement postérieur au moment du dividende et compte non tenu du présent alinéa, au titre de cette

total reduction under subparagraph (ii) to the paid-up capital in respect of all the relevant classes is of the total paid-up capital, determined immediately after the dividend time and without reference to this paragraph, of all the relevant classes, and

(iv) the total of all amounts each of which is an amount to be deducted under subparagraph (ii) in computing the paid-up capital of a cross-border class is to be equal to the amount by which the dividend is reduced under subparagraph (i); and

(d) if the amount of the dividend is reduced because of any of subparagraphs (a)(i), (b)(i) and (c)(i),

(i) the CRIC shall file with the Minister in prescribed manner a form containing prescribed information and the amounts of the paid-up capital, determined immediately after the dividend time and without reference to this subsection, of each class of shares that is described in paragraph (a) or that is a cross-border class in respect of the investment, the paid-up capital of the shares of each of those classes that are owned by the parent or another non-resident corporation that does not, at the dividend time, deal at arm's length with the parent, and the reduction under any of subparagraphs (a)(ii), (b)(ii) and (c)(ii) in respect of each of those classes, and

(ii) if the form is not filed on or before the CRIC's filing-due date for its taxation year that includes the dividend time, the CRIC is deemed to have paid to the parent, and the parent is deemed to have received from the CRIC, on the filing-due date, a dividend equal to the total of all amounts each of which is the amount of a reduction because of any of subparagraphs (a)(i), (b)(i) and (c)(i).

catégorie doit être égale à la proportion du total de la déduction opérée par l'effet du sous-alinéa (ii) du capital versé au titre de toutes les catégories pertinentes sur le total du capital versé, déterminé immédiatement après le moment du dividende et compte non tenu du présent sous-alinéa, au titre de toutes les catégories pertinentes,

(iv) le total des sommes représentant chacune une somme à déduire en application du sous-alinéa (ii) dans le calcul du capital versé au titre d'une catégorie transfrontalière doit correspondre à la somme qui est retranchée du dividende par l'effet du sous-alinéa (i);

d) si le montant du dividende est réduit par l'effet des sous-alinéas a)(i), b)(i) ou c)(i), les règles ci-après s'appliquent :

(i) la société résidente doit présenter au ministre selon les modalités réglementaires un formulaire dans lequel figurent les renseignements prescrits et les montants, déterminés à un moment immédiatement postérieur au moment du dividende et compte non tenu du présent paragraphe, du capital versé au titre de chaque catégorie d'actions qui est visée à l'alinéa a) ou qui est une catégorie transfrontalière relativement au placement, le montant du capital versé au titre des actions de chacune des catégories d'actions qui appartiennent à la société mère ou à une autre société non-résidente qui, au moment du dividende, a un lien de dépendance avec la société mère et les déductions opérées par l'effet des sous-alinéa a)(ii), b)(ii) ou c)(ii) relativement à chacune de ces catégories,

(ii) si le formulaire n'est pas présenté au plus tard à la date d'échéance de production de la société résidente pour son année d'imposition qui comprend le moment du dividende, la société résidente est réputée avoir versé à la société mère, laquelle est réputée avoir reçu de la société résidente, à cette date, un dividende égal au total des sommes dont chacune représente le montant d'une réduction opérée par l'effet des sous-alinéas a)(i), b)(i) ou c)(i).

Paid-up capital adjustment

(8) In computing the paid-up capital at any time after March 28, 2012 in respect of a class of shares of the capital stock of a corporation, there is to be added an amount equal to the lesser of

(a) the amount, if any, by which

(i) the total of all amounts deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of the

Rajustement du capital versé

(8) La moins élevée des sommes ci-après est à ajouter dans le calcul du capital versé, à tout moment après le 28 mars 2012, au titre d'une catégorie d'actions du capital-actions d'une société :

a) l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

class paid after March 28, 2012 and before that time by the corporation

exceeds

(ii) the total that would be determined under subparagraph (i) if this Act were read without reference to paragraph (2)(b) and subsections (7) and (9), and

(b) the amount, if any, by which

(i) the total of all amounts required by paragraph (2)(b) or subsection (7) to be deducted in computing the paid-up capital in respect of the class before that time

exceeds

(ii) the total of all amounts required by subsection (9) to be added in computing the paid-up capital in respect of the class before that time.

(i) le total des sommes qui sont réputées, en vertu des paragraphes 84(3), (4) ou (4.1), être un dividende versé par la société sur des actions de la catégorie après le 28 mars 2012 et avant le moment en cause,

(ii) le total qui serait déterminé selon le sous-alinéa (i) si la présente loi s'appliquait compte non tenu de l'alinéa (2)b) et des paragraphes (7) et (9);

b) l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le total des sommes à déduire, en application de l'alinéa (2)b) ou du paragraphe (7), dans le calcul du capital versé au titre de la catégorie avant ce moment,

(ii) le total des sommes à ajouter, en application du paragraphe (9), dans le calcul du capital versé au titre de la catégorie avant ce moment.

Paid-up capital reinstatement

(9) If, in respect of an investment in a subject corporation made by a CRIC that is described in any of paragraphs (10)(a) to (f), an amount is deducted under paragraph (2)(b) or subsection (7) in computing the paid-up capital in respect of a class of shares of the capital stock of a particular corporation and, at a time subsequent to the investment time, there is a reduction of paid-up capital referred to in subparagraph (b)(i) or a receipt of property referred to in the description of A in subparagraph (b)(ii), then the paid-up capital in respect of the class is to be increased, immediately before the subsequent time, by the lesser of

(a) the amount, if any, by which

(i) the total of all amounts deducted, before the subsequent time, under paragraph (2)(b) or subsection (7), in respect of the investment, in computing the paid-up capital in respect of the class

exceeds

(ii) the total of all amounts added under this subsection, in respect of the investment, to the paid-up capital in respect of the class before the time that is immediately before the subsequent time, and

(b) an amount that

(i) if the investment is described in paragraph (10)(a), (b) or (f), the paid-up capital in respect of the class is reduced at the subsequent time as part of or because of a distribution of property by the

Rétablissement du capital versé

(9) Si, relativement à un placement visé à l'un des alinéas (10)a) à f) qu'une société résidente fait dans une société déterminée, une somme est à déduire en application de l'alinéa (2)b) ou du paragraphe (7), dans le calcul du capital versé au titre d'une catégorie d'actions du capital-actions d'une société donnée et que, à un moment postérieur au moment du placement, le capital versé fait l'objet d'une réduction en vertu du sous-alinéa b)(i) ou un bien est reçu pour l'application de l'élément A du sous-alinéa b)(ii), la moins élevée des sommes ci-après est à ajouter, immédiatement avant le moment postérieur, au capital versé au titre de la catégorie :

a) l'excédent du total visé au sous-alinéa (i) sur celui visé au sous-alinéa (ii) :

(i) le total des sommes dont chacune est à déduire, avant le moment postérieur et en application de l'alinéa (2)b) ou du paragraphe (7) relativement au placement, dans le calcul du capital versé au titre de la catégorie,

(ii) le total des sommes qui, en application du présent paragraphe, sont à ajouter, relativement au placement, au capital versé au titre de la catégorie avant le moment qui est immédiatement avant le moment postérieur;

b) une somme qui :

(i) si le placement est visé aux alinéas (10)a), b) ou f), que le capital versé au titre de la catégorie est réduit au moment postérieur dans le cadre d'une

particular corporation and the property (in this paragraph referred to as the "distributed shares") is shares of the capital stock of the subject corporation or shares of the capital stock of a foreign affiliate of the particular corporation that were substituted for shares of the capital stock of the subject corporation, is equal to the amount determined by the formula

A/B

where

A is

(A) if the investment is described in paragraph (10)(b), the portion of the fair market value, immediately before the subsequent time, of the distributed shares that can reasonably be considered to relate to the contribution of capital that is the investment, and

(B) if the investment is described in paragraph (10)(a) or (f), the lesser of

(I) the portion of the fair market value, immediately before the subsequent time, of the distributed shares that can reasonably be considered to relate to the shares (in this paragraph referred to as the "acquired shares") of the capital stock of the subject corporation that were acquired on the investment (other than any portion described in clause (A)), and

(II) the proportion of the amount determined under subparagraph (a)(i) that the amount determined under subclause (I) is of the fair market value, immediately before the subsequent time, of the acquired shares, or the portion of the fair market value of shares that were substituted for the acquired shares that can reasonably be considered to relate to the acquired shares, and

B is

(A) if the particular corporation is, immediately after the dividend time, a qualifying substitute corporation in respect of the CRIC, the particular corporation's equity percentage (as defined in subsection 95(4)) in the CRIC immediately after the dividend time, and

(B) in any other case, 100%, and

(ii) in any other case, is equal to the amount determined by the formula

A × B/C

distribution de biens effectuée par la société donnée ou en raison d'une telle distribution et que les biens (appelés « actions distribuées » au présent alinéa) sont constitués d'actions du capital-actions de la société déterminée ou d'actions du capital-actions d'une société étrangère affiliée de la société donnée qui ont été substituées aux actions du capital-actions de la société déterminée, est égale au quotient obtenu par la formule suivante :

A/B

où :

A représente celui des montants ci-après qui est applicable :

(A) si le placement est visé à l'alinéa (10)b), la partie de la juste valeur marchande, immédiatement avant le moment postérieur, des actions distribuées qu'il est raisonnable de considérer comme se rapportant à l'apport du capital qu'est le placement,

(B) si le placement est visé aux alinéas (10)a) ou f), la moindre des sommes suivantes :

(I) la partie de la juste valeur marchande, immédiatement avant le moment postérieur, des actions distribuées qu'il est raisonnable de considérer comme se rapportant aux actions (appelées « actions acquises » au présent alinéa) du capital-actions de la société déterminée qui sont acquises dans le cadre du placement (autre qu'une partie visée à la division (A)),

(II) la somme obtenue en multipliant le montant déterminé selon le sous-alinéa a)(i) par le rapport du montant déterminé selon la subdivision (I) sur la juste valeur marchande, immédiatement avant le moment postérieur, des actions acquises ou sur la partie de la juste valeur marchande des actions qui sont substituées à celles-ci et qu'il est raisonnable de considérer comme se rapportant aux actions acquises,

B celui des pourcentages ci-après qui est applicable :

(A) si la société donnée est, immédiatement après le moment du dividende, une société de remplacement admissible pour la société résidente, le pourcentage d'intérêt de la société donnée (au sens du paragraphe 95(4))

where

A is the amount that is equal to the fair market value of property that the particular corporation demonstrates has been received at the subsequent time by it or by a corporation resident in Canada that was not dealing at arm's length with the particular corporation at that time (in this subparagraph referred to as the "recipient corporation")

(A) as proceeds from the disposition of the acquired shares, or other shares to the extent that the proceeds from the disposition of those other shares can reasonably be considered to relate to the acquired shares or to shares of the capital stock of the subject corporation in respect of which an investment described in paragraph (10)(b) was made, other than

(I) the fair market value of shares of the capital stock of another foreign affiliate of the taxpayer acquired by the recipient corporation as consideration for the disposition and as an investment to which subsection (16) or (18) applies, and

(II) proceeds from a disposition of shares to a corporation resident in Canada for which the acquisition of the shares is an investment to which subsection (16) or (18) applies,

(B) as a reduction of paid-up capital or dividend in respect of a class of shares of the capital stock of the subject corporation or the portion, of a reduction of paid-up capital or dividend in respect of a class of shares of the capital stock of a foreign affiliate of the particular corporation that were substituted for shares of the capital stock of the subject corporation, that can reasonably be considered to relate to the subject shares, or

(C) if the investment is described in paragraph (10)(c) or (d) or subparagraph (10)(e)(i),

(I) as a repayment of or as proceeds from the disposition of the debt obligation or amount owing, other than

1. if the debt obligation or amount owing was acquired by another foreign affiliate of the taxpayer, the portion of the fair market value of property received by the particular corporation as a result of an investment by the particular corporation that is described in

dans la société résidente immédiatement après ce moment,

(B) sinon, 100 %,

(ii) dans tous les autres cas, est égale à la somme obtenue par la formule suivante :

A × B/C

où :

A représente une somme égale à la juste valeur marchande de biens qui, selon ce que démontre la société donnée, ont été reçus au moment postérieur par elle ou par une société résidant au Canada qui, à ce moment, avait un lien de dépendance avec la société donnée (appelée « société bénéficiaire » au présent sous-alinéa), selon le cas :

(A) au titre de produit de la disposition des actions acquises ou d'autres actions dans la mesure où il est raisonnable de considérer le produit de la disposition des autres actions comme se rapportant aux actions acquises ou aux actions du capital-actions de la société déterminée à l'égard desquelles un placement visé à l'alinéa (10)b) a été fait, sauf les sommes suivantes :

(I) la juste valeur marchande d'actions du capital-actions d'une autre société étrangère affiliée du contribuable dont la société bénéficiaire a fait l'acquisition en contrepartie de la disposition et au titre d'un placement auquel les paragraphes (16) ou (18) s'appliquent,

(II) le produit d'une disposition d'actions au profit d'une société résidant au Canada pour laquelle l'acquisition des actions est un placement auquel les paragraphes (16) ou (18) s'appliquent,

(B) à titre de réduction du capital versé ou du dividende relativement à une catégorie d'actions du capital-actions de la société déterminée ou à la portion d'une réduction du capital versé ou de dividende relativement à une catégorie d'actions du capital-actions d'une société étrangère affiliée de la société donnée qui ont été substituées à des actions du capital-actions de la société déterminée qu'il est raisonnable de considérer comme se rapportant aux actions déterminées,

(C) si le placement est visé aux alinéas (10)c) ou d) ou au sous-alinéa (10)e)(i) :

paragraphs (10)(a) to (f) to which subsection (16) or (18) applies, or

2. as proceeds from a disposition to a corporation resident in Canada and that is affiliated with the particular corporation, and where subsection (16) or (18) applies to the other corporation in respect of its acquisition, or

(II) as interest on the debt obligation or amount owing,

B is the amount determined under paragraph (a) in respect of the class, and

C is the total of all amounts each of which is an amount determined under paragraph (a) in respect of all classes of shares of the capital stock of the particular corporation or of any corporation that does not deal at arm's length with the particular corporation.

(I) soit à titre de remboursement de la créance, ou de produit provenant de sa disposition, sauf les sommes suivantes :

1. si la créance ou la somme à payer a été acquise par une autre société étrangère affiliée du contribuable, la partie de la juste valeur marchande des biens reçus par la société donnée par l'effet d'un placement par elle qui est visé aux alinéas (10)a) à f) et auquel les paragraphes (16) ou (18) s'appliquent,

2. le produit d'une disposition au profit d'une société résidant au Canada et qui est affiliée à la société donnée dans le cas où les paragraphes (16) ou (18) s'appliquent à l'autre société relativement à son acquisition,

(II) soit à titre d'intérêt sur la créance ou la somme à payer,

B le montant calculé selon l'alinéa a) relativement à la catégorie,

C le total des sommes dont chacune est déterminée selon l'alinéa a) relativement à toutes les catégories des actions du capital-actions de la société donnée ou d'une société ayant un lien de dépendance avec la société donnée.

Exchange of debt obligation for shares

(9.1) For the purposes of subsection (9), if at any time a debt obligation that relates to a particular investment described in paragraph (10)(c) or (d) or subparagraph (10)(e)(i) is exchanged for shares of a subject corporation and as part of the exchange there is an acquisition of shares described in subparagraph (18)(b)(i) or paragraph 18(d), then all amounts, in respect of the particular investment, deducted under paragraph (2)(b) or subsection (7) from, or added under subsection (9) to, the paid-up capital in respect of a class of shares before that time are deemed to have been deducted or added, as the case may be, in respect of the acquisition of the shares and not the particular investment.

Échange d'une créance contre des actions

(9.1) Pour l'application du paragraphe (9), si, à un moment donné, une créance à l'égard d'un placement visé aux alinéas (10)c) ou d) ou au sous-alinéa (10)e)(i) est échangée contre des actions d'une société déterminée et que des actions visées au sous-alinéa (18)b)(i) ou à l'alinéa (18)d) sont acquises dans le cadre de l'échange, toutes les sommes qui sont, relativement au placement donné, à déduire en application de l'alinéa (2)b) ou du paragraphe (7), ou à ajouter en application du paragraphe (9), dans le calcul du capital versé relativement à une catégorie d'actions avant ce moment sont réputées être déduites ou ajoutées, selon le cas, au titre de l'acquisition des actions et non du placement donné.

Continuity for paid-up capital reinstatement

(9.2) If at any particular time shares (in this subsection referred to as the "new shares") of a class of the capital stock of a corporation resident in Canada are acquired, in a transaction to which any of sections 51, 85, 85.1, 86 and 87 apply, in exchange for a share (in this subsection referred to as the "old share") of a class of the capital stock of a particular corporation that is either the corporation or another corporation resident in Canada, then for the purposes of subsections (8) and (9),

Continuité aux fins du rétablissement du capital versé

(9.2) Si, à un moment donné, des actions (appelées « nouvelles actions » au présent paragraphe) d'une catégorie du capital-actions d'une société résidant au Canada sont acquises — dans le cadre d'une opération à laquelle l'un des articles 51, 85, 85.1, 86 ou 87 s'appliquent — en échange d'une action (appelée « l'ancienne action » au présent paragraphe) d'une des catégories du capital-actions d'une société donnée qui est la société ou une autre société résidant au Canada, les règles ci-après s'appliquent pour l'application des paragraphes (8) et (9) :

(a) if the corporation that issues the new shares is not the particular corporation, it is deemed to be the same corporation as, and a continuation of, the particular corporation;

(b) the new shares are deemed to be the same share, and of the same class of the capital stock of the particular corporation, as the old share; and

(c) if the old share remains outstanding after the exchange, it is deemed to be a share of a different class of the capital stock of the particular corporation.

a) si la société qui émet les nouvelles actions n'est pas la société donnée, elle est réputée être la même société que la société donnée et en être la continuation de celle-ci;

b) les nouvelles actions sont réputées être la même action, et appartenir à la même catégorie d'actions du capital-actions de la société donnée, que l'ancienne action;

c) si l'ancienne action demeure en circulation après l'échange, celle-ci est réputée appartenir à une autre catégorie d'actions du capital-actions de la société donnée.

Investment in subject corporation

(10) In this section, ***investment***, in a subject corporation made by a CRIC, means any of

(a) an acquisition of shares of the capital stock of the subject corporation by the CRIC;

(b) a contribution of capital to the subject corporation by the CRIC, which is deemed to include any transaction or event under which a benefit is conferred on the subject corporation by the CRIC;

(c) a transaction under which an amount becomes owing by the subject corporation to the CRIC, other than an amount owing

(i) that arises in the ordinary course of the business of the CRIC and that is repaid, other than as part of a series of loans or other transactions and repayments, within 180 days after the day on which the amount becomes owing,

(ii) that is a pertinent loan or indebtedness immediately after the time of the transaction, or

(iii) because a dividend has been declared, but not yet paid, by the subject corporation;

(d) an acquisition of a debt obligation of the subject corporation by the CRIC from a person, other than

(i) if the acquisition is made in the ordinary course of the business of the CRIC, a debt obligation acquired from a person with which the CRIC deals at arm's length at the time of the acquisition, or

(ii) a debt obligation that is a pertinent loan or indebtedness immediately after the time of the acquisition;

(e) an extension of

Placement dans une société déterminée

(10) Au présent article, ***placement*** s'entend des opérations ci-après qu'une société résidente fait à l'égard d'une société déterminée :

a) toute acquisition d'actions du capital-actions de la société déterminée par la société résidente;

b) tout apport de capital à la société déterminée par la société résidente, lequel est réputé comprendre toute opération ou tout événement dans le cadre desquels un avantage est conféré à la société déterminée par la société résidente;

c) toute opération dans le cadre de laquelle une somme devient due à la société résidente par la société déterminée, sauf s'il s'agit d'une somme due qui, selon le cas :

(i) prend naissance dans le cours normal des activités de l'entreprise de la société résidente et est remboursée, autrement que dans le cadre d'une série de prêts ou d'autres opérations et remboursements, dans les 180 jours suivant le jour où elle devient due,

(ii) est un prêt ou dette déterminé immédiatement après le moment de l'opération,

(iii) prend naissance du fait que la société déterminée a déclaré un dividende, mais ne l'a pas encore versé;

d) toute acquisition, par la société résidente auprès d'une personne, d'un titre de créance de la société déterminée, à l'exception d'un titre de créance qui, selon le cas :

(i) the maturity date of a debt obligation (other than a debt obligation that is a pertinent loan or indebtedness immediately after the time of the extension) owing by the subject corporation to the CRIC, or

(ii) the redemption, acquisition or cancellation date of shares of the capital stock of the subject corporation owned by the CRIC;

(f) an indirect acquisition by the CRIC of shares of the capital stock of the subject corporation that results from a direct acquisition by the CRIC of shares of the capital stock of another corporation resident in Canada, of which the subject corporation is a foreign affiliate, if the total fair market value of all the shares that are held directly or indirectly by the other corporation and are shares of foreign affiliates of the other corporation exceeds 75% of the total fair market value (determined without reference to debt obligations of any corporation resident in Canada in which the other corporation has a direct or indirect interest) of all of the properties owned by the other corporation; and

(g) an acquisition by the CRIC of an option in respect of, or an interest in, or for civil law a right in, shares of the capital stock of, an amount owing by (other than an amount owing described in subparagraph (c)(i) or (ii)), or a debt obligation of (other than a debt obligation described in subparagraph (d)(i) or (ii)), the subject corporation.

Pertinent loan or indebtedness

(11) For the purposes of subsection (10) and subject to subsection 17.1(3), ***pertinent loan or indebtedness***, at any time, means an amount owing at that time by the subject corporation to the CRIC in respect of which all of the following apply:

(a) either

(i) the amount became owing after March 28, 2012, or

(i) si l'acquisition est effectuée dans le cours normal des activités de l'entreprise de la société résidente, est acquis auprès d'une personne avec laquelle celle-ci n'a aucun lien de dépendance au moment de l'acquisition,

(ii) est un prêt ou dette déterminé immédiatement après le moment de l'acquisition;

e) toute prolongation :

(i) de l'échéance d'une créance (sauf celle qui est un prêt ou dette déterminé immédiatement après le moment de la prolongation) due par la société déterminée à la société résidente,

(ii) de l'échéance pour le rachat, l'acquisition ou l'annulation d'actions du capital-actions de la société déterminée appartenant à la société résidente;

f) toute acquisition indirecte par la société résidente d'actions du capital-actions de la société déterminée qui fait suite à une acquisition directe par la société résidente d'actions du capital-actions d'une autre société résidant au Canada — dont la société déterminée est une société étrangère affiliée — si la juste valeur marchande totale des actions détenues directement ou indirectement par l'autre société qui sont des actions de sociétés étrangères affiliées de celle-ci excède 75 % de la juste valeur marchande totale (déterminée compte non tenu des créances de toute société résidant au Canada dans laquelle l'autre société a une participation directe ou indirecte) des biens appartenant à l'autre société;

g) toute acquisition par la société résidente d'une option, d'un intérêt ou, pour l'application du droit civil, d'un droit sur des actions du capital-actions de la société déterminée, sur une somme due par celle-ci (sauf une somme due visée aux sous-alinéas c)(i) ou (ii)) ou sur l'un de ses titres de créance (sauf un titre de créance visé aux sous-alinéas d)(i) ou (ii)).

Prêt ou dette déterminé

(11) Pour l'application du paragraphe (10) et sous réserve du paragraphe 17.1(3), est un prêt ou dette déterminé à un moment donné toute somme due, à ce moment, par la société déterminée à la société résidente, à l'égard de laquelle les faits ci-après s'avèrent :

a) selon le cas :

(i) la somme est devenue due après le 28 mars 2012,

(ii) la somme est devenue due avant le 29 mars 2012 et représente une créance dont l'échéance a

(ii) the amount became owing before March 29, 2012 and is a debt obligation for which the maturity date was extended after March 28, 2012 and at or before that time;

(b) the amount owing is not an amount owing described in subparagraph (10)(c)(i) or a debt obligation described in subparagraph (10)(d)(i); and

(c) the CRIC and the parent jointly elect in writing under this paragraph in respect of the amount owing and file the election with the Minister on or before the filing-due date of the CRIC

(i) in the case of an amount owing described in subparagraph (a)(i), for the year in which the amount became owing, or

(ii) in the case of an amount owing described in subparagraph (a)(ii), for the year in which the extension was made.

Late-filed elections

(12) Where an election referred to in subsection (3) or paragraph (11)(c) was not made on or before the day on or before which the election was required by that paragraph to be made, the election is deemed to have been made on that day if the election is made on or before the day that is three years after that day and the penalty in respect of the election is paid by the CRIC when the election is made.

Penalty for late-filed election

(13) For the purposes of subsection (12), the penalty in respect of an election referred to in that subsection is the amount equal to the product obtained by multiplying $100 by the number of months each of which is a month all or part of which is during the period commencing with the day on or before which the election is required by subsection (3) or paragraph (11)(c), as the case may be, to be made and ending on the day on which the election is made.

Rules for paragraph (10)(f)

(14) For the purposes of paragraph (10)(f),

(a) the condition in that paragraph is deemed to be satisfied at the time of the acquisition if

(i) any property (other than shares of foreign affiliates of the other corporation that is referred to in that paragraph) held directly or indirectly by that other corporation is disposed of, after the time of

été prolongée après le 28 mars 2012 et au plus tard au moment donné;

b) il ne s'agit pas d'une somme due visée au sous-alinéa (10)c)(i) ni d'un titre de créance visé au sous-alinéa (10)d)(i);

c) la société résidente et la société mère font un choix conjoint en vertu du présent alinéa relativement à la somme due, dans un document qu'elles présentent au ministre au plus tard à la date d'échéance de production qui est applicable à la société résidente pour celle des années ci-après qui est applicable :

(i) s'agissant d'une somme due visée au sous-alinéa a)(i), l'année au cours de laquelle la somme est devenue due,

(ii) s'agissant d'une somme due visée au sous-alinéa a)(ii), l'année au cours de laquelle la prolongation a été effectuée.

Choix produit en retard

(12) Le choix prévu au paragraphe (3) ou à l'alinéa (11)c) qui n'a pas été fait au plus tard à la date mentionnée à cet alinéa est réputé avoir été fait à cette date s'il est fait au plus tard le jour qui suit cette date de trois ans et si la pénalité relative au choix est payée par la société résidente au moment où le choix est fait.

Pénalité pour choix produit en retard

(13) Pour l'application du paragraphe (12), la pénalité relative au choix mentionné à ce paragraphe correspond au résultat de la multiplication de 100 $ par le nombre de mois ou de parties de mois compris dans la période commençant à la date où le choix devait être fait au plus tard selon le paragraphe (3) ou l'alinéa (11)c), selon le cas, et se terminant à la date où il est fait.

Règles relatives à l'alinéa (10)f)

(14) Pour l'application de l'alinéa (10)f) :

a) la condition énoncée à cet alinéa est réputée être remplie au moment de l'acquisition dans le cas où, à la fois :

(i) après le moment de l'acquisition, l'autre société mentionnée à cet alinéa dispose, directement ou indirectement dans le cadre d'une série d'opérations ou d'événements qui comprend l'acquisition, d'un bien (sauf des actions de ses sociétés étrangères

the acquisition, directly or indirectly by that corporation as part of a series of transactions or events that includes the acquisition, and

(ii) at any time that is subsequent to the time of the acquisition and that is in the period during which the series occurs, the condition in that paragraph would have been satisfied had the acquisition occurred at the subsequent time; and

(b) the fair market value of properties held directly or indirectly by the other corporation is not to be taken into account more than once in determining whether the condition in that paragraph is satisfied.

affiliées) qu'elle détient directement ou indirectement,

(ii) à tout moment de la période au cours de laquelle la série se produit qui est postérieur au moment de l'acquisition, la condition énoncée à cet alinéa aurait été remplie si l'acquisition s'était produite à ce moment postérieur;

b) la juste valeur marchande de biens détenus directement ou indirectement par l'autre société n'a pas à être prise en compte plus d'une fois lorsqu'il s'agit de déterminer si la condition énoncée à cet alinéa est remplie.

Control

(15) For the purposes of this section and paragraph 128.1(1)(c.3),

(a) a CRIC or a taxpayer to which paragraph 128.1(1)(c.3) applies (in this paragraph referred to as the "specific corporation"), that would, in the absence of this subsection, be controlled at any time

(i) by more than one non-resident corporation is deemed not to be controlled at that time by any such non-resident that controls at that time another non-resident corporation that controls at that time the specific corporation, unless the application of this paragraph would otherwise result in no non-resident corporation controlling the specific corporation, and

(ii) by a particular non-resident corporation is deemed not to be controlled at that time by the particular corporation if the particular corporation is controlled at that time by another corporation that is at that time

(A) resident in Canada, and

(B) not controlled by any non-resident person; and

(b) if at any time a corporation would not, in the absence of this subsection, be controlled by any non-resident corporation, and a related group (determined without reference to paragraph 251(5)(b)), each member of which is a non-resident corporation, is in a position to control the corporation, the corporation is deemed to be controlled at that time by

(i) the member of the group that has the greatest direct equity percentage (within the meaning assigned by subsection 95(4)) in the corporation at that time, or

Contrôle

(15) Les règles ci-après s'appliquent au présent article et à l'alinéa 128.1(1)c.3) :

a) le contribuable ou la société résidente auquel l'alinéa 128.1(1)c.3) s'applique (appelés « société particulière » au présent paragraphe) qui, en l'absence du présent paragraphe :

(i) serait contrôlé à un moment donné par plus d'une société non-résidente est réputé ne pas être contrôlé à ce moment par une telle société qui contrôle à ce même moment une autre société non-résidente qui, elle-même, contrôle à ce moment la société particulière, sauf dans le cas où, par suite de l'application du présent alinéa, aucune société non-résidente ne contrôlerait par ailleurs la société particulière,

(ii) serait contrôlé à un moment donné par une société non-résidente donnée est réputé ne pas être contrôlé à ce moment par la société donnée si celle-ci est contrôlée à ce moment par une autre société qui, à ce même moment, à la fois :

(A) réside au Canada,

(B) n'est pas contrôlée par une personne non-résidente;

b) si, à un moment donné, une société n'était pas, en l'absence du présent paragraphe, contrôlée par une société non-résidente et qu'un groupe qui serait un groupe lié (compte non tenu de l'alinéa 251(5)b)) et dont chacun des membres est une société non-résidente est en mesure de contrôler la société, celle-ci est réputée être contrôlée à ce moment :

(i) par le membre du groupe qui a le pourcentage d'intérêt direct, au sens du paragraphe 95(4), le plus élevé dans la société à ce moment,

(ii) where no member of the group has a direct equity percentage in the corporation that is greater than that of every other member, the member determined by the corporation or, if the corporation does not make a determination, by the Minister.

(ii) si aucun membre du groupe n'a de pourcentage d'intérêt direct dans la société qui est plus élevé que celui de chacun des autres membres, par le membre que détermine la société ou, à défaut de détermination par celle-ci, par le ministre.

Exception — more closely connected business activities

(16) Subject to subsection (19), subsection (2) does not apply to an investment in a subject corporation made by a CRIC if the CRIC demonstrates that all of the following conditions are met:

(a) the business activities carried on by the subject corporation and all other corporations (those other corporations in this subsection and subsection (17) referred to as the "subject subsidiary corporations") in which the subject corporation has, at the investment time, an equity percentage (as defined in subsection 95(4)) are at the investment time, and are expected to remain, on a collective basis, more closely connected to the business activities carried on in Canada by the CRIC, or by any corporation resident in Canada with which the CRIC does not, at the investment time, deal at arm's length, than to the business activities carried on by any non-resident corporation with which the CRIC, at the investment time, does not deal at arm's length, other than

(i) the subject corporation,

(ii) the subject subsidiary corporations, and

(iii) any corporation that is, immediately before the investment time, a controlled foreign affiliate of the CRIC for the purposes of section 17,

(b) officers of the CRIC, or of a corporation resident in Canada that did not, at the investment time, deal at arm's length with the CRIC, had and exercised the principal decision-making authority in respect of the making of the investment and a majority of those officers were, at the investment time, persons each of whom was resident, and working principally,

(i) in Canada, or

(ii) in a country in which a particular corporation is resident if the particular corporation (in this subsection and subsection (17) referred to as a "connected affiliate") is a controlled foreign affiliate of the CRIC for the purposes of section 17 and carries on business activities that are, at the investment time, and are expected to remain, at least as closely connected to those of the subject corporation and the subject subsidiary corporations, on a collective

Exception — activités d'entreprise plus étroitement rattachées

(16) Sous réserve du paragraphe (19), le paragraphe (2) ne s'applique pas à un placement qu'une société résidente fait dans une société déterminée si la société résidente démontre que les conditions ci-après sont réunies :

a) les activités d'entreprise exercées par la société déterminée et par les autres sociétés dans lesquelles elle a, au moment du placement, un pourcentage d'intérêt au sens du paragraphe 95(4) (ces autres sociétés étant appelées « filiales déterminées » au présent paragraphe et au paragraphe (17)) sont à ce moment, et devraient demeurer, dans l'ensemble plus étroitement rattachées aux activités d'entreprise exercées au Canada par la société résidente ou par une société résidant au Canada avec laquelle elle a un lien de dépendance au moment du placement qu'aux activités d'entreprise exercées par toute société non-résidente avec laquelle la société résidente a un lien de dépendance à ce même moment, sauf les sociétés suivantes :

(i) la société déterminée,

(ii) les filiales déterminées,

(iii) toute société qui est, immédiatement avant le moment du placement, une société étrangère affiliée contrôlée de la société résidente pour l'application de l'article 17;

b) le principal pouvoir décisionnel en ce qui a trait à la réalisation du placement revenait à des cadres de la société résidente ou d'une société résidant au Canada avec laquelle celle-ci avait un lien de dépendance au moment du placement et était exercé par eux, et la majorité de ces cadres :

(i) soit résidaient, et travaillaient principalement, au Canada au moment du placement,

(ii) soit résidaient, et travaillaient principalement, au moment du placement dans un pays où réside une société (appelée « filiale rattachée » au présent paragraphe et au paragraphe (17)) qui est une société étrangère affiliée contrôlée de la société résidente pour l'application de l'article 17 et qui exerce des activités d'entreprise qui sont à ce moment, et devraient demeurer, dans l'ensemble au moins aussi étroitement rattachées à celles de la société

basis, as the business activities carried on in Canada by the CRIC, or any corporation resident in Canada with which the CRIC does not, at the investment time, deal at arm's length, as the case may be, are to those of the subject corporation and the subject subsidiary corporations, on a collective basis; and

(c) at the investment time, it is reasonably expected that

(i) officers of the CRIC, or of a corporation resident in Canada that does not deal at arm's length with the CRIC, will have and exercise the ongoing principal decision-making authority in respect of the investment,

(ii) a majority of those officers will be persons each of whom will be resident, and working principally, in Canada or in a country in which a connected affiliate is resident, and

(iii) the performance evaluation and compensation of the officers of the CRIC, or of the corporation resident in Canada that does not deal at arm's length with the CRIC, who are resident, and work principally, in Canada, or in a country in which a connected affiliate is resident, will be based on the results of operations of the subject corporation to a greater extent than will be the performance evaluation and compensation of any officer of a non-resident corporation (other than the subject corporation, a corporation controlled by the subject corporation or a connected affiliate) that does not deal at arm's length with the CRIC.

déterminée et des filiales déterminées que le sont dans l'ensemble les activités d'entreprise exercées au Canada par la société résidente ou par une société résidant au Canada avec laquelle celle-ci a un lien de dépendance à ce moment à celles de la société déterminée et des filiales déterminées;

c) au moment du placement, il est raisonnable de s'attendre à ce que, à la fois :

(i) le principal pouvoir décisionnel en ce qui a trait au placement revienne à des cadres de la société résidente ou d'une société résidant au Canada avec laquelle celle-ci a un lien de dépendance et soit exercé par eux de façon continue,

(ii) la majorité de ces cadres résident, et travaillent principalement, au Canada ou dans un pays où réside une filiale rattachée,

(iii) l'évaluation du rendement et la rémunération des cadres de la société résidente ou de la société résidant au Canada avec laquelle celle-ci a un lien de dépendance qui résident, et travaillent principalement, au Canada ou dans un pays où réside une filiale rattachée soient fondées sur les résultats d'activités de la société déterminée dans une plus large mesure que ne le sont l'évaluation du rendement et la rémunération de tout cadre d'une société non-résidente (à l'exception de la société déterminée, d'une société qu'elle contrôle et d'une filiale rattachée) qui a un lien de dépendance avec la société résidente.

Dual officers

(17) For the purposes of paragraphs (16)(b) and (c), any person who is an officer of the CRIC, or of a corporation resident in Canada that does not deal at arm's length with the CRIC, and of a non-resident corporation that does not, at the investment time, deal at arm's length with the CRIC (other than the subject corporation, a subject subsidiary corporation or a connected affiliate) is deemed to not be resident, and to not work principally, in a country in which a connected affiliate is resident.

Exception — corporate reorganizations

(18) Subject to subsections (18.1) to (20), subsection (2) does not apply to an investment in a subject corporation made by a CRIC if

(a) the investment is described in paragraph (10)(a) or (d) and is an acquisition of shares of the capital stock, or a debt obligation, of the subject corporation

Nomination double

(17) Pour l'application des alinéas (16)b) et c), toute personne qui est cadre de la société résidente, ou d'une société résidant au Canada avec laquelle celle-ci a un lien de dépendance, et d'une société non-résidente avec laquelle la société résidente a un lien de dépendance au moment du placement (à l'exception de la société déterminée, d'une filiale déterminée et d'une filiale rattachée) est réputée ne pas résider, et ne pas travailler principalement, dans un pays où réside une filiale rattachée.

Exception — réorganisations de sociétés

(18) Sous réserve des paragraphes (18.1) à (20), le paragraphe (2) ne s'applique pas à un placement qu'une société résidente fait dans une société déterminée si, selon le cas :

a) le placement est visé aux alinéas (10)a) ou d) et constitue une acquisition d'actions du capital-actions

(i) from a corporation resident in Canada (in this paragraph referred to as the "disposing corporation") to which the CRIC is, immediately before the investment time, related (determined without reference to paragraph 251(5)(b)), and

(A) each shareholder of the disposing corporation immediately before the investment time is

(I) either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

(II) at no time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(B) the disposing corporation is, at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(ii) on an amalgamation described in subsection 87(1) of two or more corporations (each of which is in this subparagraph referred to as a "predecessor corporation") to form the CRIC if

(A) all of the predecessor corporations are, immediately before the amalgamation, related to each other (determined without reference to paragraph 251(5)(b)), and

(B) either

(I) none of the predecessor corporations are, at any time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

ou une créance de la société déterminée qui est effectuée, selon le cas :

(i) auprès d'une société résidant au Canada (appelée « société cédante » au présent alinéa) à laquelle la société résidente est, immédiatement avant le moment du placement, liée (déterminé compte non tenu de l'alinéa 251(5)b)) si, selon le cas :

(A) chaque actionnaire de la société cédante, immédiatement avant le moment du placement, à la fois :

(I) est la société résidente ou une société résidant au Canada qui, immédiatement avant ce moment, est liée à la société mère,

(II) à tout moment — antérieur au moment du placement — de la période au cours de laquelle la série d'opérations ou d'événements qui comprend la réalisation du placement s'est produite, a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(B) à tout moment — antérieur au moment du placement — de la période au cours de laquelle la série d'opérations ou d'événements qui comprend la réalisation du placement s'est produite, la société cédante a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(ii) lors de la fusion, au sens du paragraphe 87(1), de plusieurs sociétés (chacune étant appelée « société remplacée » au présent sous-alinéa) dont est issue la société résidente si, à la fois :

(A) toutes les sociétés remplacées sont liées les unes aux autres (déterminé compte non tenu de l'alinéa 251(5)b)) immédiatement avant la fusion,

(B) une des subdivisions ci-après s'applique :

(I) à tout moment — antérieur au moment du placement — de la période au cours de laquelle la série d'opérations ou d'événements qui comprend la réalisation du placement s'est produite, chaque société remplacée a un lien de dépendance (déterminé compte non

(II) if the condition in subclause (I) is not satisfied in respect of a predecessor corporation, each shareholder of that predecessor immediately before the investment time is

1. either the CRIC or a corporation resident in Canada that is, immediately before the investment time, related to the parent, and

2. at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent;

(b) the investment is described in paragraph (10)(a) and is an acquisition of shares of the capital stock of the subject corporation in which the shares are acquired by the CRIC

(i) in an exchange to which subsection 51(1) applies,

(ii) as consideration for a disposition of shares to which subsection 85.1(3) applies (determined without reference to subsection 85.1(4)),

(iii) in the course of a reorganization of the capital of the subject corporation to which subsection 86(1) applies,

(iv) as a result of a foreign merger (as defined in subsection 87(8.1)) under which the subject corporation was formed,

(v) on a liquidation and dissolution to which subsection 88(3) applies,

(vi) on a redemption of shares of another non-resident corporation that is, immediately before the investment time, a foreign affiliate of the CRIC,

(vii) as a dividend or a qualifying return of capital, within the meaning assigned by subsection 90(3), in respect of the shares of another non-resident corporation that is, immediately before the investment time, a foreign affiliate of the CRIC, or

(viii) as a result of a disposition of the shares by the CRIC to a partnership and to which subsection 97(2) applies;

tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(II) si la subdivision (I) ne s'applique pas relativement à une société remplacée, chacun de ses actionnaires, immédiatement avant le moment du placement, à la fois :

1. est la société résidente ou une société résidant au Canada qui, immédiatement avant ce moment, est liée à la société mère,

2. à tout moment — antérieur au moment du placement — de la période au cours de laquelle la série d'opérations ou d'événements qui comprend la réalisation du placement s'est produite, a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère;

b) le placement est visé à l'alinéa (10)a) et constitue une acquisition d'actions du capital-actions de la société déterminée dans le cadre de laquelle les actions sont acquises par la société résidente, selon le cas :

(i) lors d'un échange auquel le paragraphe 51(1) s'applique,

(ii) en contrepartie d'une disposition d'actions à laquelle le paragraphe 85.1(3) s'applique (déterminée compte non tenu du paragraphe 85.1(4)),

(iii) dans le cadre d'un remaniement du capital de la société déterminée auquel le paragraphe 86(1) s'applique,

(iv) par suite d'une fusion étrangère, au sens du paragraphe 87(8.1), dont est issue la société déterminée,

(v) lors d'une liquidation et dissolution à laquelle le paragraphe 88(3) s'applique,

(vi) lors d'un rachat d'actions d'une autre société non-résidente qui est une société étrangère affiliée de la société résidente immédiatement avant le moment du placement,

(c) the investment is an indirect acquisition referred to in paragraph (10)(f) that results from a direct acquisition of shares of the capital stock of another corporation resident in Canada

(i) from a corporation (in this paragraph referred to as the "disposing corporation") to which the CRIC is, immediately before the investment time, related (determined without reference to paragraph 251(5)(b)), and

(A) each shareholder of the disposing corporation immediately before the investment time is

(I) either the CRIC or a corporation resident in Canada that, immediately before the investment time, is related to the parent, and

(II) at no time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(B) the disposing corporation is, at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent,

(ii) on an amalgamation described in subsection 87(1) of two or more corporations (each of which is in this subparagraph referred to as a "predecessor corporation") to form the CRIC, or a corporation of which the CRIC is a shareholder, if

(A) all of the predecessor corporations are, immediately before the amalgamation, related to each other (determined without reference to paragraph 251(5)(b)), and

(B) either

(I) none of the predecessor corporations are, at any time that is in the period during which the series of transactions or events that includes the making of the investment occurs and that is before the investment time, dealing at arm's length (determined without

(vii) à titre de dividende ou de remboursement de capital admissible, au sens du paragraphe 90(3), relativement aux actions d'une autre société non-résidente qui est une société étrangère affiliée de la société résidente immédiatement avant le moment du placement,

(viii) par l'effet d'une disposition d'actions qui est effectuée par la société résidente à une société de personnes et à laquelle le paragraphe 97(2) s'applique;

c) le placement est une acquisition indirecte mentionnée à l'alinéa (10)f) qui fait suite à une acquisition directe d'actions du capital-actions d'une autre société résidant au Canada qui est effectuée, selon le cas :

(i) auprès d'une société (appelée « société cédante » au présent alinéa) qui est une société à laquelle la société résidente est liée (déterminé compte non tenu de l'alinéa 251(5)b)) immédiatement avant le moment du placement et à l'égard de laquelle l'un des faits ci-après s'avère :

(A) chaque actionnaire de la société cédante, immédiatement avant le moment du placement, à la fois :

(I) est la société résidente ou une société résidant au Canada qui, immédiatement avant ce moment, est liée à la société mère,

(II) à tout moment — antérieur au moment du placement — de la période au cours de laquelle la série d'opérations ou d'événements qui comprend la réalisation du placement s'est produite, a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(B) la société cédante, à tout moment — antérieur au moment du placement — de la période, a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(ii) lors de la fusion, au sens du paragraphe 87(1), de plusieurs sociétés (chacune étant appelée « société remplacée » au présent sous-alinéa) dont est issue la société résidente ou une société dont celle-ci est un actionnaire si, à la fois :

reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent, or

(II) if the condition in subclause (I) is not satisfied in respect of a predecessor corporation, each shareholder of that predecessor immediately before the investment time is

1. either the CRIC or a corporation resident in Canada that, immediately before the investment time, is related to the parent, and

2. at no time that is in the period and that is before the investment time, dealing at arm's length (determined without reference to paragraph 251(5)(b)) with the parent or a non-resident corporation that participates in the series and is, at any time that is in the period and that is before the investment time, related to the parent,

(iii) in an exchange to which subsection 51(1) applies,

(iv) in the course of a reorganization of the capital of the other corporation to which subsection 86(1) applies,

(v) to the extent that an investment (other than one described in paragraph (10)(f)) is made in the subject corporation by the other corporation, or by a particular corporation resident in Canada to which the CRIC and the other corporation are related at the investment time, using property transferred, directly or indirectly, by the CRIC to the other corporation or the particular corporation, as the case may be, if the two investments

(A) occur within 90 days of each other, and

(B) are part of the same series of transactions or events, or

(vi) as a result of a disposition of the shares by the CRIC to a partnership and to which subsection 97(2) applies; or

(d) the investment is an acquisition of shares of the capital stock of the subject corporation that is described in paragraph (10)(a), or an indirect acquisition referred to in paragraph (10)(f) that results from a direct acquisition of shares of the capital stock of another corporation resident in Canada, if

(A) toutes les sociétés remplacées sont liées les unes aux autres (déterminé compte non tenu de l'alinéa 251(5)b)) immédiatement avant la fusion,

(B) l'une des subdivisions ci-après s'applique :

(I) à tout moment — antérieur au moment du placement — de la période au cours de laquelle la série d'opérations ou d'événements qui comprend la réalisation du placement s'est produite, chaque société remplacée a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(II) si la subdivision (I) ne s'applique pas relativement à une société remplacée, chaque actionnaire de celle-ci, immédiatement avant le moment du placement, à la fois :

1. est la société résidente ou une société résidant au Canada qui, immédiatement avant ce moment, est liée à la société mère,

2. à tout moment — antérieur au moment du placement — de la période, a un lien de dépendance (déterminé compte non tenu de l'alinéa 251(5)b)) avec la société mère ou une société non-résidente qui participe à la série d'opérations ou d'événements qui comprend la réalisation du placement et qui est, à un moment de la période antérieur au moment du placement, liée à la société mère,

(iii) lors d'un échange auquel le paragraphe 51(1) s'applique,

(iv) dans le cadre d'un remaniement du capital de l'autre société auquel le paragraphe 86(1) s'applique,

(v) dans la mesure où un placement (sauf celui visé à l'alinéa (10)f)) est fait dans la société déterminée par l'autre société, ou par une société donnée résidant au Canada à laquelle la société résidente et l'autre société sont liées au moment du placement, au moyen de biens que la société résidente a transférés, directement ou indirectement, à l'autre société ou à la société donnée, selon le cas, pourvu que, à la fois :

(i) the shares are acquired by the CRIC in exchange for a bond, debenture or note, and

(ii) subsection 51(1) would apply to the exchange if the terms of the bond, debenture or note conferred on the holder the right to make the exchange.

(A) l'intervalle séparant les deux placements soit d'au plus 90 jours,

(B) les deux placements soient faits dans le cadre de la même série d'opérations ou d'événements,

(vi) par suite d'une disposition des actions qui est effectuée par la société résidente à une société de personnes et à laquelle le paragraphe 97(2) s'applique;

d) le placement constitue soit une acquisition d'actions du capital-actions de la société déterminée qui est visée à l'alinéa (10)a), soit une acquisition indirecte mentionnée à l'alinéa (10)f) qui fait suite à une acquisition directe d'actions du capital-actions d'une autre société résidant au Canada, dans le cas où, à la fois :

(i) les actions sont acquises par la société résidente en échange d'une obligation, d'une débenture ou d'un billet,

(ii) le paragraphe 51(1) s'appliquerait à l'échange si les conditions de l'obligation, de la débenture ou du billet conféraient au détenteur le droit d'effectuer l'échange.

Exchange — pertinent loan or indebtedness

(18.1) Subsection (18) does not apply to an investment that is an acquisition of property if the property can reasonably be considered to have been received by the CRIC as repayment in whole or in part, or in settlement, of a pertinent loan or indebtedness.

Preferred shares

(19) Subparagraph (1)(b)(ii) applies, and subsection (16) and paragraphs (18)(b) and (d) do not apply, to an acquisition of shares of the capital stock of a subject corporation by a CRIC if, having regard to all the terms and conditions of the shares and any agreement in respect of the shares, the shares cannot reasonably be considered to fully participate in the profits of the subject corporation and any appreciation in the value of the subject corporation, unless the subject corporation would be a subsidiary wholly-owned corporation of the CRIC throughout the period during which the series of transactions or events that includes the acquisition occurs if the CRIC owned all of the shares of the capital stock of the subject corporation that are owned by any of

(a) the CRIC;

(b) a corporation resident in Canada that is a subsidiary wholly-owned corporation of the CRIC; and

Échange — prêt ou dette déterminé

(18.1) Le paragraphe (18) ne s'applique pas à un placement qui est une acquisition de bien s'il est raisonnable de considérer que le bien a été reçu par la société résidente en remboursement total ou partiel, ou en règlement, d'un prêt ou dette déterminé.

Actions privilégiées

(19) Le sous-alinéa (1)b)(ii) s'applique, et le paragraphe (16) et les alinéas (18)b) et d) ne s'appliquent pas, à une acquisition d'actions du capital-actions d'une société déterminée effectuée par une société résidente si, compte tenu des caractéristiques des actions et de toute convention relative à celles-ci, il n'est pas raisonnable de considérer que les actions participent pleinement aux bénéfices de la société déterminée et à toute appréciation de la valeur de celle-ci. Toutefois, la phrase précédente ne s'applique pas à une acquisition dans le cas où la société déterminée serait une filiale à cent pour cent de la société résidente tout au long de la période au cours de laquelle la série d'opérations ou d'événements qui comprend l'acquisition se produit si toutes les actions du capital-actions de la société déterminée appartenant à l'une ou l'autre des sociétés ci-après appartenaient à la société résidente :

a) la société résidente;

(c) a corporation resident in Canada of which the CRIC is a subsidiary wholly-owned corporation.

b) une société résidant au Canada qui est une filiale à cent pour cent de la société résidente;

c) une société résidant au Canada dont la société résidente est une filiale à cent pour cent.

Assumption of debt on liquidation or distribution

(20) Subsection (2) applies to an investment in a subject corporation made by a CRIC that is an acquisition of shares of the capital stock of the subject corporation described in any of subparagraphs (18)(b)(v) to (vii) to the extent of the lesser of

(a) the total of all amounts each of which is the amount of a debt obligation assumed by the CRIC in respect of the liquidation and dissolution, redemption, dividend or qualifying return of capital, as the case may be, and

(b) the fair market value of the shares at the investment time.

Prise en charge de dettes lors d'une liquidation ou d'une distribution

(20) Le paragraphe (2) s'applique à un placement qu'une société résidente fait dans une société déterminée qui consiste en une acquisition d'actions du capital-actions de la société déterminée visée à l'un des sous-alinéas (18)b)(v) à (vii) jusqu'à concurrence de la moins élevée des sommes suivantes :

a) le total des sommes représentant chacune le montant d'une créance prise en charge par la société résidente relativement à la liquidation et dissolution, au rachat, au dividende ou au remboursement de capital admissible, selon le cas;

b) la juste valeur marchande des actions au moment du placement.

Persons deemed not to be related

(21) If it can reasonably be considered that one of the main purposes of one or more transactions or events is to cause two or more persons to be related to each other so that, in the absence of this subsection, subsection (2) would not apply because of subsection (18) to an investment in a subject corporation made by a CRIC, those persons are deemed not to be related to each other for the purposes of subsection (18).

Personnes réputées ne pas être liées

(21) S'il est raisonnable de considérer que l'un des principaux objets d'une ou de plusieurs opérations ou événements consiste à faire en sorte que plusieurs personnes soient liées les unes aux autres afin que, en l'absence du présent paragraphe, le paragraphe (2) ne soit pas applicable, par l'effet du paragraphe (18), à un placement qu'une société résidente fait dans une société déterminée, les personnes en cause sont réputées ne pas être liées les unes aux autres pour l'application du paragraphe (18).

Mergers

(22) For the purposes of this section and subsections 219.1(3) and (4),

(a) if there has been an amalgamation to which subsection 87(11) applies,

(i) the new corporation referred to in that subsection is deemed to be the same corporation as, and a continuation of, the parent and each subsidiary referred to in that subsection,

(ii) the new corporation is deemed not to acquire any property of the parent, or of any subsidiary, as a result of the amalgamation, and

(iii) each shareholder of the new corporation is deemed not to acquire indirectly any shares as a result of the amalgamation; and

Fusions et liquidations

(22) Les règles ci-après s'appliquent au présent article et aux paragraphes 219.1(3) et (4) :

a) en cas de fusion à laquelle le paragraphe 87(11) s'applique :

(i) la société issue de la fusion, visée à ce paragraphe, est réputée être la même société que la société mère et chaque filiale visées à ce paragraphe et en être la continuation,

(ii) la société issue de la fusion est réputée ne pas acquérir de biens de la société mère ou d'une filiale par suite de la fusion,

(iii) chaque actionnaire de la société issue de la fusion est réputé ne pas acquérir indirectement d'actions par suite de la fusion;

(b) if there has been a winding-up to which subsection 88(1) applies,

(i) the parent referred to in that subsection is deemed to be the same corporation as, and a continuation of, the subsidiary referred to in that subsection, and

(ii) the parent is deemed not to acquire any property of the subsidiary as a result of the winding-up.

b) en cas de liquidation à laquelle le paragraphe 88(1) s'applique :

(i) la société mère visée à ce paragraphe est réputée être la même société que la filiale visée à ce paragraphe et en être la continuation,

(ii) la société mère est réputée ne pas acquérir de biens de la filiale par suite de la liquidation.

Indirect investment

(23) Subsection (2) applies to an investment in a subject corporation made by a CRIC to which, in the absence of this subsection, subsection (2) would not apply because of subsection (16) or (24), to the extent that one or more properties received by the subject corporation from the CRIC as a result of the investment, or property substituted for any such property, may reasonably be considered to have been used by the subject corporation, directly or indirectly as part of a series of transactions or events that includes the making of the investment, in a transaction or event to which subsection (2) would have applied if the CRIC had entered into the transaction, or participated in the event, as the case may be, instead of the subject corporation.

Placement indirect

(23) Le paragraphe (2) s'applique à un placement fait par une société résidente dans une société déterminée auquel, en l'absence du présent paragraphe, le paragraphe (2) ne s'appliquerait pas par l'effet des paragraphes (16) ou (24), dans la mesure où il est raisonnable de considérer qu'un ou plusieurs biens que la société déterminée a reçus de la société résidente par suite du placement, ou un bien substitué à de tels biens, ont été utilisés par la société déterminée, directement ou indirectement dans le cadre d'une série d'opérations ou d'événements qui comprend la réalisation du placement, lors d'une opération ou d'un événement auxquels le paragraphe (2) se serait appliqué si la société résidente avait effectué l'opération, ou pris part à l'événement, selon le cas, au lieu de la société déterminée.

Indirect funding

(24) Subsection (2) does not apply to an investment in a subject corporation made by a CRIC to which, in the absence of this subsection, subsection (2) would apply, if the CRIC demonstrates that

(a) all the properties received by the subject corporation from the CRIC as a result of the investment were used, at a particular time that is within 30 days after the investment time and at all times after the particular time, by the subject corporation

(i) to derive income from activities that can reasonably be considered to be directly related to active business activities carried on by a particular corporation and all of the income is income from an active business because of subparagraph 95(2)(a)(i), or

(ii) to make a loan or acquire a property, all or substantially all of the income from which is, or would be, if there were income from the loan or property, derived from amounts paid or payable, directly or indirectly, to the subject corporation by a particular corporation and is, or would be, income from an active business because of subparagraph 95(2)(a)(ii);

Financement indirect

(24) Le paragraphe (2) ne s'applique pas à un placement fait par une société résidente dans une société déterminée auquel ce paragraphe s'appliquerait en l'absence du présent paragraphe si la société résidente démontre que les conditions ci-après sont réunies :

a) tous les biens que la société déterminée a reçus de la société résidente par suite du placement ont été utilisés, à un moment donné de la période de 30 jours qui suit le moment du placement et à tout moment postérieur au moment donné, par la société déterminée, selon le cas :

(i) pour tirer un revenu d'activités qu'il est raisonnable de considérer comme étant directement liées à des activités d'entreprise exploitée activement par une société donnée, la totalité duquel revenu provenant d'une entreprise exploitée activement par l'effet du sous-alinéa 95(2)a)(i),

(ii) pour consentir un prêt, ou faire l'acquisition d'un bien, la totalité ou la presque totalité du revenu provenant duquel est, ou serait si le prêt ou le bien produisait un revenu, tiré des sommes qui sont payées ou à payer, directement ou indirectement, à la société déterminée par une société donnée et est, ou serait, un revenu provenant d'une entreprise

(b) the particular corporation was, at the particular time, a controlled foreign affiliate of the CRIC for the purposes of section 17; and

(c) the particular corporation is, throughout the period that begins at the investment time and during which the series of transactions or events that includes the activities of, or the making of the loan or acquisition of property by, the subject corporation occurs, a corporation in which an investment made by the CRIC would not be subject to subsection (2) because of subsection (16).

b) la société donnée, au moment donné, était une société étrangère affiliée contrôlée de la société résidente pour l'application de l'article 17;

c) la société donnée est, à tout moment de la période qui commence au moment du placement et au cours de laquelle la série d'opérations ou d'événements qui comprend les activités, le prêt ou l'acquisition de biens par la société déterminée s'est produite, une société dans laquelle un placement fait par la société résidente ne serait pas assujetti au paragraphe (2) par l'effet du paragraphe (16).

Partnerships

(25) For the purposes of this section, subsection 17.1(1) (as it applies in respect of a pertinent loan or indebtedness as defined in subsection (11)), paragraph 128.1(1)(c.3) and subsection 219.1(2),

(a) any transaction entered into, or event participated in, by a partnership is deemed to have been entered into, or participated in, as the case may be, by each member of the partnership in the proportion that the fair market value, at the time of the transaction or event, of the member's interest — held directly or indirectly through one or more other partnerships — in the partnership is of the fair market value, at that time, of all direct interests in the partnership;

(b) if at any time, based on the assumptions contained in paragraph 96(1)(c), property would be owned by a partnership, that property is deemed to be owned at that time by each member of the partnership in the proportion that the fair market value, at that time, of the member's interest — held directly or indirectly through one or more other partnerships — in the partnership is of the fair market value, at that time, of all direct interests in the partnership;

(c) if at any time there is an increase (including, for greater certainty, as a result of a particular acquisition of an interest in a partnership in which, immediately prior to the particular acquisition, the member did not have an interest) in the portion of a property that is deemed under paragraph (b) to be owned by a member of a partnership, the member is deemed at that time

(i) to acquire the additional portion of the property, and

(ii) to transfer property that relates to the acquisition of the additional portion and that has a fair

Sociétés de personnes

(25) Les règles ci-après s'appliquent au présent article, au paragraphe 17.1(1) (dans son application relativement à un prêt ou dette déterminé, au sens du paragraphe (11)), à l'alinéa 128.1(1)c.3) et au paragraphe 219.1(2) :

a) toute opération conclue par une société de personnes ou tout événement auquel elle prend part est réputé être une opération conclue par chacun de ses associés ou un événement auquel chacun de ceux-ci prend part, selon le cas, dans la proportion que représente la juste valeur marchande, au moment de l'opération ou de l'événement, de la participation de l'associé — détenue directement ou indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes — dans la société de personnes par rapport à la juste valeur marchande, à ce moment, de l'ensemble des participations directes dans la société de personnes;

b) tout bien qui, d'après les hypothèses formulées à l'alinéa 96(1)c), appartiendrait à un moment donné à une société de personnes est réputé appartenir à ce moment à chacun de ses associés dans la proportion que représente la juste valeur marchande, à ce moment, de la participation de l'associé — détenue directement ou indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes — dans la société de personnes par rapport à la juste valeur marchande, à ce moment, de l'ensemble des participations directes dans la société de personnes;

c) en cas d'augmentation de la proportion d'un bien qui est réputée, en vertu de l'alinéa b), appartenir à un associé d'une société de personnes (étant entendu qu'une telle augmentation comprend celle qui fait suite à l'acquisition d'une participation dans une société de personnes dans laquelle l'associé n'avait pas de participation immédiatement avant cette acquisition), l'associé est réputé à ce moment :

market value equal to the fair market value at that time of the additional portion;

(d) if at any time, based on the assumptions contained in paragraph 96(1)(c), an amount would be owing by a partnership, that amount is deemed to be owed by each member of the partnership in the proportion that the fair market value, at that time, of the member's interest — held directly or indirectly through one or more other partnerships — in the partnership is of the fair market value, at that time, of all direct interests in the partnership;

(e) if a member of a partnership enters into a transaction, or participates in an event, with the partnership, paragraph (a) does not apply to the transaction or event to the extent that the transaction or event would, in the absence of this paragraph, be deemed by paragraph (a) to have been entered into, or participated in, as the case may be, by the member; and

(f) a person or partnership that is (or is deemed by this paragraph to be) a member of a particular partnership that is a member of another partnership is deemed to be a member of the other partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2012, c. 31, s. 49; 2013, c. 34, s. 427; 2014, c. 39, s. 65.

(i) d'une part, acquérir la proportion additionnelle du bien,

(ii) d'autre part, transférer un bien qui se rapporte à l'acquisition de la proportion additionnelle et dont la juste valeur marchande est égale à celle de la proportion additionnelle à ce moment;

d) toute somme qui, d'après les hypothèses formulées à l'alinéa 96(1)c), serait due à un moment donné par une société de personnes est réputée être due par chacun de ses associés dans la proportion que représente la juste valeur marchande, à ce moment, de la participation de l'associé — détenue directement ou indirectement par l'intermédiaire d'une ou de plusieurs autres sociétés de personnes — dans la société de personnes par rapport à la juste valeur marchande, à ce moment, de l'ensemble des participations directes dans la société de personnes;

e) si un associé d'une société de personnes conclut une opération, ou prend part à un événement, avec la société de personnes, l'alinéa a) ne s'applique pas à l'opération ou à l'événement dans la mesure où l'opération ou l'événement, en l'absence du présent alinéa, serait réputé, en vertu de l'alinéa a), être une opération conclue par l'associé ou un événement auquel il prend part, selon le cas;

f) toute personne ou société de personnes qui est, ou est réputée être en vertu du présent alinéa, un associé d'une société de personnes donnée qui est elle-même un associé d'une autre société de personnes est réputée être un associé de cette dernière.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2012, ch. 31, art. 49; 2013, ch. 34, art. 427; 2014, ch. 39, art. 65.

Tax non-payable by non-resident person

213 (1) Tax is not payable by a non-resident person under subsection 212(2) on a dividend in respect of a share of the capital stock of a foreign business corporation if not less than 90% of the total of the received or receivable by it that are required to be included in computing its income for the taxation year in which the dividend was paid was received or receivable in respect of the operation by it of public utilities or from mining, transporting and processing of ore in a country in which

(a) if the non-resident person is an individual, the non-resident person resides; or

(b) if the non-resident person is a corporation, individuals who own more than 50% of its share capital (having full voting rights under all circumstances) reside.

Impôt non exigible d'un non-résident

213 (1) L'impôt n'est pas payable par une personne non-résidente, en vertu du paragraphe 212(2), sur un dividende afférent à une action du capital-actions d'une société exploitant une entreprise à l'étranger, si au moins 90 % du total des sommes que cette société a reçues ou doit recevoir et qu'elle est tenue d'inclure dans le calcul de son revenu, pour l'année d'imposition dans laquelle le dividende a été payé, concernent l'exploitation, par la société, d'entreprises de services publics ou proviennent de l'extraction, du transport et du traitement de minerai dans un pays où:

a) si la personne non-résidente est un particulier, se trouve sa résidence;

b) si la personne non-résidente est une société, les particuliers à qui appartiennent plus de 50 % de son

capital-actions (comportant en toutes circonstances plein droit de vote) ont leur résidence.

Idem

(2) For the purposes of this section, if 90% of the total of the received or receivable by a corporation that are required to be included in computing its income for a taxation year was received or receivable in respect of the operation by it of public utilities or from the mining, transporting and processing of ore, an amount received or receivable in that year from that corporation by another corporation shall, if it is required to be included in computing the receiving corporation's income for the year, be deemed to have been received by the receiving corporation in respect of the operation by it of public utilities or from the mining, transporting and processing of ore by it in the country in which the public utilities were operated or the mining, transporting and processing of ore was carried out by the payer corporation.

Idem

(2) Pour l'application du présent article, si 90 % du total des sommes qu'une société a reçues ou doit recevoir et qu'elle est tenue d'inclure dans le calcul de son revenu pour une année d'imposition se rapportaient à l'exploitation, par la société, d'entreprises de services publics, ou à l'extraction, au transport et au traitement de minerai, une somme reçue ou à recevoir de cette société, au cours de cette année, par une autre société est, s'il est obligatoire de l'inclure dans le calcul du revenu pour l'année de la société qui la reçoit, réputée avoir été reçue par celle-ci relativement à l'exploitation, par elle, d'entreprises de services publics ou à l'extraction, au transport et au traitement, par elle, de minerai dans le pays où la société payante a exploité les entreprises de services publics ou procédé à l'extraction, au transport et au traitement de minerai.

Corporation deemed to be foreign business corporation

(3) For the purposes of this section, a corporation shall be deemed to be a foreign business corporation at a particular time if it would have been a foreign business corporation within the meaning of section 71 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952 (as that section read in its application to the 1971 taxation year), for the taxation year of the corporation in which the particular time occurred, if that section had been applicable to that taxation year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"213".

Société réputée être une société exploitant une entreprise à l'étranger

(3) Pour l'application du présent article, une société est réputée être une société exploitant une entreprise à l'étranger à un moment donné si elle avait été une société exploitant une entreprise à l'étranger au sens de l'article 71 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1971, pour l'année d'imposition de la société au cours de laquelle tombe ce moment donné, à condition que cet article ait été applicable à cette année d'imposition.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 213 ».

No deductions

214 (1) The tax payable under section 212 is payable on the amounts described therein without any deduction from those whatever.

Aucune déduction

214 (1) L'impôt exigible sous le régime de l'article 212 est payable sur les sommes qui y sont visées, sans qu'il en soit fait une déduction quelconque.

Income and capital combined

(2) Where paragraph 16(1)(b) would, if Part I were applicable, result in a part of an amount being included in computing the income of a non-resident person, that part of the amount shall, for the purposes of this Part, be deemed to have been paid or credited to the non-resident person in respect of property, services or otherwise, depending on the nature of that part of the amount.

Revenu et capital réunis

(2) Pour l'application de la présente partie, la partie d'un montant qui devrait être incluse dans le calcul du revenu d'une personne non-résidente en application de l'alinéa 16(1)b) si la partie I s'appliquait doit être considérée comme payée à la personne non-résidente ou portée à son crédit au titre de biens ou de services ou à un autre titre, selon la nature de cette partie de montant.

Deemed payments

(3) For the purposes of this Part,

(a) where section 15 or subsection 56(2) would, if Part I were applicable, require an amount to be included in

Sommes réputées constituer des paiements

(3) Pour l'application de la présente partie :

a) le montant qui serait inclus dans le calcul du revenu d'un contribuable selon l'article 15 ou le

computing a taxpayer's income, that amount shall be deemed to have been paid to the taxpayer as a dividend from a corporation resident in Canada;

(b) where paragraph 56(1)(f) would, if Part I were applicable, require an amount to be included in computing an individual's income, that amount shall be deemed to have been paid to the individual under an income-averaging annuity contract;

(b.1) where paragraph 56(1)(y) would, if Part I were applicable, require an amount to be included in computing a taxpayer's income, that amount shall be deemed to have been paid to the taxpayer to acquire an interest in a retirement compensation arrangement;

(c) where, because of subsection 146(8.1), 146(8.8), 146(8.91), 146(9), 146(10) or 146(12), an amount would, if Part I applied, be required to be included in computing a taxpayer's income, that amount shall be deemed to have been paid to the taxpayer as a payment under a registered retirement savings plan or an amended plan (within the meaning assigned by subsection 146(12)), as the case may be;

(d) where, by virtue of subsection 147(10), 147(13) or 147(15), an amount would, if Part I were applicable, be required to be included in computing a taxpayer's income, that amount shall be deemed to have been paid to the taxpayer as a payment under a deferred profit sharing plan or a plan referred to in subsection 147(15) as a "revoked plan", as the case may be;

(e) where subsection 130.1(2) would, if Part I were applicable, deem an amount received by a shareholder of a mortgage investment corporation to have been received by the shareholder as interest, that amount shall be deemed to have been paid to the shareholder as interest on a bond issued after 1971;

(f) where subsection 104(13) would, if Part I were applicable, require any part of an amount payable by a trust in its taxation year to a beneficiary to be included in computing the income of the non-resident person who is a beneficiary of the trust, that part is deemed to be an amount paid or credited to that person as income of or from the trust

(i) on, or at, the earliest of

(A) the day on which the amount was paid or credited,

(B) the day that is 90 days after the end of the taxation year, and

paragraphe 56(2), si la partie I s'appliquait, est réputé avoir été versé au contribuable à titre de dividende provenant d'une société résidant au Canada;

b) le montant qui serait inclus dans le calcul du revenu d'un particulier selon l'alinéa 56(1)f), si la partie I s'appliquait, est réputé avoir été versé à ce particulier en vertu d'un contrat de rente à versements invariables;

b.1) le montant qui serait inclus dans le calcul du revenu d'un contribuable selon l'alinéa 56(1)y), si la partie I s'appliquait, est réputé avoir été payé au contribuable en vue de l'acquisition d'un droit sur une convention de retraite;

c) le montant qui, par l'effet des paragraphes 146(8.1), (8.8), (8.91), (9), (10) ou (12), serait à inclure dans le calcul du revenu d'un contribuable si la partie I s'appliquait est réputé avoir été versé au contribuable à titre de paiement dans le cadre d'un régime enregistré d'épargne-retraite ou d'un régime modifié, au sens du paragraphe 146(12), selon le cas;

d) le montant qui serait inclus dans le calcul du revenu d'un contribuable selon le paragraphe 147(10), (13) ou (15), si la partie I s'appliquait, est réputé lui avoir été versé à titre de paiement en vertu d'un régime de participation différée aux bénéfices ou d'un régime appelé « régime dont l'agrément est retiré » au paragraphe 147(15), selon le cas;

e) le montant reçu par l'actionnaire d'une société de placement hypothécaire et qui serait présumé selon le paragraphe 130.1(2), si la partie I s'appliquait, avoir été reçu à titre d'intérêt, est réputé avoir été versé à l'actionnaire à titre d'intérêt sur une obligation émise après 1971;

f) la fraction quelconque d'un montant payable à un bénéficiaire par une fiducie, au cours de son année d'imposition, qui serait incluse selon le paragraphe 104(13), si la partie I s'appliquait, dans le calcul du revenu de la personne non-résidente bénéficiaire de la fiducie est réputée être un montant payé à cette personne, ou porté à son crédit, à titre de revenu de la fiducie ou de revenu provenant de la fiducie au premier en date des jours ou du moment ci-après et non à un moment ultérieur :

(i) le jour où le montant a été payé ou crédité,

(ii) le jour qui suit de 90 jours la fin de l'année d'imposition,

(iii) si l'année d'imposition est réputée, en vertu du sous-alinéa 128.1(4)a)(i), prendre fin après le 25

(C) if the taxation year is deemed by subparagraph 128.1(4)(a)(i) to end after July 25, 2012, the time that is immediately before the end of the taxation year, and

(ii) not at any later time;

(f.1) where paragraph 132.1(1)(d) would, if Part I were applicable, require an amount to be included in computing a taxpayer's income for a taxation year by reason of a designation by a mutual fund trust under subsection 132.1(1), that amount shall be deemed to be an amount paid or credited to that person as income of or from the trust on the day of the designation;

(g) where an individual who is a beneficiary under a fund, plan or trust that was a registered home ownership savings plan (within the meanings assigned by subparagraphs 146.2(1)(a) and (h) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as they read in their application to the 1985 taxation year) on December 31, 1985 dies, an amount equal to the fair market value of the property in the fund, plan or trust at the time of death shall be deemed, for the purposes of section 212, to have been paid to the individual at the time of death as a payment out of or under a fund, plan or trust that was at the end of 1985 a registered home ownership savings plan;

(i) where, because of subsection 146.3(4), 146.3(6), 146.3(6.1), 146.3(7) or 146.3(11), an amount would, if Part I applied, be required to be included in computing a taxpayer's income, that amount shall be deemed to have been paid to the taxpayer as a payment under a registered retirement income fund;

(j) [Repealed, 1998, c. 19, s. 63(1)]

(k) where, because of subsection 143.1(2), an amount distributed at any time by an amateur athlete trust would, if Part I were applicable, be required to be included in computing an individual's income, that amount shall be deemed to have been paid at that time to the individual as a payment in respect of an amateur athlete trust; and

(l) where, because of subsection 12(10.2), an amount would at any particular time, if Part I were applicable, be required to be included in computing a taxpayer's income, that amount shall be deemed to have been paid by Her Majesty in right of Canada at that time to the taxpayer out of the taxpayer's NISA Fund No. 2.

juillet 2012, le moment qui précède la fin de cette année;

f.1) le montant qui serait inclus dans le calcul du revenu d'un contribuable pour une année d'imposition selon l'alinéa 132.1(1)d) en raison d'une attribution effectuée par une fiducie qui est une fiducie de fonds commun de placement en application du paragraphe 132.1(1), si la partie I s'appliquait, est réputé avoir été payé au contribuable, ou crédité à son compte, à la date de l'attribution à titre de revenu de la fiducie ou de revenu en provenant;

g) en cas de décès d'un particulier que est bénéficiaire de quelque fonds, régime ou fiducie qui était, le 31 décembre 1985, un régime enregistré d'épargne-logement (au sens des alinéas 146.2(1)a) et h) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans leur version applicable à l'année d'imposition 1985), le montant égal à la juste valeur marchande des biens, du fonds, du régime ou de la fiducie lors du décès est réputé, pour l'application de l'article 212, avoir été versé au particulier lors du décès à titre de paiement provenant ou en vertu de quelque fonds, régime ou fiducie qui était, à la fin de 1985, un régime enregistré d'épargne-logement;

i) le montant qui, par l'effet des paragraphes 146.3(4), (6), (6.1), (7) ou (11), serait à inclure dans le calcul du revenu d'un contribuable si la partie I s'appliquait est réputé avoir été versé au contribuable à titre de paiement dans le cadre d'un fonds enregistré de revenu de retraite;

j) [Abrogé, 1998, ch. 19, art. 63(1)]

k) le montant distribué par une fiducie au profit d'un athlète amateur à un moment donné, qui serait à inclure, en application du paragraphe 143.1(2), dans le calcul du revenu d'un particulier si la partie I s'appliquait est réputé avoir été payé au particulier à ce moment à titre de paiement relatif à une fiducie au profit d'un athlète amateur;

l) le montant qui serait à inclure à un moment donné, en application du paragraphe 12(10.2), dans le calcul du revenu d'un contribuable si la partie I s'appliquait est réputé avoir été payé au contribuable à ce moment par Sa Majesté du chef du Canada sur le second fonds du compte de stabilisation du revenu net du contribuable.

Time of deemed payment

(3.1) Except as otherwise expressly provided, each amount deemed by subsection 214(3) to have been paid shall be deemed to have been paid at the time of the event or transaction as a consequence of which the amount would, if Part I were applicable, be required to be included in computing a taxpayer's income.

Securities

(4) Where, if section 76 were applicable in computing a non-resident person's income, that section would require an amount to be included in computing the income, that amount shall, for the purpose of this Part, be deemed to have been, at the time the non-resident person received the security, right, certificate or other evidence of indebtedness, paid to the non-resident person on account of the debt in respect of which the non-resident person received it.

Interpretation

(5) Subsection 214(4) is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part defining on which tax is payable.

Deemed interest

(6) Where, in respect of interest stipulated to be payable, on a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation that has been assigned or otherwise transferred by a non-resident person to a person resident in Canada, subsection 20(14) would, if Part I were applicable, require an amount to be included in computing the transferor's income, that amount is, for the purposes of this Part, deemed to be a payment of interest on that obligation made by the transferee to the transferor at the time of the assignment or other transfer of the obligation, if

(a) the obligation was issued by a person resident in Canada;

(b) the obligation was not an obligation described in paragraph 214(8)(a) or 214(8)(b); and

(c) the assignment or other transfer is not an assignment or other transfer referred to in paragraph 214(7.1)(b).

Sale of obligation

(7) Where

(a) a non-resident person has at any time assigned or otherwise transferred to a person resident in Canada a bond, debenture, bill, note, mortgage, hypothecary

Moment où un montant est réputé avoir été versé

(3.1) Sauf disposition contraire expresse, chaque montant réputé, en vertu du paragraphe (3), avoir été versé est réputé avoir été versé au moment de l'événement ou de l'opération en vertu de laquelle le montant devrait, si la partie I s'appliquait, être inclus dans le calcul du revenu d'un contribuable.

Valeurs

(4) Le montant qui serait inclus dans le calcul du revenu d'une personne non-résidente selon l'article 76, si cet article s'appliquait, est, pour l'application de la présente partie, réputé lui avoir été versé au moment où cette personne a reçu le titre, le droit, le titre de créance ou toute autre preuve de créance à valoir sur la dette au titre de laquelle elle l'a reçu.

Interprétation

(5) Le paragraphe (4) est édicté par souci de précision et n'a pas pour effet de limiter la portée générale des autres dispositions de la présente partie qui déterminent les montants sur lesquels l'impôt est payable.

Montant réputé constituer des intérêts

(6) Le montant qui serait inclus, relativement à des intérêts indiqués comme étant payables sur quelque obligation, effet, billet, créance hypothécaire ou semblable valeur qui a été cédée ou autrement transférée à une personne résidant au Canada par une personne non-résidente, dans le calcul du revenu de l'auteur du transfert selon le paragraphe 20(14), si la partie I s'appliquait, est réputé, pour l'application de la présente partie, être un paiement d'intérêts sur cette obligation, effectué par le bénéficiaire du transfert en faveur de l'auteur du transfert lors de la cession ou autre transfert de l'obligation, si les conditions suivantes sont réunies :

a) l'obligation a été émise par une personne résidant au Canada;

b) l'obligation n'était pas celle visée aux alinéas (8)a) ou b);

c) la cession ou autre forme de transfert n'est pas une cession ou un transfert visés à l'alinéa (7.1)b).

Vente d'une obligation

(7) Lorsque les conditions suivantes sont réunies :

a) une personne non-résidente a, à un moment donné, cédé ou autrement transféré à une personne résidant au Canada une obligation, un effet, un billet, une

claim or similar obligation issued by a person resident in Canada,

(b) the obligation was not an excluded obligation, and

(c) the assignment or other transfer is not an assignment or other transfer referred to in paragraph 214(7.1)(b),

the amount, if any, by which

(d) the price for which the obligation was assigned or otherwise transferred at that time,

exceeds

(e) the price for which the obligation was issued,

shall, for the purposes of this Part, be deemed to be a payment of interest on that obligation made by the person resident in Canada to the non-resident person at that time.

créance hypothécaire ou une semblable valeur émise par une personne résidant au Canada;

b) l'obligation n'était pas une obligation exclue;

c) la cession ou autre forme de transfert n'est pas une cession ou un transfert visés à l'alinéa (7.1)b),

l'excédent éventuel du montant visé à l'alinéa d) sur le montant visé à l'alinéa e):

d) le prix auquel l'obligation a été cédée ou autrement transférée à ce moment;

e) le prix auquel l'obligation a été émise,

est réputé, pour l'application de la présente partie, être un paiement d'intérêts sur cette obligation effectué par la personne résidant au Canada en faveur de la personne non-résidente à ce moment.

Idem

(7.1) Where

(a) a person resident in Canada has at a particular time assigned or otherwise transferred an obligation to a non-resident person,

(b) the non-resident person has at a subsequent time assigned or otherwise transferred the obligation back to the person resident in Canada, and

(c) subsection 214(6) or 214(7) would apply with respect to the assignment or other transfer referred to in paragraph 214(7.1)(b), if those subsections were read without reference to paragraphs 214(6)(c) and 214(7)(c),

the amount, if any, by which

(d) the price for which the obligation was assigned or otherwise transferred at the subsequent time,

exceeds

(e) the price for which the obligation was assigned or otherwise transferred at the particular time,

shall, for the purposes of this Part, be deemed to be a payment of interest on that obligation made by the person resident in Canada to the non-resident person at the subsequent time.

Idem

(7.1) Lorsque les conditions suivantes sont réunies :

a) une personne résidant au Canada a cédé ou autrement transféré à un moment donné une obligation à une personne non-résidente;

b) la personne non-résidente a, à un moment ultérieur, rétrocédé ou autrement transféré de nouveau cette obligation à la personne résidant au Canada;

c) le paragraphe (6) ou (7) s'appliquerait en ce qui concerne la rétrocession ou autre forme de transfert mentionnés à l'alinéa b), compte non tenu des alinéas (6)c) et (7)c),

l'excédent éventuel du montant visé à l'alinéa d) sur le montant visé à l'alinéa e):

d) le prix auquel l'obligation a été rétrocédé ou autrement transférée de nouveau au moment ultérieur;

e) le prix auquel l'obligation a été cédée ou autrement transférée au moment donné,

est réputé, pour l'application de la présente partie, être un paiement d'intérêts sur cette obligation effectué par la personne résidant au Canada en faveur de la personne non-résidente au moment ultérieur.

Meaning of *excluded obligation*

(8) For the purposes of subsection (7), ***excluded obligation*** means any bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation

Obligation exclue

(8) Pour l'application du paragraphe (7), ***obligation exclue*** s'entend de quelque obligation, effet, billet, créance

(a) that is described in paragraph (a) of the definition ***fully exempt interest*** in subsection 212(3), or on which the interest would have been exempt under subparagraph 212(1)(b)(iii) or (vii) as they applied to the 2007 taxation year;

(b) that is prescribed to be a public issue security; or

(c) that is not an indexed debt obligation and that was issued for an amount not less than 97% of the principal amount thereof, and the yield from which, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred on the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional on the exercise of any such right) does not exceed 4/3 of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, and

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case.

hypothécaire ou valeur semblable qui répond à l'une des conditions suivantes :

a) il est visé à l'alinéa a) de la définition de ***intérêts entièrement exonérés*** au paragraphe 212(3) ou les intérêts afférents auraient été exonérés d'impôt en vertu des sous-alinéas 212(1)b)(iii) ou (vii), dans leur version applicable à l'année d'imposition 2007;

b) l'obligation est une valeur émise dans le public, visée par règlement;

c) l'obligation n'est pas un titre de créance indexé et a été émise pour un montant au moins égal à 97 % de son principal et a un rendement, exprimé en fonction d'un taux annuel portant sur le montant pour lequel l'obligation a été émise — lequel taux doit, si les modalités de l'obligation ou un accord y afférent conféraient au détenteur le droit d'exiger le paiement du principal de l'obligation ou du montant impayé au titre de ce principal avant l'échéance de l'obligation, être calculé en fonction du rendement qui produit le taux annuel le plus élevé qu'il est possible d'obtenir soit à l'échéance de l'obligation, soit sous réserve de l'exercice d'un droit semblable —, qui ne dépasse pas les 4/3 des intérêts dont le paiement est prévu par l'obligation, exprimés en fonction d'un taux annuel portant sur :

(i) le principal de l'obligation, si aucun montant n'est payable au titre du principal avant l'échéance de l'obligation,

(ii) le montant impayé au titre du principal de l'obligation, dans les autres cas.

Deemed resident

(9) Where

(a) the assignment or other transfer of an obligation to a non-resident person carrying on business in Canada would be described in subsection 214(6) or 214(7) if those subsections were read without reference to paragraphs 214(6)(c) and 214(7)(c) and if that non-resident person were a person resident in Canada, and

(b) that non-resident person

(i) may deduct, under subsection 20(14), in computing the non-resident person's taxable income earned in Canada for a taxation year an amount in respect of interest on the obligation, or

(ii) may deduct, under Part I, in computing the non-resident person's taxable income earned in Canada for a taxation year an amount in respect of

Personne réputée être un résident

(9) Lorsque les conditions suivantes sont réunies :

a) la cession ou autre forme de transfert d'une obligation à une personne non-résidente exploitant une entreprise au Canada serait visée au paragraphe (6) ou (7), si ces paragraphes ne comportaient pas les alinéas (6)c) et (7)c), et si cette personne non-résidente était une personne résidant au Canada;

b) cette personne non-résidente peut :

(i) soit déduire, en vertu du paragraphe 20(14), dans le calcul de son revenu imposable gagné au Canada pour une année d'imposition, un montant au titre des intérêts sur l'obligation,

(ii) soit déduire, en vertu de la partie I, dans le calcul de son revenu imposable gagné au Canada pour une année d'imposition, une somme relative à tout montant payé au titre du principal de l'obligation,

any amount paid on account of the principal amount of the obligation,

the non-resident person shall, with respect to the assignment or other transfer of the obligation, be deemed, for thepurposes of this Part, to be a person resident in Canada.

elle est réputée relativement à la cession ou autre forme de transfert de l'obligation, pour l'application de la présente partie, être une personne résidant au Canada.

Reduction of tax

(10) Where a non-resident person has assigned or otherwise transferred to a person resident in Canada an obligation

(a) on which an amount of interest was deemed by subsection 214(6) or 214(7) to have been paid, and

(b) that the non-resident person had previously acquired from a person resident in Canada,

the amount of the tax under this Part that the non-resident person is liable to pay in respect thereof shall be deemed, for the purpose of subsection 227(6), to be that proportion of the tax the non-resident person would otherwise have been liable to pay in respect thereof that

(c) the number of days in the period commencing with the day the obligation was last acquired by the non-resident person from a person resident in Canada and ending with the day the obligation was last assigned or otherwise transferred by the non-resident person to a person resident in Canada

is of

(d) the number of days in the period commencing with the day the obligation was issued and ending with the day the obligation was last assigned or otherwise transferred by the non-resident person to a person resident in Canada.

Réduction de l'impôt

(10) Lorsqu'une personne non-résidente a cédé ou autrement transféré à une personne résidant au Canada une obligation :

a) d'une part, sur laquelle un montant d'intérêts était réputé, en vertu du paragraphe (6) ou (7), avoir été payé;

b) d'autre part, que la personne non-résidente avait antérieurement acquis auprès d'une personne résidant au Canada,

le montant de l'impôt que la personne non-résidente est tenue de payer en vertu de la présente partie au titre de cette obligation est réputé, pour l'application du paragraphe 227(6), être le produit de la multiplication de l'impôt qu'elle aurait autrement été tenue de payer à cet égard par le rapport entre :

c) d'une part, le nombre de jours que compte la période commençant à la date à laquelle elle a acquis pour la dernière fois l'obligation auprès d'une personne résidant au Canada et se terminant à la date à laquelle elle a pour la dernière fois cédé ou autrement transféré l'obligation à une personne résidant au Canada;

d) d'autre part, le nombre de jours que compte la période commençant à la date à laquelle l'obligation a été émise et se terminant à la date à laquelle elle a pour la dernière fois cédé ou autrement transfère l'obligation à une personne résidant au Canada.

(11) [Repealed, 2007, c. 35, s. 60]

(11) [Abrogé, 2007, ch. 35, art. 60]

Where s. (2) does not apply

(12) Subsection 214(2) does not apply in respect of a payment to a non-resident person under any obligation in respect of which that person is liable to pay tax under this Part by reason of subsection 214(7) or 214(7.1).

Non-application du par. (2)

(12) Le paragraphe (2) ne s'applique pas dans le cas d'un paiement fait à une personne non-résidente en vertu d'une obligation relativement à laquelle cette personne est tenue, en vertu du paragraphe (7) ou (7.1), de payer l'impôt prévu par la présente partie.

Regulations respecting residents

(13) The Governor in Council may make general or special regulations, for the purposes of this Part, prescribing

(a) who is or has been at any time resident in Canada;

Règlement intéressant les résidents

(13) Le gouverneur en conseil peut prendre des dispositions réglementaires d'ordre général ou particulier, pour l'application de la présente partie, précisant :

(b) where a person was resident in Canada as well as in some other place, what amounts are taxable under this Part; and

(c) where a non-resident person carried on business in Canada, what are taxable under this Part or what portion of the tax under this Part is payable by that person.

a) qui est ou a été à un moment quelconque résident du Canada;

b) quelles sont les sommes imposables en vertu de la présente partie, lorsqu'une personne résidait à la fois au Canada et dans un autre pays;

c) lorsqu'une personne non-résidente exploitait une entreprise au Canada, quelles sommes sont imposables en vertu de la présente partie ou quelle fraction de l'impôt prévu par la présente partie est payable par cette personne.

Assignment of obligation

(14) For the purposes of this section, any transaction or event by which an obligation held by a non-resident person is redeemed in whole or in part or is cancelled shall be deemed to be an assignment of the obligation by the non-resident person.

Cession d'une obligation

(14) Pour l'application du présent article, toute opération ou tout événement par lequel une obligation détenue par une personne non-résidente est rachetée en totalité ou en partie ou est annulée est réputé être une cession de l'obligation effectuée par elle.

Standby charges and guarantee fees

(15) For the purposes of this Part,

(a) where a non-resident person has entered into an agreement under the terms of which the non-resident person agrees to guarantee the repayment, in whole or in part, of the principal amount of a bond, debenture, bill, note, mortgage, hypothecary claim or similar obligation of a person resident in Canada, any amount paid or credited as consideration for the guarantee is deemed to be a payment of interest on that obligation; and

(b) where a non-resident person has entered into an agreement under the terms of which the non-resident person agrees to lend money, or to make money available, to a person resident in Canada, any amount paid or credited as consideration for so agreeing to lend money or to make money available shall, if the non-resident person would be liable to tax under this Part in respect of interest payable on any obligation issued under the terms of the agreement on the date it was entered into, be deemed to be a payment of interest.

Frais d'utilisation et frais de garanties

(15) Pour l'application de la présente partie :

a) lorsqu'une personne non-résidente a conclu une convention aux termes de laquelle elle consent à garantir le remboursement, en tout ou en partie, du principal d'une obligation, d'un billet, d'une créance hypothécaire ou d'un titre semblable d'une personne résidant au Canada, toute somme versée ou créditée en contrepartie de la garantie est réputée être un paiement d'intérêt sur cette obligation;

b) lorsqu'une personne non-résidente a conclu une convention aux termes de laquelle elle consent à prêter de l'argent, ou à mettre de l'argent à la disposition d'une personne résidant au Canada, toute somme versée ou créditée en contrepartie de cette convention est réputée, si la personne non-résidente était tenue de payer l'impôt prévu par la présente partie à l'égard des intérêts payables sur toute obligation émise selon les conditions de la convention à la date où cette dernière a été conclue, être un paiement d'intérêt.

Deemed dividends

(16) For the purposes of this Part,

(a) an amount paid or credited as interest by a corporation resident in Canada, or by a partnership, in a taxation year of the corporation to a non-resident person is deemed to have been paid by the corporation as a dividend, and not to have been paid or credited by the corporation or the partnership as interest, to the extent that an amount in respect of the interest

Dividendes réputés

(16) Pour l'application de la présente partie :

a) toute somme qu'une société résidant au Canada ou une société de personnes paie à une personne non-résidente, ou porte à son crédit, à titre d'intérêts au cours d'une année d'imposition est réputée avoir été payée par la société à titre de dividende, et ne pas avoir été payée ou créditée par la société ou la société de personnes à titre d'intérêts, dans la mesure où une somme relative aux intérêts, selon le cas :

(i) is not deductible in computing the income of the corporation for the year because of subsection 18(4), or

(ii) is included in computing the income of the corporation for the year under paragraph 12(1)(l.1); and

(b) to the extent that amounts paid or credited to a non-resident person in the year are deemed by paragraph (a) to have been paid by a corporation as dividends, the corporation may designate in its return of income under Part I for the year which amounts paid or credited as interest to the non-resident person in the year are deemed to have been paid as dividends and not as interest.

(i) n'est pas déductible dans le calcul du revenu de la société pour l'année par l'effet du paragraphe 18(4),

(ii) est incluse dans le calcul du revenu de la société pour l'année en application de l'alinéa 12(1)l.1);

b) dans la mesure où des sommes payées à une personne non-résidente, ou portées à son crédit, au cours de l'année sont réputées, en vertu de l'alinéa a), avoir été payées par une société à titre de dividendes, la société peut désigner dans la déclaration de revenu qu'elle produit pour l'année en vertu de la partie I celles des sommes payées à la personne non-résidente, ou portées à son crédit, à titre d'intérêts au cours de l'année qui sont réputées avoir été payées à titre de dividendes et non à titre d'intérêts.

Deemed interest payments

(17) For the purposes of subsection (16),

(a) interest payable (other than interest payable pursuant to a legal obligation to pay interest on an amount of interest) by a corporation resident in Canada, or by a partnership, in respect of a taxation year of the corporation, but that has not been paid or credited in the year, is deemed to have been paid immediately before the end of the year and not to have been paid or credited at any other time; and

(b) if subsection (6) or (7) deems a payment of interest to have been made to a non-resident person in respect of a debt or other obligation of a corporation, interest that, at the time of the transfer or assignment, is payable by the corporation in respect of the debt or other obligation and has not been paid or credited is deemed to have been paid by the corporation immediately before that time to the non-resident person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 214; 1994, c. 7, Sch. II, s. 176, Sch. VIII, s. 125, c. 21, s. 98; 1998, c. 19, s. 63; 2001, c. 17, s. 227; 2007, c. 35, s. 60; 2012, c. 31, s. 50; 2013, c. 34, s. 348(F), c. 40, s. 83.

Paiements d'intérêts réputés

(17) Pour l'application du paragraphe (16) :

a) les intérêts à payer (sauf ceux qui sont payables en exécution d'une obligation légale de payer des intérêts sur un montant d'intérêt) par une société résidant au Canada ou par une société de personnes relativement à une année d'imposition de la société qui n'ont pas été payés ni crédités au cours de l'année sont réputés avoir été payés immédiatement avant la fin de l'année et ne pas avoir été payés ou crédités à un autre moment;

b) si un paiement d'intérêts est réputé, en vertu des paragraphes (6) ou (7), avoir été fait à une personne non-résidente relativement à une dette ou autre obligation d'une société, les intérêts qui, au moment du transfert ou de la cession, sont à payer par la société relativement à la dette ou à l'autre obligation et qui n'ont pas été payés ou crédités sont réputés avoir été payés par la société à la personne non-résidente immédiatement avant ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 214; 1994, ch. 7, ann. II, art. 176, ann. VIII, art. 125, ch. 21, art. 98; 1998, ch. 19, art. 63; 2001, ch. 17, art. 227; 2007, ch. 35, art. 60; 2012, ch. 31, art. 50; 2013, ch. 34, art. 348(F), ch. 40, art. 83.

Withholding and remittance of tax

215 (1) When a person pays, credits or provides, or is deemed to have paid, credited or provided, an amount on which an income tax is payable under this Part, or would be so payable if this Act were read without reference to subparagraph 94(3)(a)(viii) and to subsection 216.1(1), the person shall, notwithstanding any agreement or law to the contrary, deduct or withhold from it the amount of the tax and forthwith remit that amount to the Receiver General on behalf of the non-resident person on account

Déduction et paiement de l'impôt

215 (1) La personne qui verse, crédite ou fournit une somme sur laquelle un impôt sur le revenu est exigible en vertu de la présente partie, ou le serait s'il n'était pas tenu compte du sous-alinéa 94(3)a)(viii) ni du paragraphe 216.1(1), ou qui est réputée avoir versé, crédité ou fourni une telle somme, doit, malgré toute disposition contraire d'une convention ou d'une loi, en déduire ou en retenir l'impôt applicable et le remettre sans délai au receveur général au nom de la personne non-résidente, à valoir

of the tax and shall submit with the remittance a statement in prescribed form.

sur l'impôt, et l'accompagner d'un état selon le formulaire prescrit.

Exception - corporate immigration

(1.1) Subsection (1) does not apply in respect of a dividend deemed to be paid under paragraph 128.1(1)(c.1) by a corporation to a non-resident corporation with which the corporation was dealing at arm's length.

Exception — société arrivant au Canada

(1.1) Le paragraphe (1) ne s'applique pas au dividende qu'une société est réputée par l'alinéa 128.1(1)c.1) verser à une société non-résidente avec laquelle elle n'a aucun lien de dépendance.

Idem

(2) Where an amount on which an income tax is payable under this Part is paid or credited by an agent or other person on behalf of the debtor either by way of redemption of bearer coupons or warrants or otherwise, the agent or other person by whom the amount was paid or credited shall, notwithstanding any agreement or law to the contrary, deduct or withhold and remit the amount of the tax and shall submit therewith a statement in prescribed form as required by subsection 215(1) and shall thereupon, for purposes of accounting to or obtaining reimbursement from the debtor, be deemed to have paid or credited the full amount to the person otherwise entitled to payment.

Idem

(2) Lorsqu'une somme sur laquelle un impôt sur le revenu est payable en vertu de la présente partie est versée ou créditée par un mandataire ou une autre personne au nom du débiteur, soit à titre de rachat de coupons ou titres au porteur, soit autrement, le mandataire ou l'autre personne qui a versé ou crédité la somme doit, indépendamment de toute disposition contraire d'une convention ou d'une loi, en déduire ou en retenir le montant de l'impôt et le remettre en l'accompagnant d'un état selon le formulaire prescrit ainsi que l'exige le paragraphe (1); le mandataire ou l'autre personne est dès lors réputé, pour ce qui est du compte à rendre au débiteur ou du remboursement à en obtenir, avoir versé la somme entière à la personne qui par ailleurs a droit au paiement ou l'avoir portée à son crédit.

Idem

(3) Where an amount on which an income tax is payable under this Part was paid or credited to an agent or other person for or on behalf of the person entitled to payment without the tax having been deducted or withheld under subsection 215(1), the agent or other person shall, notwithstanding any agreement or law to the contrary, deduct or withhold therefrom the amount of the tax and forthwith remit that amount to the Receiver General on behalf of the person entitled to payment in payment of the tax and shall submit therewith a statement in prescribed form, and the agent or other person shall thereupon, for purposes of accounting to the person entitled to payment, be deemed to have paid or credited that amount to that person.

Idem

(3) Lorsqu'une somme sur laquelle un impôt sur le revenu est payable en vertu de la présente partie a été versée à un mandataire ou à une autre personne ou a été portée au crédit du mandataire ou de l'autre personne, pour le compte ou au nom de la personne qui a droit au paiement, sans que l'impôt en ait été retenu ou déduit conformément au paragraphe (1), le mandataire ou l'autre personne doit, indépendamment de toute disposition contraire d'une convention ou d'une loi, en déduire ou en retenir le montant de l'impôt et le remettre immédiatement au receveur général au nom de la personne ayant droit au paiement, en acquittement de l'impôt, et l'accompagner d'un état selon le formulaire prescrit. Pour ce qui est du compte à rendre à la personne ayant droit au paiement, ce mandataire ou cette autre personne est dès lors réputée lui avoir versé cette somme ou l'avoir portée à son crédit.

Regulations creating exceptions

(4) The Governor in Council may make regulations with reference to any non-resident person or class of non-resident persons who carries or carry on business in Canada, providing that subsections 215(1) to 215(3) are not applicable to amounts paid to or credited to that person or those persons and requiring the person or persons to file an annual return on a prescribed form and to pay the tax

Exceptions réglementaires

(4) Le gouverneur en conseil peut par règlement, relativement à tout personne ou catégorie de personnes non-résidentes exploitant une entreprise au Canada, prévoir que les paragraphes (1) à (3) ne s'appliquent pas aux sommes qui leur sont versées ou portées à leur crédit et les obligeant à produire une déclaration annuelle selon le formulaire prescrit et à acquitter l'impôt prévu par la présente partie dans le délai prescrit.

imposed by this Part within a time limited in the regulations.

Regulations reducing deduction or withholding

(5) The Governor in Council may make regulations in respect of any non-resident person or class of non-resident persons to whom any amount is paid or credited as, on account of, in lieu of payment of or in satisfaction of, any amount described in any of paragraphs 212(1)(h), (j) to (m) and (q) reducing the amount otherwise required by any of subsections (1) to (3) to be deducted or withheld from the amount so paid or credited.

Liability for tax

(6) Where a person has failed to deduct or withhold any amount as required by this section from an amount paid or credited or deemed to have been paid or credited to a non-resident person, that person is liable to pay as tax under this Part on behalf of the non-resident person the whole of the amount that should have been deducted or withheld, and is entitled to deduct or withhold from any amount paid or credited by that person to the non-resident person or otherwise recover from the non-resident person any amount paid by that person as tax under this Part on behalf thereof.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 215; 1994, c. 7, Sch. II, s. 177; 1999, c. 22, s. 77; 2001, c. 17, s. 174; 2013, c. 34, s. 19.

Alternatives re rents and timber royalties

216 (1) If an amount has been paid during a taxation year to a non-resident person or to a partnership of which that person was a member as, on account of, in lieu of payment of or in satisfaction of, rent on real or immovable property in Canada or a timber royalty, that person may, within two years (or, if that person has filed an undertaking described in subsection (4) in respect of the year, within six months) after the end of the year, file a return of income under Part I for that year in prescribed form. On so filing and without affecting the liability of the non-resident person for tax otherwise payable under Part I, the non-resident person is, in lieu of paying tax under this Part on that amount, liable to pay tax under Part I for the year as though

(a) the non-resident person were a person resident in Canada and not exempt from tax under section 149;

(b) the non-resident person's income from the non-resident person's interest in real property, or real right

Dispositions réglementaires réduisant le montant à déduire ou à retenir

(5) Le gouverneur en conseil peut prendre des dispositions réglementaires applicables à des personnes ne résidant pas au Canada, ou à une catégorie de telles personnes, auxquelles une somme a été payée, ou au crédit desquelles une somme a été portée, au titre ou en paiement intégral ou partiel d'une somme visée à l'un des alinéas 212(1)h), j) à m) et q) prévoyant la réduction du montant dont les paragraphes (1) à (3) exigent par ailleurs la déduction ou la retenue sur la somme ainsi payée aux personnes ou portée à leur crédit.

Assujettissement à l'impôt

(6) Lorsqu'une personne a omis de déduire ou de retenir, comme l'exige le présent article, une somme sur un montant payé à une personne non-résidente ou porté à son crédit ou réputé avoir été payé à une personne non-résidente ou porté à son crédit, cette personne est tenue de verser à titre d'impôt sous le régime de la présente partie, au nom de la personne non-résidente, la totalité de la somme qui aurait dû être déduite ou retenue, et elle a le droit de déduire ou de retenir sur tout montant payé par elle à la personne non-résidente ou portée à son crédit, ou par ailleurs de recouvrer de cette personne non-résidente toute somme qu'elle a versée pour le compte de cette dernière à titre d'impôt sous le régime de la présente partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 215; 1994, ch. 7, ann. II, art. 177; 1999, ch. 22, art. 77; 2001, ch. 17, art. 174; 2013, ch. 34, art. 19.

Choix relatif aux loyers et redevances forestières

216 (1) Dans le cas où une somme a été versée au cours d'une année d'imposition à une personne non-résidente ou à une société de personnes dont elle était un associé, au titre ou en paiement intégral ou partiel de loyers de biens immeubles ou réels situés au Canada ou de redevances forestières, la personne peut, dans les deux ans suivant la fin de l'année ou, si elle a fait parvenir au ministre l'engagement visé au paragraphe (4) pour l'année, dans les six mois suivant la fin de l'année, produire sur le formulaire prescrit une déclaration de revenu en vertu de la partie I pour l'année. Indépendamment de son obligation de payer l'impôt payable par ailleurs en vertu de la partie I, la personne est dès lors tenue, au lieu de payer l'impôt en vertu de la présente partie sur ce montant, de payer l'impôt en vertu de la partie I pour l'année comme si :

a) elle était une personne résidant au Canada et non exonérée de l'impôt en vertu de l'article 149;

in immovables, in Canada and interest in, or for civil law right in, timber resource properties and timber limits in Canada, and the non-resident person's share of the income of a partnership of which the non-resident person was a member from its interest in real property, or real right in immovables, in Canada and interest in, or for civil law right in, timber resource properties and timber limits in Canada, were the non-resident person's only income;

(c) the non-resident person were entitled to no deductions from income for the purpose of computing the non-resident person's taxable income; and

(d) the non-resident person were entitled to no deductions under sections 118 to 118.9 in computing the non-resident person's tax payable under Part I for the year.

b) son revenu tiré de ses droits réels sur des immeubles, ou de ses intérêts sur des biens réels, situés au Canada et de ses intérêts ou, pour l'application du droit civil, de ses droits sur des avoirs forestiers et des concessions forestières situés au Canada, ainsi que sa part du revenu tiré par une société de personnes dont elle était un associé de droits réels sur des immeubles, ou d'intérêts sur des biens réels, situés au Canada et d'intérêts ou, pour l'application du droit civil, de droits sur des avoirs forestiers et des concessions forestières situés au Canada, constituaient sa seule source de revenu;

c) elle n'avait droit à aucune déduction sur son revenu pour le calcul de son revenu imposable;

d) elle n'avait droit à aucune déduction en application des articles 118 à 118.9 dans le calcul de son impôt payable pour l'année en vertu de la partie I.

Idem

(2) Where a non-resident person has filed a return of income under Part I as permitted by this section, the amount deducted under this Part from

(a) rent on real or immovable property or from timber royalties paid to the person, and

(b) the person's share of the rent on real or immovable property or from timber royalties paid to a partnership of which the person is a member

and remitted to the Receiver General shall be deemed to have been paid on account of tax under this section and any portion of the amount so remitted to the Receiver General in a taxation year on the person's behalf in excess of the person's liability for tax under this Act for the year shall be refunded to the person.

Idem

(2) Lorsqu'une personne non-résidente a produit une déclaration de revenu en vertu de la partie I ainsi que le permet le présent article, le montant déduit, en vertu de la présente partie :

a) d'une part, sur les loyers de biens immeubles ou réels ou sur les redevances forestières qui lui sont payés;

b) d'autre part, sur sa part du loyer de biens immeubles ou réels ou de redevances forestières versés à une société de personnes dont elle est un associé,

et remis au receveur général, est réputé avoir été payé au titre de l'impôt exigé par le présent article et toute partie du montant ainsi remis au receveur général en son nom au cours d'une année d'imposition en plus de l'impôt qu'elle est tenue de payer en vertu de la présente loi, pour l'année, doit lui être remboursé.

Idem

(3) Part I is applicable, with such modifications as the circumstances require, to payment of tax under this section.

Idem

(3) La partie I s'applique, avec les adaptations nécessaires, au paiement de l'impôt dû en vertu du présent article.

Optional method of payment

(4) If a non-resident person or, in the case of a partnership, each non-resident person who is a member of the partnership files with the Minister an undertaking in prescribed form to file within six months after the end of a taxation year a return of income under Part I for the year as permitted by this section, a person who is otherwise required by subsection 215(3) to remit in the year, in respect of the non-resident person or the partnership, an amount to the Receiver General in payment of tax on rent

Choix du mode de paiement

(4) Lorsqu'une personne non-résidente ou, dans le cas d'une société de personnes, chaque personne non-résidente qui en est un associé présente au ministre, selon le formulaire prescrit, l'engagement de produire une déclaration de revenu en vertu de la partie I pour une année d'imposition dans les six mois suivant la fin de l'année, ainsi que le permet le présent article, une personne qui est par ailleurs tenue, en vertu du paragraphe 215(3), de remettre au cours de l'année, relativement à la personne

on real or immovable property or on a timber royalty may elect under this section not to remit under that subsection, and if that election is made, the elector shall,

(a) when any amount is available out of the rent or royalty received for remittance to the non-resident person or the partnership, as the case may be, deduct 25% of the amount available and remit the amount deducted to the Receiver General on behalf of the non-resident person or the partnership on account of the tax under this Part; and

(b) if the non-resident person or, in the case of a partnership, a non-resident person who is a member of the partnership

(i) does not file a return for the year in accordance with the undertaking, or

(ii) does not pay under this section the tax the non-resident person or member is liable to pay for the year within the time provided for payment,

pay to the Receiver General, on account of the non-resident person's or the partnership's tax under this Part, on the expiration of the time for filing or payment, as the case may be, the full amount that the elector would otherwise have been required to remit in the year in respect of the rent or royalty minus the that the elector has remitted in the year under paragraph 216(4)(a) in respect of the rent or royalty.

non-résidente ou à la société de personnes, une somme au receveur général en paiement d'impôt sur le loyer de biens immeubles ou réels ou sur une redevance forestière peut choisir, en vertu du présent article, de ne pas faire de remise en vertu de ce paragraphe, auquel cas elle doit :

a) lorsqu'un montant quelconque de loyer ou de redevance reçu pour être remis à la personne non-résidente ou à la société de personnes est disponible, en déduire 25 % et remettre la somme déduite au receveur général pour le compte de la personne non-résidente ou de la société de personnes, au titre de l'impôt prévu par la présente partie;

b) si la personne non-résidente ou, dans le cas d'une société de personnes, une personne non-résidente qui en est un associé :

(i) soit ne produit pas de déclaration pour l'année conformément à l'engagement qu'elle a présenté au ministre,

(ii) soit ne paie pas l'impôt qu'elle est tenue de payer pour l'année, en vertu du présent article, dans le délai imparti à cette fin,

remettre au receveur général, au titre de l'impôt de la personne non-résidente ou de la société de personnes en vertu de la présente partie, dès l'expiration du délai prévu pour la production de la déclaration ou pour le paiement de l'impôt, la totalité de la somme qu'elle aurait par ailleurs été tenue de remettre au cours de l'année au titre du loyer ou de la redevance, diminuée des montants qu'elle a remis au cours de l'année à ce titre en vertu de l'alinéa a).

Optional method of payment

(4.1) If a trust is deemed by subsection 94(3) to be resident in Canada for a taxation year for the purpose of computing the trust's income for the year, a person who is otherwise required by subsection 215(3) to remit in the year, in respect of the trust, an amount to the Receiver General in payment of tax on rent on real or immovable property or on a timber royalty may elect in prescribed form filed with the Minister under this subsection not to remit under subsection 215(3) in respect of amounts received after the election is made, and if that election is made, the elector shall,

(a) when any amount is available out of the rent or royalty received for remittance to the trust, deduct 25% of the amount available and remit the amount deducted to the Receiver General on behalf of the trust on account of the trust's tax under Part I; and

Choix du mode de paiement

(4.1) Si une fiducie est réputée, en vertu du paragraphe 94(3), résider au Canada pour une année d'imposition en vue du calcul de son revenu pour l'année, la personne qui serait par ailleurs tenue, par le paragraphe 215(3), de remettre au receveur général au cours de l'année, relativement à la fiducie, une somme en paiement d'impôt sur le loyer d'un bien immeuble ou réel ou sur une redevance forestière peut choisir, sur le formulaire prescrit présenté au ministre en vertu du présent paragraphe, de ne pas faire la remise prévue au paragraphe 215(3) relativement à des sommes reçues après que le choix a été fait. La personne qui fait ce choix doit, à la fois :

a) si un montant de loyer ou de redevance reçu pour remise à la fiducie est disponible, en déduire 25 % et remettre la somme déduite au receveur général pour le compte de la fiducie au titre de l'impôt de celle-ci prévu par la partie I;

(b) if the trust does not file a return for the year as required by section 150, or does not pay the tax that the trust is liable to pay under Part I for the year within the time required by that Part, on the expiration of the time for filing or payment, as the case may be, pay to the Receiver General, on account of the trust's tax under Part I, the amount by which the full amount that the elector would otherwise have been required to remit in the year in respect of the rent or royalty exceeds the amounts that the elector has remitted in the year under paragraph (a) in respect of the rent or royalty.

b) si la fiducie ne produit pas de déclaration pour l'année comme elle en est tenue par l'article 150, ou ne paie pas l'impôt dont elle est redevable en vertu de la partie I pour l'année dans le délai prévu par cette partie, remettre au receveur général, à l'expiration du délai pour la production de la déclaration ou pour le paiement de l'impôt, selon le cas, au titre de l'impôt de la fiducie prévue par la partie I, l'excédent du montant total qu'elle aurait été tenue par ailleurs de remettre au cours de l'année au titre du loyer ou de la redevance, sur les sommes qu'elle a remises au cours de l'année en vertu de l'alinéa a) au titre du loyer ou de la redevance.

Disposition by non-resident

(5) If a person or a trust under which a person is a beneficiary has filed a return of income under Part I for a taxation year as permitted by this section or as required by section 150 and, in computing the amount of the person's income under Part I an amount has been deducted under paragraph 20(1)(a), or is deemed by subsection 107(2) to have been allowed under that paragraph, in respect of property that is real property in Canada — or an interest therein — or an immovable in Canada — or a real right therein —, a timber resource property or a timber limit in Canada, the person shall file a return of income under Part I in prescribed form on or before the person's filing-due date for any subsequent taxation year in which the person is non-resident and in which the person, or a partnership of which the person is a member, disposes of that property or any interest, or for civil law any right, in it. On so filing and without affecting the person's liability for tax otherwise payable under Part I, the person is, in lieu of paying tax under this Part on any amount paid, or deemed by this Part to have been paid, in that subsequent taxation year in respect of any interest in, or for civil law any right in, that property to the person or to a partnership of which the person is a member, liable to pay tax under Part I for that subsequent taxation year as though

(a) the person were a person resident in Canada and not exempt from tax under section 149;

(b) the person's income from the person's interest in real property, or real right in immovables, in Canada or interest in, or for civil law right in, timber resource properties and timber limits in Canada, and the person's share of the income of a partnership of which the person was a member from its interest in real property, or real right in immovables, in Canada or interest in, or for civil law right in, timber resource properties and timber limits in Canada, were the person's only income;

Disposition par un non-résident

(5) Lorsqu'une personne ou une fiducie dont une personne est bénéficiaire a produit une déclaration de revenu en vertu de la partie I pour une année d'imposition, ainsi que le permet le présent article ou que l'exige l'article 150, et que, dans le calcul du revenu de la personne en vertu de la partie I, un montant a été déduit en vertu de l'alinéa 20(1)a), ou est réputé conformément au paragraphe 107(2) avoir été déductible en vertu de cet alinéa, relativement à un bien situé au Canada qui est un immeuble — ou un droit réel sur celui-ci — ou un bien réel — ou un intérêt sur celui-ci —, un avoir forestier ou une concession forestière, la personne doit produire sur le formulaire prescrit une déclaration de revenu en vertu de la partie I au plus tard à la date d'échéance de production qui lui est applicable pour toute année d'imposition postérieure au cours de laquelle elle ne réside pas au Canada et au cours de laquelle elle, ou une société de personnes dont elle est un associé, dispose du bien ou d'un intérêt ou, pour l'application du droit civil, d'un droit sur celui-ci. Indépendamment de son obligation de payer l'impôt par ailleurs payable en vertu de la partie I, la personne est dès lors tenue, plutôt que de payer l'impôt en vertu de la présente partie sur toute somme qui lui a été versée ou qui est réputée, en vertu de la présente partie, lui avoir été versée ou avoir été versée à une société de personnes dont elle est un associé, au cours de cette année d'imposition postérieure relativement à tout intérêt ou, pour l'application du droit civil, tout droit sur le bien, de payer l'impôt en vertu de la partie I pour cette année d'imposition postérieure comme si :

a) elle était une personne résidant au Canada et non exonérée de l'impôt en vertu de l'article 149;

b) son revenu tiré de ses droits réels sur des immeubles, ou de ses intérêts sur des biens réels, situés au Canada ou de ses intérêts ou, pour l'application du droit civil, de ses droits sur des avoirs forestiers et des concessions forestières situés au Canada, et sa part du revenu tiré par une société de personnes dont elle était un associé de droits réels sur des immeubles, ou

(c) the person were entitled to no deductions from income for the purpose of computing the person's taxable income; and

(d) the person were entitled to no deductions under sections 118 to 118.9 in computing the person's tax payable under Part I for the year.

c) elle n'avait droit à aucune déduction sur son revenu pour le calcul de son revenu imposable;

d) elle n'avait droit à aucune déduction en application des articles 118 à 118.9 dans le calcul de son impôt payable pour l'année en vertu de la partie I.

Saving provision

(6) Subsection 216(5) does not apply to require a non-resident person

(a) to file a return of income under Part I for a taxation year unless, by filing that return, there would be included in computing the non-resident person's income under Part I for that year an amount by virtue of section 13; or

(b) to include in computing the non-resident person's income for a taxation year any amount to the extent that that amount has been included in computing the non-resident person's taxable income earned in Canada for that taxation year by virtue of any provision of this Act other than subsection 216(5).

Exception

(6) Le paragraphe (5) n'a pas pour effet d'obliger une personne non-résidente :

a) à produire une déclaration de revenu en vertu de la partie I pour une année d'imposition, sauf lorsque, dans cette déclaration, se trouverait inclus, dans le calcul de son revenu en vertu de la partie I pour cette année, un montant prévu à l'article 13;

b) à inclure une somme dans le calcul de son revenu, pour une année d'imposition, dans la mesure où cette somme a été incluse dans le calcul de son revenu imposable gagné au Canada au cours de cette année d'imposition en vertu d'une disposition de la présente loi autre que le paragraphe (5).

(7) [Repealed, 2013, c. 34, s. 349]

(7) [Abrogé, 2013, ch. 34, art. 349]

Restriction on deduction

(8) For greater certainty, in determining the amount of tax payable by a non-resident person under Part I for a taxation year by reason of subsection 216(1) or 216(5), no deduction in computing the non-resident person's income or tax payable under Part I for the year shall be made to the extent that such a deduction by non-resident persons is not permitted under Part I.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 216; 1994, c. 7, Sch. II, s. 178; 1998, c. 19, s. 217; 2013, c. 34, ss. 20, 158, 349.

Précision

(8) Il est entendu que, dans le calcul de l'impôt payable par une personne non-résidente en vertu de la partie I pour une année d'imposition en application du paragraphe (1) ou (5), aucune déduction dans le calcul de son revenu ou impôt payable en vertu de cette partie pour l'année ne peut être faite dans la mesure où cette partie prévoit que cette déduction n'est pas admise dans le cas d'une personne non-résidente.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 216; 1994, ch. 7, ann. II, art. 178; 1998, ch. 19, art. 217; 2013, ch. 34, art. 20, 158 et 349.

Alternative re: acting services

216.1 (1) No tax is payable under this Part on any amount described in subsection 212(5.1) that is paid, credited or provided to a non-resident person in a taxation year if the person

(a) files with the Minister, on or before the person's filing-due date for the year, a return of income under Part I for the year; and

Services d'acteur

216.1 (1) Aucun impôt n'est payable en vertu de la présente partie sur une somme visée au paragraphe 212(5.1) qui est payée ou fournie à une personne non-résidente, ou portée à son crédit, au cours d'une année d'imposition si la personne :

a) d'une part, présente au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, une déclaration de revenu en vertu de la partie I pour l'année;

(b) elects in the return to have this section apply for the year.

b) d'autre part, choisit dans la déclaration de se prévaloir du présent article pour l'année.

Deemed Part I payment

(2) If in respect of a particular amount paid, credited or provided in a taxation year, a non-resident person has complied with paragraphs (1)(a) and (b), any amount deducted or withheld and remitted to the Receiver General on behalf of the person on account of tax under subsection 212(5.1) in respect of the particular amount is deemed to have been paid on account of the person's tax under Part I.

Présomption de paiement en vertu de la partie I

(2) Lorsqu'une personne non-résidente remplit les exigences énoncées aux alinéas (1)a) et b) relativement à une somme payée, créditée ou fournie au cours d'une année d'imposition, tout montant déduit ou retenu et versé au receveur général pour le compte de la personne au titre de l'impôt prévu au paragraphe 212(5.1) relativement à la somme est réputé avoir été payé au titre de l'impôt de la personne en vertu de la partie I.

Deemed election and restriction

(3) Where a corporation payment (within the meaning assigned by subsection 212(5.2)) has been made to a non-resident corporation in respect of an actor and at any time the corporation makes an actor payment (within the meaning assigned by subsection 212(5.2)) to or for the benefit of the actor, if the corporation makes an election under subsection (1) for the taxation year in which the corporation payment is made, the actor is deemed to make an election under subsection (1) for the taxation year of the actor in which the corporation makes the actor payment.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 175.

Présomption de choix et restriction

(3) Lorsqu'un paiement de société (au sens du paragraphe 212(5.2)) a été fait à une société non-résidente à l'égard d'un acteur et que la société effectue, à un moment donné, un paiement d'acteur (au sens de ce paragraphe) à l'acteur, ou pour son compte, ce dernier est réputé faire le choix prévu au paragraphe (1) pour son année d'imposition au cours de laquelle la société fait le paiement d'acteur si la société fait ce choix pour l'année d'imposition au cours de laquelle le paiement de société est fait.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 175.

Alternative re Canadian benefits

217 (1) In this section, a non-resident person's "Canadian benefits" for a taxation year is the total of all amounts each of which is an amount paid or credited in the year and in respect of which tax under this Part would, but for this section, be payable by the person because of any of paragraphs 212(1)(h), (j) to (m) and (q).

Prestations canadiennes

217 (1) Au présent article, les prestations canadiennes d'une personne non-résidente pour une année d'imposition correspondent au total des montants représentant chacun un montant payé ou crédité au cours de l'année et au titre duquel l'impôt prévu par la présente partie serait payable par la personne, n'était le présent article, par l'effet de l'un des alinéas 212(1)h), j) à m) et q).

Part I return

(2) No tax is payable under this Part in respect of a non-resident person's Canadian benefits for a taxation year if the person

(a) files with the Minister, within 6 months after the end of the year, a return of income under Part I for the year; and

(b) elects in the return to have this section apply for the year.

Aucun impôt payable

(2) Aucun impôt n'est payable en vertu de la présente partie au titre des prestations canadiennes d'une personne non-résidente pour une année d'imposition si la personne, à la fois :

a) produit au ministre, dans les six mois suivant la fin de l'année, une déclaration de revenu en vertu de la partie I pour l'année;

b) fait, dans cette déclaration, un choix pour que le présent article s'applique pour l'année.

Taxable income earned in Canada

(3) Where a non-resident person elects under paragraph (2)(b) for a taxation year, for the purposes of Part I

Revenu imposable gagné au Canada

(3) Lorsqu'une personne non-résidente fait le choix prévu à l'alinéa (2)b) pour une année d'imposition, les présomptions suivantes s'appliquent dans le cadre de la partie I :

(a) the person is deemed to have been employed in Canada in the year; and

(b) the person's taxable income earned in Canada for the year is deemed to be the greater of

(i) the amount that would, but for subparagraph (ii), be the person's taxable income earned in Canada for the year if

(A) paragraph 115(1)(a) included the following subparagraph after subparagraph (i):

"(i.1) the non-resident person's Canadian benefits for the year, within the meaning assigned by subsection 217(1),", and

(B) paragraph 115(1)(f) were read as follows:

"(f) such of the other deductions permitted for the purpose of computing taxable income as can reasonably be considered wholly applicable to the amounts described in subparagraphs (a)(i) to (vi).", and

(ii) the person's income (computed without reference to subsection 56(8)) for the year minus the total of such of the deductions permitted for the purpose of computing taxable income as can reasonably be considered wholly applicable to the amounts described in subparagraphs 115(1)(a)(i) to (vi).

a) la personne est réputée avoir occupé un emploi au Canada au cours de l'année;

b) son revenu imposable gagné au Canada pour l'année est réputé égal au plus élevé des montants suivants :

(i) le montant qui, n'était le sous-alinéa (ii), correspondrait à son revenu imposable gagné au Canada pour l'année si, à la fois :

(A) l'alinéa 115(1)a) comprenait le sous-alinéa suivant :

« (i.1) que ses prestations canadiennes pour l'année, au sens du paragraphe 217(1), »,

(B) l'alinéa 115(1)f) était remplacé par ce qui suit :

« f) les autres déductions permises pour le calcul du revenu imposable et qu'il est raisonnable de considérer comme étant entièrement applicables aux montants visés aux sous-alinéas a)(i) à (vi); »

(ii) le revenu de la personne pour l'année (calculé compte non tenu du paragraphe 56(8)), moins le total des déductions permises pour le calcul du revenu imposable et qu'il est raisonnable de considérer comme étant entièrement applicables aux montants visés aux sous-alinéa 115(1)a)(i) à (vi).

Tax credits — limitation

(4) Sections 118 to 118.91 and 118.94 do not apply in computing the tax payable under Part I for a taxation year by a non-resident person who elects under paragraph (2)(b) for the year, unless

(a) where section 114 applies to the person for the year, all or substantially all of the person's income for the year is included in computing the person's taxable income for the year; or

(b) in any other case, all or substantially all of the person's income for the year is included in computing the amount determined under subparagraph (3)(b)(i) in respect of the person for the year.

Restriction quant aux crédits d'impôt

(4) Les articles 118 à 118.91 et 118.94 ne s'appliquent au calcul de l'impôt payable en vertu de la partie I pour une année d'imposition par une personne non-résidente qui fait le choix prévu à l'alinéa (2)b) pour l'année que si :

a) en cas d'application de l'article 114 à la personne pour l'année, la totalité, ou presque, de son revenu pour l'année entre dans le calcul de son revenu imposable pour l'année;

b) dans les autres cas, la totalité, ou presque, de son revenu pour l'année entre dans le calcul du montant déterminé à son égard pour l'année selon le sous-alinéa (3)b)(i).

Tax credits allowed

(5) In computing the tax payable under Part I for a taxation year by a non-resident person to whom neither paragraph (4)(a) nor paragraph (4)(b) applies for the year there may, notwithstanding section 118.94 and subsection (4), be deducted the lesser of

(a) the total of

Crédits d'impôt admis

(5) Malgré le paragraphe (4), le moins élevé des montants ci-après est déductible dans le calcul de l'impôt payable en vertu de la partie I pour une année d'imposition par la personne non-résidente à laquelle ni l'alinéa (4)a), ni l'alinéa (4)b) ne s'applique pour l'année :

a) le total des montants suivants :

(i) such of the amounts that would have been deductible under any of section 118.2, subsections 118.3(2) and (3) and sections 118.8 and 118.9 in computing the person's tax payable under Part I for the year if the person had been resident in Canada throughout the year, as can reasonably be considered wholly applicable, and

(ii) the amounts that would have been deductible under any of sections 118 and 118.1, subsection 118.3(1) and sections 118.5 and 118.7 in computing the person's tax payable under Part I for the year if the person had been resident in Canada throughout the year, and

(b) the appropriate percentage for the year of the person's Canadian benefits for the year.

Special credit

(6) In computing the tax payable under Part I for a taxation year by a non-resident who elects under paragraph (2)(b) for the year, there may be deducted the amount determined by the formula

A × [(B - C) / B]

where

A is the amount of tax under Part I that would, but for this subsection, be payable by the person for the year;

B is the amount determined under subparagraph (3)(b)(ii) in respect of the person for the year; and

C is the amount determined under subparagraph (3)(b)(i) in respect of the person for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 217; 1994, c. 7, Sch. II, s. 179; 1996, c. 21, s. 56; 1997, c. 25, s. 64; 1998, c. 19, s. 64; 2016, c. 7, s. 45.

Loan to wholly-owned subsidiary

218 (1) For the purposes of this Act, where

(a) a non-resident corporation (in this section referred to as the "parent corporation") is indebted to

(i) a person resident in Canada, or

(ii) a non-resident insurance corporation carrying on business in Canada,

(in this section referred to as the "creditor") under an arrangement whereby the parent corporation is required to pay interest in Canadian currency, and

(b) the parent corporation has lent the money in respect of which it is so indebted, or a part thereof, to a

(i) les montants qui auraient été déductibles en application de l'article 118.2 ou de l'un des paragraphes 118.3(2) et (3) et des articles 118.8 et 118.9 dans le calcul de son impôt payable en vertu de la partie I pour l'année si elle avait résidé au Canada tout au long de l'année et qu'il est raisonnable de considérer comme étant entièrement applicables,

(ii) les montants qui auraient été déductibles en application de l'un des articles 118 et 118.1, du paragraphe 118.3(1) ou de l'un des articles 118.5 et 118.7 dans le calcul de son impôt payable en vertu de la partie I pour l'année si elle avait résidé au Canada tout au long de l'année;

b) le montant représentant le taux base pour l'année de ses prestations canadiennes pour l'année.

Crédit spécial

(6) Le résultat du calcul ci-après est déductible dans le calcul de l'impôt payable en vertu de la partie I pour une année d'imposition de la personne non-résidente qui fait le choix prévu à l'alinéa (2)b) pour l'année :

A × [(B - C)/B]

où :

A représente l'impôt qui, n'était le présent paragraphe, serait payable elle pour l'année en vertu de la partie I;

B le montant déterminé selon le sous-alinéa (3)b)(ii) à son égard pour l'année;

C le montant déterminé selon le sous-alinéa (3)b)(i) à son égard pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 217; 1994, ch. 7, ann. II, art. 179; 1996, ch. 21, art. 56; 1997, ch. 25, art. 64; 1998, ch. 19, art. 64; 2016, ch. 7, art. 45.

Prêt à une filiale à cent pour cent

218 (1) Pour l'application de la présente loi, si les conditions suivantes sont réunies :

a) une société non-résidente (appelée la « société mère » au présent article) a contracté une dette envers :

(i) soit une personne résidant au Canada,

(ii) soit une compagnie d'assurance non-résidente exploitant une entreprise au Canada,

(appelée le « créancier » au présent article) en vertu d'un arrangement selon lequel la société mère est tenue de verser des intérêts en monnaie canadienne;

subsidiary wholly-owned corporation resident in Canada whose principal business is the making of loans (in this section referred to as the "subsidiary corporation") under an arrangement whereby the subsidiary corporation is required to repay the loan to the parent corporation with interest at the same rate as is payable by the parent corporation to the creditor,

the amount so lent by the parent corporation to the subsidiary corporation shall be deemed to have been borrowed by the parent corporation as agent of the subsidiary corporation and interest paid by the subsidiary corporation to the parent corporation that has been paid by the parent corporation to the creditor shall be deemed to have been paid by the subsidiary corporation to the creditor and not by the subsidiary corporation to the parent corporation or by the parent corporation to the creditor.

b) la société mère a prêté la somme dont elle est ainsi redevable, ou une partie de cette somme, à une filiale à cent pour cent résidant au Canada et dont l'entreprise principale consiste à prêter de l'argent en vertu d'un arrangement selon lequel la filiale est tenue de rembourser le prêt à la société mère avec intérêts au même taux que celui qui est payable par la société mère au créancier,

la somme que la société mère a ainsi prêtée à la filiale est réputée avoir été empruntée par la société mère à titre d'agent de la filiale, et lest intérêts versés par la filiale à la société mère, qui les a remis au créancier, sont réputés avoir été payés par la filiale au créancier, mais non par la filiale à la société mère, ou bien par celle-ci au créancier.

Idem

(2) Where a parent corporation has lent money to a subsidiary wholly-owned corporation resident in Canada whose principal business is not the making of loans and the money has been lent by that corporation to a subsidiary corporation wholly-owned by it and resident in Canada whose principal business is the making of loans, the loan by the parent corporation shall be deemed, for the purpose of subsection 218(1), to have been a loan to a subsidiary wholly-owned corporation whose principal business is the making of loans.

Idem

(2) Lorsqu'une société mère a prêté de l'argent à une filiale à cent pour cent résidant au Canada et dont l'entreprise principale ne consiste pas à prêter de l'argent, et que l'argent a été prêté par cette société à sa filiale à cent pour cent qui réside au Canada et dont l'entreprise principale consiste à prêter de l'argent, le prêt consenti par la société mère est réputé, pour l'application du paragraphe (1), avoir été un prêt consenti à une filiale à cent pour cent dont l'entreprise principale consiste à prêter de l'argent.

Election

(3) This section does not apply in respect of any payment of interest unless the parent corporation and the creditor have executed, and filed with the Minister, an election in prescribed form.

Choix

(3) Le présent article s'applique à un paiement d'intérêts si la société mère et le créancier ont présenté au ministre un choix à cet effet, selon le formulaire prescrit.

Application of election

(4) An election filed under subsection 218(3) does not apply in respect of any payment of interest made more than 12 months before the date on which the election was filed with the Minister.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "218"; 1985, c. 45, s. 126(F).

Application du choix

(4) Le choix visé au paragraphe (3) ne s'applique pas dans le cas d'un paiement d'intérêts fait plus de 12 mois avant la date où le choix a été présenté au ministre.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 218 »; 1985, ch. 45, art. 126(F).

Application of s. 138.1

218.1 In respect of life insurance policies for which all or any part of an insurer's reserves vary in amount depending on the fair market value of a specified group of properties, the rules contained in section 138.1 apply for the purposes of this Part.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1977-78, c. 1, s. 69.

Application de l'art. 138.1

218.1 Dans le cadre de la présente partie, les règles figurant à l'article 138.1 s'appliquent aux polices d'assurance-vie à l'égard desquelles la totalité ou une partie des provisions d'un assureur varie en fonction de la juste valeur marchande d'un groupe désigné de biens.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1977-78, ch. 1, art. 69.

PART XIII.1

Additional Tax on Authorized Foreign Banks

Branch interest tax

218.2 (1) Every authorized foreign bank shall pay a tax under this Part for each taxation year equal to 25% of its taxable interest expense for the year.

Taxable interest expense

(2) The taxable interest expense of an authorized foreign bank for a taxation year is 15% of the amount, if any, by which

(a) the total of all amounts on account of interest that are deducted under section 20.2 in computing the bank's income for the year from its Canadian banking business

exceeds

(b) the total of all amounts that are included in paragraph (a) and that are in respect of a liability of the bank to another person or partnership.

Where tax not payable

(3) No tax is payable under this Part for a taxation year by an authorized foreign bank if

(a) the bank is resident in a country with which Canada has a tax treaty at the end of the year; and

(b) no tax similar to the tax under this Part would be payable in that country for the year by a bank resident in Canada carrying on business in that country during the year.

Rate limitation

(4) Notwithstanding any other provision of this Act, the reference in subsection (1) to 25% shall, in respect of a taxation year of an authorized foreign bank that is resident in a country with which Canada has a tax treaty on the last day of the year, be read as a reference to,

(a) if the treaty specifies the maximum rate of tax that Canada may impose under this Part for the year on residents of that country, that rate;

(b) if the treaty does not specify a maximum rate as described in paragraph (a) but does specify the maximum rate of tax that Canada may impose on a

PARTIE XIII.1

Impôt supplémentaire des banques étrangères autorisées

Impôt sur les intérêts de succursale

218.2 (1) Toute banque étrangère autorisée est tenue de payer, en vertu de la présente partie pour chaque année d'imposition, un impôt égal à 25 % de ses frais d'intérêts imposables pour l'année.

Frais d'intérêts imposables

(2) Les frais d'intérêts imposables d'une banque étrangère autorisée pour une année d'imposition correspondent à 15 % de l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des montants au titre des intérêts qui sont déduits en application de l'article 20.2 dans le calcul du revenu de la banque pour l'année tiré de son entreprise bancaire canadienne;

b) le total des montants visés à l'alinéa a) qui se rapportent à une dette de la banque envers une autre personne ou une société de personnes.

Impôt non payable

(3) Aucun impôt n'est payable en vertu de la présente partie pour une année d'imposition par une banque étrangère autorisée si les conditions suivantes sont réunies :

a) la banque réside dans un pays ayant un traité fiscal avec le Canada à la fin de l'année;

b) aucun impôt semblable à celui prévu par la présente partie ne serait payable dans ce pays pour l'année par une banque résidant au Canada qui exploite une entreprise dans ce pays au cours de l'année.

Taux plafond

(4) Malgré les autres dispositions de la présente loi, la mention « 25 % » au paragraphe (1) vaut mention du taux ci-après pour ce qui est d'une année d'imposition d'une banque étrangère autorisée qui réside dans un pays ayant un traité fiscal avec le Canada le dernier jour de l'année :

a) si le traité fixe le taux maximal d'impôt que le Canada peut imposer pour l'année, en vertu de la présente partie, aux résidents du pays en question, ce taux;

b) s'il ne fixe pas un tel taux maximal, mais fixe le taux maximal d'impôt que le Canada peut prélever sur

payment of interest in the year by a person resident in Canada to a related person resident in that country, that rate; and

(c) in any other case, 25%.

Provisions applicable to Part

(5) Sections 150 to 152, 158, 159, 160.1 and 161 to 167 and Division J of Part I apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 176.

un paiement d'intérêts effectué au cours de l'année par une personne résidant au Canada à une personne liée résidant dans le pays en question, ce taux;

c) dans les autres cas, 25 %.

Dispositions applicables

(5) Les articles 150 à 152, 158, 159, 160.1 et 161 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 176.

PART XIII.2

Non-resident Investors in Canadian Mutual Funds

Definitions

218.3 (1) The following definitions apply in this Part.

assessable distribution, in respect of a Canadian property mutual fund investment, means the portion of any amount that is paid or credited (otherwise than as a SIFT trust wind-up event), by the mutual fund that issued the investment, to a non-resident investor who holds the investment, and that is not otherwise subject to tax under Part I or Part XIII. (*distribution déterminée*)

Canadian property mutual fund investment means a share of the capital stock of a mutual fund corporation, or a unit of a mutual fund trust, if

(a) the share or unit is listed on a designated stock exchange; and

(b) more than 50% of the fair market value of the share or unit is attributable to one or more properties each of which is real property in Canada, a Canadian resource property or a timber resource property. (*placement collectif en biens canadiens*)

Canadian property mutual fund loss — of a non-resident investor for a taxation year for which the non-resident investor has filed, on or before their filing-due date for the taxation year, a return of income under this Part in prescribed form, in respect of a Canadian property mutual fund investment — means the lesser of

(a) the non-resident investor's loss (for greater certainty as determined under section 40) for the taxation year from the disposition of the Canadian property mutual fund investment, and

PARTIE XIII.2

Placements de non-résidents dans les fonds communs de placement canadiens

Définitions

218.3 (1) Les définitions qui suivent s'appliquent à la présente partie.

distribution déterminée En ce qui concerne un placement collectif en biens canadiens, la partie de toute somme que l'organisme de placement collectif émetteur du placement a payée à l'investisseur non résident détenteur du placement, ou portée à son crédit, (autrement qu'à titre de fait lié à la conversion d'une EIPD-fiducie) et qui n'est pas par ailleurs assujettie à l'impôt prévu aux parties I ou XIII. (*assessable distribution*)

investisseur non résident Personne non résidente ou société de personnes autre qu'une société de personnes canadienne. (*non-resident investor*)

perte collective en biens canadiens S'agissant de la perte collective en biens canadiens d'un investisseur non résident pour une année d'imposition — pour laquelle celui-ci a produit, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, une déclaration de revenu en vertu de la présente partie sur le formulaire prescrit — relativement à un placement collectif en biens canadiens, le moins élevé des montants suivants :

a) la perte de l'investisseur (étant entendu qu'elle est déterminée selon l'article 40) pour l'année résultant de la disposition du placement;

b) le total des distributions déterminées payées ou créditées au titre du placement après la dernière acquisition de celui-ci par l'investisseur et au plus tard

(b) the total of all assessable distributions that were paid or credited on the Canadian property mutual fund investment after the non-resident investor last acquired the investment and at or before the time of the disposition. (*perte collective en biens canadiens*)

non-resident investor means a non-resident person or a partnership other than a Canadian partnership. (*investisseur non résident*)

unused Canadian property mutual fund loss, of a non-resident investor for a taxation year, means the portion of the total of the non-resident investor's Canadian mutual fund property losses for preceding taxation years that has neither reduced under subsection (3) the amount of tax payable, nor increased under subsection (5) the amount of a refund of tax paid, under this Part for any preceding taxation year. (*perte collective en biens canadiens inutilisée*)

au moment de la disposition. (*Canadian property mutual fund loss*)

perte collective en biens canadiens inutilisée S'agissant de la perte collective en biens canadiens inutilisée d'un investisseur non résident pour une année d'imposition, la partie du total des pertes collectives en biens canadiens de l'investisseur pour les années d'imposition antérieures qui n'a ni réduit, par l'effet du paragraphe (3), le montant d'impôt à payer, ni augmenté, par l'effet du paragraphe (5), le montant d'un remboursement d'impôt payé, en vertu de la présente partie pour une année d'imposition antérieure. (*unused Canadian property mutual fund loss*)

placement collectif en biens canadiens Action du capital-actions d'une société de placement à capital variable, ou unité d'une fiducie de fonds commun de placement, à l'égard de laquelle les conditions suivantes sont réunies :

a) elle est inscrite à la cote d'une bourse de valeurs désignée;

b) plus de 50 % de sa juste valeur marchande est attribuable à un ou plusieurs biens dont chacun est un bien immeuble au Canada, un avoir minier canadien ou un avoir forestier. (*Canadian property mutual fund investment*)

Tax payable

(2) If at any time a person (referred to in this section as the "payer") pays or credits, to a non-resident investor who holds a Canadian property mutual fund investment, an amount as, on account of, in lieu of payment of or in satisfaction of, an assessable distribution,

(a) the non-resident investor is deemed for the purposes of this Act, other than section 150, to have disposed at that time, for proceeds equal to the amount of the assessable distribution, of a property

(i) that is a taxable Canadian property the adjusted cost base of which to the non-resident investor immediately before that time is nil, and

(ii) that is in all other respects identical to the Canadian property mutual fund investment;

(b) the non-resident investor is liable to pay an income tax of 15% on the amount of any gain (for greater certainty as determined under section 40) from the disposition; and

(c) the payer shall, notwithstanding any agreement or law to the contrary,

Impôt à payer

(2) Si une personne (appelée « payeur » au présent article) paie à un investisseur non résident détenteur d'un placement collectif en biens canadiens, ou porte à son crédit, à un moment donné une somme au titre ou en paiement intégral ou partiel d'une distribution déterminée, les règles suivantes s'appliquent :

a) l'investisseur est réputé pour l'application des dispositions de la présente loi, à l'exception de l'article 150, avoir disposé à ce moment, pour un produit égal au montant de la distribution déterminée, d'un bien qui, à la fois :

(i) est un bien canadien imposable dont le prix de base rajusté pour lui immédiatement avant ce moment est nul,

(ii) est identique à tous autres égards au placement collectif en biens canadiens;

b) l'investisseur est redevable d'un impôt sur le revenu de 15 %, calculé sur le montant de tout gain (étant entendu qu'il est déterminé selon l'article 40) provenant de la disposition;

(i) deduct or withhold 15% from the amount paid or credited,

(ii) immediately remit that amount to the Receiver General on behalf of the non-resident investor on account of the tax, and

(iii) submit with the remittance a statement in prescribed form.

c) le payeur doit, malgré toute convention ou règle de droit contraire, à la fois :

(i) déduire ou retenir de la somme payée ou créditée un montant représentant 15 % de cette somme,

(ii) aussitôt verser ce montant au receveur général, pour le compte de l'investisseur, au titre de l'impôt,

(iii) accompagner le versement d'un état établi sur le formulaire prescrit.

Use of losses

(3) If a non-resident investor files, on or before their filing-due date for a taxation year, a return of income under this Part in prescribed form for the taxation year, the non-resident investor is liable, instead of paying tax under paragraph (2)(b) in respect of any amount paid or credited in the taxation year, to pay an income tax of 15% for the taxation year on the amount, if any, by which

(a) the total of the non-resident investor's gains under subsection (2) for the taxation year

exceeds

(b) the total of the non-resident investor's Canadian property mutual fund losses for the year and the non-resident investor's unused Canadian property mutual fund loss for the taxation year.

Utilisation des pertes

(3) L'investisseur non résident qui produit, au plus tard à la date d'échéance de production qui lui est applicable pour une année d'imposition, une déclaration de revenu en vertu de la présente partie pour l'année sur le formulaire prescrit est redevable, au lieu de l'impôt prévu à l'alinéa (2)b) relatif à toute somme payée ou créditée au cours de l'année, d'un impôt sur le revenu de 15 % pour l'année, calculé sur l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le total des gains de l'investisseur selon le paragraphe (2) pour l'année;

b) le total des pertes collectives en biens canadiens de l'investisseur pour l'année et de sa perte collective en biens canadiens inutilisée pour l'année.

Deemed tax paid

(4) If a non-resident investor files, on or before their filing-due date for a taxation year, a return of income under this Part in prescribed form for the taxation year, any amount that is remitted to the Receiver General in respect of an assessable distribution paid or credited to the non-resident investor in the taxation year is deemed to have been paid on account of the non-resident investor's tax under subsection (3) for the taxation year.

Impôt réputé payé

(4) Si un investisseur non résident produit, au plus tard à la date d'échéance de production qui lui est applicable pour une année d'imposition, une déclaration de revenu en vertu de la présente partie pour l'année sur le formulaire prescrit, toute somme versée au receveur général au titre d'une distribution déterminée qui lui a été payée, ou qui a été portée à son crédit, au cours de l'année est réputée avoir été payée au titre de l'impôt dont il est redevable pour l'année en vertu du paragraphe (3).

Refund

(5) The amount, if any, by which the total of all amounts paid on account of a non-resident investor's tax under subsection (3) for a taxation year exceeds the non-resident investor's liability for tax under this Part for the taxation year shall be refunded to the non-resident investor.

Remboursement

(5) L'excédent éventuel du total des sommes payées au titre de l'impôt dont un investisseur non résident est redevable pour une année d'imposition en vertu du paragraphe (3) sur son impôt à payer en vertu de la présente partie pour l'année est remboursé à l'investisseur.

Excess loss — carryback

(6) If a non-resident investor files, on or before their filing-due date for a taxation year, a return of income under this Part in prescribed form for the taxation year, the Minister shall refund to the non-resident investor an amount equal to the lesser of

Excédent de perte — report rétrospectif

(6) Si un investisseur non résident produit, au plus tard à la date d'échéance de production qui lui est applicable pour une année d'imposition, une déclaration de revenu en vertu de la présente partie pour l'année sur le formulaire prescrit, le ministre lui rembourse une somme égale au moins élevé des montants suivants :

(a) the total amount of tax under this Part paid by the non-resident investor in each of the three preceding taxation years, to the extent that the Minister has not previously refunded that tax, and

(b) 15% of the amount, if any, by which

(i) the total of the non-resident investor's Canadian property mutual fund losses for the taxation year and the non-resident investor's unused Canadian property mutual fund loss for the taxation year

exceeds

(ii) the total of all assessable distributions paid or credited to the non-resident investor in the taxation year.

a) le total de l'impôt payé par l'investisseur en vertu de la présente partie au cours de chacune des trois années d'imposition antérieures, dans la mesure où cet impôt n'a pas été remboursé par le ministre;

b) 15 % de l'excédent éventuel du total visé au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) le total des pertes collectives en biens canadiens de l'investisseur pour l'année et de sa perte collective en biens canadiens inutilisée pour l'année,

(ii) le total des distributions déterminées qui ont été payées à l'investisseur, ou portées à son crédit, au cours de l'année.

Ordering

(7) In applying subsection (6), amounts of tax are to be considered to be refunded in the order in which they were paid.

Ordre de remboursement

(7) Pour l'application du paragraphe (6), les montants d'impôt sont considérés comme étant remboursés dans l'ordre où ils ont été payés.

Partnership filing-due date

(8) For the purposes of this Part, the taxation year of a partnership is its fiscal period and the filing-due date for the taxation year is to be determined as if the partnership were a corporation.

Date d'échéance de production — société de personnes

(8) Pour l'application de la présente partie, l'année d'imposition d'une société de personnes correspond à son exercice, et la date d'échéance de production qui lui est applicable pour l'année est déterminée comme si elle était une société.

Partnership — member resident in Canada

(9) If a non-resident investor is a partnership a member of which is resident in Canada, the portion of the tax paid by the partnership under this Part in respect of an assessable distribution paid or credited to the partnership in a particular taxation year of the partnership (or, if the partnership files a return of income for the particular taxation year in accordance with subsection (3), the portion of the tax paid by the partnership under that subsection for the taxation year) that can reasonably be considered to be the member's share is deemed

(a) to be an amount paid on account of that member's liability for tax under Part I for that member's taxation year in which the particular taxation year of the partnership ends; and

(b) except for the purposes of this subsection, to be neither a tax paid on account of the partnership's tax under this Part nor a tax paid by the partnership.

Société de personnes — associé résidant au Canada

(9) Si un investisseur non résident est une société de personnes dont l'un des associés réside au Canada, la partie de l'impôt payé par la société de personnes en vertu de la présente partie au titre d'une distribution déterminée qui lui a été payée, ou qui a été portée à son crédit, au cours d'une année d'imposition donnée qu'il est raisonnable de considérer comme étant la part de l'associé ou, si elle produit une déclaration de revenu pour cette année conformément au paragraphe (3), la partie de l'impôt qu'elle a payé en vertu de ce paragraphe pour l'année qu'il est raisonnable de considérer comme étant cette part, est réputée :

a) d'une part, être une somme payée au titre de l'impôt dont l'associé est redevable en vertu de la partie I pour son année d'imposition au cours de laquelle l'année donnée prend fin;

b) d'autre part, sauf pour l'application du présent paragraphe, n'être ni un impôt payé au titre de l'impôt de la société de personnes en vertu de la présente partie, ni un impôt payé par la société de personnes.

Provisions applicable

(10) Section 150.1, subsections 161(1), (7) and (11), sections 162 to 167, Division J of Part I, paragraph 214(3)(f), subsections 215(2), (3) and (6) and sections 227 and 227.1 apply to this Part with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2005, c. 19, s. 47; 2007, c. 35, s. 68; 2009, c. 2, s. 74.

Dispositions applicables

(10) L'article 150.1, les paragraphes 161(1), (7) et (11), les articles 162 à 167, la section J de la partie I, l'alinéa 214(3)f), les paragraphes 215(2), (3) et (6) et les articles 227 et 227.1 s'appliquent à la présente partie, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2005, ch. 19, art. 47; 2007, ch. 35, art. 68; 2009, ch. 2, art. 74.

PART XIV

Additional Tax on Non-resident Corporations

Additional tax

219 (1) Every corporation that is non-resident in a taxation year shall, on or before its balance-due day for the year, pay a tax under this Part for the year equal to 25% of the amount, if any, by which the total of

(a) the corporation's taxable income earned in Canada for the year (in this subsection referred to as the corporation's "base amount"),

(b) the amount deducted because of section 112 and paragraph 115(1)(e) in computing the corporation's base amount,

(c) [Repealed, 2003, c. 28, s. 17(1)]

(d) the amount, if any, by which the total of all amounts each of which is a taxable capital gain of the corporation for the year from a disposition of a taxable Canadian property exceeds the total of all amounts each of which is

(i) an allowable capital loss of the corporation for the year from a disposition of a taxable Canadian property, or

(ii) an amount deductible because of paragraphs 111(1)(b) and 115(1)(d) in computing the corporation's base amount,

(e) the total of all amounts each of which is an amount in respect of a grant or credit that

(i) can reasonably be considered to have been received by the corporation in the year as a reimbursement or repayment of, or as indemnification or compensation for, an amount deducted because of paragraph (j), as it read in its application to the

PARTIE XIV

Impôt supplémentaire des sociétés non-résidentes

Impôt supplémentaire

219 (1) Toute société qui ne réside pas au Canada au cours d'une année d'imposition est tenue de payer, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année, un impôt en vertu de la présente partie pour l'année égal à 25 % de l'excédent éventuel du total des montants suivants :

a) son revenu imposable gagné au Canada pour l'année (appelé « montant de base » au présent paragraphe),

b) le montant déduit par l'effet de l'article 112 et de l'alinéa 115(1)e) dans le calcul de son montant de base,

c) le montant déduit en application de l'alinéa 20(1)v.1) dans le calcul de son montant de base, à l'exception de la partie du montant ainsi déduit qui était déductible du fait que la société était l'associé d'une société de personnes,

d) l'excédent éventuel du total des montants représentant chacun son gain en capital imposable pour l'année tiré de la disposition d'un bien canadien imposable sur le total des montants représentant chacun :

(i) sa perte en capital déductible pour l'année provenant de la disposition d'un bien canadien imposable,

(ii) une somme déductible par l'effet des alinéas 111(1)b) et 115(1)d) dans le calcul de son montant de base,

e) le total des sommes représentant chacune une somme relative à une subvention ou à un crédit :

(i) d'une part, qu'il est raisonnable de considérer comme reçu par elle au cours de l'année à titre de remboursement, d'indemnisation ou de

1995 taxation year, in computing the amount determined under this subsection for a preceding taxation year that began before 1996, and

(ii) was not included in computing the corporation's base amount for any taxation year,

(f) where, at any time in the year, the corporation has made one or more dispositions described in paragraph 219(219)(l) of qualified property, the total of all amounts each of which is an amount in respect of one of those dispositions equal to the amount, if any, by which the fair market value of the qualified property at the time of the disposition exceeds the corporation's proceeds of disposition of the property, and

(g) the amount, if any, claimed for the immediately preceding taxation year under paragraph 219(1)(j) by the corporation,

exceeds the total of

(h) that proportion of the total of

(i) the total of the taxes payable under Parts I, I.3 and VI for the year by the corporation, determined without reference to subsection 219(1.1), and

(ii) the total of the income taxes payable to the government of a province for the year by the corporation, determined without reference to subsection 219(1.1),

that the corporation's base amount is of the amount that would, if this Act were read without reference to subsection 219(1.1), be the corporation's base amount,

(i) the total of all amounts each of which is the amount of interest or a penalty paid by the corporation in the year

(i) under this Act, or

(ii) on or in respect of an income tax payable by it to the government of a province under a law of the province relating to income tax,

to the extent that the interest or penalty was not deductible in computing its base amount for any taxation year,

(j) where the corporation was carrying on business in Canada at the end of the year, the amount claimed by the corporation for the year, not exceeding the amount prescribed to be its allowance for the year in respect of its investment in property in Canada, and

(k) [Repealed, 2003, c. 28, s. 17(3)]

compensation pour un montant déduit par l'effet de l'alinéa j), dans sa version applicable à l'année d'imposition 1995, dans le calcul de la somme déterminée selon le présent paragraphe pour une année d'imposition antérieure ayant commencé avant 1996,

(ii) d'autre part, qui n'a pas été inclus dans le calcul de son montant de base pour une année d'imposition,

f) dans le cas où elle effectue, au cours de l'année, une ou plusieurs des dispositions visées à l'alinéa l) de biens admissibles, le total des montants représentant chacun un montant relatif à l'une de ces dispositions égal à l'excédent éventuel de la juste valeur marchande du bien admissible au moment de la disposition sur le produit de disposition du bien pour elle,

g) le montant qu'elle a déduit en application de l'alinéa j) pour l'année d'imposition précédente,

sur le total des montants suivants :

h) le produit de la multiplication du total des impôts payables par elle en vertu des parties I, I.3 et VI pour l'année, déterminés compte non tenu du paragraphe (1.1), et des impôts sur le revenu payables par elle au gouvernement d'une province pour l'année, déterminés compte non tenu de ce paragraphe, par le rapport entre :

(i) d'une part, son montant de base,

(ii) d'autre part, le montant qui représenterait son montant de base compte non tenu du paragraphe (1.1),

i) le total des montants représentant chacun des intérêts ou une pénalité payés par elle au cours de l'année en vertu de la présente loi ou au titre d'un impôt sur le revenu payable par elle au gouvernement d'une province en application de la législation applicable concernant l'impôt sur le revenu, dans la mesure où les intérêts ou la pénalité n'étaient pas déductibles dans le calcul de son montant de base pour une année d'imposition,

j) dans le cas où elle exploitait une entreprise au Canada à la fin de l'année, le montant qu'elle déduit pour l'année, jusqu'à concurrence du montant, déterminé par règlement, qui constitue son allocation pour l'année à l'égard de ses investissements dans des biens situés au Canada,

k) [Abrogé, 2003, ch. 28, art. 17(3)]

(l) where the corporation has at any time in the year disposed of property (in this paragraph and paragraph 219(1)(f) referred to as "qualified property") used by it immediately before that time for the purpose of gaining or producing income from a business carried on by it in Canada to a Canadian corporation (in this paragraph referred to as the "purchaser corporation") that was, immediately after the disposition, a qualified related corporation of the corporation for consideration that includes a share of the capital stock of the purchaser corporation, the total of all amounts each of which is an amount in respect of a disposition in the year of a qualified property equal to the amount, if any, by which

(i) the fair market value of the qualified property at the time of the disposition

exceeds the total of

(ii) the amount, if any, by which the paid-up capital in respect of the issued and outstanding shares of the capital stock of the purchaser corporation increased because of the disposition, and

(iii) the fair market value, at the time of receipt, of the consideration (other than shares) given by the purchaser corporation for the qualified property.

l) lorsqu'elle a disposé, au cours de l'année, de biens (appelés « biens admissibles » au présent alinéa et à l'alinéa f)) qu'elle utilisait immédiatement avant la disposition en vue de tirer un revenu d'une entreprise qu'elle exploitait au Canada en faveur d'une société canadienne (appelée « acheteur » au présent alinéa) qui était, immédiatement après la disposition, sa société liée admissible, pour une contrepartie qui comprend une action du capital-actions de l'acheteur, le total des montants relatifs à la disposition de ces biens admissibles au cours de l'année et correspondant chacun à l'excédent éventuel :

(i) de la juste valeur marchande du bien admissible au moment de sa disposition,

sur le total des montants suivants :

(ii) le montant ajouté, par suite de la disposition, au capital versé au titre des actions émises et en circulation du capital-actions de l'acheteur,

(iii) la juste valeur marchande, au moment de sa réception, de la contrepartie, autre que des actions, donnée par l'acheteur pour le bien admissible.

Excluded gains

(1.1) For the purposes of subsection (1), the definition ***taxable Canadian property*** in subsection 248(1) shall be read without reference to paragraphs (a) and (c) to (e) of that definition and as if the only options, interests or rights referred to in paragraph (f) of that definition were those in respect of property described in paragraph (b) of that definition.

Gains exclus

(1.1) Pour l'application du paragraphe (1), la définition de ***bien canadien imposable*** au paragraphe 248(1) s'applique compte non tenu de ses alinéas a) et c) à e) et comme si les seuls options, intérêts ou droits visés à son alinéa f) étaient ceux se rapportant à des biens visés à son alinéa b).

Exempt corporations

(2) No tax is payable under this Part for a taxation year by a corporation that was, throughout the year,

(a) [Repealed, 2001, c. 17, s. 177(4)]

(b) a corporation whose principal business was

(i) the transportation of persons or goods,

(ii) communications, or

(iii) mining iron ore in Canada; or

(c) a corporation exempt from tax under section 149.

Sociétés exonérées

(2) Aucun impôt n'est payable, en vertu de la présente partie, au titre d'une année d'imposition, par une société qui était, tout au long de l'année :

a) [Abrogé, 2001, ch. 17, art. 177(4)]

b) une société dont l'entreprise principale était :

(i) le transport de personnes ou de marchandises,

(ii) les communications,

(iii) l'extraction de minerai de fer au Canada;

c) une société exonérée d'impôt en vertu de l'article 149.

Provisions applicable to Part

(3) Sections 150 to 152, 154, 158, 159 and 161 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.

Non-resident insurers

(4) No tax is payable under subsection 219(1) for a taxation year by a non-resident insurer, but where it elects, in prescribed manner and within the prescribed time, to deduct, in computing its Canadian investment fund as of the end of the immediately following taxation year, an amount not greater than the amount, if any, by which

(a) the amount, if any, by which the total of

(i) the insurer's surplus funds derived from operations as of the end of the year, and

(i.1) where, in any particular taxation year that began before the end of the year, the insurer transferred to a taxable Canadian corporation with which it did not deal at arm's length any designated insurance property of the insurer for the particular year, and

(A) the property was transferred before December 16, 1987 and subsection 138(11.5) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, applied in respect of the transfer, or

(B) the property was transferred before November 22, 1985 and subsection 85(1) of that Act applied in respect of the transfer,

the amount, if any, by which

(C) the total of the fair market value, at the time of the transfer, of all such property

exceeds

(D) the total of the insurer's proceeds of disposition of all such property,

exceeds the total of

(ii) each amount on which the insurer has paid tax under this Part for a previous taxation year,

(iii) the amount, if any, by which the insurer's accumulated 1968 deficit exceeds the amount of the insurer's maximum tax actuarial reserves for its 1968 taxation year for its life insurance policies in Canada,

Dispositions applicables

(3) Les articles 150 à 152, 154, 158, 159 et 161 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Assureurs non-résidents

(4) Un assureur non-résident n'est tenu de payer aucun impôt en vertu du paragraphe (1) pour une année d'imposition, mais s'il choisit, selon les modalités et dans le délai réglementaires, de déduire, dans le calcul du montant de son fonds de placement canadien à la fin de l'année d'imposition suivante, une somme ne dépassant pas l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) l'excédent éventuel du total des montants suivants :

(i) son fonds excédentaire résultant de l'activité à la fin de l'année,

(i.1) si, au cours d'une année d'imposition ayant commencé avant la fin de l'année, l'assureur a transféré l'un de ses biens d'assurance désignés pour l'année à une société canadienne imposable avec laquelle il avait un lien de dépendance et si, selon le cas :

(A) les biens ont été transférés avant le 16 décembre 1987 et le paragraphe 138(11.5) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, s'appliquait au transfert,

(B) les biens ont été transférés avant le 22 novembre 1985 et le paragraphe 85(1) de la même loi s'appliquait au transfert,

l'excédent éventuel du montant visé à la division (C) sur le montant visé à la division (D):

(C) la juste valeur marchande, au moment du transfert, des biens transférés,

(D) le produit de disposition des biens transférés pour l'assureur,

sur le total des montants suivants :

(ii) chaque somme sur laquelle l'assureur a payé de l'impôt en vertu de la présente partie pour une année d'imposition antérieure,

(iii) l'excédent éventuel du déficit accumulé pour 1968 de l'assureur sur le montant de la provision actuarielle maximale aux fins d'impôt de l'assureur

(iv) the insurer's loss, if any, for each of its 5 consecutive taxation years ending with its 1968 taxation year, from all insurance businesses (other than its life insurance business) carried on by it in Canada (computed without reference to section 30 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to those years), except to the extent that any such loss was deductible in computing its taxable income for any of its taxation years ending before 1969, and

(v) the total of all amounts in respect of which the insurer has filed an election under subsection 219(5.2) for a previous taxation year in accordance with that subsection,

exceeds

(b) the amount of the insurer's attributed surplus for the year,

the insurer shall, on or before the day on or before which it is required to file a return under Part I for the year, pay a tax for the year equal to 25% of the amount, if any, by which the amount it has so elected to deduct exceeds the amount in respect of which it filed an election under subsection 219(5.2) for the year in accordance with that subsection.

pour son année d'imposition 1968 à l'égard de ses polices d'assurance-vie au Canada,

(iv) les pertes de l'assureur pour chacune de ses 5 années d'imposition consécutives se terminant par son année d'imposition 1968, résultant de ses entreprises d'assurance (à l'exclusion de ses entreprises d'assurance-vie) qu'il a exploitées au Canada (calculées compte non tenu de l'article 30 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à ces années), sauf dans la mesure où ces pertes étaient déductibles dans le calcul de son revenu imposable pour une année d'imposition se terminant avant 1969,

(v) le total des montants relativement auxquels l'assureur a présenté un choix en vertu du paragraphe (5.2) pour une année d'imposition antérieure conformément à ce paragraphe;

b) le montant de son surplus attribué pour l'année,

l'assureur doit, au plus tard le jour où il était tenu, en vertu de la partie I, de produire une déclaration pour l'année, payer pour l'année un impôt égal à 25 % de l'excédent éventuel de la somme qu'il a ainsi choisi de déduire sur le montant relativement auquel il a présenté un choix en vertu du paragraphe (5.2) pour l'année conformément à ce paragraphe.

Additional tax on insurer

(5.1) Where a non-resident insurer ceases in a taxation year to carry on all or substantially all of an insurance business in Canada, it shall, on or before its filing-due date for the year, pay a tax for the year equal to 25% of the amount, if any, by which

(a) that portion of the amount determined under paragraph 219(4)(a) for the year in respect of the insurer that can reasonably be attributed to the business, including the disposition by it of property that was its designated insurance property in respect of the business for the year in which the disposition occurred,

exceeds

(b) the amount the insurer and a qualified related corporation of the insurer jointly elect in accordance with subsection 219(5.2) for the year in respect of the business.

Impôt supplémentaire de l'assureur

(5.1) L'assureur non-résident qui, au cours d'une année d'imposition, cesse d'exploiter la totalité, ou presque, d'une entreprise d'assurance au Canada est redevable, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, d'un impôt pour l'année égal à 25 % de l'excédent éventuel du montant visé à l'alinéa a) sur le montant visé à l'alinéa b):

a) la partie du montant calculé à son égard pour l'année selon l'alinéa (4)a) qu'il est raisonnable d'attribuer à l'entreprise, y compris à la disposition par lui d'un bien qui était son bien d'assurance désigné relativement à l'entreprise pour l'année de la disposition;

b) le montant au titre duquel l'assureur et sa société liée admissible ont fait le choix prévu au paragraphe (5.2) pour l'année relativement à l'entreprise.

Election by non-resident insurer

(5.2) Where

Choix de l'assureur non-résident

(5.2) Si, à la fois :

(a) a non-resident insurer has ceased to carry on all or substantially all of an insurance business in Canada in a taxation year, and

(b) the insurer has transferred the business to a qualified related corporation of the insurer and the insurer and the corporation have elected to have subsection 138(11.5) apply in respect of the transfer,

the insurer and the corporation may elect, in prescribed manner and within prescribed time, to reduce the amount in respect of which the insurer would otherwise be liable to pay tax under subsection 219(5.1) by an amount not exceeding the lesser of

(c) the amount determined under paragraph 219(5.1)(a) in respect of the insurer in respect of the business, and

(d) the total of the paid-up capital of the shares of the capital stock of the corporation received by the insurer as consideration for the transfer of the business and any contributed surplus arising on the issue of those shares.

a) un assureur non-résident cesse d'exploiter la totalité, ou presque, d'une entreprise d'assurance au Canada au cours d'une année d'imposition;

b) l'assureur transfère l'entreprise à une société liée admissible de celui-ci et fait un choix avec cette société pour que le paragraphe 138(11.5) s'applique au transfert,

l'assureur et la société peuvent, selon les modalités et dans le délai réglementaires, choisir de réduire le montant sur lequel l'assureur serait par ailleurs redevable d'impôt en application du paragraphe (5.1) d'un montant ne dépassant pas le moins élevé des montants suivants :

c) le montant calculé à l'alinéa (5.1)a) à l'égard de l'assureur;

d) le total du capital versé au titre des actions du capital-actions de la société que l'assureur a reçues en contrepartie du transfert de l'entreprise et du surplus d'apport découlant de l'émission de ces actions.

Deemed payment of dividend

(5.3) Where, at any time in a taxation year,

(a) a qualified related corporation of a non-resident insurer ceases to be a qualified related corporation of that insurer, or

(b) the tax deferred account of a qualified related corporation of a non-resident insurer exceeds the total of the paid-up capital in respect of all the shares of the capital stock of the corporation and its contributed surplus,

the corporation shall be deemed to have paid, immediately before that time, a dividend to the insurer in an amount equal to

(c) where paragraph 219(5.3)(a) is applicable, the balance of the tax deferred account of the corporation at that time, or

(d) where paragraph 219(5.3)(b) is applicable, the amount of the excess referred to in that paragraph at that time.

Dividende réputé

(5.3) La société qui cesse d'être une société liée admissible d'un assureur non-résident à un moment donné d'une année d'imposition ou dont le compte d'impôt différé excède, à ce moment, le total du capital versé au titre de toutes les actions de son capital-actions et de son surplus d'apport est réputée avoir versé à l'assureur, immédiatement avant ce moment, un dividende égal :

a) au solde de son compte d'impôt différé à ce moment, dans le cas où elle cesse d'être une société liée admissible;

b) à l'excédent à ce moment, dans le cas où le compte d'impôt différé excède le total du capital versé au titre de toutes les actions de son capital-actions et de son surplus d'apport.

Definitions

(7) In this Part,

accumulated 1968 deficit of a life insurer means such amount as can be established by the insurer to be its deficit as of the end of its 1968 taxation year from carrying on its life insurance business in Canada on the

Définitions

(7) Les définitions qui suivent s'appliquent à la présente partie.

assumption that the amounts of its assets and liabilities (including reserves of any kind)

(a) as of the end of any taxation year before its 1968 taxation year, were the amounts thereof determined for the purposes of the Superintendent of Insurance for Canada or other similar officer, and

(b) as of the end of its 1968 taxation year, were

(i) in respect of depreciable property, the capital cost thereof as of the first day of its 1969 taxation year,

(ii) in respect of policy reserves, the insurer's maximum tax actuarial reserves for its 1968 taxation year for life insurance policies issued by it in the course of carrying on its life insurance business in Canada, and

(iii) in respect of other assets and liabilities, the amounts thereof determined as of the end of that year for the purpose of computing its income for its 1969 taxation year; (*déficit accumulé pour 1968*)

attributed surplus of an insurer for a taxation year has the meaning assigned by regulation; (*surplus attribué*)

Canadian investment fund has the meaning prescribed for that expression; (*fonds de placement canadien*)

maximum tax actuarial reserves has the meaning assigned by subsection 138(12); (*provision actuarielle maximale aux fins d'impôt*)

surplus funds derived from operations has the meaning assigned by subsection 138(12); (*fonds excédentaire résultant de l'activité*)

tax deferred account of a qualified related corporation at any time means the amount determined by the formula

A - B

where

A is the total of all amounts each of which is an amount in respect of which the qualified related corporation and a non-resident insurer have elected jointly before that time in accordance with subsection 219(5.2), and

B is the total of all amounts each of which is the amount of a dividend deemed by subsection 219(5.3) to have been paid by the qualified related corporation before that time. (*compte d'impôt différé*)

compte d'impôt différé Le compte d'impôt différé, à un moment donné, d'une société liée admissible correspond au montant calculé selon la formule suivante :

A - B

où :

A représente le total des montants dont chacun est un montant à l'égard duquel la société liée admissible et un assureur non-résident ont fait un choix conjoint avant ce moment conformément au paragraphe (5.2);

B le total des montants dont chacun est le montant d'un dividende réputé, en vertu du paragraphe (5.3), avoir été payé par la société liée admissible avant ce moment. (*tax deferred account*)

déficit accumulé pour 1968 Quant à un assureur sur la vie, la somme qui, d'après l'assureur, représente son déficit à la fin de son année d'imposition 1968 résultant de l'exploitation de son entreprise d'assurance-vie au Canada, à supposer que les montants de son actif et de son passif (y compris les provisions de toute espèce):

a) à la fin d'une année d'imposition antérieure à son année d'imposition 1968, correspondaient à ceux qui avaient été déterminés pour les besoins du surintendant des assurances ou d'un agent semblable;

b) à la fin de son année d'imposition 1968, correspondaient aux montants suivants :

(i) en ce qui concerne les biens amortissables, leur coût en capital le premier jour de l'année d'imposition 1969 de l'assureur,

(ii) en ce qui concerne les provisions techniques, les provisions actuarielles maximales de l'assureur aux fins d'impôt pour son année d'imposition 1968 relatives aux polices d'assurance-vie qu'il a établies dans le cadre de l'exploitation de son entreprise d'assurance-vie au Canada,

(iii) en ce qui concerne les autres éléments d'actif et de passif, leur montant déterminé à la fin de cette année pour le calcul du revenu de l'assureur pour son année d'imposition 1969. (*accumulated 1968 deficit*)

fonds de placement canadien S'entend au sens du règlement. (*Canadian investment fund*)

fonds excédentaire résultant de l'activité S'entend au sens du paragraphe 138(12). (*surplus funds derived from operations*)

provision actuarielle maximale aux fins d'impôt S'entend au sens du paragraphe 138(12). (*maximum tax actuarial reserves*)

surplus attribué Quant à un assureur pour une année d'imposition, s'entend au sens du règlement. (*attributed surplus*)

Meaning of *qualified related corporation*

(8) For the purposes of this Part, a corporation is a ***qualified related corporation*** of a particular corporation if it is resident in Canada and all of the issued and outstanding shares (other than directors' qualifying shares) of its capital stock (having full voting rights under all circumstances) are owned by

(a) the particular corporation,

(b) a subsidiary wholly-owned corporation of the particular corporation,

(c) a corporation of which the particular corporation is a subsidiary wholly-owned corporation,

(d) a subsidiary wholly-owned corporation of a corporation of which the particular corporation is also a subsidiary wholly-owned corporation, or

(e) any combination of corporations each of which is a corporation described in paragraph 219(8)(a), 219(8)(b), 219(8)(c) or 219(8)(d),

and, for the purpose of this subsection, a subsidiary wholly-owned corporation of a particular corporation includes any subsidiary wholly-owned corporation of a corporation that is a subsidiary wholly-owned corporation of the particular corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 219; 1994, c. 7, Sch. II, s. 180, Sch. VIII, s. 126; 1997, c. 25, s. 65; 1998, c. 19, s.219; 2001, c. 17, s. 177; 2003, c. 15, s. 128, c. 28, s. 17; 2013, c. 34, s. 159, c. 40, s. 84.

Société liée admissible

(8) Pour l'application de la présente partie, est une société liée admissible d'une société donnée la société qui réside au Canada et dont toutes les actions émises et en circulation du capital-actions avec plein droit de vote en toutes circonstances — à l'exception des actions conférant l'admissibilité aux postes d'administrateurs — appartiennent :

a) soit à la société donnée;

b) soit à une filiale à cent pour cent de la société donnée;

c) soit à une société dont la société donnée est une filiale à cent pour cent;

d) soit à une filiale à cent pour cent d'une société dont la société donnée est aussi une filiale à cent pour cent;

e) soit à une combinaison des sociétés visées aux alinéas a), b), c) ou d).

Pour l'application du présent paragraphe, est assimilée à une filiale à cent pour cent d'une société donnée la filiale à cent pour cent d'une société qui est elle-même une filiale à cent pour cent de la société donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 219; 1994, ch. 7, ann. II, art. 180, ann. VIII, art. 126; 1997, ch. 25, art. 65; 1998, ch. 19, art. 219; 2001, ch. 17, art. 177; 2003, ch. 15, art. 128, ch. 28, art. 17; 2013, ch. 34, art. 159, ch. 40, art. 84.

Corporate emigration

219.1 (1) If a taxation year of a corporation (in this subsection and subsection (2) referred to as the "emigrating corporation") is deemed by paragraph 128.1(4)(a) to have ended at any time, the emigrating corporation shall, on or before its filing-due date for the year, pay a tax under this Part for the year equal to the amount determined by the formula

25% × (A – B)

where

A is the fair market value of all the property owned by the emigrating corporation immediately before that time; and

Société quittant le Canada

219.1 (1) La société (appelée « société émigrante » au présent paragraphe et au paragraphe (2)) dont l'année d'imposition est réputée, en vertu de l'alinéa 128.1(4)a), avoir pris fin à un moment donné est tenue de payer, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, un impôt en vertu de la présente partie pour l'année égal à la somme obtenue par la formule suivante :

25 % × (A – B)

où :

A représente la juste valeur marchande des biens appartenant à la société émigrante immédiatement avant le moment donné;

B is the total of

(a) the paid-up capital in respect of all the shares of the capital stock of the emigrating corporation immediately before that time,

(b) all amounts (other than amounts payable by the emigrating corporation in respect of dividends and amounts payable under this section) each of which is a debt owing by the emigrating corporation, or an obligation of the emigrating corporation to pay an amount, that is outstanding at that time, and

(c) if a tax was payable by the emigrating corporation under subsection 219(1) or this section for a preceding taxation year that began before 1996 and after the emigrating corporation last became resident in Canada, four times the total of all amounts that would, but for sections 219.2 and 219.3 and any tax treaty, have been so payable.

B le total des sommes suivantes :

a) le capital versé au titre de l'ensemble des actions du capital-actions de la société émigrante immédiatement avant le moment donné,

b) les sommes, sauf celles à payer par la société émigrante à titre de dividendes et les sommes à payer aux termes du présent article, représentant chacune une dette dont la société émigrante est débitrice et qui est impayée au moment donné ou toute autre somme qu'elle est tenue de payer et qui est alors impayée,

c) dans le cas où un impôt est payable par la société émigrante en vertu du paragraphe 219(1) ou du présent article pour une année d'imposition antérieure qui a commencé avant 1996 et après qu'elle a commencé à résider au Canada la dernière fois, quatre fois le total des sommes qui auraient été ainsi payables en l'absence des articles 219.2 et 219.3 et de tout traité fiscal.

Foreign affiliate dumping — emigrating corporation

(2) The paid-up capital referred to in paragraph (a) of the description of B in subsection (1) is deemed to be nil if

(a) one or more shares of the emigrating corporation are, at the time the emigrating corporation ceases to be resident in Canada, owned by another corporation resident in Canada;

(b) the other corporation is controlled, at that time, by a non-resident corporation; and

(c) the emigrating corporation is, immediately after that time — or becomes, as part of a transaction or event or series of transactions or events that includes the emigrating corporation ceasing to be resident in Canada — a foreign affiliate of the other corporation.

Opérations de transfert de sociétés étrangères affiliées – société quittant le Canada

(2) Le capital versé visé à l'alinéa a) de l'élément B de la formule figurant au paragraphe (1) est réputé être nul si les conditions ci-après sont réunies :

a) une ou plusieurs actions de la société émigrante appartiennent, au moment où celle-ci cesse de résider au Canada, à une autre société résidant au Canada;

b) l'autre société est contrôlée, à ce moment, par une société non-résidente;

c) la société émigrante est, immédiatement après ce moment — ou devient dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend le moment où elle cesse de résider au Canada —, une société étrangère affiliée de l'autre société.

Application of subsection (4)

(3) Subsection (4) applies if

(a) a corporation ceases to be resident in Canada at any time (referred to in subsection (4) as the "emigration time");

(b) an amount is required by paragraph 212.3(2)(b) or subsection 212.3(7) to be deducted in computing the paid-up capital in respect of a class of shares of the capital stock of the corporation because of an investment in a subject corporation made by a CRIC that is described in any of paragraphs 212.3(10)(a) to (f);

Application du paragraphe (4)

(3) Le paragraphe (4) s'applique si les conditions ci-après sont réunies :

a) une société cesse de résider au Canada à un moment donné (appelé « moment de l'émigration » au paragraphe (4));

b) une somme est à déduire en application de l'alinéa 212.3(2)b) ou du paragraphe 212.3(7) dans le calcul du capital versé au titre d'une catégorie d'actions du capital-actions de la société en raison d'un placement visé à un des alinéas 212.3(10)a) à f) qu'une société résidente fait dans une société déterminée;

(c) subsection 212.3(9) has not applied in respect of any reduction of the paid-up capital in respect of a class of shares of the capital stock of the corporation or a specified predecessor corporation (as defined in subsection 95(1)) of the corporation; and

(d) subsection (2) does not apply in respect of the cessation of residence.

c) le paragraphe 212.3(9) ne s'applique pas relativement à une réduction du capital versé au titre d'une catégorie d'actions du capital-actions de la société ou d'une de ses sociétés remplacées déterminées, au sens du paragraphe 95(1);

d) le paragraphe (2) ne s'applique pas relativement à la cessation de résidence.

Paid-up capital reinstatement

(4) If this subsection applies, the paid-up capital referred to in paragraph (a) of the description of B in subsection (1) is to be increased, immediately before the time that is immediately before the emigration time, by the lesser of

(a) the total of all amounts each of which is an amount by which the paid-up capital of a class of shares of the capital stock of the corporation was required by paragraph 212.3(2)(b) or subsection 212.3(7) to be reduced in respect of an investment in a subject corporation made by the CRIC that is described in any of paragraphs 212.3(10)(a) to (f); and

(b) the total of all amounts each of which is

(i) the fair market value of a share of the capital stock of a subject corporation that is owned by the corporation immediately before the emigration time,

(ii) the portion of the fair market value of a particular share of the capital stock of a foreign affiliate of the corporation owned by the corporation immediately before the emigration time that may reasonably be considered to relate to a share of the capital stock of a subject corporation that was previously owned by the corporation and for which the particular share was substituted, or

(iii) the fair market value of a debt obligation, other than a pertinent loan or indebtedness (as defined in subsection 212.3(11)), of a subject corporation that is owned by the corporation immediately before the emigration time.

Rétablissement du capital versé

(4) En cas d'application du présent paragraphe, la moins élevée des sommes ci-après est à ajouter, immédiatement avant le moment qui est immédiatement avant le moment de l'émigration, au capital versé visé à l'alinéa a) de l'élément B de la formule figurant au paragraphe (1) :

a) le total des sommes représentant chacune une somme qui, par l'effet de l'alinéa 212.3(2)b) ou du paragraphe 212.3(7), devait être appliquée en réduction du capital versé au titre d'une catégorie d'actions du capital-actions de la société relativement à un placement, visé à un des alinéas 212.3(10)a) à f), qu'une société résidente fait dans une société déterminée;

b) le total des sommes représentant chacune :

(i) la juste valeur marchande d'une action du capital-actions d'une société déterminée qui appartient à la société immédiatement avant le moment de l'émigration,

(ii) la partie de la juste valeur marchande d'une action donnée du capital-actions d'une société étrangère affiliée de la société, appartenant à celle-ci immédiatement avant le moment de l'émigration, qu'il est raisonnable de considérer comme se rapportant à une action du capital-actions d'une société déterminée qui appartenait auparavant à la société et à laquelle l'action donnée a été substituée,

(iii) la juste valeur marchande d'une créance, autre qu'un prêt ou dette déterminé au sens du paragraphe 212.3(11), d'une société déterminée qui appartient à la société immédiatement avant le moment de l'émigration.

Assigned meanings from section 212.3

(5) For the purposes of subsections (3) and (4), ***CRIC*** and ***subject corporation*** have the meaning assigned to those terms by subsection 212.3(1) and ***investment*** has the same meaning as in subsection 212.3(10).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 219.1; 1994, c. 21, s. 99; 1998, c. 19, s. 220; 2012, c. 31, s. 51; 2014, c. 39, s. 66.

Terminologie

(5) Pour l'application des paragraphes (3) et (4), ***société déterminée*** et ***société résidente*** s'entendent au sens du paragraphe 212.3(1) et ***placement*** s'entend au sens du paragraphe 212.3(10).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 219.1; 1994, ch. 21, art. 99; 1998, ch. 19, art. 220; 2012, ch. 31, art. 51; 2014, ch. 39, art. 66.

Limitation on rate of branch tax

219.2 Notwithstanding any other provision of this Act, where an agreement or convention between the Government of Canada and the government of another country that has the force of law in Canada

(a) does not limit the rate of tax under this Part on corporations resident in that other country, and

(b) provides that, where a dividend is paid by a corporation resident in Canada to a corporation resident in that other country that owns all of the shares of the capital stock of the corporation resident in Canada, the rate of tax imposed on the dividend shall not exceed a specified rate,

any reference in section 219 to a rate of tax shall, in respect of a taxation year of a corporation to which that agreement or convention applies on the last day of that year, be read as a reference to the specified rate.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 219.2; 1994, c. 21, s. 100.

Restriction au taux de l'impôt de succursale

219.2 Malgré les autres dispositions de la présente loi, lorsqu'un accord ou une convention conclu entre le gouvernement du Canada et le gouvernement d'un autre pays et ayant force de loi au Canada :

a) d'une part, ne limite pas le taux d'imposition en vertu de la présente partie des sociétés résidant dans l'autre pays;

b) d'autre part, limite à un taux déterminé le taux d'imposition d'un dividende qu'une société résidant au Canada verse à une société résidant dans l'autre pays qui possède l'ensemble des actions du capital-actions de la société résidant au Canada,

le taux déterminé remplace tout taux d'imposition mentionné à l'article 219 pour une année d'imposition d'une société à laquelle l'accord ou la convention s'applique le dernier jour de cette année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 219.2; 1994, ch. 21, art. 100.

Effect of tax treaty

219.3 For the purpose of section 219.1, where an agreement or convention between the Government of Canada and the government of another country that has the force of law in Canada provides that the rate of tax imposed on a dividend paid by a corporation resident in Canada to a corporation resident in the other country that owns all of the shares of the capital stock of the corporation resident in Canada shall not exceed a specified rate, the reference in section 219.1 to "25%" shall, in respect of a corporation that ceased to be resident in Canada and to which the agreement or convention applies at the beginning of its first taxation year after its taxation year that is deemed by paragraph 128.1(4)(a) to have ended, be read as a reference to the specified rate unless it can reasonably be concluded that one of the main reasons that the corporation became resident in the other country was to reduce the amount of tax payable under this Part or Part XIII.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 21, s. 100; 1998, c. 19, s. 220.1.

Effet

219.3 Pour l'application de l'article 219.1, lorsqu'un accord ou une convention conclu entre le gouvernement du Canada et le gouvernement d'un autre pays et ayant force de loi au Canada limite à un taux déterminé le taux d'imposition d'un dividende qu'une société résidant au Canada verse à une société résidant dans l'autre pays qui possède l'ensemble des actions du capital-actions de la société résidant au Canada, la mention de 25 % à l'article 219.1 vaut mention du taux déterminé pour ce qui est d'une société qui a cessé de résider au Canada et à laquelle l'accord ou la convention s'applique au début de sa première année d'imposition suivant son année d'imposition qui est réputée par l'alinéa 128.1(4)a) avoir pris fin, sauf s'il est raisonnable de conclure que l'un des principaux motifs pour lesquels la société a commencé à résider dans l'autre pays était de réduire l'impôt payable en vertu de la présente partie ou de la partie XIII.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 21, art. 100; 1998, ch. 19, art. 220.1

PART XV

Administration and Enforcement

Administration

Minister's duty

220 (1) The Minister shall administer and enforce this Act and the Commissioner of Revenue may exercise all the powers and perform the duties of the Minister under this Act.

Officers, clerks and employees

(2) Such officers, clerks and employees as are necessary to administer and enforce this Act shall be appointed or employed in the manner authorized by law.

Delegation

(2.01) The Minister may authorize an officer or a class of officers to exercise powers or perform duties of the Minister under this Act.

Waiver of filing of documents

(2.1) Where any provision of this Act or a regulation requires a person to file a prescribed form, receipt or other document, or to provide prescribed information, the Minister may waive the requirement, but the person shall provide the document or information at the Minister's request.

Exception

(2.2) Subsection (2.1) does not apply in respect of a prescribed form, receipt or document, or prescribed information, that is filed with the Minister on or after the day specified, in respect of the form, receipt, document or information, in subsection 37(11) or paragraph (m) of the definition *investment tax credit* in subsection 127(9).

Extensions for returns

(3) The Minister may at any time extend the time for making a return under this Act.

Waiver of penalty or interest

(3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day, waive or cancel all or any portion of any penalty or interest otherwise payable

PARTIE XV

Application et exécution

Application

Fonctions du ministre

220 (1) Le ministre assure l'application et l'exécution de la présente loi. Le commissaire du revenu peut exercer les pouvoirs et fonctions conférés au ministre en vertu de la présente loi.

Fonctionnaires, commis et préposés

(2) Sont nommés ou employés de la manière autorisée par la loi les fonctionnaires, commis et préposés nécessaires à l'application et à l'exécution de la présente loi.

Délégation

(2.01) Le ministre peut autoriser un fonctionnaire ou une catégorie de fonctionnaires à exercer les pouvoirs et fonctions qui lui sont conférés en vertu de la présente loi.

Renonciation

(2.1) Le ministre peut renoncer à exiger qu'une personne produise un formulaire prescrit, un reçu ou autre document ou fournisse des renseignements prescrits, aux termes d'une disposition de la présente loi ou de son règlement d'application. La personne est néanmoins tenue de fournir le document ou les renseignements à la demande du ministre.

Exception

(2.2) Le paragraphe (2.1) ne s'applique pas au formulaire prescrit, au reçu ou au document, ni aux renseignements prescrits, qui sont présentés au ministre à l'expiration du délai fixé au paragraphe 37(11) ou à l'alinéa m) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9), ou par la suite, relativement aux formulaire, reçu, document ou renseignements.

Prorogations de délais pour les déclarations

(3) Le ministre peut en tout temps proroger le délai fixé pour faire une déclaration en vertu de la présente loi.

Renonciation aux pénalités et aux intérêts

(3.1) Le ministre peut, au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition d'un contribuable ou de l'exercice d'une société de personnes ou sur demande du contribuable ou de la société de personnes faite au plus tard ce jour-là, renoncer à tout ou partie d'un montant de pénalité ou d'intérêts payable par

under this Act by the taxpayer or partnership in respect of that taxation year or fiscal period, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest.

Late, amended or revoked elections

(3.2) The Minister may extend the time for making an election or grant permission to amend or revoke an election if

(a) the election was otherwise required to be made by a taxpayer or by a partnership, under a prescribed provision, on or before a day in a taxation year of the taxpayer (or in the case of a partnership, a fiscal period of the partnership); and

(b) the taxpayer or the partnership applies, on or before the day that is ten calendar years after the end of the taxation year or the fiscal period, to the Minister for that extension or permission.

Joint election — pension income split

(3.201) On application by a taxpayer, the Minister may extend the time for making an election, or grant permission to amend or revoke an election, under section 60.03 if

(a) the application is made on or before the day that is three calendar years after the taxpayer's filing-due date for the taxation year to which the election applies; and

(b) the taxpayer is resident in Canada

(i) if the taxpayer is deceased at the time of the application, at the time that is immediately before the taxpayer's death, or

(ii) in any other case, at the time of the application.

Designations and allocations

(3.21) For the purpose of subsection (3.2),

(a) a designation in any form prescribed for the purpose of paragraph 80(2)(i) or any of subsections 80(5) to (11) or 80.03(7) is deemed to be an election under a prescribed provision of this Act; and

ailleurs par le contribuable ou la société de personnes en application de la présente loi pour cette année d'imposition ou cet exercice, ou l'annuler en tout ou en partie. Malgré les paragraphes 152(4) à (5), le ministre établit les cotisations voulues concernant les intérêts et pénalités payables par le contribuable ou la société de personnes pour tenir compte de pareille annulation.

Choix modifié, annulé ou produit en retard

(3.2) Le ministre peut, en ce qui concerne un choix prévu par une disposition visée par règlement, proroger le délai pour faire le choix ou permettre la modification ou l'annulation du choix si les conditions suivantes sont réunies :

a) le choix devait être fait par ailleurs par un contribuable ou une société de personnes au plus tard un jour donné d'une de ses années d'imposition ou d'un de ses exercices, selon le cas;

b) le contribuable ou la société de personnes demande au ministre, au plus tard le jour qui suit de dix années civiles la fin de l'année d'imposition ou de l'exercice, de proroger le choix ou d'en permettre la modification ou la révocation.

Choix conjoint — fractionnement du revenu de pension

(3.201) Sur demande d'un contribuable, le ministre peut proroger le délai pour faire le choix prévu à l'article 60.03, ou permettre que ce choix soit modifié ou annulé, si les conditions suivantes sont réunies :

a) la demande est présentée au plus tard le jour qui suit de trois années civiles la date d'échéance de production qui est applicable au contribuable pour l'année d'imposition visée par le choix;

b) le contribuable réside au Canada à celui des moments suivants qui est applicable :

(i) s'il est décédé au moment de la demande, le moment immédiatement avant son décès,

(ii) sinon, le moment de la demande.

Montants indiqués ou attribués

(3.21) Les présomptions suivantes s'appliquent dans le cadre du paragraphe (3.2):

a) une indication de montant dans un formulaire prescrit pour l'application de l'alinéa 80(2)i) ou de l'un des paragraphes 80(5) à (11) ou 80.03(7) est réputée constituer un choix fait en vertu d'une disposition de la présente loi, visée par règlement;

(b) a designation or allocation under subsection 132.11(6) is deemed to be an election under a prescribed provision of this Act.

b) une attribution effectuée en application du paragraphe 132.11(6) est réputée constituer un choix fait en vertu d'une disposition de la présente loi, visée par règlement.

Date of late election, amended election or revocation

(3.3) Where, under subsection 220(3.2), the Minister has extended the time for making an election or granted permission to amend or revoke an election,

(a) the election or the amended election, as the case may be, shall be deemed to have been made on the day on or before which the election was otherwise required to be made and in the manner in which the election was otherwise required to be made, and, in the case of an amendment to an election, that election shall be deemed, otherwise than for the purposes of this section, never to have been made; and

(b) the election that was revoked shall be deemed, otherwise than for the purposes of this section, never to have been made.

Date présumée d'un choix modifié, annulé ou produit en retard

(3.3) Lorsque le ministre proroge le délai pour faire un choix ou permet qu'un choix soit modifié ou annulé, les présomptions suivantes s'appliquent :

a) le choix ou le choix modifié, selon le cas, est réputé avoir été fait le jour où il devait l'être au plus tard et de la manière prévue; en outre, le choix qui a été modifié est réputé, sauf pour l'application du présent article, ne jamais avoir été fait;

b) le choix qui a été annulé est réputé, sauf pour l'application du présent article, ne jamais avoir été fait.

Assessments

(3.4) Notwithstanding subsections 152(4), 152(4.01), 152(4.1) and 152(5), such assessment of the tax, interest and penalties payable by each taxpayer in respect of any taxation year that began before the day an application is made under subsection 220(3.2) to the Minister shall be made as is necessary to take into account the election, the amended election or the revocation, as the case may be, referred to in subsection 220(3.3).

Cotisations

(3.4) Malgré les paragraphes 152(4), (4.01), (4.1) et (5), le ministre établit les cotisations voulues concernant l'impôt, les intérêts et les pénalités payables par un contribuable pour toute année d'imposition qui a commencé avant le jour où une demande visée au paragraphe (3.2) est faite, pour tenir compte du choix, du choix modifié ou de l'annulation visé au paragraphe (3.3).

Penalty for late filed, amended or revoked elections

(3.5) Where, on application by a taxpayer or a partnership, the Minister extends the time for making an election or grants permission to amend or revoke an election (other than an extension or permission under subsection (3.201)), the taxpayer or the partnership, as the case may be, is liable to a penalty equal to the lesser of

(a) $8,000, and

(b) the product obtained when $100 is multiplied by the number of complete months from the day on or before which the election was required to be made to the day the application was made in a form satisfactory to the Minister.

Pénalité relative au choix modifié, annulé ou produit en retard

(3.5) Lorsque le ministre proroge le délai pour faire un choix ou permet qu'un choix soit modifié ou annulé (sauf s'il s'agit de la prorogation ou de la permission visée au paragraphe (3.201), le contribuable ou la société de personnes, selon le cas, est passible d'une pénalité égale à la moins élevée des sommes suivantes :

a) 8 000 $;

b) le produit de la multiplication de 100 $ par le nombre de mois entiers compris dans la période commençant à la date où, au plus tard, le choix devait être fait et se terminant le jour où la demande de prorogation, de modification ou d'annulation est faite sous une forme que le ministre juge acceptable.

Unpaid balance of penalty

(3.6) The Minister shall, with all due dispatch, examine each election, amended election and revoked election

Solde impayé de la pénalité

(3.6) Le ministre, avec diligence, examine chaque choix, choix modifié et choix annulé visés au paragraphe (3.3),

referred to in subsection 220(3.3), assess any penalty payable and send a notice of assessment to the taxpayer or the partnership, as the case may be, and the taxpayer or the partnership, as the case may be, shall pay forthwith to the Receiver General the amount, if any, by which the penalty so assessed exceeds the total of all amounts previously paid on account of that penalty.

calcule le montant de la pénalité payable et expédie un avis de cotisation au contribuable ou à la société de personnes, selon le cas, qui doit alors payer au receveur général, sans délai, l'excédent éventuel du montant ainsi calculé sur l'ensemble des montants antérieurement payés au titre de cette pénalité.

Idem

(3.7) The provisions of Divisions I and J of Part I apply, with such modifications as the circumstances require, to an assessment made under this section as though it had been made under section 152.

Idem

(3.7) Les sections I et J de la partie I s'appliquent, avec les adaptations nécessaires, aux cotisations établies en application du présent article comme si elles avaient été établies en application de l'article 152.

Dishonoured instruments

(3.8) For the purposes of this Act and section 155.1 of the *Financial Administration Act*

(a) any charge that becomes payable at any time by a person under the *Financial Administration Act* in respect of an instrument tendered in payment or settlement of an amount that is payable or remittable under this Act is deemed to be an amount that becomes payable or remittable by the person at that time under this Act;

(b) sections 152, 158 and 159, subsections 161(1), (2) and (11), sections 162 to 167 and Division J of this Part are applicable to the amount deemed to become payable or remittable by this subsection with any modifications that the circumstances require;

(c) Part II of the *Interest and Administrative Charges Regulations* does not apply to the charge; and

(d) any debt under subsection 155.1(3) of the *Financial Administration Act* in respect of the charge is deemed to be extinguished at the time the total of the amount and any applicable interest under this Act is paid.

Effets refusés

(3.8) Pour l'application de la présente loi et de l'article 155.1 de la *Loi sur la gestion des finances publiques* :

a) les frais qui deviennent payables par une personne à un moment donné en vertu de la *Loi sur la gestion des finances publiques* relativement à un effet offert en paiement ou en règlement d'une somme à payer ou à verser en vertu de la présente loi sont réputés être une somme qui devient à payer ou à verser par la personne à ce moment en vertu de la présente loi;

b) les articles 152, 158 et 159, les paragraphes 161(1), (2) et (11), les articles 162 à 167 et la section J de la présente partie s'appliquent à la somme qui est réputée devenir à payer ou à verser en vertu du présent paragraphe, avec les adaptations nécessaires;

c) la partie II du *Règlement sur les intérêts et les frais administratifs* ne s'applique pas aux frais;

d) toute créance relative aux frais, visée au paragraphe 155.1(3) de la *Loi sur la gestion des finances publiques*, est réputée avoir été éteinte au moment où le total de la somme et des intérêts applicables en vertu de la présente loi est versé.

Security

(4) The Minister may, if the Minister considers it advisable in a particular case, accept security for payment of any amount that is or may become payable under this Act.

Garanties

(4) Le ministre peut, s'il le juge opportun dans un cas particulier, accepter des garanties pour le paiement d'un montant qui est ou pourrait devenir payable en vertu de la présente loi.

Idem

(4.1) Where a taxpayer has objected to or appealed from an assessment under this Act, the Minister shall, while the objection or appeal is outstanding, accept adequate security furnished by or on behalf of the taxpayer for payment of the amount in controversy except to the extent that the Minister may collect the amount because of subsection 225.1(7).

Idem

(4.1) Lorsqu'un contribuable fait opposition ou interjette appel au sujet d'une cotisation établie en vertu de la présente loi, le ministre doit accepter toute garantie valable fournie par le contribuable, ou en son nom, alors que l'opposition ou l'appel est pendant, pour le paiement de la somme en litige, sauf dans la mesure où le ministre

peut recouvrer la somme par application du paragraphe 225.1(7).

Surrender of excess security

(4.2) Where at any time a taxpayer requests in writing that the Minister surrender any security accepted by the Minister under subsection 220(4) or 220(4.1), the Minister shall surrender the security to the extent that the value of the security exceeds the total of payable under this Act by the taxpayer at that time.

Remise d'une garantie

(4.2) Lorsqu'un contribuable demande par écrit que le ministre lui remette la garantie acceptée en vertu du paragraphe (4) ou (4.1), le ministre doit le faire dans la mesure où la valeur de la garantie dépasse le total des montants payables par le contribuable en vertu de la présente loi au moment de la demande.

Security furnished by a member institution of a deposit insurance corporation

(4.3) The Minister shall accept adequate security furnished by or on behalf of a taxpayer that is a member institution in relation to a deposit insurance corporation (within the meaning assigned by subsection 137.1(5)) for payment of

(a) the tax payable under this Act by the taxpayer for a taxation year, to the extent that the amount of that tax exceeds the amount that that tax would be if no amount that the taxpayer is obliged to repay to the corporation were included under paragraph 137.1(10)(a) or 137.1(10)(b) in computing the taxpayer's income for the year or a preceding taxation year, and

(b) interest payable under this Act by the taxpayer on the amount determined under paragraph 220(4.3)(a),

until the earlier of

(c) the day on which the taxpayer's obligation referred to in paragraph 220(4.3)(a) to repay the amount to the corporation is settled or extinguished, and

(d) the day that is 10 years after the end of the year.

Garantie fournie par les institutions membres de compagnies d'assurance-dépôts

(4.3) Le ministre doit accepter toute garantie suffisante fournie par un contribuable qui est une institution membre d'une compagnie d'assurance-dépôts — au sens du paragraphe 137.1(5) —, ou en son nom, pour le paiement :

a) d'une part, de l'impôt payable par ce contribuable en vertu de la présente loi pour une année d'imposition, dans la mesure où cet impôt dépasse ce qu'il serait si aucun montant que le contribuable a l'obligation de rembourser à la compagnie n'était inclus dans le calcul du revenu de celui-ci pour l'année ou pour une année d'imposition antérieure en application des alinéas 137.1(10)a) ou b),

b) d'autre part, des intérêts payables par ce contribuable en application de la présente loi sur le montant déterminé à l'alinéa a),

jusqu'au premier en date du jour où l'obligation du contribuable mentionnée à l'alinéa a) est réglée ou éteinte et du terme de la période de dix ans suivant la fin de l'année.

Additional security

(4.4) The adequacy of security furnished by or on behalf of a taxpayer under subsection 220(4.3) shall be determined by the Minister and the Minister may require additional security to be furnished from time to time by or on behalf of the taxpayer where the Minister determines that the security that has been furnished is no longer adequate.

Garantie supplémentaire

(4.4) Il incombe au ministre de décider si la garantie fournie par le contribuable, ou en son nom, en application du paragraphe (4.3) est suffisante. S'il décide qu'elle ne l'est plus, il peut exiger qu'une garantie supplémentaire soit fournie en tant que de besoin par le contribuable, ou en son nom.

Security for departure tax

(4.5) If an individual who is deemed by subsection 128.1(4) to have disposed of a property (other than a right to a benefit under, or an interest in a trust governed by, an employee benefit plan) at any particular time in a taxation year (in this section referred to as the individual's "emigration year") elects, in prescribed manner on or before the individual's balance-due day for the emigration

Garantie pour l'impôt de départ

(4.5) Si un particulier qui est réputé, par le paragraphe 128.1(4), avoir disposé d'un bien (sauf le droit à une prestation prévue par un régime de prestations aux employés ou une participation dans une fiducie régie par un tel régime) à un moment donné d'une année d'imposition (appelée « année de l'émigration » au présent article) fait un choix, selon les modalités réglementaires et au plus tard

year, that this subsection and subsections (4.51) to (4.54) apply in respect of the emigration year,

(a) the Minister shall, until the individual's balance-due day for a particular taxation year that begins after the particular time, accept adequate security furnished by or on behalf of the individual on or before the individual's balance-due day for the emigration year for the lesser of

(i) the amount determined by the formula

A - B - [((A - B)/A) × C]

where

A is the total amount of taxes under Parts I and I.1 that would be payable by the individual for the emigration year if the exclusion or deduction of each amount referred to in paragraph 161(7)(a) were not taken into account,

B is the total amount of taxes under those Parts that would have been so payable if each property (other than a right to a benefit under, or an interest in a trust governed by, an employee benefit plan) deemed by subsection 128.1(4) to have been disposed of at the particular time, and that has not been subsequently disposed of before the beginning of the particular year, were not deemed by subsection 128.1(4) to have been disposed of by the individual at the particular time, and

C is the total of all amounts deemed under this or any other Act to have been paid on account of the individual's tax under this Part for the emigration year, and

(ii) if the particular year immediately follows the emigration year, the amount determined under subparagraph (i), and in any other case, the amount determined under this paragraph in respect of the individual for the taxation year that immediately precedes the particular year, and

(b) except for the purposes of subsections 161(2), (4) and (4.01),

(i) interest under this Act for any period that ends on the individual's balance-due day for the particular year and throughout which security is accepted by the Minister, and

(ii) any penalty under this Act computed with reference to an individual's tax payable for the year that was, without reference to this paragraph, unpaid

à la date d'exigibilité du solde qui lui est applicable pour l'année de l'émigration, afin que le présent paragraphe et les paragraphes (4.51) à (4.54) s'appliquent à cette année, les règles suivantes s'appliquent :

a) le ministre accepte, jusqu'à la date d'exigibilité du solde applicable au particulier pour une année d'imposition donnée commençant après le moment donné, une garantie suffisante fournie par le particulier, ou en son nom, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année de l'émigration pour le moins élevé des montants suivants :

(i) le montant obtenu par la formule suivante :

A - B - [((A - B)/A) × C]

où :

A représente le total des impôts prévus par les parties I et I.1 qui seraient payables par le particulier pour l'année de l'émigration s'il n'était pas tenu compte de l'exclusion ou de la déduction de chaque montant visé à l'alinéa 161(7)a),

B le total des impôts prévus par ces parties qui auraient été ainsi payables si chaque bien (sauf le droit à une prestation prévue par un régime de prestations aux employés ou une participation dans une fiducie régie par un tel régime) réputé par le paragraphe 128.1(4) avoir fait l'objet d'une disposition au moment donné, et dont il n'a pas été disposé ultérieurement avant le début de l'année donnée, n'était pas réputé par ce paragraphe avoir fait l'objet d'une disposition par le particulier au moment donné,

C le total des montants réputés par la présente loi ou une autre loi avoir été payés au titre de l'impôt du particulier en vertu de la présente partie pour l'année de l'émigration,

(ii) si l'année donnée suit immédiatement l'année de l'émigration, le montant déterminé selon le sous-alinéa (i); sinon, le montant déterminé selon le présent alinéa relativement au particulier pour l'année d'imposition qui précède l'année donnée;

b) sauf pour l'application des paragraphes 161(2), (4) et (4.01), les intérêts et pénalité ci-après sont calculés comme si le montant pour lequel la garantie suffisante a été acceptée aux termes du présent paragraphe était une somme payée par le particulier au titre du montant :

(i) les intérêts calculés en vertu de la présente loi pour toute période se terminant à la date d'exigibilité du solde applicable au particulier pour l'année

shall be computed as if the particular amount for which adequate security has been accepted under this subsection were an amount paid by the individual on account of the particular amount.

Deemed security

(4.51) If an individual (other than a trust) elects under subsection (4.5) that that subsection apply in respect of a taxation year, for the purposes of this subsection and subsections (4.5) and (4.52) to (4.54), the Minister is deemed to have accepted at any time after the election is made adequate security for a total amount of taxes payable under Parts I and I.1 by the individual for the emigration year equal to the lesser of

(a) the total amount of those taxes that would be payable for the year by a trust resident in Canada (other than a graduated rate estate or a qualified disability trust as defined in subsection 122(3)) the taxable income of which for the year is $50,000, and

(b) the greatest amount for which the Minister is required to accept security furnished by or on behalf of the individual under subsection (4.5) at that time in respect of the emigration year,

and that security is deemed to have been furnished by the individual before the individual's balance-due day for the emigration year.

Limit

(4.52) Notwithstanding subsections (4.5) and (4.51), the Minister is deemed at any time not to have accepted security under subsection (4.5) in respect of an individual's emigration year for any amount greater than the amount, if any, by which

(a) the total amount of taxes that would be payable by the individual under Parts I and I.1 for the year if the exclusion or deduction of each amount referred to in paragraph 161(7)(a), in respect of which the day determined under paragraph 161(7)(b) is after that time, were not taken into account

exceeds

(b) the total amount of taxes that would be determined under paragraph (a) if this Act were read without reference to subsection 128.1(4).

donnée et tout au long de laquelle la garantie est acceptée par le ministre,

(ii) toute pénalité prévue par la présente loi, calculée par rapport à l'impôt payable par un particulier pour l'année qui était impayé, compte non tenu du présent alinéa.

Garantie réputée

(4.51) Si un particulier (sauf une fiducie) fait un choix, aux termes du paragraphe (4.5), afin que ce paragraphe s'applique à une année d'imposition, le ministre est réputé, pour l'application du présent paragraphe et des paragraphes (4.5) et (4.52) à (4.54), avoir accepté, à un moment après que le choix est fait, une garantie suffisante pour un montant total d'impôts payables en vertu des parties I et I.1 par le particulier pour l'année de l'émigration, égale au moins élevé des montants suivants :

a) le montant total de ces impôts qui serait payable pour l'année par une fiducie résidant au Canada (sauf une succession assujettie à l'imposition à taux progressifs ou une fiducie admissible pour personne handicapée au sens du paragraphe 122(3)) dont le revenu imposable pour l'année s'établit à 50 000 $;

b) le montant le plus élevé pour lequel le ministre est tenu d'accepter une garantie fournie par le particulier ou en son nom aux termes du paragraphe (4.5) à ce moment pour l'année de l'émigration.

Cette garantie est réputée avoir été fournie par le particulier avant la date d'exigibilité du solde qui lui est applicable pour l'année de l'émigration.

Restriction

(4.52) Malgré les paragraphes (4.5) et (4.51), le ministre est réputé, à un moment donné, ne pas avoir accepté de garantie aux termes du paragraphe (4.5) pour l'année de l'émigration d'un particulier pour un montant supérieur à l'excédent éventuel du total visé à l'alinéa a) sur le total visé à l'alinéa b):

a) le total des impôts qui seraient payables par le particulier en vertu des parties I et I.1 pour l'année s'il n'était pas tenu compte de l'exclusion ou de la déduction de chaque montant visé à l'alinéa 161(7)a) relativement auquel le jour déterminé selon l'alinéa 161(7)b) est postérieur à ce moment;

b) le total des impôts qui seraient déterminés selon l'alinéa a) s'il n'était pas tenu compte du paragraphe 128.1(4).

Inadequate security

(4.53) Subject to subsection (4.7), if it is determined at any particular time that security accepted by the Minister under subsection (4.5) is not adequate to secure the particular amount for which it was furnished by or on behalf of an individual,

(a) subject to a subsequent application of this subsection, the security shall be considered after the particular time to secure only the amount for which it is adequate security at the particular time;

(b) the Minister shall notify the individual in writing of the determination and shall accept adequate security, for all or any part of the particular amount, furnished by or on behalf of the individual within 90 days after the day of notification; and

(c) any security accepted in accordance with paragraph (b) is deemed to have been accepted by the Minister under subsection (4.5) on account of the particular amount at the particular time.

Extension of time

(4.54) If in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(a) the time for making an election under subsection (4.5);

(b) the time for furnishing and accepting security under subsection (4.5); or

(c) the 90-day period for the acceptance of security under paragraph (4.53)(b).

Security for tax on distributions of taxable Canadian property to non-resident beneficiaries

(4.6) Where

(a) solely because of the application of subsection 107(5), paragraphs 107(2)(a) to (c) do not apply to a distribution by a trust in a particular taxation year (in this section referred to as the trust's "distribution year") of taxable Canadian property, and

(b) the trust elects, in prescribed manner on or before the trust's balance-due day for the distribution year, that this subsection and subsections (4.61) to (4.63) apply in respect of the distribution year,

the following rules apply:

Garantie insuffisante

(4.53) Sous réserve du paragraphe (4.7), lorsqu'il est déterminé à un moment donné que la garantie acceptée par le ministre aux termes du paragraphe (4.5) ne suffit pas à garantir le montant pour lequel elle a été fournie par un particulier ou en son nom, les règles suivantes s'appliquent :

a) sous réserve de l'application ultérieure du présent paragraphe, la garantie est considérée, après le moment donné, ne porter que sur le montant pour lequel elle constitue une garantie suffisante à ce moment;

b) le ministre avise le particulier de la détermination par écrit et accepte une garantie suffisante pour tout ou partie du montant fournie, dans les 90 jours suivant cet avis, par le particulier ou en son nom;

c) toute garantie acceptée en conformité avec l'alinéa b) est réputée l'avoir été par le ministre aux termes du paragraphe (4.5) au titre du montant au moment donné.

Prorogation du délai

(4.54) Le ministre peut, à tout moment, proroger les délais ci-après s'il est d'avis qu'il est juste et équitable de le faire :

a) le délai de production du document concernant le choix prévu au paragraphe (4.5);

b) le délai de fourniture et d'acceptation de la garantie aux termes du paragraphe (4.5);

c) le délai de 90 jours fixé à l'alinéa (4.53)b).

Garantie pour l'impôt sur les attributions de biens canadiens imposables à des bénéficiaires non-résidents

(4.6) Dans le cas où les conditions suivantes sont réunies :

a) par le seul effet du paragraphe 107(5), les alinéas 107(2)a) à c) ne s'appliquent pas à une distribution de biens canadiens imposables effectuée par une fiducie au cours d'une année d'imposition (appelée « année de la distribution » au présent article);

b) la fiducie fait un choix, selon les modalités réglementaires et au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année de l'attribution, afin que le présent paragraphe et les paragraphes (4.61) à (4.63) s'appliquent à l'année de l'attribution,

les règles suivantes s'appliquent :

(c) the Minister shall, until the trust's balance-due day for a subsequent taxation year, accept adequate security furnished by or on behalf of the trust on or before the trust's balance-due day for the distribution year for the lesser of

(i) the amount determined by the formula

A - B - [((A - B)/A) × C]

where

A is the total amount of taxes under Parts I and I.1 that would be payable by the trust for the distribution year if the exclusion or deduction of each amount referred to in paragraph 161(7)(a) were not taken into account,

B is the total amount of taxes under those Parts that would have been so payable if the rules in subsection 107(2) (other than the election referred to in that subsection) had applied to each disposition by the trust in the distribution year of property (other than property subsequently disposed of before the beginning of the subsequent year) to which paragraph (a) applies, and

C is the total of all amounts deemed under this or any other Act to have been paid on account of the trust's tax under this Part for the distribution year, and

(ii) where the subsequent year immediately follows the distribution year, the amount determined under subparagraph (i), and in any other case, the amount determined under this paragraph in respect of the trust for the taxation year that immediately precedes the subsequent year, and

(d) except for the purposes of subsections 161(2), (4) and (4.01),

(i) interest under this Act for any period that ends on the trust's balance-due day for the subsequent year and throughout which security is accepted by the Minister, and

(ii) any penalty under this Act computed with reference to the trust's tax payable for the year that was, without reference to this paragraph, unpaid

shall be computed as if the particular amount for which adequate security has been accepted under this subsection were an amount paid by the trust on account of the particular amount.

c) le ministre accepte, jusqu'à la date d'exigibilité du solde applicable à la fiducie pour une année d'imposition ultérieure, une garantie suffisante fournie par la fiducie, ou en son nom, au plus tard à la date d'exigibilité du solde qui lui est applicable pour l'année de la distribution pour le moins élevé des montants suivants :

(i) le montant obtenu par la formule suivante :

A – B – [((A – B)/A) × C]

où :

A représente le total des impôts prévus par les parties I et I.1 qui seraient payables par la fiducie pour l'année de la distribution s'il n'était pas tenu compte de l'exclusion ou de la déduction de chaque montant visé à l'alinéa 161(7)a),

B le total des impôts prévus par ces parties qui auraient été ainsi payables si les règles énoncées au paragraphe 107(2) (sauf celle portant sur le choix prévu à ce paragraphe) s'étaient appliquées à chaque distribution, effectuée par la fiducie au cours de l'année de la distribution, de biens auxquels s'applique l'alinéa a) (sauf les biens dont il est disposé ultérieurement avant le début de l'année ultérieure),

C le total des montants réputés par la présente loi ou une autre loi avoir été payés au titre de l'impôt de la fiducie en vertu de la présente partie pour l'année de la distribution,

(ii) si l'année ultérieure suit immédiatement l'année de la distribution, le montant déterminé selon le sous-alinéa (i); sinon, le montant déterminé selon le présent alinéa relativement à la fiducie pour l'année d'imposition précédant l'année ultérieure;

d) sauf pour l'application des paragraphes 161(2), (4) et (4.01), les intérêts et pénalité ci-après sont calculés comme si le montant pour lequel la garantie suffisante a été acceptée aux termes du présent paragraphe était une somme payée par la fiducie au titre du montant :

(i) les intérêts calculés en vertu de la présente loi pour toute période se terminant à la date d'exigibilité du solde applicable à la fiducie pour l'année ultérieure et tout au long de laquelle la garantie est acceptée par le ministre,

(ii) toute pénalité prévue par la présente loi, calculée par rapport à l'impôt payable par la fiducie pour l'année qui était impayé, compte non tenu du présent alinéa.

Limit

(4.61) Notwithstanding subsection (4.6), the Minister is deemed at any time not to have accepted security under that subsection in respect of a trust's distribution year for any amount greater than the amount, if any, by which

(a) the total amount of taxes that would be payable by the trust under Parts I and I.1 for the year if the exclusion or deduction of each amount referred to in paragraph 161(7)(a), in respect of which the day determined under paragraph 161(7)(b) is after that time, were not taken into account

exceeds

(b) the total amount of taxes that would be determined under paragraph (a) if paragraphs 107(2)(a) to (c) had applied to each distribution by the trust in the year of property to which paragraph (1)(a) applies.

Inadequate security

(4.62) Subject to subsection (4.7), where it is determined at any particular time that security accepted by the Minister under subsection (4.6) is not adequate to secure the particular amount for which it was furnished by or on behalf of a trust,

(a) subject to a subsequent application of this subsection, the security shall be considered after the particular time to secure only the amount for which it is adequate security at the particular time;

(b) the Minister shall notify the trust in writing of the determination and shall accept adequate security, for all or any part of the particular amount, furnished by or on behalf of the trust within 90 days after the notification; and

(c) any security accepted in accordance with paragraph (b) is deemed to have been accepted by the Minister under subsection (4.6) on account of the particular amount at the particular time.

Extension of time

(4.63) Where in the opinion of the Minister it would be just and equitable to do so, the Minister may at any time extend

(a) the time for making an election under subsection (4.6);

(b) the time for furnishing and accepting security under subsection (4.6); or

(c) the 90-day period for the acceptance of the security under paragraph (4.62)(b).

Restriction

(4.61) Malgré le paragraphe (4.6), le ministre est réputé, à un moment donné, ne pas avoir accepté de garantie aux termes de ce paragraphe pour l'année de la distribution d'une fiducie pour un montant supérieur à l'excédent du total visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le total des impôts qui seraient payables par la fiducie en vertu des parties I et I.1 pour l'année s'il n'était pas tenu compte de l'exclusion ou de la déduction de chaque montant visé à l'alinéa 161(7)a) relativement auquel le jour déterminé selon l'alinéa 161(7)b) est postérieur à ce moment;

b) le total des impôts qui seraient déterminés selon l'alinéa a) si les alinéas 107(2)a) à c) s'étaient appliqués à chaque distribution effectuée par la fiducie au cours de l'année de biens auxquels s'applique l'alinéa (1)a).

Garantie insuffisante

(4.62) Sous réserve du paragraphe (4.7), lorsqu'il est déterminé à un moment donné que la garantie acceptée par le ministre aux termes du paragraphe (4.6) ne suffit pas à garantir le montant pour lequel elle a été fournie par une fiducie ou en son nom, les règles suivantes s'appliquent :

a) sous réserve de l'application ultérieure du présent paragraphe, la garantie est considérée, après le moment donné, ne porter que sur le montant pour lequel elle constitue une garantie suffisante à ce moment;

b) le ministre avise la fiducie de la détermination par écrit et accepte une garantie suffisante pour tout ou partie du montant fournie, dans les 90 jours suivant cet avis, par la fiducie ou en son nom;

c) toute garantie acceptée en conformité avec l'alinéa b) est réputée l'avoir été par le ministre aux termes du paragraphe (4.6) au titre du montant au moment donné.

Prorogation du délai

(4.63) Le ministre peut proroger les délais ci-après s'il est d'avis qu'il est juste et équitable de le faire :

a) le délai de production du document concernant le choix prévu au paragraphe (4.6);

b) le délai de fourniture et d'acceptation de la garantie aux termes du paragraphe (4.6);

c) le délai de 90 jours fixé à l'alinéa (4.62)b).

Undue hardship

(4.7) If, in respect of any period of time, the Minister determines that an individual who has made an election under either subsection (4.5) or (4.6)

(a) cannot, without undue hardship, pay or reasonably arrange to have paid on the individual's behalf, an amount of taxes to which security under that subsection would relate, and

(b) cannot, without undue hardship, provide or reasonably arrange to have provided on the individual's behalf, adequate security under that subsection,

the Minister may, in respect of the election, accept for the period security different from, or of lesser value than, that which the Minister would otherwise accept under that subsection.

Limit

(4.71) In making a determination under subsection (4.7), the Minister shall ignore any transaction that is a disposition, lease, encumbrance, mortgage, hypothec, or other voluntary restriction by a person or partnership of the person's or partnership's rights in respect of a property, if the transaction can reasonably be considered to have been entered into for the purpose of influencing the determination.

Administration of oaths

(5) Any officer or servant employed in connection with the administration or enforcement of this Act, if designated by the Minister for the purpose, may, in the course of that employment, administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or regulations made thereunder, and every officer or servant so designated has for those purposes all the powers of a commissioner for administering oaths or taking affidavits.

Assignment by corporation

(6) Notwithstanding section 67 of the Financial Administration Act and any other provision of a law of Canada or a province, a corporation may assign any amount payable to it under this Act.

Effect of assignment

(7) An assignment referred to in subsection 220(6) is not binding on Her Majesty in right of Canada and, without limiting the generality of the foregoing,

(a) the Minister is not required to pay to the assignee the assigned amount;

Préjudice

(4.7) Le ministre peut accepter pour une période, relativement au choix fait par un particulier en vertu de l'un ou l'autre des paragraphes (4.5) ou (4.6), une garantie de valeur moindre que celle qu'il accepterait par ailleurs aux termes de ce paragraphe, ou de nature différente, s'il détermine pour la période que le particulier ne peut :

a) d'une part, sans subir un préjudice injustifié, payer un montant d'impôt auquel se rapporterait une garantie fournie aux termes de ce paragraphe ou prendre des mesures raisonnables pour qu'un tel montant soit payé en son nom;

b) d'autre part, sans subir un préjudice injustifié, fournir une garantie acceptable aux termes de ce paragraphe ou prendre des mesures raisonnables pour qu'une telle garantie soit fournie en son nom.

Restriction

(4.71) Lorsqu'il fait la détermination visée au paragraphe (4.7), le ministre fait abstraction de toute opération — disposition, bail, charge, hypothèque ou autre limitation volontaire — effectuée par une personne ou une société de personnes et portant sur ses droits relatifs à un bien, s'il est raisonnable de considérer que l'opération a été conclue dans le but d'influer sur la détermination.

Assermentation

(5) Tout fonctionnaire ou préposé, employé à l'application ou à l'exécution de la présente loi, s'il est désigné par le ministre à cette fin, peut, au cours de son emploi, faire prêter des serments et recevoir des affidavits, déclarations et affirmations solennelles pour l'application ou l'exécution de la présente loi ou de son règlement, ou connexes à cette application ou exécution, et tout fonctionnaire ou préposé ainsi désigné possède à cet effet les pouvoirs d'un commissaire aux serments.

Cession par une société

(6) Malgré l'article 67 de la *Loi sur la gestion des finances publiques* et toute autre disposition d'une loi fédérale ou provinciale, une société peut céder tout montant qui lui est payable en vertu de la présente loi.

Effet de la cession

(7) La cession ne lie pas Sa Majesté du chef du Canada. Par ailleurs :

a) le ministre n'est pas tenu de verser le montant cédé au cessionnaire;

(b) the assignment does not create any liability of Her Majesty in right of Canada to the assignee; and

(c) the rights of the assignee are subject to all equitable and statutory rights of set-off in favour of Her Majesty in right of Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 220; 1994, c. 7, Sch. II, s. 181, Sch. VIII, s. 127, c. 13, s. 7; 1995, c. 21, s. 42; 1997, c. 25, s. 66; 1998, c. 19, s. 221; 1999, c. 17, s. 164, c. 22, s. 78; 2001, c. 17, s. 178; 2003, c. 15, s. 129; 2005, c. 19, s. 48, c. 38, s. 140; 2006, c. 4, s. 164; 2007, c. 35, s. 61; 2013, c. 34, s. 350; 2014, c. 39, s. 67.

b) la cession ne donne naissance à aucune obligation de Sa Majesté du chef du Canada envers le cessionnaire;

c) les droits du cessionnaire sont assujettis à tous les droits de compensation, en equity ou prévus par une loi, en faveur de Sa Majesté du chef du Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 220; 1994, ch. 7, ann. II, art. 181, ann. VIII, art. 127, ch. 13, art. 7; 1995, ch. 21, art. 42; 1997, ch. 25, art. 66; 1998, ch. 19, art. 221; 1999, ch. 17, art. 164, ch. 22, art. 78; 2001, ch. 17, art. 178; 2003, ch. 15, art. 129; 2005, ch. 19, art. 48, ch. 38, art. 140; 2006, ch. 4, art. 164; 2007, ch. 35, art. 61; 2013, ch. 34, art. 350; 2014, ch. 39, art. 67.

Regulations

221 (1) The Governor in Council may make regulations

(a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation;

(b) prescribing the evidence required to establish facts relevant to assessments under this Act;

(c) to facilitate the assessment of tax where deductions or exemptions of a taxpayer have changed in a taxation year;

(d) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act;

(d.1) requiring any person or partnership to provide any information including their name, address, Social Insurance Number or business number to any class of persons required to make an information return containing that information;

(d.2) requiring any class of persons to make information available to the public for the purpose of making information returns respecting any class of information required in connection with assessments under this Act;

(e) requiring a person who is, by a regulation made under paragraph 221(1)(d), required to make an information return to supply a copy of the information return or of a prescribed part thereof to the person to whom the information return or part thereof relates;

(f) [Repealed, 1998, c. 19, s. 222(2)]

(g) providing for the retention by way of deduction or set-off of the amount of a taxpayer's income tax or other indebtedness under this Act out of any amount or amounts that may be or become payable by Her Majesty to the taxpayer in respect of salary or wages;

Règlements

221 (1) Le gouverneur en conseil peut, par règlement :

a) prendre les mesures réglementaires prévues par la présente loi;

b) déterminer les éléments de preuve requis pour l'établissement des faits se rapportant aux cotisations prévues à la présente loi;

c) faciliter l'établissement de l'impôt lorsque les déductions ou les exemptions d'un contribuable ont varié au cours d'une année d'imposition;

d) enjoindre à toute catégorie de personnes de faire des déclarations de renseignements en ce qui concerne tout genre de renseignements nécessaires à l'établissement des cotisations sous le régime de la présente loi;

d.1) enjoindre à toute personne ou société de personnes de fournir des renseignements, notamment ses nom, adresse, numéro d'assurance sociale ou numéro d'entreprise à une catégorie de personnes tenues de remplir une déclaration de renseignements avec des renseignements de ce type;

d.2) enjoindre à toute catégorie de personnes de rendre accessibles au public les renseignements qui servent à établir des déclarations de renseignements concernant tout type de renseignements nécessaires à l'établissement de cotisations sous le régime de la présente loi;

e) enjoindre à toute personne tenue par une disposition réglementaire prise en application de l'alinéa d) de remplir une déclaration de renseignements, d'en fournir copie ou copie d'un extrait visé par règlement à la personne que la déclaration ou l'extrait concerne;

f) [Abrogé, 1998, ch. 19, art. 222(2)]

g) prévoir la retenue, par voie de déduction ou de compensation, du montant de l'impôt sur le revenu d'un contribuable ou autre dette sous le régime de la

(h) defining the classes of persons who may be regarded as dependent for the purposes of this Act;

(i) defining the classes of non-resident persons who may be regarded for the purposes of this Act

(i) as a spouse or common-law partner supported by a taxpayer, or

(ii) as a person dependent or wholly dependent on a taxpayer for support,

and specifying the evidence required to establish that a person belongs to any such class; and

(j) generally to carry out the purposes and provisions of this Act.

Effect

(2) A regulation made under this Act shall have effect from the date it is published in the *Canada Gazette* or at such time thereafter as may be specified in the regulation unless the regulation provides otherwise and it

(a) has a relieving effect only;

(b) corrects an ambiguous or deficient enactment that was not in accordance with the objects of this Act or the *Income Tax Regulations*;

(c) is consequential on an amendment to this Act that is applicable before the date the regulation is published in the *Canada Gazette*; or

(d) gives effect to a budgetary or other public announcement, in which case the regulation shall not, except where paragraph 221(2)(a), 221(2)(b) or 221(2)(c) applies, have effect

(i) before the date on which the announcement was made, in the case of a deduction or withholding from an amount paid or credited, and

(ii) before the taxation year in which the announcement is made, in any other case.

présente loi sur un montant ou tous montants qui peuvent être ou devenir à lui payables par Sa Majesté relativement à des traitements ou salaires;

h) définir les catégories de personnes qui peuvent être réputées à charge pour l'application de la présente loi;

i) définir les catégories de personnes non-résidentes qui peuvent être considérées, pour l'application de la présente loi :

(i) comme un époux ou conjoint de fait aux besoins duquel un contribuable subvient,

(ii) comme une personne à la charge, ou entièrement à la charge d'un contribuable,

et indiquer les éléments de preuve à fournir pour établir qu'une personne appartient à une telle catégorie;

j) prendre, de façon générale, les mesures nécessaires à l'application de la présente loi.

Prise d'effet

(2) Les dispositions réglementaires d'application de la présente loi ont effet à compter de leur publication dans la *Gazette du Canada* ou après si elles le prévoient. Toute disposition réglementaire peut toutefois avoir un effet rétroactif, si elle comporte une disposition en ce sens, dans les cas suivants :

a) elle a pour seul résultat d'alléger une charge;

b) elle corrige une disposition ambiguë ou erronée, non conforme à un objet de la présente loi ou de son règlement;

c) elle met en œuvre une disposition nouvelle ou modifiée de la présente loi applicable avant qu'elle ne soit publiée dans la *Gazette du Canada*;

d) elle met en œuvre une mesure — budgétaire ou non — annoncée publiquement, auquel cas, si l'alinéa a), b) ou c) ne s'appliquent pas par ailleurs, elle ne peut avoir d'effet :

(i) avant la date où la mesure est ainsi annoncée s'il y a déduction ou retenue sur des montants versés ou crédités,

(ii) sinon, avant l'année d'imposition au cours de laquelle la mesure est ainsi annoncée.

Regulations binding Crown

(3) Regulations made under paragraph 221(1)(d) or 221(1)(e) are binding on Her Majesty in right of Canada or a province.

Incorporation by reference

(4) A regulation made under this Act may incorporate by reference material as amended from time to time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 221; 1994, c. 7, Sch. II, s. 182; 1998, c. 19, s. 222; 2000, c. 12, s. 142; 2007, c. 35, s. 62.

Application of interest

221.1 For greater certainty, where an amendment to this Act or an amendment or enactment that relates to this Act applies to or in respect of any transaction, event or time, or any taxation year, fiscal period or other period of time or part thereof (in this section referred to as the "application time") occurring, or that is, before the day on which the amendment or enactment is assented to or promulgated, for the purposes of the provisions of this Act that provide for payment of, or liability to, any interest, the amendment or enactment shall, unless a contrary intention is evident, be deemed to have come into force at the beginning of the last taxation year beginning before the application time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 183.

Re-appropriation of amounts

221.2 (1) Where a particular amount was appropriated to an amount (in this section referred to as the "debt") that is or may become payable by a person under any enactment referred to in paragraphs 223(1)(a) to 223(1)(d), the Minister may, on application by the person, appropriate the particular amount, or a part thereof, to another amount that is or may become payable under any such enactment and, for the purposes of any such enactment,

(a) the later appropriation shall be deemed to have been made at the time of the earlier appropriation;

(b) the earlier appropriation shall be deemed not to have been made to the extent of the later appropriation; and

(c) the particular amount shall be deemed not to have been paid on account of the debt to the extent of the later appropriation.

Re-appropriation of amounts

(2) Where a particular amount was appropriated to an amount (in this section referred to as the "debt") that is or may become payable by a person under this Act, the

Dispositions réglementaires liant Sa Majesté

(3) Les dispositions réglementaires prises en application des alinéas (1)d) ou e) lient Sa Majesté du chef du Canada ou d'une province.

Incorporation par renvoi

(4) Un règlement d'application de la présente loi peut incorporer par renvoi un document dans son état premier ou modifié.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 221; 1994, ch. 7, ann. II, art. 182; 1998, ch. 19, art. 222; 2000 ch. 12, art. 142; 2007, ch. 35, art. 62.

Intérêt

221.1 Sauf intention contraire évidente, il est entendu qu'une modification apportée à la présente loi ou une modification ou un texte afférent à cette loi qui s'applique à quelque opération, événement ou moment, ou à tout ou partie de quelque année d'imposition, exercice ou autre période (appelé « moment d'application » au présent article) antérieur à la date de sanction ou à la promulgation de la modification ou du texte est réputé, pour l'application des dispositions de la présente loi qui prévoient le paiement d'intérêts ou l'obligation de payer des intérêts, entré en vigueur au début de la dernière année d'imposition commençant avant le moment d'application.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 183.

Réaffectation de montants

221.2 (1) Lorsqu'un montant est affecté à une somme (appelée « dette » au présent article) qui est ou peut devenir payable par une personne en application d'une loi visée aux alinéas 223(1)a) à d), le ministre peut, à la demande de la personne, affecter tout ou partie du montant à une autre somme qui est ou peut devenir ainsi payable. Pour l'application de ces lois :

a) la seconde affectation est réputée effectuée au même moment que la première;

b) la première affectation est réputée ne pas avoir été effectuée jusqu'à concurrence de la seconde;

c) le montant est réputé ne pas avoir été payé au titre de la dette jusqu'à concurrence de la seconde affectation.

Réaffectation de montants

(2) Lorsqu'un montant est affecté à une somme (appelée « dette » au présent article) qui est ou peut devenir payable par une personne en application de la présente

Excise Tax Act, the *Air Travellers Security Charge Act* or the *Excise Act, 2001*, the Minister may, on application by the person, appropriate the particular amount, or a part of it, to another amount that is or may become payable under any of those Acts and, for the purposes of any of those Acts,

(a) the later appropriation is deemed to have been made at the time of the earlier appropriation;

(b) the earlier appropriation is deemed not to have been made to the extent of the later appropriation; and

(c) the particular amount is deemed not to have been paid on account of the debt to the extent of the later appropriation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. VIII, s. 128; 2006, c. 4, s. 165.

loi, de la *Loi sur la taxe d'accise*, de la *Loi sur le droit pour la sécurité des passagers du transport aérien* ou de la *Loi de 2001 sur l'accise*, le ministre peut, à la demande de la personne, affecter tout ou partie du montant à une autre somme qui est ou peut devenir ainsi payable. Pour l'application de ces lois :

a) la seconde affectation est réputée effectuée au même moment que la première;

b) la première affectation est réputée ne pas avoir été effectuée jusqu'à concurrence de la seconde;

c) le montant est réputé ne pas avoir été payé au titre de la dette jusqu'à concurrence de la seconde affectation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. VIII, art. 128; 2006, ch. 4, art. 165.

Collection

Definitions

222 (1) The following definitions apply in this section.

action means an action to collect a tax debt of a taxpayer and includes a proceeding in a court and anything done by the Minister under subsection 129(2), 131(3), 132(2) or 164(2), section 203 or any provision of this Part. (*action*)

tax debt means any amount payable by a taxpayer under this Act. (*dette fiscale*)

Debts to Her Majesty

(2) A tax debt is a debt due to Her Majesty and is recoverable as such in the Federal Court or any other court of competent jurisdiction or in any other manner provided by this Act.

No actions after limitation period

(3) The Minister may not commence an action to collect a tax debt after the end of the limitation period for the collection of the tax debt.

Limitation period

(4) The limitation period for the collection of a tax debt of a taxpayer

(a) begins

(i) if a notice of assessment, or a notice referred to in subsection 226(1), in respect of the tax debt is sent to or served on the taxpayer, after March 3,

Recouvrement

Définitions

222 (1) Les définitions qui suivent s'appliquent au présent article.

action Toute action en recouvrement d'une dette fiscale d'un contribuable, y compris les procédures judiciaires et toute mesure prise par le ministre en vertu des paragraphes 129(2), 131(3), 132(2) ou 164(2), de l'article 203 ou d'une disposition de la présente partie. (*action*)

dette fiscale Toute somme payable par un contribuable sous le régime de la présente loi. (*tax debt*)

Créances de Sa Majesté

(2) La dette fiscale est une créance de Sa Majesté et est recouvrable à ce titre devant la Cour fédérale ou devant tout autre tribunal compétent ou de toute autre manière prévue par la présente loi.

Prescription

(3) Une action en recouvrement d'une dette fiscale ne peut être entreprise par le ministre après l'expiration du délai de prescription pour le recouvrement de la dette.

Délai de prescription

(4) Le délai de prescription pour le recouvrement d'une dette fiscale d'un contribuable :

a) commence à courir :

(i) si un avis de cotisation, ou un avis visé au paragraphe 226(1), concernant la dette est envoyé ou signifié au contribuable après le 3 mars 2004, le

2004, on the day that is 90 days after the day on which the last one of those notices is sent or served, and

(ii) if subparagraph (i) does not apply and the tax debt was payable on March 4, 2004, or would have been payable on that date but for a limitation period that otherwise applied to the collection of the tax debt, on March 4, 2004; and

(b) ends, subject to subsection (8), on the day that is 10 years after the day on which it begins.

quatre-vingt-dixième jour suivant le jour où le dernier de ces avis est envoyé ou signifié,

(ii) si le sous-alinéa (i) ne s'applique pas et que la dette était exigible le 4 mars 2004, ou l'aurait été en l'absence de tout délai de prescription qui s'est appliqué par ailleurs au recouvrement de la dette, le 4 mars 2004;

b) prend fin, sous réserve du paragraphe (8), dix ans après le jour de son début.

Limitation period restarted

(5) The limitation period described in subsection (4) for the collection of a tax debt of a taxpayer restarts (and ends, subject to subsection (8), on the day that is 10 years after the day on which it restarts) on any day, before it would otherwise end, on which

(a) the taxpayer acknowledges the tax debt in accordance with subsection (6);

(b) the Minister commences an action to collect the tax debt; or

(c) the Minister, under subsection 159(3) or 160(2) or paragraph 227(10)(a), assesses any person in respect of the tax debt.

Reprise du délai de prescription

(5) Le délai de prescription pour le recouvrement d'une dette fiscale d'un contribuable recommence à courir — et prend fin, sous réserve du paragraphe (8), dix ans plus tard — le jour, antérieur à celui où il prendrait fin par ailleurs, où, selon le cas :

a) le contribuable reconnaît la dette conformément au paragraphe (6);

b) le ministre entreprend une action en recouvrement de la dette;

c) le ministre établit, en vertu des paragraphes 159(3) ou 160(2) ou de l'alinéa 227(10)a), une cotisation à l'égard d'une personne concernant la dette.

Acknowledgement of tax debts

(6) A taxpayer acknowledges a tax debt if the taxpayer

(a) promises, in writing, to pay the tax debt;

(b) makes a written acknowledgement of the tax debt, whether or not a promise to pay can be inferred from the acknowledgement and whether or not it contains a refusal to pay; or

(c) makes a payment, including a purported payment by way of a negotiable instrument that is dishonoured, on account of the tax debt.

Reconnaissance de dette fiscale

(6) Se reconnaît débiteur d'une dette fiscale le contribuable qui, selon le cas :

a) promet, par écrit, de régler la dette;

b) reconnaît la dette par écrit, que cette reconnaissance soit ou non rédigée en des termes qui permettent de déduire une promesse de règlement et renferme ou non un refus de payer;

c) fait un paiement au titre de la dette, y compris un prétendu paiement fait au moyen d'un titre négociable qui fait l'objet d'un refus de paiement.

Agent or legal representative

(7) For the purposes of this section, an acknowledgement made by a taxpayer's agent or legal representative has the same effect as if it were made by the taxpayer.

Mandataire ou représentant légal

(7) Pour l'application du présent article, la reconnaissance faite par le mandataire ou le représentant légal d'un contribuable a la même valeur que si elle était faite par le contribuable.

Extension of limitation period

(8) In computing the day on which a limitation period ends, there shall be added the number of days on which one or more of the following is the case:

Prorogation du délai de prescription

(8) Le nombre de jours où au moins un des faits suivants se vérifie prolonge d'autant la durée du délai de prescription :

(a) the Minister may not, because of any of subsections 225.1(2) to (5), take any of the actions described in subsection 225.1(1) in respect of the tax debt;

(b) the Minister has accepted and holds security in lieu of payment of the tax debt;

(c) if the taxpayer was resident in Canada on the applicable date described in paragraph (4)(a) in respect of the tax debt, the taxpayer is non-resident; or

(d) an action that the Minister may otherwise take in respect of the tax debt is restricted or not permitted under any provision of the *Bankruptcy and Insolvency Act*, of the *Companies' Creditors Arrangement Act* or of the *Farm Debt Mediation Act*.

a) en raison de l'un des paragraphes 225.1(2) à (5), le ministre n'est pas en mesure d'exercer les actions visées au paragraphe 225.1(1) relativement à la dette fiscale;

b) le ministre a accepté et détient une garantie pour le paiement de la dette fiscale;

c) la personne, qui résidait au Canada à la date applicable visée à l'alinéa (4)a) relativement à la dette fiscale, est un non-résident;

d) l'une des actions que le ministre peut exercer par ailleurs relativement à la dette fiscale est limitée ou interdite en vertu d'une disposition quelconque de la *Loi sur la faillite et l'insolvabilité*, de la *Loi sur les arrangements avec les créanciers des compagnies* ou de la *Loi sur la médiation en matière d'endettement agricole*.

Bar to claims

(9) Notwithstanding any law of Canada or a province, Her Majesty is not liable for any claim that arises because the Minister collected a tax debt after the end of any limitation period that applied to the collection of the tax debt and before March 4, 2004.

Réclamation contre Sa Majesté

(9) Malgré toute autre règle de droit fédérale ou provinciale, aucune réclamation ne peut être déposée contre Sa Majesté du fait que le ministre a recouvré une dette fiscale après que tout délai de prescription qui s'est appliqué au recouvrement de la dette a expiré et avant le 4 mars 2004.

Orders after March 3, 2004 and before effect

(10) Notwithstanding any order or judgment made after March 3, 2004 that declares a tax debt not to be payable by a taxpayer, or that orders the Minister to reimburse to a taxpayer a tax debt collected by the Minister, because a limitation period that applied to the collection of the tax debt ended before royal assent to any measure giving effect to this section, the tax debt is deemed to have become payable on March 4, 2004.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 222; 2004, c. 22, s. 50; 2010, c. 25, s. 65.

Ordonnances après le 3 mars 2004 et avant la prise d'effet

(10) Malgré toute ordonnance ou tout jugement rendu après le 3 mars 2004 dans lequel une dette fiscale est déclarée ne pas être exigible, ou selon lequel le ministre est tenu de rembourser à un contribuable le montant d'une dette fiscale recouvrée, du fait qu'un délai de prescription qui s'appliquait au recouvrement de la dette a pris fin avant la sanction de toute mesure donnant effet au présent article, la dette est réputée être devenue exigible le 4 mars 2004.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 222; 2004, ch. 22, art. 50; 2010, ch. 25, art. 65.

Court costs

222.1 Where an amount is payable by a person to Her Majesty because of an order, judgment or award of a court in respect of the costs of litigation relating to a matter to which this Act applies, subsections 220(4) and 220(4.2) and sections 223, 224 to 225 and 226 apply to the amount as if the amount were a debt owing by the person to Her Majesty on account of tax payable by the person under this Act.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 223.

Frais de justice

222.1 Dans le cas où un montant est payable par une personne à Sa Majesté en exécution d'une ordonnance, d'un jugement ou d'une décision d'un tribunal concernant l'attribution des frais de justice relatifs à une question à laquelle la présente loi s'applique, les paragraphes 220(4) et (4.2) et les articles 223, 224 à 225 et 226 s'appliquent au montant comme s'il s'agissait d'une dette de la personne envers Sa Majesté au titre d'un impôt payable par elle en vertu de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 223.

Definition of *amount payable*

223 (1) For the purposes of subsection 223(2), an ***amount payable*** by a person means any or all of

(a) an amount payable under this Act by the person;

(b) an amount payable under the *Employment Insurance Act* by the person;

(b.1) an amount payable under the *Unemployment Insurance Act* by the person;

(c) an amount payable under the *Canada Pension Plan* by the person; and

(d) an amount payable by the person under an Act of a province with which the Minister of Finance has entered into an agreement for the collection of taxes payable to the province under that Act.

Sens de *montant payable*

223 (1) Pour l'application du paragraphe (2), le montant payable par une personne peut être constitué d'un ou plusieurs des montants suivants :

a) un montant payable par elle en application de la présente loi;

b) un montant payable par elle en application de la *Loi sur l'assurance-emploi*;

b.1) un montant payable en application de la *Loi sur l'assurance-chômage*;

c) un montant payable par elle en application du *Régime de pensions du Canada*;

d) un montant payable par elle en application d'une loi provinciale et que le ministre doit recouvrer aux termes d'un accord conclu par le ministre des Finances pour le recouvrement des impôts payables à la province en vertu de cette loi.

Certificates

(2) An amount payable by a person (in this section referred to as a "debtor") that has not been paid or any part of an amount payable by the debtor that has not been paid may be certified by the Minister as an amount payable by the debtor.

Certificat

(2) Le ministre peut, par certificat, attester qu'un montant ou une partie de montant payable par une personne — appelée « débiteur » au présent article — mais qui est impayé est un montant payable par elle.

Registration in court

(3) On production to the Federal Court, a certificate made under subsection 223(2) in respect of a debtor shall be registered in the Court and when so registered has the same effect, and all proceedings may be taken thereon, as if the certificate were a judgment obtained in the Court against the debtor for a debt in the amount certified plus interest thereon to the day of payment as provided by the statute or statutes referred to in subsection 223(1) under which the amount is payable and, for the purpose of any such proceedings, the certificate shall be deemed to be a judgment of the Court against the debtor for a debt due to Her Majesty, enforceable in the amount certified plus interest thereon to the day of payment as provided by that statute or statutes.

Enregistrement à la cour

(3) Sur production à la Cour fédérale, un certificat fait en application du paragraphe (2) à l'égard d'un débiteur est enregistré à cette cour. Il a alors le même effet que s'il s'agissait d'un jugement rendu par cette cour contre le débiteur pour une dette du montant attesté dans le certificat, augmenté des intérêts courus jusqu'à la date du paiement comme le prévoit les lois visées au paragraphe (1) en application desquelles le montant est payable, et toutes les procédures peuvent être engagées à la faveur du certificat comme s'il s'agissait d'un tel jugement. Dans le cadre de ces procédures, le certificat est réputé être un jugement exécutoire rendu par cette cour contre le débiteur pour une dette envers Sa Majesté du montant attesté dans le certificat, augmenté des intérêts courus jusqu'à la date du paiement comme le prévoit ces lois.

Costs

(4) All reasonable costs and charges incurred or paid in respect of the registration in the Court of a certificate made under subsection 223(2) or in respect of any proceedings taken to collect the amount certified are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered.

Frais

(4) Les frais et dépens raisonnables engagés ou payés en vue de l'enregistrement à la Cour fédérale d'un certificat fait en application du paragraphe (2) ou de l'exécution des procédures de recouvrement du montant attesté dans le certificat sont recouvrables de la même manière que s'ils avaient été inclus dans ce montant au moment de l'enregistrement du certificat.

Charge on property

(5) A document issued by the Federal Court evidencing a certificate in respect of a debtor registered under subsection (3), a writ of that Court issued pursuant to the certificate or any notification of the document or writ (such document, writ or notification in this section referred to as a "memorial") may be filed, registered or otherwise recorded for the purpose of creating a charge, lien or priority on, or a binding interest in, property in a province, or any interest in, or for civil law any right in, such property, held by the debtor in the same manner as a document evidencing

(a) a judgment of the superior court of the province against a person for a debt owing by the person, or

(b) an amount payable or required to be remitted by a person in the province in respect of a debt owing to Her Majesty in right of the province

may be filed, registered or otherwise recorded in accordance with or pursuant to the law of the province to create a charge, lien or priority on, or a binding interest in, the property or interest.

Charge sur un bien

(5) Un document délivré par la Cour fédérale et faisant preuve du contenu d'un certificat enregistré à l'égard d'un débiteur en application du paragraphe (3), un bref de cette cour délivré au titre du certificat ou toute notification du document ou du bref (ce document ou bref ou cette notification étant appelé « extrait » au présent article) peut être produit, enregistré ou autrement inscrit en vue de grever d'une sûreté, d'une priorité ou d'une autre charge, un bien du débiteur situé dans une province, ou un intérêt ou, pour l'application du droit civil, un droit sur un tel bien, de la même manière que peut l'être, au titre ou en application de la loi provinciale, un document faisant preuve :

a) soit du contenu d'un jugement rendu par la cour supérieure de la province contre une personne pour une dette de celle-ci;

b) soit d'un montant payable ou à remettre par une personne dans la province au titre d'une créance de Sa Majesté du chef de la province.

Creation of charge

(6) If a memorial has been filed, registered or otherwise recorded under subsection (5),

(a) a charge, lien or priority is created on, or a binding interest is created in, property in the province, or any interest in, or for civil law any right in, such property, held by the debtor, or

(b) such property, or interest or right in the property, is otherwise bound,

in the same manner and to the same extent as if the memorial were a document evidencing a judgment referred to in paragraph (5)(a) or an amount referred to in paragraph (5)(b), and the charge, lien, priority or binding interest created shall be subordinate to any charge, lien, priority or binding interest in respect of which all steps necessary to make it effective against other creditors were taken before the time the memorial was filed, registered or otherwise recorded.

Charge sur un bien

(6) Une fois l'extrait produit, enregistré ou autrement inscrit en application du paragraphe (5), une sûreté, une priorité ou une autre charge grève un bien du débiteur situé dans la province, ou un intérêt ou, pour l'application du droit civil, un droit sur un tel bien, de la même manière et dans la même mesure que si l'extrait était un document faisant preuve du contenu d'un jugement visé à l'alinéa (5)a) ou d'un montant visé à l'alinéa (5)b). Cette sûreté, priorité ou autre charge prend rang après toute autre sûreté, priorité ou charge à l'égard de laquelle les mesures requises pour la rendre opposable aux autres créanciers ont été prises avant la production, l'enregistrement ou autre inscription de l'extrait.

Proceedings in respect of memorial

(7) If a memorial is filed, registered or otherwise recorded in a province under subsection 223(5), proceedings may be taken in the province in respect of the memorial, including proceedings

(a) to enforce payment of the amount evidenced by the memorial, interest on the amount and all costs and charges paid or incurred in respect of

Procédures engagées en faveur d'un extrait

(7) L'extrait produit, enregistré ou autrement inscrit dans une province en application du paragraphe (5) peut, de la même manière et dans la même mesure que s'il s'agissait d'un document faisant preuve du contenu d'un jugement visé à l'alinéa (5)a) ou d'un montant visé à l'alinéa (5)b), faire l'objet dans la province de procédures visant notamment :

(i) the filing, registration or other recording of the memorial, and

(ii) proceedings taken to collect the amount,

(b) to renew or otherwise prolong the effectiveness of the filing, registration or other recording of the memorial,

(c) to cancel or withdraw the memorial wholly or in respect of any of the property, or interests or rights, affected by the memorial, or

(d) to postpone the effectiveness of the filing, registration or other recording of the memorial in favour of any right, charge, lien or priority that has been or is intended to be filed, registered or otherwise recorded in respect of any property, or interest or right, affected by the memorial,

in the same manner and to the same extent as if the memorial were a document evidencing a judgment referred to in paragraph 223(5)(a) or an amount referred to in paragraph 223(5)(b), except that if in any such proceeding or as a condition precedent to any such proceeding any order, consent or ruling is required under the law of the province to be made or given by the superior court of the province or a judge or official of the court, a like order, consent or ruling may be made or given by the Federal Court or a judge or official of the Federal Court and, when so made or given, has the same effect for the purposes of the proceeding as if it were made or given by the superior court of the province or a judge or official of the court.

a) à exiger le paiement du montant attesté par l'extrait, des intérêts y afférents et des frais et dépens payés ou engagés en vue de la production, de l'enregistrement ou autre inscription de l'extrait ou en vue de l'exécution des procédures de recouvrement du montant;

b) à renouveler ou autrement prolonger l'effet de la production, de l'enregistrement ou autre inscription de l'extrait;

c) à annuler ou à retirer l'extrait dans son ensemble ou uniquement en ce qui concerne un ou plusieurs biens ou intérêts ou droits sur lesquels l'extrait a une incidence;

d) à différer l'effet de la production, de l'enregistrement ou autre inscription de l'extrait en faveur d'un droit, d'une sûreté, d'une priorité ou d'une autre charge qui a été ou qui sera produit, enregistré ou autrement inscrit à l'égard d'un bien ou d'un intérêt ou d'un droit sur lequel l'extrait a une incidence.

Toutefois, dans le cas où la loi provinciale exige — soit dans le cadre de ces procédures, soit préalablement à leur exécution — l'obtention d'une ordonnance, d'une décision ou d'un consentement de la cour supérieure de la province ou d'un juge ou d'un fonctionnaire de celle-ci, la Cour fédérale ou un juge ou un fonctionnaire de celle-ci peut rendre une telle ordonnance ou décision ou donner un tel consentement. Cette ordonnance, cette décision ou ce consentement a alors le même effet dans le cadre des procédures que s'il était rendu ou donné par la cour supérieure de la province ou par un juge ou un fonctionnaire de celle-ci.

Presentation of documents

(8) If

(a) a memorial is presented for filing, registration or other recording under subsection (5) or a document relating to the memorial is presented for filing, registration or other recording for the purpose of any proceeding described in subsection (7) to any official in the land registry system, personal property or movable property registry system, or other registry system, of a province, it shall be accepted for filing, registration or other recording, or

(b) access is sought to any person, place or thing in a province to make the filing, registration or other recording, the access shall be granted

in the same manner and to the same extent as if the memorial or document relating to the memorial were a document evidencing a judgment referred to in paragraph 223(5)(a) or an amount referred to in paragraph

Présentation des documents

(8) L'extrait qui est présenté pour production, enregistrement ou autre inscription en application du paragraphe (5), ou un document concernant l'extrait qui est présenté pour production, enregistrement ou autre inscription dans le cadre des procédures visées au paragraphe (7), à un agent d'un régime d'enregistrement foncier ou des droits sur des biens meubles ou personnels ou autres droits d'une province est accepté pour production, enregistrement ou autre inscription de la même manière et dans la même mesure que s'il s'agissait d'un document faisant preuve du contenu d'un jugement visé à l'alinéa (5)a) ou d'un montant visé à l'alinéa (5)b) dans le cadre de procédures semblables. Aux fins de la production, de l'enregistrement ou autre inscription de cet extrait ou ce document, l'accès à une personne, à un endroit ou à une chose situé dans une province est donné de la même manière et dans la même mesure que si l'extrait ou le document était un document semblable ainsi délivré ou établi. Lorsque l'extrait ou le document est délivré par la Cour

223(5)(b) for the purpose of a like proceeding, as the case may be, except that, if the memorial or document is issued by the Federal Court or signed or certified by a judge or official of the Court, any affidavit, declaration or other evidence required under the law of the province to be provided with or to accompany the memorial or document in the proceedings is deemed to have been provided with or to have accompanied the memorial or document as so required.

Sale, etc.

(9) Notwithstanding any law of Canada or of a province, a sheriff or other person shall not, without the written consent of the Minister, sell or otherwise dispose of any property, or publish any notice or otherwise advertise in respect of any sale or other disposition of any property pursuant to any process issued or charge, lien, priority or binding interest created in any proceeding to collect an amount certified in a certificate made under subsection 223(2), interest on the amount and costs, but if that consent is subsequently given, any property that would have been affected by such a process, charge, lien, priority or binding interest if the Minister's consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be, shall be bound, seized, attached, charged or otherwise affected as it would be if that consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be.

Completion of notices, etc.

(10) If information required to be set out by any sheriff or other person in a minute, notice or document required to be completed for any purpose cannot, by reason of subsection 223(9), be so set out, the sheriff or other person shall complete the minute, notice or document to the extent possible without that information and, when the consent of the Minister is given under that subsection, a further minute, notice or document setting out all the information shall be completed for the same purpose, and the sheriff or other person having complied with this subsection is deemed to have complied with the Act, regulation or rule requiring the information to be set out in the minute, notice or document.

Application for an order

(11) A sheriff or other person who is unable, by reason of subsection 223(9) or 223(10), to comply with any law or rule of court is bound by any order made by a judge of the Federal Court, on an *ex parte* application by the Minister, for the purpose of giving effect to the proceeding, charge, lien, priority or binding interest.

fédérale ou porte la signature ou fait l'objet d'un certificat d'un juge ou d'un fonctionnaire de cette cour, tout affidavit, toute déclaration ou tout autre élément de preuve qui doit, selon la loi provinciale, être fourni avec l'extrait ou le document ou l'accompagner dans le cadre des procédures est réputé avoir été ainsi fourni ou accompagner ainsi l'extrait ou le document.

Interdiction de vendre

(9) Malgré les lois fédérales et provinciales, ni le shérif ni une autre personne ne peut, sans le consentement écrit du ministre, vendre un bien ou autrement en disposer ou publier un avis concernant la vente ou la disposition d'un bien ou autrement l'annoncer, par suite de l'émission d'un bref ou de la création d'une sûreté, d'une priorité ou d'une autre charge dans le cadre de procédures de recouvrement d'un montant attesté dans un certificat fait en application du paragraphe (2), des intérêts y afférents et des frais. Toutefois, si ce consentement est obtenu ultérieurement, tout bien sur lequel un tel bref ou une telle sûreté, priorité ou charge aurait une incidence si ce consentement avait été obtenu au moment de l'émission du bref ou de la création de la sûreté, priorité ou charge, selon le cas, est saisi ou autrement grevé comme si le consentement avait été obtenu à ce moment.

Établissement des avis

(10) Dans le cas où des renseignements qu'un shérif ou une autre personne doit indiquer dans un procès-verbal, un avis ou un document à établir à une fin quelconque ne peuvent, en raison du paragraphe (9), être ainsi indiqués, le shérif ou l'autre personne doit établir le procès-verbal, l'avis ou le document en omettant les renseignements en question. Une fois le consentement du ministre obtenu pour l'application de ce paragraphe, un autre procès-verbal, avis ou document indiquant tous les renseignements doit être établi à la même fin. S'il se conforme au présent paragraphe, le shérif ou l'autre personne est réputé se conformer à la loi, à la disposition réglementaire ou à la règle qui exige que les renseignements soient indiqués dans le procès-verbal, l'avis ou le document.

Demande d'ordonnance

(11) S'il ne peut se conformer à une loi ou à une règle de pratique en raison des paragraphes (9) ou (10), le shérif ou l'autre personne est lié par toute ordonnance rendue, sur requête *ex parte* du ministre, par un juge de la Cour fédérale visant à donner effet à des procédures ou à une sûreté, une priorité ou une autre charge.

Deemed security

(11.1) When a charge, lien, priority or binding interest created under subsection 223(6) by filing, registering or otherwise recording a memorial under subsection 223(5) is registered in accordance with subsection 87(1) of the *Bankruptcy and Insolvency Act*, it is deemed

(a) to be a claim that is secured by a security and that, subject to subsection 87(2) of that Act, ranks as a secured claim under that Act; and

(b) to also be a claim referred to in paragraph 86(2)(a) of that Act.

Details in certificates and memorials

(12) Notwithstanding any law of Canada or of a province, in any certificate made under subsection 223(2) in respect of a debtor, in any memorial evidencing the certificate or in any writ or document issued for the purpose of collecting an amount certified, it is sufficient for all purposes

(a) to set out, as the amount payable by the debtor, the total of amounts payable by the debtor without setting out the separate making up that total; and

(b) to refer to the rate of interest to be charged on the separate amounts making up the amount payable in general terms as interest at the rate prescribed under this Act applicable from time to time on amounts payable to the Receiver General without indicating the specific rates of interest to be charged on each of the separate amounts or to be charged for any particular period of time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 223; 1994, c. 7, Sch. VIII, s. 129; 1996, c. 23, s. 187; 1998, c. 19, s. 224; 2000, c. 30, s. 175(E); 2013, c. 34, s. 160.

Application of ss. 223(1) to (8) and (12)

223.1 (1) Subsections 223(1) to 223(8) and 223(12) are applicable with respect to certificates made under section 223 or section 223 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, after 1971 and documents evidencing such certificates that were issued by the Federal Court and that were filed, registered or otherwise recorded after 1977 under the laws of a province, except that, where any such certificate or document was the subject of an action pending in a court on February 10, 1988 or the subject of a court decision given on or before that date, section 223 shall be read, for the purposes of applying it with respect to that certificate or document, as section 223 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, read at the time the

Présomption de garantie

(11.1) La sûreté, la priorité ou l'autre charge créée selon le paragraphe (6) par la production, l'enregistrement ou autre inscription d'un extrait en application du paragraphe (5) qui est enregistrée en conformité avec le paragraphe 87(1) de la *Loi sur la faillite et l'insolvabilité* est réputée, à la fois :

a) être une réclamation garantie et, sous réserve du paragraphe 87(2) de cette loi, prendre rang comme réclamation garantie aux termes de cette loi;

b) être une réclamation visée à l'alinéa 86(2)a) de cette loi.

Contenu des certificats et extraits

(12) Malgré les lois fédérales et provinciales, dans le certificat fait à l'égard d'un débiteur en application du paragraphe (2), dans l'extrait faisant preuve du contenu d'un tel certificat ou dans le bref ou document délivré en vue du recouvrement d'un montant attesté dans un tel certificat, il suffit, à toutes fins utiles :

a) d'une part, d'indiquer, comme montant payable par le débiteur, le total des montants payables par celui-ci et non les montants distincts qui forment ce total;

b) d'autre part, d'indiquer de façon générale le taux d'intérêt prescrit en application de la présente loi sur les montants payables au receveur général comme étant le taux applicable aux montants distincts qui forment le montant payable, sans détailler les taux applicables à chaque montant distinct ou pour une période donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 223; 1994, ch. 7, ann. VIII, art. 129; 1996, ch. 23, art. 187; 1998, ch. 19, art. 224; 2000, ch. 30, art. 175 (A); 2013, ch. 34, art. 160.

Application des par. 223(1) à (8) et (12)

223.1 (1) Les paragraphes 223(1) à (8) et (12) s'appliquent aux certificats faits en application de l'article 223 ou de l'article 223 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, après 1971 ainsi qu'aux documents faisant preuve du contenu de ces certificats délivrés par la Cour fédérale, qui sont produits, enregistrés ou autrement inscrits après 1977 en application de la législation d'une province. Toutefois, si le certificat ou le document a fait l'objet d'une cause en instance le 10 février 1988 ou d'une décision judiciaire rendue avant le 11 février 1988, l'article 223 s'applique au certificat ou document dans la version de l'article 223 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, applicable à la date d'enregistrement du certificat ou de délivrance du document.

certificate was registered or the document was issued, as the case may be.

Application of ss. 223(9) to (11)

(2) Subsections 223(9) to 223(11) are applicable with respect to certificates made under section 223, or section 223 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, after September 13, 1988.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 168.

Application des par. 223(9) à (11)

(2) Les paragraphes 223(9) à (11) s'appliquent aux certificats faits en application de l'article 223 ou de l'article 223 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, après le 13 septembre 1988.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 168.

Garnishment

224 (1) Where the Minister has knowledge or suspects that a person is, or will be within one year, liable to make a payment to another person who is liable to make a payment under this Act (in this subsection and subsections 224(1.1) and 224(3) referred to as the "tax debtor"), the Minister may in writing require the person to pay forthwith, where the moneys are immediately payable, and in any other case as and when the moneys become payable, the moneys otherwise payable to the tax debtor in whole or in part to the Receiver General on account of the tax debtor's liability under this Act.

Saisie-arrêt

224 (1) S'il sait ou soupçonne qu'une personne est ou sera, dans les douze mois, tenue de faire un paiement à une autre personne qui, elle-même, est tenue de faire un paiement en vertu de la présente loi (appelée « débiteur fiscal » au présent paragraphe et aux paragraphes (1.1) et (3)), le ministre peut exiger par écrit de cette personne que les fonds autrement payables au débiteur fiscal soient en totalité ou en partie versés, sans délai si les fonds sont immédiatement payables, sinon au fur et à mesure qu'ils deviennent payables, au receveur général au titre de l'obligation du débiteur fiscal en vertu de la présente loi.

Idem

(1.1) Without limiting the generality of subsection 224(1), where the Minister has knowledge or suspects that within 90 days

(a) a bank, credit union, trust company or other similar person (in this section referred to as the "institution") will lend or advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a tax debtor who is indebted to the institution and who has granted security in respect of the indebtedness, or

(b) a person, other than an institution, will lend or advance moneys to, or make a payment on behalf of, a tax debtor who the Minister knows or suspects

(i) is employed by, or is engaged in providing services or property to, that person or was or will be, within 90 days, so employed or engaged, or

(ii) where that person is a corporation, is not dealing at arm's length with that person,

the Minister may in writing require the institution or person, as the case may be, to pay in whole or in part to the Receiver General on account of the tax debtor's liability under this Act the moneys that would otherwise be so

Idem

(1.1) Sans préjudice de la portée générale du paragraphe (1), lorsque le ministre sait ou soupçonne que, dans les 90 jours :

a) soit une banque, une caisse de crédit, une société de fiducie ou une autre personne semblable (appelée l' « institution » au présent article) prêtera ou avancera des fonds à un débiteur fiscal, effectuera un paiement au nom d'un débiteur fiscal ou fera un paiement à l'égard d'un effet négociable émis par le débiteur fiscal qui est endetté envers l'institution et qui a fourni à l'institution une garantie à l'égard de la dette;

b) soit une personne, autre qu'une institution, prêtera ou avancera des fonds à un débiteur fiscal ou effectuera un paiement au nom d'un débiteur fiscal que le ministre sait ou soupçonne :

(i) être employé de cette personne, ou prestataire de biens ou de services à cette personne ou qu'elle l'a été ou le sera dans les 90 jours,

(ii) lorsque cette personne est une société, avoir un lien de dépendance avec cette personne,

il peut exiger par écrit de cette institution ou de cette personne, selon le cas, que les fonds qui seraient autrement prêtés, avancés ou payés au débiteur fiscal soient en totalité ou en partie versés au receveur

lent, advanced or paid and any moneys so paid to the Receiver General shall be deemed to have been lent, advanced or paid, as the case may be, to the tax debtor.

Garnishment

(1.2) Notwithstanding any other provision of this Act, the *Bankruptcy and Insolvency Act*, any other enactment of Canada, any enactment of a province or any law, but subject to subsections 69(1) and 69.1(1) of the *Bankruptcy and Insolvency Act* and section 11.09 of the *Companies' Creditors Arrangement Act*, if the Minister has knowledge or suspects that a particular person is, or will become within one year, liable to make a payment

(a) to another person (in this subsection referred to as the "tax debtor") who is liable to pay an amount assessed under subsection 227(10.1) or a similar provision, or

(b) to a secured creditor who has a right to receive the payment that, but for a security interest in favour of the secured creditor, would be payable to the tax debtor,

the Minister may in writing require the particular person to pay forthwith, where the moneys are immediately payable, and in any other case as and when the moneys become payable, the moneys otherwise payable to the tax debtor or the secured creditor in whole or in part to the Receiver General on account of the tax debtor's liability under subsection 227(10.1) or the similar provision, and on receipt of that requirement by the particular person, the amount of those moneys that is so required to be paid to the Receiver General shall, notwithstanding any security interest in those moneys, become the property of Her Majesty to the extent of that liability as assessed by the Minister and shall be paid to the Receiver General in priority to any such security interest.

Definitions

(1.3) In subsection 224(1.2),

secured creditor means a person who has a security interest in the property of another person or who acts for or on behalf of that person with respect to the security interest and includes a trustee appointed under a trust deed relating to a security interest, a receiver or receiver-manager appointed by a secured creditor or by a court on the application of a secured creditor, a sequestrator or any other person performing a similar function; (*créancier garanti*)

security interest means any interest in, or for civil law any right in, property that secures payment or performance of an obligation and includes an interest, or for

général au titre de l'obligation du débiteur fiscal en vertu de la présente loi, et les fonds ainsi versés au receveur général sont réputés avoir été prêtés, avancés ou payés, selon le cas, au débiteur fiscal.

Saisie-arrêt

(1.2) Malgré les autres dispositions de la présente loi, la *Loi sur la faillite et l'insolvabilité*, tout autre texte législatif fédéral ou provincial et toute règle de droit, mais sous réserve des paragraphes 69(1) et 69.1(1) de la *Loi sur la faillite et l'insolvabilité* et de l'article 11.09 de la *Loi sur les arrangements avec les créanciers des compagnies*, s'il sait ou soupçonne qu'une personne donnée est ou deviendra, dans les douze mois, débiteur d'une somme :

a) soit à un débiteur fiscal, à savoir une personne redevable du montant d'une cotisation en application du paragraphe 227(10.1) ou d'une disposition semblable;

b) soit à un créancier garanti, à savoir une personne qui, grâce à une garantie en sa faveur, a le droit de recevoir la somme autrement payable au débiteur fiscal,

le ministre peut exiger par écrit de la personne donnée que tout ou partie de cette somme soit payé au receveur général, sans délai si la somme est payable immédiatement, sinon dès qu'elle devient payable, au titre du montant de la cotisation en application du paragraphe 227(10.1) ou d'une disposition semblable dont le débiteur fiscal est redevable. Sur réception de l'avis de cette exigence par la personne donnée, la somme dont le paiement est exigé devient, malgré toute autre garantie au titre de cette somme, la propriété de Sa Majesté jusqu'à concurrence du montant de la cotisation et doit être payée au receveur général par priorité sur toute autre garantie au titre de cette somme.

Définitions

(1.3) Les définitions qui suivent s'appliquent au paragraphe (1.2).

créancier garanti Personne qui a une garantie sur un bien d'une autre personne — ou qui est mandataire de cette personne quant à cette garantie —, y compris un fiduciaire désigné dans un acte de fiducie portant sur la garantie, un séquestre ou séquestre-gérant nommé par un créancier garanti ou par un tribunal à la demande d'un créancier garanti, un administrateur-séquestre ou une autre personne dont les fonctions sont semblables à celles de l'une de ces personnes. (*secured creditor*)

disposition semblable Disposition, semblable au paragraphe 227(10.1), d'une loi provinciale qui prévoit un

civil law a right, created by or arising out of a debenture, mortgage, hypothec, lien, pledge, charge, deemed or actual trust, assignment or encumbrance of any kind whatever, however or whenever arising, created, deemed to arise or otherwise provided for; (*garantie*)

similar provision means a provision, similar to subsection 227(10.1), of any Act of a province that imposes a tax similar to the tax imposed under this Act, where the province has entered into an agreement with the Minister of Finance for the collection of the taxes payable to the province under that Act. (*disposition semblable*)

impôt semblable à celui prévu par la présente loi, si la province concernée a conclu avec le ministre des Finances un accord pour le recouvrement des impôts payables à celle-ci en vertu de cette loi provinciale. (*similar provision*)

garantie Intérêt ou, pour l'application du droit civil, droit sur un bien qui garantit l'exécution d'une obligation, notamment un paiement. Sont en particulier des garanties les intérêts ou, pour l'application du droit civil, les droits nés ou découlant de débentures, hypothèques, privilèges, nantissements, sûretés, fiducies réputées ou réelles, cessions et charges, quelle qu'en soit la nature, de quelque façon ou à quelque date qu'elles soient créées, réputées exister ou prévues par ailleurs. (*security interest*)

Garnishment

(1.4) Provisions of this Act that provide that a person who has been required to do so by the Minister must pay to the Receiver General an amount that would otherwise be lent, advanced or paid to a taxpayer who is liable to make a payment under this Act, or to that taxpayer's secured creditor, apply to Her Majesty in right of Canada or a province.

Saisie-arrêt

(1.4) Les dispositions de la présente loi exigeant qu'une personne verse au receveur général, par suite d'une requête du ministre en ce sens, un montant qui serait par ailleurs prêté, avancé ou payé soit à un contribuable redevable d'une somme aux termes de la présente loi, soit à son créancier garanti, s'appliquent à Sa Majesté du chef du Canada ou d'une province.

Minister's receipt discharges original liability

(2) The receipt of the Minister for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Récépissé du ministre constituant quittance

(2) Le récépissé du ministre relatif à des fonds versés, comme l'exige le présent article, constitue une quittance valable et suffisante de l'obligation initiale jusqu'à concurrence du paiement.

Idem

(3) Where the Minister has, under this section, required a person to pay to the Receiver General on account of a liability under this Act of a tax debtor moneys otherwise payable by the person to the tax debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement applies to all such payments to be made by the person to the tax debtor until the liability under this Act is satisfied and operates to require payments to the Receiver General out of each such payment of such amount as is stipulated by the Minister in the requirement.

Durée de la saisie-arrêt

(3) Lorsque le ministre a, sous le régime du présent article, exigé d'une personne qu'elle verse au receveur général, à l'égard d'une obligation imposée à un débiteur fiscal en vertu de la présente loi, des fonds payables par ailleurs par cette personne au débiteur fiscal à titre d'intérêt, de loyer, de rémunération, de dividende, de rente ou autre paiement périodique, cette exigence s'applique à tous les versements de ce genre à faire par la personne au débiteur fiscal tant qu'il n'a pas été satisfait à l'obligation imposée par la présente loi, et porte que des paiements soient faits au receveur général sur chacun des versements, selon le montant que le ministre fixe dans l'avis de l'exigence.

Failure to comply with s. (1), (1.2) or (3) requirement

(4) Every person who fails to comply with a requirement under subsection 224(1), 224(1.2) or 224(3) is liable to pay to Her Majesty an amount equal to the amount that the person was required under subsection 224(1), 224(1.2) or 224(3), as the case may be, to pay to the Receiver General.

Défaut de se conformer aux par. (1), (1.2) ou (3)

(4) Toute personne qui omet de se conformer à une exigence du paragraphe (1), (1.2) ou (3) est tenue de payer à Sa Majesté un montant égal au montant qu'elle était tenue, en vertu du paragraphe (1), (1.2) ou (3), selon le cas, de payer au receveur général.

Failure to comply with s. (1.1) requirement

(4.1) Every institution or person that fails to comply with a requirement under subsection 224(1.1) with respect to moneys to be lent, advanced or paid is liable to pay to Her Majesty an amount equal to the lesser of

(a) the total of moneys so lent, advanced or paid, and

(b) the amount that the institution or person was required under that subsection to pay to the Receiver General.

Service of garnishee

(5) Where a person carries on business under a name or style other than the person's own name, notification to the person of a requirement under subsection 224(1), 224(1.1) or 224(1.2) may be addressed to the name or style under which the person carries on business and, in the case of personal service, shall be deemed to be validly served if it is left with an adult person employed at the place of business of the addressee.

Idem

(6) Where persons carry on business in partnership, notification to the persons of a requirement under subsection 224(1), 224(1.1) or 224(1.2) may be addressed to the partnership name and, in the case of personal service, shall be deemed to be validly served if it is served on one of the partners or left with an adult person employed at the place of business of the partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 224; 1994, c. 7, Sch. V, s. 91, Sch. VIII, s. 130, c. 21, s. 101; 1997, c. 12, s. 128; 2001, c. 17, s. 228(E); 2005, c. 47, s. 139; 2007, c. 36, s. 108; 2013, c. 34, s. 161.

Recovery by deduction or set-off

224.1 Where a person is indebted to Her Majesty under this Act or under an Act of a province with which the Minister of Finance has entered into an agreement for the collection of the taxes payable to the province under that Act, the Minister may require the retention by way of deduction or set-off of such amount as the Minister may specify out of any amount that may be or become payable to the person by Her Majesty in right of Canada.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1979, c. 5, s. 64; 1980-81-82-83, c. 48, s. 104.

Acquisition of debtor's property

224.2 For the purpose of collecting debts owed by a person to Her Majesty under this Act or under an Act of a province with which the Minister of Finance has entered into an agreement for the collection of taxes payable to the province under that Act, the Minister may purchase

Défaut de se conformer au par. (1.1)

(4.1) Toute institution ou personne qui omet de se conformer à une exigence du paragraphe (1.1) est tenue de payer à Sa Majesté, à l'égard des fonds à prêter, à avancer ou à payer, un montant égal au moindre des montants suivants :

a) le total des fonds ainsi prêtés, avancés ou payés;

b) le montant qu'elle était tenue de payer au receveur général en vertu de ce paragraphe.

Signification de la saisie-arrêt

(5) Si une personne exploite une entreprise sous un nom ou une raison sociale autre que son propre nom, l'avis à la personne de l'exigence prévue aux paragraphes (1), (1.1) ou (1.2) peut être adressé au nom ou à la raison sociale sous lequel elle exploite l'entreprise et, en cas de signification à personne, est réputé validement signifié s'il est laissé à une personne adulte employée au lieu d'affaires du destinataire.

Signification à une société de personnes

(6) Si des personnes exploitent une entreprise en société de personnes, l'avis à ces personnes de l'exigence prévue aux paragraphes (1), (1.1) ou (1.2) peut être adressé au nom de la société de personnes et, en cas de signification à personne, est réputé validement signifié s'il l'est à l'un des associés ou s'il est laissé à une personne adulte employée au lieu d'affaires de la société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 224; 1994, ch. 7, ann. V, art. 91, ann. VIII, art. 130, ch. 21, art. 101; 1997, ch. 12, art. 128; 2001, ch. 17, art. 228(A); 2005, ch. 47, art. 139; 2007, ch. 36, art. 108; 2013, ch. 34, art. 161.

Recouvrement par voie de déduction ou de compensation

224.1 Lorsqu'une personne est endettée envers Sa Majesté, en vertu de la présente loi ou en vertu d'une loi d'une province avec laquelle le ministre des Finances a conclu un accord en vue de recouvrer les impôts payables à la province en vertu de cette loi, le ministre peut exiger la retenue par voie de déduction ou de compensation d'un tel montant qu'il peut spécifier sur tout montant qui peut être ou qui peut devenir payable à cette personne par Sa Majesté du chef du Canada.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1979, ch. 5, art. 64; 1980-81-82-83, ch. 48, art. 104.

Acquisition de biens du débiteur

224.2 Pour recouvrer les dettes qu'une personne doit à Sa Majesté en vertu de la présente loi ou d'une loi d'une province avec laquelle le ministre des Finances a conclu un accord pour le recouvrement des impôts payables à celle-ci en conformité avec cette loi provinciale, le

or otherwise acquire any interest in, or for civil law any right in, the person's property that the Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption and may dispose of any interest or right so acquired in such manner as the Minister considers reasonable.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 224.2; 2013, c. 34, s. 162.

ministre peut acquérir tout intérêt ou, pour l'application du droit civil, droit sur les biens de cette personne qu'il a le droit d'acquérir par des procédures judiciaires ou en application du jugement d'un tribunal, ou qui est offert en vente ou peut être racheté, et peut disposer, selon les modalités qu'il considère comme raisonnables, de tout intérêt ou droit ainsi acquis.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 224.2; 2013, ch. 34, art. 162.

Payment of moneys seized from tax debtor

224.3 (1) Where the Minister has knowledge or suspects that a particular person is holding moneys that were seized by a police officer in the course of administering or enforcing the criminal law of Canada from another person (in this section referred to as the "tax debtor") who is liable to make a payment under this Act or under an Act of a province with which the Minister of Finance has entered into an agreement for the collection of taxes payable to the province under that Act and that are restorable to the tax debtor, the Minister may in writing require the particular person to turn over the moneys otherwise restorable to the tax debtor in whole or in part to the Receiver General on account of the tax debtor's liability under this Act or under the Act of the province, as the case may be.

Receipt of Minister

(2) The receipt of the Minister for moneys turned over as required by this section is a good and sufficient discharge of the requirement to restore the moneys to the tax debtor to the extent of the amount so turned over.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 224.3; 1994, c. 21, s. 102.

Fonds saisis entre les mains d'un débiteur fiscal

224.3 (1) S'il sait ou soupçonne qu'une personne donnée détient des fonds qui ont été saisis par un membre d'un corps policier, dans le cadre de l'application du droit criminel du Canada, entre les mains d'une autre personne (appelée « débiteur fiscal » au présent article) tenue de faire un paiement en vertu de la présente loi ou d'une loi d'une province avec laquelle le ministre des Finances a conclu un accord en vue de recouvrer les impôts payables en vertu de cette loi, et qui doivent être restitués au débiteur fiscal, le ministre peut exiger par écrit de la personne donnée que les fonds autrement restituables au débiteur fiscal soient en totalité ou en partie remis au receveur général au titre de l'obligation du débiteur fiscal existant en vertu de la présente loi ou de la loi de la province, selon le cas.

Récépissé du ministre

(2) Le récépissé du ministre relatif à des fonds remis, comme l'exige le présent article, constitue une quittance valable et suffisante de l'obligation de restituer ces fonds au débiteur fiscal jusqu'à concurrence du montant remis.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 224.3; 1994, ch. 21, art. 102.

Seizure of goods, chattels or movable property

225 (1) If a person has failed to pay an amount as required by this Act, the Minister may give 30 days notice to the person by registered mail addressed to the person's latest known address of the Minister's intention to direct that the person's goods and chattels, or movable property, be seized and sold, and, if the person fails to make the payment before the expiration of the 30 days, the Minister may issue a certificate of the failure and direct that the person's goods and chattels, or movable property, be seized.

Sale of seized property

(2) Property seized under this section shall be kept for 10 days at the cost and charges of the owner and, if the owner does not pay the amount owing together with the costs and charges within the 10 days, the property seized shall be sold by public auction.

Saisie de biens meubles ou personnels

225 (1) Lorsqu'une personne n'a pas payé un montant exigible en vertu de la présente loi, le ministre peut lui donner un avis au moins 30 jours avant qu'il procède, par lettre recommandée à la dernière adresse connue de cette personne, de son intention d'ordonner la saisie et la vente des biens meubles ou personnels de cette personne; si, au terme des 30 jours, la personne est encore en défaut de paiement, le ministre peut délivrer un certificat de défaut et ordonner la saisie des biens meubles ou personnels de cette personne.

Vente des biens saisis

(2) Les biens saisis sous le régime du présent article sont gardés pendant 10 jours aux frais et dépens du propriétaire, et si ce dernier ne paie pas le montant dû ainsi que les frais et dépens dans les 10 jours, les biens saisis sont vendus à l'enchère publique.

Notice of sale

(3) Except in the case of perishable goods, notice of the sale setting out the time and place thereof, together with a general description of the property to be sold shall, a reasonable time before the goods are sold, be published at least once in one or more newspapers of general local circulation.

Surplus returned to owner

(4) Any surplus resulting from the sale after deduction of the amount owing and all costs and charges shall be paid or returned to the owner of the property seized.

Exemptions from seizure

(5) Goods and chattels, or movable property, of any person in default that would be exempt from seizure under a writ of execution issued out of a superior court of the province in which the seizure is made are exempt from seizure under this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 225; 2013, c. 34, s. 163.

Collection restrictions

225.1 (1) If a taxpayer is liable for the payment of an amount assessed under this Act, other than an amount assessed under subsection 152(4.2), 169(3) or 220(3.1), the Minister shall not, until after the collection-commencement day in respect of the amount, do any of the following for the purpose of collecting the amount:

(a) commence legal proceedings in a court,

(b) certify the amount under section 223,

(c) require a person to make a payment under subsection 224(1),

(d) require an institution or a person to make a payment under subsection 224(1.1),

(e) [Repealed, 2006, c. 4, s. 166]

(f) require a person to turn over moneys under subsection 224.3(1), or

(g) give a notice, issue a certificate or make a direction under subsection 225(1).

Collection-commencement day

(1.1) The collection-commencement day in respect of an amount is

Préavis de la vente

(3) Sauf dans le cas d'articles périssables, un préavis raisonnable de cette vente, énonçant le moment et le lieu de la vente, ainsi qu'une description générale des biens à vendre, doit être publié au moins une fois dans un ou plusieurs journaux diffusés dans la région.

Remise de l'excédent au propriétaire

(4) Tout excédent qui provient de la vente, déduction faite de la somme due et des frais et dépens, doit être payé ou remis au propriétaire des biens.

Insaisissabilité

(5) Les biens meubles ou personnels de toute personne en défaut qui seraient insaisissables malgré un bref d'exécution décerné par une cour supérieure de la province dans laquelle la saisie est opérée sont exempts de saisie en vertu du présent article.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 225; 2013, ch. 34, art. 163.

Restrictions au recouvrement

225.1 (1) Si un contribuable est redevable du montant d'une cotisation établie en vertu des dispositions de la présente loi, exception faite des paragraphes 152(4.2), 169(3) et 220(3.1), le ministre, pour recouvrer le montant impayé, ne peut, avant le lendemain du jour du début du recouvrement du montant, prendre les mesures suivantes :

a) entamer une poursuite devant un tribunal;

b) attester le montant, conformément à l'article 223;

c) obliger une personne à faire un paiement, conformément au paragraphe 224(1);

d) obliger une institution ou une personne visée au paragraphe 224(1.1) à faire un paiement, conformément à ce paragraphe;

e) [Abrogé, 2006, ch. 4, art. 166]

f) obliger une personne à remettre des fonds, conformément au paragraphe 224.3(1);

g) donner un avis, délivrer un certificat ou donner un ordre, conformément au paragraphe 225(1).

Jour du début du recouvrement

(1.1) Le jour du début du recouvrement d'un montant correspond :

(a) in the case of an amount assessed under subsection 188(1.1) in respect of a notice of intention to revoke given under subsection 168(1) or any of subsections 149.1(2) to (4.1), one year after the day on which the notice was mailed;

(b) in the case of an amount assessed under section 188.1, one year after the day on which the notice of assessment was sent; and

(c) in any other case, 90 days after the day on which the notice of assessment was sent.

a) dans le cas du montant d'une cotisation établie en vertu du paragraphe 188(1.1) relativement à un avis d'intention de révoquer l'enregistrement délivré en vertu du paragraphe 168(1) ou l'un des paragraphes 149.1(2) à (4.1), un an après la date de mise à la poste de l'avis d'intention;

b) dans le cas du montant d'une cotisation établie en vertu de l'article 188.1, un an après la date d'envoi de l'avis de cotisation;

c) dans les autres cas, 90 jours suivant la date d'envoi de l'avis de cotisation.

No action by Minister

(2) If a taxpayer has served a notice of objection under this Act to an assessment of an amount payable under this Act, the Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in paragraphs (1)(a) to (g) until after the day that is 90 days after the day on which notice is sent to the taxpayer that the Minister has confirmed or varied the assessment.

Restriction

(2) Dans le cas où un contribuable signifie en vertu de la présente loi un avis d'opposition à une cotisation pour un montant payable en vertu de cette loi, le ministre, pour recouvrer la somme en litige, ne peut prendre aucune des mesures visées aux alinéas (1)a) à g) avant le quatre-vingt-onzième jour suivant la date d'envoi d'un avis au contribuable où il confirme ou modifie la cotisation.

Idem

(3) Where a taxpayer has appealed from an assessment of an amount payable under this Act to the Tax Court of Canada, the Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in paragraphs 225.1(1)(a) to 225.1(1)(g) before the day of mailing of a copy of the decision of the Court to the taxpayer or the day on which the taxpayer discontinues the appeal, whichever is the earlier.

Idem

(3) Dans le cas où un contribuable en appelle d'une cotisation pour un montant payable en vertu de la présente loi, auprès de la Cour canadienne de l'impôt, le ministre, pour recouvrer la somme en litige, ne peut prendre aucune des mesures visées aux alinéas (1)a) à g) avant la date de mise à la poste au contribuable d'une copie de la décision de la cour ou la date où le contribuable se désiste de l'appel si celle-ci est antérieure.

Idem

(4) Where a taxpayer has agreed under subsection 173(1) that a question should be determined by the Tax Court of Canada, or where a taxpayer is served with a copy of an application made under subsection 174(1) to that Court for the determination of a question, the Minister shall not take any of the actions described in paragraphs 225.1(1)(a) to 225.1(1)(g) for the purpose of collecting that part of an amount assessed, the liability for payment of which will be affected by the determination of the question, before the day on which the question is determined by the Court.

Idem

(4) Dans le cas où un contribuable convient de faire statuer conformément au paragraphe 173(1) la Cour canadienne de l'impôt sur une question ou qu'il est signifié au contribuable copie d'une demande présentée conformément au paragraphe 174(1) devant la Cour canadienne de l'impôt pour qu'elle statue sur une question, le ministre, pour recouvrer la partie du montant d'une cotisation, dont le contribuable pourrait être redevable selon ce que la cour statuera, ne peut prendre aucune des mesures visées aux alinéas (1)a) à g) avant la date où la cour statue sur la question.

Idem

(5) Notwithstanding any other provision in this section, where a taxpayer has served a notice of objection under this Act to an assessment or has appealed to the Tax Court of Canada from an assessment and agrees in writing with the Minister to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Tax Court of

Idem

(5) Malgré les autres dispositions du présent article, lorsqu'un contribuable signifie, conformément à la présente loi, un avis d'opposition à une cotisation ou en appelle d'une cotisation devant la Cour canadienne de l'impôt et qu'il convient par écrit avec le ministre de retarder la procédure d'opposition ou la procédure d'appel jusqu'à ce que la Cour canadienne de l'impôt, la Cour d'appel

Canada, the Federal Court of Appeal or the Supreme Court of Canada in which the issue is the same or substantially the same as that raised in the objection or appeal of the taxpayer, the Minister may take any of the actions described in paragraphs 225.1(1)(a) to 225.1(1)(g) for the purpose of collecting the amount assessed, or a part thereof, determined in a manner consistent with the decision or judgment of the Court in the other action at any time after the Minister notifies the taxpayer in writing that

(a) the decision of the Tax Court of Canada in that action has been mailed to the Minister,

(b) judgment has been pronounced by the Federal Court of Appeal in that action, or

(c) judgment has been delivered by the Supreme Court of Canada in that action,

as the case may be.

Where ss. (1) to (4) do not apply

(6) Subsections 225.1(1) to 225.1(4) do not apply with respect to

(a) an amount payable under Part VIII;

(a.1) an amount payable under section 281;

(b) an amount required to be deducted or withheld, and required to be remitted or paid, under this Act or the Regulations;

(c) an amount of tax required to be paid under section 116 or a regulation made under subsection 215(4) but not so paid;

(d) the amount of any penalty payable for failure to remit or pay an amount referred to in paragraph 225.1(6)(b) or 225.1(6)(c) as and when required by this Act or a regulation made under this Act; and

(e) any interest payable under a provision of this Act on an amount referred to in this paragraph or any of paragraphs 225.1(6)(a) to 225.1(6)(d).

One-half collection

(7) If an amount has been assessed under this Act in respect of a corporation for a taxation year in which it was a large corporation, or in respect of a particular amount claimed under section 110.1 or 118.1 where the particular amount was claimed in respect of a tax shelter, then subsections (1) to (4) do not limit any action of the Minister to collect

fédérale ou la Cour suprême du Canada rende jugement dans une autre action qui soulève la même question, ou essentiellement la même, que celle soulevée dans l'opposition ou l'appel par le contribuable, le ministre peut prendre les mesures visées aux alinéas (1)a) à g) pour recouvrer tout ou partie du montant de la cotisation établi de la façon envisagée par le jugement rendu dans cette autre action, à tout moment après que le ministre a avisé le contribuable par écrit que, selon le cas :

a) le jugement de la Cour canadienne de l'impôt dans l'action a été posté au ministre;

b) la Cour d'appel fédérale a rendu jugement dans l'action;

c) la Cour suprême du Canada a rendu jugement dans l'action.

Non-application des par. (1) à (4)

(6) Les paragraphes (1) à (4) ne s'appliquent pas :

a) aux montants payables en application de la partie VIII;

a.1) aux sommes à verser en application de l'article 281;

b) aux montants à déduire ou à retenir, et à remettre ou à payer, en application de la présente loi ou de son règlement;

c) à l'impôt à payer en application de l'article 116 ou d'un règlement d'application du paragraphe 215(4) et qui n'a pas encore été payé;

d) aux pénalités payables pour défaut de remettre ou de payer un montant visé à l'alinéa b) ou c) de la manière et dans le délai prévus à la présente loi ou à sone règlement;

e) aux intérêts payables en application de la présente loi sur l'un des montants visés au présent alinéa ou aux alinéas a) à d).

Recouvrement — moitié de somme

(7) Lorsqu'une cotisation est établie en vertu de la présente loi relativement à une société pour une année d'imposition au cours de laquelle elle est une grande société ou relativement à une somme qui est déduite en application des articles 110.1 ou 118.1 et qui a été demandée relativement à un abri fiscal, les paragraphes (1) à (4) n'ont pas pour effet de limiter les mesures que le ministre peut prendre pour recouvrer :

(a) at any time on or before the particular day that is 90 days after the day of the sending of the notice of assessment, 1/2 of the amount so assessed; and

(b) at any time after the particular day, the amount, if any, by which the amount so assessed exceeds the total of

(i) all amounts collected before that time with respect to the assessment, and

(ii) 1/2 of the amount in controversy at that time.

a) à tout moment jusqu'au quatre-vingt-dixième jour suivant la date d'envoi de l'avis de cotisation, la moitié du montant de la cotisation ainsi établie;

b) à tout moment après le 90e jour suivant la date de mise à la poste de l'avis de cotisation, l'excédent éventuel du montant de la cotisation ainsi établie sur le total des montants suivants :

(i) les montants recouvrés avant ce moment relativement à la cotisation,

(ii) la moitié de la somme en litige à ce moment.

Definition of *large corporation*

(8) For the purposes of this section and section 235, a corporation (other than a corporation described in subsection 181.1(3)) is a ***large corporation*** in a particular taxation year if the total of the taxable capital employed in Canada of the corporation, at the end of the particular taxation year, and the taxable capital employed in Canada of any other corporation, at the end of the other corporation's last taxation year that ends at or before the end of the particular taxation year, if the other corporation is related (within the meaning assigned for the purposes of section 181.5) to the corporation at the end of the particular taxation year, exceeds $10 million, and, for the purpose of this subsection, a corporation formed as a result of the amalgamation or merger of 2 or more predecessor corporations is deemed to be the same corporation as, and a continuation of, each predecessor corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 225.1; 1994, c. 7, Sch. II, s. 184, Sch. VIII, s. 131, c. 21, s. 103; 1998, c. 19, s. 225; 2001, c. 17, s. 179; 2005, c. 19, s. 49; 2006, c. 4, ss. 85, 166; 2010, c. 25, s. 66; 2013, c. 33, s. 20; 2016, c. 12, s. 60.

Définition de *grande société*

(8) Pour l'application du présent article et de l'article 235, une société, sauf celle visée au paragraphe 181.1(3), est une ***grande société*** au cours d'une année d'imposition donnée si le total de son capital imposable utilisé au Canada, à la fin de cette année, et du capital imposable utilisé au Canada de toute autre société, à la fin de la dernière année d'imposition de celle-ci se terminant au plus tard à la fin de l'année donnée, qui est liée (au sens de l'article 181.5) à la société en cause à la fin de l'année donnée, excède 10 000 000 $. Pour l'application du présent paragraphe, la société issue de la fusion ou de l'unification de plusieurs sociétés remplacées est réputée être la même société que chacune de ces sociétés et en être la continuation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 225.1; 1994, ch. 7, ann. II, art. 184, ann. VIII, art. 131, ch. 21, art. 103; 1998, ch. 19, art. 225; 2001, ch. 17, art. 179; 2005, ch. 19, art. 49; 2006, ch. 4, art. 85 et 166; 2010, ch. 25, art. 66; 2013, ch. 33, art. 20; 2016, ch. 12, art. 60.

Definition of *judge*

225.2 (1) In this section, ***judge*** means a judge or a local judge of a superior court of a province or a judge of the Federal Court.

Définition de *juge*

225.2 (1) Au présent article, ***juge*** s'entend d'un juge ou d'un juge local d'une cour supérieure d'une province ou d'un juge de la Cour fédérale.

Authorization to proceed forthwith

(2) Notwithstanding section 225.1, where, on *ex parte* application by the Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed in respect of a taxpayer would be jeopardized by a delay in the collection of that amount, the judge shall, on such terms as the judge considers reasonable in the circumstances, authorize the Minister to take forthwith any of the actions described in paragraphs 225.1(1)(a) to 225.1(1)(g) with respect to the amount.

Recouvrement compromis

(2) Malgré l'article 225.1, sur requête *ex parte* du ministre, le juge saisi autorise le ministre à prendre immédiatement des mesures visées aux alinéas 225.1(1)a) à g) à l'égard du montant d'une cotisation établie relativement à un contribuable, aux conditions qu'il estime raisonnables dans les circonstances, s'il est convaincu qu'il existe des motifs raisonnables de croire que l'octroi à ce contribuable d'un délai pour payer le montant compromettrait le recouvrement de tout ou partie de ce montant.

Notice of assessment not sent

(3) An authorization under subsection 225.2(2) in respect of an amount assessed in respect of a taxpayer may be granted by a judge notwithstanding that a notice of assessment in respect of that amount has not been sent to the taxpayer at or before the time the application is made where the judge is satisfied that the receipt of the notice of assessment by the taxpayer would likely further jeopardize the collection of the amount, and for the purposes of sections 222, 223, 224, 224.1, 224.3 and 225, the amount in respect of which an authorization is so granted shall be deemed to be an amount payable under this Act.

Affidavits

(4) Statements contained in an affidavit filed in the context of an application under this section may be based on belief with the grounds therefor.

Service of authorization and of notice of assessment

(5) An authorization granted under this section in respect of a taxpayer shall be served by the Minister on the taxpayer within 72 hours after it is granted, except where the judge orders the authorization to be served at some other time specified in the authorization, and, where a notice of assessment has not been sent to the taxpayer at or before the time of the application, the notice of assessment shall be served together with the authorization.

How service effected

(6) For the purposes of subsection 225.2(5), service on a taxpayer shall be effected by

(a) personal service on the taxpayer; or

(b) service in accordance with directions, if any, of a judge.

Application to judge for direction

(7) Where service on a taxpayer cannot reasonably otherwise be effected as and when required under this section, the Minister may, as soon as practicable, apply to a judge for further direction.

Review of authorization

(8) Where a judge of a court has granted an authorization under this section in respect of a taxpayer, the taxpayer may, on 6 clear days notice to the Deputy Attorney General of Canada, apply to a judge of the court to review the authorization.

Recouvrement compromis par la réception d'un avis de cotisation

(3) Le juge saisi peut accorder l'autorisation visée au paragraphe (2), même si un avis de cotisation pour le montant de la cotisation établie à l'égard du contribuable n'a pas été envoyé à ce dernier au plus tard à la date de la présentation de la requête, s'il est convaincu que la réception de cet avis par ce dernier compromettrait davantage, selon toute vraisemblance, le recouvrement du montant. Pour l'application des articles 222, 223, 224, 224.1, 224.3 et 225, le montant visé par l'autorisation est réputé être un montant payable en vertu de la présente loi.

Affidavits

(4) Les déclarations contenues dans un affidavit produit dans le cadre de la requête visée au présent article peuvent être fondées sur une opinion si des motifs à l'appui de celle-ci y sont indiqués.

Signification de l'autorisation et de l'avis de cotisation

(5) Le ministre signifie au contribuable intéressé l'autorisation visée au présent article dans les 72 heures suivant le moment où elle est accordée, sauf si le juge ordonne qu'elle soit signifiée dans un autre délai qui y est précisé. L'avis de cotisation est signifié en même temps que l'autorisation s'il n'a pas été envoyé au contribuable au plus tard au moment de la présentation de la requête.

Mode de signification

(6) Pour l'application du paragraphe (5), l'autorisation est signifiée au contribuable soit par voie de signification à personne, soit par tout autre mode ordonné par le juge.

Demande d'instructions au juge

(7) Lorsque la signification au contribuable ne peut par ailleurs être raisonnablement effectuée conformément au présent article, le ministre peut, dès que matériellement possible, demander d'autre instructions au juge.

Révision de l'autorisation

(8) Dans le cas où le juge saisi accorde l'autorisation visée au présent article à l'égard d'un contribuable, celui-ci peut, après avis de six jours francs au sous-procureur général du Canada, demander à un juge de la cour de réviser l'autorisation.

Limitation period for review application

(9) An application under subsection 225.2(8) shall be made

(a) within 30 days from the day on which the authorization was served on the taxpayer in accordance with this section; or

(b) within such further time as a judge may allow, on being satisfied that the application was made as soon as practicable.

Hearing *in camera*

(10) An application under subsection 225.2(8) may, on the application of the taxpayer, be heard *in camera*, if the taxpayer establishes to the satisfaction of the judge that the circumstances of the case justify *in camera* proceedings.

Disposition of application

(11) On an application under subsection 225.2(8), the judge shall determine the question summarily and may confirm, set aside or vary the authorization and make such other order as the judge considers appropriate.

Directions

(12) Where any question arises as to the course to be followed in connection with anything done or being done under this section and there is no direction in this section with respect thereto, a judge may give such direction with regard thereto as, in the opinion of the judge, is appropriate.

No appeal from review order

(13) No appeal lies from an order of a judge made pursuant to subsection 225.2(11).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1985, c. 45, s. 116; 1988, c. 55, s. 170.

Taxpayer leaving Canada

226 (1) Where the Minister suspects that a taxpayer has left or is about to leave Canada, the Minister may, before the day otherwise fixed for payment, by notice served personally or by registered letter addressed to the taxpayer's latest known address, demand payment of the amount of all taxes, interest and penalties for which the taxpayer is liable or would be liable if the time for payment had arrived, and that amount shall be paid forthwith by the taxpayer notwithstanding any other provision of this Act.

Seizure in case of default of payment

(2) If a taxpayer fails to pay, as required, any tax, interest or penalties demanded under this section, the Minister

Délai de présentation de la requête

(9) La requête visée au paragraphe (8) doit être présentée :

a) dans les 30 jours suivant la date où l'autorisation a été signifiée au contribuable en application du présent article;

b) dans le délai supplémentaire que le juge peut accorder s'il est convaincu que le contribuable a présenté la requête dès que matériellement possible.

Huis clos

(10) Une requête visée au paragraphe (8) peut, à la demande du contribuable, être entendue à huis clos si le contribuable démontre, à la satisfaction du juge, que les circonstances le justifient.

Ordonnance

(11) Dans le cas d'une requête visée au paragraphe (8), le juge statue sur la question de façon sommaire et peut confirmer, annuler ou modifier l'autorisation et rendre toute autre ordonnance qu'il juge indiquée.

Mesures non prévues

(12) Si aucune mesure n'est prévue au présent article sur une question à résoudre en rapport avec une chose accomplie ou en voie d'accomplissement en application du présent article, un juge peut décider des mesures qu'il estime les plus aptes à atteindre le but du présent article.

Ordonnance sans appel

(13) L'ordonnance rendue par un juge en application du paragraphe (11) est sans appel.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1985, ch. 45, art. 116; 1988, ch. 55, art. 170.

Contribuable quittant le Canada

226 (1) Si le ministre soupçonne qu'un contribuable a quitté le Canada ou est sur le point de le faire, il peut, avant le jour par ailleurs fixé pour le paiement, par avis signifié à personne ou par lettre recommandée envoyée à la dernière adresse connue du contribuable, exiger le paiement des impôts, intérêts et pénalités dont le contribuable est redevable ou serait redevable si le moment du paiement était arrivé. Le contribuable est tenu d'acquitter ces montants sans délai, malgré les autres dispositions de la présente loi.

Saisie en cas de défaut de paiement

(2) Lorsqu'un contribuable ne paye pas l'impôt, les intérêts ou les pénalités exigés aux termes du présent article,

may direct that the goods and chattels, or movable property, of the taxpayer be seized and subsections 225(2) to (5) apply, with respect to the seizure, with any modifications that the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 226; 1994, c. 7, Sch. II, s. 185; 2013, c. 34, s. 164.

comme il est requis de le faire, le ministre peut ordonner la saisie des biens meubles ou personnels du contribuable. Dès lors, les paragraphes 225(2) à (5) s'appliquent, avec les adaptations nécessaires.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 226; 1994, ch. 7, ann. II, art. 185; 2013, ch. 34, art. 164.

Withholding taxes

227 (1) No action lies against any person for deducting or withholding any sum of money in compliance or intended compliance with this Act.

Retenue des impôts

227 (1) Nulle action ne peut être intentée contre une personne pour le fait de déduire ou de retenir une somme d'argent quelconque en conformité, réelle ou intentionnelle, avec la présente loi.

Return filed with person withholding

(2) Where a person (in this subsection referred to as the "payer") is required by regulations made under subsection 153(1) to deduct or withhold from a payment to another person an amount on account of that other person's tax for the year, that other person shall, from time to time as prescribed, file a return with the payer in prescribed form.

Déclaration à produire auprès de la personne qui fait les retenues

(2) Lorsqu'une personne (appelée le « payeur » au présent paragraphe) est tenue en vertu des dispositions réglementaires prises en application du paragraphe 153(1) de déduire d'un paiement à une autre personne ou de retenir sur un tel paiement un montant au titre de l'impôt de cette autre personne pour l'année, cette autre personne doit, selon les modalités de temps fixées par ces dispositions, produire auprès du payeur une déclaration selon le formulaire prescrit.

Failure to file return

(3) Every person who fails to file a return as required by subsection (2) is liable to have the deduction or withholding under section 153 on account of the person's tax made as though the person were a person who is neither married nor in a common-law partnership and is without dependants.

Défaut de produire la déclaration

(3) Toute personne qui omet de produire un formulaire, ainsi que le requiert le paragraphe (2), est susceptible de subir la déduction ou retenue en vertu de l'article 153 au titre de son impôt au même titre que si elle était sans personne à charge, n'était pas mariée et ne vivait pas en union de fait.

Trust for moneys deducted

(4) Every person who deducts or withholds an amount under this Act is deemed, notwithstanding any security interest (as defined in subsection 224(1.3)) in the amount so deducted or withheld, to hold the amount separate and apart from the property of the person and from property held by any secured creditor (as defined in subsection 224(1.3)) of that person that but for the security interest would be property of the person, in trust for Her Majesty and for payment to Her Majesty in the manner and at the time provided under this Act.

Montant détenu en fiducie

(4) Toute personne qui déduit ou retient un montant en vertu de la présente loi est réputée, malgré toute autre garantie au sens du paragraphe 224(1.3) le concernant, le détenir en fiducie pour Sa Majesté, séparé de ses propres biens et des biens détenus par son créancier garanti au sens de ce paragraphe qui, en l'absence de la garantie, seraient ceux de la personne, et en vue de le verser à Sa Majesté selon les modalités et dans le délai prévus par la présente loi.

Extension of trust

(4.1) Notwithstanding any other provision of this Act, the *Bankruptcy and Insolvency Act* (except sections 81.1 and 81.2 of that Act), any other enactment of Canada, any enactment of a province or any other law, where at any time an amount deemed by subsection 227(4) to be held by a person in trust for Her Majesty is not paid to Her Majesty in the manner and at the time provided under this Act, property of the person and property held by any

Non-versement

(4.1) Malgré les autres dispositions de la présente loi, la *Loi sur la faillite et l'insolvabilité* (sauf ses articles 81.1 et 81.2), tout autre texte législatif fédéral ou provincial ou toute règle de droit, en cas de non-versement à Sa Majesté, selon les modalités et dans le délai prévus par la présente loi, d'un montant qu'une personne est réputée par le paragraphe (4) détenir en fiducie pour Sa Majesté, les biens de la personne, et les biens détenus par son

secured creditor (as defined in subsection 224(1.3)) of that person that but for a security interest (as defined in subsection 224(1.3)) would be property of the person, equal in value to the amount so deemed to be held in trust is deemed

(a) to be held, from the time the amount was deducted or withheld by the person, separate and apart from the property of the person, in trust for Her Majesty whether or not the property is subject to such a security interest, and

(b) to form no part of the estate or property of the person from the time the amount was so deducted or withheld, whether or not the property has in fact been kept separate and apart from the estate or property of the person and whether or not the property is subject to such a security interest

and is property beneficially owned by Her Majesty notwithstanding any security interest in such property and in the proceeds thereof, and the proceeds of such property shall be paid to the Receiver General in priority to all such security interests.

créancier garanti au sens du paragraphe 224(1.3) qui, en l'absence d'une garantie au sens du même paragraphe, seraient ceux de la personne, d'une valeur égale à ce montant sont réputés :

a) être détenus en fiducie pour Sa Majesté, à compter du moment où le montant est déduit ou retenu, séparés des propres biens de la personne, qu'ils soient ou non assujettis à une telle garantie;

b) ne pas faire partie du patrimoine ou des biens de la personne à compter du moment où le montant est déduit ou retenu, que ces biens aient été ou non tenus séparés de ses propres biens ou de son patrimoine et qu'ils soient ou non assujettis à une telle garantie.

Ces biens sont des biens dans lesquels Sa Majesté a un droit de bénéficiaire malgré toute autre garantie sur ces biens ou sur le produit en découlant, et le produit découlant de ces biens est payé au receveur général par priorité sur une telle garantie.

Meaning of security interest

(4.2) For the purposes of subsections 227(4) and 227(4.1), a security interest does not include a prescribed security interest.

Sens de garantie

(4.2) Pour l'application des paragraphes (4) et (4.1), n'est pas une garantie celle qui est visée par règlement.

Application to Crown

(4.3) For greater certainty, subsections (4) to (4.2) apply to Her Majesty in right of Canada or a province where Her Majesty in right of Canada or a province is a secured creditor (within the meaning assigned by subsection 224(1.3)) or holds a security interest (within the meaning assigned by that subsection).

Application à Sa Majesté

(4.3) Il est entendu que les paragraphes (4) à (4.2) s'appliquent à Sa Majesté du chef du Canada ou d'une province lorsqu'elle est un créancier garanti, au sens du paragraphe 224(1.3), ou détient une garantie, au sens de ce paragraphe.

Payments by trustees, etc.

(5) Where a specified person in relation to a particular person (in this subsection referred to as the "payer") has any direct or indirect influence over the disbursements, property, business or estate of the payer and the specified person, alone or together with another person, authorizes or otherwise causes a payment referred to in subsection 135(3), 135.1(7) or 153(1), or on or in respect of which tax is payable under Part XII.5 or XIII, to be made by or on behalf of the payer, the specified person

(a) is, for the purposes of subsections 135(3) and 153(1), section 215 and this section, deemed to be a person who made the payment;

(a.1) is, for the purposes of subsections 135.1(7) and 211.8(2), deemed to be a person who redeemed, acquired or cancelled a share and made the payment as a

Paiements par le fiduciaire, etc.

(5) La personne déterminée, quant à une autre personne (appelée « payeur » au présent paragraphe), qui a une influence directe ou indirecte sur les décaissements, les biens, l'entreprise ou la succession du payeur et qui, seule ou avec quelqu'un d'autre, fait en sorte qu'un paiement visé aux paragraphes 135(3), 135.1(7) ou 153(1), ou sur lequel ou relativement auquel un impôt est payable en vertu des parties XII.5 ou XIII, soit effectué par le payeur ou pour son compte, ou autorise un tel paiement :

a) est réputée, pour l'application des paragraphes 135(3) et 153(1), de l'article 215 et du présent article, être une personne qui a effectué le paiement;

a.1) est réputée, pour l'application des paragraphes 135.1(7) et 211.8(2), être une personne qui a racheté,

consequence of the redemption, acquisition or cancellation;

(b) is jointly and severally, or solidarily, liable with the payer to pay to the Receiver General

(i) all amounts payable by the payer because of any of subsections 135(3), 135.1(7), 153(1) and 211.8(2) and section 215 in respect of the payment, and

(ii) all amounts payable under this Act by the payer because of any failure to comply with any of those provisions in respect of the payment; and

(c) is entitled to deduct or withhold from any amount paid or credited by the specified person to the payer or otherwise recover from the payer any amount paid under this subsection by the specified person in respect of the payment.

acquis ou annulé une part ou une action et qui a effectué le paiement par suite de cette opération;

b) est solidairement responsable, avec le payeur, du versement au receveur général des montants suivants :

(i) les montants payables par le payeur par l'effet des paragraphes 135(3), 135.1(7), 153(1) ou 211.8(2) ou de l'article 215 relativement au paiement,

(ii) les montants payables par le payeur en vertu de la présente loi pour inobservation de l'une des dispositions visées au sous-alinéa (i) relativement au paiement;

c) a le droit de déduire d'un montant qu'elle a versé au payeur, ou porté à son crédit, ou de retenir sur un tel montant, ou de recouvrer autrement du payeur, tout montant qu'elle a payé en vertu du présent paragraphe relativement au paiement.

Definition of *specified person*

(5.1) In subsection 227(5), a ***specified person*** in relation to a particular person means a person who is, in relation to the particular person or the disbursements, property, business or estate of the particular person,

(a) a trustee;

(b) a liquidator;

(c) a receiver;

(d) an interim receiver;

(e) a receiver-manager;

(f) a trustee in bankruptcy or other person appointed under the *Bankruptcy and Insolvency Act*;

(g) an assignee;

(h) a secured creditor (as defined in subsection 224(1.3));

(i) an executor, a liquidator of a succession or an administrator;

(j) any person acting in a capacity similar to that of a person referred to in any of paragraphs 227(5.1)(a) to 227(5.1)(i);

(k) a person appointed (otherwise than as an employee of the creditor) at the request of, or on the advice of, a secured creditor in relation to the particular person to monitor, or provide advice in respect of, the disbursements, property, business or estate of the

Définition de *personne déterminée*

(5.1) Pour l'application du paragraphe (5), ***personne déterminée*** s'entend d'une personne qui, quant à une autre personne ou aux décaissements, aux biens, à l'entreprise ou à la succession de celle-ci, est :

a) un fiduciaire;

b) un liquidateur;

c) un séquestre;

d) un séquestre intérimaire;

e) un séquestre-gérant;

f) un syndic de faillite ou une autre personne nommée en vertu de la *Loi sur la faillite et l'insolvabilité*;

g) un cessionnaire;

h) un créancier garanti, au sens du paragraphe 224(1.3);

i) un liquidateur de succession, exécuteur testamentaire ou administrateur;

j) une personne dont les fonctions sont semblables à celles d'une personne visée à l'un des alinéas a) à i);

k) une personne nommée, autrement qu'à titre d'employé d'un créancier, à la demande ou sur le conseil d'un créancier garanti quant à l'autre personne, pour contrôler les décaissements, les biens, l'entreprise ou la succession de celle-ci, ou pour fournir des conseils à leur égard, dans des circonstances telles qu'il est

particular person under circumstances such that it is reasonable to conclude that the person is appointed to protect or advance the interests of the creditor; or

(l) an agent of a specified person referred to in any of paragraphs 227(5.1)(a) to 227(5.1)(k).

raisonnable de conclure que la personne est nommée pour protéger ou promouvoir les intérêts du créancier;

l) le mandataire d'une personne visée à l'un des alinéas a) à k).

Person includes partnership

(5.2) For the purposes of this section, references in subsections 227(5) and 227(5.1) to persons include partnerships.

Société de personnes

(5.2) Pour l'application du présent article, les mentions de personne, aux paragraphes (5) et (5.1), comprennent les sociétés de personnes.

Excess withheld, returned or applied

(6) Where a person on whose behalf an amount has been paid under Part XII.5 or XIII to the Receiver General was not liable to pay tax under that Part or where the amount so paid is in excess of the amount that the person was liable to pay, the Minister shall, on written application made no later than 2 years after the end of the calendar year in which the amount was paid, pay to the person the amount so paid or such part of it as the person was not liable to pay, unless the person is or is about to become liable to make a payment to Her Majesty in right of Canada, in which case the Minister may apply the amount otherwise payable under this subsection to that liability and notify the person of that action.

Restitution ou application de l'excédent

(6) Lorsqu'une personne pour le compte de qui un montant a été versé au receveur général en vertu des parties XII.5 ou XIII n'était pas redevable d'un impôt en vertu de cette partie, ou que le montant ainsi versé excède l'impôt dont elle était redevable, le ministre doit, sur demande écrite faite au plus tard deux ans suivant la fin de l'année civile où le montant a été versé, payer à cette personne le montant ainsi versé ou la partie de ce montant dont elle n'était pas redevable, à moins qu'elle ne soit tenue de faire un paiement à Sa Majesté du chef du Canada, ou soit sur le point de l'être, auquel cas le ministre peut appliquer le montant par ailleurs payable selon le présent paragraphe à ce paiement et avise la personne en conséquence.

Repayment of non-resident shareholder loan

(6.1) Where, in respect of a loan from or indebtedness to a corporation or partnership, a person on whose behalf an amount was paid to the Receiver General under Part XIII because of subsection 15(2) and paragraph 214(3)(a) repays the loan or indebtedness or a portion of it and it is established by subsequent events or otherwise that the repayment was not made as part of a series of loans or other transactions and repayments, the Minister shall, on written application made no later than 2 years after the end of the calendar year in which the repayment is made, pay to the person an amount equal to the lesser of

(a) the amount so paid to the Receiver General in respect of the loan or indebtedness or portion of it, as the case may be, and

(b) the amount that would be payable to the Receiver General under Part XIII if a dividend described in paragraph 212(2)(a) equal in amount to the amount of the loan or indebtedness repaid were paid by the corporation or partnership to the person at the time of the repayment,

unless the person is or is about to become liable to make a payment to Her Majesty in right of Canada, in which case the Minister may apply the amount otherwise

Remboursement d'un emprunt à un actionnaire non-résident

(6.1) Dans le cas où une personne pour le compte de qui un montant a été versé au receveur général en vertu de la partie XIII par l'effet du paragraphe 15(2) et de l'alinéa 214(3)a) rembourse tout ou partie de quelque emprunt ou dette contracté d'une société ou d'une société de personnes — lequel remboursement, selon ce qui est établi à partir d'événements subséquents ou autrement, ne fait pas partie d'une série de prêts ou d'autres opérations et remboursements —, le ministre doit, sur demande écrite faite au plus tard deux ans suivant la fin de l'année civile où le remboursement est effectué, payer à la personne le moins élevé des montants suivants :

a) le montant ainsi versé au receveur général au titre de l'emprunt ou de la dette;

b) le montant qui serait payable au receveur général en vertu de la partie XIII si un dividende visé à l'alinéa 212(2)a) — d'un montant égal au montant remboursé au titre de l'emprunt ou de la dette — était versé par la société ou la société de personnes à la personne au moment du remboursement.

Toutefois, si la personne est tenue de faire un paiement à Sa Majesté du chef du Canada, ou est sur le point de l'être, le ministre peut appliquer le montant par ailleurs

payable under this subsection to that liability and notify the person of that action.

Foreign affiliate dumping — late-filed form

(6.2) If, in respect of an investment described in subsection 212.3(10), a corporation is deemed by subparagraph 212.3(7)(d)(ii) to pay a dividend and the corporation subsequently complies with the requirements of subparagraph 212.3(7)(d)(i) in respect of the investment,

(a) subject to paragraph (b), the Minister shall, on written application made on a particular day that is, or is no more than two years after, the day on which the form described in subparagraph 212.3(7)(d)(i) is filed, pay to the corporation an amount equal to the lesser of

(i) the total of all amounts, if any, paid to the Receiver General, on or prior to the particular day, on behalf of a person and in respect of the liability of the person to pay an amount under Part XIII in respect of the dividend, and

(ii) the amount that the person was liable to pay in respect of the dividend under Part XIII;

(b) where the corporation or the person is or is about to become liable to make a payment to Her Majesty in right of Canada, the Minister may apply the amount otherwise payable under paragraph (a) to that liability and notify the corporation, and, if applicable, the person, of that action; and

(c) for the purposes of this Part (other than subparagraph (a)(i)), if the amount described in subparagraph (a)(ii) exceeds the amount described in subparagraph (a)(i), the corporation is deemed to pay that excess to the Receiver General on the day on which the form described in subparagraph 212.3(7)(d)(i) is filed.

Application for assessment

(7) Where, on application under subsection 227(6) by or on behalf of a person to the Minister in respect of an amount paid under Part XII.5 or XIII to the Receiver General, the Minister is not satisfied

(a) that the person was not liable to pay any tax under that Part, or

(b) that the amount paid was in excess of the tax that the person was liable to pay,

the Minister shall assess any amount payable under that Part by the person and send a notice of assessment to the person, and sections 150 to 163, subsections 164(1) and 164(1.4) to 164(7), sections 164.1 to 167 and Division J of

payable selon le présent paragraphe à ce paiement et aviser la personne en conséquence.

Opérations de transfert de sociétés étrangères affiliées — formulaire en retard

(6.2) Si, relativement à un placement visé au paragraphe 212.3(10), une société est réputée, par l'effet du sous-alinéa 212.3(7)d)(ii), verser un dividende et qu'elle remplit par la suite les exigences énoncées au sous-alinéa 212.3(7)d)(i) relativement au placement :

a) sous réserve de l'alinéa b), le ministre doit, sur demande écrite faite à une date donnée qui est au plus tard deux ans après la date de production du formulaire visé au sous-alinéa 212.3(7)d)(i), payer à la société la moins élevée des sommes suivantes :

(i) le total des sommes, le cas échéant, versées au receveur général, au plus tard à la date donnée, au nom d'une personne et au titre d'une somme à payer par la personne relativement au dividende en vertu de la partie XIII,

(ii) la somme dont la personne était redevable relativement au dividende en vertu de la partie XIII;

b) si la société ou personne est, ou est sur le point de devenir, redevable d'une somme donnée à Sa Majesté du chef du Canada, le ministre peut imputer la somme à payer à la société ou personne en application de l'alinéa a) à la somme donnée et en aviser la société et, le cas échéant, la personne;

c) pour l'application de la présente partie (sauf le sous-alinéa a)(i)), si la somme visée au sous-alinéa a)(ii) excède celle visée au sous-alinéa a)(i), la société est réputée verser l'excédent au receveur général à la date de production du formulaire visé au sous-alinéa 212.3(7)d)(i).

Demande de cotisation

(7) Le ministre établit une cotisation pour tout montant payable par une personne en vertu des parties XII.5 ou XIII et lui envoie un avis de cotisation si, après étude d'une demande faite par la personne, ou en son nom, en application du paragraphe (6), relativement à un montant versé au receveur général en vertu de cette partie, il n'est pas convaincu :

a) soit que la personne n'était pas redevable d'un impôt en vertu de cette partie;

b) soit que le montant versé au receveur général excédait l'impôt dont la personne était redevable.

Part I apply with any modifications that the circumstances require.

Les articles 150 à 163, les paragraphes 164(1) et (1.4) à (7), les articles 164.1 à 167 et la section J de la partie I s'appliquent alors, avec les adaptations nécessaires.

Application for determination

(7.1) Where, on application under subsection 227(6.1) by or on behalf of a person to the Minister in respect of an amount paid under Part XIII to the Receiver General, the Minister is not satisfied that the person is entitled to the amount claimed, the Minister shall, at the person's request, determine, with all due dispatch, the amount, if any, payable under subsection 227(6.1) to the person and shall send a notice of determination to the person, and sections 150 to 163, subsections 164(1) and 164(1.4) to 164(7), sections 164.1 to 167 and Division J of Part I apply with such modifications as the circumstances require.

Demande de détermination

(7.1) Si, après étude d'une demande faite par une personne, ou en son nom, en application du paragraphe (6.1) relativement à un montant versé au receveur général en vertu de la partie XIII, le ministre n'est pas convaincu que la personne a droit au montant demandé, il doit, à la demande de cette personne, déterminer, avec diligence, le montant éventuel qui lui est payable en vertu du paragraphe (6.1) et aviser la personne de sa décision. Les articles 150 à 163, les paragraphes 164(1) à (1.4) à (7), les articles 164.1 à 167 et la section J de la partie I s'appliquent alors, avec les adaptations nécessaires.

Penalty

(8) Subject to subsection (9.5), every person who in a calendar year has failed to deduct or withhold any amount as required by subsection 153(1) or section 215 is liable to a penalty of

(a) 10% of the amount that should have been deducted or withheld; or

(b) where at the time of the failure a penalty under this subsection was payable by the person in respect of an amount that should have been deducted or withheld during the year and the failure was made knowingly or under circumstances amounting to gross negligence, 20% of that amount.

Défaut de retenue à la source

(8) Sous réserve du paragraphe (9.5), toute personne qui ne déduit pas ou ne retient pas un montant au cours d'une année civile conformément au paragraphe 153(1) ou à l'article 215 est passible d'une pénalité :

a) soit de 10 % du montant qui aurait dû être déduit ou retenu;

b) soit de 20 % du montant qui aurait dû être déduit ou retenu au cours de l'année si, au moment du défaut, une pénalité en application du présent paragraphe était payable par la personne sur ce montant et si le défaut a été commis sciemment ou dans des circonstances équivalant à faute lourde.

Joint and several, or solidary, liability

(8.1) If a particular person has failed to deduct or withhold an amount as required under subsection 153(1) or section 215 in respect of an amount that has been paid to a non-resident person, the non-resident person is jointly and severally, or solidarily, liable with the particular person to pay any interest payable by the particular person pursuant to subsection (8.3) in respect thereof.

Solidarité

(8.1) Dans le cas où une personne ne déduit pas ou ne retient pas un montant conformément au paragraphe 153(1) ou à l'article 215 sur un montant payé à une personne qui ne réside pas au Canada, ces deux personnes sont solidairement tenues au paiement des intérêts payables par la première sur ce montant conformément au paragraphe (8.3).

Retirement compensation arrangement deductions

(8.2) Where a person has failed to deduct or withhold any amount as required under subsection 153(1) in respect of a contribution under a retirement compensation arrangement, that person is liable to pay to Her Majesty an amount equal to the amount of the contribution, and each payment on account of that amount is deemed to be, in the year in which the payment is made,

(a) for the purposes of paragraph 20(1)(r), a contribution by the person to the arrangement; and

Convention de retraite

(8.2) Toute personne qui n'a pas déduit ou retenu un montant, comme l'exige le paragraphe 153(1), au titre d'une cotisation versée dans le cadre d'une convention de retraite est tenue de payer à Sa Majesté un montant égal à cette cotisation. Chaque versement au titre de ce montant est réputé être, au cours de l'année où il est effectué :

a) d'une part, une cotisation que la personne verse dans le cadre de la convention, pour l'application de l'alinéa 20(1)r);

(b) an amount on account of tax payable by the custodian under Part XI.3.

b) d'autre part, un montant d'impôt payable par le dépositaire en application de la partie XI.3

Interest on amounts not deducted or withheld

(8.3) A person who fails to deduct or withhold any amount as required by subsection 135(3), 135.1(7), 153(1) or 211.8(2) or section 215 shall pay to the Receiver General interest on the amount at the prescribed rate, computed

(a) in the case of an amount required by subsection 153(1) to be deducted or withheld from a payment to another person, from the fifteenth day of the month immediately following the month in which the amount was required to be deducted or withheld, or from such earlier day as may be prescribed for the purposes of subsection 153(1), to,

(i) where that other person is not resident in Canada, the day of payment of the amount to the Receiver General, and

(ii) where that other person is resident in Canada, the earlier of the day of payment of the amount to the Receiver General and April 30 of the year immediately following the year in which the amount was required to be deducted or withheld;

(b) in the case of an amount required by subsection 135(3) or 135.1(7) or section 215 to be deducted or withheld, from the day on which the amount was required to be deducted or withheld to the day of payment of the amount to the Receiver General; and

(c) in the case of an amount required by subsection 211.8(2) to be withheld, from the day on or before which the amount was required to be remitted to the Receiver General to the day of the payment of the amount to the Receiver General.

Intérêts sur les montants non déduits ou non retenus

(8.3) La personne qui ne déduit pas ou ne retient pas un montant conformément aux paragraphes 135(3), 135.1(7), 153(1) ou 211.8(2) ou à l'article 215 doit payer au receveur général des intérêts sur ce montant calculés au taux prescrit :

a) s'il s'agit d'un montant à déduire ou à retenir sur un paiement à une autre personne en application du paragraphe 153(1), pour la période commençant le quinzième jour du mois qui suit le mois au cours duquel le montant aurait dû être déduit ou retenu ou à toute date antérieure qui peut être fixée par règlement pour l'application de ce paragraphe, et se terminant :

(i) le jour du paiement du montant au receveur général, si cette autre personne ne réside pas au Canada,

(ii) au premier en date du jour du paiement du montant au receveur général et du 30 avril de l'année qui suit l'année au cours de laquelle le montant aurait dû être déduit ou retenu, si cette autre personne réside au Canada;

b) s'il s'agit d'un montant visé aux paragraphes 135(3) ou 135.1(7) ou à l'article 215, pour la période commençant le jour où le montant aurait dû être déduit ou retenu et se terminant le jour de son paiement au receveur général;

c) s'il s'agit d'un montant à retenir conformément au paragraphe 211.8(2), pour la période commençant à la date limite de versement du montant au receveur général et se terminant le jour de son versement.

Liability to pay amount not deducted or withheld

(8.4) A person who fails to deduct or withhold any amount as required under subsection 135(3) or 135.1(7) in respect of a payment made to another person or under subsection 153(1) in respect of an amount paid to another person who is non-resident or who is resident in Canada solely because of paragraph 250(1)(a) is liable to pay as tax under this Act on behalf of the other person the whole of the amount that should have been so deducted or withheld and is entitled to deduct or withhold from any amount paid or credited by the person to the other person or otherwise to recover from the other person any amount paid by the person as tax under this Part on behalf of the other person.

Obligation de payer un montant non déduit ou non retenu

(8.4) La personne qui ne déduit pas ou ne retient pas un montant conformément soit aux paragraphes 135(3) ou 135.1(7) sur un paiement fait à une autre personne, soit au paragraphe 153(1) sur un montant payé à une autre personne qui ne réside pas au Canada ou qui n'y réside que par application de l'alinéa 250(1)a), doit payer, au nom de cette autre personne, à titre d'impôt en vertu de la présente loi, la totalité du montant qui aurait dû être ainsi déduit ou retenu et a le droit de déduire ou de retenir ce montant sur tout montant payé à cette autre personne ou porté à son crédit, ou de le recouvrer autrement de cette autre personne.

No penalty — certain deemed payments

(8.5) Subsection (8) does not apply to a corporation in respect of

(a) an amount of interest deemed by subsection 214(16) to have been paid as a dividend by the corporation unless, if the Act were read without reference to subsection 214(16), a penalty under subsection (8) would have applied in respect of the amount; and

(b) an amount deemed by subparagraph 212.3(7)(d)(ii) or subsection 247(12) to have been paid as a dividend by the corporation.

No penalty — qualifying non-resident employers

(8.6) Subsection (8) does not apply to a ***qualifying non-resident employer*** (as defined in subsection 153(6)) in respect of a payment made to an employee if, after reasonable inquiry, the employer had no reason to believe at the time of the payment that the employee was not a ***qualifying non-resident employee*** (as defined in subsection 153(6)).

Penalty

(9) Subject to subsection 227(9.5), every person who in a calendar year has failed to remit or pay as and when required by this Act or a regulation an amount deducted or withheld as required by this Act or a regulation or an amount of tax that the person is, by section 116 or by a regulation made under subsection 215(4), required to pay is liable to a penalty of

(a) subject to paragraph (b), if

(i) the Receiver General receives that amount on or before the day it was due, but that amount is not paid in the manner required, 3% of that amount,

(ii) the Receiver General receives that amount

(A) no more than three days after it was due, 3% of that amount,

(B) more than three days and no more than five days after it was due, 5% of that amount, or

(C) more than five days and no more than seven days after it was due, 7% of that amount, or

(iii) that amount is not paid or remitted on or before the seventh day after it was due, 10% of that amount; or

(b) where at the time of the failure a penalty under this subsection was payable by the person in respect of

Aucune pénalité sur certains paiements réputés

(8.5) Le paragraphe (8) ne s'applique pas à une société relativement aux sommes suivantes :

a) un montant d'intérêts qui est réputé, en vertu du paragraphe 214(16), avoir été payé par la société à titre de dividende, sauf dans le cas où ce montant aurait été assujetti à la pénalité prévue au paragraphe (8) en l'absence du paragraphe 214(16);

b) toute somme qui est réputée, en vertu du sous-alinéa 212.3(7)d)(ii) ou du paragraphe 247(12), avoir été versée à titre de dividende par la société.

Aucune pénalité — employeur non-résident admissible

(8.6) Le paragraphe (8) ne s'applique pas à un ***employeur non-résident admissible***, au sens du paragraphe 153(6), relativement à une somme versée à un employé si, après enquête sérieuse, l'employeur n'avait aucune raison de croire, au moment de verser la somme, que l'employé n'était pas un ***employé non-résident admissible***, au sens du paragraphe 153(6).

Défaut de remettre une retenue à la source

(9) Sous réserve du paragraphe (9.5), toute personne qui ne remet pas ou ne paye pas au cours d'une année civile, de la manière et dans le délai prévus à la présente loi ou à son règlement, un montant déduit ou retenu conformément à la présente loi ou à son règlement ou un montant d'impôt qu'elle doit payer conformément à l'article 116 ou à une disposition réglementaire prise en application du paragraphe 215(4) est passible d'une pénalité :

a) soit, sous réserve de l'alinéa b) :

(i) si le receveur général reçoit ce montant au plus tard à la date où il est exigible, mais que le montant n'est pas payé de la manière prévue, de 3 % du montant,

(ii) si le receveur général reçoit ce montant :

(A) au plus trois jours après la date où il est exigible, de 3 % du montant,

(B) plus de trois jours mais au plus cinq jours après la date où il est exigible, de 5 % du montant,

(C) plus de cinq jours mais au plus sept jours après la date où il est exigible, de 7 % du montant,

an amount that should have been remitted or paid during the year and the failure was made knowingly or under circumstances amounting to gross negligence, 20% of that amount.

(iii) si ce montant n'est pas payé ou remis au plus tard le septième jour suivant la date où il est exigible, de 10 % du montant;

b) soit de 20 % du montant qui aurait dû être remis ou payé au cours de l'année si, au moment du défaut, une pénalité en application du présent paragraphe était payable par la personne et si le défaut a été commis sciemment ou dans des circonstances équivalant à faute lourde.

Penalty

(9.1) Notwithstanding any other provision of this Act, any other enactment of Canada, any enactment of a province or any other law, the penalty for failure to remit an amount required to be remitted by a person on or before a prescribed date under subsection 153(1), subsection 21(1) of the *Canada Pension Plan*, subsection 53(1) of the *Unemployment Insurance Act* and subsection 82(1) of the *Employment Insurance Act* shall, unless the person who is required to remit the amount has, knowingly or under circumstances amounting to gross negligence, delayed in remitting the amount or has, knowingly or under circumstances amounting to gross negligence, remitted an amount less than the amount required, apply only to the amount by which the total of all so required to be remitted on or before that date exceeds $500.

Restriction

(9.1) Malgré les autres dispositions de la présente loi et tout autre texte législatif fédéral ou provincial et toute règle de droit, la pénalité pour défaut d'une personne de remettre un montant qu'elle devait au plus tard remettre à une date fixée par une disposition réglementaire prise en application du paragraphe 153(1), du paragraphe 21(1) du *Régime de pensions du Canada*, du paragraphe 53(1) de la *Loi sur l'assurance-chômage* et du paragraphe 82(1) de la *Loi sur l'assurance-emploi* ne s'appliquent qu'à l'excédent, sur 500 $, du total des montants que cette personne devait au plus tard remettre à cette date. Le présent paragraphe ne s'applique pas à une personne qui a, sciemment ou dans des circonstances équivalant à faute lourde, tardé à remettre le montant ou remis un montant inférieur à celui qu'elle devait remettre.

Interest on amounts deducted or withheld but not remitted

(9.2) Where a person has failed to remit as and when required by this Act or a regulation an amount deducted or withheld as required by this Act or a regulation, the person shall pay to the Receiver General interest on the amount at the prescribed rate computed from the day on which the person was so required to remit the amount to the day of remittance of the amount to the Receiver General.

Intérêts sur les montants déduits ou retenus mais non remis

(9.2) La personne qui ne remet pas, de la manière et dans le délai prévus à la présente loi ou à son règlement, un montant déduit ou retenu conformément à la présente loi ou à son règlement doit payer au receveur général des intérêts sur ce montant calculés au taux prescrit pour la période commençant le jour où elle était tenue de remettre ce montant et se terminant le jour où le montant est remis au receveur général.

Interest on certain tax not paid

(9.3) Where a person fails to pay an amount of tax that, because of section 116, subsection 212(19) or a regulation made under subsection 215(4), the person is required to pay, as and when the person is required to pay it, the person shall pay to the Receiver General interest on the amount at the prescribed rate computed from the day on or before which the amount was required to be paid to the day of payment of the amount to the Receiver General.

Intérêts sur l'impôt impayé

(9.3) La personne qui ne paie pas, de la manière et dans le délai prévus, un montant d'impôt qu'elle devait payer conformément à l'article 116, au paragraphe 212(19) ou à une disposition réglementaire prise en application du paragraphe 215(4) est tenue de verser au receveur général des intérêts sur ce montant calculés au taux prescrit pour la période commençant le jour où elle était tenue de payer ce montant et se terminant le jour du versement du montant au receveur général.

Liability to pay amount not remitted

(9.4) A person who has failed to remit as and when required by this Act or a regulation an amount deducted or withheld from a payment to another person as required by this Act or a regulation is liable to pay as tax under

Obligation de payer un montant non remis

(9.4) La personne qui ne remet pas, de la manière et dans le délai prévus à la présente loi ou à son règlement, un montant déduit ou retenu d'un paiement fait à une autre personne conformément à la présente loi ou à son

this Act on behalf of the other person the amount so deducted or withheld.

règlement doit payer, au nom de cette autre personne, à titre d'impôt en vertu de la présente loi, le montant ainsi déduit ou retenu.

Payment from same establishment

(9.5) In applying paragraphs 227(8)(b) and 227(9)(b) in respect of an amount required by paragraph 153(1)(a) to be deducted or withheld, each establishment of a person shall be deemed to be a separate person.

Paiement du même établissement

(9.5) Pour l'application des alinéas (8)b) et (9)b) aux montants à déduire ou à retenir en application de l'alinéa 153(1)a), chaque établissement d'une personne est réputé être une personne distincte.

Assessment

(10) The Minister may at any time assess any amount payable under

(a) subsection 227(8), 227(8.1), 227(8.2), 227(8.3) or 227(8.4) or 224(4) or 224(4.1) or section 227.1 or 235 by a person,

(b) subsection 237.1(7.4) or (7.5) or 237.3(8) by a person or partnership,

(c) subsection 227(10.2) by a person as a consequence of a failure of a non-resident person to deduct or withhold any amount, or

(d) Part XIII by a person resident in Canada,

and, where the Minister sends a notice of assessment to that person or partnership, Divisions I and J of Part I apply with any modifications that the circumstances require.

Cotisation

(10) Le ministre peut, en tout temps, établir une cotisation pour les montants suivants :

a) un montant payable par une personne en vertu des paragraphes (8), (8.1), (8.2), (8.3) ou (8.4) ou 224(4) ou (4.1) ou des articles 227.1 ou 235;

b) un montant payable par une personne ou une société de personnes en vertu des paragraphes 237.1(7.4) ou (7.5) ou 237.3(8);

c) un montant payable par une personne en vertu du paragraphe (10.2) pour défaut par une personne non-résidente d'effectuer une déduction ou une retenue;

d) un montant payable en vertu de la partie XIII par une personne qui réside au Canada.

Les sections I et J de la partie I s'appliquent, avec les modifications nécessaires, à tout avis de cotisation que le ministre envoie à la personne ou à la société de personnes.

Part XII.5

(10.01) The Minister may at any time assess any amount payable under Part XII.5 by a person resident in Canada and, where the Minister sends a notice of assessment to that person, Divisions I and J of Part I apply with any modifications that the circumstances require.

Partie XII.5

(10.01) Le ministre peut, en tout temps, établir une cotisation à l'égard d'une personne résidant au Canada pour tout montant payable en vertu de la partie XII.5 Les sections I et J de la partie I s'appliquent, avec les adaptations nécessaires, à tout avis de cotisation que le ministre envoie à la personne.

Idem

(10.1) The Minister may at any time assess

(a) any amount payable under section 116 or subsection 227(9), 227(9.2), 227(9.3) or 227(9.4) by any person,

(a.1) [Repealed, 1997, c. 25, s. 67(7)]

(b) any amount payable under subsection 227(10.2) by any person as a consequence of a failure by a non-resident person to remit any amount, and

Cotisation

(10.1) Le ministre peut, en tout temps, établir une cotisation :

a) pour un montant payable par une personne en vertu de l'article 116 ou des paragraphes (9), (9.2), (9.3) ou (9.4);

b) pour un montant payable par une personne en vertu du paragraphe (10.2) pour défaut par une personne non-résidente d'effectuer un versement;

c) pour un montant payable par une personne non-résidente en vertu des parties XII.5 ou XIII.

(c) any amount payable under Part XII.5 or XIII by any non-resident person,

and, where the Minister sends a notice of assessment to the person, sections 150 to 163, subsections 164(1) and 164(1.4) to 164(7), sections 164.1 to 167 and Division J of Part I apply with such modifications as the circumstances require.

Si le ministre envoie un avis de cotisation à la personne, les articles 150 à 163, les paragraphes 164(1) et (1.4) à (7), les articles 164.1 à 167 et la section J de la partie I s'appliquent, avec les adaptations nécessaires.

Joint and several, or solidary, liability re contributions to RCA

(10.2) If a non-resident person fails to deduct, withhold or remit an amount as required by subsection 153(1) in respect of a contribution under a retirement compensation arrangement that is paid on behalf of the employees or former employees of an employer with whom the non-resident person does not deal at arm's length, the employer is jointly and severally, or solidarily, liable with the non-resident person to pay any amount payable under subsection (8), (8.2), (8.3), (9), (9.2) or (9.4) by the non-resident person in respect of the contribution.

Solidarité — cotisations à une convention de retraite

(10.2) Lorsqu'une personne non-résidente omet de déduire, de retenir ou de verser un montant conformément au paragraphe 153(1) relativement à une cotisation versée dans le cadre d'une convention de retraite pour le compte des employés ou des anciens employés d'un employeur avec lequel elle a un lien de dépendance, l'employeur est solidairement tenu avec la personne non-résidente au paiement d'un montant payable par celle-ci en vertu des paragraphes (8), (8.2), (8.3), (9), (9.2) ou (9.4) relativement à la cotisation.

(10.3) to (10.9) [Repealed, 1994, c. 7, Sch. VIII, s. 153]

(10.3) à (10.9) [Abrogés, 1994, ch. 7, ann. VIII, art. 153]

Withholding tax

(11) Provisions of this Act requiring a person to deduct or withhold an amount in respect of taxes from amounts payable to a taxpayer are applicable to Her Majesty in right of Canada or a province.

Retenue d'impôt

(11) Les dispositions de la présente loi exigeant qu'une personne déduise ou retienne un montant à l'égard des impôts, sur des montants payables à un contribuable, s'appliquent à Sa Majesté du chef du Canada ou d'une province.

Agreement not to deduct void

(12) Where this Act requires an amount to be deducted or withheld, an agreement by the person on whom that obligation is imposed not to deduct or withhold is void.

Nullité des conventions prévoyant la non-retenue

(12) Lorsque la présente loi exige qu'un montant soit déduit ou retenu, une convention prévoyant qu'il ne sera pas déduit ni retenu et conclue par la personne à qui cette obligation est imposée est nulle.

Minister's receipt discharges debtor

(13) The receipt of the Minister for an amount deducted or withheld by any person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to the debtor's creditor with respect thereto to the extent of the amount referred to in the receipt.

Récépissé du ministre constituant quittance

(13) Le récépissé du ministre pour un montant déduit ou retenu par une personne, comme l'exige la présente loi, est une libération bonne et suffisante de l'obligation de tout débiteur envers son créancier à cet égard jusqu'à concurrence du montant mentionné dans le récépissé.

Application of other Parts

(14) Parts IV, IV.1, VI and VI.1 do not apply to any corporation for any period throughout which it is exempt from tax because of section 149.

Inapplication des parties IV, IV.1, VI et VI.1

(14) Les parties IV, IV.1, VI et VI.1 ne s'appliquent pas à une société pour une période tout au long de laquelle elle est exonérée d'impôt en application de l'article 149.

Partnership included in "person"

(15) In this section, a reference to a "person" with respect to any amount deducted or withheld or required to be deducted or withheld is deemed to include a partnership.

Société de personnes assimilée à une personne

(15) Au présent article, la mention d'une personne relativement à un montant déduit ou retenu ou à déduire ou à retenir vaut également mention d'une société de personnes.

Municipal or provincial corporation excepted

(16) A corporation that at any time in a taxation year would be a corporation described in any of paragraphs 149(1)(d) to (d.6) but for a provision of an appropriation Act is deemed not to be a private corporation for the purposes of Part IV with respect to that year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 227; 1994, c. 7, Sch. II, s. 186, Sch. V, s. 90, Sch. VIII, ss. 132, 153, c. 21, s. 104; 1996, c. 21, s. 57, c. 23, s. 176; 1997, c. 25, s. 67; 1998, c. 19, s. 226; 2000, c. 12, s. 138; 2001, c. 17, ss. 180, 229; 2006, c. 4, s. 86; 2008, c. 28, s. 33; 2012, c. 19, s. 14, c. 31, s. 52; 2013, c. 34, ss. 165(E), 351; 2014, c. 39, s. 68; 2016, c. 7, s. 46.

Liability of directors for failure to deduct

227.1 (1) Where a corporation has failed to deduct or withhold an amount as required by subsection 135(3) or 135.1(7) or section 153 or 215, has failed to remit such an amount or has failed to pay an amount of tax for a taxation year as required under Part VII or VIII, the directors of the corporation at the time the corporation was required to deduct, withhold, remit or pay the amount are jointly and severally, or solidarily, liable, together with the corporation, to pay that amount and any interest or penalties relating to it.

Limitations on liability

(2) A director is not liable under subsection 227.1(1), unless

(a) a certificate for the amount of the corporation's liability referred to in that subsection has been registered in the Federal Court under section 223 and execution for that amount has been returned unsatisfied in whole or in part;

(b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in that subsection has been proved within six months after the earlier of the date of commencement of the proceedings and the date of dissolution; or

(c) the corporation has made an assignment or a bankruptcy order has been made against it under the *Bankruptcy and Insolvency Act* and a claim for the amount of the corporation's liability referred to in that subsection has been proved within six months after the date of the assignment or bankruptcy order.

Exclusion d'une administration municipale ou provinciale

(16) La société qui, au cours d'une année d'imposition, serait une société visée à l'un des alinéas 149(1)d) à d.6) si ce n'était une disposition d'une loi de crédits est réputée ne pas être une société privée pour l'application de la partie IV relativement à l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 227; 1994, ch. 7, ann. II, art. 186, ann. V, art. 90, ann. VIII, art. 132 et 153, ch. 21, art. 104; 1996, ch. 21, art. 57, ch. 23, art. 176; 1997, ch. 25, art. 67; 1998, ch. 19, art. 226; 2000, ch. 12, art. 138; 2001, ch. 17, art. 180 et 229; 2006, ch. 4, art. 86; 2008, ch. 28, art. 33; 2012, ch. 19, art. 14, ch. 31, art. 52; 2013, ch. 34, art. 165(A) et 351; 2014, ch. 39, art. 68; 2016, ch. 7, art. 46.

Responsabilité des administrateurs pour défaut d'effectuer les retenues

227.1 (1) Lorsqu'une société a omis de déduire ou de retenir une somme, tel que prévu aux paragraphes 135(3) ou 135.1(7) ou aux articles 153 ou 215, ou a omis de verser cette somme ou a omis de payer un montant d'impôt en vertu de la partie VII ou VIII pour une année d'imposition, les administrateurs de la société, au moment où celle-ci était tenue de déduire, de retenir, de verser ou de payer la somme, sont solidairement responsables, avec la société, du paiement de cette somme, y compris les intérêts et les pénalités s'y rapportant.

Restrictions relatives à la responsabilité

(2) Un administrateur n'encourt la responsabilité prévue au paragraphe (1) que dans l'un ou l'autre des cas suivants :

a) un certificat précisant la somme pour laquelle la société est responsable selon ce paragraphe a été enregistré à la Cour fédérale en application de l'article 223 et il y a eu défaut d'exécution totale ou partielle à l'égard de cette somme;

b) la société a engagé des procédures de liquidation ou de dissolution ou elle a fait l'objet d'une dissolution et l'existence de la créance à l'égard de laquelle elle encourt la responsabilité en vertu de ce paragraphe a été établie dans les six mois suivant le premier en date du jour où les procédures ont été engagées et du jour de la dissolution;

c) la société a fait une cession ou une ordonnance de faillite a été rendue contre elle en vertu de la *Loi sur la faillite et l'insolvabilité* et l'existence de la créance à l'égard de laquelle elle encourt la responsabilité en vertu de ce paragraphe a été établie dans les six mois suivant la date de la cession ou de l'ordonnance de faillite.

Idem

(3) A director is not liable for a failure under subsection 227.1(1) where the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Limitation period

(4) No action or proceedings to recover any amount payable by a director of a corporation under subsection 227.1(1) shall be commenced more than two years after the director last ceased to be a director of that corporation.

Amount recoverable

(5) Where execution referred to in paragraph 227.1(2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Preference

(6) Where a director pays an amount in respect of a corporation's liability referred to in subsection 227.1(1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that Her Majesty in right of Canada would have been entitled to had that amount not been so paid and, where a certificate that relates to that amount has been registered, the director is entitled to an assignment of the certificate to the extent of the director's payment, which assignment the Minister is hereby empowered to make.

Contribution

(7) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 227.1; 1994, c. 7, Sch. V, s. 90; 2004, c. 25, s. 202; 2006, c. 4, s. 87.

Applying payments under collection agreements

228 Where a payment is made to the Minister on account of tax under this Act, an Act of a province that imposes a tax similar to the tax imposed under this Act, or any two or more such Acts, such part of that payment as is applied by the Minister in accordance with the provisions of a collection agreement entered into under Part III of the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act* against the tax payable by a taxpayer for a taxation year under this Act discharges the liability of the taxpayer for that tax only to the extent of the part of the payment so applied, notwithstanding that the taxpayer

Idem

(3) Un administrateur n'est pas responsable de l'omission visée au paragraphe (1) lorsqu'il a agi avec le degré de soin, de diligence et d'habileté pour prévenir le manquement qu'une personne raisonnablement prudente aurait exercé dans des circonstances comparables.

Prescription

(4) L'action ou les procédures visant le recouvrement d'une somme payable par un administrateur d'une société en vertu du paragraphe (1) se prescrivent par deux ans à compter de la date à laquelle l'administrateur cesse pour la dernière fois d'être un administrateur de cette société.

Montant recouvrable

(5) Dans le cas du défaut d'exécution visé à l'alinéa (2)a), la somme qui peut être recouvrée d'un administrateur est celle qui demeure impayée après l'exécution.

Privilège

(6) Lorsqu'un administrateur verse une somme à l'égard de laquelle la société encourt une responsabilité en vertu du paragraphe (1), qui est établie lors de procédures de liquidation, de dissolution ou de faillite, il a droit à tout privilège auquel Sa Majesté du chef du Canada aurait eu droit si cette somme n'avait pas été payée et, lorsqu'un certificat a été enregistré relativement à cette somme, il peut exiger que le certificat lui soit cédé jusqu'à concurrence du versement et le ministre est autorisé à faire cette cession.

Répétition

(7) L'administrateur qui a satisfait à la créance en vertu du présent article peut répéter les parts des administrateurs tenus responsables de la créance.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 227.1; 1994, ch. 7, ann. V, art. 90; 2004, ch. 25, art. 202; 2006, ch. 4, art. 87.

Imputation des paiements selon des accords de perception

228 Lorsqu'un paiement est fait au ministre à valoir sur l'impôt prévu par la présente loi, par une loi provinciale qui prévoit un impôt semblable à celui que prévoit la présente loi ou par plusieurs telles lois, la partie du paiement que le ministre impute, conformément aux dispositions d'un accord de perception conclu en vertu de la partie III de la *Loi sur les arrangements fiscaux entre le gouvernement fédéral et les provinces* et sur les contributions fédérales en matière d'enseignement postsecondaire et de santé, sur l'impôt payable par un contribuable pour une année d'imposition en vertu de la présente loi ne libère le contribuable de sa responsabilité pour un tel

directed that the payment be applied in a manner other than that provided in the collection agreement or made no direction as to its application.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"228"; 1985, c. 45, s. 118.

impôt que jusqu'à concurrence de la partie du paiement ainsi imputé, même si le contribuable a donné instruction que le paiement soit imputé d'une autre manière que celle que prévoit l'accord de perception ou qu'il n'ait donné aucune instruction quant à l'imputation du paiement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 228 »; 1985, ch. 45, art. 118.

Repeal of s. 229

229.1 (1) Section 229 is repealed.

Abrogation de l'art. 229

229.1 (1) L'article 229 est abrogé.

Coming into force

(2) Subsection 229.1(1) shall come into force on a day to be fixed by proclamation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1986, c. 6, s. 119.

Entrée en vigueur

(2) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1986, ch. 6, art. 119.

General

Records and books

230 (1) Every person carrying on business and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account (including an annual inventory kept in prescribed manner) at the person's place of business or residence in Canada or at such other place as may be designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

Records and books

(2) Every qualified donee referred to in paragraphs (a) to (c) of the definition ***qualified donee*** in subsection 149.1(1) shall keep records and books of account — in the case of a qualified donee referred to in any of subparagraphs (a)(i) and (iii) and paragraphs (b) and (c) of that definition, at an address in Canada recorded with the Minister or designated by the Minister — containing

(a) information in such form as will enable the Minister to determine whether there are any grounds for the revocation of its registration under this Act;

(b) a duplicate of each receipt containing prescribed information for a donation received by it; and

(c) other information in such form as will enable the Minister to verify the donations to it for which a deduction or tax credit is available under this Act.

Généralités

Livres de comptes et registres

230 (1) Quiconque exploite une entreprise et quiconque est obligé, par ou selon la présente loi, de payer ou de percevoir des impôts ou autres montants doit tenir des registres et des livres de comptes (y compris un inventaire annuel, selon les modalités réglementaires) à son lieu d'affaires ou de résidence au Canada ou à tout autre lieu que le ministre peut désigner, dans la forme et renfermant les renseignements qui permettent d'établir le montant des impôts payables en vertu de la présente loi, ou des impôts ou autres sommes qui auraient dû être déduites, retenues ou perçues.

Livres de comptes et registres

(2) Chaque donataire reconnu visé aux alinéas a) à c) de la définition de ***donataire reconnu*** au paragraphe 149.1(1) doit tenir des registres et des livres de comptes — à une adresse au Canada enregistrée auprès du ministre ou désignée par lui, s'il s'agit d'un donataire reconnu visé aux sous-alinéas a)(i) ou (iii) ou aux alinéas b) ou c) de cette définition — qui contiennent ce qui suit :

a) des renseignements sous une forme qui permet au ministre de déterminer s'il existe des motifs de révocation de l'enregistrement de l'organisme ou de l'association en vertu de la présente loi;

b) un double de chaque reçu, renfermant les renseignements prescrits, visant les dons reçus par l'organisme ou l'association;

c) d'autres renseignements sous une forme qui permet au ministre de vérifier les dons faits à l'organisme ou à l'association et qui donnent droit à une déduction ou à un crédit d'impôt aux termes de la présente loi.

Idem, lawyers

(2.1) For greater certainty, the records and books of account required by subsection 230(1) to be kept by a person carrying on business as a lawyer (within the meaning assigned by subsection 232(1)) whether by means of a partnership or otherwise, include all accounting records of the lawyer, including supporting vouchers and cheques.

Minister's requirement to keep records, etc.

(3) Where a person has failed to keep adequate records and books of account for the purposes of this Act, the Minister may require the person to keep such records and books of account as the Minister may specify and that person shall thereafter keep records and books of account as so required.

Limitation period for keeping records, etc.

(4) Every person required by this section to keep records and books of account shall retain

(a) the records and books of account referred to in this section in respect of which a period is prescribed, together with every account and voucher necessary to verify the information contained therein, for such period as is prescribed; and

(b) all other records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, until the expiration of six years from the end of the last taxation year to which the records and books of account relate.

Electronic records

(4.1) Every person required by this section to keep records who does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection 230(4).

Exemptions

(4.2) The Minister may, on such terms and conditions as are acceptable to the Minister, exempt a person or a class of persons from the requirement in subsection 230(4.1).

Exception where no return filed

(5) Where, in respect of any taxation year, a person referred to in subsection 230(1) has not filed a return with the Minister as and when required by section 150, that person shall retain every record and book of account that is required by this section to be kept and that relates to that taxation year, together with every account and

Idem, avocats

(2.1) Il est entendu que les registres et les livres de comptes qui doivent, en vertu du paragraphe (1), être tenus par une personne exploitant une entreprise consistant dans l'exercice de la profession d'avocat (au sens du paragraphe 232(1)) en société de personnes ou autrement comprennent tous les registres comptables de l'avocat, y compris les pièces justificatives et les chèques.

Ordre du ministre quant à la tenue de registres

(3) Le ministre peut exiger de la personne qui n'a pas tenue les registres et livres de compte voulus pour l'application de la présente loi qu'elle tienne ceux qu'il spécifie. Dès lors, la personne doit tenir les registres et livres de compte qui sont ainsi exigés d'elle.

Durée de conservation

(4) Quiconque est requis, sous le régime du présent article, de tenir des registres et livres de comptes doit conserver :

a) les registres et livres de comptes, de même que les comptes et pièces justificatives nécessaires à la vérification des renseignements contenus dans ces registres et livres de comptes, dont les règlements prévoient la conservation pour une période déterminée;

b) tous les autres registres et livres de comptes mentionnés au présent article de même que les comptes et pièces justificatives nécessaires à la vérification des renseignements contenus dans ces registres et livres de comptes pendant les six ans qui suivent la fin de la dernière année d'imposition à laquelle les documents se rapportent.

Registres électroniques

(4.1) Quiconque tient des registres, comme l'en oblige le présent article, par voie électronique doit les conserver sous une forme électronique intelligible pendant la durée de conservation visée au paragraphe (4).

Dispense

(4.2) Le ministre peut, selon des modalités qu'il estime acceptables, dispenser une personne ou une catégorie de personnes de l'exigence visée au paragraphe (4.1).

Exception : défaut de production d'une déclaration

(5) La personne visée au paragraphe (1) et qui n'a pas produit auprès du ministre, pour une année d'imposition, la déclaration de revenu prévue par l'article 150, de la manière et à la date prévues à cet article, doit conserver les registres et livres de comptes exigés par le présent article et qui se rapportent à cette année de même que les

voucher necessary to verify the information contained therein, until the expiration of six years from the day the return for that taxation year is filed.

comptes et pièces justificatives nécessaires à la vérification des renseignements contenus dans ces registres et livres de comptes pendant les six ans qui suivent la date à laquelle la déclaration de revenu pour cette année est produite auprès du ministre.

Exception where objection or appeal

(6) Where a person required by this section to keep records and books of account serves a notice of objection or where that person is a party to an appeal to the Tax Court of Canada under this Act, that person shall retain every record, book of account, account and voucher necessary for dealing with the objection or appeal until, in the case of the serving of a notice of objection, the time provided by section 169 to appeal has elapsed or, in the case of an appeal, until the appeal is disposed of and any further appeal in respect thereof is disposed of or the time for filing any such further appeal has expired.

Exception : opposition ou appel

(6) Une personne tenue par le présent article de tenir des registres et livres de comptes et qui signifie un avis d'opposition ou est partie à un appel devant la Cour canadienne de l'impôt en vertu de la présente loi doit conserver les registres, livres de comptes, comptes et pièces justificatives nécessaires à l'examen de l'opposition ou de l'appel jusqu'à l'expiration du délai d'appel prévu à l'article 169 en cas de signification d'un avis d'opposition, ou, en cas d'appel, jusqu'au prononcé sur l'appel et sur tout autre appel en découlant ou jusqu'à l'expiration du délai prévu pour interjeter cet autre appel.

Exception where demand by Minister

(7) Where the Minister is of the opinion that it is necessary for the administration of this Act, the Minister may, by registered letter or by a demand served personally, require any person required by this section to keep records and books of account to retain those records and books of account, together with every account and voucher necessary to verify the information contained therein, for such period as is specified in the letter or demand.

Exception : demande du ministre

(7) Le ministre peut exiger de la part de toute personne obligée de tenir des registres et livres de comptes en vertu du présent article, par demande signifiée à personne ou par lettre recommandée, la conservation des registres et livres de comptes de même que des comptes et pièces justificatives nécessaires à la vérification des renseignements contenus dans ces registres et livres de comptes, pour la période y prévue, lorsqu'il est d'avis que cela est nécessaire pour l'application de la présente loi.

Permission for earlier disposal

(8) A person required by this section to keep records and books of account may dispose of the records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained therein, before the expiration of the period in respect of which those records and books of account are required to be kept if written permission for their disposal is given by the Minister.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 230; 1994, c. 21, s. 105; 1998, c. 19, s. 227; 2011, c. 24, s. 70; 2013, c. 34, s. 352(F).

Autorisation de se départir plus tôt des documents

(8) Le ministre peut autoriser par écrit une personne à se départir des documents qu'elle doit conserver aux termes du présent article avant la fin de la période fixée sous le régime de celui-ci.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 230; 1994, ch. 21, art. 105; 1998, ch. 19, art. 227; 2011, ch. 24, art. 70; 2013, ch. 34, art. 352(F).

Records re monetary contributions - *Canada Elections Act*

230.1 (1) Every agent authorized under the *Canada Elections Act* to accept monetary contributions referred to in that Act shall keep records, sufficient to enable each monetary contribution within the meaning assigned by subsection 127(4.1) that they receive and the expenditures that they make to be verified, (including a duplicate of the receipt referred to in subsection 127(3) for each of those monetary contributions) at

Registres des contributions monétaires : *Loi électorale du Canada*

230.1 (1) Tout agent autorisé par la *Loi électorale du Canada* à accepter des contributions monétaires visées par cette loi tient des registres propres à permettre le contrôle de chaque contribution monétaire, au sens du paragraphe 127(4.1), qu'il reçoit et des dépenses qu'il engage, y compris un double du reçu visé au paragraphe 127(3) délivré pour chacune de ces contributions. Les registres sont tenus :

(a) in the case of an agent other than an official agent of a candidate, the address recorded in the registry of political parties or of electoral district associations referred to in the *Canada Elections Act*; and

(b) in the case of an official agent of a candidate, the agent's address set out in the nomination papers filed under that Act with the returning officer when the candidate was a prospective candidate or any other address that the Minister designates.

a) dans le cas d'un agent, sauf l'agent officiel d'un candidat, à l'adresse figurant dans le registre des partis politiques ou des associations de circonscription, visé par la *Loi électorale du Canada*;

b) dans le cas de l'agent officiel d'un candidat, à l'adresse de l'agent indiquée dans les actes de candidature présentés au directeur du scrutin en vertu de cette loi au moment où le candidat désirait se porter candidat, ou à toute autre adresse désignée par le ministre.

Information Return

(2) Each agent to whom subsection (1) applies shall file with the Minister an information return in prescribed form and containing prescribed information. The return is to be filed within the period for the filing of a financial transactions return or an electoral campaign return, as the case may be, under the *Canada Elections Act*.

Déclaration de renseignements

(2) Tout agent auquel le paragraphe (1) s'applique présente au ministre une déclaration de renseignements sur le formulaire prescrit contenant les renseignements prescrits. La déclaration doit être produite dans le délai fixé par la *Loi électorale du Canada* pour la production du compte de campagne électorale ou du rapport financier portant sur les opérations financières, selon le cas.

Application of subsections 230(3) to (8)

(3) Subsections 230(3) to (8) apply, with any modifications that the circumstances require, in respect of the keeping of records by agents as required by subsection (1).

Application des paragraphes 230(3) à (8)

(3) Les paragraphes 230(3) à (8) s'appliquent, avec les adaptations nécessaires, à la tenue de registres par des agents, exigée aux termes du paragraphe (1).

(4) and (5) [Repealed, 1994, c. 21, s. 106]

(4) et (5) [Abrogés, 1994, ch. 21, art. 106]

(6) and (7) [Repealed, 2003, c. 19, s. 74(1)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 230.1; 1994, c. 7, Sch. VIII, s. 133, c. 21, s. 106; 2003, c. 19, s. 74; 2014, c. 12, s. 149.

(6) et (7) [Abrogés, 2003, ch. 19, art. 74(1)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 230.1; 1994, ch. 7, ann. VIII, art. 133, ch. 21, art. 106; 2003, ch. 19, art. 74; 2014, ch. 12, art. 149.

Definitions

231 In sections 231.1 to 231.7,

authorized person means a person authorized by the Minister for the purposes of sections 231.1 to 231.5; (*personne autorisée*)

document includes money, a security and a record; (*document*)

dwelling-house means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes

(a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and

(b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence; (*maison d'habitation*)

Définitions

231 Les définitions qui suivent s'appliquent aux articles 231.1 à 231.7

document Sont compris parmi les documents les registres. Y sont assimilés les titres et les espèces. (*document*)

juge Juge d'une cour supérieure compétente de la province où l'affaire prend naissance ou juge de la Cour fédérale. (*judge*)

maison d'habitation Tout ou partie de quelque bâtiment ou construction tenu ou occupé comme résidence permanente ou temporaire, y compris :

a) un bâtiment qui se trouve dans la même enceinte qu'une maison d'habitation et qui y est relié par une baie de porte ou par un passage couvert et clos;

judge means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court. (*juge*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231; 1998, c. 19, s. 228; 2001, c. 17, s. 181.

b) une unité conçue pour être mobile et pour être utilisée comme résidence permanente ou temporaire et qui est ainsi utilisée. (*dwelling-house*)

personne autorisée Personne autorisée par le ministre pour l'application des articles 231.1 à 231.5 (*authorized person*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 231; 1998, ch. 19, art. 228; 2001, ch. 17, art. 181.

Inspections

231.1 (1) An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act,

(a) inspect, audit or examine the books and records of a taxpayer and any document of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by the taxpayer under this Act, and

(b) examine property in an inventory of a taxpayer and any property or process of, or matter relating to, the taxpayer or any other person, an examination of which may assist the authorized person in determining the accuracy of the inventory of the taxpayer or in ascertaining the information that is or should be in the books or records of the taxpayer or any amount payable by the taxpayer under this Act,

and for those purposes the authorized person may

(c) subject to subsection 231.1(2), enter into any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept, and

(d) require the owner or manager of the property or business and any other person on the premises or place to give the authorized person all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act and, for that purpose, require the owner or manager to attend at the premises or place with the authorized person.

Enquêtes

231.1 (1) Une personne autorisée peut, à tout moment raisonnable, pour l'application et l'exécution de la présente loi, à la fois :

a) inspecter, vérifier ou examiner les livres et registres d'un contribuable ainsi que tous documents du contribuable ou d'une autre personne qui se rapportent ou peuvent se rapporter soit aux renseignements qui figurent dans les livres ou registres du contribuable ou qui devraient y figurer, soit à tout montant payable par le contribuable en vertu de la présente loi;

b) examiner les biens à porter à l'inventaire d'un contribuable, ainsi que tout bien ou tout procédé du contribuable ou d'une autre personne ou toute matière concernant l'un ou l'autre dont l'examen peut aider la personne autorisée à établir l'exactitude de l'inventaire du contribuable ou à contrôler soit les renseignements qui figurent dans les livres ou registres du contribuable ou qui devraient y figurer, soit tout montant payable par le contribuable en vertu de la présente loi;

à ces fins, la personne autorisée peut :

c) sous réserve du paragraphe (2), pénétrer dans un lieu où est exploitée une entreprise, est gardé un bien, est faite une chose en rapport avec une entreprise ou sont tenus ou devraient l'être des livres ou registres;

d) requérir le propriétaire, ou la personne ayant la gestion, du bien ou de l'entreprise ainsi que toute autre personne présente sur les lieux de lui fournir toute l'aide raisonnable et de répondre à toutes les questions pertinentes à l'application et l'exécution de la présente loi et, à cette fin, requérir le propriétaire, ou la personne ayant la gestion, de l'accompagner sur les lieux.

Prior authorization

(2) Where any premises or place referred to in paragraph 231.1(1)(c) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection 231.1(3).

Autorisation préalable

(2) Lorsque le lieu mentionné à l'alinéa (1)c) est une maison d'habitation, une personne autorisée ne peut y pénétrer sans la permission de l'occupant, à moins d'y être autorisée par un mandat décerné en vertu du paragraphe (3).

Application

(3) Where, on *ex parte* application by the Minister, a judge is satisfied by information on oath that

(a) there are reasonable grounds to believe that a dwelling-house is a premises or place referred to in paragraph 231.1(1)(c),

(b) entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) entry into the dwelling-house has been, or there are reasonable grounds to believe that entry will be, refused,

the judge may issue a warrant authorizing an authorized person to enter the dwelling-house subject to such conditions as are specified in the warrant but, where the judge is not satisfied that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, the judge may

(d) order the occupant of the dwelling-house to provide to an authorized person reasonable access to any document or property that is or should be kept in the dwelling-house, and

(e) make such other order as is appropriate in the circumstances to carry out the purposes of this Act,

to the extent that access was or may be expected to be refused and that the document or property is or may be expected to be kept in the dwelling-house.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231.1; 1994, c. 21, s. 107.

Requirement to provide documents or information

231.2 (1) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act (including the collection of any amount payable under this Act by any person), of a listed international agreement or, for greater certainty, of a tax treaty with another country, by notice served personally or by registered or certified mail, require that any person provide, within such reasonable time as is stipulated in the notice,

(a) any information or additional information, including a return of income or a supplementary return; or

(b) any document.

Mandat d'entrée

(3) Sur requête *ex parte* du ministre, le juge saisi peut décerner un mandat qui autorise une personne autorisée à pénétrer dans une maison d'habitation aux conditions précisées dans le mandat, s'il est convaincu, sur dénonciation sous serment, de ce qui suit :

a) il existe des motifs raisonnables de croire que la maison d'habitation est un lieu mentionné à l'alinéa (1)c);

b) il est nécessaire d'y pénétrer pour l'application ou l'exécution de la présente loi;

c) un refus d'y pénétrer a été opposé, ou il existe des motifs raisonnables de croire qu'un tel refus sera opposé.

Dans la mesure où un refus de pénétrer dans la maison d'habitation a été opposé ou pourrait l'être et où des documents ou biens sont gardés dans la maison d'habitation ou pourraient l'être, le juge qui n'est pas convaincu qu'il est nécessaire de pénétrer dans la maison d'habitation pour l'application ou l'exécution de la présente loi peut ordonner à l'occupant de la maison d'habitation de permettre à une personne autorisée d'avoir raisonnablement accès à tous documents ou biens qui sont gardés dans la maison d'habitation ou devraient y être gardés et rendre tout autre ordonnance indiquée en l'espèce pour l'application de la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 231.1; 1994, ch. 21, art. 107.

Production de documents ou fourniture de renseignements

231.2 (1) Malgré les autres dispositions de la présente loi, le ministre peut, sous réserve du paragraphe (2) et, pour l'application ou l'exécution de la présente loi (y compris la perception d'un montant payable par une personne en vertu de la présente loi), d'un accord international désigné ou d'un traité fiscal conclu avec un autre pays, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne, dans le délai raisonnable que précise l'avis :

a) qu'elle fournisse tout renseignement ou tout renseignement supplémentaire, y compris une déclaration de revenu ou une déclaration supplémentaire;

b) qu'elle produise des documents.

Unnamed persons

(2) The Minister shall not impose on any person (in this section referred to as a "third party") a requirement under subsection 231.2(1) to provide information or any document relating to one or more unnamed persons unless the Minister first obtains the authorization of a judge under subsection 231.2(3).

Judicial authorization

(3) A judge of the Federal Court may, on application by the Minister and subject to any conditions that the judge considers appropriate, authorize the Minister to impose on a third party a requirement under subsection (1) relating to an unnamed person or more than one unnamed person (in this section referred to as the "group") if the judge is satisfied by information on oath that

(a) the person or group is ascertainable; and

(b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act.

(c) and (d) [Repealed, 1996, c. 21, s. 58(1)]

(4) to (6) [Repealed, 2013, c. 33, s. 21]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231.2; 1996, c. 21, s. 58; 2000, c. 30, s. 176; 2007, c. 35, s. 63; 2013, c. 33, s. 21, c. 34, s. 353.

Search warrant

231.3 (1) A judge may, on *ex parte* application by the Minister, issue a warrant in writing authorizing any person named therein to enter and search any building, receptacle or place for any document or thing that may afford evidence as to the commission of an offence under this Act and to seize the document or thing and, as soon as practicable, bring it before, or make a report in respect of it to, the judge or, where the judge is unable to act, another judge of the same court to be dealt with by the judge in accordance with this section.

Evidence in support of application

(2) An application under subsection 231.3(1) shall be supported by information on oath establishing the facts on which the application is based.

Evidence

(3) A judge may issue the warrant referred to in subsection 231.3(1) where the judge is satisfied that there are reasonable grounds to believe that

Personnes non désignées nommément

(2) Le ministre ne peut exiger de quiconque — appelé « tiers » au présent article — la fourniture de renseignements ou production de documents prévue au paragraphe (1) concernant une ou plusieurs personnes non désignées nommément, sans y être au préalable autorisé par un juge en vertu du paragraphe (3).

Autorisation judiciaire

(3) Sur requête du ministre, un juge de la Cour fédérale peut, aux conditions qu'il estime indiquées, autoriser le ministre à exiger d'un tiers la fourniture de renseignements ou la production de documents prévues au paragraphe (1) concernant une personne non désignée nommément ou plus d'une personne non désignée nommément — appelée « groupe » au présent article —, s'il est convaincu, sur dénonciation sous serment, de ce qui suit :

a) cette personne ou ce groupe est identifiable;

b) la fourniture ou la production est exigée pour vérifier si cette personne ou les personnes de ce groupe ont respecté quelque devoir ou obligation prévu par la présente loi;

c) et d) [Abrogés, 1996, ch. 21, art. 58(1)]

(4) à (6) [Abrogés, 2013, ch. 33, art. 21]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 231.2; 1996, ch. 21, art. 58; 2000, ch. 30, art. 176; 2007, ch. 35, art. 63; 2013, ch. 33, art. 21, ch. 34, art. 353.

Requête pour mandat de perquisition

231.3 (1) Sur requête *ex parte* du ministre, un juge peut décerner un mandat écrit qui autorise toute personne qui y est nommée à pénétrer dans tout bâtiment, contenant ou endroit et y perquisitionner pour y chercher des documents ou choses qui peuvent constituer des éléments de preuve de la perpétration d'une infraction à la présente loi, à saisir ces documents ou choses et, dès que matériellement possible, soit à les apporter au juge ou, en cas d'incapacité de celui-ci, à un autre juge du même tribunal, soit à lui en faire rapport, pour que le juge en dispose conformément au présent article.

Preuve au soutien de la requête

(2) La requête visée au paragraphe (1) doit être appuyée par une dénonciation sous serment qui expose les faits au soutien de la requête.

Preuve

(3) Le juge saisi de la requête peut décerner le mandat mentionné au paragraphe (1) s'il est convaincu qu'il existe des motifs raisonnables de croire ce qui suit :

(a) an offence under this Act was committed;

(b) a document or thing that may afford evidence of the commission of the offence is likely to be found; and

(c) the building, receptacle or place specified in the application is likely to contain such a document or thing.

a) une infraction prévue par la présente loi a été commise;

b) des documents ou choses qui peuvent constituer des éléments de preuve de la perpétration de l'infraction seront vraisemblablement trouvés;

c) le bâtiment, contenant ou endroit précisé dans la requête contient vraisemblablement de tels documents ou choses.

Contents of warrant

(4) A warrant issued under subsection 231.3(1) shall refer to the offence for which it is issued, identify the building, receptacle or place to be searched and the person alleged to have committed the offence and it shall be reasonably specific as to any document or thing to be searched for and seized.

Contenu du mandat

(4) Un mandat décerné en vertu du paragraphe (1) doit indiquer l'infraction pour laquelle il est décerné, dans quel bâtiment, contenant ou endroit perquisitionner ainsi que la personne à qui l'infraction est imputée. Il doit donner suffisamment de précisions sur les documents ou choses à chercher et à saisir.

Seizure of document

(5) Any person who executes a warrant under subsection 231.3(1) may seize, in addition to the document or thing referred to in that subsection, any other document or thing that the person believes on reasonable grounds affords evidence of the commission of an offence under this Act and shall as soon as practicable bring the document or thing before, or make a report in respect thereof to, the judge who issued the warrant or, where the judge is unable to act, another judge of the same court to be dealt with by the judge in accordance with this section.

Saisie d'autres documents

(5) Quiconque exécute un mandat décerné en vertu du paragraphe (1) peut saisir, outre les documents ou choses mentionnés à ce paragraphe, tous autres documents ou choses qu'il croit, pour des motifs raisonnables, constituer des éléments de preuve de la perpétration d'une infraction à la présente loi. Il doit, dès que matériellement possible, soit apporter ces documents ou choses au juge qui a décerné le mandat ou, en cas d'incapacité de celui-ci, à un autre juge du même tribunal, soit lui en faire rapport, pour que le juge en dispose conformément au présent article.

Retention of things seized

(6) Subject to subsection 231.3(7), where any document or thing seized under subsection 231.3(1) or 231.3(5) is brought before a judge or a report in respect thereof is made to a judge, the judge shall, unless the Minister waives retention, order that it be retained by the Minister, who shall take reasonable care to ensure that it is preserved until the conclusion of any investigation into the offence in relation to which the document or thing was seized or until it is required to be produced for the purposes of a criminal proceeding.

Rétention des choses saisies

(6) Sous réserve du paragraphe (7), lorsque des documents ou choses saisis en vertu du paragraphe (1) ou (5) sont apportés à un juge ou qu'il en est fait rapport à un juge, ce juge ordonne que le ministre les retienne sauf si celui-ci y renonce. Le ministre qui retient des documents ou choses doit en prendre raisonnablement soin pour s'assurer de leur conservation jusqu'à la fin de toute enquête sur l'infraction en rapport avec laquelle les documents ou choses ont été saisis ou jusqu'à ce que leur production soit exigée dans le cadre d'une procédure criminelle.

Return of things seized

(7) Where any document or thing seized under subsection 231.3(1) or 231.3(5) is brought before a judge or a report in respect thereof is made to a judge, the judge may, of the judge's own motion or on summary application by a person with an interest in the document or thing on three clear days notice of application to the Deputy Attorney General of Canada, order that the document or thing be returned to the person from whom it was seized or the

Restitution des choses saisies

(7) Le juge à qui des documents ou choses saisis en vertu du paragraphe (1) ou (5) sont apportés ou à qui il en est fait rapport peut, d'office ou sur requête sommaire d'une personne ayant un droit sur ces documents ou choses avec avis au sous-procureur général du Canada trois jours francs avant qu'il y soit procédé, ordonner que ces documents ou choses soient restitués au saisi ou à la personne qui y a légalement droit par ailleurs, s'il est convaincu que ces documents ou choses :

person who is otherwise legally entitled thereto if the judge is satisfied that the document or thing

(a) will not be required for an investigation or a criminal proceeding; or

(b) was not seized in accordance with the warrant or this section.

a) soit ne seront pas nécessaires à une enquête ou à une procédure criminelle;

b) soit n'ont pas été saisis conformément au mandat ou au présent article.

Access and copies

(8) The person from whom any document or thing is seized pursuant to this section is entitled, at all reasonable times and subject to such reasonable conditions as may be imposed by the Minister, to inspect the document or thing and to obtain one copy of the document at the expense of the Minister.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231.3; 1994, c. 21. s. 108.

Accès aux documents et reproduction

(8) Le saisi a le droit, à tout moment raisonnable et aux conditions raisonnables que peut imposer le ministre, d'examiner les documents ou choses saisis conformément au présent article et d'obtenir reproduction des documents aux frais du ministre en une seule copie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5^{e} suppl.), art. 231.3; 1994, ch. 21, art. 108.

Inquiry

231.4 (1) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not the person is an officer of the Canada Revenue Agency, to make such inquiry as the person may deem necessary with reference to anything relating to the administration or enforcement of this Act.

Enquête

231.4 (1) Le ministre peut, pour l'application et l'exécution de la présente loi, autoriser une personne, qu'il s'agisse ou non d'un fonctionnaire de l'Agence du revenu du Canada, à faire toute enquête que celle-ci estime nécessaire sur quoi que ce soit qui se rapporte à l'application et l'exécution de la présente loi.

Appointment of hearing officer

(2) Where the Minister, pursuant to subsection 231.4(1), authorizes a person to make an inquiry, the Minister shall forthwith apply to the Tax Court of Canada for an order appointing a hearing officer before whom the inquiry will be held.

Nomination d'un président d'enquête

(2) Le ministre qui, conformément au paragraphe (1), autorise une personne à faire enquête doit immédiatement demander à la Cour canadienne de l'impôt une ordonnance où soit nommé un président d'enquête.

Powers of hearing officer

(3) For the purposes of an inquiry authorized under subsection 231.4(1), a hearing officer appointed under subsection 231.4(2) in relation thereto has all the powers conferred on a commissioner by sections 4 and 5 of the *Inquiries Act* and that may be conferred on a commissioner under section 11 thereof.

Pouvoirs du président d'enquête

(3) Dans le cadre d'une enquête autorisée par le paragraphe (1), le président d'enquête nommé en vertu du paragraphe (2) a les pouvoirs conférés à un commissaire par les articles 4 et 5 de la *Loi sur les enquêtes* et ceux qui sont susceptibles de l'être par l'article 11 de cette loi.

When powers to be exercised

(4) A hearing officer appointed under subsection 231.4(2) in relation to an inquiry shall exercise the powers conferred on a commissioner by section 4 of the *Inquiries Act* in relation to such persons as the person authorized to make the inquiry considers appropriate for the conduct thereof but the hearing officer shall not exercise the power to punish any person unless, on application by the hearing officer, a judge of a superior or county court certifies that the power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom the applicant proposes to exercise the power 24 hours notice of the hearing

Exercice des pouvoirs du président d'enquête

(4) Le président d'enquête nommé en vertu du paragraphe (2) exerce les pouvoirs conférés à un commissaire par l'article 4 de la *Loi sur les enquêtes* à l'égard des personnes que la personne autorisée à faire enquête considère comme appropriées pour la conduite de celle-si; toutefois, le président d'enquête ne peut exercer le pouvoir de punir une personne que si, à la requête de celuici, un juge d'une cour supérieure ou d'une cour de comté atteste que ce pouvoir peut être exercé dans l'affaire exposée dans la requête et que si le requérant donne à la personne à l'égard de laquelle il se propose d'exercer ce

of the application or such shorter notice as the judge considers reasonable.

pouvoir avis de l'audition de la requête 24 heures avant ou dans le délai plus court que le juge estime raisonnable.

Rights of witness at inquiry

(5) Any person who gives evidence in an inquiry authorized under subsection 231.4(1) is entitled to be represented by counsel and, on request made by the person to the Minister, to receive a transcript of the evidence given by the person.

Droits des témoins à l'enquête

(5) Quiconque témoigne à une enquête autorisée par le paragraphe (1) a le droit d'être représenté par avocat et, sur demande faite au ministre, de recevoir transcription de sa déposition.

Rights of person whose affairs are investigated

(6) Any person whose affairs are investigated in the course of an inquiry authorized under subsection 231.4(1) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection 231.4(2) in relation to the inquiry, on application by the Minister or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry on the ground that the presence of the person and the person's counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231.4; 1999, c. 17, s. 168; 2005, c. 38, s. 138.

Droits des personnes dont les affaires donnent lieu à enquête

(6) Toute personne dont les affaires donnent lieu à une enquête autorisée par le paragraphe (1) a le droit d'être présente et d'être représentée par avocat tout au long de l'enquête, sauf si le président d'enquête nommé en vertu du paragraphe (2) en décide autrement, sur demande du ministre ou d'un témoin, pour tout ou partie de l'enquête, pour le motif que la présence de cette personne et de son avocat ou de l'un d'eux nuirait à la bonne conduite de l'enquête.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 231.4; 1999, ch. 17, art. 168; 2005, ch. 38, art. 138.

Copies

231.5 (1) Where any document is seized, inspected, audited, examined or provided under any of sections 231.1 to 231.4, the person by whom it is seized, inspected, audited or examined or to whom it is provided or any officer of the Canada Revenue Agency may make, or cause to be made, one or more copies thereof and, in the case of an electronic document, make or cause to be made a print-out of the electronic document, and any document purporting to be certified by the Minister or an authorized person to be a copy of the document, or to be a print-out of an electronic document, made pursuant to this section is evidence of the nature and content of the original document and has the same probative force as the original document would have if it were proven in the ordinary way.

Copies

231.5 (1) Lorsque, en vertu de l'un des articles 231.1 à 231.4, des documents font l'objet d'une opération de saisie, d'inspection, de vérification ou d'examen ou sont produits, la personne qui effectue cette opération ou auprès de qui est faite cette production ou tout fonctionnaire de l'Agence du revenu du Canada peut en faire ou en faire faire des copies et, s'il s'agit de documents électroniques, les imprimer ou les faire imprimer. Les documents présentés comme documents que le ministre ou une personne autorisée atteste être des copies des documents, ou des imprimés de documents électroniques, faits conformément au présent article font preuve de la nature et du contenu des documents originaux et ont la même force probante qu'auraient ceux-ci si leur authenticité était prouvée de la façon usuelle.

Compliance

(2) No person shall, physically or otherwise, interfere with, hinder or molest an official (in this subsection having the meaning assigned by subsection 241(10)) doing anything that the official is authorized to do under this Act or attempt to interfere with, hinder or molest any official doing or prevent or attempt to prevent an official from doing, anything that the official is authorized to do under this Act, and every person shall, unless the person

Observation

(2) Nul ne peut, physiquement ou autrement, entraver, rudoyer ou contrecarrer, ou tenter d'entraver, de rudoyer ou de contrecarrer, un fonctionnaire (cette expression s'entendant, au présent paragraphe, au sens du paragraphe 241(10)) qui fait une chose qu'il est autorisé à faire en vertu de la présente loi, ni empêcher ou tenter d'empêcher un fonctionnaire de faire une telle chose. Quiconque est tenu par le paragraphe (1) ou les articles

is unable to do so, do everything that the person is required to do by or under subsection (1) or sections 231.1 to 231.4.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231.5; 1998, c. 19, s. 229; 1999, c. 17, s. 168; 2001, c. 17, s. 182; 2005, c. 38, s. 138.

Definition of *foreign-based information or document*

231.6 (1) For the purposes of this section, ***foreign-based information or document*** means any information or document that is available or located outside Canada and that may be relevant to the administration or enforcement of this Act, including the collection of any amount payable under this Act by any person.

Requirement to provide foreign-based information

(2) Notwithstanding any other provision of this Act, the Minister may, by notice served personally or by registered or certified mail, require that a person resident in Canada or a non-resident person carrying on business in Canada provide any foreign-based information or document.

Notice

(3) The notice referred to in subsection 231.6(2) shall set out

(a) a reasonable period of time of not less than 90 days for the production of the information or document;

(b) a description of the information or document being sought; and

(c) the consequences under subsection 231.6(8) to the person of the failure to provide the information or documents being sought within the period of time set out in the notice.

Review of foreign information requirement

(4) The person on whom a notice of a requirement is served under subsection 231.6(2) may, within 90 days after the service of the notice, apply to a judge for a review of the requirement.

Powers on review

(5) On hearing an application under subsection 231.6(4) in respect of a requirement, a judge may

(a) confirm the requirement;

(b) vary the requirement as the judge considers appropriate in the circumstances; or

231.1 à 231.4 de faire quelque chose doit le faire, sauf impossibilité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 231.5; 1998, ch. 19, art. 229; 1999, ch. 17, art. 168; 2001, ch. 17, art. 182; 2005, ch. 38, art. 138.

Sens de *renseignement ou document étranger*

231.6 (1) Pour l'application du présent article, un renseignement ou document étranger s'entend d'un renseignement accessible, ou d'un document situé, à l'étranger, qui peut être pris en compte pour l'application ou l'exécution de la présente loi, y compris la perception d'un montant payable par une personne en vertu de la présente loi.

Obligation de fournir des renseignements ou documents étrangers

(2) Malgré les autres dispositions de la présente loi, le ministre peut, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne résidant au Canada ou d'une personne n'y résidant pas mais y exploitant une entreprise de fournir des renseignements ou documents étrangers.

Contenu de l'avis

(3) L'avis doit :

a) indiquer le délai raisonnable, d'au moins 90 jours, dans lequel les renseignements ou documents étrangers doivent être fournis;

b) décrire les renseignements ou documents étrangers recherchés;

c) préciser les conséquences prévues au paragraphe (8) du défaut de fournir les renseignements ou documents étrangers recherchés dans le délai ci-dessus.

Révision par un juge

(4) La personne à qui l'avis est signifié ou envoyé peut, dans les 90 jours suivant la date de signification ou d'envoi, contester, par requête à un juge, la mise en demeure du ministre.

Pouvoirs de révision

(5) À l'audition de la requête, le juge peut :

a) confirmer la mise en demeure;

b) modifier la mise en demeure de la façon qu'il estime indiquée dans les circonstances;

(c) set aside the requirement if the judge is satisfied that the requirement is unreasonable.

c) déclarer sans effet la mise en demeure s'il est convaincu que celle-ci est déraisonnable.

Idem

(6) For the purposes of paragraph 231.6(5)(c), the requirement to provide the information or document shall not be considered to be unreasonable because the information or document is under the control of or available to a non-resident person that is not controlled by the person served with the notice of the requirement under subsection 231.6(2) if that person is related to the non-resident person.

Précision

(6) Pour l'application de l'alinéa (5)c), le fait que des renseignements ou documents étrangers soient accessibles ou situés chez une personne non-résidente qui n'est pas contrôlée par la personne à qui l'avis est signifié ou envoyé, ou soient sous la garde de cette personne non-résidente, ne rend pas déraisonnable la mise en demeure de fournir ces renseignements ou documents, si ces deux personnes sont liées.

Time during consideration not to count

(7) The period of time between the day on which an application for review of a requirement is made pursuant to subsection 231.6(4) and the day on which the review is decided shall not be counted in the computation of

(a) the period of time set out in the notice of the requirement; and

(b) the period of time within which an assessment may be made pursuant to subsection 152(4).

Suspension du délai

(7) Le délai qui court entre le jour où une requête est présentée conformément au paragraphe (4) et le jour où il est décidé de la requête ne compte pas dans le calcul :

a) du délai indiqué dans l'avis correspondant à la mise en demeure qui a donné lieu à la requête;

b) du délai dans lequel une cotisation peut être établie conformément au paragraphe 152(4).

Consequence of failure

(8) If a person fails to comply substantially with a notice served under subsection 231.6(2) and if the notice is not set aside by a judge pursuant to subsection 231.6(5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on motion of the Minister, prohibit the introduction by that person of any foreign-based information or document covered by that notice.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 231.6; 2000, c. 30, s. 177.

Conséquences du défaut

(8) Si une personne ne fournit pas la totalité, ou presque, des renseignements ou documents étrangers visés par la mise en demeure signifiée conformément au paragraphe (2) et si la mise en demeure n'est pas déclarée sans effet par un juge en application du paragraphe (5), tout tribunal saisi d'une affaire civile portant sur l'application ou l'exécution de la présente loi doit, sur requête du ministre, refuser le dépôt en preuve par cette personne de tout renseignement ou document étranger visé par la mise en demeure.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 231.6; 2000, ch. 30, art. 177.

Compliance order

231.7 (1) On summary application by the Minister, a judge may, notwithstanding subsection 238(2), order a person to provide any access, assistance, information or document sought by the Minister under section 231.1 or 231.2 if the judge is satisfied that

(a) the person was required under section 231.1 or 231.2 to provide the access, assistance, information or document and did not do so; and

(b) in the case of information or a document, the information or document is not protected from disclosure by solicitor-client privilege (within the meaning of subsection 232(1)).

Ordonnance

231.7 (1) Sur demande sommaire du ministre, un juge peut, malgré le paragraphe 238(2), ordonner à une personne de fournir l'accès, l'aide, les renseignements ou les documents que le ministre cherche à obtenir en vertu des articles 231.1 ou 231.2 s'il est convaincu de ce qui suit :

a) la personne n'a pas fourni l'accès, l'aide, les renseignements ou les documents bien qu'elle en soit tenue par les articles 231.1 ou 231.2;

b) s'agissant de renseignements ou de documents, le privilège des communications entre client et avocat, au sens du paragraphe 232(1), ne peut être invoqué à leur égard.

Notice required

(2) An application under subsection (1) must not be heard before the end of five clear days from the day the notice of application is served on the person against whom the order is sought.

Judge may impose conditions

(3) A judge making an order under subsection (1) may impose any conditions in respect of the order that the judge considers appropriate.

Contempt of court

(4) If a person fails or refuses to comply with an order, a judge may find the person in contempt of court and the person is subject to the processes and the punishments of the court to which the judge is appointed.

Appeal

(5) An order by a judge under subsection (1) may be appealed to a court having appellate jurisdiction over decisions of the court to which the judge is appointed. An appeal does not suspend the execution of the order unless it is so ordered by a judge of the court to which the appeal is made.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 183.

Definitions

232 (1) In this section,

custodian means a person in whose custody a package is placed pursuant to subsection 232(3); (*gardien*)

judge means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court; (*juge*)

lawyer means, in the province of Quebec, an advocate or notary and, in any other province, a barrister or solicitor; (*avocat*)

officer means a person acting under the authority conferred by or under sections 231.1 to 231.5; (*fonctionnaire*)

solicitor-client privilege means the right, if any, that a person has in a superior court in the province where the matter arises to refuse to disclose an oral or documentary communication on the ground that the communication is one passing between the person and the person's lawyer in professional confidence, except that for the purposes of this section an accounting record of a lawyer, including any supporting voucher or cheque, shall be deemed not to be such a communication. (*privilège des communications entre client et avocat*)

Avis

(2) La demande n'est entendue qu'une fois écoulés cinq jours francs après signification d'un avis de la demande à la personne à l'égard de laquelle l'ordonnance est demandée.

Conditions

(3) Le juge peut imposer, à l'égard de l'ordonnance, les conditions qu'il estime indiquées.

Outrage

(4) Quiconque refuse ou fait défaut de se conformer à une ordonnance peut être reconnu coupable d'outrage au tribunal; il est alors sujet aux procédures et sanctions du tribunal l'ayant ainsi reconnu coupable.

Appel

(5) L'ordonnance visée au paragraphe (1) est susceptible d'appel devant le tribunal ayant compétence pour entendre les appels des décisions du tribunal ayant rendu l'ordonnance. Toutefois, l'appel n'a pas pour effet de suspendre l'exécution de l'ordonnance, sauf ordonnance contraire d'un juge du tribunal saisi de l'appel.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 183.

Définitions

232 (1) Les définitions qui suivent s'appliquent au présent article.

avocat Dans la province de Québec, un avocat ou notaire et, dans toute autre province, un barrister ou un solicitor. (*lawyer*)

fonctionnaire Personne qui exerce les pouvoirs conférés par les articles 231.1 à 231.5 (*officer*)

gardien Personne à la garde de qui un colis est confié conformément au paragraphe (3). (*custodian*)

juge Juge d'une cour supérieure compétente de la province où l'affaire prend naissance ou juge de la Cour fédérale. (*judge*)

privilège des communications entre client et avocat Droit qu'une personne peut posséder, devant une cour supérieure de la province où la question a pris naissance, de refuser de divulguer une communication orale ou documentaire pour le motif que celle-ci est une communication entre elle et son avocat en confidence professionnelle sauf que, pour l'application du présent article, un relevé comptable d'un avocat, y compris toute pièce justificative ou tout chèque, ne peut être considéré comme

une communication de cette nature. (*solicitor-client privilege*)

Solicitor-client privilege defence

(2) Where a lawyer is prosecuted for failure to comply with a requirement under section 231.2 with respect to information or a document, the lawyer shall be acquitted if the lawyer establishes to the satisfaction of the court

(a) that the lawyer, on reasonable grounds, believed that a client of the lawyer had a solicitor-client privilege in respect of the information or document; and

(b) that the lawyer communicated to the Minister, or some person duly authorized to act for the Minister, the lawyer's refusal to comply with the requirement together with a claim that a named client of the lawyer had a solicitor-client privilege in respect of the information or document.

Secret professionnel invoqué en défense

(2) L'avocat poursuivi pour n'avoir pas obtempéré à une exigence de fourniture d'un renseignement ou de production d'un document prévue par l'article 231.2 doit être acquitté s'il démontre, à la satisfaction du tribunal, ce qui suit :

a) pour des motifs raisonnables, il croyait qu'un de ses clients bénéficiait du privilège des communications entre client et avocat en ce qui concerne le renseignement ou le document;

b) il a indiqué au ministre ou à une personne régulièrement autorisée à agir pour celui-ci son refus d'obtempérer à cette exigence et a invoqué devant l'un ou l'autre le privilège des communications entre client et avocat dont bénéficiait un des ses client nommément désigné en ce qui concerne le renseignement ou le document.

Seizure of certain documents where privilege claimed

(3) Where, pursuant to section 231.3, an officer is about to seize a document in the possession of a lawyer and the lawyer claims that a named client of the lawyer has a solicitor-client privilege in respect of that document, the officer shall, without inspecting, examining or making copies of the document,

(a) seize the document and place it, together with any other document in respect of which the lawyer at the same time makes the same claim on behalf of the same client, in a package and suitably seal and identify the package; and

(b) place the package in the custody of the sheriff of the district or county in which the seizure was made or, if the officer and the lawyer agree in writing on a person to act as custodian, in the custody of that person.

Secret professionnel invoqué lors de la saisie de documents

(3) Le fonctionnaire qui, conformément à l'article 231.3, est sur le point de saisir un document en la possession d'un avocat qui invoque le privilège des communications entre client et avocat au nom d'un de ses clients nommément désigné en ce qui concerne ce document doit, sans inspecter ou examiner celui-ci ni en faire de copies :

a) d'une part, le saisir, ainsi que tout autre document pour lequel l'avocat invoque, en même temps, le même privilège au nom du même client, en faire un colis qu'il doit bien sceller et bien marquer;

b) d'autre part, confier le colis à la garde soit du shérif du district ou du comté où la saisie a été opérée, soit de la personne que le fonctionnaire et l'avocat conviennent par écrit de désigner comme gardien.

Examination of certain documents where privilege claimed

(3.1) Where, pursuant to section 231.1, an officer is about to inspect or examine a document in the possession of a lawyer or where, pursuant to section 231.2, the Minister has required provision of a document by a lawyer, and the lawyer claims that a named client or former client of the lawyer has a solicitor-client privilege in respect of the document, no officer shall inspect or examine the document and the lawyer shall

Secret professionnel invoqué lors de l'examen de documents

(3.1) Lorsque, conformément à l'article 231.1, un fonctionnaire est sur le point d'inspecter ou d'examiner un document en la possession d'un avocat ou que, conformément à l'article 231.2, le ministre exige la fourniture ou la production d'un document, et que l'avocat invoque le privilège des communications entre client et avocat en ce qui concerne le document au nom d'un de ses client ou

(a) place the document, together with any other document in respect of which the lawyer at the same time makes the same claim on behalf of the same client, in a package and suitably seal and identify the package or, if the officer and the lawyer agree, allow the pages of the document to be initialed and numbered or otherwise suitably identified; and

(b) retain it and ensure that it is preserved until it is produced to a judge as required under this section and an order is issued under this section in respect of the document.

Application to judge

(4) Where a document has been seized and placed in custody under subsection 232(3) or is being retained under subsection 232(3.1), the client, or the lawyer on behalf of the client, may

(a) within 14 days after the day the document was so placed in custody or commenced to be so retained apply, on three clear days notice of motion to the Deputy Attorney General of Canada, to a judge for an order

(i) fixing a day, not later than 21 days after the date of the order, and place for the determination of the question whether the client has a solicitor-client privilege in respect of the document, and

(ii) requiring the production of the document to the judge at that time and place;

(b) serve a copy of the order on the Deputy Attorney General of Canada and, where applicable, on the custodian within 6 days of the day on which it was made and, within the same time, pay to the custodian the estimated expenses of transporting the document to and from the place of hearing and of safeguarding it; and

(c) if the client or lawyer has proceeded as authorized by paragraph 232(4)(b), apply at the appointed time and place for an order determining the question.

Disposition of application

(5) An application under paragraph 232(4)(c) shall be heard *in camera*, and on the application

anciens clients nommément désigné, aucun fonctionnaire ne peut inspecter ou examiner le document et l'avocat doit :

a) d'une part, faire un colis du document ainsi que de tout autre document pour lequel il invoque, en même temps, le même privilège au nom du même client, bien sceller ce colis et bien le marquer, ou, si le fonctionnaire et l'avocat en conviennent, faire en sorte que les pages du document soient paraphées et numérotées ou autrement bien marquées;

b) d'autre part, retenir le document et s'assurer de sa conservation jusqu'à ce que, conformément au présent article, le document soit produit devant un juge et une ordonnance rendue concernant le document.

Requête présentée par l'avocat ou son client

(4) En cas de saisie et mise sous garde d'un document en vertu du paragraphe (3) ou de rétention d'un document en vertu du paragraphe (3.1), le client ou l'avocat au nom de celui-ci peut :

a) dans les 14 jours suivant la date où le document a ainsi été mis sous garde ou a ainsi commencé à être retenu, après avis au sous-procureur général du Canada au moins trois jours francs avant qu'il soit procédé à cette requête, demander à un juge de rendre une ordonnance qui :

(i) d'une part, fixe la date — tombant au plus 21 jours après la date de l'ordonnance — et le lieu où il sera statué sur la question de savoir si le client bénéficie du privilège des communications entre client et avocat en ce qui concerne le document,

(ii) d'autre part, enjoint de produire le document devant le juge à la date et au lieu fixés;

b) signifier une copie de l'ordonnance au sous-procureur général du Canada et, le cas échéant, au gardien dans les 6 jours suivant la date où elle a été rendue et, dans ce même délai, payer au gardien le montant estimé des frais de transport aller-retour du document entre le lieu où il est gardé ou retenu et le lieu de l'audition et des frais de protection du document;

c) après signification et paiement, demander, à la date et au lieu fixés, une ordonnance où il soit statué sur la question.

Ordonnance sur requête de l'avocat ou de son client

(5) Une requête présentée en vertu de l'alinéa (4)c) doit être entendue à huis clos. Le juge qui en est saisi :

(a) the judge may, if the judge considers it necessary to determine the question, inspect the document and, if the judge does so, the judge shall ensure that it is repackaged and resealed; and

(b) the judge shall decide the matter summarily and,

(i) if the judge is of the opinion that the client has a solicitor-client privilege in respect of the document, shall order the release of the document to the lawyer, and

(ii) if the judge is of the opinion that the client does not have a solicitor-client privilege in respect of the document, shall order

(A) that the custodian deliver the document to the officer or some other person designated by the Commissioner of Revenue, in the case of a document that was seized and placed in custody under subsection 232(3), or

(B) that the lawyer make the document available for inspection or examination by the officer or other person designated by the Commissioner of Revenue, in the case of a document that was retained under subsection 232(3.1),

and the judge shall, at the same time, deliver concise reasons in which the judge shall identify the document without divulging the details thereof.

Order to deliver or make available

(6) Where a document has been seized and placed in custody under subsection 232(3) or where a document is being retained under subsection 232(3.1) and a judge, on the application of the Attorney General of Canada, is satisfied that neither the client nor the lawyer has made an application under paragraph 232(4)(a) or, having made that application, neither the client nor the lawyer has made an application under paragraph 232(4)(c), the judge shall order

(a) that the custodian deliver the document to the officer or some other person designated by the Commissioner of Revenue, in the case of a document that was seized and placed in custody under subsection 232(3); or

(b) that the lawyer make the document available for inspection or examination by the officer or other person designated by the Commissioner of Revenue, in the case of a document that was retained under subsection 232(3.1).

a) peut, s'il l'estime nécessaire pour statuer sur la question, examiner le document et, dans ce cas, s'assure ensuite qu'un colis du document soit refait et que ce colis soit rescellé;

b) statue sur la question de façon sommaire :

(i) s'il est d'avis que le client bénéficie du privilège des communications entre client et avocat en ce qui concerne le document, il ordonne la restitution du document à l'avocat ou libère l'avocat de son obligation de le retenir, selon le cas,

(ii) s'il est de l'avis contraire, il ordonne :

(A) au gardien de remettre le document au fonctionnaire ou à quelque autre personne désignée par le commissaire du revenu, en cas de saisie et mise sous garde du document en vertu du paragraphe (3),

(B) à l'avocat de permettre au fonctionnaire ou à l'autre personne désignée par le commissaire du revenu d'inspecter ou examiner le document, en cas de rétention de celui-ci en vertu du paragraphe (3.1).

Le juge motive brièvement sa décision en indiquant de quel document il s'agit sans en révéler les détails.

Ordonnance sur requête du procureur général du Canada

(6) En cas de saisie et mise sous garde d'un document en vertu du paragraphe (3) ou de rétention d'un document en vertu du paragraphe (3.1), et s'il est convaincu, sur requête du procureur général du Canada, que ni le client ni l'avocat n'a présenté de requête en vertu de l'alinéa (4)a) ou que, en ayant présenté une, ni l'un ni l'autre n'a présenté de requête en vertu de l'alinéa (4)c), le juge saisi ordonne :

a) au gardien de remettre le document au fonctionnaire ou à quelque autre personne désignée par le commissaire du revenu, en cas de saisie et mise sous garde du document en vertu du paragraphe (3);

b) à l'avocat de permettre au fonctionnaire ou à l'autre personne désignée par le commissaire du revenu d'inspecter ou examiner le document, en cas de rétention de celui-ci en vertu du paragraphe (3.1).

Delivery by custodian

(7) The custodian shall

(a) deliver the document to the lawyer

(i) in accordance with a consent executed by the officer or by or on behalf of the Deputy Attorney General of Canada or the Commissioner of Revenue, or

(ii) in accordance with an order of a judge under this section; or

(b) deliver the document to the officer or some other person designated by the Commissioner of Revenue

(i) in accordance with a consent executed by the lawyer or the client, or

(ii) in accordance with an order of a judge under this section.

Remise par le gardien

(7) Le gardien doit :

a) soit remettre le document à l'avocat en conformité, selon le cas, avec :

(i) un consentement souscrit par le fonctionnaire, ou par le sous-procureur général du Canada ou au nom de celui-ci, ou par le commissaire du revenu ou au nom de ce dernier,

(ii) une ordonnance d'un juge sous le régime du présent article;

b) soit remettre le document au fonctionnaire ou à quelque autre personne désignée par le commissaire du revenu en conformité, selon le cas, avec :

(i) un consentement souscrit par l'avocat ou le client,

(ii) une ordonnance d'un juge sous le régime du présent article.

Continuation by another judge

(8) Where the judge to whom an application has been made under paragraph 232(4)(a) cannot for any reason act or continue to act in the application under paragraph 232(4)(c), the application under paragraph 232(4)(c) may be made to another judge.

Affaire continuée par un autre juge

(8) Lorsque, pour quelque motif, le juge saisi d'une demande visée à l'alinéa (4)a) ne peut instruire ou continuer d'instruire la requête visée à l'alinéa (4)c), un autre juge peut être saisi de cette dernière.

Costs

(9) No costs may be awarded on the disposition of any application under this section.

Frais

(9) Il ne peut être adjugé de frais sur la décision rendue au sujet d'une requête prévue par le présent article.

Directions

(10) Where any question arises as to the course to be followed in connection with anything done or being done under this section, other than subsection 232(2), 232(3) or 232(3.1), and there is no direction in this section with respect thereto, a judge may give such direction with regard thereto as, in the judge's opinion, is most likely to carry out the object of this section of allowing solicitor-client privilege for proper purposes.

Mesures non prévues

(10) Si aucune mesure n'est prévue au présent article sur une question à résoudre en rapport avec une chose accomplie ou en voie d'accomplissement selon le présent article — à l'exception des paragraphes (2), (3) et (3.1) —, un juge peut décider des mesures qu'il estime les plus aptes à atteindre le but du présent article, à savoir, accorder le privilège des communications entre client et avocat à des fins pertinentes.

Prohibition

(11) The custodian shall not deliver a document to any person except in accordance with an order of a judge or a consent under this section or except to any officer or servant of the custodian for the purposes of safeguarding the document.

Interdiction

(11) Le gardien ne peut remettre aucun document à qui que ce soit, sauf en conformité avec une ordonnance d'un juge ou d'un consentement donné, en vertu du présent article, ou sauf à l'un de ses fonctionnaires ou préposés, pour protéger le document.

Idem

(12) No officer shall inspect, examine or seize a document in the possession of a lawyer without giving the lawyer a reasonable opportunity of making a claim under this section.

Authority to make copies

(13) At any time while a document is in the custody of a custodian under this section, a judge may, on an *ex parte* application of the lawyer, authorize the lawyer to examine or make a copy of the document in the presence of the custodian or the judge by an order that shall contain such provisions as may be necessary to ensure that the document is repackaged and that the package is resealed without alteration or damage.

Waiver of claim of privilege

(14) Where a lawyer has, for the purpose of subsection 232(2), 232(3) or 232(3.1), made a claim that a named client of the lawyer has a solicitor-client privilege in respect of information or a document, the lawyer shall at the same time communicate to the Minister or some person duly authorized to act for the Minister the address of the client last known to the lawyer so that the Minister may endeavour to advise the client of the claim of privilege that has been made on the client's behalf and may thereby afford the client an opportunity, if it is practicable within the time limited by this section, of waiving the claim of privilege before the matter is to be decided by a judge or other tribunal.

Compliance

(15) No person shall hinder, molest or interfere with any person doing anything that that person is authorized to do by or pursuant to this section or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other Act or law, every person shall, unless the person is unable to do so, do everything the person is required to do by or pursuant to this section.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 232; 1994, c. 13, s. 7; 1998, c. 19, s. 230; 1999, c. 17, s. 167; 2005, c. 38, s. 140.

Information return

233 (1) Every person shall, on written demand from the Minister served personally or otherwise, whether or not the person has filed an information return as required by this Act or the regulations, file with the Minister, within such reasonable time as is stipulated in the demand, the information return if it has not been filed or such information as is designated in the demand.

Idem

(12) Aucun fonctionnaire ne peut inspecter, examiner ou saisir un document en la possession d'un avocat sans donner à celui-ci une occasion raisonnable d'invoquer le privilège des communications entre client et avocat en vertu de présent article.

Autorisation de faire des copies

(13) À tout moment, lorsqu'un document est entre les mains d'un gardien selon le présent article, un juge peut, sur la demande *ex parte* de l'avocat, autoriser celui-ci à examiner le document ou à en faire une copie en présence du gardien ou du juge, au moyen d'une ordonnance qui doit contenir les dispositions nécessaires pour qu'un colis du document soit refait et que ce colis soit rescellé sans modification ni dommage.

Renonciation au privilège

(14) L'avocat qui, pour l'application du paragraphe (2), (3) ou (3.1), invoque, au nom d'un de ses clients nommément désigné, le privilège des communications entre client et avocat en ce qui concerne un renseignement ou un document, doit en même temps indiquer la dernière adresse connue de ce client au ministre ou à quelque personne régulièrement autorisée à agir au nome de celui-ci, afin que le ministre puisse, d'une part, chercher à informer le client du privilège que est invoqué en son nome et, d'autre part, donner au client l'occasion, si la chose est matériellement possible dans le délai mentionné au présent article, de renoncer à invoquer le privilège avant que la question ne soit soumise à la décision d'un juge ou d'un autre tribunal.

Observation du présent article

(15) Nul ne peut entraver, rudoyer ou contrecarrer une personne qui fait une chose qu'elle est autorisée à faire en vertu du présent article, ni empêcher ou tenter d'empêcher une personne de faire une telle chose. Malgré toute autre loi ou règle de droit, quiconque est tenu par le présent article de faire quelque chose doit le faire, sauf impossibilité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 232; 1994, ch. 13, art. 7; 1998, ch. 19, art. 230; 1999, ch. 17, art. 167; 2005, ch. 38, art. 140.

Déclaration de renseignements

233 (1) Toute personne est tenue de fournir au ministre, sur demande écrite de celui-ci signifiée à personne ou autrement et dans le délai raisonnable qui y est fixé, qu'elle ait produit ou non, ou présenté ou non, une déclaration de renseignements en application de la présente loi ou du *Règlement de l'impôt sur le revenu*, les renseignements exigés dans la demande ou la déclaration de renseignements si elle n'a pas été produite ou présentée.

Partnerships

(2) Every partnership shall, on written demand from the Minister served personally or otherwise on any member of the partnership, file with the Minister, within such reasonable time as is stipulated in the demand, an information return required under section 233.3, 233.4 or 233.6.

Application to members of partnerships

(3) For the purposes of this subsection and subsection 233(2), a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 233; 1994, c. 7, Sch. VIII, s. 134; 1997, c. 25, s. 68.

Definitions

233.1 (1) The definitions in this subsection apply in this section.

reportable transaction means

(a) in the case of

(i) a reporting person for a taxation year who is not resident in Canada at any time in the year, or

(ii) a reporting partnership for a fiscal period no member of which is resident in Canada in the period,

a transaction or series of transactions that relate in any manner whatever to a business carried on in Canada by the reporting person or partnership in the year or period or a preceding taxation year or period; and

(b) in any other case, a transaction or series of transactions that relate in any manner whatever to a business carried on by a reporting person (other than a business carried on by a reporting person as a member of a partnership) or partnership in a taxation year or fiscal period. (*opération à déclarer*)

reporting partnership for a fiscal period means a partnership

(a) a member of which is resident in Canada in the period; or

(b) that carries on a business in Canada in the period. (*société de personnes déclarante*)

Sociétés de personnes

(2) Toute société de personnes est tenue de fournir au ministre, sur demande écrite de celui-ci signifiée à personne ou autrement et dans le délai raisonnable qui y est fixé, une déclaration de renseignements en application des articles 233.3, 233.4 ou 233.6

Associés de sociétés de personnes

(3) Pour l'application du présent paragraphe et du paragraphe (2), la personne qui est l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes est réputée être un associé de cette dernière.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 233; 1994, ch. 7, ann. VIII, art. 134; 1997, ch. 25, art. 68.

Définitions

233.1 (1) Les définitions qui suivent s'appliquent au présent article.

déclarant Pour une année d'imposition, personne qui, au cours de l'année :

a) réside au Canada;

b) ne réside pas au Canada mais y exploite une entreprise (sauf celle qu'elle exploite à titre d'associé d'une société de personnes). (*reporting person*)

opération Sont assimilés aux opérations les arrangements et les événements. (*transaction*)

opération à déclarer

a) Dans le cas d'un déclarant pour une année d'imposition qui ne réside au Canada à aucun moment de l'année ou d'une société de personnes déclarante pour un exercice dont aucun des associés ne réside au Canada au cours de l'exercice, opération ou série d'opérations se rapportant de quelque manière que ce soit à une entreprise que le déclarant ou la société de personnes exploite au Canada au cours de l'année ou de l'exercice ou au cours d'une année d'imposition ou d'un exercice précédent;

b) dans les autres cas, opération ou série d'opérations se rapportant de quelque manière que ce soit à une entreprise exploitée par un déclarant (sauf celle qu'il exploite à titre d'associé d'une société de personnes) ou par une société de personnes déclarante au cours d'une année d'imposition ou d'un exercice. (*reportable transaction*)

société de personnes déclarante Pour un exercice :

reporting person for a taxation year means a person who, at any time in the year,

(a) is resident in Canada; or

(b) is non-resident and carries on a business (other than a business carried on as a member of a partnership) in Canada. (*déclarant*)

transaction includes an arrangement or event. (*opération*)

a) société de personnes dont un des associés réside au Canada au cours de l'exercice;

b) société de personnes qui exploite une entreprise au Canada au cours de l'exercice. (*reporting partnership*)

Reporting person's information return

(2) Subject to subsection 233.1(4), a reporting person for a taxation year shall, on or before the reporting person's filing-due date for the year, file with the Minister, in respect of each non-resident person with whom the reporting person does not deal at arm's length in the year and each partnership of which such a non-resident person is a member, an information return for the year in prescribed form containing prescribed information in respect of the reportable transactions in which the reporting person and the non-resident person or the partnership, as the case may be, participated in the year.

Déclaration de renseignements du déclarant

(2) Sous réserve du paragraphe (4), le déclarant pour une année d'imposition doit présenter au ministre, au plus tard à la date d'échéance de production qui lui est applicable pour l'année, une déclaration de renseignements pour l'année concernant chaque personne non-résidente avec laquelle il a un lien de dépendance au cours de l'année et chaque société de personnes dont une telle personne non-résidente est un associé. Cette déclaration est présentée sur le formulaire prescrit et contient les renseignements prescrits concernant les opérations à déclarer auxquelles le déclarant et la personne non-résidente ou la société de personnes, selon le cas, ont pris part au cours de l'année.

Reporting partnership's information return

(3) Subject to subsection 233.1(4), a reporting partnership for a fiscal period shall, on or before the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the period or would be required to be so filed if that section applied to the reporting partnership, file with the Minister, in respect of each non-resident person with whom the reporting partnership, or a member of the reporting partnership, does not deal at arm's length in the period and each partnership of which such a non-resident person is a member, an information return for the period in prescribed form containing prescribed information in respect of the reportable transactions in which the reporting partnership and the non-resident person or the partnership, as the case may be, participated in the period.

Déclaration de renseignements de la société de personnes déclarante

(3) Sous réserve du paragraphe (4), la société de personnes déclarante pour un exercice doit présenter au ministre, au plus tard à la date où elle est tenue par l'article 229 du *Règlement de l'impôt sur le revenu* de remplir une déclaration pour l'exercice, ou serait ainsi tenue si cet article s'appliquait à elle, une déclaration de renseignements pour l'exercice concernant chaque personne non-résidente avec laquelle elle, ou l'un de ses associés, a un lien de dépendance au cours de l'exercice et chaque société de personnes dont une telle personne non-résidente est un associé. Cette déclaration est présentée sur le formulaire prescrit et contient les renseignements prescrits concernant les opérations à déclarer auxquelles la société de personnes déclarante et la personne non-résidente ou la société de personnes, selon le cas, ont pris part au cours de l'exercice.

De minimis exception

(4) A reporting person or partnership that, but for this subsection, would be required under subsection 233.1(2) or 233.1(3) to file an information return for a taxation year or fiscal period is not required to file the return unless the total of all amounts, each of which is the total fair market value of the property or services that relate to a reportable transaction in which the reporting person or partnership and any non-resident person with whom the

Exception

(4) Le déclarant ou la société de personnes déclarante n'est tenu par les paragraphes (2) ou (3) de présenter une déclaration de renseignements pour une année d'imposition ou un exercice que si le total des montants représentant chacun la juste valeur marchande totale des biens ou des services se rapportant à une opération à déclarer à laquelle ont pris part au cours de l'année ou de l'exercice le déclarant ou la société de personnes déclarante et une

reporting person or partnership, or a member of the reporting partnership, does not deal at arm's length in the year or period, or a partnership of which such a non-resident person is a member, as the case may be, participated in the year or period, exceeds $1,000,000.

Deemed member of partnership

(5) For the purposes of this section, a person who is a member of a partnership that is a member of another partnership is deemed to be a member of the other partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 233.1; 1998, c. 19, s. 231.

Definitions

233.2 (1) The definitions in this subsection apply in this section.

exempt trust means

(a) a trust that is governed by a foreign retirement arrangement;

(b) a trust that

(i) is resident in a country under the laws of which an income tax is imposed,

(ii) is exempt under the laws referred to in subparagraph (i) from the payment of income tax to the government of that country,

(iii) is established principally in connection with, or the principal purpose of which is to administer or provide benefits under, one or more superannuation, pension or retirement funds or plans or any funds or plans established to provide employee benefits, and

(iv) is either

(A) maintained primarily for the benefit of non-resident individuals, or

(B) governed by an employees profit sharing plan; or

(c) a trust

(i) where the interest of each beneficiary under the trust is described by reference to units, and

(ii) that complies with prescribed conditions. (*fiducie exonérée*)

personne non-résidente avec laquelle le déclarant ou la société de personnes déclarante, ou un associé de cette dernière, a un lien de dépendance au cours de l'année ou de l'exercice, ou une société de personnes dont une telle personne non-résidente est un associé, dépasse 1 000 000 $.

Présomption

(5) Pour l'application du présent article, la personne qui est l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes est réputée être l'associé de cette dernière.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 233.1; 1998, ch, 19, art. 231.

Définitions

233.2 (1) Les définitions qui suivent s'appliquent au présent article.

bénéficiaire déterminé [Abrogée, 2013, ch. 34, art. 21]

fiducie étrangère déterminée [Abrogée, 2013, ch. 34, art. 21]

fiducie exonérée

a) Fiducie régie par un mécanisme de retraite étranger;

b) fiducie qui répond aux conditions suivantes :

(i) elle réside dans un pays dont les lois prévoient un impôt sur le revenu,

(ii) elle est exonérée, par les lois visées au sous-alinéa (i), du paiement de l'impôt sur le revenu au gouvernement de son pays de résidence,

(iii) elle est établie principalement dans le cadre d'un ou plusieurs régimes ou fonds de retraite ou de pension ou de régimes ou fonds établis en vue d'assurer des prestations aux employés, ou elle a pour principal objet de gérer ou d'assurer des prestations en vertu d'un ou plusieurs de ces régimes ou fonds,

(iv) elle est :

(A) soit administrée principalement au profit de particuliers non-résidents,

(B) soit régie par un régime de participation des employés aux bénéfices;

c) fiducie qui répond aux conditions suivantes :

specified beneficiary [Repealed, 2013, c. 34, s. 21]

specified foreign trust [Repealed, 2013, c. 34, s. 21]

Rule of application

(2) In this section and paragraph 233.5(c.1), subsections 94(1), (2) and (10) to (13) apply, except that the reference to the expression "(other than restricted property)" in the definition ***arm's length transfer*** in subsection 94(1) is to be read as a reference to the expression "(other than property to which paragraph 94(2)(g) applies but not including a unit of a mutual fund trust or of a trust that would be a mutual fund trust if section 4801 of the *Income Tax Regulations* were read without reference to paragraph 4801(b), a share of the capital stock of a mutual fund corporation, or a particular share of the capital stock of a corporation (other than a closely held corporation) which particular share is identical to a share that is, at the transfer time, of a class that is listed on a designated stock exchange)".

(3) [Repealed, 2013, c. 34, s. 21]

Filing information on foreign trusts

(4) A person shall file an information return in prescribed form, in respect of a taxation year of a particular trust (other than an exempt trust or a trust described in any of paragraphs (c) to (h) of the definition ***exempt foreign trust*** in subsection 94(1)) with the Minister on or before the person's filing-due date for the person's taxation year in which the particular trust's taxation year ends if

(a) the particular trust is non-resident at a specified time in that taxation year of the particular trust;

(b) the person is a contributor, a connected contributor or a resident contributor to the particular trust; and

(c) the person

(i) is resident in Canada at that specified time, and

(ii) is not, at that specified time,

(A) a mutual fund corporation,

(B) an exempt person,

(C) a mutual fund trust,

(i) la participation de chacun de ses bénéficiaires est fonction d'unités,

(ii) elle remplit les conditions prévues par règlement. (*exempt trust*)

Règle d'application

(2) Les paragraphes 94(1), (2) et (10) à (13) s'appliquent au présent article et à l'alinéa 233.5c.1). Toutefois, le passage « (sauf un bien d'exception) » à la définition de ***transfert sans lien de dépendance*** au paragraphe 94(1) vaut mention de « (sauf un bien auquel l'alinéa 94(2)g) s'applique, à l'exception d'une unité d'une fiducie de fonds commun de placement ou d'une fiducie qui serait une fiducie de fonds commun de placement si l'article 4801 du *Règlement de l'impôt sur le revenu* s'appliquait compte non tenu de son alinéa b), d'une action du capital-actions d'une société de placement à capital variable ou d'une action donnée du capital-actions d'une société (sauf une société à peu d'actionnaires) qui est identique à une action qui, au moment du transfert, fait partie d'une catégorie qui est inscrite à la cote d'une bourse de valeurs désignée ».

(3) [Abrogé, 2013, ch. 34, art. 21]

Production de renseignements concernant les fiducies étrangères

(4) Une personne doit produire une déclaration de renseignements sur le formulaire prescrit, pour une année d'imposition d'une fiducie donnée, sauf une fiducie exonérée ou une fiducie visée à l'un des alinéas c) à h) de la définition de ***fiducie étrangère exempte*** au paragraphe 94(1), et la présenter au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition qui comprend la fin de l'année d'imposition de la fiducie donnée si, à la fois :

a) la fiducie donnée ne réside pas au Canada à un moment déterminé de cette année d'imposition;

b) la personne est un contribuant, un contribuant rattaché ou un contribuant résident de la fiducie donnée;

c) la personne :

(i) d'une part, réside au Canada à ce moment déterminé,

(ii) d'autre part, n'est pas, à ce moment déterminé :

(A) une société de placement à capital variable,

(B) une personne exemptée,

(C) une fiducie de fonds commun de placement,

(D) a trust described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1),

(E) a registered investment,

(F) a trust in which all persons beneficially interested are persons described in clauses (A) to (E), or

(G) a contributor to the particular trust by reason only of being a contributor to another trust that is resident in Canada and is described in any of clauses (B) to (F).

(D) une fiducie visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1),

(E) un placement enregistré,

(F) une fiducie dans laquelle seules les personnes visées aux divisions (A) à (E) ont un droit de bénéficiaire,

(G) un contribuant de la fiducie donnée du seul fait qu'elle est un contribuant d'une autre fiducie résidant au Canada visée à l'une des divisions (B) à (F).

Similar arrangements

(4.1) In this section and sections 162, 163 and 233.5, a person's obligations under subsection (4) (except to the extent that they are waived in writing by the Minister) are to be determined as if a contributor described in paragraph (4)(b) were any person who had transferred or loaned property, an arrangement or entity were a non-resident trust throughout the calendar year that includes the time referred to in paragraph (a) and that calendar year were a taxation year of the arrangement or entity, if

(a) the person at any time, directly or indirectly, transferred or loaned the property to be held

(i) under the arrangement and the arrangement is governed by the laws of a country or a political subdivision of a country other than Canada or exists, was formed or organized, or was last continued under the laws of a country or a political subdivision of a country other than Canada, or

(ii) by the entity and the entity is a non-resident entity (as defined by subsection 94.1(2));

(b) the transfer or loan is not an arm's length transfer;

(c) the transfer or loan is not solely in exchange for property that would be described in paragraphs (a) to (i) of the definition ***specified foreign property*** in subsection 233.3(1) if that definition were read without reference to paragraphs (j) to (q);

(d) the arrangement or entity is not a trust in respect of which the person would, if this Act were read without reference to this subsection, be required to file an information return for a taxation year that includes that time; and

(e) the arrangement or entity is, for a taxation year or fiscal period of the arrangement or entity that includes that time, not

Arrangements semblables

(4.1) Pour l'application du présent article et des articles 162, 163 et 233.5, les obligations d'une personne prévues au paragraphe (4) sont déterminées, sauf dans la mesure où le ministre a renoncé par écrit à en exiger l'exécution, comme si, à la fois, un contribuant visé à l'alinéa (4)b) était une personne ayant transféré ou prêté un bien, un arrangement ou une entité était une fiducie non-résidente tout au long de l'année civile qui comprend le moment visé à l'alinéa a) et cette année civile était une année d'imposition de l'arrangement ou de l'entité, si, à la fois :

a) la personne a transféré ou prêté à un moment donné, directement ou indirectement, un bien afin qu'il soit détenu :

(i) soit aux termes de l'arrangement, lequel est régi par des lois d'un pays étranger, ou d'une de ses subdivisions politiques, ou existe, a été constitué ou organisé ou a été prorogé la dernière fois en vertu des lois d'un pays étranger ou d'une de ses subdivisions politiques,

(ii) soit par l'entité, laquelle est une entité non-résidente au sens du paragraphe 94.1(2);

b) le transfert ou le prêt n'est pas un transfert sans lien de dépendance;

c) le transfert ou le prêt n'est pas effectué uniquement en échange d'un bien qui serait visé à l'alinéa a) de la définition de ***bien étranger déterminé*** au paragraphe 233.3(1) si cette définition s'appliquait compte non tenu de son alinéa b);

d) l'arrangement ou l'entité n'est pas une fiducie à l'égard de laquelle la personne serait tenue, en l'absence du présent paragraphe, de produire une déclaration de renseignements pour une année d'imposition qui comprend ce moment;

(i) an exempt foreign trust (as defined in subsection 94(1)),

(ii) a foreign affiliate in respect of which the person is a reporting entity (within the meaning assigned by subsection 233.4(1)), or

(iii) an exempt trust.

e) l'arrangement ou l'entité n'est, pour son année d'imposition ou son exercice qui comprend ce moment :

(i) ni une fiducie étrangère exempte, au sens du paragraphe 94(1),

(ii) ni une société étrangère affiliée relativement à laquelle la personne est un déclarant au sens du paragraphe 233.4(1),

(iii) ni une fiducie exonérée.

Joint filing

(5) Where information returns in respect of a trust's taxation year would, but for this subsection, be required to be filed under subsection 4 by a particular person and another person, and the particular person identifies the other person in an election filed in writing with the Minister, for the purposes of applying this Act to the particular person

(a) the information return filed by the other person shall be treated as if it had been filed by the particular person;

(b) the information required to be provided with the return by the particular person shall be deemed to be the information required to be provided by the other person with the return;

(c) the day on or before which the return is required to be filed by the particular person is deemed to be the later of the day on or before which

(i) the return would, but for this subsection, have been required to have been filed by the particular person, and

(ii) the return is required to have been filed by the other person; and

(d) each act and omission of the other person in respect of the return is deemed to be an act or omission of the particular person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 69; 1998, c. 19, s. 232; 2013, c. 34, s. 21.

Production conjointe

(5) Lorsqu'une personne donnée et une autre personne seraient tenues, n'était le présent paragraphe, de produire des déclarations de renseignements en application du paragraphe (4) pour l'année d'imposition d'une fiducie et que la personne donnée nomme l'autre personne dans un choix écrit présenté au ministre, les règles suivantes s'appliquent à la personne donnée dans le cadre de la présente loi :

a) la déclaration de renseignements produite par l'autre personne est traitée comme si elle avait été produite par la personne donnée;

b) les renseignements que la personne donnée est tenue de fournir avec la déclaration sont réputés être ceux que l'autre personne est tenue de fournir avec la déclaration;

c) le jour où la personne donnée est tenue de produire la déclaration est réputé être le dernier en date des jours suivants :

(i) le jour où elle aurait été tenue de la produire n'eût été le présent paragraphe,

(ii) le jour où l'autre personne est tenue de la produire;

d) les actes et omissions de l'autre personne relativement à la déclaration sont réputés être ceux de la personne donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 69; 1998, ch. 19, art. 232; 2013, ch. 34, art. 21.

Definitions

233.3 (1) The definitions in this subsection apply in this section.

reporting entity for a taxation year or fiscal period means a specified Canadian entity for the year or period where, at any time (other than a time when the entity is non-resident) in the year or period, the total of all

Définitions

233.3 (1) Les définitions qui suivent s'appliquent au présent article.

bien étranger déterminé Quant à une personne ou une société de personnes :

amounts each of which is the cost amount to the entity of a specified foreign property of the entity exceeds $100,000. (*déclarant*)

specified Canadian entity for a taxation year or fiscal period means

(a) a taxpayer resident in Canada in the year that is not

(i) a mutual fund corporation,

(ii) a non-resident-owned investment corporation,

(iii) a person (other than a trust) all of whose taxable income for the year is exempt from tax under Part I,

(iv) a trust all of the taxable income of which for the year is exempt from tax under Part I,

(v) a mutual fund trust,

(vi) a trust described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1),

(vii) a registered investment, nor

(viii) a trust in which all persons beneficially interested are persons described in subparagraphs (i) to (vii); and

(b) a partnership (other than a partnership all the members of which are taxpayers referred to in any of subparagraphs i) to (viii)) where the total of all amounts, each of which is a share of the partnership's income or loss for the period of a non-resident member, is less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be $1,000,000 for the purpose of determining a member's share of the partnership's income for the purpose of this paragraph. (*entité canadienne déterminée*)

specified foreign property of a person or partnership means any property of the person or the partnership that is

(a) funds or intangible property, or for civil law incorporeal property, situated, deposited or held outside Canada,

(b) tangible property, or for civil law corporeal property, situated outside Canada,

a) les biens suivants de la personne ou de la société de personnes sont des biens étrangers déterminés :

(i) les fonds ou le bien intangible ou, pour l'application du droit civil, le bien incorporel situés, déposés ou détenus à l'étranger,

(ii) le bien tangible ou, pour l'application du droit civil, le bien corporel situé à l'étranger,

(iii) l'action du capital-actions d'une société non-résidente,

(iv) la participation dans une fiducie non-résidente,

(v) la participation dans une société de personnes qui est propriétaire de biens étrangers déterminés ou qui détient de tels biens,

(vi) la participation ou le droit dans une entité non-résidente,

(vii) la dette dont est débitrice une personne non-résidente,

(viii) l'intérêt ou, pour l'application du droit civil, le droit sur un bien (sauf celui appartenant à une société ou une fiducie autre que la personne) qui est un bien étranger déterminé ou le droit à un tel bien, immédiat ou futur, absolu ou conditionnel et prévu par un contrat, en equity ou autrement,

(ix) le bien qui, en vertu de ses conditions ou d'une convention relative à ce bien, est convertible en un bien étranger déterminé ou échangeable contre un tel bien, ou confère le droit d'acquérir un tel bien;

b) les biens suivants ne sont pas des biens étrangers déterminés :

(i) le bien qui est utilisé ou détenu exclusivement dans le cadre d'une entreprise exploitée activement de la personne ou de la société de personnes, déterminé comme si elle était une société résidant au Canada,

(ii) l'action du capital-actions ou la dette d'une société non-résidente qui est une société étrangère affiliée de la personne ou de la société de personnes pour l'application de l'article 233.4,

(iii) la participation dans une fiducie non-résidente qui est une société étrangère affiliée de la personne ou de la société de personnes pour l'application de l'article 233.4, ou la dette d'une telle fiducie,

(c) a share of the capital stock of a non-resident corporation,

(d) an interest in a non-resident trust,

(e) an interest in a partnership that owns or holds specified foreign property,

(f) an interest in, or right with respect to, an entity that is non-resident,

(g) indebtedness owed by a non-resident person,

(h) an interest in, or for civil law a right in, or a right — under a contract in equity or otherwise either immediately or in the future and either absolutely or contingently — to, any property (other than any property owned by a corporation or trust that is not the person) that is specified foreign property, and

(i) property that, under the terms or conditions thereof or any agreement relating thereto, is convertible into, is exchangeable for or confers a right to acquire, property that is specified foreign property,

but does not include

(j) property that is used or held exclusively in the course of carrying on an active business of the person or partnership (determined as if the person or partnership were a corporation resident in Canada),

(k) a share of the capital stock or indebtedness of a non-resident corporation that is a foreign affiliate of the person or partnership for the purpose of section 233.4,

(l) an interest in, or indebtedness of, a non-resident trust that is a foreign affiliate of the person or partnership for the purpose of section 233.4,

(m) an interest in a non-resident trust that was not acquired for consideration by either the person or partnership or a person related to the person or partnership,

(n) an interest in a trust described in paragraph (a) or (b) of the definition ***exempt trust*** in subsection 233.2(1),

(o) an interest in a partnership that is a specified Canadian entity,

(o.1) a right with respect to, or indebtedness of, an authorized foreign bank that is issued by, and payable or otherwise enforceable at, a branch in Canada of the bank,

(iv) la participation dans une fiducie non-résidente qui n'a pas été acquise pour une contrepartie par la personne ou la société de personnes ou une personne qui lui est liée,

(v) la participation dans une fiducie visée aux alinéas a) ou b) de la définition de ***fiducie exonérée*** au paragraphe 233.2(1),

(vi) la participation dans une société de personnes qui est une entité canadienne déterminée,

(vi.1) le droit relatif à une banque étrangère autorisée, ou la dette d'une telle banque, qui est émis par sa succursale au Canada et payable ou autrement exécutoire à une telle succursale,

(vii) le bien à usage personnel de la personne ou de la société de personnes,

(viii) l'intérêt ou, pour l'application du droit civil, le droit sur un bien visé à l'un des sous-alinéas (i) à (vii) ou le droit d'acquérir un tel bien. (*specified foreign property*)

déclarant Entité canadienne déterminée pour une année d'imposition ou un exercice, lorsque le total des montants représentant chacun le coût indiqué, pour elle, de son bien étranger déterminé dépasse 100 000 $ à un moment de l'année ou de l'exercice, sauf celui où elle ne réside pas au Canada. (*reporting entity*)

entité canadienne déterminée Pour une année d'imposition ou un exercice :

a) contribuable qui réside au Canada au cours de l'année et qui n'est pas :

(i) une société de placement à capital variable,

(ii) une société de placement appartenant à des non-résidents,

(iii) une personne, sauf une fiducie, dont la totalité du revenu imposable pour l'année est exonéré de l'impôt prévu à la partie I,

(iv) une fiducie dont la totalité du revenu imposable pour l'année est exonéré de l'impôt prévu à la partie I,

(v) une fiducie de fonds commun de placement,

(vi) une fiducie visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1),

(vii) un placement enregistré,

(p) personal-use property of the person or partnership, and

(q) an interest in, or for civil law a right in, or a right to acquire, a property that is described in any of paragraphs (j) to (p). (*bien étranger déterminé*)

(viii) une fiducie dans laquelle les droits de bénéficiaire sont détenus par les personnes visées aux sous-alinéas (i) à (vii);

b) société de personnes, sauf celle dont les associés sont des contribuables visés à l'un des sous-alinéas a)(i) à (viii), lorsque le total des montants représentant chacun la part de son revenu ou de sa perte pour l'exercice qui revient à un associé non-résident est inférieur à 90 % du revenu ou de la perte de la société de personnes pour l'exercice et que, si le revenu et la perte de la société de personnes sont nuls pour l'exercice, son revenu pour l'exercice est réputé égal à 1 000 000 $ pour ce qui est du calcul, pour l'application du présent alinéa, de la part de son revenu qui revient à un associé. (*specified Canadian entity*)

Application to members of partnerships

(2) For the purpose of this section, a person who is a member of a partnership that is a member of another partnership

(a) is deemed to be a member of the other partnership; and

(b) the person's share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

Associés de sociétés de personnes

(2) Pour l'application du présent article, les présomptions suivantes s'appliquent à la personne qui est l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes :

a) la personne est réputée être un associé de l'autre société de personnes;

b) la part qui revient à la personne du revenu ou de la perte de l'autre société de personnes est réputée égale au montant de ce revenu ou de cette perte auquel la personne a droit directement ou indirectement.

Returns respecting foreign property

(3) A reporting entity for a taxation year or fiscal period shall file with the Minister for the year or period a return in prescribed form on or before the day that is

(a) where the entity is a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the fiscal period of the partnership or would be required to be so filed if that section applied to the partnership; and

(b) where the entity is not a partnership, the entity's filing-due date for the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 69; 2001, c. 17, s. 184; 2013, c. 34, ss. 22, 166.

Déclarations concernant les biens étrangers

(3) Un déclarant pour une année d'imposition ou un exercice est tenu de présenter au ministre pour l'année ou l'exercice une déclaration sur le formulaire prescrit au plus tard à la date suivante :

a) si le déclarant est une société de personnes, la date où une déclaration doit être produite pour son exercice, en application de l'article 229 du *Règlement de l'impôt sur le revenu*, ou devrait ainsi être produite si cet article s'appliquait à lui;

b) sinon, la date d'échéance de production qui lui est applicable pour l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 69; 2001, ch. 17, art. 184; 2013, ch. 34, art. 22 et 166.

Reporting entity

233.4 (1) For the purpose of this section, ***reporting entity*** for a taxation year or fiscal period means

(a) a taxpayer resident in Canada (other than a taxpayer all of whose taxable income for the year is exempt from tax under Part I) of which a non-resident

Déclarant

233.4 (1) Pour l'application du présent article, est un déclarant pour une année d'imposition ou un exercice :

a) le contribuable qui réside au Canada (sauf celui dont la totalité du revenu imposable pour l'année est exonéré de l'impôt prévu à la partie I) et relativement

corporation is a foreign affiliate at any time in the year;

(b) a taxpayer resident in Canada (other than a taxpayer all of whose taxable income for the year is exempt from tax under Part I) of which a non-resident trust is a foreign affiliate at any time in the year; and

(c) a partnership

(i) where the total of all amounts, each of which is a share of the partnership's income or loss for the period of a member that is not resident in Canada or that is a taxpayer all of whose taxable income for the year in which the period ends is exempt from tax under Part I, is less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be $1,000,000 for the purpose of determining a member's share of the partnership's income for the purpose of this subparagraph, and

(ii) of which a non-resident corporation or trust is a foreign affiliate at any time in the fiscal period.

auquel une société non-résidente est une société étrangère affiliée au cours de l'année;

b) le contribuable qui réside au Canada (sauf celui dont la totalité du revenu imposable pour l'année est exonéré de l'impôt prévu à la partie I) et relativement auquel une fiducie non-résidente est une société étrangère affiliée au cours de l'année;

c) la société de personnes qui répond aux conditions suivantes :

(i) le total des montants représentant chacun la part de son revenu ou de sa perte pour l'exercice qui revient à un associé qui ne réside pas au Canada ou qui est un contribuable dont la totalité du revenu imposable pour l'année au cours de laquelle la période prend fin est exonérée de l'impôt prévu à la partie I est inférieur à 90 % du revenu ou de la perte de la société de personnes pour l'exercice; pour l'application du présent sous-alinéa, si le revenu et la perte de la société de personnes sont nuls pour l'exercice, son revenu pour l'exercice est réputé égal à 1 000 000 $ pour ce qui est du calcul de la part de son revenu qui revient à un associé,

(ii) une société non-résidente ou une fiducie non-résidente est sa société étrangère affiliée au cours de l'exercice.

Rules of application

(2) For the purpose of this section, in determining whether a non-resident corporation or trust is a foreign affiliate or a controlled foreign affiliate of a taxpayer resident in Canada or of a partnership

(a) paragraph (b) of the definition ***equity percentage*** in subsection 95(4) shall be read as if the reference to "any corporation" were a reference to "any corporation other than a corporation resident in Canada";

(b) the definitions ***direct equity percentage*** and ***equity percentage*** in subsection 95(4) shall be read as if a partnership were a person;

(c) the definitions ***controlled foreign affiliate*** and ***foreign affiliate*** in subsection 95(1) shall be read as if a partnership were a taxpayer resident in Canada; and

(d) if the taxpayer is a member of one or more partnerships described in subparagraph (1)(c)(i) of which a non-resident corporation or trust is a foreign affiliate, and the taxpayer does not have any direct or indirect interest (determined without reference to subsection 93.1(1)) in the non-resident corporation or trust

Société étrangère affiliée et société étrangère affiliée contrôlée

(2) Pour l'application du présent article, les règles suivantes s'appliquent lorsqu'il s'agit de déterminer si une société ou une fiducie non-résidente est la société étrangère affiliée ou la société étrangère affiliée contrôlée d'un contribuable résidant au Canada ou d'une société de personnes :

a) l'alinéa b) de la définition de ***pourcentage d'intérêt***, au paragraphe 95(4), s'applique comme si la mention de « toute société » était remplacée par « toute société autre qu'une société résidant au Canada »;

b) les définitions de ***pourcentage d'intérêt*** et ***pourcentage d'intérêt direct***, au paragraphe 95(4), s'appliquent comme si les sociétés de personnes étaient des personnes;

c) les définitions de ***société étrangère affiliée*** et ***société étrangère affiliée contrôlée***, au paragraphe 95(1), s'appliquent comme si les sociétés de personnes étaient des contribuables résidant au Canada;

d) si le contribuable est l'associé d'une ou plusieurs sociétés de personnes visées au sous-alinéa (1)c)(i)

other than through its interest in the partnerships, then the non-resident corporation or trust is deemed not to be a foreign affiliate of the taxpayer.

dont une société ou fiducie non-résidente est une société étrangère affiliée dans laquelle le contribuable n'a aucune participation directe ou indirecte (déterminée compte non tenu du paragraphe 93.1(1)) autre que sa participation dans la société de personnes, la société ou fiducie non-résidente est réputée ne pas être une société étrangère affiliée du contribuable.

Application to members of partnerships

(3) For the purpose of this section, a person who is a member of a partnership that is a member of another partnership

(a) is deemed to be a member of the other partnership; and

(b) the person's share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

Associés de sociétés de personnes

(3) Pour l'application du présent article, les présomptions suivantes s'appliquent à la personne qui est l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes :

a) la personne est réputée être un associé de l'autre société de personnes;

b) la part qui revient à la personne du revenu ou de la perte de l'autre société de personnes est réputée égale au montant de ce revenu ou de cette perte auquel la personne a droit directement ou indirectement.

Returns respecting foreign affiliates

(4) A reporting entity for a taxation year or fiscal period shall file with the Minister for the year or period a return in prescribed form in respect of each foreign affiliate of the entity in the year or period within 15 months after the end of the year or period.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 69; 2013, c. 34, s. 354; 2014, c. 39, s. 69.

Déclarations concernant les sociétés étrangères affiliées

(4) Un déclarant pour une année d'imposition ou un exercice est tenu de présenter au ministre pour l'année ou l'exercice, dans les quinze mois suivant sa fin, une déclaration sur le formulaire prescrit relativement à chacune de ses sociétés étrangères affiliées au cours de l'année ou de l'exercice.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 69; 2013, ch. 34, art. 354; 2014, ch. 39, art. 69.

Due diligence exception

233.5 The information required in a return filed under section 233.2 or 233.4 does not include information that is not available, on the day on which the return is filed, to the person or partnership required to file the return where

(a) there is a reasonable disclosure in the return of the unavailability of the information;

(b) before that day, the person or partnership exercised due diligence in attempting to obtain the information;

(c) if the return is required to be filed under section 233.2 in respect of a trust, at the time of each transaction, if any, entered into by the person or partnership after March 5, 1996 and before June 23, 2000 that gave rise to the requirement to file a return for a taxation year of the trust that ended before 2007 or that affects the information to be reported in the return, it was reasonable to expect that sufficient information would

Exception

233.5 Ne comptent pas parmi les renseignements à indiquer dans la déclaration produite ou présentée en application des articles 233.2 ou 233.4 ceux dont la personne ou la société de personnes tenue de présenter la déclaration ne dispose pas le jour de la production, si les conditions suivantes sont réunies :

a) la déclaration fait état, de façon acceptable, de l'inaccessibilité des renseignements;

b) avant ce jour, la personne ou la société de personnes a pris les mesures nécessaires pour obtenir les renseignements;

c) dans le cas d'une déclaration à produire en application de l'article 233.2 à l'égard d'une fiducie, il était raisonnable de s'attendre, au moment de chaque opération conclue par la personne ou la société de personnes, après le 5 mars 1996 et avant le 23 juin 2000, qui a donné lieu à l'obligation de produire une déclaration pour une année d'imposition de la fiducie

be available to the person or partnership to comply with section 233.2 in respect of each taxation year of the trust that ended before 2007;

(c.1) if the return is required to be filed under section 233.2, at the time of each contribution (determined with reference to subsection 233.2(2)) made by the person or partnership after June 22, 2000 that gives rise to the requirement to file the return or that affects the information to be reported in the return, it was reasonable to expect that sufficient information would be available to the person or partnership to comply with section 233.2;

(c.2) if the return is required to be filed under section 233.4 by a person or partnership in respect of a corporation that is a controlled foreign affiliate for the purpose of that section of the person or partnership, at the time of each transaction, if any, entered into by the person or partnership after March 5, 1996 that gives rise to the requirement to file the return or that affects the information to be reported in the return, it was reasonable to expect that sufficient information would be available to the person or partnership to comply with section 233.4; and

(d) if the information subsequently becomes available to the person or partnership, it is filed with the Minister not more than 90 days after it becomes so available.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 69; 2013, c. 34, s. 23.

s'étant terminée avant 2007 ou qui touche les renseignements à y indiquer, que la personne ou la société de personnes disposerait de renseignements suffisants pour se conformer à cet article pour chaque année d'imposition de la fiducie s'étant terminée avant 2007;

c.1) dans le cas d'une déclaration à produire en application de l'article 233.2, il était raisonnable de s'attendre, au moment de chaque apport, déterminé compte tenu du paragraphe 233.2(2), que la personne ou la société de personnes fait après le 22 juin 2000 et qui donne lieu à l'obligation de produire la déclaration ou qui touche les renseignements à y indiquer, que la personne ou la société de personnes disposerait de renseignements suffisants pour se conformer à cet article;

c.2) dans le cas d'une déclaration à produire en application de l'article 233.4 par une personne ou une société de personnes relativement à une société qui est sa société étrangère affiliée contrôlée pour l'application de cet article, il était raisonnable de s'attendre, au moment de chaque opération conclue par la personne ou la société de personnes après le 5 mars 1996 qui donne lieu à l'obligation de produire la déclaration ou qui touche les renseignements à y indiquer, que la personne ou la société de personnes disposerait de renseignements suffisants pour se conformer à cet article;

d) si elle finit par obtenir les renseignements, la personne ou la société de personnes les présente au ministre dans les 90 jours suivant le jour où elle les obtient.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 69; 2013, ch. 34, art. 23.

Returns respecting distributions from non-resident trusts

233.6 (1) Where a specified Canadian entity (as defined by subsection 233.3(1)) for a taxation year or fiscal period receives a distribution of property from, or is indebted to, a non-resident trust (other than a trust that was an excluded trust in respect of the year or period of the entity or an estate that arose on and as a consequence of the death of an individual) in the year or period and the entity is beneficially interested in the trust at any time in the year or period, the entity shall file with the Minister for the year or period a return in prescribed form on or before the day that is

(a) where the entity is a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the fiscal period of the partnership or would be required to be so filed if that section applied to the partnership; and

Déclaration lorsqu'une distribution est effectuée par une fiducie non-résidente

233.6 (1) L'entité canadienne déterminée pour une année d'imposition ou un exercice, au sens du paragraphe 233.3(1), qui, au cours de l'année ou de l'exercice, a un droit de bénéficiaire dans une fiducie non-résidente (sauf la fiducie qui était une fiducie exclue pour l'année ou l'exercice de l'entité ou une succession découlant du décès d'un particulier) et est débitrice d'une telle fiducie ou reçoit des biens d'une telle fiducie dans le cadre d'une distribution est tenue de présenter au ministre pour l'année ou l'exercice une déclaration sur le formulaire prescrit au plus tard à la date suivante :

a) si l'entité est une société de personnes, la date où une déclaration doit être produite pour son exercice, en application de l'article 229 du *Règlement de l'impôt sur le revenu*, ou devrait ainsi être produite si cet article s'appliquait à elle;

(b) where the entity is not a partnership, the entity's filing-due date for the year.

b) sinon, la date d'échéance de production qui lui est applicable pour l'année.

Excluded trust defined

(2) For the purpose of subsection 233.6(1), an excluded trust in respect of the taxation year or fiscal period of an entity means

(a) a trust described in paragraph (a) or (b) of the definition ***exempt trust*** in subsection 233.2(1) throughout the portion of the year or period during which the trust was extant;

(b) a trust in respect of which the entity is required by section 233.2 to file a return in respect of each taxation year of the trust that ends in the entity's year;

(c) a trust an interest in which is at any time in the year or period specified foreign property (as defined by subsection 233.3(1)) of the entity, where the entity is a reporting entity (as defined by subsection 233.3(1)) for the year or period; and

(d) a trust in respect of which the entity is required by section 233.4 to file a return for the year or period.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 69.

Définition de *fiducie exclue*

(2) Pour l'application du paragraphe (1), est une fiducie exclue pour l'année d'imposition ou l'exercice d'une entité canadienne déterminée :

a) la fiducie visée aux alinéas a) ou b) de la définition de ***fiducie exonérée*** au paragraphe 233.2(1) tout au long de la partie de l'année ou de l'exercice où elle existe;

b) la fiducie à l'égard de laquelle l'entité est tenue, par l'article 233.2, de produire une déclaration pour chaque année d'imposition de la fiducie qui se termine dans l'année de l'entité;

c) la fiducie dont une participation est un bien étranger déterminé, au sens du paragraphe 233.3(1), de l'entité au cours de l'année ou de l'exercice, lorsque l'entité est un déclarant, au sens de ce paragraphe, pour l'année ou l'exercice;

d) la fiducie à l'égard de laquelle l'entité est tenue, par l'article 233.4, de produire une déclaration pour l'année ou l'exercice.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 69.

Exception for first-year residents

233.7 Notwithstanding sections 233.2, 233.3, 233.4 and 233.6, a person who, but for this section, would be required under any of those sections to file an information return for a taxation year, is not required to file the return if the person is an individual (other than a trust) who first became resident in Canada in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1997, c. 25, s. 69.

Exception — Première année de résidence

233.7 Malgré les articles 233.2, 233.3, 233.4 et 233.6, la personne qui, si ce n'était le présent article, serait tenue par l'un de ces articles de présenter ou de produire une déclaration de renseignements pour une année d'imposition en est dispensée si elle est un particulier (sauf une fiducie) qui a commencé à résider au Canada dans l'année.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1997, ch. 25, art. 69.

Country-by-country report — definitions

233.8 (1) The following definitions apply in this section.

business entity means

(a) a person (other than an individual that is not a trust) or partnership; and

(b) a business that is carried on through a permanent establishment, if a separate financial statement for the business is prepared for financial reporting, regulatory, tax reporting or internal management control purposes. (*entité*)

Déclaration pays par pays — définitions

233.8 (1) Les définitions qui suivent s'appliquent au présent article.

accord admissible Accord qui, à la fois :

a) est conclu par des représentants autorisés des juridictions qui sont parties à un accord international désigné;

b) prévoit l'échange automatique des déclarations pays par pays entre les juridictions. (*qualifying competent authority agreement*)

consolidated financial statements means financial statements in which the assets, liabilities, income, expenses and cash flows of the members of a group are presented as those of a single economic entity. (*états financiers consolidés*)

constituent entity, of an MNE group, means

(a) any business entity of the MNE group that

(i) is included in the consolidated financial statements of the MNE group for financial reporting purposes, or

(ii) would be required to be included if equity interests in any of the business entities in the MNE group were traded on a public securities exchange; and

(b) any business entity that is excluded from the MNE group's consolidated financial statements solely because of size or materiality. (*entité constitutive*)

excluded MNE group means two or more business entities that meet the conditions in paragraphs (a) and (b) of the definition *MNE group*, if, with respect to a particular fiscal year of the MNE group, it has a total consolidated group revenue of less than €750 million during the fiscal year immediately preceding the particular fiscal year, as reflected in its consolidated financial statements for the preceding fiscal year. (*groupe d'entreprises multinationales exclu*)

fiscal year, of an MNE group, means an annual accounting period with respect to which the ultimate parent entity of the MNE group prepares its financial statements. (*exercice*)

multinational enterprise group or ***MNE group*** means two or more business entities, if

(a) they are either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the business entities were traded on a public securities exchange;

(b) one of the business entities is resident in a particular jurisdiction and

(i) another business entity resides in a different jurisdiction, or

(ii) is subject to tax in a different jurisdiction with respect to a business carried on by it through a business entity — described in paragraph (b) of the

défaillance systémique Défaut d'une juridiction relativement à laquelle un accord admissible est en vigueur avec le Canada et qui :

a) soit a suspendu l'échange automatique des déclarations pays par pays (pour des raisons autres que celles prévues par les dispositions de l'accord);

b) soit a omis de façon persistante de transmettre automatiquement au Canada les déclarations pays par pays en sa possession relatives à des groupes d'entités multinationales qui ont des entités constitutives au Canada. (*systemic failure*)

entité :

a) toute personne (sauf un particulier qui n'est pas une fiducie) ou société de personnes;

b) toute entreprise qui est exploitée par l'intermédiaire d'un établissement stable, si un état financier distinct est établi pour celle-ci à des fins réglementaires, d'information financière, de gestion interne ou fiscales. (*business entity*)

entité constitutive Relativement à un groupe d'entreprises multinationales, les entités suivantes :

a) une entité du groupe qui, selon le cas :

(i) fait partie des états financiers consolidés du groupe à des fins d'information financière,

(ii) devrait faire partie de ces états financiers consolidés si des participations dans une entité du groupe étaient cotées sur une bourse de valeurs ouverte au public;

b) une entité qui ne fait pas partie des états financiers consolidés du groupe uniquement pour des raisons de taille ou d'importance relative. (*constituent entity*)

entité mère de substitution Entité constitutive d'un groupe d'entreprises multinationales qui a été mandatée par le groupe, en qualité d'unique substitut de l'entité mère ultime, pour produire la déclaration pays par pays pour le compte du groupe, à l'égard de laquelle au moins une des conditions énoncées au sous-alinéa (3)b)(ii) s'applique. (*surrogate parent entity*)

entité mère ultime Entité constitutive d'un groupe d'entreprises multinationales donnée à l'égard de laquelle les conditions ci-après sont remplies :

a) l'entité constitutive donnée détient, directement ou indirectement, une participation suffisante dans une ou plusieurs entités constitutives du groupe de sorte

definition *business entity* — in that other jurisdiction; and

(c) they are not an excluded MNE group. (*groupe d'entreprises multinationales*)

permanent establishment has the meaning assigned by regulation. (*établissement stable*)

qualifying competent authority agreement means an agreement that

(a) is between authorized representatives of those jurisdictions that are parties to a listed international agreement; and

(b) requires the automatic exchange of country-by-country reports between the party jurisdictions. (*accord admissible*)

reporting fiscal year means a fiscal year, if the financial and operational results of the fiscal year are reflected in the country-by-country report. (*exercice déclarable*)

surrogate parent entity means a constituent entity of an MNE group that has been appointed by the MNE group — in substitution for the ultimate parent entity — to file the country-by-country report on behalf of the MNE group, if one or more of the conditions in subparagraph (3)(b)(ii) applies. (*entité mère de substitution*)

systemic failure means, with respect to a jurisdiction, that the jurisdiction has a qualifying competent authority agreement in effect with Canada, but

(a) has suspended automatic exchange (for reasons other than those that are in accordance with the terms of the agreement); or

(b) has persistently failed to automatically provide country-by-country reports in its possession — in respect of MNE groups that have constituent entities in Canada — to Canada. (*défaillance systémique*)

ultimate parent entity means a constituent entity of an MNE group that meets the following conditions:

(a) the constituent entity holds directly or indirectly a sufficient interest in one or more constituent entities of the MNE group so that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of residence; and

qu'elle est tenue d'établir des états financiers consolidés selon les principes comptables généralement appliqués dans sa juridiction de résidence ou qu'elle serait tenue de le faire si ses participations étaient cotées sur une bourse de valeurs ouverte au public dans sa juridiction de résidence;

b) aucune autre entité constitutive du groupe ne détient, directement ou indirectement, une participation visée à l'alinéa a) dans l'entité constitutive donnée. (*ultimate parent entity*)

établissement stable S'entend au sens prévu par règlement. (*permanent establishment*)

états financiers consolidés États financiers dans lesquels les actifs, les passifs, le revenu, les dépenses et les flux de trésorerie des membres d'un groupe sont présentés comme étant ceux d'une seule entité économique. (*consolidated financial statements*)

exercice Relativement à un groupe d'entreprises multinationales, toute période comptable annuelle pour laquelle l'entité mère ultime du groupe en établit les états financiers. (*fiscal year*)

exercice déclarable Exercice dont les résultats financiers et opérationnels sont indiqués dans la déclaration pays par pays. (*reporting fiscal year*)

groupe d'entreprises multinationales Groupe constitué de plusieurs entités à l'égard desquelles les énoncés ci-après se vérifient :

a) ces entités sont tenues d'établir des états financiers consolidés à des fins d'information financières selon les principes comptables applicables ou le seraient si des participations dans l'une d'elles étaient cotées en bourse;

b) l'une de ces entités réside dans une juridiction donnée et, selon le cas :

(i) une autre de ces entités réside dans une autre juridiction,

(ii) elle est assujettie à l'impôt dans une autre juridiction relativement à une entreprise qu'elle y exploite par l'entremise d'une entité visée à l'alinéa b) de la définition de *entité*;

c) elles ne constituent pas un groupe d'entités multinationales exclu. (*multinational enterprise group* ou *MNE group*)

groupe d'entreprises multinationales exclu Groupe de plusieurs entités à l'égard desquelles les énoncés

(b) no other constituent entity of the MNE group holds, directly or indirectly, an interest in it that is described in paragraph (a). (*entité mère ultime*)

Determination of residence — ultimate parent entity

(2) For the purposes of this section, if an ultimate parent entity is a partnership, it is deemed to be resident

(a) if it is, under the laws of another jurisdiction, resident in that other jurisdiction for tax purposes, in that other jurisdiction; and

(b) in any other case, in the jurisdiction under the laws of which it was organized.

Filing obligations

(3) A report in prescribed form (this report, along with each substantially similar report required to be filed in a jurisdiction other than Canada, collectively referred to in this section as a ***country-by-country report***), in respect of a reporting fiscal year of an MNE group, shall be filed in prescribed manner with the Minister on or before the date specified in subsection (6) by

(a) the ultimate parent entity of the MNE group, if it is resident in Canada in the reporting fiscal year; or

(b) a constituent entity of the MNE group — which is not the ultimate parent entity of the MNE group — with respect to the reporting fiscal year of the MNE group, if the following conditions are satisfied:

(i) the constituent entity is resident in Canada in the reporting fiscal year, and

(ii) one of the following conditions applies:

(A) the ultimate parent entity of the MNE group is not obligated to file a country-by-country report in its jurisdiction of residence,

(B) the jurisdiction of residence of the ultimate parent entity of the MNE group does not have a qualifying competent authority agreement in effect to which Canada is a party on or before the time specified in subsection (6) for filing the country-by-country report for the reporting fiscal year, or

(C) there has been a systemic failure of the jurisdiction of residence of the ultimate parent entity

contenus aux alinéas a) et b) de la définition de *groupe d'entreprises multinationales* se vérifient et il s'avère que, relativement à un exercice donné du groupe d'entreprises multinationales, le revenu consolidé total du groupe pour son exercice qui précède immédiatement l'exercice donné, tel qu'il est indiqué dans les états financiers du groupe pour cet exercice précédent, est inférieur à 750 millions d'euros. (*excluded MNE group*)

Entité mère ultime — résidence réputée

(2) Pour l'application du présent article, l'entité mère ultime qui est une société de personnes est réputée résider :

a) si, selon les lois d'une autre juridiction, elle réside dans cette autre juridiction à des fins fiscales, dans cette autre juridiction;

b) sinon, dans la juridiction sous le régime des lois de laquelle l'entité est organisée.

Exigences de production

(3) Une déclaration sur le formulaire prescrit (cette déclaration et toute déclaration qui y est substantiellement semblable étant appelées ***déclaration pays par pays*** au présent article), pour un exercice déclarable donné d'un groupe d'entreprises multinationales, est présenté au ministre selon les modalités prescrites au plus tard à la date prévue au paragraphe (6) par celle des entités ci-après qui s'applique :

a) l'entité mère ultime d'un groupe d'entreprises multinationales qui réside au Canada au cours de l'exercice donné;

b) une entité constitutive, sauf l'entité mère ultime, du groupe pour l'exercice donné du groupe, si les conditions ci-après sont remplies :

(i) cette entité constitutive réside au Canada au cours de l'exercice donné,

(ii) l'un des énoncés ci-après se vérifie :

(A) l'entité mère ultime du groupe n'a pas à produire une déclaration pays par pays dans sa juridiction de résidence,

(B) la déclaration pays par pays pour l'exercice donné n'est prévue par aucun accord admissible qui est en vigueur entre la juridiction de résidence de cette entité et le Canada à la date prévue au paragraphe (6) ou à une date antérieure,

and the Minister has notified the constituent entity of the systemic failure.

(C) une défaillance systémique de la juridiction de résidence de l'entité mère ultime s'est produite et a fait l'objet d'un avis du ministre à l'entité constitutive.

Designation for multiple constituent entities

(4) If more than one constituent entity of an MNE group is described in paragraph (3)(b) in respect of a reporting fiscal year, one of those constituent entities may be designated — on or before the date specified in subsection (6) in respect of the reporting fiscal year — so that it is entitled to file a country-by-country report for the reporting fiscal year with the Minister on behalf of all such constituent entities in the MNE group.

Entités constitutives multiples — mandataire

(4) Si plusieurs entités constitutives d'un groupe d'entreprises multinationales sont visées à l'alinéa (3)b) relativement à un exercice déclarable, l'une de ces entités peut être mandatée relativement à cet exercice, au plus tard à la date prévue au paragraphe (6), pour lui permettre de présenter au ministre pour le compte de toutes ces entités une déclaration pays par pays pour l'exercice.

Surrogate filing

(5) Notwithstanding subsection (3), a constituent entity of an MNE group described in paragraph (3)(b) is not required to file a country-by-country report with the Minister with respect to a reporting fiscal year if

(a) a surrogate parent entity of the MNE group files a country-by-country report in respect of the reporting fiscal year with the tax authority of its jurisdiction of residence on or before the date specified in subsection (6); and

(b) the jurisdiction of residence of the surrogate parent entity

(i) requires filing of country-by-country reports,

(ii) has a qualifying competent authority agreement in effect to which Canada is a party on or before the time specified in subsection (6) for filing the country-by-country report in respect of the reporting fiscal year,

(iii) is not in a position of systemic failure, and

(iv) has been notified by the surrogate parent entity that it is the surrogate parent entity.

Production en cas d'entité mère de substitution

(5) Malgré le paragraphe (3), une entité constitutive d'un groupe d'entreprises multinationales visée à l'alinéa (3)b) n'est pas tenue de présenter une déclaration pays par pays au ministre pour un exercice déclarable donné si les énoncés ci-après se vérifient :

a) une entité mère de substitution donnée du groupe présente une déclaration pays par pays pour l'exercice donné à l'autorité fiscale de sa juridiction de résidence au plus tard à la date prévue au paragraphe (6);

b) les énoncés ci-après se vérifient à l'égard de la juridiction de résidence de l'entité donnée :

(i) elle exige la production de déclarations pays par pays,

(ii) elle est partie à un accord admissible auquel le Canada est partie qui est en vigueur à la date prévue au paragraphe (6) ou avant cette date, qui prévoit la déclaration pays par pays pour l'exercice donné,

(iii) elle n'est pas en état de défaillance systémique,

(iv) elle a été avisée par l'entité donnée qu'elle est l'entité mère de substitution.

Time for filing

(6) A country-by-country report in respect of a reporting fiscal year of an MNE group that is required to be filed by a constituent entity under this section shall be filed on or before the later of

(a) if notification of systemic failure has been received by the constituent entity, 30 days after receipt of the notification, and

Délai de production

(6) La déclaration pays par pays pour un exercice déclarable d'un groupe d'entreprises multinationales qu'une entité constitutive est tenue de produire en vertu du présent article doit être présentée au plus tard à celle des dates ci-après qui s'applique :

a) si l'entité constitutive a reçu un avis de défaillance systémique, la dernière en date de la date qui suit de 30 jours la réception de cet avis et de la date qui suit de 12 mois le dernier jour de l'exercice;

(b) 12 months after the last day of the reporting fiscal year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 61.

(b) sinon, la date qui suit de 12 mois le dernier jour de l'exercice.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 61.

Ownership certificates

234 (1) Before the bearer coupon or warrant representing either interest or dividends payable by any debtor or cheque representing dividends or interest payable by a non-resident debtor is negotiated by or on behalf of a resident of Canada, there shall be completed by or on behalf of the resident an ownership certificate in prescribed form.

Idem

(2) An ownership certificate completed pursuant to subsection 234(1) shall be delivered in such manner, at such time and at such place as may be prescribed.

Idem

(3) The operation of this section may be extended by regulation to bearer coupons or warrants negotiated by or on behalf of non-resident persons.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "234"; 1976-77, c. 4, s. 75; 1980-81-82-83, c. 48, s. 106; 1985, c. 45, s. 126(F); 1988, c. 55, s. 177.

Certificats de propriété

234 (1) Avant qu'un coupon ou titre au porteur, représentant l'intérêt ou les dividendes payables par tout débiteur, ou qu'un chèque représentant l'intérêt ou les dividendes payables par un débiteur non-résident soit négocié par un résident du Canada ou pour son compte, un certificat de propriété selon le formulaire prescrit doit être fourni par le résident ou pour son compte.

Délivrance

(2) Tout certificat de propriété fourni conformément au paragraphe (1) doit être délivré selon les modalités, dans le délai et à l'endroit prévus par règlement.

Idem

(3) L'application du présent article peut s'étendre par règlement aux coupons et titres au porteur négociés par les personnes non-résidentes ou pour leur compte.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 234 »; 1976-77, ch. 4, art. 75; 1980-81-82-83, ch. 48, art. 106; 1985, ch. 45, art. 126(F); 1988, ch. 55, art. 177.

Penalty for failing to file corporate returns

235 Every large corporation (within the meaning assigned by subsection 225.1(8)) that fails to file a return for a taxation year as and when required by section 150 or 190.2 is liable, in addition to any penalty otherwise provided, to a penalty for each such failure equal to the amount determined by the formula

A × B

where

A is the total of

(a) 0.0005% of the corporation's taxable capital employed in Canada at the end of the taxation year, and

(b) 0.25% of the tax that would be payable under Part VI by the corporation for the year if this Act were read without reference to subsection 190.1(3); and

B is the number of complete months, not exceeding 40, from the day on or before which the return was required to be filed to the day on which the return is filed.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 7, Sch. II, s. 187, Sch. VIII, s. 135; 2006, c. 4, s. 88.

Pénalité pour non-production de déclaration

235 Toute grande société, au sens du paragraphe 225.1(8), qui omet de produire une déclaration pour une année d'imposition selon les modalités et dans le délai prévus aux articles 150 ou 190.2 encourt, outre toute pénalité prévue par ailleurs, une pénalité pour chaque défaut de produire une déclaration, égale à la somme obtenue par la formule suivante :

A × B

où :

A représente le total des sommes suivantes :

a) la somme représentant 0,0005 % de son capital imposable utilisé au Canada à la fin de l'année;

b) la somme représentant 0,25 % de l'impôt qu'elle aurait à payer en vertu de la partie VI pour l'année si la présente loi s'appliquait compte non tenu du paragraphe 190.1(3);

B le nombre de mois entiers, jusqu'à concurrence de 40, compris dans la période commençant à la date limite où la déclaration devait être produite et se terminant le jour où elle est produite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 7, ann. II, art. 187, ann. VIII, art. 135; 2006, ch. 4, art. 88.

Execution of documents by corporations

236 A return, certificate or other document made by a corporation pursuant to this Act or a regulation shall be signed on its behalf by the President, Secretary or Treasurer of the corporation or by any other officer or person thereunto duly authorized by the Board of Directors or other governing body of the corporation.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"236".

Validation des documents par les sociétés

236 Une déclaration, un certificat ou tout autre document fait par une société en conformité avec la présente loi ou avec son règlement doit être signé en son nom par le président, le secrétaire ou le trésorier de la société ou par tout autre cadre ou personne qui y est régulièrement autorisée par le conseil d'administration ou par tout autre organe de direction de la société.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 236 ».

Social Insurance Number

237 (1) Every individual (other than a trust) who was resident or employed in Canada at any time in a taxation year and who files a return of income under Part I for the year, or in respect of whom an information return is to be made by a person pursuant to a regulation made under paragraph 221(1)(d), shall,

(a) on or before the first day of February of the year immediately following the year for which the return of income is filed, or

(b) within 15 days after the individual is requested by the person to provide his Social Insurance Number,

apply to the Canada Employment Insurance Commission in prescribed form and manner for the assignment to the individual of a Social Insurance Number unless the individual has previously been assigned, or made application to be assigned, a Social Insurance Number.

Numéro d'assurance sociale

237 (1) Tout particulier, à l'exclusion d'une fiducie, qui réside ou est employé au Canada à un moment donné d'une année d'imposition et qui produit une déclaration de revenu en vertu de la partie I pour l'année ou concernant lequel une personne est tenue par une disposition réglementaire prise en application de l'alinéa 221(1)d) de remplir une déclaration de renseignements doit demander, sur le formulaire prescrit et selon les modalités réglementaires, à la Commission de l'assurance-emploi du Canada de lui attribuer un numéro d'assurance sociale, s'il n'en a pas déjà un ou s'il n'en a pas déjà fait la demande. Cette demande doit être faite au plus tard le premier février de l'année suivant l'année pour laquelle la déclaration de revenu doit être produite ou dans les 15 jours après que la personne a enjoint au particulier de fournir son numéro d'assurance sociale.

Production of number

(1.1) Every person and partnership shall provide

(a) in the case of an individual (other than a trust), the individual's Social Insurance Number, and

(b) in any other case, the person's or partnership's business number

in any return filed under this Act or, at the request of any person required to make an information return pursuant to this Act or the regulations requiring either number, to that person.

Communication du numéro

(1.1) Tout particulier (sauf une fiducie) doit indiquer son numéro d'assurance sociale et toute autre personne ou toute société de personnes, son numéro d'entreprise dans toute déclaration produite ou présentée en application de la présente loi et, le cas échéant, fournir le numéro applicable, sur demande, à la personne tenue par la présente loi ou par son règlement de remplir une déclaration de renseignements qui doit comporter ce numéro.

Number required in information returns

(2) For the purposes of this Act and the regulations, a person required to make an information return requiring a Social Insurance Number or a business number of a person or partnership

(a) shall make a reasonable effort to obtain the number from the person or partnership; and

(b) shall not knowingly use, communicate or allow to be communicated, otherwise than as required or

Communication du numéro

(2) Pour l'application de la présente loi et de son règlement, toute personne tenue de remplir une déclaration de renseignements qui doit comporter le numéro d'assurance sociale ou le numéro d'entreprise d'une personne ou d'une société de personnes :

a) doit s'appliquer raisonnablement à obtenir de la personne ou de la société de personnes qu'elle lui fournisse le numéro;

authorized under this Act or a regulation, the number without the written consent of the person or partnership.

b) ne peut sciemment, sans le consentement écrit de la personne ou de la société de personnes, utiliser ou communiquer le numéro ou permettre qu'il soit communiqué autrement que conformément à la présente loi et à son règlement.

Authority to communicate number

(3) A particular person may communicate, or allow to be communicated, a Social Insurance Number or business number to another person related to the particular person where the other person is required, by this Act or the Regulations, to make an information return that requires the Social Insurance Number or business number.

Autorisation de communiquer le numéro

(3) Il est permis à une personne de communiquer un numéro d'assurance sociale ou un numéro d'entreprise à une autre personne qui lui est liée, ou de permettre qu'il lui soit communiqué, si l'autre personne est tenue par la présente loi ou par son règlement de remplir une déclaration de renseignements qui doit comporter ce numéro.

Authority to communicate number

(4) An insurance corporation may communicate, or allow to be communicated, to another person the Social Insurance Number or business number of a particular person or partnership where

(a) the other person became the holder of a share of the capital stock of the insurance corporation, or of a holding corporation (in this subsection having the meaning assigned by subsection 139.1(1)) in respect of the insurance corporation, on the share's issuance in connection with the demutualization (as defined by subsection 139.1(1)) of the insurance corporation;

(b) the other person became the holder of the share in the other person's capacity as nominee or agent for the particular person or partnership pursuant to an arrangement established by the insurance corporation or a holding corporation in respect of the insurance corporation; and

(c) the other person is required, by this Act or the Regulations, to make an information return, in respect of the disposition of the share or income from the share, that requires the Social Insurance Number or business number.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 237; 1996, c. 11, s. 95; 1998, c. 19, s. 233; 2000, c. 19, s. 65; 2005, c. 34, s. 70.

Autorisation de communiquer le numéro

(4) Il est permis à une compagnie d'assurance de communiquer le numéro d'assurance sociale ou le numéro d'entreprise d'une personne ou d'une société de personnes à une autre personne, ou de permettre qu'il lui soit communiqué, si les conditions suivantes sont réunies :

a) l'autre personne est devenue le détenteur d'une action du capital-actions de la compagnie d'assurance, ou d'une société de portefeuille (cette expression s'entendant au présent paragraphe au sens du paragraphe 139.1(1)) quant à elle, au moment de l'émission de l'action à l'occasion de la démutualisation, au sens de ce paragraphe, de la compagnie;

b) l'autre personne est devenue le détenteur de l'action en sa qualité de mandataire ou d'agent de la personne ou de la société de personnes par suite d'arrangements pris par la compagnie d'assurance ou par une société de portefeuille quant à elle;

c) l'autre personne est tenue, par la présente loi ou son règlement, de faire une déclaration de renseignements, concernant la disposition de l'action ou le revenu tiré de l'action, qui doit comporter le numéro d'assurance sociale ou le numéro d'entreprise.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 237; 1996, ch. 11, art. 95; 1998, ch. 19, art. 233; 2000, ch. 19, art. 65; 2005, ch. 34, art. 70.

Definitions

237.1 (1) In this section,

gifting arrangement means any arrangement under which it may reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the arrangement, that if a person were to enter into the arrangement, the person would

Définitions

237.1 (1) Les définitions qui suivent s'appliquent au présent article.

abri fiscal

a) Arrangement de don visé à l'alinéa b) de la définition de ***arrangement de don***;

b) arrangement de don visé à l'alinéa a) de la définition de ***arrangement de don*** ou bien (y compris le

(a) make a gift to a qualified donee, or a contribution referred to in subsection 127(4.1), of property acquired by the person under the arrangement; or

(b) incur a limited-recourse debt, determined under subsection 143.2(6.1), that can reasonably be considered to relate to a gift to a qualified donee or a monetary contribution referred to in subsection 127(4.1); (*arrangement de don*)

person includes a partnership; (*personne*)

promoter in respect of a tax shelter means a person who in the course of a business

(a) sells or issues, or promotes the sale, issuance or acquisition of, the tax shelter,

(b) acts as an agent or adviser in respect of the sale or issuance, or the promotion of the sale, issuance or acquisition, of the tax shelter, or

(c) accepts, whether as a principal or agent, consideration in respect of the tax shelter,

and more than one person may be a tax shelter promoter in respect of the same tax shelter; (*promoteur*)

tax shelter means

(a) a gifting arrangement described by paragraph (b) of the definition ***gifting arrangement***; and

(b) a gifting arrangement described by paragraph (a) of the definition ***gifting arrangement***, or a property (including any right to income) other than a flow-through share or a prescribed property, in respect of which it can reasonably be considered, having regard to statements or representations made or proposed to be made in connection with the gifting arrangement or the property, that, if a person were to enter into the gifting arrangement or acquire an interest in the property, at the end of a particular taxation year that ends within four years after the day on which the gifting arrangement is entered into or the interest is acquired,

(i) the total of all amounts each of which is

(A) an amount, or a loss in the case of a partnership interest, represented to be deductible in computing the person's income for the particular year or any preceding taxation year in respect of the gifting arrangement or the interest in the property (including, if the property is a right to income, an amount or loss in respect of that right that is stated or represented to be so deductible), or

droit à un revenu), à l'exception des actions accréditives et des biens visés par règlement, pour lequel il est raisonnable de considérer, compte tenu de déclarations ou d'annonces faites ou envisagées relativement à l'arrangement ou au bien, que, si une personne devait conclure l'arrangement ou acquérir une part dans le bien, le montant visé au sous-alinéa (i) serait, à la fin d'une année d'imposition qui se termine dans les quatre ans suivant le jour où l'arrangement est conclu ou la part, acquise, égal ou supérieur au montant visé au sous-alinéa (ii) :

(i) le total des montants représentant chacun :

(A) un montant ou, dans le cas d'une participation dans une société de personnes, une perte qui est annoncé comme étant déductible dans le calcul du revenu de la personne pour l'année ou pour une année d'imposition antérieure au titre de l'arrangement ou de la part dans le bien (y compris, si le bien est un droit à un revenu, un montant ou une perte afférent à ce droit qui est déclaré ou annoncé comme étant ainsi déductible),

(B) un autre montant qui est déclaré ou annoncé comme étant réputé, en vertu de la présente loi, être payé au titre de l'impôt payable par la personne, ou comme étant déductible dans le calcul de ses revenu, revenu imposable ou impôt payable en vertu de la présente loi, pour l'année ou pour une année d'imposition antérieure au titre de l'arrangement ou de la part dans le bien, à l'exclusion d'un montant ainsi déclaré ou annoncé qui est inclus dans le calcul d'une perte visée à la division (A),

(ii) l'excédent éventuel du montant visé à la division (A) sur le total visé à la division (B) :

(A) le coût, pour la personne, du bien acquis aux termes de l'arrangement, ou de la part dans le bien à la fin de l'année, déterminé compte non tenu de l'article 143.2,

(B) la valeur totale des avantages visés par règlement que la personne ou toute personne avec laquelle elle a un lien de dépendance pourrait recevoir, directement ou indirectement, au titre du bien acquis aux termes de l'arrangement ou au titre de la part dans le bien. (*tax shelter*)

arrangement de don Arrangement aux termes duquel il est raisonnable de considérer, compte tenu de déclarations ou d'annonces faites ou envisagées relativement à

(B) any other amount stated or represented to be deemed under this Act to be paid on account of the person's tax payable, or to be deductible in computing the person's income, taxable income or tax payable under this Act, for the particular year or any preceding taxation year in respect of the gifting arrangement or the interest in the property, other than an amount so stated or represented that is included in computing a loss described in clause (A),

would equal or exceed

(ii) the amount, if any, by which

(A) the cost to the person of the property acquired under the gifting arrangement, or of the interest in the property at the end of the particular year, determined without reference to section 143.2,

would exceed

(B) the total of all amounts each of which is the amount of any prescribed benefit that is expected to be received or enjoyed, directly or indirectly, in respect of the property acquired under the gifting arrangement, or of the interest in the property, by the person or another person with whom the person does not deal at arm's length. (*abri fiscal*)

l'arrangement, que, si une personne devait conclure l'arrangement, l'une des éventualités suivantes se produirait :

a) un bien acquis par la personne aux termes de l'arrangement ferait l'objet d'un don à un donataire reconnu ou d'une contribution visée au paragraphe 127(4.1);

b) la personne contracterait une dette à recours limité, déterminée selon le paragraphe 143.2(6.1), qu'il est raisonnable de considérer comme se rapportant à un don à un donataire reconnu ou à une contribution monétaire visée au paragraphe 127(4.1). (*gifting arrangement*)

personne Comprend une société de personnes. (*person*)

promoteur Personne qui, quant à un abri fiscal et dans le cours des activités d'une entreprise :

a) émet ou vend l'abri fiscal ou fait la promotion de son émission, de sa vente ou de son acquisition;

b) agit, à titre de mandataire ou de conseiller, en ce qui concerne l'émission ou la vente de l'abri fiscal ou la promotion de son émission, de sa vente ou de son acquisition;

c) accepte, à titre de principal ou de mandataire, une contrepartie relativement à l'abri fiscal.

Au même abri fiscal peuvent correspondre plus d'un promoteur d'abris fiscaux. (*promoter*)

Application

(2) A promoter in respect of a tax shelter shall apply to the Minister in prescribed form for an identification number for the tax shelter unless an identification number therefor has previously been applied for.

Identification

(3) On receipt of an application under subsection 237.1(2) for an identification number for a tax shelter, together with prescribed information and an undertaking satisfactory to the Minister that books and records in respect of the tax shelter will be kept and retained at a place in Canada that is satisfactory to the Minister, the Minister shall issue an identification number for the tax shelter.

Demande de numéro d'inscription

(2) Tout promoteur doit, quant à un abri fiscal, demander au ministre, sur le formulaire prescrit contenant les renseignements prescrits, d'attribuer un numéro d'inscription à cet abri fiscal, sauf si demande en a déjà été faite.

Renseignements à fournir

(3) Sur demande faite en application du paragraphe (2), à laquelle doit être joint un engagement, que le ministre juge acceptable, selon lequel les livres et registres concernant un abri fiscal seront gardés et tenus en un lieu, au Canada, que le ministre juge aussi acceptable, celui-ci doit attribuer un numéro d'inscription à l'abri fiscal.

Sales prohibited

(4) A person may, at any time, whether as a principal or an agent, sell or issue, or accept consideration in respect of, a tax shelter only if

(a) the Minister has issued before that time an identification number for the tax shelter; and

(b) that time is during the calendar year designated by the Minister as being applicable to the identification number.

Providing tax shelter number

(5) Every promoter in respect of a tax shelter shall

(a) make reasonable efforts to ensure that all persons who acquire or otherwise invest in the tax shelter are provided with the identification number issued by the Minister for the tax shelter;

(b) prominently display on the upper right-hand corner of any statement of earnings prepared by or on behalf of the promoter in respect of the tax shelter the identification number issued for the tax shelter; and

(c) on every written statement made after 1995 by the promoter that refers either directly or indirectly and either expressly or impliedly to the issuance by the Canada Revenue Agency of an identification number for the tax shelter, as well as on the copies of the portion of the information return to be forwarded pursuant to subsection 237.1(7.3), prominently display

(i) where the statement or return is wholly or partly in English, the following:

" 'The identification number issued for this tax shelter shall be included in any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter.' "

(ii) where the statement or return is wholly or partly in French, the following:

" 'Le numéro d'inscription attribué à cet abri fiscal doit figurer dans toute déclaration d'impôt sur le revenu produite par l'investisseur. L'attribution de ce numéro n'est qu'une formalité administrative et ne confirme aucunement le droit de l'investisseur aux avantages fiscaux découlant de cet abri fiscal.' "

and

Interdiction

(4) Une personne ne peut émettre ou vendre un abri fiscal, ou accepter une contrepartie relativement à un abri fiscal, à un moment donné, à titre de principal ou de mandataire que si, à la fois :

a) le ministre a attribué un numéro d'inscription à l'abri fiscal avant ce moment;

b) ce moment est compris dans l'année civile désignée par le ministre comme étant celle qui est applicable au numéro d'inscription.

Indication du numéro par le promoteur à l'acquéreur

(5) Tout promoteur d'un abri fiscal doit :

a) s'appliquer raisonnablement à ce que les personnes qui acquièrent l'abri fiscal ou y font autrement un placement soient informées de son numéro d'inscription attribué par le ministre;

b) indiquer clairement le numéro d'inscription de l'abri fiscal dans le coin supérieur droit de tout état des revenus préparé par lui, ou pour son compte, relativement à l'abri fiscal;

c) indiquer clairement le texte suivant dans toute déclaration écrite, établie après 1995, où il fait mention, directement ou indirectement, expressément ou non, de l'attribution par l'Agence du revenu du Canada d'un numéro d'inscription à l'abri fiscal, ainsi que sur les copies de la partie de la déclaration de renseignements à remettre conformément au paragraphe (7.3):

(i) si tout ou partie de la déclaration écrite ou de la déclaration de renseignements est en anglais :

« The identification number issued for this tax shelter shall be included in any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter. »

(ii) si tout ou partie de la déclaration écrite ou de la déclaration de renseignements est établie en français :

« Le numéro d'inscription attribué à cet abri fiscal doit figurer dans toute déclaration d'impôt sur le revenu produite par l'investisseur. L'attribution de ce numéro n'est qu'une formalité administrative et ne confirme aucunement le droit de l'investisseur aux avantages fiscaux découlant de cet abri fiscal. »

(iii) where the statement includes neither English nor French, the following:

" 'The identification number issued for this tax shelter shall be included in any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter.' "

" 'Le numéro d'inscription attribué à cet abri fiscal doit figurer dans toute déclaration d'impôt sur le revenu produite par l'investisseur. L'attribution de ce numéro n'est qu'une formalité administrative et ne confirme aucunement le droit de l'investisseur aux avantages fiscaux découlant de cet abri fiscal.' "

(iii) si la déclaration écrite n'est ni en français, ni en anglais :

« Le numéro d'inscription attribué à cet abri fiscal doit figurer dans toute déclaration d'impôt sur le revenu produite par l'investisseur. L'attribution de ce numéro n'est qu'une formalité administrative et ne confirme aucunement le droit de l'investisseur aux avantages fiscaux découlant de cet abri fiscal. »

« The identification number issued for this tax shelter shall be included in any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter. »

Deductions and claims disallowed

(6) No amount may be deducted or claimed by a person in respect of a tax shelter unless the person files with the Minister a prescribed form containing prescribed information, including the identification number for the tax shelter.

Indication du numéro par l'acquéreur

(6) Une personne ne peut demander ou déduire un montant au titre d'un abri fiscal que si elle présente au ministre un formulaire prescrit contenant les renseignements prescrits, incluant le numéro d'inscription attribué à l'abri fiscal.

Deductions and claims disallowed

(6.1) No amount may be deducted or claimed by any person for any taxation year in respect of a tax shelter of the person where any person is liable to a penalty under subsection 237.1(7.4) or 162(9) in respect of the tax shelter or interest on the penalty and

(a) the penalty or interest has not been paid; or

(b) the penalty and interest have been paid, but an amount on account of the penalty or interest has been repaid under subsection 164(1.1) or applied under subsection 164(2).

Déduction refusée en cas de pénalité

(6.1) Une personne ne peut demander ou déduire un montant pour une année d'imposition au titre de son abri fiscal si une personne est passible de la pénalité prévue aux paragraphes (7.4) ou 162(9) relativement à l'abri fiscal, ou est redevable d'intérêts sur cette pénalité, et si :

a) la pénalité ou les intérêts n'ont pas été payés;

b) la pénalité et les intérêts ont été payés mais un montant au titre de la pénalité ou des intérêts a été remboursé aux termes du paragraphe 164(1.1) ou imputé selon le paragraphe 164(2).

Assessments

(6.2) Notwithstanding subsections 152(4) to 152(5), such assessments, determinations and redeterminations may be made as are necessary to give effect to subsection 237.1(6.1).

Cotisations

(6.2) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations voulues et déterminer ou déterminer de nouveau les montants voulus pour l'application du paragraphe (6.1).

Information return

(7) Every promoter in respect of a tax shelter who accepts consideration in respect of the tax shelter or who acts as a principal or agent in respect of the tax shelter in a calendar year shall, in prescribed form and manner, file an information return for the year containing

(a) the name, address and either the Social Insurance Number or business number of each person who so acquires or otherwise invests in the tax shelter in the year,

Déclaration de renseignements

(7) Le promoteur d'un abri fiscal qui, au cours d'une année civile et relativement à l'abri fiscal, accepte une contrepartie ou agit à titre de principal ou de mandataire doit, sauf si une déclaration de renseignements a déjà été produite relativement à l'abri fiscal, produire, selon les modalités réglementaires, une déclaration de renseignements pour l'année sur le formulaire prescrit où figurent :

(b) the amount paid by each of those persons in respect of the tax shelter, and

(c) such other information as is required by the prescribed form

unless an information return in respect of the tax shelter has previously been filed.

a) les nom, adresse et numéro d'assurance sociale ou numéro d'entreprise des personnes qui acquièrent l'abri fiscal ou qui y font autrement un placement au cours de l'année;

b) le montant payé par chacune des personnes visées au sous-alinéa (i) relativement à l'abri fiscal;

c) tout autre renseignement requis dans le formulaire.

Time for filing return

(7.1) An information return required under subsection 237.1(7) to be filed in respect of the acquisition of an interest in a tax shelter in a calendar year shall be filed with the Minister on or before the last day of February of the following calendar year.

Délai de production

(7.1) La déclaration de renseignements à produire en application du paragraphe (7) relativement à l'acquisition d'une part dans un abri fiscal au cours d'une année civile doit être présentée au ministre au plus tard le dernier jour de février de l'année civile suivante.

Time for filing — special case

(7.2) Notwithstanding subsection 237.1(7.1), where a person is required under subsection 237.1(7) to file an information return in respect of a business or activity and the person discontinues that business or activity, the return shall be filed on or before the earlier of

(a) the day referred to in subsection 237.1(7.1); and

(b) the day that is 30 days after the day of the discontinuance.

Délai de production — cas spéciaux

(7.2) Malgré le paragraphe (7.1), la personne tenue de produire une déclaration de renseignements en application du paragraphe (7) relativement à une entreprise ou une activité et qui cesse d'exploiter l'entreprise ou d'exercer l'activité doit produire cette déclaration au plus tard au premier en date des jours suivants :

a) le jour visé au paragraphe (7.1);

b) le jour qui suit de 30 jours la cessation.

Copies to be provided

(7.3) Every person required to file a return under subsection 237.1(7) shall, on or before the day on or before which the return is required to be filed with the Minister, forward to each person to whom the return relates 2 copies of the portion of the return relating to that person.

Copies à remettre

(7.3) La personne tenue de produire une déclaration de renseignements en application du paragraphe (7) doit remettre à chaque personne visée par la déclaration deux copies de la partie de celle-ci qui la concerne au plus tard le jour où la déclaration doit être présentée au ministre.

Penalty

(7.4) Every person who files false or misleading information with the Minister in respect of an application under subsection 237.1(2) or, whether as a principal or as an agent, sells, issues or accepts consideration in respect of a tax shelter before the Minister has issued an identification number for the tax shelter is liable to a penalty equal to the greater of

(a) $500, and

(b) 25% of the greater of

(i) the total of all amounts each of which is the consideration received or receivable from a person in respect of the tax shelter before the correct information is filed with the Minister or the identification number is issued, as the case may be, and

Pénalité

(7.4) Toute personne qui, relativement à un abri fiscal, fournit des renseignements faux ou trompeurs au ministre dans la demande visée au paragraphe (2) ou contrevient au paragraphe (4) est passible d'une pénalité égale au plus élevé des montants suivants :

a) 500 $;

b) 25 % de la plus élevée des sommes suivantes :

(i) le total des sommes représentant chacune la contrepartie reçue ou à recevoir d'une personne relativement à l'abri fiscal avant que les renseignements corrigés aient été fournis au ministre ou avant qu'un numéro d'inscription ait été attribué à l'abri fiscal, selon le cas,

(ii) the total of all amounts each of which is an amount stated or represented to be the value of property that a particular person who acquires or otherwise invests in the tax shelter could donate to a qualified donee, if the tax shelter is a gifting arrangement and consideration has been received or is receivable from the particular person in respect of the tax shelter before the correct information is filed with the Minister or the identification number is issued, as the case may be.

(ii) le total des sommes représentant chacune une somme annoncée ou déclarée comme étant la valeur d'un bien dont une personne qui acquiert l'abri fiscal ou y fait autrement un placement pourrait faire don à un donataire reconnu, si l'abri fiscal est un arrangement de don et que la contrepartie a été reçue ou est à recevoir de la personne relativement à l'abri fiscal avant que les renseignements corrigés aient été fournis au ministre ou avant qu'un numéro d'inscription ait été attribué à l'abri fiscal, selon le cas.

Penalty

(7.5) Every person who is required under subsection (7) to file an information return and who fails to comply with a demand under section 233 to file the return, or to report in the return information required under paragraph (7)(a) or (b), is liable to a penalty equal to 25% of the greater of

(a) the total of all amounts each of which is the consideration received or receivable by the person in respect of the tax shelter from a particular person in respect of whom information required under paragraph (7)(a) or (b) had not been reported at or before the time that the demand was issued or the return was filed, as the case may be, and

(b) if the tax shelter is a gifting arrangement, the total of all amounts each of which is an amount stated or represented to be the value of property that the particular person could donate to a qualified donee.

Pénalité

(7.5) Toute personne tenue en vertu du paragraphe (7) de produire une déclaration de renseignements qui omet de se conformer à une demande faite selon l'article 233 de produire la déclaration ou d'y indiquer les renseignements exigés selon les alinéas (7)a) ou b) est passible d'une pénalité égale à 25 % de la plus élevée des sommes suivantes :

a) le total des sommes représentant chacune la contrepartie reçue ou à recevoir par la personne relativement à l'abri fiscal d'une personne donnée à l'égard de laquelle les renseignements exigés selon les alinéas (7)a) ou b) n'ont pas été indiqués au plus tard au moment où la demande a été délivrée ou la déclaration produite, selon le cas;

b) si l'abri fiscal est un arrangement de don, le total des sommes représentant chacune une somme déclarée ou annoncée comme étant la valeur d'un bien dont la personne donnée pourrait faire don à un donataire reconnu.

Application of ss. 231 to 231.3

(8) Without restricting the generality of sections 231 to 231.3, where an application under subsection 237.1(2) with respect to a tax shelter has been made, notwithstanding that a return of income has not been filed by any taxpayer under section 150 for the taxation year of the taxpayer in which an amount is claimed as a deduction in respect of the tax shelter, sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain any information in respect of the tax shelter.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 237.1; 1994, c. 7, Sch. II, s. 188; 1998, c. 19, s. 234; 1999, c. 17, s. 169; 2003, c. 15, s. 87; 2005, c. 38, s. 138; 2012, c. 19, s. 15; 2013, c. 34, s. 355.

Application des art. 231 à 231.3

(8) Sans préjudice de la portée générale des articles 231 à 231.3, en cas de demande d'attribution d'un numéro d'inscription à un abri fiscal conformément au paragraphe (2), les articles 231 à 231.3 s'appliquent avec les adaptations nécessaires en vue de permettre au ministre de vérifier les renseignements fournis sur un abri fiscal — même si une déclaration de revenu n'a pas été produite conformément à l'article 150 par un contribuable pour l'année d'imposition de celui-ci au cours de laquelle un montant est demandé en déduction au titre de l'abri fiscal.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 237.1; 1994, ch. 7, ann. II, art. 188; 1998, ch. 19, art. 234; 1999, ch. 17, art. 169; 2003, ch. 15, art. 87; 2005, ch. 38, art. 138; 2012, ch. 19, art. 15; 2013, ch. 34, art. 355.

Application of s. 237.1

237.2 Section 237.1 is applicable with respect to interests acquired after August 31, 1989.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1988, c. 55, s. 180.

Definitions

237.3 (1) The following definitions apply in this section.

advisor, in respect of a transaction or series of transactions, means each person who provides, directly or indirectly in any manner whatever, any contractual protection in respect of the transaction or series, or any assistance or advice with respect to creating, developing, planning, organizing or implementing the transaction or series, to another person (including any person who enters into the transaction for the benefit of another person). (*conseiller*)

avoidance transaction has the meaning assigned by subsection 245(3). (*opération d'évitement*)

confidential protection, in respect of a transaction or series of transactions, means anything that prohibits the disclosure to any person or to the Minister of the details or structure of the transaction or series under which a tax benefit results, or would result but for section 245, but for greater certainty, the disclaiming or restricting of an advisor's liability shall not be considered confidential protection if it does not prohibit the disclosure of the details or structure of the transaction or series. (*droit à la confidentialité*)

contractual protection, in respect of a transaction or series of transactions, means

(a) any form of insurance (other than standard professional liability insurance) or other protection, including, without limiting the generality of the foregoing, an indemnity, compensation or a guarantee that, either immediately or in the future and either absolutely or contingently,

(i) protects a person against a failure of the transaction or series to achieve any tax benefit from the transaction or series, or

(ii) pays for or reimburses any expense, fee, tax, interest, penalty or similar amount that may be incurred by a person in the course of a dispute in respect of a tax benefit from the transaction or series; and

(b) any form of undertaking provided by a promoter, or by any person who does not deal at arm's length

Application de l'art. 237.1

237.2 L'article 237.1 s'applique aux parts acquises après le 31 août 1989.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1988, ch. 55, art. 180.

Définitions

237.3 (1) Les définitions qui suivent s'appliquent au présent article.

avantage fiscal S'entend au sens du paragraphe 245(1). (*tax benefit*)

conseiller Personne qui fournit, directement ou indirectement, de quelque manière que ce soit, une protection contractuelle relativement à une opération ou à une série d'opérations ou toute forme d'assistance ou de conseil concernant la création, l'élaboration, la planification, l'organisation ou la mise en œuvre de l'opération ou de la série à une autre personne, y compris celle qui conclut l'opération au profit d'un tiers. (*advisor*)

droit à la confidentialité Tout ce qui interdit de communiquer à une personne ou au ministre les détails ou la structure d'une opération ou d'une série d'opérations dont découle ou découlerait, en l'absence de l'article 245, un avantage fiscal. Il est entendu que toute dénégation ou restriction de la responsabilité d'un conseiller n'est pas considérée comme un droit à la confidentialité si elle n'interdit pas la communication des détails ou de la structure de l'opération ou de la série. (*confidential protection*)

honoraires Toute contrepartie qui est ou pourrait être reçue ou à recevoir, directement ou indirectement, de quelque manière que ce soit, relativement à une opération ou à une série d'opérations par un conseiller ou un promoteur ou par une personne avec laquelle il a un lien de dépendance pour :

a) la prestation de conseils ou d'avis relatifs à l'opération ou à la série;

b) la création, l'élaboration, la planification, l'organisation ou la mise en œuvre de l'opération ou de la série;

c) la promotion ou la vente d'un arrangement, d'un régime ou d'un mécanisme qui comprend ou concerne l'opération ou la série;

d) la préparation de documents à l'appui de l'opération ou de la série, y compris les déclarations de revenu et les déclarations de renseignements à produire aux termes de la présente loi;

with a promoter, that provides, either immediately or in the future and either absolutely or contingently, assistance, directly or indirectly in any manner whatever, to a person in the course of a dispute in respect of a tax benefit from the transaction or series. (*protection contractuelle*)

fee, in respect of a transaction or series of transactions, means any consideration that is, or could be, received or receivable, directly or indirectly in any manner whatever, by an advisor or a promoter, or any person who does not deal at arm's length with an advisor or promoter, for

(a) providing advice or an opinion with respect to the transaction or series;

(b) creating, developing, planning, organizing or implementing the transaction or series;

(c) promoting or selling an arrangement, plan or scheme that includes, or relates to, the transaction or series;

(d) preparing documents supporting the transaction or series, including tax returns or any information returns to be filed under this Act; or

(e) providing contractual protection. (*honoraires*)

person includes a partnership. (*personne*)

promoter, in respect of a transaction or series of transactions, means each person who

(a) promotes or sells (whether as principal or agent and whether directly or indirectly) an arrangement, plan or scheme (referred to in this definition as an "arrangement"), if it may reasonably be considered that the arrangement includes or relates to the transaction or series;

(b) makes a statement or representation (whether as principal or agent and whether directly or indirectly) that a tax benefit could result from an arrangement, if it may reasonably be considered that

(i) the statement or representation was made in furtherance of the promoting or selling of the arrangement, and

(ii) the arrangement includes or relates to the transaction or series; or

(c) accepts (whether as principal or agent and whether directly or indirectly) consideration in respect of an arrangement referred to in paragraph (a) or (b). (*promoteur*)

e) la fourniture d'une protection contractuelle. (*fee*)

opération S'entend au sens du paragraphe 245(1). (*transaction*)

opération à déclarer Est une opération à déclarer à un moment donné l'opération d'évitement conclue par une personne ou à son profit, ainsi que chaque opération qui fait partie d'une série d'opérations comprenant une telle opération d'évitement, dans le cas où deux des alinéas ci-après s'appliquent à ce moment relativement à l'opération d'évitement ou à la série :

a) un conseiller ou un promoteur, ou toute personne avec laquelle il a un lien de dépendance, a ou avait droit, dans l'immédiat ou pour l'avenir et conditionnellement ou non, à des honoraires qui, dans une mesure quelconque, selon le cas :

(i) sont fonction du montant d'un avantage fiscal qui découle ou découlerait, en l'absence de l'article 245, de l'opération d'évitement ou de la série,

(ii) sont conditionnels à l'obtention d'un avantage fiscal qui découle ou découlerait, en l'absence de l'article 245, de l'opération d'évitement ou de la série ou peuvent être remboursés, recouvrés ou réduits, de quelque manière que ce soit, en fonction du défaut de la personne d'obtenir un avantage fiscal de l'opération d'évitement ou de la série,

(iii) sont rattachés au nombre de personnes qui, selon le cas :

(A) prennent part à l'opération d'évitement ou à la série ou à une opération d'évitement ou série semblable,

(B) ont profité des conseils ou des avis donnés par le conseiller ou le promoteur au sujet des conséquences fiscales de l'opération d'évitement ou de la série ou d'une opération d'évitement ou série semblable;

b) un conseiller ou un promoteur relativement à l'opération d'évitement ou à la série, ou toute personne avec laquelle il a un lien de dépendance, obtient ou a obtenu un droit à la confidentialité relativement à l'opération d'évitement ou à la série de la personne ci-après, selon le cas :

(i) dans le cas d'un conseiller, la personne à qui il a fourni de l'assistance ou des conseils relativement à l'opération d'évitement ou à la série aux termes du contrat de service qu'il a conclu à cette fin avec cette personne,

reportable transaction, at any time, means an avoidance transaction that is entered into by or for the benefit of a person, and each transaction that is part of a series of transactions that includes the avoidance transaction, if at the time any two of the following paragraphs apply in respect of the avoidance transaction or series:

(a) an advisor or a promoter, or any person who does not deal at arm's length with the advisor or promoter, has or had an entitlement, either immediately or in the future and either absolutely or contingently, to a fee that to any extent

(i) is based on the amount of a tax benefit that results, or would result but for section 245, from the avoidance transaction or series,

(ii) is contingent upon the obtaining of a tax benefit that results, or would result but for section 245, from the avoidance transaction or series, or may be refunded, recovered or reduced, in any manner whatever, based upon the failure of the person to obtain a tax benefit from the avoidance transaction or series, or

(iii) is attributable to the number of persons

(A) who participate in the avoidance transaction or series, or in a similar avoidance transaction or series, or

(B) who have been provided access to advice or an opinion given by the advisor or promoter regarding the tax consequences from the avoidance transaction or series, or from a similar avoidance transaction or series;

(b) an advisor or promoter in respect of the avoidance transaction or series, or any person who does not deal at arm's length with the advisor or promoter, obtains or obtained confidential protection in respect of the avoidance transaction or series,

(i) in the case of an advisor, from a person to whom the advisor has provided any assistance or advice with respect to the avoidance transaction or series under the terms of an engagement of the advisor by that person to provide such assistance or advice, or

(ii) in the case of a promoter, from a person

(A) to whom an arrangement, plan or scheme has been promoted or sold in the circumstances described in paragraph (a) of the definition ***promoter***,

(ii) dans le cas d'un promoteur, l'une des personnes suivantes :

(A) celle à l'égard de qui la promotion ou la vente d'un arrangement, d'un régime ou d'un mécanisme a été faite dans les circonstances visées à l'alinéa a) de la définition de ***promoteur***,

(B) celle à qui a été adressée la déclaration ou l'annonce visée à l'alinéa b) de cette définition,

(C) celle de qui la contrepartie visée à l'alinéa c) de cette définition a été reçue;

c) selon le cas :

(i) la personne (appelée « personne donnée » au présent sous-alinéa), une autre personne ayant conclu l'opération d'évitement au profit de la personne donnée ou toute autre personne ayant un lien de dépendance avec la personne donnée ou avec une personne ayant conclu l'opération d'évitement au profit de celle-ci a ou avait une protection contractuelle relativement à l'opération d'évitement ou à la série autrement qu'en raison des honoraires visés à l'alinéa a),

(ii) un conseiller ou un promoteur relativement à l'opération d'évitement ou à la série, ou toute personne avec laquelle il a un lien de dépendance, a ou avait une protection contractuelle relativement à l'opération d'évitement ou à la série autrement qu'en raison des honoraires visés à l'alinéa a). (*reportable transaction*)

opération d'évitement S'entend au sens du paragraphe 245(3). (*avoidance transaction*)

personne Sont comprises parmi les personnes les sociétés de personnes. (*person*)

privilège des communications entre client et avocat S'entend au sens du paragraphe 232(1). (*solicitor-client privilege*)

promoteur S'entend, relativement à une opération ou à une série d'opérations, d'une personne qui, directement ou indirectement, à titre de mandant ou de mandataire :

a) soit fait la promotion ou la vente d'un arrangement, d'un régime ou d'un mécanisme (appelés « arrangement » dans la présente définition), s'il est raisonnable de considérer que l'arrangement comprend ou concerne l'opération ou la série;

(B) to whom a statement or representation described in paragraph (b) of the definition ***promoter*** has been made, or

(C) from whom consideration described in paragraph (c) of the definition ***promoter*** has been received; or

(c) either

(i) the person (in this subparagraph referred to as the "particular person"), another person who entered into the avoidance transaction for the benefit of the particular person or any other person who does not deal at arm's length with the particular person or with a person who entered into the avoidance transaction for the benefit of the particular person, has or had contractual protection in respect of the avoidance transaction or series, otherwise than as a result of a fee described in paragraph (a), or

(ii) an advisor or promoter in respect of the avoidance transaction or series, or any person who does not deal at arm's length with the advisor or promoter, has or had contractual protection in respect of the avoidance transaction or series, otherwise than as a result of a fee described in paragraph (a). (*opération à déclarer*)

solicitor-client privilege has the meaning assigned by subsection 232(1). (*privilège des communications entre client et avocat*)

tax benefit has the meaning assigned by subsection 245(1). (*avantage fiscal*)

transaction has the meaning assigned by subsection 245(1). (*opération*)

b) soit fait une déclaration ou une annonce portant qu'un avantage fiscal pourrait découler d'un arrangement, s'il est raisonnable de considérer :

(i) d'une part, que la déclaration ou l'annonce a été faite dans le but de promouvoir ou de vendre l'arrangement,

(ii) d'autre part, que l'arrangement comprend ou concerne l'opération ou la série;

c) soit accepte une contrepartie relative à un arrangement mentionné aux alinéas a) ou b). (*promoter*)

protection contractuelle S'entend, relativement à une opération ou à une série d'opérations :

a) de toute forme d'assurance (sauf l'assurance responsabilité professionnelle type) ou d'autre protection, y compris une indemnité, un dédommagement ou une garantie qui sert, dans l'immédiat ou pour l'avenir et conditionnellement ou non :

(i) soit à protéger une personne contre tout défaut de l'opération ou de la série de produire un avantage fiscal,

(ii) soit à acquitter ou à rembourser toute somme — dépense, frais, impôt, taxe, intérêts, pénalités ou montant semblable — pouvant être engagée par une personne dans le cadre d'un différend relatif à un avantage fiscal pouvant découler de l'opération ou de la série;

b) de toute forme d'engagement pris par un promoteur ou par une personne avec laquelle il a un lien de dépendance qui sert, dans l'immédiat ou pour l'avenir et conditionnellement ou non, à fournir une assistance à une personne, directement ou indirectement, de quelque manière que ce soit, dans le cadre d'un différend relatif à un avantage fiscal pouvant découler de l'opération ou de la série. (*contractual protection*)

Application

(2) An information return in prescribed form and containing prescribed information in respect of a reportable transaction must be filed with the Minister by

(a) every person for whom a tax benefit results, or would result but for section 245, from the reportable transaction, from any other reportable transaction that is part of a series of transactions that includes the reportable transaction or from the series of transactions;

Déclaration de renseignements

(2) Les personnes ci-après sont tenues de présenter au ministre, relativement à une opération à déclarer donnée, une déclaration de renseignements sur le formulaire prescrit contenant les renseignements prescrits :

a) toute personne à l'égard de laquelle un avantage fiscal découle ou découlerait, en l'absence de l'article 245, de l'opération donnée, d'une autre opération à déclarer qui fait partie d'une série d'opérations comprenant l'opération donnée ou de cette série d'opérations;

(b) every person who has entered into, for the benefit of a person described in paragraph (a), an avoidance transaction that is a reportable transaction;

(c) every advisor or promoter in respect of the reportable transaction, or in respect of any other transaction that is part of a series of transactions that includes the reportable transaction, who is or was entitled, either immediately or in the future and either absolutely or contingently, to a fee in respect of any of those transactions that is

(i) described in paragraph (a) of the definition ***reportable transaction*** in subsection (1), or

(ii) in respect of contractual protection provided in circumstances described in paragraph (c) of the definition ***reportable transaction*** in subsection (1); and

(d) every person who is not dealing at arm's length with an advisor or promoter in respect of the reportable transaction and who is or was entitled, either immediately or in the future and either absolutely or contingently, to a fee that is referred to in paragraph (c).

b) toute personne qui a conclu, au profit d'une personne visée à l'alinéa a), une opération d'évitement qui constitue une opération à déclarer;

c) tout conseiller ou promoteur relativement à l'opération donnée, ou à une autre opération qui fait partie d'une série d'opérations comprenant l'opération donnée, qui a ou avait droit, dans l'immédiat ou pour l'avenir et conditionnellement ou non, à des honoraires, relativement à l'une de ces opérations, qui, selon le cas :

(i) sont visés à l'alinéa a) de la définition de ***opération à déclarer*** au paragraphe (1),

(ii) ont trait à une protection contractuelle fournie dans les circonstances visées à l'alinéa c) de cette définition;

d) toute personne avec laquelle un conseiller ou un promoteur a un lien de dépendance relativement à l'opération donnée et qui a ou avait droit, dans l'immédiat ou pour l'avenir et conditionnellement ou non, à des honoraires visés à l'alinéa c).

Clarification of reporting transactions in series

(3) For greater certainty, and subject to subsection (11), if subsection (2) applies to a person in respect of each reportable transaction that is part of a series of transactions that includes an avoidance transaction, the filing of a prescribed form by the person that reports each transaction in the series is deemed to satisfy the obligation of the person under subsection (2) in respect of each transaction so reported.

Application

(4) For the purpose of subsection (2), if any person is required to file an information return in respect of a reportable transaction under that subsection, the filing by any such person of an information return with full and accurate disclosure in prescribed form in respect of the transaction is deemed to have been made by each person to whom subsection (2) applies in respect of the transaction.

Time for filing return

(5) An information return required by subsection (2) to be filed by a person for a reportable transaction is to be

Opérations à déclarer comprises dans une série

(3) Sous réserve du paragraphe (11), il est entendu que, si le paragraphe (2) s'applique à une personne relativement à chaque opération à déclarer qui fait partie d'une série d'opérations comprenant une opération d'évitement, la production d'un formulaire prescrit par la personne qui déclare chaque opération de la série est réputée satisfaire à l'obligation de la personne prévue au paragraphe (2) relativement à chaque opération ainsi déclarée.

Déclaration réputée

(4) Pour l'application du paragraphe (2), si une personne est tenue de produire une déclaration de renseignements aux termes de ce paragraphe relativement à une opération à déclarer, la production par une telle personne d'une déclaration de renseignements sur le formulaire prescrit — complet et exact à tous égards — relativement à l'opération est réputée avoir été effectuée par chaque personne à laquelle ce paragraphe s'applique relativement à l'opération.

Délai de production

(5) La déclaration de renseignements qu'une personne est tenue de produire aux termes du paragraphe (2) relativement à une opération à déclarer doit être présentée au ministre au plus tard le 30 juin de l'année civile suivant celle au cours de laquelle l'opération est devenue, la

filed with the Minister on or before June 30 of the calendar year following the calendar year in which the transaction first became a reportable transaction in respect of the person.

Tax benefits disallowed

(6) Notwithstanding subsection 245(4), subsection 245(2) is deemed to apply at any time to any reportable transaction in respect of a person described in paragraph (2)(a) in relation to the reportable transaction if, at that time,

(a) the obligation under subsection (2) of the person in respect of the reportable transaction, or any other reportable transaction that is part of a series of transactions that includes the reportable transaction, has not been satisfied;

(b) a person is liable to a penalty under subsection (8) in respect of the reportable transaction or any other reportable transaction that is part of a series of transactions that includes the reportable transaction; and

(c) the penalty under subsection (8) or interest on the penalty has not been paid, or has been paid but an amount on account of the penalty or interest has been repaid under subsection 164(1.1) or applied under subsection 164(2).

Assessments

(7) Notwithstanding subsections 152(4) to (5), the Minister may make any assessments, determinations and redeterminations that are necessary to give effect to subsection (8).

Penalty

(8) Every person who fails to file an information return in respect of a reportable transaction as required under subsection (2) on or before the day required under subsection (5) is liable to a penalty equal to the total of each amount that is a fee to which an advisor or a promoter (or any person who does not deal at arm's length with the advisor or the promoter) in respect of the reportable transaction is or was entitled, either immediately or in the future and either absolutely or contingently, to receive in respect of the reportable transaction, any transaction that is part of the series of transactions that includes the reportable transaction or the series of transactions that includes the reportable transaction, if the fee is

(a) described in paragraph (a) of the definition ***reportable transaction*** in subsection (1); or

première fois, une opération à déclarer relativement à la personne.

Suspension de l'avantage fiscal

(6) Malgré le paragraphe 245(4), le paragraphe 245(2) est réputé s'appliquer à une opération à déclarer donnée, relativement à une personne visée à l'alinéa (2)a) pour ce qui est de cette opération, à tout moment où les conditions ci-après sont réunies :

a) l'obligation, prévue au paragraphe (2), de la personne relativement à l'opération donnée ou à une autre opération à déclarer qui fait partie d'une série d'opérations comprenant l'opération donnée n'a pas été remplie;

b) une personne est passible de la pénalité prévue au paragraphe (8) relativement à l'opération donnée ou à une autre opération à déclarer qui fait partie d'une série d'opérations comprenant l'opération donnée;

c) cette pénalité ou les intérêts afférents n'ont pas été payés ou ont été payés, mais une somme à leur titre a été remboursée aux termes du paragraphe 164(1.1) ou imputée selon le paragraphe 164(2).

Cotisations

(7) Malgré les paragraphes 152(4) à (5), le ministre peut établir les cotisations voulues et déterminer ou déterminer de nouveau les sommes voulues pour l'application du paragraphe (8).

Pénalité

(8) Toute personne qui ne produit pas de déclaration de renseignements concernant une opération à déclarer selon les modalités prévues au paragraphe (2) et dans le délai fixé au paragraphe (5) est passible d'une pénalité égale au total des sommes dont chacune représente les honoraires auxquels un conseiller ou un promoteur relativement à l'opération, ou toute personne avec laquelle il a un lien de dépendance, a ou avait droit, dans l'immédiat ou pour l'avenir et conditionnellement ou non, au titre de l'opération à déclarer, de toute opération qui fait partie de la série d'opérations comprenant l'opération à déclarer ou de la série d'opérations comprenant l'opération à déclarer, si ces honoraires, selon le cas :

a) sont visés à l'alinéa a) de la définition de ***opération à déclarer*** au paragraphe (1);

b) ont trait à une protection contractuelle fournie dans les circonstances visées à l'alinéa c) de cette définition.

(b) in respect of contractual protection provided in circumstances described in paragraph (c) of the definition ***reportable transaction*** in subsection (1).

Joint and several liability

(9) If more than one person is liable to a penalty under subsection (8) in respect of a reportable transaction, each of those persons are jointly and severally, or solidarily, liable to pay the penalty.

Joint and several liability — special cases

(10) Notwithstanding subsections (8) and (9), the liability of an advisor or a promoter, or a person with whom the advisor or promoter does not deal at arm's length, to a penalty under those subsections in respect of a reportable transaction shall not exceed the total of each amount that is a fee referred to in subsection (8) to which that advisor or promoter, or a person with whom the advisor or promoter does not deal at arm's length, is or was entitled, either immediately or in the future and either absolutely or contingently, to receive in respect of the reportable transaction.

Due diligence

(11) A person required to file an information return in respect of a reportable transaction is not liable for a penalty under subsection (8) if the person has exercised the degree of care, diligence and skill to prevent the failure to file that a reasonably prudent person would have exercised in comparable circumstances.

Reporting not an admission

(12) The filing of an information return under this section by a person in respect of a reportable transaction is not an admission by the person that

(a) section 245 applies in respect of any transaction; or

(b) any transaction is part of a series of transactions.

Application of sections 231 to 231.3

(13) Without restricting the generality of sections 231 to 231.3, even if a return of income has not been filed by a taxpayer under section 150 for the taxation year of the taxpayer in which a tax benefit results, or would result but for section 245, from a reportable transaction, sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain any information in respect of that transaction.

Responsabilité solidaire

(9) Lorsque plusieurs personnes sont passibles de la pénalité prévue au paragraphe (8) relativement à une opération à déclarer, ces personnes sont solidairement responsables du paiement de la pénalité.

Responsabilité solidaire — cas spéciaux

(10) Malgré les paragraphes (8) et (9), le conseiller ou le promoteur, ou toute personne avec laquelle il a un lien de dépendance, n'est responsable du paiement de la pénalité prévue à ces paragraphes relativement à une opération à déclarer que jusqu'à concurrence du total des sommes dont chacune représente les honoraires visées au paragraphe (8) auxquels il a ou avait droit ou auxquels a ou avait droit une personne avec laquelle il a un lien de dépendance, dans l'immédiat ou pour l'avenir et conditionnellement ou non, relativement à l'opération.

Diligence

(11) La personne tenue de produire une déclaration de renseignements relativement à une opération à déclarer n'est pas passible de la pénalité prévue au paragraphe (8) si elle a agi avec autant de soin, de diligence et d'habileté pour prévenir le manquement que ne l'aurait fait une personne raisonnablement prudente dans des circonstances comparables.

Déclaration

(12) La production par une personne d'une déclaration de renseignements conformément au présent article relativement à une opération à déclarer ne constitue pas la reconnaissance par la personne :

a) que l'article 245 s'applique relativement à l'opération;

b) qu'une opération quelconque fait partie d'une série d'opérations.

Application des articles 231 à 231.3

(13) Sans préjudice de leur portée générale, les articles 231 à 231.3 s'appliquent, avec les adaptations nécessaires, en vue de permettre au ministre de vérifier des renseignements concernant une opération à déclarer, même si une déclaration de revenu n'a pas été produite conformément à l'article 150 par un contribuable pour l'année d'imposition de celui-ci au cours de laquelle un avantage fiscal découle ou découlerait, en l'absence de l'article 245, de l'opération.

Tax shelters and flow-through shares

(14) For the purpose of this section, a reportable transaction does not include a transaction that is, or is part of a series of transactions that includes,

(a) the acquisition of a tax shelter for which an information return has been filed with the Minister under subsection 237.1(7); or

(b) the issuance of a flow-through share for which an information return has been filed with the Minister under subsection 66(12.68).

Tax shelters and flow-through shares — penalty

(15) Notwithstanding subsection (8), the amount of the penalty, if any, that applies on a person under that subsection in respect of a reportable transaction shall not exceed the amount determined by the formula

A – B

where

A is the amount of the penalty imposed on the person under subsection (8), determined without reference to this subsection; and

B is

(a) if the reportable transaction is the acquisition of a tax shelter, the amount of the penalty, if any, that applies on the person under subsection 237.1(7.4) in respect of the tax shelter,

(b) if the reportable transaction is the issuance of a flow-through share, the amount of the penalty, if any, that applies on the person under subsection 66(12.74) in respect of the issuance of the flow-through share, and

(c) in any other case, nil.

Anti-avoidance

(16) Subsection (14) does not apply to a reportable transaction if it is reasonable, having regard to all of the circumstances, to conclude that one of the main reasons for the acquisition of a tax shelter, or the issuance of a flow-through share, is to avoid the application of this section.

Solicitor-client privilege

(17) For greater certainty, for the purpose of this section, a lawyer who is an advisor in respect of a reportable transaction is not required to disclose in an information return in respect of the transaction any information in

Abris fiscaux et actions accréditives

(14) Pour l'application du présent article, ne constitue pas une opération à déclarer toute opération qui est, ou qui fait partie d'une série d'opérations comprenant :

a) l'acquisition d'un abri fiscal à l'égard duquel une déclaration de renseignements a été présentée au ministre aux termes du paragraphe 237.1(7);

b) l'émission d'une action accréditive à l'égard de laquelle une déclaration de renseignements a été présentée au ministre aux termes du paragraphe 66(12.68).

Abris fiscaux et actions accréditives — pénalité

(15) Malgré le paragraphe (8), la pénalité dont une personne est passible aux termes de ce paragraphe relativement à une opération à déclarer ne peut excéder la somme obtenue par la formule suivante :

A – B

où :

A représente le montant de la pénalité imposée à la personne selon le paragraphe (8), déterminé compte non tenu du présent paragraphe;

B :

a) si l'opération consiste à acquérir un abri fiscal, la pénalité dont la personne est passible aux termes du paragraphe 237.1(7.4) relativement à l'abri fiscal,

b) si l'opération consiste à émettre une action accréditive, la pénalité dont la personne est passible aux termes du paragraphe 66(12.74) relativement à l'émission de l'action,

c) dans les autres cas, zéro.

Anti-évitement

(16) Le paragraphe (14) ne s'applique pas à une opération à déclarer s'il est raisonnable de conclure, compte tenu des circonstances, que l'un des principaux objets de l'acquisition d'un abri fiscal ou de l'émission d'une action accréditive consiste à se soustraire à l'application du présent article.

Privilège des communications entre client et avocat

(17) Il est entendu que, pour l'application du présent article, l'avocat qui est un conseiller relativement à une

respect of which the lawyer, on reasonable grounds, believes that a client of the lawyer has solicitor-client privilege.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 356.

opération à déclarer n'a pas à indiquer dans une déclaration de renseignements concernant l'opération des renseignements à l'égard desquels il a des motifs raisonnables de croire que son client peut invoquer le privilège des communications entre client et avocat.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 356.

Offences and Punishment

Infractions et peines

Offences and punishment

238 (1) Every person who has failed to file or make a return as and when required by or under this Act or a regulation or who has failed to comply with subsection 116(3), 127(3.1) or (3.2), 147.1(7) or 153(1), any of sections 230 to 232, 244.7 and 267 or a regulation made under subsection 147.1(18) or with an order made under subsection (2) is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(a) a fine of not less than $1,000 and not more than $25,000; or

(b) both the fine described in paragraph 238(1)(a) and imprisonment for a term not exceeding 12 months.

Infractions et peines

238 (1) Toute personne qui omet de produire, de présenter ou de remplir une déclaration de la manière et dans le délai prévus par la présente loi ou par une disposition réglementaire, qui contrevient aux paragraphes 116(3), 127(3.1) ou (3.2), 147.1(7) ou 153(1), à l'un des articles 230 à 232, 244.7 et 267 ou à une disposition réglementaire prise en vertu du paragraphe 147.1(18) ou qui contrevient à une ordonnance rendue en application du paragraphe (2) commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire et outre toute pénalité prévue par ailleurs :

a) soit une amende de 1 000 $ à 25 000 $;

b) soit une telle amende et un emprisonnement maximal de 12 mois.

Compliance orders

(2) Where a person has been convicted by a court of an offence under subsection 238(1) for a failure to comply with a provision of this Act or a regulation, the court may make such order as it deems proper in order to enforce compliance with the provision.

Ordonnance d'exécution

(2) Le tribunal qui déclare une personne coupable d'une infraction prévue au paragraphe (1) peut rendre toute ordonnance qu'il estime indiquée pour qu'il soit remédié au défaut visé par l'infraction.

Saving

(3) Where a person has been convicted under this section of failing to comply with a provision of this Act or a regulation, the person is not liable to pay a penalty imposed under section 162 or 227 for the same failure unless the person was assessed for that penalty or that penalty was demanded from the person before the information or complaint giving rise to the conviction was laid or made.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 238; 2014, c. 20, s. 27.

Réserve

(3) La personne déclarée coupable, par application du présent article, d'avoir contrevenu à une disposition de la présente loi ou de son règlement n'est passible d'une pénalité prévue à l'article 162 ou 227 pour la même contravention que si une cotisation pour cette pénalité a été établie à son égard ou que si le paiement en a été exigé d'elle avant que la dénonciation ou la plainte qui a donné lieu à la déclaration de culpabilité ait été déposée ou faite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 238; 2014, ch. 20, art. 27.

Other offences and punishment

239 (1) Every person who has

Autres infractions et peines

239 (1) Toute personne qui, selon le cas :

a) a fait des déclarations fausses ou trompeuses, ou a participé, consenti ou acquiescé à leur énonciation dans une déclaration, un certificat, un état ou une

(a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation,

(b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer,

(c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a taxpayer,

(d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act, or

(e) conspired with any person to commit an offence described in paragraphs 239(1)(a) to 239(1)(d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(f) a fine of not less than 50%, and not more than 200%, of the amount of the tax that was sought to be evaded, or

(g) both the fine described in paragraph 239(1)(f) and imprisonment for a term not exceeding 2 years.

Offenses re refunds and credits

(1.1) Every person who obtains or claims a refund or credit under this Act to which the person or any other person is not entitled or obtains or claims a refund or credit under this Act in an amount that is greater than the amount to which the person or other person is entitled

(a) by making, or participating in, assenting to or acquiescing in the making of, a false or deceptive statement in a return, certificate, statement or answer filed or made under this Act or a regulation,

(b) by destroying, altering, mutilating, hiding or otherwise disposing of a record or book of account of the person or other person,

(c) by making, or assenting to or acquiescing in the making of, a false or deceptive entry in a record or book of account of the person or other person,

(d) by omitting, or assenting to or acquiescing in an omission to enter a material particular in a record or book of account of the person or other person,

réponse produits, présentés ou faits en vertu de la présente loi ou de son règlement;

b) a, pour éluder le paiement d'un impôt établi par la présente loi, détruit, altéré, mutilé, caché les registres ou livres de comptes d'un contribuable ou en a disposé autrement;

c) a fait des inscriptions fausses ou trompeuses, ou a consenti ou acquiescé à leur accomplissement, ou a omis, ou a consenti ou acquiescé à l'omission d'inscrire un détail important dans les registres ou livres de comptes d'un contribuable;

d) a, volontairement, de quelque manière, éludé ou tenté d'éluder l'observation de la présente loi ou le paiement d'un impôt établi en vertu de cette loi;

e) a conspiré avec une personne pour commettre une infraction visée aux alinéas a) à d),

commet une infraction et, en plus de toute autre pénalité prévue par ailleurs, encourt, sur déclaration de culpabilité par procédure sommaire :

f) soit une amende de 50 % à 200 % de l'impôt que cette personne a tenté d'éluder;

g) soit à la fois l'amende prévue à l'alinéa f) et un emprisonnement d'au plus 2 ans.

Remboursements et crédits indus

(1.1) Commet une infraction toute personne qui, en vertu de la présente loi, obtient ou demande un remboursement ou crédit auquel elle ou une autre personne n'a pas droit, ou un remboursement ou un crédit d'un montant supérieur à celui auquel elle ou une autre personne a droit, du fait que, selon le cas :

a) elle a fait des déclarations fausses ou trompeuses, ou a participé, consenti ou acquiescé à leur énonciation, dans une déclaration, un certificat, un état ou une réponse produit, présenté ou fait en vertu de la présente loi ou de son règlement,

b) elle a détruit, altéré, mutilé ou caché ses registres ou livres de comptes, ou ceux de l'autre personne, ou en a disposé autrement,

c) elle a fait des inscriptions fausses ou trompeuses, ou a consenti ou acquiescé à leur accomplissement, dans ses registres ou livres de comptes ou ceux de l'autre personne,

(e) wilfully in any manner, or

(f) by conspiring with any person to commit any offence under this subsection,

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(g) a fine of not less than 50% and not more than 200% of the amount by which the amount of the refund or credit obtained or claimed exceeds the amount, if any, of the refund or credit to which the person or other person, as the case may be, is entitled, or

(h) both the fine described in paragraph 239(1.1)(g) and imprisonment for a term not exceeding 2 years.

d) elle a omis, ou a consenti ou acquiescé à l'omission, d'inscrire un détail important dans ses registres ou livres de comptes ou ceux de l'autre personne,

e) elle a agi volontairement de quelque manière que ce soit,

f) elle a conspiré avec une personne pour commettre une infraction visée au présent paragraphe.

En plus de toute autre pénalité prévue par ailleurs, cette personne encourt, sur déclaration de culpabilité par procédure sommaire :

g) soit une amende de 50 % à 200 % de l'excédent du montant du remboursement ou du crédit obtenu ou demandé sur le montant auquel elle ou l'autre personne, selon le cas, a droit;

h) soit à la fois l'amende prévue à l'alinéa g) et un emprisonnement d'au plus 2 ans.

Prosecution on indictment

(2) Every person who is charged with an offence described in subsection 239(1) or 239(1.1) may, at the election of the Attorney General of Canada, be prosecuted on indictment and, if convicted, is, in addition to any penalty otherwise provided, liable to

(a) a fine of not less than 100% and not more than 200% of

(i) where the offence is described in subsection 239(1), the amount of the tax that was sought to be evaded, and

(ii) where the offence is described in subsection 239(1.1), the amount by which the amount of the refund or credit obtained or claimed exceeds the amount, if any, of the refund or credit to which the person or other person, as the case may be, is entitled; and

(b) imprisonment for a term not exceeding 5 years.

Poursuite par voie de mise en accusation

(2) Toute personne accusée d'une infraction visée aux paragraphes (1) ou (1.1) peut, au choix du procureur général du Canada, être poursuivie par voie de mise en accusation et, si elle est déclarée coupable, encourt, en plus de toute autre pénalité prévue par ailleurs :

a) d'une part, une amende de 100 % à 200 % des montants suivants :

(i) dans le cas de l'infraction visée au paragraphe (1), l'impôt que cette personne a tenté d'éluder,

(ii) dans le cas de l'infraction visée au paragraphe (1.1), l'excédent du montant du remboursement ou du crédit obtenu ou demandé sur le montant auquel elle ou l'autre personne, selon le cas, a droit;

b) d'autre part, un emprisonnement maximal de cinq ans.

Providing incorrect tax shelter identification number

(2.1) Every person who wilfully provides another person with an incorrect identification number for a tax shelter is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(a) a fine of not less than 100%, and not more than 200%, of the cost to the other person of that person's interest in the shelter;

(b) imprisonment for a term not exceeding 2 years; or

Faux numéro d'identification d'un abri fiscal

(2.1) Toute personne qui donne volontairement un faux numéro d'inscription d'abri fiscal à une autre personne commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire et outre toute pénalité prévue par ailleurs :

a) une amende de 100 % à 200 % du coût, pour cette autre personne, de sa part dans cet abri fiscal;

b) un emprisonnement maximal de deux ans;

(c) both the fine described in paragraph 239(2.1)(a) and the imprisonment described in paragraph 239(2.1)(b).

c) ou l'une de ces peines.

Offence with respect to confidential information

(2.2) Every person who

(a) contravenes subsection 241(1), or

(b) knowingly contravenes an order made under subsection 241(4.1)

is guilty of an offence and liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months, or to both.

Communication non autorisée de renseignements

(2.2) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 $ et un emprisonnement maximal de 12 mois, ou l'une de ces peines, toute personne :

a) soit qui contrevient au paragraphe 241(1);

b) soit qui, sciemment, contrevient à une ordonnance rendue en application du paragraphe 241(4.1).

Idem

(2.21) Every person

(a) to whom taxpayer information has been provided for a particular purpose under paragraph 241(4)(b), (c), (e), (h), (k), (n), (o) or (p).

(b) who is an official to whom taxpayer information has been provided for a particular purpose under paragraph 241(4)(a), (d), (f), (f.1), (i), (j.1) or (j.2)

and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months, or to both.

Idem

(2.21) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 $ et un emprisonnement maximal de 12 mois, ou l'une de ces peines :

a) toute personne à qui un renseignement confidentiel est fourni à une fin précise en conformité avec les alinéas 241(4)b), c), e), h), k), n), o) ou p);

b) tout fonctionnaire à qui un renseignement confidentiel a été fourni à une fin précise en conformité avec les alinéas 241(4)a), d), f), f.1), i), j.1) ou j.2),

et qui, sciemment, utilise ce renseignement, le fournit ou en permet la prestation ou l'accès à une autre fin.

Definitions

(2.22) In subsection 239(2.21), *official* and *taxpayer information* have the meanings assigned by subsection 241(10).

Définitions

(2.22) Pour l'application du paragraphe (2.21), les expressions *fonctionnaire* et *renseignement confidentiel* s'entendent au sens du paragraphe 241(10).

Offence with respect to an identification number

(2.3) Every person to whom the Social Insurance Number of an individual or to whom the business number of a taxpayer or partnership has been provided under this Act or a regulation, and every officer, employee and agent of such a person, who without written consent of the individual, taxpayer or partnership, as the case may be, knowingly uses, communicates or allows to be communicated the number (otherwise than as required or authorized by law, in the course of duties in connection with the administration or enforcement of this Act or for a purpose for which it was provided by the individual, taxpayer or partnership, as the case may be) is guilty of an offence and liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months, or to both.

Communication non autorisée d'un numéro d'identification

(2.3) Toute personne à qui le numéro d'assurance sociale d'un particulier ou le numéro d'entreprise d'un contribuable ou d'une société de personnes est fourni en application de la présente loi ou d'une disposition réglementaire, ainsi que tout cadre, employé ou mandataire d'une telle personne, qui, sciemment, utilise le numéro, le communique ou permet qu'il soit communiqué (autrement que conformément à la loi ou à l'autorisation donnée par le particulier, le contribuable ou la société de personnes, selon le cas, ou autrement que dans le cadre de fonctions liées à l'application ou à l'exécution de la présente loi) sans le consentement du particulier, du contribuable ou de la société de personnes, selon le cas, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende

(2.31) [Repealed, 2017, c. 12, s. 13]

Penalty on conviction

(3) If a person is convicted under this section, the person is not liable to pay a penalty imposed under any of sections 162, 163, 163.2 and 163.3 for the same contravention unless the penalty is assessed before the information or complaint giving rise to the conviction was laid or made.

Stay of appeal

(4) Where, in any appeal under this Act, substantially the same facts are at issue as those that are at issue in a prosecution under this section, the Minister may file a stay of proceedings with the Tax Court of Canada and thereupon the proceedings before that Court are stayed pending final determination of the outcome of the prosecution.

Offence and punishment without reference to subsection 120(2.2)

(5) In determining whether an offence under this Act, for which a person may on summary conviction or indictment be liable for a fine or imprisonment, has been committed, and in determining the punishment for such an offence, this Act is to be read without reference to subsection 120(2.2).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 239; 1994, c. 7, Sch. II, s. 189, Sch. VIII, s. 136; 1998, c. 19, s. 235, c. 21, s. 96; 1999, c. 26, s. 40; 2000, c. 19, s. 66; 2001, c. 17, s. 185, c. 41, s. 117; 2005, c. 19, s. 50; 2013, c. 40, s. 85; 2015, c. 41, s. 2; 2017, c. 12, s. 13.

Definitions

239.1 (1) The definitions in subsection 163.3(1) apply in this section.

Offences

(2) Every person that, without lawful excuse, the proof of which lies on the person,

(a) uses an electronic suppression of sales device or a similar device or software in relation to records that are required to be kept by any person under section 230,

(b) acquires or possesses an electronic suppression of sales device, or a right in respect of an electronic suppression of sales device, that is, or is intended to be, capable of being used in relation to records that are required to be kept by any person under section 230,

maximale de 5 000 $ et un emprisonnement maximal de 12 mois, ou l'une de ces peines.

(2.31) [Abrogé, 2017, ch. 12, art. 13]

Pénalité sur déclaration de culpabilité

(3) La personne déclarée coupable d'infraction au présent article n'est passible d'une pénalité prévue aux articles 162, 163, 163.2 ou 163.3 pour la même infraction que si une cotisation pour cette pénalité est établie à son égard avant que la dénonciation ou la plainte qui a donné lieu à la déclaration de culpabilité ait été déposée ou faite.

Suspension d'appel

(4) Lorsque, dans un appel interjeté en vertu de la présente loi, sont débattus la plupart des mêmes faits que ceux qui font l'objet de poursuites engagées en vertu du présent article, le ministre peut demander la suspension de l'appel dont est saisie la Cour canadienne de l'impôt; l'appel qui est devant cette cour est dès lors suspendu en attendant le résultat des poursuites.

Infraction et peine établies compte non tenu du par. 120(2.2)

(5) Il n'est pas tenu compte du paragraphe 120(2.2) lorsqu'il s'agit de déterminer s'il y eu perpétration d'une infraction à la présente loi, punissable sur déclaration de culpabilité par procédure sommaire ou mise en accusation, et d'établir la peine applicable à cette infraction.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 239; 1994, ch. 7, ann. II, art. 189, ann. VIII, art. 136; 1998, ch. 19, art. 235, ch. 21, art. 96; 1999, ch. 26, art. 40; 2000, ch. 19, art. 66; 2001, ch. 17, art. 185, ch. 41, art. 117; 2005, ch. 19, art. 50; 2013, ch. 40, art. 85; 2015, ch. 41, art. 2; 2017, ch. 12, art. 13.

Définitions

239.1 (1) Les définitions figurant au paragraphe 163.3(1) s'appliquent au présent article.

Infractions

(2) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire et outre toute pénalité prévue par ailleurs, une amende minimale de 10 000 $ et maximale de 500 000 $ et un emprisonnement maximal de deux ans, ou l'une de ces peines, toute personne qui, sans excuse légitime, dont la preuve lui incombe :

a) utilise un appareil de suppression électronique des ventes ou un appareil ou un logiciel semblable relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230;

b) acquiert ou possède un appareil de suppression électronique des ventes, ou un droit relatif à un tel appareil, qui peut être utilisé, ou qui est destiné à

(c) designs, develops, manufactures, possesses for sale, offers for sale, sells, transfers or otherwise makes available to another person an electronic suppression of sales device that is, or is intended to be, capable of being used in relation to records that are required to be kept by any person under section 230,

(d) supplies installation, upgrade or maintenance services for an electronic suppression of sales device that is, or is intended to be, capable of being used in relation to records that are required to be kept by any person under section 230, or

(e) participates in, assents to or acquiesces in the commission of, or conspires with any person to commit, an offence described in any of paragraphs (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than $10,000 and not more than $500,000 or to imprisonment for a term not exceeding two years, or to both.

Prosecution on indictment

(3) Every person that is charged with an offence described in subsection (2) may, at the election of the Attorney General of Canada, be prosecuted on indictment and, if convicted, is, in addition to any penalty otherwise provided, liable to a fine of not less than $50,000 and not more than $1,000,000 or to imprisonment for a term not exceeding five years, or to both.

Penalty on conviction

(4) A person that is convicted of an offence under this section is not liable to pay a penalty imposed under any of sections 162, 163, 163.2 and 163.3 for the same action unless a notice of assessment for that penalty was issued before the information or complaint giving rise to the conviction was laid or made.

Stay of appeal

(5) If, in any appeal under this Act, substantially the same facts are at issue as those that are at issue in a prosecution under this section, the Minister may file a stay of proceedings with the Tax Court of Canada and, upon that filing, the proceedings before that Court are stayed pending final determination of the outcome of the prosecution.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 86.

pouvoir être utilisé, relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230;

c) conçoit, développe, fabrique, possède ou offre à des fins de vente, vend ou transfère un appareil de suppression électronique des ventes qui peut être utilisé, ou qui est destiné à pouvoir être utilisé, relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230 ou autrement met un tel appareil à la disposition d'une autre personne;

d) fournit des services d'installation, de mise à niveau ou d'entretien d'un appareil de suppression électronique des ventes qui peut être utilisé, ou qui est destiné à pouvoir être utilisé, relativement à des registres qui doivent être tenus par une personne quelconque en vertu de l'article 230;

e) participe, consent ou acquiesce à la commission d'une infraction visée aux alinéas a) à d) ou conspire avec une personne pour commettre une telle infraction.

Poursuite par voie de mise en accusation

(3) Toute personne accusée d'une infraction visée au paragraphe (2) peut, au choix du procureur général du Canada, être poursuivie par voie de mise en accusation et, si elle est déclarée coupable, encourt, outre toute pénalité prévue par ailleurs, une amende minimale de 50 000 $ et maximale de 1 000 000 $ et un emprisonnement maximal de cinq ans, ou l'une de ces peines.

Pénalité sur déclaration de culpabilité

(4) La personne déclarée coupable d'infraction au présent article n'est passible d'une pénalité prévue à l'un des articles 162, 163, 163.2 et 163.3 pour le même acte que si un avis de cotisation concernant cette pénalité a été envoyé avant que la dénonciation ou la plainte qui a donné lieu à la déclaration de culpabilité ait été déposée ou faite.

Suspension d'appel

(5) Le ministre peut demander la suspension d'un appel interjeté en vertu de la présente loi devant la Cour canadienne de l'impôt lorsque les faits qui y sont débattus sont pour la plupart les mêmes que ceux qui font l'objet de poursuites entamées en vertu du présent article. Dès lors, l'appel est suspendu en attendant le résultat des poursuites.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 86.

Definition of *taxable obligation* and *non-taxable obligation*

240 (1) In this section, ***taxable obligation*** means any bond, debenture or similar obligation the interest on which would, if paid by the issuer to a non-resident person, be subject to the payment of tax under Part XIII by that non-resident person at the rate provided in subsection 212(1) (otherwise than by virtue of subsection 212(6)), and ***non-taxable obligation*** means any bond, debenture or similar obligation the interest on which would not, if paid by the issuer to a non-resident person, be subject to the payment of tax under Part XIII by that non-resident person.

Interest coupon to be identified in prescribed manner — offence and punishment

(2) Every person who, at any time after July 14, 1966, issues

(a) any taxable obligation, or

(b) any non-taxable obligation

the right to interest on which is evidenced by a coupon or other writing that does not form part of, or is capable of being detached from, the evidence of indebtedness under the obligation is, unless the coupon or other writing is marked or identified in prescribed manner by the letters "AX" in the case of a taxable obligation, and by the letter "F" in the case of a non-taxable obligation, on the face thereof, guilty of an offence and liable on summary conviction to a fine not exceeding $500.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"240".

Provision of information

241 (1) Except as authorized by this section, no official or other representative of a government entity shall

(a) knowingly provide, or knowingly allow to be provided, to any person any taxpayer information;

(b) knowingly allow any person to have access to any taxpayer information; or

(c) knowingly use any taxpayer information otherwise than in the course of the administration or enforcement of this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act* or the *Employment Insurance Act* or for the purpose for which it was provided under this section.

Définitions de *obligation imposable* et de *obligation non imposable*

240 (1) Au présent article, ***obligation imposable*** s'entend d'un bon ou d'un autre titre semblable dont l'intérêt serait, s'il était payé par l'émetteur à un non-résident, assujetti au paiement de l'impôt en vertu de la partie XIII par ce non-résident au taux prévu au paragraphe 212(1) (autrement qu'en vertu du paragraphe 212(6)), et ***obligation non imposable*** s'entend d'un bon ou d'un autre titre semblable dont l'intérêt ne serait pas, s'il était payé par l'émetteur à un non-résident, assujetti au paiement de l'impôt en vertu de la partie XIII par ce non-résident.

Identification du coupon d'intérêt conformément au règlement — infraction et peine

(2) Toute personne qui, après le 14 juillet 1966, émet :

a) soit une obligation imposable;

b) soit une obligation non imposable,

concernant laquelle le droit à l'intérêt est démontré par un coupon ou autre écrit qui ne fait pas partie, ou peut être détaché, du titre de créance existant en vertu de l'obligation, commet, sauf si ce coupon ou autre écrit porte une marque ou une identification faite, selon les modalités réglementaires, au moyen des lettres « AX » dans le cas d'une obligation imposable et de la lettre « F » dans le cas d'une obligation non imposable, apposées au recto de ce coupon, une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 500 $.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 240 ».

Communication de renseignements

241 (1) Sauf autorisation prévue au présent article, il est interdit à un fonctionnaire ou autre représentant d'une entité gouvernementale :

a) de fournir sciemment à quiconque un renseignement confidentiel ou d'en permettre sciemment la prestation;

b) de permettre sciemment à quiconque d'avoir accès à un renseignement confidentiel;

c) d'utiliser sciemment un renseignement confidentiel en dehors du cadre de l'application ou de l'exécution de la présente loi, du *Régime de pensions du Canada*, de la *Loi sur l'assurance-chômage* ou de la *Loi sur l'assurance-emploi*, ou à une autre fin que celle pour laquelle il a été fourni en application du présent article.

Evidence relating to taxpayer information

(2) Notwithstanding any other Act of Parliament or other law, no official or other representative of a government entity shall be required, in connection with any legal proceedings, to give or produce evidence relating to any taxpayer information.

Communication where proceedings have been commenced

(3) Subsections 241(1) and 241(2) do not apply in respect of

(a) criminal proceedings, either by indictment or on summary conviction, that have been commenced by the laying of an information or the preferring of an indictment, under an Act of Parliament; or

(b) any legal proceedings relating to the administration or enforcement of this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act* or the *Employment Insurance Act* or any other Act of Parliament or law of a province that provides for the imposition or collection of a tax or duty.

Circumstances involving danger

(3.1) The Minister may provide to appropriate persons any taxpayer information relating to imminent danger of death or physical injury to any individual.

Registered charities and registered Canadian amateur athletic associations

(3.2) An official may provide to any person the following taxpayer information relating to another person (in this subsection referred to as the "registrant") that was at any time a registered charity or registered Canadian amateur athletic association:

(a) a copy of the registrant's governing documents, including its statement of purpose, and function in the case of a Canadian amateur athletic association;

(b) any information provided in prescribed form to the Minister by the registrant on applying for registration under this Act;

(c) the names of the persons who at any time were the registrant's directors and the periods during which they were its directors;

(d) a copy of the notification of the registrant's registration, including any conditions and warnings;

Communication de renseignements dans le cadre d'une procédure judiciaire

(2) Malgré toute autre loi ou règle de droit, nul fonctionnaire ou autre représentant d'une entité gouvernementale ne peut être requis, dans le cadre d'une procédure judiciaire, de témoigner, ou de produire quoi que ce soit, relativement à un renseignement confidentiel.

Communication de renseignements en cours de procédures

(3) Les paragraphes (1) et (2) ne s'appliquent :

a) ni aux poursuites criminelles, sur déclaration de culpabilité par procédure sommaire ou sur acte d'accusation, engagées par le dépôt d'une dénonciation ou d'un acte d'accusation, en vertu d'une loi fédérale;

b) ni aux procédures judiciaires ayant trait à l'application ou à l'exécution de la présente loi, du *Régime de pensions du Canada*, de la *Loi sur l'assurance-chômage* ou de la *Loi sur l'assurance-emploi* ou de toute autre loi fédérale ou provinciale qui prévoit l'imposition ou la perception d'un impôt, d'une taxe ou d'un droit.

Personnes en danger

(3.1) Le ministre peut fournir aux personnes compétentes tout renseignement confidentiel concernant un danger imminent de mort ou de blessures qui menace un particulier.

Organismes de bienfaisance enregistrés et associations canadiennes enregistrées de sport amateur

(3.2) Un fonctionnaire peut fournir à une personne les renseignements confidentiels ci-après concernant une autre personne (appelée « personne enregistrée » au présent paragraphe) qui a été un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur à un moment donné :

a) une copie des statuts régissant la personne enregistrée, y compris l'énoncé de son but et, dans le cas d'une association canadienne de sport amateur, de sa fonction;

b) les renseignements que la personne enregistrée a fournis au ministre selon le formulaire prescrit au moment de sa demande d'enregistrement sous le régime de la présente loi;

c) le nom des personnes qui sont ou ont été les administrateurs de la personne enregistrée et la durée de leur mandat;

(e) if the registration of the registrant has been revoked or annulled, a copy of the entirety of or any part of any letter sent by or on behalf of the Minister to the registrant relating to the grounds for the revocation or annulment;

(f) financial statements required to be filed with an information return referred to in subsection 149.1(14);

(g) a copy of the entirety of or any part of any letter or notice by the Minister to the registrant relating to a suspension under section 188.2 or an assessment of tax or penalty under this Act (other than the amount of a liability under subsection 188(1.1)); and

(h) in the case of a registrant that is a charity, an application by the registrant, and information filed in support of the application, for a designation, determination or decision by the Minister under any of subsections 149.1(5), (6.3), (7), (8) and (13).

d) une copie de l'avis d'enregistrement, y compris les conditions et avertissements;

e) en cas de révocation ou d'annulation de l'enregistrement de la personne enregistrée, une copie de tout ou partie d'une lettre qui lui a été envoyée par le ministre, ou pour son compte, indiquant la raison de la révocation ou de l'annulation;

f) les états financiers à produire avec la déclaration de renseignements visée au paragraphe 149.1(14);

g) une copie de tout ou partie d'une lettre ou d'un avis envoyé à la personne enregistrée par le ministre au sujet d'une suspension prévue à l'article 188.2 ou d'une cotisation concernant un impôt ou une pénalité à payer sous le régime de la présente loi, à l'exception d'une cotisation concernant une somme à payer en vertu du paragraphe 188(1.1);

h) dans le cas d'une personne enregistrée qui est un organisme de bienfaisance, toute demande de désignation, de détermination ou d'approbation qu'elle présente en vertu des paragraphes 149.1(5), (6.3), (7), (8) ou (13), ainsi que les renseignements présentés à l'appui de cette demande.

Information may be communicated

(3.3) The Minister of Canadian Heritage may communicate or otherwise make available to the public, in any manner that that Minister considers appropriate, the following taxpayer information in respect of a Canadian film or video production certificate (as defined under subsection 125.4(1)) that has been issued or revoked:

(a) the title of the production for which the Canadian film or video production certificate was issued;

(b) the name of the taxpayer to whom the Canadian film or video production certificate was issued;

(c) the names of the producers of the production;

(d) the names of the individuals in respect of whom and places in respect of which that Minister has allotted points in respect of the production in accordance with regulations made for the purpose of section 125.4;

(e) the total number of points so allotted; and

(f) any revocation of the Canadian film or video production certificate.

Communication de renseignements

(3.3) Le ministre du Patrimoine canadien peut communiquer au public, ou autrement mettre à sa disposition, de la façon qu'il estime indiquée, les renseignements confidentiels ci-après concernant un certificat de production cinématographique ou magnétoscopique canadienne, au sens du paragraphe 125.4(1), qui a été délivré ou révoqué :

a) le titre de la production visée par le certificat;

b) le nom du contribuable auquel le certificat a été délivré;

c) le nom des producteurs de la production;

d) le nom des particuliers et des endroits à l'égard desquels le ministre a attribué des points relativement à la production conformément aux dispositions réglementaires prises pour l'application de l'article 125.4;

e) le nombre total de points ainsi attribués;

f) toute révocation du certificat.

Where taxpayer information may be disclosed

(4) An official may

Divulgation d'un renseignement confidentiel

(4) Un fonctionnaire peut :

(a) provide to any person taxpayer information that can reasonably be regarded as necessary for the purposes of the administration or enforcement of this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act* or the *Employment Insurance Act*, solely for that purpose;

(b) provide to any person taxpayer information that can reasonably be regarded as necessary for the purposes of determining any tax, interest, penalty or other amount that is or may become payable by the person, or any refund or tax credit to which the person is or may become entitled, under this Act or any other amount that is relevant for the purposes of that determination;

(c) provide to the person who seeks a certification referred to in paragraph 147.1(10)(a) the certification or a refusal to make the certification, solely for the purposes of administering a registered pension plan;

(d) provide taxpayer information

(i) to an official of the Department of Finance solely for the purposes of the formulation or evaluation of fiscal policy,

(ii) to an official solely for the purposes of the initial implementation of a fiscal policy or for the purposes of the administration or enforcement of an Act of Parliament that provides for the imposition and collection of a tax or duty,

(iii) to an official solely for the purposes of the administration or enforcement of a law of a province that provides for the imposition or collection of a tax or duty,

(iv) to an official of the government of a province solely for the purposes of the formulation or evaluation of fiscal policy,

(v) to an official of the Department of Natural Resources or of the government of a province solely for the purposes of the administration or enforcement of a program of the Government of Canada or of the province relating to the exploration for or exploitation of Canadian petroleum and gas resources,

(vi) to an official of the government of a province that has received or is entitled to receive a payment referred to in this subparagraph, or to an official of the Department of Natural Resources, solely for the purposes of the provisions relating to payments to a province in respect of the taxable income of corporations earned in the offshore area with respect to

a) fournir à une personne un renseignement confidentiel qu'il est raisonnable de considérer comme nécessaire à l'application ou à l'exécution de la présente loi, du *Régime de pensions du Canada*, de la *Loi sur l'assurance-chômage* ou de la *Loi sur l'assurance-emploi*, mais uniquement à cette fin;

b) fournir à une personne un renseignement confidentiel qu'il est raisonnable de considérer comme nécessaire à la détermination de quelque impôt, intérêt, pénalité ou autre montant payable par la personne, ou pouvant le devenir, ou de quelque crédit d'impôt ou remboursement auquel elle a droit, ou pourrait avoir droit, en vertu de la présente loi, ou de tout autre montant à prendre en compte dans une telle détermination;

c) fournir, mais uniquement en vue de la gestion d'un régime de pension agréé, l'attestation visée à l'alinéa 147.1(10)a), ou le refus de la faire, à la personne qui la demande;

d) fournir un renseignement confidentiel :

(i) à un fonctionnaire du ministère des Finances, mais uniquement en vue de la formulation ou l'évaluation de la politique fiscale,

(ii) à un fonctionnaire, mais uniquement en vue de la mise à exécution de la politique fiscale ou en vue de l'application ou de l'exécution d'une loi fédérale qui prévoit l'imposition et la perception d'un impôt, d'une taxe ou d'un droit,

(iii) à un fonctionnaire, mais uniquement en vue de l'application ou de l'exécution d'une loi provinciale qui prévoit l'imposition ou la perception d'un impôt, d'une taxe ou d'un droit,

(iv) à un fonctionnaire provincial, mais uniquement en vue de la formulation ou de l'évaluation de la politique fiscale,

(v) à un fonctionnaire du ministère des Ressources naturelles ou à un fonctionnaire provincial, mais uniquement en vue de l'application ou de la mise en œuvre d'un programme fédéral ou provincial relatif à l'exploration ou à l'exploitation afférentes aux ressources pétrolières et gazières canadiennes,

(vi) à un fonctionnaire d'un gouvernement provincial qui a reçu ou est en droit de recevoir un paiement, au titre du revenu imposable d'une société gagné dans la zone extracôtière de la province, en vertu de la *Loi de mise en œuvre de l'Accord Canada — Nouvelle-Écosse* sur les hydrocarbures extracôtiers, chapitre 28 des Lois du Canada de

the province under the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, chapter 28 of the Statutes of Canada, 1988, the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, chapter 3 of the Statutes of Canada, 1987, or similar Acts relating to the exploration for or exploitation of offshore Canadian petroleum and gas resources,

(vi.1) to an official of the Department of Natural Resources solely for the purpose of determining whether property is prescribed energy conservation property or whether an outlay or expense is a Canadian renewable and conservation expense,

(vii) to an official solely for the purposes of the administration or enforcement of the *Pension Benefits Standards Act, 1985*, the *Pooled Registered Pension Plans Act* or a similar law of a province,

(vii.1) to an official solely for the purpose of the administration or enforcement of the *Canada Education Savings Act* or a designated provincial program as defined in subsection 146.1(1),

(vii.2) to an official solely for the purposes of the administration and enforcement of Part 1 of the *Energy Costs Assistance Measures Act*,

(vii.3) to an official solely for the purposes of the administration and enforcement of the *Children's Special Allowances Act* or the evaluation or formation of policy for that Act,

(vii.4) to an official solely for the purposes of the administration and enforcement of the *Universal Child Care Benefit Act* or the evaluation or formation of policy for that Act,

(vii.5) to an official solely for the purposes of the administration or enforcement of the *Canada Disability Savings Act* or a designated provincial program as defined in subsection 146.4(1),

(viii) to an official of the Department of Veterans Affairs solely for the purposes of the administration of the *War Veterans Allowance Act*, the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* or Part XI of the *Civilian War-related Benefits Act*,

(ix) to an official of a department or agency of the Government of Canada or of a province as to the name, address, telephone number, occupation, size or type of business of a taxpayer, solely for the purpose of enabling that department or agency to obtain statistical data for research and analysis,

1988, de la *Loi de mise en œuvre de l'Accord atlantique Canada — Terre-Neuve-et-Labrador*, chapitre 3 des Lois du Canada de 1987, ou d'une loi semblable concernant l'exploration ou l'exploitation afférentes aux ressources pétrolières et gazières canadiennes au large des côtes, soit à un fonctionnaire du ministère des Ressources naturelles, mais uniquement en vue de l'application des dispositions concernant ces paiements à une province,

(vi.1) à un fonctionnaire du ministère des Ressources naturelles, mais uniquement en vue de déterminer si un bien constitue un bien économisant l'énergie visé par règlement ou si une dépense engagée ou effectuée constitue des frais liés aux énergies renouvelables et à l'économie d'énergie au Canada,

(vii) à un fonctionnaire, mais uniquement en vue de l'application ou de l'exécution de la *Loi de 1985 sur les normes de prestation de pension*, de la *Loi sur les régimes de pension agréés collectifs* ou d'une loi provinciale semblable,

(vii.1) à un fonctionnaire, mais uniquement en vue de l'application ou de l'exécution de la *Loi canadienne sur l'épargne-études* ou d'un programme provincial désigné au sens du paragraphe 146.1(1),

(vii.2) à un fonctionnaire, mais uniquement en vue de l'application ou de l'exécution de la partie 1 de la *Loi sur les mesures d'aide liées au coût de l'énergie*,

(vii.3) à un fonctionnaire, mais uniquement en vue de l'application de la *Loi sur les allocations spéciales pour enfants*, ou en vue de l'évaluation ou de la formation de la politique concernant cette loi,

(vii.4) à un fonctionnaire, mais uniquement en vue de l'application de la *Loi sur la prestation universelle pour la garde d'enfants*, ou en vue de l'évaluation ou de la formation de la politique concernant cette loi,

(vii.5) à un fonctionnaire, mais uniquement en vue de l'application ou de l'exécution de la *Loi canadienne sur l'épargne-invalidité* ou d'un programme provincial désigné au sens du paragraphe 146.4(1),

(viii) à un fonctionnaire du ministère des Anciens Combattants, mais uniquement en vue de l'application de la *Loi sur les allocations aux anciens combattants*, de la *Loi sur les mesures de réinsertion et d'indemnisation des militaires et vétérans des Forces canadiennes* ou de la partie XI de la *Loi sur les prestations de guerre pour les civils*,

(x) to an official of the Canada Employment Insurance Commission or the Department of Employment and Social Development, solely for the purpose of the administration or enforcement of the *Employment Insurance Act*, an employment program of the Government of Canada (including, for greater certainty, any activity relating to a program for temporary foreign workers for which the administration or enforcement is the responsibility of the Minister of Employment and Social Development under the *Immigration and Refugee Protection Regulations*) or the evaluation or formation of policy for that Act or program,

(x.1) to an official of the Department of Employment and Social Development solely for the purpose of the administration or enforcement of a program established under the authority of the *Department of Employment and Social Development Act* in respect of children who are deceased or missing as a result of an offence, or a probable offence, under the *Criminal Code*,

(xi) to an official of the Department of Agriculture and Agri-Food or of the government of a province solely for the purposes of the administration or enforcement of a program of the Government of Canada or of the province established under an agreement entered into under the *Farm Income Protection Act*,

(xii) to a member of the Canadian Cultural Property Export Review Board or an official of the Administrative Tribunals Support Service of Canada solely for the purposes of administering sections 32 to 33.2 of the *Cultural Property Export and Import Act*,

(xiii) to an official solely for the purposes of setting off against any sum of money that may be due or payable by Her Majesty in right of Canada a debt due to

(A) Her Majesty in right of Canada, or

(B) Her Majesty in right of a province,

(xiv) to an official solely for the purposes of section 7.1 of the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act*,

(xv) to an official of the Financial Transactions and Reports Analysis Centre of Canada solely for the purpose of enabling the Centre to evaluate the usefulness of information provided by the Centre to the Canada Revenue Agency under the *Proceeds of*

(ix) à un fonctionnaire d'un ministère ou organisme fédéral ou provincial, quant aux nom, adresse, numéro de téléphone et profession d'un contribuable et à la taille et au genre de son entreprise, mais uniquement en vue de permettre à ce ministère ou à cet organisme de recueillir des données statistiques pour la recherche et l'analyse,

(x) à un fonctionnaire de la Commission de l'assurance-emploi du Canada ou du ministère de l'Emploi et du Développement social, mais uniquement en vue de l'application ou de l'exécution de la *Loi sur l'assurance-emploi* ou d'un programme d'emploi du gouvernement fédéral (notamment toute activité relative à un programme pour travailleurs étrangers temporaires dont la mise en œuvre ou l'exécution relèvent du ministre de l'Emploi et du Développement social en vertu du *Règlement sur l'immigration et la protection des réfugiés*), ou en vue de l'évaluation ou de la formulation de la politique concernant cette loi ou un tel programme,

(x.1) à un fonctionnaire du ministère de l'Emploi et du Développement social, mais uniquement en vue de l'application ou de l'exécution d'un programme établi sous le régime de la *Loi sur le ministère de l'Emploi et du Développement social* relativement à des enfants décédés ou disparus par suite d'une infraction, avérée ou probable, prévue au *Code criminel*,

(xi) à un fonctionnaire du ministère de l'Agriculture et de l'Agroalimentaire ou à un fonctionnaire provincial, mais uniquement en vue de l'application ou de la mise en œuvre d'un régime ou programme fédéral ou provincial institué au titre d'un accord conclu en application de la *Loi sur la protection du revenu agricole*,

(xii) à un membre de la Commission canadienne d'examen des exportations de biens culturels ou à un fonctionnaire du Service canadien d'appui aux tribunaux administratifs, mais uniquement en vue de l'application des articles 32 à 33.2 de la *Loi sur l'exportation et l'importation de biens culturels*,

(xiii) à un fonctionnaire, mais uniquement en vue de procéder, par voie de compensation, à la retenue, sur toute somme due par Sa Majesté du chef du Canada, de tout montant égal à une créance :

(A) soit de Sa Majesté du chef du Canada,

(B) soit de Sa Majesté du chef d'une province,

Crime (Money Laundering) and Terrorist Financing Act,

(xvi) to a person employed or engaged in the service of an office or agency, of the Government of Canada or of a province, whose mandate includes the provision of assistance (as defined in subsection 125.4(1) or 125.5(1)) in respect of film or video productions or film or video production services, solely for the purpose of the administration or enforcement of the program under which the assistance is offered,

(xvii) to an official of the Canadian Radio-television and Telecommunications Commission, solely for the purpose of the administration or enforcement of a regulatory function of that Commission, or

(xviii) to an official of the Canada Revenue Agency solely for the purpose of the collection of amounts owing to Her Majesty in right of Canada or of a province under the *Government Employees Compensation Act*, the *Canada Labour Code*, the *Merchant Seamen Compensation Act*, the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act*, the *Postal Services Continuation Act, 1997*, the *Wage Earner Protection Program Act*, the *Apprentice Loans Act* or a law of a province governing the granting of financial assistance to students at the post-secondary school level;

(e) provide taxpayer information, or allow the inspection of or access to taxpayer information, as the case may be, under, and solely for the purposes of,

(i) subsection 36(2) or section 46 of the *Access to Information Act*,

(ii) section 13 of the *Auditor General Act*,

(iii) section 92 of the *Canada Pension Plan*,

(iv) a warrant issued under subsection 21(3) of the *Canadian Security Intelligence Service Act*,

(v) an order made under subsection 462.48(3) of the *Criminal Code*,

(vi) section 26 of the *Cultural Property Export and Import Act*,

(vii) section 79 of the *Family Orders and Agreements Enforcement Assistance Act*,

(viii) paragraph 33.1(a) of the *Old Age Security Act*,

(xiv) à un fonctionnaire, mais uniquement pour l'application de l'article 7.1 de la *Loi sur les arrangements fiscaux entre le gouvernement fédéral et les provinces et sur les contributions fédérales en matière d'enseignement postsecondaire et de santé*,

(xv) à un fonctionnaire du Centre d'analyse des opérations et déclarations financières du Canada, mais uniquement en vue de permettre au Centre d'évaluer l'utilité des renseignements qu'il fournit à l'Agence du revenu du Canada en vertu de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*,

(xvi) à une personne employée ou engagée par un organisme fédéral ou provincial dont le mandat comprend le versement de montants d'aide, au sens des paragraphes 125.4(1) ou 125.5(1), relativement à des productions cinématographiques ou magnétoscopiques ou à des services de production cinématographique ou magnétoscopique, mais uniquement en vue de l'application ou de l'exécution du programme dans le cadre duquel le montant d'aide est offert,

(xvii) à un fonctionnaire du Conseil de la radiodiffusion et des télécommunications canadiennes, mais uniquement en vue de l'application ou de l'exécution d'une fonction de réglementation de ce conseil,

(xviii) à un fonctionnaire de l'Agence du revenu du Canada, mais uniquement en vue de la perception d'une somme due à Sa Majesté du chef du Canada ou d'une province aux termes de la *Loi sur l'indemnisation des agents de l'État*, du *Code canadien du travail*, de la *Loi sur l'indemnisation des marins marchands*, de la *Loi fédérale sur les prêts aux étudiants*, de la *Loi fédérale sur l'aide financière aux étudiants*, de la *Loi de 1997 sur le maintien des services postaux*, de la *Loi sur le Programme de protection des salariés*, de la *Loi sur les prêts aux apprentis* ou d'une loi provinciale régissant l'octroi d'aide financière aux étudiants de niveau postsecondaire;

e) fournir un renseignement confidentiel, ou en permettre l'examen ou l'accès, en conformité avec les dispositions ou documents suivants, mais uniquement pour leur application :

(i) le paragraphe 36(2) ou l'article 46 de la *Loi sur l'accès à l'information*,

(ii) l'article 13 de la *Loi sur le vérificateur général*,

(ix) subsection 34(2) or section 45 of the *Privacy Act*,

(x) section 24 of the *Statistics Act*,

(xi) section 9 of the *Tax Rebate Discounting Act*, or

(xii) a provision contained in a tax treaty with another country or in a listed international agreement;

(f) provide taxpayer information solely for the purposes of sections 23 to 25 of the *Financial Administration Act*;

(f.1) provide taxpayer information to an official for the purposes of the administration and enforcement of the *Charities Registration (Security Information) Act*, and where an official has so received taxpayer information, the official may provide that information to another official as permitted by subsection (9.1);

(g) use taxpayer information to compile information in a form that does not directly or indirectly reveal the identity of the taxpayer to whom the information relates;

(h) use, or provide to any person, taxpayer information solely for a purpose relating to the supervision, evaluation or discipline of an authorized person by Her Majesty in right of Canada in respect of a period during which the authorized person was employed by or engaged by or on behalf of Her Majesty in right of Canada to assist in the administration or enforcement of this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act* or the *Employment Insurance Act*, to the extent that the information is relevant for the purpose;

(i) provide access to records of taxpayer information to the Librarian and Archivist of Canada or a person acting on behalf of or under the direction of the Librarian and Archivist, solely for the purposes of section 12 of the *Library and Archives of Canada Act*, and transfer such records to the care and control of such persons solely for the purposes of section 13 of that Act;

(j) use taxpayer information relating to a taxpayer to provide information to the taxpayer;

(j.1) provide taxpayer information to an official or a designated person solely for the purpose of permitting the making of an adjustment to a social assistance payment made on the basis of a means, needs or income test if the purpose of the adjustment is to take into account the amount determined for C in

(iii) l'article 92 du *Régime de pensions du Canada*,

(iv) un mandat décerné aux termes du paragraphe 21(3) de la *Loi sur le service canadien du renseignement de sécurité*,

(v) une ordonnance rendue en vertu du paragraphe 462.48(3) du *Code criminel*,

(vi) l'article 26 de la *Loi sur l'exportation et l'importation de biens culturels*,

(vii) l'article 79 de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales*,

(viii) l'alinéa 33.1a) de la *Loi sur la sécurité de la vieillesse*,

(ix) le paragraphe 34(2) ou l'article 45 de la *Loi sur la protection des renseignements personnels*,

(x) l'article 24 de la *Loi sur la statistique*,

(xi) l'article 9 de la *Loi sur la cession du droit au remboursement en matière d'impôt*,

(xii) une disposition d'un traité fiscal ou d'un accord international désigné;

f) fournir un renseignement confidentiel, mais uniquement pour l'application des articles 23 à 25 de la *Loi sur la gestion des finances publiques*;

f.1) fournir un renseignement confidentiel à un fonctionnaire pour l'application et le contrôle d'application de la *Loi sur l'enregistrement des organismes de bienfaisance (renseignements de sécurité)*; le fonctionnaire qui a ainsi reçu un renseignement confidentiel peut le fournir à un autre fonctionnaire en conformité avec le paragraphe (9.1);

g) utiliser un renseignement confidentiel en vue de compiler des renseignements sous une forme qui ne révèle pas, même indirectement, l'identité du contribuable en cause;

h) utiliser ou fournir un renseignement confidentiel, mais uniquement à une fin liée à la surveillance ou à l'évaluation d'une personne autorisée, ou à des mesures disciplinaires prises à son endroit, par Sa Majesté du chef du Canada relativement à une période au cours de laquelle la personne autorisée était soit employée par Sa Majesté du chef du Canada, soit engagée par elle ou en son nom, pour aider à l'application ou à l'exécution de la présente loi, du *Régime de pensions du Canada*, de la *Loi sur l'assurance-chômage* ou de

subsection 122.61(1) in respect of a person for a taxation year;

(j.2) provide information obtained under section 122.62 to an official of the government of a province solely for the purposes of the administration or enforcement of a prescribed law of the province;

(k) provide, or allow inspection of or access to, taxpayer information to or by any person otherwise legally entitled to it under an Act of Parliament solely for the purposes for which that person is entitled to the information;

(l) subject to subsection (9.2), provide to a representative of a government entity the business number of, the name of (including any trade name or other name used by), and any contact information, corporate information and registration information in respect of, the holder of a business number (other than an excluded individual), if the information is provided solely for the purposes of the administration or enforcement of

(i) an Act of Parliament or of a legislature of a province, or

(ii) a by-law of a municipality in Canada or a law of an aboriginal government;

(m) provide taxpayer information to an official of the government of a province solely for use in the management or administration by that government of a program relating to payments under subsection 164(1.8);

(n) provide taxpayer information to any person, solely for the purposes of the administration or enforcement of a law of a province that provides for workers' compensation benefits;

(o) provide taxpayer information to any person solely for the purpose of enabling the Chief Statistician, within the meaning assigned by section 2 of the *Statistics Act*, to provide to a statistical agency of a province data concerning business activities carried on in the province, where the information is used by the agency solely for research and analysis and the agency is authorized under the law of the province to collect the same or similar information on its own behalf in respect of such activities;

(p) provide taxpayer information to a police officer (within the meaning assigned by subsection 462.48(17) of the *Criminal Code*) solely for the purpose of investigating whether an offence has been committed under

la *Loi sur l'assurance-emploi*, dans la mesure où le renseignement a rapport à cette fin;

i) donner accès à des documents renfermant des renseignements confidentiels au bibliothécaire et archiviste du Canada ou à une personne agissant en son nom ou sur son ordre, mais uniquement pour l'application de l'article 12 de la *Loi sur la Bibliothèque et les Archives du Canada*, et transférer de tels documents sous la garde et la responsabilité de ces personnes, mais uniquement pour l'application de l'article 13 de cette loi;

j) utiliser un renseignement confidentiel concernant un contribuable en vue de lui fournir un renseignement;

j.1) fournir un renseignement confidentiel à un fonctionnaire ou à une personne déterminée, mais uniquement en vue de permettre que soit effectué, à l'égard d'un paiement d'assistance sociale fait après examen des ressources, des besoins et du revenu, un redressement ayant pour objet de prendre en compte la valeur de l'élément C de la formule figurant au paragraphe 122.61(1) à l'égard d'une personne pour une année d'imposition;

j.2) fournir à un fonctionnaire d'un gouvernement provincial un renseignement obtenu en vertu de l'article 122.62, mais uniquement en vue de l'application ou de l'exécution d'une loi de la province visée par règlement;

k) fournir un renseignement confidentiel à une personne qui y a légalement droit par ailleurs par l'effet d'une loi fédérale, ou lui en permettre l'examen ou l'accès, mais uniquement aux fins auxquelles elle y a droit;

l) sous réserve du paragraphe (9.2), fournir au représentant d'une entité gouvernementale le numéro d'entreprise d'un détenteur de numéro d'entreprise (sauf s'il s'agit d'un particulier exclu), le nom du détenteur (y compris tout nom commercial ou autre nom qu'il utilise) ainsi que les coordonnées, renseignements d'entreprise et renseignements relatifs à l'inscription le concernant, pourvu que les renseignements soient fournis uniquement en vue de l'application ou de l'exécution :

(i) d'une loi fédérale ou provinciale,

(ii) d'un règlement d'une municipalité du Canada ou d'un texte législatif d'un gouvernement autochtone;

the *Criminal Code*, or the laying of an information or the preferring of an indictment, where

(i) such information can reasonably be regarded as being necessary for the purpose of ascertaining the circumstances in which an offence under the *Criminal Code* may have been committed, or the identity of the person or persons who may have committed an offence, with respect to an official, or with respect to any person related to that official,

(ii) the official was or is engaged in the administration or enforcement of this Act, and

(iii) the offence can reasonably be considered to be related to that administration or enforcement;

(q) provide taxpayer information to an official of the government of a province solely for the use in the management or administration by that government of a program relating to earning supplementation or income support;

(r) provide taxpayer information to a person who has — under a program administered by the Canada Revenue Agency to obtain information relating to tax non-compliance — entered into a contract to provide information to the Canada Revenue Agency, to the extent necessary to inform the person of any amount they may be entitled to under the contract and of the status of their claim under the contract;

(s) provide taxpayer information, solely for the purpose of ensuring compliance with Part 1 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, to an official of the Financial Transactions and Reports Analysis Centre of Canada, if the information

(i) can reasonably be considered to be relevant to a determination of whether a reporting entity (as defined in section 244.1) has complied with a duty or obligation under Part XV.1, and

(ii) does not directly or indirectly reveal the identity of a client (as defined in section 244.1); or

(t) provide taxpayer information to an official solely for the purpose of enabling the Chief Actuary of the Office of the Superintendent of Financial Institutions to conduct actuarial reviews of pension plans established under the *Old Age Security Act* as required by the *Public Pensions Reporting Act*.

m) fournir un renseignement confidentiel à un fonctionnaire d'un gouvernement provincial, mais uniquement à une fin liée à la gestion ou à l'administration par ce gouvernement d'un programme concernant les versements faits aux termes du paragraphe 164(1.8);

n) fournir à une personne un renseignement confidentiel, mais uniquement en vue de l'application ou de l'exécution d'une loi provinciale qui prévoit l'indemnisation en cas d'accident du travail;

o) fournir un renseignement confidentiel à toute personne, mais uniquement en vue de permettre au statisticien en chef, au sens de l'article 2 de la *Loi sur la statistique*, de fournir à un organisme de la statistique d'une province des données portant sur les activités d'entreprise exercées dans la province, à condition que le renseignement soit utilisé par l'organisme uniquement aux fins de recherche et d'analyse et que l'organisme soit autorisé en vertu des lois de la province à recueillir, pour son propre compte, le même renseignement ou un renseignement semblable relativement à ces activités;

p) fournir un renseignement confidentiel à un policier, au sens du paragraphe 462.48(17) du *Code criminel*, mais uniquement en vue de déterminer si une infraction visée à cette loi a été commise ou en vue du dépôt d'une dénonciation ou d'un acte d'accusation, si, à la fois :

(i) il est raisonnable de considérer que le renseignement est nécessaire pour confirmer les circonstances dans lesquelles une infraction au *Code criminel* peut avoir été commise, ou l'identité de la ou des personnes pouvant avoir commis une infraction, à l'égard d'un fonctionnaire ou de toute personne qui lui est liée,

(ii) le fonctionnaire est ou était chargé de l'application ou de l'exécution de la présente loi,

(iii) il est raisonnable de considérer que l'infraction est liée à cette application ou exécution;

q) fournir un renseignement confidentiel à un fonctionnaire d'un gouvernement provincial, mais uniquement en vue de l'application par ce gouvernement d'un programme de supplément de revenu ou de soutien du revenu;

r) fournir des renseignements confidentiels à une personne qui a conclu, dans le cadre d'un programme administré par l'Agence du revenu du Canada qui permet d'obtenir des renseignements concernant l'inobservation fiscale, un contrat pour la fourniture de renseignements à l'Agence du revenu du Canada, dans la

mesure nécessaire pour informer la personne de toute somme qu'elle pourrait recevoir en vertu du contrat et de l'état de son dossier en vertu du contrat;

s) fournir à un fonctionnaire du Centre d'analyse des opérations et déclarations financières du Canada, dans l'unique but d'assurer l'observation de la partie 1 de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*, des renseignements confidentiels :

(i) d'une part, qu'il est raisonnable de considérer comme étant utiles pour déterminer si une entité déclarante, au sens de l'article 244.1, s'est conformée à un devoir ou à une obligation prévu par la partie XV.1,

(ii) d'autre part, qui ne révèlent pas, même indirectement, l'identité d'un client, au sens de l'article 244.1;

t) fournir des renseignements confidentiels à un fonctionnaire, mais uniquement en vue de permettre à l'actuaire en chef du Bureau du surintendant des institutions financières d'effectuer des révisions actuarielles des régimes de pension établis sous le régime de la *Loi sur la sécurité de la vieillesse* conformément aux exigences de la *Loi sur les rapports relatifs aux pensions publiques*.

Measures to prevent unauthorized use or disclosure

(4.1) The person who presides at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may order such measures as are necessary to ensure that taxpayer information is not used or provided to any person for any purpose not relating to that proceeding, including

(a) holding a hearing *in camera*;

(b) banning the publication of the information;

(c) concealing the identity of the taxpayer to whom the information relates; and

(d) sealing the records of the proceeding.

Mesures visant à prévenir l'utilisation ou la divulgation non autorisées d'un renseignement

(4.1) La personne qui préside une procédure judiciaire concernant la surveillance ou l'évaluation d'une personne autorisée ou des mesures disciplinaires prises à son endroit peut ordonner la mise en œuvre des mesures nécessaires pour éviter qu'un renseignement confidentiel soit utilisé ou fourni à une fin étrangère à la procédure, y compris :

a) la tenue d'une audience à huis clos;

b) la non-publication du renseignement;

c) la suppression de l'identité du contribuable en cause;

d) la mise sous scellés du procès-verbal des délibérations.

Disclosure to taxpayer or on consent

(5) An official or other representative of a government entity may provide taxpayer information relating to a taxpayer

(a) to the taxpayer; and

Divulgation d'un renseignement confidentiel

(5) Un fonctionnaire ou autre représentant d'une entité gouvernementale peut fournir un renseignement confidentiel :

a) au contribuable en cause;

(b) with the consent of the taxpayer, to any other person.

b) à toute autre personne, avec le consentement du contribuable en cause.

Appeal from order or direction

(6) An order or direction that is made in the course of or in connection with any legal proceedings and that requires an official, other representative of a government entity or authorized person to give or produce evidence relating to any taxpayer information may, by notice served on all interested parties, be appealed forthwith by the Minister or by the person against whom the order or direction is made to

(a) the court of appeal of the province in which the order or direction is made, in the case of an order or direction made by a court or other tribunal established by or pursuant to the laws of the province, whether or not that court or tribunal is exercising a jurisdiction conferred by the laws of Canada; or

(b) the Federal Court of Appeal, in the case of an order or direction made by a court or other tribunal established by or pursuant to the laws of Canada.

Appel d'une ordonnance ou des instructions

(6) Le ministre ou la personne — fonctionnaire, autre représentant d'une entité gouvernementale ou personne autorisée — contre laquelle une ordonnance est rendue ou des instructions données dans le cadre ou à l'occasion d'une procédure judiciaire enjoignant à la personne de témoigner, ou de produire quoi que ce soit, relativement à un renseignement confidentiel peut sans délai, par avis signifié aux parties intéressées, interjeter appel de l'ordonnance ou des instructions auprès :

a) la cour d'appel de la province dans laquelle l'ordonnance est rendue ou les instructions sont données, dans le cas d'une ordonnance rendue ou d'instructions données par une cour ou un autre tribunal établi sous le régime des lois de la province, que cette cour ou ce tribunal exerce ou non une compétence conférée par les lois du Canada;

b) la Cour d'appel fédérale, dans le cas d'une ordonnance rendue ou d'instructions données par une cour ou un autre tribunal établi sous le régime des lois du Canada.

Disposition of appeal

(7) The court to which an appeal is taken pursuant to subsection 241(6) may allow the appeal and quash the order or direction appealed from or dismiss the appeal, and the rules of practice and procedure from time to time governing appeals to the courts shall apply, with such modifications as the circumstances require, to an appeal instituted pursuant to that subsection.

Décision quant à l'appel

(7) La cour à laquelle est interjeté appel en conformité avec le paragraphe (6) peut permettre l'appel et annuler l'ordonnance ou les instructions frappées d'appel ou rejeter l'appel, et les règles de pratique et la procédure régissant les appels à la cour s'appliquent, avec les adaptations nécessaires, à un appel interjeté en conformité avec ce paragraphe.

Stay of order or direction

(8) An appeal instituted pursuant to subsection 241(6) shall stay the operation of the order or direction appealed from until judgment is pronounced.

Sursis

(8) Un appel interjeté en conformité avec le paragraphe (6) diffère l'application de l'ordonnance ou des instructions frappées d'appel jusqu'au prononcé du jugement.

Threats to security

(9) An official may provide to the head, or their delegate, of a recipient Government of Canada institution listed in Schedule 3 to the *Security of Canada Information Sharing Act*

(a) publicly accessible charity information;

(b) taxpayer information, if there are reasonable grounds to suspect that the information would be relevant to

(i) an investigation of whether the activity of any person may constitute threats to the security of

Menaces à la sécurité

(9) Un fonctionnaire peut fournir les renseignements ci-après au responsable d'une institution fédérale destinataire figurant à l'annexe 3 de la *Loi sur la communication d'information ayant trait à la sécurité du Canada*, ou à son délégué :

a) les renseignements d'organismes de bienfaisance accessibles au public;

b) des renseignements confidentiels, s'il existe des motifs raisonnables de soupçonner qu'ils seraient utiles aux fins suivantes :

Canada, as defined in section 2 of the *Canadian Security Intelligence Service Act*, or

(ii) an investigation of whether any of the following offences may have been committed:

(A) a terrorism offence as defined in section 2 of the *Criminal Code*, and

(B) an offence under section 462.31 of the *Criminal Code*, if that investigation is related to a terrorism offence as defined in section 2 of that Act; and

(c) information setting out the reasonable grounds referred to in paragraph (b), to the extent that any such grounds rely on information referred to in paragraph (a) or (b).

(i) toute enquête visant à vérifier si les activités d'une personne sont de nature à constituer des menaces envers la sécurité du Canada, au sens de l'article 2 de la *Loi sur le Service canadien du renseignement de sécurité*,

(ii) toute enquête visant à établir si l'une des infractions ci-après peut avoir été commise :

(A) une infraction de terrorisme, au sens de l'article 2 du *Code criminel*,

(B) une infraction prévue à l'article 462.31 du *Code criminel*, si l'enquête en cause est liée à une infraction de terrorisme au sens de l'article 2 de cette loi;

c) les renseignements établissant les motifs raisonnables mentionnés à l'alinéa b), dans la mesure où ces motifs sont fondés sur les renseignements visés aux alinéas a) ou b).

Threats to security

(9.1) Information — other than designated donor information — provided to an official of the Canadian Security Intelligence Service or the Royal Canadian Mounted Police, as permitted by paragraph (4)(f.1), may be used by such an official, or communicated by such an official to another official of the Canadian Security Intelligence Service or the Royal Canadian Mounted Police for use by that other official, for the purpose of

(a) investigating whether an offence may have been committed, ascertaining the identity of a person or persons who may have committed an offence, or prosecuting an offence, which offence is

(i) described in Part II.1 of the *Criminal Code*, or

(ii) described in section 462.31 of the *Criminal Code*, if that investigation, ascertainment or prosecution is related to an investigation, ascertainment or prosecution in respect of an offence described in Part II.1 of that Act; or

(b) investigating whether the activities of any person may constitute threats to the security of Canada, as defined in section 2 of the *Canadian Security Intelligence Service Act*.

Menaces à la sécurité

(9.1) Tout fonctionnaire du Service canadien du renseignement de sécurité ou de la Gendarmerie royale du Canada à qui des renseignements, sauf les renseignements désignés sur les donateurs, sont fournis en conformité avec l'alinéa (4)f.1) peut les utiliser, ou les communiquer à un autre fonctionnaire du Service canadien du renseignement de sécurité ou de la Gendarmerie royale du Canada pour que celui-ci les utilise, en vue :

a) de mener une enquête pour établir si une infraction prévue aux dispositions ci-après peut avoir été commise, de vérifier l'identité de toute personne pouvant avoir commis une telle infraction ou d'intenter une poursuite relative à une telle infraction :

(i) les dispositions de la partie II.1 du *Code criminel*,

(ii) l'article 462.31 du *Code criminel*, si l'enquête, la vérification ou la poursuite en cause est liée à une enquête, à une vérification ou à une poursuite relatives à une infraction prévue à la partie II.1 de cette loi;

b) de mener une enquête pour établir si les activités d'une personne sont de nature à constituer des menaces envers la sécurité du Canada, au sens de la *Loi sur le Service canadien du renseignement de sécurité*.

Restrictions on information sharing

(9.2) No information may be provided to a representative of a government entity under paragraph (4)(l) in connection with a program, activity or service provided

Restriction — partage des renseignements

(9.2) Un renseignement ne peut être fourni au représentant d'une entité gouvernementale en conformité avec l'alinéa (4)l) relativement à un programme, à une activité

or undertaken by the government entity unless the government entity uses the business number as an identifier in connection with the program, activity or service.

Public disclosure

(9.3) The Minister may, in connection with a program, activity or service provided or undertaken by the Minister, make available to the public the business number of, and the name of (including any trade name or other name used by), the holder of a business number (other than an excluded individual).

Public disclosure by representative of government entity

(9.4) A representative of a government entity may, in connection with a program, activity or service provided or undertaken by the government entity, make available to the public the business number of, and the name of (including any trade name or other name used by), the holder of a business number (other than an excluded individual), if

(a) a representative of the government entity was provided with that information pursuant to paragraph (4)(l); and

(b) the government entity uses the business number as an identifier in connection with the program, activity or service.

Serious offences

(9.5) An official may provide to a law enforcement officer of an appropriate police organization

(a) taxpayer information, if the official has reasonable grounds to believe that the information will afford evidence of an act or omission in or outside of Canada that, if committed in Canada, would be

(i) an offence under any of

(A) section 3 of the *Corruption of Foreign Public Officials Act*,

(B) sections 119 to 121, 123 to 125 and 426 of the *Criminal Code*,

(C) section 465 of the *Criminal Code* as it relates to an offence described in clause (B), and

(D) sections 144, 264, 271, 279, 279.02, 281 and 333.1, paragraphs 334(a) and 348(1)(e) and sections 349, 435 and 462.31 of the *Criminal Code*,

(ii) a terrorism offence or a criminal organization offence, as those terms are defined in section 2 of

ou à un service offert ou entrepris par l'entité que si celle-ci utilise le numéro d'entreprise comme identificateur du programme, de l'activité ou du service.

Communication au public

(9.3) Le ministre peut mettre à la disposition du public, relativement à un programme, à une activité ou à un service qu'il offre ou entreprend, le numéro d'entreprise d'un détenteur de numéro d'entreprise (sauf s'il s'agit d'un particulier exclu) ainsi que le nom du détenteur (y compris tout nom commercial ou autre nom qu'il utilise).

Communication au public par le représentant d'une entité gouvernementale

(9.4) Le représentant d'une entité gouvernementale peut mettre à la disposition du public, relativement à un programme, à une activité ou à un service offert ou entrepris par l'entité, le numéro d'entreprise d'un détenteur de numéro d'entreprise (sauf s'il s'agit d'un particulier exclu) ainsi que le nom du détenteur (y compris tout nom commercial ou autre nom qu'il utilise) si, à la fois :

a) ces renseignements ont été fournis à un représentant de l'entité en conformité avec l'alinéa (4)l);

b) l'entité utilise le numéro d'entreprise comme identificateur du programme, de l'activité ou du service.

Infractions graves

(9.5) Un fonctionnaire peut fournir les renseignements ci-après à un agent d'exécution de la loi d'une organisation de police compétente :

a) des renseignements confidentiels, si le fonctionnaire a des motifs raisonnables de croire qu'ils constituent des éléments de preuve d'une action ou d'une omission commise au Canada ou à l'étranger qui, si elle était commise au Canada, constituerait :

(i) une infraction prévue à l'une des dispositions suivantes :

(A) l'article 3 de la *Loi sur la corruption d'agents publics étrangers*,

(B) les articles 119 à 121, 123 à 125 et 426 du *Code criminel*,

(C) l'article 465 du *Code criminel*, relativement à une infraction visée à la division (B),

(D) les articles 144, 264, 271, 279, 279.02, 281 et 333.1, les alinéas 334a) et 348(1)e) et les articles 349, 435 et 462.31 du *Code criminel*,

the *Criminal Code*, for which the maximum term of imprisonment is 10 years or more, or

(iii) an offence

(A) that is punishable by a minimum term of imprisonment,

(B) for which the maximum term of imprisonment is 14 years or life, or

(C) for which the maximum term of imprisonment is 10 years and that

(I) resulted in bodily harm,

(II) involved the import, export, trafficking or production of drugs, or

(III) involved the use of a weapon; and

(b) information setting out the reasonable grounds referred to in paragraph (a), to the extent that any such grounds rely on information referred to in that paragraph.

Definitions

(10) In this section

aboriginal government means an aboriginal government as defined in subsection 2(1) of the *Federal-Provincial Fiscal Arrangements Act*; (*gouvernement autochtone*)

authorized person means a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of Her Majesty in right of Canada to assist in carrying out the provisions of this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act* or the *Employment Insurance Act*; (*personne autorisée*)

business number [Repealed, 1998, c. 19, s. 236(9)]

contact information, in respect of a holder of a business number, means the name, address, telephone number, facsimile number and preferred language of communication of the holder, or similar information as specified by the Minister in respect of the holder, and includes such information in respect of one or more

(a) trustees of the holder, if the holder is a trust,

(b) members of the holder, if the holder is a partnership,

(ii) une infraction de terrorisme ou une infraction d'organisation criminelle, au sens de l'article 2 du *Code criminel*, passible d'une peine maximale d'emprisonnement de dix ans ou plus,

(iii) une infraction passible :

(A) d'une peine minimale d'emprisonnement,

(B) d'une peine maximale d'emprisonnement de quatorze ans ou d'emprisonnement à perpétuité,

(C) d'une peine maximale d'emprisonnement de dix ans, et, selon le cas :

(I) dont la perpétration entraîne des lésions corporelles,

(II) qui met en cause l'importation, l'exportation, le trafic ou la production de drogues,

(III) qui met en cause l'usage d'une arme;

b) les renseignements établissant les motifs raisonnables mentionnés à l'alinéa a), dans la mesure où ces motifs sont fondés sur les renseignements visés à cet alinéa.

Définitions

(10) Les définitions qui suivent s'appliquent au présent article.

coordonnées En ce qui concerne le détenteur d'un numéro d'entreprise, ses nom, adresse, numéro de téléphone, numéro de télécopieur et langue de communication préférée, ou tous renseignements semblables le concernant déterminés par le ministre, y compris les renseignements de cet ordre concernant l'une ou plusieurs des entités suivantes :

a) ses fiduciaires, si le détenteur est une fiducie;

b) ses associés, s'il est une société de personnes;

c) ses cadres, s'il est une société;

d) ses cadres ou membres, s'il n'est pas visé à l'un des alinéas a) à c). (*contact information*)

cour d'appel S'entend au sens de la définition de cette expression à l'article 2 du *Code criminel*. (*court of appeal*)

entité gouvernementale

a) Ministère ou agence du gouvernement du Canada ou d'une province;

(c) officers of the holder, if the holder is a corporation, or

(d) officers or members of the holder, if the holder is not described by any of paragraphs (a) to (c); (*coordonnées*)

corporate information, in respect of a holder of a business number that is a corporation, means the name (including the number assigned by the incorporating authority), date of incorporation, jurisdiction of incorporation and any information on the dissolution, reorganization, amalgamation, winding-up or revival of the corporation; (*renseignements d'entreprise*)

court of appeal has the meaning assigned by the definition ***court of appeal*** in section 2 of the *Criminal Code*; (*cour d'appel*)

designated donor information means information of a charity, or of a person who has at any time made an application for registration as a registered charity, that is directly attributable to a gift that has been made or proposed to be made to the charity or applicant and that is presented in any form that directly or indirectly reveals the identity of the donor or prospective donor, other than a donor or prospective donor who is not resident in Canada and is neither a citizen of Canada nor a person described in subsection 2(3); (*renseignements désignés sur les donateurs*)

designated person means any person who is employed in the service of, who occupies a position of responsibility in the service of, or who is engaged by or on behalf of,

(a) a municipality in Canada, or

(b) a public body performing a function of government in Canada,

or any person who was formerly so employed, who formerly occupied such a position or who was formerly so engaged; (*personne déterminée*)

designated taxpayer information [Repealed, 2015, c. 20, s. 6]

excluded individual means an individual who is a holder of a business number solely because the individual is required under this Act to deduct or withhold an amount from an amount paid or credited or deemed to be paid or credited; (*particulier exclu*)

government entity means

b) municipalité du Canada;

c) gouvernement autochtone;

d) société dont l'ensemble des actions du capital-actions, à l'exception des actions conférant l'admissibilité aux postes d'administrateurs, appartiennent à une ou plusieurs des personnes suivantes :

(i) Sa Majesté du chef du Canada,

(ii) Sa Majesté du chef d'une province,

(iii) une municipalité du Canada,

(iv) une société visée au présent alinéa;

e) conseil ou commission, établi par Sa Majesté du chef du Canada ou d'une province ou par une ou plusieurs municipalités du Canada, qui exerce une fonction gouvernementale ou municipale, selon le cas, d'ordre administratif ou réglementaire. (*government entity*)

fonctionnaire Personne qui est ou a été employée par la personne ou l'administration suivante, qui occupe ou a occupé une fonction de responsabilité au service d'une telle personne ou administration ou qui est ou a été engagée par une telle personne ou administration ou en son nom :

a) Sa Majesté du chef du Canada ou d'une province;

b) une administration chargée de l'application d'une loi provinciale semblable à la *Loi de 1985 sur les normes de prestation de pension* ou à la *Loi sur les régimes de pension agréés collectifs*.

Pour l'application du paragraphe 239(2.21), des paragraphes (1) et (2), du passage du paragraphe (4) précédant l'alinéa a) et des paragraphes (5) et (6), une personne déterminée est assimilée à un fonctionnaire. (*official*)

gouvernement autochtone S'entend au sens du paragraphe 2(1) de la *Loi sur les arrangements fiscaux entre le gouvernement fédéral et les provinces*. (*aboriginal government*)

numéro d'entreprise [Abrogée, 1998, ch. 19, art. 236(9)]

particulier exclu Particulier qui est détenteur d'un numéro d'entreprise du seul fait qu'il est tenu en vertu de la présente loi d'opérer une déduction ou une retenue sur une somme payée ou créditée, ou réputée l'être. (*excluded individual*)

(a) a department or agency of the government of Canada or of a province,

(b) a municipality in Canada,

(c) an aboriginal government,

(d) a corporation all of the shares (except directors' qualifying shares) of the capital stock of which are owned by one or more persons each of which is

(i) Her Majesty in right of Canada,

(ii) Her Majesty in right of a province,

(iii) a municipality in Canada, or

(iv) a corporation described in this paragraph, or

(e) a board or commission, established by Her Majesty in right of Canada or Her Majesty in right of a province, that performs an administrative or regulatory function of government, or by one or more municipalities in Canada, that performs an administrative or regulatory function of a municipality; (*entité gouvernementale*)

official means any person who is employed in the service of, who occupies a position of responsibility in the service of, or who is engaged by or on behalf of,

(a) Her Majesty in right of Canada or a province, or

(b) an authority engaged in administering a law of a province similar to the *Pension Benefits Standards Act, 1985* or the *Pooled Registered Pension Plans Act*,

or any person who was formerly so employed, who formerly occupied such a position or who was formerly so engaged and, for the purposes of subsection 239(2.21), subsections 241(1) and 241(2), the portion of subsection 241(4) before paragraph (a), and subsections 241(5) and 241(6), includes a designated person; (*fonctionnaire*)

publicly accessible charity information means taxpayer information that is

(a) described in subsection (3.2), or that would be described in that subsection if the words "that was at any time a registered charity" were read as "that has at any time made an application for registration as a registered charity",

(b) information — other than designated donor information — submitted to the Minister with, or required to be contained in, any public information return filed or required to be filed under subsection 149.1(14), or

personne autorisée Personne engagée ou employée, ou précédemment engagée ou employée, par Sa Majesté du chef du Canada, ou en son nom, pour aider à l'application des dispositions de la présente loi, du *Régime de pensions du Canada*, de la *Loi sur l'assurance-chômage* ou de la *Loi sur l'assurance-emploi*. (*authorized person*)

personne déterminée Personne qui est ou a été employée par la personne ou l'organisme suivant, qui occupe ou a occupé une fonction de responsabilité au service d'une telle personne ou d'un tel organisme ou qui est ou a été engagée par une telle personne ou un tel organisme, ou en son nom :

a) une municipalité du Canada;

b) un organisme public remplissant des fonctions gouvernementales au Canada. (*designated person*)

renseignement confidentiel Renseignement de toute nature et sous toute forme concernant un ou plusieurs contribuables et qui, selon le cas :

a) est obtenu par le ministre ou en son nom pour l'application de la présente loi;

b) est tiré d'un renseignement visé à l'alinéa a).

N'est pas un renseignement confidentiel le renseignement qui ne révèle pas, même indirectement, l'identité du contribuable en cause. Par ailleurs, pour l'application des paragraphes (2), (5) et (6) au représentant d'une entité gouvernementale qui n'est pas un fonctionnaire, le terme ne vise que les renseignements mentionnés à l'alinéa (4)l). (*taxpayer information*)

renseignement confidentiel désigné [Abrogée, 2015, ch. 20, art. 6]

renseignement d'organismes de bienfaisance accessible au public Renseignement confidentiel qui, selon le cas :

a) est visé au paragraphe (3.2), ou le serait si le passage « qui a été un organisme de bienfaisance enregistré à un moment donné » était remplacé par « qui a présenté une demande d'enregistrement à titre d'organisme de bienfaisance enregistré à un moment donné »;

b) est un renseignement (sauf des renseignements désignés sur les donateurs) qui est présenté au ministre avec toute déclaration publique de renseignements produite ou à produire en application du paragraphe 149.1(14), ou qui doit figurer dans une telle déclaration;

(c) information prepared from information referred to in paragraph (a) or (b); (*renseignement d'organismes de bienfaisance accessible au public*)

registration information, in respect of a holder of a business number, means

(a) any information pertaining to the legal form of the holder,

(b) the type of activities carried on or proposed to be carried on by the holder,

(c) each date on which

(i) the business number was issued to the holder,

(ii) the holder began activities,

(iii) the holder ceased or resumed activities, or

(iv) the business number assigned to the holder was changed, and

(d) the reasons for the cessation, resumption or change referred to in subparagraph (c)(iii) or (iv); (*renseignements relatifs à l'inscription*)

representative of a government entity means a person who is employed in the service of, who occupies a position of responsibility in the service of, or who is engaged by or on behalf of, a government entity, and includes, for the purposes of subsections (1), (2), (5) and (6), a person who was formerly so employed, who formerly occupied such a position or who formerly was so engaged; (*représentant*)

taxpayer information means information of any kind and in any form relating to one or more taxpayers that is

(a) obtained by or on behalf of the Minister for the purposes of this Act, or

(b) prepared from information referred to in paragraph (a),

but does not include information that does not directly or indirectly reveal the identity of the taxpayer to whom it relates and, for the purposes of applying subsections (2), (5) and (6) to a representative of a government entity that is not an official, taxpayer information includes only the information referred to in paragraph (4)(l). (*renseignement confidentiel*)

c) est un renseignement tiré des renseignements visés aux alinéas a) ou b). (*publicly accessible charity information*)

renseignements d'entreprise En ce qui concerne le détenteur d'un numéro d'entreprise qui est une société, sa dénomination sociale (y compris le numéro attribué par l'autorité constitutive), la date et le lieu de sa constitution ainsi que tout renseignement concernant sa dissolution, réorganisation, fusion, liquidation ou reconstitution. (*corporate information*)

renseignements désignés sur les donateurs Renseignements d'un organisme de bienfaisance, ou d'une personne ayant présenté à un moment donné une demande d'enregistrement à ce titre, qui sont directement attribuables à un don effectif ou projeté à l'organisme ou à la personne et qui sont présentés sous une forme qui révèle, directement ou indirectement, l'identité du donateur effectif ou éventuel, sauf si ce donateur ne réside pas au Canada et n'est ni un citoyen du Canada ni une personne visée au paragraphe 2(3). (*designated donor information*)

renseignements relatifs à l'inscription En ce qui concerne le détenteur d'un numéro d'entreprise :

a) tout renseignement concernant sa forme juridique;

b) le type d'activités qu'il exerce ou se propose d'exercer;

c) la date de chacun des événements suivants :

(i) l'attribution de son numéro d'entreprise,

(ii) le début de ses activités,

(iii) la cessation ou la reprise de ses activités,

(iv) le remplacement de son numéro d'entreprise;

d) la raison de la cessation, de la reprise ou du remplacement visés aux sous-alinéas c)(iii) ou (iv). (*registration information*)

représentant Est représentant d'une entité gouvernementale toute personne qui est employée par l'entité, qui occupe une fonction de responsabilité à son service ou qui est engagée par elle ou en son nom, y compris, pour l'application des paragraphes (1), (2), (5) et (6), toute personne qui a déjà été ainsi employée, a déjà occupé une telle fonction ou a déjà été ainsi engagée. (*representative*)

References to "this Act"

(11) The references in subsections (1), (3), (4) and (10) to "this Act" shall be read as references to "this Act or the *Federal-Provincial Fiscal Arrangements Act*".

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 241; 1994, c. 7, Sch. II, s. 190, Sch. IV, s. 16, Sch. VIII, s. 137, c. 38, s. 26, c. 41, s. 38; 1995, c. 3, s. 51, c. 11, s. 45, c. 38, s. 5; 1996, c. 11, s. 63, c. 21, s. 59, c. 23, s. 187, 189; 1997, c. 25, s. 70; 1998, c. 19, ss. 65, 236, c. 21, ss. 75, 97, 120; 1999, c. 10, s. 45, c. 26, s. 41; 2001, c. 17, s. 186, c. 41, s. 118; 2004, c. 11, s. 32, c. 26, s. 22; 2005, c. 19, s. 51, c. 21, s. 103, c. 34, s. 71, c. 49, s. 6; 2006, c. 4, s. 179, c. 12, s. 45; 2007, c. 35, ss. 64, 122; 2009, c. 2, s. 75; 2010, c. 12, s. 21; 2011, c. 24, s. 71; 2012, c. 19, ss. 302, 692, c. 27, ss. 29, 36, c. 31, s. 53; 2013, c. 34, s. 357, c. 40, ss. 87, 231; 2014, c. 13, s. 115, c. 20, ss. 28, 458, c. 39, s. 70; 2015, c. 20, s. 6; 2016, c. 7, s. 47.

Mention « présente loi »

(11) La mention « présente loi » aux paragraphes (1), (3), (4) et (10) vaut mention de la présente loi et de la *Loi sur les arrangements fiscaux entre le gouvernement fédéral et les provinces*.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 241; 1994, ch. 7, ann. II, art. 190, ann. IV, art. 16, ann. VIII, art. 137, ch. 38, art. 26, ch. 41, art. 38; 1995, ch. 3, art. 51, ch. 11, art. 45, ch. 38, art. 5; 1996, ch. 11, art. 63, ch. 21, art. 59, ch. 23, art. 187 et 189; 1997, ch. 25, art. 70; 1998, ch. 19, art. 65 et 236, ch. 21, art. 75, 97 et 120; 1999, ch. 10, art. 45, ch. 26, art. 41; 2001, ch. 17, art. 186, ch. 41, art. 118; 2004, ch. 11, art. 32, ch. 26, art. 22; 2005, ch. 19, art. 51, ch. 21, art. 103, ch. 34, art. 71, ch. 49, art. 6; 2006, ch. 4, art. 179, ch. 12, art. 45; 2007, ch. 35, art. 64 et 122; 2009, ch. 2, art. 75; 2010, ch. 12, art. 21; 2011, ch. 24, art. 71; 2012, ch. 19, art. 302 et 692, ch. 27, art. 29 et 36, ch. 31, art. 53; 2013, ch. 34, art. 357, ch. 40, art. 87 et 231; 2014, ch. 13, art. 115, ch. 20, art. 28 et 458, ch. 39, art. 70; 2015, ch. 20, art. 6; 2016, ch. 7, art. 47.

Officers, etc., of corporations

242 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"242".

Responsabilité pénale des dirigeants, etc. de sociétés

242 En cas de perpétration par une société d'une infraction à la présente loi, ceux de ses dirigeants, administrateurs ou mandataires qui l'ont ordonnée ou autorisée, ou qui y ont consenti ou participé, sont considérés comme des coauteurs de l'infraction et encourent, sur déclaration de culpabilité, la peine prévue, que la société ait été ou non poursuivie ou déclarée coupable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 242 ».

Power to decrease punishment

243 Notwithstanding the *Criminal Code* or any other statute or law in force on June 30, 1948, the court has, in any prosecution or proceeding under this Act, no power to impose less than the minimum fine or imprisonment fixed by this Act or to suspend sentence.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"243".

Pouvoir de diminuer les peines

243 Malgré le *Code criminel* ou toute autre loi ou règle de droit en vigueur le 30 juin 1948, le tribunal n'a, dans toute poursuite ou procédure engagée sous le régime de la présente loi, aucun pouvoir d'imposer moins que l'amende ou l'emprisonnement minimal que fixe la présente loi, et il ne peut surseoir à l'exécution d'une peine.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 243 ».

Procedure and Evidence

Information or complaint

244 (1) An information or complaint under this Act may be laid or made by any officer of the Canada Revenue Agency, by a member of the Royal Canadian Mounted Police or by any person thereto authorized by the Minister and, where an information or complaint purports to have been laid or made under this Act, it shall be deemed to have been laid or made by a person thereto authorized by the Minister and shall not be called in question for lack of authority of the informant or complainant except by the Minister or by a person acting for the Minister or Her Majesty.

Two or more offences

(2) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, complaint, warrant, conviction or other

Procédure et preuve

Dénonciation ou plainte

244 (1) Une dénonciation ou plainte relative à la présente loi peut être déposée ou faite par tout fonctionnaire de l'Agence du revenu du Canada, par un membre de la Gendarmerie royale du Canada, ou par toute personne qui y est autorisée par le ministre, et lorsqu'une dénonciation ou plainte est réputée avoir été déposée ou faite en vertu de la présente loi, elle est réputée avoir été déposée ou faite par une personne qui y est autorisée par le ministre et elle ne peut être contestée pour cause d'autorisation insuffisante du dénonciateur ou du plaignant que par le ministre ou par une personne agissant en son nom ou au nom de Sa Majesté.

Plusieurs infractions

(2) Une dénonciation ou plainte à l'égard d'une infraction à la présente loi peut viser une ou plusieurs infractions. Aucune dénonciation ou plainte, aucun mandat,

proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

aucune déclaration de culpabilité ou autre procédure dans une poursuite intentée en vertu de la présente loi n'est susceptible d'opposition ou n'est insuffisante du fait que plusieurs infractions sont visées.

Venue

(3) An information or complaint in respect of an offence under this Act may be heard, tried or determined by any court, judge or justice if the accused is resident, carrying on business, found or apprehended or is in custody within the territorial jurisdiction of the court, judge or justice, as the case may be, although the matter of the information or complaint did not arise within that jurisdiction.

Ressort

(3) Une dénonciation ou plainte à l'égard d'une infraction à la présente loi peut être entendue, jugée ou décidée par tout tribunal, juge ou juge de paix du ressort où l'accusé réside, exploite une entreprise, est trouvé ou appréhendé ou est détenu, indépendamment du lieu de perpétration de l'infraction.

Limitation period

(4) An information or complaint under the provisions of the *Criminal Code* relating to summary convictions, in respect of an offence under this Act, may be laid or made at any time within but not later than 8 years after the day on which the matter of the information or complaint arose.

Prescription des poursuites

(4) Une dénonciation ou plainte peut être déposée ou faite en application des dispositions du *Code criminel* sur les déclarations de culpabilité par procédure sommaire, à l'égard d'une infraction à la présente loi, au plus tard le jour qui tombe huit ans après le jour où l'objet de la dénonciation ou de la plainte a pris naissance.

Proof of service by mail

(5) Where, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed (indicating the address) and that the officer identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand, shall, in the absence of proof to the contrary, be received as evidence of the sending and of the request, notice or demand.

Preuve de signification par poste

(5) Lorsque la présente loi ou son règlement prévoit l'envoi par la poste d'une demande de renseignements, d'un avis ou d'une demande formelle, un affidavit d'un fonctionnaire de l'Agence du revenu du Canada, souscrit en présence d'un commissaire ou d'une autre personne autorisée à recevoir les affidavits, indiquant qu'il est au courant des faits de l'espèce, que la demande, l'avis ou la demande formelle en question a été adressée, par lettre recommandée, à une date indiquée, à la personne à qui elle a été adressée (fournissant cette adresse) et qu'il identifie comme pièces attachées à l'affidavit, le certificat de recommandation de la lettre fourni par le bureau de poste ou une copie conforme de la partie pertinente du certificat et une copie conforme de la demande, de l'avis ou de la demande formelle, doit être reçu comme preuve, sauf preuve contraire, de l'envoi ainsi que de la demande, de l'avis ou de la demande formelle.

Proof of personal service

(6) Where, by this Act or a regulation, provision is made for personal service of a request for information, notice or demand, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has knowledge of the facts in the particular case, that such a request, notice or demand was served personally on a named day on the person to whom it was directed and that the officer identifies as an exhibit attached to the affidavit a true copy of the request, notice or demand, shall, in the absence of proof to the contrary, be received

Preuve de la signification à personne

(6) Lorsque la présente loi ou son règlement prévoit la signification à personne d'une demande de renseignements, d'un avis ou d'une demande formelle, un affidavit d'un fonctionnaire de l'Agence du revenu du Canada, souscrit en présence d'un commissaire ou d'une autre personne autorisée à recevoir les affidavits, indiquant qu'il est au courant des faits de l'espèce, que la demande, l'avis ou la demande formelle en question a été signifiée à personne, un jour désigné, au destinataire, et qu'il identifie comme pièce attachée à l'affidavit une copie conforme de la demande, de l'avis ou de la demande formelle, doit être reçu comme preuve, sauf preuve contraire, de la

as evidence of the personal service and of the request, notice or demand.

Proof of failure to comply

(7) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that after a careful examination and search of those records the officer has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made by that person, shall, in the absence of proof to the contrary, be received as evidence that in that case that person did not make the return, statement, answer or certificate, as the case may be.

Proof of time of compliance

(8) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that after careful examination of those records the officer has found that the return, statement, answer or certificate was filed or made on a particular day, shall, in the absence of proof to the contrary, be received as evidence that it was filed or made on that day and not prior thereto.

Proof of documents

(9) An affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that a document annexed to the affidavit is a document or true copy of a document, or a print-out of an electronic document, made by or on behalf of the Minister or a person exercising a power of the Minister or by or on behalf of a taxpayer, is evidence of the nature and contents of the document.

Proof of no appeal

(10) An affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and has knowledge of the practice of the Agency and that an examination of those records shows that a notice of assessment for a particular taxation year or a notice of determination was mailed or otherwise communicated to a taxpayer on a particular day under this Act and that, after careful

signification à personne ainsi que de la demande, de l'avis ou de la demande formelle.

Preuve de non-observation

(7) Lorsque la présente loi ou son règlement oblige une personne à faire une déclaration, un état, une réponse ou un certificat, un affidavit d'un fonctionnaire de l'Agence du revenu du Canada, souscrit en présence d'un commissaire ou d'une autre personne autorisée à recevoir les affidavits, indiquant qu'il a la charge des registres appropriés et qu'après en avoir fait un examen attentif et y avoir pratique des recherches il lui a été impossible de constater, dans un cas particulier, que la déclaration, l'état, la réponse ou le certificat, selon le cas, a été fait par cette personne doit être reçu comme preuve, sauf preuve contraire, qu'en tel cas cette personne n'a pas fait de déclaration, d'état, de réponse ou de certificat, selon le cas.

Preuve de l'époque de l'observation

(8) Lorsque la présente loi ou son règlement oblige une personne à faire une déclaration, un état, une réponse ou un certificat, un affidavit d'un fonctionnaire de l'Agence du revenu du Canada, souscrit en présence d'un commissaire ou d'une autre personne autorisée à recevoir les affidavits, indiquant qu'il a la charge des registres appropriés et qu'après en avoir fait un examen attentif il a constaté que la déclaration, l'état, la réponse ou le certificat a été produit, présenté ou fait un jour particulier doit être reçu comme preuve, sauf preuve contraire, que ces documents ont été produits, présentés ou faits ce jour-là et non antérieurement.

Preuve de documents

(9) L'affidavit d'un fonctionnaire de l'Agence du revenu du Canada — souscrit en présence d'un commissaire ou d'une autre personne autorisée à le recevoir — indiquant qu'il a la charge des registres pertinents et qu'un document qui y est annexé est un document, la copie conforme d'un document ou l'imprimé d'un document électronique, fait par ou pour le ministre ou une autre personne exerçant les pouvoirs de celui-ci, ou par ou pour un contribuable, fait preuve de la nature et du contenu du document.

Preuve de l'absence d'appel

(10) Un affidavit d'un fonctionnaire de l'Agence du revenu du Canada, souscrit en présence d'un commissaire ou d'une autre personne autorisée à recevoir les affidavits, indiquant qu'il a la charge des registres appropriés, qu'il a connaissance de la pratique de l'Agence et qu'un examen des registres démontre qu'un avis de cotisation pour une année d'imposition donnée ou qu'un avis de détermination a été expédié par la poste ou autrement communiqué à un contribuable, un jour particulier, en conformité

examination and search of those records, the officer has been unable to find that a notice of objection or of appeal from the assessment or determination or a request under subsection 245(6), as the case may be, was received within the time allowed, shall, in the absence of proof to the contrary, be received as evidence of the statements contained in it.

avec la présente loi, et qu'après avoir fait un examen attentif des registres et y avoir pratiqué des recherches il lui a été impossible de constater qu'un avis d'opposition ou d'appel concernant la cotisation ou la détermination ou qu'une demande visée au paragraphe 245(6), selon le cas, a été reçu dans le délai imparti à cette fin, doit être reçu comme preuve, sauf preuve contraire, des énonciations qui y sont renfermées.

Presumption

(11) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Canada Revenue Agency, it is not necessary to prove the person's signature or that the person is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

Présomption

(11) Lorsqu'une preuve est fournie en vertu du présent article par un affidavit d'où il ressort que la personne le souscrivant est un fonctionnaire de l'Agence du revenu du Canada, il n'est pas nécessaire d'attester sa signature ou de prouver qu'il est un tel fonctionnaire. Il n'est pas nécessaire non plus d'attester la signature ou la qualité officielle de la personne en présence de qui l'affidavit a été souscrit.

Judicial notice

(12) Judicial notice shall be taken of all orders or regulations made under this Act without those orders or regulations being specially pleaded or proven.

Connaissance d'office

(12) Connaissance d'office doit être prise des décrets ou dispositions réglementaires pris sous le régime de la présente loi sans qu'il soit nécessaire d'en plaider ou d'en prouver l'existence ou le contenu.

Proof of documents

(13) Every document purporting to have been executed under, or in the course of the administration or enforcement of, this Act over the name in writing of the Minister, the Deputy Minister of National Revenue, the Commissioner of Customs and Revenue, the Commissioner of Revenue or an officer authorized to exercise a power or perform a duty of the Minister under this Act is deemed to have been signed, made and issued by the Minister, the Deputy Minister, the Commissioner of Customs and Revenue, the Commissioner of Revenue or the officer unless it has been called in question by the Minister or by a person acting for the Minister or Her Majesty.

Preuve de documents

(13) Tout document paraissant avoir été établi en vertu de la présente loi, ou dans le cadre de son application ou de sa mise à exécution, au nom ou sous l'autorité du ministre, du sous-ministre du Revenu national, du commissaire des douanes et du revenu, du commissaire du revenu ou d'un fonctionnaire autorisé à exercer des pouvoirs ou fonctions conférés au ministre par la présente loi est réputé avoir été signé, fait et délivré par le ministre, le sous-ministre, le commissaire des douanes et du revenu, le commissaire du revenu ou le fonctionnaire, à moins qu'il n'ait été contesté par le ministre ou par une personne agissant pour lui ou pour Sa Majesté.

(13.1) [Repealed, 1994, c. 13, s. 10]

(13.1) [Abrogé, 1994, ch. 13, art. 10]

Mailing or sending date

(14) For the purposes of this Act, where any notice or notification described in subsection 149.1(6.3), 152(3.1), 165(3) or 166.1(5) or any notice of assessment or determination is mailed, or sent electronically, it shall be presumed to be mailed or sent, as the case may be, on the date of that notice or notification.

Date d'envoi ou de mise à la poste

(14) Pour l'application de la présente loi, la date d'envoi ou de mise à la poste d'un avis ou d'une notification, visés aux paragraphes 149.1(6.3), 152(3.1), 165(3) ou 166.1(5), ou d'un avis de cotisation ou de détermination est présumée être la date à laquelle cet avis ou cette notification a été envoyé par voie électronique ou posté, selon le cas.

Date when electronic notice sent

(14.1) For the purposes of this Act, if a notice or other communication in respect of a person or partnership is made available in electronic format such that it can be read or perceived by a person or a computer system or

Date d'envoi d'un avis électronique

(14.1) Pour l'application de la présente loi, tout avis ou autre communication concernant une personne ou une société de personnes qui est rendu disponible sous une forme électronique pouvant être lue ou perçue par une

other similar device, the notice or other communication is presumed to be sent to the person or partnership and received by the person or partnership on the date that an electronic message is sent, to the electronic address most recently provided before that date by the person or partnership to the Minister for the purposes of this subsection, informing the person or partnership that a notice or other communication requiring the person or partnership's immediate attention is available in the person or partnership's secure electronic account. A notice or other communication is considered to be made available if it is posted by the Minister in the person or partnership's secure electronic account and the person or partnership has authorized that notices or other communications may be made available in this manner and has not before that date revoked that authorization in a manner specified by the Minister.

Date when assessment made

(15) If any notice of assessment or determination has been sent by the Minister as required by this Act, the assessment or determination is deemed to have been made on the day of sending of the notice of the assessment or determination.

Forms prescribed or authorized

(16) Every form purporting to be a form prescribed or authorized by the Minister shall be deemed to be a form authorized under this Act by the Minister unless called in question by the Minister or by a person acting for the Minister or Her Majesty.

Proof of return in prosecution for offence

(17) In any prosecution for an offence under this Act, the production of a return, certificate, statement or answer required by or under this Act or a regulation, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by or on behalf of that person shall, in the absence of proof to the contrary, be received as evidence that the return, certificate, statement or answer was filed or delivered, or was made or signed, by or on behalf of that person.

Idem, in proceedings under Division J of Part I

(18) In any proceedings under Division J of Part I, the production of a return, certificate, statement or answer required by or under this Act or a regulation, purporting to have been filed or delivered, or to have been made or signed, by or on behalf of the taxpayer shall, in the absence of proof to the contrary, be received as evidence

personne ou par un système informatique ou un dispositif semblable est présumé être envoyé à la personne ou à la société de personnes, et être reçu par elle, à la date où un message électronique est envoyé — à l'adresse électronique la plus récente que la personne ou la société de personnes a fournie au ministre pour l'application du présent paragraphe — pour l'informer qu'un avis ou une autre communication nécessitant son attention immédiate se trouve dans son compte électronique sécurisé. Un avis ou une autre communication est considéré comme étant rendu disponible s'il est affiché par le ministre sur le compte électronique sécurisé de la personne ou de la société de personnes et si celle-ci a donné son autorisation pour que des avis ou d'autres communications soient rendus disponibles de cette manière et n'a pas retiré cette autorisation avant cette date selon les modalités fixées par le ministre.

Date d'établissement de la cotisation

(15) Lorsqu'un avis de cotisation ou un avis portant qu'un montant a été déterminé a été envoyé par le ministre comme le prévoit la présente loi, la cotisation est réputée avoir été établie et le montant, déterminé à la date d'envoi de l'avis.

Formulaire prescrit ou autorisé

(16) Le formulaire donné comme constituant un formulaire prescrit ou autorisé par le ministre est réputé être un formulaire autorisé par le ministre en vertu de la présente loi, sauf s'il est contesté par celui-ci ou par une personne agissant pour lui ou pour Sa Majesté.

Preuve de déclaration en cas de poursuite

(17) Dans toutes poursuites concernant une infraction à la présente loi, la production ou présentation d'une déclaration, d'un certificat, d'un état ou d'une réponse exigée sous le régime de la présente loi ou de son règlement et censée avoir été produite, présentée ou fournie par la personne accusée de l'infraction ou pour le compte de cette dernière ou avoir été faite ou signée par cette personne ou pour le compte de celle-ci doit être reçue comme preuve, sauf preuve contraire, que telle déclaration, certificat, état ou réponse a été produite, présentée ou fournie par cette personne ou pour son compte, ou a été faite ou signée par cette personne ou pour son compte.

Idem, procédures en vertu de la partie I, section J

(18) Dans toutes procédures en vertu de la section J de la partie I, la production ou présentation d'une déclaration, d'un certificat, d'un état ou d'une réponse exigée sous le régime de la présente loi ou de son règlement et censée avoir été produite, présentée ou fournie par le contribuable ou en son nom, ou avoir été faite ou signée

that the return, certificate, statement or answer was filed or delivered, or was made or signed, by or on behalf of the taxpayer.

par lui ou en son nom doit être reçue comme preuve, sauf preuve contraire, que telle déclaration, certificat, état ou réponse a été produite, présentée ou fournie par cette personne ou pour son compte, ou a été faite ou signée par cette personne ou pour son compte.

Proof of statement of non-receipt

(19) In any prosecution for an offence under this Act, an affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that an examination of those records shows that an amount required under this Act to be remitted to the Receiver General on account of tax for a year has not been received by the Receiver General, shall, in the absence of proof to the contrary, be received as evidence of the statements contained therein.

Preuve de non-réception

(19) Dans toute poursuite concernant une infraction à la présente loi, un affidavit d'un fonctionnaire de l'Agence du revenu du Canada, souscrit en présence d'un commissaire ou d'une autre personne autorisée à recevoir des affidavits, indiquant qu'il est chargé des dossiers en cause et que la consultation de ces dossiers révèle que le receveur général n'a pas reçu un montant dont la présente loi exige le paiement au receveur général au titre de l'impôt pour une année doit être reçu comme preuve, sauf preuve contraire, des déclarations qui y sont contenues.

Members of partnerships

(20) For the purposes of this Act,

(a) a reference in any notice or other document to the firm name of a partnership shall be read as a reference to all the members thereof; and

(b) any notice or other document shall be deemed to have been provided to each member of a partnership if the notice or other document is mailed to, served on or otherwise sent to the partnership

(i) at its latest known address or place of business, or

(ii) at the latest known address

(A) where it is a limited partnership, of any member thereof whose liability as a member is not limited, or

(B) in any other case, of any member thereof.

Associés

(20) Les règles suivantes s'appliquent dans le cadre de la présente loi :

a) la mention de la dénomination d'une société de personnes dans un avis ou autre document vaut mention de tous les associés de la société de personnes;

b) un avis ou autre document est réputé remis à chaque associé de la société de personnes si l'avis ou le document est posté, signifié ou autrement envoyé à la société de personnes :

(i) à sa dernière adresse connue ou à son dernier lieu d'affaires connu,

(ii) à la dernière adresse connue :

(A) s'il s'agit d'une société de personnes en commandite, de l'un de ses associés dont la responsabilité, à titre d'associé, n'est pas limitée,

(B) dans les autres cas, de l'un de ses associés.

Proof of return filed

(21) For the purposes of this Act, a document presented by the Minister purporting to be a print-out of the information in respect of a taxpayer received under section 150.1 by the Minister from a person shall be received as evidence and, in the absence of evidence to the contrary, is proof of the return filed by the person under that section.

Preuve de production

(21) Pour l'application de la présente loi, un document présenté par le ministre comme étant un imprimé des renseignements concernant un contribuable que le ministre a reçus d'une personne en application de l'article 150.1 est admissible en preuve et fait foi, sauf preuve contraire, de la déclaration produite par la personne en vertu de cet article.

Filing of information returns

(22) Where a person who is required by this Act or a regulation to file an information return in prescribed form with the Minister meets the criteria specified in writing

Production de déclarations de renseignements

(22) La personne, tenue par la présente loi ou par son règlement d'application de produire auprès du ministre une déclaration de renseignements sur formulaire

by the Minister, the person may at any time file the information return with the Minister by way of electronic filing (within the meaning assigned by subsection 150.1(1)) and the person shall be deemed to have filed the information return with the Minister at that time, and a document presented by the Minister purporting to be a printout of the information so received by the Minister shall be received as evidence and, in the absence of evidence to the contrary, is proof of the information return so deemed to have been filed.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 244; 1994, c. 7, Sch. II, s. 191, Sch. VIII, s. 138, c. 13, ss. 7, 10; 1998, c. 19, s. 237; 1999, c. 17, ss. 166, 168, 169; 2005, c. 38, ss. 120, 138; 2010, c. 25, s. 67.

prescrit, qui répond aux critères que celui-ci établit par écrit peut, à tout moment, lui transmettre la déclaration par voie électronique en application du paragraphe 150.1(1). Dès lors, la personne est réputée avoir produit la déclaration auprès du ministre, et un document présenté par celui-ci comme étant un imprimé des renseignements qu'il a ainsi reçus est admissible en preuve et fait foi, sauf preuve contraire, de la déclaration de renseignements ainsi réputée produite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 244; 1994, ch. 7, ann. II, art. 191, ann. VIII, art. 138, ch. 13, art. 7 et 10; 1998, ch. 19, art. 237; 1999, ch. 17, art. 166, 168 et 169; 2005, ch. 38, art. 120 et 138; 2010, ch. 25, art. 67.

PART XV.1

Reporting of Electronic Funds Transfer

Definitions

244.1 The following definitions apply in this Part.

cash means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada or coins or bank notes of countries other than Canada. (*espèces*)

casino means

(a) the government of a province that, in accordance with paragraph 207(1)(a) of the *Criminal Code*,

(i) in a permanent establishment that is held out to be a casino, conducts and manages a lottery scheme that includes games of roulette or card games, or

(ii) in any other permanent establishment, conducts and manages games that are operated on or through a slot machine, as defined in subsection 198(3) of that Act, or any other similar electronic gaming device, if there are more than 50 of those machines or other devices in the establishment;

(b) the government of a province that, in accordance with paragraph 207(1)(a) of the *Criminal Code*, conducts and manages a lottery scheme, other than bingo or the sale of lottery tickets, that is accessible to the public through the Internet or other digital network, except if the network is an internal network within an establishment referred to in subparagraph (a)(ii);

(c) an organization that, in accordance with paragraph 207(1)(b) of the *Criminal Code*, in a permanent establishment that is held out to be a casino, conducts

PARTIE XV.1

Déclaration des télévirements

Définitions

244.1 Les définitions qui suivent s'appliquent à la présente partie.

casino

a) Le gouvernement d'une province qui, dans le cadre de l'alinéa 207(1)a) du *Code criminel* :

(i) met sur pied et exploite une loterie dans un établissement stable présenté comme étant un casino où l'on peut notamment jouer à la roulette ou à des jeux de cartes,

(ii) met sur pied et exploite des jeux au moyen d'un appareil à sous, au sens du paragraphe 198(3) du *Code criminel*, ou autre dispositif de jeu électronique semblable dans tout autre établissement stable où se trouvent plus de cinquante de ces appareils à sous ou autres dispositifs semblables;

b) le gouvernement d'une province qui, dans le cadre de l'alinéa 207(1)a) du *Code criminel*, met sur pied et exploite une loterie, à l'exclusion d'un bingo ou de la vente de billets de loterie, accessible au public par Internet ou autre réseau numérique, à l'exception d'un réseau numérique interne d'un établissement visé au sous-alinéa a)(ii);

c) l'organisme qui, dans le cadre de l'alinéa 207(1)b) du *Code criminel*, met sur pied et exploite une loterie dans un établissement stable présenté comme étant un casino où l'on peut notamment jouer à la roulette ou à des jeux de cartes, sauf dans le cas où l'organisme

and manages a lottery scheme that includes games of roulette or card games, unless the organization is a registered charity and the lottery scheme is conducted or managed for a period of not more than two consecutive days at a time; and

(d) the board of a fair or of an exhibition, or the operator of a concession leased by such a board, that, in accordance with paragraph 207(1)(c) of the *Criminal Code*, in a permanent establishment that is held out to be a casino, conducts and manages a lottery scheme that includes games of roulette or card games. (*casino*)

client means a particular entity that engages in a financial transaction or activity with a reporting entity and includes an entity on whose behalf the particular entity is acting. (*client*)

credit union central means a central cooperative credit society, as defined in section 2 of the *Cooperative Credit Associations Act*, or a credit union central or a federation of credit unions or caisses populaires that is regulated by a provincial Act other than one enacted by the legislature of Quebec. (*centrale de caisses de crédit*)

electronic funds transfer means the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of Society for Worldwide Interbank Financial Telecommunication messages, only SWIFT MT 103 messages are included. (*télévirement*)

entity means an individual, a body corporate, a partnership, a fund or an unincorporated association or organization. (*entité*)

funds means cash, currency or securities, or negotiable instruments or other financial instruments, in any form, that indicate an entity's title or interest, or for civil law a right, in them. (*fonds*)

money services business means an entity engaged in the business of foreign exchange dealing, of remitting funds or transmitting funds by any means or through any entity or electronic funds transfer network, or of issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments except for cheques payable to a named entity. (*entreprise de transfert de fonds ou de vente de titres négociables*)

reporting entity means an entity that is

en question est un organisme de bienfaisance enregistré et que la loterie est mise sur pied et exploitée pendant deux jours consécutifs ou moins à la fois;

d) le conseil d'une foire ou d'une exposition, ou l'exploitant d'une concession louée auprès du conseil, qui, dans le cadre de l'alinéa 207(1)c) du *Code criminel*, met sur pied et exploite une loterie dans un établissement stable présenté comme étant un casino où l'on peut notamment jouer à la roulette ou à des jeux de cartes. (*casino*)

centrale de caisses de crédit Coopérative de crédit centrale, au sens de l'article 2 de la *Loi sur les associations coopératives de crédit*, ou centrale de caisses de crédit ou fédération de caisses de crédit ou de caisses populaires régie par une loi provinciale autre qu'une loi édictée par la législature du Québec. (*credit union central*)

client Entité qui se livre à une opération ou à une activité financières avec une entité déclarante, ainsi que toute entité pour le compte de qui elle agit. (*client*)

entité Particulier, personne morale, société de personnes ou fonds, ou organisation ou association non dotée de la personnalité morale. (*entity*)

entité déclarante L'une ou l'autre des entités suivantes :

a) les banques régies par la *Loi sur les banques* et les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre des activités que ces dernières exercent au Canada;

b) les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale;

c) les coopératives de services financiers régies par la *Loi sur les coopératives de services financiers*, L.R.Q., ch. C-67.3, ou par la *Loi sur le Mouvement Desjardins*, L.Q. 2000, ch. 77;

d) les associations régies par la *Loi sur les associations coopératives de crédit*;

e) les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;

f) les sociétés de fiducie régies par une loi provinciale;

g) les sociétés de prêt régies par une loi provinciale;

h) les entreprises de transfert de fonds ou de vente de titres négociables;

(a) an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada, or a bank to which that Act applies;

(b) a cooperative credit society, savings and credit union or caisse populaire regulated by a provincial Act;

(c) a financial services cooperative regulated by *An Act respecting financial services cooperatives*, R.S.Q., c. C-67.3, or *An Act respecting the Mouvement Desjardins*, S.Q. 2000, c. 77;

(d) an association regulated by the *Cooperative Credit Associations Act*;

(e) a company to which the *Trust and Loan Companies Act* applies;

(f) a trust company regulated by a provincial Act;

(g) a loan company regulated by a provincial Act;

(h) a money services business;

(i) a casino, including a casino owned or controlled by Her Majesty;

(j) a department or an agent of Her Majesty in right of Canada or of a province that is engaged in the business of accepting deposit liabilities in the course of providing financial services to the public; or

(k) a credit union central in respect of financial services it offers to an entity, other than an entity that is referred to in any of paragraphs (a) to (g) and (j) and is a member of that credit union central. (*entité déclarante*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

i) les casinos, y compris ceux qui sont contrôlés par Sa Majesté ou dont elle est propriétaire;

j) les ministères et mandataires de Sa Majesté du chef du Canada ou d'une province qui se livrent à l'acceptation de dépôts dans le cadre de la prestation de services financiers au public;

k) les centrales de caisses de crédit, en ce qui a trait aux services financiers qu'elles offrent à une entité, sauf une entité visée à l'un des alinéas a) à g) et j) qui est membre de la centrale de caisses de crédit en cause. (*reporting entity*)

entreprise de transfert de fonds ou de vente de titres négociables Entité qui se livre aux opérations de change, ou qui exploite une entreprise qui remet des fonds ou transmet des fonds par tout moyen ou par l'intermédiaire d'une entité ou d'un réseau de télévirement ou qui émet ou rachète des mandats-poste, des chèques de voyage ou d'autres titres négociables semblables, à l'exclusion des chèques libellés au nom d'une entité. (*money services business*)

espèces Pièces de monnaie visées à l'article 7 de la *Loi sur la monnaie*, billets émis aux fins de circulation au Canada par la Banque du Canada en vertu de la *Loi sur la Banque du Canada* ou pièces de monnaie ou billets de banque d'un pays étranger. (*cash*)

fonds Espèces, devises ou valeurs mobilières, ou titres négociables ou autres instruments financiers, quelle que soit leur forme, qui font foi du titre ou d'un intérêt ou, pour l'application du droit civil, d'un droit à l'égard de ceux-ci. (*funds*)

télévirement Transmission — par voie électronique, magnétique ou optique ou au moyen d'un appareil téléphonique ou d'un ordinateur — d'instructions pour un transfert de fonds, à l'exclusion du transfert de fonds à l'intérieur du Canada. Dans le cas des messages de la Society for Worldwide Interbank Financial Telecommunication, seuls les messages SWIFT MT 103 sont visés par la présente définition. (*electronic funds transfer*)

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

Electronic funds transfer

244.2 (1) Every reporting entity shall file with the Minister an information return in prescribed form in respect of

(a) the sending out of Canada, at the request of a client, of an electronic funds transfer of $10,000 or more in the course of a single transaction; or

Télévirement

244.2 (1) Toute entité déclarante est tenue de présenter au ministre une déclaration de renseignements établie sur le formulaire prescrit concernant :

a) le télévirement vers l'étranger, à la demande d'un client, de 10 000 $ ou plus au cours d'une seule opération;

(b) the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of $10,000 or more in the course of a single transaction.

b) le télévirement de l'étranger, à la demande d'un client, de 10 000 $ ou plus au cours d'une seule opération.

Transfer within Canada

(2) For greater certainty and subject to subsection (3), subsection (1) does not apply to a reporting entity in respect of an electronic funds transfer if the entity

(a) sends the transfer to an entity in Canada, even if the final recipient is outside Canada; or

(b) receives the transfer from an entity in Canada, even if the initial sender is outside Canada.

Télévirement à l'intérieur du Canada

(2) Sous réserve du paragraphe (3), il est entendu que le paragraphe (1) ne s'applique pas, relativement à un télévirement, à l'entité déclarante qui, selon le cas :

a) expédie le télévirement à une entité située au Canada, même si le destinataire final du télévirement est situé à l'étranger;

b) reçoit le télévirement d'une entité située au Canada, même si le premier expéditeur du télévirement est situé à l'étranger.

Intermediary

(3) Subsection (1) applies to a reporting entity in respect of an electronic funds transfer if the entity

(a) orders another reporting entity to send, at the request of a client, the transfer out of Canada, unless it provides the other reporting entity with the name and address of the client; or

(b) receives the transfer for a beneficiary in Canada from another reporting entity in circumstances where the initial sender is outside Canada, unless the transfer contains the name and address of the beneficiary.

Intermédiaire

(3) Le paragraphe (1) s'applique, relativement à un télévirement, à l'entité déclarante qui, selon le cas :

a) ordonne à une autre entité déclarante d'effectuer le télévirement vers l'étranger, à la demande d'un client, sauf si elle fournit à l'autre entité déclarante les nom et adresse du client;

b) reçoit le télévirement d'une autre entité déclarante pour un bénéficiaire au Canada dans des circonstances où le premier expéditeur du télévirement est situé à l'étranger, sauf si le télévirement indique les nom et adresse du bénéficiaire.

Transfer conducted by agent

(4) If a particular reporting entity is an agent of or is authorized to act on behalf of another reporting entity in respect of an electronic funds transfer, subsection (1) applies, in respect of the transfer, to the other reporting entity and not to the particular reporting entity.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

Télévirement effectué par un mandataire

(4) Si une entité déclarante donnée est le mandataire d'une autre entité déclarante, ou est habilitée à agir en son nom, relativement à un télévirement, le paragraphe (1) s'applique relativement au télévirement à l'autre entité déclarante et non à l'entité donnée.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

Casino

244.3 An electronic funds transfer in respect of which subsection 244.2(1) applies that occurs in the course of a business, temporarily conducted for charitable purposes in the establishment of a casino by a registered charity carried on for not more than two consecutive days at a time under the supervision of the casino, shall be reported by the supervising casino.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

Casino

244.3 Tout télévirement relativement auquel le paragraphe 244.2(1) s'applique qui se produit pendant une activité qu'un organisme de bienfaisance enregistré exerce à des fins de bienfaisance temporairement, dans l'établissement d'un casino, pendant au plus deux jours consécutifs à la fois, sous la surveillance du casino, est déclaré par le casino surveillant l'activité.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

Single transaction

244.4 (1) For the purposes of this Part, two or more electronic funds transfers of less than $10,000 each that are made within 24 consecutive hours and that total $10,000 or more are considered to be made in the course of a single transaction of $10,000 or more if

(a) an individual, other than a trust, who is a reporting entity knows that the transfers are conducted by, or on behalf of, the same entity; and

(b) an employee of a reporting entity, other than an entity described in paragraph (a), knows that the transfers are conducted by, or on behalf of, the same entity.

Exception

(2) For greater certainty, subsection (1) does not apply in respect of an electronic funds transfer sent to two or more beneficiaries if the transfer is requested by

(a) an administrator of a pension fund that is regulated by or under an Act of Parliament or of the legislature of a province;

(b) a department or agent of Her Majesty in right of Canada or of a province;

(c) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them;

(d) an organization that operates a public hospital and that is designated by the Minister as a hospital authority under the *Excise Tax Act*, or an agent of such an organization; or

(e) a corporation that has minimum net assets of $75 million on its last audited balance sheet, whose shares are traded on a Canadian stock exchange or a designated stock exchange and that operates in a country that is a member of the Financial Action Task Force on Money Laundering established in 1989.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

Foreign currency

244.5 If an electronic funds transfer is carried out by a reporting entity in a foreign currency, the amount of the transfer is to be converted into Canadian dollars using

(a) the official conversion rate of the Bank of Canada for the currency published in the Bank of Canada's

Opérations effectuées le même jour

244.4 (1) Pour l'application de la présente partie, sont considérés comme une seule opération de 10 000 $ ou plus, deux ou plusieurs télévirements de moins de 10 000 $ chacun effectués au cours d'une période de vingt-quatre heures consécutives et totalisant 10 000 $ ou plus si les conditions ci-après sont réunies :

a) un particulier, sauf une fiducie, qui est une entité déclarante sait que les télévirements sont effectués par une seule entité ou pour son compte;

b) un employé d'une entité déclarante, sauf une entité visée à l'alinéa a), sait que les télévirements sont effectués par une seule entité ou pour son compte.

Exception

(2) Il est entendu que le paragraphe (1) ne s'applique pas relativement au télévirement envoyé à deux bénéficiaires ou plus qui est demandé par l'une ou l'autre des entités suivantes :

a) l'administrateur d'un fonds de pension qui est régi par une loi fédérale ou provinciale;

b) un ministère ou mandataire de Sa Majesté du chef du Canada ou d'une province;

c) une ville, constituée en personne morale ou non, un village, une autorité métropolitaine, un canton, un district, un comté, une municipalité rurale ou un autre organisme municipal constitué en personne morale, ou un mandataire de ceux-ci;

d) toute institution qui exploite un hôpital public et qui est désignée comme administration hospitalière par le ministre aux termes de la *Loi sur la taxe d'accise*, ou un mandataire de celle-ci;

e) toute société dont l'actif net, d'après son dernier bilan vérifié, est de 75 000 000 $ ou plus, dont les actions sont cotées dans une bourse de valeurs au Canada ou une bourse de valeurs désignée et qui exerce ses activités dans un pays membre du Groupe d'action financière sur le blanchiment de capitaux créé en 1989.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

Devises

244.5 Si une entité déclarante effectue un télévirement en devises, le montant du télévirement est converti en dollars canadiens selon :

a) le taux de conversion officiel de la Banque du Canada publié dans son *Bulletin quotidien des taux de*

Daily Memorandum of Exchange Rates that is in effect at the time of the transfer; or

(b) if no official conversion rate is set out in that publication for the currency, the conversion rate that the entity would use for the currency in the normal course of business at the time of the transfer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

change en vigueur au moment où le télévirement est effectué;

b) dans le cas où la devise ne figure pas dans ce bulletin, le taux de conversion que l'entité utiliserait dans le cours normal de ses activités au moment où le télévirement est effectué.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

Filing of return

244.6 An information return in respect of an electronic funds transfer that is required to be filed by a reporting entity under this Part shall be filed

(a) not later than five working days after the day of the transfer; and

(b) using electronic media, in the manner specified by the Minister, if the entity has the technical capabilities to do so.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

Déclaration

244.6 Toute déclaration de renseignements relative à un télévirement qu'une entité déclarante est tenue de produire aux termes de la présente partie doit :

a) d'une part, être produite dans les cinq jours ouvrables suivant la date du télévirement;

b) d'autre part, être transmise par voie électronique selon les directives établies par le ministre, si l'entité a les moyens techniques de le faire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

Record keeping

244.7 (1) Every reporting entity that is required to file an information return under this Part shall keep such records as will enable the Minister to determine whether the entity has complied with its duties and obligations under this Part.

Tenue de registres

244.7 (1) Toute entité déclarante qui est tenue de produire une déclaration de renseignements aux termes de la présente partie doit tenir des registres qui permettent au ministre de déterminer si elle s'est conformée à ses devoirs et obligations prévus par la présente partie.

Form of records

(2) A record that is required to be kept under this Part may be kept in machine-readable or electronic form if a paper copy can be readily produced from it.

Forme

(2) Tout registre à tenir aux termes de la présente partie peut être conservé sous une forme lisible par machine ou électronique, pourvu qu'un imprimé puisse facilement être produit.

Retention of records

(3) A reporting entity that is required to keep records under this Part in respect of an electronic funds transfer shall retain those records for a period of at least five years from the day of the transfer.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 29.

Conservation

(3) Toute entité déclarante à qui incombe l'obligation de tenir des registres aux termes de la présente partie relativement à un télévirement doit les conserver pendant au moins cinq ans à compter de la date du télévirement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 29.

PART XVI

Tax Avoidance

Definitions

245 (1) In this section,

tax benefit means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act, and

PARTIE XVI

Évitement fiscal

Définitions

245 (1) Les définitions qui suivent s'appliquent au présent article.

attribut fiscal S'agissant des attributs fiscaux d'une personne, revenu, revenu imposable ou revenu imposable

includes a reduction, avoidance or deferral of tax or other amount that would be payable under this Act but for a tax treaty or an increase in a refund of tax or other amount under this Act as a result of a tax treaty; (*avantage fiscal*)

tax consequences to a person means the amount of income, taxable income, or taxable income earned in Canada of, tax or other amount payable by or refundable to the person under this Act, or any other amount that is relevant for the purposes of computing that amount; (*attribut fiscal*)

transaction includes an arrangement or event. (*opération*)

gagné au Canada de cette personne, impôt ou autre montant payable par cette personne, ou montant qui lui est remboursable, en application de la présente loi, ainsi que tout montant à prendre en compte pour calculer, en application de la présente loi, le revenu, le revenu imposable, le revenu imposable gagné au Canada de cette personne ou l'impôt ou l'autre montant payable par cette personne ou le montant qui lui est remboursable. (*tax consequences*)

avantage fiscal Réduction, évitement ou report d'impôt ou d'un autre montant exigible en application de la présente loi ou augmentation d'un remboursement d'impôt ou d'un autre montant visé par la présente loi. Y sont assimilés la réduction, l'évitement ou le report d'impôt ou d'un autre montant qui serait exigible en application de la présente loi en l'absence d'un traité fiscal ainsi que l'augmentation d'un remboursement d'impôt ou d'un autre montant visé par la présente loi qui découle d'un traité fiscal. (*tax benefit*)

opération Sont assimilés à une opération une convention, un mécanisme ou un événement. (*transaction*)

General anti-avoidance provision

(2) Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

Disposition générale anti-évitement

(2) En cas d'opération d'évitement, les attributs fiscaux d'une personne doivent être déterminés de façon raisonnable dans les circonstances de façon à supprimer un avantage fiscal qui, sans le présent article, découlerait, directement ou indirectement, de cette opération ou d'une série d'opérations dont cette opération fait partie.

Avoidance transaction

(3) An avoidance transaction means any transaction

(a) that, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for *bona fide* purposes other than to obtain the tax benefit; or

(b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for *bona fide* purposes other than to obtain the tax benefit.

Opération d'évitement

(3) L'opération d'évitement s'entend :

a) soit de l'opération dont, sans le présent article, découlerait, directement ou indirectement, un avantage fiscal, sauf s'il est raisonnable de considérer que l'opération est principalement effectuée pour des objets véritables — l'obtention de l'avantage fiscal n'étant pas considérée comme un objet véritable;

b) soit de l'opération qui fait partie d'une série d'opérations dont, sans le présent article, découlerait, directement ou indirectement, un avantage fiscal, sauf s'il est raisonnable de considérer que l'opération est principalement effectuée pour des objets véritables — l'obtention de l'avantage fiscal n'étant pas considérée comme un objet véritable.

Application of subsection (2)

(4) Subsection (2) applies to a transaction only if it may reasonably be considered that the transaction

Application du par. (2)

(4) Le paragraphe (2) ne s'applique qu'à l'opération dont il est raisonnable de considérer, selon le cas :

(a) would, if this Act were read without reference to this section, result directly or indirectly in a misuse of the provisions of any one or more of

(i) this Act,

(ii) the *Income Tax Regulations*,

(iii) the *Income Tax Application Rules*,

(iv) a tax treaty, or

(v) any other enactment that is relevant in computing tax or any other amount payable by or refundable to a person under this Act or in determining any amount that is relevant for the purposes of that computation; or

(b) would result directly or indirectly in an abuse having regard to those provisions, other than this section, read as a whole.

Determination of tax consequences

(5) Without restricting the generality of subsection (2), and notwithstanding any other enactment,

(a) any deduction, exemption or exclusion in computing income, taxable income, taxable income earned in Canada or tax payable or any part thereof may be allowed or disallowed in whole or in part,

(b) any such deduction, exemption or exclusion, any income, loss or other amount or part thereof may be allocated to any person,

(c) the nature of any payment or other amount may be recharacterized, and

(d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored,

in determining the tax consequences to a person as is reasonable in the circumstances in order to deny a tax benefit that would, but for this section, result, directly or indirectly, from an avoidance transaction.

Request for adjustments

(6) Where with respect to a transaction

(a) a notice of assessment, reassessment or additional assessment involving the application of subsection

a) qu'elle entraînerait, directement ou indirectement, s'il n'était pas tenu compte du présent article, un abus dans l'application des dispositions d'un ou de plusieurs des textes suivants :

(i) la présente loi,

(ii) le *Règlement de l'impôt sur le revenu*,

(iii) les *Règles concernant l'application de l'impôt sur le revenu*,

(iv) un traité fiscal,

(v) tout autre texte législatif qui est utile soit pour le calcul d'un impôt ou de toute autre somme exigible ou remboursable sous le régime de la présente loi, soit pour la détermination de toute somme à prendre en compte dans ce calcul;

b) qu'elle entraînerait, directement ou indirectement, un abus dans l'application de ces dispositions compte non tenu du présent article lues dans leur ensemble.

Attributs fiscaux à déterminer

(5) Sans préjudice de la portée générale du paragraphe (2) et malgré tout autre texte législatif, dans le cadre de la détermination des attributs fiscaux d'une personne de façon raisonnable dans les circonstances de façon à supprimer l'avantage fiscal qui, sans le présent article, découlerait, directement ou indirectement, d'une opération d'évitement :

a) toute déduction, exemption ou exclusion dans le calcul de tout ou partie du revenu, du revenu imposable, du revenu imposable gagné au Canada ou de l'impôt payable peut être en totalité ou en partie admise ou refusée;

b) tout ou partie de cette déduction, exemption ou exclusion ainsi que tout ou partie d'un revenu, d'une perte ou d'un autre montant peuvent être attribués à une personne;

c) la nature d'un paiement ou d'un autre montant peut être qualifiée autrement;

d) les effets fiscaux qui découleraient par ailleurs de l'application des autres dispositions de la présente loi peuvent ne pas être pris en compte.

Demande en vue de déterminer les attributs fiscaux

(6) Dans les 180 jours suivant l'envoi à une personne d'un avis de cotisation, de nouvelle cotisation ou de cotisation supplémentaire qui tient compte du paragraphe (2) en ce qui concerne une opération, ou d'un avis

245(2) with respect to the transaction has been sent to a person, or

(b) a notice of determination pursuant to subsection 152(1.11) has been sent to a person with respect to the transaction,

any person (other than a person referred to in paragraph (a) or (b)) shall be entitled, within 180 days after the day of sending of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2) or make a determination applying subsection 152(1.11) with respect to that transaction.

concernant un montant déterminé en application du paragraphe 152(1.11) en ce qui concerne une opération, toute personne autre qu'une personne à laquelle un de ces avis a été envoyé a le droit de demander par écrit au ministre d'établir à son égard une cotisation, une nouvelle cotisation ou une cotisation supplémentaire en application du paragraphe (2) ou de déterminer un montant en application du paragraphe 152(1.11) en ce qui concerne l'opération.

Exception

(7) Notwithstanding any other provision of this Act, the tax consequences to any person, following the application of this section, shall only be determined through a notice of assessment, reassessment, additional assessment or determination pursuant to subsection 152(1.11) involving the application of this section.

Exception

(7) Malgré les autres dispositions de la présente loi, les attributs fiscaux d'une personne, par suite de l'application du présent article, ne peuvent être déterminés que par avis de cotisation, de nouvelle cotisation ou de cotisation supplémentaire ou que par avis d'un montant déterminé en application du paragraphe 152(1.11), compte tenu du présent article.

Duties of Minister

(8) On receipt of a request by a person under subsection 245(6), the Minister shall, with all due dispatch, consider the request and, notwithstanding subsection 152(4), assess, reassess or make an additional assessment or determination pursuant to subsection 152(1.11) with respect to that person, except that an assessment, reassessment, additional assessment or determination may be made under this subsection only to the extent that it may reasonably be regarded as relating to the transaction referred to in subsection 245(6).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 245; 2005, c. 19, s. 52; 2010, c. 25, s. 68.

Obligations du ministre

(8) Sur réception d'une demande présentée par une personne conformément au paragraphe (6), le ministre doit, dès que possible, après avoir examiné la demande et malgré le paragraphe 152(4), établir une cotisation, une nouvelle cotisation ou une cotisation supplémentaire ou déterminer un montant en application du paragraphe 152(1.11), en se fondant sur la demande. Toutefois, une cotisation, une nouvelle cotisation ou une cotisation supplémentaire ne peut être établie, ni un montant déterminé, en application du présent paragraphe que s'il est raisonnable de considérer qu'ils concernent l'opération visée au paragraphe (6).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 245; 2005, ch. 19, art. 52; 2010, ch. 25, art. 68.

Benefit conferred on a person

246 (1) Where at any time a person confers a benefit, either directly or indirectly, by any means whatever, on a taxpayer, the amount of the benefit shall, to the extent that it is not otherwise included in the taxpayer's income or taxable income earned in Canada under Part I and would be included in the taxpayer's income if the amount of the benefit were a payment made directly by the person to the taxpayer and if the taxpayer were resident in Canada, be

(a) included in computing the taxpayer's income or taxable income earned in Canada under Part I for the taxation year that includes that time; or

Avantage conféré à un contribuable

246 (1) La valeur de l'avantage qu'une personne confère à un moment donné, directement ou indirectement, de quelque manière que ce soit à un contribuable doit, dans la mesure où elle n'est pas par ailleurs incluse dans le calcul du revenu ou du revenu imposable gagné au Canada du contribuable en vertu de la partie I et dans la mesure où elle y serait incluse s'il s'agissait d'un paiement que cette personne avait fait directement au contribuable et si le contribuable résidait au Canada, être :

a) soit incluse dans le calcul du revenu ou du revenu imposable gagné au Canada, selon le cas, du contribuable en vertu de la partie I pour l'année d'imposition qui comprend ce moment;

(b) where the taxpayer is a non-resident person, deemed for the purposes of Part XIII to be a payment made at that time to the taxpayer in respect of property, services or otherwise, depending on the nature of the benefit.

Arm's length

(2) Where it is established that a transaction was entered into by persons dealing at arm's length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part, of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section, as having conferred a benefit on a party with whom the first-mentioned party was so dealing.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"246"; 1984, c. 45, s. 91; 1988, c. 55, s. 186.

b) soit, si le contribuable ne réside pas au Canada, considérée, pour l'application de la partie XIII, comme un paiement fait à celui-ci à ce moment au titre de bien ou de services ou à un autre titre, selon la nature de l'avantage.

Opération sans lien de dépendance

(2) Lorsqu'il est établi qu'une opération conclue par des personnes sans aucun lien de dépendance est une opération véritable et non une opération conclue en conformité avec quelque autre opération ou comme partie de celle-ci, non plus que pour effectuer le paiement, en totalité ou en partie, de quelque obligation existante ou future, aucune partie à l'opération n'est considérée, pour l'application du présent article, conférer un avantage à une autre partie avec laquelle elle n'a aucun lien de dépendance.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 246 »; 1984, ch. 45, art. 91; 1988, ch. 55, art. 186.

PART XVI.1

Transfer Pricing

Definitions

247 (1) The definitions in this subsection apply in this section.

arm's length allocation means, in respect of a transaction, an allocation of profit or loss that would have occurred between the participants in the transaction if they had been dealing at arm's length with each other. (*attribution de pleine concurrence*)

arm's length transfer price means, in respect of a transaction, an amount that would have been a transfer price in respect of the transaction if the participants in the transaction had been dealing at arm's length with each other. (*prix de transfert de pleine concurrence*)

documentation-due date for a taxation year or fiscal period of a person or partnership means

(a) in the case of a person, the person's filing-due date for the year; or

(b) in the case of a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the period or would be required to be so filed if that section applied to the partnership. (*date limite de production*)

qualifying cost contribution arrangement means an arrangement under which reasonable efforts are made by

PARTIE XVI.1

Prix de transfert

Définitions

247 (1) Les définitions qui suivent s'appliquent au présent article.

arrangement admissible de participation au coût Arrangement dans le cadre duquel les participants font des efforts sérieux pour établir et appliquer une méthode qui leur permettrait de participer au coût de production, de développement ou d'acquisition de biens, ou au coût d'acquisition ou d'exécution de services, en fonction des bénéfices que chacun peut raisonnablement s'attendre à tirer des biens ou des services par suite de l'arrangement. (*qualifying cost contribution arrangement*)

attribution de pleine concurrence Quant à une opération, l'attribution de bénéfices ou de pertes qui aurait été effectuée entre les participants à l'opération s'il n'y avait eu entre eux aucun lien de dépendance. (*arm's length allocation*)

avantage fiscal S'entend au sens du paragraphe 245(1). (*tax benefit*)

date limite de production Quant à l'année d'imposition ou l'exercice d'une personne ou d'une société de personnes :

a) dans le cas d'une personne, la date d'échéance de production qui lui est applicable pour l'année;

the participants in the arrangement to establish a basis for contributing to, and to contribute on that basis to, the cost of producing, developing or acquiring any property, or acquiring or performing any services, in proportion to the benefits which each participant is reasonably expected to derive from the property or services, as the case may be, as a result of the arrangement. (*arrangement admissible de participation au coût*)

tax benefit has the meaning assigned by subsection 245(1). (*avantage fiscal*)

transaction includes an arrangement or event. (*opération*)

transfer price means, in respect of a transaction, an amount paid or payable or an amount received or receivable, as the case may be, by a participant in the transaction as a price, a rental, a royalty, a premium or other payment for, or for the use, production or reproduction of, property or as consideration for services (including services provided as an employee and the insurance or reinsurance of risks) as part of the transaction. (*prix de transfert*)

transfer pricing capital adjustment of a taxpayer for a taxation year means the total of

(a) all amounts each of which is

(i) 1/2 of the amount, if any, by which the adjusted cost base to the taxpayer of a capital property (other than a depreciable property) is reduced in the year because of an adjustment made under subsection (2), or

(ii) [Repealed, 2016, c. 12, s. 62]

(iii) the amount, if any, by which the capital cost to the taxpayer of a depreciable property is reduced in the year because of an adjustment made under subsection (2); and

(b) all amounts each of which is that proportion of the total of

(i) 1/2 of the amount, if any, by which the adjusted cost base to a partnership of a capital property (other than a depreciable property) is reduced in a fiscal period that ends in the year because of an adjustment made under subsection (2), and

(ii) [Repealed, 2016, c. 12, s. 62]

(iii) the amount, if any, by which the capital cost to a partnership of a depreciable property is reduced

b) dans le cas d'une société de personnes, la date où une déclaration doit, au plus tard, être produite pour son exercice en application de l'article 229 du *Règlement de l'impôt sur le revenu*, ou devrait être ainsi produite si cet article s'appliquait à elle. (*documentation-due date*)

opération Sont assimilés aux opérations les arrangements et les événements. (*transaction*)

prix de transfert Quant à une opération, montant payé ou payable, ou reçu ou à recevoir, par un participant à l'opération à titre de prix, de loyer, de redevance, de prime ou d'autre paiement pour des biens, ou pour l'utilisation, la production ou la reproduction de biens, ou en contrepartie de services (y compris ceux rendus à titre d'employé et l'assurance ou la réassurance de risques) dans le cadre de l'opération. (*transfer price*)

prix de transfert de pleine concurrence Quant à une opération, le montant qui aurait représenté le prix de transfert relatif à l'opération si les participants à celle-ci n'avaient eu entre eux aucun lien de dépendance. (*arm's length transfer price*)

redressement compensatoire de capital Quant à un contribuable pour une année d'imposition, le montant éventuel qui correspondrait à son redressement de capital pour l'année si les passages « est appliqué en réduction », dans la définition de ***redressement de capital***, étaient remplacés par « augmente », avec les adaptations grammaticales nécessaires. (*transfer pricing capital setoff adjustment*)

redressement compensatoire de revenu Quant à un contribuable pour une année d'imposition, le total des montants représentant chacun le montant éventuel qui, par suite d'un redressement effectué en vertu du paragraphe (2) (sauf un redressement entrant dans le calcul d'un redressement compensatoire de capital du contribuable pour une année d'imposition), réduirait le revenu du contribuable pour l'année, ou augmenterait sa perte pour l'année provenant d'une source, si le redressement en question était le seul effectué en vertu de ce paragraphe. (*transfer pricing income setoff adjustment*)

redressement de capital En ce qui concerne un contribuable pour une année d'imposition, la somme des montants suivants :

a) le total des montants représentant chacun :

(i) la moitié du montant éventuel qui, au cours de l'année et en raison d'un redressement effectué en vertu du paragraphe (2), est appliqué en réduction

in the period because of an adjustment made under subsection (2),

that

(iv) the taxpayer's share of the income or loss of the partnership for the period

is of

(v) the income or loss of the partnership for the period,

and where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be $1,000,000 for the purpose of determining a taxpayer's share of the partnership's income for the purpose of this definition. (*redressement de capital*)

transfer pricing capital setoff adjustment of a taxpayer for a taxation year means the amount, if any, that would be the taxpayer's transfer pricing capital adjustment for the year if the references, in the definition ***transfer pricing capital adjustment***, to "reduced" were read as "increased". (*redressement compensatoire de capital*)

transfer pricing income adjustment of a taxpayer for a taxation year means the total of all amounts each of which is the amount, if any, by which an adjustment made under subsection 247(2) (other than an adjustment included in determining a transfer pricing capital adjustment of the taxpayer for a taxation year) would result in an increase in the taxpayer's income for the year or a decrease in a loss of the taxpayer for the year from a source if that adjustment were the only adjustment made under subsection 247(2). (*redressement de revenu*)

transfer pricing income setoff adjustment of a taxpayer for a taxation year means the total of all amounts each of which is the amount, if any, by which an adjustment made under subsection 247(2) (other than an adjustment included in determining a transfer pricing capital setoff adjustment of the taxpayer for a taxation year) would result in a decrease in the taxpayer's income for the year or an increase in a loss of the taxpayer for the year from a source if that adjustment were the only adjustment made under subsection 247(2). (*redressement compensatoire de revenu*)

du prix de base rajusté pour le contribuable d'une immobilisation (sauf un bien amortissable),

(ii) [Abrogé, 2016, ch. 12, art. 62]

(iii) le montant éventuel qui, au cours de l'année et en raison d'un redressement effectué en vertu du paragraphe (2), est appliqué en réduction du coût en capital pour le contribuable d'un bien amortissable;

b) le total des montants représentant chacun le produit de la multiplication de la somme des montants suivants :

(i) la moitié du montant éventuel qui, au cours d'un exercice se terminant dans l'année et en raison d'un redressement effectué en vertu du paragraphe (2), est appliqué en réduction du prix de base rajusté pour une société de personnes d'une immobilisation (sauf un bien amortissable),

(ii) [Abrogé, 2016, ch. 12, art. 62]

(iii) le montant éventuel qui, au cours de l'exercice et en raison d'un redressement effectué en vertu du paragraphe (2), est appliqué en réduction du coût en capital pour une société de personnes d'un bien amortissable,

par le rapport entre :

(iv) d'une part, la part du revenu ou de la perte de la société de personnes pour l'exercice qui revient au contribuable,

(v) d'autre part, le revenu ou la perte de la société de personnes pour l'exercice;

si le revenu et la perte de la société de personnes sont nuls pour l'exercice, son revenu pour l'exercice est réputé égal à 1 000000 $ pour ce qui est du calcul, pour l'application de la présente définition, de la part de son revenu qui revient à un contribuable. (*transfer pricing capital adjustment*)

redressement de revenu Quant à un contribuable pour une année d'imposition, le total des montants représentant chacun le montant éventuel qui, par suite d'un redressement effectué en vertu du paragraphe (2) (sauf un redressement entrant dans le calcul d'un redressement de capital du contribuable pour une année d'imposition), augmenterait le revenu du contribuable pour l'année, ou réduirait sa perte pour l'année provenant d'une source, si le redressement en question était le seul effectué en vertu de ce paragraphe. (*transfer pricing income adjustment*)

Transfer pricing adjustment

(2) Where a taxpayer or a partnership and a non-resident person with whom the taxpayer or the partnership, or a member of the partnership, does not deal at arm's length (or a partnership of which the non-resident person is a member) are participants in a transaction or a series of transactions and

(a) the terms or conditions made or imposed, in respect of the transaction or series, between any of the participants in the transaction or series differ from those that would have been made between persons dealing at arm's length, or

(b) the transaction or series

(i) would not have been entered into between persons dealing at arm's length, and

(ii) can reasonably be considered not to have been entered into primarily for *bona fide* purposes other than to obtain a tax benefit,

any amounts that, but for this section and section 245, would be determined for the purposes of this Act in respect of the taxpayer or the partnership for a taxation year or fiscal period shall be adjusted (in this section referred to as an "adjustment") to the quantum or nature of the amounts that would have been determined if,

(c) where only paragraph 247(2)(a) applies, the terms and conditions made or imposed, in respect of the transaction or series, between the participants in the transaction or series had been those that would have been made between persons dealing at arm's length, or

(d) where paragraph 247(2)(b) applies, the transaction or series entered into between the participants had been the transaction or series that would have been entered into between persons dealing at arm's length, under terms and conditions that would have been made between persons dealing at arm's length.

Penalty

(3) A taxpayer (other than a taxpayer all of whose taxable income for the year is exempt from tax under Part I) is liable to a penalty for a taxation year equal to 10% of the amount determined under paragraph 247(3)(a) in respect of the taxpayer for the year, where

(a) the amount, if any, by which

(i) the total of

(A) the taxpayer's transfer pricing capital adjustment for the year, and

Redressement

(2) Lorsqu'un contribuable ou une société de personnes et une personne non-résidente avec laquelle le contribuable ou la société de personnes, ou un associé de cette dernière, a un lien de dépendance, ou une société de personnes dont la personne non-résidente est un associé, prennent part à une opération ou à une série d'opérations et que, selon le cas :

a) les modalités conclues ou imposées, relativement à l'opération ou à la série, entre des participants à l'opération ou à la série diffèrent de celles qui auraient été conclues entre personnes sans lien de dépendance,

b) les faits suivants se vérifient relativement à l'opération ou à la série :

(i) elle n'aurait pas été conclue entre personnes sans lien de dépendance,

(ii) il est raisonnable de considérer qu'elle n'a pas été principalement conclue pour des objets véritables, si ce n'est l'obtention d'un avantage fiscal,

les montants qui, si ce n'était le présent article et l'article 245, seraient déterminés pour l'application de la présente loi quant au contribuable ou la société de personnes pour une année d'imposition ou un exercice font l'objet d'un redressement de façon qu'ils correspondent à la valeur ou à la nature des montants qui auraient été déterminés si :

c) dans le cas où seul l'alinéa a) s'applique, les modalités conclues ou imposées, relativement à l'opération ou à la série, entre les participants avaient été celles qui auraient été conclues entre personnes sans lien de dépendance;

d) dans le cas où l'alinéa b) s'applique, l'opération ou la série conclue entre les participants avait été celle qui aurait été conclue entre personnes sans lien de dépendance, selon des modalités qui auraient été conclues entre de telles personnes.

Pénalité

(3) Tout contribuable (sauf celui dont la totalité du revenu imposable pour l'année est exonéré de l'impôt prévu à la partie I) est passible, pour une année d'imposition, d'une pénalité égale à 10 % du montant déterminé à son égard pour l'année selon l'alinéa a), si l'excédent visé à l'alinéa a) est supérieur au montant visé à l'alinéa b) :

a) l'excédent éventuel :

(i) du total des montants suivants :

(B) the taxpayer's transfer pricing income adjustment for the year

exceeds the total of

(ii) the total of all amounts each of which is the portion of the taxpayer's transfer pricing capital adjustment or transfer pricing income adjustment for the year that can reasonably be considered to relate to a particular transaction, where

(A) the transaction is a qualifying cost contribution arrangement in which the taxpayer or a partnership of which the taxpayer is a member is a participant, or

(B) in any other case, the taxpayer or a partnership of which the taxpayer is a member made reasonable efforts to determine arm's length transfer prices or arm's length allocations in respect of the transaction, and to use those prices or allocations for the purposes of this Act, and

(iii) the total of all amounts, each of which is the portion of the taxpayer's transfer pricing capital setoff adjustment or transfer pricing income setoff adjustment for the year that can reasonably be considered to relate to a particular transaction, where

(A) the transaction is a qualifying cost contribution arrangement in which the taxpayer or a partnership of which the taxpayer is a member is a participant, or

(B) in any other case, the taxpayer or a partnership of which the taxpayer is a member made reasonable efforts to determine arm's length transfer prices or arm's length allocations in respect of the transaction, and to use those prices or allocations for the purposes of this Act,

is greater than

(b) the lesser of

(i) 10% of the amount that would be the taxpayer's gross revenue for the year if this Act were read without reference to subsection 247(2), subsections 69(1) and 69(1.2) and section 245, and

(ii) $5,000,000.

(A) le redressement de capital du contribuable pour l'année,

(B) le redressement de revenu du contribuable pour l'année,

sur le total des montants suivants :

(ii) le total des montants représentant chacun la partie du redressement de capital ou du redressement de revenu du contribuable pour l'année qu'il est raisonnable de considérer comme se rapportant à une opération donnée si :

(A) l'opération est un arrangement admissible de participation au coût auquel prend part le contribuable ou une société de personnes dont il est un associé,

(B) dans les autres cas, le contribuable ou une société de personnes dont il est un associé a fait des efforts sérieux pour déterminer les prix de transfert de pleine concurrence ou les attributions de pleine concurrence relativement à l'opération et pour les utiliser pour l'application de la présente loi,

(iii) le total des montants représentant chacun la partie du redressement compensatoire de capital ou du redressement compensatoire de revenu du contribuable pour l'année qu'il est raisonnable de considérer comme se rapportant à une opération donnée si :

(A) l'opération est un arrangement admissible de participation au coût auquel prend part le contribuable ou une société de personnes dont il est un associé,

(B) dans les autres cas, le contribuable ou une société de personnes dont il est un associé a fait des efforts sérieux pour déterminer les prix de transfert de pleine concurrence ou les attributions de pleine concurrence relativement à l'opération et pour les utiliser pour l'application de la présente loi;

b) le moins élevé des montants suivants :

(i) 10 % du montant qui représenterait le revenu brut du contribuable pour l'année s'il n'était pas tenu compte du paragraphe (2), des paragraphes 69(1) et (1.2) ni de l'article 245,

(ii) 5 000 000 $.

Contemporaneous documentation

(4) For the purposes of subsection 247(3) and the definition ***qualifying cost contribution arrangement*** in subsection 247(1), a taxpayer or a partnership is deemed not to have made reasonable efforts to determine and use arm's length transfer prices or arm's length allocations in respect of a transaction or not to have participated in a transaction that is a qualifying cost contribution arrangement, unless the taxpayer or the partnership, as the case may be,

(a) makes or obtains, on or before the taxpayer's or partnership's documentation-due date for the taxation year or fiscal period, as the case may be, in which the transaction is entered into, records or documents that provide a description that is complete and accurate in all material respects of

(i) the property or services to which the transaction relates,

(ii) the terms and conditions of the transaction and their relationship, if any, to the terms and conditions of each other transaction entered into between the participants in the transaction,

(iii) the identity of the participants in the transaction and their relationship to each other at the time the transaction was entered into,

(iv) the functions performed, the property used or contributed and the risks assumed, in respect of the transaction, by the participants in the transaction,

(v) the data and methods considered and the analysis performed to determine the transfer prices or the allocations of profits or losses or contributions to costs, as the case may be, in respect of the transaction, and

(vi) the assumptions, strategies and policies, if any, that influenced the determination of the transfer prices or the allocations of profits or losses or contributions to costs, as the case may be, in respect of the transaction;

(b) for each subsequent taxation year or fiscal period, if any, in which the transaction continues, makes or obtains, on or before the taxpayer's or partnership's documentation-due date for that year or period, as the case may be, records or documents that completely and accurately describe each material change in the year or period to the matters referred to in any of subparagraphs 247(4)(a)(i) to 247(4)(a)(vi) in respect of the transaction; and

Documentation ponctuelle

(4) Pour l'application du paragraphe (3) et de la définition de ***arrangement admissible de participation au coût*** au paragraphe (1), un contribuable ou une société de personnes est réputé ne pas avoir fait d'efforts sérieux pour déterminer et utiliser les prix de transfert de pleine concurrence ou les attributions de pleine concurrence relativement à une opération ou ne pas avoir pris part à une opération qui est un arrangement admissible de participation au coût, à moins d'avoir à la fois :

a) établi ou obtenu, au plus tard à la date limite de production qui lui est applicable pour l'année d'imposition ou l'exercice, selon le cas, au cours duquel l'opération est conclue, des registres ou des documents contenant une description complète et exacte, quant à tous les éléments importants, de ce qui suit :

(i) les biens ou les services auxquels l'opération se rapporte,

(ii) les modalités de l'opération et leurs rapports éventuels avec celles de chacune des autres opérations conclues entre les participants à l'opération,

(iii) l'identité des participants à l'opération et les liens qui existent entre eux au moment de la conclusion de l'opération,

(iv) les fonctions exercées, les biens utilisés ou apportés et les risques assumés dans le cadre de l'opération par les participants,

(v) les données et méthodes prises en considération et les analyses effectuées en vue de déterminer les prix de transfert, l'attribution des bénéfices ou des pertes ou la participation aux coûts, selon le cas, relativement à l'opération,

(vi) les hypothèses, stratégies et principes éventuels ayant influé sur l'établissement des prix de transfert, l'attribution des bénéfices ou des pertes ou la participation aux coûts relativement à l'opération;

b) pour chaque année d'imposition ou exercice ultérieur où se poursuit l'opération, établi ou obtenu, au plus tard à la date limite de production qui lui est applicable pour l'année ou l'exercice, selon le cas, des registres ou des documents contenant une description complète et exacte de chacun des changements importants dont les éléments visés aux sous-alinéas a)(i) à (vi) ont fait l'objet au cours de l'année ou de l'exercice relativement à l'opération;

(c) provides the records or documents described in paragraphs 247(4)(a) and 247(4)(b) to the Minister within 3 months after service, made personally or by registered or certified mail, of a written request therefor.

c) fourni les registres ou documents visés aux alinéas a) et b) au ministre dans les trois mois suivant la signification à personne ou par courrier recommandé ou certifié d'une demande écrite les concernant.

Partner's gross revenue

(5) For the purpose of subparagraph 247(3)(b)(i), where a taxpayer is a member of a partnership in a taxation year, the taxpayer's gross revenue for the year as a member of the partnership from any activities carried on by means of the partnership is deemed to be that proportion of the amount that would be the partnership's gross revenue from the activities if it were a taxpayer (to the extent that amount does not include amounts received or receivable from other partnerships of which the taxpayer is a member in the year), for a fiscal period of the partnership that ends in the year, that

(a) the taxpayer's share of the income or loss of the partnership from its activities for the period

is of

(b) the income or loss of the partnership from its activities for the period,

and where the income and loss of the partnership from its activities are nil for the period, the income of the partnership from its activities for the period is deemed to be $1,000,000 for the purpose of determining a taxpayer's share of the partnership's income from its activities for the purpose of this subsection.

Revenu brut de l'associé

(5) Pour l'application du sous-alinéa (3)b)(i), dans le cas où un contribuable est un associé d'une société de personnes au cours d'une année d'imposition, son revenu brut à ce titre pour l'année provenant d'activités exercées au moyen de la société de personnes est réputé égal au produit de la multiplication du montant qui représenterait le revenu brut de la société de personnes provenant des activités si elle était un contribuable (dans la mesure où ce montant ne comprend pas de montants reçus ou à recevoir d'autres sociétés de personnes dont le contribuable est un associé au cours de l'année), pour un exercice de la société de personnes se terminant dans l'année, par le rapport entre :

a) d'une part, la part du contribuable sur le revenu ou la perte de la société de personnes provenant de ses activités pour l'exercice;

b) d'autre part, le revenu ou la perte de la société de personnes provenant de ses activités pour l'exercice.

Si le revenu ou la perte de la société de personnes provenant de ses activités est nul pour l'exercice, son revenu provenant de ses activités pour l'exercice est réputé égal à 1 000000 $ pour ce qui est du calcul, pour l'application du présent paragraphe, de la part de son revenu provenant de ses activités qui revient à un contribuable.

Deemed member of partnership

(6) For the purposes of this section, where a person is a member of a partnership that is a member of another partnership,

(a) the person is deemed to be a member of the other partnership; and

(b) the person's share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

Présomption

(6) Pour l'application du présent article, les présomptions suivantes s'appliquent à la personne qui est l'associé d'une société de personnes qui est elle-même l'associé d'une autre société de personnes :

a) la personne est réputée être l'associé de l'autre société de personnes;

b) la part de la personne sur le revenu ou la perte de l'autre société de personnes est réputée égale au montant de ce revenu ou de cette perte auquel elle a droit directement ou indirectement.

Exclusion for loans to certain controlled foreign affiliates

(7) Where, in a taxation year of a corporation resident in Canada, a non-resident person owes an amount to the corporation, the non-resident person is a controlled foreign affiliate of the corporation for the purpose of section 17 throughout the period in the year during which the

Exclusion des prêts consentis à certaines sociétés étrangères affiliées contrôlées

(7) Lorsqu'est débitrice d'une créance d'une société résidant au Canada, au cours d'une année d'imposition de celle-ci, une personne non-résidente qui est une société étrangère affiliée contrôlée de la société pour l'application de l'article 17 tout au long de la période de l'année au

amount is owing and it is established that the amount owing is an amount owing described in paragraph 17(8)(a) or (b), subsection (2) does not apply to adjust the amount of interest paid, payable or accruing in the year on the amount owing.

Exclusion — certain guarantees

(7.1) Subsection (2) does not apply to adjust an amount of consideration paid, payable or accruing to a corporation resident in Canada (in this subsection referred to as the "parent") in a taxation year of the parent for the provision of a guarantee to a person or partnership (in this subsection referred to as the "lender") for the repayment, in whole or in part, of a particular amount owing to the lender by a non-resident person, if

(a) the non-resident person is a controlled foreign affiliate of the parent for the purposes of section 17 throughout the period in the year during which the particular amount is owing; and

(b) it is established that the particular amount would be an amount owing described in paragraph 17(8)(a) or (b) if it were owed to the parent.

Provisions not applicable

(8) Where subsection 247(2) would, if this Act were read without reference to sections 67 and 68 and subsections 69(1) and 69(1.2), apply to adjust an amount under this Act, sections 67 and 68 and subsections 69(1) and 69(1.2) shall not apply to determine the amount if subsection 247(2) is applied to adjust the amount.

Anti-avoidance

(9) For the purposes of determining a taxpayer's gross revenue under subparagraph 247(3)(b)(i) and subsection 247(5), a transaction or series of transactions is deemed not to have occurred, if one of the purposes of the transaction or series was to increase the taxpayer's gross revenue for the purpose of subsection 247(3).

No adjustment unless appropriate

(10) An adjustment (other than an adjustment that results in or increases a transfer pricing capital adjustment or a transfer pricing income adjustment of a taxpayer for a taxation year) shall not be made under subsection 247(2) unless, in the opinion of the Minister, the circumstances are such that it would be appropriate that the adjustment be made.

cours de laquelle la créance est due et qu'il est établi que la créance est une créance visée aux alinéas 17(8)a) ou b), le paragraphe (2) n'a pas pour effet de redresser les intérêts payés, payables ou courus sur la créance au cours de l'année.

Exclusion — certaines garanties

(7.1) Le paragraphe (2) n'a pas pour effet de redresser un montant de contrepartie payé ou à payer à une société résidant au Canada (appelée « société mère » au présent paragraphe), ou couru en sa faveur, au cours de son année d'imposition pour la fourniture, à une personne ou à une société de personnes (appelées « prêteur » au présent paragraphe), d'une garantie pour le remboursement total ou partiel d'une somme donnée qu'une personne non-résidente doit au prêteur si, à la fois :

a) la personne non-résidente est une société étrangère affiliée contrôlée de la société mère pour l'application de l'article 17 tout au long de la période de l'année pendant laquelle la somme donnée est due;

b) il est établi que la somme donnée serait une somme due visée aux alinéas 17(8)a) ou b) si elle était due à la société mère.

Dispositions inapplicables

(8) Le montant qui serait redressé par l'effet du paragraphe (2) en l'absence des articles 67 et 68 et des paragraphes 69(1) et (1.2) est déterminé compte non tenu des articles 67 et 68 ni des paragraphes 69(1) ou (1.2) s'il a été redressé par l'effet du paragraphe (2).

Anti-évitement

(9) Aux fins de déterminer le revenu brut d'un contribuable selon le sous-alinéa (3)b)(i) et le paragraphe (5), une opération ou une série d'opérations est réputée ne pas avoir été exécutée si l'une des raisons de sa conclusion est d'augmenter le revenu brut du contribuable pour l'application du paragraphe (3).

Redressements autorisés

(10) Un redressement autre que celui qui donne lieu à un redressement de capital ou un redressement de revenu d'un contribuable pour une année d'imposition, ou qui augmente le montant d'un tel redressement, ne peut être effectué aux termes du paragraphe (2) que si le ministre estime que les circonstances le justifient.

Provisions applicable to Part

(11) Sections 152, 158, 159, 162 to 167 and Division J of Part I apply to this Part, with such modifications as the circumstances require.

Deemed dividends to non-residents

(12) For the purposes of Part XIII, if a particular corporation that is a resident of Canada for the purposes of Part XIII would have a transfer pricing capital adjustment or a transfer pricing income adjustment for a taxation year, if the particular corporation, or a partnership of which the particular corporation is a member, had undertaken no transactions or series of transactions other than those in which a particular non-resident person, or a partnership of which the particular non-resident person is a member, that does not deal at arm's length with the particular corporation (other than a corporation that was for the purposes of section 17 a controlled foreign affiliate of the particular corporation throughout the period during which the transaction or series of transactions occurred) was a participant,

(a) a dividend is deemed to have been paid by the particular corporation and received by the particular non-resident person immediately before the end of the taxation year; and

(b) the amount of the dividend is the amount, if any, by which

(i) the amount that would be the portion of the total of the particular corporation's transfer pricing capital adjustment and transfer pricing income adjustment for the taxation year that could reasonably be considered to relate to the particular non-resident person if

(A) the only transactions or series of transactions undertaken by the particular corporation were those in which the particular non-resident person was a participant, and

(B) the definition ***transfer pricing capital adjustment*** in subsection (1) were read without reference to the references therein to "1/2 of" and "3/4 of"

exceeds

(ii) the amount that would be the portion of the total of the particular corporation's transfer pricing capital setoff adjustment, and transfer pricing income setoff adjustment, for the taxation year that could reasonably be considered to relate to the particular non-resident person if

Dispositions applicables

(11) Les articles 152, 158, 159 et 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Dividendes réputés versés à des non-résidents

(12) Pour l'application de la partie XIII, dans le cas où une société donnée qui réside au Canada pour l'application de cette partie aurait un redressement de revenu ou un redressement de capital pour une année d'imposition si les seules opérations ou séries d'opérations entreprises par elle, ou par une société de personnes dont elle est un associé, étaient celles auxquelles a participé une personne non-résidente (sauf une société qui a été, pour l'application de l'article 17, une société étrangère affiliée contrôlée de la société donnée tout au long de la période au cours de laquelle l'opération ou la série d'opérations a été effectuée), ou une société de personnes dont la personne non-résidente est un associé, qui a un lien de dépendance avec la société donnée, les règles ci-après s'appliquent :

a) un dividende est réputé avoir été versé par la société donnée et reçu par la personne non-résidente immédiatement avant la fin de l'année;

b) le montant du dividende correspond à l'excédent de la somme visée au sous-alinéa (i) sur celle visée au sous-alinéa (ii) :

(i) la somme qui correspondrait à la partie du total du redressement de capital et du redressement de revenu de la société donnée pour l'année qu'il serait raisonnable de considérer comme se rapportant à la personne non-résidente si, à la fois :

(A) les seules opérations ou séries d'opérations entreprises par la société donnée étaient celles auxquelles la personne non-résidente a participé,

(B) les passages « la moitié du » et « les ¾ du » dans la définition de ***redressement de capital*** au paragraphe (1) étaient chacun remplacés par « le »,

(ii) la somme qui correspondrait à la partie du total du redressement compensatoire de capital et du redressement compensatoire de revenu de la société donnée pour l'année qu'il serait raisonnable de considérer comme se rapportant à la personne non-résidente si, à la fois :

(A) les seules opérations ou séries d'opérations entreprises par la société donnée étaient celles

(A) the only transactions or series of transactions undertaken by the particular corporation were those in which the particular non-resident person was a participant, and

(B) the definition ***transfer pricing capital adjustment*** in subsection (1) were read without reference to the references therein to "1/2 of" and "3/4 of".

(A) auxquelles la personne non-résidente a participé,

(B) les passages « la moitié du » et « les ¾ du » dans la définition de ***redressement de capital*** au paragraphe (1) étaient chacun remplacés par « le ».

Repatriation

(13) If a dividend is deemed by subsection (12) to have been paid by a corporation and received by a non-resident person, and a particular amount has been paid with the concurrence of the Minister by the non-resident person to the corporation,

(a) the amount of the dividend may be reduced by the amount (in this subsection referred to as the "reduction") that the Minister considers appropriate, having regard to all the circumstances, and

(b) subsections 227(8.1) and (8.3) apply as if

(i) the amount of the dividend were not reduced, and

(ii) on the day on which the particular amount was paid, the corporation paid to the Receiver General an amount equal to the amount that would be required to be withheld and remitted under Part XIII in respect of the reduction.

Rapatriement

(13) Si un dividende est réputé, en vertu du paragraphe (12), avoir été versé par une société et reçu par une personne non-résidente et que celle-ci a versé une somme donnée à la société avec l'accord du ministre, les règles ci-après s'appliquent :

a) le montant du dividende peut être réduit de la somme (appelée « réduction » au présent paragraphe) que le ministre estime acceptable dans les circonstances;

b) les paragraphes 227(8.1) et (8.3) s'appliquent comme si :

(i) d'une part, le montant du dividende n'était pas réduit,

(ii) d'autre part, la société avait versé au receveur général, à la date où la somme donnée a été versée, une somme égale à celle qui serait à retenir et à verser en vertu de la partie XIII relativement à la réduction.

Repatriation — interest

(14) If the amount of a dividend is reduced under paragraph (13)(a), the amount of interest payable by a taxpayer because of paragraph (13)(b) may be reduced to the amount that the Minister considers appropriate, having regard to all the circumstances, including the provision of reciprocal treatment by the country in which the non-resident person referred to in subsection (13) is resident.

Rapatriement — intérêts

(14) Si le montant d'un dividende est réduit en vertu de l'alinéa (13)a), les intérêts payables par un contribuable par l'effet de l'alinéa (13)b) peuvent être ramenés à la somme que le ministre estime indiquée dans les circonstances, notamment l'existence d'un traitement réciproque dans le pays de résidence de la personne non-résidente visée au paragraphe (13).

Non-application of provisions

(15) Section 15, subsections 56(2) and 212.3(2) and section 246 do not apply in respect of an amount to the extent that a dividend is deemed by subsection (12) (determined without reference to subsection (13)) to have been paid in respect of the amount.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 238; 1999, c. 22, s. 79; 2001, c. 17, s. 187; 2005, c. 19, s. 53; 2012, c. 31, s. 54; 2013, c. 40, s. 88; 2016, c. 12, s. 62.

Dispositions non applicables

(15) L'article 15, les paragraphes 56(2) et 212.3(2) et l'article 246 ne s'appliquent pas relativement à une somme dans la mesure où (compte non tenu du paragraphe (13)) un dividende est réputé, en vertu du paragraphe (12), avoir été versé au titre de la somme.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 238; 1999, ch. 22, art. 79; 2001, ch. 17, art. 187; 2005, ch. 19, art. 53; 2012, ch. 31, art. 54; 2013, ch. 40, art. 88; 2016, ch. 12, art. 62.

PART XVII

Interpretation

Definitions

248 (1) In this Act,

active business, in relation to any business carried on by a taxpayer resident in Canada, means any business carried on by the taxpayer other than a specified investment business or a personal services business; (*entreprise exploitée activement*)

additional voluntary contribution to a registered pension plan means a contribution that is made by a member to the plan, that is used to provide benefits under a money purchase provision (within the meaning assigned by subsection 147.1(1)) of the plan and that is not required as a general condition of membership in the plan; (*cotisation facultative*)

adjusted cost base has the meaning assigned by section 54; (*prix de base rajusté*)

adjustment time [Repealed, 2016, c. 12, s. 63]

aggregate investment income has the meaning assigned by subsection 129(4); (*revenu de placement total*)

allowable business investment loss has the meaning assigned by section 38; (*perte déductible au titre d'un placement d'entreprise*)

allowable capital loss has the meaning assigned by section 38; (*perte en capital déductible*)

alter ego trust means a trust to which paragraph 104(4)(a) would apply if that paragraph were read without reference to subparagraph 104(4)(a)(iii) and clauses 104(4)(a)(iv)(B) and (C); (*fiducie en faveur de soi-même*)

amateur athlete trust has the meaning assigned by subsection 143.1(1.2); (*fiducie au profit d'un athlète amateur*)

amortized cost of a loan or lending asset at any time to a taxpayer means the amount, if any, by which the total of

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

PARTIE XVII

Interprétation

Définitions

248 (1) Les définitions qui suivent s'appliquent à la présente loi.

abri fiscal S'entend au sens du paragraphe 237.1(1). (*tax shelter*)

accord de séparation Est comprise parmi les accords de séparation la convention en vertu de laquelle une personne s'engage à effectuer des versements périodiques après la dissolution de son mariage ou union de fait, en vue de subvenir aux besoins de son ex-époux ou ancien conjoint de fait, d'enfants issus du mariage ou union de fait, ou, à la fois, de son ex-conjoint et d'enfants issus du mariage ou union de fait, que la convention ait été conclue avant ou après la dissolution de ce mariage ou union de fait. (*separation agreement*)

accord international désigné

a) La Convention concernant l'assistance administrative mutuelle en matière fiscale, conclue à Strasbourg le 25 janvier 1988 et modifiée par tout protocole ou autre instrument international, tel que ratifié par le Canada;

b) tout accord général d'échange de renseignements fiscaux qui a été conclu par le Canada, et qui est en vigueur, à l'égard d'un autre pays ou territoire. (*listed international agreement*)

actifs du failli S'entend au sens de la *Loi sur la faillite et l'insolvabilité*. (*estate of the bankrupt*)

action Sauf indication contraire du contexte, action ou fraction d'action du capital-actions d'une société. Il est entendu que l'action comprend la part du capital social d'une société coopérative, au sens du paragraphe 136(2), la part du capital social d'une coopérative agricole, au sens du paragraphe 135.1(1), et la part du capital social d'une caisse de crédit. (*share*)

action accréditive S'entend au sens du paragraphe 66(15). (*flow-through share*)

action admissible S'entend au sens du paragraphe 192(6). (*qualifying share*)

action de mécanisme de transfert de dividendes ou ***AMTD*** S'entend, à l'égard d'une personne ou d'une société de personnes, de chacune des actions suivantes :

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

(c) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount, if any, by which

(i) the principal amount of the loan or lending asset at the time it was so acquired

exceeds

(ii) the cost to the taxpayer of the loan or lending asset

that was included in computing the taxpayer's income for any taxation year ending at or before that time,

(c.1) the total of all amounts each of which is an amount in respect of the loan or lending asset that was included in computing the taxpayer's income for a taxation year that ended at or before that time in respect of changes in the value of the loan or lending asset attributable to the fluctuation in the value of a currency of a country other than Canada relative to Canadian currency,

(d) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed by reason of paragraph 142(3)(a) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1977 taxation year, to be a gain for any taxation year ending at or before that time, and

(e) the total of all amounts each of which is an amount in respect of the loan or lending asset that was included under paragraph 12(1)(i) in computing the taxpayer's income for any taxation year ending at or before that time

exceeds the total of

(f) the part of the amount, if any, by which

(i) the amount referred to in subparagraph (c)(ii)

exceeds

(ii) the amount referred to in subparagraph (c)(i)

that was deducted in computing the taxpayer's income for any taxation year ending at or before that time,

(f.1) the total of all amounts each of which is an amount in respect of the loan or lending asset that was deducted in computing the taxpayer's income for a taxation year that ended at or before that time in

a) l'action dont la personne ou la société de personnes est propriétaire;

b) l'action relativement à laquelle la personne ou la société de personnes est réputée avoir reçu un dividende en vertu du paragraphe 260(5.1) et obtenu la totalité ou la presque totalité des possibilités de subir des pertes et de réaliser des gains ou des bénéfices dans le cadre d'un accord ou d'un arrangement;

c) l'action qui est détenue par une fiducie dont la personne ou la société de personnes est bénéficiaire et relativement à laquelle la personne ou la société de personnes est réputée avoir reçu un dividende résultant d'une attribution effectuée par la fiducie aux termes du paragraphe 104(19);

d) l'action relativement à laquelle la personne ou la société de personnes est réputée, en vertu du paragraphe 82(2), avoir reçu un dividende;

e) dans les autres cas, l'action relativement à laquelle la personne ou la société de personnes a droit (ou, en l'absence du paragraphe 112(2.3), aurait droit) à une déduction en vertu du paragraphe 112(1) relativement à un dividende reçu sur l'action. (*DRA share*)

action de régime transitoire L'une des actions suivantes :

a) action du capital-actions d'une société émise après 20 heures, heure avancée de l'Est, le 18 juin 1987 conformément à une convention écrite conclue avant ce moment;

b) action du capital-actions d'une société émise après 20 heures, heure avancée de l'Est, le 18 juin 1987 avant 1988 dans le cadre d'un appel public à l'épargne fait conformément à un prospectus, à un prospectus provisoire, à une déclaration d'enregistrement, à une notice d'offre ou à un avis, produits avant 20 heures, heure avancée de l'Est, le 18 juin 1987 auprès d'une administration selon la législation sur les valeurs mobilières applicable là où les actions sont placées;

c) action du capital-actions d'une société émise après 20 heures, heure avancée de l'Est, le 18 juin 1987 (appelée « nouvelle action » au présent alinéa) en échange d'une autre action de régime transitoire, d'une action émise avant 20 heures, heure avancée de l'Est, le 18 juin 1987 ou d'un titre de créance émis :

(i) soit avant 20 heures, heure avancée de l'Est, le 18 juin 1987,

(ii) soit après 20 heures, heure avancée de l'Est, le 18 juin 1987 conformément à une convention écrite

respect of changes in the value of the loan or lending asset attributable to the fluctuation in the value of a currency of a country other than Canada relative to Canadian currency,

(g) the total of all amounts that, at or before that time, the taxpayer had received as or on account or in lieu of payment of or in satisfaction of the principal amount of the loan or lending asset,

(h) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed by reason of paragraph 142(3)(b) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1977 taxation year, to be a loss for any taxation year ending at or before that time, and

(i) the total of all amounts each of which is an amount in respect of the loan or lending asset deducted under paragraph 20(1)(p) in computing the taxpayer's income for any taxation year ending at or before that time; (*coût amorti*)

amount means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing, except that,

(a) notwithstanding paragraph (b), in any case where subsection 112(2.1), 112(2.2) or 112(2.4), or section 187.2 or 187.3 or subsection 258(3) or 258(5) applies to a stock dividend, the ***amount*** of the stock dividend is the greater of

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

(ii) the fair market value of the share or shares paid as a stock dividend at the time of payment,

(b) in any case where section 191.1 applies to a stock dividend, the ***amount*** of the stock dividend for the purposes of Part VI.1 is the greater of

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

(ii) the fair market value of the share or shares paid as a stock dividend at the time of payment,

and for any other purpose the amount referred to in subparagraph (i), and

(b.1) [Repealed, 2013, c. 34, s. 358]

conclue avant ce moment, ou après ce moment et avant 1988 dans le cadre d'un appel public à l'épargne fait conformément à un prospectus, à un prospectus provisoire, à une déclaration d'enregistrement, à une notice d'offre ou à un avis, déposé avant ce moment auprès d'un organisme public selon la législation sur les valeurs mobilières applicable là où la créance est placée,

si le droit d'échange et la totalité, ou presque, des caractéristiques de la nouvelle action sont établis par écrit avant ce moment;

d) action d'une catégorie du capital-actions d'une société canadienne, cotée à une bourse de valeurs désignée, émise après 20 heures, heure avancée de l'Est, le 18 juin 1987 sur exercice d'un droit qui, à la fois :

(i) est émis avant ce moment, est émis après ce moment conformément à une convention écrite conclue avant ce moment ou est émis après ce moment et avant 1988 dans le cadre d'un appel public à l'épargne fait conformément à un prospectus, à un prospectus provisoire, à une déclaration d'enregistrement, à une notice d'offre ou à un avis, déposé avant ce moment auprès d'un organisme public selon la législation sur les valeurs mobilières applicable là où le droit est placé,

(ii) est coté à une bourse de valeurs désignée,

si la totalité, ou presque, des caractéristiques du droit et de l'action sont établies par écrit avant ce moment;

toutefois l'action réputée émise à un moment donné en application des définitions de *action privilégiée à court terme*, *action privilégiée à terme* ou *action privilégiée imposable* ou du paragraphe 112(2.22) est réputée, après ce moment, ne pas être une action de régime transitoire pour l'application de ces dispositions. (*grandfathered share*)

actionnaire Sont compris parmi les actionnaires les membres ou autres personnes ayant le droit de recevoir paiement d'un dividende. (*shareholder*)

actionnaire déterminé S'agissant de l'actionnaire déterminé d'une société au cours d'une année d'imposition, contribuable qui, directement ou indirectement, à un moment donné de l'année, possède au moins 10 % des actions émises d'une catégorie donnée du capital-actions de la société ou de toute autre société qui est liée à celle-ci; pour l'application de la présente définition :

(c) in any other case, the ***amount*** of any stock dividend is the amount by which the paid-up capital of the corporation that paid the dividend is increased by reason of the payment of the dividend; (*montant*)

annuity includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise; (*rente*)

appropriate percentage, for a taxation year, means the lowest percentage referred to in subsection 117(2) for the taxation year; (*taux de base pour l'année*)

assessment includes a reassessment; (*cotisation*)

authorized foreign bank has the meaning assigned by section 2 of the *Bank Act*; (*banque étrangère autorisée*)

automobile means

(a) a motor vehicle that is designed or adapted primarily to carry individuals on highways and streets and that has a seating capacity for not more than the driver and 8 passengers,

but does not include

(b) an ambulance,

(b.1) a clearly marked emergency-response vehicle that is used in connection with or in the course of an individual's office or employment with a fire department or the police;

(b.2) a clearly marked emergency medical response vehicle that is used, in connection with or in the course of an individual's office or employment with an emergency medical response or ambulance service, to carry emergency medical equipment together with one or more emergency medical attendants or paramedics,

(c) a motor vehicle acquired primarily for use as a taxi, a bus used in a business of transporting passengers or a hearse used in the course of a business of arranging or managing funerals,

(d) except for the purposes of section 6, a motor vehicle acquired to be sold, rented or leased in the course of carrying on a business of selling, renting or leasing motor vehicles or a motor vehicle used for the purpose of transporting passengers in the course of carrying on a business of arranging or managing funerals, and

(e) a motor vehicle

a) un contribuable est réputé posséder chaque action du capital-actions d'une société appartenant, à ce moment, à une personne ayant un lien de dépendance avec lui;

b) chaque bénéficiaire d'une fiducie est réputé posséder la fraction de toutes les actions appartenant, à ce moment, à la fiducie que représente la juste valeur marchande, à ce moment, de son droit de bénéficiaire sur la fiducie par rapport à la juste valeur marchande, à ce moment, de tous les droits de bénéficiaire sur la fiducie;

c) chaque associé d'une société de personnes est réputé posséder la fraction de toutes les actions d'une catégorie donnée du capital-actions d'une société qui appartiennent à la société de personnes, à ce moment, que représente la juste valeur marchande, à ce moment, de sa participation dans la société de personnes par rapport à la juste valeur marchande, à ce moment, des participations de tous les associés dans la société de personnes;

d) un particulier qui rend des services pour le compte d'une société qui, advenant que ce particulier ou une autre personne lui étant liée soit, à ce moment, un actionnaire déterminé de la société, exploiterait une entreprise de prestation de services personnels est réputé être un actionnaire déterminé de cette société à ce moment, si lui, ou une personne ou une société de personnes ayant avec lui un lien de dépendance, a droit ou, en vertu d'un arrangement, peut avoir droit, directement ou indirectement, à au moins 10 % des biens ou des actions d'une catégorie donnée du capital-actions de la société ou d'une société liée à celle-ci;

e) malgré l'alinéa b), lorsque la part d'un bénéficiaire sur le revenu ou le capital de la fiducie dépend de l'exercice ou du non-exercice par une personne d'un pouvoir discrétionnaire, le bénéficiaire est réputé posséder chaque action du capital-actions d'une société que la fiducie possède à ce moment. (*specified shareholder*)

action ordinaire Action dont le détenteur n'est pas empêché, lors de la réduction ou du rachat du capital-actions, de participer à l'actif de la société au-delà de la somme versée pour cette action, plus une prime fixe et un taux déterminé de dividende. (*common share*)

action particulière à une institution financière Action émise avant 20 heures, heure avancée de l'Est, le 18 juin 1987, ou action de régime transitoire, dont les caractéristiques ou une convention font que, au moment considéré, il est raisonnable de considérer, compte tenu des circonstances :

(i) of a type commonly called a van or pick-up truck, or a similar vehicle, that has a seating capacity for not more than the driver and two passengers and that, in the taxation year in which it is acquired or leased, is used primarily for the transportation of goods or equipment in the course of gaining or producing income,

(ii) of a type commonly called a van or pick-up truck, or a similar vehicle, the use of which, in the taxation year in which it is acquired or leased, is all or substantially all for the transportation of goods, equipment or passengers in the course of gaining or producing income, or

(iii) of a type commonly called a pick-up truck that is used in the taxation year in which it is acquired or leased primarily for the transportation of goods, equipment or passengers in the course of earning or producing income at one or more locations in Canada that are

(A) described, in respect of any of the occupants of the vehicle, in subparagraph 6(6)(a)(i) or (ii), and

(B) at least 30 kilometres outside the nearest point on the boundary of the nearest population centre, as defined by the last census dictionary published by Statistics Canada before the year, that has a population of at least 40,000 individuals as determined in the last census published by Statistics Canada before the year; (*automobile*)

balance-due day of a taxpayer for a taxation year means,

(a) if the taxpayer is a trust,

(i) in the case where the time at which the taxation year ends is determined under paragraph 249(4)(a), the day that is

(A) in the case where that time occurs in a calendar year after the end of the trust's particular taxation year that ends on December 15 of that calendar year because of an election made under paragraph 132.11(1)(a), the balance-due day of the trust for the particular taxation year,

(B) in the case where clause (A) does not apply and the trust's particular taxation year that begins immediately after that time ends in the calendar year that includes that time, the balance-due day of the trust for the particular taxation year, and

a) soit que le montant des dividendes — appelé « part des bénéfices » à la présente définition — qui peut être déclaré ou versé sur l'action est, par une formule ou autrement, soit fixe, soit plafonné, soit assujetti à un plancher;

b) soit que le montant — appelé « part de liquidation » à la présente définition — que l'actionnaire a le droit de recevoir sur l'action à la dissolution ou à la liquidation de la société émettrice est, par une formule ou autrement, soit fixe, soit plafonné, soit assujetti à un plancher;

sont toutefois exclues de la présente définition les actions qui, au moment considéré, sont des actions visées par règlement, des actions privilégiées à terme, des actions visées à l'alinéa e) de la définition d'*action privilégiée à terme* pour la durée applicable qui y est mentionnée ou des actions privilégiées imposables; pour l'application de la présente définition :

c) la part des bénéfices d'une action est réputée ne pas être fixe, plafonnée ou assujettie à un plancher si tous les dividendes sur l'action sont déterminés uniquement en fonction de la part des bénéfices d'une autre action du capital-actions de la société émettrice ou d'une autre société qui la contrôle qui ne serait pas une action privilégiée imposable s'il n'était pas tenu compte de l'alinéa f) de la définition d'*action privilégiée imposable*, si elle était émise après le 18 juin 1987 et s'il s'agissait pas d'une action de régime transitoire, d'une action visée par règlement ou d'une action visée à l'alinéa e) de la définition d'*action privilégiée à terme*;

d) la part de liquidation d'une action est réputée ne pas être fixe, plafonnée ou assujettie à un plancher si la totalité de cette part peut être déterminée uniquement en fonction de la part de liquidation d'une autre action du capital-actions de la société émettrice ou d'une autre société qui la contrôle qui ne serait pas une action privilégiée imposable s'il n'était pas tenu compte de l'alinéa f) de la définition d'*action privilégiée imposable*, si elle était émise après le 18 juin 1987 et s'il ne s'agissait pas d'une action de régime transitoire, d'une action visée par règlement ou d'une action visée à l'alinéa e) de la définition d'*action privilégiée à terme*;

e) s'il est raisonnable de considérer que les dividendes qui peuvent être déclarés ou versés à un actionnaire à un moment donné sur une action d'une société — à l'exclusion d'une action visée par règlement et d'une action visée à l'alinéa e) de la définition d'*action privilégiée à terme* pour la durée applicable qui y est mentionnée — émise après le 15 décembre 1987 ou acquise

(C) in any other case, 90 days after the end of the calendar year that includes that time, and

(ii) in any other case, the day that is 90 days after the end of the taxation year,

(b) where the taxpayer is an individual who died after October in the year and before May in the following taxation year, the day that is 6 months after the day of death,

(c) in any other case where the taxpayer is an individual, April 30 in the following taxation year, and

(d) where the taxpayer is a corporation,

(i) the day that is three months after the day on which the taxation year (in this subparagraph referred to as the "current year") ends, if

(A) an amount was deducted under section 125 in computing the corporation's tax payable under this Part for the current year or for its preceding taxation year,

(B) the corporation is, throughout the current year, a Canadian-controlled private corporation, and

(C) either

(I) in the case of a corporation that is not associated with another corporation in the current year, its taxable income for its preceding taxation year (determined before taking into consideration the specified future tax consequences for that preceding taxation year) does not exceed its business limit for that preceding taxation year, or

(II) in the case of a corporation that is associated with one or more other corporations in the current year, the total of the taxable incomes of the corporation and of those other corporations for their last taxation years that ended in the last calendar year that ended before the end of the current year (determined before taking into consideration the specified future tax consequences for those last taxation years) does not exceed the total of the business limits of the corporation and of those other corporations for those last taxation years, and

(ii) the day that is two months after the day on which the taxation year ends, in any other case; (*date d'exigibilité du solde*)

après le 15 juin 1988 proviennent principalement de dividendes reçus sur des actions particulières à une institution financière du capital-actions d'une autre société et s'il est raisonnable de considérer que l'action a été émise ou acquise dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements dont l'un des principaux objets consistait à se soustraire à l'application de la partie IV.1 ou à en restreindre l'application, l'action est réputée, au moment donné, être une action particulière à une institution financière. (*taxable RFI share*)

action privilégiée Action autre qu'une action ordinaire. (*preferred share*)

action privilégiée à court terme Action émise après le 15 décembre 1987 — à l'exclusion d'une action de régime transitoire — qui est au moment considéré :

a) soit une action dont les caractéristiques, une convention ou une modification de ces caractéristiques ou de cette convention prévoient que la société émettrice ou une personne apparentée à celle-ci a l'obligation ou peut avoir l'obligation, à tout moment dans les cinq ans suivant la date d'émission de l'action, de racheter, d'acquérir ou d'annuler l'action en tout ou en partie — sauf si l'obligation ne survient qu'en cas de décès de l'actionnaire ou qu'à cause seulement d'un droit de conversion ou d'échange de l'action — ou de réduire le capital versé au titre de l'action; pour l'application du présent alinéa :

(i) dans une convention concernant une action, il n'est pas tenu compte de la stipulation par laquelle une personne convient d'acquérir l'action contre un des montants suivants :

(A) s'il s'agit d'une action (à l'exception d'une action qui serait, sans cette stipulation, une action privilégiée imposable) visée par une convention par laquelle l'action doit être acquise dans les 60 jours suivant la date de la conclusion de la convention, un montant qui ne dépasse pas le plus élevé de la juste valeur marchande de l'action au moment de la conclusion de la convention — déterminée sans égard à la convention — et de la juste valeur marchande de l'action au moment de l'acquisition — déterminée sans égard à la convention —,

(B) dans les autres cas, un montant qui ne dépasse pas la juste valeur marchande de l'action au moment de l'acquisition — déterminée sans égard à la convention — ou un montant déterminé en fonction de l'actif ou des gains de la société émettrice qu'il est raisonnable de considérer

bank means a bank within the meaning assigned by section 2 of the *Bank Act* (other than a federal credit union) or an authorized foreign bank; (*banque*)

bankrupt has the meaning assigned by the *Bankruptcy and Insolvency Act*; (*failli*)

benefit under a deferred profit sharing plan received by a taxpayer in a taxation year means the total of all amounts each of which is an amount received by the taxpayer in the year from a trustee under the plan, minus any amounts deductible under subsections 147(11) and 147(12) in computing the income of the taxpayer for the year; (*prestation en vertu d'un régime de participation différée aux bénéfices*)

bituminous sands means sands or other rock materials containing naturally occurring hydrocarbons (other than coal) which hydrocarbons have

(a) a viscosity, determined in a prescribed manner, equal to or greater than 10,000 centipoise, or

(b) a density, determined in a prescribed manner, equal to or less than 12 degrees API; (*sables bitumineux*)

borrowed money includes the proceeds to a taxpayer from the sale of a post-dated bill drawn by the taxpayer on a bank; (*argent emprunté*)

business includes a profession, calling, trade, manufacture or undertaking of any kind whatever and, except for the purposes of paragraph 18(2)(c), section 54.2, subsection 95(1) and paragraph 110.6(14)(f), an adventure or concern in the nature of trade but does not include an office or employment; (*commerce*)

business limit of a corporation for a taxation year means the amount determined under section 125 to be its business limit for the year; (*plafond des affaires*)

business number means the number (other than a Social Insurance Number) used by the Minister to identify

(a) a corporation or partnership, or

(b) any other association or taxpayer that carries on a business or is required by this Act to deduct or withhold an amount from an amount paid or credited or deemed to be paid or credited under this Act

and of which the Minister has notified the corporation, partnership, association or taxpayer; (*numéro d'entreprise*)

comme servant à déterminer — sans égard à la convention — un montant qui ne dépasse pas la juste valeur marchande de l'action au moment de l'acquisition,

(ii) est assimilé à un actionnaire l'actionnaire d'un actionnaire;

b) soit une action convertible ou échangeable à tout moment dans les cinq ans suivant la date de son émission, sauf si :

(i) d'une part, elle est convertible ou échangeable contre une autre action de la société émettrice ou d'une personne liée à celle-ci qui, si elle était émise, ne serait pas une action privilégiée à court terme ou contre un droit ou bon de souscription qui, s'il était exercé, permettrait à la personne qui l'exercerait d'acquérir uniquement une action de la société émettrice ou d'une personne liée à celle-ci qui, si elle était émise, ne serait pas une action privilégiée à court terme, ou contre à la fois une telle autre action et un tel droit ou bon de souscription,

(ii) d'autre part, la contrepartie totale de l'action à recevoir à la conversion ou à l'échange est cette autre action ou ce droit ou bon de souscription, ou les deux, et, pour l'application du présent sous-alinéa, dans le cas où un contribuable peut devenir en droit de recevoir, à la conversion ou à l'échange d'une action, une contrepartie donnée (à l'exception d'une contrepartie visée au sous-alinéa (i)) en remplacement d'une fraction d'action, la contrepartie donnée n'est réputée être une contrepartie que s'il est raisonnable de considérer qu'elle était à recevoir dans le cadre d'une série d'opérations ou d'événements dont l'un des principaux objets consistait à se soustraire à l'application de la partie IV.1 ou VI.1 ou à en restreindre l'application;

pour l'application de la présente définition :

c) dans le cas où, à un moment donné après le 15 décembre 1987 et autrement que par accord écrit conclu avant le 16 décembre 1987, les caractéristiques d'une action du capital-actions d'une société concernant ce qui est mentionné à l'un des alinéas a), b), f) ou h) sont établies ou modifiées ou une convention concernant ce qui est mentionné à l'un de ces alinéas et à laquelle la société ou une personne apparentée à celle-ci est partie est modifiée ou conclue, l'action est réputée, après ce moment donné, avoir été émise à ce moment donné;

d) l'action qui a été émise à un moment donné après le 15 décembre 1987 ou dont, à un tel moment donné,

Canadian banking business means the business carried on by an authorized foreign bank through a permanent establishment (as defined by regulation) in Canada, other than business conducted through a representative office registered or required to be registered under section 509 of the *Bank Act*; (*entreprise bancaire canadienne*)

Canadian-controlled private corporation has the meaning assigned by subsection 125(7); (*société privée sous contrôle canadien*)

Canadian corporation has the meaning assigned by subsection 89(1); (*société canadienne*)

Canadian development expense has the meaning assigned by subsection 66.2(5); (*frais d'aménagement au Canada*)

Canadian exploration and development expenses has the meaning assigned by subsection 66(15); (*frais d'exploration et d'aménagement au Canada*)

Canadian exploration expense has the meaning assigned by subsection 66.1(6); (*frais d'exploration au Canada*)

Canadian field processing means, except as otherwise prescribed,

(a) the processing in Canada of raw natural gas at a field separation and dehydration facility,

(b) the processing in Canada of raw natural gas at a natural gas processing plant to any stage that is not beyond the stage of natural gas that is acceptable to a common carrier of natural gas,

(c) the processing in Canada of hydrogen sulphide derived from raw natural gas to any stage that is not beyond the marketable sulphur stage,

(d) the processing in Canada of natural gas liquids, at a natural gas processing plant where the input is raw natural gas derived from a natural accumulation of natural gas, to any stage that is not beyond the marketable liquefied petroleum stage or its equivalent,

(e) the processing in Canada of crude oil (other than heavy crude oil recovered from an oil or gas well or a tar sands deposit) recovered from a natural accumulation of petroleum to any stage that is not beyond the crude oil stage or its equivalent, and

(f) prescribed activities

and for the purposes of paragraphs (b) to (d),

les caractéristiques sont modifiées ou concernant laquelle, à un tel moment donné, une convention est conclue ou modifiée est réputée, après ce moment donné, avoir été émise à ce moment donné et être une action privilégiée à court terme de la société émettrice, s'il est raisonnable de considérer, compte tenu des circonstances, notamment du taux d'intérêt d'un titre de créance ou du dividende attaché à une action privilégiée à court terme, que :

(i) d'une part, l'action n'aurait pas été émise, ses caractéristiques modifiées ou la convention conclue ou modifiée, sans l'existence, à un moment, d'un tel titre de créance ou d'une telle action privilégiée à court terme,

(ii) d'autre part, l'un des principaux objets de l'émission de l'action, de la modification de ses caractéristiques ou de la conclusion ou modification de la convention consiste à se soustraire à l'impôt payable en application du paragraphe 191.1(1) ou à en limiter le montant;

e) l'action dont, à un moment donné après le 15 décembre 1987 et autrement que par accord écrit conclu avant le 16 décembre 1987, les caractéristiques sont établies ou modifiées ou concernant laquelle, à un tel moment donné et autrement que par un tel accord, une convention est conclue ou modifiée est réputée avoir été émise à ce moment donné et être une action privilégiée à court terme de la société émettrice du moment donné au moment où il est raisonnable de ne plus s'attendre à ce que, en conséquence des caractéristiques ainsi établies ou modifiées ou de la convention ainsi conclue ou modifiée, la société émettrice ou une personne apparentée à celle-ci rachète, acquière ou annule — autrement qu'en cas de décès de l'actionnaire ou qu'à cause seulement d'un droit de conversion ou d'échange de l'action qui ne ferait pas de l'action une action privilégiée à court terme par l'effet de l'alinéa b) — l'action en tout ou en partie, ou réduise le capital versé au titre de l'action, dans les cinq ans suivant le moment donné; pour l'application du présent alinéa :

(i) dans une convention concernant une action, il n'est pas tenu compte de la stipulation par laquelle une personne convient d'acquérir l'action contre un des montants suivants :

(A) s'il s'agit d'une action (à l'exception d'une action qui serait, sans cette stipulation, une action privilégiée imposable) visée par une convention par laquelle l'action doit être acquise dans les 60 jours suivant la date de la conclusion de la convention, un montant qui ne dépasse pas le

(g) gas is not considered to cease to be raw natural gas solely because of its processing at a field separation and dehydration facility until it is received by a common carrier of natural gas, and

(h) where all or part of a natural gas processing plant is devoted primarily to the recovery of ethane, the plant, or the part of the plant, as the case may be, is considered not to be a natural gas processing plant; (*traitement préliminaire au Canada*)

Canadian oil and gas property expense has the meaning assigned by subsection 66.4(5); (*frais à l'égard de biens canadiens relatifs au pétrole et au gaz*)

Canadian partnership has the meaning assigned by section 102; (*société de personnes canadienne*)

Canadian real, immovable or resource property means

(a) a property that would, if this Act were read without reference to the definition *real or immovable property* in subsection 122.1(1), be a real or immovable property situated in Canada,

(b) a Canadian resource property,

(c) a timber resource property,

(d) a share of the capital stock of a corporation, an income or a capital interest in a trust or an interest in a partnership — other than a taxable Canadian corporation, a SIFT trust (determined without reference to subsection 122.1(2)), a SIFT partnership (determined without reference to subsection 197(8)) or a real estate investment trust (as defined in subsection 122.1(1)) — if more than 50% of the fair market value of the share or interest is derived directly or indirectly from one or any combination of properties described in paragraphs (a) to (c), or

(e) any right to or interest in — or, for civil law, any right to or in — any property described in any of paragraphs (a) to (d); (*bien canadien immeuble, réel ou minier*)

Canadian resident partnership means a partnership that, at any time in respect of which the expression is relevant,

(a) is a Canadian partnership,

(b) would, if it were a corporation, be resident in Canada (including, for greater certainty, a partnership that has its central management and control in Canada), or

plus élevé de la juste valeur marchande de l'action au moment de la conclusion de la convention — déterminée sans égard à la convention — et de la juste valeur marchande de l'action au moment de l'acquisition — déterminée sans égard à la convention —,

(B) dans les autres cas, un montant qui ne dépasse pas la juste valeur marchande de l'action au moment de l'acquisition — déterminée sans égard à la convention — ou un montant déterminé en fonction de l'actif ou des gains de la société émettrice qu'il est raisonnable de considérer comme servant à déterminer — sans égard à la convention — un montant qui ne dépasse pas la juste valeur marchande de l'action au moment de l'acquisition,

(ii) est assimilé à un actionnaire l'actionnaire d'un actionnaire;

f) l'action qui est émise à un moment donné après le 15 décembre 1987, alors que l'existence de la société émettrice est limitée — ou un arrangement a été pris par lequel elle pourrait l'être — à une période de cinq ans ou moins suivant la date de l'émission est réputée être une action privilégiée à court terme de la société émettrice, sauf si l'un des faits ci-après s'avère :

(i) l'action est une action de régime transitoire et l'arrangement a été pris par écrit avant le 16 décembre 1987,

(ii) l'action est émise en faveur d'un particulier après le 14 avril 2005 aux termes d'une convention visée au paragraphe 7(1) et, au moment où le particulier a acquis la dernière fois un droit prévu par la convention qui permet d'acquérir une action du capital-actions de la société émettrice, l'existence de celle-ci n'était pas limitée — et aucun arrangement n'était en vigueur par lequel elle pourrait l'être — à une période de cinq ans ou moins suivant la date de cette dernière acquisition;

g) l'action que la société émettrice ou une personne apparentée à celle-ci a acquise à un moment donné après le 15 décembre 1987 et qu'une personne avec laquelle la société émettrice ou une personne apparentée à celle-ci n'aurait pas eu de lien de dépendance, compte non tenu de l'alinéa 251(5)b), a acquise après ce moment donné de la société émettrice ou d'une personne apparentée à celle-ci est réputée, après ce moment donné, avoir été émise à ce moment donné;

h) dans le cas où, à un moment donné après le 15 décembre 1987 et autrement que par accord écrit conclu

(c) was formed under the laws of a province; (*société de personnes résidant au Canada*)

Canadian resource property has the meaning assigned by subsection 66(15); (*avoir minier canadien*)

capital dividend has the meaning assigned by section 83; (*dividende en capital*)

capital gain for a taxation year from the disposition of any property has the meaning assigned by section 39; (*gain en capital*)

capital interest of a taxpayer in a trust has the meaning assigned by subsection 108(1); (*participation au capital*)

capital loss for a taxation year from the disposition of any property has the meaning assigned by section 39; (*perte en capital*)

capital property has the meaning assigned by section 54; (*immobilisation*)

cash method has the meaning assigned by subsection 28(1); (*méthode de comptabilité de caisse*)

cemetery care trust has the meaning assigned by subsection 148.1(1); (*fiducie pour l'entretien d'un cimetière*)

common-law partner, with respect to a taxpayer at any time, means a person who cohabits at that time in a conjugal relationship with the taxpayer and

(a) has so cohabited throughout the 12-month period that ends at that time, or

(b) would be the parent of a child of whom the taxpayer is a parent, if this Act were read without reference to paragraphs 252(1)(c) and (e) and subparagraph 252(2)(a)(iii),

and, for the purpose of this definition, where at any time the taxpayer and the person cohabit in a conjugal relationship, they are, at any particular time after that time, deemed to be cohabiting in a conjugal relationship unless they were living separate and apart at the particular time for a period of at least 90 days that includes the particular time because of a breakdown of their conjugal relationship; (*conjoint de fait*)

common-law partnership means the relationship between two persons who are common-law partners of each other; (*union de fait*)

avant le 16 décembre 1987, les caractéristiques d'une action ou une convention concernant l'action conclue par la société émettrice ou par une personne apparentée à celle-ci prévoient qu'une personne — à l'exception de la société émettrice et d'un particulier qui n'est pas une fiducie — a l'obligation, conditionnelle ou non, immédiate ou future, d'exécuter un engagement dans les cinq ans suivant le jour de l'émission de l'action — notamment une garantie, promesse ou convention d'achat ou de rachat de l'action et y compris le dépôt de montants ou le prêt de fonds à l'actionnaire ou à une personne apparentée à celui-ci, ou pour le compte de l'un ou de l'autre — donné dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend l'émission de l'action, pour faire en sorte que soit limitée d'une façon quelconque toute perte que l'actionnaire ou une personne apparentée à celui-ci peut subir parce qu'il est propriétaire de l'action ou d'un autre bien, le détient ou en dispose, l'action est réputée, après ce moment donné, avoir été émise à ce moment donné et être, au moment donné et juste après, une action privilégiée à court terme; pour l'application du présent alinéa, si l'engagement est donné à un moment donné après le 15 décembre 1987, autrement que par accord écrit conclu avant le 16 décembre 1987, l'action est réputée avoir été émise à ce moment donné et l'engagement est réputé avoir été donné dans le cadre d'une série d'opérations qui comprenait l'émission de l'action;

i) l'action qui, au moment du versement d'un dividende sur celle-ci, est visée à l'alinéa e) de la définition d'*action privilégiée à terme* pour la durée applicable qui y est mentionnée ou est visée par règlement n'est pas, malgré les autres dispositions de la présente définition, considérée comme une action privilégiée à court terme à ce moment;

j) ***personne apparentée*** s'entend au sens de l'alinéa h) de la définition d'*action privilégiée imposable*. (*short-term preferred share*)

action privilégiée à terme Relativement à une société (appelée « émettrice » à la présente définition), action d'une catégorie du capital-actions de l'émettrice si l'action a été émise ou acquise après le 28 juin et , au moment où l'action a été émise ou acquise, l'existence de l'émettrice était limitée (ou un arrangement avait été pris en vertu duquel elle pourrait être limitée) ou, dans le cas d'une action émise après le 16 novembre 1978, si, selon le cas :

a) en vertu des caractéristiques de l'action, de toute convention concernant l'action ou de toute modification de ces caractéristiques ou d'une telle convention :

common share means a share the holder of which is not precluded on the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up on that share plus a fixed premium and a defined rate of dividend; (*action ordinaire*)

controlled foreign affiliate has, except as expressly otherwise provided in this Act, the meaning assigned by subsection 95(1); (*société étrangère affiliée contrôlée*)

corporation includes an incorporated company; (*société*)

corporation incorporated in Canada includes a corporation incorporated in any part of Canada before or after it became part of Canada; (*société constituée au Canada*)

cost amount to a taxpayer of any property at any time means, except as expressly otherwise provided in this Act,

(a) where the property was depreciable property of the taxpayer of a prescribed class, the amount that would be that proportion of the undepreciated capital cost to the taxpayer of property of that class at that time that the capital cost to the taxpayer of the property is of the capital cost to the taxpayer of all property of that class that had not been disposed of by the taxpayer before that time if subsection 13(7) were read without reference to paragraph 13(7)(e) and if

(i) paragraph 13(7)(b) were read as follows:

"(b) where a taxpayer, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income, the taxpayer shall be deemed to have acquired it at that later time at a capital cost to the taxpayer equal to the fair market value of the property at that later time;", and

(ii) subparagraph 13(7)(d)(i) were read as follows:

"(i) if the use regularly made by the taxpayer of the property for the purpose of gaining or producing income has increased, the taxpayer shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of its fair market value at that time that the amount of the increase in the use regularly made by the taxpayer of the property for that purpose is of the whole of the use regularly made of the property, and"

(i) soit le propriétaire de l'action peut faire en sorte que l'action soit rachetée, acquise ou annulée (sauf si cette possibilité existe uniquement à cause d'un droit de convertir ou d'échanger l'action) ou que le capital versé au titre de l'action soit réduit,

(ii) soit l'émettrice ou toute autre personne ou société de personnes est ou peut être tenue de racheter, d'acquérir ou d'annuler, en tout ou en partie, l'action (sauf si cette obligation découle uniquement d'un droit de convertir ou d'échanger l'action) ou de réduire le capital versé au titre de l'action,

(iii) soit l'émettrice ou toute autre personne ou société de personnes fournit ou peut être tenue de fournir toute forme de garantie, d'indemnité ou d'engagement semblable (y compris le prêt d'argent ou le placement des sommes en dépôt auprès du détenteur de l'action ou de toute personne liée à ce dernier, ou pour son compte) relativement à l'action,

(iv) soit l'action est convertible ou échangeable, sauf si :

(A) d'une part, elle est convertible ou échangeable contre une autre action de l'émettrice ou d'une personne liée à celle-ci qui, si elle était émise, ne serait pas une action privilégiée à terme ou contre un droit ou bon de souscription qui, s'il était exercé, permettrait à la personne qui l'exercerait d'acquérir uniquement une action de l'émettrice ou d'une personne liée à celle-ci qui, si elle était émise, ne serait pas une action privilégiée à terme, ou contre à la fois une telle autre action et un tel droit ou bon de souscription,

(B) d'autre part, la contrepartie totale de l'action à recevoir à la conversion ou à l'échange est cette autre action ou ce droit ou bon de souscription, ou les deux, et, pour l'application de la présente division, dans le cas où un contribuable peut devenir en droit de recevoir, à la conversion ou à l'échange d'une action, une contrepartie donnée (à l'exception d'une contrepartie visée à la division (A)) en remplacement d'une fraction d'action, la contrepartie donnée n'est réputée être une contrepartie que s'il est raisonnable de considérer qu'elle était à recevoir dans le cadre d'une série d'opérations ou d'événements dont l'un des principaux objets consistait à se soustraire à l'application du paragraphe 112(2.1) ou 258(3) ou à en restreindre l'application;

(b) where the property was capital property (other than depreciable property) of the taxpayer, its adjusted cost base to the taxpayer at that time,

(c) where the property was property described in an inventory of the taxpayer, its value at that time as determined for the purpose of computing the taxpayer's income,

(c.1) where the taxpayer was a financial institution in its taxation year that includes that time and the property was a mark-to-market property for the year, the cost to the taxpayer of the property,

(d) [Repealed, 2016, c. 12, s. 63]

(d.1) where the property was a loan or lending asset (other than a net income stabilization account or a property in respect of which paragraph (b), (c), (c.1) or (d.2) applies), the amortized cost of the property to the taxpayer at that time,

(d.2) where the taxpayer was a financial institution in its taxation year that includes that time and the property was a specified debt obligation (other than a mark-to-market property for the year), the tax basis of the property to the taxpayer at that time,

(e) where the property was a right of the taxpayer to receive an amount, other than property that is

(i) a debt the amount of which was deducted under paragraph 20(1)(p) in computing the taxpayer's income for a taxation year that ended before that time,

(ii) a net income stabilization account,

(iii) a right in respect of which paragraph (b), (c), (c.1), (d.1) or (d.2) applies, or

(iv) a right to receive production (as defined in subsection 18.1(1)) to which a matchable expenditure (as defined in subsection 18.1(1)) relates,

the amount the taxpayer has a right to receive,

(e.1) where the property was a policy loan (within the meaning assigned by subsection 138(12)) of an insurer, nil,

(e.2) where the property is an interest of a beneficiary under a qualifying environmental trust, nil, and

(f) in any other case, the cost to the taxpayer of the property as determined for the purpose of computing the taxpayer's income, except to the extent that that

b) son propriétaire a acquis l'action après le 23 octobre 1979 et est :

(i) une société visée à l'un des alinéas a) à e.1) de la définition de *institution financière déterminée*,

(ii) une société contrôlée par une ou plusieurs sociétés visées au sous-alinéa (i),

(iii) une société qui a acquis l'action après le 11 décembre 1979 et qui est liée à une société visée au sous-alinéa (i) ou (ii),

(iv) une société de personnes ou fiducie dont une société visée au sous-alinéa (i) ou (ii) ou une personne qui lui est liée est respectivement un associé ou un bénéficiaire,

et qui, seule ou avec une ou plusieurs de ces sociétés, sociétés de personnes ou fiducies, contrôle ou a le droit absolu ou conditionnel de contrôler l'émettrice ou d'acquérir le contrôle de celle-ci,

à l'exclusion toutefois d'une action du capital-actions d'une société :

c) qui a été émise après le 16 novembre 1978 et avant 1980 conformément à une convention écrite à cet effet conclue avant le 17 novembre 1978 (appelée « convention établie » à la présente définition);

d) qui a été émise à titre de dividende en actions :

(i) avant le 22 avril 1980, à l'égard d'une action du capital-actions d'une société publique qui n'était pas une action privilégiée à terme,

(ii) après le 21 avril 1980, à l'égard d'une action qui était, au moment où le dividende en actions a été payé, une action visée par règlement pour l'application de l'alinéa f);

d.1) qui est cotée à une bourse de valeurs désignée située au Canada, et qui a été émise avant le 22 avril 1980 par l'une des sociétés suivantes :

(i) une société visée à l'un des alinéas a) à d) de la définition de *institution financière déterminée* au présent paragraphe,

(ii) une société dont l'activité d'entreprise principale consiste à prêter de l'argent ou à acheter des créances, ou à faire les deux,

(iii) une société émettrice associée à une société visée aux sous-alinéas (i) ou (ii);

cost has been deducted in computing the taxpayer's income for any taxation year ending before that time;

and, for the purposes of this definition, *financial institution*, *mark-to-market property* and *specified debt obligation* have the meanings assigned by subsection 142.2(1), and *tax basis* has the meaning assigned by subsection 142.4(1); (*coût indiqué*)

credit union has the meaning assigned by subsection 137(6), except for the purposes of Part XV.1; (*caisse de crédit*)

cumulative eligible capital [Repealed, 2016, c. 12, s. 63]

death benefit means the total of all amounts received by a taxpayer in a taxation year on or after the death of an employee in recognition of the employee's service in an office or employment minus

(a) where the taxpayer is the only person who has received such an amount and who is a surviving spouse or common-law partner of the employee (which person is, in this definition, referred to as the "surviving spouse or common-law partner"), the lesser of

(i) the total of all amounts so received by the taxpayer in the year, and

(ii) the amount, if any, by which $10,000 exceeds the total of all amounts received by the taxpayer in preceding taxation years on or after the death of the employee in recognition of the employee's service in an office or employment, or

(b) where the taxpayer is not the surviving spouse or common-law partner of the employee, the lesser of

(i) the total of all amounts so received by the taxpayer in the year, and

(ii) that proportion of

(A) the amount, if any, by which $10,000 exceeds the total of all amounts received by the surviving spouse or common-law partner of the employee at any time on or after the death of the employee in recognition of the employee's service in an office or employment

that

(B) the amount described in subparagraph (i)

is of

e) pour une durée n'excédant pas 10 ans et, dans le cas d'une action émise après le 12 novembre 1981, pour une durée n'excédant pas 5 ans, suivant la date de son émission si l'action a été émise par une société qui réside au Canada :

(i) soit conformément à une proposition faite à ses créanciers ou à un arrangement conclu avec eux et approuvé par un tribunal conformément à la *Loi sur la faillite et l'insolvabilité*,

(ii) soit à une date où la totalité, ou presque, de ses actifs étaient sous le contrôle d'un séquestre, d'un séquestre-gérant, d'un administrateur-séquestre ou d'un syndic de faillite,

(iii) soit à un moment où, en raison de difficultés financières, l'émettrice ou une autre société qui réside au Canada et avec laquelle elle a un lien de dépendance manquait, ou on pouvait raisonnablement s'attendre à ce qu'elle manquât, à un engagement résultant d'un titre de créance détenu par une personne avec laquelle l'émettrice ou l'autre société n'avait aucun lien de dépendance, si, à ce moment, l'action était en totalité, ou presque, émise, directement ou indirectement, en échange ou en remplacement de tout ou partie du titre de créance,

et, dans le cas d'une action émise après le 12 novembre 1981, le produit tiré de l'émission peut raisonnablement être considéré comme ayant été utilisé par l'émettrice ou une société avec laquelle elle avait un lien de dépendance pour le financement de l'entreprise qu'elle exploitait au Canada immédiatement avant que soit émise l'action;

f) qui est une action visée par règlement;

f.1) qui est une action privilégiée imposable détenue par une institution financière déterminée qui a acquis l'action soit avant le 16 décembre 1987, soit avant 1989 conformément à une convention écrite conclue avant le 16 décembre 1987, à l'exception d'une action réputée, par l'alinéa c) de la définition d'*action privilégiée à court terme* ou par l'alinéa i.2), émise après le 15 décembre 1987 ou qui serait réputée, par l'alinéa e) de la définition d'*action privilégiée imposable*, émise après cette date si le passage « 20 heures, heure avancée de l'Est, le 18 juin 1987 », à cet alinéa, était remplacé par « le 15 décembre 1987 »;

pour l'application de la présente définition :

(C) the total of all amounts received by all taxpayers other than the surviving spouse or common-law partner of the employee at any time on or after the death of the employee in recognition of the employee's service in an office or employment; (*prestation consécutive au décès*)

deferred amount at the end of a taxation year under a salary deferral arrangement in respect of a taxpayer means

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

(b) in any other case, any amount that a person has a right under the arrangement at the end of the year to receive after the end of the year,

and, for the purposes of this definition, a right under the arrangement shall include a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied; (*montant différé*)

deferred profit sharing plan has the meaning assigned by subsection 147(1); (*régime de participation différée aux bénéfices*)

depreciable property has the meaning assigned by subsection 13(21); (*bien amortissable*)

derivative forward agreement, of a taxpayer, means an agreement entered into by the taxpayer to purchase or sell a capital property if

(a) the term of the agreement exceeds 180 days or the agreement is part of a series of agreements with a term that exceeds 180 days,

(b) in the case of a purchase agreement, the difference between the fair market value of the property delivered on settlement, including partial settlement, of the agreement and the amount paid for the property is attributable, in whole or in part, to an underlying interest (including a value, price, rate, variable, index, event, probability or thing) other than

(i) revenue, income or cashflow in respect of the property over the term of the agreement, changes in the fair market value of the property over the term

(g) lorsque les modalités d'une convention établie ont été modifiées après le 16 novembre 1978, la convention est réputée avoir été conclue après cette date;

h) dans l'un ou l'autre des cas suivants :

(i) à un moment donné, les caractéristiques d'une action émise conformément à une convention établie ou à toute convention portant sur une telle action ont été modifiées,

(ii) selon :

(A) les caractéristiques d'une action d'une catégorie du capital-actions de l'émettrice émise avant le 17 novembre 1978 (autre qu'une action cotée à une bourse de valeurs au Canada visée par règlement le 16 novembre 1978),

(B) les caractéristiques d'une action émise conformément à une convention établie,

(C) les modalités de toute convention entre l'émettrice et le propriétaire d'une action visée à la division (A) ou (B),

(D) les modalités de toute convention portant sur une action visée à la division (A) ou (B) conclue après le 23 octobre 1979,

le propriétaire de l'action pouvait, à un moment donné après le 16 novembre 1978, exiger, seul ou avec un ou plusieurs contribuables, le rachat, l'acquisition, l'annulation ou la conversion de l'action ou la réduction du capital versé au titre de l'action autrement qu'en raison de l'inobservation des caractéristiques de l'action ou des modalités de toute convention y afférente conclue au moment de l'émission de l'action,

(iii) à un moment donné après le 16 novembre 1978, à l'égard d'une action émise avant le 17 novembre 1978, la date de rachat a été prorogée ou les modalités relatives au rachat, à son acquisition, à son annulation ou à sa conversion ou à la réduction de son capital versé ont été modifiées,

(iv) à un moment donné après le 23 octobre 1979 et avant le 13 novembre 1981, une institution financière déterminée (ou une société de personnes ou une fiducie dont une telle institution, ou une personne qui lui est liée, est un associé ou un bénéficiaire) a acquis une action qui remplit les conditions suivantes :

(A) elle a été émise avant le 17 novembre 1978 ou conformément à une convention établie,

of the agreement, or any similar criteria in respect of the property, or

(ii) if the purchase price is denominated in the currency of a country other than Canada, changes in the value of the Canadian currency relative to that other currency, and

(c) in the case of a sale agreement,

(i) the difference between the sale price of the property and the fair market value of the property at the time the agreement is entered into by the taxpayer is attributable, in whole or in part, to an underlying interest (including a value, price, rate, variable, index, event, probability or thing) other than

(A) revenue, income or cashflow in respect of the property over the term of the agreement, changes in the fair market value of the property over the term of the agreement, or any similar criteria in respect of the property, or

(B) if the sale price is denominated in the currency of a country other than Canada, changes in the value of the Canadian currency relative to that other currency, and

(ii) the agreement is part of an arrangement that has the effect — or would have the effect if the agreements that are part of the arrangement and that were entered into by persons or partnerships not dealing at arm's length with the taxpayer were entered into by the taxpayer instead of non-arm's length persons or partnerships — of eliminating a majority of the taxpayer's risk of loss and opportunity for gain or profit in respect of the property for a period of more than 180 days; (*contrat dérivé à terme*)

designated insurance property has the meaning assigned by subsection 138(12); (*bien d'assurance désigné*)

designated stock exchange means a stock exchange, or that part of a stock exchange, for which a designation by the Minister of Finance under section 262 is in effect; (*bourse de valeurs désignée*)

disposition of any property, except as expressly otherwise provided, includes

(a) any transaction or event entitling a taxpayer to proceeds of disposition of the property,

(b) any transaction or event by which,

(B) elle a été émise à une personne autre qu'une société qui, au moment de l'émission, était :

(I) soit visée à l'un des alinéas a) à e) de la définition de *institution financière déterminée*,

(II) soit contrôlée par une ou plusieurs sociétés visées à la subdivision (I); pour l'application de la présente subdivision, une société est contrôlée par une autre si plus de 50 % des actions émises de son capital-actions comportant plein droit de vote en toutes circonstances appartiennent à l'autre société, à des personnes avec lesquelles celle-ci a un lien de dépendance, ou à la fois à l'autre société et à des personnes avec lesquelles celle-ci a un lien de dépendance,

(C) elle a été acquise auprès d'une personne qui était, au moment donné, une personne autre qu'une société visée aux subdivisions (B)(I) ou (II),

(D) elle a été acquise autrement que conformément à une convention écrite conclue avant le 24 octobre 1979,

(v) à un moment donné après le 12 novembre 1981:

(A) au titre d'une action — à l'exception d'une action visée à l'alinéa e) et d'une action cotée le 13 novembre 1981 à une bourse de valeurs au Canada visée par règlement — émise après le 16 novembre 1978 et avant le 13 novembre 1981 ou d'une action émise après le 12 novembre 1981 et avant 1983 conformément à une convention écrite conclue en ce sens avant le 13 novembre 1981 — appelée « convention déterminée » à la présente définition —, le propriétaire de l'action pouvait exiger, seul ou avec un ou plusieurs contribuables, le rachat, l'acquisition, l'annulation ou la conversion de l'action ou la réduction du capital versé au titre de l'action autrement qu'en raison de l'inobservation des caractéristiques de l'action ou des modalités de toute convention y afférente conclue au moment de l'émission de l'action,

(B) la date de rachat d'une action émise après le 16 novembre 1978 et avant le 13 novembre 1981 ou d'une action émise conformément à une convention déterminée a été prorogée ou les modalités relatives au rachat, à son acquisition, à son annulation ou à sa conversion ou à la réduction de son capital versé ont été modifiées,

(i) where the property is a share, bond, debenture, note, certificate, mortgage, hypothecary claim, agreement of sale or similar property, or interest, or for civil law a right, in it, the property is in whole or in part redeemed, acquired or cancelled,

(ii) where the property is a debt or any other right to receive an amount, the debt or other right is settled or cancelled,

(iii) where the property is a share, the share is converted because of an amalgamation or merger,

(iv) where the property is an option to acquire or dispose of property, the option expires, and

(v) a trust, that can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust's property (unless the trust is described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1)), ceases to act as agent for a beneficiary under the trust with respect to any dealing with any of the trust's property,

(b.1) where the property is an interest in a life insurance policy, a disposition within the meaning of section 148,

(c) any transfer of the property to a trust or, where the property is property of a trust, any transfer of the property to any beneficiary under the trust, except as provided by paragraph (f) or (k), and

(d) where the property is, or is part of, a taxpayer's capital interest in a trust, except as provided by paragraph (h) or (i), a payment made after 1999 to the taxpayer from the trust that can reasonably be considered to have been made because of the taxpayer's capital interest in the trust,

but does not include

(e) any transfer of the property as a consequence of which there is no change in the beneficial ownership of the property, except where the transfer is

(i) from a person or a partnership to a trust for the benefit of the person or the partnership,

(ii) from a trust to a beneficiary under the trust, or

(iii) from one trust maintained for the benefit of one or more beneficiaries under the trust to another trust maintained for the benefit of the same beneficiaries,

(vi) à un moment donné après le 12 novembre 1981, une institution financière déterminée (ou une société de personnes ou une fiducie dont une telle institution, ou une personne qui lui est liée, est un associé ou un bénéficiaire) a acquis une action (sauf une action visée à l'alinéa e)) qui remplit les conditions suivantes :

(A) elle a été émise avant le 13 novembre 1981 ou conformément à une convention déterminée,

(B) elle a été acquise auprès d'une société de personnes ou d'une personne, sauf une personne qui était, au moment donné, une société visée à l'un des alinéas a) à f) de la définition de ***institution financière déterminée***,

(C) son acquisition n'est pas assujettie à un engagement, au sens du paragraphe 112(2.2), donné après le 12 novembre 1981,

(D) elle a été acquise autrement que conformément à une convention écrite conclue avant le 24 octobre 1979 ou une convention déterminée,

l'action, pour ce qui est d'établir à un moment quelconque après le moment donné s'il s'agit d'une action privilégiée à terme, est réputée avoir été émise au moment donné autrement qu'en conformité avec une convention établie ou déterminée;

i) lorsque les caractéristiques d'une action du capital-actions de l'émettrice sont modifiées ou établies après le 28 juin 1982 et que, de ce fait, ou peut raisonnablement s'attendre à ce que l'émettrice, toute personne liée avec elle ou toute société de personnes ou fiducie dont l'émettrice ou une personne liée à elle est un associé ou un bénéficiaire, rachète, acquière ou annule l'action, en tout ou en partie, ou réduise son capital versé à un moment quelconque, l'action est réputée être une action visée à l'alinéa a) depuis la date de la modification ou la date de l'établissement, selon le cas;

i.1) s'il est raisonnable de considérer que les dividendes qui peuvent être déclarés ou versés à un moment donné sur une action d'une société — à l'exclusion d'une action visée par règlement et d'une action visée à l'alinéa e) pour la durée applicable qui y est mentionnée — émise après le 15 décembre 1987 ou acquise après le 15 juin 1988 proviennent principalement de dividendes reçus sur des actions privilégiées à terme du capital-actions d'une autre société et s'il est raisonnable de considérer que l'action a été émise ou acquise dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements dont l'un

(f) any transfer of the property as a consequence of which there is no change in the beneficial ownership of the property, where

(i) the transferor and the transferee are trusts that are, at the time of the transfer, resident in Canada,

(ii) [Repealed, 2013, c. 34, s. 358]

(iii) the transferee does not receive the property in satisfaction of the transferee's right as a beneficiary under the transferor trust,

(iv) the transferee held no property immediately before the transfer (other than property the cost of which is not included, for the purposes of this Act, in computing a balance of undeducted outlays, expenses or other amounts in respect of the transferee),

(v) the transferee does not file a written election with the Minister on or before the filing-due date for its taxation year in which the transfer is made (or on such later date as is acceptable to the Minister) that this paragraph not apply,

(vi) if the transferor is an amateur athlete trust, a cemetery care trust, an employee trust, a trust deemed by subsection 143(1) to exist in respect of a congregation that is a constituent part of a religious organization, a related segregated fund trust (in this paragraph having the meaning assigned by section 138.1), a trust described in paragraph 149(1)(o.4) or a trust governed by an eligible funeral arrangement, an employees profit sharing plan, a registered disability savings plan, a registered education savings plan, a registered supplementary unemployment benefit plan or a TFSA, the transferee is the same type of trust, and

(vii) the transfer results, or is part of a series of transactions or events that results, in the transferor ceasing to exist and, immediately before the time of the transfer or the beginning of that series, as the case may be, the transferee never held any property or held only property having a nominal value,

(g) [Repealed, 2005, c. 30, s. 17]

(h) where the property is part of a capital interest of a taxpayer in a trust (other than a personal trust or a trust prescribed for the purpose of subsection 107(2)) that is described by reference to units issued by the trust, a payment after 1999 from the trust in respect of the capital interest, where the number of units in the trust that are owned by the taxpayer is not reduced because of the payment,

des principaux objets consistait à se soustraire à l'application du paragraphe 112(2.1) ou 138(6) ou à en restreindre l'application, l'action est réputée à ce moment donné être une action privilégiée à terme acquise dans le cours normal des activités d'une entreprise;

i.2) dans le cas où, à un moment donné après le 15 décembre 1987 et autrement que par accord écrit conclu avant le 16 décembre 1987, les caractéristiques d'une action privilégiée imposable du capital-actions d'une société concernant ce qui est mentionné à l'un des sous-alinéas a)(i) à (iv) sont établies ou modifiées ou une convention concernant ce qui est mentionné à l'un de ces sous-alinéas et à laquelle la société ou une personne apparentée à celle-ci, au sens de l'alinéa h) de la définition d'*action privilégiée imposable*, est partie est conclue ou modifiée, l'action est réputée, après ce moment donné, avoir été émise à ce moment donné

j) lorsqu'une action donnée du capital-actions d'une société a été émise ou ses caractéristiques modifiées, et qu'il est raisonnable de considérer, compte tenu des circonstances (notamment du taux d'intérêts sur une créance ou du dividende attaché à une action privilégiée à terme), que :

(i) d'une part, si ce n'était l'existence, à un moment quelconque, de la créance ou de l'action privilégiée, l'action donnée n'aurait pas été émise ou ses caractéristiques modifiées,

(ii) d'autre part, l'un des principaux objets de l'émission de l'action donnée ou de la modification de ses caractéristiques était d'éviter la restriction à la déduction, prévue au paragraphe 112(2.1) ou 138(6),

l'action donnée est réputée, après le 31 décembre 1982, être une action privilégiée à terme de la société. (*term preferred share*)

action privilégiée imposable L'une des actions suivantes :

a) action émise après le 15 décembre 1987 qui est, au moment considéré, une action privilégiée à court terme;

b) action émise après 20 heures, heure avancée de l'Est, le 18 juin 1987 — à l'exception d'une action de régime transitoire — dont, au moment considéré, les caractéristiques ou une convention à laquelle la société émettrice ou une personne apparentée à celle-ci est partie font :

(i) where the property is a taxpayer's capital interest in a trust, a payment to the taxpayer after 1999 in respect of the capital interest to the extent that the payment

(i) is out of the income of the trust (determined without reference to subsection 104(6)) for a taxation year or out of the capital gains of the trust for the year, if the payment was made in the year or the right to the payment was acquired by the taxpayer in the year, or

(ii) is in respect of an amount designated in respect of the taxpayer by the trust under subsection 104(20),

(j) any transfer of the property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan,

(k) any transfer of the property to a trust as a consequence of which there is no change in the beneficial ownership of the property, where the main purpose of the transfer is

(i) to effect payment under a debt or loan,

(ii) to provide assurance that an absolute or contingent obligation of the transferor will be satisfied, or

(iii) to facilitate either the provision of compensation or the enforcement of a penalty, in the event that an absolute or contingent obligation of the transferor is not satisfied,

(l) any issue of a bond, debenture, note, certificate, mortgage or hypothecary claim,

(m) any issue by a corporation of a share of its capital stock, or any other transaction that, but for this paragraph, would be a disposition by a corporation of a share of its capital stock, and

(n) a redemption, an acquisition or a cancellation of a share or of a right to acquire a share (which share or which right, as the case may be, is referred to in this paragraph as the "security") of the capital stock of a corporation (referred to in this paragraph as the "issuing corporation") held by another corporation (referred to in this paragraph as the "disposing corporation") if

(i) the redemption, acquisition or cancellation occurs as part of a merger or combination of two or more corporations (including the issuing corporation and the disposing corporation) to form one

(i) soit qu'il est raisonnable de considérer, compte tenu des circonstances, que le montant des dividendes — appelé « part des bénéfices » à la présente définition — qui peut être déclaré ou versé sur l'action est, par une formule ou autrement, soit fixe, soit plafonné, soit, si le dividende qui peut être déclaré ou versé sur l'action a rang préférentiel sur un autre dividende qui peut être déclaré ou versé sur une autre action du capital-actions de la société émettrice, assujetti à un plancher (y compris un montant déterminé sur une base cumulative),

(ii) soit qu'il est raisonnable de considérer, compte tenu des circonstances, que le montant — appelé « part de liquidation » à la présente définition — que l'actionnaire a le droit de recevoir sur l'action à la dissolution ou à la liquidation de la société émettrice ou au rachat, à l'acquisition ou à l'annulation de l'action ou à la réduction du capital versé au titre de l'action, par la société émettrice ou par une personne apparentée à celle-ci — sauf si l'obligation de rachat, d'acquisition ou d'annulation ne survient qu'en cas de décès de l'actionnaire ou à cause seulement d'un droit de conversion ou d'échange de l'action — est, par une formule ou autrement, soit fixe, soit plafonné, soit assujetti à un plancher, un actionnaire d'un actionnaire étant, pour l'application du présent sous-alinéa, assimilé à un actionnaire,

(iii) soit que l'action est convertible ou échangeable à tout moment, sauf si :

(A) d'une part, elle est convertible ou échangeable contre une autre action de la société émettrice ou d'une personne liée à celle-ci qui, si elle était émise, ne serait pas une action privilégiée imposable ou contre un droit ou bon de souscription qui, s'il était exercé, permettrait à la personne qui l'exercerait d'acquérir uniquement une action de la société émettrice ou d'une personne liée à celle-ci qui, si elle était émise, ne serait pas une action privilégiée imposable, ou contre à la fois une telle autre action et un tel droit ou bon de souscription,

(B) d'autre part, la contrepartie totale de l'action à recevoir à la conversion ou à l'échange est cette autre action ou ce droit ou bon de souscription, ou les deux, et, pour l'application de la présente division, dans le cas où un contribuable peut devenir en droit de recevoir, à la conversion ou à l'échange d'une action, une contrepartie donnée (à l'exception d'une contrepartie visée à la division (A)) en remplacement d'une fraction d'action, la contrepartie donnée n'est réputée être une contrepartie que s'il est raisonnable de

corporate entity (referred to in this paragraph as the "new corporation"),

(ii) the merger or combination

(A) is an amalgamation (within the meaning assigned by subsection 87(1)) to which subsection 87(11) does not apply,

(B) is an amalgamation (within the meaning assigned by subsection 87(1)) to which subsection 87(11) applies, if the issuing corporation and the disposing corporation are described by subsection 87(11) as the parent and the subsidiary, respectively,

(C) is a foreign merger (within the meaning assigned by subsection 87(8.1)), or

(D) would be a foreign merger (within the meaning assigned by subsection 87(8.1)) if subparagraph 87(8.1)(c)(ii) were read without reference to the words "that was resident in a country other than Canada", and

(iii) either

(A) the disposing corporation receives no consideration for the security, or

(B) in the case where the merger or combination is described by clause (ii)(C) or (D), the disposing corporation receives no consideration for the security other than property that was, immediately before the merger or combination, owned by the issuing corporation and that, on the merger or combination, becomes property of the new corporation; (*disposition*)

dividend includes a stock dividend (other than a stock dividend that is paid to a corporation or to a mutual fund trust by a non-resident corporation); (*dividende*)

dividend rental arrangement, of a person or a partnership (each of which is referred to in this definition as the *person*), means

(a) any arrangement entered into by the person where it can reasonably be considered that

(i) the main reason for the person entering into the arrangement was to enable the person to receive a dividend on a share of the capital stock of a corporation, other than a dividend on a prescribed share or on a share described in paragraph (e) of the definition *term preferred share* in this subsection or an amount deemed by subsection 15(3) to be considérer qu'elle était à recevoir dans le cadre d'une série d'opérations ou d'événements dont l'un des principaux objets consistait à se soustraire à l'application de la partie IV.1 ou VI.1 ou à en restreindre l'application,

(iv) soit qu'au moment considéré ou juste avant, une personne qui n'est pas la société émettrice a l'obligation, conditionnelle ou non, immédiate ou future, d'exécuter un engagement — notamment une garantie, promesse ou convention d'achat ou de rachat de l'action et y compris le dépôt de montants ou le prêt de fonds à l'actionnaire ou à une personne apparentée à celui-ci ou pour le compte de l'un ou de l'autre — donné dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements qui comprend l'émission de l'action pour faire en sorte :

(A) ou bien que soit limitée d'une façon quelconque toute perte que l'actionnaire ou une personne apparentée à celui-ci peut subir parce qu'il est propriétaire de l'action ou d'un autre bien, le détient ou en dispose,

(B) ou bien que l'actionnaire ou une personne apparentée à celui-ci obtienne des gains parce qu'il est propriétaire de l'action ou d'un autre bien, le détient ou en dispose;

pour l'application du présent alinéa, si l'engagement est donné à un moment donné après 20 heures, heure avancée de l'Est, le 18 juin 1987, autrement que par accord écrit conclu avant 20 heures, heure avancée de l'Est, le 18 juin 1987, l'action est réputée avoir été émise à ce moment donné et l'engagement est réputé avoir été donné dans le cadre d'une série d'opérations qui comprenait l'émission de l'action;

sont toutefois exclues de la présente définition les actions qui, au moment considéré, sont visées par règlement ou visées à l'alinéa e) de la définition d'*action privilégiée à terme* pour la durée applicable qui y est mentionnée; pour l'application de la présente définition :

c) la part des bénéfices d'une action du capital-actions d'une société est réputée ne pas être fixe, plafonnée ou assujettie à un plancher si tous les dividendes sur l'action sont déterminés uniquement en fonction de la part des bénéfices d'une autre action du capital-actions de la société ou d'une autre société qui la contrôle qui ne serait pas une action privilégiée imposable si la présente définition ne comportait pas l'alinéa f), si elle était émise après le 18 juin 1987 et s'il ne

received as a dividend on a share of the capital stock of a corporation, and

(ii) under the arrangement someone other than that person bears the risk of loss or enjoys the opportunity for gain or profit with respect to the share in any material respect,

(b) for greater certainty, any arrangement under which

(i) a corporation at any time receives on a particular share a taxable dividend that would, if this Act were read without reference to subsection 112(2.3), be deductible in computing its taxable income or taxable income earned in Canada for the taxation year that includes that time, and

(ii) the corporation or a partnership of which the corporation is a member is obligated to pay to another person or partnership an amount

(A) that is compensation for

(I) the dividend described in subparagraph (i),

(II) a dividend on a share that is identical to the particular share, or

(III) a dividend on a share that, during the term of the arrangement, can reasonably be expected to provide to a holder of the share the same or substantially the same proportionate risk of loss or opportunity for gain as the particular share, and

(B) that, if paid, would be deemed by subsection 260(5.1) to have been received by that other person or partnership, as the case may be, as a taxable dividend,

(c) any synthetic equity arrangement, in respect of a DRA share of the person, and

(d) one or more agreements or arrangements (other than agreements or arrangements described in paragraph (c)) entered into by the person, the connected person referred to in paragraph (a) of the definition *synthetic equity arrangement* or, for greater certainty, by any combination of the person and connected persons, if

(i) the agreements or arrangements have the effect, or would have the effect if each agreement or arrangement entered into by a connected person were entered into by the person, of eliminating all or

s'agissait pas d'une action de régime transitoire, d'une action visée par règlement ou d'une action visée à l'alinéa e) de la définition d'*action privilégiée à terme*;

d) la part de liquidation d'une action du capital-actions d'une société est réputée ne pas être fixe, plafonnée ou assujettie à un plancher si la totalité de cette part peut être déterminée uniquement en fonction de la part de liquidation d'une autre action du capital-actions de la société ou d'une autre société qui la contrôle qui ne serait pas une action privilégiée imposable si la présente définition ne comportait pas l'alinéa f), si elle était émise après le 18 juin 1987 et s'il ne s'agissait pas d'une action de régime transitoire, d'une action visée par règlement ou d'une action visée à l'alinéa e) de la définition d'*action privilégiée à terme*;

e) dans le cas où, à un moment donné après 20 heures, heure avancée de l'Est, le 18 juin 1987 et autrement que par accord écrit conclu avant 20 heures, heure avancée de l'Est, le 18 juin 1987, les caractéristiques d'une action du capital-actions d'une société concernant ce qui est mentionné à l'un des sous-alinéas b)(i) à (iv) sont établies ou modifiées ou une convention concernant ce qui est mentionné à l'un de ces sous-alinéas et à laquelle la société ou une personne apparentée à celle-ci est partie est conclue ou modifiée, l'action est réputée, pour ce qui est de déterminer après ce moment donné s'il s'agit d'une action privilégiée imposable, avoir été émise à ce moment donné, sauf s'il s'agit d'une action visée à l'alinéa b) de la définition d'*action de régime transitoire* et si le moment donné se situe avant le 16 décembre 1987 et avant le moment où l'action a initialement été émise;

f) dans une convention concernant une action, il n'est pas tenu compte de la stipulation par laquelle une personne convient d'acquérir l'action contre un des montants suivants :

(i) s'il s'agit d'une action visée par une convention par laquelle l'action doit être acquise dans les 60 jours suivant la date de la conclusion de la convention, un montant qui ne dépasse pas le plus élevé de la juste valeur marchande de l'action au moment de la conclusion de la convention — déterminée sans égard à la convention — et de la juste valeur marchande de l'action au moment de l'acquisition — déterminée sans égard à la convention —,

(ii) dans les autres cas, un montant qui ne dépasse pas la juste valeur marchande de l'action au moment de l'acquisition — déterminée sans égard à la convention — ou un montant déterminé en fonction de l'actif ou des gains de la société émettrice qu'il

substantially all of the person's risk of loss and opportunity for gain or profit in respect of a DRA share of the person,

(ii) as part of a series of transactions that includes these agreements or arrangements, a tax-indifferent investor, or a group of tax-indifferent investors each member of which is affiliated with every other member, obtains all or substantially all of the risk of loss and opportunity for gain or profit in respect of the DRA share or an *identical share* (as defined in subsection 112(10)), and

(iii) it is reasonable to conclude that one of the purposes of the series of transactions is to obtain the result described in subparagraph (ii); (*mécanisme de transfert de dividendes*)

DRA share, of a person or partnership, means a share

(a) that is owned by the person or partnership,

(b) in respect of which the person or partnership is deemed to have received a dividend under subsection 260(5.1) and is provided with all or substantially all of the risk of loss and opportunity for gain or profit under an agreement or arrangement,

(c) that is held by a trust under which the person or partnership is a beneficiary and in respect of which the person or partnership is deemed to have received a dividend as a result of a designation by the trust under subsection 104(19),

(d) in respect of which the person or partnership is deemed to have received a dividend under subsection 82(2), or

(e) in any other case, in respect of which the person or partnership is (or would be in the absence of subsection 112(2.3)) entitled to a deduction under subsection 112(1) in respect of dividends received on the share; (*action de mécanisme de transfert de dividendes* ou *AMTD*)

eligible capital amount [Repealed, 2016, c. 12, s. 63]

eligible capital expenditure [Repealed, 2016, c. 12, s. 63]

eligible capital property [Repealed, 2016, c. 12, s. 63]

eligible dividend has the meaning assigned by subsection 89(1); (*dividende déterminé*)

est raisonnable de considérer comme servant à déterminer — sans égard à la convention — un montant qui ne dépasse pas la juste valeur marchande de l'action au moment de l'acquisition;

g) s'il est raisonnable de considérer que les dividendes qui peuvent être déclarés ou versés à un actionnaire à un moment donné sur une action émise après le 15 décembre 1987 ou acquise après le 15 juin 1988 — à l'exclusion d'une action visée par règlement et d'une action visée à l'alinéa e) de la définition d'*action privilégiée à terme* pour la durée applicable qui y est mentionnée — proviennent principalement de dividendes reçus sur des actions privilégiées imposables du capital-actions d'une autre société et s'il est raisonnable de considérer que l'action a été émise ou acquise dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements dont l'un des principaux objets consistait à se soustraire à l'application de la partie IV.1 ou VI.1 ou à en restreindre l'application, l'action est réputée, au moment donné, être une action privilégiée imposable;

h) une personne est apparentée à une autre personne si elle a un lien de dépendance avec cette autre personne ou avec une société de personnes ou fiducie dont cette autre personne ou cette personne est respectivement un associé ou un bénéficiaire. (*taxable preferred share*)

activités de recherche scientifique et de développement expérimental Investigation ou recherche systématique d'ordre scientifique ou technologique, effectuée par voie d'expérimentation ou d'analyse, c'est-à-dire :

a) la recherche pure, à savoir les travaux entrepris pour l'avancement de la science sans aucune application pratique en vue;

b) la recherche appliquée, à savoir les travaux entrepris pour l'avancement de la science avec application pratique en vue;

c) le développement expérimental, à savoir les travaux entrepris dans l'intérêt du progrès technologique en vue de la création de nouveaux matériaux, dispositifs, produits ou procédés ou de l'amélioration, même légère, de ceux qui existent.

Pour l'application de la présente définition à un contribuable, sont compris parmi les activités de recherche scientifique et de développement expérimental :

d) les travaux entrepris par le contribuable ou pour son compte relativement aux travaux de génie, à la conception, à la recherche opérationnelle, à l'analyse

eligible funeral arrangement has the meaning assigned by subsection 148.1(1); (*arrangement de services funéraires*)

eligible relocation means a relocation of a taxpayer in respect of which the following apply:

(a) the relocation occurs to enable the taxpayer

(i) to carry on a business or to be employed at a location (in section 62 and this definition referred to as "the new work location") that is, except if the taxpayer is absent from but resident in Canada, in Canada, or

(ii) to be a student in full-time attendance enrolled in a program at a post-secondary level at a location of a university, college or other educational institution (in section 62 and this definition referred to as "the new work location"),

(b) the taxpayer ordinarily resided before the relocation at a residence (in section 62 and this definition referred to as "the old residence") and ordinarily resided after the relocation at a residence (in section 62 and this definition referred to as "the new residence"),

(c) except if the taxpayer is absent from but resident in Canada, both the old residence and the new residence are in Canada, and

(d) the distance between the old residence and the new work location is not less than 40 kilometres greater than the distance between the new residence and the new work location; (*réinstallation admissible*)

emissions allowance means an allowance, credit or similar instrument that represents a unit of emissions that can be used to satisfy a requirement under the laws of Canada or a province governing emissions of a regulated substance, such as greenhouse gas emissions; (*droit d'émissions*)

emissions obligation means an obligation to surrender an emissions allowance, or an obligation that can otherwise be satisfied through the use of an emissions allowance, under a law of Canada or a province governing emissions of a regulated substance; (*obligation d'émissions*)

employed means performing the duties of an office or employment; (*employé* (être))

employee includes officer; (*employé*)

mathématique, à la programmation informatique, à la collecte de données, aux essais et à la recherche psychologique, lorsque ces travaux sont proportionnels aux besoins des travaux visés aux alinéas a), b) ou c) qui sont entrepris au Canada par le contribuable ou pour son compte et servent à les appuyer directement.

Ne constituent pas des activités de recherche scientifique et de développement expérimental les travaux relatifs aux activités suivantes :

e) l'étude du marché et la promotion des ventes;

f) le contrôle de la qualité ou la mise à l'essai normale des matériaux, dispositifs, produits ou procédés;

g) la recherche dans les sciences sociales ou humaines;

h) la prospection, l'exploration et le forage fait en vue de la découverte de minéraux, de pétrole ou de gaz naturel et leur production;

i) la production commerciale d'un matériau, d'un dispositif ou d'un produit nouveau ou amélioré, et l'utilisation commerciale d'un procédé nouveau ou amélioré;

j) les modifications de style;

k) la collecte normale de données. (*scientific research and experimental development*)

affaires S'entend au sens de *entreprise*. (*business*)

agriculture Sont compris dans l'agriculture la culture du sol, l'élevage ou l'exposition d'animaux de ferme, l'entretien de chevaux de course, l'élevage de la volaille, l'élevage des animaux à fourrure, la production laitière, la pomoculture et l'apiculture. Ne sont toutefois pas visés par la présente définition la charge ou l'emploi auprès d'une personne exploitant une entreprise agricole. (*farming*)

allocation de retraite Somme, sauf une prestation de retraite ou de pension, une somme reçue en raison du décès d'un employé ou un avantage visé au sous-alinéa 6(1)a)(iv), reçue par un contribuable ou, après son décès, par une personne qui était à sa charge ou qui lui était apparentée, ou par un représentant légal du contribuable :

a) soit en reconnaissance de longs états de service du contribuable au moment où il prend sa retraite d'une charge ou d'un emploi ou par la suite;

b) soit à l'égard de la perte par le contribuable d'une charge ou d'un emploi, qu'elle ait été reçue ou non à

employee benefit plan means an arrangement under which contributions are made by an employer or by any person with whom the employer does not deal at arm's length to another person (in this Act referred to as the "custodian" of an employee benefit plan) and under which one or more payments are to be made to or for the benefit of employees or former employees of the employer or persons who do not deal at arm's length with any such employee or former employee (other than a payment that, if section 6 were read without reference to subparagraph 6(1)(a)(ii) and paragraph 6(1)(g), would not be required to be included in computing the income of the recipient or of an employee or former employee), but does not include any portion of the arrangement that is

(a) a fund, plan or trust referred to in subparagraph 6(1)(a)(i) or paragraph 6(1)(d) or (f),

(b) a trust described in paragraph 149(1)(y),

(c) an employee trust,

(c.1) a salary deferral arrangement, in respect of a taxpayer, under which deferred amounts are required to be included as benefits under paragraph 6(1)(a) in computing the taxpayer's income,

(c.2) a retirement compensation arrangement,

(d) an arrangement the sole purpose of which is to provide education or training for employees of the employer to improve their work or work-related skills and abilities, or

(e) a prescribed arrangement; (*régime de prestations aux employés*)

employee life and health trust has the meaning assigned by subsection 144.1(2); (*fiducie de soins de santé au bénéfice d'employés*)

employee trust means an arrangement (other than an employees profit sharing plan, a deferred profit sharing plan or a plan referred to in subsection 147(15) as a "revoked plan") established after 1979

(a) under which payments are made by one or more employers to a trustee in trust solely to provide to employees or former employees of

(i) the employer, or

(ii) a person with whom the employer does not deal at arm's length,

titre de dommages ou conformément à une ordonnance ou sur jugement d'un tribunal compétent. (*retiring allowance*)

ancien bien d'entreprise Immobilisation d'un contribuable utilisée par lui ou par une personne qui lui est liée principalement en vue de tirer un revenu d'une entreprise et qui était un bien immeuble ou réel du contribuable, ou un intérêt du contribuable sur un bien réel ou un droit du contribuable sur un immeuble, ou un bien qui fait l'objet du choix prévu au paragraphe 13(4.2), à l'exclusion toutefois :

a) d'un bien locatif du contribuable;

b) du fonds de terre sous-jacent à un bien locatif du contribuable;

c) du terrain contigu au fonds de terre visé à l'alinéa b) et qui sert de parc de stationnement, de voie d'accès, de cour, de jardin ou qui est par ailleurs nécessaire pour l'usage du bien locatif visé à cet alinéa;

d) d'une tenure à bail sur tout bien décrit aux alinéas a) à c).

Pour l'application de la présente définition, est un bien locatif d'un contribuable le bien immeuble ou réel dont il est propriétaire, conjointement avec une autre personne ou autrement, et qu'il utilise au cours de l'année d'imposition à laquelle le terme s'applique, principalement en vue de tirer un revenu brut qui consiste en un loyer, à l'exception d'un bien que le contribuable donne à bail à une personne qui lui est liée et que celle-ci utilise principalement à une autre fin. N'est pas un bien locatif le bien que le contribuable ou la personne liée donne à bail à un preneur dans le cours normal des activités d'une entreprise du contribuable ou de la personne liée qui consiste à vendre des marchandises ou à fournir des services, aux termes d'une convention par laquelle le preneur s'engage à utiliser le bien pour exploiter l'entreprise qui consiste à vendre les marchandises du contribuable ou de la personne liée, à fournir leurs services ou à promouvoir cette vente ou cette fourniture. (*former business property*)

argent emprunté Y est assimilé le produit, pour un contribuable, provenant de la vente d'une lettre postdatée tirée par le contribuable sur une banque. (*borrowed money*)

arrangement de capitaux propres synthétiques déterminé S'entend, relativement à une AMTD d'une personne ou d'une société de personnes, d'un ou de plusieurs accords ou autres arrangements qui, à la fois :

benefits the right to which vests at the time of each such payment and the amount of which does not depend on the individual's position, performance or compensation as an employee,

(b) under which the trustee has, since the commencement of the arrangement, each year allocated to individuals who are beneficiaries thereunder, in such manner as is reasonable, the amount, if any, by which the total of all amounts each of which is

(i) an amount received under the arrangement by the trustee in the year from an employer or from a person with whom the employer does not deal at arm's length,

(ii) the amount that would, if this Act were read without reference to subsection 104(6), be the income of the trust for the year (other than a taxable capital gain from the disposition of property) from a property or other source other than a business, or

(iii) a capital gain of the trust for the year from the disposition of property

exceeds the total of all amounts each of which is

(iv) the loss of the trust for the year (other than an allowable capital loss from the disposition of property) from a property or other source other than a business, or

(v) a capital loss of the trust for the year from the disposition of property, and

(c) the trustee of which has elected to qualify the arrangement as an employee trust in its return of income filed within 90 days from the end of its first taxation year; (*fiducie d'employés*)

employees profit sharing plan has the meaning assigned by subsection 144(1); (*régime de participation des employés aux bénéfices*)

employer, in relation to an officer, means the person from whom the officer receives the officer's remuneration; (*employeur*)

employment means the position of an individual in the service of some other person (including Her Majesty or a foreign state or sovereign) and ***servant*** or ***employee*** means a person holding such a position; (*emploi*)

estate has the meaning assigned by subsection 104(1) and includes, for civil law, a succession; (*succession*)

a) ont pour effet d'accorder à une personne ou société de personnes tout ou partie des possibilités de subir des pertes ou de réaliser des gains ou des bénéfices relativement à l'AMTD (étant entendu que les possibilités de réaliser des gains ou des bénéfices comprennent un droit, un bénéfice ou une distribution relatif à une action);

b) peuvent raisonnablement être considérés comme étant conclus en rapport avec un arrangement de capitaux propres synthétiques relatif à l'AMTD ou un autre arrangement de capitaux propres synthétiques déterminé relatif à l'AMTD. (*specified synthetic equity arrangement*)

arrangement de disposition factice Relativement à un bien appartenant à un contribuable, un ou plusieurs accords ou autres arrangements à l'égard desquels les énoncés ci-après se vérifient :

a) ils sont conclus par le contribuable ou par une personne ou une société de personnes avec laquelle il a un lien de dépendance;

b) ils ont pour effet ou auraient pour effet, s'ils étaient conclus par le contribuable plutôt que par la personne ou la société de personnes, d'éliminer, en totalité ou en presque totalité, les possibilités, pour le contribuable, de subir des pertes et de réaliser des gains ou des bénéfices relativement au bien pendant une période définie ou indéfinie;

c) en ce qui a trait à tout accord ou arrangement conclu par une personne ou une société de personnes ayant un lien de dépendance avec le contribuable, il est raisonnable de considérer qu'il a été conclu, en tout ou en partie, dans le but de produire l'effet visé à l'alinéa b). (*synthetic disposition arrangement*)

arrangement de services funéraires S'entend au sens du paragraphe 148.1(1). (*eligible funeral arrangement*)

arrangements de capitaux propres synthétiques Relativement à une action qui est une AMTD à l'égard d'une personne ou d'une société de personnes (appelées « personne donnée » à la présente définition) :

a) s'entend d'un ou de plusieurs accords ou autres arrangements qui, à la fois :

(i) sont conclus par la personne donnée, par une personne ou société de personnes avec laquelle elle a un lien de dépendance ou à laquelle elle est affiliée (appelées « personne rattachée » à la présente définition) — étant entendu que sont aussi visés les accords ou arrangements conclus par plusieurs de

estate of the bankrupt has the same meaning as in the *Bankruptcy and Insolvency Act*; (*actifs du failli*)

excessive eligible dividend designation has the meaning assigned by subsection 89(1); (*désignation excessive de dividende déterminé*)

exempt income means property received or acquired by a person in such circumstances that it is, because of any provision of Part I, not included in computing the person's income, but does not include a dividend on a share or a support amount (as defined in subsection 56.1(4)); (*revenu exonéré*)

farming includes tillage of the soil, livestock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming; (*agriculture*)

farm loss has the meaning assigned by subsection 111(8); (*perte agricole*)

federal credit union has the meaning assigned by section 2 of the *Bank Act*; (*coopérative de crédit fédérale*)

filing-due date for a taxation year of a taxpayer means the day on or before which the taxpayer's return of income under Part I for the year is required to be filed or would be required to be filed if tax under that Part were payable by the taxpayer for the year; (*date d'échéance de production*)

fiscal period [Repealed, 1996, c. 21, s. 60]

fishing includes fishing for or catching shellfish, crustaceans and marine animals but does not include an office or employment under a person engaged in the business of fishing; (*pêche*)

flow-through share has the meaning assigned by subsection 66(15); (*action accréditive*)

foreign accrual property income has the meaning assigned by section 95; (*revenu étranger accumulé, tiré de biens*)

foreign affiliate has the meaning assigned by subsection 95(1); (*société étrangère affiliée*)

foreign currency means currency of a country other than Canada; (*monnaie étrangère*)

foreign currency debt has the meaning assigned by subsection 111(8); (*dette en monnaie étrangère*)

ces personnes — avec une ou plusieurs personnes ou sociétés de personnes (chacune étant appelée « contrepartie » à la présente définition et « contrepartie » ou « contrepartie affiliée », comme il convient, au paragraphe 112(2.32)),

(ii) ont pour effet, ou auraient pour effet, si chaque accord conclu par une personne rattachée était conclu par la personne donnée, d'accorder, en totalité ou en presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices (étant entendu que les possibilités de réaliser des gains ou des bénéfices comprennent un droit, un bénéfice ou une distribution relatif à une action) relativement à l'AMTD à une contrepartie ou à un groupe de contreparties dont chaque membre est affilié à chaque autre membre,

(iii) s'ils sont conclus par une personne rattachée, peuvent raisonnablement être considérés comme ayant été conclus lorsqu'elle savait, ou aurait dû savoir, que l'effet visé au sous-alinéa (ii) se produirait;

b) ne comprend pas les accords ou autres arrangements suivants :

(i) un accord qui est négocié sur une bourse reconnue en instruments financiers dérivés, sauf s'il est raisonnable de considérer que, au moment de la conclusion de l'accord, l'un des énoncés ci-après se vérifie :

(A) la personne donnée ou la personne rattachée, selon le cas, sait ou devrait savoir que l'accord fait partie d'une série d'opérations qui a pour effet d'accorder, en totalité ou en presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'AMTD à un investisseur indifférent relativement à l'impôt, ou à un groupe d'investisseurs indifférents relativement à l'impôt dont chaque membre est affilié à chaque autre membre,

(B) l'une des principales raisons de conclure l'accord consiste à bénéficier dans le cadre de l'accord soit d'une déduction relativement à un paiement, soit d'une réduction d'un montant qui aurait par ailleurs été inclus dans le revenu, qui correspond à un dividende projeté ou réel relativement à une AMTD,

(ii) un ou plusieurs accords ou autres arrangements qui, n'eût été le présent sous-alinéa, seraient des arrangements de capitaux propres synthétiques, relativement à une action dont la personne

foreign exploration and development expenses has the meaning assigned by subsection 66(15); (*frais d'exploration et d'aménagement à l'étranger*)

foreign resource expense has the meaning assigned by subsection 66.21(1); (*frais relatifs à des ressources à l'étranger*)

foreign resource pool expenses of a taxpayer means the taxpayer's foreign resource expenses in respect of all countries and the taxpayer's foreign exploration and development expenses; (*frais globaux relatifs à des ressources à l'étranger*)

foreign resource property has the meaning assigned by subsection 66(15), and a foreign resource property in respect of a country means a foreign resource property that is

(a) a right, licence or privilege to explore for, drill for or take petroleum, natural gas or related hydrocarbons in that country,

(b) a right, licence or privilege to

(i) store underground petroleum, natural gas or related hydrocarbons in that country, or

(ii) prospect, explore, drill or mine for minerals in a mineral resource in that country,

(c) an oil or gas well in that country or real or immovable property in that country the principal value of which depends on its petroleum or natural gas content (but not including depreciable property),

(d) any right to a rental or royalty computed by reference to the amount or value of production from an oil or gas well in that country, or from a natural accumulation of petroleum or natural gas in that country, if the payer of the rental or royalty has an interest in, or for civil law a right in, the well or accumulation, as the case may be, and 90% or more of the rental or royalty is payable out of, or from the proceeds of, the production from the well or accumulation,

(e) any right to a rental or royalty computed by reference to the amount or value of production from a mineral resource in that country, if the payer of the rental or royalty has an interest in, or for civil law a right in, the mineral resource and 90% or more of the rental or royalty is payable out of, or from the proceeds of, the production from the mineral resource,

donnée est propriétaire (appelés « position à découvert synthétique » au présent sous-alinéa), si les énoncés ci-après se vérifiaient :

(A) la personne donnée a conclu un ou plusieurs autres accords ou arrangements — étant entendu qu'en sont exclus tout accord dans le cadre duquel l'action est acquise ou tout accord ou arrangement dans le cadre duquel la personne donnée reçoit un dividende réputé et obtient la totalité ou la presque totalité des possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action — qui ont pour effet d'accorder, en totalité ou en presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'action à la personne donnée (appelés « position à couvert synthétique » au présent sous-alinéa),

(B) la position à découvert synthétique a pour effet de réduire à nil les sommes incluses ou déduites dans le calcul du revenu de la personne donnée relativement à la position à couvert synthétique,

(C) la position à découvert synthétique est prise dans le but de produire l'effet visé à la division (B),

(iii) une convention d'achat des actions d'une société, ou une convention d'achat qui fait partie d'une série de conventions visant l'achat des actions d'une société, dans le cadre de laquelle une contrepartie ou un groupe de contreparties dont chaque membre est affilié à chaque autre membre acquiert le contrôle de la société qui a émis les actions qui font l'objet de l'achat, à moins que la principale raison de la constitution, de l'établissement ou de l'exploitation de la société consiste à faire appliquer le présent sous-alinéa. (*synthetic equity arrangement*)

association canadienne enregistrée de sport amateur Association canadienne de sport amateur, au sens du paragraphe 149.1(1), qui a présenté au ministre une demande d'enregistrement sur le formulaire prescrit, qui a été enregistrée et dont l'enregistrement n'a pas été révoqué. (*registered Canadian amateur athletic association*)

associé détenant une participation majoritaire Quant à une société de personnes à un moment donné, contribuable — personne ou société de personnes — à l'égard duquel l'un des faits ci-après s'avère :

(f) a real or immovable property in that country the principal value of which depends upon its mineral resource content (but not including depreciable property),

(g) a right to or an interest in — or for civil law a right to or in — any property described in any of paragraphs (a) to (e), other than a right or an interest that the taxpayer has because the taxpayer is a beneficiary under a trust or a member of a partnership, or

(h) an interest in real property described in paragraph (f) or a real right in an immovable described in that paragraph, other than an interest or a right that the taxpayer has because the taxpayer is a beneficiary under a trust or a member of a partnership; (*avoir minier étranger*)

foreign retirement arrangement means a prescribed plan or arrangement; (*mécanisme de retraite étranger*)

former business property, in respect of a taxpayer, means a capital property of the taxpayer that was used by the taxpayer or a person related to the taxpayer primarily for the purpose of gaining or producing income from a business, and that was real or immovable property of the taxpayer, an interest of the taxpayer in real property, a right of the taxpayer in an immovable or a property that is the subject of an election under subsection 13(4.2), but does not include

(a) a rental property of the taxpayer,

(b) land subjacent to a rental property of the taxpayer,

(c) land contiguous to land referred to in paragraph (b) that is a parking area, driveway, yard or garden or that is otherwise necessary for the use of the rental property referred to in that paragraph, or

(d) a leasehold interest in any property described in paragraphs (a) to (c),

and for the purpose of this definition, ***rental property*** of a taxpayer means real or immovable property owned by the taxpayer, whether jointly with another person or otherwise, and used by the taxpayer in the taxation year in respect of which the expression is being applied principally for the purpose of gaining or producing gross revenue that is rent (other than property leased by the taxpayer to a person related to the taxpayer and used by that related person principally for any other purpose), but, for greater certainty, does not include a property leased by the taxpayer or the related person to a lessee, in the ordinary course of a business of the taxpayer or the related

a) la part qui lui revient du revenu de la société de personnes tiré de toutes sources soit pour le dernier exercice de celle-ci qui s'est terminé avant ce moment, soit, si le premier exercice de la société de personnes comprend ce moment, pour cet exercice, aurait dépassé la moitié du revenu de la société de personnes tiré de toutes sources pour l'exercice si le contribuable avait détenu tout au long de l'exercice chaque participation dans la société de personnes qu'il détenait à ce moment ou que détenait à ce moment une personne qui lui est affiliée;

b) la part qui lui revient, majorée de la part qui revient à chaque personne à laquelle il est affilié, du montant total qui serait payé à l'ensemble des associés de la société de personnes (autrement qu'à titre de part d'un revenu quelconque de cette dernière) si elle était liquidée à ce moment dépasse la moitié de ce montant. (*majority interest partner*)

associé déterminé S'agissant de l'associé déterminé, au cours d'un exercice ou d'une année d'imposition, selon le cas, d'une société de personnes, tout associé qui :

a) soit est commanditaire de la société de personnes, au sens du paragraphe 96(2.4), à un moment de l'exercice ou de l'année;

b) soit, de façon régulière, continue et importante tout au long de la partie de l'exercice ou de l'année où la société de personnes exploite habituellement son entreprise :

(i) ne prend pas une part active dans les activités de l'entreprise de la société de personnes, sauf dans celles qui ont trait au financement de l'entreprise de la société de personnes,

(ii) n'exploite pas une entreprise semblable à celle que la société de personnes exploitait au cours de l'exercice ou de l'année, sauf à titre d'associé d'une société de personnes. (*specified member*)

assureur A le même sens que *compagnie d'assurance*. (*insurer*)

assureur sur la vie A le même sens que *compagnie d'assurance-vie*. (*life insurer*)

automobile Véhicule à moteur principalement conçu ou aménagé pour transporter des particuliers sur les routes et dans les rues et comptant au maximum neuf places assises, y compris celle du conducteur, à l'exclusion des véhicules suivants :

a) les ambulances;

person of selling goods or rendering services, under an agreement by which the lessee undertakes to use the property to carry on the business of selling or promoting the sale of the goods or services of the taxpayer or the related person; (*ancien bien d'entreprise*)

functional currency [Repealed, 2009, c. 2, s. 76]

general rate income pool has the meaning assigned by subsection 89(1); (*compte de revenu à taux général*)

goods and services tax means the tax payable under Part IX of the *Excise Tax Act*; (*taxe sur les produits et services*)

graduated rate estate, of an individual at any time, means the estate that arose on and as a consequence of the individual's death if

(a) that time is no more than 36 months after the death,

(b) the estate is at that time a testamentary trust,

(c) the individual's Social Insurance Number (or if the individual had not, before the death, been assigned a Social Insurance Number, such other information as is acceptable to the Minister) is provided in the estate's return of income under Part I for the taxation year that includes that time and for each of its earlier taxation years that ended after 2015,

(d) the estate designates itself as the graduated rate estate of the individual in its return of income under Part I for its first taxation year that ends after 2015, and

(e) no other estate designates itself as the graduated rate estate of the individual in a return of income under Part I for a taxation year that ends after 2015; (*succession assujettie à l'imposition à taux progressifs*)

grandfathered share means

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

(b) a share of the capital stock of a corporation issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 and before 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987

a.1) les véhicules d'intervention d'urgence clairement identifiés qui sont utilisés dans le cadre de la charge ou de l'emploi d'un particulier au sein d'un service des incendies ou de la police;

b) les véhicules à moteur acquis principalement pour servir de taxi, les autobus utilisés dans une entreprise consistant à transporter des passagers et les fourgons funéraires utilisés dans une entreprise consistant à organiser des funérailles;

b.2) les véhicules de secours médical d'urgence clairement identifiés qui sont utilisés, dans le cadre de la charge ou de l'emploi d'un particulier au sein d'un service de secours médical d'urgence ou d'un service d'ambulance, pour transporter de l'équipement médical d'urgence et un ou plusieurs préposés aux soins médicaux d'urgence ou travailleurs paramédicaux;

c) sauf pour l'application de l'article 6, les véhicules à moteur acquis pour être vendus ou loués dans le cadre de l'exploitation d'une entreprise de vente ou de location de véhicules à moteur et les véhicules à moteur utilisés pour le transport de passagers dans le cadre de l'exploitation d'une entreprise consistant à organiser des funérailles;

d) les véhicules à moteur suivants :

(i) les véhicules de type fourgonnette ou camionnette, ou d'un type analogue, comptant au maximum trois places assises, y compris celle du conducteur, et qui, au cours de l'année d'imposition où ils sont acquis ou loués, sont utilisés principalement pour le transport de marchandises ou de matériel en vue de gagner un revenu,

(ii) les véhicules de type fourgonnette ou camionnette, ou d'un type analogue, dont la totalité ou la presque totalité de l'utilisation au cours de l'année d'imposition où ils sont acquis ou loués est pour le transport de marchandises, de matériel ou de passagers en vue de gagner un revenu,

(iii) les véhicules de type camionnette qui sont utilisés, au cours de l'année d'imposition où ils sont acquis ou loués, principalement pour le transport de marchandises, de matériel ou de passagers en vue de gagner un revenu à un ou plusieurs endroits au Canada qui sont, à la fois :

(A) visés, pour ce qui est d'un ou de plusieurs des occupants du véhicule, aux sous-alinéas 6(6)a)(i) ou (ii),

(B) situés à au moins 30 kilomètres du point le plus rapproché de la limite du plus proche centre

with a public authority pursuant to and in accordance with the securities legislation of the jurisdiction in which the shares are distributed,

(c) a share (in this paragraph referred to as the "new share") of the capital stock of a corporation that is issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 in exchange for

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

(ii) a debt obligation of a corporation that was

(A) issued before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, or

(B) issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 under an agreement in writing entered into before that time, or after that time and before 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority under and in accordance with the securities legislation of the jurisdiction in which the debt obligation is distributed,

where the right to the exchange and all or substantially all the terms and conditions of the new share were established in writing before that time, and

(d) a share of a class of the capital stock of a Canadian corporation listed on a designated stock exchange that is issued after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 on the exercise of a right that

(i) was issued before that time, that was issued after that time under an agreement in writing entered into before that time or that was issued after that time and before 1988 as part of a distribution to the public made in accordance with the terms of a prospectus, preliminary prospectus, registration statement, offering memorandum or notice filed before that time with a public authority under and in accordance with the securities legislation of the jurisdiction in which the rights were distributed, and

(ii) was listed on a designated stock exchange,

where all or substantially all the terms and conditions of the right and the share were established in writing before that time,

de population, au sens du dernier dictionnaire du recensement publié par Statistique Canada avant l'année en question, qui compte une population d'au moins 40 000 personnes selon le dernier recensement publié par Statistique Canada avant cette même année. (*automobile*)

avocat S'entend au sens du paragraphe 232(1). (*lawyer*)

avoir forestier S'entend au sens du paragraphe 13(21). (*timber resource property*)

avoir minier canadien S'entend au sens du paragraphe 66(15). (*Canadian resource property*)

avoir minier étranger S'entend au sens du paragraphe 66(15). Par ailleurs, un avoir minier étranger à l'égard d'un pays est un avoir minier étranger qui est, selon le cas :

a) un droit, permis ou privilège afférent aux travaux d'exploration, de forage ou d'extraction relatifs au pétrole, au gaz naturel ou à des hydrocarbures connexes se trouvant dans le pays;

b) un droit, permis ou privilège afférent :

(i) soit au stockage souterrain de pétrole, de gaz naturel ou d'hydrocarbures connexes se trouvant dans le pays,

(ii) soit aux travaux de prospection, d'exploration, de forage ou d'extraction de minéraux d'une ressource minérale se trouvant dans le pays;

c) un puits de pétrole ou de gaz, ou un bien immeuble ou réel, situé dans le pays et dont la principale valeur dépend de sa teneur en pétrole ou en gaz naturel (à l'exclusion d'un bien amortissable);

d) un droit à un loyer ou à une redevance calculé en fonction du volume ou de la valeur de la production d'un puits de pétrole ou de gaz, ou d'un gisement naturel de pétrole ou de gaz naturel, situé dans le pays, si le payeur du loyer ou de la redevance a un intérêt ou, pour l'application du droit civil, un droit sur le puits ou le gisement, selon le cas, et si au moins 90 % du loyer ou de la redevance est payable sur la production provenant du puits ou du gisement ou sur le produit tiré de cette production;

e) un droit à un loyer ou à une redevance calculé en fonction du volume ou de la valeur de la production d'une ressource minérale se trouvant dans le pays, si le payeur du loyer ou de la redevance a un intérêt ou,

except that a share that is deemed under the definition *short-term preferred share*, *taxable preferred share* or *term preferred share* in this subsection or under subsection 112(2.22) to have been issued at any time is deemed after that time not to be a grandfathered share for the purposes of that provision; (*action de régime transitoire*)

gross revenue of a taxpayer for a taxation year means the total of

(a) all amounts received in the year or receivable in the year (depending on the method regularly followed by the taxpayer in computing the taxpayer's income) otherwise than as or on account of capital, and

(b) all amounts (other than amounts referred to in paragraph (a)) included in computing the taxpayer's income from a business or property for the year because of subsection 12(3) or (4) or section 12.2 of this Act or subsection 12(8) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952; (*revenu brut*)

group term life insurance policy means a group life insurance policy under which the only amounts payable by the insurer are

(a) amounts payable on the death or disability of individuals whose lives are insured in respect of, in the course of or because of, their office or employment or former office or employment, and

(b) policy dividends or experience rating refunds; (*police d'assurance-vie collective temporaire*)

highest individual percentage, for a taxation year, means the highest percentage referred to in subsection 117(2) for the taxation year; (*taux d'imposition supérieur pour l'année*)

home relocation loan means a loan received by an individual or the individual's spouse or common-law partner in circumstances where the individual has commenced employment at a location in Canada (in this definition referred to as the "new work location") and by reason thereof has moved from the residence in Canada at which, before the move, the individual ordinarily resided (in this definition referred to as the "old residence") to a residence in Canada at which, after the move, the individual ordinarily resided (in this definition referred to as the "new residence") if

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

pour l'application du droit civil, un droit sur la ressource et si au moins 90 % du loyer ou de la redevance est payable sur la production provenant de la ressource ou sur le produit tiré de cette production;

f) un bien immeuble ou réel (sauf un bien amortissable) situé dans le pays et dont la principale valeur dépend de sa teneur en matières minérales;

g) un droit ou un intérêt sur un bien visé à l'un des alinéas a) à e) ou, pour l'application du droit civil, un droit relatif à un tel bien, à l'exception d'un droit que le contribuable détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes;

h) un droit réel sur un immeuble visé à l'alinéa f) ou un intérêt sur un bien réel visé à cet alinéa, à l'exception d'un droit ou d'un intérêt que le contribuable détient en tant que bénéficiaire d'une fiducie ou associé d'une société de personnes. (*foreign resource property*)

banque Banque au sens de l'article 2 de la *Loi sur les banques*, à l'exception d'une coopérative de crédit fédérale, ou banque étrangère autorisée. (*bank*)

banque étrangère autorisée S'entend au sens de l'article 2 de la *Loi sur les banques*. (*authorized foreign bank*)

bien amortissable S'entend au sens du paragraphe 13(21). (*depreciable property*)

bien canadien immeuble, réel ou minier

a) Bien qui serait un bien immeuble ou réel situé au Canada en l'absence de la définition de *bien immeuble ou réel* au paragraphe 122.1(1);

b) avoir minier canadien;

c) avoir forestier;

d) action du capital-actions d'une société, participation au revenu ou au capital d'une fiducie ou participation dans une société de personnes (sauf une société canadienne imposable, une fiducie intermédiaire de placement déterminée — abstraction faite du paragraphe 122.1(2) —, une société de personnes intermédiaire de placement déterminée — abstraction faite du paragraphe 197(8) — ou une fiducie de placement immobilier, au sens du paragraphe 122.1(1)), dont plus de 50 % de la juste valeur marchande est dérivée directement ou indirectement d'un ou de plusieurs des biens visés aux alinéas a) à c);

than the distance between the new residence and the new work location,

(b) the loan is used to acquire a dwelling, or a share of the capital stock of a cooperative housing corporation acquired for the sole purpose of acquiring the right to inhabit a dwelling owned by the corporation, where the dwelling is for the habitation of the individual and is the individual's new residence,

(c) the loan is received in the circumstances described in subsection 80.4(1), or would have been so received if subsection 80.4(1.1) had applied to the loan at the time it was received, and

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

income-averaging annuity contract of an individual means, except for the purposes of section 61, a contract

(a) that is an income-averaging annuity contract within the meaning assigned by subsection 61(4), and

(b) in respect of which the individual has made a deduction under section 61 in computing the individual's income for a taxation year; (*contrat de rente à versements invariables*)

income bond or ***income debenture*** of a corporation (in this definition referred to as the "issuing corporation") means a bond or debenture in respect of which interest or dividends are payable only to the extent that the issuing corporation has made a profit before taking into account the interest or dividend obligation and that was issued

(a) before November 17, 1978,

(b) after November 16, 1978 and before 1980 pursuant to an agreement in writing to do so made before November 17, 1978 (in this definition referred to as an "established agreement"), or

(c) by an issuing corporation resident in Canada for a term that may not, in any circumstances, exceed 5 years,

(i) as part of a proposal to or an arrangement with its creditors that had been approved by a court under the *Bankruptcy and Insolvency Act*,

e) tout droit ou intérêt sur les biens visés à l'un des alinéas a) à d) ou, pour l'application du droit civil, tout droit relatif à ces biens. (*Canadian real, immovable or resource property*)

bien canadien imposable Sont des biens canadiens imposables d'un contribuable à un moment donné d'une année d'imposition :

a) les biens immeubles ou réels situés au Canada;

b) les biens utilisés ou détenus par le contribuable dans le cadre d'une entreprise exploitée au Canada, les biens compris dans la catégorie 14.1 de l'annexe II du *Règlement de l'impôt sur le revenu* relatifs à une telle entreprise ou les biens à porter à l'inventaire d'une telle entreprise, sauf :

(i) les biens utilisés dans le cadre de l'exploitation d'une entreprise d'assurance,

(ii) si le contribuable est un non-résident, les navires et les aéronefs utilisés principalement en trafic international et les biens meubles ou personnels liés à leur fonctionnement, à condition que le pays de résidence du contribuable n'impose pas les gains que des personnes résidant au Canada tirent de la disposition de ces biens;

c) si le contribuable est un assureur, ses biens d'assurance désignés pour l'année;

d) les actions du capital-actions d'une société (sauf une société de placement à capital variable) qui ne sont pas inscrites à la cote d'une bourse de valeurs désignée ou les participations dans une société de personnes ou une fiducie (sauf une unité d'une fiducie de fonds commun de placement ou une participation au revenu d'une fiducie résidant au Canada) si, au cours de la période de 60 mois se terminant au moment donné, plus de 50 % de la juste valeur marchande des actions ou des participations, selon le cas, est dérivée directement ou indirectement (autrement que par l'intermédiaire d'une société, d'une société de personnes ou d'une fiducie dont les actions ou les participations ne sont pas elles-mêmes des biens canadiens imposables à ce moment) d'un ou de plusieurs des biens suivants :

(i) des biens immeubles ou réels situés au Canada,

(ii) des avoirs miniers canadiens,

(iii) des avoirs forestiers,

(iv) des options, des intérêts ou, pour l'application du droit civil, des droits sur des biens visés à l'un

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

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

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

and, for the purposes of this definition,

(d) where the terms or conditions of an established agreement were amended after November 16, 1978, the agreement shall be deemed to have been made after that date, and

(e) where

(i) at any particular time the terms or conditions of a bond or debenture issued pursuant to an established agreement or of any agreement relating to such a bond or debenture have been changed,

(ii) under the terms or conditions of a bond or debenture acquired in the ordinary course of the business carried on by a specified financial institution or a partnership or trust (other than a testamentary trust) or under the terms or conditions of any agreement relating to any such bond or debenture (other than an agreement made before October 24, 1979 to which the issuing corporation or any person related thereto was not a party), the owner thereof could at any particular time after November 16, 1978 require, either alone or together with one or more taxpayers, the repayment, acquisition, cancellation or conversion of the bond or debenture otherwise than by reason of a failure or default under the terms or conditions of the bond or debenture or any agreement that related to, and was entered into at the time of, the issuance of the bond or debenture,

des sous-alinéas (i) à (iii), que ces biens existent ou non;

e) les actions du capital-actions d'une société qui sont inscrites à la cote d'une bourse de valeurs désignée, les actions du capital-actions d'une société de placement à capital variable ou les unités d'une fiducie de fonds commun de placement si les conditions ci-après sont réunies au cours de la période de 60 mois se terminant au moment donné :

(i) au moins 25 % des actions émises d'une catégorie du capital-actions de la société ou au moins 25 % des unités émises de la fiducie, selon le cas, appartenaient à l'une ou plusieurs des personnes suivantes :

(A) le contribuable,

(B) des personnes avec lesquelles le contribuable avait un lien de dépendance,

(C) des sociétés de personnes dans lesquelles le contribuable ou une personne visée à la division (B) détient une participation directement ou indirectement par l'intermédiaire d'une ou de plusieurs sociétés de personnes,

(ii) plus de 50 % de la juste valeur marchande des actions ou des unités, selon le cas, est dérivée directement ou indirectement d'un ou de plusieurs des biens visés aux sous-alinéas d)(i) à (iv);

f) les options, les intérêts ou, pour l'application du droit civil, les droits sur des biens visés à l'un des alinéas a) à e), que ces biens existent ou non.

Pour l'application de l'article 2, du paragraphe 107(2.001) et des articles 128.1 et 150 et pour l'application des alinéas 85(1)i) et 97(2)c) aux dispositions effectuées par des personnes non-résidentes, sont compris parmi les biens canadiens imposables :

g) les avoirs miniers canadiens;

h) les avoirs forestiers;

i) les participations au revenu d'une fiducie résidant au Canada;

j) les droits à une part du revenu ou de la perte prévue par la convention mentionnée à l'alinéa 96(1.1)a);

k) les polices d'assurance-vie au Canada. (*taxable Canadian property*)

(iii) at any particular time after November 16, 1978, the maturity date of a bond or debenture was extended or the terms or conditions relating to the repayment of the principal amount thereof were changed,

(iv) at a particular time a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquires a bond or debenture that

(A) was issued before November 17, 1978 or under an established agreement,

(B) was issued to a person other than a corporation that was, at the time of issue,

(I) described in any of paragraphs (a) to (e) of the definition *specified financial institution*, or

(II) a corporation that was controlled by one or more corporations described in subclause (I) and, for the purpose of this subclause, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length,

(C) was acquired from a person that was, at the time the person last acquired the bond or debenture and at the particular time, a person other than a corporation described in any of paragraphs (a) to (f) of that definition, and

(D) was acquired otherwise than under an agreement in writing made before October 24, 1979, or

(v) at a particular time after November 12, 1981, a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquires a bond or debenture that

(A) was not a bond or debenture referred to in paragraph (c),

(B) was acquired from a person that was, at the particular time, a corporation described in any of paragraphs (a) to (f) of the definition ***specified financial institution***, and

bien d'assurance désigné S'entend au sens du paragraphe 138(12). (*designated insurance property*)

bien hors portefeuille S'entend au sens du paragraphe 122.1(1). (*non-portfolio property*)

bien protégé par traité À un moment donné, bien d'un contribuable dont la disposition par lui à ce moment donne naissance à un revenu ou à un gain qui serait exonéré, par l'effet d'un traité fiscal, de l'impôt prévu à la partie I. (*treaty-protected property*)

biens Biens de toute nature, meubles ou immeubles, réels ou personnels, tangibles ou intangibles, corporels ou incorporels, y compris, sans préjudice de la portée générale de ce qui précède :

a) les droits de quelque nature qu'ils soient, les actions ou parts;

b) à moins d'une intention contraire évidente, l'argent;

c) les avoirs forestiers;

d) les travaux en cours d'une entreprise qui est une profession libérale;

e) l'achalandage d'une entreprise, mentionné au paragraphe 13(34). (*property*)

biens à usage personnel S'entend au sens de l'article 54. (*personal-use property*)

biens meubles déterminés S'entend au sens de l'article 54. (*listed personal property*)

bourse de valeurs désignée Bourse de valeurs, ou partie d'une bourse de valeurs, à l'égard de laquelle une désignation, effectuée par le ministre des Finances aux termes de l'article 262, est en vigueur. (*designated stock exchange*)

bourse de valeurs reconnue

a) Bourse de valeurs désignée;

b) toute autre bourse de valeurs située au Canada ou dans un pays membre de l'Organisation de coopération et de développement économiques qui a conclu un traité fiscal avec le Canada. (*recognized stock exchange*)

bourse reconnue en instruments financiers dérivés S'entend d'une personne ou d'une société de personnes qui est reconnue ou inscrite aux termes des lois sur les

(C) was acquired subject to or conditional on a guarantee agreement (within the meaning that would be assigned by subsection 112(2.2) if the reference in that subsection to a "share" were read as a reference to an "income bond" or "income debenture") that was entered into after November 12, 1981,

the bond or debenture shall, for the purposes of determining at any time after the particular time whether it is an income bond or income debenture, be deemed to have been issued at the particular time otherwise than pursuant to an established agreement; (*obligation à intérêt conditionnel*)

income interest of a taxpayer in a trust has the meaning assigned by subsection 108(1); (*participation au revenu*)

indexed debt obligation means a debt obligation the terms or conditions of which provide for an adjustment to an amount payable in respect of the obligation for a period during which the obligation was outstanding that is determined by reference to a change in the purchasing power of money; (*titre de créance indexé*)

individual means a person other than a corporation; (*particulier*)

insurance corporation means a corporation that carries on an insurance business; (*compagnie d'assurance*)

insurance policy includes a life insurance policy; (*police d'assurance*)

insurer has the meaning assigned by this subsection to the expression *insurance corporation*; (*assureur*)

international shipping means the operation of a ship owned or leased by a person or partnership (in this definition referred to as the "operator") that is used, either directly or as part of a pooling arrangement, primarily in transporting passengers or goods in international traffic — determined as if, except where paragraph (c) of the definition *international traffic* in this subsection applies, any port or other place on the Great Lakes or St. Lawrence River is in Canada — including the chartering of the ship, provided that one or more persons related to the operator (if the operator and each such person is a corporation), or persons or partnerships affiliated with the operator (in any other case), has complete possession, control and command of the ship, and any activity incident to or pertaining to the operation of the ship, but does not include

(a) the offshore storing or processing of goods,

valeurs mobilières d'une province afin d'exercer des activités qui consistent à fournir les installations nécessaires au commerce d'options, de swaps, de contrats à terme et d'autres contrats ou instruments financiers dont le cours, la valeur, les obligations de livraison, les obligations de paiement ou les obligations de règlement sont dérivés d'un intérêt sous-jacent, calculés en fonction de celui-ci ou fondés sur celui-ci. (*recognized derivatives exchange*)

caisse de crédit S'entend au sens du paragraphe 137(6), sauf pour l'application de la partie XV.1. (*credit union*)

capital versé S'entend au sens du paragraphe 89(1). (*paid-up capital*)

chaîne d'arrangements de capitaux propres synthétiques S'entend, relativement à une action dont une personne ou une société de personnes est propriétaire, d'un arrangement de capitaux propres synthétiques ou d'un arrangement de capitaux propres synthétiques combiné avec un ou plusieurs arrangements de capitaux propres synthétiques déterminés dans le cadre duquel, à la fois :

a) aucune partie à l'arrangement de capitaux propres synthétiques ou à un arrangement de capitaux propres synthétiques déterminé, le cas échéant, n'est un investisseur indifférent relativement à l'impôt;

b) chaque autre partie à ces accords ou arrangements est affiliée à la personne ou société de personnes. (*synthetic equity arrangement chain*)

charge Poste qu'occupe un particulier et qui lui donne droit à un traitement ou à une rémunération fixes ou vérifiables, y compris une charge judiciaire, la charge de ministre de la Couronne, la charge de membre du Sénat ou de la Chambre des communes du Canada, de membre d'une assemblée législative ou de membre d'un conseil législatif ou exécutif et toute autre charge dont le titulaire est élu au suffrage universel ou bien choisi ou nommé à titre représentatif, et comprend aussi le poste d'administrateur de société; ***fonctionnaire*** ou ***cadre*** s'entend de la personne qui détient une charge de ce genre, y compris un conseiller municipal et un commissaire d'école. (*office*)

commerce A le même sens que ***entreprise***. (*business*)

compagnie d'assurance Société qui exploite une entreprise d'assurance. (*insurance corporation*)

compagnie d'assurance-vie Société qui exploite une entreprise d'assurance-vie autre qu'un commerce visé

(b) fishing,

(c) laying cable,

(d) salvaging,

(e) towing,

(f) tug-boating,

(g) offshore oil and gas activities (other than the transportation of oil and gas), including exploration and drilling activities,

(h) dredging, or

(i) leasing a ship by a lessor to a lessee that has complete possession, control and command of the ship, unless the lessor or a corporation, trust or partnership affiliated with the lessor has an eligible interest (as defined in subsection 250(6.04)) in the lessee; (*transport maritime international*)

international traffic means, in respect of a person or partnership carrying on the business of transporting passengers or goods, a voyage made in the course of that business if the principal purpose of the voyage is to transport passengers or goods

(a) from Canada to a place outside Canada,

(b) from a place outside Canada to Canada, or

(c) from a place outside Canada to another place outside Canada; (*transport international*)

inter vivos trust has the meaning assigned by subsection 108(1); (*fiducie non testamentaire*)

inventory means a description of property the cost or value of which is relevant in computing a taxpayer's income from a business for a taxation year or would have been so relevant if the income from the business had not been computed in accordance with the cash method and includes

(a) with respect to a farming business, all of the livestock held in the course of carrying on the business, and

(b) an emissions allowance; (*inventaire*)

investment corporation has the meaning assigned by subsection 130(3); (*société de placement*)

investment tax credit has the meaning assigned by subsection 127(9); (*crédit d'impôt à l'investissement*)

aux alinéas a) ou b) de la définition de *entreprise d'assurance-vie*, même si elle exerce également un commerce ainsi visé. (*life insurance corporation*)

compte d'épargne libre d'impôt ou ***CELI*** S'entend au sens du paragraphe 146.2(5). (*TFSA*)

compte de revenu à taux général S'entend au sens du paragraphe 89(1). (*general rate income pool*)

compte de revenu à taux réduit S'entend au sens du paragraphe 89(1). (*low rate income pool*)

compte de stabilisation du revenu net Relativement à un contribuable :

a) compte dans le cadre du programme compte de stabilisation du revenu net institué aux termes de la *Loi sur la protection du revenu agricole*;

b) compte visé par règlement. (*net income stabilization account*)

conjoint de fait En ce qui concerne un contribuable à un moment donné, personne qui, à ce moment, vit dans une relation conjugale avec le contribuable et qui, selon le cas :

a) a vécu ainsi tout au long de la période de douze mois se terminant à ce moment;

b) est le père ou la mère d'un enfant dont le contribuable est le père ou la mère, compte non tenu des alinéas 252(1)c) et e) ni du sous-alinéa 252(2)a)(iii).

Pour l'application de la présente définition, les personnes qui, à un moment quelconque, vivent ensemble dans une relation conjugale sont réputées, à un moment donné après ce moment, vivre ainsi sauf si, au moment donné, elles vivaient séparées, pour cause d'échec de leur relation, pendant une période d'au moins 90 jours qui comprend le moment donné. (*common-law partner*)

Conseil du Trésor Le Conseil du Trésor, constitué par l'article 5 de la *Loi sur la gestion des finances publiques*. (*Treasury Board*)

conséquence fiscale future déterminée Quant à une année d'imposition :

a) la conséquence de la déduction ou de l'exclusion d'un montant visé à l'alinéa 161(7)a);

b) la conséquence de la réduction, prévue au paragraphe 66(12.73), d'un montant auquel une société a censément renoncé après le début de l'année en faveur d'une personne ou d'une société de personnes en vertu

joint spousal or common-law partner trust means a trust to which paragraph 104(4)(a) would apply if that paragraph were read without reference to subparagraph 104(4)(a)(iii) and clause 104(4)(a)(iv)(A); (*fiducie mixte au profit de l'époux ou du conjoint de fait*)

lawyer has the meaning assigned by subsection 232(1); (*avocat*)

legal representative of a taxpayer means a trustee in bankruptcy, an assignee, a liquidator, a curator, a receiver of any kind, a trustee, an heir, an administrator, an executor, a liquidator of a succession, a committee, or any other like person, administering, winding up, controlling or otherwise dealing in a representative or fiduciary capacity with the property that belongs or belonged to, or that is or was held for the benefit of, the taxpayer or the taxpayer's estate; (*représentant légal*)

lending asset means a bond, debenture, mortgage, hypothecary claim, note, agreement of sale or any other indebtedness or a prescribed share, but does not include a prescribed property; (*titre de crédit*)

LIA policy means a life insurance policy (other than an annuity) where

(a) a particular person or partnership becomes obligated after March 20, 2013 to repay an amount to another person or partnership (in this definition referred to as the "lender") at a time determined by reference to the death of a particular individual whose life is insured under the policy, and

(b) the lender is assigned an interest in

(i) the policy, and

(ii) an annuity contract the terms of which provide that payments are to continue for a period that ends no earlier than the death of the particular individual; (*police RAL*)

licensed annuities provider has the meaning assigned by subsection 147(1); (*fournisseur de rentes autorisé*)

life insurance business includes

(a) an annuities business, and

(b) the business of issuing contracts all or any part of the issuer's reserves for which vary in amount depending on the fair market value of a specified group of assets,

carried on by a life insurance corporation or a life insurer; (*entreprise d'assurance-vie*)

des paragraphes 66(12.6) ou (12.601) par l'effet du paragraphe 66(12.66), déterminée selon l'hypothèse que cette renonciation, n'eût été le paragraphe 66(12.73), aurait pris effet seulement si, à la fois :

(i) la renonciation avait été effectuée en janvier, février ou mars d'une année civile,

(ii) la renonciation avait pris effet le dernier jour de l'année civile précédente,

(iii) la société avait convenu, au cours de cette année précédente, d'émettre une action accréditive à une personne ou une société de personnes,

(iv) le montant n'avait pas dépassé l'excédent éventuel de la contrepartie de l'émission de l'action sur le total des autres montants auxquels la société a censément renoncé en vertu des paragraphes 66(12.6) ou (12.601) relativement à cette contrepartie,

(v) les conditions énoncées aux alinéas 66(12.66)c) et d) sont remplies en ce qui concerne la renonciation,

(vi) le formulaire requis par le paragraphe 66(12.7) relativement à la renonciation est présenté au ministre avant mai de l'année civile;

c) la conséquence du rajustement ou de la réduction visés au paragraphe 161(6.1). (*specified future tax consequence*)

contrat de financement pour des activités de recherche scientifique et de développement expérimental S'entend au sens du paragraphe 194(6). (*scientific research and experimental development financing*)

contrat de rente à versements invariables Relativement à un particulier, s'entend, sauf pour l'application de l'article 61, d'un contrat :

a) d'une part, qui est un contrat de rente à versements invariables au sens du paragraphe 61(4);

b) d'autre part, à l'égard duquel le particulier a effectué une déduction en vertu de l'article 61 dans le calcul de son revenu pour une année d'imposition. (*income-averaging annuity contract*)

contrat dérivé à terme Contrat conclu par un contribuable pour l'achat ou la vente d'une immobilisation à l'égard duquel les énoncés ci-après se vérifient :

life insurance capital dividend has the meaning assigned by subsection 83(2.1); (*dividende en capital d'assurance-vie*)

life insurance corporation means a corporation that carries on a life insurance business that is not a business described in paragraph (a) or (b) of the definition ***life insurance business*** in this subsection, whether or not the corporation also carries on a business described in either of those paragraphs; (*compagnie d'assurance-vie*)

life insurance policy has the meaning assigned by subsection 138(12); (*police d'assurance-vie*)

life insurance policy in Canada has the meaning assigned by subsection 138(12); (*police d'assurance-vie au Canada*)

life insurer has the meaning assigned by this subsection to the expression *life insurance corporation*; (*assureur sur la vie*)

limited partnership loss has the meaning assigned by subsection 96(2.1); (*perte comme commanditaire*)

limited-recourse amount means an amount that is a limited-recourse amount under section 143.2; (*montant à recours limité*)

listed international agreement means

a) the *Convention on Mutual Administrative Assistance in Tax Matters*, concluded at Strasbourg on January 25, 1988, as amended from time to time by a protocol, or other international instrument, as ratified by Canada, or

b) a comprehensive tax information exchange agreement that Canada has entered into and that has effect, in respect of another country or jurisdiction; (*accord international désigné*)

listed personal property has the meaning assigned by section 54; (*biens meubles déterminés*)

low rate income pool has the meaning assigned by subsection 89(1); (*compte de revenu à taux réduit*)

majority-interest partner, of a particular partnership at any time, means a person or partnership (in this definition referred to as the "taxpayer")

a) whose share of the particular partnership's income from all sources for the last fiscal period of the particular partnership that ended before that time (or, if the particular partnership's first fiscal period includes that

a) sa durée dépasse 180 jours ou il fait partie d'une série de contrats d'une durée de plus de 180 jours;

b) s'agissant d'un contrat d'achat, la différence entre la juste valeur marchande du bien livré par suite du règlement, même partiel, du contrat et la somme payée pour le bien est attribuable, en tout ou en partie, à un élément sous-jacent — valeur, prix, taux, variable, indice, événement, probabilité ou autre chose — autre que les suivants :

(i) les recettes, le revenu ou les rentrées relatifs au bien sur la durée du contrat, les changements à sa juste valeur marchande sur la durée du contrat et tout autre critère semblable qui lui est applicable,

(ii) si le prix d'achat est libellé dans la monnaie d'un pays étranger, la variation de la valeur de la monnaie canadienne par rapport à la monnaie de ce pays;

c) s'agissant d'un contrat de vente :

(i) la différence entre le prix de vente du bien et sa juste valeur marchande au moment de la conclusion du contrat par le contribuable est attribuable, en tout ou en partie, à un élément sous-jacent — valeur, prix, taux, variable, indice, événement, probabilité ou autre chose — autre que les suivants :

(A) les recettes, le revenu ou les rentrées relatifs au bien sur la durée du contrat, les changements à sa juste valeur marchande sur la durée du contrat et tout autre critère semblable qui lui est applicable,

(B) si le prix de vente est libellé dans la monnaie d'un pays étranger, la variation de la valeur de la monnaie canadienne par rapport à la monnaie de ce pays,

(ii) le contrat fait partie d'un arrangement qui a pour effet — ou aurait pour effet si les contrats qui font partie de l'arrangement et qui ont été conclus par des personnes ou des sociétés de personnes ayant un lien de dépendance avec le contribuable étaient conclus par le contribuable plutôt que par de telles personnes ou sociétés de personnes — d'éliminer la majeure partie des possibilités, pour le contribuable, de subir des pertes et de réaliser des gains ou des bénéfices relativement au bien pendant une période de plus de 180 jours. (*derivative forward agreement*)

contribuables Sont comprises parmi les contribuables toutes les personnes, même si elles ne sont pas tenues de payer l'impôt. (*taxpayer*)

time, for that period) would have exceeded 1/2 of the particular partnership's income from all sources for that period if the taxpayer had held throughout that period each interest in the partnership that the taxpayer or a person affiliated with the taxpayer held at that time, or

(b) whose share, if any, together with the shares of every person with whom the taxpayer is affiliated, of the total amount that would be paid to all members of the particular partnership (otherwise than as a share of any income of the partnership) if it were wound up at that time exceeds 1/2 of that amount; (*associé détenant une participation majoritaire*)

mineral includes ammonite gemstone, bituminous sands, calcium chloride, coal, kaolin, oil shale and silica, but does not include petroleum, natural gas or a related hydrocarbon not expressly referred to in this definition; (*minéral*)

mineral resource means

(a) a base or precious metal deposit,

(b) a coal deposit,

(c) a bituminous sands deposit or oil shale deposit, or

(d) a mineral deposit in respect of which

(i) the Minister of Natural Resources has certified that the principal mineral extracted is an industrial mineral contained in a non-bedded deposit,

(ii) the principal mineral extracted is ammonite gemstone, calcium chloride, diamond, gypsum, halite, kaolin or sylvite, or

(iii) the principal mineral extracted is silica that is extracted from sandstone or quartzite; (*matières minéralesressource minérale*)

minerals [Repealed, 1994, c. 21, s. 109]

mining reclamation trust [Repealed, 1998, c. 19, s. 66]

Minister means the Minister of National Revenue; (*ministre*)

money purchase limit for a calendar year has the meaning assigned by subsection 147.1(1); (*plafond des cotisations déterminées*)

mortgage investment corporation has the meaning assigned by subsection 130.1(6); (*société de placement hypothécaire*)

convention de retraite Régime ou mécanisme dans le cadre duquel un employeur ou ancien employeur d'un contribuable ou une personne avec laquelle cet employeur ou ancien employeur a un lien de dépendance verse à une autre personne ou société de personnes — appelée « dépositaire » à la présente définition et à la partie XI.3 — des cotisations (à l'exception de paiements faits en vue d'acquérir un intérêt dans une police d'assurance-vie) se rapportant à des avantages que doit ou peut recevoir ou dont doit ou peut jouir une personne au moment d'un changement important des services rendus par le contribuable, au moment de la retraite de celui-ci ou au moment de la perte de sa charge ou de son emploi, après ce moment ou en prévision de ce moment; ne sont toutefois pas des conventions de retraite :

a) les régimes de pension agréés;

a.1) les régimes de pension agréés collectifs;

b) les régimes d'assurance-invalidité ou de sécurité du revenu prévus dans une police d'une compagnie d'assurance;

c) les régimes de participation différée aux bénéfices;

d) les régimes de participation des employés aux bénéfices;

e) les régimes enregistrés d'épargne-retraite;

f) les fiducies d'employés;

f.1) les fiducies de soins de santé au bénéfice d'employés;

g) les régimes collectifs d'assurance-maladie ou d'assurance contre les accidents;

h) les régimes de prestations supplémentaires de chômage;

i) les fiducies, visées à l'alinéa 149(1)y), pour indemnités de vacances ou de congés;

j) les régimes ou mécanismes établis dans le but de différer le traitement ou salaire de sportifs professionnels pour les services qu'ils rendent en cette qualité au sein d'un club appartenant à une ligue qui organise des parties régulièrement programmées — appelés « régimes pour sportifs » à la présente définition —, dans le cas où:

(i) d'une part, le régime ou mécanisme serait une entente d'échelonnement du traitement compte non tenu de l'alinéa j) de la définition de cette expression,

motor vehicle means an automotive vehicle designed or adapted to be used on highways and streets but does not include

(a) a trolley bus, or

(b) a vehicle designed or adapted to be operated exclusively on rails; (*véhicule à moteur*)

mutual fund corporation has the meaning assigned by subsection 131(8); (*société de placement à capital variable*)

mutual fund trust has the meaning assigned by subsection 132(6); (*fiducie de fonds commun de placement*)

net capital loss has the meaning assigned by subsection 111(8), except as otherwise expressly provided; (*perte en capital nette*)

net corporate income tax rate in respect of a SIFT trust or SIFT partnership for a taxation year means the amount, expressed as a decimal fraction, by which

(a) the percentage rate of tax provided under paragraph 123(1)(a) for the taxation year

exceeds

(b) the total of

(i) the percentage that would, if the SIFT trust or SIFT partnership were a corporation, be its general rate reduction percent- age, within the meaning assigned by subsection 123.4(1), for the taxation year, and

(ii) the percentage deduction from tax provided under subsection 124(1) for the taxation year; (*taux net d'imposition du revenu des sociétés*)

net income stabilization account means an account of a taxpayer

(a) under the net income stabilization account program under the *Farm Income Protection Act*, or

(b) that is a prescribed account; (*compte de stabilisation du revenu net*)

Newfoundland offshore area has the meaning assigned to the expression *offshore area* by the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, chapter 3 of the Statutes of Canada, 1987; (*zone extracôtière de Terre-Neuve*)

(ii) d'autre part, s'il s'agit d'un club canadien, le dépositaire du régime ou mécanisme exploite une entreprise par l'entremise d'un lieu fixe d'affaires au Canada et est titulaire de licence ou par ailleurs autorisé par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir au public des services fiduciaires;

k) les ententes d'échelonnement du traitement dans le cadre desquelles des montants différés doivent ou non être ajoutés comme avantages en vertu de l'alinéa 6(1)a) dans le calcul du revenu d'un contribuable;

l) les régimes ou mécanismes — à l'exception des régimes pour sportifs — maintenus principalement pour le compte de non-résidents pour des services rendus à l'étranger;

m) les polices d'assurance;

n) les régimes ou mécanismes visés par règlement;

pour l'application de la présente définition, dans le cas où une personne détient des biens en fiducie en vertu d'un mécanisme qui serait une convention de retraite si les biens étaient détenus par une autre personne, le mécanisme est réputé être une convention de retraite dont la personne est dépositaire. (*retirement compensation arrangement*)

coopérative de crédit fédérale S'entend au sens de l'article 2 de la *Loi sur les banques*. (*federal credit union*)

cotisation Est assimilée à la cotisation la nouvelle cotisation. (*assessment*)

cotisation facultative Cotisation versée à un régime de pension agréé par un participant au régime et qui sert à assurer des prestations aux termes d'une disposition à cotisations déterminées, au sens du paragraphe 147.1(1), du régime, mais dont le versement n'est pas une condition générale de participation au régime. (*additional voluntary contribution*)

courtier en valeurs mobilières inscrit Personne inscrite ou titulaire d'un permis qui est autorisée par la législation provinciale à négocier des titres comme mandataire ou contrepartiste, sans aucune restriction quant à la nature ou au type de titres qu'elle négocie. (*registered securities dealer*)

coût amorti S'agissant du coût amorti d'un prêt ou d'un titre de crédit à un moment donné pour un contribuable, l'excédent éventuel du total des montants suivants :

NISA Fund No. 2 means the portion of a taxpayer's net income stabilization account

(a) that is described in paragraph 8(2)(b) of the *Farm Income Protection Act* or is a prescribed fund, and

(b) that can reasonably be considered to be attributable to a program that allows the funds in the account to accumulate; (*second fonds du compte de stabilisation du revenu net*)

non-capital loss has the meaning assigned by subsection 111(8); (*perte autre qu'une perte en capital*)

non-portfolio property has the same meaning as in subsection 122.1(1); (*bien hors portefeuille*)

non-resident means not resident in Canada; (*non-résident*)

non-resident-owned investment corporation has the meaning assigned by subsection 133(8); (*société de placement appartenant à des non-résidents*)

Nova Scotia offshore area has the meaning assigned to the expression *offshore area* by the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, chapter 28 of the Statutes of Canada, 1988; (*zone extracôtière de la Nouvelle-écosse*)

office means the position of an individual entitling the individual to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a minister of the Crown, the office of a member of the Senate or House of Commons of Canada, a member of a legislative assembly or a member of a legislative or executive council and any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a corporation director, and ***officer*** means a person holding such an office; (*charge*)

oil or gas well means any well (other than an exploratory probe or a well drilled from below the surface of the earth) drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a natural accumulation of petroleum or natural gas, but, for the purpose of applying sections 13 and 20 and any regulations made for the purpose of paragraph 20(1)(a) in respect of property acquired after March 6, 1996, does not include a well for the extraction of material from a deposit of bituminous sands or oil shales; (*puits de pétrole ou de gaz*)

OSFI risk-weighting guidelines means the guidelines, issued by the Superintendent of Financial Institutions

a) dans le cas d'un prêt consenti par le contribuable, le total des avances quant au prêt effectuées au plus tard à ce moment;

b) dans le cas d'un prêt ou d'un titre de crédit acquis par le contribuable, le coût du prêt ou du titre pour le contribuable;

c) dans le cas d'un prêt ou d'un titre de crédit acquis par le contribuable, la partie de l'excédent éventuel du principal du prêt ou du titre au moment de son acquisition sur son coût pour le contribuable qui est incluse dans le calcul de son revenu pour une année d'imposition se terminant au plus tard au moment donné;

c.1) le total des montants représentant chacun un montant relatif au prêt ou au titre de crédit qui a été inclus dans le calcul du revenu du contribuable pour une année d'imposition qui s'est terminée à ce moment ou antérieurement au titre de la variation de la valeur du prêt ou du titre attribuable à la fluctuation de la valeur d'une monnaie étrangère par rapport au dollar canadien;

d) dans le cas où le contribuable est un assureur, le montant, quant au prêt ou au titre de crédit, réputé, par l'effet de l'alinéa 142(3)a) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1977, être un gain pour une année d'imposition se terminant au plus tard au moment donné;

e) le total des montants dont chacun représente un montant, quant au prêt ou au titre de crédit, inclus en application de l'alinéa 12(1)i) dans le calcul du revenu du contribuable pour une année d'imposition se terminant au plus tard au moment donné,

sur le total des montants suivants :

f) la partie de l'excédent éventuel du coût du prêt ou du titre de crédit pour le contribuable sur le principal du prêt ou du titre au moment de son acquisition par le contribuable qui est déduite dans le calcul de son revenu pour une année d'imposition se terminant au plus tard au moment donné;

f.1) le total des montants représentant chacun un montant relatif au prêt ou au titre de crédit qui a été déduit dans le calcul du revenu du contribuable pour une année d'imposition qui s'est terminée à ce moment ou antérieurement au titre de la variation de la valeur du prêt ou du titre attribuable à la fluctuation de la valeur d'une monnaie étrangère par rapport au dollar canadien;

under the authority of section 600 of the *Bank Act*, requiring an authorized foreign bank to provide to the Superintendent on a periodic basis a return of the bank's risk-weighted on-balance sheet assets and off-balance sheet exposures, that apply as of August 8, 2000; (*lignes directrices du BSIF sur la pondération des risques*)

overseas Canadian Forces school staff means personnel employed outside Canada whose services are acquired by the Minister of National Defence under a prescribed order relating to the provision of educational facilities outside Canada; (*personnel scolaire des Forces canadiennes d'outre-mer*)

paid-up capital has the meaning assigned by subsection 89(1); (*capital versé*)

Part VII refund has the meaning assigned by subsection 192(2); (*remboursement de la partie VII*)

Part VIII refund has the meaning assigned by subsection 194(2); (*remboursement de la partie VIII*)

passenger vehicle means an automobile acquired after June 17, 1987 (other than an automobile acquired after that date pursuant to an obligation in writing entered into before June 18, 1987) and an automobile leased under a lease entered into, extended or renewed after June 17, 1987; (*voiture de tourisme*)

past service pension adjustment of a taxpayer for a calendar year in respect of an employer has the meaning assigned by regulation; (*facteur d'équivalence pour services passés*)

pension adjustment of a taxpayer for a calendar year in respect of an employer has the meaning assigned by regulation; (*facteur d'équivalence*)

person, or any word or expression descriptive of a person, includes any corporation, and any entity exempt, because of subsection 149(1), from tax under Part I on all or part of the entity's taxable income and the heirs, executors, liquidators of a succession, administrators or other legal representatives of such a person, according to the law of that part of Canada to which the context extends; (*personne*)

personal or living expenses includes

(a) the expenses of properties maintained by any person for the use or benefit of the taxpayer or any person connected with the taxpayer by blood relationship, marriage or common-law partnership or adoption,

g) le total des montants que le contribuable a reçus au plus tard à ce moment au titre du principal du prêt ou du titre de crédit;

h) dans le cas où le contribuable est un assureur, le montant, quant au prêt ou au titre de crédit, réputé, par l'effet de l'alinéa 142(3)b) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1977, être une perte pour une année d'imposition se terminant au plus tard au moment donné;

i) le total des montants dont chacun représente un montant, quant au prêt ou au titre de crédit, déduit en application de l'alinéa 20(1)p) dans le calcul du revenu du contribuable pour une année d'imposition se terminant au plus tard au moment donné. (*amortized cost*)

coût indiqué S'agissant du coût indiqué, pour un contribuable, de tout bien à un moment donné, sauf disposition contraire de la présente loi :

a) lorsque le bien était un bien amortissable du contribuable, d'une catégorie prescrite, le montant qui correspondrait au produit de la multiplication de la fraction non amortie du coût en capital, pour le contribuable, de biens de cette catégorie à ce moment par le rapport entre le coût en capital du bien pour lui et le coût en capital, pour lui, de tous les biens de cette catégorie dont il n'avait pas disposé avant ce moment, s'il n'était pas tenu compte de l'alinéa 13(7)e) et si, à la fois :

(i) l'alinéa 13(7)b) était remplacé par ce qui suit :

« b) le contribuable ayant acquis un bien à une autre fin et qui commence, à un moment postérieur, à l'utiliser en vue d'en tirer un revenu est réputé l'avoir acquis à ce moment postérieur à un coût en capital, pour lui, égal à la juste valeur marchande du bien à ce moment postérieur; »

(ii) le sous-alinéa 13(7)d)(i) était remplacé par ce qui suit :

« (i) si l'usage qu'il fait habituellement du bien en vue de tirer un revenu a augmenté, le contribuable est réputé avoir acquis, à ce moment, un bien amortissable de cette catégorie à un coût en capital égal au produit de la multiplication de la juste valeur marchande du bien à ce moment par le rapport entre l'augmentation de l'usage que le contribuable fait habituellement du bien à ces fins et l'usage total habituel de ce bien; »

and not maintained in connection with a business carried on for profit or with a reasonable expectation of profit,

(b) the expenses, premiums or other costs of a policy of insurance, annuity contract or other like contract if the proceeds of the policy or contract are payable to or for the benefit of the taxpayer or a person connected with the taxpayer by blood relationship, marriage or common-law partnership or adoption, and

(c) expenses of properties maintained by an estate or trust for the benefit of the taxpayer as one of the beneficiaries; (*frais personnels ou de subsistance*)

personal services business has the meaning assigned by subsection 125(7); (*entreprise de prestation de services personnels*)

personal trust means a trust (other than a trust that is, or was at any time after 1999, a unit trust) that is

(a) a graduated rate estate, or

(b) a trust in which no beneficial interest was acquired for consideration payable directly or indirectly to

(i) the trust, or

(ii) any person or partnership that has made a contribution to the trust by way of transfer, assignment or other disposition of property; (*fiducie personnelle*)

personal-use property has the meaning assigned by section 54; (*biens à usage personnel*)

pooled pension plan has the same meaning as in subsection 147.5(1); (*régime de pension collectif*)

pooled registered pension plan or ***PRPP*** has the same meaning as in subsection 147.5(1); (*régime de pension agréé collectif* ou *RPAC*)

post-1971 spousal or common-law partner trust means a trust that would be described in paragraph 104(4)(a) if that paragraph were read without reference to subparagraph 104(4)(a)(iv); (*fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971*)

preferred share means a share other than a common share; (*action privilégiée*)

prescribed means

b) lorsque le bien était une immobilisation (autre qu'un bien amortissable) du contribuable, son prix de base rajusté, pour lui, à ce moment;

c) lorsque le bien était un bien figurant à un inventaire du contribuable, sa valeur à ce moment, déterminée pour le calcul de son revenu;

c.1) lorsque le contribuable était une institution financière au cours de son année d'imposition qui comprend ce moment et que le bien était un bien évalué à la valeur du marché pour l'année, son coût pour lui;

d) [Abrogé, 2016, ch. 12, art. 63]

d.1) lorsque le bien était un prêt ou un titre de crédit, sauf un compte de stabilisation du revenu net ou un bien auquel s'appliquent les alinéas b), c), c.1) ou d.2), son coût amorti pour le contribuable à ce moment;

d.2) lorsque le contribuable était une institution financière au cours de son année d'imposition qui comprend ce moment et que le bien était un titre de créance déterminé, sauf un bien évalué à la valeur du marché pour l'année, son montant de base pour lui à ce moment;

e) lorsque le bien était un droit du contribuable de recevoir un montant, sauf le droit de recevoir un montant au titre d'un des biens suivants, le montant qu'il a le droit de recevoir :

(i) une dette dont le montant a été déduit en application de l'alinéa 20(1)p) dans le calcul du revenu du contribuable pour une année d'imposition qui s'est terminée avant ce moment,

(ii) un compte de stabilisation du revenu net,

(iii) un droit auquel s'appliquent les alinéas b), c), c.1), d.1) ou d.2);

(iv) un droit aux produits, au sens du paragraphe 18.1(1), auquel se rapporte une dépense à rattacher, au sens de ce paragraphe;

e.1) lorsque le bien était une avance sur police (au sens du paragraphe 138(12)) d'un assureur, zéro;

e.2) lorsque le bien était la participation d'un bénéficiaire dans une fiducie pour l'environnement admissible, zéro;

f) dans tout autre cas, le coût, pour le contribuable, du bien déterminé pour le calcul de son revenu, sauf dans la mesure où un tel coût a été déduit dans le calcul de

(a) in the case of a form, the information to be given on a form or the manner of filing a form, authorized by the Minister,

(a.1) in the case of the manner of making or filing an election, authorized by the Minister, and

(b) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation; (*prescrit*)

principal amount, in relation to any obligation, means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum total amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional on the exercise by the issuer of a right to redeem the obligation before the maturity thereof; (*principal*)

private corporation has the meaning assigned by subsection 89(1); (*société privée*)

private foundation has the meaning assigned by section 149.1; (*fondation privée*)

private health services plan means

(a) a contract of insurance in respect of hospital expenses, medical expenses or any combination of such expenses, or

(b) a medical care insurance plan or hospital care insurance plan or any combination of such plans,

except any such contract or plan established by or pursuant to

(c) a law of a province that establishes a health care insurance plan as defined in section 2 of the *Canada Health Act*, or

(d) an Act of Parliament or a regulation made thereunder that authorizes the provision of a medical care insurance plan or hospital care insurance plan for employees of Canada and their dependants and for dependants of members of the Royal Canadian Mounted Police and the regular force where such employees or members were appointed in Canada and are serving outside Canada; (*régime privé d'assurance-maladie*)

professional corporation means a corporation that carries on the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor; (*société professionnelle*)

son revenu pour une année d'imposition se terminant avant ce moment.

Pour l'application de la présente définition, *bien évalué à la valeur du marché*, *institution financière* et *titre de créance déterminé* s'entendent au sens du paragraphe 142.2(1) et *montant de base* s'entend au sens du paragraphe 142.4(1). (*cost amount*)

crédit d'impôt à l'achat d'actions Relativement à un contribuable, pour une année d'imposition, s'entend au sens du paragraphe 127.2(6). (*share-purchase tax credit*)

crédit d'impôt à l'investissement S'entend au sens du paragraphe 127(9). (*investment tax credit*)

crédit d'impôt pour des activités de recherche scientifique et de développement expérimental Relativement à un contribuable, pour une année d'imposition, s'entend au sens du paragraphe 127.3(2). (*scientific research and experimental development tax credit*)

date d'échéance de production Le jour où un contribuable est tenu de produire sa déclaration de revenu en vertu de la partie I pour une année d'imposition ou le jour où il serait tenu de la produire s'il avait un impôt à payer pour l'année en vertu de cette partie. (*filing-due date*)

date d'échéance du solde En ce qui concerne l'année d'imposition d'une société de personnes intermédiaire de placement déterminée, la date limite où celle-ci est tenue de produire une déclaration pour l'année aux termes de l'article 229 du *Règlement de l'impôt sur le revenu*. (*SIFT partnership balance-due day*)

date d'exigibilité du solde L'une des dates suivantes applicable à un contribuable pour une année d'imposition :

a) si le contribuable est une fiducie :

(i) dans le cas où le moment où l'année d'imposition se termine est déterminé en vertu de l'alinéa 249(4)a), celle des dates ci-après qui s'applique :

(A) si ce moment survient au cours d'une année civile postérieure à la fin de l'année d'imposition donnée qui s'est terminée le 15 décembre de cette année civile en raison d'un choix fait en vertu de l'alinéa 132.11(1)a), la date d'exigibilité du solde applicable à la fiducie pour son année d'imposition donnée,

profit sharing plan has the meaning assigned by subsection 147(1); (*régime de participation aux bénéfices*)

property means property of any kind whatever whether real or personal, immovable or movable, tangible or intangible, or corporeal or incorporeal and, without restricting the generality of the foregoing, includes

(a) a right of any kind whatever, a share or a chose in action,

(b) unless a contrary intention is evident, money,

(c) a timber resource property,

(d) the work in progress of a business that is a profession; and

(e) the goodwill of a business, as referred to in subsection 13(34); (*biens*)

provincial SIFT tax factor [Repealed, 2008, c. 28, s. 34]

provincial SIFT tax rate of a SIFT trust or a SIFT partnership for a taxation year means the prescribed amount determined in respect of the SIFT trust or SIFT partnership for the taxation year; (*taux d'imposition provincial des EIPD*)

public corporation has the meaning assigned by subsection 89(1); (*société publique*)

public foundation has the meaning assigned by section 149.1; (*fondation publique*)

public market has the same meaning as in subsection 122.1(1); (*marché public*)

qualified donee has the meaning assigned by subsection 149.1(1); (*donataire reconnu*)

qualifying environmental trust has the meaning assigned by subsection 211.6(1); (*fiducie pour l'environnement admissible*)

qualifying share has the meaning assigned by subsection 192(6); (*action admissible*)

qualifying trust annuity has the meaning assigned by subsection 60.011(2); (*rente admissible de fiducie*)

recognized derivatives exchange means a person or partnership recognized or registered under the securities laws of a province to carry on the business of providing the facilities necessary for the trading of options, swaps, futures contracts or other financial contracts or

(B) si la division (A) ne s'applique pas et que l'année d'imposition donnée de la fiducie qui commence immédiatement après ce moment se termine au cours de l'année civile qui comprend ce moment, la date d'exigibilité du solde de la fiducie pour l'année d'imposition donnée,

(C) sinon, le 90e jour suivant la fin de l'année civile qui comprend ce moment,

(ii) dans les autres cas, le 90e jour suivant la fin de l'année d'imposition;

b) si le contribuable est un particulier décédé après le 31 octobre de l'année et avant le 1er mai de l'année d'imposition suivante, le jour qui suit son décès de six mois;

c) dans les autres cas où le contribuable est un particulier, le 30 avril de l'année d'imposition suivante;

d) si le contribuable est une société :

(i) le jour qui suit de trois mois le jour où l'année d'imposition (appelée « année courante » au présent sous-alinéa) prend fin, si, à la fois :

(A) un montant a été déduit en application de l'article 125 dans le calcul de l'impôt payable par la société en vertu de la présente partie pour l'année courante ou pour son année d'imposition précédente,

(B) la société est, tout au long de l'année courante, une société privée sous contrôle canadien,

(C) selon le cas :

(I) dans le cas d'une société qui n'est associée à aucune autre société au cours de l'année courante, son revenu imposable pour l'année d'imposition précédente, calculé avant la prise en compte des conséquences fiscales futures déterminées pour cette année, n'excède pas son plafond des affaires pour cette même année,

(II) dans le cas d'une société qui est associée à une ou plusieurs autres sociétés au cours de l'année courante, le total des revenus imposables de la société et de ces autres sociétés pour leur dernière année d'imposition s'étant terminée dans la dernière année civile ayant pris fin avant la fin de l'année courante, calculé avant la prise en compte des conséquences

instruments whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest; (*bourse reconnue en instruments financiers dérivés*)

recognized stock exchange means

(a) a designated stock exchange, and

(b) any other stock exchange, if that other stock exchange is located in Canada or in a country that is a member of the Organisation for Economic Co-operation and Development and that has a tax treaty with Canada; (*bourse de valeurs reconnue*)

record includes an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing containing information, whether in writing or in any other form; (*registre*)

refundable Part VII tax on hand has the meaning assigned by subsection 192(3); (*impôt de la partie VII en main remboursable*)

refundable Part VIII tax on hand has the meaning assigned by subsection 194(3); (*impôt de la partie VIII en main remboursable*)

registered Canadian amateur athletic association means a Canadian amateur athletic association within the meaning assigned by subsection 149.1(1) that has applied to the Minister in prescribed form for registration, that has been registered and whose registration has not been revoked; (*association canadienne enregistrée de sport amateur*)

registered charity at any time means

(a) a charitable organization, private foundation or public foundation, within the meanings assigned by subsection 149.1(1), that is resident in Canada and was either created or established in Canada, or

(b) a branch, section, parish, congregation or other division of an organization or foundation described in paragraph (a), that is resident in Canada and was either created or established in Canada and that receives donations on its own behalf,

that has applied to the Minister in prescribed form for registration and that is at that time registered as a charitable organization, private foundation or public foundation; (*organisme de bienfaisance enregistré*)

fiscales futures déterminées pour ces dernières années d'imposition, n'excède pas le total des plafonds des affaires de la société et de ces autres sociétés pour ces dernières années d'imposition,

(ii) le jour qui suit de deux mois le jour où l'année d'imposition prend fin, dans les autres cas. (*balance-due day*)

déductions inutilisées au titre des REER Relativement à un contribuable, à la fin d'une année d'imposition, s'entend au sens du paragraphe 146(1). (*unused RRSP deduction room*)

dépense en capital admissible [Abrogée, 2016, ch. 12, art. 63]

désignation excessive de dividende déterminé S'entend au sens du paragraphe 89(1). (*excessive eligible dividend designation*)

détenteur d'unité déterminé Est détenteur d'unité déterminé d'une entité — société de personnes ou fiducie — dont les participations sont définies par rapport à des unités le contribuable qui serait un actionnaire déterminé de l'entité si celle-ci était une société et si chaque unité de l'entité était une action d'une catégorie de la société comportant les mêmes droits et caractéristiques que l'unité. (*specified unitholder*)

dette en monnaie étrangère S'entend au sens du paragraphe 111(8). (*foreign currency debt*)

disposition Constitue notamment une disposition de bien, sauf indication contraire expresse :

a) toute opération ou tout événement donnant droit au contribuable au produit de disposition d'un bien;

b) toute opération ou tout événement par lequel, selon le cas :

(i) une action, une obligation, une débenture, un billet, un certificat, une créance hypothécaire, une convention de vente ou un autre bien semblable, ou un intérêt ou, pour l'application du droit civil, un droit sur un tel bien, est en totalité ou en partie racheté, acquis ou annulé,

(ii) une créance ou un autre droit de recevoir une somme est réglé ou annulé,

(iii) une action est convertie par suite d'une fusion ou d'une unification,

registered disability savings plan or ***RDSP*** has the same meaning as in subsection 146.4(1); (*régime enregistré d'épargne-invalidité* ou *REEI*)

registered education savings plan or ***RESP*** has the same meaning as in subsection 146.1(1); (*régime enregistré d'épargne-études* ou *REEE*)

registered investment has the meaning assigned by subsection 204.4(1); (*placement enregistré*)

registered labour-sponsored venture capital corporation means a corporation that was registered under subsection 204.81(1), the registration of which has not been revoked; (*société agréée à capital de risque de travailleurs*)

registered national arts service organization, at any time, means a national arts service organization that has been registered by the Minister under subsection 149.1(6.4), which registration has not been revoked; (*organisme enregistré de services nationaux dans le domaine des arts*)

registered pension plan means a pension plan (other than a pooled pension plan) that has been registered by the Minister for the purposes of this Act and whose registration has not been revoked; (*régime de pension agréé*)

registered retirement income fund or ***RRIF*** have the same meaning as ***registered retirement income fund*** in subsection 146.3(1); (*fonds enregistré de revenu de retraite* ou *FERR*)

registered retirement savings plan or ***RRSP*** have the same meaning as ***registered retirement savings plan*** in subsection 146(1); (*régime enregistré d'épargne-retraite* ou *REER*)

registered securities dealer means a person registered or licensed under the laws of a province to trade in securities, in the capacity of an agent or principal, without any restriction as to the types or kinds of securities in which that person may trade; (*courtier en valeurs mobilières inscrit*)

registered supplementary unemployment benefit plan has the meaning assigned by subsection 145(1); (*régime enregistré de prestations supplémentaires de chômage*)

regulation means a regulation made by the Governor in Council under this Act; (*réglementaire*)

relevant factor means

(iv) une option concernant l'acquisition ou la disposition d'un bien expire,

(v) une fiducie, à l'égard de laquelle il est raisonnable de considérer qu'elle agit à titre de mandataire pour l'ensemble de ses bénéficiaires en toute matière liée à ses biens (sauf si elle est visée à l'un des alinéas a) à e.1) de la définition de *fiducie* au paragraphe 108(1)), cesse d'agir à ce titre pour l'un de ses bénéficiaires en toute matière liée à ses biens;

b.1) s'agissant de la disposition d'un intérêt dans une police d'assurance-vie, une disposition au sens de l'article 148;

c) tout transfert de bien à une fiducie ou tout transfert de bien d'une fiducie à un bénéficiaire de celle-ci, sauf disposition contraire aux alinéas f) ou k);

d) si le bien est la participation d'un contribuable au capital d'une fiducie, ou une partie d'une telle participation, sauf disposition contraire aux alinéas h) et i), un paiement de la fiducie effectué au contribuable après 1999 qu'il est raisonnable de considérer comme ayant été effectué en raison de la participation du contribuable au capital de la fiducie.

Ne constitue pas une disposition de bien :

e) tout transfert de bien qui n'a pas pour effet de changer la propriété effective du bien, sauf si le transfert est effectué, selon le cas :

(i) d'une personne ou d'une société de personnes à une fiducie au profit de la personne ou de la société de personnes,

(ii) d'une fiducie à son bénéficiaire,

(iii) d'une fiducie administrée au profit d'un ou de plusieurs de ses bénéficiaires à une autre fiducie administrée au profit des mêmes bénéficiaires;

f) tout transfert de bien qui n'a pas pour effet de changer la propriété effective du bien, dans le cas où, à la fois :

(i) le cédant et le cessionnaire sont des fiducies qui résident au Canada au moment du transfert,

(ii) [Abrogé, 2013, ch. 34, art. 358]

(iii) le cessionnaire ne reçoit pas le bien en règlement de son droit à titre de bénéficiaire de la fiducie cédante,

(a) for taxation years that end before 2010, 3, and

(b) for taxation years that end after 2009, the amount determined by the formula

1/(A – B)

where

A is the percentage set out in paragraph 123(1)(a), and

B is the percentage that is the corporation's general rate reduction percentage (as defined by section 123.4) for the taxation year; (*facteur de référence*)

restricted farm loss has the meaning assigned by subsection 31(1.1); (*perte agricole restreinte*)

restricted financial institution means

(a) a bank,

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

(c) a credit union,

(d) an insurance corporation,

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

(e.1) a corporation described in paragraph (g) of the definition *financial institution* in subsection 181(1), or

(f) a corporation that is controlled by one or more corporations described in any of paragraphs (a) to (e.1); (*institution financière véritable*)

retirement compensation arrangement means a plan or arrangement under which contributions (other than payments made to acquire an interest in a life insurance policy) are made by an employer or former employer of a taxpayer, or by a person with whom the employer or former employer does not deal at arm's length, to another person or partnership (in this definition and in Part XI.3 referred to as the "custodian") in connection with benefits that are to be or may be received or enjoyed by any person on, after or in contemplation of any substantial

(iv) le cessionnaire ne détenait aucun bien immédiatement avant le transfert (sauf des biens dont le coût n'est pas inclus, pour l'application de la présente loi, dans le calcul d'un solde de dépenses ou d'autres montants non déduits à l'égard du cessionnaire),

(v) le cessionnaire ne choisit pas de se soustraire à l'application du présent alinéa dans un document présenté au ministre au plus tard à la date d'échéance de production qui lui est applicable pour son année d'imposition où le transfert est effectué (ou à toute date postérieure que le ministre estime acceptable),

(vi) si le cédant est une fiducie au profit d'un athlète amateur, une fiducie pour l'entretien d'un cimetière, une fiducie d'employés, une fiducie réputée par le paragraphe 143(1) exister à l'égard d'une congrégation qui est une partie constituante d'un organisme religieux, une fiducie créée à l'égard du fonds réservé (au sens de l'article 138.1 au présent alinéa), une fiducie visée à l'alinéa 149(1)o.4) ou une fiducie régie par un arrangement de services funéraires, un régime de participation des employés aux bénéfices, un régime enregistré d'épargne-invalidité, un régime enregistré d'épargne-études, un régime enregistré de prestations supplémentaires de chômage ou un compte d'épargne libre d'impôt, le cessionnaire est une fiducie du même type,

(vii) en raison du transfert ou d'une série d'opérations ou d'événements dont le transfert fait partie, le cédant cesse d'exister et, immédiatement avant le transfert ou le début de cette série, selon le cas, le cessionnaire n'avait jamais détenu de biens ou n'avait détenu que des biens d'une valeur nominale;

g) [Abrogé, 2005, ch. 30, art. 17]

h) si le bien est une partie de la participation d'un contribuable au capital d'une fiducie (sauf une fiducie personnelle ou une fiducie visée par règlement pour l'application du paragraphe 107(2)) qui est définie par rapport aux unités émises par la fiducie, un paiement provenant de la fiducie après 1999 au titre de la participation au capital, pourvu que le nombre d'unités de la fiducie appartenant au contribuable ne soit pas réduit en raison du paiement;

i) si le bien est la participation d'un contribuable au capital d'une fiducie, un paiement effectué au contribuable après 1999 au titre de la participation, dans la mesure où, selon le cas :

change in the services rendered by the taxpayer, the retirement of the taxpayer or the loss of an office or employment of the taxpayer, but does not include

(a) a registered pension plan,

(a.1) a pooled registered pension plan,

(b) a disability or income maintenance insurance plan under a policy with an insurance corporation,

(c) a deferred profit sharing plan,

(d) an employees profit sharing plan,

(e) a registered retirement savings plan,

(f) an employee trust,

(f.1) an employee life and health trust,

(g) a group sickness or accident insurance plan,

(h) a supplementary unemployment benefit plan,

(i) a vacation pay trust described in paragraph 149(1)(y),

(j) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for his services as such with a team that participates in a league having regularly scheduled games (in this definition referred to as an "athlete's plan"), where

(i) the plan or arrangement would, but for paragraph (j) of the definition *salary deferral arrangement* in this subsection, be a salary deferral arrangement, and

(ii) in the case of a Canadian team, the custodian of the plan or arrangement carries on business through a fixed place of business in Canada and is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(k) a salary deferral arrangement, whether or not deferred amounts thereunder are required to be included as benefits under paragraph 6(1)(a) in computing a taxpayer's income,

(l) a plan or arrangement (other than an athlete's plan) that is maintained primarily for the benefit of non-residents in respect of services rendered outside Canada,

(i) il est effectué sur le revenu de la fiducie (déterminé compte non tenu du paragraphe 104(6)) pour une année d'imposition ou sur les gains en capital de la fiducie pour l'année, si le paiement a été effectué, ou le droit au paiement, acquis par le contribuable, au cours de l'année,

(ii) il se rapporte à un montant attribué au contribuable par la fiducie en application du paragraphe 104(20);

j) tout transfert de bien effectué dans le seul but de garantir le remboursement d'une dette ou d'un emprunt, ou tout transfert effectué par un créancier dans le seul but de restituer des biens qui avaient servi à garantir le remboursement d'une dette ou d'un emprunt;

k) tout transfert de bien effectué au profit d'une fiducie, qui n'a pas pour effet de changer la propriété effective du bien, si le transfert a pour principal objet :

(i) soit d'effectuer un paiement au titre d'une dette ou d'un prêt,

(ii) soit de donner l'assurance du règlement d'une obligation absolue ou conditionnelle du cédant,

(iii) soit de faciliter le versement d'un dédommagement ou l'exécution d'une pénalité, dans l'éventualité où une obligation absolue ou conditionnelle du cédant n'est pas remplie;

l) l'émission d'une obligation, d'un billet, d'un certificat ou d'une créance hypothécaire;

m) l'émission, par une société, d'une action de son capital-actions ou toute autre opération qui, si ce n'était le présent alinéa, constituerait une disposition, par une société, d'une action de son capital-actions;

n) le rachat, l'acquisition ou l'annulation d'une action du capital-actions d'une société (appelée « société émettrice » au présent alinéa), ou du droit d'acquérir une telle action, (l'action ou le droit étant appelé « titre » au présent alinéa) détenu par une autre société (appelée « société cédante » au présent alinéa) dans le cas où, à la fois :

(i) le rachat, l'acquisition ou l'annulation se produit dans le cadre de l'unification ou de la combinaison de plusieurs sociétés, dont la société émettrice et la société cédante, en une nouvelle société,

(ii) l'unification ou la combinaison, selon le cas :

(A) est une fusion, au sens du paragraphe 87(1), à laquelle le paragraphe 87(11) ne s'applique pas,

(m) an insurance policy, or

(n) a prescribed plan or arrangement,

and, for the purposes of this definition, where a particular person holds property in trust under an arrangement that, if the property were held by another person, would be a retirement compensation arrangement, the arrangement shall be deemed to be a retirement compensation arrangement of which the particular person is the custodian; (*convention de retraite*)

retirement income fund has the meaning assigned by subsection 146.3(1); (*fonds de revenu de retraite*)

retirement savings plan has the meaning assigned by subsection 146(1); (*régime d'épargne-retraite*)

retiring allowance means an amount (other than a superannuation or pension benefit, an amount received as a consequence of the death of an employee or a benefit described in subparagraph 6(1)(a)(iv)) received

(a) on or after retirement of a taxpayer from an office or employment in recognition of the taxpayer's long service, or

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

by the taxpayer or, after the taxpayer's death, by a dependant or a relation of the taxpayer or by the legal representative of the taxpayer; (*allocation de retraite*)

RRSP deduction limit has the meaning assigned by subsection 146(1); (*maximum déductible au titre des REER*)

RRSP dollar limit has the meaning assigned by subsection 146(1); (*plafond REER*)

salary deferral arrangement, in respect of a taxpayer, means a plan or arrangement, whether funded or not, under which any person has a right in a taxation year to receive an amount after the year where it is reasonable to consider that one of the main purposes for the creation or existence of the right is to postpone tax payable under this Act by the taxpayer in respect of an amount that is, or is on account or in lieu of, salary or wages of the taxpayer for services rendered by the taxpayer in the year or a preceding taxation year (including such a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied), but does not include

(B) est une fusion, au sens du paragraphe 87(1), à laquelle le paragraphe 87(11) s'applique, si la société émettrice et la société cédante représentent respectivement la société mère et la filiale visées au paragraphe 87(11),

(C) est une fusion étrangère, au sens du paragraphe 87(8.1),

(D) serait une fusion étrangère, au sens du paragraphe 87(8.1), s'il n'était pas tenu compte du passage « résidant dans un pays étranger » au sous-alinéa 87(8.1)c)(ii),

(iii) selon le cas :

(A) la société cédante ne reçoit aucune contrepartie pour le titre,

(B) s'il s'agit d'une unification ou d'une combinaison visée aux divisions (ii)(C) ou (D), la société cédante ne reçoit en contrepartie du titre que des biens qui appartenaient à la société émettrice immédiatement avant l'unification ou la combinaison et qui deviennent des biens de la nouvelle société au moment de l'unification ou de la combinaison. (*disposition*)

dividende Sont compris parmi les dividendes les dividendes en actions, sauf s'ils sont versés à une société ou à une fiducie de fonds commun de placement par une société non-résidente. (*dividend*)

dividende déterminé S'entend au sens du paragraphe 89(1). (*eligible dividend*)

dividende en actions Sont compris parmi les dividendes en actions les dividendes (déterminés compte non tenu de la définition de *dividende* au présent paragraphe) versés par une société, dans la mesure où ils sont versés par l'émission d'actions d'une catégorie du capital-actions de la société. (*stock dividend*)

dividende en capital S'entend au sens de l'article 83. (*capital dividend*)

dividende en capital d'assurance-vie S'entend au sens du paragraphe 83(2.1). (*life insurance capital dividend*)

dividende imposable S'entend au sens du paragraphe 89(1). (*taxable dividend*)

donataire reconnu S'entend au sens du paragraphe 149.1(1). (*qualified donee*)

(a) a registered pension plan,

(a.1) a pooled registered pension plan,

(b) a disability or income maintenance insurance plan under a policy with an insurance corporation,

(c) a deferred profit sharing plan,

(d) an employees profit sharing plan,

(e) an employee trust,

(e.1) an employee life and health trust,

(f) a group sickness or accident insurance plan,

(g) a supplementary unemployment benefit plan,

(h) a vacation pay trust described in paragraph 149(1)(y),

(i) a plan or arrangement the sole purpose of which is to provide education or training for employees of an employer to improve their work or work-related skills and abilities,

(j) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for the services of the athlete as such with a team that participates in a league having regularly scheduled games,

(k) a plan or arrangement under which a taxpayer has a right to receive a bonus or similar payment in respect of services rendered by the taxpayer in a taxation year to be paid within 3 years following the end of the year, or

(l) a prescribed plan or arrangement; (*entente d'échelonnement du traitement*)

salary or wages, except in sections 5 and 63 and the definition *death benefit* in this subsection, means the income of a taxpayer from an office or employment as computed under subdivision a of Division B of Part I and includes all fees received for services not rendered in the course of the taxpayer's business but does not include superannuation or pension benefits or retiring allowances; (*traitement ou salaire*)

scientific research and experimental development means systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis and that is

droit d'émissions Droit, crédit ou instrument semblable qui représente une unité d'émissions qui peut servir à remplir une obligation sous le régime d'une loi fédérale ou provinciale qui régit les émissions de substances réglementées, telles les émissions de gaz à effet de serre. (*emissions allowance*)

EIPD convertible Fiducie ou société de personnes qui est, au cours de la période ayant commencé le 31 octobre 2006 et se terminant le 14 juillet 2008 :

a) soit une fiducie intermédiaire de placement déterminée, compte non tenu du paragraphe 122.1(2);

b) soit une société de personnes intermédiaire de placement déterminée, compte non tenu du paragraphe 197(8);

c) soit une fiducie de placement immobilier, au sens du paragraphe 122.1(1). (*SIFT wind-up entity*)

emploi Poste qu'occupe un particulier, au service d'une autre personne (y compris Sa Majesté ou un État ou souverain étrangers); *préposé* ou *employé* s'entend de la personne occupant un tel poste. (*employment*)

employé Sont compris parmi les employés les cadres ou fonctionnaires. (*employee*)

employé (être) Qui accomplit les fonctions que comporte une charge ou un emploi. (*employed*)

employé déterminé S'agissant de l'employé déterminé d'une personne, l'employé de la personne qui est un actionnaire déterminé de celle-ci ou qui a un lien de dépendance avec celle-ci. (*specified employee*)

employeur Dans le cas du cadre ou fonctionnaire, la personne de qui celui-ci reçoit sa rémunération. (*employer*)

entente d'échelonnement du traitement Relativement à un contribuable, régime ou mécanisme, qu'il y ait ou non des fonds réservés à cette fin, qui donne à une personne, au cours d'une année d'imposition, le droit de recevoir un montant après l'année, droit dont il est raisonnable de considérer que l'existence ou la création a, entre autres principaux objets, celui de reporter l'impôt payable en vertu de la présente loi par le contribuable sur un montant lui revenant au titre d'un salaire ou traitement pour des services qu'il a rendus au cours de l'année ou d'une année d'imposition antérieure — y compris un droit assujetti à une ou plusieurs conditions sauf s'il y a une forte probabilité qu'une de ces conditions ne sera pas remplie; ne sont pas des ententes d'échelonnement du traitement :

(a) basic research, namely, work undertaken for the advancement of scientific knowledge without a specific practical application in view,

(b) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, or

(c) experimental development, namely, work undertaken for the purpose of achieving technological advancement for the purpose of creating new, or improving existing, materials, devices, products or processes, including incremental improvements thereto,

and, in applying this definition in respect of a taxpayer, includes

(d) work undertaken by or on behalf of the taxpayer with respect to engineering, design, operations research, mathematical analysis, computer programming, data collection, testing or psychological research, where the work is commensurate with the needs, and directly in support, of work described in paragraph (a), (b), or (c) that is undertaken in Canada by or on behalf of the taxpayer,

but does not include work with respect to

(e) market research or sales promotion,

(f) quality control or routine testing of materials, devices, products or processes,

(g) research in the social sciences or the humanities,

(h) prospecting, exploring or drilling for, or producing, minerals, petroleum or natural gas,

(i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process,

(j) style changes, or

(k) routine data collection; (*activités de recherche scientifique et de développement expérimental*)

scientific research and experimental development financing contract has the meaning assigned by subsection 194(6); (*contrat de financement pour des activités de recherche scientifique et de développement expérimental*)

scientific research and experimental development tax credit of a taxpayer for a taxation year has the

a) les régimes de pension agréés;

a.1) les régimes de pension agréés collectifs;

b) les régimes d'assurance invalidité ou de sécurité du revenu prévus dans une police d'une compagnie d'assurance;

c) les régimes de participation différée aux bénéfices;

d) les régimes de participation des employés aux bénéfices;

e) les fiducies d'employés;

e.1) les fiducies de soins de santé au bénéfice d'employés;

f) les régimes collectifs d'assurance-maladie ou d'assurance contre les accidents;

g) les régimes de prestations supplémentaires d'assurance-chômage;

h) les fiducies, visées à l'alinéa 149(1)y), pour indemnités de vacances ou de congés;

i) les régimes ou mécanismes dont le seul but est de dispenser à des employés d'un employeur un enseignement ou une formation qui vise à améliorer leur compétence au travail ou leurs connaissances en rapport avec ce travail;

j) les régimes ou mécanismes établis dans le but de différer le traitement ou salaire de sportifs professionnels pour les services qu'ils rendent en cette qualité au sein d'un club appartenant à une ligue qui organise des parties régulièrement programmées;

k) les régimes ou mécanismes en vertu desquels des contribuables ont le droit de recevoir une gratification ou un paiement analogue, payable dans les trois ans suivant la fin d'une année d'imposition, pour des services qu'ils ont rendus au cours de cette année;

l) les régimes ou mécanismes visés par règlement. (*salary deferral arrangement*)

entreprise Sont compris parmi les entreprises les professions, métiers, commerces, industries ou activités de quelque genre que ce soit et, sauf pour l'application de l'alinéa 18(2)c), de l'article 54.2, du paragraphe 95(1) et de l'alinéa 110.6(14)f), les projets comportant un risque ou les affaires de caractère commercial, à l'exclusion toutefois d'une charge ou d'un emploi. (*business*)

meaning assigned by subsection 127.3(2); (*crédit d'impôt pour des activités de recherche scientifique et de développement expérimental*)

securities lending arrangement has the meaning assigned by subsection 260(1); (*mécanisme de prêt de valeurs mobilières*)

self-contained domestic establishment means a dwelling-house, apartment or other similar place of residence in which place a person as a general rule sleeps and eats; (*établissement domestique autonome*)

separation agreement includes an agreement by which a person agrees to make payments on a periodic basis for the maintenance of a former spouse or common-law partner, children of the marriage or common-law partnership or both the former spouse or common-law partner and children of the marriage or common-law partnership, after the marriage or common-law partnership has been dissolved, whether the agreement was made before or after the marriage or common- law partnership was dissolved; (*accord de séparation*)

share, except as the context otherwise requires, means a share or a fraction of a share of the capital stock of a corporation and, for greater certainty, a share of the capital stock of a corporation includes a share of the capital of a cooperative corporation (within the meaning assigned by subsection 136(2)), a share of the capital of an agricultural cooperative corporation (within the meaning assigned by subsection 135.1(1)) and a share of the capital of a credit union; (*action*)

shareholder includes a member or other person entitled to receive payment of a dividend; (*actionnaire*)

share-purchase tax credit of a taxpayer for a taxation year has the meaning assigned by subsection 127.2(6); (*crédit d'impôt à l'achat d'actions*)

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

(a) is a share where, under the terms and conditions of the share, any agreement relating to the share or any modification of those terms and conditions or that agreement, the corporation or a specified person in relation to the corporation is or may, at any time within 5 years after the date of its issue, be required to redeem, acquire or cancel, in whole or in part, the share (unless the requirement to redeem, acquire or cancel the share arises only in the event of the death of the shareholder or by reason only of a right to convert or

entreprise bancaire canadienne Entreprise exploitée par une banque étrangère autorisée par l'entremise d'un établissement stable, au sens du *Règlement de l'impôt sur le revenu*, au Canada, à l'exception d'une entreprise dirigée par l'intermédiaire d'un bureau de représentation immatriculé en vertu de l'article 509 de la *Loi sur les banques*, ou devant l'être. (*Canadian banking business*)

entreprise d'assurance-vie Sont assimilés à une entreprise d'assurance-vie :

a) un commerce de rentes;

b) un commerce dont l'objet est l'émission de contrats à l'égard desquels les provisions de l'émetteur pour ces derniers varient, en totalité ou en partie, selon la juste valeur marchande d'un groupe donné d'éléments d'actif,

lorsque ces commerces sont exploités par une compagnie d'assurance-vie ou un assureur sur la vie. (*life insurance business*)

entreprise de placement déterminée S'entend au sens du paragraphe 125(7). (*specified investment business*)

entreprise de prestation de services personnels S'entend au sens du paragraphe 125(7). (*personal services business*)

entreprise exploitée activement Relativement à toute entreprise exploitée par un contribuable résidant au Canada, toute entreprise exploitée par le contribuable autre qu'une entreprise de placement déterminée ou une entreprise de prestation de services personnels. (*active business*)

entreprise protégée par traité À un moment donné, entreprise relativement à laquelle le revenu d'un contribuable pour une période comprenant ce moment serait exonéré, par l'effet d'un traité fiscal, de l'impôt prévu à la partie I. (*treaty-protected business*)

établissement domestique autonome Habitation, appartement ou autre logement de ce genre dans lequel, en règle générale, une personne prend ses repas et couche. (*self-contained domestic establishment*)

exercice [Abrogée, 1996, ch. 21, art. 60]

facteur d'équivalence S'agissant du facteur d'équivalence d'un contribuable pour une année civile quant à un employeur, s'entend au sens du règlement. (*pension adjustment*)

exchange the share) or to reduce the paid-up capital of the share, and for the purposes of this paragraph

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

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

(B) that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or for an amount determined by reference to the assets or earnings of the corporation where that determination may reasonably be considered to be used to determine an amount that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, and

(ii) ***shareholder*** includes a shareholder of a shareholder, or

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

(i) it is convertible into or exchangeable for

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

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

(C) both a share described in clause (A) and a right or warrant described in clause (B), and

(ii) all the consideration receivable for the share on the conversion or exchange is the share described in clause (A) or the right or warrant described in

facteur d'équivalence pour services passés S'agissant du facteur d'équivalence pour services passés d'un contribuable pour une année civile quant à un employeur, s'entend au sens du règlement. (*past service pension adjustment*)

facteur d'équivalence rectifié total Quant à un contribuable pour une année civile, s'entend au sens du *Règlement de l'impôt sur le revenu*. (*total pension adjustment reversal*)

facteur de référence

a) Pour les années d'imposition se terminant avant 2010, 3;

b) pour les années d'imposition se terminant après 2009, la somme obtenue par la formule suivante :

1/(A – B)

où :

A représente le pourcentage prévu à l'alinéa 123(1)a),

B le pourcentage qui correspond au pourcentage de réduction du taux général, au sens de l'article 123.4, pour l'année d'imposition. (*relevant factor*)

facteur fiscal provincial [Abrogée, 2008, ch. 28, art. 34]

failli S'entend au sens de la *Loi sur la faillite et l'insolvabilité*. (*bankrupt*)

fait lié à la conversion d'une EIPD-fiducie Distribution de biens, effectuée au profit d'un contribuable par une fiducie donnée résidant au Canada, à l'égard de laquelle les conditions suivantes sont remplies :

a) la distribution est effectuée avant 2013;

b) elle donne lieu à la disposition de la participation du contribuable à titre de bénéficiaire de la fiducie donnée;

c) la fiducie donnée est, selon le cas :

(i) une EIPD convertible,

(ii) une fiducie dont le seul bénéficiaire tout au long de la période (appelée « période admissible » à la présente définition) commençant le 14 juillet 2008 et se terminant au moment de la distribution est une autre fiducie qui, tout au long de la période admissible, est, à la fois :

(A) un résident du Canada,

clause (B) or both, as the case may be, and for the purposes of this subparagraph, where a taxpayer may become entitled on the conversion or exchange of a share to receive any particular consideration (other than consideration described in any of clauses (A) to (C)) in lieu of a fraction of a share, the particular consideration shall be deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1,

and, for the purposes of this definition,

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

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

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

(ii) one of the main purposes for the issue of the particular share or the modification of its terms or conditions or the modification or entering into the agreement in respect of the share was to avoid or limit the tax payable under subsection 191.1(1),

the particular share shall be deemed after that particular time to have been issued at that particular time and to be a short-term preferred share of the corporation,

(e) where at any particular time after December 15, 1987, otherwise than pursuant to a written

(B) une EIPD convertible ou une fiducie visée au présent sous-alinéa,

(iii) une fiducie dont le seul bénéficiaire au moment de la distribution est une autre fiducie qui, tout au long de la période admissible, est, à la fois :

(A) un résident du Canada,

(B) une EIPD convertible ou une fiducie visée au sous-alinéa (ii),

(C) un bénéficiaire détenant une participation majoritaire (au sens de l'article 251.1 à supposer que la mention « 50 % », à la définition de *bénéficiaire détenant une participation majoritaire* au paragraphe 251.1(3), soit remplacée par 25 %) de la fiducie donnée;

d) la fiducie donnée cesse d'exister immédiatement après la distribution ou immédiatement après la dernière d'une série de faits liés à la conversion d'une EIPD-fiducie (déterminés compte non tenu du présent alinéa) de la fiducie donnée qui comprend la distribution;

e) les biens n'ont pas été acquis par la fiducie donnée par suite :

(i) d'un transfert ou d'un échange qui, à la fois :

(A) est un échange admissible, au sens du paragraphe 132.2(1), ou une disposition admissible, au sens du paragraphe 107.4(1),

(B) est effectué après le 2 février 2009,

(C) provient d'une personne autre qu'une EIPD convertible,

(ii) du transfert ou de l'échange, auquel l'un des articles 51, 85, 85.1, 86, 87, 88, 107.4 ou 132.2 s'applique, d'un autre bien acquis par suite d'un transfert ou d'un échange visé au sous-alinéa (i) ou au présent sous-alinéa. (*SIFT trust wind-up event*)

fiducie S'entend au sens du paragraphe 104(1) et, sauf indication contraire du contexte, comprend une succession. (*trust*)

fiducie au profit de l'époux ou du conjoint de fait postérieure à 1971 Fiducie à laquelle l'alinéa 104(4)a) s'appliquerait s'il n'était pas tenu compte, au sous-alinéa 104(4)a)(ii.1), du passage « soit une fiducie établie après que le contribuable a atteint l'âge de 65 ans et dans le cadre de laquelle, selon le cas : » ni des divisions (A) à

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

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

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

(B) that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or for an amount determined by reference to the assets or earnings of the corporation where that determination may reasonably be considered to be used to determine an amount that does not exceed the fair market value of the share at the time of the acquisition, determined without reference to the agreement, and

(ii) ***shareholder*** includes a shareholder of a shareholder,

(f) if a share of the capital stock of a corporation was issued after December 15, 1987 and at the time the share was issued the existence of the corporation was, or there was an arrangement under which it could be, limited to a period that was within five years from the

(C). (*post-1971 spousal or common-law partner trust*)

fiducie au profit d'un athlète amateur S'entend au sens du paragraphe 143.1(1.2). (*amateur athlete trust*)

fiducie de fonds commun de placement S'entend au sens du paragraphe 132(6). (*mutual fund trust*)

fiducie de fonds commun de placement déterminée S'entend, à un moment donné, d'une fiducie de fonds commun de placement, sauf une fiducie de fonds commun de placement à l'égard de laquelle il est raisonnable de considérer, compte tenu des circonstances, y compris des caractéristiques de ses unités, que le total des sommes représentant chacune la juste valeur marchande, à ce moment, d'une unité émise par la fiducie et détenue par une personne qui, par l'effet de l'article 149, est exonérée de l'impôt correspond à la totalité ou la presque totalité du total des sommes représentant chacune la juste valeur marchande, à ce moment, d'une unité émise par la fiducie. (*specified mutual fund trust*)

fiducie d'employés Arrangement (autre qu'un régime de participation des employés aux bénéfices, un régime de participation différée aux bénéfices ou un régime appelé « régime dont l'agrément est retiré » au paragraphe 147(15)) constitué après 1979 et remplissant les conditions suivantes :

a) des paiements sont faits par un ou plusieurs employeurs à un fiduciaire d'une fiducie constituée aux seules fins de verser à des employés ou anciens employés :

(i) de l'employeur,

(ii) d'une personne avec laquelle l'employeur a un lien de dépendance,

des prestations auxquelles le droit est dévolu au moment de chaque versement et dont le montant ne dépend pas du poste, du rendement ou de la rétribution du particulier à titre d'employé;

b) le fiduciaire a, depuis le début de l'arrangement, attribué, chaque année, à des particuliers qui sont des bénéficiaires du régime, d'une manière raisonnable, l'éventuel excédent du total des sommes dont chacune représente :

(i) un montant reçu au cours de l'année par le fiduciaire en vertu d'un arrangement et provenant d'un employeur ou d'une personne avec laquelle l'employeur a un lien de dépendance,

date of its issue, the share is deemed to be a short-term preferred share of the corporation unless

(i) the share is a grandfathered share and the arrangement is a written arrangement entered into before December 16, 1987, or

(ii) the share is issued to an individual after April 14, 2005 under an agreement referred to in subsection 7(1), if when the individual last acquired a right under the agreement to acquire a share of the capital stock of the corporation, the existence of the corporation was not, and no arrangement was in effect under which it could be, limited to a period that was within five years from the date of that last acquisition,

(g) where a share of the capital stock of a corporation is acquired at any time after December 15, 1987 by the corporation or a specified person in relation to the corporation and the share is at any particular time after that time acquired by a person with whom the corporation or a specified person in relation to the corporation was dealing at arm's length if this Act were read without reference to paragraph 251(5)(b), from the corporation or a specified person in relation to the corporation, the share shall be deemed after that particular time to have been issued at that particular time,

(h) where at any particular time after December 15, 1987, otherwise than pursuant to a written arrangement to do so entered into before December 16, 1987, as a result of the terms or conditions of a share of the capital stock of a corporation or any agreement entered into by the corporation or a specified person in relation to the corporation, any person (other than the corporation or an individual other than a trust) was obligated, either absolutely or contingently and either immediately or in the future, to effect any undertaking within 5 years after the day on which the share was issued (in this paragraph referred to as a "guarantee agreement") including any guarantee, covenant or agreement to purchase or repurchase the share, and including the lending of funds or the placing of amounts on deposit with, or on behalf of the shareholder or a specified person in relation to the shareholder given

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

(ii) le montant qui, compte non tenu du paragraphe 104(6), serait le revenu de la fiducie pour l'année (autre qu'un gain en capital imposable tiré de la disposition de biens) tiré d'un bien ou d'une autre source, autre qu'une entreprise,

(iii) un gain en capital de la fiducie pour l'année tiré de la disposition de biens,

sur le total des sommes dont chacune représente :

(iv) la perte de la fiducie pour l'année (autre qu'une perte en capital déductible subie lors de la disposition de biens) au titre d'un bien ou d'une autre source, autre qu'une entreprise,

(v) une perte en capital de la fiducie pour l'année subie lors de la disposition de biens;

c) le fiduciaire a choisi de désigner l'arrangement comme étant une fiducie d'employés dans sa déclaration de revenu produite dans les 90 jours suivant la fin de sa première année d'imposition. (*employee trust*)

fiducie de restauration minière [Abrogée, 1998, ch. 19, art. 66]

fiducie de soins de santé au bénéfice d'employés S'entend au sens du paragraphe 144.1(2). (*employee life and health trust*)

fiducie d'investissement à participation unitaire S'entend au sens du paragraphe 108(2). (*unit trust*)

fiducie en faveur de soi-même Fiducie à laquelle l'alinéa 104(4)a) s'appliquerait s'il n'était pas tenu compte des divisions 104(4)a)(i)(A) et (B) ni des divisions 104(4)a)(ii.1)(B) et (C). (*alter ego trust*)

fiducie intermédiaire de placement déterminée S'entend au sens de l'article 122.1. (*SIFT trust*)

fiducie mixte au profit de l'époux ou du conjoint de fait Fiducie à laquelle l'alinéa 104(4)a) s'appliquerait s'il n'était pas tenu compte des divisions 104(4)a)(i)(A) et (B) ni de la division 104(4)a)(ii.1)(A). (*joint spousal or common-law partner trust*)

fiducie non testamentaire S'entend au sens du paragraphe 108(1). (*inter vivos trust*)

fiducie personnelle Fiducie (à l'exclusion d'une fiducie qui est, ou a été après 1999, une fiducie d'investissement à participation unitaire) qui est, selon le cas :

a) une succession assujettie à l'imposition à taux progressifs;

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

the share shall be deemed after that particular time to have been issued at the particular time and to be at and immediately after the particular time a short-term preferred share, and for the purposes of this paragraph, where a guarantee agreement in respect of a share is given at any particular time after December 15, 1987, otherwise than pursuant to a written arrangement to do so entered into before December 16, 1987, the share shall be deemed to have been issued at the particular time and the guarantee agreement shall be deemed to have been given as part of a series of transactions that included the issuance of the share,

(i) a share that is, at the time a dividend is paid thereon, a share described in paragraph (e) of the definition *term preferred share* in this subsection during the applicable time period referred to in that paragraph or a prescribed share shall, notwithstanding any other provision of this definition, be deemed not to be a short-term preferred share at that time, and

(j) ***specified person*** has the meaning assigned by paragraph (h) of the definition *taxable preferred share* in this subsection; (*action privilégiée à court terme*)

SIFT partnership has the meaning assigned by section 197; (*société de personnes intermédiaire de placement déterminée*)

SIFT partnership balance-due day, in respect of a taxation year of a SIFT partnership, means the day on or before which the partnership is required to file a return for the taxation year under section 229 of the *Income Tax Regulations*; (*date d'échéance du solde*)

SIFT trust has the meaning assigned by section 122.1; (*fiducie intermédiaire de placement déterminée*)

SIFT trust wind-up event means a distribution by a particular trust resident in Canada of property to a taxpayer in respect of which the following conditions are met:

(a) the distribution occurs before 2013,

(b) there is a resulting disposition of all of the taxpayer's interest as a beneficiary under the particular trust,

(c) the particular trust is

(i) a SIFT wind-up entity,

b) une fiducie dans laquelle aucun droit de bénéficiaire n'est acquis pour une contrepartie à payer directement ou indirectement :

(i) soit à la fiducie,

(ii) soit à une personne ou une société de personnes qui effectue un apport à la fiducie sous forme de transfert, cession ou autre disposition de biens. (*personal trust*)

fiducie pour l'entretien d'un cimetière S'entend au sens du paragraphe 148.1(1). (*cemetery care trust*)

fiducie pour l'environnement admissible S'entend au sens du paragraphe 211.6(1). (*qualifying environmental trust*)

fiducie testamentaire S'entend au sens du paragraphe 108(1). (*testamentary trust*)

filiale à cent pour cent Société dont tout le capital-actions émis (sauf les actions conférant l'admissibilité aux postes d'administrateurs) appartient à la société dont elle est la filiale. (*subsidiary wholly-owned corporation*)

filiale contrôlée Société dont plus de 50 % du capital-actions émis (ayant plein droit de vote en toutes circonstances) appartient à la société dont elle est la filiale. (*subsidiary controlled corporation*)

fondation privée S'entend au sens de l'article 149.1. (*private foundation*)

fondation publique S'entend au sens de l'article 149.1. (*public foundation*)

fonds de revenu de retraite S'entend au sens du paragraphe 146.3(1). (*retirement income fund*)

fonds enregistré de revenu de retraite ou ***FERR*** S'entend au sens de *fonds enregistré de revenu de retraite* au paragraphe 146.3(1). (*registered retirement income fund* or *RRIF*)

fournisseur de rentes autorisé S'entend au sens du paragraphe 147(1). (*licensed annuities provider*)

fraction non amortie du coût en capital S'agissant de la fraction non amortie du coût en capital, pour un contribuable, d'un bien amortissable d'une catégorie prescrite, s'entend au sens du paragraphe 13(21). (*undepreciated capital cost*)

(ii) a trust whose only beneficiary throughout the period (referred to in this definition as the "qualifying period") that begins on July 14, 2008 and that ends at the time of the distribution is another trust that throughout the qualifying period

(A) is resident in Canada, and

(B) is a SIFT wind-up entity or a trust described by this subparagraph, or

(iii) a trust whose only beneficiary at the time of distribution is another trust that throughout the qualifying period

(A) is resident in Canada,

(B) is a SIFT wind-up entity or a trust described by subparagraph (ii), and

(C) is a majority interest beneficiary (within the meaning that would be assigned by section 251.1 if the references in the definition *majority interest beneficiary* in subsection 251.1(3) to "50%" were read as references to "25%") of the particular trust,

(d) the particular trust ceases to exist immediately after the distribution or immediately after the last of a series of SIFT trust wind-up events (determined without reference to this paragraph) of the particular trust that includes the distribution, and

(e) the property was not acquired by the particular trust as a result of a transfer or an exchange

(i) that is

(A) a *qualifying exchange* as defined in subsection 132.2(1) or a ***qualifying disposition*** as defined in subsection 107.4(1),

(B) made after February 2, 2009, and

(C) from any person other than a SIFT wind-up entity, or

(ii) to which any of sections 51, 85, 85.1, 86, 87, 88, 107.4 or 132.2 applies, of another property acquired as a result of a transfer or an exchange described by subparagraph (i) or this subparagraph; (*fait lié à la conversion d'une EIPD-fiducie*)

SIFT wind-up corporation, in respect of a SIFT wind-up entity, means at any particular time a corporation

frais à l'égard de biens canadiens relatifs au pétrole et au gaz S'entend au sens du paragraphe 66.4(5). (*Canadian oil and gas property expense*)

frais d'aménagement au Canada S'entend au sens du paragraphe 66.2(5). (*Canadian development expense*)

frais d'exploration au Canada S'entend au sens du paragraphe 66.1(6). (*Canadian exploration expense*)

frais d'exploration et d'aménagement à l'étranger S'entend au sens du paragraphe 66(15). (*foreign exploration and development expenses*)

frais d'exploration et d'aménagement au Canada S'entend au sens du paragraphe 66(15). (*Canadian exploration and development expenses*)

frais globaux relatifs à des ressources à l'étranger Les frais relatifs à des ressources à l'étranger d'un contribuable se rapportant à tous les pays et ses frais d'exploration et d'aménagement à l'étranger. (*foreign resource pool expenses*)

frais personnels ou de subsistance Sont compris parmi les frais personnels ou de subsistance :

a) les dépenses inhérentes aux biens entretenus par toute personne pour l'usage ou l'avantage du contribuable ou de toute personne unie à ce dernier par les liens du sang, du mariage, de l'union de fait ou de l'adoption, et non entretenus dans le but ou avec l'espoir raisonnable de tirer un profit de l'exploitation d'une entreprise;

b) les dépenses, primes ou autres frais afférents à une police d'assurance, un contrat de rentes ou à d'autres contrats de ce genre, si le produit de la police ou du contrat est payable au contribuable ou à une personne unie à lui par les liens du sang, du mariage, de l'union de fait ou de l'adoption, ou au profit du contribuable ou de cette personne;

c) les dépenses inhérentes aux biens entretenus par une succession ou une fiducie au profit du contribuable à titre de bénéficiaire. (*personal or living expenses*)

frais relatifs à des ressources à l'étranger S'entend au sens du paragraphe 66.21(1). (*foreign resource expense*)

gain en capital S'agissant du gain en capital, pour une année d'imposition, tiré de la disposition d'un bien quelconque, s'entend au sens de l'article 39. (*capital gain*)

(a) that, at any time that is after July 13, 2008 and before the earlier of the particular time and January 1, 2013, owns all of the equity in the SIFT wind-up entity, or

(b) shares of the capital stock of which are at or before the particular time distributed on a SIFT trust wind-up event of the SIFT wind-up entity; (*société de conversion d'EIPD*)

SIFT wind-up entity means a trust or partnership that at any time in the period that began on October 31, 2006 and that ends on July 14, 2008 is

(a) a SIFT trust (determined without reference to subsection 122.1(2)),

(b) a SIFT partnership (determined without reference to subsection 197(8)), or

(c) a real estate investment trust (as defined in subsection 122.1(1)); (*EIPD convertible*)

SIFT wind-up entity equity, or equity in a SIFT wind-up entity, means

(a) if the SIFT wind-up entity is a trust, a capital interest (determined without reference to subsection (25)) in the trust, and

(b) if the SIFT wind-up entity is a partnership, an interest as a member of the partnership where, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited,

except that if all of the interests described in paragraph (a) or (b), as the case may be, in the SIFT wind-up entity are described by reference to units, it means the part of the interest represented by such a unit; (*intérêt dans une EIPD convertible*)

small business bond has the meaning assigned by section 15.2; (*obligation pour la petite entreprise*)

small business corporation, at any particular time, means, subject to subsection 110.6(15), a particular corporation that is a Canadian-controlled private corporation all or substantially all of the fair market value of the assets of which at that time is attributable to assets that are

(a) used principally in an active business carried on primarily in Canada by the particular corporation or by a corporation related to it,

gain en capital imposable S'entend au sens de l'article 38. (*taxable capital gain*)

gain net imposable S'agissant du gain net imposable tiré de la disposition de biens meubles déterminés, s'entend au sens de l'article 41. (*taxable net gain*)

immobilisation S'entend au sens de l'article 54. (*capital property*)

immobilisation admissible [Abrogée, 2016, ch. 12, art. 63]

impôt de la partie VII en main remboursable S'entend au sens du paragraphe 192(3). (*refundable Part VII tax on hand*)

impôt de la partie VIII en main remboursable S'entend au sens du paragraphe 194(3). (*refundable Part VIII tax on hand*)

institution financière déterminée Sont des institutions financières déterminées à un moment donné :

a) les banques;

b) les sociétés autorisées par licence ou autrement, en vertu de la législation fédérale ou provinciale, à exploiter au Canada une entreprise d'offre au public de services de fiduciaire;

c) les caisses de crédit;

d) les compagnies d'assurance;

e) les sociétés dont l'activité d'entreprise principale consiste à prêter de l'argent à des personnes avec lesquelles elles n'ont aucun lien de dépendance ou à acheter des titres de créance émis par ces personnes ou à faire les deux;

e.1) les sociétés visées à l'alinéa g) de la définition de *institution financière* au paragraphe 181(1);

f) les sociétés contrôlées par une ou plusieurs sociétés visées à l'un des alinéas a) à e.1); pour l'application du présent alinéa, une société est contrôlée par une autre si plus de 50 % des actions émises de son capital-actions comportant plein droit de vote en toutes circonstances appartiennent à l'autre société, à des personnes avec lesquelles celle-ci a un lien de dépendance, ou à la fois à l'autre société et à des personnes avec lesquelles celle-ci a un lien de dépendance;

g) les sociétés liées à une société donnée visée à l'un des alinéas a) à f) à l'exception d'une société donnée

(b) shares of the capital stock or indebtedness of one or more small business corporations that are at that time connected with the particular corporation (within the meaning of subsection 186(4) on the assumption that the small business corporation is at that time a *payer corporation* within the meaning of that subsection), or

(c) assets described in paragraphs (a) and (b),

including, for the purpose of paragraph 39(1)(c), a corporation that was at any time in the 12 months preceding that time a small business corporation, and, for the purpose of this definition, the fair market value of a net income stabilization account shall be deemed to be nil; (*société exploitant une petite entreprise*)

small business development bond has the meaning assigned by section 15.1; (*obligation pour le développement de la petite entreprise*)

specified employee of a person means an employee of the person who is a specified shareholder of the person or who does not deal at arm's length with the person; (*employé déterminé*)

specified financial institution, at any time, means

(a) a bank,

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

(c) a credit union,

(d) an insurance corporation,

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

(e.1) a corporation described in paragraph (g) of the definition *financial institution* in subsection 181(1),

(f) a corporation that is controlled by one or more corporations described in any of paragraphs (a) to (e.1) and, for the purpose of this paragraph, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other

visée aux alinéas e) ou e.1) qui a pour activité d'entreprise principale l'affacturage de comptes clients qui, à la fois :

(i) ont été acquis par la société donnée d'une personne liée,

(ii) découlent de l'exploitation d'une entreprise exploitée activement par une personne (appelée « entité » au présent alinéa) qui est liée à la société donnée à ce moment,

(iii) n'ont pas été détenus avant ce moment par une personne autre qu'une personne liée à l'entité. (*specified financial institution*)

institution financière véritable

a) Banque;

b) société titulaire de licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise d'offre au public de services de fiduciaire;

c) caisse de crédit;

d) compagnie d'assurance;

e) société dont l'activité d'entreprise principale consiste à prêter de l'argent à des personnes avec lesquelles elle n'a aucun lien de dépendance ou à acheter des titres de créance émis par ces personnes ou à faire les deux;

e.1) société visée à l'alinéa g) de la définition de *institution financière* au paragraphe 181(1);

f) société contrôlée par une ou plusieurs sociétés visées à l'un des alinéas a) à e.1). (*restricted financial institution*)

intérêt dans une EIPD convertible

a) Dans le cas d'une EIPD convertible qui est une fiducie, toute participation au capital de la fiducie (déterminée compte non tenu du paragraphe (25));

b) dans le cas d'une EIPD convertible qui est une société de personnes, toute participation à titre d'associé de la société de personnes si la responsabilité de l'associé à ce titre est limitée par la loi qui régit le contrat de société.

Toutefois, si les participations visées aux alinéas a) ou b), selon le cas, dans une EIPD convertible sont définies par

corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length, or

(g) a corporation that is related to a particular corporation described in any of paragraphs (a) to (f), other than a particular corporation described in paragraph (e) or (e.1) the principal business of which is the factoring of trade accounts receivable that

(i) the particular corporation acquired from a related person,

(ii) arose in the course of an active business carried on by a person (in this paragraph referred to as the "business entity") related at that time to the particular corporation, and

(iii) at no particular time before that time were held by a person other than a person who was related to the business entity; (*institution financière déterminée*)

specified future tax consequence for a taxation year means

(a) the consequence of the deduction or exclusion of an amount referred to in paragraph 161(7)(a),

(b) the consequence of a reduction under subsection 66(12.73) of a particular amount purported to be renounced by a corporation after the beginning of the year to a person or partnership under subsection 66(12.6) or 66(12.601) because of the application of subsection 66(12.66), determined as if the purported renunciation would, but for subsection 66(12.73), have been effective only where

(i) the purported renunciation occurred in January, February or March of a calendar year,

(ii) the effective date of the purported renunciation was the last day of the preceding calendar year,

(iii) the corporation agreed in that preceding calendar year to issue a flow-though share to the person or partnership,

(iv) the particular amount does not exceed the amount, if any, by which the consideration for which the share is to be issued exceeds the total of all other amounts purported by the corporation to have been renounced under subsection 66(12.6) or 66(12.601) in respect of that consideration,

rapport à des unités, la partie de la participation représentée par une telle unité constitue un intérêt dans l'EIPD convertible. (*SIFT wind-up entity equity*)

inventaire Description des biens dont le prix ou la valeur entre dans le calcul du revenu qu'un contribuable tire d'une entreprise pour une année d'imposition ou serait ainsi entré si le revenu tiré de l'entreprise n'avait pas été calculé selon la méthode de comptabilité de caisse, laquelle description comprend notamment les biens suivants :

a) dans le cas d'une entreprise agricole, le bétail détenu dans le cadre de l'exploitation de l'entreprise;

b) les droits d'émissions. (*inventory*)

investisseur indifférent relativement à l'impôt S'entend, à un moment donné, de la personne ou de la société de personnes qui est à ce moment, selon le cas :

a) une personne qui, par l'effet de l'article 149, est exonérée de l'impôt;

b) une personne non-résidente, sauf une personne à l'égard de laquelle toute somme payée ou portée à son crédit dans le cadre d'un arrangement de capitaux propres synthétiques ou d'un arrangement de capitaux propres synthétiques déterminé peut raisonnablement être attribuée à l'entreprise qu'elle exploite au Canada par l'entremise d'un établissement stable, au sens du règlement, au Canada;

c) une fiducie résidant au Canada (sauf une fiducie de fonds commun de placement déterminée) dont une participation à titre de bénéficiaire n'est pas une *participation fixe*, au sens du paragraphe 251.2(1), dans la fiducie (appelée « fiducie discrétionnaire » à la présente définition);

d) une société de personnes à l'égard de laquelle il est raisonnable de considérer que plus de 10 % de la juste valeur marchande de l'ensemble des participations dans la société est détenue, directement ou indirectement par l'entremise d'une ou de plusieurs fiducies ou sociétés de personnes, par plusieurs des personnes visées à l'un des alinéas a) à c);

e) une fiducie résidant au Canada (sauf une fiducie de fonds commun de placement déterminée ou une fiducie discrétionnaire) à l'égard de laquelle il est raisonnable de considérer que plus de 10 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire de la fiducie est détenue, directement ou

(v) paragraphs 66(12.66)(c) and 66(12.66)(d) are satisfied with respect to the purported renunciation, and

(vi) the form prescribed for the purpose of subsection 66(12.7) in respect of the purported renunciation is filed with the Minister before May of the calendar year, and

(c) the consequence of an adjustment or a reduction described in subsection 161(6.1); (*conséquence fiscale future déterminée*)

specified individual has the meaning assigned by subsection 120.4(1); (*particulier déterminé*)

specified investment business has the meaning assigned by subsection 125(7); (*entreprise de placement déterminée*)

specified member of a partnership in a fiscal period or taxation year of the partnership, as the case may be, means

(a) any member of the partnership who is a limited partner (within the meaning assigned by subsection 96(2.4)) of the partnership at any time in the period or year, and

(b) any member of the partnership, other than a member who is

(i) actively engaged in those activities of the partnership business that are other than the financing of the partnership business, or

(ii) carrying on a similar business as that carried on by the partnership in its taxation year, otherwise than as a member of a partnership,

on a regular, continuous and substantial basis throughout that part of the period or year during which the business of the partnership is ordinarily carried on and during which the member is a member of the partnership; (*associé déterminé*)

specified mutual fund trust, at any time, means a mutual fund trust other than a mutual fund trust for which it can reasonably be considered, having regard to all the circumstances, including the terms and conditions of the units of the trust, that the total of all amounts each of which is the fair market value, at that time, of a unit issued by the trust and held by a person exempt from tax under section 149 is all or substantially all of the total of all amounts each of which is the fair market value, at that

indirectement par l'entremise d'une ou de plusieurs fiducies ou sociétés de personnes, par plusieurs des personnes visées à l'un des alinéas a) et c). (*tax-indifferent investor*)

lignes directrices du BSIF sur la pondération des risques Les lignes directrices, établies par le surintendant des institutions financières sous le régime de l'article 600 de la *Loi sur les banques*, selon lesquelles une banque étrangère autorisée est tenue de fournir au surintendant à intervalles réguliers un état indiquant ses éléments d'actif figurant au bilan pondérés en fonction des risques et ses engagements hors bilan pondérés en fonction des risques, applicables à compter du 8 août 2000. (*OSFI risk-weighting guidelines*)

marché public S'entend au sens du paragraphe 122.1(1). (*public market*)

matières minérales

a) Gisement de métaux communs ou précieux;

b) gisement de charbon;

c) gisement de sables bitumineux ou de schiste bitumineux;

d) gisement minéral relativement auquel :

(i) le ministre des Ressources naturelles a certifié que le principal minéral extrait est un minéral industriel contenu dans un gisement non stratifié,

(ii) le principal minéral extrait est l'ammonite, le chlorure de calcium, le diamant, le gypse, l'halite, le kaolin ou la sylvine,

(iii) le principal minéral extrait est la silice, qui est extraite du grès ou du quartzite. (*mineral resource*)

maximum déductible au titre des REER S'entend au sens du paragraphe 146(1). (*RRSP deduction limit*)

mécanisme de prêt de valeurs mobilières S'entend au sens du paragraphe 260(1). (*securities lending arrangement*)

mécanisme de retraite étranger Régime ou mécanisme visé par règlement. (*foreign retirement arrangement*)

mécanisme de transfert de dividendes Mécanisme, accord ou arrangement ci-après auquel participe une personne ou une société de personnes (chacune étant appelée « personne » à la présente définition) :

time, of a unit issued by the trust; (*fiducie de fonds commun de placement déterminée*)

specified pension plan means a prescribed arrangement; (*régime de pension déterminé*)

specified proportion, of a member of a partnership for a fiscal period of the partnership, means the proportion that the member's share of the total income or loss of the partnership for the partnership's fiscal period is of the partnership's total income or loss for that period and, for the purpose of this definition, where that income or loss for a period is nil, that proportion shall be computed as if the partnership had income for that period in the amount of $1,000,000; (*proportion déterminée*)

specified shareholder of a corporation in a taxation year means a taxpayer who owns, directly or indirectly, at any time in the year, not less than 10% of the issued shares of any class of the capital stock of the corporation or of any other corporation that is related to the corporation and, for the purposes of this definition,

(a) a taxpayer shall be deemed to own each share of the capital stock of a corporation owned at that time by a person with whom the taxpayer does not deal at arm's length,

(b) each beneficiary of a trust shall be deemed to own that proportion of all such shares owned by the trust at that time that the fair market value at that time of the beneficial interest of the beneficiary in the trust is of the fair market value at that time of all beneficial interests in the trust,

(c) each member of a partnership shall be deemed to own that proportion of all the shares of any class of the capital stock of a corporation that are property of the partnership at that time that the fair market value at that time of the member's interest in the partnership is of the fair market value at that time of the interests of all members in the partnership,

(d) an individual who performs services on behalf of a corporation that would be carrying on a personal services business if the individual or any person related to the individual were at that time a specified shareholder of the corporation shall be deemed to be a specified shareholder of the corporation at that time if the individual, or any person or partnership with whom the individual does not deal at arm's length, is, or by virtue of any arrangement may become, entitled, directly or indirectly, to not less than 10% of the assets or the shares of any class of the capital stock of the corporation or any corporation related thereto, and

a) un mécanisme dans le cadre duquel il est raisonnable de considérer :

(i) d'une part, que la principale raison de la participation de la personne consiste à lui permettre de recevoir un dividende sur une action du capital-actions d'une société, à l'exception d'un dividende sur une action visée par règlement ou une action visée à l'alinéa e) de la définition de ***action privilégiée à terme*** au présent paragraphe et d'un montant réputé reçu, en application du paragraphe 15(3), à titre de dividende sur une action du capital-actions d'une société,

(ii) d'autre part, que quelqu'un d'autre que la personne peut, de façon tangible, subir des pertes ou réaliser des gains ou des bénéfices sur l'action dans le cadre du mécanisme;

b) il est entendu que, est visé un mécanisme dans le cadre duquel, à la fois :

(i) une société reçoit sur une action donnée un dividende imposable qui, en l'absence du paragraphe 112(2.3), serait déductible dans le calcul de son revenu imposable ou de son revenu imposable gagné au Canada pour l'année d'imposition qui comprend le moment où le dividende est reçu,

(ii) la société, ou une société de personnes dont elle est un associé, a l'obligation de verser à une autre personne ou société de personnes un montant qui, à la fois :

(A) est versé au titre :

(I) soit du dividende visé au sous-alinéa (i),

(II) soit d'un dividende sur une action qui est identique à l'action donnée,

(III) soit d'un dividende sur une action dont il est raisonnable de s'attendre à ce qu'elle présente pour son détenteur, pendant la durée du mécanisme, les mêmes possibilités, ou presque, de subir des pertes ou de réaliser des gains que l'action donnée,

(B) s'il était versé, serait réputé par le paragraphe 260(5.1) avoir été reçu par cette autre personne ou société de personnes, selon le cas, à titre de dividende imposable;

c) tout arrangement de capitaux propres synthétiques relatif à une AMTD de la personne;

(e) notwithstanding paragraph (b), where a beneficiary's share of the income or capital of the trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power, the beneficiary shall be deemed to own each share of the capital stock of a corporation owned at that time by the trust; (*actionnaire déterminé*)

specified synthetic equity arrangement, in respect of a DRA share of a person or partnership, means one or more agreements or other arrangements that

(a) have the effect of providing to a person or partnership all or any portion of the risk of loss or opportunity for gain or profit in respect of the DRA share and, for greater certainty, opportunity for gain or profit includes rights to, benefits from and distributions on a share, and

(b) can reasonably be considered to have been entered into in connection with a synthetic equity arrangement, in respect of the DRA share, or in connection with another specified synthetic equity arrangement, in respect of the DRA share; (*arrangement de capitaux propres synthétiques déterminé*)

specified unitholder, of a partnership or trust (referred to in this definition as the "entity"), the interests in which are described by reference to units, means a taxpayer who would be a specified shareholder of the entity if the entity were a corporation and each unit of the entity were a share of a class of the corporation having the same attributes as the unit; (*détenteur d'unité déterminé*)

split income has the meaning assigned by subsection 120.4(1); (*revenu fractionné*)

stock dividend includes any dividend (determined without reference to the definition ***dividend*** in this subsection) paid by a corporation to the extent that it is paid by the issuance of shares of any class of the capital stock of the corporation; (*dividende en actions*)

subsidiary controlled corporation means a corporation more than 50% of the issued share capital of which (having full voting rights under all circumstances) belongs to the corporation to which it is subsidiary; (*filiale contrôlée*)

subsidiary wholly-owned corporation means a corporation all the issued share capital of which (except directors' qualifying shares) belongs to the corporation to which it is subsidiary; (*filiale à cent pour cent*)

superannuation or pension benefit includes any amount received out of or under a superannuation or

d) un ou plusieurs accords ou arrangements (sauf ceux visés à l'alinéa c)) qui sont conclus par la personne en cause ou la personne rattachée (dans le présent alinéa au sens de l'alinéa a) de la définition de *arrangement de capitaux propres synthétiques*) — étant entendu que sont aussi visés les accords ou arrangements conclus par plusieurs de ces personnes — et à l'égard desquels les énoncés ci-après se vérifient :

(i) les accords ou arrangements ont pour effet, ou auraient pour effet si chaque accord ou arrangement conclu par une personne rattachée était conclu par la personne en cause, d'éliminer, en totalité ou en presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à une AMTD de la personne en cause,

(ii) dans le cadre d'une série d'opérations qui comprend ces accords ou arrangements, un investisseur qui est indifférent relativement à l'impôt, ou un groupe d'investisseurs qui sont indifférents relativement à l'impôt dont chaque membre est affilié à chaque autre membre, obtient, en totalité ou en presque totalité, les possibilités de subir des pertes et de réaliser des gains ou des bénéfices relativement à l'AMTD ou à une action identique, au sens du paragraphe 112(10),

(iii) il est raisonnable de conclure que l'un des objets de la série d'opérations est le résultat visé au sous-alinéa (ii). (*dividend rental arrangement*)

méthode de comptabilité de caisse S'entend au sens du paragraphe 28(1). (*cash method*)

minéral Sont compris parmi les minéraux l'ammonite, le charbon, le chlorure de calcium, le kaolin, les sables bitumineux, les schistes bitumineux et la silice, mais non le pétrole, le gaz naturel et les hydrocarbures connexes qui ne sont pas expressément visés par la présente définition. (*mineral*)

minéraux [Abrogée, 1994, ch. 21, art. 109]

ministre Le ministre du Revenu national. (*Minister*)

moment du rajustement [Abrogée, 2016, ch. 12, art. 63]

monnaie étrangère Monnaie d'un pays étranger. (*foreign currency*)

monnaie fonctionnelle [Abrogée, 2009, ch. 2, art. 76]

montant Argent, droit ou chose exprimés sous forme d'un montant d'argent, ou valeur du droit ou de la chose exprimée en argent. Toutefois :

pension fund or plan (including, except for the purposes of subparagraph 56(1)(a)(i), a pooled registered pension plan) and, without restricting the generality of the foregoing, includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary under the fund or plan

(a) in accordance with the terms of the fund or plan,

(b) resulting from an amendment to or modification of the fund or plan, or

(c) resulting from the termination of the fund or plan; (*prestation de retraite ou de pension*)

supplementary unemployment benefit plan has the meaning assigned by subsection 145(1); (*régime de prestations supplémentaires de chômage*)

synthetic disposition arrangement, in respect of a property owned by a taxpayer, means one or more agreements or other arrangements that

(a) are entered into by the taxpayer or by a person or partnership that does not deal at arm's length with the taxpayer,

(b) have the effect, or would have the effect if entered into by the taxpayer instead of the person or partnership, of eliminating all or substantially all the taxpayer's risk of loss and opportunity for gain or profit in respect of the property for a definite or indefinite period of time, and

(c) can, in respect of any agreement or arrangement entered into by a person or partnership that does not deal at arm's length with the taxpayer, reasonably be considered to have been entered into, in whole or in part, with the purpose of obtaining the effect described in paragraph (b); (*arrangement de disposition factice*)

synthetic disposition period, of a synthetic disposition arrangement, means the definite or indefinite period of time during which the synthetic disposition arrangement has, or would have, the effect described in paragraph (b) of the definition ***synthetic disposition arrangement*** in this subsection; (*période de disposition factice*)

synthetic equity arrangement in respect of a DRA share of a person or partnership (referred to in this definition as the *particular person*),

(a) means one or more agreements or other arrangements that

a) malgré l'alinéa b), dans les cas où les paragraphes 112(2.1), (2.2) ou (2.4), les articles 187.2 ou 187.3 ou les paragraphes 258(3) ou (5) s'appliquent à un dividende en actions, le montant du dividende en actions est le plus élevé des éléments suivants :

(i) le montant correspondant à l'augmentation, découlant du versement du dividende, du capital versé de la société qui a versé le dividende,

(ii) la juste valeur marchande de l'action ou des actions payées comme dividendes en actions au moment du versement;

b) dans le cas où l'article 191.1 s'applique à un dividende en actions, le montant du dividende en actions est, pour l'application de la partie VI.1, le plus élevé des montants visés aux sous-alinéas (i) et (ii) et, à toute autre fin, le montant visé au sous-alinéa (i):

(i) le montant correspondant à l'augmentation, découlant du versement du dividende, du capital versé de la société qui a versé le dividende,

(ii) la juste valeur marchande de l'action ou des actions payées comme dividendes en actions au moment du versement;

b.1) [Abrogé, 2013, ch. 34, art. 358]

c) dans les autres cas, le montant d'un dividende en actions versé par une société est le montant correspondant à l'augmentation, découlant du dividende, du capital versé de la société qui a versé le dividende. (*amount*)

montant à recours limité Montant qui constitue un montant à recours limité en vertu de l'article 143.2. (*limited-recourse amount*)

montant cumulatif des immobilisations admissibles [Abrogée, 2016, ch. 12, art. 63]

montant différé Dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable, le montant qu'une personne a le droit, à la fin d'une année d'imposition, de recevoir après la fin de l'année, à condition, dans le cas où l'entente est régie par une fiducie, que le montant ait été reçu, soit à recevoir ou puisse, à un moment donné, devenir à recevoir par la fiducie au titre d'un traitement ou salaire du contribuable pour des services rendus par celui-ci au cours de l'année ou d'une année d'imposition antérieure; pour l'application de la présente définition, le droit de recevoir un montant comprend un droit assujetti à une ou plusieurs conditions, sauf s'il y a une forte probabilité qu'une de ces conditions ne sera pas remplie. (*deferred amount*)

(i) are entered into by the particular person, by a person or partnership that does not deal at arm's length with, or is affiliated with, the particular person (referred to in this definition as a *connected person*) or, for greater certainty, by any combination of the particular person and connected persons, with one or more persons or partnerships (referred to in this definition as a *counterparty* and in subsection 112(2.32) as a *counterparty* or an *affiliated counterparty* as appropriate),

(ii) have the effect, or would have the effect, if each agreement entered into by a connected person were entered into by the particular person, of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the DRA share to a counterparty or a group of counterparties each member of which is affiliated with every other member and, for greater certainty, opportunity for gain or profit includes rights to, benefits from and distributions on a share, and

(iii) if entered into by a connected person, can reasonably be considered to have been entered into with the knowledge, or where there ought to have been the knowledge, that the effect described in subparagraph (ii) would result, and

(b) does not include

(i) an agreement that is traded on a recognized derivatives exchange unless it can reasonably be considered that, at the time the agreement is entered into,

(A) the particular person or the connected person, as the case may be, knows or ought to know that the agreement is part of a series of transactions that has the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the DRA share to a tax-indifferent investor, or a group of tax-indifferent investors each member of which is affiliated with every other member, or

(B) one of the main reasons for entering into the agreement is to obtain the benefit of a deduction in respect of a payment, or a reduction of an amount that would otherwise have been included in income, under the agreement, that corresponds to an expected or actual dividend in respect of a DRA share,

(ii) one or more agreements or other arrangements that, but for this subparagraph, would be a synthetic equity arrangement, in respect of a share owned

montant en immobilisations admissible [Abrogée, 2016, ch. 12, art. 63]

non-résident Qui ne réside pas au Canada. (*non-resident*)

numéro d'entreprise Le numéro, sauf le numéro d'assurance sociale, utilisé par le ministre pour identifier les entités suivantes, et dont il les a avisé :

a) une société ou une société de personnes;

b) tout autre contribuable ou association qui exploite une entreprise ou qui est tenu par la présente loi d'opérer une déduction ou une retenue sur un montant payé ou crédité en vertu de la présente loi, ou réputé l'être. (*business number*)

obligation à intérêt conditionnel S'agissant de l'obligation à intérêt conditionnel d'une société (appelée « émettrice » à la présente définition), l'obligation dont l'intérêt ou les dividendes ne sont payables que dans la mesure où l'émettrice a réalisé des bénéfices avant d'envisager le paiement de l'intérêt ou des dividendes, et qui a été émise :

a) avant le 17 novembre 1978;

b) après le 16 novembre 1978 et avant 1980 conformément à une convention écrite conclue avant le 17 novembre 1978 (appelée « convention établie » à la présente définition);

c) par une émettrice qui réside au Canada pour une durée qui ne peut, dans aucune circonstance, dépasser 5 ans :

(i) conformément à une proposition faite à ses créanciers ou un accommodement conclu avec eux et approuvés par un tribunal conformément à la *Loi sur la faillite et l'insolvabilité*,

(ii) à un moment où la totalité, ou presque, de son actif était sous le contrôle d'un séquestre, d'un séquestre-gérant, d'un administrateur-séquestre ou d'un syndic de faillite,

(iii) à un moment où, en raison de difficultés financières, l'émettrice ou une autre société qui réside au Canada et avec laquelle elle a un lien de dépendance manquait, ou on pouvait raisonnablement s'attendre à ce qu'elle manquât, à un engagement résultant d'un titre de créance détenu par une personne avec laquelle l'émettrice ou l'autre société n'avait aucun lien de dépendance, si l'obligation était en totalité, ou presque, émise, directement ou

by the particular person (in this subparagraph referred to as the *synthetic short position*), if

(A) the particular person has entered into one or more other agreements or other arrangements (other than, for greater certainty, an agreement under which the share is acquired or an agreement or arrangement under which the particular person receives a deemed dividend and is provided with all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share) that have the effect of providing all or substantially all of the risk of loss and opportunity for gain or profit in respect of the share to the particular person (in this subparagraph referred to as the *synthetic long position*),

(B) the synthetic short position has the effect of offsetting all amounts included or deducted in computing the income of the particular person with respect to the synthetic long position, and

(C) the synthetic short position was entered into for the purpose of obtaining the effect referred to in clause (B), and

(iii) an agreement to purchase the shares of a corporation, or a purchase agreement that is part of a series of agreements to purchase the shares of a corporation, under which a counterparty or a group of counterparties each member of which is affiliated with every other member acquires control of the corporation that has issued the shares being purchased, unless the main reason for establishing, incorporating or operating the corporation is to have this subparagraph apply; (*arrangement de capitaux propres synthétiques*)

synthetic equity arrangement chain, in respect of a share owned by a person or partnership, means a synthetic equity arrangement — or a synthetic equity arrangement in combination with one or more specified synthetic equity arrangements — where

(a) no party to the synthetic equity arrangement or a specified synthetic equity arrangement, if any, is a tax-indifferent investor, and

(b) each other party to these agreements or arrangements is affiliated with the person or partnership; (*chaîne d'arrangements de capitaux propres synthétiques*)

tar sands means bituminous sands or oil shales extracted, otherwise than by a well, from a mineral resource, but, for the purpose of applying sections 13 and 20 and

indirectement, en échange ou en remplacement de tout ou partie du titre de créance,

et dans le cas d'une obligation à intérêt conditionnel émise après le 12 novembre 1981, il est raisonnable de considérer le produit de l'émission comme ayant été utilisé par l'émettrice ou une société avec laquelle elle avait un lien de dépendance pour le financement de l'entreprise qu'elle exploitait au Canada immédiatement avant que soit émise l'obligation.

Pour l'application de la présente définition :

d) lorsque les modalités d'une convention établie ont été modifiées après le 16 novembre 1978, cette convention est réputée avoir été conclue après cette date;

e) lorsque l'une des conditions suivantes est remplie :

(i) à un moment donné, les modalités d'une obligation émise conformément à une convention établie ou celles de toute convention se rapportant à une telle obligation ont été modifiées,

(ii) selon les modalités d'une obligation acquise dans le cours normal des activités de l'entreprise exploitée par une institution financière déterminée ou une société de personnes ou une fiducie (à l'exception d'une fiducie testamentaire) ou selon les modalités de toute convention relative à n'importe quelle obligation semblable (autre qu'une convention conclue avant le 24 octobre 1979 à laquelle l'émettrice, ou toute personne liée à elle, n'était pas partie), le propriétaire de l'obligation pouvait à un moment donné après le 16 novembre 1978 demander, soit seul ou avec un ou plusieurs contribuables, le remboursement, l'acquisition, l'annulation ou la conversion des obligations pour une autre raison que l'inobservation des modalités de l'obligation ou de toute convention relative à l'émission de l'obligation et qui fut conclue au moment de l'émission de l'obligation,

(iii) à un moment donné après le 16 novembre 1978, la date d'échéance de l'obligation a été reportée ou les modalités de remboursement du principal ont été modifiées,

(iv) à un moment donné, une institution financière déterminée (ou une société de personnes ou une fiducie dont une telle institution, ou une personne qui lui est liée, est un associé ou un bénéficiaire) acquiert une obligation qui remplit les conditions suivantes :

(A) elle a été émise avant le 17 novembre 1978 ou conformément à une convention établie,

any regulations made for the purpose of paragraph 20(1)(a) in respect of property acquired after March 6, 1996, includes material extracted by a well from a deposit of bituminous sands or oil shales; (*sables asphaltiques*)

taxable Canadian corporation has the meaning assigned by subsection 89(1); (*société canadienne imposable*)

taxable Canadian property of a taxpayer at any time in a taxation year means a property of the taxpayer that is

(a) real or immovable property situated in Canada,

(b) property used or held by the taxpayer in, property included in Class 14.1 of Schedule II to the *Income Tax Regulations* in respect of, or property described in an inventory of, a business carried on in Canada, other than

(i) property used in carrying on an insurance business, and

(ii) where the taxpayer is non-resident, ships and aircraft used principally in international traffic and personal or movable property pertaining to their operation if the country in which the taxpayer is resident does not impose tax on gains of persons resident in Canada from dispositions of such property,

(c) if the taxpayer is an insurer, its designated insurance property for the year,

(d) a share of the capital stock of a corporation (other than a mutual fund corporation) that is not listed on a designated stock exchange, an interest in a partnership or an interest in a trust (other than a unit of a mutual fund trust or an income interest in a trust resident in Canada), if, at any particular time during the 60-month period that ends at that time, more than 50% of the fair market value of the share or interest, as the case may be, was derived directly or indirectly (otherwise than through a corporation, partnership or trust the shares or interests in which were not themselves taxable Canadian property at the particular time) from one or any combination of

(i) real or immovable property situated in Canada,

(ii) Canadian resource properties,

(iii) timber resource properties, and

(iv) an option in respect of, or an interest in, property described in any of subparagraphs (i) to (iii),

(e) a property deemed by subsection 85(1), 85.1(1), 87(4) or 88(1) to be taxable Canadian property of the taxpayer;

(f) a property deemed by subsection 128.1(4) to be taxable Canadian property of the taxpayer; or

(g) a property deemed by subsection 149(10) to be taxable Canadian property of the taxpayer. (*bien canadien imposable*)

taxpayer includes a person; (*contribuable*)

tax shelter means

(a) a prescribed tax shelter, or

(b) a tax shelter that is a partnership or arrangement or in respect of which a statement is required to be filed under subsection 237.1(7.4) or (7.5); (*abri fiscal*)

tax shelter investment means

(a) a tax shelter, or

(b) a property that is a share of the capital stock of a corporation, an interest in a partnership or trust or a debt obligation, if it is reasonable to consider that the acquisition of the property was part of a tax shelter arrangement; (*abri fiscal déterminé*)

tax year means a taxation year or a fiscal period; (*année d'imposition*)

term preferred share means a share that is not a short-term preferred share and that

(a) has a term that ends in the period that begins 5 years after the day on which it is issued and ends 40 years after that day,

(b) is issued after 1987 and has a term that ends after the day that is 40 years after the day on which it is issued,

(c) is issued after 1987 and has a term that ends in the period that begins 5 years after the day on which it is issued and ends 40 years after that day, if it is reasonable to conclude that the term was extended to ensure that the share would not be a short-term preferred share,

(d) is issued after 1987 and has a term that ends after the day that is 40 years after the day on which it is issued, if it is reasonable to conclude that the term was extended to ensure that the share would not be a short-term preferred share,

(e) is issued after 1987 and has a term that ends in the period that begins 5 years after the day on which it is issued and ends 40 years after that day, if it is reasonable to conclude that the term was extended to ensure that the share would not be a short-term preferred share, or

(f) is issued after 1987 and has a term that ends after the day that is 40 years after the day on which it is issued, if it is reasonable to conclude that the term was extended to ensure that the share would not be a short-term preferred share; (*action privilégiée à terme*)

testamentary trust means a trust that arose on and as a consequence of the death of an individual (including a trust created by the will of the individual or by the estate of the individual) and that is not an *inter vivos* trust; (*fiducie testamentaire*)

testamentary trust under the will means a testamentary trust created by the will of the individual; (*fiducie testamentaire établie par testament*)

the Agency means the Canada Revenue Agency; (*Agence*)

the Minister means the Minister of National Revenue; (*ministre*)

third party civil penalty means a penalty under section 163.2 or 163.3; (*pénalité civile pour tiers*)

timber resource property means

(a) a right to cut timber on a limit or on any area in Canada,

(b) a timber limit in Canada, or

(c) a right to or interest in timber cut on a limit or area in Canada; (*immobilisation forestière*)

timber resource property deemed disposed of by a taxpayer at any time means a timber resource property deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière réputée disposée*)

timber resource property deemed disposed of on death by a taxpayer at any time means a timber resource property deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière réputée disposée au décès*)

timber resource property disposed of by a taxpayer at any time means a timber resource property disposed of by the taxpayer at that time; (*immobilisation forestière disposée*)

timber resource property disposed of on death by a taxpayer at any time means a timber resource property disposed of by the taxpayer at that time; (*immobilisation forestière disposée au décès*)

timber resource property of a taxpayer means a timber resource property owned by the taxpayer; (*immobilisation forestière d'un contribuable*)

timber resource property of a taxpayer deemed disposed of at any time means a timber resource property of the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière d'un contribuable réputée disposée*)

timber resource property of a taxpayer disposed of at any time means a timber resource property of the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière d'un contribuable disposée*)

timber resource property of a taxpayer disposed of on death at any time means a timber resource property of the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière d'un contribuable disposée au décès*)

timber resource property of a taxpayer deemed disposed of on death at any time means a timber resource property of the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière d'un contribuable réputée disposée au décès*)

timber resource property owned by a taxpayer means a timber resource property

(a) that is owned by the taxpayer, or

(b) that would be owned by the taxpayer if the taxpayer were the owner of all property of which the taxpayer is a beneficiary under a trust; (*immobilisation forestière appartenant à un contribuable*)

timber resource property owned by a taxpayer deemed disposed of at any time means a timber resource property owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière appartenant à un contribuable réputée disposée*)

timber resource property owned by a taxpayer disposed of at any time means a timber resource property owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière appartenant à un contribuable disposée*)

timber resource property owned by a taxpayer disposed of on death at any time means a timber resource property owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière appartenant à un contribuable disposée au décès*)

timber resource property owned by a taxpayer deemed disposed of on death at any time means a timber resource property owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière appartenant à un contribuable réputée disposée au décès*)

timber resource property that is inventory means timber resource property that is described in an inventory of a business; (*immobilisation forestière constituant un stock*)

timber resource property that is inventory deemed disposed of by a taxpayer at any time means a timber resource property that is inventory deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock réputée disposée*)

timber resource property that is inventory deemed disposed of on death by a taxpayer at any time means a timber resource property that is inventory deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock réputée disposée au décès*)

timber resource property that is inventory disposed of by a taxpayer at any time means a timber resource property that is inventory disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock disposée*)

timber resource property that is inventory disposed of on death by a taxpayer at any time means a timber resource property that is inventory disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock disposée au décès*)

timber resource property that is inventory of a taxpayer means a timber resource property that is inventory owned by the taxpayer; (*immobilisation forestière constituant un stock d'un contribuable*)

timber resource property that is inventory of a taxpayer deemed disposed of at any time means a timber resource property that is inventory of the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock d'un contribuable réputée disposée*)

timber resource property that is inventory of a taxpayer disposed of at any time means a timber resource property that is inventory of the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock d'un contribuable disposée*)

timber resource property that is inventory of a taxpayer disposed of on death at any time means a timber resource property that is inventory of the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock d'un contribuable disposée au décès*)

timber resource property that is inventory of a taxpayer deemed disposed of on death at any time means a timber resource property that is inventory of the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock d'un contribuable réputée disposée au décès*)

timber resource property that is inventory owned by a taxpayer means a timber resource property that is inventory

(a) that is owned by the taxpayer, or

(b) that would be owned by the taxpayer if the taxpayer were the owner of all property of which the taxpayer is a beneficiary under a trust; (*immobilisation forestière constituant un stock appartenant à un contribuable*)

timber resource property that is inventory owned by a taxpayer deemed disposed of at any time means a timber resource property that is inventory owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock appartenant à un contribuable réputée disposée*)

timber resource property that is inventory owned by a taxpayer disposed of at any time means a timber resource property that is inventory owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock appartenant à un contribuable disposée*)

timber resource property that is inventory owned by a taxpayer disposed of on death at any time means a timber resource property that is inventory owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock appartenant à un contribuable disposée au décès*)

timber resource property that is inventory owned by a taxpayer deemed disposed of on death at any time means a timber resource property that is inventory owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock appartenant à un contribuable réputée disposée au décès*)

timber resource property that is inventory that is not owned by a taxpayer means a timber resource property that is inventory that is not owned by the taxpayer; (*immobilisation forestière constituant un stock n'appartenant pas à un contribuable*)

timber resource property that is inventory that is not owned by a taxpayer deemed disposed of at any time means a timber resource property that is inventory that is not owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock n'appartenant pas à un contribuable réputée disposée*)

timber resource property that is inventory that is not owned by a taxpayer disposed of at any time means a timber resource property that is inventory that is not owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock n'appartenant pas à un contribuable disposée*)

timber resource property that is inventory that is not owned by a taxpayer disposed of on death at any time means a timber resource property that is inventory that is not owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock n'appartenant pas à un contribuable disposée au décès*)

timber resource property that is inventory that is not owned by a taxpayer deemed disposed of on death at any time means a timber resource property that is inventory that is not owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière constituant un stock n'appartenant pas à un contribuable réputée disposée au décès*)

timber resource property that is not owned by a taxpayer means a timber resource property that is not owned by the taxpayer; (*immobilisation forestière n'appartenant pas à un contribuable*)

timber resource property that is not owned by a taxpayer deemed disposed of at any time means a timber resource property that is not owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière n'appartenant pas à un contribuable réputée disposée*)

timber resource property that is not owned by a taxpayer disposed of at any time means a timber resource property that is not owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière n'appartenant pas à un contribuable disposée*)

timber resource property that is not owned by a taxpayer disposed of on death at any time means a timber resource property that is not owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière n'appartenant pas à un contribuable disposée au décès*)

timber resource property that is not owned by a taxpayer deemed disposed of on death at any time means a timber resource property that is not owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière n'appartenant pas à un contribuable réputée disposée au décès*)

timber resource property that is not inventory means timber resource property that is not described in an inventory of a business; (*immobilisation forestière ne constituant pas un stock*)

timber resource property that is not inventory deemed disposed of by a taxpayer at any time means a timber resource property that is not inventory deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock réputée disposée*)

timber resource property that is not inventory deemed disposed of on death by a taxpayer at any time means a timber resource property that is not inventory deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock réputée disposée au décès*)

timber resource property that is not inventory disposed of by a taxpayer at any time means a timber resource property that is not inventory disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock disposée*)

timber resource property that is not inventory disposed of on death by a taxpayer at any time means a timber resource property that is not inventory disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock disposée au décès*)

timber resource property that is not inventory of a taxpayer means a timber resource property that is not inventory owned by the taxpayer; (*immobilisation forestière ne constituant pas un stock d'un contribuable*)

timber resource property that is not inventory of a taxpayer deemed disposed of at any time means a timber resource property that is not inventory of the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock d'un contribuable réputée disposée*)

timber resource property that is not inventory of a taxpayer disposed of at any time means a timber resource property that is not inventory of the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock d'un contribuable disposée*)

timber resource property that is not inventory of a taxpayer disposed of on death at any time means a timber resource property that is not inventory of the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock d'un contribuable disposée au décès*)

timber resource property that is not inventory of a taxpayer deemed disposed of on death at any time means a timber resource property that is not inventory of the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock d'un contribuable réputée disposée au décès*)

timber resource property that is not inventory owned by a taxpayer means a timber resource property that is not inventory

(a) that is owned by the taxpayer, or

(b) that would be owned by the taxpayer if the taxpayer were the owner of all property of which the taxpayer is a beneficiary under a trust; (*immobilisation forestière ne constituant pas un stock appartenant à un contribuable*)

timber resource property that is not inventory owned by a taxpayer deemed disposed of at any time means a timber resource property that is not inventory owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock appartenant à un contribuable réputée disposée*)

timber resource property that is not inventory owned by a taxpayer disposed of at any time means a timber resource property that is not inventory owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock appartenant à un contribuable disposée*)

timber resource property that is not inventory owned by a taxpayer disposed of on death at any time means a timber resource property that is not inventory owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock appartenant à un contribuable disposée au décès*)

timber resource property that is not inventory owned by a taxpayer deemed disposed of on death at any time means a timber resource property that is not inventory owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock appartenant à un contribuable réputée disposée au décès*)

timber resource property that is not inventory that is not owned by a taxpayer means a timber resource property that is not inventory that is not owned by the taxpayer; (*immobilisation forestière ne constituant pas un stock n'appartenant pas à un contribuable*)

timber resource property that is not inventory that is not owned by a taxpayer deemed disposed of at any time means a timber resource property that is not inventory that is not owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock n'appartenant pas à un contribuable réputée disposée*)

timber resource property that is not inventory that is not owned by a taxpayer disposed of at any time means a timber resource property that is not inventory that is not owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock n'appartenant pas à un contribuable disposée*)

timber resource property that is not inventory that is not owned by a taxpayer disposed of on death at any time means a timber resource property that is not inventory that is not owned by the taxpayer disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas un stock n'appartenant pas à un contribuable disposée au décès*)

timber resource property that is not inventory that is not owned by a taxpayer deemed disposed of on death at any time means a timber resource property that is not inventory that is not owned by the taxpayer deemed by subsection 70(5.2) to be disposed of by the taxpayer at that time; (*immobilisation forestière ne constituant pas

(iv) options in respect of, or interests in, or for civil law rights in, property described in any of subparagraphs (i) to (iii), whether or not the property exists,

(e) a share of the capital stock of a corporation that is listed on a designated stock exchange, a share of the capital stock of a mutual fund corporation or a unit of a mutual fund trust, if, at any particular time during the 60-month period that ends at that time,

(i) 25% or more of the issued shares of any class of the capital stock of the corporation, or 25% or more of the issued units of the trust, as the case may be, were owned by or belonged to one or any combination of

(A) the taxpayer,

(B) persons with whom the taxpayer did not deal at arm's length, and

(C) partnerships in which the taxpayer or a person referred to in clause (B) holds a membership interest directly or indirectly through one or more partnerships, and

(ii) more than 50% of the fair market value of the share or unit, as the case may be, was derived directly or indirectly from one or any combination of properties described under subparagraphs (d)(i) to (iv), or

(f) an option in respect of, or an interest in, or for civil law a right in, a property described in any of paragraphs (a) to (e), whether or not the property exists,

and, for the purposes of section 2, subsection 107(2.001) and sections 128.1 and 150, and for the purpose of applying paragraphs 85(1)(i) and 97(2)(c) to a disposition by a non-resident person, includes

(g) a Canadian resource property,

(h) a timber resource property,

(i) an income interest in a trust resident in Canada,

(j) a right to a share of the income or loss under an agreement referred to in paragraph 96(1.1)(a), and

(k) a life insurance policy in Canada; (*bien canadien imposable*)

taxable capital gain has the meaning assigned by section 38; (*gain en capital imposable*)

obligation d'émissions Obligation de livrer un droit d'émissions, ou qui peut par ailleurs être remplie au moyen d'un tel droit, sous le régime d'une loi fédérale ou provinciale qui régit les émissions de substances réglementées. (*emissions obligation*)

obligation pour la petite entreprise S'entend au sens de l'article 15.2. (*small business bond*)

obligation pour le développement de la petite entreprise S'entend au sens de l'article 15.1. (*small business development bond*)

organisme de bienfaisance enregistré L'organisme suivant, qui a présenté au ministre une demande d'enregistrement sur formulaire prescrit et qui est enregistré, au moment considéré, comme œuvre de bienfaisance, comme fondation privée ou comme fondation publique :

a) œuvre de bienfaisance, fondation privée ou fondation publique, au sens du paragraphe 149.1(1), qui réside au Canada et qui y a été constituée ou y est établie;

b) division — annexe, section, paroisse, congrégation ou autre — d'une œuvre de bienfaisance, fondation privée ou fondation publique, au sens du paragraphe 149.1(1), qui réside au Canada, qui y a été constituée ou y est établie et qui reçoit des dons en son nom propre. (*registered charity*)

organisme enregistré de services nationaux dans le domaine des arts Organisme de services nationaux dans le domaine des arts que le ministre a enregistré en application du paragraphe 149.1(6.4) et dont l'enregistrement n'a pas été annulé. (*registered national arts service organization*)

participation au capital S'agissant de la participation au capital d'une fiducie, détenue par un contribuable, s'entend au sens du paragraphe 108(1). (*capital interest*)

participation au revenu S'agissant de la participation au revenu d'une fiducie, détenue par un contribuable, s'entend au sens du paragraphe 108(1). (*income interest*)

particulier Personne autre qu'une société. (*individual*)

particulier déterminé S'entend au sens du paragraphe 120.4(1). (*specified individual*)

taxable dividend has the meaning assigned by subsection 89(1); (*dividende imposable*)

taxable income has the meaning assigned by subsection 2(2), except that in no case may a taxpayer's taxable income be less than nil; (*revenu imposable*)

taxable income earned in Canada means a taxpayer's taxable income earned in Canada determined in accordance with Division D of Part I, except that in no case may a taxpayer's taxable income earned in Canada be less than nil; (*revenu imposable gagné au Canada*)

taxable net gain from dispositions of listed personal property has the meaning assigned by section 41; (*gain net imposable*)

taxable preferred share at any particular time means

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

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

(i) it may reasonably be considered, having regard to all the circumstances, that the amount of the dividends that may be declared or paid on the share (in this definition referred to as the "dividend entitlement") is, by way of a formula or otherwise

(A) fixed,

(B) limited to a maximum, or

(C) established to be not less than a minimum (including any amount determined on a cumulative basis) and with respect to the dividend that may be declared or paid on the share there is a preference over any other dividend that may be declared or paid on any other share of the capital stock of the corporation,

(ii) it may reasonably be considered, having regard to all the circumstances, that the amount that the shareholder is entitled to receive in respect of the share on the dissolution, liquidation or winding-up of the corporation or on the redemption, acquisition or cancellation of the share (unless the requirement to redeem, acquire or cancel the share arises only in the event of the death of the shareholder or by reason only of a right to convert or exchange the

partie inutilisée du crédit d'impôt à l'achat d'actions Relativement à un contribuable, pour une année d'imposition, s'entend au sens du paragraphe 127.2(6). (*unused share-purchase tax credit*)

partie inutilisée du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental Relativement à un contribuable, pour une année d'imposition, s'entend au sens du paragraphe 127.3(2). (*unused scientific research and experimental development tax credit*)

pêche Sont comprises dans la pêche la pêche ou la prise de mollusques, crustacés et animaux marins; ne sont toutefois pas visés par la présente définition la charge ou l'emploi auprès d'une personne exploitant une entreprise de pêche. (*fishing*)

période de disposition factice Relativement à un arrangement de disposition factice, la période définie ou indéfinie pendant laquelle l'arrangement a ou aurait l'effet visé à l'alinéa b) de la définition de *arrangement de disposition factice* au présent paragraphe. (*synthetic disposition period*)

personne Sont comprises parmi les personnes tant les sociétés que les entités exonérées de l'impôt prévu à la partie I sur tout ou partie de leur revenu imposable par l'effet du paragraphe 149(1), ainsi que les héritiers, liquidateurs de succession, exécuteurs testamentaires, administrateurs ou autres représentants légaux d'une personne, selon la loi de la partie du Canada visée par le contexte. La notion est visée dans des formulations générales, impersonnelles ou comportant des pronoms ou adjectifs indéfinis. (*person*)

personnel scolaire des Forces canadiennes d'outremer Le personnel employé à l'étranger et dont les services sont acquis au ministre de la Défense nationale en vertu d'une ordonnance prévue par règlement relativement à la fourniture d'installations scolaires à l'étranger. (*overseas Canadian Forces school staff*)

perte agricole S'entend au sens du paragraphe 111(8). (*farm loss*)

perte agricole restreinte S'entend au sens du paragraphe 31(1.1). (*restricted farm loss*)

perte autre qu'une perte en capital S'entend au sens du paragraphe 111(8). (*non-capital loss*)

perte comme commanditaire S'entend au sens du paragraphe 96(2.1). (*limited partnership loss*)

share) or on a reduction of the paid-up capital of the share by the corporation or by a specified person in relation to the corporation (in this definition referred to as the "liquidation entitlement") is, by way of a formula or otherwise

(A) fixed,

(B) limited to a maximum, or

(C) established to be not less than a minimum,

and, for the purposes of this subparagraph, ***shareholder*** includes a shareholder of a shareholder,

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

(A) it is convertible into or exchangeable for

(I) another share of the corporation or a corporation related to the corporation that, if issued, would not be a taxable preferred share,

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

(III) both a share described in subclause (I) and a right or warrant described in subclause (II), and

(B) all the consideration receivable for the share on the conversion or exchange is the share described in subclause (I) or the right or warrant described in subclause (II) or both, as the case may be, and, for the purposes of this clause, where a taxpayer may become entitled on the conversion or exchange of a share to receive any particular consideration (other than consideration described in any of subclauses (I) to (III)) in lieu of a fraction of a share, the particular consideration shall be deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1, or

(iv) any person (other than the corporation) was, at or immediately before that particular time, obligated, either absolutely or contingently, and either immediately or in the future, to effect any undertaking (in this subparagraph referred to as a "guarantee agreement"), including any guarantee, covenant or

perte déductible au titre d'un placement d'entreprise S'entend au sens de l'article 38. (*allowable business investment loss*)

perte en capital S'agissant de la perte en capital, pour une année d'imposition, résultant de la disposition d'un bien, s'entend au sens de l'article 39. (*capital loss*)

perte en capital déductible S'entend au sens de l'article 38. (*allowable capital loss*)

perte en capital nette S'entend au sens du paragraphe 111(8), sauf disposition contraire expresse. (*net capital loss*)

placement enregistré S'entend au sens du paragraphe 204.4(1). (*registered investment*)

plafond des affaires Le plafond des affaires d'une société pour une année d'imposition, déterminé selon l'article 125. (*business limit*)

plafond des cotisations déterminées S'agissant du plafond des cotisations déterminées, pour une année civile, s'entend au sens du paragraphe 147.1(1). (*money purchase limit*)

plafond REER S'entend au sens du paragraphe 146(1). (*RRSP dollar limit*)

police collective d'assurance temporaire sur la vie [Abrogée, 1995, ch. 3, art. 52]

police d'assurance Sont comprises parmi les polices d'assurance les polices d'assurance-vie. (*insurance policy*)

police d'assurance-vie S'entend au sens du paragraphe 138(12). (*life insurance policy*)

police d'assurance-vie au Canada S'entend au sens du paragraphe 138(12). (*life insurance policy in Canada*)

police d'assurance-vie collective temporaire Police d'assurance-vie collective aux termes de laquelle seules les sommes suivantes sont payables par l'assureur :

a) les sommes payables en cas de décès ou d'invalidité de particuliers dont la vie est assurée dans le cadre ou au titre de leur charge ou de leur emploi, actuel ou antérieur;

b) les participations de police ou les bonifications. (*group term life insurance policy*)

agreement to purchase or repurchase the share, and including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the shareholder or any specified person in relation to the shareholder given

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

(B) to ensure that the shareholder or a specified person in relation to the shareholder will derive earnings by reason of the ownership, holding or disposition of the share or any other property,

and the guarantee agreement was given as part of a transaction or event or a series of transactions or events that included the issuance of the share and, for the purposes of this paragraph, where a guarantee agreement in respect of a share is given at any particular time after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, otherwise than pursuant to a written arrangement to do so entered into before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, the share shall be deemed to have been issued at the particular time and the guarantee agreement shall be deemed to have been given as part of a series of transactions that included the issuance of the share,

but does not include a share that is at the particular time a prescribed share or a share described in paragraph (e) of the definition *term preferred share* in this subsection during the applicable time period referred to in that paragraph and, for the purposes of this definition,

(c) the dividend entitlement of a share of the capital stock of a corporation shall be deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all dividends on the share are determined solely by reference to the dividend entitlement of another share of the capital stock of the corporation or of another corporation that controls the corporation that would not be a taxable preferred share if

(i) this definition were read without reference to paragraph (f),

(ii) the other share were issued after June 18, 1987, and

(iii) the other share were not a grandfathered share, a prescribed share or a share described in

police 10/8 Police d'assurance-vie, à l'exception d'une rente, à l'égard de laquelle les énoncés ci-après se vérifient :

a) une somme est ou peut devenir, selon le cas :

(i) payable, aux termes d'un emprunt, à une personne ou une société de personnes à laquelle un intérêt sur la police ou sur un compte d'investissement relatif à la police a été cédé,

(ii) un montant payable, au sens du paragraphe 138(12), aux termes d'une avance sur police, au sens du paragraphe 148(9), consentie conformément aux modalités de la police;

b) selon le cas :

(i) le rendement porté au crédit d'un compte d'investissement relatif à la police :

(A) d'une part, est déterminé par rapport au taux d'intérêt applicable à l'emprunt ou à l'avance sur police, selon le cas, visé à l'alinéa a),

(B) d'autre part, ne serait pas porté au crédit du compte si l'emprunt ou l'avance sur police, selon le cas, n'existait pas,

(ii) le montant maximal d'un compte d'investissement relatif à la police est déterminé par rapport au montant de l'emprunt ou de l'avance sur police, selon le cas, visé à l'alinéa a). (*10/8 policy*)

police RAL Police d'assurance-vie, à l'exception d'une rente, à l'égard de laquelle les énoncés ci-après se vérifient :

a) une personne ou société de personnes donnée devient obligée, après le 20 mars 2013, de rembourser une somme à une autre personne ou société de personnes (appelée « prêteur » à la présente définition) à un moment déterminé par rapport au décès d'un particulier donné dont la vie est assurée en vertu de la police;

b) est cédé au prêteur un intérêt, à la fois :

(i) dans la police,

(ii) dans un contrat de rente dont les modalités prévoient que des paiements continueront d'être effectués pendant une période se terminant au plus tôt au décès du particulier donné. (*LIA policy*)

prescrit

paragraph (e) of the definition *term preferred share* in this subsection,

(d) the liquidation entitlement of a share of the capital stock of a corporation shall be deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all the liquidation entitlement is determinable solely by reference to the liquidation entitlement of another share of the capital stock of the corporation or of another corporation that controls the corporation that would not be a taxable preferred share if

(i) this definition were read without reference to paragraph (f),

(ii) the other share were issued after June 18, 1987, and

(iii) the other share were not a grandfathered share, a prescribed share or a share described in paragraph (e) of the definition *term preferred share* in this subsection,

(e) where at any particular time after 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, otherwise than pursuant to a written arrangement to do so entered into before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987, the terms or conditions of a share of the capital stock of a corporation that are relevant to any matter referred to in any of subparagraphs (b)(i) to (b)(iv) are established or modified or any agreement in respect of any such matter, to which the corporation or a specified person in relation to the corporation is a party, is changed or entered into, the share shall, for the purpose of determining after the particular time whether it is a taxable preferred share, be deemed to have been issued at that particular time, unless

(i) the share is a share described in paragraph (b) of the definition *grandfathered share* in this subsection, and

(ii) the particular time is before December 16, 1987 and before the time at which the share is first issued,

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

(i) in the case of a share the agreement in respect of which provides that the share is to be acquired within 60 days after the day on which the agreement was entered into, that does not exceed the

a) Dans le cas d'un formulaire, de renseignements à fournir sur un formulaire ou de modalités de production ou de présentation d'un formulaire, autorisés par le ministre;

a.1) dans le cas de modalités de présentation ou de production d'un choix, autorisées par le ministre;

b) dans les autres cas, visé par règlement du gouverneur en conseil, y compris déterminé conformément à des règles prévues par règlement. (*prescribed*)

prestation consécutive au décès Le total des sommes qu'un contribuable a reçues au cours d'une année d'imposition au décès d'un employé ou postérieurement, en reconnaissance des services rendus par celui-ci dans une charge ou un emploi, moins :

a) lorsque le contribuable est la seule personne qui a reçu de telles sommes et est l'époux ou conjoint de fait survivant de l'employé (appelé « époux ou conjoint de fait survivant » à la présente définition), le moins élevé des éléments suivants :

(i) le total des sommes qu'il a ainsi reçues au cours de l'année,

(ii) l'excédent éventuel de 10 000 $ sur le total des sommes qu'il a reçues au cours des années d'imposition antérieures au décès de l'employé ou postérieurement, en reconnaissance des services que celui-ci a rendus dans une charge ou un emploi;

b) lorsque le contribuable n'est pas l'époux ou conjoint de fait survivant de l'employé, le moindre des éléments suivants :

(i) le total des sommes qu'il a ainsi reçues au cours de l'année,

(ii) le produit de la multiplication de :

(A) l'excédent éventuel de 10 000 $ sur le total des sommes que l'époux ou conjoint de fait survivant de l'employé a reçues au décès de celui-ci ou postérieurement, en reconnaissance des services que l'employé a rendus dans une charge ou un emploi,

par le rapport entre :

(B) d'une part, le total visé au sous-alinéa (i),

(C) d'autre part, le total des sommes que les contribuables, autres que l'époux ou conjoint de fait survivant de l'employé, ont reçues au décès

greater of the fair market value of the share at the time the agreement was entered into, determined without reference to the agreement, and the fair market value of the share at the time of the acquisition, determined without reference to the agreement, or

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

(g) where

(i) it may reasonably be considered that the dividends that may be declared or paid to a shareholder at any time on a share (other than a prescribed share or a share described in paragraph (e) of the definition *term preferred share* in this subsection during the applicable time period referred to in that paragraph) of the capital stock of a corporation issued after December 15, 1987 or acquired after June 15, 1988 are derived primarily from dividends received on taxable preferred shares of the capital stock of another corporation, and

(ii) it may reasonably be considered that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1 or VI.1,

the share shall be deemed at that time to be a taxable preferred share, and

(h) ***specified person***, in relation to any particular person, means another person with whom the particular person does not deal at arm's length or any partnership or trust of which the particular person or the other person is a member or beneficiary, respectively; (*action privilégiée imposable*)

taxable RFI share at any particular time means a share of the capital stock of a corporation issued before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 or a grandfathered share of the capital stock of a corporation, where at the particular time under the terms or conditions of the share or any agreement in respect of the share,

de celui-ci ou postérieurement, en reconnaissance des services que l'employé a rendus dans une charge ou un emploi. (*death benefit*)

prestation de retraite ou de pension Sont compris dans les prestations de retraite ou de pension les sommes reçues dans le cadre d'une caisse ou d'un régime de retraite ou de pension (y compris, sauf pour l'application du sous-alinéa 56(1)a)(i), les sommes reçues dans le cadre d'un régime de pension agréé collectif) et, notamment, tous versements faits à un bénéficiaire dans le cadre de la caisse ou du régime, ou à un employeur ou un ancien employeur du bénéficiaire :

a) conformément aux conditions de la caisse ou du régime;

b) par suite d'une modification apportée à la caisse ou au régime;

c) par suite de la liquidation de la caisse ou du régime. (*superannuation or pension benefit*)

prestation en vertu d'un régime de participation différée aux bénéfices Le total des sommes reçues par le contribuable, au cours de l'année d'imposition en cause, d'un fiduciaire, en vertu du régime, moins les sommes déductibles en vertu des paragraphes 147(11) et (12), dans le calcul du revenu du contribuable pour l'année. (*benefit under a deferred profit sharing plan*)

prêt à la réinstallation Prêt reçu par un particulier ou son époux ou conjoint de fait dans une situation où l'un ou l'autre commence à exercer un emploi dans un nouveau lieu de travail au Canada qui l'oblige à déménager de l'ancienne résidence au Canada où il résidait habituellement avant le déménagement et à emménager dans la nouvelle résidence au Canada où il réside habituellement après le déménagement, si les conditions suivantes sont réunies :

a) la distance entre son ancienne résidence et son nouveau lieu de travail est d'au moins 40 kilomètres supérieure à celle qui sépare sa nouvelle résidence de son nouveau lieu de travail;

b) le prêt sert à acquérir une habitation ou une action du capital-actions d'une coopérative d'habitation acquise dans l'unique but d'acquérir le droit d'habiter une habitation dont la coopérative est propriétaire, dans le cas où l'habitation est destinée à l'usage du particulier et constitue sa nouvelle résidence;

c) le prêt est reçu dans les circonstances visées au paragraphe 80.4(1) ou aurait été ainsi reçu si le paragraphe 80.4(1.1) s'y était appliqué au moment où il a été reçu;

(a) it may reasonably be considered, having regard to all the circumstances, that the amount of the dividends that may be declared or paid on the share (in this definition referred to as the "dividend entitlement") is, by way of a formula or otherwise

(i) fixed,

(ii) limited to a maximum, or

(iii) established to be not less than a minimum, or

(b) it may reasonably be considered, having regard to all the circumstances, that the amount that the shareholder is entitled to receive in respect of the share on the dissolution, liquidation or winding-up of the corporation (in this definition referred to as the "liquidation entitlement") is, by way of formula or otherwise

(i) fixed,

(ii) limited to a maximum, or

(iii) established to be not less than a minimum,

but does not include a share that is at the particular time a prescribed share, a term preferred share, a share described in paragraph (e) of the definition *term preferred share* in this subsection during the applicable time period referred to in that paragraph or a taxable preferred share and, for the purposes of this definition,

(c) the dividend entitlement of a share of the capital stock of a corporation shall be deemed not to be fixed, limited to a maximum or established to be not less than a minimum where all dividends on the share are determined solely by reference to the dividend entitlement of another share of the capital stock of the corporation or of another corporation that controls the corporation that would not be a taxable preferred share if

(i) the definition *taxable preferred share* in this subsection were read without reference to paragraph (f) of that definition,

(ii) the other share were issued after June 18, 1987, and

(iii) the other share were not a grandfathered share, a prescribed share or a share described in paragraph (e) of the definition *term preferred share* in this subsection,

(d) the liquidation entitlement of a share of the capital stock of a corporation shall be deemed not to be fixed, limited to a maximum or established to be not less

d) le particulier indique qu'il s'agit d'un prêt à la réinstallation; toutefois, le particulier ne peut, en aucun cas, indiquer comme prêt à la réinstallation plus d'un prêt pour un déménagement donné ou plus d'un prêt à un moment donné. (*home relocation loan*)

principal S'agissant du principal d'une obligation donnée, la somme maximale ou la somme globale maximale, selon le cas, payable, d'après les conditions de l'obligation ou de toute convention y afférente, au titre de l'obligation, par celui qui l'a émise, autrement qu'au titre des intérêts ou d'une prime que verserait l'émetteur s'il exerçait son droit de racheter l'obligation avant l'échéance de celle-ci. (*principal amount*)

prix de base rajusté S'entend au sens de l'article 54. (*adjusted cost base*)

proportion déterminée En ce qui concerne l'associé d'une société de personnes pour un exercice de celle-ci, la proportion de la part de l'associé du revenu total ou de la perte totale de la société de personnes pour l'exercice par rapport au revenu total ou à la perte totale de celle-ci pour cet exercice. Pour l'application de la présente définition, si le revenu ou la perte de la société de personnes pour un exercice est nul, la proportion est calculée comme si son revenu pour l'exercice s'élevait à 1 000 000 $. (*specified proportion*)

puits de pétrole ou de gaz Puits (à l'exclusion d'un trou de sonde ou d'un puits foré sous la surface terrestre) foré en vue de produire du pétrole ou du gaz naturel ou en vue de déterminer l'existence, l'emplacement, l'étendue ou la qualité d'un gisement naturel de pétrole ou de gaz naturel. Pour l'application des articles 13 et 20 et des dispositions réglementaires prises sous le régime de l'alinéa 20(1)a) aux biens acquis après le 6 mars 1996, n'est pas un puits de pétrole ou de gaz le puits servant à l'extraction d'une substance d'un gisement de sables bitumineux ou de schistes bitumineux. (*oil or gas well*)

régime d'épargne-retraite S'entend au sens du paragraphe 146(1). (*retirement savings plan*)

régime de participation aux bénéfices S'entend au sens du paragraphe 147(1). (*profit sharing plan*)

régime de participation des employés aux bénéfices S'entend au sens du paragraphe 144(1). (*employees profit sharing plan*)

régime de participation différée aux bénéfices S'entend au sens du paragraphe 147(1). (*deferred profit sharing plan*)

than a minimum where all the liquidation entitlement is determinable solely by reference to the liquidation entitlement of another share of the capital stock of the corporation or of another corporation that controls the corporation that would not be a taxable preferred share if

(i) the definition *taxable preferred share* in this subsection were read without reference to paragraph (f) of that definition,

(ii) the other share were issued after June 18, 1987, and

(iii) the other share were not a grandfathered share, a prescribed share or a share described in paragraph (e) of the definition *term preferred share* in this subsection, and

(e) where

(i) it may reasonably be considered that the dividends that may be declared or paid to a shareholder at any time on a share (other than a prescribed share or a share described in paragraph (e) of the definition *term preferred share* in this subsection during the applicable time period referred to in that paragraph) of the capital stock of a corporation issued after December 15, 1987 or acquired after June 15, 1988 are derived primarily from dividends received on taxable RFI shares of the capital stock of another corporation, and

(ii) it may reasonably be considered that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of Part IV.1,

the share shall be deemed at that time to be a taxable RFI share; (*action particulière à une institution financière*)

tax-indifferent investor, at any time, means a person or partnership that is at that time

(a) a person exempt from tax under section 149,

(b) a non-resident person, other than a person to which all amounts paid or credited under a synthetic equity arrangement or a specified synthetic equity arrangement may reasonably be attributed to the business carried on by the person in Canada through a permanent establishment (as defined by regulation) in Canada,

régime de pension agréé Régime de pension, sauf un régime de pension collectif, que le ministre a agréé pour l'application de la présente loi et dont l'agrément n'a pas été retiré. (*registered pension plan*)

régime de pension agréé collectif ou ***RPAC*** S'entend au sens du paragraphe 147.5(1). (*pooled registered pension plan* or *PRPP*)

régime de pension collectif S'entend au sens du paragraphe 147.5(1). (*pooled pension plan*)

régime de pension déterminé Arrangement visé par règlement. (*specified pension plan*)

régime de prestations aux employés Mécanisme dans le cadre duquel des cotisations sont versées à une personne (appelée « dépositaire » dans la présente loi) par un employeur ou par toute autre personne avec qui celui-ci a un lien de dépendance et en vertu duquel un ou plusieurs paiements sont à faire à des employés ou anciens employés de l'employeur ou à des personnes qui ont un lien de dépendance avec l'un de ces employés ou anciens employés, ou au profit de ces employés, anciens employés ou personnes, sauf s'il s'agit d'un paiement qui n'aurait pas à être inclus dans le calcul du revenu du bénéficiaire ou d'un employé ou ancien employé si l'article 6 s'appliquait compte non tenu de son sous-alinéa (1)a)(ii) ni de son alinéa (1)g). Ne fait pas partie d'un régime de prestations aux employés toute partie du mécanisme qui est :

a) un régime ou une fiducie visé au sous-alinéa 6(1)a)(i) ou à l'alinéa 6(1)d) ou f);

b) une fiducie visée à l'alinéa 149(1)y);

c) une fiducie d'employés;

c.1) une entente d'échelonnement du traitement applicable à un contribuable dans le cadre de laquelle des montants différés doivent être ajoutés comme avantages en vertu de l'alinéa 6(1)a) dans le calcul du revenu de ce contribuable;

c.2) une convention de retraite;

d) un mécanisme dont le seul but est de dispenser à des employés de l'employeur un enseignement ou une formation qui vise à améliorer leur compétence au travail ou leurs connaissances en rapport avec ce travail;

e) un mécanisme visé par règlement. (*employee benefit plan*)

(c) a trust resident in Canada (other than a specified mutual fund trust) if any of the interests as a beneficiary under the trust is not a *fixed interest* (as defined in subsection 251.2(1)) in the trust (in this definition referred to as a *discretionary trust*),

(d) a partnership more than 10% of the fair market value of all interests in which can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraphs (a) to (c), or

(e) a trust resident in Canada (other than a specified mutual fund trust or a discretionary trust) if more than 10% of the fair market value of all interests as beneficiaries under the trust can reasonably be considered to be held, directly or indirectly through one or more trusts or partnerships, by any combination of persons described in paragraph (a) or (c); (*investisseur indifférent relativement à l'impôt*)

taxpayer includes any person whether or not liable to pay tax; (*contribuables*)

tax shelter has the meaning assigned by subsection 237.1(1); (*abri fiscal*)

tax treaty with a country at any time means a comprehensive agreement or convention for the elimination of double taxation on income, between the Government of Canada and the government of the country, which has the force of law in Canada at that time; (*traité fiscal*)

10/8 policy means a life insurance policy (other than an annuity) where

(a) an amount is or may become

(i) payable, under the terms of a borrowing, to a person or partnership that has been assigned an interest in the policy or in an investment account in respect of the policy, or

(ii) payable (within the meaning assigned by the definition ***amount payable*** in subsection 138(12)) under a policy loan (as defined in subsection 148(9)) made in accordance with the terms and conditions of the policy, and

(b) either

(i) the return credited to an investment account in respect of the policy

(A) is determined by reference to the rate of interest on the borrowing or policy loan, as the case may be, described in paragraph (a), and

régime de prestations supplémentaires de chômage S'entend au sens du paragraphe 145(1). (*supplementary unemployment benefit plan*)

régime enregistré d'épargne-études ou ***REEE*** S'entend au sens du paragraphe 146.1(1). (*registered education savings plan* or *RESP*)

régime enregistré d'épargne-invalidité ou ***REEI*** S'entend au sens du paragraphe 146.4(1). (*registered disability savings plan* or *RDSP*)

régime enregistré d'épargne-retraite ou ***REER*** S'entend au sens de *régime enregistré d'épargne-retraite* au paragraphe 146(1). (*registered retirement savings plan* or *RRSP*)

régime enregistré de prestations supplémentaires de chômage S'entend au sens du paragraphe 145(1). (*registered supplementary unemployment benefit plan*)

régime privé d'assurance-maladie Contrat d'assurance pour frais d'hospitalisation, frais médicaux, ou les deux, régime d'assurance-maladie, régime d'assurance-hospitalisation ou régime combiné d'assurance-maladie et hospitalisation qui ne sont établis ou prévus :

a) ni par une loi provinciale établissant un régime d'assurance-santé au sens de l'article 2 de la *Loi canadienne sur la santé*;

b) ni par une loi fédérale ou son règlement, autorisant l'établissement d'un régime d'assurance-maladie ou d'un régime d'assurance-hospitalisation au profit des employés du fédéral et des personnes à leur charge ainsi que des personnes à la charge des membres de la Gendarmerie royale du Canada et de la force régulière, dans le cas où ces employés ou membres, nommés au Canada, servent à l'étranger. (*private health services plan*)

registre Sont compris parmi les registres les comptes, conventions, livres, graphiques et tableaux, diagrammes, formulaires, images, factures, lettres, cartes, notes, plans, déclarations, états, télégrammes, pièce justificatives et toute autre chose renfermant des renseignements, qu'il soient par écrit ou sous toute autre forme. (*record*)

réglementaire et expressions comportant le mot « règlement » Ont le même sens que « prescrit ». (*prescribed*)

réinstallation admissible Réinstallation d'un contribuable relativement à laquelle les faits ci-après s'avèrent :

(B) would not be credited to the account if the borrowing or policy loan, as the case may be, were not in existence, or

(ii) the maximum amount of an investment account in respect of the policy is determined by reference to the amount of the borrowing or policy loan, as the case may be, described in paragraph (a); (*police 10/8*)

term preferred share of a corporation (in this definition referred to as the *issuing corporation*) means a share of a class of the capital stock of the issuing corporation if the share was issued or acquired after June 28, 1982 and, at the time the share was issued or acquired, the existence of the issuing corporation was, or there was an arrangement under which it could be, limited or, in the case of a share issued after November 16, 1978 if

(a) under the terms or conditions of the share, any agreement relating to the share or any modification of those terms or conditions or that agreement,

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

(ii) the issuing corporation or any other person or partnership is or may be required to redeem, acquire or cancel, in whole or in part, the share (unless the requirement to redeem, acquire or cancel the share arises by reason only of a right to convert or exchange the share) or to reduce its paid-up capital,

(iii) the issuing corporation or any other person or partnership provides or may be required to provide any form of guarantee, security or similar indemnity or covenant (including the lending of funds to or the placing of amounts on deposit with, or on behalf of, the holder thereof or any person related thereto) with respect to the share, or

(iv) the share is convertible or exchangeable unless

(A) it is convertible into or exchangeable for

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

(II) a right or warrant that, if exercised, would allow the person exercising it to acquire only a

a) elle est effectuée afin de permettre au contribuable :

(i) soit d'exploiter une entreprise ou d'occuper un emploi à un endroit au Canada (appelé « nouveau lieu de travail » à l'article 62 et dans la présente définition), sauf si le contribuable est absent du Canada mais y réside,

(ii) soit de fréquenter, comme étudiant à temps plein inscrit à un programme de niveau postsecondaire, un établissement d'une université, d'un collège ou d'un autre établissement d'enseignement (appelé « nouveau lieu de travail » à l'article 62 et dans la présente définition);

b) avant la réinstallation, le contribuable habitait ordinairement dans une résidence (appelée « ancienne résidence » à l'article 62 et dans la présente définition) et après la réinstallation, il habitait ordinairement dans une résidence (appelée « nouvelle résidence » à l'article 62 et dans la présente définition);

c) sauf si le contribuable est absent du Canada mais y réside, l'ancienne résidence et la nouvelle résidence sont toutes deux situées au Canada;

d) la distance entre l'ancienne résidence et le nouveau lieu de travail est supérieure d'au moins 40 kilomètres à la distance entre la nouvelle résidence et le nouveau lieu de travail. (*eligible relocation*)

remboursement de la partie VII S'entend au sens du paragraphe 192(2). (*Part VII refund*)

remboursement de la partie VIII S'entend au sens du paragraphe 194(2). (*Part VIII refund*)

rente Sont compris dans les rentes les sommes payables à intervalles réguliers plus longs ou plus courts qu'une année, en vertu d'un contrat, d'un testament, d'une fiducie ou autrement. (*annuity*)

rente admissible de fiducie S'entend au sens du paragraphe 60.011(2). (*qualifying trust annuity*)

représentant légal Quant à un contribuable, syndic de faillite, cessionnaire, liquidateur, curateur, séquestre de tout genre, fiduciaire, héritier, administrateur du bien d'autrui, liquidateur de succession, exécuteur testamentaire, conseil ou autre personne semblable, qui administre ou liquide, en qualité de représentant ou de fiduciaire, les biens qui appartiennent ou appartenaient au contribuable ou à sa succession, ou qui sont ou étaient détenus pour leur compte, ou qui, en cette qualité, exerce

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

(III) both a share described in subclause (I) and a right or warrant described in subclause (II), and

(B) all the consideration receivable for the share on the conversion or exchange is the share described in subclause (A)(I) or the right or warrant described in subclause (A)(II) or both, as the case may be, and, for the purposes of this clause, where a taxpayer may become entitled on the conversion or exchange of a share to receive any particular consideration (other than consideration described in any of subclauses (A)(I) to (A)(III)) in lieu of a fraction of a share, the particular consideration shall be deemed not to be consideration unless it may reasonably be considered that the particular consideration was receivable as part of a series of transactions or events one of the main purposes of which was to avoid or limit the application of subsection 112(2.1) or 258(3), or

(b) the owner thereof acquired the share after October 23, 1979 and is

(i) a corporation described in any of paragraphs (a) to (e.1) of the definition *specified financial institution*,

(ii) a corporation that is controlled by one or more corporations described in subparagraph (i),

(iii) a corporation that acquired the share after December 11, 1979 and is related to a corporation referred to in subparagraph (i) or (ii), or

(iv) a partnership or trust of which a corporation referred to in subparagraph (i) or (ii) or a person related thereto is a member or a beneficiary,

that (either alone or together with any of such corporations, partnerships or trusts) controls or has an absolute or contingent right to control or to acquire control of the issuing corporation,

but does not include a share of the capital stock of a corporation

(c) that was issued after November 16, 1978 and before 1980 pursuant to an agreement in writing to do so made before November 17, 1978 (in this definition referred to as an "established agreement"),

une influence dominante sur ces biens ou s'en occupe autrement. (*legal representative*)

ressource minérale A le même sens que *matières minérales*. (*mineral resource*)

revenu brut S'agissant du revenu brut d'un contribuable pour une année d'imposition, le total des montants suivants :

a) les sommes reçues au cours de l'année ou à recevoir au cours de l'année (selon la méthode habituellement suivie par le contribuable dans le calcul de son revenu) autrement qu'à titre de capital;

b) les sommes, sauf celles visées à l'alinéa a), incluses dans le calcul du revenu du contribuable tiré d'une entreprise ou de biens pour l'année par l'effet des paragraphes 12(3) ou (4) ou de l'article 12.2 de la présente loi ou du paragraphe 12(8) de la *Loi de l'impôt sur le revenu* , chapitre 148 des Statuts revisés du Canada de 1952. (*gross revenue*)

revenu de placement total S'entend au sens du paragraphe 129(4). (*aggregate investment income*)

revenu étranger accumulé, tiré de biens S'entend au sens de l'article 95. (*foreign accrual property income*)

revenu exonéré Les biens reçus ou acquis par une personne dans des circonstances faisant qu'ils ne sont pas inclus, par l'effet d'une disposition de la partie I, dans le calcul de son revenu. Ne sont pas un revenu exonéré le dividende sur une action et la pension alimentaire au sens du paragraphe 56.1(4). (*exempt income*)

revenu fractionné S'entend au sens du paragraphe 120.4(1). (*split income*)

revenu imposable Le revenu visé au paragraphe 2(2), qui ne peut en aucun cas être négatif. (*taxable income*)

revenu imposable gagné au Canada Le revenu imposable d'un contribuable qui est gagné au Canada et calculé conformément à la section D de la partie I, et qui ne peut en aucun cas être négatif. (*taxable income earned in Canada*)

sables asphaltiques Sables bitumineux ou schistes bitumineux extraits, autrement qu'au moyen d'un puits, d'une ressource minérale. Pour l'application des articles 13 et 20 et des dispositions réglementaires prises sous le régime de l'alinéa 20(1)a) aux biens acquis après le 6 mars 1996, sont des sables asphaltiques les substances extraites au moyen d'un puits d'un gisement de sables bitumineux ou de schistes bitumineux. (*tar sands*)

(d) that was issued as a stock dividend

(i) before April 22, 1980 on a share of the capital stock of a public corporation that was not a term preferred share, or

(ii) after April 21, 1980 on a share that was, at the time the stock dividend was paid, a share prescribed for the purposes of paragraph (f),

(d.1) that is listed on a designated stock exchange in Canada and was issued before April 22, 1980 by

(i) a corporation referred to in any of paragraphs (a) to (d) of the definition *specified financial institution* in this subsection,

(ii) a corporation whose principal business is the lending of money or the purchasing of debt obligations or a combination thereof, or

(iii) an issuing corporation associated with a corporation described in subparagraph (i) or (ii),

(e) for a period not exceeding ten years and, in the case of a share issued after November 12, 1981, for a period not exceeding five years, from the date of its issuance, which share was issued by a corporation resident in Canada,

(i) as part of a proposal to, or an arrangement with, its creditors that had been approved by a court under the *Bankruptcy and Insolvency Act*,

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

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

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

(f) that is a prescribed share, or

sables bitumineux Sables ou autres matériaux rocheux contenant des hydrocarbures d'origine naturelle, sauf le charbon, qui présentent l'une des caractéristiques suivantes :

a) une viscosité, déterminée selon les modalités réglementaires, d'au moins 10 000 centipoise;

b) une densité, déterminée selon les modalités réglementaires, d'au plus 12 degrés API. (*bituminous sands*)

second fonds du compte de stabilisation du revenu net Partie du compte de stabilisation du revenu net d'un contribuable :

a) d'une part, qui est visée à l'alinéa 8(2)b) de la *Loi sur la protection du revenu agricole* ou qui est un fonds visé par règlement;

b) d'autre part, qu'il est raisonnable de considérer comme étant attribuable à un programme qui permet l'accumulation des fonds du compte. (*NISA Fund No. 2*)

société Sauf dans l'expression *société de personnes*, s'entend d'une personne morale, y compris une compagnie. (*corporation*)

société agréée à capital de risque de travailleurs Société qui a été agréée en vertu du paragraphe 204.81(1) et dont l'agrément n'a pas été retiré. (*registered labour-sponsored venture capital corporation*)

société canadienne S'entend au sens du paragraphe 89(1). (*Canadian corporation*)

société canadienne imposable S'entend au sens du paragraphe 89(1). (*taxable Canadian corporation*)

société constituée au Canada Société constituée dans une région quelconque du Canada, même avant le rattachement de celle-ci au pays. (*corporation incorporated in Canada*)

société de conversion d'EIPD Est une société de conversion d'EIPD quant à une EIPD convertible à un moment donné :

a) la société qui, après le 13 juillet 2008 et avant le moment donné ou, s'il est antérieur, le 1er janvier 2013, est propriétaire de l'ensemble des intérêts dans l'EIPD convertible;

b) la société dont les actions du capital-actions sont distribuées, au moment donné ou avant ce moment, à

(f.1) that is a taxable preferred share held by a specified financial institution that acquired the share

(i) before December 16, 1987, or

(ii) before 1989 pursuant to an agreement in writing entered into before December 16, 1987,

other than a share deemed by paragraph (c) of the definition *short-term preferred share* in this subsection or by paragraph (i.2) to have been issued after December 15, 1987 or a share that would be deemed by paragraph (e) of the definition *taxable preferred share* in this subsection to have been issued after December 15, 1987 if the references therein to "8:00 p.m. Eastern Daylight Saving Time, June 18, 1987" were read as references to "December 15, 1987",

and, for the purposes of this definition,

(g) where the terms or conditions of an established agreement were amended after November 16, 1978, the agreement shall be deemed to have been made after that date,

(h) where

(i) at any particular time the terms or conditions of a share issued pursuant to an established agreement or of any agreement relating to such a share have been changed,

(ii) under the terms or conditions of

(A) a share of a class of the capital stock of the issuing corporation issued before November 17, 1978 (other than a share that was listed on November 16, 1978 on a prescribed stock exchange in Canada),

(B) a share issued pursuant to an established agreement,

(C) any agreement between the issuing corporation and the owner of a share described in clause (A) or (B), or

(D) any agreement relating to a share described in clause (A) or (B) made after October 23, 1979,

the owner thereof could at any particular time after November 16, 1978 require, either alone or together with one or more taxpayers, the redemption, acquisition, cancellation, conversion or reduction of the paid-up capital of the share otherwise than by reason of a failure or default under the terms or conditions of the share or any agreement that related to, l'occasion d'un fait lié à la conversion d'une EIPD-fiducie de l'EIPD convertible. (*SIFT wind-up corporation*)

société de personnes canadienne S'entend au sens de l'article 102. (*Canadian partnership*)

société de personnes intermédiaire de placement déterminée S'entend au sens de l'article 197. (*SIFT partnership*)

société de personnes résidant au Canada Société de personnes qui, au moment considéré, selon le cas :

a) est une société de personnes canadienne;

b) résiderait au Canada si elle était une société (étant entendu que la société de personnes dont le siège de direction et de contrôle est situé au Canada est visée ici);

c) a été établie sous le régime des lois d'une province. (*Canadian resident partnership*)

société de placement S'entend au sens du paragraphe 130(3). (*investment corporation*)

société de placement à capital variable S'entend au sens du paragraphe 131(8). (*mutual fund corporation*)

société de placement appartenant à des non-résidents S'entend au sens du paragraphe 133(8). (*non-resident-owned investment corporation*)

société de placement hypothécaire S'entend au sens du paragraphe 130.1(6). (*mortgage investment corporation*)

société étrangère affiliée S'entend au sens du paragraphe 95(1). (*foreign affiliate*)

société étrangère affiliée contrôlée S'entend au sens du paragraphe 95(1), sauf disposition contraire expresse de la présente loi. (*controlled foreign affiliate*)

société exploitant une petite entreprise Sous réserve du paragraphe 110.6(15), société privée sous contrôle canadien et dont la totalité, ou presque, de la juste valeur marchande des éléments d'actif est attribuable, à un moment donné, à des éléments qui sont :

a) soit utilisés principalement dans une entreprise que la société ou une société qui lui est liée exploite activement principalement au Canada;

b) soit constitués d'actions du capital-actions ou de dettes d'une ou de plusieurs sociétés exploitant une

and was entered into at the time of, the issuance of the share,

(iii) in respect of a share issued before November 17, 1978, at any particular time after November 16, 1978 the redemption date was extended or the terms or conditions relating to its redemption, acquisition, cancellation, conversion or reduction of its paid-up capital were changed,

(iv) at a particular time after October 23, 1979 and before November 13, 1981, a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquired a share that

(A) was issued before November 17, 1978 or under an established agreement,

(B) was issued to a person other than a corporation that was, at the time of issue,

(I) described in any of paragraphs (a) to (e) of the definition *specified financial institution*, or

(II) a corporation that was controlled by one or more corporations described in subclause (I) and, for the purpose of this subclause, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length,

(C) was acquired from a person that was, at the particular time, a person other than a corporation described in subclause (B)(I) or (II), and

(D) was acquired otherwise than under an agreement in writing made before October 24, 1979,

(v) at any particular time after November 12, 1981

(A) in respect of

(I) a share (other than a share referred to in paragraph (e) or a share listed on November 13, 1981 on a prescribed stock exchange in Canada) issued after November 16, 1978 and before November 13, 1981, or

petite entreprise rattachées à la société au moment donné, au sens du paragraphe 186(4) selon l'hypothèse que les sociétés exploitant une petite entreprise sont, à ce moment, des sociétés payantes au sens de ce paragraphe;

c) soit visés aux alinéas a) et b).

Pour l'application de l'alinéa 39(1)c), est une société exploitant une petite entreprise la société qui était une telle société à un moment de la période de douze mois précédant le moment donné; par ailleurs, pour l'application de la présente définition, la juste valeur marchande d'un compte de stabilisation du revenu net est réputée nulle. (*small business corporation*)

société privée S'entend au sens du paragraphe 89(1). (*private corporation*)

société privée sous contrôle canadien S'entend au sens du paragraphe 125(7). (*Canadian-controlled private corporation*)

société professionnelle Société qui exerce la profession d'avocat, de chiropraticien, de comptable, de dentiste, de médecin ou de vétérinaire. (*professional corporation*)

société publique S'entend au sens du paragraphe 89(1). (*public corporation*)

somme A le même sens que *montant*. (*amount*)

succession S'entend au sens du paragraphe 104(1). (*estate*)

succession assujettie à l'imposition à taux progressifs Est une succession assujettie à l'imposition à taux progressifs d'un particulier à un moment donné, la succession qui a commencé à exister au décès du particulier et par suite de ce décès et relativement à laquelle les faits ci-après s'avèrent :

a) le moment donné suit le décès d'au plus 36 mois;

b) la succession est une fiducie testamentaire à ce moment;

c) le numéro d'assurance sociale du particulier (ou, dans le cas d'un particulier auquel un numéro d'assurance sociale n'a pas été attribué avant son décès, tout autre renseignement que le ministre accepte) figure dans la déclaration de revenu de la succession produite en vertu de la partie I pour son année d'imposition qui comprend ce moment et pour chacune de ses années d'imposition se terminant après 2015;

(II) a share issued after November 12, 1981 and before 1983 pursuant to an agreement in writing to do so made before November 13, 1981 (in this definition referred to as a "specified agreement")

the owner thereof could require, either alone or together with one or more taxpayers, the redemption, acquisition, cancellation, conversion or reduction of the paid-up capital of the share otherwise than by reason of a failure or default under the terms or conditions of the share or any agreement that related to, and was entered into at the time of, the issuance of the share, or

(B) the redemption date of

(I) a share issued after November 16, 1978 and before November 13, 1981 or

(II) a share issued pursuant to a specified agreement

was extended or the terms or conditions relating to its redemption, acquisition, cancellation, conversion or reduction of its paid-up capital were changed, or

(vi) at a particular time after November 12, 1981, a specified financial institution (or a partnership or trust of which a specified financial institution or a person related to the institution is a member or beneficiary) acquired a share (other than a share referred to in paragraph (e)) that

(A) was issued before November 13, 1981 or under a specified agreement,

(B) was acquired from a partnership or person, other than a person that was, at the particular time, a corporation described in any of paragraphs (a) to (f) of the definition *specified financial institution* in this subsection,

(C) was acquired in an acquisition that was not subject to nor conditional on a guarantee agreement, within the meaning assigned by subsection 112(2.2), entered into after November 12, 1981, and

(D) was acquired otherwise than under an agreement in writing made before October 24, 1979 or a specified agreement,

the share shall, for the purposes of determining at any time after the particular time whether it is a term preferred share, be deemed to have been issued at the

d) la succession se désigne à titre de succession assujettie à l'imposition à taux progressifs du particulier dans la déclaration de revenu qu'elle produit en vertu de la partie I pour sa première année d'imposition se terminant après 2015;

e) aucune autre succession ne se désigne à titre de succession assujettie à l'imposition à taux progressifs du particulier dans une déclaration de revenu produite en vertu de la partie I pour une année d'imposition se terminant après 2015. (*graduated rate estate*)

taux de base pour l'année Le taux le plus bas mentionné au paragraphe 117(2) pour l'année d'imposition en cause. (*appropriate percentage*)

taux d'imposition provincial des EIPD Le montant déterminé par règlement pour une année d'imposition, applicable à une fiducie intermédiaire de placement déterminée ou à une société de personnes intermédiaire de placement déterminée. (*provincial SIFT tax rate*)

taux d'imposition supérieur pour l'année Le taux le plus élevé mentionné au paragraphe 117(2) pour l'année d'imposition en cause. (*highest individual percentage*)

taux net d'imposition du revenu des sociétés Le taux net d'imposition du revenu des sociétés applicable à une fiducie intermédiaire de placement déterminée ou à une société de personnes intermédiaire de placement déterminée pour une année d'imposition s'entend de l'excédent, exprimé en fraction décimale, du taux visé à l'alinéa a) sur le total visé à l'alinéa b) :

a) le taux d'impôt fixé à l'alinéa 123(1)a) pour l'année;

b) le total des pourcentages suivants :

(i) le pourcentage qui correspondrait au pourcentage de réduction du taux général, au sens du paragraphe 123.4(1), applicable à la fiducie ou à la société de personnes pour l'année si elle était une société,

(ii) le taux de la déduction d'impôt fixé au paragraphe 124(1) pour l'année. (*net corporate income tax rate*)

taxe sur les produits et services Taxe payable en application de la partie IX de la Loi sur la taxe d'accise. (*goods and services tax*)

titre de créance indexé Titre de créance dont les modalités prévoient l'ajustement, déterminé en fonction de la variation du pouvoir d'achat de la monnaie, d'un montant payable relativement au titre pour une période au

particular time otherwise than pursuant to an established or specified agreement,

(i) where the terms or conditions of a share of the capital stock of the issuing corporation are modified or established after June 28, 1982 and as a consequence thereof the issuing corporation, any person related thereto or any partnership or trust of which the issuing corporation or a person related thereto is a member or a beneficiary may reasonably be expected at any time to redeem, acquire or cancel, in whole or in part, the share or to reduce its paid-up capital, the share shall be deemed as from the date of the modification or as from the date of the establishment, as the case may be, to be a share described in paragraph (a),

(i.1) where

(i) it may reasonably be considered that the dividends that may be declared or paid at any time on a share (other than a prescribed share or a share described in paragraph (e) during the applicable time period referred to in that paragraph) of the capital stock of a corporation issued after December 15, 1987 or acquired after June 15, 1988 are derived primarily from dividends received on term preferred shares of the capital stock of another corporation, and

(ii) it may reasonably be considered that the share was issued or acquired as part of a transaction or event or series of transactions or events one of the main purposes of which was to avoid or limit the application of subsection 112(2.1) or 138(6),

the share shall be deemed at that time to be a term preferred share acquired in the ordinary course of business,

(i.2) where at any particular time after December 15, 1987, otherwise than pursuant to a written arrangement to do so entered into before December 16, 1987, the terms or conditions of a taxable preferred share of the capital stock of a corporation relating to any matter referred to in subparagraphs (a)(i) to (iv) have been modified or established, or any agreement in respect of the share relating to any such matter has been changed or entered into by the corporation or a specified person (within the meaning assigned by paragraph (h) of the definition *taxable preferred share* in this subsection) in relation to the corporation, the share shall be deemed after that particular time to have been issued at that particular time, and,

(j) where a particular share of the capital stock of a corporation has been issued or its terms and

cours de laquelle il était en circulation. (*indexed debt obligation*)

titre de crédit Obligation, billet, créance hypothécaire, convention de vente ou autre dette ou action visée par règlement, à l'exclusion d'un bien visé par règlement. (*lending asset*)

traité fiscal À un moment donné, accord ou convention général visant l'élimination de la double imposition du revenu, conclu entre le gouvernement du Canada et le gouvernement d'un autre pays, qui a force de loi à ce moment. (*tax treaty*)

traitement ou salaire Sauf aux articles 5 et 63 et à la définition de *prestation consécutive au décès*, le revenu que tire un contribuable d'une charge ou d'un emploi, calculé d'après la sous-section a de la section B de la partie I, y compris les honoraires touchés par le contribuable pour des services qu'il n'a pas fournis dans le cours des activités de son entreprise, mais à l'exclusion des prestations de retraite ou de pension, ainsi que des allocations de retraite. (*salary or wages*)

traitement préliminaire au Canada Sauf disposition réglementaire contraire :

a) le traitement au Canada de gaz naturel brut dans une installation de séparation et de déshydratation préliminaires;

b) le traitement au Canada de gaz naturel brut dans une installation de traitement du gaz naturel, jusqu'à un stade ne dépassant pas celui du gaz naturel que les voituriers publics de gaz naturel estiment acceptable;

c) le traitement au Canada d'hydrogène sulfuré dérivé de gaz naturel brut, jusqu'à un stade ne dépassant pas celui du soufre marchand;

d) le traitement au Canada de liquides de gaz naturel ans une installation de traitement de gaz naturel où le gaz injecté est du gaz naturel brut dérivé d'un gisement naturel de gaz naturel, jusqu'à un stade ne dépassant pas celui du pétrole liquéfié marchand ou son équivalent;

e) le traitement au Canada de pétrole brut (sauf le pétrole brut lourd récupéré d'un puits de pétrole ou de gaz ou d'un gisement de sables asphaltiques) récupéré d'un gisement naturel de pétrole, jusqu'à un stade ne dépassant pas celui du pétrole brut ou son équivalent;

f) les activités visées par règlement.

Pour l'application des alinéas b) à d):

conditions have been modified and it may reasonably be considered, having regard to all circumstances (including the rate of interest on any debt or the dividend provided on any term preferred share), that

(i) but for the existence at any time of the debt or the term preferred share, the particular share would not have been issued or its terms or conditions modified, and

(ii) one of the main purposes for the issue of the particular share or for the modification of its terms or conditions was to avoid a limitation provided by subsection 112(2.1) or 138(6) in respect of a deduction,

the particular share shall be deemed after December 31, 1982 to be a term preferred share of the corporation; (*action privilégiée à terme*)

testamentary trust has the meaning assigned by subsection 108(1); (*fiducie testamentaire*)

TFSA, being a tax-free savings account, has the meaning assigned by subsection 146.2(5); (*compte d'épargne libre d'impôt*)

timber resource property has the meaning assigned by subsection 13(21); (*avoir forestier*)

total pension adjustment reversal of a taxpayer for a calendar year has the meaning assigned by regulation; (*facteur d'équivalence rectifié total*)

Treasury Board means the Treasury Board established by section 5 of the *Financial Administration Act*; (*Conseil du Trésor*)

treaty-protected business of a taxpayer at any time means a business in respect of which any income of the taxpayer for a period that includes that time would, because of a tax treaty with another country, be exempt from tax under Part I; (*entreprise protégée par traité*)

treaty-protected property of a taxpayer at any time means property any income or gain from the disposition of which by the taxpayer at that time would, because of a tax treaty with another country, be exempt from tax under Part I; (*bien protégé par traité*)

trust has the meaning assigned by subsection 104(1) and, unless the context otherwise requires, includes an estate; (*fiducie*)

undepreciated capital cost to a taxpayer of depreciable property of a prescribed class has the meaning assigned

g) le gaz ne cesse d'être du gaz naturel brut du seul fait qu'il est traité dans une installation de séparation et de déshydratation préliminaires que lorsqu'il est reçu par un voiturier public de gaz naturel;

h) l'installation de traitement du gaz naturel, ou la partie d'une telle installation, qui sert principalement à la récupération d'éthane est réputée ne pas être une telle installation. (*Canadian field processing*)

transport international S'entend, à l'égard d'une personne ou d'une société de personnes qui exploite une entreprise de transport de passagers ou de marchandises, d'un voyage qui est effectué dans le cours des activités de cette entreprise et dont le principal objet est de transporter des passagers ou des marchandises :

a) soit du Canada vers un lieu situé à l'étranger;

b) soit d'un lieu situé à l'étranger au Canada;

c) soit d'un lieu situé à l'étranger vers un autre lieu situé à l'étranger. (*international traffic*)

transport maritime international L'exploitation d'un navire que possède ou loue une personne ou une société de personnes (appelée « exploitant » dans la présente définition) et qui est utilisé, directement ou dans le cadre d'un arrangement de mise en commun, principalement pour le transport de passagers ou de marchandises en transport international — à supposer, sauf en cas d'application de l'alinéa c) de la définition de *transport international* au présent paragraphe, que tout port ou autre endroit situé sur les Grands Lacs ou le fleuve Saint-Laurent se trouve au Canada —, y compris l'affrètement du navire, à condition que la pleine possession, l'entier contrôle et le commandement intégral du navire soient détenus, selon le cas, par une ou plusieurs personnes liées à l'exploitant (si l'exploitant et chacune d'elles sont une société) ou, dans les autres cas, par une ou plusieurs personnes ou sociétés de personnes affiliées à l'exploitant, et les activités se rapportant directement ou accessoirement à l'exploitation de ce navire. En sont exclus :

a) l'entreposage ou la transformation de marchandises en mer;

b) la pêche;

c) la mise en place de câbles;

d) le sauvetage;

e) le touage;

f) le remorquage;

by subsection 13(21); (*fraction non amortie du coût en capital*)

unit trust has the meaning assigned by subsection 108(2); (*fiducie d'investissement à participation unitaire*)

unused RRSP deduction room of a taxpayer at the end of a taxation year has the meaning assigned by subsection 146(1); (*déductions inutilisées au titre des REER*)

unused scientific research and experimental development tax credit of a taxpayer for a taxation year has the meaning assigned by subsection 127.3(2); (*partie inutilisée du crédit d'impôt pour des activités de recherche scientifique et de développement expérimental*)

unused share-purchase tax credit of a taxpayer for a taxation year has the meaning assigned by subsection 127.2(6). (*partie inutilisée du crédit d'impôt à l'achat d'actions*)

g) les activités pétrolières et gazières en mer (sauf le transport du pétrole et du gaz), y compris les activités d'exploration et de forage;

h) le dragage;

i) la location d'un navire par un bailleur à un preneur qui a la pleine possession, l'entier contrôle et le commandement intégral du navire, sauf si le bailleur ou une société, une fiducie ou une société de personnes qui lui est affiliée a une participation admissible, au sens du paragraphe 250(6.04), dans le preneur. (*international shipping*)

union de fait Relation qui existe entre deux conjoints de fait. (*common-law partnership*)

véhicule à moteur Véhicule mû par un moteur, conçu ou aménagé pour circuler sur les voies publiques et dans les rues, à l'exclusion des trolleybus et des véhicules conçus ou aménagés pour fonctionner exclusivement sur rails. (*motor vehicle*)

voiture de tourisme Automobile acquise après le 17 juin 1987 — à l'exclusion d'une automobile acquise après cette date conformément à une obligation écrite contractée avant le 18 juin 1987 — ou automobile louée par contrat de location conclu, prolongé ou renouvelé après le 17 juin 1987. (*passenger vehicle*)

zone extracôtière de la Nouvelle-Écosse A le sens du terme *zone extracôtière* de la *Loi de mise en œuvre de l'Accord Canada — Nouvelle-Écosse sur les hydrocarbures extracôtiers*, chapitre 28 des Lois du Canada de 1988. (*Nova Scotia offshore area*)

zone extracôtière de Terre-Neuve A le sens du terme *zone extracôtière* de la *Loi de mise en œuvre de l'Accord atlantique Canada — Terre-Neuve-et-Labrador*, chapitre 3 des Lois du Canada de 1987. (*Newfoundland offshore area*)

Non-disposition before December 24, 1998

(1.1) A redemption, an acquisition or a cancellation, at any particular time after 1971 and before December 24, 1998, of a share or of a right to acquire a share (which share or which right, as the case may be, is referred to in this subsection as the "security") of the capital stock of a corporation (referred to in this subsection as the "issuing corporation") held by another corporation (referred to in this subsection as the "disposing corporation") is not a disposition (within the meaning of the definition *disposition* in section 54 as that section read in its application to transactions and events that occurred at the particular time) of the security if

Non-disposition avant le 24 décembre 1998

(1.1) Le rachat, l'acquisition ou l'annulation, à un moment donné après 1971 et avant le 24 décembre 1998, d'une action du capital-actions d'une société (appelée « société émettrice » au présent paragraphe), ou d'un droit d'acquérir une telle action, (l'action ou le droit étant appelé « titre » au présent paragraphe) détenu par une autre société (appelée « société cédante » au présent paragraphe) n'est pas assimilé à une disposition du titre (« disposition » s'entendant au sens de l'article 54, dans sa version applicable aux opérations effectuées et aux événements s'étant produits au moment donné) si, à la fois :

(a) the redemption, acquisition or cancellation occurred as part of a merger or combination of two or more corporations (including the issuing corporation and the disposing corporation) to form one corporate entity (referred to in this subsection as the "new corporation");

(b) the merger or combination

(i) is an amalgamation (within the meaning assigned by subsection 87(1) as it read at the particular time) to which subsection 87(11) if in force, and as it read, at the particular time did not apply,

(ii) is an amalgamation (within the meaning assigned by subsection 87(1) as it read at the particular time) to which subsection 87(11) if in force, and as it read, at the particular time applies, if the issuing corporation and the disposing corporation are described by subsection 87(11) (if in force, and as it read, at the particular time) as the parent and the subsidiary, respectively,

(iii) occurred before November 13, 1981 and is a merger of corporations that is described by subsection 87(8) (as it read in respect of the merger or combination), or

(iv) occurred after November 12, 1981 and

(A) is a foreign merger (within the meaning assigned by subsection 87(8.1) as it read in respect of the merger or combination), or

(B) all of the following conditions are met:

(I) the merger or combination is not a foreign merger (within the meaning assigned by subsection 87(8.1) as it read in respect of the merger or combination),

(II) subsection 87(8.1), as it read in respect of the merger or combination, contained a subparagraph (c)(ii), and

(III) the merger or combination would be a foreign merger (within the meaning of subsection 87(8.1), as it read in respect of the merger or combination) if that subparagraph 87(8.1)(c)(ii) were read as follows:

"(ii) if, immediately after the merger, the new foreign corporation was controlled by another foreign corporation (in this subsection referred to as the "parent corporation"), shares of the capital stock of the parent corporation,";

a) le rachat, l'acquisition ou l'annulation s'est produit dans le cadre de l'unification ou de la combinaison de plusieurs sociétés, dont la société émettrice et la société cédante, en une nouvelle société;

b) l'unification ou la combinaison, selon le cas :

(i) est une fusion (au sens du paragraphe 87(1) dans sa version applicable au moment donné) à laquelle le paragraphe 87(11), s'il est en vigueur à ce moment et dans sa version applicable à ce moment, ne s'est pas appliqué,

(ii) est une fusion (au sens du paragraphe 87(1) dans sa version applicable au moment donné) à laquelle le paragraphe 87(11), s'il est en vigueur à ce moment et dans sa version applicable à ce moment, s'applique, dans le cas où la société émettrice et la société cédante représentent respectivement la société mère et la filiale visées au paragraphe 87(11), s'il est en vigueur à ce moment et dans sa version applicable à ce moment,

(iii) s'est produite avant le 13 novembre 1981 et est une fusion de sociétés visée au paragraphe 87(8), dans sa version applicable à l'unification ou à la combinaison,

(iv) s'est produite après le 12 novembre 1981 et l'un ou l'autre des faits ci-après se vérifie :

(A) il s'agit d'une fusion étrangère, au sens du paragraphe 87(8.1) dans sa version applicable à la fusion ou à la combinaison,

(B) les conditions ci-après sont réunies :

(I) l'unification ou la combinaison n'est pas une fusion étrangère, au sens du paragraphe 87(8.1) dans sa version applicable à l'unification ou à la combinaison,

(II) le paragraphe 87(8.1), dans sa version applicable à l'unification ou à la combinaison, comportait un sous-alinéa c)(ii),

(III) l'unification ou la combinaison serait une fusion étrangère, au sens du paragraphe 87(8.1) dans sa version applicable à l'unification ou à la combinaison, si le sous-alinéa 87(8.1)c)(ii) avait le libellé suivant :

« (ii) soit, dans le cas où, immédiatement après l'unification, la nouvelle société étrangère était contrôlée par une autre société étrangère (appelée « société mère » au présent paragraphe), des actions du capital-actions de la société mère. »;

and

(c) either

(i) the disposing corporation received no consideration for the security, or

(ii) in the case where the merger or combination is described by subparagraph (b)(iv), the disposing corporation received no consideration for the security other than property that was, immediately before the merger or combination, owned by the issuing corporation and that, on the merger or combination, became property of the new corporation.

c) selon le cas :

(i) la société cédante ne reçoit aucune contrepartie pour le titre,

(ii) s'il s'agit d'une unification ou d'une combinaison visée au sous-alinéa b)(iv), la société cédante n'a reçu en contrepartie du titre que des biens qui appartenaient à la société émettrice immédiatement avant l'unification ou la combinaison et qui sont devenus des biens de la nouvelle société au moment de l'unification ou de la combinaison.

Tax payable

(2) In this Act, the tax payable by a taxpayer under any Part of this Act by or under which provision is made for the assessment of tax means the tax payable by the taxpayer as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with the provisions of that Part.

Sens de *impôt payable*

(2) Dans la présente loi, l'impôt payable par un contribuable, conformément à toute partie de la présente loi prévoyant une imposition, désigne l'impôt payable par lui, tel que le fixe une cotisation ou nouvelle cotisation, sous réserve éventuellement de changement consécutif à une opposition ou à un appel, d'après les dispositions de cette partie.

Property subject to certain Quebec institutions and arrangements

(3) For the purposes of this Act, if property is subject to an institution or arrangement that is described by this subsection and that is governed by the laws of the Province of Quebec, the following rules apply in respect of the property:

(a) if at any time property is subject to a usufruct, right of use or habitation, or substitution,

(i) the usufruct, right of use or habitation, or substitution, as the case may be, is deemed to be at that time

(A) a trust, and

(B) where the usufruct, right of use or habitation, or substitution, as the case may be, is created by will, a trust created by will,

(ii) the property is deemed

(A) where the usufruct, right of use or habitation, or substitution, as the case may be, arises on the death of a testator, to have been transferred to the trust on and as a consequence of the death of the testator, and not otherwise, and

(B) where the usufruct, right of use or habitation, or substitution, as the case may be, arises

Biens sujets à certains arrangements et institutions du Québec

(3) Pour l'application de la présente loi, dans le cas où bien est sujet à un arrangement ou une institution visé au présent paragraphe qui est régi par le droit de la province de Québec, les règles ci-après s'appliquent relativement au bien :

a) si le bien est sujet, à un moment donné, à un usufruit, à un droit d'usage ou d'habitation ou à une substitution :

(i) l'usufruit, le droit d'usage ou d'habitation ou la substitution, selon le cas, est réputé, à ce moment :

(A) être une fiducie,

(B) être une fiducie créée par testament, si l'usufruit, le droit d'usage ou d'habitation ou la substitution, selon le cas, a ainsi été créé,

(ii) le bien est réputé :

(A) si l'usufruit, le droit d'usage ou d'habitation ou la substitution, selon le cas, est créé par suite du décès du testateur, avoir été transféré à la fiducie au décès du testateur et par suite de ce décès et non autrement,

(B) si l'usufruit, le droit d'usage ou d'habitation ou la substitution, selon le cas, est créé

otherwise, to have been transferred (at the time it first became subject to the usufruct, right of use or habitation, or substitution, as the case may be) to the trust by the person that granted the usufruct, right of use or habitation, or substitution, and

(iii) the property is deemed to be, throughout the period in which it is subject to the usufruct, right of use or habitation, or substitution, as the case may be, held by the trust, and not otherwise;

(b) an arrangement (other than a partnership, a qualifying arrangement or an arrangement that is a trust determined without reference to this paragraph) is deemed to be a trust and property subject to rights and obligations under the arrangement is, if the arrangement is deemed by this paragraph to be a trust, deemed to be held in trust and not otherwise, where the arrangement

(i) is established before October 31, 2003 by or under a written contract that

(A) is governed by the laws of the Province of Quebec, and

(B) provides that, for the purposes of this Act, the arrangement shall be considered to be a trust, and

(ii) creates rights and obligations that are substantially similar to the rights and obligations under a trust (determined without reference to this subsection);

(c) if the arrangement is a qualifying arrangement,

(i) the arrangement is deemed to be a trust,

(ii) any property contributed at any time to the arrangement by an annuitant, a holder or a subscriber of the arrangement, as the case may be, is deemed to have been transferred, at that time, to the trust by the contributor, and

(iii) property subject to rights and obligations under the arrangement is deemed to be held in trust and not otherwise;

(d) a person who has a right (whether immediate or future and whether absolute or contingent) to receive all or part of the income or capital in respect of property that is referred to in paragraph (a) or (b) is deemed to be beneficially interested in the trust; and

autrement, avoir été transféré, au premier moment où il est devenu sujet à l'usufruit, au droit d'usage ou d'habitation ou à la substitution, selon le cas, à la fiducie par la personne ayant consenti l'usufruit, le droit d'usage ou d'habitation ou la substitution,

(iii) le bien est réputé, tout au long de la période où il est sujet à l'usufruit, au droit d'usage ou d'habitation ou à la substitution, selon le cas, être détenu par la fiducie et non autrement;

b) un arrangement (sauf une société de personnes, un arrangement admissible et un arrangement qui est une fiducie compte non tenu du présent alinéa) est réputé être une fiducie et les biens sujets à des droits et des obligations prévus par l'arrangement sont réputés, si l'arrangement est réputé par le présent alinéa être une fiducie, être détenus en fiducie et non autrement, dans le cas où l'arrangement :

(i) d'une part, est établi avant le 31 octobre 2003 en vertu d'un contrat écrit qui, à la fois :

(A) est régi par le droit de la province de Québec,

(B) prévoit que l'arrangement est considéré comme une fiducie pour l'application de la présente loi,

(ii) d'autre part, crée des droits et des obligations qui sont sensiblement les mêmes que ceux découlant d'une fiducie compte non tenu du présent paragraphe;

c) si l'arrangement est un arrangement admissible :

(i) il est réputé être une fiducie,

(ii) tout bien versé à l'arrangement à un moment donné par un rentier, un titulaire ou un souscripteur de l'arrangement est réputé avoir été transféré à la fiducie à ce moment par le rentier, le titulaire ou le souscripteur, selon le cas,

(iii) tout bien sujet à des droits et des obligations prévus par l'arrangement est réputé être détenu en fiducie et non autrement;

d) toute personne qui a le droit, immédiat ou futur et conditionnel ou non, de recevoir tout ou partie du revenu ou du capital relativement à un bien visé aux alinéas a) ou b) est réputée avoir un droit de bénéficiaire dans la fiducie;

(e) notwithstanding that a property is at any time subject to a servitude, the property is deemed to be beneficially owned by a person at that time if, at that time, the person has in relation to the property

(i) the right of ownership,

(ii) a right as a lessee under an emphyteusis, or

(iii) a right as a beneficiary in a trust.

e) les biens sur lesquels une personne a, à un moment donné, un droit de propriété, un droit d'emphytéote ou un droit de bénéficiaire dans une fiducie sont réputés, même s'ils sont grevés d'une servitude à ce moment, être la propriété effective de la personne à ce moment.

Gift of bare ownership of immovables

(3.1) Subsection (3) does not apply in respect of a usufruct or a right of use of an immovable in circumstances where a taxpayer disposes of the bare ownership of the immovable by way of a gift to a qualified donee and retains, for life, the usufruct or the right of use.

Don de la nue-propriété d'un immeuble

(3.1) Le paragraphe (3) ne s'applique pas à l'usufruit ou au droit d'usage d'un immeuble lorsqu'un contribuable dispose de la nue-propriété de l'immeuble au moyen d'un don à un donataire reconnu et conserve sa vie durant l'usufruit ou le droit d'usage de l'immeuble.

Qualifying arrangement

(3.2) For the purposes of paragraphs 248(3)(b) and (c), an arrangement is a qualifying arrangement if it is

(a) entered into with a corporation that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee;

(b) established by or under a written contract that is governed by the laws of the Province of Quebec;

(c) presented as a declaration of trust or provides that, for the purposes of this Act, it shall be considered to be a trust; and

(d) presented as an arrangement in respect of which the corporation is to take action for the arrangement to become a registered disability savings plan, a registered education savings plan, a registered retirement income fund, a registered retirement savings plan or a TFSA.

Arrangement admissible

(3.2) Pour l'application des alinéas 248(3)b) et c), est un arrangement admissible l'arrangement qui répond aux conditions suivantes :

a) il est conclu avec une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise consistant à offrir au public des services de fiduciaire;

b) il est établi en vertu d'un contrat écrit qui est régi par le droit de la province de Québec;

c) il est présenté à titre de déclaration de fiducie ou prévoit que l'arrangement est considéré comme une fiducie pour l'application de la présente loi;

d) il est présenté à titre d'arrangement à l'égard duquel la société doit faire en sorte qu'il devienne un régime enregistré d'épargne-invalidité, un régime enregistré d'épargne-études, un fonds enregistré de revenu de retraite, un régime enregistré d'épargne-retraite ou un compte d'épargne libre d'impôt.

Interest in real property

(4) In this Act, an interest in real property includes a leasehold interest in real property but does not include an interest as security only derived by virtue of a mortgage, agreement for sale or similar obligation.

Intérêt sur un bien réel

(4) Dans la présente loi, sont compris dans les intérêts sur des biens réels, les tenures à bail mais non les intérêts servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un titre semblable.

Real right in immovables

(4.1) In this Act, a real right in an immovable includes a lease but does not include a security right derived by virtue of a hypothec, agreement for sale or similar obligation.

Droit réel sur un immeuble

(4.1) Dans la présente loi, sont compris dans les droits réels sur des immeubles, les baux mais non les droits servant de garantie seulement et découlant d'une hypothèque, d'une convention de vente ou d'un titre semblable.

Substituted property

(5) For the purposes of this Act, other than paragraph 98(1)(a),

(a) where a person has disposed of or exchanged a particular property and acquired other property in substitution therefor and subsequently, by one or more further transactions, has effected one or more further substitutions, the property acquired by any such transaction shall be deemed to have been substituted for the particular property; and

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

Bien substitué

(5) Pour l'application de la présente loi, à l'exception de l'alinéa 98(1)a):

a) lorsqu'une personne dispose d'un bien donné ou l'échange et acquiert un autre bien en remplacement et que par la suite, par une ou plusieurs autres opérations, elle effectue une ou plusieurs autres substitutions, le bien acquis par cette opération est réputé substitué au bien donné;

b) une action reçue à titre de dividende en actions sur une autre action du capital-actions d'une société est réputée être un bien substitué à cette autre action.

"Class" of shares issued in series

(6) In its application in relation to a corporation that has issued shares of a class of its capital stock in one or more series, a reference in this Act to the "class" shall be read, with such modifications as the circumstances require, as a reference to a "series of the class."

Séries d'une catégorie d'actions

(6) Dans la présente loi, la mention de « catégorie » en rapport avec une société qui émet des actions d'une catégorie de son capital-actions en une ou plusieurs séries vaut, avec les adaptations nécessaires, mention de « série de la catégorie ».

Receipt of things mailed

(7) For the purposes of this Act,

(a) anything (other than a remittance or payment described in paragraph 248(7)(b)) sent by first class mail or its equivalent shall be deemed to have been received by the person to whom it was sent on the day it was mailed; and

(b) the remittance or payment of an amount

(i) deducted or withheld, or

(ii) payable by a corporation,

as required by this Act or a regulation shall be deemed to have been made on the day on which it is received by the Receiver General.

Date de réception

(7) Pour l'application de la présente loi :

a) tout envoi en première classe ou l'équivalent, sauf une somme remise ou payée qui est visée à l'alinéa b), est réputé reçu par le destinataire le jour de sa mise à la poste;

b) la somme déduite ou retenue, ou payable par une société, qui est remise ou payée conformément à la présente loi ou à son règlement est réputée remise ou payée le jour de sa réception par le receveur général.

Occurrences as a consequence of death

(8) For the purpose of this Act,

(a) a transfer, distribution or acquisition of property under or as a consequence of the terms of the will or other testamentary instrument of a taxpayer or the taxpayer's spouse or common-law partner or as a consequence of the law governing the intestacy of a taxpayer or the taxpayer's spouse or common-law partner shall be considered to be a transfer, distribution or acquisition of the property as a consequence of the death

Conséquences d'un décès

(8) Pour l'application de la présente loi :

a) un transfert, une distribution ou une acquisition de biens effectué en vertu du testament ou autre acte testamentaire d'un contribuable ou de son époux ou conjoint de fait, par suite d'un tel testament ou acte ou par l'effet de la loi en cas de succession *ab intestat* du contribuable ou de son époux ou conjoint de fait, est considéré comme un transfert, une distribution ou une acquisition de biens effectué par suite du décès du

of the taxpayer or the taxpayer's spouse or common-law partner, as the case may be;

(b) a transfer, distribution or acquisition of property as a consequence of a disclaimer, release or surrender by a person who was a beneficiary under the will or other testamentary instrument or on the intestacy of a taxpayer or the taxpayer's spouse or common-law partner shall be considered to be a transfer, distribution or acquisition of the property as a consequence of the death of the taxpayer or the taxpayer's spouse or common-law partner, as the case may be; and

(c) a release or surrender by a beneficiary under the will or other testamentary instrument or on the intestacy of a taxpayer with respect to any property that was property of the taxpayer immediately before the taxpayer's death shall be considered not to be a disposition of the property by the beneficiary.

Definitions

(9) In subsection 248(8),

disclaimer includes a renunciation of a succession made under the laws of the Province of Quebec that is not made in favour of any person, but does not include any disclaimer made after the period ending 36 months after the death of the taxpayer unless written application therefor has been made to the Minister by the taxpayer's legal representative within that period and the disclaimer is made within such longer period as the Minister considers reasonable in the circumstances; (*renonciation*)

release or surrender means

(a) a release or surrender made under the laws of a province (other than the Province of Quebec) that does not direct in any manner who is entitled to benefit therefrom, or

(b) a gift *inter vivos* made under the laws of the Province of Quebec of an interest in, or right to property of, a succession that is made to the person or persons who would have benefited if the donor had made a renunciation of the succession that was not made in favour of any person,

and that is made within the period ending 36 months after the death of the taxpayer or, where written application therefor has been made to the Minister by the taxpayer's legal representative within that period, within such longer period as the Minister considers reasonable in the circumstances. (*abandon*)

contribuable ou de son époux ou conjoint de fait, selon le cas;

b) un transfert, une distribution ou une acquisition de biens effectué par suite d'une renonciation ou d'un abandon par une personne qui était bénéficiaire en vertu du testament ou autre acte testamentaire d'un contribuable ou de son époux ou conjoint de fait, ou qui était héritier *ab intestat* de l'un ou l'autre, est considéré comme un transfert, une distribution ou une acquisition de biens effectué par suite du décès du contribuable ou de son époux ou conjoint de fait, selon le cas;

c) l'abandon à l'égard de biens qui appartenaient au contribuable juste avant son décès par une personne qui était bénéficiaire en vertu du testament ou autre acte testamentaire d'un contribuable, ou qui était son héritier ab intestat, n'est pas considéré comme une disposition du bien par cette personne.

Définitions

(9) Les définitions qui suivent s'appliquent au paragraphe (8).

abandon

a) Abandon, au sens de release ou surrender en vertu du droit des autres provinces que le Québec, qui n'indique aucunement qui est en droit d'en profiter;

b) donation entre vifs d'un droit sur la succession ou d'un bien de celle-ci, faite en vertu du droit de la province de Québec à la personne ou aux personnes qui auraient profité de la renonciation si le donateur avait renoncé à la succession sans le faire au profit de quelqu'un;

l'abandon doit être fait dans un délai se terminant 36 mois après le décès du contribuable ou, si le représentant légal de celui-ci en fait la demande écrite au ministre dans ce délai, dans un délai plus long que le ministre considère raisonnable dans les circonstances. (*release or surrender*)

renonciation S'entend notamment d'une renonciation à une succession en vertu de la législation de la province de Québec qui n'est pas faite au profit de quelqu'un. La présente définition ne vise pas la renonciation faite après la période se terminant 36 mois après le décès du contribuable, sauf si le représentant légal de celui-ci présente au ministre, au cours de cette période, une demande écrite en vue de la prorogation de ce délai et fait la renonciation dans le délai plus long que le ministre considère raisonnable dans les circonstances. (*disclaimer*)

How trust created

(9.1) For the purposes of this Act, a trust shall be considered to be created by a taxpayer's will if the trust is created

(a) under the terms of the taxpayer's will; or

(b) by an order of a court in relation to the taxpayer's estate made under any law of a province that provides for the relief or support of dependants.

Vested indefeasibly

(9.2) For the purposes of this Act, property shall be deemed not to have vested indefeasibly

(a) in a trust under which a taxpayer's spouse or common-law partner is a beneficiary, where the trust is created by the will of the taxpayer, unless the property vested indefeasibly in the trust before the death of the spouse or common-law partner; and

(b) in an individual (other than a trust), unless the property vested indefeasibly in the individual before the death of the individual.

Series of transactions

(10) For the purposes of this Act, where there is a reference to a series of transactions or events, the series shall be deemed to include any related transactions or events completed in contemplation of the series.

Compound interest

(11) Interest computed at a prescribed rate under any of subsections 129(2.1) and (2.2), 131(3.1) and (3.2), 132(2.1) and (2.2), 133(7.01) and (7.02), 159(7), 160.1(1), 161(1), (2) and (11), 161.1(5), 164(3) to (4), 181.8(1) and (2) (as those two subsections read in their application to the 1991 and earlier taxation years), 185(2), 187(2) and 189(7), section 190.23 (as it read in its application to the 1991 and earlier taxation years) and subsections 193(3), 195(3), 202(5) and 227(8.3), (9.2) and (9.3) of this Act and subsection 182(2) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952 (as that subsection read in its application to taxation years beginning before 1986) and subsection 191(2) of that Act (as that subsection read in its application to the 1984 and earlier taxation years) shall be compounded daily and, where interest is computed on an amount under any of those provisions and is unpaid or unapplied on the day it would, but for this subsection, have ceased to be computed under that provision, interest at the prescribed rate shall be computed and compounded daily on the unpaid or unapplied interest from that day to the day it is paid or applied and shall be paid or applied as would be the case

Établissement d'une fiducie

(9.1) Pour l'application de la présente loi, une fiducie est réputée établie par le testament d'un contribuable si elle est établie :

a) soit en vertu de ce testament;

b) soit par une ordonnance d'un tribunal rendue relativement à la succession du contribuable en application d'une loi provinciale prévoyant une aide alimentaire aux personnes à charge.

Dévolution irrévocable d'un bien

(9.2) Pour l'application de la présente loi, un bien est réputé n'avoir été dévolu irrévocablement à un particulier, sauf une fiducie, ou à une fiducie établie par le testament d'un contribuable et dont l'époux ou conjoint de fait du contribuable est bénéficiaire que s'il a été ainsi dévolu avant le décès du particulier ou de l'époux ou conjoint de fait, selon le cas.

Série d'opérations

(10) Pour l'application de la présente loi, la mention d'une série d'opérations ou d'événements vaut mention des opérations et événements liés terminés en vue de réaliser la série.

Intérêts composés

(11) Les intérêts calculés au taux prescrit, en application des paragraphes 129(2.1) et (2.2), 131(3.1) et (3.2), 132(2.1) et (2.2), 133(7.01) et (7.02), 159(7), 160.1(1), 161(1), (2) et (11), 161.1(5), 164(3) à (4), 181.8(1) et (2) (dans la version de ces deux paragraphes applicable à l'année d'imposition 1991 et aux années d'imposition antérieures), 185(2), 187(2) et 189(7), de l'article 190.23 (dans sa version applicable à l'année d'imposition 1991 et aux années d'imposition antérieures) et des paragraphes 193(3), 195(3), 202(5) et 227(8.3), (9.2) et (9.3) de la présente loi et du paragraphe 182(2) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952 (dans sa version applicable aux années d'imposition commençant avant 1986) et du paragraphe 191(2) de cette loi (dans sa version applicable à l'année d'imposition 1984 et aux années d'imposition antérieures), sont composés quotidiennement. Dans le cas où des intérêts calculés sur une somme en application d'une de ces dispositions sont impayés ou non imputés le jour où, sans le présent paragraphe, ils cesseraient d'être ainsi calculés, des intérêts au taux prescrit sont calculés et composés quotidiennement sur les intérêts impayés ou non

if interest had continued to be computed under that provision after that day.

imputés pour la période commençant le lendemain de ce jour et se terminant le jour où ces derniers sont payés ou imputés, et sont payés ou imputés comme ils le seraient s'ils continuaient à être ainsi calculés après ce jour.

Identical properties

(12) For the purposes of this Act, one bond, debenture, bill, note or similar obligation issued by a debtor is identical to another such obligation issued by that debtor if both are identical in respect of all rights (in equity or otherwise, either immediately or in the future and either absolutely or contingently) attaching thereto, except as regards the principal amount thereof.

Biens identiques

(12) Pour l'application de la présente loi, une obligation, un effet, un billet ou un titre semblable émis par un débiteur est identique à un autre titre du même genre émis par ce débiteur si les deux sont identiques quant aux droits — en equity ou autrement, immédiats ou futurs, conditionnels ou non — qui y sont rattachés, sauf en ce qui concerne le principal.

Interests in trusts and partnerships

(13) Where after November 12, 1981 a person has an interest in a trust or partnership, whether directly or indirectly through an interest in any other trust or partnership or in any manner whatever, the person shall, for the purposes of the definitions *income bond*, *income debenture* and *term preferred share* in subsection 248(1), paragraph (h) of the definition *taxable preferred share* in that subsection, subsections 84(4.2) and 84(4.3) and 112(2.6) and section 258, be deemed to be a beneficiary of the trust or a member of the partnership, as the case may be.

Participation dans une fiducie ou société de personnes

(13) La personne qui, après le 12 novembre 1981, a une participation dans une fiducie ou dans une société de personnes, directement ou indirectement, par le biais d'une participation dans une autre fiducie ou société de personnes ou autrement, est réputée être un bénéficiaire de la fiducie ou un associé de la société de personnes, selon le cas, pour l'application des définitions d'*action privilégiée à terme* et d'*obligation à intérêt conditionnel*, au paragraphe (1), de l'alinéa h) de la définition d'*action privilégiée imposable*, à ce paragraphe, des paragraphes 84(4.2) et (4.3) et 112(2.6) et de l'article 258.

Related corporations

(14) For the purpose of paragraph (g) of the definition *specified financial institution* in subsection 248(1), where in the case of 2 or more corporations it can reasonably be considered, having regard to all the circumstances, that one of the main reasons for the separate existence of those corporations in a taxation year is to limit or avoid the application of subsection 112(2.1) or 112(2.2) or 138(6), the 2 or more corporations shall be deemed to be related to each other and to each other corporation to which any such corporation is related.

Sociétés liées

(14) Pour l'application de l'alinéa g) de la définition de *institution financière déterminée* au paragraphe (1), plusieurs sociétés sont réputées liées les unes aux autres ainsi qu'à chacune des autres sociétés auxquelles l'une d'elles est liée s'il est raisonnable de considérer, compte tenu des circonstances, que l'un des principaux motifs de leur existence distincte au cours d'une année d'imposition consiste à les soustraire à l'application des paragraphes 112(2.1) ou (2.2) ou 138(6) ou à en restreindre l'application à leur égard.

Goods and services tax — change of use

(15) For the purposes of this Act, where a liability for the goods and services tax is incurred in respect of a change of use at any time of a property, the liability so incurred shall be deemed to have been incurred immediately after that time in respect of the acquisition of the property.

Taxe sur les produits et services : changement d'utilisation

(15) Pour l'application de la présente loi, quiconque est redevable de la taxe sur les produits et services relativement au changement d'utilisation d'un bien est réputé être devenu redevable de cette taxe immédiatement après le changement d'utilisation relativement à l'acquisition du bien.

Goods and services tax — input tax credit and rebate

(16) For the purposes of this Act, other than this subsection and subsection 6(8), an amount claimed by a taxpayer as an input tax credit or rebate with respect to the

Taxe sur les produits et services : crédit de taxe sur les intrants et remboursement

(16) Pour l'application des dispositions de la présente loi, à l'exception du présent paragraphe et du paragraphe 6(8), le montant qu'un contribuable demande à titre de

goods and services tax in respect of a property or service is deemed to be assistance from a government in respect of the property or service that is received by the taxpayer

(a) where the amount was claimed by the taxpayer as an input tax credit in a return under Part IX of the *Excise Tax Act* for a reporting period under that Act,

(i) at the particular time that is the earlier of the time that the goods and services tax in respect of the input tax credit was paid and the time that it became payable,

(A) if the particular time is in the reporting period, or

(B) if,

(I) the taxpayer's threshold amount, determined in accordance with subsection 249(1) of the *Excise Tax Act*, is greater than $500,000 for the taxpayer's fiscal year (within the meaning assigned by that Act) that includes the particular time, and

(II) the taxpayer claimed the input tax credit at least 120 days before the end of the normal reassessment period, as determined under subsection 152(3.1), for the taxpayer in respect of the taxation year that includes the particular time,

(ii) at the end of the reporting period, if

(A) subparagraph (i) does not apply, and

(B) the taxpayer's threshold amount, determined in accordance with subsection 249(1) of the *Excise Tax Act*, is $500,000 or less for the fiscal year (within the meaning assigned by that Act) of the taxpayer that includes the particular time, and

(iii) in any other case, on the last day of the taxpayer's earliest taxation year

(A) that begins after the taxation year that includes the particular time, and

(B) for which the normal reassessment period, as determined under subsection 152(3.1), for the taxpayer ends at least 120 days after the time that the input tax credit was claimed; or

(b) where the amount was claimed as a rebate with respect to the goods and services tax, at the time the amount was received or credited.

crédit de taxe sur les intrants ou de remboursement relativement à la taxe sur les produits et services applicable à un bien ou à un service est réputé constituer un montant d'aide qu'il reçoit d'un gouvernement pour le bien ou le service :

a) s'il a demandé le montant à titre de crédit de taxe sur les intrants dans une déclaration produite en application de la partie IX de la *Loi sur la taxe d'accise* pour une période de déclaration prévue par cette loi :

(i) au moment donné qui est soit le moment où la taxe sur les produits et services relative au crédit de taxe sur les intrants a été payée, soit le moment où cette taxe est devenue à payer, le premier en date étant à retenir, si, selon le cas :

(A) le moment donné fait partie de la période de déclaration,

(B) les conditions ci-après sont réunies :

(I) le montant déterminant applicable au contribuable, calculé conformément au paragraphe 249(1) de la *Loi sur la taxe d'accise*, s'établit à plus de 500 000 $ pour son exercice, au sens de cette loi, qui comprend le moment donné,

(II) le contribuable a demandé le crédit de taxe sur les intrants au moins 120 jours avant la fin de sa période normale de nouvelle cotisation, déterminée selon le paragraphe 152(3.1), pour l'année d'imposition qui comprend le moment donné,

(ii) à la fin de la période de déclaration, si, à la fois :

(A) le sous-alinéa (i) ne s'applique pas,

(B) le montant déterminant applicable au contribuable, calculé conformément au paragraphe 249(1) de la *Loi sur la taxe d'accise*, s'établit à 500 000 $ ou moins pour son exercice, au sens de cette loi, qui comprend le moment donné,

(iii) dans les autres cas, le dernier jour de la plus ancienne année d'imposition du contribuable :

(A) d'une part, qui commence après l'année d'imposition qui comprend le moment donné,

(B) d'autre part, pour laquelle la période normale de nouvelle cotisation du contribuable, déterminée selon le paragraphe 152(3.1), se termine au moins 120 jours après le moment où le crédit de taxe sur les intrants a été demandé;

b) si le montant est demandé à titre de remboursement relativement à la taxe sur les produits et services, au moment où il a été reçu ou crédité.

Quebec input tax refund and rebate

(16.1) For the purpose of this Act, other than this subsection and subsection 6(8), an amount claimed by a taxpayer as an input tax refund or a rebate with respect to the Quebec sales tax in respect of a property or service is deemed to be assistance from a government in respect of the property or service that is received by the taxpayer

(a) where the amount was claimed by the taxpayer as an input tax refund in a return under *An Act respecting the Québec sales tax*, R.S.Q., c. T-0.1, for a reporting period under that Act,

(i) at the particular time that is the earlier of the time that the Quebec sales tax in respect of the input tax refund was paid and the time that it became payable,

(A) if the particular time is in the reporting period, or

(B) if,

(I) the taxpayer's threshold amount, determined in accordance with section 462 of that Act is greater than $500,000 for the taxpayer's fiscal year (within the meaning assigned by that Act) that includes the particular time, and

(II) the taxpayer claimed the input tax refund at least 120 days before the end of the normal reassessment period, as determined under subsection 152(3.1), for the taxpayer in respect of the taxation year that includes the particular time,

(ii) at the end of the reporting period, if

(A) subparagraph (i) does not apply, and

(B) the taxpayer's threshold amount, determined in accordance with section 462 of that Act is $500,000 or less for the fiscal year (within the meaning assigned by that Act) of the taxpayer that includes the particular time, and

Remboursement de la taxe sur les intrants du Québec et autre remboursement

(16.1) Pour l'application des dispositions de la présente loi, à l'exception du présent paragraphe et du paragraphe 6(8), le montant qu'un contribuable demande à titre de remboursement de la taxe sur les intrants ou de remboursement relativement à la taxe de vente du Québec applicable à un bien ou à un service est réputé constituer un montant d'aide qu'il reçoit d'un gouvernement pour le bien ou le service :

a) s'il a demandé le montant à titre de remboursement de la taxe sur les intrants dans une déclaration produite en application de la *Loi sur la taxe de vente du Québec*, L.R.Q., ch. T-0.1, pour une période de déclaration prévue par cette loi :

(i) au moment donné qui est soit le moment où la taxe de vente du Québec relative au remboursement de la taxe sur les intrants a été payée, soit le moment où cette taxe est devenue à payer, le premier en date étant à retenir, si, selon le cas :

(A) le moment donné fait partie de la période de déclaration,

(B) les conditions ci-après sont réunies :

(I) le montant déterminant du contribuable, calculé conformément à l'article 462 de cette loi, s'établit à plus de 500 000 $ pour son exercice, au sens de cette loi, qui comprend le moment donné,

(II) le contribuable a demandé le remboursement de la taxe sur les intrants au moins 120 jours avant la fin de sa période normale de nouvelle cotisation, déterminée selon le paragraphe 152(3.1), pour l'année d'imposition qui comprend le moment donné,

(ii) à la fin de la période de déclaration, si, à la fois :

(A) le sous-alinéa (i) ne s'applique pas,

(B) le montant déterminant du contribuable, calculé conformément à l'article 462 de cette loi,

(iii) in any other case, on the last day of the taxpayer's earliest taxation year

(A) that begins after the taxation year that includes the particular time, and

(B) for which the normal reassessment period, as determined under subsection 152(3.1), for the taxpayer ends at least 120 days after the time that the input tax refund was claimed; or

(b) where the amount was claimed as a rebate with respect to the Quebec sales tax, at the time the amount was received or credited.

s'établit à 500 000 $ ou moins pour son exercice, au sens de cette loi, qui comprend le moment donné,

(iii) dans les autres cas, le dernier jour de la plus ancienne année d'imposition du contribuable :

(A) d'une part, qui commence après l'année d'imposition qui comprend le moment donné,

(B) d'autre part, pour laquelle la période normale de nouvelle cotisation du contribuable, déterminée selon le paragraphe 152(3.1), se termine au moins 120 jours après le moment où le remboursement de la taxe sur les intrants a été demandé;

b) si le montant est demandé à titre de remboursement relativement à la taxe de vente du Québec, au moment où il a été reçu ou crédité.

Application of subsection (16) to passenger vehicles and aircraft

(17) If the input tax credit of a taxpayer under Part IX of the *Excise Tax Act* in respect of a passenger vehicle or aircraft is determined with reference to subsection 202(4) of that Act, subparagraphs (16)(a)(i) to (iii) are to be read as they apply in respect of the passenger vehicle or aircraft, as the case may be, as follows:

"(i) at the beginning of the first taxation year or fiscal period of the taxpayer commencing after the end of the taxation year or fiscal period, as the case may be, in which the goods and services tax in respect of such property was considered for the purposes of determining the input tax credit to be payable, if the tax was considered for the purposes of determining the input tax credit to have become payable in the reporting period, or

(ii) if no such tax was considered for the purposes of determining the input tax credit to have become payable in the reporting period, at the end of the reporting period; or"

Application du paragraphe (16) aux voitures de tourisme et aéronefs

(17) Si le crédit de taxe sur les intrants d'un contribuable en vertu de la partie IX de la *Loi sur la taxe d'accise* visant une voiture de tourisme ou un aéronef est calculé compte tenu du paragraphe 202(4) de cette loi, les sous-alinéas (16)a)(i) à (iii) sont réputés, pour ce qui est de leur application à la voiture ou à l'aéronef, avoir le libellé suivant :

« (i) au début de la première année d'imposition ou du premier exercice du contribuable commençant après la fin de l'année d'imposition ou de l'exercice où la taxe sur les produits et services relative à ce bien est considérée comme payable pour le calcul du crédit de taxe sur les intrants, si cette taxe est considérée, pour ce calcul, comme étant devenue payable au cours de la période de déclaration,

(ii) à la fin de la période de déclaration si cette taxe n'est pas considérée, pour le calcul du crédit de taxe sur les intrants, comme étant devenue payable au cours de cette période. »

Application of subsection (16.1) to passenger vehicles and aircraft

(17.1) If the input tax refund of a taxpayer under *An Act respecting the Québec sales tax*, R.S.Q., c. T-0.1, in respect of a passenger vehicle or aircraft is determined with reference to section 252 of that Act, subparagraphs (16.1)(a)(i) to (iii) are to be read as they apply in respect of the passenger vehicle or aircraft, as the case may be, as follows:

Application du paragraphe (16.1) aux voitures de tourisme et aéronefs

(17.1) Si le remboursement de la taxe sur les intrants d'un contribuable en vertu de la *Loi sur la taxe de vente du Québec*, L.R.Q., ch. T-0.1, visant une voiture de tourisme ou un aéronef est calculé compte tenu de l'article 252 de cette loi, les sous-alinéas (16.1)a)(i) à (iii) sont réputés, pour ce qui est de leur application à la voiture ou à l'aéronef, avoir le libellé suivant :

"(i) at the beginning of the first taxation year or fiscal period of the taxpayer that begins after the end of the taxation year or fiscal period, as the case may be, in which the Quebec sales tax in respect of such property was considered for the purposes of determining the input tax refund to be payable, if the tax was considered for the purposes of determining the input tax refund to have become payable in the reporting period, or

(ii) if no such tax was considered for the purposes of determining the input tax refund to have become payable in the reporting period, at the end of the reporting period; or".

« (i) au début de la première année d'imposition ou du premier exercice du contribuable commençant après la fin de l'année d'imposition ou de l'exercice, selon le cas, où la taxe de vente du Québec relative à ce bien est considérée comme étant à payer pour le calcul du remboursement de la taxe sur les intrants, si cette taxe est considérée, pour ce calcul, comme étant devenue à payer au cours de la période de déclaration,

(ii) à la fin de la période de déclaration si cette taxe n'est pas considérée, pour le calcul du remboursement de la taxe sur les intrants, comme étant devenue à payer au cours de cette période; ».

Input tax credit on assessment

(17.2) An amount in respect of an input tax credit that is deemed by subsection 296(5) of the *Excise Tax Act* to have been claimed in a return or application filed under Part IX of that Act is deemed to have been so claimed for the reporting period under that Act that includes the time when the Minister makes the assessment referred to in that subsection.

Crédit de taxe sur les intrants au moment de la cotisation

(17.2) Le montant au titre d'un crédit de taxe sur les intrants qui est réputé par le paragraphe 296(5) de la *Loi sur la taxe d'accise* avoir été demandé dans une déclaration ou une demande produite aux termes de la partie IX de cette loi est réputé avoir été ainsi demandé pour la période de déclaration, prévue par cette loi, qui comprend le moment où le ministre établit la cotisation visée à ce paragraphe.

Quebec input tax refund on assessment

(17.3) An amount in respect of an input tax refund that is deemed by section 30.5 of the *Tax Administration Act*, R.S.Q., c. A-6.002, to have been claimed is deemed to have been so claimed for the reporting period under *An Act respecting the Québec sales tax*, R.S.Q., c. T-0.1, that includes the day on which an assessment is issued to the taxpayer indicating that the refund has been allocated under that section 30.5.

Remboursement de la taxe sur les intrants du Québec au moment de la cotisation

(17.3) Le montant au titre d'un remboursement de la taxe sur les intrants qui est réputé par l'article 30.5 de la *Loi sur l'administration fiscale*, L.R.Q., ch. A-6.002, avoir été demandé est réputé avoir été ainsi demandé pour la période de déclaration, prévue par la *Loi sur la taxe de vente du Québec*, L.R.Q., ch. T-0.1, qui comprend le jour où est établie à l'égard du contribuable une cotisation indiquant que le remboursement a été affecté aux termes de cet article.

Goods and services tax — repayment of input tax credit

(18) For the purposes of this Act, where an amount is added at a particular time in determining the net tax of a taxpayer under Part IX of the *Excise Tax Act* in respect of an input tax credit relating to property or a service that had been previously deducted in determining the net tax of the taxpayer, that amount shall be deemed to be assistance repaid at the particular time in respect of the property or service pursuant to a legal obligation to repay all or part of that assistance.

Taxe sur les produits et services : remboursement du crédit de taxe sur les intrants

(18) Pour l'application de la présente loi, le montant qui est ajouté, à un moment donné, dans le calcul de la taxe nette d'un contribuable en vertu de la partie IX de la *Loi sur la taxe d'accise* relativement à un crédit de taxe sur les intrants lié à un bien ou à un service qui a déjà été déduit dans ce calcul est réputé être un montant d'aide remboursé à ce moment relativement au bien ou au service conformément à une obligation légale de rembourser tout ou partie de ce montant d'aide.

Repayment of Quebec input tax refund

(18.1) For the purposes of this Act, if an amount is added at a particular time in determining the net tax of a taxpayer under *An Act respecting the Québec sales tax*,

Restitution du remboursement de la taxe sur les intrants du Québec

(18.1) Pour l'application de la présente loi, la somme qui est ajoutée, à un moment donné, dans le calcul de la taxe nette d'un contribuable en vertu de la *Loi sur la taxe de*

R.S.Q., c. T-0.1, in respect of an input tax refund relating to property or service that had been previously deducted in determining the net tax of the taxpayer, that amount is deemed to be assistance repaid at the particular time in respect of the property or service under a legal obligation to repay all or part of that assistance.

When property available for use

(19) Except as otherwise provided, property shall be considered to have become available for use for the purposes of this Act at the time at which it has, or would have if it were depreciable property, become available for use for the purpose of subsection 13(26).

Partition of property

(20) Subject to subsections (21) to (23), for the purposes of this Act, if at any time a property owned by two or more persons is the subject of a partition, the following rules apply, notwithstanding any retroactive or declaratory effect of the partition:

(a) each such person who had, immediately before that time, an interest in, or for civil law a right in, the property (which interest or right in the property is referred to in this subsection and subsection (21) as an "interest" or a "right", as the case may be) is deemed not to have disposed at that time of that proportion, not exceeding 100%, of the interest or right that the fair market value of that person's interest or right in the property immediately after that time is of the fair market value of that person's interest or right in the property immediately before that time,

(b) each such person who has an interest or a right in the property immediately after that time is deemed not to have acquired at that time that proportion of the interest or right that the fair market value of that person's interest or right in the property immediately before that time is of the fair market value of that person's interest or right in the property immediately after that time,

(c) each such person who had an interest or a right in the property immediately before that time is deemed to have had until that time, and to have disposed at that time of, that proportion of the person's interest or right to which paragraph (a) does not apply,

(d) each such person who has an interest or a right in the property immediately after that time is deemed not to have had before that time, and to have acquired at that time, that proportion of the person's interest or right to which paragraph (b) does not apply, and

vente du Québec, L.R.Q., ch. T-0.1, au titre d'un remboursement de la taxe sur les intrants relatif à un bien ou à un service qui avait déjà été déduit dans le calcul de la taxe nette du contribuable est réputée être un montant d'aide qui a été restitué à ce moment relativement au bien ou au service en exécution d'une obligation légale de restituer tout ou partie de ce montant.

Biens prêts à être mis en service

(19) Sauf disposition contraire, un bien est considéré comme devenu prêt à être mis en service pour l'application de la présente loi au moment où il est devenu prêt à l'être pour l'application du paragraphe 13(26), ou le serait s'il s'agissait d'un bien amortissable.

Partage de biens

(20) Sous réserve des paragraphes (21) à (23) et pour l'application de la présente loi, dans le cas où un bien qui est la propriété de plusieurs personnes fait l'objet d'un partage à un moment donné, les règles ci-après s'appliquent malgré les effets rétroactifs ou déclaratoires d'un tel partage :

a) chacune de ces personnes qui avait un intérêt ou, pour l'application du droit civil, un droit sur le bien (appelé « intérêt » ou « droit », selon le cas, au présent paragraphe et au paragraphe (21)) immédiatement avant ce moment est réputée ne pas avoir disposé, à ce moment, de la fraction de l'intérêt ou du droit, ne dépassant pas un, représentée par le rapport entre la juste valeur marchande de l'intérêt ou du droit immédiatement après ce moment et sa juste valeur marchande immédiatement avant;

b) chacune de ces personnes qui a un intérêt ou un droit sur le bien immédiatement après ce moment est réputée ne pas avoir acquis, à ce moment, la fraction de l'intérêt ou du droit représentée par le rapport entre la juste valeur marchande de l'intérêt ou du droit immédiatement avant ce moment et sa juste valeur marchande immédiatement après;

c) chacune de ces personnes qui avait un intérêt ou un droit sur le bien immédiatement avant ce moment est réputée avoir eu, jusqu'à ce moment, la fraction de l'intérêt ou du droit à laquelle l'alinéa a) ne s'applique pas et en avoir disposé à ce moment;

d) chacune de ces personnes qui a un intérêt ou un droit sur le bien immédiatement après ce moment est réputée ne pas avoir eu, avant ce moment, la fraction de l'intérêt ou du droit à laquelle l'alinéa b) ne s'applique pas et l'avoir acquis à ce moment;

e) les alinéas a) à d) ne s'appliquent pas s'il s'agit d'un intérêt ou d'un droit sur un bien tangible fongible ou,

(e) paragraphs (a) to (d) do not apply if the interest or right of the person is an interest or a right in fungible tangible property, or for civil law fungible corporeal property described in that person's inventory,

and, for the purposes of this subsection, if an interest or a right in the property is an undivided interest or right, the fair market value of the interest or right at any time is deemed to be equal to that proportion of the fair market value of the property at that time that the interest or right is of all the undivided interests or rights in the property.

Subdivision of property

(21) If a property that was owned by two or more persons is the subject of a partition among those persons and, as a consequence of it, each such person has, in the property, a new interest or right the fair market value of which immediately after the partition, expressed as a percentage of the fair market value of all the new interests or rights in the property immediately after the partition, is equal to the fair market value of that person's undivided interest or right immediately before the partition, expressed as a percentage of the fair market value of all the undivided interests or rights in the property immediately before the partition,

(a) subsection (20) does not apply to the property, and

(b) the new interest or right of each such person is deemed to be a continuation of that person's undivided interest or right in the property immediately before the partition,

and, for the purposes of this subsection,

(c) subdivisions of a building or of a parcel of land that are established in the course of, or in contemplation of, a partition and that are co-owned by the same persons who co-owned the building or the parcel of land, or by their assignee, shall be regarded as one property, and

(d) if an interest or a right in the property is or includes an undivided interest or right, the fair market value of the interest or right shall be determined without regard to any discount or premium that applies to a minority or majority interest or right in the property.

Matrimonial regimes

(22) Where at any time property could, as a consequence of the dissolution of a matrimonial regime between 2

pour l'application du droit civil, d'un bien corporel fongible figurant à l'inventaire de la personne.

Pour l'application du présent paragraphe, la juste valeur marchande, à un moment donné, d'un intérêt ou d'un droit sur le bien qui est un intérêt ou un droit indivis est réputée être égale au résultat de la multiplication de la juste valeur marchande du bien à ce moment par le rapport entre cet intérêt ou ce droit et tous les intérêts ou droits indivis sur le bien.

Lotissement de biens

(21) Lorsqu'un bien qui est la propriété de plusieurs personnes fait l'objet d'un partage entre ces personnes et que chacune de ces personnes a sur le bien, par suite du partage, un nouvel intérêt ou un nouveau droit dont la juste valeur marchande immédiatement après le partage, exprimée en pourcentage de la juste valeur marchande de tous les nouveaux intérêts ou droits sur le bien immédiatement après le partage, est égale à la juste valeur marchande de l'intérêt ou du droit indivis de cette personne immédiatement avant le partage, exprimée en pourcentage de la juste valeur marchande de tous les intérêts ou droits indivis sur le bien immédiatement avant le partage, les règles ci-après s'appliquent :

a) le paragraphe (20) ne s'applique pas au bien;

b) le nouvel intérêt ou le nouveau droit de chacune de ces personnes est réputé être la continuation de l'intérêt ou du droit indivis de cette personne sur le bien immédiatement avant le partage.

En outre, les règles ci-après s'appliquent au présent paragraphe :

c) les subdivisions d'un bâtiment ou les lotissements d'une parcelle de fonds de terre effectués dans le cadre d'un partage ou en vue d'un partage et qui sont la copropriété des mêmes personnes qui étaient copropriétaires du bâtiment ou de la parcelle de fonds de terre, ou de leurs cessionnaires, sont considérés comme un seul bien;

d) dans le cas où un intérêt ou un droit sur le bien est un intérêt ou un droit indivis, ou inclut un tel intérêt ou droit, la juste valeur marchande de l'intérêt ou du droit est calculée compte non tenu des primes ou escomptes qui peuvent s'appliquer à un intérêt ou droit minoritaire ou majoritaire sur le bien.

Régimes matrimoniaux

(22) Dans le cas où un bien pourrait faire l'objet d'un partage à un moment donné en conséquence de la dissolution du régime matrimonial entre deux époux ou

spouses or common-law partners, be the subject of a partition, for the purposes of this Act

(a) where that property was owned by one of the spouses or common-law partners immediately before it became subject to that regime and had not subsequently been disposed of before that time, it shall be deemed to be owned at that time by that spouse or common-law partner and not by the other spouse or common-law partner; and

(b) in any other case, the property shall be deemed to be owned by the spouse or common-law partner who has the administration of that property at that time and not by the other spouse or common-law partner.

conjoints de fait, les règles suivantes s'appliquent dans le cadre de la présente loi :

a) dans le cas où le bien était la propriété de l'un des époux ou conjoints de fait immédiatement avant qu'il soit sujet à ce régime et n'a pas par la suite fait l'objet d'une disposition avant le moment donné, il est réputé être la propriété de cet époux ou conjoint de fait à ce moment et non de l'autre époux ou conjoint de fait;

b) dans les autres cas, le bien est réputé être la propriété de l'époux ou conjoint de fait qui en assure la gestion au moment donné et non de l'autre époux ou conjoint de fait.

Dissolution of a matrimonial regime

(23) Where, immediately after the dissolution of a matrimonial regime (other than a dissolution occurring as a consequence of death), the owner of a property that was subject to that regime is not the person, or the estate of the person, who is deemed by subsection 248(22) to have been the owner of the property immediately before the dissolution, the person shall be deemed for the purposes of this Act to have transferred the property to the person's spouse or common-law partner immediately before the dissolution.

Dissolution d'un régime matrimonial

(23) Dans le cas où, immédiatement après la dissolution d'un régime matrimonial (autre qu'une dissolution qui découle d'un décès), le propriétaire d'un bien sujet à ce régime n'est pas la personne, ni sa succession, qui, en conformité avec le paragraphe (22), est réputée être le propriétaire du bien immédiatement avant la dissolution, cette personne est réputée, pour l'application de la présente loi, avoir transféré le bien à son époux ou conjoint de fait immédiatement avant la dissolution.

Transfers after death

(23.1) If, as a consequence of the laws of a province relating to spouses' or common-law partners' interests or rights in respect of property as a result of marriage or common-law partnership, property is, after the death of a taxpayer,

(a) transferred or distributed to a person who was the taxpayer's spouse or common-law partner at the time of the death, or acquired by that person, the property shall be deemed to have been so transferred, distributed or acquired, as the case may be, as a consequence of the death; or

(b) transferred or distributed to the taxpayer's estate, or acquired by the taxpayer's estate, the property shall be deemed to have been so transferred, distributed or acquired, as the case may be, immediately before the time that is immediately before the death.

Transfert après le décès

(23.1) Dans le cas où, en application des lois d'une province concernant l'intérêt ou le droit des époux ou conjoints de fait sur des biens, découlant du mariage ou de l'union de fait, un bien est, après le décès d'un contribuable :

a) soit transféré ou distribué à la personne qui était l'époux ou le conjoint de fait du contribuable au moment du décès de celui-ci, ou acquis par cette personne, le bien est réputé avoir été ainsi transféré, distribué ou acquis, selon le cas, par suite de ce décès;

b) soit transféré ou distribué à la succession du contribuable, ou acquis par celle-ci, le bien est réputé avoir été ainsi transféré, distribué ou acquis, selon le cas, immédiatement avant le moment immédiatement avant le décès.

Accounting methods

(24) For greater certainty, it is hereby declared that, unless specifically required, neither the equity nor the consolidation method of accounting shall be used to determine any amount for the purposes of this Act.

Méthodes comptables

(24) Il est entendu que, sauf si expressément requis, la méthode de comptabilisation à la valeur de consolidation et la consolidation ne peuvent être utilisées pour calculer un montant en application de la présente loi.

Beneficially interested

(25) For the purposes of this Act,

(a) a person or partnership beneficially interested in a particular trust includes any person or partnership that has any right (whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of any discretion by any person or partnership) as a beneficiary under a trust to receive any of the income or capital of the particular trust either directly from the particular trust or indirectly through one or more trusts or partnerships;

(b) except for the purpose of this paragraph, a particular person or partnership is deemed to be beneficially interested in a particular trust at a particular time where

(i) the particular person or partnership is not beneficially interested in the particular trust at the particular time,

(ii) because of the terms or conditions of the particular trust or any arrangement in respect of the particular trust at the particular time, the particular person or partnership might, because of the exercise of any discretion by any person or partnership, become beneficially interested in the particular trust at the particular time or at a later time, and

(iii) at or before the particular time, either

(A) the particular trust has acquired property, directly or indirectly in any manner whatever, from

(I) the particular person or partnership,

(II) another person with whom the particular person or partnership, or a member of the particular partnership, does not deal at arm's length,

(III) a person or partnership with whom the other person referred to in subclause 248(25)(b)(iii)(A)(II) does not deal at arm's length,

(IV) a controlled foreign affiliate of the particular person or of another person with whom the particular person or partnership, or a member of the particular partnership, does not deal at arm's length, or

(V) a non-resident corporation that would, if the particular partnership were a corporation

Droit de bénéficiaire

(25) Les règles suivantes s'appliquent dans le cadre de la présente loi :

a) comptent parmi les personnes ou sociétés de personnes ayant un droit de bénéficiaire dans une fiducie donnée celles qui ont le droit — immédiat ou futur, conditionnel ou non, ou soumis ou non à l'exercice d'un pouvoir discrétionnaire par une personne ou une société de personnes — à titre de bénéficiaire d'une fiducie de recevoir tout ou partie du revenu ou du capital de la fiducie donnée, soit directement de celle-ci, soit indirectement par l'entremise d'une ou de plusieurs fiducies ou sociétés de personnes;

b) sauf pour l'application du présent alinéa, une personne ou société de personnes donnée est réputée avoir un droit de bénéficiaire dans une fiducie à un moment donné dans le cas où, à la fois :

(i) la personne ou société de personnes donnée n'a pas de droit de bénéficiaire dans la fiducie à ce moment,

(ii) en raison des modalités de la fiducie ou de tout arrangement la concernant à ce moment, la personne ou société de personnes donnée pourrait acquérir un droit de bénéficiaire dans la fiducie à ce moment ou ultérieurement en raison de l'exercice d'un pouvoir discrétionnaire par une personne ou une société de personnes,

(iii) à ce moment ou antérieurement, selon le cas :

(A) la fiducie a acquis un bien, directement ou indirectement, de quelque manière que ce soit, de l'une des entités suivantes :

(I) la personne ou société de personnes donnée,

(II) une autre personne ayant un lien de dépendance avec la personne ou société de personnes donnée ou avec un associé de cette dernière,

(III) une personne ou une société de personnes ayant un lien de dépendance avec l'autre personne visée à la subdivision (II),

(IV) une société étrangère affiliée contrôlée de la personne donnée ou d'une autre personne ayant un lien de dépendance avec la personne ou société de personnes donnée ou avec un associé de cette dernière,

resident in Canada, be a controlled foreign affiliate of the particular partnership, or

(B) a person or partnership described in any of subclauses 248(25)(b)(iii)(A)(I) to 248(25)(b)(iii)(A)(V) has given a guarantee on behalf of the particular trust or provided any other financial assistance whatever to the particular trust; and

(c) a member of a partnership that is beneficially interested in a trust is deemed to be beneficially interested in the trust.

(V) une société non-résidente qui serait une société étrangère affiliée contrôlée de la société de personnes donnée si cette dernière était une société résidant au Canada,

(B) une personne ou une société de personnes visée à l'une des subdivisions (A)(I) à (V) a donné une garantie au nom de la fiducie ou a fourni à celle-ci quelque autre soutien financier;

c) l'associé d'une société de personnes qui a un droit de bénéficiaire dans une fiducie est réputé avoir un tel droit dans la fiducie.

Trust-to-trust transfers

(25.1) If, at any time, a particular trust transfers property to another trust (other than a trust governed by a registered retirement savings plan or by a registered retirement income fund) in circumstances to which paragraph (f) of the definition *disposition* in subsection (1) applies, without affecting the personal liabilities under this Act of the trustees of either trust or the application of subsection 104(5.8),

(a) the other trust is deemed to be after that time the same trust as, and a continuation of, the particular trust; and

(b) for greater certainty, if, as a result of a transaction or event, the property was deemed to be taxable Canadian property of the particular trust by any of paragraphs 51(1)(f), 85(1)(i) and 85.1(1)(a), subsection 85.1(5), paragraph 85.1(8)(b), subsections 87(4) and (5) and paragraphs 97(2)(c) and 107(3.1)(d), the property is also deemed to be, at any time that is within 60 months after the transaction or event, taxable Canadian property of the other trust.

Transferts entre fiducies

(25.1) Lorsqu'une fiducie donnée transfère un bien à une autre fiducie (sauf celle régie par un régime enregistré d'épargne-retraite ou par un fonds enregistré de revenu de retraite) dans les circonstances visées à l'alinéa f) de la définition de *disposition* au paragraphe (1), sans qu'en soient atteintes les obligations personnelles des fiduciaires des fiducies aux termes de la présente loi ou l'application du paragraphe 104(5.8), les règles ci-après s'appliquent :

a) l'autre fiducie est réputée, après le transfert, être la même fiducie que la fiducie donnée et en être la continuation;

b) il est entendu que si, par suite d'une opération ou d'un événement, le bien était réputé être un bien canadien imposable de la fiducie donnée en vertu des alinéas 51(1)d), 85(1)i) ou 85.1(1)a), du paragraphe 85.1(5), de l'alinéa 85.1(8)b), des paragraphes 87(4) ou (5) ou des alinéas 97(2)c) ou 107(3.1)d), le bien est également réputé être un bien canadien imposable de l'autre fiducie à tout moment de la période de 60 mois suivant l'opération ou l'événement.

Trusts to ensure obligations fulfilled

(25.2) Except for the purpose of this subsection, where at any time property is transferred to a trust in circumstances to which paragraph (k) of the definition *disposition* in subsection (1) applies, the trust is deemed to deal with the property as agent for the transferor throughout the period that begins at the time of the transfer and ends at the time of the first change after that time in the beneficial ownership of the property.

Exécution des obligations

(25.2) Sauf pour l'application du présent paragraphe, lorsqu'un bien est transféré à une fiducie dans les circonstances visées à l'alinéa k) de la définition de *disposition* au paragraphe (1), la fiducie est réputée être, par rapport au bien, le mandataire du cédant tout au long de la période commençant au moment du transfert et se terminant au moment, postérieur au transfert, où la propriété effective du bien change pour la première fois.

Cost of trust interest

(25.3) The cost to a taxpayer of a particular unit of a trust is deemed to be equal to the amount described in paragraph (a) where

Coût d'une participation dans une fiducie

(25.3) Le coût, pour un contribuable, d'une unité d'une fiducie est réputé être égal à la somme visée à l'alinéa a) si les conditions suivantes sont réunies :

(a) the trust issues the particular unit to the taxpayer directly in satisfaction of a right to enforce payment of an amount by the trust in respect of the taxpayer's capital interest in the trust;

(b) at the time that the particular unit is issued, the trust is neither a personal trust nor a trust prescribed for the purpose of subsection 107(2); and

(c) either

(i) the particular unit is capital property and the amount is not proceeds of disposition of a capital interest in the trust, or

(ii) the particular unit is not capital property and subparagraph 53(2)(h)(i.1) does not apply in respect of the amount described in paragraph (a) but would so apply if that subparagraph were read without reference to clauses 53(2)(h)(i.1)(A) and (B).

a) la fiducie émet l'unité directement au contribuable en règlement du droit d'exiger d'elle le versement d'une somme payable au titre de la participation du contribuable à son capital;

b) au moment de l'émission de l'unité, la fiducie n'est ni une fiducie personnelle ni une fiducie visée par règlement pour l'application du paragraphe 107(2);

c) selon le cas :

(i) l'unité est une immobilisation et la somme ne représente pas le produit de disposition d'une participation au capital de la fiducie,

(ii) l'unité n'est pas une immobilisation et le sous-alinéa 53(2)h)(i.1) ne s'applique pas à la somme visée à l'alinéa a), mais s'y appliquerait s'il n'était pas tenu compte des divisions 53(2)h)(i.1)(A) et (B).

Where acquisition by another of right to enforce

(25.4) If at a particular time a taxpayer's capital interest in a trust includes a right to enforce payment of an amount by the trust, the amount shall be added at the particular time to the cost otherwise determined to the taxpayer of the capital interest where

(a) immediately after the particular time there is a disposition by the taxpayer of the capital interest;

(b) as a consequence of the disposition, the right to enforce payment of the amount is acquired by another person or partnership; and

(c) if the right to enforce payment of the amount had been satisfied by a payment to the taxpayer by the trust, there would have been no disposition of that right for the purposes of this Act because of the application of paragraph (i) of the definition *disposition* in subsection (1).

Acquisition par un tiers du droit d'exiger le versement d'une somme

(25.4) Dans le cas où la participation d'un contribuable au capital d'une fiducie comprend, à un moment donné, le droit d'exiger de celle-ci le versement d'une somme, la somme doit être ajoutée, à ce moment, au coût de la participation pour le contribuable, déterminé par ailleurs, si les conditions suivantes sont réunies :

a) immédiatement après le moment donné, le contribuable dispose de la participation;

b) par suite de la disposition, le droit en question est acquis par une autre personne ou société de personnes;

c) s'il avait été réglé au moyen du versement, par la fiducie, d'une somme au contribuable, le droit en question n'aurait pas fait l'objet d'une disposition pour l'application de la présente loi en raison de l'application de l'alinéa i) de la définition de *disposition* au paragraphe (1).

Debt obligations

(26) For greater certainty, where at any time a person or partnership (in this subsection referred to as the "debtor") becomes liable to repay money borrowed by the debtor or becomes liable to pay an amount (other than interest)

(a) as consideration for any property acquired by the debtor or services rendered to the debtor, or

Créances

(26) Il est entendu que, dans le cas où une personne ou une société de personnes (appelées « débiteur » au présent paragraphe) devient obligée, à un moment donné, de rembourser de l'argent qu'elle a emprunté ou de payer un montant (sauf des intérêts) soit en contrepartie d'un bien qu'elle a acquis ou de services qui lui ont été rendus, soit qui est déductible dans le calcul de son revenu, l'obligation est considérée, pour l'application des dispositions de la présente loi concernant le traitement du débiteur par rapport à l'obligation, comme une dette émise par le

(b) that is deductible in computing the debtor's income,

for the purposes of applying the provisions of this Act relating to the treatment of the debtor in respect of the liability, the liability shall be considered to be an obligation, issued at that time by the debtor, that has a principal amount at that time equal to the amount of the liability at that time.

débiteur à ce moment dont le principal, à ce moment, est égal au montant alors à rembourser ou à payer.

Parts of debt obligations

(27) For greater certainty,

(a) unless the context requires otherwise, an obligation issued by a debtor includes any part of a larger obligation that was issued by the debtor;

(b) the principal amount of that part shall be considered to be the portion of the principal amount of that larger obligation that relates to that part; and

(c) the amount for which that part was issued shall be considered to be the portion of the amount for which that larger obligation was issued that relates to that part.

Parties de créances

(27) Il est entendu que :

a) sauf indication contraire du contexte, une dette émise par un débiteur comprend toute partie d'une dette plus importante qu'il a émise;

b) le principal de cette partie de dette est considéré comme égal à la fraction du principal de la dette plus importante qui se rapporte à cette partie;

c) le montant pour lequel cette partie de dette a été émise est considéré comme égal à la fraction — qui se rapporte à cette partie — du montant pour lequel la dette plus importante a été émise.

Limitation respecting inclusions, deductions and tax credits

(28) Unless a contrary intention is evident, no provision of this Act shall be read or construed

(a) to require the inclusion or permit the deduction, either directly or indirectly, in computing a taxpayer's income, taxable income or taxable income earned in Canada, for a taxation year or in computing a taxpayer's income or loss for a taxation year from a particular source or from sources in a particular place, of any amount to the extent that the amount has already been directly or indirectly included or deducted, as the case may be, in computing such income, taxable income, taxable income earned in Canada or loss, for the year or any preceding taxation year;

(b) to permit the deduction, either directly or indirectly, in computing a taxpayer's tax payable under any Part of this Act for a taxation year of any amount to the extent that the amount has already been directly or indirectly deducted in computing such tax payable for the year or any preceding taxation year; or

(c) to consider an amount to have been paid on account of a taxpayer's tax payable under any Part of this Act for a taxation year to the extent that the amount has already been considered to have been paid on account of such tax payable for the year or any preceding taxation year.

Restriction applicable aux inclusions, déductions et crédits d'impôt

(28) Sauf intention contraire évidente, les dispositions de la présente loi n'ont pas pour effet :

a) d'exiger l'inclusion ou de permettre la déduction, directement ou indirectement, d'une somme dans le calcul du revenu, du revenu imposable ou du revenu imposable gagné au Canada d'un contribuable pour une année d'imposition ou du revenu ou de la perte d'un contribuable pour une année d'imposition provenant d'une source déterminée ou de sources situées dans un endroit déterminé, dans la mesure où cette somme a été incluse ou déduite, directement ou indirectement, dans le calcul de ce revenu, revenu imposable ou revenu imposable gagné au Canada ou de cette perte pour l'année ou pour une année d'imposition antérieure;

b) de permettre la déduction, directement ou indirectement, d'une somme dans le calcul de l'impôt payable par un contribuable en vertu d'une partie de la présente loi pour une année d'imposition, dans la mesure où cette somme a été déduite, directement ou indirectement, dans le calcul de cet impôt pour l'année ou pour une année d'imposition antérieure;

c) de considérer qu'une somme a été payée au titre de l'impôt payable par un contribuable en vertu d'une partie de la présente loi pour une année d'imposition,

dans la mesure où cette somme est considérée comme ayant été payée au titre de cet impôt pour l'année ou pour une année d'imposition antérieure.

Farming or fishing business

(29) For the purposes of subsection 40(1.1) and sections 70, 73 and 110.6, if at any time a person or partnership carries on a farming business and a fishing business, a property used at that time principally in a combination of the activities of the farming business and the fishing business is deemed to be used at that time principally in the course of carrying on a farming or fishing business.

Entreprise agricole ou de pêche

(29) Pour l'application du paragraphe 40(1.1) et des articles 70, 73 et 110.6, si une personne ou une société de personnes exploite, à un moment donné, une entreprise agricole et une entreprise de pêche, tout bien utilisé à ce moment principalement dans toute combinaison des activités de l'entreprise agricole et de l'entreprise de pêche est réputé être utilisé à ce moment principalement dans le cadre de l'exploitation d'une entreprise agricole ou de pêche.

Intention to give

(30) The existence of an amount of an advantage in respect of a transfer of property does not in and by itself disqualify the transfer from being a gift to a qualified donee if

(a) the amount of the advantage does not exceed 80% of the fair market value of the transferred property; or

(b) the transferor of the property establishes to the satisfaction of the Minister that the transfer was made with the intention to make a gift.

Intention de faire un don

(30) Le fait qu'un transfert de bien donne lieu à un montant d'un avantage ne suffit en soi à rendre le transfert inadmissible à titre de don à un donataire reconnu si, selon le cas :

a) le montant de l'avantage n'excède pas 80 % de la juste valeur marchande du bien transféré;

b) le cédant établit à la satisfaction du ministre que le transfert a été effectué dans l'intention de faire un don.

Eligible amount of gift or monetary contribution

(31) The eligible amount of a gift or monetary contribution is the amount by which the fair market value of the property that is the subject of the gift or monetary contribution exceeds the amount of the advantage, if any, in respect of the gift or monetary contribution.

Montant admissible d'un don ou d'une contribution monétaire

(31) Le montant admissible d'un don ou d'une contribution monétaire correspond à l'excédent de la juste valeur marchande du bien qui fait l'objet du don ou de la contribution sur le montant de l'avantage, le cas échéant, au titre du don ou de la contribution.

Amount of advantage

(32) The amount of the advantage in respect of a gift or monetary contribution by a taxpayer is the total of

(a) the total of all amounts, other than an amount referred to in paragraph (b), each of which is the value, at the time the gift or monetary contribution is made, of any property, service, compensation, use or other benefit that the taxpayer, or a person or partnership who does not deal at arm's length with the taxpayer, has received, obtained or enjoyed, or is entitled, either immediately or in the future and either absolutely or contingently, to receive, obtain, or enjoy

(i) that is consideration for the gift or monetary contribution,

(ii) that is in gratitude for the gift or monetary contribution, or

Montant de l'avantage

(32) Le montant de l'avantage au titre d'un don ou d'une contribution monétaire fait par un contribuable correspond au total des sommes suivantes :

a) le total des sommes, sauf celle visée à l'alinéa b), représentant chacune la valeur, au moment du don ou de la contribution, de tout bien ou service, de toute compensation ou utilisation ou de tout autre bénéfice que le contribuable, ou une personne ou une société de personnes qui a un lien de dépendance avec lui, a reçu ou obtenu, ou a le droit, immédiat ou futur et absolu ou conditionnel, de recevoir ou d'obtenir, ou dont le contribuable ou une telle personne ou société de personnes a joui ou a le droit, immédiat ou futur et absolu ou conditionnel, de jouir, et qui, selon le cas :

(i) est accordé en contrepartie du don ou de la contribution,

(iii) that is in any other way related to the gift or monetary contribution, and

(b) the limited-recourse debt, determined under subsection 143.2(6.1), in respect of the gift or monetary contribution at the time the gift or monetary contribution is made.

(ii) est accordé en reconnaissance du don ou de la contribution,

(iii) se rapporte de toute autre façon au don ou à la contribution;

b) la dette à recours limité, déterminée selon le paragraphe 143.2(6.1), relative au don ou à la contribution au moment où il est fait.

Cost of property acquired by donor

(33) The cost to a taxpayer of a property, acquired by the taxpayer in circumstances where subsection (32) applies to include the value of the property in computing the amount of the advantage in respect of a gift or monetary contribution, is equal to the fair market value of the property at the time the gift or monetary contribution is made.

Coût d'un bien acquis par le donateur

(33) Le coût, pour un contribuable, d'un bien qu'il a acquis dans des circonstances où le paragraphe (32) s'applique de façon que la valeur du bien soit incluse dans le calcul du montant de l'avantage au titre d'un don ou d'une contribution monétaire correspond à la juste valeur marchande du bien au moment du don ou de la contribution.

Repayment of limited-recourse debt

(34) If at any time in a taxation year a taxpayer has paid an amount (in this subsection referred to as the "repaid amount") on account of the principal amount of an indebtedness which was, before that time, an unpaid principal amount that was a limited-recourse debt referred to in subsection 143.2(6.1) (in this subsection referred to as the "former limited-recourse debt") in respect of a gift or monetary contribution (in this subsection referred to as the "original gift" or "original monetary contribution", respectively, as the case may be) of the taxpayer (otherwise than by way of an assignment or transfer of a guarantee, security or similar indemnity or covenant, or by way of a payment in respect of which any taxpayer referred to in subsection 143.2(6.1) has incurred an indebtedness that would be a limited-recourse debt referred to in that subsection if that indebtedness were in respect of a gift or monetary contribution made at the time that that indebtedness was incurred), the following rules apply:

(a) if the former limited-recourse debt is in respect of the original gift, for the purposes of sections 110.1 and 118.1, the taxpayer is deemed to have made in the taxation year a gift to a qualified donee, the eligible amount of which deemed gift is the amount, if any, by which

(i) the amount that would have been the eligible amount of the original gift, if the total of all such repaid amounts paid at or before that time were paid immediately before the original gift was made,

exceeds

(ii) the total of

(A) the eligible amount of the original gift, and

Remboursement d'une dette à recours limité

(34) Si, à un moment donné d'une année d'imposition, un contribuable a payé une somme (appelée « somme remboursée » au présent paragraphe) au titre du principal d'une dette qui était, avant ce moment, un principal impayé qui était une dette à recours limité visée au paragraphe 143.2(6.1) (appelée « ancienne dette » au présent paragraphe) relative à un don ou à une contribution monétaire (appelés respectivement « don initial » et « contribution initiale » au présent paragraphe) du contribuable (cette somme ayant été payée autrement que par voie de cession ou de transfert d'une garantie, d'une indemnité ou d'un engagement semblable ou autrement que par voie d'un paiement relativement auquel un contribuable mentionné au paragraphe 143.2(6.1) a contracté une dette qui serait une dette à recours limité visée à ce paragraphe si elle se rapportait à un don ou à une contribution monétaire fait au moment où elle a été contractée), les règles ci-après s'appliquent :

a) si l'ancienne dette se rapporte au don initial, le contribuable est réputé, pour l'application des articles 110.1 et 118.1, avoir fait au cours de l'année, à un donataire reconnu, un don dont le montant admissible correspond à l'excédent de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) la somme qui aurait représenté le montant admissible du don initial si le total des sommes remboursées payées à ce moment ou antérieurement avaient été payées immédiatement avant que le don initial soit fait,

(ii) le total des montants suivants :

(A) le montant admissible du don initial,

(B) the eligible amount of all other gifts deemed by this paragraph to have been made before that time in respect of the original gift; and

(b) if the former limited-recourse debt is in respect of the original monetary contribution, for the purposes of subsection 127(3), the taxpayer is deemed to have made in the taxation year a monetary contribution referred to in that subsection, the eligible amount of which is the amount, if any, by which

(i) the amount that would have been the eligible amount of the original monetary contribution, if the total of all such repaid amounts paid at or before that time were paid immediately before the original monetary contribution was made,

exceeds

(ii) the total of

(A) the eligible amount of the original monetary contribution, and

(B) the eligible amount of all other monetary contributions deemed by this paragraph to have been made before that time in respect of the original monetary contribution.

(B) le montant admissible de tous les autres dons réputés par le présent alinéa avoir été faits avant ce moment relativement au don initial;

b) si l'ancienne dette se rapporte à la contribution initiale, le contribuable est réputé, pour l'application du paragraphe 127(3), avoir fait au cours de l'année une contribution monétaire visée à ce paragraphe dont le montant admissible correspond à l'excédent de la somme visée au sous-alinéa (i) sur le total visé au sous-alinéa (ii) :

(i) la somme qui aurait représenté le montant admissible de la contribution initiale si le total des sommes remboursées payées à ce moment ou antérieurement avaient été payées immédiatement avant que la contribution initiale soit faite,

(ii) le total des montants suivants :

(A) le montant admissible de la contribution initiale,

(B) le montant admissible de toutes les autres contributions monétaires réputées par le présent alinéa avoir été faites avant ce moment relativement à la contribution initiale.

Deemed fair market value

(35) For the purposes of subsection (31), paragraph 69(1)(b) and subsections 110.1(2.1) and (3) and 118.1(5.4), (6) and (13.2), the fair market value of a property that is the subject of a gift made by a taxpayer to a qualified donee is deemed to be the lesser of the fair market value of the property otherwise determined and the cost or, in the case of capital property, the adjusted cost base or, in the case of a life insurance policy in respect of which the taxpayer is a policyholder, the adjusted cost basis (as defined in subsection 148(9)), of the property to the taxpayer immediately before the gift is made if

(a) the taxpayer acquired the property under a gifting arrangement that is a tax shelter as defined in subsection 237.1(1); or

(b) except where the gift is made as a consequence of the taxpayer's death,

(i) the taxpayer acquired the property less than three years before the day that the gift is made, or

(ii) the taxpayer acquired the property less than 10 years before the day that the gift is made and it is reasonable to conclude that, at the time the taxpayer acquired the property, one of the main reasons

Juste valeur marchande réputée

(35) Pour l'application du paragraphe (31), de l'alinéa 69(1)b) et des paragraphes 110.1(2.1) et (3) et 118.1(5.4), (6) et (13.2), la juste valeur marchande du bien dont un contribuable fait don à un donataire reconnu est réputée correspondre à sa juste valeur marchande, déterminée par ailleurs, ou, s'il est moins élevé, à son coût ou, s'il s'agit d'une immobilisation, à son prix de base rajusté ou, s'il s'agit d'une police d'assurance-vie relativement à laquelle le contribuable est un titulaire de police, à son coût de base rajusté (au sens du paragraphe 148(9)), pour le contribuable immédiatement avant que le don soit fait, si l'un des faits ci-après se vérifie :

a) le contribuable a acquis le bien dans le cadre d'un arrangement de don qui est un abri fiscal au sens du paragraphe 237.1(1);

b) sauf si le don est fait par suite du décès du contribuable :

(i) soit le contribuable a acquis le bien moins de trois ans avant la date du don,

(ii) soit le contribuable a acquis le bien moins de dix ans avant la date du don et il est raisonnable de conclure que, au moment où le contribuable a acquis le bien, l'une des principales raisons pour

for the acquisition was to make a gift of the property to a qualified donee.

Non-arm's length transaction

(36) If a taxpayer acquired a property, otherwise than by reason of the death of an individual, that is the subject of a gift to which subsection (35) applies because of subparagraph (35)(b)(i) or (ii) and the property was, at any time within the 3-year or 10-year period, respectively, that ends when the gift was made, acquired by a person or partnership with whom the taxpayer does not deal at arm's length, for the purpose of applying subsection (35) to the taxpayer, the cost, or in the case of capital property, the adjusted cost base, of the property to the taxpayer immediately before the gift is made is deemed to be equal to the lowest amount that is the cost, or in the case of capital property, the adjusted cost base, to the taxpayer or any of those persons or partnerships immediately before the property was disposed of by that person or partnership.

Non-application of subsection (35)

(37) Subsection (35) does not apply to a gift

(a) of inventory;

(b) of real property or an immovable situated in Canada;

(c) of an object referred to in subparagraph 39(1)(a)(i.1), other than an object acquired under a gifting arrangement (as defined in subsection 237.1(1)) that is a tax shelter;

(d) of property to which paragraph 38(a.1) or (a.2) applies;

(e) of a share of the capital stock of a corporation if

(i) the share was issued by the corporation to the donor,

(ii) immediately before the gift, the corporation was controlled by the donor, a person related to the donor or a group of persons each of whom is related to the donor, and

(iii) subsection (35) would not have applied in respect of the consideration for which the share was issued had that consideration been donated by the donor to the qualified donee when the share was so donated;

(f) by a corporation of property if

lesquelles le bien a été acquis était d'en faire don à un donataire reconnu.

Opérations avec lien de dépendance

(36) Si un contribuable a acquis, autrement que par suite du décès d'un particulier, un bien qui fait l'objet d'un don auquel s'applique le paragraphe (35) par l'effet de ses sous-alinéas b)(i) ou (ii) et que le bien a été, au cours de la période de trois ans ou de dix ans, respectivement, se terminant au moment du don, acquis par une personne ou société de personnes avec laquelle le contribuable a un lien de dépendance, le coût du bien ou, s'il s'agit d'une immobilisation, son prix de base rajusté, pour le contribuable, immédiatement avant le don est réputé, pour l'application du paragraphe (35) au contribuable, être égal au montant le plus faible qui correspond au coût du bien ou, s'il s'agit d'une immobilisation, à son prix de base rajusté, pour le contribuable ou pour une telle personne ou société de personnes, immédiatement avant que la personne ou la société de personnes en dispose.

Non-application du paragraphe (35)

(37) Le paragraphe (35) ne s'applique pas aux dons suivants :

a) les dons d'inventaire;

b) les dons de biens immeubles ou réels situés au Canada;

c) les dons d'objets visés au sous-alinéa 39(1)a)(i.1), à l'exception d'objets acquis dans le cadre d'un arrangement de don, au sens du paragraphe 237.1(1), qui est un abri fiscal;

d) les dons de biens auxquels l'alinéa 38a.1) ou a.2) s'applique;

e) les dons d'actions du capital-actions d'une société dans le cas où, à la fois :

(i) l'action a été émise par la société au donateur,

(ii) immédiatement avant le don, la société était contrôlée par le donateur, par une personne qui lui est liée ou par un groupe de personnes dont chacune est liée au donateur,

(iii) le paragraphe (35) ne se serait pas appliqué relativement à la contrepartie pour laquelle l'action a été émise si, au moment du don de l'action, cette contrepartie avait fait l'objet d'un don par le donateur au donataire reconnu;

f) les dons de biens par une société dans le cas où, à la fois :

(i) the property was acquired by the corporation in circumstances to which subsection 85(1) or (2) applied,

(ii) immediately before the gift, the shareholder from whom the corporation acquired the property controlled the corporation or was related to a person or each member of a group of persons that controlled the corporation, and

(iii) subsection (35) would not have applied in respect of the property had the property not been transferred to the corporation and had the shareholder made the gift to the qualified donee when the corporation so made the gift; or

(g) of a property that was acquired in circumstances where subsection 70(6) or (9) or 73(1), (3) or (4) applied, unless subsection (36) would have applied if this subsection were read without reference to this paragraph.

(i) le bien a été acquis par la société dans les circonstances visées aux paragraphes 85(1) ou (2),

(ii) immédiatement avant le don, l'actionnaire duquel la société a acquis le bien contrôlait la société ou était lié à une personne ou à chaque membre d'un groupe de personnes qui la contrôlait,

(iii) le paragraphe (35) ne se serait pas appliqué relativement au don si le bien n'avait pas été transféré à la société et si, au moment où la société a fait le don, l'actionnaire avait fait le don au donataire reconnu;

g) les dons de biens acquis dans les circonstances visées aux paragraphes 70(6) ou (9) ou 73(1), (3) ou (4), sauf dans le cas où le paragraphe (36) s'appliquerait s'il n'était pas tenu compte du présent alinéa.

Artificial transactions

(38) The eligible amount of a particular gift of property by a taxpayer is nil if it can reasonably be concluded that the particular gift relates to a transaction or series of transactions

(a) one of the purposes of which is to avoid the application of subsection (35) to a gift of any property; or

(b) that would, if this Act were read without reference to this paragraph, result in a tax benefit to which subsection 245(2) applies.

Opérations factices

(38) Le montant admissible d'un don effectué par un contribuable est nul s'il est raisonnable de conclure que le don est lié à une opération, ou à une série d'opérations, à l'égard de laquelle l'un des faits ci-après se vérifie :

a) l'opération ou la série est notamment conclue dans le but de soustraire un don de bien à l'application du paragraphe (35);

b) en l'absence du présent alinéa, l'opération ou la série donnerait lieu à un avantage fiscal auquel s'applique le paragraphe 245(2).

Substantive gift

(39) If a taxpayer disposes of a property (in this subsection referred to as the *substantive gift*) that is a capital property of the taxpayer, to a recipient that is a *registered party*, a *registered association* or a *candidate*, as those terms are defined in the *Canada Elections Act*, or that is a qualified donee, subsection (35) would have applied in respect of the substantive gift if it had been the subject of a gift by the taxpayer to a qualified donee, and all or a part of the proceeds of disposition of the substantive gift are (or are substituted, directly or indirectly in any manner whatever, for) property that is the subject of a gift or monetary contribution by the taxpayer to the recipient or any person dealing not at arm's length with the recipient, the following rules apply:

(a) for the purpose of subsection (31), the fair market value of the property that is the subject of the gift or monetary contribution made by the taxpayer is deemed to be that proportion of the lesser of the fair

Don important

(39) Dans le cas où un contribuable dispose d'un bien (appelé « don important » au présent paragraphe) qui est une immobilisation lui appartenant, en faveur d'un bénéficiaire qui est soit un *parti enregistré*, une *association enregistrée* ou un *candidat*, au sens de la *Loi électorale du Canada*, soit un donataire reconnu, où le paragraphe (35) se serait appliqué relativement au don important s'il avait fait l'objet d'un don par le contribuable à un donataire reconnu et où tout ou partie du produit de disposition du don important est un bien qui fait l'objet d'un don ou d'une contribution monétaire par le contribuable au bénéficiaire ou à une personne ayant un lien de dépendance avec ce dernier, ou est substitué, directement ou indirectement, de quelque manière que ce soit, à un tel bien, les règles ci-après s'appliquent :

a) pour l'application du paragraphe (31), la juste valeur marchande du bien qui fait l'objet du don ou de la contribution par le contribuable est réputée

market value of the substantive gift and the cost, or if the substantive gift is capital property of the taxpayer, the adjusted cost base, of the substantive gift to the taxpayer immediately before the disposition to the recipient, that the fair market value otherwise determined of the property that is the subject of the gift or monetary contribution is of the proceeds of disposition of the substantive gift; and

(b) if the substantive gift is capital property of the taxpayer, for the purpose of the definitions *proceeds of disposition* of property in subsection 13(21) and section 54, the sale price of the substantive gift is to be reduced by the amount by which the fair market value of the property that is the subject of the gift (determined without reference to this section) exceeds the fair market value determined under paragraph (a).

(c) [Repealed, 2016, c. 12, s. 63]

correspondre à la proportion de la juste valeur marchande du don important ou, s'il est moins élevé, du coût du don important ou, si celui-ci est une immobilisation du contribuable, de son prix de base rajusté, pour le contribuable immédiatement avant la disposition, que représente le rapport entre la juste valeur marchande, déterminée par ailleurs, du bien qui fait l'objet du don ou de la contribution et le produit de disposition du don important;

b) si le don important est une immobilisation du contribuable, pour l'application des définitions de *produit de disposition* au paragraphe 13(21) et à l'article 54, l'excédent de la juste valeur marchande du bien qui fait l'objet du don (déterminée compte non tenu du présent article) sur la juste valeur marchande déterminée selon l'alinéa a) est appliqué en réduction du prix de vente du don.

c) [Abrogé, 2016, ch. 12, art. 63]

Inter-charity gifts

(40) Subsection (30) does not apply in respect of a gift received by a qualified donee from a registered charity.

Dons entre organismes de bienfaisance

(40) Le paragraphe (30) ne s'applique pas relativement aux dons qu'un donataire reconnu reçoit d'un organisme de bienfaisance enregistré.

Information not provided

(41) Notwithstanding subsection (31), the eligible amount of a gift or monetary contribution made by a taxpayer is nil if the taxpayer does not — before a receipt referred to in subsection 110.1(2), 118.1(2) or 127(3), as the case may be, is issued in respect of the gift or monetary contribution — inform the qualified donee or the recipient, as the case may be, of any circumstances in respect of which subsection (31), (35), (36), (38) or (39) requires that the eligible amount of the gift or monetary contribution be less than the fair market value, determined without reference to subsections (35), 110.1(3) and 118.1(6), of the property that is the subject of the gift or monetary contribution.

Renseignements non fournis

(41) Malgré le paragraphe (31), le montant admissible d'un don ou d'une contribution monétaire fait par un contribuable est nul si celui-ci omet d'informer le donataire reconnu ou le bénéficiaire, selon le cas, — avant qu'un reçu visé aux paragraphes 110.1(2), 118.1(2) ou 127(3) soit délivré relativement au don ou à la contribution — de l'existence de circonstances dans lesquelles les paragraphes (31), (35), (36), (38) ou (39) exigent que le montant admissible du don ou de la contribution monétaire soit inférieur à la juste valeur marchande, déterminée compte non tenu des paragraphes (35), 110.1(3) et 118.1(6), du bien qui fait l'objet du don ou de la contribution.

Synthetic equity arrangements — disaggregation

(42) For the purposes of the definition *synthetic equity arrangement* in subsection (1), paragraphs (c) and (d) of the definition *dividend rental arrangement* in subsection (1) and subsections 112(2.31), (2.32) and (10), an arrangement that reflects the fair market value of more than one type of *identical share* (as defined in subsection 112(10)) is considered to be a separate arrangement with respect to each type of identical share the value of which the arrangement reflects.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 248; 1994, c. 7, Sch. II, s. 192, Sch. V, s. 90, Sch. VIII, ss. 139, c. 8, s. 32, c. 21, ss. 109, 138, c. 41, s. 37; 1995, c. 3, s. 52, c. 21, ss. 43, 47, 59, 65, 74; 1996, c. 21, s. 60; 1997, c. 25, s. 71; 1998, c. 19, ss. 66, 239; 1999, c. 22,

Arrangements de capitaux propres synthétiques — désagrégation

(42) Pour l'application de la définition de *arrangement de capitaux propres synthétiques* au paragraphe (1), des alinéas c) et d) de la définition de *mécanisme de transfert de dividendes* au paragraphe (1) et des paragraphes 112(2.31), (2.32) et (10), un arrangement qui reflète la juste valeur marchande de plus d'un type *d'action identique*, au sens du paragraphe 112(10), est considéré correspondre à un arrangement distinct relativement à chaque type d'action identique dont la valeur est reflétée dans l'arrangement.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 248; 1994,

s. 80; 2000, c. 12, ss. 139, 142, c. 19, s. 67; 2001, c. 17, ss. 188, 230; 2002, c. 9, s. 44; 2003, c. 15, s. 88, c. 28, s. 18; 2005, c. 30, s. 17; 2007, c. 2, s. 52, c. 29, s. 28, c. 35, ss. 65, 68, 123; 2008, c. 28, s. 34; 2009, c. 2, s. 76; 2010, c. 12, ss. 22, 2109, c. 25, s. 69; 2011, c. 24, s. 72; 2012, c. 31, s. 55; 2013, c. 34, ss. 167, 358, c. 40, s. 89; 2014, c. 13, s. 115, c. 20, s. 30, c. 39, s. 71; 2016, c. 7, s. 48, c. 11, s. 10, c. 12, s. 63.

ch. 7, ann. II, art. 192, ann. V, art. 90, ann. VIII, art. 139, ch. 8, art. 32, ch. 21, art. 109 et 138, ch. 41, art. 37; 1995, ch. 3, art. 52, ch. 21, art. 43, 47, 59, 65 et 74; 1996, ch. 21, art. 60; 1997, ch. 25, art. 71; 1998, ch. 19, art. 66 et 239; 1999, ch. 22, art. 80; 2000, ch. 12, art. 139 et 142, ch. 19, art. 67; 2001, ch. 17, art. 188 et 230; 2002, ch. 9, art. 44; 2003, ch. 15, art. 88, ch. 28, art. 18; 2005, ch. 30, art. 17; 2007, ch. 2, art. 52, ch. 29, art. 28, ch. 35, art. 65, 68 et 123; 2008, ch. 28, art. 34; 2009, ch. 2, art. 76; 2010, ch. 12, art. 22 et 2109, ch. 25, art. 69; 2011, ch. 24, art. 72; 2012, ch. 31, art. 55; 2013, ch. 34, art. 167 et 358, ch. 40, art. 89; 2014, ch. 13, art. 115, ch. 20, art. 30, ch. 39, art. 71; 2016, ch. 7, art. 48, ch. 11, art. 10, ch. 12, art. 63.

Definition of *taxation year*

249 (1) In this Act, except as expressly otherwise provided, a ***taxation year*** is

(a) in the case of a corporation or Canadian resident partnership, a fiscal period;

(b) in the case of a graduated rate estate, the period for which the accounts of the estate are made up for purposes of assessment under this Act; and

(c) in any other case, a calendar year.

References to calendar year

(1.1) When a taxation year is referred to by reference to a calendar year, the reference is to the taxation year or taxation years that coincide with, or that end in, that calendar year.

References to certain taxation years and fiscal periods

(2) For the purposes of this Act,

(a) a reference to a taxation year ending in another year includes a reference to a taxation year ending coincidentally with that other year; and

(b) a reference to a fiscal period ending in a taxation year includes a reference to a fiscal period ending coincidentally with that year.

Fiscal period exceeding 365 days

(3) If a fiscal period of a corporation exceeds 365 days and for that reason the corporation does not have a taxation year that ends in a particular calendar year, for the purposes of this Act,

(a) the corporation's first taxation year that would otherwise end in the immediately following calendar year is deemed to end on the last day of the particular calendar year and its next taxation year is deemed to commence on the first day of the immediately following calendar year; and

(b) the corporation's first fiscal period that would otherwise end in the immediately following calendar year is deemed to end on the last day of the particular

Sens de *année d'imposition*

249 (1) Dans la présente loi, sauf disposition contraire expresse, l'année d'imposition correspond :

a) dans le cas d'une société de personnes résidant au Canada ou d'une société, à l'exercice;

b) dans le cas d'une succession assujettie à l'imposition à taux progressifs, à la période pour laquelle les comptes de la succession sont arrêtés pour l'établissement d'une cotisation en vertu de la présente loi;

c) dans les autres cas, à l'année civile.

Mention d'une année civile

(1.1) La mention d'une année d'imposition par rapport à une année civile vise l'année d'imposition ou les années d'imposition qui coïncident avec cette année civile ou se terminent dans cette année.

Mention de certaines années d'imposition et de certains exercices

(2) Pour l'application de la présente loi :

a) la mention d'une année d'imposition se terminant au cours d'une autre année vaut mention d'une année d'imposition dont la fin coïncide avec celle de cette autre année;

b) la mention d'un exercice se terminant au cours d'une année d'imposition vaut mention d'un exercice dont la fin coïncide avec celle de cette année.

Exercice comptant plus de 365 jours

(3) Lorsque l'exercice d'une société compte plus de 365 jours et que, de ce fait, celle-ci n'a pas d'année d'imposition qui se termine dans une année civile donnée, les règles ci-après s'appliquent :

a) la première année d'imposition de la société qui se terminerait par ailleurs dans l'année civile subséquente est réputée, pour l'application de la présente loi, se terminer le dernier jour de l'année civile donnée et son année d'imposition suivante est réputée commencer le premier jour de l'année civile subséquente;

b) le premier exercice de la société qui se terminerait par ailleurs dans l'année civile subséquente est réputé, pour l'application de la présente loi, se terminer le

calendar year and its next fiscal period is deemed to commence on the first day of the immediately following calendar year.

Year end on status change

(3.1) If at any time a corporation becomes or ceases to be a Canadian-controlled private corporation, otherwise than because of an acquisition of control to which subsection (4) would, if this Act were read without reference to this subsection, apply,

(a) subject to paragraph (c), the corporation's taxation year that would, if this Act were read without reference to this subsection, include that time is deemed to end immediately before that time;

(b) a new taxation year of the corporation is deemed to begin at that time;

(c) notwithstanding subsections (1) and (3), the corporation's taxation year that would, if this Act were read without reference to this subsection, have been its last taxation year that ended before that time is deemed instead to end immediately before that time if

(i) were this Act read without reference to this paragraph, that taxation year would, otherwise than because of paragraph 128(1)(d), section 128.1 and paragraphs 142.6(1)(a) or 149(10)(a), have ended within the 7-day period that ended immediately before that time,

(ii) within that 7-day period no person or group of persons acquired control of the corporation, and the corporation did not become or cease to be a Canadian-controlled private corporation, and

(iii) the corporation elects, in its return of income under Part I for that taxation year to have this paragraph apply; and

(d) for the purpose of determining the corporation's fiscal period after that time, the corporation is deemed not to have established a fiscal period before that time.

Loss restriction event — year end

(4) If at any time a taxpayer is subject to a loss restriction event (other than a foreign affiliate, of a taxpayer resident in Canada, that did not carry on a business in Canada at any time in its last taxation year that began before that time), then for the purposes of this Act,

(a) subject to paragraph (b), the taxpayer's taxation year that would, but for this paragraph, have included that time is deemed to end immediately before that

dernier jour de l'année civile donnée et son exercice suivant est réputé commencer le premier jour de l'année civile subséquente.

Fin d'année — changement de statut

(3.1) Si, à un moment donné, une société devient une société privée sous contrôle canadien, ou cesse de l'être, autrement qu'en raison d'une acquisition de contrôle à laquelle le paragraphe (4) s'appliquerait en l'absence du présent paragraphe, les règles suivantes s'appliquent :

a) sous réserve de l'alinéa c), l'année d'imposition de la société qui comprendrait ce moment en l'absence du présent paragraphe est réputée prendre fin immédiatement avant ce moment;

b) une nouvelle année d'imposition de la société est réputée commencer à ce moment;

c) malgré les paragraphes (1) à (3), l'année d'imposition de la société qui, en l'absence du présent paragraphe, aurait été sa dernière année d'imposition ayant pris fin avant ce moment est réputée prendre fin immédiatement avant ce moment dans le cas où, à la fois :

(i) en l'absence du présent alinéa, cette année d'imposition aurait pris fin dans la période de sept jours ayant pris fin immédiatement avant ce moment, autrement que par l'effet de l'alinéa 128(1)d), de l'article 128.1 et des alinéas 142.6(1)a) ou 149(10)a),

(ii) au cours de cette période de sept jours, aucune personne ni aucun groupe de personnes n'a acquis le contrôle de la société, et celle-ci n'est pas devenue une société privée sous contrôle canadien ni n'a cessé de l'être,

(iii) la société fait le choix de se prévaloir du présent alinéa dans sa déclaration de revenu en vertu de la partie I pour cette année d'imposition;

d) pour déterminer l'exercice de la société après ce moment, la société est réputée ne pas avoir fixé d'exercice avant ce moment.

Fait lié à la restriction de pertes — fin d'année

(4) Si un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné (sauf s'il s'agit d'une société étrangère affiliée, d'un contribuable résidant au Canada, qui n'a pas exploité d'entreprise au Canada au cours de sa dernière année d'imposition commençant avant ce moment), les règles ci-après s'appliquent dans le cadre de la présente loi :

time, a new taxation year of the taxpayer is deemed to begin at that time and, for the purpose of determining the taxpayer's fiscal period after that time, the taxpayer is deemed not to have established a fiscal period before that time; and

(b) subject to paragraph 128(1)(d), section 128.1 and paragraphs 142.6(1)(a) and 149(10)(a), and notwithstanding subsections (1) and (3), if the taxpayer is a corporation and the taxpayer's taxation year that would, but for this subsection, have been its last taxation year that ended before that time, would, but for this paragraph, have ended within the seven-day period that ended immediately before that time, that taxation year is, except if the taxpayer is subject to a loss restriction event within that period, deemed to end immediately before that time, provided that the taxpayer so elects in its return of income under Part I for that taxation year.

a) sous réserve de l'alinéa b), l'année d'imposition du contribuable qui, en l'absence du présent alinéa, aurait compris ce moment est réputée se terminer immédiatement avant ce moment, une nouvelle année d'imposition du contribuable est réputée commencer à ce moment et, pour ce qui est d'établir l'exercice du contribuable après ce moment, celui-ci est réputé ne pas avoir établi d'exercice avant ce moment;

b) sous réserve de l'alinéa 128(1)d), de l'article 128.1 et des alinéas 142.6(1)a) et 149(10)a) et malgré les paragraphes (1) et (3), si le contribuable est une société, son année d'imposition qui, en l'absence du présent paragraphe, aurait été sa dernière année d'imposition ayant pris fin avant ce moment et qui, en l'absence du présent alinéa, aurait pris fin dans la période de sept jours ayant pris fin immédiatement avant ce moment est réputée, sauf si le contribuable est assujetti à un fait lié à la restriction de pertes au cours de cette période, se terminer immédiatement avant ce moment, à condition que le contribuable fasse un choix en ce sens dans la déclaration de revenu qu'il produit en vertu de la partie I pour cette année.

Trust transition from graduated rate estate

(4.1) For a particular trust that is a testamentary trust,

(a) its taxation year that otherwise includes a particular time is deemed to end immediately before the particular time if

(i) the particular trust is an estate and the particular time is the first time after 2015 at which the estate is not a graduated rate estate, or

(ii) the particular trust is not an estate and the particular time is immediately after 2015; and

(b) if the particular trust exists at the particular time,

(i) a new taxation year of the particular trust is deemed to begin at the particular time, and

(ii) for the purpose of determining the particular trust's fiscal period after the particular time, the particular trust is deemed not to have established a fiscal period before that time.

Fiducies — passage de l'impôt progressif à l'impôt uniforme

(4.1) Les règles ci-après s'appliquent à une fiducie donnée qui est une fiducie testamentaire :

a) son année d'imposition qui comprend autrement un moment donné est réputée prendre fin immédiatement avant ce moment dans les cas suivants :

(i) la fiducie est une succession et le moment donné est le premier moment après 2015 où elle n'est pas une succession assujettie à l'imposition à taux progressif,

(ii) la fiducie n'est pas une succession et le moment donné est immédiatement après 2015;

b) si la fiducie donnée existe au moment donné :

(i) une nouvelle année d'imposition de la fiducie donnée est réputée commencer au moment donné,

(ii) pour déterminer l'exercice de la fiducie donnée après le moment donné, celle-ci est réputée ne pas avoir fixé d'exercice avant ce moment.

Graduated rate estate

(5) The period for which the accounts of a graduated rate estate are made up for the purposes of an assessment under this Act may not exceed 12 months, and no change in the time when that period ends may be made for the purposes of this Act without the concurrence of the Minister.

Succession assujettie à l'imposition à taux progressifs

(5) La période pour laquelle les comptes d'une succession assujettie à l'imposition à taux progressifs sont arrêtés pour l'établissement d'une cotisation en vertu de la présente loi ne peut se prolonger au-delà de douze mois, et aucun changement ne peut être apporté au moment où

(6) [Repealed, 2014, c. 39, s. 72]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 249; 1994, c. 7, Sch. II, s. 193, c. 21, s. 110; 1995, c. 3, s. 53, c. 21, s. 60; 2007, c. 2, s. 53, c. 29, s. 29; 2013, c. 34, s. 359, c. 40, s. 90; 2014, c. 39, s. 72; 2016, c. 12, s. 64.

Definition of *fiscal period*

249.1 (1) For the purposes of this Act, a ***fiscal period*** of a business or a property of a person or partnership means the period for which the person's or partnership's accounts in respect of the business or property are made up for purposes of assessment under this Act, but no fiscal period may end

(a) in the case of a corporation, more than 53 weeks after the period began,

(b) in the case of

(i) an individual (other than an individual to whom section 149 or 149.1 applies or a trust),

(i.1) a trust (other than a mutual fund trust if the fiscal period is one to which paragraph 132.11(1)(c) applies or a graduated rate estate),

(ii) a partnership of which

(A) an individual (other than an individual to whom section 149 or 149.1 applies or a graduated rate estate),

(B) a professional corporation, or

(C) a partnership to which this subparagraph applies,

would, if the fiscal period ended at the end of the calendar year in which the period began, be a member of the partnership in the period, or

(iii) a professional corporation that would, if the fiscal period ended at the end of the calendar year in which the period began, be in the period a member of a partnership to which subparagraph 249.1(1)(b)(ii) applies,

after the end of the calendar year in which the period began unless, in the case of a business, the business is not carried on in Canada,

(c) in the case of a partnership (other than a partnership to which subparagraph (b)(ii) or subsection (9) applies) that is a member of a partnership or has a

elle prend fin pour l'application de la présente loi sans l'assentiment du ministre.

(6) [Abrogé, 2014, ch. 39, art. 72]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 249; 1994, ch. 7, ann. II, art. 193, ch. 21, art. 110; 1995, ch. 3, art. 53, ch. 21, art. 60; 2007, ch. 2, art. 53, ch. 29, art. 29; 2013, ch. 34, art. 359, ch. 40, art. 90; 2014, ch. 39, art. 72; 2016, ch. 12, art. 64.

Définition de *exercice*

249.1 (1) Pour l'application de la présente loi, l'exercice d'une entreprise ou d'un bien d'une personne ou d'une société de personnes s'entend de la période pour laquelle les comptes correspondant de la personne ou de la société de personnes sont arrêtés pour l'établissement d'une cotisation en vertu de la présente loi. L'exercice ne peut toutefois se prolonger :

a) dans le cas de l'exercice d'une entreprise ou d'un bien d'une société, au-delà de 53 semaines;

b) dans le cas des exercices ci-après, au-delà de la fin de l'année civile dans laquelle l'exercice a commencé, sauf s'il s'agit de l'exercice d'une entreprise qui n'est pas exploitée au Canada :

(i) l'exercice d'une entreprise ou d'un bien d'un particulier (sauf un particulier auquel s'appliquent les articles 149 ou 149.1 ou une fiducie),

(i.1) l'exercice d'une entreprise ou d'un bien d'une fiducie (sauf une fiducie de fonds commun de placement, s'il s'agit d'un exercice auquel s'applique l'alinéa 132.11(1)c), ou une succession assujettie à l'imposition à taux progressifs),

(ii) l'exercice d'une entreprise ou d'un bien d'une société de personnes dont un particulier (sauf un particulier auquel s'appliquent les articles 149 ou 149.1 ou une succession assujettie à l'imposition à taux progressifs), une société professionnelle ou une société de personnes à laquelle s'applique le présent sous-alinéa serait un associé au cours de l'exercice, si celui-ci se terminait à la fin de l'année civile dans laquelle il a commencé,

(iii) l'exercice d'une entreprise ou d'un bien d'une société professionnelle qui, si l'exercice se terminait à la fin de l'année civile dans laquelle il a commencé, serait un associé, au cours de l'exercice, d'une société de personnes à laquelle s'applique le sous-alinéa (ii);

c) dans le cas de l'exercice d'une société de personnes, à l'exception de celle à laquelle s'applique le sous-alinéa b)(ii) ou le paragraphe (9), qui est un associé d'une société de personnes ou dont l'un des associés

member that is a partnership, after the end of the calendar year in which it began, if at the end of the calendar year

(i) a corporation has a significant interest, as defined in section 34.2, in the partnership,

(ii) the partnership is a member of another partnership in which a corporation has a significant interest as defined in section 34.2,

(iii) a membership interest in the partnership is held directly, or indirectly through one or more partnerships, by a partnership described in subparagraph (i) or (ii), or

(iv) the partnership holds directly, or indirectly through one or more partnerships, a membership interest in a partnership described in any of subparagraphs (i) to (iii), or

(d) in any other case, more than 12 months after the period began,

and, for the purpose of this subsection, the activities of a person to whom section 149 or 149.1 applies are deemed to be a business.

est une société de personnes, au-delà de la fin de l'année civile où l'exercice a commencé si, à la fin de cette année civile :

(i) une société a une participation importante, au sens de l'article 34.2, dans la société de personnes,

(ii) la société de personnes est un associé d'une autre société de personnes dans laquelle une société a une participation importante, au sens de l'article 34.2,

(iii) une participation dans la société de personnes est détenue, directement ou par l'intermédiaire d'une ou de plusieurs sociétés de personnes, par une société de personnes visée aux sous-alinéas (i) ou (ii),

(iv) la société de personnes détient, directement ou par l'intermédiaire d'une ou de plusieurs sociétés de personnes, une participation dans une société de personnes visée à l'un des sous-alinéas (i) à (iii);

d) dans les autres cas, au-delà de douze mois.

Pour l'application du présent paragraphe, les activités d'une personne à laquelle s'appliquent les articles 149 ou 149.1 sont réputées être une entreprise.

Not a member of a partnership

(2) For the purpose of subparagraph 249.1(1)(b)(ii) and subsection 249.1(4), a person or partnership that would not have a share of any income or loss of a partnership for a fiscal period of the partnership, if the period ended at the end of the calendar year in which the period began, is deemed not to be a member of the partnership in that fiscal period.

Présomption

(2) Pour l'application du sous-alinéa (1)b)(ii) et du paragraphe (4), la personne ou la société de personnes à laquelle aucune part du revenu ou de la perte d'une société de personnes pour un exercice de celle-ci ne reviendrait si l'exercice se terminait à la fin de l'année civile dans laquelle il a commencé est réputée ne pas être un associé de la société de personnes au cours de cet exercice.

Subsequent fiscal periods

(3) Where a fiscal period of a business or a property of a person or partnership ends at any time, the subsequent fiscal period, if any, of the business or property of the person or partnership is deemed to begin immediately after that time.

Exercices postérieurs

(3) Lorsque l'exercice d'une entreprise ou d'un bien d'une personne ou d'une société de personnes prend fin à un moment donné, l'exercice subséquent de l'entreprise ou du bien de la personne ou de la société de personnes est réputé commencer immédiatement après ce moment.

Alternative method

(4) Paragraph 249.1(1)(b) does not apply to a fiscal period of a business carried on, throughout the period of time that began at the beginning of the fiscal period and ended at the end of the calendar year in which the fiscal period began,

(a) by an individual (otherwise than as a member of a partnership), or

Autre méthode

(4) L'alinéa (1)b) ne s'applique pas à l'exercice d'une entreprise exploitée, tout au long de la période qui a commencé au début de l'exercice et s'est terminée à la fin de l'année civile dans laquelle l'exercice a commencé, soit par un particulier donné autrement qu'à titre d'associé d'une société de personnes, soit par un particulier à titre d'associé d'une société de personnes si, tout au long de cette période, chaque associé de la société de personnes est un particulier et la société de personnes n'est pas un associé d'une autre société de personnes, dans le cas où:

(b) by an individual as a member of a partnership, where throughout that period

(i) each member of the partnership is an individual, and

(ii) the partnership is not a member of another partnership,

where

(c) in the case of an individual

(i) who is referred to in paragraph 249.1(4)(a), or

(ii) who is a member of a partnership no member of which is a graduated rate estate,

an election in prescribed form to have paragraph 249.1(1)(b) not apply is filed with the Minister by the individual on or before the individual's filing-due date, and with the individual's return of income under Part I, for the taxation year that includes the first day of the first fiscal period of the business that begins after 1994, and

(d) in the case of an individual who is a member of a partnership a member of which is a graduated rate estate, an election in prescribed form to have paragraph (1)(b) not apply is filed with the Minister by the individual on or before the earliest of the filing-due dates of the members of the partnership for a taxation year that includes the first day of the first fiscal period of the business that begins after 1994.

a) s'agissant du particulier donné ou d'un particulier qui est un associé d'une société de personnes dont aucun associé n'est une succession assujettie à l'imposition à taux progressifs, le particulier fait un choix pour que l'alinéa (1)b) ne s'applique pas et présente le choix au ministre sur le formulaire prescrit, avec sa déclaration de revenu produite en vertu de la partie I, au plus tard à la date d'échéance de production qui lui est applicable pour l'année d'imposition qui comprend le premier jour du premier exercice de l'entreprise qui commence après 1994;

b) s'agissant d'un particulier qui est un associé d'une société de personnes dont un des associés est une succession assujettie à l'imposition à taux progressifs, le particulier fait un choix pour que l'alinéa (1)b) ne s'applique pas et présente le choix au ministre sur le formulaire prescrit au plus tard à la première en date des dates d'échéance de production applicables aux associés de la société de personnes pour une année d'imposition qui comprend le premier jour du premier exercice de l'entreprise qui commence après 1994.

Alternative method not applicable to tax shelter investments

(5) Subsection 249.1(4) does not apply to a particular fiscal period of a business where, in a preceding fiscal period or throughout the period of time that began at the beginning of the particular period and ended at the end of the calendar year in which the particular period began, the expenditures made in the course of carrying on the business were primarily the cost or capital cost of tax shelter investments (as defined in subsection 143.2(1)).

Exception — abri fiscal déterminé

(5) Le paragraphe (4) ne s'applique pas à l'exercice donné d'une entreprise dans le cas où, au cours d'un exercice antérieur ou tout au long de la période qui a commencé au début de l'exercice donné et s'est terminée à la fin de l'année civile dans laquelle cet exercice a commencé, les dépenses effectuées dans le cadre de l'exploitation de l'entreprise représentaient principalement le coût ou le coût en capital d'abris fiscaux déterminés, au sens du paragraphe 143.2(1).

Revocation of election

(6) Subsection 249.1(4) does not apply to fiscal periods of a business carried on by an individual that begin after the beginning of a particular taxation year of the individual where

(a) an election in prescribed form to revoke an election filed under subsection 249.1(4) in respect of the business is filed with the Minister; and

Révocation du choix

(6) Le paragraphe (4) ne s'applique pas aux exercices d'une entreprise exploitée par un particulier qui commencent après le début d'une année d'imposition donnée du particulier si, à la fois :

a) le choix de révoquer le choix prévu au paragraphe (4) relativement à l'entreprise est présenté au ministre sur formulaire prescrit;

(b) the election to revoke is filed

(i) in the case of an individual

(A) who is not a member of a partnership, or

(B) who is a member of a partnership no member of which is a graduated rate estate,

by the individual on or before the individual's filing-due date, and with the individual's return of income under Part I, for the particular taxation year, and

(ii) in the case of an individual who is a member of a partnership a member of which is a graduated rate estate, by the individual on or before the earliest of the filing-due dates of the members of the partnership for a taxation year that includes the first day of the first fiscal period of the business that begins after the beginning of the particular year.

b) le choix visant la révocation est présenté :

(i) dans le cas d'un particulier qui n'est pas un associé d'une société de personnes ou qui est un associé d'une société de personnes dont aucun des associés n'est une succession assujettie à l'imposition à taux progressifs, par le particulier, avec sa déclaration de revenu produite en vertu de la partie I, au plus tard à la date d'échéance de production qui lui est applicable pour l'année donnée,

(ii) dans le cas d'un particulier qui est un associé d'une société de personnes dont un des associés est une succession assujettie à l'imposition à taux progressifs, par le particulier au plus tard à la première en date des dates d'échéance de production applicables aux associés de la société de personnes pour une année d'imposition qui comprend le premier jour du premier exercice de l'entreprise qui commence après le début de l'année donnée.

Change of fiscal period

(7) No change in the time when a fiscal period ends may be made for the purposes of this Act without the concurrence of the Minister.

Changement d'exercice

(7) Aucun changement ne peut être apporté au moment où un exercice se termine pour l'application de la présente loi sans l'assentiment du ministre.

Single-tier fiscal period alignment

(8) The members of a partnership that has a fiscal period that begins before March 22, 2011 and that would, if this Act were read without reference to this subsection and subsection (10), end on a day after March 22, 2011, may elect to end that fiscal period on a particular day that is before the day on which the fiscal period would otherwise end (in this subsection and subsection (10) referred to as a "single-tier alignment election") if

(a) each member of the partnership is, on the particular day, a corporation that is not a professional corporation;

(b) the partnership is not, on the particular day, a member of another partnership;

(c) at least one member of the partnership is, on the particular day, a corporation that has a significant interest, as defined in section 34.2, in the partnership;

(d) at least one member of the partnership referred to in paragraph (c) has a taxation year that ends on a day that differs from the day on which the fiscal period of the partnership would end if this Act were read without reference to this subsection and subsection (10);

(e) the particular day is after March 22, 2011 and no later than the latest day that is the last day of the first taxation year that ends after March 22, 2011 of any

Alignement d'exercice — palier unique

(8) Les associés d'une société de personnes dont l'un des exercices commence avant le 22 mars 2011 et prendrait fin après cette date s'il n'était pas tenu compte du présent paragraphe ni du paragraphe (10) peuvent faire un choix (appelé « choix d'alignement pour palier unique » au présent paragraphe et au paragraphe (10)) afin que cet exercice prenne fin à une date donnée qui est antérieure à la date où il prendrait fin par ailleurs si les conditions ci-après sont réunies :

a) chaque associé de la société de personnes est, à la date donnée, une société autre qu'une société professionnelle;

b) la société de personnes n'est pas un associé d'une autre société de personnes à la date donnée;

c) au moins un des associés de la société de personnes est, à la date donnée, une société qui a une participation importante, au sens de l'article 34.2, dans la société de personnes;

d) au moins un des associés de la société de personnes visée à l'alinéa c) a une année d'imposition qui prend fin à une date qui diffère de celle où l'exercice de la société de personnes prendrait fin s'il n'était pas tenu compte du présent paragraphe ni du paragraphe (10);

corporation that has been a member of the partnership continuously since March 21, 2011; and

(f) subsection (10) applies to the single-tier alignment election.

e) la date donnée est postérieure au 22 mars 2011 sans dépasser la date la plus tardive qui correspond au dernier jour de la première année d'imposition se terminant après le 22 mars 2011 de toute société qui a été un associé de la société de personnes de façon continue depuis le 21 mars 2011;

f) le paragraphe (10) s'applique au choix d'alignement pour palier unique.

Multi-tier fiscal period alignment — one-time election

(9) The members of a partnership to which paragraph (1)(c) would apply if it were read without reference to this subsection may elect (in this subsection and subsections (10) and (11) referred to as a "multi-tier alignment election") to end a fiscal period of the partnership on a particular day if

(a) as a consequence of the multi-tier alignment election, the fiscal period of the partnership, and of each other partnership described in relation to the partnership by any of subparagraphs (1)(c)(ii) to (iv), ends on the particular day;

(b) the particular day is before March 22, 2012; and

(c) subsection (10) applies to the multi-tier alignment election.

Alignement d'exercice — paliers multiples — choix unique

(9) Les associés d'une société de personnes auxquels l'alinéa (1)c) s'appliquerait s'il n'était pas tenu compte du présent paragraphe peuvent faire un choix (appelé « choix d'alignement pour paliers multiples » au présent paragraphe et aux paragraphes (10) et (11)) afin qu'un exercice de la société de personnes prenne fin à une date donnée si les conditions ci-après sont réunies :

a) par suite du choix d'alignement pour paliers multiples, l'exercice de la société de personnes et celui de chacune des autres sociétés de personnes qui sont visées par rapport à cette dernière à l'un de sous-alinéas (1)c)(ii) à (iv) prennent fin à la date donnée;

b) la date donnée est antérieure au 22 mars 2012;

c) le paragraphe (10) s'applique au choix d'alignement pour paliers multiples.

Conditions to align a partnership fiscal period

(10) This subsection applies to a single-tier alignment election or a multi-tier alignment election, as the case may be, for a partnership if

(a) the election is filed in writing and in prescribed form with the Minister

(i) in the case of a single-tier alignment election, by a corporation that is a member of the partnership on or before the day that is the earliest filing-due date of any corporation that is a member of the partnership for its first taxation year ending after March 22, 2011, and

(ii) in the case of a multi-tier alignment election,

(A) by a corporation that is a member of the partnership, or of a partnership described in relation to the partnership by any of subparagraphs (1)(c)(ii) to (iv), and

(B) on or before the day that is the earliest filing-due date of any corporation that is a member of a partnership referred to in clause (A) for the

Conditions

(10) Le présent paragraphe s'applique à un choix d'alignement pour palier unique ou à un choix d'alignement pour paliers multiples, selon le cas, visant une société de personnes si, à la fois :

a) le document concernant le choix est présenté au ministre sur le formulaire prescrit :

(i) s'agissant d'un choix d'alignement pour palier unique, par une société qui est un associé de la société de personnes, au plus tard à la première des dates d'échéance de production applicables aux sociétés associées de la société de personnes pour leur première année d'imposition se terminant après le 22 mars 2011,

(ii) s'agissant d'un choix d'alignement pour paliers multiples :

(A) par une société qui est un associé soit de la société de personnes, soit d'une société de personnes qui est visée par rapport à cette dernière à l'un des sous-alinéas (1)c)(ii) à (iv),

first taxation year of the corporation ending after March 22, 2011;

(b) as a consequence of the election, the fiscal period of each partnership to which the election applies is 12 months or less;

(c) the election was made by a corporation that has the authority to act for the members of the partnership and each member of any other partnership described in relation to the partnership in subparagraph (1)(c)(ii) to (iv); and

(d) no other election is filed with the Minister to end the fiscal period of the partnership, or of any other partnership described in relation to the partnership in subparagraph (1)(c)(ii) to (iv), on a day other than the particular day referred to in subsection (8) or (9), as the case may be.

(B) au plus tard à la première des dates d'échéance de production applicables aux sociétés associées d'une société de personnes visée à la division (A) pour leur première année d'imposition se terminant après le 22 mars 2011;

b) par suite du choix, la durée de l'exercice de chaque société de personnes à laquelle le choix s'applique n'excède pas douze mois;

c) le choix a été fait par une société qui est autorisée à agir au nom des associés de la société de personnes et des associés de toute autre société de personnes qui est visée par rapport à la société de personnes à l'un des sous-alinéas (1)c)(ii) à (iv);

d) aucun autre choix n'a été présenté au ministre en vue de mettre fin à l'exercice de la société de personnes ou de toute autre société de personnes qui est visée par rapport à la société de personnes aux sous-alinéas (1)c)(ii) à (iv), à une date autre que la date donnée visée aux paragraphes (8) ou (9).

Deemed multi-tier alignment election

(11) For the purposes of this Act, if paragraph (1)(c) applies to end the fiscal period of a partnership on December 31, 2011, a multi-tier alignment election under subsection (9) is deemed to have been made to end the fiscal period of the partnership on December 31, 2011.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1996, c. 21, s. 61; 1998, c. 19, s. 240; 1999, c. 22, s. 81; 2001, c. 17, s. 189; 2011, c. 24, s. 73; 2013, c. 34, s. 360; 2014, c. 39, s. 73.

Choix réputé — alignement pour paliers multiples

(11) Pour l'application de la présente loi, si l'exercice d'une société de personnes prend fin le 31 décembre 2011 par l'effet de l'alinéa (1)c), le choix d'alignement pour paliers multiples prévu au paragraphe (9) est réputé avoir été fait de façon à mettre fin à l'exercice de la société de personnes à cette date.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1996, ch. 21, art. 61; 1998, ch. 19, art. 240; 1999, ch. 22, art. 81; 2001, ch. 17, art. 189; 2011, ch. 24, art. 73; 2013, ch. 34, art. 360; 2014, ch. 39, art. 73.

Person deemed resident

250 (1) For the purposes of this Act, a person shall, subject to subsection 250(2), be deemed to have been resident in Canada throughout a taxation year if the person

(a) sojourned in Canada in the year for a period of, or periods the total of which is, 183 days or more;

(b) was, at any time in the year, a member of the Canadian Forces;

(c) was, at any time in the year,

(i) an ambassador, minister, high commissioner, officer or servant of Canada, or

(ii) an agent-general, officer or servant of a province,

and was resident in Canada immediately prior to appointment or employment by Canada or the province

Personne réputée résider au Canada

250 (1) Pour l'application de la présente loi, une personne est réputée, sous réserve du paragraphe (2), avoir résidé au Canada tout au long d'une année d'imposition si :

a) elle a séjourné au Canada au cours de l'année pendant une période ou des périodes dont l'ensemble est de 183 jours ou plus;

b) elle était, à un moment donné au cours de l'année, membre des Forces canadiennes;

c) elle était, à un moment donné au cours de l'année :

(i) un ambassadeur, un ministre, un haut-commissaire, un fonctionnaire ou un représentant du Canada,

(ii) un agent général, un fonctionnaire ou un représentant d'une province,

or received representation allowances in respect of the year;

(d) performed services, at any time in the year, in a country other than Canada under a prescribed international development assistance program of the Government of Canada and was resident in Canada at any time in the 3 month period preceding the day on which those services commenced;

(d.1) was, at any time in the year, a member of the overseas Canadian Forces school staff who filed his or her return for the year on the basis that the person was resident in Canada throughout the period during which the person was such a member;

(e) [Repealed, 1999, c. 22, s. 82(1)]

(f) was at any time in the year a child of, and dependent for support on, an individual to whom paragraph (b), (c), (d) or (d.1) applies and the person's income for the year did not exceed the amount used under paragraph (c) of the description of B in subsection 118(1) for the year;

(g) was at any time in the year, under an agreement or a convention with one or more other countries that has the force of law in Canada, entitled to an exemption from an income tax otherwise payable in any of those countries in respect of income from any source (unless all or substantially all of the person's income from all sources was not so exempt), because at that time the person was related to or a member of the family of an individual (other than a trust) who was resident in Canada.

et résidait au Canada immédiatement avant sa nomination ou son emploi par le Canada ou la province ou recevait des frais de représentation pour cette année;

d) elle exerçait des fonctions, à un moment donné au cours de l'année, dans un pays étranger, dans le cadre d'un programme d'aide au développement international visé par règlement, établi ou souscrit par le gouvernement du Canada, et a résidé au Canada à un moment donné au cours de la période de 3 mois qui a précédé la date de son entrée en fonctions;

d.1) elle était, à un moment donné au cours de l'année, membre du personnel scolaire des Forces canadiennes d'outre-mer et a produit sa déclaration pour l'année comme si elle avait résidé au Canada tout au long de la période au cours de laquelle elle était membre de ce personnel;

e) [Abrogé, 1999, ch. 22, art. 82(1)]

f) elle était, au cours de l'année, l'enfant d'un particulier auquel s'appliquent les alinéas b), c), d) ou d.1), et financièrement à la charge de celui-ci, et son revenu pour l'année n'a pas dépassé le montant applicable pour l'année selon l'alinéa 118(1)c);

g) elle avait droit à un moment de l'année, aux termes d'un accord ou d'une convention conclu avec un ou plusieurs pays étrangers et ayant force de loi au Canada, à une exemption de l'impôt sur le revenu payable par ailleurs dans l'un de ces pays au titre du revenu provenant d'une source quelconque (sauf si la totalité ou la presque totalité de son revenu de toutes sources n'était pas ainsi exemptée), du fait qu'à ce moment elle était liée à un particulier (sauf une fiducie) résidant au Canada ou était membre de sa famille.

Idem

(2) Where at any time in a taxation year a person described in paragraph (1)b), (c) or (d) ceases to be a person so described, or a person described in paragraph (1)(d.1) ceases to be a member of the overseas Canadian Forces school staff, that person shall be deemed to have been resident in Canada throughout the part of the year preceding that time and the spouse or common-law partner and child of that person who by reason of paragraph (1)(e) or (f) would, but for this subsection, be deemed to have been resident in Canada throughout the year shall be deemed to have been resident in Canada throughout that part of the year.

Idem

(2) La personne visée à l'alinéa (1)b), c) ou d) et qui, à un moment donné au cours d'une année d'imposition, cesse d'être ainsi visée ou la personne visée à l'alinéa (1)d.1) et qui, à un moment donné d'une année d'imposition, cesse d'être membre du personnel scolaire des Forces canadiennes d'outre-mer est réputée avoir résidé au Canada tout au long de la partie de l'année qui a précédé ce moment et ses époux ou conjoint de fait et enfants qui, en application de l'alinéa (1)e) ou f), auraient été réputés, sans le présent paragraphe, avoir résidé au Canada tout au long de l'année sont réputés avoir résidé au Canada tout au long de cette partie d'année.

Ordinarily resident

(3) In this Act, a reference to a person resident in Canada includes a person who was at the relevant time ordinarily resident in Canada.

Résident habituel

(3) Dans la présente loi, la mention d'une personne résidant au Canada vise aussi une personne qui, au moment considéré, résidait habituellement au Canada.

Corporation deemed resident

(4) For the purposes of this Act, a corporation shall be deemed to have been resident in Canada throughout a taxation year if

(a) in the case of a corporation incorporated after April 26, 1965, it was incorporated in Canada;

(b) in the case of a corporation that

(i) was incorporated before April 9, 1959,

(ii) was, on June 18, 1971, a foreign business corporation (within the meaning of section 71 of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read in its application to the 1971 taxation year) that was controlled by a corporation resident in Canada,

(iii) throughout the 10 year period ending on June 18, 1971, carried on business in any one particular country other than Canada, and

(iv) during the period referred to in subparagraph 250(4)(b)(iii), paid dividends to its shareholders resident in Canada on which its shareholders paid tax to the government of the country referred to in that subparagraph,

it was incorporated in Canada and, at any time in the taxation year or at any time in any preceding taxation year commencing after 1971, it was resident in Canada or carried on business in Canada; and

(c) in the case of a corporation incorporated before April 27, 1965 (other than a corporation to which subparagraphs 250(4)(b)(i) to 250(4)(b)(iv) apply), it was incorporated in Canada and, at any time in the taxation year or at any time in any preceding taxation year of the corporation ending after April 26, 1965, it was resident in Canada or carried on business in Canada.

Deemed non-resident

(5) Notwithstanding any other provision of this Act (other than paragraph 126(1.1)(a)), a person is deemed not to be resident in Canada at a time if, at that time, the person would, but for this subsection and any tax treaty, be resident in Canada for the purposes of this Act but is, under a tax treaty with another country, resident in the other country and not resident in Canada.

Société réputée résider au Canada

(4) Pour l'application de la présente loi, une société est réputée avoir résidé au Canada tout au long d'une année d'imposition si :

a) dans le cas d'une société constituée après le 26 avril 1965, elle a été constituée au Canada;

b) dans le cas d'une société qui remplit les conditions suivantes :

(i) elle a été constituée avant le 9 avril 1959,

(ii) elle était, le 18 juin 1971, une société étrangère (au sens de l'article 71 de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable à l'année d'imposition 1971), contrôlée par une société résidant au Canada,

(iii) tout au long de la période de 10 ans se terminant le 18 juin 1971, elle a exploité une entreprise dans un pays étranger particulier,

(iv) au cours de la période visée au sous-alinéa (iii), elle a payé à ses actionnaires résidant au Canada des dividendes sur lesquels ses actionnaires ont payé l'impôt au gouvernement du pays visé à ce sous-alinéa,

elle a été constituée au Canada et à un moment donné au cours de l'année d'imposition ou à un moment donné au cours d'une année d'imposition antérieure commençant après 1971, elle a résidé au Canada ou a exploité une entreprise au Canada;

c) dans le cas d'une société constituée avant le 27 avril 1965 (autre qu'une société à laquelle s'appliquent les sous-alinéas b)(i) à (iv)), elle a été constituée au Canada et à un moment donné au cours de l'année d'imposition ou à un moment donné au cours d'une année d'imposition antérieure de la société, terminée après le 26 avril 1965, elle a résidé au Canada ou a exploité une entreprise au Canada.

Personne réputée non-résidente

(5) Malgré les autres dispositions de la présente loi (sauf l'alinéa 126(1.1)a)), une personne est réputée ne pas résider au Canada à un moment donné dans le cas où, à ce moment, si ce n'était le présent paragraphe ou tout traité fiscal, elle résiderait au Canada pour l'application de la présente loi alors que, en vertu d'un traité fiscal conclu avec un autre pays, elle réside dans ce pays et non au Canada.

Continued corporation

(5.1) Where a corporation is at any time (in this subsection referred to as the "time of continuation") granted articles of continuance (or similar constitutional documents) in a particular jurisdiction, the corporation shall

(a) for the purposes of applying this Act (other than subsection 250(4)) in respect of all times from the time of continuation until the time, if any, of continuation in a different jurisdiction, be deemed to have been incorporated in the particular jurisdiction and not to have been incorporated in any other jurisdiction; and

(b) for the purpose of applying subsection 250(4) in respect of all times from the time of continuation until the time, if any, of continuation in a different jurisdiction, be deemed to have been incorporated in the particular jurisdiction at the time of continuation and not to have been incorporated in any other jurisdiction.

Residence of international shipping corporation

(6) For the purposes of this Act, a corporation that was incorporated or otherwise formed under the laws of a country other than Canada or of a state, province or other political subdivision of such a country is deemed to be resident in that country throughout a taxation year and not to be resident in Canada at any time in the year, if

(a) the corporation

(i) has international shipping as its principal business in the year, or

(ii) holds eligible interests in one or more eligible entities throughout the year and at no time in the year is the total of the cost amounts to it of all those eligible interests and of all debts owing to it by an eligible entity in which an eligible interest is held by it, by a person related to it or by a partnership affiliated with it less than 50% of the total of the cost amounts to it of all its property;

(b) all or substantially all the corporation's gross revenue for the year consists of any one or more of

(i) gross revenue from international shipping,

(ii) gross revenue from an eligible interest held by it in an eligible entity, and

(iii) interest on a debt owing by an eligible entity in which an eligible interest is held by it, by a person related to it or by a partnership affiliated with it; and

Prorogation d'une société

(5.1) Lorsqu'une société obtient, à un moment donné (appelé « moment de la prorogation » au présent paragraphe), des clauses de prorogation, ou des documents semblables concernant sa constitution, dans un ressort donné, les présomptions suivantes s'appliquent :

a) pour l'application de la présente loi, à l'exception du paragraphe (4), depuis le moment de la prorogation jusqu'à la prorogation, le cas échéant, de la société dans un autre ressort, la société est réputée avoir été constituée dans le ressort donné et non dans un autre;

b) pour l'application du paragraphe (4) depuis le moment de la prorogation jusqu'à la prorogation, le cas échéant, de la société dans un autre ressort, la société est réputée avoir été constituée dans le ressort donné au moment de la prorogation et ne pas avoir été constituée dans un autre ressort.

Lieu de résidence des sociétés de transport maritime international

(6) Pour l'application de la présente loi, la société qui est constituée sous le régime des lois d'un pays étranger ou d'un État, d'une province ou d'une autre subdivision politique de ce pays est réputée résider dans ce pays tout au long d'une année d'imposition et ne résider au Canada à aucun moment de l'année si les conditions ci-après sont réunies :

a) selon le cas :

(i) l'entreprise principale de la société au cours de l'année est le transport maritime international,

(ii) la société détient, tout au long de l'année, des participations admissibles dans une ou plusieurs entités admissibles et le total des coûts indiqués, pour elle, de ces participations et des dettes qui lui sont dues par une entité admissible dans laquelle une participation admissible est détenue par elle, par une personne qui lui est liée ou par une société de personnes affiliée à elle n'est, à aucun moment de l'année, inférieur à 50 % du total des coûts indiqués, pour elle, de l'ensemble de ses biens;

b) la totalité ou la presque totalité du revenu brut de la société pour l'année est composée d'un ou de plusieurs des éléments suivants :

(i) le revenu brut provenant du transport maritime international,

(c) the corporation was not granted articles of continuance in Canada before the end of the year.

Partner's gross revenue

(6.01) For the purposes of paragraph (6)(b), an amount of profit allocated from a partnership to a member of the partnership for a taxation year is deemed to be gross revenue of the member from member's interest in the partnership for the year.

Service providers

(6.02) Subsection (6.03) applies to a corporation, trust or partnership (in this subsection and subsection (6.03) referred to as the "relevant entity") for a taxation year if

(a) the relevant entity does not satisfy the condition in subparagraph (6)(a)(i), determined without reference to subsection (6.03);

(b) all or substantially all the gross revenue of the relevant entity for the year consists of any one or more of

(i) gross revenue from the provision of services to one or more eligible entities, other than services described in any of paragraphs (a) to (h) of the definition ***international shipping*** in subsection 248(1),

(ii) gross revenue from international shipping,

(iii) gross revenue from an eligible interest held by it in an eligible entity, and

(iv) interest on a debt owing by an eligible entity in which an eligible interest is held by it or a person related to it;

(c) either the relevant entity is a subsidiary wholly-owned corporation (as defined in subsection 87(1.4)) of the eligible entity referred to in paragraph (b) or an eligible interest in each eligible entity referred to in paragraph (b) is held throughout the year by

(i) the relevant entity,

(ii) one or more persons related to the relevant entity (if the relevant entity and each such person is a

(ii) le revenu brut provenant d'une participation admissible qu'elle détient dans une entité admissible,

(iii) les intérêts sur une créance due par une entité admissible dans laquelle une participation admissible est détenue par elle, par une personne qui lui est liée ou par une société de personnes affiliée à elle;

c) des clauses de prorogation au Canada n'ont pas été accordées à la société avant la fin de l'année.

Revenu brut d'un associé

(6.01) Pour l'application de l'alinéa (6)b), le montant des bénéfices qu'une société de personnes attribue à son associé pour une année d'imposition est réputé être un revenu brut de l'associé provenant de sa participation dans la société de personnes pour l'année.

Fournisseurs de services

(6.02) Le paragraphe (6.03) s'applique à une société, à une fiducie ou à une société de personnes (appelées « entité intéressée » au présent paragraphe et au paragraphe (6.03)) pour une année d'imposition si les faits ci-après s'avèrent :

a) l'entité intéressée ne remplit pas la condition énoncée au sous-alinéa (6)a)(i), déterminé compte non tenu du paragraphe (6.03);

b) la totalité ou la presque totalité du revenu brut de l'entité intéressée pour l'année est composée d'un ou plusieurs des éléments suivants :

(i) le revenu brut provenant de la prestation de services à une ou plusieurs entités admissibles, sauf des services visés à un des alinéas a) à h) de la définition de ***transport maritime international*** au paragraphe 248(1),

(ii) le revenu brut provenant du transport maritime international,

(iii) le revenu brut provenant d'une participation admissible qu'elle détient dans une entité admissible,

(iv) les intérêts sur une dette due par une entité admissible dans laquelle une participation admissible est détenue par elle ou par une personne qui lui est liée;

c) soit l'entité intéressée est une filiale à cent pour cent, au sens du paragraphe 87(1.4), de l'entité admissible visée à l'alinéa b), soit une participation

corporation), or persons or partnerships affiliated with the relevant entity (in any other case), or

(iii) any combination of the relevant entity and persons or partnerships described in subparagraph (ii); and

(d) all or substantially all the shares of the capital stock of, or interests in, the relevant entity are held, directly or indirectly through one or more subsidiary wholly-owned corporations (as defined in subsection 87(1.4)), throughout the year by one or more corporations, trusts or partnerships that would be eligible entities if they did not own shares of, or interests in, the relevant entity.

admissible dans chaque entité admissible visée à l'alinéa b) est détenue tout au long de l'année, selon le cas :

(i) par l'entité intéressée,

(ii) par une ou plusieurs personnes liées à l'entité intéressée (si l'entité intéressée et chacune de ces personnes est une société) ou, dans les autres cas, par des personnes ou sociétés de personnes affiliées à l'entité intéressée,

(iii) par toute combinaison de l'entité intéressée et des personnes ou sociétés de personnes visées au sous-alinéa (ii);

d) la totalité ou la presque totalité des actions du capital-actions de l'entité intéressée, ou des participations dans celle-ci, sont détenues, directement ou indirectement par l'entremise d'au moins une filiale à cent pour cent, au sens du paragraphe 87(1.4), tout au long de l'année par une ou plusieurs sociétés, fiducies ou sociétés de personnes qui seraient des entités admissibles si elles ne détenaient ni d'actions de l'entité intéressée ni de participations dans celle-ci.

Service providers

(6.03) If this subsection applies for a taxation year, then for the purposes of subsection (6) and paragraph 81(1)(c),

(a) the relevant entity is deemed to have international shipping as its principal business in the year; and

(b) the gross revenue described in subparagraph (6.02)(b)(i) is deemed to be gross revenue from international shipping.

Fournisseurs de services

(6.03) En cas d'application du présent paragraphe pour une année d'imposition, les règles ci-après s'appliquent au paragraphe (6) et à l'alinéa 81(1)c) :

a) l'entreprise principale de l'entité intéressée au cours de l'année est réputée être le transport maritime international;

b) le revenu brut visé au sous-alinéa (6.02)b)(i) est réputé être un revenu brut provenant du transport maritime international.

Definitions

(6.04) The following definitions apply in this subsection and subsections (6) to (6.03).

eligible entity, for a taxation year, means

(a) a corporation that is deemed by subsection (6) to be resident in a country other than Canada for the year; or

(b) a partnership or trust, if

(i) it satisfies the conditions in subparagraph (6)(a)(i) or (ii), and

(ii) all or substantially all its gross revenue for the year consists of any combination of amounts

Définitions

(6.04) Les définitions qui suivent s'appliquent au présent paragraphe et aux paragraphes (6) à (6.03).

entité admissible Est une entité admissible pour une année d'imposition :

a) toute société qui est réputée, en vertu du paragraphe (6), résider dans un pays étranger pour l'année;

b) toute société de personnes ou fiducie à l'égard de laquelle les faits ci-après s'avèrent :

(i) elle remplit les conditions énoncées aux sous-alinéas (6)a)(i) ou (ii),

described in any of subparagraphs (6)(b)(i) to (iii). (*entité admissible*)

eligible interest means

(a) in respect of a corporation, shares of the capital stock of the corporation that

(i) give the holders of those shares not less than 25% of the votes that could be cast at an annual meeting of the shareholders of the corporation, and

(ii) have a fair market value that is not less than 25% of the fair market value of all the issued and outstanding shares of the capital stock of the corporation;

(b) in respect of a trust, an interest as a beneficiary (as defined in subsection 108(1)) under the trust with a fair market value that is not less than 25% of the fair market value of all the interests of all beneficiaries under the trust; and

(c) in respect of a partnership, an interest as a member of the partnership with a fair market value that is not less than 25% of the fair market value of all the membership interests in the partnership. (*participation admissible*)

Holdings in eligible entities

(6.05) For the purpose of determining whether a person or partnership (in this subsection referred to as the "holder") holds an eligible interest in an eligible entity in subsections (6) to (6.04), the holder is deemed to hold all of the shares or interests, as the case may be, in the eligible entity held by

(a) the holder;

(b) if the holder is a corporation,

(i) each corporation related to the holder, and

(ii) each person, other than a corporation, or partnership that is affiliated with the holder; and

(c) if the holder is not a corporation, each person or partnership affiliated with the holder.

Residence of *inter vivos* trusts

(6.1) For the purposes of provisions of this Act that apply to a trust for a taxation year only where the trust has been resident in Canada throughout the year, where a

(ii) la totalité ou la presque totalité de son revenu brut pour l'année consiste en l'une ou plusieurs des sommes visées aux sous-alinéas (6)b)(i) à (iii). (*eligible entity*)

participation admissible

a) En ce qui concerne une société, actions de son capital-actions qui, à la fois :

(i) confèrent à leurs détenteurs au moins 25 % des voix pouvant être exprimées à l'assemblée annuelle des actionnaires de la société,

(ii) ont une juste valeur marchande équivalant à au moins 25 % de la juste valeur marchande de l'ensemble des actions émises et en circulation du capital-actions de la société;

b) en ce qui concerne une fiducie, participation à titre de bénéficiaire, au sens du paragraphe 108(1), de la fiducie dont la juste valeur marchande équivaut à au moins 25 % de la juste valeur marchande des participations de l'ensemble des bénéficiaires de la fiducie;

c) en ce qui concerne une société de personnes, participation à titre d'associé de la société de personnes dont la juste valeur marchande équivaut à au moins 25 % de la juste valeur marchande des participations de l'ensemble des associés de la société de personnes. (*eligible interest*)

Participation dans une entité admissible

(6.05) Pour déterminer si une personne ou une société de personnes (appelée le « titulaire » au présent paragraphe) détient une participation admissible dans une entité admissible visée aux paragraphes (6) à (6.04), le titulaire est réputé détenir toutes les actions ou participations dans l'entité admissible qui sont détenues par :

a) soit le titulaire;

b) si le titulaire est une société :

(i) soit toute société liée au titulaire,

(ii) soit toute personne, à l'exception d'une société, ou société de personnes affiliée au titulaire;

c) si le titulaire n'est pas une société, toute personne ou société de personnes qui lui est affiliée.

Résidence d'une fiducie non testamentaire

(6.1) Pour l'application des dispositions de la présente loi qui ne s'appliquent à une fiducie pour une année d'imposition que dans le cas où elle a résidé au Canada

particular trust ceases at any time to exist and the particular trust was resident in Canada immediately before that time, the particular trust is deemed to be resident in Canada throughout the period that begins at that time and ends at the end of the year.

(7) [Repealed, 2011, c. 24, s. 74]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 250; 1994, c. 7, Sch. II, s. 194, Sch. VII, s. 22, c. 21, s. 111; 1995, c. 3, s. 54; 1998, c. 19, ss. 67, 241; 1999, c. 22, s. 82; 2000, c. 12, s. 142, c. 19, s. 68; 2001, c. 17, s. 190; 2011, c. 24, s. 74; 2014, c. 39, s. 74.

Non-resident person's taxation year and income

250.1 For greater certainty, unless the context requires otherwise

(a) a taxation year of a non-resident person shall be determined, except as otherwise permitted by the Minister, in the same manner as the taxation year of a person resident in Canada; and

(b) a person for whom income for a taxation year is determined in accordance with this Act includes a non-resident person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 191.

Arm's length

251 (1) For the purposes of this Act,

(a) related persons shall be deemed not to deal with each other at arm's length;

(b) a taxpayer and a personal trust (other than a trust described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1)) are deemed not to deal with each other at arm's length if the taxpayer, or any person not dealing at arm's length with the taxpayer, would be beneficially interested in the trust if subsection 248(25) were read without reference to subclauses 248(25)(b)(iii)(A)(II) to (IV); and

(c) in any other case, it is a question of fact whether persons not related to each other are, at a particular time, dealing with each other at arm's length.

Definition of *related persons*

(2) For the purpose of this Act, ***related persons***, or persons related to each other, are

(a) individuals connected by blood relationship, marriage or common-law partnership or adoption;

(b) a corporation and

tout au long de l'année, la fiducie qui résidait au Canada juste avant de cesser d'exister est réputée résider au Canada tout au long de la période commençant au moment où elle a cessé d'exister et se terminant à la fin de l'année.

(7) [Abrogé, 2011, ch. 24, art. 74]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 250; 1994, ch. 7, ann. II, art. 194, ann. VII, art. 22, ch. 21, art. 111; 1995, ch. 3, art. 54; 1998, ch. 19, art. 67 et 241; 1999, ch. 22, art. 82; 2000, ch. 12, art. 142, ch. 19, art. 68; 2001, ch. 17, art. 190; 2011, ch. 24, art. 74; 2014, ch. 39, art. 74.

Année d'imposition et revenu d'une personne non-résidente

250.1 Il est entendu, sauf indication contraire du contexte :

a) que l'année d'imposition d'une personne non-résidente est déterminée, sauf permission contraire du ministre, de la même manière que l'année d'imposition d'une personne résidant au Canada;

b) que les personnes non-résidentes comptent parmi les personnes dont le revenu pour une année d'imposition est déterminé conformément à la présente loi.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 191.

Lien de dépendance

251 (1) Pour l'application de la présente loi :

a) des personnes liées sont réputées avoir entre elles un lien de dépendance;

b) un contribuable et une fiducie personnelle (sauf une fiducie visée à l'un des alinéas a) à e.1) de la définition de ***fiducie*** au paragraphe 108(1)) sont réputés avoir entre eux un lien de dépendance dans le cas où le contribuable, ou une personne avec laquelle il a un tel lien, aurait un droit de bénéficiaire dans la fiducie si le paragraphe 248(25) s'appliquait compte non tenu de ses subdivisions b)(iii)(A)(II) à (IV);

c) dans les autres cas, la question de savoir si des personnes non liées entre elles n'ont aucun lien de dépendance à un moment donné est une question de fait.

Définition de *personnes liées*

(2) Pour l'application de la présente loi, sont des ***personnes liées*** ou des personnes liées entre elles :

a) des particuliers unis par les liens du sang, du mariage, de l'union de fait ou de l'adoption;

b) une société et :

(i) a person who controls the corporation, if it is controlled by one person,

(ii) a person who is a member of a related group that controls the corporation, or

(iii) any person related to a person described in subparagraph 251(2)(b)(i) or 251(2)(b)(ii); and

(c) any two corporations

(i) if they are controlled by the same person or group of persons,

(ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,

(iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,

(iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,

(v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or

(vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

(i) une personne qui contrôle la société si cette dernière est contrôlée par une personne,

(ii) une personne qui est membre d'un groupe lié qui contrôle la société,

(iii) toute personne liée à une personne visée au sous-alinéa (i) ou (ii);

c) deux sociétés :

(i) si elles sont contrôlées par la même personne ou le même groupe de personnes,

(ii) si chacune des sociétés est contrôlée par une personne et si la personne contrôlant l'une des sociétés est liée à la personne qui contrôle l'autre société,

(iii) si l'une des sociétés est contrôlée par une personne et si cette personne est liée à un membre d'un groupe lié qui contrôle l'autre société,

(iv) si l'une des sociétés est contrôlée par une personne et si cette personne est liée à chaque membre d'un groupe non lié qui contrôle l'autre société,

(v) si l'un des membres d'un groupe lié contrôlant une des sociétés est lié à chaque membre d'un groupe non lié qui contrôle l'autre société,

(vi) si chaque membre d'un groupe non lié contrôlant une des sociétés est lié à au moins un membre d'un groupe non lié qui contrôle l'autre société.

Corporations related through a third corporation

(3) Where two corporations are related to the same corporation within the meaning of subsection 251(2), they shall, for the purposes of subsections 251(1) and 251(2), be deemed to be related to each other.

Sociétés liées à la même société

(3) Lorsque deux sociétés sont liées à une même société au sens du paragraphe (2), elles sont, pour l'application des paragraphes (1) et (2), réputées être liées entre elles.

Relation where amalgamation or merger

(3.1) Where there has been an amalgamation or merger of two or more corporations and the new corporation formed as a result of the amalgamation or merger and any predecessor corporation would have been related immediately before the amalgamation or merger if the new corporation were in existence at that time, and if the persons who were the shareholders of the new corporation immediately after the amalgamation or merger were the shareholders of the new corporation at that time, the new corporation and any such predecessor corporation shall be deemed to have been related persons.

Lien en cas de fusion ou d'unification

(3.1) Lorsqu'il y a eu fusion ou unification de plusieurs sociétés et que la nouvelle société formée à la suite de la fusion ou l'unification ainsi que toute société remplacée auraient été liées immédiatement avant la fusion ou l'unification, si la nouvelle société avait existé à ce moment et si les personnes qui étaient les actionnaires de la nouvelle société immédiatement après la fusion ou l'unification avaient été les actionnaires de la nouvelle société à ce moment, la nouvelle société toute société remplacée sont réputées avoir été des personnes liées.

Amalgamation of related corporations

(3.2) Where there has been an amalgamation or merger of 2 or more corporations each of which was related (otherwise than because of a right referred to in paragraph 251(5)(b)) to each other immediately before the amalgamation or merger, the new corporation formed as a result of the amalgamation or merger and each of the predecessor corporations is deemed to have been related to each other.

Definitions concerning groups

(4) In this Act,

related group means a group of persons each member of which is related to every other member of the group; (*groupe lié*)

unrelated group means a group of persons that is not a related group. (*groupe non lié*)

Control by related groups, options, etc.

(5) For the purposes of subsection 251(2) and the definition ***Canadian-controlled private corporation*** in subsection 125(7),

(a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by which the corporation is in fact controlled;

(b) where at any time a person has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently,

(i) to, or to acquire, shares of the capital stock of a corporation or to control the voting rights of such shares, the person shall, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, be deemed to have the same position in relation to the control of the corporation as if the person owned the shares at that time,

(ii) to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of the corporation, the person shall, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, be deemed to have the same position in relation to the control of the corporation as if the

Fusion de sociétés liées

(3.2) En cas de fusion ou d'unification de plusieurs sociétés qui étaient liées (autrement qu'à cause d'un droit visé à l'alinéa (5)b)) les unes aux autres immédiatement avant la fusion ou l'unification, la société issue de la fusion ou de l'unification et chacune des sociétés remplacées sont réputées avoir été liées les unes aux autres.

Définitions relatives au groupe

(4) Les définitions qui suivent s'appliquent à la présente loi.

groupe lié Groupe de personnes dont chaque membre est lié à chaque autre membre du groupe. (*related group*)

groupe non lié Groupe de personnes qui n'est pas un groupe lié. (*unrelated group*)

Groupe lié, droit d'achat ou de rachat et personne liée à elle-même

(5) Pour l'application du paragraphe (2) et de la définition de ***société privée sous contrôle canadien*** au paragraphe 125(7):

a) le groupe lié qui est en mesure de contrôler une société est réputé être un groupe lié qui contrôle la société, qu'il fasse ou non partie d'un groupe plus nombreux qui contrôle en fait la société;

b) la personne qui, à un moment donné, en vertu d'un contrat, en equity ou autrement, a un droit, immédiat ou futur, conditionnel ou non :

(i) à des actions du capital-actions d'une société ou de les acquérir ou d'en contrôler les droits de vote, est réputée occuper la même position relativement au contrôle de la société que si elle était propriétaire des actions à ce moment, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier,

(ii) d'obliger une société à racheter, acquérir ou annuler des actions de son capital-actions dont d'autres actionnaires de la société sont propriétaires, est réputée occuper la même position relativement au contrôle de la société que si celle-ci rachetait, acquérait ou annulait les actions à ce moment, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier,

shares were so redeemed, acquired or cancelled by the corporation at that time;

(iii) to, or to acquire or control, voting rights in respect of shares of the capital stock of a corporation, the person is, except where the right is not exercisable at that time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the person could exercise the voting rights at that time, or

(iv) to cause the reduction of voting rights in respect of shares, owned by other shareholders, of the capital stock of a corporation, the person is, except where the right is not exercisable at that time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual, deemed to have the same position in relation to the control of the corporation as if the voting rights were so reduced at that time; and

(c) where a person owns shares in two or more corporations, the person shall as shareholder of one of the corporations be deemed to be related to himself, herself or itself as shareholder of each of the other corporations.

(iii) aux droits de vote rattachés à des actions du capital-actions d'une société, ou de les acquérir ou les contrôler, est réputée occuper la même position relativement au contrôle de la société que si elle pouvait exercer les droits de vote à ce moment, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier,

(iv) de faire réduire les droits de vote rattachés à des actions, appartenant à d'autres actionnaires, du capital-actions d'une société est réputée occuper la même position relativement au contrôle de la société que si les droits de vote étaient ainsi réduits à ce moment, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier,

c) lorsqu'une personne est propriétaire d'actions de plusieurs sociétés, elle est réputée, à titre d'actionnaire d'une des sociétés, être liée à elle-même à titre d'actionnaire de chacune des autres sociétés.

Blood relationship, etc.

(6) For the purposes of this Act, persons are connected by

(a) blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;

(b) marriage if one is married to the other or to a person who is so connected by blood relationship to the other;

(b.1) common-law partnership if one is in a common-law partnership with the other or with a person who is connected by blood relationship to the other; and

(c) adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship (otherwise than as a brother or sister) to the other.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 251; 1994, c. 7, Sch. II, s. 195; 1998, c. 19, s. 242; 2000, c. 12, ss. 140, 142; 2001, c. 17, s. 192; 2013, c. 34, s. 361.

Personnes liées par les liens du sang

(6) Pour l'application de la présente loi :

a) des personnes sont unies par les liens du sang si l'une est l'enfant ou un autre descendant de l'autre ou si l'une est le frère ou la sœur de l'autre;

b) des personnes sont unies par les liens du mariage si l'une est mariée à l'autre ou à une personne qui est ainsi unie à l'autre par les liens du sang;

b.1) des personnes sont unies par les liens d'une union de fait si l'une vit en union de fait avec l'autre ou avec une personne qui est unie à l'autre par les liens du sang;

c) des personnes sont unies par les liens de l'adoption si l'une a été adoptée, en droit ou de fait, comme enfant de l'autre ou comme enfant d'une personne ainsi unie à l'autre par les liens du sang (autrement qu'en qualité de frère ou de sœur).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 251; 1994, ch. 7, ann. II, art. 195; 1998, ch. 19, art. 242; 2000, ch. 12, art. 140 et 142; 2001, ch. 17, art. 192; 2013, ch. 34, art. 361.

Definition of *affiliated persons*

251.1 (1) For the purposes of this Act, ***affiliated persons***, or persons affiliated with each other, are

(a) an individual and a spouse or common-law partner of the individual;

(b) a corporation and

(i) a person by whom the corporation is controlled,

(ii) each member of an affiliated group of persons by which the corporation is controlled, and

(iii) a spouse or common-law partner of a person described in subparagraph (i) or (ii);

(c) two corporations, if

(i) each corporation is controlled by a person, and the person by whom one corporation is controlled is affiliated with the person by whom the other corporation is controlled,

(ii) one corporation is controlled by a person, the other corporation is controlled by a group of persons, and each member of that group is affiliated with that person, or

(iii) each corporation is controlled by a group of persons, and each member of each group is affiliated with at least one member of the other group;

(d) a corporation and a partnership, if the corporation is controlled by a particular group of persons each member of which is affiliated with at least one member of a majority-interest group of partners of the partnership, and each member of that majority-interest group is affiliated with at least one member of the particular group;

(e) a partnership and a majority-interest partner of the partnership;

(f) two partnerships, if

(i) the same person is a majority-interest partner of both partnerships,

(ii) a majority-interest partner of one partnership is affiliated with each member of a majority-interest group of partners of the other partnership, or

(iii) each member of a majority-interest group of partners of each partnership is affiliated with at least one member of a majority-interest group of partners of the other partnership;

Définition de *personnes affiliées*

251.1 (1) Pour l'application de la présente loi, sont des personnes affiliées ou des personnes affiliées les unes aux autres :

a) un particulier et son époux ou conjoint de fait;

b) une société et les personnes suivantes :

(i) une personne qui contrôle la société,

(ii) chaque membre d'un groupe de personnes affiliées qui contrôle la société,

(iii) l'époux ou conjoint de fait d'une personne visée aux sous-alinéas (i) ou (ii);

c) deux sociétés, si, selon le cas :

(i) chacune est contrôlée par une personne, et ces deux personnes sont affiliées l'une à l'autre,

(ii) l'une est contrôlée par un groupe de personnes dont chaque membre est affilié à la personne qui contrôle l'autre,

(iii) chacune est contrôlée par un groupe de personnes, et chaque membre de chacun de ces groupes est affilié à au moins un membre de l'autre groupe;

d) une société et une société de personnes, si la société est contrôlée par un groupe de personnes dont chaque membre est affilié à au moins un membre d'un groupe d'associés détenant une participation majoritaire de la société de personnes, et chaque membre de ce groupe d'associés est affilié à au moins un membre de l'autre groupe;

e) une société de personnes et un associé détenant une participation majoritaire de la société de personnes;

f) deux sociétés de personnes, si, selon le cas :

(i) l'associé détenant une participation majoritaire de chacune est la même personne,

(ii) l'associé détenant une participation majoritaire de l'une est affilié à chaque membre d'un groupe d'associés détenant une participation majoritaire de l'autre,

(iii) chaque membre d'un groupe d'associés détenant une participation majoritaire de l'une est affilié à au moins un membre d'un groupe d'associés détenant une participation majoritaire de l'autre;

(g) a person and a trust, if the person

(i) is a majority-interest beneficiary of the trust, or

(ii) would, if this subsection were read without reference to this paragraph, be affiliated with a majority-interest beneficiary of the trust; and

(h) two trusts, if a contributor to one of the trusts is affiliated with a contributor to the other trust and

(i) a majority-interest beneficiary of one of the trusts is affiliated with a majority-interest beneficiary of the other trust,

(ii) a majority-interest beneficiary of one of the trusts is affiliated with each member of a majority-interest group of beneficiaries of the other trust, or

(iii) each member of a majority-interest group of beneficiaries of each of the trusts is affiliated with at least one member of a majority-interest group of beneficiaries of the other trust.

g) une personne et une fiducie, si la personne, selon le cas :

(i) est un bénéficiaire détenant une participation majoritaire de la fiducie,

(ii) serait affiliée à un bénéficiaire détenant une participation majoritaire de la fiducie en l'absence du présent alinéa;

h) deux fiducies, si un cotisant de l'une est affilié à un cotisant de l'autre et si, selon le cas :

(i) un bénéficiaire détenant une participation majoritaire de l'une est affilié à un bénéficiaire détenant une participation majoritaire de l'autre,

(ii) un bénéficiaire détenant une participation majoritaire de l'une est affilié à chaque membre d'un groupe de bénéficiaires détenant une participation majoritaire de l'autre,

(iii) chaque membre d'un groupe de bénéficiaires détenant une participation majoritaire de chacune des fiducies est affilié à au moins un membre d'un groupe de bénéficiaires détenant une participation majoritaire de l'autre fiducie.

Affiliation where amalgamation or merger

(2) Where at any time 2 or more corporations (in this subsection referred to as the "predecessors") amalgamate or merge to form a new corporation, the new corporation and any predecessor are deemed to have been affiliated with each other where they would have been affiliated with each other immediately before that time if

(a) the new corporation had existed immediately before that time; and

(b) the persons who were the shareholders of the new corporation immediately after that time had been the shareholders of the new corporation immediately before that time.

Affiliation en cas de fusion ou d'unification

(2) Chaque société remplacée par la nouvelle société issue d'une fusion ou d'une unification est réputée affiliée à cette dernière dans le cas où elle l'aurait été avant la fusion ou l'unification si, à la fois :

a) la nouvelle société avait existé immédiatement avant la fusion ou l'unification;

b) les personnes qui sont des actionnaires de la nouvelle société immédiatement après la fusion ou l'unification avaient été ses actionnaires avant cette fusion ou unification.

Definitions

(3) The definitions in this subsection apply in this section.

affiliated group of persons means a group of persons each member of which is affiliated with every other member. (*groupe de personnes affiliées*)

beneficiary, under a trust, includes a person beneficially interested in the trust. (*bénéficiaire*)

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

bénéficiaire Sont comprises parmi les bénéficiaires d'une fiducie les personnes ayant un droit de bénéficiaire dans la fiducie. (*beneficiary*)

bénéficiaire détenant une participation majoritaire En ce qui concerne une fiducie à un moment donné, personne à l'égard de laquelle l'un des faits suivants se vérifie à ce moment :

contributor, to a trust, means a person who has at any time made a loan or transfer of property, either directly or indirectly, in any manner whatever, to or for the benefit of the trust other than, if the person deals at arm's length with the trust at that time and is not immediately after that time a majority-interest beneficiary of the trust,

(a) a loan made at a reasonable rate of interest; or

(b) a transfer made for fair market value consideration. (*cotisant*)

controlled means controlled, directly or indirectly in any manner whatever. (*contrôlé*)

majority-interest beneficiary, of a trust at any time, means a person whose interest as a beneficiary, if any, at that time

(a) in the income of the trust has, together with the interests as a beneficiary in the income of the trust of all persons with whom the person is affiliated, a fair market value that is greater than 50% of the fair market value of all the interests as a beneficiary in the income of the trust; or

(b) in the capital of the trust has, together with the interests as a beneficiary in the capital of the trust of all persons with whom the person is affiliated, a fair market value that is greater than 50% of the fair market value of all the interests as a beneficiary in the capital of the trust. (*bénéficiaire détenant une participation majoritaire*)

majority-interest group of beneficiaries, of a trust at any time, means a group of persons each of whom is a beneficiary under the trust at that time such that

(a) if one person held the interests as a beneficiary of all of the members of the group, that person would be a majority-interest beneficiary of the trust; and

(b) if any member of the group were not a member, the test described in paragraph (a) would not be met. (*groupe de bénéficiaires détenant une participation majoritaire*)

majority-interest group of partners of a partnership means a group of persons each of whom has an interest in the partnership such that

(a) if one person held the interests of all members of the group, that person would be a majority-interest partner of the partnership; and

(b) if any member of the group were not a member, the test described in paragraph (a) would not be met.

a) la juste valeur marchande totale de sa participation, le cas échéant, à titre de bénéficiaire du revenu de la fiducie et des participations à titre de bénéficiaire du revenu de la fiducie des personnes auxquelles elle est affiliée excède 50 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire du revenu de la fiducie;

b) la juste valeur marchande totale de sa participation, le cas échéant, à titre de bénéficiaire du capital de la fiducie et des participations à titre de bénéficiaire du capital de la fiducie des personnes auxquelles elle est affiliée excède 50 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire du capital de la fiducie. (*majority-interest beneficiary*)

contrôlé Signifie contrôlé directement ou indirectement, de quelque manière que ce soit. (*controlled*)

cotisant Personne qui effectue, à un moment donné, directement ou indirectement, de quelque manière que ce soit, un prêt ou un transfert de bien à une fiducie ou pour son compte, sauf s'il s'agit, dans le cas où la personne n'a aucun lien de dépendance avec la fiducie à ce moment et n'est pas, immédiatement après ce moment, un bénéficiaire détenant une participation majoritaire de la fiducie :

a) d'un prêt consenti à un taux d'intérêt raisonnable;

b) d'un transfert effectué pour une contrepartie égale à la juste valeur marchande du bien transféré. (*contributor*)

groupe d'associés détenant une participation majoritaire Quant à une société de personnes, groupe de personnes dont chacune a une participation dans la société de personnes de sorte que :

a) d'une part, si une personne détenait les participations de l'ensemble des membres du groupe, cette personne serait un associé détenant une participation majoritaire de la société de personnes;

b) d'autre part, si un des membres n'était pas membre du groupe, la condition énoncée à l'alinéa a) ne serait pas respectée. (*majority-interest group of partners*)

groupe de bénéficiaires détenant une participation majoritaire En ce qui concerne une fiducie à un moment donné, groupe de personnes dont chacune est bénéficiaire de la fiducie à ce moment de sorte que, à la fois :

a) si une seule personne détenait les participations à titre de bénéficiaire de l'ensemble des membres du

(*groupe d'associés détenant une participation majoritaire*)

groupe, cette personne serait un bénéficiaire détenant une participation majoritaire de la fiducie;

b) si un membre du groupe n'était pas membre du groupe, le critère énoncé à l'alinéa a) ne serait pas rempli. (*majority-interest group of beneficiaries*)

groupe de personnes affiliées Groupe de personnes dont chaque membre est affilié à chaque autre membre. (*affiliated group of persons*)

Interpretation

(4) For the purposes of this section,

(a) persons are affiliated with themselves;

(b) a person includes a partnership;

(c) notwithstanding subsection 104(1), a reference to a trust does not include a reference to the trustee or other persons who own or control the trust property; and

(d) in determining whether a person is affiliated with a trust,

(i) if the amount of income or capital of the trust that a person may receive as a beneficiary under the trust depends on the exercise by any person of, or the failure by any person to exercise, a discretionary power, that person is deemed to have fully exercised, or to have failed to exercise, the power, as the case may be,

(ii) the interest of a person in a trust as a beneficiary is disregarded in determining whether the person deals at arm's length with the trust if the person would, in the absence of the interest as a beneficiary, be considered to deal at arm's length with the trust,

(iii) a trust is not a majority interest beneficiary of another trust unless the trust has an interest as a beneficiary in the income or capital, as the case may be, of the other trust, and

(iv) in determining whether a contributor to one trust is affiliated with a contributor to another trust, individuals connected by blood relationship, marriage, common-law partnership or adoption are deemed to be affiliated with one another.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1998, c. 19, s. 243; 2000, c. 12, s. 142; 2005, c. 19, s. 54; 2013, c. 40, s. 91(E).

Interprétation

(4) Pour l'application du présent article :

a) les personnes sont affiliées à elles-mêmes;

b) les sociétés de personnes sont assimilées à des personnes;

c) malgré le paragraphe 104(1), la mention d'une fiducie ne vaut pas mention du fiduciaire ou d'autres personnes qui ont la propriété ou le contrôle des biens de la fiducie;

d) lorsqu'il s'agit de déterminer si une personne est affiliée à une fiducie :

(i) si le montant de revenu ou de capital de la fiducie qu'une personne peut recevoir à titre de bénéficiaire de la fiducie est fonction de l'exercice ou de l'absence d'exercice, par quiconque, d'un pouvoir discrétionnaire, ce pouvoir est réputé, selon le cas, avoir été pleinement exercé ou ne pas avoir été exercé,

(ii) il n'est pas tenu compte de la participation d'une personne à titre de bénéficiaire d'une fiducie lorsqu'il s'agit de déterminer si la personne traite sans lien de dépendance avec la fiducie, dans le cas où la personne, en l'absence de cette participation, serait considérée comme n'ayant aucun lien de dépendance avec la fiducie,

(iii) une fiducie n'est un bénéficiaire détenant une participation majoritaire d'une autre fiducie que si elle a une participation à titre de bénéficiaire du revenu ou du capital de l'autre fiducie,

(iv) pour déterminer si le cotisant d'une fiducie est affilié au cotisant d'une autre fiducie, les personnes unies par les liens du sang, du mariage, d'une union de fait ou de l'adoption sont réputées être affiliées les unes aux autres.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1998, ch. 19, art. 243; 2000, ch. 12, art. 142; 2005, ch. 19, art. 54; 2013, ch. 40, art. 91(A).

Definitions

251.2 (1) The following definitions apply in this section.

beneficiary has the same meaning as in subsection 251.1(3). (*bénéficiaire*)

equity has the same meaning as in subsection 122.1(1) read without reference to paragraph (e) of the definition ***equity*** in that subsection. (*capitaux propres*)

equity value has the same meaning as in subsection 122.1(1). (*valeur des capitaux propres*)

fixed interest, at any time of a person in a trust, means an interest of the person as a beneficiary (in this definition, determined without reference to subsection 248(25)) under the trust provided that no amount of the income or capital of the trust to be distributed at any time in respect of any interest in the trust depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power, other than a power in respect of which it is reasonable to conclude that

(a) the power is consistent with normal commercial practice;

(b) the power is consistent with terms that would be acceptable to the beneficiaries under the trust if the beneficiaries were dealing with each other at arm's length; and

(c) the exercise of, or failure to exercise, the power will not materially affect the value of an interest as a beneficiary under the trust relative to the value of other such interests under the trust. (*participation fixe*)

investment fund, at any time, means a trust, if

(a) at all times throughout the period that begins at the later of March 21, 2013 and the end of the calendar year in which it is created and that ends at that time, the trust has a class of units outstanding that complies with the conditions prescribed for the purposes of paragraph 132(6)(c) determined without reference to paragraph 4801(b) of the *Income Tax Regulations*; and

(b) at all times throughout the period that begins at the later of March 21, 2013 and the time of its creation and that ends at that time, the trust

(i) is resident in Canada,

(ii) has no beneficiaries who may for any reason receive directly from the trust any of the income or

Définitions

251.2 (1) Les définitions qui suivent s'appliquent au présent article.

bénéficiaire S'entend au sens du paragraphe 251.1(3). (*beneficiary*)

bénéficiaire détenant une participation majoritaire S'entend au sens qu'il aurait au paragraphe 251.1(3), s'il n'était pas tenu compte de la mention « , le cas échéant, » aux alinéas a) et b) de la définition de ce terme à ce paragraphe. (*majority-interest beneficiary*)

capitaux propres S'entend au sens de ***capitaux propres*** au paragraphe 122.1(1), compte non tenu de l'alinéa e) de cette définition. (*equity*)

droit déterminé Est un droit déterminé détenu à un moment donné par une personne relativement à une fiducie le droit prévu par un contrat, en equity ou autrement, soit d'acquérir, dans l'immédiat ou pour l'avenir, conditionnellement ou non, des capitaux propres de la fiducie, soit de faire racheter ou annuler par la fiducie de ses capitaux propres, à moins que le droit ne puisse être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier. (*specified right*)

fiducie de placement déterminée Est une fiducie de placement déterminée, à un moment donné, la fiducie qui, à la fois :

a) tout au long de la période qui commence à la dernière en date du 21 mars 2013 et de la fin de l'année civile de son établissement et qui se termine au moment donné, est une fiducie ayant une catégorie d'unités en circulation qui est conforme aux conditions prévues aux fins de l'alinéa 132(6)c), compte non tenu de l'alinéa 4801b) du *Règlement de l'impôt sur le revenu*;

b) tout au long de la période qui commence à la dernière en date du 21 mars 2013 et de sa date d'établissement et qui se termine au moment donné, est une fiducie à l'égard de laquelle les énoncés ci-après se vérifient :

(i) elle réside au Canada,

(ii) elle n'a pas de bénéficiaire qui, pour une raison quelconque, peut recevoir directement d'elle tout ou partie du revenu ou du capital de celle-ci, sauf un bénéficiaire dont la participation à titre de bénéficiaire de la fiducie est une participation fixe qui est définie par rapport aux unités de celle-ci,

capital of the trust, other than beneficiaries whose interests as beneficiaries under the trust are fixed interests described by reference to units of the trust,

(iii) follows a reasonable policy of investment diversification,

(iv) limits its undertaking to the investing of its funds in property,

(v) does not alone, or as a member of a group of persons, control a corporation, and

(vi) does not hold

(A) property that the trust, or a person with which the trust does not deal at arm's length, uses in carrying on a business,

(B) real or immovable property, an interest in real property or an immovable, or a real right in an immovable,

(C) Canadian resource property, foreign resource property, or an interest or right in Canadian resource property or foreign resource property, or

(D) more than 20% of the securities of any class of securities of a person (other than an investment fund or a mutual fund corporation that would meet the conditions in this paragraph, other than in subparagraph (ii), if it were a trust), unless at that time

(I) the securities (other than liabilities) of the person held by the trust have a total fair market value that is no more than 10% of the equity value of the person, and

(II) the liabilities of the person held by the trust have a total fair market value that is no more than 10% of the fair market value of all of the liabilities of the person. (*fiducie de placement déterminée*)

majority-interest beneficiary has the same meaning as in subsection 251.1(3) read without reference to the expression ", if any," in the definition *majority-interest beneficiary* in that subsection. (*bénéficiaires détenant une participation majoritaire*)

majority-interest group of beneficiaries has the same meaning as in subsection 251.1(3). (*groupe de bénéficiaires détenant une participation majoritaire*)

(iii) elle suit une politique raisonnable en matière de diversification des placements,

(iv) elle a pour seule activité d'investir ses fonds dans des biens,

(v) elle ne contrôle pas, seule ou en tant que membre d'un groupe de personnes, de société,

(vi) elle ne détient aucun des biens suivants :

(A) un bien que la fiducie, ou une personne ayant un lien de dépendance avec elle, utilise pour l'exploitation d'une entreprise,

(B) un bien immeuble ou réel, un intérêt sur un bien réel ou sur un immeuble ou un droit réel sur un immeuble,

(C) un avoir minier canadien ou un avoir minier étranger, ou un intérêt ou un droit sur un avoir minier canadien ou sur un avoir minier étranger,

(D) des titres, dans une proportion de plus de 20 %, d'une catégorie de titres d'une personne, à l'exception d'une fiducie de placement déterminée ou une société de placement à capital variable à l'égard de laquelle les énoncés contenus au présent alinéa, sauf au sous-alinéa (ii), se vérifieraient s'il s'agissait d'une fiducie, sauf si les faits ci-après s'avèrent à ce moment :

(I) les titres, à l'exception du passif, de la personne qui sont détenus par la fiducie ont une juste valeur marchande totale d'au plus 10 % de la valeur des capitaux propres de la personne,

(II) le passif de la personne qui est détenu par la fiducie a une juste valeur marchande totale d'au plus 10 % de la juste valeur marchande du passif total de la personne. (*investment fund*)

filiale Est une filiale d'une personne donnée à un moment donné toute société, société de personnes ou fiducie (appelées « entité déterminée » à la présente définition) à l'égard de laquelle les énoncés ci-après se vérifient :

a) la personne donnée détient, à ce moment, des biens, selon le cas :

(i) qui sont des capitaux propres de l'entité déterminée,

majority-interest group of partners has the same meaning as in subsection 251.1(3). (*groupe d'associés détenant une participation majoritaire*)

person includes a partnership. (*personne*)

portfolio investment fund [Repealed, 2016, c. 12, s. 65]

specified right, held at any time by a person in respect of a trust, means a right under a contract, in equity or otherwise, to acquire, either immediately or in the future and either absolutely or contingently, equity of the trust, or to cause the trust to redeem or cancel equity of the trust, unless the right is not exercisable at that time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual. (*droit déterminé*)

subsidiary, of a particular person at any time, means a corporation, partnership or trust (in this definition referred to as the "subject entity") where

(a) the particular person holds at that time property

(i) that is equity of the subject entity, or

(ii) that derives all or part of its fair market value, directly or indirectly, from equity of the subject entity; and

(b) the total of the following amounts is at that time equal to more than 50% of the equity value of the subject entity:

(i) each amount that is the fair market value at that time of equity of the subject entity that is held at that time by the particular person or a person with whom the particular person is affiliated, and

(ii) each amount (other than an amount described in subparagraph (i)) that is the portion of the fair market value at that time — derived directly or indirectly from equity of the subject entity — of a property that is held at that time by the particular person or a person with whom the particular person is affiliated. (*filiale*)

(ii) dont tout ou partie de la juste valeur marchande provient, directement ou indirectement, de capitaux propres de l'entité déterminée;

b) le total des sommes ci-après correspond, à ce moment, à plus de 50 % de la valeur des capitaux propres de l'entité déterminée :

(i) chaque somme qui représente la juste valeur marchande, à ce moment, de capitaux propres de l'entité déterminée détenus, à ce moment, par la personne donnée ou par une personne à laquelle elle est affiliée,

(ii) chaque somme (sauf une somme visée au sous-alinéa (i)) qui représente la partie de la juste valeur marchande à ce moment — dérivée directement ou indirectement de capitaux propres de l'entité déterminée — d'un bien détenu, à ce moment, par la personne donnée ou par une personne à laquelle elle est affiliée. (*subsidiary*)

fonds de placement de portefeuille [Abrogée, 2016, ch. 12, art. 65]

groupe d'associés détenant une participation majoritaire S'entend au sens du paragraphe 251.1(3). (*majority-interest group of partners*)

groupe de bénéficiaires détenant une participation majoritaire S'entend au sens du paragraphe 251.1(3). (*majority-interest group of beneficiaries*)

participation fixe Est une participation fixe d'une personne dans une fiducie, à un moment donné, la participation de la personne à titre de bénéficiaire de la fiducie (cette qualité étant déterminée, dans la présente définition, compte non tenu du paragraphe 248(25)), à condition qu'aucun montant de revenu ou de capital de la fiducie à distribuer à un moment quelconque au titre d'une participation dans la fiducie ne dépende de l'exercice ou du non-exercice par une personne d'un pouvoir discrétionnaire, sauf s'il s'agit d'un pouvoir à l'égard duquel il est raisonnable de conclure que les énoncés ci-après s'avèrent :

a) il est conforme aux pratiques commerciales normales;

b) il est conforme à des conditions qui seraient acceptables pour les bénéficiaires de la fiducie si ceux-ci n'avaient entre eux aucun lien de dépendance;

c) son exercice ou son non-exercice n'aura pas d'incidence appréciable sur la valeur d'une participation à titre de bénéficiaire de la fiducie par rapport à celle

d'autres participations dans la fiducie. (*fixed interest*)

personne Sont assimilées à des personnes les sociétés de personnes. (*person*)

valeur des capitaux propres S'entend au sens du paragraphe 122.1(1). (*equity value*)

Loss restriction event

(2) For the purposes of this Act, a taxpayer is at any time subject to a loss restriction event if

(a) the taxpayer is a corporation and at that time control of the corporation is acquired by a person or group of persons; or

(b) the taxpayer is a trust and

(i) that time is after March 20, 2013 and after the time at which the trust is created, and

(ii) at that time a person becomes a majority-interest beneficiary, or a group of persons becomes a majority-interest group of beneficiaries, of the trust.

Fait lié à la restriction de pertes

(2) Pour l'application de la présente loi, un contribuable est assujetti à un fait lié à la restriction de pertes à un moment donné si :

a) le contribuable est une société dont le contrôle est acquis, à ce moment, par une personne ou un groupe de personnes;

b) le contribuable est une fiducie et, à la fois :

(i) le moment est postérieur à la fois au 20 mars 2013 et à la date d'établissement de la fiducie,

(ii) à ce moment, une personne devient un bénéficiaire détenant une participation majoritaire de la fiducie ou un groupe de personnes devient un groupe de bénéficiaires détenant une participation majoritaire de la fiducie.

Trusts — exceptions

(3) For the purposes of paragraph (2)(b), a person is deemed not to become a majority-interest beneficiary, and a group of persons is deemed not to become a majority-interest group of beneficiaries, as the case may be, of a particular trust solely because of

(a) the acquisition of equity of the particular trust by

(i) a particular person from another person with whom the particular person was affiliated immediately before the acquisition,

(ii) a particular person who was affiliated with the particular trust immediately before the acquisition,

(iii) an estate from an individual, if the estate arose on and as a consequence of the death of the individual and the estate acquired the equity from the individual as a consequence of the death, or

(iv) a particular person from an estate that arose on and as a consequence of the death of an individual, if the estate acquired the equity from the individual as a consequence of the death and the individual was affiliated with the particular person immediately before the death;

Exceptions

(3) Pour l'application de l'alinéa (2)b), une personne est réputée ne pas devenir un bénéficiaire détenant une participation majoritaire d'une fiducie donnée, et un groupe de personnes est réputé ne pas devenir un groupe de bénéficiaires détenant une participation majoritaire d'une fiducie donnée, en raison seulement :

a) de l'acquisition de capitaux propres de la fiducie donnée par, selon le cas :

(i) une personne donnée qui a acquis les capitaux propres auprès d'une autre personne à laquelle elle était affiliée immédiatement avant l'acquisition,

(ii) une personne donnée qui était affiliée à la fiducie donnée immédiatement avant l'acquisition,

(iii) une succession qui a acquis les capitaux propres auprès d'un particulier, si la succession a commencé à exister au décès du particulier et par suite de ce décès et si la succession a acquis les capitaux propres auprès du particulier par suite de ce décès,

(iv) une personne donnée qui a acquis les capitaux propres auprès d'une succession ayant commencé à

(b) a variation in the terms of the particular trust, the satisfaction of, or failure to satisfy, a condition under the terms of the particular trust, the exercise by any person of, or the failure by any person to exercise, a power, or (without limiting the generality of the foregoing) the redemption, surrender or termination of equity of the particular trust at any time, if each majority-interest beneficiary, and each member of a majority-interest group of beneficiaries, of the particular trust immediately after that time was affiliated with the particular trust immediately before

(i) that time, or

(ii) in the case of the redemption or surrender of equity of the particular trust that was held, immediately before that time, by an estate and that was acquired by the estate from an individual as described in subparagraph (a)(iii), the individual's death;

(c) the transfer at any time of all the equity of the particular trust to a corporation, partnership or another trust (in this paragraph referred to as the "acquirer"), if

(i) the only consideration for the transfer is equity (determined without reference to paragraph (d) of the definition ***equity*** in subsection 122.1(1)) of the acquirer,

(ii) at all times before that time the acquirer held no property or held only property having a nominal value, and

(iii) immediately after that time the acquirer is neither

(A) a subsidiary of any person, nor

(B) a corporation controlled, directly or indirectly in any manner whatever, by a person or group of persons;

(d) the transfer at any time of equity of the particular trust to a corporation, partnership or another trust (in this paragraph referred to as the "acquirer"), if

(i) immediately before that time a person was a majority-interest beneficiary, or a group of persons was a majority-interest group of beneficiaries, of the particular trust,

(ii) immediately after that time the person, or group of persons, as the case may be, described in subparagraph (i) in respect of the particular trust, and no other person or group of persons, is

exister au décès d'un particulier et par suite de ce décès, si la succession a acquis les capitaux propres auprès du particulier par suite de ce décès et si le particulier était affilié à la personne donnée immédiatement avant ce décès;

b) de la modification des modalités de la fiducie donnée, de la satisfaction ou de la non-satisfaction d'une condition prévue par ces modalités, de l'exercice ou du non-exercice par une personne d'un pouvoir ou, sans préjudice de la portée générale de ce qui précède, du rachat, de l'abandon ou de la résiliation de capitaux propres de la fiducie donnée à un moment donné, si chaque bénéficiaire détenant une participation majoritaire de la fiducie donnée, et chaque membre d'un groupe de bénéficiaires détenant une participation majoritaire de cette fiducie, immédiatement après ce moment était affilié à celle-ci immédiatement avant celui des moments ci-après qui est applicable :

(i) le moment donné,

(ii) s'agissant du rachat ou de l'abandon de capitaux propres de la fiducie donnée qui étaient détenus, immédiatement avant ce moment, par une succession et que celle-ci a acquis auprès d'un particulier selon le sous-alinéa a)(iii), le décès du particulier;

c) du transfert, à un moment donné, de l'ensemble des capitaux propres de la fiducie donnée à une société, une société de personnes ou une autre fiducie (appelées « acquéreur » au présent alinéa) si, à la fois :

(i) la seule contrepartie du transfert est constituée de capitaux propres (déterminés compte non tenu de l'alinéa d) de la définition de ***capitaux propres*** au paragraphe 122.1(1)) de l'acquéreur,

(ii) avant ce moment, l'acquéreur ne détenait pas de biens ou ne détenait que des biens d'une valeur nominale,

(iii) immédiatement après ce moment, l'acquéreur n'est :

(A) ni une filiale d'une personne,

(B) ni une société contrôlée directement ou indirectement, de quelque manière que ce soit, par une personne ou un groupe de personnes;

d) du transfert, à un moment donné, de capitaux propres de la fiducie donnée à une société, une société de personnes ou une autre fiducie (appelées « acquéreur » au présent alinéa) si, à la fois :

(A) if the acquirer is a corporation, a person by whom, or a group of persons by which, the corporation is controlled directly or indirectly in any manner whatever,

(B) if the acquirer is a partnership, a majority-interest partner, or a majority-interest group of partners, of the partnership, and

(C) if the acquirer is a trust, a majority-interest beneficiary, or a majority-interest group of beneficiaries, of the trust, and

(iii) at no time during a series of transactions or events that includes the transfer does the person or group of persons, as the case may be, described in subparagraph (i) in respect of the particular trust, cease to be a person or group of persons described in any of clauses (ii)(A) to (C) in respect of the acquirer;

(e) a transaction (other than a transaction one or more of the parties to which may be excused from completing as a result of changes to this Act) the parties to which are obligated to complete under the terms of an agreement in writing between the parties entered into before March 21, 2013; or

(f) the acquisition or disposition of equity of the particular trust at any time if

(i) the particular trust is an investment fund immediately before that time, and

(ii) the acquisition or disposition, as the case may be, is not part of a series of transactions or events that includes the particular trust ceasing to be an investment fund.

(i) immédiatement avant ce moment, une personne était un bénéficiaire détenant une participation majoritaire de la fiducie donnée ou un groupe de personnes était un groupe de bénéficiaires détenant une participation majoritaire de cette fiducie,

(ii) immédiatement après ce moment, la personne ou le groupe de personnes, selon le cas, visé au sous-alinéa (i) relativement à la fiducie donnée — à l'exclusion de toute autre personne et de tout autre groupe de personnes — est :

(A) si l'acquéreur est une société, une personne ou un groupe de personnes qui contrôle la société directement ou indirectement, de quelque manière que ce soit,

(B) s'il est une société de personnes, un associé détenant une participation majoritaire, ou un groupe d'associés détenant une participation majoritaire, de la société de personnes,

(C) s'il est une fiducie, un bénéficiaire détenant une participation majoritaire, ou un groupe de bénéficiaires détenant une participation majoritaire, de la fiducie,

(iii) la personne ou le groupe de personnes, selon le cas, visé au sous-alinéa (i) relativement à la fiducie donnée n'a cessé, à aucun moment pendant une série d'opérations ou d'événements qui comprend le transfert, d'être une personne ou un groupe de personnes visé à l'une des divisions (ii)(A) à (C) relativement à l'acquéreur;

e) d'une opération (sauf une opération qu'une ou plusieurs des parties à celle-ci peuvent être dispensées de mener à terme en raison de modifications apportées à la présente loi) que les parties à celle-ci sont tenues de mener à terme en vertu d'une convention écrite conclue entre elles avant le 21 mars 2013;

f) l'acquisition ou la disposition, à un moment donné, de capitaux de la fiducie donnée à l'égard de laquelle les énoncés ci-après se vérifient :

(i) la fiducie donnée est une fiducie de placement déterminée immédiatement avant ce moment,

(ii) l'acquisition ou la disposition n'est pas effectuée dans le cadre d'une série d'opérations ou d'événements qui comprend le fait que la fiducie donnée cesse d'être une fiducie de placement déterminée.

Trusts — additional cases

(4) For the purposes of paragraph (2)(b) and subject to subsection (3), a person is deemed to become at a particular time a majority-interest beneficiary of a particular trust if

(a) a particular person is at and immediately before the particular time a majority-interest beneficiary, or a member of a majority-interest group of beneficiaries, of the particular trust, and the particular person is at the particular time, but is not immediately before the particular time, a subsidiary of another person (in this paragraph referred to as the "acquirer"), unless

(i) the acquirer is immediately before the particular time affiliated with the particular trust, or

(ii) this paragraph previously applied to deem a person to become a majority-interest beneficiary of the particular trust because the particular person became, as part of a series of transactions or events that includes the particular person becoming at the particular time a subsidiary of the acquirer, a subsidiary of another person that is at the particular time a subsidiary of the acquirer; or

(b) at the particular time, as part of a series of transactions or events, two or more persons acquire equity of the particular trust in exchange for or upon a redemption or surrender of equity of, or as a consequence of a distribution from, a corporation, partnership or another trust, unless

(i) a person affiliated with the corporation, partnership or other trust was immediately before the particular time a majority-interest beneficiary of the particular trust,

(ii) if all the equity of the particular trust that was acquired at or before the particular time as part of the series were acquired by one person, the person would not at the particular time be a majority-interest beneficiary of the particular trust, or

(iii) this paragraph previously applied to deem a person to become a majority-interest beneficiary of the particular trust because of an acquisition of equity of the particular trust that was part of the series.

Fiducies — autres cas

(4) Pour l'application de l'alinéa (2)b) et sous réserve du paragraphe (3), une personne est réputée devenir, à un moment donné, un bénéficiaire détenant une participation majoritaire d'une fiducie donnée si les conditions ci-après sont réunies :

a) une personne donnée est, au moment donné et immédiatement avant ce moment, un bénéficiaire détenant une participation majoritaire de la fiducie donnée ou un membre d'un groupe de bénéficiaires détenant une participation majoritaire de cette fiducie et est, au moment donné mais non immédiatement avant ce moment, une filiale d'une autre personne (appelée « acquéreur » au présent alinéa) et aucun des énoncés ci-après ne se vérifie :

(i) immédiatement avant le moment donné, l'acquéreur est affilié à la fiducie donnée,

(ii) avant le moment donné, une personne a été réputée, en vertu du présent alinéa, devenir un bénéficiaire détenant une participation majoritaire de la fiducie donnée du fait qu'elle est devenue, dans le cadre d'une série d'opérations ou d'événements qui comprend son passage, au moment donné, à l'état de filiale de l'acquéreur, une filiale d'une autre personne qui est une filiale de l'acquéreur à ce moment;

b) plusieurs personnes acquièrent au moment donné, dans le cadre d'une série d'opérations ou d'événements, des capitaux propres de la fiducie donnée en échange ou lors du rachat ou de l'abandon de capitaux propres d'une société, d'une société de personnes ou d'une autre fiducie, ou par suite d'une distribution provenant d'une société, d'une société de personnes ou d'une autre fiducie et aucun des énoncés ci-après ne se vérifie :

(i) une personne affiliée à la société, à la société de personnes ou à l'autre fiducie était, immédiatement avant le moment donné, un bénéficiaire détenant une participation majoritaire de la fiducie donnée,

(ii) si l'ensemble des capitaux propres de la fiducie donnée qui ont été acquis au plus tard au moment donné dans le cadre de la série l'ont été par une seule personne, cette personne ne serait pas un bénéficiaire détenant une participation majoritaire de la fiducie donnée au moment donné,

(iii) avant le moment donné, une personne a été réputée, en vertu du présent alinéa, devenir un bénéficiaire détenant une participation majoritaire de la fiducie donnée en raison de l'acquisition, dans le

Trusts — special rules of application

(5) For the purposes of this section,

(a) in determining whether persons are affiliated with each other

(i) except for the purposes of paragraph (b) of the definition ***subsidiary*** in subsection (1), section 251.1 is to be read without reference to the definition ***controlled*** in subsection 251.1(3),

(ii) in determining whether an individual (other than a trust) is affiliated with another individual (other than a trust), individuals connected by blood relationship, marriage or common-law partnership or adoption are deemed to be affiliated with one another, and

(iii) if, at any time as part of a series of transactions or events a person acquires equity of a corporation, partnership or trust, and it can reasonably be concluded that one of the reasons for the acquisition, or for making any agreement or undertaking in respect of the acquisition, is to cause a condition in paragraph (3)(a) or (b) or subparagraph (4)(a)(i) or (b)(i) regarding affiliation to be satisfied at a particular time, the condition is deemed not to be satisfied at the particular time;

(b) in determining whether a particular person becomes at any time a majority-interest beneficiary, or a particular group of persons becomes at any time a majority-interest group of beneficiaries, of a trust, the fair market value of each person's equity of the trust is to be determined at and immediately before that time

(i) without reference to the portion of that fair market value that is attributable to property acquired if it can reasonably be concluded that one of the reasons for the acquisition is to cause paragraph (2)(b), or any provision that applies by reference to a trust being subject to a loss restriction event at any time, not to apply,

(ii) without reference to the portion of that fair market value that is attributable to a change in the fair market value of all or part of any equity of the trust if it can reasonably be concluded that one of the reasons for the change is to cause paragraph (2)(b), or any provision that applies by reference to a trust being subject to a loss restriction event at any time, not to apply, and

cadre de la série, de capitaux propres de cette fiducie.

Fiducies — règles d'application spéciales

(5) Les règles ci-après s'appliquent au présent article :

a) pour déterminer si des personnes sont affiliées les unes aux autres :

(i) sauf pour l'application de l'alinéa b) de la définition de ***filiale*** au paragraphe (1), l'article 251.1 s'applique compte non tenu de la définition de ***contrôlé*** au paragraphe 251.1(3),

(ii) s'agissant de déterminer si un particulier (sauf une fiducie) est affilié à un autre particulier (sauf une fiducie), les particuliers unis par les liens du sang, du mariage, de l'union de fait ou de l'adoption sont réputés être affiliés les uns aux autres,

(iii) si une personne acquiert à un moment quelconque, dans le cadre d'une série d'opérations ou d'événements, des capitaux propres d'une société, d'une société de personnes ou d'une fiducie et qu'il est raisonnable de conclure que l'une des raisons de l'acquisition, ou de la conclusion d'un accord ou d'un engagement relatif à l'acquisition, consiste à faire en sorte qu'un énoncé visé aux alinéas (3)a) ou b) ou aux sous-alinéas (4)a)(i) ou b)(i) concernant l'affiliation se vérifie à un moment donné, la condition est réputée ne pas être remplie au moment donné;

b) pour déterminer si une personne donnée devient, à un moment donné, un bénéficiaire détenant une participation majoritaire d'une fiducie ou si un groupe de personnes donné devient, à un moment donné, un groupe de bénéficiaires détenant une participation majoritaire d'une fiducie, la juste valeur marchande des capitaux propres de la fiducie appartenant à chaque personne doit être déterminée, à ce moment et immédiatement avant ce moment :

(i) compte non tenu de la partie de cette juste valeur marchande qui est attribuable à un bien acquis, s'il est raisonnable de conclure que l'une des raisons de l'acquisition consiste à faire en sorte que l'alinéa (2)b), ou toute disposition qui s'applique du fait qu'une fiducie est assujettie à un fait lié à la restriction de pertes à un moment donné, ne s'applique pas,

(ii) compte non tenu de la partie de cette juste valeur marchande qui est attribuable à un changement à la juste valeur marchande de tout ou partie des capitaux propres de la fiducie, s'il est

(iii) as if each specified right held immediately before that time by the particular person, or by a member of the particular group, in respect of the trust is at that time exercised if it can reasonably be concluded that one of the reasons for the acquisition of the right is to cause paragraph (2)(b), or any provision that applies by reference to a trust being subject to a loss restriction event at any time, not to apply; and

(c) if, at any time as part of a series of transactions or events a person acquires a ***security*** (as defined in subsection 122.1(1)) and it can reasonably be concluded that one of the reasons for the acquisition, or for making any agreement or undertaking in respect of the acquisition, is to cause a condition in subparagraph (b)(v) or clause (b)(vi)(D) of the definition ***investment fund*** in subsection (1) to be satisfied at a particular time in respect of a trust, the condition is deemed not to be satisfied at the particular time in respect of the trust.

Trusts — time of day

(6) For the purposes of this Act, if a trust is subject to a loss restriction event at a particular time during a day, the trust is deemed to be subject to the loss restriction event at the beginning of that day and not at the particular time unless the trust elects in its return of income under Part I filed for its taxation year that ends immediately before the loss restriction event to have this subsection not apply.

Filing and other deadlines

(7) If at any time a trust is subject to a loss restriction event, in respect of the trust for its taxation year that ends immediately before that time,

(a) the reference in paragraph 132(2.1)(a) to "the day that is 90 days after the end of the year" is to be read as "the balance-due day of the trust for the year";

(b) the reference in subsection 132(6.1) to "before the 91st day after the end of" is to be read as "on or before the balance-due day of the trust for";

raisonnable de conclure que l'une des raisons du changement consiste à faire en sorte que l'alinéa (2)b), ou toute disposition qui s'applique du fait qu'une fiducie est assujettie à un fait lié à la restriction de pertes à un moment donné, ne s'applique pas,

(iii) comme si chaque droit déterminé détenu immédiatement avant ce moment par la personne donnée, ou par un membre du groupe donné, relativement à la fiducie était exercé à ce moment, s'il est raisonnable de conclure que l'une des raisons de l'acquisition du droit consiste à faire en sorte que l'alinéa (2)b), ou toute disposition qui s'applique du fait qu'une fiducie est assujettie à un fait lié à la restriction de pertes à un moment donné, ne s'applique pas;

c) si, à un moment donné dans le cadre d'une série d'opérations ou d'événements, une personne acquiert un ***titre***, au sens du paragraphe 122.1(1), et qu'il est raisonnable de conclure que l'une des raisons de l'acquisition, ou de la conclusion d'un accord ou d'un engagement relatif à l'acquisition, consiste à faire en sorte qu'une condition visée au sous-alinéa b)(v) ou à la division b)(vi)(D) de la définition de ***fiducie de placement déterminée*** au paragraphe (1) se vérifie à un moment donné relativement à une fiducie, la condition est réputée ne pas être remplie au moment donné relativement à la fiducie;

Fiducies — moment d'un jour

(6) Pour l'application de la présente loi, la fiducie qui est assujettie à un fait lié à la restriction de pertes à un moment donné d'un jour est réputée y être assujettie au début de ce jour et non au moment donné, sauf si elle fait le choix de ne pas se prévaloir du présent paragraphe dans sa déclaration de revenu produite en vertu de la partie I pour son année d'imposition se terminant immédiatement avant le fait.

Échéance de production et autres échéances

(7) Si à un moment donné une fiducie est assujettie à un fait lié à la restriction de pertes, les règles ci-après s'appliquent relativement à la fiducie pour son année d'imposition qui se termine immédiatement avant ce moment :

a) le passage « le quatre-vingt-dixième jour suivant la fin de l'année », à l'alinéa 132(2.1)a), vaut mention de « date d'exigibilité du solde de la fiducie pour l'année »;

(c) the reference in paragraph 150(1)(c) to "within 90 days from the end of" is to be read as "on or before the balance-due day of the trust for";

(d) the reference in subsection 204.7(1) to "Within 90 days from the end of each taxation year commencing after 1980" is to be read as "On or before the balance-due day of the trust for each taxation year";

(e) the reference in subsection 210.2(5), and in subsection 221(2) of the *Income Tax Regulations*, to "within 90 days after the end of" is to be read as "on or before the balance-due day of the trust for"; and

(f) the references in subsections 202(8) and 204(2) of the *Income Tax Regulations* to "within 90 days from the end of" are to be read as "on or before the balance-due day of the trust for".

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 92; 2014, c. 39, s. 75; 2016, c. 12, s. 65.

b) le passage « avant le quatre-vingt-onzième jour suivant la fin de », au paragraphe 132(6.1), vaut mention de « au plus tard à la date d'exigibilité du solde de la fiducie pour »;

c) le passage « dans les 90 jours suivant la fin de », à l'alinéa 150(1)c), vaut mention de « au plus tard à la date d'exigibilité du solde de la fiducie pour »;

d) le passage « Dans les 90 jours qui suivent la fin de chaque année d'imposition commençant après 1980 », au paragraphe 204.7(1), vaut mention de « Au plus tard à la date d'exigibilité du solde de la fiducie pour chaque année d'imposition »;

e) le passage « dans les 90 jours suivant la fin de », au paragraphe 210.2(5), et au paragraphe 221(2) du *Règlement de l'impôt sur le revenu*, vaut mention de « au plus tard à la date d'exigibilité du solde de la fiducie pour »;

f) les passages « dans les 90 jours suivant la fin de » et « dans les 90 jours qui suivent la fin de », respectivement aux paragraphes 202(8) et 204(2) du *Règlement de l'impôt sur le revenu*, valent mention de « au plus tard à la date d'exigibilité du solde de la fiducie pour »;

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 92; 2014, ch. 39, art. 75; 2016, ch. 12, art. 65.

Extended meaning of *child*

252 (1) In this Act, words referring to a child of a taxpayer include

(a) a person of whom the taxpayer is the legal parent;

(b) a person who is wholly dependent on the taxpayer for support and of whom the taxpayer has, or immediately before the person attained the age of 19 years had, in law or in fact, the custody and control;

(c) a child of the taxpayer's spouse or common-law partner; and

(d) [Repealed, 2005, c. 33, s. 12]

(e) a spouse or common-law partner of a child of the taxpayer.

Relationships

(2) In this Act, words referring to

(a) a parent of a taxpayer include a person

(i) whose child the taxpayer is,

Extension du sens d'*enfant*

252 (1) Dans la présente loi, est considéré comme un enfant d'un contribuable :

a) une personne dont le contribuable est légalement le père ou la mère;

b) une personne qui est entièrement à la charge du contribuable et dont celui-ci a la garde et la surveillance, en droit ou de fait, ou les avait juste avant que cette personne ait atteint l'âge de 19 ans;

c) un enfant de l'époux ou conjoint de fait du contribuable;

d) [Abrogé, 2005, ch. 33, art. 12]

e) le conjoint d'un enfant du contribuable.

Liens de parenté

(2) Dans la présente loi, les mots se rapportant :

a) au père ou la mère d'un contribuable visent également les personnes suivantes :

(i) celle dont le contribuable est l'enfant,

(ii) whose child the taxpayer had previously been within the meaning of paragraph 252(1)(b), or

(iii) who is a parent of the taxpayer's spouse or common-law partner;

(b) a brother of a taxpayer include a person who is

(i) the brother of the taxpayer's spouse or common-law partner, or

(ii) the spouse or common-law partner of the taxpayer's sister;

(c) a sister of a taxpayer include a person who is

(i) the sister of the taxpayer's spouse or common-law partner, or

(ii) the spouse or common-law partner of the taxpayer's brother;

(d) a grandparent of a taxpayer include a person who is

(i) the grandfather or grandmother of the taxpayer's spouse or common-law partner, or

(ii) the spouse or common-law partner of the taxpayer's grandfather or grandmother;

(e) an aunt or uncle of a taxpayer include the spouse or common-law partner of the taxpayer's aunt or uncle, as the case may be;

(f) a great-aunt or great-uncle of a taxpayer include the spouse or common-law partner of the taxpayer's great-aunt or great-uncle, as the case may be; and

(g) a niece or nephew of a taxpayer include the niece or nephew, as the case may be, of the taxpayer's spouse or common-law partner.

(ii) celle dont le contribuable a déjà été l'enfant, au sens de l'alinéa (1)b),

(iii) celle qui est le père ou la mère de l'époux ou conjoint de fait du contribuable;

b) au frère d'un contribuable visent également les personnes suivantes :

(i) le frère de l'époux ou conjoint de fait du contribuable,

(ii) l'époux ou conjoint de fait de la sœur du contribuable;

c) à la sœur d'un contribuable visent également les personnes suivantes :

(i) la sœur de l'époux ou conjoint de fait du contribuable,

(ii) l'époux ou conjoint de fait du frère du contribuable;

d) au grand-père ou à la grand-mère d'un contribuable visent également les personnes suivantes :

(i) le grand-père ou la grand-mère de l'époux ou conjoint de fait du contribuable,

(ii) l'époux ou conjoint de fait du grand-père ou de la grand-mère du contribuable;

e) à la tante ou à l'oncle d'un contribuable visent également l'époux ou le conjoint de fait de la tante ou de l'oncle du contribuable;

f) à la grand-tante ou au grand-oncle d'un contribuable visent également l'époux ou le conjoint de fait de la grand-tante ou du grand-oncle du contribuable;

g) à la nièce ou au neveu d'un contribuable visent également la nièce ou le neveu de l'époux ou conjoint de fait du contribuable.

Extended meaning of *spouse* and *former spouse*

(3) For the purposes of paragraph 56(1)(b), section 56.1, paragraphs 60(b) and (j), section 60.1, subsections 70(6) and (6.1), 73(1) and (5) and 104(4), (5.1) and (5.4), the definition ***pre-1972 spousal trust*** in subsection 108(1), subsection 146(16), the definition ***survivor*** in subsection 146.2(1), subparagraph 146.3(2)(f)(iv), subsections 146.3(14), 147(19) and 147.3(5) and (7), section 147.5, subsections 148(8.1) and (8.2), the definition ***qualifying transfer*** in subsection 207.01(1), and subsections 210(1) and 248(22) and (23), ***spouse*** and ***former spouse*** of a particular individual include another individual who is a

Sens d'époux et d'ex-époux

(3) Pour l'application de l'alinéa 56(1)b), de l'article 56.1, des alinéas 60b) et j), de l'article 60.1, des paragraphes 70(6) et (6.1), 73(1) et (5) et 104(4), (5.1) et (5.4), de la définition de ***fiducie au profit du conjoint antérieure à 1972*** au paragraphe 108(1), du paragraphe 146(16), de la définition de ***survivant*** au paragraphe 146.2(1), du sous-alinéa 146.3(2)f)(iv), des paragraphes 146.3(14), 147(19) et 147.3(5) et (7), de l'article 147.5, des paragraphes 148(8.1) et (8.2), de la définition de ***transfert admissible*** au paragraphe 207.01(1), et des paragraphes 210(1) et 248(22) et (23), est assimilé à l'époux ou à l'ex-époux d'un

party to a void or voidable marriage with the particular individual.

(4) [Repealed, 2000, c. 12, s. 141(2)]

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 252; 1994, c. 7, Sch. II, s. 196, Sch. VIII, s. 140, c. 21, s. 112; 1998, c. 19, s. 244; 2000, c. 12, ss. 141, 142, c. 19, s. 69; 2003, c. 15, s. 89; 2005, c. 33, s. 12; 2008, c. 28, s. 35; 2012, c. 31, s. 56; 2013, c. 34, s. 362.

Union employer

252.1 All the structural units of a trade union, including each local, branch, national and international unit, shall be deemed to be a single employer and a single entity for the purposes of the provisions of this Act and the regulations relating to

(a) pension adjustments and past service pension adjustments for years after 1994;

(b) the determination of whether a pension plan is, in a year after 1994, a multi-employer plan or a specified multi-employer plan (within the meanings assigned by subsection 147.1(1));

(c) the determination of whether a contribution made under a plan or arrangement is a resident's contribution (within the meaning assigned by subsection 207.6(5.1)); and

(d) the deduction or withholding and the remittance of any amount as required by subsection 153(1) in respect of a contribution made after 1991 under a retirement compensation arrangement.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1994, c. 21, s. 113.

Extended meaning of *carrying on business*

253 For the purposes of this Act, where in a taxation year a person who is a non-resident person or a trust to which Part XII.2 applies

(a) produces, grows, mines, creates, manufactures, fabricates, improves, packs, preserves or constructs, in whole or in part, anything in Canada whether or not the person exports that thing without selling it before exportation,

(b) solicits orders or offers anything for sale in Canada through an agent or servant, whether the contract or transaction is to be completed inside or outside Canada or partly in and partly outside Canada, or

(c) disposes of

particulier donné le particulier qui est partie, avec lui, à un mariage nul ou annulable.

(4) [Abrogé, 2000, ch. 12, art. 141(2)]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 252; 1994, ch. 7, ann. II, art. 196, ann. VIII, art. 140, ch. 21, art. 112; 1998, ch. 19, art. 244; 2000, ch. 12, art. 141, 142, ch. 19, art. 69; 2003, ch. 15, art. 89; 2005, ch. 33, art. 12; 2008, ch. 28, art. 35; 2012, ch. 31, art. 56; 2013, ch. 34, art. 362.

Syndicats

252.1 Les éléments constitutifs d'un syndicat, notamment ses sections locales, divisions et unités nationales et internationales, sont réputés constituer un seul employeur et une seule entité pour l'application des dispositions de la présente loi et de son règlement d'application concernant :

a) les facteurs d'équivalence et les facteurs d'équivalence pour services passés pour les années postérieures à 1994;

b) la question de savoir si, au cours d'une année postérieure à 1994, un régime de pension est un régime interentreprises ou un régime interentreprises déterminé (au sens donné à ces expressions au paragraphe 147.1(1));

c) la question de savoir si une cotisation versée aux termes d'un régime ou mécanisme constitue une cotisation de personne résidente (au sens du paragraphe 207.6(5.1));

d) la déduction ou la retenue d'un montant, et son versement, conformément au paragraphe 153(1) relativement à une cotisation versée après 1991 aux termes d'une convention de retraite.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1994, ch. 21, art. 113.

Extension du sens de *exploiter une entreprise*

253 Pour l'application de la présente loi, la personne — personne non-résidente ou fiducie à laquelle la partie XII.2 s'applique — qui exerce les activités ou effectue les dispositions suivantes au cours d'une année d'imposition est réputée, en ce qui concerne ces activités ou dispositions, exploiter une entreprise au Canada au cours de l'année :

a) elle produit, cultive, extrait, crée, manufacture, fabrique, améliore, empaquette, conserve ou construit, en totalité ou en partie, quoi que ce soit au Canada, qu'elle l'ait ou non exporté sans le vendre avant l'exportation;

b) elle sollicite des commandes ou offre en vente quoi que ce soit au Canada par l'entremise d'un mandataire ou préposé, que le contrat ou l'opération ait dû être

(i) Canadian resource property, except where an amount in respect of the disposition is included under paragraph 66.2(1)(a) or 66.4(1)(a),

(ii) property (other than depreciable property) that is a timber resource property, an option in respect of a timber resource property or an interest in, or for civil law a right in, a timber resource property, or

(iii) property (other than capital property) that is real or immovable property situated in Canada, including an option in respect of such property or an interest in, or for civil law a real right in, such property, whether or not the property is in existence,

the person shall be deemed, in respect of the activity or disposition, to have been carrying on business in Canada in the year.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 253; 1994, c. 7, Sch. II, s. 197; 2013, c. 34, s. 168.

parachevé au Canada ou à l'étranger ou en partie au Canada et en partie à l'étranger;

c) elle dispose :

(i) soit d'un avoir minier canadien, sauf dans le cas où un montant relatif à la disposition est inclus en application des alinéas 66.2(1)a) ou 66.4(1)a),

(ii) soit d'un bien, sauf un bien amortissable, qui est un avoir forestier, ou une option s'y rapportant, ou un intérêt ou, pour l'application du droit civil, un droit sur un tel bien,

(iii) soit d'un bien, sauf une immobilisation, qui est un bien immeuble ou réel situé au Canada, y compris une option s'y rapportant ou un droit réel sur un immeuble ou un intérêt sur un bien réel, que celui-ci existe ou non.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 253; 1994, ch. 7, ann. II, art. 197; 2013, ch. 34, art. 168.

Investments in limited partnerships

253.1 (1) For the purposes of subparagraph 108(2)(b)(ii), paragraphs 130.1(6)(b), 131(8)(b), 132(6)(b) and 146.1(2.1)(c), subsection 146.2(6), paragraph 146.4(5)(b), subsection 147.5(8), paragraph 149(1)(o.2), the definition ***private holding corporation*** in subsection 191(1), the definition ***investment fund*** in subsection 251.2(1) and regulations made for the purposes of paragraphs 149(1)(o.3) and (o.4), if a trust or corporation holds an interest as a member of a partnership and, by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business or other activity of the partnership.

Placements dans des sociétés de personnes en commandite

253.1 (1) Pour l'application du sous-alinéa 108(2)b)(ii), des alinéas 130.1(6)b), 131(8)b), 132(6)b) et 146.1(2.1)c), du paragraphe 146.2(6), de l'alinéa 146.4(5)b), du paragraphe 147.5(8), de l'alinéa 149(1)o.2), de la définition de ***société de portefeuille privée*** au paragraphe 191(1), de la définition de ***fiducie de placement déterminée*** au paragraphe 251.2(1) et des dispositions réglementaires prises en application des alinéas 149(1)o.3) et o.4), la fiducie ou la société qui détient une participation à titre d'associé d'une société de personnes et dont la responsabilité à ce titre est limitée par la loi qui régit le contrat de société n'est pas considérée comme un associé qui exploite une entreprise ou exerce une autre activité de la société de personnes du seul fait qu'elle a acquis cette participation et la détient.

Investments in limited partnerships

(2) For the purposes of section 149.1 and subsections 188.1(1) and (2), if a registered charity or a registered Canadian amateur athletic association holds an interest as a member of a partnership, the member shall not, solely because of its acquisition and holding of that interest, be considered to carry on any business of the partnership if

(a) by operation of any law governing the arrangement in respect of the partnership, the liability of the member as a member of the partnership is limited;

(b) the member deals at arm's length with each general partner of the partnership; and

Placements dans des sociétés de personnes en commandite

(2) Pour l'application de l'article 149.1 et des paragraphes 188.1(1) et (2), l'organisme qui est un organisme de bienfaisance enregistré ou une association canadienne enregistrée de sport amateur et qui détient une participation à titre d'associé d'une société de personnes n'est pas considéré comme un associé qui exploite une entreprise de la société de personnes du seul fait que l'organisme a acquis cette participation et la détient, si les faits ci-après s'avèrent à son égard :

a) sa responsabilité à titre d'associé est limitée par la loi qui régit le contrat de société;

(c) the member, or the member together with persons and partnerships with which it does not deal at arm's length, holds interests in the partnership that have a fair market value of not more than 20% of the fair market value of the interests of all members in the partnership.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2001, c. 17, s. 193; 2007, c. 35, s. 124; 2008, c. 28, s. 36; 2009, c. 2, s. 77; 2012, c. 31, s. 57; 2013, c. 34, ss. 363, 426; 2016, c. 7, s. 49, c. 12, s. 66.

b) il n'a de lien de dépendance avec aucun des associés généraux de la société de personnes;

c) il détient, seul ou avec d'autres personnes ou sociétés de personnes avec lesquelles il a un lien de dépendance, des participations dans la société de personnes dont la juste valeur marchande ne dépasse pas 20 % de la juste valeur marchande de l'ensemble des participations des associés dans la société de personnes.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2001, ch. 17, art. 193; 2007, ch. 35, art. 124; 2008, ch. 28, art. 36; 2009, ch. 2, art. 77; 2012, ch. 31, art. 57; 2013, ch. 34, art. 363 et 426; 2016, ch. 7, art. 49, ch. 12, art. 66.

Contract under pension plan

254 Where a document has been issued or a contract has been entered into before July 31, 1997 purporting to create, to establish, to extinguish or to be in substitution for, a taxpayer's right to an amount or amounts, immediately or in the future, out of or under a superannuation or pension fund or plan,

(a) if the rights provided for in the document or contract are rights provided for by the superannuation or pension plan or are rights to a payment or payments out of the superannuation or pension fund, and the taxpayer acquired an interest under the document or in the contract before that day, any payment under the document or contract is deemed to be a payment out of or under the superannuation or pension fund or plan and the taxpayer is deemed not to have received, by the issuance of the document or entering into the contract, an amount out of or under the superannuation or pension fund or plan; and

(b) if the rights created or established by the document or contract are not rights provided for by the superannuation or pension plan or a right to payments out of the superannuation or pension fund, an amount equal to the value of the rights created or established by the document or contract shall be deemed to have been received by the taxpayer out of or under the superannuation or pension fund or plan when the document was issued or the contract was entered into.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 254; 1998, c. 19, s. 245.

Contrat conclu en vertu d'un régime de pension

254 Lorsqu'un document a été établi ou un contrat conclu avant le 31 juillet 1997 dans le dessein de créer, établir, abolir ou remplacer le droit, immédiat ou futur, d'un contribuable à une ou plusieurs sommes dans le cadre d'une caisse ou un régime de retraite ou de pension, les présomptions suivantes s'appliquent :

a) si les droits prévus par le document ou le contrat sont prévus par le régime de retraite ou de pension ou constituent des droits de recevoir un ou plusieurs paiements sur la caisse de retraite ou de pension et si le contribuable a acquis un droit dans le cadre du document ou du contrat avant cette date, tout paiement effectué en vertu du document ou du contrat est réputé constituer un paiement effectué dans le cadre de la caisse ou du régime de retraite ou de pension, et le contribuable est réputé ne pas avoir reçu, par suite de l'établissement du document ou de la conclusion du contrat, une somme payée dans le cadre de cette caisse ou de ce régime;

b) si les droits créés ou établis par le document ou le contrat ne sont pas des droits prévus par le régime de retraite ou de pension ni ne constituent des droits de recevoir des paiements sur la caisse de retraite ou de pension, une somme égale à la valeur des droits créés ou établis par le document ou le contrat est réputée avoir été reçue par le contribuable dans le cadre de la caisse ou du régime de retraite ou de pension, au moment où le document a été établi ou le contrat conclu.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 254; 1998, ch. 19, art. 245.

Canada

255 For the purposes of this Act, ***Canada*** is hereby declared to include and to have always included

(a) the sea bed and subsoil of the submarine areas adjacent to the coasts of Canada in respect of which the Government of Canada or of a province grants a right, licence or privilege to explore for, drill for or take any

Canada

255 Pour l'application de la présente loi, il est entendu que le terme ***Canada*** vise et a toujours visé :

a) le fond et le sous-sol de la mer dans les régions sous-marines contiguës au littoral du Canada relativement auxquels le gouvernement du Canada ou d'une province accorde un droit, une licence ou un privilège

minerals, petroleum, natural gas or any related hydrocarbons; and

(b) the seas and airspace above the submarine areas referred to in paragraph 255(a) in respect of any activities carried on in connection with the exploration for or exploitation of the minerals, petroleum, natural gas or hydrocarbons referred to in that paragraph.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1"255"; 1980-81-82-83, c. 48, s. 111.

portant sur l'exploration ou le forage pour la découverte de minéraux, du pétrole, de gaz naturel ou de tout hydrocarbure connexe, ou visant leur extraction;

b) les mers et l'espace aérien au-dessus des régions sous-marines mentionnées à l'alinéa a), à l'égard de toute activité poursuivie en rapport avec l'exploration destinée à la découverte des minéraux, du pétrole, du gaz naturel ou des hydrocarbures mentionnés à cet alinéa, ou leur exploitation.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1« 255 »; 1980-81-82-83, ch. 48, art. 111.

Associated corporations

256 (1) For the purposes of this Act, one corporation is associated with another in a taxation year if, at any time in the year,

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

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

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

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

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

Sociétés associées

256 (1) Pour l'application de la présente loi, deux sociétés sont associées l'une à l'autre au cours d'une année d'imposition si, à un moment donné de l'année :

a) l'une contrôle l'autre, directement ou indirectement, de quelque manière que ce soit;

b) la même personne ou le même groupe de personnes contrôle les deux sociétés, directement ou indirectement, de quelque manière que ce soit;

c) la personne qui contrôle l'une des deux sociétés, directement ou indirectement, de quelque manière que ce soit, est liée à la personne qui contrôle l'autre société, directement ou indirectement, de quelque manière que ce soit, et l'une de ces personnes est propriétaire d'au moins 25 % des actions émises d'une catégorie, non exclue, du capital-actions de chaque société;

d) la personne qui contrôle l'une des deux sociétés, directement ou indirectement, de quelque manière que ce soit, est liée à chaque membre du groupe de personnes qui contrôle l'autre société, directement ou indirectement, de quelque manière que ce soit, et cette personne est propriétaire d'au moins 25 % des actions émises d'une catégorie, non exclue, du capital-actions de l'autre société;

e) chaque membre du groupe lié qui contrôle l'une des deux sociétés, directement ou indirectement, de quelque manière que ce soit, est lié à tous les membres du groupe lié qui contrôle l'autre société, directement ou indirectement, de quelque manière que ce soit, et une ou plusieurs des personnes membres des deux groupes liés sont propriétaires, seuls ou ensemble, d'au moins 25 % des actions émises d'une catégorie, non exclue, du capital-actions de chaque société.

Definition of *specified class*

(1.1) For the purposes of subsection 256(1), ***specified class*** means a class of shares of the capital stock of a corporation where, under the terms or conditions of the shares or any agreement in respect thereof,

(a) the shares are not convertible or exchangeable;

(b) the shares are non-voting;

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

(d) the annual rate of the dividend on the shares, expressed as a percentage of an amount equal to the fair market value of the consideration for which the shares were issued, cannot in any event exceed,

(i) where the shares were issued before 1984, the rate of interest prescribed for the purposes of subsection 161(1) at the time the shares were issued, and

(ii) where the shares were issued after 1983, the prescribed rate of interest at the time the shares were issued; and

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

Control, etc.

(1.2) For the purposes of this subsection and subsections 256(1), 256(1.1) and 256(1.3) to 256(5),

(a) a group of persons in respect of a corporation means any two or more persons each of whom owns shares of the capital stock of the corporation;

(b) for greater certainty,

(i) a corporation that is controlled by one or more members of a particular group of persons in respect of that corporation shall be considered to be controlled by that group of persons, and

Sens de *catégorie exclue*

(1.1) Une catégorie d'actions du capital-actions d'une société est exclue pour l'application du paragraphe (1) si, à la fois, selon les caractéristiques des actions de cette catégorie ou selon une convention y relative :

a) les actions ne sont ni convertibles ni échangeables;

b) les actions ne confèrent pas de droit de vote;

c) le montant de chaque dividende payable sur les actions est un montant fixe ou un montant déterminé en fonction d'un pourcentage fixe de la juste valeur marchande de la contrepartie de l'émission des actions;

d) le taux de dividende annuel sur les actions, exprimé en pourcentage de la juste valeur marchande de la contrepartie de l'émission des actions, ne peut en aucun cas excéder :

(i) dans le cas où les actions sont émises avant 1984, le taux d'intérêt prescrit pour l'application du paragraphe 161(1) au moment de l'émission des actions,

(ii) dans le cas où les actions sont émises après 1983, le taux d'intérêt prescrit au moment de l'émission des actions;

e) le montant que l'actionnaire a le droit de recevoir au rachat, à l'acquisition ou à l'annulation des actions par la société ou par une personne avec laquelle elle a un lien de dépendance ne peut dépasser le total de la juste valeur marchande de la contrepartie de l'émission des actions et du montant des dividendes impayés sur les actions.

Précisions sur les notions de contrôle et de propriété des actions

(1.2) Pour l'application du présent paragraphe et des paragraphes (1), (1.1) et (1.3) à (5):

a) un groupe de personnes s'entend de plusieurs personnes dont chacune est propriétaire d'actions du capital-actions de la même société;

b) il est entendu :

(i) d'une part, qu'une société qui est contrôlée par un ou plusieurs membres d'un groupe donné de personnes est réputée être contrôlée par ce groupe de personnes,

(ii) a corporation may be controlled by a person or a particular group of persons notwithstanding that the corporation is also controlled or deemed to be controlled by another person or group of persons;

(c) a corporation shall be deemed to be controlled by another corporation, a person or a group of persons at any time where

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

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

are owned at that time by the other corporation, the person or the group of persons, as the case may be;

(d) where shares of the capital stock of a corporation are owned, or deemed by this subsection to be owned, at any time by another corporation (in this paragraph referred to as the "holding corporation"), those shares shall be deemed to be owned at that time by any shareholder of the holding corporation in a proportion equal to the proportion of all those shares that

(i) the fair market value of the shares of the capital stock of the holding corporation owned at that time by the shareholder

is of

(ii) the fair market value of all the issued shares of the capital stock of the holding corporation outstanding at that time;

(e) where, at any time, shares of the capital stock of a corporation are property of a partnership, or are deemed by this subsection to be owned by the partnership, those shares shall be deemed to be owned at that time by each member of the partnership in a proportion equal to the proportion of all those shares that

(i) the member's share of the income or loss of the partnership for its fiscal period that includes that time

is of

(ii) the income or loss of the partnership for its fiscal period that includes that time

(ii) d'autre part, qu'une personne ou un groupe donné de personnes peut contrôler une société même si une autre personne ou un autre groupe de personnes contrôle aussi ou est réputé contrôler aussi la société;

c) la société, la personne ou le groupe de personnes qui est propriétaire, à un moment donné, d'actions du capital-actions d'une autre société dont la juste valeur marchande correspond à plus de 50 % de la juste valeur marchande de toutes les actions émises et en circulation du capital-actions de cette autre société, ou qui est propriétaire, à ce moment, d'actions ordinaires du capital-actions de cette autre société dont la juste valeur marchande correspond à plus de 50 % de la juste valeur marchande de toutes les actions ordinaires émises et en circulation du capital-actions de cette autre société, est réputé contrôler cette autre société à ce moment;

d) les actions du capital-actions d'une société dont une autre société est, à un moment donné, propriétaire ou réputée propriétaire en application du présent paragraphe sont réputées être la propriété à ce moment de chaque actionnaire de cette autre société dans la proportion égale au produit de la multiplication du nombre de ces actions par le rapport entre :

(i) d'une part, la juste valeur marchande des actions du capital-actions de l'autre société dont l'actionnaire est à ce moment propriétaire,

(ii) d'autre part, la juste valeur marchande de toutes les actions émises du capital-actions de l'autre société en circulation à ce moment;

e) les actions du capital-actions d'une société qui sont des biens d'une société de personnes à un moment donné ou qui sont réputées être la propriété de la société de personnes à ce moment en application du présent paragraphe sont réputées être la propriété à ce moment de chaque associé de la société de personnes dans la proportion égale au produit de la multiplication du nombre de ces actions par le rapport entre :

(i) d'une part, la part de l'associé sur le revenu ou la perte de la société de personnes pour l'exercice de la société de personnes qui comprend ce moment,

(ii) d'autre part, le revenu ou la perte de la société de personnes pour cet exercice;

à cette fin, dans le cas où le revenu et la perte de la société de personnes pour son exercice qui comprend ce moment sont nuls, ce produit est calculé comme si le revenu de la société de personnes pour cet exercice s'élevait à 1 000 000 $;

and for this purpose, where the income and loss of the partnership for its fiscal period that includes that time are nil, that proportion shall be computed as if the partnership had had income for that period in the amount of $1,000,000;

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

(i) [Repealed, 2014, c. 39, s. 76]

(ii) where a beneficiary's share of the accumulating income or capital therefrom depends on the exercise by any person of, or the failure by any person to exercise, any discretionary power, those shares are deemed to be owned at that time by the beneficiary,

(iii) in any case where subparagraph (ii) does not apply, a beneficiary is deemed at that time to own the proportion of those shares that the fair market value of the beneficial interest in the trust of the beneficiary is of the fair market value of all beneficial interests in the trust, and

(iv) in the case of a trust referred to in subsection 75(2), the person referred to in that subsection from whom property of the trust or property for which it was substituted was directly or indirectly received shall be deemed to own those shares at that time; and

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

f) les actions du capital-actions d'une société dont une fiducie est à un moment donné propriétaire ou réputée propriétaire en application du présent paragraphe :

(i) [Abrogé, 2014, ch. 39, art. 76]

(ii) sont réputées être la propriété à ce moment de chaque bénéficiaire dont la part sur le revenu ou le capital accumulés de la fiducie est conditionnelle au fait qu'une personne exerce ou n'exerce pas un pouvoir discrétionnaire,

(iii) sont réputées, dans les cas où le sous-alinéa (ii) ne s'applique pas, être la propriété à ce moment de chaque bénéficiaire dans la proportion obtenue par la multiplication du nombre de ces actions par le rapport entre la juste valeur marchande de son droit de bénéficiaire sur la fiducie et la juste valeur marchande de tous les droits de bénéficiaire sur la fiducie,

(iv) sont réputées être la propriété à ce moment de la personne de qui des biens ou des biens qui leur sont substitués ont été reçus, directement ou indirectement, s'il s'agit d'une fiducie visée au paragraphe 75(2);

g) dans la détermination de la juste valeur marchande d'actions du capital-actions d'une société, toutes les actions émises et en circulation de ce capital-actions sont réputées ne pas conférer de droit de vote.

Parent deemed to own shares

(1.3) Where at any time shares of the capital stock of a corporation are owned by a child who is under 18 years of age, for the purpose of determining whether the corporation is associated at that time with any other corporation that is controlled, directly or indirectly in any manner whatever, by a parent of the child or by a group of persons of which the parent is a member, the shares shall be deemed to be owned at that time by the parent unless, having regard to all the circumstances, it can reasonably be considered that the child manages the business and affairs of the corporation and does so without a significant degree of influence by the parent.

Parents présumés propriétaires des actions des enfants

(1.3) Les actions du capital-actions d'une société dont un enfant de moins de 18 ans est propriétaire à un moment donné sont réputées être la propriété à ce moment du père ou de la mère de l'enfant pour ce qui est de déterminer si la société est associée à ce moment à une autre société dont le père ou la mère ou un groupe de personnes dont le père ou la mère est membre a le contrôle, directement ou indirectement, de quelque manière que ce soit, sauf si, compte tenu des circonstances, il est raisonnable de considérer que l'enfant gère les affaires de la société sans subir, dans une large mesure, l'influence de son père ou de sa mère.

Options and rights

(1.4) For the purpose of determining whether a corporation is associated with another corporation with which it is not otherwise associated, where a person or any partnership in which the person has an interest has a right at any time under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently,

(a) to, or to acquire, shares of the capital stock of a corporation, or to control the voting rights of shares of the capital stock of a corporation, the person or partnership shall, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, be deemed to own the shares at that time, and the shares shall be deemed to be issued and outstanding at that time; or

(b) to cause a corporation to redeem, acquire or cancel any shares of its capital stock owned by other shareholders of a corporation, the person or partnership shall, except where the right is not exercisable at that time because the exercise thereof is contingent on the death, bankruptcy or permanent disability of an individual, be deemed at that time to have the same position in relation to control of the corporation and ownership of shares of its capital stock as if the shares were redeemed, acquired or cancelled by the corporation.

Propriété présumée des actions en cas de droit d'achat ou de rachat

(1.4) Pour ce qui est de déterminer si une société est associée à une autre société avec laquelle elle n'est pas autrement associée, si une personne, ou une société de personnes dans laquelle elle a une participation, a, à un moment donné, en vertu d'un contrat, en equity ou autrement, un droit, immédiat ou futur, conditionnel ou non :

a) à des actions du capital-actions d'une société, ou de les acquérir ou d'en contrôler les droits de vote, cette personne ou cette société de personnes est réputée propriétaire de ces actions à ce moment, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier, et les actions sont réputées émises et en circulation à ce moment;

b) d'obliger une société à racheter, acquérir ou annuler des actions de son capital-actions dont d'autres actionnaires d'une société sont propriétaires, cette personne ou cette société de personnes est réputée à ce moment occuper la même position relativement au contrôle de la société et relativement à la propriété des actions que si cette société rachetait, acquérait ou annulait les actions, sauf si le droit ne peut être exercé à ce moment du fait que son exercice est conditionnel au décès, à la faillite ou à l'invalidité permanente d'un particulier.

Person related to himself, herself or itself

(1.5) For the purposes of subsections 256(1) to 256(1.4) and 256(1.6) to 256(5), where a person owns shares in two or more corporations, the person shall as shareholder of one of the corporations be deemed to be related to himself, herself or itself as shareholder of each of the other corporations.

Personne liée à elle-même

(1.5) Pour l'application des paragraphes (1) à (1.4) et (1.6) à (5), la personne qui est propriétaire d'actions de plusieurs sociétés est réputée, comme actionnaire d'une des sociétés, être liée à elle-même, comme actionnaire de chacune des autres sociétés.

Exception

(1.6) For the purposes of subsection 256(1.2) and notwithstanding subsection 256(1.4), any share that is

(a) described in paragraph (e) of the definition ***term preferred share*** in subsection 248(1) during the applicable time referred to in that paragraph, or

(b) a share of a specified class within the meaning of subsection 256(1.1)

shall be deemed not to have been issued and outstanding and not to be owned by any shareholder and an amount equal to the greater of the paid-up capital of the share and the amount, if any, that any holder of the share is entitled to receive on the redemption, cancellation or

Exception

(1.6) Pour l'application du paragraphe (1.2) et malgré le paragraphe (1.4), les actions visées à l'alinéa e) de la définition d'***action privilégiée à terme***, au paragraphe 248(1), pour la durée qui y est précisée, et les actions d'une catégorie exclue au sens du paragraphe (1.1) sont réputées ne pas être émises et en circulation et n'être la propriété d'aucun actionnaire, et le montant égal au plus élevé du capital versé au titre de ces actions et du montant éventuel qu'un détenteur de celles-ci a le droit de recevoir au rachat, à l'annulation ou à l'acquisition de ces actions par la société est réputé être un élément du passif de la société.

acquisition of the share by the corporation shall be deemed to be a liability of the corporation.

Corporations associated through a third corporation

(2) For the purposes of

(a) this Act, subject to paragraph (b), two corporations are deemed to be associated with each other at a particular time if

(i) they would, but for this subsection, not be associated with each other at the particular time, and

(ii) each corporation is associated with, or is deemed by this subsection to be associated with, the same corporation (in this subsection referred to as the ***third corporation***) at the particular time; and

(b) section 125,

(i) if the third corporation is not a Canadian-controlled private corporation at the particular time, the two corporations are deemed not to be associated with each other at the particular time, and

(ii) if the third corporation is a Canadian-controlled private corporation that elects in prescribed form to apply this subparagraph in its taxation year that includes the particular time, the two corporations are deemed not to be associated with each other at the particular time and the business limit of the third corporation for its taxation year that includes the particular time is deemed to be nil.

Anti-avoidance

(2.1) For the purposes of this Act, where, in the case of two or more corporations, it may reasonably be considered that one of the main reasons for the separate existence of those corporations in a taxation year is to reduce the amount of taxes that would otherwise be payable under this Act or to increase the amount of refundable investment tax credit under section 127.1, the two or more corporations shall be deemed to be associated with each other in the year.

Saving provision

(3) Where one corporation (in this subsection referred to as the "controlled corporation") would, but for this subsection, be associated with another corporation in a taxation year by reason of being controlled, directly or indirectly in any manner whatever, by the other corporation or by reason of both of the corporations being controlled, directly or indirectly in any manner whatever, by the same person at a particular time in the year (which

Sociétés associées par l'association à une autre

(2) Les règles ci-après s'appliquent :

a) pour l'application de la présente loi, sous réserve de l'alinéa b), deux sociétés sont réputées être associées l'une à l'autre à un moment donné si, à la fois :

(i) n'eût été le présent paragraphe, elles ne seraient pas associées l'une à l'autre au moment donné,

(ii) chaque société est à ce moment associée à une même société (appelée ***tierce société*** au présent paragraphe) ou réputée l'être par le présent paragraphe;

b) pour l'application de l'article 125 :

(i) si au moment donné la tierce société n'est pas une société privée sous contrôle canadien, les deux sociétés sont réputées ne pas être associées l'une à l'autre à ce moment,

(ii) si la tierce société est une société privée sous contrôle canadien qui choisit, sur le formulaire prescrit, d'appliquer le présent sous-alinéa pour son année d'imposition qui comprend le moment donné, les deux sociétés sont réputées ne pas être associées l'une à l'autre à ce moment et le plafond des affaires de la tierce société pour son année d'imposition qui comprend ce moment est réputé nul.

Présomption d'association en cas d'évitement

(2.1) Pour l'application de la présente loi, s'il est raisonnable de considérer qu'un des principaux motifs de l'existence distincte de plusieurs sociétés au cours d'une année d'imposition consiste à réduire les impôts qui seraient payables par ailleurs en vertu de la présente loi ou à augmenter le crédit d'impôt à l'investissement remboursable prévu à l'article 127.1, ces sociétés sont réputées être associées les unes aux autres au cours de l'année.

Réserve

(3) Lorsqu'une société — appelée « société contrôlée » au présent paragraphe — serait, sans le présent paragraphe, associée à une autre société au cours d'une année d'imposition du fait qu'elle est contrôlée, directement ou indirectement, de quelque manière que ce soit, par l'autre société ou du fait que les deux sociétés sont contrôlées, directement ou indirectement, de quelque manière que ce soit, par la même personne à un moment donné de

corporation or person so controlling the controlled corporation is in this subsection referred to as the "controller") and it is established to the satisfaction of the Minister that

(a) there was in effect at the particular time an agreement or arrangement enforceable according to the terms thereof, under which, on the satisfaction of a condition or the happening of an event that it is reasonable to expect will be satisfied or happen, the controlled corporation will

(i) cease to be controlled, directly or indirectly in any manner whatever, by the controller, and

(ii) be or become controlled, directly or indirectly in any manner whatever, by a person or group of persons, with whom or with each of the members of which, as the case may be, the controller was at the particular time dealing at arm's length, and

(b) the purpose for which the controlled corporation was at the particular time so controlled was the safeguarding of rights or interests of the controller in respect of

(i) any indebtedness owing to the controller the whole or any part of the principal amount of which was outstanding at the particular time, or

(ii) any shares of the capital stock of the controlled corporation that were owned by the controller at the particular time and that were, under the agreement or arrangement, to be redeemed by the controlled corporation or purchased by the person or group of persons referred to in subparagraph 256(3)(a)(ii),

the controlled corporation and the other corporation with which it would otherwise be so associated in the year shall be deemed, for the purpose of this Act, not to be associated with each other in the year.

Saving provision

(4) Where one corporation would, but for this subsection, be associated with another corporation in a taxation year by reason of both of the corporations being controlled by the same executor, liquidator of a succession or trustee and it is established to the satisfaction of the Minister

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

l'année — laquelle société ou personne contrôlant ainsi la société contrôlée est appelée « partie qui contrôle » au présent paragraphe —, et que le ministre est convaincu, à la fois :

a) qu'une convention ou un arrangement exécutable selon ses termes mêmes était en vigueur au moment donné et stipulait qu'à la réalisation d'une condition ou d'un événement à laquelle il est raisonnable de s'attendre, la société contrôlée :

(i) d'une part, cesserait d'être contrôlée, directement ou indirectement, de quelque manière que ce soit, par la partie qui contrôle,

(ii) d'autre part, serait ou deviendrait contrôlée, directement ou indirectement, de quelque manière que ce soit, par une personne avec laquelle, ou un groupe de personnes avec chacune desquelles, la partie qui contrôle n'avait aucun lien de dépendance au moment donné;

b) que la raison pour laquelle la société contrôlée était ainsi contrôlée au moment donné était la sauvegarde des droits de la partie qui contrôle afférents :

(i) soit à tout titre de créance dont la partie qui contrôle est créancière et dont tout ou partie du principal était impayé au moment donné,

(ii) soit à toutes actions du capital-actions de la société contrôlée qui appartenaient à la partie qui contrôle au moment donné et qui devaient, en vertu de la convention ou de l'arrangement, être rachetées par la société contrôlée ou achetées par la personne ou le groupe de personnes visées au sous-alinéa a)(ii),

la société contrôlée et l'autre société à laquelle elle serait par ailleurs associée ainsi au cours de l'année sont réputées, pour l'application de la présente loi, n'être pas associées l'une à l'autre au cours de l'année.

Réserve

(4) Lorsqu'une société serait, sans le présent paragraphe, associée à une autre société au cours d'une année d'imposition, du fait que les deux sociétés sont contrôlées par le même liquidateur de succession, exécuteur testamentaire ou fiduciaire, les deux sociétés sont réputées, pour l'application de la présente loi, ne pas avoir été associées l'une à l'autre au cours de l'année si le ministre est convaincu :

a) d'une part, que le liquidateur, exécuteur ou fiduciaire n'a pas acquis le contrôle des sociétés à la suite de l'ouverture d'une ou plusieurs successions ou de la création d'une ou plusieurs fiducies, soit par le même

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

the two corporations are deemed, for the purposes of this Act, not to be associated with each other in the year.

b) d'autre part, que la succession ou la fiducie dans le cadre de laquelle le liquidateur, exécuteur ou fiduciaire a acquis le contrôle de chacune des sociétés n'a pris naissance qu'au décès du particulier dont la succession s'est ouverte ou qui a créé la fiducie.

particulier, soit par plusieurs particuliers ayant entre eux des liens de dépendance;

Idem

(5) Where one corporation would, but for this subsection, be associated with another corporation in a taxation year, by reason only that the other corporation is a trustee under a trust pursuant to which the corporation is controlled, the two corporations shall be deemed, for the purposes of this Act, not to be associated with each other in the year unless, at any time in the year, a settlor of the trust controlled or is a member of a related group that controlled the other corporation that is the trustee under the trust.

Idem

(5) Lorsqu'une société serait, sans le présent paragraphe, associée à une autre société au cours d'une année d'imposition, du seul fait que l'autre société est le fiduciaire en vertu d'une fiducie dans le cadre de laquelle la société est contrôlée, les deux sociétés sont réputées, pour l'application de la présente loi, n'être pas associées l'une à l'autre au cours de l'année, sauf si, à un moment donné de l'année, un disposant de la fiducie contrôlait, ou était membre d'un groupe lié qui contrôlait l'autre société qui est le fiduciaire en vertu de la fiducie.

Control in fact

(5.1) For the purposes of this Act, where the expression "controlled, directly or indirectly in any manner whatever," is used, a corporation shall be considered to be so controlled by another corporation, person or group of persons (in this subsection referred to as the "controller") at any time where, at that time, the controller has any direct or indirect influence that, if exercised, would result in control in fact of the corporation, except that, where the corporation and the controller are dealing with each other at arm's length and the influence is derived from a franchise, licence, lease, distribution, supply or management agreement or other similar agreement or arrangement, the main purpose of which is to govern the relationship between the corporation and the controller regarding the manner in which a business carried on by the corporation is to be conducted, the corporation shall not be considered to be controlled, directly or indirectly in any manner whatever, by the controller by reason only of that agreement or arrangement.

Contrôle de fait

(5.1) Pour l'application de la présente loi, lorsque l'expression « contrôlée, directement ou indirectement, de quelque manière que ce soit, » est utilisée, une société est considérée comme ainsi contrôlée par une autre société, une personne ou un groupe de personnes — appelé « entité dominante » au présent paragraphe — à un moment donné si, à ce moment, l'entité dominante a une influence directe ou indirecte dont l'exercice entraînerait le contrôle de fait de la société. Toutefois, si cette influence découle d'un contrat de concession, d'une licence, d'un bail, d'un contrat de commercialisation, d'approvisionnement ou de gestion ou d'une convention semblable — la société et l'entité dominante n'ayant entre elles aucun lien de dépendance — dont l'objet principal consiste à déterminer les liens qui unissent la société et l'entité dominante en ce qui concerne la façon de mener une entreprise exploitée par la société, celle-ci n'est pas considérée comme contrôlée, directement ou indirectement, de quelque manière que ce soit, par l'entité dominante du seul fait qu'une telle convention existe.

Idem

(6) For the purposes of this Act, where a corporation (in this subsection referred to as the "controlled corporation") would, but for this subsection, be regarded as having been controlled or controlled, directly or indirectly in any manner whatever, by a person or partnership (in this subsection referred to as the "controller") at a particular time and it is established that

(a) there was in effect at the particular time an agreement or arrangement enforceable according to the terms thereof, under which, on the satisfaction of a

Idem

(6) Pour l'application de la présente loi, une société — appelée « société contrôlée » au présent paragraphe — qui serait considérée, sans le présent paragraphe, comme ayant été soit contrôlée, soit contrôlée, directement ou indirectement, de quelque manière que ce soit, par une personne ou société de personnes — appelée « entité dominante » au présent paragraphe — est réputée ne pas avoir été contrôlée par l'entité dominante au moment donné, s'il est établi à la fois :

condition or the happening of an event that it is reasonable to expect will be satisfied or happen, the controlled corporation will

(i) cease to be controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, by the controller, and

(ii) be or become controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, by a person or group of persons, with whom or with each of the members of which, as the case may be, the controller was at the particular time dealing at arm's length, and

(b) the purpose for which the controlled corporation was at the particular time so controlled, or controlled, directly or indirectly in any manner whatever, as the case may be, was the safeguarding of rights or interests of the controller in respect of

(i) any indebtedness owing to the controller the whole or any part of the principal amount of which was outstanding at the particular time, or

(ii) any shares of the capital stock of the controlled corporation that were owned by the controller at the particular time and that were, under the agreement or arrangement, to be redeemed by the controlled corporation or purchased by the person or group of persons referred to in subparagraph 256(6)(a)(ii),

the controlled corporation is deemed not to have been controlled by the controller at the particular time.

a) qu'une convention ou un arrangement exécutable selon ses termes mêmes était en vigueur au moment donné et stipulait qu'à la réalisation d'une condition ou d'un événement à laquelle il est raisonnable de s'attendre, la société contrôlée :

(i) d'une part, cesserait d'être contrôlée, ou contrôlée, directement ou indirectement, de quelque manière que ce soit, selon le cas, par l'entité dominante,

(ii) d'autre part, serait ou deviendrait contrôlée, ou contrôlée, directement ou indirectement, de quelque manière que ce soit, selon le cas, par une personne avec laquelle, ou un groupe de personnes avec chacune desquelles, l'entité dominante n'avait aucun lien de dépendance au moment donné;

b) que la raison pour laquelle la société contrôlée était au moment donné ainsi contrôlée, ou contrôlée, directement ou indirectement, de quelque manière que ce soit, selon le cas, était la sauvegarde des droits de l'entité dominante afférents :

(i) soit à tout titre de créance dont l'entité dominante est créancière et dont tout ou partie du principal était impayé au moment donné,

(ii) soit à des actions du capital-actions de la société contrôlée qui appartenaient à l'entité dominante au moment donné et qui, selon la convention ou l'arrangement, devaient être rachetées par la société contrôlée ou achetées par la personne ou le groupe de personnes visé au sous-alinéa a)(ii).

Simultaneous control

(6.1) For the purposes of this Act and for greater certainty,

(a) where a corporation (in this paragraph referred to as the "subsidiary") would be controlled by another corporation (in this paragraph referred to as the "parent") if the parent were not controlled by any person or group of persons, the subsidiary is controlled by

(i) the parent, and

(ii) any person or group of persons by whom the parent is controlled; and

(b) where a corporation (in this paragraph referred to as the "subject corporation") would be controlled by a group of persons (in this paragraph referred to as the "first-tier group") if no corporation that is a member of the first-tier group were controlled by any person or

Contrôle simultané

(6.1) Pour l'application de la présente loi, il est entendu que :

a) dans le cas où une société (appelée « filiale » au présent alinéa) serait contrôlée par une autre société (appelée « société mère » au présent alinéa) si cette dernière n'était pas contrôlée par une personne ou un groupe de personnes, la filiale est contrôlée à la fois par la société mère et par toute personne ou tout groupe de personnes qui contrôle cette dernière;

b) dans le cas où une société (appelée « société donnée » au présent alinéa) serait contrôlée par un groupe de personnes (appelé « groupe de premier palier » au présent alinéa) si aucune société membre du groupe de premier palier n'était contrôlée par une personne ou un groupe de personnes, la société donnée est contrôlée à la fois :

(i) par le groupe de premier palier,

group of persons, the subject corporation is controlled by

(i) the first-tier group, and

(ii) any group of one or more persons comprised of, in respect of every member of the first-tier group, either the member, or a person or group of persons by whom the member is controlled.

(ii) par tout groupe de personnes composé, quant à chaque membre du groupe de premier palier, soit du membre, soit d'une personne ou d'un groupe de personnes qui contrôle ce dernier.

Application to control in fact

(6.2) In its application to subsection (5.1), subsection (6.1) shall be read as if the references in subsection (6.1) to "controlled" were references to "controlled, directly or indirectly in any manner whatever,".

Contrôle de fait

(6.2) Pour l'application du paragraphe (6.1) dans le cadre du paragraphe (5.1), les mentions de « contrôle » et « contrôlée » au paragraphe (6.1) sont remplacées respectivement par « contrôle, directement ou indirectement, de quelque manière que ce soit » et « contrôlée, directement ou indirectement, de quelque manière que ce soit », avec les adaptations nécessaires.

Acquiring control

(7) For the purposes of this subsection, of section 55, subsections 66(11), 66.5(3), 66.7(10) and (11), 85(1.2), 88(1.1) and (1.2), 110.1(1.2) and 111(5.4) and paragraph 251.2(2)(a) and of subsection 5905(5.2) of the *Income Tax Regulations*,

(a) control of a particular corporation shall be deemed not to have been acquired solely because of

(i) the acquisition at any time of shares of any corporation by

(A) a particular person who acquired the shares from a person to whom the particular person was related (otherwise than because of a right referred to in paragraph 251(5)(b)) immediately before that time,

(B) a particular person who was related to the particular corporation (otherwise than because of a right referred to in paragraph 251(5)(b)) immediately before that time,

(C) an estate that acquired the shares because of the death of a person,

(D) a particular person who acquired the shares from an estate that arose on and as a consequence of the death of an individual, if the estate acquired the shares from the individual as a consequence of the death and the individual was related to the particular person immediately before the death,

(E) a corporation on a distribution (within the meaning assigned by subsection 55(1)) by a

Contrôle réputé non acquis

(7) Pour l'application du présent paragraphe, de l'article 55, des paragraphes 66(11), 66.5(3), 66.7(10) et (11), 85(1.2), 88(1.1) et (1.2), 110.1(1.2) et 111(5.4) et de l'alinéa 251.2(2)a) et pour l'application du paragraphe 5905(5.2) du *Règlement de l'impôt sur le revenu* :

a) le contrôle d'une société donnée est réputé ne pas avoir été acquis du seul fait :

(i) soit de l'acquisition, à un moment donné, d'actions d'une société par, selon le cas :

(A) une personne donnée qui a acquis les actions d'une personne avec qui elle était liée, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), immédiatement avant ce moment,

(B) une personne donnée qui était liée à la société donnée, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), immédiatement avant ce moment,

(C) une succession qui a acquis les actions en raison du décès d'une personne,

(D) une personne donnée qui a acquis les actions auprès d'une succession qui a commencé à exister au décès d'un particulier et par suite de ce décès, si la succession a acquis les actions du particulier par suite du décès et si le particulier était lié à la personne donnée avant le décès,

(E) une société à l'occasion d'une attribution, au sens du paragraphe 55(1), effectuée par une société déterminée, au sens de ce même paragraphe, si un dividende auquel le paragraphe

specified corporation (within the meaning assigned by that subsection) if a dividend, to which subsection 55(2) does not apply because of paragraph 55(3)(b), is received in the course of the reorganization in which the distribution occurs,

(ii) the redemption or cancellation at any particular time of, or a change at any particular time in the rights, privileges, restrictions or conditions attaching to, shares of the particular corporation or of a corporation controlling the particular corporation, where each person and each member of each group of persons that controls the particular corporation immediately after the particular time was related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the corporation

(A) immediately before the particular time, or

(B) immediately before the death of a person, where the shares were held immediately before the particular time by an estate that acquired the shares because of the person's death, or

(iii) the acquisition at any time of shares of the particular corporation if

(A) the acquisition of those shares would otherwise result in the acquisition of control of the particular corporation at that time by a related group of persons, and

(B) each member of each group of persons that controls the particular corporation at that time was related (otherwise than because of a right referred to in paragraph 251(5)(b)) to the particular corporation immediately before that time;

(b) where at any time 2 or more corporations (each of which is referred to in this paragraph as a "predecessor corporation") have amalgamated to form one corporate entity (in this paragraph referred to as the "new corporation"),

(i) control of a corporation is deemed not to have been acquired by any person or group of persons solely because of the amalgamation unless it is deemed by subparagraph 256(7)(b)(ii) or 256(7)(b)(iii) to have been so acquired,

(ii) a person or group of persons that controls the new corporation immediately after the amalgamation and did not control a predecessor corporation immediately before the amalgamation is deemed to have acquired immediately before the amalgamation control of the predecessor corporation and of each corporation it controlled immediately before

55(2) ne s'applique pas, par l'effet de l'alinéa 55(3)b), est reçu lors de la réorganisation dans le cadre de laquelle l'attribution est effectuée,

(ii) soit du rachat ou de l'annulation, à un moment donné, d'actions de la société donnée ou d'une société qui la contrôle ou de la modification, à un moment donné, des droits, privilèges, restrictions ou conditions rattachés à de telles actions, dans le cas où chaque personne et chaque membre de chaque groupe de personnes qui contrôle la société donnée immédiatement après ce moment était lié à la société, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b):

(A) soit immédiatement avant ce moment,

(B) soit immédiatement avant le décès d'une personne, dans le cas où les action étaient détenues immédiatement avant le moment donné par une succession qui les a acquises par suite de ce décès;

(iii) soit de l'acquisition, à un moment donné, d'actions de la société donnée dans le cas où, à la fois :

(A) l'acquisition de ces actions donnerait lieu par ailleurs à l'acquisition du contrôle de la société donnée à ce moment par un groupe lié de personnes,

(B) chaque membre de chaque groupe de personnes qui contrôle la société donnée à ce moment était lié, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b), à la société donnée immédiatement avant ce moment;

b) dans le cas où plusieurs sociétés (chacune étant appelée « société remplacée » au présent alinéa) ont fusionné pour former une seule société (appelée « nouvelle société » au présent alinéa), les présomptions suivantes s'appliquent :

(i) le contrôle d'une société n'est réputé avoir été acquis par une personne ou un groupe de personnes du seul fait de la fusion que s'il est réputé par les sous-alinéas (ii) ou (iii) avoir été ainsi acquis,

(ii) la personne ou le groupe de personnes qui contrôle la nouvelle société immédiatement après la fusion, mais qui ne contrôlait pas une société remplacée immédiatement avant la fusion est réputé avoir acquis, immédiatement avant la fusion, le contrôle de la société remplacée et de chaque société que celle-ci contrôlait immédiatement avant la fusion, sauf dans le cas où la personne ou le groupe

the amalgamation (unless the person or group of persons would not have acquired control of the predecessor corporation if the person or group of persons had acquired all the shares of the predecessor corporation immediately before the amalgamation), and

(iii) control of a predecessor corporation and of each corporation it controlled immediately before the amalgamation is deemed to have been acquired immediately before the amalgamation by a person or group of persons

(A) unless the predecessor corporation was related (otherwise than because of a right referred to in paragraph 251(5)(b)) immediately before the amalgamation to each other predecessor corporation,

(B) unless, if one person had immediately after the amalgamation acquired all the shares of the new corporation's capital stock that the shareholders of the predecessor corporation, or of another predecessor corporation that controlled the predecessor corporation, acquired on the amalgamation in consideration for their shares of the predecessor corporation or of the other predecessor corporation, as the case may be, the person would have acquired control of the new corporation as a result of the acquisition of those shares, or

(C) unless this subparagraph would, but for this clause, deem control of each predecessor corporation to have been acquired on the amalgamation where the amalgamation is an amalgamation of

(I) two corporations, or

(II) two corporations (in this subclause referred to as the "parents") and one or more other corporations (each of which is in this subclause referred to as a "subsidiary") that would, if all the shares of each subsidiary's capital stock that were held immediately before the amalgamation by the parents had been held by one person, have been controlled by that person;

(c) subject to paragraph 256(7)(a), where 2 or more persons (in this paragraph referred to as the "transferors") dispose of shares of the capital stock of a particular corporation in exchange for shares of the capital stock of another corporation (in this paragraph referred to as the "acquiring corporation"), control of the acquiring corporation and of each corporation

de personnes n'aurait pas acquis le contrôle de la société remplacée s'il avait acquis l'ensemble des actions de celle-ci immédiatement avant la fusion,

(iii) le contrôle d'une société remplacée et de chaque société qu'elle contrôle immédiatement avant la fusion est réputé avoir été acquis immédiatement avant la fusion par une personne ou un groupe de personnes, sauf si l'un des faits suivants se vérifie :

(A) immédiatement avant la fusion, la société remplacée était liée à chaque autre société remplacée, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b),

(B) si une seule personne avait acquis, immédiatement après la fusion, l'ensemble des actions du capital — actions de la nouvelle société que les actionnaires de la société remplacée ou d'une autre société remplacée qui contrôlait celle-ci ont acquis lors de la fusion en contrepartie de leurs actions de la société remplacée ou de l'autre société remplacée, selon le cas, cette personne aurait acquis le contrôle de la nouvelle société par suite de l'acquisition de ces actions,

(C) le contrôle de chaque société remplacée serait, en l'absence de la présente division, réputé par le présent sous-alinéa avoir été acquis lors de la fusion, dans le cas où il s'agit de la fusion :

(I) de deux sociétés,

(II) de deux sociétés (appelées « sociétés mère » à la présente subdivision) et d'une ou de plusieurs autres sociétés (chacune étant appelée « filiale » à la présente subdivision) qui, si les actions du capital-actions de chaque filiale détenues par les sociétés mères immédiatement avant la fusion avaient été détenues par une seule personne, auraient été contrôlées par cette personne;

c) sous réserve de l'alinéa a), dans le cas où plusieurs personnes (appelées « cédants » au présent alinéa) disposent d'actions du capital-actions d'une société donnée en échange d'actions du capital-actions d'une autre société (appelée « acquéreur » au présent alinéa), le contrôle de l'acquéreur et de chaque société qu'elle contrôlait immédiatement avant l'échange est réputé avoir été acquis au moment de l'échange par une personne ou un groupe de personnes, sauf si l'un des faits suivants se vérifie :

controlled by it immediately before the exchange is deemed to have been acquired at the time of the exchange by a person or group of persons unless

(i) the particular corporation and the acquiring corporation were related (otherwise than because of a right referred to in paragraph 251(5)(b)) to each other immediately before the exchange, or

(ii) if all the shares of the acquiring corporation's capital stock that were acquired by the transferors on the exchange were acquired at the time of the exchange by one person, the person would not control the acquiring corporation;

(c.1) subject to paragraph (a), if, at any particular time, as part of a series of transactions or events, two or more persons acquire shares of a corporation (in this paragraph referred to as the "acquiring corporation") in exchange for or upon a redemption or surrender of interests in, or as a consequence of a distribution from, a SIFT trust (determined without reference to subsection 122.1(2)), SIFT partnership (determined without reference to subsection 197(8)) or real estate investment trust (as defined in subsection 122.1(1)), control of the acquiring corporation and of each corporation controlled by it immediately before the particular time is deemed to have been acquired by a person or group of persons at the particular time unless

(i) in respect of each of the corporations, a person (in this subparagraph referred to as a "relevant person") affiliated (within the meaning assigned by section 251.1 read without reference to the definition ***controlled*** in subsection 251.1(3)) with the SIFT trust, SIFT partnership or real estate investment trust owned shares of the particular corporation having a total fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the particular corporation at all times during the period that

(A) begins on the latest of July 14, 2008, the date the particular corporation came into existence and the time of the last acquisition of control, if any, of the particular corporation by a relevant person, and

(B) ends immediately before the particular time,

(ii) if all the securities (in this subparagraph as defined in subsection 122.1(1)) of the acquiring corporation that were acquired as part of the series of transactions or events at or before the particular time were acquired by one person, the person would

(i) la société donnée et l'acquéreur étaient liés l'un à l'autre immédiatement avant l'échange, autrement qu'à cause d'un droit visé à l'alinéa 251(5)b),

(ii) si l'ensemble des actions du capital-actions de l'acquéreur qui ont été acquises par les cédants lors de l'échange étaient acquises au moment de l'échange par une seule personne, celle-ci ne contrôlerait pas l'acquéreur;

c.1) sous réserve de l'alinéa a), dans le cas où plusieurs personnes acquièrent à un moment donné, dans le cadre d'une série d'opérations ou d'événements, des actions d'une société (appelée « acquéreur » au présent alinéa) en échange ou lors du rachat ou de l'abandon de participations dans une fiducie intermédiaire de placement déterminée (compte non tenu du paragraphe 122.1(2)), dans une société de personnes intermédiaire de placement déterminée (compte non tenu du paragraphe 197(8)) ou dans une fiducie de placement immobilier (au sens du paragraphe 122.1(1)) ou par suite d'une distribution provenant d'une telle fiducie ou société de personnes, le contrôle de l'acquéreur et de chaque société qu'il contrôle immédiatement avant le moment donné est réputé avoir été acquis au moment donné par une personne ou un groupe de personnes, sauf si l'un des faits ci-après s'avère :

(i) en ce qui concerne chacune des sociétés, une personne (appelée « personne intéressée » au présent sous-alinéa) qui est affiliée (au sens de l'article 251.1, compte non tenu de la définition de ***contrôlé*** au paragraphe 251.1(3)) à la fiducie intermédiaire de placement déterminée, à la société de personnes intermédiaire de placement déterminée ou à la fiducie de placement immobilier était propriétaire d'actions de la société donnée dont la juste valeur marchande totale excède 50 % de celle de l'ensemble des actions émises et en circulation de la société donnée tout au long de la période qui :

(A) commence au dernier en date du 14 juillet 2008, de la date où la société donnée a commencé à exister et du moment de la dernière acquisition de contrôle de la société donnée par une personne intéressée,

(B) se termine immédiatement avant le moment donné,

(ii) si tous les titres (s'entendant, au présent sous-alinéa, au sens du paragraphe 122.1(1)) de l'acquéreur qui ont été acquis dans le cadre de la série d'opérations ou d'événements au moment donné ou avant ce moment étaient acquis par une seule personne, cette personne, à la fois :

(A) not at the particular time control the acquiring corporation, and

(B) have at the particular time acquired securities of the acquiring corporation having a fair market value of not more than 50% of the fair market value of all the issued and outstanding shares of the acquiring corporation, or

(iii) this paragraph previously applied to deem an acquisition of control of the acquiring corporation upon an acquisition of shares that was part of the same series of transactions or events;

(d) where at any time shares of the capital stock of a particular corporation are disposed of to another corporation (in this paragraph referred to as the "acquiring corporation") for consideration that includes shares of the acquiring corporation's capital stock and, immediately after that time, the acquiring corporation and the particular corporation are controlled by a person or group of persons who

(i) controlled the particular corporation immediately before that time, and

(ii) did not, as part of the series of transactions or events that includes the disposition, cease to control the acquiring corporation,

control of the particular corporation and of each corporation controlled by it immediately before that time is deemed not to have been acquired by the acquiring corporation solely because of the disposition;

(e) control of a particular corporation and of each corporation controlled by it immediately before a particular time is deemed not to have been acquired at the particular time by a corporation (in this paragraph referred to as the "acquiring corporation") if at the particular time, the acquiring corporation acquires shares of the particular corporation's capital stock for consideration that consists solely of shares of the acquiring corporation's capital stock, and if

(i) immediately after the particular time

(A) the acquiring corporation owns all the shares of each class of the particular corporation's capital stock (determined without reference to shares of a specified class, within the meaning assigned by paragraph 88(1)(c.8)),

(B) the acquiring corporation is not controlled by any person or group of persons, and

(A) ne contrôlerait pas l'acquéreur au moment donné,

(B) aurait acquis au moment donné des titres de l'acquéreur dont la juste valeur marchande n'excède pas 50 % de celle de l'ensemble des actions émises et en circulation de l'acquéreur,

(iii) le contrôle de l'acquéreur a déjà été réputé en vertu du présent alinéa avoir été acquis lors d'une acquisition d'actions effectuée dans le cadre de la même série d'opérations ou d'événements;

d) dans le cas où il est disposé d'actions du capital-actions d'une société donnée en faveur d'une autre société (appelée « acquéreur » au présent alinéa) pour une contrepartie qui comprend des actions du capital-actions de l'acquéreur et où, immédiatement après le moment de la disposition, l'acquéreur et la société donnée sont contrôlés par une personne ou un groupe de personnes qui contrôlait la société donnée immédiatement avant ce moment sans avoir cessé, dans le cadre de la série d'opérations ou d'événements qui comprend la disposition, de contrôler l'acquéreur, le contrôle de la société donnée et de chaque société qu'elle contrôlait immédiatement avant ce moment est réputé ne pas avoir été acquis par l'acquéreur du seul fait de la disposition;

e) le contrôle d'une société donnée et de chaque société qu'elle contrôlait immédiatement avant un moment donné est réputé ne pas avoir été acquis au moment donné par une société (appelée « acquéreur » au présent alinéa) si l'acquéreur acquiert, au moment donné, des actions du capital-actions de la société donnée pour une contrepartie qui ne comprend que des actions de son capital-actions et si, selon le cas :

(i) immédiatement après le moment donné, à la fois :

(A) l'acquéreur est propriétaire de l'ensemble des actions de chaque catégorie du capital-actions de la société donnée, déterminé compte non tenu des actions d'une catégorie exclue au sens de l'alinéa 88(1)c.8),

(B) l'acquéreur n'est pas contrôlé par une personne ou un groupe de personnes,

(C) la juste valeur marchande des actions du capital-actions de la société donnée qui appartiennent à l'acquéreur représente au moins 95 % de celle de l'ensemble des biens de l'acquéreur,

(C) the fair market value of the shares of the particular corporation's capital stock that are owned by the acquiring corporation is not less than 95% of the fair market value of all of the assets of the acquiring corporation, or

(ii) any of clauses (i)(A) to (C) do not apply and the acquisition occurs as part of a plan of arrangement that, on completion, results in

(A) the acquiring corporation (or a new corporation that is formed on an amalgamation of the acquiring corporation and a subsidiary wholly-owned corporation of the acquiring corporation) owning all the shares of each class of the particular corporation's capital stock (determined without reference to shares of a specified class, within the meaning assigned by paragraph 88(1)(c.8)),

(B) the acquiring corporation (or the new corporation) not being controlled by any person or group of persons, and

(C) the fair market value of the shares of the particular corporation's capital stock that are owned by the acquiring corporation (or the new corporation) being not less than 95% of the fair market value of all of the assets of the acquiring corporation (or the new corporation);

(f) if a particular trust is the only beneficiary of another trust, the particular trust is described in paragraph (c) of the definition ***SIFT trust wind-up event***, the particular trust would, in the absence of this paragraph, acquire control of a corporation solely because of a SIFT trust wind-up event that is a distribution of shares of the capital stock of the corporation by the other trust, and the other trust controlled the corporation immediately before the distribution, the particular trust is deemed not to acquire control of the corporation because of the distribution;

(g) a corporation (in this paragraph referred to as the "acquiring corporation") that acquires shares of another corporation on a distribution that is a SIFT trust wind-up event of a SIFT wind-up entity is deemed not to acquire control of the other corporation because of that acquisition if the following conditions are met:

(i) the SIFT wind-up entity is a trust whose only beneficiary immediately before the distribution is the acquiring corporation,

(ii) the SIFT wind-up entity controlled the other corporation immediately before the distribution,

(ii) l'une des divisions (i)(A) à (C) ne s'applique pas et l'acquisition est effectuée dans le cadre d'un plan d'arrangement à la suite duquel, à la fois :

(A) l'acquéreur, ou une nouvelle société issue de la fusion de l'acquéreur et d'une de ses filiales à cent pour cent, est propriétaire de l'ensemble des actions de chaque catégorie du capital-actions de la société donnée, déterminé compte non tenu des actions d'une catégorie exclue au sens de l'alinéa 88(1)c.8),

(B) l'acquéreur, ou la nouvelle société, n'est pas contrôlé par une personne ou un groupe de personnes,

(C) la juste valeur marchande des actions du capital-actions de la société donnée qui appartiennent à l'acquéreur, ou à la nouvelle société, représente au moins 95 % de celle de l'ensemble des biens de l'acquéreur ou de la nouvelle société;

f) lorsqu'une fiducie donnée est le seul bénéficiaire d'une autre fiducie, qu'elle est visée à l'alinéa c) de la définition de ***fait lié à la conversion d'une EIPD-fiducie***, qu'elle acquerrait, en l'absence du présent alinéa, le contrôle d'une société par le seul effet d'un fait lié à la conversion d'une EIPD-fiducie qui constitue une distribution d'actions du capital-actions de la société par l'autre fiducie et que l'autre fiducie contrôlait la société immédiatement avant la distribution, la fiducie donnée est réputée ne pas acquérir le contrôle de la société en raison de la distribution;

g) la société (appelée « acquéreur » au présent alinéa) qui acquiert des actions d'une autre société lors d'une distribution qui constitue un fait lié à la conversion d'une EIPD-fiducie d'une EIPD convertible est réputée ne pas acquérir le contrôle de l'autre société en raison de cette acquisition si les conditions ci-après sont réunies :

(i) l'EIPD convertible est une fiducie dont le seul bénéficiaire immédiatement avant la distribution est l'acquéreur,

(ii) l'EIPD convertible contrôlait l'autre société immédiatement avant la distribution,

(iii) dans le cadre d'une série d'opérations ou d'événements par suite de laquelle l'acquéreur est devenu le seul bénéficiaire de la fiducie, plusieurs personnes ont acquis des actions de l'acquéreur en échange de leur participation à titre de bénéficiaire de la fiducie,

(iii) as part of a series of transactions or events under which the acquiring corporation became the only beneficiary under the trust, two or more persons acquired shares in the acquiring corporation in exchange for their interests as beneficiaries under the trust, and

(iv) if all the shares described in subparagraph (iii) had been acquired by one person, the person would

(A) control the acquiring corporation, and

(B) have acquired shares of the acquiring corporation having a fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the acquiring corporation;

(h) if at any time after September 12, 2013 a trust is subject to a loss restriction event and immediately before that time the trust, or a group of persons a member of which is the trust, controls a corporation, control of the corporation and of each corporation controlled by it immediately before that time is deemed to have been acquired at that time by a person or group of persons; and

(i) if at any time after September 12, 2013 a trust controls a corporation, control of the corporation is deemed not to be acquired solely because of a change in the trustee or legal representative having ownership or control of the trust's property if

(i) the change is not part of a series of transactions or events that includes a change in the beneficial ownership of the trust's property, and

(ii) no amount of income or capital of the trust to be distributed, at any time at or after the change, in respect of any interest in the trust depends upon the exercise by any person or partnership, or the failure of any person or partnership, to exercise any discretionary power.

(iv) si les actions mentionnées au sous-alinéa (iii) avaient été acquises par une seule personne, cette personne :

(A) d'une part, contrôlerait l'acquéreur,

(B) d'autre part, aurait acquis de l'acquéreur des actions dont la juste valeur marchande excède 50 % de celle de l'ensemble des actions émises et en circulation de l'acquéreur;

h) si une fiducie est assujettie à un fait lié à la restriction de pertes à un moment donné après le 12 septembre 2013 et que la fiducie, ou un groupe de personnes dont l'un des membres est la fiducie, contrôle une société immédiatement avant ce moment, le contrôle de la société et de chaque société qu'elle contrôle immédiatement avant ce moment est réputé avoir été acquis à ce moment par une personne ou un groupe de personnes;

i) si une fiducie contrôle une société à un moment donné après le 12 septembre 2013, le contrôle de la société est réputé ne pas être acquis en raison seulement du remplacement du fiduciaire ou du représentant légal ayant la propriété ou le contrôle des biens de la fiducie si, à la fois :

(i) le remplacement ne fait pas partie d'une série d'opérations ou d'événements qui comprend un changement de propriété effective des biens de la fiducie,

(ii) aucun montant de revenu ou de capital de la fiducie devant être distribué, au moment du remplacement ou par la suite, relativement à une participation dans la fiducie ne dépend de l'exercice ou du non-exercice par une personne ou une société de personnes d'un pouvoir discrétionnaire.

Deemed exercise of right

(8) Where at any time a taxpayer acquires a right referred to in paragraph 251(5)(b) in respect of a share and it can reasonably be concluded that one of the main purposes of the acquisition is

(a) to avoid any limitation on the deductibility of any non-capital loss, net capital loss, farm loss or any expense or other amount referred to in subsection 66(11), 66.5(3) or 66.7(10) or 66.7(11),

(b) to avoid the application of subsection 10(10) or 13(24), paragraph 37(1)(h) or subsection 55(2) or

Présomption d'exercice de droit

(8) Pour ce qui est de déterminer, d'une part, si le contrôle d'une société a été acquis pour l'application des paragraphes 10(10) et 13(24), de l'article 37, des paragraphes 55(2), 66(11), (11.4) et (11.5), 66.5(3) et 66.7(10) et (11), de l'article 80, de l'alinéa 80.04(4)h), du sous-alinéa 88(1)c)(vi), de l'alinéa 88(1)c.3), des paragraphes 88(1.1) et (1.2), des articles 111 et 127, des paragraphes 181.1(7), 190.1(6) et 249(4) et de l'alinéa 251.2(2)a) et, d'autre part, si une société est contrôlée par une personne ou par un groupe de personnes pour l'application de l'article 251.1, de l'alinéa b) de la définition de ***fiducie de placement déterminée*** au paragraphe 251.2(1) et des

66(11.4) or (11.5), paragraph 88(1)(c.3) or subsection 111(4), (5.1) or (5.3), 181.1(7), 190.1(6) or 251.2(2),

(c) to avoid the application of paragraph (j) or (k) of the definition ***investment tax credit*** in subsection 127(9),

(d) to avoid the application of section 251.1, or

(e) to affect the application of section 80,

the taxpayer is deemed to be in the same position in relation to the control of the corporation as if the right were immediate and absolute and as if the taxpayer had exercised the right at that time for the purpose of determining whether control of a corporation has been acquired for the purposes of subsections 10(10) and 13(24), section 37, subsections 55(2), 66(11), (11.4) and (11.5), 66.5(3), 66.7(10) and (11), section 80, paragraph 80.04(4)(h), subparagraph 88(1)(c)(vi), paragraph 88(1)(c.3), subsections 88(1.1) and (1.2), sections 111 and 127, subsections 181.1(7), 190.1(6) and 249(4) and paragraph 251.2(2)(a) and in determining for the purposes of section 251.1, paragraph (b) of the definition ***investment fund*** in subsection 251.2(1) and paragraphs 251.2(3)(c) and (d) and 256(7)(i) whether a corporation is controlled by any other person or group of persons.

Corporations without share capital

(8.1) For the purposes of subsections 256(7) and 256(8),

(a) a corporation incorporated without share capital is deemed to have a capital stock of a single class;

(b) each member, policyholder and other participant in the corporation is deemed to be a shareholder of the corporation; and

(c) the membership, policy or other interest in the corporation of each of those participants is deemed to be the number of shares of the corporation's capital stock that the Minister considers reasonable in the circumstances, having regard to the total number of participants in the corporation and the nature of their participation.

Date of acquisition of control

(9) For the purposes of this Act, other than for the purposes of determining if a corporation is, at any time, a small business corporation or a Canadian-controlled private corporation, where control of a corporation is acquired by a person or group of persons at a particular time on a day, control of the corporation shall be deemed to have been acquired by the person or group of persons, as the case may be, at the beginning of that day and not at the particular time unless the corporation elects in its

alinéas 251.2(3)c) et d), le contribuable qui a acquis un droit visé à l'alinéa 251(5)b) afférent à une action est réputé être dans la même position relativement au contrôle de la société que si le droit était immédiat et absolu et que s'il l'avait exercé au moment de l'acquisition, dans le cas où il est raisonnable de conclure que l'un des principaux motifs de l'acquisition du droit consistait :

a) à éviter une restriction à la déductibilité d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole ou de frais ou d'autres montants visés aux paragraphes 66(11), 66.5(3) ou 66.7(10) ou (11);

b) à éviter l'application des paragraphes 10(10) ou 13(24), de l'alinéa 37(1)h) ou des paragraphes 55(2) ou 66(11.4) ou (11.5), de l'alinéa 88(1)c.3) ou des paragraphes 111(4), (5.1) ou (5.3), 181.1(7), 190.1(6) ou 251.2(2);

c) à éviter l'application des alinéas j) ou k) de la définition de ***crédit d'impôt à l'investissement*** au paragraphe 127(9);

d) à éviter l'application de l'article 251.1,

e) à influer sur l'application de l'article 80.

Sociétés sans capital-actions

(8.1) Les présomptions suivantes s'appliquent dans le cadre des paragraphes (7) et (8):

a) une société constituée sans capital-actions est réputée en avoir un d'une seule catégorie;

b) chaque membre, titulaire de police et autre participant de la société est réputé en être un actionnaire;

c) l'adhésion, la police ou autre participation dans la société de chacun de ces participants est réputée être représentée par le nombre d'actions du capital-actions de la société que le ministre estime raisonnable dans les circonstances, compte tenu du nombre total de participants de la société et de la nature de leur participation.

Moment d'acquisition du contrôle

(9) Pour l'application de la présente loi, sauf lorsqu'il s'agit de déterminer si une société est une société exploitant une petite entreprise ou une société privée sous contrôle canadien à un moment quelconque, le contrôle d'une société qui est acquis à un moment donné est réputé l'être au début du jour où tombe ce moment ou, si la société en fait le choix, au moment de ce jour où le contrôle est effectivement acquis. Le choix se fait dans la déclaration de revenu de la société produite en vertu de la partie I pour

return of income under Part I filed for its taxation year that ends immediately before the acquisition of control not to have this subsection apply.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 256; 1994, c. 7, Sch. II, s. 198, c. 21, s. 114; 1995, c. 3, s. 55, c. 21, s. 44; 1998, c. 19, s. 246; 2001, c. 17, ss. 194, 231; 2005, c. 19, s. 55; 2009, c. 2, s. 78; 2013, c. 34, ss. 37, 364, c. 40, s. 93; 2014, c. 39, s. 76; 2016, c. 12, s. 67.

Definitions

256.1 (1) The following definitions apply in this section.

attribute trading restriction means a restriction on the use of a tax attribute arising on the application, either alone or in combination with other provisions, of any of this section, subsections 10(10) and 13(24), section 37, subsections 66(11.4) and (11.5), 66.7(10) and (11), 69(11) and 88(1.1) and (1.2), sections 111 and 127 and subsections 181.1(7), 190.1(6), 249(4) and 256(7). (*restriction au commerce d'attributs*)

person includes a partnership. (*personne*)

specified provision means any of subsections 10(10) and 13(24), paragraph 37(1)(h), subsections 66(11.4) and (11.5), 66.7(10) and (11), 69(11) and 111(4), (5), (5.1) and (5.3), paragraphs (j) and (k) of the definition ***investment tax credit*** in subsection 127(9), subsections 181.1(7) and 190.1(6) and any provision of similar effect. (*dispositions déterminées*)

Application of subsection (3)

(2) Subsection (3) applies at a particular time in respect of a corporation if

(a) shares of the capital stock of the corporation held by a person, or the total of all shares of the capital stock of the corporation held by members of a group of persons, as the case may be, have at the particular time a fair market value that exceeds 75% of the fair market value of all the shares of the capital stock of the corporation;

(b) shares, if any, of the capital stock of the corporation held by the person, or the total of all shares, if any, of the capital stock of the corporation held by members of the group, have immediately before the particular time a fair market value that does not exceed 75% of the fair market value of all the shares of the capital stock of the corporation;

(c) the person or group does not control the corporation at the particular time; and

l'année d'imposition se terminant immédiatement avant l'acquisition de contrôle.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 256; 1994, ch. 7, ann. II, art. 198, ch. 21, art. 114; 1995, ch. 3, art. 55, ch. 21, art. 44; 1998, ch. 19, art. 246; 2001, ch. 17, art. 194 et 231; 2005, ch. 19, art. 55; 2009, ch. 2, art. 78; 2013, ch. 34, art. 37 et 364, ch. 40, art. 93; 2014, ch. 39, art. 76; 2016, ch. 12, art. 67.

Définitions

256.1 (1) Les définitions qui suivent s'appliquent au présent article.

dispositions déterminées Les paragraphes 10(10) et 13(24), l'alinéa 37(1)h), les paragraphes 66(11.4) et (11.5), 66.7(10) et (11), 69(11) et 111(4), (5), (5.1) et (5.3), les alinéas j) et k) de la définition de *crédit d'impôt à l'investissement* au paragraphe 127(9), les paragraphes 181.1(7) et 190.1(6) et toute disposition ayant un effet similaire. (*specified provision*)

personne Sont assimilées à des personnes les sociétés de personnes. (*person*)

restriction au commerce d'attributs Toute restriction touchant l'utilisation d'un attribut fiscal découlant de l'application, seul ou de concert avec d'autres dispositions, du présent article, des paragraphes 10(10) ou 13(24), de l'article 37, des paragraphes 66(11.4) ou (11.5), 66.7(10) ou (11), 69(11) ou 88(1.1) ou (1.2), des articles 111 ou 127 ou des paragraphes 181.1(7), 190.1(6), 249(4) ou 256(7). (*attribute trading restriction*)

Application du paragraphe (3)

(2) Le paragraphe (3) s'applique à un moment donné relativement à une société si les conditions ci-après sont réunies :

a) la juste valeur marchande, à ce moment, des actions du capital-actions de la société détenues par une personne, ou de l'ensemble des actions de son capital-actions détenues par des membres d'un groupe de personnes, excède 75 % de la juste valeur marchande de l'ensemble des actions de son capital-actions;

b) la juste valeur marchande, immédiatement avant ce moment, des actions du capital-actions de la société détenues par la personne, ou de l'ensemble des actions de son capital-actions détenues par des membres du groupe, n'excède pas 75 % de la juste valeur marchande de l'ensemble des actions de son capital-actions;

c) la personne ou le groupe ne contrôle pas la société au moment donné;

(d) it is reasonable to conclude that one of the main reasons that the person or group does not control the corporation is to avoid the application of one or more specified provisions.

(d) il est raisonnable de conclure que l'une des principales raisons pour lesquelles la personne ou le groupe ne contrôle pas la société consiste à éviter l'application d'une ou de plusieurs dispositions déterminées.

Deemed acquisition of control

(3) If this subsection applies at a particular time in respect of a corporation, then for the purposes of the attribute trading restrictions,

(a) the person or group referred to in subsection (2)

(i) is deemed to acquire control of the corporation, and each corporation controlled by the corporation, at the particular time, and

(ii) is not deemed to have control of the corporation, and each corporation controlled by the corporation, at any time after the particular time solely because this paragraph applied at the particular time; and

(b) during the period that the condition in paragraph (2)(a) is satisfied, each corporation referred to in paragraph (a) — and any corporation incorporated or otherwise formed subsequent to that time and controlled by that corporation — is deemed not to be related to, or affiliated with, any person to which it was related to, or affiliated with, immediately before paragraph (a) applies.

Acquisition de contrôle réputée

(3) Si le présent paragraphe s'applique à un moment donné relativement à une société, les règles ci-après s'appliquent dans le cadre des restrictions au commerce d'attributs :

a) la personne ou le groupe visé au paragraphe (2) :

(i) est réputé acquérir le contrôle de la société, et de chaque société contrôlée par celle-ci, au moment donné,

(ii) n'est pas réputé avoir le contrôle de la société, et de chaque société contrôlée par celle-ci, à un moment postérieur au moment donné du seul fait que le présent alinéa était applicable au moment donné;

b) au cours de la période pendant laquelle la condition énoncée à l'alinéa (2)a) est remplie, chaque société visée à l'alinéa a), de même que toute société constituée après le moment donné et contrôlée par cette société, sont réputées ne pas être liées ni affiliées à toute personne à laquelle elles étaient liées ou affiliées immédiatement avant l'application de l'alinéa a).

Special rules

(4) For the purpose of applying paragraph (2)(a) in respect of a person or group of persons,

(a) if it is reasonable to conclude that one of the reasons that one or more transactions or events occur is to cause a person or group of persons not to hold shares having a fair market value that exceeds 75% of the fair market value of all the shares of the capital stock of a corporation, the paragraph is to be applied without reference to those transactions or events; and

(b) the person, or each member of the group, is deemed to have exercised each right that is held by the person or a member of the group and that is referred to in paragraph 251(5)(b) in respect of a share of the corporation referred to in paragraph (2)(a).

Règles d'application

(4) Pour l'application de l'alinéa (2)a) relativement à une personne ou à un groupe de personnes :

a) s'il est raisonnable de conclure que l'une des raisons de la réalisation d'une ou de plusieurs opérations ou événements consiste à éviter qu'une personne ou un groupe de personnes ne détienne des actions dont la juste valeur marchande excède 75 % de la juste valeur marchande de l'ensemble des actions du capital-actions d'une société, l'alinéa (2)a) s'applique compte non tenu de ces opérations ou événements;

b) la personne ou chaque membre du groupe est réputé avoir exercé chaque droit qu'il détient et qui est visé à l'alinéa 251(5)b) relativement à une action de la société visée à l'alinéa (2)a).

Deeming rules — if share value nil

(5) For the purposes of subsections (2) to (4), if the fair market value of the shares of the capital stock of a corporation is nil at any time, then for the purpose of determining the fair market value of those shares, the corporation is deemed, at that time, to have assets net of

Valeur de l'actif net d'une société

(5) Pour l'application des paragraphes (2) à (4), si la juste valeur marchande des actions du capital-actions d'une société est nulle à un moment donné, pour le calcul de la juste valeur marchande de ces actions, la société est réputée, à ce moment, avoir des actifs (déduction faite

liabilities equal to $100,000 and to have $100,000 of income for the taxation year that includes that time.

Deemed acquisition of control

(6) If, at any time as part of a transaction or event or series of transactions or events, control of a particular corporation is acquired by a person or group of persons and it can reasonably be concluded that one of the main reasons for the acquisition of control is so that a specified provision does not apply to one or more corporations, the attribute trading restrictions are deemed to apply to each of those corporations as if control of each of those corporations were acquired at that time.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 40, s. 94; 2016, c. 12, s. 68.

Negative amounts

257 Except as specifically otherwise provided, where an amount or a number is required under this Act to be determined or calculated by or in accordance with an algebraic formula, if the amount or number when so determined or calculated would, but for this section, be a negative amount or number, it shall be deemed to be nil.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 1970-71-72, c. 63, s. 1 "257"; 1977-78, c. 1, s. 100, c. 22, s. 26(F); 1980-81-82-83, c. 140, s. 132; 1986, c. 6, s. 128.

Deemed dividend on term preferred share

258 (2) Notwithstanding subsection 15(3), an amount paid or payable after 1978 as interest on or as an amount in lieu of interest in respect of

(a) any interest or dividend payable after November 16, 1978 on an income bond or an income debenture issued before November 17, 1978 or pursuant to an agreement in writing made before that date, or

(b) a dividend that became payable or in arrears after November 16, 1978 on a share of the capital stock of a corporation that is not a term preferred share by reason of having been issued before November 17, 1978 or pursuant to an agreement in writing made before that date,

shall, for the purposes of subsections 112(2.1) and 138(6), be deemed to be a dividend received on a term preferred share.

Deemed interest on preferred shares

(3) Subject to subsection 258(4), for the purposes of paragraphs 12(1)(c) and 12(1)(k) and sections 113 and 126, each amount that is a dividend received in a taxation year on

des passifs) de 100 000 $ ainsi qu'un revenu de 100 000 $ pour l'année d'imposition qui comprend ce moment.

Acquisition de contrôle réputée

(6) Si le contrôle d'une société donnée est acquis, à un moment donné, par une personne ou par un groupe de personnes dans le cadre d'une opération, d'un événement ou d'une série d'opérations ou d'événements et qu'il est raisonnable de conclure que l'une des principales raisons de l'acquisition du contrôle consiste à éviter qu'une disposition visée ne s'applique à une ou plusieurs sociétés, les restrictions au commerce d'attributs sont réputées s'appliquer à chacune de ces sociétés comme si le contrôle de chacune d'elles était acquis à ce moment.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 40, art. 94; 2016, ch. 12, art. 68.

Résultats négatifs

257 Sauf disposition contraire, tout montant ou nombre dont la présente loi prévoit le calcul selon une formule algébrique et qui, une fois calculé, est négatif doit être considéré comme égal à zéro.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 1970-71-72, ch. 63, art. 1 « 257 »; 1977-78, ch. 1, art. 100, ch. 22, art. 26(F); 1980-81-82-83, ch. 140, art. 132; 1986, ch. 6, art. 128.

Montant réputé constituer un dividende sur une action privilégiée à terme

258 (2) Malgré le paragraphe 15(3), est réputé, pour l'application des paragraphes 112(2.1) et 138(6), constituer un dividende reçu sur une action privilégiée à terme un montant payé ou payable après 1978 à titre d'intérêt ou au titre d'un montant tenant lieu d'intérêt à l'égard :

a) d'un intérêt ou d'un dividende payable après le 16 novembre 1978 sur une obligation à intérêt conditionnel émise avant le 17 novembre 1978 ou conformément à une convention écrite conclue avant cette date;

b) d'un dividende qui est devenu payable ou qui constitue des arriérés après le 16 novembre 1978 sur une action du capital-actions d'une société qui n'es pas une action privilégiée à terme parce qu'elle a été émise avant le 17 novembre 1978 ou conformément à une convention écrite conclue avant cette date.

Intérêts réputés sur actions privilégiées

(3) Sous réserve du paragraphe (4) et pour l'application des alinéas 12(1)c) et k) et des articles 113 et 126, chacun des dividendes suivants reçus au cours d'une année d'imposition est réputé être non pas un dividende reçu au cours de l'année mais des intérêts reçus au cours de l'année :

(a) a term preferred share by a specified financial institution resident in Canada from a corporation not resident in Canada, or

(b) any other share that

(i) is a grandfathered share, or

(ii) was issued before 8:00 p.m. Eastern Daylight Saving Time, June 18, 1987 and is not deemed by subsection 112(2.22) to have been issued after that time

by a corporation from a corporation not resident in Canada, if the dividend would have been a dividend in respect of which no deduction could have been made under subsection 112(1) or 112(2) or 138(6) because of subsection 112(2.2) of the *Income Tax Act*, chapter 148 of the Revised Statutes of Canada, 1952, as it read on June 17, 1987, if the corporation that paid the dividend were a taxable Canadian corporation

shall be deemed to be interest received in the year and not a dividend received on a share of the capital stock of a corporation.

a) tout dividende sur une action privilégiée à terme qu'une institution financière déterminée qui réside au Canada a relu d'une société qui ne réside pas au Canada;

b) tout dividende sur une autre action — action de régime transitoire ou action émise avant 20 heures, heure avancée de l'Est, le 18 juin 1987 et qui n'est pas réputée par le paragraphe 112(2.22) émise après ce moment — qu'une société a reçu d'une société qui ne réside pas au Canada, s'il s'était agi d'un dividende au titre duquel aucune déduction n'aurait pu être faite en application des paragraphes 112(1) ou (2) ou 138(6), par l'effet du paragraphe 112(2.2) de la *Loi de l'impôt sur le revenu*, chapitre 148 des Statuts revisés du Canada de 1952, dans sa version applicable au 17 juin 1987, si la société qui l'a versé avait été une société canadienne imposable.

Exception

(4) Subsection (3) does not apply to a dividend described in paragraph (3)(a)

(a) if the share on which the dividend was paid was not acquired in the ordinary course of the business carried on by the corporation; or

(b) to the extent that the dividend would be described by subparagraph 53(2)(b)(ii) if the corporation not resident in Canada were not a foreign affiliate of the corporation.

Exception

(4) Le paragraphe (3) ne s'applique pas au dividende visé à l'alinéa (3)a) :

a) si l'action sur laquelle le dividende a été versé n'a pas été acquise dans le cours normal des activités de l'entreprise exploitée par la société;

b) dans la mesure où le dividende serait visé au sous-alinéa 53(2)b)(ii) si la société non-résidente n'était pas une société étrangère affiliée de la société.

Deemed interest on certain shares

(5) For the purposes of paragraphs 12(1)(c) and 12(1)(k) and sections 113 and 126, a dividend received after June 18, 1987 and in a taxation year from a corporation not resident in Canada, other than a corporation in which the recipient had or would have, if the corporation were a taxable Canadian corporation, a substantial interest (within the meaning assigned by section 191), on a share, if the dividend would have been a dividend in respect of which no deduction could have been made under subsection 112(1) or 112(2) or 138(6) by reason of subsection 112(2.2) or 112(2.4) if the corporation that paid the dividend were a taxable Canadian corporation, shall be deemed to be interest received in the year and not a dividend received on a share of the capital stock of the payer corporation.

Intérêts réputés sur certaines actions

(5) Pour l'application des alinéas 12(1)c) et k) et des articles 113 et 126, tout dividende qui a été reçu sur une action, au cours d'une année d'imposition et après le 18 juin 1987, d'une société qui ne réside pas au Canada — à l'exclusion d'une société dans laquelle celui qui a reçu le dividende a une participation importante au sens de l'article 191 ou en aurait une si la société était une société canadienne imposable — s'il s'était agi d'un dividende au titre duquel aucune déduction n'aurait pu être faite en application du paragraphe 112(1) ou (2) ou 138(6), par l'effet du paragraphe 112(2.2) ou (2.4), si la société qui l'a versé avait été une société canadienne imposable est réputé être non pas un dividende reçu sur une action du capital-actions de la société qui l'a versé mais des intérêts reçus au cours de l'année.

Exception

(6) Subsection (5) does not apply to a dividend described in that subsection to the extent that the dividend would be described by subparagraph 53(2)(b)(ii) if the corporation not resident in Canada were not a foreign affiliate of the recipient.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 258; 1994, c. 7, Sch. VIII, s. 141; 2001, c. 17, s. 195; 2013, c. 34, s. 76.

Proportional holdings in trust property

259 (1) For the purposes of designated provisions, if at any time a specified taxpayer acquires, holds or disposes of a particular unit in a qualified trust and the qualified trust elects for any period that includes that time to have this subsection apply,

(a) the taxpayer shall be deemed not to acquire, hold or dispose of at that time, as the case may be, the particular unit;

(b) where the taxpayer holds the particular unit at that time, the taxpayer shall be deemed to hold at that time that proportion (referred to in this subsection as the "specified portion") of each property (in this subsection referred to as a "relevant property") held by the trust at that time that one (or, where the particular unit is a fraction of a whole unit, that fraction) is of the number of units of the trust outstanding at that time;

(c) [Repealed, 2005, c. 30, s. 18]

(d) where that time is the later of

(i) the time the trust acquires the relevant property, and

(ii) the time the taxpayer acquires the particular unit,

the taxpayer shall be deemed to acquire the specified portion of a relevant property at that time;

(e) where that time is the time the specified portion of a relevant property is deemed by paragraph 259(1)(d) to have been acquired, the fair market value of the specified portion of the relevant property at that time shall be deemed to be the specified portion of the fair market value of the relevant property at the time of its acquisition by the trust;

(f) where that time is the time immediately before the time the trust disposes of a particular relevant property, the taxpayer shall be deemed to dispose of, immediately after that time, the specified portion of the particular relevant property for proceeds equal to the

Exception

(6) Le paragraphe (5) ne s'applique pas au dividende visé à ce paragraphe dans la mesure où il serait visé au sous-alinéa 53(2)b)(ii) si la société non-résidente n'était pas une société étrangère affiliée du bénéficiaire.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 258; 1994, ch. 7, ann. VIII, art. 141; 2001, ch. 17, art. 195; 2013, ch. 34, art. 76.

Partie déterminée d'un bien de fiducie

259 (1) Pour l'application des dispositions désignées, si, à un moment donné, un contribuable déterminé acquiert ou détient une unité donnée dans une fiducie admissible, ou dispose d'une telle unité, et que la fiducie choisit, pour toute période qui comprend ce moment, de se prévaloir du présent paragraphe, les règles ci-après s'appliquent :

a) le contribuable est réputé ne pas acquérir l'unité donnée, ne pas la détenir ou ne pas en disposer, au moment donné;

b) s'il détient l'unité donnée au moment donné, le contribuable est réputé détenir à ce moment la partie (appelée « partie déterminée » au présent paragraphe) de chaque bien (appelé « bien donné » au présent paragraphe) que la fiducie détient à ce moment, représentée par le rapport entre un (ou, si l'unité donnée est une fraction d'une unité entière, cette fraction) et le nombre d'unités de la fiducie en circulation à ce moment;

c) [Abrogé, 2005, ch. 30, art. 18]

d) si le moment donné correspond au dernier en date des moments suivants, le contribuable est réputé acquérir la partie déterminée d'un bien donné à ce moment :

(i) le moment où la fiducie a acquis le bien donné,

(ii) le moment où le contribuable a acquis l'unité donnée;

e) si le moment donné correspond au moment auquel la partie déterminée d'un bien donné est réputée par l'alinéa d) avoir été acquise, la juste valeur marchande de cette partie à ce moment est réputée égale à la partie déterminée de la juste valeur marchande du bien au moment de son acquisition par la fiducie;

f) si le moment donné correspond au moment immédiatement avant la disposition d'un bien donné par la fiducie, le contribuable est réputé avoir disposé, immédiatement après ce moment, de la partie déterminée du bien pour un produit égal à la partie déterminée du produit de disposition du bien pour la fiducie;

specified portion of the proceeds of disposition to the trust of the particular relevant property;

(g) where that time is the time immediately before the time the taxpayer disposes of the particular unit, the taxpayer shall be deemed to dispose of, immediately after that time, the specified portion of each relevant property for proceeds equal to the specified portion of the fair market value of that relevant property at that time; and

(h) where the taxpayer is deemed because of this subsection

(i) to have acquired a portion of a relevant property as a consequence of the acquisition of the particular unit by the taxpayer and the acquisition of the relevant property by the trust, and

(ii) subsequently to have disposed of the specified portion of the relevant property,

the specified portion of the relevant property shall, for the purposes of determining the consequences under this Act of the disposition and without affecting the proceeds of disposition of the specified portion of the relevant property, be deemed to be the portion of the relevant property referred to in subparagraph 259(1)(h)(i).

g) si le moment donné correspond au moment immédiatement avant la disposition de l'unité donnée par le contribuable, celui-ci est réputé avoir disposé, immédiatement après ce moment, de la partie déterminée de chaque bien donné pour un produit égal à la partie déterminée de la juste valeur marchande de ce bien à ce moment;

h) si le contribuable est réputé, par l'effet du présent paragraphe, avoir acquis une partie quelconque d'un bien donné par suite de l'acquisition de l'unité donnée par lui et de l'acquisition du bien donné par la fiducie, puis avoir disposé de la partie déterminée de ce bien, cette partie déterminée est réputée, aux fins de déterminer les conséquences de l'application de la présente loi à la disposition sans pour autant modifier le produit de disposition de la partie déterminée du bien, correspondre à la partie quelconque du bien.

(2) [Repealed, 2005, c. 30, s. 18]

(2) [Abrogé, 2005, ch. 30, art. 18]

Election

(3) An election by a qualified trust under subsection (1) shall be made by the qualified trust filing a prescribed form with the Minister and shall apply for the period

(a) that begins on the later of

(i) the day that is 15 months before the day on which the election is filed, and

(ii) the day, if any, that is designated by the qualified trust in the election; and

(b) that ends on the earlier of

(i) the day on which the qualified trust files with the Minister a notice of revocation of the election, and

(ii) the day, if any, that is designated by the qualified trust in the notice of revocation and that is not before the day that is 15 months before the day on which the notice of revocation is filed.

Choix

(3) La fiducie admissible fait le choix prévu au paragraphe (1) en présentant le formulaire prescrit au ministre. Ce choix s'applique à la période qui :

a) commence au dernier en date des jours suivants :

(i) le jour qui précède de 15 mois la date de la présentation du document constatant le choix,

(ii) le jour que la fiducie indique éventuellement dans ce document;

b) se termine au premier en date des jours suivants :

(i) le jour où la fiducie présente au ministre un avis de révocation du choix,

(ii) le jour que la fiducie indique éventuellement dans l'avis de révocation et qui n'est pas antérieur au jour qui précède de 15 mois la date de la présentation de cet avis.

Requirement to provide information

(4) Where a qualified trust elects under subsection (1),

(a) it shall provide notification of the election

(i) within 30 days after making the election, to each person who held a unit in the qualified trust at any time in the period before the election was made and during which the election is applicable, and

(ii) at the time of acquisition, to each person who acquires a unit in the qualified trust at any time in the period after the election was made and during which the election is applicable; and

(b) if a person who holds a unit in the qualified trust at any time in the period during which the election is applicable makes a written request to the qualified trust for information that is necessary for the purpose of determining the consequences under this Act of the election for that person, the qualified trust shall provide to the person that information within 30 days after receiving the request.

Definitions

(5) In this section,

designated provisions means sections 146 and 146.1 to 146.4 and Parts X and XI to XI.1, as they apply in respect of investments that are not qualified investments for a trust, and Part X.2; (*dispositions désignées*)

qualified corporation [Repealed, 2005, c. 30, s. 18]

qualified trust at any time means a trust (other than a registered investment or a trust that is prescribed to be a small business investment trust) where

(a) each trustee of the trust at that time is a corporation that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee or a person who is a trustee of a trust governed by a registered pension plan,

(b) all the interests of the beneficiaries under the trust at that time are described by reference to units of the trust all of which are at that time identical to each other,

(c) it has never before that time borrowed money except where the borrowing was for a term not exceeding 90 days and the borrowing was not part of a series of loans or other transactions and repayments, and

Obligation de fournir des renseignements

(4) La fiducie admissible qui fait le choix prévu au paragraphe (1) est tenue :

a) d'une part, de donner avis du choix, à la fois :

(i) au plus tard 30 jours après avoir fait le choix, à chaque personne qui détenait une unité dans la fiducie avant que le choix soit fait et au cours de la période qu'il vise,

(ii) au moment de l'acquisition, à chaque personne qui acquiert une unité dans la fiducie après que le choix est fait et au cours de la période qu'il vise;

b) d'autre part, de fournir à toute personne détentrice d'une unité dans la fiducie au cours de la période visée par le choix qui lui en fait la demande écrite, au plus tard 30 jours après la réception de cette demande, les renseignements qui permettront à cette personne de déterminer les conséquences du choix pour elle en vertu de la présente loi.

Définitions

(5) Les définitions qui suivent s'appliquent au présent article.

contribuable déterminé Contribuable qui est soit un placement enregistré, soit visé à l'un des alinéas 149(1)r), s), u) à u.2) et x). (*specified taxpayer*)

dispositions désignées Les articles 146 et 146.1 à 146.4 et les parties X et XI à XI.1, tels qu'ils s'appliquent relativement aux placements qui ne sont pas des placements admissibles pour une fiducie, et la partie X.2. (*designated provisions*)

fiducie admissible Est une fiducie admissible à un moment donné, la fiducie, à l'exclusion d'un placement enregistré et d'une fiducie qui est, par règlement, une fiducie de placement dans des petites entreprises, qui répond aux conditions suivantes :

a) chacun de ses fiduciaires à ce moment est soit une société titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter au Canada une entreprise d'offre au public de services de fiduciaire, soit une personne qui est fiduciaire d'une fiducie régie par un régime de pension agréé;

b) les participations de ses bénéficiaires à ce moment sont fonction des unités de la fiducie qui, à ce moment, sont toutes identiques les unes aux autres;

(d) it has never before that time accepted deposits. (*fiducie admissible*)

specified taxpayer means a taxpayer that is a registered investment or that is described in any of paragraphs 149(1)(r), (s), (u) to (u.2) and (x). (*contribuable déterminé*)

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 259; 1994, c. 7, Sch. VIII, s. 142, c. 21, s. 115; 2005, c. 30, s. 18; 2008, c. 28, s. 37; 2009, c. 2, s. 79; 2011, c. 24, s. 75.

c) ses seuls emprunts d'argent avant ce moment étaient d'une durée de 90 jours ou moins et ne faisaient pas partie d'une série d'emprunts ou d'autres opérations et remboursements;

d) elle n'a jamais accepté de dépôts avant ce moment. (*qualified trust*)

société admissible [Abrogée, 2005, ch. 30, art. 18]

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 259; 1994, ch. 7, ann. VIII, art. 142, ch. 21, art. 115; 2005, ch. 30, art. 18; 2008, ch. 28, art. 37; 2009, ch. 2, art. 79; 2011, ch. 24, art. 75.

Definitions

260 (1) In this section

dealer compensation payment means an amount received by a taxpayer as compensation, for an underlying payment,

(a) from a registered securities dealer resident in Canada who paid the amount in the ordinary course of a business of trading in securities, or

(b) in the ordinary course of the taxpayer's business of trading in securities, where the taxpayer is a registered securities dealer resident in Canada; (*paiement compensatoire (courtier)*)

qualified security means

(a) a share of a class of the capital stock of a corporation that is listed on a stock exchange or of a class of the capital stock of a corporation that is a public corporation by reason of the designation of the class by the corporation in an election made under subparagraph (b)(i) of the definition ***public corporation*** in subsection 89(1) or by the Minister in a notice to the corporation under subparagraph (b)(ii) of that definition,

(b) a bond, debenture, note or similar obligation of a corporation described in paragraph (a) or of a corporation that is controlled by such a corporation,

(c) a bond, debenture, note or similar obligation of or guaranteed by the government of any country, province, state, municipality or other political subdivision, or a corporation, commission, agency or association controlled by any such person,

(d) a warrant, right, option or similar instrument with respect to a share described in paragraph (a), or

(e) a qualified trust unit; (*titre admissible*)

Définitions

260 (1) Les définitions qui suivent s'appliquent au présent article.

mécanisme de prêt de valeurs mobilières Mécanisme dans le cadre duquel, à la fois :

a) une personne — appelée « prêteur » au présent article — transfère ou prête, à un moment donné, un titre admissible à une autre personne — appelée « emprunteur » au présent article;

b) il est raisonnable de s'attendre, au moment donné, à ce que l'emprunteur transfère ou retourne au prêteur après ce moment, un titre — appelé « titre identique » au présent article — qui est identique à celui ainsi transféré ou prêté;

c) l'emprunteur a l'obligation de verser au prêteur, au titre des sommes éventuelles versées sur le titre et que l'emprunteur aurait reçues s'il avait détenu le titre tout au long de la période commençant après le moment donné et se terminant au moment du transfert ou du retour au prêteur d'un titre identique, un montant égal à ces sommes;

d) les possibilités, pour le prêteur, de subir des pertes ou de réaliser des gains ou des bénéfices sur le titre ne changent pas de façon tangible;

e) si le prêteur et l'emprunteur ont entre eux un lien de dépendance, il est prévu que la durée du mécanisme, ou d'une série de mécanismes de prêt de valeurs mobilières, de prêts ou d'autres opérations dont il fait partie, ne peut excéder 270 jours.

En est exclu le mécanisme dont il est raisonnable de considérer que l'un des principaux objets consiste à éviter ou à différer l'inclusion dans le revenu d'un gain ou d'un bénéfice réalisé sur le titre. (*securities lending arrangement*)

qualified trust unit means an interest, as a beneficiary under a trust, that is listed on a stock exchange; (*unité de fiducie déterminée*)

securities lending arrangement means an arrangement under which

(a) a person (in this section referred to as the "lender") transfers or lends at any particular time a qualified security to another person (in this section referred to as the "borrower"),

(b) it may reasonably be expected, at the particular time, that the borrower will transfer or return after the particular time to the lender a security (in this section referred to as an "identical security") that is identical to the security so transferred or lent,

(c) the borrower is obligated to pay to the lender amounts equal to and as compensation for all amounts, if any, paid on the security that would have been received by the borrower if the borrower had held the security throughout the period that begins after the particular time and that ends at the time an identical security is transferred or returned to the lender,

(d) the lender's risk of loss or opportunity for gain or profit with respect to the security is not changed in any material respect, and

(e) if the lender and the borrower do not deal with each other at arm's length, it is intended that neither the arrangement nor any series of securities lending arrangements, loans or other transactions of which the arrangement is a part be in effect for more than 270 days,

but does not include an arrangement one of the main purposes of which may reasonably be considered to be to avoid or defer the inclusion in income of any gain or profit with respect to the security. (*mécanisme de prêt de valeurs mobilières*)

security distribution means an amount that is

(a) an underlying payment, or

(b) an SLA compensation payment, or a dealer compensation payment, that is deemed by subsection (5.1) to be an amount received as an amount described by any of paragraphs (5.1)(a) to (c); (*paiement de titre*)

SLA compensation payment means an amount paid pursuant to a securities lending arrangement as compensation for an underlying payment; (*paiement compensatoire (MPVM)*)

paiement compensatoire (courtier) Somme qu'un contribuable reçoit en compensation d'un paiement sous-jacent :

a) soit d'un courtier en valeurs mobilières inscrit résidant au Canada qui a versé la somme dans le cours normal d'une entreprise d'opérations sur valeurs;

b) soit dans le cours normal d'une entreprise d'opérations sur valeurs du contribuable, si celui-ci est un courtier en valeurs mobilières inscrit résidant au Canada. (*dealer compensation payment*)

paiement compensatoire (MPVM) Somme versée dans le cadre d'un mécanisme de prêt de valeurs mobilières en compensation d'un paiement sous-jacent. (*SLA compensation payment*)

paiement de titre Somme qui est, selon le cas :

a) un paiement sous-jacent;

b) un paiement compensatoire (MPVM), ou un paiement compensatoire (courtier), qui est réputé, par le paragraphe (5.1), être une somme reçue à l'un des titres visés aux alinéas (5.1)a) à c). (*security distribution*)

paiement sous-jacent Somme versée sur un titre admissible par son émetteur. (*underlying payment*)

titre admissible S'entend des titres suivants :

a) les actions d'une catégorie du capital-actions d'une société inscrites à une bourse de valeurs ou les actions d'une catégorie du capital-actions d'une société qui est une société publique du fait qu'elle a désigné la catégorie dans un choix fait selon le sous-alinéa b)(i) de la définition de ***société publique*** au paragraphe 89(1) ou que le ministre a désigné la catégorie dans son avis adressé à la société en application du sous-alinéa b)(ii) de cette définition;

b) les obligations, billets ou titres semblables émis par une société visée à l'alinéa a) ou par une société qu'elle contrôle;

c) les obligations, billets ou titres semblables émis ou garantis par le gouvernement d'un pays, d'une province, d'un état, d'une municipalité ou d'une autre division politique ou par une société, une commission, un organisme ou une association contrôlés par une de ces personnes;

d) les bons de souscription, droits, options ou effets semblables relatifs à une action visée à l'alinéa a);

underlying payment means an amount paid on a qualified security by the issuer of the security. (*paiement sous-jacent*)

e) les unités de fiducie déterminées. (*qualified security*)

unité de fiducie déterminée Participation, à titre de bénéficiaire d'une fiducie, qui est inscrite à la cote d'une bourse de valeurs. (*qualified trust unit*)

Eligible dividend

(1.1) This subsection applies to an amount if the amount is received by a person who is resident in Canada, the amount is deemed under subsection (5.1) to be a taxable dividend, and the amount is either

(a) received as compensation for an eligible dividend, within the meaning assigned by subsection 89(1); or

(b) received as compensation for a taxable dividend (other than an eligible dividend) paid by a corporation to a non-resident shareholder in circumstances where it is reasonable to consider that the corporation would, if that shareholder were resident in Canada, have designated the dividend to be an eligible dividend under subsection 89(14).

Dividende déterminé

(1.1) Le présent paragraphe s'applique à la somme qui, à la fois, est reçue par une personne résidant au Canada, est réputée en vertu du paragraphe (5.1) être un dividende imposable et est reçue au titre :

a) soit d'un dividende déterminé, au sens du paragraphe 89(1);

b) soit d'un dividende imposable (sauf un dividende déterminé) qu'une société verse à un actionnaire non-résident dans des circonstances où il est raisonnable de considérer que la société aurait désigné le dividende à titre de dividende déterminé selon le paragraphe 89(14) si l'actionnaire en cause résidait au Canada.

Non-disposition

(2) Subject to subsections 260(3) and 260(4), for the purposes of this Act, any transfer or loan by a lender of a security under a securities lending arrangement shall be deemed not to be a disposition of the security and the security shall be deemed to continue to be property of the lender and, for the purposes of this subsection, a security shall be deemed to include an identical security that has been transferred or returned to the lender under the arrangement.

Présomption de non-disposition

(2) Sous réserve des paragraphes (3) et (4) et pour l'application de la présente loi, le titre qu'un prêteur transfère ou prête dans le cadre d'un mécanisme de prêt de valeurs mobilières est réputé ne pas faire l'objet d'une disposition, et le prêteur est réputé continuer d'en être propriétaire. Le titre visé au présent paragraphe est réputé comprendre le titre identique qui a été transféré ou retourné au prêteur dans le cadre du mécanisme.

Disposition of right

(3) Where, at any time, a lender receives property (other than an identical security or an amount deemed by subsection 260(4) to have been received as proceeds of disposition) in satisfaction of or in exchange for the lender's right under a securities lending arrangement to receive the transfer or return of an identical security, for the purposes of this Act the lender shall be deemed to have disposed at that time of the security that was transferred or lent for proceeds of disposition equal to the fair market value of the property received for the disposition of the right (other than any portion thereof that is deemed to have been received by the lender as a taxable dividend), except that section 51, 85.1, 86 or 87, as the case may be, shall apply in computing the income of the lender with respect to any such disposition as if the security transferred or lent had continued to be the lender's property and the lender had received the property directly.

Disposition d'un droit

(3) Pour l'application de la présente loi, le prêteur qui, à un moment donné, reçoit un bien (sauf un titre identique ou un montant réputé par le paragraphe (4) reçu à titre de produit de disposition) en règlement ou en échange de son droit, dans le cadre d'un mécanisme de prêt de valeurs mobilières, au transfert ou au retour en sa faveur d'un titre identique est réputé avoir disposé, à ce moment, du titre initialement transféré ou prêté pour un produit de disposition égal à la juste valeur marchande du bien reçu à la disposition du droit (à l'exception de la fraction de ce produit que le prêteur est réputé avoir reçu à titre de dividende imposable). Toutefois, l'article 51, 85.1, 86 ou 87, selon le cas, s'applique au calcul du revenu du prêteur relativement à une telle disposition comme si le prêteur avait continué d'être propriétaire du titre transféré ou prêté et avait reçu le bien directement.

Idem

(4) Where, at any time, it may reasonably be considered that a lender would have received proceeds of disposition for a security that was transferred or lent under a securities lending arrangement, if the security had not been transferred or lent, the lender shall be deemed to have disposed of the security at that time for those proceeds of disposition.

Where subsection (5.1) applies

(5) Subsection (5.1) applies to a taxpayer for a taxation year in respect of a particular amount (other than an amount received as proceeds of disposition or an amount received by a person under an arrangement where it may reasonably be considered that one of the main reasons for the person entering into the arrangement was to enable the person to receive an SLA compensation payment or a dealer compensation payment that would be deductible in computing the taxable income, or not included in computing the income, for any taxation year of the person) received by the taxpayer in the taxation year

(a) as an SLA compensation payment,

(i) from a person resident in Canada, or

(ii) from a non-resident person who paid the particular amount in the course of carrying on business in Canada through a permanent establishment as defined by regulation; or

(b) as a dealer compensation payment.

Deemed character of compensation payments

(5.1) If this subsection applies in respect of a particular amount received by a taxpayer in a taxation year as an SLA compensation payment or as a dealer compensation payment, the particular amount is deemed, to the extent of the underlying payment to which the amount relates, to have been received by the taxpayer in the taxation year as,

(a) where the underlying payment is a taxable dividend paid on a share of the capital stock of a public corporation (other than an underlying payment to which paragraph (b) applies), a taxable dividend on the share and, if subsection (1.1) applies to the particular amount, an eligible dividend on the share;

(b) where the underlying payment is paid by a trust on a qualified trust unit issued by the trust,

Idem

(4) Le prêteur qui, selon ce qu'il est raisonnable de considérer à un moment donné, aurait reçu un produit de disposition pour un titre transféré ou prêté dans le cadre d'un mécanisme de prêt de valeurs mobilières, si le titre n'avait pas été ainsi transféré ou prêté, est réputé avoir disposé du titre à ce moment pour ce produit.

Application du paragraphe (5.1)

(5) Le paragraphe (5.1) s'applique à un contribuable pour une année d'imposition relativement à une somme (sauf celle reçue à titre de produit de disposition ou reçue par une personne aux termes d'un mécanisme dans le cadre duquel il est raisonnable de considérer que l'une des principales raisons pour lesquelles la personne participe au mécanisme est de lui permettre de recevoir un paiement compensatoire (MPVM) ou un paiement compensatoire (courtier) qui serait soit déductible dans le calcul de son revenu imposable, soit exclu du calcul de son revenu, pour une de ses années d'imposition) qu'il a reçue au cours de l'année :

a) soit à titre de paiement compensatoire (MPVM) d'une des personnes suivantes :

(i) une personne qui réside au Canada,

(ii) une personne non-résidente qui a versé la somme dans le cadre de l'exploitation d'une entreprise au Canada par l'entremise d'un établissement stable, au sens du règlement;

b) soit à titre de paiement compensatoire (courtier).

Paiements compensatoires réputés

(5.1) Si le présent paragraphe s'applique relativement à la somme qu'un contribuable a reçue au cours d'une année d'imposition à titre de paiement compensatoire (MPVM) ou de paiement compensatoire (courtier), la somme est réputée, jusqu'à concurrence du paiement sous-jacent auquel elle se rapporte, avoir été reçue par le contribuable au cours de l'année :

a) si le paiement sous-jacent est un dividende imposable versé sur une action du capital-actions d'une société publique (sauf s'il s'agit d'un paiement sous-jacent auquel s'applique l'alinéa b)), à titre de dividende imposable sur l'action et, si le paragraphe (1.1) s'applique à la somme, à titre de dividende déterminé sur l'action;

b) si le paiement sous-jacent est fait par une fiducie sur une unité de fiducie déterminée qu'elle a émise :

(i) an amount of the trust's income that was, to the extent that subsection 104(13) applied to the underlying payment,

(A) paid by the trust to the taxpayer as a beneficiary under the trust, and

(B) designated by the trust in respect of the taxpayer to the extent of a valid designation, if any, by the trust under this Act in respect of the recipient of the underlying payment, and

(ii) to the extent that the underlying payment is a distribution of a property from the trust, a distribution of that property from the trust; or

(c) in any other case, interest.

(i) à titre de montant du revenu de la fiducie qui, dans la mesure où le paragraphe 104(13) s'applique au paiement sous-jacent :

(A) d'une part, a été payé par la fiducie au contribuable en sa qualité de bénéficiaire de la fiducie,

(B) d'autre part, a été attribué au contribuable par la fiducie, jusqu'à concurrence de toute somme qu'elle a validement attribuée, en vertu de la présente loi, au destinataire du paiement sous-jacent,

(ii) dans la mesure où le paiement sous-jacent représente une distribution de bien provenant de la fiducie, à titre de distribution de ce bien provenant de la fiducie;

c) dans les autres cas, à titre d'intérêts.

Deductibility

(6) In computing the income of a taxpayer under Part I from a business or property for a taxation year, there may be deducted a particular amount, paid by the taxpayer in the year as an SLA compensation payment or as a dealer compensation payment, that is equal to

(a) if the taxpayer is a registered securities dealer and the particular amount is deemed by subsection (5.1) to have been received as a taxable dividend, no more than 2/3 of the particular amount; or

(b) if the particular amount is in respect of an amount other than an amount that is, or is deemed by subsection (5.1) to have been, received as a taxable dividend,

(i) where the taxpayer disposes of the borrowed security and includes the gain or loss, if any, from the disposition in computing its income from a business, the particular amount, or

(ii) in any other case, the lesser of

(A) the particular amount, and

(B) the amount, if any, in respect of the security distribution to which the SLA compensation payment or dealer compensation payment relates that is included in computing the income, and not deducted in computing the taxable income, for any taxation year of the taxpayer or of any person to whom the taxpayer is related.

Déductibilité

(6) Est déductible, dans le calcul du revenu d'un contribuable en vertu de la partie I provenant d'une entreprise ou d'un bien pour une année d'imposition, une somme donnée, versée par le contribuable au cours de l'année à titre de paiement compensatoire (MPVM) ou de paiement compensatoire (courtier), qui est égale à celle des sommes ci-après qui est applicable :

a) si le contribuable est un courtier en valeurs mobilières inscrit et que la somme donnée est réputée par le paragraphe (5.1) avoir été reçue à titre de dividende imposable, une somme ne dépassant pas les 2/3 de la somme donnée;

b) si la somme donnée se rapporte à une somme autre que celle qui est reçue à titre de dividende imposable ou qui est réputée par le paragraphe (5.1) avoir été reçue à ce titre :

(i) dans le cas où le contribuable dispose du titre et inclut le gain ou la perte découlant de la disposition dans le calcul de son revenu provenant d'une entreprise, la somme donnée,

(ii) dans les autres cas, la moins élevée des sommes suivantes :

(A) la somme donnée,

(B) la somme éventuelle, relative au paiement de titre auquel se rapporte le paiement compensatoire (MPVM) ou le paiement compensatoire (courtier), qui est incluse dans le calcul du revenu, pour une année d'imposition, du contribuable ou d'une personne à laquelle il est lié et

qui n'est pas déduite dans le calcul de leur revenu imposable pour cette année.

Deductible amount

(6.1) Notwithstanding subsection 260(6), there may be deducted in computing a corporation's income under Part I from a business or property for a taxation year an amount equal to the lesser of

(a) the total of all amounts each of which is an amount that the corporation becomes obligated in the taxation year to pay to another person under an arrangement described in paragraph (b) of the definition ***dividend rental arrangement*** in subsection 248(1) that, if paid, would be deemed by subsection (5.1) to have been received by another person as a taxable dividend, and

(b) the amount of the dividends received by the corporation under the arrangement that were identified in its return of income under Part I for the year as an amount in respect of which no amount was deductible because of subsection 112(2.3) in computing the taxpayer's taxable income or taxable income earned in Canada.

Montant déductible

(6.1) Malgré le paragraphe (6), une société peut déduire dans le calcul, selon la partie I, de son revenu provenant d'une entreprise ou d'un bien pour une année d'imposition le moins élevé des montants suivants :

a) le total des montants représentant chacun un montant qu'elle devient obligée, au cours de l'année, de verser à une autre personne aux termes d'un mécanisme visé aux alinéas c) et d) de la définition de ***mécanisme de transfert de dividendes*** au paragraphe 248(1) et qui, s'il était versé, serait réputé par le paragraphe (5.1) avoir été reçu par une autre personne à titre de dividende imposable;

b) le montant de dividendes qu'elle reçoit dans le cadre d'un mécanisme visé à l'alinéa a) et qui est indiqué, dans sa déclaration de revenu produite en vertu de la partie I pour l'année, comme montant au titre duquel aucun montant n'était déductible, par l'effet du paragraphe 112(2.3), dans le calcul de son revenu imposable ou de son revenu imposable gagné au Canada.

Dividend refund

(7) For the purpose of section 129, if a corporation pays an amount for which no deduction in computing the corporation's income may be claimed under subsection (6.1) and subsection (5.1) deems the amount to have been received by another person as a taxable dividend,

(a) the corporation is deemed to have paid the amount as a taxable dividend, where the corporation is not a registered securities dealer; and

(b) the corporation is deemed to have paid 1/3 of the amount as a taxable dividend, where the corporation is a registered securities dealer.

Remboursement de dividendes

(7) Pour l'application de l'article 129, si une société verse une somme pour laquelle aucune déduction ne peut être demandée, en vertu du paragraphe (6.1), dans le calcul de son revenu et que cette somme est réputée, par le paragraphe (5.1), avoir été reçue par une autre personne à titre de dividende imposable, les règles ci-après s'appliquent :

a) la société, si elle n'est pas un courtier en valeurs mobilières inscrit, est réputée avoir versé la somme à titre de dividende imposable;

b) la société, si elle est un courtier en valeurs mobilières inscrit, est réputée avoir versé le tiers de la somme à titre de dividende imposable.

Non-resident withholding tax

(8) For the purpose of Part XIII, any amount paid or credited under a securities lending arrangement by or on behalf of the borrower to the lender

(a) as an SLA compensation payment is, subject to paragraph (b) or (c), deemed to be a payment of interest made by the borrower to the lender;

(b) as an SLA compensation payment in respect of a security that is a qualified trust unit, is deemed, to the extent of the amount of the underlying payment to

Retenue d'impôt des non-résidents

(8) Pour l'application de la partie XIII, toute somme versée au prêteur, ou portée à son crédit, par l'emprunteur, ou pour son compte, dans le cadre d'un mécanisme de prêt de valeurs mobilières :

a) à titre de paiement compensatoire (MPVM), est réputée, sauf dans les cas auxquels s'applique l'alinéa b) ou c), être un paiement d'intérêts fait par l'emprunteur au prêteur;

which the SLA compensation payment relates, to be an amount paid by the trust and having the same character and composition as the underlying payment;

(c) as an SLA compensation payment, if the security is not a qualified trust unit and throughout the term of the securities lending arrangement, the borrower has provided the lender under the arrangement with money in an amount of, or securities described in paragraph (c) of the definition ***qualified security*** in subsection (1) that have a fair market value of, not less than 95% of the fair market value of the security and the borrower is entitled to enjoy, directly or indirectly, the benefits of all or substantially all income derived from, and opportunity for gain with respect of, the money or securities,

(i) is, to the extent of the amount of the interest or dividend paid in respect of the security, deemed to be a payment made by the borrower to the lender of interest or a dividend, as the case may be, payable on the security, and

(ii) is, to the extent of the amount of the interest, if any, paid in respect of the security, deemed to have been payable on a security described in paragraph (a) of the definition ***fully exempt interest*** in subsection 212(3) if the security is described in paragraph (c) of the definition ***qualified security*** in subsection (1); and

(d) as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security is deemed to be a payment of interest made by the borrower to the lender.

b) à titre de paiement compensatoire (MPVM) relatif à un titre qui constitue une unité de fiducie déterminée, est réputée être, jusqu'à concurrence du paiement sous-jacent auquel le paiement compensatoire (MPVM) se rapporte, une somme, versée par la fiducie, qui est de même nature et de même composition que le paiement sous-jacent;

c) à titre de paiement compensatoire (MPVM) est réputée, si le titre n'est pas une unité de fiducie déterminée et que, pendant la durée du mécanisme, l'emprunteur fournit au prêteur, dans le cadre du mécanisme, soit de l'argent correspondant à au moins 95 % de la juste valeur marchande du titre, soit des titres visés à l'alinéa c) de la définition de ***titre admissible*** au paragraphe (1) dont la juste valeur marchande représente au moins 95 % de la juste valeur marchande du titre et que l'emprunteur a le droit de profiter, directement ou indirectement, des avantages de la totalité ou de la presque totalité du revenu résultant de l'argent ou des titres et des possibilités de gains y afférentes :

(i) d'une part, être, jusqu'à concurrence du montant d'intérêts ou de dividendes versé sur le titre, un paiement d'intérêts ou de dividendes fait par l'emprunteur au prêteur et payable sur le titre,

(ii) d'autre part, avoir été payable, jusqu'à concurrence des intérêts éventuels versés sur le titre, sur un titre visé à l'alinéa a) de la définition de ***intérêts entièrement exonérés*** au paragraphe 212(3) s'il est visé à l'alinéa c) de la définition de ***titre admissible*** au paragraphe (1);

d) au titre ou en paiement intégral ou partiel de frais pour l'usage du titre, est réputée être un paiement d'intérêts fait par l'emprunteur au prêteur.

Deemed fee for borrowed security

(8.1) For the purpose of paragraph (8)(d), if under a securities lending arrangement the borrower has at any time provided the lender with money, either as collateral or consideration for the security, and the borrower does not, under the arrangement, pay or credit a reasonable amount to the lender as, on account of, in lieu of payment of or in satisfaction of, a fee for the use of the security, the borrower is deemed to have, at the time that an identical security is or can reasonably be expected to be transferred or returned to the lender, paid to the lender under the arrangement an amount as a fee for the use of the security equal to the amount, if any, by which

(a) the interest on the money computed at the prescribed rates in effect during the term of the arrangement

Frais réputés sur titre

(8.1) Pour l'application de l'alinéa (8)d), l'emprunteur, s'il fournit au prêteur, dans le cadre d'un mécanisme de prêt de valeurs mobilières, de l'argent comme garantie ou contrepartie du titre, mais ne paie pas au prêteur, ni ne porte à son crédit, aux termes du mécanisme, une somme raisonnable au titre ou en paiement intégral ou partiel de frais pour l'usage du titre, est réputé avoir versé au prêteur dans le cadre du mécanisme à titre de frais pour l'usage du titre, au moment où un titre identique est transféré ou rendu au prêteur, ou le sera vraisemblablement, une somme égale à l'excédent de la somme visée à l'alinéa a) sur celle visée à l'alinéa b) :

a) les intérêts sur l'argent, calculés au taux d'intérêt prescrit en vigueur pendant la durée du mécanisme;

exceeds

(b) the amount, if any, by which any amount that the lender pays or credits to the borrower under the arrangement exceeds the amount of the money.

b) l'excédent de toute somme que le prêteur verse à l'emprunteur, ou porte à son crédit, dans le cadre du mécanisme, sur le montant d'argent.

Effect for tax treaties

(8.2) In applying subsection (8), any amount, paid or credited under a securities lending arrangement by or on behalf of the borrower to the lender, that is deemed by paragraph (8)(a), (b) or (d) to be a payment of interest, is deemed for the purposes of any tax treaty not to be payable on or in respect of the security.

Traités fiscaux

(8.2) Pour l'application du paragraphe (8), toute somme versée au prêteur, ou portée à son crédit, par l'emprunteur, ou pour son compte, dans le cadre d'un mécanisme de prêt de valeurs mobilières, qui est réputée par les alinéas (8)a), b) ou d) être un paiement d'intérêts est réputée, pour l'application des traités fiscaux, ne pas être payable relativement au titre.

Restricted financial institution

(9) For the purposes of subsection 187.3(1), where at any time a dividend is received by a restricted financial institution on a share that was last acquired before that time pursuant to an obligation of a borrower to return or transfer a share under a securities lending arrangement, an acquisition of the share under the arrangement shall be deemed at and after that time not to be an acquisition of the share.

Institution financière véritable

(9) Pour l'application du paragraphe 187.3(1), dans le cas où une institution financière véritable reçoit, à un moment donné, un dividende sur une action acquise en dernier avant ce moment en exécution de l'obligation d'un emprunteur de retourner ou de transférer une action dans le cadre d'un mécanisme de prêt de valeurs mobilières, l'action acquise dans le cadre du mécanisme est réputée, à ce moment et par la suite, ne pas être acquise.

Non-arm's length compensation payment

(9.1) For the purpose of Part XIII, where the lender under a securities lending arrangement is not dealing at arm's length with either the borrower under the arrangement or the issuer of the security that is transferred or lent under the arrangement, or both, and subsection (8) deems an amount to be a payment of interest by a person to the lender in respect of that security, the lender is deemed, in respect of that payment, not to be dealing at arm's length with that person.

Paiement compensatoire entre personnes ayant un lien de dépendance

(9.1) Pour l'application de la partie XIII, lorsque le prêteur dans le cadre d'un mécanisme de prêt de valeurs mobilières a un lien de dépendance avec l'emprunteur ou l'émetteur du titre transféré ou prêté dans le cadre du mécanisme, ou avec l'un et l'autre de ceux-ci, et qu'un montant est réputé en vertu du paragraphe (8) être un paiement d'intérêts effectué par une personne au prêteur relativement au titre, le prêteur est réputé, en ce qui a trait à ce paiement, avoir un lien de dépendance avec la personne.

Partnerships

(10) For the purpose of this section,

(a) a person includes a partnership; and

(b) a partnership is deemed to be a registered securities dealer if each member of the partnership is a registered securities dealer.

Sociétés de personnes

(10) Pour l'application du présent article :

a) les sociétés de personnes sont assimilées à des personnes;

b) la société de personnes dont chacun des associés est un courtier en valeurs mobilières inscrit est réputée être un tel courtier.

Corporate members of partnerships

(11) A corporation that is, in a taxation year, a member of a partnership is deemed

(a) for the purpose of applying subsection (5) in respect of the taxation year,

Sociétés associées d'une société de personnes

(11) La société qui est l'associé d'une société de personnes au cours d'une année d'imposition est réputée :

a) pour l'application du paragraphe (5) relativement à l'année d'imposition :

(i) to receive its specified proportion, for each fiscal period of the partnership that ends in the taxation year, of each amount received by the partnership in that fiscal period, and

(ii) in respect of the receipt of its specified proportion of that amount, to be the same person as the partnership;

(b) for the purpose of applying paragraph (6.1)(a) in respect of the taxation year, to become obligated to pay its specified proportion, for each fiscal period of the partnership that ends in the taxation year, of the amount the partnership becomes, in that fiscal period, obligated to pay to another person under the arrangement described in that paragraph; and

(c) for the purpose of applying section 129 in respect of the taxation year, to have paid

(i) if the partnership is not a registered securities dealer, the corporation's specified proportion, for each fiscal period of the partnership that ends in the taxation year, of each amount paid by the partnership (other than an amount for which a deduction in computing income may be claimed under subsection (6.1) by the corporation), and

(ii) if the partnership is a registered securities dealer, 1/3 of the corporation's specified proportion, for each fiscal period of the partnership that ends in the taxation year, of each amount paid by the partnership (other than an amount for which a deduction in computing income may be claimed under subsection (6.1) by the corporation).

(i) d'une part, recevoir la proportion déterminée qui lui revient, pour chaque exercice de la société de personnes se terminant dans l'année, de chaque somme reçue par la société de personnes au cours de cet exercice,

(ii) d'autre part, pour ce qui est de la réception de la proportion déterminée de cette somme qui lui revient, être la même personne que la société de personnes;

b) pour l'application de l'alinéa (6.1)a) relativement à l'année d'imposition, devenir obligée de verser la proportion déterminée qui lui revient, pour chaque exercice de la société de personnes se terminant dans l'année, de la somme que la société de personnes devient, au cours de cet exercice, obligée de verser à une autre personne aux termes du mécanisme visé à cet alinéa;

c) pour l'application de l'article 129 relativement à l'année d'imposition, avoir versé :

(i) si la société de personnes n'est pas un courtier en valeurs mobilières inscrit, la proportion déterminée qui lui revient, pour chaque exercice de la société de personnes se terminant dans l'année, de chaque somme versée par la société de personnes, sauf une somme pour laquelle la société peut demander, en application du paragraphe (6.1), une déduction dans le calcul de son revenu,

(ii) dans le cas contraire, le tiers de la proportion déterminée qui lui revient, pour chaque exercice de la société de personnes se terminant dans l'année, de chaque somme versée par la société de personnes, sauf une somme pour laquelle la société peut demander, en application du paragraphe (6.1), une déduction dans le calcul de son revenu.

Individual members of partnerships

(12) An individual that is, in a taxation year, a member of a partnership is deemed

(a) for the purpose of applying subsection (5) in respect of the taxation year,

(i) to receive the individual's specified proportion, for each fiscal period of the partnership that ends in the taxation year, of each amount received by the partnership in that fiscal period, and

(ii) in respect of the receipt of the individual's specified proportion of that amount, to be the same person as the partnership; and

Particuliers associés d'une société de personnes

(12) Le particulier qui est l'associé d'une société de personnes au cours d'une année d'imposition est réputé :

a) pour l'application du paragraphe (5) relativement à l'année d'imposition :

(i) d'une part, recevoir la proportion déterminée qui lui revient, pour chaque exercice de la société de personnes se terminant dans l'année, de chaque somme reçue par la société de personnes au cours de cet exercice,

(ii) d'autre part, pour ce qui est de la réception de la proportion déterminée de cette somme qui lui revient, être la même personne que la société de personnes;

(b) for the purpose of subsection 82(1), to have paid the individual's specified proportion, for each fiscal period of the partnership that ends in the year, of each amount paid by the partnership in that fiscal period that is deemed by subsection (5.1) to have been received by another person as a taxable dividend.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. R.S., 1985, c. 1 (5th Supp.), s. 260; 1994, c. 7, Sch. II, s. 199, c. 21, s. 116; 1995, c. 21, s. 75; 2007, c. 2, s. 54, c. 35, s. 66; 2013, c. 34, s. 365.

b) pour l'application du paragraphe 82(1), avoir versé la proportion déterminée qui lui revient, pour chaque exercice de la société de personnes se terminant dans l'année, de chaque somme versée par la société de personnes au cours de cet exercice qui est réputée par le paragraphe (5.1) avoir été reçue par une autre personne à titre de dividende imposable.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. L.R. (1985), ch. 1 (5e suppl.), art. 260; 1994, ch. 7, ann. II, art. 199, ch. 21, art. 116; 1995, ch. 21, art. 75; 2007, ch. 2, art. 54, ch. 35, art. 66; 2013, ch. 34, art. 365.

Definitions

261 (1) The following definitions apply in this section.

Canadian currency year of a taxpayer means a taxation year that precedes the first functional currency year of the taxpayer. (*année de déclaration en monnaie canadienne*)

Canadian tax results of a taxpayer for a taxation year means

(a) the amount of the income, taxable income or taxable income earned in Canada of the taxpayer for the taxation year;

(b) the amount (other than an amount payable on behalf of another person under subsection 153(1) or section 215) of tax or other amount payable under this Act by the taxpayer in respect of the taxation year;

(c) the amount (other than an amount refundable on behalf of another person in respect of amounts payable on behalf of that person under subsection 153(1) or section 215) of tax or other amount refundable under this Act to the taxpayer in respect of the taxation year; and

(d) any amount that is relevant in determining the amounts described in respect of the taxpayer under paragraphs (a) to (c). (*résultats fiscaux canadiens*)

elected functional currency of a taxpayer means the currency of a country other than Canada that was the functional currency of the taxpayer for its first taxation year in respect of which it made an election under paragraph (3)(b). (*monnaie fonctionnelle choisie*)

functional currency of a taxpayer for a taxation year means the currency of a country other than Canada if that currency is, throughout the taxation year,

(a) a qualifying currency; and

Définitions

261 (1) Les définitions qui suivent s'appliquent au présent article.

année de déclaration en monnaie canadienne Toute année d'imposition d'un contribuable qui précède sa première année de déclaration en monnaie fonctionnelle. (*Canadian currency year*)

année de déclaration en monnaie fonctionnelle Toute année d'imposition d'un contribuable relativement à laquelle le paragraphe (5) s'applique au contribuable. (*functional currency year*)

année de rétablissement Toute année d'imposition d'un contribuable qui commence après sa dernière année de déclaration en monnaie fonctionnelle. (*reversionary year*)

créance pré-rétablissement Titre de créance qu'un contribuable a émis avant le début de sa première année de rétablissement. (*pre-reversion debt*)

créance pré-transition Titre de créance qu'un contribuable a émis avant le début de sa première année de déclaration en monnaie fonctionnelle. (*pre-transition debt*)

monnaie admissible Chacune des monnaies ci-après est une monnaie admissible à un moment donné :

a) la monnaie des États-Unis d'Amérique;

b) la monnaie de l'Union monétaire européenne;

c) la monnaie du Royaume-Uni;

d) la monnaie de l'Australie;

e) toute monnaie visée par règlement. (*qualifying currency*)

monnaie de déclaration La monnaie de déclaration d'un contribuable pour une année d'imposition, ainsi qu'à tout moment de cette année, est la monnaie dans

(b) the primary currency in which the taxpayer maintains its records and books of account for financial reporting purposes. (*monnaie fonctionnelle*)

functional currency year of a taxpayer means a taxation year in respect of which subsection (5) applies to the taxpayer. (*année de déclaration en monnaie fonctionnelle*)

pre-reversion debt of a taxpayer means a debt obligation of the taxpayer that was issued by the taxpayer before the beginning of the taxpayer's first reversionary year. (*créance pré-rétablissement*)

pre-transition debt of a taxpayer means a debt obligation of the taxpayer that was issued by the taxpayer before the beginning of the taxpayer's first functional currency year. (*créance pré-transition*)

qualifying currency at any time means each of

(a) the currency of the United States of America;

(b) the currency of the European Monetary Union;

(c) the currency of the United Kingdom;

(d) the currency of Australia; and

(e) a prescribed currency. (*monnaie admissible*)

relevant spot rate for a particular day means, in respect of a conversion of an amount from a particular currency to another currency,

(a) if the particular currency or the other currency is Canadian currency, the rate quoted by the Bank of Canada for noon on the particular day (or, if there is no such rate quoted for the particular day, the closest preceding day for which such a rate is quoted) for the exchange of the particular currency for the other currency, or, in applying paragraphs (2)(b) and (5)(c), another rate of exchange that is acceptable to the Minister; and

(b) if neither the particular currency nor the other currency is Canadian currency, the rate — calculated by reference to the rates quoted by the Bank of Canada for noon on the particular day (or, if either of such rates is not quoted for the particular day, the closest preceding day for which both such rates are quoted) for the exchange of Canadian currency for each of those currencies — for the exchange of the particular currency for the other currency, or, in applying paragraphs (2)(b) and (5)(c), another rate of exchange that is acceptable to the Minister. (*taux de change au comptant*)

laquelle ses résultats fiscaux canadiens pour l'année doivent être déterminés. (*tax reporting currency*)

monnaie fonctionnelle La monnaie fonctionnelle d'un contribuable pour une année d'imposition est la monnaie d'un pays étranger qui est, tout au long de l'année, à la fois :

a) une monnaie admissible;

b) la monnaie principale dans laquelle le contribuable tient ses livres et registres aux fins de présentation de l'information financière. (*functional currency*)

monnaie fonctionnelle choisie La monnaie d'un pays étranger qui était la monnaie fonctionnelle d'un contribuable pour sa première année d'imposition visée par le choix prévu à l'alinéa (3)b). (*elected functional currency*)

résultats fiscaux canadiens En ce qui concerne un contribuable pour une année d'imposition :

a) son revenu, revenu imposable ou revenu imposable gagné au Canada pour l'année;

b) son impôt, ou toute autre somme, à payer pour l'année en vertu de la présente loi, à l'exception d'une somme à payer au nom d'une autre personne en application du paragraphe 153(1) ou de l'article 215;

c) l'impôt, ou toute autre somme, qui lui est remboursable pour l'année en vertu de la présente loi, à l'exception d'une somme remboursable au nom d'une autre personne au titre de sommes à payer au nom de celle-ci en application du paragraphe 153(1) ou de l'article 215;

d) toute somme qui est prise en compte dans le calcul des sommes visées aux alinéas a) à c). (*Canadian tax results*)

taux de change au comptant En ce qui concerne la conversion d'une somme exprimée dans une monnaie donnée en son équivalence dans une autre monnaie, le taux de change au comptant, affiché un jour donné, correspond à l'un ou l'autre des taux suivants :

a) si la monnaie donnée ou l'autre monnaie est le dollar canadien, le taux affiché par la Banque du Canada à midi le jour donné (ou, si ce taux n'est pas affiché le jour donné, le jour antérieur le plus proche où il l'est) auquel une unité de la monnaie donnée est changée contre une unité de l'autre monnaie ou, pour l'application des alinéas (2)b) et (5)c), tout autre taux de change que le ministre estime acceptable;

reversionary year of a taxpayer means a taxation year that begins after the last functional currency year of the taxpayer. (*année de rétablissement*)

tax reporting currency of a taxpayer for a taxation year, and at any time in the taxation year, means the currency in which the taxpayer's Canadian tax results for the taxation year are to be determined. (*monnaie de déclaration*)

Canadian currency requirement

(2) In determining the Canadian tax results of a taxpayer for a particular taxation year,

(a) subject to this section, other than this subsection, Canadian currency is to be used; and

(b) subject to this section, other than this subsection, subsections 20(14.2) and 79(7) and paragraphs 80(2)(k) and 142.7(8)(b), if a particular amount that is relevant in computing those Canadian tax results is expressed in a currency other than Canadian currency, the particular amount is to be converted to an amount expressed in Canadian currency using the relevant spot rate for the day on which the particular amount arose.

Application of subsection (5)

(3) Subsection (5) applies to a taxpayer in respect of a particular taxation year if

(a) the taxpayer is, throughout the particular taxation year, a corporation (other than an investment corporation, a mortgage investment corporation or a mutual fund corporation) resident in Canada;

(b) the taxpayer has elected that subsection (5) apply to the taxpayer and has filed that election with the Minister in prescribed form and manner on or before the day that is 60 days after the first day of the particular taxation year;

(c) there is a functional currency of the taxpayer for the first taxation year of the taxpayer in respect of which subsection (5) would, if this subsection were read without reference to this paragraph, apply;

(d) the taxpayer has not filed another election under paragraph (b); and

(e) a revocation by the taxpayer under subsection (4) does not apply to the particular taxation year.

b) si ni la monnaie donnée ni l'autre monnaie ne sont le dollar canadien, le taux — calculé par rapport aux taux affichés par la Banque du Canada à midi le jour donné (ou, si ces taux ne sont pas affichés le jour donné, le jour antérieur le plus proche où ils le sont) auxquels le dollar canadien est changé contre une unité de chacune de ces monnaies — auquel une unité de la monnaie donnée est changée contre une unité de l'autre monnaie ou, pour l'application des alinéas (2)b) et (5)c), tout autre taux de change que le ministre estime acceptable. (*relevant spot rate*)

Monnaie canadienne — exigences

(2) Les règles ci-après s'appliquent au calcul des résultats fiscaux canadiens d'un contribuable pour une année d'imposition :

a) sous réserve du présent article, à l'exception du présent paragraphe, la monnaie à utiliser est le dollar canadien;

b) sous réserve du présent article, à l'exception du présent paragraphe, des paragraphes 20(14.2) et 79(7) et des alinéas 80(2)k) et 142.7(8)b), toute somme prise en compte dans le calcul de ces résultats qui est exprimée dans une monnaie autre que le dollar canadien est convertie en son équivalence en dollars canadiens selon le taux de change au comptant affiché le jour où elle a pris naissance.

Application du par. (5)

(3) Le paragraphe (5) s'applique à un contribuable pour une année d'imposition donnée si les conditions suivantes sont réunies :

a) tout au long de l'année donnée, le contribuable est une société (sauf une société de placement, une société de placement hypothécaire ou une société de placement à capital variable) qui réside au Canada;

b) le contribuable a fait un choix afin que le paragraphe (5) s'applique à lui et a présenté ce choix au ministre selon le formulaire prescrit et les modalités prescrites au plus tard le soixantième jour suivant le premier jour de l'année donnée;

c) il existe une monnaie fonctionnelle du contribuable pour sa première année d'imposition relativement à laquelle le paragraphe (5) s'appliquerait si le présent paragraphe s'appliquait compte non tenu du présent alinéa;

d) le contribuable n'a pas produit un autre choix en application de l'alinéa b);

Revocation of election

(4) A taxpayer may revoke its election under paragraph (3)(b) by filing, on a day that is in a functional currency year of the taxpayer (other than its first functional currency year), a notice of revocation in prescribed form and manner. The revocation applies to each taxation year of the taxpayer that begins on or after the day that is six months after that day.

Functional currency tax reporting

(5) If this subsection applies to a taxpayer in respect of a particular taxation year,

(a) the taxpayer's Canadian tax results for the particular taxation year are to be determined using the taxpayer's elected functional currency;

(b) unless the context otherwise requires, each reference in this Act or the regulations to an amount (other than in respect of a penalty or fine) that is described as a particular number of Canadian dollars is to be read, in respect of the taxpayer and the particular taxation year, as a reference to that amount expressed in the taxpayer's elected functional currency using the relevant spot rate for the first day of the particular taxation year;

(c) subject to paragraph (9)(b), subsection (15), subsections 20(14.2) and 79(7) and paragraphs 80(2)(k) and 142.7(8)(b), if a particular amount that is relevant in computing the taxpayer's Canadian tax results for the particular taxation year is expressed in a currency other than the taxpayer's elected functional currency, the particular amount is to be converted to an amount expressed in the taxpayer's elected functional currency using the relevant spot rate for the day on which the particular amount arose;

(d) the definition ***exchange rate*** in subsection 111(8) is, in respect of the taxpayer and the particular taxation year, and with such modifications as the context requires, to be read as follows:

exchange rate at any time in respect of a particular currency other than the taxpayer's elected functional currency means the relevant spot rate, for the day that includes that time, in respect of the conversion of an amount from the particular currency to the taxpayer's elected functional currency, or a rate of exchange acceptable to the Minister;

e) la révocation prévue au paragraphe (4) ne s'applique pas à l'année donnée.

Révocation du choix

(4) Un contribuable peut révoquer le choix qu'il a fait selon l'alinéa (3)b) en produisant au cours d'une de ses années de déclaration en monnaie fonctionnelle (sauf sa première) un avis de révocation selon le formulaire prescrit et les modalités prescrites. La révocation s'applique à son année d'imposition commençant six mois après la production de l'avis ainsi qu'à chacune de ses années d'imposition postérieures.

Déclaration dans une monnaie fonctionnelle

(5) Si le présent paragraphe s'applique à un contribuable pour une année d'imposition donnée, les règles suivantes s'appliquent :

a) les résultats fiscaux canadiens du contribuable pour l'année donnée sont déterminés au moyen de sa monnaie fonctionnelle choisie;

b) sauf indication contraire du contexte, toute mention dans la présente loi ou le règlement d'une somme (sauf s'il s'agit d'une pénalité ou d'une amende) qui représente un nombre donné de dollars canadiens vaut mention, en ce qui concerne le contribuable et l'année donnée, de son équivalence dans la monnaie fonctionnelle choisie du contribuable, obtenue par application du taux de change au comptant affiché le premier jour de l'année donnée;

c) sous réserve de l'alinéa (9)b), du paragraphe (15), des paragraphes 20(14.2) et 79(7) et des alinéas 80(2)k) et 142.7(8)b), toute somme prise en compte dans le calcul des résultats fiscaux canadiens du contribuable pour l'année donnée qui est exprimée dans une monnaie autre que la monnaie fonctionnelle choisie du contribuable est convertie en son équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le jour où elle a pris naissance;

d) la définition de ***taux de change*** au paragraphe 111(8) est réputée avoir le libellé ci-après en ce qui concerne le contribuable et l'année donnée et compte tenu des modifications nécessaires :

taux de change Le taux de change, à un moment donné, relativement à une monnaie donnée autre que la monnaie fonctionnelle choisie du contribuable s'entend du taux de change au comptant, affiché le jour qui comprend ce moment, en vue de la conversion d'une somme exprimée dans la monnaie

(e) except in applying paragraph 95(2)(f.15) in respect of a taxation year, of a foreign affiliate of the taxpayer, that is a functional currency year of the foreign affiliate within the meaning of subsection (6.1), each reference in subsection 39(2) to "Canadian currency" is to be read, in respect of the taxpayer and the particular taxation year, and with such modifications as the context requires, as a reference to "the taxpayer's elected functional currency";

(f) each reference in

(i) section 76.1, subsections 20(14.2) and 79(7), paragraph 80(2)(k), subsections 80.01(11), 80.1(8), 93(2.01) to (2.31), 142.4(1) and 142.7(8) and the definition ***amortized cost*** in subsection 248(1), and subparagraph 231(6)(a)(iv) of the *Income Tax Regulations*, to "Canadian currency" is, in respect of the taxpayer and the particular taxation year, and with such modifications as the context requires, to be read as "the taxpayer's elected functional currency", and

(ii) subparagraph 94.1(1)(b)(vii), the definition ***foreign currency debt*** in subsection 111(8), subsection 142.4(1), and the definition ***amortized cost*** in subsection 248(1) to "currency of a country other than Canada" is, in respect of the taxpayer and the particular taxation year, and with such modifications as the context requires, to be read as a reference to "currency other than the taxpayer's elected functional currency";

(g) the definition ***foreign currency*** in subsection 248(1) is, in respect of the taxpayer and the taxation year, and with such modifications as the context requires, to be read as follows:

foreign currency in respect of a taxpayer, at any time in a taxation year, means a currency other than the taxpayer's elected functional currency;

(h) where a taxation year, of a foreign affiliate of the taxpayer, is a functional currency year of the foreign affiliate within the meaning of subsection (6.1),

(i) the references in section 95 (other than paragraph 95(2)(f.15)) and the references in regulations made for the purposes of section 95 or 113 to

(A) "Canadian currency" are to be read, in respect of the foreign affiliate and the taxation year, and with such modifications as the context requires, as references to "the taxpayer's elected functional currency", and

donnée en son équivalence dans la monnaie fonctionnelle choisie du contribuable, ou de tout taux de change que le ministre estime acceptable.

e) sauf pour l'application de l'alinéa 95(2)f.15) relativement à toute année d'imposition d'une société étrangère affiliée du contribuable qui est une année de déclaration en monnaie fonctionnelle de la société étrangère affiliée au sens du paragraphe (6.1), la mention « monnaie canadienne » au paragraphe 39(2) vaut mention, en ce qui concerne le contribuable et l'année donnée, de « monnaie fonctionnelle choisie du contribuable » ;

f) à la fois :

(i) les mentions « dollar canadien » ou « monnaie canadienne », à l'article 76.1, aux paragraphes 20(14.2) et 79(7), à l'alinéa 80(2)k), aux paragraphes 80.01(11), 80.1(8), 93(2.01) à (2.31), 142.4(1) et 142.7(8) et à la définition de ***coût amorti*** au paragraphe 248(1), et au sous-alinéa 231(6)a)(iv) du *Règlement de l'impôt sur le revenu*, valent mention, en ce qui concerne le contribuable et l'année donnée et compte tenu des modifications nécessaires, de « monnaie fonctionnelle choisie du contribuable »,

(ii) les mentions « monnaie autre que la monnaie canadienne », « monnaie d'un pays étranger » ou « monnaie étrangère », au sous-alinéa 94.1(1)b)(vii), à la définition de ***dette en monnaie étrangère*** au paragraphe 111(8), au paragraphe 142.4(1) et à la définition de ***coût amorti*** au paragraphe 248(1), valent mention, en ce qui concerne le contribuable et l'année donnée et compte tenu des modifications nécessaires, de « monnaie autre que la monnaie fonctionnelle choisie du contribuable »;

g) la définition de ***monnaie étrangère*** au paragraphe 248(1) est réputée avoir le libellé ci-après en ce qui concerne le contribuable et l'année donnée et compte tenu des modifications nécessaires :

monnaie étrangère En ce qui concerne un contribuable à un moment d'une année d'imposition, monnaie autre que la monnaie fonctionnelle choisie du contribuable.

h) si l'année d'imposition d'une société étrangère affiliée du contribuable est une année de déclaration en monnaie fonctionnelle de la société étrangère affiliée au sens du paragraphe (6.1) :

(B) "currency of a country other than Canada" are to be read, in respect of the foreign affiliate and the taxation year, and with such modifications as the context requires, as references to "currency other than the taxpayer's elected functional currency", and

(ii) the reference in paragraph 95(2)(f.13) to "the rate of exchange quoted by the Bank of Canada at noon on" is to be read, in respect of the foreign affiliate and the taxation year, and with such modifications as the context requires, as a reference to "the relevant spot rate for".

(i) à l'article 95 (à l'exception de l'alinéa 95(2)f.15)) et dans les dispositions réglementaires prises pour l'application de cet article ou de l'article 113 :

(A) les mentions « monnaie canadienne » ou « dollars canadiens » valent mention, en ce qui concerne la société étrangère affiliée et l'année d'imposition et compte tenu des modifications nécessaires, de « monnaie fonctionnelle choisie du contribuable »,

(B) la mention « monnaie d'un pays étranger » vaut mention, en ce qui concerne la société étrangère affiliée et l'année d'imposition et compte tenu des modifications nécessaires, de « monnaie autre que la monnaie fonctionnelle choisie du contribuable »,

(ii) le passage « le taux de change affiché par la Banque du Canada à midi » à l'alinéa 95(2)f.13) est remplacé, en ce qui concerne la société étrangère affiliée et l'année d'imposition et compte tenu des modifications nécessaires, par « le taux de change au comptant affiché ».

Partnerships

(6) For the purposes of computing the Canadian tax results of a particular taxpayer for each taxation year that is a functional currency year or a reversionary year of the particular taxpayer, this section is to be applied as if each partnership of which the particular taxpayer is a member at any time in the taxation year were a taxpayer that

(a) had as its first functional currency year its first fiscal period, if any, that

(i) is a fiscal period at any time during which the particular taxpayer is a member of the partnership,

(ii) begins after December 13, 2007, and

(iii) begins on or after the first day of the particular taxpayer's first functional currency year;

(b) had as its last Canadian currency year its last fiscal period, if any, that ends before its first functional currency year;

(c) had as its first reversionary year its first fiscal period, if any, that begins after the particular taxpayer's last functional currency year;

(d) is subject to subsection (5) for each of its fiscal periods that is, or begins after, its first functional currency year and that ends before its first reversionary year;

Sociétés de personnes

(6) Pour le calcul des résultats fiscaux canadiens d'un contribuable donné pour chaque année d'imposition qui est une année de déclaration en monnaie fonctionnelle ou une année de rétablissement du contribuable, le présent article s'applique comme si chaque société de personnes dont il est l'associé au cours de l'année était un contribuable qui répond aux conditions suivantes :

a) sa première année de déclaration en monnaie fonctionnelle correspond à son premier exercice qui, à la fois :

(i) est un exercice au cours duquel le contribuable donné est l'associé de la société de personnes,

(ii) commence après le 13 décembre 2007,

(iii) commence le premier jour de la première année de déclaration en monnaie fonctionnelle du contribuable donné ou par la suite;

b) sa dernière année de déclaration en monnaie canadienne correspond à son dernier exercice se terminant avant sa première année de déclaration en monnaie fonctionnelle;

c) sa première année de rétablissement correspond à son premier exercice qui commence après la dernière année de déclaration en monnaie fonctionnelle du contribuable donné;

(e) had as its elected functional currency in respect of each fiscal period described in paragraph (d) the elected functional currency of the particular taxpayer; and

(f) had as its last functional currency year its last fiscal period, if any, that ends before its first reversionary year.

d) il est assujetti au paragraphe (5) pour chacun de ses exercices qui correspond à sa première année de déclaration en monnaie fonctionnelle, ou qui commence après cette année, et qui se termine avant sa première année de rétablissement;

e) sa monnaie fonctionnelle choisie relativement à chaque exercice visé à l'alinéa d) correspond à celle du contribuable donné;

f) sa dernière année de déclaration en monnaie fonctionnelle correspond à son dernier exercice se terminant avant sa première année de rétablissement.

Foreign affiliates

(6.1) For the purposes of computing the foreign accrual property income of a foreign affiliate of a particular taxpayer, in respect of the particular taxpayer, for each taxation year that is a functional currency year or a reversionary year of the particular taxpayer, this section is to be applied as if

(a) the foreign affiliate were a taxpayer that

(i) had, as its first functional currency year, its first taxation year that

(A) is a taxation year at any time during which the foreign affiliate is a foreign affiliate of the particular taxpayer,

(B) begins after December 13, 2007, and

(C) begins on or after the first day of the particular taxpayer's first functional currency year,

(ii) had as its last Canadian currency year its last taxation year, if any, that ends before its first functional currency year,

(iii) had as its first reversionary year its first taxation year, if any, that begins after the particular taxpayer's last functional currency year,

(iv) is subject to subsection (5) for each of its taxation years that is, or begins after, its first functional currency year and that ends before its first reversionary year,

(v) had as its elected functional currency in respect of each taxation year described in subparagraph (iv) the elected functional currency of the particular taxpayer, and

(vi) had as its last functional currency year its last taxation year, if any, that ends before its first reversionary year; and

Sociétés étrangères affiliées

(6.1) Pour le calcul du revenu étranger accumulé, tiré de biens d'une société étrangère affiliée d'un contribuable donné, relativement à ce contribuable pour chaque année d'imposition qui est une année de déclaration en monnaie fonctionnelle ou une année de rétablissement de ce contribuable, le présent article s'applique comme si, à la fois :

a) la société étrangère affiliée était un contribuable qui répond aux conditions suivantes :

(i) sa première année de déclaration en monnaie fonctionnelle correspond à sa première année d'imposition qui, à la fois :

(A) est une année d'imposition au cours de laquelle il est une société étrangère affiliée du contribuable donné,

(B) commence après le 13 décembre 2007,

(C) commence le premier jour de la première année de déclaration en monnaie fonctionnelle du contribuable donné ou par la suite,

(ii) sa dernière année de déclaration en monnaie canadienne correspond à sa dernière année d'imposition se terminant avant sa première année de déclaration en monnaie fonctionnelle,

(iii) sa première année de rétablissement correspond à sa première année d'imposition qui commence après la dernière année de déclaration en monnaie fonctionnelle du contribuable donné,

(iv) il est assujetti au paragraphe (5) pour chacune de ses années d'imposition qui correspond à sa première année de déclaration en monnaie fonctionnelle, ou qui commence après cette année, et qui se termine avant sa première année de rétablissement,

(b) the Canadian tax results of the foreign affiliate for each taxation year that is a functional currency year or a reversionary year of the foreign affiliate, within the meaning of paragraph (a), were its foreign accrual property income, in respect of the particular taxpayer, for that taxation year and any amount that is relevant in determining such foreign accrual property income.

Converting Canadian currency amounts

(7) In applying this Act to a taxpayer for a particular functional currency year of the taxpayer, the following amounts are to be converted from Canadian currency to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year:

(a) each particular amount that

(i) is, or is relevant to the determination of, an amount that may be deducted under subsection 37(1) or 66(4), variable F or F.1 in the definition ***foreign accrual property income*** in subsection 95(1), section 110.1 or 111 or subsection 126(2), 127(5), 129(1), 181.1(4) or 190.1(3), in the particular functional currency year, and

(ii) was determined for a Canadian currency year of the taxpayer;

(b) the cost to the taxpayer of a property that was acquired by the taxpayer in a Canadian currency year of the taxpayer;

(c) an amount that was required by section 53 to be added or deducted in computing, at any time in a Canadian currency year of the taxpayer, the adjusted cost base to the taxpayer of a capital property that was acquired by the taxpayer in such a year;

(d) an amount that

(i) is in respect of the taxpayer's undepreciated capital cost of depreciable property of a prescribed class, ***cumulative Canadian exploration expense***

(v) sa monnaie fonctionnelle choisie relativement à chaque année d'imposition visée au sous-alinéa (iv) correspond à celle du contribuable donné,

(vi) sa dernière année de déclaration en monnaie fonctionnelle correspond à sa dernière année d'imposition se terminant avant sa première année de rétablissement;

b) les résultats fiscaux canadiens de la société étrangère affiliée pour chaque année d'imposition qui est une année de déclaration en monnaie fonctionnelle ou une année de rétablissement de la société étrangère affiliée au sens de l'alinéa a) correspondaient à son revenu étranger accumulé, tiré de biens, relativement au contribuable donné pour l'année d'imposition en cause, et à toute somme qui est prise en compte dans le calcul de ce revenu.

Conversion de sommes exprimées en dollars canadiens

(7) Pour l'application de la présente loi à un contribuable pour son année de déclaration en monnaie fonctionnelle (appelée « année donnée » au présent paragraphe), les sommes ci-après, exprimées en dollars canadiens, sont converties en leur équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le dernier jour de la dernière année de déclaration en monnaie canadienne du contribuable :

a) chaque somme qui, à la fois :

(i) représente une somme qui est déductible en application des paragraphes 37(1) ou 66(4), des éléments F ou F.1 de la formule figurant à la définition de ***revenu étranger accumulé, tiré de biens*** au paragraphe 95(1), des articles 110.1 ou 111 ou des paragraphes 126(2), 127(5), 129(1), 181.1(4) ou 190.1(3) pour l'année donnée, ou est prise en compte dans le calcul d'une telle somme,

(ii) a été déterminée pour une année de déclaration en monnaie canadienne du contribuable;

b) le coût pour le contribuable d'un bien qu'il a acquis au cours d'une de ses années de déclaration en monnaie canadienne;

c) toute somme qui était à ajouter ou à déduire, en application de l'article 53, dans le calcul, au cours d'une année de déclaration en monnaie canadienne du contribuable, du prix de base rajusté pour lui d'une immobilisation qu'il a acquise au cours d'une telle année;

d) toute somme qui, à la fois :

(as defined in subsection 66.1(6)), ***cumulative Canadian development expense*** (as defined in subsection 66.2(5)), ***cumulative foreign resource expense*** in respect of a country other than Canada (as defined in subsection 66.21(1)) or ***cumulative Canadian oil and gas property expense*** (as defined in subsection 66.4(5)) (each of which is referred to in this paragraph as a ***pool amount***), and

(ii) was added to or deducted from a pool amount of the taxpayer in respect of a Canadian currency year of the taxpayer;

(e) an amount that has been deducted or claimed as a reserve in computing the income of the taxpayer for its last Canadian currency year;

(f) an outlay or expense referred to in subsection 18(9) that was made or incurred by the taxpayer in respect of a Canadian currency year of the taxpayer, and any amount that was deducted in respect of the outlay or expense in computing the income of the taxpayer for such a year;

(g) an amount that was added or deducted in computing the taxpayer's paid-up capital in respect of a class of shares of its capital stock in a Canadian currency year of the taxpayer; and

(h) any amount (other than an amount referred to in any of paragraphs (a) to (g) or any of subsections (6), (6.1) and (8)) determined under the provisions of this Act in or in respect of a Canadian currency year of the taxpayer that is relevant in determining the Canadian tax results of the taxpayer for the particular functional currency year.

(i) se rapporte au montant, relatif au contribuable, de la fraction non amortie du coût en capital d'un bien amortissable d'une catégorie prescrite, des ***frais cumulatifs d'exploration au Canada*** (au sens du paragraphe 66.1(6)), des ***frais cumulatifs d'aménagement au Canada*** (au sens du paragraphe 66.2(5)), des ***frais cumulatifs relatifs à des ressources à l'étranger*** se rapportant à un pays étranger (au sens du paragraphe 66.21(1)) et des ***frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz*** (au sens du paragraphe 66.4(5)) (chacun de ces montants étant appelé ***somme donnée*** au présent alinéa),

(ii) a été ajoutée à une somme donnée du contribuable, ou déduite d'une telle somme, pour une année de déclaration en monnaie canadienne du contribuable;

e) toute somme qui a été déduite ou demandée à titre de provision dans le calcul du revenu du contribuable pour sa dernière année de déclaration en monnaie canadienne;

f) toute dépense visée au paragraphe 18(9) que le contribuable a engagée ou effectuée relativement à une de ses années de déclaration en monnaie canadienne et toute somme qui a été déduite au titre de cette dépense dans le calcul de son revenu pour une telle année;

g) toute somme qui a été ajoutée ou déduite dans le calcul du capital versé du contribuable au titre d'une catégorie d'actions de son capital-actions au cours d'une de ses années de déclaration en monnaie canadienne;

h) toute somme, sauf celles visées aux alinéas a) à g) ou à l'un des paragraphes (6), (6.1) et (8), déterminée selon les dispositions de la présente loi pour une année de déclaration en monnaie canadienne du contribuable qui est prise en compte dans le calcul de ses résultats fiscaux canadiens pour l'année donnée.

Converting pre-transition debts

(8) In determining, at any time in a particular functional currency year of a taxpayer, the amount for which a pre-transition debt of the taxpayer (other than a pre-transition debt denominated in the taxpayer's elected functional currency) was issued and its principal amount at the beginning of the taxpayer's first functional currency year,

(a) where the pre-transition debt is denominated in Canadian currency, those amounts are to be converted to the taxpayer's elected functional currency using the

Conversion de créances pré-transition

(8) Pour le calcul, au cours d'une année de déclaration en monnaie fonctionnelle d'un contribuable, de la somme pour laquelle une créance pré-transition de celui-ci a été émise (sauf une telle créance qui est libellée dans la monnaie fonctionnelle choisie du contribuable) et du principal de cette créance au début de la première année de déclaration en monnaie fonctionnelle du contribuable, les règles suivantes s'appliquent :

a) si la créance est libellée en monnaie canadienne, ces sommes sont converties en leur équivalence dans

relevant spot rate for the last day of the taxpayer's last Canadian currency year; and

(b) where the pre-transition debt is denominated in a currency (referred to in this paragraph as the "debt currency") that is neither Canadian currency nor the taxpayer's elected functional currency, those amounts are to be converted from the debt currency to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year.

Pre-transition debts

(9) A pre-transition debt of a taxpayer that is denominated in a currency other than the taxpayer's elected functional currency is deemed to have been issued immediately before the taxpayer's first functional currency year for the purposes of

(a) determining the amount of the taxpayer's income, gain or loss, for a functional currency year of the taxpayer (other than an amount that subsection (10) deems to arise), that is attributable to a fluctuation in the value of a currency; and

(b) applying paragraph 80(2)(k) in respect of a functional currency year of the taxpayer.

Deferred amounts relating to pre-transition debts

(10) If a taxpayer has, at any time in a taxation year that is a functional currency year or a reversionary year of the taxpayer, made a particular payment on account of the principal amount of a pre-transition debt of the taxpayer:

(a) where the taxpayer would have made a gain — or, if the pre-transition debt was not on account of capital, would have had income — (referred to in this paragraph as the "hypothetical gain or income") attributable to a fluctuation in the value of a currency if the pre-transition debt had been settled by the taxpayer's having paid, immediately before the end of its last Canadian currency year, an amount equal to the principal amount (expressed in the currency in which the pre-transition debt is denominated, which currency is referred to in this subsection as the "debt currency") at that time, the taxpayer is deemed to make a gain or to have income, as the case may be, for the taxation year equal to the amount determined by the formula

A × B/C

where

la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le dernier jour de sa dernière année de déclaration en monnaie canadienne;

b) si la créance est libellée dans une monnaie qui n'est ni le dollar canadien ni la monnaie fonctionnelle choisie du contribuable, ces sommes sont converties en leur équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le dernier jour de sa dernière année de déclaration en monnaie canadienne.

Créances pré-transition

(9) Toute créance pré-transition d'un contribuable qui est libellée dans une monnaie autre que la monnaie fonctionnelle choisie du contribuable est réputée avoir été émise immédiatement avant la première année de déclaration en monnaie fonctionnelle du contribuable lorsqu'il s'agit, à la fois :

a) de calculer le montant du revenu, du gain ou de la perte du contribuable pour une année de déclaration en monnaie fonctionnelle (sauf s'il s'agit d'une somme qui est réputée prendre naissance selon le paragraphe (10)) qui est attribuable à la fluctuation de la valeur d'une monnaie;

b) d'appliquer l'alinéa 80(2)k) relativement à une année de déclaration en monnaie fonctionnelle du contribuable.

Sommes différées liées à des créances pré-transition

(10) Si un contribuable a fait un paiement donné au titre du principal de sa créance pré-transition au cours de son année d'imposition qui est une année de déclaration en monnaie fonctionnelle ou une année de rétablissement, les règles suivantes s'appliquent :

a) dans le cas où le contribuable aurait réalisé un gain ou, la créance n'étant pas au titre du capital, aurait eu un revenu (appelés « gain ou revenu hypothétique » au présent alinéa) attribuable à la fluctuation de la valeur d'une monnaie si la créance avait été réglée au moyen du paiement par lui, immédiatement avant la fin de sa dernière année de déclaration en monnaie canadienne, d'une somme égale au principal (exprimé dans la monnaie dans laquelle la créance est libellée, appelée « monnaie de la créance » au présent paragraphe) à ce moment, le contribuable est réputé avoir réalisé un gain ou avoir eu un revenu, selon le cas, pour l'année d'imposition égal à la somme obtenue par la formule suivante :

A × B/C

où :

A is

(i) if the taxation year is a functional currency year of the taxpayer, the amount of the hypothetical gain or income converted to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year, and

(ii) if the taxation year is a reversionary year of the taxpayer, the amount determined under subparagraph (i) converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last functional currency year,

B is the amount of the particular payment (expressed in the debt currency), and

C is the principal amount of the pre-transition debt at the beginning of the taxpayer's first functional currency year (expressed in the debt currency); and

(b) where the taxpayer would have sustained a loss — or, if the pre-transition debt was not on account of capital, would have had a loss — (referred to in this paragraph as the "hypothetical loss") attributable to a fluctuation in the value of a currency if the pre-transition debt had been settled by the taxpayer's having paid, immediately before the end of its last Canadian currency year, an amount equal to the principal amount (expressed in the debt currency) at that time, the taxpayer is deemed to sustain or to have a loss in respect of the particular payment for the taxation year equal to the amount that would be determined by the formula in paragraph (a) if the reference in the description of A in that paragraph to "hypothetical gain or income" were read as a reference to "hypothetical loss".

A représente :

(i) si l'année d'imposition est une année de déclaration en monnaie fonctionnelle du contribuable, le montant du gain ou revenu hypothétique converti en son équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le dernier jour de sa dernière année de déclaration en monnaie canadienne,

(ii) si l'année d'imposition est une année de rétablissement du contribuable, le montant déterminé selon le sous-alinéa (i) converti en dollars canadiens selon le taux de change au comptant affiché le dernier jour de la dernière année de déclaration en monnaie fonctionnelle du contribuable,

B le montant du paiement donné, exprimé dans la monnaie de la créance,

C le principal de la créance au début de la première année de déclaration en monnaie fonctionnelle du contribuable, exprimé dans la monnaie de la créance;

b) dans le cas où le contribuable aurait subi une perte ou, la créance n'étant pas au titre du capital, aurait eu une perte (appelées « perte hypothétique » au présent alinéa) attribuable à la fluctuation de la valeur d'une monnaie si la créance avait été réglée au moyen du paiement par lui, immédiatement avant la fin de sa dernière année de déclaration en monnaie canadienne, d'une somme égale au principal (exprimé dans la monnaie de la créance) à ce moment, le contribuable est réputé avoir subi une perte ou avoir eu une perte, selon le cas, relativement au paiement donné pour l'année d'imposition égale à la somme qui serait obtenue par la formule figurant à l'alinéa a) si le passage « du gain ou revenu hypothétique » à l'élément A de cette formule était remplacé par « de la perte hypothétique ».

Debt parking — foreign exchange

(10.1) For the purposes of determining a taxpayer's gain under subsection (10), if at a particular time a pre-transition debt of the taxpayer (referred to in this subsection as the ***debtor***) that is denominated in a currency other than Canadian currency becomes a parked obligation (within the meaning assigned by subsection 39(2.02)), the debtor is deemed to have made, at that time, a particular payment on account of the principal amount of the debt equal to

(a) if the debt has become a parked obligation at that particular time as a result of its acquisition by the holder of the debt, the portion of the amount paid by

Remisage de dettes libellées en monnaie étrangère

(10.1) Aux fins du calcul du gain d'un contribuable en vertu du paragraphe (10), si, à un moment donné, une créance pré-transition du contribuable (appelé ***débiteur*** au présent paragraphe) qui est libellée dans une monnaie autre que le dollar canadien devient une ***dette remisée*** (au sens du paragraphe 39(2.02)), le débiteur est réputé avoir effectué, à ce moment, un paiement donné au titre du principal de la créance égal à celui des montants ci-après qui s'applique :

a) si la créance est devenue une dette remisée à ce moment en raison de son acquisition par le détenteur de la créance, le montant qui représente la partie du

the holder to acquire the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time; and

(b) in any other case, the portion of the fair market value of the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time.

Determination of amounts payable

(11) Notwithstanding subsections (5) and (7), for the purposes of applying this Act in respect of a functional currency year (referred to in this subsection as the "particular taxation year") of a taxpayer,

(a) for the purposes of determining the taxpayer's payment obligations under paragraph 157(1)(a) or (1.1)(a),

(i) the estimated amounts, each of which is described in subparagraph 157(1)(a)(i) or (1.1)(a)(i), that are payable by the taxpayer for the particular taxation year are to be determined by converting those amounts, as determined in the taxpayer's elected functional currency, to Canadian currency using the relevant spot rate for the day on which those amounts are due,

(ii) the taxpayer's first instalment base (within the meaning assigned by subsection 157(4)) for the particular taxation year is to be determined

(A) if the particular taxation year is the taxpayer's first functional currency year, without reference to this section, and

(B) in any other case, as if the taxes payable by the taxpayer for the taxpayer's functional currency year (referred to in this paragraph as the "first base year") immediately preceding the particular taxation year were the total of

(I) the total of the taxpayer's payment obligations under paragraph 157(1)(a) or (1.1)(a), as determined with reference to this subparagraph or subparagraph (i) or (iii), as the case may be, in respect of the first base year, and

(II) the amount, if any, of the remainder of the taxes payable by the taxpayer under paragraph 157(1)(b) or (1.1)(b), as determined under paragraph (b), in respect of the first base year, and

montant payé par le détenteur pour acquérir la créance qu'il est raisonnable de considérer comme se rapportant au principal de la créance à ce moment;

b) sinon, le montant qui représente la partie de la juste valeur marchande de la créance qu'il est raisonnable de considérer comme se rapportant au principal de la créance à ce moment.

Calcul des sommes payables

(11) Malgré les paragraphes (5) et (7), pour l'application de la présente loi relativement à une année de déclaration en monnaie fonctionnelle d'un contribuable (appelée « année donnée » au présent paragraphe) :

a) pour le calcul des obligations de paiement du contribuable en vertu des alinéas 157(1)a) ou (1.1)a) :

(i) les montants estimatifs — dont chacun est visé aux sous-alinéas 157(1)a)(i) ou (1.1)a)(i) — qui sont payables par le contribuable pour l'année donnée sont déterminés par la conversion de ces montants, déterminés dans la monnaie fonctionnelle choisie du contribuable, en dollars canadiens selon le taux de change au comptant affiché le jour où ils sont exigibles,

(ii) les règles ci-après s'appliquent à la première base des acomptes provisionnels, au sens du paragraphe 157(4), du contribuable pour l'année donnée :

(A) si l'année donnée est la première année de déclaration en monnaie fonctionnelle du contribuable, le montant de cette base est déterminé compte non tenu du présent article,

(B) dans les autres cas, ce montant est déterminé comme si les impôts payables par le contribuable pour son année de déclaration en monnaie fonctionnelle (appelée « année de première base » au présent alinéa) précédant l'année donnée correspondaient au total des sommes suivantes :

(I) le total des obligations de paiement du contribuable en vertu des alinéas 157(1)a) ou (1.1)a), déterminés selon le présent sous-alinéa ou les sous-alinéas (i) ou (iii), selon le cas, pour l'année de première base,

(II) le solde des impôts payables par le contribuable en vertu des alinéas 157(1)b) ou (1.1)b), déterminé selon l'alinéa b) pour l'année de première base,

(iii) the taxpayer's second instalment base (within the meaning assigned by subsection 157(4)) for the particular taxation year is to be determined

(A) if the particular taxation year is the taxpayer's first functional currency year or its taxation year that immediately follows its first functional currency year, without reference to this section, and

(B) in any other case, as if the taxes payable by the taxpayer for the taxpayer's functional currency year (referred to in this subparagraph as the "second base year") immediately preceding the first base year were the total of

(I) the total of the taxpayer's payment obligations under paragraph 157(1)(a) or (1.1)(a), as determined with reference to this subparagraph or subparagraph (i) or (ii), as the case may be, in respect of the second base year, and

(II) the amount, if any, of the remainder of the taxes payable by the taxpayer under paragraph 157(1)(b) or (1.1)(b), as determined under paragraph (b), in respect of the second base year;

(b) the remainder of the taxes payable by the taxpayer under paragraph 157(1)(b) or (1.1)(b) for the particular taxation year is the amount, if any, determined by

(i) computing the amount, if any, by which

(A) the total of the taxes payable by the taxpayer under Parts I, VI, VI.1 and XIII.1 for the particular taxation year, as determined in the taxpayer's elected functional currency

exceeds

(B) the total of all amounts each of which is the amount determined by converting the amount of a payment obligation — determined by paragraph 157(1)(a) or (1.1)(a), as the case may be, with reference to subparagraph (a)(i), (ii) or (iii), as the case may be — of the taxpayer in respect of the particular taxation year to the taxpayer's elected functional currency using the relevant spot rate for the day on which the payment obligation was due, and

(ii) converting the amount, if any, determined by subparagraph (i) to Canadian currency using the relevant spot rate for the taxpayer's balance-due day for the partic-ular taxation year;

(iii) les règles ci-après s'appliquent à la deuxième base des acomptes provisionnels, au sens du paragraphe 157(4), du contribuable pour l'année donnée :

(A) si l'année donnée est la première année de déclaration en monnaie fonctionnelle du contribuable ou l'année d'imposition suivante, le montant de cette base est déterminé compte non tenu du présent article,

(B) dans les autres cas, ce montant est déterminé comme si les impôts payables par le contribuable pour son année de déclaration en monnaie fonctionnelle (appelée « année de deuxième base » au présent sous-alinéa) précédant l'année de première base correspondaient au total des sommes suivantes :

(I) le total des obligations de paiement du contribuable en vertu des alinéas 157(1)a) ou (1.1)a), déterminés selon le présent sous-alinéa ou les sous-alinéas (i) ou (ii), selon le cas, pour l'année de deuxième base,

(II) le solde des impôts payables par le contribuable en vertu des alinéas 157(1)b) ou (1.1)b), déterminé selon l'alinéa b) pour l'année de deuxième base;

b) le solde des impôts payables par le contribuable en vertu des alinéas 157(1)b) ou (1.1)b) pour l'année donnée s'obtient au moyen des opérations suivantes :

(i) le calcul de l'excédent de la somme visée à la division (A) sur celle visée à la division (B) :

(A) le total des impôts payables par le contribuable en vertu des parties I, VI, VI.1 et XIII.1 pour l'année donnée, déterminé dans la monnaie fonctionnelle choisie du contribuable,

(B) le total des sommes représentant chacune la somme obtenue par la conversion du montant d'une obligation de paiement du contribuable pour l'année donnée — déterminée en vertu des alinéas 157(1)a) ou (1.1)a) par application des sous-alinéas a)(i), (ii) ou (iii), selon le cas — en son équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le jour où l'obligation de paiement est exigible,

(ii) la conversion de la somme déterminée selon le sous-alinéa (i) en dollars canadiens selon le taux de change au comptant affiché à la date d'exigibilité du

(c) for the purposes of determining any amount (other than tax) that is payable by the taxpayer under Part I, VI, VI.1 or XIII.1 for the particular taxation year, the taxpayer's tax payable under the Part for the particular taxation year is deemed to be equal to the total of

(i) the total of the taxpayer's payment obligations under paragraph 157(1)(a) or (1.1)(a), in respect of the Part, as determined with reference to subparagraph (a)(i), (ii) or (iii), as the case may be, in respect of the particular taxation year, and

(ii) the amount, if any, of the remainder of the taxes payable by the taxpayer under paragraph 157(1)(b) or (1.1)(b), in respect of the Part, as determined under paragraph (b), in respect of the particular taxation year;

(d) amounts of tax that are payable under this Act (except under Parts I, VI, VI.1 and XIII.1) by the taxpayer for the particular taxation year are to be determined by converting those amounts, as determined in the taxpayer's elected functional currency, to Canadian currency using the relevant spot rate for the day on which those amounts are due;

(e) if a particular amount that is determined in the taxpayer's elected functional currency is deemed to be paid at any time on account of an amount payable by the taxpayer under this Act for the particular taxation year, the particular amount is to be converted to Canadian currency using the relevant spot rate for the day that includes that time;

(f) the following amounts are to be determined in the taxpayer's elected functional currency and converted to Canadian currency using the relevant spot rate for the taxpayer's balance-due day for the particular taxation year:

(i) amounts described in paragraph 163(1)(a) in respect of the particular taxation year, and

(ii) the amount of the taxpayer's taxable capital employed in Canada, for the purpose of applying section 235; and

(g) for greater certainty, all amounts payable by the taxpayer under this Act in respect of the particular taxation year are to be paid in Canadian currency.

solde applicable au contribuable pour l'année donnée;

c) pour le calcul d'une somme, sauf un montant d'impôt, qui est payable par le contribuable en vertu des parties I, VI, VI.1 ou XIII.1 pour l'année donnée, l'impôt payable par le contribuable en vertu de la partie en cause pour l'année donnée est réputé être égal au total des sommes suivantes :

(i) le total des obligations de paiement du contribuable en vertu des alinéas 157(1)a) ou (1.1)a) relativement à la partie en cause, déterminés selon les sous-alinéas a)(i), (ii) ou (iii), selon le cas, pour l'année donnée,

(ii) le solde des impôts payables par le contribuable en vertu des alinéas 157(1)b) ou (1.1)b) relativement à la partie en cause, déterminé selon l'alinéa b) pour l'année donnée;

d) les montants d'impôt qui sont payables par le contribuable pour l'année donnée en vertu de la présente loi (sauf les parties I, VI, VI.1 et XIII.1) sont déterminés par la conversion de ces montants, déterminés dans la monnaie fonctionnelle choisie du contribuable, en dollars canadiens selon le taux de change au comptant affiché le jour où ces montants sont exigibles;

e) toute somme déterminée dans la monnaie fonctionnelle choisie du contribuable qui est réputée être payée à un moment donné au titre d'une somme payable par le contribuable en vertu de la présente loi pour l'année donnée est convertie en dollars canadiens selon le taux de change au comptant affiché le jour qui comprend ce moment;

f) les sommes ci-après sont déterminées dans la monnaie fonctionnelle choisie du contribuable et converties en dollars canadiens selon le taux de change au comptant affiché à la date d'exigibilité du solde applicable au contribuable pour l'année donnée :

(i) les sommes visées à l'alinéa 163(1)a) pour l'année donnée,

(ii) le montant du capital imposable utilisé au Canada du contribuable, pour l'application de l'article 235;

g) il est entendu que toutes les sommes payables par le contribuable en vertu de la présente loi pour l'année donnée sont payées en dollars canadiens.

Application of subsections (7) and (8) to reversionary years

(12) In applying this Act to a reversionary year of a taxpayer, subsections (7) and (8) are to be read as if the references in those subsections to

(a) "Canadian currency" were references to "the taxpayer's elected functional currency";

(b) "Canadian currency year" were references to "functional currency year";

(c) "functional currency year" were references to "reversionary year";

(d) "first functional currency year" were references to "first reversionary year";

(e) "last Canadian currency year" were references to "last functional currency year";

(f) "pre-transition debt" were references to "pre-reversion debt"; and

(g) "the taxpayer's elected functional currency" were references to "Canadian currency".

Application des par. (7) et (8) aux années de rétablissement

(12) Pour l'application de la présente loi à une année de rétablissement d'un contribuable, les modifications ci-après sont apportées aux paragraphes (7) et (8) :

a) le passage « en dollars canadiens » est remplacé par « dans la monnaie fonctionnelle choisie du contribuable »;

b) la mention « année de déclaration en monnaie canadienne » est remplacée par « année de déclaration en monnaie fonctionnelle »;

c) la mention « année de déclaration en monnaie fonctionnelle » est remplacée par « année de rétablissement »;

d) la mention « première année de déclaration en monnaie fonctionnelle » est remplacée par « première année de rétablissement »;

e) la mention « dernière année de déclaration en monnaie canadienne » est remplacée par « dernière année de déclaration en monnaie fonctionnelle »;

f) la mention « créance pré-transition » est remplacée par « créance pré-rétablissement »;

g) le passage « dans la monnaie fonctionnelle choisie du contribuable » est remplacé par « en dollars canadiens ».

Pre-reversion debts

(13) A pre-reversion debt of a taxpayer that is denominated in a currency other than Canadian currency is deemed to have been issued immediately before the taxpayer's first reversionary year for the purposes of

(a) determining the amount of the taxpayer's income, gain or loss, for a reversionary year of the taxpayer (other than an amount that subsection (14) deems to arise), that is attributable to a fluctuation in the value of a currency; and

(b) applying paragraph 80(2)(k) in respect of a reversionary year of the taxpayer.

Créances pré-rétablissement

(13) Toute créance pré-rétablissement d'un contribuable qui est libellée dans une monnaie autre que le dollar canadien est réputée avoir été émise immédiatement avant la première année de rétablissement du contribuable lorsqu'il s'agit, à la fois :

a) de calculer le montant de revenu, de gain ou de perte du contribuable pour son année de rétablissement (sauf s'il s'agit d'une somme qui est réputée prendre naissance selon le paragraphe (14)) qui est attribuable à la fluctuation de la valeur d'une monnaie;

b) d'appliquer l'alinéa 80(2)k) relativement à l'année de rétablissement du contribuable.

Deferred amounts relating to pre-reversion debts

(14) If a taxpayer has, at any time in a reversionary year of the taxpayer, made a particular payment on account of the principal amount of a pre-reversion debt of the taxpayer:

Sommes différées liées à des créances pré-rétablissement

(14) Si un contribuable a fait un paiement donné au titre du principal de sa créance pré-rétablissement au cours de son année de rétablissement, les règles suivantes s'appliquent :

(a) where the taxpayer would have made a gain — or, if the pre-reversion debt was not on account of capital, would have had income — (referred to in this paragraph as the "hypothetical gain or income") attributable to a fluctuation in the value of a currency if the pre-reversion debt had been settled by the taxpayer's having paid, immediately before the end of its last functional currency year, an amount equal to the principal amount (expressed in the currency in which the pre-reversion debt is denominated, which currency is referred to in this subsection as the "debt currency") at that time, the taxpayer is deemed to make a gain or to have income, as the case may be, for the reversionary year equal to the amount determined by the formula

A × B/C

where

A is the amount of the hypothetical gain or income converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last functional currency year,

B is the amount of the particular payment (expressed in the debt currency), and

C is the principal amount of the pre-reversion debt at the beginning of the taxpayer's first reversionary year (expressed in the debt currency); and

(b) where the taxpayer would have sustained a loss — or, if the pre-reversion debt was not on account of capital, would have had a loss — (referred to in this paragraph as the "hypothetical loss") attributable to a fluctuation in the value of a currency if the pre-reversion debt had been settled by the taxpayer's having paid, immediately before the end of its last functional currency year, an amount equal to the principal amount (expressed in the debt currency) at that time, the taxpayer is deemed to sustain or to have a loss in respect of the particular payment for the reversionary year equal to the amount that would be determined by the formula in paragraph (a) if the reference in the description of A in that paragraph to "hypothetical gain or income" were read as a reference to "hypothetical loss".

a) dans le cas où le contribuable aurait réalisé un gain ou, la créance n'étant pas au titre du capital, aurait eu un revenu (appelés « gain ou revenu hypothétique » au présent alinéa) attribuable à la fluctuation de la valeur d'une monnaie si la créance avait été réglée au moyen du paiement par lui, immédiatement avant la fin de sa dernière année de déclaration en monnaie fonctionnelle, d'une somme égale au principal (exprimé dans la monnaie dans laquelle la créance est libellée, appelée « monnaie de la créance » au présent paragraphe) à ce moment, le contribuable est réputé avoir réalisé un gain ou avoir eu un revenu, selon le cas, pour l'année de rétablissement égal à la somme obtenue par la formule suivante :

A × B/C

où :

A représente le montant du gain ou revenu hypothétique converti en dollars canadiens selon le taux de change au comptant affiché le dernier jour de la dernière année de déclaration en monnaie fonctionnelle du contribuable,

B le montant du paiement donné, exprimé dans la monnaie de la créance,

C le principal de la créance au début de la première année de rétablissement du contribuable, exprimé dans la monnaie de la créance;

b) dans le cas où le contribuable aurait subi une perte ou, la créance n'étant pas au titre du capital, aurait eu une perte (appelées « perte hypothétique » au présent alinéa) attribuable à la fluctuation de la valeur d'une monnaie si la créance avait été réglée au moyen du paiement par lui, immédiatement avant la fin de sa dernière année de déclaration en monnaie fonctionnelle, d'une somme égale au principal (exprimé dans la monnaie de la créance) à ce moment, le contribuable est réputé avoir subi une perte ou avoir eu une perte, selon le cas, relativement au paiement donné pour l'année de rétablissement égal à la somme qui serait obtenue par la formule figurant à l'alinéa a) si le passage « du gain ou revenu hypothétique » à l'élément A de cette formule était remplacé par « de la perte hypothétique ».

Debt parking — foreign exchange

(14.1) For the purposes of determining a taxpayer's gain under subsection (14), if at a particular time a pre-reversion debt of the taxpayer (referred to in this subsection as the ***debtor***) that is denominated in a currency other than the taxpayer's elected functional currency becomes a parked obligation (within the meaning assigned by subsection 39(2.02)), the debtor is deemed to have made, at

Remisage de dettes libellées en monnaie étrangère

(14.1) Aux fins du calcul du gain d'un contribuable en vertu du paragraphe (14), si, à un moment donné, une créance pré-rétablissement du contribuable (appelé ***débiteur*** au présent paragraphe) qui est libellée dans une monnaie autre que la monnaie fonctionnelle choisie du contribuable devient une ***dette remisée*** (au sens du paragraphe 39(2.02)), le débiteur est réputé avoir effectué, à ce moment, un paiement donné au titre du principal de

that time, a particular payment on account of the principal amount of the debt equal to

(a) if the debt has become a parked obligation at that particular time as a result of its acquisition by the holder of the debt, the portion of the amount paid by the holder to acquire the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time; and

(b) in any other case, the portion of the fair market value of the debt that can reasonably be considered to relate to the principal amount of the debt at the particular time.

Amounts carried back

(15) For the purposes of determining the amount that may be deducted, in respect of a particular amount that arises in a taxation year (referred to in this subsection as the "later year") of a taxpayer, under section 111 or subsection 126(2), 127(5), 181.1(4) or 190.1(3) in computing the taxpayer's Canadian tax results for a taxation year (referred to in this subsection as the "current year") that ended before the later year, and for the purposes of determining the amount by which the amount included under subsection 91(1) for the current year is reduced because of a reduction referred to in paragraph 152(6.1)(b) in respect of the later year,

(a) if the later year is a functional currency year of the taxpayer and the current year is a Canadian currency year of the taxpayer, the following amounts (expressed in the taxpayer's elected functional currency) are to be converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year:

(i) the particular amount, and

(ii) any amount so deducted in computing the taxpayer's Canadian tax results for another functional currency year of the taxpayer;

(b) if the later year is a reversionary year of the taxpayer and the current year is a functional currency year of the taxpayer,

(i) the following amounts (expressed in Canadian currency) are to be converted to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last functional currency year:

(A) the particular amount, and

la créance égal à celui des montants ci-après qui s'applique :

a) si la créance est devenue une dette remisée à ce moment en raison de son acquisition par le détenteur de la créance, le montant qui représente la partie du montant payé par le détenteur pour acquérir la créance qu'il est raisonnable de considérer comme se rapportant au principal de la créance à ce moment;

b) sinon, le montant qui représente la partie de la juste valeur marchande de la créance qu'il est raisonnable de considérer comme se rapportant au principal de la créance à ce moment.

Report de sommes

(15) Pour le calcul de la somme qui est déductible au titre d'une somme donnée qui prend naissance au cours d'une année d'imposition (appelée « année ultérieure » au présent paragraphe) d'un contribuable, en application de l'article 111 ou des paragraphes 126(2), 127(5), 181.1(4) ou 190.1(3), dans le calcul des résultats fiscaux canadiens du contribuable pour une année d'imposition (appelée « année courante » au présent paragraphe) s'étant terminée avant l'année ultérieure et pour le calcul de la somme appliquée en réduction de la somme incluse en application du paragraphe 91(1) pour l'année courante en raison de la réduction mentionnée à l'alinéa 152(6.1)b) relativement à l'année ultérieure, les règles ci-après s'appliquent :

a) si l'année ultérieure est une année de déclaration en monnaie fonctionnelle pour le contribuable et l'année courante, une année de déclaration en monnaie canadienne pour lui, les sommes ci-après, exprimées dans la monnaie fonctionnelle choisie du contribuable, sont converties en dollars canadiens selon le taux de change au comptant affiché le dernier jour de sa dernière année de déclaration en monnaie canadienne :

(i) la somme donnée,

(ii) toute somme ainsi déduite dans le calcul des résultats fiscaux canadiens du contribuable pour une autre de ses années de déclaration en monnaie fonctionnelle;

b) si l'année ultérieure est une année de rétablissement pour le contribuable et l'année courante, une année de déclaration en monnaie fonctionnelle pour lui :

(i) les sommes ci-après, exprimées en dollars canadiens, sont converties en leur équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le dernier

(B) any amount so deducted in computing the taxpayer's Canadian tax results for another reversionary year of the taxpayer, and

(ii) any amount (expressed in Canadian currency) so deducted in computing the taxpayer's Canadian tax results for a Canadian currency year of the taxpayer is to be converted to the taxpayer's elected functional currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year;

(c) if the later year is a reversionary year of the taxpayer and the current year is a Canadian currency year of the taxpayer, the following amounts (expressed in the taxpayer's elected functional currency) are to be converted to Canadian currency using the relevant spot rate for the last day of the taxpayer's last Canadian currency year:

(i) the amount that would be determined under clause (b)(i)(A) in respect of the particular amount if the current year were a functional currency year of the taxpayer, and

(ii) any amount so deducted in computing the taxpayer's Canadian tax results for a functional currency year of the taxpayer; and

(d) in any other case, this subsection does not apply.

jour de sa dernière année de déclaration en monnaie fonctionnelle :

(A) la somme donnée,

(B) toute somme ainsi déduite dans le calcul des résultats fiscaux canadiens du contribuable pour une autre de ses années de rétablissement,

(ii) toute somme, exprimée en dollars canadiens, ainsi déduite dans le calcul des résultats fiscaux canadiens du contribuable pour une de ses années de déclaration en monnaie canadienne est convertie en son équivalence dans la monnaie fonctionnelle choisie du contribuable selon le taux de change au comptant affiché le dernier jour de sa dernière année de déclaration en monnaie canadienne;

c) si l'année ultérieure est une année de rétablissement pour le contribuable et l'année courante, une année de déclaration en monnaie canadienne pour lui, les sommes ci-après, exprimées dans la monnaie fonctionnelle choisie du contribuable, sont converties en dollars canadiens selon le taux de change au comptant affiché le dernier jour de sa dernière année de déclaration en monnaie canadienne :

(i) la somme qui serait déterminée selon la division b)(i)(A) au titre de la somme donnée si l'année courante était une année de déclaration en monnaie fonctionnelle du contribuable,

(ii) toute somme ainsi déduite dans le calcul des résultats fiscaux canadiens du contribuable pour une de ses années de déclaration en monnaie fonctionnelle;

d) dans les autres cas, le présent paragraphe ne s'applique pas.

Windings-up

(16) If a winding-up described in subsection 88(1) commences at any time (referred to in this subsection as the "commencement time") and the parent and the subsidiary referred to in that subsection would, in the absence of this subsection, have different tax reporting currencies at the commencement time, the following rules apply for the purposes of determining the subsidiary's Canadian tax results for its taxation years that end after the commencement time:

(a) where the subsidiary's tax reporting currency is Canadian currency,

(i) notwithstanding subsection (3), subsection (5) is deemed to apply to the subsidiary in respect of its

Liquidation

(16) Dans le cas où une liquidation visée au paragraphe 88(1) commence à un moment donné (appelé « début de la liquidation » au présent paragraphe) et où la société mère et la filiale visées à ce paragraphe auraient, en l'absence du présent paragraphe, des monnaies de déclaration différentes à ce moment, les règles ci-après s'appliquent lorsqu'il s'agit de déterminer les résultats fiscaux canadiens de la filiale pour ses années d'imposition se terminant après ce moment :

a) dans le cas où la monnaie de déclaration de la filiale est le dollar canadien :

(i) malgré le paragraphe (3), le paragraphe (5) est réputé s'appliquer à la filiale pour son année

taxation year that includes the commencement time and each of its subsequent taxation years, if any,

(ii) the subsidiary is deemed to have as its elected functional currency the parent's tax reporting currency, and

(iii) if the subsidiary's taxation year that includes the commencement time would, in the absence of this subsection, be a reversionary year of the subsidiary, this section is to be read with any modifications that the circumstances require; and

(b) where the subsidiary's tax reporting currency is not Canadian currency,

(i) the subsidiary is deemed to have filed, at the time that is six months and one day before the beginning of its taxation year that includes the commencement time, in prescribed form and manner, a notice of revocation described in subsection (4), and

(ii) if the parent's tax reporting currency is not Canadian currency,

(A) the subsidiary's first reversionary year is deemed to have ended at the particular time that is immediately after the time at which it began,

(B) a new taxation year of the subsidiary is deemed to have begun immediately after the particular time,

(C) notwithstanding subsection (3), subsection (5) is deemed to apply to the subsidiary in respect of its taxation year that includes the commencement time and each of its subsequent taxation years, if any, and

(D) the subsidiary is deemed to have as its elected functional currency the parent's tax reporting currency.

d'imposition qui comprend le début de la liquidation et pour chacune de ses années d'imposition postérieures,

(ii) la monnaie fonctionnelle choisie de la filiale est réputée correspondre à la monnaie de déclaration de la société mère,

(iii) dans le cas où l'année d'imposition de la filiale qui comprend le début de la liquidation serait une année de rétablissement en l'absence du présent paragraphe, le présent article s'applique avec les adaptations nécessaires;

b) dans le cas contraire :

(i) la filiale est réputée avoir produit, à la date qui précède de six mois et un jour le début de son année d'imposition qui comprend le début de la liquidation, l'avis de révocation visé au paragraphe (4) selon le formulaire prescrit et les modalités prescrites,

(ii) si la monnaie de déclaration de la société mère n'est pas le dollar canadien :

(A) la première année de rétablissement de la filiale est réputée avoir pris fin au moment qui suit immédiatement son début,

(B) une nouvelle année d'imposition de la filiale est réputée avoir commencé immédiatement après ce moment,

(C) malgré le paragraphe (3), le paragraphe (5) est réputé s'appliquer à la filiale pour son année d'imposition qui comprend le début de la liquidation et pour chacune de ses années d'imposition postérieures,

(D) la monnaie fonctionnelle choisie de la filiale est réputée correspondre à la monnaie de déclaration de la société mère.

Amalgamations

(17) If a predecessor corporation and the new corporation, in respect of an amalgamation within the meaning of subsection 87(1), have different tax reporting currencies for their last and first taxation years, respectively, paragraphs (16)(a) and (b) apply, for the purposes of determining the predecessor corporation's Canadian tax results for its last taxation year, as if the tax reporting currencies referred to in those paragraphs were the tax reporting currencies referred to in this subsection and as if the references in those paragraphs to

Fusion

(17) Si une société remplacée et la nouvelle société issue d'une fusion, au sens du paragraphe 87(1), ont des monnaies de déclaration différentes pour leurs dernière et première années d'imposition respectivement, les alinéas (16)a) et b) s'appliquent au calcul des résultats fiscaux canadiens de la société remplacée pour sa dernière année d'imposition comme si les monnaies de déclaration visées à ces alinéas étaient celles visées au présent paragraphe. De plus, les modifications ci-après sont apportées à ces alinéas :

(a) "subsidiary" were references to "predecessor corporation";

(b) "parent" were references to "new corporation"; and

(c) "taxation year that includes the commencement time" were references to "last taxation year".

a) la mention « filiale » est remplacée par « société remplacée »;

b) la mention « société mère » est remplacée par « nouvelle société »;

c) les passages « son année d'imposition qui comprend le début de la liquidation » et « l'année d'imposition de la filiale qui comprend le début de la liquidation » sont respectivement remplacés par « sa dernière année d'imposition » et « la dernière année d'imposition de la société remplacée ».

Amalgamation — deemed application of subsection (5)

(17.1) Notwithstanding subsection (3), if each predecessor corporation in respect of an amalgamation (within the meaning assigned by subsection 87(1)) has the same elected functional currency for its last taxation year, then, unless a predecessor corporation has filed a notice of revocation under subsection (4) on or before the day that is six months before the end of its last taxation year,

(a) the new corporation formed as a result of the amalgamation is deemed to have made an election under paragraph (3)(b) and to have filed that election on the first day of its first taxation year; and

(b) that elected functional currency is deemed to be the new corporation's functional currency for its first taxation year.

Fusion — application réputée du paragraphe (5)

(17.1) Malgré le paragraphe (3), si les sociétés remplacées dans le cadre d'une fusion, au sens du paragraphe 87(1), ont la même monnaie fonctionnelle choisie pour leur dernière année d'imposition, les règles ci-après s'appliquent à moins qu'une d'elles n'ait produit un avis de révocation en vertu du paragraphe (4) au plus tard le jour qui précède de six mois la fin de sa dernière année d'imposition :

a) la société issue de la fusion est réputée avoir fait le choix prévu à l'alinéa (3)b) dans un document produit le premier jour de sa première année d'imposition;

b) la monnaie fonctionnelle choisie en cause est réputée être la monnaie fonctionnelle de la nouvelle société pour sa première année d'imposition.

Anti-avoidance

(18) The Canadian tax results of a corporation for any one or more taxation years shall be determined using a particular currency if

(a) at any time (referred to in this subsection as the "transfer time") one or more properties are directly or indirectly transferred

(i) by the corporation to another corporation (referred to in this subsection as the "transferor" and the "transferee", respectively), or

(ii) by another corporation to the corporation (referred to in this subsection as the "transferor" and the "transferee", respectively);

(b) the transferor and the transferee are related at the transfer time or become related in the course of a series of transactions or events that includes the transfer;

(c) the transfer time

Anti-évitement

(18) Les résultats fiscaux canadiens d'une société pour une ou plusieurs années d'imposition sont déterminés dans une monnaie donnée si, à la fois :

a) un ou plusieurs biens sont transférés directement ou indirectement :

(i) soit par la société à une autre société (appelées respectivement « cédant » et « cessionnaire » au présent paragraphe),

(ii) soit par une autre société à la société (appelées respectivement « cédant » et « cessionnaire » au présent paragraphe);

b) le cédant et le cessionnaire sont liés au moment du transfert ou le deviennent dans le cadre d'une série d'opérations ou d'événements comprenant le transfert;

c) selon le cas :

(i) is, or would in the absence of subsections (16) and (17) be, in a functional currency year of the transferor and the transferor and the transferee have, or would in the absence of those subsections have, different tax reporting currencies at the transfer time, or

(ii) is, or would in the absence of those subsections be, in a reversionary year of the transferor and is not in a reversionary year of the transferee;

(d) it can reasonably be considered that one of the main purposes of the transfer or of any portion of a series of transactions or events that includes the transfer is to change, or to enable the changing of, the currency in which the Canadian tax results in respect of the property, or property substituted for it, for a taxation year would otherwise be determined; and

(e) the Minister directs that those Canadian tax results be determined in the particular currency.

(i) le moment du transfert est compris dans une année de déclaration en monnaie fonctionnelle du cédant, ou le serait en l'absence des paragraphes (16) et (17), et le cédant et le cessionnaire ont ou auraient, en l'absence de ces paragraphes, des monnaies de déclaration différentes à ce moment,

(ii) le moment du transfert est compris dans une année de rétablissement du cédant, ou le serait en l'absence de ces paragraphes, et n'est pas compris dans une année de rétablissement du cessionnaire;

d) il est raisonnable de considérer que l'un des principaux objets du transfert ou d'une partie quelconque d'une série d'opérations ou d'événements comprenant le transfert consiste à changer, ou à permettre de changer, la monnaie dans laquelle seraient déterminés par ailleurs les résultats fiscaux canadiens relatifs aux biens, ou à des biens de remplacement, pour une année d'imposition;

e) le ministre ordonne que ces résultats fiscaux canadiens soient déterminés dans la monnaie donnée.

Mergers

(19) For the purposes of subsection (18), if one corporate entity (referred to in this subsection as the "new corporation") is formed at a particular time by the amalgamation or other merger of two or more corporations (each of which is referred to in this subsection as a "predecessor corporation"),

(a) the predecessor corporation is deemed to have transferred to the new corporation at the time (referred to in this subsection as the "merger transfer time") that is immediately before the particular time each property that was held at the merger transfer time by the predecessor corporation and at the particular time by the new corporation;

(b) the new corporation is deemed to exist, and to be related to the predecessor corporation, at the merger transfer time; and

(c) the new corporation is deemed to have as its tax reporting currency at the merger transfer time its tax reporting currency at the particular time.

Fusion

(19) Pour l'application du paragraphe (18), si une société (appelée « nouvelle société » au présent paragraphe) est issue, à un moment donné, de la fusion ou autre unification de plusieurs sociétés (appelées chacune « société remplacée » au présent paragraphe), les règles suivantes s'appliquent :

a) la société remplacée est réputée avoir transféré à la nouvelle société, au moment (appelé « moment du transfert » au présent paragraphe) qui précède immédiatement le moment donné, chaque bien qu'elle détenait au moment du transfert et que détenait au moment donné la nouvelle société;

b) la nouvelle société est réputée exister, et être liée à la société remplacée, au moment du transfert;

c) la monnaie de déclaration de la nouvelle société au moment du transfert est réputée correspondre à sa monnaie de déclaration au moment donné.

Application of subsection (21)

(20) Subsection (21) applies in determining a taxpayer's income, gain or loss for a taxation year in respect of a transaction (referred to in this subsection and subsection (21) as a "specified transaction") if

(a) the specified transaction was entered into, directly or indirectly, at any time by the taxpayer and a

Application du par. (21)

(20) Le paragraphe (21) s'applique au calcul du revenu, du gain ou de la perte d'un contribuable pour une année d'imposition relativement à une opération (appelée « opération déterminée » au présent paragraphe et au paragraphe (21)) dans le cas où, à la fois :

corporation (referred to in this subsection as the "related corporation") to which the taxpayer is at that time related;

(b) the taxpayer and the related corporation had different tax reporting currencies at any time during the period (referred to in this subsection as the "accrual period") in which the income, gain or loss accrued; and

(c) it would, in the absence of this subsection and subsection (21), be reasonable to consider that a fluctuation at any time in the accrual period in the value of the taxpayer's tax reporting currency relative to the value of the related corporation's tax reporting currency

(i) increased the taxpayer's loss in respect of the specified transaction,

(ii) reduced the taxpayer's income or gain in respect of the specified transaction, or

(iii) caused the taxpayer to have a loss, instead of income or a gain, in respect of the specified transaction.

a) l'opération déterminée a été conclue, directement ou indirectement, par le contribuable et une société (appelée « société liée » au présent paragraphe) à laquelle le contribuable est liée au moment de la conclusion de l'opération;

b) le contribuable et la société liée avaient des monnaies de déclaration différentes au cours de la période (appelée « période d'accumulation » au présent paragraphe) dans laquelle le revenu, le gain ou la perte s'est accumulé;

c) en l'absence du présent paragraphe et du paragraphe (21), il serait raisonnable de considérer qu'une fluctuation au cours de la période d'accumulation de la valeur de la monnaie de déclaration du contribuable par rapport à la valeur de la monnaie de déclaration de la société liée a eu pour effet :

(i) d'accroître la perte du contribuable relativement à l'opération déterminée,

(ii) de réduire le revenu ou le gain du contribuable relativement à l'opération déterminée,

(iii) de faire subir une perte au contribuable, et non de lui faire réaliser un revenu ou un gain, relativement à l'opération déterminée.

Income, gain or loss determinations

(21) If this subsection applies, each fluctuation in value referred to in paragraph (20)(c) is, for the purposes of determining the taxpayer's income, gain or loss in respect of the specified transaction and notwithstanding any other provision of this Act, deemed not to have occurred.

Calcul du revenu, du gain ou de la perte

(21) En cas d'application du présent paragraphe, chaque fluctuation de valeur mentionnée à l'alinéa (20)c) est réputée ne pas s'être produite lorsqu'il s'agit de déterminer le revenu, le gain ou la perte du contribuable relativement à l'opération déterminée et malgré toute autre disposition de la présente loi.

Partnership transactions

(22) For the purposes of this subsection and subsections (18) to (21),

(a) if a property is directly or indirectly transferred to or by a partnership, the property is deemed to have been transferred to or by (as the case may be) each member of the partnership; and

(b) if a partnership is a party to a transaction, each member of the partnership is deemed to be that party to that transaction.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 67; 2009, c. 2, s. 80; 2013, c. 34, ss. 38, 77; 2014, c. 39, s. 77; 2016, c. 12, s. 69.

Opérations de sociétés de personnes

(22) Pour l'application du présent paragraphe et des paragraphes (18) à (21) :

a) le bien qui est transféré directement ou indirectement à ou par une société de personnes est réputé avoir été transféré, selon le cas, à ou par chaque associé de la société de personnes;

b) si une société de personnes est partie à une opération, chacun de ses associés est réputé en être partie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 67; 2009, ch. 2, art. 80; 2013, ch. 34, art. 38 et 77; 2014, ch. 39, art. 77; 2016, ch. 12, art. 69.

Authority to designate stock exchange

262 (1) The Minister of Finance may designate a stock exchange, or a part of a stock exchange, for the purposes of this Act.

Revocation of designation

(2) The Minister of Finance may revoke the designation of a stock exchange, or a part of a stock exchange, designated under subsection (1).

Timing

(3) A designation under subsection (1) or a revocation under subsection (2) shall specify the time at and after which it is in effect, which time may, for greater certainty, precede the time at which the designation or revocation is made.

Publication

(4) The Minister of Finance shall cause to be published, by posting on the Internet website of the Department of Finance or by any other means that the Minister of Finance considers appropriate, the names of those stock exchanges, or parts of stock exchanges, as the case may be, that are or at any time were designated under subsection (1).

Transition

(5) The Minister of Finance is deemed to have designated under subsection (1) each stock exchange and each part of a stock exchange that was, immediately before the day on which this section came into force, a prescribed stock exchange, with effect on and after that day.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2007, c. 35, s. 67.

Pouvoir de désignation

262 (1) Le ministre des Finances peut désigner une bourse de valeurs, ou une partie de bourse de valeurs, pour l'application de la présente loi.

Révocation

(2) Le ministre des Finances peut révoquer la désignation d'une bourse de valeurs ou d'une partie de bourse de valeurs.

Délai

(3) La date de prise d'effet de la désignation visée au paragraphe (1) ou de la révocation visée au paragraphe (2) est précisée dans le document les concernant. Il est entendu que cette date peut être antérieure à celle de la désignation ou de la révocation.

Publication

(4) Le ministre des Finances fait publier, sur le site Internet du ministère des Finances ou par tout autre moyen qu'il estime indiqué, le nom des bourses de valeurs, ou des parties de bourses de valeurs, selon le cas, qui sont ou ont été, à un moment quelconque, désignées en application du paragraphe (1).

Transition

(5) Le ministre des Finances est réputé avoir désigné en application du paragraphe (1) chaque bourse de valeurs et chaque partie de bourse de valeurs qui était, immédiatement avant la date d'entrée en vigueur du présent article, une bourse de valeurs visée par règlement. Cette désignation prend effet à cette date.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2007, ch. 35, art. 67.

PART XVIII

Enhanced International Information Reporting

Definitions

263 (1) The following definitions apply in this Part.

agreement has the same meaning as in section 2 of the *Canada–United States Enhanced Tax Information Exchange Agreement Implementation Act*. (*accord*)

electronic filing means using electronic media in a manner specified by the Minister. (*transmission électronique*)

PARTIE XVIII

Processus élargi de déclaration de renseignements

Définitions

263 (1) Les définitions qui suivent s'appliquent à la présente partie.

accord S'entend au sens de l'article 2 de la *Loi de mise en œuvre de l'Accord Canada–États-Unis pour un meilleur échange de renseignements fiscaux*. (*agreement*)

compte déclarable américain Compte financier qui, selon l'accord, doit être considéré comme un compte déclarable américain. (*U.S. reportable account*)

listed financial institution means a financial institution that is

(a) an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada, or a bank to which that Act applies;

(b) a cooperative credit society, a savings and credit union or a caisse populaire regulated by a provincial Act;

(c) an association regulated by the *Cooperative Credit Associations Act*;

(d) a central cooperative credit society, as defined in section 2 of the *Cooperative Credit Associations Act*, or a credit union central or a federation of credit unions or caisses populaires that is regulated by a provincial Act other than one enacted by the legislature of Quebec;

(e) a financial services cooperative regulated by *An Act respecting financial services cooperatives*, R.S.Q., c. C-67.3, or *An Act respecting the Mouvement Desjardins*, S.Q. 2000, c. 77;

(f) a life company or a foreign life company to which the *Insurance Companies Act* applies or a life insurance company regulated by a provincial Act;

(g) a company to which the *Trust and Loan Companies Act* applies;

(h) a trust company regulated by a provincial Act;

(i) a loan company regulated by a provincial Act;

(j) an entity authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments, or to provide portfolio management, investment advising, fund administration, or fund management, services;

(k) an entity that is represented or promoted to the public as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund or similar investment vehicle that is established to invest or trade in financial assets and that is managed by an entity referred to in paragraph (j);

(l) an entity that is a clearing house or clearing agency; or

institution financière canadienne non déclarante Toute institution financière canadienne ou autre entité résidant au Canada qui, selon le cas :

a) est visée à l'une des sous-sections C, D et G à J de la section III de l'annexe II de l'accord;

b) démontre de façon adéquate qu'elle est visée à l'une des sous-sections A, B, E et F de la section III de l'annexe II de l'accord;

c) remplit les conditions nécessaires pour être un bénéficiaire effectif exempté selon les dispositions applicables des *Treasury Regulations* des États-Unis en vigueur à la date de la signature de l'accord;

d) démontre de façon adéquate qu'elle remplit les conditions nécessaires pour être une IFE réputée conforme, au sens donné au terme *deemed-compliant FFI* dans les dispositions applicables des *Treasury Regulations* des États-Unis en vigueur à la date de la signature de l'accord. (*non-reporting Canadian financial institution*)

institution financière particulière Institution financière qui est, selon le cas :

a) une banque régie par la *Loi sur les banques* ou une banque étrangère autorisée, au sens de l'article 2 de cette loi, dans le cadre des activités que cette dernière exerce au Canada;

b) une coopérative de crédit, une caisse d'épargne et de crédit ou une caisse populaire régie par une loi provinciale;

c) une association régie par la *Loi sur les associations coopératives de crédit*;

d) une coopérative de crédit centrale, au sens de l'article 2 de la *Loi sur les associations coopératives de crédit*, ou une centrale de caisses de crédit ou une fédération de caisses de crédit ou de caisses populaires régie par une loi provinciale autre qu'une loi édictée par la législature du Québec;

e) une coopérative de services financiers régie par la *Loi sur les coopératives de services financiers*, L.R.Q., ch. C-67.3, ou la *Loi sur le Mouvement Desjardins*, L.Q. 2000, ch. 77;

f) une société d'assurance-vie ou une société d'assurance-vie étrangère régie par la *Loi sur les sociétés d'assurances* ou une société d'assurance-vie régie par une loi provinciale;

(m) a department or an agent of Her Majesty in right of Canada or of a province that is engaged in the business of accepting deposit liabilities. (*institution financière particulière*)

non-reporting Canadian financial institution means any Canadian financial institution or other entity resident in Canada that

(a) is described in any of paragraphs C, D and G to J of section III of Annex II to the agreement;

(b) makes a reasonable determination that it is described in any of paragraphs A, B, E and F of section III of Annex II to the agreement;

(c) qualifies as an exempt beneficial owner under relevant U.S. Treasury Regulations in effect on the date of signature of the agreement; or

(d) makes a reasonable determination that it qualifies as a deemed-compliant FFI under relevant U.S. Treasury Regulations in effect on the date of signature of the agreement. (*institution financière canadienne non déclarante*)

U.S. reportable account means a financial account that, under the agreement, is to be treated as a U.S. reportable account. (*compte déclarable américain*)

g) une société régie par la *Loi sur les sociétés de fiducie et de prêt*;

h) une société de fiducie régie par une loi provinciale;

i) une société de prêt régie par une loi provinciale;

j) une entité autorisée en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou d'autres instruments financiers ou à fournir des services de gestion de portefeuille, de conseils en placement, d'administration de fonds ou de gestion de fonds;

k) une entité qui est présentée au public comme étant un mécanisme de placement collectif, un fonds commun de placement, un fonds négocié en bourse, un fonds de capital-investissement, un fonds spéculatif, un fonds de capital-risque, un fonds de rachat d'entreprise par effet de levier ou un mécanisme de placement similaire qui est établi pour faire des investissements dans des actifs financiers, ou le commerce de tels actifs, et qui est géré par une entité visée à l'alinéa j);

l) une entité qui est une chambre ou une agence de compensation;

m) un ministère ou un mandataire de Sa Majesté du chef du Canada ou d'une province qui se livre à l'acceptation de dépôts. (*listed financial institution*)

transmission électronique La transmission de documents par voie électronique selon les modalités établies par le ministre. (*electronic filing*)

Financial institution

(2) For the purposes of this Part, ***Canadian financial institution*** and ***reporting Canadian financial institution*** each have the meaning that would be assigned by the agreement, and the definition ***non-reporting Canadian financial institution*** in subsection (1) has the meaning that would be assigned by that subsection, if the definition ***Financial Institution*** in subparagraph 1(g) of Article 1 of the agreement were read as follows:

g) The term ***Financial Institution*** means any Entity that is a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company, and that is a listed financial institution within the meaning of Part XVIII of the *Income Tax Act*.

Institution financière

(2) Pour l'application de la présente partie, les termes ***institution financière canadienne*** et ***institution financière canadienne déclarante*** ont le sens qui leur serait donné dans l'accord et le terme ***institution financière canadienne non déclarante***, au paragraphe (1), a le sens qui lui serait donné par ce paragraphe si la définition de ***institution financière***, à l'alinéa 1g) de l'article 1 de l'accord, avait le libellé suivant :

g) Le terme ***institution financière*** désigne une entité — établissement de garde de valeurs, établissement de dépôt, entité d'investissement ou compagnie d'assurance particulière — qui est une institution financière particulière au sens de la partie XVIII de la *Loi de l'impôt sur le revenu*.

Financial account

(3) For the purposes of this Part, the agreement is to be read as if the definition ***Financial Account*** in

Compte financier

(3) Pour l'application de la présente partie, l'accord s'applique comme si le sous-alinéa ci-après figurait après le

subparagraph 1(s) of Article 1 of the agreement included the following subparagraph after subparagraph (1):

(1.1) an account that is a client name account maintained by a person or entity that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments, or to provide portfolio management or investment advising services.

sous-alinéa (1) de la définition de ***compte financier***, à l'alinéa 1s) de l'article 1 de l'accord :

(1.1) un compte qui est un compte de nom de client tenu par une personne ou une entité qui est autorisée en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou d'autres instruments financiers ou à fournir des services de gestion de portefeuille ou de conseils en placement;

Identification number

(4) For the purposes of this Part, a reference in the agreement to "Canadian TIN" or "taxpayer identification number" is to be read as including a reference to Social Insurance Number.

Numéro d'identification

(4) Pour l'application de la présente partie, les mentions « NIF canadien » et « numéro d'identification fiscal » figurant dans l'accord valent également mention du numéro d'assurance sociale.

Term defined in agreement

(5) In this Part, a term has the meaning that is defined in, or assigned by, the agreement unless the term is defined in this Part.

Terminologie

(5) Pour l'application de la présente partie, les termes qui n'y sont pas définis s'entendent au sens de l'accord.

Amending instrument

(6) No person shall be liable for a failure to comply with a duty or obligation imposed by this Act that results from an amendment to the agreement unless at the date of the alleged failure,

(a) the text of the instrument that effected the amendment had been published in the *Canada Gazette*; or

(b) reasonable steps had been taken to bring the purport of the amendment to the notice of those persons likely to be affected by it.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101.

Texte modificatif

(6) Nul n'encourt de responsabilité pour ne pas s'être conformé à une obligation imposée par la présente loi qui découle d'une modification apportée à l'accord, sauf si, à la date du prétendu manquement, selon le cas :

a) le texte de la modification avait été publié dans la *Gazette du Canada*;

b) des mesures raisonnables avaient été prises pour que les intéressés soient informés de la teneur de la modification.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101.

Designation of account

264 (1) Subject to subsection (2), a reporting Canadian financial institution may designate a financial account to not be a U.S. reportable account for a calendar year if the account is

(a) a preexisting individual account described in paragraph A of section II of Annex I to the agreement;

(b) a new individual account described in paragraph A of section III of Annex I to the agreement;

(c) a preexisting entity account described in paragraph A of section IV of Annex I to the agreement; or

(d) a new entity account described in paragraph A of section V of Annex I to the agreement.

Désignation de comptes

264 (1) Sous réserve du paragraphe (2), les comptes financiers ci-après peuvent être désignés par une institution financière canadienne déclarante comme n'étant pas des comptes déclarables américains pour une année civile :

a) les comptes de particuliers préexistants visés à la sous-section A de la section II de l'annexe I de l'accord;

b) les nouveaux comptes de particuliers visés à la sous-section A de la section III de l'annexe I de l'accord;

c) les comptes d'entités préexistants visés à la sous-section A de la section IV de l'annexe I de l'accord;

d) les nouveaux comptes d'entités visés à la sous-section A de la section V de l'annexe I de l'accord.

U.S. reportable account

(2) A reporting Canadian financial institution may not designate a financial account for a calendar year unless the account is part of a clearly identifiable group of accounts all of which are designated for the year.

Applicable rules

(3) The rules in paragraph C of section VI of Annex I to the agreement apply in determining whether a financial account is described in any of paragraphs (1)(a) to (d).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101.

Identification obligation — financial accounts

265 (1) Every reporting Canadian financial institution shall establish, maintain and document the due diligence procedures set out in subsections (2) and (3).

Due diligence — general

(2) Every reporting Canadian financial institution shall have the following due diligence procedures:

(a) for preexisting individual accounts that are lower value accounts, other than accounts described in paragraph A of section II of Annex I to the agreement, the procedures described in paragraphs B and C of that section, subject to paragraph F of that section;

(b) for preexisting individual accounts that are high value accounts, other than accounts described in paragraph A of section II of Annex I to the agreement, the procedures described in paragraphs D and E of that section, subject to paragraph F of that section;

(c) for new individual accounts, other than accounts described in paragraph A of section III of Annex I to the agreement, the procedures described in paragraph B of section III of Annex I to the agreement;

(d) for preexisting entity accounts, other than accounts described in paragraph A of section IV of Annex I to the agreement, the procedures described in paragraphs D and E of that section; and

(e) for new entity accounts, other than accounts described in paragraph A of section V of Annex I to the agreement, the procedures described in paragraphs B to E of that section.

Compte déclarable américain

(2) Une institution financière canadienne déclarante ne peut désigner un compte financier pour une année civile que s'il fait partie d'un groupe de comptes clairement identifiable qui sont tous désignés pour l'année.

Règles applicables

(3) Les règles énoncées à la sous-section C de la section VI de l'annexe I de l'accord s'appliquent pour déterminer si un compte financier est visé à l'un des alinéas (1)a) à d).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101.

Obligation d'identification — comptes financiers

265 (1) Toute institution financière canadienne déclarante est tenue d'établir, de tenir à jour et de documenter les procédures de diligence raisonnable visées aux paragraphes (2) et (3).

Diligence raisonnable — généralités

(2) Toute institution financière canadienne déclarante est tenue de se doter des procédures de diligence raisonnable suivantes :

a) s'agissant de comptes de particuliers préexistants qui sont des comptes de faible valeur, à l'exception des comptes visés à la sous-section A de la section II de l'annexe I de l'accord, les procédures exposées aux sous-sections B et C de cette section, sous réserve de la sous-section F de cette section;

b) s'agissant de comptes de particuliers préexistants qui sont des comptes de valeur élevée, à l'exception des comptes visés à la sous-section A de la section II de l'annexe I de l'accord, les procédures exposées aux sous-sections D et E de cette section, sous réserve de la sous-section F de cette section;

c) s'agissant de nouveaux comptes de particuliers, à l'exception des comptes visés à la sous-section A de la section III de l'annexe I de l'accord, les procédures exposées à la sous-section B de cette section;

d) s'agissant de comptes d'entités préexistants, à l'exception des comptes visés à la sous-section A de la section IV de l'annexe I de l'accord, les procédures exposées aux sous-sections D et E de cette section;

e) s'agissant de nouveaux comptes d'entités, à l'exception des comptes visés à la sous-section A de la section V de l'annexe I de l'accord, les procédures exposées aux sous-sections B à E de cette section.

Due diligence — no designation

(3) If a reporting Canadian financial institution does not designate a financial account under subsection 264(1) for a calendar year, the institution shall have the following due diligence procedures with respect to the account:

(a) if the account is a preexisting individual account described in paragraph A of section II of Annex I to the agreement, the procedures described in paragraphs B and C of that section, subject to paragraph F of that section;

(b) if the account is a new individual account described in paragraph A of section III of Annex I to the agreement, the procedures described in paragraph B of section III of Annex I to the agreement;

(c) if the account is a preexisting entity account described in paragraph A of section IV of Annex I to the agreement, the procedures described in paragraphs D and E of that section; and

(d) if the account is a new entity account described in paragraph A of section V of Annex I to the agreement, the procedures described in paragraphs B to E of that section.

Rules and definitions

(4) For the purposes of subsections (2) and (3), subparagraphs B(1) to (3) of section I, and section VI, of Annex I to the agreement apply except that

(a) in applying paragraph C of that section VI, an account balance that has a negative value is deemed to be nil; and

(b) the definition ***NFFE*** in subparagraph B(2) of that section VI is to be read as follows:

2 NFFE

An ***NFFE*** means any Non-U.S. Entity that is not an FFI as defined in relevant U.S. Treasury Regulations or is an Entity described in subparagraph B(4)(j) of this section, and also includes any Non-U.S. Entity

a) that is resident in Canada and is not a listed financial institution within the meaning of Part XVIII of the *Income Tax Act*; or

b) that is resident in a Partner Jurisdiction other than Canada and is not a Financial Institution.

Diligence raisonnable — comptes non désignés

(3) L'institution financière canadienne déclarante qui ne désigne pas un compte financier en application du paragraphe 264(1) pour une année civile est tenue de se doter des procédures de diligence raisonnable ci-après à l'égard du compte :

a) s'agissant d'un compte de particulier préexistant visé à la sous-section A de la section II de l'annexe I de l'accord, les procédures exposées aux sous-sections B et C de cette section, sous réserve de la sous-section F de cette section;

b) s'agissant d'un nouveau compte de particulier visé à la sous-section A de la section III de l'annexe I de l'accord, les procédures exposées à la sous-section B de cette section;

c) s'agissant d'un compte d'entité préexistant visé à la sous-section A de la section IV de l'annexe I de l'accord, les procédures exposées aux sous-sections D et E de cette section;

d) s'agissant d'un nouveau compte d'entité visé à la sous-section A de la section V de l'annexe I de l'accord, les procédures exposées aux sous-sections B à E de cette section.

Règles et définitions

(4) Les paragraphes 1 à 3 de la sous-section B de la section I de l'annexe I de l'accord ainsi que la section VI de cette annexe s'appliquent dans le cadre des paragraphes (2) et (3). Toutefois :

a) pour l'application de la sous-section C de cette section VI, le compte dont le solde est négatif est réputé avoir un solde nul;

b) la définition de ***EENF*** au paragraphe 2 de la sous-section B de cette section VI est réputée avoir le libellé suivant :

2 EENF

Le terme ***EENF*** (entité étrangère non financière) désigne toute entité non américaine qui n'est pas une IFE, au sens donné au terme ***FFI*** dans les *Treasury Regulations* des États-Unis, ou qui est une entité visée à l'alinéa 4j) de la sous-section B de la présente section. Il comprend toute entité non américaine qui, selon le cas :

a) réside au Canada et n'est pas une institution financière particulière au sens de la partie XVIII de la *Loi de l'impôt sur le revenu*;

b) réside dans une juridiction partenaire autre que le Canada et n'est pas une institution financière.

U.S. indicia

(5) For the purposes of paragraphs (2)(a) and (b), subparagraph (2)(c)(ii), paragraph (3)(a) and subparagraph (3)(b)(ii), subparagraph B(3) of section II of Annex I to the agreement is to be read as follows:

3 If any of the U.S indicia listed in subparagraph B(1) of this section are discovered in the electronic search, or if there is a change in circumstances that results in one or more U.S. indicia being associated with the account, then the Reporting Canadian Financial Institution must seek to obtain or review the information described in the portion of subparagraph B(4) of this section that is relevant in the circumstances and must treat the account as a U.S. Reportable Account unless one of the exceptions in subparagraph B(4) applies with respect to that account.

Indices américains

(5) Pour l'application des alinéas (2)a) et b), du sous-alinéa (2)c)(ii), de l'alinéa (3)a) et du sous-alinéa (3)b)(ii), le paragraphe 3 de la sous-section B de la section II de l'annexe I de l'accord est réputé avoir le libellé suivant :

3 Si l'examen des données par voie électronique révèle la présence de l'un quelconque des indices américains énumérés au paragraphe 1 de la sous-section B de la présente section ou s'il se produit un changement de circonstances ayant pour conséquence qu'un ou plusieurs indices américains sont associés au compte, l'institution financière canadienne déclarante doit examiner ou tenter d'obtenir les renseignements visés dans la partie du paragraphe 4 de la sous-section B de la présente section qui s'applique dans les circonstances et doit considérer le compte comme un compte déclarable américain, à moins que l'une des exceptions figurant à ce paragraphe 4 s'applique à ce compte.

Financial institution

(6) For the purpose of applying the procedures referred to in paragraphs (2)(d) and (e) and (3)(c) and (d) to a financial account of an account holder that is resident in Canada, the definition *Financial Institution* in subparagraph 1(g) of Article 1 of the agreement is to be read as follows:

g) The term ***Financial Institution*** means any Entity that is a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company, and that is a listed financial institution within the meaning of Part XVIII of the *Income Tax Act*.

Institution financière

(6) Pour l'application des procédures mentionnées aux alinéas (2)d) et e) et (3)c) et d) au compte financier d'un titulaire de compte qui réside au Canada, la définition de *institution financière*, à l'alinéa 1g) de l'article 1 de l'accord, est réputée avoir le libellé suivant :

g) Le terme ***institution financière*** désigne une entité — établissement de garde de valeurs, établissement de dépôt, entité d'investissement ou compagnie d'assurance particulière — qui est une institution financière particulière au sens de la partie XVIII de la *Loi de l'impôt sur le revenu*.

Dealer accounts

(7) Subsection (8) applies to a reporting Canadian financial institution in respect of a client name account maintained by the institution if

(a) property recorded in the account is also recorded in a financial account (in this subsection and subsection (8) referred to as the "related account") maintained by a financial institution (in this subsection and subsection (8) referred to as the "dealer") that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instrument, or to provide portfolio management or investment advising services; and

(b) the dealer has advised the institution whether the related account is a U.S. reportable account.

Comptes de courtiers

(7) Le paragraphe (8) s'applique à une institution financière canadienne déclarante relativement à un compte de nom de client qu'elle tient si, à la fois :

a) les biens portés au compte sont également portés à un compte financier (appelé « compte connexe » au présent paragraphe et au paragraphe (8)) tenu par une institution financière (appelée « courtier » à ces mêmes paragraphes) qui est autorisée en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou d'autres instruments financiers ou à fournir des services de gestion de portefeuille ou de conseils en placement;

b) le courtier a fait savoir à l'institution financière si le compte connexe est un compte déclarable américain.

However, subsection (8) does not apply if it can reasonably be concluded by the institution that the dealer has failed to comply with its obligations under this section.

Dealer accounts

(8) If this subsection applies to a reporting Canadian financial institution in respect of a client name account,

(a) subsections (1) to (4) do not apply to the institution in respect of the account; and

(b) the institution shall rely on the determination of the dealer in respect of the related account in determining whether the account is a U.S. reportable account.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101; 2016, c. 12, s. 70.

Reporting — U.S. reportable accounts

266 (1) Every reporting Canadian financial institution shall file with the Minister, before May 2 of each calendar year, an information return in prescribed form relating to each U.S. reportable account maintained by the institution at any time during the immediately preceding calendar year and after June 29, 2014.

Reporting — nonparticipating financial institutions

(2) Every reporting Canadian financial institution shall file with the Minister, before May 2 of each calendar year, an information return in prescribed form relating to payments, to a nonparticipating financial institution that is the holder of a financial account maintained by the reporting Canadian financial institution, during the immediately preceding calendar year if the immediately preceding year is 2015 or 2016.

Filing of return

(3) An information return required under subsection (1) or (2) shall be filed by way of electronic filing.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101.

Record keeping

267 (1) Every reporting Canadian financial institution shall keep, at the institution's place of business or at such other place as may be designated by the Minister, records that the institution obtains or creates for the purpose of complying with this Part, including self-certifications and records of documentary evidence.

Toutefois, le paragraphe (8) ne s'applique pas si l'institution financière peut raisonnablement conclure que le courtier ne s'est pas conformé aux obligations qui lui sont imposées en vertu du présent article.

Comptes de courtiers

(8) En cas d'application du présent paragraphe à une institution financière canadienne déclarante relativement à un compte de nom de client :

a) les paragraphes (1) à (4) ne s'appliquent pas à l'institution financière relativement au compte;

b) l'institution financière se fie à la détermination faite par le courtier relativement au compte connexe pour déterminer si ce compte est un compte déclarable américain.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101; 2016, ch. 12, art. 70.

Déclaration — comptes déclarables américains

266 (1) Toute institution financière canadienne déclarante est tenue de présenter au ministre, avant le 2 mai de chaque année civile, une déclaration de renseignements sur le formulaire prescrit concernant chaque compte déclarable américain tenu par elle au cours de l'année civile précédente et après le 29 juin 2014.

Déclaration — institutions financières non participantes

(2) Toute institution financière canadienne déclarante est tenue de présenter au ministre, avant le 2 mai de chaque année civile, une déclaration de renseignements sur le formulaire prescrit concernant les paiements faits au cours de l'année civile précédente — 2015 ou 2016 — à une institution financière non participante qui est titulaire d'un compte financier tenu par l'institution financière canadienne déclarante.

Production

(3) La production des déclarations de renseignements visées aux paragraphes (1) et (2) se fait par transmission électronique.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101.

Tenue de registres

267 (1) L'institution financière canadienne déclarante doit tenir, à son lieu d'affaires ou à tout autre lieu désigné par le ministre, les registres qu'elle obtient ou crée pour se conformer à la présente partie, notamment les autocertifications et les preuves documentaires.

Form of records

(2) Every reporting Canadian financial institution required by this Part to keep records that does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (3).

Retention of records

(3) Every reporting Canadian financial institution that is required to keep, obtain, or create records under this Part shall retain those records for a period of at least six years following

(a) in the case of a self-certification, the last day on which a related financial account is open; and

(b) in any other case, the end of the last calendar year in respect of which the record is relevant.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101.

Anti-avoidance

268 If a person enters into an arrangement or engages in a practice, the primary purpose of which can reasonably be considered to be to avoid an obligation under this Part, the person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101.

Deemed-compliant FFI

269 If a Canadian financial institution makes a reasonable determination that it is to be treated as a deemed-compliant FFI under Annex II to the agreement, this Part applies to the institution, with such modifications as the circumstances require, to the extent that the agreement imposes due diligence and reporting obligations on the institution.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2014, c. 20, s. 101.

PART XIX

Common Reporting Standard

Definitions

270 (1) The following definitions apply in this Part.

account holder means

(a) the person listed or identified as the holder of a financial account by the financial institution that

Forme des registres

(2) L'institution financière canadienne déclarante qui tient des registres, comme l'en oblige la présente partie, par voie électronique doit les conserver sous une forme électronique intelligible pendant la période mentionnée au paragraphe (3).

Période minimale de conservation

(3) L'institution financière canadienne déclarante qui tient, obtient ou crée des registres, comme l'en oblige la présente partie, doit les conserver pendant une période minimale de six ans suivant :

a) dans le cas d'une autocertification, le dernier jour où un compte financier connexe est ouvert;

b) dans les autres cas, la fin de la dernière année civile à laquelle le registre se rapporte.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101.

Anti-évitement

268 La personne qui conclut une entente ou qui se livre à une pratique dont il est raisonnable de considérer que l'objet principal consiste à éviter une obligation prévue par la présente partie est assujettie à l'obligation comme si elle n'avait pas conclu l'entente ou ne s'était pas livrée à la pratique.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101.

IFE réputée conforme

269 Si une institution financière canadienne démontre de façon adéquate qu'elle doit être traitée comme une IFE réputée conforme en vertu de l'annexe II de l'accord, la présente partie s'applique à elle, avec les modifications nécessaires, dans la mesure où l'accord lui impose des obligations de diligence raisonnable et de déclaration.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2014, ch. 20, art. 101.

PARTIE XIX

Norme commune de déclaration

Définitions

270 (1) Les définitions qui suivent s'appliquent à la présente partie.

actif financier

a) D'une part, comprend les actifs suivants :

maintains the account, other than a person (other than a financial institution) holding a financial account for the benefit of, or on behalf of, another person as agent, custodian, nominee, signatory, investment advisor or intermediary; and

(b) in the case of a cash value insurance contract or an annuity contract,

(i) any person entitled to access the cash value or change the beneficiary,

(ii) if no person can access the cash value or change the beneficiary,

(A) any person named as the owner in the contract, and

(B) any person with a vested entitlement to payment under the terms of the contract, and

(iii) upon maturity of the cash value insurance contract or annuity contract, each person entitled to receive a payment under the contract. (*titulaire de compte*)

active NFE means, at any time, a non-financial entity that meets any of the following criteria:

(a) less than 50% of the NFE's gross income for the preceding fiscal period is passive income and less than 50% of the assets held by the NFE during the preceding fiscal period are assets that produce or are held for the production of passive income;

(b) either

(i) interests in the NFE are regularly traded on an established securities market, or

(ii) the NFE is a related entity of an entity interests in which are regularly traded on an established securities market;

(c) the NFE is

(i) a governmental entity,

(ii) an international organization,

(iii) a central bank, or

(iv) an entity wholly owned by one or more entities described in subparagraphs (i) to (iii);

(d) both

(i) un titre, notamment les titres suivants :

(A) une action du capital-actions d'une société,

(B) une participation au revenu ou au capital d'une fiducie à participation multiple ou cotée en bourse,

(C) un billet, une obligation, un effet ou une autre preuve de créance,

(ii) une participation dans une société de personnes,

(iii) une marchandise,

(iv) un swap (y compris un contrat d'échange de taux d'intérêt, de devise, de taux de référence, de marchandises ou de créances contre des actifs, un contrat de garantie de taux plafond ou de taux plancher, un contrat sur indice boursier et tout autre accord similaire),

(v) un contrat d'assurance ou de rente,

(vi) toute participation ou tout droit ou intérêt (y compris un contrat à terme ou contrat à terme de gré à gré ou une option) attaché à un titre, une participation dans une société de personnes, une marchandise, un swap ou un contrat d'assurance ou de rente;

b) d'autre part, ne comprend pas une part directe dans un bien réel ou immeuble ou dans un droit ou intérêt sur un tel bien, sans recours à l'emprunt. (*financial asset*)

banque centrale Institution qui, en vertu d'une loi ou d'une décision gouvernementale, constitue l'autorité principale, autre que le gouvernement de la juridiction proprement dit, ayant compétence dans la juridiction pour émettre des instruments destinés à être utilisés comme monnaie et peut inclure un organisme distinct du gouvernement de la juridiction, qu'il soit ou non détenu en tout ou en partie par cette juridiction. (*central bank*)

compagnie d'assurance particulière Entité qui est un organisme d'assurance (ou la société de portefeuille d'un organisme d'assurance) qui établit des contrats d'assurance avec valeur de rachat ou des contrats de rente ou qui est tenu d'effectuer des paiements au titre de tels contrats. (*specified insurance company*)

compte déclarable Compte qui, à la fois :

a) est détenu :

(i) all or substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more of its subsidiaries that engage in trades or businesses other than the business of a financial institution, and

(ii) the NFE does not function as (and is not represented or promoted to the public as) an investment fund, including

(A) a private equity fund,

(B) a venture capital fund,

(C) a leveraged buyout fund, and

(D) an investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

(e) the NFE

(i) is not yet operating a business,

(ii) has no prior operating history,

(iii) is investing capital into assets with the intent to operate a business other than that of a financial institution, and

(iv) was initially organized no more than 24 months prior to that time;

(f) the NFE has not been a financial institution in any of the past five years and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a financial institution;

(g) the NFE primarily engages in financing and hedging transactions with, or for, related entities that are not financial institutions, and does not provide financing or hedging services to any entity that is not a related entity, provided that the group of those related entities is primarily engaged in a business other than that of a financial institution; and

(h) the NFE meets all of the following requirements:

(i) it

(A) is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes, or

(i) soit par une ou plusieurs personnes devant faire l'objet d'une déclaration,

(ii) soit par une ENF passive relativement à laquelle une ou plusieurs personnes détenant le contrôle sont des personnes devant faire l'objet d'une déclaration;

b) a été identifié, conformément aux procédures de diligence raisonnable exposées aux articles 272 à 277, comme un compte visé à l'alinéa a). (*reportable account*)

compte de dépositaire Compte, sauf un contrat d'assurance ou de rente, sur lequel figure un ou plusieurs actifs financiers au bénéfice d'une autre personne. (*custodial account*)

compte de dépôt S'entend notamment :

a) des comptes commerciaux, des comptes de chèques, d'épargne ou à terme et des comptes dont l'existence est attestée par un certificat de dépôt, un certificat d'épargne, un certificat d'investissement, un titre de créance ou un autre instrument similaire auprès d'une institution financière dans le cours normal d'une activité bancaire ou d'une activité similaire;

b) des sommes détenues par les organismes d'assurance en vertu d'un contrat de placement garanti ou d'un accord semblable ayant pour objet de verser ou créditer des intérêts au titre du contrat. (*depository account*)

compte de faible valeur Compte de particulier préexistant dont le solde ou la valeur total au 30 juin 2017 n'excède pas 1 000 000 USD. (*lower value account*)

compte d'entité préexistant Compte préexistant détenu par une ou plusieurs entités. (*preexisting entity account*)

compte de particulier préexistant Compte préexistant détenu par un ou plusieurs particuliers, sauf des fiducies. (*preexisting individual account*)

compte de valeur élevée Compte de particulier préexistant dont le solde ou la valeur total excède 1 000 000 USD au 30 juin 2017 ou au 31 décembre d'une année ultérieure. (*high value account*)

compte exclu S'entend des comptes et contrats suivants :

a) le compte de retraite ou de pension à l'égard duquel les exigences ci-après sont remplies :

(B) is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare,

(ii) it is exempt from income tax in its jurisdiction of residence,

(iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets,

(iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased, and

(v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof. (*ENF active*)

annuity contract means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals and includes a contract

(a) that is considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued; and

(b) under which the issuer agrees to make payments for a term of years. (*contrat de rente*)

anti-money laundering and know your customer procedures or ***AML/KYC procedures*** means the record keeping, verification of identity, reporting of suspicious transactions and registration requirements required of a reporting financial institution under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. (*procédures de connaissance de la clientèle et*

(i) le compte est :

(A) soit réglementé en tant que compte de retraite personnel,

(B) soit fait partie d'un fonds de retraite ou de pension agréé ou réglementé qui prévoit le versement de prestations de retraite ou de pension (y compris des prestations d'invalidité ou de décès),

(ii) le compte bénéficie d'un traitement fiscal favorable selon lequel :

(A) soit les cotisations au compte qui seraient par ailleurs assujetties à l'impôt sont déductibles ou exclues du revenu brut du titulaire de compte ou sont imposées à taux réduit,

(B) soit l'imposition du revenu de placement produit par le compte est différée ou ce revenu est imposé à taux réduit,

(iii) le compte est un compte à l'égard duquel des renseignements doivent être communiqués au ministre,

(iv) les retraits du compte :

(A) soit sont permis uniquement à partir de l'âge fixé pour le départ à la retraite ou de la survenue d'une invalidité ou d'un décès,

(B) soit sont assortis de pénalités s'ils sont effectués avant que les événements visés à la division (A) ne se produisent,

(v) suivant l'application des règles prévues au paragraphe 277(3) à l'ensemble des comptes similaires, le plafond de cotisation annuel au compte est de 50 000 USD ou le plafond de cotisation cumulatif à vie est de 1 000 000 USD (et un compte qui remplit par ailleurs cette exigence ne peut être considéré comme ne la remplissant pas du seul fait qu'il peut recevoir des actifs ou des fonds transférés d'un ou de plusieurs comptes à l'égard desquels les exigences énoncées au présent alinéa ou à l'alinéa b) sont remplies ou d'un ou de plusieurs fonds de retraite à large participation, fonds de retraite à participation étroite ou fonds de pension désigné);

b) le compte à l'égard duquel les exigences ci-après sont remplies :

(i) l'un ou l'autre des énoncés ci-après se vérifie à l'égard du compte :

de lutte contre le blanchiment d'argent ou *procédures AML/KYC*)

broad participation retirement fund means a fund that is established to provide retirement, disability or death benefits to beneficiaries that are current or former employees (or persons designated by those employees) of one or more employers in consideration for services rendered, if the fund

(a) does not have a single beneficiary with a right to more than 5% of the fund's assets;

(b) is subject to government regulation and provides information reporting to the Minister; and

(c) satisfies at least one of the following requirements:

(i) the fund is generally exempt from tax on investment income, or taxation of investment income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan,

(ii) the fund receives at least 50% of its total contributions (other than transfers of assets from broad participation retirement funds, narrow participation retirement funds or from retirement and pension accounts described in paragraph (a) of the definition *excluded account*) from the sponsoring employers,

(iii) distributions or withdrawals from the fund are

(A) allowed only upon the occurrence of specified events related to retirement, disability or death (except rollover distributions to broad participation retirement funds, narrow participation retirement funds and pension funds of a governmental entity, international organization or central bank or retirement and pension accounts described in paragraph (a) of the definition *excluded account*), or

(B) subject to penalties if they are made before such specified events, and

(iv) contributions (other than permitted make-up contributions) by an employee to the fund

(A) are limited by reference to the employee's remuneration, or

(B) must not exceed 50,000 USD annually, applying the rules set forth in subsection 277(3). (*fonds de retraite à large participation*)

(A) le compte, à la fois :

(I) est réglementé en tant que mécanisme de placement à des fins autres que la retraite,

(II) fait régulièrement l'objet de transactions sur un marché boursier réglementé,

(B) le compte est réglementé en tant que véhicule d'épargne à des fins autres que la retraite,

(ii) le compte bénéficie d'un traitement fiscal favorable selon lequel :

(A) soit les cotisations au compte qui seraient par ailleurs assujetties à l'impôt sont déductibles ou exclues du revenu brut du titulaire de compte ou sont imposées à taux réduit,

(B) soit l'imposition du revenu de placement produit par le compte est différée ou ce revenu est imposé à taux réduit,

(iii) les retraits du compte :

(A) soit doivent remplir certains critères liés à l'objet du compte d'investissement ou d'épargne (y compris le versement de prestations d'éducation ou médicales),

(B) soit sont assortis de pénalités s'ils sont effectués avant que les critères mentionnés à la division (A) ne soient remplis,

(iv) suivant l'application des règles prévues au paragraphe 277(3) à l'ensemble des comptes semblables, les cotisations annuelles au compte sont assujetties à un plafond de 50 000 USD (et un compte qui remplit par ailleurs cette exigence ne peut être considéré comme ne la remplissant pas du seul fait qu'il peut recevoir des actifs ou des fonds transférés d'un ou de plusieurs comptes à l'égard desquels les exigences énoncées à l'alinéa a) ou au présent alinéa sont remplies ou d'un ou de plusieurs fonds de retraite à large participation, fonds de retraite à participation étroite ou fonds de pension désignés);

c) le contrat d'assurance-vie dont la période de couverture se termine avant que l'assuré n'atteigne 90 ans et à l'égard duquel les exigences ci-après sont remplies :

(i) des primes périodiques, dont la somme n'est pas diminuée dans la durée, sont payables au moins une fois par an jusqu'à la première en date des dates suivantes :

Canadian financial institution means a financial institution that is

(a) either

(i) resident in Canada, but excluding any branch of the financial institution that is located outside Canada, or

(ii) a branch of a financial institution that is not resident in Canada, if the branch is located in Canada; and

(b) a *listed financial institution* as defined in subsection 263(1). (*institution financière canadienne*)

cash value, in respect of a contract held by a policyholder, means the greater of the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan) and the amount the policyholder can borrow under or with regard to the contract, but does not include an amount payable under an insurance contract

(a) solely by reason of the death of an individual insured under a life insurance contract;

(b) as a personal injury or sickness benefit, or other benefit, providing indemnification of an economic loss incurred upon the occurrence of an event insured against;

(c) as a refund of a previously paid premium (less any cost of insurance charges whether or not actually imposed) under an insurance contract (other than an investment-linked life insurance or annuity contract) due to the cancellation or termination of the contract, a decrease in risk exposure during the effective period of the contract or arising from the correction of a posting or similar error with regard to the premium for the contract;

(d) as a policyholder dividend (other than a termination dividend) if the dividend relates to an insurance contract under which the only benefits payable are described in paragraph (b); or

(e) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually, if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract. (*valeur de rachat*)

cash value insurance contract means an insurance contract (other than an indemnity reinsurance contract

(A) la date qui correspond à la fin de la durée du contrat,

(B) la date à laquelle l'assuré atteint 90 ans,

(ii) nul ne peut bénéficier de prestations en vertu du contrat (par retrait ou prêt ou autrement) sans résilier le contrat,

(iii) la somme, sauf une somme au titre d'une prestation de décès, à payer en cas d'annulation ou de résiliation du contrat n'excède pas la somme obtenue par la formule suivante :

A – (B + C)

où :

A représente le total des primes versées au titre du contrat,

B le total des frais de mortalité, de morbidité et d'exploitation (qu'ils soient ou non imposés) pour la période ou les périodes d'existence du contrat,

C le total des sommes versées avant l'annulation ou la résiliation du contrat,

(iv) le contrat n'a pas été acquis par un cessionnaire à titre onéreux;

d) le compte qui est détenu uniquement par la succession d'un particulier décédé, si la documentation relative au compte comprend une copie du testament ou certificat de décès du particulier;

e) le compte qui a été ouvert relativement à l'un des éléments suivants :

(i) une ordonnance d'un tribunal ou une décision judiciaire,

(ii) la vente, l'échange ou la location d'un bien, si le compte satisfait aux exigences suivantes :

(A) le compte est financé :

(I) soit uniquement par un acompte, un dépôt, le dépôt d'une somme suffisante pour assurer l'exécution d'une obligation directement liée à l'opération en cause ou un paiement similaire,

(II) soit par un actif financier qui est versé dans le compte relativement à la vente, l'échange ou la location du bien,

(B) le compte est ouvert et utilisé uniquement pour garantir l'une des obligations suivantes :

between two insurance companies) that has a cash value. (*contrat d'assurance avec valeur de rachat*)

central bank means an institution that is, by law or government sanction, the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency and may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction. (*banque centrale*)

controlling persons, in respect of an entity, means the natural persons who exercise control over the entity (interpreted in a manner consistent with the *Financial Action Task Force Recommendations — International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*, adopted in February 2012 and as amended from time to time) and includes

(a) in the case of a trust,

(i) its settlors,

(ii) its trustees,

(iii) its protectors (if any),

(iv) its beneficiaries (for this purpose, a discretionary beneficiary of a trust will only be considered a beneficiary of the trust in a calendar year if a distribution has been paid or made payable to the discretionary beneficiary in the calendar year), and

(v) any other natural persons exercising ultimate effective control over the trust; and

(b) in the case of a legal arrangement other than a trust, persons in equivalent or similar positions to those described in paragraph (a). (*personnes détenant le contrôle*)

custodial account means an account (other than an insurance contract or annuity contract) that holds one or more financial assets for the benefit of another person. (*compte de dépositaire*)

custodial institution means an entity, if the entity's gross income attributable to the holding of financial assets for the account of others and related financial services equals or exceeds 20% of the entity's gross income during the shorter of

(a) the three-year period that ends at the end of the entity's last fiscal period, and

(I) celle de l'acheteur de payer le prix d'achat du bien,

(II) celle du vendeur de payer tout passif éventuel,

(III) celle du bailleur ou locataire de payer tout dommage lié au bien loué selon ce qui est convenu dans le bail,

(C) les actifs du compte, y compris le revenu tiré du compte, seront payés ou autrement distribués au profit de l'acheteur, du vendeur, du bailleur ou du locataire (y compris dans le but de remplir l'obligation d'une telle personne) au moment de la vente, de l'échange ou du délaissement du bien ou à la fin du bail,

(D) le compte n'est pas un compte sur marge ni un compte similaire ouvert relativement à la vente ou à l'échange d'un actif financier,

(E) le compte n'est pas associé à un compte visé à l'alinéa f),

(iii) l'obligation d'une institution financière qui assure le service d'un prêt garanti par un bien immeuble ou réel de mettre en réserve une partie d'un paiement uniquement pour faciliter le paiement ultérieur de taxes ou d'assurance liées au bien,

(iv) l'obligation d'une institution financière uniquement pour faciliter le paiement ultérieur de taxes;

f) le compte de dépôt à l'égard duquel les exigences ci-après sont remplies :

(i) le compte existe du seul fait qu'un client effectue un paiement d'une somme supérieure au solde exigible au titre d'une carte de crédit ou d'une autre facilité de crédit renouvelable et l'excédent n'est pas immédiatement remis au client,

(ii) après juin 2017, le compte est assujetti à l'application de règles et procédures relatives aux paiements excédentaires (étant entendu qu'aux fins du calcul du paiement excédentaire d'un client sont exclus les soldes créditeurs dans la mesure où ils sont attribuables à des transactions contestées, mais sont inclus les soldes créditeurs résultant de retours de marchandises) visant :

(A) soit à empêcher un client d'effectuer un paiement excédentaire supérieur à la somme de 50 000 USD,

(b) the period during which the entity has been in existence. (*établissement de garde de valeurs*)

depository account includes

(a) any commercial, chequing, savings, time or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business; and

(b) an amount held by an insurance company under a guaranteed investment contract or similar agreement to pay or credit interest on the contract. (*compte de dépôt*)

depository institution means any entity that accepts deposits in the ordinary course of a banking or similar business. (*établissement de dépôt*)

documentary evidence includes

(a) a certificate of residence issued by an authorized government body (such as a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident;

(b) with respect to an individual (other than a trust), any valid identification issued by an authorized government body that includes the individual's name and is typically used for identification purposes;

(c) with respect to an entity, any official documentation issued by an authorized government body that includes the name of the entity and either the address of its principal office in the jurisdiction in which it claims to be resident or the jurisdiction in which the entity was incorporated or organized; and

(d) any audited financial statement, third-party credit report, bankruptcy filing or securities regulator's report. (*preuve documentaire*)

entity means a person (other than a natural person) or a legal arrangement, such as a corporation, partnership, trust or foundation. (*entité*)

equity or debt interest includes, in the case of a partnership that is a financial institution, either a capital or profits interest in the partnership. (*titre de participation ou d'intérêt*)

established securities market means an exchange that

(a) is officially recognized and supervised by a governmental authority in which the market is located; and

(B) soit à veiller à ce que tout paiement excédentaire supérieur à la somme de 50 000 USD soit remboursé au client dans un délai de 60 jours;

g) le compte visé par règlement. (*excluded account*)

compte financier Compte auprès d'une institution financière qui :

a) d'une part, comprend les comptes et titres suivants :

(i) un compte de dépôt,

(ii) un compte de dépositaire,

(iii) dans le cas d'une entité d'investissement, tout titre de participation ou de créance dans l'institution financière, sauf de tels titres émis par une entité qui est une entité d'investissement du seul fait qu'elle exerce l'une des activités suivantes :

(A) donner des conseils en matière d'investissement à un client et agir pour le compte d'un client à des fins d'investissement, de gestion ou d'administration d'actifs financiers versés au nom du client auprès d'une institution financière autre que l'entité,

(B) gérer des portefeuilles pour un client et agir pour le compte d'un client à des fins d'investissement, de gestion ou d'administration d'actifs financiers versés au nom du client auprès d'une institution financière autre que l'entité,

(iv) tout titre de participation ou de créance dans l'institution financière si l'un des objets de la création d'une catégorie de tels titres était de se soustraire aux obligations de déclaration prévues à l'article 271, sauf de tels titres émis par une entité qui est une entité d'investissement du seul fait qu'elle remplit les conditions visées aux divisions (iii)(A) ou (B),

(v) tout contrat d'assurance avec valeur de rachat et tout contrat de rente établi ou tenu par une institution financière, autre qu'une rente viagère immédiate, incessible et non liée à un placement qui est accordée à un particulier et qui correspond à une pension de retraite ou d'invalidité versée dans le cadre d'un compte qui est un compte exclu,

(vi) un compte qui est un compte de nom de client tenu par une personne ou une entité qui est autorisée en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou d'autres

(b) has an annual value of shares traded on the exchange (or a predecessor exchange) exceeding one billion USD during each of the three calendar years immediately preceding the calendar year in which the determination is being made. For this purpose, if an exchange has more than one tier of market level on which stock may be separately listed or traded, each of those tiers must be treated as a separate exchange. (*marché boursier réglementé*)

excluded account means

(a) a retirement or pension account that satisfies the following requirements:

(i) the account is

(A) subject to regulation as a personal retirement account, or

(B) part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits),

(ii) the account is tax-favoured in that

(A) contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or

(B) taxation of investment income within the account is deferred or investment income within the account is taxed at a reduced rate,

(iii) information reporting to the Minister is required with respect to the account,

(iv) withdrawals are

(A) conditioned on reaching a specified retirement age, disability or death, or

(B) subject to penalties if made before the events specified in clause (A), and

(v) after applying the rules in subsection 277(3) to all similar accounts, annual contributions to the account are limited to 50,000 USD or less or there is a maximum lifetime contribution limit to the account of 1,000,000 USD or less (and an account that otherwise satisfies this requirement will not fail to satisfy this requirement solely because the account may receive assets or funds transferred from one or more accounts that meet the requirements of this paragraph or paragraph (b) or from one or more broad

instruments financiers ou à fournir des services de gestion de portefeuille ou de conseils en placement;

b) d'autre part et malgré l'alinéa a), ne comprend pas un compte exclu. (*financial account*)

compte préexistant Compte financier qui, selon le cas :

a) est tenu par une institution financière déclarante au 30 juin 2017;

b) est détenu par un titulaire de compte (autre qu'un compte financier visé à l'alinéa a)) auprès d'une institution financière déclarante et à l'égard duquel les énoncés ci-après se vérifient :

(i) le titulaire de compte détient également auprès de l'institution financière déclarante (ou d'une entité liée présente au Canada) un compte financier qui est un compte préexistant en application de l'alinéa a),

(ii) l'institution financière déclarante (et, le cas échéant, l'entité liée présente au Canada) considère à la fois les deux comptes financiers précités et tout autre compte financier du titulaire de compte qui est un compte préexistant en application du présent alinéa comme un seul et même compte financier aux fins suivantes :

(A) aux fins de respecter les critères de connaissance et les règles établis à la présente partie

(B) aux fins de calculer le solde ou la valeur de l'un des comptes financiers, lors de l'application de l'un des seuils relatifs au compte,

(iii) s'agissant d'un compte financier qui est assujetti aux procédures AML/KYC, l'institution financière déclarante peut se conformer à ces procédures relativement au compte financier en s'appuyant sur les procédures AML/KYC réalisées relativement au compte préexistant visé à l'alinéa a),

(iv) l'ouverture du compte financier n'est pas conditionnelle à la communication de renseignements nouveaux, supplémentaires ou modifiés concernant le client par le titulaire du compte autres que ceux qui doivent être communiqués en vertu de la présente partie. (*preexisting account*)

contrat d'assurance Contrat, sauf un contrat de rente, dans lequel l'émetteur s'engage à verser une somme d'argent en cas de réalisation d'un risque déterminé comportant un décès, une maladie, un accident, une responsabilité civile ou un dommage matériel. (*insurance contract*)

participation retirement funds, narrow participation retirement funds or pension funds of a governmental entity, international organization or central bank);

(b) an account that satisfies the following requirements:

(i) the account is

(A) both

(I) subject to regulation as an investment vehicle for purposes other than for retirement, and

(II) regularly traded on an established securities market, or

(B) subject to regulation as a savings vehicle for purposes other than for retirement,

(ii) the account is tax-favoured in that

(A) contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or

(B) taxation of investment income within the account is deferred or investment income within the account is taxed at a reduced rate,

(iii) withdrawals are

(A) conditioned on meeting specific criteria related to the purpose of the investment or savings account (including the provision of educational or medical benefits), or

(B) subject to penalties if made before the criteria in clause (A) are met, and

(iv) annual contributions are, after applying the rules in subsection 277(3) to all similar accounts, limited to 50,000 USD or less (and an account that otherwise satisfies this requirement will not fail to satisfy this requirement solely because the account may receive assets or funds transferred from one or more accounts that meet the requirements of paragraph (a) or this paragraph or from one or more broad participation retirement funds, narrow participation retirement funds or pension funds of a governmental entity, international organization or central bank);

contrat d'assurance avec valeur de rachat Contrat d'assurance, sauf un contrat de réassurance conclu entre deux organismes d'assurance, avec une valeur de rachat. (*cash value insurance contract*)

contrat d'assurance de groupe avec valeur de rachat Contrat d'assurance avec valeur de rachat en vertu duquel, à la fois :

a) des particuliers qui sont affiliés par l'entremise d'un employeur, d'une association professionnelle, d'un syndicat ou de tout autre groupe ou association sont couverts;

b) une prime est exigée pour chaque membre du groupe (ou chaque membre d'une catégorie du groupe) qui est calculée compte non tenu de caractéristiques de santé autres que l'âge, le sexe et la consommation de tabac du membre (ou d'une catégorie de membres) du groupe. (*group cash value insurance contract*)

contrat de rente Contrat en vertu duquel l'émetteur s'engage à effectuer des versements pour une période déterminée en tout ou en partie par rapport à l'espérance de vie d'une ou de plusieurs personnes physiques, y compris un contrat à l'égard duquel les énoncés ci-après se vérifient :

a) le contrat est considéré comme un contrat de rente conformément à la législation, la réglementation ou la pratique de la juridiction dans laquelle le contrat a été établi;

b) l'émetteur s'engage aux termes du contrat à effectuer des versements pour un nombre d'années. (*annuity contract*)

contrat de rente de groupe Contrat de rente en vertu duquel les obligataires sont des particuliers associés par l'entremise d'un employeur, d'une association professionnelle, d'un syndicat ou de tout autre groupe ou association. (*group annuity contract*)

émetteur de carte de crédit déterminé Institution financière à l'égard de laquelle les énoncés ci-après se vérifient :

a) l'institution financière en est une du seul fait qu'elle est un émetteur de cartes de crédit qui n'accepte des dépôts que lorsqu'un client effectue un paiement dont le montant dépasse le solde dû relativement à la carte et que cet excédent n'est pas immédiatement remis au client;

(c) a life insurance contract with a coverage period that ends before the insured individual attains age 90, if the contract satisfies the following requirements:

(i) periodic premiums, which do not decrease over time, are payable at least annually until the earlier of

(A) the end of the period in which the contract is in existence, and

(B) the date that the insured attains age 90,

(ii) the contract has no contract value that any person can access (by withdrawal, loan or otherwise) without terminating the contract,

(iii) the amount (other than a death benefit) payable upon cancellation or termination of the contract must not exceed the amount determined by the formula

A – (B + C)

where

A is the aggregate premiums paid for the contract,

B is the total of all mortality, morbidity and expense charges (whether or not actually imposed) for the period or periods of the contract's existence, and

C is the total of all amounts paid prior to the cancellation or termination of the contract, and

(iv) the contract has not been acquired by a transferee for value;

(d) an account held solely by an estate of a deceased individual, if the documentation for the account includes a copy of the will or death certificate of the individual;

(e) an account established in connection with any of the following:

(i) a court order or judgement,

(ii) a sale, exchange or lease of property, if the account satisfies the following requirements:

(A) the account is funded

(I) solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction or a similar payment, or

b) l'institution financière est dotée de règles et procédures visant à empêcher un client d'effectuer un paiement excédentaire supérieur à 50 000 USD ou à faire en sorte qu'un tel paiement excédentaire soit remboursé au client dans un délai de 60 jours, en application des règles prévues au paragraphe 277(3) concernant la totalisation des soldes de compte; pour l'application du présent alinéa, l'excédent de paiement d'un client exclut les soldes créditeurs dans la mesure où ils sont attribuables à des transactions contestées mais inclut les soldes créditeurs résultant de retours de marchandises. (*qualified credit card issuer*)

ENF active Toute ENF qui à un moment donné satisfait à un ou à plusieurs des critères suivants :

a) moins de 50 % du revenu brut de l'ENF pour l'exercice précédent constitue un revenu passif et moins de 50 % des actifs détenus par l'ENF au cours de l'exercice précédent sont des actifs qui produisent un revenu passif ou qui sont détenus à cette fin;

b) l'un ou l'autre des énoncés ci-après se vérifie relativement à l'ENF :

(i) les participations, droits ou intérêts dans l'ENF font régulièrement l'objet de transactions sur un marché boursier réglementé,

(ii) elle est une entité liée à une entité dont des participations, droits ou intérêts font régulièrement l'objet de transactions sur un marché boursier réglementé;

c) l'ENF est, selon le cas :

(i) une entité gouvernementale,

(ii) une organisation internationale,

(iii) une banque centrale,

(iv) une entité détenue à cent pour cent par une ou plusieurs des entités visées aux sous-alinéas (i) à (iii);

d) les énoncés ci-après se vérifient relativement à l'ENF :

(i) les activités de l'ENF consistent pour l'essentiel à détenir (en tout ou en partie) les actions en circulation d'une ou de plusieurs de ses filiales se livrant à des opérations ou à des activités qui ne sont pas celles d'une institution financière, ou à fournir du financement et des services à de telles filiales,

(II) with a financial asset that is deposited in the account in connection with the sale, exchange or lease of the property,

(B) the account is established and used solely to secure the obligation of

(I) the purchaser to pay the purchase price for the property,

(II) the seller to pay any contingent liability, or

(III) the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease,

(C) the assets of the account, including the income earned on the account, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor or lessee (including to satisfy such person's obligation) when the property is sold, exchanged or surrendered or the lease terminates,

(D) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset, and

(E) the account is not associated with an account described in paragraph (f),

(iii) an obligation of a financial institution servicing a loan secured by real or immovable property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the property at a later time, or

(iv) an obligation of a financial institution solely to facilitate the payment of taxes at a later time;

(f) a depository account that satisfies the following requirements:

(i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer, and

(ii) after June 2017, policies and procedures are in effect relating to overpayments (for this purpose, a customer overpayment does not include credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns) to either

(ii) l'ENF ne fonctionne ni se présente comme un fonds de placement, y compris les mécanismes de placement suivants :

(A) un fonds de capital-investissement,

(B) un fonds de capital-risque,

(C) un fonds de rachat d'entreprise par effet de levier,

(D) tout autre mécanisme de placement dont l'objet est d'acquérir ou de financer des sociétés puis d'y conserver un intérêt ou une participation sous la forme d'actifs à des fins d'investissement;

e) les énoncés ci-après se vérifient :

(i) l'ENF n'exerce pas encore d'activités,

(ii) elle n'en a jamais exercées précédemment,

(iii) elle investit des capitaux dans des actifs en vue d'exercer une activité autre que celle d'une institution financière,

(iv) elle est initialement constituée au plus 24 mois avant ce moment;

f) l'ENF n'a jamais été une institution financière durant les cinq années précédentes et est en voie de liquider ses actifs ou de se restructurer en vue de poursuivre ou de reprendre une activité autre que celle d'une institution financière;

g) l'ENF se livre principalement à des opérations de financement ou de couverture avec des entités liées qui ne sont pas des institutions financières ou pour celles-ci et ne fournit pas de services de financement ou de couverture à des entités qui ne sont pas des entités liées, à condition que le groupe de ces entités liées se livre principalement à une activité autre que celle d'une institution financière;

h) l'ENF remplit les conditions suivantes :

(i) l'ENF :

(A) soit a été constituée et est exploitée dans sa juridiction de résidence exclusivement à des fins religieuses, caritatives, scientifiques, artistiques, culturelles, sportives ou éducatives,

(B) soit a été constituée et est exploitée dans sa juridiction de résidence et est une organisation professionnelle, une ligue d'affaires, une

(A) prevent a customer from making an overpayment in excess of 50,000 USD, or

(B) ensure that any customer overpayment in excess of 50,000 USD is refunded to the customer within 60 days; and

(g) a prescribed account. (*compte exclu*)

exempt collective investment vehicle means an investment entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or entities (other than a passive NFE with a controlling person who is a reportable person) that are not reportable persons. (*mécanisme de placement collectif dispensé*)

financial account means an account maintained by a financial institution, and

(a) includes

(i) a depository account,

(ii) a custodial account,

(iii) in the case of an investment entity, any equity or debt interest in the financial institution, except that it does not include any equity or debt interest in an entity that is an investment entity solely because it,

(A) renders investment advice to, and acts on behalf of, a customer for the purpose of investing, managing or administering financial assets deposited in the name of the customer with a financial institution other than such entity, or

(B) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than such entity,

(iv) any equity or debt interest in the financial institution if one of the purposes of establishing the class of interests was to avoid reporting in accordance with section 271, except that it does not include any equity or debt interest in an entity that is an investment entity solely because it meets the conditions described in clauses (iii)(A) or (B),

(v) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is

chambre de commerce, un syndicat, un organisme agricole ou horticole, une ligue d'action civique ou un organisme dont l'objet exclusif est de promouvoir le bien-être collectif,

(ii) elle est exonérée de l'impôt sur le revenu dans sa juridiction de résidence,

(iii) elle n'a ni actionnaires ni membres qui ont des droits de propriété ou de bénéficiaire sur son revenu ou ses actifs,

(iv) le droit applicable dans sa juridiction de résidence ou ses documents constitutifs ne permettent pas que son revenu ou ses actifs soient distribués à une personne physique ou à une entité non caritative, ou utilisés à leur bénéfice, sauf dans le cadre des activités caritatives de l'ENF ou à titre de rémunération raisonnable pour services rendus ou de versement représentant la juste valeur marchande d'un bien que l'ENF a acheté,

(v) le droit applicable dans sa juridiction de résidence ou ses documents constitutifs prévoient que, lors de sa liquidation ou dissolution, tous ses actifs sont soit distribués à une entité gouvernementale ou à une autre organisation à but non lucratif, soit dévolus au gouvernement de la juridiction de résidence de l'ENF ou de l'une de ses subdivisions politiques. (*active NFE*)

ENF passive L'une ou l'autre des entités suivantes :

a) l'entité non financière qui n'est pas une ENF active;

b) l'entité qui, à la fois :

(i) est visée à l'alinéa b) de la définition de *entité d'investissement*,

(ii) n'est pas une institution financière d'une juridiction partenaire. (*passive NFE*)

entité Toute personne (sauf une personne physique) ou tout arrangement à caractère juridique telle une société, une société de personnes, une fiducie ou une fondation. (*entity*)

entité d'investissement Toute entité, sauf une entité qui est une *ENF active* par l'effet de l'un des alinéas d) à g) de la définition de ce terme, à l'égard de laquelle l'un des énoncés ci-après se vérifie :

a) l'entité exerce comme activité principale une ou plusieurs des prestations ou opérations ci-après au nom ou pour le compte d'un client :

issued to an individual and monetizes a pension or disability benefit provided under an account that is an excluded account, and

(vi) an account that is a client name account maintained by a person or entity that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments, or to provide portfolio management or investment advising services; and

(b) despite paragraph (a), does not include an excluded account. (*compte financier*)

financial asset

(a) includes

(i) a security, such as

(A) a share of the capital stock of a corporation,

(B) an income or capital interest in a widely held or publicly traded trust, or

(C) a note, bond, debenture or other evidence of indebtedness,

(ii) a partnership interest,

(iii) a commodity,

(iv) a swap (such as interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps and similar agreements),

(v) an insurance contract or annuity contract, and

(vi) any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract or annuity contract; and

(b) does not include a non-debt, direct interest in real or immovable property. (*actif financier*)

financial institution means an entity, other than a passive NFE, that is a custodial institution, a depository institution, an investment entity or a specified insurance company. (*institution financière*)

governmental entity means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for greater certainty, includes a state, province, county or municipality), a public body performing a function of government in a jurisdiction or any agency or

(i) des opérations sur les instruments du marché monétaire (y compris des chèques, billets, certificats de dépôts et produits dérivés), le marché des changes, les valeurs mobilières négociables, les marchés à terme de marchandises ou les instruments sur devises, taux d'intérêts ou indices,

(ii) la gestion individuelle ou collective de portefeuille,

(iii) d'autres opérations d'investissement, d'administration ou de gestions d'actifs financiers ou d'argent pour le compte de tiers;

b) l'entité est gérée par une autre entité qui est un établissement de dépôt, un établissement de garde de valeurs, une compagnie d'assurance particulière ou une entité d'investissement visée à l'alinéa a) et son revenu brut est principalement attribuable à des activités d'investissement, de réinvestissement ou de négociation d'actifs financiers. (*investment entity*)

entité gouvernementale Le gouvernement d'une juridiction, toute subdivision politique d'une juridiction (étant entendu que la mention « subdivision politique » vaut mention notamment de « État », « province », « comté » ou « municipalité »), un organisme public remplissant des fonctions d'un gouvernement dans une juridiction ou tout organisme ou intermédiaire d'une juridiction qui est détenu à cent pour cent par une ou plusieurs des entités précitées, pourvu qu'il soit une partie intégrante ou une entité contrôlée d'une juridiction (ou une subdivision politique d'une juridiction). Aux fins de la présente définition, les règles ci-après s'appliquent :

a) sont une partie intégrante d'une juridiction les personnes, organisations, agences, bureaux, fonds, intermédiaires et autres organismes, quelle que soit leur désignation, qui constituent des autorités dirigeantes d'une juridiction et dont le revenu net — aucune partie duquel ne pouvant échoir à une personne privée — doit être porté au crédit de leurs propres comptes ou d'autres comptes de la juridiction (étant entendu que n'est pas une partie intégrante tout dirigeant, responsable ou administrateur agissant à titre privé ou personnel);

b) est une entité contrôlée l'entité qui, d'une part, est de forme distincte de la juridiction ou qui constitue par ailleurs une entité juridiquement séparée et, d'autre part, satisfait aux critères suivants :

(i) elle est la propriété, et est contrôlée, à cent pour cent par une ou plusieurs entités gouvernementales, directement ou par l'intermédiaire d'une ou de plusieurs entités contrôlées,

instrumentality of a jurisdiction wholly owned by one or more of the foregoing, unless it is not an integral part or a controlled entity of a jurisdiction (or a political subdivision of a jurisdiction) and for these purposes

(a) an integral part of a jurisdiction means any person, organization, agency, bureau, fund, instrumentality or other body, however designated, that constitutes a governing authority of a jurisdiction and where the net earnings of the governing authority are credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person, except that an integral part does not include any individual who is a sovereign, official or administrator acting in a private or personal capacity;

(b) a controlled entity means an entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that

(i) the entity is wholly owned and controlled by one or more governmental entities directly or indirectly through one or more controlled entities,

(ii) the entity's net earnings are credited to its own account or to the accounts of one or more governmental entities, with no portion of its income inuring to the benefit of any private person, and

(iii) the entity's assets vest in one or more governmental entities upon liquidation and dissolution; and

(c) for the purposes of paragraphs (a) and (b),

(i) income is deemed not to inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program and the program activities are performed for the general public with respect to the common welfare or relate to the administration of government, and

(ii) income is deemed to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business that provides financial services to private persons. (*entité gouvernementale*)

group annuity contract means an annuity contract under which the obligees are individuals who are associated through an employer, trade association, labour union or other association or group. (*contrat de rente de groupe*)

group cash value insurance contract means a cash value insurance contract that

(ii) son revenu net est porté au crédit de son propre compte ou des comptes d'une ou de plusieurs entités gouvernementales et ne peut, en tout ou en partie, échoir à une personne privée,

(iii) ses actifs sont dévolus à une ou plusieurs entités gouvernementales lors de sa liquidation ou dissolution;

c) aux fins des alinéas a) et b), les règles ci-après s'appliquent :

(i) le revenu est réputé ne pas échoir à des personnes privées si elles sont les bénéficiaires prévus d'un programme public et si les activités couvertes par ce programme sont accomplies à l'intention du grand public dans l'intérêt général ou se rapportent à l'administration du gouvernement,

(ii) le revenu est réputé échoir à des personnes privées s'il provient du recours à une entité gouvernementale dans le but d'exercer une activité commerciale qui fournit des services financiers à des personnes privées. (*governmental entity*)

entité liée Une entité est une entité liée à une autre si l'une ou l'autre de ces entités contrôle l'autre ou si ces deux entités sont contrôlées par la même entité ou par le même particulier (et, dans le cas de deux entités d'investissement visées à l'alinéa b) de la définition de *entité d'investissement*, elles sont toutes deux placées sous une direction commune et cette direction s'acquitte des obligations de diligence raisonnable qui incombent aux entités d'investissement en cause). À cette fin, le contrôle comprend la propriété directe ou indirecte des biens suivants :

a) s'agissant d'une société, des actions du capital-actions d'une société qui, à la fois :

(i) confèrent aux détenteurs plus de 50 % des voix pouvant être exprimées à l'assemblée annuelle des actionnaires de la société,

(ii) ont une juste valeur marchande supérieure à 50 % de la juste valeur marchande de l'ensemble des actions émises et en circulation du capital-actions de la société;

b) s'agissant d'une société de personnes, une participation à titre d'associé de la société de personnes qui donne droit à l'associé à plus de 50 % :

(i) soit du revenu ou de la perte de la société de personnes,

(a) provides coverage on individuals who are associated through an employer, trade association, labour union or other association or group; and

(b) charges a premium for each member of the group (or member of a class within the group) that is determined without regard to the individual health characteristics other than age, gender and smoking habits of the member (or class of members) of the group. (*contrat d'assurance de groupe avec valeur de rachat*)

high value account means a preexisting individual account with an aggregate balance or value that exceeds 1 million USD on June 30, 2017 or on December 31 of any subsequent year. (*compe de valeur élevée*)

insurance contract means a contract (other than an annuity contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability or property risk. (*contrat d'assurance*)

international organization means any intergovernmental organization (or wholly owned agency or instrumentality thereof), including a supranational organization

(a) that is comprised primarily of governments;

(b) that has in effect a headquarters or substantially similar agreement with a jurisdiction; and

(c) the income of which does not inure to the benefit of private persons. (*organisation internationale*)

investment entity means any entity (other than an entity that is an *active NFE* because of any of paragraphs (d) to (g) of that definition)

(a) that primarily carries on as a business one or more of the following activities or operations for or on behalf of a customer:

(i) trading in money market instruments (such as cheques, bills, certificates of deposit and derivatives), foreign exchange, transferable securities or commodity futures, exchange, interest rate and index instruments,

(ii) individual and collective portfolio management, or

(iii) otherwise investing, administering or managing financial assets or money on behalf of other persons; or

(ii) soit des actifs (net du passif) de la société de personnes dans l'éventualité où elle cesserait d'exister;

c) s'agissant d'une fiducie, une participation à titre de bénéficiaire de la fiducie dont la juste valeur marchande est supérieure à 50 % de la juste valeur marchande de l'ensemble des participations à titre de bénéficiaire de la fiducie. (*related entity*)

entité non financière ou ***ENF*** Entité qui, selon le cas :

a) réside au Canada et n'est pas une institution financière canadienne;

b) est une entité non-résidente et n'est pas une institution financière. (*non-financial entity* ou *NFE*)

établissement de dépôt Entité qui accepte des dépôts dans le cours normal d'une activité bancaire ou d'une activité similaire. (*depository institution*)

établissement de garde de valeurs Entité dont le revenu brut attribuable à la détention d'actifs financiers pour le compte de tiers et aux services financiers connexes est égal ou supérieur à 20 % de son revenu brut durant la plus courte des périodes suivantes :

a) la période de trois ans qui se termine à la fin du dernier exercice de l'entité;

b) la période écoulée depuis la création de l'entité. (*custodial institution*)

fonds de pension désigné Fonds établi par une entité gouvernementale, une organisation internationale ou une banque centrale en vue de verser des prestations de retraite, d'invalidité ou de décès à des bénéficiaires ou membres qui :

a) soit sont des employés actuels ou d'anciens employés (ou des personnes désignées par ces employés),

b) soit ne sont ni des employés actuels ni d'anciens employés, si les prestations qui leur sont versées sont en contrepartie de services personnels rendus à l'entité gouvernementale, l'organisation internationale ou la banque centrale. (*pension fund of a governmental entity, international organization or central bank*)

fonds de retraite à large participation Fonds qui est établi en vue de verser des prestations de retraite, d'invalidité ou de décès à des bénéficiaires qui sont des employés actuels ou d'anciens employés (ou des personnes

(b) the gross income of which is primarily attributable to investing, reinvesting or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company or an investment entity described in paragraph (a). (*entité d'investissement*)

lower value account means a preexisting individual account with an aggregate balance or value as of June 30, 2017 that does not exceed 1 million USD. (*compte de faible valeur*)

narrow participation retirement fund means a fund that is established to provide retirement, disability or death benefits to beneficiaries who are current or former employees (or persons designated by those employees) of one or more employers in consideration for services rendered, if

(a) the fund has fewer than 50 participants;

(b) the fund is sponsored by one or more employers that are not investment entities or passive NFEs;

(c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in paragraph (a) of the definition *excluded account*) are limited by reference to the employee's remuneration;

(d) participants that are not resident in Canada are not entitled to more than 20% of the fund's assets; and

(e) the fund is subject to government regulation and provides information reporting to the Minister. (*fonds de retraite à participation étroite*)

natural person means an individual other than a trust. (*personne physique*)

new account means a financial account maintained by a reporting financial institution opened after June 2017. (*nouveau compte*)

new entity account means a new account held by one or more entities. (*nouveau compte d'entité*)

new individual account means a new account held by one or more individuals (other than trusts). (*nouveau compte de particulier*)

non-financial entity or ***NFE*** means an entity if

(a) in the case of an entity that is resident in Canada, it is not a Canadian financial institution; and

désignées par ces employés) d'un ou de plusieurs employeurs en contrepartie de services rendus et à l'égard duquel les énoncés ci-après se vérifient :

a) aucun de ses bénéficiaires n'a de droit sur plus de 5 % de ses actifs;

b) il est assujetti à la réglementation gouvernementale et communique des renseignements au ministre;

c) il remplit l'une ou plusieurs des conditions suivantes :

(i) en sa qualité de régime de retraite ou de pension, le fonds est généralement exonéré de l'impôt sur son revenu de placement ou l'imposition de ce revenu est différée ou ce revenu est imposé à taux réduit,

(ii) le fonds reçoit des employeurs qui le financent au moins 50 % du total de ses cotisations (compte non tenu des transferts d'actifs de fonds de retraite à large participation, de fonds de retraite à participation étroite ou de comptes de retraite et de pension visés à l'alinéa a) de la définition de *compte exclu*),

(iii) il s'agit d'un fonds les versements ou retraits duquel :

(A) soit sont autorisés uniquement dès que se produisent des événements déterminés en lien avec le départ à la retraite, l'invalidité ou le décès (à l'exception des versements périodiques à des fonds de retraite à large participation, des fonds de retraite à participation étroite, des fonds de pension désignés ou à des comptes de retraite et de pension visés à l'alinéa a) de la définition de *compte exclu*),

(B) soit sont assortis de pénalités applicables s'ils sont effectués avant que de tels événements déterminés ne se produisent,

(iv) les cotisations, sauf les cotisations de rattrapage autorisées, qu'un employé verse au fonds :

(A) soit sont limitées en fonction de la rémunération de l'employé,

(B) soit ne peuvent pas excéder 50 000 USD par an, en appliquant les règles prévues au paragraphe 277(3). (*broad participation retirement fund*)

(b) in the case of a non-resident entity, it is not a financial institution. (*entité non financière* ou *ENF*)

non-reporting financial institution means a Canadian financial institution that is

(a) the Bank of Canada;

(b) a governmental entity or international organization, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution or depository institution;

(c) a broad participation retirement fund, a narrow participation retirement fund, a pension fund of a governmental entity, international organization or central bank, or a qualified credit card issuer;

(d) an exempt collective investment vehicle;

(e) a trust if a trustee of the trust is a reporting financial institution and reports all information required to be reported under this Part with respect to all reportable accounts of the trust; or

(f) a prescribed entity. (*institution financière non déclarante*)

participating jurisdiction means

(a) Canada; and

(b) each jurisdiction identified as a participating jurisdiction by the Minister on the Internet website of the Canada Revenue Agency or by any other means that the Minister considers appropriate. (*juridiction partenaire*)

participating jurisdiction financial institution means

(a) a financial institution that is resident in a participating jurisdiction, but excludes a branch of that financial institution that is located outside a participating jurisdiction; and

(b) a branch of a financial institution that is not resident in a participating jurisdiction, if that branch is located in a participating jurisdiction. (*institution financière d'une jurisdiction partenaire*)

passive NFE means

(a) a non-financial entity that is not an active NFE; and

fonds de retraite à participation étroite Fonds qui est établi en vue de verser des prestations de retraite, d'invalidité ou de décès à des bénéficiaires qui sont des employés actuels ou d'anciens employés (ou des personnes désignées par ces employés) d'un ou de plusieurs employeurs en contrepartie de services rendus et à l'égard duquel les énoncés ci-après se vérifient :

a) le fonds compte moins de 50 membres;

b) le fonds est financé par un ou plusieurs employeurs qui ne sont ni des entités d'investissement ni des ENF passives;

c) les cotisations des employés ou des employeurs au fonds (compte non tenu des transferts d'actifs de comptes de retraite et de pension visés à l'alinéa a) de la définition de *compte exclu*) sont limitées en fonction de la rémunération de l'employé;

d) les membres du fonds qui ne résident pas au Canada ont droit à au plus 20 % des actifs du fonds;

e) le fonds est assujetti à la réglementation gouvernementale et communique des renseignements au ministre. (*narrow participation retirement fund*)

institution financière Toute entité, sauf une ENF passive, qui est un établissement de garde de valeurs, un établissement de dépôt, une entité d'investissement ou une compagnie d'assurance particulière. (*financial institution*)

institution financière canadienne Institution financière qui est, à la fois :

a) l'une ou l'autre des entités suivantes :

(i) toute institution financière qui réside au Canada, à l'exclusion de ses succursales situées à l'extérieur du Canada,

(ii) toute succursale, située au Canada, d'une institution financière qui ne réside pas au Canada;

b) une *institution financière particulière*, au sens du paragraphe 263(1). (*Canadian financial institution*)

institution financière déclarante Toute institution financière canadienne qui n'est pas une institution financière non déclarante. (*reporting financial institution*)

institution financière d'une juridiction partenaire

a) L'institution financière qui réside dans une juridiction partenaire, à l'exclusion de ses succursales situées à l'extérieur d'une juridiction partenaire;

(b) an entity that is

(i) described in paragraph (b) of the definition *investment entity*, and

(ii) not a participating jurisdiction financial institution. (*ENF passive*)

pension fund of a governmental entity, international organization or central bank means a fund that is established by a governmental entity, international organization or central bank to provide retirement, disability or death benefits to beneficiaries or participants

(a) that are current or former employees (or persons designated by those employees); or

(b) that are not current or former employees, if the benefits provided to them are in consideration of personal services performed for the governmental entity, international organization or central bank. (*fonds de pension désigné*)

preexisting account means

(a) a financial account maintained by a reporting financial institution on June 30, 2017; and

(b) a financial account of an account holder (other than a financial account described in paragraph (a)) maintained by a reporting financial institution if

(i) the account holder also holds with the reporting financial institution (or with a related entity within Canada) a financial account that is a preexisting account under paragraph (a),

(ii) the reporting financial institution (and, as applicable, the related entity within Canada) treats both of the aforementioned financial accounts, and any other financial accounts of the account holder that are preexisting accounts under this paragraph, as a single financial account for the purposes of

(A) satisfying the standards and knowledge requirements set forth under this Part, and

(B) determining the balance or value of any of the financial accounts, when applying any of the account thresholds,

(iii) with respect to a financial account that is subject to AML/KYC procedures, the reporting financial institution is permitted to satisfy those AML/KYC procedures for the financial account by relying upon the AML/KYC procedures performed

b) la succursale, située dans une juridiction partenaire, d'une institution financière qui ne réside pas dans une juridiction partenaire. (*participating jurisdiction financial institution*)

institution financière non déclarante Institution financière canadienne qui est, selon le cas :

a) la Banque du Canada;

b) une entité gouvernementale ou organisation internationale, sauf relativement à un paiement résultant d'une obligation détenue en lien avec une activité financière commerciale exercée par une compagnie d'assurance particulière, un établissement de garde de valeurs ou un établissement de dépôt;

c) un fonds de retraite à large participation, un fonds de retraite à participation étroite, un fonds de pension désigné ou un émetteur de carte de crédit déterminé;

d) un mécanisme de placement collectif dispensé;

e) une fiducie dont l'un des fiduciaires, à la fois, est une institution financière déclarante et communique tous les renseignements devant être déclarés en vertu de la présente partie relativement à l'ensemble des comptes déclarables de la fiducie;

f) une entité visée par règlement. (*non-reporting financial institution*)

juridiction partenaire

a) Le Canada;

b) toute juridiction qui est désignée à titre de juridiction partenaire par le ministre sur le site Internet de l'Agence du revenu du Canada ou par tout autre moyen qu'il estime indiqué. (*participating jurisdiction*)

juridiction soumise à déclaration Juridiction autre que le Canada et les États-Unis d'Amérique. (*reportable jurisdiction*)

marché boursier réglementé Bourse à l'égard de laquelle les énoncés ci-après se vérifient :

a) elle est officiellement reconnue et surveillée par une autorité gouvernementale ayant compétence sur le territoire où la bourse est située;

b) la valeur annuelle des actions qui sont négociées à cette bourse (ou à une bourse remplacée) excède 1 000 000 000 USD durant chacune des trois années civiles précédant immédiatement l'année civile au cours

for the preexisting account described in paragraph (a), and

(iv) the opening of the financial account does not require the provision of new, additional or amended customer information by the account holder other than for purposes of this Part. (*compte préexistant*)

preexisting entity account means a preexisting account held by one or more entities. (*compte d'entité préexistant*)

preexisting individual account means a preexisting account held by one or more individuals (other than trusts). (*compte de particulier préexistant*)

qualified credit card issuer means a financial institution that satisfies the following requirements:

(a) the financial institution is a financial institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and

(b) the financial institution has policies and procedures either to prevent a customer from making an overpayment in excess of 50,000 USD or to ensure that any customer overpayment in excess of 50,000 USD is refunded to the customer within 60 days, in each case applying the rules set forth in subsection 277(3) for account aggregation, and, for the purposes of this paragraph, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns. (*émetteur de carte de crédit déterminé*)

related entity, in respect of an entity, means an entity if either entity controls the other entity or the two entities are controlled by the same entity or individual (and in the case of two entities that are investment entities described under paragraph (b) of the definition *investment entity*, the two entities are under common management and such management fulfils the due diligence obligations of the investment entities). For this purpose, control includes direct or indirect ownership of

(a) in the case of a corporation, shares of the capital stock of a corporation that

(i) give their holders more than 50% of the votes that could be cast at the annual meeting of the shareholders of the corporation, and

de laquelle le calcul est effectué (étant entendu qu'à cette fin, si la bourse a plus d'un groupe dans lequel des actions peuvent être cotées ou négociées, chacun de ces groupes doit être considéré comme une bourse distincte. (*established securities market*)

mécanisme de placement collectif dispensé Entité d'investissement qui est réglementée à titre de mécanisme de placement collectif et les droits, intérêts et participations dans laquelle sont détenus par des particuliers ou entités (autres que des ENF passives dont une personne détenant le contrôle est une personne devant faire l'objet d'une déclaration) qui ne sont pas des personnes devant faire l'objet d'une déclaration. (*exempt collective investment vehicle*)

NIF

a) Le numéro qui est utilisé par le ministre pour identifier une personne physique ou une entité, y compris les numéros suivants :

(i) un numéro d'assurance sociale,

(ii) un numéro d'entreprise,

(iii) le numéro de compte d'une fiducie;

b) relativement à une juridiction autre que le Canada, le numéro d'identification fiscal qui est utilisé dans cette juridiction pour identifier une personne physique ou une entité (ou, en l'absence d'un tel numéro, son équivalent fonctionnel). (*TIN*)

nouveau compte Compte financier ouvert après juin 2017 auprès d'une institution financière déclarante. (*new account*)

nouveau compte d'entité Nouveau compte détenu par une ou plusieurs entités. (*new entity account*)

nouveau compte de particulier Nouveau compte détenu par un ou plusieurs particuliers autres que des fiducies. (*new individual account*)

organisation internationale Toute organisation internationale (ou tout organisme ou intermédiaire détenu à cent pour cent par cette organisation), y compris une organisation supranationale, à l'égard de laquelle les énoncés ci-après se vérifient :

a) elle se compose principalement de gouvernements;

b) elle a conclu un accord de siège ou un accord substantiellement similaire avec une juridiction;

(ii) have a fair market value of more than 50% of the fair market value of all the issued and outstanding shares of the capital stock of the corporation;

(b) in the case of a partnership, an interest as a member of the partnership that entitles the member to more than 50% of

(i) the income or loss of the partnership, or

(ii) the assets (net of liabilities) of the partnership if it were to cease to exist; and

(c) in the case of a trust, an interest as a beneficiary under the trust with a fair market value that is greater than 50% of the fair market value of all interests as a beneficiary under the trust. (*entité liée*)

reportable account means an account that

(a) is held by

(i) one or more reportable persons, or

(ii) by a passive NFE, if one or more controlling persons of the passive NFE is a reportable person; and

(b) has been identified as meeting the conditions in paragraph (a) in accordance with the due diligence procedures described in sections 272 to 277. (*compte déclarable*)

reportable jurisdiction means a jurisdiction other than Canada and the United States of America. (*juridiction soumise à déclaration*)

reportable jurisdiction person means a natural person or entity that is resident in a reportable jurisdiction under the tax laws of that jurisdiction, or an estate of an individual who was a resident of a reportable jurisdiction under the tax laws of that jurisdiction immediately before death. For this purpose, an entity that has no residence for tax purposes is deemed to be resident in the jurisdiction in which its place of effective management is situated. (*personne d'une juridiction soumise à déclaration*)

reportable person means a reportable jurisdiction person other than

(a) a corporation the stock of which is regularly traded on one or more established securities markets;

(b) any corporation that is a related entity of a corporation described in paragraph (a);

c) ses revenus n'échoient pas à des personnes privées. (*international organization*)

personne devant faire l'objet d'une déclaration Toute personne d'une juridiction soumise à déclaration, sauf les personnes suivantes :

a) une société dont le capital-actions fait régulièrement l'objet de transactions sur un ou plusieurs marchés boursiers réglementés;

b) toute société qui est une entité liée à une société visée à l'alinéa a);

c) une entité gouvernementale;

d) une organisation internationale;

e) une banque centrale;

f) une institution financière. (*reportable person*)

personne d'une juridiction soumise à déclaration Toute entité ou personne physique qui, sous le régime des lois fiscales d'une juridiction soumise à déclaration, réside dans la juridiction, ou succession d'un particulier qui, immédiatement avant son décès, résidait dans une telle juridiction sous le régime des lois fiscales de la juridiction. À cette fin, une entité sans résidence à des fins fiscales est réputée résider dans la juridiction de son siège de direction effective. (*reportable jurisdiction person*)

personne physique Particulier autre qu'une fiducie. (*natural person*)

personnes détenant le contrôle Relativement à une entité, les personnes physiques qui la contrôlent (la présente définition devant être interprétée conformément aux recommandations du Groupe d'action financière — *Normes internationales sur la lutte contre le blanchiment et le financement du terrorisme et la prolifération*, adoptées en février 2012 avec leurs modifications successives), y compris les personnes suivantes :

a) s'agissant d'une fiducie :

(i) ses auteurs,

(ii) ses fiduciaires,

(iii) ses protecteurs, le cas échéant,

(c) a governmental entity;

(d) an international organization;

(e) a central bank; or

(f) a financial institution. (*personne devant faire l'objet d'une déclaration*)

reporting financial institution means a Canadian financial institution that is not a non-reporting financial institution. (*institution financière déclarante*)

specified insurance company means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, cash value insurance contracts or annuity contracts. (*compagnie d'assurance particulière*)

TIN means

(a) the number used by the Minister to identify an individual or entity, including

(i) a social insurance number,

(ii) a business number, and

(iii) an account number issued to a trust; and

(b) in respect of a jurisdiction other than Canada, a taxpayer identification number used in that jurisdiction to identify an individual or entity (or a functional equivalent in the absence of a taxpayer identification number). (*NIF*)

USD means dollars of the United States of America. (*USD*)

(iv) ses bénéficiaires (à cette fin, le bénéficiaire discrétionnaire d'une fiducie est considéré comme bénéficiaire de la fiducie dans une année civile seulement s'il a reçu, ou est devenu en droit de recevoir, une distribution dans l'année civile),

(v) toute autre personne physique exerçant en dernier lieu un contrôle effectif sur la fiducie;

b) s'agissant de tout arrangement juridique autre qu'une fiducie, les personnes dont la situation est équivalente ou similaire aux situations visées à l'alinéa a). (*controlling persons*)

preuve documentaire S'entend notamment des preuves documentaires suivantes :

a) une attestation de résidence délivrée par un organisme gouvernemental autorisé (tel un gouvernement ou une agence de celui-ci ou une municipalité) de la juridiction dont le bénéficiaire des paiements affirme être un résident;

b) dans le cas d'un particulier, sauf une fiducie, toute pièce d'identité valide délivrée par un organisme gouvernemental autorisé, sur laquelle figure le nom du particulier et qui sert habituellement à l'identifier;

c) dans le cas d'une entité, tout document officiel délivré par un organisme gouvernemental autorisé sur lequel figure la dénomination de l'entité et soit l'adresse de son établissement principal dans la juridiction dont elle affirme être résident, soit la juridiction où elle a été constituée;

d) tout état financier vérifié, rapport de solvabilité établi par un tiers, dépôt de bilan ou rapport d'un organisme de réglementation des valeurs mobilières. (*documentary evidence*)

procédures de connaissance de la clientèle et de lutte contre le blanchiment d'argent ou ***procédures AML/KYC*** Obligations de diligence raisonnable relatives au client qu'une institution financière déclarante est tenue d'observer en vertu de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*. (*anti-money laundering and know your customer procedures* or *AML/KYC procedures*)

titre de participation ou de créance Relativement à une société de personnes qui est une institution financière, s'entend notamment de tout titre accordant une participation au capital ou aux bénéfices de la société de personnes. (*equity or debt interest*)

titulaire de compte Les personnes suivantes :

a) la personne enregistrée ou identifiée comme titulaire d'un compte financier par l'institution financière qui tient le compte, à l'exception d'une personne (autre qu'une institution financière) qui détient un compte financier pour le compte ou le bénéfice d'une autre personne, comme agent, dépositaire, mandataire, signataire, conseiller en placement ou intermédiaire;

b) dans le cas d'un contrat d'assurance avec valeur de rachat ou d'un contrat de rente :

(i) la personne autorisée à tirer parti de la valeur de rachat ou à changer le bénéficiaire du contrat,

(ii) si nul ne peut tirer parti de la valeur de rachat ou changer le bénéficiaire, toute personne qui :

(A) soit est désignée comme propriétaire dans le contrat,

(B) soit jouit d'un droit absolu à des paiements aux termes du contrat,

(iii) à l'échéance du contrat, chaque personne qui est en droit de recevoir un paiement en vertu du contrat. (*account holder*)

USD Dollars des États-Unis d'Amérique. (*USD*)

valeur de rachat Relativement à un contrat détenu par un titulaire de police, la plus élevée de la somme que le titulaire de police est en droit de recevoir en cas de rachat ou de résiliation du contrat (calculée sans déduction de frais de rachat ou d'avances sur police) et de la somme que le titulaire de police peut emprunter en vertu du contrat ou eu égard à son objet, à l'exclusion d'une somme à verser en vertu d'un contrat d'assurance pour l'une des raisons suivantes :

a) uniquement en raison du décès d'un particulier assuré en vertu d'un contrat d'assurance-vie;

b) au titre d'une prestation pour maladie ou pour préjudice corporel, ou d'une autre prestation, qui indemnise une perte économique subie lors de la réalisation d'un risque assuré;

c) au titre d'un remboursement au titulaire de police d'une prime versée antérieurement (déduction faite des frais d'assurance qu'ils soient ou non réellement imposés) dans le cadre d'un contrat d'assurance (sauf un contrat d'assurance sur la vie lié à l'investissement ou un contrat de rente) en raison de l'annulation ou de la résiliation du contrat, d'une diminution de l'exposition au risque durant la période au cours de laquelle le contrat d'assurance est en vigueur ou d'un nouveau

calcul de la prime rendu nécessaire par la détection d'une erreur d'écriture ou d'une autre erreur similaire;

d) au titre d'une participation de police du titulaire de police (à l'exception des dividendes versés lors de la résiliation du contrat), à condition que la participation se rapporte à un contrat d'assurance dans le cadre duquel les seules prestations à verser sont celles visées à l'alinéa b);

e) au titre du remboursement d'une prime anticipée ou d'un dépôt de prime pour un contrat d'assurance dont la prime est exigible au moins une fois par an, si le montant de la prime anticipée ou du dépôt de prime ne dépasse pas le montant de la prime à verser pour l'année suivante en vertu du contrat. (*cash value*)

Interpretation

(2) This Part relates to the implementation of the *Common Reporting Standard* set out in the *Standard for Automatic Exchange of Financial Account Information in Tax Matters* approved by the Council of the Organisation for Economic Co-operation and Development and, unless the context otherwise requires, the provisions in this Part are to be interpreted consistently with the *Common Reporting Standard*, as amended from time to time.

Interprétation

(2) La présente partie concerne la mise en œuvre de la *Norme commune de déclaration* établie dans le cadre de la *Norme d'échange automatique de renseignements relatifs aux comptes financiers en matière fiscale* approuvée par le Conseil de l'Organisation de coopération et de développement économiques et, sauf indication contraire du contexte, les dispositions de la présente partie sont interprétées de façon compatible avec la *Norme commune de déclaration*, avec ses modifications successives.

Interpretation — investment entity

(3) For the purposes of the definition *investment entity* in subsection (1), an entity is considered to be primarily carrying on as a business one or more of the activities described in paragraph (a) of that definition, or an entity's gross income is primarily attributable to investing, reinvesting or trading in financial assets for the purposes of paragraph (b) of that definition, if the entity's gross income attributable to the relevant activities equals or exceeds 50% of the entity's gross income during the shorter of

(a) the three-year period that ends at the end of the entity's last fiscal period, and

(b) the period during which the entity has been in existence.

Entité d'investissement — définition

(3) Pour l'application de la définition de *entité d'investissement* au paragraphe (1), une entité exerce comme activité principale une ou plusieurs des prestations ou opérations visées à l'alinéa a) de cette définition, ou le revenu brut d'une entité est attribuable principalement à une activité d'investissement, de réinvestissement ou de négociation d'actifs pour l'application de l'alinéa b) de cette définition, si le revenu brut de l'entité qui est attribuable aux activités correspondantes est égal ou supérieur à 50 % de son revenu brut durant la plus courte des deux périodes suivantes :

a) la période de trois ans qui se termine à la fin du dernier exercice de l'entité;

b) la période écoulée depuis la création de l'entité.

Equity or debt interest – deeming rule

(4) In the case of a trust that is a financial institution,

(a) an equity interest is deemed to be held by any person treated as a settlor or beneficiary of all or a portion of the trust or any other natural person exercising ultimate effective control over the trust, and

Titre de participation ou de créance — règles spéciales

(4) Les règles ci-après s'appliquent relativement à une fiducie qui est une institution financière :

a) un titre de participation est réputé détenu par toute personne considérée comme étant l'auteur ou le bénéficiaire de tout ou partie de la fiducie ainsi que par

(b) a reportable person is treated as a beneficiary of a trust if the reportable person has the right to receive directly or indirectly (such as through a nominee) a mandatory distribution from the trust or may receive, directly or indirectly, a discretionary distribution from the trust.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

b) une personne devant faire l'objet d'une déclaration est considérée comme le bénéficiaire d'une fiducie si elle a le droit de recevoir, directement ou indirectement (par exemple, par l'intermédiaire d'un mandataire), une distribution obligatoire de la fiducie ou si elle peut recevoir, directement ou indirectement, une distribution discrétionnaire de la fiducie.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

General reporting requirements

271 (1) Subject to subsections (3) and (4), each reporting financial institution must report the following information to the Minister with respect to each of its reportable accounts:

(a) the name, address, jurisdiction of residence, TIN and date of birth (in the case of a natural person) of each reportable person that is an account holder of the account;

(b) in the case of any entity that is an account holder of the account and that, after applying the due diligence procedures in sections 275 to 277, is identified as having one or more controlling persons that is a reportable person,

(i) the name, address, jurisdiction of residence and TIN of the entity, and

(ii) the name, address, jurisdiction of residence, TIN and date of birth of each of those controlling persons;

(c) the account number (or functional equivalent in the absence of an account number) of the account;

(d) the name and identifying number (if any) of the reporting financial institution;

(e) the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value)

(i) at the end of the relevant calendar year or other appropriate reporting period, or

(ii) if the account was closed during the relevant calendar year or period, on closure of the account;

(f) in the case of any custodial account,

(i) the total gross amount of interest, the total gross amount of dividends and the total gross amount of

Déclarations — règles générales

271 (1) Sous réserve des paragraphes (3) et (4), chaque institution financière déclarante communique au ministre les renseignements ci-après relativement à chacun de ses comptes déclarables :

a) les nom, adresse, juridiction de résidence, NIF et date de naissance (dans le cas d'une personne physique) de chaque personne devant faire l'objet d'une déclaration qui est titulaire de compte relativement au compte;

b) s'agissant d'une entité qui est titulaire de compte relativement au compte et relativement à laquelle, après application des procédures de diligence raisonnable exposées aux articles 275 à 277, il apparaît qu'une ou plusieurs personnes détenant le contrôle de l'entité sont des personnes devant faire l'objet d'une déclaration :

(i) les nom, adresse, juridiction de résidence et NIF de l'entité,

(ii) les nom, adresse, juridiction de résidence, NIF et date de naissance de chacune de ces personnes détenant le contrôle de l'entité;

c) le numéro du compte (ou, en l'absence de ce numéro, son équivalent fonctionnel);

d) le nom et le numéro d'identification, le cas échéant, de l'institution financière déclarante;

e) le solde ou la valeur du compte (y compris, dans le cas d'un contrat d'assurance avec valeur de rachat ou d'un contrat de rente, la valeur de rachat) établi à celle des dates ci-après qui s'applique :

(i) la date qui correspond à la fin de l'année civile considérée ou d'une autre période de référence adéquate,

(ii) si le compte a été fermé au cours de l'année ou de la période, la date de sa fermeture;

other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period, and

(ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution acted as a custodian, broker, nominee or otherwise as an agent for the account holder;

(g) in the case of any depository account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

(h) in the case of any account not described in paragraph (f) or (g), the total gross amount paid or credited to the account holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the calendar year or other appropriate reporting period.

f) s'agissant d'un compte de dépositaire :

(i) le montant brut total des intérêts, le montant brut total des dividendes et le montant brut total des autres revenus découlant des actifs détenus dans le compte, qui dans chaque cas ont été versés ou crédités au compte (ou au titre du compte) au cours de l'année ou de la période,

(ii) le produit brut total de la vente ou du rachat d'actifs financiers qui sont versés ou crédités au compte au cours de l'année ou de la période relativement à laquelle l'institution financière déclarante a agi à titre de dépositaire, courtier, mandataire ou agent du titulaire de compte;

g) s'agissant d'un compte de dépôt, le montant brut total des intérêts qui sont versés ou crédités au compte au cours de l'année ou de la période;

h) s'agissant d'un compte qui n'est pas visé aux alinéas f) ou g), le montant brut total qui est versé au titulaire de compte ou porté à son crédit au titre du compte au cours de l'année ou de la période et dont l'institution financière déclarante est la débitrice, y compris le total des montants remboursés au titulaire de compte au cours de l'année ou de la période.

Currrency

(2) The information reported must identify the currency in which each amount is denominated.

Renseignements déclarés — monnaie

(2) Les renseignements déclarés indiquent la monnaie dans laquelle chaque montant est libellé.

TIN and date of birth

(3) With respect to each reportable account that is a preexisting account,

(a) notwithstanding paragraphs (1)(a) and (b), the TIN or date of birth are not required to be reported if the TIN or the date of birth (as appropriate)

(i) are not in the records of the reporting financial institution, and

(ii) are not otherwise required to be collected by the reporting financial institution under the Act; and

(b) a reporting financial institution is required to use reasonable efforts to obtain the TIN and the date of birth with respect to a preexisting account by the end of the second calendar year following the year in which the preexisting account is identified as a reportable account.

NIF et date de naissance

(3) Les règles ci-après s'appliquent relativement à chaque compte déclarable qui est un compte préexistant :

a) malgré les alinéas (1)a) et b), le NIF ou la date de naissance n'ont pas à être communiqués si les énoncés ci-après se vérifient à l'égard du NIF ou, le cas échéant, de la date de naissance :

(i) ils ne figurent pas dans les dossiers de l'institution financière déclarante,

(ii) ils n'ont pas à être recueillis par ailleurs par l'institution financière déclarante en vertu de la Loi;

b) une institution financière déclarante est tenue de prendre des mesures raisonnables pour obtenir le NIF et la date de naissance relatifs à un compte préexistant avant la fin de la deuxième année civile qui suit l'année au cours de laquelle ce compte a été identifié comme compte déclarable.

Exceptions

(4) Notwithstanding paragraphs (1)(a) and (b), a TIN of a reportable person is not required to be reported if

(a) the relevant reportable jurisdiction does not issue TINs; or

(b) the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

General due diligence rules

272 (1) An account is treated as a reportable account as of the date it is identified as a reportable account under the due diligence procedures set out in this section and in sections 273 to 277.

Timing — determination of balance or value

(2) The balance or value of an account is determined on the last day of the calendar year or other appropriate reporting period.

Determination — balance or value

(3) For the purpose of determining whether the balance or value of an account exceeds a particular threshold on the last day of a calendar year, the balance or value must be determined on the last day of the last reporting period that ends on or before the end of the calendar year.

Service provider

(4) A reporting financial institution may use service providers to fulfil its reporting and due diligence obligations imposed, but these obligations shall remain the responsibility of the reporting financial institution.

Optional due diligence procedures

(5) A reporting financial institution may, either with respect to all preexisting accounts or, separately, with respect to any clearly identified group of those accounts, apply the due diligence procedures

(a) for new accounts to preexisting accounts (with the other rules for preexisting accounts continuing to apply); and

(b) for high value accounts to lower value accounts.

Exception

(4) Malgré les alinéas (1)a) et b), le NIF d'une personne devant faire l'objet d'une déclaration n'a pas à être déclaré si, selon le cas :

a) la juridiction soumise à déclaration en cause n'émet pas de NIF;

b) la juridiction soumise à déclaration en cause n'est pas tenue par ses lois de recueillir le NIF qu'elle a émis.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Diligence raisonnable — règles générales

272 (1) Un compte est considéré comme un compte déclarable à partir de la date à laquelle il est identifié comme tel en application des procédures de diligence raisonnable visées au présent article et aux articles 273 à 277.

Moment de la détermination du solde ou de la valeur

(2) Le solde ou la valeur d'un compte correspond à son solde ou à sa valeur le dernier jour de l'année civile ou d'une autre période de référence adéquate.

Détermination du solde ou de la valeur

(3) Aux fins de déterminer si le solde ou la valeur d'un compte dépasse un seuil donné le dernier jour d'une année civile, le solde ou la valeur est déterminé le dernier jour de la dernière période de déclaration qui se termine à la fin ou au cours de l'année civile.

Fournisseurs de services

(4) Une institution financière déclarante peut recourir à des fournisseurs de services pour s'acquitter de ses obligations déclaratives et de diligence raisonnable; toutefois, ces obligations demeurent celles de l'institution financière déclarante.

Procédures de diligence raisonnable pour compte préexistant

(5) Une institution financière déclarante peut, relativement à l'ensemble des comptes préexistants ou, séparément, relativement une catégorie clairement identifiée de ces comptes, appliquer :

a) les procédures de diligence raisonnable relatives aux nouveaux comptes aux comptes préexistants (les autres règles applicables aux comptes préexistants demeurant en vigueur);

b) les procédures de diligence raisonnable relatives aux comptes de valeur élevée aux comptes de faible valeur.

Documentation of due diligence procedures

(6) Every reporting financial institution shall establish, maintain and document the due diligence procedures set out in this section and sections 273 to 277.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Due diligence for preexisting individual accounts

273 (1) A preexisting individual account that is a cash value insurance contract or an annuity contract is not required to be reviewed, identified or reported, if the reporting financial institution is effectively prevented by law from selling those contracts to residents of a reportable jurisdiction.

Lower value accounts

(2) The following review procedures apply with respect to lower value accounts that are preexisting individual accounts:

(a) if the reporting financial institution has in its records the address of the individual account holder's current residence (in this section, their ***current residence address***) based on documentary evidence, the reporting financial institution may treat the individual account holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether the individual account holder is a reportable person;

(b) if the reporting financial institution does not rely on a current residence address for the individual account holder based on documentary evidence as described in paragraph (a), the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the following indicia and apply paragraphs (c) to (f):

(i) identification of the account holder as a resident of a reportable jurisdiction,

(ii) current mailing or residence address (including post office box) in a reportable jurisdiction,

(iii) one or more telephone numbers in a reportable jurisdiction and no telephone number in the jurisdiction of the reporting financial institution,

(iv) standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a reportable jurisdiction,

Procédures de diligence raisonnable — obligation de documentation

(6) Toute institution financière déclarante établit, tient à jour et documente les procédures de diligence raisonnable visées au présent article et aux articles 273 à 277.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Diligence raisonnable — compte de particulier préexistant

273 (1) Un compte de particulier préexistant qui est un contrat d'assurance avec valeur de rachat ou un contrat de rente n'a pas à être examiné, identifié ou déclaré si l'institution financière déclarante est empêchée par la loi de vendre ces contrats aux résidents d'une juridiction soumise à déclaration.

Comptes de faible valeur

(2) Les procédures d'examen ci-après s'appliquent relativement à un compte de faible valeur qui est un compte de particulier préexistant :

a) si l'institution financière déclarante a dans ses dossiers l'adresse de résidence actuelle du titulaire de compte (appelée ***adresse de résidence actuelle*** au présent article) fondée sur une preuve documentaire, elle peut le considérer comme un résident à des fins fiscales de la juridiction dans laquelle se situe l'adresse pour déterminer s'il est une personne devant faire l'objet d'une déclaration;

b) si l'institution financière déclarante n'utilise pas une adresse de résidence actuelle pour le titulaire de compte fondée sur une preuve documentaire visée à l'alinéa a), elle examine les données pouvant faire l'objet de recherches par voie électronique qu'elle tient en vue de déceler l'un des indices ci-après et applique les alinéas c) à f) :

(i) l'identification du titulaire de compte à titre de résident d'une juridiction soumise à déclaration,

(ii) une adresse postale ou de résidence actuelle (y compris une boîte postale) dans une juridiction soumise à déclaration,

(iii) un ou plusieurs numéros de téléphone dans une juridiction soumise à déclaration et aucun numéro de téléphone dans la juridiction de l'institution financière déclarante,

(iv) un ordre de virement permanent (sauf relativement à un compte de dépôt) sur un compte tenu dans une juridiction soumise à déclaration,

(v) currently effective power of attorney or signatory authority granted to a person with an address in a reportable jurisdiction, and

(vi) a hold mail instruction or in-care-of address in a reportable jurisdiction if the reporting financial institution does not have any other address on file for the account holder;

(c) if none of the indicia listed in paragraph (b) are discovered in the electronic search, then no further review is required until the earlier of

(i) a change in circumstances that results in one or more of the indicia referred to in paragraph (b) being associated with the account, and

(ii) the account becoming a high value account;

(d) if any of the indicia listed in subparagraphs (b)(i) to (v) are discovered in the electronic search or if there is a change in circumstances that results in one or more of the indicia in paragraph (b) being associated with the account, then the reporting financial institution must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified, unless one of the exceptions in paragraph (f) applies with respect to that account;

(e) if a hold mail instruction or in-care-of address in a reportable jurisdiction is discovered in the electronic search and no other address and none of the other indicia listed in subparagraphs (b)(i) to (v) are identified for the account holder, then

(i) the reporting financial institution must do one (if the relevant information is obtained) or both (in the order most appropriate to the circumstances) of the following:

(A) apply the paper record search described in paragraph (3)(b), and

(B) seek to obtain from the account holder a self-certification or documentary evidence to establish the residence for tax purposes of the account holder, and

(ii) if the paper record search referred to in clause (i)(A) fails to establish an indicium and the attempt to obtain the self-certification or documentary evidence referred to in clause (i)(B) is not successful, then the reporting financial institution must report the account as an undocumented account; and

(f) notwithstanding the discovery of indicia under paragraph (b), a reporting financial institution is not

(v) une procuration ou délégation de signature en cours de validité accordée à une personne ayant une adresse dans une juridiction soumise à déclaration,

(vi) si l'institution financière déclarante n'a pas dans ses dossiers d'autre adresse pour le titulaire de compte, une directive d'envoi à garder en instance ou une adresse portant la mention « à l'attention de » dans une juridiction soumise à déclaration;

c) si l'examen des données par voie électronique ne révèle la présence d'aucun des indices énumérés à l'alinéa b), aucune nouvelle démarche n'est requise jusqu'à la première en date des dates suivantes :

(i) la date à laquelle se produit un changement de circonstances ayant pour conséquence qu'un ou plusieurs des indices mentionnés à l'alinéa b) soient associés au compte,

(ii) la date à laquelle le compte devient un compte de valeur élevée;

d) si l'examen des données par voie électronique révèle la présence de l'un des indices énumérés aux sous-alinéas b)(i) à (v) ou s'il se produit un changement de circonstances ayant pour conséquence qu'un ou plusieurs des indices visés à l'alinéa b) soient associés au compte, l'institution financière déclarante considère le titulaire de compte comme un résident à des fins fiscales de chacune des juridictions soumises à déclaration pour laquelle un indice est identifié, à moins qu'une des exceptions visées à l'alinéa f) s'applique relativement au compte;

e) si l'examen des données par voie électronique révèle une directive d'envoi à garder en instance ou une adresse portant la mention « à l'attention de » dans une juridiction soumise à déclaration et qu'aucune autre adresse ni aucun autre des indices énumérés aux sous-alinéas b)(i) à (v) n'est identifié à l'égard du titulaire de compte, l'institution financière déclarante fait ce qui suit :

(i) elle prend au moins l'une des mesures ci-après (si les renseignements pertinents sont alors obtenus) ou les deux (dans l'ordre le plus approprié aux circonstances) :

(A) elle effectue la recherche dans les dossiers papier visée à l'alinéa (3)b),

(B) elle s'efforce d'obtenir auprès du titulaire de compte une autocertification ou une preuve documentaire qui établit la résidence de celui-ci à des fins fiscales,

required to treat an account holder as a resident of a reportable jurisdiction if

(i) both

(A) the account holder information contains

(I) a current mailing or residence address in the reportable jurisdiction,

(II) one or more telephone numbers in the reportable jurisdiction (and no telephone number in the jurisdiction of the reporting financial institution), or

(III) standing instructions (with respect to financial accounts other than depository accounts) to transfer funds to an account maintained in a reportable jurisdiction, and

(B) the reporting financial institution obtains, or has previously reviewed and currently maintains a record of,

(I) a self-certification from the account holder of the jurisdictions of residence of the account holder that does not include the reportable jurisdiction, and

(II) documentary evidence establishing the account holder's non-reportable status in relation to that jurisdiction, or

(ii) both

(A) the account holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the reportable jurisdiction, and

(B) the reporting financial institution obtains, or has previously reviewed and currently maintains a record of,

(I) a self-certification from the account holder of the jurisdictions of residence of the account holder that does not include the reportable jurisdiction, or

(II) documentary evidence establishing the account holder's non-reportable status in relation to that jurisdiction.

(ii) si la recherche dans les dossiers papier visée à la division (i)(A) ne révèle la présence d'aucun indice et que la tentative d'obtenir l'autocertification ou la preuve documentaire visée à la division (i)(B) échoue, elle déclare le compte comme compte non documenté;

f) malgré la découverte d'un des indices visés à l'alinéa b), une institution financière déclarante n'est pas tenue de considérer un titulaire de compte comme un résident d'une juridiction soumise à déclaration donnée si, à la fois :

(i) les deux énoncés ci-après se vérifient :

(A) les renseignements sur le titulaire de compte comprennent l'un des éléments suivants :

(I) une adresse postale ou de résidence actuelle dans la juridiction soumise à déclaration,

(II) un ou plusieurs numéros de téléphone dans la juridiction soumise à déclaration (et aucun numéro de téléphone dans la juridiction de l'institution financière déclarante),

(III) un ordre de virement permanent (relativement à un compte financier autre qu'un compte de dépôt) sur un compte tenu dans une juridiction soumise à déclaration,

(B) l'institution financière déclarante obtient ou a auparavant examiné les documents ci-après et en conserve une copie :

(I) une autocertification auprès du titulaire de compte qui établit les juridictions de résidence du titulaire de compte qui ne comprennent pas la juridiction soumise à déclaration donnée,

(II) une preuve documentaire qui établit que le titulaire de compte n'est pas soumis à déclaration relativement à la juridiction soumise à déclaration donnée,

(ii) les deux énoncés ci-après se vérifient :

(A) les renseignements sur le titulaire de compte contiennent une procuration ou une délégation de signature en cours de validité accordée à une personne ayant une adresse dans la juridiction soumise à déclaration donnée,

(B) l'institution financière déclarante obtient ou a auparavant examiné l'un des documents ci-après et en conserve une copie :

(I) une autocertification auprès du titulaire de compte qui établit les juridictions de résidence du titulaire de compte qui ne comprennent pas la juridiction soumise à déclaration donnée,

(II) une preuve documentaire qui établit que le titulaire de compte n'est pas soumis à déclaration relativement à la juridiction soumise à déclaration donnée.

Enhanced review procedure – high value accounts

(3) The following enhanced review procedures apply with respect to high value accounts that are preexisting individual accounts:

(a) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the indicia described in paragraph (2)(b);

(b) subject to paragraph (c), the reporting financial institution must review for any of the indicia described in paragraph (2)(b)

(i) the current customer master file, and

(ii) the following documents associated with the account, and obtained by the reporting financial institution within the last five years, to the extent that they are not contained in the current customer master file:

(A) the most recent documentary evidence collected with respect to the account,

(B) the most recent account opening contract or documentation,

(C) the most recent documentation obtained by the reporting financial institution in accordance with AML/KYC procedures or for other regulatory purposes,

(D) any power of attorney or signature authority forms currently in effect, and

(E) any standing instructions (other than with respect to a depository account) to transfer funds currently in effect;

Procédures d'examen approfondi — compte de valeur élevée

(3) Les procédures d'examen approfondi ci-après s'appliquent relativement à un compte de valeur élevée qui est un compte de particulier préexistant :

a) l'institution financière déclarante examine les données qu'elle tient et qui peuvent faire l'objet de recherches par voie électronique en vue de déceler l'un des indices visés à l'alinéa (2)b);

b) sous réserve de l'alinéa c), l'institution financière déclarante examine les documents ci-après en vue de déceler l'un des indices visés à l'alinéa (2)b) :

(i) le dossier principal actuel du client,

(ii) tout document ci-après associé au compte et obtenu par l'institution financière déclarante au cours des cinq années précédentes, s'il ne figure pas au dossier principal actuel du client :

(A) la preuve documentaire recueillie le plus récemment concernant le compte,

(B) la convention la plus récente ou le document d'ouverture de compte le plus récent,

(C) la documentation la plus récente obtenue par l'institution financière déclarante dans le cadre des procédures AML/KYC ou à d'autres fins légales,

(D) toute procuration ou délégation de signature en cours de validité,

(E) tout ordre de virement permanent (sauf relativement à un compte de dépôt) en cours de validité;

c) une institution financière déclarante n'a pas à effectuer les recherches dans les dossiers papier visées à

(c) a reporting financial institution is not required to perform the paper record search described in paragraph (b) to the extent that the reporting financial institution's electronically searchable information includes the following:

(i) the account holder's residence status,

(ii) the account holder's residence address and mailing address currently on file with the reporting financial institution,

(iii) the account holder's telephone number currently on file, if any, with the reporting financial institution,

(iv) in the case of financial accounts other than depository accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the reporting financial institution or at another financial institution),

(v) whether there is a hold mail instruction or current in-care-of address for the account holder, and

(vi) whether there is any power of attorney or signatory authority for the account;

(d) in addition to the electronic and paper record searches described in paragraphs (a) to (c), the reporting financial institution must treat as a reportable account any high value account assigned to a relationship manager (including any financial accounts aggregated with that high value account under section 277) if the relationship manager has actual knowledge that the account holder is a reportable person;

(e) with respect to the enhanced review of high value accounts described in paragraphs (a) to (d),

(i) if none of the indicia listed in paragraph (2)(b) are discovered in the enhanced review and the account is not identified as being held by a reportable person in paragraph (d), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account,

(ii) if any of the indicia listed in subparagraphs (2)(b)(i) through (v) are discovered in the enhanced review, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the reporting financial institution must treat the account as a reportable account with respect to each reportable jurisdiction for which an indicium is identified unless

l'alinéa b) si les données qu'elle tient et qui peuvent faire l'objet de recherches par voie électronique comprennent les éléments ci-après :

(i) le statut de résidence du titulaire de compte,

(ii) l'adresse de résidence et l'adresse postale du titulaire de compte qui figurent au dossier de l'institution financière déclarante,

(iii) le numéro de téléphone éventuel du titulaire du compte qui figure au dossier de l'institution financière déclarante;

(iv) dans le cas d'un compte financier autre qu'un compte de dépôt, un éventuel ordre de virement permanent depuis le compte vers un autre compte (y compris un compte auprès d'une autre succursale de l'institution financière déclarante ou d'une autre institution financière),

(v) une éventuelle adresse portant la mention « envoi à garder en instance » ou « à l'attention de » pour le titulaire de compte,

(vi) une éventuelle procuration ou délégation de signature relative au compte;

d) en plus des recherches dans les dossiers informatiques et papier visées aux alinéas a) à c), une institution financière déclarante est tenue de traiter comme un compte déclarable tout compte de valeur élevée confié à un chargé de clientèle (y compris tout compte financier qui est groupé avec ce compte de valeur élevée en vertu de l'article 277) si ce chargé de clientèle sait que le titulaire de compte est une personne devant faire l'objet d'une déclaration;

e) pour l'application des procédures d'examen approfondi visées aux alinéas a) à d) relativement à un compte de valeur élevée, une institution financière déclarante prend les mesures suivantes :

(i) si l'examen approfondi ne révèle la présence d'aucun des indices énumérés à l'alinéa (2)b) et que l'application de l'alinéa d) ne permet pas d'établir que le compte est détenu par une personne devant faire l'objet d'une déclaration, aucune nouvelle démarche par l'institution n'est requise jusqu'à ce que se produise un changement de circonstances ayant pour conséquence qu'un ou plusieurs indices soient associés au compte,

(ii) si l'examen approfondi révèle la présence de l'un des indices énumérés aux sous-alinéas (2)b)(i) à (v), ou s'il se produit un changement ultérieur de circonstances ayant pour conséquence qu'un ou

one of the exceptions in paragraph (2)(f) applies with respect to that account, and

(iii) if a hold mail instruction or in-care-of address is discovered in the enhanced review and no other address or other indicia listed in subparagraphs (2)(b)(i) to (v) are identified for the account holder, then the reporting financial institution must

(A) obtain from the account holder a self-certification or documentary evidence to establish the residence for tax purposes of the account holder, and

(B) if the reporting financial institution cannot obtain a self-certification or documentary evidence, report the account as an undocumented account;

(f) if a preexisting individual account is not a high value account on June 30, 2017, but becomes a high value account as of the last day of a subsequent calendar year,

(i) the reporting financial institution must complete the enhanced review procedures described in this subsection with respect to the account within the calendar year following the year in which the account becomes a high value account, and

(ii) if the account is identified as a reportable account based on the review in subparagraph (i), the reporting financial institution must report the required information about the account with respect to the year in which it is identified as a reportable account (and subsequent years on an annual basis, unless the account holder ceases to be a reportable person);

(g) if a reporting financial institution applies the enhanced review procedures described in this subsection to a high value account in a year, then the reporting financial institution is not required to reapply those procedures – other than the relationship manager inquiry described in paragraph (d) – to the same high value account in any subsequent year unless the account is undocumented, in which case the reporting financial institution must re-apply them annually until the account ceases to be undocumented;

(h) if there is a change of circumstances with respect to a high value account that results in one or more indicia described in paragraph (2)(b) being associated with the account, then the reporting financial institution must treat the account as a reportable account with respect to each reportable jurisdiction for which an indicium is identified unless one of the exceptions

plusieurs indices soient associés au compte, l'institution considère le compte comme un compte déclarable relativement à chaque juridiction soumise à déclaration pour laquelle un indice est identifié, sauf si l'une des exceptions prévues à l'alinéa (2)f) s'applique relativement au compte,

(iii) si l'examen approfondi révèle la présence d'une directive d'envoi à garder en instance ou d'une adresse portant la mention « à l'attention de » et qu'aucune autre adresse ni aucun autre indice visé aux sous-alinéas (2)b)(i) à (v) n'est identifié pour le titulaire de compte, l'institution financière déclarante :

(A) d'une part, obtient du titulaire de compte une autocertification ou une preuve documentaire qui établit la résidence du titulaire de compte à des fins fiscales,

(B) d'autre part, si elle ne peut obtenir cette autocertification ou cette preuve documentaire, déclare le compte comme compte non documenté;

f) si un compte de particulier préexistant n'est pas un compte de valeur élevée au 30 juin 2017, mais le devient le dernier jour d'une année civile ultérieure, les règles ci-après s'appliquent :

(i) l'institution financière déclarante applique les procédures d'examen approfondi visées au présent paragraphe relativement au compte durant l'année civile qui suit l'année au cours de laquelle le compte devient un compte de valeur élevée,

(ii) si le compte est identifié comme compte déclarable dans le cadre de l'examen visé au sous-alinéa (i), l'institution financière déclarante déclare les renseignements requis sur le compte relativement à l'année durant laquelle il est identifié comme compte déclarable (et pour les années ultérieures sur une base annuelle, à moins que le titulaire de compte cesse d'être une personne devant faire l'objet d'une déclaration);

g) une institution financière déclarante ayant appliqué les procédures d'examen approfondi visées au présent paragraphe à un compte de valeur élevée dans une année n'applique pas de nouveau ces procédures — à l'exception de la prise de renseignements auprès du chargé de clientèle visée à l'alinéa d) — au même compte dans une année ultérieure, sauf si le compte n'est pas documenté, auquel cas elle les applique chaque année jusqu'à ce que le compte cesse d'être non documenté;

in paragraph (2)(f) applies with respect to that account; and

(i) a reporting financial institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account.

h) s'il se produit, relativement à un compte de valeur élevée, un changement de circonstances ayant pour conséquence qu'un ou plusieurs des indices visés à l'alinéa (2)b) soient associés au compte, une institution financière déclarante considère le compte comme un compte déclarable relativement à chaque juridiction soumise à déclaration pour laquelle un indice est décelé sauf si l'alinéa (2)f) s'applique relativement à ce compte;

i) une institution financière déclarante met en œuvre des procédures visant à ce que les chargés de clientèle identifient tout changement de circonstances en relation avec un compte.

Timing of review

(4) Each preexisting individual account must be reviewed in accordance with subsection (2) or (3) before

(a) 2019, if the account is a high value account; or

(b) 2020, if the account is a lower value account.

Délai d'examen

(4) Tout compte de particulier préexistant est examiné conformément aux paragraphes (2) ou (3) :

a) soit avant 2019, s'il s'agit d'un compte de valeur élevée;

b) soit avant 2020, s'il s'agit d'un comte de faible valeur.

Reportable preexisting individual accounts

(5) Any preexisting individual account that has been identified as a reportable account under this section must be treated as a reportable account in all subsequent years, unless the account holder ceases to be a reportable person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Comptes de particuliers préexistants déclarables

(5) Tout compte de particulier préexistant qui a été identifié comme compte déclarable en application du présent article est considéré comme un compte déclarable durant toutes les années ultérieures, sauf si le titulaire de compte cesse d'être une personne devant faire l'objet d'une déclaration.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Due diligence – new individual accounts

274 (1) Upon opening a new individual account, the reporting financial institution must obtain a self-certification (which may be a part of the account opening documentation) that allows the reporting financial institution to

(a) determine the account holder's residence for tax purposes; and

(b) confirm the reasonableness of the self-certification taking into account information obtained by the reporting financial institution in connection with the opening of the account, including any documentation collected in accordance with the AML/KYC procedures.

Diligence raisonnable — nouveaux comptes de particuliers

274 (1) Une institution financière déclarante obtient à l'ouverture d'un nouveau compte de particulier une autocertification (qui peut faire partie des documents relatifs à l'ouverture du compte) lui permettant, à la fois :

a) de déterminer l'adresse de résidence à des fins fiscales du titulaire de compte;

b) de confirmer la vraisemblance de l'autocertification en tenant compte des renseignements qu'elle a obtenus dans le cadre de l'ouverture du compte, y compris les documents recueillis dans le cadre des procédures AML/KYC.

Determination of reportable account

(2) If the self-certification for a new individual account establishes that the account holder is resident for tax purposes in a reportable jurisdiction, then

(a) the reporting financial institution must treat the account as a reportable account; and

(b) the self-certification must also include the account holder's TIN with respect to the reportable jurisdiction (subject to subsection 271(4)) and the account holder's date of birth.

Requirement to obtain new self-certification

(3) If there is a change in circumstances with respect to a new individual account that causes the reporting financial institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, then the reporting financial institution

(a) cannot rely on the original self-certification; and

(b) must obtain a valid self-certification that establishes the residence for tax purposes of the account holder.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Due diligence – preexisting entity accounts

275 (1) Unless the reporting financial institution elects otherwise — either with respect to all preexisting entity accounts or, separately, with respect to any clearly identified group of those accounts — a preexisting entity account with an aggregate account balance or value that does not exceed 250,000 USD on June 30, 2017 is not required to be reviewed, identified or reported as a reportable account until the aggregate account balance or value exceeds 250,000 USD on the last day of any subsequent calendar year.

Application of subsection (4)

(2) The review procedures set forth in subsection (4) apply to a preexisting entity account if it has an aggregate account balance or value that exceeds 250,000 USD on

(a) June 30, 2017; or

(b) the last day of any subsequent calendar year.

Compte déclarable — détermination

(2) Si l'autocertification obtenue relativement à un nouveau compte de particulier établit que le titulaire de compte réside à des fins fiscales dans une juridiction soumise à déclaration, les règles ci-après s'appliquent :

a) l'institution financière déclarante traite le compte comme un compte déclarable;

b) l'autocertification doit également comprendre la date de naissance du titulaire de compte et, sous réserve du paragraphe 271(4), le NIF de celui-ci relativement à cette juridiction soumise à déclaration.

Obligation d'obtention — nouvelle autocertification

(3) Si, par suite d'un changement de circonstances relativement à un nouveau compte de particulier, une institution financière déclarante sait ou a des raisons de savoir que l'autocertification originale est inexacte ou non fiable, l'institution financière déclarante, à la fois :

a) n'utilise pas cette autocertification;

b) obtient une autocertification valide qui précise l'adresse de résidence à des fins fiscales du titulaire de compte.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Diligence raisonnable — comptes d'entités préexistants

275 (1) Sauf si une institution financière déclarante fait le choix de procéder autrement, soit relativement à tous les comptes d'entités préexistants ou, séparément, relativement à tout groupe de tels comptes clairement identifié, un compte d'entité préexistant dont le solde ou la valeur total n'excède pas 250 000 USD au 30 juin 2017 n'a pas à être examiné, identifié ou déclaré comme compte déclarable tant que son solde ou sa valeur total n'excède pas 250 000 USD le dernier jour d'une année civile ultérieure.

Application du paragraphe (4)

(2) Les procédures d'examen prévues au paragraphe (4) s'appliquent relativement à un compte d'entité préexistant dont le solde ou la valeur total excède 250 000 USD à celui des jours ci-après qui est en cause :

a) le 30 juin 2017;

b) le dernier jour d'une année civile ultérieure.

Determination of reportable accounts

(3) With respect to preexisting entity accounts described in subsection (2), the only accounts that shall be treated as reportable accounts are accounts that are held by

(a) one or more entities that are reportable persons; or

(b) passive NFEs with one or more controlling persons who are reportable persons.

Review procedures — preexisting entity account

(4) If this subsection applies to a preexisting entity account, a reporting financial institution must apply the following review procedures to determine whether the account is held by one or more reportable persons or by passive NFEs with one or more controlling persons who are reportable persons:

(a) review information maintained for regulatory or customer relationship purposes (including information collected in accordance with AML/KYC procedures) to determine whether the information indicates that the account holder is resident in a reportable jurisdiction and, if so, the reporting financial institution must treat the account as a reportable account unless it

(i) obtains a self-certification from the account holder to establish that the account holder is not a reportable person, or

(ii) reasonably determines, based on information in its possession or that is publicly available, that the account holder is not a reportable person; and

(b) with respect to an account holder of a preexisting account (including an entity that is a reportable person), the reporting financial institution must determine whether the account holder is a passive NFE with one or more controlling persons who are reportable persons and for the purposes of

(i) determining whether the account holder is a passive NFE, the reporting financial institution must obtain a self-certification from the account holder to establish its status, unless it has information in its possession or information is publicly available, based on which it can reasonably determine that the account holder is

(A) an active NFE, or

(B) a financial institution other than an entity described in paragraph (b) of the definition

Compte déclarable — détermination

(3) Un compte d'entité préexistant visé au paragraphe (2) est considéré comme un compte déclarable que s'il est détenu :

a) soit par une ou plusieurs entités qui sont des personnes devant faire l'objet d'une déclaration;

b) soit par des ENF passives dont une ou plusieurs personnes détenant le contrôle sont des personnes devant faire l'objet d'une déclaration.

Procédures d'examen — compte d'entité préexistant

(4) En cas d'application du présent paragraphe à un compte d'entité préexistant, une institution financière déclarante applique les procédures d'examen ci-après pour déterminer si le compte est détenu par une ou plusieurs personnes devant faire l'objet d'une déclaration ou par des ENF passives dont une ou plusieurs personnes détenant le contrôle sont des personnes devant faire l'objet d'une déclaration :

a) l'institution financière déclarante examine les renseignements obtenus à des fins légales ou de relations avec le client (y compris les renseignements obtenus dans le cadre des procédures AML/KYC) en vue de déterminer s'ils indiquent que le titulaire du compte réside dans une juridiction soumise à déclaration, auquel cas l'institution financière déclarante traite le compte comme un compte déclarable à moins que l'un des énoncés ci-après s'applique :

(i) l'institution financière déclarante obtient une autocertification du titulaire de compte pour établir que celui-ci n'est pas une personne devant faire l'objet d'une déclaration,

(ii) l'institution financière déclarante détermine avec une certitude raisonnable, sur la base de renseignements en sa possession ou accessibles au public, que le titulaire de compte n'est pas une personne devant faire l'objet d'une déclaration;

b) s'agissant d'un titulaire d'un compte préexistant (y compris une entité qui est une personne devant faire l'objet d'une déclaration), l'institution financière déclarante détermine si le titulaire de compte est une ENF passive dont une ou plusieurs personnes détenant le contrôle sont des personnes devant faire l'objet d'une déclaration et à cette fin :

(i) pour déterminer si le titulaire de compte est une ENF passive, l'institution financière déclarante obtient une autocertification du titulaire de compte afin d'établir son statut, sauf si elle détermine avec une certitude raisonnable, sur la base de

investment entity that is not a participating jurisdiction financial institution,

(ii) determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with AML/KYC procedures, and

(iii) determining whether a controlling person of a passive NFE is a reportable person, a reporting financial institution may rely on

(A) information collected and maintained in accordance with AML/KYC procedures in the case of a preexisting entity account held by one or more NFEs with an aggregate account balance or value that does not exceed 1 million USD, or

(B) a self-certification from the account holder or the controlling person indicating the jurisdiction in which the controlling person is resident for tax purposes.

renseignements en sa possession ou accessibles au public, que le titulaire de compte est :

(A) soit une ENF active,

(B) soit une institution financière autre qu'une entité visée à l'alinéa b) de la définition de ***entité d'investissement*** qui n'est pas une institution financière d'une juridiction partenaire,

(ii) pour déterminer qui sont les personnes détenant le contrôle d'un titulaire de compte, l'institution financière déclarante peut se fier aux renseignements recueillis et conservés dans le cadre des procédures AML/KYC,

(iii) pour déterminer si une personne détenant le contrôle d'une ENF passive est une personne devant faire l'objet d'une déclaration, l'institution financière déclarante peut se fier :

(A) soit aux renseignements recueillis et conservés dans le cadre des procédures AML/KYC dans le cas d'un compte d'entité préexistant qui est détenu par une ou plusieurs ENF et dont le solde ou la valeur total n'excède pas 1 000 000 USD,

(B) soit à une autocertification du titulaire de compte ou de la personne détenant le contrôle qui indique la juridiction dans laquelle la personne détenant le contrôle est résidente à des fins fiscales.

Timing of review

(5) Each preexisting entity account must be reviewed in accordance with subsection (4) before

(a) 2020, if the account has an aggregate account balance or value that exceeds 250,000 USD on June 30, 2017; or

(b) the end of the calendar year following the year in which the aggregate account balance or value exceeds 250,000 USD on December 31, if paragraph (a) does not apply.

Change of circumstances

(6) If there is a change of circumstances with respect to a preexisting entity account that causes the reporting financial institution to know, or have reason to know, that the self-certification or other documentation associated with the account is incorrect or unreliable, the reporting financial institution must redetermine the status of the account in accordance with subsection (4).

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Délai d'examen

(5) Tout compte d'entité préexistant est examiné conformément aux procédures prévues au paragraphe (4), selon le cas :

a) avant 2020, si le solde ou la valeur total du compte excède 250 000 USD au 30 juin 2017;

b) avant la fin de l'année civile qui suit l'année au cours de laquelle le solde ou la valeur total du compte excède 250 000 USD au 31 décembre, si l'alinéa a) ne s'applique pas.

Changement de circonstances

(6) Si, par suite d'un changement de circonstances relativement à un compte d'entité préexistant, une institution financière déclarante sait ou a des raisons de savoir que l'autocertification ou un autre document associé au compte est inexact ou non fiable, elle détermine à nouveau le statut du compte conformément au paragraphe (4).

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Due diligence for new entity accounts

276 For new entity accounts, a reporting financial institution must apply the following review procedures to determine whether the account is held by one or more reportable persons or by passive NFEs with one or more controlling persons who are reportable persons:

(a) the reporting financial institution must

(i) obtain a self-certification (which may be part of the account opening documentation) that allows the reporting financial institution to determine the account holder's residence for tax purposes and confirm the reasonableness of the self-certification based on the information obtained by the reporting financial institution in connection with the opening of the account, including any documentation collected in accordance with AML/KYC procedures, and

(ii) if the self-certification referred to in subparagraph (i) indicates that the account holder is resident in a reportable jurisdiction, treat the account as a reportable account unless it reasonably determines, based on information in its possession or information that is publicly available, that the account holder is not a reportable person with respect to the reportable jurisdiction; and

(b) with respect to an account holder of a new entity account (including an entity that is a reportable person), the reporting financial institution must determine whether the account holder is a passive NFE with one or more controlling persons who are reportable persons and, if so, treat the account as a reportable account and, for the purposes of

(i) determining whether the account holder is a passive NFE, the reporting financial institution must obtain a self-certification from the account holder to establish its status, unless it has information in its possession or information is publicly available, based on which it can reasonably determine that the account holder is

(A) an active NFE, or

(B) a financial institution other than an entity that

(I) is an *investment entity* because of paragraph (b) of that definition, and

(II) is not a participating jurisdiction financial institution,

Diligence raisonnable — nouveaux comptes d'entités

276 Une institution financière déclarante applique les procédures d'examen ci-après à un nouveau compte d'entité pour déterminer si le compte est détenu par une ou plusieurs personnes devant faire l'objet d'une déclaration ou par des ENF passives dont une ou plusieurs personnes détenant le contrôle sont des personnes devant faire l'objet d'une déclaration :

a) l'institution financière déclarante fait ce qui suit :

(i) elle obtient une autocertification, qui peut faire partie des documents relatifs à l'ouverture du compte, lui permettant de déterminer l'adresse de résidence à des fins fiscales du titulaire de compte et de confirmer la vraisemblance de l'autocertification en s'appuyant sur les renseignements qu'elle a obtenus dans le cadre de l'ouverture du compte, y compris tout document recueilli dans le cadre des procédures AML/KYC,

(ii) si l'autocertification mentionnée au sous-alinéa (i) établit que le titulaire de compte est résident d'une juridiction soumise à déclaration, elle traite le compte comme un compte déclarable, sauf si elle détermine avec une certitude raisonnable, sur la base de renseignements en sa possession ou accessibles au public, que le titulaire de compte n'est pas une personne devant faire l'objet d'une déclaration relativement à la juridiction soumise à déclaration;

b) s'agissant d'un titulaire d'un nouveau compte d'entité (y compris une entité qui est une personne devant faire l'objet d'une déclaration) l'institution financière déclarante détermine si le titulaire de compte est une ENF passive dont une ou plusieurs personnes détenant le contrôle sont des personnes devant faire l'objet d'une déclaration, auquel cas elle considère le compte comme un compte déclarable et à cette fin :

(i) pour déterminer si le titulaire de compte est une ENF passive, l'institution financière déclarante obtient une autocertification du titulaire de compte afin d'établir son statut, sauf si elle des renseignements en sa possession ou accessibles au public lui permettent de déterminer avec une certitude raisonnable que le titulaire de compte est :

(A) soit une ENF active,

(B) soit une institution financière autre qu'une entité qui :

(I) d'une part, est une *entité d'investissement* par l'effet de l'alinéa b) de cette définition,

(ii) determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with AML/KYC procedures, and

(iii) determining whether a controlling person of a passive NFE is a reportable person, a reporting financial institution may rely on a self-certification from the account holder or the controlling person.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

(II) d'autre part, n'est pas une institution financière d'une juridiction partenaire,

(ii) pour déterminer les personnes détenant le contrôle d'un titulaire de compte, l'institution financière déclarante peut se fier aux renseignements recueillis et conservés dans le cadre des procédures AML/KYC,

(iii) pour déterminer si une personne détenant le contrôle d'une ENF passive est une personne devant faire l'objet d'une déclaration, l'institution financière déclarante peut se fier à une autocertification du titulaire de compte ou de la personne détenant le contrôle.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Special due diligence rules

277 (1) A reporting financial institution may not rely on a self-certification or documentary evidence if the reporting financial institution knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable.

Diligence raisonnable — règles spéciales

277 (1) Une institution financière déclarante ne peut se fier à une autocertification ou à une preuve documentaire si elle sait ou a des raisons de savoir que l'autocertification ou la preuve est inexacte ou non fiable.

Exception — individual beneficiary receiving death benefit

(2) A reporting financial institution may presume that an individual beneficiary (other than the owner) of a cash value insurance contract or an annuity contract receiving a death benefit is not a reportable person and may treat the financial account as other than a reportable account unless it has actual knowledge, or reason to know, that the beneficiary is a reportable person.

Exception — bénéficiaire recevant une prestation de décès

(2) Une institution financière déclarante peut présumer que la personne physique (autre que le propriétaire) bénéficiaire d'un contrat d'assurance avec valeur de rachat ou d'un contrat de rente qui reçoit une prestation de décès n'est pas une personne devant faire l'objet d'une déclaration et peut considérer le compte financier comme un compte autre qu'un compte déclarable, sauf si elle sait ou a des raisons de savoir que le bénéficiaire est une personne devant faire l'objet d'une déclaration.

Aggregation rules

(3) For the purposes of

(a) determining the aggregate balance or value of financial accounts held by an individual or entity,

(i) a reporting financial institution is required to aggregate all financial accounts maintained by the reporting financial institution, or by a related entity, but only to the extent that the reporting financial institution's computerized systems

(A) link the financial accounts by reference to a data element such as a client number or TIN, and

(B) allow account balances or values to be aggregated, and

Règles d'agrégation — comptes financiers

(3) Les règles ci-après s'appliquent aux fins suivantes :

a) pour déterminer le solde ou la valeur total des comptes financiers détenus par un particulier ou une entité :

(i) une institution financière déclarante agrège les comptes financiers tenus par elle ou par une entité liée, mais uniquement dans la mesure où ses systèmes informatiques, à la fois :

(A) établissent un lien entre ces comptes grâce à une donnée tel que le numéro de client ou le NIF,

(B) permettent l'agrégation des soldes ou des valeurs des comptes,

(ii) each holder of a jointly held financial account shall be attributed the entire balance or value of the jointly held financial account; and

(b) determining the aggregate balance or value of financial accounts held by an individual in order to determine whether a financial account is a high value account, a reporting financial institution is also required — in the case of any financial accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by the same individual — to aggregate all such accounts.

Dealer accounts

(4) Subsection (5)

(a) applies to a reporting financial institution in respect of a client name account maintained by the institution if

(i) property recorded in the account is also recorded in a financial account (in this subsection and subsection (5) referred to as the *related account*) maintained by a financial institution (in this subsection and subsection (5) referred to as the *dealer*) that is authorized under provincial legislation

(A) to engage in the business of dealing in securities or any other financial instrument, or

(B) to provide portfolio management or investment advising services, and

(ii) the dealer has advised the institution whether the related account is a reportable account; and

(b) does not apply, despite paragraph (a), if it can reasonably be concluded by the institution that the dealer has failed to comply with its obligations under this Part.

Dealer accounts

(5) If this subsection applies to a reporting financial institution in respect of a client name account,

(a) sections 272 to 276 do not apply to the institution in respect of the account; and

(b) the institution shall rely on the determination of the dealer in respect of the related account in determining whether the account is a reportable account.

(ii) chaque titulaire d'un compte financier conjoint se voit attribuer le total du solde ou de la valeur de ce compte;

b) pour déterminer le solde ou la valeur total des comptes financiers détenus par un particulier dans le but d'établir si un compte financier est un compte de valeur élevée, une institution financière déclarante — lorsqu'un chargé de clientèle sait ou a des raisons de savoir que ces comptes appartiennent directement ou indirectement au même particulier ou qu'ils sont contrôlés ou ont été ouverts par le même particulier (sauf en cas d'ouverture à titre de fiduciaire) — agrège les soldes de ces comptes.

Comptes de courtiers

(4) Le paragraphe (5) :

a) d'une part, s'applique à une institution financière déclarante relativement à un compte de nom de client qu'elle tient si, à la fois :

(i) les biens portés au compte sont également portés à un compte financier (appelé *compte connexe* au présent paragraphe et au paragraphe (5)) tenu par une institution financière (appelée *courtier* au présent paragraphe et au paragraphe (5)) qui est autorisée en vertu de la législation provinciale à faire l'une ou l'autre des activités suivantes :

(A) à se livrer au commerce des valeurs mobilières ou d'autres instruments financiers,

(B) à fournir des services de gestion de portefeuille ou de conseils en placement,

(ii) le courtier a fait savoir à l'institution financière si le compte connexe est un compte déclarable;

b) d'autre part, ne s'applique pas si l'institution financière peut raisonnablement conclure que le courtier ne s'est pas conformé aux obligations qui lui sont imposées en vertu de la présente partie.

Comptes de courtiers

(5) En cas d'application du présent paragraphe à une institution financière déclarante relativement à un compte de nom de client :

a) les articles 272 à 276 ne s'appliquent pas à l'institution financière relativement au compte;

b) l'institution financière se fie à la détermination faite par le courtier relativement au compte connexe pour déterminer si ce compte est un compte déclarable.

Group insurance and annuities

(6) A reporting financial institution may treat a financial account that is a member's interest in a group cash value insurance contract or group annuity contract as a financial account that is not a reportable account until the day on which an amount becomes payable to the employee, certificate holder or beneficiary, if the financial account meets the following requirements:

(a) the group cash value insurance contract or group annuity contract is issued to an employer and covers 25 or more employees or certificate holders;

(b) the employees or certificate holders are entitled to

(i) receive any contract value related to their interest, and

(ii) name beneficiaries for the benefit payable upon the employee's or certificate holder's death; and

(c) the aggregate amount payable to any employee or certificate holder or beneficiary does not exceed 1 million USD.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Assurance et rentes de groupe

(6) Une institution financière déclarante peut considérer qu'un compte financier qui correspond à la participation d'un membre à un contrat d'assurance de groupe avec valeur de rachat ou un contrat de rente de groupe est un compte financier non déclarable jusqu'à la date à laquelle une somme devient à payer à l'employé, au titulaire de certificat ou au bénéficiaire, si ce compte financier satisfait aux conditions suivantes :

a) le contrat d'assurance de groupe avec valeur de rachat ou le contrat de rente de groupe est conclu avec un employeur et couvre au moins 25 employés ou titulaires de certificat;

b) les employés ou titulaires de certificat ont les droits suivants :

(i) de recevoir des prestations correspondant à leurs participations en vertu du contrat,

(ii) de désigner des bénéficiaires des prestations payables au décès de l'employé ou du titulaire;

c) la somme totale payable à un employé, titulaire de certificat ou bénéficiaire ne dépasse pas 1 000 000 USD.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Reporting

278 (1) Every reporting financial institution shall file with the Minister, before May 2 of each calendar year, an information return in prescribed form relating to each reportable account maintained by the institution at any time during the immediately preceding calendar year and after June 30, 2017.

Déclaration

278 (1) Toute institution financière déclarante présente au ministre, avant le 2 mai de chaque année civile, une déclaration de renseignements sur le formulaire prescrit concernant chaque compte déclarable tenu par elle au cours de l'année civile précédente et après le 30 juin 2017.

Electronic filing

(2) The information return required under subsection (1) shall be filed by way of electronic filing.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Transmission électronique

(2) La production de la déclaration de renseignements visée au paragraphe (1) se fait par transmission électronique.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Record keeping

279 (1) Every reporting financial institution shall keep, at the institution's place of business or at such other place as may be designated by the Minister, records that the institution obtains or creates for the purpose of complying with this Part, including self-certifications and records of documentary evidence.

Tenue de registres

279 (1) L'institution financière déclarante tient, à son lieu d'affaires ou à tout autre lieu désigné par le ministre, les registres qu'elle obtient ou crée pour se conformer à la présente partie, notamment les autocertifications et les registres de preuves documentaires.

Form of records

(2) Every reporting financial institution required by this Part to keep records that does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (3).

Retention of records

(3) Every reporting financial institution that is required to keep, obtain or create records under this Part shall retain those records for a period of at least six years following

(a) in the case of a self-certification, the last day on which a related financial account is open; and

(b) in any other case, the end of the last calendar year in respect of which the record is relevant.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Anti-avoidance

280 If a person enters into an arrangement or engages in a practice, the primary purpose of which can reasonably be considered to be to avoid an obligation under this Part, the person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

Production of TIN

281 (1) Every reportable person shall provide their TIN at the request of a reporting financial institution that is required under this Part to make an information return requiring the TIN.

Confidentiality of TIN

(2) A person required to make an information return referred to in subsection (1) shall not knowingly use, communicate or allow to be communicated, otherwise than as required or authorized under this Act or a regulation, the TIN without the written consent of the reportable person.

Penalty for failure to provide TIN

(3) Every reportable person who fails to provide on request their TIN to a reporting financial institution that is required under this Part to make an information return requiring the TIN is liable to a penalty of $500 for each such failure, unless

Forme des registres

(2) L'institution financière déclarante qui tient des registres, comme l'en oblige la présente partie, par voie électronique doit les conserver sous une forme électronique intelligible pendant la période mentionnée au paragraphe (3).

Période minimale de conservation

(3) L'institution financière déclarante qui tient, obtient ou crée des registres, comme l'en oblige la présente partie, doit les conserver pendant une période minimale de six ans suivant :

a) dans le cas d'une autocertification, le dernier jour où un compte financier connexe est ouvert;

b) dans les autres cas, la fin de la dernière année civile à laquelle le registre se rapporte.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Anti-évitement

280 La personne qui conclut une entente ou qui se livre à une pratique dont il est raisonnable de considérer que l'objet principal consiste à éviter une obligation prévue par la présente partie est assujettie à l'obligation comme si elle n'avait pas conclu l'entente ou ne s'était pas livrée à la pratique.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

Communication du NIF

281 (1) Toute personne devant faire l'objet d'une déclaration communique sur demande son NIF à l'institution financière déclarante qui est tenue en vertu de la présente partie de remplir une déclaration de renseignements devant comporter ce NIF.

Confidentialité du NIF

(2) La personne qui est tenue de remplir la déclaration de renseignements mentionnée au paragraphe (1) ne peut sciemment, sans le consentement écrit de la personne devant faire l'objet d'une déclaration, utiliser ou communiquer le NIF ou permettre qu'il soit communiqué autrement que conformément à la présente loi et à son règlement.

Pénalité

(3) Toute personne devant faire l'objet d'une déclaration qui ne communique pas sur demande son NIF à une institution financière déclarante qui est tenue en vertu de la présente partie de remplir une déclaration de renseignements devant comporter ce NIF est passible d'une pénalité de 500 $ pour chaque défaut, sauf si, selon le cas :

(a) an application for the assignment of the TIN is made to the relevant reportable jurisdiction not later than 90 days after the request was made and the TIN is provided to the reporting financial institution that requested it within 15 days after the reportable person received it; or

(b) the reportable person is not eligible to obtain a TIN from the relevant reportable jurisdiction (including because the relevant reportable jurisdiction does not issue TINs).

Assessment

(4) The Minister may at any time assess any amount payable under subsection (3) by any person and, if the Minister sends a notice of assessment to the person, sections 150 to 163, subsections 164(1) and (1.4) to (7), sections 165 to 167 and Division J of Part I apply with such modifications as the circumstances require.

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2016, c. 12, s. 71.

a) une demande d'attribution du NIF est faite à la juridiction soumise à déclaration en cause dans les 90 jours suivant la demande et le NIF est communiqué à l'institution financière déclarante qui en fait la demande dans les 15 jours suivant sa réception de cette demande;

b) la personne devant faire l'objet d'une déclaration n'est pas en droit d'obtenir un NIF de la juridiction soumise à déclaration en cause (notamment pour le motif que celle-ci n'attribue pas de NIF).

Cotisation

(4) Le ministre peut, en tout temps, établir une cotisation pour la somme à verser en application du paragraphe (3) par une personne; les articles 150 à 163, les paragraphes 164(1) et (1.4) à (7), les articles 165 à 167 et la section J de la partie I s'appliquent, avec les modifications nécessaires, à tout avis de cotisation que le ministre envoie à la personne.

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2016, ch. 12, art. 71.

SCHEDULE

(Subsection 181(1))

Listed Corporations

Ally Credit Canada Limited/Ally Crédit Canada Limitée

AmeriCredit Financial Services of Canada Ltd.

AVCO Financial Services Quebec Limited

Bombardier Capital Ltd.

Canaccord Capital Credit Corporation/Corporation de crédit Canaccord capital

Canaccord Financial Holdings Inc./Corporation financière Canaccord Inc.

Canadian Cooperative Agricultural Financial Services

Canadian Home Income Plan Corporation

Citibank Canada Investment Funds Limited

Citicapital Commercial Corporation/Citicapital Corporation Commerciale

Citi Cards Canada Inc./Cartes Citi Canada Inc.

Citi Commerce Solutions of Canada Ltd.

CitiFinancial Canada East Corporation/CitiFinancière, corporation du Canada Est

CitiFinancial Canada, Inc./CitiFinancière Canada, Inc.

Citigroup Finance Canada Inc.

Crédit Industriel Desjardins

CU Credit Inc.

Ford Credit Canada Limited

GMAC Residential Funding of Canada, Limited

Household Commercial Canada Inc.

Household Finance Corporation Limited

Household Finance Corporation of Canada

Household Realty Corporation Limited

Hudson's Bay Company Acceptance Limited

John Deere Credit Inc./Crédit John Deere Inc.

Merchant Retail Services Limited

PACCAR Financial Ltd./Compagnie Financière Paccar Ltée

Paradigm Fund Inc./Le Fonds Paradigm Inc.

Prêts étudiants Atlantique Inc./Atlantic Student Loans Inc.

Principal Fund Incorporated

RT Mortgage-Backed Securities Limited

RT Mortgage-Backed Securities II Limited

State Farm Finance Corporation of Canada/Corporation de Crédit State Farm du Canada

Trans Canada Credit Corporation

Trans Canada Retail Services Company/Société de services de détails trans Canada

ANNEXE

(paragraphe 181(1))

Sociétés visées

Ally Credit Canada Limited/Ally Crédit Canada Limitée

AmeriCredit Financial Services of Canada Ltd.

AVCO Financial Services Quebec Limited

Bombardier Capital Ltd.

Canaccord Capital Credit Corporation/Corporation de crédit Canaccord capital

Canaccord Financial Holdings Inc./Corporation financière Canaccord Inc.

Canadian Cooperative Agricultural Financial Services

Canadian Home Income Plan Corporation

Citibank Canada Investment Funds Limited

Citicapital Commercial Corporation/Citicapital Corporation Commerciale

Citi Cards Canada Inc./Cartes Citi Canada Inc.

Citi Commerce Solutions of Canada Ltd.

CitiFinancial Canada East Corporation/CitiFinancière, corporation du Canada Est

CitiFinancial Canada, Inc./CitiFinancière Canada, Inc.

Citigroup Finance Canada Inc.

Crédit Industriel Desjardins

CU Credit Inc.

Ford Credit Canada Limited

GMAC Residential Funding of Canada, Limited

Household Commercial Canada Inc.

Household Finance Corporation Limited

Household Finance Corporation of Canada

Household Realty Corporation Limited

Hudson's Bay Company Acceptance Limited

John Deere Credit Inc./Crédit John Deere Inc.

Merchant Retail Services Limited

PACCAR Financial Ltd./Compagnie Financière Paccar Ltée

Paradigm Fund Inc./Le Fonds Paradigm Inc.

Prêts étudiants Atlantique Inc./Atlantic Student Loans Inc.

Principal Fund Incorporated

RT Mortgage-Backed Securities Limited

RT Mortgage-Backed Securities II Limited

State Farm Finance Corporation of Canada/Corporation de Crédit State Farm du Canada

Trans Canada Credit Corporation

Trans Canada Retail Services Company/Société de services de détails trans Canada

Wells Fargo Financial Canada Corporation

NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts. 2013, c. 34, s. 366.

Wells Fargo Financial Canada Corporation

NOTE : Les dispositions d'application ne sont pas incluses dans la présente codification; voir les lois modificatives appropriées. 2013, ch. 34, art. 366.

RELATED PROVISIONS

— 2004, c. 24, s. 26, as amended by 2006, c. 1, s. 1

Review

26 Within two years after the coming into force of this section, the committee of the Senate that normally considers electoral matters, and the committee of the House of Commons that normally considers electoral matters, shall each undertake a comprehensive review of the amendments made by this Act and submit a report to its House containing its recommendations concerning those amendments.

— 2005, c. 30, s. 6

6 For the purpose of applying section 118.1 of the Act, a gift made by an individual after 2004 and before January 12, 2005 is deemed to have been made by the individual in the individual's 2004 taxation year and not in the individual's 2005 taxation year if

(a) the individual claims an amount under subsection 118.1(3) of the Act in respect of the gift for the individual's 2004 taxation year;

(b) the gift was made to a registered charity listed under the International Humanitarian Assistance program of the Canadian International Development Agency;

(c) the individual directed the charity to apply the gift to the tsunami relief effort; and

(d) the gift was in the form of cash or was transferred by way of cheque, credit card or money order.

— 2006, c. 4, s. 177(2)

177 (2) Subsection (1) applies in respect of overpayments that are deemed to arise during months that are after June 2007, and, for overpayments that are deemed to arise during months that are after June 2006 and before July 2007, the description of D in subsection 122.61(1) of the Act is to be read as follows:

D is the product obtained by multiplying $249 by the number of qualified dependants who have attained the age of 6 years before the month and have not attained the age of 7 years before the month and in respect of whom the person is an eligible individual at the beginning of the month, and

DISPOSITIONS CONNEXES

— 2004, ch. 24, art. 26, modifié par 2006, ch. 1, art. 1

Examen

26 Dans les deux ans qui suivent l'entrée en vigueur du présent article, le comité du Sénat et le comité de la Chambre des communes habituellement chargés des questions électorales examinent à fond les modifications apportées par la présente loi et déposent devant leur chambre respective un rapport où sont consignées leurs recommandations.

— 2005, ch. 30, art. 6

6 Pour l'application de l'article 118.1 de la même loi, le particulier qui fait un don après 2004 et avant le 12 janvier 2005 est réputé l'avoir fait au cours de son année d'imposition 2004 et non au cours de son année d'imposition 2005 si, à la fois :

a) il demande, au titre du don, une déduction en vertu du paragraphe 118.1(3) de la même loi pour son année d'imposition 2004;

b) le don a été fait à un organisme de bienfaisance enregistré désigné dans le cadre du Programme d'assistance humanitaire internationale de l'Agence canadienne de développement international;

c) le particulier a demandé à l'organisme de bienfaisance d'affecter le don aux secours aux sinistrés du tsunami;

d) le don a été fait en espèces ou par chèque, carte de crédit ou mandat-poste.

— 2006, ch. 4, par. 177(2)

177 (2) Le paragraphe (1) s'applique aux paiements en trop qui sont réputés se produire au cours des mois postérieurs à juin 2007. En ce qui concerne les paiements en trop qui sont réputés se produire au cours des mois postérieurs à juin 2006 et antérieurs à juillet 2007, l'élément D de la formule figurant au paragraphe 122.61(1) de la même loi est réputé avoir le libellé suivant :

D représente le produit de 249 $ par le nombre de personnes à charge admissibles qui ont atteint l'âge de 6 ans, mais non l'âge de 7 ans, avant le mois, à l'égard desquelles la personne est un particulier admissible au début du mois,

— 2006, c. 9, s. 108(4.1)

Coming into force

108 (4.1) Sections 63 and 64 come into force or are deemed to have come into force on January 1, 2007, but do not apply in respect of monetary contributions made before that day.

— 2006, ch. 9, par. 108(4.1)

Entrée en vigueur

108 (4.1) Les articles 63 et 64 entrent en vigueur ou sont réputés être entrés en vigueur le 1er janvier 2007, mais ils ne s'appliquent pas à l'égard des contributions monétaires faites avant cette date.

— 2007, c. 16, s. 3

3 Sections 1 and 2 apply to taxation years that end after the day on which this Act is assented to.

— 2007, ch. 16, art. 3

3 Les articles 1 et 2 s'appliquent aux années d'imposition se terminant après la date de sanction de la présente loi.

— 2009, c. 2, s. 81

81 (1) For the purposes of the *Income Tax Act* and the *Canada Disability Savings Act*, specified RDSP events are deemed to have occurred, in the order that they actually occurred, on December 31, 2008 and not on the day or days that they actually occurred.

(2) For the purposes of subsection (1), ***specified RDSP event*** means an event occurring after 2008 and before March 3, 2009 that

(a) establishes a ***disability savings plan*** as defined in subsection 146.4(1) of the *Income Tax Act*;

(b) satisfies conditions in subsection 146.4(2) of the *Income Tax Act*;

(c) establishes a ***registered disability savings plan*** as defined in subsection 146.4(1) of the *Income Tax Act* for a beneficiary who is, in respect of the 2008 taxation year, a ***DTC-eligible individual*** as defined in subsection 146.4(1) of the *Income Tax Act* and who was resident in Canada at the end of that year;

(d) is the making of any contribution to the registered disability savings plan;

(e) satisfies the requirement in paragraph 3(b) of the *Canada Disability Savings Regulations*; or

(f) is the taking of any other action to ensure that the registered disability savings plan is validly established and contributions to the plan are validly made.

81 (1) Pour l'application de la *Loi de l'impôt sur le revenu* et de la *Loi canadienne sur l'épargne-invalidité*, les faits déterminés liés à un REEI sont réputés s'être produits le 31 décembre 2008 dans l'ordre dans lequel ils se sont réellement produits et non pas à la date ou aux dates où ils se sont réellement produits.

(2) Pour l'application du paragraphe (1), ***fait déterminé lié à un REEI*** s'entend d'un fait se produisant après 2008 et avant le 3 mars 2009 qui, selon le cas :

a) a pour effet d'établir un régime d'épargne-invalidité, au sens du paragraphe 146.4(1) de la *Loi de l'impôt sur le revenu*;

b) remplit les conditions énoncées au paragraphe 146.4(2) de la *Loi de l'impôt sur le revenu*;

c) a pour effet d'établir un régime enregistré d'épargne-invalidité, au sens du paragraphe 146.4(1) de la *Loi de l'impôt sur le revenu*, pour un bénéficiaire qui est un particulier admissible au CIPH, au sens du même paragraphe, pour l'année d'imposition 2008 et qui résidait au Canada à la fin de cette année;

d) consiste à verser une cotisation au régime enregistré d'épargne-invalidité;

e) remplit l'exigence prévue à l'alinéa 3b) du *Règlement sur l'épargne-invalidité*;

f) consiste à prendre toute autre mesure afin de veiller à ce que le régime enregistré d'épargne-invalidité soit validement établi et les cotisations à ce régime, validement versées.

AMENDMENTS NOT IN FORCE

— 2013, c. 33, s. 10

10 (1) [In force]

(2) The definition *first-time donor* in subsection 118.1(1) of the Act, as enacted by subsection (1), is repealed.

(3) [In force]

(4) Subsections 118.1(3.1) and (3.2) of the Act, as enacted by subsection (3), are repealed.

(5) Subsections (1) and (3) apply in respect of gifts made after March 20, 2013.

(6) Subsections (2) and (4) apply to the 2018 and subsequent taxation years.

— 2014, c. 20, s. 29(4)

29 (4) If subsection 256(2) comes into force, then on the later of January 1, 2015 and the day on which that subsection comes into force,

(a) the definition *money services business* in section 244.1 of the Act, as enacted by subsection (1), is replaced by the following:

money services business means an entity

(a) that has a place of business in Canada and that is engaged in the business of providing at least one of the following services:

(i) foreign exchange dealing,

(ii) remitting funds or transmitting funds by any means or through any entity or electronic funds transfer network,

(iii) issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments except for cheques payable to a named entity,

(iv) dealing in virtual currencies, as defined by regulation, or

(v) a prescribed service; or

(b) that does not have a place of business in Canada, that is engaged in the business of providing at least one of the following services that is directed at entities

MODIFICATIONS NON EN VIGUEUR

— 2013, ch. 33, art. 10

10 (1) [En vigueur]

(2) La définition de *premier donateur*, au paragraphe 118.1(1) de la même loi, édictée par le paragraphe (1), est abrogée.

(3) [En vigueur]

(4) Les paragraphes 118.1(3.1) et (3.2) de la même loi, édictés par le paragraphe (3), sont abrogés.

(5) Les paragraphes (1) et (3) s'appliquent relativement aux dons faits après le 20 mars 2013.

(6) Les paragraphes (2) et (4) s'appliquent aux années d'imposition 2018 et suivantes.

— 2014, ch. 20, par. 29(4)

29 (4) En cas d'entrée en vigueur du paragraphe 256(2), à l'entrée en vigueur de ce paragraphe ou au 1er janvier 2015, le dernier en date étant à retenir :

a) la définition de *entreprise de transfert de fonds ou de vente de titres négociables*, à l'article 244.1 de la même loi, édictée par le paragraphe (1), est remplacée par ce qui suit :

entreprise de transfert de fonds ou de vente de titres négociables Entité à laquelle l'un ou l'autre des énoncés ci-après s'applique :

a) elle a un lieu d'affaires au Canada et se livre à la fourniture de l'un des services suivants :

(i) les opérations de change,

(ii) la remise de fonds ou la transmission de fonds par tout moyen ou par l'intermédiaire d'une entité ou d'un réseau de télévirement,

(iii) l'émission ou le rachat de mandats-poste, de chèques de voyage ou d'autres titres négociables semblables, à l'exclusion des chèques libellés au nom d'une entité,

(iv) le commerce d'une monnaie virtuelle, au sens du règlement,

(v) un service visé par règlement;

in Canada, and that provides those services to their customers in Canada:

(i) foreign exchange dealing,

(ii) remitting funds or transmitting funds by any means or through any entity or electronic funds transfer network,

(iii) issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments except for cheques payable to a named entity,

(iv) dealing in virtual currencies, as defined by regulation, or

(v) a prescribed service. (*entreprise de transfert de fonds ou de vente de titres négociables*)

(b) section 244.2 of the Act, as enacted by subsection (1), is amended by adding the following after subsection (4):

Entities outside Canada

(5) Subsection (1) does not apply to an entity described in paragraph (b) of the definition ***money services business*** in respect of the services it provides to entities outside Canada.

— 2014, c. 20, s. 366(1)

Replacement of "trade-mark" in other Acts

366 (1) Unless the context requires otherwise, "trade-mark", "trade-marks", "Trade-mark", "Trade-marks", "trade mark" and "trade marks" are replaced by "trademark", "trademarks", "Trademark" or "Trademarks", as the case may be, in the English version of any Act of Parliament, other than this Act and the *Trademarks Act*.

— 2016, c. 7, ss. 29(2) to (5), (9), as amended by 2017, c. 20, s. 30

29 (2) The first formula in subsection 122.61(1) of the Act, as enacted by subsection (1), is replaced by the following:

(A + M)/12

(3) The formula in the description of A in subsection 122.61(1) of the Act, as enacted by subsection (1), is replaced by the following:

b) elle n'a pas de lieu d'affaires au Canada et se livre à la fourniture, à l'intention d'entités se trouvant au Canada, de l'un des services ci-après, qu'elle fournit aux personnes ou entités se trouvant au Canada qui consomment ces services :

(i) les opérations de change,

(ii) la remise de fonds ou la transmission de fonds par tout moyen ou par l'intermédiaire d'une entité ou d'un réseau de télévirement,

(iii) l'émission ou le rachat de mandats-poste, de chèques de voyage ou d'autres titres négociables semblables, à l'exclusion des chèques libellés au nom d'une entité,

(iv) le commerce d'une monnaie virtuelle, au sens du règlement,

(v) un service visé par règlement. (*money services business*)

b) l'article 244.2 de la même loi, édicté par le paragraphe (1), est modifié par adjonction, après le paragraphe (4), de ce qui suit :

Entités à l'étranger

(5) Le paragraphe (1) ne s'applique pas aux entités visées à l'alinéa b) de la définition de ***entreprise de transfert de fonds ou de vente de titres négociables*** relativement aux services qu'elles fournissent à des entités se trouvant à l'étranger.

— 2014, ch. 20, par. 366(1)

Remplacement de « trade-mark » dans les autres lois fédérales

366 (1) Sauf indication contraire du contexte, dans la version anglaise des lois fédérales, à l'exception de la présente loi et de la *Loi sur les marques de commerce*, « trade-mark », « trade-marks », « Trade-mark », « Trade-marks », « trade mark » et « trade marks » sont remplacés par « trademark », « trademarks », « Trademark » ou « Trademarks », selon le cas.

— 2016, ch. 7, par. 29(2) à (5) et (9), modifié par 2017, ch. 20, art. 30

29 (2) La première formule figurant au paragraphe 122.61(1) de la même loi, édicté par le paragraphe (1), est remplacée par ce qui suit :

(A + M)/12

(3) La formule figurant à l'élément A de la première formule figurant au paragraphe 122.61(1)

E – Q

(4) The description of C in subsection 122.61(1) of the Act, as enacted by subsection (1), is repealed.

(5) Subsection 122.61(1) of the Act, as enacted by subsection (1), is amended by striking out "and" at the end of the description of Q, by adding "and" at the end of the description of E and by repealing the description of R.

(9) Subsections (2) to (5) come into force on July 1, 2018.

— 2016, c. 14, s. 66

66 (1) Paragraph 60(e) of the *Income Tax Act* is replaced by the following:

CPP/QPP contributions on self-employed earnings

(e) the total of

(i) 1/2 of the lesser of

(A) the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under subsection 10(1) of the *Canada Pension Plan* or as a like contribution under a ***provincial pension plan***, as defined in section 3 of that Act, and

(B) the maximum amount of such contributions payable by the taxpayer for the year under the plan, and

(ii) the lesser of

(A) the total of all amounts each of which is an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under subsection 10(1.1) or (1.2) of the *Canada Pension Plan*, and

(B) the maximum amount of such contributions payable by the taxpayer for the year under the plan;

Enhanced CPP contributions

(e.1) the lesser of

(i) the total of all amounts each of which is an amount payable by the taxpayer for the year as an employee's contribution under subsection 8(1.1) or (1.2) of the *Canada Pension Plan*, and

de la même loi, édicté par le paragraphe (1), est remplacée par ce qui suit :

E – Q

(4) L'élément C de la première formule figurant au paragraphe 122.61(1) de la même loi, édicté par le paragraphe (1), est abrogé.

(5) L'élément R de la deuxième formule figurant au paragraphe 122.61(1) de la même loi, édicté par le paragraphe (1), est abrogé.

(9) Les paragraphes (2) à (5) entrent en vigueur le 1er juillet 2018.

— 2016, ch. 14, art. 66

66 (1) L'alinéa 60e) de la *Loi de l'impôt sur le revenu* est remplacé par ce qui suit :

Cotisations au RPC/RRQ sur le revenu d'un travail indépendant

e) le total des sommes suivantes :

(i) la moitié de la moins élevée des sommes suivantes :

(A) le total des sommes représentant chacune une somme à payer pour l'année par le contribuable, sur les gains provenant d'un travail qu'il exécute pour son propre compte, à titre de cotisation en application du paragraphe 10(1) du *Régime de pensions du Canada* ou à titre de semblable cotisation en application d'un ***régime provincial de pensions***, au sens de l'article 3 de cette loi,

(B) le maximum à payer à ce titre par le contribuable pour l'année en application du régime,

(ii) la moins élevée des sommes suivantes :

(A) le total des sommes représentant chacune une somme à payer pour l'année par le contribuable, sur les gains provenant d'un travail qu'il exécute pour son propre compte, à titre de cotisation en application des paragraphes 10(1.1) ou (1.2) du *Régime de pensions du Canada*,

(B) le maximum à payer à ce titre par le contribuable pour l'année en application du régime;

Cotisations bonifiées au RPC

e.1) la moins élevée des sommes suivantes :

(i) le total des sommes représentant chacune une somme à payer par le contribuable pour l'année à

(ii) the maximum amount of such contributions payable by the taxpayer for the year under the plan;

(2) Subsection (1) comes into force on January 1, 2019.

— 2016, c. 14, s. 67

67 (1) The portion of subsection 117.1(1) of the Act before paragraph (a) is replaced by the following:

Annual adjustment

117.1 (1) The amount of $1,000 referred to in the formula in paragraph 8(1)(s), each of the amounts expressed in dollars in subparagraph 6(1)(b)(v.1), subsection 117(2), the description of B in subsection 118(1), subsection 118(2), paragraph (a) of the description of B in subsection 118(10), subsection 118.01(2), the descriptions of C and F in subsection 118.2(1) and subsections 118.3(1), 122.5(3) and 122.51(1) and (2), the amount of $400,000 referred to in the formula in paragraph 110.6(2)(a), the amounts of $1,192 and $2,165 referred to in the description of A, and the amounts of $10,500 and $14,500 referred to in the description of B, in the formula in subsection 122.7(2), the amount of $462.50 referred to in the description of C, and the amounts of $20,844 and $32,491 referred to in the description of D, in the formula in subsection 122.7(3), and each of the amounts expressed in dollars in Part I.2 in relation to tax payable under this Part or Part I.2 for a taxation year shall be adjusted so that the amount to be used under those provisions for the year is the total of

(2) Subsection (1) applies to the 2019 and subsequent taxation years, except that the adjustment provided for in subsection 117.1(1) of the Act, as amended by subsection (1), does not apply for the 2019 taxation year in respect of the amounts of $1,192, $2,165, $20,844 and $32,491.

— 2016, c. 14, s. 68

68 (1) Paragraph (b) of the description of B in section 118.7 of the Act is replaced by the following:

titre de cotisation d'employé en application des paragraphes 8(1.1) ou (1.2) du *Régime de pensions du Canada*,

(ii) le maximum à payer à ce titre par le contribuable pour l'année en application du régime;

(2) Le paragraphe (1) entre en vigueur le 1er janvier 2019.

— 2016, ch. 14, art. 67

67 (1) Le passage du paragraphe 117.1(1) de la même loi précédant la formule est remplacé par ce qui suit :

Rajustement annuel

117.1 (1) La somme de 1 000 $ de la formule figurant à l'alinéa 8(1)s), chacune des sommes exprimées en dollars visées au sous-alinéa 6(1)b)(v.1), au paragraphe 117(2), aux alinéas 118(1)a) à e), au paragraphe 118(2), à l'alinéa a) de l'élément B de la formule figurant au paragraphe 118(10), au paragraphe 118.01(2), aux éléments C et F de la formule figurant au paragraphe 118.2(1) et aux paragraphes 118.3(1), 122.5(3) et 122.51(1) et (2), la somme de 400 000 $ visée à la formule figurant à l'alinéa 110.6(2)a), les sommes de 1 192 $ et de 2 165 $ visées à l'élément A de la formule figurant au paragraphe 122.7(2), les sommes de 10 500 $ et de 14 500 $ visées à l'élément B de cette formule, la somme de 462,50 $ visée à l'élément C de la formule figurant au paragraphe 122.7(3), les sommes de 20 844 $ et de 32 491 $ visées à l'élément D de cette formule et chacune des sommes exprimées en dollars visées par la partie I.2 relativement à l'impôt à payer en vertu de la présente partie ou de la partie I.2 pour une année d'imposition sont rajustées de façon que la somme applicable à l'année soit égale au total de la somme applicable — compte non tenu du paragraphe (3) — à l'année d'imposition précédente et du produit de cette dernière somme par le montant — rajusté de la manière prévue par règlement et arrêté à la troisième décimale, les résultats ayant au moins cinq en quatrième décimale étant arrondis à la troisième décimale supérieure — obtenu par la formule suivante :

(2) Le paragraphe (1) s'applique aux années d'imposition 2019 et suivantes. Toutefois, le rajustement prévu au paragraphe 117.1(1) de la même loi, modifié par le paragraphe (1), ne s'applique pas à l'année d'imposition 2019 relativement aux sommes de 1 192 $, de 2 165 $, de 20 844 $ et de 32 491 $.

— 2016, ch. 14, art. 68

68 (1) L'alinéa b) de l'élément B de la formule figurant à l'article 118.7 de la même loi est remplacé par ce qui suit :

(b) the total of all amounts each of which is an amount payable by the individual for the year as an employee's contribution under subsection 8(1) of the *Canada Pension Plan* or as a like contribution under a ***provincial pension plan***, as defined in section 3 of that Act, not exceeding the maximum amount of such contributions payable by the individual for the year under the plan, and

(2) Subsection (1) comes into force on January 1, 2019.

— 2016, c. 14, s. 69

69 (1) The descriptions of A and B in subsection 122.7(2) of the Act are replaced by the following:

A is

(a) if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, the lesser of $1,192 and 26% of the amount, if any, by which the individual's working income for the taxation year exceeds $3,000, or

(b) if the individual had an eligible spouse or an eligible dependant, for the taxation year, the lesser of $2,165 and 26% of the amount, if any, by which the total of the working incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds $3,000; and

B is

(a) if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, 14% of the amount, if any, by which the adjusted net income of the individual for the taxation year exceeds $10,500, or

(b) if the individual had an eligible spouse or an eligible dependant, for the taxation year, 14% of the amount, if any, by which the total of the adjusted net incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds $14,500.

(2) The descriptions of C and D in subsection 122.7(3) of the Act are replaced by the following:

C is the lesser of $462.50 and 26% of the amount, if any, by which the individual's working income for the taxation year exceeds $1,150; and

D is

(a) if the individual had neither an eligible spouse nor an eligible dependant, for the taxation year, 14% of the amount, if any, by which the individual's adjusted net income for the taxation year exceeds $20,844,

b) le total des sommes représentant chacune une somme à payer par le particulier pour l'année à titre de cotisation d'employé en application du paragraphe 8(1) du *Régime de pensions du Canada* ou à titre de semblable cotisation en application d'un ***régime provincial de pensions***, au sens de l'article 3 de cette loi, jusqu'à concurrence du maximum à payer par lui à ce titre pour l'année en application du régime,

(2) Le paragraphe (1) entre en vigueur le 1er janvier 2019.

— 2016, ch. 14, art. 69

69 (1) Les éléments A et B de la formule figurant au paragraphe 122.7(2) de la même loi sont remplacés par ce qui suit :

A représente :

a) si le particulier n'avait pas de conjoint admissible ni de personne à charge admissible pour l'année, 26 % de l'excédent, sur 3 000 $, de son revenu de travail pour l'année, jusqu'à concurrence de 1 192 $,

b) si le particulier avait un conjoint admissible ou une personne à charge admissible pour l'année, 26 % de l'excédent, sur 3 000 $, du total des revenus de travail pour l'année du particulier et, le cas échéant, de son conjoint admissible, jusqu'à concurrence de 2 165 $;

B :

a) si le particulier n'avait pas de conjoint admissible ni de personne à charge admissible pour l'année, 14 % de l'excédent, sur 10 500 $, de son revenu net rajusté pour l'année,

b) si le particulier avait un conjoint admissible ou une personne à charge admissible pour l'année, 14 % de l'excédent, sur 14 500 $, du total des revenus nets rajustés pour l'année du particulier et, le cas échéant, de son conjoint admissible.

(2) Les éléments C et D de la formule figurant au paragraphe 122.7(3) de la même loi sont remplacés par ce qui suit :

C représente 26 % de l'excédent, sur 1 150 $, de son revenu de travail pour l'année, jusqu'à concurrence de 462,50 $;

D :

a) si le particulier n'avait pas de conjoint admissible ni de personne à charge admissible pour l'année, 14 % de l'excédent, sur 20 844 $, de son revenu net rajusté pour l'année,

(b) if the individual had an eligible spouse for the taxation year who was not entitled to deduct an amount under subsection 118.3(1) for the taxation year, or had an eligible dependant for the taxation year, 14% of the amount, if any, by which the total of the adjusted net incomes of the individual and, if applicable, of the eligible spouse, for the taxation year, exceeds $32,491, or

(c) if the individual had an eligible spouse for the taxation year who was entitled to deduct an amount under subsection 118.3(1) for the taxation year, 7% of the amount, if any, by which the total of the adjusted net incomes of the individual and of the eligible spouse, for the taxation year, exceeds $32,491.

(3) Subsections (1) and (2) come into force on January 1, 2019.

— 2017, c. 20, s. 2

2 (1) Paragraph 6(1)(f.1) of the *Income Tax Act* is replaced by the following:

Canadian Forces members and veterans income replacement benefits

(f.1) the total of all amounts received by the taxpayer in the year on account of an earnings loss benefit, a supplementary retirement benefit or a career impact allowance payable to the taxpayer under Part 2 of the *Veterans Well-being Act*;

(2) Subsection (1) comes into force on April 1, 2018.

— 2017, c. 20, s. 5

5 (1) Subsection 80.4(4) of the Act is replaced by the following:

Interest on loans for home purchase or relocation

(4) For the purpose of computing the benefit under subsection (1) in a taxation year in respect of a home purchase loan or a home relocation loan, the amount of interest determined under paragraph (1)(a) shall not exceed the amount of interest that would have been determined thereunder if it had been computed at the prescribed rate in effect at the time the loan was received or the debt was incurred, as the case may be.

(2) Subsection (1) comes into force on January 1, 2018.

b) si le particulier avait un conjoint admissible pour l'année qui n'avait pas droit à la déduction prévue au paragraphe 118.3(1) pour l'année, ou s'il avait une personne à charge admissible pour l'année, 14 % de l'excédent, sur 32 491 $, du total des revenus nets rajustés pour l'année du particulier et, le cas échéant, de son conjoint admissible,

c) si le particulier avait un conjoint admissible pour l'année qui avait droit à la déduction prévue au paragraphe 118.3(1) pour l'année, 7 % de l'excédent, sur 32 491 $, du total des revenus nets rajustés pour l'année du particulier et, le cas échéant, de son conjoint admissible.

(3) Les paragraphes (1) et (2) entrent en vigueur le 1er janvier 2019.

— 2017, ch. 20, art. 2

2 (1) L'alinéa 6(1)f.1) de la *Loi de l'impôt sur le revenu* est remplacé par ce qui suit :

Prestations de remplacement du revenu des militaires et vétérans des Forces canadiennes

f.1) le total des sommes qu'il a reçues au cours de l'année au titre d'une allocation pour perte de revenus, d'une prestation de retraite supplémentaire ou d'une allocation pour incidence sur la carrière qui lui est payable en vertu de la partie 2 de la *Loi sur le bien-être des vétérans*;

(2) Le paragraphe (1) entre en vigueur le 1er avril 2018.

— 2017, ch. 20, art. 5

5 (1) Le paragraphe 80.4(4) de la même loi est remplacé par ce qui suit :

Intérêts sur prêt résidentiel

(4) Pour le calcul, quant à une année d'imposition, de l'avantage visé au paragraphe (1) relativement à un prêt consenti pour l'achat d'une maison ou à un prêt à la réinstallation, le montant des intérêts calculés conformément à l'alinéa (1)a) ne peut dépasser le montant des intérêts qui auraient été calculés conformément à cet alinéa s'ils avaient été calculés au taux prescrit en vigueur au moment où le prêt a été reçu ou la dette contractée, selon le cas.

(2) Le paragraphe (1) entre en vigueur le 1er janvier 2018.

— 2017, c. 20, s. 6

6 (1) Paragraph 81(1)(d.1) of the Act is replaced by the following:

Canadian Forces members and veterans amounts

(d.1) the total of all amounts received by the taxpayer in the year on account of a Canadian Forces income support benefit payable to the taxpayer under Part 2 of the *Veterans Well-being Act*, on account of a critical injury benefit, disability award, death benefit, clothing allowance or detention benefit payable to the taxpayer under Part 3 of that Act or on account of a family caregiver relief benefit or a caregiver recognition benefit payable to the taxpayer under Part 3.1 of that Act;

(2) Paragraph 81(1)(d.1) of the Act, as enacted by subsection (1), is replaced by the following:

Canadian Forces members and veterans amounts

(d.1) the total of all amounts received by the taxpayer in the year on account of a Canadian Forces income support benefit payable to the taxpayer under Part 2 of the *Veterans Well-being Act*, on account of a critical injury benefit, disability award, death benefit, clothing allowance or detention benefit payable to the taxpayer under Part 3 of that Act or on account of a caregiver recognition benefit payable to the taxpayer under Part 3.1 of that Act;

(3) Subsections 81(2) and (3) of the Act are repealed.

(4) Subsection (1) comes into force on April 1, 2018.

(5) Subsection (2) applies in respect of the 2020 and subsequent taxation years.

(6) Subsection (3) comes into force on January 1, 2019.

— 2017, c. 20, s. 7

7 (1) Paragraph (b) of the definition *taxable Canadian corporation* in subsection 89(1) of the Act is replaced by the following:

(b) was not, by reason of a statutory provision, exempt from tax under this Part; (*société canadienne imposable*)

(2) Subsection (1) applies to taxation years that begin after 2018.

— 2017, ch. 20, art. 6

6 (1) L'alinéa 81(1)d.1) de la même loi est remplacé par ce qui suit :

Allocations — militaires et vétérans des Forces canadiennes

d.1) le total des sommes reçues par le contribuable au cours de l'année au titre d'une allocation de soutien du revenu qui lui est payable en vertu de la partie 2 de la *Loi sur le bien-être des vétérans*, au titre d'une indemnité pour blessure grave, d'une indemnité d'invalidité, d'une indemnité de décès, d'une allocation vestimentaire ou d'une indemnité de captivité qui lui est payable en vertu de la partie 3 de cette loi ou au titre d'une allocation pour relève d'un aidant familial ou d'une allocation de reconnaissance pour aidant qui lui est payable en vertu de la partie 3.1 de cette loi;

(2) L'alinéa 81(1)d.1) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

Allocations — militaires et vétérans des Forces canadiennes

d.1) le total des sommes reçues par le contribuable au cours de l'année au titre d'une allocation de soutien du revenu qui lui est payable en vertu de la partie 2 de la *Loi sur le bien-être des vétérans*, au titre d'une indemnité pour blessure grave, d'une indemnité d'invalidité, d'une indemnité de décès, d'une allocation vestimentaire ou d'une indemnité de captivité qui lui est payable en vertu de la partie 3 de cette loi ou au titre d'une allocation de reconnaissance pour aidant qui lui est payable en vertu de la partie 3.1 de cette loi;

(3) Les paragraphes 81(2) et (3) de la même loi sont abrogés.

(4) Le paragraphe (1) entre en vigueur le 1er avril 2018.

(5) Le paragraphe (2) s'applique aux années d'imposition 2020 et suivantes.

(6) Le paragraphe (3) entre en vigueur le 1er janvier 2019.

— 2017, ch. 20, art. 7

7 (1) L'alinéa b) de la définition de *société canadienne imposable*, au paragraphe 89(1) de la même loi, est remplacé par ce qui suit :

b) d'autre part, n'était pas, en vertu d'une disposition législative, exonérée de l'impôt prévu à la présente partie. (*taxable Canadian corporation*)

(2) Le paragraphe (1) s'applique aux années d'imposition qui commencent après 2018.

— 2017, c. 20, s. 8

8 (1) Paragraph 110(1)(j) of the Act is repealed.

(2) Subsection 110(1.4) of the Act is repealed.

(3) Subsections (1) and (2) come into force on January 1, 2018.

— 2017, c. 20, s. 10

10 (1) Paragraph (b) of the description of E in the definition *non-capital loss* in subsection 111(8) of the Act is replaced by the following:

(b) an amount deducted under paragraph (1)(b) or section 110.6, or deductible under any of paragraphs 110(1)(d) to (d.3), (f), (g) and (k), section 112 and subsections 113(1) and 138(6), in computing the taxpayer's taxable income for the year, or

(2) Subsection (1) comes into force on January 1, 2018.

— 2017, c. 20, ss. 13(2), (4)

13 (2) Section 118.02 of the Act, as amended by subsection (1), is repealed.

(4) Subsection (2) applies to the 2018 and subsequent taxation years.

— 2017, c. 20, s. 20

20 (1) Section 118.92 of the Act is replaced by the following:

Ordering of credits

118.92 In computing an individual's tax payable under this Part, the following provisions shall be applied in the following order: subsections 118(1) and (2), section 118.7, subsections 118(3) and (10) and sections 118.01, 118.04, 118.041, 118.05, 118.06, 118.07, 118.3, 118.61, 118.5, 118.9, 118.8, 118.2, 118.1, 118.62 and 121.

(2) Subsection (1) applies to the 2018 and subsequent taxation years.

— 2017, c. 20, s. 21

21 (1) Subparagraph 122.3(1)(e)(iii) of the Act is replaced by the following:

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under paragraph

— 2017, ch. 20, art. 8

8 (1) L'alinéa 110(1)j) de la même loi est abrogé.

(2) Le paragraphe 110(1.4) de la même loi est abrogé.

(3) Les paragraphes (1) et (2) entrent en vigueur le 1er janvier 2018.

— 2017, ch. 20, art. 10

10 (1) L'alinéa b) de l'élément E de la deuxième formule figurant à la définition de *perte autre qu'une perte en capital*, au paragraphe 111(8) de la même loi, est remplacé par ce qui suit :

b) une somme déduite en application de l'alinéa (1)b) ou de l'article 110.6, ou déductible en application de l'un des alinéas 110(1)d) à d.3), f), g) et k), de l'article 112 et des paragraphes 113(1) et 138(6), dans le calcul de son revenu imposable pour l'année,

(2) Le paragraphe (1) entre en vigueur le 1er janvier 2018.

— 2017, ch. 20, par. 13(2) et (4)

13 (2) L'article 118.02 de la même loi, modifié par le paragraphe (1), est abrogé.

(4) Le paragraphe (2) s'applique aux années d'imposition 2018 et suivantes.

— 2017, ch. 20, art. 20

20 (1) L'article 118.92 de la même loi est remplacé par ce qui suit :

Ordre d'application des crédits

118.92 Pour le calcul de l'impôt payable par un particulier en vertu de la présente partie, les dispositions ci-après sont appliquées dans l'ordre suivant : paragraphes 118(1) et (2), article 118.7, paragraphes 118(3) et (10) et articles 118.01, 118.04, 118.041, 118.05, 118.06, 118.07, 118.3, 118.61, 118.5, 118.9, 118.8, 118.2, 118.1, 118.62 et 121.

(2) Le paragraphe (1) s'applique aux années d'imposition 2018 et suivantes.

— 2017, ch. 20, art. 21

21 (1) Le sous-alinéa 122.3(1)e)(iii) de la même loi est remplacé par ce qui suit :

(iii) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application

110(1)(d.2), (d.3), (f) or (g), in computing the individual's taxable income for the year.

(2) Subsection (1) comes into force on January 1, 2018.

— 2017, c. 20, s. 22

22 (1) Subclause 126(1)(b)(ii)(A)(III) of the Act is replaced by the following:

(III) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f) and (g) and sections 112 and 113, in computing the taxpayer's taxable income for the year, and

(2) Subclause 126(2.1)(a)(ii)(A)(III) of the Act is replaced by the following:

(III) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f) and (g) and sections 112 and 113, in computing the taxpayer's taxable income for the year, and

(3) Subparagraph 126(3)(b)(iii) of the Act is replaced by the following:

(iii) the total of all amounts each of which is an amount deducted under section 110.6 or paragraph 111(1)(b), or deductible under any of paragraphs 110(1)(d) to (d.3), (f) and (g), in computing the taxpayer's taxable income for the year,

(4) Subsections (1) to (3) come into force on January 1, 2018.

— 2017, c. 20, s. 24

24 (1) Paragraph 149(1)(t) of the Act is repealed.

(2) Subsections 149(4.1) to (4.3) of the Act are repealed.

(3) The portion of subsection 149(10) of the Act before paragraph (a) is replaced by the following:

Becoming or ceasing to be exempt

(10) If at any time (in this subsection referred to as *that time*), a person — that is a corporation or, if that time is after September 12, 2013, a trust — becomes or ceases to be exempt from tax under this Part on its taxable income, the following rules apply:

des alinéas 110(1)d.2), d.3), f) ou g), dans le calcul de son revenu imposable pour l'année.

(2) Le paragraphe (1) entre en vigueur le 1er janvier 2018.

— 2017, ch. 20, art. 22

22 (1) La subdivision 126(1)b)(ii)(A)(III) de la même loi est remplacée par ce qui suit :

(III) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application de l'un des alinéas 110(1)d) à d.3), f) et g) et des articles 112 et 113, dans le calcul de son revenu imposable pour l'année,

(2) La subdivision 126(2.1)a)(ii)(A)(III) de la même loi est remplacée par ce qui suit :

(III) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application de l'un des alinéas 110(1)d) à d.3), f) et g) et des articles 112 et 113, dans le calcul de son revenu imposable pour l'année,

(3) Le sous-alinéa 126(3)b)(iii) de la même loi est remplacé par ce qui suit :

(iii) le total des montants représentant chacun une somme déduite en application de l'article 110.6 ou de l'alinéa 111(1)b), ou déductible en application de l'un des alinéas 110(1)d) à d.3), f) et g), dans le calcul de son revenu imposable pour l'année.

(4) Les paragraphes (1) à (3) entrent en vigueur le 1er janvier 2018.

— 2017, ch. 20, art. 24

24 (1) L'alinéa 149(1)t) de la même loi est abrogé.

(2) Les paragraphes 149(4.1) à (4.3) de la même loi sont abrogés.

(3) Le passage du paragraphe 149(10) de la même loi précédant l'alinéa a) est remplacé par ce qui suit :

Début ou cessation d'exonération

(10) Dans le cas où, à un moment donné, une personne — société ou, si ce moment est postérieur au 12 septembre 2013, fiducie — devient exonérée de l'impôt

(4) Subsections (1) to (3) apply to taxation years that begin after 2018.

— 2017, c. 20, s. 28

28 (1) The Act is amended by adding the following after section 221:

Providing information returns in electronic format

221.01 A person may provide an information return electronically under subsection 209(5) of the *Income Tax Regulations* if the criteria specified by the Minister are met.

(2) Subsection (1) comes into force on January 1, 2018.

— 2017, c. 20, s. 29

29 (1) Subparagraph 241(4)(d)(viii) of the Act is replaced by the following:

(viii) to an official of the Department of Veterans Affairs solely for the purposes of the administration of the *War Veterans Allowance Act*, the *Veterans Well-being Act* or Part XI of the *Civilian War-related Benefits Act*,

(2) Subsection (1) comes into force on April 1, 2018.

payable en vertu de la présente partie sur son revenu imposable ou cesse de l'être, les règles ci-après s'appliquent :

(4) Les paragraphes (1) à (3) s'appliquent aux années d'imposition qui commencent après 2018.

— 2017, ch. 20, art. 28

28 (1) La même loi est modifiée par adjonction, après l'article 221, de ce qui suit :

Déclaration de renseignements — version électronique

221.01 Une personne peut fournir une déclaration de renseignements selon le paragraphe 209(5) du *Règlement de l'impôt sur le revenu* si les critères déterminés par le ministre sont remplis.

(2) Le paragraphe (1) entre en vigueur le 1er janvier 2018.

— 2017, ch. 20, art. 29

29 (1) Le sous-alinéa 241(4)d)(viii) de la même loi est remplacé par ce qui suit :

(viii) à un fonctionnaire du ministère des Anciens Combattants, mais uniquement en vue de l'application de la *Loi sur les allocations aux anciens combattants*, de la *Loi sur le bien-être des vétérans* ou de la partie XI de la *Loi sur les prestations de guerre pour les civils*,

(2) Le paragraphe (1) entre en vigueur le 1er avril 2018.

From:	Teixeira, Wanda (ENERGY)
To:	Robin Lewis (MOF); Ann Langleben (MOF); Patel, Lesley (MOF); Daniela Klassen (MOF); Ronald Kwan
Cc:	Sriram Subrahmanyan (MOF); Steen Hume (CAB); Hilary Cox (ENE); Jane Devan (ENERGY)
Subject:	RE: Ontario"s Fair Hydro Plan / OPG / PILs
Date:	Tuesday, December 12, 2017 10:48:09 AM

Hello,

ADM, Steen Hume may be a few minutes late for the call at 11:00 a.m.

Thank you

Wanda Teixeira
Administrative Coordinator
ADM's Office

-----Original Appointment-----
From: Subrahmanyan, Sriram (MOF)
Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF); Kwan, Ronald (OFA)
Subject: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

** Updated with Attachments **

<< File: _reg2017.0609.e05.edi_seal.pdf >> << File: 2017_12_11 OFHP PILs Relief Proposed Amendment.docx >>

From: Ronald Kwan
To: Scott Nelms (ENERGY); John Kim
Subject: RE: PILs Exemptions
Date: Tuesday, April 25, 2017 4:29:35 PM

Thanks for update Scott.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: April-25-17 15:49
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: PILs Exemptions

Hi Ron, John,

I wanted to keep you apprised of where we are with Tax Policy on OPG's request for specific PILs exemptions as part of OFHP. See below for details – we are hoping to punt to regulations.

Thanks,
Scott

From: Nelms, Scott (MOF)
Sent: April 25, 2017 3:25 PM
To: 'Hill, Krista'; john.s.lee@opg.com
Cc: RYFA Ken -TREASURY; WONG Leslie -LAWDIV; Wortsman, Jerald; Watson, Gwen; Feldman, Michael; Calwell, Carolyn (ENERGY/MEDEI/MRI); Rehob, James (ENERGY)
Subject: RE: Comments

Hi Krista, John,

We shared your ask with Finance Tax Policy and they have been mulling this over for the past few days. We had a conversation this morning and I wanted to provide a synopsis of that call:

- Tax Policy is of the view that if this is structured as a Trust will be a taxable entity under the Income Tax Act. However, because OPG is the beneficiary of the Trust, it will not pay any taxes. For greater certainty, Tax Policy suggested seeking a ruling from CRA. If necessary, we could seek an exemption from CRA (there is precedent with the Nuclear Funds Trust). Please let me know whether that is consistent with your assessment.
- Since all income from the Trust will flow to OPG, all revenues would be subject to PILs (unless we take action to make specific exemptions).
- As we discussed last week, we have proposed the language that you provided with PILs exemptions for specific earning streams from the trust.
- Tax Policy has a number of questions about how to define those exempted revenue streams and the rationale for those exemptions. They want considerably more detail and more time to consider this issue.

- According to Tax Policy, existing Legislation (James I will leave it to you to describe) provides authority to set out PILs exemptions in regulations. Therefore they suggest we do not need to add anything in to the OFHP legislation at this time. That will provide time to more fully consider the issue and discuss the need for these exemptions.
- I suggested I was generally comfortable with this approach, subject to input from OPG and Torys. I think it is better for us to have more time and the flexibility to include these provisions in regulations. Given where we are in the process, I think we are out of time to settle legislative language that will work for Tax Policy.

James, please feel free to add / modify if I missed anything. Please let us know ASAP if you have concerns.

Scott

From: Ronald Kwan
To: John Kim
Subject: RE: PILs Exemptions
Date: Tuesday, April 25, 2017 4:45:22 PM

Hi,

I interpreted the "As we discussed last week, we have proposed the language that you provided with PILs exemptions for specific earning streams from the trust" that the reference was revenues from the Trust to OPG that they are seeking a PILs exemption for, so, different than I had understood.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: April-25-17 15:49
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: PILs Exemptions

Hi Ron, John,

I wanted to keep you apprised of where we are with Tax Policy on OPG's request for specific PILs exemptions as part of OFHP. See below for details – we are hoping to punt to regulations.

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- Tax Policy is of the view that if this is structured as a Trust will be a taxable entity under the Income Tax Act. However, because OPG is the beneficiary of the Trust, it will not pay any taxes. For greater certainty, Tax Policy suggested seeking a ruling from CRA. If necessary, we could seek an exemption from CRA (there is precedent with the Nuclear Funds Trust). Please let me know whether that is consistent with your assessment.
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- As we discussed last week, we have proposed the language that you provided with PILs

exemptions for specific earning streams from the trust.

- Tax Policy has a number of questions about how to define those exempted revenue streams and the rationale for those exemptions. They want considerably more detail and more time to consider this issue.
- According to Tax Policy, existing Legislation (James I will leave it to you to describe) provides authority to set out PILs exemptions in regulations. Therefore they suggest we do not need to add anything in to the OFHP legislation at this time. That will provide time to more fully consider the issue and discuss the need for these exemptions.
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James, please feel free to add / modify if I missed anything. Please let us know ASAP if you have concerns.

Scott

From:	Nelms, Scott (MOF)
To:	Sriram Subrahmanyan (MOF)
Cc:	Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF)
Subject:	RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Tuesday, June 06, 2017 6:02:41 PM

Hi Sriram,

I received the following responses to your question on structure and types of potential income:

1) OPG is planning for the initial financing entity to be a trust. However, the Fair Hydro Plan Act allows for flexibility on the types of structures that can be used (trusts, corporations, partnerships, limited partnerships, other special purpose entities). Because the Fair Hydro Plan envisions a 30 year program, it is important that the PILs exemptions be broad enough to cover all of the various types of entities in the event that a different form is used for one or more future financing entities.

2) The memo we sent addressed types of income that might arise in a trust. As you'll have seen from the memo, it is strongly recommended that a PILs exemption be promulgated which would exempt from PILs any income distributed by a trust financing entity to OPG as beneficiary. This would allow the trust to flush its income to OPG as beneficiary. If a corporation is used as a financing entity, it is important that any income earned in that corporation be exempt from PILs. If a partnership or limited partnership is used as a financing entity, it is important that any income distributed to OPG (or any of its subsidiaries) as a partner or limited partner be exempt from PILs.

OPG is keen to move forward on these regulations. Without the regulations and the PILs exemptions, any taxes payable by a financing entity (whether it's a trust, corporation or otherwise), will be collected from ratepayers which will eat up part of the fair allocation amounts. In addition, the costs of the Fair Hydro Plan will increase as the rating may be affected and the capacity available from the debt markets will decrease as the lenders add a contingency for future taxes that may be collectible at some point in the future from ratepayers.

I would suggest we set up a call to further discuss, perhaps next week.

Please let me know if that makes sense,
Scott

From: Subrahmanyan, Sriram (MOF)
Sent: June 2, 2017 3:39 PM
To: Nelms, Scott (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Scott,

Thank you for sharing the Torys Memorandum, dated May 17, 2017, with us.

The structure was not finalized at the time we first reviewed the proposal. Based on the Memorandum, it appears that the type of structure is still being determined. If there has been progress in this regard, we would be happy to conference with Torys and OPG to discuss the appropriate next steps.

As the PILs relief sought appears to be appropriate given the policy objective, we would probably recommend amendments to ensure the structure is not subject to PILs. However, we would suggest that a ruling from the tax administration division may be appropriate in this case, provided the final structure is not subject to regular federal tax and if authority can be found in the existing legislation and regulations.

Our recommendation would depend on the type of structure that is ultimately selected and on other particulars such as the types of income that would be earned in the special purpose vehicle.

Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

Thanks,
Scott

Scott Nelms
Electricity Investment and Governance Secretariat | Ministry of Finance
7th Floor | 375 University ave. | Toronto, ON
w: (416) 212-6469 | c: (647) 330-2681
scott.nelms@ontario.ca

From:	Ronald Kwan
To:	John Kim; Bruno Amara
Cc:	Gavin He
Subject:	RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Tuesday, June 06, 2017 9:49:26 AM

Hi,

Would you check in with Ann and Rob on this file.

Thanks,
Ron

From: Ronald Kwan
Sent: June-02-17 17:54
To: John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: FW: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

FYI.

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: June-02-17 17:49
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Thanks Sriram. I have reached back to OPG to determine whether a structure has been or is close to final. I will circle back with those details along with some of the other points you raise below.

From: Subrahmanyan, Sriram (MOF)
Sent: June 2, 2017 3:39 PM
To: Nelms, Scott (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Scott,

Thank you for sharing the Torys Memorandum, dated May 17, 2017, with us.

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Our recommendation would depend on the type of structure that is ultimately selected and on other particulars such as the types of income that would be earned in the special purpose vehicle.

Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

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Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

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scott.nelms@ontario.ca

From:	Nelms, Scott (MOF)
To:	Sriram Subrahmanyan (MOF)
Cc:	Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF)
Subject:	RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Friday, June 02, 2017 5:49:11 PM

Thanks Sriram. I have reached back to OPG to determine whether a structure has been or is close to final. I will circle back with those details along with some of the other points you raise below.

From: Subrahmanyan, Sriram (MOF)
Sent: June 2, 2017 3:39 PM
To: Nelms, Scott (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

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Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

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scott.nelms@ontario.ca

From:	Subrahmanyan, Sriram (MOF)
To:	Scott Nelms (ENERGY)
Cc:	Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF)
Subject:	RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Friday, June 02, 2017 3:39:33 PM

Scott,

Thank you for sharing the Torys Memorandum, dated May 17, 2017, with us.

The structure was not finalized at the time we first reviewed the proposal. Based on the Memorandum, it appears that the type of structure is still being determined. If there has been progress in this regard, we would be happy to conference with Torys and OPG to discuss the appropriate next steps.

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Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

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scott.nelms@ontario.ca

From:	Ronald Kwan
To:	Scott Nelms (ENERGY); Sriram Subrahmanyan (MOF); Robin Lewis (MOF); John Kim
Subject:	RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Wednesday, May 31, 2017 2:59:05 PM

Hi,

I call would be helpful for me.

Thanks,
Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: May-31-17 13:10
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

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scott.nelms@ontario.ca

From:	Subrahmanyan, Sriram (MOF)
To:	Scott Nelms (ENERGY)
Cc:	Ronald Kwan; Robin Lewis (MOF); Ann Langleben (MOF); Daniela Klassen (MOF); Patel, Lesley (MOF)
Subject:	RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions
Date:	Wednesday, June 07, 2017 9:38:12 AM

Thanks, Scott. I understand their objective, but there are risks to the government with a very broad tax exemption. We'd have to add safeguards that would be complicated. We could design for a trust, if that's the route, and adjust if the structure changes down the road. Also, as I mentioned, we should first check against current rules. A call may be helpful.

Sriram

From: Nelms, Scott (MOF)
Sent: June 6, 2017 6:03 PM
To: Subrahmanyan, Sriram (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram,

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1) OPG is planning for the initial financing entity to be a trust. However, the Fair Hydro Plan Act allows for flexibility on the types of structures that can be used (trusts, corporations, partnerships, limited partnerships, other special purpose entities). Because the Fair Hydro Plan envisions a 30 year program, it is important that the PILs exemptions be broad enough to cover all of the various types of entities in the event that a different form is used for one or more future financing entities.

2) The memo we sent addressed types of income that might arise in a trust. As you'll have seen from the memo, it is strongly recommended that a PILs exemption be promulgated which would exempt from PILs any income distributed by a trust financing entity to OPG as beneficiary. This would allow the trust to flush its income to OPG as beneficiary. If a corporation is used as a financing entity, it is important that any income earned in that corporation be exempt from PILs. If a partnership or limited partnership is used as a financing entity, it is important that any income distributed to OPG (or any of its subsidiaries) as a partner or limited partner be exempt from PILs.

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I would suggest we set up a call to further discuss, perhaps next week.

Please let me know if that makes sense,
Scott

From: Subrahmanyan, Sriram (MOF)
Sent: June 2, 2017 3:39 PM
To: Nelms, Scott (MOF)
Cc: Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF)
Subject: RE: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Scott,

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Our recommendation would depend on the type of structure that is ultimately selected and on other particulars such as the types of income that would be earned in the special purpose vehicle.

Regards,

Sriram

From: Nelms, Scott (MOF)
Sent: May 31, 2017 1:10 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA); Lewis, Robin (MOF); Kim, John (OFA)
Subject: Privileged and Confidential - Fair Hydro Plan - PILs Exemptions

Hi Sriram, Ron,

Further to our conversations from earlier this spring, we received the following from OPG on its

request for PILs exemptions relating to Ontario's Fair Hydro Plan. Please let me know if you have questions or comments. Torys and OPG have also asked whether we would like to set up a call in the next few days to discuss.

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Scott

Scott Nelms
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scott.nelms@ontario.ca

From: Anna Strathy
To: Ronald Kwan
Subject: Re: Briefing re PILs exemption / OPG reg
Date: Monday, December 11, 2017 2:47:47 PM

I was under the same impression - no briefing, just signing.

--
Anna Strathy
Special Policy Advisor to the CEO
Ontario Financing Authority
416.325.8032

On Dec 11, 2017, at 2:46 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Hi Anna,
>
> See below. Would there be an additional briefing time on the Protection Agreement, or just a signing meeting?
>
> Thanks,
> Ron
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** December-11-17 14:45
> **To:** 'Patel, Lesley (MOF)' <Lesley.Patel@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
> **Cc:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>
> **Subject:** RE: Briefing re PILs exemption / OPG reg
>
> Hi Lesley, Michael,
>
> I believe the Ministers briefing on the “guarantee” (aka “Protection Agreement”) that occurred two weeks ago may mean that once the final signing versions are available that there may just be separate signing meetings, not an additional briefing time. I can see if that’s the case, but that would leave open when a PILs briefing could occur.
>
> Ron
>
> ---
>
> **From:** Patel, Lesley (MOF) [mailto:Lesley.Patel@ontario.ca]
> **Sent:** December-11-17 14:02
> **To:** Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>;

Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>
Subject: RE: Briefing re PILs exemption / OPG reg

Hi Michael and Ron,

Tagging on to an existing Fair Hydro briefing would be our preferred approach. Do we know if there are any briefings coming up?

We will also add this item to our DM/MO agenda for tomorrow to walk Kaj and Jamille through. We've included Marianne as well. We will forward the invite and provide a teleconference number as well – the meeting is currently scheduled for 1pm.

Best,
Lesley

From: Waterston, Michael (MOF)
Sent: December 7, 2017 3:26 PM
To: Patel, Lesley (MOF); Lewis, Robin (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

The DMO and MO may have already scheduled other briefings already re the Fair Hydro Plan, as I think the Minister is being asked to sign a guarantee. Maybe the PILs reg could be added to one of those briefings.

Michael

From: Patel, Lesley (MOF)
Sent: December 7, 2017 12:53 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF); Subrahmanyan, Sriram (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

So this would be a joint briefing with Energy? It was not clear from the email.

If it's a joint briefing, then I think we would have to have an entirely separate meeting and a more formal briefing with DM/MO and yes, it would make sense to raise it on the call with them first.

From: Lewis, Robin (MOF)
Sent: December 7, 2017 12:47 PM
To: Patel, Lesley (MOF); Langleben, Ann (MOF)
Cc: Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF); Subrahmanyan, Sriram (MOF)

Subject: RE: Briefing re PILs exemption / OPG reg

Lesley,

I think we need to ask Energy if next Tuesday meets their timeline.

Perhaps this issue can be raised in the Sriram's call with Energy?

Regards,

Rob

From: Patel, Lesley (MOF)
Sent: December 7, 2017 12:24 PM
To: Langleben, Ann (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: RE: Briefing re PILs exemption / OPG reg

We have our bi-weekly DM/MO briefing scheduled for next Tuesday – will that work? If so, I'll add it to the agenda.

Michael/Douglas, I can send you the invite and we can add a teleconference number. It's currently scheduled for Tuesday at 1pm.

From: Langleben, Ann (MOF)
Sent: December 7, 2017 10:48 AM
To: Patel, Lesley (MOF)
Cc: Lewis, Robin (MOF); Klassen, Daniela (MOF); Roy, Douglas (MOF); Waterston, Michael (MOF)
Subject: Briefing re PILs exemption / OPG reg

Hi Lesley,

There were a few emails on this issue this morning. We should get some DMO / MO briefing time and invite those on this cc list.

I think the regulation, despite drafting issues, should be ready soon.

Rob / Daniela, we will need a briefing note that describes the proposed change, the rationale and considerations.

From: Ronald Kwan
To: Ann Langleben (MOF)
Cc: Michael Waterston (MOF); Robin Lewis (MOF); Daniela Klassen (MOF); John Kim
Subject: Re: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date: Monday, June 12, 2017 3:12:37 PM

Hi Ann,

I'm in a meeting right now. Not sure about a comfort letter's impact. I'd need to consult. And the view and experience of our IR folks may not reflect the particularities of this planned financing entity.

Ron

On Jun 12, 2017, at 2:55 PM, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca> wrote:

> Hi Michael, not sure if this has been forwarded to you or someone in your Branch. I just wanted you to be aware.
>
> CCTB involvement in this issue relates to a potential exemption for the entity. We are hindered in our ability to create one, since the structure has not been finalized and the options are still quite broad.
>
> Ron, we met with Sriram and he has asked me to contact you about whether a "comfort letter" regarding the tax issue would be sufficient for the credit rating agencies. If you have a minute later today, perhaps we can connect by phone (unless there is a straightforward answer).
>
> ---
>
> **From:** RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> **Sent:** June-12-17 12:22 PM
> **To:** Nelms, Scott (MOF); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA); MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
> **Subject:** RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
>
> During today's call there was a general reference to potential credit rating agency concerns. That concern may not have come across clearly enough and here is some perspective on the specific concern. Given that this structure is very unique in the Canadian environment the credit rating agency will likely request a legal opinion – tax neutrality or run flat for tax – establishing that any activity of the financing entity will not result in a tax liability that would rank ahead of security holders.
>
> -----Original Appointment-----
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** Wednesday, June 07, 2017 3:09 PM
> **To:** Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF);

Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
Subject: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
When: Monday, June 12, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 416-212-8013 Passcode 4075747# (SN MC 6665#)

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From:	Ronald Kwan
To:	Ann Langleben (MOF)
Cc:	Michael Waterston (MOF); Robin Lewis (MOF); Daniela Klassen (MOF); John Kim
Subject:	Re: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
Date:	Monday, June 12, 2017 4:01:08 PM

Hi Ann,

What would be the content and level of commitment in a comfort letter?

We have at times provided a "comfort letter" in different contexts (non-tax), but they are not binding and any commitments are subject to final approval.

Ron

From: Ronald Kwan
Sent: June 12, 2017 3:12:36 PM
To: Ann Langleben (MOF)
Cc: Michael Waterston (MOF); Robin Lewis (MOF); Daniela Klassen (MOF); John Kim
Subject: Re: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan

Hi Ann,

I'm in a meeting right now. Not sure about a comfort letter's impact. I'd need to consult. And the view and experience of our IR folks may not reflect the particularities of this planned financing entity.

Ron

On Jun 12, 2017, at 2:55 PM, Langleben, Ann (MOF) <Ann.Langleben@ontario.ca> wrote:

> Hi Michael, not sure if this has been forwarded to you or someone in your Branch. I just wanted you to be aware.
>
> CCTB involvement in this issue relates to a potential exemption for the entity. We are hindered in our ability to create one, since the structure has not been finalized and the options are still quite broad.
>
> Ron, we met with Sriram and he has asked me to contact you about whether a "comfort letter" regarding the tax issue would be sufficient for the credit rating agencies. If you have a minute later today, perhaps we can connect by phone (unless there is a straightforward answer).
>
> ---
>
> **From:** RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> **Sent:** June-12-17 12:22 PM
> **To:** Nelms, Scott (MOF); LEE John -TREASURY; WONG Leslie -LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He,

Gavin (OFA); MAUTI John -FIN & C CTRL; JORDA Jenny -FIN & C CTRL
Subject: RE: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan

During today's call there was a general reference to potential credit rating agency concerns. That concern may not have come across clearly enough and here is some perspective on the specific concern. Given that this structure is very unique in the Canadian environment the credit rating agency will likely request a legal opinion – tax neutrality or run flat for tax – establishing that any activity of the financing entity will not result in a tax liability that would rank ahead of security holders.

-----Original Appointment-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, June 07, 2017 3:09 PM
To: Nelms, Scott (MOF); LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie - LAWDIV; SHAH Ameet -FIN & C CTRL; Wortsman, Jerald; Watson, Gwen; Hill, Krista; Kwan, Ronald (OFA); Lewis, Robin (MOF); Langleben, Ann (MOF); Klassen, Daniela (MOF); Patel, Lesley (MOF); Subrahmanyan, Sriram (MOF); Montgomery, Kaitlin (MOF); Waddell, Colleen (MOF); He, Gavin (OFA)
Subject: EXTERNAL - Conference Call MOF, OPG and Torys | Fair Hydro Plan
When: Monday, June 12, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
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From: Ronald Kwan
To: John Kim
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Friday, April 21, 2017 10:44:07 AM

Hi,

How did your call go? Does Rob better understand the context, structure and planned nature of the Trust (e.g., non-contributory and not intended as a tax avoidance vehicle)?

Is a discussion with OPG tax folks needed?

Ron

On Apr 20, 2017, at 11:38 AM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Rob,
>
> I will give you a call this afternoon.
>
> John
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** Thursday, April 20, 2017 11:26 AM
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
> **Cc:** John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> My day is jammed so please go ahead and chat as soon as possible. Include us on the invite and we will try to make it. If helpful we can also have a follow on with ENE, OPG, Torys.
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** April 20, 2017 9:21 AM
> **To:** Lewis, Robin (MOF)
> **Cc:** Nelms, Scott (MOF); Kim, John (OFA); Bruno Amara; Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Scott, Rob,
>
> Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?
>
> Scott, if you're busy, staff here could provide Rob some context if you're not available.
>
> Ron
>
> On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:
>
> > Scott,
> >
> > The proposal appears to have some characteristics of a tax avoidance scheme.
> >
> > The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
> >
> > I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.
> >
> > We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
> >
> > This matter ought to be the subject of a ruling request.
> >
> > Regards,
> >
> > Rob Lewis
> >
> > ---
> >
> > **From:** Nelms, Scott (MOF)
> > **Sent:** April 19, 2017 5:48 PM
> > **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> > **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Hi Rob, John Bruno,
> >
> > Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
> >
> > Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
> >
> > Thanks very much and apologies for the short notice,
> > Scott
> >
> > Scott Nelms
> > Electricity Investment and Governance Secretariat | Ministry of Finance
> > 7th Floor | 375 University ave. | Toronto, ON
> > w: (416) 212-6469 | c: (647) 330-2681
> > scott.nelms@ontario.ca
> >
> > ---
> >
> > **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> > **Sent:** April 18, 2017 9:24 AM
> > **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> > **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Hi,
> >
> > Please loop in John and Bruno too.
> >
> > Thanks,
> > Ron
> >
> > ---
> >
> > **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > **Sent:** April-17-17 12:53 PM
> > **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> > **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Certainly. Will do.
> >
> > ---
> >
> > **From:** Subrahmanyan, Sriram (MOF)
> > **Sent:** April-17-17 12:52 PM
> > **To:** Nelms, Scott (MOF); Kwan, Ronald (OFA)
> > **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
> > Ron always understands the nature of these sorts of complexities around electricity financing way better than I do, so I'm sure he'll have more thoughts or questions, but the only one that comes to mind for me is how this would be structured in legislation to ensure that there isn't the ability for OPG to move income to the non-taxable (I don't think there is a term "non-PiLable") entity from the taxable part of the company? This may seem nit-picky, but in the past I believe we've seen both Hydro One, when it was 100% government owned, and OPG behave the same way as private companies would, and spend considerable time having their accountants endeavour to minimize their PiLs.
> >
> > > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> > >
> > > Hi Ron, Gadi,
> > >
> > > I hope you are enjoying the long weekend.
> > >
> > > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> > >
> > > Thanks,
> > > Scott
> > >
> > > -----Original Message-----
> > > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > > Sent: April-15-17 1:16 PM
> > > To: Nelms, Scott (MOF)
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Scott,
> > > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > > Thanks,
> > > Ken
> > >
> > > -----Original Message-----
> > > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > > Sent: Thursday, April 13, 2017 8:19 PM
> > > To: RYFA Ken -TREASURY
> > > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***
> > >
> > > Hi Ryan,
> > >
> > > I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?

Thanks,

Scott

Sent with BlackBerry Work (www.blackberry.com[blackberry.com]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=W0k_4kNuPNJN_6TZn4rIOM7LTF4B-uGuho5_rvUxBLo&s=x4GAuzXajASWIUPlZ6p_Ks89Zg109ntjasiRYLBGTro&e= >)

From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>

Date: Thursday, Apr 13, 2017, 6:50 PM

To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>

Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>

Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.

Thanks,

Ken

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From: Ronald Kwan
To: Robin Lewis (MOF)
Cc: Scott Nelms (ENERGY); John Kim; Bruno Amara; Sriram Subrahmanyan (MOF); Ann Langleben (MOF); Montgomery, Kaitlin (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Thursday, April 20, 2017 9:20:55 AM

Hi Scott, Rob,

Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?

Scott, if you're busy, staff here could provide Rob some context if you're not available.

Ron

On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Scott,
>
> The proposal appears to have some characteristics of a tax avoidance scheme.
>
> The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
>
> I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.
>
> We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
>
> This matter ought to be the subject of a ruling request.
>
> Regards,
>
> Rob Lewis
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 19, 2017 5:48 PM
> **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Rob, John Bruno,
>
> Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
>
> Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
>
> Thanks very much and apologies for the short notice,
> Scott
>
> Scott Nelms
> Electricity Investment and Governance Secretariat | Ministry of Finance
> 7th Floor | 375 University ave. | Toronto, ON
> w: (416) 212-6469 | c: (647) 330-2681
> scott.nelms@ontario.ca
>
> ---
>
> **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> **Sent:** April 18, 2017 9:24 AM
> **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi,
>
> Please loop in John and Bruno too.
>
> Thanks,
> Ron
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** April-17-17 12:53 PM
> **To:** Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Certainly. Will do.
>
> ---
>
> **From:** Subrahmanyan, Sriram (MOF)
> **Sent:** April-17-17 12:52 PM
> **To:** Nelms, Scott (MOF); Kwan, Ronald (OFA)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Could you include Rob in your discussions, so we know exactly what they're proposing?
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 17, 2017 12:50 PM
> **To:** Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
> **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.
>
> ---
>
> **From:** Subrahmanyan, Sriram (MOF)
> **Sent:** April-17-17 12:11 PM
> **To:** Kwan, Ronald (OFA)
> **Cc:** Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
> **Subject:** Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Monday, April 17, 2017 10:44 AM
> **To:** Subrahmanyan, Sriram (MOF)
> **Cc:** Nelms, Scott (MOF)
> **Subject:** Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
> Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi Gadi, Scott,
>
> I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.
>
> Ron
>
> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
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> >
> > On Apr 16, 2017, at 4:25 PM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:
> >
> > Hi Ron, Gadi,
> >
> > I hope you are enjoying the long weekend.
> >
> > As outlined in the chain below, OPG has requested to make tax-exempt / PILs exempt any net earnings of the OPG SPV. It is not anticipated that the trust itself would earn substantial revenues (as explained to me, this would be limited to swap spreads, currency fluctuations etc.). Any revenues that OPG would receive from the trust would be subject to PILs, therefore I'm not sure this will make any difference to the Province. Please let me know if you have any concerns.
> >
> > Thanks,
> > Scott
> >
> > -----Original Message-----
> > From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
> > Sent: April-15-17 1:16 PM
> > To: Nelms, Scott (MOF)
> > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Scott,
> > It is meant to exempt the net earnings of the trust. Any income OPG earns from its services to the trust would still be subject to taxation. As well, revenue that OPG receives from the subordinated debt to the trust would be subject to taxation.
> > Thanks,
> > Ken
> >
> > -----Original Message-----
> > From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > Sent: Thursday, April 13, 2017 8:19 PM
> > To: RYFA Ken -TREASURY
> > Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
> > Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > *** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***
> >
> > Hi Ryan,
> >
> > I appreciate the explanation. I want to make sure I understand the scope of the exclusion. Does this exempt any earnings in the trust and any earnings that OPG derives from the trust (interest income) from both income tax and PILs?
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> > Thanks,
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> >
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> >
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> > Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
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Hope this helps.

Thanks,

Ken

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To: Ronald Kwan
Cc: Scott Nelms (ENERGY); Ann Langleben (MOF); Robin Lewis (MOF); Daniela Klassen (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Monday, April 17, 2017 12:11:10 PM

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Subject: Fair Hydro Plan - question on taxation

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From: Ronald Kwan
To: Gadi Mayman; Scott Nelms (ENERGY)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Sunday, April 16, 2017 8:50:39 PM

Hi Gadi, Scott,

I'd think we'd need to loop in TPD on this as well, to get the drafting right, and see about any such policy concerns.

Ron

> On Apr 16, 2017, at 5:01 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
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>> Thanks,
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>> -----Original Message-----
>> From: RYFA Ken -TREASURY [mailto:ken.ryfa@opg.com]
>> Sent: April-15-17 1:16 PM
>> To: Nelms, Scott (MOF)
>> Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
>> Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
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>> From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
>> Sent: Thursday, April 13, 2017 8:19 PM
>> To: RYFA Ken -TREASURY
>> Cc: LEE John -TREASURY; WONG Leslie -LAWDIV; MCAULEY Tyler -LAWDIV
>> Subject: EXTERNAL - RE: Fair Hydro Plan - question on taxation

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>> Date: Thursday, Apr 13, 2017, 6:50 PM
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>> Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
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From: Gadi Mayman
To: Scott Nelms (ENERGY)
Cc: Ronald Kwan
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Sunday, April 16, 2017 5:01:38 PM

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From: Ronald Kwan
To: John Kim
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
Date: Friday, April 21, 2017 10:54:22 AM

Thanks John. Fine that TPD should be drafting. Should review the draft, though.

Ron

On Apr 21, 2017, at 10:52 AM, John Kim <John.Kim@ofina.on.ca> wrote:

> It was fine but it'd be up to Rob to put something down on paper. Both Kaitlin and I have offered to help if he had further questions.
>
> We're too jammed today to try to help Rob by actually starting to draft something....
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Friday, April 21, 2017 10:44 AM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Subject:** Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
>
> Hi,
>
> How did your call go? Does Rob better understand the context, structure and planned nature of the Trust (e.g., non-contributory and not intended as a tax avoidance vehicle)?
>
> Is a discussion with OPG tax folks needed?
>
> Ron
>
> On Apr 20, 2017, at 11:38 AM, John Kim <John.Kim@ofina.on.ca> wrote:
>
> > Hi Rob,
> >
> > I will give you a call this afternoon.
> >
> > John
> >
> > ---
> >
> > **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> > **Sent:** Thursday, April 20, 2017 11:26 AM
> > **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>
> > **Cc:** John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
> > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > My day is jammed so please go ahead and chat as soon as possible. Include us on the invite and we will try to make it. If helpful we can also have a follow on with ENE, OPG, Torys.
> >
> > ---
> >
> > **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> > **Sent:** April 20, 2017 9:21 AM
> > **To:** Lewis, Robin (MOF)
> > **Cc:** Nelms, Scott (MOF); Kim, John (OFA); Bruno Amara; Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> > **Subject:** Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> >
> > Hi Scott, Rob,
> >
> > Would it be helpful to have a call so that TPD can get some more context on the proposed Fair Hydro Plan and proposed structure?
> >
> > Scott, if you're busy, staff here could provide Rob some context if you're not available.
> >
> > Ron
> >
> > On Apr 20, 2017, at 8:46 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:
> >
> > > Scott,
> > >
> > > The proposal appears to have some characteristics of a tax avoidance scheme.
> > >
> > > The *Electricity Act, 1998* applies to OPG and its subsidiaries but not a trust. The trust would appear to be subject to regular income tax. However, a trust gets a deduction in computing income for any income paid to a beneficiary. The trust will pay no income tax to the extent that the trust pays out net income to the beneficiaries. Regular tax will not apply on the distribution of income to OPG because OPG is exempt from regular tax.
> > >
> > > I would expect that the income would normally be included in the income of the OPG subsidiary for PIL purposes. I suspect that funds borrowed by the trust may generate significant tax shelter such that the income of the trust will be negligible.
> > >
> > > We will certainly need more information. In particular, the nature of the asset that is being acquired and the vendor. SPV's are generally used to move assets off balance sheet.
> > >
> > > This matter ought to be the subject of a ruling request.
> > >
> > > Regards,
> > >
> > > Rob Lewis
> > >
> > > ---
> > >
> > > **From:** Nelms, Scott (MOF)
> > > **Sent:** April 19, 2017 5:48 PM
> > > **To:** Lewis, Robin (MOF); Kim, John (OFA); Bruno Amara
> > > **Cc:** Kwan, Ronald (OFA); Subrahmanyan, Sriram (MOF); Langleben, Ann (MOF); Montgomery, Kaitlin (MOF)
> > > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Hi Rob, John Bruno,
> > >
> > > Further to the emails below, I received from OPG the attached draft changes to pertinent legislation. These are somewhat broader than the tax / PILs specific elements. I am hoping you get you something more focused, but in the interest of time I thought I would share this version. These changes are essentially consistent with the earlier descriptions below in terms of content. My understanding is that OPG Trust is unlikely to generate significant (non-PILs applied) revenues, so this is largely an administrative change designed to avoid unintended consequences arising from potentially large, unrealized gains associated with swaps etc.
> > >
> > > Please let me know if we should loop anyone else into this conversation (e.g. MoF legal) and whether you would benefit from a conversation with OPG, Torys (OPG's external counsel) and ENE legal directly. I am also available to answer questions on concept. As John knows, all of this is moving extremely quickly so comments as soon as possible would be extremely helpful. My legal colleagues only semi-joking suggested yesterday would be ideal. In the mean time the draft legislation will continue to take up these concepts as they are currently written.
> > >
> > > Thanks very much and apologies for the short notice,
> > > Scott
> > >
> > > Scott Nelms
> > > Electricity Investment and Governance Secretariat | Ministry of Finance
> > > 7th Floor | 375 University ave. | Toronto, ON
> > > w: (416) 212-6469 | c: (647) 330-2681
> > > scott.nelms@ontario.ca
> > >
> > > ---
> > >
> > > **From:** Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> > > **Sent:** April 18, 2017 9:24 AM
> > > **To:** Nelms, Scott (MOF); Subrahmanyan, Sriram (MOF)
> > > **Cc:** Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF); Kim, John (OFA); Bruno Amara
> > > **Subject:** RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation
> > >
> > > Hi,
> > >
> > > Please loop in John and Bruno too.
> > >
> > > Thanks,
> > > Ron
> > >
> > > ---
> > >
> > > **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]

Sent: April-17-17 12:53 PM
To: Sriram Subrahmanyan (MOF) <Sriram.Subrahmanyan@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ann Langleben (MOF) <Ann.Langleben@ontario.ca>; Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Daniela Klassen (MOF) <Daniela.Klassen@ontario.ca>
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Certainly. Will do.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:52 PM
To: Nelms, Scott (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Could you include Rob in your discussions, so we know exactly what they're proposing?

From: Nelms, Scott (MOF)
Sent: April 17, 2017 12:50 PM
To: Subrahmanyan, Sriram (MOF); Kwan, Ronald (OFA)
Cc: Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Thanks Sriram. We still working with OPG and Torys to understand what exactly they are requesting and why. Based on conversations so far, I think the risk of creating a loophole should be limited, as net revenues from the Trust would be subject to PILs once they flow up from the sub into to OPG corporate entity.

From: Subrahmanyan, Sriram (MOF)
Sent: April-17-17 12:11 PM
To: Kwan, Ronald (OFA)
Cc: Nelms, Scott (MOF); Langleben, Ann (MOF); Lewis, Robin (MOF); Klassen, Daniela (MOF)
Subject: Re: EXTERNAL - RE: Fair Hydro Plan - question on taxation

I'll let Rob weigh in on this tomorrow, but I have the same question as Gadi. Will this be a loophole once they start making profits?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Ronald Kwan
Sent: Monday, April 17, 2017 10:44 AM
To: Subrahmanyan, Sriram (MOF)
Cc: Nelms, Scott (MOF)
Subject: Fwd: EXTERNAL - RE: Fair Hydro Plan - question on taxation

Hi Sriram,

See the email chain on a tax / PILs exempt ask by OPG with respect to the OPG Trust / special purpose vehicle (SPV) for the Fair Hydro Plan.

Perhaps to over-simplify, The SPV would be a new OPG subsidiary that would, in part, obtain financing from the capital markets in order to have the funds to acquire a regulatory asset from the IESO so that the IESO can cover the difference between what it is paying generators and what it is passing through to consumers under the "global adjustment" mechanism. The regulatory asset is the IESO's right to collect from consumers in the future the amounts to cover the global adjustment deferral (including a financing cost).

Note that the timelines for drafting legislation generally for the Plan is very tight.

Scott N. will ask for more detail from OPG.

Would Ann and Rob be the right people to loop in on this?

Ron

Begin forwarded message:

> **From:** "Nelms, Scott (MOF)" <Scott.Nelms@ontario.ca>
> **Date:** April 17, 2017 at 9:48:35 AM EDT
> **To:** "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>
> **Subject: RE: EXTERNAL - RE: Fair Hydro Plan - question on taxation**
>
> Thanks Ron. Do you mind reaching out? We probably need to land this in the next few days. I'll let OPG know that we may need to get them to provide TPD with a more detailed explanation.
>
> Sent with BlackBerry Work (www.blackberry.com[blackberry.com])
>
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Sunday, Apr 16, 2017, 8:50 PM
> To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
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From: RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
Date: Thursday, Apr 13, 2017, 6:50 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Cc: LEE John -TREASURY <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>, WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>, MCAULEY Tyler -LAWDIV <tyler.mcauley@opg.com<mailto:tyler.mcauley@opg.com>>
Subject: Fair Hydro Plan - question on taxation

Scott,

I understand there was a question regarding the taxation exclusion reference in Summary document. I understand this question is in reference to the following footnote (which is footnote 4 on page 5):

4 MOE to confirm that the legislation will provide that any Financing Entity that is a wholly-owned subsidiary of OPG (1) would not be subject to Part VI of the Electricity Act (Ontario) and (2) in the case of any Financing Entity that is a trust, any income of such trust (for purposes of the Income Tax Act (Canada) or the Taxation Act, 2007 Ontario)) which is paid or made payable to OPG or a wholly-owned subsidiary of OPG as a beneficiary of such trust will not be taken into account in calculating the amount of a payment required to be made by OPG (or such subsidiary) by section 89 or 90 of the Electricity Act.

Overall it is expected that the financing entity, either as a trust or a corporation, will have minimal net income. However, there could be tax situations creating a larger income or loss due to differences in timing or treatment (income vs capital). Given the unique nature of the transaction and lack of precedent to guide treatment then there are uncertainties with respect to tax. The objective is to minimize the tax consequences on both entities hence the request identified in the footnote.

Hope this helps.
Thanks,
Ken

_____

_____

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_____

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From: Ronald Kwan
To: Sriram Subrahmanyan (MOF)
Cc: Robin Lewis (MOF); Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF)
Subject: Re: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date: Thursday, December 07, 2017 11:06:26 AM

Hi Sriram,

Sure, when is the call?

Ron

> On Dec 7, 2017, at 11:05 AM, Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca> wrote:
>
> Also, Steen contacted me. We've set up a call. You're welcome to join.
>
>
> Sriram
>
> From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
> Date: Thursday, Dec 07, 2017, 11:02 AM
> To: Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Cc: Waterston, Michael (MOF) <Michael.Waterston@ontario.ca<mailto:Michael.Waterston@ontario.ca>>, Roy, Douglas (MOF) <Douglas.Roy1@ontario.ca<mailto:Douglas.Roy1@ontario.ca>>, Patel, Lesley (MOF) <Lesley.Patel@ontario.ca<mailto:Lesley.Patel@ontario.ca>>, Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
> Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> Ron,
>
> Generally, Minister's regulations need not go to LRC and this is a Minister's reg.
>
> Only cabinet regs go to LRC.
>
> Regards,
>
> Rob
>
> -----Original Message-----
> From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> Sent: December 6, 2017 6:38 PM
> To: Subrahmanyan, Sriram (MOF)
> Cc: Lewis, Robin (MOF); Waterston, Michael (MOF); Roy, Douglas (MOF); Patel, Lesley (MOF)
> Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> Hi Sriram,
>
> Any updates?
>
> And, by the way, Energy still seems to think that this needs to go to LRC. As a Minister's reg., that wouldn't be the case, would it?
>
> Thanks,
> Ron
>

> -----Original Message-----
> From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
> Sent: November-23-17 13:40
> To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
> Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> See below. We'll try to expedite this.
>
>
> Sriram
>
> From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
> Date: Thursday, Nov 23, 2017, 1:04 PM
> To: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
> Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> Sriram,
>
> We had hoped to have the regulation finalized almost three weeks ago. Legislative counsel changed the draft significantly.
>
> We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.
>
> I will follow up with Doug and see where we are now.
>
> Regards,
>
> Rob
>
> From: Subrahmanyan, Sriram (MOF)
> Sent: November 23, 2017 12:15 PM
> To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
> Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
>
>
>
> Sriram
> From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
> Date: Thursday, Nov 23, 2017, 9:18 AM
> To: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
> Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg
>
> Hi Sriram,
>
> Just wanted to check in on the status of this OPG request. At a recent implementation update meeting at Energy on the Fair Hydro Plan, there was a brief update by Energy on the regulation. Energy conveyed that this is now considered to have to go to LRC. There was also a comment from CO that the LRC agenda is very full.
>
> My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

>
> Thanks,
> Ron
>
> _____
>
> This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.
>

From:	Ronald Kwan
To:	Robin Lewis (MOF)
Cc:	Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF); Sriram Subrahmanyan (MOF)
Subject:	Re: Fair Hydro Plan OPG Financing Entity and PILS Reg
Date:	Thursday, December 07, 2017 4:55:19 PM

Hi Robin,

Understood. I was just quizzical on why Energy's tracker indicated a trip to LRC for this.

Ron

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca>
Sent: December 7, 2017 11:02 AM
To: Ronald Kwan
Cc: Michael Waterston (MOF); Douglas Roy (MOF); Patel, Lesley (MOF); Sriram Subrahmanyan (MOF)
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Ron,

Generally, Minister's regulations need not go to LRC and this is a Minister's reg.

Only cabinet regs go to LRC.

Regards,

Rob

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: December 6, 2017 6:38 PM
To: Subrahmanyan, Sriram (MOF)
Cc: Lewis, Robin (MOF); Waterston, Michael (MOF); Roy, Douglas (MOF); Patel, Lesley (MOF)
Subject: RE: Fair Hydro Plan OPG Financing Entity and PILS Reg

Hi Sriram,

Any updates?

And, by the way, Energy still seems to think that this needs to go to LRC. As a Minister's reg., that wouldn't be the case, would it?

Thanks,
Ron

-----Original Message-----

From: Subrahmanyan, Sriram (MOF) [mailto:Sriram.Subrahmanyan@ontario.ca]
Sent: November-23-17 13:40
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Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Douglas Roy (MOF) <Douglas.Roy1@ontario.ca>; Patel, Lesley (MOF) <Lesley.Patel@ontario.ca>
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

See below. We'll try to expedite this.

Sriram

From: Lewis, Robin (MOF) <Robin.Lewis@ontario.ca<mailto:Robin.Lewis@ontario.ca>>
Date: Thursday, Nov 23, 2017, 1:04 PM
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Sriram,

We had hoped to have the regulation finalized almost three weeks ago. Legislative counsel changed the draft significantly.

We had shared the draft with OPG's tax counsel and we were a bit dismayed at the number of changes, most of which seemed to have no reason.

I will follow up with Doug and see where we are now.

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Sent: November 23, 2017 12:15 PM
To: Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF)
Subject: FW: Fair Hydro Plan OPG Financing Entity and PILS Reg

Sriram
From: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>
Date: Thursday, Nov 23, 2017, 9:18 AM
To: Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca<mailto:Sriram.Subrahmanyan@ontario.ca>>
Subject: Fair Hydro Plan OPG Financing Entity and PILS Reg

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My recollection of the discussions earlier in the year that it would be a Minister's reg and could be done faster. Has this changed, and just trying to understand why.

Thanks,
Ron

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From: Gadi Mayman
To: Ronald Kwan; Ken Kandeepan
Cc: Mike Manning; Anna Strathy; Gavin He
Subject: Re: OFA : IESO
Date: Thursday, April 13, 2017 10:46:47 AM
Attachments: OutlookEmoji-.png

Thanks, this came up at this morning's rate mitigation meeting, and the IESO people were happy to hear that we're on this, as they're a little nervous about how they're going to finance the regulatory asset until OPG is set up to take it on and pay for it.

I'm adding Ken to close the loop on the exchange that we had last night about the OPG letter - I asked Serge to add in the OFA, and he instructed Steen to do so, and, yes, the letter will be posted, at some point, on OPG's website.

In the half hour that I was able to attend the meeting, the discussion was around the legislation. The biggest point of contention was about OPG's need to have a direct recourse to ratepayers, and the legislative need for a thread directly from individual ratepayers to the lenders to the GA smoothing. The OEB doesn't like that concept at all. The other point that is of interest to us is that they are not looking at putting the guarantee mechanism into the legislation - although there will be some description in the legislation about what, I think they called indemnification will be needed, and then they will leave the guarantee to a commercial one. No surprise that OPG's dealer advisors are saying they need a full provincial guarantee, which OPG is pushing back on, and saying that the guarantee can only be if a future government changes the value of the regulatory asset (this is where the indemnification language in the legislation is necessary). Cindy, of course, as well as me for different reasons, is fussed about the nature of that guarantee, so we asked if they could sort that out with the dealers before the legislation is tabled. We don't want to end up with the dealers holding OPG hostage six months from now - not that they'd ever do that, would they Mike ?

I'm sure Scott will send out his fuller synopsis later today, and that'll also cover what happened in the last hour, after I'd left.

Gadi

From: Ronald Kwan
Sent: Thursday, April 13, 2017 8:37:54 AM
To: Gadi Mayman
Cc: Mike Manning; Anna Strathy; Gavin He
Subject: Re: OFA : IESO

Hi Gadi,

Will do.

Ron

On Apr 13, 2017, at 8:00 AM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:

> Hi Mike and Ron, could one of you please get back to Anthony and handle this?
>
> Thanks,
> Gadi
>
> ---
>
> **From:** Anthony Martinello <Anthony.Martinello@ieso.ca>
> **Sent:** Thursday, April 13, 2017 7:41 AM
> **To:** Gadi Mayman
> **Cc:** Kim Marshall; Michael Boll
> **Subject:** OFA : IESO
>
> Mr. Mayman,
>
> Kim and I would like to set up a 30min call with you to discuss the proposed Fair Hydro rollout and the potential impact on the IESO credit needs.
>
> Would you be available next week/preferred date? Let me know and I will send out a meeting invite.
>
> Regards
>
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From: Gadi Mayman
To: Ronald Kwan
Cc: Mike Manning; Anna Strathy; Gavin He; Ken Kandeepan
Subject: Re: OFA : IESO
Date: Thursday, April 13, 2017 11:26:27 AM
Attachments: image001.png

Yes, that was the crux of the OEB's concern, given that's not how the system currently works when a ratepayer doesn't pay their bill.

From: Ronald Kwan
Sent: Thursday, April 13, 2017 11:06 AM
To: Gadi Mayman
Cc: Mike Manning; Anna Strathy; Gavin He; Ken Kandeepan
Subject: RE: OFA : IESO

Hi Gadi,

All very interesting.

On one point, how would a thread directly from individual ratepayers to the lenders to the GA smoothing work? That would seem particularly challenging.

Ron

From: Gadi Mayman
Sent: April-13-17 10:47
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: Re: OFA : IESO

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Ron

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>
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> **Cc:** Kim Marshall; Michael Boll
> **Subject:** OFA : IESO
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> Mr. Mayman,
>
> Kim and I would like to set up a 30min call with you to discuss the proposed Fair Hydro rollout and the potential impact on the IESO credit needs.

Would you be available next week/preferred date? Let me know and I will send out a meeting invite.

Regards

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From: Ronald Kwan
To: Daniela Klassen (MOF)
Cc: Robin Lewis (MOF); Ann Langleben (MOF)
Subject: Re: OPG SPV
Date: Thursday, August 10, 2017 9:08:38 AM

Hi Daniela,

Are you looping in Scott Nelms separately or afterwards, or would you like me to coordinate comments with him?

Ron

On Aug 9, 2017, at 1:52 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks Daniela.
>
> We'll take a look.
>
> Ron
>
> ---
>
> **From:** Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]
> **Sent:** August-09-17 13:43
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
> **Subject:** OPG SPV
>
> Ron,
>
> Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.
>
> Regards,
>
> **Daniela Klassen**
> Senior Legislation Design Specialist, Corporate Tax Design Unit
> Taxation Policy Division
> Ministry of Finance
> P: (416) 327-0275
> E: daniela.klassen@ontario.ca

From: Ronald Kwan
To: Robin Lewis (MOF)
Cc: Ann Langleben (MOF); Daniela Klassen (MOF)
Subject: Re: OPG SPV
Date: Thursday, August 10, 2017 9:16:18 AM

Hi Robin,

Sure.

Ron

On Aug 10, 2017, at 9:11 AM, Lewis, Robin (MOF) <Robin.Lewis@ontario.ca> wrote:

> Ron,
>
> We are trying to develop wording we are comfortable with first. We will send to Scott as soon as we have a working draft.
>
> Regards,
>
> Rob

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 10, 2017 9:09 AM
To: Klassen, Daniela (MOF)
Cc: Lewis, Robin (MOF); Langleben, Ann (MOF)
Subject: Re: OPG SPV

Hi Daniela,

Are you looping in Scott Nelms separately or afterwards, or would you like me to coordinate comments with him?

Ron

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> Thanks Daniela.
>
> We'll take a look.
>
> Ron

From: Klassen, Daniela (MOF) [mailto:Daniela.Klassen@ontario.ca]

Sent: August-09-17 13:43
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Robin Lewis (MOF) <Robin.Lewis@ontario.ca>; Ann Langleben (MOF) <Ann.Langleben@ontario.ca>
Subject: OPG SPV

Ron,

Attached for your review is a draft comfort letter we have prepared regarding the OPG SPV matter. Please let us have your comments.

Regards,

Daniela Klassen
Senior Legislation Design Specialist, Corporate Tax Design Unit
Taxation Policy Division
Ministry of Finance
P: (416) 327-0275
E: daniela.klassen@ontario.ca

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From: Ronald Kwan
To: John Kim
Cc: Francisco Chinchon; Darren Scanlan
Subject: Re: OPG Trust Financing
Date: Friday, March 10, 2017 3:52:37 PM

Thank you John, Francisco.

Ron

On Mar 10, 2017, at 3:50 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron, Francisco,
>
> We will add to this. Hopefully soon.
>
> Thanks,
>
> John.
>
> ---
>
> **From:** Francisco Chinchon
> **Sent:** Friday, March 10, 2017 3:14 PM
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
> **Cc:** Darren Scanlan <Darren.Scanlan@ofina.on.ca>
> **Subject:** OPG Trust Financing
>
> Hi Ron, John,
>
> Arie and Wentao put together a note that explains what we need to do and the challenges/questions we will probably face. Is intended to map the road, we can expand as we have more clarity.
>
> All comments are welcome.
>
> Francisco
>
> ---
>
> **From:** Arie Jarczyn
> **Sent:** Friday, March 10, 2017 2:14 PM
> **To:** Francisco Chinchon <Francisco.Chinchon@ofina.on.ca>
> **Cc:** Darren Scanlan <Darren.Scanlan@ofina.on.ca>; Wentao Shi <Wentao.Shi@ofina.on.ca>
> **Subject:** RE: OPG Trust Financing
>
> Hi looks good to us, just a few edits.

Thanks,
Arie

From: Francisco Chinchon
Sent: Friday, March 10, 2017 1:41 PM
To: Arie Jarczyn <Arie.Jarczyn@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>; Wentao Shi <Wentao.Shi@ofina.on.ca>
Subject: RE: OPG Trust Financing

Looks good. I added a bit, please review.

From: Arie Jarczyn
Sent: Friday, March 10, 2017 9:56 AM
To: Francisco Chinchon <Francisco.Chinchon@ofina.on.ca>
Cc: Darren Scanlan <Darren.Scanlan@ofina.on.ca>; Wentao Shi <Wentao.Shi@ofina.on.ca>
Subject: OPG Trust Financing

Hi Francisco,

Please find for review a draft that Darren, Wentao and I worked on, on the mechanics on funding the OPG Trust

Saved here

Arie Jarczyn
Senior Advisor
Strategic Investment and Finance Branch
Ontario Financing Authority
Tel: 416-325-1585
e-mail: arie.jarczyn@ofina.on.ca

From: Ronald Kwan
To: Patel, Lesley (MOF)
Subject: Re: Ontario"s Fair Hydro Plan / OPG / PILs
Date: Thursday, December 07, 2017 5:06:00 PM

And are there materials to discuss, such as a draft reg and approval / briefing materials?

Thanks again.

Ron

From: Ronald Kwan
Sent: December 7, 2017 5:04 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

Thanks Lesley.

Ron

From: Lesley.Patel@ontario.ca <Lesley.Patel@ontario.ca> on behalf of Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>
Sent: December 7, 2017 5:02 PM
To: Ronald Kwan
Subject: FW: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM.
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

Hi Ron – this is the call that Sriram mentioned.

-----Original Appointment-----
From: Navarro, Melissa (MOF) **On Behalf Of** Subrahmanyan, Sriram (MOF)
Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF)
Subject: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

From: Ronald Kwan
To: Patel, Lesley (MOF)
Subject: Re: Ontario"s Fair Hydro Plan / OPG / PILs
Date: Thursday, December 07, 2017 5:04:37 PM

Thanks Lesley.

Ron

From: Lesley.Patel@ontario.ca <Lesley.Patel@ontario.ca> on behalf of Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>
Sent: December 7, 2017 5:02 PM
To: Ronald Kwan
Subject: FW: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM.
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

Hi Ron – this is the call that Sriram mentioned.

-----Original Appointment-----
From: Navarro, Melissa (MOF) **On Behalf Of** Subrahmanyan, Sriram (MOF)
Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF)
Subject: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference 1-866-602-5423 / 416-212-8010 | Conference ID 4722642 #

From: Patel, Lesley (MOF)
To: Ronald Kwan
Subject: Re: Ontario"s Fair Hydro Plan / OPG / PILs
Date: Friday, December 08, 2017 8:09:44 AM
Attachments: _reg2017.0609.e05.edi_seal.pdf

Hi Ron,

The draft reg is attached. I'll keep you posted if there are further briefing materials and be sure to share them.

Best,
Lesley

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Ronald Kwan
Sent: Thursday, December 7, 2017 5:06 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

And are there materials to discuss, such as a draft reg and approval / briefing materials?

Thanks again.

Ron

From: Ronald Kwan
Sent: December 7, 2017 5:04 PM
To: Patel, Lesley (MOF)
Subject: Re: Ontario's Fair Hydro Plan / OPG / PILs

Thanks Lesley.

Ron

From: Lesley.Patel@ontario.ca <Lesley.Patel@ontario.ca> on behalf of Subrahmanyan, Sriram (MOF) <Sriram.Subrahmanyan@ontario.ca>
Sent: December 7, 2017 5:02 PM
To: Ronald Kwan
Subject: FW: Ontario's Fair Hydro Plan / OPG / PILs
When: December 12, 2017 11:00 AM-11:30 AM.
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Hi Ron – this is the call that Sriram mentioned.
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From: Navarro, Melissa (MOF) On Behalf Of Subrahmanyan, Sriram (MOF)

Sent: December 7, 2017 2:57 PM
To: Subrahmanyan, Sriram (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Lewis, Robin (MOF); Langleben, Ann (MOF); Patel, Lesley (MOF); Klassen, Daniela (MOF)
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Ontario

Date : December 7, 2017

Re : MOF
Proposed regulation under the Electricity Act, 1998
Amending - O. Reg. 207/99
PAYMENTS IN LIEU OF CORPORATE TAXES
reg2017.0609.e05.edi

This proposed regulation has been sealed under the authority of the Registrar of Regulations.

REGISTRAR OF REGULATIONS

CONFIDENTIAL
Until filed with the
Registrar of Regulations

REG2017.0609.e
5.EDI-AR

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 207/99

(PAYMENTS IN LIEU OF CORPORATE TAXES)

1. Sections 3 and 6 of Ontario Regulation 207/99 are amended by striking out "16.1" at the end and substituting "16.2".

2. The Regulation is amended by adding the following section immediately before the heading "Returns and Payments":

16.2 (1) For the purposes of determining the amount of any payment required for a taxation year from a specified corporation under sections 89 and 90 of the Act, the method of calculating the amount of the payment is modified by the following rules:

1. Any income or loss or taxable capital gain or allowable capital loss in respect of property held by a specified trust that would be income or a loss or a taxable capital gain or allowable capital loss of the specified corporation under subsection 75 (2) of the Federal Act is deemed to be nil.

2. Any amount paid or payable to the specified corporation in the taxation year by a specified trust that would be included in computing the income of the specified corporation for the year under subsection 104 (13) of the Federal Act is deemed to be nil.

3. Any benefits to the specified corporation from or under a specified trust that would be included in computing the specified corporation's income for the taxation year under subsection 105 (1) of the Federal Act are deemed to be nil.

4. Any amounts that would be included in computing the specified corporation's income for the taxation year in respect of the disposition of an income interest in a specified trust under subsection 106 (2) of the Federal Act are deemed to be nil.

5. Any proceeds of disposition in respect of a disposition of all or any part of the specified corporation's capital interest in a specified trust in the taxation year are deemed to be equal to the adjusted cost base of the interest as determined under the Federal Act.

(2) The following corporations are specified corporations for the purposes of subsection (1):

1. FHP2017 Inc.

(3) The following financing entities, as defined in subsection 1 (1) of the *Ontario Fair Hydro Plan Act, 2017*, are specified trusts for the purposes of subsection (1):

1. The Fair Hydro Trust.

Commencement

3. This Regulation comes into force on the day it is filed.

Made by:

……
Signature (in blue ink)

Minister of Finance

Date made: ……

From: Ronald Kwan
To: John Kim
Subject: Re: PILs Exemptions
Date: Tuesday, April 25, 2017 5:22:06 PM

Hi,

I assume this is to protect the interest revenue OPG earns from its sub-debt to the SPV.

PILs would hurt OPG's ROE and bottom line.

No net fiscal impact for the Province on PILs vs net income, but would the Province want a higher ROE to protect the asset value of the equity on the Province's books?

Ron

On Apr 25, 2017, at 4:45 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Hi,
>
> I interpreted the "As we discussed last week, we have proposed the language that you provided with PILs exemptions for specific earning streams from the trust" that the reference was revenues from the Trust to OPG that they are seeking a PILs exemption for, so, different than I had understood.
>
> Ron
>
> ---
>
> **From:** Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
> **Sent:** April-25-17 15:49
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
> **Subject:** PILs Exemptions
>
> Hi Ron, John,
>
> I wanted to keep you apprised of where we are with Tax Policy on OPG's request for specific PILs exemptions as part of OFHP. See below for details – we are hoping to punt to regulations.
>
> Thanks,
> Scott
>
> ---
>
> **From:** Nelms, Scott (MOF)
> **Sent:** April 25, 2017 3:25 PM
> **To:** 'Hill, Krista'; john.s.lee@opg.com
> **Cc:** RYFA Ken -TREASURY; WONG Leslie -LAWDIV; Wortsman, Jerald; Watson, Gwen; Feldman, Michael; Calwell, Carolyn (ENERGY/MEDEI/MRI); Rehob, James (ENERGY)

Subject: RE: Comments

Hi Krista, John,

We shared your ask with Finance Tax Policy and they have been mulling this over for the past few days. We had a conversation this morning and I wanted to provide a synopsis of that call:

- Tax Policy is of the view that if this is structured as a Trust will be a taxable entity under the Income Tax Act. However, because OPG is the beneficiary of the Trust, it will not pay any taxes. For greater certainty, Tax Policy suggested seeking a ruling from CRA. If necessary, we could seek an exemption from CRA (there is precedent with the Nuclear Funds Trust). Please let me know whether that is consistent with your assessment.
- Since all income from the Trust will flow to OPG, all revenues would be subject to PILs (unless we take action to make specific exemptions).
- As we discussed last week, we have proposed the language that you provided with PILs exemptions for specific earning streams from the trust.
- Tax Policy has a number of questions about how to define those exempted revenue streams and the rationale for those exemptions. They want considerably more detail and more time to consider this issue.
- According to Tax Policy, existing Legislation (James I will leave it to you to describe) provides authority to set out PILs exemptions in regulations. Therefore they suggest we do not need to add anything in to the OFHP legislation at this time. That will provide time to more fully consider the issue and discuss the need for these exemptions.
- I suggested I was generally comfortable with this approach, subject to input from OPG and Torys. I think it is better for us to have more time and the flexibility to include these provisions in regulations. Given where we are in the process, I think we are out of time to settle legislative language that will work for Tax Policy.

James, please feel free to add / modify if I missed anything. Please let us know ASAP if you have concerns.

Scott